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federal register

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Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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1060 23151
1067 22365
1068 22145
1611 24271

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166 22336
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178 24291
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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 28—COTTON CLASSING, TESTING AND STANDARDS

Licensing of Warehouses and Gins To Sample Cotton

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment provides that cotton gins be licensed to sample cotton for growers under the Smith-Doxey program in lieu of the performance bond now required. The rule sets up a licensing system for gins in conjunction with the present warehouse licensing program. The new rule requires that the license for both gins and warehouses be renewed every five years. The amendment also incorporates in the regulations the uniform rules of practice covering procedures for suspension or revocation of licenses and conduct of hearings, etc.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Conrad, Assistant Chief, Marketing Programs Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–2259.

SUPPLEMENTARY INFORMATION: On February 24, 1977, a notice wa spublished in the FEDERAL REGISTER (42 FR 10848) that consideration was being given to an amendment, as hereinafter set forth, to the regulations issued under authority contained in section 10 of the United States Cotton Standards Act (42 Stat. 1519; 7 U.S.C. 51b and 61) and in section 473c of the Smith-Doxey Act (50 Stat. 62; 7 U.S.C. 473c).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. One written comment received did not address the proposed revisions but did suggest a minor change in § 28.908 to provide that samples that were drawn by a mechanical sampler at the gin may be transported with the bales to the warehouse and then shipped or delivered direct to the classing office by the warehouse. This suggestion has merit and is being incorporated into the final rulemaking.

The only other view expressed with respect to the proposal was from the Cotton Warehouse Association of America. This association expressed no opposition to the proposed changes in the licensing procedure for Smith-Doxey sampling. However, they cautioned against making any change that would impair the integrity of sampling.

After consideration of all relevant matters presented, including that in the notice, the comment received and the views expressed by the warehouse association, the amendments to 7 CFR Part 28 are adopted as set forth below.

Since the new cotton season is near at hand it is necessary to initiate the licensing procedure at cotton gins as soon as possible and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER (Sec. 553(d), Administrative Procedure Act; 5 U.S.C. 551–559).

1. By revising § 28.2(1) as follows:

§ 28.2 Terms defined.

* * * * *

(1) *Licensed warehouse or gin.* A cotton warehouse or gin licensed under the United States Cotton Standards Act to sample cotton.

* * * * *

2. By revising center heading and §§ 28.20–28.24 as follows:

LICENSING OF WAREHOUSES AND GINS FOR SAMPLING

§ 28.20 When license is required.

Samples for Form A determination shall be accepted under this subpart from licensed warehouses only. Samples for classification pursuant to §§ 28.901–28.917 shall be accepted from licensed gins or warehouses. No license is required to sample cotton for Form C or Form D determination.

§ 28.21 Eligibility and application.

Any cotton warehouse or gin which may desire to submit samples for determination or classification for which a license is required under § 28.20 shall be eligible for a license. Application for licenses to draw and submit samples shall be submitted by warehouses and gins on forms furnished by the Division.

§ 28.22 Authority granted by license.

Licenses issued by the Division shall authorize the warehouse to draw and submit samples from cotton stored in the warehouse for Form A determination or for classification pursuant to §§ 28.901–28.917. Licenses issued by the Division shall authorize gins to draw and submit samples from cotton ginned at the gin for classification pursuant to §§ 28.901–28.917. Licenses shall be valid for a period of five years.

§ 28.23 Suspension or revocation of license.

(a) Any license issued to a warehouse or gin to sample cotton may be suspended or revoked, following notice and opportunity for hearing, if the licensee has knowingly or carelessly sampled cotton improperly, or has submitted improper samples for classification, or has violated any provision of the Act or the regulations, or has used the license, or allowed it to be used, for any improper purpose.

(b) *Procedure.* (1) All cases arising under this paragraph shall be conducted under the Uniform Rules of Practice, 7 CFR 1.130 et. seq., and instituted upon a complaint filed by the Administrator.

(2) In all cases except those involving willfulness, or in which the public health, interest, or safety otherwise requires, prior to the institution of a formal proceeding, the Administrator shall give written notice to the licensee of facts or conduct which appear to warrant institution of such a proceeding and shall afford the licensee the opportunity, within a reasonable time, to demonstrate or achieve compliance with the Act and regulations.

(c) *Suspension pending adjudication.* In any situation where the integrity of sampling procedures would be seriously jeopardized if a license remained valid pending formal adjudication, the Administrator may temporarily suspend the license effective on or after the third day after mailing notice thereof to the licensee's last known address. Notice of temporary suspension may be made at or after the filing of a complaint and shall contain the reasons for the action.

(d) *Conditional suspension.* (1) The Administrator may temporarily suspend a license, without hearing, for a correctable cause. Such suspension, after appropriate corrective action is taken, will terminate.

(2) Written notice shall be given to the licensee in advance of a temporary suspension if practicable, or within two days of oral notice, stating the reasons and grounds for temporary suspension.

(3) A licensee may request a formal hearing procedure following receipt of oral or written notice of temporary suspension.

(e) During any period in which the cotton sampling license of a warehouse or gin is suspended or revoked, the Division will not accept any samples from the licensee for Form A determination, or for classification pursuant to §§ 28.901–28.917.

§ 28.24 Surrender of license certificate.

In the event of suspension or revocation of a license, the licensee shall

promptly surrender the license to the Division.

§ 28.25 [Amended]

3. Section 28.25 is amended by changing the word "warehouseman" to "warehouse" in the first sentence and in paragraphs (h) and (i).

4. By revising § 28.31 as follows:

§ 28.31 Denial of service.

The Administrator may for good cause, including the acts or practices set forth in § 28.32, debar any person, including the agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period, after notice and opportunity for hearing has been afforded. Procedures outlined, or referred, in Part 50 of this chapter (7 CFR 50.1 et seq.) shall govern proceedings under this section.

5. By revising § 28.906 as follows:

§ 28.906 Sampling arrangements.

(a) The cotton of members of organized groups shall be sampled at cotton gins or at cotton warehouses. The gin or warehouse must hold a valid license to sample cotton issued pursuant to §§ 28.20–28.22.

(b) The Director or his authorized representatives may direct that sampling be performed by employees of the Department of Agriculture for the purpose of appraising the sampling procedures at cotton gins or warehouses, or for the purpose of providing service to organized groups in special cases where a licensed gin or warehouse is not available.

6. By revising § 28.907 as follows:

§ 28.907 Responsibilities of licensed gins or warehouses.

Each licensee shall be primarily responsible for drawing, identifying, handling, and shipping samples of cotton in accordance with this subpart and with instructions furnished by the Director or his representatives from time to time.

7. By revising § 28.908 paragraphs (e) and (f) as follows:

§ 28.908 Samples.

* * * * *

(e) *Handling samples.* Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Samples shall not be handled by any person other than the licensee prior to shipment or delivery to the cotton classing office of the Division.

(f) *Identifying and shipping samples.* Each sample shall be identified with a tag, supplied or approved by the Division, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the licensed gin or warehouse. The packages shall be shipped or delivered direct to the cotton classing office serving the territory in which the cotton is ginned. Samples that were drawn by a mechanical sampler at the gin may be transported with the bales to the warehouse and then shipped or delivered direct to the classing office by the warehouse.

* * * * *

8. By revising § 28.911 as follows:

§ 28.911 Review Classification.

A producer may request one review classification for each bale of eligible cotton. The fee for review classification is 60 cents per sample. Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20–28.22, or by employees of the U.S. Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or his representatives. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be without expense to the Government.

* * * * *

(Sec. 2, Pub. Res. 72–73, 47 Stat. 1621 (7 U.S.C. 51b); Sec. 10, Pub. L. 67–539, 42 Stat. 1519 (7 U.S.C. 61); 3c, Pub. L. 75–28, 50 Stat. 62 (7 U.S.C. 473c).)

Dated: May 10, 1977, to become effective May 16, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-13873 Filed 5-13-77;8:45 am]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 410—FLORIDA CITRUS CROP INSURANCE

Subpart—Regulations for the 1977 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides regulations for insuring citrus grown in Florida effective with the 1977 and succeeding crop years and revises the Florida Citrus Crop Insurance Regulations for the 1976 and Succeeding Crop Years appearing in the FEDERAL REGISTER on February 4, 1976 (41 FR 5106 through 5109).

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–3197).

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is revising the Florida Citrus Crop Insurance Regulations effective with the 1977 crop. These regulations, which were published in the FEDERAL REGISTER on February 4, 1976 (41 FR 5106 through 5109), contain some elements which are being corrected in order to make them more administratively effective. The specific revisions contained in the Florida Citrus Regulations for the 1977 and Succeeding Crop Years, as set forth below, are as follows: (1) The "pack size" of tangerines (the minimum size of tangerines accepted by the Corporation as part of the citrus potential under U.S. Standards) has been changed from 246 pack size (2 and 2/16 inches minimum diameter) to 210 pack size (2 and 4/16 inches minimum diameter) to allow for the acceptance of larger tangerines to conform with current marketing practices. (2) The provisions for harvesting freeze damaged juice type fruit is modified. The previous provision which provides for a fresh fruit cut during the period from 8 to 30 days following the freeze is eliminated. Damage will now be determined by the Corporation by sampling representative fruit by a juice fruit cut method for determining juice loss. This provision has been revised to encourage the policyholder to harvest timely freeze damaged fruit. (3) The application portion of § 410.6 has been removed. Future applications for citrus insurance in Florida will be taken on the Standard Application Form, as used with other crops, and processed in the same manner and by the same method as other applications. This will expedite the method of processing such applications. (4) The "Meaning of terms" section, now found at the end of the current regulations, has been placed at the beginning of the revised regulations in order to make it easier for the reader to follow the language of the document. (5) Minor editorial changes have been made to make the document clearer.

The above revisions are not considered by the Corporation to be substantive, and do not adversely affect the policyholder. Notice of any changes must be given to the insured not later than April 15, 1977, in order to be effective for the 1977 crop year. It is, therefore, impossible to follow both the procedure for notice and public participation and the contractual obligations relative to giving notice of changes to current insureds by April 15, 1977. In view of this, the Corporation has found and determined that compliance with the procedure for notice and public participation would be impracticable and contrary to the public interest.

Accordingly, 7 CFR Part 410, Florida Citrus Crop Insurance Regulations, is amended to read as set forth below effective with the 1977 crop year and succeeding crop years until amended or superseded. The provisions of the Florida Citrus Crop Insurance Regulations for the 1976 and Succeeding Crop Years shall remain in effect for the 1976 crop year.

Pursuant to the authority contained in the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), as amended, the regulations set forth in this part are hereby issued to be in force with respect to Florida citrus crop insurance contracts for the 1977 and succeeding crop years until amended or superseded.

Subpart—Regulations for the 1977 and Succeeding Crop Years

Sec.
410.1 Availability of Florida citrus crop insurance.
410.2 Premium rates and amounts of insurance.
410.3 Application for insurance.
410.4 Public notice of indemnities paid.
410.5 Creditors.
410.6 The policy.

AUTHORITY: The provisions of this subpart are issued under secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.

§ 410.1 Availability of Florida citrus crop insurance.

Citrus crop insurance shall be offered for the 1977 and Succeeding Crop Years under the provisions of §§ 410.1 through 410.6 in counties in Florida within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from a list of counties approved by the Board of Directors of the Corporation for citrus crop insurance. The counties designated by the Manager shall be published by appendix to this section.

§ 410.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and amounts of insurance per acre which shall be shown on the actuarial table on file in the office for the county. Such premium rates and amounts of insurance may be changed from year to year.

(b) The following shall apply to the transfer of any premium reduction earned under the provisions of section 7 of the Policy set forth in § 410.6 if the insured is a partnership, corporation, or any other joint enterprise and there is no break in the continuity of participation. Upon dissolution of such enterprise, such premium reduction may be credited to the contract of any member or stockholder thereof if the Corporation determines such person is operating only land formerly operated by the dissolved enterprise. Upon formation of a joint enterprise, the smallest premium reduction (zero if none), which the Corporation determines would have been applicable to any insurable acreage brought into the enterprise if the enterprise had not been formed, may be credited to the joint enterprise contract.

§ 410.3 Application for insurance.

An application for insurance, on a form prescribed by the Corporation, may be submitted at the office for the county for the Corporation. Prior to the closing date for the filing of applications, the Corporation reserves the right to discontinue the taking of applications in any county upon its determination that the insurance risk involved is excessive or to limit the amount of insurance. Such closing date shall be August 15 of the crop year. The Corporation further reserves the right to reject any application or to exclude any definitely identified acreage for any crop year of the contract if upon inspection it deems the risk on such acreage is excessive. If any acreage is to be excluded, the insured shall be notified of such exclusion before insurance attaches for the crop year for which the acreage is to be excluded. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications in any county, by publishing a notice in the FEDERAL REGISTER, upon his determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will discontinue acceptance of applications.

§ 410.4 Public notice of indemnities paid.

The Corporation shall provide for posting annually at each county courthouse a listing of the indemnities paid in the county.

§ 410.5 Creditors.

An interest of a person other than the insured in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any involuntary transfer of title shall not entitle the holder of the interest to any benefit under the contract other than as provided in the Policy set forth in § 410.6.

§ 410.6 The policy.

The provisions of the policy for Florida Citrus Crop Insurance for the 1977 and Succeeding Crop Years are as follows:

FLORIDA CITRUS CROP INSURANCE POLICY

Subject to the regulations of the Federal Crop Insurance Corporation (herein called "Corporation") and in accordance with the terms and conditions set forth in this policy, the Corporation upon acceptance of a person's application does insure such person against unavoidable loss of production of the citrus crop due to causes of loss insured against that are specified in this policy. No term or condition of the contract shall be waived or changed on behalf of the Corporation except in writing by a duly authorized representative of the Corporation.

TERMS AND CONDITIONS

1. *Meaning of terms.* For purposes of insurance on citrus the terms: (a) "Acreage report" means the form prescribed by the Corporation for initially reporting and revising (if necessary) all of the insured's acreage and share therein of citrus in the county.

(b) "Actuarial table" means the forms and related materials approved by the Corporation which are on file for public inspection in the office for the county, and which show the applicable amounts of insurance, premium rates, and related information regarding citrus crop insurance in the county.

(c) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

(d) "Contract" means the application, this policy, and the actuarial table.

(e) "County" means the county shown on the application and any additional insurable land located in a local producing area bordering on the county, as shown on the actuarial table.

(f) "Crop year" means the period beginning May 1 and extending through June 30 of the following year and shall be designated by the calendar year in which the insurance period begins.

(g) "Harvest" means any severance of citrus fruit from the tree either by pulling, picking, or severing by mechanical means, or picking up the marketable fruit from the ground.

(h) "Insurable acreage" means the acres of citrus as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, grown on the following: (1) Land classified as insurable by the Corporation and shown as such on the county actuarial map or appropriate land identification list or (2) land owned or operated by a person to whom a grove classification is assigned by the Corporation or as otherwise provided on the actuarial table.

(i) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(j) "Person" or "Insured" means an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(k) "Potential" means the production which would have been produced before damage from an insured cause of loss occurred and shall include citrus which (1) was picked before the insured damage occurred; (2) remained on the trees after the damage occurred; (3) was lost from an insured cause; and (4) was lost from an uninsured cause. The potential for the unit shall not be less than the product of 100 standard field boxes multiplied by the number of acres in the unit and shall not include citrus lost before insurance attaches for any crop year, citrus lost by normal dropping, or any tangerines the Corporation determines normally would not, by the end of the insurance period for tangerines, meet the 210 pack size (2 and 4/16 inches minimum diameter) under U.S. Standards.

(l) "Share" means the share of the insured as landlord, owner-operator, or tenant in the insured citrus as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share in the citrus crop shall be deemed to be insurable.

(m) "Standard field box" means a standard field box as prescribed in the Florida Citrus Code.

(n) "Tenant" means a person who rents land from another person for a share of the crop or proceeds therefrom.

(o) "Time of loss" means the earlier of (1) the date harvest is completed on the unit; (2) the calendar date for the end of the insurance period; or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(p) "Types of citrus" means any of the following six types of fruit: Type I, Early and midseason oranges; Type II, Late oranges; Type III, Grapefruit; Type IV, Navel oranges, tangeloes, and tangerines; Type V, Murcott honey oranges (also known as Honey tangerines) and Temple oranges; and, Type VI, Lemons. Oranges commonly known as "Sour oranges" and "Clementines" shall not be included in any of the insurable types of citrus.

(q) "Unit means all insurable acreage in the county of any of the six citrus types referred to in subsection (p) of this section located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed

commodity payment, or any consideration other than a share in the crop on such land only shall be considered as owned by the lessee. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Cause of loss.* (a) The insurance provided is against unavoidable loss of the citrus fruit occurring within the insurance period resulting from freeze, hail, hurricane, or tornado.

(b) The contract shall not cover any loss or damage (1) to the blossoms or trees; (2) due to neglect or malfeasance of the insured, any member of the insured's household, tenants, or employees; (3) due to failure to follow recognized good grove management practices; or (4) due to any cause not specified as an insured cause in this policy.

3. *Citrus insured.* (a) The citrus insured shall be any of the type(s) of citrus as defined in section 1(p), and not excluded by the following provisions of this section, which is located on insurable acreage as shown on the county actuarial map, and in which the insured has a share on the date insurance attaches: *Provided,* That (1) the citrus fruit can be expected to mature each crop year in the normal maturity period for the variety, and (2) the trees have reached at least the tenth growing season after being set out; however, citrus production on trees that have not reached the tenth growing season will be insured only if so provided on the actuarial table.

(b) For any crop year, the insured may elect to exclude from insurance any acreage of Robinson tangerines by the April 30 immediately preceding the crop year for which such exclusion is to become effective.

(c) Upon approval of the Corporation, the insured may elect to insure or exclude from insurance for any crop year any reported, described, and designated insurable acreage which has a potential of less than 100 standard field boxes per acre. If the insured elects to insure such acreage, the Corporation will, in determining the amount of loss, increase the potential on such acreage to 100 boxes per acre. If the insured elects to exclude such acreage, the Corporation will disregard such acreage for all purposes of this contract. If the insured does not report, exclude, describe, and designate any such acreage, the Corporation will disregard such acreage if the production is less than 100 boxes per acre; however, if the production from such acreage is 100 or more boxes per acre, the Corporation shall determine the percent of damage on all of the insurable acreage for the unit, but will not permit the percent of damage for the unit to be increased by including such acreage.

(d) The Corporation reserves the right for any crop year to exclude acreage from insurance, or limit the amount of insurance on any acreage, which was not insured the previous crop year.

4. *Life of contract and contract changes.* (a) The contract shall be in effect for the crop year specified on the application, and may not be canceled for such crop year. Thereafter, either party may cancel insurance on any type of citrus for any crop year by giving written notice to the other by April 30 immediately preceding such crop year. In the absence of such notice to cancel, and subject to the provisions of subsections (b), (c), and (d) of this section, the contract shall continue in force for each succeeding crop year.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

(c) If the premium for any crop year is not paid by the April 30 following the calendar year in which the insurance period begins, the contract shall terminate for the succeeding crop year; *Provided,* That the date of payment for a premium (1) deducted from a loss claim shall be the date the insured signs such claim, or (2) deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(d) The contract shall terminate if no premium is earned for three consecutive years.

(e) The Corporation reserves the right to change the terms and conditions of the contract from year to year. Notice thereof shall be mailed to the insured or placed on file and made available for public inspection at the office for the county by the April 15 immediately preceding the crop year for which such changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in subsection (a) of this section.

(f) For any crop year, the insured may with the consent of the Corporation change the amount of insurance per acre which was previously elected by notifying the Corporation in writing not later than the April 30 immediately preceding such crop year.

5. *Responsibility of the insured to report acreage and share.* (a) The insured at the time of filing the application shall also file on a form prescribed by the Corporation a report of all the acreage of citrus of the type insured in the county in which the insured has a share and show the share therein. Such report shall also include a designation of all the acreage of citrus which is uninsurable or excluded under the provisions of section 3 above. This report shall be revised by the insured for any crop year before insurance attaches if the acreage to be insured or share therein has changed, and the latest report filed shall be considered as the basis for continuation of insurance from year to year.

(b) If the insured does not submit an acreage report for any crop year in accordance with the provisions of subsection (a) of this section, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage for any unit(s) to be "zero."

6. *Insurance period.* Insurance attaches each crop year on May 1, except that for the first crop year if the application is accepted by the Corporation after that date, insurance shall attach on the tenth day after the application is received in the office for the county, and as to any portion of the citrus crop, shall cease upon the earlier of harvest or the second June 30 (January 31 for tangerines and navel oranges) of the crop year.

7. *Annual premium.* (a) The annual premium for each insurance unit is earned and payable on the date insurance attaches and shall be determined by multiplying the applicable amount of insurance for the insured acreage, times the applicable premium rate, times the insured's share at the time insurance attaches and, where applicable, applying the premium reduction or adjustment herein provided.

(b) In counties where the actuarial table does not provide for adjustments in premium, the total annual premium on all units shall be reduced as follows after consecutive years of insurance without a loss for which an indemnity was paid on any unit hereunder (eliminating any year in which a premium was not earned):

Percent premium reduction	*Consecutive insurance years without a loss*
5 percent after	1 yr.
5 percent after	2 yrs.
10 percent after	3 yrs.
10 percent after	4 yrs.
15 percent after	5 yrs.
20 percent after	6 yrs.
25 percent after	7 years or more.

However, if the insured has a loss for which an indemnity is paid hereunder, the number of such consecutive years of insurance without a loss shall be reduced by three years, except that where the insured has seven or more such years, a reduction to four shall be made and where the insured has three or less such years, a reduction to zero shall be made: *Provided,* That, if at any time, the cumulative indemnities paid hereunder exceed the cumulative premiums earned hereunder from the start of the insuring experience through the previous crop year, the 5, 10, or 15 percent premium reductions in this subsection shall not thereafter apply until such cumulative premiums equal or exceed such cumulative indemnities.

(c) In counties where the actuarial table provides for adjustments in premium, the provisions of subsection (b) of this section shall not apply.

(d) If there is no break in the continuity of participation, any premium reduction or adjustment applicable under subsections (b) or (c) of this section shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured; (2) the contract of the person who succeeds the insured as the insured's transferee in operating only the same grove or groves, if the Corporation finds that such transferee had previously actively participated in the grove operation involved; or (3) the contract of the same insured who stops operating a grove in one county and starts operating a grove in another county.

(e) If there is a break in the continuity of participation, subsection (b) of this section or any reduction in premium earned under subsection (c) of this section shall not thereafter apply.

8. *Notice of damage or loss.* (a) The insured shall give notice to the office for the county immediately after insured damage to the citrus becomes apparent giving the date(s) and cause(s) of such damage so that an inspection and determination of the extent of damage can be made prior to harvest.

(b) If a loss is to be claimed on any unit, notwithstanding any prior notice of damage, the insured shall notify the office for the county of the intended date of harvest at least seven days prior to the start of harvest.

(c) If a loss is to be claimed on any unit and if damage occurs within the seven-day period prior to the start of or during harvest, notice of damage must be given immediately to the office for the county.

(d) The Corporation reserves the right to reject any claim if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

(e) There shall be no abandonment of the citrus crop to the Corporation.

9. *Claim for loss.* (a) Any claim for loss for any unit shall be submitted to the Corporation on a form prescribed by the Corporation within 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) Losses shall be adjusted separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of citrus on the unit by the applicable amount of insurance per acre; (2) multiplying the product thus obtained by the average percent of insured damage in excess of 10 percent (i.e. average damage 45%—10%=35% payable); and, (3) multiplying this product by the insured share; *Provided,* That for the purpose of determining the amount of loss, the insured share shall not exceed the insured's share in the citrus crop at the time of loss or the beginning of harvest, whichever is earlier.

(c) The average percent of damage to the citrus crop for any unit shall be the ratio of the number of standard field boxes of citrus lost from an insured cause to the potential.

(d) Any citrus which (1) is or could be marketed as fresh fruit, or (2) is harvested prior to an inspection by the Corporation shall be considered as undamaged.

(e) Any citrus harvested within 7 days after a freeze will not be considered as damaged by freeze.

(f) Pink and red grapefruit of citrus Type III and citrus of Types IV and V which is seriously damaged by freeze as determined by a fresh fruit cut of a representative sample in accordance with the applicable provisions of the Florida Citrus Code and could not be marketed as fresh fruit within the prescribed tolerance for freeze damage (including adulteration) shall be considered unmarketable as fresh fruit and the amount of damage shall be as follows: (1) if 15 percent or less of the individual fruit in a sample show freeze damage, the fruit on the unit shall be considered undamaged. (2) If 16 percent or more of the individual fruit in a sample show freeze damage, the fruit on the unit shall be considered 50 percent damaged, with these exceptions: (i) For tangerines of citrus Type IV, damage in excess of 50 percent shall be the actual percent of damaged fruit. (ii) If the Corporation determines by the cut method described in subsection (g) of this section that the juice loss is greater than 50 percent, the damage allowed shall be as shown in such subsection.

(g) Any citrus of Types I, II, and III (excluding pink and red grapefruit), and VI which is damaged by freeze, but may be processed by the canning or processing plants shall be considered as marketable for juice, and the amount of damage shall be determined as provided below: *Provided,* That, before harvest, the citrus has dried to the extent that the amount of damage can be so determined. The percent of damage due to freeze in an individual fruit sampled by a cut method to determine juice loss shall be as follows: Any fruit which has lost less than 16 percent of its juice shall be considered undamaged; any fruit which has lost more than 16 percent, but less than 50 percent of its juice shall be considered 40 percent damaged; any fruit which has lost more than 50 percent but less than 75 percent of its juice shall be considered 70 percent damaged; and, any fruit which has lost more than 75 percent of its juice shall be considered totally lost.

(h) Any citrus on the ground which is not picked up and marketed shall be considered 90 percent lost if the damage was due to freeze and totally lost if the damage was due to any other insured cause.

(i) Any citrus which is unmarketable either as fresh fruit or for juice because it is immature, unwholesome, decomposed, adulterated, or otherwise unfit for human consumption due to an insured cause shall be considered totally lost.

(j) Pink and red grapefruit of citrus Type III and citrus Types IV and V which is unmarketable as fresh fruit due to serious damage from hail as defined in U.S. Standards for grades of Florida fruit shall be considered totally lost.

(k) Citrus lost due to hurricane or tornado shall be the amount of citrus blown from the trees or which falls from the trees as a result of such damage and which is not picked up from the ground and marketed.

(l) If any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same be brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

10. *Payment of indemnity.* (a) Any indemnity will be payable within 30 days after a claim for loss is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

11. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right or remedy including the right to collect any unpaid premiums if at any time, either before or after any loss, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

12. *Collateral assignment.* Upon submission and approval of forms prescribed by the Corporation, the insured may assign the right to an indemnity for any crop year and the assignee shall have the right to submit the loss notices and forms as required by the contract.

13. *Transfer of insured share.* If the insured transfers all or any part of the insured share in any crop year, the Corporation will, upon submission and approval of forms prescribed by the Corporation, continue to provide protection according to the provisions of the policy to the transferee for such crop year with respect to the transferred share and the transferee shall have the same rights and responsibilities under the contract as the transferor for the current crop year.

14. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made and shall execute all papers required and take appropriate action to secure such rights.

15. *Records and access to grove.* The insured shall keep or cause to be kept for two years after the time of loss, separate records of the harvesting, storage, shipments, sale, or other disposition of all citrus of the type insured produced on each unit and on any uninsured acreage of such citrus in the county in which the insured has a share. Any persons designated by the Corporation shall have access to such records and the grove for purposes related to the contract.

16. *Forms.* Copies of forms referred to in the contract are available at the office for the county.

Accordingly, said regulations were adopted by the Board of Directors on March 21, 1977.

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. EARL WILSON,
Acting Secretary, Federal Crop Insurance Corporation.

Approved on May 11, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-13872 Filed 5-13-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange Reg. 75, Amdt. 10; Grapefruit Reg. 77, Amdt. 9]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Grade Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The amendment for Florida oranges lowers the minimum grade requirements applicable to domestic and export shipments of Valencia oranges during the period May 10 through September 25, 1977. The amendment of the grapefruit regulation lowers the minimum grade requirements for domestic and export shipments of Florida seeded and seedless grapefruit during the period May 10 through August 14, 1977. The amendments recognize the supplies of fruit remaining for fresh shipments and the quality of the crops and are designed to permit movement of available supplies of fruit consistent with the interests of producers and consumers.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provision of the Agricultural Marketing

Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of shipments of oranges and grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) These amendments reflect the Department's appraisal of the current and prospective demand for Valencia oranges and grapefruit by domestic and export market outlets. Less restrictive grade requirements on fresh shipments of such fruit are consistent with the character of much of the fruit remaining for fresh shipment.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of these amendments until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information became available upon which these amendments are based and the time when these amendments must become effective in order to effectuate the declared policy of the act is insufficient; and these amendments relieve restrictions on the handling of Valencia oranges and grapefruit grown in Florida.

Order. 1. The provisions of paragraphs (a)(9) and (b)(9) of § 905.564 (Orange Regulation 75; 41 FR 42177, 49474, 51029, 53007, 54917; 42 FR 5071, 8361, 9663, 10833, 18271) are revised to read as follows:

§ 905.564 Orange Regulation 75.

(a) * * *

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not meet at least the requirements of the U.S. No. 2 grade and the external requirements of the U.S. No. 1 Golden grade; and

* * * * * *

(b) * * *

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not meet at least the requirements of the U.S. No. 2 grade and the external requirements of the U.S. No. 1 Golden grade; and

* * * * * *

2. The provisions of § 905.565 (Grapefruit Regulation 77; 41 FR 42177, 49474, 51029, 54917; 42 FR 9663, 10833, 14865, 18271, 21469) are amended by revising paragraphs (a)(1), (a)(3), (b)(1) and (b)(3) as follows:

§ 905.565 Grapefruit Regulation 77.

(a) * * *

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1: *Provided*, That during the period May 10, 1977, through August 14, 1977, no handler shall ship any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet;

* * * * * *

(3) Any seedless grapefruit, grown in the production area, which do not grade at least Improved No. 2: *Provided*, That during the period May 10, 1977, through August 14, 1977, no handler shall ship any seedless grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet; or

* * * * * *

(b) * * *

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1: *Provided*, That during the period May 10, 1977, through August 14, 1977, no handler shall ship any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet;

* * * * * *

(3) Any seedless grapefruit, grown in the production area, which do not grade at least Improved No. 2: *Provided*, That during the period May 10, 1977, through August 14, 1977, no handler shall ship any seedless grapefruit, grown in the production area, which do not grade at least U.S. No. 2 Russet; or

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated, May 10, 1977, to become effective May 10, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13874 Filed 5-13-77;8:45 am]

[Lemon Reg. 92]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 15–21, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is steady this week. Average f.o.b. price was $5.99 per carton the week ended May 7, 1977, compared to $5.79 per carton the previous week. Track and rolling supplies at 150 cars were up 20 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on May 10, 1977.

§ 910.392 Lemon Regulation 92.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 15, 1977, through May 21, 1977, is established at 295,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 12, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14010 Filed 5-13-77;8:45 am]

[Grapefruit Reg. 17; Amdt. 7]

PART 944—FRUITS; IMPORT REGULATIONS

Minimum Grade Requirements For Imports of Seeded and Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum grade requirement applicable to imported seeded and seedless grapefruit to U.S. No. 2 Russet grade to coincide with such requirements being made effective on Florida grapefruit. This amendment is required by Federal law.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447–3545.

SUPPLEMENTARY INFORMATION: This amendment is consistent with section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. This amendment fixes the same minimum grade requirement on imported seeded and seedless grapefruit as is effective under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

Order. In § 944.113 (Grapefruit Regulation 17; 41 FR 42181, 49109; 42 FR 9664, 10835, 14867, 18271, 21469) the provisions of paragraph (a)(1) and (a)(3) are revised to read as follows:

§ 944.113 Grapefruit Regulation 17.

(a) * * *

(1) Seeded grapefruit shall grade at least U.S. No. 1: *Provided*, That during the period May 10, 1977, through August 14, 1977, seeded grapefruit shall grade at least U.S. No. 2 Russet;

* * * * * *

(3) Seedless grapefruit shall grade at least Improved No. 2: *Provided*, That during the period May 10, 1977, through August 14, 1977, seedless grapefruit shall grade at least U.S. No. 2 Russet; and

* * * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) this amendment fixes the same requirements for imports of seeded and seedless grapefruit as are applicable under amended Grapefruit Regulation 77 (§ 905.565) to the shipment of seeded and seedless grapefruit grown in Florida; and (c) this amendment lowers the minimum grade requirement applicable to imported seeded and seedless grapefruit.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 10, 1977, to become effective May 10, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13875 Filed 5-13-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 76-SW-59; Amdt. 39-2897]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Helicopter Textron Models 206A and 206B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an Airworthiness Directive (AD) requiring replacement of the tail rotor drive shaft support bearing arrangement with improved bearings and bearing hangers on Bell Helicopter Textron Model 206A and 206B helicopters. The new bearings and bearing hangers incorporate relubrication features and fail-safe hanger clamp arrangements which should significantly reduce the bearing failure rate and eliminate failures of the tail rotor drive shaft due to bearing seizure.

EFFECTIVE DATE: May 13, 1977.

ADDRESSES: Bell Helicopter Technical Bulletin Number 206–76–2 may be obtained upon request to the Service Manager, Bell Helicopter Textron, Post Office Box 482, Fort Worth, Texas, 76101.

FOR FURTHER INFORMATION CONTACT:

Wilbur F. Wells, Propulsion Section (ASW–214), Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas, 76101; telephone 817–624–4911, extension 524.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making was issued on December 9, 1976, and published in 41 FR 55889. This rule provided for removal and replacement of the tail rotor drive shaft bearings and bearing hangers with an improved design which features fail-safe bearing hangers and improved provisions for relubricating these bearings. Reports from operators of these helicopters indicate that occasional bearing failures must be expected and that bearing seizures can result in tail rotor drive shaft failure and consequent hazardous loss of directional control of the helicopter.

No changes have been made to the proposed rule since its original publication.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Those who commented objected to the proposed rule primarily because their individual maintenance capabilities and their corresponding service experience did not indicate compliance with the replacement schedule in the notice was necessary for safety. The FAA cannot agree with this concept since data from a broadly based service difficulty reporting system available to the FAA does reflect a failure history not only of the bearing but also the sequential failure of the tail rotor drive shaft due to bearing seizure. One commenter strongly recommended adoption of this proposed rule.

The principal authors of this document are Wilbur F. Wells, Aerospace Engineer, and James O. Price, General Attorney, Southwest Region.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89) § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective May 13, 1977, by adding the following new AD.

BELL HELICOPTER TEXTRON: Applies to Models 206A and 206B helicopters certificated in all categories as indicated below:

Compliance required within the next 100 hours time in service after the effective date of this Airworthiness Directive (AD), unless already accomplished.

To minimize the possibility of loss of directional control due to failure of the tail rotor drive shaft, remove and replace tail rotor drive shaft bearings, bearing hangers, retaining rings, and shaft segments as specified in items 1 through 7 below:

1. Helicopter Serial Numbers 1 through 413: Tail Rotor Drive Shaft Installation Part Number 206–040–301–1:

a. *Remove* / *Install*

Remove	Install
1 hanger, P/N 206–040–336–1.	1 hanger, P/N 206–040–346–9.
1 hanger, P/N 206–040–335–1.	1 hanger, P/N 206–040–345–9.
5 hangers, P/N 206–040–331–1.	5 hangers, P/N 206–040–338–5.
7 bearings, P/N 206–040–339–1.	7 bearings, P/N 206–040–339–9.
12 retainers, P/N RR216C.	
1 shaft, P/N 206–040–320–7.	1 shaft, P/N 206–040–320–11.

b. To prevent bearing hangers from chafing the drive shaft cover, the cover must be modified in accordance with Bell Helicopter Company Technical Bulletin Number 206–76–2 dated January 7, 1976, (misdated 206–76–2) or later FAA-approved revision or FAA-approved equivalent.

2. Helicopter Serial Numbers 414 through 913: Tail Rotor Drive Shaft Installation Part Number 206–040–301–7:

Remove	Install
7 bearings, P/N 206–040–339–3 or –5.	7 bearings, P/N 206–040–339–9.

3. Helicopter Serial Numbers 414 through 637: Tail Rotor Drive Shaft Installation Part Number 206–040–301–7:

Remove	Install
1 shaft, P/N 206–404–320–11.	1 shaft, P/N 206–040–320–11.

NOTE.—Shaft P/N 206–040–320–7 may be reworked to configuration of Shaft P/N 206–040–320–11. See Part V of Bell Helicopter Company Service Bulletin Number 206–76–12.

4. Helicopter Serial Numbers 914 through 1251: Tail Rotor Drive Shaft Installation Part Number 206–040–301–13:

Remove	Install
7 bearings, P/N 206–040–339–3 or –5.	7 bearings, P/N 206–040–339–9.

5. Helicopter Serial Numbers 1252 through 1993: Tail Rotor Drive Shaft Installation Part Number 206–040–301–19:

Remove	Install
7 bearings, P/N 206–040–339–3 or 5–.	7 bearings, P/N 206–040–339–9.

6. Removal and replacement as prescribed by paragraphs 1 through 5 must be in accordance with the applicable maintenance and overhaul manual instructions.

7. All spring clamp type bearing hangers, Part Number 206–040–338–5, must be installed with the spring on the left side of the tail boom.

Bell Helicopter Company Service Bulletin 206–76–12 pertains to and provides instructions for accomplishing the intent of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76101, and at FAA Headquarters, 800 Independence Avenue S.W., Washington, D.C. 20591.

Equivalent means of compliance with the modifications prescribed by this AD may be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, may adjust the compliance time prescribed by this AD, if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OBM Circular A–107.

Issued in Fort Worth, Texas, on May 2, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77–13853 Filed 5–13–77;8:45 am]

[Airworthiness Docket No. 76–SW–58; Amdt. 39–2900]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Helicopter Textron Model 205A–1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds an Airworthiness Directive (AD) requiring a modification of the alignment of the engine-to-transmission driveshaft on Bell Helicopter Textron Model 205A–1 helicopters. Adverse service experience involving failure of these driveshafts has been reported during operation with external loads and, at least once, with internal loads (passengers).

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Wilbur F. Wells, Propulsion Section (ASW–214), Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas, 76101; telephone 817–624–4911, extension 524.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making was issued on December 7, 1976, and published in 41 FR 55365 on December 20, 1976. The basis for issuance of this notice consisted of adverse service experience involving complete failure of the engine-to-transmission driveshaft and consequent loss of engine power to drive the main rotor of the helicopter. The subsequent autorotative landing in some instances resulted in accidents. A reevaluation of the angular relationship of the engine to the transmission under operating conditions of high gross weight and with heavy sling loads revealed that the couplings on the driveshaft can be subjected to severe working loads. However, this condition can be significantly improved by adjusting the location of the engine. This is provided for by this AD.

Public comments received were limited to a request that the compliance time for modification of standard category helicopters be revised to coincide with the next airframe overhaul activity. The FAA cannot agree with this since the overhaul criteria would not provide for essentially equal scheduling for all operators, and, in instances where the overhaul has just recently been completed, the allowable operating time before compliance could become excessive, and safety would be compromised. However, the AD does provide for extension of the compliance time upon request by an operator, if substantiating data for such increase are provided.

The principal authors of this document are Wilbur F. Wells, Aerospace Engineer, and James O. Price, General Attorney, Southwest Region.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.19) is amended, effective May 18, 1977, by adding the following new AD:

BELL HELICOPTER TEXTRON: Applies to Model 205A–1 helicopters, Serial Numbers 30001 through 30232, certificated in all categories.

For helicopters certificated and operated pursuant to Part 133 of the FARs (Class B rotorcraft-load combination or Class C rotorcraft-load combinations as defined by Part 1 of the FARs), compliance is required within the next 100 hours cumulative time in service involving external load combinations as defined above, or 300 hours total time in service, whichever comes first, after the effective date of this Airworthiness Directive (AD), unless previously accomplished.

For standard category helicopters not approved for external load operations as defined above, compliance is required within the next 300 hours time in service after the effective date of this AD, unless previously accomplished.

To prevent failure of the engine-to-transmission drive couplings due to excessive angularity under high loading conditions, adjust the engine-to-transmission alignment as described below:

(a) Remove the engine-to-transmission driveshaft assembly, P/N's 205–040–004–3, –11, or –17, in accordance with instructions in the appropriate maintenance and overhaul manuals.

(b) Using instructions and special tools prescribed by the maintenance and overhaul manuals, establish the engine-to-transmission alignment prescribed by the manual except as follows:

(1) Index the target plate inner scale to 8.0 (instead of 3.5) and index the target plate outer scale to 35.6 (instead of 1.75).

NOTE.—Transmission position must be adjusted and leveled to maintenance manual specifications. Engine position adjustment procedures must follow maintenance manual instructions.

(2) Establish angularity as follows: Install dial indicator in accordance with instructions in the maintenance manual at 2.5 inch radius. Read zero at 12 o'clock position; read +0.030±0.004 at 6 o'clock position. Reset dial indicator to zero at the 3 o'clock position; read +0.006±0.004 at 9 o'clock position. Plus reading on dial indicator means that flange on transmission is closer to flange on engine.

(c) Shim engine support fittings to obtain required alignment. If total laminated shim thickness (P/N 205–060–137–1 or 205–060–138–1), required under any engine support fitting, exceeds 0.188 inches, fabricate a plate of 2024–T4 aluminum alloy 0.100 thick, same outside dimensions as shim stock, and structurally bond the plate to the engine service deck with EC 934. Total thickness of shims and plate under any engine mount fitting must not exceed 0.288 inches. Verify that the engine support fittings are reinstalled with the same fore and aft orientation as before.

(d) Interference between the engine and the aft upper firewall at the 9 o'clock position (looking forward) may result with this realignment. If this condition occurs, accomplish the following:

Remove the aft upper firewall assembly P/N 205–060–909–27 and disassemble by removing the sixteen (16) screws.

Remove the aft section of the firewall web P/N 204–060–909–13 and enlarge the sixteen (16) holes by drilling to 5/16 inch.

Deburr the drilled holes. Reassemble the firewall assembly using P/N AN970–3 washers over the enlarged holes and under the 16 screw heads.

(e) Check engine deck fitting screws and bolts for proper length and thread engagement.

(f) Check fuel control and governor linkage for proper rigging and cushion.

(g) Reinstall the driveshaft assembly. Reinstall transmission 5th mount assembly. Follow maintenance manual instructions for details of reinstallation of access panels, firewall attachments, and related cleanup, as required.

Equivalent means of compliance with the modifications prescribed by this AD may be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, may adjust the compliance time prescribed by this AD, if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective May 18, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation for an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Fort Worth, Texas, on May 4, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77–13854 Filed 5–13–77;8:45 am]

[Airworthiness Docket No. 77–SW–4; Amdt. 39–2893]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires frequent, daily, and 4 hour interval inspections and/or checks of the Model 212 main rotor blades for skin cracks. Several cases of skin cracks and spar cracks have been reported in several locations in the blade. Spar cracks may result in loss of part of the main rotor blade with resulting loss of control of the helicopter.

EFFECTIVE DATE: June 12, 1977. Compliance with a daily inspection is required after the effective date of the AD and frequent inspections and/or checks are required on and after the effective date of this AD for main rotor blades with 400 or more hours' time in service. A blade with a crack must be replaced before further flight.

ADDRESSES: Bell Helicopter Textron Service Instructions and Service Bulletins may be obtained from persons or offices noted in the AD.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, ASW–212, Engineering and Manufacturing Branch, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76101, telephone number 817–624–4911, Extension 515.

SUPPLEMENTARY INFORMATION: A proposal was published in 42 FR 10853 on February 24, 1977, to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) requiring installation of the blade inspection system (BIS), P/N 212–704–110–1, on certain main rotor blades with 400 or more hours' total time in service, or requiring installation of blades originally equipped with BIS. Bell Service Bulletin No. 212–76–14 required installation of the BIS by March 1, 1977. The proposed AD would have also required frequent checks or inspections of all Model 212 main rotor blades equipped with the BIS at 4 hour intervals after the blades attained 400 hours' total time in service.

For certain specific main rotor blades that do not have a barrier at the leading edge scarf joint, the proposed AD would have required daily checks of the scarf joint for filler erosion to an exposed joint with attendant replacement of the scarf joint filler.

Since the proposal was published on February 24, 1977, the FAA issued Amdt. 39–2846, AD 77–05–02 (42 FR 13270) effective March 10, 1977, reducing the life from 4,000 hours to 1,500 hours for those Bell Model 212 main rotor blades that were not originally equipped with the internal barrier at the leading edge scarf joint.

As a result of issuing Amdt. 39–2846 and the proposed AD, two letters were received objecting to the expensive modification and installation of BIS on those blades that require replacement at 1500 hours' total time in service and recommending a visual inspection of the blades at intervals of 4 hours for blades that do not have BIS installed or that have an inoperative or faulty BIS. These letters also contended that the BIS is unreliable and that only main rotor blades, P/N 204–012–001–23, were reportedly cracked and only these require frequent inspection.

The agency agrees in part with these comments and recommendations.

Consequently, the adopted rule will require either a visual inspection conducted by an appropriately rated person (FAR 43.7) whenever the BIS is not installed or when it is inoperative or faulty or will permit the pilot to conduct the check of the blade by use of the BIS whenever it is installed and operating properly on all Model 212 main rotor blades.

The agency has found that reports of a faulty BIS system concerned developmental-prototype BIS and that proper installation of BIS as specified in Bell Service Instructions will provide a reliable BIS. The agency has also found that blades, P/N 204–012–001 –29 and –33, will probably be subject to many of the same problems experienced by the blades, P/N 204–012–001–23, and that all of those blades must be either inspected or checked at 4 hour intervals after attaining 400 hours' time in service.

Therefore, the adopted rule is different from the proposal in that installation and proper operation of the BIS will not be required provided a mechanic or other properly rated agency conducts the frequent inspections. Frequent inspections or checks of all the affected blades will be required whereas the proposal required installation of BIS followed by frequent inspections or checks. As stated in the proposal, the adopted rule will specify compliance with Bell Service Instruction No. 212–61, 204–32, or 205–45 whenever the BIS is installed on the main rotor blade to insure a reliable system.

In addition, the adopted rule now provides for installation of a Bell manufactured external cover over the scarf joint for certain main rotor blades that will make a daily inspection of the scarf joint filler unnecessary.

Interested persons were afforded opportunity to participate in the making of this amendment and in response to letters changes were made to provide an alternate means of compliance, and these changes impose no additional burden; therefore, further notice and public procedure is unnecessary.

The principal authors of this document are James H. Major, Aerospace En-

gineer, and James O. Price, General Attorney, Southwest Region.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective June 12, 1977, by adding the following new Airworthiness Directive:

BELL. Applies to Bell Model 212 helicopters certificated in all categories.

Compliance required as indicated.

To detect possible chordwise cracks in the main rotor blade skin from near the inboard end to near the outboard end and to detect eroded scarf joint filler, accomplish the following:

(a) Before the first flight of each day, after the effective date of this Airworthiness Directive, accomplish the following:

(1) Check the leading edge scarf joints of both main rotor blades for filler erosion.

(2) Clean and fill scarf joints having filler eroded to the metal, as specified in item 4 of Bell Helicopter Textron Service Bulletin No. 212-77-2 dated January 28, 1977, or later approved revision.

(3) Main rotor blades, P/N 204-012-001-33, and blades, P/N 204-012-001 -23 and -29, having serial numbers listed in Bell Service Bulletin No. 212-77-2 have an internal barrier behind the scarf joint and do not require the check in paragraph (a)(1) of this AD. Main rotor blades, P/N 204-012-001 -23 and -29 that have external cover, P/N 204-015-011 -1 or -701, installed in accordance with Bell Helicopter Textron Technical Bulletin No. 212-77-6 dated April 6, 1977, or later approved revision do not require the check in paragraph (a)(1) of this AD.

(b) For all Bell Model 212 helicopters having main rotor blades with 400 or more hours' total time in service on or after the effective date of this AD, accomplish either (1) or (2) of the following after the effective date of this AD:

(1) For main rotor blades not equipped with Blade Inspection System (BIS) or not equipped with a properly functioning BIS:

(i) Inspect the complete top and bottom surfaces of each main rotor blade before the first flight of each day and at intervals not to exceed 4 hours' time in service from the last inspection as specified in Part I, paragraph A, Bell Helicopter Textron Service Bulletin No. 212-75-6, Revision B, dated May 5, 1976, or later approved revisions.

(ii) Further flight is prohibited if a crack is found in the blade skin.

(2) For main rotor blades equipped with a properly functioning BIS that was factory installed, Blade P/N 212-012-001-33, or that was installed in accordance with the procedures and requirements of Bell Service Instruction No. 212-61, 204-32, or 205-45 dated August 13, 1976, or later approved revision:

(i) Check the blade inspection system by pressing the test button on the BIS detector located on the butt end of each blade before the first flight of each day and at intervals not to exceed 4 hours' time in service from the last check.

(ii) Further flight is prohibited if a steady light on the BIS detector occurs or if a crack in the blade is confirmed.

(iii) The affected main rotor blade may be returned to service after a visual inspection is conducted in which no cracks are found and after a flashing light occurs on the detector. (A flashing light indicates a closed or satisfactory circuit in the blade inspection system.)

(c) The checks in paragraph (a)(1) and (b)(2)(1) of this AD may be performed by the pilot.

NOTE.—For the requirements regarding recording of compliance and method of compliance with this AD in the aircraft permanent maintenance record see FAR 91.173.

(d) Equivalent means of compliance with this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(e) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, may adjust the repetitive inspection intervals specified in paragraph (a) and (b) of this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(f) The manufacturer's service bulletin and instruction identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552 (a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Ave, SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective June 12, 1977.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on April 29, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-13856 Filed 5-13-77;8:45 am]

[Docket No. 77-EA-2; Amdt. 39-2899]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires the installation of a placard which imposes a speed reduction of 3 mph for each 1,000 feet above 21,000 feet in PA-31-325 type airplanes due to technical omissions in the original application for certification.

EFFECTIVE DATE: May 17, 1977. Compliance within 25 hours in service is required.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT:

V. Barsamian, Airframe Section, Engineering and Manufacturing Branch, AEA-212, Federal Building, J. F. K. International Airport, Jamaica, New York 11430; Telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: Due to subsequent research by the manufacturer, it was determined that compressibility had not been considered as a factor in the original flutter analysis. A revised analysis indicates a need to reduce V_{ne} airspeed by an amount of 3 mph for each 1,000 feet above 21,000 feet. Since this is a deficiency which exists in similarly designed airplanes, an airworthiness directive is being issued requiring the placarding of the pilot's dashboard to restrict the V_{ne} speeds. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are V. Barsamian, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective May 17, 1977, as follows:

PIPER: Applies to PA-31-325.

To prevent possible adverse airplane vibration effects at higher altitudes, accomplish the following within the next 25 hours in service after the effective date of this Airworthiness Directive unless already accomplished:

Attach the following operating limitation placard on the pilot's instrument panel between the clock and airspeed indicator in full view of the pilot:

"Above 21,000 feet reduce V_{ne} speed 3 m.p.h. per 1,000 feet."

(Piper Service Bulletin No. 544 refers to this subject.)

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 313(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on May 3, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-13855 Filed 5-13-77;8:45 am]

[Docket No. 77-WE-10-AD; Amdt. 39-2898]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed-California Company Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: An emergency AD was issued by the Federal Aviation Administration on April 14, 1977, as a result of jamming of an elevator drive system on a L-1011-385 airplane. This AD requires an inspection to prevent a similar occurrence.

DATES: Effective date May 17, 1977 for all persons except those to whom it was made effective by telegram dated April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351, or Richard G. Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6274.

SUPPLEMENTARY INFORMATION: This AD is required because of occurrence of jamming of one of the two elevator drive systems on the horizontal stabilizer of the primary pitch control system which resulted in degradation of the airplane stability and control performance characteristics.

The jamming of the left hand side elevator drive system on the horizontal stabilizer of the primary pitch control system occurred as a result of a failure of the upper bearing in the elevator aft cable quadrant assembly unit with subsequent lack of free relative motion between the quadrant hub base and the elevator actuation pushrod. This AD provides for inspection of the functional integrity of the upper bearing, verification of the minimum operational clearance between the quadrant hub base and the pushrod, and replacements of components as necessary.

This AD includes editorial changes, technical additions and minor changes for clarification from the text of the telegraphic AD.

Since it was found that immediate corrective action was required notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of airplanes by individual telegrams dated April 15, 1977. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

LOCKHEED-CALIFORNIA COMPANY: Applies to Lockheed-California Company L-1011-385 Series airplanes, certificated in all categories.

Compliance required as indicated.

To prevent possible inflight jamming of the elevator drive systems on the horizontal stabilizer of the primary pitch control system which can result in degradation of the airplane stability and control performance characteristics, accomplish the following:

1. Within ten hours time in service after the receipt of this telegraphic AD, unless already accomplished, except as provided in paragraph 2, below, perform the following inspection on the left hand and right hand elevator quadrant assemblies P/N 1532385, and replacements, as necessary.

With the hydraulic pressure "OFF" and the horizontal stabilizer at its normal hydraulic "OFF" positions (Reference: Maintenance Manual Section 29-11-00):

(a). Install dial indicator base on beam P/N 1532375. This beam (diagonal) is directly above elevator quadrant assembly.

(b). Position dial indicator pointer on side of upper quadrant hub 0.50 inch down from top, and on the same side of the hub as the applied load.

(c). Apply 180 to 200 pound up load (or equivalent moment) at quadrant's large cable termination point to establish baseline for step (d), down load test.

(d). With dial indicator at zero, apply 180 to 200 pound down load at quadrant's large cable termination point.

(e). Measure deflection of hub by recording dial movement. If this measurement exceeds 0.030 inch, replace quadrant assemblies P/N 1532385 or its upper bearing P/N DA-22-52A7 prior to further flight with new serviceable components. Bearing P/N YD-171-H is considered to be an acceptable replacement component. If measurement is between 0.020 inch and 0.030 inch replace quadrant assembly or its upper bearing within the next 150 hours time in service. If measurement is less than 0.020 inch reinspect at 2,000 hour time in service intervals.

(f). Verify 0.200 inch minimum "Rigging" gap dimension between quadrant hub base and the elevator actuation pushrod (Ref. Lockheed drawing 1532385, NOTE 8). If gap of less than 0.200 inch exists, readjust control rod P/L LS9094A925C90.

2. Accomplish the inspections of paragraph (1), above, at intervals not to exceed 2,000 hours time in service. If the quadrant assembly or the upper bearing has been replaced within the last 2,000 hours time in service prior to the effective date of this AD, the inspections required by (1) may be deferred until the upper bearing has accumulated 2,000 hours time in service.

3. Equivalent inspections may be used when approved by Chief, Aircraft Engineering Division, FAA Western Region.

4. Special flight permits may be issued per FAR's 21.197 and 21.199 for the accomplishment of the inspections required by paragraphs (1) and (2).

NOTE: Part II of FAA approved Lockheed-California Alert Service Bulletin 093-27-A158, dated April 14, 1977, covers the same subject.

This amendment is effective May 17, 1977 for all persons except those to whom it was made effective by telegram dated April 15, 1977 which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on May 2, 1977.

The principal authors of this document are Mr. G. Vasley, Aircraft Engineering Division, and Mr. R. G. Wittry, Office of the Regional Counsel, Western Region.

W. R. FREHSE,
Acting Director,
FAA Western Region.

[FR Doc.77-13950 Filed 5-13-77;8:45 am]

[Docket No. 77-WE-3-AD; Amdt. 39-2896]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed Aircraft Corporation Model 18 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) supersedes an outmoded AD. The old AD specified use of now unavailable parts. It applied only to airplanes used in air carrier passenger operations, and it did not provide for equivalent means of compliance.

DATES: Effective date: June 16, 1977. Compliance required by the first engine change after the effective date of this AD or by October 1, 1977, whichever occurs earlier, unless previously accomplished in accordance with AD 55-15-03 as amended by Amendment 55-24 to Part 507.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351. Richard Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6274.

SUPPLEMENTARY INFORMATION: After issuing AD 55-15-03, as amended by Amendment 55-24 to Part 507, service experience has shown that clarification and updating of the AD is required.

The FAA has determined that, due to continued operation and modification of the Model 18 series airplanes affected by AD 55-15-03, as amended by Amendment 55-24 to Part 507, the AD as written, requires the use of hose assemblies which currently may not be available. Therefore, the FAA is superseding AD 55-15-03, as amended by Amendment 55-24 to Part 507, to provide an equivalent means of compliance approved by the Chief, Aircraft Engineering Division, FAA Western Region; to add other FAA approved hose assembly part numbers currently available; to clarify the applicability statement to apply to airplanes in all types of operation; and to

establish a new effectivity date and compliance date for those airplanes for which AD 55–15–03, as amended by Amendment 55–24 to Part 507, has not been accomplished.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One comment provided an expanded listing of approved hose assemblies for propeller feathering lines.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

LOCKHEED: Applies to Lockheed Model 18 airplanes, certificated in all categories, using Hamilton standard propellers.

Compliance required by the first engine change after the effective date of this AD or October 1, 1977, whichever occurs earlier, unless previously accomplished in accordance with AD 55–15–03 as amended by Amendment 55–24 to Part 507.

To increase fire resistance integrity of the propeller feathering system against damage by a powerplant fire, all flexible hose components of propeller feathering lines forward of the firewall must be replaced with lines and fittings which will meet the fire resistance requirements of the hose assemblies specified in (a) through (g) herein. However, if the feathering lines in Zone I include a section of steel tubing, flexible hose assemblies located forward of the cylinders and connecting to the governor are not affected by this directive.

The following flexible hose assemblies are acceptable for use in this application:

(a) Resistoflex SSFR–3800–10 hose assemblies.

(b) Aeroquip 680–10S hose assemblies with Aeroquip 304 protective sleeves over end fittings (Aeroquip Assembly P/N 304000).

(c) Aeroquip 309009 hose assemblies.

(d) Aeroquip 309009–8S hose assemblies (where feathering system requires this size).

(e) Aeroquip 634000–8 or –10, as applicable, hose assemblies.

(f) Aeroquip AE2460001 hose assemblies.

(g) Hose assemblies that fully comply with FAR 37.140 (TSO–C42) and have a pressure rating equal to or greater than that of the propeller feathering system installed on the airplane.

(h) Equivalent hose assemblies or other means of compliance may be used when approved by the Chief Aircraft Engineering Division, FAA Western Region.

Special flight permits may be issued in accordance with FAR's 21.97 and 21.199 to operate the airplane to a base for the accomplishment of this AD.

This supersedes AD 55–15–03, as amended by Amendment 55–24 to Part 507.

This Amendment becomes effective June 16, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, California on April 29, 1977.

The principal authors of this document are Mr. M. Rammelsberg, Aircraft Engineering Division, and Mr. R. G. Wittry, Office of the Regional Counsel, Western Region.

W. R. FREHSE,
Acting Director,
FAA Western Region.

[FR Doc.77–13951 Filed 5–13–77;8:45 am]

[Docket No. 77–WE–1AD; Amdt. 39–2894]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC–3 and C–47 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) supersedes an outmoded AD. The old AD specified use of now unavailable parts. It applied only to airplanes used in air carrier passenger operations, and it did not provide for equivalent means of compliance.

DATES: Effective date: June 16, 1977. Compliance required by the first engine change after the effective date of this AD or by October 1, 1977, whichever occurs earlier, unless previously accomplished in accordance with AD 55–15–03 as amended by Amendment 55–24 to Part 507.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: 213–536–6351. Richard Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: 213–536–6274.

SUPPLEMENTARY INFORMATION: After issuing AD 55–15–03, as amended by Amendment 55–24 to Part 507, service experience has shown that clarification and updating of the AD is required.

The FAA has determined that, due to continued operation and modification of McDonnell Douglas DC–3 and C–47 airplanes affected by AD 55–15–03, as amended by Amendment 55–24 to Part 507, the AD as written, requires the use of hose assemblies which currently may not be available. Therefore, the FAA is superseding AD 55–15–03, as amended by Amendment 55–24 to Part 507, to provide an equivalent means of compliance approved by the Chief, Aircraft Engineering Division, FAA Western Region; to add other FAA approved hose assembly part numbers currently available; to clarify the applicability statement to apply to airplanes in all types of operation; and to establish a new effectivity and compliance date for those airplanes for which AD 55–15–03, as amended by Amendment 55–24 to Part 507, has not been accomplished.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

MCDONNELL DOUGLAS: Applies to DC–3 and C–47 series airplanes, certificated in all categories, using Hamilton Standard propellers.

Compliance required by the first engine change after the effective date of this AD or October 1, 1977, whichever occurs earlier, unless previously accomplished in accordance with AD 55–15–03 as amended by Amendment 55–24 to Part 507.

To increase fire resistance integrity of the propeller feathering system against damage by a powerplant fire, all flexible hose components of propeller feathering lines forward of the firewall must be replaced with lines and fittings which will meet the fire resistance requirements of the hose assemblies specified in (a) through (f) herein. However, if the feathering lines in Zone I include a section of steel tubing, flexible hose assemblies located forward of the cylinders and connecting to the governor are not affected by this directive.

The following flexible hose assemblies are acceptable for use in this application:

(a) Resistoflex SSFR–3800–10 hose assemblies.

(b) Aeroquip 680–10S hose assemblies with Aeroquip 304 protective sleeves over end fittings (Aeroquip Assembly P/N 304000).

(c) Aeroquip 309009 hose assemblies.

(d) Aeroquip 309009–8S hose assemblies (where feathering system requires this size).

(e) Aeroquip 634000–8 or –10, as applicable, hose assemblies.

(f) Hose assemblies that fully comply with FAR 37.140 (TSO–C42) and have a pressure rating equal to or greater than that of the propeller feathering system installed on the airplane.

(g) Equivalent hose assemblies or other means of compliance may be used when approved by the Chief Aircraft Engineering Division, FAA Western Region.

Special flight permits may be issued in accordance with FAR's 21.97 and 21.199 to operate the airplane to a base for the accomplishment of this AD.

This supersedes AD 55–15–03, as amended by Amendment 55–24 to Part 507. This Amendment becomes effective June 16, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, California on April 29, 1977.

The principal authors of this document are Mr. M. Rammelsberg, Aircraft Engineering Division, and Mr. R. G. Wittry, Office of the Regional Counsel, Western Region.

W. R. FREHSE,
Acting Director, Federal Aviation Administration, Western Region.

[FR Doc.77–13952 Filed 5–13–77;8:45 am]

[Docket No. 77–WE–2–AD; Amdt. 39–2895]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC–4 and C–54 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) supersedes an outmoded AD. The old AD specified use of now unavailable parts. It applied only to airplanes used in air carrier passenger operations, and it did not provide for equivalent means of compliance.

DATES: Effective date: June 16, 1977. Compliance required by the first engine change after the effective date of this AD or by October 1, 1977, whichever occurs earlier, unless previously accomplished in accordance with AD 55–15–03 as amended by Amendment 55–24 to Part 507.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone: 213–536–6351. Richard Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone: 213–536–6274.

SUPPLEMENTARY INFORMATION: After issuing AD 55–15–03, as amended by Amendment 55–24 to Part 507, service experience has shown that clarification and updating of the AD is required.

The FAA has determined that, due to continued operation and modification of the McDonnell Douglas DC–4 and C–54 airplanes affected by AD 55–15–03, as amended by Amendment 55–24 to Part 507, the AD as written, requires the use of hose assemblies which currently may not be available. Therefore, the FAA is superseding AD 55–15–03, as amended by Amendment 55–24 to Part 507, to provide an equivalent means of compliance approved by the Chief, Aircraft Engineering Division, FAA Western Region; to add other FAA approved hose assembly part numbers currently available; to clarify the applicability statement to apply to airplanes in all types of operation; and to establish a new effectivity and compliance date for those airplanes for which AD 55–15–03, as amended by Amendment 55–24 to Part 507, has not been accomplished.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

MCDONNELL DOUGLAS: Applies to DC–4 and C–54 series airplanes, certificated in all categories, using Hamilton Standard propellers.

Compliance required by the first engine change after the effective date of this AD or October 1, 1977, whichever occurs earlier, unless previously accomplished in accordance with AD 55–15–03 as amended by Amendment 55–24 to Part 507.

To increase fire resistance integrity of the propeller feathering system against damage by a powerplant fire, all flexible hose components of propeller feathering lines forward of the firewall must be replaced with lines and fittings which will meet the fire resistance requirements of the hose assemblies specified in (a) through (f). However, if the feathering lines in Zone I include a section of steel tubing, flexible hose assemblies located forward of the cylinders and connecting to the governor are not affected by this directive.

The following flexible hose assemblies are acceptable for use in this application:

(a) Resistoflex SSFR–3800–10 hose assemblies.

(b) Aeroquip 680–10S hose assemblies with Aeroquip 304 protective sleeves over end fittings (Aeroquip Assembly P/N 304000).

(c) Aeroquip 309009 hose assemblies.

(d) Aeroquip 309009–8S hose assemblies (where feathering system requires this size).

(e) Aeroquip 634000–8 or –10, as applicable, hose assemblies.

(f) Hose assemblies that fully comply with FAR 37.140 (TSO–C42) and have a pressure rating equal to or greater than that of the propeller feathering system installed on the airplane.

(g) Equivalent hose assemblies or other means of compliance may be used when approved by the Chief Aircraft Engineering Division, FAA Western Region.

Special flight permits may be issued in accordance with FAR's 21.97 and 21.199 to operate the airplane to a base for the accomplishment of this AD.

This supersedes AD 55–15–03, as amended by Amendment 55–24 to Part 507. This Amendment becomes effective June 16, 1977.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, California on April 29, 1977.

The principal authors of this document are Mr. M. Rammelsberg, Aircraft Engineering Division, and Mr. R. G. Wittry, Office of the Regional Counsel, Western Region.

W. R. FREHSE,
Acting Director, Federal Aviation Administration, Western Region.

[FR Doc.77–13953 Filed 5–13–77;8:45 am]

[Docket No. 77–NW–12–AD (Amdt. 39–2901)]

PART 39—AIRWORTHINESS DIRECTIVE

Boeing Model 727 Series Airplanes Horizontal Stabilizer Center Section Front Spar Fitting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, Airworthiness Directive (AD).

SUMMARY: This AD is being issued to require inspections of the horizontal stabilizer center section front spar junction fitting on Boeing Model 727 series airplanes. The AD is required because cracks have been found that could result in loss of the forward attachment of the stabilizer to the jackscrew.

DATES: Effective, May 16, 1977. Compliance times. Visual inspection within 750 flight-hours or prior to August 15, 1977, whichever occurs first, and eddy current or dye penetrant inspection within 3000 flight-hours or prior to August 15, 1978, whichever occurs first.

ADDRESSES: FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98124.

FOR FURTHER INFORMATION, CONTACT:

Gerald R. Mack, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108. (206–767–2516).

SUPPLEMENTARY INFORMATION: Cracks have been found in the jackscrew support lugs of one horizontal stabilizer center section front spar fitting. The majority of the cracks initiated from the attach holes; several lugs had multiple cracks. Cracking is attributed to stress corrosion of the 7079–T6 aluminum alloy material. Since this condition is likely to exist or develop in other 727 airplanes, an Airworthiness Directive is being issued to require a one-time visual inspection and one-time eddy current or dye penetrant inspection of all airplanes with 7079–T6 aluminum alloy fittings. The AD requires reporting of all cracks as results of the inspections.

Approximately 870 airplanes are to be inspected.

This rule was coordinated with the Boeing Commercial Airplane Company and the operators through the Air Transport Association (ATA) prior to issuance by numerous telephone conversations

and a meeting in Seattle, Washington, on April 27, 1977.

DRAFTING INFORMATION: The principal authors of this document are Gerald R. Mack, Engineering and Manufacturing Branch, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

Accordingly, (41 CFR 39), § 39.13 of the Federal Aviation Regulations is amended effective May 16, 1977, by adding the following new Airworthiness Directive:

BOEING: Applies to Boeing Model 727 series airplanes with horizontal stabilizer center section front spar junction fittings, P/N 65–17448–1 or 65–31273–1, certificated in all categories. Compliance required as indicated.

To detect cracks in the horizontal stabilizer center section front spar fitting, accomplish the following:

A. Within the next 750 flight-hours time-in-service from the effective date of this AD or prior to August 15, 1977, which ever occurs first, unless accomplished within the last 850 flight-hours or last 100 days, or unless paragraph B below is or has already been accomplished, inspect for cracks by close visual, eddy current, or dye penetrant means, the exposed surfaces and peripheral edges of all eight (8) lugs which attach the jackscrew support arms to the horizontal stabilizer center section front spar junction fitting. Conduct the eddy current inspection in accordance with Boeing Nondestructive Test Manual, D6–7170, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region; and

B. Within the next 3000 flight-hours time-in-service from the effective date of this AD or prior to August 15, 1978, whichever occurs first, unless accomplished since April 20, 1977, eddy current or dye penetrant inspect for cracks all eight (8) lugs which attach the jackscrew support arms to the horizontal stabilizer center section front spar junction fittings with the attach bolts and jackscrew support arms removed. Conduct the eddy current inspections in accordance with Boeing Non-destructive Test Manual D6–7170, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

C. Parts found cracked are to be replaced or repaired prior to further flight in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Report findings of cracks directly to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, within 64 hours after detection.

D. Aircraft may be ferried to a maintenance base for repair or replacement in accordance with FAR 21.197, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 12, 1977.

An evaluation of the anticipated impacts has been made, and it is expected that the final regulation is neither costly nor controversial. The preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107 is not required.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington on May 12, 1977.

C. B. WALK, Jr.,
Director, Northwest Range.

NOTE.—The incorporation by reference provisions in the document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-13949 Filed 5-13-77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 16766; Amdt. No. 1072]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the mandatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS–730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARS). The applicable FAA forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good

cause exists for making some SIAPs effective in less than 30 days.

The principal author of this document is Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * *Effective June 30, 1977.*

Pueblo, CO—Pueblo Memorial, VOR Rwy 25R (TAC), Amdt. 18.
Norman, OK—Goldsby Airport, VOR/DME–A, Orig.
Eugene, OR—Mahlon Sweet Field, VOR–A, Amdt. 4.
Eugene, OR—Mahlon Sweet Field, VOR/DME Rwy 3 (TAC), Orig.
Eugene, OR—Mahlon Sweet Field, VOR/DME Rwy 16 (TAC), Orig.
Eugene, OR—Mahlon Sweet Field, VOR/DME Rwy 34 (TAC), Orig.
Eugene, OR—Mahlon Sweet Field, VORTAC Rwy 3, Original, cancelled.
Eugene, OR—Mahlon Sweet Field, VORTAC Rwy 16, Amdt, 1, cancelled.
Eugene, OR—Mahlon Sweet Field, VORTAC Rwy 34, Amdt. 2, cancelled.
Provo, UT—Provo Municipal, VOR–A, Amdt 2.

* * * *Effective June 23, 1977.*

Biddeford, ME—Biddeford Muni., VOR–A, Amdt. 2.
Grand Rapids, MI—Grand Rapids Itasca County, VOR Rwy 34, Amdt. 5.
Minneapolis, MN—Anoka County-Blaine Arpt (Janes Field), VOR Rwy 8, Amdt. 6.

* * * *Effective May 26, 1977.*

Albany, GA—Albany-Dougherty County, VOR Rwy 16 (TAC) Amdt. 21.

* * * *Effective May 3, 1977.*

Avalon, CA—Catalina, VOR–A, Amdt. 1.

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * *Effective June 30, 1977.*

Pueblo, CO—Pueblo Memorial, LOC (BC) Rwy 25R, Amdt. 10.

* * * *Effective May 26, 1977.*

Albany, GA—Albany-Dougherty County, LOC (BC) Rwy 22, Amdt. 2.

The FAA published an amendment in Docket No. 16559, Amdt. No. 1068 to Part 97 of the Federal Aviation Regulations (42 FR 20118; April 18, 1977) under § 97.25 effective May 26, 1977, which is hereby amended as follows: Trenton, NJ—Mercer County, LOC (BC) Rwy 24 original is rescinded.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective June 30, 1977.*

Pueblo, CO—Pueblo Memorial, NDB Rwy 7L, Amdt. 10.
Pueblo, CO—Pueblo Memorial, NDB Rwy 25R, Amdt. 7.
Eugene, OR—Mahlon Sweet Field, NDB Rwy 16, Amdt. 25.
Salem, OR—McNary Field, NDB Rwy 31, Amdt. 14.

* * * *Effective June 23, 1977.*

Grand Rapids, MN—Grand Rapids Itasca County, NDB Rwy 34, Amdt. 1.
Saranac Lake, NY—Adirondack, NDB Rwy 23, Original.

* * * *Effective May 26, 1977.*

Albany, GA—Albany-Dougherty County, NDB Rwy 4, Amdt. 6.
Albany, GA—Albany-Dougherty County, NDB Rwy 16, Orig., cancelled.

The FAA published an amendment in Docket No. 16711, Amdt No. 1069 to Part 97 of the Federal Aviation Regulations (42 FR 20625; April 21, 1977) under § 97.27 effective June 2, 1977, which is hereby amended as follows: Palmer, MA Metropolitan Arpt., NDB–A, Amdt 3 is rescinded and replaced by Palmer, MA—Metropolitan Arpt. NDB Rwy 4, original.

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * *Effective June 30, 1977.*

Pueblo, CO—Pueblo Memorial, ILS Rwy 7L, Amdt. 13.
Pueblo, CO—Pueblo Memorial, ILS Rwy 25R, Amdt. 3.
Eugene, OR—Mahlon Sweet Field, ILS Rwy 16, Amdt. 29.
Salem, OR—McNary Field, ILS Rwy 31, Amdt. 20.

* * * *Effective June 23, 1977.*

Grand Rapids, MN—Grand Rapids Itasca County, MLS Rwy 34 (Interim), Amdt. 1
Saranac Lake, NY—Adirondack, ILS Rwy 23, Amdt. 2.

* * * *Effective May 26, 1977.*

Albany, GA—Albany-Dougherty County, ILS Rwy 4, Amdt. 5.

The FAA published an amendment in Docket No. 16741, Amdt. No. 1070 to Part 97 of the Federal Aviation regulations (42 FR 21610; April 28, 1977) under § 97 33 effective June 9, 1977, which is hereby amended as follows: Wilmington, NC—New Hanover County, RNAV Rwy 23 Amdt 3 change effective date to June 16, 1977.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 24 FR 5662 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on May 6, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-13852 Filed 5-13-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI–410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County, Maryland. Map No. H 240008 Panel 45 indicates that 885 Mallard Circle, being Lot 27, Section 5, Plat Two, Ulmstead Estates, Anne Arundel County, Maryland, as recorded in Deed Liber 2923, Folio 637, of Land Records in the office of Land Records of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 240008 Panel 45 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR

17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13667 Filed 5–13–77;8:45 am]

[Docket No. FI–2135]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Freeport, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: On July 14, 1976, in 41 FR 28961, the Federal Insurance Administrator published a list of communities with special hazard areas which included Freeport, Maine. Map No. H 230046A Panel 13 indicates that Parcel 23 as shown on Map 2 of Property Map for the Town of Freeport, Cumberland County, Maine, as Parcels J and I and the Southern halves of Parcels K and H as shown on the plan of Harraseeket Park, the entire property being recorded in Book 3774, Page 112, of Deeds in the Registry of Cumberland County, Maine, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 230046A Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13668 Filed 5–13–77;8:45 am]

[Docket No. FI–2135]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Freeport, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On July 14, 1976, in 41 FR 28961, the Federal Insurance Administrator published a list of communities with special hazard areas which included Freeport, Maine. Map No. H 230046A Panel 13 indicates that Parcel 21 as shown on Map 2 of Property Maps for Freeport, Maine, as recorded in Book 3714, Page 152 of Deeds, in the office of the Register of Cumberland County, Maine, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 230046A Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13669 Filed 5–13–77;8:45 am]

[Docket No. FI–440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Wichita, Kansas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 10, 1975, in 40 FR 2183, the Federal Insurance Administrator published a list of communities with special hazard areas which included Wichita, Kansas. Map No. H 200328 Panel 13 indicates that Lot 2, Block 1 of Dean-Rupert First Addition to Wichita, Wichta, Kansas, as recorded in Book 76, Page 3 of Plats, in the office of the Register of Deeds of Sedgwick County, Kansas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 200328 Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 27, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13670 Filed 5–13–77;8:45 am]

[Docket No. FI–239]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Edwardsville, Kansas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 11, 1974, in 39 FR 13148, the Federal Insurance Administrator published a list of communities with special hazard areas which included Edwardsville, Kansas. Map No. H 200362A Panel 01 and 03 indicates that Lots 84 through 123, The Parkway, Edwardsville, Kansas, as recorded in Book 33, Page 13 of Plats, in the office of the Register of Deeds of Wyandotte County, Kansas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATE: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 200328 Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 27, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13671 Filed 5–13–77;8:45 am]

[Docket No. FI–310]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Davenport, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On July 12, 1974, in 39 FR 25649, the Federal Insurance Administrator published a list of communities with special hazard areas which included Davenport, Iowa. Map No. H 190242 Panel 10 indicates that Lots 74 through 93, Cedar Vista Annex, Third Addition, Davenport, Iowa, recorded as Document No. 8564–75 of Plats in the office of the Recorder of Scott County, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 74 through 76 and 91 through 93 of the above property are not within the Special Food Hazard Area. Also Lots 77 through 90 of the above property, with the exception of the recorded building set back easements and the recorded utility and sewer easements, are not within the Special Flood Hazard Area.

DATE: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 190242 Panel 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 21, 1974.

(National Flood Insurance Act of 1968 (Title III of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13672 Filed 5–13–77;8:45 am]

[Docket No. FI–658]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Cobb County, Georgia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: On August 12, 1975, in 40 FR 33822, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the County of Cobb, Georgia. Map No. H 130052 Panel 15 indicates that Lot 21, Block A, Casey Park Subdivision, Cobb County, Georgia, as recorded in Plat Book 67, Page 48, in the office of the Clerk of Cobb County, Georgia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of addi-

tional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 130052 Panel 15 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on October 3, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13673 Filed 5–13–77;8:45 am]

[Docket No. FI–685]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Richmond County, Georgia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: On September 8, 1975, in 40 FR 41511, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the County of Richmond, Georgia. Map No. H 130158 Panel 04 indicates that Lot 29, Block J. Kingston, Section 2–E, Richmond County, Georgia, as recorded in Realty Reel 29, Pages 370 through 375, in the office of the Clerk of the Superior Court of Richmond County, Georgia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area.

DATE: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 130158 Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on October 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)).

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13674 Filed 5–13–77;8:45 am]

[Docket No. FI–658]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Cobb County, Georgia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: On August 12, 1976, in 40 F.R. 33822, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the County of Cobb, Georgia. Map No. H 130052 Panel 16 indicates that Buildings 1 through 9, Riverbend, and Buildings 10 through 19, Riverbend III, Cobb County, Georgia, as recorded in Condominium Plat Book I, Page 2, and Condominium Plat Book I, Page 132, respectively, in the office of the Clerk of Cobb County, Georgia, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 130052 Panel 16 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on October 3, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13675 Filed 5–13–77;8:45 am]

[Docket No. FI–327]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Guilford, Connecticut

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 12, 1974, in 39 FR 28887, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Guilford, Connecticut. Map No. H 090077 Panel 14 indicates that Lot 11, East River Meadows, Guilford, Connecticut, as recorded on Map No. 1768, in the office of the Town Clerk of Guilford, Connecticut, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area.

DATE: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 090077 Panel 14 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13676 Filed 5–13–77;8:45 am]

[Docket No. FI–327]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Guilford, Connecticut

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 12, 1974, in 39 FR 28887, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Guilford, Connecticut. Map No. H 090077 Panel 05 indicates that Lot 30, Nutile Acres, Section IV, located at 62 Cardinal Drive, Guilford, Connecticut, as recorded in Volume 221, Page 334, in the Guilford Land Records, Guilford, Connecticut, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood ihformation, that the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 090077 Panel 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13677 Filed 5–13–77;8:45 am]

[Docket No. FI–2147]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Newport Beach, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On July 16, 1976, in 41 FR 29396, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Newport Beach, California. Map No. H 060227A Panel 08 indicates that Lots 1 through 5, Tract 8787, Newport Beach, California, as recorded in Book 367, Pages 28 through 30, in the office of the Recorder of Orange County, California, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 090077 Panel 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 2, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13677 Filed 5–13–77;8:45 am]

fund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 060227A Panel 08 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 9, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13678 Filed 5–13–77;8:45 am]

[Docket No. FI–454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Sacramento County, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 28, 1975, in 40 FR 4126, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the County of Sacramento, California. Map No. H 060262 Panel 14 indicates that Lots 9, 10, and 11, Southgate Commercial Unit No. 2, and Parcels 1 and 2, Portions of Section 32, T. 8 N., R. 5 E., M.D.B. and M., Sacramento County, California, as recorded respectively on Map No. 29, Book 79 of Maps, and Book 8 of Parcel Maps, Page 28, both recorded in the office of the Recorder of Sacramento County, California, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned properties are not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 060262 Panel 14 is hereby corrected to reflect that the above properties are not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–13679 Filed 5–13–77;8:45 am]

[Docket No. FI–279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Pleasant Hill, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 3, 1974, in 39 FR 19455, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Pleasant Hill, California. Map No. H 060034A Panel 04 indicates that Lot 1127, Gregory Gardens Unit No. 7, at 1631 Mary Drive, Pleasant Hill, California, as recorded in Book 42, Pages 9 and 10, in the office of the County Recorder of Contra Costa County, California, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above may in light of additional, recently acquired flood information, that the portion of the lot outside the channel of Grayson Creek is not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 060034A Panel 04 is hereby corrected to reflect that the portion of the lot outside the channel of Grayson Creek is not within the Special Flood Hazard Area identified on May 24, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128), and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13680 Filed 5–13–77;8:45 am]

[Docket No. FI–685]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Camarillo, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On September 8, 1975, in 40 FR 41511, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Camarillo, California. Map No. H 065020A Panel 07 indicates that Lots 1 through 14, 25 through 51, 62 through 83, Tract 2417, Camarillo, California, as recorded in Book 68 of Miscellaneous Records (Maps), Pages 40 through 43, in the office of the Recorder of Ventura County, California, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 1 through 10, 14, 25, 28 through 30, 41 through 47, 69 through 74, and 78 through 80 are not within the Special Flood Hazard Area. Lots 11 through 13, 26, 27, 31 through 40, 48 through 51, 62 through 68, 75 through 77, and 81 through 83, with the exception of the front yard building setback of 20 feet, are also not within the Special Flood Hazard Area.

DATES: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 065020A Panel 07 is hereby corrected to reflect that the above described property is not within the Special Flood Hazard Area identified on July 19, 1974.

(National Food Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13681 Filed 5–13–77;8:45 am]

[Docket No. FI–308]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Palm Springs, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On July 5, 1974, in 39 FR 24639, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Palm Springs, California. Map No. H 060257 Panel 12 indicates that Lot 42, Tahquitz Park No. 2, Palm Springs, California, as recorded in Book 19, Page 2, in the office of the Recorder of Riverside County, California, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property, less the East 25 feet thereof, adjacent to Cahuilla Road is not within the Special Flood Hazard Area.

DATE: The map amendment is effective as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

If a property owner was required to purchase flood insurance as a condition of such assistance, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

Map No. H 060257 Panel 12 is hereby corrected to reflect that the above mentioned portion of the property is not within the Special Flood Hazard Area identified on June 21, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13682 Filed 5–13–77;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Interim Regulations

AGENCY: Office of Revenue Sharing, Office of the Secretary.

ACTION: Interim regulations.

SUMMARY: This notice amends Subparts C and D, of the Office of Revenue Sharing regulations. These amendments are required to conform the current regulations with the changes made by the State and Local Fiscal Assistance Amendments of 1976. The purpose of these amendments is to provide necessary guidance to the recipient governments, and to inform other interested persons of the changes necessitated by the amendments to the General Revenue Sharing Program.

EFFECTIVE DATE: These interim regulations are effective on May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

William H. Sager, Chief Counsel, Office of Revenue Sharing, 202–634–5182.

SUPPLEMENTARY INFORMATION:

SUBPART C

In 31 CFR, Part 51, Subpart C, § 51.20 (a) is amended to provide that data used to determine allocations of entitlement funds will be the latest and most complete data supplied by the Bureau of the Census, Bureau of Economic Analysis and the Internal Revenue Service. Section 51.20(c) is amended to include a special rule for entitlement periods of less than one year. Section 51.21 is amended to clarify the definition of pre-disaster data factors. A new § 51.21(c) is added to provide for multiple disasters. Current § 51.-21(c) is redesignated § 51.21(d). Section 51.23(c) is amended to change the date for determining adjusted taxes and intergovernmental transfers to the fiscal year that can be uniformly assembled for all units of local government prior to the beginning of the affected entitlement period. Section 51.24 is amended by the deletion of 51.24(a)(1) as it no longer served a useful purpose. Section 51.25 is amended to provide that the waived entitlements of Indian tribes and Alaskan native villages will be added to the entitlement of the county government in the county area in which the tribe or village is situated.

Section 51.26(a) is amended to establish a State Obligated Adjustment Reserve which is set up on a State-by-State basis as opposed to the current National Obligated Adjustment Reserve. This subsection also establishes a limitation, not to exceed 0.5 percent of the total entitlement for the State government and all units of local government within that State, as the amount the Director may reserve. Section 51.26(b) provides that for entitlement periods beginning after December 31, 1976, adjustments to increase or decrease entitlements shall be demanded by the Director from the recipient government within one year from the end of the entitlement period for which the adjustment is claimed.

Section 51.27 is amended to provide for State maintenance of transfer rules for entitlement periods beginning on or after January 1, 1977. Section 51.27(i) adds a new section which provides that a State's entitlement shall not be reduced to the extent that the Federal government has assumed responsibility for a category of expenditures previously the responsibility of the State.

Section 51.29 is amended to require that any evidence supporting adjustment to data factors be presented to the Director not later than one year from the end of the entitlement period in which the data is applicable. Section 51.29 is further amended to delete the last sentence providing that data factors used for more than one entitlement period are subject to challenge only for the first entitlement period in which the data is used. Section 51.31 is added to provide that the office of the separate law enforcement officer in the State of Louisiana will receive a percentage of the entitlements of the State of Louisiana and of each parish in the State, other than the Parish of Orleans.

SUBPART D

In 31 CFR, Part 51, Subpart D, § 51.40 is amended to reflect the fact that the prohibition against the use of entitlement funds for matching other Federal funds is repealed. However, the substance of § 51.40 remains in the regulations in order to provide guidance concerning causes of action arising from the expenditure of entitlement funds in violation of the matching prohibition on or before December 31, 1976. Section 51.41 is amended to reflect the repeal of the priority expenditure restrictions for units of local government. However, § 51.41 remains in the regulations in order to provide guidance concerning causes of action arising from the expenditure of entitlement funds for other than priority purposes on or before December 31, 1976. A new § 51.44 is added to set forth the prohibition against the use of entitlement funds for lobbying purposes. A new § 51.45 is added to clarify the debt retirement restriction contained in § 51.41 (c) (4). In retiring a debt a recipient shall still comply with the provisions of Subparts D and E, particularly the Davis-Bacon Act and nondiscrimination requirements of those subparts where the proceeds of indebtedness were expended on or after October 12, 1972.

OTHER PROVISIONS

Amendments to Subpart B of title 31 CFR, Part 51, (relating to Assurances, Reports, Public Participation and Public Hearings) were published in the FEDERAL REGISTER as interim regulations on January 10, 1977 (42 FR 2196).

Amendments to Subpart F of title 31, CFR, Part 51, relating to Fiscal Procedures and Auditing, were published in the FEDERAL REGISTER as interim regulations on January 11, 1977 (42 FR 2422).

Amendments to Subpart F of Title 31, CFR, Part 51, relating to Fiscal Procedures and Auditing, were published in the FEDERAL REGISTER as interim regulations on January 11, 1977 (42 FR 2422).

Amendments to Subpart A, general provisions; Subpart E, nondiscrimination by recipient governments receiving entitlement funds; and Subpart G, hearing procedures and practice requirements before the Administrative Law Judge, of Title 31, CFR, Part 51 were published in the FEDERAL REGISTER as interim regulations on April 6, 1977 (42 FR 18362).

NEED FOR IMMEDIATE GUIDANCE

Because these interim regulations are necessary to provide immediate guidance it is found impractical to issue these interim regulations with the notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations of 5 U.S.C. 553(d).

WRITTEN COMMENTS SOLICITED

Consideration will be given to any written comments or suggestions pertaining to these amendments to Subparts C and D which are received on or before July 15, 1977. Written comments shall be addressed to the Director, Office of Revenue Sharing (Symbols CC), Department of the Treasury, Washington, D.C. 20226. Written comments submitted in response to this solicitation will be available to the public upon request unless the comments are exempt from disclosure under the Freedom of Information Act, (5 U.S.C. 552) and the Department invokes the applicable exemption. A file of all written comments will be indexed and lodged with the Treasury Library.

These amendments and interim regulations are issued under the authority of the State and Local Fiscal Assistance Act of 1972, as amended, Title I, Pub. L. 92-512 and the State and Local Fiscal Assistance Amendments of 1972, Pub. L. 94-488, (31 U.S.C. 1221-1263) and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342).

NOTE.—The Department of the Treasury has determined that these amendments and interim regulations do not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

Dated: May 10, 1977.

BERNADINE DENNING,
Director, Office of Revenue Sharing.

Approved:

ROGER C. ALTMAN.

Subpart C—Computation and Adjustment of Entitlement Funds

Sec.

51.20 Data.
51.21 Data affected by a major disaster.
51.22 Adjusted taxes.
51.23 Date for determination of allocation.
51.24 Boundary changes, governmental reorganization, etc.
51.25 Waiver of entitlement; nondelivery of checks; insufficient data.
51.26 Reservation of funds and adjustment of entitlement.
51.27 State to maintain transfers to local governments.
51.28 Optional formula.
51.29 Adjustment of data factors.
51.30 Adjustment of maximum and minimum per capita entitlement; 100 percent criterion.
51.31 Separate law enforcement officers.

AUTHORITY: State and Local Fiscal Assistance Act of 1972, as amended, Title I, Pub. L. 92-512 and State and Local Fiscal Assistance Amendments of 1972, Pub. L. 94-488, (31 U.S.C. 1221-1263); Treasury Dept. Order No. 224, dated January 26, 1973 (38 FR 3342).

Subpart C—Computation and Adjustment of Entitlement

§ 51.20 Data.

(a) *In general.* The data used in determination of allocations and adjustments thereto payable under this part will be the latest and most complete data supplied by the Bureau of the Census, the Bureau of Economic Analysis and the Internal Revenue Service which are available prior to the allocations for one entitlement period unless, in the judgment of the Director, the data provided by those Agencies are not current enough or are not comprehensive enough to provide for equitable allocations.

(b) *Computation and payment of entitlements.* (1) Allocations will not be made to any unit of local government if the available data is so inadequate as to frustrate the purpose of the Act. Such units of local government will receive an entitlement and payment when current and sufficient data become available as necessary to permit an equitable allocation.

(2) Payment to units of local government for which the Director has not received an address confirmation will be delayed until proper information is available to the Director.

(3) Where the Director determines that the data provided by the Bureau of the Census or the Department of Commerce are not current enough, or are not comprehensive enough, or are otherwise inadequate to provide for equitable allocations he may use other data, including estimates. The Director's determination shall be final and such other additional data and estimates as are used, including the sources, shall be publicized by notice in the FEDERAL REGISTER.

(4) *Currency of tax collection.* Only that tax collection data which is received in the most recent reporting year available from the appropriate agencies prior to the allocation for an entitlement period shall be used in the determination of entitlements for that entitlement period.

(c) *Special rule for less than one year entitlement periods.* For entitlement periods which encompass less than one year, the adjusted taxes and intergovernmental transfers of any unit of local government for the entire reporting year will be used. The allocations calculated by these data will be adjusted to be proportionate to the number of months in the entitlement period.

(d) *Units of local government located in more than one county area.* In cases where a unit of local government is located in more than one county, each part of such unit is treated for allocation purposes as a separate unit of government, and the adjusted taxes, and intergovernmental transfers of such parts are estimated on the basis of the ratio which the population of such part bears to the population of the entirety of such unit.

§ 51.21 Data affected by major disaster.

(a) *In general.* Any change in data otherwise eligible for use in determining the entitlement of a recipient government after April 1, 1974, shall be disregarded for a period of 60 months if that change:

1. Resulted from a major disaster determined by the President under section 301 of the Disaster Relief Act of 1974 (Pub. L. 93-288) and

2. Results in a data factor which is less beneficial to the recipient government than the pre-disaster data factor for purposes of the revenue sharing allocation process.

(b) *Less beneficial data factor.* For the purposes of this section a pre-disaster data factor is defined as a data factor of record for revenue sharing purposes which was calculated for a time period immediately preceding the data factor time period in which the disaster occurred and, therefore, could not have been affected by the disaster.

(c) *Eligibility requirements.* To be eligible for the data stabilization benefit of paragraph (a) of this section, a recipient government shall:

1. Be located within a State designated by the President as a major disaster area, and

2. Be located within a geographical subdivision of the State as certified to the Office of Revenue Sharing as a major disaster area by the Administrator of the Disaster Assistance Administration of the Department of Housing and Urban Development.

Further; each recipient government within the specific geographic area so designated will be notified pursuant to the data improvement program, provided for in § 51.29 of each of its data factors developed subsequent to the major disaster designation, which are less beneficial than the pre-disaster data factors, and shall be required to verify through its chief executive officer, that the data was adversely affected by the major disaster. In addition, the Director may require that such verifications be accompanied by substantiating documentation evidencing a causal relationship between the major disaster and the less favorable value of the current revenue sharing data factor of record. The Director, upon being satisfied that all of the requirements of this section have been met with respect to any post-disaster data factor, shall refrain from using the post-disaster data factor in the allocation process, of an entitlement period, and shall continue to use the predisaster data factor for a period of 60 months from the designation by the President of the specific disaster area unless:

(i) A data factor for a current entitlement period is more beneficial than the pre-disaster data factor or;

(ii) A post-disaster data factor of an entitlement period is not verified by the chief executive officer as having been adversely affected by the major disaster.

(d) *Multiple disasters.* Recipient governments may be in areas designated by the President as specific major disaster areas as the result of two or more disasters. Recipient governments in such areas will also be provided their appropriate pre-disaster data for verification. The 60 month period for which more beneficial pre-disaster data may be used for a government shall be determined by the most recent designation by the President of a specific major disaster area containing that government.

(e) *Effect on later entitlement periods of failure to verify.* A recipient government which does not verify that an adverse data change is caused by a disaster in an entitlement period when it was afforded an opportunity to make such verification does not lose the opportunity to verify in a later entitlement period that a disaster has affected the data factor for that later entitlement period.

§ 51.22 Adjusted taxes.

(a) *In general.* Tax revenues are compulsory contributions to a unit of local government exacted for public purposes, as such contributions are determined by the Bureau of the Census for general statistical purposes. The term "adjusted taxes" means the tax revenues adjusted by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to school operations, debt service on school indebtedness, school capital outlays, and other educational purposes.

(b) *Procedure for exclusion of tax revenues for education.* The tax revenues exacted by a unit of local government shall be adjusted to exclude any such tax revenues used for financing education in a manner consistent with the following provisions:

1. Where a unit of local government finances education from a specific fund and lists tax revenues to the fund or levies a separate tax for purposes of education, such amount as determined will constitute the tax revenues for education.

2. If tax revenues for purposes of education are not separately identifiable because education is financed by expenditure or transferring of moneys from a general fund (or similarly named fund) to a school fund or funds, then the ratio of tax revenues (as defined in paragraph (a) of this section) to the total revenues in such fund shall be calculated, and that ratio multiplied by the expenditure or transfer of non-dedicated moneys from such fund to the school fund shall be equated with the tax revenues properly allocable to expenses for education. The phrase "total revenues in such fund" means cash and securities on hand in the general fund (or similarly named fund) at the beginning of the fiscal year, plus all non-dedicated revenues to the fund (other than trust or agency revenues) less cash and securities on hand at the end of the fiscal year. Trust and agency funds are those held specifically for individuals or governments for which no discretion can be exercised as to the amounts to be paid to the recipient.

3. If any instance where neither paragraph (b) (1) nor (2) of this section permits determination of school taxes, then any procedure deemed equitable by the Director shall be utilized to ascertain adjusted taxes.

(c) *Validity of adjusted tax data.* Allocation of funds under the Act will be based on data reported by States and units of local government to the Bureau of the Census and shall be in accordance with definitions established by the Bureau. No unit of government shall report to the Department of the Treasury or the Bureau of the Census in a manner which attempts to circumvent or frustrate the intent of this section.

§ 51.23 Date for determination of allocation.

(a) *In general.* Pursuant to the provisions of § 51.20 (a) and (b) (3), the determination of the data definitions upon which the allocations and entitlements for an entitlement period are to be calculated shall be made not later than the day immediately preceding the beginning of the entitlement period. Any change in the computation of local tax effort to credit certain county sales taxes to units of local government pursuant to section 109(e)(2)(B) of the Act (the "Memphis Rule") will be considered to be a change in a data definition and will not be given effect for any entitlement periods for which there are final data definitions. The final date upon which determinations of allocations and entitlements, including adjustments thereto, may be made for an entitlement period shall be determined by the Director as soon as practicable and shall be publicized by notice in the FEDERAL REGISTER.

(b) *Time limitation and minimum adjustment.* If it is established to the satisfaction of the Director by factual evidence and documentation that the data used in the computation of an allocation is erroneous an adjustment will be made. No adjustment shall be made unless such evidence and documentation of erroneous data is provided the Director for determination within one year of the end of the entitlement period with respect to which the payment is made. No adjustment of any kind which is less than $200 shall be made to an entitlement if in the judgment of the Director such adjustment will be burdensome, expensive, or otherwise impracticable.

(c) *Adjusted taxes and intergovernmental transfers.* The date for determining the amount of adjusted taxes and intergovernmental transfers of a unit of local government will be the fiscal year that can be uniformly assembled for all units of local government prior to the beginning of the affected entitlement period.

§ 51.24 Boundary changes, governmental reorganization, etc.

(a) *In general.* A boundary change, governmental reorganization, or change in State statutes or constitution, relevant to the computation of entitlement of a unit of local government under the Act, which occurs during an entitlement period and is not taken into account during the initial allocation, shall, not result in a change to the entitlement of that unit until the next entitlement period. However, payment tendered to such unit for the entitlement period may be redistributed pursuant to the provisions of paragraphs (b) and (c) of this section.

(b) *New units of local government.* A unit of local government which came into existence during an entitlement period shall first be eligible for an entitlement allocation for the next entitlement period. However, if such unit is a successor government, it shall be eligible to receive the entitlement payment of the

unit or units of local government to which it succeeded in accordance with the conditions of the succession.

(c) *Dissolution of units of local government.* A unit of local government which dissolved, was absorbed or ceased to exist as such during an entitlement period is eligible to receive an entitlement payment for that entitlement period: *Provided,* That such unit of local government is in the process of winding up its governmental affairs or a successor unit of local government has legal capacity to accept and use such entitlement funds. Entitlement payments which are returned to the Director because of the cessation or existence of a unit of local government shall be placed in the State and Local Government Fiscal Assistance Trust Fund until such times as they can be redistributed according to the conditions under which the unit of local government ceased to exist.

(d) *Limitations on adjustment for annexations.*—1. Annexations by units of local government having a population of less than 5,000 on April 1, 1970, shall not affect the entitlement of any unit of local government for an entitlement period unless the Director determines that adjustments pursuant to such annexations would be equitable and would not be unnecessarily burdensome, expensive, or otherwise impracticable.

2. Annexations of areas with a population of less than 250, or less than 5 percent of the population of the gaining government, shall not affect the entitlement of any unit of local government unless the Director determines that adjustments pursuant to such annexations would be equitable and would not be unnecessarily burdensome, expensive, or otherwise impracticable.

(e) *Certification.* Units of local government affected by a boundary change, governmental reorganization, or change in State statutes or constitution shall, before receiving an entitlement adjustment or payment redistribution pursuant to this section, obtain State certification that such change was accomplished in accordance with State law. The certifying official shall be designated by the Governor, and such certification shall be submitted to the Bureau of Census.

§ 51.25 Waiver of entitlement; nondelivery of checks; insufficient data.

(a) *Waiver.* Any unit of local government or Indian tribe or Alaskan native village may waive its entitlement for any entitlement period: *Provided,* The chief executive officer with the consent of the governing body of such unit notifies the Director that the entitlement payments for a past, current, or next beginning entitlement period, or any combination thereof, are being waived. A waiver of entitlement for the next beginning entitlement period will only be given effect if the waiver is received during the 6-month period immediately preceding that entitlement period. In the event that an entitlement payment is returned or a notice of waiver is executed which is not in accordance with this procedure, the chief executive officer will be so notified by the Director and, unless the attempted waiver is rescinded within 30 days of such notice, it shall be given effect. However, in no event will a notice of waiver be given effect for an entitlement period which is subsequent to the next beginning entitlement period. The entitlement waived and adjustments thereto, if any, resulting from recalculation of earlier entitlements, shall be added to and shall become a part of the entitlement of the next highest unit of government eligible to receive entitlement funds in that State in which the unit of local government waiving entitlement is located, except that in the case of an Indian tribe or Alaskan native village, the entitlement funds waived shall be added to and become a part of the entitlement of the county government of the county area in which such tribe or village is located. A waiver of entitlement by a unit of local government or Indian tribe or Alaskan native village shall be deemed irrevocable 30 days prior to the first payment for the entitlement period to which it relates.

(b) *Constructive waiver.* Any recipient government which has not waived and is otherwise eligible to receive entitlement payments and which has failed to provide required reports, or assurances pursuant to Subpart B is subject to a determination of having constructively waived its entitlement funds for the affected entitlement period through inaction. The Director, prior to such a determination, shall notify nonresponsive recipient governments of their noncompliance and that their entitlement funds are being temporarily withheld pursuant to § 51.3 (c). If compliance is not achieved within a reasonable period of time, which shall not be less than 30 days, the Director shall notify the affected recipient governments that if compliance is not achieved within a period of 30 days after mailing such notice, a constructive waiver of entitlement funds will be determined to have occurred. Entitlement funds thus constructively waived will be redistributed pursuant to the provisions of paragraph (a) of this section.

(c) *Nondelivery.* Entitlement funds for any entitlement period which are returned to the Department of the Treasury as being nondeliverable because of incorrect address information, or which are unclaimed for any reason, shall be placed in the State and Local Government Fiscal Assistance Trust Fund until such time as payment can be made.

(d) *Insufficient data.* Entitlement funds for any entitlement period which are withheld from payment because of insufficient data upon which to compute the entitlement, or for which payment cannot be made for any other reason, shall remain in the State and Local Government Fiscal Assistance Trust Fund until such time as payment can be made.

§ 51.26 Reservation of funds and adjustment of entitlement.

(a) *Reservation of entitlement funds.* In order to make subsequent adjustments to an entitlement payment under this part which may be necessitated because of insufficient or erroneous data, or for any other reason, the Director shall reserve in the State and Local Government Fiscal Assistance Trust Fund such percentage, not to exceed 0.5 percent, of the total entitlement funds for any State government and all units of local government within the State for any entitlement period as in his judgment shall be necessary to insure that there will be sufficient funds available so that all recipient governments will receive their full entitlements. Such reserve shall be known as the State Obligated Adjustment Reserve and amounts remaining in that reserve will accumulate until the liabilities of the Trust Fund to the recipient governments in that State are discharged or sufficiently diminished to permit an allocation.

(b) *Adjustments to entitlement payments.* 1. Adjustments to the entitlement of a recipient government during the entitlement period will ordinarily be effected through alteration to entitlement payments for that entitlement period, unless there is a downward adjustment which is so substantial as to make payment alterations impracticable or impossible.

2. After the end of an entitlement period which begins after December 31, 1976, any adjustments to increase or decrease entitlement payments of a recipient government for that entitlement period shall be accomplished only if demand therefor has been made by the recipient government, or the Director, prior to the expiration of one year from the end of the entitlement period for which the adjustment is claimed.

3. After the end of an entitlement period which begins after December 31, 1976, any adjustments to increase or decrease entitlement payments of a recipient government for that entitlement period shall be made through the State Obligated Adjustment Reserve.

4. Adjustments made to decrease payments to a recipient government for an entitlement period ending before January 1, 1977 shall be withheld from the Obligated Adjustment Reserve established under § 51.26(a) (38 FR 18668).

§ 51.27 State to maintain transfers to local governments.

(a) *General rule for entitlement periods ending on or before December 31, 1976.* The entitlement of any State government for any entitlement period beginning on or after July 1, 1973 and before December 31, 1976 shall be reduced by the amount (if any) by which:

1. The average of the aggregate amounts transferred by the State government out of its own sources during such period (or during that State's fiscal year ending on or immediately prior to the end of such period) and the preceding entitlement period (or such fiscal year) to all units of local government (as defined in § 51.21(p)) in such State, is less than

2. The similar aggregate amount for the 1-year period beginning July 1, 1971

(or that State's fiscal year ending on or immediately prior to the end of such period).

(b) *General rule for entitlement periods commencing on or after January 1, 1977.* The entitlement of any State government for any entitlement period beginning on or after January 1, 1977 shall be reduced by the amount (if any) by which:

1. One-half of the aggregate amounts transferred by the State government out of its own sources during the 24 month period ending the last day of the last fiscal year for which the Bureau of the Census has relevant data, on the first day of such entitlement period, to all units of local government in such State is less than

2. One-half the similar aggregate amount for the 24 month period ending the day before the 24 month period described in paragraph (b)(1) of this section.

For purposes of paragraphs (a)(1) and (b)(1) of this section, the amount of any reduction in the entitlement of a State government under this section for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government out of its own sources during such period to units of local government in such State. The phrase "own sources" means all sources of State revenue (including debt proceeds and the State's revenue sharing entitlement funds) but excluding intergovernmental revenues received from the Federal government.

(c) *Measurement of maintenance of effort.* In those States that do not have an accounting system providing an audit trail for all funds concerned (from own source to final application) in intergovernmental tranfers to units of local government (such as those States in which intergovernmental transfers to units of local government are made from a commingled fund with no identification as to specific revenue source), the following formula may be applied by the Director to establish the base year intergovernmental transfers to units of local government from own sources and to generally monitor level of effort in accordance with the maintenance provision of paragraphs (a) and (b) of this section during future entitlement periods:

(1) It shall be assumed that the ratio of a State's own source intergovernmental transfers to units of local government to that State's total intergovernmental transfers to units of local government is equal to the ratio of that State's own source revenues to its total revenues. Thus, for a State in which such formula may be applied, its base year own source intergovernmental transfers to units of local government shall be assumed to equal its total intergovernmental transfers to units of local government in the base year multiplied by its own source revenue in the base year divided by its total revenues in the base year.

(2) In a State in which the formula is applied, the State's own source intergovernmental transfers to units of local government in a future entitlement period shall be assumed to equal the average of:

(i) The State's total intergovernmental transfers to units of local government during that period (or that State's fiscal year ending on or immediately prior to the end of such period) multiplied by its own source revenue in that period (or such fiscal year) divided by its total revenues in that period (or such fiscal year) and

(ii) The State's total intergovernmental transfers to units of local government during the preceding entitlement period (or that State's fiscal year ending on or immediately prior to the end of such period) multiplied by its own source revenue in that period (or such fiscal tal transfers to units of local government period (or such fiscal year).

(3) Therefore, in a State in which the formula is applied, maintenance (for a given entitlement period) of intergovernmental transfer effort to units of local government will be measured by the difference between the State's average aggregate intergovernmental transfers to units of local government (over the appropriate periods) as calculated by employing the method described in paragraph (c)(2) of this section and that State's own source intergovernmental transfers to units of local government in the base period as calculated by employing the method described in paragraph (c)(1) of this section.

(4) Should the application of this formula during any entitlement period indicate nonmaintenance, for example, should a State's calculated own source average aggregate intergovernmental transfers to units of local government (over the appropriate periods) be less than such transfers as calculated for the base period, the difference (as defined in paragraph (c)(3) of this section) shall constitute the future indicated reduction in that State's entitlement unless such State can document to the Director that the fact or amount of nonmaintenance as determined by application of the formula is inaccurate.

(d) *Alternative procedure.* If the Director shall determine that application of the formula set forth in paragraph (b) of this section in a particular case provides an inaccurate or unfair measure of transfer effort, then any formula, procedure, or method deemed equitable by the Director may be utilized to measure such transfer effort for the purpose of implementing the maintenance provision.

(e) *Adjustment where State assumes responsibility for category of expenditures.* If the State government establishes to the satisfaction of the Director that since June 30, 1972, it has assumed responsibility for a category of expenditures which (before July 1, 1972) was the responsibility of local governments located in such State, then, the aggregate amount taken into account under paragraphs (a)(2) or (b)(2) of this section shall be reduced to the extent that increased government spending (out of its own sources) for such category has replaced corresponding amounts, which for the period used for the purposes of this paragraph, it transferred to units of local government.

(f) *Adjustment where new taxing powers are conferred upon local governments.* If a State establishes to the satisfaction of the Director that since June 30, 1972, one or more units of local government within such State have had conferred upon them new taxing authority, then, the aggregate amount taken into account under paragraph (a)(2) of this section (in the case of an entitlement period beginning before December 31, 1976) or paragraph (b)(2) of this section (in the case of an entitlement period beginning on or after January 1, 1977) shall be reduced to the extent of the larger of:

(1) An amount equal to the amount of the taxes collected by reason of the exercise of such new taxing authority by such local governments, or

(2) An amount equal to the amount of the loss of revenue to the State by reason of such new taxing authority being conferred on such local governments. No amount shall be taken into consideration under paragraph (f)(1) of this section if such new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the State is determined by the Secretary to have decreased a related State tax.

(g) *Special rule for period beginning July 1, 1973.* In the case of the entitlement period beginning July 1, 1973, the preceding entitlement period for purposes of paragraph (a)(1) of this section shall be treated as being the 1-year period beginning July 1, 1972, or that State's fiscal year which ends prior to June 30, 1973.

(h) *Special rule for period beginning July 1, 1976.* In the case of the entitlement period beginning July 1, 1976, and ending December 31, 1976, the aggregate amount taken into account under paragraph (a)(1) of this section for the preceding entitlement period and the aggregate amount taken into account under paragraph (a)(2) of this section shall be one-half of the amounts which (but for this paragraph (h)) would be taken into account.

(i) *Special rule for period beginning January 1, 1977.* In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under subparagraphs (1) and (2) of paragraph (b) of this section, shall be three-fourths of the amounts which (but for this paragraph (i)) would be taken into account.

(j) *Adjustment where Federal Government assumes responsibility for category of expenditures.* In the case of an entitlement period beginning on or after January 1, 1977, if a State government establishes to the satisfaction of the Director that the Federal Government has assumed responsibility for a category of expenditures for which such State government transferred amounts, during

all or a part of the period utilized for purposes of paragraph (b)(1) of this section, which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (b)(2), such aggregate amount shall be reduced to the extent that increased Federal Government spending has replaced corresponding amounts which such State government had transferred to units of local government.

(k) *Report by Governor.* Pursuant to the authority of § 51.10 and in order to effect compliance with this section, the Governor of each State shall submit to the Director after the end of the State's fiscal year, on a form to be provided, the aggregate amounts transferred out of its own sources to units of local government for those entitlement periods or that State's fiscal years specified on the report:

(1) The State's own source funds.

(2) The State's total funds.

(3) The State's own source transfers to units of local government.

(4) The State's total transfers to units of local government.

(l) *Reduction in entitlement.* If the Director has reason to believe that paragraphs (a) or (b) of this section require a reduction in the entitlement of any State government for any entitlement period, he shall give reasonable notice and opportunity for hearing to the State. If, thereafter, he determines that paragraphs (a) or (b) of this section require the reduction of such entitlement, he shall also determine the amount of such reduction and shall notify the Governor of such State of such determinations and shall withhold from subsequent payments to such State government under this part an amount equal to such reduction.

(m) *Transfer to general fund.* An amount equal to the reduction in the entitlement of any State government which results from the application of this section (after any judicial review) shall be transferred from the Secretary's Trust Fund to the general fund of the Treasury on the day on which such reduction becomes final.

§ 51.28 Optional formula.

(a) *In general.* A State government may by law provide for the allocation of entitlement funds among the county areas, or among units of local government (other than county governments, Indian tribes, and Alaskan native villages):

(1) On the basis of the population multiplied by the general tax effort factors of such areas or units of local government; or,

(2) On the basis of the population multiplied by the relative income factors of such areas or unit of local government; or,

(3) On the basis of a combination of those two factors.

Any State which provides by law for such a variation in the allocation formula provided by subsections 108(a) or 108(b) (2) and (3) of the Act, shall notify the Director of such law not later than 90 days before the beginning of the first entitlement period to which such law is to apply. Any such law shall:

(i) Provide for allocating 100 percent of the aggregate amount to be allocated under subsections 108(a) or 108(b)(2) and (3) of the Act;

(ii) Apply uniformly throughout the State; and

(iii) Apply during the period beginning on the first day of the first entitlement period to which it applies and ending on September 30, 1980.

(b) *Single legislation required.* If a State government alters its county area allocation formula or its local government allocation formula, or both, such alteration may be made only once and is required to be made in the same legislative enactment.

(c) *Certification required.* Paragraph (a) of this section shall apply within a State only if the Director certifies that the State law complies with the requirements of such paragraph. The Director shall not certify any such law with respect to which he receives notification later than 30 days prior to the initial entitlement period during which it is to apply.

§ 51.29 Adjustment of data factors.

The data factors and data definitions used in computing entitlements under the Act for any entitlement period will be made available to each State government and unit of local government as soon as practicable. Each such government will be given a reasonable opportunity to question those data factors by providing factual documentation demonstrating evidence of error not later than one year from the end of the entitlement period for which the data are applicable. If the Director determines that any data factors used were erroneous, necessary adjustments will be made.

§ 51.30 Adjustment of maximum and minimum per capita entitlement; 100 percent criterion.

(a) *County area maximum and minimum per capita entitlement—(1) In general.* Pursuant to section 108(b)(6) of the Act, the per capita amount allocated to any county area shall be not less than 20 percent, nor more than 145 percent, of two-thirds of the amount allocated to the State under section 106 of the Act, divided by the population of that State.

(2) *One hundred forty-five percent rule.* If a county area allocation is greater than the 145-percent limit, its allocation shall be reduced to the 145-percent level and the resulting surplus shall be shared proportionately by all remaining unconstrained county areas.

(3) *Twenty-percent rule.* If, after the application of paragraph (a)(2) of this section, a county area allocation is less than the 20-percent limit, its allocation shall be increased to the 20-percent level and the resulting deficit shall be shared proportionately by all remaining unconstrained county areas.

(b) *Local government (other than a county government)—(1) In general.* Except as provided below, the per capita amount allocated to any unit of local government (other than a county government) shall be not less than 20-percent, nor more than 145-percent, of two-thirds of the amount allocated to the State under § 106 of the Act, divided by the population of that State.

(2) *One hundred forty-five percent rule.* If a unit of local government is allocated an amount greater than the 145-percent limit, its allocation shall be reduced to that level.

(3) *Twenty-percent rule.* If a unit of local government is allocated an amount less than the 20-percent limit, its allocation shall be increased to the lower of the 20-percent limit or 50 percent of the sum of that unit's adjusted taxes and transfers.

(c) *One hundred-percent criterion.* If the amounts allocated to recipient governments of a State do not total 100 percent of the amount allocated to that State, the amount to be allocated to county areas shall be adjusted appropriately, and the allocation process shall be repeated until the amounts allocated to recipient governments of a State total 100 percent of the amount allocated to that State.

§ 51.31 Separate law enforcement officers.

(a) *Entitlement of separate law enforcement officers.* (1) The office of the separate law enforcement officer, within any parish area in the State of Louisiana, other than the parish of East Baton Rouge, shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, 15 percent of the entitlement of the government of such Parish.

(2) The office of the separate law enforcement officer, within the area of the government of the parish of East Baton Rouge shall be entitled to receive for each entitlement period, beginning on or after January 1, 1977, 7.5 percent of the entitlements of the governments of Baton Rouge, Baker and Zachary, Louisiana for each such entitlement period.

(b) *Reduction of entitlement of parish government.* (1) The governments of each parish (other than Baton Rouge, Baker and Zachary, Louisiana) shall receive for an entitlement period entitlements reduced by one-half of the amount due the separate law enforcement officer for such parish.

(2) The governments of Baton Rouge, Baker, and Zachary, Louisiana shall receive, for an entitlement period, entitlements reduced by an amount equal to 3.75 percent of such government's normal entitlement.

(c) *Reduction of entitlement of State government.* The State government of Louisiana shall receive, for an entitlement period, an entitlement reduced by the same amount as the entitlement of parishes (including Baton Rouge, Baker and Zachary).

(d) *Entitlement of the Parish of Orleans.* The provisions of paragraph (a), (b) and (c) of this section shall not apply to the entitlements of the Parish of Orleans which shall be entitled to receive for each entitlement period beginning after December 31, 1976 an additional amount equal to 7.5 percent of the amount it is otherwise entitled to receive.

Subpart D—Prohibitions and Restrictions on Use of Funds

Sec.
51.40 Matching funds.
51.41 Permissible expenditures for local governments.
51.43 Wage rates and labor standards.
51.43 Restriction on expenditures by Indian tribes and Alaskan native villages.
51.44 Lobbying.
51.45 Use of entitlement funds for debt retirement.

AUTHORITY: State and Local Fiscal Assistance Act of 1972, as amended, Title I, Pub. L. 92-512 and State and Local Fiscal Assistance Amendments of 1972, Pub. L. 94-488 (31 U.S.C. 1221-1263); Treasury Dept. Order No. 224, dated January 26, 1973 (38 FR 3342).

Subpart D—Prohibitions and Restrictions on Use of Funds

§ 51.40 Matching funds.

(a) *Applicability to entitlement funds appropriated or budgeted on or after January 1, 1977.* The provisions of this section shall not apply to entitlement funds appropriated or budgeted on or after January 1, 1977.

(b) *Applicability to entitlement funds appropriated or budgeted on or before* December 31, 1976, may not be used, appropriated or budgeted on or before December 31, 1976, may not be used, directly or indirectly, as a contribution in order to obtain any Federal funds under any Federal program. The indirect use of entitlement funds to match Federal funds is defined to mean the allocation of entitlement funds to a nonmatching expenditure and thereby releasing or displacing local funds which are used for the purpose of matching Federal funds. This prohibition on use of entitlement funds as matching funds applies to Federal programs where Federal funds are required to be matched by non-Federal funds and to Federal programs which allow matching from either Federal or non-Federal funds.

(1) *Secondary recipients.* The prohibition of paragraph (b) of this section applies to a recipient government's entitlement funds which are transferred by it to another governmental unit or private organization. A violation of this section by a secondary recipent shall constitute a violation by the recipient government and the penalty provided by paragraph (b)(5) of this section shall be imposed on the recipient government.

(2) *Certification required.* The chief executive officer of each recipient government must certify to the Director that entitlement funds received by it have not been used in violation of this section.

(3) *Increased State or local government revenues.* No recipient government shall be determined to have used funds in violation of paragraph (b) of this section with respect to any funds received for any entitlement period (or during its fiscal year) to the extent that net revenues received by it from its own sources during such period exceed the net revenues received by it from its own sources during the 1-year period beginning July 1, 1971 (or its fiscal year ending during the same period). In the case of the entitlement periods of 6 months, one-half of such net revenues shall be measured.

(4) *Presumptions of compliance.* No recipient government shall be determined to have used entitlement funds in violation of the indirect prohibition of paragraph (b) of this section to the extent that:

(i) The expenditure of entitlement funds was accompanied by an aggregate increase in nonmatching funds expenditures.

(ii) The receipt of entitlement funds permitted that government to reduce taxes: *Provided,* Nonentitlement revenue is sufficient to cover all matching funds contributions.

(iii) The matching funds contribution in question is accounted for by in-kind contribution which was not financed directly or indirectly with entitlement funds.

(5) *Determination by Director of the Office of Revenue Sharing.* If the Director has reason to believe that a recipient government has used entitlement funds to match Federal funds in violation of paragraph (b) of this section the Director shall give such government notice and opportunity for hearing. If the Director determines that such government has, in fact, used funds in violation of paragraph (b) of this section, he shall notify such government of his determination and shall request repayment to the United States of an amount equal to the funds so used. To the extent that such government fails to repay such amount, the Director shall withhold from subsequent entitlement payments to that government an amount of entitlement funds equal to the funds used in violation of paragraph (b) of this section or, if this method is impracticable, the Director may refer the matter to the Attorney General for appropriate civil action.

6. *Use of entitlement funds to supplement Federal grant funds.* The prohibition on use of entitlement funds contained in paragraph (b) of this section does not prevent the use of entitlement funds to supplement other Federal grant funds. For example, if expenditures for a project exceed the amount available from non-Federal funds plus matched Federal funds, the recipient government may use entitlement funds to defray the excess costs: *Provided, however,* That the entitlement funds are not used to match other Federal funds: *And provided further,* That in the case of a unit of local government, the use of entitlement funds to supplement Federal grants is restricted to the category of expenditures as set forth in § 51.41.

§ 51.41 Permissible expenditures for local governments.

(a) *Applicability to entitlement funds appropriated or budgeted on or after January 1, 1977.* The provisions of this section shall not apply to entitlement funds appropriated or budgeted by units of local government on or after January 1, 1977.

(b) *Applicability to entitlement funds appropriated or budgeted on or before December 31, 1976.* Entitlement funds appropriated or budgeted by units of local government on or before December 31, 1976 may be used only for priority expenditures. As used in this part, the term "priority expenditures" means:

(1) Ordinary and necessary maintenance and operating expenses for:

(i) Public safety (including law enforcement, fire protection, and building code enforcement);

(ii) Environmental protection (including sewage disposal, sanitation, and pollution abatement);

(iii) Public transportation (including transit systems and streets and roads);

(iv) Health;

(v) Recreation;

(vi) Libraries;

(vii) Social services for the poor or aged; and

(viii) Financial administration, and

(2) Ordinary and necessary capital expenditures authorized by law.

No unit of local government may use entitlement funds for nonpriority expenditures which are defined as any expenditures other than those included in subparagraphs (1) and (2) of this paragraph. The chief executive officer of each unit of local government must certify to the Director that entitlement funds received by it have been used only for priority expenditures as required by the Act.

(3) *Use of entitlement funds for debt retirement.* The use of entitlement funds for the repayment of debt is a permissible expenditure provided that:

(i) Entitlement funds are not used to pay any interest incurred because of the debt,

(ii) The debt was originally incurred for a priority expenditure purpose as defined in this section,

(iii) The actual expenditure from the proceeds of the indebtedness (i.e., for materials, contractors, etc.) was made on or after January 1, 1972 (the beginning of the first entitlement period),

(iv) The actual expenditures from the proceeds of the indebtedness were not in violation of any restrictions enumerated in Subparts D and E of this part.

(4) *Effect of noncompliance.* In the case of a unit of local government which appropriates entitlement funds on or before December 31, 1976 for other than priority expenditures as defined in paragraph (b) of this section, it will pay over to the Secretary (for deposit in the general fund of the Treasury) an amount equal to 110 percent of any amount expended in violation of paragraph (b) of this section, unless such amount of entitlement funds is promptly repaid to the trust fund of the local government after notice by the Director and opportunity for corrective action.

§ 51.42 Wage rates and labor standards.

(a) *Construction laborers and mechanics.* A recipient government which receives entitlement funds under the

act shall require that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project costing in excess of $2000.000 and of which 25 percent or more of the cost is paid out of its entitlement funds:

(1) Will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act as amended (40 U.S.C. 276a–276a–5); and

(2) Will be covered by labor standards specified by the Secretary of Labor pursuant to 29 CFR Parts 1, 3, 5, and 7.

(b) *Request for wage determination.* In situations where the Davis-Bacon standards are applicable, the recipient government must ascertain the U.S. Department of Labor wage rate determination for each intended project and insure that the wage rates and the contract clauses required by 29 CFR 5.5 are incorporated in the contract specifications. The recipient government must also satisfy itself that the bidder is made aware of his labor standards responsibilities under the Davis-Bacon Act. Wage rate determinations may be obtained by filing a Standard Form 308 with the Employment Standards Administration of the applicable regional office of the U.S. Department of Labor at least 30 days before the invitation for bids or, in case of construction covered by general wage rate determinations, the appropriate rate may be obtained from the FEDERAL REGISTER.

(c) *Government employees.* A recipient government which employs individuals whose wages are paid in whole or in part from entitlement funds must pay wages which are not lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer. However, this subsection shall apply with respect to employees in any category only if 25 percent or more of the wages of all employees of the recipient government in such category are paid from the trust fund established by it under § 51.100(a).

§ 51.43 Restriction on expenditures by Indian tribes and Alaskan native villages.

Indian tribes and Alaskan native villages as defined in § 51.2 are required to expend entitlement funds only for the benefit of members of the tribe or village residing in the county area from which the allocation of entitlement funds was originally made. Expenditures which are so restricted will not constitute a failure to comply with the requirement of Subpart E of this part.

§ 51.44 Lobbying.

(a) *In general.* Entitlement funds may not be used by any State or unit of local government to pay the costs arising from the personal solicitation or exercise of personal influence upon members of a legislative body by representatives of the recipient government for the purpose of influencing pending or proposed legislation regarding the provisions of the Act.

(b) *Activities prohibited.* Prohibited lobbying activities include but are not limited to the following:

(1) Personal solicitation of individual members of a legislative body to influence legislation regarding the General Revenue Sharing Program by personal interview, letter, financial contributions, and other means.

(2) To employ a lobbyist to engage in proscribed activities.

(c) *Activities permitted.* Without violation of this section a recipient government may:

(1) Use revenue sharing funds to pay dues to national or State organizations.

(2) Use revenue sharing funds to attempt to influence public opinion or to convey opinions and judgments to the public regarding provisions of the Act, by publications, distribution of books, pamphlets and other writings.

§ 51.45 Use of entitlement funds for debt retirement.

Where the actual expenditures of the proceeds of indebtedness were made on or after October 20, 1972, the appropriation of entitlement funds on or after January 1, 1977 for the repayment of the indebtedness (notwithstanding when such indebtedness was incurred), is permissible provided that the expenditures from the proceeds of the indebtedness are made in compliance with the restrictions and prohibitions enumerated in Subparts D and E of this part.

[FR Doc.77-13851 Filed 5-11-77;11:39 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 3-75-8 R2]

PART 127—SECURITY ZONES

Termination of Security Zone—Governor's Island, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the security zone established by the Captain of the Port, New York as published on January 5, 1976, in the FEDERAL REGISTER (41 FR 755). This Security Zone was terminated by the Captain of the Port, New York on January 2, 1976; however, the FEDERAL REGISTER (42 FR 2109) document that announced the termination of the Security Zone did not have the effect of revoking § 127.334 in the Code of Federal Regulations.

EFFECTIVE DATE: This amendment is effective on May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202–426–1477.

SUPPLEMENTARY INFORMATION: As this amendment is merely revoking a section in the FEDERAL REGISTER that already has been revoked by the Captain of the Port of New York it is unnecessary to publish a notice of proposed rulemaking.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: LCDR H. E. Snow, Project Manager and Mrs. S. D. Jackson, Project Attorney.

§ 127.334 [Revoked]

Accordingly, 33 CFR Part 127 is amended by revoking § 127.334.

(40 Stat. 220, as amended, (50 U.S.C. 191); 80 Stat. 937, (49 U.S.C. 1655(b)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR 1949–1953 Comp. 356, 778, 873, 3 CFR 1964–1965 Comp. 349 33 CFR Part 6, 49 CFR 1.46(b).)

Dated: May 10, 1977.

O. W. SILER,
Admiral, United States Coast Guard, Commandant.

[FR Doc.77-13892 Filed 5-13-77;8:45 am]

[CGD 75-168]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Flotation Standards for Boats; Correction

MAY 6, 1977.

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 77–11074 appearing at page 20242 in the FEDERAL REGISTER of April 18, 1977, in the next to the last line of paragraph (c) of § 183.305 appearing on page 20245, the citation "§ 183.220" is corrected to read "§ 183.320".

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8118, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426–1477.

Dated: May 6, 1977.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc.77-13893 Filed 5-13-77;8:45 am]

[CGD 73-217]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Safety Standards for Boat Electrical Systems

Correction

In FR Doc.77–2992, appearing at page 5940 in the issue for Monday, January 31, 1977, make the following changes:

1. On page 5943, first column, first full paragraph, the 14th line beginning "the NEC, Table 5 . . ." should be deleted and the following line inserted in its place: "Code (NEC) and he has had experience".

2. On page 5945, in Table 5, which follows § 183.425, in Note 1, "Temperature rating of conductor" should be raised a line so that it is even with the headings "60° C (140° F), 75° C (167° F), . . .".

3. In § 183.435(c), in the fourth line, insert a semicolon between the words "amperage" and "conductors".

[CGD 73-217]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Safety Standards for Boat Electrical Systems

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 77–2992 appearing at page 5940 in the FEDERAL REGISTER of January 31, 1977, on page 5944, the list of sections in § 183.401(b) that are effective on August 1, 1977, is corrected by inserting "§ 183.402" after "§ 183.401" and before "§ 183.405".

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426–1477).

Dated: May 6, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77-13890 Filed 5-13-77;8:45 am]

[CGD 74-209]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Safety Standards for Boat Gasoline Fuel Systems

Correction

In FR Doc. 77–2993 appearing at page 5946 in the issue for Monday, January 31, 1977, in § 183.512(a) on page 5951, in the second line "structd" should read "structed".

[CGD 74-209]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Safety Standards for Boat Gasoline Fuel Systems; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 77–2993 appearing at page 5946 in the FEDERAL REGISTER of January 31, 1977, § 183.558 (b)(2)(iii) on page 5952 is corrected to read as set forth below.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426–1477).

SUPPLEMENTARY INFORMATION: Section 183.558(b)(2)(iii) is corrected to read as follows:

§ 183.558 Hoses and connections.

* * * * * * *

(b) * * *

(2) * * *

(iii) The fuel system is filled to the capacity marked on the tank label under § 183.514(b)(3).

* * * * * * *

Dated: May 6, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77-13891 Filed 5-13-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

NATIONAL FOREST SYSTEM

Prohibitions; Corrections

AGENCY: Forest Service, Department of Agriculture.

ACTION: Correction of typographical errors in final rule.

SUMMARY: FR Doc. 77–1303 appearing at page 2956 in the FEDERAL REGISTER of Friday, January 14, 1977, revised regulations on prohibited acts related to the National Forest System. The purpose of this document is to correct minor errors appearing in the published document.

EFFECTIVE DATE: The effective date of the revised regulations was February 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Evans, Fiscal and Accounting Management Staff, (202) 447–7850.

In light of the foregoing, the following corrections are made in FR Doc. 77–1303:

PART 231—GRAZING

On page 2957 amendatory language to § 231.11 is corrected to read as follows:

"In § 231.11(d) the citation to 36 CFR 261.13 is amended to read '36 CFR 262.2'."

PART 261—PROHIBITIONS

Subpart A—General Prohibitions

1. On page 2957, table of contents heading for § 261.3 is corrected to read "Interfering with forest officers prohibited".

2. On page 2958, § 261.6(d) is corrected by inserting an "a" between "designate" and "tree".

3. On page 2958, § 261.6(f) is corrected by inserting "any" between "exchanging" and "timber".

4. On page 2958, § 261.9(e) is corrected to read as follows:

"(e) Digging in, excavating, disturbing, injuring, or destroying any archaeological, paleontological, or historical site, or removing, disturbing, injuring, or destroying an archaeological, paleontological, or historical object."

5. On page 2958, § 261.10(c) is corrected to read as follows:

"(c) Selling or offering for sale any merchandise, conducting any kind of business enterprise, or performing any kind of work unless authorized by Federal law, regulation, or permit."

6. On page 2959, § 261.17(b) is corrected by replacing the wording "craft or any" with "craft of any".

7. On page 2959, § 261.20(a), the reference to "§ 261.2" is corrected to read "§ 271.2". In § 261.20(b), the reference to "§ 262.2" is corrected to read "§ 272.2."

Subpart B—Prohibitions In Areas Designated By Order

1. On page 2959, delete the period at the end of § 261.50(b) and add "within the area over which he has jurisdiction."

2. On page 2960, § 261.52(i) is corrected by inserting the word "an" between "operating" and "acetylene".

M. RUPERT CUTLER,
Assistant Secretary.

MAY 6, 1977.

[FR Doc.77-13877 Filed 5-13-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 704-4]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLES ENGINES: CERTIFICATION AND TEST PROCEDURES

Sale of High-Altitude Vehicles; Clarification of Designated High-Altitude Locations

Correction

In FR Doc. 77–11356 appearing at page 20463 in the issue of Wednesday, April 20, 1977, the amendatory language appearing in the first column on page 20464, now reading "In 40 CFR 86.077–03, paragraph (a)(5) is revised to read as follows:" should read "In 40 CFR 86.077–30, paragraph (a)(5) is revised to read as follows:" In the second column on the same page under the "State of New Mexico" the county of Lincoln should be listed only once following the county of "Harding."

Title 41—Public Contracts and Property Management

CHAPTER 6—DEPARTMENT OF STATE

[Departmental Reg. No. 108.738]

PART 6-1—GENERAL

Guidance to Contracting Officers At Foreign Service Posts Regarding Personal Service Contracts

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State finds it necessary to revise its procure-

ment regulations to provide guidance to contracting officers assigned to Foreign Service posts to assist them in recognizing certain characteristics of personal service contracts. This revision will aid contracting officers in avoiding the erroneous awarding of contracts for personal services.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry M. Hite, Special Assistant, Supply & Transportation Division, Department of State, Room 532, State Annex No. 6, Washington, D.C. 20520 (703) 235-9529.

SUPPLEMENTARY INFORMATION: The laws and regulations relating to Federal employment provide specific requirements which must be met by Federal agencies in hiring its employees. Unless authorized by express statutory authority, contracts for personal services, which are employment contracts, are not to be used in obtaining services for the Government. The purpose of this regulation is to advise contracting officers of the salient features of personal service contracts so they will avoid erroneous awarding of such contracts.

Since these regulations deal solely with internal rules and guidance for contracting officers, and do not enlarge or diminish any rights or obligations of contractors and subcontractors, neither notice of proposed rule making nor public participation therein under 5 U.S.C. 533 is deemed appropriate.

Accordingly, § 6–1.258–2 of title 41, Code of Federal Regulations, is revised to read as set forth below.

Subpart 6–1.2—Definition of Terms

Section 6–1.258–2 is revised to read as follows:

§ 6–1.258–2 Personal service contracts.

(a) The laws and regulations relating to Federal employment lay down requirements which must be met by the Department in hiring its employees, and establish the governing of employment. In addition, personnel ceilings have been established for the Department and the Foreign Service posts. Except as otherwise authorized by express statutory authority (e.g., 5 U.S.C. 3109 as implemented by the annual Department of State Appropriation Act for expert and consultant services), these laws and regulations must be followed in obtaining personal services. In particular, they shall not be circumvented through the medium of "personal services" contracting, which is the procuring of services by contract in such a manner that the contractor or his employees are in effect employees of the Department.

(b) Contracting Officers should be alert to the following conditions or circumstances, which, if present, could result in an improper personal services contract, if with:

(1) *An individual.* (i) The contract does not call for an end product which is adequately described in the contract.

(ii) The contract price or fee is based on the time actually worked rather than the results to be accomplished.

(iii) The services are to be of a continuing rather than a temporary or intermittent nature.

(iv) The services to be performed are usually performed by government employees under the supervision of a government official.

(2) *A concern.* (i) Office space, equipment, and supplies necessary for contract performance are to be furnished by the Department.

(ii) Contractor-furnished personnel are to be integrated within the organizational structure of the Department.

(iii) Contractor-furnished personnel are to be used interchangeably with Department personnel to perform the same functions.

(iv) The Department retains the right to control and direct the means and methods by which contractor-furnished personnel accomplish the work.

(c) If in the opinion of the contracting officer any of the conditions or circumstances in paragraph (b) of this section are present, he will endeavor to resolve all doubts regarding the propriety of the proposed contract. Assistance may be requested from the Chief, Supply and Transportation Division if the contracting officer is unable to resolve the matter.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 4, 63 Stat. 111; 22 U.S.C. 2658, as amended.)

Dated: May 3, 1977.

VICTOR H. DIKEOS,
Acting Assistant Secretary for Administration.

[FR Doc.77-13846 Filed 5-13-77;8:45 am]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

Nomenclature Change

AGENCY: Office of the Secretary, Interior.

ACTION: Final Regulations.

SUMMARY: The title "Assistant Secretary—Administration and Management" is amended to read "Assistant Secretary—Policy, Budget and Administration" to reflect the consolidation of functions previously performed by the Assistant Secretary — Administration and Management, and the Assistant Secretary—Program Development and Budget (Secretary's Order No. 3000 of March 31, 1977).

EFFECTIVE DATE: This amendment is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Mr. James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy, Department of the Interior, Washington, D.C. 20240, telephone 202–343–3185.

SUPPLEMENTARY INFORMATION: This amendment relates only to internal Departmental procedures and the proposed rulemaking procedures are inapplicable.

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), Chapter 114, Title 41 of the Code of Federal Regulations is amended as set forth below.

Wherever the title "Assistant Secretary—Administration and Management" appears in this chapter, it is changed to read "Assistant Secretary—Policy, Budget and Administration."

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

MAY 4, 1977.

[FR Doc.77-13433 Filed 5-13-77;8:45 am]

Title 45—Public Welfare

CHAPTER V—FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

SUBCHAPTER A—RULES OF PRACTICE

PART 500—APPEARANCE AND PRACTICE BEFORE THE COMMISSION

SUBCHAPTER C—RECEIPT, ADMINISTRATION AND PAYMENT OF CLAIMS UNDER THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

PART 531—FILING OF CLAIMS AND PROCEDURES THEREFOR

Deadline for Filing Claims Against the German Democratic Republic, Official Claim Forms, Attorney Fees

AGENCY: Foreign Claims Settlement Commission of the United States.

ACTION: Final Rule.

SUMMARY: This rule prescribes the dates for filing claims against the German Democratic Republic, the claim form to be used, and the attorney fees which may be received. The purpose of this rule is to amend the Commission's regulations to allow for the consideration of this new class of claims, as provided for by Pub. L. 94–542, approved October 18, 1976.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Wayland D. McClellan, General Counsel, Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. 20579, 202–653–6166.

SUPPLEMENTARY INFORMATION: The provisions of this rule are strictly required by statute. Accordingly, it is issued as a Final rule.

Pursuant to Pub. L. 94–542, approved October 18, 1976, which further amends the International Claims Settlement Act of 1949, as amended, by adding a Title VI to the Act, the Foreign Claims Settlement Commission of the United States is authorized to determine the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interest of nationals of the United States.

Therefore, in accordance with the provisions of Pub. L. 94–542, the following amendments to the regulations of the Commission are set forth below.

1. Section 500.3(c) of the Commission's regulations is hereby amended by deleting the "and" after "Title I" and inserting a ","; deleting the words "of the Act'" after Title IV, and inserting the words ", or Title VI of the International Claims Settlement Act" so that the subsection reads as follows:

§ 500.3 Fees.

* * * * *

(c) The total remuneration on account of services rendered or to be rendered to or on behalf of any claimant in connection with any claim falling within Title I, Title IV, or Title VI of the International Claims Settlement Act shall not exceed ten per centum of the total amount paid on account of such claim.

2. Section 531.1 of the Commission's regulations is hereby amended by adding a new paragraph (i) which reads as follows:

§ 531.1 Time for filing.

* * * * *

(i) Claims under Title VI of the Act against the German Democratic Republic shall be filed on or before May 16, 1978.

3. Section 531.2 of the Commission's regulations is hereby amended by redesignating paragraph (i) as paragraph (j), redesignating paragraph (j) as paragraph (k), and inserting a new paragraph (i) which reads as follows:

§ 531.2 Form, content, and filing of claims.

* * * * *

(i) FCSC Form 542—Statement of Claim against the German Democratic Republic.

* * * * *

These amendments shall become effective May 16, 1977.

Dated: May 11, 1977.

WAYLAND D. MCCLELLAN,
General Counsel.

[FR Doc.77-13841 Filed 5-13-77; 8:45 am]

Title 46—Shipping

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-45]

PART 12—CERTIFICATION OF SEAMEN

Engine Department Ratings

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations concerned with the Qualified Member of the Engine Department ratings by reducing the number of ratings through consolidation thereby eliminating certain outdated ratings.

EFFECTIVE DATE: June 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202–426–1477. The principal persons involved in drafting this rule are: Captain Nelson Emory, Project Manager, and Lieutenant Edward J. Gill, Jr., Project Attorney.

SUPPLEMENTARY INFORMATION: On January 6, 1977, the Coast Guard published a proposed rule (42 FR 1278) concerning this amendment. Interested persons were given until February 20, 1977, to submit comments. Two comments were received, both of which supported the proposed changes.

DISCUSSION OF COMMENTS

One comment suggested that the Coast Guard adopt a provision giving individuals who presently hold endorsements as fireman one year to obtain the watertender endorsement after these regulations become effective. The reason given for the request was that individuals would no longer qualify for employment as a fireman if the regulations only provided for a fireman/watertender's endorsement. The elimination of a fireman's endorsement provides no restraints on the employment of a fireman, provided that rating would cover the manning provisions of a vessel's Certificate of Inspection. Accordingly, the provision for a phase-in period was not adopted.

Accordingly, the proposed amendment is adopted without change, as set forth below.

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: May 5, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

Part 12 of Title 46 of the Code of Federal Regulations is amended as follows:

§ 12.15–9 [Amended]

1. By revoking the column entitled "Fireman" in the list in § 12.15–9(b).

2. By striking the heading of the column entitled "Watertender" and inserting the heading "Fireman/Watertender" in place thereof in the list in § 12.15–9(b).

3. By striking the words "boilermaker and"; and by striking the words "those ratings", and inserting the words "that rating" in place thereof in § 12.15–9(c).

4. By amending § 12.15–11 to read as follows:

§ 12.15–11 General provisions respecting merchant mariner's documents endorsed as qualified member of the engine department.

* * * * *

(a) Refrigerating engineer.
(b) Oiler.
(c) Deck engineer.
(d) Fireman/Watertender.
(e) Junior engineer.
(f) Electrician.
(g) Machinist.
(h) Pumpman.
(i) Deck engine mechanic.
(j) Engineman.

(80 Stat. 973; 46 U.S.C. 367, 375, 391a, 416, 672, 133; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

[FR Doc.77-13847 Filed 5-13-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1048—COMMERCIAL ZONES

[Ex Parte No. MC–37 (Sub-No. 26)]

COMMERCIAL ZONES AND TERMINAL AREAS

AGENCY: Interestate Commerce Commission.

ACTION: Correction of Final Rule.

SUMMARY: This document modifies the findings of the report in Ex Parte No. MC–37 (Sub-No. 26), *Commercial Zones and Terminal Areas*, served December 30, 1976, by defining the limits of the zone which is adjacent to and commercially a part of Syracuse, N.Y., within the meaning of Section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), to include an area which is within said commercial zone but which was inadvertently omitted from the new definition of the zone as prescribed by the regulations promulgated in the above-captioned report.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interstate Commerce Commission, 12th & Constitution Ave. NW., Washington, D.C. 20423, (202) 275–7292.

SUPPLEMENTARY INFORMATION: In its final report in Ex Parte No. MC–37 (Sub-No. 26), *Commercial Zones and Terminals Areas*, served December 30, 1976, the Interstate Commerce Commission promulgated new regulations expanding the scope of commercial zones of all municipalities by amending Part 1048 of Title 49 of the Code of Federal Regulations. The new regulations became effective April 9, 1977. By letter of April 6, 1977, the Jos. Schlitz Brewing Company of Milwaukee, Wis., advised the Commission that an area which was included within the Syracuse, N.Y., commercial zone under the old regulations had been omitted from said zone as defined by the new regulations. Inasmuch as it was the intent of the Commission in the above-entitled proceeding to expand commercial zones generally and not to omit from

the commercial zone of any Municipality any territory which was within the commercial zone of that municipality as formerly defined, the omission of this area from the Syracuse, N.Y., commercial zone was an inadvertent error. The purpose of this notice is to supplement 49 CFR 1048 to include a definition of the Syracuse commercial zone which comports with the intent of the Commission in promulgating the new regulations and which includes the area of the zone which was inadvertently omitted by application of the new regulations to Syracuse. The definition of the Syracuse commercial zone will appear as new Section 1048.16 of Title 49 of the Code of Federal Regulations.

(Sections 552, 553, and 559 of the Administrative Procedure Act (5 U.S.C. 552, 553, and 559) and Sections 202, 203, 204 207, 209, 402, 403, and 404 of the Interstate Commerce Act (49 U.S.C. 302, 303, 304, 307, 309, 1002, 1003, and 1004).)

Issued at Washington, D.C.

ROBERT L. OSWALD,
Secretary.

Accordingly, Part 1048 of Chapter X of Title 49 of the Code of Federal Regulations is supplemented by adding § 1048.16 as set forth below.

§ 1048.16 Syracuse, N.Y.

The zone adjacent to, and commercially a part of Syracuse, N.Y., within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for shipment to or from points beyond such zone, is partially exempt from regulation under Section 203 (b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8) includes and is comprised of all points as follows:

(a) The municipality of Syracuse, N.Y., itself;

(b) All points within a line drawn 8 miles beyond the municipal limits of Syracuse;

(c) Those points in the towns of Van Buren and Lysander, Onondaga County, N.Y., which are not within the area described in paragraph (b) of this section, but which are within an area bounded by a line beginning at the intersection of new New York Highway 48 with the line described in (b) above, thence northwesterly along new New York Highway 48 to junction New York Highway 370, thence westerly along New York Highway 370 to junction Emerick Road, thence northerly along Emerick Road to junction Dunham Road, thence northerly along Dunham Road to junction New York Highway 192, thence easterly along New York Highway 192 to junction new New York Highway 48, thence northerly along new New York Highway 48 to junction New York Highway 213, thence easterly along New York Highway 213 to junction New York Highway 213A, thence easterly along New York Highway 213A to junction New York Highway 37, thence southerly along New York Highway 37 to junction New York Highway 31, thence easterly along New York Highway 31 to its intersection with the Seneca River, thence southerly along the Seneca River to its intersection with the line in (b) above;

(d) All of any municipality any part of which is within the limits of the combined area defined in (b) and (c) above, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality of Syracuse or any other municipality included under the terms of (d) above.

[FR Doc.77-13787 Filed 5-13-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Importation of Yellowfin Tuna and Tuna Products

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Interim final rule.

SUMMARY: This amendment extends the effective date of the regulations governing the importation of yellowfin tuna and tuna products published in the FEDERAL REGISTER on March 1, 1977 (42 FR 12012–12014), and modifies the marking requirements for imported canned tuna in these regulations. The new effective date of the importation requirements is extended 60 days. The canned tuna marking requirements will be modified to allow cans marked by means other than the specific wording. "Other than Yellowfin Tuna," to be imported without documentation, following advance approval by the Director, NMFS, of the can code used to identify the contents. This amendment also allows the NMFS regional Director, Southwest Region to provide limited time extensions to purse seine vessels encountering difficulty in receiving and installing the new fine mesh webbing.

DATES: Effective date: May 16, 1977. Comments will be received until June 10, 1977.

ADDRESSES: Comments or questions may be directed to Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Andrews, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, Washington, D.C. 20235, 202–634–7287.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service published regulations in the FEDERAL REGISTER on March 1, 1977 (42 FR 12010–12014) governing the taking of marine mammals incidental to commercial fishing operations and the importation of fish and fish products. These regulations were published following a public hearing presided over by an Administrative Law Judge (ALJ). The ALJ recommended that a three month grace period would be sufficient advance notice to prevent cessation or a lessening of tuna imports from importing nations required to obtain a finding from the Director. We have received, from several nations required to obtain a finding, indications of their attempting to comply with the requirements. However, it has come to our attention that uncertainty had existed as to the exact requirements of the final regulations in regard to obtaining a finding. In addition, arrangements for proper import documentation for tuna entering the United States must be accomplished at least a month in advance. Therefore, it is unlikely that a nation could obtain a finding in time to prevent a cessation or disruption to the flow of tuna imports from catching vessel to final destination under the current June 1, 1977, deadline. Furthermore, a special meeting of the Inter-American Tropical Tuna Commission on June 25–27, 1977, to discuss marine mammal conservation programs among the nations whose vessels are involved in the fishery and who are most affected by U.S. importation restrictions, is seen as an important international negotiation format through which the United States position in this matter can be clearly stated. Therefore, the effective date of §§ 216.24(e)(2)(ii), 216.24(e)(4), and 216.24(E)(5) is extended sixty (60) days to August 1, 1977.

The ALJ also recommended in his decision that canned tuna being imported under the U.S. Tariff Schedule Item Numbers 112.30–40, 112.34–00, and 112.90–00 could be imported without documentation only if labeled as "Tuna Fish, Other than Yellowfin" or like language. Current regulations require cans to be labelled as "Other than Yellowfin Tuna." It has come to our attention that processors' canning codes often identify the species of tuna in the can. Therefore, to allow more flexibility in the importation of canned tuna without affecting the intent or effect of the marking requirement, the regulations are amended to allow cans offered for importation under the above-mentioned U.S. Tariff Schedule Item Numbers, to be imported without documentation if they are marked as containing other than yellowfin tuna, in a manner approved in advance by the Director, NMFS.

It has also been found that the delivery and installation of fine mesh webbing and other gear necessary to complete the required conversion of the porpoise safety panel to 1¼" stretch mesh webbing has met with some unforseen delays. The majority of the tuna purse seiners over 400 short tons carrying capacity have been able to order and receive delivery of sufficient fine mesh webbing and other gear to carry out the required modifications to the porpoise safety panel before April 30, 1977. However, a small number of vessels who ordered the gear during the recent period of regulatory confusion and conflicting court actions have been unable to receive and install the gear before the above mentioned deadline. Therefore, the NMFS Southwest Regional Director is given the authority to

deal with these cases on an individual basis including allowing continued usage of approved 2" stretch mesh safety panels under limited or conditional time extensions, until the fine mesh webbing panel can be properly installed.

In order to avoid disruption or possible cessation of tuna imports as well as to provide timely relief to vessels involved in the recently identified fine mesh webbing delivery and installation problem, it is necessary that these regulations be effective at the earliest possible time. For these reasons, it is hereby for good cause found that the advance notice, public procedures, and delayed effectiveness provision of 5 U.S.C. 553 are impracticable and contrary to the public interest. These regulations are, therefore, effective as Interim Regulations.

In the interest of public participation in the rulemaking process, comments on these regulations will be received until June 10, 1977, after which time amendments will be made as necessary to take proper account of comments received and experience gained during this period.

Accordingly, § 216.24 of the National Marine Fisheries Service marine mammal regulations (16 U.S.C. 216.24) is hereby amended as follows:

1. Section 216.24(e)(2)(iv)(L) is amended by adding the following wording to the last sentence; ". . ., unless the Southwest Regional Director determines that the ordering of fine mesh webbing has been documented in accordance with paragraph (c)(5)(vi) but has not been delivered, or is not otherwise available to the vessel for installation, and that a limited time extension should therefore be granted."

2. Section 216.24(e)(2)(ii) is amended by deleting the date "May 31, 1977:" and inserting the date "July 31, 1977:"

3. Section 216.24(e)(4) is amended by deleting the date "June 1, 1977," in the first line and inserting the date "August 1, 1977,"

4. Section 216.24(e)(5)(i) is amended by deleting the date "May 31, 1977," in the first line and inserting the date "July 31, 1977,"

5. The last three U.S. Tariff Schedule Item Numbers listed in § 216.24(e)(2)(ii) are hereby amended to read:

112.30–40 Tuna; canned, other than white meat, no oil—except cans marked as other than yellowfin tuna in a manner approved in advance by the Director.

112–34–00 Tuna; canned, other, no oil—except cans marked as other than yellowfin tuna in a manner approved in advance by the Director.

112.90–00 Tuna; canned, other, in oil—except cans marked as other than yellowfin tuna in a manner approved by the Director.

Dated: May 6, 1977.

WINFRED H. MEIBOHM,
National Marine Fisheries Service.

[FR Doc.77-13834 Filed 5-12-77;11:07 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule A all positions not in excess of GS–13, whose incumbents will implement the National Youth Conservation Corps program and are to be paid out of funds allocated under title III of the Comprehensive Employment and Training Act of 1973, as amended. Employment under this exception is not to exceed 18 months from the date that funds are authorized for this program under title III of CETA. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3102(hh) is amended to read as follows:

§ 213.3102 Entire Executive Civil Service.

* * * * *

(hh) All positions not in excess of GS–13, whose incumbents will implement the National Youth Conservation Corps program and are to be paid out of funds allocated under title III of the Comprehensive Employment and Training Act of 1973, as amended. Employment under this exception is not to exceed 18 months from the date that funds are authorized for this program under title III of CETA.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14111 Filed 5-13-77;10:49 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 918]

HANDLING OF FRESH PEACHES GROWN IN GEORGIA

Expenses and Rate of Assessment For the 1977–78 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This notice invites written comment on proposed expenses of $20,538.59 and a rate of assessment of $0.015 per bushel of peaches to support the activities of the Industry Committee for the 1977–78 fiscal period under Marketing Order No. 918.

DATES: Comments must be received on or before May 31, 1977. Proposed effective dates: March 1, 1977, through February 28, 1978.

ADDRESSES: Comments may be addressed to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3545.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the Industry Committee, established under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in the State of Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer its terms and provisions.

The proposals are as follows:

(1) Expenses that are reasonable and necessary to be incurred by the Industry Committee during the fiscal period March 1, 1977, through February 28, 1978, will amount to $20,538.59.

(2) The rate of assessment for the fiscal period, payable by each handler in accordance with § 918.41, be established at $0.015 per bushel basket of peaches (48 pounds net weight) or an equivalent for peaches in other containers or in bulk.

Dated: May 10, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-13887 Filed 5-13-77;8:45 am]

[7 CFR Part 1065]

[Docket No. AO–86–A37]

MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA

ACTION: Proposed Rule

SUMMARY: This decision recommends certain changes in the Nebraska-Western Iowa Federal milk marketing order, based on industry proposals considered at a public hearing in October 1976. A principal change would reduce the quantity of milk that a supply plant must ship to distributing plants to be a fully regulated plant under the order. This would help supply plants avoid unnecessary and costly milk shipments that might otherwise be made just to keep the plant qualified as a pool plant. Another change, intended to simplify the administration of the order, would alter the manner in which a cooperative association is paid for farm bulk tank milk that it delivers to a regulated pool plant. This would not affect a plant operator's cost of milk or the level of payments to producers.

DATE: Comments are due on or before June 6, 1977.

ADDRESS: Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7183).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued September 15, 1976; published September 20, 1976 (41 FR 40495).

Notice of Extension of Time for Filing Briefs—Issued November 12, 1976; published November 17, 1976 (41 FR 50696).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Nebraska-Western Iowa marketing area, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before June 6, 1977. Four copies are required for this proceeding. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, as amended, were formulated was conducted at Omaha, Nebraska, on October 6–7, 1976, pursuant to notice thereof.

The material issues on the record of the hearing relate to:

1. The pooling standards for a supply plant.

2. The Class I price zones within the marketing area and the applicable price for each zone.

3. The payment and accounting for farm bulk tank milk received by a handler from a cooperative association.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for a supply plant.* The pooling requirements for a supply plant (other than a cooperative balancing plant) should be revised to require that at least 40 percent of the plant's monthly receipts of Grade A milk from dairy farmers (including milk diverted from the plant) be shipped as fluid milk products to pool distributing plants. Additionally, a plant that was pooled as a supply plant in each of the months of September through December should be provided continuing pool plant status during each of the following months of January through August in the event the plant does not meet the 40 percent shipping requirement, unless

the plant operator requests that the plant be a nonpool plant.

Under the terms of the present order, a supply plant must ship at least 50 percent of its receipts of Grade A milk from dairy farmers (excluding diversions to nonpool plants) to pool distributing plants during the month to qualify for pooling in such month. A plant which is pooled as a supply plant in each of the months of August through December is accorded automatic pooling status in the subsequent months of January through July unless nonpool plant status is requested.

The order also provides that a supply plant operated by a cooperative association may qualify as a pool plant on the basis of the cooperative's total milk movements to pool distributing plants either by transfer from a supply plant or directly from member producers' farms. This provision is not at issue in the proceeding. However, for the purpose of this discussion, such a pool supply plant shall be referred to herein as a "cooperative balancing plant."

A cooperative association proposed that a supply plant no longer be granted automatic pooling status but instead be required to ship at least a required amount of milk each month to qualify for pooling. As proposed, a supply plant that had met the 50 percent shipping requirement during each of the months of August through December could continue to be a pool plant during the subsequent January through July period by shipping a minimum of 30 percent of its receipts each month. If the fall shipping requirement was not met, then the plant would have to meet the 50 percent requirement in any month for which pooling is desired.

Additionally, the cooperative proposed that for the purpose of determining a plant's qualification for pooling, milk diverted from a supply plant to a nonpool plant be treated as a receipt of producer milk at the supply plant. Also, it proposed that any route disposition in the marketing area from the supply plant be treated as a shipment by such plant.

In its post-hearing brief, the proponent cooperative modified its initial position and concluded that a 40 percent and 25 percent shipping requirement would be acceptable for the August through December period and the January through July period, respectively. This modification was made on the basis that diverted milk be included as a receipt at the supply plant in determining whether the plant qualifies for pool status.

The proponent cooperative indicated that its proposal for year-round shipping requirements was prompted by the recent increase in manufacturing plants that have become pool supply plants under the order. The cooperative alleged that the automatic pooling provision provides an opportunity for a supply plant operator to pool a supply of milk without assuming any responsibility to supply the fluid market on a continuing basis throughout the year. Proponent maintained that additional manufacturing plants are qualifying as pool supply plants under the order so that the plant operators can use the marketwide pool to help them pay a competitive price (the order's blend price) to their dairy farmers and thus insure a supply of milk at their plants. The proponent cooperative reasoned that since most of the new supply plants are primarily engaged in manufacturing they should be required to maintain a substantial association with the fluid market by meeting year-round shipping requirements.

In further support of its position, the cooperative presented testimony on how it serves the fluid milk needs of handlers on a year-round basis. It was noted that every effort is made by the cooperative to meet the requirements of its fluid milk customers at all times. In this connection, the cooperative indicated that it is a source of supply for 15 of the 16 pool distributing plants in the market. Such supply needs of the distributing plants are met by direct shipments from member producers' farms or by transfers from the cooperative's four pool balancing plants. It was pointed out that the cooperative's monthly shipments to distributing plants in 1975 ranged from 68 to 83 percent of the total producer receipts under the order.

As indicated, the proponent cooperative proposed that milk diverted from a supply plant be counted as a receipt at the plant in determining its qualification as a pool plant. In support of this change, the proponent's witness contended that the exclusion of diversions as a receipt at the supply plant permits the pooling of substantial additional milk supplies which may not be available to meet the fluid needs of the market but which are intended solely for manufacturing use. The witness also indicated that such exclusion of diversions can result in a potential inequity between handlers who maintain dual plant operations (facilities for the separate handling of Grade A milk and manufacturing grade milk at the same location) and those who do not since the latter probably would not divert milk to a manufacturing plant and thus would have to meet higher shipping requirements. In addition, the witness indicated that since other provisions of the order treat milk diverted from a pool plant as part of such plant's total supply, it is only appropriate to include diverted milk as a receipt in determining the pool status of a supply plant.

A second cooperative in the market that operates a pool supply plant opposed the modification of the pool supply plant provisions as initially proposed by proponent. A similar position was also taken by still another cooperative association which had commenced qualifying a plant as a pool supply plant in September 1976. The principal concern expressed by the two cooperatives was the recommendation to include milk diverted from a supply plant as a receipt at such plant for pooling purposes. They held that the inclusion of diverted milk as a receipt without any accompanying reduction in the shipping requirements during the qualifying period would effectively deny pool status to plants now pooled as supply plants under the order.

The witness for one of these cooperatives claimed that if diversions are included as a receipt for pool plant qualification purposes, about 40 percent more milk would have to be shipped from the cooperative's supply plant in order to meet the 50 percent shipping requirement. The witness further testified that even under the existing shipping requirements the cooperative has incurred financial losses in order to maintain pool status for its plan during the qualifying months of August through December.

Both of these cooperatives, on the other hand, proposed at the hearing that any deliveries of milk by a cooperative directly from the farms of member producers to a pool distributing plant be considered as having been received first at a plant of such cooperative. This recommendation was supported in its post-hearing brief by the cooperative that proposed the year-round supply plant shipments.

At the hearing, one of these cooperatives also proposed (1) the elimination of August as a qualifying month for automatic pooling of supply plants, (2) the continuation for one month of the pool status of a supply plant if it fails to meet the shipping requirements, provided it was a pool plant during each of the preceding 12 months, and (3) if diverted milk from a supply plant is included as part of the plant's receipts, a reduction of the shipping requirements for a pool supply plant to 35 percent of its receipts during the qualifying period and to 20 percent during the remainder of the year.

Six proprietary handlers who are operating pool supply plants with extensive manufacturing operations opposed any of the proposals or modifications thereto that would "tighten" pooling standards for supply plants. They generally favored a lower shipping requirement during the fall qualifying period for automatic pooling status, the continuance of the automatic pooling feature, and the elimination of August as a qualifying month. Five or the six handlers recommended in their post-hearing brief a 30 percent shipping standard in each of the months of September through December, with the continuance of the automatic pooling provision for the remaining months.

One of the proprietary handlers testified about the problems he encountered during the most recent qualifying period in making the required shipments to distributing plants. He indicated that in order to maintain pool status for one of his supply plants (a pool plant under the order since 1974) he had to arrange to deliver more milk from his supply plant to a distributing plant than it needed, and then backhaul the excess to his supply plant for manufacturing. He also expressed concern that the continuation of the present pooling standards could jeopardize his ability to maintain continued pool plant status because of competition from a greater number of supply

plants competing for distributing plant outlets.

The representative of another proprietary handler who recently qualified his supply plant as a pool plant denied that it was their intent to take advantage of the automatic pooling provision and exploit the pool, as suggested by the proponent cooperative. He stated that milk associated with their supply plant has been and would be available to distributing plants when needed and that substantial quantities of the supply plant's producer receipts were being shipped to distributing plants.

The purpose of pooling standards for supply plants is to distinguish between those plants substantially engaged in serving the fluid needs of the regulated market and those plants that do not serve the market to a degree that warrants their sharing, through pooling, in the market's Class I returns. It is necessary, then, to establish pooling standards that reflect the needs of the local market. Basically, the minimum performance requirements should assure that supply plants associated with the market will make milk available to distributing plants at the times and in the quantities needed. Supply plants regularly serving the market should not be required, however, to ship substantial quantities of milk when it is not needed.

Presently, the order permits supply plants that have met the minimum shipping requirements during the months of August through December to remain pooled during the other months without making shipments to distributing plants at the same minimum level as during the short production months. This reflects the customary situation where the demand for supply plant milk is usually greater during the months of seasonally low milk production than during other months. A distributing plant's needs for supply plant milk may be substantially reduced during the months of seasonally high production when direct deliveries from producers largely fulfill the distributor's needs for milk. The automatic pooling provisions thus eliminate the need for supply plants to make costly, unneeded shipments to distributing plants during the months of heavier production merely to maintain their pool plant status. Moreover, such provisions permit those producers who have established their association with the fluid market by shipping to a pool supply plant to continue to share in the market's Class I sales during the period when supply plant milk may not be needed for fluid use.

The adoption of year-round shipping requirements should be based on an indication that distributing plants are having difficulty in obtaining adequate milk supplies from pool supply plants. This record does not demonstrate that this is the case. Instead, it is apparent that distributing plants are able to acquire from supply plants whatever milk supplies they need and when needed. This is so even at a time when distributors have become increasingly dependent on supply plant milk because of changes in their bottling patterns and their desire for milk of a standardized butterfat test.

Dairy farmers in the supply area for this market have been shifting from Grade B to Grade A milk production. This has resulted in an expanding Grade A milk supply seeking to share in the market pool. The principal means by which new producers enter the pool is by delivering to an existing pool plant or to a supply plant that later becomes fully regulated by its shipments to distributing plants. As was pointed out at the hearing, the pooling of these additional Grade A supplies has been accomplished principally by manufacturing plants upgrading their total farm supply to Grade A status and then making the required shipments to distributing plants.

At the time of the hearing, there were six such manufacturing plants that had established pool qualification under the order. Three of these plants have been pool supply plants for several years while the remainder acquired pool status at or near the beginning of the most recent qualifying period.[1] Most of the receipts at these plants are from dairy farmers who recently converted their production facilities to meet Grade A inspection requirements. Part of the milk supply at these plants, however, is being furnished by producers who have been associated with the market for quite some time.

Proponent's basic contention was that the automatic pooling feature has encouraged manufacturing plants to affiliate with the market to maintain a supply of milk for manufacturing purposes rather than to serve the fluid market on a substantial and continuing basis. By implication, proponent's position suggests that such plants are meeting only the minimum shipping requirements during the qualifying period and then failing to make needed shipments to distributing plants during the period in which shipments are not required by the order. This is not supported by the record evidence. Supply plants are making milk supplies available to distributing plants when the milk is needed.

It is recognized that there can be an incentive for operators of manufacturing plants to associate milk supplies with the market for manufacturing purposes. Because of this, and in view of the number of such plants operating in this market, it is reasonable that the order provide greater assurance that milk supplies will be committed to fluid uses when needed by distributors.

As indicated previously, there have been instances where a supply plant operator, for the purpose of qualifying his plant, has made specific prearrangements for a distributing plant to receive the necessary qualifying shipments of milk and then ship the milk back to the supply plant for manufacturing uses. While this practice involves additional hauling and handling costs and results in uneconomic movements of milk, it has off-setting benefits to the supply plant operator in that he can acquire his milk at the Class III price and yet pay his producers the higher uniform price through the marketwide pool. Such practice in essence constitutes a predetermined commitment of pool milk for manufacturing use. The order should provide a safeguard against such exploitation of the pool.

Accordingly, to help assure that each supply plant pooled represents a continuing, reliable source of milk for the fluid market, the order should provide that only the net amount of milk shipped during the month to a pool distributing plant from the supply plant shall be counted as qualifying shipments. For example, a supply plant may ship fluid milk products to a distributing plant and arrange to have the latter plant transfer fluid milk products back to the supply plant in the same month. In this case, only that quantity of the supply plant's shipments not offset by the return shipments should count toward meeting the minimum shipping requirement for the supply plant. Also, a supply plant operator could operate an other plant (pool or nonpool) and arrange to ship milk from his supply plant to a pool distributing plant and then have it transferred to his other plant for manufacturing, thereby facilitating the pooling of the supply plant. In this circumstance, the supply plant's shipments to the distributing plant should be reduced by the transfers to the supply plant operator's second plant in determining the quantity of qualifying shipments by the supply plant. These net shipment provisions should discourage any circumvention of the intent of the present supply plant performance provisions of the order without having any significant impact on normal marketing practices of pool supply plant operators.

The proposal that the pool qualifications for a supply plant be based on the actual receipts of Grade A milk from dairy farmers at the plant plus the milk of producers diverted from such plant should be adopted. Diverted milk may now be pooled without being counted as a part of the supply of the plant from which diverted in determining the plant's pool status.

Under the present arrangement, the current 50 percent minimum shipping requirement for a pool supply plant can be effectively reduced depending on the extent of such plant's total diversions. For example, if 30 percent[2] of the producer milk normally associated with such plant is diverted without being counted as part of the plant's total producer milk supply, the plant could qualify as a pool plant by shipping to pool distributing plants only 35 percent (rather than 50 percent) of its regular supply of producer milk. On the other hand, a supply plant that diverts no milk would have to ship 50 percent of its actual producer receipts to qualify for pooling. This procedure, which is currently being employed by some of the pool supply plants, results in inequity among supply plants in acquiring and maintaining pool status. It is reasonable, therefore, to include milk diverted from a supply plant as a receipt in determining such plant's pool status.

Such a change, however, requires a reduction in the present shipping percentage for pool supply plants. Including diverted milk as part of a supply plant's total receipts from producers for pooling purposes could result in some plants having difficulty in meeting the shipping requirements unless they adjusted their present operations. The change in the diversion arrangement adopted herein is not intended to force this type of adjustment.

In view of current supply-demand conditions existing in this market, a reduction of 10 percentage points (from 50 to 40 percent) in the shipping standard appears reasonable. This lower shipping standard should be adequate to assure that milk associated with supply plants will continue to be available to distributing plants when needed.

The months of September–December, rather than August–December, should be used as the qualifying period in which a supply plant may earn automatic pooling status for the following months when there is less demand for supply plant milk. This change would more nearly reflect the current seasonal production pattern for the market. The four months of September–December is the period when milk production is lower relative to demand than in the remaining months of the year. During the most recent such four-month period (September through December 1975) for which data were available at the hearing, Class I utilization of producer milk was 59 percent. In the following eight months (January through August 1976) the comparable Class I utilization was 48 percent.

August, which would be eliminated as a qualifying month for automatic pooling, is now a month of relatively high production relative to demand. For the years 1974, 1975 and 1976, the Class I utilization of producer milk in August was 47 percent, 50 percent and 44 percent, respectively. These percentages for August are essentially at the same level as for the months of seasonally high production in this market. In fact, over the same three-year period, only the months of May, June and July had a lower Class I utilization than did August. In this circumstance, supply plants should not be forced to make substantial shipments when there is little demand for the milk. The qualifying period of September through December should be adequate to establish a supply plant's association with the fluid market.

Qualifying shipments by a supply plant that is not a cooperative balancing plant should not include milk delivered directly from farms to distributing plants by the supply plant operator. This was proposed at the hearing by a cooperative for the purpose of facilitating the continued pooling of its supply plant. The order already provides for this type of pooling arrangement in that a cooperative's plant may be a pool balancing plant if 51 percent or more of the cooperative's producer milk is moved to pool distributing plants either by transfer from the balancing plant or directly from members' farms. Thus, there is no need for the type of change proposed by the cooperative. Moreover, other changes in the pooling provisions adopted herein should aid the cooperative with respect to the pooling of its plant.

At the hearing, a cooperative association proposed that a supply plant which fails to meet the shipping percentage requirement in any month nevertheless be permitted to remain pooled for such month if it was a pool supply plant in each of the preceding 12 months. This should not be adopted. The spokesman for the cooperative did not present any specific testimony on this issue other than merely offering the proposal. Moreover, the record provides no evidence of marketing problems that would warrant the implementation of such a "depooling" safeguard.

No action is taken on the proposal that route disposition in the marketing area from a supply plant be counted as a qualifying shipment for pooling purposes. This suggested change was included in the supply plant definition as initially proposed in the hearing notice. However, there was no testimony presented at the hearing either in support of or in opposition to the proposal.

2. *The Class I price zones within the marketing area and the applicable price for each zone.* No change should be made on the basis of this record in the zone price structure now applicable to pool plants located within the marketing area.

Currently, the marketing area is divided into three pricing zones. Zone 1 includes 39 eastern Nebraska counties, five western Iowa counties plus part of the Iowa county of Pottawattamie, and a portion of Union County, South Dakota. The largest cities in the marketing area are located in Zone 1, which include Omaha and Lincoln, Nebraska, and Council Bluffs and Sioux City, Iowa.

The extreme eastern part of the marketing area is included in Zone 2. This zone comprises 11 Iowa counties and that part of Pottawattamie County, Iowa, not included in Zone 1. The zone is predominately rural, with the largest populated center being Le Mars, Iowa.

The western portion of the marketing area, consisting of 31 Nebraska counties and extending westward from Zone 1 to the Wyoming State line, is included in Zone 3. Grand Island, Hastings, North Platte, Kearney and Scottsbluff, Nebraska, are the principal cities in Zone 3.

The Class I price at plants located in Zone 1 is $1.60 over the basic formula price. The Zone 2 Class I price is 10 cents less. The Zone 3 Class I price is 15 cents more than the Zone 1 price.

Six pricing proposals by three proprietary handlers, all of which would revise the zone price structure, were included in the hearing notice. At the hearing, however, proponents revised many of the proposals, or abandoned them.

Proposals initially offered by a handler at Le Mars, Iowa, who operates the only pool distributing plant in Zone 2, would have changed the prices applicable in each of the present zones, plus establishing an additional price zone. At the hearing, the handler modified his proposals set forth in the hearing notice and supported changes that: (1) Would reduce the Zone 2 Class I price by 10 cents per hundredweight and (2) would establish a new two-county price zone comprising Woodbury County, Iowa, and Dakota County, Nebraska, both of which are now in Zone 1. The handler recommended that a Class I price 15 cents less than the Zone 1 price apply to the new zone.

The primary reason cited by the representatives of the proponent handler for the zone price revisions was that they would restore the historical Class I price relationships that existed between the Le Mars handler and handlers in Sioux Falls, South Dakota, prior to the June 1, 1976, amendment to the Eastern South Dakota order. This amendment reduced the Eastern South Dakota order's Class I differential from $1.50 to $1.40. Prior to the amendment, the Eastern South Dakota's Class I differential was identical to the Nebraska-Western Iowa Zone 2 Class I differential. Proponent claimed that the lowering of the Class I differential in the Eastern South Dakota market has seriously affected his ability to compete with handlers regulated under that order in his principal area of distribution.

In supporting the handler's position, witnesses stated that historically the alignment of Class I prices in Federal order markets has been based on the cost of transporting milk from Eau Claire, Wisconsin, which is in an area that is an important source of alternative milk supplies for various markets. They held that the Sioux Falls price is properly aligned with Eau Claire and that the Le Mars price should be similarly aligned. The witnesses reasoned that since the distance from the alternative milk supply area to Le Mars and to Sioux Falls is about the same, the $1.40 Class I price differential applicable at Sioux Falls is also proper for Le Mars.

Witnesses for the proponent handler also contended that the Zone 2 price has always been too high relative to the Omaha price (Zone 1). They maintained that their proposed Zone 2 price would improve the price alignment between Le Mars and Omaha.

To facilitate the alignment of prices, the handler also proposed establishing a new price zone encompassing Dakota County, Nebraska, and Woodbury County, Iowa (principally the Sioux City, Iowa area) with a Class I price differential of $1.45. It was argued by proponent that this would more accurately reflect the location value of milk in this area in relation to Omaha.

In further support of his position, the proponent handler noted that a factor

[1] Official notice is taken of the Nebraska-Western Iowa market administrator's monthly uniform price announcements for 1974–1976.

[2] The maximum allowable diversions by a pool supply plant operator is 30 percent during each of the months of January–March and September–November, and 40 percent during any other month, of the producer milk actually received at the plant.

considered by the Department in reducing the Eastern South Dakota order's Class I price was the availability of additional milk supplies for Sioux Falls handlers from the nearby heavy milk producing area of Swift, Yellow Medicine and Brown Counties, Minnesota. Since this milk production area is about equi-distant from Le Mars and Sioux Falls, proponent maintained that a Class I differential of $1.40 at Le Mars would be high enough to attract milk supplies from these three counties to his plant when needed.

Two proposals included in the hearing notice by the operator of three pool distributing plants at Grand Island and Omaha, Nebraska, and Sioux City, Iowa, which would revise the zone price structure as to territory and price, were abandoned at the hearing. Instead, the handler proposed the elimination of price zones and recommended that a differential of $1.60 (the present Zone 1 differential) apply throughout the marketing area. Additionally, he proposes that a 10-cent credit be allowed on any Class I sales in a lower-priced Federal order market by a pool handler. The handler believed that his proposed changes would enhance producer prices and improve handler equity from a competitive standpoint.

A third handler who operates a pool distributing plant at Norfolk, Nebraska (Zone 1), originally proposed the consolidation of Zones 1 and 2, with the present Zone 1 Class I price applying to the entire area. At the hearing, the handler did not support the proposal. Instead, he urged that no change be made in the Class I price structure until it can be reviewed at a hearing dealing with the merger of several orders in the region.[3] He did state, however, that if it were determined that a change in the zone price structure is necessary, then his recommendation would be to consolidate Zones 1 and 2 and have a $1.40 Class I differential apply to the entire area. Another alternative recommendation advanced by the handler was that if the proposed $1.40 Class I differential is adopted for Zone 2, then the proposed new two-county pricing zone should be expanded to include 10 additional counties now in Zone 1. Under this recommendation, the handler's plant would be included in the new price zone. The handler stated that his alternative recommendations were intended to maintain the same general competitive relationship with the two handlers at Sioux City and Le Mars that now exists under the present zone price structure.

At the hearing, a cooperative association opposed any change in the price structure for Sioux City and Zone 2 that would have the effect of reducing prices in those areas. The witness for the cooperative held that any price reduction would have an adverse effect on the maintenance of an adequate milk supply at distributing plants in these areas, particularly the single Zone 2 plant. He also maintained that any change in the price structure would disrupt the historical competitive relationship between handlers in Zones 1 and 2.

The cooperative did propose at the hearing, however, shifting to Zone 1 all the territory east of Garden and Deuel Counties, Nebraska, now included in Zone 3. The shift would involve 19 Zone 3 Nebraska counties, including the population centers of North Platte, Grand Island and Hastings. There are presently eight pool plants located in this 19-county area—four distributing plants, three supply plants and one cooperative balancing plant. Under its proposal, the "panhandle" section of Nebraska, comprising 11 western Nebraska counties, would be the only territory remaining in Zone 3.

The principal reason cited by the cooperative for the change was that the 15-cent higher price in Zone 3 relative to Zone 1 is no longer necessary to attract an adequate supply of milk at the distributing plants located in the 19-county area. In support of its position, the cooperative's witness claimed that marketing conditions have changed since the adoption in June 1968 of the present price structure for the 19-county area. One change cited was the decline in the number of distributing plants in the area—from five in 1968 to four at the present time. Another change was the supply-demand situation. The witness claimed that milk supplies in Zone 3 have become excessive in relation to the Class I sales of the distributing plants located in the area. He further testified that as a result of the increased supplies available in Zone 3 the cooperative has found it necessary to seek alternative outlets in a higher-priced market to enhance the returns to its member producers. This was accomplished, according to the witness, by pooling their former Nebraska-Western Iowa order pool supply plants at Broken Bow, Nebraska, and Ellis, Kansas, under the Eastern Colorado order.

Another cooperative that supplies several pool distributing plants in the market, although it did not testify at the hearing regarding zone pricing, supported in its post-hearing brief the proposal to shift 19 Zone 3 counties to Zone 1.

A handler who operates two pool distributing plants (at Lincoln and North Platte, Nebraska) opposed any change in the present zone price structure. The handler's representative stated that any price change for a single zone, as advocated by the Le Mars, Iowa, handler, would disrupt the historical price relationships among the three zones and as between adjoining markets. He further held that if the proposal to reduce the Zone 2 price by 10 cents is adopted, then the price in the other zones should be reduced the same amount in order to maintain historical price relationships within the marketing area.

Another handler who operates distributing plants at Lincoln and Grand Island, Nebraska, also opposed any change in the present zone price structure. The witness for the handler held that the proposals to reduce the Zone 2 and Sioux City Class I prices, if adopted, would have an adverse effect on the handler's Lincoln plant in competing with the two plants at Le Mars and Sioux City. In his post-hearing brief, the handler revised his position taken at the hearing against any changes and supported the limited proposal to shift 19 Zone 3 counties to Zone 1.

At the hearing two other handlers (operators of a pool distributing plant and a pool supply plant, respectively) opposed any change in the present zone price structure. In their post-hearing briefs, the operators of several pool supply plants also expressed opposition to any change in the provisions establishing zone pricing.

The order's present zone price structure was established on the basis of the Assistant Secretary's decision issued April 15, 1968 (33 FR 6046) when the Sioux City, Iowa, order was merged with the Nebraska-Western Iowa order. It was reviewed at a public hearing held in May 1974. As a result of that hearing, the Assistant Secretary concluded in his decision issued November 26, 1974 (39 FR 41729), that no change should be made in the boundaries of Zones 1, 2 and 3 of the marketing area or in the prices applicable to such zones.

Except for the testimony of the handler who proposed that the same Class I price apply throughout the marketing area, the testimony presented at the current hearing supported the continuance of zone pricing under the order. The handler's proposal for a single Class I price throughout the marketing area would have the effect of reducing the Zone III Class I price by 15 cents and increasing the Zone II price by 10 cents. The handler's witness presented no specific facts or marketing problems supporting the proposal. There was no reason given why the Zone III price should be reduced. Neither was there any indication why the value of milk in Zone II should be more than what the present price reflects.

Under such a pricing scheme, producers obviously would want to deliver their milk only to the plants located nearest their farms to escape the transportation cost involved in more distant movements to other plant locations at which milk is needed. The likely result of this would be to increase the total handling and transportation costs for some handlers as opposed to others in obtaining adequate milk supplies. Accordingly, a single uniform Class I price applicable throughout the expansive marketing area would be inappropriate and could contribute to disorderly marketing conditions.

Under the order's price structure, Class I prices at various locations increase in relation to distance from the eastern to the western segment of the marketing area. This graduation of prices reflects the additional value that milk has at the various plant locations within the marketing area relative to the

[3] The orders referred to here would include at least Eastern South Dakota, Greater Kansas City and Nebraska-Western Iowa. Such a merger, however, is not a matter pending before the Secretary at this time.

cost of obtaining milk supplies on a regular basis from alternative sources (an important source of alternative milk supplies for this market as well as for many other markets is the Upper Midwest region). It is anticipated that even in the absence of a regulatory program the Class I price structure would gradually increase in a westerly direction from the heavy milk producing Upper Midwest region reflecting the variable cost of moving milk supplies from this region.

The Class I prices that now apply at various locations in the Nebraska-Western Iowa market were thus established to reflect the value of an economic service to handlers by distant producers bearing the cost of moving their milk to a handler's plant. This is the case even though a handler may obtain his entire supply from local producers. In the absence of any local supply, the handler would have to procure milk from other areas. Thus, the value of milk at such plant's location necessarily must reflect the cost of obtaining milk from alternative supply sources.

Additionally, the economic value of milk to the producer is determined by the alternative outlets for his milk. If this value is not properly reflected in the Class I price at various locations, the milk, over time, would not be available to plants at such locations.

The record evidence does not demonstrate that the present Class I price structure for the Nebraska-Western Iowa market is inappropriate or is contributing to disorderly marketing conditions. To the contrary, it appears that the present price structure is providing adequate milk supplies at all locations at which milk is delivered by producers and the necessary alignment of prices not only with other markets but also among the various segments within the market. Accordingly, the Class I zone price structure now applicable to the marketing area should be retained.

Present marketing conditions do not warrant a reduction in the Zone 2 Class I prices. As previously noted, the proponent handler's basic argument for reducing the Zone 2 Class I differential by 10 cents was that the present Eastern South Dakota Class I price applicable at Sioux Falls plants provides such plants with a competitive advantage over his Le Mars, Iowa, plant. Two Sioux Falls plants compete with the Le Mars plant for Class I sales, principally in the Sioux City, Iowa, area of Zone 1. Le Mars and Sioux Falls are located 25 miles and 85 miles, respectively, north of Sioux City. Based on the location differential rate of 1.5 cents per 10 miles contained in the order, the 85-mile distance from Sioux Falls to Sioux City would suggest a hauling cost of about 14 cents per hundredweight. In contrast, the cost of moving bulk milk from Le Mars to Sioux City would be about 4 cents. This would suggest a price difference of 10 cents per hundredweight between Sioux Falls and Le Mars, which is presently the case. Thus, this price difference cannot be regarded as disruptive to the Le Mars handler in competing with Sioux Falls handlers for fluid milk sales in the Sioux City area.

In further support of his basic argument, the proponent handler claimed that following the 10-cent reduction in the Eastern South Dakota order Class I price, he lost a bid on a sizeable wholesale account at Vermillion, South Dakota, to a Sioux Falls handler. Considering the greater distance to Vermillion from Sioux Falls (about 55 miles) than from Le Mars (about 36 miles), it is unlikely that Sioux Falls milk could be delivered to Vermillion at a cost significanty less than what the Le Mars handler would incur in serving the area.

The argument of the Le Mars handler that he has substantial sales in other markets where Class I prices are lower provides no basis, in itself, for reducing the Zone 2 Class I differential. A handler may distribute milk in any area he chooses. Should he decide to sell milk in an area where handlers have a lower cost, he must assume any competitive risks involved. It would be uneconomic to have the order provide a handler with cost comparability at any location at which he may choose to distribute milk.

The fact that the Le Mars handler has the same access, distance-wise, as Sioux Falls handlers to the three-county supply area in southwestern Minnesota referred to earlier provides no compelling basis for adopting the Le Mars handler's Zone 2 price proposal. There is no indication on this record that the present price for milk delivered to the Le Mars location does not reflect the economic value that such milk has to the Le Mars handler.

The proposal to remove Woodbury County, Iowa, and Dakota County, Nebraska, from Zone 1, and include them in a new pricing zone with a 15-cent lower Class I price, which would affect only the price structure at the Sioux City plant, was proposed by the Le Mars handler as a corollary proposed to his proposed price reduction at Le Mars. Since the latter proposal is not adopted, further consideration is not given to the proposed 15-cent reduction at Sioux City. Moreover, the operator of the Sioux City plant testified that he was opposed to any price reduction at this time that might adversely affect producer returns and ultimately affect milk supplies in the market.

The proposal to reduce the Class I price 15 cents per hundredweight in 19 Zone 3 counties by shifting these counties to the lower-priced Zone 1 cannot be justified by the record evidence. Contrary to the proponent cooperative's position, the record evidence suggests that milk supplies in and around this area are not excessive and that additional supplies for plants in the area are obtained from the heavy production region in northcentral Nebraska (principally in the Zone 1 area), which is a principal supply area for Omaha distributing plants. The use of a 15-cent per hundredweight higher price in this 19-county area of the marketing area reflects the graduation of Class I prices from east to west that is necessary to reflect the differences in economic value that milk has to handlers in Zone 1 and 3. Without this alignment of prices, plants in the Omaha area, because of distance, would be preferential outlets for milk produced in northcentral Nebraska relative to plants in Zone 3.

Further, some of the milk produced in the 19-county area is delivered to plants regulated by orders south and west of this area where the price is higher. The present higher price in this general area provides the necessary alignment with such higher-priced markets. A 15-cent decrease in that portion of Zone 3, as proposed, could impair the ability of plants located therein to compete for the supplies available in the local area. The economic value of milk produced locally is determined by the alternative outlets for the milk. If this value is not properly reflected in the Class I prices at various locations, the milk, over time, probably would not be available to plants at those locations. The present 15-cent higher price in the 19-county area reflects the additional value that milk has at plants in this area.

As indicated previously, a handler proposed at the hearing that a 10-cent per hundredweight credit be granted to a pool handler on any Class I sales made in a lower-priced Federal order market. This proposal, however, does not comport with the Act since the Act provides for the pricing of producer milk at "the location at which delivery * * * is made." Moreover, the price established under the order at each plant location is the price that is considered necessary to bring forth an adequate supply of milk at that location. To reduce the price at any location because the handler has route distribution into a lower-priced area could jeopardize the ability of the handler to continue over time to receive an adequate supply of milk. Accordingly, the proposal is denied.

3. *Payment and accounting for farm bulk tank milk received by a handler from a cooperative association.* The method of payment to a cooperative association as the handler for farm bulk tank milk should be revised.

Presently, a pool plant operator who receives milk from a cooperative bulk tank handler is required to pay the cooperative association at the classified use value of such milk. Under this payment procedure, the cooperative association is responsible to the producer-settlement fund at class prices for such milk delivered to a pool plant rather than the pool plant operator.

A cooperative association proposed that the order provide that milk received at a pool plant from a cooperative bulk tank handler be paid for at the uniform price and the pool plant operator be obligated to the producer-settlement fund for such milk at its classified use value. There was no opposition to the proposal.

The cooperative's representative testified that the present payment procedure on such milk involves unnecessarily a third party (the cooperative bulk tank handler) in the transaction as related to

obligations to the producer-settlement fund. In this connection, the witness contended the proposal would simplify the accounting for such milk received by the pool plant operator and would result in more effective administration of the order regarding the billing and collection of audit adjustments resulting from changes in classification of milk.

The order should specify, as proposed, that milk delivered to a pool plant by a cooperative bulk tank handler be treated as a receipt of producer milk and be paid for at the uniform price by the pool plant operator. The pool plant operator in turn would be responsible, rather than the cooperative, to the producer-settlement fund for the accounting of the utilization of such milk.

This change will simplify the accounting for such milk by the pool plant operator and will facilitate the administration of the order with respect to matters of financial responsibility, enforcement, and subsequent audit adjustments that may arise. Since the actual utilization of such milk reflects the receiving pool plant's operations, it is reasonable, therefore, that the responsibility for the accounting and payment of such milk be placed directly on such pool plant operator.

Under the revision adopted herein, a cooperative's obligation to the producer-settlement fund would continue to be the same as presently required (1) on producer milk received at its pool plant, (2) on producer milk it diverts to a nonpool plant from its own pool plant or from another pool plant, and (3) on any milk for which it is the bulk tank handler that exceeds the quantity of such milk delivered to pool plants. Also, the pool plant operator would continue to be responsible for the administrative assessment on the milk received from the cooperative bulk tank handler as is the case now under the order.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Nebraska-Western Iowa marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1065.7, the word "July" where it appears in paragraph (d)(3) is changed to "August", and paragraph (b) is revised to read as follows:

§ 1065.7 Pool plant.

* * * * *

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) of this section (excluding fluid milk products transferred from any such distributing plant to the supply plant or to any other plant operated by the operator of the supply plant) is not less than 40 percent of the Grade A milk received at such plant from dairy farmers (including receipts of producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of September through December shall be a pool plant for the months of January through August unless the plant operator requests of the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

* * * * *

2. In § 1065.13, paragraphs (a) and (b) are revised to read as follows:

§ 1065.13 Producer milk.

* * * * *

(a) Received at a pool plant directly from a producer or a handler described in § 1065.9(c);

(b) Received by a handler described in § 1065.9(c) from producers in excess of the quantity delivered to pool plants; or

* * * * *

3. In § 1065.41, paragraph (b)(1) is revised to read as follows:

§ 1065.41 Shrinkage.

* * * * *

(b) * * *

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1065.9(c));

* * * * *

4. In § 1065.42, the semicolon at the end of paragraph (a)(1) is changed to a period; the word "and" immediately following is deleted; all of paragraph (a)(2) is revoked; and the introductory text of paragraph (a) is revised to read as follows:

§ 1065.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as follows:

* * * * *

5. In § 1065.44, paragraphs (a)(8)(ii) (b) and (13) are revised to read as follows:

§ 1065.44 Classification of producer milk.

* * * * *

(a) * * *

(8) * * *

(ii) * * *

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

* * * * *

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1065.42(a); and

* * * * *

6. In § 1065.45, paragraph (d) is revised to read as follows:

§ 1065.45 Market administrator's reports and announcements concerning classification.

* * * * *

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

7. In § 1065.73, paragraph (d)(2) is revised to read as follows:

§ 1065.73 Payments to producers and to cooperative associations.

* * * * *

(d) * * *

(2) On or before the 14th day after the end of each month not less than the value of such milk at the uniform price as adjusted by the butterfat differential specified in § 1065.74 apolicable at the location of the receiving handler's plant, less payment made pursuant to paragraph (d)(1) of this section;

* * * * *

8. In § 1065.85, paragraph (a) is revised to read as follows:

§ 1065.85 Assessment for order administration.

* * * * *

(a) Producer milk (including such handler's own production);

* * * * *

Signed at Washington, D.C., on May 10, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-13888 Filed 5-13-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-WE-11-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8-62, -62F, -63, and -63F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to add an airworthiness directive that would require inspections and repair of the wing lower skin tee doubler and lower forward spar cap at the pylon attach points on all McDonnell Douglas Model DC-8-62, -62F, -63, and -63F airplanes to preclude the possibility of fatigue cracking of the wing structure. If allowed to continue indefinitely, such cracking could become hazardous to the continued airworthiness of the wing structure.

DATES: Comments must be received on or before: June 20, 1977.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT: Wallace M. Frei, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009; Telephone (213) 536-6351, or Richard G. Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009; Telephone: (213) 536-6274.

SUPPLEMENTARY INFORMATION: There have been at least five instances of lower wing skin cracks in the area of the engine pylon attack on McDonnell Douglas Model DC-8-62, -62F, -63, -63F airplanes. The cracks were detected on airplanes having between 27,000 and 36,000 flight hours and are attributed to material fatigue. The last skin crack was detected due to a fuel leak in the area of the No. 2 engine pylon attach. Upon removal of the skin panel for repair, it was found that the pylon attach tee doubler and the wing lower forward spar cap were also cracked. The tee doubler has a history of fatigue cracking problems, with cracks being found as early as 1300 flight hours. McDonnell Douglas issued Service Bulletin 54-58 in May, 1970, containing instructions for a modification to the tee doubler designed to relieve any preload resulting from manufacturing tolerance buildup and thereby improve the fatigue life of the tee doubler. However this modification has proven to be inadequate, as cracking problems still exist. Consequently, McDonnell Douglas is designing a replacement for the tee doubler to prevent further fatigue cracks. This tee doubler redesign is expected to be available in a service bulletin about September, 1977.

Investigation of the spar cap failure has indicated that the cracking starts in the tee doubler and, as it progresses, eventually causes the skin panel and spar cap to crack also. If this cracking were allowed to progress without being detected for periods longer than the proposed inspection intervals in this AD, it could become detrimental to the structural integrity of the wing forward spar.

The manufacturer has issued Service Bulletin 57-83 containing x-ray inspection procedures and crack repair instructions to detect and repair such cracks before they become hazardous. Since this condition is likely to exist or develop in other aircraft of the same type design, the proposed airworthiness directive would require compliance with the inspection and repair requirements of Service Bulletin 57-83.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of the adoption of the proposed rule is also requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received before June 20, 1977 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rule Docket for examination by interested persons.

The principal authors of this document are Everett Pittman, Engineer, Aircraft Engineering Division, and R. G. Wittry, Attorney, Office of Regional Counsel, FAA Western Region.

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDONNELL DOUGLAS: Applies to Model DC-8-62, -62F, -63, and -63F airplanes, certificated in all categories.

Compliance required as indicated.

To detect cracks and prevent failure of the wing lower forward spar cap, tee doubler, and wing skin, comply with the following:

(a) For airplanes with 35,000 or more hours time in service on the effective date of this A.D., within the next 800 hours time in service, unless already accomplished within the last 2400 hours, and thereafter at intervals not to exceed 3200 hours time in service, accomplish Paragraph (e).

(b) For airplanes with 30,000 to 34,999 hours time in service on the effective date of this A.D., within the next 1200 hours time in service, unless already accomplished within the last 2000 hours, and thereafter at intervals not to exceed 3200 hours time in service, accomplish Paragraph (e).

(c) For airplanes with 25,000 to 29,999 hours time in service on the effective date of this A.D., within the next 1600 hours time in service, unless already accomplished within the last 1600 hours, and thereafter at intervals not to exceed 3200 hours time in service, accomplish Paragraph (e).

(d) For airplanes with less than 25,000 hours time in service on the effective date of this A.D., within the next 3200 hours time in service, unless already accomplished, and thereafter at intervals not to exceed 3200 hours time in service, accomplish Paragraph (e).

(e) Perform an x-ray inspection of lower wing structure at all four pylon areas for cracks as outlined in Service Sketch 2575 of McDonnell Douglas DC-8 Service Bulletin 57-83 dated April 15, 1977 or later FAA approved revision.

(f) If cracks are found in the wing spar cap and/or wing skin as a result of the inspections of Paragraph (e), repair before further flight in accordance with the provisions of McDonnell Douglas DC-8 Service Bulletin 57-83 dated April 15, 1977 or later FAA approved revision. Cracks found in the pylon tee doubler shall be repaired in accordance with the limits in McDonnell Douglas DC-8 Service Bulletin 54-58 dated May 15, 1970 or later FAA approved revision.

(g) Equivalent inspections and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this A.D.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on May 4, 1977.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc.77-13857 Filed 5-13-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-16]

PROPOSED DESIGNATION OF TRANSITION AREA

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Bogalusa, Louisiana, to provide controlled airspace for aircraft executing an instrument approach procedure established for the George R. Carr Memorial Air Field.

DATES: Comments must be received by June 16, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G, 71.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Bogalusa, Louisiana, will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received by June 16, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Air Traffic Division, and Robert L. Nelson, Office of the Regional Counsel, Southwest Region.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In subpart G, § 71.181 (42 FR 440) the following transition area is added:

BOGALUSA, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the George R. Carr Memorial Air Field, (Latitude 30°48'41.6" N., Longitude 89°51' 53.9" W.) and within 2.5 miles either side of the Picayune VOR 335 radial extending 1 mile from the 5-mile radius.

Coincident with this action, the airport will be changed from VFR to IFR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on April 29, 1977.

HENRY L. NEWMAN,
Director Southwest Region.

[FR Doc.77-13859 Filed 5-13-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-18]

PROPOSED ALTERATION OF TRANSITION AREA

AGENCY: Federal Aviation Administration (FAA) (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Pleasanton, Texas, transition area to provide controlled airspace for the change in the NDB approach course to the Pleasanton Municipal Airport from the 166° magnetic bearing to the 160° magnetic bearing. The change will improve the instrument approach to the airport.

DATES: Comments must be received by June 16, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G, § 71.181 (42 FR 440) of FAR Part 71, the description of the Pleasanton, Texas, transition area reflects the controlled airspace needed for the conduct of the NDB instrument approach procedure with the 166° magnetic bearing approach course. The change in the approach course to the 160° magnetic bearing will necessitate alteration of the transition area to provide controlled airspace for aircraft executing the instrument approach procedure on the new approach course.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received by June 16, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Air Traffic Division, and Robert L. Nelson, Office of the Regional Counsel, Southwest Region.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In Subpart G, § 71.181 (42 FR 440), the Pleasanton, Texas, transition area is amended to read:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Pleasanton Municipal Airport (Latitude 28°57'00" N., Longitude 98°31'30" W.) and within 3 miles each side of the 160° magnetic bearing from the Pleasanton NDB to 8 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on April 29, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-13858 Filed 5-13-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 731 0049]

OLIN SKI CO., INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order which requires a Middletown, Conn., manufacturer and distributor of ski boots and other ski industry items, among other things to cease establishing, maintaining, and enforcing price maintenance agreements; requiring such agreements as a precondition to dealing; soliciting reports of recalcitrant distributors and terminating those dealerships; using serial numbers as a means of tracing products sold to unauthorized outlets; and failing to honor warranties for products sold by such establishments. Further, the order requires respondents to maintain prescribed files for a five-year period; and prohibits them from disseminating, for two years, all materials suggesting retail prices.

DATE: Comments must be received on or before July 11, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Director, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, MA 02114. (617-223-6621).

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 731 0049]

OLIN SKI COMPANY, INC.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Olin Ski Company, Inc., a corporation, and it now appearing that Olin Ski Company, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Olin Ski Company, Inc., by its duly authorized officer, and its attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Olin Ski Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 475 Smith Street, Middletown, Connecticut 06457.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed rsepondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceedings unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may without further notice to proposed respondent, (1) issue its compaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto.

When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service.

7. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondent has read the proposed complaint and order contemplated hereby and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully comolied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I. *It is ordered*, That respondent Olin Ski Company, Inc., a corporation, or any of its subsidiaries, divisions, successors and assigns, and its officers, and respondent's agents, representatives and employees, individually or in concert, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, manufacture, distribution, offering for sale or sale of skis, ski boots or other ski industry items (hereinafter referred to in this order as "said products") in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Establishing, maintaining or enforcing with any authorized dealer any contract, agreement, understanding or arrangement fixing, establishing, maintaining, controlling or enforcing, directly or indirectly, the price at which any of said products is advertised, sold or offered for sale at retail.

B. Requiring any authorized dealer or prospective dealer to enter into an oral or written agreement or understanding that such authorized dealer or prospective dealer will maintain any resale or retail price for any of said products as a condition of buying any of said products.

C. Prior to selling to a prospective dealer, requiring a promise or assurance, whether by understanding, agreement, or otherwise, that such dealer will adhere to and observe any resale or retail price for any of said products.

D. Requiring from any authorized dealer a promise or assurance to adhere to any resale or retail price for any of said products as a condition precedent to any future sales to said authorized dealer.

E. Requesting or requiring, either directly or indirectly, any authorized dealer or prospective dealer to report any authorized dealer who does not adhere to any resale or retail price for any of said products.

F. Terminating or threatening, either directly or indirectly, to terminate any authorized dealer for the reason that such dealer had been reported as not adhering to or observing any resale or retail price for any of said products.

G. Terminating or threatening, either directly or indirectly, to terminate any authorized dealer because of any resale or retail price observed, maintained, or advertised by the authorized dealer for any of said products.

H. For two (2) years from the date on which this order becomes final, publishing or circulating any suggested resale or retail price for any of said products by price list, discount schedule, invoicing procedure, prepricing of commodities or their containers, or by any other such means, to any reseller or authorized dealer.

I. After the expiration of the time period stipulated in provision H above, publishing, disseminating or circulating to any reseller or authorized dealer any price list, price book, price tag, advertising or promotional material, or other document indicating any resale or retail price of said products unless each reference to such price is accompanied by a clear and conspicuous disclosure that the price is suggested or approximate.

J. Refusing to honor a guaranty on any of said products for the reason that said product was not sold by an authorized dealer of respondents.

K. Requiring or inducing by threats of termination any authorized dealer or prospective dealer to refrain, or to agree to refrain from reselling any of said products to any independent dealer or distributor.

L. Using serial numbers, registration numbers or other similar identifying marks on said products as a means of tracing sales of said products to particular authorized dealers where the purpose of such tracing is to terminate or threaten to terminate authorized dealers of respondent selling said products to unauthorized dealers.

M. Requiring any authorized dealer to resell to respondent any unsold stock of said products in the event that business relations between respondent and the authorized dealer are terminated: *Provided, however*, That respondent shall not be prohibited from repurchasing such unsold stock with the consent of an authorized dealer, or where respondent has a "security interest" in said products, or where the authorized dealer is unable to meet its financial obligations to respondent.

II. *It is further ordered*, That respondent shall, within fifty-nine (59) days after service upon it of this order, mail to all current authorized dealers of said products, on official stationery of respondent, together with a copy of this order, a copy of the letter signed by the President of respondent, attached below as Exhibit A, and furnish the Commission proof of the mailing thereof.

III. *It is further ordered*, That respondent, during the five (5) year period of time following the date of service of this order, shall furnish to all future authorized dealers of said products at the time said dealers are opened as accounts a copy of this order, together with a copy of the letter attached below as Exhibit A.

IV. *It is further ordered*, That respondent shall forthwith distribute a copy of this order to each of its operating divisions and subsidiaries now engaged in the manufacture, sale and distribution of said products and to all of its officers and directors now engaged in the manufacture, sale and distribution of said products.

V. *It is further ordered*, That respondent shall, within thirty (30) days from the date of service of this order, mail or deliver, and obtain a signed receipt therefor, a copy of this order to all of its sales personnel and sales representatives then engaged in the distribution, offering for sale or sale of said products.

VI. *It is further ordered*, That respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emeregnce of a successor corporation, the creation of or dissolution of subsidiaries, or any other such change in the corporation which may affect compliance obligations arising out of the order.

VII. *It is further ordered*, That respondent, for a period of five (5) years from the date of service of this order, maintain files of all records referring or relating to respondent's termination of any authorized dealer, which files shall contain a record of any written communication to each such dealer explaining such termination, and which files will be made available for Commission inspection on reasonable notice; and, annually, for a period of five (5) years from the date of service, submit a report to the Commission listing the names and addresses of all authorized dealers whom respondent has terminated during the preceding year, a description of the reason for the termination and the date of the termination.

VIII. *It is further ordered*, That the agreement of Olin Corporation, the parent corporation of the respondent, which agreement is in the form of an affidavit of the president of Olin Corporation, attached below as Exhibit B, be incorporated herewith into this order.

IX. *It is further ordered*, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

EXHIBIT A

(LETTERHEAD OF OLIN SKI COMPANY, INC.)

(Date)

DEAR AUTHORIZED OLIN SKI DEALER: We have agrfeed with the Federal Trade Commission to inform you that the Federal Trade Commission has entered into a consent order with the Olin Ski Company, Inc.

Our agreement to the issuance of a consent order was for settlement purposes only and does not constitute an admission that the law has been violated by us in connection with the marketing of skis, ski boots and other ski industry items.

Subject to the provisions of the enclosed consent order:

1. You are free to set your own retail or resale prices for our products;

2. We will not solicit, invite or encourage you or any other person to report that any authorized dealer is not following any retail or resale price for any of our products, and, further, we will not act on any such reports sent to us; and

3. We will npt require any authorized dealer to refrain from advertising our products at any price to any person.

As a result of the consent order, you are free to determine independently your own pricing policy with respect to the advertising, offering for sale and sale of our products without interference by us and without leopardy from such determination to your status as an authorized dealer.

Very truly yours,

President.

EXHIBIT B

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

OLIN SKI COMPANY, INC., A CORPORATION

[File No. 731 0049]

AFFIDAVIT OF JOHN M. HENSKE

State of Connecticut,
County of Fairfield,
ss.:

John M. Henske, being duly sworn, deposes and says:

1. I am the President and a Director of Olin Corporation (Olin), whose wholly owned subsidiary, Olin Ski Company, Inc., (Olin Ski), is the respondent herein.

2. Olin Ski will today execute with counsel for the Federal Trade Commission an Agreement Containing Consent Order to Cease and Desist pertaining to future marketing practices in the manufacture, sale or distribution of skis, ski boots or other ski industry items.

3. Olin will undertake to have Olin Ski fulfill all its obligations under the aforementioned agreement.

4. Olin will notify the Commission at least thirty days prior to any proposed change in Olin Ski such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the order.

5. In the event that Olin Ski is sold, assigned or otherwise disposed of by Olin to any other person, firm, partnership or corporation, Olin will insert in the agreement of purchase a provision specifying that the purchaser or assignee is a successor to or assignee of the obligations of Olin under the order.

6. In the event that Olin dissolves Olin Ski and/or Olin Ski discontinues the manufacture, sale or distribution of skis, ski boots or other ski industry items, and if Olin at any time in the future manufactures, sells or distributes skis, ski boots or other ski industry items, Olin will become a successor to or assignee of the obligations of Olin Ski under the order.

JOHN M. HENSKE

[File No. 731 0049]

OLIN SKI COMPANY, INC.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Olin Ski Company, Inc. (Olin Ski), manufacturer and distributor of ski boots and other ski industry items.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that Olin Ski, in those states which did not permit the execution of fair trade agreements, had engaged in certain anti-competitive practices which have the effect of enforcing and fixing Olin Ski's resale prices for these products and for its dealers, thereby eliminating price competition among retail dealers.

More specifically, the proposed complaint charges that with reference to the aforementioned products Olin Ski has (1) established agreements, understanding and arrangements that authorized dealerships will be granted only to those dealers maintaining certain resale prices; (2) informed some of its authorized dealers that it expects such dealers to maintain the resale prices or such dealerships will be terminated; (3) required its authorized dealers to agree not to sell these products to anyone not an authorized dealer; (4) solicited from its dealers and representatives the identities of those who fail to observe Olin Ski's sales policy by advertising, offering to sell or selling these products at prices below certain resale prices; (5) refused to honor a guaranty on its products sold by other than an authorized dealer of Olin Ski; and (6) affixed serial numbers on all skis shipped by Olin Ski to its authorized dealers for the purpose of tracing sales of such skis by authorized dealers to unauthorized retail outlets.

The proposed consent order requires the proposed respondent (1) to cease and desist from the practices set forth in numbered items 1 through 6 above, and, furthermore, (2) for two (2) years from the date on which the order becomes final to cease and desist from publishing or circulating to any reseller or authorized dealer any suggested resale or retail price for any of the aforementioned products by various enumerated methods.

The proposed consent order further requires Olin Ski (1) to indicate, after the expiration of the aforementioned two year period, on each page of any price list, price book, price tag, advertising or promotional material indicating any resale or retail prices for these products that any resale price is suggested or approximate; (2) to mail a copy of the order to each of its current authorized dealers with a covering letter stating that while Olin Ski may suggest resale prices for these products, dealers are free to set their own resale prices; (3) to maintain for the next five (5) years a file pertaining to Olin Ski's termination of any authorized dealer, which shall contain a record of any written communication to each such dealer, and, annually, for a period of five (5) years submit a report to the Commission listing the names and addresses of all authorized dealers whom Olin Ski has terminated during the preceding year, a description of the reason for the termination and the date of the termination.

The terms of the aforementioned order will have the effect of preventing Olin Ski from fixing the resale prices of the dealers for these products, thereby encouraging price competition in the sale of these products.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-13898 Filed 5-13-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1205]

POWER LAWN MOWERS

Proposed Safety Standard and Extension of Time

Correction

In FR Doc. 77-12721 appearing at page 23051 in the issue for Thursday, May 5, 1977, on page 23072, first column, the date in the 4th line of the second paragraph now reading "June 6, 1977" should have read "July 5, 1977".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. R-77-451]

[24 CFR Part 58]

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Environmental Review Procedures

AGENCY: Department of Housing and Urban Development.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Secretary is conducting a study of the Environmental Review Procedures of the Community Development Block Grant Program to formulate revisions and amendments to these regulations. This Notice solicits comments and recommendations from all interested parties respecting these procedures and any revisions or amendments to the regulations.

DATE: Interested persons are invited to comment by June 13, 1977.

ADDRESS: Send written comments to Rules Docket Clerk, Office of the Secretary, Room 10141, 451 Seventh Street, S.W., Washington, D.C. 20410. (202-755-7603).

FOR FURTHER INFORMATION CONTACT:

Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

SUPPLEMENTAL INFORMATION: The regulations which implement section 104(h) of the Housing and Community Development Act of 1974 (Pub. L. 93-383) are set forth at 24 CFR Part 58. The purpose of this study is to formulate revisions and amendments to these regulations, which govern the carrying out by Community Development Block Grant (CDBG) applicants of the responsibilities for review, decisionmaking and action, under the National Environmental Policy Act of 1969.

Comments of all interested persons, agencies and groups are invited. Particularly desired are the views of localities which are CDBG applicants; of State and local agencies; groups and persons affected by the CDBG Program; and public interest groups having particular knowledge and experience in the process of environmental review and environmental protection, as they relate to the CDBG program.

Comments are invited which support or criticize the present form and content of 24 CFR Part 58, or which identify relevant issues which are not presently covered in the regulations. The comments and recommendations should address only those matters which concern the implementation of section 104(h) of the Housing and Community Development Act of 1974.

This study is being conducted under the direction of the Assistant Secretary for Community Planning and Development.

Issued at Washington, D.C. on May 6, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-13845 Filed 5-13-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 76-40]

ANCHORAGE GROUNDS

Boston Harbor, Mass.

AGENCY: Coast Guard, Department of Transportation.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: As a result of comments received, the Coast Guard is withdrawing the notice of proposed rulemaking to amend anchorage regulations for Boston Harbor, Massachusetts (41 FR 12901) which would have excluded certain vessels with unusually high masts from certain portions of two anchorage grounds.

EFFECTIVE DATE: This withdrawal is effective May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street

SW., Washington, D.C. 20590 (202–426–1477).

SUPPLEMENTARY INFORMATION: A public hearing on this proposal (41 FR 12901) was held by the Commander, First Coast Guard District on April 29, 1976, at Boston, Massachusetts. A total of 25 persons attended representing the Coast Guard, Federal Aviation Administration, Massachusetts Port Authority, maritime industry, Airline Pilots Association, and harbor pilot's interests. Written comments were received from other interested persons.

DRAFTING INFORMATION

The principal persons involved in the drafting of this withdrawal are LCDR H. E. Snow, Project Manager, and Mr. Steve Jackson, Project Attorney.

DISCUSSION OF MAJOR COMMENTS

Several comments addressed the economics of the proposed amendment. The airline interests contended that adoption of the amendment would increase airport operating time as much as forty hours per year, depending on variable weather conditions, which would bring more revenue into the port and reduce the cost and inconvenience of diverting some flights to other destinations. The Coast Guard has determined that the cost of realizing this possible increase in airport operations would be excessive because a failsafe system to determine the mast height of vessels in the anchorage areas would have to be established. Providing a failsafe system would require rapid communications coordination between various agencies and a mandatory vessel reporting requirement as a base, with positive control of all activity in the area by on scene observers or electronic monitoring plus adequate back-up system provisions. The maritime interests pointed out, and the Coast Guard agrees, that adoption of the amendment reduces potential revenue to the port by restricting the size of vessels that may anchor in these anchorage areas.

Several comments concerning safety were received. The vessels affected by changing the regulations would be exposed to greater safety hazards. The potential for pollution of shores and adjacent waters by oil spills would increase because a greater number of lightering operations would have to be conducted outside of the protected waters of the harbor anchorage grounds. One comment noted that visually checking the area for anchored vessels by getting the airport fireboat underway when tower personnel cannot see the limits of the anchorage puts a burden on the fire-fighting resources of the airport and adds to traffic in the harbor when weather conditions are unfavorable. If the anchorage regulations were amended, this use of the fireboat would not be needed; however, there would still have to be surveillance of the anchorages so the problem of burdened resources and added traffic would continue. It was argued that changing the regulations would eliminate instances on record of flight crews being unaware that, under certain circumstances, surface vessels could present a safety hazard to the approach path. The Coast Guard has no control over the information pilots receive. If amending the regulations could cause a pilot to rely on there not being any large vessels in these anchorages and one inadvertently encroached the area, due to adverse weather, a more hazardous condition could exist than presently exists due to the uncertainty as to how large the vessels are in the anchorages.

In view of the foregoing, the Coast Guard has determined that rulemaking action on the proposed amendment is not appropriate at the present time, and that notice CGD 76–40 should be withdrawn. The withdrawal of the proposal, however, does not preclude the Coast Guard from considering similar action in the future.

In consideration of the foregoing, the proposal in the FEDERAL REGISTER (41 FR 12901) on March 29, 1976, to amend the anchorage regulations in Boston Harbor by adding § 110.134(b) (4) and (5) is hereby withdrawn.

Dated: May 6, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77-13878 Filed 5-13-77;8:45 am]

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[33 CFR Part 303]

PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

Proposed Rulemaking

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rules.

SUMMARY: We propose to issue nationwide permits for certain discharges of dredged or fill material into waters of the United States. If certain conditions are met, a person would not have to go through any of the paperwork or delay required for a regular permit from the Corps of Engineers. This proposal will reduce the expected workload brought about by the court-ordered expansion of our permit program.

DATE: Comments must be received on or before June 15, 1977.

ADDRESSES: Send all comments to: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn: DAEN–CWO–N.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis Clark or Mr. Bernie Goode, phone 202–693–5070.

SUPPLEMENTARY INFORMATION: Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344) requires permits from the Corps of Engineers for discharges of dredged or fill material into navigable waters. "Navigable waters" are defined in the FWPCA as "waters of the United States." As a result of a court decision that directed the Corps to extend its jurisdiction under section 404 to all waters of the United States (and not just traditionally navigable waters), the Corps issued an interim final regulation on July 25, 1975 (40 FR 144, 33 CFR 209.120) that defined the term "navigable waters" under Section 404 to include:

1. Navigable waters of the United States and their tributaries;
2. Interstate waters;
3. Intrastate waters that, if polluted, will affect interstate commerce; and
4. Wetlands adjacent to these waters.

The interim final regulation also identified the types of activities that would be regulated under Section 404. These include: Site development fills, causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; and backfilling of structures placed in water. Maintenance and emergency reconstruction of these activities are not included in the Section 404 program if the work does not deviate from the original structure. In addition, normal farming, forestry and ranching activities, such as plowing, cultivating, seeding, and harvesting are also excluded from the program.

The interim final regulation also adopted a procedure to process general permits for classes and categories of activities involving discharges of dredged or fill material that are substantially similar in nature, and that cause only minimal individual and cumulative environmental impact. The general permit concept is intended to eliminate unnecessary review of minor activities, and to focus the attention of the Corps on those activitie that require individual review. The Corps of Engineers has implemented the general permit program in its 37 District offices throughout the country. During the two year history of the program, a broad experience base has been gained with respect to certain types of minor activities. From that experience, the Corps has been able to identify certain discharges of dredged or fill material that can be permitted by a nationwide permit, with certain conditions to insure that the objectives and requirements of the FWPCA can be achieved.

The Corps of Engineers is today proposing to issue nationwide permits for certain discharges of dredged or fill material. The public is invited to submit any comments on these proposed nationwide permits to the Office, Chief of Engineers. These comments will be evaluated and appropriate revisions will be made prior to finalization. Those nationwide permits that are issued will be incorporated into revisions to and a reorganization of the Corps permit regulation that is in the final stages of review. When published in final form, the Corps permit regulation will be found in Parts 300–320 of Title 33 of the Code of Federal Regulations.

The nationwide permits that are being proposed today involve two basic categories: Discharges of dredged or fill material into certain smaller or minor waters of the United States and certain specific activities involving the discharge of dredged or fill material.

First, the nationwide permits would, subject to certain conditions specified in § 303.4–2(b),* permit discharges into rivers, streams, and their impoundments that are located above their headwaters. (The headwater on a stream is the point above which the average annual flow is less than 5 cubic feet per second.) In addition, the nationwide permit would permit the discharge of dredged or fill material into any natural lake falling under the Section 404 program that is less than 10 acres in surface area (including its adjacent wetlands) if the lake is located on a river or stream beyond its headwaters or is isolated and not part of a surface river or stream. Finally, the nationwide permit would permit discharges into waters of the United States that are not part of a surface tributary system to an interstate water or a navigable water of the United States (i.e., waters subject to the ebb and flow of the tide, or that are used, have been used in the past, or are susceptible to use to transport interstate or foreign waterborne commerce). These latter waters would include intermittent streams, impoundments, and perched wetlands, the degradation or destruction of which, from a water quality standpoint, could affect interstate commerce.

Second, the nationwide permits would permit certain specific activities involving discharges of dredged or fill material in any water of the United States. These include:

(a) Dredged or fill material used for backfill or bedding for subaqueous utility line crossings;

(b) Certain bank stabilization activities; and

(c) Minor road fills.

Special conditions are identified for each of these activities, and a general list of conditions would also pertain to all of these activities. It should also be emphasized that some discharges of dredged or fill material will require individual attention, or special regional attention through the issuance of individual or general permits. In these cases, the District Engineer would still have the authority to process an individual or general permit notwithstanding these nationwide permits.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Pub. L. 92–500, 86 Stat. 816 (33 U.S.C. 1344).)

Dated: May 10, 1977.

DRAKE WILSON,
Deputy Director of Civil Works.

Title 33 CFR, Chapter II is proposed to be amended by adding Part 303 to read as follows:

PART 303—PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

Sec.
303.4 Discharges permitted by this regulation.
303.4–1 [Reserved]
303.4–2 Discharges into certain waters of the United States.
303.4–3 Specific categories of discharges.
303.4–4 Standard processing.

AUTHORITY. Sec. 404, Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344).

§ 303.4 Discharges permitted by this regulation.

Discharges of dredged or fill material specified in §§ 303.4–2 and 303.4–3, below, are hereby permitted for purposes of section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1344) without further processing under this regulation, except as provided in § 303.4–4 below. Permits may, however, be required under section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403). Sections 303.4–2 and 303.4–3 do not obviate the requirement to obtain State or local assent required by law for the activities permitted therein.

§ 303.4–1 [Reserved]

§ 303.4–2 Discharges into certain waters of the United States.

(a) Discharges of dredged or fill material into the following waters of the United States are hereby permitted for purposes of section 404; *Provided*, The conditions in paragraph (b) of this section are met:

(1) Rivers, streams and their impoundments that are located above the headwaters;

(2) Natural lakes, including their adjacent wetlands, that are less than 10 acres in surface area and that are located on a river or stream beyond its headwaters. In the absence of adjacent wetlands, the surface area of a lake shall be determined at the ordinary high water mark;

(3) Natural lakes, including their adjacent wetlands, that are less than 10 acres in surface area and that are isolated and not a part of a surface river or stream. In the absence of adjacent wetlands, the surface area of a lake shall be determined at the ordinary high water mark; and

(4) Other waters of the United States that are not part of a surface tributary system to interstate waters or navigable waters of the United States.

(b) For purposes of section 404, the following conditions must be satisfied prior to any discharge of dredged or fill material in waters described in paragraph (a) of this section:

(1) That the discharge will not destroy or endanger the critical habitat of a threatened or endangered species, as identified under the Endangered Species Act;

(2) That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities; and

(3) That the activity associated with the fill will be properly maintained.

(c) The authorization provided in this section shall not apply to dams which would be 25 feet or more in height or would have an impounding capacity of 50-acre feet or more (an individual permit will be required).

§ 303.4–3 Specific categories of discharges.

(a) The following discharges of dredged or fill material into waters of the United States are hereby permitted for purposes of section 404: *Provided*, The conditions specified in this paragraph and paragraph (b) of this section are met:

(1) Dredged or fill material placed as backfill or bedding for subaqueous utility line crossings: *Provided*, There is no change in preconstruction bottom contours. (The crossing will require a section 10 permit if in navigable waters of the United States.);

(2) Material discharged for bank stabilization provided that the bank stabilization activity is less than 500 feet in length, is for erosion prevention, and involves less than an average of one cubic yard per running foot along the bank: *And provided further*, That no material for bank stabilization is placed in any wetland area (this activity will require a section 10 permit if in navigable waters of the United States); and

(3) Road crossing fills including all attendant features both temporary and permanent that involve the discharge of less than 200 cubic yards of material below the plane of ordinary high water as part of a single and complete crossing of a waterbody: *Provided*, That the crossing is culverted or bridged to prevent the restriction of normal flow of the waterbody as a result of the fill: *Provided further*, That any wetlands adjacent to the waterbody to be crossed are no wider than 50 feet on either side of the waterbody: *And provided further*, That the District Engineer is notified, at least 30 days in advance, of the location and type of material for any discharge between 100 and 200 cubic yards in quantity (see also 33 CFR 303.4–4). The crossing will require a permit from the U.S. Coast Guard if located in navigable waters of the United States (see 33 U.S.C. 401).

(b) For the purposes of section 404, the following conditions must be satisfied prior to any discharge of dredged or fill material associated with the activities described above:

(1) That the discharge will not be located in the proximity of a public water supply intake;

(2) That the discharge will not occur in areas of concentrated shellfish production;

(3) That the discharge will not destroy or endanger the critical habitat of a threatened or endangered species, as identified under the Endangered Species Act;

(4) That the discharge will not disrupt the migration of those species of aquatic life indigenous to the waterbody;

(5) That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities; and

(6) That the activity associated with the discharge will be properly maintained.

(c) In the event a discharge will occur in a water listed in § 303.4–2(a) and the discharge is of a type listed in § 303.4–3 (a), the applicable conditions for permitting that discharge will (in addition to those conditions specified in the description of the activity in § 303.4–3(a) be as listed in § 303.4–2(b) only.

§ 303.4–4 Standard processing.

Notwithstanding the provisions of §§ 303.4–2 and 303.4–3, above, individual or general permits will be required for any discharge(s) of dredged or fill material if the District Engineer determines that the concerns of the aquatic environment as expressed in the EPA Guidelines (see 40 CFR Part 230) indicate the need for such action.

[FR Doc.77–13839 Filed 5–12–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 186]

INDIAN EDUCATION ACT, PART B

Corrections

AGENCY: Office of Education, HEW.

ACTION: Notice of Corrections

SUMMARY: In the FEDERAL REGISTER, Volume 42, No. 58, in the issue of Friday, March 25, 1977, several items were inadvertently left out of the document. While these changes are of a technical nature, the Office of Education will nevertheless entertain comments on the changes. The scope of these comments willl be limited to the matter contained in this notice and not to the entirety of the publication of March 25, 1977 at 42 FR pages 16258–16269.

COMMENT DATE: Comments must be received on or before May 26, 1977.

ADDRESSES: Office of Indian Education etc. (see below) plus Rm 4047

FOR FURTHER INFORMATION CONTACT:

Lawrence J. LaMoure, Director, Division of Special Projects and Programs, Office of Indian Education, 400 Maryland Avenue, SW., Washington, D.C. 20202 (202) 245–7525.

SUPPLEMENTARY INFORMATION: The Office of Education is correcting the document as follows:

(1) On page 16258, in the citation to the Catalog of Federal Domestic Assistance Programs following "No. 13.535," insert "and No. 13.569."

(2) On page 16262 in § 187.12(d), *Evaluation design.*, the point range is changed from "(0 to 10 points.)" to "(0 to 20 points.)."

(3) On page 16266 under § 187.63, *Criteria.*, a new proposed paragraph (a) is added to read:

(a) *Need.* (0 to 20 points). The need for the type of educational personnel for which the training is to be provided, as indicated by a survey of Indian educational personnel needs in the area to be served.

On page 16266, in § 187.63, *Criteria.*, former proposed paragraph (a) is redesignated as proposed paragraph (b) and the introductory text is revised to read:

(b) *Program Design.* (0 to 30 points). The quality of the program design as indicated by such factors as:

(4) On page 16268, in § 187.81, the second line is changed from "under Subparts B through F . . ." to "under Subparts B through G . . ."

(5 U.S.C. 553(b)(3)(B))

Dated: May 6, 1977.

L. DAVID TAYLOR,
Acting Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.77–14011 Filed 5–13–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of Pipeline Safety Operations

[49 CFR Part 193]

[Notice No. 77–4; Docket No. OPSO–46]

LNG FACILITIES; FEDERAL SAFETY STANDARDS

Development of New Standards; Correction

AGENCY: Materials Transportation Bureau, Office of Pipeline Safety Operations, DOT.

ACTION: Correction.

SUMMARY: This document corrects an advanced notice of proposed rulemaking that appeared at page 20776 in the FEDERAL REGISTER of Thursday, April 21, 1977, (FR Doc. 77–11359).

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Peggy Hammond, 202–426–0135.

The following corrections are made:

1. On page 20776 in the first column, the last paragraph of the Summary is corrected by adding, at the end of that paragraph, the statement "To the extent applicable, the new standards would govern offshore as well as onshore facilities."

2. On page 20777 in the third column, on the twelfth line of the first new paragraph, change "2000 Btu/ft²hr" to "2800 Btu/ft²hr".

3. On page 20778 in the first column, on the eleventh line of the first new paragraph, change "§ 193.109(f)" to § 193.109(e)".

4. On page 20778 in the second column, on the third line of the third paragraph, change "193.113" to "193.123".

5. On page 20782 in the second line of § 193.109(a), change "paragraph (f)" to "paragraph (e)".

6. On page 20783 in the seventh line of § 193.109(d)(3), change the equation "$(t)=(h/G)^{0.6}$" to "$(t)=(9)(h/G)^{0.6}$".

7. On page 20784, § 193.111(g)(2) is corrected to read "Impounding systems must be of Types 2.1 or 3.1, and surrounding grade elevation must be maintained not below the elevation at the top of the dike for a distance from the inner edge of the dike not less than $4(A)^{0.5}$, where A is the inside area across the top of the impounding space."

8. On page 20784, § 193.111(g)(3) is corrected at the end of that section by adding the words "other than those designed for automatic planned ignition" immediately after the words "known ignition sources" and immediately before the period at the end of the paragraph.

9. On page 20787, in the second and third lines of the note at the end of § 193.407(a)(3), change "§ 193.409(a)(6)" to "§ 193.409(a)(5)".

10. On page 20789, in the sixth and seventh lines of § 193.437(b)(2), change "§ 193.109(f)" to "§ 193.109(e)".

11. On page 20789, § 193.445(a)(1) is corrected in the third and fourth lines from the bottom of that section, by changing the words "the longer of the time periods set forth in § 193.439(b)" to read "the time period prescribed by § 193.441(b)".

12. On page 20789, in the fourth line of § 193.445(a)(2), change "§ 193.439" to "§193.441".

13. On page 20790, § 193.525(b) is corrected in the fifth line of that section by adding the word "not" immediately after "the covering must" and immediately before "be inflammable,".

14. On page 20791, § 193.525(c) is corrected in the fifth line of that section by adding the word "not" immediately after "insulation, in its installed condition, must" and immediately before "be inflammable."

15. On page 20791, item 2 under Instrumentation in the table following § 193.527(a) is corrected in the first and second lines by deleting the hyphen and by adding the words "and low" immediately after "recorders with high" and immediately before "pressure alarms."

16. On page 20792, § 193.615(c) is corrected in the third line of that section by deleting the word "receiving" which appears immediately after "operation until the" and immediately before "tank vehicle".

17. On page 20795, § 193.1033(a) is corrected in the fourth and fifth lines by changing the words "Section Q.9.1" to "Sections Q.8.1.1(a) and Q.9.1".

18 On page 20796, § 193.1117(b) is corrected in the third line by adding the word "cargo" immediately after "attendance during all" and immediately before "transfer operations."

19. On page 20796, § 193.1117(c)(2) is corrected in the first line by changing the words "Verify that the receiving vessels" to "For cargo transfer, verify that the cargo vessels".

Issued in Washington, D.C. on May 9, 1977.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc.77–13992 Filed 5–13–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77–99]

PENNSYLVANIA GAS & WATER CO.

Supplemental Emergency Order

By order issued April 28, 1977, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), Pennsylvania Gas and Water Company (PG&W) was authorized to make certain emergency purchases of natural gas from Mellon Creek Operating Company (Mellon Creek). The order also authorized and ordered Florida Gas Transmission Company (Florida) and Transcontinental Gas Pipe Line Corporation (Transco) to transport such gas for PG&W. On May 6, 1977, PG&W and Florida filed a joint petition requesting amendment of the April 28 order insofar as it relates to the transportation charge to be imposed by Florida. PG&W and Florida state that Florida's proposed transportation rate stated in the April 28 order ($0.03 per Mcf plus compression fuel and line loss) was not agreed to by the parties and will not compensate Florida for the service to be rendered. The parties state that they have now reached agreement on the transportation charges and request approval of the proposed rate.

Florida will charge $0.1254 per MMBtu plus 1 percent of the volumes transported for compression fuel. Since the parties have agreed upon the transportation charges, I find no basis for prescribing other charges.

To the extent not inconsistent with the provisions of this order, the provisions of the April 28 order remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon PG&W, Mellon Creek, Florida and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 9, 1977.

[FR Doc.77–13909 Filed 5–13–77;8:45 am]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Michigan Grain Inspection Point

Statement of considerations. On January 5, 1977, a notice was published in the FEDERAL REGISTER (42 FR 1050) announcing that (1) the Detroit Board of Trade, Inc., the official agency designated pursuant to section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) for Detroit, Michigan, requested that its designation be transferred to Mr. Roy Marchetti, Chief Grain Inspector, Detroit Board of Trade, Inc., to be known as the Detroit Grain Inspection Service, Detroit, Michigan, effective March 1, 1977, and (2) Mr. Roy Marchetti, filed an application in accordance with § 26.96 of the regulations under the U.S. Grain Standards Act to become the official agency at Detroit, Michigan.

Interested persons were given until February 4, 1977, to submit written views and comments on the requested transfer and/or to make application to become the official agency at Detroit, Michigan.

No written views, comments, or additional applications have been received in response to the above notice.

After due consideration of all relevant matters, the official agency formerly operated by the Detroit Board of Trade, Inc., Detroit, Michigan, is hereby transferred to Mr. Roy Marchetti to operate as the Detroit Grain Inspection Service, 111 E. Larned Street, Detroit, Michigan 48226.

As a point of clarification, it should be noted that the United States Grain Standards Act (7 U.S.C. 71 *et seq.*, hereinafter referred to as the "Act") has been amended by Public Law 94–582, effective November 20, 1976, to extensively modify the official inspection system. The amended Act provides that the Administrator of the newly-created Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed 2 years from the effective date of the amended Act, provided such agencies pay certain fees to FGIS to cover the cost of Federal supervision.

Accordingly, the transfer of designation, which is the subject of this notice, is made pursuant to the U.S. Grain Standards Act of 1976. The designation will continue until the Administrator of the FGIS either grants or denies a permanent designation to the recipient or sets a period of time for its termination, but in no event will it continue beyond November 20, 1978. This transfer of designation is an interim designation pending a formal designation under the U.S. Grain Standards Act as amended, 1976.

(Sec. 7, (PL–94–582) 90 Stat. 2870 (7 U.S.C 79).)

Effective date: This notice shall become effective May 16, 1977.

Done in Washington, D.C., on May 10, 1977.

D. R. GALLIART,
Interim Administrator.

[FR Doc.77–13889 Filed 5–13–77;8:45 am]

CENTRAL INTELLIGENCE AGENCY

PRIVACY ACT OF 1974

Changes to Systems of Records

Notice is hereby given that the following Central Intelligence Agency systems of records, subject to the Privacy Act, which were published in 40 FR 39778 through 39801 of August 28, 1975 and 41 FR 12623 through 12625 of March 25, 1976 are amended. CIA record system 22 is merged with and redesignated as CIA–21. A new use is stated for CIA record system 3. CIA record system 1, with minor changes, is restated in its entirely for purposes of clarity. The other 14 changes consist mainly of title redesignations. These amendments are effective May 16, 1977. Also, a new routine general use statement that provides for the routine disclosure of records to NARS (GSA) in connection with records management inspections is proposed and shall become effective, in the absence of any negative comments from the public on or before June 15, 1977. Any data, views, or arguments concerning this proposed routine use statement may be submitted in writing to the Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Dated May 9, 1977.

JOHN F. BLAKE,
Deputy Director for Administration, Central Intelligence Agency.

Addition to Statement of General Routine Uses of Systems of Records:

The following paragraph should be added to the Statement of General Routine Uses which precedes the notice of systems of records maintained by CIA:

6. A record from a system of records may be disclosed as a routine use to NARS (GSA) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Systems of Records are amended as follows:

CIA—2

System name:

Office of Joint Computer Support Training and Skills Inventory.

Change:

Delete: Joint Computer Support, D/OJCS, and OJCS wherever they appear; substitute: Data Processing, D/ODP, and ODP, respectively.

CIA—3

System name:

Computer Access File.

Change:

Delete: Joint Computer Support wherever it appears; substitute: Data Processing.

Change:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Add: Produce mailing lists of ODP computer users.

CIA—5

System name:

Legal Subject Records.

Change:

Record Source Categories: Delete: statement, (it is incomplete); substitute: Individuals identified in categories of individuals covered by this system as stated above, Federal agencies and other CIA record systems.

CIA—16

System name:

Parking Permit Files.

Change:

Retention and disposal: Add: Files destroyed upon overall reallocation of parking permits done periodically (approximately once a year.)

CIA-22

System name:

Freedom of Information Act Requesters.

Change:

Delete: Records in this system have been merged with and are redesignated as CIA-21, Privacy and Freedom of Information Acts Requesters.

CIA-24

System name:

Supplemental Personnel (Soft) Files.

Change:

Storage: Add: and magnetic disc.

Change:

Retrievability: Add: office, and end date of assignment.

Change:

Safeguards: Add: Access to information on magnetic disc is on limited need-to-know basis using controlled password identifier.

Change:

Retention and disposal: Add: Information on magnetic disc is deleted by erasure when individual reassignment is completed.

Change:

System Manager: Delete: The title; substitute: Chief, DDI Administrative Staff.

CIA—27

System name:

Supplemental Personnel (Soft) Files.

Change:

System manager: Delete: The title; substitute: Chief Career Management Staff, DDO.

CIA—30

System name:

Applicant Files.

Change:

Storage: Delete: and microfilm.

CIA—39

System name:

Publications About CIA.

Change:

System manager: Add: for Public Affairs.

CIA—40

System name:

CIA Authors File.

Change:

System manager: Delete: The title; substitute: Director, Office of Central Reference.

CIA—41

System name:

Intelligence in Public Literature File.

Change:

System manager: Delete: The title; substitute: Director, Office of Central Reference.

CIA—42

System name:

Library Open Literature Ready Reference File.

Change:

System manager: Delete: The title; substitute: Director, Office of Central Reference.

CIA—43

System name:

Briefing Program File.

Change:

System manager: Delete: The title; substitute: DDI Executive Officer.

CIA—45

System name:

Soviet-U.S. Contacts File.

Change:

System manager: Delete: The title; substitute: Director, Office of Central Reference.

CIA—49

System name:

Directorate of Operations Records System.

Change:

System manager: Delete: The title; substitute: Chief, Information Services Staff, DDO.

CIA—58

System name:

Inspector General Research Records.

Change:

Notification procedure: Delete: The fourth and fifth words in Line 2 "their correspondence"; substitute: (where the above words were taken from) "information about them".

CIA—1

System name:

Applications Tracking System.

System location:

Central Intelligence Agency
Washington, D.C. 20505.

Categories of individuals covered by the system:

Agency and contract employees, employees of contractor supporting Office of Data Processing, currently or formerly assigned to computer software development or maintenance projects in Applications.

Categories of records in the system:

Documentation of hours logged on each assigned programming or overhead project.

Authority for maintenance of the system:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Applications staff for periodic reporting to management man-hours expended to develop assigned programming projects and overhead hours. Used for tracking the usage and scheduling of all resources for developing software.

Used to substantiate hours spent by contractor personnel on billable contractual activity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic disc.

Retrievability:

Name and employee number.

Safeguards:

Limited to specifically designated and cleared personnel.

System manager(s) and address:

Director, Office of Data Processing
Central Intelligence Agency
Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Privacy Act Coordinator
Central Intelligence Agency
Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR 1901.13). Individuals must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Agency employees, contract employees, employees of contractor supporting the Office of Data Processing.

CIA—21

System name:

Privacy and Freedom of Information Acts Requesters.

System location:

Central Intelligence Agency
Washington, D.C. 20505.

Categories of individuals covered by the system:

Individuals who make requests to CIA under provisions of the Privacy Act, the Freedom of Information Act, and Executive Order 11652.

Categories of records in the system:

Files contain all correspondence and other documents related to the receipt, processing, and final disposition of requests received by the Agency for information under the Privacy Act, the Freedom of Information Act, and Executive Order 11652.

Authority for maintenance of the system:

Privacy Act of 1974—Public Law 93-579; Freedom of Information Act of 1974, as Amended; and, Executive Order 11652.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Used by staff employees for reference purposes in formulating responses to Privacy Act, Freedom of Information Act, and Executive Order 11652 requests, and for reference in processing cases under appeal and litigation; to provide documentation for referral to other Federal agencies for their review pursuant to Executive Order 11652, and the Third Agency Rule; and, as a source of information for compiling reports required by the Acts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper, electronic index and log.

Retrievability:

By name, case number.

Safeguards:

Paper files are stored in combination lock safes; automatic data processing index and log files need coded identifier for activation. Access on need to know basis.

Retention and disposal:

From the date of last entry, Freedom of Information Act requests are destroyed after two years, and Privacy Act requests are destroyed after five years. Records are destroyed by burning.

System manager(s) and address:

Chief, Information and Privacy Staff
Central Intelligence Agency
Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR 1901.13). Individuals must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Requests received pursuant to the Privacy Act, the Freedom of Information Act, and Executive Order 11652.

[FR Doc.77-13959 Filed 5-13-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30568; Order 77-5-46]

SONTAIR LIMITED

Approval of Transfer of Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 10th day of May, 1977.

On March 2, 1977, Sontair Limited (Sontair) filed an application [1] for approval of the transfer to it of the foreign air carrier permit held by Seneca Air Services Limited (Seneca).

No answers to the application have been received.

BACKGROUND

Seneca is the holder of a foreign air carrier permit reissued pursuant to Order 75-4-112,[2] effective April 25, 1975. The applicant, Sonair, is owned by the same stockholders who own Seneca. The application states that, for internal reasons, the management wishes to deactivate Seneca and transfer Seneca's existing charter permit to Sontair.

The Air Transport Committee (ATC) of the Canadian Transport Commission has approved the transfer of commercial air services licenses from Seneca to Sontair. Seneca retains no Canadian authority.

OWNERSHIP AND CONTROL

The current permit holder, Seneca, has held a foreign air carrier permit since September 1, 1965.[3] At the time the permit was issued, the Board found the owners of the beneficial interest and all the officers and directors of Seneca to be Canadian nationals. The application states that Sontair is owned by the same shareholders who own Seneca. The officers of the corporation are Mr. Murray Ward, President; and Mr. Stuart Daymond, Vice President. Both officers are Canadian citizens. It is tentatively concluded, therefore, that the ownership and effective control of Sontair remains vested in nationals of Canada.

FINANCIAL AND OPERATIONAL FITNESS

Sontair was incorporated under The Corporations Act of the Province of Ontario on December 29, 1969. The ATC has issued Sontair license No. ATC 221/55(CF), dated April 10, 1975, a class

[1] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[2] The permit authorizes charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States. The holder is limited to the use of "small aircraft" as defined by the Nonscheduled Air Service Agreement executed on May 8, 1974, by the Governments of the United States and Canada.

[3] See Order E-22615, approved September 1, 1965. The permit was reissued under delegated authority on April 28, 1975 pursuant to Order 75-4-112.

9–4 license which authorizes the holder to operate international charter commercial air services from a base at Chatham, Ontario. The licensee is restricted in its operations to the use of Groups A and B aircraft.[1] On September 22, 1976, the Canadian Department of Transport, Civil Aviation Branch, issued Sontair Operating Certificate No. 2803 which certifies that Sontair is adequately equipped and able to conduct a safe operation.

The applicant's balance sheet as of December 31, 1975 showed current assets of $96,235 and fixed assets of $92,590 for total assets of $188,825. The company had current liabilities of $102,141 and total liabilities of $148,700, leaving $40,125 as shareholders' equity. The company's income statement for the 12-month period ending December 31, 1975 shows an operating income of $3,698. In addition the carrier states that since its inception it has always met its financial obligations and has never defaulted on any commitment to provide transportation.

Sontair has two aircraft available for charter operations to the United States: one Group A aircraft with seating capacity of one passenger and one Group B aircraft with seating capacity of five passengers. Neither Seneca nor Sontair has a record of any accidents, injuries, tariff, or safety violations.

PUBLIC INTEREST

The applicant relies upon the Nonscheduled Air Service Agreement signed by the Governments of Canada and the United States on May 8, 1974, as the basis for the grant of the requested transfer of authority. By diplomatic note No. ECT-850, dated May 9, 1974, the Government of Canada designated the applicant under the Agreement to perform charter services with small aircraft.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes:

1. That Sontair Limited is fit, willing, and able properly to perform the air transportation proposed in its application and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

2. That Sontair Limited is substantially owned and effectively controlled by nationals of Canada;

3. That Sontair Limited should be subject to all the terms, conditions, and limitations set forth in the specimen foreign air carrier permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

4. That the transfer of the foreign air carrier permit from Seneca Air Services Limited to Sontair Limited is in the public interest; and

5. That an evidentiary hearing is not required in the public interest.

Accordingly, *It is ordered*, That: 1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions stated herein and why an order should not be issued, subject to the approval of the President pursuant to section 801 of the Act, transferring and reissuing the permit held by Seneca Air Services Limited to Sontair Limited, and canceling the permit issued by Order 75–4–112 to Seneca Air Services Limited;

2. Any interested person having objection to the issuance, without hearing of an order making final the tentative findings and conclusions stated herein shall file a statement of objections supported by evidence within 21 days after the adoption of this order. If an evidentiary hearing is requested, the objection should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board; [2]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon Sontair Limited, and the Ambassador of Canada in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

CIVIL AERONAUTICS BOARD: PERMIT TO FOREIGN AIR CARRIER FOR SMALL AIRCRAFT OPERATIONS (AS REISSUED)

Sontair Limited is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958 and the orders, rules, and regulations issued thereunder, to engage in charter foreign air transportation as follows:

> Charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect property, between any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may hereafter be, prescribed for carriage by small aircraft in Annex B (III) (B) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974 including any amendments, supplements, reservations, or supersessions to that Agreement: *Provided*, That any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations.[3] The authority of the holder to perform United States-originating charters shall, in accordance with Annex B(III)(A) of such Nonscheduled Air Service Agreement, be limited to commercial air transportation of passengers and their accompanied baggage, and property, on a time, mileage, or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such groups, or such small aircraft operations as may be authorized pursuant to the amendment, supplement, reservation, or supersession to that Agreement.

This permit shall be subject to the following terms, conditions, and limitations:

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A(I)(A) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air (except for the movement of passengers independently of any group) to or from a point not in the United States or Canada: *Provided*, That the Board may, upon application by the holder, or by regulation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform United States-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all United States-originating charter flights performed by the holder on or after May 8, 1974, exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round-trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (i) "small aircraft" flights of persons; and (ii) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

(d) There shall be excluded from the computation:

(i) Flights utilizing aircraft having a maximum authorized takeoff weight on wheels (at determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(ii) Flights originating at a United States terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (if, pursuant to any such agreement, the holder also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when such flights serve either (a) a Canadian terminal point on such route, or (b) any Canadian intermediate point authorized for service on such route by such foreign air carrier permit.

(4) The holder may grant stopover privileges at any point or points in the United States only to passengers and their accompanied baggage moving on a Canadian-originating flight operating under a contract for round-trip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(6) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(7 This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(8) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(9) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(10) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim airsing out of operations by the holder under this permit.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall become effective on _____. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the charter foreign air transportation hereby authorized from the transportation which may be operated by carriers designated by the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation hereby authorized, the authority granted herein shall be terminated to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Canada in lieu of the holder hereof, or (3) upon the termination or expiration of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974: *Provided, however*, That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Canada are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the _____.

(SEAL)

Secretary.

Issuance of this permit to the holder approved by the President of the United States on _____
in _____

[FR Doc.77–13915 Filed 5–13–77;8:45 am]

[1] Under the Canadian Air Transport Committee regulations, Group A consists of aircraft having a maximum authorized takeoff weight on wheels not greater than 4,300 pounds. Group B consists of aircraft having a maximum authorized takeoff weight on wheels greater than 4,300 pounds, but not greater than 7,000 pounds.

[2] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[3] Annex B(III)(B) presently authorizes Canadian-originating small aircraft charters of the types prescribed in section (II)(B); but only to the extent applicable to small aircraft pursuant to Canadian Transport Commission Regulations. The applicable types of charters presently authorized are: Single Entity Passenger, Single Entity Property, Pro Rata Common Purpose, and Inclusive Tour. (In some instances split passenger charters are authorized.)

CIVIL RIGHTS COMMISSION

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commissions on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. on June 10, 1977 and will end at 3:00 p.m. on June 11, 1977, in the Town and Country Hotel, 500 Hotel Circle, San Diego, California 92138.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is a training session for new members and program planning for recharter period with full State Advisory Committee.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 10, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77–13879 Filed 5–13–77;8:45 am]

CONNECTICUT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Commission (SAC) of the Commission will convene at 7:00 p.m. and will end at 11:00 p.m. on June 30, 1977, Holiday Inn 900 E. Main Street, Meriden, Connecticut 06450.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss steps on domestic violence project and other matters of Commission importance.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 11, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77–13880 Filed 5–13–77;8:45 am]

IDAHO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Idaho Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 12:30 p.m. on June 11, 1977, at Tapadera Inn, 1325 Main, Lewiston, Idaho 83501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwest Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to plan for project in Idaho.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 11, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77–13881 Filed 5–13–77;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 12 p.m. on June 28, 1977, Jewish Labor Committee, 27 School Street, Boston, Massachusetts.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss progress report on all subcommittees.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 10, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-13882 Filed 5-13-77;8:45 am]

NEW HAMPSHIRE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 11:00 p.m. on June 21, 1977, New Hampshire Highway Hotel, Concord, New Hampshire.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss follow-up activities to committee's conference on correctional system.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 10, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-13883 Filed 5-13-77;8:45 am]

NEW JERSEY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and end at 9:00 p.m. on June 2, 1977, 3236 Green Street, Newark, New Jersey.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss next steps on project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., May 10, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-13884 Filed 5-13-77;8:45 am]

RHODE ISLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island Advisory Committee (SAC) of the Commission will convene at 4:00 p.m. and will end at 6:00 p.m. on June 28, 1977, Central Congregational Church, 296 Angell Street, Providence, Rhode Island.

Persons wishing to attend this meeting should contact the Committee Chairperson or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss progress report from subcommittee.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 10, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-13885 Filed 5-13-77;8:45 am]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 10:00 p.m. on June 20, 1977, at Susan Webb's house, Brooksend, Plymouth, Vermont 05056.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, 1639, New York, New York 10007.

The purpose of this meeting is to discuss progress on all subcommittees.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 10, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-13886 Filed 5-13-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON THE SPANISH ORIGIN POPULATION FOR THE 1980 CENSUS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I (1974)), notice is hereby given that the Census Advisory Committee on the Spanish Origin Population for the 1980 Census will convene on June 3, 1977 at 9:00 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Committee is composed of 21 members appointed by the Secretary of Commerce. It was established in February 1975 to advise the Director, Bureau of the Census, on such 1980 census planning elements as improving the accuracy of the population count, developing definitions for classification of the Spanish-origin population, recommending subject content and tabulations of especial use to the Spanish-origin population, and expanding the dissemination of census results among present and potential users of census data in the Spanish-origin population.

The agenda for the meeting is: (1) Discussion of the selection of a site for a dress rehearsal for the 1980 census, (2) discussion of subject content—(a) population, and (b) housing; (3) reports by Committee members on (a) content, except race and ethnicity, and (b) race and ethnicity; (4) Affirmative Action Report; (5) Committe dicussion on (a) chronology of 1980 census planning, (b) survey of income and education, and (c) review of Committee recommendations and Bureau's responses.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Clifton S. Jordan, Deputy Chief, Demographic Census Staff, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233) Telephone: (301) 763-5169.

Dated: May 11, 1977.

MANUEL D. PLOTKIN,
Acting Director, Bureau of the Census.

[FR Doc.77-13991 Filed 5-13-77;8:45 am]

Economic Development Administration

FAVORITE FOOTWEAR, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Favorite Footwear, Inc., 37-11, 35th Avenue, Long Island City, New York 11101, a producer of men's, women's and children's footwear, was accepted for filing on May 6, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter.

A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of May 26, 1977.

CHARLES L. SMITH,
Acting Director, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-13848 Filed 5-13-77;8:45 am]

National Oceanic and Atmospheric Administration

National Marine Fisheries Service

WINDSOR SAFARI PARK

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.23 (d) and (e) of the regulations governing the taking and importing of marine mammals (50 CFR Part 216), the public display permit issued to Windsor Safari Park, Berkshire SL4 4AY England on June 18, 1976, is modified in the following manner:

The period of validity, during which the authorized marine mammals may be taken, is extended from December 31, 1977, to December 31, 1979.

This modification is effective May 16, 1977.

The Permit is modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: April 29, 1977.

WINFRED, H. WEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-13837 Filed 5-13-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

BILATERAL TEXTILE NEGOTIATIONS WITH THE GOVERNMENTS OF EGYPT, JAPAN, PAKISTAN, SINGAPORE, THE REPUBLIC OF CHINA AND THE REPUBLIC OF KOREA

Solicitation of Public Comment

MAY 11, 1977.

On April 21, 1974, the Committee for the Implementation of Textile Agreements published a notice in the FEDERAL REGISTER (39 FR 13307) conveying the Committee's intention to announce and solicit comment on U.S. Government actions implementing the GATT Arrangement Regarding International Trade in Textiles.

Pursuant to the terms of the Arrangement and certain bilateral textile agreements entered into thereunder, the Committee anticipates holding negotiations with the Governments of Egypt, Japan, Pakistan, Singapore, the Republic of China, and the Republic of Korea before the end of 1977. Any party wishing to express a view or provide data or information with regard to the treatment of any product under the bilateral textile agreements and any other aspects thereof, or with respect to imports of other textile products from these countries, is invited to submit such in ten copies to Mr. Robert E. Shepherd, Chairman of the Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Room 3826, Washington, D.C. 20230. Inasmuch as the exact timing of the negotiations is not yet certain it would be appreciated if comments were submitted promptly. Announcement of negotiations with the Governments of Hong Kong, India, Malaysia, Poland and Romania was published in the FEDERAL REGISTER on March 17, 1977 (42 FR 14897).

Views, data or information submitted under this procedure will be available for public inspection in the Office of Textiles, Room 2815, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request. Whenever practicable, public comment may be invited concerning views, comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments on any negotiation, consultation, market disruption or any other matter pursuant to this notice is not a waiver in any respect of the exemption contained in 5 U.S.C. 553 (a)(1) and 554(a)(4) relating to matters which constitute "a foreign affairs function of the United States".

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

[FR Doc.77-13912 Filed 5-13-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 3, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Cruise Missile Technology will hold meetings on June 2 and 3, 1977; from 10 a.m. to 4 p.m. on June 2nd and 9 a.m. to 1 p.m. on June 3rd. The meetings will consist of a portion of the ad hoc Committee on Cruise Missile Technology going to DMAC in St. Louis, Missouri to receive classified briefings on TERCOM and related DMAC operations; and other portions of the ad hoc Committee going to Boeing in Seattle, Washington and Convair in San Diego, California to receive classified briefings on the respective Cruise Missile Programs.

The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the USAF Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-13903 Filed 5-13-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 4, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Defensive Chemical Systems will hold a meeting on June 1 and 2, 1977 from 9 a.m. to 4 p.m. each day at the Army Chemical Systems Laboratory, Edgewood, Maryland.

The purpose is to hold classified discussions with the Army on prophylaxis and treatment for aircrews operating in a hostile chemical environment.

The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board at 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-13904 Filed 5-13-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 5, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Test and Evaluation will hold a meeting on June 21, 1977 from 8:30 a.m. to 5:30 p.m. at the Air Force Test and Evaluation Center, Kirtland Air Force Base, New Mexico.

The Committee will receive classified briefings and hold classified discussions on the Air Force JTIDS program. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-13905 Filed 5-13-77;8:45 am]

Office of the Secretary

ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

The DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, N.Y. 10014, on June 2, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems and microelectronics. The review will include classified program details throughout.

In accordance with Section 10(d) of Apendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) (of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MAY 11, 1977.

[FR Doc.77-13911 Filed 5-13-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of April 22 through April 29, 1977

Notice is hereby given that during the week of April 22 through April 29, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's Procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of these regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

May 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of April 22 through April 29, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Apr. 22, 1977	Bright & Schiff, Dallas, Tex. (If granted: Crude oil produced from O. S. Petty well No. 1 located in Hardin County, Tex., would be sold at upper tier ceiling prices.)	FEE-4091	Price exception (sec. 212.73)
Do	Mobil Oil Corp. (Vanderbilt), New York, N.Y. (If granted: The FEA's Apr. 1, 1977, decision and order would be modified and Mobil Oil Corp. would be granted additional price relief covering nonproduct cost increases for natural gas liquid products produced at its Vanderbilt plant.)	FXA-1270	Appeal of decision and order in Mobil Oil Corp., 5 FEA par. ____ (Apr. 1, 1977).
Do	State of Oregon, Salem, Oreg. (If granted: The FEA's Oct. 3, 1975, decision and order would be modified to permit dealers and retailers of motor gasoline, located in the State of Oregon, to increase their prices above maximum permissible levels established pursuant to 10 CFR 212.93 to offset a proposed 2-cents-per-gallon increase in the State of Oregon's license tax on motor vehicle or aircraft fuel.)	FMR-0100	Request for modification of decision and order in State of Oregon, 2 FEA par. 83,320 (Oct. 3, 1975).
Do	Univar Corp., Seattle, Wash. (If granted: The FEA's Dec. 16, 1976, notice would be modified and the Univar Corp. would be removed from the listing of most energy consumptive corporations in the SIC 20 category and would be exempted from the mandatory requirement of sec. 375(a) that the firm report progress made in energy efficiency to the FEA.)	FMR-0101	Request for modification of FEDERAL REGISTER notice at 41 Fed. Reg. 54977 (Dec. 16, 1976).
Apr. 25, 1977	Alexander-Loop Oil Properties, Inc., Tulsa, Okla. (If granted: Alexander-Loop Properties, Inc. would receive an extension of the exception relief granted in the FEA's Dec. 23, 1976, decision and order and crude oil produced from the Dicey McIntosh lease sec. 12 located in Okmulgee County, Okla., would be sold at upper tier ceiling prices.)	FXE-4092	Extension of exception relief granted in Paul R. Loop, 5 FEA par. 83,010 (Dec. 23, 1976).
Do	Midland Cooperatives, Inc., Minneapolis, Minn. (If granted: The FEA's Mar. 17, 1977, decision and order would be rescinded and Midland Cooperatives, Inc. would be relieved of its 1975 entitlements purchase obligation and would not be required to make any purchases of entitlements in the future.)	FXA-1271	Appeal of decision and order in Midland Cooperatives, Inc., 5 FEA par. ____ (Mar. 17, 1977).
Do	Petrochemical Energy Group, Washington, D.C. (If granted: The FEA's Dec. 31, 1976, order would be rescinded and the Consumers Power Co. would not be granted an interim allocation of SNG feedstocks.)	FMR-0102	Modification of FEA assignment order dated Dec. 31, 1976.
Do	Superior Oil Co., Houston, Tex. (If granted: The Superior Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.066 per gallon for natural gas liquid products produced at its South Fullerton and West Seminole plants.)	FEE-4093 FEE-4094	Price exception (sec. 212.165).
Apr. 26, 1977	Atlantic Richfield Co., Los Angeles, Calif. (If granted: The FEA's Apr. 12, 1977, remedial order would be rescinded and the Atlantic Richfield Co. would not be required to refund alleged overcharges made in its sales of motor gasoline to the Digas Co.)	FRA-1272 FRS-1272	Appeal of FEA region IX's remedial order dated Apr. 12, 1977. Stay requested.
Do	C. C. Operating Co., Victoria, Tex. (If granted: The FEA's Apr. 14, 1977, remedial order would be rescinded and C. C. Operating Co. would not be required to refund alleged overcharges made in its sales of crude oil.)	FRA-1274 FRS-1274	Appeal of FEA region VI's remedial order issued Apr. 14, 1977. Stay requested.
Do	Consumer Federation of America, Washington, D.C. (If granted: The FEA Office of Exceptions and Appeals would appoint and compensate a special public counsel to represent consumers in connection with FEA rulemaking proceedings involving price and allocation controls for middle distillates.)	FSG-0042	Request for assignment of a special public counsel.
Do	General Distributors, Inc., Salisbury, Md. (If granted: The regional counsel of FEA region III would be granted an additional 30 days to comply with the provisions of a Mar. 10, 1977, decision and order issued to General Distributors, Inc.)	FEX-0153	Supplemental order to decision and order in General Distributors, Inc., 5 FEA par. ____ (Mar. 10, 1977).

Date	Name and location of applicant	Case No.	Type of submission
De	Justiss-Mears Oil Co., Inc., Jena, La. (If granted: Crude oil produced from the Saucier No. 1 well located in Avoyelles Parish, La., would be sold at upper tier ceiling prices.)	FEE-4097	Price exception (sec. 212.73).
De	Kern County Refinery, Inc., Bakersfield, Calif. (If granted: Kern County Refinery, Inc. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order and would not be required to purchase entitlements under the old oil entitlements program.)	FXE-4096	Extension of exception relief granted in Kern County Refinery, Inc., 4 FEA par. 83,246 (Dec. 15, 1976).
De	Lampton-Love, Inc., Washington, D.C. (If granted: Lampton-Love, Inc. would be permitted to increase its prices for propane above the maximum allowable price for that product as determined pursuant to the mandatory petroleum price regulations.)	FEE-4099	Price exception (sec. 212.93).
De	Luke Bros., Inc., Oklahoma City, Okla. (If granted: The FEA's Oct. 5, 1976, remedial order would be rescinded and Luke Bros., Inc. would not be required to refund overcharges made on sales of propane.)	FMR-0103	Modification of FEA region VI's remedial order dated Oct. 5, 1976.
De	Navajo Refining Co., Washington, D.C. (If granted: The Navajo Refining Co. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order which would reduce the firm's purchase obligations under the FEA old oil entitlements program.)	FXE-4098	Extension of exception relief granted in Navajo Refining Co., 4 FEA par. 83,253 (Dec. 15, 1976)
De	Stephens & Cass, Dallas, Tex. (If granted: 13 of the firm's properties would be classified as stripper well properties Stephens & Cass would be granted a stay of the refund requirements of the Apr. 12, 1977, remedial order issued to the firm pending a final determination on its exception application.)	FEE-4095 FRS-4095	Price exception (sec. 212.73). Stay requested.
De	Texas City Refining, Inc., Texas City, Tex. (If granted: The FEA's Apr. 11, 1977, remedial order would be rescinded and Texas City Refining, Inc. would not be required to recompute its cost of crude oil to include the effect of foreign-domestic crude oil sales and exchanges engaged in by the firm.)	FRA-1273 FRS-1273	Appeal of FEA region VI's remedial order dated Apr. 11, 1977. Stay requested.
Apr. 27, 1977	Atlantic Richfield Co., Dallas, Tex. (If granted: Crude oil produced from the State lease PRC 1466 located in Ventura County, Calif., would be sold at upper tier ceiling prices.)	FEE-4104	Price exception (sec. 212.73).
De	Bassett Oil & Equipment Co., Inc. (If granted: The FEA's Apr. 13, 1977, remedial order would be rescinded and Bassett Oil & Equipment Co., Inc. would not be required to refund overcharges made on sale of No. 2 heating oil and kerosene.)	FRA-1276 FRS-1276	Appeal of FEA region III's remedial order dated Apr. 13, 1977. Stay requested
De	Diamond Shamrock Corp., Amarillo, Tex. (If granted: The Diamond Shamrock Corp. would be granted an exception from the provisions of 10 CFR 212.83 to permit the firm to use the modified "R" term to allocate its increased nonproduct costs beginning Mar. 1, 1977.)	FEE-4100	Price exception (sec. 212.83).
De	Harpel Petroleum Corp., Casper, Wyo. (If granted: The FEA's Apr. 11, 1977, remedial order would be rescinded and the Harpel Petroleum Corp. would not be required to refund any overcharges made in sales of crude oil to the Continental Oil Co.)	FRA-1275	Appeal of FEA region VIII's remedial order dated Apr. 11, 1977.
De	W. H. Porter, Midwest City, Okla. (If granted: W. H. Porter would receive an extension of the exception relief granted in the FEA's Dec. 16, 1976, decision and order and crude oil produced from the Kirchmeir lease in Lincoln County, Okla., would be sold at upper tier ceiling prices.)	FXE-4101	Extension of exception relief granted to W. H. Porter, 4 FEA par. 83,254 (Dec. 16, 1976).
De	San Joaquin Refining Co., Newport Beach, Calif. (If granted: The San Joaquin Refining Co. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order to relieve the firm of any purchase obligations under the old oil entitlements program.)	FEX-4102	Extension of exception relief granted in San Joaquin Refining Co., 4 FEA par. 83,254 (Dec. 15, 1976).
De	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: Processing of an exception application filed by the Standard Oil Co. (Indiana) on Feb. 16, 1977, would be held in abeyance pending a final determination in a judicial proceeding involving the firm now pending before the Federal district court in St. Louis, Mo.)	FES-3708	Stay request
De	Sunland Refining Corp., Bakersfield, Calif. (If granted: The FEA would rescind the exception relief granted to the Sunland Refining Corp. beginning with the month of January 1977, and Sunland would be required to purchase entitlements equivalent in value to approximately $796,180.)	FEX-0154	Supplemental order to decision and order in Sunland Refining Corp., 4 FEA par. 83,260 (Dec. 15, 1976).
De	Time Oil Co., Los Angeles, Calif. (If granted: The FEA's Apr. 8, 1977, decision and order would be rescinded and the continuing fee-free import authority granted to Time by the Oil Imports Appeals Board (OIAB) in an order dated June 17, 1974 would be extended.)	FPI-0115	Appeal of decision and order in Time Oil Co., 5 FEA par. ____ (Apr. 8, 1977).
De	Young Refining Corp., Douglasville, Ga. (If granted: The Young Refining Corp. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order which would relieve the firm of any purchase obligations under the old oil entitlements program.)	FXE-4103	Extension of exception relief granted in Young Refining Corp., 4 FEA par. 83,264 (Dec. 15, 1976).
Apr. 28, 1977	Crystal Petroleum Co., Corpus Christi, Tex. (If granted: The Crystal Petroleum Co. would receive an exception to 10 CFR 212.93 to permit it to increase the maximum permissible selling price for the motor gasoline which it sells to the city of Corpus Christi.)	FEE-4106	Price exception (sec. 212.93).
De	Eddy Refining Co., Houston, Tex. (If granted: The FEA's Mar. 4, 1977, decision and order would be rescinded and Eddy Refining Co. would be permitted to charge prices in excess of its maximum allowable prices computed pursuant to the provisions of sec. 212.83. Eddy would also receive retroactive exception relief which would reduce or eliminate any liability on the part of the firm to refund revenues which it obtained as a result of previous overcharges.)	FXA-1277	Appeal of decision and order in Eddy Refining Co., 5 FEA par. 83,062 (Mar. 4, 1977).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Guam Oil & Refining Co., Inc., Dallas, Tex. (If granted: The Guam Oil & Refining Co., Inc. would receive an exception from the requirements of 10 CFR 211.67(a) to permit the firm to include as crude oil for purposes of the FEA old oil entitlements program all of the feedstocks processed in the firm's Guam refinery.)	FEE-4105	Exception to the old oil entitlements program (sec. 211.67).
Do.....	McFarland, A. B., McAlester, Okla. (If granted: A. B. McFarland would receive an increase in his base period use of motor gasoline.)	FEE-4106	Exception to increase base period use (sec. 211.13 (e)).
Do.....	Peters Fuel Corp., Oakland, Md. (If granted: The Nov. 24, 1976, stay which was granted to the Peters Fuel Corp. would be rescinded and the Director of Compliance, region III, would be required to take all steps necessary to ensure that funds which the Peters Fuel Corp. deposited in an escrow account under the terms of the Nov. 24, 1976, decision and order were disbursed to the customers of the Peters Fuel Corp.)	FRX-0155	Supplemental order to decision and order in Peters Fuel Corp., 4 FEA par. 85,036 (Nov. 24, 1976).
Do.....	San Joaquin Refining Co., Newport Beach, Calif. (If granted: The San Joaquin Refining Co. would be granted a stay of its February 1977, entitlement purchase obligations and the FEA would adjust the firm's March 1977 obligations to correct an error made in the February 1977 entitlement calculations.)	FES-0093	Stay request.
Do.....	Union Oil Co. of California. (If granted: Crude oil produced from the Point Conception field located in Santa Barbara County, Calif. would be sold at upper tier ceiling prices.)	FEE-4107	Price exception (sec. 212.73).
Apr. 29, 1977	Amtel, Inc., Houston, Tex. (If granted: The FEA's Feb. 25, 1977, decision and order would be rescinded and Amtel would be permitted to calculate the maximum permissible prices which its South Central subsidiary may charge for the covered products it sells by refegene to the May 15, 1973 prices charged by the firm's Harlond Hauck Oil Co. subsidiary. In addition, all of Sun's base period supply obligations to customers served by South Central would be assigned to Amtel and Sun would be assigned to supply Amtel with the covered products. Finally, the existing supplier/purchaser relationship between Sun and Whitco, Inc. would be terminated and Whitco would be assigned a new base period supplier other than Amtel or Sun.	FXA-1278	Appeal of decision and order in Amtel, Inc., 5 FEA par. 83,091 (Feb. 25, 1977).

[FR Doc.77-13823 Filed 5-13-77;8:45 am]

GRANTS FOR OFFICES OF CONSUMER SERVICES

Advance Notice of Program Guidelines

AGENCY: Federal Energy Administration.

ACTION: Advance notice of program guidelines.

SUMMARY: FEA will establish a program of discretionary grants for the establishment and operation of offices of consumer services to assist consumers in their presentations before electric utility regulatory commissions. Any State, the District of Columbia, Puerto Rico, any territory or possession of the United States, and the Tennessee Valley Authority will be eligible to apply for a grant. This notice explains the guidelines now being developed by FEA and solicits comments from interested persons.

DATES: Comments by May 31, 1977, 4:30 p.m., e.d.t.

ADDRESSES: Comments to: Executive Communications, Room 3317, Federal Energy Administration, Box MI, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Ms. Nancy Tate Gavin, Federal Energy Administration, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-7472).

SUPPLEMENTARY INFORMATION: A. Background; B. Functions of an Office of Consumer Services; C. Minimum Program Requirements; D. Award of Funds; E. Comments.

A. *Background.* Section 205, 42 U.S.C. 6805, of the Energy Conservation and Production Act (Act), Pub. L. 94-385, 90 Stat. 1144, authorizes FEA to make grants to States to provide for the establishment and operation of a State office of consumer services (Office). For purposes of this program, "State" means a State, the District of Columbia, Puerto Rico, a territory or possession of the United States, and the Tennessee Valley Authority. The Act authorizes not more than 2 million dollars for this grant program through fiscal year 1977.

FEA presently is developing program guidelines, and the purpose of this notice is to solicit public comment, views and data to assist FEA in the preparation of program guidelines.

B. *Functions of an Office of Consumer Services.* The Act provides that grants may be made only for an Office which has authority under State law to:

(1) Make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) Assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) Advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

Because of the Act's emphasis on the cosumer assistance function, FEA presently intends to permit an Office to develop a program in the first year of a grant which assists consumers in the presentation of their positions before a State utility regulatory commission. To be eligible for Federal financial assistance, therefore, an Office would not be required to implement the other functions which it must be empowered to carry out under the Act, although it may choose to do so.

An Office shall take a broad view of consumer interests, thereby including in its considerations any person or party who is buyer of electricity for a purpose other than resale. FEA is considering requiring assistance to be granted only for participation in State proceedings, thereby precluding participation at the Federal level.

Assistance may be provided by an Office in the form of direct assistance and technical assistance. With respect to direct assistance, an Office may provide funds to a consumer group for the preparation of testimony and written submissions, legal services and expert witnesses. An Office may provide technical assistance by using its staff, or a consultant or cpntractor retained by the Office, to prepare testimony or submissions and to provide data, technical analyses and other information to consumer groups. An Office also may assign members of its staff to work directly with a consumer group to provide legal services or serve as expert witnesses. FEA is considering allowing an Office to expend up to 45 percent of the funds awarded to employ one or more contractors or consultants to assist it in carrying out any of the three authorized functions.

Assistance only will be provided to a consumer group. A consumer group may range from a recognized consumer organization to an ad hoc aggregation of concerned persons. Assistance, however, may not be provided to only one person.

In formulating the final guidelines for furnishing assistance to a consumer group, FEA intends to require that the Office make the following determinations:

(1) The consumer group has or represents an interest which would not otherwise be adequately represented in the outcome of a proceeding before a State utility regulatory commission, the representation of which is necessary to contribute to a fair determination of the proceeding taken as a whole;

(2) The proceeding is of a nature such that its outcome will have a significant impact on consumer interests; and

(3) The consumer group does not have sufficient resources to participate effectively in the proceeding in the absence of such assistance.

These standards were developed to apply to situations where consumer groups seek to intervene in Federal agency proceedings where no express statutory provision authorizes the use of Federal funds to assist a consumer group. They also are consistent with the standards utilized by FEA's Office of Private Grievances and Redress with respect to requests by consumer representatives for financial assistance to enable them to participate in FEA proceedings. Section 205, however, would permit FEA to adopt more flexible standards. For example, an Office could only be required to determine that participation in a proceeding by a consumer group was useful instead of necessary. No decision has been

reached by FEA with regard to whether less restrictive standards should be provided for this program.

C. *Minimum program requirements.* FEA anticipates establishing the following minimum program requirements which a State must meet to be eligible for Federal financial assistance under the program: First, a State shall have in existence at the time it submits its grant application an Office which is independent of a State utility regulatory commission, or provide assurance that it will establish an Office which is independent within six months of the date of grant award and prior to the expenditure of any grant funds. FEA will consider an Office to be independent of the State utility regulatory commission if: (1) the commission has no direct control over the Office's budget and fund disbursement, (2) the commission exercises no authority over the hiring of the Office's personnel, and (3) employees of the Office have no concurrent duties for, or obligation to report to, the commission.

Second, a State shall have in existence at the time it submits its grant application an Office which is authorized by State law to undertake the functions listed in the Act, or assure the establishment of an Office which is so authorized within six months of the date of grant award and prior to the expenditure of any grant funds.

Third, a State shall give assurance that the total proposed budget for the Office exceeds, by the amount of the grant award, the amount expended by the State, if any, to perform functions similar to those proposed in its grant application in the twelve months preceding the date of the application.

D. *Award of funds.* To participate in the program, a State would be required to submit an application to FEA within the prescribed application period, which FEA expects to be seven weeks from the date of issuance of the guidelines. Subject to the availability of funds, FEA expects to complete its review of applications and award grants by September 30, 1977.

FEA does not intend to allocate funds to all States because the authorized level of funding makes it impracticable for all States to participate. FEA will award grants to a limited number of States whose applications best demonstrate a feasible and well-conceived Office and best demonstrate the need for Federal financial assistance for an Office. No grant award made in fiscal year 1977 shall exceed $250,000

States will be selected by FEA in accordance with evaluation criteria presently being developed. FEA is assesing the feasibility of employing a point scoring system to grade applications based upon a possible score of 100 points. Under this scoring system, an application from a State could receive up to 55 points based upon the demonstration of a feasible and well-conceived Office and 45 points for a demonstration of need for Federal financial assistance for a new or expanded Office.

With respect to assessing the feasibility and quality of an Office, FEA intends to evaluate such factors as the Office's goals and objectives, organizational structure, budget, the nature, specificity and timetable for proposed activities, and the number, qualifications and experience of staff members.

With respect to a demonstration of need for a new or expanded Office, FEA intends to consider a State's consumption and price patterns of electric energy and activities of the State utility regulatory commission. To evaluate these considerations, FEA may assess such factors as the relationship of the average annual cost of residential electricity to the average annual income of residential users, increases in the rates for and consumption of electricity by classes of customers, fuel sources used for generation of electricity, the average annual expenditures of utility companies for representation in utility regulatory commission proceedings in relationship to State population, average level and annual rate of growth of the utility case load of the State utility regulatory commission, and the budget of the State utility regulatory commission for electric utility regulation in relationship to State population.

E. *Comments.* FEA particularly is interested in receiving comments on the following items:

(1) The feasibility and need criteria for evaluating a State's application;

(2) The criteria for determining whether an Office is operated independently of the State utility regulatory commission;

(3) The standards for determining those consumer groups who are eligible for direct or technical assistance in the presentation of their positions before utility regulatory commissions;

(4) The appropriateness of a $250,000 ceiling on a grant award;

(5) Whether the costs of presentations by consumers in Federal ratemaking or rulemaking proceedings should be an eligible program expenditure; and

(6) Whether an Office should establish priorities among consumer groups.

Interested persons are invited to submit their written comments, which may include views, data or arguments, to Executive Communications, Room 3317, Box MI, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Grants for Offices of Consumer Services." Fifteen copies should be submitted. All comments received by May 25, 1977, before 4:30 p.m., e.d.t., will be considered by FEA and may be used by FEA in the development of the guidelines.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information and to treat it according to its determination.

Issued in Washington, D.C., May 13, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-14100 Filed 5-13-77;10:19 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP74-6 and RP72-74]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

MAY 5, 1977.

Take notice that Southern Natural Gas Company (Southern) on April 21, 1977 tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, in compliance with the Commission's Opinion No. 747-B, Opinion and Order Granting Rehearing in Part and Denying Rehearing in Part, issued May 21, 1976 in "Southern Natural Gas Company", Docket Nos. RP74-6 and RP72-74.

Southern states that the Commission said at pages 10 and 11 of Opinion No. 747-B, "Furthermore, while we cannot conclude from the evidence that consumers contracting for gas on an interruptible basis contemplated substantial interruption or intended to install alternate fuel facilities, as will be discussed later, it is apparent that those consumers which formed firm gas contracts contemplated neither interruption nor the need for alternate fuel facilities; therefore, those firm requirements lacking installed alternate fuel facilities will be given a one year grace period from the date of this order to install such facilities. These requirements will remain in priority category 3 during this grace period. Thereafter such requirements will be placed in the appropriate revised categories." The tariff sheets included in the filing show changes in the Index of Requirements which are necessary to reflect the end of the one year grace period for firm industrial requirements lacking installed alternate fuel facilities for the Amory, Louisville, West Point and Meridian Area delivery points of Mississippi Valley Gas Company; the Town of Calera, Alabama; the Town of Livingston, Alabama; the City of Scottsboro, Alabama; the Aiken delivery point of South Carolina Electric & Gas Company; the City of Statesboro, Georgia; Hunt Oil Company; MacMillan Bloedel United, Inc.; and the Westfield delivery point of United States Steel Corporation.

The proposed effective date of the enclosed tariff sheets is the date they are accepted by the Commission.

Copies of the filing were served upon the company's jurisdictional customers, interested state commissioners' and the parties of record in Docket Nos. RP74-6 and RP72-74.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the

Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13910 Filed 5-13-77;8:45 am]

FOREIGN CLAIMS SETTLEMENT COMMISSION

GERMAN DEMOCRATIC REPUBLIC

Deadline for Filing Claim and Completion Date of Program

AGENCY: Foreign Claims Settlement Commission of the United States.

ACTION: Notice.

SUMMARY: Notice of program for claims against the German Democratic Republic, deadline for filing claims and completion date of program, as provided by Pub. L. 94-542.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Wayland D. McClellan, General Counsel, Foreign Claims Settlement Commission, 1111 20th Street, Washington, D.C. 20579, 202/653-6166.

NOTICE OF TIME FOR FILING

Notice is hereby given that pursuant to section 600, Title VI of the International Claims Settlement Act of 1949, as amended, the Foreign Claims Settlement Commission of the United States will receive at its principal office located at 1111 20th Street, N.W., Washington, D.C. 20579, during the period beginning on the publication of this notice, and ending May 16, 1978, claims against the German Democratic Republic, as authorized by Title VI of the International Claims Settlement Act of 1949, as amended by Pub. L. 94-542, approved October 18, 1976, (90 Stat. 2509), and in accordance with the Regulations of the Commission made with respect thereto.

Title VI of the International Claims Settlement Act, as amended, provides for the determination of the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interests of nationals of the United States, whether such losses occurred in the German Democratic Republic or East Berlin.

Details concerning the filing and claim applications may be obtained by contacting the Office of the General Counsel, Foreign Claims Settlement Commission, Washington, D.C. 20579, 202/653-6166.

Dated: May 11, 1977.

WAYLAND D. MCCLELLAN,
General Counsel.

[FR Doc.77-13842 Filed 5-13-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

PROGRAM EFFECTIVENESS AND EVALUATION COMMITTEE, NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

NOTICE: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Program Effectiveness and Evaluation Committee of the National Advisory Council on Adult Education. The meeting shall be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Section 10(a)(2)).

DATE: May 27, 1977, 8:30 a.m. to 4 p.m.

ADDRESS: Reighart School, 500 E. Strawberry Street, Lancaster, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St. NW., Washington, D.C. 20004, (202-376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public. The proposed agenda includes:

Survey Instrument on the Status of Bilingual Adult Education Programs; NACAE 311(d) Evaluation; Adult Education Local Program Visitation; Committee Responsibilities.

Records shall be kept of all Committee proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on May 9, 1977.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.77-13836 Filed 5-13-77;8:45 am]

Health Resources Administration

GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

Meeting

Correction

In FR Doc. 77-12432 appearing at page 22204 in the issue for Monday, May 2, 1977, the headings should have read as set forth above.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-478; FDAA-3039-EM]

OREGON

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Oregon (FDAA-3039-EM), dated April 29, 1977.

DATED: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202-634-7825).

NOTICE: The Notice of emergency for the State of Oregon dated April 29, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of April 29, 1977:

The counties of:

Jefferson Wheeler
Wasco

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-13864 Filed 5-13-77;8:45 am]

Office of the Secretary

[Docket No. N-77-506]

PRIVACY ACT OF 1974

Proposed New Notice of Systems of Records and Alteration of Existing Notice of System of Records

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed New Notice of Systems of Records and Alteration of Existing Notice of System of Records.

SUMMARY: As required by law, the Secretary is publishing for comment two new systems of records and an altered system of records that will be maintained by the Department. The proposed new records systems are "Privacy Act Requesters" and "Solar Energy Demonstration Survey Files". The change is necessary to convert the "Equal Opportunity Housing Complaints" records system from a manual to an automated system.

DATES: Comments should be submitted in writing on or before June 15, 1977.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, on (202) 755-5192.

SUPPLEMENTARY INFORMATION: The proposed new system of records entitled "Privacy Act Requesters" will result from processing requests made under the provisions of the Privacy Act. The "Solar Energy Demonstration Survey Files" system will consist of demographic, socio-economic, and housing characteristics of purchasers and renters of solar-heated residential dwellings and of occupants of non-solar-heated dwellings in the same development. The conversion from manual to automated processing of the "Equal Opportunity Housing Complaints" will improve complaint tracking and compliance review.

A new systems report was filed with the Speaker of the House, the President of the Senate, the Privacy Protection Study Commission, and the Office of Management and Budget on December 14, 1976 for the Privacy Act Requesters system and on December 14, 1976 for the Solar Energy Demonstration Survey Files system. A report on the conversion from manual to automated processing of the Equal Opportunity Housing Complaints system was filed with the above addresses on December 14, 1976.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the address set forth above.

HUD/DEPT-52

System name:

Privacy Act Requesters.

System location:

Headquarters, Regional, Area, and Insuring Offices maintain files of this type. See Appendix A for a complete listing of these offices.

Categories of individuals covered by the system:

Individuals inquiring about existence of records about them, and requesting access to and correction of such records under provisions of the Privacy Act.

Categories of records in the system:

Personal identification of requester, nature of request, and disposition of the request by the Department.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

In file holders.

Retrievability:

Filed by case number and name of individual.

Safeguards:

Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

Retention and disposal:

Records are primarily active. Inactive files are normally disposed of after a one-year period.

System manager and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, SW.
Washington, D.C. 20410

Notification procedure:

For inquiry about existence of records, contact the Privacy Act Officer at appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories:

Subject individuals.

HUD/PD&R-2

System name:

Solar Energy Demonstration Survey Files

System location:

Headquarters

Categories of individuals covered by the system:

Purchasers and renters of solar heated or cooled housing under the demonstration program; comparative purchasers of conventional heated and cooled housing; prospective purchasers of housing marketed under the demonstration program.

Categories of records in the system:

Housing characteristics, reason for moving, utility expenditures, neighborhood characteristics, perception of housing and subdivision, housing costs and financing characteristics, marketing attitudes toward solar energy, operating experience with heating and cooling systems, socio-economic information.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See Routine Uses paragraph in the prefatory statement. Other routine uses: Real Estate Research Corporation (Chicago, Ill.) for analysis and evaluation of solar energy use and its acceptance by the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

In file folders and on magnetic tape disc/drum.

Retrievability:

Name; address; code number; and index.

Safeguards:

Computer facilities are secured and accessible only to authorized personnel. The name-address index file will be kept in the Department in lockable file cabinets, with access limited to key authorized personnel.

Retention and disposal:

Records will be maintained until follow-up interviews have been completed. Records of survey participants will be destroyed as each cycle ends or the participants leave the program. Hard copy questionnaires will be destroyed after they are encoded into machine readable format. All records will be destroyed at the conclusion of the study, scheduled to end in approximately five years.

System manager and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure:

For inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting contents of records or in relation to appeals of initial denials, it may be obtained by contacting the Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories:

Subject individuals.

HUD/DEPT–15

System name:

Equal Opportunity Housing Complaints.

System location:

Housing Discrimination files are located at the office where originated and may also be transferred to associated Area and/or Regional Offices, or the Department's Headquarters. For a complete listing of these with addresses, see Appendix A.

Categories of individuals covered by the system:

Individuals filing housing discrimination complaints; individuals, officials, and organizations complained about; managers; grant or project applicants; builders; developers; contractors; appraisers; property owners; mortgagors; candidates for positions; witnesses; attorneys; individuals in disaster and EO files; Titles VI, VIII and IX complainants. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

Categories of records in the system:

Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; marketing activity; complaints under Titles VI, VIII and IX; conciliation files; correspondence; affidavits; complaint status reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses paragraph in prefatory statement. Other routine uses: to non-federal EO-concerned agencies, the U.S. Department of Justice (including the Federal Bureau of Investigation), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents, and attorneys-for investigatton, preparing litigation, and monitoring compliance.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Records kept in lockable desks and file cabinets and magnetic tape/disc/drum.

Retrievability:

Usually retrievable by name of complainant and, in some instances, by case file number.

Safeguards:

Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal:

HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then transferred to Federal Records Centers for an additional five years.

System manager and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure:

For inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, in relation to contesting contents of records or in relation to appeals of initial denials, it may be obtained by contacting the Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories:

Subject and other individuals. Federal and non-federal government agencies, law enforcement agencies, credit bureaus, financial institutions, current and previous employers, corporations or firms, EO counselors and witnesses.

Systems exempted from certain provisions of the Act:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory material, including conciliation files, in records contained in this System which meet the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f)) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this Notice have been carefully evaluated in accordance with OMB Circular A–107.

Issued at Washington, D.C., May 10, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77–13863 Filed 5–13–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 9977]

ARIZONA

Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended, by the Act of November 6, 1973 (87 Stat. 576), El Paso Natural Gas Company, PO Box 1492, El Paso, Texas 79978, filed an application for a right-of-way to construct a cathodic protection site consisting of a rectifier pole, low voltage, underground cable and anode pipe bed adjacent to their existing gas pipeline right-of-way on the following described National Resource Lands:

T. 2 S., R. 3 W., GSR Mer., Arizona
Sec. 27, SE¼SW¼,
Sec. 34, NE¼NW¼.

The cathodic protection site is necessary to the preservation and reliability of service of the natural gas pipeline.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 2929 W. Clarendon, Phoenix, Arizona 85017.

Dated: May 9, 1977.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–13906 Filed 5–13–77;8:45 am]

U.S. MINERAL SURVEYOR APPOINTMENT EXAMINATION

Examination

Notice is hereby given that the Bureau of Land Management will administer the U.S. Mineral Surveyor Appointment Examination June 2 and 3, 1977, in Anchorage, Alaska. Persons wishing to take the examination must submit an SF 171 by May 19, 1977, (with pages 1, 3, and 4 and the first block on page 2 completed), to the Director, Bureau of Land Management (420), 18th and "C" Streets, NW., Washington, D.C. 20240. Details for the administration of the examination will be furnished directly to the applicants or may be obtained at the Division of Cadastral Survey Bureau of Land Management, 805 "G" Street, Anchorage, Alaska 99501.

GEORGE L. TURCOTT,
Associate Director, Bureau of Land Management.

MAY 12, 1977.

[FR Doc.77–14086 Filed 5–13–77;9:06 am]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, FIRST CIRCUIT PANEL

Meeting

The Advisory Committee to recommend candidates for the judicial vacancy in the First Circuit will meet in Boston, Massachusetts, at Room 1620, John W. McCormack Building, 10 Post Office Square, on May 21, at 10:30 a.m.

The purpose of the meeting is to discuss procedures, criteria, and possible candidates. That part of the meeting which will be devoted to a discussion of personnel will not be open to the public, in accordance with Pub. L. 92–463, Sec. 10(D), as amended, (CF. 5 U.S.C. 552B (c)(6)).

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

[FR Doc.77–14052 Filed 5–13–77;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

MEETING

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Continuing Education Policy Committee of the National Advisory Council on Extension and Continuing Education with representatives of labor and business organizations. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2). This document is intended to notify the general public of their opportunity to attend.

DATE: Meeting: June 1, 1977, from 9:30 a.m. to 12:30 p.m.

ADDRESS: Council Office, 425 13th Street NW., Suite 529, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

James A. Turman, Executive Director, National Advisory Council on Extension and Continuing Education, 425 13th Street NW., Suite 529, Washington, D.C. 20004 (202–376–8888).

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89–329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and respect to policy matters arising in the administration of Part A of Title I (HEA), including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is require to review the administration and effectiveness of all federally supported extension and continuing education programs.

The meeting of the Continuing Education Policy Committee will be open to the public, but because of the limited space available in the Council's office, anyone wishing to attend the meeting should inform the Council's staff office (376–8888) no later than May 25, 1977. This meeting will be held at the Council's office, 425 13th Street NW., Suite 529, Washington, D.C. 20004.

The proposed agenda includes a discussion with representatives of labor and business organizations of the recommendations generated by the participants in the Council-sponsored invitational conference on Continuing Education, Manpower Policy, and Lifelong Learning, held at the Xerox Center for Training and Management Development, January 10 and 11, 1977.

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street NW., Washington, D.C.

Dated: May 3, 1977.

JAMES A. TURMAN,
Executive Director.

[FR Doc.77–13838 Filed 5–13–77;8:45 am]

NUCLEAR REGULATION COMMISSION

[Docket Nos. 50-325 and 50-324]

CAROLINA POWER AND LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 4 and 26 to Facility Operating Licenses Nos. DPR–71 and DPR–62, issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2, located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments modify the method for verifying safety relief valve operability during surveillance testing.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 21, 1977, (2) Amendment No. 4 to License No. DPR–71, (3) Amendment No. 26 to License No. DPR–62, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of April 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-13767 Filed 5-13-77;8:45 a.m.]

[Docket Nos. 50-237, 50-249, 50-254 and 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 30, 28, 40 and 38 to Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30 (respectively), issued to the Commonwealth Edison Company (and, in the matter of License Nos. DPR-29 and DPR-30, the Iowa-Illinois Gas and Electric Company), which revised Technical Specifications for operation of Unit Nos. 2 and 3 of the Dresden Nuclear Power Station (located in Grundy County, Illinois) and Unit Nos. 1 and 2 of the Quad Cities Nuclear Power Station (located in Rock Island County, Illinois). These amendments are effective as of their date of issuance.

The amendments incorporated changes in the Technical Specifications surveillance frequency and testing methods utilized to assure the operability of the relief valves used in the automatic pressure relief subsystem.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated March 8, 1977, (2) Amendment Nos. 30 and 28 to License Nos. DPR-19 and DPR-25, and Amendment Nos. 40 and 38 to License Nos. DPR-29 and DPR-30, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and for those items relating to Dresden Unit Nos. 2 and 3 at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60450, and for those items relating to Quad Cities Unit Nos. 1 and 2 at the Moline Public Library, 504—17th Street, Moline, Illinois 60625. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this second day of May, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-13764 Filed 5-13-77;8:45 am]

[Docket Nos. 50-440 and 50-441]

CLEVELAND ELECTRIC ILLUMINATING CO., ET AL

PERRY NUCLEAR POWER PLANT, UNITS 1 AND 2

Notice of Issuance of Construction Permits

Notice is hereby given that, pursuant to the Initial Decisions dated January 6, 1977 (Antitrust), and April 29, 1977, the Nuclear Regulatory Commission (the Commission) has issued Construction Permits Nos. CPPR-148 and CPPR-149 to The Toledo Edison Company, The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company for construction of two boiling water nuclear reactors at the applicants' site in Lake County, Ohio, on the southern shore of Lake Erie, about 35 miles northeast of Cleveland.

The proposed reactors, known as the Perry Nuclear Power Plant, Units 1 and 2 (the facilities), are each designed for a rated power of 3579 megawatts thermal with a net electrical output of 1205 megawatts.

The Initial Decisions are subject to review by an Atomic Safety and Licensing Appeal Board prior to becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decisions may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permits. The construction permits include the condition that the construction permit is subject to the outcome of the proceedings in Natural Resources Defense Council v. Nuclear Regulatory Commission (D.C. Circuit, July 21, 1976) Nos. 74-1385 and 74-1586. The application for the construction permits complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of their dates of issuance. The earliest date for completion of Unit 1 is April 1, 1981, and the latest date for completion is December 31, 1982. The earliest date for completion of Unit 2 is October 1, 1982, and the latest date for completion is June 30, 1984. The permits shall expire on the latest dates for completion of the facilities.

A copy of (1) the Initial Decisions dated January 6, 1977 (Antitrust), and April 29, 1977; (2) Construction Permits Nos. CPPR-148 and CPPR-149; (3) the report of the Advisory Committee on Reactor Safeguards, dated December 12, 1974, and May 12, 1975; (4) the Office of Nuclear Reactor Regulation's Safety Evaluation Report dated July 1974, and supplements thereto; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the Applicant's Environmental Report dated June 22, 1973, and supplements thereto; (7) the Draft Environmental Statement dated November 1973; and (8) the Final Environmental Statement dated April 1974, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and the Perry Public Library, 3753 Main Street, Perry, Ohio 44081. A copy of the items 2, 4 and 8, may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 3rd day of May, 1977.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc.77-13766 Filed 5-13-77;8:45 am]

[Docket No. 50-389A]

FLORIDA POWER AND LIGHT CO (ST. LUCIE, UNIT 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this antitrust proceeding to consist of the following members:

Jerome E. Sharfman, Chairman.
Michael C. Farrar.
Richard S. Salzman.

Dated: May 6, 1977.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.77-13761 Filed 5-13-77;8:45 am]

[Docket No. 50-321]

GEORGIA POWER CO. ET AL

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to authorize operation with (1) up to 92 General Electric (GE) 8×8 reload fuel bundles, (2) holes drilled in the lower tie plate of all remaining 7×7 fuel bundles to provide an alternate bypass flow path, (3) a revised safety limit MCPR of 1.06, (4) revised MCPR operating limits for 7×7 and 8×8 fuels, (5) revised MAP LHGR limits for 7×7 and 8×8 fuels, (6) restricted natural circulation operation to 1 percent thermal power or below, (7) an installed atmospheric monitoring leak detection system, and (8) an installed post-LOCA radiation monitoring system. The amendment also includes an administrative change to the main steam isolation valve setpoint from 880 psig to 825 psig, on page 1.1-12 in the Technical Specifications. The change was previously made to all other appropriate pages in the Technical Specifications as a result of License Amendment No. 24.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with the licensee's application dated February 8, 1977 (supplemented by letters dated February 22, April 11, and April 19, 1977) was published in the FEDERAL REGISTER on March 14, 1977 (42 FR 13872). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action. Prior public notice of the portions of the amendment dealing with the atmospheric monitoring leak detection system and the post-LOCA radiation monitoring system was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 2, 1977 (revision dated April 1, 1977), February 3, 1977, February 8, 1977 (supplemented by letters dated February 22, April 11 and April 19, 1977), and April 21, 1977, (2) Amendment No. 42 to License No. DPR-57 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 6th day of May 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-13762 Filed 5-13-77;8:45 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

The amendment deleted a temporary restriction regarding reactor internals vibration testing, altered the Automatic Depressurization System timer setpoint, added operability and surveillance requirements for recirculation pump discharge and bypass valves, added new surveillance requirements for safety/relief valves, and corrected errors in the specifications for Main Control Room Ventilation Isolation, High Pressure Coolant Injection Subsystem, and Automatic Depressurization System.

The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated January 21, 1976 and March 4, 1977, (2) Amendment No. 36 to License No. DPR-46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of April 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-13763 Filed 5-13-77;8:45 am]

[Docket Nos. STN 50-580 and STN 50-581]

OHIO EDISON COMPANY, ET AL., ERIE NUCLEAR PLANT, UNITS 1 AND 2

Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Ohio Edison Company, The Cleveland Electric Illuminating Company, Duquesne Light Company, Pennsylvania Power Company, and the Toledo Edison Company (the applicants), for construction permits for two pressurized water nuclear reactors designated as the Erie Nuclear Plant, Units 1 and 2 (the facilities), each of which will be designed for operation at 3780 thermal megawatts with a net electrical output of approximately 1260 megawatts. The proposed facilities are to be located at Erie County, Ohio, approximately two and one-half miles south of Lake Erie and 34 miles west of Cleveland.

The hearing, which will be scheduled to begin in the vicinity of the site of the proposed facilities, will be conducted by an Atomic Safety and Licensing Board (Board), which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Dr. Frederick P. Cowan, Mr. Frederick J. Shon, and Elizabeth S. Bowers, Esq., Chairman.

Pursuant to 10 CFR § 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Upon completion by the Commission's staff of a favorable safety evaluation of

the application and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Nuclear Reactor Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicants. In the event that a separate hearing is held with respect to a limited work authorization, Item 6 below describes the matters for consideration.

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicants have described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the Ohio Edison Company is technically qualified to design and construct the proposed facilities;

3. Whether the applicants are financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permits should be issued as proposed.

ISSUES PURSUANT TO 10 CFR § 2.761a (LIMITED WORK AUTHORIZATION)

6. Pursuant to 10 CFR § 2.761a, a separate hearing and partial decision by the Board on issues pursuant to NEPA and general site suitability and certain other possible issues may be held and issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the hearing, makes favorable findings on such issues, the Director of Nuclear Reactor Regulation may, pursuant to 10 CFR § 50.10(e), authorize the applicants to conduct certain onsite work entirely at their own risk prior to completion of the remainder of the proceeding.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine without conducting a de novo evaluation of the application: (1) whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's staff has been adequate to support the proposed findings to be made by the Director of Nuclear Reactor Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Nuclear Reactor Regulation; and (2) whether the NEPA review conducted by the Commission's staff has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether the construction permits should be issued to the applicants.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section 51.52(c) of 10 CFR Part 51: (1) Determine whether the requirements of section 102(2) (A), (C), and (D) of NEPA and Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding for the permits with a view to determining the appropriate action to be taken; and (3) determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special rehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of Items 1–5 above. Limited apearances will be permitted at the time of the hearing at the discretion of the Boerd, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by July 15, 1977. The presiding Atomic Safety and Licensing Board may make further provision with respect to limited appearances subsequently during the course of this proceeding.

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR § 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by June 15, 1977. A petition for leave to intervene which is not timely will not be entertained absent a determination by the Board that the petitioner, in addition to the matters specified in 10 CFR 2.714 (d), has made a substantial showing of good cause for failure to file on time. The reasons for the tardiness in filing a petition for leave to intervene, as well as the factors specified in 10 CFR 2.714(a)(1)–(4) shall be considered in making a determination whether there has been a substantial showing of good cause by the petitioner.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicants by June 6, 1977.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, Attention: Gerald Charnoff, Esquire, attorney for the applicants.

For further details, see the application for construction permits dated February 28, 1977 (docketed March 1, 1977), including site suitability information; the applicants' environmental report dated April 29, 1977 (docketed May 2, 1977); and the Babcock and Wilcox Company's standardized application, B–SAR–205 (Docket No. STN 50–561), which is incorporated by reference. These documents, along with any amendments or supplements thereto, are or will be available as noted above for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of those documents will also be available at the Berlin Township Public Library, 4 East Main Street, Berlin Heights, Ohio, for inspection by members of the public between the hours of 10 a.m. and 7:30 p.m. weekdays and 10 a.m. and 2 p.m. on Saturdays. As they became available, a copy of the safety evaluation report by the Commission's Office of Nuclear Reactor Regulation, the draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the proposed construction permits and the ACRS report may be obtained, when available, by request to the Director, Division of Project Management, United States Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Office of Nuclear Reactor Regulation's safety evaluation report and final environmental statement, when available, may be purchased at current rates from the National Technical Information Service, Springfield, Virginia, 22161.

Dated at Washington, D.C., this 5th day of May 1977.

NUCLEAR REGULATORY COMMISSION,
SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-13759 Filed 5-13-77;8:45 am]

[Docket No. P–564A]

PACIFIC GAS AND ELECTRIC CO. (STANISLAUS NUCLEAR PROJECT, UNIT NO. 1)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this antitrust proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Michael C. Farrar
Jerome E. Sharfman

Dated: May 6, 1977.

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.77-13760 Filed 5-13-77;8:45 am]

[Docket No. STN 50–508 and STN 50–509]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM WPPSS NUCLEAR PROJECTS NOS. 3 AND 5

Availability of Partial Initial Decision of the Atomic Safety and Licensing Board

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Partial Initial Decision Authorizing Limited Work Authorization dated April 8, 1977, by the Atomic Safety and Licensing Board in the above-captioned proceeding is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and at the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, Washington.

Based on the record developed in the public hearing in the above-captioned matter, the Partial Initial Decision modified in certain respects the contents of the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation relating to the proposed construction of the Washington Public Power Supply System Nuclear Projects Nos. 3 and 5.

Pursuant to the provisions of § 51.52 (b) (3) of 10 CFR Part 51, the Final Environmental Statement is deemed modified to the extent that the Findings and Conclusions contained in the Partial Initial Decision differ from those in the Final Environmental Statement. As required by § 51.52(b) (3) of 10 CFR Part 51, a copy of the Partial Initial Decision which modifies the Final Environmental Statement has been transmitted to the Council on Environmental Quality, the Environmental Protection Agency, and other interested agencies and persons in accordance with § 51.56 of 10 CFR Part 51.

The Partial Initial Decision and the Final Environmental Statement are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, Washington. Copies of the Final Environmental Statement (Document No. NUREG–75/053) may be purchased, at a cost of $7.50 for printed copies and $2.25 for microfiche, from the National Technical Information Service, Springfield, Virginia 22161.

Single copies of the Partial Initial Decision may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland, this 6th day of May 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch No. 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-13765 Filed 5-13-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS REACTOR FUEL SUBCOMMITTEE

Addition to Agenda

The agenda of the May 20, 1977 meeting of the Reactor Fuel Subcommittee published in the FEDERAL REGISTER on May 5, 1977, page 22965, has been changed to add the following provision:

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Pub. L. 92–463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and

titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Dr. Richard Savio of the ACRS Office, prior to the beginning of the meeting.

All other matters pertaining to this meeting remain unchanged.

Date: May 11, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-14041 Filed 5-13-77;8:45 am]

[Docket No. 50-320]

METROPOLITAN EDISON CO., ET AL.

Order Regarding Evidentiary Hearing

In the matter of Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company (Three Mile Island Nuclear Station, Unit No. 2).

The evidentiary hearing in this matter will resume on Monday, May 16, 1977, at 1:30 p.m., at the U.S. Federal Building and Courthouse, Courtroom No. 2, 3rd and Walnut Streets, Harrisburg, Pennsylvania. The hearing will continue through Saturday, May 21, 1977.

Dated at Bethesda, Md., this 11th day of May 1977.

So ordered.

ATOMIC SAFETY AND LICENSING BOARD,
EDWARD LUTON,
Chairman.

[FR Doc.77-14027 Filed 5-13-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.) representatives of the Advisory Committee or Reactor Safeguards will meet with representatives of the Reaktor-Sicherheitskommission (RSK) of the Federal Republic of Germany on May 31, June 1, and June 3, 1977 at Cologne, Germany and members will visit a number of German sites on June 1 and 2.

The purpose of this meeting is to discuss items of mutual interest related to nuclear safety and regulation.

This meeting will be closed to the public. Many of the topics to be discussed are classified by the Federal Republic of Germany and by Executive Order 11652. Section 4c. Such information must be assured a degree of protection equivalent to that required by the government furnishing the information. All other topics to be discussed include commercial secrets or information which is protected from public disclosure in Germany, which will only be given to the ACRS in confidence.

ties and Exchange Commission a proposed rule change as follows:

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close this meeting to protect information which is classified and to protect commercial secrets and other information provided in confidence to the ACRS by a foreign source (5 U.S.C. 552b (c) (1), (4) and (9)(B)). Information considered exempt from disclosure will be inextricably intertwined with the discussion of non-exempt material, if any, and separation during the meeting of this material is not considered practical.

Date: May 12, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-14129 Filed 5-13-77;11:52 am]

OFFICE OF MANAGEMENT AND BUDGET

REPORT FORMS ON U.S. DIRECT INVESTMENT ABROAD

Public Hearing

Pursuant to Pub. L. 92-463, notice is hereby given of a public hearing to be held by the Office of Management and Budget under the provisions of the Federal Reports Act of 1942 (44 U.S.C. 3506).

The purpose of the hearing is for the Office of Management and Budget to determine whether or not certain proposed report forms on United States direct investment abroad are necessary to the proper performance of responsibilities of the Department of Commerce under the International Investment Survey Act of 1976 (Pub. L. 94-472) and Executive Order 11961.

The hearing, to be held in Room 2010, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. on June 8, 1977 at 9:30 a.m., will be open to public observation and participation.

Further information regarding the hearing may be obtained from the Statistical Policy Division, Office of Management and Budget, Room 10215, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-3211.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-13907 Filed 5-13-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13516; File No. SR-Amex-77-7]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 2, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change will clarify the scope of permissible contacts between listed companies and their specialists.

The text of the proposed rule change is attached as Exhibit A.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed amendment to Section 411 of the Company Guide is to define the scope of permissible information which may be discussed during the course of communications between specialist and listed company officials, in order to encourage appropriate liaison between listed companies and their specialists, while making clear that disclosure of material non-public information relating to the company or to the market for its securities by either party to the other is prohibited.

The amendment to Section 411 is proposed pursuant to the authority of national securities exchanges contained in SEC Rule 11b-1 to regulate the conduct of specialists, and the obligation imposed on national securities exchanges in Section 6(b)(5) of the Act to adopt rules which are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interests.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

Within thirty-five days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 6, 1977.

EXHIBIT A.—AMERICA STOCK EXCHANGE, INC.

Brackets [] indicate words to be deleted, and italics indicate words to be added.

§ 411. Procedures, Rules and Regulations. From time to time Company officials inquire about Exchange rules or regulations affecting their relationship to the registered specialist in their securities.

[The Exchange recognizes that, through communication with the specialist, Company officials can gain increased understanding of the auction market and its relation to the securities of their Companies.]

(a) Specialist's Function. The specialist is a member of the Exchange who performs two basic functions regarding the issues in which he specializes. As a broker he holds and executes orders entrusted to him by other brokers on behalf of their customers. As a dealer, [he] *the specialist* is obligated, insofar as reasonably practicable, to purchase and sell securities for his own account in order to help maintain a fair and orderly market. His aim is to provide a continuous auction market throughout the trading day, with minimum price changes between transactions. The specialist does not by his own activities determine the trend of stock prices. Rather, the price at any given moment is determined fundamentally by the balance of public buy and sell orders.

(b) Liaison. The Exchange recognizes that periodic communication between Company officials and their specialists, if appropriately conducted, can be beneficial to both parties. Such communication may provide Company officials with a better understanding of the auction market, the specialist system and their own specialist's role in relation to the Company's securities. From the specialist's viewpoint, an awareness and understanding of the Company and its affairs may aid him in discharging his responsibility for maintaining a fair and orderly market in the Company's securities.

(c) Scope of Permissible Disclosure. In view of the specialist's central and sensitive role in the auction market, it is essential that Federal securities laws, Exchange rules and a responsible code of conduct be observed in all communications between specialists and Company officials. The following summary may serve as a guide as to the scope of permissible disclosure in such communications.

A Company may make available to the specialist whatever information it has provided to its stockholders, security analysts or the general public, such as specific data and information concerning general trends relating to the Company's business, as well as industry and general economic developments that may influence the Company's welfare. It is improper, however, to furnish to the specialist any material information not previously released to the public regarding such matters as earnings, forecasts, anticipated dividend action, a proposed stock split, merger negotiations or any other undisclosed matter which is likely to have a significant effect on the price of the Company's securities or influence investment decisions.

While it is not contemplated that a Company will be in continuous contact with its specialist, the specialist may from time to time inform Company officials of unusual market problems and respond to broad questions about the market in the Company's stock. The restrictions imposed on a specialist concerning the information he may disclose are set forth in paragraph (d)(1) below.

Within this framework, Company officials and specialists should feel free to call upon each other so that a mutually beneficial understanding of the problems encountered by each is fostered.

[Numerous Exchange regulations clearly define and limit a specialist's activities. The following summary of some of these rules may be helpful to Company officials in their contacts with specialists.]

(d) Exchange Rules Governing Specialist's Activities. In addition to certain provisions of the Securities Exchange Act of 1934, a number of Exchange regulations place clearly defined limits on a specialist's activities. An awareness of both the intent and spirit of Exchange rules, and the responsibilities the Exchange places on the specialist, will help ensure that contacts between Company officials and the specialist are conducted within the framework provided for above.

With respect to any security in which [he is registered as] a specialist *is registered*, Exchange rules prohibit [him] *the specialist* from:

(1) [(a)] disclosing, at any time, to any person other than a Floor Official or authorized Exchange official, any information in regard to orders entrusted to [him as a] *the* specialist or the name of a buyer or seller except as may be necessary solely for the purpose of processing a transaction; *provided, however, that when requested by a member, member organization, or a representative of the issuer of the security involved, the specialist shall, to the best of his ability, disclose to such parties the names of buying and selling member organizations in completed Exchange transactions unless specifically directed to the contrary by the member organizations involved;*

(2) [(b)] effecting transactions for his own account unless such dealings are reasonably necessary to permit him to maintain a fair and orderly market;

(3) [(c)] acquiring, holding or granting an option in any such security;

(4) [(d)] being an officer or director of the issuer of any such security;

(5) [(e)] nominating, directly or indirectly, any person to be on the Board of Directors of the issuer of any such security;

(6) [(f)] effecting, directly or indirectly, any business transaction with the issuer of any such security or any officer, director or 10% stockholder of any such issuer;

(7) [(g)] accepting an order for the purchase or sale of any stock directly from the Company issuing such stock; from any officer, director or 10% stockholder of that Company; from any pension or profit-sharing fund; or from any bank, trust company, insurance company, investment company or similar institution. (This prohibition is also applicable to the member [firm or member corporation] *organization* of which the specialist is a member.)

(8) [(h)] soliciting any proxy, directly or indirectly, on behalf of himself or any other persons in respect of any such security; and

(9) [(i)] voting, directly or indirectly, in any proxy contest involving any such security and in which he has a beneficial interest.

With respect to any security in which [he is registered as] a specialist *is registered*, Exchange rules require [him] *the specialist* to report *to the Exchange:*

(1) [(a)] unusual activity or price change;

(2) [(b)] information which [he believes] may materially affect the business or financial structure of the issuer of, [any such security] or the market for, [the Company's] *such* security;

(3) [(c)] the existence of options or selling agreements;

(4) [(d)] any unusual transaction in which [he] *the specialist* participates as a broker or dealer; and

(5) [(e)] each purchase and sale for [his] *the specialist's* own account.

[Against this background, only information about a Company that would be available to the general public should be made available to the specialist by Company officials. It is the Exchange's experience that most Company officials recognize the central and sensitive role in the auction market which the specialist fills.]

[An awareness of both the intent and spirit of Exchange rules, and the responsibilities the Exchange places on the specialist, will help assure that any contacts with specialists are conducted within the framework provided by the Exchange.]

(e) Listing Representatives. It is Exchange policy to assign a Listing Representative in the Securities Division to each listed Company (see §§ 207, 406). The Listing Representative may serve as a communications link between a Company and the specialist and can be helpful whenever questions about activity in a Company's stock or other matters arise.

[FR Doc.77-13925 Filed 5-13-77;8:45 am]

[Release No. 34-13518; File No. SR-Amex-77-9]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 2, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. ("Amex") proposes to amend its policies relating to the intervals at which exercise prices of options are fixed (the "Exercise Price Amendments"). The proposed amendments to these policies are set forth below. Brackets indicate words to be deleted, and italics indicate words to be added.

Exercise prices are generally fixed at 5 point intervals for securities traded below [50] *100, and* 10 point intervals for securities trading [between 50 and 200 and 20 point intervals for securities trading above 200] *above 100.*

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the Exercise Price Amendments is to enable the Amex to set the exercise price of series of options opened for trading on the Amex at a price per share which is closer to the market price per share at which the

underlying stock is traded in the primary market.

When implemented the Exercise Price Amendments will result in a small increase in the number of series of options opened for trading on the Amex. At present based upon the market price of the stocks underlying the options traded on the Amex, only seven classes of options would be affected by the Exercise Price Amendments. Consequently, the Exercise Price Amendments will not adversely affect the operational capacity of the Amex.

The ability to open an options series at prices closer to the price of the underlying stock would make it easier for public customers to reduce their risks through increased hedging and other purchasing and writing strategies. Specialists and Registered Options Traders would be better able to make fair and orderly markets in these issues. The public would thus be afforded greater access to a narrow, continuous, two-sided market.

The Exercise Price Amendments are authorized by Section 6(b)(5) of the Securities Exchange Act of 1934 (the "1934 Act"). Such Amendments are designed to permit the narrowing of the markets in options dealt in on the Exchange by enabling the Amex to set the exercise price of series of options opened for trading on the Amex at a price per share which is closer to the market price per share at which the underlying stock is traded in the primary market. The Amex believes that the Exercise Price Amendments will serve to promote just and equitable principles of trade and to protect investors in exchange traded option contracts.

The Exercise Price Amendments were considered and approved by the Options Committee of the Amex which is composed of Amex members and representatives of Amex member organizations.

The Amex has determined that the Exercise Price Amendments would not impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 6, 1977.

[FR Doc.77-13926 Filed 5-13-77;8:45 am]

[812-4000]

AXE-HOUGHTON INCOME FUND, INC. ET AL.

Filing of Application

MAY 6, 1977.

In the matter of AXE-HOUGHTON INCOME FUND, INC., AXE-HOUGHTON FUND B, INC., AXE-HOUGHTON STOCK FUND, INC., and AXE SECURITIES CORPORATION, 400 Benedict Avenue, Tarrytown, New York 10591 (812-4000).

Notice is hereby given that Axe-Houghton Income Fund, Inc., Axe-Houghton Fund B, Inc. and Axe-Houghton Stock Fund, Inc. (the "Funds"), each of which is registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end, management investment company, and Axe Securities Corporation ("Axe Securities") (collectively "Applicants"), the principal underwriter of each of the Funds, filed an application on August 2, 1976, and amendments thereto on November 8, 1976, January 24, 1977, and April 18, 1977, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicants from the provisions of Section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that a registered investment company and its principal underwriter must sell redeemable securities of the investment company only at the current public offering price described in the investment company's prospectus. Shares of each of the Funds are currently offered to the public at a price based on their net asset value plus a sales charge that varies with the quantity of securities purchased. The Rules promulgated under Section 22(d) permit certain variations in sales load, but Applicants state that none of them are applicable to their proposed transactions.

Applicants propose to offer to Fund shareholders, subject to the laws and regulations of the state or other jurisdiction in question, the privilege of redeeming all or part of their investment in a Fund and depositing the proceeds in a special savings account (the "Savings Account") to be established with the First Jersey National Bank (the "Bank"). Amounts continuously on deposit in such Savings Accounts could then be used to repurchase shares of any of the Funds without payment of a sales charge.

Applicants state that redemptions of Fund shares for deposit to a Savings Account (the "Redemption Deposit Privilege") will be at the Fund's then current net asset value. Amounts deposited to Savings Accounts pursuant to an exercise of the Redemption Deposit Privilege which have remained continuously on deposit by the shareholder, plus any interest credited thereon, could be reinvested in shares of any of the Funds at the then current net asset value of that Fund without paying the customary sales charge (the "Savings Reinvestment Privilege"). For the purpose of administering the proposed Privileges the Bank will establish a separate type of savings account which will be administered by its Mutual Fund branch. Deposits to these Savings Accounts will consist only of proceeds of redemptions of shares pursuant to the exercise of the Redemption Deposit Privilege and interest paid on the balance in such accounts. Withdrawals will be permitted from these Savings Accounts at any time. Depositors will be issued a statement rather than a passbook. The proposed Privileges are limited insofar as they must be exercised in amounts equal to or in excess of $1,000.

The statement for each Savings Account will indicate the date of each deposit. When a request for reinvestment pursuant to the Savings Reinvestment Privilege is received, it will be charged against the Savings Account on a "first in, first out" basis. If a shareholder withdraws money from his Savings Account without reinvesting it in one of the Funds, he could not subsequently redeposit the money in the Savings Account.

Amounts on deposit in Savings Accounts will bear interest at the same rate, and be subject to the same rules and regulations governing all other "day of deposit to day of withdrawal" passbook accounts maintained with the Bank, except that statements rather than passbooks will be issued on the Savings Accounts. The rate at which interest on such accounts presently accrues is 5 percent per year, compounded and credited monthly. The rules pertaining to such Savings Accounts and the interest paid thereon are subject to change from time to time in conformity with changes made by the Bank for other accounts of the same type. The Bank has agreed to perform the services required in administering the Redemption Deposit Privilege without charge. Axe Securities (the principal underwriter of the Funds) or the Bank will have the right to terminate both proposed Privileges at any time.

Forms for use by Fund shareholders desiring to exercise a Redemption Deposit Privilege (which concurrently will authorize the Bank to open a Savings Account) or a Savings Reinvestment Privilege will be available from either Axe Securities or the Bank. Prospectuses of the Funds will be available from Axe Securities.

Applicants assert that the purpose of the proposed Redemption Deposit Privilege is to give shareholders who wish to change the nature of their investment the opportunity to transfer their investment in Fund shares into an interest bearing account. The proposed Savings Reinvestment Privilege will give shareholders who have transferred their investment into an interest bearing account, the opportunity to reinvest such monies in Fund shares without having to pay additional sales charges. Applicants state that the Redemption Deposit Privilege together with the Savings Reinvestment Privilege will encourage Fund shareholders to review their Fund shares as long-term investments.

Applicants argue that granting the proposed exemption will be consistent with the purposes of Section 22(d) of the Act in that the proposed Privileges will not discriminate among investors. They assert that no sales charge should be required on such reinvestments because no sales effort is involved and no commission will be paid to any dealer. Applicants also state that requiring transfers under both Privileges to be made in amounts in excess of $1,000 is necessary to reduce the possibility that a large number of small new accounts will be established which would impose an unreasonable record keeping burden on the Funds.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person or persons from any provision of the Act or from any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 31, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13916 Filed 5-13-77;8:45 am]

[File No. 500-1]

BOSTON AND ALBANY RAILROAD CO.

Suspension of Trading

MAY 4, 1977.

In the matter of Trading in the Securities of Boston and Albany Railroad Company, Carthage & Adirondack Railroad Company, Cleveland-Cincinnati-Chicago & St. Louis Railway Company, Cleveland & Pittsburg Railroad Company, Connecting Railway Company, Delaware Railroad Company, Erie & Pittsburgh Railroad Company, Kanawha & Michigan Railroad Company, Lake Shore & Michigan Railroad Company, Little Miami Railroad Company, Mahoning Coal Railroad Company, Michigan Central Railroad Company, Mohawk & Malone Railroad Company, New York Central Railroad Company, New York City & Hudson River Railroad Company, New York Connecting Railroad Company, New York & Harlam Railroad Company, New York & Putnam Railroad Company, Northern Central Railway Company, Penn Central Company, Penn Central Transportation Company, Pennsylvania Railroad Company, Peoria & Eastern Railway Company, Philadelphia, Baltimore & Washington Railroad Company, Philadelphia & Trenton Railroad Company, Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, Pittsburgh, Fort Wayne & Chicago Railway Company, Pittsburgh, Youngstown & Ashtabula Railway Company, United New Jersey Railroad & Canal Company, West Shore Railroad Company, File No. 500-1, Securities Exchange Act of 1934 Section 12(k).

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of the above named issuers being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:30 p.m. (EDT) on May 4, 1977 through May 13, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13917 Filed 5-13-77;8:45 am]

BRADFORD SECURITIES PROCESSING SERVICES, INC.

Order Approving Rule Change Submitted by Bradford Securities Processing Services, Inc. Providing for the Establishment of Additional Branch Facilities

MAY 6, 1977.

In the matter of Bradford Securities Processing Services, Inc., 80 Pine Street, New York, New York, 10005 (File No. SR-BSPS-77-3).

On March 10, 1977 Bradford Securities Processing Services, Inc. ("BSPS") filed a proposed rule change pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act") relating to the establishment of branch facilities in Kansas City, Missouri and St. Louis, Missouri. As part of its filing, BSPS made representations relating to procedures and safeguards for the handling of securities and funds.

In accordance with Section 19(b) of the Act and Rule 19b-4 thereunder, the rule change was published in the FEDERAL REGISTER (42 FR 17545, April 1, 1977) and the public was invited to submit comments until April 22, 1977. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13400. No letters of comment were received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, That the rule change contained in File No. SR-BSPS-77-3 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13918 Filed 5-13-77;8:45 am]

[Release No. 34-13509; File No. SR-DTC-77-4]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 28, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change[1] as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change involves correction by The Depository Trust Company (DTC) of certain evident errors or omissions in deleted Miscellaneous Deliver Orders (MDOs), as described in DTC Important Notice B 3225. The fee

[1] On April 21, 1977, DTC filed Amendment No. 1 to the proposed rule change.

associated with such corrections constitutes an addition to the Fee Schedule for Major Services originally filed on Form 19b–4A, File No. SR–NYSE–75–19, as follows:

Corrections to erroneous MDOs, $2 per correction.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to offer Participants the opportunity to have DTC personnel correct evident errors or omissions in deleted MDOs for re-entry into the system.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions for which DTC is responsible by increasing the number of completed deliveries and will equitably allocate fees among DTC Participants.

Participants were informed of the proposed rule change by an article in DTC's February 1977 Newsletter and by DTC Important Notice B 3225. Participants have returned signed copies of the agreement included in the Important Notice. No written comments were received. In conversations with Participants, no objections to the proposed rule change were raised.

DTC believes that no burden on competition will be caused by the proposed rule change.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 5, 1977.

[FR Doc.77–13927 Filed 5–13–77;8:45 am]

[812–4061]

DREYFUS LEVERAGE FUND, INC. AND IRVING TRUST CO.

Order

MAY 4, 1977.

In the matter of The Dreyfus Leverage Fund, Inc., 767 Fifth Avenue, New York, NY 10022 and Irving Trust Company, One Wall Street, New York, NY 10015 (812–4061).

On March 31, 1977, a notice was issued (Investment Company Act Release No. 9701) of the filing of an application on December 10, 1976, and an amendment thereto on March 29, 1977, by The Dreyfus Leverage Fund, Inc. (the "Fund"), a diversified, open-end investment company registered under the Investment Company Act of 1940 ("Act"), and Irving Trust Company (the "Bank"), a commercial bank organized under the laws of the State of New York, for an order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder permitting the Fund to borrow money from the Bank under a proposed arrangement described more fully in the notice.

The notice gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued as of course unless a hearing should be ordered. No request for a hearing has been filed and the Commission has not ordered a hearthe Commission has not ordered a hearing.

The matter having ben considered, it is found that the participation by the Fund in the proposed borrowing arrangement is consistent with the provisions, policies and purposes of the Act and is not on a basis different from or less advantageous than that of any other participant. Accordingly, *It is ordered,* pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, that the application to permit The Dreyfus Leverage Fund, Inc. and Irving Trust Company to participate in the proposed borrowing arrangement described in the application, to the extent requested, be and hereby is, granted, effective forthwith.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–13919 Filed 5–13–77;8:45 am]

[812–4108]

E. I. DU PONT DE NEMOURS AND CO.

Filing of Application

MAY 5, 1977.

In the matter of E. I. Du Pont de Nemours and Company, 1007 Market Street, Wilmington, Delaware 19898 (812–4108).

Notice is hereby given that E. I. du Pont de Nemours and Company ("Applicant"), a Delaware corporation, filed an application on March 18, 1977, pursuant to Section 17(b) of the Investment Company Act of 1940 (the "Act"), for an order exempting from the provisions of Section 17(a) of the Act a proposed transaction involving (1) the purchase from Applicant by Dana Electronics, Inc. ("Dana"), a California corporation, of 727,500 shares (the "Shares") of common stock of Dana, representing Applicant's entire equity ownership in Dana, for $2,182,500 in cash, and (2) the prepayment by Dana of certain promissory notes held by Applicant. Dana and Applicant are described, in the application, as companies presumed to be controlled by Christiana Securities Company ("Christiana"), registered under the Act as a closed-end, non-diversified management investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Dana was organized in 1961. Applicant states that it made a series of investments in Dana between 1962 and 1968, as a result of which Applicant presently owns the Shares, representing approximately 40.1 percent of Dana's outstanding common stock, and $1,250,000 principal amount of 5½ percent promissory notes ("Notes") due September, 1978. The Notes are convertible into additional shares of Dana common stock at a conversion price of $10.00 per share.

The application states that the principal reason for Applicant's investments in Dana was that Applicant envisioned that, if Dana's business developed along lines compatible with Applicant's business interests, at some time a joinder of Dana with Applicant might be mutually desirable. The application further states, however, that, as time progressed, Dana's interest in the electronic test instrumentation and telephone communication equipment fields developed in a divergent manner from Applicant's overall corporate objectives, and that early in 1974 Applicant informed Dana that it was no longer interested in considering a joinder of the two companies.

Applicant states (1) that as a partial result of Dana's unsatisfactory profit performance during several years prior to 1976, uncertainty arose regarding Dana's future; (2) that Dana has informed Applicant that this situation has been further aggravated by uncertainty regarding Applicant's long range plans for its investment in Dana; and (3) that these conditions have caused unrest and concern among Dana's employees, sales representatives and customers. Applicant asserts that, while neither Dana's profit performance nor its financial condition have, until recently, been strong enough to support Dana's purchase of the Shares, there has been a recent and marked improvement in both those factors, and that Dana's management has concluded that such a purchase, upon acceptable terms, would be advantageous to Dana and its shareholders.

The application states that negotiations regarding the purchase of the Shares culminated in an agreement (the "Agreement"), executed by Dana and Applicant effective as of February 7, 1977, which has received the unanimous authorization and approval of Dana's Board of Directors and the unanimous approval of Applicant's Executive and Finance Committees. The Application states that there are presently six members on Dana's Board of Directors, two of whom are executives of Applicant who (1) specifically refrained from attending any meetings of Dana's Board of Directors when the Agreement or the matters covered thereby were being deliberated and considered, and (2) played no part in the negotiation of the Agreement.

Pursuant to the Agreement, Applicant has agreed to sell the Shares to Dana for a cash purchase price of $3.00 per share, or a total cash purchase price of $2,182,500. The application states that this sale of Shares is subject to the timely satisfaction of certain conditions, including the following:

1. A majority of the shares of Dana's outstanding common stock entitled to vote at Dana's 1977 annual meeting of shareholders shall have been voted in favor of the Agreement at that meeting. Applicant states that, in view of its direct interest in the transaction, it has agreed to vote the Shares on this matter in the same proportions as all other shares of Dana's common stock are voted for or against the Agreement.

2. Either the order requested in the application shall have been obtained, or Applicant's counsel shall have rendered an opinion satisfactory to Dana to the effect that the purchase and sale of the Shares pursuant to the Agreement is not prohibited by Section 17(a) of the Act.

3. On or before the closing for the purchase by Dana of the Shares, Dana shall have paid in full to Applicant all principal and interest owing as of the date of such payment on the Notes. Applicant states that it is contemplated that the Notes will be paid at the closing, which is to be held promptly after receipt of the order requested by the application.

4. Dana shall have obtained consent of its principal lender, United California Bank.

According to the application, Dana's shareholders have approved the Agreement, and the consent referred to in the fourth of the aforementioned conditions has been received.

The aplication states that Dana plans to cancel and retire the Shares if the proposed transaction is consummated. The application states further that, as a result, earnings per share of Dana's remaining outstanding stock for the year ended September 30, 1976, and the quarter ended December 31, 1976, would increase, respectively, from $.65 and $.27 on an historical basis to $.92 and $.39 on a pro forma basis, and that the net book value per share of Dana's remaining stock at December 31, 1976, would increase from $4.16 on an historical basis to $4.94 on a pro forma basis. The application also states that Dana's Board of Directors has detremined that the proposed transaction is within Dana's present financial capabilities and represents an attractive opportunity for utilization of Dana's excess cash assets, and that the sources of funds for the transaction, in addition to such excess cash assets, include unsecured bank lines of credit that have been established by Dana.

The application states that Christiana owns approximately 27.8 percent of the outstanding common stock of Applicant, which, as previously stated, owns approximately 40.1 percent of the outstanding common stock of Dana. Applicant concludes that both Applicant and Dana are (1) presumed to be controlled by Christiana, and (2) affiliated persons of Christiana, for purposes of the Act.

Section 17(a) of the Act provides, in part, that it shall be unlawfufl for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to purchase from such registered company, or any company controlled by such company, any security or other property. Applicant states that the proposed transaction, which involves the purchase of the Shares and the prepayment of the Notes by Dana, may therefore be prohibited by Section 17(a). It therefore requests an order exempting that proposed transaction from the provisions of Section 17(a).

Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicant asserts that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person. In support of this assertion, Applicant has submitted the following:

1. The $3.00 per share purchase price for the Shares, which are not registered under the Securities Act of 1933, bears a reasonable relationship, Applicant believes, to (1) the bid prices in the over-the-counter market for Dana common stock, ranging from $2⅛ to $4 a share, in the four week period immediately preceding execution of the Agreement, and (2) the price in the two most recent transactions known to Applicant involving large blocks of Dana's common stock. Applicant states that these two transactions involved (1) the purchase in September, 1976, by the President and Chairman of the Board of Dana, from five Dana stockholders, of 197,767 shares at $3.50 per share, and (2) an agreement in December, 1976, for the purchase by Dana, from a stockholder who was neither an officer nor a director of Dana, of 169,388 shares at a price of $3.00 per share, such transaction having been consummated in full in January, 1977, upon the discharge of Dana's payment obligations.

2. Applicant states that it has been interested in liquidating its investment position in Dana. It believes that the proposed transaction would accomplish such liquidation on reasonable terms. In this regard, Applicant states that it insisted upon prepayment of the Notes by Dana as a condition to the sale of the Shares at a price of $3.00 per share.

3. The application states that Dana's Board of Directors believes that the proposed purchase of the Shares will eliminate remaining upcertainty regarding Dana's future, and will eliminate any adverse effect that might result from disposition of the Shares to an unknown purchaser.

4. According to the application, a 1968 agreement between the Applicant and Dana, which expires by its own terms if Applicant's ownership of Dana's capital stock becomes less than 10%, imposes various restrictions on, or affecting, Dana; Dana's Board of Directors believes that it is to Dana's advantage to be free of these restrictions.

5. The application states that Dana believes that its purchase of the Shares should make its subsidiaries eligible for preferential treatment as small business concerns to bid on most "small business set aside" federal government procurement contracts involving their products and that such qualification might well increase Dana's annual revenues. Applicant states that such preferential treatment has heretoforc been denied because of its large stock ownership of Dana.

Finally, Applicant submits that the proposed transaction is consistent with the policies of Christiana and with the general purposes of the Act.

Notice is further given that any interested person may, not later than May 27, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–3920 Filed 5–13–77;8:45 am]

[812-4120]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO. AND MASSMUTUAL CORPORATE INVESTORS, INC.

Filing of Application

MAY 5, 1977.

In the matter of Massachusetts Mutual Life Insurance Company, and MassMutual Corporate Investors, Inc., 1295 State Street, Springfield, Massachusetts 01111 (812-4120).

Notice is hereby given that Massachusetts Mutual Life Insurance Company ("Insurance Company"), a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, and MassMutual Corporate Investors, Inc. ("Fund"), a closed-end, non-diversified, management investment company registered under the Investment Company Act of 1940 ("Act") (hereinafter referred to collectively as "Applicants"), filed an application on April 6, 1977, and an amendment thereto on May 3, 1977, for an order pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act a proposed sale by the Insurance Company to the Fund of $1,095,000 in principal amount of an issue of 10½ percent Subordinated Notes due 1987 ("Non-Convertible Notes") and $405,000 in principal amount of an issue of 10½ percent Convertible Subordinated Notes due 1989 ("Convertible Notes") of WellTech, Inc. ("WellTech"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

BACKGROUND

According to the application, the Insurance Company has contracted to purchase at direct placement from WellTech the entire principal amount ($2,920,000) of a new issue of the Non-Convertible Notes and the entire principal amount ($1,080,000) of a new issue of Convertible Notes (hereinafter referred to collectively as the "Notes"); the Notes are secured by a second lien on certain accounts receivable and fixed assets of WellTech. According to the application, WellTech intends to apply the proceeds from the sale of the Notes to the reduction of outstanding bank debt and for general corporate purposes. The application states further that the Insurance Company has purchased $2,190,000 in principal amount of the Non-Convertible Notes and $810,000 in principal amount of the Convertible Notes at a closing ("Closing") held on March 30, 1977. Applicants state that the holders of the Convertible Notes are to be permitted at any time to convert all or any portion of the Convertible Notes into shares of common stock of WellTech at a conversion price of $14.40 per share. Applicants state further that on March 30, 1977, the closing prices for the common stock of WellTech were $11⅜ bid and $11¾ asked on the over-the-counter market.

Applicants represent that WellTech has agreed (1) to register, at its expense, one public offering of common stock underlying the convertible portion of the Notes, and (2) to include the common stock underlying the convertible portion of the Notes in any other registration of WellTech common stock. Applicants also represent that the remaining $1,000,000 in principal amount of the Notes which the Insurance Company has contracted to purchase may be issued at WellTech's option on a date or dates to be selected by WellTech, but not later than June 30, 1978, and if issued, are to be purchased by the Insurance Company alone, or by the Insurance Company and the Fund, subject to the receipt of any Commission orders that may be necessary.

According to the application, WellTech is engaged in the well servicing segment of the oilfield services industry; well servicing involves the provision of mobile rigs and crews for the completion, servicing and workover of oil and gas wells on a contract basis.

Applicants state that Groco, Inc. ("Groco"), a wholly-owned subsidiary of the Insurance Company, had held, prior to the filing of the application, 198,375 shares of common stock of WellTech; these shares were acquired in December, 1976, by the conversion into common stock, at the rate of $1.60 per share, of a portion of 9 percent 7-year Convertible Subordinated Notes of WellTech purchased by Groco in 1973; the remaining portion of those Subordinated Notes was converted into common stocks in 1976 and sold. According to the application, Groco has sold 100,000 additional shares of WellTech common stock, so that it now owns 98,375 shares, or approximately 3.59 percent, of the outstanding WellTech common stock. Applicants state further that the Fund presently owns no securities of WellTech.

THE PROPOSED TRANSACTION

The Insurance Company which is the Fund's investment adviser, represents that, in its judgment, the Notes would be an attractive investment for the Fund. It states that in recent years WellTech has shown growth in both sales and earnings, and that prospects for the industry in which WellTech is engaged appear good.

According to Applicants, as of the date of the application the interest rate on the Notes, which is commensurate with prevailing market rates of interest for companies like WellTech, is attractive in light of the current yield on the Fund's portfolio, and the convertibility of the convertible portion of the Notes further enhances their value to the Fund.

The Insurance Company therefore proposes to sell to the Fund one-half of the Notes purchased from WellTech at the Closing; that is, one-half of the $2,190,000 ($1,095,000) in principal amount of the Non-Convertible Notes and one-half of the $810,000 ($405,000) in principal amount of the Convertible Notes.

Applicants state that, should the order they seek here be granted, the Insurance Company will, as soon as practicable thereafter, sell one-half of the principal amount of the Notes acquired at the Closing, as described above, to the Fund at the price paid by the Insurance Company plus accrued interest, upon receipt by the Insurance Company of appropriate investment representations from and an undertaking by the Fund to be bound by the terms and conditions subject to which the Insurance Company holds such Notes. Applicants state further that if a favorable order is not received, the entire principal amount of Notes will be retained for investment by the Insurance Company.

According to the application, so that the transfer of Notes to the Fund at the aforementioned price can be regarded as made at a fair price, Applicants propose that the transfer to the Fund be made only if such order is received prior to June 30, 1977 (three months after the Closing). In addition, Applicants represent that the Fund will not be obligated to purchase the Notes from the Insurance Company unless contemporaneously a majority of the "non-interested" directors of the Fund approve such purchase.

Applicants state that no Commission action is requested at this time with respect to: (1) any subsequent sale of the Notes; (2) exercise by the Insurance Company or the Fund of the conversion privileges of the Notes; or (3) the remaining $1,000,000 in Notes of WellTech which the Insurance Company has contracted to buy.

Section 17(a) of the Act provides, in part, that it is unlawful for any affiliated person of a registered investment company, acting as principal, knowingly to sell to such registered investment company any security or other property. Section 17(b) of the Act generally provides that, upon application, the Commission shall by order exempt a proposed transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

Section 2(a)(3) of the Act includes within the definition of an affiliated person of an investment company, any investment adviser thereof; thus, the Insurance Company, the Fund's investment adviser, is an affiliated person of the Fund. Applicants state that the proposed sale to the Fund by the Insurance Company would fall within the provisions of Section 17(a) of the Act. Applicants submit, however, that (1) since the consideration to be paid by the Fund equals the price paid by the Insurance Company, plus accrued interest, the terms of such a transfer would be reasonable and fair, would not result in any disadvantage to the Fund and would not involve overreaching on the part of either the Insurance Company or the Fund; (2) the proposed transaction is consistent with the policy of the Fund as recited in its registration statements; and (3) the proposed transaction is consistent with the general purposes of the Act.

Applicants represent that, although the interests of the Insurance Company and the Fund will not be identical after such transfer because of the interest held in WellTech by Groco, the indirect interest of the Insurance Company through Groco has had no effect on the decision of the Insurance Company to make the proposed offer and sale of Notes to the Fund.

Notice is further given that any interested person may, not later than May 27, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13921 Filed 5-13-77;8:45 am]

[Release No. 34-13486; File No. SR-MSE-77-10]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 26, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of the Proposed Rule Change submitted by the Midwest Stock Exchange, Inc. ("MSE").

A new article is added to the Rules of the Exchange as follows: (additions italicized).

ARTICLE XXXIV
REGISTERED MARKET MAKERS—EQUITY FLOOR
GENERAL RESPONSIBILITIES

Rule 1. A registered market maker shall effect all of his transactions in securities traded on the Exchange so that they constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. No registered market maker shall enter into transactions or make bids or offers that are inconsistent with such a course of dealings.

OBLIGATION TO BID AND OFFER

Rule 2. A registered market maker shall, at the request of a floor broker, make a bid or offer in any security to which he is assigned or in which he is then trading such that a transaction effected thereon will contribute to the maintenance of a fair and orderly market.

ASSIGNED SECURITIES

Rule 3. A registered market maker shall engage to a reasonable degree under existing circumstances in a course of dealing in the securities to which he is assigned that is reasonably calculated to contribute to the maintenance of a fair and orderly market. The Floor Procedure Committee (or other committee appointed for the purpose by the Board) shall specify the percentage of the shares purchased and sold by a registered market maker that must be of securities to which he is assigned.

TRADING FROM OFF THE FLOOR

Rule 4. Except in unusual circumstances, no registered market maker shall initiate a transaction in his market maker account from off the floor.

RELIEF FROM RESPONSIBILITIES

Rule 5. A registered market maker may be relieved from his responsibilities under Rules 1-4 of Article XXXIV only in unusual market conditions as determined by two members of the Floor Procedure Committee.

RELATION TO SPECIALISTS

Rule 6. Registered market makers and specialists shall coordinate their activities in furtherance of the maintenance of fair and orderly markets.

ORDER ACCEPTANCE

Rule 7. A registered market maker may accept limit orders in any security to which he has been assigned that have been presented to the specialist and not accepted by him. Limit orders and market orders accepted by a registered market maker shall be handled by him in accordance with Exchange rules governing the handling of such orders by specialists.

JOINT PARTICIPATION

Rule 8. When the bids or offers of one or more registered market makers are equal to those of the specialist, the registered market maker or market makers as a group are entitled to participate in the transactions effected thereon to the extent of one-third of the total shares involved (excluding those needed to satisfy public orders).

OPENINGS

Rule 9. Registered market makers as a group are entitled to participate in opening a security on the Exchange to the extent of one-third of the net imbalance (excluding specialist participation) of purchase and sale orders on the Exchange.

PUBLIC OUTCRY

Rule 10. No specialist or market maker shall effect a transaction for his own account unless the presence of the other side of that transaction had been audibly announced at the post.

LIMIT ORDERS

Rule 11. A limit order held by a specialist or registered market maker shall be executed taking into account transactions on the Exchange as well as transactions in the New York market.

UNUSUAL CIRCUMSTANCES

Rule 12. Questions as to the respective responsibilities and rights of specialists and registered market makers shall be promptly brought to the attention of a member of the Floor Procedure Committee who shall resolve such questions subject to review by the full committee.

REGISTRATION AND APPLICATION

Rule 13. A member may be registered, upon application and subject to such requirements of training, experience, and competence as the Exchange may impose, as a registered market maker.

ASSIGNMENT

Rule 14. Each registered market maker shall be assigned one or more securities by the Floor Procedure Committee (or other committee appointed for the purpose by the Board) for which he shall have responsibility under Rule 3 of this Article.

REQUIRED CAPITAL

Rule 15. A registered market maker shall have net liquid assets (or a letter of guarantee from a member firm clearing his transactions) of not less than $10,000 per security to which he is assigned or $25,000 in total.

SUSPENSION AND TERMINATION

Rule 16. The registration of a registered market maker may be suspended or terminated by the Floor Procedure Committee (or other committee appointed for the purpose by the Board) in accordance with procedures specified in the Rules upon a determination that he violated the Constitution or Rules of the Exchange or failed adequately to fulfill his responsibilities as a registered market maker.

REGULATORY STATUS

Rule 17. Registered market makers are members registered as specialists for purposes of the Securities Exchange Act of 1934 and as such may not affect on the Exchange as broker any transactions except upon a market or limited price order.

MSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to tie together into one trading system the best features of the unitary specialist and competing market maker systems. The result will be a system which we expect will aid the competitive position of the MSE in a national market system. It will establish a new category of market makers on the Floor of the Exchange with specific responsibilities to contribute to a fair and orderly system of trading equities.

It is anticipated that addition of a market maker function will add to the depth and liquidity of the MSE market. Therefore, the MSE asserts that the proposed rule promotes just and equitable principles of trade and removes impediments to the perfection of the mechanism of a free and open market. As such, the Exchange believes that Section 6(b)(5) of the Act provides the statutory basis for the proposed amendment.

The proposed Rule contained herein was discussed with Exchange floor members including the three Floor Governors who also serve as members of the Floor Procedure Committee. While some comments were received to the effect that some floor members would prefer the retention of a unitary specialist system, comments received in general were favorable to the proposed Rule.

The MSE believes that the proposed rule change will place no burdens on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within twenty-one days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1977.

[FR Doc.77-13928 Filed 5-13-77;8:45 am]

[Release No. 34-13515; File No. SR-MSE-77-9]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 29, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change (deletions [bracketed], additions italicized).

RULES AND PRACTICES FOR TRADING ON THE MIDWEST STOCK EXCHANGE, INCORPORATED

22. *Charges by Member and Specialist for Execution of Orders.*

The Specialist, Co-Specialist or Relief Specialist must render upon execution a written report on every transaction made by him. When acting as agent, he [shall charge 50 percent of the floor brokerage as provided in Rule 2(d)(1) of this Article. The Specialist to whom an order is given shall bill the originating floor broker the Specialist's floor rate and such member shall, in turn, bill the member firm or member corporation the regular floor brokerage rate.] *may charge floor brokerage to the originating floor broker who in turn may charge floor brokerage to the member firm or member corporation that initiated the order. In no event may the Specialist charge a fee for executing a market order.*

A member or member organization *acting in a non-Specialist capacity*, who buys or sells for his or its own account the securities named in an order he *or it* is executing for another member *firm*, may not charge *a* commission but such member or member organization [shall] *may* charge a handling fee therefore. [which shall be the applicable member charge as prescribed for such transaction in Rule 2(d)(1). Except if the member or member organization in acting as the assigned Specialist in named issue, he or it shall charge a handling fee equal to 50 percent of the amount as prescribed for such transaction in Rule 2(d)(1).]

Interpretations and Policies

The Specialist may charge a fee on *limit* [all] orders [executed by the Specialist] *he executes while acting in an agency capacity.* He must have taken possession of the order and have been responsible for the execution on behalf of the submitting member.

The following [exceptions] *interpretations* shall be noted:

[1. Market orders left with the Specialist for purpose of establishing a price. Example: Split market orders.]

[2]1. *The Specialist may not bill an* order[s] left with *him* [the Specialist] for the purpose of effecting an opening in the stock issue. Example: Day order to buy 100 XYZ at 42 timed 9:10 A.M. Issue opens at 41⅞ at 9:15 A.M.

[3]2. *The Specialist may not bill an* order[s] upon which the decision and responsibility of execution has remained with the floor broker. Example: Not held orders, discretion orders and orders on which the floor broker would buy or sell for his or its own acount [(a fade)].

3. [(The Committee on Floor Procedure has ruled that for purposes of this Rule,] *A* limit order split with the [primary] *New York* market with a limit price that is the same as or better than the last sale in the [primary] New York market [the order shall] *will* be treated as a market order. No fee will be charged by the Specialist.

4. There shall be no billing by the Specialist for a limit order in a dual issue which is subsequently changed to a market order.

5. Open orders entered away from the market which are executed on a subsequent opening may be billed by the Specialist provided he is not a principal in the transaction.

6. Also, the Specialist shall return the original order, if completed, along with his bill to the originating floor broker. He shall retain a copy of the billing and submit the original copy to the Clearing Comparison Room.[)]

MSE'S STATEMENT OF BASIS AND PURPOSES

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to aid the competitive position of the Midwest Stock Exchange, Incorporated by elimination of a procedure viewed as being an impediment to an unrestricted flow of orders to a national marketplace.

The Rule as it now exists contains language which relates back to the time when fixed rates were still in existence. Therefore, the proposed rule change promotes just an equitable principles of trade and removes impediments to the perfection of the mechanism of a free and open market.

Comments have neither been solicited nor received.

The Midwest Stock Exchange, Incorported, believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20504. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted with 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 6, 1977.

[FR Doc.77-13929 Filed 5-13-77;8:45 am]

[812-4031]

NOMURA CAPITAL FUND OF JAPAN, INC.

Application

MAY 6, 1977.

In the matter of Nomura Capital Fund of Japan, Inc., 100 Wall Street, New York, New York, 10004 (812-4031).

Notice is hereby given that Nomura Capital Fund of Japan, Inc. ("Applicant"), a Maryland corporation registered as a diversified, open-end management investment company under the Investment Company Act of 1940 ("Act"), filed an application on September 20, 1976, and amendments thereto on January 13, 1977, and March 4, 1977, for an order, pursuant to Sections 6(c) and 10(f) of the Act, exempting from the provisions of Section 10(f) of the Act Applicant's proposed purchases of equity securities in Japan at a discount from market prices in public offerings in which persons affiliated with Applicant's investment advisers participate as principal underwriters. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated on August 5, 1976; that it has registered its shares on Form S-5 under the Securities Act of 1933 ("1933 Act"); and that it completed an initial public offering of such shares on October 20, 1976, by selling 3,165,529 shares for aggregate net proceeds of $29,439,419.70. Applicant states further that its investment objective is long-term capital appreciation, primarily through investment in equity securities of Japanese corporations; that, under normal conditions, it expects to invest at least 80% of it's assets in Japanese corporate securities; and that it contemplates that a substantial percentage (normally 80 percent or more) of the investments will be made directly in the Japanese markets. According to the application, shares of the Applicant will be sold primarily to United States investors.

The application states that the Nomura Securities Co., Ltd. ("Nomura Japan"), a Japanese corporation organized in 1925, is the largest securities firm in Japan and conducts a diversified securities business including, among other things, acting as a broker and dealer in corporate and government securities and engaging in securities research. Applicant states that Nomura Japan participates as an underwriter in a substantial number of public offerings in Japan. Applicant states further that Nomura Securities International, Inc., a New York corporation and 95%-owned subsidiary of Nomura Japan, acts as its principal underwriter in the continuous offering of its shares, and that Nomura Capital Management, Inc., a wholly-owned subsidiary of Nomura Securities International, Inc., serves as its investment adviser. According to the application, Nomura Research Institute, a Japanese corporation, wholly-owned by Nomura Japan, also serves as investment adviser to the Applicant, pursuant to an agreement with Nomura Capital Management, Inc. Applicant submits that, in view of the foregoing, its investment advisers are "affiliated persons" of Nomura Japan for purposes of the Act.

Section 10(f) of the Act provides, in part, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an investment adviser of such registered company, or is a person of which any such investment adviser is an affiliated person.

Rule 10f-3 promulgated under the Act exempts a transaction from the provisions of Section 10(f) if certain enumerated conditions are met. One such condition is that the securities to be purchased are part of an issue effectively registered under the 1933 Act. Applicant asserts that, in Japan, underwritten public offerings of common stocks are made at discounts (typically up to 10 percent from current market prices, but that such securities are not registered under the 1933 Act and that, therefore, Applicant will be unable to purchase securities in such offerings where Nomura Japan or any of its affiliates participates as a principal underwriter. Applicant, therefore, seeks an order exempting from the provisions of Section 10(f) its purchases of common stock in public offerings in Japan in which Nomura Japan or any of its affiliates participates as a principal underwriter, on the condition that (1) any common stocks purchased in such offerings are registered under that country's Securities Exchange Law of 1948 ("Japanese Act"); (2) such offerings are at a discount from the market price; and (3) with the exception of the aforementioned requirement of registration under the 1933 Act, all conditions of Rule 10f-3 are satisfied.

According to the application, the exemption sought would substitute the registration provisions of the Japanese Act for those of the 1933 Act. Applicant asserts that the Japanese Act is the basic securities law of Japan; that the Japanese Act was based upon the 1933 Act and the Securities Exchange Act of 1934; and that certain of the Japanese Act's provisions, including those relating to the registration of securities, closely parallel the provisions of the 1933 Act and the Securities Exchange Act of 1934. According to the application, under the Japanese Act, a public offering of securities may not lawfully be made unless a registration statement is in effect. Applicant states that such registration statements must be reviewed by the Japanese Ministry of Finance and will not become effective if the Ministry of Finance finds that full disclosure has not been made, and that no solicitations, either oral or by means of a prospectus, are permitted until the registration statement has become effective.

Applicant states that the commitments of underwriters in Japanese common stock offerings are firm and that the obligations of the various underwriters are several and not joint. In the underwriting agreement, each underwriter is obligated to purchase shares from the issuer at a fixed price (negotiated by the issuer and the underwriters); the issuer receives proceeds based on this net price regardless of the marketing results of the underwriting group.

Applicant states further that, in common stock offerings in Japan, underwriters offer the securities to the public at a public offering price disclosed in the prospectus, and that any discount from prevailing market prices is determined by the issuer and the underwriters based upon marketing considerations and is subject to administrative guidance from the Japanese Ministry of Finance. Applicant asserts that such public offering price is fixed and does not change during the offering period.

Rule 10f-3(g), as here pertinent, provides that the purchase of securities pursuant to Rule 10f-3 shall have been authorized by a resolution of the board of directors of the registered investment company concerned, or of an executive committee composed of at least three members of such board, which resolution shall state that in the judgment of the board or committee, the purchase proposed will meet all substantive requirements of Rule 10f-3, and which authorization shall have been supported by the vote of net less than a majority (consisting of at least three persons) of the board or committee who were not affiliated persons of any principal underwriter of the issue offered. Applicant represents that it will submit any proposed purchase of securities that would be permitted by the order sought herein to its Board of Directors, or to a committee

thereof consisting of at least three members of the Board who are not affiliated persons of any principal underwriter of the issue being offered, at least two of whom must be fluent in the Japanese language. Applicant states that those committee members fluent in Japanese will be supplied with the Japanese prospectus used pursuant to the Japanese Act and with such further information as such members deem necessary to make the necessary determination under Rule 10f-3(g), and that any member of the committee not fluent in Japanese will be supplied with such information in English sufficient to make such determination. Applicant asserts that, for the purposes of Rule 10f-3, registration under the Japanese Act is the substantial equivalent of effective registration under the 1933 Act. Applicant further submits that, given the significant role of Nomura Japan in underwritten public offerings in Japan, its shareholders will be prejudiced in the absence of such relief since it will be precluded from purchasing equity securities at a discount in public offerings where Nomura Japan or any of its affiliates participates as a principal underwriter.

Applicant states that, due to the uncertainty of the evolving law in the United States with respect to the recapture of underwriting commissions from affiliated underwriters and the questions raised under Japanese law by this issue, it undertakes to investigate the extent to which underwriting commissions may be recaptured under Japanese law. Applicant represents further that it will keep its independent directors completely informed of the available alternatives with respect to such recapture. Applicant undertakes further to take such steps as may be necessary to seek to implement any recapture, including the filing of applications for exemptions under the Act, if the independent directors should determine that recapture of underwriting commissions is in the best interests of Applicant or if otherwise required by developments in the law. Finally, Applicant undertakes to file a report with the staff of the Commission as to the disposition of this matter by the Board of Directors within six months after the granting of the order sought herein.

Section 10(f) of the Act also provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any transaction or classes of transactions from any of the provisions of that Section, if and to the extent that such provision is consistent with the protection of investors.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or rule thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 31, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13922 Filed 5-13-77;8:45 am]

[Release No. 34-13507; File No. SR-OCC-77-4]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would (i) permit OCC to pledge securities held in its Clearing Fund to secure certain borrowings necessitated by the insolvency of a Clearing Member, (ii) permit OCC to reduce its risks with respect to uncovered short positions of a suspended Clearing Member which OCC is unable to liquidate by purchasing option contracts of the same classes, (iii) provide a procedure for the automatic exercise of expiring option contracts carried in segregated long positions of a suspended Clearing Member, and (iv) effect certain other changes in OCC's liquidation procedures.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide OCC with additional protection against risks arising in connection with the insolvency of a Clearing Member, and to improve OCC's procedures for liquidating accounts of suspended Clearing Members.

The proposed amendment to Article VIII, Section 5 of the By-Laws would permit OCC to pledge securities held in the Clearing Fund to secure borrowings which may become necessary or advisable if OCC is unable to obtain prompt delivery of assets credited to an account of a suspended Clearing Member, or to convert such assets promptly to cash. Such borrowings might become necessary if OCC experienced a delay in obtaining payment from the issuer of a letter of credit, or in obtaining delivery of underlying securities held by a bank or securities depository as a bulk, specific or escrow deposit, or if OCC were to be enjoined from liquidating assets of a suspended Clearing Member. Borrowings secured by Clearing Fund contributions would be required to be repaid as promptly as practicable.

Proposed Rule 1106(e) would permit OCC's Board of Directors, if it determined that OCC would be unable to close out or transfer, on a prompt basis, uncovered short positions of a suspended Clearing Member, to authorize the purchase for OCC's account of options of the same classes as the uncovered short positions, for the purpose of reducing the risk to OCC resulting from the continuing maintenance of the uncovered short positions. Such purchases might be deemed advisable if OCC were to be enjoined from closing out the short positions of a suspended Clearing Member, or if market conditions precluded a prompt and orderly liquidation. It is anticipated that such purchases would be made by a special Liquidation Subcommittee, appointed by OCC's Margin Committee and acting under its supervision, subject to general guidelines prescribed by OCC's Board of Directors. Gains or losses on protective purchase transactions would be credited or charged, as the case may be, to the Liquidating Settlement Account of the suspended Clearing Member. In addition, the proposed amendment to Article VII, Section 5 of the By-Laws would permit losses and expenses sustained by OCC in connection with protective purchase transactions to be reimbursed out of the Clearing Fund.

The proposed amendment to Rule 1104 would add language specifically providing that margin and Clearing Fund contributions of a suspended Clearing Member are to be liquidated in the most orderly manner practicable. The purpose is to eliminate any implication in the existing language of the Rule that OCC must liquidate all margin and Clearing Fund contributions immediately, regardless of the effect on the market.

The proposed amendment to Rule 1106(a) would provide that proceeds from the exercise, after a Clearing Member's suspension, of option contracts carried in segregated long positions, are to be credited to the special settlement accounts provided for in Rule 1105(a) rather than the suspended Clearing Member's Liquidating Settlement Account. The purpose is to conform the disposition of proceeds

from the exercise of segregated long positions to the disposition of proceeds from the closing out of the same positions. In addition, in order to avoid inadvertent failure to exercise expiring option contracts carried in segregated long positions which are "in the money" to a significant extent, the proposed amendment would provide an automatic exercise procedure similar to the one provided for in Rule 805, which would come into effect if OCC were unable to obtain satisfactory instructions from the suspended Clearing Member or its representative.

The proposed rule change contributes to the protection of investors and the public interest by providing OCC with additional protection against risks resulting from the insolvency of a Clearing Member and improving OCC's liquidation procedures.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change imposes any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room at 1100 L Street, NW., Washington, D.C. Copies of the filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 4, 1977.

[FR Doc.77-13930 Filed 5-13-77;8:45 am]

[Release No. 34-13506; File No. SR-OCC-77-3]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would change the commencement time for option contracts to three hours after the settlement time for the transactions in which they were purchased and would modify OCC's procedures for accepting or rejecting Exchange transactions in the event of non-payment of the applicable premiums.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to improve OCC's procedures for dealing with a Clearing Member's pending purchase transactions when the Clearing Member fails to make timely payment of the applicable premiums.

The proposed amendment to Article I, Section 1(cc) of the By-Laws would change the "commencement time" for an Exchange transaction (i.e. the point at which the transaction is accepted by OCC) from one hour after settlement time to three hours after settlement time. Its purpose is to give OCC additional time in which to determine whether to accept pending transactions of a defaulting Clearing Member. Such a determination is difficult to make within a period of one hour because it requires a preliminary determination that the Clearing Member will not meet its settlement obligations (which OCC may not be able to make for some period after the settlement time, because solvent Clearing Members are sometimes late in effecting settlements for mechanical reasons, followed by a review of the Clearing Member's account records (to determine whether any basis exists for rejecting closing purchase transactions, or for accepting opening purchase transactions). The proposed amendment to the definition of "commencement time" would give OCC two additional hours in which to make the necessary determinations.

The proposed amendment to Article VI, Section 8 of the By-Laws would make it clear that OCC may reject a Clearing Member's pending transactions at any time after the Clearing Member misses settlement. The present language of that provision may be construed as requiring OCC to wait until the commencement time before rejecting pending transactions. OCC will not reject pending transactions until it has concluded to its satisfaction that the purchasing Clearing Member will not effect settlement. However, once it has reached that conclusion, OCC should be in a position to take prompt action in rejecting pending transactions, so as to permit the writers to close out the rejected transactions as promptly as possible.

The proposed amendment to OCC's stated policy on the acceptance of Exchange transactions would permit OCC to accept opening purchase transactions, notwithstanding non-payment of the applicable premiums, if the transactions were executed for an account which included uncovered short positions in the same series of options consisting of an equal or greater number of option contracts. The rationale for acceptance of such transactions is that the margin on deposit in respect of the uncovered short positions should cover the applicable premiums, and the long positions resulting from the acceptance of those transactions (on which OCC will have a lien pursuant to Article VI, Section 8 of the By-Laws) will eliminate OCC's exposure with respect to the uncovered short positions in the event of an increase in the price of the underlying security, thus permitting OCC to liquidate the short positions in a more orderly fashion. The proposed amendment also conforms OCC's stated policy to Article VI, Section 8 of the By-Laws, as proposed to be amended herein, and includes language clarifying OCC's policy as previously stated.

The proposed rule change contributes to the protection of investors and the public interest by providing safer and more efficient procedures for the disposition of pending transactions of defaulting Clearing Members.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change imposes any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguements concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room at 1100 L Street NW., Washington, D.C. Copies of the filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 4, 1977.

[FR Doc 77-13931 Filed 5-13-77;8:45 am]

[Release No. 34-13517; File No. SR-PHLX-77-6]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc. (PHLX) proposes to modify the fixed point intervals at which exercise prices for call options on securities trading between 50 and 100 are determined. Presently exercise prices are generally fixed at 5 point intervals for securities trading below 50, and 10 point intervals for securities trading between 100 and 200. Under the proposed modifications, these intervals for exercise prices would generally be fixed at 5 point intervals for securities trading below 100 and 10 point intervals for securities trading at or more than 100.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The proposed rule change narrows the strike price intervals in certain cases in order to enhance the depth and liquidity of the PHLX options market.

PHLX believes that it is consistent with the standards set forth in 6b(5) of the Act designated for the protection of investors and the public interest to narrow the exercise price intervals and to establish exercise prices at levels that are closer to the actual market price of the underlying security at the time of adoption. Experience demonstrates that investor interest is greatest in those series of options which have exercise prices closest to the current market price of the underlying stock. Thus, the depth and liquidity of the marketplace are improved.

Comments were not solicited with respect to the proposed rule change.

The PHLX does not believe that the proposed rule change imposes any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 6, 1977.

[FR Doc.77-13932 Filed 5-13-77;8:45 am]

[812-4095]

PUTNAM CONVERTIBLE FUND, INC. ET AL.

Filing of Application

MAY 9, 1977.

In the matter of Putnam Convertible Fund, Inc., Putnam Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Tax Exempt Income Fund, Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc., Putnam Option Income Trust, and Putnam Fund Distributors, Inc., 265 Franklin Street, Boston, Massachusetts, 02110 (812-4095).

Notice is hereby given that Putnam Convertible Fund, Inc., Putnam Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Tax Exempt Income Fund, Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc. and Putnam Option Income Trust (the "Putnam Funds"), and Putnam Fund Distributors, Inc. ("Distributors") (collectively referred to as "Applicants"), have filed an application on February 24, 1977 and an amendment thereto on April 29, 1977, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit sales of the Putnam Funds' securities at net asset value to certain tax qualified employee benefit plans for employees of Distributors and its affiliates. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Putnam Funds are each registered under the Act as diversified, open-end investment companies, and are organized as Massachusetts corporations or established as Massachusetts business trusts. The Putnam Funds, other than Putnam Option Income Trust, are currently engaged in continuous public offerings of their shares at public offering prices equal to net asset value plus a sales load which varies with the size of the purchase. Distributors acts as principal underwriter for each of the Putnam Funds. Putnam Option Income Trust, which was recently organized, expects to commence an initial public offering of its shares in the near future. Applicants also expect to commence a continuous offering in shares of Putnam Option Income Trust not less than 30 days following the close of its initial public offering. Applicants state that Distributors will act as principal underwriter for shares of Putnam Option Income Trust which will be sold with a sales charge equal to that charged by the other Putnam Funds, except for Putnam Tax Exempt Income Fund.

Distributors is a wholly-owned subsidiary of March and McLennan Management Company, a holding company whose other subsidiaries include The Putnam Management Company, Inc., which serves as investment adviser to the Putnam Funds, and Putnam Administrative Services Company, Inc., the Putnam Funds' shareholder servicing agent. Marsh and McLennan Management Company is a wholly-owned subsidiary of Marsh and McLennan Companies, Inc., a publicly owned holding company whose principal operating subsidiaries are international insurance brokers and employee benefit consultants. Marsh and McLennan Companies, Inc., and all of its corporate affiliates, including any acquired or formed subsequent to the date of the application, are hereinafter referred to as the "Marsh and McLennan Companies."

Applicants state that employees of the Marsh and McLennan Companies are covered by certain trusteed employee benefit plans qualified under Section 401 of the Internal Revenue Code, certain of which are empowered to invest in shares of certain of the Putnam Funds. The application represents that these plans currently include the Putnam Profit Sharing Plan, the Marsh and McLennan Savings Plan and the Marsh and McLennan Pension Plan (collectively the "Putnam Affiliated Employee Benefit Plans"). According to the application, the Putnam Affiliated Employee Benefit Plans which may invest in shares of the Putnam Funds had 3,434 participants and investments of approximately $11,368,000 in the Putnam Funds as of December 31, 1976.

It is asserted that, as a result of concern that certain provisions of the Employee Retirement Income Security Act of 1974 and parallel provisions of the Internal Revenue Code might prohibit an employee benefit plan covering employees of a mutual fund, its investment adviser or principal underwriter and

their affiliates (an "In-house Plan or Plans") from investing in shares of such mutual fund (an "In-house Fund"), the mutual fund industry applied to the Department of Labor and the Internal Revenue Service for an interpretation or an exemption. These two agencies have issued a notice of a proposed class exemption which would permit In-house Plans, such as the Putnam Affiliated Employee Benefit Plans, to invest in shares of the In-house Fund, such as each of the Putnam Funds, provided that certain conditions are met. One such condition requires that In-house Plans not pay any sales commission on the investment in In-house Fund shares. On March 31, 1977, the proposed class exemption was adopted with the condition that all transactions with In-house Plans occurring more than 60 days after the granting of the exemption be made without any sales commissions. Applicants submit that, under the current prospectuses of the Putnam Funds, accounts the size of the Putnam Affiliated Employee Benefit Plans would pay a sales charge of 1 percent of the public offering price on purchases of shares of the Putnam Funds.

Section 22(d) of the Act provides in pertinent part that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus. Applicants submit that the sale of shares of the Putnam Funds to the Putnam Affiliated Employee Benefit Plans at net asset value appears to conflict with the provisions of Section 22(d) of the Act unless, excepted by the Rules under such section.

Applicants assert that an argument may be made that purchases of Putnam Fund shares by the Putnam Affiliated Employee Benefit Plans are permitted by Rule 22d-1(f). That rule provides for elimination of sales charges upon the sale pursuant to a uniform offer described in the prospectus and made to employees' trust, pension, profit-sharing or other employee benefit plans qualified under Section 401 of the Internal Revenue Code. Applicants submit that, notwithstanding interpretive advice from the staff of the Commission which would possibly permit sales of In-house Fund shares only to In-house Plans at net asset value, Applicants have determined to seek an exemption from Section 22(d) of the Act and the Rules thereunder, pursuant to Section 6(c) of the Act, in order to obtain the certainty of a Commission order which does not attach to interpretive advice.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

It is stated in the application that the purposes of Section 22(d) of the Act are to prevent discrimination among purchasers and to provide for orderly distribution of mutual fund shares by preventing their sale at a price less than that fixed in the prospectus. It is submitted that reduced sales charges are appropriate where mutual fund shares are sold without a complete bundle of selling services and no unjust discrimination exists among investors where differences in sales charges relate to differences in selling costs and services. Applicants state that investment by the Putnam Affiliated Employee Benefit Plans in shares of the Putnam Funds at net asset value is supported by strong policy considerations, and that such sales would result in demonstrable economies in sales effort and sales related expense as compared with other sales, and would not be unjustly discriminatory.

Applicants state that prospectuses and existing sales literature of the Putnam Funds will be available to those persons making investment decisions for the Putnam Affiliated Employee Benefit Plans, but no individual sales effort will be expended, and no independent dealers will be involved. It is represented that Distributors will coordinate such sales and will provide such normal sales related services as are specifically requested by the investment committees or beneficiaries of the plans. Applicants do not anticipate that there will be many such requests for services. Applicants submit that periodic investments by the Putnam Affiliated Employee Benefit Plans can be expected to be relatively large in terms of the size of each purchase, the frequency of purchases should be relatively low, and funds for purchases are expected to be remitted from only a few sources (the trustees of each plant). According to the application, Applicants have concluded that sales of Putnam Fund shares at net asset value to tax qualified employee benefit plans should be limited to the Putnam Affiliated Employee Benefit Plans on the ground that the employees covered by such Plans and the persons who make investment decisions with respect to such Plans, because of their familiarity with, and loyalty to, the Putnam Funds generally can be expected to result in a need for less selling effort and expense than would be the case with regard to sales to other tax qualified employee benefit plans.

Notice is further given that any interested person may, not later than May 31, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13923 Filed 5-13-77;8:45 am]

[812-4083]

PUTNAM TAX EXEMPT INCOME FUND ET AL.

Filing of Application

MAY 9, 1977.

In the matter of Putnam Tax Exempt Income Fund, Putnam Convertible Fund, Inc., Putnam Daily Dividend Trust, Putnam Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc., Putnam Option Income Trust, Putnam Fund Distributors, Inc., 265 Franklin Street, Boston, Massachusetts. 02110 (812-4083).

Notice is hereby given that Putnam Tax Exempt Income Fund ("Putnam Tax Exempt"), Putnam Convertible Fund, Inc., Putnam Equities Fund, Inc., The George Putnam Fund of Boston, The Putnam Growth Fund, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc. and Putnam Option Income Trust ("Putnam Option") (collectively the "Putnam Funds"), Putnam Daily Dividend Trust (the "Trust"), and Putnam Fund Distributors, Inc. ("Distributors"), (all collectively referred to as "Applicants"), have filed an application on January 31, 1977 and an amendment thereto on April 29, 1977, for an order, pursuant to Section 11(a) of the Investment Company Act of 1940 ("Act"), to permit an offer of exchange of the shares of Putnam Tax Exempt for the shares of the other Putnam Funds on a basis other than the relative net

asset values of the shares to be exchanged. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Putnam Funds and the Trust are each registered under the Act as diversified, open-end investment companies and organized as Massachusetts corporations or Massachusetts business trusts. Distributors, a wholly-owned subsidiary of March & McLennan Management Company, serves as principal underwriter for the Putnam Funds and the Trust.

The application states that the Putnam Funds, other than Putnam Option, and the Trust are engaged in continuous public offerings of their shares. The Putnam Funds, other than Putnam Tax Exempt and Putnam Option, offer their shares at public offering prices equal to net asset value plus a sales charge which varies with the size of the purchase from 8.5 percent on an investment of less than $10,000 to 1.0 percent on an investment of $1,000,000 and over.

Putnam Option, which was recently organized, expects to commence an initial public offering of its shares in June, 1977. Applicants also expect to commence a continuous offering in shares of Putnam Option not less than 30 days following the close of its initial public offering with Distributors acting as principal underwriter. Applicants state that it is expected that the sales charge for both the initial and continuous public offering of shares of Putnam Option will be the same as the other Putnam Funds, except for Putnam Tax Exempt.

Shares of Putnam Tax Exempt are offered at a public offering price equal to net asset value plus a sales charge which is lower than the sales charge for the other Putnam Funds and which varies with the size of the purchase from 4.75 percent on an investment of less than $25,000 to 1.0 percent on an investment of $1,000,000 and over. The Trust offers its shares at net asset value without any sales charge.

According to the application, the current prospectuses of the Putnam Funds, other than Putnam Tax Exempt and Putnam Option, provide for exchanges among such funds at net asset value of the shares being exchanged next determined following receipt of an exchange request and any other required documentation. There is an administrative fee of $5 charged on each exchange, which is retained by the Putnam Funds' shareholder servicing agent. Applicants submit that, after the continuous offering of Putnam Option shares has begun, it is expected that shares of Putnam Option may be exchanged for shares of the other Putnam Funds and that shares of the other Putnam Funds, other than Putnam Tax Exempt, may be exchanged for shares of Putnam Option, in each case at net asset value. It is stated in the application that shares of the Trust may currently be redeemed and the proceeds used to purchase shares of the Putnam Funds (other than Putnam Option), provided the investor pays the applicable sales charge on the Putnam Funds' shares acquired in the transaction. It is further stated that Trust shares acquired through an exchange from the Putnam Funds, other than Putnam Tax Exempt (and shares credited as dividend reinvestments with respect to such shares), may be exchanged again for shares of the Putnam Funds (other than Putnam Option) without any sales charge.

According to the application, the prospectus for the initial offering of shares of Putnam Tax Exempt provided that after the commencement of the continuous offering, shareholders of that fund could exchange their shares held six months or more for shares of the other Putnam Funds at net asset value and that shareholders who purchased shares of Putnam Tax Exempt in its initial offering, so long as exchanges are permitted between the Putnam Funds, would continue to be able to exchange such shares after six months at net asset value, and to exchange shares acquired from reinvestment of dividend distributions on such shares, at net asset value without any holding period.

Applicants propose to permit shares of Putnam Tax Exempt acquired at the public offering price in its continuous offering (and shares of the Trust acquired through an exchange from Putnam Tax Exempt) and shares acquired from dividend reinvestment with respect to such shares to be exchanged for shares of each of the other Putnam Funds that are then offered for sale to the general public on the basis of the relative net asset values per share plus the amount by which the sales charge stated in the then current prospectus of the Putnam Fund whose shares are being acquired in the exchange exceeds the sales charge stated in the then current prospectus of Putnam Tax Exempt. The application provides that, where Putnam Tax Exempt shares being exchanged were acquired through a prior exchange from one of the other Putnam Funds or from dividend reinvestment with respect to such shares, the exchange will be on the basis of relative net asset values per share. Applicants represent that the prospectuses of the Putnam Funds and the Trust will describe the terms of such exchanges, including the $5.00 administrative fee on each exchange. It is submitted in the application that if shareholders of Putnam Tax Exempt who purchased shares in such fund's initial offering desire to exchange such shares prior to the expiration of the six month holding period, they will be permitted to do so in accordance with the terms of the exchange offer in the then current Putnam Tax Exempt prospectus.

Section 11(a) of the Act provides in pertinent part that it shall be unlawful for any registered open-end company or principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Applicants assert that the purpose of the proposed exchange offer at other than net asset value with respect to Putnam Tax Exempt, like the purpose of the exchange offers at net asset value contained in the current prospectuses of the other Putnam Funds, is to permit a shareholder whose investment objective has changed to change investments without having to pay again the sales charge which was paid at the time of initial investment. Applicants state that it would be discriminatory to permit the exchange of shares of Putnam Tax Exempt for shares of the other Putnam Funds at net asset value, because the exchanging Putnam Tax Exempt shareholders would have paid substantially lower sales charges on their investment than the shareholders of the other Putnam Funds. Applicants submit that, if exchanges between Putnam Tax Exempt and the other Putnam Funds were at net asset value, investors could avoid the higher sales charges in effect for the other funds by purchasing shares of Putnam Tax Exempt and then exchanging those shares at net asset value for shares of the other Putnam Funds. It is asserted that this practice would be contrary to the policies underlying the price maintenance provisions of the Act and could present difficulties in managing Putnam Tax Exempt consistent with its investment objectives and could increase its expenses in the event of any material incidence of investors purchasing shares of Putnam Tax Exempt with a view toward exchanging into another Putnam Fund to avoid the higher sales charge. Applicants state that such transitory investments in Putnam Tax Exempt could result in increased custodian and shareholder servicing fees and a need for greater liquidity in the portfolio of Putnam Tax Exempt than would otherwise be the case.

Notice is further given that any interested person may, not later than May 31, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing (or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-13924 Filed 5-13-77;8:45 am]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-7/66]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 8:00 a.m. on Thursday, June 9, 1977, in Rooms 8236 and 8238 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to discuss the agenda items for the 17th Session of the Subcommittee on Ship Design and Equipment of the Intergovernmental Maritime Consultative Organization (IMCO) scheduled to be held July 25–29, 1977 in London. The agenda includes work in the following areas:

Requirements for machinery and electrical installations for mobile offshore drilling units and offshore supply vessels;
Requirements for special purpose ships including training and research vessels, mobile offshore drilling units, and offshore supply vessels;
Safety requirements for nuclear ships, unification of definitions and provisions used in various IMCO instruments; and
Requirements for automation.

Requests for further information on the meeting should be directed to CAPT C. B. Glass, United States Coast Guard. He may be reached by telephone on (area code 202) 426-2167.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

MAY 9, 1977.

[FR Doc.77-13998 Filed 5-13-77;8:45 am]

[Public Notice No. 545; Delegation of Authority No. 138]

ASSISTANT SECRETARY FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Delegation of Authority

Pursuant to the authority vested in me by section 4 of the Act of May 26, 1949 (63 Stat. 111; 22 U.S.C. 2658), I hereby delegate to the Assistant Secretary for Oceans and International Environmental and Scientific Affairs of the Department of State the performance of all the functions which the Secretary of State is authorized to perform pursuant to and under the authority of section 204 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). This authority may be redelegated.

Dated: April 29, 1977.

CYRUS VANCE,
Secretary of State.

[FR Doc. 77-13869 Filed 5-13-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition No. RST-77-1]

CHICAGO, MILWAUKEE, ST. PAUL, AND PACIFIC RAILROAD CO.

Petition for Waiver of Track Safety Standards

Notice is hereby given that the Chicago, Milwaukee, St. Paul and Pacific Railroad (Milwaukee) has petitioned the Federal Railroad Administration (FRA) for a temporary waiver of compliance with certain provisions of the Track Safety Standards (49 CFR Part 213). The temporary waiver is sought for the Milwaukee trackage between Faithorn and Seymour in the State of Illinois, a ditstance of approximately thirty eight miles.

The Milwaukee indicates that recent inspections have disclosed that this trackage fails to meet all the requirements for track geometry prescribed in §§ 213.51 through 213.63 (49 CFR 213.51-63) applicable to FRA Class I track. The Milwaukee seeks a temporary waiver of compliance with these provisions in order to continue operations over this trackage while a track rehabilitation program is completed.

The Milwaukee is initiating a rehabilitation program for this line which is designed to bring the track into compliance with the standards within a period of one year or less. This temporary waiver is sought to permit Milwaukee to operate over the trackage for the one year period that will be needed to complete the restoration of the tracks to compliance with the standards.

The Milwuakee indicates that it desires this waiver in order to continue to serve the Louisville, Kentucky, gateway and that it has been unable to arrange for an alternate route to the Louisville gateway by-passing the track for which the waiver has been requested.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comemnts. FRA does not anticipate scheduling an opportunity for oral comment on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by any interested person prior to May 27, 1977. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number RST-77-1) and shall be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20950. Communications received before June 17, 1977, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C., on May 9, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77-13902 Filed 5-13-77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. 77-04; Notice 1]

ELECTRIC AND HYBRID VEHICLES

Meeting and Invitation for Applications for Financial Assistance

This notice announces that the National Highway Traffic Safety Administration (NHTSA) will hold a public meeting to permit interested persons to present oral and written views on the applicability of Federal motor vehicle safety standards to electric and hybrid vehicles. This notice also announces an invitation for applications for financial assistance by participants with respect to the public meeting.

On September 17, 1976, Congress enacted into law the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (Pub. L. 94-413). Section 13(d) of that Act directs the NHTSA (delegation of authority by the Secretary of Transportation) to conduct a study on the current and future applicability of safety standards and regulations to electric and hybrid vehicles. The results of that study are to be reported to the Administrator of the Energy Research and Development Administration (ERDA) and to Congress by September 17, 1977. The NHTSA has determined that the most effective way to gather information for the study is through a public meeting at which the unique safety aspects of current and future electric and hybrid vehicles, anticipated usage of electric private and commercial vehicles, appropriateness of current and future safety standards to protect occupants of such vehicles, and safeguards for electric and hybrid vehicles when involved in collisions with conventional vehicles would be discussed. In order to ensure that the information presented at the meeting fully addresses the subject of the study, it is requested

that the presentations focus on the following points:

(1) Anticipated usage by private individuals of small and intermediate size electric and hybrid automobiles.

(2) Anticipated size and usage by commercial establishments or municipalities of electric and hybrid vehicles such as delivery vans, trucks, and buses.

(3) Appropriateness of existing Federal motor vehicle safety standards for electric and hybrid vehicles.

(4) Development of new Federal motor vehicle safety standards to address safety problems unique to electric and hybrid vehicles. Possible areas of concern are as follows:

(a) Shock hazard from batteries, either in normal use or in a collision environment.

(b) Spillage of electrolyte from batteries during a collision.

(c) Potential for explosion of batteries.

(d) Violent movement of batteries during a collision.

(e) Slower acceleration than conventional vehicles, increasing chances of collision during merging into traffic.

(f) Uncontrolled release of energy (e.g., during a collision) from an energy storage device in a hybrid vehicle, such as a hydraulic system or a flywheel.

(5) Application of Federal motor vehicle safety standards to electric and hybrid vehicles based upon their usage and other factors.

Interested persons are invited to attend the meeting and to present oral or written comments. Persons wishing to make written comments only, must submit those comments to the docket by July 12, 1977. Persons making oral statements are encouraged to submit their comments in written form either at the meeting or by mail. All written submissions should be mailed to Docket No. 77–04, Notice 1, Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Persons who desire to make an oral presentation should contact Mr. Sam Daniel, Motor Vehicle Programs, NHTSA, Washington, D.C. 20590 (202–426–2264) by June 27, 1977, so that time limitations (if necessary) and the need for any special equipment, such as projectors, can be discussed and final arrangements can be made. A general outline of the planned presentation should also be submitted at the same time. Persons whose presentations include slides, motion pictures, or other visual aids should plan to submit copies of them for the record at the meeting.

An agenda will be available at the meeting. A transcript of the meeting will be made, and will be available for examination in the NHTSA Docket Section, Room 5108, approximately 5 days after the meeting.

The meeting will be held on July 11, 1977, in Room 2230 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C., 20590, beginning at 9:30 a.m. The meeting will continue on July 12, 1977, if additional time is necessary to hear all presentations.

Applications for financial assistance from parties who wish to participate in the public meeting are requested. The NHTSA may provide financial assistance to individuals or organizations which can effectively supplement the record of the proceeding but which are financially unable to participate. This invitation is issued pursuant to the Department of Transportation's recently established (41 FR 2863, January 13, 1977) one-year demonstration program.

All applications submitted by Monday, June 6, 1977, will be evaluated by a panel of NHTSA and DOT officials to determine whether each applicant is eligible to receive funding under the regulations. In general, an applicant is deemed eligible if (1) it represents an interest the representation of which can reasonably be expected to contribute to a full and fair determination of the issues in the proceeding, (2) its participation is reasonably necessary to represent that interest, (3) it can competently represent that interest, and (4) it lacks sufficient financial resources to participate in the absence of such assistance. If more than one applicant representing the same or similar interest is deemed eligible, the panel either will select the applicant which can make the strongest presentation or, will select more than one applicant if the eligible applicants seek to present significantly different points of view or proposals. Payment is made as soon as possible after the selected applicant has completed its work and submitted a claim. Interested persons may obtain a copy of the regulations for the demonstration program from Ms. Jeannette Feldman, Office of the Administrator, NHTSA, Washington, D.C. 20590 (202–426–1614).

Each application submitted pursuant to this notice should identify which issues the applicant proposes to address and the manner in which the applicant proposes to do so.

Applicants are urged to submit their applications by the deadline specified above. Under the regulations for the demonstration program, consideration of late applications is at the discretion of the panel of officials that will review the applications.

Applications should be submitted to Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Applications should be clearly marked for the attention of the Associate Administrator for Motor Vehicle Programs.

The principal authors of this notice are Mr. Sam Daniel, Office of Crashworthiness, and Ms. Kathy DeMeter, Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 18, Pub. L. 94–413, 90 Stat. 1260 (15 U.S.C. 2512); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on May 11, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77–13913 Filed 5–11–77;4:14 pm]

INTERSTATE COMMERCE COMMISSION

[Notice No. 390]

ASSIGNMENT OF HEARINGS

MAY 11, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 67818 (Sub-No. 85), Michigan Express, Inc., now assigned June 14, 1977, at Lansing, Mich. is postponed indefinitely.

MC 142549, Walnut Hill Wrecker Service, Inc. now assigned June 1, 1977 at Dallas, Texas and will be held in Room 5A15–17, New Federal Building, 1100 Commerce Street.

AB 30 Sub 1, Texas and Pacific Railway Company Abandonment Between Barnsdall and Pawhuska in Osage County, Oklahoma now assigned June 6, 1977 at Pawhuska, Oklahoma and will be held in the District Court Room, 3rd Floor, Osage County Courthouse, Grandview Avenue.

MC 106644 Sub 227, Superior Trucking Co., Inc. now assigned June 6, 1977 at Dallas, Texas and will be held in Room 5A15–17, Federal Building, 1100 Commerce Street.

MC 113678 Sub 632, Curtis, Inc. now assigned June 6, 1977 at Seattle, Washington and will be held in Room 2866, Federal Building, 915 Second Avenue.

MC 107462 Sub 7, R. D. Brown, dba Brown Trucking now assigned June 1, 1977 at Billings, Montana and will be held in Room 2222, Federal Building, 316 North 26th Street.

MC 138875 Sub 32, Shoemaker Trucking Co. now assigned June 7, 1977 at Seattle, Washington and will be held in Room 2866, Federal Building, 915 Second Avenue.

MC 141867 Sub 1, Specialized Trucking Service, Inc. now assigned June 9, 1977 at Seattle, Washington and will be held in Room 2866, Federal Building, 915 Second Avenue.

MC 128527 Sub 70, May Trucking Co. now assigned June 13, 1977 at Portland, Oregon and will be held in Room 103, Pioneer Courthouse, 555 S.W. Yamhill Street.

AB 52 Sub 7, Atchison, Topeka and Santa Fe Railway Company Abandonment Between Cushing and Shawnee in Payne, Lincoln and Pottawatomie Counties, Oklahoma and will be held in the City Hall, Commission Conference Room, Corner of Broadway and 9th Streets.

MC 142639, Kelly McKnight, dba Kelly McKnight Wrecker Service now assigned June 8, 1977 at Dallas, Texas and will be held in Room 5A15–17, Federal Building, 1100 Commerce Street.

MC 110166 Sub 22, Tennessee Carolina Transportation, Inc. now assigned June 1, 1977 at Raleigh, North Carolina and will be held in Room 208, Century Post Office, 300 Fayetteville Street.

MC 130198 Sub 1, Robert Gavin & Associates, Inc. now assigned June 1, 1977 at Madison, Wisconsin and will be held in Room 404, State Office Building, 4802 Sheboygan Avenue.

MC–C 9382, Tucker Freight Lines, Inc., Investigation and Revocation of Certificates now assigned June 1, 1977 at Chicago, Illinois and will be held June 1 through June 3 in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street and June 6 through June 10 in Room 1903 at the Same Address.

MC–PC 75721, General Movers, Inc., East St. Louis, Illinois, Transferee and Fasgo Motor Express, Inc., East St. Louis, Illinois, Transferor and Modern Truck Lines, Inc., East St. Louis, Illinois, Transferor, MC 120879 Sub 3, General Movers, Inc. Extension, East St. Louis, Illinois and MC 120879 Sub 2, General Movers, Inc. now assigned June 6, 1977 at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street on June 1st through the 3rd and June 6th through the 10th in Room 1903 at the Same address.

MC 3281 Sub 7, Powell Truck Line, Inc. now being assigned June 28, 1977 (2 days) for continued hearing at Memphis, Tennessee and will be held at the Executive Plaza Inn, 1471 East Brooks Road.

No. 36434, Petition For Declaratory Order and Reconsideration (Commuter Fares-Consolidated Rail Corporation, New Jersey and New York and No. 36474, *Benjamin A. Gilman v. Consolidated Rail Corporation, et al.* are now being dismissed.

MC 138762 (Sub-No. 1), Municipal Tank Lines Limited, now assigned June 14, 1977, at Buffalo, N.Y. will be held in Room No. 1440, Federal Building, 111 West Huron Street.

MC–C–9025, *Kane Transfer Company v. Jacobs Transfer, Inc.*, MC 59909 (Sub-No. 1), Jacobs Transfer, Inc. and MC 59909 (Sub-No. 13), Jacobs Transfer, Inc. now being assigned for continued hearing on the 17th day of May 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13934 Filed 5–13–77;8:45 am]

[Docket No. AB–141]

KANAWHA CENTRAL RAILWAY COMPANY ABANDONMENT IN KANAWHA COUNTY, WEST VIRGINIA

Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Order dated May 6, 1977, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in New Orleans Union Passenger Terminal Case, 232 I.C.C. 271, and those provided pursuant to Section 405 of the Rail Passenger Service Act (45 U.S.C. 565), the present and future public convenience and necessity permit the abandonment by The Kanawha Central Railway Company of its entire line of railroad extending from Brounland, West Virginia, to milepost 4.7 at Knickerbocker, West Virginia, a distance of 4.7 miles in Kanawha County, West Virginia. A certificate of public convenience and necessity permitting abandonment was issued to The Kanawha Central Railway Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served on or before May 31, 1977. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective June 30, 1977.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–13933 Filed 5–13–77;8:45 am]

[Notice No. 62]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 9, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 43685 (Sub-No. 21TA), filed April 27, 1977. Applicant: MERCER TRUCKING COMPANY, INC., N. 1414 Fancher Road, P.O. Box 11585, Spokane, Wash. 99211. Applicant's representative: George H. Hart, 110 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cants*, from those ports of entry on the International Boundary line between British Columbia, Canada and the United States, east of U.S. Highway 97 to Tualatin and Portland, Oreg., restricted to transportation of traffic originating in British Columbia, Canada, for 180 days. Supporting shipper: Conrad Veneers, Inc., 7300 SW Childs Road, Tualatin, Oreg. 97602, Nicolai Company, P.O. Box 17215, Portland, Oreg. 97217. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 61396 (Sub-No. 330TA), filed April 26, 1977. Applicant: HERMAN BROS. INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebraska 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphatic fertilizer solution*, in bulk, in tank vehicles, from Elk Creek, Nebr., to points in Kansas and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: David Coward, Manager of Transportation, Kaiser Agricultural Chemicals, Division of Kaiser Aluminum & Chemical Corp., P.O. Box 246, Savannah, Ga. 31401. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 82492 (Sub-No. 155TA), filed April 27, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from the facilities of Pennzoil Company, located at or near Rouseville and Reno, Pa., to points in the Lower Peninsula of Michigan, restricted to the transportation of traffic originating at the named origins and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pennzoil Company, Oil City, Pa. 16301. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 103051 (Sub-No. 396TA), filed April 28, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard*, in bulk, in tank vehicles, from Knoxville,

Tenn. to Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carl Paul Vogt, P.O. Box 5477, Philadelphia, Pa. 19131. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 107295 (Sub-No. 847 TA), filed April 14, 1977. Applicant: PRE-FAB TRANSIT CO., 100 South Main St., Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and installation materials* (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of CertainTeed Corporation in Erie County, Ohio, to points in Indiana, Kentucky, and Michigan, for 180 days. Supporting shipper: Edward J. Finn, Assistant Director of Transportation, CertainTeed Corporation, Shelter Materials Group, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 107403 (Sub-No. 1008 TA), filed April 13, 1977. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Deer Park, Tex., to points in Arkansas, Louisiana, Mississippi, and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arkla Chemical Corporation, P.O. Box 751, Little Rock, Ark. 72203. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Rm. 3238, Philadelphia, Pa. 19106.

No. MC 111302 (Sub-No. 105TA), filed April 29, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Rd., Knoxville, Tenn. 37921. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid lard*, in bulk, in tank vehicles, from Clarksville, Tenn., to Birmingham, Ala.; Detroit, Mich.; Helena, Ark.; Lima, Ohio; New Orleans, La.; and Pawtucket, R.I., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Frosty Morn Meats, Clarksville, Tenn. 37040. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-411, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 113434 (Sub-No. 75TA), filed April 29, 1977. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products*, from the plantsite and warehouse facilities of Amoco Plastic Products Company at Seymour, Ind., to Milwaukee, Wis., for 180 days. Supporting shipper: Amoco Plastic Products Company, Seymour, Ind. 47274. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 114211 (Sub-No. 299TA), filed April 26, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard Street, Waterloo, Iowa 50704. Applicant's representative: Singer & Sullivan, 327 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pressure treated and untreated lumber mill products*, from Plainview, Ark., to Iowa, Minnesota, Michigan, Wisconsin, South Dakota, Nebraska, Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Plainview Lumber Co., Inc., Plainview, Ark. 72857. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 115311 (Sub-No. 220TA), filed April 28, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products*, from the facilities of United States Gypsum Company at New Orleans, La., to points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Gypsum Company, 53 Perimeter Center East, Atlanta, Ga. 30346. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 115841 (Sub-No. 537TA), filed April 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, Inc., P.O. Box 168, Concord, Tenn. 37922. Applicant's representative: Mike G. Moneymaker (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except in bulk), in vehicles equipped with mechanical refrigeration, from Hampden Township, Cumberland County, Pa., to Arizona, Illinois, California, Michigan, Ohio, Utah, Indiana, Kansas, and Nebraska; restricted to traffic originating at the plantsite and storage facilities of M&M Mars Company at the above named origin and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M&M Mars, a division of Mars, Inc., High Street, Hackettstown, N.J. 07840. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116273 (Sub-No. 209TA), filed March 16, 1977. Applicant: D & L TRANSPORT, INC., 3800 S. Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, in bulk, in tank vehicles, from Ypsilanti, Mich., to Anderson, Ind., and Alliance and Carey, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thermofil, Inc., John B. Luce, Vice President, 884 Railroad Street, Ypsilanti, Mich. 48197. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Rm. 1386, Chicago, Ill. 60604.

No. MC 117119 (Sub-No. 625TA), filed April 27, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning units, parts and accessories*, from the facilities of Rheem Mfg. Co. at Fort Smith, Ark., to points in California, Oregon, Arizona, and Washington for 180 days. Supporting shipper: Rheem Manufacturing Company, 5600 Old Greenwood Road, Fort Smith, Ark. 72906. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118989 (Sub-No. 157TA), filed April 13, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Rolland Draves (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard cans* with or without metal ends, from West Chicago, Ill. to points in Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boise Cascade Corporation, P.O. Box 7747, Boise, Idaho. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. and Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 119880 (Sub-No. 95TA), filed April 15, 1977. Applicant: DRUM TRANSPORT, INC., P.O. Box 2056, 617 Chicago St., East Peoria, Ill. 61611. Applicant's representative: Nancy Drum (same address as applicant). Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from points in California to Long Prairie, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Minnesota Distillers, Inc., David Becker, General Manager, 609 6th St. NE., Long Prairie, Minn. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Rm. 1396, Chicago, Ill. 60604.

No. MC 120646 (Sub-No. 18TA), filed April 26, 1977. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Asheville, N.C. 28803. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from the plant sites and warehouse facilities of Broyhill Industries at or near Arcadia, Louisiana, to points in the United States, and (2) *materials, supplies and equipment* used in the manufacture of new furniture from points in the United States to the origin points named in number one above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Broyhill Industries, P.O. Box 700, Broyhill Park, Lenoir, N.C. 28645. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 121240 (Sub-No. 5TA) (correction), filed March 7, 1977, published in the FEDERAL REGISTER of March 28, 1977, republished as corrected this issue. Applicant: ABC TRUCK LINES, INC., P.O. Box 1824, 728 E. Idaho, Elko, Nev. 89801. Applicant's representative: Antoinette M. Bloch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, viz. borax and boric acid*, from the plantsite of U.S. Borax Co., at or near Boron, Calif., and the plantsite of Kerr-McGee Corp., at or near Trona, Calif., to Great Falls, Mont., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Van Waters & Rogers, Box 2021, Billings, Mont. 59103. Send protests to: William J. Huetig, Interstate Commerce Commission, 203 Federal Bldg., 705 N. Plaza St., Carson City, Nev. 89701. The purpose of this republication is to correct the applicant's request of authority.

No. MC 123407 (Sub-No. 369TA), filed April 27, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated flat glass in trailers with metal "A" frames*, from the plantsite of Guardian Industries Corporation at or near Carleton, Mich., to Ports of Entry on International Boundary between the United States and Canada located at Detroit, Mich., and Buffalo and Niagara Falls, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Guardian Industries Corporation, 14600 Romine Road, Carleton, Mich. 48117. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 126473 (Sub-No. 29), filed April 28, 1977. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, Iowa 52580. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solutions* in bulk in tank vehicles, from the Fulton River Terminal at Fulton, Ill., to points in Iowa and Easton, Minn., restricted to traffic originating at the Fulton River Terminal, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: First Miss, Inc., P.O. Box 328, Ft. Madison, Iowa 52627. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 128007 (Sub-No. 98TA), filed April 12, 1977. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal, fish and poultry feed*, dry (except in bulk), from the plantsite or storage facilities of Doane Products Company in Jasper County, Mo., to points in Colorado, Kansas (on and west of U.S. Highway 81), New Mexico, Oklahoma, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Doane Products Company, P.O. Box 879, Joplin, Mo. 64801. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 North Market, Wichita, Kans. 67202.

No. MC 129643 (Sub-No. 10TA), filed April 26, 1977. Applicant: GEORGE SMITH, doing business as GEORGE SMITH TRUCKING CO., 433 Mountain Avenue, Winnipeg, Manitoba, Canada R2W 1E5. Applicant's representative: George Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from points in Oregon and Washington to port of entry located at Eastport, Idaho, restricted to traffic destined to Manitoba, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oroweat Bakers, Inc., 1604 North 34th Street, Seattle, Wash. 98103. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, PO Box 2340, Fargo, N. Dak. 58102.

No. MC 134286 (Sub-No. 23TA), filed April 26, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1584, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, Suite 530, Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil shortening, lard, edible tallow, cooking oils, and margarine*, from the plansite and or warehouse facilities of Swift Edible Oil Company located at or near Bradley, Ill., to points in New Jersey, New York, Maryland, Pennsylvania, Massachusetts, the District of Columbia, and the specified points of Manassas, Williamsburg Richmond, and Newport News, Va.; Dover, Rehoboth Beach, and Wilmington, Del.; Levitt City, New Haven, New London, Hartford, Meriden, Colchester, and Stamford, Conn.; Burlington, Brattleboro, Rutland, and White River Junction, Vt.; Dover, Concord, and Manchester, N.H.; Fairfield, Lewiston, Portland, and Augusta, Maine; Providence and Cranston, R.I., and the commercial zones of the respectively named cities. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named origin and destined to the above-described destinations, for 180 days. Supporting shipper: Arnold A. Johnson, Distribution Manager-Service, Swift Edible Oil Company, 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 134970 (Sub-No. 13TA), filed April 15, 1977. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, Rt. No. 24 East, El Paso, Ill. 61738. Applicant's representative: Dana' Throckmorton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular, transporting: *Frozen pork sausage*, from the plantsite of Bird Provision Company at or near Pekin, Ill. to points in Indiana, Michigan, Kentucky, Ohio, Wisconsin and Missouri (except St. Louis), for 180 days. Supporting shipper: Bird Provision Company, Edward P. Lobello, Vice President, 420 Washington, Pekin, Ill. 61554. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Rm. 1386, Chicago, Ill. 60604.

No. MC 135684 (Sub-No. 32TA), filed April 15, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Rd., Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, Federal Bar Bldg. West, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile and*

floor and wall coverings, and supplies, materials, and equipment used in the maintenance and installation of tile and floor and wall coverings, from Compton, Calif. to points in Arizona, Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Color Tile Supermart, Inc., No. 3 Tandy Center, First & Throckmorton, Fort Worth, Tex. 76102. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 136275 (Sub-No. 22TA), filed April 28, 1977. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 28 San Marcos Drive, El Paso, Tex. 79922. Applicant's representative: H. B. Dudley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, in bulk, in pneumatic type vehicles, from El Paso, Tex., to points in New Mexico and points in Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. M. Hedrick Company, 9720 Town Park, Suite 101, Houston, Tex. 77036. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 138420 (Sub-No. 15TA), filed April 28, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wis. 53015. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment* when moving therewith from LaCrosse, Wis., to points in the St. Louis, Mo. Commercial Zone, (2) *rejected shipments and empty malt beverage containers*, from the St. Louis, Mo., Commercial Zone to LaCrosse, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mid-America Beer Dist., Inc., 4400 Gustine Avenue, St. Louis, Mo. 63116 (Gerald R. Woodward). Send protests to: Gail Daugherty, Transportation Asst. Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, Wis. 53202.

No. MC 138471 (Sub-No. 8TA), filed April 27, 1977. Applicant: LEONARD TRUCKING, INC., 1605 Westside Highway, Kelso, Wash. 98626. Applicant's representative: David C. White, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wine* from Sonoma, San Jose, Ripon, Saratoga, Modesto and Los Gatos, Calif., to Longview, Chehalis, Olympia, Aberdeen, Bremerton and Seattle, Wash.; and (2) *malt beverages*, from Irvine and Fairfield, Calif.; to Longview, Raymond and Olympia, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 5 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 140463 (Sub-No. 4TA), filed April 27, 1977. Applicant: ORREN J. LEE, 2312 Braemer Drive, Sioux Falls, S. Dak. 57105. Applicant's representative: Mark Menard, S.D. Transport Services, Inc., 5301 N. Cliff Ave., P.O. Box 480, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and supplies used in the production and distribution of dairy products from points in Iowa, Minnesota, Nebraska and South Dakota to Sioux Falls, South Dakota, under a continuing contract or contracts with Terrace Park Dairy, 1501 West Tenth St., Sioux Falls, S. Dak. for 180 days. Supporting shipper: Terrace Park Dairy, 1501 West Tenth Street, Sioux Falls, S. Dak. 57104. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 142204 (Sub-No. 5TA), filed April 27, 1977. Applicant: ROBERT R. GUNVILLE, JR., P.O. Box 27, Iron Mountain, Mich. 49801. Applicant's representative: John Duncan Varda, 1212 S. Pinckney Street, Madison, Wis. 53701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bark, sawdust, wood pulp fines, screening, and any other wood refuse* (except wood chips), for use as fuel in vehicles equipped with self-unloading devices, from points in Marquette, Iron, Menominee and Dickson Counties, Mich., to the facilities of (1) Connor Forest Industries, Laona, Wis., (2) Louisiana-Pacific Corp., Goodman, Wis., and (3) Niagara of Wisconsin Paper Corp., Niagara, Wis. for 180 days. Supporting shippers: There are approximately 3 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies may be examined at the field office named below. Send protest to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 143089 (Sub-No. 1TA), filed April 28, 1977. Applicant: Floyd A. Raley, doing business as RALEY TRUCKING, Route 2, Box 433, Mechanicsville, Md. 20659. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer, agricultural chemical and agricultural lime* (except in bulk, in tank vehicles), from Wilmington and Seaford, Del.; Lynchburg, Va.; Wilmington, N.C.; and York, Pa.; and their respective commercial zones to points in Anne Arundel, Calvert, Prince George's and St. Mary's Counties, Md.; under a continuing contract or contracts with Royster Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Royster Company, Charlotte Hall, Md. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue, NW., Room 1413, District Supervisor W. C. Hersman, Washington, D.C. 20423.

No. MC 143207TA, filed April 27, 1977. Applicant: COLUMBIA-PACIFIC TRANSPORT CO., P.O. Box 6377, 208 No. Gum Street, Kennewick, Wash. 99336. Applicant's representative: Neil F. Lampson (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Contractor's materials and supplies, heavy crawlers, heavy lift rigging and materials* used in the construction of heavy crawlers and heavy life rigging, between construction sites in North Dakota, South Dakota, Montana, Wyoming, Utah, Idaho, Colorado, New Mexico, Arizona, Nevada, California, Oregon, Washington and Alaska, restricted to movements for and under a continuing contract with Neil F. Lampson, Inc., Kennewick, Wash., for 180 days. Supporting shipper: Neil F. Lampson, Inc., P.O. Box 6407, Kennewick, Wash. 99336. Send protests to: L.D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

PASSENGER APPLICATION

No. MC 46879 (Sub-No. 11TA), filed April 27, 1977. Applicant: WALTERS TRANSIT CORP., 525 11th Avenue, New York, N.Y. 10018. Applicant's representative: Kenneth Engelhardt, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, beginning and ending at New York, N.Y., and extending to the Milford Jai-Alai Fronton and Milford, Conn., in round-trip special operations, during the Jai-Alai season of each year, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dania Jai-Alai of Connecticut, Inc., Milford Jai-Alai, P.O. Box 351, Milford, Conn. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-13935 Filed 5-13-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m., May 17, 1977.

PLACE: 5th Floor Hearing Room, 2033 K Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public: 1. Uniform Minimum Financial Rules.

Portions closed to the public: 1. Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane K. Stuckey (254-6314).

[S-402-77 Filed 5-12-77;9:03 am]

2

MAY 10, 1977.

AGENCY HOLDING THE MEETING: Council on Environmental Quality.

TIME AND DATE: 10 a.m.-4:30 p.m., Monday, June 6; 9:30 a.m.-4:30 p.m., Tuesday, June 7; 10 a.m.-4:30 p.m., Wednesday, June 8.

PLACE: Room 2008, New Executive Office Building, 17th Street NW., between Pennsylvania Avenue and H Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Council will hold three days of public hearings on the reform of the implementation of the National Environmental Policy Act (42 U.S.C. 4321, et seq.) and the revision of the Council's Guidelines for the Preparation of Environmental Impact Statements (40 CFR Part 1500).

FEDERAL REGISTER CITATIONS OF PREVIOUS ANNOUNCEMENTS: A more complete explanation and notice of public hearing is found at 42 FR 21836 (Friday, April 29).

CONTACT PERSON FOR MORE INFORMATION:

Sally Mallison, 202-382-2903, 722 Jackson Place NW., Washington, D.C. 20060. Interested persons should consult the April 29 FEDERAL REGISTER notice prior to contacting the Council for further information.

NICHOLAS C. YOST,
Acting General Counsel.

[S-398-77 Filed 5-11-77;5:02 pm]

3

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., May 18, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED: Consideration of Federal Home Loan Bank Assessments. No. 24, May 11, 1977.

[S-401-77 Filed 5-11-77;5:02 pm]

4

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: 9:30 a.m., May 18, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Branch Office Application—First Federal Savings and Loan Association of Lake Worth, Lake Worth, Florida.

Application for Additional Activity by First Clearwater Corporation—First Federal Savings and Loan Association of Clearwater, Clearwater, Florida.

Application for Permission to Organize a New Federal Association—Manual Jara, et al., Fort Worth, Texas.

Agency Office Application—Midland Buckeye Federal Savings and Loan Association, Alliance, Ohio.

Branch Office Application—First Federal Savings and Loan Association of Hollywood, Hollywood, California.

Application for Purchase of Land for future Office Site—Volunteer Federal Savings and Loan Association of Madisonville, Madisonville, Tennessee.

Application for Modification of Condition—Clover Savings and Loan Association, Camden, New Jersey.

Branch Office Application—Pasadena Federal Savings and Loan Association, Pasadena, California.

Application for Insurance of Accounts—Timberland Savings Association, Nacogdoches, Texas.

No. 23, May 11, 1977.

[S-400-77 Filed 5-11-77;5:02 pm]

5

AGENCY HOLDING THE BRIEFINGS: Nuclear Regulatory Commission.

TIME AND DATE: Tuesday, May 17, 1977.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.—Briefings: 1. Zero-Base Budgeting (Approx. 1 hr.); 2. Reactor Licensing Schedules (Approx. 1 hr.).

1:30 p.m.—Briefings (continued): 3. Task Force Report on Reporting Requirements (Approx. 1 hr.); 4. Radiation Epidemiology (Approx. 1 hr.).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202-634-1410).

WALTER A. MAGEE,
Office of the Secretary.

[S-410-77 Filed 5-12-77;2:18 pm]

6

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Monday, May 9, 1977, 2:20 p.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1, 5, 7, 8, 9 were open to the public; matters 2, 3, 4, and 6 were closed to the public.

MATTERS CONSIDERED:

1. Description of existing staff organization and responsibilities.
2. Elimination of certain staff positions.
3. Personnel actions.
4. Discussion of staff personnel.
5. Supplemental budget request.
6. Discussion of Board vacancies.
7. Staff presentation on industry statistics and a comparative statistical data program.
8. Delegation of administrative authority.
9. Division assignments.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel—Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: May 11, 1977.

GOODWIN CHASE,
Chairman.

[S-392-77 Filed 5-11-77;3:44 pm]

7

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Monday, May 16, 1977, at 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED: 1. Regional Board Vacancy and Candidates.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel—Secretary, 2000 M Street NW., Washington, D.C. 20446, 202–254–8277.

GOODWIN CHASE,
Chairman.

[S–393–77 Filed 5–11–77;3:44 pm]

8

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Tuesday, May 17, 1977 at 10:00 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street, NW., Washington, D.C. 20446

STATUS: Matters 1 through 7 will be open to public; matter 8 will be closed to public; matter 9 is not applicable.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held May 10, 1977, and other meetings, if any.
2. Claim for Partial Mandatory Exemption of New Durable Productive Equipment: Cincinnati Milacron Inc. Fiscal year ended December 28, 1974.
3. Claim for Partial Mandatory Exemption of New Durable Productive Equipment: Amsted Industries, Inc. Fiscal year ended September 30, 1975.
4. Application for Commercial Exemption (List #2988):
   a. Atlas Corporation. Fiscal year ended June 30, 1976.
   b. Burroughs Wellcome Co. Fiscal year ended August 28 1976.
   c. Parker Hannifin Corporation. Fiscal year ended June 30, 1976.
   d. Stanley Aviation Corporation. Fiscal year ended June 30, 1976.
   e. VSI Corporation. Fiscal year ended June 30, 1976.
   f. West Point Pepperell Inc. Fiscal year ended August 28, 1976.
5. Application for Commercial Exemption (List No. 2989):
   a. Digital Equipment Corporation. Fiscal year ended July 3, 1976.
   b. Digital Equipment Corporation de Puerto Rico. Fiscal year ended July 3, 1976.
   c. Washington Steel Corporation. Fiscal year ended September 30, 1976.
6. Recommended Clearances Without Assignment (List No. 1866):
   a. Systems Consultants' Incorporated. Fiscal year ended November 30, 1975.
   b. Ducommun Incorporated. Fiscal year ended December 31, 1975.
   c. Kieruliff Electronics, Inc. Fiscal year ended December 31, 1975.
   d. Ampco-Pittsburgh Corporation. Fiscal year ended December 31, 1975.
   e. Campbell Industries, Inc. Fiscal year ended March 31, 1974.
   f. San Diego Marine Construction Corp. Fiscal year ended March 31, 1974.
   g. National Union Electric Corporation. Fiscal years ended December 8, and 31, 1975.
7. Recommended clearances Without Assignment (List No. 1868):
   a. Schiller Industries, Inc. Fiscal year ended March 31, 1975.
   b. NuMac Corporation. Fiscal year ended March 31, 1975.
   c. Tri-Tech Electronic Corporation. Fiscal year ended March 31, 1975.
   d. DeVault Ultra Precision Inc. Fiscal year ended March 31, 1975.
   e. Machine Products Company, Inc. Fiscal year ended December 31, 1975.
8. Recommended Finding or Determination of Excessive Profits and Clearance: Plastoid Corporation. Fiscal years ended November 30, 1966, 1967 and 1968. Concurrent with: Plastoid Corporation of California. Fiscal year ended November 30, 1966.
9. Approval of Agenda for other meetings.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202/254–8277.

Dated: May 11, 1977.

GOODWIN CHASE,
Chairman.

[S–394–77 Filed 5–11–77;3:45 pm]

9

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Wednesday, May 18, 1977 at 10:00 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Reorganization of the Board.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street, NW., Washington, D.C. 20446, 202/254–8277.

Dated: May 11, 1977.

GOODWIN CHASE,
Chairman.

[S–395–77 Filed 5–11–77;3:44 pm]

10

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Tuesday, May 24, 1977 at 10:00 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street, N.W., Washington, D.C. 20446.

STATUS: Matters 1 through 15 will be open to public; Matter 16 will be closed to public; Matters 17 and 18 are not applicable.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held May 17, 1977, and other Board meetings, if any
2. Recommended Clearances Without Assignment (List #1869):
   a. Baldwin Electronics, Inc. Fiscal year ended September 30, 1975.
   b. Cordon International Corporation. Fiscal year ended December 31, 1974.
   c. H. & R. Products, Inc. Fiscal year ended December 31, 1975.
   d. Owens Corning Fiberglas Corporation. Fiscal year ended December 31, 1975.
   e. Revere Copper and Brass, Incorporated. Fiscal year ended December 31, 1975.
   f. C.T.S. Knights, Inc. Fiscal year ended December 31, 1975.
   g. C.T.S. Microelectronics, Inc. Fiscal year ended December 31, 1975.
   h. C.T.S. Keene, Inc. Fiscal year ended December 31, 1975.
   i. C.T.S. Berne, Inc. Fiscal year ended December 31, 1975.
   j. Whittaker Corporation. Fiscal year ended November 2, 1975.
   k. Yardney Electric Corporation. Fiscal year ended April 30, 1975.
3. Recommended Clearances Without Assignment (List No. 1870):
   a. Aluminum Company of America. Fiscal year ended December 31, 1975.
   b. Alcoa Steamship Company, Inc. Fiscal year ended December 31, 1975.
   c. Wear-Ever Aluminum, Inc. Fiscal year ended December 31, 1975.
   d. Composite Materials Corporation. Fiscal year ended December 31, 1975.
   e. American Powdered Metals Company. Fiscal year ended December 31, 1975.
   f. Alcoa Marine Corporation. Fiscal year ended December 31, 1975.
   g. Ross-Meehan Foundries. Fiscal year ended September 30, 1975.
   h. Standard Container Company. Fiscal year ended September 24, 1972.
   i. Galileo Electro-Optics Corporation. Fiscal year ended September 30, 1975.
   j. Mesta Machine Company. Fiscal year ended December 31, 1975.
   k. Electronic Modules Corporation. Fiscal year ended September 30, 1975.
4. Recommended Determination of Clearance: Continental Air Services, Inc. Fiscal year ended December 31, 1972.
5. Recommended Determination of Clearance: Greenwood Mills, Inc. (Formerly Greenwood Mills). Fiscal year ended December 28, 1974.
6. Recommended Determination of Clearance: Greenwood Mills, Inc. (S.C.), SII. to Greenwood Mills, Inc. (N.Y.). Fiscal year ended December 28, 1974.
7. Recommended Determination of Clearance: Pioneer Systems, Inc. (Consolidated). Fiscal year ended December 2, 1972. Fiscal year ended December 1, 1973.

8. Recommended Assignment to a Division: Poloron Products, Inc. (Consolidated). Fiscal year ended November 30, 1969.
9. Proposed Special Accounting Agreement: Black Crow & Eidsness, Inc. Fiscal year ending on or after December 31, 1972.
10. Recommended Letter Not to Proceed: Petroleum Technology Corporation. Fiscal year ended October 31, 1974.
11. Partial Mandatory Exemption of New, Durable Productive Equipment: Ingersoll-Rand Company, Fiscal year ended December 31, 1974.
12. Application for Commercial Exemption (List No. 2990):
   a. Cadillac Gage Company. Fiscal year ended November 30, 1976.
   b. Eastmet Corporation. Fiscal year ended June 30, 1976.
   c. Industrial Service Centers, Inc. Fiscal year ended June 30, 1976.
   d. Raychem Corporation. Fiscal year ended June 30, 1976.
13. Recommended Clearances Without Assignment (List No. 1871):
   a. Cyclops Corporation. Fiscal year ended December 31, 1974.
   b. Detroit Steel Corporation. Fiscal year ended December 31, 1974.
   c. Rapistan, Incorporated, Fiscal year ended November 30, 1975.
   d. Stewart and Stevenson Service. Fiscal year ended January 31, 1975.
   e. New Bradford Dyeing Association, Inc. Fiscal year ended October 31, 1975.
   f. SSP Products Incorporated. Fiscal year ended February 29, 1976.
   g: Hubbell Metals Incorporated. Fiscal year ended December 31, 1974.
14. Request for Exemption of Receipts or Accruals of Common Carriers of Ocean Shipments of Cargo at or at rates below, rates filed with the Federal Maritime Commission and under Prime Contracts with the Military Sealift Command for Transportation of Cargo at rates based on the Manifest Measurement or Manifest Weight of such cargo. Calendar Year 1976.
15. Application for Commercial Exemption (List No. 2991):
   a. Anchor Coupling Company, Inc. Fiscal year ended June 30, 1976.
   b. Eltra Corporation. Fiscal year ended September 30, 1976.
   c. Garlock, Inc. Fiscal year ended December 28, 1975.
16. Application for Commercial Exemption (List No. 2991): Rank Xerox Limited. Fiscal year ended October 31, 1976.
17. Approval of Agenda for meeting to be held June 7, 1977.
18. Approval of Agenda for other meetings.

Dated: May 11, 1977.

GOODWIN CHASE,
Chairman.

[S–396–77 Filed 5–11–77;3:44 pm]

11

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Tuesday, May 31, 1977 at 10:00 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street, N.W., Washington, D.C. 20446.

STATUS: Matters 1 through 7 will be open to public; Matters 8 and 9 will be closed to public; Matters 10 and 11 are not applicable.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held May 24, 1977, and other Board meetings, if any.
2. Recommended Clearances Without Assignment (List # 1872):
   a. T. & P. Sales and Services, Inc. Fiscal year ended May 31, 1976.
   b. Systems Research Laboratories, Inc. Fiscal years ended December 31, 1974 and 1975.
   c. Synergy, Inc. Fiscal years ended December 31, 1974 and 1975.
   d. Systems Technology Corporation. Fiscal years ended December 31, 1974 and 1975.
   e. B. H. Aircraft Company, Inc. Fiscal year ended April 30, 1976.
   f. Harsco Corporation. Fiscal year ended December 31, 1975.
   g. SKF Industries, Incorporated. Fiscal year ended December 28, 1975.
   h. Harris Intertype Corporation. Fiscal years ended June 30, 1972 and 1973.
3. Recommended Clearances Without Assignment (List No. 1873):
   a. Science Applications. Fiscal year ended January 31, 1975.
   b. La Jolla Research Business. Fiscal year ended January 31, 1975.
   c. SAI Comsystems Corporation. Fiscal year ended January 31, 1975.
   d. JRB Associates Incorporated. Fiscal year ended January 31, 1975.
   e. Alco Standard Corporation. Fiscal years ended September 30, 1973, 1974 and 1975.
   f. Davey Compressor Company. Fiscal years ended September 30, 1973 and 1974.
   g. Otto Knonigslow Manufacturing Co. Fiscal years ended September 30, 1973, 1974 and 1975.
   h. Unisource Corporation. Fiscal years ended September 30, 1973, 1974 and 1975.
   i. Synthane Taylor Corporation. Fiscal years ended September 30, 1973, 1974 and 1975.
   j. Boston Insulated Wire and Cable. Fiscal year ended December 31, 1975.
   k. Oklahoma Aerotronics, Inc. Fiscal year ended July 3, 1976.
   l. Hydrosystems, Inc. Fiscal year ended February 28, 1976.
4. Recommended Determination of Clearance: Arcturus Manufacturing Corporation. Fiscal year ended June 30, 1974.
5. Recommended Determination of Clearance: Weyerhaeuser Company. Fiscal years ended December 26, 1971 and 1972.
6. Recommended Determination of Clearance: Sierra Research Corporation. Fiscal year ended December 31, 1974.
7. Special Accounting Agreement to Use the Accrual Basis Instead of the Cash Basis: Decisions and Designs Incorporated. LPI No. 97861.
8. Recommendations of Excessive Profits and Clearance: Service Equipment Company, Inc. Fiscal Years ended August 31, 1971 and 1972.
9. Recommended Finding or Determination of Excessive Profits: American Manufacturing Comany of Texas. Fiscal years ended December 31, 1966–1970.
10. Approval of Agenda for meeting to be held June 14, 1977.
11. Approval of Agenda for other meetings.

Dated: May 11, 1977.

GOODWIN CHASE,
Chairman.

[S–397–77 Filed 5–11–77;3:44 pm]

12

AGENCY HOLDING THE MEETING: Securities and Exchange Commission: Monday, May 16, 1977, Tuesday, May 17, 1977, Wednesday, May 18, 1977 and Thursday, May 19, 1977, at 10:000 a.m., and Thursday, May 19, 1977 at 2:00 and 4:30 p.m., room 825, 500 North Capitol Street, Washington, D.C. Closed meetings will be held on Tuesday, May 17, 1977 and Thursday, May 19, 1977 at 4:30 p.m. The remaining meetings are open.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission or his designee, has certified, that in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552(c)(4)(8)(9)A and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioners Loomis, Evans and Pollack voted to hold the aforesaid closed meetings in closed session.

The subject matter of the open meeting scheduled for Monday, May 16, 1977 will be:

Proposed Rule Relating to "going private" transactions.

The subject matter of the closed meeting scheduled for Tuesday, May 17, 1977 will be:

1. Formal Orders of Investigation.
2. Institution of Injunctive actions.
3. Settlement of Injunctive actions.
4. Other litigation matters.
5. Referral of investigative files to Federal, State or Self Regulatory authorities.
6. Suspension of trading.
7. Institution of Administrative Proceedings.
8. Institution and settlement of Administrative proceedings.
9. Opinion.
10. Propriety of certain industry practice.

The subject matter of the open meeting scheduled for 10:00 a.m. Wednesday, May 18, 1977 will be:

1. Recommendation that the Commission authorize transmittal of a letter drafted by the Office of the General Counsel informing petitioner Holding Trust that the Commission declines to issue an order of the type requested.
2. Proposed legislation respecting certain transactions by Foreign financial institutions.

3. Recommendations with respect to the regulation of advertising by registered investment companies.

4. Recommendation that the Commission adopt Proposed Rule 206(3)–2 under the Investment Advisers Act of 1940 as revised to reflect meaningful public comments.

5. Recommendation that the Commission publish a release which states the Division's opinions on certain disclosure and regulatory matters concerning registered investment companies which invest principally in tax-exempt bonds.

6. Recommendation that the Commission authorize publication for comment the petition of Tax Analysts and Advocates for expansion of the Commission's disclosure requirements regarding income tax expense.

7. Recommendation that the Commission authorize the publication of a final release to correct errors in the publication in ASR 197 of the amendment to quarterly reporting requirements for life insurance companies and related holding companies and make a technical amendment to Rule 3–16(t) of Regulation S–X regarding foreign private issuers.

8. Recommendation of the publication for comment of a release which announces the Division's intention to develop disclosure guidelines for electric and gas utility companies and requests suggestions on the content of such guidelines.

The subject matter of the open meeting scheduled for 2:00 P.M. on Wednesday, May 18, 1977 will be:

1. Recommendation that the Commission authorize issuance of a release announcing the adoption of amendments and interpretations to Rules 15c3–1 and 15c3–3 under the Exchange Act.

2. Recommendation for extension of time period for Commission action on applications for registration by clearing agencies and proposal to seek public comment on standards relating to the registration of clearing agencies.

3. Proposed amendment of Rules 15b10–6 and 17a–4 under the Securities Exchange Act of 1934 to establish an orderly procedure for the disposition of broker-dealer books and records upon the liquidation of the broker-dealer.

4. Proposed Rule 15b7–1 under the Exchange Act.

5. Recommendation that the Commission approve the New York Stock Exchange proposal to redefine the term "percentage order" and to adopt procedures for the execution of such orders.

6. Recommendation that the Commission issue an order granting Bradford National Clearing Corporation an exemption from registration as a securities information processor.

The subject matter of the open meeting scheduled for May 19, 1977 at 10:00 a.m. will be:

1. Recommendation that the Commission authorize issuance of an opinion and order granting to Central Power and Light Company an extension of time for the acquisition of interests in fuel exploration and development and denying motions of Texas Utilities Company and Houston Lighting and Power Company motions for hearing and consolidation.

2. Recommendation that the Commission authorize issuance of an opinion and order granting the application of West Texas Utilities Company authority for the proposed acquisition of interests in fuel exploration and development activities and denying requests of Texas Utilities Company and Houston Lighting and Power Company for hearings and a motion to consolidate the proceeding with another pending proceeding.

3. Recommendation that the Commission authorize issuance of an opinion and order authorizing a proposed charter amendment of Central and South West Corporation and denying the motion of Texas Utilities Company for a hearing and consolidation of this proceeding with another pending proceeding.

4. Recommendation that the Commission authorize issuance of an opinion and order in the matter of Central and South West Corporation, Transok Pipe Line Company and Public Service Company of Oklahoma authorizing proposed acquisition of interests in coal and lignite acquisition and development projects and denying motions of Texas Utilities Company and Houston Power and Lighting Company to intervene and for a hearing and consolidation with another pending proceeding.

5. Proposal for Public Comment on Revisions to Rule 19b–4.

6. Proposed amendment to Rule 12a–6 under the Exchange Act to extend the exemption from registration under section 12(a) of that Act to certain underlying securities which are traded solely in the over-the-counter market.

The subject matter of the open meeting scheduled for May 19, 1977 at 2:00 p.m. will be: Oral presentation by officials of the American Stock Exchange, Inc. on a request that the Commission reconsider its position that that exchange should require its options specialists to be subject to position limits applicable to all other persons.

The subject matter of the closed meeting scheduled after the completion of the meeting at 2:00 p.m. on May 19 will be: Investigation re option trading practices.

For information contact Howard B. Scherer (202) 755–1280.

Dated: May 9, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[S–399–77 Filed 5–11–77;5:02 pm]

register

federal

MONDAY, MAY 16, 1977

PART II



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

ADDITIONAL EQUIPMENT FOR VESSELS OF 10,000 GROSS TONS OR MORE; INERT GAS SYSTEM; TANK VESSELS CARRYING OIL IN TRADE; IMPROVED EMERGENCY STANDARDS FOR OIL TANKERS

Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 157]

[CCG 77-058]

TANK VESSELS CARRYING OIL IN TRADE

Protection of Marine Environment

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is considering amending the rules for the protection of the marine environment relating to tank vessels carrying oil in bulk by requiring all oil tankers of 20,000 tons deadweight (DWT) or more, U.S. and foreign, that call at American ports to have segregated ballast capabilities and that those built under a contract awarded after [December 31, 1979], or delivered after [December 31, 1981], have double bottoms. This amendment is in response to that portion of the President's March 17, 1977, message to Congress relating to double bottoms and segregated ballast on tankers over 20,000 tons DWT entering U.S. ports. The adoption of this amendment would result in reduced amounts of oil spillage into the navigable waters of the United States and oceans.

DATES: 1. Comments must be received on or before: September 1, 1977.

2. Public hearings: The Coast Guard will hold two public hearings on this proposal. The first will be held commencing at 9:00 a.m. on June 16, 1977, and continuing until all commentors have been heard, in the Santa Fe Helix del Mar Room, Town and Country Hotel, 500 Hotel Circle North, San Diego, California 92138. The second will be held commencing at 9:00 a.m. on June 21, 1977, and continuing until all commentors have been heard, in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426-1477). A copy of the economic evaluation from which the economic summary in this document is taken and the draft environmental impact statement are also available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (GCD 77-058), the name and address of the person submitting the comments, the specific section of the proposal to which the comment applies, and the reason for the comment.

All comments received will be considered before final action is taken on this proposal. Interested persons are invited to attend the hearing and present oral or written statements on the proposal. It is requested that anyone desiring to make comments notify Captain Greiner at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the notification.

Drafting Information

The principal persons involved in drafting this proposal are: Commander Richard A. Sutherland, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley Colby, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The President's message of March 17, 1977, to Congress included measures designed to reduce oil pollution caused by tanker accidents and by routine operational discharges from all vessels. The President informed Congress that the Secretary of Transportation would be instructed to develop new rules within 60 days for all oil tankers 20,000 tons DWT or more, U.S. and foreign, that call at American ports. Included were rules for double bottoms in tankers built in the future and segregated ballast on all tankers. The proposal in this document is in response to the President's initiative.

The regulations would require a double bottom beneath the cargo carrying portion of a seagoing vessel's hull if the vessel is 20,000 tons DWT or more and is constructed under a contract awarded after [December 31, 1979] or if it is to be delivered after [December 31, 1981]. As authorized in the President's message, the Coast Guard may accept technological improvements or alternatives which will result in equivalent pollution protection in grounding accidents.

The regulations would also require that all seagoing vessels of 20,000 tons DWT or more have a segregated ballast capability by [January 1, 1982]. Again, provision is made for acceptance of technological improvements or alternatives which will result in equivalent pollution protection against operational discharges.

The regulations would apply to vessels over 20,000 tons DWT which enter the navigable waters of the United States to engage in trade.

It will be noted that implementation dates in this proposal are enclosed in brackets. This is to indicate that the dates are tentative and may be advanced or delayed by as much as one year, depending upon comments received and the outcome of current international negotiations directed at developing international standards of comparable scope.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200).

The analysis shows that allowing for some market compression, approximately 1250 foreign tank vessels and 220 U.S. seagoing tank vessels would be affected by the segregated ballast retrofit requirement. In addition, approximately 25 new double bottom tankers will have to be built in the United States to meet domestic shipping demands. The projected costs of the requirements to the U.S. seagoing transportation industry is estimated to be $77 million in the 2 year period, 1981 and 1982. Total added costs to be passed on to the U.S. consumer by way of higher freight rates is estimated to be $125 million annually.

The expected benefits of the requirements are reduced amounts of spillage of oil into the navigable water of the U.S. as a result of vessel groundings, reduced amounts of operational discharge to the oceans from deballasting and tank cleaning, and conservation of oil.

In consideration of the foregoing, it is proposed to amend Part 157 of Title 33, Code of Federal Regulations, as follows:

1. Section 157.07 is revised to read as follows:

§ 157.07 Equivalents.

The Coast Guard may accept, in accordance with the procedure in 46 CFR Part 30.15-1, techologically improved or alternate design or equipment as equivalent to a design or any equipment required under this part.

2. Section 157.10 is added to read as follows:

§ 157.10 Segregated ballast and double bottoms.

(a) After [December 31, 1981,] a vessel of 20,000 tons DWT or more must have segregated ballast tanks that have a total capacity to allow the vessel to meet the draft and trim requirements in paragraph (b) of this section without recourse to the use of oil tanks for water ballast.

(b) In any ballast condition during any part of a voyage, including that of lightweight with only segregated ballast, the vessel's drafts and trim must have the capability of meeting each of the following requirements.

(1) The molded draft amidship (dm) in meters without vessel deformation must not be less than dm in the following mathematical relationship:

$$dm = 2.0 + 0.02L$$

(2) The drafts at the forward and after perpendiculars must correspond to those determined by the draft amidship as specified in paragraph (b)(1) of this section, in association with trim by the stern of no more than 0.015L.

(3) The minimum allowable draft at the after perpendicular is that which is necessary to obtain full immersion of the propeller.

(c) A vessel may have pollution protection against operational discharges equivalent to paragraph (b) of this section that is accepted under §157.07.

(d) The vessel may be designed to carry ballast water in cargo tanks during the condition described in § 157.35.

(e) A vessel of 20,000 tons DWT or more for which the construction contract is awarded after [December 31, 1979] or which is delivered after [December 31, 1981] must—

(1) Have a double bottom that does not carry oil and that is at least the molded breadth divided by fifteen (B/15) or two meters in height, whichever is less, under each oil cargo tank; or

(2) Have pollution protection against groundings equivalent to paragraph (e)(1) of this section that is accepted under § 157.07.

(f) Any excess capacity of segregated ballast under paragraph (b) of this section that exceeds the double bottom capacity must be distributed adjacent to the side shell of the vessel.

3. Subpart B is amended by adding § 157.24a to read as follows:

§ 157.24a Submission of segregated ballast calculations.

After [December 31, 1981,] the owner of a vessel under § 157.10(b) shall submit the following to the Coast Guard before that vessel enters the navigable waters of the United States:

(a) Calculations to substantiate compliance with the segregated ballast distribution requirements in § 157.10(b).

(b) Plans and specifications for the vessel that include—

(1) Design characteristics;
(2) A lines plan;
(3) Curves of form (hydrostatic curves) or hydrostatic tables;
(4) A general arrangement plan of each deck and level;
(5) Inboard and outboard profile plans showing oiltight and watertight bulkheads;
(6) A midship section plan;
(7) A capacity plan showing the capacity and the vertical and longitudinal centers of gravity of each cargo space, tank, and similar space;
(8) Tank sounding tables or tank capacity tables;
(9) Draft mark locations;
(10) Detailed plans of watertight doors; and
(11) Detailed plans of vents.

(c) A certified statement accepting the design of the vessel by the classification society that oversees the vessel if that design meets the classification society's rules and the requirements of § 157.10.

(Title II, Sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a); 49 CFR 1.46(n)(4))

NOTE.—The Coast Guard has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

Dated: May 6, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-13896 Filed 5-13-77;8:45 am]

[33 CFR Part 157]

[CGD 77-063]

IMPROVED EMERGENCY STEERING STANDARDS FOR OIL TANKERS

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rules.

SUMMARY: The Coast Guard is proposing to amend the rules for the protection of the marine environment relating to tank vessels carrying oil in bulk by requiring improved emergency steering standards for all oil tankers of 20,000 deadweight tons or more, both U.S. and foreign, that call at U.S. ports. This proposal implements the portion of the President's message of March 17, 1977, to Congress concerning measures for reducing pollution caused by tanker accident. The President's message directed that the standards in this proposal and other regulations would be developed. Adoption of the regulations in this proposal would reduce the probability of collision and grounding of oil tankers caused by steering failure and would, therefore, reduce the risk of oil pollution as well as property damage, personal injury, and death that could result from these accidents.

DATES: 1. Comments must be received on or before: September 1, 1977.

2. Public hearings: The Coast Guard will hold two public hearings on this proposal. The first will be held commencing at 9:00 a.m. on June 16, 1977, and continuing until all commenters have been heard, in the Santa Fe Helix del Mar Room, Town and Country Hotel, 500 Hotel Circle North, San Diego, California 92138. The second will be held commencing at 9:00 a.m. on June 21, 1977, and continuing until all commenters have been heard, in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Copies of the economic evaluation from which the economic summary in this document is taken are available for examination at the above address. Copies of the environmental impact declaration are also available at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written data, views, or arguments. Written comments should include the docket number (CGD 77-063), the name and address of the person submiting the comments, the specific section of the proposal to which the comment applies, and the reason for the comment. The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on this proposal.

Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to make comments notify Captain Greiner at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the notification.

Drafting Informaton

The principal persons involved in drafting this proposal are: Commander Robert G. Williams, Project Manager for the Office of Merchant Marine Safety, and Mr. William R. Register, Project Attorney for the Office of Chief Counsel.

Discussion of the Proposed Regulations

1. The President's message of March 17, 1977, to Congress included initiatives designed to reduce oil pollution caused by tanker accidents and by routine operational discharges from all vessels. The President informed Congress that the Secretary of Transportation would be instructed to develop new rules within 60 days for all oil tankers of 20,000 deadweight tons or more, both U.S. and foreign, that call at U.S. ports. Included were rules to improve emergency steering standards on oil tankers. The proposal in this document is in response to the President's initiative.

2. As provided in the President's message, acceptance of technological improvements or alternatives which will result in equivalent pollution protection will be allowed in lieu of the equipment proposed in this notice. Procedures for acceptance of equivalents are currently contained in § 157.07 of Part 157. Section 157.07 is being revised in accordance with the President's commitment and is contained as a proposal in the "Proposed Rules for Tank Vessels Carrying Oil in Trade", which appears in this issue of the FEDERAL REGISTER.

3. Sufficient time is needed for existing and new vessels to comply with the equipment requirements in these propos-

als and to develop operating procedures with respect to using the equipment. Accordingly, the effective date proposed for the regulations is one year after they are published as final rules.

4. The proposed regulations would apply to all oil tankers of 20,000 deadweight tons or more that call at U.S. ports. The purpose of the proposed regulations is to reduce the probability of collision or grounding of oil tankers caused by a steering failure. A reduction in the probability of these accidents would reduce the risk of oil pollution as well as property damage, personal injury, and death that could result from these accidents.

A Coast Guard review of vessel casualty reports shows that 87 casualties involving failure of steering gear or a steering gear control system were reported between 1963 and 1976 on tank vessels of 20,000 deadweight tons and over. Forty of these casualties occurred on foreign vessels operating in U.S. navigable waters and the remaining casualties occurred on U.S. vessels. Though no deaths or pollution incidents were reported as a result of these casualties, vessel damage and other property damage occurred and the potential of pollution resulting from collision or grounding was present in each casualty. The potential for collision or grounding and subsequent pollution as a result of steering failure cannot be ignored when considering the increasing number of vessels being used to transport oil in bulk.

5. In addition to the proposals in this notice, the Coast Guard is preparing proposed amendments to Subchapter J of Title 46, Code of Federal Regulations, that in part contain provisions for steering gear power and control systems on new U.S. vessels. The proposals in Subchapter J are based upon the recommendations for steering gear power and control systems contained in International Maritime Consultative Organization (IMCO) Resolution A.325 (IX) entitled "Recommendations Concerning Regulations for Machinery and Electrical Installations in Passenger and Cargo Ships." IMCO Resolution A.325 (IX) was adopted by the IMCO Assembly on November 12, 1975.

6. The Coast Guard recognizes that problems of steering failure are not limited to oil tankers and in the future will be considering proposals to make the rules in this notice applicable to other tank vessels as well as to other types of vessels.

7. The proposals in this notice contain requirements for steering failure alarms, requirements for recovering rudder control after failure of a steering gear control system, and requirements for submitting steering control information to the Coast Guard and in certain cases for retaining the information on board the vessel.

8. Section 157.03(aa) contains a definition of "steering gear control system" as the term is used in the proposed regulations. This definition will also appear in the proposed amendments to Subchapter J of Title 46 that are currently being prepared. The definition would include a differential control unit as a component of a steering gear control system. Accordingly, on an existing vessel that utilizes a common differential control unit for its steering gear control systems, an additional differential control unit would be required in order to comply with the requirement in § 157.20(a), which requires the capability to recover rudder control after a failure in the steering gear control system in use. If the failure occurred in the differential control unit, a second unit would be needed in order to assure recovery of rudder control.

9. Proposed § 157.20 requires each oil tanker of 20,000 deadweight tons or more to have a steering failure alarm that would provide an audible and visible warning in the pilothouse in the event of loss of rudder control from the pilothouse. The 5 degree position variation and 30 second time period proposed in this requirement are necessary to prevent nuisance alarms caused by normal variation between the rudder position ordered and the actual rudder position.

Proposed § 157.20 applies only to a vessel that has a steering gear control system of the type required by 46 CFR 58.25–45(a). Section 58.25–45(a) of Title 46 in part requires that the arrangement of the steering gear control system and the steering gear components must provide full follow-up control of the rudder. If the vessel is steered by other means, constant use of a rudder angle indicator is necessary; or, if automatic steering gear control equipment is used, alarms are built into the equipment. In either event, early warning of a steering failure is provided when using these other means of steering without the need of an additional warning.

Proposed § 157.20 also requires the proposed alarm system to be separate from and independent of each steering gear control system on the vessel. The purpose of providing separate arrangement of the alarm system is to minimize the probability of simultaneous damage to both the alarm system and a steering gear control system from a source external to these systems. The alarm system must be independent of each steering gear control system so that failure of a component of a steering gear control system will not result in failure of the alarm.

10. Proposed § 157.20a requires that a means be provided to recover control of the rudder within 45 seconds after detection of a failure of the steering gear control system in use. The proposed 45 second time limit is needed to perform necessary operations to regain steering control such as transferring control switches, shifting hydraulic systems, and engaging a trick wheel.

Paragraph (b) of § 157.20a describes the measure of rudder control that must be recovered after failure of a steering gear control system. This capability is the same as the capability recommended in IMCO Resolution A.325 (IX) for operation of auxiliary steering gear.

In order to comply with proposed § 157.20a, equipment modifications to present steering gear control systems on vessels may be necessary though in many instances vessel operators could elect to provide manning of steering stations in lieu of making equipment modifications.

11. Proposed § 157.24b provides that in the case of a U.S. vessel information showing compliance with the proposed alarm and rudder control requirements must be submitted to the Coast Guard. The proposal also provides that in the case of a foreign vessel this information must be on board whenever the vessel operates in the navigable waters of the United States.

12. Proposed § 157.51 contains a requirement to follow the procedure in § 157.20a for recovering rudder control.

13. This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). Approximately 1800 oil tankers of 20,000 deadweight tons or more call at U.S. ports. The total costs for these vessels to comply with the requirements proposed in this notice during the first two years after they become effective are expected to be approximately $16,575,000. The estimated costs to U.S. vessels during the first two years are expected to be $820,000 to install steering failure alarm systems and $3,100,000 to comply with the requirement to recover steering control. The remaining costs would be associated with foreign vessels. The total, estimated costs assume that approximately 50 percent of the affected vessels would comply with the requirements by means of manning of steering stations other than the pilothouse.

Compliance with the proposed requirements should result in fewer groundings and collisions and in a corresponding reduction in probability of pollution, property damage, injury, and death.

In consideration of the foregoing, it is proposed to amend Part 157 of Title 33, Code of Federal Regulations, as follows:

1. Section 157.03(aa) is added to read as follows:

§ 157.03 Definitions.

* * * * *

(aa) "Steering gear control system" means a group of devices and cables forming a network that regulates and guides the operation of a steering gear.

2. Section 157.20 is added to read as follows:

§ 157.20 Steering failure alarm.

(a) This section applies to each vessel of 20,000 deadweight tons or more that has a steering gear control system of the type required by 46 CFR 58.25–45.

(b) Each vessel must have an alarm system that activates an alarm in the pilothouse whenever the actual rudder position differs for thirty or more seconds by more than five degrees from the rudder position selected by the helmsman.

(c) The alarm system must be separate from and independent of each steering gear control system, except that the alarm system may receive input from the steering wheel shaft.

(d) The alarm must be both audible and visual and must be of a type distinctive from each other alarm in the pilothouse.

NOTE.—This section becomes effective one year after the final regulations are published.

3. Section 157.20a is added to read as follows:

§ 157.20a Recovery of rudder control.

(a) Each vessel of 20,000 deadweight tons or more that calls at a U.S. port must have equipment and procedures to recover adequate control of the rudder within 45 seconds after a failure in the steering gear control system in use has been detected.

(b) A vessel meets the requirements in paragraph (a) of this section if it has either of the following combinations of procedures and equipment, although other combinations are possible:

(1) Two separate and independent steering gear control systems, associated equipment in the pilothouse for switching from one system to another, and procedures for operating the associated equipment.

(2) Procedures and associated equipment for manning steering gear spaces and emergency steering stations, as necessary, which ensure compliance with the requirement in paragraph (a) for recovering rudder control.

(c) For the purposes of this section, adequate control of the rudder is recovered if the vessel regains the capability to move the rudder from 15 degrees on one side to 15 degrees on the other side in not more than 60 seconds when the vessel is underway at its deepest draft and at one half of its maximum speed ahead or 7 knots, whichever is greater.

NOTE.—This section becomes effective one year after the final regulations are published.

4. Section 157.24b is added to read as follows:

§ 157.24b Submission of steering control information.

(a) The owner of a U.S. vessel of 20,000 deadweight tons or more shall submit the following information to the Coast Guard before the vessel operates in the navigable waters of the United States.

(1) Plans and specifications of the steering failure alarm system required by § 157.20 that contain enough detail to show compliance with that section.

(2) Plans, specifications, and procedures that contain enough detail to show compliance with the requirements in § 157.20a for regaining rudder control.

(b) The owner of each foreign vessel of 20,000 deadweight tons or more that calls at a U.S. port shall have on board the information described in paragraph (a) of this section whenever operating in the navigable waters of the United States.

NOTE.—This section becomes effective one year after the final regulations are published.

5. Section 157.51 is added to read as follows:

§ 157.51 Procedures for recovery of rudder control.

The master of a vessel of 20,000 deadweight tons or more that calls at a U.S. port must ensure that the procedures required by 157.20a for recovering rudder control are followed whenever the vessel is operating on the navigable waters of the United States.

(Title II, sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a); 49 CFR 1.46.)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: May 9, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-13897 Filed 5-13-77;8:45 am]

[33 CFR Part 164]

[CGD 77-016]

VESSELS OF 10,000 GROSS TONS OR MORE

Proposed Additional Equipment

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is considering amending the Navigation Safety Regulations by adding a requirement for vessels of 10,000 gross tons or more, both U.S. and foreign vessels calling at United States ports, to have a second radar system and collision avoidance equipment. This amendment could implement that part of the President's March 17, 1977, message to Congress concerning a requirement for backup radar systems with collision avoidance equipment on all tankers over 20,000 deadweight tons (dwt) entering U.S. ports. The adoption of this amendment could result in tangible savings for industry and government including less vessel damage or loss, and lower investigation, search and rescue, and pollution clean-up costs.

DATES: 1. Comments must be received on or before September 1, 1977. 2. Public Hearings: The Coast Guard will hold public hearings on this proposal. The first hearing will be held commencing at 9:00 a.m. on June 16, 1977, and continuing until all commentors have been heard, in the Santa Fe Helix del Mar Room, Town and Country Hotel, 500 Hotel Circle North, San Diego, California 92138. The second will be held commencing at 9:00 a.m. on June 21, 1977, and continuing until all commentors have been heard, in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW, Washington, D.C. Copies of studies referred to in this document are available for examination at the above address. A copy of the economic evaluation from which the economic summary in this document is taken is also available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW, Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 77-016), the name and address of the person submitting the comments and the specific section of the proposal to which each comment is addressed. All comments received will be considered before final action is taken on this proposal. Interested persons are invited to attend the hearings and present oral or written statements on this proposal. It is requested that anyone desiring to make oral comments notify Captain Greiner at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley Colby, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

An advance notice of proposed rulemaking entitled "Marine Traffic Requirements" was published in the FEDERAL REGISTER on June 28, 1974 (39 FR 24157). Among the many concepts advanced were proposals to require a second radar and an "anti collision device" on all vessels of more than 10,000 gross tons operating on the navigable waters of the U.S. Three commenters responded negatively regarding the second radar, primarily because of the retrofit costs. Four commenters responded negatively concerning the "anti collision device". They stated that: (1) the variety of such devices is so great as to make compliance difficult without "tighter" specifications; and (2) the collision avoidance capability of those devices is based on a presumed steady state of relative motion between vessels—a condition which rarely prevails on inland waters.

Navigation Safety Regulations were proposed in the May 6, 1976, issue of the FEDERAL REGISTER (41 FR 18766). The

proposed requirement for a second marine radar system was retained despite the three negative comments. In the Coast Guard's view, loss of radar capability on a vessel of 10,000 gross tons or more imposes an unacceptable risk factor. Redundancy was deemed necessary for safety. However, the proposed requirement for a collision avoidance system was dropped in light of the comments mentioned above.

Fifteen commenters responded to the proposed second radar requirement. Five suggested that we further specify one 3-cm and one 10-cm radar. Four requested additional specifications, such as stabilization, PPI scope size, mode of presentation, and reflection plotter. Six comments were negative, again citing retrofit costs, limited usefulness in confined waters, and complaining of "useless" redundancy. The June 30, 1974, Advance Notice of Proposed Rulemaking proposed a requirement for both 3-cm and 10-cm radars. The Notice of Proposed Rulemaking of May 6, 1976, did not specify wavelengths. Generally speaking, the longer wavelength radar gives better adverse-weather performance because of its ability to penetrate water droplets. This advantage is gained at the cost of resolution. The signal of the shorter wavelength radar is attenuated more by moisture, but it gives better resolution in good weather. A requirement for a second radar could be based either on a perceived need for operational flexibility or on a need for redundancy. Operational flexibility, the Coast Guard feels, is best left to the vessel operator. The objective of this proposal is to provide, for certain vessels, a degree of radar redundancy and to provide for installation of a collision avoidance device on those vessels.

Seventeen commenters objected to the removal of the proposed requirement for a collision avoidance system. For the most part, the arguments advanced were not persuasive. However, the volume of comments suggested that further study was warranted.

Navigation Safety Regulations (33 CFR 164) were published in the FEDERAL REGISTER (42 FR 5956) as a final rule on January 31, 1977. The regulation did not include a requirement for collision avoidance systems, citing instead the planned issuance of this notice. The proposed requirement for a second radar system was not included pending resolution of the question of collision avoidance system.

On March 17, 1977, President Carter conveyed to Congress a message concerning oil spill risk. In it he directed several initiatives, including the development within 60 days of certain regulations, including "Backup radar systems, including collision avoidance equipment, on all tankers [over 20,000 deadweight tons]". This notice is directly responsive to that mandate. The 10,000 gross ton criteria listed in the advance and proposed notices of rulemaking is (as to tankers) roughly comparable to the 20,000 deadweight tons specified in the President's initiatives of March 17, 1977. As collisions between vessels are not related to their cargo or trade, it was determined that the proposed requirement for a second marine radar and a collision avoidance system should apply to all vessels of 10,000 gross tons or more.

As noted above, the May 6, 1976, notice proposed a requirement for a second marine radar system on all vessels of 10,000 gross tons or more. That requirement was withheld from the final rulemaking in anticipation of this proposal that a collision avoidance system be installed on those same vessels. Some collision avoidance systems have a radar display, actual or synthetic, integrated into the system. Others "add on" to the basic radar system. Delaying implementation of the second radar requirement until a decision is made on possible requirement of a collision avoidance system will allow the ship owner maximum flexibility in compliance.

A collision avoidance system is designed basically to aid mariners in identifying and resolving vessel relative motion problems. Just as a pocket calculator replaces paper and pencil in arithmetic computations, the basic collision avoidance system replaces manual maneuvering board solutions. Experience and good judgment are still the determining factors in safe navigation, with or without a collision avoidance system.

As has been pointed out by several commenters, electronic resolution of the threat posed by closing contacts is far faster than manual methods and does not distract the "conning" officer from other functions. Moreover, an electronic system can handle simultaneously more contacts than a manual system, thus to a point eliminating the problem of saturation by multiple contacts. Additionally, the system can be designed to give warning of closing contacts and to operate in a "trial maneuver" mode to predict the outcome of various responses. This "trial maneuver" capability is entirely dependent upon a steady state of relative motion between vessels. This predicted outcome can be negated by a change of target course or speed. Single or few contacts may be adequately handled by manual methods using a plotter. However, these manual methods do not favorably compare in speed of solution or convenience of data presentation with the computer assisted systems.

The U.S. Maritime Administration requires that collision avoidance systems be installed on all new construction tankers subsidized by that agency and recommends that they be installed on all subsidized vessels engaged in foreign trade. A study by the National Research Council, entitled "Human Error in Merchant Marine Safety", published in June 1976, recommends that the systems be required on oceangoing merchant vessels to reduce human error casualties stemming from lack of vigilance. A report of recent British investigations indicates that collision avoidance systems decrease workload and increase operator understanding of the situation around his ship. Conversely, a recent study by Operations Research, Inc., of Silver Spring, Md., commissioned by the Coast Guard, concludes in part that requiring the systems would not appear to be cost-beneficial in preventing vessel casualties on the navigable waters of the U.S.

The Coast Guard has determined that a collision avoidance system in each vessel of 10,000 gross tons or more could contribute positively to the safety of that vessel and to the protection of the environment, particularly in waters in which vessels are not closely confined and are not making repeated course changes dictated by geographic or other conditions.

Economic impact. This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). It is estimated that 2,000 foreign and 400 U.S. vessels might be affected if the proposal is adopted. Basic collision avoidance systems range in price from $90,000 to $150,000. At an average cost of $120,000 per vessel, installed, the projected first year cost to the U.S. shipping industry would be $43,200,000 and the impact on the U.S. economy would approximate $76,800,000. Assuming a 10 year amortization period, the second through tenth year impacts would be about $28,800,000 per year. Impact on the U.S. economy would total $307,200,000 over the 10 year period.

The benefits from having this equipment could result in tangible savings, including less vessel damage or loss, less post-vessel-casualty costs, including investigation costs, and search and rescue costs, and less pollution clean up costs. Significant intangible benefits could accrue, including less loss of life or injury and less pollution and resulting harm to the environment.

If adopted, the final regulations would contain a specific effective date on which collision avoidance systems would be required to be onboard vessels of 10,000 gross tons or more while operating on the navigable waters of the U.S. This effective date would follow by one year the publication of the final regulations in order to allow sufficient time for the procurement and installation of the required equipment.

Accordingly, it is proposed to add § 164.37, to Part 164, published in the January 31, 1977, issue of the FEDERAL REGISTER (42 FR 5969), to read as follows:

§ 164.37 Additional Equipment: vessels of 10,000 gross tons or more.

Each vessel of 10,000 gross tons or more must have, in addition to the radar system required in § 164.35(a), a second marine radar system with a computer aided collision avoidance system meeting the specification entitled "Performance Specification For a Computer Aided Collision Avoidance Sytem For Merchant Ships", published by the Radio Technical Commission for Marine Services (RTCM Paper 171-76/EC 205/SC 65-226, Revised January 19, 1977).

NOTE.—Performance Specification For a Computer Aided Collision Avoidance System For Merchant Ships is published in Appendix A for reader's convenience.

(Titles I and II, 86 Stat. 426, 427 (33 USC 1224; 46 USC 391a); 49 CFR 1.46(n)(4)).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

MAY 9, 1977.

APPENDIX A—PERFORMANCE SPECIFICATION FOR COMPUTER AIDED COLLISION AVOIDANCE SYSTEM FOR MERCHANT SHIPS

NOTE: Published by the Radio Technical Commission for Marine Services (RTCM), under the Federal Communications Commission, as RTCM Paper 171-76/EC-205/SC 65-226 (revised as of January 19, 1977 and superseding Paper 145-76/SC 65-220).

1. Purpose. The purpose of this document is to specify minimum performance standards for a computer-aided collision avoidance system to assist in correctly interpreting radar data in a manner that will help avoid collisions.

2. Scope. This document provides specifications for the capabilities, data presentation, warning features and necessary inputs of a shipboard computer-aided collision avoidance system, suitable for use on board merchant ships.

3. Inputs to the system. The system shall be capable of accepting signals from the ship's radar(s), gyro compass, speed log (or equivalent speed input), and from a manual speed input. The system shall clearly indicate the speed source selected. The system, whether operating normally or having failed, must not introduce any spurious signals or otherwise degrade the performance of the equipments providing inputs.

4. PPI display. The effective size of the PPI display shall be equivalent to or greater than that provided by a 16" diameter CRT.

The display may be separate or it may be a ship's radar PPI with the collision avoidance data superimposed.

The system shall have both true and relative[1] presentation modes. As a minimum, a capability for relative motion display shall be provided. Projected target track lines should be selectable in either true or relative motion.[2] In addition, the system may provide for true motion. If true motion is provided, the operator shall be able to select for his display either true or relative motion.

Computer generated data for each displayed target shall be in the form of a vector or line indicating target true course or relative motion, with a length proportional to speed, giving both present and extrapolated future positions. The capability to cancel the line or vector presentation of non-threatening targets shall be provided.

The display presentation may be entirely synthetic or synthetics superimposed on the radar video. If the display is superimposed on radar video, means shall be provided to independently adjust the brilliance of the synthetic presentation and of the radar video, including their complete elimination.

Own ship's heading indicator shall be presented on the display in all modes. The indicator shall appear on the display either as a heading line or as a heading marker on the periphery, and shall be accurate within 0.5 degree exclusive of sensor errors. Provision shall be made for adjusting its brilliance and for momentary extinguishing of the heading line. A bearing ring which may be movable shall also be provided.

The system shall be capable of simultaneously representing fixed targets, moving targets and land masses.

The equipment should be provided with at least four range scales, the smallest of which is not more than 3 nautical miles (nm) and the greatest of which is not less than 24 nm.

The brilliance of the display shall be adjustable to the level where it is sufficiently bright to be observed in the normal ambient sunlight expected in a wheelhouse, without the use of a hood, except that a shield may be provided to block direct rays of the sun. The display shall be usable without destroying night vision on a darkened bridge. To enable night vision protection, the display phosphor shall include wavelengths within the band 600 to 750 nanometers, in order to permit the use, where desired, of a red filter. A red phosphor that emits solely within the 600 to 750 nanometer band is an acceptable alternative to the red filter.

For targets having a range of less than 10 miles, within one minute after the moment that:

(a) The target appears on the radar display and is within the acquisition range of the collision avoidance system (for automatic acquisition systems), or

(b) The operator initiates acquisition (for manual acquisition systems), the system should present, as a minimum, an indication of target motion trend. Within 3 minutes a fully accurate target course and speed should be presented on the display and/or in alphanumeric form, assuming the associated radar has a scanning rate of at least once in three seconds. If more than two targets on the same bearing are required, the above presentation times may be degraded. This degradation factor must be restricted to a maximum of two times the above limits for a quantity of four targets on the same bearing and three times for a quantity of six targets on the same bearing, etc.

5. Target acquisition. Target acquisition may be manual or automatic. The system shall be able to track at least (20) targets automatically. The tracked targets shall be marked on the display by distinct tracking symbols.

6. Warning alarms. For a manual acquisition system, audio and visual alarms shall be initiated by any target closing to a preset minimum range, or guard ring. After target acquisition, similar alarms shall be initiated in all systems by any target that is predicted to close to less than a preset minimum range. The target causing the alarms to be initiated shall be clearly identifiable on the display.

For both manual and automatic acquisition systems, means shall be provided to silence the audio alarm for a given threat but the alarm shall resound upon a subsequent threat. A visual indication shall continue until all threats have been eliminated.

7. Alpha-numeric information presentation. For any acquired target, where alpha-numeric information is provided, the following shall, as a minimum, be included:

Present range to the target;
Present bearing of the target;
Predicted target range at the closest point of approach (CPA);
Predicted time to CPA (TCPA);
Present course of the target;
Present speed of the target.

This information may be presented on the system display or on a separate display device.

When steady-state tracking conditions have been obtained for a non-maneuvering target, the computational errors introduced by the collision avoidance device shall be no greater, for the parameter under consideration, than the unit value of the least significant digit displayed of that parameter.

8. Accuracy. Operationally the equipment is required to present data on a target of interest with adequate accuracy in a reasonable time. Equipment which can satisfy the following test condition will be deemed to meet this requirement.

For a vessel on a constant collision course at a range of 4 nm, with a relative speed of 20 knots, the equipment shall determine the relative speed to within 10 percent within 3 minutes from the time of acquisition. Further, for a vessel passing 1 nm ahead with a relative speed of 10 knots and a constant direction of relative motion (DRM) of 090°, the equipment shall determine its DRM to within 3 degrees in the same time period.

The above requirements pertain to computational accuracy of the system and do not encompass the inaccuracies of the input sensors.

9. Trial maneuver. The system is to provide necessary information regarding possible maneuvers in order to avoid collisions. The system shall have the capability of simulating possible future situations and presenting such situations on the display. The trial maneuver shall indicate the results of a simulated course change. It may indicate, in addition, the result of a simulated speed change or of a speed change in conjunction with a course change. The simulation shall be initiated by the depression either of a spring-loaded switch or of a function key with a positive identification on the display. The indication of the simulation shall be deleted and the display shall revert to normal operation either by the release of the spring-loaded switch, or after the lapse of a present time not to exceed one minute in the case of the function key. During a simulation the system shall activate warning alarms related to the real traffic situation.

10. Environmental conditions. The Collision Avoidance System, including all components shall be capable of operating in the environment normally found on the bridge and/or associated areas. Requirements as specified in Appendix A shall be used as the minimum required to meet the intent of this specification.

11. Compass-Safe Distances. System units must operate with no effect on the standard magnetic or steering magnetic compass when positioned no closer than the manufacturers-specified "Compass Safe Distance".

12. Power supply. The system shall be capable of normal operation when encountering the following variations:

	Percent
AC variations from nameplate voltage	±10
Variations from nameplate frequency	±6
DC variations from nameplate voltage:	
110–250V	−20+10
24–32V	−10+25

The equipment shall have impulse voltage transient protection from pulse transients with amplitudes of ±1200 peak volts, rise times of 2 usec to 10 usec, and durations up to 20 usec.

13. Failure alarms. Suitable visual and audio alarms shall be provided to alert the operator in the event of overall system failure, loss of incoming sensor signals (radar, gyro and speed log) or any other failure detected by the system's self-test capabilities. These alarms shall be in the form of flashing lights, repeating sound signals or some other

[1] A course-up presentation is an acceptable variation of the relative presentation.

[2] For those Collision Avoidance Systems utilizing a combination vector/predicted area of danger (PAD) assessment presentation, projected target track lines may be either true or relative.

method to alert the watch officer when the equipment is unattended. Provision shall be made to silence the audio alarm but visual signals shall remain until the failure is corrected, reset by the operator, or the system shut down.

14. Recording capability. Continuous recording capability of not less than one half hour, of the collision avoidance data to reproduce the display(s) may be provided. Such recording shall be capable of being started and stopped "at will" at the display. Provision shall be made to save the data, when desired, for playback through a suitable device.

[FR Doc.77-13894 Filed 5-13-77;8:45 am]

[CGD 77-067]

[46 CFR Parts 30, 32]

INERT GAS SYSTEM

Proposed Amendment

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: This document proposes to extend the inerting system requirements from tank vessels of 100,000 deadweight tons (dwt) or more to tank vessels of 20,000 dwt or more. This proposal is in response to that part of the President's March 17, 1977, message to Congress concerning a requirement for inert gas systems on all U.S. and foreign flag oil tankers of 20,000 dwt calling at American ports. If the systems are installed, there should be a reduction in the number of in-tank explosions on board tankers.

DATES: 1. Comments must be received on or before:

2. Public Hearings: The Coast Guard will hold two public hearings on this proposal. The first will be held commencing at 9:00 a.m. on June 16, 1977, and continuing until all commenters have been heard, in the Santa Fe Helix del Mar Room, Town and Country Hotel, 500 Hotel Circle North, San Diego, California 92138. The second will be held commencing at 9:00 a.m. on June 21, 1977, and continuing until all commenters have been heard, in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

ADDRESSES: Comments should be submitted to the Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. A copy of the economic evaluation from which the economic summary in this document is taken is available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a written comment should include his name and address, identify this notice (CGD 77-057), and give the reason for the comment. This proposal may be changed in light of the comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons.

Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to make comments notify Captain Greiner at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

Drafting Information

The principal persons involved in drafting this proposal are: Mr. Daniel F. Sheehan, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley Colby, Project Attorney, Office of the Chief Counsel.

Discussion of Proposal

On January 26, 1976, the Coast Guard published regulations in the FEDERAL REGISTER (41 FR 3838) concerning tank vessel fire protection that incorporated the substance of IMCO Resolution A.271 (VIII), adopted by the Assembly of the Inter-Governmental Maritime Consultative Organization on November 20, 1973. These regulations contain provisions that increase the overall level of safety of tank vessels. One of the provisions of this rulemaking was the requirement that inert gas systems be fitted on new tank vessels of 100,000 dwt or more and combination carriers of 50,000 dwt or more. In the preamble of that document, the Coast Guard made a commitment to reexamine the international recommendations concerning the implementation limits for inert gas systems. That reexamination is reflected in this proposal.

In order to detail the rationale for this proposal, it is necessary to review the history and development of the original decision, the intervening events which have influenced that decision, and the action taken in the international forum.

In 1968, a working group was formed as part of the IMCO Subcommittee on Fire Protection. The purpose of this group was to develop a series of international recommendations to improve tank vessel fire safety. This effort was initiated by the United States through both formal and informal channels within the IMCO forum. The work was divided into two primary areas of concern: protection for the cargo tank area; and protection for the accommodation and service spaces.

After considerable debate, the working group accepted the premise that the accommodations and service spaces should utilize the concept of non-combustible construction, a practice successfully employed in U.S.-flag tank vessels for many years.

During the deliberations concerning the recommendations for cargo tank protection, three very large crude carriers (VLCC's), the *Mactra*, *Marpessa*, and the *Hong Haakong* suffered tank explosions, adding a new dimension to the considerations. The similarity between the casualties led several countries to propose requirements related only to the potential problem of in-tank fires and explosions. U.S. requirements protected against in-tank explosions by preventive techniques and required the fitting of a deck foam firefighting system to mitigate on deck or in-tank fires. This position was the basis for the deliberations.

Owners, operators, and assurers were deeply concerned about the unexplained loss of the VLCC's. This concern resulted in a collective research effort which attempted to determine the causative factors involved in the explosions. The area of greatest concentration centered around tank cleaning methods and techniques. The investigation produced significant results in that tank cleaning methods were found to cause an increase in static electricity generation within the tank itself, thereby serving as a potential source of ignition.

As a result of the inability to determine the exact causes of the problem, several steps were taken to attempt to minimize the possibility of reoccurence. On a voluntary basis, owners and operators were invited to utilize the International Chamber of Shipping, "Guidelines for Tank Washing," which were operational steps taken to minimize static electricity generation. The IMCO Assembly proposed a convention amendment (IMCO Res. A.271 (VIII)), "Fire Safety Measures for New Tank Vessels," which until adopted was issued as an interim recommendation. Emphasizing its high priority, all countries were urged by the Assembly to bring the recommendation into force on July 1, 1974 on a voluntary basis. In the intervening time period, an additional Assembly recommendation (IMCO Res. A.326 (IX)), was developed which requires cargo tank protection for vessels that was not as stringent as the previous document. The new recommendation required the fitting of a deck foam system with an augmented foam storage supply if an inert gas system was not fitted. During subsequent deliberations, numerous proposals were presented to require the fitting of inert gas systems for vessels of different sizes under IMCO Res. A.271 (VIII). Proposals ranged from a different tonnage cutoff point to a proposal that concerned the capacity of fixed tank vessel washing machines.

As a result of the explosions aboard the VLCC's, the use of inert gas systems on these vessels increased significantly throughout the world. During this time

period, detailed experience was gained concerning the operation, maintenance and reliability of the system. This information indicated that—

1. There were certain hazards associated with the fitting and use of inert gas systems; and

2. Their reliability had a direct link to the maintenance of the system.

It was found that the inert gas systems (IGS) which were designed to provide protection during the hazardous tank washing process were, in fact, generators of static electricity themselves. In fact, the IGS systems were capable of generating more static electricity than the tank washing machines. In the second instance, the Norwegian Classification Society, Det Norske Veritas determined that approximately 70% of the systems inspected had major maintenance problems that could have seriously affected their use and reliability. Detailed maintenance and operation requirements for this type of system will be the subject of a future proposal in the FEDERAL REGISTER.

After the publication of the substance of IMCO Res. A.271 (VIII) into Subpart 32.53, the problem of tank vessel explosions caused by external sources of ignition was examined in further detail by the Coast Guard which noted that normal tank vessel operation would permit the tank of a vessel to be within the explosive range during loading, transit, and off loading in some cases.

The fact that this condition exists or can exist is known by both designers and operators. In order to prevent ignition of the flammable atmopshere, a U.S.-flag tank vessel must meet specific design and operational requirements:

1. The cargo tank block is classed as a hazardous area and sources of ignition are controlled by mandating explosion proof equipment, prohibition of smoking, and no open flaming devices.

2. Flame screens are required to be fitted in openings into cargo storage tanks and specific operational procedures are prescribed to protect the vessel from ignition sources.

3. Vents are required to be equipped with pressure vacuum valves for Grades A–C cargoes.

4. Cargo discharge and loading is required to be conducted under the supervision of ships' officers and certificated tankermen.

All of these provisions are directed at minimizing the potential for tank vessel fire and explosion. The casualties summarized in the following paragraphs indicate that casualties will occur despite the required safety systems.

For a variety of reasons design and operational requirements have not proven completely successful. The *Corinthos* and *Elias* were conventional tank vessels. For fire safety in the cargo area, they depended basically on identification of, and protection from, potential ignition sources. This protection, however, was not sufficiently comprehensive and when an ignition source, which was not provided for, ignited flammable vapors in the cargo tank, an explosion was initiated. In each case, this explosion then progressed unchecked through the entire cargo tank area. Due to the fact that each vessel was unloading or had just completed off loading, some portion of the vapor space of all cargo tanks was in the flammable range and was, therefore, vulnerable to explosion, when an ignition source developed.

Loss of the Tanker "Corinthos"

On January 31, 1975, the U.S.-flag chemical tanker *Edgar M. Queeny* struck the outboard side of the moored 54,000 dwt Liberian flag crude carrier *Corinthos*. A low order explosion immediately resulted within the breached cargo tank and was followed within seconds by a series of increasingly more violent explosions. The explosions spread from tank to tank and the entire deck area of *Corinthos* was soon engulfed in flames and as a result, the vessel broke and sank alongside the British Petroleum dock No. 1, Marcus Hook, PA. Twenty-six persons were killed. Intense firefighting efforts were required for at least 12 hours after the first explosion.

Loss of the Tanker "Elias"

On April 9, 1974, the 30,000 dwt Greek flag tanker *Elias* suffered massive multiple explosions, burned, and sank in the Delaware River alongside the Atlantic Richfield Oil Terminal, Fort Mifflin, PA. At the time of accident, the vessel was in the last stages of off loading a cargo of crude oil from the Bachaquero field in Venzuela. A total of 13 persons aboard the vessel (including all principals involved in cargo transfer) were killed. The hull of the vessel came to rest in an upright position on the river bottom. The ensuing fire was fought from the shore by units of the Philadelphia Fire Department and from the water side by units of the U.S. Navy, U.S. Coast Guard, and commercial tugs. Over 30 firefighting and support units were involved at the height of the fire.

In both cases the exact ignition source remains unknown. An ignition source somehow reached the flammable vapors within the cargo tanks. The explosion then progressed through the other cargo tanks on the vessel. Total losses will probably exceed $25,000,000.

Tankers 20,000 dwt Or More: Worldwide Casualties

In the period between 1950 and 1973, there were an estimated 515 fires and explosions on board vessels that occurred either in the cargo tanks or outside the tanks. This figure excludes fires and explosions in the engine spaces. Of that 515, approximately 243 (47%) occurred inside the cargo tanks. Those vessels that were 20,000 dwt or more had over 50% of the intank fires and explosions. The following table is for the period 1950–1973.

	Total number	Percentage
Vessel fires and explosions	515	100
Cargo tank fire and explosions	243	47
Casualties on tankers 20,000 dwt or more	130	53

Benefits Accrued

As indicated in a preceding paragraph, the requirement for inert gas systems, as recommended in IMCO Resolution A.271 (VIII), developed as a result of the necessity to protect tank vessels of certain sizes during tank cleaning operations. This represents a relatively small portion of a tank vessel's life cycle. The benefits derived from inert gas systems are not limited to this time period. For example:

1. A tank which is inerted cannot sustain an intank explosion if the boundaries of the tank are intact. This provides assurance against intank explosions during other periods when the vessel is not undergoing tank cleaning

2. Good quality inert gas reduces internal tank corrosion.

3. Higher discharge rates may be obtained by utilizing inert gas system pressure to aid the cargo pumps, thereby reducing tank vessel turn around time.

Background of Proposed Amendments

The President's March 17, 1977 message to Congress included direction that certain ship construction and equipment standards be reformed. Included in the direction was instructions to the Secretary of Transportation to develop new rules within 60 days for inert gas systems on all oil tankers of 20,000 dwt or more, U.S. and foreign, that call at American ports. The proposal in this document is in response to the President's instructions.

Subpart 32.53 currently applies to each tankship of 100,000 dwt or more (metric) and each combination carrier of 50,000 dwt or more (metric) that has a keel laying date after December 31, 1974. The following are excepted from the subpart:

1. Vessels that carry Grade E cargo at a temperature that is 5° C (9° F) or more below its flashpoint or that carry only liquefied gas cargo.

2. Foreign flag tankships of a nation signatory to the International Convention for the Safety of Life at Sea, 1960 that have on board a current valid Safety Equipment Certificate.

It is proposed to retain the substance of this applicability but withdraw the exception to foreign tankships having on board a current valid Safety Equipment Certificate.

U.S.-flag vessels required to fit inert gas systems under 46 CFR Subpart 32.53, which was effective on February 26, 1976 (published in the January 26, 1976 FEDERAL REGISTER (41 FR 3838)) would not be allowed to extend the application of the subpart to the new effective date of this proposed amendment.

In addition, it is proposed to add to the applicability of the subpart tankships and combination carriers of 20,000 dwt or more. In order to allow orderly implementation by industry, it is proposed that those U.S. and foreign tankships or combination carriers that are constructed or converted under a contract awarded before [a date would be inserted that is 6 months after publication of the rule] would have to comply with the inert gas systems requirements within five years after the effective date of the amendment. U.S. tankships or combination carriers contracted for after [a date would be inserted that is 6 months after publication of the rule] would be required to fit an inert gas system on or after the effective date of the amendment. Foreign tankships or combination carriers contracted for after [a date would be inserted that is 6 months after publication of the rule] would have to comply with the inert gas system requirements within five years after the effective date of the amendment.

Since the proposal applies to foreign vessels, in addition to the U.S. vessels currently being regulated, the terms flammable or combustible cargo are used in Subpart 32.53 in lieu of grade classifications to aid comprehension by any reader not familiar with the United States classification of oil cargoes.

Proposed Exceptions. The President's message stated that all oil tankers would be required to be fitted with the provisions outlined in his message. In this proposal, the present exception to the requirement for fitting of an inert gas system on a tankship if it carries Grade E cargoes is continued since in context the President's direction was to extend applicability to smaller vessels rather than to bring low risks substances under regulations. Grade E cargo is by definition a high flashpoint cargo of relatively low risk. Both the international recommendation, IMCO Res. A.271 (VIII), and Coast Guard regulations in 46 CFR 32.53, recognize this and incorporate an exception for high flashpoint liquids.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200).

The analysis shows that approximately 1000 foreign flag and 250 U.S.-flag tank vessels would be affected by the requirement for the fitting of inert gas systems. The projected costs of the requirements to the U.S. consumer over a 9 year period is estimated at one billion seven hundred million dollars.

The expected benefit of the requirement is a reduction in the number of in-tank explosions. These explosions in the past have not only endangered the ship and its crew but port facilities and related waterways.

In accordance with the preceding, it is proposed to amend Subchapter D of Title 46, Code of Federal Regulations, as follows:

§ 30.01–5 [Amended]

1. By amending § 30.01–5(e)(1) of Subpart 30.01 by striking the words "and the safety and cargo handling requirements in Subparts 35.30 and 35.35 of this subchapter" and inserting "Subpart 32.53, Subpart 35.30, and Subpart 35.35 of this subchapter" in place thereof.

2. By revising § 32.53–1 of Subpart 32.53 to read as follows:

§ 32.53–1 Application—T/All.

(a) Except as provided in paragraph (b) of this section, this Subpart applies to tankships or combination carriers of 20,000 dwt tons or more as follows:

(1) Each U.S. Flag tankship that is certificated to carry Grades A, B, C, and D liquids.

(2) Each foreign flag tank vessel engaged in the trade of carrying flammable or combustible liquids to or from a U.S. port, or place, or any such vessel destined from one port or place in the United States to another port or place in the United States.

(b) This Subpart does not apply to vessels designed to carry only—

(1) Liquefied gas cargo; or

(2) Cargo that has a flashpoint of 65.5°C (150°F) or higher by an open cup test (Grade E).

NOTE.—(1) A U.S. tankship of 100,000 dwt tons or more or a U.S. combination carrier of 50,000 dwt tons or more, with a keel laying date on or after January 1, 1975, must comply with Subpart 32.53 after February 25, 1976.

(2) U.S. and foreign flag vessels under § 32.53–1, except those vessels described in note 1, that are constructed or converted under a contract awarded before the effective date of the rule must comply with Subpart 32.53 within 60 months after the effective date of the rule.

(3) A foreign flag vessel under § 32.53–1 that is constructed or converted under a contract awarded after the effective date of rule must comply with Subpart 32.53 within 60 months after the effective date of the rule.

(4) A U.S. vessel under § 32.53–1 that is constructed or converted under a contract awarded after the effective date of the rule must comply with Subpart 32.53 at the time of building or conversion.

(Sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a); 49 CFR 1.46(n)(4)).

NOTE.—The Coast Guard has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107 and certifies that an Economic Impact Statement has been prepared.

Dated: May 9, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77–13895 Filed 5–13–77;8:45 am]

federal register

MONDAY, MAY 16, 1977

PART III



OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

■

TRADE POLICY STAFF NEGOTIATIONS

Generalized System of Preferences

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Generalized System of Preferences

SUMMARY: The purposes of this notice are to (1) publish results of the review of proposals for changes in product coverage in the Generalized System of Preferences (GSP) (see part I below and Annexes I and II); (2) solicit public views on possible improvements in the operation of the GSP program (see part II below); (3) publish notice of a review of pending requests (see part III below); and (4) publish notice of the deadline for receipt of petitions concerning GSP product eligibility for the next full review (see part IV below).

I. *Further Results of Review of Proposals for Changes in the Product Coverage of the GSP.* This part announces further results of the second semiannual GSP product coverage review. Earlier results appeared in Part VIII of the February 16, 1977 FEDERAL REGISTER (42 FR 9636) and were implemented by Executive Order No. 11974 of February 25, 1977 (42 FR 11230A). For further information see 42 FR 9636, February 16, 1977.

Cases on which final decisions were made are listed in Annex I. Cases that remain pending are listed in Annex II. It is anticipated that results of these pending cases, wherever possible, will be announced at the same time as the results of the review referred to in part III below.

II. *Solicitation of Public Views on Improving the Operation of the GSP Program.* The Trade Policy Staff Committee (TPSC) has begun a review of the GSP program in light of its first year of operation. The TPSC invites public comments on possible improvements in the operation of the GSP program. Written comments should be submitted by Thursday, June 9, 1977 to the GSP Subcommittee of the TPSC, Room 720, 1800 G Street, N.W., Washington, D.C. 20506.

III. *Notice of Review.* Present regulations provide for reviews of pending petitions at least once every six months. In order to fulfill this requirement, while the operation of the GSP program is being reviewed, notice is hereby given that the TPSC will conduct a review of accepted petitions for changes in the list of articles eligible for duty-free treatment under the GSP of Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465). Pending petitions that have been accepted for the review will be announced shortly.

For additional petitions to be included in this review they must be (1) received not later than thirty days following the date of publication of this notice in the FEDERAL REGISTER, and, (2) considered by the TPSC to be of an urgent nature. Petitioners seeking consideration on an urgent basis should include a statement attached to their petition justifying their request. A list of any petitions accepted on an urgent basis will be published in the FEDERAL REGISTER.

Public hearings on accepted petitions will begin on July 14, 1977 at a time and place to be announced in the FEDERAL REGISTER. Requests for review that are not deemed to be of an urgent nature will be considered during the next GSP review announced below in part IV of this notice.

Petitioners should be guided in the preparation of their petitions by the GSP regulations codified in 15 C.F.R. Ch. XX Part 2007 (40 FR 60041, December 31, 1975) and the "Guidance for Petitioners" set forth in the FEDERAL REGISTER of Monday, October 18, 1976 (41 FR 45923).

IV. *Notice of Deadline for Receipt of Petitions Requesting Modification of the List of Articles Eligible for Duty-Free Treatment Under the GSP.* Notice is hereby given that, in order to be considered in the next full review of products covered by the GSP, petitions for modification of the list of articles receiving duty-free treatment under the GSP must be received no later than the close of business on Thursday, September 15, 1977. A notice of proposed rulemaking will be published soliciting public comments on changes in the GSP regulations to permit the review of petitions annually instead of semi-annually.

Any results of the review of the operation of the GSP program referred to in part II of this notice affecting this next full GSP product coverage review will be published in the FEDERAL REGISTER. Any modifications in the Guidance for Petitioners resulting from the review of the operation of the program will be published in sufficient time to enable petitioners to meet the September 15, 1977 deadline.

WILLIAM B. KELLY,
Chairman, Trade Policy Staff Committee.

Annex I: Case Reviews Completed

(A) Petitions

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action requested	Action taken
76-B-3	136.91 (part)	Pearl onions	Hanover Brands, Inc.	Designate for GSP benefits	New TSUS (136.92) designated by E.O. 11974
76-B-15	155.20	Sugars, sirups, and molasses, derived from sugar cane or sugar beets	American Farm Bureau Federation Park Ridge, Ill.	Withdraw GSP benefits	Petition denied
76-B-16	152.7620	Strawberry paste or pulp	Pascual Foods, Inc. San Antonio, Texas	Designate for GSP benefits	Petition denied
76-B-25 (part)	170.20	Filler tobacco, not stemmed	Cigar Assoc. of America, Inc. Washington, D.C.	Designate for GSP benefits	This part of petition denied
	170.25	Filler tobacco, stemmed		Do.	Do.
	170.40	Other tobacco, not stemmed		Do.	Do.
	170.45	Other tobacco, stemmed		Do.	Do.
	170.60	Scrap tobacco		Do.	Do.
76-B-30 (part)	732.40	Doll carriages	United Furniture Workers of America New York, N.Y.	Withdraw GSP benefits	This part of petition denied

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I: Case Reviews Completed

(B) Articles Considered by the TPSC on its own Motion

TSUS item 1/	Article	Action taken
	(The bracketed language in this list is included only to clarify the scope of the numbered items.)	
	Birds (dead), fresh, chilled, or frozen, if whole, or if plucked, beheaded, or eviscerated, or cut into pieces (including edible offal), but not otherwise prepared or preserved:	
	Birds, whole, or which have been plucked only:	
	[Chickens, ducks, geese, and guineas]	
	[Turkeys]	
105.30	Other	Designated as eligible article
	Birds which have been plucked, beheaded, and eviscerated (including birds with any edible offal retained in or returned to the abdominal cavity), whether or not the feet have been removed, but not cut into pieces:	
	[Chickens]	
	[Turkeys]	
105.60	Other	Do.
	Garden and field seeds:	
126.71	Pepper	Do.
	Vegetables, dried, desiccated, or dehydrated, whether or not reduced in size or reduced to flour (but not otherwise prepared or preserved):	
	Dried, desiccated, or dehydrated:	
	Chickpeas or garbanzos:	
140.20	Split	Do.
	Cowpeas:	
140.25	Black-eye	Do.
140.35	Lentils	Do.
140.38	Lupines	Do.
140.50	Potatoes	Not designated

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

TSUS item 1/	Article	Action taken
	Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in subpart B of part 8 of schedule 1 of the Tariff Schedules of the United States):	
	[Beans, cabbage, chickpeas or garbanzos, black-eye cowpeas, onions, peas, pimientos, tomatoes, waterchestnuts]	
	Other:	
141.75	Packed in salt, in brine, or pickled, except artichokes	New TSUS (141.77) designated by E.O. 11974
	Berries, fresh, or prepared or preserved:	
	[Fresh or in brine]	
	[Dried]	
	Otherwise prepared or preserved:	
146.73	Black currants, gooseberries, lingon or partridge berries, and loganberries	Designated as eligible article
	Fruit flours:	
	[Banana and plantain]	
152.05	Other	Do.
166.20	Ginger ale, ginger beer, lemonade, and soda water	Do.
	Marine-animal oils:	
	[Fish-liver oils]	
	Fish oils other than liver oils:	
177.12	Anchovy	Do.
	[Cod]	
177.16	Shark	Do.
	[Eulachon]	
177.22	Herring	Do.
177.24	Menhaden	Do.
177.26	Other	Do.
193.10	Tonka beans	Do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

3

TSUS item 1/	Article	Action taken
	Gold (including platinum- or silver-plated gold but not rolled gold), unwrought (except bullion, dore, and precipitates) or semimanufactured:	
605.27	Platinum- or silver-plated	Designated as eligible article
	Brads, nails, spikes, staples, and tacks, all the foregoing, not described in the foregoing provisions of subpart D of part 3 of schedule 6 of the Tariff Schedules of the United States, of base metal:	
	Of iron or steel (except articles with heads of nonferrous metals):	
	Of one piece construction:	
	Made of round wire:	
646.25	Under 1 inch in length and under 0.065 inch in diameter	Not designated
646.26	1 inch or more in length and 0.065 inch or more in diameter	Do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex II: Case Reviews Pending

(A) Petitions

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action requested
		(The bracketed language in this list is included only to clarify the scope of the numbered items.)		
76-B-14		Clasps, handbag and similar frames incorporating clasps, and snap fasteners; all the foregoing and parts thereof: Valued not over 20 cents per dozen pieces or parts:	Newey Brothers, Inc. New York, N.Y.	Designate the article as eligible for GSP benefits
	745.63 (part)	Sew-on fasteners, and parts thereof (except fasteners of plastic, in clips suitable for use in a mechanical attaching device)		
76-B-19	607.65	Ferroalloys: Ferrotungsten and ferrosilicon tungsten	Semincorp, Inc. New York, N.Y.	Designate the article as eligible for GSP benefits
76-B-22 (part)		Pipe and tube fittings of iron or steel: Cast-iron fittings, not malleable: For cast-iron pipe:	American Pipe Fittings Assoc. Stamford, Conn.	Withdraw GSP benefits
	610.62	Cast iron, other than alloy cast iron		
		Cast-iron fittings, malleable: Not advanced in condition by operations or processes subsequent to the casting process:		
	610.70	Cast iron, other than alloy cast iron		
	610.74	Advanced in condition by operations or processes subsequent to the casting process		
76-B-30 (part)		Furniture, and parts thereof, not specially provided for: Of wood: /Bent-wood furniture, and parts thereof/ Other:	United Furniture Workers of America New York, N.Y.	Withdraw GSP benefits
	727.30 (part)	Folding chairs		
76-B-38	206.30	Wood doors with or without their hardware	United Brotherhood of Carpenters and Joiners of America Washington, D.C.	Withdraw GSP benefits
76-B-47		Articles not specially provided for of a type used for household, table, or kitchen use; toilet and sanitary wares; all the foregoing and parts thereof, of metal: Articles, wares, and parts, of base metal, not coated or plated with precious metal: Of iron or steel: Not enameled or glazed with vitreous glasses: Other: Other: /Stainless steel/ /Chrome-plated ware/ Other:	Atlanta Stove Works, Inc. Atlanta, Ga.	Withdraw GSP benefits
	653.9560 or 653.9560 (part)	Cooking ware or Cast-iron cooking ware		
76-B-25 2/		Stoves, central-heating furnaces and burners, ranges, cookers, grates, space heaters and similar heating or cooking apparatus, all the foregoing, of base metal, not electrically operated, of types used in the household, hotels, restaurants, or offices; and parts thereof, of base metal: /Portable types designed to be operated by propane or other gas, or by compressed air and kerosene or gasoline/	Washington Stove Works Everett, Washington	Withdraw GSP benefits
	653.50 or 653.50 (part)	Other or Cast-iron household stoves, cast-iron parts of household stoves, and cast-iron fireplace grates		

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ Pending from first biannual review, June 1976.

ANNEX II: CASE REVIEWS PENDING

(B) Articles Considered by the TPSC on Its Own Motion

TSUS item: [1]	*Article*
416.40	Inorganic acids: Tungstic.[2]
417.40	Ammonium compounds: Tungstate.[2]
418.30	Calcium compounds: Tungstate.[2]
420.32	Potassium compounds: Tungstate.[2]
421.56	Sodium compounds: Tungstate.[2]
422.40	Tungsten compounds: Carbide.[2]
422.42	Other.[2]
423.92	Mixtures of two or more inorganic compounds: In chief value of tungsten.[2]
601.54	Metal-bearing ores and the dross or residum from burnt pyrites: Tungsten ore.

[1] Tariff Schedules of the United States (19 U.S.C. 1202).

[2] Pending advice on tungsten ore (item 601.54).

[FR Doc.77-13749 Filed 5-13-77;8:45 am]

federal register

MONDAY, MAY 16, 1977

PART IV



FEDERAL ENERGY ADMINISTRATION

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ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intent To Issue Construction Orders to Certain Major Fuel Burning Installations

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intent To Issue Construction Orders to Certain Major Fuel Burning Installations

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Construction Orders pursuant to Section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

Docket No.	Owner	Installation	Number of units	Location
OCU-7410-3-1	United States Steel Corp.	Fairfield..	2	Fairfield, Ala.
OCU-7410-3-2				
OCU-3990-1-1	International Paper Co..	Georgetown mill	1	Georgetown, S.C.
OCU-6650-5-1	Shell Oil Co.	Mobile chemical plant	2	Mobile, Ala.
OCU-6650-5-2				
OCU-1300-1-1	Goodyear Tire & Rubber Co.	Goodyear Gadsden plant	1	Gadsden, Ala.
OCU-7060-1-1	J. P. Stevens & Co., Inc.	Delta 3	1	Wallace, S.C.
OCU-4210-1-1	Kimberly-Clark Corp.	Memphis mill	1	Memphis, Tenn.
OCU-4020-1-1	Philip Morris, Inc./Miller Brewing Co.	Eden plant	3	Eden, N.C.
OCU-4020-1-2				
OCU-4920-1-3				
OCU-3280-1-1	B. F. Goodrich Co./B. F. Goodrich Chemical Co.	Louisville plant	1	Louisville, Ky.
OCU-2820-1-1	Federal Paper Board Co., Inc.	Riegelwood operations	1	Riegelwood, N.C.

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views, and arguments by interested persons regarding these proposed Construction Orders.

The proposed orders would require the above-named installations in the early planning process to be designed and constructed to be capable of using coal as their primary energy source.

Prior to the issuance of a Construction Order to an installation, Section 2(c) of ESECA and 10 CFR 303.46(b), 307.3, and 307.3(c) require that FEA find that the installation is in the early planning process. They also prohibit FEA from issuing a Construction Order if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the powerplant are set out in Section I of the Appendix to the notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, Section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction Order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue Construction Orders to some or all of the above-named installations. The Construction Orders will not become effective, however, until FEA has considered the environmental impact of each order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b), and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) a declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or, (2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

Public comment on the proposal to issue a Construction Order to the installations listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the environmental impact of the issuance of making effective a Construction Order, including any site specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order, believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

Pursuant to 10 CFR 303.173 (a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9 a.m. on May 26 and 27, 1977, at the Atlanta Civic Center, Room 104, 395 Piedmont Avenue NE., Atlanta, Georgia 30308. Any person who has an interest in the subject of the hearing, may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Warren Zurn, FEA Region IV, 1655 Peachtree Street NE., Atlanta, Georgia 30309, 405–881–4463. The request should be received before 4:30 p.m., Friday May 20, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 25, 1977. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required to Donald Allen, Regional Administrator, Federal Energy Administration, 1655 Peachtree Street NE., Atlanta, Georgia 30309, before 4:30 p.m., Wednesday May 25, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Monday, May 23, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., and the FEA Regional Office 1655 Peachtree Street NE., 7th Floor, Atlanta, Georgia 30309, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed Construction Orders to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction Order.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

Region, Address, and Phone

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Mass. 02113—617–223–3701.
II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, N.Y. 10007—212–264–1021.
III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pa. 19102—215–597–3390.
IV. Donald Allen, Regional Administrator, 1655 Peachtree Street NW., 8th Floor, Atlanta, Ga. 30309—404–526–2837.
V. N. Allen Andersen, Regional Administrator, Federal Office Building, Room A–333, 175 West Jackson Blvd., Chicago, Ill. 60604—312–353–0540.
VI. Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 214–749–7345.
VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Mo. 64106—816–374–2061.
VIII. Dudley Paver, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226—303–234–2420.
IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, Calif. 94111—415–556–7216.
X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174—206–442–7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. *Determination of candidate universe.* On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A–1 and A–2 of Form FEA C–607–S–0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM Btu per hour).

Schedulue A–1 contained basic identifying data for a particular MFBI. Schedule A–2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A–1 and A–2, FEA first determined which MFBI's were no longer in the early planning process according to Section 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedulues A–1 and A–2. To date, consideration of the following types of MFBI's has been deferred:

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse, or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in section 303.2 of the FEA regulations (10 CFR 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source because of programmatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C–607–S–0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

(1) Refinery heaters and furnaces;
(2) Copper refining and melting furnaces;
(3) Chemical plant process heaters and recovery furnaces;
(4) Oxygen blown steelmaking vessels;
(5) Primary float glass tanks;
(6) Direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those MFBI's that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the

use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All other MFBI's in the early planning process are required by FEA to complete Schedule A–3 of Form FEA C–607–S–0. Schedule A–3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A–3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A–3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show an historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: ---------- Installation), Washington, D.C. 20461, 202–566–7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–7410–3–1	United States Steel Corp	Fairfield	Boiler 9...	Fairfield, Ala.
OCU–7410–3–2			Boiler 10	

These findings, determinations, and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

United States Steel Corporation shall be referred to as the "owner." Fairfield Boilers 9 and 10 shall be referred to as the "MFBI's."

I. *Proposed findings.* A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.* (a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the auhtority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBIs' location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Number of units	Location
OCU–3390–1–1	International Paper Co...	Georgetown mill.	6	Georgetown, S.C.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

International Paper Company shall be referred to as the "owner". Georgetown Mill 6 shall be referred to as the "MFBI".

I. *Proposed findings.*—A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to*

be *available*. This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *Nation coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential* (*million tons*)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report") indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production* (*million tons*)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand* (*million tons*)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand* (*million tons*)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–6650–5–1 OCU–6650–5–2	Shell Oil Co.	Mobile Chemical plant	EPP–MOP–BLR–1 EPP–MOP–BLR–2	Mobile, Ala.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company shall be referred to as the "owner". Mobile Chemical Plant EPP–MOP–BLR–1 and EPP–MOP–BLR–2 shall be referred to as the "MFBI's".

I. *Proposed findings.*—A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.* (a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential* (*million tons*)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production* (*million tons*)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand* (*million tons*)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand* (*million tons*)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the *"Availability Report"*, cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*

A. *The existence and effects of any contractual commitment for the construction*

of the MFBI's. FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule, A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book* (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–1300–1–1	Goodyear Tire and Rubber Co....	Goodyear Gadsden plant ...	Boiler 1....	Gadsden, Ala.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Goodyear Tire and Rubber Company be referred to as the "owner". Goodyear Gadsden Plant Boiler 1 shall be referred to as the "MFBI".

I. *Proposed findings.*

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. The proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*— (a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 project therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully development because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on a analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*

A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–7060–1–1	J. P. Stevens and Co., Inc....	Delta 3...	6	Wallace, S.C.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

J. P. Stevens and Company, Incorporated shall be referred to as the "owner". Delta 3, Unit 6 shall be referred to as the "MFBI".

I. *Proposed findings.*—A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above tends to under estimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA Coal Availability Report, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a resut of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No	Owner	Installation	Unit	Location
OCU–4210–1–1	Kimberly-Clark Corp.	Memphis mill	Boiler 5	Memphis, Tenn.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Kimberly-Clark Corporation shall be referred to as the "owner". Memphis Mill Boiler 5 shall be referred to as the "MFBI".

I. *Proposed findings.*

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data shows a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, with together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal prdouction potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expended Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*

A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the own-

er's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-4920-1-1 OCU-4920-1-2 OCU-4920-1-3	Phillip Morris, Inc./Miller Brewing Co.	Eden plant	Combustion engineering, Riley 1 Riley 2	Eden, N.C.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Phillip Morris, Incorporated/Miller Brewing Company shall be referred to as the "owner". Eden Plant Combustion Engineering, Riley 1 and Riley 2 shall be referred to as the "MFBI's".

I. *Proposed findings.*—A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.* (a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
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1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Enginering University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractural commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years. In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBIs named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU-3280-1-1	B. F. Goodrich Co./B. F. Goodrich Chemical Co.	Louisville plant	Boiler 7	Louisville, Ky.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

B. F. Goodrich Company/B. F. Goodrich Chemical Company shall be referred to as the "owner". Louisville Plant Boiler 7 shall be referred to as the "MFBI".

I. *Proposed findings*

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.* (a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production. (1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.* A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book* (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–2828–1–1	Federal Paper Board Co., Inc.	Rieglewood operations.	Power boiler 5	Rieglewood, N.C.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Federal Paper Board Company, Incorporated shall be referred to as the "owner". Rieglewood Operations Power Boiler 5 shall be referred to as the "MFBI".

I. *Proposed findings.*

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient

Op 31–10; J. 90–000; Fol. 1122; Mach. 68

production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
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1984	1,028.7
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The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
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1982	369.9
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(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
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1981	842
1982	887
1983	935
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(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

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1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the *Coal Mine Expansion Study*, the *FEA 1976 National Energy Outlook*, and the "Availability Report," cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*

A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the *Dun and Bradstreet Reference Book*, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77–13701 Filed 5–13–77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intent To Issue Prohibition Orders To Certain Installations

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0342	Union Camp Corp.	Savannah plant	10	Savannah, Ga.
OCU-0651	Scott Paper Co.	Mobile plant	4, 6	Mobile, Ala.
OCU-0778	International Paper Co.	Vicksburg plant	1	Vicksburg, Miss.
OCU-0091	Continental Forest Industries, a member of the Continental Group, Inc.	Port Wentworth mill	1, 2, 3, 4	Port Wentworth, Ga.
OCU-1366	Weyerhaeuser Co.	Plymouth plant	2, 3	Plymouth, N.C.
OCU-2057	Monsanto Co.	Pensacola plant	1, 2, 3, 4, 5, 6	Pensacola, Fla.
OCU-2012	Bowater Southern Paper Corp.	Calhoun mill	1, 2, 3, 4, 5	Calhoun, Tenn.
OCU-3066	Westvaco Corp.	Charleston plant	4, 5	Charleston, S.C.

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capability and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions, and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions, and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119(c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b), and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued an order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposals to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact of making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons will be held beginning at 9 a.m. on May 26 and 27, 1977, at the Atlanta Civic Center, Room 104, 395 Piedmont Avenue NE., Atlanta, Georgia 30308. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Warren Zurn, FEA Region IV, 1655 Peachtree Street NE., Atlanta, Georgia 30309, 405-881-4463. The request should be received before 4:30 p.m., Friday May 20, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 25, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Donald Allen, Regional Administrator, Federal Energy Administration, 1655 Peachtree Street N.E., Atlanta, Georgia 30309, before 4:30 p.m., Wednesday, May 25, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Monday, May 23, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the FEA Regional Office, 1655 Peachtree Street NE., 7th Floor, Atlanta, Georgia 30309, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the ouside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Mass. 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, N.Y. 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pa. 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree Street NW., 8th Floor, Atlanta, Ga. 30309—404-526-2837.

V. N. Allen Anderson, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Ill. 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Mo. 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, Calif. 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. *Determination of candidate universe.* On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effects of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a Btu equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel savings ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. *Site specific analysis.* Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

(a) Expected remaining useful life (respondent's and FEA's estimates);

(b) Unit capacity;

(c) Fuel consumption for 1975;

(d) The last year coal was burned at the installation;

(e) Costs of converting to coal, including pollution control equipment costs, if any (respondent's and FEA's estimates);

(f) Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and

(g) Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

(a) Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);

(b) The utilization factor of the MFBI was less than 20 percent;

(c) Space required for coal use at the installation was inadequate or unavailable;

(d) Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;

(e) The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{12} BTU's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to Section 305.44(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows: (a) Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

(b) Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows: (a) New and refurbished equipment costs minus the investment tax credit, plus.

(b) Twice the cost of land acquisitions required for conversions to coal burning.

(c) The total of (1) and (2) is divided by 2 and then multiplied by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage.) FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calculated by converting latest annual fuel data to its Btu equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by the MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NOCD by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent Btu basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Prohibition Order: _____ Installation), Washington, D.C. 20461, (202) 566–7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU–0342	Union Camp Corp.	Savannah plant	10	Savannah, Ga.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Union Camp Corporation shall be referred to as the "owner" and as "Union Camp." Savannah Plant Unit 10 shall be referred to as the "MFBI" and as "Savannah 10."

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Savannah 10 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Union Camp, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0) filed on May 20, 1975 indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based on information Union Camp filed with FEA dated March 7, 1977 and other information available to FEA, the following plant equipment and facilities at Savannah 10 would have to be acquired or refurbished in order for this MFBI to burn coal as its primary energy source:

1. Air heaters.
2. Combustors.
3. Ash handling equipment.
4. Storage bunkers.
5. Conveyors.
6. Crushers.
7. Pulverizers.
8. Soot blowers.
9. Instruments and controls.
10. Scales.
11. Feeders.
12. Fans and ducts.
13. Unloaders.

C. FEA proposes to find that on June 22, 1974, Savannah 10 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Savannah 10 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973–1975, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*

1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that the MFBI will experience a substantial curtailment of its present supply of natural gas. The curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.—a. Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Savannah 10 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Savannah 10 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a–3., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential hereafter "NOCD", (which represents the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Savannah 10 will represent an annual savings.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable. By converting from burning natural gas to burning coal as the primary energy source the MFBI would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because the MFBI will eventually experience a substantial curtailment of its supply of natural gas. If the prohibition order were not issued to the MFBI it could alternately replace its current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of its natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost differential for this MFBI resulting from operating on coal as the primary energy source, instead of petroleum products (and/or natural gas where applicable), will represent an annual savings.

Since the use of the coal alternative, instead of petroleum products, could be expected to result in a net cost savings, FEA has determined that the prohibition against burning natural gas or petroleum products as the primary energy source at this MFBI is not unreasonable.

The additional costs that would be incurred from prohibiting the burning of natural gas as the primary energy source at this MFBI would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Savannah 10 will experience a substantial curtailment of its present supply of natural gas in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable (*Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II* Federal Energy Administration October 1975). This determination is further supported by consideration of the savings that would result from the burning of coal in lieu of potential alternate petroleum products for the period after which the natural gas supply to Savannah 10 would be substantially curtailed.

4. *Financial capability of the owner.—a. Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Savannah 10 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the *Dun and Bradstreet Reference Book* (March 1977). Where necessary FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Union Camp. FEA related these additional capital investment costs to the total capitalization of Union Camp and the remaining useful life after conversion of Savannah 10.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Union Camp to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Sec-

tion 2 (a) and (c) of ESECA to Union Camp MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Union Camp total annual costs should decrease.

B. Consistency with the purposes of ESECA. Because of the issuance of a Prohibition Order to Savannah 10 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Savannah 10 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. Coal and coal transportation facilities will be available to this MFBI during the period until December 31, 1984.

A. Coal availability.—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States by Sulfur Category*, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report") indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production potential (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.* FEA's "Availability Report" has determined that a boiler, of the type used at Savannah 10 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's per pound (minimum)	10,000
Moisture (percent maximum)	15
Ash (percent maximum)	20
Volatile (percent minimum)	15
Ash softening temperature (degrees fahrenheit, minimum)	2,200
Sulfur (percent maximum, approximate)	1.5

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

	Demand (thousand tons)
1980 and thereafter	137

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,900
1979	127,100
1980	158,900
1981	189,300
1982	200,300
1983	214,800
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to this MFBI (in a probable regional supply/demand relationship related to the location of this MFBI) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. Regional ESECA prohibition order demand for coal by sulfur characteristic. The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8% sulfur content (which includes the 1.5% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur, 1.41–1.8*
1978	226
1979	1,773
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Savannah 10 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. Coal transportation.—1. *Location of MFBI and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977, (hereafter "Transportation Availability Report"), coal for Savannah 10 would probably come from BOM District 8 as a primary source and from BOM District 6 as an alternate source. While these supply areas are the nearest available potential sources able to supply complying coal to this MFBI, complying coal can be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Savannah 10 originates in BOM District 8 in the Corbin, Kentucky area on the Louisville and Nashville (L&N). The L&N would move it via Knoxville, Tennessee to Atlanta, Georgia where Southern Railway Co. would then deliver it to Savannah 10 via Macon and Midville, Georgia. The total rail distance is about 575 miles.

The alternate route for coal delivery from the primary supply area originates in BOM District 8 in the St. Paul Kentucky area on the L&N. The L&N would route it on its affiliate, Clinchfield Line, to Spartanburg, South Carolina, where Seaboard Coast Line (SCL) would pick up and deliver the coal to Savannah 10. The total rail distance is about 490 miles.

An alternate route from the alternate supply area originates in BOM District 6 in the Devon, West Virginia area on the Norfolk and Western (N&W). The N&W would move the coal to Martinsville, West Virginia and on to Winston-Salem, North Carolina where Southern would pick up and deliver the coal to Savannah 10. The total rail distance is approximately 633 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Savannah 10, has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 117 additional cars to handle the increased demand from Savannah 10. This estimate asumes that the railroad would neither have access originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Savannah 10 has indicated that no coal has been used in the past, but in case of conversion to coal, Seaboard Coast Line and Souther could deliver coal to the plant

There are no other obstacles to the delivery of coal to Savannah 10.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Savannah 10 presently exist, and alternate routes are available

Appendix—Proposed Findings and Rationale for Notice of Intention To Issue A Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No	Location
OCU-051	Scott Paper Co	Mobile plant	4,6	Mobile, Ala

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Scott Paper Company shall be referred to as the "owner" and as "Scott Paper". Mobile Plant units 4 and 6 shall be referred to as the "MFBI's" and as "Mobile 4 and 6".

I. Capability and necessary plant equipment to burn coal. FEA proposes to find that on June 22, 1974, Mobile 4 and 6 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Scott Paper, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 8, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Scott Paper filed with FEA dated March 18, 1977, and other information available to FEA, the following plant equipment and facilities at Mobile 4 and 6 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders; 2. Conveyors; 3. Crushers; 4. Pulverizers; 5. Air heaters; 6. Combustors; 7. Soot blowers; 8. Instruments and controls; 9. Ash handling equipment; 10. Storage bunkers; 11. Scales; 12. Feeders; 13. Storage property.

C. FEA proposes to find that on June 22, 1974, Mobile 4 and 6 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. The burning of coal in lieu of natural gas and petroleum products is practicable and consistent with the purposes of ESECA. FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Mobile 4 and 6 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1976, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. The burning of coal is practicable.—1. *Anticipated fuel supplies—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in in-

creased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Mobile 4 and 6 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas and petroleum products at Mobile 4 and 6 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1. a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuels as their primary energy source), resulting from the conversion of Mobile 4 and 6, will represent an annual cost increase of $144,998.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as a primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $144,998.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Mobile 4 and 6 is not unreasonable.

Burning of coal by these MFBI's as their primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that these MFBI's could experience annual savings in their total fuel costs should they convert to coal instead of converting to petroleum products, there would be a net increase in the costs to these MFBI's.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Mobile 4 and 6 by $144,998 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of these MFBI's, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of these MFBI's.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Mobile 4 and 6 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Mobile 4 and 6 will experience a substantial curtailment of their present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975).

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Mobile 4 and 6 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Scott Paper. FEA related these additional capital investment costs to the total capitalization of Scott Paper and the remaining useful life after conversion of Mobile 4 and 6.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Scott Paper to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil and natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construtcion Orders, and from all outsanding Prohibitoin or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Scott Paper MFBI's.

Notwithstanding the potential offsetting aggregate value of fuel cost savings attributable to compliance with this NOI, and all other NOI's currently under consideration, Scott Paper's total annual costs after conversion will increase by $622,998.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Mobile 4 and 6 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Mobile 4 and 6 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*—A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage or uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 90% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	723.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	389.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Mobile 4 and 6 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temperature (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 0.9

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	107

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,302
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	19,952
1979	33,160
1980	37,779
1981	44,246
1982	47,145
1983	51,293
1984	58,891

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

9. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 0.61 to 1.0 percent sulfur content (which includes the 0.9 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur, 0.61 to 1.0*
1978	2,831
1979	5,578
1980	9,839
1981	11,028
1982	16,292
1983	16,292
1984	16,292

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Mobile 4 and 6 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.* 1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Re-

port, April 1977, (hereafter "Transportation Availability Report"), coal for Mobile 4 and 6 would probably come from BOM District 8 as the primary supply area and from BOM District 13 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Mobile 4 and 6 originates coal in BOM District 8 near Madisonville, Kentucky on the Louisville and Nashville (L&N) Railroad. The L&N would move the coal via Nashville, Tennessee to Birmingham, Alabama. The Southern Railway would pick it up and move it to Mobile 4 and 6 via Tuscaloosa, Baligee and Kimbrough, Alabama. The total rail distance is about 595 miles.

The alternate route for coal delivery from the primary source originates coal in BOM District 8 in the Somerset, Kentucky area on the Southern Railway. The Southern Railway would move it via Chattanooga, Tennessee and Birmingham, Alabama to Mobile 4 and 6. The total rail distance is approximately 619 miles.

An alternate route from the alternate supply area is to originate coal in BOM District 13 in the Tuscaloosa, Alabama area on the L&N. The L&N would take it to Mobile 4 and 6 via Parkwood and Montgomery, Alabama. The total rail distance is about 313 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Mobile 4 and 6 has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using a average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 74 additional cars to handle the increased demand from Mobile 4 and 6. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Mobile 4 and 6 have never used coal before and coal storage or coal unloading facilities do not currently exist. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Mobile 4 and 6.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Mobile 4 and 6 presently exist, and alternate routes are available.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0778	International Paper Co.	Vicksburg plant	1	Vicksburg, Miss.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

International Paper Company shall be referred to as the "owner" and as "International". The Vicksburg Plant Unit 1 shall be referred to as the "MFBI" and as "Vicksburg 1".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Vicksburg 1 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. International, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 20, 1975, indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based on information International filed with FEA dated August 11, 1976, and other information available to FEA, the following plant equipment and facilities at Vicksburg 1 would have to be acquired or refurbished in order for this MFBI to burn coal as its primary energy source:

1. Combustors.
2. Air heaters.
3. Soot blowers.
4. Special instrumentation and controls.
5. Crushers.
6. Pulverizers.
7. Scales.
8. Feeders.
9. Ash handling equipment.
10. Unloaders.
11. Conveyors.

C. FEA proposes to find that on June 22, 1974, Vicksburg 1 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Vicksburg 1 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973–75, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.* 1. *Anticipated fuel supplies. Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that the MFBI will experience a substantial curtailment of its present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.* a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Vicksburg 1 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natual gas or petroleum products at Vicksburg 1 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the facts stated in paragraphs A.1.a.–c, above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD" (which represents the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Vicksburg 1, will represent an annual savings.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as the primary energy source the MFBI would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because the MFBI will eventually experience a substantial curtailment of its supply of natural gas. If the prohibition order were not issued to the MFBI it could alternately replace its current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of its natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost differential for this MFBI resulting from operating on coal as the primary energy source, instead of petroleum products (and/or natural gas where applicable), will represent an annual savings.

Since the use of the coal alternative, instead of petroleum products, could be expected to result in a net cost savings, FEA has determined that the prohibition against burning natural gas or petroleum products as the primary energy source at this MFBI is not unreasonable.

The additional costs that would be incurred from prohibiting the burning of natural gas as the primary energy source at this MFBI would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Vicksburg 1 will experience a substantial curtailment of its present supply of natural gas in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975.) This determination is further supported by consideration of the savings that would result from the burning of coal in lieu of potential alternate petroleum products for the period after which the natural gas supply to Vicksburg 1 would be substantially curtailed.

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Vicksburg 1 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to MFBI's owned by International. FEA related these additional capital investment costs to the total capitalization of International and the remaining useful life after conversion of Vicksburg 1.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of International to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any issued to date under authority of Section 2 (a) and (c) of ESECA to International MFBI's.

Notwithstanding the potential offsetting aggregate value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, International's total annual costs after conversion will increase by $738,345.

B. *Consistence with the purposes of ESECA.* Because the issuance of a Prohibition Order to Vicksburg 1 will discourage the use of natural gas and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Vicksburg 1 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this MFBI during the period until December 31 1984.*—A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production Potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	369.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.* FEA's "Availability Report" has determined that a boiler of the type used at Vicksburg 1 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (percent) (approx.)	[2] 0.7

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1979 and thereafter	117

c. National planned production, characteristic coal. FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	Production (thousand tons)
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. National ESECA prohibition order demand for coal, regardless of characteristics. The national planned production of characteristics coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. Regional planned production, characteristic coal. Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to this MFBI (in a probable regional supply/demand relationship related to the location of this MFBI) from BOM Districts 7, 8, and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	19,952
1979	33,160
1980	37,779
1981	44,246
1982	47,145
1983	51,293
1984	58,891

f. Regional ESECA prohibition order demand for coal, regardless of characteristic. The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,771
1982	23,682
1983	24,095
1984	24,096

g. Regional ESECA prohibition order demand for coal by sulfur characteristic. The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 0.61–1.0 percent sulfur content (which includes the 0.7 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) percent sulfur 0.61 to 1.0
1978	2,831
1979	5,578
1980	9,839
1981	11,028
1982	16,292
1983	16,292
1984	16,292

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics, described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. State or local laws. FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. Conclusion. FEA's "Availability Study" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Vicksburg 1 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—*1. Location of the MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Vicksburg 1 would probably come from BOM District 8 as the primary supply area and from BOM District 9 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. Route of coal shipment. The primary route for coal delivery to Vicksburg 1 originates in BOM District 8 on the Louisville and Nashville (L&N) north of Knoxville, Tennessee. The L&N would move the coal to Memphis, Tennessee, where the Illinois Central Gulf (ICG) picks it up for delivery to Vicksburg 1. The total rail distance is about 655 miles.

The alternate route from the primary supply area originates northwest of Knoxville, Tennessee, on the Southern Railway (SOU). The SOU would move the coal via Chattanooga, Tennessee, and Birmingham, Alabama, to Meridian, Mississippi, where the ICG would then pick up the coal for delivery to Vicksburg 1. The total rail distance is about 555 miles.

An alternate route for coal delivery from the alternate supply area would originate coal in BOM District 9 in Western Kentucky with barges of the Ohio River Company or the Crounse Corporation barging the coal on the Green River, the Ohio River, and Mississippi River for delivery to Vicksburg 1. The total water distance is about 800 miles.

3. Originating trunk carrier. The L&N, originating carrier of coal for Vicksburg 1, has approximately 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of deliveries of 20 per year per 75-ton car, the L&N may need as many as 90 additional cars to handle the increased demand from Vicksburg 1. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks where applicable and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at those mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities are adequate to handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. Destination carrier and MFBI facilities. Rail delivery service to Vicksburg 1 is provided by the ICG. Vicksburg 1 has indicated that coal unloading and handling facilities would need to be added. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Vicksburg 1.

5. Conclusion. Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Vicksburg 1 presently exist, and alternate routes are available.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0091	Continental Forest Industries, a member of the Continental Group, Inc.	Port Wentworth mill..	1, 2, 3, 4	Port Wentworth, Ga.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Continental Forest Industries, a member of the Continental Group, Inc. shall be referred to as the "owner" and as "Continental". Port Wentworth Mill Units 1, 2, 3, and 4 shall be referred to as the "MFBI's" and as "Port Wentworth 1, 2, 3, and 4".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Port Wentworth 1, 2, 3, and 4 had the capability and necessary plant equipment to burn coal.

This proposed finding is based on the facts and interpretations stated below:

A. It has been indicated, either in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14 (Form FEA C–602–S–0), filed on May 20, 1975, by Continental, or by other information acquired by FEA, that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Continental filed with FEA dated March 4, 1977, and other information available to FEA, the following plant equipment and facilities at Port Wentworth 1, 2, 3 and 4 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Burners; 2. Conveyors; 3. Pulverizers; 4. Instrumentation and controls; 5. Ash handling equipment and ponding equipment; 6. Unloaders; 7. Scales and feeders; 8. Hoppers; 9. Air heaters; 10. Combustors.

C. FEA proposes to find that on June 22, 1974, Port Wentworth 1, 2, 3, and 4 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal in lieu of petroleum products and natural gas at Port Wentworth 1, 2, 3, and 4 is practicable and consistent with the purposes of ESECA.

This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.* 1. *Anticipated fuel supplies—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.* a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Port Wentworth 1, 2, 3, and 4 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or other wise acquired by FEA.

c. *Fuel costs.* Based on an anlysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstaces, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Port Wenworth 1, 2, 3, and 4 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraph A.1. a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Port Wentworth 1, 2, 3, and 4 will represent an annual savings.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as their primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost differential for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will represent an annual savings.

Since the use of the coal alternative, instead of petroleum products, could be expected to result in a net cost savings, FEA has determined that the prohibition against burning natural gas or petroleum products as their primary energy source at these MFBI's is not unreasonable.

The additional costs that would be incurred from prohibiting the burning of natural gas as the primary energy source at Port Wentworth 1, 2, 3, and 4 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Port Wentworth 1, 2, 3, and 4 will experience a substantial curtailment of their present supply of natural gas in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975.)

This determination is further supported by consideration of the savings that would result from the burning of coal in lieu of potential alternate petroleum products for the period after which the natural gas supply to Port Wentworth 1, 2, 3, and 4 would be substantially curtailed.

4. *Financial capability of the owner.* a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Port Wentworth 1, 2, 3, and 4 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Continental. FEA related these additional capital investment costs to the total capitalization of Continental and the remaining useful life after conversion of Port Wentworth 1, 2, 3, and 4.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Continental to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Continental MFBI's.

However, due to the potential offsetting aggregate fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Continental's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Port Wentworth 1, 2, 6, and 4 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Port Wentworth 1, 2, 3, and 4 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential

needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.* A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine certain quantities of these reserves are expected to be available FEA has examined several studies referenced herein which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
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1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer.

For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers, of the type used at Port Wentworth 1, 2, 3 and 4 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's per pound (minimum)	10,000
Moisture (percent maximum)	15
Ash (percent maximum)	20
Volatile (percent minimum)	15
Ash softening temperature (degrees fahrenheit, minimum)	2,200
Sulfur (percent maximum)	[1] 3.0

[1] Approximate.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from the NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	112

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned prdouction, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentialy available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	28,934
1979	52,077
1980	58,396
1981	67,882
1982	71,985
1983	77,668
1984	89,345

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 2.21–3.1% sulfur content (which includes the 3.0% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 2.12–3.1*
1978	77
1978	1,330
1980	1,530
1981	1,531
1982	1,531
1983	1,531
1984	1,531

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Port Wentworth 1, 2, 3 and 4 paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13.

FEA observes however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*

1. *Location of MFBI's and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977, (hereafter "Transportation Availability Report"), coal for Port Wentworth 1, 2, 3 and 4 would probably come from BOM District 8 as the primary source and from BOM District 6 as an alternate source. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Port Wentworth 1, 2, 3 and 4 originates in BOM District 8 the Corbin, Kentucky area on the Louisville and Nashville (L&N) Railroad. The L&N would move it via Knoxville, Tennessee to Atlanta, Georgia where the Southern Railway would pick it up and delivery the coal to Port Wentworth 1, 2, 3 and 4 via Macon and Midville, Georgia. The total rail distance is about 557 miles.

The alternate route from the primary supply area would originate in the St. Paul, Kentucky area on the L&N which would move the coal via its affiliate Clinchfield line to Spartanburg, South Carolina . Another affiliate, the Seaboard Coast Line RR (SCL) would then move it via Augusta to Savannah, Georgia where the Southern System (SOU) would pick it up and deliver it to Port Wentworth 1, 2, 3 and 4. The total rail distance is about 495 miles.

An alternate route from the alternate supply area would originate coal in BOM District 6 in the Devon, West Virginia area on the Norfolk and Western (N&W), which would move it via Martinsville, Virginia to Winston-Salem, North Carolina where the SOU would pick it up and carry it via Charlotte to Columbia, South Carolina. SCL would then pick it up and carry it to Savannah, Georgia where the SOU would then deliver it to Port Wentworth 1, 2, 3 and 4. The total rail distance is about 651 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of primary source coal for Port Wentworth 1, 2, 3 and 4 plant, has about 34,000 hopper cars with an estimated average capacity of 75 tons. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 97 additional cars to handle the increased demand from Port Wentworth 1, 2, 3 and 4. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at those mine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.* Port Wentworth 1, 2, 3 and 4 has indicated that no coal has been used in the past, but in case of conversion to coal the Southern Railway could deliver coal to Port Wentworth 1, 2, 3 and 4.

There are no other obstacles to the delivery of coal to Port Wentworth 1, 2, 3 and 4.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Port Wentworth 1, 2, 3 and 4 presently exist, and alternate routes are available.

Appendix—Proposed Findings and Rationale for Notice of Intention To Issue A Prohibition Order

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with reapect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No	Owner	Installation	Unit No	Location
OCU-138	Weyerhaeuser Co.	Plymouth plant	2, 3	Plymouth, N.C.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Weyerhaeuser Company shall be referred to as the "owner" and as "Weyerhaeuser". Plymouth Plant Units 2 and 3 shall be referred to as the "MFBI's" and as "Plymouth 2 and 3".

I. *Capability and necessary plant equipment to burn coal.* FEA proposes to find that on June 22, 1974, Plymouth 2 and 3 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Weyerhaeuser, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–8–0), filed on May 22, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Weyerhaeuser filed with FEA dated August 13, 1976, and other information available to FEA, the following plant equipment and facilities at Plymouth 2 and 3 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Crushers; 2. Pulverizers; 3. Combustion controls; 4. Boiler retubing; 5. Soot blowers; 6. Feeders; 7. Instrumentation/controls; 8. Coal handling equipment; 9. Boiler equipment.

C. FEA proposes to find that on June 22, 1974, Plymouth 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Plymouth 2 and 3 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Plymouth 2 and 3 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information

supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Plymouth 2 and 3 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraph A.1. a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Plymouth 2 and 3, will represent an annual cost increase of $5,948.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Plymouth 2 and 3 is reasonable.

As a result of conversion, Weyerhaeuser will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Increased costs of conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the annual cost of operating the boilers.

The use of coal at Plymouth 2 and 3 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

Although conversion to the burning of coal would be expected to increase the cost of operating at Plymouth 2 and 3, FEA proposes to find that such increased cost per barrel of oil saved is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the boilers after conversion, the size and resources of Weyerhaeuser as examined in the following analysis of financial capability, the nature of the expected operation of these boilers, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Plymouth 2 and 3 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Weyerhaeuser. FEA related these additional capital investment costs to the total capitalization of Weyerhaeuser and the remaining useful life after conversion of Plymouth 2 and 3.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Weyerhaeuser to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Weyerhaeuser MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Weyerhaeuser's total annual costs after conversion will increase by $5,948.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Plymouth 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Plymouth 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*—A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines May 1975 [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.8
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (*FEA 1976 National Energy Outlook*):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining

units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Plymouth 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's per pound (minimum)	10,000
Moisture (percent maximum)	15
Ash (percent maximum)	20
Volatile (percent minimum)	15
Ash softening temperature (degrees fahrenheit, minimum)	2,200
Sulfur (percent maximum)	[1] 1.5

[1] Approximate.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

	Demand (thousand tons)
1979 and thereafter	188

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	23,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	8,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,065

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8% sulfur content (which includes the 1.5% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 1.41–1.8*
1978	226
1979	897
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State of local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Plymouth 2 and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available.

(*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977 (hereafter "Transportation Availability Report"), coal for Plymouth 2 and 3 would probably come from BOM District 8 as the primary supply area and from BOM District 1 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified source within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Plymouth 2 and 3 is to originate coal near Corbin, Kentucky on the Louisville and Nashville Railroad (L&N) which would carry it to Knoxville, Tennessee where the Southern Railway Co would pick the coal up and move it via Morristown, Tennessee, Asheville, Salisbury and Greensboro, North Carolina to Raleigh, North Carolina. The Norfolk Southern Railway Co. (NS) would then deliver it to Plymouth 2 and 3 via Wilson and Washington, North Carolina. The total distance is about 409 miles by rail.

The alternate route from the primary supply area is to originate coal in the Devon, West Virginia area on the Norfolk and Western (N&W) which would move it via Roanoke to Jarrett, Virginia. The Seaboard Coast Line (SCL) would then pick it up and carry it to Plymouth 2 and 3. The total rail distance is about 475 miles.

An alternate route from the alternate supply area would originate coal in the Altoona, Pennsylvania area on Consolidated Railroad (Conrail). Conrail would move the coal via York, Pennsylvania and Baltimore, Maryland to Washington, D.C. The Richmond, Fredericksburg and Potomac Railroad Company would pick it up and carry it to Richmond, Virginia where SCL would pick it up and deliver it to Plymouth 2 and 3. The total rail distance is approximately 545 miles.

3. *Originating trunk carrier.* The L&N, the originating carrier of coal for Plymouth 2 and 3 has about 34,000 hopper cars with an estimated average capacity of 75 tons. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 265 additional cars by 1979 to handle the increased demand of the Plymouth Plant. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at mine sites within BOM District 8 served by the L&N are in good condition and loading facilities could handle the required coal volume.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* The destination carriers have delivered coal to the plant in the past. Coal can now be burned at Plymouth 2 and 3.

There are no other obstacles to the delivery of coal to Plymouth 2 and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Plymouth 2 and 3 presently exist, and alternate routes are available.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-2057	Monsanto Co.	Pensacola plant	1, 2, 3, 4, 5, 6	Pensacola, Fla.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Monsanto Company shall be referred to as the "owner" and as "Monsanto". Pensacola Units 1 through 6 shall be referred to as the "MFBI's" and as "Pensacola 1, 2, 3, 4, 5 and 6".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Monsanto had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Monsanto, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6 and 12–14 (Form FEA C–602–S–0), filed on May 20, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Monsanto filed with FEA dated August 3, 1976, and other information available to FEA, the following plant equipment and facilities at Monsanto would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Combustors
2. Heaters.
3. Special instrumentation and controls.
4. Unloaders.
5. Conveyors.
6. Ash handling equipment.
7. Hoppers.
8. Silos.

C. FEA proposes to find that on June 22, 1974, Pensacola 1, 2, 3, 4, 5 and 6 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Pensacola 1, 2, 3, 4, 5 and 6 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*

1. *Anticipated fuel supplies. Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.* a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Pensacola 1, 2, 3, 4, 5 and 6 have been determined.

This determination was based on existing FEA information and anlysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Pensacola 1, 2, 3, 4, 5 and 6 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Pensacola 1, 2, 3, 4, 5 and 6 will represent an annual cost increase of $1,454,883.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as their primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the Prohibition Order were not issued to these MFBI's they could alternately replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $1,454,883.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Pensacola 1, 2, 3, 4, 5, and 6 is not unreasonable.

Burning of coal by these MFBI's as their primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that these MFBI's could experience annual savings in their total fuel costs should they convert to coal instead of converting to petroleum products, there would be a net increase in the costs to these MFBI's.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Pensacola 1, 2, 3, 4, 5, and 6 by $1,454,883 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of these MFBI's, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of these MFBI's.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Pensacola 1, 2, 3, 4, 5, and 6 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Pensacola 1, 2, 3, 4, 5, and 6 will experience a substantial curtailment of their present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.* a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Pensacola 1, 2, 3, 4, 5 and 6 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Monsanto. FEA related these additional capital investment costs to the total capitalization of Monsanto and the remaining useful life after conversion of Pensacola 1, 2, 3, 4, 5 and 6.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Monsanto to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment' costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil and and natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Monsanto MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Monsanto's total annual costs after conversion will increase by $1,454,883.

B. *Consistency with purposes of ESECA.* Because the isuance of a Prohibition Order to Pensacola 1, 2, 3, 4, 5, and 6 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Pensacola 1, 2, 3, 4, 5, and 6 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plants that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practical to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand,* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Pensacola 1, 2, 3, 4, 5 and 6 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash (percent)	[2] 20
Sulfur (percent) (approx.)	[2] 2.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1983 and thereafter	248

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. Regional planned production, characteristic coal. Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	28,934
1979	52,077
1980	58,396
1981	67,882
1982	71,985
1983	77,668
1984	89,345

f. Regional ESECA prohibition order demand for coal, regardless of characteristic. The expected regional production of characteristic coal, as stated in paragraph A.3.e, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. Regional ESECA prohibition order demand for coal by sulfur characteristic. The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 2.2–2.51 percent sulfur content (which includes the 2.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) percent sulfur 2.2 to 2.51
1978	77
1979	1,330
1980	1,530
1981	1,531
1982	1,531
1983	1,531
1984	1,531

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8, and 13 uncommitted coal production that meets the requirements of Pensacola 1, 2, 3, 4, 5, and 6 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date undeh authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8, and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.* 1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Pensacola 1, 2, 3, 4, 5, and 6 would probably come from BOM District 8 as the primary supply area and from BOM District 13 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Pensacola 1, 2, 3, 4, 5, and 6 is to originate coal in BOM District 8 in the Williamsburg, Kentucky area on the Louisville and Nashville (L&N) Railroad. The L&N would move it via Nashville, Tennessee, and Decatur, Birmingham, and Montgomery, Alabama, for delivery to Pensacola 1, 2, 3, 4, 5, and 6. The total rail distance is about 640 miles.

The alternate route from the primary supply area originates coal near Clinton, Tennessee, on the Southern Railway which will move it via Knoxville and Cleveland, Tennessee, and Rome, Georgia, to Kimbrough, Alabama, where the Frisco Line picks it up to deliver to Pensacola 1, 2, 3, 4, 5, and 6. The total rail distance is about 630 miles.

An alternate route from the alternate supply area would originate coal in BOM District 13 the Tuscaloosa, Alabama area where the coal would be barged by the Parker Towing Company down the Warrior River and via the Gulf Intercoastal Waterway for delivery to Pensacola 1, 2, 3, 4, 5, and 6. The total distance is about 500 miles.

3. *Originating trunk carrier.* The L&N Railroad, the originating carrier of coal for Pensacola 1, 2, 3, 4, 5, and 6, has over 34,000 hopper cars in service and has been increasing this number by about 2,000 cars per year. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 165 additional cars to handle the increased demand from Pensacola 1, 2, 3, 4, 5, and 6. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studies, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA. The L&N indicated that transportation facilities at nine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Monsanto has indicated that no coal facilities are currently available. A study being conducted by Monsanto should be completed by mid-1977. It is expected that these installations can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to these MFBI's.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Pensacola 1, 2, 3, 4, 5, and 6 presently exist, and alternate routes are available.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-2612	Bowater Corp., Ltd., Bowater Southern Paper Corp.	Calhoun mill	1, 2, 3, 4, 5	Calhoun, Tenn.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Bowater Southern Paper Corporation, a wholly-owned subsidiary, through other subsidiaries, of Bowater Corporation, Ltd., London, England shall be referred to as the "owner" and as "Bowater Southern". Calhoun Mill Units 1, 2, 3, 4, and 5 shall be referred to as the "MFBI's" and as "Calhoun 1, 2, 3, 4, and 5".

I. Capability and necessary plant equipment to burn coal.

FEA proposes to find that on June 22, 1974, Calhoun 1, 2, 3, 4, and 5 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Bowater Southern, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 30, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Bowater Southern filed with FEA dated March 7, 1977, and other information available to FEA, the following plant equipment and facilities at Calhoun 1, 2, 3, 4, and 5 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Combustors; 2. Soot blowers; 3. Unloaders; 4. Conveyors; 5. Crushers; 6. Pulverizers; 7. Scales; 8. Feeders; 9. Air heaters; 10. Controls; 11. Ash handling equipment.

C. FEA proposes to find that on June 22, 1974, Calhoun 1, 2, 3, 4, and 5 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Calhoun 1, 2, 3, 4, and 5 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1974–1976, the remaining life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.* 1. *Anticipated fuel supplies—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission the natural gas supplier, and in certain cases the owner, FEA presumes that these MFBI's will experience a substantial curtailment of their present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.* a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Calhoun 1, 2, 3, 4, and 5 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Calhoun 1, 2, 3, 4, and 5 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1. a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net anual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Calhoun 1, 2, 3, 4, and 5 will represent an annual cost increase of $621,033.

3. *Reasonableness of additional costs of burning coal.* The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as the primary energy source these MFBI's would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because these MFBI's will eventually experience a substantial curtailment of their supply of natural gas. If the prohibition order were not issued to these MFBI's they could alternatively replace their current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of their natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for these MFBI's resulting from operating on coal as their primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $621,033.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Calhoun 1, 2, 3, 4, and 5 is not unreasonable.

Burning of coal by these MFBI's as their primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that these MFBI's could experience annual savings in their total fuel costs should they convert to coal instead of converting to petroleum products, there would be a net increase in the costs to these MFBI's.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Calhoun 1, 2, 3, 4, and 5 by $621,033 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of these MFBI's, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of these MFBI's.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Calhoun 1, 2, 3, 4, and 5 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Calhoun 1, 2, 3, 4, and 5 will experience a substantial curtailment of its present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.* a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Calhoun 1, 2, 3, 4, and 5 would be economically feasible. FEA's analysis took into consideration the financial capibility of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Bowater Southern.

FEA related these additional capital investment costs to the total capitalization of Bowater Southern and the remaining useful life after conversion of Calhoun 1, 2, 3, 4, and 5.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of the owner to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil and natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Bowater Southern MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Bowater Southern's total annual costs after conversion will increase by $621,033.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Calhoun 1, 2, 3, 4, and 5 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Calhoun 1, 2, 3, 4, and 5 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. Coal and coal transportation facilities

will be available to these MFBI's during the period until December 31, 1984.

A. *Coal availability.* 1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National Coal Production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1977	698
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Calhoun 1, 2, 3, 4 and 5 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (percent) (approximate)	[2] 4.0

[1] Mimimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

	Demand (thousand tons)
1980 and thereafter	172

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	124,300
1979	243,100
1980	293,300
1981	350,000
1982	369,900
1983	396,200
1984	475,500

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristics expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	28,934
1979	52,077
1980	58,396
1981	67,882
1982	71,985
1983	77,660
1984	89,345

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 2.21–4.01% sulfur content (which includes the 4.0% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 2.21–4.01*
1978	77
1979	1,330
1980	1,530
1981	1,531
1982	1,531
1983	1,531
1984	1,531

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction of utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Calhoun 1, 2, 3, 4 and 5 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders issued to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to these MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that these MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977, (hereafter "Transportation Availability Report"), coal for Calhoun 1, 2, 3, 4 and 5 would probably come from BOM District 8 as both the primary and alternate source of supply. While this supply region is the nearest available source able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as one alternate route. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Calhoun 1, 2, 3, 4 and 5 is to originate coal in BOM District 8 near Somerset, Kentucky on the Southern Railway. Southern would carry the coal via Knoxville, Tennessee and deliver it to Calhoun 1, 2, 3, 4 and 5. The total rail distance is about 233 miles.

The alternate route from the primary supply area originates coal in Corbin, Kentucky on the Louisville and Nashville Railroad (L&N) which moves it via Knoxville, Tennessee and Patty, Tennessee and delivers it to Calhoun 1, 2, 3, 4 and 5. The total rail distance is about 183 miles.

3. *Originating trunk carrier.* The Southern Railway, the originating carrier of coal for Calhoun 1, 2, 3, 4 and 5 has about 14,000 hopper cars in service. Using an average number of 20 deliveries per year per 88-ton car, the Southern may need as many as 132 additional cars to handle the increased demand from Calhoun 1, 2, 3, 4 and 5.

This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Bowater Southern has indicated that coal would be shipped to it by Southern and L&N.

There are no other obstacles to the delivery of coal to Calhoun 1, 2, 3, 4 and 5

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Calhoun 1, 2, 3, 4, and 5 presently exist, and alternate routes are available.

APPENDIX—PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No	Location
OCU–3066	Westvaco Corp.	Charleston plant.	4,5	Charleston, S C

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Westvaco Corporation shall be referred to as the "owner" and as "Westvaco". Charleston Plant Units 4 and 5 shall be referred to as the "MFBI's" and as "Charleston 4 and 5".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Charleston 4 and 5 had the capability and necessary plant equipment burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Westvaco, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0) filed on June 30, 1975 indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Westvaco filed with FEA dated July 22, 1976, and other information available to FEA, the following plant equipment and facilities at Charleston 4 and 5 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Scales and feeders.
4. Bunkers and silos.
5. Stack reclaimer.
6. Soot blowers.
7. Combustion controls.
8. Fans.
9. Feed ducts.
10. Ash handling and ponding equipment.
11. Pulverizers and crushers.
12. Burners.
13. Air heater.

C. FEA proposes to find that on June 22, 1974, Charleston 4 and 5 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Charleston 4 and 5 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–76, the remaining useful service life of the boilers after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Charleston 4 and 5 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner and/or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Charleston 4 and 5 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the

conversion of Charelston 4 and 5 will represent an annual cost increase of $24,659.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Charleston 4 and 5 is reasonable.

As a result of conversion, Westvaco will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Increased costs of conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the annual cost of operating the boilers.

The use of coal at Charleston 4 and 5 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

Although conversion to the burning of coal would be expected to increase the cost of operating at Charleston 4 and 5, FEA proposes to find that such increased cost, per barrel of oil saved, is not unreasonable. This is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the boilers after conversion, the size and resources of Westvaco as examined in the following analysis of financial capability, the nature of the expected operation of these boilers and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Charleston 4 and 5 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Westvaco. FEA related these additional capital investment costs to the total capitalization of Westvaco and the remaining useful life after conversion of Charleston 4 and 5.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Westvaco to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Westvaco MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Westvaco's total annual costs after conversion will increase by $24,659.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Charleston 4 and 5 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Charleston 4 and 5 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest exent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (*Demonstrated Coal Reserve Base of the United States by Sulfur Category, on January 1, 1974*, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, *Coal Availability Report*, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1983	57.4
1983	50.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Charleston 4 and 5 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulphur (percent, approximate)	[2] 1.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

	Demand (thousand tons)
1980 and thereafter	187

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of the MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availibility Report"):

Year:	*Production (thousand tons)*
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availibility Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8% sulfur content (which includes the 1.5% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur, 1.41–1.8*
1978	226
1979	897
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Charleston 4 and 5 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (*The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond*, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, *Coal Transportation Availability Report*, April 1977, (hereafter "Transportation Availability Report"), coal for Charleston 4 and 5 would probably come from BOM District 8 as the primary supply area and from BOM District 6 as the alternate supply area. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery to Charleston 4 and 5 would originate in BOM District 8 in the Somerset, Kentucky area on the Southern Railway Co. (Southern). The Southern would move it via Knoxville, Tennessee to Asheville, North Carolina, Spartanburg, Columbia and Orangeburg, South Carolina for delivery to Charleston 4 and 5. The total rail distance is approximately 585 miles.

The alternate route for coal delivery from the primary supply area originates coal in BOM District 8 in the Corbin, Kentucky aren on the Louisville and Nashville (L&N) Railroad. The L&N would move it via Knorville, Tennessee to Atlanta, Georgia where the Seaboard Coast Line (SCL) would then pick it up and carry it via Augusta Robbins and Yemassee, South Carolina for delivery to Charleston 4 and 5. The total rail distance is about 639 miles.

An alternate route from the alternate supply area would originate coal in BOM District 6 in the Bluefield, West Virginia area on the Norfolk and Western (N&W) which would move the coal via Roanoke, Virginia to Walnut Cove, North Carolina. Southern would then pick it up and move the coal via Greensboro and Charlotte, North Carolina to Columbia, South Carolina and deliver the coal to Charleston 4 and 5. The total rail distance is about 557 miles.

3. *Originating trunk carrier.* The Southern Railway, originating carrier of coal for Charleston 4 and 5 has about 14,000 hopper cars in service. Using an average number of deliveries of 20 per year per 88-ton car, the Southern may need as many as 197 additional cars to handle the increased demand from Charleston 4 and 5. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Westvaco has indicated that land is available for coal storage. Railroad companies can deliver coal to Charleston 4 and 5.

There are no other obstacles to the delivery of coal to Charleston 4 and 5.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Charleston 4 and 5 presently exist, and alternate routes are available.

[FR Doc.77-13705 Filed 5-13-77;8:45 am]

federal register

MONDAY, MAY 16, 1977

PART V



ENVIRONMENTAL PROTECTION AGENCY

■

IDENTIFICATION OF REGIONS AND AGENCIES FOR SOLID WASTE MANAGEMENT

Interim Guidelines

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 715-1]

PART 255—IDENTIFICATION OF REGIONS AND AGENCIES FOR SOLID WASTE MANAGEMENT

Interim Guidelines

AGENCY: Environmental Protection Agency.

ACTION: Interim Guidelines.

SUMMARY: These guidelines present criteria and procedures to assist State and local governments in identifying (1) regions which have common solid waste management problems and which are appropriate units for planning regional solid waste management services, and (2) State and local agencies and their respective responsibilities for developing and implementing a State solid waste management plan. Such identification is a requirement for Federal assistance under Section 4007 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976.

DATES: Comments must be received by July 15, 1977. Effective date: June 15, 1977.

ADDRESS: Comments on these guidelines may be addressed to the Deputy Assistant Administrator for Solid Waste (AW-462), Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Burnell Vincent, (202) 755-9125.

SUPPLEMENTARY INFORMATION: The overall objectives of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, 42 U.S.C. 6901 et seq. the Act), are to promote the protection of health and the environment and to conserve material and energy resources in part by establishing a cooperative effort toward improved solid waste management among the Federal, State, and local governments and private enterprise. The protection of health and the environment includes particularly the protection of the quality of ground and surface waters from leachates and runoff, protection of air quality, disease and vector control, safety, and esthetics associated with land disposal sites. The issuance of Federal guidelines for identifying regions that are appropriate units for solid waste management planning and for identifying agency responsibilities for planning and implementation is the first action under the Act in this cooperative effort.

These guidelines provide criteria and procedures to assist the formal identification of regions by Governors as described in section 4006(a) of the Act. In conjunction with that effort, State and local officials will jointly identify agencies to develop and implement a State solid waste management plan, specifying which agencies will be responsible for which functions (section 4006(b)). This is an important feature of the Act, since formal identification of responsibilities has not been routinely achieved in all areas of the country. The Act calls for region identification within 6 months of the date of these guidelines, and agency identification within 6 months after that.

Within 12 months of the publication date of the regional identification guidelines, EPA is required to issue guidelines on the development and implementation of the State solid waste management plans (section 4002(b)). The identification of regions and responsible agencies pursuant to section 4006 will be incorporated in the State plan, which to be eligible for Federal funds should at a minimum provide for prohibition of new open dumps, for remedial actions at existing open dumps, for other disposal, recovery and conservation measures necessary to meet the objectives of the Act, and for the distribution of Federal funds within the State (section 4003).

The formal identification of regional boundaries and responsible agencies and the approval of State plans are conditions for eligibility of States for Federal financial assistance (section 4007(b)). Grant regulations to be developed as Subpart B, Part 35, of this Chapter will provide that grants under section 4008 may only go to agencies identified pursuant to section 4006.

In carrying out the identification and planning processes, several features of the Act should be particularly noted. One is the broad definitions of solid waste, solid waste management, and disposal that are used. Complete coverage of all waste and waste management practices which have health or environmental impact is intended, consistent with other Federal laws, as specified in section 1006. Another feature is the flexibility for State and local discretion in the entire planning and implementation process. Finally, there is clear emphasis on opportunities for participation and involvement of the public, all affected agencies and parties, and the private sector in program planning.

Region and agency identifications should be based on a State strategy for solid waste management. This strategy should:

1. Establish goals and objectives for prevention of adverse effects on the environment resulting from improper solid waste disposal including protection of surface and ground water quality, air quality and the land.

2. Identify waste problems by type and volume (including residential and commercial solid waste, hazardous waste, industrial sludges and pretreatment residues, municipal sewage sludge, air pollution control residue, septage, mining and agricultural wastes and other wastes from industrial or municipal sources).

3. Identify disposal options (including impoundments, pits, ponds, lagoons, landfills, dumps, land spreading, and industrial disposal operations).

4. Identify resource recovery and conservation options and other options for conversion, treatment or processing of solid waste.

5. Review and analyze existing agencies with responsibilities for solid waste management and existing institutional and regulatory programs.

6. Involve an analysis of alternatives for identifying areas and agencies based on the information developed above.

This State strategy is an essential component of the State plan which will be developed and submitted pursuant to the guidelines on the development and implementation of State solid waste management plans (sections 4002(b) and 4007).

The goal of the identification process should be to establish complete coverage in each State for solid waste management functions (for which there is a need) in such a manner that resources are equitably distributed; that disposal capacity, both existing and proposed, is utilized in the manner most expeditious from a statewide perspective; that resource recovery and conservation is encouraged consistent with economic and energy conservation policies; that wastes are accumulated in sufficient quantity to achieve economical management; that transportation and logistical problems are resolved and assets are best utilized; and that the available means of interregional and interstate coordination are maximized. This does not imply that all functions or all waste types should have equal emphasis in all parts of the State. For example, while no area should be without access to acceptable solid waste disposal, there may be large areas which will not need concerted planning programs for several years and which may logically not be included in a resource recovery facility or a special hazardous or agricultural waste plan.

The criteria for region and agency identification presume some determination of goals and objectives in the State planning process to date, including those related to land, air and surface and ground water management policy. For some waste types and disposal or recovery options planning may not have proceeded to the point where the most appropriate region and agency identifications can be made. It may be desirable to set priorities and to phase region and agency identifications for various wastes and disposal and recovery options, based upon environmental and economic impacts, state-of-the-art of control technologies, and the current orientation and capabilities of State and local agencies. Temporary identifications are encouraged where they would be useful in achieving planning progress or in making decisions. Region and agency identification should be a continuing process under the State plan. Grant regulations to be issued pursuant to section 4007 and State planning guidelines to be issued pursuant to section 4002(b) may require continuing analyses of regional and agency designations and, as appropriate, redesignation of regions and agencies based on progress in developing the State strategy and plan.

The resulting system may be quite simple, or it may make distinctions according to purposes and functions. Where existing identifications of boundaries and agencies are effective in meeting the needs of the Act, they should naturally be utilized. Regions may be separately identified for each function, such as comprehensive planning and facility planning, or collection system and disposal site operation; they may be identified for types of wastes, such as hazardous, recoverable, or demolition debris; or they may be consolidated into established political boundaries. The identification of agency responsibility may similarly be established according to State needs for uniformity or diversity as determined jointly by State and local officials.

It is important to note that in accordance with the provisions of the Act, solid waste management includes practices such as utilization and disposal of municipal sewage treatment sludge and disposal of industrial wastes in surface impoundments. In some States, agencies responsible for such wastes may be distinct from agencies responsible for residential or commercial solid waste. Therefore, consideration should be given to designation of agencies which have demonstrated satisfactory ability to deal with these other types of solid wastes. Consideration should also be given to designation of more than one agency when a single agency does not have the appropriate experience and skills to perform all of the responsibilities which could be assigned under this Act. In such instances, it may be desirable to designate a separate agency for special functions such as sludge management or industrial impoundments particularly where existing agencies have demonstrated experience and abilities in a particular area.

Although the Act calls for separate actions to be taken in identifying regions and agencies, these actions are interrelated, and this fact should be well recognized in the identification processes. The criteria and procedures suggested in these guidelines should help to assure adequate consideration of the interrelationships. Identification of regional boundaries is the responsibility of the Governor after consultation with local elected officials. The identification of agencies is a joint responsibility of the State and local elected officials, requiring a more participatory local involvement. The Agency encourages States to provide for the participation of the legislative branch of the State Government in the identification of the regions and agencies. Such local and State involvement is needed to clearly determine whether the identified agencies have the authority and resources to carry out their responsibilities under the State plan and are accountable for doing so. The criteria for identifying agencies are no less applicable when the State plan calls for private industry to provide the recommended facilities and services, since a public agency must be held accountable for performance.

As noted, these identification processes are intended to build upon ongoing planning and management efforts including the efforts begun under the Solid Waste Disposal Act of 1965. Another important aspect is coordination with other programs, principally the areawide water quality management planning being conducted under section 208 of the Federal Water Pollution Control Act, 33 U.S.C. 1288. As part of that planning effort, State and areawide water quality management agencies are to identify a process to control the disposition of all residual (solid) waste in their areas which affect water quality of (section 208(b)(2)(J) of the FWPCA, 33 U.S.C. 1288(b)(2)(J)). Some of these water quality management agencies may have the capability and otherwise be qualified to conduct solid waste management planning for regions identified pursuant to these guidelines and such agencies should be considered as candidates for identification under the guidelines.

Attention is directed to the requirement of OMB Circular No. A-95, paragraph 2, Part IV of Attachment A, which provides for consideration of existing established substate planning districts and requires consultation with the appropriate Federal Regional Council.

The Act requires that guidelines for the identification of regions be published within 180 days of enactment (section 4002(a)). The Act does not require the publication of guidelines to assist States and local officials in the identification of agencies (section 4006(b)). However, under its general authority to publish necessary regulations (section 2002(a)(1)) and in response to requests for such guidance from States and local governments, EPA is including advisory criteria and procedures for identification of agencies as part of these guidelines.

To meet the Act's requirement for consultation with appropriate authorities, draft copies of the guidelines were sent to over 400 State, regional and local agencies, other Federal agencies, environmental groups and representatives of industry. In addition, a public meeting on the guidelines was held on March 30, 1977 with prior notice in the FEDERAL REGISTER. All comments were considered in the final drafting.

In order to allow the States, their Governors, and local authorities to begin work immediately on identification of regions and of agencies and their responsibilities as required by Section 4006, these guidelines are being published in interim form. Since the State and local governments need to refer to these guidelines in planning their action under the Act, it would be impracticable to first propose these guidelines prior to this publication. Similarly, it would be contrary to the public interest to delay the initiation of the State planning effort beyond the dates required by the Act. Accordingly, good cause is hereby found to publish these guidelines in the interim form without first proposing them for comment.

In addition to the extensive comments taken in the course of developing these interim guidelines, we invite further public comment. The review procedures established under OMB Circular A-85 will be conducted concurrently, and comments received from that process, from other Federal agencies, from State and local governments and from the public, together with the interim experience with these guidelines will be the bases for such changes as may be made prior to publication in final form. All comments received on or before July 15, 1977 will be considered prior to the promulgation of final guidelines.

Dated: May 9, 1977.

DOUGLAS M. COSTLE,
Administrator.

Chapter I, Title 40 of the Code of Federal Regulations is amended by adding a new Part 255, effective on June 15, 1977, as follows:

Subpart A—General Provisions

Sec.
255.1 Scope and purpose.
255.2 Definitions.

Subpart B—Criteria for Identifying Regions and Agencies

255.10 Criteria for identifying regions.
255.11 Criteria for identifying agencies.

Subpart C—Procedures for Identifying Regions and Agencies

255.20 Preliminary identification of regions.
255.21 Local consultation on boundaries.
255.22 Establishing regional boundaries.
255.23 Joint identification of agencies.
255.24 Procedures for identifying interstate regions.
255.25 Public participation.

Subpart D—Responsibilities of Identified Agencies and Relationship to Other Programs

255.30 Responsibilities established.
255.31 Integration with other Acts.
255.32 Coordination with other programs.
255.33 Inclusion of Federal Facilities and Native American Reservations.

Subpart E—Submission and Revision of Identifications

255.40 Notification of Status.
255.41 Procedures for Revision.

AUTHORITY: Sec. 2002(a)(1), Pub. L. 94-580, 90 Stat. 2795 (42 U.S.C. 6912(a)(1)). Also issued under sec. 4006(b), Pub. L. 94-580, 90 Stat. 2795 (42 U.S.C. 6946(b)), unless otherwise noted.

Subpart A—General Provisions

§ 255.1 Scope and purpose.

(a) These guidelines are applicable to policies, procedures, and criteria for the identification of those areas which have common solid waste management problems and which are appropriate units for planning regional solid waste management services pursuant to section 4002(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (the Act). The guidelines also define and guide the identification of which functions will be carried out by which agencies pursuant to section 4006 of the Act.

(b) The purposes of these guidelines are to (1) provide useful criteria for selecting the regions and agencies to be identified pursuant to section 4006 of the Act and (2) provide guidance for conducting the process which will result in formal identification of those regions and agencies.

(c) Identifications made pursuant to these guidelines should be consistent with State solid waste management plans and strategies. A State strategy establishes: goals for prevention of adverse effects on the environment resulting from improper solid waste disposal including protection of surface and ground water quality, air quality and the land; priorities among waste types; priorities among disposal practices; and the roles of existing agencies with responsibilities in solid waste management. The identification process should cover all waste types (residential and commercial solid waste, hazardous wastes, industrial sludges and pretreatment residues, municipal sewage sludge, air pollution control residue, septage, mining and agricultural waste, other industrial waste, and solid waste from community activities), all disposal practices (impoundments, pits, ponds, lagoons, landfills, dumps, land-spreading, and industrial leaching fields) and all technological approaches (conservation, recovery, incineration, disposal).

(Also Sec. 4002(a), Pub. L. 94-580, 90 Stat. 2795 (42 U.S.C. 6942)).

§ 255.2 Definitions.

The Act contains an extensive list of definitions in Section 1004 which are applicable here. There are further definitions of terms in OMB Circular A-95 Part IV of Attachment A which apply unless the context herein requires otherwise.

Subpart B—Criteria for Identifying Regions and Agencies

§ 255.10 Criteria for identifying regions.

The following criteria are to assist in identifying regions pursuant to section 4006(a) of the Act.

(a) Geographic areas which have a history of cooperating to solve problems in environmental or other related matters should be considered.

(1) Regions encompassing existing regional, including countywide, systems or institutions, including those of the private sector, should be evaluated. Changes in their boundaries may be needed for economic viability or other reasons in keeping with the State plan.

(2) Boundary selection which would require the creation of new agencies should be considered only where necessary. The relationship among established agencies should be considered. Where institutional gaps or inadequacies are found, regions should be identified keeping in mind which agencies would be able to fill those needs.

(b) The size and location of regions should permit resource recovery and conservation in accordance with the objectives in section 4001 of the Act.

(1) A region's size and configuration should be considered, weighing transportation costs against economies of scale.

(2) Left-over regions having inadequate resources or volumes of waste should be avoided.

(3) Location should be considered relative to available transportation and to markets for recovered resources.

(c) The volume of wastes within a region will influence the technology choices for recovery and disposal, determine economies of scale, and affect marketability of resources recovered. A region should include sufficient volume of waste to support the goals and objectives of the State plan, including materials or energy recovery as appropriate.

(d) Waste type should be considered since it also affects management options. Industrial or hazardous waste streams may warrant special consideration or special boundaries.

(e) The effect of geologic and hydrologic conditions, such as soil suitability, land availability, natural barriers (rivers and mountains), the quantity and availability of water resources, and the susceptibility of ground water to contamination should be considered. Aquifer protection in accordance with State water quality management plans and policies could influence boundary selection.

(f) Coordination with ongoing planning for other purposes may be an influence in selecting boundaries.

(1) The local and regional planning process should be integrated into the State planning process.

(2) Use of a common data base should be encouraged among transportation, land use, and other planning areas.

(3) To the extent practicable, coterminous planning regions should be encouraged, and larger regions should be multiples of whole smaller regions.

(4) Coordination should be provided with those agencies designated for water quality management planning under section 208 of the Federal Water Pollution Control Act, with underground injection control agencies designated in accordance with the Safe Drinking Water Act, and with air quality planning agencies designated under the Clean Air Act.

(Sec. 4002(a), Pub. L. 94-580, 90 Stat. 2795 (42 U.S.C. 6942).)

§ 255.11 Criteria for identifying agencies.

The following criteria are intended to assist in the process of agency selection pursuant to section 4006(b) of the Act. They may also be useful in pointing out needed improvements in the qualifications of the selected agencies.

(a) Existing agencies with demonstrated satisfactory ability to plan, manage, or operate solid waste management services should be considered for planning and implementation responsibilities. Agencies which have completed planning that resulted in successful implementation of solid waste management facilities or services should be given priority consideration for future planning responsibilities when they otherwise meet these criteria.

(b) An agency to be identified as responsible for conducting regional solid waste management planning should:

(1) Be a representative organization composed of, or whose membership is composed of, individuals at least a majority of whom are elected officials of local governments or their designees having jurisdiction in the planning region;

(2) Have planning jurisdiction in the entire planning region.

(3) Be capable of having the planning process fully underway within 1 year after identification.

(4) Have established procedures for adoption, review, and revision of plans and resolution of major issues, including procedures for public participation in the planning process.

(5) Have appropriate experience and skills to perform all of its assigned responsibilities, including expertise for the particular waste type, processing or disposal technology, and functional area. (Attention is directed to OMB Circular No. A-95, paragraph 1.e., Part IV of Attachment A which encourages the designation of established substate district comprehensive planning agencies as the agencies to carry out areawide planning assisted or required under any Federal program).

(c) In identifying agencies for solid waste management planning and implementation under section 4006 of the Act, the State should review the solid waste activities being conducted by water quality management planning agencies designated under section 208 of the Federal Water Pollution Control Act. Where feasible, identification of such agencies should be considered in the joint identification processes of Subpart C of this part. There should be a formal means of coordination established with the State water quality management agencies.

(d) Planning objectives will influence agency selection. Distinctions may be made between policy planning and facility planning and between planning a single solid waste management system and comprehensive planning which addresses trade-offs among various media.

(e) For coordinating planning and implementation under the State plan, as required in section 4003(1)(c), consideration should be given to identifying one agency for both functions. Where separate planning and implementation agencies are selected, there should be some means to ensure implementation, such as State legislation or an interagency agreement that all constituent jurisdictions will abide by the plan. Furthermore, strong coordination should be established between the planning agency and the implementing agency. During the planning period, the implementation agency should have continual access to plan development processes. There should be an administrative procedure to resolve conflicts between planners and implementers.

(f) The agency responsible for carrying out the regional plan should be constituted with authority to implement the plan in its constituent jurisdictions.

(g) The need for a reliable volume of waste to supply disposal or recovery facilities should be addressed. Agency providing such facilities whose member jurisdictions could choose whether or not to utilize the facility should analyze that need and consider methods such as franchising or public utility controls to assure an adequate supply.

Subpart C—Procedures for Identifying Regions and Agencies

The following procedures are provided to assist in establishing consultation and joint identification processes to be used for identifying regions and agencies pursuant to section 4006. Any process which meets the substantive intent of these guidelines may be submitted to the EPA Regional Administrator for purposes of determining grant eligibility under section 4007, especially if such process has been mandated or funded by State legislation.

§ 255.20 Preliminary identification of regions.

Preliminary identification of regions should be made by the Governor or his representative after consultation with the chief executives of all agencies designated pursuant to OMB Circular No. A-95, and with water quality and solid waste management planning agencies, cities, and counties and other appropriate units of general purpose local government. The Governor should notify the concerned agencies of his recommendations concerning boundaries. Where the regional identification has already been established by State legislation or other method in keeping with these guidelines, this notification need only request comments on the existing arrangement.

§ 255.21 Local consultation on boundaries.

Any chief executive of a general purpose government within the State may comment on the Governor's recommendation concerning the boundaries.

(a) The purposes of these comments are to assure that the experience of local agencies is used to fullest advantage in boundary decisions, that incompatible institutional arrangements are not forced, and that significant local considerations are not overlooked.

(b) When the objectives of the Act concerning local consultation can be met by an equivalent or existing process established under State administrative procedures acts or other State procedural guidance, the Governor may request that the EPA accept that process in fulfillment of the grant eligibility criteria under section 4007 of the Act.

§ 255.22 Establishing regional boundaries.

Under section 4006(a) of the Act the formal means for identifying regional boundaries are to be regulations promulgated by the Governor. Where the identification of areas has already been made by State legislation or other means which have legal stature equivalent to the required regulations, and where notification and consultation have occurred pursuant to § 255.20 and § 255.21 above, such legislation may be used in lieu of those regulations. Where substantial disagreement persists between the Governor and local officials, normal State administrative and judicial appeals procedures are available to resolve such conflict.

§ 255.23 Joint identification of agencies.

(a) The Governor should designate a lead agency to manage the identification process. That agency should review established notification procedures to determine that at least all general purpose local governments within the State, all units of regional governance, all existing solid waste and water quality management planning agencies, and all areawide A-95 clearinghouses will be notified. If necessary, a supplemental distribution list should be prepared. Consideration should be given to addressing individual offices within those agencies.

(b) The Governor should, by correspondence or State notification procedures, notify the agencies on the distribution list (paragraph (a) of this section) of the purpose and schedule of the joint identification process. This may be coincident with the notification in § 255.20.

(c) The Governor, an appropriate legislative committee, and appropriate local elected officials may submit nominations of agencies and functions to the lead agency appointed by the Governor. This lead agency should make such nominations public.

(d) Chief executives of agencies on the distribution list may comment by letter on the nominations.

(e) If a disagreement exists which cannot be settled by correspondence or a meeting with the Governor's representative, a public hearing should be held and all elected officials of local general purpose governments within the region should be invited. The purpose of this meeting will be for the local officials to reach a consensus regarding the agency(ies) to be formally identified.

(f) When a consensus is reached among local elected officials a formal agreement should be made in conformance with State administrative procedures. It should be binding until revised in accordance with this subpart.

(g) When the local consensus is in agreement with the State opinion, the State should confirm that agreed arrangement, formally establishing the duties and responsibilities of the identified agencies by legislative resolution or executive order.

(h) In the event that a consensus cannot be reached before 270 days after promulgation of regulations pursuant to § 255.22 the Governor should designate a State agency to develop and implement the plan for the concerned region.

§ 255.24 Procedure for identifying interstate regions.

If the Governor's recommendation, the local consensus, or a neighboring Governor's recommendation is that an interstate region be identified, the procedures described in this subpart should be extended to include notification and comment of all concerned officials in the entire recommended region.

(a) Section 4006(c) of the Act establishes specific procedures for the conduct of interstate identification processes.

(b) Recommendations, nominations, and comments resulting from processes described in §§ 255.20 and 255.21 that concern interstate regions should be brought to the attention of the appropriate EPA Regional Administrator.

(c) The Governor should evaluate the use of interstate metropolitan area (Standard Metropolitan Statistical Area) boundaries for planning and management purposes, and consider nominating such areas where appropriate.

(Also Sec. 4006(c), Pub. L. 94-580, 90 Stat. 2795 (42 U.S.C. 6946(c)).)

§ 255.25 Public participation.

Public participation in the process of identifying regions and agencies should be provided for, encouraged, and assisted by the State and local officials.

Subpart D—Responsibilities of Identified Agencies and Relationship to Other Programs

§ 255.30 Responsibilities established.

The following duties and responsibilities should be assigned for all appropriate areas pursuant to section 4006.

(a) Disposal of municipal solid waste should be an identified responsibility throughout the State. In the event that no local or regional agency is held responsible for disposal for a region, a State agency should be identified and held accountable.

(b) Where the State plan identifies municipal sewage sludge disposal, hazardous waste disposal or other functions needing attention in a region, an agency should be identified as being responsible for that function in that region.

(c) These responsibilities may be assigned with the intent that private industry be the actual purveyor of service.

§ 255.31 Integration with other acts.

The Governor shall integrate the provisions of these guidelines for purposes of administration and enforcement, and should avoid duplication to the maximum extent practicable, with the appropriate regional identification provisions of the Clean Air Act (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) and other appropriate Acts of Congress.

(Sec. 1006(b), Pub. L. 94-580, 90 Stat. 2795 (42 U.S.C. 6905(b)).)

§ 255.32 Coordination with other programs.

The region and agency identification criteria (§ 255.11) specify review of solid waste activities being conducted by water

quality management planning agencies, underground injection control agencies, and air quality management agencies. There should be a formal means of coordination established between any agencies established under section 4006 which are not identical with these agencies. Coordination should be established so that permittees under the National Pollutant Discharge Elimination System of the Federal Water Pollution Control Act will be consulted concerning disposal of residual sludges.

§ 255.33 Inclusion of Federal facilities and native American reservations.

Major Federal facilities and Native American Reservations should be treated for the purposes of these guidelines as though they are incorporated muncipalities, and the facility director or administrator should be considered the same as a locally elected official.

(Sec. 6001, Pub. L. 94-580, 90 Stat. 2795 (42 U.S.C. 6961).)

Subpart E—Submission and Revision of Identifications

§ 255.40 Notification of status.

This subpart describes procedures which may ultimately be required by EPA when its publishes regulations governing application and eligibility for grants under section 4007. Under these regulations the appropriate EPA Regional Administrator will consider the identifications made under Section 4006 as one of the conditions of grant eligibility.

The Regional Administrator may accept, in State grant applications, notification of the status of these identifications to insure that premature decisions on State plan development will not be forced by the timing of the identifications specified in the Act. Procedures are outlined here to advise the States of what EPA expects to require in such notification.

(a) The notification should specify those regional boundaries and agencies which are uncontested at the time of submission, and specify a schedule of hearings and determinations of subsequent identification of regions and agencies as consensus is reached.

(b) The appropriate level of detail and the timing of the identifications to be made should be established for each planning region after agreement between the State and the appropriate EPA Regional Administrator. The timing should depend upon how well the State plan is developed, the environmental and economic decisions to be made, and the existing management approaches to their resolution.

(c) The notification should list the major known interested agencies and private operators within each planning region and describe how they will be included in the process. Where appropriate, it should include an expression of their interest and a definition of the extent and limits of their role in solid waste management planning.

(d) The notification should provide a schedule for phasing of plan development with the identification of agencies to carry out those plans, showing the projected maturation of management agencies and the milestones for those agencies in taking over the plan implementation process.

(e) This notification should include establishment of State agencies where regional planning and implementation agencies have not been identified within 270 days of the Governor's promulgation of regulations identifying regional boundaries.

(See section 4006(b)(2).)

§ 255.41 Procedure for revision.

The procedure for revising regional identifications or agency responsibilities should be specified by the notification.

(a) The State should review and, if appropriate, revise or modify the identification of regions and the responsibilities of local and regional agencies at intervals of less than 3 years. Review and modification should include, but not be limited to, the following areas:

(1) Whether new regions should be identified, or whether present boundaries should be modified.

(2) Whether responsibilities of an agency should be expanded or reduced due to changes in the needs for solid waste functions in the region.

(b) Revisions or adjustments to the State plan may require minor boundary or agency changes from time to time. The appropriate EPA Regional Administrator should be notified of such revisions by the State solid waste agency.

(c) Major revisions or adjustments in agencies or boundaries should be made in consultation with local officials and be subject to the same procedures used in the original identification process. Notification of such revisions should be submitted with State plan updates.

[FR Doc.77-13861 Filed 5-13-77;8:45 am]

federal register

MONDAY, MAY 16, 1977

PART VI



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

List of Communities

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2883]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to list communities where the sale of flood insurance as authorized under the National Flood Insurance Program will be suspended because of noncompliance with the program regulations.

DATES: The last date that appears in the fourth column is the effective date of the suspension of the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the list below.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community.

The entry reads as follows:

§ 1914.6 List of eligible communities.

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(24 CFR § 1914.6)

State	County	Location	Effective date of authorization of sale of flood Insurance for area		Hazard area Identified	Community Number
Michigan.	Menominee.	Stephenson, City of.	August 7, 1973. May 16, 1977. June 15, 1977.	Emerg. Reg. Susp.	5-17-74 & 5-28-76	260139-A
Minnesota.	St. Louis.	Cook, City of.	March 1, 1977. March 1, 1977. June 15, 1977.	Emerg. Reg. Susp.	3-29-74.	270420A
Do.	Anoka.	Coon Rapids, City of.	March 15, 1977. March 15, 1977. June 15, 1977.	Emerg. Reg. Susp.	6-1-73	270011A
Do.	Stearns.	St. Cloud, City of.	March 31, 1972. April 1, 1977. June 15, 1977.	Emerg. Reg. Susp.	12-17-73 & 9-26-75	270456A
New York.	Broome.	Conklin, Town of.	November 2, 1973. May 16, 1977. June 15, 1977.	Emerg. Reg. Susp.	4-5-74	360042A
Do.	Broome.	Dickinson, Town of.	July 22, 1975. April 15, 1977. June 15, 1977.	Emerg. Reg. Susp.	3-8-74 & 12-19-75	360044A
Do.	Oswego.	Oswego, City of.	April 30, 1973. May 16, 1977. June 15, 1977.	Emerg. Reg. Susp.	5-10-74	360656A

(24 CFR § 1914.6)

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State	County	Location	Effective date of authorization of sale of flood Insurance for area		Hazard area Identified	Community Number
Do.	Broome.	Port Dickinson, Village of.	March 25, 1975. May 2, 1977. June 15, 1977.	Emerg. Reg. Susp.	2-1-74 & 11-28-75	360053A
Ohio.	Greene.	Bellbrook, City of.	July 28, 1972. June 1, 1977. June 15, 1977.	Emerg. Reg. Susp.	11-2-73 & 4-23-76	390194A
Do.	Licking.	Newark, City of.	August 25, 1972. April 15, 1977. June 15, 1977.	Emerg. Reg. Susp.	11-28-73 & 8-15-75	390335A
Do.	Wayne.	Wooster, City of.	February 2, 1977. February 15, 1977. June 15, 1977.	Emerg. Reg. Susp.	10-26-73	390579A
Oregon.	Douglas.	Roseburg, City of.	December 23, 1971. June 15, 1977. June 15, 1977.	Emerg. Reg. Susp.	6-7-74 & 4-23-76	410067A
Wisconsin.	Waupaca.	Freemont, Village of.	March 29, 1974. June 15, 1977. June 15, 1977.	Emerg. Reg. Susp.	11-30-73	550496A
Do.	Winnebago.	Oshkosh, City of.	November 12, 1971. May 16, 1977. June 15, 1977.	Emerg. Reg. Susp.	11-23-73	550511A
Do.	Ozaukee.	Unincorporated areas.	May 14, 1971. May 16, 1977. June 15, 1977.	Emerg. Reg. Susp.	5-16-77.	550310.

(24 CFR § 1914.6)

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***		Hazard area Identified ***	Community Number ***
Pennsylvania.	Lebanon.	Annville, Township of.	March 16, 1973. April 15, 1977. July, 1, 1977.	Emerg. Reg. Susp.	11-9-73 & 9-3-76	420570A
Do.	Northampton.	Bangor, Borough of.	February 2, 1977. February 2, 1977. July 1, 1977.	Emerg. Reg. Susp.	2-1-74	420716A
Do.	Lebanon.	Cleona, Borough of.	March 9, 1973. April 1, 1977. July 1, 1977.	Emerg. Reg. Susp.	12-28-73	420571A
Do.	Chester.	Downingtown, Borough of.	December 3, 1971. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	2-9-73	420275
Do.	Chester.	East Bradford, Township of.	August 16, 1974. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	8-16-74 & 10-24-75	420276A
Do.	Luzerne.	Edwardsville, Borough of.	December 1, 1972. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	3-23-73	420604
Do.	Dauphin.	Highspire, Borough of.	November 10, 1972. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	3-23-73	420381
Do.	Wayne.	Honesdale, Borough of.	March 1, 1977. March 1, 1977. July 1, 1977.	Emerg. Reg. Susp.	11-30-73	420864A
Do.	Cambria.	Johnstown, City of.	August 4, 1972. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	1-16-74	420231A

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***		Hazard area Identified ***	Community Number ***
Do.	Luzerne.	Larksville, Borough of.	March 23, 1973. April 1, 1977. July 1, 1977.	Emerg. Reg. Susp.	7-6-73	420614A
Do.	Dauphin.	Lower Swatara, Township of.	November 3, 1972. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	1-9-74 & 6-4-76	420385A
Do.	Luzerne.	Luzerne, Borough of.	March 2, 1973. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	11-23-73	420616
Do.	Montour.	Mahoning, Township of.	March 19, 1974. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	9-13-74 & 9-24-76	421234A
Do.	Luzerne.	Nanticoke, City of.	April 4, 1973. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	8-24-73 & 12-14-73	420617B
Do.	Lycoming.	Old Lycoming, Township of.	January 19, 1973. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	8-31-73 & 8-13-76	420652A
Do.	Clinton.	Pine Creek, Township of.	April 24, 1973. April 1, 1977. July 1, 1977.	Emerg. Reg. Susp.	4-1-77	420332
Do.	Luzerne.	Plymouth, Borough of.	October 27, 1972. April 1, 1977. July 1, 1977.	Emerg. Reg. Susp.	3-30-73 & 3-29-74	420622B
Do.	Do.	Plymouth, Township of.	February 2, 1973. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	2-8-74 & 7-2-76	420623A
Do.	Chester.	Pocopson, Township of.	January 21, 1972. April 15, 1977. July 1, 1977.	Emerg. Reg. Susp.	4-15-77	420286
Do.	Northumberland.	Riverside, Borough of.	November 19, 1973. April 15, 1977. July 1, 1977	Emerg. Reg. Susp.	3-29-74 & 6-11-76	420740A

(24 CFR § 1914.6)

State	County	Location	Effective date of authorization of sale of flood Insurance for area	Hazard area Identified	Community Number
***	***	***	***	***	***
Do.	Delaware.	Ruse Valley, Borough of.	February 2, 1977. Emerg. February 15, 1977. Reg. July 1, 1977. Susp.	5-25-73	420431C
Do.	Dauphin.	Royalton, Borough of.	March 16, 1973. Emerg. April 15, 1977. Reg. July 1, 1977. Susp.	6-15-73 & 9-10-76	420394A
Do.	Bradford.	Sayre, Borough of.	February 19, 1974. Emerg. April 15, 1977. Reg. July 1, 1977. Susp.	5-17-74 & 6-4-76	420175A
Do.	Centre.	Spring, Township of.	October 13, 1972. Emerg. April 15, 1977. Reg. July 1, 1977. Susp.	6-21-74 & 6-25-76	420269A
Do.	Dauphin.	Steelton, Borough of.	January 7, 1972. Emerg. April 15, 1977. Reg. July 1, 1977. Susp.	8-31-73 & 12-26-75	420396A
Do.	Monroe.	Stroud, Township of.	May 9, 1973. Emerg. April 15, 1977. Reg. July 1, 1977. Susp.	1-17-75	420693
Do.	Schuylkill.	St. Clair, Borough of.	March 15, 1977. Emerg. March 15, 1977. Reg. July 1, 1977. Susp.	3-15-77	420786A
Do.	Chester.	Thornbury, Township of.	March 1, 1977. Emerg. March 1, 1977. Reg. July 1, 1977. Susp.	8-2-74 & 8-13-76	425390A
Do.	Northumberland,	West Chillisquaque, Township of.	January 28, 1974. Emerg. April 15, 1977. Reg. July 1, 1977. Susp.	5-10-74 & 6-4-76	421033A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969), as amended 39 FR 2787, Jan. 24, 1974.)

Issued: April 29, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13606 Filed 5-13-77;8:45 am]

[Docket No. FI-2884]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to list those communities where the sale of flood insurance is authorized under the National Flood Insurance Program.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state.

DATES: The date that appears in the fourth column of the table is the effective date of authorization for the sale of flood insurance.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by setion 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The addresses of the National Flood Insurers Association servicing companies, where flood insurance policies can be obtained, are published at § 1912.5 (24 CFR Part 1912).

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 1914.6 List of eligible communities.

(24 CFR § 1914.6)

State	County	Location	Effective date of authorization of sale of flood Insurance for area		Hazard area Identified	Community Number
***	***	***	***		***	***
Colorado.	Boulder.	Nederland, Town of.	May 2, 1977.	Emerg.	8-22-75	080255
California.	Marin.	Belvedere, City of.	April 28, 1972. May 2, 1977.	Emerg. Reg.	6-7-74 & 4-23-76	060429-B
Colorado.	Montezuma.	Cortez, City of.	June 24, 1975. April 1, 1977.	Emerg. Reg.	5-17-74 & 4-23-76	080121-B
Connecticut.	New London.	New London, City of.	March 24, 1972. May 5, 1977.	Emerg. Reg.	6-28-74	090100A
Do.	Hartford.	Wethersfield, Town of.	April 14, 1972. May 2, 1977.	Emerg. Reg.	5-11-73	090040A
Idaho.	Boundary.	Bonners Ferry, City of.	August 13, 1974. April 22, 1977.	Emerg. Reg.	6-28-74	160031B
Do.	Valley.	Donnelly, City of.	September 10, 1975. April 15, 1977.	Emerg. Reg.	9-6-74	160121B
Do	Power.	Rockland, City of.	December 11, 1975. April 1, 1977.	Emerg. Reg.	12-27-74	160110A
Iowa.	Johnson.	Iowa City, City of.	February 4, 1972. May 2, 1977.	Emerg. Reg.	5-2-77	190171
Kansas.	Harvey.	Burrton, City of.	September 3, 1976. April 22, 1977.	Emerg. Reg.	3-15-74 & 10-24-75	200130B
Do.	Johnson.	Gardner, City of.	June 25, 1975. April 15, 1977.	Emerg. Reg.	5-3-74 & 1-23-76	200164B
Do.	Elk.	Howard, City of.	September 16, 1976. April 8, 1977.	Emerg. Reg.	8-8-75	200507A
Do.	Ellsworth.	Kanopolis, City of.	September 10, 1976. April 8, 1977.	Emerg. Reg.	8-15-75	200511A

(24 CFR § 1914.6)

State	County	Location	Effective date of authorization of sale of flood Insurance for area		Hazard area Identified	Community Number
***	***	***	***		***	***
Louisiana.	West Feliciana Parish.	St. Francisville, Town of.	April 30, 1973. May 2, 1977.	Emerg. Reg.	5-17-74	220246B
Minnesota.	Sherburne.	Elk River, City of.	February 19, 1974. May 2, 1977.	Emerg. Reg.	3-8-74 & 6-11-76	270436B
Missouri.	Clark.	Alexandria, City of.	March 13, 1974. May 2, 1977.	Emerg. Reg.	10-25-74	290080A
Do.	Boone.	Centralia, City of.	January 31, 1975. April 15, 1977.	Emerg. Reg.	6-7-74 & 1-2-76	290035B
Do.	St. Louis.	Clarkson Valley, Village of.	May 27, 1975. April 8, 1977.	Emerg. Reg.	7-26-74 & 1-16-76	290340B
Do.	Cass.	Drexel, City of.	June 23, 1975. April 8, 1977.	Emerg. Reg.	3-29-74 & 10-31-75	290064B
Do.	Lincoln.	Elsberry, City of.	March 25, 1974. May 2, 1977.	Emerg. Reg.	5-10-74 & 11-21-75	290209B
Do.	Cass.	Garden City, City of.	July 15, 1975. April 15, 1977.	Emerg. Reg.	3-29-74 & 1-16-76	290067B
Do.	St. Louis.	St. John, City of.	May 9, 1975. April 15, 1977.	Emerg. Reg.	5-3-74 & 10-10-75	290384B
Nebraska.	Richardson.	Salem, Village of.	September 9, 1976. April 8, 1977.	Emerg. Reg.	11-8-74	310185A
New York.	Broome.	Port Dickinson, Village of.	March 25, 1975. May 2, 1977.	Emerg. Reg.	11-1-74 & 11-28-75	360053B
Pennsylvania.	Delaware.	Colwyn, Borough of.	September 15, 1977. May 2, 1977.	Emerg. Reg.	11-16-73	420409B
Do.	Montour.	Danville, Borough of.	September 5, 1971. May 2, 1977.	Emerg. Reg.	3-1-74	420714A

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***		Hazard area Identified ***	Community Number ***
Do.	Schuylkill.	Gilberton, Borough of.	August 18, 1972. May 2, 1977.	Emerg. Reg.	12-28-73 & 9-24-76	421007A
Do.	Dauphin.	Harrisburg, City of.	April 21, 1972. May 2, 1977.	Emerg. Reg.	4-5-74	420380A
Do.	Berks.	Kutztown, Borough of.	June 30, 1972. May 2. 1977	Emerg. Reg.	1-9-74	420136A
Do.	Luzerne.	Pringle, Borough of.	January 19, 1977. May 2, 1977.	Emerg. Reg.	7-13-73 & 8-6-76	420624B
Do.	Dauphin.	South Hanover, Township of.	March 30, 1973. May 2, 1977.	Emerg. Reg.	10-12-73	420395A
Do.	Northumberland.	Upper Augusta, Township of.	January 19, 1973. May 2, 1977.	Emerg. Reg.	1-16-74 & 6-11-76	420745A
Do.	Chester.	West Whiteland, Township of.	November 5, 1971. May 2, 1977.	Emerg. Reg.	7-26-74 & 6-18-76	420295-B
Rhode Island.	Newport.	Tiverton, Town of.	August 18, 1972. May 2, 1977.	Emerg. Reg.	5-24-74	440012A
South Carolina.	Beaufort.	Beaufort, City of.	November 27, 1970. May 2, 1977.	Emerg. Reg.	6-28-74 & 9-5-75	450026B
Texas.	Hidalgo.	Edinburg, City of.	October 13, 1972. May 2, 1977.	Emerg. Reg.	6-28-74 & 4-16-76	480338B
Virginia.	Fairfax.	Clifton, Town of.	December 5, 1973. May 2, 1977.	Emerg. Reg.	3-28-75	510186B

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***		Hazard area Identified ***	Community Number ***
Pennsylvania.	Cambria.	White, Township of.	May 3, 1977.	Emerg.	11-22-74	422258

(24 CFR § 1914.6)

State	County	Location	Effective date of authorization of sale of flood Insurance for area	Hazard area Identified	Community Number
North Carolina.	Graham, Chrokee, Jackson & Swain.	Eastern Band of Cherokee Indians.	May 4, 1977. Emerg.		370401-New
Pennsylvania.	Somerset.	Lower Turkeyfoot, Township of.	Do. Emerg.	1-24-75	422517
Do.	Cambria.	Southmont, Borough of.	Do. Emerg.	3-19-76	420239
Do.	Jefferson.	Timblin, Borough of.	Do. Emerg.	1-24-75	422448
West Virginia.	Preston.	Kingwood, City of.	Do. Emerg.	9-3-76	540254

(24 CFR § 1914.6)

State	County	Location	Effective date of authorization of sale of flood Insurance for area	Hazard area Identified	Community Number
Colorado.	Logan.	Crook, Town of.	May 6, 1977. Emerg.	11-8-74	080111
Iowa.	Buchanan.	Quasqueton, City of.	Do. Emerg.	11-5-76	190332
Maine.	Aroostook.	Orient, Town of.	Do. Emerg.		230029
Michigan.	Kalamazoo.	Cooper, Township of.	Do. Emerg.		260428
Nebraska.	Dakota.	Jackson, Village of.	Do. Emerg.	12-20-77	310292
Wisconsin.	Brown.	Green Bay, City of.	April 21, 1977. Suspension Withdrawn.	8-30-74 & 11-7-75	550022A
Do.	Winnebago.	Oshkosh, City of.	Do.	11-23-73	550511A

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969), as amended 39 FR 2787, Jan. 24, 1974.)

Issued: April 28, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13805 Filed 5-13-77;8:45 am]

[Docket No. FI-2881]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is the identification of communities with areas of special flood or mudslide or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance so that communities may mitigate hazards and reduce property losses by adopting appropriate flood plain management or other measures to minimize damage caused by floods or other hazards. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

DATES: The effective date of identification is the date listed in the eighth column of the table or June 13, 1977, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by Federally regulated, insured, supervised or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin June 13, 1977, or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin June 13, 1977, or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Jackson	City of Scottsboro 01-53	010112A	E - 5	I	F	June 10, 1977	June 10, 1977	John T. Reid, Mayor 916 Broad Street Scottsboro, AL 35768 Phone: 205-574-3100
FL	Orange	Orange County (Uninc. Areas) 01-62	120179A	E - 11,12, 14	I	F	Jan. 30, 1976	April 15, 1977	James L. Harris, Co. Adm. County Courthouse Orlando, FL 32802 Phone: 305-420-3618
GA	DeKalb	DeKalb County (Uninc. Areas) 01-20	130065A	E - 10,11, 12,14	I	F	June 5, 1970	April 15, 1977	Chairman, DeKalb County Bd. of Commissioners County Courthouse Decatur, GA 30030 Phone: 404-422-2320
GA	Miller	Miller County (Uninc. Areas) 01-20	130134A	N - 5	I	F	June 10, 1977	June 10, 1977	Marvin Wells, Chairman County Commissioners P.O. Box 155 Colquitt, GA 31737 Phone: 912-758-2271
IL	Clinton	Clinton County (Uninc. Areas) 01-33	170044A	N - 10,11, 12,14	I	F	Dec. 20, 1974	April 15, 1977	Robert Cohlmeyer, Chairman County Commissioners County Courthouse Carlyle, IL 62231 Phone: 618-594-2484

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IN	Lake	City of East Chicago 01-03	180130B	E - 9	I	F	April 12, 1974 April 9, 1976	April 15, 1977	Robert Pastrick, Mayor 4525 Indianapolis Blvd., East Chicago, IN 46312 Phone: 219-398-4200

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IN	Wayne	City of Fountain City 01	180282B	N - 9	I	F	May 10, 1974 April 16, 1976	April 15, 1977	John Keller, Pres. Town Board 312 W. Main Street Fountain City, IN 47341 Phone: 317-847-2412
IN	Lake	City of Gary 01-16	180132B	E - 9	I	F	June 28, 1974 June 4, 1976	April 15, 1977	Richard Gordon Hatcher, Mayor City Hall, 401 Broadway Gary, IN 46402 Phone: 219-944-6501
IN	Steuben	Town of Hamilton 01	180248B	E - 9	I	F	Sept. 6, 1974 Aug. 27, 1976	April 15, 1977	Brad Thomas, Pres. Town Board, 311 Bellefountain Hamilton, IN 46742 Phone: 219-488-2522
IN	Shelby	Shelby County (Uninc. Areas) 0001A-0006A	180235A	E - 11, 12, 14	I	F	Nov. 29, 1974	April 15, 1977	Jim Williams, Pres. Bod. of Commissioners Courthouse, Rm. 107 Shelbyville, IN 46176 Phone: 317-398-8306
KY	Bullitt	City of Lebanon Junction 01	210304B	N - 9	I	F	March 15, 1974 June 18, 1976	April 15, 1977	Gerald Tamme, Mayor P.O. Box 61 Lebanon Junction, KY 40150 Phone: 502-833-4311

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MI	Genesee	Township of Flint 01-09	260395A	E - 5	I	F	June 10, 1977	June 10, 1977	Ray M. Flavin, Supr. 1490 South Dye Rd. Flint, MI 48504 Phone: 313-732-1350
MI	Houghton	City of Houghton 01	260568A	N - 5	I	F	June 10, 1977	June 10, 1977	Gerald S. Bond, Mayor 100 Portage St. Houghton, MI 49931 Phone: 906-482-1700
MI	Oakland	Township of Springfield 0001A-0004A	260478	N - 5	I	F	June 10, 1977	June 10, 1977	Donald W. Rogers, Twp. Supr. 650 Broadway Davisburg, MI 48019 Phone: 313-625-4602
MI	Delta	Township of Wells 0001A-0004A	260388	N - 5	I	F	June 10, 1977	June 10, 1977	Charles Sedenquist, Twp. Supr. P.O. Box 188 Wells, MI 49894 Phone: 906-786-5235
MN	Lincoln	Lincoln County (Uninc. Areas) 01-36	270653A	E - 5	I	F	June 10, 1977	June 10, 1977	Carl Hauschild, Chairman County Board Minneota, MN 56264 Phone: 507-694-1517

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MN	Big Stone	City of Correll 01	270025A	N - 9	I	F	Jan. 24, 1975	April 15, 1977	George Kroatjens, Mayor City Hall Correll, MN 56227 Phone: None
MN	Dakota & Washington	City of Hastings 01-06	270105B	E - 8, 11, 12, 14	I	F	Nov. 16, 1973 June 11, 1976	April 15, 1977	Wallace Erickson, Clerk/Treas 100 Sibley Street Hastings, MN 55033 Phone: 612-437-4127
MS	Pike	Pike County (Uninc. Areas) 01-28	280278A	N - 5	I	F	June 10, 1977	June 10, 1977	Dole Forman, Chairman Board of Supervisors P.O. Box 309 Magnolia, MS 39652 Phone: 601-783-3362
MS	Pontotoc & Union	Town of Sherman 01	280296A	N - 5	I	F	June 10, 1977	June 10, 1977	James H. Bruce, Mayor P.O. Box 54 Sherman, MS 38869 Phone: 601-842-1919
NJ	Middlesex	Township of East Brunswick 01-08	340260A	E - 10, 11, 12, 14	I	F	Jan. 23, 1974	April 15, 1977	William F. Sox, Mayor Township Hall East Brunswick, NJ 08816 Phone: 201-254-4600
NY	Montgomery	Town of Amsterdam 01-05	360441B	E - 9	I	F	July 19, 1974 June 18, 1976	April 15, 1977	Leo Klobukowski, Supr. R.D. 5, Town Office Bldg. Amsterdam, NY 12010 Phone: 518-842-7961

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NY	Dutchess	Town of Beekman 01-04	361333B	E - 9	I	F	Oct. 18, 1974 Aug. 13, 1976	April 15, 1977	Raymond J. Sheridan Route 216, R.D. 1 Poughquag, NY 12570 Phone: 914-724-9991
NY	Oswego	Town of Granby 01-03	360650A	E - 8,10, 11,12 14	I	F	May 3, 1974	April 15, 1977	Paul Malone, Town Supr. R.D. 7 Fulton, NY 13069 Phone: 315-593-6920
NY	Steuben	Town of Hornellsville 01-12	360777A	E - 10,11 12,14	I	F	June 28, 1974	April 15, 1977	Howard Hurlbut, Town Supr. Box 1, Arkport, NY 14807 Phone: 607-295-7768
NY	Schenectady	Village of Scotia 01-02	360742B	E - 9	I	F	May 3, 1974 Oct. 22, 1976	April 15, 1977	John F. Ryan, Jr., Mayor 4 N. 10th Broeck Street Scotia, NY 12302 Phone: 518-374-1071
NY	Chenango	Town of Smithville 01-04	361040A	N - 1	I	F	June 10, 1977	June 10, 1977	Neal J. Root, Supr. Town Hall Smithville Flats, NY 13841 Phone: None

RULES AND REGULATIONS

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NC	Buncombe	Buncombe County (Uninc. 0001A-0011A Areas)	370031A	E - 5	I	F	June 10, 1977	June 10, 1977	R. Curtis Radcliff, Chairman County Board, PO Box 7436 Asheville, NC 28807 Phone: 704-255-5533
NC	Catawba	Catawba County (Uninc. 01-33 Areas)	370050A	E - 5	I	F	June 10, 1977	June 10, 1977	Jack Matthew, County Engr. P.O. Box 389 Newton, NC 28658 Phone: 704-464-7880
NC	Robeson	City of Lumberton 01-06	370203A	E - 10,11, 12,14	I	F	June 28, 1974	April 15, 1977	Clifford E. Bullard, Mayor P.O. Box 1388 Lumberton, NC 28358 Phone: 919-739-6031
OH	Henry	Village of Hamler 01	390264A	N - 9	I	F	April 12, 1974	April 15, 1977	Ralph Niese, Mayor Village Hall Hamler, OH 43524 Phone: 419-274-3671
OH	Jefferson	Jefferson County (Uninc. 01-30 Areas)	390294A	N - 5	I	F	June 10, 1977	June 10, 1977	John T. McDivett, Co. Eng. 814 Adams St. Steubenville, OH 43952 Phone: 614-283-4111
OH	Washington	Village of Matamoras 01-02	390573A	E - 8,10, 11,12 14	I	F	April 5, 1974	April 15, 1977	Doris Amos, Village Clerk Village Hall New Matamoras, OH 45767 Phone: 614-865-3524

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OH	Medina	Medina County (Uninc. Areas) 01-27	390378A	N - 10,11, 12,14	I	F	Jan. 10, 1975	April 15, 1977	Charles C. Clark, Chairman County Commissioners 144 North Broadway Medina, OH 44256 Phone: 216-723-3641
PA	Bucks	Township of Bensalem 01-06	420181A	E - 10,11 12,14	I	F	April 5, 1974	April 15, 1977	Stephen Kelly, Chairman 3800 Hulmeville Rd. Cornwells Heights, PA 19020 Phone: 215-639-2500
PA	York	Township of Conewago 01-11	420911A	E - 10,11 12,14	I	F	Dec. 28, 1973	April 15, 1977	James W. Kennedy, Chairman Township Supervisors Coppenhaffer Rd., R.D. 4 York, PA 17404 Phone: 717-266-2122
PA	Bucks	Township of Hilltown 01-10	420189A	E - 10,11 12,14	I	F	Aug. 2, 1974	April 15, 1977	C. Dale Hartshorne, Chairman 113 State Street Blooming Glen, PA 18911 Phone: 215-249-3388
PA	Luzerne	Township of Jackson 01-14	420610A	E - 15	I	F	June 10, 1977	June 10, 1977	Frederick R. Fielding, Chairm Box 191, R.D. 5 Shavertown, PA 18708 Phone: 717-675-0479
PA	Cumberland	Township of Middlesex 01-12	420363A	E - 10,11, 12,14	I	F	Feb. 8, 1974	April 15, 1977	Mr. Charles Hampson, Chairm Twp. Planning Board, Box 121 Carlisle, PA 17013 Phone: 717-249-2742

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PA	Columbia	Township of Montour 01-04	421002A	E - 10	I	F	April 5, 1974	April 15, 1977	Albert Wirt, Chairman R.D. 2 Bloomsburg, PA 17815 Phone: 717-784-6559
VA	Frederick	Town of Middletown 01	510274A	E - 5	I	F	June 10, 1977	June 10, 1977	John W. Legge, Mayor P.O. Box 175 Middletown, VA 22645 Phone: 703-869-2226
VA		City of Roanoke 01-15	510130A	E - 8,10, 11,12, 14	I	F	May 3, 1974	April 15, 1977	Roy L. Webber, Mayor Municipal Bldg. Roanoke, VA 24011 Phone: 703-981-2000
VA	Isle of Wight	Town of Windsor 0001A	510295	N - 5	I	F	June 10, 1977	June 10, 1977	M.H. Robinson, Jr., Mayor Town Hall, Windsor, VA 23487 Phone: 804-242-4183
WI	Sheboygan	Village of Cascade 01	550425A	E - 10,11 12,14	I	F	May 3, 1974	April 15, 1977	Alvin Jaeckels, Mayor Clark Street Cascade, WI 53011 Phone: 414-528-8877

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WI	Waukesha	Village of Hartland 01	550481B	E - 8,10, 11,12, 14	I	F	Nov. 30, 1973 May 14, 1976	April 15, 1977	Kenneth Race, Village Pres. Village Hall Hartland, WI 53029 Phone: 414-367-2789

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AR	Uninc. Area	Conway County (01-44)	050426 A	N-5	I	F	10 JUN 77	10 JUN 77	Honorable Dave Trafford- County Judge - Courthouse - Morrilton, AR 72110 (501) 354-2561
AR	St. Francis	City of Madison (01)	050189 B	E-8,12,14	I	F	22 MAR 76 27 AUG 76	15 APR 77	Honorable Willard Whitaker - Mayor - City Hall - Madison, AR 72359 (901) 633-3571
CA	Uninc. Area	San Mateo County (01-44)	060311 A	E-11,12,14	C	F	1 NOV 74	15 APR 77	Mr. Vick Sanders - County Engineering Dept. - County Government Center - Redwood City, CA 94063 (415) 364-5600
CO		City/Co. of Denver (01-44)	080046 A	E-11,12,14	I	F	26 DEC 75	15 APR 77	Mr. J. Zahn - P.E. Director - Department of Public Works - Wastewater Management Division - 5055 Washington Street - Denver CO 80216 (303) 629-1451
CO	Uninc. Area	Gilpin County (01-13)	080075 A	N-5	I	F	10 JUN 77	10 JUN 77	Mr. Kenneth Green - Chairman - Gilpin Co. Commissioners Office Gilpin Co. Courthouse - P.O. Box 366 - Central City, CO 80427 (303) 582-5214
CT	New Haven	Town of Middlebury (01-07)	090080 A	E-10,11,12,14	I	F	6 SEP 74	15 APR 77	Mr. William Longa - Selectman Town Hall - Middlebury, CT 06762 (203) 758-2557
CT	Hartford	Town of Windsor (01-13	090041 A	N-10,11,12,14	I	F	5 OCT 73	15 APR 77	Mr. John E. Welch - Selectman 275 Broad Street - Windsor, CT 06095 (203) 688-3675

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ID	Uninc. Area	Clearwater County (01-80)	160046 A	E-10,11,12,14	I	F	20 DEC 74	15 APR 77	William T. Bud - Chairman, Board of County Commissioners - P.O. Box 586 - Orofino, ID 83544 (208) 476-3615
IA	Marion	City of Knoxville (01-03)	190603 A	E-11,12,14	I	F	29 AUG 75	15 APR 77	Mr. Dick Hierstein - City Manager 114 N. Third Street - Knoxville, IA 50138 (515) 842-3146
KS	Uninc. Area	Sumner County (01-70)	200348 A	E-5	I	F	10 JUN 77	10 JUN 77	Mr. Wallace Wolf - Chairman, Board of County Commissioners - Sumner County Courthouse - Wellington, KS 67152 (316) 326-3395
LA	Uninc. Area	Iberville Parish (01-51)	220083 A	E-10,11,12,14	I	F	18 OCT 74	15 APR 77	Mr. S.J. Cardinal - President, Police Jury - Iberville Parish - Samstown Road - White Castle, LA 70788 (504) 687-6819
MA	Middlesex	City of Waltham (01-06)	250222 A	E-10,11,12,14	I	F	28 JUN 74.	15 APR 77	Mr. Henry Hoover, Jr. - Chairman 610 Main Street - Waltham, MA 02154 (617) 893-4040
MO	Dekalb	City of Maysville (01)	290686 A	N-11,12,14	I	F	25 JLY 75	15 APR 77	Robert B. Paden - Attorney - City Hall - Maysville, MO 64469 (816) 449-2656
MO	Howell	City of West Plains (01-03)	290166 A	E-10,11,12,14	I	F	15 FEB 74	15 APR 77	Honorable W.G. Roe - Mayor - City Hall - 401 Jefferson Avenue - West Plains, MO 65775 (417) 256-3531

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									(402) 426-3373
NH	Merrimack	Town of Hooksett (01-16)	330115 A	E-10,11,12,14	I	F	21 FEB 75	15 APR 77	Mr. Oscar A. Marin - Selectman - Hooksett, NH 03106 (603) 485-9534
NM	Otero	City of Alamogordo (01-06)	350045 A	E-10,11,12,14 15	I	F	19 JLY 74	15 APR 77	Honorable G.M. Glover - Mayor - City Hall - 511 Tenth Street - Alamogordo, NM 88310 (505) 437-7220
NM	Torrance	Village of Encino (01)	350102 A	N-12,14	I	F	2 JLY 76	15 APR 77	Virginia Garcia - Village Clerk Village Hall - P.O. Box 163 - Encino, NM 88321 (505) 845-2980
OR	Washington	City of Hillsboro (01-05)	410243 A	E-11,12,14	I	F	12 APRIL 74	15 APR 77	Mr. Timothy J. Erworth - Plannir Director - City Hall - 205 S.E. Second Avenue - City of Hillsbor (503) 648-0821
TX	Taylor	~~City~~ Town of Impact (01)	481294 A	N-5	I	F	10 JUN 77	10 JUN 77	Honorable Dallas Perkins - P.O. Box 3116 - Abilene, TX 79604 (915) 672-9332
TX	Uninc. Area	Jim Wells County (01-63)	481258 A	E-5	I	F	10 JUN 77	10 JUN 77	Honorable T.L. Harville - Count, Judge - Courthouse - Alice, TX 78332 (512) 664-3032
TX	Parker	Town of Sanctuary (01)	481285 A	N-5	I	F	10 JUN 77	10 JUN 77	Honorable M.E. Moore - Mayor - West 317 Ash Creek - Azle, TX 76020 (817) 677-2252

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UT	Utah	Town of Goshen (01)	490155 A	N-11	I	F	7 FEB 75	15 APR 77	Honorable Joel White - Mayor - Town Hall - Goshen, UT 84533 (801) 274-3249
VT	Windham	Town of Newfane (01-12)	500133 A	E-8,11,12,14	I	F	28 JUN 74	15 APR 77	Mr. Stephen A. Morse - Chairman, Board of Selectmen - Office of Selectmen - Newfane, VT 05345 (802) 365-4255
VT	Windham	Town of Westminster (01-15)	500139 A	E-11,12,14	I	F	16 AUG 74	15 APR 77	Mr. G. Preston James - Selectman RFD #3 - Putney, VT 05346 (802) 722-4393

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AZ	Maricopa	City of Mesa (01-16)	040048 A	E-8,11,12,14	I	F	13 APR 73	22 APR 77	Peter Peterson - City Engineer - 55 North Center St. - Mesa, AZ - 85201 (602) 834-2011
AR	Uninc. Area	Boone County (01-40)	050016 A	N-5	I	F	17 JUN 77	17 JUN 77	Honorable Clifford Tomlinson - County Judge - Boone County Courthouse - Harrison, AR 72601 (501) 365-8420
AR	Uninc. Area	Crawford County (0002, 0004-0011)	050428 A	N-5	I	F	17 JUN 77	17 JUN 77	Honorable Walter Naylor - County Judge - Office of the County Judge - Crawford County Courthouse - Van Buren, AR 72939 (501) 474-1312
AR	Uninc. Area	Dallas County (0001-0010)	050061 A	N-5	I	F	17 JUN 77	17 JUN 77	Honorable Troy Bradley - County Judge - Dallas County Courthouse - Fordyce, AR 71742 (501) 352-3371
CO	Gunnison	City of Marble (01)	080197 A	N-5	I	F	17 JUN 77	17 JUN 77	Honorable Lloyd G. Blue - Mayor - City Hall - P.O. Box 68A-Main St. - Marble, CO 81623 (303) 963-3768

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ID	Bonneville	City of Irwin (01-02)	160143 A	E-11,12,14	I	F	29 AUG 75	22 APR 77	Honorable Robert Jones - Mayor - Irwin, ID 83428 (208) 483-2523
IA	Story	City of Ames (01-04)	190254 A	E-10,11,12,14	I	F	2 AUG 74	22 APR 77	Honorable William F. Pelz - Mayor - City Hall - Ames, IA 50010 (515) 232-6210
IA	Uninc. Area	Carroll County (0001-0004)	190039 A	E-5	I	F	17 JUN 77	17 JUN 77	Mr. Lewis H. Rich - Chairman - Board of Supervisors - Carroll County Courthouse - Carroll, IA 51401 (712) 792-4923
IA	Uninc. Area	Dubuque County (01-42)	190534 A	E-5	I	F	17 JUN 77	17 JUN 77	Mr. Wilford Bahl - Chairman - Board of County Commissioners - County Courthouse - Dubuque, IA 52001 (319) 583-3511
KS	Gray	City of Copeland (01)	200398 A	N E-5	I	F	17 JUN 77	17 JUN 77	Honorable Paul Hinderliter - Mayor - City Hall - Copeland, KS 67837 (316) 668-2791

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KS	Uninc. Area	Douglas County (01-31)	200087 A	E-5	I	F	17 JUN 77	17 JUN 77	Mr. Robert Nice - Chairman - Board of County Commissioners - Douglas County Courthouse - Lawrence, KS 66044 (913) 842-2377
KS	Seward	City of Libural (01-02)	200330 B	E-11,12,14	I	F	1 MAR 74 26 DEC 75	22 APR 77	Robert Wherry - Administrative Assistant - 325 North Washington Avenue - Liberal, KS 67901 (316) 624-2568
LA	Uninc. Area	Grant Parish (01-42)	220076 A	E-5	I	F	17 JUN 77	17 JUN 77	Mr. Morgan L. Briggs - President Police Jury - Office of the Police Jury - Courthouse - Clfax, LA (318) 627-3675
LA	Uninc. Area	West Carroll Parish (01-31)	220243 A	E-5	I	F	17 JUN 77	17 JUN 77	Mr. Lemlois Jones - President - Police Jury - Drawer 2-D - Oak Grove, LA 71263 (318) 428-3390
MT	Uninc. Area	Silver Bow County (01-54)	300076 A	N-5	I	F	17 JUN 77	17 JUN 77	Mr. John Sheehan - % Maureen Pasco - County Surveyor - County Courthouse - Butte, MT 59701 (406) 792-1427

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NB	Uninc. Area	Pierce County (0001-0006)	310466 A	E-5	I	F	17 JUN 77	17 JUN 77	Mr. Elmer Maas - Chairman - Board of County Commissioners - Pierce County Courthouse - Pierce, NB 68767 (402) 329-6335
NH	Hillsborough	Town of Bennington (01-06)	330084 B	E-12,14	I	F	8 MAR 74 24 SEP 76	22 APR 77	Erving A. LeCain - Chairman, Selectman - Board of Selectmen - Bennington, NH 03442 (603) 588-6311
OK	Tulsa & Osage	City of Sand Springs (01-25)	400211 A	E-10,11,12,14	I	F	26 JLY 74	22 APR 77	Honorable Don Sullivan - Mayor - City Hall - Broadway & McKinley, P.O. Box 607 - Sand Springs, OK 74063 (918) 245-8751
OK	LeFlore & Latimer	Town of Talihina (01)	400094 A	E-8,10,11,12, 14	I	F	5 APR 74	22 APR 77	Mr. Fred Crims - Presidents - First Street - P.O. Box 457 - Talihina, OK 74571 (918) 567-2194
OR	Clackamus & Washington	City of RIVERGROVE (01)	410022 A	E-11,12,14	I	F	8 DEC 74	22 APR 77	Bob Wilkinson - Chief, Flood Plain Management Section - P.O. Box 1100 Rivergrove, OR 97034 (503) 639-4365

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SD	Uninc. Area	Lawrence County (01-48)	460094 A	E-5	I	F	17 JUN 77	17 JUN 77	Mr. Boyd Larson - Chairman - Lawrence County Board of County Commissioners - County Courthouse Deadwood, SD 57732 (605) 642-3105
TX	Uninc. Area	Burleson County (0001-0011)	481169 A	N-5	I	F	17 JUN 77	17 JUN 77	Honorable Mark Caperton - Judge - Burleson County - Caldwell, TX 77836 (713) 567-4326
TX	Uninc. Area	Grimes County (0001-0010)	481173 A	N-5	I	F	17 JUN 77	17 JUN 77	Honorable Ben F. Swank Jr. - Grimes County Courthouse - Office of the Judge - Anderson, TX 77830 (713) 873-2967
TX	Uninc. Area	McMullen County (01-72)	480463 A	E-10,11,12, 14	I	F	27 DEC 74	22 APR 77	Honorable Claude Franklin Jr. - County Judge - McMullen County Courthouse - P.O. Box 237 - Tilden, TX 78072 (512) 274-3341
VT	Lamoille	Village of Johnson (01)	500232 B	E-9	I	F	5 APR 74 26 NOV 76	22 APR 77	Mr. Peter Carbue - President - Village Office - Johnson, VT 05656. (802) 635-2611

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VT	Lamoille	Town of Morristown (01-2[illegible])	[illegible]00064 A	E-10,11,12, 14	I	F	31 MAY 74	22 APR 77	Mr. Laurie Gray - Selectman - Town Hall - Morristown, VT 05661 (802) 888-3534
VT	Caledonia	Town of Newark (01-15)	500190 A	N-11,12	I	F	10 JAN 75	22 APR 77	Gerald Burke - Chairman - Selectman - Board of Selectmen - West Burke, VT 05871 (802) 467-3708
VT	Windham	Town of Rockingham (01-15)	500135 A	E-8,10,11,12, 14	I	F	21 JUN 74	22 APR 77	Peter C. LaMaise - Town Manager - P.O. Box 370 - Bellows Falls, VT 05101 (802) 463-3964
VT	Orange	Town of Thetford (01-18)	500075 A	E-10,11,12, 14	I	F	16 AUG 74	22 APR 77	Ms. Virginia S. Babcock - Selectman - Town Hall - Thetford Center, VT 05074 (802) 785-2322
WA	King	City of Kent (01)	530080 A	E-10,11,12	I	F	7 JUN 74	22 APR 77	Honorable Isabel Hogan - Mayor - City Hall - Kent, Wa 98031 (206) 852-2412

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FL	Sumter	Sumter County (Unincorporated Areas) 01-47	120296A	E - 5	I	F	June 17, 1977	June 17, 1977	Melvin E. Carlton, Chairman County Commissioners P.O. Box 8 Bushnell, FL 33513 Phone: 904-793-2511
GA	Grady	Grady County (Unincorporated Areas) 01-32	130096A	N - 5	I	F	June 17, 1977	June 17, 1977	Elwyn Childs, Chairman County Commissioners P.O. Box 80 Cairo, GA Phone: 912-377-1512
GA	Gwinnett	Gwinnett County (Unincorporated Areas) 01-31	~~130032A~~ 130322A	E - 5	I	F	June 17, 1977	June 17, 1977	Bill Atkinson, Chairman County Commissioners 250 Oak Street Lawrenceville, GA 30245 Phone: 404-963-2171
IL	Johnson	Johnson County (Unincorporated Areas) 01-24	170817A	E - 5	I	F	June 17, 1977	June 17, 1977	Carl Sharp, Chairman County Board County Courthouse Vienna, IL 62995 Phone: 618-658-8811

ATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MN	Waseca	Waseca County (Uninc. 01-28 Areas)	270647A	E - 5	I	F	June 17, 1977	June 17, 1977	Jack Fitzimmons, Chairman Board of Supervisors Courthouse Waseca, MN 56093 Phone: 5-7-835-5885
MS	Scott	Scott County (Uninc. 01-38 Areas)	280280A	N - 5	I	F	June 17, 1977	June 17, 1977	Charles Sanders, County Agent P.O. Box 509 Forest, MS 39074 Phone: 601-469-4241
NY	Erie	Town of Newstead 0001B-0003B	360251	E - 11,12, 14	I	F	April 12, 1974 August 20, 1976	April 22, 1977	J. Kelsey Webster, Supr. Corner of Church & John Str: Akron, NY 14001 Phone: 716-542-2323
NY	Dutchess	Town of Washington 0001B-0004B	361147	E - 11,12, 14	I	F	Nov. 1, 1974 July 9, 1976	April 22,1977	H. Durtis Place, Town Supr. Washington Town Hall Millbrook, NY 12545 Phone: 914-677-3811
OH	Harrison	Harrison County (Uninc. 0001A-0004A Areas)	390255	E - 10,11, 12,14	I	F	Jan. 31, 1975	April 22, 1977	Duane Smith, Pres. County Commissioners County Courthouse Cadiz, OH 43907 Phone: 614-942-4619

TATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
PA	Susquehanna	Borough of Friendsville 01	422579A	N - 5	I	F	June 17, 1977	June 17, 1977	Stanley Strohl, Pres. Borough Council Box 28 Friendsville, PA 18818 Phone: 717-553-5405
TN	Anderson	Anderson County (Uninc. 0001A-0008A Areas)	470217	E - 5	I	F	June 17, 1977	June 17, 1977	A.B. Slusher, C. Judge County Courthouse Clinton, TN 37716 Phone: 615-457-2544
TN	Cumberland	City of Crab Orchard 01-07	470038B	E - 12,14	I	F	June 14, 1974 Sept. 3, 1976	April 22, 1977	William Hammer, Mayor City Hall Crab Orchard, TN 37723 Phone: 615-484-7860
WI	Marinette	Marinette County (Uninc. 01-103 Areas)	550259A	E - 10,11 12,14	I	F	Aug. 26, 1974	April 22, 1977	Ed Collette, Chairman County Bdrd, Co. Courthou: Marinette, WI 54143 Phone: 715-735-6371
WI	Waukesha	Waukesha County (Uninc. 01-48 Areas)	550478A	E - 5	I	F	June 17, 1977	June 17, 1977	Lloyd Owens, Chairman Co. Commission, Courthous Waukesha, WI 53186 Phone: 414-544-6227

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AK	Unorganized Borough	City of Akiak (01)	020101 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable John Jasper - Mayor - General Delivery - Akiak, AK 99552
AK	Unorganized Borough	City of Alakanuk (01-02)	020030 A	N-5	C	F	10 MAY 77	10 MAY 77	Honorable Paul M. Phillip - Mayor P.O. Box 51 - Alakanuk, AK 99554
AK	Unorganized Borough	City of Kotlik (01)	020050 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable Benedict Okitkun - Mayor - General Delivery - Kotlik AK 99620
AK	Unorganized Borough	City of Napaskiak (01)	020086 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable Carl Motgin - Mayor - General Delivery - Napaskiak, AK 99559
AK	Unorganized Borough	City of Russian Mission (01)	020076 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable Peter Alexie - Mayor - General Delivery - Russion Missio AK 99657
AK	Unorganized Borough	City of Saint Mary's (01)	020077 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable Sebastian Cowboy - Mayor - P.O. Box 171 - Saint Mary's, AK 99658 (907) KXA-27
AK	Unorganized Borough	City of Savoonga (01)	020080 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable Edward Gologergen - Mayor - P.O. Box 149 - Savoonga, AK 99769

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AK	Unorganized Borough	City of Togiak (01)	020090 A	N-5	C	F	10 MAY 77	10 MAY 77	Honorable Moses Kritz, Sr. - Mayor - P.O. Box 99 - Togiak, AK 99678
AR	Uninc. Area	Grant County (01-47)	050434 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable Ves Easley - County Judge - Courthouse - Sheridan, AR 72150 942-2551
AR	Uninc. Area	Washington County (0001-0012)	050212 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable Vol B. Lester - County Judge - Courthouse - Fayetteville AR (501) 521-8400
CO	Uninc. Area	Delta County (04,08,10,13-18,21-28,30-53)	080041 A	N-5	I	F	10 MAY 77	10 MAY 77	Mr. Wayne A. Gore - Chairman - Board of County Commissioners - Courthouse - Delta, CO 81416 (303) 874-9752
CT	Hartford	Town of Enfield (01-11)	090028 A	E-10,11,12, 14	I	F	5 APR 74	10 MAY 77	Mr. Philip E. Clarkin - Clerk - 820 Enfield Street - Enfield, CT 06082 (203) 745-0371 Ext. 341
IA	Uninc. Area	Bremer County (0001-0004)	190847 A	N-5	I	F	10 MAY 77	10 MAY 77	Mr. Reinhard Buhr - Chairman - Board of Supervisors - Bremer County Courthouse - Waverly, IA 50677 (314) 352-1565
IA	Uninc. Area	Dickinson County (0001-0004)	190864 A	N-5	I	F	10 MAY 77	10 MAY 77	Mr. Alvin C. Myrick - Chairman - Dickinson County Courthouse - Board of County Supervisors - Spirit Lake, IA 51360 (712) 336-3356

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KS	Uninc. Area	Cherokee County (01-35)	200044 A	N-5	I	F	10 MAY 77	10 MAY 77	Mr. Lloyd Kitch, Sr. - Chairman - Board of County Commissioners - Courthouse - Columbus, KS 66725 (316) 429-3886
KS	Lyon	City of Emporia (01-04)	200203 A	E-5,15	I	F	10 MAY 77	10 MAY 77	Mrs. Reuben Hammar - Mayor - City Hall - 522 Mechanic - Emporia, KS 66801 (316) 342-8105
KS	Uninc. Area	Rice County (0001-0009)	200290 A	N-5	I	F	10 MAY 77	10 MAY 77	Mr. Cecil Johnson - Chairman - Rice County Courthouse - Board of County Commissioners - Lyon, KS 67554 (316) 257-2292
ME	Sagadahoc	City of Bath (01-08)	230118 A	E-10,11,12, 14	I	F	1 NOV 74	10 MAY 77	Mr. Charles F. MacDonald - Chairman - 1168 High Street - Bath, ME 04530 (207) 443-4760
ME	Penobscot	Town of Lincoln (01-02,04-20,22-24)	230109 A	E-10,11,12, 14	I	F	19 JLY 74	10 MAY 77	Mr. Albert Thomas - Chairman - Town Hall - Lincoln, ME 04457 (207) 794-6643
MA	Essex	Town of North Andover (01-08)	250098 A	E-10,11,12, 14	I	F	28 JUN 74	10 MAY 77	Mr. Joseph A. Guthrie - Selectman - Town Hall - Main Street - North Andover, MA 01845 (617) 682-6483

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MA	Bristol	Town of Norton (0001-0004)	250060 A	E-10,11,12, 14	I	F	28 JUN 74	10 MAY 77	Mr. Raymond N. Patenaude - Selectman - Town Hall - 10 Taunton Avenue - Norton, MA 02766 (617) 285-4451
NB	Perkins	Village of Madrid (01)	310298 A	E-11,12,14	I	F	18 JLY 75	10 MAY 77	Rachel Dobscha - Director - Perkins County - 411 East 2nd St. Ogallala, NB 69153 (308) 284-6455
NB	Uninc. Area	Richardson County (01-40)	310470 A	E-5	I	F	10 MAY 77	10 MAY 77	Mr. Ralph Steinbrink - Chairman - Board of County Commissioners - Courthouse - Falls City, NB 68355 (402) 245-2911
NB	Uninc. Area	Webster County (01-40)	310232 A	E-5	I	F	10 MAY 77	10 MAY 77	Mr. Raleigh Vance - Chairman - Board of County Commissioners - Courthouse - Red Cloud, NB 68970 (402) 746-2716
NH	Cheshire	Town of Marlow (01-09)	330025 A	E-10,11,12, 14	I	F	13 SEP 74	10 MAY 77	Mr. Joseph N. Fever - Selectman - Town Hall - Marlow, NH 03456 (603) 446-7555
NM	Santa Fe	City of Santa Fe (01-16)	350070 A	E-5	I	F	10 MAY 77	10 MAY 77	Honorable Joseph E. Valdes - Mayor - City Hall - P.O. Box 909 Santa Fe, NM 87501 (505) 982-4471
SD	Uninc. Area	Union County (01-40)	460242 A	E-5	I	F	10 MAY 77	10 MAY 77	Mr. M. C. Bak - Chairman - Board of County Commissioners - Elk Point, SD 57025 (605) 356-2101

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TX	Nueces	City of Driscoll (01)	480507 A	E-8,10,11,12, 14	I	F	1 MAR 74	10 MAY 77	Honorable B. B. Meyers - Mayor - P.O. Box 244 - Driscoll, TX 78351 (512) 368-2679
TX	Uninc. Area	Gillespie County (0001-0002)	480696 A	E-5	I	F	10 MAY 77	10 MAY 77	Honorable Victor H. Sagebiel - County Judge - Courthouse - Fredericksburg, TX 78624 (512) 997-2881
TX	Tarrant & Johnson	City of Mansfield (01-02,04-12)	480606 A	E-8,10,11,12, 14	I	F	22 FEB 74	10 MAY 77	Honorable Loyd Seaton - Mayor - City Hall - Mansfield, TX 76063 (817) 477-3101
TX	Uninc. Area	Scurry County (0001-0012)	480564 A	N-5	I	F	10 MAY 77	10 MAY 77	Honorable C. Preston Wilson - County Judge - Courthouse - Snyder, TX 79549 (915) 573-3873
UT	Washington	Town of Springdale (0001)	490179 A	E-5	I	F	10 MAY 77	10 MAY 77	Mr. Howard J. Smith - Town President - Town Hall - Springdale, UT 84767 (801) 772-3211
VT	Windham	Village of Bellows Falls (01)	500125 A	E-10,11,12, 14	I	F	16 AUG 74	10 MAY 77	Mr. Peter Lahaige - Village Manager - Village Hall - Bellows Falls, VT 05101 (802) 463-3964
VT	Caledonia	Town of Groton (01-02,04-10,12-14,17-18)	500026 A	E-10,11,12, 14	I	F	9 AUG 74	10 MAY 77	Mr. Michael Blair - Selectman - Town Hall - Groton, VT 05046 (802) 584-3358

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VT	Windham	Town of Jamaica (0001-0004)	500131 A	E-10,11,12, 14	I	F	28 JUN 74	10 MAY 77	Mr. Authur Brooks, Jr. - Selectman - Town Hall - Jamaica, VT 05343 (802) 874-7431

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AL	Lawrence	Lawrence County (Uninc. Areas) 0001A-0003A	010324A	N - 5	I	F	May 13, 1977	May 13, 1977	Chairman, County Comm. County Courthouse Moulton, AL 35650 Phone: 205-974-0282
AL	Montgomery	City of Montgomery 01-19	0101742	E - 8, 11, 12, 14	I	F	June 28, 1974 Jan. 9, 1976	May 13, 1977	J. Aronstein, Jr., City P.O. Box 1111 Montgomery, AL 36101 Phone: 205-832-4470
AL	Polk Co.	Polk County (Uninc. Areas) 01-127	120261A	N - 5	I	F	May 13, 1977	May 13, 1977	Charles Whitten, Chair County Commissioners P.O. Box 1068 Bartow, FL 33830 Phone: 813-533-0774
IL	Henry	Village of Cleveland 01	170748A	N - 15	I	F	May 13, 1977	May 13, 1977	Joseph Merrill, Mayor Route 1, Box 185 Colona, IL 61241 Phone: 309-792-2330
IL	Dupage	Dupage County (Uninc. Areas) 01-22	170197A	E - 5	I	F	May 13, 1977	May 13, 1977	Gerald Weeks, Chairman County Board 421 N. County Farm Rd Wheaton, IL 60187 Phone: 312-682-7000

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IL	Rock Island	Village of Milan 01-04	170590B	E - 11, 12, 14	I	F	May 10, 1974 Sept. 24, 1976	May 13, 1977	Richard H. Work, Mayor 321 W. Second Ave. Milan, IL 61264 Phone: 309-787-2662
IL	Morgan	Morgan County (Uninc. Areas) 01-10	170903A	N - 5	I	F	May 13, 1977	May 13, 1977	F. Byron Smith, Chairman County Board County Courthouse Jacksonville, IL 62650 Phone: 217-245-5304
KY	Meade	Meade County (Uninc. Areas) 0001A-0009A	210069A	N - 5	I	F	May 13, 1977	May 13, 1977	James E. Greer, County J County Courthouse Brandenburg, KY 40108 Phone: 502-422-3967
KY	Muhlenberg	Muhlenberg County (Uninc. Areas) 0001A-0003A	210293A	N - 5	I	F	May 13, 1977	May 13, 1977	Robert Draper, County Ju County Courthouse Box 137 Greenville, KY 42345 Phone: 502-338-2500
MI	Ingham	Township of Alaiedon 0001A-0004A	260670A	N - 5	I	F	May 13, 1977	May 13, 1977	Lewis E. Wilson, Twp. C Township Hall - 2021 We Holt Road Mason, MI 48854 Phone: 517-676-9812

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MI	Oakland	City of Berkley 0001A	260292 A	E - 5	I	F	May 13, 1977	May 13, 1977	Robert Eck, Mayor 3338 Coolidge Hwy, Berkley, MI 48072 Phone: 313-545-1171
MI	Lapeer	Township of Deerfield 0001A-0004A	260434 A	N - 5	I	F	May 13, 1977	May 13, 1977	Gordon H. Yarnell, Twp. 2812 Foster Road North Branch, MI 48461 Phone: 313-688-9188
MI	Oakland	Township of Independence 0001A-0004A	260475 A	N - 5	I	F	May 13, 1977	May 13, 1977	J. Edwin Clennie, Twp. S Twp. Hall - 90 N. Main Clarkston, MI 48016 Phone: 313-625-5111
MI	Saginaw	Village of St. Charles 0001B	260593 B	N - 8,11	I	F	Oct. 8, 1976 Nov. 19, 1976	May 13, 1977	Robert Burns, Village Clk 110 W. Spruce Street St. Charles, MI 48655 Phone: 517-865-9781
MI	Cass	Township of Silver Creek 01-10	260369A	N - 11,12 14	I	F	Nov. 26, 1976	May 13, 1977	Richard Crattenayer, Zon R.R. 5, Dukes St. Dowagiac, MI 49047 Phone: 616-424-8018

	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
NC	Onslow	City of Jacksonville 01-04	370178A	E - 10,11 12,14		P	May 10, 1974	May 13, 1977	W. Bruce Teachey, Jr., Mayor P.O. Box 128 Jacksonville, NC 28540 Phone: 919-347-5158

	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
	Loudoun	Town of Round Hill 01	510279A	N - 5	I	F	May 13, 1977	May 13, 1977	Frank Entwisle, Mayor Town Hall Round Hill, VA 22141 Phone: 703-338-7575

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AR	Uninc. Area	Baxter County (02-33,36)	050010 A	N-5	I	F	17 MAY 77	17 MAY 77	Honorable James Baker - Judge - Office of the County Judge - Courthouse - Mountain Home, AR 72653 (501) 425-2755
AR	Uninc. Area	Desha County (02-61)	050065 A	N-5	I	F	17 MAY 77	17 MAY 77	Honorable Bonnie Zock - County Judge - Office of the County Judge - Courthouse - Arkansas City, AR (501) 877-2405
CT	Fairfield	Town of Darien (01-06)	090005 A	E-8,10,11, 12,14	C	F	26 JLY 74	17 MAY 77	Mr. William Patrick - Selectman - Town Hall - Darien, CT 06820 (203) 655-1170
CT	New Haven	Town of Hamden (01-15)	090078 A	N-8,11,12	I	F	16 JAN 74	17 MAY 77	Mr. Mayo Snyder - Town Planner - Memorial Town Hall - Hamden, CT 06518 (203) 288-5641
CT	Hartford	Town of Rocky Hill (02-05)	090142 A	E-10,11,12, 14	I	F	7 JUN 74	17 MAY 77	Mr. Miriam Lifshitz - Selectman - 699 Old Main Street - Hartford, CT 06067 (203) 563-1431
ID	Uninc. Area	Payette County (01-05,07-27)	160198 A	N-5	I	F	17 MAY 77	17 MAY 77	Mr. Jack Abshire - Chairman - Board of County Commissioners - Courthouse - Payette, ID 83661 (208) 642-4641

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IA	Uninc. Area	Des Moines County (0001-0006)	190113 A	N-5	I	F	17 MAY 77	17 MAY 77	Mr. Merle Kelly - Chairman - Board of Supervisors - Courthouse - Burlington, IA 52601 (319) 752-6318
IA	Uninc. Area	Emmett County (0001-0002)	190865 A	N-5	I	F	17 MAY 77	17 MAY 77	Mr. Gary Stribley - County Engineer - Courthouse - Estherville IA 51334 (712) 362-4281
IA	Uninc. Area	Palo Alto County (0001,0003,0005)	190898 A	N-5	I	F	17 MAY 77	17 MAY 77	Mr. Richard C. Thompson - Chairman Board of Supervisors - Palo Alto County Courthouse - P.O. Box 65 - Emmetsburg, IA 50536 (712) 852-2824
KS	Uninc. Area	Brown County (01-31,33-35)	200026 A	N-5	I	F	17 MAY 77	17 MAY 77	Mr. Glenn Plamann - Chairman - Board of County Commissioners - Courthouse - Hiawatha, KS 66434 (913) 742-2881
KS	Uninc. Area	Crawford County (01-35)	200564 A	E-5	I	F	17 MAY 77	17 MAY 77	Mr. D. A. Saia - Chairman - Board of County Commissioners - County Courthouse - Girard, KS 66743 (316) 724-8217

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LA	Uninc. Area	Jefferson Davis Parish (01-23,25-49)	220095A	E-10,11,12, 14	I	F	31 JAN 75	17 MAY 77	Mr. David E. Marcantel - Secretary Police Jury - Jennings, LA 70546 (318) 824-4732
ME	Lincoln	Town of Newcastle (0001-0002)	230215 A	N-11,12	I	F	21 FEB 75	17 MAY 77	Mr. Robert W. Baker - Selectman - Town Hall - Newcastle, ME 04553 (207) 563-3441
ME	York	Town of Parsonfield (01-09,11-17)	230154 A	E-10,11,12, 14	I	F	28 JUN 74	17 MAY 77	Mr. Joseph Watson - Selectman - Town Hall - Parsonfield, ME 04047 (207) 625-3931
MO	Montgomery	City of Bellflower (01-02)	290770 A	N-5	I	F	17 MAY 77	17 MAY 77	Honorable Jim Stokes - Mayor - City Hall - Bellflower, MO 63333 (314) 929-3506

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NH	Sullivan	Town of Charlestown (01-08,10-15,17)	330153 A	E-10,11,12, 14	C	F	31 MAY 74	17 MAY 77	Mr. Ted H. Putnam - Selectman - Town Hall - Charlestown, NH 03603 (603) 826-4400
NH	Cheshire	Town of Stoddard (03,05-06,08-11,13-20)	330195 A	N-11,12	I	F	17 JAN 75	17 MAY 77	Mr. Earle F. Wasson - Selectman-Clerk - Office of Selectman - Stoddard, NH 03464 (603) 446-7038
OK	Cleveland	City of Norman (01-10,12-25)	400046 A	E-10,11,12, 14	I	F	23 AUG 74	17 MAY 77	Honorable William S. Morgan - Mayor - City Hall - 111 North Peters - Norman, O. 73069 (405) 321-1600

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									Cedar Park, TX 78613 (512) 258-4121
TX	Uninc. Area	Floyd County (0001-0012)	480817 A	N-5	I	F	17 MAY 77	17 MAY 77	Honorable J. K. Holmes - County Judge - Courthouse - Floydada, TX 79235 (806) 983-2244
TX	Uninc. Area	Jasper County (01-03,06-08,12-15,17-70)	481080 A	N-5	I	F	17 MAY 77	17 MAY 77	Honorable T. Gilbert Adams - County Judge - Courthouse - Jasper, TX 75951 (713) 384-2612
TX	Uninc. Area	Johnson County (0001-0010)	480679 A	N-5	I	F	17 MAY 77	17 MAY 77	Honorable Charles C. Cooke - County Judge - Office of County Judge - Courthouse - Cleburne, TX 76031 (817) 645-7151
TX	Kaufman & Henderson	City of Mabank (01,03-04)	480414 A	N-5	I	F	17 MAY 77	17 MAY 77	Honorable E. L. Quinn - Mayor - City Hall - 129 East Market Street Mabank, TX 75147 (214) 887-3241
TX	Montgomery	Town of Magnolia (01-02)	481261 A	N-5	I	F	17 MAY 77	17 MAY 77	Ms. Jo Anne Presley - City Secretary - Town Hall - P.O. Box 385 - Magnolia, TX 77355 (713) 356-2266

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TX	Collin & Dallas	City of Richardson (01-09)	480184 A	E-10,11,12, 14	I	F	24 MAY 74	17 MAY 77	Honorable Raymond D. Noah - Mayor - City Hall - 219 E. Main Street - Richardson, TX 75080 (214) 235-8331
VT	Addison	Town of Ferrisburg (01-19)	500002 A	E-10,11,12, 14	I	F	6 SEP 74	17 MAY 77	Mr. Samuel Essex - Selectman - Town Hall - Ferrisburg, VT 05456 (802) 877-3429

1. Conversion to Regular Program with FIRM (elevations determined)
2. Conversion to Regular Program with FIRM (no elevations determined)
3. Conversion to Regular Program with no Special Flood Hazard Areas- no FIRM
4. Conversion to Regular Program with no Special Flood Hazard Areas - no FIRM; recission of FIRM effective on same date as conversion
5. Initial FEEM
6. Revision - Change of elevation; revised FIRM
7. Revision - Change of zone designation; revised FIRM
8. Revision - Corporate limit changes
9. Revision - Drafting corrections; Printing errors
10. Revision - Curvilinear
11. Revision - Add Flood Hazard Area
12. Revision - Reduce Flood Hazard Area
13. Revision - Federal Register omission
14. Revision - Refunds possible
15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.

R - REGULAR PROGRAM E - EMERGENCY PROGRAM N- NOT IN PROGRAM

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969).

Issued: May 3, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13608 Filed 5-13-77;8:45 am]

[Docket No. FI-2882]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is the identification of communities with areas of special flood or mudslide or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance so that communities may mitigate hazards and reduce property losses by adopting appropriate flood plain management or other measures to minimize damage caused by floods or other hazards. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

DATES: The effective date of identification is the date listed in the sixth column of the table or June 13, 1977, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator; Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified plain area having special flood hazards that is located within any community participating in the National Food Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by Federally regulated, insured, supervised or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin June 13, 1977, or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin June 13, 1977, or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

(24 CFR § 1915.3)

State ***	County ***	Location ***	Map No. ***	Local Map Repository ***	Effective date of identification of areas which have special flood hazard ***
Alaska.	Unorganized Borough.	Valdez, City of.	H 020094A 01 through H 020094A 35.	Mayor, P.O. Box 506, Valdez, AK 00686.	November 1, 1974. April 8, 1977.
Arizona.	Gila.	Unincorporated Areas.	H 040028A 01 through H 040028A 12.	Chairman, Board of Supervisors, Courthouse, 1400 East Ash St., Globe, AZ 85501.	November 1, 1974. April 8, 1977.
Arkansas.	Lonoke.	Cabot, City of.	H 050309A 01 through H 050309A 06.	Mayor, City Hall, Cabot, AR 72023.	June 3, 1977.
Do.	Hempstead.	Unincorporated Areas.	H 050436A 01 through H 050436A 55.	County Judge, Office of the County Judge, Hempstead Co. Courthouse, Hope, AR 71801.	June 3, 1977.
Do.	Jackson.	Unincorporated Areas.	H 050096A 01 through H 050096A 47.	Judge, Courthouse, Office of the Judge, Newport, AR 72112.	June 3, 1977.
Do.	Lawrence.	Unincorporated Areas.	H 050443 0001A through H 050443 0009A.	County Judge, Lawrence County Courthouse, Walnut Ridge, AR 72476.	June 3, 1977.
Do.	Prairie.	Unincorporated Areas.	H 050459 0001A through H 050459 0011A.	County Judge, Courthouse, Office of the Judge, Des Arc, AR 72040.	June 3, 1977.
Do.	Nevada & Ouachita.	Reader, Town of.	H 050428A 01 through H 050428A 02.	Mayor, P.O. Reader Rural Branch, Chidester, AR 71726.	June 3, 1977.
Colorado.	Chaffee.	Unincorporated Areas.	H 080269A 01 through H 080269A 03.	Chairman, Board of Co. Commissioners, County Courthouse, Salida, CO 81201.	June 3, 1977.
Do.	La Plata.	Unincorporated Areas.	H 080097A 01 through H 080097A 27.	Chairman, Commissioners Office, Courthouse, 1060 Second Ave., Durango, CO 81301.	June 3, 1977.

(24 CFR § 1915.3)

5.

State ***	County ***	Location ***	Map No. ***	Local Map Repository ***	Effective date of identification of areas which have special flood hazard ***
Connecticut.	Hartford.	Berlin, Town of.	H 090022A 01 through H 090022A 11.	Clerk, Town Hall, New Britain, CT 06037.	August 16, 1974. April 8, 1977.
Do.	Litchfield.	Washington, Town of.	H 090057A 01 through H 090057A 15.	Selectman, Bryan Memorial Town Hall, Washington Depot, CT 06794.	March 8, 1974. April 8, 1977.
Florida.	Seminole.	Unincorporated Areas.	H 120289A 01 through H 120289A 28.	Chairman, Board of Commissioners, P.O. Drawer C. Sanford, FL 32777.	January 17, 1975. April 8, 1977.
Georgia.	Catoosa.	Unincorporated Areas.	H 130028 0001A through H 130028 0003A.	Commissioner, Roads & Revenue, County Courthouse, Ringgold, GA NO ZIP CODE.	June 3, 1977.
Do.		City of Macon and Bibb County.	H 130011A 01 through H 130011A 71.	City Engineer, P.O. Box 247, Macon GA 31201.	May 24, 1974. April 8, 1977.
Idaho.	Lemhi.	Leadore, City of.	H 160224A 01.	Mayor, Town Hall, Leadore, ID 83464.	June 3, 1977.
Do.	Madison.	Rexburg, City of.	H 160098B 01 through H 160098B 04.	Mayor, 12 North Center, Rexburg, ID 83440.	December 17, 1973. April 8, 1977.
Do.	-do-	Sugar City, City of.	H 160099A 01.	Mayor, P.O. Box 176, Sugar City, ID 83448.	June 3, 1977.
Illinois.	DeKalb.	Unincorporated Areas.	H 170808A 01 through H 170808A 44.	County Board, Courthouse Annex, Sycamore, IL 60178.	June 3, 1977.
Iowa.	Allamakee.	Unincorporated Areas.	H 190005A 01 through H 190005A 44.	County Engineer, Courthouse, Waukon, IA 52172.	June 3, 1977.

(24 CFR § 1915.3)

6.

State ***	County ***	Location ***	Map No. ***	Local Map Repository ***	Effective date of identification of areas which have special flood hazard ***
Do.	Floyd.	Unincorporated Areas.	H 190127A 01 through H 190127A 30.	Board of Supervisors, Floyd County Courthouse, Charles City, IA 50616.	June 3, 1977.
Do.	Jasper.	Unincorporated Areas.	H 190880 0001A through H 190880 0004A.	Chairman, Board of Supervisors, Jasper County Courthouse, Newton, IA 50208.	June 3, 1977.
Do.	Linn.	Unincorporated Areas.	H 190829A 01 through H 190829A 44.	Chairman, Board of Supervisors, Linn County Courthouse, Cedar Rapids, IA 52401.	June 3, 1977.
Do.	Marshall.	Unincorporated Areas.	H 190890 0001A through H 190890 0002A.	Chairman, Board of Supervisors, 113 North First Avenue, Marshalltown, IA 50158.	June 3, 1977
Do.	Marion.	Pella, City of.	H 190837A 01 through H 190837A 06.	Mayor, City Hall, Pella, IA 50219.	June 3, 1977.
Do.	Webster.	Vincent, City of.	H 190819A 01 through H 190819A 02.	Mayor, City Hall, Vincent, IA 50594.	June 3, 1977.
Kansas.	Doniphan.	Unincorporated Areas.	H 200078A 01 through H 200078A 31.	Chairman, Board of County Comms., Courthouse, Troy, KS 66087.	June 3, 1977.
Louisiana.	Assumption Parish.	Unincorporated Areas.	H 220017A 01 through H 220017A 29.	President, Policy Jury, P.O. Box 518, Napoleonville, LA 70390.	January 24, 1975. April 8, 1977.
Do.	St. John the Baptist Parish.	Unincorporated Areas.	H 220164A 01 through H 220164A 28.	President, Courthouse, P.O. Box 25, Edgard, LA 70049.	August 9, 1974. April 8, 1977.
Do.	West Feliciana Parish.	Unincorporated Areas.	H 220245A 01 through H 220245A 36.	Pres., Policy Jury, P.O. Drawer N., St. Francisville, LA 70775.	December 20, 1974. April 8, 1977.
Massachusetts.	Norfolk.	Hellingham, Town of.	H 250232A 01 through H 250232A 10.	Selectman, Town Hall, Hellingham, MA 02019.	June 28, 1974. April 8, 1977.

(24 CFR § 1915.3)

7.

State	County	Location	Map No.	Local Map Repository	Effective date of identification of areas which have special flood hazard
Do.	Worcester.	Holden, Town of.	H 250309A 01 through H 250309A 15.	Selectman, 1196 Main Street, Holden, MA 01320.	September 6, 1974. April 8, 1977.
Do.	Hampden.	Holland, Town of.	H 250141A 01 through H 250141A 06.	Selectman, Town Hall, Southbridge, MA 01550.	June 7, 1974. April 8, 1977.
Do.	Essex.	Methuen, Town of.	H 250093A 01 through H 250093A 12.	Chairman, 90 Hampshire Street, Methuen, MA 01844.	August 30, 1974. April 8, 1977.
Do.	Worcester.	West Boylston, Town of.	H 250345A 01 through H 250345A 07.	Selectman, Town Hall 35 Worcester Street, West Boylston, MA 01583.	July 26, 1974. April 8, 1977.
Minnesota.	Cottonwood.	Unincorporated Areas.	H 270622A 01 through H 270622A 40.	County Auditor, County Courthouse, Windom, MN 56101.	June 3, 1977.
Do.	McLeod.	Unincorporated Areas.	H 270616A 01 through H 270616A 33.	Chairman, Board of Supervisors, County Courthouse, Glencoe, MN 55336.	June 3, 1977.
Do.	Washington.	Unincorporated Areas.	H 270499A 01 through H 270499A 33.	County Auditor, 14900 - 61st Street North, Stillwater, MN 55082.	June 3, 1977.
Mississippi.	Union.	Unincorporated Areas.	H 280237A 01 through H 280237A 30.	Chairman, Board of Supervisors, County Courthouse, New Albany, MS 38652.	December 13, 1974. April 8, 1977.
Missouri.	Shelby.	Clarence, City of.	H 290744A 01.	Mayor, Town Hall, Clarence, MO 63437.	June 3, 1977.
Do.	Franklin.	Oak Grove, Village of.	H 290554A 01 through H 290554A 02.	Chairman, Village Hall, Sullivan, MO 63080.	June 3, 1977.
Do.	Stoddard.	Penermon, City of.	H 290427A 01.	Chairman, Route #1, Essex, MO 63846.	June 3, 1977.

(24 CFR § 1915.3)

8.

State	County	Location	Map No.	Local Map Repository	Effective date of identification of areas which have special flood hazard
Do.	Jackson.	Unity, Village of.	H 290513A 01 through H 290513A 02.	Clerk, Village Hall, Unity Village, MO 64065.	June 3, 1977.
Nebraska.	Washington	Unincorporated Areas.	H 310483A 01 through H 310483A 29.	Chairman, Board of Supervisors, Blair, NB 68008.	June 3, 1977.
New Hampshire.	Merrimack.	Warner, Town of.	H 330123A 01 through H 330123A 21.	Selectman, Town Hall, Warner, NH 03278.	August 9, 1977. April 8, 1977.
Do.	Grafton.	Wentworth, Town of.	H 330078A 01 through H 330078A 16.	Selectman, Town Hall, Wentworth, NH 03282.	August 16, 1974. April 8, 1977.
Do.	-do-	Woodstock, Town of.	H 330079A 01 through H 330079A 22.	Board of Selectmen, Office of the Selectmen, Woodstock, NH 03293.	June 28, 1974. April 8, 1977.
Ohio	Lorain.	Unincorporated Areas.	H 390346A 01 through H 390346A 34.	President, 226 Middle Ave., Middle Elyria, OH 44035.	June 3, 1977.
Oklahoma.	Oklahoma.	Midwest City, City of.	H 400405A 01 through H 400405A 13.	Mayor, City Hall, P.O. Box 10570, Midwest City, OK 10570.	June 3, 1977.
Oregon.	Benton.	Unincorporated Areas.	H 410008A 01 through H 410008A 47.	Chairman, Board of Commissioners, Benton Coounty Courthouse, Corvallis, OR 97330.	December 27, 1974.
Do.	Linn.	Lyons, City of.	H 410142A 01.	City Recorder, City Hall, Lyons, OR 97358.	March 8, 1974. November 21, 1975.
Pennsylvania.	York.	York, Township of.	H 421032A 01 through H 421032A 13.	Pres., 76 Revere Road, York, PA 17407.	June 3, 1977.
Rhode Island.	Providence.	Glocester, Town of.	H 440034A 01 through H 440034A 20.	Clerk, Town Hall, Chepachet, RI 02814.	October 18, 1974. April 8, 1977.

(24 CFR § 1915.3)

State ***	County ***	Location ***	Map No. ***	Local Map Repository ***	10. Effective date of identification of areas which have special flood hazard ***
Do.	Angelina.	Homer, Town of.	H 481277A 01.	Mayor, Route 1, Box 237 E., Lufkin, TX 75901.	June 3, 1977.
Do.	Ft. Bend, Harris, & Montgomery.	Houston, City of.	H 480296A 01 through H 480296A 174.	Engineer, City Hall, 900 Brazos Street, Houston, TX 77002.	December 27, 1974. April 8, 1977.
Do.	Denton.	Justin, Town of.	H 480778A 01.	Mayor, Town Hall, P.O. Box 578, Justin, TX 76247.	June 3, 1977.
Do.	Robertson.	Unincorporated Areas.	H 480988 0001A through H 480988 0011A.	County Judge, Robertson County Courthouse, Franklin, TX 77856.	June 3, 1977.
Do.	Dallas.	Rowlett, City of.	H 480185 0001A through H 480185 0002A.	Mayor, City Hall, Rowlett, TX 75088.	July 19, 1974. April 8, 1977.
Do.	Titus.	Unincorporated Areas.	H 481023A 01 through H 481023A 32.	County Judge, Courthouse, Mt. Pleasant, TX 75455.	June 3, 1977.
Utah.	Millard.	Holden, Town of.	H 490201A 01.	Town President, Town Hall, Holden, UT 84636.	June 3, 1977.
Do.	Cache.	Logan, City of.	H 490019A 01 through H 490019A 04.	Mayor, City Hall, Logan, UT 74321.	January 16, 1974. April 8, 1977.
Do.	Weber.	Plain City, City of.	H 490217A 01 through H 490217A 04.	Mayor, P.O. Box 2017, Ogden, UT 84404.	June 3, 1977.
Do.	-do-	Roy, City of.	H 490223A 01 through H 490223A 04.	City Manager, 5715 South 2200 West, Roy, UT 84067.	February 7, 1975.

(24 CFR § 1915.3)

State ***	County ***	Location ***	Map No. ***	Local Map Repository ***	9. Effective date of identification of areas which have special flood hazard ***
Do.	Washington.	Hopkinton, Town of.	H 440028A 01 through H 440028A 14.	Clerk, Town Hall, Hopkinton, RI 02833.	May 31, 1974. April 8, 1977.
S. Dakota.	Day.	Bristol, City of.	H 460101A 01.	Mayor, Town Hall, Bristol, SD 57219.	June 3, 1977.
Do.	Hutchinson.	Unincorporated Areas.	H 460041 0001A through H 460041 0005A.	Chairman, Board of County Comm., Hutchinson County, Tripp, SD 57376.	June 3, 1977.
Tennessee.	Robertson & Sumner.	White House, City of.	H 470339A 01 through H 470339A 04.	Mayor, P.O. Drawer 69, White House, TN 37188.	May 17, 1974. April 8, 1977.
Texas.	Bell.	Unincorporated Areas.	H 480706A 01 through H 480706A 75.	County Judge, P.O. Box 336, Belton, TX 76513.	January 10, 1975. April 8, 1977.
Do.	Castro.	Unincorporated Areas.	H 480737A 01 through H 480737A 54.	County Judge, Castro County Courthouse, Judge's Office, Dimmitt, TX 79027.	June 3, 1977.
Do.	Bosque.	Clifton, City of.	H 480052A 01.	Mayor, City Hall, 403 West Third Street, Clifton, TX 76634.	July 19, 1974. April 8, 1977.
Do.	Colorado.	Unincorporated Areas.	H 480144A 01 through H 480144A 74.	County Judge, Courthouse Building, Columbus, TX 78934.	October 25, 1974. April 8, 1977.
Do.	Montgomery.	Cut and Shoot, Town of.	H 481279A 01 through H 481279A 03.	Mayor, Town Hall, P.O. Box 440, Conroe, TX 77301.	June 3, 1977.
Do.	Duval.	Unincorporated Areas.	H 480202A 0001A through H 480202A 0018A.	County Clerk, County Courthouse, P.O. Box 248, San Diego, TX 78384.	June 3, 1977.
Do.	Williamson.	Georgetown, City of.	H 480668B 01 through H 480668B 08.	Mayor, P.O. Box 409, Georgetown, TX 78626.	March 8, 1974. May 20, 1976. April 8, 1977.

(24 CFR § 1915.3)

11.

State	County	Location	Map No.	Local Map Repository	Effective date of identification of areas which have special flood hazard
***	***	***	***	***	***
Vermont.	Rutland.	Pittsford, Town of.	H 500098A 01 through H 500098A 15.	Clerk, Town Hall, Pittsford, VT 05763.	June 3, 1977.
Washington.	Wahkiakum.	Unincorporated Areas.	H 530193 0001A through H 530193 0003A.	County Engineer, Wahkiakum County Commissioners Office, Wahkiakum County Courthouse, Cathlamet, WA 98612.	February 21, 1975. April 8, 1977.
Wisconsin.	Green.	Unincorporated Areas.	H 550157A 01 through H 550157A 35.	Chairman, County Board, Route 1, New Glarus, WI 53574.	December 6, 1974. April 8, 1977.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued: May 3, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13609 Filed 5-13-77;8:45 am]

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federal register

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MONDAY, MAY 16, 1977

PART VII

DEPARTMENT OF JUSTICE

Antitrust Division

■

UNITED STATES v. NATIONAL BROADCASTING CO., INC.

Written Comments on Proposed Consent Judgment and Responses

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. NATIONAL BROADCASTING CO., INC.

Written Comments on Proposed Consent Judgment and Department of Justice Responses

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, the written comments on the proposed consent Judgment filed November 17, 1976, with the United States District Court in the Central District of California in Civil Action No. 74-3601-RJK, and the responses of the Department of Justice to such comments are published herewith. The Stipulation and Order modifying the proposed Final Judgment, and the modified proposed Final Judgment are also reproduced.

CHARLES F. B. MCAFEE,
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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff,	)	Civil No. 74-3601-RJK
v.	)	
NATIONAL BROADCASTING COMPANY, INC., Defendant.	)	STIPULATION AND ORDER

The parties having filed a Stipulation dated November 17, 1976, regarding the filing and entry of a Final Judgment in the form attached thereto, and comments having been received and considered by plaintiff, it is hereby stipulated and agreed by and between the parties, by their respective attorneys and subject to the approval of the Court, that:

1. The proposed Final Judgment lodged with the Court on November 17, 1976, shall be modified as follows:

(a) Section VI(E)(iii)(e) shall be deleted (page 9, line 31 - page 10, line 14).

(b) On page 11, line 5, "June 1" shall be substituted for "July 1."

The above modifications are incorporated in the amended proposed Final Judgment attached hereto.

2. Recognizing that the proposed Final Judgment does not specifically deal with the use of contractual rights to the exclusive use of talent or of literary properties for television exhibition, the parties have nevertheless agreed that the entry of this Final Judgment shall not preclude plaintiff, upon a showing that defendant has used such exclusive rights to impede competition in the television entertainment programming field or to circumvent any provision of the Final Judgment, from applying to the Court for relief under the Judgment against such conduct, provided that such relief would not place NBC at a competitive disadvantage with respect to CBS or ABC.

3. This Stipulation and Order, the above modifications, and the original inclusion and subsequent deletion of Section VI(E)(iii)(e) from the proposed Final Judgment, shall not estop plaintiff or defendant, or any person, in this or any other action or proceeding, from asserting any issue of fact or law as to the subject matter of Section VI(E)(iii)(e) or as to the use of contractual rights to the exclusive use of talent or of literary properties for television exhibition, nor shall they constitute any evidence or admission as to any such issue.

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/////

Dated: May 4, 1977

FOR THE PLAINTIFF:

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Assistant Attorney General

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FOR THE DEFENDANT:

SCHNADER, HARRISON, SEGAL & LEWIS

By: BERNARD G. SEGAL

JEROME J. SHESTACK

PETER S. GREENBERG

ORDER

IT IS SO ORDERED this ____ day of _____, 1977.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	Civil Action No. 74-3601-RJK
NATIONAL BROADCASTING COMPANY, INC., Defendant.	)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 10, 1974, and defendant, National Broadcasting Company, Inc., having filed its answer herein on December 30, 1974, by their respective attorneys, each having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law in any action or proceeding;

/////

/////

NOW, THEREFORE, before any testimony has been taken, the Court being advised and having considered the matter, it is hereby:

ORDERED, ADJUDGED AND DECREED as follows:

I.

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against defendant under the provisions of Sections 1 and 2 of the Act of Congress of July 2, 1890, 15 U.S.C. §§1, 2, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act.

II.

As used in this Final Judgment:

(A) "Person" means an individual, partnership, corporation or any other form of legal or business entity.

(B) "NBC" means the National Broadcasting Company, Inc. and its subsidiaries.

(C) A "person controlling NBC" means any person owning at least ten percent (10%) of, or a controlling share of, the outstanding voting stock of NBC.

(D) "NBC Television Network" means an NBC owned or operated business which provides television programs and related advertising messages to affiliated television broadcast stations.

(E) "Entertainment Program" means any program, including a feature film, exhibited or intended to be exhibited on

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12-76 DOJ

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12-76 DOJ

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television other than the following programs: news, public affairs, agricultural, religious, instructional, and sports (as those terms are defined in Appendix A to this Final Judgment). The inclusion of incidental or occasional entertainment or non-entertainment elements in a program or program series shall not be deemed to change the classification of the program or program series.

(F) "Independent Program Supplier" means a person who produces or offers one or more entertainment programs for network exhibition, other than NBC, a person controlling NBC, or a person in which NBC or a person controlling NBC has an ownership interest.

(G) "Network Exhibition" means the initial and repeat exhibitions of a television program on the NBC television network during the term of any agreement between NBC and an independent program supplier for such exhibition of such program.

(H) "Prime Time Hours" means the hours from 6:00 p.m. to 11:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 5:00 p.m. to 10:00 p.m. in the Central and Mountain Time Zones of the United States.

(I) "Daytime Hours" means the hours from 9:00 a.m. to 6:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 9:00 a.m. to 5:00 p.m. in the Central and Mountain Time Zones of the United States.

(J) "Fringe Hours" means the hours from 11:00 p.m. to 2:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Eastern and Pacific Time Zones of the United States, and the hours from

10:00 p.m. to 1:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Central and Mountain Time Zones of the United States.

(K) "Television Broadcast Station" means a station licensed as a television broadcast station by the Federal Communications Commission.

(L) "NBC Production Facilities" means studio facilities, including but not limited to, scenery, props and other production equipment, which are used for the production of entertainment programs exhibited or intended to be exhibited on television, and which are owned or leased by NBC, by any person controlling NBC, or by any person in which NBC or any person controlling NBC has any ownership interest.

(M) "Stripping" means the broadcasting of more than one (1) episode per week of a television program series.

(N) "Broadcast Year" means the television broadcast year customarily commencing in September of one year and continuing until September of the following year.

III.

The provisions of this Final Judgment are applicable to NBC, to any person controlling NBC and to each of NBC's directors, officers, agents, employees, subsidiaries, successors, and assigns, and to all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

NBC is enjoined and restrained from:

(A) Acquiring any financial or proprietary right or interest in the exhibition, distribution, or other commercial

[illegible] of any television program produced wholly or in part by an indepe[illegible] program supplier, other than the right to the Network Exhibition of the [illegible] except as provided in Sections VIII(A)-(D) of this Final Judgment, provided that an agreement granting NBC the right to Network Exhibition may include provisions concerning subject matters incident to the licensing and use of network programs, of which the following are examples: geographic scope and manner of transmission and delivery of network broadcasts; approval of creative elements and program content; technical quality and delivery requirements; union and Equal Employment Opportunity Act compliance; act of God, force majeure; preemptions; obligation to pay for, rather than plan, programs; number of episodes or programs ordered; assignability; warranties; indemnification; completion bonds; security agreements and financing statements; insurance; public morals; advertising conflicts; advertising, promotion and publicity of programs; audience testing and screening; cancellation; exclusivity for talent and creative personnel; exclusive exhibition rights (except as limited by Sections VI(E)(ii)-(iii) herein); pilots (except as limited by Section VI(F) herein); options (except as limited by Sections VI(E)(i), VI(F) and VI(G) herein); first negotiation and first refusal rights (except as limited by Sections VI(E)(i) and VI(G) herein); spinoffs (except as limited by Section VI(G) herein); repeats (except as limited by Section VI(H) herein); same day protection against once weekly syndication programs and theatrical feature films; title protection for the length of the appli-

cable contract or contracts; format and continuing character protection; breach; and remedies, so long as any such provision does not violate the antitrust laws.

(B) Selling, licensing, or distributing entertainment programs to television broadcast stations for non-network television exhibition (or otherwise engaging in the business commonly known as "syndication"), or to foreign television stations or networks, except as provided in Section VIII(D) of this Final Judgment.

V.

(A) NBC is enjoined and restrained for a period of ten (10) years from the effective date of this Section from offering for NBC network broadcast during Prime Time Hours, Daytime Hours or Fringe Hours, more than two and one-half (2-1/2) hours per week in Prime Time Hours, more than eight (8) hours per week in Daytime Hours, and more than eleven (11) hours per week in Fringe Hours, determined on the average per compliance period, of entertainment programs obtained from sources other than independent program suppliers, provided that during each compliance period NBC may add to the total number of allowable hours of entertainment programming from sources other than independent program suppliers, two (2) non-regularly scheduled special programs, and provided further that in any compliance period, NBC may, during Fringe Hours, increase the number of allowable hours of entertainment programming from sources other than independent program suppliers by reducing to the same extent the number

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of allowable hours of such programming in Prime Time Hours and/or Daytime Hours.

(B) For purposes of this Section V, compliance periods shall be consecutive semi-annual periods commencing at the start of each broadcast year. Compliance reports in the form set forth in Appendix B to this Final Judgment shall be submitted by NBC to plaintiff within thirty (30) days following the conclusion of each compliance period.

VI.

NBC is enjoined and restrained:

(A) From purchasing or offering to purchase from an independent program supplier the right to Network Exhibition of one or more entertainment programs upon the condition, express or implied, that NBC, or any person controlling NBC, will obtain any other right or interest from said supplier, except as to contractual provisions concerning subject matters incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(B) For a period of fifteen (15) years from the effective date of this Section, from purchasing or offering to purchase from an independent program supplier any right to the exhibition of a program, other than a live program, as an NBC television network entertainment program upon the condition, express or implied, that said supplier produce the program, in whole or in part, utilizing NBC production facilities.

(C) For a period of fifteen (15) years from the effective date of this Section from agreeing with an independent program supplier that said supplier use NBC production

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facilities to produce a program, other than a live program, as an NBC television network entertainment program for a period in excess of the time required to produce episodes for one (1) broadcast year, provided that NBC and said supplier are not precluded each year from negotiating and contracting for additional periods not to exceed one (1) year each.

(D) For a period of ten (10) years from the effective date of this Section from purchasing or offering to purchase from CBS Inc. ["CBS"] or American Broadcasting Companies, Inc. ["ABC"] any right to Network Exhibition of any entertainment program upon the condition, express or implied, that CBS or ABC agree to purchase or offers to purchase a right to network exhibition of any entertainment program produced or controlled by NBC.

(E) For a period of fifteen (15) years from the effective date of this Section from:

(i) Acquiring from an independent program supplier options for Network Exhibition of a prime time network entertainment program series exercisable for a period in excess of four (4) years from the date of first broadcast of an episode of such program as part of an NBC prime time television network entertainment program series, and the balance of any broadcast year in which such four (4) year period ends, provided that nothing herein shall prevent NBC, after the date of first broadcast, from negotiating new provisions which may include the purchase of an extension of the option period to five (5) years from the date of first

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broadcast, and the balance of any broadcast year in which such five (5) year period ends, and, at the end or during the final year of any contract term, from negotiating for and entering into new agreements with said supplier so long as the options acquired under any such new agreements do not exceed a period of four (4) years from the date of first broadcast of an episode under such new agreements, and the balance of any broadcast year in which such four (4) year period ends, plus the right to negotiate for and acquire a fifth option year, and provided further that nothing herein shall prevent NBC from acquiring first negotiation and first refusal rights for new agreements with said supplier so long as any such first refusal rights shall not be more favorable to NBC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than NBC on terms less favorable to said supplier than said supplier's last offer to NBC without giving NBC the first opportunity to meet such terms, and provided further that nothing herein shall prevent NBC from entering into contractual provisions incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(ii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for prime time network entertainment program series episodes for which NBC has exercised a contractual right to Network Exhibition, in excess of the following:

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(a) for prime time use, the duration of any contract term or terms by which NBC acquires the right to Network Exhibition;

(b) for non-prime time stripping on television broadcast stations, four (4) years from the first prime time episode broadcast; and

(c) for all other broadcast uses, three (3) years from the first prime time episode broadcast,

provided that nothing herein shall prevent NBC from negotiating for and acquiring rights, including exclusive rights, for stripping and once weekly exhibition to be utilized after the periods of exclusivity set forth above, so long as negotiation for and acquisition of such rights takes place after NBC has agreed to order episodes of such program for the first year of broadcast as an NBC prime time television network entertainment program series, and provided further that nothing herein shall prevent NBC from acquiring exclusive exhibition rights to series episodes for the broadcast year for which such episodes are ordered.

(iii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for theatrical feature films for which NBC has a contractual right to Network Exhibition, against:

(a) theatrical and non-theatrical direct projection;

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(b) closed circuit TV in non-residential hotels, motels, bars, restaurants, hospitals and similar non-residential institutions;

(c) passenger-carrying vehicles;

(d) video discs, cartridges or cassettes or other such equipment.

(F) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier a first year pick-up option for exhibition of a prime time network entertainment program series based on a program designated by NBC and said supplier as a "pilot program" ("pilot") which is exercisable after the following times:

(i) where NBC has not advanced said supplier any part of the costs of pilot development, subsequent to the earliest date that the agreement contemplates that broadcast of the series may commence; and

(ii) where NBC has advanced said supplier any part of the costs of pilot development, more than one (1) year after delivery to NBC of the completed pilot, provided that as to those series which NBC does not include in the network schedule at the earliest date that the agreement contemplates that broadcast of the series may commence:

(a) for those pilots which have been delivered to NBC between October 2 of one year and April 1 of the following year, NBC must designate by June 1 of the latter year sixty-five percent (65%) of such pilots as to which

NBC will release its option for series exhibition upon payment to NBC of all of NBC's unrecouped costs for the development of such pilots; and

(b) for those pilots which have been delivered to NBC between April 2 and October 1 of the same year, NBC must designate by January 1 of the following year sixty-five percent (65%) of such pilots as to which NBC will release its option for series exhibition upon payment to NBC of all of NBC's unrecouped costs for the development of such pilots;

and provided further that NBC may purchase additional first year pick-up options for series which NBC has not designated for release and for series which NBC has designated for option release but which NBC wishes to retain, so long as such additional options are acquired, for pilots described in Section VI(F)(ii)(a), after June 1, or after the announcement of the NBC television network schedule for the next broadcast year, whichever is later, and, for pilots described in Section VI(F)(ii)(b), after December 1, and so long as such additional options do not exceed increments of six (6) months.

For purposes of this Section VI(F):

A pilot shall be deemed to have been delivered to NBC when NBC has received, in the case of a film pilot, an answer print, and, in

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the case of a tape pilot, a program complying with customary tape requirements.

In computing the number of pilots to be released under Sections VI(F)(ii)(a) and (b), any fraction of a pilot shall be rounded off to the next lower whole number.

Unrecouped costs shall be deemed to be the amount of money advanced by NBC to an independent program supplier for the development of a pilot, except that if the NBC television network broadcasts a pilot once, two-thirds (2/3) of NBC's costs shall be deemed to have been recouped, and if NBC broadcasts a pilot more than once, all of NBC's costs shall be deemed to have been recouped.

(G) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier rights in excess of first negotiation and first refusal rights for a spinoff involving a non-continuing character.

For purposes of this Section VI(G):

First refusal rights shall not be more favorable to NBC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than NBC on terms less favorable to said supplier than said supplier's last offer to

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NBC without giving NBC the first opportunity to meet such terms.

A non-continuing character shall be deemed to mean one who appeared in no more than twenty-five percent (25%) of the original episodes of the program upon which such spinoff is based during the twelve (12) months prior to the time exhibition rights to such spinoff are offered for licensing by said supplier.

(H) For a period of ten (10) years from the effective date of this Section, from purchasing from an independent program supplier a right to first run Network Exhibition of any television entertainment program series which includes the right to exhibit repeats of episodes in years subsequent to the broadcast year of initial exhibition of such episodes, provided that repeat rights to three (3) initial episodes per broadcast year of each such program series may be purchased for exhibition in subsequent broadcast years as part of the right to Network Exhibition, and provided further that additional rights to repeats may be purchased for exhibition in subsequent broadcast years, so long as negotiation for and acquisition of such additional repeat rights takes place after NBC has agreed to order episodes of such program series for the first year of broadcast as an NBC television network entertainment program series, and provided further that the limitation as to the use of repeats contained in this Section VI(H) shall not apply to (i) made-for-television and theatrical feature films, (ii) specials, and (iii) cartoons or other children's programs.

VII.

The following Sections of this Final Judgment shall not take effect until similar injunctive relief is obtained in Final Orders, Judgments or Decrees entered against CBS in United States v. CBS Inc., Civil Action No. 74-3599-RJK (C.D. Cal), and against ABC in United States v. American Broadcasting Companies, Inc., Civil Action No. 74-3600-RJK (C.D. Cal.) which are not appealable or from which no timely appeal is taken: V, VI(C), VI(E)(i), and VI(F) through (H).

VIII.

Nothing contained in this Final Judgment shall be construed:

(A) To prohibit NBC from acquiring rights for non-network broadcast of programs by NBC owned and operated television broadcast stations where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program.

(B) To prohibit NBC from seeking repayment, in whole or in part, of money or other consideration loaned, advanced or furnished by NBC in connection with the development or production of a television network program or of a project or activity that may result in a television network program, to the extent of the amount loaned, advanced or furnished, including interest.

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(C) To prohibit NBC from acquiring rights with respect to non-broadcast uses, including but not limited to publication of books or music, where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program.

(D) To prohibit NBC from selling, licensing, or distributing outside the United States programs (i) produced in foreign countries and not included in NBC's television network schedule, where the acquisition of such distribution rights is not conditioned, directly or indirectly, upon the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program, or (ii) produced by NBC, by any person controlling NBC, or by any person in which NBC or any person controlling NBC has any ownership interest.

IX.

If a Final Order, Judgment or Decree is entered with respect to CBS in United States v. CBS Inc., Civil Action No. 74-3599-RJK (C.D. Cal.), or with respect to ABC in United States v. American Broadcasting Companies, Inc., Civil Action No. 74-3600-RJK (C.D. Cal.), which is not appealable or from which no timely appeal is taken, which shall order or decree for either CBS or ABC injunctions different in terms or provisions than those required by this Final Judgment, or which shall result in the dismissal of

either or both of such actions, NBC may apply to the Court and shall be granted a modification of or relief from any terms set forth herein as may be necessary to prevent NBC from being placed at a competitive disadvantage with respect to CBS or ABC.

X.

(A) Within thirty (30) days after the entry of this Final Judgment, NBC shall furnish to its officers, directors, and appropriate employees and agents a copy of this Final Judgment, and each year for a period of ten (10) years thereafter NBC shall furnish a copy to all new officers, directors and appropriate employees and agents. NBC shall maintain a file listing all persons to whom it has furnished such copies.

(B) Within thirty (30) days after entry of this Final Judgment and once each year during the succeeding ten (10) calendar years following entry of this Final Judgment, NBC shall send a copy of this Final Judgment to the last known address of each independent program supplier known to have offered any entertainment program to NBC for inclusion in its schedule of NBC television network programs within the preceding five (5) years and to each person listed in the then current issue of Television Factbook as a provider of television production facilities.

XI.

(A) For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of

the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, and on reasonable notice to NBC made to its principal office, shall be permitted, subject to any legally recognized privilege:

(1) access during the office hours of NBC to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of NBC relating to any matter contained in this Final Judgment; and

(2) subject to the reasonable convenience of NBC and without restraint or interference by it, the right to interview officers or employees of NBC, who may have counsel present, regarding any such matter.

(B) NBC, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided in this Section XI shall be divulged by any representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XII.

Jurisdiction is retained by this Court for the purpose of enabling either party to this Final Judgment to apply to

this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XIII.

Entry of this Final Judgment is in the public interest.

Dated:

UNITED STATES DISTRICT JUDGE

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APPENDIX A*

(a) "Agricultural programs" include market reports, farming, or other information specifically addressed, or primarily of interest, to the agricultural population.

(b) "News programs" include reports dealing with current local, national, and international events, including weather and stock market reports; and when an integral part of a news program, commentary, analysis, and sports news.

(c) "Public affairs programs" include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs primarily concerning local, national, and international public affairs.

(d) "Religious programs" include sermons or devotionals; religious news; and music, drama, and other types of programs designed primarily for religious purposes.

(e) "Instructional programs" include programs (other than those classified under Agricultural, News, Public Affairs, Religious or Sports) involving the discussion of, or primarily designed to further an appreciation or understanding of, literature, music, fine arts, history, geography, and the natural and social sciences; and programs devoted to occupational and vocational instruction, instruction with respect to hobbies, and similar programs intended primarily to instruct.

* Taken from 47 C.F.R. §73.670, n.1 (1975).

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(f) "Sports programs" include play-by-play and pre- or post-game related activities and separate programs of sports instruction, news or information (e.g., fishing opportunities, golfing instructions, etc.).

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APPENDIX B

COMPLIANCE REPORT

NBC PRODUCED PROGRAMS

Compliance Period _____
No. weeks _____

Prime Time Hours

Entertainment: Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

Non-Entertainment: Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

Daytime Hours

Entertainment: Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

Non-Entertainment: Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

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Fringe Hours

Entertainment:

Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

Non-Entertainment:

Program Name	No. Minutes Per Week	No. Weeks Offered For Network Broadcast

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Appendix II
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WE KNOW HOW TO MAKE YOUR FUTURE PAY

January 13, 1977

Mr. Bernard M. Hollander, Chief
Judgements and Judgement Enforcement Section
Anti-Trust Division
U.S. Justice Department
Washington, D.C. 20530

Dear Mr. Hollander:

I am compelled to write to you today on a matter of the most serious urgency which threatens not only the existence of my small company, nor the development of the most exciting new communications medium to emerge in 25 years, but most importantly, a basic foundation of the American free enterprise system. I refer specifically to the unconscionable pay-television provisions of the proposed consent decree between the National Broadcasting Company and the U.S. Justice Department.

After reading and rereading all of the available documentation and media coverage of this situation, I still cannot believe that an anti-trust complaint against NBC in one area appears to be headed for settlement by permitting them new anti-competitive powers in another area. Our company, our industry, and indeed, our nation have all been founded on a single basic principle; the freedom of choice.

Pay-television is nothing more nor less than an option available to the American consumer. We offer the ability to view and enjoy the finest of current filmed entertainment in its pure unmutilated form. The subscribers we serve in 15 states have exercised their freedom of choice by voting with their dollars to bring this option into their homes. Am I now to believe that our government "of the people, by the people and for the people" is going to sanction one company's power to destroy this new found freedom? I pray not.

CINEMERICA, INC. 9477 Brighton Way, Beverly Hills, California 90210 (213) 550-1563

No one knowing the facts can fail to recognize the outcome if the pay-television provisions of the decree are adopted as presently written. If NBC can prevent motion pictures from reaching our subscribers they will prevent this. So too will ABC and CBS. Most simply, if NBC wins on this point it is the average American consumer who will suffer the greatest loss.

I urge you, please don't let this happen. You in your life goals, and I in mine, have both pledged ourselves to serving the public. I believe that in this instance this is best accomplished by not depriving them of the freedom of choice to which I refer.

Most sincerely,

Kenneth P. Silverman
President

KPS/lg
Encl.

Columbia University in the City of New York | New York, N.Y. 10027

COLLEGE OF THE ARTS

13 January 1977

Mr. Bernard M. Hollander, Chief
Judgements and Judgement
Enforcement Section
Anti-Trust Division
Washington, D.C. 20530

Dear Mr. Hollander:

I am writing in protest against the recent Consent Decree allowing NBC its special rights to theatrical movies against the interests of pay cable television.

My sole concern is that commercial motion pictures are the lifeblood of cable television at this particular time and if this avenue of revenue is snatched away cable television will not have the ghost of a chance of being able to develop viable public service programming in the Performing Arts.

I need hardly tell you that opera, ballet, symphonic music, chamber music, classical theatre and other areas of the arts have no real chance of regular television activity unless cable television becomes a strong programming force. Public television cannot do the job alone. The combination of cable and public television could create a real market for the arts with revenues that, in time, could become significant.

I urge you to reconsider what is in effect a cauterization of cable television's most obvious commercial avenues.

If you feel that further evidence on what I stated here is needed from me, please do not hesitate to tell me. I know whereof I speak: prior to coming to Columbia University I was General Manager of the Metropolitan Opera and before that actively involved in attempting to obtain television stages for various performing arts.

Sincerely yours,

Schuyler Chapin
Dean

SC/jb
cc: Mr. Bob Johnson

East Bay Skills Center

1180-47th STREET
OAKLAND, CALIFORNIA 94608
• TELEPHONE (415) 638-7356 •

January 19, 1977

Mr. Bernard M. Hollander, Chief
Judgements and Judgement Enforcement
Section, Anti-Trust Division
Washington, D. C. 20530

Dear Mr. Hollander:

I have recently been made aware of a recent Consent Decree concerning NBC that is the result of a Justice Department anti-trust suit. A provision of this decree would permit NBC certain exclusivity rights on movies as a protection against pay cable for a period equal to the life of the contract plus 30 days.

It is my feeling that this decree creates a new stumbling block to the growth of the fledgling pay cable industry and its services to subscribers. Motion picture products are the life blood of the present pay cable service. If the pay cable industry is prohibited from offering this home entertainment service to its 900,000 subscribers, it will be unable to economically expand into other areas of home entertainment such as cultural, childrens and special interests.

As Director of a primarily federally funded manpower training program conducting special vocational training in the trade occupations of the cable industry, we have great concern about any action that tends to curtail the cable industry.

Our training program, as you may know, is designed to serve unemployed and economically disadvantaged youth of the Bay Area. Cable T.V. and its industry partner, pay cable, are at a very important crossroads in their industrial life; a crossroads that effects the future career opportunities of the young men and women who we train.

Pay cable offers a new injection of life blood into the Cable T.V. industry which means more jobs for graduates of our program. It is my hope that you will carefully review this decree and extend some relief to this new industry so that it will be given a chance to grow in the marketplace of this Country's economic system.

Sincerely,

William R. Dabney
Director

WRD:pmj cc: Mr. Bob Johnson and Mr. Spencer Kaitz

A COMMUNITY SERVICE OF THE PERALTA COLLEGES

nccl
National Citizens Communications Lobby

January 27, 1977

Bernard M. Hollander, Chief
Judgments & Judgment Enforcement Section
Anti-Trust Division
Washington, D.C. 20530

Dear Mr. Hollander:

On behalf of the National Citizens Communications Lobby, I am writing to express deep concern about the provision relating to pay cable television in the NBC/Justice Department Consent Decree.

This provision will cripple the young pay cable industry by denying it access to its product. At present, pay cable relies primarily on first-run motion pictures for its survival. The Consent Decree would enable NBC in acquiring rights to a film to obtain exclusivity protection against pay cable for two years with the allowance for yearly extensions; pay cable could conceivably wait years before it could purchase a film. It is disturbing that the Justice Department settled for substantially less than what it originally recognized to be effective relief. The Competitive Impact Statement noted that reasonable exclusivity protection should extend a maximum 90 days: 45 days prior to and following the film's exhibition date.

The provision is anti-competitive. NBC is not seeking exclusivity protection against the exhibition of movies at home, on video discs, or cassettes, nor the exhibition of movies in theatres, hotels, and airplanes. Only pay cable is singled out. Pay cable has 900,000 subscribers; the networks have access to 74 million viewing homes. Yet the networks continue to view this industry as a threat, and they seek to maintain their near-monopolistic control of television programming.

Consumers should have the right to choose whichever manner of television entertainment they please. Pay cable offers its subscribers the opportunity to watch unedited, uninterrupted movies. The consumer should not be deprived of this service.

The NCCL supports the notion of diversity and competition within the media. We encourage the growth of pay cable as an alternative to commercial broadcasting.

60-211-62

P.O. Box 19101 Washington, D.C. 20035 202-466-8290

Pay cable has great potential for expanding its services into cultural, educational, and children's programming. It would be a shame to see this potential go unrealized.

That this anti-trust suit brought about for the express purpose of opening competition in program production should result in crushing competition in program distribution would be a grim irony indeed.

We urge the Justice Department to reconsider this matter and either reinstate its earlier position calling for 90-day maximum exclusivity protection or delete the provision altogether.

Sincerely,

Melinda Halpert
Executive Director, NCCL

The National Urban Coalition
1201 Connecticut Ave., N.W. • Washington, D.C. 20036 • 202 331-2400

February 10, 1977

Mr. Bernard M. Hollander
Chief
Judgements and Judge
Enforcement Section
Anti-Trust Division
Washington, D.C. 20530

Dear Mr. Hollander:

On November 17, 1976, the U.S. Justice Department signed a Consent Decree with the National Broadcasting Company which may have profound and debilitating effects on the future growth and development of pay cable television.

As we see it, pay cable television provides the following services to our constituency - the poor, minorities, and working class city residents:

- Expanded job opportunities
- Increased opportunities for investment and business development for minority groups locked out of the established broadcast industry
- Additional avenues into local decision making through cable television coverage of such local activities as city council meetings
- The opportunity to view movies, sports events, and other entertainment for those who cannot afford to attend such functions
- New opportunities for cultural self-expression through increased variety of programs which appeal to the special interests of our constituents.

The provision in the agreement which relates to pay cable television would permit NBC, when acquiring rights to theatrical movies, to obtain exclusive protection against pay cable for a period equal to the life of the contract plus thirty days. The decree would, in effect, deny pay cable programmers access to motion picture product which is the lifeblood of the present pay cable service. The effect would cripple the cable television industry and prevent their expansion into other areas of home entertainment such as cultural, children's and other special interest programs.

Chairman Walter N. Rothschild, Jr. / President M. Carl Holman
Co-Chairpersons Andrew Heiskell, Vernon E. Jordan, Jr., James M. Roche, Sol M. Linowitz, Joseph J. Reinal, Aileen C. Hernandez
Secretary Clifford L. Alexander, Jr. / Treasurer Glenn E. Watts

We believe that every consumer should have the right to watch feature films in the form and manner they choose, without commercial interruptions. Further, the consent decree would seem to be contradictory to the principles of antitrust legislation which was enacted to prevent monopolistic practices that deny consumers freedom of choice and restrict the growth of competing industries.

Therefore, we urge you to consider the serious impact such a ruling would have upon our constituents and the millions of other television viewers who deserve an alternative to the present type of programming dictated by a few vested interests.

Thank you.

Sincerely,

M. Carl Holman

MCH:jg

AMERICAN CIVIL LIBERTIES UNION

22 East 40th Street New York, New York 10016 (212) 725-1222

February 10, 1977

Bernard M. Hollander, Chief
Judgments and Judgment
Enforcement Section
Anti-Trust Division
Washington, DC 20530

Dear Mr. Hollander:

On November 17, 1976 the Justice Department signed a Consent Decree with the National Broadcasting Company in settlement of a four-and-a-half year old Justice Department suit aimed at curtailing the network's control over independent producers of entertainment programs. The Consent Decree contains a provision which would permit NBC to obtain "exclusivity protection" against pay cable television when acquiring the rights to theatrical movies for a period equal to the life of the contract plus thirty days.

The American Civil Liberties Union strongly opposes the exclusivity provision of the Consent Decree as harmful to the development of pay cable television, a new and important medium of communication which deserves the chance to compete with the established broadcasting structure.

The ACLU is committed to the principle that diversity of sources of expression in public communications systems will advance the exercise of freedom of speech and enhance the value of the guarantees of freedom of expression in the First Amendment. For this reason, the Union has long supported pay cable and subscription television as a means of expanding diversity of source of expression within the broadcast media.

To that end, the ACLU has objected to those rules promulgated by the Federal Communications Commission which place restrictions on the programs which can be televised via pay cablecasting. The Union sees such rules as an impermissible and unjustified government regulation of program content, molded for the protection of the established broadcast industry and disregarding the thrust of the First Amendment's purpose -- to encourage the dissemination to the public of a broad range of ideas and information.

Norman Dorsen, Chairperson, Board of Directors • Ramsey Clark, Chairperson, National Advisory Council
Aryeh Neier, Executive Director • Alan Reitman, Associate Director • Joel Gora, Acting Legal Director
Sharon Krager, Membership Director • John H. F. Shattuck, Director, Washington D.C. Office

Last February, the New York Times reported in a column by Les Brown that the Justice Department expressed agreement with the Union's assessment when it filed a brief in the U.S. District Court in Washington, D.C. challenging the rules governing pay-cable as anti-competitive, and charging that they were adopted by the FCC without regard for the public interest. Yet, the exclusivity provision in the Consent Decree is in clear derogation of diversity of source. By restricting the number of feature films available to cable subscribers, the Decree is cutting the lifeline of the present pay cable service at the request of, and for the sole benefit of, the established broadcast industry.

If the pay cable industry is prohibited from offering this home entertainment service, it will be economically unable to expand its developing special interest programming, such as cultural and children's presentations not often found on commercial television. The effect would be to blur the lines between pay cable and "free" TV to the detriment of the pay cable industry and the overall public interest.

Moreover, NBC's demand for protection against alternative television programming is clearly designed to preserve the network's monopoly over the TV viewing audience and the advertising revenues that are generated by commercial television. TV now reaches over 74 million homes and, according to their own estimates, network revenues should reach $13 billion by 1985. Pay Cable is currently viewed by 900,000 subscribers. The Consent Decree seems clearly to contradict the principles of antitrust legislation, which was enacted to prevent monopolistic practices that deny consumers freedom of choice and restrict the growth of competing industries. The Decree can, we believe, be labeled a blatant attempt by a network to strangle the infant pay cable industry.

It should be noted that the Justice Department itself originally recommended, in its Competitive Impact Statement, that a reasonable period of network exclusivity should be no more than 90 days: "only 45 days before and after the exhibition date of a feature film." Somewhere along the route to the Consent Decree agreement, this recommendation from the investigating attorneys

was discarded. Apparently, in its desire to get the broader settlement, the Justice Department sacrificed important rights of the pay cable industry and the American public.

The American Civil Liberties Union opposes this part of the Consent Decree as not being in the public interest. We strongly urge the Justice Department to delete the exclusivity provision from the Consent Decree with NBC in the interest of that diversity and competition in public communications which is essential to First Amendment freedoms.

Sincerely yours,

Aryeh Neier
Executive Director

Harriet Pilpel
Chairman, Communications
Media Committee

3766 Mr. Hollander

NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.
12 Geary St., San Francisco, Calif. 94108 · (415) 788-8736
(National Office: 10 Columbus Circle, N. Y., N. Y. 10019 • 586-8397)

Allen Black, Jr., Director
DIVISION OF LEGAL INFORMATION AND COMMUNITY SERVICE
WESTERN REGIONAL OFFICE

February 16, 1977

Mr. Bernard M. Hollander, Chief
Judgments and Judgment
Enforcement Section
Anti-Trust Division
Washington, D.C. 20530

Dear Mr. Hollander:

This Division represents, assists and/or associates with over a dozen community groups in more than eight states which are working, through actions before the Federal Communications Commission and in Federal court, to assure adequate treatment from the media in the areas of ascertainment, programming and employment for minority communities. It is on behalf of these community groups that we oppose the proposed consent decree between the Department of Justice and the National Broadcasting Company.

At the same time, we are acutely aware of the attempts of minority groups to own and operate cable systems. According to N.C.T.A. there are presently 30 communities where franchises are principally owned by Black, Indian or Spanish surnamed persons. New systems controlled by Blacks are currently operating. The problems faced by any new franchise holder are great, for minorities they become even more formidable. If this fledgling group of minority entrepreneurs is to fulfill its promise they must not be hampered by additional burdens. We believe that the proposed consent decree will do irreparable harm to their efforts.

To be sure, the industry has not lived up to its potential to service the minority community. One reason may be that they lack the adequate re-

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sources to do so. A major source of income and one of their more attractive features is the ability to present first run movies, and other special events not otherwise available.

The proposed consent decree will take away from them this asset and at the same time it will allow NBC to freeze out its competition. The decree will also affect cable television's potential to provide diverse special interest programming, deny to consumers their right to watch feature films in the form and manner they choose, and perpetuate the networks monopoly of television entertainment.

We do not want anyone, cable, network or webs to have any excuse for its failure to adequately service the needs of the minority communities. The proposed consent decree provides such an excuse and we oppose it.

Very truly yours,

Allen Black Jr.

Allen Black, Jr.
Director
Division of Legal Information
& Community Service
Western Regional Office

ABJr/mph

3766 Mr. Hollander

ACTION FOR CHILDREN'S TELEVISION
46 AUSTIN STREET
NEWTONVILLE, MA. 02160 617-527-7870

February 16, 1977

Bernard M. Hollander, Chief
Judgments and Judgment
Enforcement Section
Anti-Trust Division
Washington, D.C. 20530

Re: Consent Order Between the United States Department of Justice and the National Broadcasting Company

Dear Mr. Hollander:

Action for Children's Television would like to express its views regarding the Consent Decree between the United States Department of Justice and the National Broadcasting Company signed November 17, 1976.

Action for Children's Television, Inc. (ACT) is a non-profit corporation organized under Massachusetts Law for the purpose of improving programming for children. It has local affiliates in principal cities in the United States and a national constituency including several thousand dues paying members.

ACT supports diversity in programming for children. We believe that the child audience should be provided with age-specific programming. Further, we believe this programming should include public affairs, news, educational presentations, and dramatic offerings that will expose the child to literature and theatre appropriate for young viewers. ACT supports programs that broaden the child's horizons and are free from racial, sexual, and age stereotypes.

ACT is concerned that the present Consent Decree between the Justice Department and NBC might operate to limit public

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access to diverse programming, including the potential for diverse programming for children. The section of the Consent Decree that relates to the exhibition of first run movies on television appears to promote "contract exclusivity" against pay cable and subscription television and consequently deny pay cable television a product critical to its growth. If this section of the Consent Decree will in fact inhibit the growth of cable television, the viewing public will be denied an important alternative to present programming. Such a result would run contrary to the underlying principle of the Consent Decree.

Pay cable has indicated its interest in programming for children. It would be unfortunate if as a result of the economic impact of the Consent Decree this programming was curtailed.

Sincerely,

Rachel Wolkin

Rachel Wolkin
General Counsel
on behalf of Action for Children's Television

RW:fb

3706 Mr. Hollander's

MET

Metropolitan Opera Association, Lincoln Center, New York, New York 10023 (212) 799-3100

Michael Bronson, Technical Administrator

February 16, 1977

Bernard M. Hollander, Chief
Judgements and Judgement
Enforcement Section
Anti-Trust Division
Washington, D.C. 20530

Gentlemen:

The Metropolitan Opera Association wishes to submit herein its comments on the Consent Decree signed by the Justice Department with N.B.C. in so far as this Consent Decree affects the Association's interests in pay cable television service.

In September 1974, Schuyler Chapin, then General Manager of the Metropolitan Opera Association, submitted comments to the F.C.C. concerning Docket Number 19554. In the two and a half years since that submission, the needs of the Association have increased substantially. The potential of pay cable television to substantially reduce our operating deficit and at the same time enable the Association to reach a wider audience is dependent on a healthy pay cable television industry.

This "Consent Decree" as signed, in our opinion, would restrict the pay cable television industry in a way that would limit its ability to deal with special interest programming such as might be provided by the Metropolitan Opera Association.

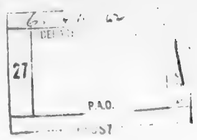
We hope you will read carefully Mr. Chapin's letter of September 10, 1974 and consider again the affect that the Consent Decree could have not only on pay cable television but on the important cultural institutions of America.

Sincerely,

Michael Bronson

MB:eg
Encl.

Cable Address: Metopera, New York



METROPOLITAN OPERA

METROPOLITAN OPERA ASSOCIATION, INC.
LINCOLN CENTER

SCHUYLER G. CHAPIN
GENERAL MANAGER

NEW YORK, N. Y. 10023

September 10, 1974

Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

Attention: Hon. Vincent J. Mullins, Secretary
Docket No. 19554

Gentlemen:

The Metropolitan Opera Association wishes to submit herein its comments in response to the FCC's Further Notice of Proposed Rule Making and Order for Oral Arguments released on August 12, 1974, in connection with the pay cable TV rules proceeding. Our chief aim in responding in writing now is to make the Commissioners aware of our concern that rule making in relation to pay cable TV should forthwith take into active account the minority interests of millions of Americans, those not now being adequately served by open airwaves TV. While our purpose in the narrow sense is to help make possible the video reception at home by Americans via pay cable TV of opera and other fine music programming, our aim is far wider.

This nation thinks of itself as enlightened and sophisticated, as it nears its 200th birthday. It has seen its way of life attract tens of millions to its shores and exported its culture and goods to hundreds of millions more. This nation also stands as the world exemplar of free enterprise, a setter of trends and keeper of traditions. It boasts the best informed, best educated yet most diverse, most individual citizenry in the world. It is, beyond all this, a nation dedicated to the principle that anyone within its shores may pursue the life of his choice, with law and custom.

Yet in one increasingly important sector of our national life, this principle of individual choice is not adequately respected. That sector is the field of mass communications (both radio and TV). Since our remarks here relate to FFC Docket No. 19554, which proposes to deal solely with rule making in pay cable TV, we shall not deal with the larger broadcast issue in America, save to note that good music is largely absent from TV, eroding from radio, and that our Saturday afternoon broadcasts from December to April, sponsored by Texaco on our own network, constitute the sole remaining example of good music "live" anywhere on the nation's airwaves.

AREA CODE 212

The problem, as we all know, has to do with free enterprise when applied to a mass medium for the generation of profit. The decision to leave broadcasting in private hands in the U. S. was made nearly 50 years ago, at the birth of radio. The consequences are clear. Slowly over the ensuing years minority audience interests have been all but eliminated from the system, except in isolated independent low-cost pockets, as the service of those interests proved unable to generate revenues sufficient to satisfy stockholders. In this respect we are now unique among the major civilized broadcast nations of the world. We have permitted a majority of our people to become significantly disenfranchised, by deciding to serve only those of their interests which make money.

Paralleling this dilemma is that of the major cultural arts institutions of the nation, those who have always appealed to minorities and have never made money, among which the Metropolitan Opera is without peer. Each year the Metropolitan Opera Company presents in New York City and on tour an eleven-month season of major productions, drawing on the world's outstanding talents in the field, and on which it has always lost money. Faced as we are with rapidly rising costs, yet without any fresh sources of finance to meet the alarming deficit gap, the result, this year alone, has been to shorten the Metropolitan Opera season for the first time since 1934. In addition the Company dropped two planned new productions, among many other measures aimed at assuring at least a short term survival for the Company as we seek fresh solutions to the income problem.

Over the years many have asked why the Metropolitan Opera did not defray some of its costs by licensing telecasts of opera performances to one of the commercial networks. There was a brief honeymoon with the networks in the early 1950's, and even one closed circuit theatrical test. Since then it has been clear that our broadcast and financial future did not lie in this direction. Later there was talk of public television, but economic strictures in that field do not at present permit this to offer an alternative. Finally it is being suggested to us by some now that pay cable TV is the new technology that can break the impasse. The problem is that pay cable TV is still an infant industry, hardware-oriented and capital intensive. Neither we here at the Metropolitan Opera, nor any of our sister cultural institutions, theaters and museums, can ever hope to find part of our own long-term fiscal answer there unless the infant is encouraged to grow, as reasonably quickly, freely and unencumbered by excessive restrictions as possible.

In order to grow, pay cable TV must attract subscribers. To do this, it seeks to enter the general broadcast marketplace and compete for the right to control some part of the mass entertainment spectrum, most notably feature films and sports. The commercial networks object. Yet it is clear that without an increased pay cable TV audience base, which such popular programs would undoubtedly attract, institutions like ours will have to wait a long time before pay cable TV systems can generate sufficient revenues to license any cultural-events programs of consequence, even for a nominal fee.

Were pay cable TV to concentrate solely on movies and sports, both already supplied "free" by network TV (with commercials, whose cost and network time is built into the product price paid by the consumer), the anguish for the network stockholder would be understandable. But pay cable TV does have the opportunity to provide more diversity, and knows it must do so if it expects to be given the right to compete with network TV on any part of its own "traditional" home ground. The FCC has recognized this in previous rule making, such as the 90-10% rule, but those rules have tended to be restrictive rather than offering incentive for a job well done.

How can cable TV ever hope to do this "better job" of programming and make it adequately rewarding for all parties unless it is encouraged to do so at this critical point? Excessive restriction on competition can only hold it back. Now, some would have pay cable TV banished to doing only those jobs that don't pay or build mass audiences. A widely distributed network brochure recently stated:

> "There are only so many channels on the broadcast television dial. Broadcasters are charged with serving mass audiences; there is simply not enough time in the day to offer all the programs for which small, specialized audiences exist. Cable television offers an abundance of channels--24 or 40 in many places, with reports that the number may someday rise to 100. Thus, cable television can bring to the public a wide variety of services that broadcast television does not offer at this time, ranging from presently untelevised cultural events to new services like shopping by television."

The example set by the program schedules of other major broadcast nations, (where free enterprise does not define the marketplace for program decision-making) gives the lie to this argument, which amounts to a plea that "we haven't been able to figure out how to make a profit out of programs except those that appeal to the largest public. So since we've thrown in the towel, why not give cable-TV a chance. Maybe they'll come up with a fresh answer." Another version of this argument is the time-worn American game of "Let's you and him fight."

Well, surprisingly enough, pay cable TV seems willing to give it a try. But pay cable TV today does not have an audience base capable of generating the thousands of dollars involved in mounting opera and other major cultural-event programming, not to mention countless other program types appealing to minority interests. We at the Metropolitan Opera have a vested interest in making certain that those 24-40-100 channels do ultimately offer the program diversity to which the American public is entitled. We would be less than candid if we did not acknowledge that eventual income from pay-TV sources is part of our active current planning. As we have said, the old sources of private finance are no longer sufficient to handle the Metropolitan Opera's deficit. We regard it as a major priority to find and develop new sources of income to meet our present and future needs. Pay cable TV is at the heart of our planning.

The Metropolitan Opera urges the FCC to keep the debate on rule making in pay cable TV open to the consideration of the consequences of present or future rules to the ability and encouragement of the pay cable TV industry to undertake cultural and minority programming. In particular we would be pleased to address ourselves to the 90-10% rule on program content (the 90% being the maximum allowed for movies and sports). We are prepared to be present at your October oral hearings, if you choose to invite us, and will offer such further suggestions then, or at another time or in writing if you prefer, as we hope may be helpful to the debate.

The rules you adopt for pay cable TV now will set precedents and dominate the future of this industry for the next decade or two. The test for all of us is to determine whether private enterprise can at last provide a broadcast spectrum whose quality in diversity can become the equal of those elsewhere, while offering the consumer a pay-choice previously closed to him, because it had been decided for him by broadcasters' rules of "good business." We believe that TV customers who wish to satisfy a taste for opera, or any other minority program interest, will in most cases consider paying for the privilege. The Metropolitan Opera cannot reach those customers without the swift, healthy growth of the pay cable TV industry. That growth will be most encouraged by the least restriction combined with incentives. We believe pay cable TV is willing to shoulder its share of this opportunity, and can, if allowed, offer a service which perhaps only pay cable TV has any remaining hope of providing to a long-deprived American public. And in allowing this to happen, you will also provide an essential life-line to the cultural well-being of the nation for the remainder of the century and beyond.

Sincerely,

SGC

Nicholas Johnson

22 February 1977

Bernard M. Hollander, Chief
Judgements and Judgement Enforcement
Section
Anti-Trust Division
Department of Justice
Washington, D. C. 20530

Dear Mr. Hollander:

I am writing to you to voice my reservations over the provisions of the NBC/Department of Justice consent decree which concern pay cable television. My concern focuses on section VI (E) (iii) of the proposed final judgement. This section would allow NBC to obtain exclusivity against pay cable and subscription television for a period beginning 30 days before the availability date for the feature film, and running up to 24 months after two runs of the movie, plus 12 months for every subsequent run.

While a member of the Federal Communications Commission (1966-1973), and since then as Chairperson of the National Citizens Committee for Broadcasting, my paramount concern has been the protection of the public's right to diversity, access, and information from its communications network The public has a right to benefit from new technologies, and from, whenever possible, the benefits of free competition

Pay cable offers the potential for a whole new era in home entertainment The economic structures of such a system offers hope for greater availability of minority and special interest programming. Whole new areas of culture, entertainment, information, art, children's programming, theatre, and history could bloom under a system of pay-per-program television, I am not starry-eyed about the prospects; it will probably take a great deal of vigilance and attention from the public to guarantee that such services are provided But there can be no opportunity for such development if the pay cable industry is not allowed to grow out of its infancy.

The commercial, over-the-air broadcasters have been doing their darndest to prevent the fulfillment of this potential. While paying lipservice to the concept of free competition, and complaining about government regulation as attempts to interfere with their "freedom of speech," the broadcasting industry

DEPARTMENT OF JUSTICE
FEB 25 1 17
RAO

P.O.Box 19101 Washington, D.C. 20036 202-466-8290

Bernard M. Hollander 22 February 1977
Page 2

has used every device within reach to limit competition, and to stifle new communications services that it sees as threatening

This is true of the practice of insisting on long exclusivity agreements on feature films, for which NBC is now trying to gain government sanction Such agreements could smother pay cable before it gets off the ground, thereby denying the choice it offers to the public These agreements immediately deny the public the freedom to choose the time, manner, and form in which they wish to view films-- and for no good reason The networks are simply using their immense economic muscle unreasonably to block pay cable competition.

It is ironic that what began as an anti-trust action could end in government sanction of this anti-competitive practice

NBC's intention is clear-- the crippling of the pay cable industry Of all the other forums in which movies are shown-- at home, in theatres, hotels, and airplanes, or through distribution of video discs and cassettes-- only pay cable has been singled out for exclusionary treatment. Isn't that odd? Why do you suppose that is?

I suggest it is because NBC realizes the vast potential of this fledling industry, and knows of its dependance upon the first-run features for its substanance and growth in its present infant stage

Even the Justice Department initially recognized the anti-competitive nature of these exclusivity agreements DOJ attornies originally argued that a 90-day exclusivity period (45 days prior to and after the actual air date) was sufficient protection for the network. This position was apparently abandoned out of a desire to reach an overall settlement. That, however, does not change the important public interest and anti-trust considerations that led Justice to its original stand

Let me hasten to add-- lest there be any suspicion that I have naively been won over by the equally rapacious pay cable entrepeneurs-- that I would and do oppose with equal force your giving them any anti-competitive exclusivity protection

The underlying purpose of the anti-trust laws is to prevent monopolistic practices that deny consumers freedom of choice and restrict the growth of of competing industries. It is particularly important in the communications industry that we make available to the public as many different sources of

information and entertainment as is possible without creating technological or economic chaos. This provision of the consent agreement flies in the face of these principles.

I hope you will seriously consider this question of the public's rights to as much diversity and competition as possible. I think the evidence shows that, considered solely on its own merits, this provision of the consent agreement is anti-competitive, anti-consumer, and an unnecessary boon to an already powerful corporation.

Sincerely,

Nicholas Johnson

3706 Mrs. Hollander
Kaplan 3214
Film

AMERICAN TELEVISION & COMMUNICATIONS CORPORATION
360 SOUTH MONROE STREET • DENVER, COLORADO 80209 • PHONE (303) 321-2224

MONROE M. RIFKIN
President

January 14, 1977

Mr. Bernard M. Hollander
Chief, Judgments and Judgment
Enforcement Section
Anti-Trust Division
U. S. Department of Justice
Washington, D. C. 20530

Re: United States of America v. National Broadcasting Company, Inc. (Central District of California - Civil No. 74-3601-RJK)

Dear Mr. Hollander:

The proposed Final Judgment in the case of the United States of America v. National Broadcasting Company, Inc. would have a serious anti-competitive impact on the developing pay cable television and subscription television industry and would severely limit the public's opportunity to view commercial-free feature films in their own homes. Section VI(E)(iii)(e) of the proposed Final Judgment would allow NBC (and, by implication, ABC and CBS) to exercise their vastly superior economic bargaining position to require producers of movies to grant the networks, exclusive exhibition rights, against pay television, commencing 30 days prior to the date of availability for exhibition and ending on the last date of availability, so long as the period of availability does not exceed two years, plus one additional year for each exhibition in excess of two exhibitions for which a network acquires rights. The FCC rules confer territorial broadcast monopoly on the networks, so why should the Justice Department sanction their attempts to secure film exhibition exclusivity? The networks, by exercising their dominance and control over access to their broadcast time to force independent program suppliers to grant exclusive movie rights to the networks, would severely restrict the ability

of the pay television industry to obtain movies and thereby place the pay television industry at a severe competitive disadvantage.

The pay television industry is an infant industry which relies on movies as a critical source of programming. The industry cannot compete with the networks if it is denied the right to exhibit major, first-run movies shortly after the movies have completed their theatrical exhibition period, and it cannot spend the enormous amounts available to the networks to purchase films.

The proposed Final Judgment, in conjunction with the FCC pay television rules, would allow the networks to unreasonably exercise their extensive economic and other power to acquire exclusive rights to a film as soon as it clears the theatres, to hold the exhibition rights without exhibiting the film (i.e. "warehouse" the film) for a two-year and one-month period, exhibit the film on the last day of the warehousing period, and thereby prevent the exhibition of the film on pay television during the initial time that the FCC rules permit pay television exhibition -- the most competitively critical time. Then, for an ensuing seven-year period, the networks could prevent the exhibition of the film by simply declining to seek exhibition rights. At the expiration of the seven-year period, the networks could continue to prevent pay television exhibition by warehousing the film for additional periods as authorized by the proposed Final Judgment.

If the networks are allowed to deny movie exhibition rights to pay television, they will deprive hundreds of thousands of existing pay television subscribers, and a far greater number of potential pay television subscribers, of their right to watch quality motion pictures in their homes without constant commercial interruptions and at times convenient to them. The proposed Final Judgment would be an invaluable and invidious tool in the hands of networks to be used to drive commercial-free television from the marketplace and to force television viewers to watch commercial-laden movies which increase network profits in proportion to

the number and length of commercials which suit the pleasure of the networks.

I urge, therefore, that the Department of Justice delete the anti-competitive, anti-pay television provision from the proposed Final Judgment so that the infant pay television industry may have an opportunity to develop, free from artificial restraints of trade, to enable it to serve the television-viewing public in a manner that affords that public, basic freedom of choice in home entertainment.

Very truly yours,

Monroe M. Rifkin
President

MMR/vl

THURMAN ARNOLD (1891-1969)
PAUL A. PORTER (1924-1974)
MILTON V. FREEMAN
NORMAN DIAMOND
WILLIAM L. MCGOVERN
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ARNOLD & PORTER
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WASHINGTON, D.C. 20036

TELEPHONE (202) 872-6700
CABLE "ARFORP"
TELEX 89-2733

February 25, 1977

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KENNETH A. LITTLER
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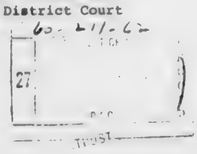
MARTIN RIGER
ROBERT PITOFSKY
OF COUNSEL

Bernard M. Hollander, Esquire
Chief, Judgments and Judgment
Enforcement Section
Antitrust Division
United States Department of Justice
Room 3706
Washington, D.C. 20530

Re: Comments of Twenty-Four Companies in the Pay Cable Industry on the Proposed Consent Judgment in United States v. National Broadcasting Company, Inc., Civil Action No. 74-3601-RJK, U.S.D.C., C.D. Cal.

Dear Mr. Hollander:

We represent twenty-four companies in the pay cable industry (identified in Attachment A to our accompanying comments) in connection with proceedings concerning the proposed consent decree filed in United States v. National Broadcasting Company, Inc., Civil Action No. 74-3601-RJK, on November 17, 1976, in the United States District Court



for the Central District of California. We submit the accompanying comments on behalf of our clients pursuant to Section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d).

We urge the Department of Justice to withdraw its consent to the proposed decree.

This case marks a sharp departure from the Department's usual practice of pursuing effective antitrust relief and ending predatory practices and barriers to entry created by oligopolistic firms like the defendant networks. We object to the decree because it not only would not halt, but would explicitly approve, the continuation of anticompetitive network practices which are calculated to stifle the pay cable industry in its infancy. In particular, the decree would specifically authorize NBC to obtain exclusivity against pay cable exhibition on feature films during the entire period films are available under contract for network exhibition. Further, in combination with the restrictive rules promulgated by the Federal Communications Commission, the decree would have the practical effects (i) of limiting pay cable, in the case of films released in theatres during the preceding three years to those cases where the films are no longer running in theatres and the networks have not contracted for them, and (ii) of denying pay cable any real opportunity to exhibit films of a greater age.

For reasons presented in our comments, the exclusivity approved by the proposed decree is unreasonable -- as indeed would be any exclusivity against pay cable. We, therefore, urge the Department to withdraw its consent and to negotiate adequate relief with NBC. Should a proposal be made to limit exclusivity to a period not in excess of 15 days prior to each network exhibition of a feature film (and not at all thereafter) as a compromise, our clients would not further object. If such relief is not obtained

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Bernard M. Hollander, Esquire
February 25, 1977
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through consent in the instant litigation, we urge the Department to continue litigation against the networks in order to end the networks' use of exclusivity as a means of throttling pay cable.

After you and your staff have had an opportunity to review our comments, we request the opportunity to confer with you concerning this matter. In addition, we would request the opportunity to meet with the Assistant Attorney General in charge of the Antitrust Division at any appropriate time before the Department reaches a final decision as to whether it will withdraw its consent to the proposed decree.

We look forward to further consultation with you.

Sincerely,

ARNOLD & PORTER

By Dennis G. Lyons

COMMENTS OF

AMERICAN TELEVISION & COMMUNICATIONS CORP.; CABLECOM-GENERAL, INC.; CABLE INFORMATION SYSTEMS, INC.; CENTRAL CALIFORNIA COMMUNICATIONS; COMMUNICATIONS PROPERTIES, INC.; CONTINENTAL CABLEVISION, INC.; COX CABLE COMMUNICATIONS; DANIELS PROPERTIES, INC.; GOOD-VUE CATV, INC.; HARRIS CABLE CORPORATION; HERITAGE COMMUNICATIONS, INC.; HOME BOX OFFICE, INC.; INERTIA, INC.; LIBERTY COMMUNICATIONS; MANHATTAN CABLE TELEVISION; MIDWEST VIDEO; SAMMONS COMMUNICATIONS, INC.; TELE-COMMUNICATIONS, INC.; TELESIS CORPORATION; TELEPROMPTER CORPORATION; THE TM COMMUNICATIONS COMPANY; UA COLUMBIA CABLEVISION, INC.; UNITED CABLE TELEVISION CORPORATION; VISION CABLE COMMUNICATIONS, INC.

IN OPPOSITION

TO THE

PROPOSED CONSENT JUDGMENT

FILED IN

UNITED STATES OF AMERICA v. NATIONAL BROADCASTING COMPANY, INC.

UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
CIVIL ACTION NO. 74-3601-RJK

Dennis G. Lyons
Leonard H. Becker
Steven P. Lockman
Albert H. Kramer

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1229 Nineteenth Street, N.W.
Washington, D.C. 20036

Dated: February 25, 1977

COMMENTS OF TWENTY-FOUR COMPANIES IN THE PAY CABLE INDUSTRY IN OPPOSITION TO THE PROPOSED CONSENT JUDGMENT IN UNITED STATES V. NATIONAL BROADCASTING COMPANY, INC.

I. PRELIMINARY STATEMENT

The proposed consent decree in this case is an extraordinary document. The Department of Justice ("Department") filed this action and the companion suits to end the networks' repeated abuses of their dominant power as purchasers of television programs. The Complaint sought broad and effective relief. Yet, the Department has now agreed to a proposed decree which not only would not halt such abuses but would explicitly permit the continuation of the networks' current practices of obtaining unreasonable exclusivity to deny the pay cable industry access to feature films. The conduct approved, which is calculated to destroy the pay cable industry in its emergent stage, is in clear violation of the antitrust laws.

The Department is the last party we would expect to support the oligopolistic networks in their efforts to suppress potential competition. In putting its imprimatur upon the networks' improper activities, the Department not only abandons its commitment to obtain effective relief against the networks but neglects its task of promoting healthy competition and assuring that new entrants are not denied a fair opportunity to compete.

We urge the Department to reconsider its action, to withdraw its consent to the proposed decree, and

to pursue meaningful relief against the networks.

II. BACKGROUND

Pay Cable is One of the Few Hopes of Breaking the Networks' Stranglehold on Television Viewing -- and It is For This Reason That The Networks Have Consistently Sought to Destroy This Emerging Industry.

The Department is familiar by reason of its participation in various FCC and court proceedings with the emerging pay cable industry and with the networks' efforts to thwart its development. We will, therefore, confine our description of the pay cable industry and its relationship to the networks to the most essential elements.

The Department is also familiar with the oligopolistic position of the three television networks -- defendants in this case and its companion cases. The networks currently have a "stranglehold"[1] on the selection of the program material that will be shown on home television. The pay cable industry is one of the few hopes for at least some relaxation of that stranglehold.

1/ National Association of Independent Television Producers and Distributors v. FCC, 502 F.2d 249, 251 (2d Cir. 1974).

Our clients are twenty-four of the leading companies in the industry. (For identification, see Attachment A.) They include both owners of cable systems and suppliers of pay cable programming. Our cable operator clients provide service to the substantial majority of the approximately 1,000,000 pay cable subscribers in the nation. The basic cable service consists primarily of transmitting over-the-air broadcast signals to the viewer. Pay cable provides additional nonbroadcast programs to subscribers for a monthly fee in addition to the basic cable charge.

Pay cable provides its subscribers the opportunity to view motion pictures, sporting events, and special-interest programs unedited and without commercial interruption. Motion pictures currently are the principal program attraction and comprise a substantial majority of the hours of programming shown on most pay cable systems. Films are presented on pay cable channels in original, unedited form, and uninterrupted by commercials. Ordinarily, a pay cable system exhibits a film repeatedly over a few months to afford its subscribers the opportunity to view the film at their convenience. Pay cable subscription charges generally range from $7 to $10 per month, and subscribing families, therefore, may view motion pictures, sports events, special attractions

and other events for only a fraction of the price of box office admission.

Pay cable's significant reliance on motion pictures makes the industry highly dependent on its ability to obtain access to quality feature films. The supply of such films, however, is quite limited because there has been a sharp decrease in the number of feature films produced. While at one time more than 400 new playable feature films were released annually by Hollywood, slightly over 100 are released currently each year.

Pay cable's difficulties in obtaining films are heightened by the restrictive rules issued by the Federal Communications Commission which the Department, like the pay cable industry and many public interest groups, has opposed as adverse to the public interest. These rules are discussed in further detail below. Their practical effect, however, in light of the networks' practices of obtaining exclusivity against pay cable, is to limit pay cable, in the case of films released in theatres during the preceding three years to those cases where the films are no longer running in theatres and the networks have not contracted for them, and to deny pay cable any real opportunity to exhibit films of a greater age.

Pay cable is vital to the development of the cable industry. Pay cable not only can provide needed revenues for the capital intensive cable industry but also can attract new subscribers for the basic cable service. Pay cable also has the potential to offer diverse types of programming which appeal to more specialized tastes. It bears emphasis here, however, that in order to achieve its potential, pay cable must depend on a base of programs of broad appeal such as motion pictures to provide it with a stable economic base and solid foundation for growth and development.[2]

Dwarfing the pay cable industry, the three television networks reach nearly 80,000,000 homes. Studies have shown that each television home views network and other broadcast programming on the average of 46 hours per week. Pay cable subscribers, on the other hand, view 3-4 hours of pay cable programming weekly. Pay cable program hours, therefore, represent only about one-tenth of one percent of conventional television hours watched. Network net income in 1976 were an all-time record.

2/ As Henry Geller, former General Counsel of the Federal Communications Commission, testified during the Commission proceedings:

> "Third, and this is very important . . . the studies all show that the only way you are going to get in minority taste programs is on a successful pay TV system, and that means using sports and movies." FCC Docket No. 19554, Hearings, Tr. 127.

Network programming has been marked by its lack of diversity. Because broadcast television has a scarcity of spectrum space and must depend on advertisers for revenues, air time has been used for programs of mass appeal in order to attract the largest possible audiences. "Unlike other media, television presently provides relatively uniform programs from a limited number of sources."[3/]

The networks -- the grantees of government-granted licenses and chain affiliations with other licensees -- have sought to preserve their dominant and "stranglehold" positions by stifling the pay cable industry. They have attempted to thwart pay cable's development in every conceivable forum. They have successfully argued for restrictive FCC rules limiting pay cable's access to feature films and sporting events and have lobbied against pay cable in Congress and before state agencies. The networks' campaign continues, and the Department's proposed action here -- approving the networks' aggressive use of exclusivity to deprive pay cable of feature films -- can only give aid and comfort to the networks in their attempt to destroy the pay cable industry in its infancy. The networks' activities violate fundamental antitrust principles and threaten to deprive the public of the benefits of more diversified programming.

3/ Final Report of the President's Task Force on Communication Policy, Ch. VII, at 4 (1968).

III. EFFECT OF THE PROPOSED DECREE

Abandoning the Stated Purposes of the Complaint, the Proposed Decree Expressly Approves Exclusivity Against Pay Cable on Feature Films During the Entire Period of Availability to the Network.

The government instituted these actions against the networks to curtail abuses of the networks' dominant power as purchasers of television programs. The complaints alleged that each network had "used its control over access to . . . [network] broadcasting time . . . during prime evening hours" to deny program suppliers an opportunity to market programs on a competitive basis. Complaint, ¶ 17. Thus, the complaints alleged that the networks had compelled program suppliers to grant the networks financial interests in their programs and had excluded programs in which the networks were granted no ownership interest. Complaint, ¶ 17(a), (b).

In addition, the complaints charged that each network had used its dominant position as a purchaser of television programs

> "[t]o obtain a competitive advantage over other producers and distributors of television entertainment programs and of motion picture feature films." Complaint, ¶ 17(e).

In connection with the latter allegation, one of the specific prayers for relief against each network was

that it be prohibited from using its position as a dominant purchaser "to foreclose competition or obtain an unfair competitive advantage in any other field." Prayer, ¶ 6.

The Department claims that "[t]he proposed judgment provides relief similar and substantially equivalent to that requested in the complaint." Competitive Impact Statement, at 2-3. This assertion is inaccurate. The proposed decree not only fails to prohibit NBC's abuse of purchasing power "to foreclose competition," but indeed expressly approves NBC's practice of demanding unreasonable exclusivity against pay cable. Such exclusivity serves no purpose other than to cement the networks' entrenched position by depriving the pay cable industry of its most important product and impairing its ability to compete. The proposed decree, therefore, would put the Department's imprimatur on precisely the type of network abuse that this suit was intended to prevent. Thus, the position of the pay cable industry is worse if the consent decree is entered with the provisions in question in it than if the Department had never even filed the complaints in these cases. In addition, as described in Section IV C below, the decree would permit the very kind of restriction against pay cable that the Department has consistently opposed in the past as adverse to the public interest.

The approving impact of the proposed decree is clear. Section VI(E)(iii) contains five subsections with respect to network exclusivity on feature films. The first four subsections are flat prohibitions and would bar NBC from obtaining any exclusivity against

(a) theatrical and nontheatrical projection;

(b) closed circuit TV in nonresidential hotels, motels, bars, restaurants, hospitals, and similar nonresidential institutions;

(c) passenger-carrying vehicles;

(d) video discs, cartridges or cassettes or other such equipment.

Subsection (e), which deals with network exclusivity against pay cable, contains no such prohibition. Rather, the subsection expressly provides as against pay cable

> "that NBC may acquire exclusive rights to any such feature film commencing thirty (30) days prior to the first date and extending until the last date on which NBC may broadcast such feature film under the contract between NBC and such supplier, so long as this period of exclusivity between the first and last dates on which NBC may broadcast such feature film under such contract does not exceed twenty-four (24) months, and does not exceed twelve (12) additional months for each exhibition greater than two (2) to which NBC acquires the exhibition rights."

Section IV(A) of the proposed decree is also directly relevant. This provision limits the interests which NBC may obtain in television programs, but then presents a lengthy list (32 in number) of "examples" of "subject matters" which may properly be included

in any "agreement granting NBC the right to Network Exhibition." Among the explicitly authorized "examples" are "exclusive exhibition rights (except as limited by Sections VI(E)(ii)-(iii))." Clearly, the effect of this language is affirmatively to approve, as permissible in every network license of a feature film, the broad exclusivity against pay cable authorized by Section VI(E)(iii)(e).[4/]

NBC has previously advised both the Federal Communications Commission and the Congress that its current practice is to obtain exclusivity against pay cable commencing 60 days before availability and continuing throughout the availability period.[5/]

Thus, the only change under the proposed decree would be that exclusivity prior to the availability period would be reduced from 60 days to 30. Added to a 24-month availability period, this means that 1/26th of the period of exclusivity (and even less on longer contracts) is removed!

In addition to approving explicitly NBC's current practices, the proposed decree permits NBC to obtain exclusivity on every film which it licenses and places no limitation on the length of the network's availability period. The only prerequisite to obtaining exclusivity throughout an availability period longer than 24 months is that NBC acquire the right to exhibit the film twice during the initial 24-month period and once every 12 months thereafter.

The broad exclusivity approved by the proposed decree may be illustrated by the following example: If a film license providing exclusivity against pay cable granted NBC the right to telecast a film three times between January 1, 1977 and January 1, 1980, the entire pay cable industry would be barred from exhibiting the film at any time during the 37-month period commencing December 1, 1976 (thirty days before the network's availability date) and ending on January 1, 1980 (assuming NBC telecast the film for the third time

4/ We recognize that following the list of authorized "examples" Section IV(A) contains the concluding proviso, "so long as any such provision does not violate the antitrust laws." But the import of this proviso is unclear, and the Competitive Impact Statement nowhere explains its meaning. A court in a subsequent private antitrust action might adopt the view that the proviso applied only to those "examples" of contractual provisions which are not the subject of detailed regulation in other sections of the decree. Thus, as to subjects -- like exclusivity against pay cable -- which are addressed in detail in other sections, the court could reason that the Department had fully examined the particular subject and made a determination as to the relief appropriate in accord with the Department's view of the requirements of the antitrust laws.

5/ See FCC Docket No. 20402, Comments of National Broadcasting Company, Inc., at 2 (December, 1975); Testimony of Robert T. Howard, President, NBC Television Network. Hearings on the Pay Cable Television Industry Before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary. 94th Cong., 1st Sess., at 222 (July 8, 1975).

on that date).[6/]

In the example given, the prohibition on pay cable exhibition would become effective on December 1, 1976, even if NBC elected not to telecast the film for many months and did not telecast it for the first time until 1978.

Or, to take another example, exclusivity would bar pay cable exhibition at any time between network telecasts regardless of the number of months intervening between network showings. Thus, even if NBC held the film for 23 months between the first and second showings, pay cable exhibition would be barred during the entire lengthy period before the second showing.

The use of the artificial "availability" period -- which is based on tax, accounting and other considerations -- as the measure of exclusivity presents these irrational consequences because it is an irrational measure of exclusivity. This long and continuous blackout of pay cable throughout the network's availability period stands in marked contrast to the limited exclusivity based on exhibition dates originally proposed by the Department of Justice in its negotiations with NBC. To take the foregoing example, the provisions of the decree permit more than 1,100 days of continuing exclusivity during which pay cable would be denied access to films licensed by NBC. Under an "exhibition date" approach, on the other hand, pay cable would be prevented from exhibiting films only during brief periods immediately proximate to network telecasts. As discussed below, limited 15-day exclusivity prior to network exhibition dates would not be opposed by our clients because the networks would then no longer be in a position to deny pay cable access to feature films for years at a time.

The restraint permitted by the decree cannot be justified. Such unduly long exclusivity is unsupported by any legitimate business need of the network and has been employed to deny pay cable access to feature films and thereby directly to obstruct pay cable's entry into competition. As demonstrated below, the exclusivity sanctioned by the proposed decree is an unreasonable restraint of trade violative of the antitrust laws.

6/ This is so whether or not the networks actually show the film at all. The language in Section VI(E)(iii)(e) does not require that NBC telecast films the specified number of times, but only that it acquire the right to do so. Thus, NBC will remain free to continue to deny pay cable access to feature films for long periods without telecasting the films. The Department's assertion to the contrary in the Competitive Impact Statement is inaccurate. (Competitive Impact Statement, at 20). Where NBC telecasts the film licensed, we understand that the proposed decree is understood, at least by the Department, as meaning that the period of exclusivity terminates at the time of the network's final exhibition of the film under the license. Thus, if the third telecast by NBC in the example cited were to occur on December 1, 1979, the period of exclusivity would be 36 months rather than 37.

IV. ARGUMENT

A. The Department of Justice Should Withdraw Its Consent Because the Exclusivity Approved by the Proposed Decree Constitutes an Unreasonable Restraint of Trade Violative of the Antitrust Laws.

1. Exclusivity stifles the pay cable industry, denies consumers programming choices, and deprives producers of access to pay cable purchasers.

The anticompetitive nature of network exclusivity requires little elaboration. By denying pay cable access to feature films, the networks maintain their dominance over home television at the expense of the pay cable industry, the public, and producers of motion pictures.

There can be no debate as to the impact of exclusivity upon the pay cable industry. The effect is clear, direct and immediate -- pay cable is denied films under network license during their entire period of availability to the network. Since the entrenched networks can outbid pay cable for the finest feature films, exclusivity relegates pay cable to a secondary position as an entertainment medium. Exclusivity, therefore, directly aids the networks in maintaining their oligopolistic hold on home television.

The burdens imposed on the pay cable industry by such restrictions are already evident. The industry has obtained only brief access to many films and no access at all to many others. The result has been to make it more difficult for pay cable to attract new subscribers and to deny the cable industry the revenues it needs to develop as a major broadband medium.

The adverse effect of exclusivity upon the public is also plain. Throughout the network's availability period, the public is totally foreclosed from exercising its choice as to when and in what form it will view feature films on home television. For those pay cable subscribers who find the network's exhibition date inconvenient or prefer to view a film in its original, unedited form and without commercial interruption, exclusivity is a complete denial of consumer choice. The public is limited to viewing the film at the time and under the conditions dictated by the networks. Thus, exclusivity binds the public to the networks and once again directly reinforces the networks' dominant position.

Exclusivity secured through abuse of network purchasing power similarly denies marketing choices to motion picture distributors. In order to license films to the networks, distributors are required to grant exclusivity and to forego the opportunity of licensing to pay cable during the period of network availability. Consequently, the policies of the antitrust laws are frustrated as distributors are forced to capitulate to the networks' unwarranted and anticompetitive demands.

2. Exclusivity is a restraint of trade, subject to the "Rule of Reason."

As the courts have long recognized, an exclusive dealing contract is a restraint of trade which is subject to the "Rule of Reason." The leading case is United States v. Paramount Pictures, Inc., 334 U.S. 131, 144-48 (1948).

The Paramount case involved, among other things, "clearances" granted to first-run theatres which provided that the licensor would not license films to second-run, lower-priced theatres within a given area for a period of weeks after the first-run exhibition had concluded. The District Court recognized that such provisions restrained trade, but refused to condemn all such clearances as per se violations of the antitrust laws. 66 F. Supp. 323, 341 (S.D.N.Y. 1946). Rather, the court held that the proper inquiry was whether under all the attendant circumstances the particular clearance was reasonable. Id. at 343. Applying this test, the court found many of the clearances granted could not be justified. 1/

The Supreme Court approved the District Court's analysis. 334 U.S. at 144-48. The Court emphasized that "many clearances had no relation to the competitive factors which alone could justify them" and "had, indeed, acquired a fixed and uniform character and were made applicable to situations without regard to the special circumstances which are necessary to sustain them as reasonable restraints of trade." 334 U.S. at 146. Moreover the Court imposed the burden of justifying future clearances on the producers -- the parties "in the best position to evaluate their competitive effects." 334 U.S. at 148.

Under the "Rule of Reason," it is well-established that there must be a detailed analysis of the challenged restraint in light of all pertinent industry conditions. The classic statement of the many factors to be considered is that of Justice Brandeis in Chicago Board of Trade v. United States, 246 U.S. 231, 238 (1918):

> "The true test of legality is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition. To determine that question the court must ordinarily consider the facts peculiar to the business to which the restraint is applied; its condition before and after the restraint was imposed; the nature of the restraint and its effect, actual or probable. The history of the restraint, the evil believed to exist, the reason for adopting the particular remedy, the purpose or end sought to be attained, are all relevant facts."

As demonstrated below, the broad exclusivity against pay cable approved by the proposed decree

1/ The court also found a conspiracy among the producers to grant unreasonable clearances. 66 F. Supp. at 343-46.

IV. ARGUMENT

B. The Department of Justice Should Withdraw Its Consent Because the Exclusivity Approved by the Proposed Decree Constitutes an Unreasonable Restraint of Trade Violative of the Antitrust Laws.

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> "The true test of legality is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition. To determine that question the court must ordinarily consider the facts peculiar to the business to which the restraint is applied; its condition before and after the restraint was imposed; the nature of the restraint and its effect, actual or probable. The history of the restraint, the evil believed to exist, the reason for adopting the particular remedy, the purpose or end sought to be attained, are all relevant facts."

As demonstrated below, the broad exclusivity against pay cable approved by the proposed decree

1/ The court also found a conspiracy among the producers to grant unreasonable clearances. 66 F. Supp. at 343-46.

learn each of the indicia which have led courts to declare "exclusives" unreasonable. Accordingly, the Department should withdraw its comment to the proposed decree.

3. Neither the Department nor NBC has provided evidence supporting the reasonableness of the exclusivity approved by the decree.

Tellingly, neither the Department nor NBC refers to any evidence which would support the reasonableness of the exclusivity approved by the proposed decree. To the contrary, according to the Competitive Impact Statement, the Department determined during pretrial discovery that network exclusivity against pay cable "should be curtailed" and initially proposed that "NBC be permitted such exclusivity for only 45 days before and after each network exhibition date of a feature film, . . ." (Competitive Impact Statement, at 19). Presumably, this proposal reflected the Department's view of the limits on exclusivity which would serve the public interest.

It is clear that NBC rejected this proposal and pressed the Department for approval of the network's existing practices. The proposed decree demonstrates that the Department yielded to NBC's demands.

The Department defends its concession by stating that the proposed decree merely establishes "outer limits" on exclusivity. (Competitive Impact Statement, at 20.) But the decree expressly approves exclusivity up to such "outer limits," and the Department has provided no evidence to support the reasonableness of exclusivity up to those limits. Indeed, the Department states that there were "no materials or documents which the Government considered determinative in formulating the proposed consent judgment." (Competitive Impact Statement, at 21.) It appears, therefore, that the Department merely acceded to NBC's negotiating demands in the context of a broad-ranging case and has no basis upon which to conclude that the exclusivity approved is reasonable.

The proposed decree purports to resolve an issue presented under the "Rule of Reason" in the absence of a record and indeed in the absence of any evidence indicating that the exclusivity approved is reasonable. On this ground alone, the Department should withdraw its consent to the proposed decree.

4. The exclusivity approved by the proposed decree is unreasonable on several independent grounds.

The exclusivity provided for here is unreasonable because (a) it is unnecessary to permit the networks to enjoy the rights conveyed by the license; (b) such exclusivity will become an industry-wide standard imposing a substantial barrier to entry by pay cable; (c) the networks are permitted to obtain exclusivity on every available film so as to foreclose pay cable from the market; and (d) it is prima facie unreasonable to suppose that the networks as a free medium

need exclusivity against a fee-charging medium like pay cable. We emphasize that exclusivity bearing any one of these characteristics would be subject to condemnation as unreasonable. In this case, all of these objectionable features are present, and the conclusion is inescapable that the exclusivity approved by the decree is itself a violation of the antitrust laws.

(a) The exclusivity approved is unnecessary to permit the networks to enjoy the rights conveyed by the license.

In Paramount, supra, the Court indicated that one of the factors bearing on the reasonableness of exclusivity is whether the clearance is "reasonably necessary to protect the licensee in the run granted." 334 U.S. at 147. If such protection is unnecessary, the restraint of trade is unreasonable and in violation of the antitrust laws.

The networks have attempted to defend exclusivity against pay cable as necessary to protect network telecasts. They assert that pay cable exhibition must be prevented during the entire period of network availability to assure that network telecasts are not impaired by pay cable exhibitions.

The contention ignores reality. Pay cable subscribers number little more than 1% of the homes served by the networks. Plainly, the more than 75,000,000 homes without pay cable cannot be diverted to pay cable. Moreover, the networks have provided no evidence (and we know of none) to suggest that pay cable subscribers who have seen a popular film months previously will not enjoy the film again when it is shown on network television or will not encourage their relatives, friends, and associates to view the network showing. Significantly, the networks have not been reluctant to obtain licenses on films previously shown on pay cable. Indeed, in many instances, the network has telecast such films only a few months after the pay cable exhibition. There is no evidence that any of these telecasts was adversely affected by the prior pay cable showing.

Indeed, the available evidence is to the contrary. In June 1976, "Gone With The Wind" was shown on pay cable TV. Nearly eighty percent of all pay cable subscribers viewed the film. In November 1976, the film appeared on network television and obtained the highest Nielsen rating then ever recorded. While "Gone With The Wind" is a unique film, this is not an isolated example. In each of the instances shown in Attachment B covering a recent two-month period, pay cable exhibition had preceded the network telecast. Yet, the networks included these films in their programming, and there is no evidence that the network telecast was adversely affected by the prior pay cable showing.

The fact is that the networks seek to license films which have been most widely seen during their theatrical showings. Experience has shown that films viewed by the greatest number of persons in theatres typically in turn attract the largest television audiences. Similarly, prior pay cable exhibition promises

to increase network audiences by giving films additional exposure prior to network showing. As noted, the networks have adduced no evidence whatsoever that prior pay cable exhibitions adversely affect network telecasts.[8] One could construct a more convincing argument to the exact contrary.

Exclusivity against pay cable serves no legitimate network purpose. The networks do not require exclusivity against pay cable to protect their interests in films licensed. Accordingly, without regard to the additional indicia of unreasonableness present here, the exclusivity approved by the decree is unreasonable and itself a violation of the Sherman Act.

(b) The proposed decree unreasonably approves an industry-wide practice of exclusives on films licensed by the networks and thereby preserves a substantial barrier to entry by pay cable

The exclusivity approved by the proposed decree is subject to further condemnation because it will become the industry-wide standard applicable to films licensed by each of the oligopolistic networks. The other networks follow parallel practices to those of NBC, and the proposal of the Department is to enter into similar decrees with the other two networks which would approve those practices. Thus, under the decree, the networks would have the Department's acquiescence for the first time in their efforts to deny pay cable access to films and to destroy the pay cable industry.[9]

The Supreme Court has recognized that exclusives are particularly suspect when they reflect a pervasive industry practice which results in erecting substantial barriers to entry by smaller firms. In Standard Oil Co. v. United States, 337 U.S. 293 (1949), defendant Standard Oil entered contracts with independent dealers

8/ In a submission to the Federal Communications Commission on the issue of exclusivity, NBC has acknowledged that it has no evidence that the networks require the protection of exclusivity against pay cable:

> "It is difficult to measure with precision what the impact on the network would be if no exclusivity were obtained against competing pay cable uses of a film during the period that it is available for network use." FCC Docket No. 20453, Comments of National Broadcasting Company, Inc., at 10 (December 1, 1975).

9/ The trade press has made an exact and realistic appreciation of what the proposed consent decree does in this respect. An article in Variety dated November 24, 1976, entitled "NBC Discovers That Justice Is Blind, Gave Uncle Sam Its 11th Toe In Decree," recognizes that:

> "[t]he provision also establishes Governmental approval of exclusivity against pay cable both in concept and time, something that feevee entrepreneurs would prefer to avoid. The terms are comfortable enough for NBC -- Justice had initially proposed that exclusivity last only 45 days before and after each network exhibition of a film -- and approval of the agreement by L.A. District Court Judge Robert Kelleher could have the practical effect of etching them in stone in D.C."

in petroleum products under which each dealer agreed to purchase all of its requirements in particular products from Standard. Similar exclusive contracts were employed on a widespread basis by competing oil companies. As a result of the contracts, new entrants were restrained in their ability to compete because there were few dealers whose needs were not satisfied by the established oil companies. In holding the exclusives violative of Section 3 of the Clayton Act, the Court emphasized the barriers to entry by additional firms. According to the Court, the exclusive contracts "prevent a late arrival from wresting away more than an insignificant portion of the market." 337 U.S. at 309.

In the instant case, the networks are employing their power as dominant purchasers to impede pay cable competition just as in Standard Oil the offending oil companies used their position as sellers of petroleum products to impose unreasonable restraints. The use of both types of economic power to erect barriers to entry, of course, is equally proscribed. Indeed, the Supreme Court has repeatedly held in cases involving the motion picture industry that the use of dominant purchasing power to exclude competition violates the Sherman Act. United States v. Griffith, 334 U.S. 100 (1948); United States v. Crescent Amusement Co., 323 U.S. 173 (1944).

Also instructive is the Supreme Court's decision in FTC v. Motion Picture Advertising Service Co., 344 U.S. 392 (1953), where four distributors of advertising films had long-term exclusive contracts with 75% of the theatres in the United States displaying such films. The Federal Trade Commission found that the exclusive contracts unreasonably restrained the ability of other film suppliers to compete. The Supreme Court agreed, holding that "a device which has wound up a market so tightly for the benefit of a few falls within the prohibitions of the Sherman Act and is therefore an 'unfair method of competition.'" 344 U.S. at 395.

By seeking to establish an industry-wide standard of exclusivity,[10] the proposed decree preserves the substantial barriers to entry imposed by the networks against pay cable. We submit that there is no justification for the Department's willingness to aid the networks' efforts to cement their cartelization.

(c) The proposed decree would unreasonably permit NBC and the other networks to obtain exclusivity on all available feature films.

In addition to the industry-wide character of the proposed decree, the exclusivity approved is unreasonable

10/ If the government does not obtain a similar provision on exclusivity in its suits against CBS and ABC, NBC is entitled to apply to the Court under Section IX for such modification as is necessary to avoid NBC being placed at a competitive disadvantage.

for yet another reason -- because pay cable could be completely foreclosed from feature films consistent with the terms of the decree. As noted previously, the decree approves NBC's obtaining exclusivity against pay cable on each and every motion picture. The other networks presumably would receive similar license. Thus, the decree would permit the networks to obtain exclusivity on all available feature films. In analogous circumstances, the use of exclusive contracts by Dominant Firms to foreclose potential competition has been condemned as unlawful. Cf. United States v. Hullman Co., 50 F. Supp. 123 (E.D. Pa. 1943), 68 F. Supp. 108 (E.D. Pa. 1946), aff'd, 335 U.S. 806 (1947).

(d) It is prima facie unreasonable to suppose that the networks as a free medium need exclusivity against pay-cable.

As noted previously, many of the "clearances" involved in Paramount were held unlawful because they were unduly broad and unnecessary to protect the first-run theatres. Reasonable, limited clearances of a few days or weeks, however, were upheld because the Court recognized that the public might refrain from patronizing the first-run theatres and await the second-run, lower-priced exhibitions.

What facet of the Paramount decision is inapplicable here. In the instant case, the positions of the parties are reversed -- the lower-priced exhibitors (the networks) seek protection not for days or weeks but for years against the higher-priced exhibitors (pay cable). The exclusivity approved by the decree, therefore, is patently unreasonable.

B. The exclusivity approved against pay cable is irrational and discriminatory when compared to the flat prohibitions in the decree on exclusivity against other forms of exhibition.

In contrast to their preoccupation with denying films to pay cable, the networks seek no exclusivity against in-flight exhibitions, hotel and other non-residential exhibition, theatrical and nontheatrical projection, and video discs, cartridges, and cassettes. The proposed decree preserves these distinctions by prohibiting any exclusivity on the latter forms of exhibition while expressly approving exclusivity against pay cable.

There is no basis other than speculation for the networks' decision to single out pay cable. To take one of the other industries, the video disc-cartridge-cassette industry is quite similar to pay cable. Each is in an early stage of development; each serves only a minute portion of the public; and each permits home viewing of feature films in unedited form and without

commercial interruption. 11/ Indeed, in contrast to pay cable exhibitions which are of short duration, video discs, cartridges, and cassettes provide the public with a continuing and permanent opportunity to view feature films shown on network television. If the networks do not require exclusivity against the emerging video disc industry, they surely have no legitimate need for exclusivity against similarly emerging pay cable.

The networks also concede that they do not require exclusivity against theatrical projection, in-flight exhibition, and hotel and other nonresidential closed-circuit television. However, if seeing a feature film on pay cable TV will destroy a consumer as a potential viewer of the film and its accompanying commercials on network TV, it is hard to grasp why seeing it in a theatre or a 747 will not.

The proposed decree would approve NBC's invidious, anticompetitive discrimination against pay cable. The distinctions drawn are completely indefensible. They are eloquent in disclosing the pay cable

11/ Of course, NBC has an additional reason not to seek exclusivity against discs or cartridges. As is well-known, its parent company has substantial economic interests in those products. We understand that CBS also has invested in those products.

TV industry as the target of NBC. Accordingly, the Department should withdraw its consent to the proposed decree.

5. Unwarranted network demands for exclusivity violate free market principles.

The networks have asserted in the past that the granting or withholding of exclusivity should remain subject to negotiation with producers. The suggestion made is that producers should retain the freedom to bargain with the networks and to sell exclusivity if they so desire in accord with their appraisal of market conditions.

This argument has validity only where the market power of buyer and seller is relatively equal. For only then can true marketplace bargaining occur. Such a market will generally be found where there are a large number of competing buyers and competing sellers. Here, however, the dominant position of the three networks is incontrovertible. Indeed, the instant government suits proceed from the premise that the networks possess dominant purchasing power to which program suppliers have been forced to submit. Thus, it is plain that the networks are in a position to demand unreasonable exclusivity against pay cable from producers of feature

films, and the evidence shows that they do so.[12/]

Moreover, the willingness of the networks to pay large sums to obtain unwarranted exclusivity against pay cable, and the complementary desire of producers to earn large license fees from the networks, does not excuse the restraint. The networks and the motion picture producers are entitled under the antitrust laws to bargain only for reasonable exclusivity. In short, the fact that the networks may make it profitable for producers to grant unreasonable exclusivity provides no defense for the networks' anticompetitive conduct. That an unreasonable restraint of trade is viewed by the parties as helping their economic interest does not excuse it. Unless the product of physical coercion, every contract is restraint of trade, reasonable or unreasonable, has a consensual basis.

B. The FCC Rules Restricting Pay Cable's Access to Feature Films and the Diminished Supply of Quality Films Aggravate the Impact of Exclusivity and Further Demonstrate the Evils of the Proposed Decree.

In the past, the networks have sought to justify exclusivity against pay cable by asserting that films other than those under network contract are available for pay cable exhibition. Even were this true, it would provide the networks no defense for their conduct. The networks are not entitled to obtain unnecessary and unreasonable exclusivity whether or not other films are available to pay cable. Neither should the pay cable TV industry be forced to glean the fields after the networks' harvest in order to find appropriate fare to present to its subscribers.

Moreover, the alleged availability of other films cannot justify the proposed decree. As noted, the proposed decree is not limited to any particular number of feature films. It expressly approves NBC's obtaining an exclusive on as many feature films as it can get. The chance that NBC (and the other networks when their turns come) may not exercise its privileges under the decree to their utmost hardly justifies the provision.

Further, the pay cable industry faces significant limitations on its access to films. As noted previously, there is a sharply diminished supply of new films. In addition, as the Department is aware, the Federal Communications Commission has imposed stringent restrictions on pay cable's access to feature films.[13/]

12/ See, e.g., Testimony of Herbert Stern, Vice President of Universal Studios-MCA, Hearings Before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 94th Cong., 1st Sess., at 97 (May 22, 1975) ("There are only three networks to sell to. If you don't sell to one of them you have no place to go.")

13/ The FCC rules are under challenge in the United States Court of Appeals for the District of Columbia

[Footnote continued on following page]

The FCC rules divide films into three categories according to the number of years following general theatrical release. Under the rules, pay cable may exhibit films during the first three years following release. 47 C.F.R. § 76.225(a)(1)(i). But many of the most popular films in this period are denied to pay cable completely or made available only for a brief period because of long theatrical runs and network exclusivity.

Theatrical runs limit the period in which pay cable may be able to obtain feature films, because film suppliers do not offer films to pay cable until theatrical exhibition is complete. For most films, theatrical exhibitions run between 12 and 18 months. In the case of more successful films, the period of theatrical showing may be 24 months. And, in some instances, the true "blockbuster" may be in theatrical showing for more than three years. Thus, the more successful a film's theatrical showing, the shorter the period of pay cable's possible access during the first three years.

Moreover, pay cable is by no means assured of access to films which have completed theatrical exhibition in less than three years. The networks are free to license such films, and they have increasingly done so.[14/] And such licenses invariably provide for exclusivity against pay cable. As a result, the period that such films have been available to pay cable has been sharply limited. Indeed, in many instances, pay cable has been denied access completely.

Attachment C lists 24 examples of films which have been denied to pay cable because of network exclusivity during the initial three-year period in which pay cable is permitted by the FCC rules to bid for feature films. As the chart reflects, most of these films were denied to pay cable more than 12 months before the end of the three-year period; others were denied to pay cable for more than six months during the three-year period.

[Footnote continued from previous page]

Circuit. They are, however, currently in effect and, for purposes of evaluating the impact of the proposed decree, it must be assumed that they will remain in effect. We, of course, believe that the rules are totally invalid for the reasons set forth in the briefs filed by the pay cable industry, the Department of Justice, the motion picture industry, and various public interest organizations in Home Box Office, Inc. v. Federal Communications Commission, No. 75-1280 et al.

14/ NBC's brief before the District of Columbia Circuit cites testimony before the FCC allegedly establishing that half of the films telecast by NBC during the 1972-73 season were under three years old. Home Box Office, Inc. v. Federal Communications Commission, No. 75-1280 et al., Brief of Petitioner National Broadcasting Company, Inc., November 3, 1975, at 25.

Network exclusivity is highly disruptive of pay cable operations as to films in the first three years after theatrical release. In many instances, pay cable companies have scheduled the exhibition of particular films only to be notified by the producer shortly before cablecast date of the license's termination. Whenever this occurs, promotional marketing must be recalled, schedules must be rearranged, and explanations must be made to unhappy subscribers.

Films suddenly withdrawn from pay cable as a result of network exclusivity will not become available to pay cable thereafter. Once the initial three-year period has expired, the films are available to pay cable under the FCC's 3-10 year rule under only one condition -- that the film be under contract and available for exhibition to a network or television station in the market. 47 C.F.R. § 76.225(a)(1)(ii). Because of exclusivity, however, this rule is meaningless and affords pay cable no access to feature films. The rule is a classic Catch-22: films which are not under contract and available to conventional television are forbidden to pay cable under the FCC rule; films which are under contract and available to conventional television are rendered unavailable to pay cable by contractual exclusivity.[15/] The proposed decree would complete the circle by sanctioning that exclusivity!

The end of the ten-year period does not do the pay cable industry much good. Exclusivity continues to bar access to the desirable films, and films not under contract to networks or their affiliates are available to pay cable only if they have not been exhibited on conventional television in the market for three consecutive years. 47 C.F.R. ¶ 76.225(a)(1)(iii). The FCC recognized in its First Report and Order that this provision would generally limit pay cable to films which are "undesirable." 52 F.C.C.2d 1, 54 (1975).

Our basic position is that network exclusivity against pay cable constitutes an unreasonable restraint of trade apart from the FCC restrictions. The situation is bad enough without the FCC restrictions, and clearly, as demonstrated in Sections IV(A)(4) and (5) above, the decree approves an unreasonable restraint of trade even if the FCC rules did not exist. But when the FCC restrictions are also considered, the destructive impact upon pay cable of the networks' practices becomes even

15/ CBS President Arthur R. Taylor acknowledged in testimony before a Congressional subcommittee that the FCC's 3-10 year period is "meaningless" because of exclusivity against pay cable. Hearings on the Pay Cable Industry before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 94th Cong., 1st Sess. at 160-61 (July 8, 1975).

more apparent. While we recognize that this is not the appropriate forum in which to complain of the FCC rules, the existence of those rules further demonstrates the need for the Department to withdraw its consent to the proposed decree.

C. The Department Has Consistently Opposed Unwarranted and Protectionist Restrictions on Pay Cable as Adverse to the Public Interest; the Proposed Decree Is an Inexplicable and Unwarranted Departure From This Position.

The proposed decree marks a sharp and inexplicable departure from the Department's past support of the pay cable industry as an emerging medium and the Department's consistent opposition to unwarranted restrictions upon pay cable programming.

Throughout the five-year long proceedings before the Federal Communications Commission leading to the foregoing rules, the Department repeatedly urged the Commission to refrain from imposing unnecessary restrictions on pay cable and to avoid policies which "cripple a new industry . . . because of speculative fears as to possible effects upon established firms."[16/] The Department counselled the Commission that it "should not defer to existing interests or impose excessive burdens on new entrants."[17/] The Department emphasized that "imaginative speculation"[18/] by broadcast interests was wholly insufficient to warrant restrictions on pay cable's access to feature films and other programs.

Notwithstanding the arguments of the Department, the pay cable industry, the motion picture industry, and numerous public interest organizations, the Commission followed a protectionist path in its April 1975 First Report and Order[19/] and sharply limited pay cable's access to feature films. The pay cable industry and various public interest groups have challenged those rules in the United States Court of Appeals for the District of Columbia Circuit. Home Box Office, Inc. v. Federal Communications Commission, No. 75-1280, et al. The case is still pending.

The Department has filed a brief in the Court of Appeals fully supporting pay cable's position and urging that all of the FCC restrictions be invalidated. The Department reasserted with vigor its earlier

16/ Comments of the Department of Justice, FCC Docket No. 19554, November 1, 1972, at 11. (Emphasis in original.)

17/ Id. at 41.

18/ Reply Comments of the United States Department of Justice, FCC Docket No. 19554, October 4, 1974, at 3.

19/ 52 F.C.C.2d 1 (1975).

arguments that the imposition of unnecessary restrictions upon pay cable is not in the public interest. The Department noted that the Commission was without authority "to favor one form of interstate communications over another"[20] and observed, in language equally pertinent here, that decisions concerning the development of new technology, like pay cable TV, "are too important to be based upon surmise, conjecture or concern for the profit margins of those that provide the existing service."[21] The Department noted that the FCC and the courts had recognized the "oligopolistic"[22] nature of the networks. The Department's view was that the networks had failed to establish any need for restrictions on pay cable programming.

The proposed consent decree cannot be squared with the Department's long-standing position.[23] The exclusivity approved by the decree, like the FCC rules, is not supported by any legitimate need of the networks or the public; rather such exclusivity rests upon the "speculative fears" of established interests and "surmise, conjecture or concern for the [networks'] profit margins." Moreover, exclusivity threatens to "cripple a new industry" by "impos[ing] excessive burdens" on pay cable entrants.

The Department should withdraw its consent to the unwarranted restrictions in the proposed decree. To stand by the present provisions would make the Department a party to precisely the kind of protectionism that it has consistently opposed in the past.

CONCLUSION

The Department Should Withdraw Its Consent to the Proposed Decree and Negotiate Adequate Relief With NBC. A Provision Limiting Exclusivity Against Pay Cable to a Period Not in Excess of 15 Days Before Network Telecasts Would Not Be Subject to Further Objection By Our Clients. If NBC is Unwilling To Consent to Such a Provision, the Department Should Continue Litigation Against NBC and the Other Networks in Order to Enjoin the Networks' Predatory Use of Exclusivity Against the Pay Cable Industry.

20/ Home Box Office, Inc. v. FCC, No. 75-1280 et al., Brief for Respondent United States of America, at 29 (February 1976).

21/ Id. at 35.

22/ Id. at 13 n. 8.

23/ The Department has not explained its dramatic change of position. Thus, the Department has failed to heed the well-established rule recognized by the courts:

> "An agency's view of what is in the public interest may change, either with or without a change in circumstances. But an agency changing its course must supply a reasoned

[Footnote continued on next page]

[Footnote continued from previous page]

> analysis indicating that prior policies and standards are being deliberately changed, not casually ignored, and if an agency glosses over or swerves from prior precedents without discussion it may cross the line from the tolerably terse to the intolerably mute." Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1970), cert. denied, 403 U.S. 923 (1971).

See also National Association of Food Chains, Inc. v. ICC, 535 F.2d 1308, 1314 (D.C. Cir. 1976).

For the reasons stated, we believe that no network exclusivity against pay cable exhibition has been or can be justified and that the exclusivity approved by the proposed decree constitutes an unreasonable restraint of trade. The Department, therefore, should withdraw its consent to the proposed decree.

We understand, however, that it may be said that there is a public interest to be served in the settlement of protracted litigation and in obtaining relief against other types of anticompetitive activity by the networks.[24] Accordingly, the Department might wish to accept a provision permitting a more limited exclusivity in the context of an overall settlement of this litigation.

If it were proposed, we would not object to inclusion in the proposed decree of a provision limiting exclusivity against pay cable to the 15-day period preceding each network exhibition of a feature film (and providing none after such exhibition). Such an approach would be vastly superior to that in the proposed decree and would afford substantial relief against the networks' present anticompetitive practices. Under an "exhibition date" approach, films would no longer be denied to pay cable for years at a time. Instead, the general rule would provide for the availability of films to pay cable. Thus, the networks would no longer be in a position to use exclusivity as a means of suppressing pay cable competition. Conversely, a 15-day provision would more than adequately protect the networks.

We believe that, short of the total prohibition of exclusivity against pay cable which we trust litigation would bring, exclusivity for a limited (i.e. 15 day) period prior to each exhibition date is the only proper basis for a negotiated settlement if the Department is unwilling to press for a total prohibition on exclusivity. The approach recommended is feasible because the networks would remain free to negotiate the availability periods they desire for planning and other purposes and could schedule telecasts of feature films 15 days in advance during such availability periods without sacrificing flexibility. While pay cable would not be treated on a par with video discs, in-flight exhibitions, hotel showings, and the other industries fully protected by the decree, the approach would promote the public interest by eliminating the most aggravated network abuses of the past. Accordingly, we believe this proposal might be a viable resolution tempering the imperative of

24/ We take no position on the adequacy of other provisions in the proposed decree.

obtaining adequate antitrust relief to some extent with the interests in effectively utilizing resources and terminating protracted litigation.

We urge, moreover, that if appropriate relief is not obtained through consent in the instant litigation, the Department should continue litigation against NBC and the other networks to enjoin their continued use of exclusivity as a means of suppressing pay cable competition. The violation of law is flagrant; the impact upon the struggling pay cable industry is clear; and the continued dedication of Antitrust Division resources in pursuit of meaningful relief is fully warranted.

As to the Division's resources, we note that neither FCC nor Congressional action with respect to exclusivity can be assured. The FCC's Notice of Inquiry into network exclusivity, FCC Docket No. 20402, has remained dormant at the Commission for nearly two years without any indication that the Commission intends to issue a Notice of Rulemaking.[25/] In addition, although hearings have been held by subcommittees in both the Senate[26/] and House of Representatives[27/] concerning network exclusivity, no proposed legislation has been introduced. Accordingly, there can be no assurance of government relief unless the Department of Justice performs its function. Moreover, if the Department adheres to the proposed decree and puts its imprimatur on the networks' practices, the likelihood of Congressional or agency action will be virtually non-existent.

The issues posed by the proposed decree are far-reaching and raise important considerations concerning the public interest. Sensitive First Amendment considerations are implicated, and the future of a new and Revelming technology with vast potential for promoting consumer choice is at stake. In addition, there is presented a classic abuse of economic power by oligopolists to suppress competition and stifle diversity. The Department must carefully weigh all of these factors in reaching its decision.

To sum up the position of our clients: We believe it is clear that no network exclusivity against pay cable or future films is warranted and that exclusivity has been employed by the networks to suppress potential competition by a new entrant and

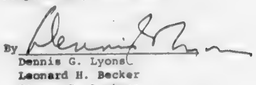
25/ In comments to the FCC, NBC has questioned the authority of the Commission to impose restrictions on network exclusivity against pay cable. FCC Docket No. 20402, Comments of National Broadcasting Company, Inc., at 6-7 (December 1, 1975).

26/ Hearings before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 94th Cong., 1st Sess., May 21, May 22, July 8, and July 15, 1975.

27/ Hearings before the Subcommittee on Communications of the Committee on Interstate and Foreign Commerce of the House of Representatives, 94th Cong., 1st Sess., July 27, 1976.

to deprive viewers of freedom of choice. The proposed decree would expressly approve the continuation of such abuses and must, therefore, be rejected as inconsistent with the public interest. We submit that as a matter of antitrust law, no exclusivity against pay cable can be justified under the rule of reason. However, as a settlement of this litigation, a limitation on exclusivity solely to a period of 15 days before each network exhibition would not be objected to by our clients. If such a limit cannot be made the basis of a stipulated judgment, the Department should continue litigation against NBC and the other networks to obtain meaningful relief against the networks' unlawful use of exclusivity to suppress pay cable competition.

Respectfully submitted,

By 

Dennis G. Lyons
Leonard H. Becker
Steven P. Lockman
Albert H. Kramer

ARNOLD & PORTER
1229 Nineteenth Street, N.W.
Washington, D.C. 20036

Dated: February 25, 1977

ATTACHMENT A

PAY CABLE COMPANIES PARTICIPATING IN
THE ACCOMPANYING JOINT COMMENTS

American Television & Communications
Corp.
360 South Monroe Street
Denver, Colorado 80209

Cablecom-General, Inc.
4705 East Kingston Street
Denver, Colorado 80239

Cable Information Systems, Inc.
230 Park Avenue
New York, New York 20017

Central California Communications
Post Office Box 1651
238 John Street
Salinas, California 93901

Communications Properties, Inc.
910 City National Bank Building
Austin, Texas 78701

Continental Cablevision, Inc.
94 Lewis Wharf
Boston, Massachusetts 02110

Cox Cable Communications
53 Perimeter Center East
Atlanta, Georgia 30346

Daniels Properties, Inc.
2930 East 3rd Avenue
Denver, Colorado 80206

Good-Vue CATV, Inc.
110 West Nyack Road
West Nyack, New York 10994

Harris Cable Corporation
10889 Wilshire Boulevard
Los Angeles, California 90024

Heritage Communications, Inc.
2205 Ingersoll Street
Des Moines, Iowa 50312

Home Box Office, Inc.
Time & Life Building
Rockefeller Center
New York, New York 10020

Imertia, Inc.
3961 MacArthur Boulevard
Newport Beach, California 92660

Liberty Communications
225 Cobarg Road
Eugene, Oregon 97401

Manhattan Cable Television
120 E. 23rd Street
New York, New York 10010

Midwest Video
1255 Tower Building
Little Rock, Arkansas 72201

Sammons Communications, Inc.
Box 5728
Dallas, Texas 75222

Tele-Communications, Inc.
54 Denver Technological Center
Denver, Colorado 80210

Telesis Corporation
2605 Yeager Road
Post Office Box 18
Lafayette, Indiana 47902

Teleprompter Corporation
50 West 44th Street
New York, New York 10036

The TM Communications Company
3303 Harbor Boulevard
Post Office Box 2320
Costa Mesa, California 92626

UA Columbia Cablevision, Inc.
49 Riverside Avenue
Westport, Connecticut 06880

United Cable Television Corporation
922 S. Boston Avenue
Post Office Box 3423
Tulsa, Oklahoma 74101

Vision Cable Communications, Inc.
501 Madison Avenue
New York, New York 10036

Attachment B

EXAMPLES OF RECENT NETWORK TELECASTS
OF FEATURE FILMS PREVIOUSLY SHOWN ON PAY CABLE

			Network Telecast Date
	Airport 1975	NBC	9/20/76
	Magnum Force	CBS	9/24/76
	Earthquake (Part 1)	NBC	9/26/76
	Paper Moon	CBS	10/1/76
	Breakout	NBC	10/2/76
	The Way We Were	ABC	10/3/76
	Never Give An Inch (Sometimes a Great Notion)	NBC	10/3/76
	Brannigan	CBS	10/8/76
	Jesus Christ Superstar	NBC	10/11/76
	The Stepford Wives	ABC	10/24/76
	Badlands	CBS	10/29/76
	McQ	NBC	10/30/76
	Live and Let Die	ABC	10/31/76
	Juggernaut	CBS	11/3/76
	Play It Again, Sam	CBS	11/5/76
	The Day of the Dolphin	NBC	11/6/75
(Part 1)	Gone With the Wind	NBC	11/7/76
(Part 2)	Gone With the Wind	NBC	11/8/76
	The Great Waldo Pepper	NBC	11/10/76
	Death Wish	CBS	11/10/76
	Macon County Line	NBC	11/13/76
	Chinatown	CBS	11/17/76

Attachment C

EXAMPLES OF FEATURE FILMS DENIED TO PAY CABLE
DURING 3 YEAR PERIOD FOLLOWING THEATRICAL RELEASE

Title	Conclusion of 3 Year Period Following Theatrical Release	Date Denied to Pay Cable	Time Lost to Pay Cable During 3 Year Period Following Theatrical Release
Lost Horizon	3/76	2/75	13 months
Thunderbolt & Lightfoot	5/77	8/31/75	20 months
Airport 1975	2/77	9/1/75	17 months
Neptune Factor (Neptune Disaster)	5/76	2/28/75	14 months
Legend of Hell House	6/76	2/28/75	15 months
Paper Chase	10/76	2/28/75	19 months
Scarecrow	4/76	10/31/75	15 months
The Sting	7/76	9/1/75	11 months
40 Carats	5/77	9/1/75	19 months
Defense of Guenna Rays on Man in the Moon Marigolds	1/76	2/28/75	11 months
Paper Moon	5/76	2/16/76	2 months
The Spike's Gang	4/77	9/1/75	19 months
The Long Goodbye	3/76	9/1/75	7 months
The Last of Sheila	6/76	8/75	10 months
Last American Hero (Hard Driver)	7/76	2/28/75	16 months
Emperor of the North	6/76	6/30/75	11 months
Convoy	3/77	4/30/75	23 months
Lovin' Molly	3/77	7/31/75	20 months
California Split	8/77	7/31/75	25 months
Tom Sawyer	6/76	3/31/75	14 months
Claudine	4/77	2/29/76	14 months
The Seven Ups	12/76	6/30/75	18 months
Billy Two Hats	3/77	2/29/76	13 months

FEDERAL REGISTER, VOL. 42, NO. 94—MONDAY, MAY 16, 1977

Justice - 3/07
Mr Kaplan
Mr Sullivan
Mr McCoy
Mr Feldman 3706

United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON ANTITRUST AND MONOPOLY
(PURSUANT TO SEC. 5, RES. 70, 94TH CONGRESS)
WASHINGTON, D.C. 20510

February 25, 1977

RECEIVED
MAR 2 1977
O.L.A.

Donald I. Baker, Esquire
Assistant Attorney General
Antitrust Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Baker:

I am writing this letter and enclosing a memorandum from the staff of the Antitrust and Monopoly Subcommittee pursuant to the Antitrust Procedures and Penalties Act as comments relating to the proposed consent judgment entered against National Broadcasting Company, Inc. in United States v. National Broadcasting Company, (Civil Action No. 74-3601-MJK (C.D.Cal.).

The provision which concerns me is subsection VI(E)(iii)(e), which sanctions NBC's acquisition of exclusive exhibition rights to feature films against pay cable television for a 24-month period for two exhibitions, and for 12 additional months for each additional exhibition. In addition, NBC would be entitled to demand exclusivity for 30 days prior to this 24-month period. I have reviewed the staff memorandum, which incorporates the extensive hearings held on this issue by the subcommittee, and I am convinced that the department should give serious consideration to deleting this provision in the decree.

While there may indeed be situations, now or in the future, in which exclusivity provisions would be justified as reasonably necessary to a broadcasting network, I do not think it necessary or wise, at this time, virtually to insulate an unlimited number of two-year exclusivity provisions from the operation of the antitrust laws. FCC rules that already restrict access to movies

OFFICE OF ANTITRUST

Donald I. Baker
February 25, 1977
Page 2.

by the pay cable industry are, of course, still in existence. The combination of these restrictive rules, which in the past the department has attacked in testimony before this subcommittee, and the decree's approval of lengthy exclusivity provisions, could enable networks contractually to exclude pay cable from meaningful access to feature movies. It seems to me wholly inappropriate for a major policy decision of this potential impact to be decided without a complete record and in the context of a non-litigated consent decree with one network.

Sincerely,

Edward M. Kennedy
Acting Chairman

enclosure

MEMORANDUM

TO: Edward M. Kennedy

FROM: Majority Staff, Senate Antitrust and Monopoly Subcommittee

SUBJECT: Subsection VI(E)(iii)(e) of the NBC Consent Decree

On December 10, 1974, the United States filed identical complaints against the three networks alleging that the networks had each combined with their affiliated stations to use their control over access to network air time to restrain and monopolize prime time TV entertainment programming in violation of sections 1 and 2 of the Sherman Act. The complaints charged that each network used their control over access: to exclude from network broadcast those entertainment programs in which the networks had no financial interest; to compel independent program suppliers to grant to the networks financial interest in TV programs which they accepted for broadcast; to refuse to sell air time to advertisers and other independent program suppliers seeking to have their own programs shown on the networks; to control the prices paid by the networks for TV exhibition rights to motion picture films; and to obtain competitive advantages over other producers and distributors of TV and entertainment programs and of motion picture feature films. The government sought to enjoin the networks from the following practices: obtaining any interest, except for the right of network exhibition, in independently produced programs; producing entertainment programs themselves; and using their control over access to the networks to foreclose competition or obtaining an unfair competitive advantage in any other field.

On November 17, 1976, the Department of Justice and NBC filed a proposed consent decree to terminate this litigation. Most of the terms of the decree are contingent upon settlement on similar terms with CBS and ABC. While there are many troublesome aspects of the decree, one provision is markedly both adverse to the antitrust laws and the public interest. The provision in question, Subsection VI(E)(iii)(e), concerns the amount of exclusivity against pay cable NBC would be allowed to obtain when purchasing the rights to televise motion pictures.

The consent decree would permit NBC to contract with movie producers for exclusivity against pay cable for 24 months if NBC broadcast a movie twice, and an additional 12 months for each additional time NBC broadcast the film. In addition, NBC would be allowed to demand a provision banning the license of the film to pay cable for a period of 30 days prior to the time NBC could telecast the film.

To fully understand the effect of the exclusivity allowed by the consent decree, one must take into account certain FCC Rules. Feature films are first marketed through theaters, usually through a distribution system owned by the movie producer. The FCC Rules allow pay cable to bid for these films for a period of three years after their first release. Many films, however, especially the more successful films, are marketed through theaters for up to two years after their release and movie producers are unwilling to license a film to pay cable in this period. The FCC Rules, however, do not prohibit networks from obtaining exclusivity rights within this three-year period, and the networks usually obtain exclusivity well within this period. 1/ From the end of the third year until the end of the tenth year after release, the FCC Rules prohibit pay cable access to the film unless the film is under contract and currently available to a network or TV station in the particular pay cable market in question. If it is under contract to a TV station or network, however, many times there are exclusivity provisions in effect preventing pay cable from licensing the film. 2/ At the end of ten years, pay cable can have access to a film in a given market area only if the movie has not been shown by a TV station in the last three years. The purpose of these rules was to prevent pay cable from "siphoning" a film from the "free" TV market. The rules are solely for the benefit of "free" TV. Thus, if a film were released on February 1, 1977 and marketed through theaters for two years until February 1979, as a practical matter, pay cable could bid to show it sometime within a period between February 1, 1979 to February 1, 1980. But, a network could contract at any time after release date for three exhibitions of the film starting on March 1, 1979 and as a condition of the contract and expressly allowed by the decree, it could demand exclusivity against pay cable starting on February 1,

1/ E.G., see hearings on Pay Cable Television Industry before the Subcommittee on Antitrust and Monopoly, 94th Cong., 1st Sess. at pp. 401-404 (1975).

2/ See testimony of CBS President Arthur R. Taylor, who acknowledged that this company obtained exclusivity within the 3-10 year period. Hearings on the Pay Cable Television Industry before the Senate Subcommittee on Antitrust and Monopoly, 94th Cong., 1st Sess. at 160-161 (July 8, 1975).

1979 until March 1, 1982. If the film was then not contracted for by a TV station in the particular pay cable operators market, it could not be licensed to that pay cable operator until February 1, 1987. If the film was contracted for by a TV station, the great majority of these contracts also contain exclusivity provisions barring pay cable exhibition. In this type of situation, assuming that the exclusivity runs until February 1987, pay cable could show the film after February 1, 1987 only if the film had not been shown in the last three years.

Current industry practice has been to demand exclusivity during the availability period which has usually been 24 months for two showings. The networks have also usually obtained exclusivity for sixty days prior to the availability period. 3/ Thus, the consent decree provision is very similar to the current industry practice, differing only by thirty days.

Subsection VI(E)(iii)(e) does represent quite a departure from the previous position of the Department of Justice which has been expressed in submissions to the FCC, testimony before this Subcommittee, and amicus briefs at the Court of Appeals level. On November 1, 1972 and on October 4, 1974, the Justice Department filed comments in FCC Docket 19554 which concerned these pay cable rules. In its 1972 comments, the Department concluded that:

> ". . . (1) there was insufficient evidence to support a finding that programming restrictions on pay cable were in the public interest as defined in the Communications Act of 1934, (2) the imposition of onerous programming restrictions upon pay cable would preclude it from developing into a medium capable of increasing the diversity of this nation's communications system and (3) the Commission should free pay cable from the various programming restrictions then imposed upon it in order to avail itself of an opportunity to obtain empirical evidence as to whether any type of programming restrictions were, in fact, necessary to protect the public interest."

3/ See testimony of Robert Howard, President, NBC Television Network. Hearings on the Pay Cable Television Industry, 94th Cong., 1st Sess., at pp. 219-230 (July 8, 1975) before the Subcommittee on Antitrust and Monopoly.

In its updated 1974 comments the Department stated:

> ". . . subsequent events have only reaffirmed our conviction that Commission attempts to protect the broadcasting industry from competitors in order to guard the public against unspecified dangers will have the dual effect of retarding the development of pay cable as a means of diversifying our communications system and embroiling the Commission in a continuous effort to develop increasingly intricate rules based upon speculation rather than experience."

On July 15, 1975, Deputy Assistant Attorney General Donald Baker, now head of the Antitrust Division, testified before the Antitrust Subcommittee stating that --

> ". . . the FCC has proceeded, more or less on an ad hoc basis to erect barriers to cable services, largely on the basis of speculative fears of the broadcast television industry." (Hearings before the Antitrust and Monopoly Subcomittee, Pay Cable, July 15, 1975, p. 234)

He also specifically mentioned the exclusivity issue, declaring that --

> "The so-called pay-cable rules, of course, are logical extensions of these earlier illogical exercises of regulatory power. The 2-year period after general release during which a cable operator could bid for a film was indeed increased to 3 years. In oversight testimony, the Chairman of the Commission described this as a major expansion in film availability, without, however, explaining why the restriction was ever justified to begin with." (Hearings p. 234)

In addition, as late as February 1976, the Department of Justice again reiterated its views -- this time in an amicus brief supporting the removal of the FCC restrictions on pay cable. The Department observed that decisions concerning the development of new technology "are too important to be based upon surmise, conjecture, or concern for the profit margins

of those that provide the existing service." (Home Box Office, Inc. v. FCC, No. 75-1280 et al. Brief for Respondent U.S.A. at 35.)

In furtherance of their oft-stated critical view of schemes that deny competitive opportunity, the Department's Competitive Impact Statement asserts that the Antitrust Division "first proposed that NBC be permitted such exclusivity for only 45 days before and after each network exhibition date of a feature film." The provision eventually accepted by both parties was, as mentioned before, a maximum of 24 months exclusivity for two telecasts with 12 months for each additional telecast and 30 days exclusivity allowable prior to the first date NBC could telecast the film. It is important to note that the 45 days first proposed was 45 days before actual exhibition, whereas the thirty days in the decree is 30 days before there is a right to telecast the film. Thus, the decree would allow NBC to contract for exclusivity for up to 25 months before actually broadcasting a movie, whereas under the Department's original proposal, it would have been a maximum of 45 days. 4/

Since actual industry practice consists of 24 months of exclusivity within the availability period for two telecasts with 60 days of exclusivity before the availability period, the decree does limit the exclusivity slightly. A contract for two exhibitions used to have an exclusivity provision foreclosing cable's access to the movie for 26 months, now it would be limited to 25 months. As a practical matter, as long as exclusivity can be obtained from the date the movie could first be marketed to cable until the FCC Rules take effect, which can be achieved in either 25 or 26 months, there is only one difference between industry practice and the practice specified in the decree. This crucial difference is that now this practice appears to have the full approval of the Department of Justice and is subject to a judicial imprimatur if this provision in the consent decree is upheld by the court.

There are important public policy and antitrust reasons against having these types of exclusivity provisions in a contract between movie producers and networks. The combined effect of these provisions could easily prevent consumers from exercising their choice as to how they want to be entertained. Even though the producers profit from their dealings with the

4/ Actually the provision as accepted does not seem to even require NBC to actually broadcast the film -- it speaks solely in terms of broadcast rights.

networks and thus often readily accede to their demands, the producers have testified that with exclusivity obtained by the sheer market power of the networks they are often foreclosed from a market they would like to service. 5/ Also, since pay cable apparently provides the financial base for other more experimental and educational cable services, provisions which unnecessarily retard pay cable's growth may totally stymie the entire cable industry. The presence of these contractual provisions was constantly subject to legal questions and possible private antitrust actions prior to the proposal of the consent decree. The Department's imprimatur upon this practice makes it virtually certain that this practice will greatly increase in magnitude in the future. As noted by many antitrust experts, the combination of restraints -- the number of movies tied up by exclusivity provisions -- is a very important factor when judging the legality of these provisions. Before the Department approves this practice, there remains the possibility that this combined effect would reach a point where it would be judged illegal. With the Department's approval of the practice without limits on the number of movies, the flexibility of the antitrust laws is needlessly lost.

On antitrust grounds alone, and these are ordinarily an accurate reflection of public policy considerations, there is an overwhelming body of law stating that exclusivity provisions are restraints of trade which must be justified as reasonable or fall within the prohibitions of the Sherman Act. In the Paramount case, which is one of the leading cases in this area, one of the issues involved was the reasonableness of exclusivity provisions in contracts between a producer and exhibitor which prevented the producer from licensing the same film to other exhibitors. The rationale behind these exclusivity provisions, which are called clearances in movie industry terminology, was that a given theater would be more likely to pay more for a movie if it knew it was not going to have its competitors showing the same picture and perhaps undercutting its admission price. The Supreme Court ruled that all the circumstances of each clearance had to be examined to see if that particular clearance was reasonable, and that a key factor in this examination was whether the exclusivity provision is "reasonably necessary to protect the licensee in the run granted." (United

5/ See generally the testimony of movie producers at hearings on the Pay Cable Television Industry before the Sub committee on Antitrust and Monopoly, 94th Cong., 1st Sess. at pp. 90-118 (May 21, 1975).

States v. Paramount Pictures, 334 U.S. 131, at p. 147). The District Court ruled and the Supreme Court affirmed that "many clearances had no relation to the competitive factors which alone could justify them." (334 U.S. at 146) The requirement that there be some connection between the exclusivity provision or "clearance" and the competitive factors involved in each situation would quite clearly not be met by the provisions in this consent decree, because this decree virtually gives a blank check of approval to the industry's usual practice of obtaining more than two years of exclusivity against pay cable. The consent decree's acquiescence in these lengthy exclusivity provisions will greatly encourage what has already been acknowledged as an industry practice but which is not now used with all films. This unwarranted insulation from the antitrust laws will readily result in a uniformity and inflexibility much worse than that condemned in Paramount.

> ". . . The clearances which were in vogue had, indeed, acquired a fixed and uniform character and were made applicable to situations without regard to the special circumstances which are necessary to sustain them as reasonable restraints of trade." (334 U.S. at 146)

In Standard Oil Co. v. United States, 337 U.S. 293 (1949), the fact that exclusivity provions had become an industry-wide practice made them particularly vulnerable to antitrust attack, because they were used to "prevent a late arrival from wresting away anymore than an insignificant portion of the market" (337 U.S. at 309). In Lorain Journal Co. v. United States, 342 U.S. 143 (1951), a newspaper, which had monopolistic power as a seller of advertising space, conditioned its sales upon a clause preventing the entity from buying advertising from a new radio station. The newspaper's abuse of its dominant purchasing power to discourage a new entrant was found to violate the Sherman Act. The networks' practice of obtaining lengthy exclusivity against pay cable is also an abuse of dominant purchasing power. The decree contains no limit on the number of films on which NBC could obtain exclusivity nor would there be a limit on the films the other networks could obtain. The Department's lawsuits recognized -- indeed were premised upon -- the possession and abuse of dominant purchasing power by the networks; yet, subsection VI(E)(iii)(e) would preserve and protect one of these abuses.

Without the consent decree provision, the key question with NBC would be whether or not, taking into account the FCC

Rules, the length and/or the existence of the exclusivity provisions is reasonably necessary for the protection of NBC. In Paramount the court emphasized that the burden of proof falls on the "party in the best position to evaluate their competitive effects," meaning the party demanding the protection. Thus, NBC should bear this burden. Yet, neither in testimony before the Antitrust Subcommittee nor apparently in the negotiations with the Justice Department, has NBC presented evidence that it needs long clearances in order to commercially survive. In fact, it is so difficult to even obtain advertising space on network air time, there has been serious talk about the formation of a fourth network. It must be remembered that in Paramount, clearances of a few weeks duration were declared unreasonable, whereas here we are talking about several years. Additionally, the Paramount clearances were designed to protect against lower priced competitors whereas here NBC is claiming it needs protection against competitors that only reach 1% of NBC's viewers, charge a much higher price and in fact offer a different product.

NBC does contend that pay cable systems have really not been hurt -- that there are plenty of movies available to them. The data used to support this contention has been challenged by the pay cable industry and has not been subjected to a full fact-finding process necessary to make such a determination. In any event, the answer is two-fold. One, the exclusivity provisions must be affirmatively justified by NBC as necessary to their own existence, rendering secondary the issue of whether or not pay cable has some movies available to it. Two, even if pay cable is not now being denied all films, through the consent decree the Government is now taking the safety off the loaded pistol the networks have pressed against cable's Achilles' heel. All the networks have to do is to use it by contracting for more movies and using the maximum exclusivity provisions with each one.

The Department has also not presented any evidence to justify approving these exclusivity provisions. The competitive impact statement required with the consent decree is woefully weak in this area, stating that:

> ". . . Section VI(E)(iii) will not, of course, prevent certain theatrical feature film distributors from continuing to deny NBC any exclusive rights as they have done in the past; it merely establishes outer limits on the exclusive rights NBC may require." (Competitive Impact Statement, p. 20)

The Department also stated that:

> "There are no materials or documents which the Government considered determinative in formulating the proposed consent judgment. Therefore, none is being filed with this competitive impact statement." (Competitive Impact Statement, p. 21)

It would be difficult under the circumstances of today's TV market and the presence of the FCC's 3-10 year Rule, to justify as reasonable even one of these contracts containing an exclusivity clause. The pertinent antitrust cases say that these exclusivity provisions must each be looked at in all their attendant circumstances. Yet, the Justice Department, without the benefit of a record, and in the context of a non-litigated consent decree with one network, would establish the legality of the provisions whose upper limits would undoubtedly become an industry-wide standard. The public interest would better be served by not immunizing these exclusivity provisions at the present time. For instance, if at a later date, this industry practice became even more pervasive, and lengthy exclusivity applied to all feature movies, then there would still be an available remedy under antitrust law. On the other hand, by saying that lengthy exclusivity provisions should not be immunized at this time, we are not suggesting that some sort of exclusivity could never be justified. There may in fact be appropriate situations, now or in the future, justifying limited exclusivity. Our point is simply that these provisions should not be frozen into existence at this time. Of course, if and when exclusivity is questioned on antitrust grounds, the networks could still sustain them as reasonable if they can marshall the appropriate evidence.

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LINCOLN CENTER FOR THE PERFORMING ARTS, INC.

1865 BROADWAY AT 61 STREET, NEW YORK N.Y. 10023 (212) 765-5100 — CABLE ADDRESS

February 25, 1977

Mr. Bernard M. Hollander
Judgments and Judgment Enforcement
Section Anti-Trust Division
Washington, D.C. 20530

Dear Mr. Hollander:

While Lincoln Center for the Performing Arts, Inc., has no direct involvement in the NBC/Justice Department Consent Decree per se, we wish to go on record in opposition to legislation which restricts the development of the pay cable television industry. We contend that minority and special interest programming depends on the conduit which cable provides to an increasing number of viewer homes across the nation. We view the growth of the pay cable industry as a means of expanding that universe. We oppose the Consent Decree on the following grounds:

The Consent Decree will severely restrict pay cable television's potential to provide the feature films and sports which are the backbone of pay cable programming. It is this basic programming which is needed today in order to build access to the larger audience required for the expansion of special interest programming such as Lincoln Center's.

Furthermore, the Consent Decree will deny consumers their right to a choice of format in which to receive sports and feature films. Since programming on pay cable television is presented unedited and without commercial interruption, the consumer should have the opportunity to decide whether or not he wishes to pay for this advantage. We are particularly concerned with developing new means of paying for television programming. Our future as arts institutions may depend on reaching a paying television audience with our performances.

Because we feel that the growth of pay cable television is vital to the continuing development of the cable communications industry, we vigorously oppose all regulations which inhibit that growth, and specifically the NBC/Justice Department Consent Decree.

Sincerely,

John Goberman

JG/sm

John Goberman
Director of Media Development

NOTICES

COMMUNITY COALITION FOR MEDIA CHANGE

[redacted] Berkeley, Ca 94703 . 415 [redacted] 526-8801
1728 Curtis Street #A
Marcus Garvey Wilcher, Chairman
Edwin J. Terry, V. Chairman 626-5720

26 February 1977

Bernard M. Hollander, Chief
Judgements and Judgement
Enforcement Section
Anti-Trust Division
Washington, D.C. 20530

Dear Mr. Hollander,

The Community Coalition for Media Change wishes to express its concern and disagreement with the NBC and U.S. Department of Justice concent decree.

We believe that this agreement is an example of bowing to the powerful radio/television corporations at the expense of millions of Americans who assume that their interest, the public interest, comes first.

For these additional reasons we oppose the decree:

1) Disregard for the public right to watch recent films as they so choose.
2) The decree stifles entertainment variety and gives much too much control to network monoplies.
3) Exclusivity control should no extend beyond 2 or 3 months.

It is clear to citizens of this country that many persons on the public payroll, such as you are, do not represent us, but represent the non-moral corporations whose greed for excessive profits seems to be growing.

However, we still hope you will reconsider your action and void this unfair consent decree.

Sincerely,

Marcus Garvey Wilcher
Chairman

cc: Bob Johnson,
MCTA

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NOTICES

FEDERAL REGISTER, VOL. 42, NO. 94—MONDAY, MAY 16, 1977

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Attorneys for Optical Systems Corporation

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. NATIONAL BROADCASTING COMPANY, INC., Defendant.	Civil No. 74-3601-RJK COMMENTS OF OPTICAL SYSTEMS CORPORATION TO STIPULATION AND FINAL JUDGMENT

The following are comments of Optical Systems Corporation regarding the proposed consent decree contained in the document entitled Final Judgment which is attached to the Stipulation filed November 17, 1976 in this action. These comments are filed pursuant to 15 U.S.C. § 16(b).

Optical Systems Corporation [hereinafter OSC], provides a channel of home television programming in return for a fee payable on a monthly basis. * Its headquarters is at 433 Airport Boulevard in Burlingame, California and it does business in many cities and regions in California as well as the states of Hawaii, Texas, Ohio, Michigan and Pennsylvania, providing subscription television programming to more than 50,000 subscribers.

Virtually all of the program material OSC provides consists of feature length motion pictures which were initially released for theatre exhibition. OSC has discovered that there is a distinct and significant demand for in-home movies presented in their original form, uninterrupted by commercial breaks, and that the subscription television business is a distinct new medium of entertainment which fulfills a heretofore unsatisfied need. At the same time, there are regulations of the Federal Communications Commission which severely limit the number of films which are available for exhibition by subscription television operators, and of course, the number and quality of films available directly affects OSC's ability to attract and retain subscribers.

OSC and NBC are in direct competition for feature length motion pictures which remain available under the FCC regulations and they obtain those films from the same producer and distributor supply sources. However, when NBC obtains the rights to exhibit films, it typically includes in the contract a provision which prohibits the supplier from providing the film or films to OSC for various periods of time. The time periods to which these provisions apply are exceedingly long and extend to several years or more in most instances. During this time period, NBC will typically

* This service shall be referred to hereinafter as subscription television programming.

have the right under the contract to exhibit the film between one and three times. Thus, for more than ninety-nine percent of the days during which the films are subject to these contracts and hence forbidden to OSC, they are simply held by the networks and not exhibited.*

At any one time a substantial number of films of quality suitable for exhibition by OSC are unavailable because of these contract provisions, and OSC could increase significantly the number of quality films it exhibits per month in their absence. The provisions create an artificial shortage of films for subscription television and have no legitimate purpose. Since the affected films are in interstate commerce, these contracts directly violate Section 1 of the Sherman Antitrust Act by restraining trade in the market for the films. The arrangement contained in the proposed consent decree does not alter the practices described herein

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* In the late spring of 1975 the Antitrust Subcommittee of the Senate Judiciary Committee held hearings on the contracts described in this paper and a large number of the contract provisions in question were produced. Copies of those which appeared in the report of those hearings are attached to this paper as an exhibit. (See Hearings on Pay Cable Television Industry Before the Subcommittee on Judiciary, 94th Cong., 1st Sess. (1975).)

///

in any significant way * and consequently also violates the antitrust laws in that respect. Any final consent decree in this litigation should be conditioned on the defendant's agreement that it will rescind all existing contract provisions which restrict in any way the number of motion pictures available to subscription television operators and that it will not enter contracts in the future which contain similar provisions.

Dated: February 25, 1977.

RICHARD J. ARCHER
JOHN F. DWYER
SULLIVAN JONES & ARCHER

By John F. Dwyer
Attorneys for Optical Systems Corporation

* The proposed Final Judgment would allow NBC to contract for films with exclusive rights over subscription television for a twenty-five month period and for additional twelve month periods for each additional single exhibition of the film or films greater than two. (Final Judgment at 9-10.) The Competitive Impact Statement filed in conjunction with the Stipulation and Final Judgment comments that this feature eliminates NBC's ability to obtain "exclusivity for several years from the date of the contract until the conclusion of the network run" and the "possibility that NBC can 'warehouse' feature films for a number of years before exhibiting them on network television". (Competitive Impact Statement at 20.) This statement is incomprehensible. The subject provision allows by its very terms precisely what the Competitive Impact Statement says it does not allow.

EXCLUSIVITY PROVISIONS OF 1974 THEATRICAL FILM CONTRACTS FOR ABC

January 14, 1974—American International Television, Inc.

3. *Exclusivity.*—Licensor shall have the right to exhibit and exploit the Film during the period beginning on January 14, 1974 and continuing through the end of the Broadcast Period; provided, however, that Licensor will not authorize the broadcast or transmission of all or any portion of the Film (or of any remake of or sequel to the Film or of any television pilot, television program, or television program series based on the Film or based on any of the human or nonhuman characters in the Film or on the literary property underlying the Film) through air waves, cable, or any other manner or means to television receivers, monitors, or screens in the Broadcast Area or in Windsor, Ontario, Canada or Tijuana, Mexico (other than pursuant to the rights granted to ABC hereunder) during the period beginning on January 14, 1974 and ending upon the expiration of the Broadcast Period (or ending as many as sixty (60) days after such expiration, if after such expiration any delayed broadcast or delayed broadcasts shall be made as part of any Network Broadcast hereunder of the Film), except: (i) pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; and (ii) exhibition in passenger-carrying vehicles.

March 8, 1974—Columbia Pictures Industries

(c) *Exclusivity.*—Licensor warrants that during the period beginning March 8, 1974 and continuing through the end of the Authorized Broadcast Period, the Film will not be exhibited by Licensor, or pursuant to Licensor's authorization, in any medium in the Broadcast Area or Windsor, Ontario, except by ABC pursuant to this Agreement, other than in the following media ("Licensor's Permissible Media"): (i) theatrical and non-theatrical direct projection; (ii) sale, lease, or other physical distribution of video cassettes; (iii) closed circuit television in hotels, motels, and similar institutions, and hospitals, so long as none of the foregoing are primarily reasonably permanent residences (except as permitted under subparagraph (vi) below); (iv) exhibition on passenger-carrying vehicles; (v) in the Spanish language (in addition to the media specified in subdivisions (i) through (iv), as to which there is no restriction) all other media, to commence after the completion of the first Network Broadcast of the Film; and (vi) toll, pay and subscription television via cable or any other means, where a "per program" or "per channel" charge is made for viewing until one month prior to the Authorized Broadcast Period.

April 5, 1974—United Artists Corp.

3. *Exclusivity.*—(a) Licensor shall have the right to exhibit and exploit the Film without limitation during the period beginning April 5, 1974 and continuing through the end of the Broadcast Period, provided that Licensor will not authorize the Film to be transmitted through air waves, cable, or any other manner or means to television sets in the Broadcast Area or Windsor, Ontario (other than pursuant to the rights granted to ABC hereunder), except: (i) sale or rental of video cassettes, cartridges or similar devices; (ii) cable or pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; and (iii) passenger-carrier exhibition.

(b) In addition to the rights granted to Licensor to exhibit and exploit the Film pursuant to subdivisions 3(a)(i), (ii), and (iii) hereof, Licensor shall have the right to exhibit and exploit the Film through CATV by any manner or means, and toll, pay and subscription television until June 30, 1975. Licensor warrants that thereafter, except for the uses permitted in subdivisions 3(a)(i), (ii), and (iii) hereof, Licensor shall not authorize any such exhibition or exploitation of the Film through CATV by any manner or means, or toll, pay or subscription television until after the end of the Broadcast Period.

Exhibit A

(c) To the extent that Licensor controls remake rights in the Film, Licensor agrees that it will not authorize the broadcast of such remake in the Broadcast Area during the Broadcast Period.

(d) If Licensor notifies ABC in advance of any re-release of the Film for theatrical direct projection during the Broadcast Period in the Broadcast Areas, then ABC will consult and cooperate with Licensor by considering any request by Licensor that ABC refrain from making any Network Broadcast of the Film during such re-release period, but in case of disagreement ABC's determination shall prevail.

May 3, 1974—Independent Television Corp.

3. *Exclusivity.*—Licensor shall have the right to exhibit and exploit the Film during the period beginning on May 3, 1974 and continuing through the end of the Broadcast Period; provided, however, that Licensor will not authorize the broadcast or transmission of all or any portion of the Film (or any remake of or sequel to the Film) through air waves, cable, or any other manner or means to television receivers, monitors, or screens in the Broadcast Area or in Windsor, Ontario, Canada or Tijuana, Mexico (English-language only) (other than pursuant to the rights granted to ABC hereunder) during the period beginning on May 3, 1974 and ending upon the expiration of the Broadcast Period.

May 6, 1974—Bing Crosby Productions, Inc.

3. *Exclusivity: First negotiation/first refusal.*—(a) Licensor shall have the right to continue to exhibit and exploit the Film during the period beginning on May 6, 1974 and continuing through the end of the Broadcast Period; provided, however, that Licensor will not authorize the broadcast or transmission of all or any portion of the Film (or of any remake of or sequel to the Film or of any television pilot, television program, or television program series based on the Film or based on any of the principal human characters in the Film or on the literary property underlying the Film or on the life of Bataol Puisett) through air waves, cable, or any other manner or means to television receivers, monitors, or screens in the Broadcast Area or in Windsor, Ontario, Canada (other than pursuant to the rights granted to ABC hereunder) during the period beginning on May 6, 1974 and ending on and including: (A) with respect to each such television pilot, television program, and television series and each portion thereof, the date which is two (2) years after the beginning of the Broadcast Period or the date of completion of second network broadcast hereunder of the Film (including, without limitation, the completion of any and all delayed broadcasts made as part of said second network broadcast), whichever date occurs earlier (such date being called in subparagraph 3(b) hereof the "End Date"); and (B) with respect to the Film and each portion thereof and each such remake and sequel and each portion thereof, the date of expiration of the Broadcast Period, except: (i) pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; and (ii) exhibition in passenger-carrying vehicles.

August 12, 1974—United Artists Corp.

3. *Exclusivity.*—(a) Licensor shall have the right to exhibit and exploit the Film without limitation during the period beginning August 12, 1974 and continuing through the end of the Broadcast Period, provided that Licensor will not authorize the Film to be transmitted through air waves, cable, or any other manner or means to television sets in the Broadcast Area or Windsor, Ontario (other than pursuant to the rights granted to ABC hereunder), except: (i) sale or rental of video cassettes, cartridges, or similar devices; (ii) cable or pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; and (iii) passenger-carrier exhibition.

(b) To the extent that Licensor controls remake rights in the Film Licensor agrees that it will not authorize the broadcast of such remake in the Broadcast Area during the Broadcast Period.

(c) In addition to the rights reserved to Licensor to exhibit and exploit the Film pursuant to subdivisions 3(a)(i), (ii), and (iii) hereof, Licensor shall have the right to exhibit and exploit the Film through CATV by any manner or means, and toll, pay, and subscription television for two (2) years from June 8,

1974, Licensor's general theatrical release date, or until the start of the Broadcast Period, whichever is earlier. Licensor warrants that thereafter, except for the uses permitted in subdivisions 3(a)(i), (ii), and (iii) hereof, Licensor shall not authorize any such exhibition or exploitation of the Film through CATV by any manner or means, or toll, pay, or subscription television until after the end of the Broadcast Period.

November 15, 1974—Bing Crosby Productions, Inc.

3. *Exclusivity.*—Licensor shall have the right to continue to exhibit and exploit the Film during the period beginning on November 15, 1974 and continuing through end of the Broadcast Period; provided, however, that Licensor will not authorize the broadcast or transmission of all or any portion of the Film (or of any remake of or sequel to the Film or of any television pilot, television program, or television program series based on the Film or based on any of the principal human characters in the Film or on the literary property underlying the Film) through air waves, cable, or any other manner or means to television receivers, monitors, or screens in the Broadcast Area or in Windsor, Ontario, Canada (other than pursuant to the rights granted to ABC hereunder) during the period beginning on November 1, 1974, and ending on and including: (A) with respect to each such television pilot, television program, and television program series and each portion thereof, the date which is two (2) years after the beginning of the Broadcast Period or the date of completion of the second Network Broadcast hereunder of the Film (including, without limitation, the completion of any and all delayed broadcasts made as part of said second Network Broadcast), whichever date occurs earlier, (B) with respect to the Film and each portion thereof and each such remake and each portion thereof, the date of expiration of the Broadcast Period, and (C) with respect to each such sequel and each portion thereof, the date of completion of the second Network Broadcast hereunder of the Film (including, without limitation, the completion of any and all delayed broadcasts made as part of such second Network Broadcast) or date of expiration of the Broadcast Period, whichever date occurs earlier, except: (i) pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; (ii) residential pay television, but in no event after the date which is six (6) months prior to the beginning of the Broadcast Period; and (iii) exhibition in passenger-carrying vehicles.

November 19, 1974—Columbia Pictures Television

(c) *Exclusivity.*—Licensor warrants that during *the period beginning November 19, 1974 and continuing through the end of*[1] the Authorized Broadcast Period, the Film will not be exhibited by Licensor, or pursuant to Licensor's authorization, in any medium in the Broadcast Area or Windsor, Ontario, except by ABC thereunder, in any medium in the following media ("Licensor's Permissible Media"): (i) theatrical and non-theatrical direct projection; (ii) sale, lease, or other physical distribution of video cassettes; (iii) closed circuit television in hotels, motels, and similar institutions, and hospitals, so long as none of the foregoing are primarily reasonably permanent residences; (iv) exhibition on passenger-carrying vehicles; (v) in the Spanish language (in addition to the media specified in subdivisions (i) through (iv), as to which there is no restriction) all other media, to commence after the completion of the first Network Broadcast of the Film; and (vi) toll, pay and subscription television via cable or any other means, where a "per program" or "per channel" charge is made for viewing until one month prior to the Authorized Broadcast Period.

December 10, 1974—Twentieth Century-Fox Film Corp.

8. *Exclusivity.*—(a) Licensor shall have the right, without limitation, to exhibit and exploit the Film via cable or pay television in nonresidential institutions, including but not limited to, hotels, motels, hospitals, bars and restaurants ("institutional cable television") during the period commencing with the date

[1] EDITOR'S NOTE.—The same provision was also included in licensing agreement with the italicized words deleted.

first written above and continuing through September 30, 1975 (Exploitation Period (a)"); and Licensor warrants that immediately subsequent thereto and throughout the Broadcast Period it will not authorize or permit the exhibition or exploitation of the Film by any of the means set forth above in this subparagraph 5(a) provided, however, that in the event that Licensee shall elect to schedule the Network Broadcast of the Film within the first thirty (30) days of the Broadcast Period, Licensee shall notify Licensor to such effect no later than thirty (30) days prior to the date of such scheduled Network Broadcast, and in such event Exploitation Period (a) shall expire (30) days prior to the date of such scheduled Network Broadcast.

(ii) Licensor shall have the right, without limitation, to exhibit and exploit the Film through any means of "pay television" not provided for in subparagraph 5(a) immediately above, during the period beginning with the date first written above and continuing until six (6) months prior to the scheduled Network Broadcast, or until March 31, 1975, whichever is later ("Exploitation Period (b)"); and Licensor warrants that for the period commencing immediately subsequent to Exploitation Period (b) and continuing through the date upon which the Broadcast Period expires it will not authorize or permit the exhibition of the Film by any of the means set forth above in this subparagraph 5(b). As used herein, the term "pay television" refers to all means of television exhibition, other than those set forth in subparagraph (a) above, for which a per-program charge is imposed, including but not limited to "toll," "subscription" and "cable" services.

December 27, 1974—Twentieth Century-Fox Film Corp.

Exclusivity.—(a) Licensor shall have the right, without limitation, to exhibit and exploit the Film via cable or pay television in nonresidential institutions, including but not limited to hotels, motels, hospitals, bars and restaurants ("institutional cable television") during the period commencing with the date first written above and continuing until commencement of the Broadcast Period ("Exploitation Period (a)"); and Licensor warrants that immediately subsequent thereto and throughout the Broadcast Period it will not authorize or permit the exhibition or exploitation of the Film by any of the means set forth above in this subparagraph 5(a); provided, however, that in the event that Licensee shall elect to schedule the Network Broadcast of the Film within the first thirty (30) days of the Broadcast Period, Licensee shall notify Licensor to such effect no later than thirty (30) days prior to the date of such scheduled Network Broadcast, and in such event Exploitation Period (a) shall expire thirty (30) days prior to the date of such scheduled Network Broadcast.

(b) Licensor shall have the right, without limitation, to exhibit and exploit the Film through any means of "pay television" not provided for in subparagraph 5(a) immediately above, during the period beginning with the date first written above and continuing six (6) months prior to the commencement of the Broadcast Period ("Exploitation Period (b)"); and for the period commencing immediately subsequent to Exploitation Period (b) and continuing through the Broadcast Period, Licensor warrants that it will not authorize or permit the exhibition of the Film by any of the means set forth above in this subparagraph 5(b). As used herein, the term "pay television" refers to all means of television exhibition, other than those set forth in subparagraph (a) above, for which a per-program charge is imposed, including but not limited to "toll," "subscription" and "cable" services.

EXCLUSIVITY PROVISIONS OF 1971 THEATRICAL FILM CONTRACTS FOR CBS

March 27, 1974—Medallion TV Enterprises

12. *Exclusivity.*—(a) Licensor warrants that the motion pictures will not be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area (or in Windsor, Ontario), except pursuant hereto, during the period commencing on the day and year first above written and ending upon the expiration of the Broadcast Period or sixty (60) days after the last authorized network broadcast of the

The Department also stated that:

> "There are no materials or documents which the Government considered determinative in formulating the proposed consent judgment. Therefore, none is being filed with this competitive impact statement." (Competitive Impact Statement, p. 21)

It would be difficult under the circumstances of today's TV market and the presence of the FCC's 3-10 year Rule, to justify as reasonable even one of these contracts containing an exclusivity clause. The pertinent antitrust cases say that these exclusivity provisions must each be looked at in all their attendant circumstances. Yet, the Justice Department, without the benefit of a record, and in the context of a non-litigated consent decree with one network, would establish the legality of the provisions whose upper limits would undoubtedly become an industry-wide standard. The public interest would better be served by not immunizing these exclusivity provisions at the present time. For instance, if at a later date, this industry practice became even more pervasive, and lengthy exclusivity applied to all feature movies, then there would still be an available remedy under antitrust law. On the other hand, by saying that lengthy exclusivity provisions should not be immunized at this time, we are not suggesting that some sort of exclusivity could never be justified. There may in fact be appropriate situations, now or in the future, justifying limited exclusivity. Our point is simply that these provisions should not be frozen into existence at this time. Of course, if and when exclusivity is questioned on antitrust grounds, the networks could still sustain them as reasonable if they can marshall the appropriate evidence.

LINCOLN CENTER FOR THE PERFORMING ARTS, INC.
[illegible] BROADWAY AT 61 STREET, NEW YORK, N.Y. 10023 (212) 765-5100

February 25, 1977

Mr. Bernard M. Hollander
Judgments and Judgment Enforcement
Section Anti-Trust Division
Washington, D.C. 20530

Dear Mr. Hollander:

While Lincoln Center for the Performing Arts, Inc., has no direct involvement in the NBC/Justice Department Consent Decree per se, we wish to go on record in opposition to legislation which restricts the development of the pay cable television industry. We contend that minority and special interest programming depends on the conduit which cable provides to an increasing number of viewer homes across the nation. We view the growth of the pay cable industry as a means of expanding that universe. We oppose the Consent Decree on the following grounds:

The Consent Decree will severely restrict pay cable television's potential to provide the feature films and sports which are the backbone of pay cable programming. It is this basic programming which is needed today in order to build access to the larger audience required for the expansion of special interest programming such as Lincoln Center's.

Furthermore, the Consent Decree will deny consumers their right to a choice of format in which to receive sports and feature films. Since programming on pay cable television is presented unedited and without commercial interruption, the consumer should have the opportunity to decide whether or not he wishes to pay for this advantage. We are particularly concerned with developing new means of paying for television programming. Our future as arts institutions may depend on reaching a paying television audience with our performances.

Because we feel that the growth of pay cable television is vital to the continuing development of the cable communications industry, we vigorously oppose all regulations which inhibit that growth, and specifically the NBC/Justice Department Consent Decree.

Sincerely,

John Goberman

JG/sm

John Goberman
Director of Media Development

COMMUNITY COALITION FOR MEDIA CHANGE
[illegible] Berkeley, Ca 94703 415 [illegible]
1728 Curtis Street #A 526-8801
Marcus Garvey Wilcher, Chairman
Edwin J. Terry, V. Chairman 626-5720

26 February 1977

Bernard M. Hollander, Chief
Judgements and Judgement
Enforcement Section
Anti-Trust Division
Washington, D.C. 20530

Dear Mr. Hollander,

The Community Coalition for Media Change wishes to express its concern and disagreement with the NBC and U.S. Department of Justice concent decree.

We believe that this agreement is an example of bowing to the powerful radio/television corporations at the expense of millions of Americans who assume that their interest, the public interest, comes first.

For these additional reasons we oppose the decree:

1) Disregard for the public right to watch recent films as they so choose.
2) The decree stifles entertainment variety and gives much too much control to network monoplies.
3) Exclusivity control should no extend beyond 2 or 3 months.

It is clear to citizens of this country that many persons on the public payroll, such as you are, do not represent us, but represent the non-moral corporations whose greed for excessive profits seems to be growing.

However, we still hope you will reconsider your action and void this unfair consent decree.

Sincerely,

Marcus Garvey Wilcher
Chairman

cc: Bob Johnson,
NCIA

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[illegible]

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Attorneys for Optical Systems Corporation

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. NATIONAL BROADCASTING COMPANY, INC., Defendant.	Civil No. 74-3601-RJK COMMENTS OF OPTICAL SYSTEMS CORPORATION TO STIPULATION AND FINAL JUDGMENT

The following are comments of Optical Systems Corporation regarding the proposed consent decree contained in the document entitled Final Judgment which is attached to the Stipulation filed November 17, 1976 in this action. These comments are filed pursuant to 15 U.S.C. § 16(b).

Optical Systems Corporation [hereinafter OSC], provides a channel of home television programming in return for a fee payable on a monthly basis. * Its headquarters is at 433 Airport Boulevard in Burlingame, California and it does business in many cities and regions in California as well as the states of Hawaii, Texas, Ohio, Michigan and Pennsylvania, providing subscription television programming to more than 50,000 subscribers.

Virtually all of the program material OSC provides consists of feature length motion pictures which were initially released for theatre exhibition. OSC has discovered that there is a distinct and significant demand for in-home movies presented in their original form, uninterrupted by commercial breaks, and that the subscription television business is a distinct new medium of entertainment which fulfills a heretofore unsatisfied need. At the same time, there are regulations of the Federal Communications Commission which severely limit the number of films which are available for exhibition by subscription television operators, and of course, the number and quality of films available directly affects OSC's ability to attract and retain subscribers.

OSC and NBC are in direct competition for feature length motion pictures which remain available under the FCC regulations and they obtain those films from the same producer and distributor supply sources. However, when NBC obtains the rights to exhibit films, it typically includes in the contract a provision which prohibits the supplier from providing the film or films to OSC for various periods of time. The time periods to which these provisions apply are exceedingly long and extend to several years or more in most instances. During this time period, NBC will typically

* This service shall be referred to hereinafter as subscription television programming.

have the right under the contract to exhibit the film between one and three times. Thus, for more than ninety-nine percent of the days during which the films are subject to these contracts and hence forbidden to OSC, they are simply held by the networks and not exhibited.*

At any one time a substantial number of films of quality suitable for exhibition by OSC are unavailable because of these contract provisions, and OSC could increase significantly the number of quality films it exhibits per month in their absence. The provisions create an artificial shortage of films for subscription television and have no legitimate purpose. Since the affected films are in interstate commerce, these contracts directly violate Section 1 of the Sherman Antitrust Act by restraining trade in the market for the films. The arrangement contained in the proposed consent decree does not alter the practices described herein

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* In the late spring of 1975 the Antitrust Subcommittee of the Senate Judiciary Committee held hearings on the contracts described in this paper and a large number of the contract provisions in question were produced. Copies of those which appeared in the report of those hearings are attached to this paper as an exhibit. (See Hearings on Pay Cable Television Industry Before the Subcommittee on Judiciary, 94th Cong., 1st Sess. [1975).)

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in any significant way * and consequently also violates the antitrust laws in that respect. Any final consent decree in this litigation should be conditioned on the defendant's agreement that it will rescind all existing contract provisions which restrict in any way the number of motion pictures available to subscription television operators and that it will not enter contracts in the future which contain similar provisions.

Dated: February 25, 1977.

RICHARD J. ARCHER
JOHN F. DWYER
SULLIVAN JONES & ARCHER

By John F. Dwyer
Attorneys for Optical Systems Corporation

* The proposed Final Judgment would allow NBC to contract for films with exclusive rights over subscription television for a twenty-five month period and for additional twelve month periods for each additional single exhibition of the film or films greater than two. (Final Judgment at 9-10.) The Competitive Impact Statement filed in conjunction with the Stipulation and Final Judgment comments that this feature eliminates NBC's ability to obtain "exclusivity for several years from the date of the contract until the conclusion of the network run" and the "possibility that NBC can 'warehouse' feature films for a number of years before exhibiting them on network television". (Competitive Impact Statement at 20.) This statement is incomprehensible. The subject provision allows by its very terms precisely what the Competitive Impact Statement says it does not allow.

EXCLUSIVITY PROVISIONS OF 1974 THEATRICAL FILM CONTRACTS FOR ABC

January 14, 1974—American International Television, Inc.

3. *Exclusivity.*—Licensor shall have the right to exhibit and exploit the Film during the period beginning on January 14, 1974 and continuing through the end of the Broadcast Period; provided, however, that Licensor will not authorize the broadcast or transmission of all or any portion of the Film (or of any remake of or sequel to the Film or of any television pilot, television program, or television program series based on the Film or based on any of the literary property underlying the Film) through air waves, cable, or any other manner or means to television receivers, monitors, or screens in the Broadcast Area or in Windsor, Ontario, Canada or Tijuana, Mexico (other than pursuant to the rights granted to ABC hereunder) during the period beginning on January 14, 1974 and ending upon the expiration of the Broadcast Period for ending as many as sixty (60) days after such expiration. After such expiration any licensed broadcast or delayed broadcasts shall be made as part of any Network Broadcast hereunder of the Film), except: (i) pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; and (ii) exhibition in passenger-carrying vehicles.

March 8, 1974—Columbia Pictures Industries

(c) *Exclusivity.*—Licensor warrants that during the period beginning March 8, 1974 and continuing through the end of the Authorized Broadcast Period, the Film will not be exhibited by Licensor, or pursuant to Licensor's authorization, in any medium in the Broadcast Area or Windsor, Ontario, except by ABC pursuant to this Agreement, other than in the following media ("Licensor's Permissible Media"): (i) theatrical and non-theatrical direct projection; (ii) sale, lease, or other physical distribution of video cassettes; (iii) closed circuit television in hotels, motels, and similar institutions, and hospitals so long as none of the foregoing are primarily residential permanent residences (except as permitted under subparagraph (vi) below); (iv) exhibition on passenger-carrying vehicles; (v) in the Spanish language (in addition to the media specified in subdivisions (i) through (iv), as to which there is no restriction) all other media, to commence after the completion of the first Network Broadcast of the Film; and (vi) toll, pay and subscription television via cable or any other means where a "per program" or "per channel" charge is made for viewing until one month prior to the Authorized Broadcast Period.

April 5, 1974—United Artists Corp

3. *Exclusivity.*—(a) Licensor shall have the right to exhibit and exploit the Film without limitation during the period beginning April 5, 1974 and continuing through the end of the Broadcast Period; provided that licensor will not authorize the Film to be transmitted through air waves, cable, or any other manner or means to television sets in the Broadcast Area or Windsor, Ontario (other than pursuant to the rights granted to ABC hereunder), except: (i) sale or rental of video cassettes, cartridges or similar devices; (ii) cable or pay television in non-residential hotels, motels, hospitals, bars, restaurants, and other non-residential institutions; and (iii) passenger carrier exhibition.

(b) In addition to the rights granted to Licensor to exhibit and exploit the Film pursuant to subdivisions 3(a)(i), (ii), and (iii) hereof, Licensor shall have the right to exhibit and exploit the Film through CATV by any manner or means, and toll, pay and subscription television until June 30, 1975. Licensor warrants that thereafter, except for the uses permitted in subdivisions 3(a) (i), (ii), and (iii) hereof, Licensor shall not authorize any such exhibition or exploitation of the Film through CATV by any manner or means, or toll, pay or subscription television until after the end of the Broadcast Period.

Exhibit A

(c) To the extent that Licensor controls remake rights in the Film, Licensor agrees that it will not authorize the broadcast of such remake in the Broadcast Area during the Broadcast Period.

(d) If Licensor notifies ABC in advance of any re-release of the Film for theatrical direct projection during the Broadcast Period in the Broadcast Areas, then ABC will enter into negotiations with Licensor for commencing any request by Licensor that ABC refrain from making any Network Broadcast of the Film during such re-release period, but in case of disagreement ABC's determination shall prevail.

May 3, 1974—Independent Television Corp.

8. *Exclusivity.*—Licensor shall have the right to exhibit and exploit the Film during the period beginning on May 3, 1974 and continuing through the end of the Broadcast Period; provided, however, that Licensor will not authorize the broadcast or transmission of all or any portion of the Film (or any remake of or sequel to the Film) through air waves, cable, or any other manner or means to television receivers, monitors, or screens in the Broadcast Area or in Windsor, Ontario, Canada or Tijuana, Mexico (English Language only) (other than pursuant to the rights granted to ABC hereunder) during the period beginning on May 3, 1974 and ending upon the expiration of the Broadcast Period.

May 6, 1974—Bing Crosby Productions, Inc.

3. *Exclusivity: First negotiation/first refusal.*—(a) Licensor shall have the right to continue to exhibit and exploit the Film during the period beginning on May 6, 1974 and continuing through the end of the Broadcast Period; provided, however, that Licensor will not authorize the broadcast or transmission of all or any portion of the Film (or of any remake of or sequel to the Film or of any television pilot, television program, or television program series based on the Film or based on any of the principal human characters in the Film or on the literary property underlying the Film or on the life of Bob Hope) through air waves, cable, or any other manner or means to television receivers, monitors, or screens in the Broadcast Area or in Windsor, Ontario, Canada (other than pursuant to the rights granted to ABC hereunder) during the period beginning on May 6, 1974 and ending on and including (A) with respect to each such television pilot, television program, and television series and each portion thereof, the date which is two (2) years after the beginning of the Broadcast Period or the date of completion of second network broadcast hereunder of the Film (including, without limitation the completion of any and all delayed broadcasts made as part of said second network broadcast), whichever date occurs earlier (such date being called in subparagraph 3(b) hereof the "Final Date") and with respect to the Film and each portion thereof and each such remake and sequel and each portion thereof, the date of expiration of the Broadcast Period except: (i) pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; and (ii) exhibition in passenger-carrying vehicles.

August 12, 1974—United Artists Corp.

3. *Exclusivity.*—(a) Licensor shall have the right to exhibit and exploit the Film without limitation during the period beginning August 12, 1974 and continuing through the end of the Broadcast Period, provided that Licensor will not authorize the Film to be transmitted through air waves, cable, or any other manner or means to television sets in the Broadcast Area or Windsor, Ontario (other than pursuant to the rights granted to ABC hereunder), except: (i) sale or rental of video cassettes, cartridges or similar devices; (ii) cable or pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; and (iii) passenger carrier exhibition.

(b) To the extent that Licensor controls remake rights in the Film Licensor agrees that it will not authorize the broadcast of such remake in the Broadcast Area during the Broadcast Period.

(c) In addition to the rights reserved by Licensor to exhibit and exploit the Film pursuant to subdivisions 3(a)(i), (ii), and (iii) hereof, Licensor shall have the right to exhibit and exploit the Film through CATV by any manner or means, and toll, pay, and subscription television for two (2) years from June 8,

1974, Licensor's general theatrical release date, or until the start of the Broadcast Period, whichever is earlier. Licensor warrants that thereafter, except for the uses permitted in subdivisions 3(a) (i), (ii), and (iii) hereof, Licensor shall not authorize any such exhibition or exploitation of the Film through CATV by any manner or means, or toll, pay, or subscription television until after the end of the Broadcast Period.

November 15, 1974—Bing Crosby Productions, Inc.

8. *Exclusivity.*—Licensor shall have the right to continue to exhibit and exploit the Film during the period beginning on November 15, 1974 and continuing through end of the Broadcast Period; provided, however, that Licensor will not authorize the broadcast or transmission of all or any portion of the Film (or of any remake of or sequel to the Film or of any television pilot, television program, or television program series based on the Film or based on any of the principal human characters in the Film or on the literary property underlying the Film) through air waves, cable, or any other manner or means to television receivers, monitors, or screens in the Broadcast Area or in Windsor, Ontario, Canada (other than pursuant to the rights granted to ABC hereunder) during the period beginning on November 1, 1974, and ending on and including (A) with respect to each such television pilot, television program, and television program series and each portion thereof, the date which is two (2) years after the beginning of the Broadcast Period or the date of completion of the second Network Broadcast hereunder of the Film (including, without limitation, the completion of any and all delayed broadcasts made as part of said second Network Broadcast), whichever date occurs earlier, (B) with respect to the Film and each portion thereof and each such remake and each portion thereof, the date of expiration of the Broadcast Period, and (C) with respect to each such sequel and each portion thereof, the date of completion of the second Network Broadcast hereunder of the Film (including, without limitation, the completion of any and all delayed Broadcasts made as part of such second Network Broadcast) or date of expiration of the Broadcast Period, whichever date occurs earlier, except: (i) pay television in nonresidential hotels, motels, hospitals, bars, restaurants, and other nonresidential institutions; (ii) residential pay television, but in no event after the date which is six (6) months prior to the beginning of the Broadcast Period; and (iii) exhibition in passenger-carrying vehicles.

November 19, 1974—Columbia Pictures Television

(c) *Exclusivity.*—Licensor warrants that during *the period beginning November 19, 1974 and continuing through the end of* the Authorized Broadcast Period, the Film will not be exhibited by Licensor, or pursuant to Licensor's authorization, in any medium in the Broadcast Area or Windsor, Ontario, except by ABC pursuant to this Agreement, other than in the following media ("Licensor's Permissible Media"): (i) theatrical and non-theatrical direct projection; (ii) sale, lease, or other physical distribution of video cassettes; (iii) closed circuit television in hotels, motels, and similar institutions, and hospitals, so long as none of the foregoing are primarily residential permanent residences; (iv) exhibition on passenger-carrying vehicles; (v) in the Spanish language (in addition to the media specified in subdivisions (i) through (iv), as to which there is no restriction) all other media, to commence after the completion of the first Network Broadcast of the Film; and (vi) toll, pay and subscription television via cable or any other means, where a "per program" or "per channel" charge is made for viewing until one month prior to the Authorized Broadcast Period.

December 16, 1974—Twentieth Century-Fox Film Corp.

5. *Exclusivity.*—(a) Licensor shall have the right, without limitation, to exhibit and exploit the Film via cable or pay television in nonresidential institutions, including, but not limited to, hotels, motels, hospitals, bars and restaurants ("institutional cable television") during the period commencing with the date

[1] Editor's Note.—The same provision was also included in licensing agreement with the Hatfield work's deleted.

first written above and continuing through September 30, 1975 (Exploitation Period (aa)"); and Licensor warrants that immediately subsequent thereto and throughout the Broadcast Period it will not authorize or permit the exhibition or exploitation of the Film by any of the means set forth above in this subparagraph 5(a); provided, however, that in the event that Licensee shall elect to schedule the Network Broadcast of the Film within the next thirty (30) days of the Broadcast Period, Licensee shall notify Licensor in such effect no later than thirty (30) days prior to the date of such scheduled Network Broadcast, and in such event Exploitation Period (aa) shall expire (30) days prior to the date of such scheduled Network Broadcast.

(b) Licensor shall have the right, without limitation, to exhibit and exploit the Film through any means of "pay television" not provided for in subparagraph 5(a) immediately above, during the period beginning with the date first written above and continuing until six (6) months prior to the scheduled Network Broadcast, or until March 31, 1975, whichever is later ("Exploitation Period (bb)"); and Licensor warrants that for the period commencing immediately subsequent to Exploitation Period (b) and continuing through the date upon which the Broadcast Period expires it will not authorize or permit the exhibition of the Film by any of the means set forth above in this subparagraph 5(b). As used herein, the term "pay television" refers to all means of television exhibition, other than those set forth in subparagraph (a) above, for which a per-program charge is imposed, including but not limited to "toll," "subscription" and "cable" services.

December 27, 1974—Twentieth Century-Fox Film Corp.

Exclusivity.—(a) Licensor shall have the right, without limitation, to exhibit and exploit the Film via cable or pay television in non-residential institutions, including but not limited to hotels, motels, hospitals, bars and restaurants ("institutional cable television") during the period commencing with the date first written above and continuing until commencement of the Broadcast Period ("Exploitation Period (aa)"); and Licensor warrants that immediately subsequent thereto and throughout the Broadcast Period it will not authorize or permit the exhibition or exploitation of the Film by any of the means set forth above in this subparagraph 5(a); provided, however, that in the event that Licensee shall elect to schedule the Network Broadcast of the Film within the first thirty (30) days of the Broadcast Period, Licensee shall notify Licensor to such effect no later than thirty (30) days prior to the date of such scheduled Network Broadcast, and in such event Exploitation Period (aa) shall expire thirty (30) days prior to the date of such-scheduled Network Broadcast.

(b) Licensor shall have the right, without limitation, to exhibit and exploit the Film through any means of "pay television" not provided for in subparagraph 5(a) immediately above, during the period beginning with the date first written above and continuing six (6) months prior to the commencement of the Broadcast Period ("Exploitation Period (bb)"); and for the period commencing immediately subsequent to Exploitation Period (bb) and continuing through the Broadcast Period, Licensor warrants that it will not authorize or permit the exhibition of the Film by any of the means set forth above in this subparagraph 5(b). As used herein, the term "pay television" refers to all means of television exhibition, other than those set forth in subparagraph (a) above, for which a per-program charge is imposed, including but not limited to "toll," "subscription" and "cable" services.

EXCLUSIVITY PROVISIONS OF 1974 THEATRICAL FILM CONTRACTS FOR CBS

March 27, 1974—Medallion TV Enterprises

12. *Exclusivity.*—(a) Licensor warrants that the motion pictures will not be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area (or in Windsor, Ontario), except pursuant hereto, during the period commencing on the day and year first above written and ending upon the expiration of the Broadcast Period or sixty (60) days after the last authorized network broadcast of the

applicable motion picture (including any delayed broadcasts), whichever date first occurs (each period being herein called the "Exclusive Period"). Licensor warrants further that Licensor will not break off or transmit the motion pictures, and will not authorize any other person, firm or corporation to broadcast or transmit the motion pictures during the Exclusive Period by wire, cable, community antenna television system or any other means, including "toll pay or subscription" television within the Broadcast Area (or in Windsor, Ontario).

April 10, 1974 as amended, September 30, 1974—Warner Brothers

10. *Exclusivity.*—(a) Licensor warrants that the motion pictures will not be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area except pursuant hereto during the period commencing on the date first above written and ending upon the expiration of the Broadcast Period applicable to such motion picture or the day after the last permitted network broadcast (including delayed broadcasts) of such motion picture, whichever date is earlier, such period in regard to such three (3) motion pictures being herein called the "Exclusive Period." Licensor further warrants that the motion pictures will not be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area except pursuant hereto during the period commencing on the date first above written and ending upon expiration of the Broadcast Period applicable to such motion picture on or after the last permitted network broadcast (including delayed broadcasts) of such motion picture, whichever date is earlier, except that it is understood that the motion picture has heretofore been licensed by Licensor to the ABC Television Network for three (3) network broadcasts and the motion pictures each have been heretofore licensed to the NBC Television Network for three (3) network broadcasts. It is therefore understood that network broadcasts of the motion picture on the ABC Television Network and network broadcasts of the motion pictures on the NBC Television Network (each limited to not more than three (3) network broadcasts), shall not be deemed in breach of the foregoing, provided that the network broadcasts on the ABC Television Network of the motion picture occur prior to November 1, 1976; that the network broadcasts on the NBC Television Network of the motion picture occur prior to December 1, 1976; and that the network broadcasts on the NBC Television Network of the motion picture occur prior to November 1, 1977.

Subject to these exceptions, and notwithstanding such exceptions the period commencing with the date hereof and ending upon the expiration of the Broadcast Period applicable to such three (3) motion pictures, or ending upon the day after the last permitted broadcast (including delayed broadcasts) of the applicable motion picture, whichever date is earlier, shall herein be called the "Exclusive Period." Licensor also warrants that no motion picture will be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located in Windsor, Ontario except on the basis of authorizations granted by Licensor prior to the date of this Agreement and that Licensor will not hereafter grant any new licenses for such broadcasts and transmissions during the term of this Agreement. Licensor warrants further that Licensor will not transmit any motion picture and will not authorize any other person, firm or corporation to transmit any motion picture during the Exclusive Period by wire, cable or any other means, including "toll, pay or subscription" television, to television receivers located within the Broadcast Area.

April 16, 1974 as amended, October 29, 1974, November 11, 1974—Ben Barry and Associates

April 10, 1974—Ben Barry and Associates

April 19, 1974—Monroe Rapaport

July 9, 1974—Rosamond Productions

13. *Exclusivity.*—(a) Licensor warrants that the motion picture will not be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area (or in Windsor, Ontario), except pursuant hereto, during the period commencing on the day and

year first above written and ending upon the expiration of the Broadcast Period or sixty (60) days after the last authorized network broadcast of the motion picture hereunder (including any broadcasts pursuant to exercise by CBS of its option pursuant to para. 3(a)(ii)(B) hereof), whichever date first occurs (each period being herein called the "Exclusive Period"). Licensor warrants further that Licensor will not broadcast or transmit the motion picture and will not authorize any other person, firm or corporation to broadcast or transmit the motion picture during the Exclusive Period by wire, cable, community antenna television system or any other means, including "toll, pay or subscription" television within the Broadcast Area (or in Windsor, Ontario).

April 26, 1974—Cinema 5, Ltd.

12. *Exclusivity.*—(a) Licensor warrants that the motion pictures will not be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area except pursuant hereto, during the period commencing on the day and year first above written and ending upon the expiration of the Broadcast Period or sixty (60) days after the last authorized network broadcast of the applicable motion picture (including any delayed broadcasts), whichever date last occurs (each period being herein called the "Exclusive Period"). Licensor warrants further that Licensor will not broadcast or transmit the motion pictures, and will not authorize any other person, firm or corporation to broadcast or transmit the motion pictures during the Exclusive Period by wire cable, community antenna television system or any other means, including "toll, pay or subscription" television within the Broadcast Area.

July 2, 1974 as amended, July 2, 1974, September 27, 1974—United Artists

July 2, 1974 as amended, July 2, 1974, September 27, 1974 (7 pictures)—United Artists

12. *Exclusivity.*—(a) Licensor warrants that the motion picture will not be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area (or in Windsor, Ontario), except pursuant hereto during the period commencing on the day and year first above written and ending upon the expiration of the Broadcast Period or sixty (60) days (for the purpose of delayed broadcasts in each delayed broadcast market, after the second "network broadcast" of the motion picture, whichever date first occurs, (such period being herein called the "Exclusive Period"). Licensor warrants further that Licensor will not broadcast or transmit the motion picture during the Exclusive Period by wire, cable, community antenna television system or any other means, including "toll pay or subscription" television within the Broadcast Area (or in Windsor, Ontario).

SEPTEMBER 27, 1974.

UNITED ARTISTS CORPORATION.
729 Seventh Avenue, New York, N.Y.

GENTLEMEN: Reference is made to the following documents:

(a) Film License Agreement dated as of July 2, 1974 whereby you licensed to us the motion picture for television broadcast.

(b) Film License Agreement dated as of July 2, 1974 whereby you licensed to us seven (7) motion pictures for television broadcast.

(c) Amendatory letter dated July 2, 1974 whereby you licensed to us three (3) network broadcasts to be selected from the motion pictures licensed to us pursuant to the Film License Agreements specified in subsections (a) and (b) hereinabove, as well as from the motion picture.

In connection with the foregoing Film License Agreements, you have advised us that you have made arrangements for the exhibition of the motion pictures over "community antenna television systems." We therefore agree that notwithstanding anything contained in paragraphs 8 (LICENSE) and 12(a) (EXCLUSIVITY) of the respective Film License Agreements, you shall have the right to broadcast or transmit, or license the broadcast or transmission by wire, cable,

community antenna television systems (including "toll, pay or subscription" television), but not by any means of broadcast and/or transmission over the air, the picture in the Broadcast Area at any time but only prior to December 31, 1974, and that the motion picture may be broadcast or transmitted (or licensed for broadcast or transmission), in the same manner and subject to the same limitations, in the Broadcast Area at any time but only prior to September 1, 1975.

We further agree that notwithstanding anything contained in the documents specified hereinabove, you may license the motion picture the seven (7) motion pictures licensed to us pursuant to the Film License Agreement specified in subsection (b) above, as well as the motion picture for exhibition in the Broadcast Area over closed circuit television solely in hotels and motels and solely on the condition that the occupant of each separate hotel or motel room is required to pay a separate and distinct charge based on the number of programs supplied or a standard charge based on the hours of service provided or that the particular hotel or motel pays a separate and distinct per room per day charge for each room of the applicable hotel or motel in connection with the service provided.

Very truly yours,

CBS TELEVISION NETWORK,
A DIVISION OF CBS INC.

July 9, 1974 as amended, October 31, 1974—Teleworld Inc.

13. *Exclusivity.*—(a) Licensor warrants that the motion picture will not be broadcast or transmitted pursuant to any authorization of Licensor over any television station whose transmitter is located within the Broadcast Area (or in Windsor, Ontario), except pursuant hereto, during the period commencing January 1, 1976 and ending upon the expiration of the Broadcast Period or sixty (60) days after the last authorized network broadcast of the motion picture hereunder (including any broadcasts pursuant to exercise by CBS of its option pursuant to paragraph 3(b) hereof), whichever date first occurs (such period being herein called the "Exclusive Period"). Licensor warrants further that Licensor will not broadcast or transmit the motion picture and will not authorize any other person, firm or corporation to broadcast or transmit the motion picture during the Exclusive Period by wire, cable, community antenna television system or any other means, including "toll, pay or subscription" television within the Broadcast Area (or in Windsor, Ontario). Nothing contained in this paragraph 13(a) shall be deemed to prohibit Licensor from authorizing the Licensing or the performance of the motion picture on ships or aircraft.

July 18, 1974 (14 pictures)—Warner Brothers

10. *Exclusivity.*—(a) Licensor warrants that no motion picture will be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area except pursuant hereto during the period commencing on the date first above written and ending upon the expiration of the Broadcast Period applicable to such motion picture or the day after the last permitted network broadcast (including delayed broadcasts) of such motion picture, whichever date is earlier, such period being herein called the "Exclusive Period." Licensor also warrants that no motion pictures will be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located in Windsor, Ontario except on the basis of authorizations granted by Licensor prior to the date of this Agreement and that Licensor will not hereafter grant any new licenses for such broadcasts and transmissions during the term of this Agreement. Licensor further warrants that Licensor will not transmit any motion picture hereunder, and will not authorize any other person, firm or corporation to transmit any such motion picture, during the Exclusive Period by wire, cable or other means, including "toll, pay or subscription" television to television receivers located within the Broadcast Area; provided, however, that Licensor shall have the right, with respect to each motion picture hereunder, to authorize the transmission thereof over the facilities of any toll, pay or subscription television system transmitting programs by means of wire or cable to television receivers located in the Broadcast Area to subscribing members of the public who pay a per-program or per-channel charge for the right to receive program material originated by such system, provided that any such transmission shall only occur prior to the following applicable dates in regard to each of the motion pictures hereunder:

The motion picture prior to January 1, 1976.
The motion picture prior to June 1, 1976.
The motion picture prior to July 1, 1975.
The motion picture prior to April 1, 1975.
The motion picture prior to December 1, 1975.
The motion picture prior to July 1, 1975.
The motion picture prior to August 1, 1976.
The motion picture prior to November 1, 1975.
The motion picture prior to May 1, 1975.
The motion picture prior to July 1, 1972.
The motion picture prior to June 1, 1973.
The motion picture prior to July 1, 1974.
The motion picture prior to ———

Notwithstanding anything contained in the preceding portion of this subparagraph (a) to the contrary, Licensor shall have the right to license the motion pictures hereunder during the Exclusive Period in the Broadcast Area over any closed circuit television system operating solely within hotels and motels *and hospitals* on condition that under the terms of such licensing the occupant of each separate hotel or motel room is required to pay a separate identifiable charge based upon the number of programs supplied or the number of hours of service provided or that the particular hotel or motels pays a separate and identifiable per-room per-day charge for each room therein for the service provided.

July 18, 1974 (6 pictures)—Warner Brothers

10. *Exclusivity.*—(a) Licensor warrants that no motion picture will be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located within the Broadcast Area except pursuant hereto during the period commencing on the date first above written and ending upon the expiration of the Broadcast Period applicable to such motion picture or the day after the last permitted network broadcast (including delayed broadcasts) of such motion picture, whichever date is earlier, such period being herein called the "Exclusive Period." Licensor also warrants that no motion pictures will be broadcast or transmitted pursuant to any authorization of Licensor over any station whose transmitter is located in Windsor, Ontario except on the basis of authorizations granted by Licensor prior to the date of this Agreement and that Licensor will not hereafter grant any new licenses for such broadcasts and transmissions during the term of this Agreement. Licensor further warrants that Licensor will not transmit any motion picture hereunder, and will not authorize any other person, firm or corporation to transmit any such motion picture during the Exclusive Period by wire, cable or other means, including "toll, pay or subscription" television to television receivers located within the Broadcast Area; provided, however, that Licensor shall have the right, with respect to each motion picture hereunder, to authorize the transmission thereof over the facilities of any toll, pay or subscription television system transmitting programs by means of wire or cable to television receivers located in the Broadcast Area to subscribing members of the public who pay a per-program or per-channel charge for the right to receive program material originated by such system, provided that any such transmission shall only occur prior to the following applicable dates in regard to each of the motion pictures hereunder:

The motion picture prior to January 1, 1975.
The motion picture prior to January 1, 1975.
The motion picture prior to January 1, 1975.
The motion picture prior to January 1, 1976.
The motion picture prior to July 18, 1974.
The motion picture prior to June 1, 1975.

Notwithstanding anything contained in the preceding portion of this subparagraph (a) to the contrary, Licensor shall have the right to license the motion pictures hereunder during the Exclusive Period in the Broadcast Area over any closed circuit television system operating solely within hotels and motels on

condition thereof and the terms of such license, or the renewal of such separate hotel or room [illegible] number of persons in occupancy of the premises or room, provided that the particular offer is [illegible] and identical per room, per day charge for each room therein to the service provided.

August 7, 1974—Twentieth Century-Fox

13. *Exclusivity.*—(a) Licensor warrants that the motion picture will not be broadcast or transmitted pursuant to any authorization or [illegible] over any station whose transmitter is located within the Broadcast Area (or in Windsor, Ontario), except pursuant hereto, during the period commencing on the date and year first above written and ending upon the expiration of the Broadcast Period or sixty (60) days after the last authorized network broadcast of the motion picture hereunder, which [illegible] date first occurs (such period being herein called the "Exclusive Period"). Licensor warrants further that Licensor will not broadcast or transmit the motion picture and will not authorize any other person, firm or corporation to broadcast or transmit the motion picture during the Exclusive Period [illegible] any station whose transmitter is located within the Broadcast Area (or in Windsor, Ontario).

July 30, 1974 as amended, December 17, 1974—Metro-Goldwyn-Mayer

October 21, 1974—Metro-Goldwyn-Mayer

12. (a) MGM warrants that the Picture will not be televised or transmitted pursuant to any authorization of MGM or any station whose transmitter is located in the Licensed Territory or in Windsor, Ontario (such areas together being herein called the "Exclusive Territory") except pursuant hereto during the period commencing on the date first above written and ending upon the expiration of the Telecast Period [illegible] (such period being herein called the "Exclusive Period"); provided, however, that the Exclusive Period for the Picture shall run [illegible] (60) days after the last permitted telecast thereof and MGM shall have no right to license the Picture to, or cause it to appear upon the Exclusive Period. MGM further warrants that MGM will not, during any of such periods, [illegible] participate in the broadcast, exhibition or other showing of the Picture during the Exclusive Period as above set forth or any other [illegible] pay television, subscription television, or television receivers of the type commonly used in private homes located within the Licensed Territory.

August 22, 1974 as amended, October 17, 1974—Columbia Pictures

16. *Exclusivity.*—(a) Licensor [illegible] of the motion picture [illegible] or outlaw [illegible] with respect to the [illegible] hereof or otherwise [illegible] available with the [illegible] Broadcast Area (or in Windsor, Ontario, Canada) [illegible] Exclusive Period [illegible] of "A" or A hereto or [illegible] dates; A [illegible] Period [illegible] hereunder.

(b) The [illegible] of the [illegible] of "B" or B hereto shall [illegible] the [illegible] Broadcast Area (or in Windsor, Ontario, Canada) during the [illegible] of the [illegible] applicable Exclusive Period on a daily basis. Such [illegible] of the motion picture hereunder.

However, in order to fulfill [illegible] the Broadcast Period referred to in [illegible] 16(a), said sale [illegible] 16(a) [illegible] (referred to in the [illegible] Exclusive Period [illegible] those markets in which [illegible] as to the applicable film or films [illegible] the applicable [illegible] For the purpose of the

foregoing, CBS [illegible] by Windsor, Ontario [illegible] after [illegible] none of the [illegible] hereof and [illegible] Broadcast Area (or in Windsor, Ontario), except pursuant hereto, during the [illegible] year first above written and ending upon the expiration of the Broadcast period applicable to such motion picture under the sale [illegible] network broadcast [illegible] whichever date first occurs (such period being called the "Exclusive Period"). [illegible] picture hereunder [illegible] to Balcomat [illegible] cable or any [illegible] television receivers [illegible] Broadcast Area (or in Windsor, Ontario).

Notwithstanding anything contained in the preceding portion of this subparagraph (a) to the contrary, Licensor shall have the right to license the motion pictures hereunder during the Exclusive Period in the respective Broadcast Areas over any closed circuit television system operating solely within motels and motels on condition that under the terms of such licensing, the occupant of each separate hotel or motel room is required to pay a separate identifiable charge based upon the standard of program supplied or the number of hours of service provided or that the particular hotel or motel pays a separate and identifiable per room per day charge for each room therein for the service provided.

EXCLUSIVITY PROVISIONS OF 1974 THEATRICAL FILM CONTRACTS FOR NBC

May 22, 1974 - United Artists Corp., Clauses 3, 4

3. (a) [illegible] shall commence on the date of the agreement and shall [illegible] each picture until the expiration of the Telecast Term [illegible] the territory [illegible] affiliated Network [illegible] NBC [illegible] attached [illegible]

(b) During the term [illegible] shall be exclusive to NBC in the licensed territory [illegible] which [illegible] pertaining [illegible] each [illegible] such [illegible]

4. Notwithstanding [illegible] pursuant to paragraph [illegible] (i) [illegible] solely in hotel [illegible] Singer complex [illegible] a "complex" is two or more [illegible] parcels of real property [illegible] the occupant of each [illegible] a separate and distinct charge for viewing the film (as distinguished from a blanket charge based on the number of programs supplied or a standard charge based on the hours of service provided) and (ii) until the earlier of (a) two years prior to the return date for each film or (b) the expiration of the period (presently two years from the initial theatrical release of the film) specified in Section 76.225(a)(1) of the FCC rules, as such section may be hereafter amended, UA may transmit or authorize the transmission of the film by wire, cable or any other means, where a "per program" or "per channel" charge is made for viewing the film.

Nothing contained in this agreement is intended to imply that a CATV system owned by UA shall have any lesser right to carry NBC's broadcast of the film than such system would have had if owned by a third party. The granting by UA to any airline, train or ship of the right to perform or exhibit any of the films hereunder, whether electronically or by means of direct projection, on any flight or trip in the licensed territory to those persons aboard the plane, train or ship shall not be a breach of this agreement.

June 1, 1974—Metro-Goldwyn-Mayer, Clause 1(c)

(c) During the term the pictures shall be exclusive to NBC in free and pay and subscription television in the licensed territory except for the following: Licensor may license each picture for exhibition in the licensed territory by pay television (i.e. where a per-program charge is made for viewing the picture or the subscriber pays a separate per-channel charge for the channel where the picture is being shown), provided no such pay television exhibition occurs during the period commencing 60 days prior to the availability date of the picture specified in the attached schedule and ending with the expiration of the telecast term of such picture.

January 16, 1974—Metro-Goldwyn-Mayer, Clause 1(c)

(c) During the term the pictures shall be exclusive to NBC in free and pay and subscription television in the licensed territory except for the following: Licensor may license each picture for exhibition in the licensed territory by pay television (i.e. where a per-program charge is made for viewing the pictures, provided no such pay television exhibition occurs during the period commencing 60 days prior to the availability date of the picture specified in the attached schedule and ending with the expiration of the telecast term of such picture.

release of the film) specified in Section 76.225(a)(1) of the FCC rules, as such section may be hereafter amended, UA may transmit or authorize the transmission of the film by wire, cable or any other means, where a "per program" or "per channel" charge is made for viewing the film.

May 22, 1974—Warner Bros., Inc.; Clause 4

4. From the date hereof until the expiration of NBC's rights in a picture, said picture will be exclusive to NBC on free television (including cable television, but not exclusive to cable television for which the viewer pays a per program or per channel charge) and, during the Play-Off Period, on over-the-air pay television (in addition to free television) in the licensed territory.

February 5, 1974—United Artists Corp., Clauses 1(c) and 2

(c) During the term each of the films shall be exclusive to NBC in the licensed territory, except for uses expressly permitted pursuant to paragraph 2 of this agreement. NBC's exclusive right to each film will expire upon the expiration of the Telecast Term with respect to such film as provided in the attached schedule.

2. Notwithstanding the exclusivity granted to NBC or restrictions imposed pursuant to paragraph 1 of this agreement, UA may license the film: (i) at any time during the term for closed circuit television exhibition solely in hotels and high-rise residential apartment complexes under common ownership or control, or high-rise residential condominiums (it being understood that a "complex" is two or more adjoining units originally developed or publicly regarded as a single entity or residential community), and solely on condition that the occupant of each separate hotel room, apartment, or abode is required to pay a separate and distinct charge for viewing the film (as distinguished from a blanket charge based on the number of programs supplied or a standard charge based on the hours of service provided); and (ii) until the earlier of (a) two years prior to the return date for each film or (b) the expiration of the period (presently two years from the initial theatrical release of the film) specified in Section 76.225(a)(1) of the FCC rules, as such section may be hereafter amended, UA may transmit or authorize the transmission of the film by wire, cable or any other means, where a "per program" or "per channel" charge is made for viewing the film.

Nothing contained in this agreement is intended to imply that a CATV system owned by UA shall have any lesser right to carry NBC's broadcast of the film than such system would have had if owned by a third party. The granting by UA to any airline, train or ship of the right to perform or exhibit any of the films hereunder, whether electronically or by means of direct projection, on any flight or trip in the licensed territory to those persons aboard the plane, train or ship shall not be a breach of this agreement.

June 1, 1974—Metro-Goldwyn-Mayer, Clause 1(c)

(c) During the term the pictures shall be exclusive to NBC in free and pay and subscription television in the licensed territory except for the following: Licensor may license each picture for exhibition in the licensed territory by pay television (i.e. where a per-program charge is made for viewing the picture or the subscriber pays a separate per-channel charge for the channel where the picture is being shown), provided no such pay television exhibition occurs during the period commencing 60 days prior to the availability date of the picture specified in the attached schedule and ending with the expiration of the telecast term of such picture.

January 16, 1974—Metro-Goldwyn-Mayer, Clause 1(c)

(c) During the term the pictures shall be exclusive to NBC in free and pay and subscription television in the licensed territory except for the following: Licensor may license each picture for exhibition in the licensed territory by pay television (i.e. where a per-program charge is made for viewing the pictures, provided no such pay television exhibition occurs during the period commencing 60 days prior to the availability date of the picture specified in the attached schedule and ending with the expiration of the telecast term of such picture.

February 8, 1974—American International Television, Inc., Clause 1(a)

1. (a) Licensor does hereby grant to NBC during the term hereof the sole and exclusive license to telecast on free television (including community antenna systems, but not pay television) on a national network basis the motion pictures specified in the schedule attached hereto (hereinafter called "the pictures", which term shall refer to one picture if only one picture is designated in the schedule) within the United States, its territories and possessions, including Puerto Rico (herein called the "licensed territory") for the number of runs specified in the attached schedule. During the term the pictures shall be exclusive to NBC in free and pay television in the licensed territory, and in Windsor, Ontario, and as to English language broadcast in Tijuana, Mexico, (and the pictures shall not be broadcast from any transmitter located elsewhere in Canada or Mexico (in English language only) which is capable of placing a signal in any portion of Detroit, Michigan, or San Diego, California, sufficient to provide at least "Grade B service", as that term is defined and calculated in the Rules and Regulations of the Federal Communications Commission), except that licensor reserves the right to license the film for hotel, condominium and high rise apartment exhibition on paid television systems that require a per channel or per program charge for reception of the film. The term hereof shall commence on the date hereof and shall continue as to each picture until the expiration of the telecast term specified in the attached schedule or the last authorized telecast of the picture (including 60 days delayed telecast), whichever is earlier; provided, however, that no picture shall be telecast hereunder earlier than the commencement date of the telecast term therefor specified in the attached schedule.

November 25, 1974—Cinema Center Films, Part of Clause 1(a)

During the term, the picture shall be exclusive to NBC in free television in the licensed territory and in Windsor, Ontario and for English language broadcasts in Tijuana, Mexico. The picture was theatrically released more than two (2) years prior to the commencement of the term hereof and, therefore, Licensor has elected not to make the picture available for exhibition in pay television during the term.

November 21, 1974—Emerson Film Enterprises, Inc., Clause 1(a)

Each picture shall be exclusive to NBC in free and pay television (including wireless, cable and CATV transmission), as hereinafter specified. During the period from the date of this agreement until the expiration of NBC's rights in a picture, the picture will be exclusive to NBC in free and pay television in the licensed territory, except that with respect solely to pay television where a "per-program" or "per-channel" charge is made for viewing the picture, Licensor may license the picture for broadcast before the earlier of either (i) sixty (60) days prior to the commencement of the telecast term specified in the attached schedule or (ii) the expiration of the period specified in Sec. 76.225(a)(1) of the FCC rules, (i.e. currently 2 years from initial theatrical release of the picture).

December 2, 1974—Viacom International, Inc., Clause 1(a)

Each picture shall be exclusive to NBC in free and pay television (including wireless, cable and CATV transmission), as hereinafter specified. During the period from the date of this agreement until the expiration of NBC's rights in a picture, the picture will be exclusive to NBC in free and pay television in the licensed territory, except that with respect solely to pay television where a "per-program" or "per-channel" charge is made for viewing the picture, Licensor may license the picture for broadcast before the earlier of either (i) sixty (60) days prior to the commencement of the telecast term specified in the attached schedule or (ii) the expiration of the period specified in Sec. 76.225(a)(1) of the FCC rules, (i.e. currently 2 years from initial theatrical release of the picture).

CONSUMERS UNION / A NONPROFIT ORGANIZATION / PUBLISHER OF CONSUMER REPORTS

February 28, 1977

Mr. Bernard M. Hollander, Chief
Judgements and Judgement Enforcement Section
Antitrust Division
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Hollander:

Consumers Union (CU) and Consumer Federation of America (CFA) wish to express our concern over, and opposition to, the provision in the proposed NBC/Justice Department Consent Decree that would grant NBC the right to obtain contractual exclusivity on motion pictures for an unreasonably long period.

Our understanding is that this provision would allow NBC to obtain exclusive rights to a motion picture for a period of 30 days before the picture's availability date and for 24 additional months covering the first two runs of the picture plus 12 months for each contracted subsequent run. This arrangement -- which is not related to the actual exhibition date -- essentially forecloses the availability of a picture to other forms of television, i.e., pay cable and subscription. We find such foreclosure to be anticompetitive and not in the best interest of the consumer and a free marketplace economy.

We believe that the Justice Department's endorsement of this restraint of trade is inappropriate, given the stated intention of the House of Representative's Communications Subcommittee to examine and reevaluate the entire Communications Act of 1934. Justice Department action risks weakening the possibility of obtaining redress against exclusivity practices of this kind in other forums, such as the Congress, the FCC and in the courts.

Our interest in the Justice Department's action is contained in CFA's Communications Policy Resolutions, approved by its membership (over 200 national, state and local non-profit organizations) on February 12, 1977. It states in part:

> "CFA recognizes that consumers have a major stake in the technologies and issues...both because the public has the right to choose from and have access to a variety of high quality communications services at reasonable costs and because the public is dependent upon telecommunications for accurate treatment and fair reporting of the many diverse and complex issues in today's society."

256 WASHINGTON STREET / MOUNT VERNON, NEW YORK 10550

We believe that cable television has, in the main, fallen short in fostering diversity in programming. For instance, we are unaware of any significant cable or pay TV programming designed to serve the information needs of consumers. Cable television's failure to develop a strong public service component to its programming would appear to us to be further hindered by same-ownership broadcast industry practices that potentially deprive cable of developing a viable economic base. Our concern, therefore, is that the government not inhibit the cable industry from developing the economic base to deliver the full public service potential promised but thus far not delivered.

We, therefore, believe that a Consent Decree provision with the potential of inhibiting the growth of cable or pay TV in this country is contrary to the best interests of all Americans. We urge the Justice Department to withdraw its Consent to this Decree and seek one that promotes and safeguards competition in our broadcast/cable industries.

CU and CFA have not focused on the other provisions of the Consent Decree and are offering no comment on them at this time.

Very truly yours,

Warren Braren

Warren Braren
Associate Director
and
Chairperson, CFA
Communications Policy Committee

WB/lk

cc: Rhoda H. Karpatkin
Executive Director, CU

Kathleen O'Reilly
Executive Director, CFA

UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST
WASHINGTON, D. C. 20006

February 28, 1977

Bernard M. Hollander, Chief
Judgments and Judgment
Enforcement Section
Antitrust Division
Washington, D. C. 20530

Re: United States v. NBC

Dear Mr. Hollander:

The U.S. Conference of Mayors, an organization representing the nation's 750 cities over 30,000 population, is writing in opposition to the provisions in the proposed NBC/Justice Department Consent Decree permitting NBC to continue its practice of obtaining contractual exclusivity against pay cable television on feature films.

Pay cable television is a new home entertainment service which is being made available to more than a million cable subscribers in approximately 410 towns and cities throughout the nation. According to cable developers, it is the added revenue base generated by pay cable television programming that can provide the economic stimulus for the expansion of cable telecommunications into our major urban communities.

The proposed Consent Decree granting NBC the right to withhold motion picture products from the pay cable industry would deprive the pay cable industry of essential programming it must have in order to attract urban customers. The cost of building urban cable systems can go as high as $10,000 per mile. Without access to movies upon which to build a stable economic base, cable operators and investors are reluctant to venture into urban markets. Cable television with the economic incentive provided by pay cable subscribers can bring to all city residents the many advantages offered by a broadband communications service.

Furthermore, without motion picture product to attract large audiences, the cable industry would be denied the opportunity to broaden its programming horizons into the areas of cultural, children's, and minority interest programming that is often lacking on commercial television and regrettably inaccessible to many elderly and disadvantaged citizens in our urban centers.

The U.S. Conference of Mayors has long championed free competition in the marketplace of ideas as well as in the economic marketplace. The pay cable industry is an emerging home entertainment service that is struggling to compete with the major networks that have access today to over 74 million TV homes. It is blatantly anti-competitive to deny the pay cable industry its right to compete with an oligopolistic broadcast industry that generates over a billion dollars in revenues while enjoying free use of the public airwaves.

The U.S. Conference of Mayors is aware that our commercial TV system is the finest in the world. Yet, we also recognize that free competition is a fundamental principle of our society that should be nourished rather than stifled. In testimony before the Federal Communications Commission, we have stated that pay cable television will not supplant our commercial system, but will supplement it by offering greater diversity and freedom of choice.

It is indeed ironic that a Consent Decree which was brought to open the doors of competition in the program producing industry would slam these doors shut on the pay cable industry. It is fair to ask why NBC chooses to seek contractual exclusivity only against pay cable television and not against other means of motion picture distribution including in-flight exhibition, hotel exhibition, theatrical exhibition, and cassettes and video-discs. Surely, these modes of exhibition generate audiences larger than the pay cable industry. Yet, the decree would endorse NBC's discriminatory practices. We believe the Justice Department should carefully examine whether it has become a party to NBC's efforts to foreclose competition in the home entertainment industry. The need for a thorough examination becomes even more apparent when it is pointed out that NBC's parent company, RCA, is investing in the development of video-disc home movies against which NBC does not feel compelled to obtain contractual exclusivity.

The major concern of the U.S. Confernece of Mayors is identifying what is in the public interest in this case. Our concerns include those citizens who are cable subscribers as well as those who are not. We have testified before the FCC that the unrestricted growth and development of pay cable television will not injure the rights of those citizens who enjoy commercial television. We firmly believe that it is the consumer who should have the ultimate right to choose the form and the manner in which he receives and views entertainment in his home.

Bernard M. Hollander, Chief
February 28, 1977
Page three

TV sets are paid for by the individual. They are not the property of the Networks, the advertisers, nor the pay cable industry. Therefore, the role of the government should be to protect and preserve the right of the individual to exercise his basic freedoms. The Consent Decree, as it is written, makes the government a party to an unreasonable and unwarranted infringement on the right of all citizens to freely exercise their preferences in deciding how and in what form they shall view movies.

The Justice Department initially proposed a formula that would have limited network exclusivity to no more than 45 days prior and 45 days after a network telecast. Clearly, that solution would have better safeguarded the public interest and fostered greater competition. Unfortunately, the Department acceded to NBC's demands for far broader exclusivity. There is the distressing prospect -- presently unanswered -- that the Justice Department sacrificed the interests of the pay cable industry in order to obtain an overall agreement with NBC.

The U.S. Conference of Mayors believes that the Decree is not in the public interest and is contrary to the mandate of our antitrust laws. We urge the Justice Department either to withdraw the provision in the decree affecting pay cable television or negotiate relief that will serve the public interest and preserve our free market society.

Sincerely,

John J. Gunther
Executive Director

MEDIA ACCESS PROJECT

February 28, 1977

Bernard M. Hollander, Chief
Judgments and Judgment Enforcement Section
Anti-Trust Division, Department of Justice
Washington, D.C. 20530

Dear Mr. Hollander:

This letter is being written on behalf of the Committee for Open Media (COM) (San Jose, California), the Mexican-American Legal Defense Fund (MALDF) (Washington, D.C.) and the National Newspaper Publishers Association (NNPA) (Washington, D.C.) in connection with the Justice Department's proposed consent decree with the National Broadcasting Company. COM, MALDF, and NNPA are concerned with the aspect of the settlement which relates to certain protections afforded the National Broadcasting Company's scheduling of motion pictures on television.

If one were consciously to attempt to undermine the viability of subscription and pay cable television today, one would not be likely to find an easier or more effective method than by enforcing the exclusivity provision in the proposed consent decree between the National Broadcasting Company (NBC) and the Department of Justice.

Still in a nascent and highly vulnerable stage of development, the cable television industry relies heavily upon its power to attract and to retain new subscribers. 1/ While cable television has achieved its greatest success in rural areas, which might typically be served by only one or two distant stations, its attempts to attract support in the major cities has often been frustrated by the plethora of traditional-type programs offered by the more familiar networks.

As most cable operators agree, however, this barrier is not insurmountable. Indeed, perhaps the most promising development in this new and exciting area of broadcasting is pay cable service, which allows a cable subscriber to enjoy, for a few extra dollars each month, first-run movies and sporting events. Such programs are presented on special channels, unedited and without commercial interruption.

1/ "Future of Cable TV: The Future Brightens", New York Times, February 21, 1976.

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The monies so received, in turn, make possible the variety of cultural and special interest programming that currently distinguishes cable from major network television, the former employing a type of programming that has almost infinite ramifications for those seeking to advance the interests of hitherto underrepresented minorities in this country.

Under the terms of the consent decree's proposed exclusivity provision, a well-established station, such as NBC, could conceivably condition its purchase of a first-run movie upon the producer's promise not to distribute that particular film to cable television during the month preceding and the two years following the film's designated availability date.

We urge that the contractual exclusivity provision be eliminated. Its gross unfairness to cable television and undue protectiveness towards major network interests are clearly inconsistent with, if not totally antithetical to, the concept of cultural diversity in television programming.

That the proposed contractual exclusivity clause--and a fortiori, the option to renew--would firmly reinforce major networks' clear dominance over cable TV in still one more area of programming, i.e., films, is self-evident. 1/ Less obvious, but at least equally disturbing, are the implications of exclusivity for the possibility of providing meaningful access to the media in the foreseeable future for the less visible, often less powerful, minority peoples of this country.

A complete list of the ways in which cable television could advance minority interests is obviously impossible to generate at this time. However, we believe that cable television represents one of the most promising and feasible methods by which important needs of the minority community are being and can continue, in interesting measure, to be met. 2/

1/ The networks currently have access to 74 million TV homes. According to their own estimates, network revenues are expected to reach $13 billion by 1985. These figures are in sharp contrast to the 12.5 million subscribers of cable television today.

2/ According to Alex Mendaris, Director of the Office of Minority Business enterprise, who testified in the recent FCC hearings to relax restrictions on cable television, there were four minority cable systems on the air, with another one under construction at the time of the hearings. A total of 23 minority firms held franchises, and a substantial number of other minority corporate groups were then forming to seek additional franchises.

Over 11 million minorities are currently concentrated in the 25 major markets of this country. In light of the frequently high costs of attending cinematic, dramatic, educational, musical, or other cultural events in larger cities today, pay cablecasting offers the opportunity for such groups to share some of the events that are unique to urban life, but which would nevertheless remain largely unavailable to them otherwise. Payment of the typical cable charge of less than $8.00 per month, which is less than the cost of a single family trip to the movies, would broaden the cultural options open to poor immeasurably. Cablecasting represents one way in which the broadcast media might allow the indigent to avoid the prohibitive costs of travel and admission, but still benefit from the advantages of living in a major city. In a very real sense, cable television would permit poor and minority peoples to escape the immediacy of their circumstances and to partake in some of the best forms of cultural enrichment that American society can offer.

Cable television's relatively limited audience size, a serious weakness insofar as subsidization is concerned, could be turned to significant advantage by maximizing upon the greater amounts of flexibility and special interest programming that it allows.

More minority participation at top-levels of decision-making as well as additional minority-operated stations would go a long way towards augmenting broadcaster sensitivity to local needs. A greater receptivity to local talent would provide an important outlet for the self-expression of heretofore unrecognized filmmakers, producers, and artists, thereby contributing to greater minority employment as well. The familiar problems of inadequate local news coverage too could be alleviated. Even the needs of small communities where a foreign language is predominant could be met through cablecasting.

The possibilities in this area are limitless. But before such innovative and important programs can be realized, cable television must be afforded the opportunity to achieve a small measure of economic security. The presentation of high quality feature films as part of pay cable service plays a key role in generating support for the continuation of cable television.

Legitimization of NBC's proposed exclusivity clause would not only perpetuate the monopoly of television entertainment enjoyed by the major networks today, but would dash the hopes for soon achieving the cultural diversity that is so sorely needed in this industry. This opportunity for bold innovation should not be lost. The proposal of contractual exclusivity should be eliminated.

Yours truly,

Harvey J. Shulman
Media Access Project
1912 N Street, N.W.
Washington, D.C. 20036
(202) 785-2613

Counsel for COM, MALDF, NNPA

Of Counsel:

Edward Leong
Law Student Intern
University of Pennsylvania Law School

Cable Television

March 1, 1977

Mr. Bernard M. Hollander, Chief
Judgements and Judgement
Enforcement Section
Antitrust Division
U. S. Department of Justice
Washington, D. C. 20530

Dear Mr. Hollander:

The undersigned, certain members of the staff of the Cable Television Information Center of The Urban Institute, hereby submit comments on the proposed consent decree in the case of United States v. National Broadcasting Company, Inc., Civil No. 74-3601-RJK, which was filed November 17, 1976 in the United States District Court for the Central District of California.

These comments reflect the views of the undersigned. They are not the views of the Cable Television Information Center of The Urban Institute, nor of the sources of its financial support.

Under section VI (E) (iii) (e) of the proposed consent decree, the Department of Justice would give its approval to NBC's acquisition of exclusive exhibition rights to first run motion pictures as against subscription and pay cable television. The period of exclusivity allowed under the proposed decree may extend up to 24 months for two broadcast showings and an additional 12 months for each exhibition greater than two. Thus, NBC may acquire the exclusive right to exhibit a film three times and thus preclude the showing of that film on subscription or pay cable television for three years. This period of exclusivity, combined with the Federal Communications Commission's current rules regarding the exhibition of feature films on pay cable, 47 C.F.R. § 76.225 (a), could effectively foreclose pay cable from exhibiting certain movies for at least ten years and possibly longer.

This provision of the consent decree is not in the public interest. The American people should be given an increased - as opposed to decreased - range of choices as to how they may view entertainment programming. The effect of the consent decree may be to totally preempt one of those choices -- pay cable. Such an effect is anticompetitive and should not be sanctioned by the Department of Justice.

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It is instructive to recall the Department's own statements regarding the need for competition between broadcast and cable interests:

> The public has vital interests which are not necessarily coextensive with those of the broadcasters or CATV operators....The public's interest includes securing a broad diversity of information, viewpoints and entertainment. We look to competition to provide this type of diversity....Where private agreement resolves the parties' differences by sacrificing actual or potential competition the public interest in competition may be fatally compromised. Comments of the United States Department of Justice in FCC Docket 18397 at pages 3-4 Sept. 8, 1969).

Thus, what the Justice Department condemned by private action it now condones in the proposed consent decree.

Apparently, part of the reasoning behind sanctioning such exclusive contracts is that it limits NBC to the type of contractual arrangements which are currently being negotiated. That may be so, but we believe it is unwise and unnecessary for the Justice Department to sanction such practices. The Department has already observed that if the broadcasters agreed among themselves not to purchase movies from sellers who did not agree to exclusive contracts, a per se violation of the antitrust laws would be involved. (Brief for United States of America in Home Box Office v. Federal Communications Commission, p. 19, Nos. 75-1280, et al., (D.C. Cir.).) Yet, if the proposed consent decree becomes effective, that type of practice would be difficult to challenge because of express Justice Department approval. As such, remedial action by the courts or by legislation may be effectively precluded.

The Justice Department states in its Competitive Impact Statement that the proposed provision should "eliminate any possibility that NBC can 'warehouse' feature films for a number of years before exhibiting them on network television..." p. 20. However, by allowing the exclusivity period to run from the date of the program's first availability, the Department has sanctioned a procedure which in fact invites warehousing. For example, NBC and a program supplier could agree to a contract whereby NBC would exhibit a motion picture three times over a three year period. According to the consent decree provision, NBC could get 36 months of exclusivity protection for that motion picture. Assume that the supplier and NBC agree to an availability date of January 1, 1977. NBC will have to exhibit the film twice by December 31, 1978, and once again by the end of 1979. NBC could effectively warehouse the film for a year and a half by not broadcasting it until July 1, 1978 and re-running it December 31, 1978.

If, on the other hand, the exclusivity date were based upon the date of exhibition the network would receive exclusivity protection only at those times directly before and after the broadcast. The warehousing problem would be foreclosed. Thus, the key to any exclusivity provision should be the date of exhibition, not the date of availability.

Another matter which we believe to be incorrectly decided is the period of time for which exclusivity may be obtained. A two year period, regardless of the date from which it is calculated, is simply too long a time to foreclose a film's access to pay television. More importantly, it is too long a time to prevent the public from viewing entertainment programming via the medium of their choice. Furthermore, there appears to be no evidence to suggest that a broadcast exhibition of a film has ever been adversely affected by a prior pay cable exhibition. Indeed, it is difficult to imagine how a contemporaneous showing could adversely affect the networks when only 1,000,000 homes receive pay cable programming compared to the 80,000,000 homes which view over the air programming.

We believe the Department should return to its initial thinking on this matter. Forty-five days of exclusivity on either side of network exhibition affords ample protection to NBC. This was the Justice Department's initial determination, and it should be adhered to. A 90 day period of exclusivity would afford pay cable subscribers greater opportunity to choose freely the method of viewing which they prefer.

In our opinion, the provision currently proposed is an unreasonable intrusion on competition and the public's freedom of choice. A provision should be adopted which sufficiently limits the duration of allowable exclusivity protection and which computes the exclusivity period from the date of network exhibition. If such a provision cannot be agreed to, it would be better to have no provision at all. No provision is much more acceptable than an unjust provision.

Initially, exclusivity as against pay cable, the subject matter of Section VI (E) (iii) (e), was peripheral to the thrust of the Justice Department's complaint against NBC. This provision is relevant in only the very broadest sense to the purpose of the lawsuit. There is, therefore, no compelling reason to treat the subject in the decree. Its inclusion will have the effect of condoning anticompetitive practices, not halting them. In other words, the net result will be a lessening of competition not an increase thereof, as compared with the situation that prevailed before the complaint was filed with respect to pay cable, network dominance will be furthered, not slowed.

The provision contained in the proposed decree, when considered in conjunction with the FCC's pay cable rules, may operate to exclude a feature film's availability from pay cable for a period of ten years or more. The FCC's cable

rules allow pay cable operators to exhibit feature films during the first three years of their release. After this three year period, films are not available to pay cable from the third through the tenth year of their release unless the film is under contract and available for exhibition by a network or television station in the market ... which the pay cable operator wishes to show it. 47 C.F.R. § 76.225(a) (2) (iii). This rule, examined with the Justice Department's stamp of approval on exclusive contracts, may act to foreclose completely a film's availability to pay cable. Films not under contract and available for exhibition in a particular market may not be shown over pay cable due to the operation of FCC regulations. Films which are available in a local market will be rendered unavailable to pay cable by virtue of the contractual exclusivity permitted by the consent decree.

While this is obviously not the proper forum to analyze the merits of the FCC's cable rules, they must be considered by the Justice Department because the combined effects of the rules and the consent decree are substantially inequitable. Considered together, the FCC's rules and the consent decree effectively preempt the right of choice of 1,000,000 pay cable subscribers to the benefit of no one.

In summary, we urge the Justice Department to withdraw its approval from the current pay cable exclusivity provision embodied in the NBC consent decree. Instead, we support the inclusion of a provision similar to the one initially proposed by the Department which allows 45 day exclusivity on either side of the exhibition date. If such a provision cannot reasonably be included in the consent decree, the subject of exclusivity as against pay cable should not be included in the decree.

Respectfully submitted,

Henry A. Goldberg

Stanley Greenberg
Esther Gertner

Susan C. Greene

Harold J. Horn

Sheila McCarthy

Michael G. McHugh
Michael G. McHugh

COMMENTS WITH RESPECT TO PROPOSED FINAL JUDGMENT IN UNITED STATES OF AMERICA v. NATIONAL BROADCASTING COMPANY, INC., CIVIL NO. 74-3601-RJK, U.S.D.C., C.D. Cal.

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON
COUNSELORS AT LAW
40 WEST 57TH STREET
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COMMENTS OF UNITED ARTISTS CORPORATION AND METRO-GOLDWYN-MAYER INC. WITH RESPECT TO PROPOSED FINAL JUDGMENT IN UNITED STATES OF AMERICA V. NATIONAL BROADCASTING COMPANY, INC., CIVIL NO. 74-3601-RJK, U.S.D.C., C.D. Cal.

These comments are submitted to the Department of Justice pursuant to the provisions of Sections 2(b) - (h) of the Antitrust Procedures and Penalties Act of 1974, 15 U.S.C. §16(b) - (h), by United Artists Corporation ("United Artists") and Metro-Goldwyn-Mayer Inc. ("MGM"). United Artists is a distributor of theatrical feature films.* MGM is a producer and distributor of theatrical feature films. Both companies distribute theatrical feature films for television exhibition.

The Proposed Decree Contains No Restrictions On NBC's Production Of Theatrical Feature Films

The proposed consent decree contains no restrictions on NBC's power to produce theatrical feature films. The Competitive Impact Statement confirms that NBC uses its control over access to its network "to control the prices paid by NBC for television exhibition rights to motion picture feature

* Motion pictures which are initially exhibited in theatres and only subsequently exhibited on television.

[illegible] and to obtain competitive advantages over other [illegible] and distributors of ... motion picture feature [illegible]."* Despite the government's recognition of the [illegible], the proposed decree does nothing to prevent NBC [illegible] producing theatrical feature films whenever it chooses.

The decree's "hours limitation" permits almost unlimited production by NBC of theatrical features. For instance, since the proposed decree permits NBC to exhibit a full 2 1/2 hours of NBC produced entertainment programming in prime time each week, NBC could theoretically produce 52 feature films each year and, subsequent to their theatrical exhibition, play them off one week at a time in prime time on the network.

The motion picture industry depends greatly on revenues from television exhibition of theatrical features. The fact that there are only three buyers for the first run television exhibition of theatrical feature films -- the three networks -- gives the networks unfair leverage in purchasing. The Department of Justice has recognized that such network power becomes patently anticompetitive when "... the network,

* Competitive Impact Statement, p. 2.

through its production of entertainment programs, is in competition with outside suppliers for exhibition on its own network and that [the network] could, at any time, by unilateral decision, pre-empt all the available time on its network."*

The government, having made this accurate observation, should not now be willing to settle for a decree which gives NBC the unrestricted power to make theatrical feature films. Under the decree, NBC could fill one entire evening of prime time per week with an NBC theatrical feature film. Since the number of theatrical features shown on television has decreased, this one motion picture per week could effectively pre-empt independent producers of motion pictures from having their product shown in prime time on the NBC network.

In addition, unless its ability to make theatrical feature films is restricted, NBC will continue to use the threat of internal production to keep the prices it pays outside suppliers at an artificially low level. When ABC and CBS entered into the production of theatrical feature films in the late 1960's, all three networks were able to suppress the price they paid other producers and distributors of motion pictures. Further, the leverage of "if you won't take our price, we'll produce it ourselves" allowed the networks to maintain the price at a level wholly unrelated to soaring costs or the natural laws of a competitive marketplace. All three networks offered the almost identical low price for the exhibition of a non-network produced motion picture. This price remained the same for several years. The producers and distributors of motion pictures had no alternative if they wanted to exhibit their films on television. They were compelled to take what the networks offered.

Allowing NBC to produce its own theatrical feature films injures competition in a variety of other ways. NBC could produce low quality theatrical feature films, expecting that any losses in theatrical exhibition would be recouped by exhibition on its own network. Also, NBC could spend vast amounts of money on a film because its prime time exhibition on NBC is guaranteed. Such expenditures would artificially force up the costs of production to outside suppliers.

* Page 8 of Memorandum of the United States in Opposition to Defendants' Motion for Summary Judgment on the Sherman Act Claims filed January 19, 1976 in United States v. National Broadcasting Company, Inc., 74-3601-RJK, U.S.D.C., C.D., Cal.

The failure of the proposed decree to place any restrictions on NBC's internal production of theatrical feature films demonstrates the ineffectiveness of the so-called "hours limitation" on NBC produced programming. It also reveals that the decree provides no meaningful relief with respect to "long form" programming. For this reason also, the proposed judgment should be withdrawn.

The Provisions Of The Proposed Decree With Respect To Network Exclusivity Over Pay Cable Provide No Meaningful Relief

Section VI(E)(iii)(c) of the proposed decree provides that for 15 years, for theatrical feature films which NBC has licensed to show on the NBC network, NBC cannot acquire exclusive exhibition rights against

> "pay or subscription television, via cable or any other means, where a per-program or per-channel charge is made to the viewer, except that NBC may acquire exclusive rights to any such feature film commencing thirty (30) days prior to the first date and extending until the last date on which NBC may broadcast such feature film under the contract between NBC and such supplier, so long as this period of exclusivity between the first and last dates on which NBC may broadcast such feature film under such contract does not exceed twenty-four (24) months, and does not exceed twelve (12) additional months for each exhibition greater than two (2) to which NBC acquires the exhibition rights" (emphasis supplied).

This provision merely codifies NBC's present contract exclusivity rights, which prevent the exhibition on pay cable of theatrical feature films licensed to NBC. The government's Competitive Impact Statement recognized the injustice of this practice by noting that the action against NBC was initiated because

"despite the FCC financial interest and syndication rules, NBC and the other networks continued to exact from producers such rights as ... exclusive use of [theatrical feature films] by NBC as against other communications markets."* Accordingly, NBC should not be permitted to acquire any exclusive rights with regard to pay or subscription television.

Under the proposed decree, NBC's exclusivity over pay cable may begin thirty (30) days prior to the date on which the license agreement permits NBC to broadcast the film. At the very least, any such exclusivity should be limited to begin no earlier than thirty (30) days prior to the scheduled showing of the film.

The decree gives NBC two years' of exclusivity over pay cable. Any exclusive rights should terminate thirty (30) days after the film has been shown on the network.

The proposed decree would merely put the court's stamp of approval on NBC's present trade practices in connection with exclusivity over pay cable. This is a further reason for withdrawal of the proposed decree.

---

* Competitive Impact Statement, p.5.

Dated: New York, New York
March 1, 1977

Respectfully submitted,

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

Attorneys for United Artists Corporation and Metro-Goldwyn-Mayer Inc.
40 West 57th Street
New York, N.Y. 10019

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United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON SEPARATION OF POWERS
(PURSUANT TO S. RES. 72, SEC. 12, 94TH CONGRESS)
WASHINGTON, D.C. 20510

March 1, 1977

Donald I. Baker
Assistant Attorney General
Department of Justice
Washington, D. C. 20530

Dear Mr. Baker:

My purpose in writing is to file comments pursuant to Section 2(d) of the Antitrust Procedures and Penalties Act on the proposed consent decree in U.S. v. NBC, Civil Action No. 74-3601-RJK, which is pending in the U.S. District Court for the Central District of California.

This proposed consent decree would in part permit NBC to acquire exclusive exhibition rights to feature films against pay cable TV for a 24-month period for two exhibitions, and for twelve additional months for each additional exhibition. NBC would also be entitled to demand exclusivity for 30 days prior to the 24-month period. My comments assume that the department would be willing to settle the companion suits against CBS and ABC on similar terms, at least insofar as exclusivity against pay cable is concerned.

In my judgment, the Department of Justice is making a grave error in granting its imprimatur to the network practice of obtaining exclusivity against pay cable television for the exhibition of feature films. I believe that the position taken by the Antitrust Division in the proposed consent decree is inconsistent with, and contrary to, the department's comments filed with the Federal Communications Commission and the entire thrust of your own testimony before the Senate Antitrust and Monopoly Subcommittee in July of 1975.

In this proposed consent decree, the Department of Justice has completely ignored the existence of the Federal Communications Commission's rules as set forth in the Commission's first Report and Order, Docket No. 19554, adopted March 20, 1975. Those rules may be summarized as follows: a pay cable operator may have access to a feature film for three years after its

theatrical release date. After the third year, pay cable may have access only if a network or a broadcaster holds a present contractual right to exhibit the film. A pay cable operator may have access to films which are more than 10 years old only if the film has not been exhibited in his market by a broadcaster during the preceeding three-year period. The department seems to have forgotten that it opposed the adoption of these rules in Docket No. 19554. In its original comments the department concluded as follows:

> "... (1) there were insufficient evidence to support a finding that programming restrictions on pay cable were in the public intrest as defined in the Communications Act of 1934, (2) the imposition of onerous programming restrictions upon cable would preclude it from developing into a medium capable of increasing the diversity of this nation's communications system and (3) that the Commission should free pay cable from the various programming restrictions then imposed upon it in order to avail itself of an opportunity to obtain empirical evidence as to whether any type of programming restrictions were, in fact, necessary to protect the public interest."

The subcommittee hearings on the exclusivity provisions of the contracts between the networks and motion picture producers established the following points to my satisfaction: first, to induce consumers to subscribe and to become economically viable, cable television needs some programming with mass appeal. Thus, if cable is ever going to compete with the networks and broadcasters, feature films and sports are crucial to its development. Second, the combination of the FCC rules and the contractual arrangements between motion picture producers and the networks has the effect of denying pay cable any reasonable access to feature films until they are at least 10 years old. Practically speaking, pay cable can only license those feature films not available for telecast by the networks, for the limited period between the end of their run in the theaters and before the third year. Third, it is the networks, not the motion picture producers, who insist upon exclusivity during the contract negotiations. During the hearings, the motion picture producers testified they would prefer to license the exhibition of feature films sequentially to all three mediums: first, the theaters, then pay cable, and finally, commercial television. Fourth, the networks are able to insist upon exclusivity because of the same monopoly power in the prime-time television market of which the department complains. Indeed, paragraph 16 of the Justice Department complaint against NBC alleges that the defendant "has

monopolized the trade and commerce in the television entertainment programs exhibited on the NBC television network during prime-time evening hours." In effect, the networks use their monopoly power in advertiser-subscribed, over-the-air television to suppress the development of a competing technology, namely pay cable. The Department of Justice chastised the FCC on precisely these grounds in Docket No. 19554.

> ... Rather than protecting one form of communication against another, the proper role of the Commission is to allow each method of communications an opportunity to develop in a manner which will meet diversified needs of the American public.

Now, the Department proposes to become a formal party to a dual set of restraints.

The terms of the proposed consent decree will permit NBC to super-impose the private restraints complained of during the hearings on top of those already mandated by the FCC. NBC will be able to bar pay cable from showing any feature film for 10 years simply by purchasing the rights to exhibit it for the three-year period after the date of theatrical release. After the first three years, the FCC rule comes into play and pay cable will be precluded from licensing that film for the next seven. In a similar fashion pay cable will be banned from exhibiting all films which are between three and 10 years old. Those films will be denied to pay cable either by the FCC rule or by private contract. The Department of Justice by this consent decree, proposes to sanctify an arrangement whereby NBC and presumably the other networks can completely stifle the potential development of a competing medium.

The proposed consent decree should contain language expressly prohibiting NBC from purchasing the rights to exhibit feature films on terms which exclude pay cable as long as the FCC rules are in effect. The networks and the broadcasters should not be able to supplement the FCC's public restraints with private restraints of their own. It is clear the FCC did not envision these private, contractual restraints being imposed when it promulgated its rules for films between three and 10 years old:

> "The second situation in which a feature film will be available for subscription use is when the film is available for telecast by a conventional broadcast station located in the market of the subscription station or cable system. When a film becomes available for conventional television exhibition the issue of program siphoning disappears, as does the need for anti-siphoning restrictions. In such a situation, the public interest

> in receiving a film over conventional television has been realized and there is no longer any justification for restricting the exhibition of the film by subscription television. Since the public is able to view the film over conventional television at no charge, those who choose to pay a special fee to view the film over subscription television should not be prevented from doing so by our rules."

Even if there were no FCC rules, the exclusivity proposed in the proposed consent decree is unduly restrictive. In the absence of any rules, exclusivity for a period of 90 days prior to the play date would be sufficient to protect the value of the exhibition right which the network has purchased. In order to give NBC scheduling flexibility, language could be included permitting the network to extend the exclusivity period for an additional 90 days if the play date had to be changed. These provisions would be reasonable if there were no FCC rules. However, since we have the rules, and since NBC and the other networks benefit by their existence, they should have to live with them. In sum, no private exclusivity should be permitted. In the event NBC and other networks will not agree to these terms, the cases should be litigated to their conclusion.

Respectfully submitted,

James Abourezk
James Abourezk
United States Senator

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United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON SEPARATION OF POWERS
(PURSUANT TO S. RES. 72, SEC. 10, 94TH CONGRESS)
WASHINGTON, D.C. 20510

March 1, 1977

Donald I. Baker
Assistant Attorney General
Department of Justice
Washington, D. C. 20530

Dear Mr. Baker:

My purpose in writing is to file comments pursuant to Section 2(d) of the Antitrust Procedures and Penalties Act on the proposed consent decree in U.S. v. NBC, Civil Action No. 74-3601-RJK, which is pending in the U.S. District Court for the Central District of California.

This proposed consent decree would in part permit NBC to acquire exclusive exhibition rights to feature films against pay cable TV for a 24-month period for two exhibitions, and for twelve additional months for each additional exhibition. NBC would also be entitled to demand exclusivity for 30 days prior to the 24-month period. My comments assume that the department would be willing to settle the companion suits against CBS and ABC on similar terms, at least insofar as exclusivity against pay cable is concerned.

In my judgment, the Department of Justice is making a grave error in granting its imprimatur to the network practice of obtaining exclusivity against pay cable television for the exhibition of feature films. I believe that the position taken by the Antitrust Division in the proposed consent decree is inconsistent with, and contrary to, the department's comments filed with the Federal Communications Commission and the entire thrust of your own testimony before the Senate Antitrust and Monopoly Subcommittee in July of 1975.

In this proposed consent decree, the Department of Justice has completely ignored the existence of the Federal Communications Commission's rules as set forth in the Commission's first Report and Order, Docket No. 19554, adopted March 20, 1975. Those rules may be summarized as follows: a pay cable operator may have access to a feature film for three years after its

theatrical release date. After the third year, pay cable [illegible] if a network or a broadcaster holds a present contractual [illegible] film. A pay cable operator may have access to films [illegible] 10 years old only if the film has not been exhibited in the market by a broadcaster during the preceding three-year period. The department may have forgotten that it opposed the adoption of these rules in December [illegible]. In its original comments the department concluded as follows:

> "... (1) there were insufficient evidence to support a finding that programming restrictions on pay cable were in the public interest as defined in the Communications Act of 1934, (2) the imposition of onerous programming restrictions upon cable would prevent it from developing into a medium capable of increasing the diversity of the nation's communications system and (3) that the Commission should free pay cable from the various programming restrictions that it proposed upon it in order to avail itself of an opportunity to obtain empirical evidence as to whether any type of programming restrictions were, in fact, necessary to protect the public interest.

The subcommittee hearings on the exclusivity provisions of the [illegible] between the networks and motion picture producers established two [illegible] points to my satisfaction: first, to induce consumers to subscribe [illegible] become economically viable, cable television needs some programming with mass appeal. Thus, if cable is ever going to compete with the networks and broadcasters, feature films and sports are crucial to its development. Second, the combination of the FCC rules and the contractual arrangements between motion picture producers and the networks has the effect of denying pay cable any reasonable access to feature films until they are at least 10 years old. Practically speaking, pay cable can only license those feature films not available for telecast by the networks, for the limited period between the end of their run in the theaters and before the third year. Third, it is the networks, not the motion picture producers, who insist upon exclusivity during the contract negotiations. During the hearings, the motion picture producers testified they would prefer to license the exhibition of feature films sequentially to all three mediums: first, the theaters, then pay cable, and finally, commercial television. Fourth, the networks are able to insist upon exclusivity because of the same monopoly power in the prime-time television market of which the department complains. Indeed, paragraph 16 of the Justice Department complaint against NBC alleges that the defendant "has

monopolized the trade and commerce in the television entertainment programs exhibited on the NBC television network during prime-time evening hours." In effect, the networks use their monopoly power in advertiser-subscribed, over-the-air television to suppress the development of a competing technology, namely pay cable. The Department of Justice chastised the FCC on precisely these grounds in Docket No. 19554.

> ... Rather than protecting one form of communication against another, the proper role of the Commission is to allow each method of communications an opportunity to develop in a manner which will meet diversified needs of the American public.

Now, the Department proposes to become a formal party to a dual set of restraints.

The terms of the proposed consent decree will permit NBC to super-impose the private restraints complained of during the hearings on top of those already mandated by the FCC. NBC will be able to bar pay cable from showing any feature film for 10 years simply by purchasing the rights to exhibit it for the three-year period after the date of theatrical release. After the first three years, the FCC rule comes into play and pay cable will be precluded from licensing that film for the next seven. In a similar fashion pay cable will be banned from exhibiting all films which are between three and 10 years old. Those films will be denied to pay cable either by the FCC rule or by private contract. The Department of Justice by this consent decree, proposes to sanctify an arrangement whereby NBC and presumably the other networks can completely stifle the potential development of a competing medium.

The proposed consent decree should contain language expressly prohibiting NBC from purchasing the rights to exhibit feature films on terms which exclude pay cable as long as the FCC rules are in effect. The networks and the broadcasters should not be able to supplement the FCC's public restraints with private restraints of their own. It is clear the FCC did not envision these private, contractual restraints being imposed when it promulgated its rules for films between three and 10 years old:

> "The second situation in which a feature film will be available for subscription use is when the film is available for telecast by a conventional broadcast station located in the market of the subscription station or cable system. When a film becomes available for conventional television exhibition the issue of program siphoning disappears, as does the need for anti-siphoning restrictions. In such a situation, the public interest

> in receiving a film over conventional television has been realized and there is no longer any justification for restricting the exhibition of the film by subscription television. Since the public is able to view the film over conventional television at no charge, those who choose to pay a special fee to view the film over subscription television should not be prevented from doing so by our rules."

Even if there were no FCC rules, the exclusivity proposed in the proposed consent decree is unduly restrictive. In the absence of any rules, exclusivity for a period of 90 days prior to the play date would be sufficient to protect the value of the exhibition right which the network has purchased. In order to give NBC scheduling flexibility, language could be included permitting the network to extend the exclusivity period for an additional 90 days if the play date had to be changed. These provisions would be reasonable if there were no FCC rules. However, since we have the rules, and since NBC and the other networks benefit by their existence, they should have to live with them. In sum, no private exclusivity should be permitted. In the event NBC and other networks will not agree to these terms, the cases should be litigated to their conclusion.

Respectfully submitted,

James Abourezk
James Abourezk
United States Senator

ip dividing such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

IX

[Retention of Jurisdiction]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions thereof and for the enforcement of compliance therewith and for the punishment of any violation thereof.

X

Entry of this Final Judgment is in the public interest.

Proposed Consent Decree

[¶ 50,292]

United States v. National Broadcasting Co., Inc.

U. S. District Court, Central District of California. Civil Action No. 74-3601-RJK. Filed, but not entered, November 17, 1976.

Case No. 2424, Antitrust Division, Department of Justice.

For plaintiff: Donald I. Baker, Asst. Atty Gen., William F. Swope, Charles F. B. McAleer, Bernard M. Hollander, Barry J. Kaplan, Bernard J. O'Reilly, George W. Selby, Kevin R. Sullivan, and Polly L. Frenkel, Attys., Dept. of Justice. **For defendant:** Bernard G. Segal, Jerome J. Shestack, and Peter S. Greenberg, of Schnader, Harrison, Segal & Lewis, Corydon B. Dunham, Vice Pres., National Broadcasting Co., Inc.

Proposed Final Judgment

[Proposed final judgment] Plaintiff, United States of America, having filed its complaint herein on December 10, 1974, and defendant, National Broadcasting Company, Inc., having filed its answer herein on December 30, 1974, by their respective attorneys, each having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law in any action or proceeding;

Now, Therefore, before any testimony has been taken, the Court being advised and having considered the matter, it is hereby:

Ordered, Adjudged and Decreed as follows:

I

[Jurisdiction]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against defendant under the provisions of Sections 1 and 2 of the Act of Congress of July 2, 1890, 15 U. S. C. §§ 1, 2, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act.

II

[Definitions]

As used in this Final Judgment:

(A) "Person" means an individual, partnership, corporation or any other form of legal or business entity.

(B) "NBC" means the National Broadcasting Company, Inc. and its subsidiaries.

(C) A "person controlling NBC" means any person owning at least ten percent (10%) of, or a controlling share of, the outstanding voting stock of NBC.

(D) "NBC Television Network" means an NBC owned or operated business which provides television programs and related advertising messages to affiliated television broadcast stations.

(E) "Entertainment Program" means any program, including a feature film, exhibited or intended to be exhibited on television other than the following programs: news, public affairs, agricultural, religious, instructional, and sports (as those terms are defined in Appendix A to this Final Judgment). The inclusion of incidental or occasional entertainment or non-entertainment elements in a program or program series shall not be deemed to change the classification of the program or program series.

(F) "Independent Program Supplier" means a person who produces or offers one or more entertainment programs for network exhibition, other than NBC, a person controlling NBC, or a person in which NBC or a person controlling NBC has an ownership interest.

(G) "Network Exhibition" means the initial and repeat exhibitions of a television program on the NBC television network during the term of any agreement between NBC and an independent program supplier for such exhibition of such program.

(H) "Prime Time Hours" means the hours from 6:00 p.m. to 11:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 5:00 p.m. to 10:00 p.m. in the Central and Mountain Time Zones of the United States.

(I) "Daytime Hours" means the hours from 9:00 a.m. to 6:00 p.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 9:00 a.m. to 5:00 p.m. in the Central and Mountain Time Zones of the United States.

(J) "Fringe Hours" means the hours from 11:00 p.m. to 2:00 a.m. and 6:00 a.m. to 9:00 a.m. in the Eastern and Pacific Time Zones of the United States, and the hours from 10:00 p.m. to 1:00 a.m. and 5:00 a.m. to 9:00 a.m. in the Central and Mountain Time Zones of the United States.

(K) "Television Broadcast Station" means a station licensed as a television broadcast station by the Federal Communications Commission.

(L) "NBC Production Facilities" means studio facilities, including but not limited to, scenery, props and other production equipment, which are used for the production of entertainment programs exhibited or intended to be exhibited on television, and which are owned or leased by NBC, by any person controlling NBC, or by any person in which NBC or any person controlling NBC has any ownership interest.

(M) "Stripping" means the broadcasting of more than one (1) episode per week of a television program series.

(N) "Broadcast Year" means the television broadcast year customarily commencing in September of one year and continuing until September of the following year.

III.

[Applicability]

The provisions of this Final Judgment are applicable to NBC, to any person controlling NBC and to each of NBC's directors, officers, agents, employees, subsidiaries, successors, and assigns, and to all persons in active concert or participation with any of them, who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

[Independent Productions]

NBC is enjoined and restrained from:

(A) Acquiring on financial or proprietary right or interest in the exhibition, distribution, or other commercial use of any television program produced wholly or in part by an independent program supplier, other than the right to the Network Exhibition of the program, except as provided in Sections VIII(A)-(D) of this Final Judgment, *provided that* an agreement granting NBC the right to Network Exhibition may include provisions concerning subject matters incident to the licensing and use of network programs, of which the following are examples: geographic scope and manner of transmission and delivery of network broadcasts; approval of creative elements and program content, technical quality and delivery requirements; union and Equal Employment Opportunity Act compliance, act of God, force majeure, preemptions, obligation to pay for, rather than play, programs; number of episodes or programs ordered, assignability; warranties; indemnification, completion bonds, security agreements and financing statements; insurance; public morals, advertising conflicts, advertising, promotion and publicity of programs; audience testing and screening; cancellation; exclusivity for talent and creative personnel; exclusive exhibition rights (except as limited by Sections VI(E)(ii)-(iii) herein), pilots (except as limited by Section VI(F) herein), options (except as limited by Sections VI(E)(i); VI(F) and VI(G) herein); first negotiation and first refusal rights (except as limited by Sections VI(E)(i) and VI(G) herein); spin-offs (except as limited by Section VI(G) herein), repeats (except as limited by Section VI(H) herein), same day protection against once weekly syndication programs and theatrical feature films; title protection for the length of the applicable contract or contracts; format and continuing character protection, breach, and remedies, so long as any such provision does not violate the antitrust laws.

(B) Selling, licensing, or distributing entertainment programs to television broadcast stations for non-network television exhibition (or otherwise engaging in the business

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commonly known as "syndication"), or to foreign television stations or networks, except as provided in Section VIII(D) of this Final Judgment.

V.

[Network Productions]

(A) NBC is enjoined and restrained for a period of ten (10) years from the effective date of this Section from offering for NBC network broadcast during Prime Time Hours, Daytime Hours or Fringe Hours, more than two and one-half (2½) hours per week in Prime Time Hours, more than eight (8) hours per week in Daytime Hours, and more than eleven (11) hours per week in Fringe Hours, determined on the average per compliance period, of entertainment programs obtained from sources other than independent program suppliers, *provided that* during each compliance period NBC may add to the total number of allowable hours of entertainment programming from sources other than independent program suppliers, two (2) non-regularly scheduled special programs, and *provided further that* in any compliance period, NBC may, during Prime Time Hours, increase the number of allowable hours of entertainment programming from sources other than independent program suppliers by reducing to the same extent the number of allowable hours of such programming in Prime Time Hours and/or Daytime Hours.

(B) For purposes of this Section V, compliance periods shall be consecutive semi-annual periods commencing at the start of each broadcast year. Compliance reports in the form set forth in Appendix B to this Final Judgment shall be submitted by NBC to plaintiff within thirty (30) days following the conclusion of each compliance period.

VI

[Conditions; Acquisitions]

NBC is enjoined and restrained:

(A) From purchasing or offering to purchase from an independent program supplier the right to Network Exhibition of one or more entertainment programs upon the condition, express or implied, that NBC, or any person controlling NBC, will obtain any other right or interest from said supplier, except as to contractual provisions concerning subject matters incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(B) For a period of fifteen (15) years from the effective date of this Section, from purchasing or offering to purchase from an independent program supplier any right to the exhibition of a program, other than a live program, as an NBC television network entertainment program upon the condition, express or implied, that said supplier produce the program, in whole or in part, utilizing NBC production facilities.

(C) For a period of fifteen (15) years from the effective date of this Section, from agreeing with an independent program supplier that said supplier use NBC production facilities to produce a program, other than a live program, as an NBC television network entertainment program for a period in excess of the time required to produce episodes for one (1) broadcast year, *provided that* NBC and said supplier are not precluded each year from negotiating and contracting for additional periods not to exceed one (1) year each.

(D) For a period of ten (10) years from the effective date of this Section, from purchasing or offering to purchase from CBS Inc. ("CBS") or American Broadcasting Companies, Inc. ("ABC") any right to Network Exhibition of any entertainment program upon the condition, express or implied, that CBS or ABC agrees to purchase or offers to purchase a right to network exhibition of any entertainment program produced or controlled by NBC.

(E) For a period of fifteen (15) years from the effective date of this Section, from:

(i) Acquiring from an independent program supplier options for Network Exhibition of a prime time network entertainment program series exercisable for a period in excess of four (4) years from the date of first broadcast of an episode of such program as part of an NBC prime time television network entertainment program series, and the balance of any broadcast year in which such four (4) year period ends, *provided that* nothing herein shall prevent NBC, after the date of first broadcast, from negotiating new provisions which may include the purchase of an extension of the option period to five (5) years from the date of first broadcast, and the balance of any broadcast year in which such five (5) year period ends, and, at the end or during the final year of any contract term, from negotiating for and entering into new agreements with said supplier so long as the options acquired under any such new agreements do not exceed a period of four (4) years from the date of first broadcast of an episode under such new agreements, and the balance of any broadcast year in which such four (4) year period ends, plus the right to negotiate for and acquire a fifth option year, and *provided further that* nothing herein shall prevent NBC from acquiring first negotiation and first refusal rights for new agreements with said supplier so long as any such first refusal rights shall not be more favorable to NBC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than NBC on terms less favorable to said supplier than said supplier's last offer to NBC without giving NBC the first opportunity to meet such terms, and *provided further that* nothing herein shall prevent NBC from entering into contractual provisions incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment.

(ii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for prime time network entertainment program series episodes for which NBC has exercised a contractual right to Network Exhibition, in excess of the following:

(a) for prime time use, the duration of any contract term or terms by which NBC acquires the right to Network Exhibition;

(b) for non-prime time stripping on television broadcast stations, four (4) years from the first prime time episode broadcast; and

(c) for all other broadcast uses, three (3) years from the first prime time episode broadcast,

provided that nothing herein shall prevent NBC from negotiating for and acquiring rights, including exclusive rights, for stripping and once weekly exhibition to be utilized after the periods of exclusivity set forth above, so long as negotiation for and acquisition of such rights takes place after NBC has agreed to order episodes of such program for the first year of broadcast as an NBC prime time television network entertainment program series, and *provided further that* nothing herein shall prevent NBC from acquiring exclusive exhibition rights to series episodes for the broadcast year for which such episodes are ordered.

(iii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for theatrical feature films for which NBC has a contractual right to Network Exhibition, against:

(a) theatrical and non-theatrical direct [illegible];

(b) closed circuit TV in non-residential hotels, motels, bars, restaurants, hospitals and similar non-residential institutions;

(c) passenger-carrying vehicles;

(d) video discs, cartridges or cassettes or other such equipment;

(e) pay or subscription television, via cable or any other means, where a per-program or per-channel charge is made to the viewer, except that NBC may acquire exclusive rights to any such feature film commencing thirty (30) days prior to the first date and extending until the last date on which NBC may broadcast such feature film under the contract between NBC and such supplier, so long as this period of exclusivity between the first and last dates on which NBC may broadcast such feature film under such contract does not exceed twenty four (24) months, and does not exceed twelve (12) additional months for each exhibition greater than two (2) to which NBC acquires the exhibition rights.

(F) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier a first year pick-up option for exhibition of a prime time network entertainment program series based on a program designated by NBC and said supplier as a "pilot program" ("pilot") which is exercisable after the following times:

(i) where NBC has not advanced said supplier any part of the costs of pilot development, subsequent to the earliest date that the agreement contemplates that broadcast of the series may commence; and

(ii) where NBC has advanced said supplier any part of the costs of pilot development, more than one (1) year after delivery to NBC of the completed pilot, *provided that* as to those series which NBC does not include in the network schedule at the earliest date that the agreement contemplates that broadcast of the series may commence:

(a) for those pilots which have been delivered to NBC between October 2 of one year and April 1 of the following year, NBC must designate by July 1 of the latter year sixty-five percent (65%) of such pilots as to which NBC will release its option for series exhibition upon payment to NBC of all of NBC's unrecouped costs for the development of such pilots; and

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(b) for those pilots which have been delivered to NBC between April 2 and October 1 of the same year, NBC must designate by January 1 of the following year sixty-five percent (65%) of such pilots as to which NBC will release its option for series exhibition upon payment to NBC of all of NBC's unrecouped costs for the development of such pilots;

and *provided further that* NBC may purchase additional first year pick-up options for series which NBC has not designated for release and for series which NBC has designated for option release but which NBC wishes to retain, so long as such additional options are acquired, for pilots described in Section VI(F)(ii)(a), after June 1, or after the announcement of the NBC television network schedule for the next broadcast year, whichever is later, and, for pilots described in Section VI(F)(ii)(b), after December 1, and so long as such additional options do not exceed increments of six (6) months.

For purposes of this Section (VI)F:

A pilot shall be deemed to have been delivered to NBC when NBC has received, in the case of a film pilot, an answer print, and, in the case of a tape pilot, a program complying with customary tape requirements.

In computing the number of pilots to be released under Sections VI(F)(ii)(a) and (b), any fraction of a pilot shall be rounded off to the next lower whole number.

Unrecouped costs shall be deemed to be the amount of money advanced by NBC to an independent program supplier for the development of a pilot, except that if the NBC television network broadcasts a pilot once, two-thirds (⅔) of NBC's costs shall be deemed to have been recouped, and if NBC broadcasts a pilot more than once, all of NBC's costs shall be deemed to have been recouped.

(G) For a period of ten (10) years from the effective date of this Section, from acquiring from an independent program supplier rights in excess of first negotiation and first refusal rights for a spinoff involving a non-continuing character.

For purposes of this Section VI(G):

First refusal rights shall not be more favorable to NBC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than NBC on terms less favorable to said supplier than said supplier's last offer to NBC without giving NBC the first opportunity to meet such terms.

A non-continuing character shall be deemed to mean one who appeared in no more than twenty-five percent (25%) of the original episodes of the program upon which such spinoff is based during the twelve (12) months prior to the time exhibition rights to such spinoff are offered for licensing by said supplier.

(H) For a period of ten (10) years from the effective date of this Section, from purchasing from an independent program supplier a right to first-run Network Exhibition of any television entertainment program series which includes the right to exhibit repeats of episodes in years subsequent to the broadcast year of initial exhibition of such episodes, *provided that* repeat rights to three (3) initial episodes per broadcast year of each such program series may be purchased for exhibition in subsequent broadcast years as part of the right to Network Exhibition, and *provided further that* additional rights to repeats may be purchased for exhibition in subsequent broadcast years, so long as negotiation for and acquisition of such additional repeat rights takes place after NBC has agreed to order episodes of such program series for the first year of broadcast as an NBC television network entertainment program series, and *provided further that* the limitation as to the use of repeats contained in this Section VI(H) shall not apply to (i) made-for-television and theatrical feature films, (ii) specials, and (iii) cartoons or other children's programs.

VII.

[*Other Networks*]

The following Sections of this Final Judgment shall not take effect until injunctive relief is obtained in Final Orders, Judgments or Decrees entered against CBS in *United States v. CBS Inc.*, Civil Action No. 74-3599-RJK (C. D. Cal.), and against ABC in *United States v. American Broadcasting Companies, Inc.*, Civil Action No. 74-3600-RJK (C. D. Cal.) which are not appealable or from which no timely appeal is taken: V, VI(C), VI(E)(i), and VI(F) through (H).

VIII.

[*Permitted Transactions*]

Nothing contained in this Final Judgment shall be construed:

(A) To prohibit NBC from acquiring rights for non-network broadcast of programs by NBC owned and operated television broadcast stations where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program.

(B) To prohibit NBC from [illegible] payment, in whole or in part, of money or other consideration loaned, advanced or furnished by NBC in connection with the development or production of a television network program or of a project or activity that may result in a television network program, to the extent of the amount loaned, advanced or furnished, including interest.

(C) To prohibit NBC from acquiring rights with respect to non-broadcast uses, including but not limited to publication of books or music, where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program.

(D) To prohibit NBC from selling, licensing, or distributing outside the United States programs (i) produced in foreign countries and not included in NBC's television network schedule, where the acquisition of such distribution rights is not conditioned, directly or indirectly, upon the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program, or (ii) produced by NBC, by any person controlling NBC, or by any person in which NBC or any person controlling NBC has any ownership interest.

IX.

[*Modification*]

If a Final Order, Judgment or Decree is entered with respect to CBS in *United States v. CBS Inc.*, Civil Action No. 74-3599-RJK (C. D. Cal.), or with respect to ABC in *United States v. American Broadcasting Companies, Inc.*, Civil Action No. 74-3600-RJK (C. D. Cal.), which is not appealable or from which no timely appeal is taken, which shall order or decree for either CBS or ABC injunctions different in terms or provisions than those required by this Final Judgment, or which shall result in the dismissal of either or both of such actions, NBC may apply to the Court and shall be granted a modification of or relief from any terms set forth herein as may be necessary to prevent NBC from being placed at a competitive disadvantage with respect to CBS or ABC.

X.

[*Notice*]

(A) Within thirty (30) days after the entry of this Final Judgment, NBC shall furnish to its officers, directors, and appropriate employees and agents a copy of this Final Judgment, and each year for a period of ten (10) years thereafter NBC shall furnish a copy to all new officers, directors and appropriate employees and agents. NBC shall maintain a file listing all persons to whom it has furnished such copies.

(B) Within thirty (30) days after entry of this Final Judgment and once each year during the succeeding ten (10) calendar years following entry of this Final Judgment, NBC shall send a copy of this Final Judgment to the last known address of each independent program supplier known to have offered any entertainment program to NBC for inclusion in its schedule of NBC television network programs within the preceding five (5) years and to each person listed in the then current issue of Television Factbook as a provider of television production facilities.

XI.

[*Inspection*]

(A) For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, and on reasonable notice to NBC made to its principal office, shall be permitted, subject to any legally recognized privilege:

(1) access during the office hours of NBC to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of NBC relating to any matter contained in this Final Judgment; and

(2) subject to the reasonable convenience of NBC and without restraint or interference by it, the right to interview officers or employees of NBC, who may have counsel present, regarding any such matter.

(B) NBC, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided in this Section XI shall be divulged by any representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal

program as an NBC television network program.

(B) To prohibit NBC from [illegible] payment, in whole or in part, of money or other consideration loaned, advanced or furnished by NBC in connection with the development or production of a television network program or of a project or activity that may result in a television network program, to the extent of the amount loaned, advanced or furnished, including interest.

(C) To prohibit NBC from acquiring rights with respect to non-broadcast uses, including but not limited to publication of books or music, where such rights are not acquired, directly or indirectly, in connection with the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program.

(D) To prohibit NBC from selling, licensing, or distributing outside the United States programs (i) produced in foreign countries and not included in NBC's television network schedule, where the acquisition of such distribution rights is not conditioned, directly or indirectly, upon the negotiation for or acquisition of rights, including renewal rights, for the exhibition, distribution or use of any program as an NBC television network program, or (ii) produced by NBC, by any person controlling NBC, or by any person in which NBC or any person controlling NBC has any ownership interest.

IX.

[*Modification*]

If a Final Order, Judgment or Decree is entered with respect to CBS in *United States v. CBS Inc.*, Civil Action No. 74-3599-RJK (C. D. Cal.), or with respect to ABC in *United States v. American Broadcasting Companies, Inc.*, Civil Action No. 74-3600-RJK (C. D. Cal.), which is not appealable or from which no timely appeal is taken, which shall order or decree for either CBS or ABC injunctions different in terms or provisions than those required by this Final Judgment, or which shall result in the dismissal of either or both of such actions, NBC may apply to the Court and shall be granted a modification of or relief from any terms set forth herein as may be necessary to prevent NBC from being placed at a competitive disadvantage with respect to CBS or ABC.

X.

[*Notice*]

(A) Within thirty (30) days after the entry of this Final Judgment, NBC shall furnish to its officers, directors, and appropriate employees and agents a copy of this Final Judgment, and each year for a period of ten (10) years thereafter NBC shall furnish a copy to all new officers, directors and appropriate employees and agents. NBC shall maintain a file listing all persons to whom it has furnished such copies.

(B) Within thirty (30) days after entry of this Final Judgment and once each year during the succeeding ten (10) calendar years following entry of this Final Judgment, NBC shall send a copy of this Final Judgment to the last known address of each independent program supplier known to have offered any entertainment program to NBC for inclusion in its schedule of NBC television network programs within the preceding five (5) years and to each person listed in the then current issue of Television Factbook as a provider of television production facilities.

XI.

[*Inspection*]

(A) For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, and on reasonable notice to NBC made to its principal office, shall be permitted, subject to any legally recognized privilege:

(1) access during the office hours of NBC to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of NBC relating to any matter contained in this Final Judgment; and

(2) subject to the reasonable convenience of NBC and without restraint or interference by it, the right to interview officers or employees of NBC, who may have counsel present, regarding any such matter.

(B) NBC, upon written request of the Attorney General or the Assistant Attorney General in Charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided in this Section XI shall be divulged by any representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal

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proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XII.

[*Retention of Jurisdiction*]

Jurisdiction is retained by this Court for the purpose of enabling either party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XIII.

[*Public Interest*]

Entry of this Final Judgment is in the public interest.

Antitrust Immunity—State Action

[¶ 50,293]

The "practical message" of four recent U. S. Supreme Court decisions in the area of "state action" antitrust immunity was outlined recently by Donald I. Baker, chief of the Antitrust Division. He discussed *Cantor, Goldfarb, Virginia Pharmacy* (not reported in TRADE REGULATION REPORTS) *Gibson v. Berryhill*, 411 U. S. 564 (1973). According to Mr. Baker:

[*Partial Text (Footnotes omitted)*]

"First, the *command* of the *state as sovereign* provides an antitrust exemption for those private activities which have been commanded.

"Secondly, *formal approval* of private conduct by the state as sovereign may or may not be tantamount to a state command. However, 'a state does not give immunity to those who violate the Sherman Act by authorizing them to violate it, or by declaring that their action is lawful.' This is essentially a fact question depending on the state's role in bringing about the restraint, its interest in it and the nature of its action, or, as the Court said in *Cantor*, whether 'the State's participation in a decision is so *dominant* that it would be unfair to hold a private party responsible for his conduct in implementing it.'

"Third, what qualifies as the 'state as sovereign' is also a fact question. Clearly the Legislature, the Judiciary or the Executive exercising those functions entrusted to them by the state constitution are 'the state as sovereign.' On the other hand 'a state agency for some limited purposes,' to borrow a phrase from *Goldfarb*, may not be the sovereign state for other purposes, either because it is acting beyond its necessary duty or because its decisionmakers have a private pecuniary interest in the outcome. Where a private group is 'masquerading under the banner of state action' no antitrust exemption will be available for anyone.

"Fourth, state *delegation* of power to a private person or group, i. e. a nonsovereign, does not itself provide such a defendant with an antitrust exemption when that power is used to restrain competition. Such delegation not only raises antitrust problems, it may also be subject to the due process infirmities of the delegation struck down in *Gibson v. Berryhill*.

"Finally, informal state encouragement of a private restraint does not provide an antitrust exemption. That goes all the way back to *United States v. Socony-Vacuum Oil Co.* 'Virtual volunteers' may not be given the power to take 'state action.' However, while all this seems to me to be reasonably clear, it does not answer some really hard fact questions in individual cases.

"Two types of situations that are likely to occur in some normal business arrangements particularly need discussion. One involves classic public utility regulation in which action typically is proposed by a private party and is approved, perhaps with modification, by the state utility commission. As the Supreme Court indicated in *Cantor*, this is truly 'a blend of private and public decisionmaking.' The second situation involves self-regulation by a professional or trade body delegated some authority by the state. Pharmacy boards and real estate licensing boards are well known examples of this category. Lesser known examples include self-regulatory boards for barbers, cleaners, contractors, cosmetologists, employment agencies, furniture and bedding manufacturers, structural pest control operators and funeral directors.

"The two situations have similarities and differences. A state utility commission is normally what I would call an *independent state regulator*. It is made up of salaried, full-time officials, normally appointed by the Governor. Such officials are barred from having any outside interests. To the extent that such an independent regulatory board is acting within its mandate in promulgating regulations necessary to make a regulatory statute work, it normally qualifies as 'the state as sovereign' and its officers are thus immune from antitrust suit. The basic questions in these cases include whether the state has been so much the moving or dominant force in bringing about the challenged restraint, and whether the restraint is central to the state's mission in the area.

"The second situation involves what is essentially a *self-regulator*. Here the organizational board is normally appointed from members of the industry or profession being regulated or is even elected by them. Their compensation is often nominal at best, and they generally continue to practice in the regulated field while serving on the board. Sometimes their decisions require ratification by a vote of the very group being regulated. Typical examples of such self-regulatory groups would be the Alabama Optometry Board in *Gibson v. Berryhill* and the Agricultural Prorate Commission in *Parker v. Brown*.

"The most difficult cases will frequently involve *approvals* by independent regulatory commissions and *commands* by self-regulatory bodies. These situations present the most opportunity for private initiative and action which is not in fact within the scope of what is necessary to the regulatory scheme as legislated by the state as sovereign. An agency's rubber-stamp approval of restrictive activities proposed and executed by private persons or companies does not relieve the private entities of responsibility for the consequences of their activities. Nor may an 'interested' self-regulatory group assume that it has a roving mandate to command its members to engage in activities which profit the profession to the detriment of consumers, competitors, and the economy. The tremendous inherent—and often invisible—opportunity to use a self-regulatory mechanism to serve the members' interests at the expense of the public may well mean that no self-regulatory group can be sufficiently unbiased to satisfy the requirements of both *Cantor* and *Gibson v. Berryhill* where it chooses to restrain competition.

"We must look at these issues in a broader perspective. Our economy is one which is based primarily on individual effort and entrepreneurial risk taking. It is characterized by a mixture of private and public decisionmaking in which antitrust and direct regulation serve related *public interest* goals. The Supreme Court made this quite clear in *Philadelphia National Bank* where it emphasized that the fact that an industry, such as banking, was highly regulated 'makes the play of competition not less important but more so.' It has long been recognized that the basic goal of regulation and the basic goal of the antitrust laws is the same—'to achieve the most efficient allocation of resources possible,' and that '[i]ndustries have been more progressive when the agencies have endeavored to confine regulation to a necessary minimum and have otherwise fostered competition.' *Cantor* and earlier cases indicate that the courts are going to be concerned about the application of antitrust principles to regulated sectors of the economy—which can be unpalatable to those regulated because antitrust-mandated markets do interfere with the highly paternalistic *private interest* arrangements often fostered under the cover of regulation. *Cantor* makes clear that courts are going to look behind the catchwords 'state action' to see whether the sovereign state is truly there or whether private interests are there attempting to cloak themselves in the state's sovereignty. This is good. It gives me hope that the third century of the Republic will see more economic liberty—more 'public interest competition'—and less protective 'special interest regulation.'"

Mr. Baker's remarks were prepared for delivery before the Council of American Bar Association Public Utility Law Section in White Sulphur Springs, West Virginia, on October 28, 1976. See ¶ 620.42.

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NATIONAL CABLE TELEVISION ASSOCIATION

Office of The General Counsel

March 1, 1977

Bernard M. Hollander, Esq.
Chief, Judgments and Judgment
Enforcement Section
Antitrust Division
United States Department of Justice
Room 3706
Washington, D. C. 20530

Re: Comments of the National Cable Television Association, Inc., on the Proposed Consent Decree in United States v. National Broadcasting Co., Inc., Civil Action No. 74-3601-RJK, U.S.D.C., C.D. Cal.

Dear Mr. Hollander:

The attached comments are filed on behalf of the National Cable Television Association, Inc., the principal national trade association for the cable television industry. They are filed in connection with the proposed Consent Decree in the above-referenced litigation and pursuant to Section 2(d) of the Antitrust Procedures and Penalties Act. NCTA urges the Department of Justice to withdraw its consent to the proposed decree.

NCTA's objection to the decree is directed to that portion which relates to the amount of contractual exclusivity which NBC is permitted to obtain against pay cable. As spelled out in our comments, this provision does no more than approve existing practices which are demonstrably anti-competitive in intent, and when taken together with the FCC's anti-siphoning rules, are certainly anti-competitive in effect. In addition, the distinction made between pay cable and other methods of exhibiting pay programming is not logical and is potentially harmful.

continued. . . . . .

918 SIXTEENTH STREET NORTHWEST WASHINGTON DC 20006 202-457-6700

NCTA continues to feel that no exclusivity is warranted and that the Department of Justice should continue to pursue this litigation unless a sharply circumscribed agreement can be reached with NBC. The network simply cannot justify more than a short pre-telecast date period of protection.

We would be glad to provide further information and/or meet with you at any time prior to the final decision in this matter.

Sincerely,

Stuart F. Feldstein
Vice President/General Counsel

SFF/ag
Enclosure

Before the

DEPARTMENT OF JUSTICE

Washington, D.C.

COMMENTS OF THE NATIONAL CABLE TELEVISION ASSOCIATION, INC. IN OPPOSITION TO THE PROPOSED CONSENT DECREE IN UNITED STATES v. NATIONAL BROADCASTING CO.

These comments are submitted by the National Cable Television Association, Inc., (NCTA), in connection with the proposed Consent Decree filed in United States v. National Broadcasting Company, Inc., Civil Action No. 74-3601-RJK, on November 17, 1976 in the U. S. District Court for the Central District of California. These comments are filed pursuant to Section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(d).

NCTA is the principal national trade association for the cable television industry. It represents cable television operators, purveyors of programming, manufacturers and suppliers of equipment and others providing services to the industry. As such, our interest in the proposed Consent Decree is immediate and direct. NCTA strongly urges the

Department of Justice to withdraw its consent to the proposed Decree.

Our specific objection to the Decree arises from the provision dealing with pay cable television which is incorporated in Section VI (E) (iii) (e). In short, this provision does not alter present anti-competitive practices by NBC; it places an imprimatur on existing practices; and, taken together with the surrounding provisions, it discriminates against pay programming vis cable vis-a-vis other delivery methods.

I. BACKGROUND

At the present time there are approximately 3,500 CATV systems serving in excess of 13,000,000 television homes. These systems are located in every state of the union. The 13,000,000 subscribing homes represent about 15% of the nation's 73,000,000 television homes. Of this number there are presently about 1,000,000 cable subscribers who also have opted to receive a supplementary pay service. Pay cable is a supplementary service available to subscribers to the basic CATV service for an additional monthly or per program fee. It consists of feature films, sports events and other special programming presented in a format

uninterrupted by commercials. The non-live programming is usually repeated a number of times so as to afford subscribers more than one opportunity to view the program. Feature films are the bread and butter of this service. The quality and quantity of this product made available on a timely basis is absolutely crucial to the viability of pay cable. 1/

Feature films are shown first in movie theaters. It is there that their critical reputation is established and thus their commercial value is set. It is immediately after the theatrical run that this product has the most value to pay cable. Virtually all English-language product except for X-rated films are then purchased for later network display. Thus, the logical time sequence is theater-pay cable-network for new films. Older films may be recycled through some or all of these phases in no particular order. The networks have tried to intrude on this process, however. Although feature films play a declining role in the networks' programming, 2/ they have perceived it to be in their interest to attempt to deny films to pay cable.

1/ Only about 100 films are released annually by the American movie industry. Many other films are made by and for the networks themselves (perhaps 50% of the films shown). These films, of course, rarely run in the theaters and are never sold to pay cable.

2/ Illustrative of the networks' lessening reliance on feature films is a Variety story of May 7, 1975, reporting that " all three [networks] slice movie nights."

This has been done in two principal ways, contractual exclusivity provisions and successful lobbying for restrictive FCC regulations. Taken together, the effect of these actions has made it extremely difficult for the pay cable industry to obtain what limited product is available on a timely basis.

II. THE NETWORKS HAVE AN EFFECTIVE STRANGLEHOLD ON PAY CABLE

The networks have effectively created and maintained controls over the growth of pay cable in two distinct but interrelated developments. The first method was to lobby for the establishment and maintainance of the FCC's "anti-siphoning" rules. These rules were first instituted in 1971 and were revisited by the Commission in 1975. 3/ All three major networks engaged in significant attempts to have the most restrictive rules possible imposed on pay cable. This was made obvious in a number of ways in addition to the filing of strong comments. 4/ Without any question the networks have looked upon the FCC's rulemaking processes as a forum for the accomplishment of their anti-competitive goals.

3/ See First Report and Order in Docket 19554, 52 F.C.C. 2d 1 (1975).

4/ See, e.g., Television Digest, March 4, 1974, pp. 1-2, where it was reported that then-Chairman Dean Burch was subjected to Senatorial pressure "prompted by Hill visit by [ABC executives] whose only goal was to put halter on relaxation of pay cable rules."

The present FCC rules as they apply to feature films on pay cable testify to the success which the networks have enjoyed at the FCC. 5/ Films which are less than three years old can be purchased for exhibition on pay cable (but, of course, only if a network has not succeeded in obtaining exclusivity). Films between the age of three to ten years old are also available to pay cable but only if the film is under contract and available for exhibition to a network or a television station in the particular market. (Again, exclusivity makes this provision meaningless.) Films which are older than ten years can also be shown on pay cable under the same circumstances as the three to ten year old films or if the film has not been shown on commercial television in the market for three years. Foreign language films are excluded from these restrictions.

The networks have compounded the restrictive effect of these rules by purchasing substantial contractual exclusivity against pay cable. Film suppliers do not make films available to anyone until the theatrical run is complete. The better product runs in the theaters for between 12 and 24 months and "blockbuster" films run in the theaters for periods

5/ 47 CFR 76.225. These rules are presently under challenge in the United States Court of Appeals for the District of Columbia, Home Box Office, Inc. v. F.C.C., No. 75-1280 et al.

sometimes exceeding three years. This makes the time for pay cable exhibition of a film in the zero to three year period a very narrow time frame. Networks often come in immediately after the theatrical run and purchase the rights to exhibit films at a later date. The exclusivity which is obtained may begin on the date of the contract signing, thus barring any pay cable exhibition. The effect of this practice is to preclude any pay cable access to these feature films far in advance of the first telecast of the film. The duration of such exclusivity is generally extended through the expiration of a lengthy broadcast period which may be two to four years or more. Depending upon the length of the theatrical run, a pay cable entrepreneur may find himself faced with no access period during the first three years because a network has contracted for exclusive rights to a film, or if pay cable exhibition rights had already been obtained, films can be pulled back by suppliers because of the signing of a subsequent network contract. To recapitulate, network exclusivity sometimes has the effect of cutting pay cable access to a film during the first three years of its life to either a very limited time period or no time at all.

And, of course, once a film is three years old, the

Commission's rules, together with exclusivity practices, create a "Catch-22" situation. In order for a film to be permitted to be shown on pay cable it must be under contract to a television station in the market, and the existence of contractual exclusivity completely closes off this possibility. Indeed, to our knowledge, there has not been one film made available to pay cable under this provision of the FCC's rules, so thoroughly does the practice of exclusivity permeate the market place. Likewise, in the past-ten year period, all of the most attractive films are tied up by exclusive contracts.

Thus network exclusivity obtained against pay cable is itself an anti-competitive practice which unreasonably restricts trade. Taken together with the FCC's rules, exclusivity completes an all but impenetrable web around the pay cable industry.

III. PRESENT LEVELS OF CONTRACTUAL EXCLUSIVITY ARE CLEARLY UNREASONABLE

The contractual exclusivity which networks obtain against pay cable is patently unreasonable. It is not needed by either the networks or the film suppliers, thus the intent is anti-competitive.

The initial question to be asked is whether the network practices restrict the presentation of alternative programming.

Pay cable is obviously such an alternative mode of delivery. It presents the opportunity to view feature films in the home for a fee in their unedited version, uninterrupted by commercials and at a time convenient to the subscriber. The only thing pay cable has in common with network exhibition is the use of the home television set. Exclusivity imposed against such exhibition by an industry which presents its programming in a commercial format free of direct charge is unreasonable. Exclusivity is obtained against pay cable despite the fact that no real competition is presently possible. Thus exclusivity is obtained by the networks solely for predatory reasons and, as demonstrated above, exclusivity against pay cable works with the FCC's rules to practically preclude even the minimal access to feature films permitted by those rules.

Furthermore, in our opinion, the networks' exclusivity practices are in violation of the antitrust laws. Restraints ancillary to the transfer of property rights are legal only if they are reasonably necessary to protect the purchaser of the property in the enjoyment of the purchase. 6/ This antitrust doctrine was extended to the licensing of feature

6/ United States v. Addyston Pipe and Steel, 85 Fed. 271, 282 (6th Cir. 1898), affd. 175 U.S. 211 (1899).

films in United States v. Paramount Pictures. 7/ It has also been applied to television program contracts. 8/

The applicable test for determining the reasonableness of the anti-pay cable exclusivity provisions is set forth in the Paramount opinion. This case was the culmination of several antitrust cases which examined the several methods used to suppress theater competition. 9/ The sum and substance of these decisions was a finding that film licensing provisions were illegal when geared to the anti-competitive requirements of exhibitors instead of the revenue requirements of distributors. The Court in Paramount, for example, held that clearances are reasonable only "when not unduly extended in area or duration" and conversely are unreasonable if "in excess of what is reasonably necessary to protect the license in the run granted". 10/

These cases establish two propositions that have

7/ 66 F. Supp. 323, 70 F. Supp. 53 (S.D.N.Y. 1946), reversed and remanded in part, 334 U.S. 131 (1948); 85 F. Supp. 881 (S.D.N.Y. 1949), affirmed, 339 U.S. 974 (1950).
8/ United States v. Loew's, Inc., 371 U.S. 11 (1962).
9/ Interstate Circuit v. United States, 306 U.S. 208 (1939); United States v. Crescent Amusement Co., 323 U.S. 173 (1944); Schine Theaters v. United States, 334 U.S. 110 (1948); United States v. Griffith, 334 U.S. 100 (1948).
10/ 334 U.S. 131, 145, 147.

specific applicability to the contractual exclusivity at issue in this litigation. First, protection cannot be obtained by a network licensee against another entity not in substantial competition with the network. Second, any exclusivity provisions must reflect the revenue needs of the copyright owners, not the anti-competitive designs of the networks. Application of these "rule of reason" tests against the various exclusivity provisions used by NBC and the other networks to restrict pay cable exhibition must result in a conclusion that they are unreasonable.

A. Pay Cable is Not in Substantial Competition with Network Television

Applying the first Paramount test, pay cable and the networks are not in substantial competition so as to justify the contractual exclusivity obtained by the networks. In the commercial television marketplace program costs (and profits) are paid by advertisers. Networks compete among themselves for this revenue. Pay cable does not compete with the networks for these dollars, rather it seeks its revenue directly from the subscribing consumer. Networks sell programs to advertisers based on the potential of reaching over 70 million television homes. Attractive feature films help make this mass circulation of the advertiser's message possible. Pay cable presently reaches

about 1,000,000 homes. No advertising is permitted and the commercial value of the service is obviously not based on a mass appeal to a large audience. Pay cable thus represents about 1% of a network's potential audience. Even the rapid growth of pay cable will not detract from the value of a feature film to a network. Indeed, the absolute growth in television households has been greater than the growth of pay cable subscribers.11/

It is inconceivable that pay cable exhibition will result in any loss of revenue to the networks in the foreseeable future. Any adverse affect must be presumed to flow from a decline in viewing levels caused by pay cable exhibition. But there is no evidence of this happening. Even assuming some small relative decline in viewing audience, this has been more than offset by higher prices being paid by advertisers and the growth of television homes.

Furthermore, the networks' theory, that if pay cable subscribers view a film on pay cable that film will be less

11/ According to American Research Bureau statistics, television households have been increasing by more than 1,000,000 per year for the past several years. Thus, there were 68,770,000 as of January 1, 1975, 70,550,000 as of January 1, 1976, and an estimated 72,000,000 as of January 1, 1977.

attractive to the networks, is simply untenable. It is at least equally likely that pay cable exhibition will have a positive impact on network viewing of feature films. Just as a long and successful theatrical run enhances the popularity of a film when it is shown on a network, pay cable exhibition may well add to viewer interest in a film.12/ This will likely be true at least until pay cable can command audiences comparable in numbers to the networks. The networks pay millions of dollars to obtain the rights to show films which have been seen by over 25,000,000 people in the theaters, but they seek no exclusivity against the theaters in advance of network exhibition. There is no difference between this situation and pay cable.

A person who has seen a movie in a theater often watches it again on the network just as viewers watch reruns in the second half of the network season and, indeed, in subsequent seasons. Why would a pay cable subscriber not view a film on the network some time after he had seen it on pay cable? NCTA submits that pay cable is simply an extension of the theater, except that the pay cable audience is much

12/ "Gone with the Wind" played to an estimated 25,000,000 paying customers in a multi-year theatrical run. In November, 1976, its premiere network exhibition achieved record ratings. Indeed, it had even been shown on pay cable only five months earlier. This is not an atypical result.

smaller.

The networks say they must have exclusivity far in advance of network showing in order to prevent pay cable exhibition too close to the time when the network will exhibit the film. In light of the networks' oft-repeated message as to the merits of "free" television versus pay television, it is inconceivable that a pay cable showing shortly in advance of a heavily advertised network exhibition is going to have any meaningful effect on a network's audience. As a matter of fact, the courts have assumed that a prior exhibition to a paying audience does not materially reduce the audience for a less expensive or free exhibition of a film.13/

As to the availability of a film to a network, there is simply no question but that the networks can obtain any film they want to purchase. Pay cable exhibition does not alter the economic facts of life. Movie distributors will sell any and all of their product to the networks.

Thus, there is no basis for the networks to demand contractual exclusivity since pay cable presents no

13/ Interstate Circuit v. United States, 306 U.S. 208, 228-230 (1939).

substantial competition to the networks. Exclusivity is not "reasonably necessary to protect the [network licensee] in the run granted," thus it is unreasonable.

B. Network Exclusivity is Not Designed to Maximize Copyright Rewards

Under the second Paramount test, exclusivity must reflect the revenue requirements of the copyright owner and not the needs of the network licensees. It is clear that the copyright owner obtains the largest possible commercial reward from maximum circulation of his product. On the other hand, the networks have an obvious interest in repressing another mode of exhibiting the product to the home viewer. Networks thus use their substantial economic leverage to obtain unreasonable exclusivity from the copyright owner.

Testimony at hearings held during the 94th Congress amply demonstrates that the movie distributors look upon the development of pay cable as a promising way to enlarge their revenue potential.14/ It is not difficult to conclude that it is the monopoly position of the networks which results in exclusivity against pay cable, not the need for this exclusivity by the film suppliers. Networks have many

14/ Hearings on the Pay Cable Television Industry Before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 94th Cong., 1st Sess. (1975).

films produced exclusively for television and have further economic leverage resulting from their placement of television series production. This network dominance of relatively large numbers of film suppliers is further supported by the huge profits which the networks enjoy from their preeminent access to the public spectrum.15/

The film suppliers do not wish to see their product tied up by one buyer for an extended period of time.16/ Films could be sold to several buyers thus receiving larger circulation and revenue. Repetition over a period of time will result in greater audience viewing and thus greater revenue.

It is obviously very difficult for an individual film supplier to resist the demands of a huge oligopoly customer for extensive exclusivity against pay cable. The exclusivity

15/ According to the most recent figures available from the FCC, the three commercial networks enjoyed pre-tax profits of over $200,000,000 in 1975. Newspaper accounts point to even higher levels in 1976. By comparison, the pay cable industry presently grosses about half this amount, and this is split among some ten different pay cable companies.

16/ In Hearings on Cable Television Regulation before the House Subcommittee on Communications of the Committee on Interstate and Foreign Commerce, 94th Cong., 2nd Sess. (1976), Jack Valenti, President, Motion Picture Association of America, confirmed this by stating,

> "[K]eep the exhibition sequence in mind for it is the linchpin of movie distribution strategy. First, to theatres, the primary market for movies; then to pay cable, then to networks; and on to individual station syndication. Even if there is the power to outbid, the sequential marketing logic will not be disturbed. The movie industry sees pay cable as an additional market, between theatrical and network exhibition." (p. 649)

demanded by the networks against pay cable is obtained because it is the only way the networks will deal. These contractual restrictions do not reflect the needs or desires of the copyright owners.

IV. THE TERMS OF THE PROPOSED CONSENT DECREE ARE HARMFUL TO PAY CABLE

Even if it is felt that some form of contractual exclusivity should be permitted, the limitations proposed in the Consent Decree are illusory and do not in any real way limit NBC's ability to utilize exclusivity in an anti-competitive fashion.17/ Not only are the terms so liberal as to be almost meaningless, but the failure to include the network owned and operated television stations is an inconsistent omission. Furthermore, the Consent Decree forbids NBC to obtain exclusivity against all modes of pay programming delivery except for pay television (cable and over the air). This discrimination has no rational basis.

A. The Proposed Front-end Limitation is Meaningless

NBC is to be permitted to obtain exclusivity against pay cable commencing 30 days prior to the date on which the film will be available for broadcast. This "availability date" concept is simply irrelevant. It is set for the

17/ The "limitation" in the proposed decree is really very little less exclusivity than NBC has been obtaining. Their practice has been to obtain exclusivity against pay cable starting 60 days prior to the availability date and running through the availability period. See Senate hearings, p. 222; FCC Docket 20402, Comments of National Broadcasting Co., p. 2.

tax purposes of the film suppliers and/or for the anti-competitive purposes of the networks. It bears no relationship to when the networks plan to actually telecast the film.

Availability date is a date which is often months or even years in advance of the first "telecast" date of a particular film. Available information submitted during the Senate hearings demonstrates this fact. For example, of the 113 different films listed by NBC as having been shown in an 18 month period, 53 were not shown until at least 6 months had elapsed after the availability date.18/ Many did not appear until a year or more had gone by. The same is true of the other two networks. Thus, the use of availability date as an exclusivity benchmark permits the networks, with certain exceptions, to obtain a minimum of six to nine months pre-clearance on a feature film before its actual date of first telecast.

Obviously the availability date is not established with film telecast dates in mind. Instead the date is often most meaningful to the motion picture companies as the date when income from a particular film sale is appropriately entered on the company's books.19/ The time

18/ Senate hearings, pp. 227-229.

19/ See Accounting for Motion Picture Films, prepared by the Committee on Entertainment Industries of the American Institute of Certified Public Accountants, pp. 6-8.

of income is critical to motion picture companies whose economic fortunes fluctuate greatly from year to year. Thus, the availability date can be artificially established well in advance of any intended telecast date with no economic relationship to the networks' need for exclusivity.

No other rationale exists for the choice of availability date rather than telecast date except that, from the networks' point of view, it can substantially extend the real period of exclusivity. Certainly in most cases the telecast date can be determined well in advance. In testimony during the Senate hearings Everett Erlick of ABC indicated that the networks needed six months in order to provide time to plan a sales campaign for a movie telecast date.20/ This testimony shows two things: (1) there is no nexus between exclusivity needs and availability date, and (2) the networks do not lack the ability to establish dates for telecast of films well in advance.

Telecast date is a far more logical point of departure for any discussion of permissible exclusivity. Some people have expressed the concern that if the telecast date were used, a network could announce its telecast date right in

20/ Senate hearings, p. 193.

the middle of a pay cable run, thus requiring the pulling of product from pay cable. However, pay cable is more than willing to take this risk since under the availability date approach, pay cable does not get the product at all. Since it is known that a telecast date can be fixed quite far in advance, we can see no reason why any front-end exclusivity should not be tied to that date. This would actually serve to lessen the possibility of product being pulled from pay cable since plans are made for pay cable exhibition far enough in advance to arrange an orderly schedule on both networks and pay cable.

If NBC is permitted exclusivity 30 days in advance of availability date, instead of a short period before telecast date, pay cable will continue to be squeezed in its three year FCC window between the theatrical run and this unjustifiable network exclusivity.

B. The Duration of Exclusivity is Far More Lengthy Than Needed

The proposed Consent Decree goes on to permit NBC to obtain two years of exclusivity against pay cable after availability date and an additional 12 months for each exhibition beyond the first two showings. Taken together with the availability date provision and the FCC rules,

this term of exclusivity just about completely eliminates any chance for pay cable to obtain good product until it is quite old, if ever. The networks simply have no need for that much exclusivity. The unreasonableness of such a provision stands out like a sore thumb.

The Consent Decree does not require NBC to telecast a film at any time during the first two years of exclusivity which it may purchase. Thus NBC can purchase and warehouse a film with the result that a long period of time may pass when no one is showing the film. Furthermore, one run a year can permit NBC to tie up the film for an indefinite period of time. The Department of Justice was heading in the right direction as indicated on pages 19 and 20 of the Competitive Impact Statement when it suggested that exclusivity be permitted for 45 days before and after each network exhibition. What has instead been proposed is a quantum jump in the wrong direction.

Use of availability date and a minimum of two years of exclusivity becomes even more restrictive when the FCC rules are factored in. Thus a film may be in its theatrical run

for 12 to 18 months and then NBC is permitted to obtain at least two years of exclusivity against pay cable from an early and fictional availability date. In most situations this takes a film past the three year old mark. Certainly the one year renewal rights accorded to NBC would bring the film beyond this age and as demonstrated above, once a film is over three years old, the FCC rules make it impossible for pay cable to purchase the film.

Just as the date of first telecast is an obvious and reasonable front-end exclusivity benchmark, so, too, should exclusivity not be permitted to extend beyond each telecast. It has been alleged that the networks will not purchase films if they can't get extensive pre- and post-exhibition exclusivity against pay cable. In light of the lack of actual competition between the two modes of delivery and in light of the great economic value that feature films have for the networks, it is absolutely inconceivable that the networks will not buy films when they are made available.

Thus the proposed provision is really of very little value to the networks, and it certainly is not needed, but it does have the effect of stifling pay cable by severely interrupting the flow of film product.

C. The Failure to Include NBC Owned and Operated Television Stations is Inexplicable

The Consent Decree should by all rights apply to NBC owned and operated stations. However, NBC has managed to obtain a specific exemption of these stations from any restrictions. It is amazing that such an exemption would be agreed to in light of the network's control not only over its own stations but over its affiliates, as well.

As the Department of Justice is well aware, the FCC is just beginning a wide-ranging inquiry into television network practices. 21/ This inquiry was initiated largely as a result of a rulemaking petition filed by the Westinghouse Broadcasting Company. The Department of Justice supported this petition although it attempted to separate its support for the inquiry from the issues being litigated in its suits against the three networks. The FCC, however, in launching the inquiry, relied not only on the Westinghouse petition and the Department of Justice comments, but also on the allegations contained in the suits against the networks. One of the major issues in the inquiry is the relationship between network owned and operated stations and the program suppliers. 22/ The allegations in the antitrust suits and the issues raised in the FCC inquiry make the exemption of the network owned and operated stations in the proposed

21/ Notice of Inquiry in Docket 21049, FCC 77-53, released January 14, 1977.
22/ Ibid., paragraph 28.

Consent Decree quite inconsistent. NCTA submits that this exemption is unwarranted and untimely.

D. The Discrimination Between Methods of Pay Program Delivery is Not Sustainable

NBC would be permitted under the Consent Decree to obtain the extensive exclusivity against pay cable discussed above but incongruously they are totally precluded from obtaining exclusivity against other modes of paid program delivery, such as video discs, airplanes, hotel pay TV and others. There is simply no rationale for such a distinction.

Some of these modes of delivery reach more people than pay cable. Others, such as video discs, may soon develop into a far more extensive and competitive method of film exhibition. There is no explanation in the Competitive Impact Statement as to why the distinction was made. The only possible explanation NCTA can even imagine is that pay television is the only one of these delivery modes which comes under the jurisdiction of the FCC. If this is the reason, or even part of it, we reject it as totally invalid. The FCC regulates pay television because it can be reached under the provisions of the Communications Act of 1934.23/ The other services cannot be so reached. Surely the jurisdictional parameters of the Communications Act bear no relationship to the applicability of the antitrust laws

23/ The FCC's jurisdiction is one of the issues being litigated in Home Box Office, Inc. v. FCC, supra.

in this case. Indeed, if this were so, the Consent Decree should be written the other way around since NBC should have more to fear from those delivery methods which the FCC cannot regulate rather than those it can.

The Department of Justice has long held the position that it favors competition and innovative alternatives, not the promotion of one or another competitor. The distinction made in the Consent Decree is in conflict with this philosophy. Every method of delivering pay programming is relieved from the burden of network exclusivity except for pay television. Thus the networks are free to exact substantial and unnecessary exclusivity against pay cable.

Put another way, if we examine all of the means of distribution of feature films, such as networks, theaters, pay cable, network owned and operated stations, affiliates, video discs, cassettes, hotel pay service, in-flight movies and bars, pay television (cable and over-the-air) is the only one which can be precluded from showing a film because of a contract provision obtained by another medium. This discrimination has been proposed in the Consent Decree with absolutely no rationale provided. NCTA suggests that the distinction is not defensible.

V. NETWORK EXCLUSIVITY PRACTICES HAVE BEEN UNDER REVIEW IN CONGRESS AND AT THE FCC FOR TOO LONG

The terms of the proposed Consent Decree are unfortunate in that the very exclusivity practices dealt with have been under review both in Congress and at the FCC and nothing has yet come of this activity. Effective action by the Department of Justice is therefore necessary.

The Senate Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary held extensive hearings in 1975 on the precise subject under discussion here. In 1976 the House Subcommittee on Communications of the Interstate and Foreign Commerce Committee held a set of hearings on the broad subject of CATV regulation, and one of the major topics was pay cable. However, nothing concrete is yet on the horizon from this source.

Proceedings at the FCC are more numerous and equally unproductive. The long-pending rulemaking in Docket 18179 explores the duration of time exclusivity found in television contracts.24/ On August 12, 1974, the Commission issued a Further Notice of Proposed Rule Making in Docket 19554,25/ in which they sought comment on the alleged unreasonable

24/ See Second Further Notice of Proposed Rule Making in Docket 18179, 37 Fed. Reg. 7531 (1972).
25/ 48 FCC 2d 453 (1974).

exclusivity obtained by the networks against pay cable. No action was ever taken. Then the Commission seemed to back off still farther by issuing a general Notice of Inquiry in Docket 20402 in 1975. 26/ This proceeding was explained by the Commission as follows:

> The inquiry which we have initiated by this Notice will deal with many of the same issues taken up in earlier proceedings, but will focus on the effects of exclusive contracts upon subscription television vis-a-vis conventional television, and particularly on how these effects relate to our anti-siphoning rules. The basic issue posed in this proceeding is whether the degree of exclusivity now generally contracted for is necessary for the well being of conventional broadcasters, and whether this degree of exclusivity, when viewed in conjunction with the Commission's anti-siphoning regulations, will markedly inhibit the development of subscription television services. (emphasis added) 27/

However, once again, nothing has transpired.

In sum, the FCC has had several proceedings underway for some time now dealing with many of the issues dealt with in the Consent Decree. But none of these proceedings show signs of being concluded in any satisfactory fashion. Thus the Department of Justice is the logical entity to turn to

26/ 52 FCC 2d 87 (1975).
27/ Notice of Inquiry in Docket 20402, para. 6.

for resolution of this issue. In addition, approval by the Department of Justice of unreasonable exclusivity against pay cable will unavoidably place an imprimatur on existing network practices and thereby tend to prejudge or influence the outcome of the issue elsewhere.28/ This risk can only be avoided if the Department of Justice withdraws its consent to the proposed decree.

VI. THE DEPARTMENT OF JUSTICE SHOULD WITHDRAW ITS CONSENT TO THE PROPOSED DECREE

The proposed Consent Decree does not do more than codify existing network exclusivity practices. Approval of these practices seems patently inconsistent with the Department's past attitudes and pronouncements favoring free competition for pay cable. If satisfactory terms cannot be agreed on with NBC, then the Department should continue with its litigation.

The Department has consistently sided with the pay cable industry in its battle against restrictive FCC rules and network practices. Thus, in the lengthy FCC rulemaking in Docket 19554 which resulted in the present restrictions the

28/ This could even be the case in any subsequent private antitrust action. Although Section IV (A) of the Consent Decree contains a caveat about not approving violations of the antitrust laws, the meaning of this proviso is vague. It can reasonably be interpreted, taken in context, that the Department of Justice views those practices specifically enumerated in the Consent Decree as within the boundaries of the antitrust laws.

Department filed two sets of comments which took the position that the FCC should not stifle pay cable because of some hypothetical injury which might befall the broadcasters.29/ After the FCC's unsatisfactory action, the Department filed a brief in support of the pay cable industry in the court appeal.30/ And, in the 1975 Senate hearings, Donald Baker, Assistant Attorney General, Antitrust Division, observed that "the only problem [with the FCC rules] was that most of the affected films were under exclusive contracts."31/ Finally, the entire tenor of the Department's 1976 comments in support of the Westinghouse petition for a network inquiry is one of seeking to preserve a competitive environment. The approval of existing anti-competitive network exclusivity practices simply runs counter to all of this past conduct.

If, for various public policy reasons, the Department still feels that some provision dealing with exclusivity should be included in an overall settlement of the litigation, NCTA suggests that all that is needed by NBC is a short period of time prior to each telecast date. A period of 45

29/ See Department of Justice comments in Docket 19554, filed November 1, 1972, and October 4, 1974.
30/ Home Box Office, Inc. v. FCC, No. 75-1280 et al., Brief for Respondent United States of America.
31/ Senate hearings, p. 234.

days prior to each exhibition was suggested by the Department,32/ but we feel that 15 days is more than sufficient. While a legitimate argument can be made for some pre-exhibition exclusivity, there is no reason for any post-telecast protection. How could a pay exhibition to a relatively small audience harm a prior "free" exhibition to a nationwide audience? This type of approach would give the networks all the protection they really need, while at the same time giving pay cable the access to the product which it must have to survive.

If NBC would not accept such a provision, the Department should continue to pursue the litigation. NCTA believes that the Department should take the position that no network exclusivity against pay cable is appropriate at this time, but at a minimum the Department should certainly not consent to a continuance of existing practices.

VII. CONCLUSION

NCTA submits that the contractual exclusivity obtained by NBC and the other networks against the pay cable industry is an unneeded practice which is anti-competitive in intent,

32/ Competitive Impact Statement, pp. 19-20.

and when taken together with the FCC's rules, is certainly anti-competitive in result. The proposed Consent Decree not only virtually approves existing practices, but it also creates a discriminatory framework between alternative methods of delivering pay programming. The Department of Justice should take a position in opposition to NBC's exclusivity practices, or at least seek an acceptable provision along the lines discussed above. If this cannot be accomplished, NCTA urges the Department to continue this litigation. In any event, the Department should withdraw its consent to the decree as it is now written.

Respectfully submitted,

NATIONAL CABLE TELEVISION ASSOCIATION, INC.

By Stuart F. Feldstein
Stuart F. Feldstein

By Frederick W. Finn
Frederick W. Finn

By Arthur H. Harding
Arthur H. Harding

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918 16th Street, N. W.
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March 1, 1977

CONTINENTAL CABLEVISION, INC.
54 LEWIS WHARF
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(617) 742-9265

H. I. GROUSBECK
PRESIDENT

April 11, 1977

Mr. Bernard Hollander, Chief
Judgements and Judgement Enforcement
Section
Anti-Trust Division
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Hollander:

I urge you to withdraw the support of the Department of Justice for the proposed Consent Decree in the NBC matter. I also urge you, if necessary, to take anti-trust action to prohibit unreasonable contractual exclusivity against pay cable.

Network licenses of films invariably provide for exclusivity against pay cable. This practice sharply limits or denies completely pay cable's access to films. For example, a film may be purchased by a network for only one or two showings, but its contract may provide for exclusivity against pay cable for a period of up to five years.

It is my view that it would be in the public interest for the Department of Justice to move to curtail this highly inequitable and anti-competitive practice.

Very truly yours,

H I Grousbeck

rem

UA-COLUMBIA CABLEVISION, Inc. • 49 Riverside Avenue • Westport, Conn. 06880 • 203 227 9581

April 15, 1977

Mr. Bernard Hollander
Chief, Judgements &
Judgement Enforcement Section
Anti-Trust Division
U. S. Department of Justice
Washington, D. C. 20530

Dear Mr. Hollander:

I would like to add my voice to those who recommend withdrawal of your support to the proposed consent decree with NBC in connection with exclusivity against pay cable.

We believe that the effect of the consent decree would be to reenforce their economic power against our industry and effectively subvert the basic intent of the Justice Department.

We appreciate your concern with this matter and we trust you will give thorough consideration to the views that oppose the consent decree.

Sincerely yours,

RMR:1

TELESIS CORPORATION
2605 YEAGER ROAD · P. O. BOX 18
LAFAYETTE, INDIANA 47902

RICHARD F. SHIVELY
PRESIDENT

TELEPHONE
317 463 7808

April 13, 1977

Mr. Bernard Hollander, Chief
Judgements and Judgement Enforcement Section
Anti-Trust Division
U. S. Department of Justice
Washington, D.C. 20530

Dear Mr. Hollander:

As an officer and director of Telesis Corporation, operator of Cable TV Systems in nine states, I wish to urge the Department of Justice to withdraw its support of the proposed Consent Decree with the National Broadcasting Company, Inc. in the matter of Pay Cable programming.

Our company has made substantial investments in order to make Pay Cable service available to many of our subscribers. The early acceptance of this service by subscribers has been heartening; however, the future is clouded by the possibility of the lack of availability of programming.

In view of the fact that the U.S. Court of Appeals vacated Federal Communications Commission Pay Cable rules, it appears likely that broadcast interests will make even greater use of their substantial financial advantage in order to obtain as much exclusivity as possible from the moment feature films are released for exhibit. A grant of up to 36 months' exclusivity, as permitted in the proposed Consent Decree, would have the practical effect of completely denying product to Pay Cable until after it is available via commercial television.

This certainly is anti-competitive. It not only restricts, it eliminates a market place. Moreover, it denies the public a right to view, in home, unedited and uninterrupted feature films. It also destroys a new market for feature films.

In the interests of the public, as well as in the interests of fair play, you are beseeched to reconsider your Department's decision and withdraw support from the proposed Consent Decree.

Sincerely,

Richard F. Shively

RFS/rap
cc: Bob Johnson

PROGRESS INTELLIGENTLY PLANNED AND DIRECTED

CITIZENS COMMUNICATIONS CENTER
FOR RESPONSIVE MEDIA
1914 SUNDERLAND PL., N.W., WASHINGTON, D.C. 20036 (202) 296-423

March 1, 1977

Mr. Bernard M. Hollander
Chief
Judgment and Judgment Enforcement
Section
Antitrust Division
Department of Justice
Washington, D. C. 20538

Re: Proposed Consent Decree in
U.S. v. NBC, Com. Act, No.
74-3601 RJK, U.S. D.C. Cent.
Div. Calif.

Dear Mr. Hollander:

The National Citizens Committee for Broadcasting objects to the proposed consent decree in United States v. National Broadcasting Company, Inc., Civil Action 74-3601-RJK, filed on November 17, 1976 in the United States District Court for the Central District of California.

Our principal concern lies in the proposed exclusive rights permitted NBC to theatrical feature films against their exhibition on pay cable television. [VI(E)(iii)(e)]. This clause unduly burdens the growing pay cable industry by denying it rapid access to feature films that can be brought to consumers without commercial interruption. This clause is inconsistent with the spirit of both the Communications Act and the Federal antitrust laws. Moreover it is contrary to the purpose of the entire antitrust action originally initiated by the Justice Department.

I. BACKGROUND

National Citizens Committee for Broadcasting (NCCB) is a non-profit organization representing consumers of media services. We believe that it is the paramount responsibility of both the Justice Department and the Federal Communications Commission to promote diversity and competition within the communications industry to increase consumer choice. Accordingly NCCB has participated in various F.C.C. rulemakings concerning Pay Cable (Docket Nos. 18893 and 19554). Like the Justice Department's Antitrust Division, we unsuccessfully urged the Commission in those rulemakings to remove the unnecessary and illegal restrictions on the pay cable industry. The artifical constraints (i.e. exclusive contracts) now used by the broadcast industry to deny pay cable access to feature films should, NCCB argued, be entirely abandoned.

Broadcasters, who present their product to the public at no direct charge, through an advertising-based system, are able through their dominant economic position in the communications industry to deny cable television, which would present such product on a paid, but uninterrupted and unedited basis, access to feature films. The FCC failed to deal adequately with this problem in one five year proceeding culminating in Subscription Television Program

Rules, 52 FCC 2d 1, reconsid. denied, 54 FCC 2d 797 (1975).

The Commission rejected the arguments made by NCCB and similar groups, essentially compromising among the contending industries and "gloss[ing] over the more fundamental public interests." NAITPB v. FCC, 502 F.2d 249, 258 (2d Cir. 1974). A new "inquiry" has been initiated into the practice., Docket No. 20402; 40 Fed. Reg. 15576 (1975). But before the Commission can make a final resolution of the problem it must first issue a formal notice of rulemaking.

This action (or rather inaction), along with other Commission restrictions placed on the pay cable industry, is on review by the United States Court of Appeals for the District of Columbia Circuit. The case was argued last spring and is now awaiting decision. Home Box Office v. FCC, D.C. Cir. No. 75-1280. Both Justice and NCCB supported the petitioning cable entities in their own briefs and arguments in this case. NCCB's principal arguments were that the restrictive cable rules as well as present practices of the broadcast industry vis-a-vis pay cable undermine the public's paramount First Amendment interest in access to diverse sources of information and entertainment, as well as national antitrust policies embodied in the Communications Act. We believe strongly that the Court will reverse and remand this case to the Commission to reconsider these important issues.

II. THE PAY CABLE EXCLUSIVITY PROVISION IN THE CONSENT DECREE:

Section VI(E)(iii)(a)-(d) of the decree prohibits NBC from entering into exclusive contracts with motion picture producers that deny feature films during the run-of-the-contract to theaters, closed circuit television in hotels, airline showings, and video discs. But VI(E)(iii)(e) specifically exempts from this restriction exclusive contracts which deny pay cable access to feature films. This provision in effect formalizes past industry practice by allowing NBC to obtain exclusivity against pay cable. Allowable exclusivity commences 30 days prior to the first network availability date and extends until the termination of the agreement or 24 months, whichever occurs first. Moreover, 12 additional months of protection is granted for each additional exhibition beyond two obtained by the network.

The Antitrust Division has itself recognized the potentially adverse effects of this current industry practice, and originally sought to limit it sharply (CIS at 19-20). In the Consent Decree however the Department abandoned its original proposal of limiting exclusivity to 45 days before and after each network exhibition date (90 day exclusivity) and acceded to NBC's demand to institutionalize the present exclusive contract against pay cable as an "upper limit" (Id. at 12). The provision could, however,

have the effect of denying pay cable access to specific feature films for an indefinite number of years. For as Variety recently noted, acceptance of this provision by the Court "could have the practical effect of etching them in stone in D.C." (November 24, 1976 issue)

This provision unduly restricts competition between different forms of communications media. It provides the networks with a mechanism to insure that their dominant position in the communications industry is not disturbed, and thus disserves the public interest. For the following reasons NCCB urges the Justice Department to either re-negotiate real relief (the 90-day exclusivity limit) or, if that is not possible, entirely eliminate this provision from the consent decree:

1. The proposed provision simply codifies the present network practice in obtaining exclusivity protection. It does not constitute a true compromise since the former practice of obtaining exclusivity from the date of contract has been entirely abandoned. Moreover, in light of anticipated adverse reaction in Congress and the FCC, led by the cable industry and public interest groups, it is unlikely that date of contract exclusivity will be reinstated in the near future. Any compromise in this important area should provide substantial or significant relief to the pay cable industry. An equitable solution would be the acceptance of a provision much more along the lines of the original Justice

Department proposal of granting exclusivity protection 45 days before and after each network exhibition of a feature film (e.g., 60 days before and after).[1/]

2. If the Antitrust Division cannot negotiate a genuine restriction on exclusive contracts -- and we believe that it has failed in its efforts to do so -- then the provision in the consent agreement should be entirely eliminated. It would be legally, psychologically and tactically wrong for the Justice Department to acquiesce to the present network exclusivity practice which limits the availability of films to pay cable. Ultimately, the Department's acceptance of this unduly permissive standard could influence whatever action the Congress, the FCC or some future court in a private antitrust suit might be disposed to take.

3. This brings us to our final request -- namely, that the division should make clear in the decree itself that any provision, even the proposed limited 45-day restriction, should not in any way determine or influence Congressional or FCC consideration of the exclusivity matter.

1/ The FCC rules now provide that feature films more than three years old can be made available for pay cable use only when a conventional television station in the market or a network has a "present contractual right to exhibit the film." Therefore, "a film under contract but which is not available for exhibition until some future date, will not be considered as available for telecast." In our view and that of the Department in light of its position in the Home Box Office v. FCC appeal, this rule is of dubious legality, and therefore should not influence or affect the outcome of this antitrust suit.

The Division's action is simply a compromise resolution of an antitrust suit. Congressional and FCC action involves the much broader consideration of what course best promotes the public interest. We of course recognize that this is true whether or not it is specifically acknowledged in the CIS or decree process. It is important, however, that the process reflect this critical consideration. The Competitive Impact Statement (at 12) goes to great pains to point out that the exclusivity provision "should not affect those situations where NBC does not now obtain such exclusivity for feature films". It should be similarly explicit as to its immateriality towards Congressional or FCC consideration of exclusive contracts.

III. Other Decree Provisions

While the foregoing constitutes our most serious objections, there are other features of the proposed decree which warrant comment and possible reconsideration by the Antitrust Division. The government states (CIS at 15) that "the agreed relief would be substantially equivalent to that sought in the complaint....". We question whether the relief granted meets this high standard. But more seriously, there is a substantial question whether the relief constitutes a genuine compromise at all in the following respects:

A. Internal Network Program Production.

In recognition of the networks' dominant position, coupled with the obvious incentive for the networks to prefer their own productions over independent offerings, the Division originally sought to prohibit all internal production of entertainment programs. Internal production cuts down on opportunities available for outside producers, and equally important, gives the networks additional leverage in dealing with independent production companies. Any compromise that left leeway for internal network production would not be effective in eliminating the leverage aspect. But it could make a significant contribution in increasing opportunity for independent producers. However, the Division's proposed decree fails to achieve even this goal, because it permits internal production figures greater than that now undertaken by NBC.

This provision is thus again not a genuine compromise but rather an institutionalization of the present network levels (generally using the high water marks of each network in particular time segments as the bellwether).

B. Yearly Option Renewal Provisions To Program Series

Similarly, there is a serious question as to the public interest basis for the option provisions of the decree [VI(E)(i)]. These limit exclusive yearly options in a contract for a network series to no more than four years, plus a single year's extension if the contract is to be renegotiated.

As noted in the Competitive Impact Statement (at 11) NBC can now obtain,and has obtained, " exclusive rights to a program for as long as seven years on terms and conditions set before the program has ever been developed." But generally the networks today obtain only five years of options for a prime time series . A provision much more in the Government's favor would be two years (as the Justice Department initally proposed -- CIS at 17). A genuine compromise would be three years, with a single year's extension upon renegotiation of the original contract.

C. Exclusivity In Program Series

A final example involves the exclusivity provision in VI(E)(ii), limiting NBC's right to prohibit the use of a particular prime time program (not a theatrical movie) to no more than three years. NBC may, however, obtain four years of exclusivity as against non-prime time stripping of a particular series, and unlimited prime tims exclusivity during

the life of NBC's right to network exhibition of the program. Again we recognize that this is a significant cut-back. But it should be considered in light of two important considerations: First, there is clear evidence that non-prime time presentation of older episodes has no effect on the ratings of the new episodes in the networks' continuing prime time showings. Secondly, the struggling UHF independent has a great need for access to such off-network series if it is to succeed. Indeed, the public interest strongly militates against any exclusivity barring non-prime time presentation by UHF independent stations.

Here, as in the exclusivity as against feature films, we recognize that these provisions were "the subject of intense negotiations between the parties", (CIS at 17). It can be argued that we simply are insisting on different judgements concerning the outcome of the negotiations -- that, like Oliver Twist, "we want more". However, we do not regard the Government's trial position as weak in light of the network's record of dominance of the broadcasting industry. We strongly believe that any consent decree should reflect genuine compromise -- not just provisions that are really only ceilings retaining present industry custom.

Again, we stress that the decree process should clearly reflect that there is no intent to affect in any way future FCC or Congressional consideration of the areas covered by the compromise. In each specific matter covered by the decree, the FCC has clearly been delegated jurisdiction to regulate. The FCC is not only mandated to regulate to alleviate undue anti-competitive restraints. It must also promote "the larger and more effective use" of television in the public interest. 47 U.S.C. §303(g); NBC v. United States, 319 U.S. 190 (1943). We urge that the consent decree be adjusted consistently with the above points, so as to maximize the public's access to diverse information sources, and not limit, directly or indirectly, the ability for other governmental entities to do the same.

Respectfully submitted,

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DONALD BAKER, ATTY ANTI TRUST DIVISION CHIEF
JUSTICE DEPT
WASHINGTON DC 20530

DUPLICATE AS D C RECEIVED COPY, 04-28, 0245 EST

WHY WAS A CONSENT DECREE PROPOSED AS SETTLEMENT AGAINST NBC NETWORK IN JUSTICE DEPARTMENT ANTI TRUST SUIT SUBMITTED TO ST SUIT SUBMITTED NETWORK TO ACQUIRE RIGHTS FOR TWO SHOWINGS OF MOVIES WITH TWO YEAR EXCLUSIVITY, AGAINST PAY CABLE-ADDITION YEAR OF EXCLUSIVITY FOR EVERY ADDITIONAL EXHIBITION, THIS SHOULD BE DELETED FROM FINAL AGREEMENT ALSO WHY DOESNT AND WHEN WILL JUSTICE DEPARTMENT TAKE FULL AND FORCEFUL ACTION AGAINST NBC, CBS, AND ABC BROADCASTING NETWORKS, AND TO PARTICIPATE IN THIS ACTION WITH THE FTC, CORDIALLY

CCS REP FRANK ANNUNZIO WASHINGTON DC
PRESIDENT JIMMY CARTER WHITE HOUSE WASHINGTON DC
OAK INDUSTRIES, 100 S. MAIN ST, CRYSTAL LAKE IL, 60014
ATTN: PRES OF C.A.T.V. DIV. MR ARMER KOESTER

BURTON BERGER
6213 NORTH FAIRFIELD ST CHICAGO IL 60659

16:10 EST

MGMCOMP MGM

Response to the Comments Submitted by Congressional, Public Interest and Pay Cable Television Entities Opposing Section VI(E)(iii)(e) of the Proposed Judgment. 1/

Paragraph VI(E)(iii)(e) has been deleted from the proposed Judgment by agreement of the parties. It would have limited NBC's network program exclusivity for theatrical feature films as against pay cable television, and received, by far, the largest number of comments filed on the proposed Judgment.

1/ The following entities filed comments on Paragraph VI(E)(iii)(e): Cinmerica, Inc.; Schuyler Chapin, Dean, School of Arts, Columbia University in the City of New York; East Bay Skills Center; NCCL; The National Urban Coalition; American Civil Liberties Union; NAACP Legal Defense and Educational Fund, Inc.; Action for Children's Television; Metropolitan Opera Association; Nicholas Johnson; American Television & Communications Corp.; Cablecom-General, Inc.; Cable Information Systems, Inc.; Central California Communications; Communications Properties, Inc.; Continental Cablevision, Inc.; Cox Cable Communications; Daniels Properties, Inc.; Good-Vue CATV, Inc.; Harris Cable Corporation; Heritage Communications, Inc.; Home Box Office, Inc.; Inertia, Inc.; Liberty Communications; Manhattan Cable Television; Midwest Video; Sammons Communications, Inc.; Tele-Communications, Inc.; Telesis Corporation; Teleprompter Corporation; The TM Communications Company; UA Columbia Cablevision, Inc.; United Cable Television Corporation; Vision Cable Communications, Inc.; Honorable Edward M. Kennedy, Acting Chairman, Committee on the Judiciary, Subcommittee on Antitrust and

The relief proposed in this provision was simply intended to establish an upper limit on the exclusivity terms that NBC could obtain, at a level lower than current practice, rather than a determination of what period of network exclusivity would be reasonable under the Sherman Act. Despite this intent, and the fact that the Judgment does not constitute an "adjudication of fact or law," the commentors almost uniformly protested that this provision would establish an industry standard which they believed to be detrimental. Thus, for example, one comment stated:

> The proposed decree . . . expressly approves NBC's practice of demanding unreasonable exclusivity against pay cable . . . [and] would put the Department's imprimatur on precisely the type of network abuse that this suit was brought to prevent. 2/

1/ continued

Monopoly, United States Senate; Lincoln Center for the Performing Arts, Inc.; Community Coalition for Media Change; Optical Systems Corporation; Communications Policy Committee, Consumers Union; United States Conference of Mayors; Media Access Project; Cable Television Information Center of The Urban Institute; United Artists Corp. and Metro-Goldwyn-Mayer Inc.; Honorable James Abourezk, United States Senate; National Cable Television Association, Inc.; Citizens Communications Center; and Burton Berger.

2/ See Comments of Twenty-Four Companies in the Pay Cable Industry at 8.

This view of the effect of the proposed Judgment was shared by a number of other commentors. 3/ In addition, some of these commentors presented analyses to the effect that the present exclusivity terms in network contracts constituted an unreasonable restraint of trade and reflected an unreasonable exercise of network purchasing power to foreclose competition. 4/

The commentors, while unanimously agreeing that Paragraph VI(E)(iii)(e), as written, was detrimental to the developing pay cable industry 5/, did not fully agree on the solution. While some would have the Government obtain a complete ban on such exclusivity, or at most permit it to run only for 15 days in advance of the feature's playdate and permit no exclusivity

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3/ See, e.g., Comments of Senator Edward M. Kennedy at 1; Comments of United Artists Corp. and Metro-Goldwyn-Mayer, Inc. at 7; Comments of the National Cable Television Association, Inc. at 27; Comments of Nicholas Johnson at 2; Comments of Citizens Communications Center at 5.

4/ Comments of Twenty-Four Companies in the Pay Cable Industry at 8, 23-24; Comments of the National Cable Television Association, Inc. at 7-16.

5/ It should be noted that CBS Inc. and American Broadcasting Companies, Inc. oppose entry of the entire Judgment and entry of this provision. Their comments are treated separately.

after playdate 6/, others recommended that the provision be deleted from the Judgment entirely, since no factual record on what constituted reasonable exclusivity had as yet been developed in this case. 7/

As a result of the numerous assertions that this provision would establish a standard adversely affecting the pay cable industry, the Government became convinced that it would not provide meaningful relief. And, since no agreement on a more limited period for this type of exclusivity could be reached with NBC, the Government seriously considered withdrawing its consent to entry of the Judgment. However, in a recent decision the District of Columbia Court of Appeals, citing "antitrust questions," has ordered the FCC to consider and resolve this problem within 180 days. 8/ Consequently, it

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6/ See, e.g., Comments of Twenty-Four Companies in the Pay Cable Industry at 44; Comments of the National Cable Television Association, Inc. at 29; Comments of Senator James Abourezk at 4.

7/ Comments of Senator Edward M. Kennedy at 1; Memorandum of Majority Staff, Senate Antitrust and Monopoly Subcommittee at 9; see Comments of the National Citizens Communications Lobby at 2; Comments of the American Civil Liberties Union at 3; Comments of American Television & Communications Corporation at 3; Comments of Cable Television Information Center at 4.

8/ Home Box Office, Inc. v. FCC, No. 75-1280 (D.C. Cir. March 25, 1977).

was decided that outright removal of this provision would be appropriate and desirable as well, because its deletion would permit entry of the remainder of the Judgment. The parties have stipulated that removal of this provision does not estop any possible future action in this area against NBC by any person, and does not constitute any evidence or admission respecting any issue of fact or law. 9/

9/ The Stipulation, in pertinent part, provides:

. . . the original inclusion and subsequent deletion of Section VI(E)(iii)(e) from the proposed Final Judgment, shall not estop plaintiff or defendant, or any person, in this or any other action or proceeding, from asserting any issue of fact or law as to the subject matter of Section VI(E)(iii)(e) or as to the use of contractual rights to the exclusive use of talent or of literary properties for television exhibition, nor shall they constitute any evidence or admission as to any such issue.

Bernard M. Hollander

Attorney for the United States

Form CBD-183
12-8-76 DOJ

MRS. HOLLANDER
Kaplan - 3714

• THE CAUCUS •
FOR PRODUCERS, WRITERS & DIRECTORS

January 11, 1977

Bernard Hollander, Esq.
Chief of Judgment & Judgment
Enforcement Section - Antitrust Division
U.S. Department of Justice
10 Pennsylvania Avenue N.W.
Washington, D.C. 20530

Re: USA v. NBC - Civil Action #74-3601 R.J.K.

Dear Mr. Hollander:

The Caucus of Producers, Writers and Directors is a non-profit organization, organized four years ago, and dedicated to constructive progress and improvement in the television and theatrical fields; and to protect the high standards and integrity of Creative Artists. Its membership includes the most important and prestigious segment of the Creative Community. A copy of volume 1 of Caucus Comments, just issued, which embodies the aims and objectives, and the current membership list of the Caucus is enclosed.

The Caucus has studied the proposed Judgment in connection with the above matter, and vigorously opposes said Judgment. Enclosed is a memorandum which the Caucus requested its attorneys (Simon & Sheridan) to prepare for submission to you. You will note that the Caucus recommends that the Anti-trust Division withdraw its consent to said proposed Judgment.

If there is any additional information you wish to obtain from the Caucus, please contact us, or our attorneys, Simon & Sheridan (2404 Wilshire Boulevard, Los Angeles, California 90057).

Respectfully submitted,

Charles W. Fries

CF:g
enc.

Steering Committee
CHARLES W. FRIES
Chairman
WILLIAM FROUG
LEONARD STERN
Co-Chairmen
ALAN D. COURTNEY
Treasurer
DAVID LEVY
Secretary
JACKIE COOPER
DAVID DEWITT
GEORGE EGELSTON
NORMAN FELTON
EDWARD FINNEY
BERT GRANET
JAMES R. KIMMEL
NORMAN LEAR
JOHN MANTLEY
VIC MORROW
AARON RUPPEN

• 780 NORTH LA CIENEGA BOULEVARD
• LOS ANGELES, CALIFORNIA 90069
• (213) 652-0822

Re: United States of America v. National Broadcasting Company,
Civil Action No. 74-3601 RJK
The Proposed Final Judgment

One of the principal aims and objectives of the Caucus of Producers, Writers and Directors is that the Networks completely cease all production and syndication activities of entertainment programs.

The Steering Committee and the Executive Committee of the Caucus has reviewed the complaint issued by the Justice Department against NBC and the proposed Judgment. Like so many other substantial representatives of Independent Television Program Suppliers, the Caucus vigorously opposes the Judgment which is proposed by the parties to settle the Government's antitrust action against NBC.

The complaint alleged that NBC, its O & O's, affiliates, and others, entered into contracts and unreasonable restraint of trade and commerce in connection with television entertainment programs exhibited during prime-time hours; that NBC was monopolistic; and that complaint sought to prohibit NBC from exhibiting programs (and feature films) produced by NBC or other networks, from obtaining any interest (except for the first-run exhibition rights) in television entertainment programs produced by others, to prohibit NBC from engaging in any syndication, to prohibit NBC from using its control to foreclose competition or obtain an unfair advantage in any other field; and the Government sought divorcement, divestiture, reorganization and injunction with respect to the business and properties of NBC. The Government complained that NBC's offenses included ownership and control of TV entertainment programs during prime-time hours, that competition with respect to production, distribution and sale of such programs was unreasonably restrained, and the viewing public has been deprived of the benefit of free competition in the broadcasting of such programs.

The proposed judgment filed November 17, 1976, which is scheduled to become final soon, would sanctify and approve for all three Networks, the right to engage in the very practices which the Government's action against all three Networks sought to eliminate. Such Judgment approves the continued production of entertainment programs by NBC, extensive and restrictive options, unreasonable exclusivity, creative controls which restrict outside Program Suppliers and the continuation of other exercises of the powers inherent in the current Network structure and methods of conducting its business.

The foregoing complaints are general in nature. A review of the specific provisions of such proposed Judgment magnifies the Government's failure to achieve its aims and goals as provided in its complaint. Please note the following:

1. The Judgment recognized that for a period of ten years, NBC may broadcast in network time, programs obtained from sources other than Independent Program Suppliers as follows:

Prime time- two and one half hours per week
Daytime- eight hours per week
Fringe hours- eleven hours per week.

In addition, NBC may arrange for two specials, which are not obtained from independent program suppliers, during each six month period.

To the best knowledge of the Caucus, the number of hours of programming now actually owned and produced by NBC, or on its behalf, is less than the hours permitted by said Judgment. This certainly points up real retrogression rather than progress in the achievement of the Governments aims as provided in its complaint.

2. The limitation of the number of years of options that NBC may acquire from an independent program supplier to 4 or 5 years, seems to be a step in the right direction, until one reviews the usual life of at least 90% of the TV series produced. The substantial number of series are dropped by NBC after one or two years of broadcasting. If a series survives the second year and is picked up for a third year, such Independent Supplier generally is in a position to renegotiate its deal, so that said supplier obtains more money and more favorable rights for such long running series.

3. The proposed Judgment appears to give Independent Program Suppliers greater latitude with respect to the Networks' option hold on projects not selected by the Network for series purposes. In fact, it does not. 65% of the pilots which are not picked up by the Network for series purposes are released subject to certain completely onerous conditions. The date of the Networks' continued hold for series purposes and the Suppliers obligation to repay the pilot costs to the Network, make this provision completely inequitable and impractical for such Suppliers.

4. The rights which NBC may acquire from such Suppliers include the recognition of NBC's approval of creative elements and program content. One of the major complaints by the Caucus and the Creative Community against the Networks has been the Networks' substantial abuse of such creative control and approvals. The continued recognition of such power and authority continues to adversely affect the Creative Community in the proper exercise of creative control by such Independent Supplier.

There are many other provisions of said proposed Judgment, which are inappropriate and inequitable. They include the reference to the required use of Network facilities under certain circumstances, syndication (already a dead issue since these limitations were agreed to by Agreement with FCC some time ago), and restrictions against reciprocal deals between the Networks (which adds nothing, because such deals do not exist and because the competition between the Networks probably is too great to permit this).

In our opinion, this Judgment does not protect the Independent Program Supplier in any material manner, and yet, some of the basic provisions of this Judgment are conditioned upon the Justice Department obtaining a similar agreement from ABC and CBS.

A review of several of the recent newspaper and trade paper reports of the settlement of this Antitrust suit are interesting. As an example, the New York Times, on November 19, 1976, states "NBC gave little away", the article pointed out that "the prohibitions detailed in the agreement scarsely altor present business practices and are expected to have no significant economic impact on the Network itself and on the television production industry"

The weekly Variety issue of November 24, likewise reported on this proposed Judgment. Its headline read "NBC Discovers that Justice is Blind", and its subheading was "Gave Uncle Sam its 11th Toe in Decree". The Variety report stated "early indications are that NBC may have pulled off a coup last week when it signed a consent agreement with the Justice Department". The article further reported, : "In pacting with the Justice Department, NBC has agreed to rules already on FCC books, ceilings on internal production it does not expect to meet, inconsequential prohibitions and some minor concessions concerning contracts for series shows and options for pilots. In short, the network appears to have lopped off its 11th toe for Uncle Sam." The pact provides NBC with "peace of mind at the network with minimum sacrifice".

The Weekly Television Digest of November 22, reported that NBC told TV affiliates board that the settlement will have "no major financial impact" on the network.

Copies of the three reports referred to above are attached.

We join the Television Industry and the Independent Program Suppliers in viewing this proposed Judgment in the Government's Antitrust actions against NBC, as being inequitable, and one that must be vigorously opposed for the good of the Industry, and urge the Government to withdraw the proposed Judgment.

Dated: January 12, 1977

SIMON & SHERIDAN
2404 Wilshire Boulevard, Suite
Los Angeles, California, 90057
(213) 330-3330
(Attorneys for the Caucus)

SS:ls

encs.

11/19/76 NY Times

NBC Is Seen Giving Up Little in Settling Antitrust Suit

By ED BROWN

Continued on Page D7



A scene from "Little House on the Prairie," the only primetime program produced on television by NBC.

NBC Is Seen as Giving Up Little In Settlement of Antitrust Suit

Continued From Page D1

tertainment programs it puts on the air.

In fact, all three networks were forced out of the syndication business by the Federal Communications Commission two years before the Justice Department suit was brought; the second time (it had been dismissed without prejudice in November 1974, when the networks fought it as a mischievous action by the Nixon Administration, but was reinstituted a month later under the Ford Administration).

CBS this season has owned three prime-time programs—"Hawaii Five-O," "Spencer's Pilots" and "Hall Four" (the last two already cancelled), or two and one half hours's worth—and one daytime serial, "Love Of Life."

ABC has produced a number of made-for-television movies in prime time but owns no weekly series. The daytime properties it owns are "One Life to Live," "All My Children" and "General Hospital," which consume 10 hours a week.

It also produces "Good Morning America" 10 hours a week, but that early-morning entertainment program could probably acquire an exemption from the proposed quota for prime time by being designated a news and public affairs show, like NBC's "Today."

The commercial distinction frequently depends on whether the program is produced by the news division or by the program department. It is a small matter to transfer the product from one unit in the company to another.

Under the settlement agreement, most of the program ownership provisions will not go into effect unless ABC and CBS are also subject to them. That would depend on their accepting the terms in separate settlements of their own or on their losing the Justice Department suit.

Although conceding that what NBC has accepted as restrictions are on the whole economically uninteresting and possible for their networks to live with fairly comfortably, officials of ABC and CBS said they would continue to challenge the suit as lacking in merit.

They are also contesting the Justice Department's assumption of initial jurisdiction over an industry that has been statutorily the responsibility of a Federal regulatory agency, the F.C.C.

Motions to dismiss the case, filed by both networks last November, are still pending.



FCC DISCOVERS THAT JUSTICE IS BLIND

— GIVE UNCLE SAM ITS DUE IN DECREE —

Broadcasting, November 22, 1976

Washington, Nov. 23 — Early indications are that NBC may escape the antitrust suit settlement announced last week as easily as it escaped the original suit filed by the Justice Department in 1974.

Both suits charged the network with monopolistic practices in connection with its program purchasing practices, and both suits were settled by consent decrees that required the network to make no admission of guilt.

The new settlement, announced by Justice Department officials and NBC officials last week, differs from the original settlement in that it is more specific in its requirements and prohibitions. The original settlement was criticized by some members of Congress and by the Federal Communications Commission for being too vague.

The new settlement requires NBC to reduce the number of hours of prime time programming it can produce itself from seven hours per week to six hours per week. It also requires NBC to reduce the number of hours of prime time programming it can produce itself from seven hours per week to six hours per week.

The new settlement

THE CAUCUS FOR PRODUCERS, WRITERS & DIRECTORS

MEMBERSHIP LIST

Harry Ackerman
Danny Arnold
Ronald Austin

Peter Baldwin
Philip Barry
Harve Bennett
Hugh Benson
Douglas Benton
Dick Berg
Wes Bishop
John D.F. Black
Robert Blees
William Blinn
Steven Bochco
Warren Bush

Steven Cannell
Harold D. Cohen
Richard Colla
Richard Collins
Hal Cooper
Jackie Cooper
Alan Courtney

Jerry Davis
Luther Davis
Sam Denoff
David Dortort

George Eckstein
Jon Epstein

Edward H. Feldman
Norman Felton
Andrew Fenady
Norton Fine
Bob Finkel
Ted Flicker
Ernie Frankel
Joel Freeman

Ed Friendly
Charles Fries
William Froug

Bruce Geller
David Gerber
Reginald Gilliat

Jack Haley, Jr.
Dean Hargrove
Paul Henning
Herbert Hirschman
Jean Holloway
Roy Huggins

Richard Irving

Bruce Johnson

Leonard Katzman
Roland Kibbee
James Komack

Norman Lear
Sheldon Leonard
Richard Levinson
David Levy
William Link

John Mantley
Garry Marshall
Paul Mason
Vic Morrow

E. Jack Neuman
Richard Newton

Eleanor Perry (Associate)
Ted Post

Robert Radnitz
Matthew Rapf
Carolyn Raskin
David Lowell Rich
John Rich
Lee Rich
Gene Roddenberry
Eugene Rodney
Nesta Rosenberg
Aaron Ruben
Stanley Rubin

Alan Sacks
Phil Saltzman
Jay Sandrich
Herman Saunders
Franklin Schaffner
George Schaefer
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James Schnerer
Jack Shea
Stirling Silliphant
Al Simon
Jay Sommers
Aaron Spalling
Leonard Stern

George Tibbles
Grant Tinker

Leigh Vance
David Victor
Edward Duke Vincent

Ray Wagner
Barry Weitz
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LEGAL COUNSEL:
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DECEASED MEMBERS

Tony Barratt

Rod Serling

Martin Rackin

David Friedkin

William Self

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON

40 WEST 57TH STREET
NEW YORK, N.Y. 10019
ATTORNEYS

March 1, 1977

Bernard M. Hollander, Esq.
Chief, Judgments and Judgment
Enforcement Section
Antitrust Division
United States Department of Justice
Room 3706
Washington, D.C. 20530

Re: United States v. National Broadcasting Company, Inc., Civil No. 74-3601 - RJK, U.S.D.C., C.D. Cal.

Dear Mr. Hollander:

We represent United Artists Corporation and Metro-Goldwyn-Mayer Inc. in connection with the proposed consent decree in the above matter. We endorse the comments submitted to you by Columbia Pictures Industries, Inc., et al. in the above matter. We also join in Mr. Liman's request for a meeting with you and with the Assistant Attorney General in charge of the Antitrust Division before the Department of Justice reaches a final decision as to whether it will withdraw its consent to the proposed decree.

We enclose additional comments on behalf of United Artists Corporation and Metro-Goldwyn-Mayer Inc., which we believe further support the necessity for a withdrawal of the Government's consent to the proposed decree.

Thank you for your consideration.

Sincerely yours,

Robert R. Salman

Received on 3-1-77 at 5:30 PM
RRS/amd
Encl.

60-211-62

COMMENTS WITH RESPECT TO PROPOSED FINAL JUDGMENT IN UNITED STATES OF AMERICA v. NATIONAL BROADCASTING COMPANY, INC., CIVIL NO. 74-3601-RJK, U.S.D.C., C.D. Cal.

PHILLIPS, NIZER, BENJAMIN, KRIM & BALLON
COUNSELORS AT LAW
40 WEST 57TH STREET
NEW YORK, N.Y. 10019

COMMENTS OF UNITED ARTISTS CORPORATION AND METRO-GOLDWYN-MAYER INC. WITH RESPECT TO PROPOSED FINAL JUDGMENT IN UNITED STATES OF AMERICA V. NATIONAL BROADCASTING COMPANY, INC., CIVIL NO. 74-3601-RJK, U.S.D.C., C.D. Cal.

These comments are submitted to the Department of Justice pursuant to the provisions of Sections 2(b) - (h) of the Antitrust Procedures and Penalties Act of 1974, 15 U.S.C. §16(b) - (h), by United Artists Corporation ("United Artists") and Metro-Goldwyn-Mayer Inc. ("MGM"). United Artists is a distributor of theatrical feature films.* MGM is a producer and distributor of theatrical feature films. Both companies distribute theatrical feature films for television exhibition.

The Proposed Decree Contains No Restrictions On NBC's Production Of Theatrical Feature Films

The proposed consent decree contains no restrictions on NBC's power to produce theatrical feature films. The Competitive Impact Statement confirms that NBC uses its control over access to its network "to control the prices paid by NBC for television exhibition rights to motion picture feature

* Motion pictures which are initially exhibited in theatres and only subsequently exhibited on television.

films; and to obtain competitive advantages over other producers and distributors of ... motion picture feature films."* Despite the government's recognition of the problem, the proposed decree does nothing to prevent NBC from producing theatrical feature films whenever it chooses.

The decree's "hours limitation" permits almost unlimited production by NBC of theatrical features. For instance, since the proposed decree permits NBC to exhibit a full 2 1/2 hours of NBC produced entertainment programming in prime time each week, NBC could theoretically produce 52 feature films each year and, subsequent to their theatrical exhibition, play them off one week at a time in prime time on the network.

The motion picture industry depends greatly on revenues from television exhibition of theatrical features. The fact that there are only three buyers for the first run television exhibition of theatrical feature films -- the three networks -- gives the networks unfair leverage in purchasing. The Department of Justice has recognized that such network power becomes patently anticompetitive when "... the network,

* Competitive Impact Statement, p. 2.

through its production of entertainment programs, is in competition with outside suppliers for exhibition on its own network and that [the network] could, at any time, by unilateral decision, pre-empt all the available time on its network."*

The government, having made this accurate observation, should not now be willing to settle for a decree which gives NBC the unrestricted power to make theatrical feature films. Under the decree, NBC could fill one entire evening of prime time per week with an NBC theatrical feature film. Since the number of theatrical features shown on television has decreased, this one motion picture per week could effectively pre-empt independent producers of motion pictures from having their product shown in prime time on the NBC network.

In addition, unless its ability to make theatrical feature films is restricted, NBC will continue to use the threat of internal production to keep the prices it pays outside suppliers at an artificially low level. When ABC

* Page 8 of Memorandum of the United States in Opposition to Defendants' Motion for Summary Judgment on the Sherman Act Claims filed January 19, 1976 in United States v. National Broadcasting Company, Inc., 74-3601-RJK, U.S.D.C., C.D., Cal.

and CBS entered into the production of theatrical feature films in the late 1960's, all three networks were able to suppress the price they paid other producers and distributors of motion pictures. Further, the leverage of "if you won't take our price, we'll produce it ourselves" allowed the networks to maintain the price at a level wholly unrelated to soaring costs or the natural laws of a competitive marketplace. All three networks offer a the almost identical low price for the exhibition of a non-network produced motion picture. This price remained the same for several years. The producers and distributors of motion pictures had no alternative if they wanted to exhibit their films on television. They were compelled to take what the networks offered.

Allowing NBC to produce its own theatrical feature films injures competition in a variety of other ways. NBC could produce low quality theatrical feature films, expecting that any losses in theatrical exhibition would be recouped by exhibition on its own network. Also, NBC could spend vast amounts of money on a film because its prime time exhibition on NBC is guaranteed. Such expenditures would artificially force up the costs of production to outside suppliers.

The failure of the proposed decree to place any restrictions on NBC's internal production of theatrical feature films demonstrates the ineffectiveness of the so-called "hours limitation" on NBC produced programming. It also reveals that the decree provides no meaningful relief with respect to "long form" programming. For this reason alone, the proposed judgment should be withdrawn.

The Provisions Of The Proposed Decree With Respect To Network Exclusivity Over Pay Cable Provide No Meaningful Relief

Section VI(E)(iii)(e) of the proposed decree provides that for 15 years, for theatrical feature films which NBC has licensed to show on the NBC network, NBC cannot acquire exclusive exhibition rights against

> "pay or subscription television, via cable or any other means, where a per-program or per-channel charge is made to the viewer, except that NBC may acquire exclusive rights to any such feature film commencing thirty (30) days prior to the first date and extending until the last date on which NBC may broadcast such feature film under the contract between NBC and such supplier, so long as this period of exclusivity between the first and last dates on which NBC may broadcast such feature film under such contract does not exceed twenty-four (24) months, and does not exceed twelve (12) additional months for each exhibition greater than two (2) to which NBC acquires the exhibition rights" (emphasis supplied).

This provision merely codifies NBC's present contract exclusivity rights, which prevent the exhibition on pay cable of theatrical feature films licensed to NBC. The government's Competitive Impact Statement recognized the injustice of this practice by noting that the action against NBC was initiated because "despite the FCC financial interest and syndication rules, NBC and the other networks continued to exact from producers such rights as ... exclusive use of [theatrical feature films] by NBC as against other communications markets."* Accordingly, NBC should not be permitted to acquire any exclusive rights with regard to pay or subscription television.

Under the proposed decree, NBC's exclusivity over pay cable may begin thirty (30) days prior to the date on which the license agreement permits NBC to broadcast the film. At the very least, any such exclusivity should be limited to begin no earlier than thirty (30) days prior to the scheduled showing of the film.

The decree gives NBC two years of exclusivity over pay cable. Any exclusive rights should terminate thirty (30) days after the film has been shown on the network.

The proposed decree would merely put the court's stamp of approval on NBC's present trade practices in connection with exclusivity over pay cable. This is a further reason for withdrawal of the proposed decree.

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* Competitive Impact Statement, p.5.

Dated: New York, New York
March 1, 1977

Respectfully submitted,

PHILLIPS, NIZER, BENJAMIN,
KRIM & BALLON

Attorneys for United Artists
Corporation and Metro-
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40 West 57th Street
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March 1, 1977

Bernard M. Hollander, Esq.
Chief, Judgments and Judgment
Enforcement Section
Antitrust Division
United States Department of Justice
Room 3706
Washington, D.C. 20530

United States v. National Broadcasting Company, Inc., Civil No. 74-3601 - RJK, U.S.D.C., C.D., Cal.

Dear Mr. Hollander:

We represent the companies identified in the comments enclosed herewith in connection with the proposed consent decree in the above action.

After you and your staff have reviewed the enclosed comments, we respectfully request the opportunity to confer with you concerning the proposed decree. In addition, we respectfully request the opportunity to confer with the Assistant Attorney General in charge of the Antitrust Division before the Department of Justice reaches a final decision as to whether it will withdraw its consent to the proposed decree.

Sincerely yours,

Arthur L. Liman

Received on 3-1-77 at 5:30 PM

Enclosure

60-211-62

United States of America v. National Broadcasting Company, Inc., Civil No. 74-3601 - RJK, U.S.D.C., C.D., Cal.

These comments are submitted to the Department of Justice pursuant to the provisions of Sections 2(b)-(h) of the Antitrust Procedures and Penalties Act of 1974, 15 U.S.C. § 16(b)-(h), by the following parties:

(a) Columbia Pictures Industries, Inc.
(b) Goodson-Todman Productions
(c) Paramount Pictures Corporation
(d) Twentieth Century-Fox Film Corporation
(e) Warner Bros. Inc.
(f) Universal City Studios, Inc.

The foregoing parties constitute a substantial segment of the major creative forces in the television industry today.

For obvious reasons, the outcome of this Government antitrust action against NBC as well as the outcome of the Government's companion suits against CBS and ABC will have a profound impact on the commenting parties. For, unless the Government is able to obtain meaningful relief by consent decree or otherwise, the commenting parties will continue to be, as they have been in the past, among the principal victims of ongoing network antitrust violations which are a direct result of the networks' oligopolistic dominance of access to the nation's airwaves.

Preliminary Statement

Because we firmly believe that the proposed consent decree between the Government and NBC provides no meaningful relief against network antitrust violations -- indeed, because we believe that the proposed decree will solidify, legitimize and perpetuate the networks' dominance and illegal practices -- we respectfully urge the Department of Justice to withdraw its consent to the proposed decree, as it has an unqualified right to do. If the Department is unwilling to do so, then we shall be required to urge the Court to disapprove the decree as being contrary to "the public interest," 15 U.S.C. § 16(e).

In offering these comments, we are mindful that in judging the impact of the provisions of the proposed decree, they are not to be compared to provisions which might appear in a confession of judgment by NBC.

Nor do we mean to cast any doubt on the good faith of the Government negotiators in attempting to arrive at reasonable solutions to what one distinguished Federal appellate judge, the Honorable Edward Lumbard, has described as the

> "unique and unsettled questions regarding how the antitrust laws are to be applied to the government-licensed, limited-frequency, entry-proof market of television in which the three networks have a virtual monopoly on the type and quality of programs and ideas that are disseminated to the public by television."*

And if the proposed decree provided meaningful relief, we would surely applaud NBC and be in total agreement with the statement of NBC's President, on announcement of the proposed decree that

> "By taking the lead in entering into this new charter, NBC continues its efforts to advance constructive relationships in the industry to the benefit of our program suppliers, the NBC Television Network and most importantly, the viewing public."

But:

(a) when The New York Times, in analyzing the proposed decree, writes:

* Columbia Pictures Industries, Inc. v. American Broadcasting Companies, Inc., 501 F.2d 894, 900 (2d Cir. 1974).

> "... The prohibitions detailed in the agreement scarcely alter business practices and are expected to have no significant economic impact on the network itself or on the television production industry -- if and when the restrictions go into effect."*

(b) when Variety, after a similar analysis, concludes that NBC gave "Uncle Sam Its 11th Toe In Decree";**

(c) when NBC reportedly tells its affiliates not to worry -- that the settlement it negotiated merely codifies existing practices and will "cause no major changes in our way of doing business";***

(d) when, to date, no prospective beneficiary of the "purported" relief sought by the Government in the proposed decree has come forward to endorse that decree; and

(e) finally, when a major segment of the television industry represented by the parties filing these comments comes forward, as we do here, to argue that the Government, for all practical purposes, has not obtained meaningful relief against NBC;

we respectfully suggest that the Department of Justice reconsider whether the proposed decree should continue to receive Government approval. And, surely the Government should reconsider the commercial reality of the assertion in its Competitive Impact Statement ("CIS") that (pg. 2-3)

> "The proposed judgment provides relief similar and substantially equivalent to that requested in the complaint."

In essence, our objections to the proposed decree are as follows:

(a) A realistic analysis of the terms of the proposed decree, to wit, an analysis which takes into account not only the words of the decree but the business conditions under which it is bound to operate, demonstrates that the proposed decree alters virtually nothing -- it leaves in place, with de minimus changes, the present system of program procurement practices forced on program suppliers by all three networks, a system of practices replete with violations of the antitrust laws;

(b) But the proposed decree is even worse: by putting the Government stamp of approval on such illegal and pernicious network practices as long-term options, unreasonable exclusivity and internal production, the proposed decree is a step backwards; rather than alter the networks' past oligopolistic control of

*November 19, 1976, p. D1.

**November 24, 1976, p. 55.

***Television Digest, November 22, 1976, p. 1.

access to the airwaves, the proposed decree blesses and sanctifies those practices and insures that the gross imbalance in power between the networks and program suppliers that has existed for many years will continue unabated; and

(c) Finally, the proposed decree represents an effort by the Government -- unprecedented since the days of the National Industry Recovery Act -- to write a standard code of anti-competitive business behavior for a major American industry. For under the express terms of Section VII of the decree, key provisions (e.g., so-called restrictions on long-term options, internal production, etc.) will not become effective until similar relief has been obtained against CBS and ABC. Hence, the Government has sanctioned the proposition that the minimal and meaningless relief obtained by the proposed decree with NBC, which preserves the networks' anti-competitive practices, should be delayed until CBS and ABC agree to abide by the same so-called restrictions. In short, when all three networks agree to a standard form of anti-competitive contract, then -- and only then -- will the key provisions of the proposed decree against NBC become effective.*

Hence, parallel business practices as practiced now and a standard contract will now receive the Government seal of approval. Producers, creative forces and others will, as in the past, have no alternative when they go to the marketplace: all three networks will -- this time with Department of Justice approval -- offer and demand virtually identical anti-competitive deals. This is not, we suggest, one of the intended purposes of the antitrust laws.

* * *

We may sum up the view of the commenting parties in this fashion: as the parties on the firing line, as the parties who must deal on a daily basis with the three networks, as the parties who are required to surrender valuable property rights to those networks merely as a condition of engaging in

* The proposed decree goes even further in guaranteeing that there will be only one code of anti-competitive behavior for all three networks. For as the CIS points out with regard to Section IX (p. 14):

> "If a non-appealable judgment were entered dismissing either of the companion actions against CBS or ABC or decreeing injunctions different from those in this judgment, this provision [Sec. IX] would permit NBC to seek and obtain whatever relief, if any, was necessary to prevent it from being placed at a competitive disadvantage with respect to CBS or ABC. While this type of provision is unusual in an antitrust judgment, it is warranted by the unique nature of this industry, and the pendency of the companion actions." (Emphasis added)

Thus, NBC has obtained the best of all possible worlds -- a heads-I-win, tails-you-lose provision of an antitrust decree which allows it to continue to engage in parallel anti-competitive economic behavior with its competitors under any and all circumstances, so that it will not be placed at a "competitive disadvantage" with its competitors.

fn. cont'd

fn. cont'd

network program development, we find ourselves in agreement with what NBC reportedly told its affiliates -- don't worry, it will be business as usual (see p. 4, supra).

A decree which sanctions that result is contrary to the public interest; we urge the Department of Justice to withdraw its consent.

If NBC is only willing to give the Government its "11th Toe," then we respectfully urge the Government to give back that toe. The Department of Justice should reopen negotiations with NBC and seek meaningful relief or else prosecute its lawsuit against NBC with vigor and dispatch.

In this respect, we should note our total agreement with the Department of Justice position previously urged in this lawsuit and the Court's recent decision in the companion cases against CBS and ABC that the FCC does not have exclusive jurisdiction over the antitrust violations alleged in the Government's complaints.

The networks' antitrust violations are proper subjects for Federal judicial inquiry. And that inquiry should continue despite the recent FCC Notice of Inquiry, dated January 14, 1977 (Doc. No. 21049) (hereafter "FCC Notice of Inquiry").*

But the ultimate result of such a judicial inquiry should be a decree -- whether by consent or after trial on the merits -- which does restrict, in a meaningful fashion, the networks' anti-competitive conduct and their egregious violations of the antitrust laws.

* The FCC Notice of Inquiry, with reference to the pending actions against NBC, CBS and ABC, states (p. 3):

> "We would like to make it clear that, in instituting the present inquiry, we have neither the power nor the desire to foreclose the Department [of Justice] in its antitrust action. While it is inevitable that thorough inquiry into network practices will encompass many of the questions raised in the antitrust suit, we do not believe that our inquiry should in any way preclude the Department from prosecuting its case or from arranging an appropriate settlement. See United States v. Radio Corporation of America, 358 U.S. 334 (1958)."

The Antitrust Violations

We think it important to set forth in summary fashion our views as to why the three networks violate the antitrust laws and how those violations adversely affect the business activities of the commenting parties.

This analysis is not intended to detract whatever from the other antitrust allegations which have been made by the Government either in this lawsuit or in its companion cases against CBS or ABC.

Rather, our objective here is to focus (1) on the means by which the networks have been able to become the three principal buyers of first run, original television programming; and (2) how they have illegally abused that immense power to extract from the suppliers of first run, original television programming unreasonable and illegal contractual provisions relating to such matters as long-term options at pre-set prices, exclusivity, "spin-off" rights, etc. and to eliminate meaningful price competition among themselves for programs.*

a. The Network Combinations

We begin with what we believe to be an undisputed, but sometimes forgotten proposition: in theory, there are approximately 700 VHF local television stations which are potential purchasers of first run, original television programming.

In the real world, however, there are only three such principal buyers -- the three television networks.

This peculiar state of affairs -- the reduction of a potential market from 700 to three principal buyers -- has arisen because the networks themselves each own stations in five of the nation's largest markets and because the networks have each combined with approximately 200 affiliated stations in a fashion which effectively eliminates these stations as potential separate buyers of first run, original television programs.*

* A good part of the discussion that follows deals with what we consider to be the business realities of the television industry. The only absolute statement that can be made about those business realities is that there are no absolutes. Each of the commenting parties, at various times, with respect to particular programs and particular networks, has had varying experiences. Accordingly, it would be an overstatement for us to suggest that all producers have had exactly the same experience with all three networks as to all programs. Nevertheless, we all know that in our business there are industry-wide patterns and industry-wide anti-competitive practices generally engaged in by the networks. Our focus, therefore, will be on these industry-wide practices, with full recognition that for every rule there will be an exception.

* It would be oversimplification, of course, to suggest that the three networks are the only buyers of television programming. But it is not oversimplification to suggest that at a trial on the merits it could be amply demonstrated that the three networks dominate the nation's airwaves. Each network through its owned and operated and affiliated stations reaches 98% of the homes in the country. In this context, a program supplier of first run, original programming who is unable to obtain network time for his program obviously has his work cut out for him in gaining any significant access to the nation's airwaves.

The facts which support the foregoing analysis are undisputed. To begin, the networks themselves are not broadcasters; they hold no licenses from the FCC (their five owned and operated local stations are, of course, licensed). Indeed, we are unaware of any command in federal law or any other body of law that there should be television networks.

But the next question is whether there is some economic, social or other reason for the existence of networks. In this context, the principal functions the networks do perform may be easily identified: (a) each is a common buying agent of programs for approximately 200 stations; (b) each is a common selling agent of advertising time for those same 200 stations; and (c) each provides an efficient physical mechanism for transmission of the programs purchased and the advertising messages sold to the 200 stations.

Viewed in this fashion, the networks perform in economic terms what may be best described as a clearinghouse function. The networks are the "clearinghouses" which permit the producers of first run, original television programs to deal with the numerous buyers of their programs (the local television stations), without requiring the expense and inefficiency of individual bargaining. And the networks perform the same function for the advertisers and the local stations. Finally, the networks provide the technical facilities for transmission of programs and advertising messages to local stations as part of a common schedule.*

So that our views on this subject are not misunderstood, we see no evil in networks performing these various clearinghouse and technical functions. And we are surely not opposed to an industry structure in which networks exist.

But when this analysis of the network function is taken one step further, it does become meaningful in antitrust terms: a full development of the facts in this case would demonstrate that as to the 200 stations in each network line-up, each network, in reality, is virtually the exclusive buying agent of programs and virtually the exclusive selling agent of advertising time for the vast majority of programs transmitted by the networks.**

The foundation for this state of affairs is, first, the networks' control over their five owned and operated stations

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* There has been a great deal of recent discussion in the trade press and elsewhere about a "fourth network." Much of this discussion and some of the programming efforts in this area are, in reality, a reflection of the frustration of producers of first run, original programming in dealing with the three established networks and an attempt, out of desperation, to find a "fourth opportunity" for their creative efforts. In any event, efforts at establishing a "fourth network" are all in an embryonic stage and there is substantial controversy over whether any such efforts will succeed.

** According to statistics set forth in a petition recently filed by Westinghouse Broadcasting Company, Inc. with the FCC (p. 15), "the networks now program roughly two-thirds of all available time on all affiliated stations (530 out of 798 half hour units)."

in the nation's largest markets and, second, the arrangements between the networks and their affiliated stations -- these are the factors which hold together the three combinations of approximately 200 stations and permit the networks to exercise their vast economic power.* Legally, the affiliation agreement may give the affiliate a retained right to refuse to "clear" a network-offered program; but a full development of the facts at a trial of this action would demonstrate that the affiliates rarely exercise this retained right and rarely refuse to "clear" network programs.*

For present purposes, we need not concern ourselves with the reasons why local stations rarely refuse to "clear" network programs. Whatever the reasons, the undisputed fact is that the rate of clearance by local stations is extremely high; in prime-time, it is almost always 99%.**

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* The FCC Notice of Inquiry, in rather precise terms, has spelled out the reach of the networks' power, by virtue of their owned and operated stations and their affiliation arrangements, as follows (p. 5):

> "Ever since the demise of the Dumont Network in the mid-1950's, there have been only three 'national' television networks: the American Broadcasting Companies, Inc. (ABC), Columbia Broadcasting System, Inc. (CBS) and National Broadcasting Company, Inc. (NBC). Recent years have witnessed the development of a number of specialized networks offering sports or movies, but the pre-eminent position of the three national networks remains unchallenged. Their affiliates number well over 75% of all U.S. commercial television stations (approximately 600 out of slightly more than 700) and, outside the major markets, network affiliation is virtually indispensable to successful station operations. [Footnote omitted] As discussed below, it appears that about sixty percent of the broadcast programs currently presented by affiliates are supplied directly by their network. In addition to their ability to reach nearly all American households through their affiliated stations, all three networks own VHF stations in each of the nation's three largest television markets (New York, Los Angeles and Chicago), and two in other major markets (ABC, Detroit and San Francisco, the 6th and 7th markets; CBS, Philadelphia and St. Louis, the 4th and 12th markets; and NBC, Cleveland and Washington, the 8th and 9th markets). Each of these 5-station 'owned and operated' (O and O) groups reaches about 22 percent of the U.S. audience. [Footnote omitted] The networks are actively involved as brokers or middlemen connecting the program producers and national advertisers with local stations and their viewers. It is, therefore, not surprising that the networks play a very important role in the development, selection, and distribution of television programming."

* The Government itself recognized that the question of refusals to "clear" network programs by local stations was significant to its theory of the case. In its "Supplemental Statement of Genuine Issues" (p. 6), it identified as an issue to be tried:

> "Whether each network has denied independent access by outside program suppliers to its combined affiliates by insisting on a high rate of network clearance." (Emphasis added.)

The subject of local station "clearance" of network-offered programs is now also the subject of the FCC Notice of Inquiry.

** At this stage, we need not be concerned with precise numbers. If a program supplier is precluded by means of the network combinations with the local stations from dealing even with 75% of those stations for broadcast time for two-thirds of the broadcast day, the impact of the restraint is clearly substantial.

The CIB acknowledges (pp. 3-4):

> "NBC, through its affiliated television stations, has control over access to approximately 98% of all

fn. cont'd

The net effect of this industry structure from the viewpoint of the program supplier is, we suggest, also undisputed. Because there are three separate network combinations each involving some 200 stations, because the affiliates clear almost all programs offered to them by the networks, the program suppliers of first run, original programs have only three principal buyers for their product -- the three networks.

A market which would otherwise have many sellers and many buyers has been transformed into a market with only three buyers.

The issue here, of course, is not whether networks are good or bad, either in a moral or economic sense. We are not anti-network per se. As "intermediaries" or "clearinghouses" the networks perform some useful functions. But the fact is that the networks are combinations which effectively restrain trade and the competition for first run, original television programming that otherwise would exist among the local stations which are now network owned and operated or are network affiliates.

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footnote cont'd

> United States television households for programs which it offers for broadcast. This is because during prime evening hours, when television viewing is at its peak, most of the 200 NBC affiliated stations and all the NBC owned and operated stations depend upon NBC for virtually all of their television entertainment programming. In early 1976, for example, NBC's primary affiliates and its owned and operated stations broadcast over 90% of the programs regularly offered by the NBC Television Network during prime evening hours." (Emphasis added; footnotes omitted)

Accordingly, Section 1 of the Sherman Act does apply to the networks' program procurement practices and does require that these practices be judged by the "rule of reason."

b. Network Procurement Practices.

The three networks -- [illegible] obtained their vast economic power to control access to the nation's airwaves by ownership of five owned and operated local stations and by combinations with affiliated local stations -- have abused that power, in violation of the rule of reason of Section 1 of the Sherman Act.

They have done so by means of the contractual provisions the networks extract from program suppliers, which create and maintain anti-competitive conditions in the television industry.

The Department of Justice is fully aware of the industry-wide practices by which the three networks generally exercise virtually total domination over outside program suppliers from the very first day that the relationship between a program supplier and a network, with respect to a particular program, comes into existence. For example, if the producer comes to a network with nothing more than a concept for a series, at that earliest stage, even before there can be any meaningful development of the concept, the producer is generally required to surrender virtually complete artistic control over his creative efforts to the network. The producer must give the networks what

amount to veto rights with regard to program content and the use of talent -- rights which the networks are not hesitant to exercise and may be totally at odds with the producer's own creative concepts concerning his series.* The producer must give the networks the right to determine the extent to which, and the timing of, development -- when the script will be commissioned, when the pilot will be filmed, when the series will go on the air, etc. All aspects of scheduling are within the networks' control; the supplier has no control over the competition against which he must be judged. Promotion of the program on the network -- in the pilot stage or even after the first episodes of a series have been ordered or telecast -- are within the networks' control. At any time, for rational or irrational reasons, the networks have a unilateral right to opt out -- to refuse to go to the pilot stage, to cancel a series at any time even if it meets otherwise objective standards for continued exhibition on the network.

Although a complete catalog of network abuses would unduly lengthen these comments, some description of the most serious of the network abuses is necessary, if for no other reason than as the means by which to measure the extent to which the proposed consent decree deals with these abuses. That description follows:

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* The proposed decree leaves untouched the entire subject of creative controls. NBC may continue -- as in the past -- to exact from program suppliers the same onerous provisions with regard to "approval of creative elements and program content" (Sec. IV). The failure of the Government to obtain any relief in this area is another aspect of the proposed decree we find unacceptable.

We noted before that today, for the program supplier of first run, original television programming there is one unalterable fact of life: he has only three principal buyers for his original television programming, the three national television networks.

It is perhaps of greater interest that at any trial of this action the facts would show that, on a general industry-wide basis, whichever of the three networks the producer may determine to deal with, he will be offered virtually identical terms from each of the networks. And if he desires to sell his program, he will have no choice but to accept those terms. See, e.g., Interstate Circuit Inc. v. United States, 306 U.S. 208 (1939); Treasure Valley Potato Bargaining Ass'n v. Ore-Ida Foods, Inc., 497 F.2d 203 (9th Cir. 1974), cert. denied, 419 U.S. 999 (1975).

And, finally, he will find that those parallel terms are designed to insure that the networks -- but not the producer -- will be able to reap enormous profits if the program is successful.* American Tobacco Company v. United States, 328 U.S. 781 (1946).

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* As to network profits, the FCC Notice of Inquiry points out (p. 7):

> "Network control over access to the medium has also coincided with further extraordinary increases in profits. Between 1960 and 1975, total combined network expenditures rose from $461 million to $1,465 million, for an average annual increase of 13.6 percent. Total net

1. Options

For example, as the Government well knows, it is the general pattern in the industry today that when the networks order a script for a possible "pilot" program of a possible new prime-time series, the networks will demand outside producers, among other things (see pp. 17-18, supra), to surrender long-term options on the still unborn series for what amounts, in most instances, to its entire potential useful life for prime-time exhibition at pre-set prices.

The typical option term today is five years** -- in most instances, its entire potential useful life for prime-time exhibition. The networks -- all three marching in lock-step -- will not deal in any other way. The producers must usually surrender five years of options. (If the proposed series is for non-prime time exhibition, the option period may be as long as 9 or 10 years.) On this score, the networks, by their parallel conduct, guarantee that none of them will be placed at a "competitive disadvantage."

Moreover, the price for all five years of the option period will be fixed at this early stage when it is not possible to know whether the program will be a success or a failure or what the program will cost to produce. And the price for each succeeding year in the option period will not vary contractually depending upon the success (or failure) of the program.*

fn. cont'd

> broadcast revenues, on the other hand, increased more rapidly; from $495 million in 1960 to $1,673 million in 1975, which was equivalent to an average annual increase of 15 percent. Net income (total combined profits before taxes) earned by the networks has risen at an annual rate of 32 percent; increasing from $33.6 million in 1960 to $208 million in 1975. According to the Internal Revenue Service, pre-tax profits accruing to all businesses in the United States increased at an average annual rate of approximately 12 percent between 1960 and 1974." (Emphasis added)

** To be precise, the network, when it orders a "pilot," obtains the option to order episodes for the first year of telecast and then obtains options to order episodes for the succeeding four years -- hence, at the "pilot" stage of development, the producer becomes obligated, at the network's option, to produce the program for five broadcast seasons at prices set at the "pilot" stage of development.

Very few series ever get to the point where the producer is freed of his five-year contractual obligation to the network to produce episodes at pre-set prices. According to our research, between the 1966-67 television season and the 1972-73 season, 186 new series were shown on the networks; of that number, only 15 were still on the air after five years.

* The typical contract will provide for some minimal escalation of the series price in each succeeding option year (usually less than 5%) and will also provide for escalation of price on account of such matters as increases in union wages. And there have been instances when a network has granted "relief" by raising a series price so as to provide additional compensation for a recalcitrant leading actor or actress or because production costs have far exceeded original estimates or for some other reason. In these instances, however, the producer has gone to the network as a supplicant -- not because he has any contractual right to seek an increase in the series price. And if he is granted "relief," typically he will be required to do something for the network, to wit, agree to extend the option years to six, or seven, or beyond.

Next, the price being offered by each of the networks very often does not cover his production costs. It may, sometimes, yield him some small profit, but in most instances, the producer is forced to operate at a deficit. In those instances, during the prime time run of his program, his license fee from the network will not cover his production costs. And, unless the producer is lucky enough to have one of the few programs whose prime time run is sufficiently long to provide him with the possibility of obtaining additional revenues in the highly competitive syndication market, there will be no way for the producer to recoup his deficit.

And, finally, the program producer in his dealings with all three networks is likely to discover this fact: Each network (within limited ranges and with exceptions for some special situations) will be paying the same pre-set pilot and series prices for comparable types of programs (X dollars for a 1/2 hour comedy produced on tape, Y dollars for a 1 hour detective drama produced on film, Z dollars for a 1 hour western produced on film, etc.).* As a general proposition, it is fair to say that there is no price competition among the networks.

Since there are only three principal buyers, since the program supplier today has virtually nowhere else to go with his program concept, since all three buyers are offering him virtually identical terms and will not deal on any other basis, the outcome of these "negotiations" in almost every instance is a foregone conclusion -- that is, if the producer desires to remain in business.

But the net effect of these parallel program procurement practices by all three networks is also, we suggest, obvious -- the networks have successfully eliminated the possibility of any price competition among themselves for television programming. See Mackey v. National Football League, 543 F.2d 606 (8th Cir. 1976); Kapp v. National Football League, 390 F. Supp. 73 (N.D. Cal. 1974).

Once the ink is dry on the contract or the deal memorandum for a particular program, no network need fear that for the five-year option period, it will be required to compete in price terms against any other network for that program. To use the expression most commonly used by the networks in defense of their parallel practices, no network will be at a "competitive disadvantage" vis-a-vis its program suppliers. To use the words of the real world, however, no network will be required to engage

* Whatever the justification, if there be any, for parallel pricing at a time when neither the producer nor the network knows how well the program will be received by the public, when the program goes on the air and its success or failure is determinable, there is a different reality. At that stage there is no reason why price should not vary with success -- and it could, but for the fact that the network has already forced the producer to grant long-term options at pre-set prices.

in price competition against any of the other two networks for programs.*

And to make things even better for the networks, although they have no contractual obligation to increase the pre-set price to the program supplier, if the program becomes a success there are no contractual limits on the amounts they can charge advertisers for the insertion of commercial messages in the successful programs. The networks are always free to raise the advertising rates for their programs with high ratings; but the program supplier never has the contractual right to receive any portion of these increased rates. Because of long-term options at pre-set prices, it is always the networks -- not the producers -- which receive the profits available from being able to charge high advertising rates for a successful program.**

* The networks are fond of boasting of the highly competitive activities they engage in to obtain viewers for their programs. We do not doubt the vigor of their efforts in that area. But competition for viewers is no substitute under the antitrust laws for the absence of price competition among the networks vis-a-vis their program suppliers.

** The CIS states (p. 3):

> "The value of any television program to its producer and to an advertiser whose message is broadcast in conjunction with it, depends in large part on the number of television viewers who see the program and observe the commercial messages."

We agree. But, because of long-term options, the price paid by a network to a producer for a television program has nothing to do with the number of television viewers who see the program.

2. Exclusivity

If parallel long-term options at pre-set prices eliminate the possibility that the producer will be able to share in network profits from a successful program, the parallel provisions demanded by the networks with regard to exclusivity as to other television uses go a step further in aggravating the producer's plight. Thus, it is an industry-wide pattern that for the entire length of the option period, the producer's price for prime time exhibition on the network will remain essentially the same (perhaps it will be a price which equals his production costs) -- but for the entire length of the option period, he will not be able to realize revenues from older episodes of the series already broadcast because the networks will force him to surrender for the entire option period the right to license older episodes of the series for other television uses (e.g., stripping during the daytime or early evening or the showing of individual episodes during early evening hours, fringe time, etc.) by other networks or by local stations, be they affiliates or independents.

Because of these exclusivity provisions, the older episodes of a series must simply sit on the shelf, gathering dust, and the producer is generally precluded from obtaining whatever value may be left in the older episodes until the option period has expired.

There might be some justification for this state of affairs if it could be demonstrated that the networks require exclusivity as to old episodes against all other television uses in other day-parts to preserve or maintain the ratings of new episodes in prime time (although it is a good question why a producer should be forced to give the networks this supposed protection at the very same time that he is forced to surrender any possibility of sharing in the profits from high ratings in prime-time).

But the facts offer little, if any, support for that justification for unreasonable exclusivity demanded by the networks against other television uses. There are just too many instances in which old episodes of a series still being telecast in prime time have been telecast in other day parts without any measurable or adverse impact on prime time ratings of new episodes of that series. Appendix A is a table which shows the instances in which old episodes of a series have been telecast in other day parts during the prime time exhibition of new episodes of the series.

It is significant that most of the examples given in Appendix A relate to instances in which a network which has obtained the broad exclusivity we noted above has determined to allow non-prime-time stripping or other non-prime-time uses of older episodes of a prime-time series on its own network.

The fact that a television network is willing to allow this invasion of its exclusivity rights for the benefit of its own network strongly suggests that the networks demand and obtain exclusivity against other television uses not for the presumably legitimate purpose of protecting prime-time ratings, but for entirely different purposes -- (a) they preserve for themselves the option to use older episodes on their own networks in non-prime-time, (b) they prevent the possibility of a bidding war among themselves, or with local stations, for non-prime-time uses of the older episodes of a successful prime-time series, and (c) they protect their owned and operated stations from the competition that might result if independent stations in the markets in which the owned and operated stations broadcast could show old episodes of prime-time programs during the early evening hours when the owned and operated stations have their local news programs on the air.

In short, the broad exclusivity provisions which the networks now routinely demand and obtain from program suppliers are not designed to protect legitimate network interests in preventing the dilution of prime-time ratings. Instead, like long-term options, they are designed to prevent price competition among networks or among networks and local stations and competition among network owned and operated stations and independent stations. Here, as in other instances, no network

places itself at a "competitive disadvantage." And, here, as in other instances, what the phrase really means is that the networks, by engaging in parallel practices, preclude the possibility of prime competition among themselves, all to the detriment of the program supplier. United States v. Griffith 334 U.S. 100 (1948); Twin City Sportservice, Inc. v. Charles O. Finley & Company, Inc., 512 F.2d 1264, 1274, 1275 (9th Cir. 1975).

3. Internal Production

In addition to the economic leverage inherent in a marketplace where there are only three principal buyers and many sellers, the networks further bolster their power to deal with program suppliers on terms most favorable to the networks by engaging in internal production of entertainment programs.

Internal production, to any extent, preempts the limited network time available for programs produced by outside suppliers. And what better way is there for a network to deal with a recalcitrant independent program supplier than to suggest that the network need not deal with him at all, but can simply use its own internally-produced program.

In short, internal network production of entertainment programs -- indeed, the mere threat of internal production in a marketplace of scarce prime time dominated by three networks -- is an unfair competitive practice and an unreasonable exercise of network power. Otter Tail Power Co. v. United States, 410 U.S. 366, 377 (1973); United States v. United Shoe Machinery Corp., 110 F. Supp. 295, 338-346 (D. Mass. 1953), aff'd per curiam, 347 U.S. 521 (1954); United States v. Aluminum Company of America, 148 F.2d 416, 430-431 (2d Cir. 1945). It is no surprise, therefore, that all of the networks produce some of their own prime-time and non-prime-time entertainment programming. Internal production is an ever present gun pointed at the heads of independent program suppliers -- and the threat is no less real because there may be only one bullet in the chamber of the gun.

In connection with internal production, the networks engage in another practice which is equally unreasonable and anti-competitive. They restrict the pool of talent -- actors, actresses, writers, directors, producers, etc. -- available to independent program suppliers by engaging that talent on an exclusive basis for the contracting network. In many instances, the network is able to contract for that talent on an exclusive basis by offering something no independent program supplier could possibly offer -- guaranteed network air time.

There is no justification for a network to be permitted to engage in this kind of unfair competition with independent program suppliers.

The networks should not be in the business of producing programs for exhibition on their own networks. Surely, given their dominance of access to the nation's airwaves, they should not be in the business of acquiring talent on an exclusive basis, in competition with independent program suppliers, whatever the reasons for acquiring such talent -- be it for the purpose of using such talent on internally-produced programs or for the purpose of "laying off" the talent to independent program suppliers, whether or not the independent program supplier has any need or desire for that talent.

* * *

Long-term options, exclusivity and internal production are, as we noted before, merely examples of the type of anti-competitive practices engaged in by the networks. We could add to the list such matters as the typical contract provisions which grant the networks unreasonable "spin-off" rights, unreasonable exclusivity against other media, unfair and unreasonable "creative controls," etc.

The simple facts, however, are these: the networks are combinations, which by virtue of their affiliation agreements and the economic and other pressures which they can bring to bear on affiliates to "clear" network programs, have preempted a large proportion of the most desirable broadcast time available on the nation's airwaves. In so doing, they have, for all practical purposes in most instances, eliminated the competition which might otherwise exist between hundreds of local television stations for first run, original television programming. Having thus constituted themselves as the three principal buyers of original television programming, they have abused that power by extracting unreasonable and onerous conditions from program suppliers by vertical contracts which restrain trade. They have successfully eliminated meaningful price competition among themselves as to program suppliers. They have sought to achieve -- and they have achieved -- virtually total domination of the activities of the creative community and the producers of programs in the television industry.

The anti-competitive conditions in the television industry -- the gross imbalance in power between the networks and program suppliers -- has long been recognized by all interested government agencies and by all expert groups.

Against this background, we turn to an analysis of the provisions of the proposed decree and the CIS.

The Proposed Decree

In our view the heart of the proposed decree lies in the provisions relating to long-term options (Sec. VI(E)(i)), exclusivity against other television users (Sec. VI(E)(ii)) and internal production (Sec. V). These are the major areas of network abuse.*

Accordingly, a determination of whether the proposed decree is in the public interest rests, we submit, on an analysis of whether the Government has obtained meaningful relief in these major areas of abuse.

We respectfully submit that the Government has not.

1. Options (Sec. VI(E)(i)). As we sought to demonstrate earlier, one of the keys to network power over program suppliers and the networks' ability to eliminate price competition among themselves are the identical provisions the networks extract from suppliers with regard to long-term options.

Sec. VI(E)(i) of the proposed decree which deals with options is, in consequence, one of the key provisions of the decree.

* In the interests of brevity, we shall not discuss provisions of the proposed decree which deal with peripheral or tangential problems.

The Government, we think, would agree. The CIS says (pp. 17-18):

> "Section VI(E)(i) was the subject of intense negotiation between the parties. Although not specifically requested in the complaint, an important element of the proposed relief is the initial limitation to four of the yearly options obtainable by NBC when it contracts for production and possible exhibition of a new program series. The Government initially proposed a two year limit on the option period and various compromises were considered, including a proposal for basing program license fees upon program popularity, which was discarded as unworkable and inappropriate."* (Emphasis added)

This portion of the CIS, however, concludes, as follows (p. 18):

> "The Government believes that the relief provided would be substantial."

We must respectfully disagree. In our judgment, the relief provided is not "substantial."

Section VI(E)(i), in full text, provides, as follows:

"NBC is enjoined and restrained:

* * *

"(E) For a period of fifteen (15) years from the effective date of this Section, from:

* The CIS unfortunately is silent on the nature of the "various compromises [which] were considered"; nor does it supply any further information as to why the Government retreated from its initial proposal of a "two year limit on the option period."

"(i) Acquiring from an independent program supplier options for Network Exhibition of a prime time network entertainment program series exercisable for a period in excess of four (4) years from the date of first broadcast of an episode of such program as part of an NBC prime time television network entertainment program series, and the balance of any broadcast year in which such four (4) year period ends, provided that nothing herein shall prevent NBC, after the date of first broadcast, from negotiating new provisions which may include the purchase of an extension of the option period to five (5) years from the date of first broadcast, and the balance of any broadcast year in which such five (5) year period ends, and, at the end or during the final year of any contract term, from negotiating for and entering into new agreements with said supplier so long as the options acquired under any such new agreements do not exceed a period of four (4) years from the date of first broadcast of an episode under such new agreements, and the balance of any broadcast year in which such four (4) year period ends, plus the right to negotiate for and acquire a fifth option year, and provided further that nothing herein shall prevent NBC from acquiring first negotiation and first refusal rights for new agreements with said supplier so long as any such first refusal rights shall not be more favorable to NBC than a contractual obligation which prevents said supplier from entering into an agreement with a person other than NBC on terms less favorable to said supplier than said supplier's last offer to NBC without giving NBC the first opportunity to meet such terms, and provided further that nothing herein shall prevent NBC from entering into contractual provisions incident to the licensing and use of network programs as provided in Section IV(A) of this Final Judgment."

Hence, Section VI(E)(i) deals with three separate, but closely related areas: 1) the option term in the original contract (four years); 2) the right to a renegotiation to obtain a fifth year of options (permissible after the date of first broadcast); and 3) first negotiation and first refusal rights during the final year of the contract for further exhibition rights.

First, while the Government asserts that the relief is "substantial," we seriously doubt that anyone in the business of producing television programs would -- and certainly the commenting parties do not -- regard a reduction of the option term from five years to four years (even if that reduction were absolute, which it is not) as "substantial" relief.*

It is perhaps more important, however, that Section VI(E)(i) represents Government blessing for long-term options as a permissible program procurement practice by a network, in the face of the demonstrable anti-competitive impact of long-term options (see pp. 20-24, supra).

* In commenting on this provision, the CIS states (p.11):

> "This provision is designed to restrict NBC's present ability to obtain exclusive rights to a program series for as long as seven years on terms and conditions set before the program has ever been developed."

If the reference to seven years is meant to suggest that the impact of the reduction of option years to four should be judged against a current industry-wide standard of seven years, then the reference is based on a factual misunderstanding. The typical option period today, as we noted before, is five years.

A reduction of the option term from five years to four hardly remedies the anti-competitive conditions flowing from long-term options and hardly provides a competitive marketplace for a successful program. For four years, the program supplier is still suffering from his inability to obtain competitive bidding by the three networks for his successful program. For four years, he is still receiving pre-set prices for his programs which do not reflect the success of his creative efforts. For four years, the networks are still free to reap all the profits from a successful program, without any contractual obligation to reward the producer for his successful efforts.

In these circumstances, a proposed decree which does nothing more than reduce from five years to four the length of time during which all these anti-competitive conditions are allowed to prevail does not, in our judgment, provide "substantial" relief.

Next, in many or at least in some cases, the four year term may prove to be illusory because of NBC's right to negotiate for a fifth year of options after first broadcast. We are unaware of any pro-competitive goal to be served by such a provision and the CIS is silent on that subject. We are unable to perceive any useful purpose to be served by providing an all-powerful network with the opportunity to use its leverage against a program supplier to obtain a fifth year of options after first broadcast, even if some producers will be able to resist that leverage. It is not "substantial" relief to provide the networks with that opportunity.

Finally, the provisions of the proposed decree relating to first negotiation, first refusal rights during the last year of the contract do not provide "substantial" relief.*

For one thing, those provisions will not become relevant until a series has already been on a network for four or five years -- a period of time which is eternity for most television series. These provisions offer no relief to the program supplier for those first four or five years.

Next, most program suppliers will think twice before moving a program from a network where it has been successful and may have a favorable spot in the network schedule to another network where its future may become less certain.

Finally, the first negotiation, first refusal provisions are based on an unspoken premise which may turn out to

* We recognize, of course, that the first negotiation, first refusal rights as set forth in the proposed decree are an improvement over the first negotiation, first refusal rights the networks today extract from program suppliers.

be a fiction -- that the networks which go to such lengths by parallel practices to avoid price competition for programs will be willing to engage in such competition for new episodes of a four- or five-year old series. Moreover, the very presence of any preferential rights is detrimental to the operation of a free marketplace.

On the subject of options, we must also note that there is nothing in the proposed decree which places any limitation on NBC's ability to extract long-term options (sometimes as long as 9 or 10 years) from suppliers of non-prime-time programming. There is nothing in the CIS which deals with that subject at all. In our judgment, the abuse of extracting long-term options is just as serious for suppliers of non-prime-time programming as it is for suppliers of prime-time programming and it should be dealt with in any proposed decree.

Before we leave the subject of options, we think it important to point out a fallacy which appears in the CIS with regard to the provisions of the proposed decree relating to options. Talking about Section VI(E) generally, the CIS states (p. 10):

> "For a period of fifteen years, the proposed judgment would place the following outer limits on the exclusive rights that NBC may acquire from an independent program supplier in obtaining network exhibition rights for a prime time entertainment program (the supplier can, of course, grant NBC fewer and lesser rights from these). . . ."

The fallacy is simple enough: the networks have the power to go to the outer limits. Indeed, we thought the Government's lawsuits were based on the theory that outside suppliers could not resist network leverage to go to the outer limits. As to options, the supplier, as a matter of business reality, cannot refuse to grant NBC fewer and lesser rights than those set forth in the proposed decree as to options -- not if he wants to get to the point where he has the opportunity to have his program broadcast. Producers have not been able to engage in meaningful negotiations with networks on the subject of options.

We are unaware of any provision in the proposed decree which would alter that result. The Government's stated "anticipat[ion] that because of the proposed judgment, the forces of competition would be able to operate more freely on NBC's program procurement practices" (CIS, p. 7) is, in our view, unfounded speculation about the business conditions under which the proposed decree is bound to operate.

2. Exclusivity (Sec. VI(E)(ii)). With respect to the provision of the proposed decree relating to exclusivity against other television uses, the CIS states (p. 11):

> "This provision should free a substantial number of entertainment program series for syndication and

other uses much earlier than is currently possible."

We are required to disagree.

Sec. VI(E)(ii) provides:

"NBC is enjoined and restrained:

* * * * * *

(E) For a period of fifteen (15) years from the effective date of this Section, from:

* * * * * *

"(ii) Acquiring from an independent program supplier, after thirty (30) days from the entry of this Final Judgment, exclusive exhibition rights for prime time network entertainment program series episodes for which NBC has exercised a contractual right to Network Exhibition, in excess of the following:

"(a) for prime time use, the duration of any contract term or terms by which NBC acquires the right to Network Exhibition;

"(b) for non-prime time stripping on television broadcast stations, four (4) years from the first prime time episode broadcast; and

"(c) for all other broadcast uses, three (3) years from the first prime time episode broadcast, provided that nothing herein shall prevent NBC from negotiating for and acquiring rights, including exclusive rights, for stripping and once weekly exhibition to be utilized after the periods of exclusivity set forth above, so long as negotiation for and acquisition of such rights takes place after NBC has agreed to order episodes of such program for the first year of broadcast as an NBC prime time television network entertainment program series, and provided further that nothing herein shall prevent NBC from acquiring exclusive exhibition rights to series episodes for the broadcast year for which such episodes are ordered."

Section VI(E)(ii) thus deals with three separate situations concerning a network's exclusivity over older episodes of a series being shown in prime time on the network:

a) other prime time uses (total exclusivity for the network);

b) non-prime time stripping (four years of exclusivity for the network); and

c) all other broadcast uses (three years of exclusivity for the network).

First, as to other prime time uses, the proposed decree offers no relief at all. "Prime Time Hours" is defined in the proposed decree as meaning 6 P.M. to 11 P.M. in the Eastern and Pacific Time Zones and 5 P.M. to 10 P.M. in the Central and Mountain Time Zones. Hence, under the proposed

decree, a program supplier would be totally precluded -- as he is today -- from licensing older episodes for broadcast by independent stations in the early evening hours. This important part of the syndication market would be completely cut-off. And the network would still be able to protect its owned and operated stations from the competition that might result if independent stations in those markets were able to show old episodes of prime time series while the owned and operated stations had their news programs on the air in the early evening hours.

Second, as to non-prime time uses; the periods of network exclusivity are either meaningless or are far too long. For example, as to non-prime time stripping, a producer must usually have four years of negatives before stripping is a likely possibility. And under the proposed decree, four years of options are permitted. Hence, for all practical purposes, the network will obtain the same rights against prime-time stripping it obtains today -- exclusivity for the option period, except that the period may be reduced from five years to four years and non-prime time stripping may be able to commence one year earlier than is presently possible. This is not meaningful relief.

As to all other broadcast uses, in the absence of any hard proof that prime time ratings of new episodes are adversely affected by showings of older episodes in non-prime time hours, there is no justification for precluding a program supplier for three years from making whatever deals he can for non-prime time showings of older episodes.

There is no reason why a producer should not be able to provide a continuous stream of older episodes of a prime time series to the syndication market for non-prime time use, say after the first year of broadcast in prime time.

It is unreasonable, we suggest, for a television network to deprive a producer of this source of revenue for the extended period of time allowed by the decree, while at the same time depriving him of any profits from prime-time exhibition by virtue of long-term options at pre-set prices.

Finally, as with options, the provisions as to exclusivity against other television uses may prove to be illusory because of the opportunity granted by the proposed decree to NBC to acquire greater exclusivity rights so long as the acquisition takes place "after NBC has agreed to order episodes of such program for the first year of broadcast." As with options, we are unaware of any pro-competitive goal to be served by such a provision and again the CIS is silent on that subject. The network should not have the opportunity to negate the provisions of the decree by using its leverage in an effort to compel program suppliers to grant it greater exclusivity

rights, even if the use of that leverage may not succeed in all cases.

We are troubled that the Department of Justice is willing to agree to provisions which will continue to allow the networks to obtain unreasonable exclusivity from program suppliers.

3. Internal Production (Sec. V). The provisions in the proposed decree concerning network internal production of entertainment programs are among the most difficult for us to understand. The problem is not that we are unable to understand the substance of those provisions; rather, we do not understand why the Government, having with full justification asserted from the outset of this litigation that there should be no network internal production, should negotiate a consent decree with NBC which permits such a high level of internal production (2 1/2 hours of internal production in prime-time, 8 hours in daytime and 11 hours in fringe time).

The New York Times was equally concerned by the provisions in the proposed decree concerning internal production. It wrote (November 19, 1976, p. 81):

> ". . . [T]he restrictions give NBC more latitude in program ownership than it now assumes.
>
> "For instance, the agreement would limit the entertainment programs produced by NBC, or in which it held a financial interest, to two and a half hours' worth a week. At present, the only prime-time series owned by NBC is "Little House on the Prairie," which represents one hour a week.
>
> "NBC thus would be permitted to add to its program holdings, under a suit that was intended to keep the networks from favoring program series for their schedules in which they had a financial interest.
>
> "Similarly, the network would be restricted under the agreement from owning more than eight hours of daytime programs a week, during the hours between 9 A.M. and 6 P.M. although as of now it owns none." (Emphasis added)

Nevertheless, on the subject of internal production, the CIS states (p. 17):

> "While the Government at trial would have sought a complete prohibition of television entertainment program production by NBC, this judgment provides substantial relief which will prevent NBC from foreclosing significant amounts of independently produced programming from its television network."

We must respectfully disagree. Even without a detailed analysis, it is readily apparent, for example, that when each network has only 22 hours available each week for prime-time entertainment programming,* a judgment which permits

* Although "prime-time" as defined in the proposed decree is 5 hours a night, or 35 hours a week, by virtue of the

fn. cont'd

a network to preempt what amounts to almost one full evening of prime-time entertainment programming for its own programs does not provide "substantial relief."

Internal production by a network, as we have shown, is clearly an unfair competitive practice. It should not be tolerated or sanctioned by the Government.

Moreover, we respectfully submit that the closely related network practice of acquiring exclusive rights to talent (see pp. 29-30, supra) is also an unfair competitive practice which should not be tolerated. On this subject, the proposed decree is silent.

fn cont'd

prime-time access rule and local and network news programs during "prime-time," there are in fact, only 22 hours available to the network for entertainment programming.

* * *

It would unduly lengthen these comments to discuss in detail other provisions of the proposed decree which purport to grant the program suppliers some measure of relief in such areas as pilot rights or "spin-off" rights. The provisions are lengthy and, although complex, a meaningful analysis would demonstrate that the relief obtained is either non-existent or de minimus.

In any event, we believe such a discussion is unnecessary. If there are some provisions of the proposed decree which provide for some minimal changes in network procurement practices for the benefit of program suppliers, they are not sufficient to overcome the proposed decree's total lack of impact in the major areas discussed above.

4. Parallelism. There remains, however, one remaining aspect of the proposed decree which requires discussion. Having failed to achieve any meaningful relief against network abuses, the proposed decree compounds the plight of outside program suppliers by providing a method for the continuance of anti-competitive and parallel practices by all three networks.

Thus, Section VII of the proposed decree provides that certain key provisions (e.g., "restrictions" on options,

or on internal production) shall not take effect

> "until similar injunctive relief is obtained in Final Orders, Judgments or Decrees entered against CBS in United States v. CBS Inc. . . . and against ABC in United States v. American Broadcasting Companies, Inc. ... which are not appealable or from which no timely appeal has been taken."

Hence, by virtue of Section VII, when read together with Section IX which entitles NBC to modification of its decree if the final order in either U.S. v. CBS or U.S. v. ABC, shall "order or decree for either CBS or ABC injunctions different in terms or provisions than those required" by the NBC decree, the proposed decree provides a method for the drafting of a standard anti-competitive form of contract to be forced on independent program suppliers by all three networks.*

The proposed decree, by its explicit terms, guarantees that for the future the three networks will be able, as to pivotal economic terms of their contracts with program suppliers, to continue what they have done in the past: avoid the hazards of price competition by offering and requiring program suppliers to accept virtually identical terms from all three networks.

There is, as we read it, no explanation for this unusual result in the CIS. With regard to Section VII, the Government says (pp. 13-14):

> "In order to avoid placing NBC at a competitive disadvantage with respect to CBS or ABC, this provision would delay the effectuation of certain Sections of the judgment [V, VI(C), VI(E)(i), and VI(F)-(H)] until similar injunctive relief is obtained against CBS and ABC."

And, as to Section IX, the CIS states (p. 14):

> "If a non-appealable judgment were entered dismissing either of the companion actions against CBS or ABC or decreeing injunctions different from those in this judgment, this provision would permit NBC to seek and obtain whatever relief, if any, was necessary to prevent it from being placed at a competitive disadvantage with respect to CBS or ABC. While this type of provision is unusual in an antitrust judgment, it is warranted by the unique nature of this industry, and the pendency of the companion actions."

* There is another important consequence of Sections VII and IX. Since ABC and CBS have publicly announced that they will vigorously continue to defend the Government's actions against them and since the effective date of the provisions of the proposed NBC decree which deal with the meaningful antitrust violations of the networks (even if they do not provide meaningful relief) are delayed until final non-appealable orders are entered against CBS and ABC, the proposed decree with NBC cannot be justified on the ground that it will bring protracted litigation to a rapid conclusion and provide immediate significant relief. We must, therefore, record our dissent as to the following statements in the CIS (p. 16):

> "A full trial on the merits was considered as an alternative to settlement. However, because the agreed to relief would be substantially equivalent to that sought in the complaint, because significant relief would become effective upon entry of the judgment, and finally because appeals following a trial could delay the obtaining of

fn. cont'd

fn. cont'd

> effective relief for a period years, the alternative of a trial on the merits was rejected."

But the CIS does not explain what is "unique" about the nature of this industry which justifies these "unusual" provisions. And the CIS does not explain the "competitive disadvantage" NBC would suffer if these provisions were not in the proposed decree.

There is, of course, in our view, something "unique" about the television industry (as we have already shown) -- there are only three principal buyers of high quality, original programs who engage in parallel practices and offer virtually identical terms to program suppliers to eliminate any meaningful price competition among themselves. And when these anti-competitive practices are challenged, the networks always defend themselves by arguing that to require any of them to act otherwise would place that network at a "competitive disadvantage."

What makes Sections VII and IX of the proposed decree even more difficult to understand is that the CIS in a footnote on page 5 clearly recognizes the impact of parallel practices and uniform contract terms on competition.* In text at pp. 5-6, the Government writes:

> "However, despite the FCC financial interest and syndication rules, NBC and the other networks continued to exact from producers such rights as: (1) long-term yearly renewal options for exclusive NBC network exhibition of the program with pre-set license fee escalation rates, (2) exclusive use of the program by NBC as against other communications markets, (3) exclusive rights in NBC with respect to program spinoffs, (4) creative program controls in NBC, (5) NBC's right to all profits from network exhibition of the producer's program, and (6) an NBC right of first refusal at the end of the option period."

Then as a footnote to the foregoing sentence, the CIS states (p. 6):

> "At the same time, similar practices are being followed by ABC and CBS with respect to programming on their networks. The existence of uniform terms and conditions of purchase among the three major networks acts to deprive independent program suppliers of the benefits of network competition for their programs. Moreover, the network practice of obtaining exclusive exhibition rights often occurs at a time when the program is in the idea or script stage and the program supplier has little or no bargaining power." (Emphasis added)

It is difficult to understand why the Government should, on the one hand, recognize that "uniform terms and conditions" among the three networks is an anti-competitive practice and then, on the other hand, in Sections VII and IX, agree to a proposed decree which virtually insures no change in that state of affairs.

* One other aspect of Sections VII and IX that should be changed is that the Government, neither in those sections nor anywhere else in the decree, reserves for itself the right to obtain modification of the decree in the event that the Court, after a trial on the merits against CBS or ABC, should impose more stringent restrictions than are contained in the proposed NBC decree.

The proposed decree should not become the vehicle which blesses an industry-wide anti-competitive standard contract or code of behavior and which "deprive[s] independent program suppliers of the benefits of network competition for their programs."

At the very least, NBC -- if it desires to avoid the expense and risks of a protracted antitrust lawsuit -- should not be entitled to the umbrella of protection against "competitive disadvantage" provided by Sections VII and IX.

Conclusion

The Government should withdraw its consent to the proposed decree because it suffers from the serious defects we have discussed in these comments. The proposed decree provides no meaningful relief against the major network antitrust violations. On the contrary, it legitimizes past illegal practices and provides a vehicle for preserving an industry-wide, anti-competitive code of behavior.

Respectfully submitted,

PAUL, WEISS, RIFKIND, WHARTON & GARRISON
Attorneys for the Commenting Parties
345 Park Avenue
New York, N.Y. 10022

March 1, 1977

Appendix A

Program	Network	Seasons of Concurrent Runs in Different Day Parts	Type of Concurrent Run
ALL IN THE FAMILY	CBS	75-76, 76-77	Prime & Day
ANDY GRIFFITH SHOW	CBS	66-67, 67-68	Prime & Day
BEVERLY HILLBILLIES	CBS	66-67, 67-68, 68-69, 69-70, 70-71	Prime & Day
BEWITCHED	ABC	67-68, 68-69, 69-70, 70-71, 71-72	Prime & Day
BRADY BUNCH	ABC	72-73, 73-74	Prime & Day
CANDID CAMERA	CBS	66-67	Prime & Day
DATING GAME	ABC	66-67, 67-68, 68-69, 69-70	Prime & Day
FAMILY AFFAIR	CBS	70-71	Prime & Day
THE FUGITIVE	ABC	65-67	Prime & Day
HAPPY DAYS	ABC	75-76, 76-77	Prime & Day
KOJAK	CBS	76-77	Prime & Lat Nite
LASSIE	CBS	66-67, 67-68, 68-69, 70-71	Prime & Syndication
LET'S MAKE A DEAL	ABC	68-69, 69-70, 70-71	Prime & Day
LOVE AMERICAN STYLE	ABC	70-71, 71-72, 72-73, 73-74	Prime & Day
LUCY SHOW	CBS	67-68, 68-69	Prime & Syndication
MY THREE SONS	CBS	71-72	Prime & Day
SUNDAY MYSTERY MOVIE - MC CLOUD - COLUMBO - MC MILLAN	NBC/CBS	76-77	Prime & Late Nite
NEWLYWED GAME	ABC	66-67, 67-68, 68-69, 69-70, 70-71	Prime & Day
ROOKIES	ABC	75-76	Prime & Late Nite
SANFORD & SON	NBC	75-76, 76-77	Prime & Day
THAT GIRL	ABC	68-69, 69-70, 70-71	Prime & Day
TO TELL THE TRUTH	CBS	68-67	Prime & Day
STREETS OF SAN FRANCISCO	ABC	76-77	Prime & Late Nite
MARCUS WELBY, M.D.	ABC	74-75	Prime & Syndication
IRONSIDE	NBC	73-74	Prime & Syndication
WAGON TRAIN	ABC	63-64, 64-65	Prime & Day

Source: ARBITRON SYNDICATED PROGRAM ANALYSIS

Mr Haldeman 3106
Mr Kaplan
Mr Lillienson
Mr Seidy
Mr O'Reilly
Mr Dole

TANDEM Productions INC.

ALAN F. HORN

March 3, 1977

Bernard M. Hollander, Esq.
Chief, Judgments and Judgment
Enforcement Section
Antitrust Division
United States Department of Justice
Room 3706
Washington, D.C. 20530

Re: United States vs. National Broadcasting Company, Inc.

Dear Mr. Hollander:

I recently read the comments, on the proposed consent decree in connection with the above action, which were forwarded to you by the the firm of Paul, Weiss, Rifkind, Wharton and Garrison, on behalf of several companies that produce television programs for the three national networks. In reviewing these comments with Messrs. Norman Lear, Bud Yorkin, and Jerry Perenchio, I find that, while our own experience with the three networks is not entirely consistent, we share many of the opinions expressed and agree in principle with the views of the signatory companies. Accordingly, on behalf of Tandem Productions, T.A.T. Communications Company, and Bud Yorkin Productions, I endorse the comments of the signatory companies and join with them in requesting that the Department of Justice withdraw its consent to the proposed decree.

Sincerely yours,

Alan F. Horn
Executive Vice President

AH/jb

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Mr Haldeman - 3106
Mr Kaplan
Mr Lillienson
Mr Seidy
Mr O'Reilly
Mr Dole

Enterprises Inc.

MEL D. BLUMENTHAL
Vice President, Business Affairs

March 16, 1977

Bernard M. Hollander, Esq.
Chief, Judgments and Judgment
Enforcement Section
Antitrust Division
United States Department of Justice
Room 3706
Washington, D.C. 20530

Re: United States vs. National Broadcasting Company, Inc.

Dear Mr. Hollander:

I recently reviewed with Messrs. Grant Tinker and Arthur Price the comments, on the proposed consent decree in connection with the action referred to above, which were sent to you by the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, on behalf of several companies that produce televisoin programs for the three national television networks. Although in our dealings with the networks we have not experienced all of the matters set out in the comments, we do share many of the opinions expressed therein and agree in principle with many of the views of the signatory companies. Therefore, on behalf of MTM Enterprises, Inc., MTM Enterprises and MTM Productions, Inc., I join with the signatory companies in requesting that the Department of Justice withdraw its consent to the proposed decree.

Very truly yours,

MEL D. BLUMENTHAL

MDB:ng

Note: Mailgram copy sent to Bernard Hollander on 3/16/77.

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Enterprises Inc.

MEL D. BLUMENTHAL
Vice President, Business Affairs

March 18, 1977

Bernard M. Hollander, Esq.
Chief, Judgments and Judgment
Enforcement Section
Antitrust Division
United States Department of Justice
Room 3706
Washington, D.C. 20530

Re: United States vs. National Broadcasting Company, Inc.

Dear Mr. Hollander:

On March 16, 1977, I sent you a Mailgram on behalf of MTM Enterprises, Inc., MTM Enterprises, and MTM Productions, Inc., requesting that the Department of Justice withdraw its consent to the proposed decree.

In my mailgram, I inadvertently neglected to mention the various television series and special programs produced by our companies, and would like to take this opportunity to advise you of the television productions in which we are involved:

1. "Mary Tyler Moore Show"
2. "The Bob Newhart Show"
3. "Rhoda"
4. "Phyllis"
5. "The Tony Randall Show"
6. "The Ed Asner Show"

In addition to the series mentioned above, we have just completed production of a one-hour dramatic pilot and two half-hour comedy pilots for CBS, two half-hour comedy pilots for ABC, and a half hour comedy pilot for NBC. We also recently produced a two-hour television motion picture

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Bernard M. Hollander, Esq.
March 18, 1977
Page Two

special entitled "Something For Joey" which will be broadcast by CBS on April 6 under the sponsorship of IBM. We have, in various stages of development, a number of additional television series, motion pictures for television and specials, including a major twelve-hour dramatization for NBC of William Goldman's "Boys & Girls Together".

If I can be of any further assistance to you, please do not hesitate to call.

Very truly yours,

MEL D. BLUMENTHAL

MDB:ng

LORIMAR PRODUCTIONS, INC.
4000 WARNER BLVD. · BURBANK CALIFORNIA 91522
(213) 843-6000

March 17, 1977

Bernard M. Hollander, Esq.
Chief, Judgments and Judgment
Enforcement Section
Antitrust Division
United States Department of Justice
Room 3706
Washington, D.C. 20530

Re: United States v. National Broadcasting Company, Inc., Civil No. 74-3601 - RJK, U.S.D.C., C.D., Cal.

Dear Mr. Hollander:

I am Vice President, Business Affairs, of Lorimar Productions, Inc., which currently produces three one-hour television network series and has a continuing flow of other television network programs in development and production.

I have reviewed with Lee M. Rich, President of Lorimar Productions, Inc., the recent letter and comments from Arthur L. Liman of Paul, Weiss, Rifkind, Wharton & Garrison dated March 1, 1977 concerning the proposed consent decree with NBC.

Although Lorimar has not encountered each of the matters set forth in the comments, we certainly do agree in principle and share many of the opinions and views of the signatory companies.

In view of the foregoing, on behalf of Lorimar Productions, Inc., we concur with the request that the Antitrust Division of the Department of Justice withdraw its consent to the proposed decree.

Very truly yours,

BILLIE GOLD

BG:ds
Note: Telegram sent to Bernard Hollander on 3/17/77

March 21, 1977

Bernard Hollender, Esq.
Chief of Judgment & Judgment
Enforcement Section - Antitrust Div.
U.S. Department of Justice
10 Pennsylvania Avenue N.W.
Washington, D.C. 20530

Re: USA v. NBC - Civil Action #74-3601 R.J.K.

Dear Mr. Hollender:

I recently read the comments on the proposed Consent Decree in connection with the above action, which were forwarded to you by the firm of Paul, Weiss, Rifkin, Wharton and Garrison on behalf of several companies that produce television programs for the three national networks.

In reviewing these comments I find that, while our own experience with the three networks is not entirely consistent, we share many of the opinions expressed and agree in principle with the signatory companies. Accordingly, on behalf of Charles Fries Productions, I endorse the comments of the signatory companies and join them in requesting with them the Department of Justice withdraw its consent to the proposed decree.

Very truly yours,

Charles W. Fries

CF:g

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March 23, 1977

Mr. Bernard Hollander, Esq.
Chief of Judgment & Judgment
Enforcement Section - Antitrust Division
U.S. Department of Justice
10 Pennsylvania Avenue N.W.
Washington, D.C. 20530

Re: USA vs. NBC - Civil Action #74-3601 R.J.K.

Dear Bernie:

We have noted the comments made by the various TV production organizations objecting to the proposed Consent Decree.

We are sure you know, that based on the conversation Charles Fries (Chairman of the Caucus Steering Committee) and we had with you and your associates, that we are in agreement with such comments. We have found such comments to be generally consistent with our expressed objections.

Again, on behalf of the Caucus of Producers, Writers and Directors, we endorse the comments of the various Production Companies which have requested that the Department of Justice withdraw its consent to the proposed degree.

Best wishes.

Very Sincerely Yours,

SIMON & SHERIDAN

Samuel Sacks

SS:ke

cc: Charles W. Fries

63-211-67
DEPARTMENT OF JUSTICE
27 MAR 29 1977
RAO

GOODSON
MARK GOODSON

February 25, 1977

Mr. Bernard Hollander
Anti-Trust Division
U.S. Department of Justice
10 Pennsylvania Avenue NW
Washington, D.C. 20530

RE: USA v. NBC
Civil Action #74-3601 R.J.K.

Dear Mr. Hollander:

Goodson-Todman Productions herewith files its objection to The Proposed Final Judgment in the case of the United States of America v. National Broadcasting Company, Inc., Civil Action #74-3601 R.J.K.

Goodson-Todman Productions is an independent program packaging company. We license programs to the national networks as well as to individual television stations. At the present time Goodson-Todman Productions supplies four different daytime program series to the CBS Television Network and one daytime program series to the ABC Television Network.[1/] Although we license several programs directly to NBC owned television stations, we have supplied no program series to the NBC Television Network since 1969.

On March 14, 1973 we did a run-thru of the program entitled "MATCH GAME" for the NBC Television Network. The NBC Program Department recommended the program for development to NBC management, and negotiations then ensued between NBC Business Affairs and Goodson-Todman Productions.

1/ As of this writing, we supply CBS and ABC their highest rated daytime programs (Nielsen Television Index, February 7-13, 1977).

It was quickly established by NBC Business Affairs that, as a matter of general network policy, any possibility of making a "deal" was preconditioned on our willingness to grant NBC an exclusive "hold" on the property for 15 months (five calendar quarters) following the production of the pilot, and options for no less than ten years after the first telecast (cancellable by the network, only, at the end of any 13 week cycle during the first five years and at the end of any 26 week cycle during the second five years). Further, during that ten year period, the network was to be free to charge advertisers whatever prices the success of the program might make possible in the marketplace, but Goodson-Todman Productions was to be limited to 5% annual increases in the first five year period and 7½% increases in the second five year period.[2/]

To have submitted to this one-sided arrangement would have meant that if our program's popularity had slipped at any time during the ten year option period, the network would have had the unilateral right of cancellation on short notice. On the other hand, if the show became a hit, the network was free to charge whatever prices it could get for it without our participation in profits. We, of course, had no right of cancellation whatsoever.[3/] A clear case of heads they win, tails we lose.

We considered these "non-negotiable" demands unconscionable and a clear reflection of the overwhelming imbalance in negotiating positions

2/ NBC also demanded approval rights over all celebrities booked on the program.

3/ Moreover, regardless of its degree of success, the likelihood of a program such as "MATCH GAME" surviving a ten year period is too remote to make meaningful any hypothetical possibility of more favorable renegotiation a decade later.

between the independent daytime program supplier and NBC. We decided that the time had come to refuse to submit to such demands at the risk of losing the sale. We terminated further negotiations with NBC.

After the passage of approximately three weeks, an NBC program executive requested that we resume negotiations with NBC in an effort to arrive at a mutual agreement. We undertook to do so and, once again, we were confronted by NBC Business Affairs with the identical non-negotiable demands for a fifteen month hold and one-sided options for ten years. Faced with this unyielding position by NBC, we entered into an agreement with CBS and granted that network options to the program for a period of seven years. Frankly, the seven years of options we granted to CBS were also excessive, but with only three network buyers available, we had little choice but to accede to the terms. "MATCH GAME" went on the air in 1973, and since that time it has ranked among the most popular daytime programs.[4/]

By its failure to impose limitations on the number of option years NBC may demand in daytime program agreements (such as NBC demanded for "MATCH GAME"), The Proposed Final Judgment leaves undisturbed one of the most onerous and anticompetitive practices that characterize the network marketplace at the present time. While it is true that the Justice Department's inquiry into network practices originally focussed only on prime time programming, The Proposed Final Judgment nevertheless does enter the arena of daytime programming by setting forth certain limitations on NBC

4/ "MATCH GAME" is currently the highest rated daytime program in network television (Nielsen Television Index, February 7-13, 1977).

with respect to the number of programs owned by the network. Accordingly, the limitations of the original intention should not be deemed to justify leaving undisturbed the most blatant and indefensible anticompetitive network practices in the very same time bloc. At the very least, the network should be prohibited from obtaining options for a longer period of time for daytime programs than for prime time programs.

However unsatisfactory the situation of the independent program producer may be with respect to prime time programming on the networks, there are from 18 to 25 different weekly programs on each of the three networks during this time bloc. In the time bloc from 10:00AM to 4:30PM, however, there are only ten different program series on the NBC weekly daytime schedule. The imbalance between NBC and the program supplier is, therefore, even greater than in prime time and calls for no less relief from anticompetitive practices.

The Department of Justice should withdraw its approval of the Proposed Final Judgment and, failing that, the Court should refuse to sanction the consent decree unless modifications are made to provide appropriate relief.

Very truly yours,

GOODSON-TODMAN PRODUCTIONS

By Mark Goodson
Mark Goodson

Response to the Comments Submitted by Television Entertainment Production Companies.

Various television producers and production companies have filed comments on the proposed decree. 1/ Because these comments involve several different provisions of the Judgment, and since there was much overlap, this will constitute a response to all of them. The comments generally express opposition to entry of the proposed Judgment because, they say, certain of its provisions do not adequately rectify NBC's violations of the antitrust laws. These objections will be discussed, provision by provision.

The only issue for decision here is whether entry of the proposed Judgment is in the public interest because its provisions are consistent with the allegations of the complaint and the enforcement of the antitrust laws. 2/ We have no disagreement with the opinion expressed by the commentors that network practices have violated the antitrust laws. 3/ However, while antitrust consent settlements are an appropriate and beneficial enforcement tool, as to which the Attorney General has broad discretion, compromise is normally involved. 4/ In this particular case, the Government believes that the proposed Judgment is desirable

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1/ They consist of: The Caucus for Producers, Writers and Directors; United Artist Corporation; Metro-Goldwyn-Mayer, Inc.; Columbia Pictures Industries, Inc.; Goodson-Todman Productions; Paramount Pictures; Twentieth Century-Fox Film Corp.; Warner Bros. Inc.; Universal City Studios, Inc.; Tandem Productions; T.A.T. Communications Co.; Bud Yorkin Productions; MTM Enterprises; MTM Productions, Inc.; Lorimar Productions, Inc.; Charles Fries Productions, Inc. In addition, comments filed by the Citizens Communications Center also discussed certain provisions of the Judgment.

2/ For a full explanation of the Procedure and Standard of Review established under the Antitrust Procedures and Penalties Act, see Response to Comments submitted by American Broadcasting Companies, Inc. ("ABC"), Section I at 2-7.

3/ Further, we allege that these violations are continuing, and it is largely because of their continuing nature that we seek immediate relief which we believe ameliorates such violations as to NBC.

4/ As the Court stated in United States v. Armour & Co., 402 U.S. 673, 681 (1971):

> Consent decrees are entered into by parties to a case after careful negotiation has produced agreement on their precise terms. The parties waive their right to litigate the issues involved in the case and thus save themselves the time, the expense, and inevitable risk of litigation. Naturally, the agreement reached normally embodies a compromise, in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

because it would provide at once relief which is similar to and consistent with that sought in the complaint. 5/

1. The Production Limitation of Section V.

All of the commentors object to the proposed limitation on NBC's production of entertainment programs for its own network. They say that NBC ought to be prohibited entirely from producing any entertainment programs for its network. They further maintain that the production limitation provided in the decree is inappropriate because NBC actually produces less today than the amount permitted, and because NBC may still be able to use the threat of such production to force the producers to give up valuable rights and interests in their programs.

In our view, Section V, which would limit the amount of entertainment programming that could be produced by NBC, should enhance competition in the television entertainment program production market, "by eliminating the possibility that NBC could substantially increase its internal production of its network programs and thereby exclude independent program suppliers." [CIS at 8]. A central allegation of the case is that NBC's "unrestricted ability to produce prime time television entertainment programming, together with its domination and control over access to its combined and affiliated group of television stations and its course of conduct, constitutes an unreasonable restraint of non-network program producers' ability to produce and negotiate for distribution and exhibition of their programming." 6/

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5/ See CIS at 3, 7-15.

The production limitation in Section V would prohibit NBC, for 10 years, from producing an unlimited amount of its own entertainment programming. Paragraphs IV(A) and IV(B) would permanently prohibit NBC from acquiring rights or interests in the programs produced by others, or engaging in domestic syndication, and Paragraph VI(A) would prohibit NBC from conditioning a supplier's access to its network on the supplier's grant to NBC of any other right or interest. These three injunctions together seek to insure that NBC, while permitted to provide a source of competition in program production, will no longer abuse its market power and gain unfair competitive advantages over independent program suppliers. These provisions should effectively curtail the anticompetitive effects described in the complaint. Further, Sections IV(A) and (B) and VI(A) would take effect immediately upon entry and thus provide substantial relief much earlier than if a trial on the merits were required.

2. The Program Option Period Limitation in VI(E)(1).

All of the commentors object to Section VI(E)(1) as providing insufficient relief. 7/ This provision would limit

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6/ Supplemental Statement of Genuine Issues, filed May 21, 1976, Issue I(G).

7/ In addition, Goodson-Todman Productions objects to this Section because it does not apply to daytime entertainment programming. This case, however, was directed primarily at

to four the number of yearly program renewal options NBC may acquire from a program supplier initially, and would only permit one additional option year if the agreement terms were renegotiated. Although the commentors concede that this is a desirable limitation on current industry practice, they assert that it does not go far enough to provide meaningful relief.

Historically, a network obtained program renewal options for 5 years in the initial contract. Immediately after promulgation of the FCC rules, however, the networks began to demand and obtain initial program options of 6 or 7 years. Further, the initial option period for many programs is extended whenever the producer requests an increase in the license fee. 8/ This Judgment provision, by shortening the permissible option period, will increase competition for successful programs at an earlier point, and will permit program producers to share in the economic benefits of such programs at an earlier time. This should encourage program suppliers to produce more entertainment programming and make entry into the market more attractive, thus enhancing competition.

7/ continued
prime time programming [Complaint, Par. 16]; its settlement does not prevent any person from pursuing any measure of action against NBC.

8/ License fees for the entire term of the contract are set when the network agrees to pay for a script or a pilot, long before a true measure of the program value can be ascertained, and often before accurate cost estimates can be made.

Form OBD-183 12-8-76 DOJ

None of the commentors have urged that the present length of the program option term is a per se violation of the antitrust laws. Rather, they contend that its present length unreasonably restrains trade and reflects an unreasonable use of monopoly power. The Judgment provides relief as to this practice without risking the delays and uncertainties of a full trial on the merits.

Some comments criticize this provision because it does not aid producers whose programs are cancelled after one or two years. 9/ Initially, the Government sought a 2 year limit on the option period, but compromised on this provision. See CIS at 17-18. In our view, the relief actually obtained is substantial, and while it does not aid short-term programs, antitrust relief cannot be expected to bail out unpopular or unsuccessful programs. The overall relief, including this provision, is consistent with the complaint, with the relief sought and with enforcement of the antitrust laws.

3. Limitations on Program Exclusivity as Against Other Commercial TV Uses in VI(E)(ii).

Presently, NBC (as well as CBS and ABC) acquire total domestic exclusivity for a television program as against any other television use for the entire prospective term of the licensing contract agreed to by the producer. As noted above, the usual term is initially 5-7 years, and with extensions may run much longer. The only time the network's

9/ See, e.g., Comments of the Caucus for Producers, Writers and Directors ("Caucus") at p. 2.

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exclusivity is waived is when the network itself wants to strip the program, i.e., exhibit program reruns on its own network in non-prime time. If that occurs, the present exclusive contract term prevents any competition for stripping rights from other networks or television stations. Section VI(E)(ii) deals with this problem.

The Caucus, the Columbia Pictures group, and the Citizens Communications Center 10/ object to Section VI(E)(ii), which would limit NBC's ability to acquire exclusivity rights, as inadequate. This provision would keep NBC from exercising exclusivity rights over a prime time television program against other television uses for more than three years, except that NBC could acquire four years of exclusivity as against non-prime time stripping of a series, and could enjoy total exclusivity during prime time for the life of the program contract. In addition, whereas, under current

10/ The Columbia Pictures Group, represented by Paul, Weiss, Rifkind, Wharton & Garrison, are: Columbia Pictures Industries, Inc.; Goodson-Todman Productions; Paramount Pictures; Twentieth Century-Fox Film Corp.; Warner Bros. Inc.; and Universal City Studios, Inc. In addition, the following companies filed comments agreeing with many of the comments of the Columbia Pictures Group: The Caucus for Producers, Writers and Directors; Tandem Productions; T.A.T. Communications Co.; Bud Yorkin Productions; MTM Enterprises; MTM Productions, Inc.; Lorimar Productions, Inc.; and Charles Fries Productions, Inc.

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practice, the network sometimes acquires rights (including first refusal rights) to strip the program on its own network during or after the contract term, when the initial licensing agreement is reached, under the Judgment NBC could no longer acquire such a right at that time. Only after NBC had ordered the program series could it compete with other networks or television stations to acquire stripping or other exhibition rights to old episodes. To prohibit NBC from ever acquiring such rights would have the anticompetitive effect of limiting competition for these uses of television programs.

The Government's discovery has disclosed that a network program series usually must have been broadcast during prime time for three years before there are enough episodes to syndicate, and for four years before there are enough to strip. This Section of the Judgment is designed to open up the syndication and stripping markets to competition as soon as there is enough product to sell, and such relief would clearly be significant.

4. Limitation on Exclusivity as Against Pay Cable Television in Section VI(E)(iii)(e).

This provision, which would have limited network program exclusivity for theatrical feature films as against pay cable television, has been deleted from the Judgment by stipulation of the parties. 11/ The reasons for its deletion are

11/ Of the television production entities, only United Artists Corporation and Metro-Goldwyn-Mayer Inc. filed comments on this Section.

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fully explained in the Response to the Comments Submitted by Congressional, Public Interest and Pay Cable Television Entities opposing Section VI(E)(iii)(a) of the proposed Judgment.

5. Limitation on Exclusivity with Regard to Pilots in Section VI(F).

The Caucus objects to Section VI(F), which would prohibit NBC from retaining exclusive hold to more than 35% of the pilots produced for it past fixed dates; July 1 for fall season pilots and January 1 for "second season" replacement pilots. After those dates, 65% of these pilots could be marketed elsewhere, in which event NBC would be entitled to recover its costs of pilot production. The objections are that NBC would still be allowed too long a hold on the pilot, and that it is unfair to require the producer to reimburse NBC's production outlays.

Many more pilots are produced for NBC each year than it can possibly use, but because its exclusive hold on fall season pilots extends well into that season, the producer is effectively prevented from seeking another buyer, even for "second season" replacement. NBC has now agreed to release its hold on 65% of its fall season pilots on June 1 (rather than July 1), thus providing an added opportunity for the producer to sell the rejected program to another buyer for the fall season, and a good opportunity for "second season" replacement. This provision is designed to permit competition for program pilots after the network which advanced funds for them has had an opportunity to decide whether it will schedule the series.

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In our view, it is not unfair, if the program is sold to another buyer, to require the producer to reimburse NBC for its pilot outlays. If NBC has broadcast the pilot before it is released and sold, then the producer gets a credit of two-thirds of NBC's costs for the first broadcast and full credit for more than one broadcast.

6. The Delay of Effective Dates of Certain Provisions in Section VII and NBC's Right to Seek Relief from the Judgment in Section IX.

Section VII would delay the effectuation of certain provisions of the Judgment until similar injunctive relief is obtained from CBS Inc. ["CBS"] and American Broadcasting Companies, Inc. ["ABC"]. Section IX would permit NBC to seek relief from the Judgment if a non-appealable order were entered dismissing the CBS or ABC cases or ordering dissimilar injunctive relief against either CBS or ABC. The Columbia Pictures Group objects to both sections, stating that their inclusion is not explained and that they will insure uniform practices in the industry [Columbia Pictures Group Comments at 47-52].

These actions were not brought to eliminate the three networks, but to limit their use of market power and encourage as much competition as possible within this three program buyer market structure. By opening up the stripping and syndication markets, by limiting network production, and by reducing program renewal options, the Judgment seeks to encourage competition in television entertainment program production both among networks and between networks and

other broadcasters. Moreover, the injunctions in Sections IV and VI(A)-(C) should prevent NBC from abusing its market power when acquiring network exhibition rights.

This is an unusual industry in that the three networks are the only licensors of commercial television programming for simultaneous nationwide broadcasting. Each network as a purchaser has enormous market power, not subject to meaningful competition from the other networks or from non-network stations. This Judgment seeks to limit NBC's use of its power in purchasing television entertainment programs. If, however, the Court were to decide after a trial not to prohibit or limit the use of similar market practices by CBS or ABC, then it might be appropriate for NBC to seek relief from any portions of this Judgment which place it at a competitive disadvantage vis-a-vis CBS and ABC. For example, while Section VI(E)(ii) of the Judgment would limit to three years the number of years a prime time program may be exclusive to NBC (as against syndication in other day parts), the present network practice is to require such exclusivity for the length of the initial 5-7 year contract, plus extensions which may run substantially longer. Should the Court after trial fail to award similar relief against CBS and ABC, then NBC should be free to seek modification of this provision, upon a showing that otherwise it would be placed at a competitive disadvantage.

The same analysis is valid with respect to those other portions of the Judgment, which pursuant to Section VII will not become effective until similar injunctive relief is obtained against CBS and ABC. For example, Section V of the

Judgment would among other things enjoin NBC from producing for its own network use, more than 2-1/2 hours of prime time entertainment programming per week plus 2 additional special programs every six months. Were the Court to rule after trial that CBS's or ABC's unlimited power to produce entertainment programming should not be curtailed, then NBC, because of the peculiar structure of the market 12/, should not be subject to such a prohibition.

7. Network Contracts for the Exclusive Use of Talent or Literary Properties.

A separate point raised in the comment of the Columbia Pictures Group was that the networks have been entering into exclusive contracts directly with talent. 13/ Upon investigation, it was learned that an apparently new and growing practice of the networks, particularly ABC and CBS, has been to acquire exclusive contracts with talent (performers, producers, directors and writers) 14/, or to acquire exclusive

12/ See CIS at 5-6. It should be noted, however, that the Government has not conceded that each provision which does not become effective until similar relief is obtained against CBS and ABC would place NBC at a competitive disadvantage, if it were applicable to NBC alone.

13/ Comments of Columbia Pictures Group at 29-30.

14/ The Government is presently seeking limited discovery on these contracts. Thus, the information contained herein is based on numerous conversations with industry participants, who may not always have first hand information.

exhibition rights to literary properties, and then to "lay-off" the talent or the property on an "independent" producer. 15/ In this way, a network tries to avoid labeling a program an "in-house" program, but still retains a large degree of control over it. Then, if the network decides never to go to series from a pilot or cancels a program series that has been on the air, the producer can be precluded from seeking to sell the program elsewhere, since he cannot command the use of one or more of the major elements of the program.

When a single network has an exclusive hold on talent or on a property, no other network can compete for the talent or property in question. Moreover, the independent producer is in no position to bargain at arms-length over terms of the production contract or program license proferred by the network, since the latter has already established the terms of the talent's employment. It is apparent that, all other things being equal, the network will attempt to fill its scarce air time first with talent and properties to

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15/ It appears that a network will "lay-off" a talent or property by assigning its contractual rights for the use of said talent or property to an independent program producer in connection with a program production agreement. The talent or property assigned normally reverts to the network at the termination of the agreement.

which it holds exclusive contracts. 16/ Consequently, the producer is not even in a position to simply refuse to use the talent or property, since he knows that if he refuses, another producer will agree to produce the pilot or program.

The Government considered various ways of limiting NBC's use of these exclusive contracts in the proposed Final Judgment, but decided that a specific provision appeared unwarranted at this time. It was decided, therefore, that a satisfactory resolution of this problem was to agree with NBC that further relief under the Judgment or by a new action could be sought, if it were later found that NBC had used exclusive contracts so as to impede competition. Such an agreement is embodied in a stipulation being filed with the Judgment. 17/

16/ While we understand that no talent contract actually guarantees that particular programs will be broadcast, they apparently provide that the talent will be paid regardless of whether or not the program is broadcast.

17/ The Stipulation, in pertinent part, provides:

2. Recognizing that the proposed Final Judgment does not specifically deal with the use of contractual rights to the exclusive use of talent or of literary properties for television exhibition, the parties have nevertheless agreed that the entry of this Final Judgment shall not preclude plaintiff, upon a showing that defendant has used such exclusive rights to impede competition in the

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17/ continued television entertainment programming field or to circumvent any provision of the Final Judgment, from applying to the Court for relief under the Judgment against such conduct, provided that such relief would not place NBC at a competitive disadvantage with respect to CBS or ABC.

3. This Stipulation and Order, the above modifications, and the original inclusion and subsequent deletion of Section VI(E)(iii)(e) from the proposed Final Judgment, shall not estop plaintiff or defendant, or any person, in this or any other action or proceeding, from asserting any issue of fact or law as to the subject matter of Section VI(E)(iii)(e) or as to the use of contractual rights to the exclusive use of talent or of literary properties for television exhibition, nor shall they constitute any evidence or admission as to any such issue.

Bernard M. Hollander

Attorney for the United States

4296 Wilkie Way, #H
Palo Alto, California 94306
November 29, 1976

The Honorable Robert J. Kelleher
District Judge, Central District
U. S. District Court
312 No. Spring St.
Los Angeles, California 90012

60-211-62
DEPARTMENT OF JUSTICE
DEC 1 1976
ANTITRUST DIVISION
LOS ANGELES OFFICE

Dear Sir:

It was with great dismay that I read in our local newspaper (copy enclosed) of the settlement proposed by the Justice Department in the anti-trust suit against NBC. If I am interpreting this proposed settlement correctly, it would appear that NBC is essentially being told to curtail it's production and that it must buy a certain percentage of it's programming from independent producers in the interest of "fair competition".

Is the word "competition" in this instance synonomous with saying that small producers "need" to have their programs purchased in order to survive? Since when is the "need" of a company to sell it's product a criterion for success? In a free-enterprise system is not money the name of the game? If the major networks thought they could make more money from the purchase of programs from independent producers would they not do so? Do the sponsors not in fact choose to sponsor shows they feel will make money for them? And are we, the viewers, not the final determination of the success or failure of a program? Is our freedom of choice also to be superseded by the small company's "need to survive"?

If I may be allowed to digress for a moment, I would refer you to the book, "Atlas Shrugged" by Ayn Rand. Although this is a work of fiction, it seems to me that it contains a great deal of philosophy pertinent to this lawsuit. First, the government directive known as the Equalization of Opportunity bill, allowing a company to own only one type of industry, and being required to divest itself of all others, including those purchased or started to guarantee the supply of raw materials for the end product. The reason: the less competent, the less creative, the less ambitious claimed a moral right for survival irrespective of quantity of or quality of production. When this failed, (as it must, because limitation of one is never any assurance of increased productivity of another) a quota was imposed on production. A major industrialist was brought to trial for violation of these directives and for "working contrary to the public good". I would like to quote a few lines of his response:

> "....I do not seek the good of others as a sanction for my right to exist, nor do I recognize the good of others as a justification for their seizure of my property or their destruction of my life. I will not say that the good of others was the purpose of my work -- my own good was my purpose, and I despise the man who surrenders his. I could say to you that you do not serve the public good -- that nobody's good can be achieved at the price of human sacrifice -- that when you violate the rights of one man, you have violated the rights of us all and a public of rightless creatures is doomed to destruction."[1]

[1] Ayn Rand, Atlas Shrugged, Signet Books, N.Y., p. 452

Let me go on record as saying I feel that the proposed settlement with NBC is not a settlement for the public good when it violates a company's right to production and also a consumer's right to a quality of excellence that we are in fact willing to pay for. The small producer knows when he decides to enter the industry that he is essentially going into competition with already established "corporate giants". It follows, therefore, that he also knows the only way he can survive is to produce a quality product at a mutually satisfactory price. If he fails in his attempt whose fault is it? Check your premises, gentlemen:

Is anyone stopping him from developing a product?

Is there only one company to whom he would sell his product?

Is he restricted from finding his own sponsors for a program?

Is he restricted from setting up a station of his own and using his own programming?

How then is it that he is being stopped by a trade "monopoly"?

Is this whole situation not at least a little similar to the Fair Trade Act, which also was designed to protect the small manufacturer (or producer, if you will) from the large? Was it a solution to the problem? I happen to agree with Miss Rand that no solution is ever for the public good when any individual's rights (even those of the "corporate giant") are infringed upon, most especially for no better reason than the "need" of another.

Sincerely,

Rose Marie Murphy

RMM:mg

cc: James J. Coyle
Chief Attorney
U.S. Anti-Trust Division
1644 U.S. Courthouse
312 No. Spring St.
Los Angeles, California 90012

R. Acunyo, Law Department
National Broadcasting Company
3000 W. Alameda Avenue
Burbank, California 91523



Palo Alto, California, Wednesday, Nov. 17, 1976 15¢ Copy — $3.50 Month

Suit breaks TV network program hold

WASHINGTON (AP) — The ... and agreed to settle ... suit that ... broadcasting ... the production of ... programs.

... against the CBS ... television networks pro- ... provides:

... one of the settlement, ... limit them to annual ... of prime-time ... programs ... producers.

... settlement was ... U.S. District Court in ... and announced by the ...

... the upcoming ... and several other networks would ... direct participation in ... can be bought on their own ...

... Department ... and ... the ... of ... with the government ... carry the case to trial.

... trial could take several years and delay implementation of some of the provisions of the NBC settlement.

The Justice Department ... invited public comment within 60 days on the proposed settlement. At the end of that period, the court decree would take effect if the court agrees.

The government suggests there may be a quick ... to the end ... of the government's three-pronged effort to ... competition in the production and distribution of TV ... programming.

The suits alleged that the three networks violated antitrust law by attempting to monopolize ... prime-time TV entertainment programming. They claimed ... actions by the networks had the effect of ... out independent producers, the government charged.

... independently produced programs were purchased by the networks, the producers were required to give up other ... rights and to comply with other network restrictions, the government continued.

The Department first filed the antitrust suit in 1972 during the period the Nixon administration was ... network news coverage.

... antitrust suits did not involve news, sports or public affairs programs, and Department officials insisted there were no political motives underlying the action.

But network attorneys argued there was reason to believe the suits were part of a White House attempt to ... the networks for their news coverage.

They demanded access to ... time Nixon spoke, which ... largely contained remarks ... with the networks. The department refused to provide the tapes, and the judge dismissed all three suits in late July 1974.

But the court gave the government the right to bring suits again ...

And a month later, the department did so.

The White House tapes were not ... in the second round of suits because Nixon had left the White House by then and the suits were filed under the Ford administration.

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number

BMH:KRS
60-211-62

May 4, 1977

Ms. Rose Marie Murphy
4296 Wilkie Way, #H
Palo Alto, California 94306

Re: United States v. National Broadcasting Company, Inc., (Civil 74-3601-RJK C.D. Cal.)

Dear Ms. Murphy:

This letter is in response to your letter of November 29, 1976, to the Honorable Robert J. Kelleher, District Judge, Central District of California, commenting on the proposed judgment in the above-captioned case. Though not requested to do so, we will treat this letter as if submitted as a comment under the Antitrust Procedures and Penalties Act, 15 U.S.C. §16(b)-(h).

Your letter objects to the entry of that portion of the decree which limits the amount of programming which National Broadcasting Company, Inc. ("NBC") can produce for broadcast on its network. It is the belief of the Department of Justice that this provision is important since it will eliminate the chance that NBC would significantly increase its own internal production, thus foreclosing its network to outside program producers, or that NBC would use the possibility of such production as a means to obtain restrictive rights and interests in programs developed by outside program suppliers in addition to the right of network exhibition.

The Department of Justice appreciates your comments. Your letter and this response will be published in the Federal Register and filed with the Court. In addition, we are enclosing all of the comments and the Government's responses on the proposed Final Judgment.

Sincerely yours,

Bernard M. Hollander, Chief
Judgments and Judgment
Enforcement Section
Antitrust Division

Enclosures

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

March 1, 1977

Dear Bernie:

Pursuant to the notice dated November 17, 1976 as published in the Federal Register for November 24, 1976, at page 51992 inviting comments on the proposed consent decree in United States v. National Broadcasting Company and Judge Kelleher's order extending the time within which to file such comments to March 1, 1977, I am enclosing herewith five copies of the comments of CBS.

Sincerely yours,

Robert S. Rifkind

Bernard M. Hollander, Esq.,
Antitrust Division,
U. S. Department of Justice,
10th Street and Pennsylvania Avenue, N.W.,
Washington, D. C. 20530

Encls.

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BY HAND

3/6/77

COMMENTS OF CBS

ON THE PROPOSED DECREE IN
UNITED STATES v. NATIONAL BROADCASTING COMPANY
Civ. No. 74-3601-RJK (C.D. Cal.)

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March 1, 1977.

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COMMENTS OF CBS

ON THE PROPOSED DECREE IN

UNITED STATES v. NATIONAL BROADCASTING COMPANY

Civ. No. 74-3601-RJK (C.D. Cal.)

Introduction

On November 17, 1976, the United States submitted to the Court a stipulation with defendant National Broadcasting Company, Inc., providing for the entry of a final judgment upon the consent of the parties in accordance with the procedures set forth in the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) ("APPA"). At the same time the Government submitted its Competitive Impact Statement ("CIS").

Pursuant to the APPA, CBS submits this memorandum, together with the affidavits annexed hereto and incorporated herein,* detailing the reasons why the proposed consent decree should not be entered. In particular, we show in Point I below that the proposed decree cannot pass muster under the public interest standard prescribed by the APPA because

(1) the proposed decree is blatantly anticompetitive and, hence, in clear conflict with the national policy declared by the Sherman Act;

(2) the proposed decree would establish a regulatory regime administered by this Court that overlaps and conflicts with the regulatory authority exercised by the Federal Communications Commission ("FCC") under the Communications Act (47 U.S.C. §§ 151 *et seq.*), resulting in prodigious and unnecessary

*Annexed as Appendix A to these comments is the affidavit of Franklin M. Fisher ("Fisher Affidavit"), sworn to February 22, 1977 (pp. 1a-6a, *infra*). Dr. Fisher is a Professor of Economics at the Massachusetts Institute of Technology. Annexed as Appendix B to these comments is the affidavit of Richard A. Posner ("Posner Affidavit"), sworn to February 23, 1977 (pp. 65a-85a, *infra*). Mr. Posner is a Professor of Law at the University of Chicago Law School. The appendices are an integral part of these comments.

duplication of effort, confusion, frustration and conflict of regulation, especially in view of the new Notice of Inquiry issued by the FCC on January 14, 1977 ("Network Practices Inquiry") comprehending every aspect of the television industry to be regulated under the proposed decree; and

(3) the proposed decree would seriously undermine First Amendment values by imposing severe limitations on NBC's freedom to engage in a form of expression.

In addition, we show in Point II below that the proposed decree should not be entered because the Government's CIS—a statutory prerequisite to the entry of the decree—does not comply with the requirements of the APPA.

I.

ENTRY OF THE PROPOSED DECREE WOULD NOT BE IN THE PUBLIC INTEREST AS DECLARED BY THE SHERMAN ACT, THE COMMUNICATIONS ACT AND THE FIRST AMENDMENT.

Under the APPA, enacted in 1974, it is the District Court's duty to determine, as a condition precedent to the entry of an antitrust consent decree, whether the decree would serve the public interest.*

*15 U.S.C. § 16(e) provides as follows:

"Before entering any consent judgment proposed by the United States under this section, the court shall determine that the entry of such judgment is in the public interest. For the purpose of such determination, the court may consider—

"(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

"(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial."

Congress did not intend this list to be exhaustive. 119 CONG. REC. 24599 (1973) (remarks of Sen. Tunney).

The legislative history makes it clear that Congress intended this public interest review by the courts to be an independent inquiry into the underlying case and the merits of the proposed decree.* Congress determined to put an end to "judicial rubber stamping" of antitrust consent decrees.** As Judge Aldrich observed in *United States* v. *Gillette Co.*, 406 F. Supp. 713 (D. Mass. 1975):

> "The legislative history shows clearly that Congress did not intend the court's action to be merely pro forma, or to be limited to what appears on the surface. Nor can one overlook the circumstances under which the act was passed, indicating Congress' desire to impose a check not only on the government's expertise—or at the least, its exercise of it—but even on its good faith." *Id.* at 715.

Although the "public interest" standard of the APPA is not precisely delineated and is undoubtedly broad enough to encompass public policy as declared by national legislation generally, Congress made it evident that the public policy in favor of competition, as declared by the Sherman Act, was its primary concern.† It is plain that under the APPA a precondition to entry of a proposed decree is the court's determination that the decree will, as Congress intended, protect "the public by insuring healthy competition in the future".†† No such determination can be made in this case.

See 119 CONG. REC. 24597-98 (1973) (remarks of Sen. Tunney); S. REP. No. 298, 93d Cong., 1st SESS. 6-7 (1973); H.R. REP. No. 1463, 93d Cong., 2d SESS. 8-9 (1974).

**The report of the House Judiciary Committee states:

"One of the abuses sought to be remedied by the bill has been called 'judicial rubber stamping' by district courts of proposals submitted by the Justice Department. The bill resolves this area of dispute by requiring district court judges to determine that each proposed consent judgment is in the public interest."

H.R. REP. No. 1463, 93d Cong., 2d SESS. 8 (1974). *See also* 119 CONG. REC. 24598 (1973) (remarks of Sen. Tunney).

†H.R. REP. No. 1463, 93d Cong., 2d SESS. 12 (1974).

††S. REP. No. 298, 93d Cong., 1st SESS. 6 (1973).

A. The Proposed Decree Is Anticompetitive and, Therefore, Inconsistent with the Policy of the Sherman Act.

The proposed decree should not be entered because it is fundamentally inconsistent with basic principles of antitrust law. A consent decree that suppresses competition and restrains trade—as this decree does—cannot be held to be in the public interest.

The proposed decree is designed to limit program production and to restrict the program rights that can be bought and sold. Those restraints may benefit particular program producers by shielding them from the rigors of competition, but they cannot promote competition. On the contrary, they are highly anticompetitive. The decree ignores the fundamental fact that the antitrust laws "were enacted for 'the protection of *competition*, not *competitors*,' *Brown Shoe Co.* v. *United States*, 370 U.S. 294, 320 (1962)." *Brunswick Corp.* v. *Pueblo Bowl-O-Mat, Inc.*, 45 U.S.L.W. 4138, 4141 (U.S. January 25, 1977).

To put the matter as simply as possible, if NBC were to agree with ABC and CBS to a limitation on either its program production or the program rights it would seek to acquire from its suppliers, that agreement would without question constitute a *per se* violation of the Sherman Act.* No further analysis would be needed or indeed permitted. The terms and effect of such an agreement would be precisely the same

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*An agreement among competitors to limit production is the functional equivalent of price fixing, and as such it is a *per se* violation of the Sherman Act. *See, e.g., United States* v. *Socony-Vacuum Oil Co.* 310 U.S. 150 (1940); *American Column & Lumber Co.* v. *United States*, 257 U.S. 377 (1921); REPORT OF THE ATTORNEY GENERAL'S NATIONAL COMMITTEE STUDYING THE ANTITRUST LAWS 12 (1955).

Such restraints on production have been frequently enjoined. *See, e.g., United States* v. *General Dynamics Corp.*, 1963 Trade Cas. 78,671 (S.D.N.Y.); *United States* v. *Standard Oil Co. of Calif.*, 1959 Trade Cas. 75,525 (S.D. Cal.); *United States* v. *United Fruit Co.*, 1958 Trade Cas. 75,294 (E.D. La.); *United States* v. *Chemical Specialties Co.*, 1958 Trade Cas. 74,634 (S.D.N.Y.); *United States* v. *Maine Lobstermen's Ass'n*, 1958 Trade Cas. 71,373 (D. Me.); *United States* v. *Shade Tobacco Growers Agricultural Ass'n*, 1954 Trade Cas. 69,413 (D. Conn.).

Similarly, an agreement among competitors to limit the terms of trade on which they will deal with their suppliers or customers is a group boycott and thus a *per se* violation of the Sherman Act. *See, e.g., Fashion Originators' Guild of America, Inc.* v. *FTC*, 312 U.S. 457 (1941); *Eastern States Retail Lumber Dealers' Ass'n* v. *United States*, 234 U.S. 600 (1914).

as that of the proposed decree. Indeed, the relevant provisions of the proposed NBC decree become operative only when, as and if CBS and ABC become bound by these same restraints.* In short, the Government proffers to the Court a system of restraints so pernicious as to be unlawful *per se* were the Government not a party to it.** But the Government's sponsorship of the agreement does not alter its effect, confer any blessing, or turn black into white. What is plainly unlawful under the Sherman Act is not "in the public interest" merely because the Government vouches for it. *United States* v. *Columbia Artists Management, Inc.*, 1963 Trade Cas. 78,796 (S.D.N.Y.), *reaffirmed*, 1964 Trade Cas. 79,265 (S.D.N.Y.), *aff'd per curiam*, 381 U.S. 348 (1965).

Since the principal provisions of the decree are of the type condemned as illegal *per se*, it is not surprising that an analysis of their economic impact confirms their anticompetitive nature.

1. The Production Limitation.

The decree (Section V) would severely limit the amount of television entertainment programming that may be produced by NBC, but it would not alter the demand for programming. Thus, like all restrictions on supply relative to demand, the effect of Section V would be to drive up price. But the effect of competition—and a principal objective of the Sherman Act—is to drive down price.† Moreover, by reducing

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*Proposed Decree, Section VII.

**Cf.* DEPARTMENT OF JUSTICE, REPORT ON THE ROBINSON-PATMAN ACT 212 (1977):

> "Robinson-Patman reaches the goal of protecting more efficient competitors by pricing restrictions which, if agreed to by, say, an association of small businessmen and their suppliers, would be *per se* violations of the Sherman Act. Such agreements would both assure high prices to the sellers, particularly if they were oligopolists, and prevent competition for buyers."

†*See, e.g., Northern Pacific Ry.* v. *United States*, 356 U.S. 1, 4-5 (1958). In its recent REPORT ON THE ROBINSON-PATMAN ACT (1977), the Department of Justice stressed (at 64) the importance of "the antitrust goal of preserving hard bargaining to bring down non competitive prices" and affirmed (at 211) that the "antitrust laws . . . have as their goal the enhancement of consumer welfare by promoting the maintenance of competitive markets and actual competition, primarily on price."

the alternative sources of supply available to meet the demand for television programming, Section V would blunt the spur of competition among producers seeking to sell programs. If the decree's limitation to two and a half hours of prime time entertainment programming per week were applied to MCA (which produces approximately 27.3% of NBC's requirements and approximately 21.4% of the three networks' requirements) rather than NBC (which produces approximately 4.5% of its own requirements and 1.6% of the three networks' requirements),* the anticompetitive impact would be more dramatic but no more real.**

The fact that NBC now produces only a small amount of programming by no means eliminates the anticompetitive significance of the proposed decree because, as the Government recognizes (CIS at 8), NBC is free, absent the decree, substantially to increase its level of production. Thus, even if NBC were not producing any programming, its presence as a potential competitor poised at the edge of the market, ready to enter if prices rise above a competitive level, constitutes a substantial incentive to vigorous competition among those already engaged in program production.† The Government itself has acknowledged that

> "potential competition (*i.e.*, the threat of entry, either through internal expansion or through acquisition and expansion of a small firm, by firms not already or only marginally in the market) may often be the most significant competitive limitation on the exercise of market power by leading firms, as well as the most likely source of additional actual competition. . . ." Department of Justice, Merger Guidelines at 21-22 (1968).

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*Fisher Affidavit, Ex. 3, at 56a-61a, *infra*.

**Fisher Affidavit at 3a, 6a-8a, *infra*; Posner Affidavit at 67a, *infra*.

†Fisher Affidavit at 9a, *infra*. As the Department of Justice noted with approval in its recent REPORT ON THE ROBINSON-PATMAN ACT (at 50), a "seller is particularly vulnerable to hard bargaining when he believes . . . that the buyer will produce the product himself by vertically integrating." In a nutshell, as the Report goes on to state (at 65): "The ability of others to enter new markets is, of course, a key to keeping such markets competitive."

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As the Supreme Court observed in *United States* v. *Penn-Olin Chemical Co.*, 378 U.S. 158, 174 (1964):

> "The existence of an aggressive, well equipped and well financed corporation engaged in the same or related lines of commerce waiting anxiously to enter an oligopolistic market would be a substantial incentive to competition which cannot be underestimated."

The production limits the Government would impose in Section V of the proposed decree eliminate the "substantial incentive to competition" which NBC's potential production capacity now represents.*

It must be noted, moreover, that the Government seeks to restrict not only NBC but also CBS and ABC as program suppliers.** Thus, the reduction in supply or potential supply being sought by the Government- and the anticompetitive effects that would flow from that reduction—are very considerable indeed.

Directly on point here are the decision of the Ninth Circuit Court of Appeals and the position taken as *amicus curiae* by the Government itself in *Cahectics Corp.* v. *Volkswagen of America, Inc.*, 532 F.2d 674 (9th Cir. 1976), *rev'g* 348 F. Supp. 606, 348 F. Supp. 623 (C.D. Cal. 1972) and 353 F. Supp. 1219 (C.D. Cal. 1973). In that action, a manufacturer of automobile air conditioners charged that Volks-

*Vertical and conglomerate acquisitions and mergers have been struck down precisely because they forestall potential independent entry by internal expansion which is "the sort of entry into a new market which Congress intended to encourage". *Bendix Corp.*, 77 F.T.C. 731, 825 (1970), *recid on other grounds*, 450 F.2d 533 (6th Cir. 1971); *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 370 (1963). The elimination of such potential independent entry has regularly been held likely substantially to lessen competition. *See, e.g., United States* v. *Falstaff Brewing Corp.*, 410 U.S. 526 (1973); *Ford Motor Co.* v. *United States*, 405 U.S. 562 (1972); *United States* v. *Penn-Olin Chemical Co., supra*; *FTC* v. *Procter & Gamble Co.*, 386 U.S. 568 (1967); *United States* v. *Phillips Petroleum Co.*, 367 F. Supp. 1226 (C.D. Cal. 1973), *aff'd*, 418 U.S. 906 (1974). The Government would presumably have raised precisely this argument had NBC's elimination as a potential market entrant resulted from a merger with MCA or another program supplier. Yet, the anticompetitive effect of its elimination by judicial decree is every bit as great.

**Proposed Decree, Section VII.

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wagen's acquisition of another air conditioner manufacturer violated Section 7 of the Clayton Act. The District Court (Real, J.) granted summary judgment for plaintiff and entered a decree requiring Volkswagen to divest the acquired company and enjoining Volkswagen (1) from manufacturing or assembling automobile air conditioners in the United States for a period of 10 years, (2) from importing Volkswagen automobiles with air conditioners installed for a period of 7 years, and (3) from purchasing more than 50% of Volkswagen's air conditioner requirements from the divested company.

That decree was sharply criticized by Assistant Attorney General Donald I. Baker as "highly anticompetitive",* a criticism set forth expansively in the Government's *amicus* brief. While recognizing that some ancillary restraints on internal production might in some situations be necessary to insure the viability of the divested company, the Government said that "the additional injunctive provisions which the District Court adopted do not appear to be normal or natural remedies in a Section 7 case".** The Government went on to attack injunctive provisions that were virtually indistinguishable from the production limitation in the proposed NBC decree:

> "The provision prohibiting VWoA from manufacturing air conditioners for 10 years eliminates any competition which VWoA might provide if it entered the market during that period and also eliminates any procompetitive effect VWoA might have as a 'perceived' potential entrant. The limitation on VWoA purchases from the divested company deprives the divested Company of an incentive to attempt to capture more than half of VWoA's business and provides the other manufacturers with a perpetual guarantee of one-half of the business. The seven year restriction on importation by VWoA of automobiles with installed air conditioning not only creates a barrier to competition from foreign air conditioner manufacturers, but may also produce an effect upon competition within

*Baker Outlines Priorities, Methods of Antitrust Enforcement, [1976] 787 ANTITRUST AND TRADE REG. REP. (BNA) AA-1, AA-5.

**Brief of the United States at 17.

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> the automobile market by inhibiting the development and sale of Volkswagen automobiles with factory installed air conditioning."*

The Court of Appeals reversed the District Court's holding that Volkswagen's acquisition violated Section 7 and then went on to comment on the injunctive provisions that might be proper in the event that illegality was established at trial on remand.** After pointing out that divestiture could not be ordered in a private Section 7 action, the Court of Appeals essentially adopted the criticisms expressed in the Government's *amicus* brief. It advised the District Court to reconsider the propriety of the import ban in view of "the unavailability of the divestiture remedy," "the anticompetitive effect of the ban with respect to competition for the sale of automobiles," and "the anticompetitive effect of the ban with respect to competition for the sale of automobile air conditioners." 532 F.2d at 693 94. As to enjoining internal production of air conditioners by Volkswagen, the Court of Appeals said:

> "Because divestiture is not an available remedy, there is scant basis for imposition of a ban on internal expansion on remand." *Id.* at 694.

Finally, with respect to the provision prohibiting Volkswagen from satisfying more than 50% of its air conditioner requirements from the divested company, the Court of Appeals observed:

*Brief of the United States at 18-19.

**In remanding the case for trial, the Court of Appeals found that the District Court had erred in defining the product market as air conditioners sold by the Volkswagens, because such a definition ignores "cross-elasticity" of supply, that is, whether manufacturers of air conditioners for Volkswagens "may with little modification of production facilities produce units for different makes of cars." 532 F.2d at 691. That is to say, while an air conditioner obviously cannot simply be slipped out of a Volkswagen and into a Chevrolet, the obstacles facing a manufacturer who wishes to make such a shift are not substantial, and thus manufacturers of air conditioners for different makes of cars are in competition with one another. Since thirty minutes of "All in the Family" could be played on ABC rather than CBS with no changes whatsoever, it is bizarre that the Government has here defined the market as "the trade and commerce in television entertainment programs exhibited on the NBC Television Network during prime evening hours", thus excluding programs supplied to CBS and ABC in direct part by the same producers who supply NBC. *See* Fisher Affidavit at 2a, *infra*; Posner Affidavit at 23a-75a, *infra*.

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> "... Cahectics argues that the 50% quota creates an open market for the competitors of the divested firm.
>
> "The 50% quota, however, creates the antithesis of an open market. As the district court inadvertently acknowledged, the effect of the quota is to displace the competitive forces of the marketplace and transform a segment of the automobile air conditioning equipment business into a regulated industry. *See* 353 F. Supp. at 1223 ("The Court must therefore fashion some flexible standard by which the business needs of a buyer can be compatible with the needs of the various possible suppliers in this market.") It is inconceivable that such a quota would serve the goals of the antitrust laws, which are designed to preserve competition, not particular competitors." 532 F.2d at 694 (footnote omitted).

The restrictive provisions of Section V of the proposed NBC decree obviously cannot be supported as merely ancillary to divestiture. The proposed decree does not provide for divestiture and, indeed, there has been no acquisition to be divested. Hence, there is no possible justification for a restriction on NBC production in light of the anticompetitive impact of such a ban. Like the quota system imposed on Volkswagen by the District Court and rejected by the Ninth Circuit in *Cahectics*, the quota imposed by Section V on NBC, however attractive it may be to other program producers, "creates the antithesis of an open market" and cannot "serve the goals of the antitrust laws, which are designed to preserve competition, not particular competitors." It is incomprehensible how the Government, having persuaded the Ninth Circuit to denounce in *Cahectics* a quota system that "provide[d] the other manufacturers with a perpetual guarantee of one-half of [VWoA's] business",* can with a straight face here urge the Court to impose a system that would provide other program suppliers with a guarantee of approximately 90 per cent of NBC's business.

Nor was *Cahectics* a fluke. The same point was made by the Government in connection with the consent decree entered in *United States*

*Brief of the United States at 19.

v. *Gillette Co.*, 406 F. Supp. 713 (D. Mass. 1975). In that action, the Government challenged Gillette's acquisition of Braun, a manufacturer of electric razors. The consent decree required Gillette to establish a new company holding all rights to manufacture and market the Braun electric shaver in the United States. Two other manufacturers of electric shavers, Ronson and Remington, objected to the fact that the proposed decree did not prohibit future entry into the electric shaving industry by Gillette utilizing technology acquired from Braun. In response, the Government conceded that such future entry by Gillette was not unlikely but urged that such potential entry was desirable:

> "We look upon such entry as being beneficial due to the resultant competition in the United States electric shaver market even though that entry is facilitated by the residual knowledge derived from [Braun's] past experience."*

The Government dismissed the objections of Ronson and Remington as apparently "more directed at protecting their own market position than at protecting competiton",** and the court acknowledged the validity of the Government's position when entering the decree. 406 F. Supp. at 717.

Finally, it must be noted that the production limitation in the proposed decree is particularly inappropriate in light of the serious shortage over the years of at least one type of programming used by the television networks, namely theatrical feature films. Such films are produced largely by the producers of other types of television programming. When the Government sued the major studios twenty years ago for "block-booking" their theatrical films to television, the head of the Antitrust Division, Victor R. Hansen, explained that shortage of film product had been a substantial problem since the earliest days of television.† A decade later, at the time of ABC's and CBS's entry into

*Plaintiff's Response to Comments regarding the Proposed Final Judgment against the Gillette Co., 40 Fed. Reg. 46,321, 46,325 (1975).

**Id.

†Address by Victor R. Hansen, prepared for delivery to the Federal Communications Bar Association, April 15, 1957, at 4-6. Indeed, Judge Hansen congratulated the networks for the "excellent job" they had done in producing more and more of their own programming in the face of this shortage. *Id.* at 5.

theatrical feature film production in 1967, the theater owners themselves (the other principal users of such product) said that they

> "vigorously applaud, approve and welcome the entry of [ABC, CBS and] all others into the field of production and distribution of feature motion pictures suitable for . . . theatres . . . in the sincere hope that the present and prospective critical shortage of available product will be eliminated."*

Three years later the theater owners found that the product shortage that existed in the 1967 "exists today in more aggravated and perilous circumstances for exhibition."**

In 1974, Judge Palmieri, in denying a motion by the major Hollywood studios to enjoin ABC from broadcasting ABC-produced theatrical motion pictures, found that

> ". . . feature film product has been for a number of years in a state of continuing and acute shortage leading to a substantial escalation of film licensing costs sustained by the television industry. Indeed, the extent of this increase can be gleaned from the fact that the average cost for a feature film license for network television exhibition in 1961 was $100,000.00 whereas it had risen by the end of 1967 to $800,000.00 or more. It was against this background of product shortage and greatly increased licensing costs, paid in substantial part to the plaintiffs, that ABC made its decision to produce theatrical feature films." *Columbia Pictures Industries, Inc.* v. *American Broadcasting Companies*, 1974-1 Trade Cas. 96,092, 96,094 (S.D.N.Y.), *aff'd*, 501 F. 2d 894 (2d Cir. 1974) (footnote omitted).

Nor has the problem abated in recent years. Only last month the *Wall Street Journal* reported that the Hollywood studios are slashing pro-

*Resolution of the Board of Directors of the National Association of Theatre Owners, adopted October 1967.

**Resolution of the Board of Directors of the National Association of Theatre Owners, adopted November 1970

duction and thus causing the shortage of theatrical feature films to reach "crisis" proportions threatening the economic viability of exhibitors.* Given this situation, it is not surprising that theater owners are reported to be giving serious consideration to participating in feature film production and, indeed, to seeking modification of the 1950 *Paramount* decree that restrains certain of them from doing so.**

Restriction of production is antithetical to the objectives of the antitrust laws irrespective of the adequacy of supply. In view of the evidence of product shortage, however, the restriction on network production contemplated by the proposed decree, while perhaps a boon to the major studios in terms of higher prices and protection from competition, is completely irrational and cannot be held to be in the public interest.

2. The Restrictions on the Terms of Trade.

Just as the production limitation of Section V of the decree is patently anticompetitive, so too are the provisions of the decree that would alter and regulate the terms on which NBC may contract with program suppliers. For example, under the decree a producer may not, when selling to NBC the network broadcast right to the initial episodes of a series, also sell to NBC the right to repeat network showings in subsequent seasons of more than three of those episodes† or the right to carry a program for more than four years†† or the right to the exclusive broadcast use of a program throughout its network run.‡ As the Fisher Affidavit states (at 10a, *infra*), "such an alteration by fiat of the terms of trade between networks and program suppliers will not alter NBC's alleged status as a monopsonist [*i.e.*, a monopoly buyer] and indeed may well have the effect of further increasing concentration and

*"Film Exhibitors Face a Financial Crisis As Hollywood Studios Slash Production", Wall Street Journal, February 8, 1977, at 46; this article is annexed hereto as Appendix F, at 10a, *infra*.

**"Pinch Picture Playoff Patterns, Majors Can't Supply Full Year's Product", Variety, March 17, 1976, at 1, 34; "NATO, Distribs Link Arms Against Exhib Financing Ban", Hollywood Reporter, February 15, 1977, at 1, 9.

†Proposed Decree, Section VI(H).

††*Id.*, Section VI(E)(i).

‡*Id.*, Section VI(E)(ii)(a)-(e).

restricting competition" among program suppliers, the very competition the Government alleges that NBC has suppressed.

The proposed decree does not even purport to enhance the competition NBC faces as a buyer of programming. Such competition is generated by NBC's actual or potential *competitors* in the purchase of programming—*i.e.*, other *buyers*, including, particularly, CBS and ABC—but nothing in the decree affects NBC's relationships with CBS and ABC. Indeed, the Government specifically states that the decree is designed "to prevent [NBC] from being placed at a competitive disadvantage with respect to CBS or ABC" (CIS at 14). The Government's proposed alteration and regulation of the terms on which NBC may deal with its *suppliers* simply does not increase competition among the *buyers* of network programming.*

This is by no means to say that the provisions of the decree that effect this alteration are economically irrelevant. Indeed, a restriction on the rights that may be bought and sold might in itself be thought a restraint of trade. Obviously certain restraints of trade—such as an agreement to buy a barber shop only if the seller agrees not to open a new barber shop across the street—may be needed for the functioning of the market. But no such effects flow from this decree's restrictions; on the contrary, there may well be further harmful effects.

As Professor Fisher's detailed analysis demonstrates, the most likely harmful effect of these restrictions on the terms of trade between NBC and its suppliers will be to limit the ways in which the networks can compete** and to force producers to bear more of the risk of a program's failure.† While this may be of little or no consequence to major producers with ample resources, it is likely to have a highly adverse effect on small independent producers and potential

*Fisher Affidavit at 11a, *infra*.

**Id. at 13a, *infra*. E.g., the limitation on NBC's purchase of reruns will restrict its future choices as to program scheduling—a major area of network competition.

†Id. at 11a, *infra*. Section VI(E)(i) of the decree, for example, would limit the renewal options NBC can purchase, thus preventing producers from selling "up front" to NBC options for later years of a program and thereby preventing them from realizing at an early date the current value of those options.

producers without such resources. It is precisely these producers in whose emergence the networks have a vital interest. Tomorrow's Norman Lears and Quinn Martins are obviously not now before the Court and therefore cannot complain of the heightening of entry barriers which the decree will effect.* Conversely, the present suppliers with established track records are likely to enjoy the prospect of being shielded from new competition. Thus, it will hardly be surprising if the major studios and other successful producers urge that the decree should be still more restrictive; the higher the barriers to entry can be raised, the better for them.

Similarly, by prohibiting NBC from acquiring any rights or interests in programming other than the network broadcast right, the decree imposes risks on producers that some of them might well prefer to avoid. As stated in the Posner Affidavit:

> "The value of such rights tends to be highly uncertain; hence the effect of contracts that transfer these rights to the network is to have the network assume the risk that the program will not be successful enough to make the various secondary or residual rights in it commercially valuable. This shifting of risk from producer to network is a boon for the small producer, who may be in no position financially to assume the risks of failure involved in retaining all of the rights to subsequent exploitation of the program." Posner Affidavit at 66a, *infra*.

Thus, the restraint on network production together with the barriers to entry into production and the restrictions imposed on smaller producers all have the tendency to increase concentration in the hands of the major studios. As the Fisher Affidavit states:

> "Concentration resulting from the superior skill, foresight and industry of some competitors is one thing; concentration procured

*See *Times-Picayune* v. *United States*, 345 U.S. 594, 622 (1953):
"Nor can we be certain that the challenged practice, though not destructive of existing competition, did not abort yet unborn competitors equally within the concern of the Sherman Act."

> by fiat is quite another; and concentration resulting directly from a decree ostensibly intended to enforce the antitrust law is simply absurd." Fisher Affidavit at 18a-19a, *infra*.

In a desire to provide producers with fair prices, the decree substitutes a complex system of regulation for competition. But the Sherman Act, unlike minimum wage law and crop price supports, is not concerned with assuring "reasonable" prices or protecting particular competitors. It is concerned with protecting competition.* As stated in the Posner Affidavit:

> "The entry of a regulatory decree is almost a sure sign that the case should never have been brought. The purpose of the antitrust laws is to promote free competition by dissolving restraints of trade and not, as in the proposed decree in this case, to supervise the details of bargaining between buyers and sellers." Posner Affidavit at 68a, *infra*.

And as Professor Fisher concludes:

> "The decree serves the Government's apparent purposes to the extent that it substitutes regulation for competition. But regulation seldom succeeds in achieving the same desirable allocation of resources that results under competition. Indeed, there are usually inherent economic inefficiencies in regulation, not the least of which are the costs, burdens and delays of administering the regulatory regime." Fisher Affidavit at 19a, *infra*.

*As the Department of Justice recently observed in criticising the Robinson-Patman Act as essentially a regulatory statute inconsistent with the purposes of the antitrust laws: "The antitrust laws, as they are embodied in the bulk of the Sherman and Clayton Acts, have as their goal the enhancement of consumer welfare by promoting the maintenance of competitive markets and actual competition." On the other hand, "the regulation of price competition—direct and indirect—for the benefit of certain favored members of an industry, . . . (along with entry regulation) characterizes the essence of economic regulation as it has developed in the American system." Such regulation, said the Department, "strikes at a process which is fundamental to a competitive market: the process by which each buyer negotiates for itself the best possible price". DEPARTMENT OF JUSTICE, REPORT ON THE ROBINSON-PATMAN ACT (1977) at 211, 213, 32.

It was for these reasons that Donald F. Turner, while Assistant Attorney General in charge of the Antitrust Division, cautioned that regulatory provisions in consent decrees "should be looked at with great care" and that regulatory decrees are ordinarily not "the proper business of antitrust."*

B. The Redundant Regulatory Scheme Set Out in the Proposed Decree Cannot Be in the Public Interest.

At the outset of this litigation this Court recognized that there was going to be a "real and substantial problem"** of accommodating any decree in this action with the FCC's regulatory scheme. Because of that "problem" the Court questioned whether it was necessary or appropriate to continue to prosecute the case, but concluded that was a decision which the Court had to leave to others. Despite that admonition, it is apparent from the proposed decree and the CIS that the problem of rationalizing the provisions of the decree with the FCC's regulations has not even been considered by the Department of Justice, let alone solved.

The proposed decree presents squarely to the Court precisely the "real and substantial problem" it anticipated three and a half years ago. Indeed, the proposed decree, embodying a highly complex, elaborate and obscure scheme of regulation, makes it apparent that the problem is even more substantial than might have been anticipated. At the same time, the principal reasons advanced for proceeding with the litigation have clearly evaporated. In denying defendants' motions based on the primary jurisdiction of the FCC, the Court in reliance on arguments made by the Department emphasized that "the FCC is not empowered to adjudicate alleged antitrust violations" and that the FCC's regulations "provide for future conduct, they do not determine the propriety of past conduct". *Id.* But, the proposed decree now

*An Interview With the Honorable Donald F. Turner, 30 ANTITRUST L. J. 100, 108 (1966).

**United States v. National Broadcasting Co., 1974 Trade Cas. 95,987, 95,992 (C.D. Cal. 1973).

before the Court neither "adjudicates alleged antitrust violations" nor determines "the propriety of past conduct". It is purely a complex system of regulation concerning future conduct to be administered by this Court.

The regulatory scheme which the proposed decree would have this Court administer cannot be in the public interest because it would impose a system of regulation that duplicates, overlaps and collides with the FCC's pervasive regulatory regime. As this Court recently found:

> "The breadth and detail of these [FCC] regulations compel the conclusion that the regulatory scheme adopted by the FCC to deal with the problems uncovered by its investigation of the television programming market can be considered nothing less than 'pervasive.' The regulations also provide ample evidence of the fact that the FCC has been active in exercising its regulatory powers with respect to the subject matter of this suit." *United States* v. *CBS Inc.*, Civ. No. 74-3599-RJK, slip op. at 9 (C.D. Cal., Feb. 16, 1977) (footnotes omitted).

In light of that pervasive regulatory scheme, the Court took note "of the substantial likelihood that imposition of the remedies requested by the government in this action may conflict with the directives of the FCC's regulations, thereby subjecting the networks to varying standards of conduct" and that "maintenance of this action could possibly disrupt the FCC's regulatory efforts". *Id.* at 9-10.

However substantial the problem of accommodating the decree in this litigation with the existing body of FCC regulations, more intractable still is the problem of accommodating what will emerge from the FCC's major new inquiry into network practices announced on January 14, 1977 ("Network Practices Inquiry").* The FCC's Notice of Inquiry explicitly announces the Commission's intent to deal

*In re Commercial Television Network Practices and the Ability of Station Licensees To Serve the Public Interest, Notice of Inquiry, Docket No. 21049, 42 Fed. Reg. 4092 (1977). (A copy of the Notice is annexed hereto as Appendix C at pp. 86a-101a, *infra*.)

with each of the areas covered by the proposed decree. The Notice anticipates that "a report concluding the inquiry can be completed within one year following receipt of the comments" to be submitted by June 1. *Id.* at 102a, *infra*.

In the meanwhile:

How can this Court be expected to rationalize the provisions of the proposed decree with regulations which are not only subject to change but not yet even written?

Why should this Court be required to determine, without benefit of an evidentiary record before it, whether the regulations in the proposed decree are in the public interest when the FCC has assembled a "special staff composed of economists, attorneys and others with relevant experience and expertise" and has called for comments by industry members and the general public preparatory to reviewing that very question? *Id.* at 102a, *infra*.

At best the two determinations will be duplicative, and at worst they will be totally inconsistent and will require major revisions by one or both of the tribunals addressing the question. In sum, a comparison of the proposed decree and the Network Practices Inquiry makes it obvious that there is a total redundancy between what this Court is being asked to do and what the FCC is about to do, and that overlap cannot be in the public interest. Nor can the Department still urge that it is necessary for the Court to proceed to an antitrust adjudication unobtainable from the FCC; the proposed decree involves no such adjudication.

We do not seek to reargue here the jurisdictional motions which have been fully briefed earlier in this litigation. We continue to believe that those motions were sound, although we certainly concur in the Court's view that the issues involved are "problematic" and that the Supreme Court could well shed more light on them. We confine our argument here to a showing that the proposed decree does not meet the public interest standard of the APPA (1) because the decree is essentially regulatory and would require this Court to supervise the television industry for at least the next fifteen years and perhaps in perpetuity; (2) because it overlaps and conflicts with current FCC regulations; and

(3) because an assessment of the public interest with respect to every matter covered by the proposed decree has been undertaken in the new FCC Network Practices Inquiry. Finally we urge that if the Court is not disposed to reject the proposed decree now, it should at least stay decision until the FCC has completed its inquiry in order to minimize the conflict and duplication between that inquiry and this proceeding.

1. The Decree Will Require Continuous Judicial Supervision of the Television Industry.

The Department expressly concedes the "regulatory nature" of the decree (CIS at 9). It is important to consider precisely what that means. It means that the decree will have a substantial effect on every phase of program procurement and distribution, including production, production facilities, pilots, stripping, spin offs, and other broadcast and non-broadcast uses of entertainment programs. It means that the Court will be beset with requests for interpretations and modifications of the decree, exemptions from its requirements, and the like.* Virtually every contract and program production will entail some question of application or interpretation under the exceedingly broad and singularly obscure provisions of the decree that will ultimately have to be settled by the Court. In short the Court will be forced to oversee all the business relationships in this industry for 15 years or more.**

The practical significance of such judicial oversight is illustrated by the work of the courts in administering similarly broad "regulatory" consent decrees with respect to music performance rights for the past 35 years in *ASCAP* and with respect to motion picture production and distribution arrangements for the past 28 years in *Paramount*. The *ASCAP* decree was entered in 1941.† It has been amended a number of times since then, including seven times since 1960. The

*Under Section XII of the proposed decree, the Court would retain jurisdiction to entertain applications "at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions" of the decree.

**Portions of the decree are to remain in effect for ten years, others for 15 years, and others in perpetuity.

†*United States* v. *ASCAP*, 1940-43 Trade Cas. 402 (S.D.N.Y. 1941).

court has been called upon to resolve disputes arising under the decree on a nearly continuous basis. Since 1962, for example, there have been more than 60 hearings involving the decree (an average of about four per year) and at least 40 reported decisions. The Department of Justice surely understated the matter when it acknowledged that the *ASCAP* decree has imposed a "heavy burden" on the judiciary.*

Similarly, in the last 28 years under consent decrees in *United States* v. *Paramount Pictures, Inc.*, 1948-49 Trade Cas. 63,009 (S.D.N.Y. 1949), the District Court has been involved in a gargantuan regulatory effort. Proceedings under the decrees have been so numerous that the docket sheet alone extends for more than 200 pages. Over 600 motions, applications and petitions (on the average of more than 20 a year) have been brought seeking modification, interpretation or implementation of the decrees, and requiring hearings on over 250 days and resulting in more than 50 reported judicial decisions.

However great the regulatory labors of the courts in those actions, neither of the industries involved was subject to the additional problems created by the concurrent regulation by an independent administrative agency—much less an agency which like the FCC has been "active in exercising its regulatory powers with respect to the subject matter" of the proposed decree. *United States* v. *CBS Inc.*, *supra*, slip op. at 9.

2. The Proposed Decree Overlaps and Conflicts with Current FCC Regulations.

Even apart from the FCC's new Network Practices Inquiry, which explicitly addresses itself to all the substantive provisions of the proposed decree, the subject matter of most of the substantive provisions in the proposed decree is covered either by existing FCC regulations or by pending FCC proceedings.** Perhaps the simplest illustration of unnecessary duplication (and the potential for conflict)

*Memorandum for the United States, dated January 24, 1974, at 8, *United States* v. *ASCAP*, Civ. No. 13-95 (S.D.N.Y.).

**Attached as Appendix E (at 106a, *infra*) is a checklist of the matters covered in the proposed decree and their treatment by the FCC.

is where the provisions of the proposed decree track, virtually word for word, the language of the FCC's regulations. Thus, the provisions of Section IV of the proposed decree are drawn almost *in haec verba* from the FCC's syndication and financial interest rules.* So long as this identity prevails, perhaps the most that can be said for the decree is that it is totally pointless. There are, however, minor (and perhaps unintended) differences in wording and in context which will immediately suggest differences in interpretation as deals are struck and contracts are drafted with both sets of regulations in mind.

*With regard to financial interest, Section IV of the proposed decree provides that:

"NBC is enjoined and restrained from:

"(A) Acquiring any financial or proprietary right or interest in the exhibition, distribution, or other commercial use of any television program produced wholly or in part by an independent program supplier, other than the right to the Network Exhibition of the program, except as provided in Sections VIII(X)-(D) of this Final Judgment, *provided that* an agreement granting NBC the right to Network Exhibition may include provisions concerning subject matters incident to the licensing and use of network programs . . ."

The FCC's financial interest rule provides, in relevant part, that:

". . . no television network shall:

". . . acquire any financial or proprietary right or interest in the exhibition, distribution, or other commercial use of any television program produced wholly or in part by a person other than such television network, except the license or other exclusive right to network exhibition within the United States and on foreign stations regularly included within such television network. . . ." 47 C.F.R. §73.658(j)(ii) (1976).

On syndication, Section IV enjoins NBC from:

"(B) selling, licensing, or distributing entertainment programs to television broadcast stations for non-network television exhibition (or otherwise engaging in the business commonly known as 'syndication'), or to foreign television stations or networks, except as provided in Section VIII(D) of this Final Judgment."

The parallel FCC rule provides:

". . . no television network shall:

". . . sell, license or distribute television programs to television station licensees within the United States for nonnetwork television exhibition or otherwise engage in the business commonly known as 'syndication' within the United States; or sell, license, or distribute television programs of which it is not the sole producer for exhibition outside the United States . . ." 47 C.F.R. §73.658(j)(i) (1976).

Furthermore, when the two tribunals—the Court and the FCC (and the separate appellate processes to which they are subject)—are called upon to construe the decree and the regulations, it would border on the miraculous for them consistently to arrive at the same interpretation.

But the problem is much more serious than the likelihood that two tribunals will reach divergent interpretations. The Department's CIS declares that Section IV of the decree was intended to "permanently preserve the prohibitions in the FCC's financial interest and syndication rules" (CIS at 8). But the FCC did not intend to have its avowedly experimental regulations "permanently preserved". It intended to reconsider them from time to time in light of experience. Indeed, on January 14 the FCC announced its intention to review the continuing desirability of those regulations in its new Network Practices Inquiry. The Notice of Inquiry states:

> "The proposed NBC consent decree contains terms prohibiting NBC from acquiring distribution rights or profit shares in programs produced by outside producers, and from engaging in syndication of such programs anywhere, and from all syndication in the U.S. These particular terms appear virtually identical to rules adopted by the Commission in 1970 (§ 73.658(j)), prohibiting such activities, including the acquisition of any interest in a program produced by an outside party beyond the right to network exhibition. We invite interested parties to comment on the adequacy of our present rules and to propose alternatives if that appears to be warranted." Network Practices Inquiry, Notice at 98a-99a, *infra*.

Thus, it would appear that the proposed consent decree is designed as a preemptive strike by the Department of Justice on the FCC, intended to forestall the FCC from effectively reconsidering its own regulations. There is no conceivable reason why this Court should be required to participate in such bureaucratic infighting between two government agencies or why the cost of such an intramural struggle

should be visited on the broadcast industry. Nor is there any conceivable reason why this Court should be required to determine without the benefit of any evidentiary record that the perpetuation of those rules is in the public interest when the FCC has just assembled "a special staff composed of economists, attorneys and others with relevant experience and expertise" and called for comments by industry members and the general public to decide that very question. *Id.* at 102a; *infra*.

The utter irrationality of the Department's position becomes apparent when one notes that another portion of the CIS states:

> "Because of the regulatory nature of many of the injunctions in Section VI, and the possibility of changes in the industry, the Department has determined that the prohibitions should contain the time limitations spelled out in this section (15 years for subsections (B), (C) and (E) and 10 years in subsections (D), (F), (G) and (H))." CIS at 9.

No explanation is given (and none can be imagined) why the Department's proposed regulations in Section VI of the decree should be temporary in light of their "regulatory nature" and "the possibility of changes in the industry", whereas the FCC's regulations, applicable to the same industry and equally regulatory, must be "permanently preserved" in Section IV, even though the FCC wishes to reconsider them.

These examples of irrational duplication and conflict are only the tip of the iceberg. The FCC also has been actively regulating the matters covered by other significant provisions of the decree, including those dealing with exclusivity and pilots. With respect to exclusivity, the FCC has adopted a complex set of rules which regulate the use that pay cable may make of feature films being used on conventional television.* That is the same subject covered by Section VI(E)(iii) of the decree, which would regulate network acquisition of exclusive rights to feature films as against pay or subscription television. In addition, the FCC has instituted a new proceeding to conduct an "in depth exploration" of exclusivity provisions (as between broadcast and cable

*47 C.F.R. § 76.225(a) (1976); *see* First Report and Order, Docket Nos. 18873 and 19554, 52 F.C.C. 2d 1 (1975).

television) "which give one form of television service exclusive use of program material vis-a-vis the other. . . ."* That proceeding is ongoing and is likely to deal with many of the same matters to which the exclusivity provisions in the decree (Section VI(E) (ii) and (iii)) are addressed. With respect to alleged "warehousing" by networks of program pilots, the FCC has adopted a rule that is similar, though not identical, to the prohibition in Section VI(F) of the decree.**

Another example of the conflict is provided by the FCC's lifting of the ban on pay cable use of program series. *See* Second Report and Order, FCC Docket No. 19554, 35 R.R.2d 767, 770 (1975). Those who had opposed that action had argued that producers of entertainment series would switch their programs to pay cable. The FCC found that because network-producer contracts generally provide for extended option periods, such an exodus was unlikely to occur. The FCC concluded that the rule would not unduly disrupt broadcast television operations and that it was therefore in the public interest. *Id.* at 772. In the proposed decree (Section VI(E)), the Department now seeks to limit the contract option provisions upon which the FCC relied. The successful operation of the FCC rule might be jeopardized if the proposed decree is entered.

The proposed decree also adopts relief which the FCC has previously considered and rejected. The proposed decree would limit NBC's production of prime time entertainment programming to 2½ hours per week (Section V) or approximately 10% of its schedule. Such relief is necessary, according to the Government, because of the networks' predisposition to use their own programming, thus foreclosing outside suppliers of programs (CIS at 8). The FCC previously considered that same contention in connection with the proposed "50/50" rule which would have had the effect of limiting network program

*Notice of Inquiry, FCC Docket No. 20102, 52 F.C.C. 2d 87, 88 (1975).

**47 C.F.R. § 73.658(j)(ii) (1976). The FCC rule requires that if a network does not avail itself in timely fashion of its license to network exhibition of a program, the licensor may repurchase the program by reasonably compensating the network. The decree would prohibit NBC from keeping more than 35 percent of its pilot inventory for more than six months and would require that it sell the remainder at prices representing NBC's unrecouped costs.

production in prime time to 50% of its schedule.* However the FCC declined to adopt even a 50% limitation when it adopted instead the prime-time access rule which intentionally draws no distinction between programs produced by the networks and those obtained by them from independent producers and applies by its terms only to stations in the top 50 markets.**

The FCC has thus considered and rejected as not in the public interest a restriction on production much less stringent than the restriction in the proposed decree, adopting instead an alternative means of dealing with the same problem. The production limitation in the proposed decree would conflict with that public interest determination. Furthermore, the FCC has repeatedly amended that alternative (the prime-time access rule)and has expressly left the rule subject to future review in the light of experience. *Id.* at 384, 401. There is, therefore, not only current conflict but the potential for additional conflict should the FCC decide to modify the prime-time access rule in the future or to adopt some other solution.

Finally, it should be noted that all of the FCC's work in this area has been guided by its perception that the public interest requires that the networks assume responsibility for their program offerings and not operate merely as common carriers of other people's programming. Indeed, the networks have been repeatedly urged by the FCC, Congress and the public to be vigilant in exercising their responsibility for programming. The provision in the decree limiting the network's program production seriously curtails the network's capacity to meet that responsibility.

As the foregoing makes clear, there were ample grounds for the Court's recent finding that there is a "substantial likelihood that impo-

*Report and Order, Docket No. 12782, 23 F.C.C.2d 382, 384 (1970)

***Id.* As this Court noted in its exclusive jurisdiction opinion:

". . . [T]hese regulations were promulgated for the express purpose of fostering free competition in the television program market and clearly reflect the Commission's efforts to change many, if not all the practices challenged by the government in this antitrust action." *United States v. CBS Inc.*, *supra*, slip opinion at 8-9.

sition of the remedies requested by the Government in this action may conflict with the directives of the FCC's regulations," and "that maintenance of this action could possibly disrupt the FCC's regulatory efforts". *United States* v. *CBS Inc., supra*, slip op. at 9-10. Whatever one thinks of the desirability or wisdom of this mass of FCC regulations, surely the only sound way either to modify, repeal or perpetuate them is by proceeding before the FCC, or by obtaining judicial review of the FCC's actions, and not by the ambush of collateral attack. The inappropriateness of such a collateral attack is particularly apparent in light of the Court's observation that: "The FCC has demonstrated its attentiveness to the problems of competition in the prime time television program market and has taken steps, within its statutory powers, to see that the public interest is served. The Commission's obligation to regulate for the public interest can, and should offer sufficient assurance that antitrust policy and concerns will be considered in the course of regulating the telecommunications industry." *United States* v. *CBS Inc., supra*, slip op. at 13-14.

3. The FCC's New Network Practices Inquiry Is Explicitly Addressed to All the Matters Covered by the Proposed Decree.

However difficult the problems noted above of accommodating the proposed decree with rules that are extant, the problems of accommodation created by the FCC's new Network Practices Inquiry are still greater. According to the FCC, this broad inquiry into "television network practices and policies regarding the acquisition and distribution of television programming," was prompted in part "by allegations contained in antitrust complaints" in this action and the two companion cases. Network Practices Inquiry, Notice* at 87a, *infra*. The FCC recognized that its inquiry and the judicial proceeding will be "concurrently examining similar issues. . . ." *Id.* at 88a, *infra*.

The matters covered by the FCC inquiry and the proposed consent decree are not only similar, they are virtually identical. Indeed, the FCC inquiry—which will embrace, *inter alia*, network syndication, net-

work program production, program contract options and exclusivity provisions, use of network production facilities, and network program terms—is designed to consider the same factors of competition addressed by the antitrust court, as well as the need, if any, for every substantive provision in the proposed consent decree. For example, the CBS asserts the decree would place "specific outer limits" on network program production in order to reduce NBC's ability to make use of its alleged power over program sources (CBS at 7). But the FCC has directed its inquiry at that very issue: whether the networks have such power; if so, whether they have an "anticompetitive advantage over potential competitors", and how that advantage, if it exists, affects the supply of independently produced programs. Network Practices Inquiry, Notice at 93a, *infra*.

The Department of Justice appears now to admit some concern that this latest FCC proceeding, which the Department generally supports, will create problems for this Court and, accordingly, it urged that the FCC not consider the issues raised by the litigation. Thus, while the Department initially filed comments with the FCC stating that it conducted a "comprehensive inquiry into network television"—just as it has urged this Court to conduct "a complete inquiry into this industry"†—the Department subsequently filed a letter with the FCC

*Section IV of the proposed decree, concerning syndication and financial interests, is covered by paragraphs 21 and 22 of the Notice of Inquiry, Section V and VI(A-D) of the proposed decree, concerning network program production are covered in paragraph 23 of the Notice, Section VI(E) and (G) of the proposed decree, concerning production facilities, are covered by paragraph 24 of the Notice, Section VI(E)(a) et seq. proposed decree, concerning production options, is covered by paragraph 25 of the Notice, Sections VI(E)(a) and (a.), (b-y), (G) and (H), concerning network exclusivity of program series and feature films, pilots, sequels and reruns, are covered by paragraphs 26 and 27 of the Notice. *See also* the chart attached as Appendix E, which lists FCC treatment of the items of relief in the proposed decree. As the Court has noted "The powers of the Commission to regulate the radio and television industries are unquestionably broad and flexible" and that "regulatory scheme is broad enough to comprehend the subject matter of this litigation." *United States* v. *CBS Inc., supra*, slip op. at 5-6.

†Comments of the United States Department of Justice, pp. 2, 4, Network Practices Inquiry, 14 C Edc RPI 2:49 (filed November 23, 1976).

[Memorandum of the United States in Opposition to Defendants' Motion for Summary Judgment on the Sherman Act Claims, dated January 19, 1976, at 25

urging that the FCC not inquire into the issues of competition in program supply involved in these cases. That letter stated:

> "While we continue to believe that a general inquiry by the Commission into network practices is appropriate and fully warranted at this time, we wish to emphasize that the Department's comments should not be considered as suggesting that the inquiry encompass those issues now being litigated in the Federal District Court in California."*

But the FCC has flatly rejected such a limitation. It has decided instead to consider the same competitive issues and the wisdom of the same types of regulatory provisions sought in the proposed decree, and thus has reaffirmed its intention actively to exercise its jurisdiction to impose whatever prospective rules are necessary to improve competition in connection with the matters that are the subject of these cases. To be sure, the FCC has also expressed its view that its inquiry should not preclude the Department from prosecuting these cases or seeking consent decrees. Network Practices Inquiry, Notice at 88a, *infra*. But the FCC has emphasized its own intention to review the competitive issues, and to decide whether or not to order the same or different remedial measures. Thus, whatever the FCC's views on the pending antitrust cases against the networks, it now appears inevitable that the proposed decree will either duplicate or conflict with the regulatory orders of the FCC and with the FCC's assessment of the public interest.

It is clear from its Notice of Inquiry that the FCC believes that a further careful study of each of the issues covered by the proposed decree is warranted, thus virtually ensuring that this Court would have to revisit the decree when the FCC's investigation and study are completed next year. Therefore, even if the redundancy and conflict inherent in the two regulatory schemes does not persuade this Court that it should now disapprove the proposed decree as not in the public interest, the Court should, at the very least, postpone consideration of

*Letter from Donald I. Baker, Assistant Attorney General for the Antitrust Division, to FCC Chairman Richard E. Wiley, p. 1, December 3, 1976. A copy of this letter is annexed hereto as Appendix D.

the proposed decree until completion of the FCC's current inquiry in order to enhance the possibility of an accommodation, to mitigate the inevitable conflicts and to reduce the danger of divergent views of the public interest.* As the Ninth Circuit Court of Appeals said in *Chronicle Publishing Co.* v. *National Broadcasting Co.*, 294 F.2d 744, 747 (9th Cir. 1961), in upholding a stay of an antitrust action pending an FCC review:

> "We are then confronted with the prospect of two tremendously complex proceedings simultaneously assembling the same factual data in painstaking detail for the purpose of considering these facts from different points of view. The situation is one which cries out for the elimination of wasteful duplication of effort. If the mechanics of justice are not to be wholly overwhelmed by the steadily increasing burden of complex antitrust litigation, means must be found for easing that burden. The elimination of unnecessary duplication does not appear unreasonable under these circumstances."

C. The Proposed Decree Conflicts with the Paramount Public Interest in Freedom of Speech.

The proposed decree is not in the public interest because the program production limitation seriously impairs the freedom of speech protected by the First Amendment.

It is beyond dispute that the television networks have First Amendment rights, *Columbia Broadcasting System, Inc.* v. *Democratic National Committee*, 412 U.S. 94 (1973); *Rosenbloom* v. *Metromedia, Inc.*, 415 F.2d 892, 895 (3rd Cir. 1969), *aff'd*, 403 U.S. 29 (1971), and that entertainment programming is a form of speech protected by the First Amendment, *Schacht* v. *United States*, 398 U.S. 58, 63 (1970); *Joseph Burstyn, Inc.* v. *Wilson*, 343 U.S. 495, 501 (1952). As the Supreme Court wrote in *Winters* v. *New York*, 333 U.S. 507, 510

*Cf. *United States* v. *American Telephone & Telegraph Co.*, 39 R.R.2d 203, 209 (D.D.C., Nov. 24, 1976). While Judge Waddy declined to refer the early proceedings in that case to the FCC, he nevertheless expressly noted that certain matters might be referred to the Commission later in the case, after the issues were "more sharply defined".

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(1948): "What is one man's amusement, teaches another's doctrine." Nor does speech lose its constitutional protection because it is undertaken for profit. This fact is, in the words of the Supreme Court, "as immaterial in this connection as is the fact that newspapers and books are sold". *New York Times Co.* v. *Sullivan*, 376 U.S. 254, 266 (1964). *See Bigelow* v. *Virginia*, 421 U.S. 809 (1975).

The proposed decree represents a gag which was avowedly designed to curtail the network's capacity to engage in a form of protected speech. It constitutes, therefore, a species of prior restraint —the very core of the evil to which the First Amendment was addressed. *See, e.g., New York Times Co.* v. *United States*, 403 U.S. 713, 714 (1971); *Carroll* v. *President and Commissioners of Princess Anne*, 393 U.S. 175, 181 (1968); *Lovell* v. *Griffin*, 303 U.S. 444, 451-52 (1938); *Near* v. *Minnesota*, 283 U.S. 697, 713 (1931). The fact that the proposed ban on NBC production is less than total does not alter the fact that the proposed decree explicitly "abridges" freedom of speech. The decisions striking down prior restraints have seldom if ever involved total bans; most have involved abridgments that were much more limited. Indeed, in protecting freedom of speech, the courts have held invalid not only express prohibitions but also much more subtle forms of restraint.* Similarly, the fact that the decree would leave the network free to produce news, sports and public affairs programming does not legitimatize the serious restraint that it does impose on a significant and protected category of speech. A decree prohibiting Doubleday from publishing novels and poetry would not be rescued from constitutional infirmity because it permitted the publication of history and biography. *See Schneider* v. *New Jersey*, 308 U.S. 147, 163 (1939).

*E.g., *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965) (chilling effect on First Amendment rights of threatened prosecution under statute purporting to regulate expression justifies injunctive relief by federal court); *New York Times Co.* v. *Sullivan*, 376 U.S. 254 (1964) (award of damages to a public official for defamation, absent proof of actual malice, violates the First Amendment); *NAACP* v. *Button*, 371 U.S. 415 (1963) (law prohibiting NAACP from assisting in litigation voided as infringing First Amendment rights); *NAACP* v. *Alabama*, 357 U.S. 449 (1958) (order compelling NAACP to list organization's members violated members' constitutional right of association).

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Nor is it relevant that NBC would remain free under the decree to broadcast programs produced by others. A broadcaster's rights, protected by the First Amendment, include the right to speak for itself, and not merely to transmit the speech of others. A speaker has a right "to advance its own . . . views", *Columbia Broadcasting System, Inc* v. *Democratic National Committee*, 412 U.S. 94, 117 (1973), and to be "more than a passive receptacle or conduit" for the views of others, *Miami Herald Publishing Co* v. *Tornillo*, 418 U.S. 241, 258 (1974). As is plain from *Tornillo*, a newspaper cannot be required to carry a letters-to-the-editor column. *A fortiori*, a newspaper could not be prohibited from carrying more than two columns a day of articles by its own reporters, even though it was left free to fill the balance of each issue with material from syndicated columnists and wire services. Yet that is in substance precisely what Section V of the proposed decree does.*

Finally, we are not making any claim that the First Amendment immunizes broadcasters or anyone else from liability under the Sherman Act. We are concerned here only with the particular provisions of an ostensibly remedial decree. The Supreme Court and other courts have repeatedly recognized that, even where liability has been clearly established by an evidentiary record, injunctions must be carefully

*By limiting the amount of entertainment programming which the network may produce itself, the proposed decree would compel the network to fill its remaining programming needs from independent program suppliers. But if, under the Supreme Court's decision in *Democratic National Committee*, a network cannot be compelled to *sell* advertising time, neither can it be compelled to *buy* someone else's programming.

It should be noted that, beyond the proscription of the First Amendment, Congress has provided in the Communications Act that "a person engaged in radio broadcasting shall not . . . be deemed a common carrier". 47 U.S.C. § 153 (h). *See also* 47 U.S.C. § 326. Indeed, the Communications Act, 47 U.S.C. §§ 151 *et seq.*, and the regulations issued by the FCC thereunder, *see* 47 C.F.R. §§ 73.658 (d) (e), impose on broadcasters an affirmative obligation to exercise independent judgment in determining what to broadcast. Thus, broadcasters have not only a right but a duty to broadcast those programs —and only those programs— that they independently believe should be broadcast. The decree clearly conflicts with that right and that duty. What is NBC to do if it is dissatisfied with the programs offered to it by other program producers? The decree bars NBC from broadcasting what it believes should be broadcast, when it cannot get what it wants from others.

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framed to avoid intrusion upon rights protected by the paramount dictates of the First Amendment. Thus, in *Associated Press* v. *United States*, 326 U.S. 1 (1945), in sustaining an injunction prohibiting an association of publishers from excluding other publishers from membership, the Supreme Court was careful to point out that the decree involved had no effect whatsoever on the First Amendment activities of the association:

> "The decree does not compel AP or its members to permit publication of anything which their 'reason' tells them should not be published. It only provides that after their 'reason' has permitted publication of news, they shall not, for their own financial advantage, unlawfully combine to limit its publication." 326 U.S. at 20 n. 18.

And in *United States* v. *Lorain Journal Co.*, 92 F. Supp. 794 (N.D. Ohio 1950), *aff'd*, 342 U.S. 143 (1951), the district court wrote:

> "There is no appeal to any Court more apt to strike a responsive chord than an appeal to rights guaranteed by the First Amendment and under no consideration would this Court reach the conclusions here expressed were they instrumental in undermining or even affecting a free press. In the balance of our constitutional scheme the importance of the First Amendment may be such that sanctions consonant with the Commerce Clause, art. 1, § 8, cl. 3, and clearly applicable to other enterprises cannot be used against a newspaper." 92 F. Supp. at 800.

By contrast, in *Sun Publishing Co.* v. *Walling*, 140 F.2d 445 (6th Cir.), *cert. denied*, 322 U.S. 728 (1944), where the district court had enjoined delivery or transport of newspapers that had been published by an employer who violated the Fair Labor Standards Act, the court of appeals found the injunction constitutionally impermissible because it amounted to "suppression and injunction which is a restraint upon publication. *Near* v. *State of Minnesota, supra*," 140 F.2d at 450.

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Like the decree reversed in *Sun Publishing*, the proposed NBC decree entails "suppression and injunction". The Government is asking the Court to find that an enforceable judicial decree restraining freedom of speech is in the *public* interest. Given the paramount expression of the public interest set forth in the Constitution, such a finding cannot be made here.

II.

THE GOVERNMENT'S COMPETITIVE IMPACT STATEMENT FAILS TO SATISFY THE REQUIREMENTS OF THE ANTITRUST PROCEDURES AND PENALTIES ACT.

The Antitrust Procedures and Penalties Act* constituted a major reform of the procedures and conditions for entry of antitrust consent decrees. The Act was designed to help restore public confidence in the enforcement of the nation's antitrust laws by providing the court and the public with a full assessment of a proposed decree's anticipated effects on competition as well as the circumstances under which the decree was negotiated. In the words of the bill's sponsor, Senator Tunney:

> "It is more sunlight that we are seeking to shed on the methods and manner by which we settle complex and costly antitrust suits through the consent decree process.**

The principal tool for illuminating the consent decree process is the "competitive impact statement" which the APPA requires the Department of Justice to file with the court and publish in the Federal Register when the proposed decree is filed. The CIS must not only state the "nature and purpose" of the case but also describe the "practices or events" giving rise to the alleged antitrust violation

*15 U.S.C. § 16(b)-(h).
**119 Cong. Rec. 24599 (1973).

and must then explain "the anticipated effects on competition" of the proposed relief.* Congress clearly intended the competitive impact statement to be similar in function to the "environmental impact statement" required under the National Environmental Protection Act.**

*The act provides that:

". . . Simultaneously with the filing of such proposal, unless otherwise instructed by the court, the United States shall file with the district court, publish in the Federal Register, and thereafter furnish to any person upon request, a competitive impact statement which shall recite—

"(1) the nature and purpose of the proceeding;

"(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

"(3) an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, *and the anticipated effects on competition of such relief*;

"(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that such proposal for the consent judgment is entered in such proceeding;

"(5) a description of the procedures available for modification of such proposal; and

"(6) a description and evaluation of alternatives to such proposal actually considered by the United States." 15 U.S.C. § 16(b) (emphasis added).

**42 U.S.C. §§ 4321 *et seq.*, 4332 (2)(c). *See* remarks of Senator Tunney and Senator Gurney, 119 Cong. Rec. 24599, 24600 (1973). Again to quote Senator Tunney:

"The public impact statement, perhaps the most novel feature of the bill, is similar to the environmental impact statement presently called for under the National Environmental Protection Act. It is, therefore, not without precedent, but rather reflects a continuing concern on the part of Congress to assure that decisions having a major public impact be arrived at through procedures which take account of that impact." 119 Cong. Rec. 24599 (1973).

As litigation under the analogous provision of NEPA has made clear, an impact statement is inadequate if it consists of conclusions unsupported by facts or fails to disclose and evaluate fully both the negative as well as the positive impact of the proposed action. *See, e.g., Silva* v. *Lynn*, 482 F.2d 1282 (1st Cir. 1973); *Monroe County Conservation Council, Inc.* v. *Volpe*, 472 F.2d 693 (2d Cir. 1972); *Chelsea Neighborhood Associations* v. *United States Postal Service*, 380 F. Supp. 1171, 1184 (S.D.N.Y. 1975), *aff'd*, 516 F.2d 378 (2d Cir. 1975).

Congress left no doubt that the "impact" with which it was primarily concerned is the impact on competition. As the House Judiciary Committee wrote:

"Wherever appearing in the bill, your Committee has substituted the word, 'competitive' for the word, 'public' in the phrase, 'public impact statement' because: (a) the antitrust laws protect and promote competition; (b) the expertise the Antitrust Division is charged by the Congress with institutionalizing focuses on 'competitive' effects; (c) ambiguities arising from the usage of 'public impact' in environmental case law and statutes are foreclosed; (d) current proposals for inflationary 'impact statements' might otherwise be thought to be adopted which they are not except to the extent that the analysis of or the prediction of competitive effects in antitrust law traditionally entail inflationary considerations; and (e) the substitutions refine and emphasize legislative purposes and guidelines for the contents of the 'impact statement' mandated by the bill."*

Thus, the essential purpose of a CIS is to explain the competitive effects, both positive and negative, that the proposed decree may have.

A. The CIS Fails To Explain the Impact of the Proposed Decree on Competition.

We have discussed above the respects in which the proposed decree is anticompetitive.** Even if that discussion were less conclusive than we believe it to be, the points we have raised are obviously not so inconsequential that they can be ignored. Yet the CIS ignores them completely.*** It contains no discussion of the proposition that eliminating a supplier or potential supplier is inherently anticompetitive, even though the Government has frequently asserted that proposition in the past, and

*H.R. Rep. No. 1463, 93d Cong., 2d Sess. 12 (1974).

**See pp. 2-17, *supra*.

***This is particularly surprising inasmuch as before the proposed decree and CIS were filed, we fully described the anticompetitive effects of the proposed decree to the Department of Justice

there is no attempt to rationalize the provisions of the decree with the prior conflicting statements of antitrust policy by the Government. Nor is there any discussion of the prospect that the shifting of risks, resulting from the decree's restrictions on the rights that may be bought and sold, will lead to increased concentration and restriction of competition among program suppliers. Whether right or wrong, these points are clearly not frivolous. Failing even to allude to them is inherently deceptive.* Indeed, the CIS is subject to all of the criticisms that the Government, in its *amicus* brief in *Cahuetics*, heaped on Judge Real for his failure to analyze the economic significance of the decree entered and later vacated in that action.**

In so far as the Government says anything about the competitive impact of excluding a competitor, it engages not in discussion but in mere *ipse dixit*:

"[The productim limitation] would enhance competition in television entertainment program production and exhibition by eliminating the possibility that NBC could substantially increase its internal production of its network programs and thereby exclude independent program suppliers". CIS at 8.

In plain and simple terms, this statement says that competition will be enhanced by eliminating a competitor, and that is arrant nonsense. Obviously, every time NBC selects one of its own programs, the slot in the schedule occupied by that show cannot be occupied by a program produced by someone else. The exclusion that results when NBC chooses an NBC program is no different from the exclusion that results when NBC chooses an MCA program instead of a Warner Bros. program. As far as Warner Bros. is concerned, the result is the same. *See* Fisher Affidavit at 6a-7a, *infra*. Competition among producers is no more suppressed when NBC selects one of its own

*See comments on the proposed decree submitted by the Institute for Public Interest Representation (letter from Victor H. Kramer and Thomas Kraftenmaker to Bernard M. Hollander, dated January 19, 1977).

**See pp. 8-9, *supra*.

programs than it is suppressed when NBC selects an MCA program. Moreover, the CIS fails to consider that the production limitation eliminates the likelihood that the large market shares of others—which, in the case of MCA, approximates 30% of NBC's prime time entertainment programming—will be threatened with erosion by, among other things, NBC's competition. But that threat is the essence of competition.* Thus, for the CIS to claim, without the slightest rational explanation, that prohibiting NBC from selecting one of its own programs will "enhance competition", when in fact it will suppress it, is simply to call black, white.

In so far as the CIS says anything about the effects on competition likely to result from the alteration of the terms of trade on which NBC may contract with program suppliers, it provides not an explanation, but only the spare and opaque statement that the "regulatory" provisions of the decree will enable program suppliers "to compete free of the artificial leverage which NBC, and other networks, have exercised in the past". CIS at 9. Plaintiff may know what is meant by "artificial leverage"; we certainly do not. A CIS should not be a guessing game. It should state forthrightly the anticipated effects on competition. Instead, plaintiff offers up a meaningless formula of words.

Furthermore, inasmuch as one of the paramount objectives of the

*We do not deny that NBC's presence as a competitor or potential competitor in program production may be quite uncomfortable for program suppliers, but here as in *Brunswick Corp.* v. *Pueblo Bowl-O-Mat, Inc.*, 45 U.S.L.W. 4138 (U.S. Jan. 25, 1977), the grievance is at best that they are being deprived "of the benefits of increased concentration". *Id.* at 4141. Their position is entirely analogous to the plaintiffs' in *Brunswick* who claimed that the antitrust laws had been violated when Brunswick, one of the two largest manufacturers of bowling equipment in the United States, acquired a large number of failing bowling alleys to whom it had extended credit. Plaintiffs sought as damages an amount equal to the increased profits they would have earned had Brunswick allowed the defaulting bowling alleys to close. The Supreme Court rejected this claim, holding that "the profits [plaintiffs] would have realized had competition been reduced" were not recoverable as antitrust damages. *Id.* The Court stated that "it is quite clear that if [plaintiffs] were injured, it was not 'by reason of anything forbidden in the antitrust laws' . . . ." Indeed, the Court explained, since the "antitrust laws . . . were enacted for 'the protection of *competition*, not *competitors*,' *Brown Shoe Co.* v. *United States*, 370 U.S. 294, 320 (1962) . . . [i]t is inimical to the purposes of these laws to award damages for the type of injury claimed here." *Id.*

Sherman Act is lower prices,* the CIS certainly ought to have indicated what impact the proposed decree will have on the price of programming. The CIS does not deal explicitly with that subject, however, and in so far as it says anything implicitly, it says—we believe correctly—that the price of programming will rise.** Of course, for the Government to have said that explicitly would have exposed what the CIS carefully conceals: the decree will drive up prices by suppressing competition. As the Fisher Affidavit states (at 5a-6a, *infra*):

> "... one can either seek to stimulate competition among sellers (and thereby drive down price) or one can seek to increase the remuneration that sellers receive (by driving up price), but one cannot increase sellers' remuneration by stimulating the competition among them. In so far as the Government's goal is to increase the remuneration of program suppliers, the decree may well achieve that goal, but it will do so only to the extent that it suppresses competition among them."

In sum, the CIS fails either to warn of the competitive costs of the proposed decree or to demonstrate any competitive benefit. Since those costs are quite significant and any benefit is far from self-evident, this failure is sufficient reason to reject the proposed decree.

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*See, e.g., *Northern Pacific Ry.* v. *United States*, 356 U.S. 1, 4-5 (1958) (emphasis added):

> "The Sherman Act was designed to be a comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade. It rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, *the lowest prices*, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions. But even were that premise open to question, the policy unequivocally laid down by the act is competition."

**See also* Memorandum of the United States in Opposition to Defendants Motion for Summary Judgment on the Sherman Act Claims, dated January 19, 1976, at 10 ("the independent television production industry is suffering undue hardship at a time when network profits are soaring") and 20-21 ("the network effectively precludes the producer from receiving payment commensurate with the success of his program and from re-negotiating his contract . . . . All three networks engage in parallel conduct with respect to the below cost pricing . . . .").

Moreover, the CIS is defective in two other critical respects, as we show below. It fails to provide an adequate understanding of the nature and purpose of the proceeding and the practices and events giving rise to the alleged antitrust offense, and it fails to provide a rational link between whatever harm is complained of and the relief set forth in the proposed decree.

B. The Statement of Nature, Purpose, Practices and Events Is Either Unintelligible or Devoid of Antitrust Significance.

The APPA requires the Government to specify the "nature and purpose" of the case and the "practices or events" upon which it is based. 15 U.S.C. § 16(b)(1), (2). Such information is obviously necessary in order adequately to assess a proposed decree. Nevertheless, the CIS fails to meet those requirements. Moreover, in so far as the CIS purports to identify nature, purpose, practices and events, it is unintelligible and hence does not provide the basis for analysis required by the APPA. Indeed, what it says is either so contradictory or so devoid of antitrust significance as to retard rather than advance analysis.

For example, the CIS states (at 2) that each of the networks has "monopolize[d] prime time television entertainment programming", which would seem necessarily to mean that the networks are not in competition with one another. But the CIS goes on to state (at 13) that Section VII of the decree, which provides that certain provisions of the decree will not go into effect until similar injunctive relief is obtained against CBS and ABC, is needed to "avoid placing NBC at a competitive disadvantage with respect to CBS and ABC . . . ." The Government does not explain the clear incompatibility between these two claims. One can only be placed at a competitive disadvantage with respect to one's competitors; but if NBC is in competition with ABC and CBS, it is clearly not a monopolist.*

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*Of course the claim that the three networks do not compete with one another is a fiction. *See e.g., Columbia Pictures Industries, Inc.* v. *American Broadcasting Companies*, *supra*, 1974-1 Trade Cas. at 94,095 ("The television networks are in vigorous competition with each other. They are engaged in a continuous and lively rivalry for the attention of audiences, which is the very crux of their commercial objectives."); Fisher Affidavit at 2a, n.1, *infra*; Posner Affidavit at 73a-75a, *infra*.

The CIS proceeds from inconsistency to absurdity when it states that

> "NBC, through its affiliated television stations, has control of access to approximately 98% of all United States television households for programs which it offers for broadcast." CIS at 3.

Does this statement mean that NBC controls access to 98% of the viewing audience, with CBS and ABC dividing the remaining 2%? Obviously not, since the Government has also charged that CBS and ABC also "control access" to a like percentage of all television households.* Thus, the quoted statement must mean that the "control" NBC exercises is compatible with the exercise of like control by both CBS and ABC. But that means that none of the three exercises "control" in any known sense of that word. Thus, one must ask what does "control of access" mean? What, for example, happened to NBC's alleged "control of access" when ABC attracted 71% of the national viewing audience last month with "Roots"? The absurdity becomes even more apparent if we apply the above quoted statement to Macy's, Bloomingdale's and Gimbel's, assuming they are the only department stores in town:

> "Macy's, Gimbel's and Bloomingdale's each have control of access to approximately 98% of all New York City department store customers for the goods which they offer on their counters."

That says no more than that Macy's, Gimbel's and Bloomingdale's are in competition with each other.

When, based on the notion of "control of access", the CIS attempts to capsulize the gravamen of the complaint, it ascends to the

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See Plaintiff's Second Request for Admission of Facts, *United States* v. *CBS Inc.*, Civ. No. 74-3599-RJK (C.D. Cal.), filed Dec. 27, 1975, ¶ 15; Plaintiff's Second Request for Admission of Facts, *United States* v. *American Broadcasting Companies, Inc.*, Civ. No. 74-3600-RJK (C.D. Cal.), filed Nov. 4, 1975, ¶ 15.

surreal. According to the CIS, the central economic problem to which this antitrust suit is addressed is that:

> "[E]ach of three networks controls program producers' and advertisers' access to the nation's commercial television audiences and each network has abused its power by refusing access to programs which it did not produce or in which it had no financial interests." CIS at 7.

This statement is without a shred of antitrust significance, as the analogy to Macy's, Bloomingdale's and Gimbel's makes clear. No one has ever suggested any impropriety in the fact that each of those stores pursues the normal practice of selling goods that they have either produced or bought (*i.e.*, in which they have acquired an "ownership" or "financial interest"). Conversely, it would not be surprising if these stores declined to sell goods that they did not own and declined also to let other people set up counters in their stores. Again, if we simply take the Government's language and apply it to the department store analogy, its absurdity becomes patent:

> "[E]ach of the three department stores controls manufacturers' access to department store customers and each store has abused its power by refusing access to goods which it did not produce itself or which it had not bought at wholesale."

If this statement makes out a violation of the antitrust laws, then the norm of the American economy is the continuous and universal violation of those laws.

The notion lurking in the CIS that the networks supply program suppliers "access" to the television viewing audience is utterly bizarre. The networks are not "selling access" to program suppliers; they are buying programs from them. And program suppliers are not "buying access" from the networks; they are selling programs to them. To be sure, program suppliers are delighted when large numbers of viewers choose to watch their programs, but the fact remains that the people who are their customers and by whom they are paid are the networks

and other program purchasers, not the remote, unpaying viewing audience.

No matter how the Government rephrases its arguments premised on the notion of "control of access", it does not come close to making out a violation of the antitrust laws. For example, the Government states:

> "There is a substantial economic incentive for NBC to gain control of programming on its network, and NBC has exercised its control of access to the viewing public so as to exclude from the NBC Television Network programs controlled by others." CIS at 4.

Again, the same could be said of Macy's:

> "[T]here is a substantial economic incentive for Macy's to gain control of (*i.e.*, buy) the goods it subsequently sells from its counters, and Macy's has exercised its control of access to those who shop at Macy's so as to exclude from Macy's counters goods controlled by others."

As part of its infatuation with "control of access" the Government stresses the decline of advertiser-supplied programming as one of the events giving rise to the alleged antitrust violation. CIS at 5. Yet the reasons for the decline of advertiser-supplied programming are well known and have nothing to do with "control of access". As the FCC has said in announcing the new Network Practices Inquiry, the decline in advertiser-supplied programming

> "is largely attributable to increases in the costs of producing programming as well as the costs of network advertising time. Between 1960 and 1976, the average cost of a single half-hour episode of a new prime-time program increased by about 237 percent from

> nearly $19,000 to approximately $165,000. Network program expenditures reflected this trend, rising from $376,948,000 in 1960 to $1,273,241,000 in 1975, an increase of 238 percent. The average cost of a thirty second tv advertising spot rose by 153 percent during the same period. Cost increases have also been accompanied by a general recognition that shorter commercial messages are, for the most part, more cost effective than longer tv advertisements. . . . Given these developments, it is not surprising that advertisers have become increasingly inclined to spread their commercials over a larger number of programs. Consequently, they no longer produce their own regularly scheduled programming but, rather, purchase a number of commercial spots which are usually placed in a variety of programs." Network Practices Inquiry, Notice at 91a-92a, *infra*.

Moreover, the FCC has recognized that while this development has inevitably "shifted almost exclusive control over the development and selection of programs to the networks, it has also permitted more businesses, particularly small ones, to use television as an advertising medium." Network Practices Inquiry, Notice at 92a. The CIS simply ignores these factors in its discussion of the decline of advertiser-supplied programming. But in light of these factors, it is not apparent how the antitrust claims in this case can have arisen from that decline.

C. The CIS Does Not Disclose Any Rational Link Between the Purported Harm and the Proposed Decree.

Not only does the CIS speak nonsense about the "nature and purpose" of the case and the "practices or events" giving rise to it, but it fails to articulate in any comprehensible fashion how the proposed decree relates to the charges of the complaint.

The complaint charges that NBC has monopolized the "trade and commerce in entertainment television programs exhibited on the NBC television network during prime evening hours" (Complaint, ¶ 16). Even assuming that this is a relevant market (and, hence, that NBC

does not compete with ABC and CBS for programs),* nothing in the decree remedies the supposed evil, since nothing in it increases the competition that NBC will face from ABC or CBS in any market, relevant or otherwise. Nor does the CIS even claim the decree will increase that competition. Indeed, in so far as the decree would prevent the networks from competing as producers of programs, it circumscribes the area in which they can compete with one another. Moreover, by limiting the terms on which the networks may deal with program suppliers, the decree prevents the networks from competing with one another for those rights which the decree would prevent them from buying from program suppliers.**

The complaint charges that the effect of NBC's behavior has been to suppress competition in the production of television programming (Complaint, ¶ 19(b)). But even assuming that NBC has inexplicably chosen to suppress competition among its suppliers (and, hence, to drive up the price it must pay for programs), the CIS fails to explain how the decree will enhance such competition and ignores the possibility that it will actually suppress it by limiting NBC's status as a potential competitor in the production of programming and by increasing the financial risks borne by small or potential producers.

The complaint alleges that NBC has "control[led] the prices paid by NBC for television exhibition rights to motion picture feature films" (Complaint, ¶ 17(d)). Even assuming that it is wrong for NBC to stop buying feature films when the price for them is too high, nothing in the decree requires NBC to buy feature films at prices it deems too dear; this is again a point on which the CIS is silent.

The Government alleges that the networks are forcing program suppliers to "deficit finance" the programs they produce.† The decree will not only not remedy the "problem", but will, as the Fisher Affidavit states, actually "reduce the flow of funds from the network at

*But *see* Fisher Affidavit at 2a, n. 1, *infra*; Posner Affidavit at 73a-75a, *infra*.

**See* Fisher Affidavit at 10a, *infra*.

†Memorandum of the United States in Opposition to Defendants' Motions for Summary Judgment on the Sherman Act Claims, dated January 19, 1976, at 10, 20.

the early stages of production and broadcast" and thus exacerbate the alleged evil of "deficit financing".*

As noted above, the Government apparently attaches importance to the decline in advertiser-supplied programming, but there would appear to be nothing in the decree, and the CIS does not claim that there is, which will encourage advertisers to reenter the program supply business or increase their chances of success should they try. The factors which the FCC has cited as explaining the decline in advertiser-supplied programming are certainly not affected by the decree; the costs of producing programming as well as the costs of network advertising time will not be reduced by the decree. Indeed, they may be increased since the suppression of competition among program suppliers that will result from the decree will presumably lead to even higher program costs and prices which will in turn lead to higher costs and prices of network advertising time.

Finally, the Government has charged that NBC insists on a high rate of program clearance by its affiliates,** but there is not a single provision in the decree even mentioning much less affecting NBC's relationship with its affiliates, and the CIS understandably does not claim any such effect.

In sum, the decree is a mass of highly complex relief in search of a logical relationship to the harm it is intended to remedy. The CIS does not aid in that search. Indeed, it repeatedly suggests that the "harm" to be remedied is illusory.

*Fisher Affidavit at 15a, *infra*. As Professor Fisher explains (*id.* at n. 14), "to some extent the proposed decree tracks the FCC financial interest rule 47 C.F.R. § 73.658(j)(ii). There is good reason to believe that that rule has had precisely the effect that I suggest [*i.e.*, increasing deficit financing]. Thus, Edward A. Montanus, Vice President of MGM-TV, is quoted in Exhibit 4(a) (p. 52) of the affidavit of Bernard M. Hollander, sworn to January 19, 1976, as follows:

> 'When the networks were allowed to invest in shows for a minority interest, they assumed much of the burden that represents our deficit financing today.'

See also Crandall, *FCC Regulation, Monopsony, and Network Television Program Costs*, 3 Bell Journal of Economics and Management Science 483 (1972)." (This article is annexed as Ex. 2 to the Fisher Affidavit at 33a-58a, *infra*.)

**Plaintiff's Supplemental Statement of Genuine Issues, served May 21, 1976, at 5.

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Conclusion

For the foregoing reasons, CBS urges that the proposed decree should not be entered.

Respectfully submitted,

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Attorneys for CBS Inc.

March 1, 1977

1a

APPENDIX A

AFFIDAVIT OF FRANKLIN M. FISHER

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

FRANKLIN M. FISHER, being duly sworn, deposes and says:

I am a Professor of Economics at the Massachusetts Institute of Technology. My curriculum vitae, including a list of the books and articles I have written, is set forth in Exhibit 1.

I have been asked by counsel for CBS Inc. to analyze the probable economic impact of the proposed consent decree submitted to the Court in United States v. National Broadcasting Company, Inc. on November 17, 1976. I have also been asked to assess the Competitive Impact Statement ("CIS") filed by the Government with the proposed decree. In carrying out that analysis and assessment, I have taken into consideration numerous studies, articles, reports and other materials relating to the production, procurement and distribution of television entertainment programming, including reports of the Federal Communications Commission ("FCC"), industry and trade publications, interviews with executives in the broadcasting, program production and advertising industries, testimony of program suppliers and others engaged in those industries, and the pleadings, affidavits and other

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materials filed in United States v. NBC and the companion actions against ABC and CBS.

I have reached the conclusion that the proposed decree would tend to diminish competition. I have also concluded that the CIS fails to describe the competitive impact of the proposed decree.

Introduction

As in any market, there are two aspects of competition to consider: competition among sellers and competition among buyers. If NBC has any power in the market for television entertainment programs purchased by networks, it is surely power that it has as a buyer.[1] Indeed, it is that power which is stressed by both the Complaint (¶¶ 7, 10) and the CIS (at 3, 4-5). NBC is indisputably a

1. For purposes of this affidavit I shall generally assume that the market definition of the Government complaint makes sense and that it is appropriate to define the relevant market as consisting of "the trade and commerce in television entertainment programs exhibited on the NBC Television Network during prime evening hours" (Complaint ¶¶ 16, 17).

It should be noted, however, that such a narrowly drawn market--excluding as it does programs sold to ABC and CBS--makes no sense whatever for purposes of economic analysis since it is clear that ABC, CBS and NBC are in competition with each other not only for audiences and advertising revenues, but also for programs which attract audiences and thus earn advertising revenues. Indeed, the decree (Paragraphs VII and IX) and the CIS (at 14) proceed on the supposition that NBC is in competition with ABC and CBS and should not be "placed at a competitive disadvantage with respect to CBS or ABC".

major buyer. It acquires rights to approximately one-third of the entertainment programs carried by the three television networks and, obviously, rights to all of the programs carried by NBC.

On the other hand, NBC's share of any market as a producer of such programs is quite small and has steadily declined over the past twenty years. In 1974-75 NBC-produced programs amounted to approximately 4.2% of the prime time entertainment programs carried by NBC and approximately 1.4% of the total carried by all three networks.[2] With either of those market shares, it is impossible to believe that NBC has monopolized or poses a credible threat of monopolizing the production of television entertainment programs. Indeed, if the Government is correct in asserting that NBC as a buyer of programming has been able to drive suppliers to the wall and leave them "hanging on by a slender thread"[3]--in other words, if NBC can drive the price it pays down to the barest minimum needed to keep suppliers in business--it is hard to see how NBC could obtain any additional advantage by monopolizing the production of programming for NBC. That is, if, as the Government asserts, NBC can force "deficit financing" on its suppliers, there cannot be any advantage to NBC in making those deficits its own. Nor is it credible that NBC would monopolize the production of television programs for NBC in order to be able to drive up the price it must pay as a buyer of television programming.

It must be recognized that, notwithstanding the allegation of the complaint that NBC has sought to suppress competition among the suppliers of television programming to NBC, it cannot possibly be in NBC's interest to suppress competition among its suppliers either by monopolizing the production of programming or by any other means. Doubtless NBC, like any other buyer, seeks to pay the lowest possible price to its suppliers; but, like any other buyer, NBC can achieve that end by stimulating competition among its suppliers and not by suppressing such competition.

Given NBC's insubstantial position as a producer of programming and its interest in maximizing competition among its sources of supply, and in light of the focus of the complaint and CIS, one would have expected the proposed consent decree to focus on NBC's alleged power as a buyer. Strangely, the proposed consent decree is not designed to augment the competitive constraints to which NBC is subject as a buyer;

2. See Affidavit of J. Marshall Wellborn, sworn to November 25, 1975, submitted in support of NBC's Motion for Summary Judgment on the Sherman Act Claims.

3. According to the Government, NBC has inflicted "undue hardship" on program suppliers by not giving them "payment commensurate with the success" of their programs. Memorandum of the United States in Opposition to Defendants' Motion for Summary Judgment on the Sherman Act Claims, dated January 19, 1976, at 10, 20.

if, as the complaint alleges, NBC were a monopsonist (i.e., a monopolist buyer) before the decree, it would be a monopsonist after the decree. Instead of dealing with NBC's alleged monopsony power, the decree seems calculated to diminish competition among program suppliers, as I show more fully below. Although such a restriction of competition among suppliers might tend ultimately to increase their bargaining power and thus might result in a transfer of income from NBC to certain of its suppliers, shifts of that sort do not increase competition at any level and do not serve the public interest in economic efficiency that a procompetitive policy is designed to foster.

To be sure, at one time or another restrictions on competition among suppliers have been fostered by a variety of Government programs including, for example, the National Industrial Recovery Act, the Agricultural Adjustment Act, and the National Labor Relations Act. But the Sherman Act is not of that sort. The policy of preserving and promoting competition as the governing mechanism of the market place simply cannot be served by suppressing competition among sellers to counterbalance a real or supposed absence of competition on the buying side. Stating the matter differently, the bargaining between buyer and seller, however intense, is not a species of competition.

To put it simply, one can either seek to stimulate competition among sellers (and thereby drive down price) or one can seek to increase the remuneration that sellers receive (by driving up price), but one cannot increase sellers' remuneration by stimulating the competition among them. In so far as the Government's goal is to increase the remuneration of program suppliers, the decree may well achieve that goal, but it will do so only to the extent that it suppresses competition among them.

For the reasons set forth below, I believe that the decree would, in fact, tend to reduce competition among program suppliers. Inasmuch as the Government's complaint charges that NBC has, inexplicably, pursued the self-defeating course of restricting competition among its suppliers, it is particularly strange to submit a decree which would itself operate to restrict such competition.

1. The Proposed Decree Would Restrict Supply.

Paragraphs V(A) and (B) of the decree severely restrict the extent to which NBC may produce its own programs. This restriction reduces the number of sources of supply of programs competing to be purchased by television networks. If an existing independent supplier (such as MCA or Warner Bros.) or a potential supplier were so restricted, the adverse effect on competition would be perfectly obvious. But there is no practical difference between restricting NBC

as a supplier and restricting any other supplier. NBC's ability to produce simply provides another source of supply to which it can turn, and it thereby contributes to competition among program suppliers by providing an incentive for them to sell to NBC at as low a price as possible lest NBC increase its internal production. The case would be precisely the same if there were a wholly new, independent source of programming with NBC's productive capacity. The existence of such a source would contribute to competition among existing program suppliers by providing an incentive for them to sell to NBC at as low a price as possible lest NBC expand its purchases from the new company. In either case, removal of such an incentive is anticompetitive. Furthermore, the elimination of NBC as a competitor cannot be viewed as foreteiling predation since not only is NBC now producing a minimcule part of its own requirements but also, as I have indicated above [pp. 3-4], it is impossible to suppose that NBC would seek to drive its suppliers out of business in order to monopolize the business of producing for itself.

Restricting NBC's production not only restricts the supply of television programs carried by NBC but also restricts supply in the market for network television programs generally (or, in terms of the markets alleged by the Government, in the markets for network television programs

shown on CBS or on ABC). This is so because all three networks face a common supply of programs.[4] The aggregate demand of the three networks is undiminished by the decree (i.e., they will each remain free to schedule approximately 3 hours of programming per night and 21 hours per week), but the potential supply to meet that demand is decreased. This necessarily causes an effective reduction in the supply of programs available to CBS and ABC as well as NBC.[5]

The impact of the decree's restriction on NBC's production is economically significant even though NBC has not recently been a substantial producer of television programs. Indeed, even if NBC produced nothing, its status as a potential producer standing in the wings, with the capacity to produce and a vital interest in the adequacy of supply, would have a significant procompetitive impact.

4. Exhibit 7 to the Affidavit of Robert S. Riffkind, sworn to November 18, 1975, submitted in support of CBS's Motion for Summary Judgment on the Sherman Act Claims. That exhibit, which has not been challenged by the Government, shows for the 1970-71 through 1974-75 television seasons that 67 firms supplying approximately 63% of the three networks' prime time entertainment programming supplied at least two of the three networks and that 24 firms supplying approximately 57% of the total supplied all three networks.

5. The fact that the decree does not prevent NBC from selling to CBS or ABC is not of any practical consequence. No network could afford to depend on its close rival for any part of its regularly scheduled programming. It is easy to imagine the dilemmas that would arise if NBC were the supplier to CBS of a highly successful series such as "All In The Family".

The proposed decree would eliminate NBC as a potential entrant. It must be noted, moreover, that the Government seeks the elimination not only of NBC but also of CBS and ABC as program suppliers.[6] Thus the reduction in supply or potential supply contemplated by the proposed decree would appear to be significant.

In view of the inherent anticompetitiveness of eliminating a supplier or potential supplier, I would have expected a statement assessing the "competitive impact" of the proposed decree to consider the obvious anticompetitive effects of the decree's production limitation. The CIS does not begin to analyze this important subject, however.

2. The Decree Will Not Affect NBC's Alleged Status as a Monopsonist But Will Tend to Increase Concentration in the Supply Industry.

I have shown above that the effect of Paragraph V of the proposed decree will be to diminish competition among program suppliers by removing NBC as a supplier and that the decree is thus inconsistent with a procompetitive public policy. Also inconsistent with such a policy are the provisions of the decree that seek to alter the terms on which NBC may deal with program suppliers. For example, under the decree a producer may not, when selling to NBC the network

6. See Paragraph VII of the proposed decree.

broadcast right to the initial episodes of a series, also sell to NBC the right to repeat network showings in subsequent seasons of more than three of those episodes[7] or the right to marry a program for more than four years[8] or the right to the exclusive broadcast use of a program throughout its network run.[9] Such an alteration by fiat of the terms of trade between networks and program suppliers will not alter NBC's alleged status as a monopsonist and indeed may well have the effect of further increasing concentration and restricting competition in the supply industry.

I find nothing in the proposed decree that would enhance the competitive constraints to which NBC is subject as a buyer. Such competitive constraints can only be imposed by NBC's actual or potential competitors in the purchase of programming--i.e., other buyers, including, particularly, CBS and ABC. But there is nothing in the decree that affects NBC's relationships with CBS and ABC. Indeed, the Government specifically states that the decree is designed "to prevent [NBC] from being placed at a competitive disadvantage with respect to CBS or ABC" (CIS at 14). The Government's proposed alteration and regulation of the terms on which NBC may

7. Paragraph VI(H).

8. Paragraph VI(E)(i).

9. Paragraph VI(E)(ii)(a)-(c).

deal with its suppliers does not increase competition among the buyers of network programming.

Indeed, since the decree does not increase such buyer's competition, it cannot affect any power NBC might have over the price it pays its suppliers, except to the extent that it suppresses competition among them. So long as NBC's suppliers compete with one another, they will bid the price of the rights they sell down to a competitive level, and NBC will pay a competitive price for those rights. When told that it can no longer buy all the rights it used to buy, NBC will pay less for the rights it continues to buy because it will be getting less. The suppliers, competing for NBC's favor, will accept less from NBC because they are getting more elsewhere. Indeed, the reduction in what NBC pays will be equivalent to the value to the supplier of the rights the supplier may no longer sell to NBC. The value to the supplier of those rights will be no greater than the value it received when it sold these rights to NBC since, by hypothesis, NBC bought the rights at a competitive price.

In sum, the effect of limiting the rights that NBC can buy from those suppliers will be to reduce, by the value of those rights, what NBC will pay to the suppliers, irrespective of whether NBC is a monopsonist or not. The decree's alteration of the terms of trade will enhance the aggregate remuneration of the suppliers only to the extent that it

reduces competition among them. I show later that it is likely to do precisely that.

To say that the alteration of the terms of trade will not increase the competitive constraints to which NBC is subject as a buyer is by no means to say that the provisions of the decree that effect this alteration are economically irrelevant. Indeed, a decree which restricts the rights that may be bought and sold might in itself be though a restraint of trade. Obviously certain restraints of trade--such as an agreement to buy a barber shop only if the seller agrees not to open a new barber shop across the street--may be needed for the functioning of the market. But I foresee no such effects from this decree's restrictions; on the contrary, there may well be further harmful effects.

For example, to preclude program suppliers, when selling to NBC network broadcast rights to the initial episodes of a series, from also selling NBC the right to repeat network showings in subsequent seasons of all such episodes would not seem to serve any procompetitive purpose where NBC perceives a popular demand for additional broadcasts. If a network wants to pay for such repeats because it believes it will have an audience for them, and if the supplier is willing to sell the right to such repeats, how will competition be promoted by forbidding such a transaction?

Moreover, such a restriction could be affirmatively harmful in at least two respects. First, if a network, at the time it contracts to buy original episodes, cannot also contract to buy repeats, it will pay less for what it is getting in the original transaction.[10] Since it will be paying less at a time when the program supplier is incurring production costs, the result will be artificially to force back on to the program supplier the risk that the value of the repeats will prove to be little or nothing because the show has had little or no success. If the show is successful, the supplier will win, if unsuccessful he will lose, but he will in any case be forced to accept the gamble and deeper "deficit financing". Second, the prohibition on the purchase of repeat rights will, as a practical matter, preclude a network from abandoning the current practice of running original and repeat episodes in the same year in favor of running, for example, only originals in the first year and only repeats in the second. Since such a pattern would be extremely expensive in the first year, it would be commercially feasible only if the network knew at the outset that the second year would be correspondingly inexpensive so that

10. An option to run repeats of a series in future years obviously has a present value and that value necessarily affects the level of "up front" network payments for outline, script, pilot and the initial episodes of a series.

the aggregate cost would be approximately the same. The decree, however, would preclude such a new pattern for running repeats and would essentially lock the networks into the present pattern. Thus, they would be prevented from trying to compete with one another by organizing their program formats in novel ways.

One might as well tell an author that he cannot sell the right to the publication of more than 5,000 hard cover copies of a book, even though he has a publisher who wants to pay for the right to print 10,000 copies. Even if such a restriction would accelerate reissue in paperback, it hardly helps the author to realize the maximum value from his work in his dealings with the publisher or the publisher to employ his resources in the manner he deems most efficient.

Similarly, it is hard to see the economic utility of the provision in the decree prescribing the sale of an option for more than four years.[11] By forcing program suppliers to sell fewer years "up front" and thus to be paid less "up front",[12] this provision would force them to take

11. Paragraph VI(E)(i).

12. The option to run a series in future years, just like the option to run repeats discussed above, has a present value that affects the level of "up front" payments for outline, script, pilot and the initial episodes of a series. Thus, to limit the number of options for future years of a program that may be sold will have the effect of reducing these "up front" payments.

the risk that the rights to the fifth and later years, which they can no longer sell at the outset, will be worth little or nothing because the program has had little or no success in the earlier years. In short, they would be substantially restrained in seeking to lay off their risks. By comparison, authors selling books to publishers are not forbidden from selling at the outset the right to keep the book in print after four years. Such a prohibition might ultimately enrich the authors of books that turned out to be long-lived best sellers, but it would surely reduce the incomes of the rest.

In general, it may be said of the decree's proposals concerning the terms of trade that they will tend to reduce the initial funding that program suppliers will receive from the networks. In light of the Government's assertion that so-called "deficit financing" by producers is an evil to be eliminated,[13] the decree's alteration of the terms of trade in a fashion that must reduce the flow of funds from the network at the early stages of production and broadcast is particularly odd since it will exacerbate the alleged evil.[14]

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13. Memorandum of the United States in Opposition to Defendants' Motions for Summary Judgment on the Sherman Act Claims, dated January 19, 1976, at 10, 20.

14. I recognize that to some extent the proposed decree tracks the FCC's financial interest rule. 47 C.F.R. § 73.658(j)(ii). There is good reason to believe that that rule has had precisely the effect that I suggest. Thus, Edward A. Montanus, Vice President of MGM-TV, is quoted in Exhibit 4(a) (p. 52) of the affidavit of Bernard M. Hollander, sworn to January 19, 1976, as follows:

> "When the networks were allowed to invest in shows for a minority interest, they assumed much of the burden that represents our deficit financing today."

See also Crandall, "FCC Regulation, Monopsony, and Network Television Program Costs", 3 Bell Journal of Economics and Management Science 483 (1972). This article is appended to this affidavit as Exhibit 2.

The most important result of the alteration of the terms of trade by the proposed decree may be a substantial increase of concentration and restriction of competition among program suppliers. Under the proposed decree, program suppliers will have to find alternative means of realizing the value of the rights they are prohibited from selling to the networks. In principle, the suppliers will have to decide whether to sell those rights at the outset or to hold them for later exploitation. The latter course necessarily involves assuming the risk that the rights will prove to be of little or no value because the program has enjoyed little or no popularity. It also necessarily involves deferring for some appreciable period of time cashing in on whatever value those rights may have.

Some suppliers may be happy to assume those risks

and be financially capable of deferring the receipt of cash. Others may be either unwilling or unable to do so. This group is likely to include suppliers "yet unborn" who will be deterred from entry by the necessity of bearing increased risks. It would also include those already in the industry who are financially weak or risk averse, such as new, independent producers struggling to establish themselves. Such producers will presumably seek new buyers for the rights they can no longer sell to the networks. If they fail to find buyers, they may go out of business, either because they are unwilling to gamble on the success of their programs or because they will lack the financial resources needed to produce programs of a quality that will compete successfully. In either case, the result will be to concentrate production in the large, well-established firms, notably the major motion picture studios (some of which are subsidiaries of large conglomerates) which already enjoy the lion's share of the production business (as explained more fully below).

If producers do find buyers for these rights, who are the buyers likely to be? Three principal buyers--the three networks--will have been forced out of the market by the NBC decree and its counterparts. The most likely alternative buyers are the firms that are already in the business of acquiring such rights--again, the major studios. It is

extremely doubtful that any procompetitive purpose would be served by forcing the financially weaker producers to seek financing from their competitors by forbidding them from obtaining financing from their customers.

It must be noted that the major studios (Universal, MGM, 20th Century-Fox, Warner Brothers, Paramount, Columbia Pictures) already occupy a large share of that market, with Universal in particular supplying a very high share of the programs carried by NBC.[15] Whatever the relationship between concentration and competition, it is odd that the Government should propose a decree in an antitrust suit that promotes concentration among program suppliers, particularly where the Government contends that competition among these suppliers has been restrained. Concentration resulting from the superior skill, foresight and industry of some competitors is one thing; concentration procured by fiat is quite another; and concentration resulting directly from a decree ostensibly

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15. Appended to this affidavit as Exhibit 3 is a chart that appeared in Variety on September 15, 1976, which identifies the suppliers of regularly scheduled, network prime time programs for the current 1976-77 season. (While this chart does not also identify the suppliers of the eleven and one-half hours per week of movies carried by the networks, it is commonly known that such programming, which this season constitutes over 18% of the networks' prime time entertainment schedule, is supplied mainly by the major Hollywood studios.)

intended to enforce the antitrust law is simply absurd.

I have carefully reviewed the CIS to see whether it deals with the prospect that the shifting of risks resulting from the decree's restrictions on the terms of trade will increase concentration and restrict competition among program suppliers. As stated, the CIS is completely silent on this question as on most questions having to do with competition rather than with protection of suppliers.

Conclusion

The focus of the decree and the CIS suggests that the Government's principal concern is in assuring producers a "reasonable" price for their goods. That can only be achieved by substituting a regulatory regime for a competitive market because under competition goods change hands at the market price--and not at a price that can be said by the Government to be abstractly "fair" or "reasonable". The decree serves the Government's apparent purposes to the extent that it substitutes regulation for competition. But regulation seldom succeeds in achieving the same desirable allocation of resources that results under competition. Indeed, there are usually inherent economic inefficiencies in regulation, not the least of which are the costs, burdens and delays of administering the regulatory regime.

The provisions in the proposed consent decree which are supposed to affect competition will be likely to decrease the very competition which the complaint claims NBC has, inexplicably, restrained, namely the competition among program suppliers. The decree will reduce the number of actual or potential suppliers of programs and the total supply of programs. Further, by restricting what producers may sell and networks may buy, the decree will not alter NBC's alleged status as a monopsonist but will probably lead to greater concentration in the production of programming and impair the ability of new, weak or risk-averse program suppliers to compete with the large, established studios.

Franklin M. Fisher

Sworn to before me this
22nd day of February, 1977.

Notary Public

ALBERT F. MARCELLINO
Notary Public, State of New York
No. 43-2519/60
Qualified in Richmond County
Certificate filed in New York County
Commission Expires March 30, 1977

Exhibit 1
to the Affidavit of
Franklin M. Fisher

VITA

Name:	Franklin M. Fisher
Born:	December 13, 1934 (New York, New York)
Degrees:	A.B. Summa Cum Laude, Harvard University, 1956; M.A., Harvard University, 1957 Ph.D. Harvard University, 1960
Fellowships, Scholarships and Professional Honors:	Phi Beta Kappa, 1955 Junior Fellow of the Society of Fellows, Harvard University, 1957-59 Econometric Society: Fellow, 1963- ; Council Member, 1972- ; Vice President, 1977- Irving Fisher Lecturer at Econometric Society Meetings, Amsterdam, September 1968 Operations Research Society of America Prize for best paper dealing with a military subject published in Operations Research, 1967 Fellow of American Academy of Arts and Sciences, 1969- John Bates Clark award, American Economic Association, 1973 F. W. Paish Lecturer, Association of University Teachers of Economics, Sheffield, England, April 1975
Positions:	Assistant Professor of Economics, University of Chicago, 1959-60 Massachusetts Institute of Technology: Assistant Professor of Economics, 1960-62; Associate Professor, 1962-65; Professor, 1965- Ford Foundation Faculty Research Fellow in Economics, London School of Economics and Hebrew University, 1966-67 Visiting Professor of Economics: Hebrew University, 1973; Tel-Aviv University, 1973

	Consultant, Federal Power Commission, 1965-69 Consultant, Federal Reserve Board, Price Statistics Committee, 1965-69 Member, The Brookings Institution Advisory Committee on Studies in the Regulation of Economic Activity, 1967-70 Consultant, National Association of Broadcasters, 1964-65 Consultant, The RAND Corporation, 1964-75 Consultant, Institute of Naval Studies, 1965-66 Consultant, General Services Administration, 1966-67 Consultant, President's Task Force on Communications Policy, 1968
Associate Editor:	Journal of the American Statistical Association, 1965-68
American Editor:	Review of Economic Studies, 1965-68
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Exhibit Z
to the Affidavit of
Franklin M. Fisher

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FCC regulation, monopsony, and network television program costs

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In this paper, a television program cost function is derived from a simple model of network rivalry based upon the Cournot postulate. This cost function is then fitted to data from a cross section of new network entertainment series for 1960–1965. The resulting estimates are quite unfavorable to two different aspects of FCC policy towards television broadcasting.

First, the Commission's implicit attempt to create monopoly profits for networks and their affiliates in entertainment programming for the purpose of subsidizing nonremunerative "public interest" programming is shown to be extremely inefficient. As much as two-thirds of entertainment program costs are simply rents paid to star performers and other inputs to the program production process—rents which derive from the Commission's allocations policy.

Second, the Commission's recent decision to bar network investment in non-network rights to programs first exhibited on their interconnected stations is demonstrated to be unnecessary. The Commission has enunciated this policy in its recent Prime Time Rule in order to protect program suppliers from monopsonistic exploitation by the networks. But the cost-function estimates show that the networks have paid their suppliers the economic value of the non-network rights obtained in the initial bargaining process. The only effect of prohibiting network investment in these ancillary rights is to limit the ability of suppliers to sell risky assets.

1. Introduction

■ The Federal Communications Commission's recent admission that it is unable to regulate interstate common carriers of communications services may strike the casual observer as shocking, but it is no more than a candid admission of the problems facing this commission and others as they attempt to render precise judgments about market relationships which they cannot measure. Whether it is the Federal Power Commission regulating the supply of natural gas,[1] the Interstate Commerce Commission regulating surface transportation,[2] or the FCC regulating television broadcasting, a common problem looms. Without precise empirical knowledge of price-cost relationships, these regulatory bodies must sit as puzzled arbiters of conflicting claims made by various private and public interest groups.

One might think that the FCC requires little precise knowledge about television markets, since it does not regulate the networks' or stations' profits directly by limiting the prices charged to advertisers or by prescribing a minimum output level. Rather, the Commission focuses upon performance in "the public interest," which is variously defined as providing the maximum diversity or quality of television programming. But price-cost relationships are no less important in this pursuit than in the attempt to regulate common carriers, for the Commission has followed a policy of subsidizing nonremunerative "public-service" programming by protecting local stations and networks from new sources of competition. Severe restrictions upon "pay" television,[3] limitation on the growth of cable television activity,[4] and even quantitative restrictions upon network broadcasting during prime time are enacted principally to protect local television stations from an erosion in their profits—profits which the Commission wishes to see devoted in part to public-service programming. But most restrictions upon competition at the local level result in the limitation of the number of national networks as well, for it is the paucity of local affiliates which has prevented entry into network broadcasting for two decades.

Unfortunately, what has not occurred to the Commission is the possibility that its attempt at cross subsidization has largely failed and that it has simply conferred large rents upon performers and other persons involved in producing network entertainment programming. Nonprice rivalry among networks and local stations is likely to result in dissipation of the monopoly rents which the Commission wishes to allocate to public-service programming, with the result that viewers are forced to contribute to the high salaries of television celebrities by sacrificing popular programming choices.

The most recent indication of the Commission's failure to grasp the nature of competition and nonprice rivalry in network broadcasting and program supply is to be found in its 1970 Prime Time Rule.[5] This decision limits network broadcasting in "prime time" (7:00 P.M. to 11:00 P.M., Eastern time) to three hours per day in the nation's largest 50 markets and prohibits network investment in subsequent non-network distribution of programs first exhibited on national television. The latter prohibition is designed to protect program suppliers from network monopsony power, but the FCC

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Research support for the empirical research reported in this paper was provided by a Post-Doctoral Fellowship in Public Utility Economics granted by the American Telephone and Telegraph Company. Additional support was provided by the Department of Economics at M.I.T. The data utilized in this paper were made available by the three network companies, but the conclusions reported herein are those of the author and do not necessarily reflect the opinions of the networks. Generous advice on matters of econometric estimation was provided by Professor Franklin M. Fisher, but responsibility for all errors remains with the author.

[1] See MacAvoy [1] for a critique of the FPC's performance.

[2] Among the oldest, severely critical studies of the ICC, the most recent treatise is that of Faulkender [2].

[3] The Commission's attitude toward pay-television is chronicled in the numerous decisions rendered under FCC Docket 11279.

[4] See Final Cable Television Decision [6].

[5] See *Report and Order* [9].

has no evidence that such power actually exists.[6] Even more troubling is the Commission's discussion of program "costs" in defending its rule-making, for there appears to be little recognition that these expenditures are not exogenously determined social opportunity costs.

Clearly, if the FCC is to pursue its policy of cross-subsidization, it could benefit considerably from careful research into the nature of network and local station rivalry and the determinants of programming expenditures. This paper represents a modest start in that direction, for in it we seek to provide an econometric estimate of a network program cost function by utilizing actual cost data from the three national commercial networks for 1960–1965.[7] Included in the program cost function are variables which measure the extent of network investment in non-network exhibition rights of programs first shown on the networks. The regression coefficients for these variables may be compared with financial returns from program distribution in order to determine the extent to which networks exercise monopsony power over their suppliers. In addition, we are able to derive from these regressions estimates of the magnitude of the economic rents which are siphoned off by performers and other inputs to the production of programs. Finally, we utilize the program cost regressions to draw some inferences about the price elasticity of advertising demand facing the networks.

2. Network markets

■ **The product market.** A network is in large part a broker of its affiliates' time. It contracts with these affiliates to sell time to national advertisers who may conceivably bring their own programming to the network for exhibition. In practice, the networks have also become program brokers, selling not only time but viewers.[8] Each network schedules its programs and offers commercial announcements at regular intervals during these program hours.

Since there are three or fewer competitive commercial stations in most local markets, there are only three national brokers. At present, a fourth broker would be able to offer advertisers fewer viewers at each hour for programs similar to those broadcast by its three rivals. Given the current profit margins (per unit sales), it is doubtful that a fourth network could survive with this disadvantage.

Despite the entry barriers provided by regulation of the spectrum and fewness of rival firms, network companies do not necessarily enjoy monopoly power in the national advertising market. Given the numerous substitute media—newspapers, radio, magazines, and local television advertising time—it is distinctly possible

[6] The informal, oral evidence heard by the Commission's staff is reproduced in two Interim Reports on television network program procurement [7]. The second of these reports will be referred to hereafter as the Second Interim Report.

[7] The years 1960–1965 were chosen because data for this period were most accessible when the author began to collect data for this study. Moreover, older data would be less valuable simply because network advertising sales were undertaken in a different fashion before the 1960's.

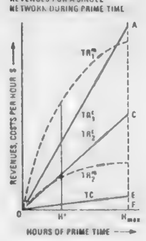
[8] For a detailed description of this development, see Crandall [1].

that variations in a network's output of viewer hours have no effect upon the price of viewer hours in the market. But even with a network television market demand curve, which is infinitely elastic at a per viewer exposure price set by competition from other media, the revenues per period for each network are a function of the number of rivals in network broadcasting. Unless the total number of viewers per hour increases in proportion to the number of rival networks—an unlikely possibility—any increase in the number of networks must decrease revenues per hour and, therefore, total revenues per year.[9]

If we assume that the number of viewers per hour of prime viewing time is constant, that they divide equally among the networks' offerings, and that the number of prime-time hours per year is fixed at H_{max}, the network's revenue function may be depicted quite simply as in Figure 1. If there is but one national network facing a competitive advertising market, its total revenue function, TR^1_1, will be linear with a slope AF/OF which is equal to revenues per hour, but the appropriate measure of a network's output is the number of viewer exposures to commercial messages of a given length. If the number of these messages is fixed per hour of broadcasting, output can be expressed in viewer hours of programming. The price of these viewer hours in a competitive advertising market is determined by the price of equivalent advertising messages in alternative media. Therefore, in this competitive setting, the network's revenues per hour are exogenously determined by the number of viewers watching television during each time period and the cost of advertising in the other media. The entry of a second network with access to equivalent affiliates and similar program fare will simply reduce each network's total revenue by one-half and shift its revenue function down to TR^2_2, where revenues per hour are equal to CF/OF. If program costs are invariant against changes in average audience size, each network incurs programming costs combined with brokerage, interconnection, and affiliation costs, which sum to a total cost per hour of TC. In this hypothetical world, entry could continue until the TR schedule of each network fell to a slope of EF/OF.

FIGURE 1

GROSS ADVERTISING REVENUES FOR A SINGLE NETWORK DURING PRIME TIME



Under these restrictive assumptions about viewer and cost behavior, network monopoly power in advertising markets simply alters each network's total revenue function. For instance, a single network's schedule becomes TR^m_1 under the assumption that it faces the same price per viewer exposure as a competitive firm at an output corresponding to H^* hours of programming. Entry of a second network shifts the total revenue schedule down to TR^m_2, under the assumption that each firm chooses to broadcast the full H_{max} hours per year. The limit to entry occurs when the appropriate TR schedule is just tangent to the TC schedule. Obviously, this entry limit is reached sooner if networks enjoy monopoly in their advertising market than if they are perfect competitors in this market.

[9] At present, over 60 percent of the nation's homes have their receivers switched on during prime time. Clearly, this audience could not swell appreciably with the development of new viewing options.

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We see then that the effect of "monopoly" power is somewhat different in network television from that in most normal markets. For instance, if entry is so effectively impeded by allocations policy as to allow only, say, two national networks, profits may be earned by each network even though its demand curve has infinite elasticity. Given the assumption of fixed audience sizes during prime time, monopoly power could only be exercised by limiting the number of hours broadcast. Thus, in this model, the existence of network monopoly power in advertising markets is quite unimportant except as it provides a limit to the number of networks which could compete successfully. Once we relax the assumption of fixed program costs, however, this conclusion is modified but not completely negated.

□ **The input markets.** The preceding discussion abstracts rather heroically from reality. A television network does not face a fixed audience, but rather it may be assumed that its audience will vary with its choice of programming. Indeed, one might argue that the most important management decision in network broadcasting is the choice of programs and the scheduling of these programs against rivals' offerings. In addition, the network's affiliation costs—the prices it must pay for access to its affiliates—cannot be assumed to be given exogenously. We may dispose of the affiliation costs first, since the principal focus of this paper is upon program choice and program supply.

An important source of network rents is the limitation upon local station spectrum allocations. The FCC has allocated the spectrum to television in such a manner that no more than three competitive commercial stations may operate in a great number of markets. In those markets in which a fourth station may obtain a license, it is frequently limited to the UHF band. But a number of markets have four or more competitive local stations, and this inconsistent allocation provides the best of all possible worlds for the three existing networks. Without a fourth station in virtually every large market, a fourth network cannot hope to enter profitably, but the presence of four stations in many of the largest markets allows the networks to appropriate a large share of the rents from network broadcasting. With more stations than potential affiliations, cartel-like agreements among stations are not likely to develop in bargaining with networks, simply because there is no simple method for the winners to compensate the losers in the affiliation competition. Were there only three stations in every market, the local stations would certainly appropriate a larger share of the net revenues from the sale of network advertising.[10]

More important for this paper's analysis is the nature of program supply and the networks' position as purchasers of programming, especially entertainment programming. With the trend

[10] For an econometric estimate of the effect of local-station competition for affiliation agreements, see Robbins [5]. Robbins' study reveals that the networks pay significantly more per home reached by affiliates in markets with three or fewer stations than they do in markets with four or more stations. Of course, a limit to the difference in compensation rates is provided by the threat of entry of a fourth network.

toward direct network negotiation with program suppliers came the possibility that networks might obtain monopsony power in program supply. In earlier years, a number of advertisers licensed their own programs and brought them to the networks in return for payment for an entire time period. In the past decade, however, this procedure has practically vanished for prime-time entertainment programming. For all intents and purposes, it is the networks who choose the programs in which advertisers intersperse their messages; but this is hardly sufficient proof that they possess monopsony power over the price of programs.

Entertainment programs are simply filmed or taped products which are exhibited on television rather than in alternative media. They require virtually the same inputs as motion pictures or other films and may be produced by any of scores of production companies throughout the world. Thus, television networks must bid resources away from alternative media in order to obtain their required program inputs. Given the increasing number of buyers of filmed products, it is quite clear that the networks' monopsony power must be limited.

Even if the three networks were the only buyers of filmed entertainment output, it would be necessary for program supply to be increasing cost for them to exert monopsony power. And if this monopsony power were exerted, it would become evident in the networks' failure to offer programming during some periods of considerable viewing frequency. Clearly, this last condition is not satisfied and has not been in the past few years. Before FCC restrictions on the length of the network program day, there were only occasional half hours during prime time which were not filled, and most of these periods were on ABC, which continues to have a competitive disadvantage in affiliations. Certainly, ABC was not exerting monopsony power while NBC and CBS struggled along as competitors for programs!

But a more fundamental objection to the standard monopsony question obtains: it is impossible to draw a supply curve for homogeneous programs because programs are far from homogeneous. Networks are not buying standardized items from the supplying companies; rather, they are selecting the appropriate program input mix and contracting with suppliers to supervise their combination into programs. Given the number of such "packages" of programs, the networks need only promise from a return sufficient to cover their costs, including the costs of invested capital. They may pay no less; they need pay no more.

The quantity and value of resources employed by the networks in their entertainment programming depends upon the degree of competition for audience and the price per viewer which advertisers are willing to spend. The greater are program revenues, the greater will be network expenditures upon programming. Networks will choose to employ more reproducible resources per program, and nonreproducible inputs, such as star performers, directors, and writers, will obtain higher rents when program revenues are high. While increasing the number of networks may increase the percentage of revenues diverted to programming expenses, expenditures per program must certainly fall and with their rents to talent inputs.

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But even if program costs vary directly with revenues, it is still possible that the condition of blockaded entry in network broadcasting finds each network with a total revenue function which is above the total cost function in Figure 1. All we have argued thus far is that the TC schedule will shift downward with the TR schedule as the number of networks increases, but TC will fall less rapidly than TR if nonprice rivalry increases with the number of competing networks. This is neither new nor profound, but it serves to emphasize two points: (1) neither monopoly power in advertising markets nor monopsony power in programming markets is required to yield the networks a substantial scarcity rent, and (2) the attempt by the FCC to create large excess profits in network entertainment programs in order to finance local and network "public service" programs may be frustrated by the nonprice competition which results. The latter point is especially important if program rivalry results in large increases in program costs which are not valued highly by viewers. To the extent that this rivalry simply bids up performers' rents, the profits are clearly wasted. If the rivalry takes the form of attracting scarce resources from other markets, an additional social cost results which must be weighed against the increase in viewer satisfaction. But, in any case, unless the FCC acts to curb this type of nonprice rivalry, its implicit attempt to create monopoly profits for the purpose of subsidizing other services is surely weakened.

[] **Residual rights.** Few network programs are fully exploited during their network run. In practice, each network licenses the right to exhibit a program for one or more exhibitions, and if this program is recorded on videotape or film it may be shown subsequently in other markets. This further exploitation of the program is referred to as "syndication," and it assumes two forms. First, the program may be licensed to foreign markets almost simultaneously with its United States network exhibition. Such foreign syndication accounted for $57 million in revenues in 1967.[11] In addition, after the network program series has concluded its run, the program may be licensed to United States television stations for additional local exhibitions. These domestic "off network" syndication sales accounted for $43.1 million in total revenues in 1967.[12]

The success of a program in syndication sales to local stations and to foreign markets is a direct function of its success during the initial network run. If it has a long run on the network, it will probably be quite successful for two reasons: (1) it has a demonstrated audience appeal; and (2) there are a number of episodes available for distribution. This latter factor is extremely important, because it is uneconomical to produce additional episodes once a series has ended its network run. In addition, a television station is much less interested in procuring a series for which there are only 20 or 30 episodes than it is in one which has hundreds of episodes.

In recent years, the three domestic networks have purchased approximately 90 percent of their prime-time entertainment series

[11] See Little [3], p. 109, hereafter referred to as the Little Report.
[12] *Ibid.*

from independent "packagers" of programs.[13] As networks turned to direct licensing of programs from independent suppliers, they obtained in the initial bargaining process rights to a share of the programs' future syndication revenues as well as interests in the revenues which might be generated by any exploitation of copyrighted matter from these programs in the sale of merchandise. Our primary interest lies only in syndication revenues, however, since merchandising revenues are less than 5 percent of the syndication yield.

It is crucial to understand that network syndication interests have always been obtained during the initial bargaining process between the program supplier and the network. Before the program series reaches the network, an agreement is reached between the network company and the supplier as to the price which the network will pay for each episode in the series, the price to be paid for repeat episodes on the network, and the shares of syndication rights and profit shares to be retained by the network, as well as a myriad of other matters such as allowances for unexpected cost increases in producing the programs, escalator clauses for subsequent seasons, the division of merchandising interests, penalties to be paid in case of network cancellation of the series, and technical details concerning delivery of episodes to the network. In most cases, the network obtains the rights to the network exhibition of the program series for five years.

The rights to distribute program episodes to domestic television stations after the initial network run and to foreign stations during and after network exhibition are referred to as domestic and foreign syndication rights. The right to share in the net revenues from syndication—equal to total revenues less distribution costs, entertainment guild royalties, and other costs—is referred to as a profit share, and this share is usually identical for domestic and foreign revenues. Prior to the 1970 Prime Time Rule, the initial contract between network and packager not only allocated the above interests, but it also specified the precise distribution fee to be charged by the distributor. These fees ranged from 10 percent to 45 percent, the larger fees being exacted for the smaller sales. In addition, networks often agreed to allow packagers to recoup excess production costs from the networks' profit shares.

While the syndication market is not highly concentrated, one may not assume that syndication rights and profit shares are not valuable. The fee stipulated in the original network-packager contract may be sufficiently large to compensate the distributor more than amply for his costs of distribution. Moreover, the actual costs incurred in distribution are very small since the episodes have already been produced. Only shipping, print, and other miscellaneous costs such as royalty payments to members of entertainment guilds are deducted from the revenues which remain after imposition of the distributor's fee. Thus, syndication revenues are an important contributor to net profits even if they are small in comparison with the original network payments for the programs.

According to available data,[14] networks obtained the syndica-

[13] *Ibid.*, p. 5.
[14] *Ibid.*, p. 46. The FCC Office of Network Study also collects the data

tion rights in one-fourth to slightly more than one-third of their prime-time programs from 1957 through 1968. This proportion reached its maximum in 1964—35 percent for domestic distribution rights and 35.7 percent for foreign rights—but it declined steadily to 25.9 percent for both in 1968.[15] The networks' share of actual syndication sales was estimated at 22 percent of the domestic market and 29 percent of the foreign market for 1967, the most recent year for which data are available.[16] Although neither datum is likely to indicate substantial market power, the FCC's Prime Time Rule has imposed a total prohibition upon network distribution in domestic syndication markets. As we shall see, this decision was motivated as much by the FCC's fear of network monopsony power as by its concern about undue concentration in syndication.

3. The FCC rule

[] In 1965, the FCC issued a *Notice of Proposed Rule-Making*[17] which sought to prohibit: (1) all domestic syndication (distribution) by network companies; (2) network ownership of syndication profit shares in programs produced wholly or in part by others; and (3) foreign syndication by the networks of programs produced wholly or in part by others. In 1970, these provisions formally adopted by the Commission in its Prime Time Rule, whose principal thrust is to limit the number of hours of prime-time network broadcasting in the nation's largest 50 markets.[18]

Why should the FCC act to prohibit network purchase of these rights from packagers? Even if it fears monopoly control over domestic syndication, is it necessary to prohibit networks from buying even a minority interest in the profits from syndication? Prohibition of network distribution might be warranted, but it is surprising that the Commission has chosen to limit suppliers' right to sell profit shares in their productions.

A reading of both the Proposed Rule and the Prime Time Rule reveals that the Commission believes that it is not restricting suppliers' prerogatives but rather protecting these packagers from the monopsony power of the networks. By prohibiting the networks from bargaining for syndication profit shares and distribution rights, the Commission is reserving these lucrative privileges for the suppliers. The Commission reasons that the networks have been utilizing their monopsony power to bid these profits away from suppliers at little or no compensation. As a result, program producers were courting bankruptcy, and causing a threat to the continuance of many sources of program supply. The Commission's implicit theory of network-producer bargaining may be inferred from various statements appearing in the *Notice of Proposed Rule-Making*. For instance, it is claimed that:[19]

> . . . network corporations usually as a *quid pro quo* for initial financing but sometimes as compensation for assumption of the risk of sale to advertisers . . . seek and frequently obtain . . . the right to distribute the programs or series in domestic syndication and foreign markets, the right to share . . . in the profits from domestic and foreign syndication sales . . .

[15] *Ibid.*
[16] (Percentages of off-network sales only.) *Ibid.*, pp. 108–9.
[17] [8].
[18] See [9].
[19] [8], p. 8.

But these rights were being ceded unwillingly by producers, since in earlier years:[20]

> [T]hese rights usually were retained by independent producers and constituted valuable commercial assets which contributed to their economic stability and viability. The importance of the retention of these rights to the financial stability of independent producers is supported by testimony of producers that in many, if not most, instances they do not recover their initial production costs from the network run . . . but must look to syndication and foreign sales to 'make them whole' and to show a profit.

There can be little doubt that the Commission believed that its Proposed Rule would save independent producers from network exploitation, for the Commission stated:[21]

> . . . [I]t is our hope that the proposed rule would reduce the possibility that independent producers may be *forced* to give up rights in their programs in order to obtain access to network time . . .

What did not occur to the Commission is the possibility that independent producers "gave up" rights in their programs because networks offered to buy them. The Prime Time Rule allows networks to sell the rights in the programs which they produce for themselves, but ignores the possibility that transfers of rights in the other direction are equally compensated. This is not an unusual posture for a regulatory agency which finds itself enmeshed in transactions between very large and very small firms. It is a common regulatory notion that large firms exploit the smaller firms simply because they are larger, but more often than not this theory does not stand up to careful scrutiny.

The alternative theory which is tested below is very simple. It is merely that networks purchase ancillary rights in programs exhibited originally on their networks at prices which reflect *ex ante* expectations of their discounted present value. If a network wishes to invest in either syndication rights or profit shares, it must compensate the supplying company through correspondingly higher initial prices for episodes of the program which are shown on the network. Therefore, program prices to the networks should vary directly with the magnitude of their syndication interests in each

4. A model of network programming

[] It is impossible to posit program-supply function without also addressing the problem of network rivalry and network-supplier negotiations for residual rights. The value of a program is directly related to its ability to attract audiences, but actual audience is inversely related to the strength of competing programs at the same hour. Moreover, the number of viewers attracted to a program will vary systematically throughout the day and even during prime time. Finally, we shall argue that the network is more likely to invest in residual rights of less valuable programs than in the rights for more expensive programs, and this investment decision must be incorporated into the empirical model of the next section.

In this paper, we address ourselves to the determinants of the

[20] *Ibid.*, p. 7.
[21] *Ibid.*, p. 19. Emphasis supplied.

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cost of regularly scheduled new prime-time entertainment series. These series appear sporadically throughout the year as each network discards shows which fail to attract a substantial share of the prime-time audience, but most changes are made at regular intervals of approximately 13 weeks. The largest number of changes occur in the fall and winter, and our sample mainly includes programs which appeared for the first time in the fall of the years 1960 through 1965.

Negotiations for a new series may begin as much as one or two years before a program appears on a network, and it is rare for the lag to be less than six months. At this time, a formal contract or a memorandum of agreement will be drawn up between the supplier and the network. In fact, some of these important details may be omitted until a later date as both parties abide by an informal understanding. Therefore, in most cases, the prices to be paid by the network are stipulated considerably in advance of the network's decision to schedule the program or even order a single episode, and the value of the program series must be determined *a priori* without any definite notion of the nature of the competition which the program will face when it is finally exhibited.

Once the program series is actually ordered, the network begins to search for the appropriate prime-time hour for its exhibition. Approximately 60 to 70 percent of the shows in the rival two networks' schedules will be continuations of last season's series, and these rivals will be reluctant to move continuing series regardless of the new series chosen by the network to appear opposite them. Thus, for the most part, each network will choose to replace its series failures under the assumption that rivals will not move most of their more successful shows in response. We have, therefore, the basis for a "Cournot" theory of programming, where each network takes its rivals' choices as given in attempting to maximize its profits.

Our Cournot model of network triopoly is expounded in terms of a single time period within prime time. The inputs for the ith network's program will be denoted t_{ij}, referring to the number of units of the jth input into the ith network's program. For the first network, for example, there exists a "production function" of the form

$$A_1 = A_1(t_{11}, \ldots, t_{1M}; t_{21}, \ldots, t_{2M}; t_{31}, \ldots, t_{3M}), \quad j = 1, \ldots, M, \tag{1}$$

where A_1 represents the audience potential of the first network's program. The inputs to this production function include the services of cameras, settings, film, or tape, and a number of other goods as well as the services of all technical and creative persons involved in "producing" an audience through the creation of a given program. The precise relationship between each of these productive services and the audience yield of the program is extremely difficult to specify empirically, therefore, the analysis is delineated in terms of heterogeneous inputs only for pedagogical purposes in this section. A more detailed elaboration of the Cournot model is undertaken in Section *I* below.

The network sells viewers to advertisers at a price, P_A, and therefore faces a net profit (Π) function:

$$\Pi = P_A A_1 - \sum_{j=1}^{M} p_j t_{1j}, \tag{2}$$

where p_j is the market price of the jth input. Its problem is to choose the t_{1j}'s which maximize (2). This requires that for each t_{1j}

$$\left[P_A + \frac{dP_A}{dA_1} A_1\right]\left[\frac{\partial A_1}{\partial t_{1j}} + \sum_{i=2}^{3}\sum_{j=1}^{M}\left(\frac{\partial A_1}{\partial t_{ij}} \frac{dt_{ij}}{dt_{1j}}\right)\right] = \left[p_j + \frac{\partial p_j}{\partial t_{1j}} t_{1j}\right] \tag{3}$$

The first bracket on the left-hand side of (3) is simply marginal revenue (of audience) facing the network. The second bracket has three terms: the first is the marginal product of the t_{1j}, and the next two terms are conjectural response terms for the other two networks. In our Cournot model, the conjectural responses terms are equal to zero, thus simplifying the algebra and the analysis considerably. The term on the right-hand side is simply the marginal cost of the jth input.

Under Cournot assumptions, the conjectural response terms in (3) disappear, and we are left with

$$\left[\frac{\eta - 1}{\eta}\right] P_A \frac{\partial A_1}{\partial t_{1j}} = p_j, \quad j = 1, \ldots, M, \tag{4}$$

where η represents the price elasticity of advertising demand facing the network, and α_j is the elasticity of supply of the jth factor to the network. We shall simply denote $(\eta - 1)/\eta$ by k_1 hereafter.

Equation (4) is the first-order condition for the employment of each of the M inputs. Solved for each t_{1j}, it represents a variety of a Cournot reaction curve since it is obvious that $\partial A_1/\partial t_{1j}$ varies with the strength of rival networks' fare. Specifically, it is likely that $\partial^2 A_1/\partial t_{1j} \partial t_{2j}$ and $\partial^2 A_1/\partial t_{1j} \partial t_{3j}$ are negative, implying that networks will "counter-program," placing their more expensive programs opposite the rivals' weakest fare and vice versa.

While (4) holds for any type of input, the mechanism by which it is achieved varies across different varieties of program inputs. For nonreproducible talent or "stars", $\partial A_1/\partial t_{1j}$ should be as placed by a discrete term reflecting the increment to audience attributable to the performer. Moreover, given that the network may only choose whether to employ the performer or not, t_j may not assume values other than zero or unity. It is p_j which varies to satisfy (4) in this case, and as long as this price is above the performer's opportunity cost in other media, he will offer his services to program packagers.

For the other inputs, the network varies t_j according to the magnitude of the marginal productivity term, the price of network advertising, and its monopoly and monopsony power in the respective markets. In practice, however, many nontalent inputs to the production process are used in fixed proportions either because of the nature of the production function or union agreements. For instance, the amount of lighting, the number of technicians,

the number of feet of film or videotape, the amount of stage space required, the editing of the film or tape, and numerous other production services are not utilized in significantly variable proportions. Nevertheless, the prices of these services are likely to contain considerable economic rent, since bargaining agents may press for higher wages for the suppliers of the services as their marginal revenue products [according to (4)] rise. But these prices should vary with the average profitability of all entertainment fare in a given year. Thus we expect some nontalent costs to be fixed while others vary with the strength of demand for network advertising.

A simple manipulation of (4) allows us to summarize our model by distinguishing between the rents paid to talent and the prices earned by nontalent inputs. If we assume that the first K of the M inputs are talent, total payments to talent for the first network run (C_t) may be written

$$C_t = \frac{\eta - 1}{\eta}\left[\sum_{j=1}^{K} k_j \frac{\partial A_1^s}{\partial t_{1j}} \cdot \frac{1}{A_1^s}\right] P_A A_1^s, \tag{5}$$

where A_1^s is the expected audience of the given program and $(\partial A_1^s/\partial t_{1j})(1/A_1^s)$ is the elasticity of expected audience with respect to the jth talent input. Similarly, nontalent costs (C_u) may be written

$$C_u = C_0 + \frac{\eta - 1}{\eta}\left[\sum_{j=K+1}^{M} k_j \frac{\partial A_1}{\partial t_{1j}} \cdot \frac{t_{1j}}{A_1}\right] P_A \bar{A}_1, \tag{6}$$

where $\bar{A}$ is the average audience for network programs in the current year and C_0 represents fixed costs which do not vary with the net revenues from the sale of entertainment programming.

5. The empirical estimation of program costs

The previous two sections have led us to hypothesize that the cost of any program to a network will vary with the anticipated audience of that program, the average revenue yield of programs in network exploitation, and the residual rights obtained by the network. The basic equation to be estimated from available data is of the form

$$C_i = a_0 + a_1(P_A \bar{A}_i) + a_2(P_A A_i^s) + a_3 n_i D_i + a_4 n_i S_i + u_i. \tag{7}$$

where C_i is the cost per exhibition of the ith program, A_i^s is its expected audience, D_i is a dummy variable which is equal to unity if the network obtains the distribution right for syndication of the program and zero otherwise, and S_i is the profit share from syndication obtained by the network. Both S_i and D_i are multiplied by n_i, the proportion of exhibitions represented by first runs, since the value of syndicating interests is directly proportional to the number of episodes filmed. A randomly distributed error term with zero mean and constant variance is denoted u_i.

The magnitude of the coefficients of a_1 and a_2 in (7) will depend upon the relative importance of nontalent and talent expenditures in total program costs and the degree of monopoly or monopsony power exercised by the networks in their output and input markets [see equations (5) and (6)]. If either $(\eta - 1)/\eta$ or the k_j differ substantially from unity, the networks will be paying inputs to the production process less than the value of their marginal product, and a_1 and a_2 will be correspondingly smaller than they would be if the networks were perfect competitors in all markets. Similarly, if a_3 and a_4 are found to be smaller than the discounted present value of accounting returns from syndication, we may infer that the networks possess monopsony power in dealing with their suppliers.

□ **The data.** Data for new regularly scheduled entertainment series on the three networks in the fall seasons of 1960 through 1965 were obtained from the contracts signed by the networks. In all, contracts for 148 program series were available, and of these 148, complete data were available for 121 series.[11]

The cost datum, C_i, is an estimate of the average cost of one half-hour of a single episode in its first exposure on the network. In order to obtain this estimate, it is assumed that the network would schedule 52 episodes during a year by purchasing the maximum number of new episodes possible and filling out the year with repeats. Since repeats generally bring audiences of only 70 percent of new episodes, the total cost of 52 weeks of the series is divided by the sum of the number of new episodes plus 0.7 times the number of repeats required.[12]

As an estimate of $P_A \bar{A}_i$, the total estimated network night-time sales to advertisers for each year is utilized. Since the number of networks and the number of prime-time hours per week did not vary from 1960 through 1965, these industry sales serve well as a proxy for the average revenues per hour during each of the six years studied.

The estimate of *expected* revenues per program, $P_A A_i^s$, was obtained by asking each network to provide its initial price for a single commercial minute of advertising in each series during its fall season. An attempt was made to obtain the prices offered by the networks before advertisers began placing their orders. This set of prices provides the earliest recorded estimates of the networks' own expectations concerning the revenue potential of their programs.

Measures of D_i and S_i are taken directly from the contracts with suppliers. D_i is a set equal to unity if the network owns either the domestic distribution right or the foreign right or both. S_i is equal to the proportion of net profits from foreign and domestic syndication granted to the network company by the contract.

[11] For 19 of these programs, there was no record in the network files of the initial asking price for commercial minutes. For 8 others, it was impossible to obtain a precise cost estimate.

[12] In addition, an adjustment in C_i is made for network investment in a pilot and for "average" agreements. It is assumed that any pilot program is utilized as an episode in the series, and the cost of the pilot is included in the control variable's run of the series. On rare occasions, network rebates of cost overruns, which are remitted from the network's syndication profit share. Approximately one-third of network programs earn profits from syndication; therefore, the net value of the average agreement to the supplier is assumed to equal one-third times the limit to overruns specified in the contract, which, in turn, is usually 5 or 10 percent of stipulated program costs.

In the empirical analysis below, two additional series are used. A variable indicating the average strength of programs scheduled by the two rival companies at the same hour, A'_i, is constructed by averaging the percentage of total television homes watching each rival program in the preceding year.[24] If the rival program is new during the current season, its strength is measured by multiplying the average performance of that network's programs by 0.9, an arbitrary weight designed to reflect a lower probability of audience acceptance. Another variable, H_i, measures the total homes normally watching television during the specific hour of the week during which the program is scheduled.

[ ] **Regression results.** Equation (7) was fitted to data for the entire 121-program sample and for a 108-program subsample which excludes all music-variety programs. The exclusion of these programs is based upon an *a priori* judgment that the values of a_1 and a_2 are likely to be much smaller for such fare given the rapid obsolescence of popular music, and that relative production costs for this type of programming are quite different from the costs of other series. Both samples were also utilized to fit a variant of (7) in which the time trend, T_i, was substituted for $P_{A_i}A_i$ in order to determine if the latter was merely capturing the trend of general cost inflation during 1960–1965. The results demonstrate that $P_{A_i}\bar{A}_i$ serves as a better regressor in the program cost equation, but the difference is not statistically significant.

The ordinary least-squares estimate of (7) for both samples is satisfactory, with one glaring exception. The coefficient of the syndication profit share variable is negative and significant, suggesting that networks pay less for programs in which they obtain profit shares. See Table 1. This counterintuitive result derives from

TABLE 1

ORDINARY LEAST-SQUARES ESTIMATES OF PROGRAM COSTS (EQUATION 7)

REGRESSION	SAMPLE SIZE	ESTIMATED COEFFICIENTS FOR THE INDEPENDENT VARIABLES*						
		CONSTANT	$P_A\bar{A}$	$P_A A^e$	D	S	T	R^2
(i)	121	12,304 (2.47)	0.21664 (3.82)	0.1846 / (5.52)	664 (0.48)	7474 (2.03)		■.410
(ii)	■■■	16,838 (4.36)	0.25948 (5.81)	■.0271 (3.35)	2433.1 (2.36)	−6808.3 (2.31)		0.448
(iii)	121	27,590 (8.33)		0.18569 (5.54)	602.44 (0.48)	7384.5 (2.00)	1128.5 (3.75)	0.■■■
(iv)	■■■	35,119 (13.07)		0.09434 (3.30)	2482.4 (2.20)	−8740.7 (2.24)	1209.9 (5.65)	0.440

* t STATISTICS IN PARENTHESES.

■■MEAN $P_A\bar{A}$ = $80,000.

■■■MEAN $P_A A^e$ = $98,611 FOR 121-PROGRAM SAMPLE, $97,965 FOR 108-PROGRAM SAMPLE (BASED UPON OBSERVATIONS AT THE ASKING PRICE FOR THREE COMMERCIAL MINUTES IN EACH PROGRAM).

SOURCE OF MEAN $P_A\bar{A}$: LITTLE REPORT [31, P. 85].

[24] This series is simply last year's Nielsen rating for continuing shows.

the networks' tendency to purchase larger shares in the less expensive programs with lower audience appeal. It is not perfectly clear why this pattern should exist, but an explanation may be attempted. The networks tend to place the weakest of their new programs opposite their rivals' strongest returning series; therefore, program suppliers are less interested in retaining profit shares in these shows, since they are aware that low-cost series are less likely to survive on the networks than more expensive shows. Given that a program series must have a fairly long network run to accumulate sufficient episodes to make syndication profitable, program suppliers may be less interested in retaining syndication interests in any series with relatively low probability success on the network.

It thus becomes necessary to estimate (7) as part of a simultaneous equation system which includes a profit-share investment function. Unfortunately, not many exogenous variables recommend themselves for such an equation since there is no obvious *a priori* theory which predicts the outcome of negotiations for these subsidiary rights. The following simple linear form is utilized for the purposes of this investigation:

$$S_i = b_0 N_i^* + b_1 N_i^A + b_2 N_i^B + b_3 R_i + b_4 C_i + b_5 T_i + v_i \quad (8)$$

The N_i variables are dummies for each of the three networks, A·B·C, N·B·C, and C·B·S, respectively. R_i is a dummy variable equal to unity if the program is an hour series and zero if it is a half-hour series. This variable is included simply because the networks tended to procure profit shares in hour series more than in half-hour series during our sample period. A time trend, T_i, is included to capture the response of the networks to increasing FCC concern about network ownership of profit shares during the period.

When (7) is estimated by two-stage least squares utilizing all exogenous variables in (7) and (8) in the first stage, a very large value for a_4, the coefficient of S_i, results. An examination of the residuals reveals that the relationship is misspecified. The expected value of a program is measured by its anticipated revenues for a given competitive situation, but if networks systematically place their weaker fare against the rivals' strongest programs and vice versa, $P_{A_i}\bar{A}^e$ does not measure the value of each program for a given competitive situation. Put another way, this variable does not reflect the value of specialized inputs in attracting audience under invariant conditions. It cannot be expected that a star performer will accept a lower rent in performing in a program which is to be sacrificed before another network's most popular series.

In order to adjust $P_{A_i}A^e$ for the effect of network rivalry, this variable is multiplied by the square root of A^e,[25] the average

[25] Expected revenues are multiplied by the square root of the average of rivals' program ratings for the post year because a log-linear regression of cost per audience upon program cost, rivals' program ratings from last year, A^e_i, and television homes watching at the given hour, H_i, yielded a coefficient for A^e of approximately 0.5. Equation (7) was also estimated with $R_i^* = (p_{A_i}A_i)(A_i^e)$, but the results were little different from those in Table 2. The proportion of explained variance fell very slightly, and the value of $a_2 + a_4$ was reduced by approximately 20 percent.

audience appeal of other network programs appearing during the same time period. But including A^e in equation (7) introduces a further complication, since we expect the cost of a program to vary *directly* with the value of $P_{A_i}A^e(A^e)^{0.5}$ but we also expect each network to schedule its most expensive programs opposite its rivals' least successful series. Thus we expect the scheduling decision to find C varying *inversely* with A^e. In order to avoid biased estimates of (7), we must introduce equation (9) to reflect the scheduling decision for each program. This scheduling relationship includes each of the network dummy variables as well as H_i, a measure of the number of households normally watching television during the time period in which the ith program is scheduled.

Our complete model may now be written as follows:

$$C_i = a_0 + a_1(P_{A_i}\bar{A})_i + a_2 R_i^* + a_3 n_i D_i + a_4 n_i S_i + u_i \quad (7')$$

$$S_i = b_0 N_i^* + b_1 N_i^A + b_2 N_i^B + b_3 R_i + b_4 C_i + b_5 T_i + v_i \quad (8)$$

$$C_i = c_0 N_i^* + c_1 N_i^A + c_2 N_i^B + c_3 H_i + c_4 A_i^e + w_i \quad (9)$$

where R_i^* is equal to $(P_{A_i}A_i^e)(A_i^e)^{0.5}$ and u_i, v_i, and w_i are random disturbance terms with zero mean and constant variance. There are three endogenous variables, C_i, A_i^e, and S_i, in a simultaneous system of three equations.

Estimates of the parameters of (7') are obtained by the method of two-stage least squares. Reduced-form estimates of A_i^e and S_i are first obtained by ordinary least-squares regressions of each variable upon all exogenous variables. The reduced form estimates of R_i^* and $n_i S_i$ are then obtained by regressing each on all exogenous variables and the corresponding transformation of each variable's reduced form. The second-stage estimates of (7') are presented in Table 2, along with approximate t statistics and coefficients of multiple determination.

TABLE 2

TWO-STAGE LEAST-SQUARES ESTIMATE OF PROGRAM COSTS (EQUATION 7')

REGRESSION	SAMPLE SIZE	ESTIMATED COEFFICIENTS FOR THE INDEPENDENT VARIABLES*					
		CONSTANT	$P_A\bar{A}$	R^*	D	S	R^2
(vi)	121	15,823 (2.783)	0.18224 (3.088)	0.16172 (5.710)	1756.9 (0.7627)	741.6 (0.05240)	0.418
(vii)	108	18,900 (3.601)	0.21328 (3.820)	0.10270 (3.297)	1803.8 (1.493)	12,285 (1.412)	0.286

* t STATISTICS IN PARENTHESES.

As expected, the regression for the smaller sample is quite different from the one which includes observations on music-variety programs, and the large differences in the values of the coefficients of $P_{A_i}\bar{A}$ and R^* support our assertion that the ratio of talent to other production costs varies substantially between music-variety and all other program types. Regression (vi) provides an estimate of the combined value of the distribution right and a 100-percent share of profits from syndication of $1,894 plus $12,285 times the mean value of u(0.788), or $11,031 per new half-hour episode of entertainment programming. The sum of the coefficients of these variables is equal to 1.7 times the standard error of the sum. Expressed as a percentage of mean program costs for the period, these syndication interests amount to 23 percent of network program costs or 19 percent of the total value of network exhibition and syndication interests. These results are compared with published estimates of syndication profits in Section 6.

Of equal interest is the low value of the constant term in regressions (v) and (vi), suggesting that only $16,000 of the costs of an average half-hour program were not price determined during the period. The relative importance of the other two terms can best be explained by evaluating them at the point of means of the regression. The mean value of D and S is approximately 0.22 in each sample. For the smaller sample, therefore, the net cost of the network exhibition alone is $48,328 − 0.22(14,179) = $45,209.

For the entire 108-program sample, the mean value of the networks' expected revenue per half hour ($P_A A^e$) is $97,965. Therefore, $a_1 R^*$ may be estimated at $10,045 at the point of means, or 22 percent of total program costs. Our theory leads us to assign all of these costs to talent expenses, but we have only informal evidence that such an allocation is justified. The Little Report found that by 1964 above-the-line costs had risen to approximately 48 percent of total costs. These expenditures include payments for actors, directors, producers, and other personnel. We have no further data on the division of program costs in commercial broadcasting in the United States, but it is interesting to compare the Little datum with data for a foreign noncommercial network operating in competition with a single commercial network.[26] For 1964–1965, above-the-line costs for this foreign network represented 44 percent of total program costs for entertainment programming. Expenditures for performing artists were 22 percent of total costs, or precisely the same as the value of $a_2 R^*$ in regression (vi) above.

At the midpoint of the sample period, average network revenues per half hour ($P_A\bar{A}$) were approximately $90,000. Thus, at the point of means, $a_1 P_A\bar{A}$ is equal to $19,200 in regression (vi) or 42.5 percent of network program costs. This component of costs represents the price-determined payments to program inputs which do not vary across programs within a single year. Our theory leads us to assign these payments to the price determined elements of nontalent costs, but we cannot identify with precision the recipients of such payments.

6. The value of syndication interests

■ The regression results presented in Table 2 provide an estimate of the value of distribution rights and profit-share income from syndication of 19 percent of network program outlays in 1960–1965. Can this estimate be reconciled with published data on the actual returns from syndication? A comparison with the Little

[26] This network has kindly provided detailed data on its program costs which are utilized in Section 7. At the request of the network, its identity is not revealed in this paper.

Report data provides the only available answer to this problem.

In a 1967 prospectus,[27] Twentieth Century-Fox reported that:

> [c]ommencing with the television series produced in 1964, . . . [production costs] are being amortized in the proportion that any year's actual net revenue bears to the estimate of total net revenue expected to be realized from networks and syndication distribution. This change . . . has resulted in the amortization of approximately 80 per cent of production cost of films released each year against television network revenue.

Fox is among the largest suppliers of prime-time series, and there is no reason to believe that its experience is not representative of the entire industry. As a check on this estimate, it is useful to compare the data in the Little Report on network program payments and total program payments to suppliers and their own production subsidiaries of $290.3 million for prime-time series in 1964, and total "off network" syndication sales of $78 million in the same year.[28] Sales were 27 percent of prime-time program costs in 1964. This may be a misleading comparison, however, since syndication revenues follow network program payments by the networks in the same series with a mean lag of perhaps one or two years. In 1965–1966, the average flow of syndication sales from old network series was $89.4 million, or 31 percent of 1964 program payments by networks.[29] Some of these sales may have come from series not originally shown on the networks during prime time, but it is unlikely that there was a large contribution from this source. It seems reasonable, therefore, to assume that the ratio of syndication sales to networks' prime-time program costs was 0.30 in 1964.

The network data appearing in the Little Report show that new series cost the networks about $125,000 per hour episode in 1964, an average which was rising at an annual rate of approximately 7 percent at the time.[30] Since at least one-third of network prime-time series are new to the network in a typical year, it seems reasonable to assume that the average cost per new episode shown on the networks during prime time in 1964 was $110,000 per hour. But the networks license programs for more than one exhibition. Therefore, we require data on the payments for repeats as well as new exhibitions.

Once more the Little Report provides the necessary data. In 1964, the networks paid $290.3 million for prime-time entertainment series. Given 71½ hours of such programming per week,[31] the average cost per hour may be estimated at $78,000. During 1964–1965, the networks exhibited original episodes for most series from mid-September until mid-April, filling out the remainder of the season with repeat episodes. Thus, original episodes formed 7/12 of the season's offering for an average program, and the ratio of the cost of new episodes to total program payments may be estimated at 7/12 ($110,000/$78,000), or 0.82. Given that syndication revenues are 30 percent of total network program payments, they are 0.30 divided by 0.82 of new program costs (C) for the first run of the programs. The ratio of syndication revenues to program costs is thus 0.366. See Figure 2.

FIGURE 2

CALCULATION OF THE VALUE OF SYNDICATION INTERESTS FROM 1964 COST-REVENUE DATA FOR PRIME-TIME ENTERTAINMENT SERIES

$$\frac{\text{SYNDICATION PROFIT}}{\text{NEW EPISODE COST PER HOUR}} = \left[\frac{\text{PROFIT FROM DISTRIBUTION}}{\text{SYNDICATION SALES}}\right]\left[\frac{\text{PROFITS FROM PROFIT SHARES}}{\text{SYNDICATION SALES}}\right]\left[\frac{\text{SYNDICATION SALES}}{\text{TOTAL NETWORK PROGRAM PAYMENTS}}\right]\left[\frac{\text{TOTAL NETWORK PROGRAM PAYMENTS}}{\text{TOTAL PROGRAM HOURS}}\right]\left[\frac{\text{TOTAL PROGRAM HOURS}}{\text{TOTAL HOURS OF NEW EPISODES}}\right]\left[\frac{1}{\text{COST PER HOUR OF NEW EPISODE}}\right]$$

$$= \left[0.11 + 0.35\right] \cdot \left[\frac{\$87.1\ \text{MILLION}}{\$290.3\ \text{MILLION}}\right]\left[\frac{\$290.3\ \text{MILLION}}{715 \times 57}\right]\left[\frac{715 \times 57}{7/12 \times 715 \times 52}\right]\left[\frac{1}{\$110,000}\right]$$

$$= 0.160$$

$$\frac{\text{EXPECTED SYNDICATION PROFIT}}{\text{NEW EPISODE COST PER HOUR}} = \left[1 + \text{EXPECTED RATE OF GROWTH}\right]\left[0.160\right]$$

$$= 1.15 \times 0.160 = 0.183$$

The profitability of syndication may also be inferred from the Little Report's interpretation of network data, but only after some adjustment. The networks report a "net gain" from syndication distribution fees of $2,310,000 and net gains from profit-share income of $5,419,000 in 1964.[32] Estimates of producers' (and presumably other participants') shares in the profits from syndication are estimated in a rather simple fashion in the Little Report. The networks' average profit share in the current year's network series is divided into profit-share net gains for 1964 in order to obtain an estimate of the total profits accruing to all participants. Similarly, the calculation of industry profits from distribution fees is effected by simply dividing the network datum by the share of programs in which networks have obtained the rights for currently exhibited network series. Both estimates must be considered to be biased downward.

In the calculation of industry profits-share net gains, the bias occurs in utilizing the net profit figure for the networks. Our data for new program series in the 1960–1965 period reveal that the network profit shares are inversely correlated with program success and, therefore, syndication profitability. As a result, the Little Report technique of dividing network profit share into network imputations of profits from syndication must lead to an underestimate of industry profits from syndication. We cannot know the magnitude of this downward bias, but the Little Report estimate of $19.5 million of industry profits from this source in 1964—35.8 percent of net revenues after deducting distribution fees[33]—

[27] Dated November 22, 1967, p. 8.
[28] See Little Report [3], vol. 2, pp. 130 and 141.
[29] *Ibid.*, p. 141.
[30] This datum is used rather than the mean value from the sample collected for the regressions in Section 5. The latter is not a complete census of all new programs. *Ibid.*, p. 69.
[31] *Ibid.*, p. 5.

[32] *Ibid.*, p. 132.
[33] *Ibid.*, p. 130. It is assumed that the average distribution fee is 0.30 and that producers' profit-share income from syndication represents the same share of total profit-share income as for the network companies.

must be adjusted upward. Given that only shipping costs, print costs, production overages, and a few miscellaneous expenses are deducted from net syndication revenues before computing profit shares, it would be surprising if total profit shares did not amount to at least 50 percent of net revenues.

The estimate of industry distribution fees is also too low, as a simple assumption will demonstrate. There is no reason to believe that other distributors are less efficient than the network subsidiaries which realized profit margins of 11.0 percent of sales in 1964. Since industry sales were $78 million, industry profits from distribution fees should approximate $8.58 million, not $6.5 million as estimated by the Little Report.[34]

The network company which was bidding for syndication interests at the midpoint of our sample—the beginning of the 1963 season—could hardly be unaware that syndication profits were growing at a very rapid rate in 1960–1963, a rate of more than 30 percent according to the Little estimates. This company would expect syndication profits to be realized from its successful programs far past 1964; therefore, the simple estimates for 1964 calculated in the above paragraphs are probably considerably below the profits expected by interested parties in 1963. There is no way of knowing what growth rate might have been applied by these bidders, but given an annual rate of growth of syndication sales of 15 to 20 percent[35] and a more rapid rate of growth of profits, it would not seem unreasonable to apply a 15-percent rate to the above profit data.

The final estimate of syndication profitability is derived as follows. Syndication fees contribute 11.0 percent of total sales in net profits while profit-share income adds 0.50 of 70 percent of sales (obtained by deducting 30 percent for average distribution fees). Therefore, 1964 profits from syndication were 0.46 of total sales. Given a growth rate of 0.15 percent, *expected* profits may be assumed to be 0.529 of 1964 *actual* syndication sales. Since syndication sales represent 0.366 of new program costs (C), syndication profits from the distribution fee and a 100 percent profit-share are estimated at 0.529 times 0.366 times new program costs, or 0.193 C for the average program during the midpoint of our sample period. This procedure is depicted schematically in Figure 2.

The final estimate is admittedly rough, relying upon network data in which important cost imputations cannot be known. There is a considerable increase in the estimated profitability of profit shares from that appearing in the Little Report, but all other estimates are quite conservative.

It remains to estimate the *present value* of 0.193 C since syndication revenues are not realized immediately upon payment of program costs, but only after a considerable lag. Since foreign sales may begin immediately and account for nearly 60 percent of all revenues, it seems reasonable to assume that the bulk of syndication revenues may be realized in four years. Again using a conservative estimate, assuming that these revenues are realized evenly over the four-year period and that the opportunity cost of capital in 1963

[34] *Ibid.*
[35] *Ibid.*, p. 141.

1964 was 0.10, the present value of 0.193 C may be calculated as follows:

$$[(0.193\,C)/4]\int_0^4 e^{-rt}dt = 0.04825C[(1 - e^{-0.4})/0.10] = 0.159\,C.$$

A long, tortuous route has brought us to an estimate of the value of syndication profits, which is nearly 16 percent of the price of a new episode of a program series to the networks.

How sensitive are these estimates to the assumptions made along the way? For instance, if the Little data were taken literally, the estimate of the present value of syndication profits would fall to 11.6 percent of new program costs. If all other assumptions were to be retained, an increase in the assumed cost of capital to 15 percent would lower present value from 0.159 to 0.145 C. An assumed growth rate of syndication profits of 20 percent would raise the estimate to 16.6 percent. Only the denial of the assumptions in the Little Report's calculations of industry profits seems of great importance, but this denial seems warranted even though our adjustment is certainly a rough one.

The final accounting estimate of the value of all syndication interests—16 percent of new program costs to the networks—is well within the confidence interval of our econometric estimate of 19 percent (Table 2). It would therefore appear that networks have paid an amount equal to the discounted present value of the distribution rights and profit shares which they have obtained. The Prime Time Rule has not saved the program suppliers from the rapacious tendencies of network buyers; it has simply required the suppliers to assume more risk or to sell these syndication interests to other buyers.

7. An extension of the results

If we extend the theoretical model developed earlier in this paper, we may utilize the regression results along with further empirical analysis to make a rough estimate of the degree of monopoly-monopsony power possessed by the networks.

For instance, suppose that (1) is appropriately represented by (1′):

$$A_i = \begin{cases} f\left(\sum_{j=1}^{M} t_{ij}\right) & \partial A_i/\partial t_{ij} > 0 \\ F\left(\sum_{i=1}^{N}\sum_{j=1}^{M} t_{ij}\right) & \partial A_i/\partial t_{ij} < 0 \end{cases} \qquad n \neq 1. \tag{1′}$$

If we assume further that $f'(\ ) = F'(\ )$, then:

$$\frac{\partial A_i}{\partial t_{ij}}\frac{t_{ij}}{A_i} = \frac{f'(\ )t_{ij}}{f(\ )}\left[1 - \frac{f(\ )}{F(\ )}\right], \tag{10}$$

where $f_i'(\ )t_{ij}/f(\ )$ is the elasticity of the network's own audience with respect to its own investment in the jth input. If we call this elasticity μ_{ij}, we may insert (10) into (4) to obtain

$$\left[\frac{\eta - 1}{\eta}\right]\left[P_A A_i \sum_{j=1}^{M} k_j \mu_{ij}\left[1 - \frac{f(\ )}{F(\ )}\right]\right] = \sum_{j=1}^{M} P_j t_{ij}. \tag{11}$$

At Cournot equilibrium, $1 - f(\quad)/f(\quad)$ becomes $1 - 1/N$, where N is the number of rival networks. If we assume further that all $k_j = k$, we may write the expression for Cournot equilibrium as

$$k\left[\frac{\eta - 1}{\eta}\right]\left[\frac{N-1}{N}\right]\left[\sum_{j=1}^{M} \mu_j\right]\left[P_A A_1\right] = \sum_{j=1}^{M} p_j t_{1j} \qquad (12)$$

For talent inputs alone, this relationship simply states that above-the-line expenditures are equal to the product of the audience expected from the program and the sum of the elasticities of audience with respect to each input multiplied by three terms which reflect the intensity of competition among networks for audience, advertising revenue, and performers. In our regression results of the previous section, the estimate of a_2 is

$$a_2 = k\left[\frac{\eta - 1}{\eta}\right]\left[\frac{N-1}{N}\right]\left[\sum_{j=1}^{K} \mu_j\right] \approx 0.10.$$

If we could determine the value of the sum of the elasticities, $\sum_{j=1}^{K} \mu_j$, we would be able to estimate the value of $k[\eta - 1/\eta]$ for $N = 3$, the number of networks throughout our sample period.

Unfortunately, we do not have precise data on the distribution of above-the-line and below-the-line costs for our U. S. sample, but the foreign noncommercial data do permit us to attempt to estimate $\sum_{j=1}^{K} \mu_j$. These foreign data contain observations on above-the-line costs, payments to performing artists, and audience for 54 light entertainment and drama series. The light entertainment series—mostly filmed comedy or light drama and music-variety programs—are likely to be chosen to provide the maximum audience per unit cost, but the drama series may well be chosen to satisfy the tastes of a sizeable minority despite the costs involved in their production. For this reason, empirical investigation into cost-audience relationships are likely to be useful only for the light-entertainment series.

In order to obtain a measure of $\sum_{j=1}^{K} \mu_j$ from the noncommercial program experience, we estimate two forms of simple regressions of audience upon costs—one which is linear and one which is log-linear.[36] The independent variables are either artists' costs or

[36] The regression of audience upon either component of costs provides us with a direct estimate of the effect of talent inputs upon audience. The linear regression gives us a slope coefficient equal to $\sum_{j=1}^{k} (\partial A/\partial t_j)$ and the loglinear regression yields slope coefficients equal to $\sum_{j=1}^{k} \mu_j$. This result may be proved quite simply. If audience is denoted A and total factor payments of the appropriate category are denoted $\sum_{j=1}^{K} p_j t_j$ and if we assume that $A = \beta\left[\sum_{j=1}^{k} p_j t_j\right]^{\mu}$, $\partial A/\partial t_j = (\beta A p_j)\left(\sum_{j=1}^{k} p_j t_j\right)^{-1}$ and $(\partial A/\partial t_j)(t_j/A) = \beta p_j t_j \left(\sum_{j=1}^{k} p_j t_j\right)^{\mu-1}$. Summing over all K inputs gives $\sum_{j=1}^{K} (\partial A/\partial t_j)(t_j/A) = \beta$. But $\sum_{j=1}^{k} \mu_j = \sum_{j=1}^{k} (\partial A/\partial t_j)(t_j/A)$; therefore, $\sum_{j=1}^{k} \mu_j = \beta$.

all above-the-line costs and the dependent variable is average audience per program. The results are presented in Table 3 for filmed comedy or light-drama series and for music-variety series as well for a combination of the two. The final column in Table 3

TABLE 3

ELASTICITY OF AUDIENCE WITH RESPECT TO EXPENDITURES UPON TALENT, FOREIGN NONCOMMERCIAL NETWORK, 1964–1965*

	SAMPLE	CONSTANT TERM	COSTS OF PERFORMING ARTISTS	ABOVE-THE-LINE COSTS	R^2	ESTIMATED ELASTICITY
LINEAR FORM REGRESSION COEFFICIENTS	ALL LIGHT ENTERTAINMENT ($n = 29$)	3341 (3.02)	1.350 (3.77)		0.346	0.813
		3262 (2.73)		0.7252 (3.51)	0.313	0.833
	FILMED COMEDY AND LIGHT DRAMA ($n = 13$)	4489 (1.82)	1.089 (1.39)		0.180	0.446
		4034 (1.21)		0.5983 (1.20)	0.130	0.503
	MUSIC–VARIETY PROGRAMS ($n = 16$)	2846 (2.74)	1.535 (3.26)		0.470	0.537
		2677 (1.94)	1.001 (3.29)		0.478	0.591
LOG LINEAR FORM REGRESSION COEFFICIENTS	FILMED COMEDY LIGHT DRAMA ($n = 12$)	4.201 (1.70)	0.5846 (1.51)		0.248	0.486
		2.575 (0.78)		0.7062 (1.88)	0.262	0.728
	MUSIC–VARIETY PROGRAMS ($n = 16$)	3.478 (1.82)	0.6740 (2.63)		0.360	0.674
		3.053 (1.36)		0.6807 (2.47)	0.328	0.681

* t-STATISTICS IN PARENTHESES.

contains the estimated elasticity of audience with respect to the independent variable at the point of means. These elasticity measures for all above-line costs range from 0.5 to more than 0.7, and we may take 0.6 as an approximation to the mean estimate.

If networks had no monopoly nor monopsony power, $k(\eta - 1)/\eta$ would equal unity. Therefore, if $\sum_{j=1}^{M} \mu_j$ is equal to 0.6, we would expect $[(N-1)/N] \sum_{j=1}^{M} \mu_j$ to equal 0.4 for a three-network oligopoly. Our econometric estimate of this expression (a_2) is only 0.1; therefore, application of the Cournot model leads us to reject the hypothesis of competition in both markets. While we cannot dismiss the possibility of network monopsony in some input markets, our results in Sections 5 and 6 provide some evidence that k is not likely to differ much from unity. These results suggest that $\eta - 1/\eta$ is approximately equal to 0.25 and that η is equal to 1.33 for each network.

■ If there is a single theme to this paper it is that offhand attempts to connect the fewness in television network broadcasting to theories of monopoly or monopsony behavior are likely to be unsuccessful. Network broadcasting is far from a typical economic activity since its principal output is donated to viewers while advertisers purchase rights to address these viewers with commercial messages. Networks may have monopoly power in national advertising markets, but this market power is not easily identified in output markets since it may only be implemented through a restriction in the number of viewer hours offered to advertisers in any period. It is obvious that this restriction of output is not serious among the current network triopoly, for each firm broadcasts during every hour possible and more than 60 percent of the nation's homes watch this output during prime viewing hours. It is only the FCC—through its imposition of the Prime Time Rule—which has sought to restrict network output to advertisers and viewers alike by limiting prime-time network broadcasting to three hours per day.

Suppose that each of the three networks faces a market demand curve which is much less than infinitely price elastic. Our rather crude estimate of this price elasticity is -1.33 for each firm, an estimate which is certainly inconsistent with the hypothesis of perfect competition in national advertising markets. But what power does this confer upon the networks? Surprisingly, virtually the only effect of this imperfectly competitive situation is to allocate the rents from television broadcasting to the networks and their stations rather than to television celebrities. The size of the total prime-time audience is likely to be rather insensitive to small changes in program quality, and performers are available to the networks in inelastic supply; therefore, the effect of monopoly power in advertising markets is to lower the derived demand for talent used in programs without much change in the nature of those programs. Star performers available at $20,000 per week are also available at a mere $10,000 per week. In our Cournot (competitive) model of program expenditure, monopoly power in advertising markets is simply translated into lower rents for performers.

Obviously, the impact of network monopoly in advertising markets upon program quality depends upon the relative importance of the various types of resources used in producing programs. Our econometric estimates of program costs suggest that as much as two thirds of all program outlays are directly dependent upon the revenue potential of network programs in their advertising market. We cannot be sure how much of this two-thirds share represents economic rents paid to participants in program production, but fragmentary evidence on the division of program expenditures suggests that a very large share of these price-determined outlays is appropriated by performers and other talent. If there were greater competition in national advertising markets, the derived demand for these services would rise and be reflected in larger economic rents. Profits would be diverted from television networks and their stations to television celebrities.

The FCC has not connected the networks' position in their output markets with their programming behavior, but rather it

8. Summary

has focused upon the networks' possession of *monopsony* power. Its restrictions upon network investment in syndication interests is based upon the assumption that the networks do not pay their suppliers the full value of these syndication rights, an assumption which is not confirmed by the econometric estimates presented in Section 5, above. Comparison of these estimates with accounting returns from syndication markets demonstrates that the networks purchase syndication interests at prices which reflect the present value of net revenues generated in syndication markets. This conclusion should surprise no one outside of the Commission, for it is inconceivable that the networks could force suppliers to accept a rate of return on program investments which is below the opportunity cost of capital. If monopsony power were present, it would be reflected in a reduced quantity of programs ordered for network exhibition, not in exploitation and eventual bankruptcy of program suppliers. Most firms supplying network entertainment series during the past decade are alive and well and still competing for network business.

The results of this paper should not be a discouragement to the FCC. That the Commission is not required to protect the small suppliers of entertainment programs—to a large extent, the major motion picture companies—from the rapacious tendencies of the television networks should be a source of considerable relief. Moreover, the identification of the relationship between network profits and market power in national advertising markets should cause the Commission no concern. The major change which would emanate from the development of greater competition in advertising markets would be a redistribution of profits toward television performers. Clearly, the FCC prefers to see these profits in the hands of the networks and stations where they may be devoted to "public service" programming. Of course, the Commission could consider the possibility of taking the necessary steps to permit an increase in the number of national networks, but this would require a reduction in the subsidies paid to local programs which attract few viewers and a major increase in the popular fare so deprecated by the Commission and its staff.

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1976-77 Network Primetime Season At A Glance

Includes Series Titles (listed alphabetically by network), Time Slots, Suppliers, Production Staff Heads, Cast Regulars and Semi-Regulars and Estimated Production Costs per Segment (costs do not include time charges or commercials)

60a

Series Title	Day	Hr.	Mins.	Supplier	Production Principals	Cast Regulars & Semi-Regulars	Estimated Prod. Fee per Episode
ABC-TV							
ABC Friday Night Movie	Fri	9:00	120	Various			Various
ABC Sunday Night Movie	Sun	9:00	120	Various			Various
Baretta	Wed	9:00	60	Universal TV - Roy Huggins/Public Arts	EP: Anthony Spinner, Leigh Vance P: Charles E. Dismukes	Robert Blake, Ed Grover, Tom Ewell, Michael D. Roberts	$ 350,000
Barney Miller	Thu	8:[illegible]	30	Four D Prods.	EP: Danny Arnold P: Roland Kibbee	Hal Linden, Barbara Barrie, Abe Vigoda, Maxwell Gail, Jack Soo, Ron Glass, James Gregory, Ron Carey, June Gable, Steve Landesberg	173 000
Bionic Woman, The	Wed	8:00	60	Universal TV - Harve Bennett Prods.	EP: Harve Bennett P: Kenneth Johnson	Lindsay Wagner, Richard Anderson	370,000
Captain & Tennille, The	Mon	8:00	60	Moonlight & Magnolias Inc. - Bob Henry Prods.	EP: Alan Bernard P: Bob Henry D: Tony Charmoli	Daryl Dragon, Toni Tennille	220,000
Charlie's Angels	Wed	10:00	60	Spelling-Goldberg Prods.	EP: Aaron Spelling, Leonard Goldberg P: Rick Husky, David Levinson	Kate Jackson, Farrah Fawcett-Majors, Jaclyn Smith, David Doyle	310,000
Cos	Sun	7:00	60	Jemmin Inc.	P: Chris Bearde D: Jeff Margolis	Bill Cosby, Jeffrey Altman, Tim Thomerson, Marion Ramsey, Buzzy Linhart, Willie Bobo	220,000
Donny & Marie	Fri	8:00	60	Osmond Prods. - Sid & Marty Krofft Prods.	EP: Raymond Katz P: Sid & Marty Krofft D: Art Fisher	Donny & Marie Osmond, Jimmy Osmond, Paul Lynde, The Ice Vanities, Osmond Brothers, Jim Connell, Larry Larsen	230,000
Family	Tue	10:00	60	Spelling-Goldberg Prods.	EP: Aaron Spelling, Leonard Goldberg, Mike Nichols P: Nigel & Carol Evan McKeund	Sada Thompson, James Broderick, Meredith Baxter Birney, Gary Frank, Kristy McNichol, Mary Grace Canfield, Season Hubley	280,000
Happy Days	Tue	8:00	30	Paramount TV - Miller-Milkis Prods.	EP: Garry K. Marshall, Thomas L. Miller, Edward K. Milkis P: Tony Marshall, Jerry Paris D: Jerry Paris	Ron Howard, Henry Winkler, Tom Bosley, Marion Ross, Anson Williams, Donny Most, Erin Moran, Al Molinaro, Roz Kelly	180,000
Holmes & Yoyo	Sat	8:00	30	Universal TV - Heyday Prods.	EP: Leonard B. Stern P: Alan Sutton	John Schuck, Richard B. Shull, Bruce Kirby, Andrea Howard	110,000
Laverne & Shirley	Tue	8:30	30	Paramount TV - Miller-Milkis Prods. Henderson Prod. Co.	EP: Garry K. Marshall, Thomas L. Miller, Edward K. Milkis P: Tony Marshall, Mark Rothman, Lowell Ganz	Penny Marshall, Cindy Williams, Phil Foster, Eddie Mekka, David L. Lander, Michael McKean, Betty Garrett, Carol White	160,000

Exhibit 3
to the Affidavit of
Franklin N. Eisler

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1976-77 Network Primetime Season At A Glance

(Continued from page 50)

62a

Series Title	Day	Hr.	Mins	Supplier	Production Principals	Cast Regulars & Semi-Regulars	Estimated Prod. Fee per Episode
CBS-TV							
CBS Friday Night Movie	Fri	9:00	[illegible]	Various			Various
Delvecchio	Sun	[illegible]	[illegible]	Universal TV - Crescendo Prods.	EP: William Sackheim P: Steven Bocho, Michael Rhodes	Judd Hirsch, Charles Haid, Michael Conrad, Mario Gallo	$300,000
Doc	Sat	[illegible]	[illegible]	MTM Enterprises	EP: Ed. Weinberger, Stan Daniels P: Martin Cohan, Laurence Marks	Barnard Hughes, Audra Lindley, David Ogden Stiers, Kay Vitte, Lisa Mordente, Herbie Faye	140,000
Executive Suite	Mon	[illegible]	[illegible]	MGM-TV - Stanley Rubin/Arena Prods.	EP: Norman Felton, Stanley Rubin P: Don Brinkley	Mitchell Ryan, Stephen Elliott, Sharon Acker, Leigh McCloskey, Richard Cox, Gwyda Donlowe, Paul Lambert, Byron Morrow, Trisha Noble, Wendy Phillips, Joan Prather, Madlyn Rhue, Percy Rodrigues, William Smithers, Maxine Stuart, Brenda Sykes, Carl Weintraub	325,000
Good Times	Wed	8:00	[illegible]	Norman Lear-Bud Yorkin Tandem Prods.	EP: Allan Manings P: Austin & Irma Kalish D: Gerren Keith	Esther Rolle, Jimmie Walker, Janet DuBois, BernNadette Stanis, Ralph Carter	180,000
Hawaii Five-O	Thu	[illegible]	60	CBS-TV	EP: Philip Leacock P: James Heinz, Douglas Green	Jack Lord, James MacArthur, Kam Fong, Herman Wedemeyer, Harry Endo, Richard Denning, Peggy Sherman, Amanda McBroom	[illegible]
Jeffersons, The	Sat	8:00	30	T.A.T. Communications Co. - NRW Prods.	P: Don Nicholl, Michael Ross, Bernie West D: Jack Shea	Isabel Sanford, Sherman Hemsley, Roxie Roker, Franklin Cover, Damon Evans, Zara Cully, Berlinda Tolbert, Paul Benedict, Maria Gibbs, Ned Wertimer	170,000
Kojak	Sun	[illegible]	[illegible]	Universal TV - FRP Prods.	EP: Matthew Rapf P: James McAdams	Telly Savalas, Dan Fraser, Kevin Dobson, George Savalas, Mark Russell, Vince Conti	[illegible]
Mary Tyler Moore Show, The	Sat	9:00	30	MTM Enterprises	EP: James L. Brooks, Allan Burns P: Ed. Weinberger, Stan Daniels	Mary Tyler Moore, Edward Asner, Murray MacLeod, Ted Knight, Georgia Engel, Betty White	225,000
Mash	Tue	9:00	60	20th-Fox TV	EP: Gene Reynolds P: Don Reo & Allan Katz, Burt Metcalfe	Alan Alda, Mike Farrell, Harry Morgan, Loretta Swit, Larry Linville, Jamie Farr, William Christopher	190,000
Maude	Mon	9:00	30	Norman Lear-Bud Yorkin Tandem Prods.	EP: Rod Parker, Hal Cooper P: Charlie Hauck D: Hal Cooper	Beatrice Arthur, Bill Macy, Adrienne Barbeau, Conrad Bain, Rue McClanahan, Angela Baddeley, Brian Morrison, J. Pat O'Malley	190,000
One Day At A Time	Tue	9:30	30	T.A.T. Communications Co.-Allwhit Inc.	EP: Jack Elinson, Norman Paul P: Perry Grant, Dick Bensfield D: Herbert Kenwith	Bonnie Franklin, Mackenzie Phillips, Richard Masur, Pat Harrington, Valerie Bertinelli, Mary Louise Wilson	180,000
Phyllis	Mon	8:30	30	MTM Enterprises	P: Ed Weinberger, Stan Daniels	Cloris Leachman, Henry Jones, Jane Rose, Judith Lowry, Garn Stephens, John Lawlor, Carmine Caridi, Lisa Gerritsen, Bart Mustin	170,000
Mr. T & Tina	Sat	8:30	30	Komack Co.	EP: James Komack P: Bob Carroll Jr., Madelyn Davis, Gary Shimokawa	Pat Morita, Susan Blanchard, June Angela, Gene Profanato, Pat Suzuki, Jerry Fujikawa, Miriam Byrd Nethery, Ted Lange	120,000
Most Wanted	Sat	[illegible]	[illegible]	QM Prods.	EP: Quinn Martin, John Wilder, Paul King P: Harold Gast	Robert Stack, Shelly Novack, Jo Ann Harris	220,000
Nancy Walker Show, The	Thu	[illegible]	30	T.A.T. Communications Co.	EP: Rod Parker P: Arnie Rosen, Jerry Davis D: Dennis Steinmetz	Nancy Walker, William Daniels, Ken Olfson, Beverly Archer, Sparky Marcus, James Cromwell	138,000
NFL Monday Night Football	Mon	9:00	120+	ABC Sports	EP: Roone Arledge P: Don Ohlmeyer D: Chet Forte	Frank Gifford, Howard Cosell, Alex Karras	400,000
Rich Man, Poor Man-Book II	Tue	9:00	[illegible]	Universal TV	EP: Michael Gleason P: Jon Epstein	Peter Strauss, Gregg Henry, James Carroll Jordan, Susan Sullivan, Ray Milland, Kay Lenz, William Smith, Tim McIntyre, Dick Sargent, Herbert Jefferson Jr.	325,000
Six Million Dollar Man, The	Sun	8:00	60	Universal TV - Harve Bennett Prods.	EP: Harve Bennett P: Lionel E. Siegel, Allan Balter	Lee Majors, Richard Anderson, Martin E. Brooks	370,000
Starsky & Hutch	Sat	[illegible]	60	Spelling-Goldberg Prods.	EP: Aaron Spelling, Leonard Goldberg P: Joseph T. Naar	David Soul, Paul Michael Glaser, Antonio Fargas, Bernie Hamilton	340,000
Streets Of San Francisco, The	Thu	[illegible]	60	QM Prods.	EP: Quinn Martin P: William Robert Yates	Karl Malden, Richard Hatch, Darleen Carr	290,000
Tony Randall Show, The	Thu	[illegible]	30	MTM Enterprises	P: Tom Patchett, Jay Tarses	Tony Randall, Rachel Roberts, Barney Martin, Allyn Ann McLerie, Devon Scott, Brad Savage	138,000
Welcome Back, Kotter	Thu	[illegible]	[illegible]	Komack Co.-Wolper Prods.	EP: James Komack P: Eric Cohen, George Yanok	Gabriel Kaplan, Marcia Strassman, John Sylvester White, Robert Hegyes, Lawrence-Hilton Jacobs, Ron Palillo, John Travolta	150,000
CBS-TV							
All In The Family	Wed	9:00	30	Norman Lear-Bud Yorkin Tandem Prods.	EP: Mort Lachman P: Milt Josefberg D: Paul Bogart	Carroll O'Connor, Jean Stapleton, Rob Reiner, Sally Struthers, Vincent Carroll	225,000
Ali's Fair	Mon	[illegible]	60	T.A.T. Communications Co.	EP: Rod Parker P: Bob Schiller, Bob Weiskopf D: Bob Claver	Richard Crenna, Bernadette Peters, J.A. Preston, Judy Kahan, Lee Chamberlin, Jack Dodson	125,000
Alice	Wed	[illegible]	[illegible]	Warner Bros. TV	EP: Thomas G. Kuhn, William P. D'Angelo, Harvey Bullock, Ray Allen P: Bruce Johnson	Linda Lavin, Philip McKeon, Vic Tayback, Beth Howland, Polly Holliday	110,000
Ball Four	Wed	8:30	30	CBS-TV	P: Don Segall	Jim Bouton, Jack Somack, David-James Carroll, Ben Davidson, Bill McCutcheon, Lenny Schultz, Marco St. John, Jaime Tirelli, Sam Wright	110,000
Barnaby Jones	Thu	10:00	[illegible]	QM Prods.	EP: Quinn Martin P: Philip Saltzman	Buddy Ebsen, Lee Meriwether, Mark Shera, John Carter	320,000
Blue Knight, The	Wed	10:00	[illegible]	Lorimar Prods.	EP: Lee Rich, Philip Capice P: Robert Schitt	George Kennedy, John Steedman	300,000
Bob Newhart Show, The	Sat	9:30	30	MTM Enterprises	EP: Tom Patchett, Jay Tarses P: Michael Zinberg, Gordon & Lynn Farr	Bob Newhart, Suzanne Pleshette, Peter Bonerz, Bill Daily, Marcia Wallace, Pat Finley, Will Mackenzie, Jack Riley	200,000
Carol Burnett Show, The	Sat	10:00	60	Punkin Prods.	EP: Joe Hamilton P: Ed Simmons D: Dave Powers	Carol Burnett, Harvey Korman, Vicki Lawrence, Tim Conway, Lester Flatt Dancers	260,000

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1976-77 Network Primetime Season At A Glance

(Continued from page 52)

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NBC-TV

Series Title	Day	Hr.	Mins.	Supplier	Production Principals	Cast Regulars & Semi-Regulars	Estimated Prod. Fee per Episode
(Quincy)				Universal TV-Glen A. Larson Prods.	EP: Glen A. Larson P: Lou Shaw	Jack Klugman, Garry Walberg, Lynnette Mettey, John S. Ragin, Robert Ito, Joseph Roman, Val Bisoglio	
Police Story	Tue	10:00	60	Columbia Pictures TV-David Gerber Prods.	EP: David Gerber P: Liam O'Brien	Scott Brady, Dane Clark	$350,000
Police Woman	Tue	9:00	60	Columbia Pictures TV-David Gerber Prods.	EP: David Gerber P: Douglas Benton	Angie Dickinson, Earl Holliman, Ed Bernard, Charlie Dierkop	360,000
Practice, The	Wed	8:00	30	Danny Thomas Prods.-MGM-TV	EP: Paul Junger Witt P: Ron Rubin	Danny Thomas, David Speilberg, Dena Dietrich, Shelley Fabares, Didi Conn, Mike Evans, Allen Price, Damon Raskin	160,000
Quest, The	Wed	10:00	60	Columbia Pictures TV-David Gerber Prods.	EP: David Gerber P: Mark Rodgers, James H. Brown	Kurt Russell, Tim Matheson	280,000
Rockford Files, The	Fri	9:00	60	Universal TV-Cherokee Prods.-Roy Huggins/Public Arts	EP: Meta Rosenberg P: David Chase, Charles Floyd Johnson	James Garner, Noah Beery, Joe Santos, Stuart Margolin, Gretchen Corbett	365,000
Sanford & Son	Fri	8:00	■	Norman Lear-Bud Yorkin Tandem Prods	EP: Bud Yorkin P: Saul Turteltaub, Bernie Orenstein D: Alan Rafkin	Redd Foxx, Demond Wilson, LaWanda Page, Don Bexley, Nathaniel Taylor, Hal Williams	220,000
Serpico	Fri	10:00	60	Paramount TV-Emmet Lavery Jr. Prods.	EP: Emmet Lavery Jr. P: Don Ingalls, Barry Oringer	David Birney, Tom Atkins	320,000
Van Dyke & Company	Thu	10:00	60	Catspaw Prods.-Blye-Einstein Prods.	EP: Byron Paul P: Allan Blye, Bob Einstein D: John Moffitt	Dick Van Dyke, The L.A. Mime Company, Andy Kaufman, Marilyn Sokol	240,000
Wonderful World Of Disney, The	Sun	7:00	60	Walt Disney Prods.	EP: Ron Miller		335,000

Abbreviations: EP - Exec Producer; P - Producer; D - Director; SP - Supervising Producer; EIC - Exec In Charge

Rhoda	Mon	8:30	30	MTM Enterprises	EP: James L. Brooks, Allan Burns P: David Davis, Charlotte Brown	Valerie Harper, David Groh, Anne Meara, Julie Kavner, L. Musc	180,000
60 Minutes	Sun	7:00	60	CBS News	EP: Don Hewitt SP: Palmer Williams D: Arthur Bilhorn	Mike Wallace, Morley Safer, Dan Rather, Shana Alexander, James J. Kilpatrick	200,000
Sonny & Cher Show, The	Sun	8:00	60	Apis Prods.-Yongestreet Entertainment	EP: Nick Vanoff P: Frank Peppiatt, Phil Hahn D: Tim Kiley	Sonny Bono, Cher Allman, Chastity Bono, Shields & Yarnell	240,000
Spencer's Pilots	Fri	8:00	60	CBS-TV	EP: Edward H. Feldman, Bob Sweeney P: Larry Rosen	Christopher Stone, Todd Susman, Gene Evans, Margaret Impert, Britt Leach	250,000
Switch	Tue	10:00	60	Universal TV	EP: Matthew Rapf P: Jack Laird	Robert Wagner, Eddie Albert, Charlie Callas, Sharon Gless	340,000
Tony Orlando & Dawn Rainbow Hour, The	Tue	8:00	60	Ilson-Chambers Prods.-Yellow Ribbon Prods.	P: Saul Ilsen, Ernest Chambers D: Bill Foster	Tony Orlando, Joyce Vincent Wilson, Telma Hopkins, George Carlin, Bob Holt, Susan Lanier, Jimmy Martinez, Edie McClurg, Nancy Steen	240,000
Waltons, The	Thu	8:00	60	Lorimar Prods.	EP: Lee Rich, Earl Hamner P: Andy White	Richard Thomas, Ralph Waite, Michael Learned, Ellen Corby, Will Geer, Judy Norton Taylor, Mary McDonough, Jon Walmsley, Eric Scott, David W. Harper, Kami Cotler, Joe Conley, Ronnie Claire Edwards	320,000

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NBC-TV

Baa Baa Black Sheep	Tue	8:00	60	Universal TV	EP: Stephen J. Cannell P: Philip DeGuere Jr.	Robert Conrad, Dana Elcar, James Whitmore Jr., Dirk Blocker, Robert Ginty, W.K. Stratton	300,000
Best Sellers	Thu	9:00	60	Universal TV	EIC: Charles Engel		325,000
Big Event, The	Sun	9:30	90	Various	EIC: Alvin Cooperman		Various
Chico & The Man	Fri	8:30	30	Komack Co.-Welper Prods.	EP: James Komack P: Michael Morris D: Jack Donohue	Jack Albertson, Freddie Prinze, Della Reese, Scatman Crothers	180,000
Emergency	Sat	8:00	30	Universal TV-Mark VII Ltd.	EP: R.A. Cinader	Robert Fuller, John London, Bobby Troup, Randolph Mantooth, Kevin Tighe, Tim Donnelly, Michael Norell, Mike Stoker, Marco Lopez	320,000
Gemini Man	Thu	8:00	60	Universal TV-Harve Bennett Prods.	EP: Harve Bennett P: Leslie Stevens, Robert F. O'Neil, Frank Telford	Ben Murphy, William Sylvester, Katherine Crawford	340,000
Little House On The Prairie, The	Mon	8:00	60	NBC-TV-Ed Friendly	EP: Michael Landon P: John Hawkins	Michael Landon, Karen Grassle, Melissa Gilbert, Melissa Sue Anderson, Victor French, Lindsay & Sidney Green Bush, Dabbs Greer, Richard Bull, Katherine MacGregor, Alison Arngrim, Kevin Hagen	320,000
NBC Monday Night At The Movies	Mon	9:00	120	Various			Various
NBC Movie Of The Week	Wed	8:30	90	Various			Various
NBC Saturday Night At The Movies	Sat	9:00	120	Various			Various
NBC Sunday Mystery Movie	Sun	8:30	90	Universal TV			500,000
(Columbo)				Universal TV	P: Everett Chambers	Peter Falk	
(McCloud)				Universal TV-Glen A. Larson Prods.	EP: Glen A. Larson P: Ronald G. Satlof	Dennis Weaver, J.D. Cannon, Terry Carter, Ken Lynch, Sidney Clute, Ken Scott	
(McMillan)				Universal TV-Heyday Prods.	EP: Leonard B. Stern P: Jon Epstein	Rock Hudson, John Schuck, Martha Raye, Richard Gilliland	

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consent decrees that do not advance the policy of the antitrust laws, which is to promote competition. "The primary focus of the Department's enforcement policy should be to obtain a judgment--whether litigated or consensual--which protects the public by insuring healthy competition in the future". S. Rep. No. 93-298, 93d Cong., 1st Ses. 6 (1973). The proposed consent decree in NBC will not insure "healthy competition", on the contrary, it is an anticompetitive decree.

I.

The main thrust of the decree is to limit the rights (e.g., to a later syndication of the program) that NBC may acquire from a producer of programs. The value of such rights tends to be highly uncertain; hence the effect of contracts that transfer these rights to the network is to have the network assume the risk that the program will not be successful enough to make the various secondary or residual rights in it commercially valuable. This shifting of risk from producer to network is a boon for the small producer, who may be in no position financially to assume the risks of failure involved in retaining all of the rights to subsequent exploitation of the program. The effect of the proposed consent decree, if adopted, would be to force this risk back on to the producer. That can only weaken the position of the small

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APPENDIX B

AFFIDAVIT OF RICHARD A. POSNER

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

RICHARD A. POSNER, being duly sworn, deposes and says:

I am a Professor of Law at the University of Chicago Law School, specializing in antitrust law. My curriculum vitae, including a list of the books and articles I have written, is annexed hereto as Exhibit 1. Counsel for CBS Inc. has asked me to examine the proposed consent decree in United States v. National Broadcasting Company, Inc. [Civil Action No. 74-3601-RJK, C.D. Cal.], together with the other documents filed in the case, including the Justice Department's Competitive Impact Statement ["CIS"], with a view to advising whether the decree is consistent with the "public interest", the standard governing entry of antitrust consent decrees under the Antitrust Penalties and Procedure Act ("APPA"), 15 U.S.C. § 16. My conclusion is that the proposed decree is inconsistent with the public interest as expressed by the Sherman Act.

The legislative history of the APPA makes clear that the purpose of the Act is to bar the entry of antitrust

producer in a market where the major sellers are large producers. Such a result would be antithetical to the policy of the antitrust laws.

The proposed decree is further anticompetitive in limiting the program production by NBC itself. NBC is a small factor in the program production market (certainly small relative to its principal supplier, MCA), but its competitive potential is significant and presumably helps keep the independent producers "on their toes". They know that if they try to cartelize the market NBC can step in and satisfy a major part of its programming needs internally. The Supreme Court has repeatedly emphasized the importance of preserving potential competition in concentrated markets. See, e.g., United States v. Penn-Olin Chem. Co., 378 U.S. 158 (1964). And the Ninth Circuit in a recent case specifically indicated its disfavor for provisions in antitrust decrees limiting production by a potential competitor. See Calnetics Corp. v. Volkswagen of America, 532 F.2d 674, 693-94 (1976).

The entry of an antitrust decree having such serious anticompetitive features as I have outlined, without any effort at responsible justification by the government in its CIS, would flout the purposes of the APPA. And there is

still another consideration that suggests to me that the decree is not in the public interest: its "regulatory" character, which the government acknowledges in its CIS (p. 9). The entry of a regulatory decree is almost a sure sign that the case should never have been brought. The purpose of the antitrust laws is to promote free competition by dissolving restraints of trade and not, as in the proposed decree in this case, to supervise the details of bargaining between buyers and sellers. See Posner, Antitrust: Cases, Economic Notes, and Other Materials 563-65 (1974); Posner, "A Statistical Study of Antitrust Enforcement", 13 J. Law & Econ. 365, 386, 388 (1970). Apart from the unsuitableness of regulatory decrees in the implementation of a statute designed to promote competition as an alternative to regulation, such decrees impose unreasonable burdens on the time and expertise of the federal district courts, which become charged--as will be true in this case if the proposed decree is entered--with the detailed supervision of ongoing commercial relationships.

II.

The proposed decree in its present form is I think manifestly contrary to the statutory standard. But its deficiencies are not mere matters of wording or the inclusion of this rather than that provision. The decree seems based on a legal theory that has no basis in the antitrust laws.

The government needs to rethink the whole case.

The basic premise of the decree is that NBC has combined with the television stations comprising the NBC television network to suppress competition in the production of prime time television programs carried on the network, or alternatively that NBC has monopolized this programming. The government's CIS states that NBC has "used and continues to use its dominance and control over access to the broadcasting time of the NBC Television Network, to condition independent program suppliers' access to said network upon the suppliers' relinquishing valuable rights and interests in their programs", and that NBC "has favored programs in which it obtained such rights and interests over other programs" (p. 6). While recognizing that NBC itself produces only a minute fraction of the prime time entertainment programs broadcast over its network, the government also expresses concern "that NBC's unrestricted ability to produce prime time television entertainment programming" has unlawfully restricted "independent program suppliers' ability to produce and negotiate for distribution and exhibition of their programming". Id.

It seems plain from the language quoted above, the terms of the decree, and the government's earlier filings in

the network cases that the government's theory of how NBC and the other two major networks have reduced competition in the production of television programs is simply that they have driven an unconscionably hard bargain with the producers--or, as the government put it in its memorandum in opposition to CBS's motion for summary judgment, that the networks failed to give the producer "payment commensurate with the success of his program" (p. 20), thereby inflicting "undue hardship" on the producers (p. 10). This theory of the violation that the proposed consent decree is designed to rectify lacks a basis in either common sense or antitrust law. Why would the networks wish to eliminate competition among their program suppliers? A rational network would take every step possible to maximize such competition in order to keep down the prices of programs it buys. Of course the networks want to pay as little for programs as possible--that is why they want to promote rather than to stifle competition among the producers.

Firms may want to reduce competition in the markets in which they sell, but they have absolutely no interest in reducing competition among their suppliers, thereby possibly placing themselves at the mercy of a cartel of suppliers or a monopoly supplier. The proposed decree is thus premised on

a completely unrealistic conception of network self-interest. Further, in seeking to rectify an alleged inequality of bargaining power between producers and networks that has allegedly enabled the networks to drive an unconscionably hard bargain with the producers, the decree strays outside the recognized boundaries of the antitrust laws. No antitrust cause of action is stated by an allegation that a buyer has refused to pay a fair price to a seller. The antitrust laws--unlike the Uniform Commercial Code or the Automobile Dealers Day in Court Act--have never before been thought to provide a remedy for a seller to whom a buyer pays an unconscionably low price. A one-sided sales contract is simply not a restraint of trade.

It should be emphasized that the contractual provisions between NBC and the producers about which the government complains are simply provisions allocating the various profit opportunities created by the contract between the parties to it in a way that may be less favorable to the supplier than alternative provisions would be. For example, the government complains about the practice, prohibited by the FCC since 1971, whereby NBC received not only the right to show the program on its network but also shared in the revenues from subsequent broadcasts of the program by independent television stations. In effect, that practice simply reduced the price that NBC paid the producer for network exhibition--and as I have said there is nothing in the antitrust laws that gives a seller the right to complain about the price in his contract with the buyer. To treat a contract of sale as an unreasonable restraint of trade because the advantages of the contract appear to inure primarily to the benefit of the seller rather than the buyer, or of the buyer rather rather than the seller, would be to alter fundamentally the character of the antitrust laws and cast a cloud of suspicion over virtually all sales contracts.

I have said this is a case, utterly unprecedented in antitrust jurisprudence, in which the gravamen of the complaint is that the buyer has driven a hard bargain with his sellers. The character of the case as I have described it would not be altered by the allegations that NBC has monopoly power even if those allegations had any possible basis in fact. The offense of monopolization is defined in the Supreme Court's most recent formulation (see United States v. Grinnell Corp., 384 U.S. 563, 570-71 (1966)) as monopoly power plus exclusionary practices, i.e., practices designed to punish, destroy, or intimidate a competitor or potential competitor of the

monopolist. I know of no case where charging customers high prices, or paying suppliers low prices, has itself been deemed an act of monopolization.

In any event, it is plain as a matter of law that NBC does not have monopoly power. The government concedes that the programs broadcast on the NBC network compete for viewers' and therefore advertisers' patronage with the programs shown on the other two networks (not to mention the programs shown on the many independent television stations). Since each of the television networks carries approximately the same amount of prime time programming as the others, it follows that NBC purchases at most one-third of the programming at issue in this case. A firm that purchases only one-third of a product can under no accepted judicial doctrine be deemed a monopolist.

The government appears to concede this, but argues that the NBC television network is itself a relevant market somehow separable from the broader market for prime time network television. This approach is untenable. To fragment a market into the individual outputs of each of the sellers, or the purchases of each of the buyers, in the market is to make every firm a monopolist and to expand enormously the reach of Section 2 of the Sherman Act. Hence the courts have consistently held that the "natural monopoly" that the producer has over his own output is not the kind of monopoly with which Section 2 is concerned. See, e.g., United States v. E. I. du Pont de Nemours & Co., 351 U.S. 377, 392-94 (1956); Telex Corp. v. International Business Machines Corp., 510 F.2d 894, 917-19 (10th Cir. 1975); ALW, Inc. v. United Airlines, Inc., 510 F.2d 52, 55-57 (9th Cir. 1975); Bushie v. Stenocord Corp., 460 F.2d 116, 120-21 (9th Cir. 1972). That principle applies a fortiori to a case where the firms in question, CBS, NBC, and ABC, are purchasing from a common pool of program suppliers who can sell to any one of the networks. The differences among the programming carried by the three networks seem to be even smaller than those which distinguish, say, Chevrolet and Ford automobiles--different brands recognized to be in the same product market, even though General Motors and Ford have sought to differentiate their products in minor but significant ways. See, e.g., Mogul v. General Motors Corp., 391 F. Supp. 1305, 1313 (E.D. Pa. 1975), aff'd, 527 F.2d 645 (3d Cir. 1976); Merit Motors, Inc. v. Chrysler Corp., 417 F. Supp. 263, 269 (D.D.C. 1976). In contrast, very few viewers, simply by looking at a television program, could tell whether it was a CBS, an NBC

or an ABC program.

It is true that once the network has signed a contract with the producer for a particular program idea, the contract will usually obligate the producer to offer the completed program to the network. But this is to say that the relevant competition among the networks for programming occurs at the point at which the producer has come up with an idea for a program that he thinks is marketable. He can peddle his program idea to any of the three networks. Their competition for promising program ideas assures that none of the networks has a monopoly in the purchase of programming.

The facts I have recited to show that this case and the proposed decree have no relation to the objectives of antitrust policy, which are to prevent monopoly and foster competition, are not in dispute. The government claims it can also prove the allegedly improper purpose of each defendant in using its control over access to its network to force the program suppliers to give up certain interests in their programs. But the only improper purpose suggested is that each defendant deliberately uses whatever bargaining power it may have to drive a hard bargain, one that involves annexing to itself as many of the profit opportunities created by the

program in question as it can. And, as I have emphasized, the use of individual bargaining power to minimize the cost of program acquisition, while conceivably objectionable on other social grounds, raises no question of illegality under the antitrust laws.

Nor is anything significant added to the case by the fact that the programs offered by the networks are carried by a large number of affiliated stations or that the networks produce some television entertainment programs themselves. The existence of station affiliations and of some internal production by the networks does not change the antitrust issues. That NBC owns some stations and has affiliation agreements with others adds nothing to a complaint that NBC is not paying enough to the independent television producers. Ford Motor Company sells its automobiles to the public through a system of franchised dealers, most of whom purchase exclusively from Ford. But a supplier of steel to Ford could not on that account complain under the antitrust laws that Ford was not paying him a high enough price to keep him in business. There is simply no right under the antitrust laws to demand a "reasonable" price from a supplier; the buyer's distribution system is irrelevant. This case involving the market for programs would be no

different if NBC owned all of its affiliated stations. NBC might be stronger as a buyer of television programs, but it would still not have a monopoly position in the relevant market--the market in which it competes with ABC and CBS in the purchase of programs--and its contracts with its suppliers would still not be reviewable by an antitrust court for adequacy of consideration.

Equally irrelevant is the fact that NBC produces some of the entertainment programming shown on its network (though less than 5 percent of it). One can imagine an antitrust case whose gravamen was that NBC had a monopoly in one market (program distribution) which it was using to take over a related market (program production). But that is not this case. Not only is the premise (monopoly in one market) false, but NBC's small market share as a producer refutes any suggestion that it has been seeking to take over the production of all of its own programs. Moreover, even if NBC produced all of its own programming, its market share as a producer would be no higher than its current market share as a buyer. Since it is not claimed that ABC and CBS could be compelled to buy their programs from NBC, its market share as a producer cannot be more than approximately one-third. But, if NBC cannot produce more than one-third of the total

programs, it cannot be deemed a monopolist of production any more than it can be deemed a monopoly buyer. Presumably the complaint is that NBC is trying to depress the profitability of the independent producer industry in order to increase its own network profits, and not in order to increase its own market share in the production of network programming.

NBC's affiliation agreements and its internal production are red herrings in this case. The Government here is challenging the terms on which NBC buys television programs. The Government claims these terms are too hard, impose undue hardships on the independent producers and have impaired the vigor of competition among them. These allegations are irrelevant to the antitrust claims. NBC has very good commercial reasons for wanting to have a large number of suppliers vigorously competing for NBC's business, but NBC has no duty under the antitrust laws to pay a supplier a price that will keep him in business. Relatively inefficient suppliers when faced with competition from other producers offering similar products at lower prices may indeed be driven out of business. But that is the result of competition and not the suppression of competition. The antitrust laws were enacted for "the protection of competition, not competitors". Brown Shoe Co. v. United States, 370

U.S. 294, 320 (1962).

My point is not that the government's case against NBC has legal infirmities; that would not be decisive on the question whether this Court should enter a consent decree. My point is rather that the case is so devoid of even a colorable claim of an antitrust violation that a decree based on the theory of the complaint cannot be deemed "in the public interest", even if the defendant, for whatever private reasons it may have, is inclined to accept the decree rather than litigate. The Antitrust Penalties and Procedure Act requires this Court to make an independent judgment whether the proposed decree is in the public interest. To be in the public interest under the Act a decree must be, at the very least, reasonably related to the policy of the antitrust laws. The proposed decree, even if it could somehow be purged of the anticompetitive features discussed at the outset, would not be reasonably related to the policy of those laws.

[SEAL: Gladys Fuller,
Notary Public,
Cook County, Ill.]

Richard A. Posner
Richard A. Posner

Sworn to before me this
23rd day of February 1977.

Gladys Fuller
Notary Public

Exhibit 1
to the Affidavit of
Richard A. Posner

February 1977
University of Chicago Law School
1111 East 60th Street
Chicago, Illinois 60637

Richard A. Posner

CURRICULUM VITAE

Education:	A.B., Yale College, 1959, summa cum laude; LL.B., Harvard Law School, 1962, magna cum laude and Fay Diploma (first in class); President, Harvard Law Review
Occupation:	Law Clerk to Mr. Justice William J. Brennan, Jr, U.S. Supreme Court (1962-1963)
	Assistant to Commissioner Philip Elman, Federal Trade Commission (1963-1965)
	Assistant to the Solicitor General of the United States (1965-1967)
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APPENDIX C

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 77-53
43947

In the Matter of	)	
	)	
Commercial Television Network Practices and the Ability of Station Licensees to Serve the Public Interest	)	DOCKET NO. 21049 (RM-2749)

NOTICE OF INQUIRY

Adopted: January 14, 1977 Released: January 14, 1977

By the Commission: Commissioners Lee and Hooks concurring in the result; Commissioner Fogarty issuing a separate statement.

1. Notice is hereby given of the institution of an inquiry into commercial television network practices and policies regarding the acquisition and distribution of television programming. Almost two decades have elapsed since the Commission completed its last overall study of network practices.1/ Developments in recent years suggest that a new inquiry is warranted.

2. This inquiry will encompass a number of subjects surrounding the matter of alleged dominance of the nation's commercial television industry by the three major commercial networks, but will focus most specifically on the relationship between these networks and their affiliated stations. In this regard, the Commission has consistently emphasized that it is the individual licensee who has the right and the responsibility to program his station:

> ...the Commission in administering the Act and the Courts in interpreting it, have consistently maintained that responsibility for the selection and presentation of broadcast material

1/ Between 1955 and 1957, a special network study staff conducted a broad-ranging inquiry into network practices. This study resulted in the release of the "Barrow Report." Network Broadcasting, H. Rep. No. 1297, 85th Cong., 2nd Sess. (1958). (Hereinafter cited as the "Barrow Report.")

ultimately devolves upon the individual station licensee and that fulfillment of such responsibility requires the free exercise of his independent judgment.

En Banc Programming Policy Report, 20 R.R. 1901, 1911 (1960). It is clear, furthermore, that this responsibility for the independent exercise of programming judgment cannot be delegated to a network or to any other entity or individual.2/ Accordingly, we propose to carefully examine whether particular network practices may improperly compromise or restrict the programming discretion of the broadcast station licensee.

3. In giving proper consideration to this question, it is not possible to limit our inquiry simply to an examination of the contractual relations which exist directly between a network and its affiliated stations. The networks play a central role in our commercial television industry and their activities have a direct bearing on the entire market relating to the production and distribution of television entertainment programming. Station discretion can be meaningfully and effectively exercised only in circumstances where this market is in a healthy, competitive state and is in a position to offer alternative sources of programming. For this reason, our inquiry will encompass the question of whether the networks have maintained anti-competitive policies which unduly restrict the development of other programming sources.

Preliminary Observations

4. This study is prompted, in part, by a rule-making petition brought before us by Westinghouse Broadcasting Company, Inc. (RM-2749) and by allegations contained in antitrust complaints which the Department of Justice filed

2/ As also stated in the Programming Policy Report (20 R.R. 1901, 1914), the broadcaster is obligated to provide programming to meet the needs and interests of his local community and this "is a duty personal to the licensee and may not be avoided by delegation of responsibility to others." See also Broadcast Licensees and Public Agreement, 57 FCC 2d 42, 49-51 (1975).

against the networks in the Central District of California.3/ The Westinghouse petition called for a "comprehensive inquiry and rulemaking proceeding to review the changing role and function of the three national television networks." Westinghouse Petition in RM-2749, September 3, 1976, p. 1. The Justice Department filed comments in support of this petition but, in a supplemental letter, emphasized that its comments "should not be construed as suggesting that the inquiry encompass those issues now being litigated in the Federal District Court in California," and that neither this letter nor the Department's formal comments were intended "to preclude either the Commission or the Department of Justice from taking any action consistent with its respective responsibilities." Letter from the Honorable Donald I. Baker, Assistant Attorney General, Antitrust Division, December 3, 1976, pp. 1 and 2.

5. We would like to make it clear that, in instituting the present inquiry, we have neither the power nor the desire to foreclose the Department in its antitrust action. While it is inevitable that thorough inquiry into network practices will encompass many of the questions raised in the antitrust suit, we do not believe that our inquiry should in any way preclude the Department from prosecuting its case or from arranging an appropriate settlement. See United States v. Radio Corporation of America, 358 U.S. 334 (1958). In concurrently examining similar issues, the Department of Justice has a direct responsibility for the enforcement of the Sherman Act, whereas the Commission's inquiry will focus on public interest questions affecting communications policy pursuant to our responsibilities under the Communications Act of 1934. In this connection, we note that in mid-November 1976 a proposed consent decree was agreed to by the Department and by NBC in one of the three antitrust actions mentioned (Case No. 74-3601 - RJK), and is now pending before the Federal District Judge handling the case. See 41 Fed. Reg. 51991 (November 24, 1976). This is discussed below, in connection with the general subject of network-producer relationships.

3/ United States v. American Broadcasting Companies, Inc., Civil Action No. 74-3600 - RJK (C.D. Cal.); United States v. CBS Inc., Civil Action No. 74-3599 - RJK (C.D. Cal.); United States v. National Broadcasting Company, Inc., Civil Action No. 74-3601 - RJK (C.D. Cal.).

6. In the discussion of specific topics below, there is extensive reference to allegations raised in the Westinghouse petition, statements in response to that petition filed by public interest groups and other parties, the Department of Justice antitrust complaints, and the proposed NBC consent decree. The networks vigorously oppose most of these allegations, as to their relevance and materiality and in some cases their accuracy. They also advance counter-arguments, both in respects mentioned below and otherwise. We have carefully considered the networks' positions, just as we have carefully noted assertions made by Westinghouse, the Department of Justice, and public interest groups. Given the networks' highly important role in the commercial television industry, allegations regarding abuses of power, and the lapse of 20 years since the last overall network study and investigation, we believe that this Inquiry is appropriate at the present time. This is true not only in connection with consideration of possible Commission regulation by rule or adjudication, but also in connection with possible legislative recommendations to Congress. The Commission hastens to point out, however, that we have not reached any conclusions, even of a tentative nature, regarding those issues discussed below. What we contemplate at this time is solely a fact gathering inquiry designed to provide the Commission with information necessary to a thorough understanding of television networking.

7. The Commission is, of course, cognizant of the vital contributions which the networks have made to the development of the television medium. As pointed out in the 1960 Program Policy Statement, supra, (20 R.R. 1914):

> The programs provided first by "chains" of stations and then by networks has always been recognized by this Commission as of great value to the station licensee in providing a well-rounded community service. The importance of network programs need not be reemphasized as they have constituted an integral part of the well-rounded program service provided by the broadcast business in most communities.

While it is certainly not our intention to adopt any regulatory measures which would impair the ability of the networks to serve the public interest, we must assure ourselves that the networks are not engaging in practices which might unduly encroach on the discretion of our licensees, or unnecessarily restrict the development of new sources of television programming.

8. As a matter of convenience, this Notice has been divided into three sections: (1) background on the role of the networks; (2) questions concerning the relationship between networks and their affiliated stations; and (3) questions concerning the relationships between the networks and program producers and suppliers. It is obvious, of course, that the categories of questions concerning network-affiliate relations and network-program supplier relations are far from being mutually exclusive. Developments in one area can and generally do impact on the other. Nevertheless, we believe that this division of questions will be useful for the purposes of discussion and inquiry. Commenting parties should be careful, however, to keep in mind the fact that to a very large extent these categories are inextricably intertwined. The fact that we are studying various particular aspects of commercial television broadcasting does not mean that these are viewed as problem areas. It simply means that information pertaining to these activities is indispensable to a thorough understanding of network practices. In this regard, our inquiry addresses the identification of problems, not the consideration of possible remedies for any abuses that may be identified.

Background: The Role of the Networks

9. Ever since the demise of the Dumont Network in the mid-1950's, there have been only three "national" television networks: the American Broadcasting Companies, Inc. (ABC), Columbia Broadcasting System, Inc. (CBS) and National Broadcasting Company, Inc. (NBC). Recent years have witnessed the development of a number of specialized networks offering sports or movies, but the pre-eminent position of the three national networks remains unchallenged. Their affiliates number well over 75% of all U.S. commercial television stations (approximately 600 out of slightly more than 700) and, outside the major markets, network affiliation is virtually indispensable to successful station operations.4/ As discussed below, it appears that about sixty percent of the broadcast programs currently presented by affiliates are supplied directly by their network. In addition to their ability to reach nearly all American households through their affiliated stations, all three networks own VHF stations in each of the nation's three largest television markets (New York, Los Angeles and Chicago), and two in other major markets (ABC, Detroit and San Francisco, the 6th and 7th markets; CBS, Philadelphia and St. Louis, the 4th and 12th markets; and NBC, Cleveland and Washington, the 8th and 9th markets). Each of these 5-station "owned and operated" (O and O) groups reaches about 22 percent of the

4/ There are only ten commercial independent stations (in the conterminous U.S.) outside the top 50 markets.

U.S. audience.5/ The networks are actively involved as brokers or middlemen connecting the program producers and national advertisers with local stations and their viewers. It is, therefore, not surprising that the networks play a very important role in the development, selection, and distribution of television programming.

10. This role, with respect to program development and selection, has not remained unchanged. Twenty years ago, more than half of the programs carried by the networks were either produced or purchased by major advertisers who acquired the necessary amount of network time to broadcast their programs. Today, for a variety of economic reasons, virtually all regularly scheduled network programs are either obtained by the networks directly from an independent producer or produced by themselves. With this development, the ability to determine what types of television programming will be made available to the American public has largely shifted from the advertising community to the networks.

11. This change is largely attributable to increases in the costs of producing programming as well as the costs of network advertising time. Between 1960 and 1976, the average cost of a single half-hour episode of a new prime-time program increased by about 237 percent from nearly $49,000 to approximately $165,000.6/ Network program expenditures reflected this trend, rising from $376,948,000 in 1960 to $1,273,241,000 in 1975, an increase of 238 percent. The average cost of a thirty-second network tv advertising spot rose by 153 percent during the same period. Cost increases have also been accompanied by a general recognition that shorter commercial messages are, for the most part, more cost effective than longer tv advertisements. That is, a 20 or 30-second spot, in many instances, is thought to be as nearly effective as a 60-second spot besides being less expensive. Given these developments, it is not

5/ In terms of "ADI households" (households located in the market stations' "area of dominant influence") the figure was 22.82% for ABC, 22.76% for CBS and 21.91% for NBC. See Broadcasting Yearbook 1976, p. B-80, American Research Bureau (ARB) estimates for 1975-76.
6/ The average cost of a prime time network episode was obtained from Arthur D. Little, Television Program Production, Procurement, Distribution and Scheduling, (April 21, 1969) p. 41. Production costs are based on individual program production fees published in Variety, September 15, 1976, pp. 50-54.

surprising that advertisers have become increasingly inclined to spread their commercials over a larger number of programs. Consequently, they no longer produce their own regularly scheduled programming but, rather, purchase a number of commercial spots which are usually placed in a variety of programs. While this development has shifted almost exclusive control over the development and selection of programs to the networks, it has also permitted more businesses, particularly smaller ones, to use television as an advertising medium.

12. Network control over access to the medium has also coincided with rather extraordinary increases in profits. Between 1960 and 1975, total combined network expenditures rose from $461 million to $1,465 million, for an average annual increase of 13.6 percent. Total net broadcast revenues, on the other hand, increased more rapidly; from $495 million in 1960 to $1,673 million in 1975, which was equivalent to an average annual increase of 15 percent. Net income (total combined profits before taxes) earned by the networks has risen at an annual rate of 32 percent; increasing from $33.6 million in 1960 to $209 million in 1975. According to the Internal Revenue Service, pre-tax profits accruing to all businesses in the United States increased at an average annual rate of approximately 12 percent between 1960 and 1974.7/

13. Westinghouse alleges that increases in network profits have partially resulted from expanded program schedules and relative reductions in station compensation payments. It is stated that between 1960 and 1976 the networks increased the length of their program schedules from 434 to 516 half-hours, or by 19 percent.8/ It is further argued that these

7/ According to the Statistics Division of the Internal Revenue Service, net income earned by proprietorships, partnerships and corporations increased from $79,809 million in 1960 to $225,120 million in 1974. Statistics are not available for 1975.
8/ "Clearance" of network programs by affiliate stations is usually very high; ABC shows it as 95% or more for prime time and Monday-Friday daytime programming (though less in other parts of the week).

increases occurred at the expense of local station time which has declined by 25 percent since 1960. Additionally, Westinghouse maintains that network programming currently occupies up to two-thirds of the available time on affiliated stations. The networks, it is claimed, have also reduced the proportion of their total revenues devoted to station compensation which, of course, has also enhanced their profits. Westinghouse further maintains that between 1964 and 1975, station payments as a percent of network revenues declined from 23.1 to 13.4 percent. Similarly, it is contended that station compensation payments as a percent of station receipts decreased from 19.8 to 10.7 percent during the same period. It is suggested that these and related developments have adversely affected the ability of affiliated stations to meet their public service responsibilities.

14. When the allegations of Westinghouse and other parties are considered against this background of significant change in the commercial television industry, it appears that an inquiry is warranted. In order to protect the interest of the public in receiving the best possible programming service, the Commission must take a careful look at the question of whether the networks may have engaged in conduct which hampers the independent judgment of the affiliated station, and which restricts effective competition in the programming market.

Network-Affiliate Relations

15. In the paragraphs which follow, we will briefly discuss three areas of network-affiliate relationships which appear to be particularly pertinent in connection with this inquiry, and as to which comments are specifically invited, although, of course, parties may wish to discuss others. These are: (1) clearance of network programming and the expansion of network program schedules, (2) previewing of network programming by affiliated stations, and (3) the relationship between station compensation plans and the independence of affiliate stations. While we are confident that larger licensees will supply comments, we particularly urge affiliates in smaller markets and independent stations to provide us with their views. With respect to each of these matters, we would hope that commenting parties will support their arguments, as completely as is possible, with relevant statistics and other factual information. This will facilitate our assessment of the merits of these arguments as well as assist the staff in its fact-finding efforts.

16. Clearance of Network Programs and the Expansion of Network Schedules. Westinghouse has estimated that, in 1960, network schedules filled only about one-half of the total hours broadcast by affiliate stations, but that today network programs occupy approximately two thirds of these hours. It is argued that this increase has caused a corresponding decrease in the opportunities for independent programming decisions by station licensees. Implicit in this argument is an assumption that affiliated stations really do not wish to clear additional network programming, but that circumstances compel them to accept these programs anyway. In response to these claims, the networks argue that the overall figures on network program expansion are misleading and that regardless of the amount of increase, affiliates have supported and benefited from the additional programs.9/ We specifically invite comments on the extent to which such clearances are other than voluntary and the nature of any contractual provisions or other economic relationships which might serve to undermine the independent judgment of the station licensee.10/

17. In addition, we seek comments on the likelihood of further expansion of network schedules and whether this would impact on the financial performance of local stations as well as their ability to serve the interests

9/ It is further argued that these increases are largely attributable to ABC which accounted for more than half of the overall expansion of combined network schedules since 1960. Moreover, the networks maintain that the expansion was part of a "long process of building ABC into a fully competitive network." CBS and NBC, on the other hand, only expanded their schedules by 9 and 5 percent, respectively. Furthermore, the new network material has largely been late night, early morning (cleared, ABC and CBS note, by only about 80 percent of their affiliates) and weekend sports programming which has meant increased station compensation and/or made possible station broadcasts at times when the affiliates were previously off the air.
10/ Westinghouse has also suggested that the lack of joint efforts by affiliates in dealing with their network with respect to program clearances and other matters may have impeded their ability to serve the public. Some parties may wish to comment on the need for, legality, and propriety of such joint efforts.

of the local community.11/ We invite additional comments regarding any relationships between the length of network schedules, and the supply and demand for syndicated programming, particularly first-run material, available to affiliated and independent stations. With regard to the latter questions, we have noted various reports indicating that the networks, at some time in the near future, may increase the total amount of available commercial minutes per hour in prime time. We ask for comments on whether this would significantly impede the development of additional networks, specialized networks, and other syndicated program offerings in competition with network programming.

18. Previewing of Network Programs by Affiliate Stations. Westinghouse has also alleged that the networks do not afford affiliated stations a reasonable opportunity to review network programming before it is shown to local audiences, thereby making it difficult for station licensees to exercise independent judgment concerning the suitability of particular episodes for their communities. With regard to this issue, it is suggested that audiences will become confused or angered if a program is cancelled after it has been promoted over-the-air or has been published as part of an announced program listing. Westinghouse contends that prescreening opportunities are commonly delayed until after this promotional material has been provided to the public. Network comments in response to the Westinghouse petition contain extensive descriptions of present (in the case of NBC, recently amended) procedures for informing affiliates in advance of network program content, procedures which the networks claim are "adequate."12/ We invite comments on

11/ With regard to this specific question, Westinghouse has estimated that an expansion of network news to one hour would cost affiliate stations a total of $75 million annually and would increase total network income (including O and O's) to 50 percent of all industry income.

12/ All three networks provide affiliates with written materials summarizing future programs. Policies on allowing actual previews of programs are: ABC - up to 15 hours per week (9 on the average), including all programs which carry a parental guidance advisory; CBS - no hour per week figures, but provides programs of particular interest "virtually on a daily basis" and theatrical movies approximately 4 weeks in advance where practical; NBC - up to 20 hours per week (series episodes, theatrical and made-for-television movies, specials), programs with parental guidance advisories and any available program requested by an affiliate. (Continued.)

the nature and adequacy of the information which is presently provided to affiliates concerning up-coming programs, and the extent to which improvements may be needed so as to allow the effective exercise of licensee discretion. We also invite comments on the cost and inconvenience which may be associated with the provision of additional, or more timely, program information. Finally, we encourage comments regarding the extent to which affiliates currently prescreen network programs as well as their willingness to make use of additional prescreening opportunities if made available.

19. Station Compensation Plans. Traditionally, the networks have paid their affiliated stations for clearing network programming, or more precisely, for clearing the network commercials which are associated with that programming. While the methods used to determine these payments are rather complicated, they are directly related to the size of a station's audience and constitute an important ingredient contributing to the financial health of affiliated stations. While the Commission is not concerned with the earnings of stations per se, we do become interested when financial arrangements detract from the ability of these stations to live up to their responsibilities as public trustees. In 1963, for example, we found that a proposed CBS compensation plan would discourage affiliates from rejecting network programs which they believed to be unsatisfactory or contrary to the public interest. CBS Network Compensation Plan, 24 R.R. 540a; 1 RR 2d 696 (1963). In this instance, the Commission stated that:

> Any graduated payment plan wherein the average hourly rate of compensation varies greatly with or is heavily influenced by the number of hours

11/ (Continued.) ABC and NBC both refer to their program standards departments as one way of insuring that programs are "acceptable" to affiliates (although Westinghouse points out that licensees must determine acceptability based on local, not national standards). Other network policies in this area include showing pilot programs to affiliates at annual meetings and during the preceding season and permitting affiliates to invite newspaper television critics to previews. Finally, it is said that there are practical problems in providing affiliates with programs 4 weeks in advance, as Westinghouse requests - production schedules and editing, MPAA classifications and dealing with the creative community.

> taken and which as a practical matter, requires an affiliate to take the majority of its programs from the same network without regard to the merits of the programming offered, is barred by our rules.

Id. at 698.13/ We invite comments on the extent to which the networks' present compensation plans are consistent with this principle. These contracts variously call for affiliates to carry up to an equivalent of 24 hours of prime time programming per month without compensation or for dollar discounts which amount in substance to roughly the same thing. We are specifically interested in the effect these provisions have on the independent discretion of our licensees and on the ability of syndicators and other program suppliers to compete with the networks by dealing directly with affiliated stations.14/ We are further interested in (1) whether and to what extent uncompensated prime time represents a justifiable means of sharing the overhead expenses associated with network program procurement and (2) the extent to which the average amount of compensation for each half hour of network programming cleared by a station varies depending on the total amount of network programming cleared by that station.

20. In its petition, Westinghouse states that between 1964 and 1975 the net income of the networks increased by 246%, whereas compensation payments to stations increased only 20%. It is argued that, by virtue of their powerful economic position, the networks have been able to limit compensation payments and thus realize a rather dramatic increase in their profits. This argument suggests that the advantages of networking, as opposed to syndication, are very substantial. That is, in the absence of anti-competitive practices, artificially depressed levels of station compensation would be expected to provide a fertile opportunity for entry by non-network program sources. We are most interested in comments on the question of whether the

13/ Aside from this concept, network control over a station's network rate has the potential for use by the network to influence the station's clearance decisions and also the level of its national spot advertising rates. See American Broadcasting Company, 17 R.R. 458, 462-463; Columbia Broadcasting System, Inc., 17 R.R. 447, 449; National Broadcasting Company, Inc., 17 R.R. 449, 452-453 (all 1958).

14/ A brief discussion of this issue may be found in the "Barrow Report," supra. pp. 463-66.

economic picture painted by Westinghouse is complete and accurate and, if so, what factors exist which discourage vigorous competitive activities by syndicators or the creation of a "fourth network." Comments are also invited on the effects which various changes in compensation plans might have on the health and viability of networking and the ability of the networks to contribute to programming in the public interest. We would encourage comments, particularly from our licensees, regarding relationships between compensation payments and expenditures to serve local programming needs (including locally produced material) as well as their ability to compete effectively with networks for national spot advertising. With regard to the latter two questions, it is alleged that relative decreases in compensation have forced stations to increase prices for national spots, while at the same time, permitting the networks to reduce commercial rates charged to national advertisers. This, according to Westinghouse, has afforded the networks a substantial competitive advantage which has adversely impacted on station revenues and on the quantity and quality of local service. Finally, parties are free to comment on any other aspect of network compensation plans or contractual relations which may be inconsistent with legitimate public interest objectives. We stress again, however, our unwillingness to become involved in the amount of station compensation per se (i.e., without reference to practices which are anti-competitive or contrary to the public interest).

Network-Program Supplier Relations

21. Our discussion of the relationships between the networks and program producers and suppliers is divided into the following six categories: (1) network interests in syndicated programs produced by independent suppliers, (2) network produced entertainment programming, (3) contractual tying agreements relating to production facilities and program options, (4) exclusive exhibition rights to new programs, (5) exhibition rights to network reruns, and (6) relations between network owned and operated stations and program suppliers. Once again, parties are free to comment on other matters which may be relevant to this Inquiry. All parties are urged, however, to make every effort to support their arguments with factual information.

22. Network Interests in Syndicated Programs Produced by Independent Suppliers. The proposed NBC consent decree contains terms prohibiting NBC from acquiring distribution rights or profit shares in programs produced by outside producers, and from engaging in syndication of such programs anywhere, and from all syndication in the U.S. Those

particular terms appear virtually identical to rules adopted by the Commission in 1970 (§73.658(j)), prohibiting such activities, including the acquisition of any interest in a program produced by an outside party beyond the right to network exhibition. We invite interested parties to comment on the adquacy of our present rules and to propose alternatives if that appears to be warranted. Parties may wish to comment, particularly, on programs such as the current Dinah program--created originally by CBS, produced for its 5 owned and operated stations by an outside entity, and syndicated nationally by a different company but often, according to Westinghouse, carried by CBS-affiliated stations. Westinghouse and NAITPD claim that this violates the spirit if not the letter of the 1970 rules, particularly in light of Dinah Shore's other contractual relations with CBS.15/

23. Network "In-House" Production of Entertainment Programs. Although most network entertainment programs are acquired from outside producers, a small number have been and are produced entirely by the networks themselves. This was one subject of the Department of Justice's antitrust action. The Department's position (as set forth in its competitive impact statement filed with the NBC consent decree) is that, just as with programs produced by others but in which the network acquires subsidiary rights, there arises a network predisposition to use such material regardless of its merit, and independent producers are thus unduly excluded from the network program market. Other parties have alleged that the unlimited network potential for producing their own entertainment programs can be used to obtain first-run programming at unreasonably low prices. While we are not concerned with the profits of program producers as such, we are interested in the question of whether this factor gives the networks an anti-competitive advantage over potential competitors, and whether the advantage works to limit the supply of independently produced programs. Parties addressing the possibility of Commission regulation in this area should attempt to assess the possible effects of such restrictions on: (1) network programming

15/ Westinghouse also mentions the fact that the program is produced by CBS facilities (see para. 25, below). While not mentioned by Westinghouse, other pertinent factors in this connection could be: (1) the proportion of guests on the show which are CBS "talent"; and (2) whether or not CBS advanced financing for the program.

schedules, as to quality and type of programming; (2) prices paid for network exhibition rights; and (3) the cost and supply of syndicated programming available to local stations.

24. Contractual Tying Agreements Relating to Production Facilities and Program Options. Independent production companies have periodically maintained that the networks agree to purchase a particular program on the condition that the producer grant the networks other rights or interests which are not incidental to network exhibition of that program. These interests, it is said, sometimes include a commitment to use network-owned production facilities to produce the program. We suggest that commenting parties address themselves to the question of whether such arrangements to the extent that they exist, may affect competition in the offering of program production facilities. We are further interested in obtaining information regarding the following questions: (1) what proportion of all network programs are produced using network owned facilities or that of other networks, (2) how does the cost of leasing these facilities compare with the cost of leasing facilities owned by others, (3) what percentage of total production costs is attributable to the cost of leasing facilities, and (4) does that percentage vary by type of program?

25. It is also alleged that the networks commonly demand options on exhibition rights for as much as five to seven years following the development of a script or program pilot, thereby precluding competition in bidding for the rights to a program which develops into a highly successful series. We invite comments on the effects which such practices could have on competition, and, more specifically, on the supply of programs available to local stations through the syndication market, and also on the extent to which these clauses may limit the life expectancy of a first-run series. Comment is also invited on (1) the extent to which extended options may be necessary to cover a network's heavy expenses in developing and promoting program series, (2) whether the terms and conditions of options differ for various types of programs, (3) their impact on the profitability of an investment by a producer in independently produced entertainment series, (4) the relationship between program options and the life expectancy of a new series and the subsequent availability of that series in the syndication

markets and (5) the extent to which changes in program options would or could affect station compensation payments.

26. Exclusive Exhibition Rights for Program Pilots. In a given year, the networks typically purchase exhibition rights to a far greater number of new programs than they can possibly use. In large measure, such purchases are necessary to enable the network to select an attractive line-up of programs and to replace those which generate relatively small audiences. Nevertheless, we believe that it is appropriate to seek comments on whether some present practices unduly restrict the release of a significant number of pilots for further development and thereby limit the amount of first-run material available for syndication, and whether this programming might, in some instances, provide viable competition to network offerings. More specifically we invite comments regarding (1) the extent to which networks have eventually used programs which were initially rejected for regularly scheduled distribution; (2) the amount of elapsed time between initial rejection and eventual acceptance of these programs during the past 10 television seasons; and (3) any differences in the duration of exclusive rights to new series which depend on the type of program (e.g. prime-time series as opposed to day-time, situation comedy as opposed to drama etc.). Finally, parties are invited to comment on whether those rights influence the diversity of network schedules or the availability of first-run syndicated programs.

27. Exhibition Rights to Network Reruns. The Department of Justice has raised a question as to whether limitations should be placed on the ability of networks to secure exclusive rights to rebroadcast episodes originally shown in a previous television season. Specifically, the consent decree contains a provision that negotiations for exhibition rights to repeats, originally broadcast in a preceeding season, must be separated from negotiations for rights to first-run exhibition. We invite comments regarding the need for such restrictions and their effect on (1) the cost of repeats to the network and local stations, (2) network use of repeats in day-time, prime-time and fringe hours, (3) investment opportunities in new first-run network and syndicated programming and (4) the demand for new as well as repeated syndicated material available to local stations. Parties are invited to comment on any other aspect of this issue which warrants our attention. It is not our wish to reopen here the issues regarding same-year repeat episodes which were dealt with in the Commission's inquiry concerning the networks' use of reruns in prime-time entertainment programming (Docket No. 20203, 37 FR 2d 1435).

28. The Relations Between Network Owned and Operated Stations and Program Suppliers. The networks also participate in the programming market as station owners. It has been alleged by Westinghouse that certain practices used by the networks in acquisition of programming for the owned and operated stations have adversely influenced the quantity and quality of syndication offerings. It would be helpful to the Commission to know the extent of block buying of programming for each network owned station group (i.e., the purchase of the same programs for exhibition on all of the stations in that group.) The Commission is also interested in whether any relationship exists between the purchase of first-run programs for O and O exhibition and the leasing of network owned facilities for the production of those programs. Comments are invited on whether a "network deal" in the form of a contract for exhibition on an O and O group is a prerequisite for the success of a first-run program sold in the syndication market. Parties are also free to address other issues concerning the impact which network practices with respect to owned and operated stations may have on the programming market and, in particular, the impact which such practices might have on the successful syndication of programming in direct competition with network offerings. While this inquiry concerns the business practices of the networks as they may impact on industry competition, and while attention, thus, must be paid to network practices with respect to the O and O's, we wish to make it clear that this is not a multiple or "group" ownership proceeding.

29. The Nature of this Proceeding. Comments and other information filed in connection with this inquiry will be evaluated by a special staff composed of economists, attorneys, and others with relevant experience and expertise. This staff will be under the direct supervision of the full Commission.16/ The staff's analysis of the comments and reply comments may be followed by the issuance of questionnaires or inquiries designed to provide a complete factual record. If at any point it appears that these procedures are inadequate, the special staff will be authorized to initiate compulsory processes under Section 403 of the Act. It is hoped that a report concluding this inquiry can be completed within one year following receipt of the comments.

16/ The special staff which conducted the 1955-57 inquiry was under the supervision of a committee of four Commissioners. In the present instance, however, we see no need for the establishment of such a committee.

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30. IT IS ORDERED, that the petition for inquiry, rule making and immediate temporary relief, filed September 3, 1976, by Westinghouse Broadcasting Company, Inc. IS GRANTED to the extent indicated herein and IS DENIED in all other respects.

31. Authority for the institution of this proceeding is contained in Sections 4(i), 303(g), (i) and (r) and 403 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set out in Section 1.430 of the Commission's Rules, interested persons may file comments on or before May 2, 1977 and reply comments on or before June 1, 1977. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken herewith. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice. We recognize that some parties may wish to file comments which include confidential financial information or other material which they may be reluctant to make public. In a manner consistent with the Freedom of Information Act (5 U.S.C. §552) we will consider requests for confidential treatment made under §0.459 of our Rules. As set forth in that section such requests may be made in advance.

32. In accordance with the provisions of §1.419 of the Rules, an original and 5 copies of all comments, replies pleadings, briefs, and other documents shall be furnished the Commission. Material filed will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION*

Vincent J. Mullins
Secretary

*See attached Separate Statement of Commissioner Joseph R. Fogarty.

SEPARATE STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY

In Re: Commercial Television Network Practices and the Ability of Station Licensees to Serve the Public Interest

While I agree fully with the Commission's decision to undertake this Inquiry into network programming practices and policies, I wish to state my understanding of one particularly important aspect of the Notice we announce today.

At paragraph 28 of this Notice, we request comment on the relations between network owned and operated stations (O&O's) and program suppliers, noting certain allegations which have been raised regarding possible adverse effects of these relations on the quantity and quality of syndicated programming. The Commission also notes, however, that "this is not a multiple or 'group' ownership proceeding." While I agree that this aspect of our Inquiry should not be considered a "multiple ownership" proceeding per se, I do not read this advisement as precluding the examination of any issues as to multiple ownership as it may effect the programming market. Nor do I view this statement as precluding future Commission consideration of appropriate action to remedy any abuses which this Inquiry may disclose.

APPENDIX D

DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

December 3, 1976

HONORABLE RICHARD E. WILEY
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C.

Re: Westinghouse Broadcasting Company, Inc.
Petition for Inquiry, Rule Making and Immediate
Temporary Relief. FCC File No. RM-2749.

DEAR CHAIRMAN WILEY:

It appears that the Comments we filed in the above-captioned proceeding may have raised questions concerning the relationship between the Comments and currently pending litigation between the United States and the three major television networks. (*United States* v. *CBS Inc.*, *United States* v. *American Broadcasting Companies, Inc.*, *United States* v. *National Broadcasting Company, Inc.*, Civil Action Nos. 74-3599, 74-3600, and 74-3601-RJK).

While we continue to believe that a general inquiry by the Commission into network practices is appropriate and fully warranted at this time, we wish to emphasize that the Department's Comments should not be construed as suggesting that the inquiry encompass those issues now being litigated in the Federal District Court in California.

Further, this letter and the Comments are, of course, in no way intended to preclude either the Commission or the Department of Justice from taking any action consistent with its respective responsibilities. *United States* v. *Radio Corp. of America*, 358 U.S. 334 (1959). We ask that a copy of this letter be associated with and made a part of the public record in this proceeding.

Sincerely yours,

DONALD I. BAKER
Assistant Attorney General
Antitrust Division

Copies to:
All Commissioners
American Broadcasting Companies, Inc.
CBS Inc.
National Broadcasting Co., Inc.
Citizens Communications Center
Westinghouse Broadcasting Co., Inc.

APPENDIX E

Overlap Between FCC Actions and Provisions of the Proposed Decree

Proposed Decree Provisions	FCC: Adopted Similar Relief	FCC: Adopted Different Relief	FCC: Currently Under Consideration	Note
Syndication (IV)	X		X	1
Financial interest (IV)	X		X	1
Production (V, VI(D))		X	X	2
Production facilities (VI(B), (C))			X	3
Contract options (VI(E)(i))			X	4
Exclusivity-program series (VI(E)(ii))		X	X	5
Exclusivity-feature films (VI(E)(iii))		X	X	6
Pilots (VI(F))	X		X	7
Spin-offs (VI(G))			X	8
Reruns (VI(H))			X	9

Notes

1. Network syndication and network acquisition of financial interests were considered in the FCC's Report and Order, Docket No. 12782, 23 F.C.C.2d 382 (1970) ("Program Practices Rulemaking"), and regulations were adopted that are similar to Section IV of the proposed decree. Those matters are being considered again in the FCC's recent Notice of Inquiry, Docket No. 21049 (Jan. 14, 1977) ("Network Practices Inquiry").

2. Network program production was considered in the FCC's Program Practices Rulemaking. However, the FCC declined to adopt a 50% limitation when it adopted instead the prime-time access rule. Report and Order, Docket No. 12782, 23 F.C.C.2d 382, 384 (1970). Network production is being considered again in the Network Practices Inquiry.

3. The terms on which network facilities for program production are made available to third parties are being considered in the Network Practices Inquiry.

4. Option provisions in contracts between networks and independent program suppliers are being considered in the Network Practices Inquiry.

5. The extent to which a network may obtain the exclusive use of program series was considered in the FCC's Second Report and Order, Docket No. 19554, 35 R. R. 2d 767 (1975) ("Pay Cable Rulemaking (II)"), and regulations were adopted, governing the use by cable and subscription television of program series, that are different from Section V(E)(ii) of the proposed decree. The matter is under consideration again in the Network Practices Inquiry and in the FCC's Notice of Inquiry, Docket No. 20402, 52 F. C. C. 2d 87 (1975) ("Broadcasting—Cable Inquiry").

6. The length of time which a network may obtain the exclusive use of a feature film was considered in the FCC's First Report and Order, Docket Nos. 18893 and 19554, 52 F.C.C.2d 1 (1975) ("Pay Cable Rulemaking (I)"), and regulations were adopted that are different from Section V(E)(iii) of the proposed decree. The matter is under consideration again in the Network Practices Inquiry and in the Broadcasting—Cable Inquiry.

7. The length of time during which a network may have the exclusive right to order a series based on a pilot produced for that network pursuant to a step-deal was considered in the FCC's Program Practices Rulemaking, and regulations were adopted that are similar to Section VI(F) of the proposed decree. 49 C. F. R. §73.658(j) (ii). The matter is again under consideration in the Network Practices Inquiry.

8. Spin-offs from series exhibited on networks were considered in the Pay Cable Rulemaking (II). 35 R. R. 2d 767, 770 (1975). That matter is again under consideration in the Network Practices Inquiry.

9. The rerun rights a network may acquire with respect to original network series programming are under consideration in the Network Practices Inquiry.

APPENDIX F

Movie Blues

Film Exhibitors Face a Financial Crisis As Hollywood Studios Slash Production

By Randall Rothenberg
Staff Reporter of The Wall Street Journal

HOLLYWOOD—To the growing list of the Depression's victims add the movie exhibitor.

The studio moguls of yesteryear started their careers as independent exhibitors before becoming producers, but today's movie theater owners are finding themselves powerless as declining revenues and escalating costs have driven hundreds of them out of business. Others, squeezed by the same forces, are struggling to stay open.

The plight is driving the nation's largest theater chain, General Cinema Corp., to diversify into bowling alleys, soft drinks and other businesses. Other chains are closing theaters, selling off real estate and cutting back on maintenance and employees. Many independent exhibitors have already gone out of business.

The problems of movie exhibitors have been compounded by the economic recession, which has reduced the number of people going to movies, and by the energy crisis, which has increased the cost of heating and lighting theaters. But the underlying cause of the exhibitors' troubles is the sharp decline in the number of movies released by the major studios in recent years. Many theaters, especially those in suburban shopping malls, were built in the 1960s to show double features, and they have been unable to survive on the single features that have been the staple of the industry in the 1970s.

Hollywood's production slump is certain to continue for the rest of this year and into 1978, according to studio executives. Many theaters will be forced to close their doors, and those that remain open will be showing fewer movies.

Production Is Falling

But a good line of movies is impossible with Hollywood's output below the record level. During 1976, the latest year for which the National Association of Theater Owners has figures, 778 movies, including 30 reissues, were released in the U.S., a record low and down from 256 five years earlier. During Hollywood's heyday, the 1940s, the average was closer to 500 a year.

Production for 1977 is expected to be about the same as last year's, and a return to above 1976 levels isn't expected before 1978. Many movies now being produced, moreover, are being held back from release for as much as a year or more because studios have learned that their chances for success are greater if they wait for the summer season, when attendance is usually at its peak.

Daily Variety, a trade newspaper, reported last month that 20 major studio movies that were scheduled for release this year have been delayed until 1978 or later. Another 20 movies that were scheduled for release in 1978 have been delayed until 1979 or later.

Limited Copies

Indeed, the production slump is unlikely to ease for some time to come. Many studios are making fewer movies because they have been unable to find enough theaters to show them. Most movies are released in only a few hundred theaters initially, and they aren't expanded to the 1,000 or more theaters that can provide the big profits until they have proved successful in the smaller number of theaters. But with so many theaters closing, studios have been reluctant to release movies in limited numbers, because they don't want to risk poor showings that could hurt the movies' chances in the larger number of theaters.

Theaters that have closed or are planning to close include many that were built in the 1960s in suburban shopping malls. Because they were designed to show double features, they have been unable to survive on the single features that have been the staple of the industry in the 1970s

Response to Comments Submitted by CBS Inc.

CBS directs its comments to two general propositions. First, it argues that the entry of the proposed NBC Judgment is not in the public interest because the activities attacked in the three network complaints are not cognizable under the antitrust laws and in any event are protected by the First Amendment; and, second, it asserts that the Competitive Impact Statement ["CIS"] fails to satisfy the requirements of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. §16(b)-(h) (1976). For the reasons stated below, both of these contentions are, we believe, without merit.

I. Entry of this Judgment is in the Public Interest Since it Satisfactorily Settles an Antitrust Case, Does Not Conflict with any Past or Anticipated FCC Regulatory Action and Does Not Offend the First Amendment.

CBS seeks to paint the proposed Judgment as anticompetitive 1/, but as the Competitive Impact Statement demonstrates,

1/ Under the guise of filing comments on the NBC Judgment, CBS apparently seeks to resurrect for reargument and reconsideration every motion it has made and lost during the pendency of its own case. In that connection, on February 9, 1977, the Court denied CBS's Summary Judgment Motion, finding that the existence of genuine issues of material fact, the complex nature of the litigation, and the controlling issues of motive, intent and reasonableness of the challenged agreements made summary judgment inappropriate. Further, on February 16, 1977, the Court ruled that the FCC did not have exclusive jurisdiction over the subject matter

Barbara A. Watt 5/6/77

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its provisions are pro-competitive and they provide satisfactory and expeditious relief. Moreover, the Judgment's entry is not precluded either by past or anticipated actions of the FCC or by the First Amendment. In sum, when measured against the appropriate antitrust public interest standard, this Judgment is in the public interest.

A. The Procedure and the Standard of Review Established Under the Antitrust Procedures and Penalties Act.

Pursuant to the APPA, the Court must find that entry of a proposed Judgment is in the public interest. [15 U.S.C. §16(e)]. While such a requirement is not new [United States v. Carter Products, 211 F.Supp. 144, 147-48 (S.D.N.Y. 1962)], the procedure for arriving at such a finding has been altered dramatically under the Act.

The APPA sets forth explicit requirements which must be satisfied by the Department of Justice before the Court can enter a judgment. The Act requires that notice be given to the public, and a Competitive Impact Statement ["CIS"] be filed with the Court and published in the Federal Register [15 U.S.C. §16(b)], that the public have a period of at least 60 days from publication within which to file comments to the proposed Judgment, and that the comments and the

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1/ continued

of the three network cases, and denied CBS's motion to dismiss. United States v. CBS Inc., 1977 Trade Cas. ¶61,327 (C.D. Cal. 1977).

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Government responses thereto be filed with the Court and published in the Federal Register. [15 U.S.C. §16(d)].

Once this procedure has been completed, the Court has broad discretion in deciding what further to consider. The APPA suggests that the Court consider the matters addressed in the CIS, including the competitive impact of the judgment, the provisions for enforcement or modification, the alternatives considered, and the impact on the public generally [15 U.S.C. §16(e)(1) and (2)].

While there is broad discretion in the Court in deciding what issues to consider and what steps to take to insure a complete ventilation of the consent process, the cases in which the public interest standard has been considered and the legislative history both strongly suggest that the standard to be met in determining whether entry is in the public interest, is whether the Judgment is consistent with the allegations of the complaint and the enforcement of the antitrust laws. United States v. Associated Milk Producers, Inc., 394 F.Supp. 29 (W.D. Mo. 1975), aff'd, 534 F.2d 113 (8th Cir.), cert. denied, U.S. , 97 S.Ct. 355 (1976); United States v. Gillette Co., 406 F.Supp. 713 (D. Mass. 1975); United States v. Morgan Drive Away, Inc., 1976-1 Trade Cas. ¶60,949 (D.D.C. 1976); see United States v. Carter Products, Inc., 211 F.Supp. 144, 148 (S.D.N.Y. 1962). This determination must include a recognition that antitrust consent settlements are an appropriate and beneficial enforcement tool, that compromise may be involved, and that the Attorney General has broad discretion as to the terms of such settlements.

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In United States v. Associated Milk Producers, Inc., supra, the District Court entered a consent decree after finding the Government's resolution of dissolution or divestiture relief to be "well within the discretionary power of the Attorney General under existing law." [394 F.Supp. at 45]. The Eighth Circuit, in affirming, noted:

> It is axiomatic that the Attorney General must retain considerable discretion in controlling government litigation and in determining what is in the public interest. [534 F.2d at 117].

In United States v. Gillette Co., supra, the Court, in approving a consent decree, explained:

> It is not the court's duty to determine whether this is the best possible settlement that could have been obtained if, say, the government had bargained a little harder. The court is not settling the case. It is determining whether the settlement achieved is within the reaches of the public interest. Basically I must look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass. [406 F.Supp. at 716].

In United States v. Morgan Drive Away, Inc., supra, the Court also imposed a limited standard of review in determining whether entry of the decree was in the public interest. Judge Flannery stated that:

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> The result of the bargaining toward settlement should not be measured against what concessions the Government might have succeeded in exacting from the defendants had it bargained somewhat harder, or even against the probable outcome had the case gone to trial. [1976-1 Trade Cas. at p. 69,191]

The Court went on to rule, after considering comments in opposition, that the comments "have not undermined the conclusion of the United States that the proposed Judgment is in the public interest. . . ." [1976-1 Trade Cas. at p. 69,191].

These decisions are consistent with the Congressional intent that consent decrees must remain a viable enforcement option. Such an option would not long remain viable were it necessary for a Court to conduct a de novo determination of the factual issues relevant to the adequacy of the proposed decree. 2/ In fact, the Senate Report advises that, "[o]nly

2/ The Senate Report states:

> The Committee recognizes that the court must have broad discretion to accommodate a balancing of interests. On the one hand, the court must obtain the necessary information to make its determination that the proposed consent decree is in the public interest. On the other hand, it must preserve the consent decree as a viable settlement option. It is not the intent of the Committee to compel a hearing or trial on the public interest issue. It is anticipated that the trial judge will adduce the necessary information through the least complicated and least time-consuming means possible . . . . [S. Rep. No. 298, 93d Cong. 1st Sess. 6 (1973)].

3/ The competitive impact statement required by the APPA is similar to the environmental impact statement required by the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. §4331, [119 Cong. Rec. 24599 (1973)]. NEPA, like the APPA, does not call for a de novo review of governmental action. Upper W. Fork River Watershed Ass'n. v. Corps of Engineers, 414 F.Supp. 908, 915 (N.D. W.Va. 1976). Cf. Camp v. Pitts, 411 U.S. 138 (1973). Further, the Court is neither empowered to substitute its own judgment for that of the Government, Environmental Defense Fund, Inc. v. Corps of Engineers, 470 F.2d 289, 300 (8th Cir. 1972), nor required to make findings of ultimate fact or resolve conflicts between the economic theory and data relied on by the Government and that presented by those objecting to the Government's action. Environmental Defense Fund, Inc. v. Froehlke, 368 F.Supp. 231, 240-41 (W.D. Mo. 1973), aff'd sub nom. Environmental Defense Fund, Inc. v. Calloway, 497 F.2d 1340 (8th Cir 1974).

original bill included a provision 4/ which stated that the entry of a consent decree must be found to be "in the public interest as defined by law." The phrase "as defined by law" was deleted from the bill according to the House Report,

> . . .as a recognition that the content of the phrase, "public interest," is a product of judicial construction in the context of particular statutes . . . and to provide illumination and consistency in the usage of the phrase, the "public interest" . . . . Preservation of antitrust precedent rather than innovation in the usage of the phrase, "public interest," is, therefore, unambiguous. 5/

Thus, based upon the Act itself, upon the interpretive Court decisions to date, and upon the Congressional intent as expressed in the legislative history, the Court must decide, after taking into consideration all evidence in support of the proposed Judgment and all opposition to it, whether the Government made a clear error in judgment or abused its discretion. If, based upon that review, the Court finds that the entry of the decree would be consistent with the allegations of the Complaint and the enforcement of the antitrust laws, then the Court should enter this Judgment in order to provide expeditious relief by eliminating anti-

4/ In Section 2(e).

5/ H.R. Rep. No. 1463, 93d. Cong., 2d Sess. 1, 11 (1974).

competitive restraints. See United States v. Carter Products, Inc., 211 F.Supp. at 148.

B. The Judgment Provides Satisfactory and Expeditious Relief from the Violations Alleged in the Complaint.

The proposed Judgment addresses the antitrust violations alleged in the NBC complaint and seeks to provide procompetitive relief from those violations. 6/ CBS has challenged

6/ The CIS states:

> The Complaint alleges that NBC used its control over access to the broadcasting time of the NBC Television Network during prime evening hours for the following purposes: to exclude from network broadcast those entertainment programs in which NBC had no financial interest; to compel independent program suppliers to grant to NBC financial interests in television programs which it accepted for broadcast; to refuse to sell air time to advertisers and other independent program suppliers seeking to have their own programs shown on the NBC network; to control the prices paid by NBC for television exhibition rights to motion picture feature films; and to obtain competitive advantages over other producers and distributors of television entertainment programs and of motion picture feature films. [CIS at 2]

The Judgment addresses those issues: (1) by limiting for a period of 10 years, the amount of television entertainment programming that NBC may produce for use on its own network;

the entry of the proposed decree as anticompetitive, basing its contention on the proposition that the antitrust laws do not apply to the activities alleged in the complaint. [CBS Comments at 4-17]. However, the Court already rejected the contention that the antitrust laws do not apply to such network activities when it denied defendants' Motions for Summary Judgment. 7/ Further, the Government believes that the relief provided in the Judgment would be procompetitive.

CBS first argues that the program production limitation of Section V is anticompetitive, since it would to some

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6/ continued
(2) by prohibiting NBC from conditioning access to its television network upon an independent program supplier's grant of any other right or interest to NBC, including its agreement to use NBC's production facilities; (3) by limiting for periods of 10 or 15 years the contractual rights which NBC may obtain in connection with network exhibition of a program, including limitations on NBC's right to exclusive use of a program; (4) by enjoining NBC from obtaining any right or interest in television entertainment programs produced by others, except for the right to network exhibition; (5) by enjoining NBC from engaging in domestic syndication of any television entertainment programs, and from engaging in foreign distribution of programs other than those produced abroad or by NBC; and (6) by prohibiting reciprocal program production arrangements between NBC and either CBS or ABC.

7/ See p. 1 at n.1, supra.

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extent eliminate NBC as a potential competitor in the program production market. [CBS Comments at 6-7]. 8/ The limited ban, however, is procompetitive, not anticompetitive, because it would eliminate the possibility that NBC could substantially increase its internal production of network programs, thereby excluding independent program suppliers with which it competes. While it prevents NBC from supplying more than 2-1/2 hours during prime time, plus 3 specials every six months, it at the same time insures that the remaining prime time is open to all potential program producers to compete with each other in supplying programs to NBC. 9/ CBS's position mistakenly assumes that each network has an unquestioned right to require that all the entertainment programming

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8/ Plaintiff originally sought a complete ban on production by NBC, and will continue to press for this relief against CBS and ABC. Relief against NBC's internal production was limited in order to put a lid on such production without the necessity of a full trial.

9/ CBS's reliance on United States v. Penn-Olin Chemical Co., 378 U.S. 158 (1964), for the proposition that NBC is important as a potential entrant to the oligopolistic entertainment program production market, is misplaced. The problem being addressed in those cases is the illegal conversion of each network's power in broadcast distribution and exhibition into monopsonistic buying power in the television program procurement market.

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broadcast by its nationwide chain of affiliated television stations be produced by it. 10/

A limitation on total integration, in the face of an abuse of market power or a restraint of trade, is a recognized remedy under the antitrust laws. Thus, in the movie cases, the Supreme Court upheld a Judgment which prohibited the defendants from engaging in all phases of the movie industry:

10/ CBS asserts, in effect, that it not only has a legal right to produce all the prime time entertainment programming shown on its network, but that it can condition access to its network on program suppliers' agreement to grant subsidiary rights and interests in programs, can refuse to sell air time to advertisers or others who might provide their own programs, and can extract long term options and exclusivity from program suppliers, all without scrutiny under the antitrust laws. This argument goes well beyond a possible, plausible objection to entry of this Judgment. For, under the antitrust laws,

> . . .the existence of power 'to exclude competition when it is desired to do so' is itself a violation of §2, provided it is coupled with the purpose or intent to exercise that power [citation omitted]. It is indeed 'unreasonable, per se, to foreclose competitors from any substantial market.' International Salt Co. v. United States, 332 U.S. 392, 396. [United States v. Griffith, 334 U.S. 100, 107 (1938)].

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production, distribution and exhibition. United States v. Paramount Pictures, Inc., 334 U.S. 131, 170-175 (1948). Here, NBC is currently in the production, distribution and exhibition of television programs; the production limitation would prohibit it from using the combined power of its affiliated group of television stations to totally engross television entertainment program production unto itself.

The production limitation is also important because it would curtail NBC's ability to favor internally produced programs over independently produced programs in which it had no rights and interests. In sum, in conjunction with the prohibitions of Sections IV and VI of the proposed Judgment, the production cap would severely inhibit NBC's ability to use its control over access to its nationwide chain of stations to restrain trade.

CBS also asserts that the "restrictions on the terms of trade" found in Section VI are anticompetitive [CBS Comments at 11-17]. 11/ The gist of CBS's argument is that each network should be permitted to continue to exact, as its price for considering an entertainment program (including feature films), the producer's agreement not to permit its use by any other network, station or communications medium. 12/

11/ It specifically criticizes Sections VI(E)(i) and (ii) and VI(H).

12/ Another element of CBS's argument against these restrictions is that the networks will offer decreased license fees for programming because they can no longer

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In short, CBS wants to continue to eliminate any possible competition for any possible use of an entertainment program, and the proposed Judgment would put some limits on this practice. 13/ All of the contract provisions affected by

12/ continued
acquire various residual rights and protection from competition, and as a result, will force out small independent producers without ample resources. This, CBS asserts, would result in higher concentration in the program production industry. [CBS Comments at pp. 13-16].

While this theory is open to question on several grounds, the basic difficulty with it is that it involves sheer speculation as to whether or not NBC will offer decreased license fees, a dubious premise since such fees are presently below the cost of production for many programs. Moreover, CBS itself contradicts this hypothesis when it states that entry of the decree would be anticompetitive because it allegedly would "restrict the supply of programming and drive up program prices." [CBS Pleading in Intervention, dated April 20, 1977, par. 8, at p. 2]. CBS's observations on the decree's effects on programming price levels appear to differ depending upon which provision CBS is attacking.

13/ The antitrust laws are as much violated by the prevention of competition as by its destruction. United States v. Aluminum Co. of America, 148 F.2d 416, 428-429 (2d Cir. 1945). Thus, acquisition of syndication and other distribution rights and profit shares, often before the development

this Judgment involve restraints on competition, be that competition during the first "prime time" run, or competition for the use of repeat rights or syndication rights. Restraints such as NBC's exclusivity against domestic syndication or stripping, prevent local stations and the other networks from competing for the right to broadcast the program until after NBC has milked every possible bit of revenue from it. This exclusivity provision also allows the network, if it so chooses, to strip reruns of the program on its own network at a different time without any fear that the supplier can seek a better price or better terms from any other broadcaster. The proposed Judgment seeks to increase the chance that a program supplier could exploit the after market uses of his product much earlier than is currently possible, and would permit other networks and television stations to compete with NBC for rights to do so. This is hardly anticompetitive.

Antitrust relief often involves the imposition of limitations on the contractual abilities of a defendant who

13/ continued
of a program has passed the idea stage, prevents competition for those rights by other syndication or merchandising companies. Long term renewal options on the program prevents competition for successful programs among the networks or from first run syndication on a station by station basis. The current contracts of all three networks also prevent the supplier from stripping or syndicating older episodes of a series for the entire life of the series on the network.

has violated the Sherman Act. 14/ It is not a valid ground for objection that the particular contractual terms subjected to injunctive provisions may be legal in themselves. 15/ Indeed, a court may affirmatively "interfere" in the bargaining process by requiring mandatory selling or leasing on reasonable terms, and even by setting reasonable rental charges, if such measures are necessary to reestablish competitive market conditions. 16/

Since the relief in an antitrust case must be structured to effectively redress violations and restore competition,

14/ For example, the consent decree entered in United States v. Swift & Co., No. 37623 (N.D. Sup. Ct., Feb. 27, 1920), a case in which several large meatpacker defendants were accused of unduly extending their market power into other related lines of commerce, enjoined the defendants from inter alia (1) engaging in the business of manufacturing, selling or transporting any of over a hundred commodities, (2) using or permitting others to use their distribution facilities for the handling of any of those commodities, (3) selling meat at retail, (4) holding any interest in any public cold storage plant and (5) selling fresh milk or cream.

15/ See International Salt Co. v. United States, 332 U.S. 392, 400 (1947). Cf. American Tobacco Co. v. United States, 328 U.S. 781, 809 (1946).

16/ See United States v. Glaxo Group Ltd., 410 U.S. 52, 64 (1973); United States v. United States Gypsum Co., 340 U.S. 76, 94 (1950); In re Multidistrict Vehicle Air Pollution, 538 F.2d 231, 235-236 (9th Cir. 1976).

"the District Court is clothed with 'large discretion' to fit the decree to the special needs of the individual case" 17/, and it is clear that in these cases, the networks' power to coerce restrictive contract provisions cannot remain unbridled.

C. The Entry of this Judgment is not and should not be Precluded by Past or Anticipated Actions of the Federal Communications Commission.

Despite the fact that the FCC itself has made clear that its actions should not "in any way preclude the Department from prosecuting its case or from arranging an appropriate settlement" 18/, CBS has dusted off its well-worn and oft rejected argument that the FCC's actions can and should do just that [CBS Comments at 17-18]. In particular, CBS contends that because the proposed consent Judgment does not adjudicate the illegality under the antitrust laws of NBC's

17/ Ford Motor Co. v. United States, 405 U.S. 562, 573 (1972), citing International Salt Co. v. United States, 332 U.S. at 401; United States v. DuPont & Co., 353 U.S. 586, 608 (1957); United States v. Crescent Amusement Co., 323 U.S. 173, 185 (1944). See United States v. Glaxo Group, Ltd., supra, at 64.

18/ Notice of Inquiry, In the Matter of Commercial Television Network Practice and the Ability of Station Licensees to Serve the Public Interest, Docket No. 21049, January 14, 1977 ("Notice of Inquiry"), at Par. 5, 42 Fed. Reg. 4992. See also the FCC Memorandum to the Court in this litigation, January 11, 1973.

past conduct, this litigation should not be settled, but should instead be referred to the FCC for some uncertain resolution at some undetermined date. While a consent Judgment does not, by definition, adjudicate any issue of law, this Judgment's provisions are fashioned so as to prevent the continuation of conduct which the Complaint charged was anticompetitive. The cases against CBS and ABC are proceeding to trial because the Court has repeatedly determined that it has jurisdiction to fashion relief against their alleged antitrust violations. It would be strange indeed if, because NBC has agreed to settle its own litigation, that fact and the nature of the relief achieved could deprive the Court of its jurisdiction in this action.

CBS further argues that entry of the provisions of the decree would duplicate, overlap and collide with the FCC regulatory scheme. [CBS Comments at 18]. Yet, no examples of actual collision between the decree and the regulatory scheme of the FCC are cited. Rather, CBS, as does ABC, attempts to conjure up numerous possible problems with the FCC's new Notice of Inquiry. However, the FCC, which is perfectly capable of speaking for itself, has, as already noted, commented only that its announced inquiry should not be used to "foreclose" the Department of Justice in its antitrust action, or to preclude the Department from arranging "an appropriate settlement." 19/

/////

19/ Notice of Inquiry, Par. 5, 42 Fed. Reg. at 4992.

CBS also alleges that this Judgment is inconsistent with the FCC rules [CBS Comments at 21-22], but cites Section IV which is completely consistent with and supportive of the FCC's financial interest and syndication rules. [47 C.F.R. §73.658(j)(i)-(ii)]. CBS further contends that Section IV is inconsistent with the FCC's authority because it is not limited in time [CBS Comments at 24-25], but neither are the corresponding FCC rules so limited. If the FCC, after its Notice of Inquiry, were to propose changes in its rules, and if the changes were enacted on a full record, the Court retains jurisdiction in Section XII to consider any appropriate modification of the Judgment, if that were desirable under antitrust standards.

Finally, CBS's contention that the continued production of entertainment programming by the networks was specifically approved by the FCC, is without merit. [CBS Comments, at 25-26]. The FCC did consider a ban on a network's offering any network supplied program to its affiliates during 50% of prime time, and did so because it was concerned with "continuing dominance by network corporations of the television program production and procurement process." 20/ Thereafter, the FCC concluded

20/ The Notice of Proposed Rulemaking, Docket 12782, 45 F.C.C. 2d 2146, 2162 (1965), states:

> Strict adherence to the principle of free competition would perhaps suggest the total elimination of network corporations from production and financial and proprietary control of tele-

that network program production should be limited. 21/ This is precisely what Section V of the proposed Judgment would

20/ continued

> vision programming. However, the record of the Program Inquiry and our general knowledge of the situation as it currently exists in network television leads us to the view that the public interest in a nationwide television structure sustained by network program service would not be furthered by eliminating network corporations entirely from the program production and procurement process. We are persuaded that, in order reasonably to insure the quantity and quality of television programming necessary to maintain adequate community service, network corporations should be permitted to engage to a substantial but limited degree in program production, procurement and financing. On the other hand, it is our tentative view that to permit continuing dominance by network corporations of the television program production and procurement processes as disclosed by the record of our Inquiry not only would injure the public interest in a competitive national television structure but also would act as a stricture on the "larger and more effective" use of television channels in the public interest.

21/ The FCC considered prohibiting each network from producing, procuring or financing entertainment programs

accomplish. Significantly, the FCC has not objected to the proposed production limitation of Section V, but merely sought comment on that provision among others in its recently instituted inquiry into commercial television network practices. 22/

D. Retention of Jurisdiction by the Court is Standard Practice in Antitrust Cases and Should Not Preclude Entry of the Proposed Judgment.

CBS asserts that entry of this Judgment is not in the public interest because the Court would have to maintain continuous supervision of it. [CBS Comments at 20-21]. Of course, all antitrust judgments provide that the Court retains jurisdiction over the subject matter thereof, and

21/ continued

during 50% of all prime time hours. Ultimately, in 1970, the FCC prohibited each network from originating any entertainment program during one hour of prime time, prohibited network acquisition of subsidiary interests or profit shares and prohibited each network from engaging in domestic syndication of television programming. These prohibitions are commonly referred to as the Prime Time Access, Financial Interest and Syndication Rules, 47 C.F.R. §73.658(j) (1975). [Report and Order, Docket No. 12782, 23 F.C.C. 2d 382, 384 (1970), aff'd sub nom. Mt. Mansfield Television, Inc. v. F.C.C., 442 F.2d 470, 482 (2d Cir. 1971)].

22/ See Notice of Inquiry, par. 23, 42 Fed. Reg. at 4995.

this case is no exception. The Court, once it recognizes its jurisdictional duty, has no other choice. If Courts refused to consider or enter judgments in antitrust cases simply because to do so might be burdensome, few antitrust cases would be successfully concluded. In any event, the provisions of this Judgment will not prove to be unduly burdensome to the Court. Many of its provisions are limited to terms of 15 years or less 23/, for the express purpose of not burdening the Court with matters which may prove to be temporal. Only Sections IV(A), IV(B), VI(A) and VI(B), which embody general antitrust principles, have no time limitations. However, none of the Judgment provisions call for the type of Court supervision that evolved in United States v. Paramount, 1948-49 Trade Cas. ¶62,377 (S.D.N.Y. 1949), or in United States v. ASCAP, 1940-43 Trade Cas. ¶56,104 (S.D.N.Y. 1941).

An examination of the Paramount and ASCAP decrees quickly reveals features which substantially distinguish them from this proposed Judgment. The RKO decree 24/, for example, enjoined defendant:

> From acquiring a beneficial interest in any theatre, other than those named [in

23/ Sections V, VI(C), VI(D), VI(E), VI(F) and VI(G) are all effective only for fifteen years or less.

24/ United States v. Paramount Pictures, 1948-49 Trade Cas. ¶62,335 (S.D.N.Y. 1948). [The RKO decree is one of the Paramount decrees.]

> the decree] unless the acquiring defendant shall show to the satisfaction of the court and the court shall first find, that such acquisition will not unduly restrain competition in the exhibition of feature motion pictures (emphasis added). [1948-49 Trade Cas. at 62,886]. 25/

The ASCAP decree calls for extensive judicial review of proposed license fees to be paid applicants. 26/ Section IX provides, in part:

> If the parties are unable to agree upon a reasonable fee within sixty (60) days from the date when such application is received by ASCAP, the applicant thereafter may forthwith apply to this Court for the determination of a reasonable fee . . . . [1950-51 Trade Cas. at 63,754].

These two provisions, which resulted in much of the post-Judgment litigation under those decrees, have no counterpart in the NBC Judgment. Here, the Court would not be required to pass on each and every transaction, or indeed any transaction, engaged in by NBC. This substantial distinguishing difference

25/ Also see United States v. Paramount Pictures, 1948-49 Trade Cas. ¶62,377 (S.D.N.Y. 1949) (the Paramount Decree). Paragraph III.A.6(a)(iii-iv) and (b) are to similar effect as the RKO decree.

26/ United States v. ASCAP, supra, as amended United States v. ASCAP, 1950-51 Trade Cas. ¶62,595 (1950).

between the judgments cited by CBS and the proposed NBC Judgment demonstrates that the extensive Court oversight envisaged by CBS is a myth.

E. The Proposed Judgment Does Not Violate NBC's First Amendment Right to Free Speech.

Curiously, CBS argues that the Judgment would violate NBC's constitutional right to free speech. [CBS Comments at 30-34]. CBS, however, has no standing to object to an alleged violation of NBC's First Amendment rights. The Courts have long held that persons may not raise or adjudicate the constitutional rights of third parties who have not asserted those rights in their own behalf. Tileston v. Ullman, 318 U.S. 44, 46 (1942); Warth v. Seldin, 422 U.S. 490, 509-510 (1975); Paton v. LaPrade, 524 F.2d 862, 874 (3d Cir. 1975). In any event, there is no First Amendment issue in this proceeding.

CBS argues that this Judgment would infringe First Amendment rights because, as a broadcaster, a network is immune from prosecution under the Sherman Act. However, the First Amendment affords no antitrust immunity for businesses such as newspaper publishing or broadcasting. In Associated Press v. United States, 326 U.S. 1 (1945), the Court denied outright Associated Press' argument for immunity. Justice Black, writing for the Court, stated:

> The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. That Amendment rests on the assump-

> tion that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public . . . . The First Amendment affords not the slightest support for the contention that a combination to restrain trade in news and views has any constitutional immunity. [326 U.S. at 20].

In addition, the Supreme Court similarly denied a claim for unlimited immunity by a broadcaster in Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969), where the Court stated that "it is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish." [395 U.S. at 388]. See Columbia Broadcasting System, Inc. v. Democratic Nat'l Comm., 412 U.S. 94, 101-103 (1973). Unfortunately, NBC's network cannot be used by all who would desire to do so. National Broadcasting Co., Inc. v. United States, 319 U.S. 190, 226 (1943). Certainly, it cannot be used by NBC to restrain or monopolize a substantial part of trade and commerce.

Further, in the case of United States v. Paramount Pictures, Inc., 334 U.S. 131 (1948), the Supreme Court, overriding a similar First Amendment challenge, held that in the face of a restraint of trade, it was proper to prohibit movie distributors from integration into the related business of exhibition. [334 U.S. at 170-175]. Subsequently, the District Court ordered that the theatre circuits of each defendant be divested from their production and distribution

arms. [85 F.Supp. 881, 895-896 (S.D.N.Y. 1949)]. While not totally precluding such integration, the proposed Judgment in this case seeks to insure that there will be no abuse flowing from NBC's limited production of programs and that total engrossment of its entertainment program production by NBC cannot occur.

CBS raised the same First Amendment claim when the FCC imposed the prime time access rule which prohibited each network's affiliates in the top fifty markets from accepting network originated programming for an hour period each night. It said this constituted an absolute ban on network "speech." The Second Circuit expressly considered and rejected CBS's claimed infringement, stating:

> The unique structure of the broadcast media requires a determination as to who will have priority in the exercise of First Amendment rights when there is a potential conflict in the operation of the industry. The Supreme Court has ruled that the public's right to access must prevail over all other claims. . . . [Mt. Mansfield Television, Inc. v. FCC, 442 F.2d 470, 477 (2d Cir. 1971)].

Plaintiff can conceive of no more serious restriction on free speech than acceptance of CBS's argument that it, NBC and ABC should be permitted to produce all of the television programming broadcast on their respective networks, totally foreclosing all independent program suppliers from their nationwide chains of affiliated stations. This Judgment, rather than infringing on unconstitutional rights, seeks to insure that no such infringement is possible.

II. The Competitive Impact Statement Satisfactorily Complies With the Requirements of the Antitrust Procedures and Penalties Act.

CBS seeks to bolster its opposition to entry of the Judgment by alleging that the CIS does not satisfy the requirements of the APPA [CBS Comments at 38-40]. Upon analysis, however, CBS's entire argument is the same as that raised in an earlier portion of its comments; that is, that entry of the Judgment would be anticompetitive because no valid antitrust claim is asserted by the complaints. [CBS Comments at 4-17, 40-44]. However, the Government has alleged serious violations of the antitrust laws, and this Judgment seeks to neutralize those violations. That CBS does not presently concede the validity of the Government's claims is understandable, but not persuasive. Since the competitive effects of this Judgment, as well as the nature and purpose of the case were fully discussed above, no further response is deemed necessary.

Bernard M. Hollander
Attorney for the United States

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February 25, 1977

BY HAND

Bernard M. Hollander, Esquire
Department of Justice
Antitrust Division
Room 3222
Washington, D.C. 20530

Re: United States v. National Broadcasting Company, Inc. (Civil No. 74-3601-RJK, C.D. Cal.)

Dear Mr. Hollander:

Pursuant to 15 U.S.C., Section 16(d)(Supp. 1976) and the order of the court extending the time within which comments may be submitted to and including March 1, 1977, enclosed are copies of ABC's Comments on the Proposed NBC Consent Decree.

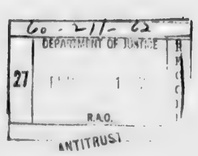
Very truly yours,

Daniel H. Margolis

Daniel H. Margolis

DHM:jc

Enclosures



60-211-62

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. NATIONAL BROADCASTING COMPANY, INC., Defendant.	Civil Action No. 74-3601-RJK

COMMENTS OF AMERICAN BROADCASTING COMPANIES, INC. ON THE PROPOSED NBC CONSENT DECREE

American Broadcasting Companies, Inc. ("ABC") submits these comments pursuant to the Antitrust Procedures and Penalties Act[1] ("APPA"), with respect to the proposed consent decree filed in this case on November 17, 1976.[2]

Companion civil suits brought by the Antitrust Division of the Department of Justice ("the Department") are pending against ABC and CBS Inc.,[3] both of which operate national

1/ 15 U.S.C. § 16(b)(Supp. 1976).

2/ Proposed Consent Judgment, 41 Fed. Reg. 51992 (1976); United States v. National Broadcasting Co., Civil Action No. 74-3601-RJK (C.D. Cal., Complaint filed December 10, 1974).

3/ United States v. American Broadcasting Cos., Civil Action No. 74-3600-RJK (C.D. Cal., filed December 10, 1974); United States v. CBS Inc., Civil Action No. 74-3599-RJK (C.D. Cal., filed December 10, 1974).

commercial television networks in competition with NBC. These suits challenge the same network conduct and practices which are alleged to be unlawful in the suit against NBC. Some of the provisions of the proposed decree will not become effective unless similar relief is obtained against ABC (and CBS).[4]

ABC has been vigorously defending, and will continue to defend, the action pending against it. Because ABC believes that the Government's allegations are utterly without merit, and that the Court should dismiss these actions on jurisdictional as well as other grounds, ABC is moved to submit these comments with respect to the proposed decree in the pending action against NBC.

Before this proposed consent decree may be entered, the Court is required by statute to determine that its entry "is in the public interest."[5] For the reasons explained in the comments

4/ Competitive Impact Statement, 41 Fed. Reg. 52015 (1976) [hereinafter cited as "Impact Statement"]. Section VII of the proposed decree suspends the effectiveness of several provisions of the decree "until similar injunctive relief is obtained in Final Orders, Judgments or Decrees" entered against CBS and ABC. The suspended provisions are as follows: V, VI(C), VI(E)(i), and VI(F) through (H). Proposed Consent Judgment, 41 Fed. Reg. 51992, 52007-08 (1976). Also, if a final order is entered against either CBS or ABC that places NBC "at a competitive disadvantage," Section IX of the decree requires the Court to modify or exempt NBC from any provision of the proposed decree "as may be necessary to prevent NBC from being placed at a competitive disadvantage with respect to CBS or ABC." Proposed Consent Judgment, 41 Fed. Reg. 51992, 52009 (1976).

5/ 15 U.S.C. § 16(e)(Supp. 1976).

which follow, ABC submits that the Government should withdraw its consent to the proposed decree; and if the Government declines to do this, then the Court should reject the decree as not in the public interest. In brief, the reasons for ABC's position are as follows.

FIRST, this decree would superimpose inflexible, judicially fashioned regulations on an industry already subject to pervasive and ongoing regulatory control by the FCC. The Court can neither make the required public interest determination, nor administer the decree, without duplicating the FCC's rule and conflicting with the FCC's authority.

A. The proposed decree is entirely regulatory in nature. If entered it will substantially, directly, and unnecessarily impinge on a recently commenced FCC proceeding encompassing precisely the same allegedly anticompetitive network practices, policies and conduct. See Notice of Inquiry, Docket No. 21049 (In the Matter of Commercial Television Network Practices and the Ability of Station Licensees to Serve the Public Interest), released January 14, 1977, 42 Fed. Reg. 4992 (1977).

B. Thus, in this respect the Court is confronted with a dilemma: Either the Court must evaluate

and administer the decree under the FCC's view of the public interest, which would be redundant, or the Court must create and adopt its own, different and inevitably conflicting version of the public interest.

SECOND, Congress has charged the FCC with the responsibility and granted it the power and authority to regulate the broadcast industry in accordance with the "public interest, convenience and necessity."[6] While the Court may have power to adjudicate antitrust issues and determine antitrust liability, the FCC has concurrent power and its "regulatory scheme is broad enough to comprehend the subject matter of this litigation."[7] Moreover, the FCC's power to regulate is not dependent upon a determination that a particular practice violates the antitrust laws. Therefore, it would be unwise, unnecessary and contrary to the public interest for the Court in the first instance, and without regard to an ongoing FCC proceeding covering the same subjects, to attempt to regulate the matters covered by the proposed decree.

A. The Department of Justice could request the FCC to exercise its authority to remedy the alleged anticompetitive

6/ 47 U.S.C. § 309 (1970).

7/ United States v. American Broadcasting Cos., Civil Action No. 74-3600-RJK slip op. at 6 (C.D. Cal. February 16, 1977).

network conduct and practices by promulgating rules identical to those embodied in the proposed consent decree. The FCC is both competent and required to weigh antitrust as well as other concerns in regulating the broadcast industry.

B. If the Court enters the proposed consent decree, it will necessarily become enmeshed in an enduring and burdensome task of regulation and industry administration.

C. There is no legal or practical reason why the Court should become involved at this time in attempting to regulate the television broadcasting industry. Accommodation of antitrust policies to FCC policies requires the Court at least to await the outcome of the pending FCC inquiry before undertaking to determine whether the provisions of the proposed consent decree are in the "public interest."

THIRD, the FCC's congressionally mandated jurisdiction over the subject areas of the proposed decree may not be ignored or defeated by a mere stipulation of the parties purporting to transfer the FCC's regulatory functions to the Court. The Department's only

justification for invoking the jurisdiction of the Court, rather than the jurisdiction of the FCC, is that the FCC does not have the power also to determine that the challenged network conduct was in violation of the antitrust laws, although its remedial powers are concededly at least as broad as the Court's. The decree which the Department of Justice has now submitted to the Court for approval, however, is a consent judgment. By its terms, the Court expressly refrains from making any finding that NBC's conduct or practices violated the antitrust laws.[8/] Hence, the Government's purported jurisdictional premise no longer exists. Since the Government is willing to accept a consent decree absent a finding of antitrust liability, the question whether the regulatory provisions of the proposed decree are in the "public interest" should now be referred, at least initially, to the agency specifically empowered by Congress to deal with such matters.

8/ The proposed consent decree provides that the parties consent to the entry of judgment

> without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law in any action or proceeding. . . .

Proposed Consent Judgment, 41 Fed. Reg. 51992, 51995 (1976) (emphasis added).

I.

Entry of the Proposed Decree Will Inevitably Involve the Court in Duplicating the FCC's Role and Conflicting with the FCC's Authority

A. The Decree is Entirely Regulatory in Nature.

In the Competitive Impact Statement filed pursuant to Section 2(b) of the APPA, the Government presents (without any factual support) the following statement of the nature and purpose of the proposed consent decree.

> The structure of the market is such that each of three networks controls program producers' and advertisers' access to the nation's commercial television audiences and each network has abused its power by refusing access to programs which it did not produce or in which it had no financial interest. Consequently, the only meaningful relief that can be obtained short of restructuring the networks is to limit network program production and restrict the program rights that each network may obtain from outside suppliers to the rights essential to networking, which are those incident to the right to exhibit the program. This the proposed NBC judgment seeks to do. It would establish specific outer limits on NBC's own program production and on the type of rights and interests which NBC may acquire from independent program suppliers in addition to the right of network exhibition. 9/

The Government admits that "many" of the proposed decree's injunctive provisions are of a "regulatory nature."[10/] The actual extent to which those provisions are indeed identical to already promulgated FCC rules, or would affect the precise network policies and practices which are the subject of a new

9/ Impact Statement, supra note 4, at 52021.

10/ Id. at 52023.

and comprehensive FCC inquiry,[11/] is startling. Thus:

(1) Section IV of the proposed decree embodies, without material alteration, the FCC's existing financial interest and syndication rules.[12/]

> The FCC's Notice of Inquiry in Docket 21049 (released January 14, 1977) recognizes this, but indicates that these present rules may be modified as a result of its current inquiry "if that appears to be warranted."
>
> > The proposed NBC consent decree contains terms . . . virtually identical to [the Commission's financial interest and syndication rules] . . . . We invite interested parties to comment on the adequacy of our present rules and to propose alternatives if that appears to be warranted. 13/

(2) Section V of the proposed decree restricts the number of hours of NBC-produced entertainment programming that NBC may schedule each week.[14/] The Government argues in the Competitive Impact Statement that this will eliminate

11/ See Notice of Inquiry, Docket No. 21049 (In the Matter of Commercial Television Network Practices and the Ability of Station Licensees to Serve the Public Interest), released January 14, 1977, 42 Fed. Reg. 4992 (1977) [hereinafter cited as "Notice of Inquiry in Docket No. 21049"].

12/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 51998-99 (1976).

13/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4995.

14/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 51999-52000 (1976).

"the possibility that NBC could substantially increase its internal production . . . and thereby exclude independent program suppliers."[15/]

The FCC's Notice of Inquiry in Docket 21049, however, indicates that the Commission is considering regulation in the same area, although expressly recognizing that this is an issue in this antitrust action.

> Although most network entertainment programs are acquired from outside producers, a small number have been and are produced entirely by the networks themselves. This was one subject of the Department of Justice's antitrust action. The Department's position (as set forth in its competitive impact statement filed with the NBC consent decree) is that, just as with programs produced by others but in which the network acquires subsidiary rights, there arises a network predisposition to use such material regardless of its merit, and independent producers are thus unduly excluded from the network program market. Other parties have alleged that the unlimited network potential for producing their own entertainment programs can be used to obtain first-run programming at unreasonably low prices. While we are not concerned with the profits of program producers as such, we are interested in the question of whether this factor gives the networks an anti-competitive advantage over potential competitors, and whether the advantage works to limit the supply of independently produced programs. [16/]

15/ Impact Statement, supra note 4, at 52022.

16/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4995.

(3) Section VI(B) of the proposed decree enjoins NBC, in connection with its acquisition of network exhibition rights, from requiring a program supplier to use NBC production facilities; and Section VI(C) prohibits NBC from leasing facilities for the production of a filmed or taped program for a period longer than the time needed to produce episodes for one season.[17/]

In its Notice of Inquiry in Docket 21049, the FCC notes that independent production companies have periodically maintained that networks condition the purchase of a program on the use of network-owned production facilities, and then suggests

> that commenting parties address themselves to the question of whether such arrangements to the extent that they exist, may affect competition in the offering of program production facilities. [18/]

(4) Section VI(E)(i) of the proposed decree reduces to three the number of annual renewal options that NBC may initially acquire on a series program.[19/] The Government purports to justify this restriction on the ground that it "is

17/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52000-01 (1976).

18/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4995.

19/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52001-02 (1976).

designed to restrict NBC's present ability to obtain exclusive rights to a program series for as long as seven years on terms and conditions set before the program has ever been developed."[20/]

The Notice of Inquiry in Docket 21049 addresses the identical question.

> It is also alleged that the networks commonly demand options on exhibition rights for as much as five to seven years following the development of a script or program pilot, thereby precluding competition in bidding for the rights to a program which develops into a highly successful series. We invite comments on the effects which such practices could have on competition. . . . [21/]

(5) Section VI(F) of the proposed decree requires NBC to release every pilot it has not financed by the earliest date on which an episode of the contemplated series may be broadcast under the series development contract.[22/] Upon payment of its unrecouped development investment, NBC must release 85% of the pilots it has financed but does not select for broadcast within three to nine months after delivery.[23/] NBC

20/ Impact Statement, supra note 4, at 52025.

21/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4995.

22/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52004-06 (1976).

23/ Id. at 52005.

must release the balance of the pilots it has financed within one year.[24/]

In its Competitive Impact Statement, the Government contends that this provision "would permit increased competition between the networks by freeing the producers of as many as 65% of the program pilots not selected by NBC to offer their pilots to other networks or television stations."[25/]

The FCC's Notice of Inquiry in Docket 21049 addresses the same issue, asking whether

> some present practices unduly restrict the release of a significant number of pilots for further development and thereby limit the amount of first-run material available for syndication, and whether this programming might, in some instances, provide viable competition to network offerings. [26/]

(6) Section VI(H) of the proposed decree generally prohibits NBC from acquiring the right to repeat a series episode after the season in which it was first broadcast.[27/] NBC may, however, acquire the right to choose three new episodes

24/ Id.

25/ Impact Statement, supra note 4, at 52026.

26/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4996.

27/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52007 (1976).

each season and repeat these episodes in later seasons.[28] Section VI(H) does not apply to cartoon or other children's series.[29]

The FCC's Notice of Inquiry in Docket 21049 expressly notes that

> [t]he Department of Justice has raised a question as to whether limitations should be placed on the ability of networks to secure exclusive rights to rebroadcast episodes originally shown in a previous television season. 30/

It then invites comments on the need for restrictions on this practice.[31]

(7) Section VI(E)(ii) of the proposed decree limits the duration of NBC's exclusivity rights against non-network stripping during daytime and fringe time to four years from the date the first episode of the series is broadcast.[32] Against all other broadcast uses during day time and fringe time, such as daytime network stripping, Section VI(E)(ii) limits exclusivity to three years from that date.[33]

28/ Id.

29/ Id.

30/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4996.

31/ Id.

32/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52002-03 (1976).

33/ Id. at 52003.

Section VI(G) of the proposed decree limits NBC to first negotiation/first refusal rights in a spin-off involving a non-continuing character (one who appears in no more than 25 percent of the previous year's episodes).[34]

Although neither exclusivity as applied to non-network stripping nor first refusal rights in spin-offs is expressly referred to in the Notice of Inquiry in Docket 21049, these issues are within the ambit of the FCC's inquiry "whether the networks have maintained anticompetitive policies which unduly restrict the development of other programming sources."[35] Thus, the Notice of Inquiry observes that

> [i]t is obvious, of course, that the categories of questions concerning network-affiliate relations and network-program supplier relations are far from being mutually exclusive. Developments in one area can and generally do impact on the other. 36/

(8) Section VI(E)(iii) of the proposed decree prohibits NBC from acquiring any exclusive rights in a theatrical feature film against methods of exhibition other than pay or subscription television.[37]

34/ Id. at 52006-07.

35/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4992.

36/ Id. at 4992-93.

37/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52003-04 (1976).

With respect to pay or subscription television use, Section VI(E)(iii) limits the duration of NBC's exclusive rights in a film to 25 months (plus one year for each run beyond two acquired by NBC), commencing no earlier than thirty days prior to the film's availability to NBC for use on the NBC network.[38]

The question of the extent to which the commercial television networks need exclusive rights with respect to theatrical feature films as against subscription television is presently under investigation by the FCC in a proceeding commenced on March 20, 1975.[39] The Notice of Inquiry in that proceeding states that

> [t]he second major focus of this inquiry concerns the question of what measure of contractual exclusivity, if any, is appropriate as between the conventional and subscription television services. 40/

The Commission then specifically asks for comments as to: "What are the relevant anti-trust implications of existing or foreseeable exclusivity arrangements?"[41] It invites comments on the need for restrictions on this practice.[42]

38/ Id. at 52004.

39/ FCC Docket No. 20402.

40/ Notice of Inquiry, Docket No. 20402, 52 F.C.C.2d 87, 90 (1975).

41/ Id. at 92.

42/ Id. at 91.

Thus, the decree which the Court has been asked to evaluate and enter is the precise subject of comprehensive regulatory FCC investigations.

H. The Proposed Decree Confronts the Court with A Dilemma: Either it Must Evaluate and Administer the Decree Under the FCC's View of the Public Interest, Which Would be Redundant, or it Must Create and Adopt Its Own, Conflicting Version of the Public Interest.

Before entering the proposed consent judgment, the Court must find pursuant to Section 2(e) of the APPA that the decree is in the public interest. But what public interest standard is to be applied in making this determination?

In light of the breadth of the FCC's concern, and the many interests it must take into account, the Court might be constrained to evaluate, enter and attempt to administer the proposed decree in accord with the FCC's public interest standard, accepting those provisions which conform, rejecting those which do not. That would seem to minimize disruption of the FCC's regulatory plan. But merely duplicating an existing regulatory regime hardly serves any cognizable public interest. And because the decree is regulatory and essentially prospective in nature, attempting to mimick the FCC would be expensive and difficult to accomplish.

In the first place, the Court would have to determine in each instance how the FCC would interpret the public interest. While that may be apparent when the FCC has issued specific regulations covering the matters in issue, when the FCC has not formulated a clear policy or has not given it concrete expres-

sion -- such as in the critical area of network production of television programming -- the Court would have to wait for the FCC to develop a position (or engage in guesswork) before duplicating the result the FCC would reach under the same circumstances.

In the second place, the Court will have to keep up with the FCC. As we have observed, the FCC is currently investigating the television industry to determine whether, considering the issues raised by the antitrust complaints, its existing regulatory scheme best serves the public interest. It is possible that, after investigation, which the FCC predicts may take a year, the FCC may find the public interest requires that it vary the current regulations as to syndication by and financial interests of networks, for example, or it may create new regulations or determine that regulation is not in the public interest. Any addition to, subtraction from or variation by the FCC of its rules would be based on a determination that the existing rules do not serve the public interest as adequately as the proposed variation. In such a case, the Court would be faced with the unenviable choice between modifying the NBC decree to follow the FCC rules revision (thus pointing up the meaninglessness of a judicial decree on the same subject) or declining to modify the decree (thus without the benefit of any evidentiary record both disagreeing with the expert agency designated by Congress to deal with this industry as to what

was "in the public interest" and imposing inconsistent requirements on NBC which are likely to interfere with the effectiveness of the FCC's pervasive regulatory scheme).

Alternatively, rather than attempting to follow the FCC, the Court may be constrained to evaluate, enter and administer the decree according to its own, distinct conception of the public interest. While there are innumerable other ways of defining or giving different emphasis to elements of the public interest, using this decree to give different concerns a greater role in broadcast regulation would be wrong for a number of reasons.

As the Court suggested in denying the networks' 1972 motions for a stay, to second guess the FCC by administering the decree according to a conflicting interpretation of the public interest would subvert the purpose of administrative agencies. The Court stated:

> Nevertheless, assuming antitrust violations are proven, accommodation of antitrust policies to F.C.C. policy in terms of remedies will be a real and substantial problem. Accordingly, the court will give great weight to the F.C.C. rules in the event that it becomes necessary to afford to plaintiff a remedy. This caveat, as a practical matter, might render the prosecution of these cases unnecessary, but that is for others than the court to decide. 43/

Equally significantly, second guessing the FCC would exceed the appropriate role of a reviewing court. By statute, exclusive jurisdiction to review final orders of the FCC is lodged in

43/ United States v. National Broadcasting Co., 1974 Trade Cas. ¶ 74,885, at 95,992 (C.D. Cal. 1973).

the courts of appeals, not the district courts. 44/ And, the scope of appellate review of FCC orders is narrow. FCC action must be sustained if it is "based upon findings supported by evidence"; trial de novo of the matters considered by the Commission is improper. 45/ It is equally improper for the reviewing court to consider whether the FCC correctly weighed and balanced the conflicting factors it took into account in determining that its actions served the public interest. As the Supreme Court stated in upholding the programming origination rules the Commission applied to cable, "[i]t was, of course, beyond the competence of the Court of Appeals itself to assess the relative risks and benefits of cablecasting." 46/

The reason for the limited role of a reviewing court lies in the expertise of administrative agencies. The FCC was created to regulate the communications industry. After more than a generation in that role, the Commission has developed expertise in that field and of course has been funded and staffed to maintain that expertise. The judiciary does not possess those resources. The Court of Appeals for the Second Circuit recognized this in upholding the FCC's second modification of the prime time access rule.

44/ 28 U.S.C. § 2342 (Supp. 1976); 47 U.S.C. § 402(a)(1970).

45/ National Broadcasting Co. v. United States, 319 U.S. 190, 224, 227 (1943).

46/ United States v. Midwest Video Corp., 406 U.S. 649, 674 (1972).

> The issue of whether network dominance has actually increased under [the original prime time access rule] is peculiarly within the competence of the Commission, which has access to all phases of the industry and has conducted hearings not only under this docket but under related dockets as well. We cannot, as a reviewing court, determine de novo the relative weight of the several conflicting economic factors that should be considered. 47/

The Court, therefore, would effectively circumvent the permissible bounds of judicial review of agency action if it decided to administer the proposed decree according to a different standard from the one employed by the FCC. As a matter of public policy and the proper allocation of responsibilities between court and agency, the weighing and balancing of factors involved in formulating the public interest in broadcast regulation must be left exclusively to the FCC.

Moreover, if the Court evaluates the decree according to a standard different from the FCC's, unless that evaluation results in rejection of the decree, the networks will a fortiori be caught between inconsistent regulatory schemes. Indeed, the Court took note of this problem in its Memorandum of Decision and Order filed February 16, 1977, denying the defendant's motion to dismiss.

> . . . [I]mposition of the remedies requested by the government in this action may conflict with the directives of the FCC's regulations, thereby subjecting the networks to varying standards of conduct. 48/

47/ National Ass'n of Independent Television Producers and Distribs. v. FCC, 516 F.2d 526, 534 (2d Cir. 1975). See also Mt. Mansfield Television, Inc. v. FCC, 442 F.2d 470, 481-82 (2d Cir. 1971).

48/ United States v. American Broadcasting Cos., Civil Action No. 74-3600-RJK slip op. at 9 (C.D. Cal. February 16, 1977).

And it is reasonable to predict that the burden and unfairness of this inconsistency will not be confined to an occasional instance. In many practical respects, important provisions of the proposed decree overlap, duplicate and are inconsistent with the FCC's already existing regulatory scheme. We discuss three of these.

1. Limitations on Production.

Part V of the proposed consent decree would prevent NBC from producing more than 2-1/2 hours per week of its own prime time entertainment programming.[49/] Thus, regardless of market-place circumstance, NBC would be forced to fill at least approximately 90% of its prime time entertainment programming needs from outside sources. Additional restraints would apply to daytime and fringe time programming.[50/]

The Government claims in its Competitive Impact Statement that there is a predisposition by networks to use their own programming which forecloses outside suppliers of programs.[51/]

49/ Proposed Consent Judgment, 41 Fed. Reg. 51192, 51999 (1976).

50/ Id. at 51999-52000.

51/ In its Competitive Impact Statement, the Department states that the proposed decree

> would establish specific outer limits on NBC's own program production and on the type of rights and interests which NBC may acquire from independent program suppliers in addition to the right of network exhibition. This should minimize NBC's incentive to select a program on the basis of financial interests in it.

Impact Statement, supra note 4, at 52021.

The FCC considered this contention when it declined to adopt the "50/50" rule, which would have limited network-originated programs in prime time to 50% or 14 hours per week.[52/] The proposal had a purpose similar to the instant provision:

> to restrain network domination of nighttime television and to open access to the valuable nighttime hours to independent producers. 53/

As the Commission noted, however, in rejecting the 50/50 rule,

> the public interest . . . would not be furthered by eliminating network corporations entirely from the program production . . . process. We are persuaded that, in order reasonably to insure the quantity and quality of television programming necessary to maintain adequate community service, network corporations should be permitted to engage to a substantial but limited degree in program production 54/

The Commission chose instead to adopt the prime time access rule, as an alternative solution to the same alleged problem.[55/] The Commission explained its decision in part on the ground that networks might not be able to secure sufficient product from independent sources to fill their schedules, and thus might be damaged competitively by a limitation on internal

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52/ Notice of Proposed Rule Making, Docket No. 12782, 4 R.R.2d 1589, 1611 (1965) [hereinafter cited as "Notice in Docket No. 12782"].

53/ Report and Order, Docket No. 12782, 23 F.C.C.2d 382, 384 (1970).

54/ Notice in Docket No. 12782, supra note 52, at 1611.

55/ Report and Order, Docket No. 12782, supra note 53, at 383-84.

production.[56/] The FCC expressly left open for future consideration in the light of experience whether the institution of the 50/50 proposal or some other variation was necessary, and consistent with that continuing responsibility, this is precisely what the FCC is now undertaking to do in its new investigation.[57/]

By consenting to the proposed decree, which permits some production, the Department of Justice has conceded agreement with the position of the FCC that networks "should be permitted to engage to a substantial but limited degree in program production. . . ."[58/] Thus the question is no longer whether a network may, consistent with the antitrust laws, produce its own entertainment programming. The only issue now is whether any limitation on network production is necessary in the public interest.

From an economic and competitive standpoint, production limitations such as those in the proposed decree are clearly contrary to the public interest. They curtail network flexibility to create new and innovative programs and to schedule network produced programming during periods of short supply. The integration of television program suppliers into the business of networking, coupled with increasing competition from other purchasers of such programming has made the continued

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56/ Id. at 384, n.8.

57/ See supra pp. 8-10.

58/ Notice in Docket No. 12782, supra note 52, at 1611.

availability of an adequate supply of high quality programming from non-network sources highly uncertain and unpredictable.

Some recent examples of developments which threaten to diminish the supply of quality programming available to networks from outside sources include the following:

(a) Paramount Pictures Corporation, a subsidiary of the conglomerate, Gulf & Western Industries, Inc., aided and encouraged by its joint venture connections with Sony Corporation of America, is reported to have acquired the Hughes Television Network and to have signed a $2.8 million agreement to expand the network's delivery capabilities via satellite to virtually 24 hours a day.[59/]

(b) MCA/Universal, the largest supplier of television programming to networks, has agreed with a pool of affiliated and independent television stations to produce made-for-television movies and distribute them directly to the stations, bypassing the networks.[60/] MCA's first offering, an eight-hour first-run mini series, was commissioned by over 50 stations and is scheduled to begin airing in May, 1977. One licensee is reported to have characterized this activity as an "explosion" caused by "Hollywood production studios, as well as advertisers, [who] were anxious to open markets other than those afforded by ABC, CBS and NBC."[61/]

59/ Variety, December 29, 1976, at 33, Col. 1; Broadcasting, January 31, 1977, at 62, Col. 1.

60/ Variety, December 22, 1976, at 75, Col. 2.

61/ Broadcasting, January 24, 1977, at 21, Col. 1; The New York Times, January 19, 1977, at 22, Col. 1.

(c) Metromedia Television and a major advertising agency have announced plans to offer stations prime time programming five nights a week beginning in October, 1977 with thirty minutes a night, but planning to expand upwards.[62] The plan was said to be designed to reach 60% of the nation's television households and to include plans for up to three hours of weekend programming.[63]

(d) Another leading advertising agency plans soon to announce an offering of Sunday programming from 7-9 p.m., also developed in association with Metromedia.[64]

(e) Norman Lear has indicated he plans to offer an entire evening of Lear-generated programming on Saturday nights as an alternative to the networks, beginning next year.[65]

Some of these developments present the possibility of fourth (or fifth) networks.[66] They all present serious threats of curtailing the outside supply of important programming available to the existing networks. While they may represent legitimate competitive efforts, they underscore the undesirability of placing artificial and inflexible restraints on the

62/ Broadcasting, January 24, 1977, at 20, Col. 3; The Washington Post, January 18, 1977, at B1, Col. 1; The New York Times, January 24, 1977, at 38, Col. 3.

63/ The New York Times, January 24, 1977, at 38, Col. 3; The Washington Post, January 18, 1977, at B4, Col. 1-2.

64/ Broadcasting, January 24, 1977, at 20, Col. 3.

65/ Id.

66/ The New York Times, January 19, 1977, at 23, Col. 1.

networks ability to produce their own programs.

Furthermore, the production limitations contravene established antitrust policies favoring business growth through internal expansion. Vertical integration through internal expansion is prima facie lawful under the antitrust laws, particularly because entering a new phase of production or distribution necessarily results in the addition of a new competitor.[67]

Most importantly, on economic and competitive grounds the production restrictions in the decree are unnecessary. There are natural limitations on network production that inhere in the business of networking. The advertising revenues that a network receives for the commercial time in its programs depend upon the expected audiences of those programs. Because networks compete among themselves and with other media for those audiences, they must include in their schedules only the best programs available, regardless of source.

Ignoring these economic facts of life, the Government argues in its Competitive Impact Statement that the proposed internal production limitations "should minimize NBC's incen-

67/ Ford Motor Co. v. United States, 405 U.S. 562, 568 (1972); Columbia Pictures Indus., Inc. v. American Broadcasting Cos., 1974 Trade Cas. ¶ 74,912 (S.D.N.Y. 1974), aff'd, 501 F.2d 894 (2d Cir. 1974); The Bendix Corp., 77 F.T.C. 731 (1970), rev'd on other grounds, 450 F.2d 534 (6th Cir. 1971); Hiland Dairy, Inc. v. Kroger Co., 274 F. Supp. 966 (E.D. Mo. 1967), aff'd, 402 F.2d 968 (8th Cir. 1968), cert. denied, 395 U.S. 961 (1969). See Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc., 1977 Trade Cas. ¶ 61,255 (U.S. January 25, 1977).

tive to select a program on the basis of financial interests in it" and will eliminate "the possibility that NBC could substantially increase its internal production of its network programs and thereby exclude independent program suppliers."[68] That, however, is the same argument which was raised and rejected in Columbia Pictures Indus., Inc. v. American Broadcasting Cos.[69] In that case the major producers and suppliers of television entertainment programming sought to enjoin ABC from offering for telecast theatrical feature films produced by ABC. The majors argued that "[b]y its own evaluations [of feature films being considered for broadcast], ABC creams the product of its competitor-suppliers and accepts the mediocre product of its own."[70] In denying the producers' motion for a preliminary injunction, however, Judge Palmieri found that "the intense nature of the competition between the networks for television audiences"[71] effectively prevents a network from discriminating

68/ Impact Statement, supra note 4, at 52021-22.

69/ Columbia Pictures Indus., Inc. v. American Broadcasting Cos., 1974 Trade Cas. ¶ 74,912 (S.D.N.Y. 1974), aff'd, 501 F.2d 894 (2d Cir. 1974).

70/ Memorandum of Law in Support of Plaintiffs' Motion for Temporary Relief Against ABC's Exhibition of Its Own Films on Its Own Network, July 3, 1973, at 31, Columbia Pictures Indus., Inc. v. American Broadcasting Cos., 70 Civ. 4202 (S.D.N.Y., filed September 28, 1970).

71/ Columbia Pictures Indus., Inc. v. American Broadcasting Cos., 1974 Trade Cas. ¶74,912, at 96,096 (S.D.N.Y. 1974), aff'd, 501 F.2d 894 (2d Cir. 1974). In affirming Judge Palmieri the Court of Appeals observed that plaintiffs had injected "a 'public interest' argument which, viewed in one light, is as

[continued]

in favor of its own product.

> [T]he Court is not persuaded that ABC . . . has deliberately embarked upon a policy of selecting inferior [self-produced] programming to its own financial advantage and to the prejudice of plaintiffs. The television networks are in vigorous competition with each other. They are engaged in a continuous and lively rivalry for the attention of audiences, which is the very crux of their commercial objectives. The advertising revenue and thus its profits are directly related to and dependent upon the share of the television audience each network can attract with its programming. 72/

Thus, the natural discipline of competition for audiences supplies the only production limitation needed to protect the public interest.

2. Restrictions on Series Options.

The decree's provisions limiting NBC's acquisition of series options to four years (Part VI(E)(i)) also conflict with already existing FCC regulation.[73] In 1975, the FCC decided to eli-

71/ [Footnote continued from preceding page]

much to say that they believe the public has more of a right to view their films than those of ABC . . . ." 501 F.2d at 896. Moreover, Judge Palmieri had found "[a] persuasive showing has been made . . . that feature film product has been for a number of years in a state of continuing and acute shortage . . . ." 1974 Trade Cas. at 96,094. It has recently been reported that the major theatrical film producers "have slashed their output to a comparative trickle . . ." and ". . . 'a good flow of movies' is impossible with Hollywood's tight fist on the faucet." The Wall Street Journal, February 8, 1977, at 46, Col. 1.

72/ Columbia Pictures Indus., Inc. v. American Broadcasting Cos., 1974 Trade Cas. ¶ 74,912, at 96,095 (S.D.N.Y. 1974), aff'd, 501 F.2d 894 (2d Cir. 1974). In this respect the Government's Competitive Impact Statement shows the proposed decree is based on wrong and naive assumptions which are not only lacking in evidentiary support but are also contrary to prior judicial determinations. Impact Statement, supra note 4, at 52018-21.

73/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52001-02 (1976).

nate its restraints on pay cable broadcast of series.[74] It did so despite the contention that pay cable might siphon off successful conventional television series because it believed that this would not happen in light of the fact that

> almost all network series contracts include a purchase option from one season to another for a period of five or more television seasons . . . . [I]t is likely that the networks will continue to have sufficient leverage to demand and receive similar contract provisions. 75/

Thus, while the FCC clearly viewed siphoning of series by pay cable as an evil to be avoided, it felt that the networks' ability to protect themselves against this eventuality by five year and longer option contracts provided sufficient protection against this evil. By prohibiting such option contracts, the proposed decree would eliminate this protection and open the door to series siphoning by pay cable.

3. Restrictions on Cable Exclusivity.

The proposed decree's provisions as to cable exclusivity (Section VI (E)(iii)(e))[76] also conflict with Commission regulation. Under the decree, NBC could obtain exclusivity against subscription television of feature films for at most 25 months (for two runs of a film) of which no more than 30 days could

74/ Second Report and Order, Docket No. 19554, 35 R.R.2d 767 (1975).

75/ Id. at 772.

76/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52003-04 (1976).

precede the first date for which NBC held exhibition rights.[77] Commission regulations, on the other hand, prohibit subscription showing of English language films (i) in the fourth through tenth years following theatrical release unless a broadcaster in the market has a present contractual exhibition right and (ii) after the tenth year if the film has never been shown on the market on a subscription basis, but has been shown on conventional television in the preceding three years.[78] In promulgating this regulation, the Commission noted that "the public interest in maintaining the conventional television structure has outweighed the interest in unregulated competition."[79]

Thus two regulatory authorities would attempt to deal with the same alleged problem (conflicts between conventional and subscription broadcasters over rights to television exhibition of feature films) in vastly different ways. And the regulations of the FCC, at least, are subject to change. As indicated earlier, the FCC has now open a proceeding to determine "what measure of contractual exclusivity, if any, is appropriate as between the conventional and subscription television services."[80] This proceeding may culminate in a rule identical

77/ Id. at 52004.

78/ 47 C.F.R. § 76.225.

79/ First Report and Order, Docket Nos. 19554 and 18893, 52 F.C.C.2d 1, 45 (1975).

80/ Notice of Inquiry, Docket No. 20402, 52 F.C.C.2d 87, 90 (1975). See supra p. 15.

or similar to the decree provision; alternatively, the FCC may determine that no relief, or quite different relief, is dictated by all the public interest considerations involved. In any event, the Commission has made it clear that it is interested in "the relevant anti-trust implications of existing or foreseeable exclusivity arrangements."[81]

Whatever action the FCC takes in the three areas discussed above, this decree will not further the public interest. If the two forms of regulation coincide, the decree will be superfluous and will merely serve to burden the Court, the parties and the interested members of the industry. If the Commission, applying its public interest standards, orders different relief because, for example, it has considered, in addition to competitive considerations, the importance of maintaining a free television system which is able to present quality programs to the public at no direct cost to viewers,[82] there will be a regulatory collision.

II.

The Government Has Offered No Reason Why the Court Should Oust the FCC from Jurisdiction

It is unnecessary and would be unwise and contrary to the public interest for the Court to enter the decree and circumvent the FCC, both because the FCC can readily deal with all the

81/ Id. at 92.

82/ See Further Notice of Proposed Rulemaking and Notice of Inquiry, Docket No. 11279, 7 R.R.2d 1501, 1508 (1966); First Report and Order, Docket Nos. 19554 and 18893, 52 F.C.C.2d 1, 45 n. 30 (1975); Notice of Inquiry, Docket No. 20402, 52 F.C.C.2d 87 (1975).

issues raised by this case, including competition, and because the administration of the decree by the Court would be highly burdensome to all concerned. There is no excuse for such waste and burden.

A. In Fulfilling Its Statutory Responsibilities the FCC Is Both Competent and Required to Weigh Competitive and Other Public Interest Concerns.

Competition is a factor which the FCC has consistently weighed in carrying out its statutory mandate. The Communications Act of 1934 requires the FCC, in exercising its authority over broadcasting, to act in accordance with the "public interest, convenience and necessity."[83] As the Supreme Court has made clear, the phrase "public interest" comprehends the principle of free competition in the broadcasting industry. In FCC v. Sanders Bros. Radio Station,[84] for example, the Court stated:

> In contradistinction to communication by telephone and telegraph . . . the Communications Act . . . recognizes that the field of broadcasting is one of free competition. The sections dealing with broadcasting demonstrate that Congress has not, in its regulatory scheme, abandoned the principle of free competition, as it has done in the case of railroads. . . . 85/

In practice, the FCC has vigorously pursued competitive objectives. The history of Docket 12782, the FCC's earlier, extensive investigation of network contracts and practices,

83/ 47 U.S.C. § 309 (1970).

84/ 309 U.S. 470 (1940).

85/ Id. at 474. Accord, United States v. Radio Corp. of America, 358 U.S. 334 (1959).

supports the FCC's declaration that competition will be a major focus of the FCC's comprehensive new inquiry into the television industry. In the notice of proposed rulemaking in Docket 12782, which culminated in the syndication, financial interest and prime time access rules, the FCC declared:

> The purpose of the rule proposed herein is to foster free competition in television program markets. Specifically, the proposed rule is designed (a) to provide opportunity for entry of more competitive elements into the market for television programs for network exhibition and (b) to encourage the growth of alternate sources of television programs for both network and non-network exhibition. 86/

The FCC entertained the views of, and allowed extensive participation by, the Department of Justice at every stage of Docket 12782. 87/ During the investigation leading to the rulemaking proceeding, the FCC utilized the Antitrust Division's independent investigation of the networks and discussed the proposed rules and supporting data with the Division's staff. 88/ During the rulemaking proceeding itself, the Antitrust Division repeatedly informed the FCC of its belief that its proposed rules would have a beneficial effect on competition. 89/

86/ Notice in Docket No. 12782, supra note 52, at 1591.

87/ Television Network Program Procurement, Second Interim Report by The Office of Network Study pt. I (1962), reprinted in H.R. Rep. No. 281, 88th Cong., 1st Sess. (1963); Television Network Program Procurement, Second Interim Report by The Office of Network Study pt. II (1965).

88/ Transcript of May 4, 1959, at 13-14, Docket No. 12782.

89/ Letter from Assistant Attorney General Richard W. McLaren to FCC Chairman Dean Burch (April 22, 1969); Letter from Assistant Attorney General Richard W. McLaren to FCC Chairman Dean Burch (July 15, 1970).

Similarly, on petition for review of the Commission's rules in the United States Court of Appeals for the Second Circuit, the Commission was strongly supported by the Justice Department 90/ in urging affirmance of the Commission's order. 91/

Now again, the Commission's Notice of Inquiry in Docket 21049 makes abundantly clear its intention to focus on competitive factors.

> [T]he Commission must take a careful look at the question of whether the networks may have engaged in conduct which . . . restricts effective competition in the programming market.
>
> . . .
>
> . . . [T]his inquiry concerns the business practices of the networks as they may impact on industry competition. . . . 92/

Indeed, the Court has recognized that "[t]he Commission's obligation to regulate for the public interest can, and should offer sufficient assurance that antitrust policy and concerns will be considered in the course of regulating the telecommunications industry." 93/

90/ Brief for the United States and FCC, Mt. Mansfield Television, Inc. v. FCC, 442 F.2d 470 (2d Cir. 1971).

91/ In a similar fashion, the FCC has considered competitive concerns often at the urging of the Department, in more recent rulemaking proceedings. See, e.g., Comments of the United States Department of Justice, May 3, 1976, Docket No. 20350 (New Jersey Television Service).

92/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4993, 4996. See also supra pp. 8-15.

93/ United States v. American Broadcasting Cos., Civil Action No. 74-3600-RJK, slip op. at 13-14 (C.D. Cal. February 16, 1977).

FCC, as opposed to judicial, action is appropriate in this case also because there are complementary and at time countervailing concerns -- going beyond the scope of the antitrust laws -- which Congress has mandated as objectives in the regulation of the broadcast industry. Thus, the FCC must weigh, among others, four general objectives in carrying out its statutory mandate: to insure (1) locally-oriented programming; 94/ (2) diversity in programming content, concepts and sources; 95/ (3) high-quality, informative, socially desirable programming; 96/ and (4) competitive market structure. 97/

Because of this broad mandate, the FCC has the ability to strengthen competition in circumstances in which the Department of Justice cannot act. As the Department noted in its joint brief with the FCC urging the Second Circuit to uphold the FCC's

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94/ National Broadcasting Co. v. United States, 319 U.S. 190, 203-04 (1943); National Ass'n of Independent Television Producers and Distribs. v. FCC, 516 F.2d 526, 537-38 (2d Cir. 1975); Henry v. FCC, 302 F.2d 191, 193 (D.C. Cir. 1962).

95/ United States v. Midwest Video Corp., 406 U.S. 649, 666, 667 (1972); National Ass'n of Independent Television Producers and Distribs. v. FCC, 516 F.2d 526, 533, 536, 542 (2d Cir. 1975); Mt. Mansfield Television, Inc. v. FCC, 442 F.2d 470, 474-76, 479 n.29 (2d Cir. 1971); Greater Boston Television Corp. v. FCC, 444 F.2d 841, 859-60 (D.C. Cir. 1970), cert. denied, 403 U.S. 923 (1971).

96/ FCC v. Sanders Bros. Radio Station, 309 U.S. 470, 475 (1940), cited in Mt. Mansfield Television, Inc. v. FCC, 442 F.2d 470, 479 (2d Cir. 1971); National Ass'n of Independent Television Producers and Distribs. v. FCC, 516 F.2d 526, 538-39 (2d Cir. 1975); Citizens Communications Center v. FCC, 463 F.2d 822, 823 (D.C. Cir. 1972).

97/ FCC v. RCA Communications, Inc., 346 U.S. 86, 94 (1953); General Telephone Co. v. United States, 449 F.2d 846, 857-58 (5th Cir. 1971); Metropolitan Television Co. v. FCC, 289 F.2d 874, 876 (D.C. Cir. 1961).

rules in Docket 12782,

> [i]t is precisely because of the preventive nature of the Commission's powers in the area of competition that its regulation need not derive, for example, from findings of antitrust violation, for the antitrust laws exhaust neither the Congressional policy favoring free competition in radio communications (FCC v. Sanders Bros. Radio Station, 309 U.S. 470, 474) nor the Commission's particularization of that policy in rules designed to promote the most effective utilization of broadcast resources and to protect licensee responsibility from unwarranted infringements. The courts have long since held that the proper reach of such policies is far broader than any mere determination as to whether a particular practice violates the antitrust laws. 98/

At times, the FCC has determined that the interest in competition must be subordinated to other elements of the public interest. In Stauffer Publications, Inc., 99/ for example, the FCC granted a license renewal to a qualified licensee even though the Department contended that, because the licensee also published morning and evening newspapers, control over communications media in the community would become unduly concentrated. Similarly, in decisions governing cable television, the FCC has

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98/ Brief for United States and FCC at 67 n.19, Mt. Mansfield Television, Inc. v. FCC, 442 F.2d 470 (2d Cir. 1971) (citations omitted).

99/ Stauffer Publications, Inc., 59 F.C.C.2d 836 (1976). In rejecting the Department's views, the FCC declared that

> antitrust considerations are but one element of many which enter into the Commission's evaluation of the public interest. "The development of competition, while desirable, is not the single goal for the Commission, as it may be for the Department of Justice." Id. at 840 (citations omitted).

determined that the public interest in unfettered competition in some instances is outweighed by other FCC objectives.[100/]

B. Entry of Proposed Decree Will Enmesh the Court in the Burdensome Task of Administering the Television Industry

Entry of the decree will not end the Court's regulatory involvement with the FCC and this industry. Section IX requires the Court to modify or waive any provision of the decree if a final judgment against ABC or CBS places NBC at a competitive disadvantage and Section XII preserves jurisdiction in the Court "for the purpose of enabling either party . . . to apply . . . at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions. . . ."[101/] It is reasonable to expect that there would be many such applications. Managing and disposing of applications for further orders and directions concerning this decree will be predictably burdensome.

100/ In a recent decision upholding, over the Department's objection many of the restrictions on cable television, the FCC stated:

> That our rules affect competition between the two forms of television is apparent and uncontroverted. The proper question is not whether our rules affect competition, but whether the public interest considerations which underlie the rules outweigh the public interest considerations in support of unfettered competition.

First Report and Order, Docket Nos. 19554 and 18893, 52 F.C.C.2d 1, ¶5 (1975).

101/ Proposed Consent Judgment, 41 Fed. Reg. 51992, 52009, 52011 (1976).

For the same reasons the Court is required by the APPA to consider the comments of all interested parties before entering a decree, the Court will find it necessary to provide for public comment on petitions to construe, modify or enforce the decree.[102/] In this important and highly visible industry, public comment could often be voluminous. There are many parties interested in the scope and specific content of network regulation: producers (major studios and independents), talent, unions, advertisers and advertising agencies, and television stations (affiliates and independents) not to mention the viewing public.[103/] In Docket 12782, for example, public hearings produced a record of over 11,000 pages of transcript in 70 volumes, with nearly 500 exhibits. The Commission received testimony from approximately 250 witnesses representing nearly 200 organizations.[104/]

Experience with other regulatory decrees confirms this forecast. For example, in litigation under the Paramount

102/ 15 U.S.C. § 16(i)(Supp. 1976).

103/ See generally National Ass'n of Independent Television Producers and Distribs. v. FCC, 502 F.2d 249, 268 (2d Cir. 1974).

104/ See generally Responsibility for Broadcast Matter, First Interim Report by The Office of Network Study (1960) and Television Network Program Procurement, Second Interim Report by The Office of Network Study pt. I (1962) both reprinted in H.R. Rep. No. 281, 88th Cong., 1st Sess. (1963); Television Network Program Procurement, Second Interim Report by The Office of Network Study pt. II (1965).

decrees,[105/] the district court which administered the decrees found it had to consider the comments of all interested parties. Although it formally treated the interested parties as amici curiae, the court allowed them to introduce evidence and acted upon the evidence. "As a result each acquisition case in which amici are active has become a private antitrust suit in miniature. . . ."[106/]

The FCC's experience with the prime time acess rule provides further indication that there will be frequent petitions for modification or waiver should this decree be entered. The production limitations in the proposed decree impose constraints on the amount of network-produced programming a network may offer during each day part. The FCC's prime time access rule in effect imposes similar constraints on the total amount of programming (independently supplied as well as network produced) that a network offers during prime time. As originally adopted in 1970, the rule basically prohibited television stations in the top 50 markets from carrying more than 3 hours of network

105/ The decrees were entered after the Supreme Court decision in United States v. Paramount Pictures, Inc., 334 U.S. 131 (1948). United States v. Paramount Pictures, Inc., 1948-49 Trade Cas. ¶ 62,363 (S.D.N.Y. 1948) (the RKO Decree); United States v. Paramount Pictures, Inc., 1948-49 Trade Cas. ¶ 63,009 (S.D.N.Y. 1949) (the Paramount Decree); United States v. Loew's, Inc., 1950-51 Trade Cas. ¶ 64,544 (S.D.N.Y. 1951) (the Twentieth Century-Fox Decree); The Warner Bros. Decree, 1950-51 Trade Cas. ¶ 64,264 (S.D.N.Y. 1951); The Loew's Decree, 1952-53 Trade Cas. ¶ 67,324 (S.D.N.Y. 1952).

106/ Note, An Experiment in Preventive Anti-trust: Judicial Regulation of the Motion Picture Exhibition Market Under the Paramount Decrees, 74 Yale L.J. 1041, 1092 (1965) (hereinafter cited as "Experiment").

programming during prime time.[107/] To date, the FCC has issued almost one hundred orders disposing of petitions for waivers or exemptions from the rule. The sheer number and difficulty of these petitions left the FCC, as the Second Circuit observed, with a "sense of uncertainty and frustration."[108/] To stem the stream of petitions and to correct other deficiencies in the rule, the Commission modified the prime time access rule on three separate occasions.[109/]

Moreover the proposed decree resembles the Paramount decrees in extent and intimacy of judicial regulation of ongoing business practices.[110/] The Paramount decrees provoked an avalanche of litigation. Between January 20, 1940, and January 27, 1975, the Paramount docket of the Southern District of New York recorded 2,032 entries.[111/] This massive and still continu-

107/ Report and Order, Docket No. 12782, 23 F.C.C.2d 382 (1970).

108/ National Ass'n of Independent Television Producers and Distribs. v. FCC, 516 F.2d 526, 537 (2d Cir. 1975).

109/ Report and Order, Docket No. 19622, 44 F.C.C.2d 1081 (1974); Second Report and Order, Docket No. 19622, 50 F.C.C.2d 829 (1975); Third Report and Order, Docket No. 19622, 33 R.R.2d 1089 (1975). See also Memorandum Opinion and Order and Notice of Proposed Rule Making, Docket No. 21115 (Changes in Prime Time Access Rule Top-50 Market Standard Proposed), February 10, 1977.

110/ See generally, Experiment, supra note 106.

111/ See Equity Docket No. 87-273 (S.D.N.Y.). Even though the various consent decrees are reported under separate captions, the district court has recorded under one docket number every paper filed and order entered in connection with any of the decrees. Many of the petitions presented the court with significant and difficult questions. In 1970 and 1972, for example, RKO, Stanley Warner Theatres, and National General all sought, despite the clear prohibitions of the decrees, to enter motion picture production.

ing litigation has consumed the time and energy of the Department of Justice and the courts as well as the resources of the defendants and the interested parties who participated. Indeed, to insure that its views were fully represented, the Department of Justice assigned one attorney full time to this litigation. He became the Government's "motion picture attorney."[112/] Contemplating this commitment of resources, Donald F. Turner, while Assistant Attorney General in charge of the Antitrust Division, warned that regulatory provisions in consent decrees "should be looked at with great care," and that regulatory decrees are ordinarily not "the proper business of antitrust."[113/]

C. Accommodation of Antitrust Policies to FCC Policies Requires the Court to at Least Await the Outcome of FCC Docket No. 21049 Before Undertaking to Determine Whether the Decree Is in the "Public Interest."

The above discussion makes it clear that this is not the type of case in which the Court is asked to examine the antitrust implications of a discrete transaction or event and render antitrust relief apart from and without regard to the FCC's pervasive regulatory scheme, as was the case in United States v. Radio Corp. of America.[114/] Rather, this Court is asked to approve the imposition of judicially administered ongoing regu-

112/ See Maurice Silverman's Long Tenure Ends, Variety, July 23, 1975, at 5, Col. 2. Mr. Silverman had been assigned to the Paramount decrees since the late 1940's.

113/ An Interview With the Honorable Donald F. Turner, 30 Antitrust L.J. 100, 108 (1966).

114/ 358 U.S. 334 (1959).

latory provisions which in some respects duplicate and in other respects conflict with the FCC's comprehensive scheme of regulations.

In United States v. Radio Corp. of America,[115/] the District court, upon entering the final decree on remand from the Supreme Court, expressly disavowed any intent to substitute its equitable powers for the supervisory and regulatory role of the FCC. The final judgment in RCA explicitly states that the Court will not entertain challenges to, or pass upon the validity of, future conduct; that is, the validity of any acquisition, or undertaking of national spot representation, other than those directly related to particular transactions expressly enjoined by the decree.

> Nothing contained in this Final Judgment shall be construed to require this Court to pass upon any transaction of acquisition or exchange by the defendants or any undertaking by them of national spot representation except to the extent expressly stated in subsections (B) [covering acquisitions in seven specific metropolitan market areas] and (C) of Section IV [limiting national spot representation by NBC other than in six specified markets] and in Section V [ordering divestment of a television and radio station] of this Final Judgment.[116/]

By contrast, the essential effect of the proposed decree in this case would be to enmesh the Court deeply in the affairs of the broadcast industry well into the future by requiring the Court (1) to render endless interpretations and judge innumerable applications of the complex and far-reaching provisions of

115/ 1959 Trade Cas. ¶ 69,459 (E.D. Pa. 1959).

116/ Id. at 75,755.

the decree, (2) to consider frequent changes in the decree to render it compatible with oftimes duplicative rules and regulations of the Federal Communications Commission, and (3) to consider changes aimed at maintaining harmony between the decree and the needs of an industry in which flexibility is vitally important in dealing with constant changes in technology, public tastes and advertiser marketing strategies.

The FCC, aware of the pending antitrust actions and the proposed consent decree in the NBC case, nevertheless observes in its Notice of Inquiry in Docket 21049, that "the Department of Justice has a direct responsibility for the enforcement of the Sherman Act, whereas the Commission's inquiry will focus on public interest questions affecting communications policy pursuant to our responsibilities under the Communications Act of 1934."[117/] The FCC states that it has "neither the power nor the desire to foreclose the Department in its antitrust action."[118/] That however, is no longer the issue, if it ever was. The proposed decree shows there is nothing "antitrust" left in the antitrust action.[119/] The questions now raised by the impending collision of these two regulatory regimes are whether the proposed decree in fact duplicates and conflicts with FCC

117/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4992.

118/ Id.

119/ The proposed decree does not declare an antitrust violation. See supra note 8.

regulation; whether the Court is the proper forum for this type of continuing and changing regulation; and whether the entry of the proposed decree may hinder or prevent the FCC, after completing its new inquiry, from implementing and molding its regulatory scheme for television broadcasting to that which it deems best to serve the public interest.[120/]

To be sure, the FCC has not indicated any formal objection to Court approval of the proposed consent settlement, despite the absence of any factual basis establishing that its provisions are in the public interest.[121/] Nevertheless, it must be observed that even with its intimate knowledge of the industry and expertise in the field, the FCC estimates that it will need a year to complete the investigation recently announced in its Notice of Inquiry in Docket 21049. This time is required by the

120/ The Court has recognized that "maintenance of this action could possibly disrupt the FCC's regulatory efforts. . . ." United States v. American Broadcasting Cos., Civil Action No. 74-3600-RJK, slip op. at 10 (C.D. Cal. February 16, 1977). Such disruption is inevitable. Suppose, for example, the FCC, upon ending its inquiry, finds that the public interest requires a change in the rules regarding exclusivity vis-a-vis pay cable. If some other rule has been set in the cement of a court decree, the FCC's efforts will have been meaningless. The FCC will have been effectively ousted from jurisdiction over the area.

121/ The fact that the FCC has indicated in its Notice of Inquiry that its action should not preclude the Department from prosecuting these cases or seeking a settlement is essentially irrelevant. In Pan American World Airways, Inc. v. United States, 371 U.S. 296 (1964), the Civil Aeronautics Board took the position that it had no authority over practices challenged in an antitrust suit, and it filed a brief as amicus curiae supporting the Department's antitrust suit. The Supreme Court held, nevertheless, that the conduct was immunized from antitrust scrutiny by the Federal Aviation Act. 371 U.S. at 327-28. Similarly, in United States v. National Ass'n of Securities Dealers, 422 U.S. 694 (1975), the Supreme Court dismissed

[continued]

FCC to provide "information necessary to a thorough understanding of television networking"[122] and thus insure that any regulations it may adopt are in the public interest. The fact that Congress' chosen agency, expert in the field, feels the need to conduct such an investigation before formulating new regulations affecting the subjects of this litigation, should at the very least be sufficient to make the Court pause and refer these questions to that agency for initial resolution. The Court's observation in its decision on defendant's original primary jurisdiction motion is particularly apt and merits repeating in view of this new development.

> . . . [A]ccommodation of antitrust policies to F.C.C. policy in terms of remedies will be a real and substantial problem. Accordingly, the court will give great weight to the F.C.C. rules in the event that it becomes necessary to afford to plaintiff a remedy. 123/

III.

The Primary Administrative Jurisdiction of the FCC Cannot Be Defeated by a Stipulation of the Parties Purporting to Transfer Prospective Regulatory Authority to the Court

Shortly after the commencement of this litigation, NBC (as well as ABC and CBS in their companion cases) moved for an

121/ [Footnote continued from preceding page]

Count I of the complaint notwithstanding the fact that the SEC was not opposed (as it was with respect to the remaining Counts) to the maintenance of a Department challenge to the conduct involved.

122/ Notice of Inquiry in Docket No. 21049, supra note 11, at 4992.

123/ United States v. National Broadcasting Co., 1974 Trade Cas. ¶ 74,885 at 95,992 (C.D. Cal. 1973).

order staying or dismissing the case without prejudice on the grounds that primary jurisdiction resided in the FCC, and that comity between court and agency required deference to the FCC, lest the Court, by its actions, run afoul of the agency's pervasive regulatory scheme.

The Department of Justice resisted the motion, arguing that the FCC had completed its inquiry and that the issues involved were not the subject of ongoing regulatory activity. Except for a minor re-examination of the prime time access rule, it was argued, the FCC had closed its inquiry into network practices. While that proceeding had resulted in the financial interest, syndication and prime time access rules, the Department contended that it was seeking affirmative relief going beyond those rules, and that there was no ongoing FCC proceeding likely to result in such expanded relief.[124] In short, while conceding that the FCC could regulate all matters covered by its complaint, the Department argued the Commission had done all it was going to do.[125] As counsel for the Department put it: "So it gets to be a never-never land, we are talking about an ongoing proceeding that doesn't exist."[126]

The Department also opposed these motions on the ground that the FCC had no power to make a determination or finding of antitrust violation, that the Department was entitled to such an

124/ Transcript of December 4, 1972, at 20, 25-27, 84-85, 95.

125/ Id. at 73, 115.

126/ Id. at 66.

adjudication and that this was something that could be resolved only by the Court. As counsel for the Department stated,

> [s]ince it is the courts, and not the Commission, which must apply the Sherman Act here, it is obvious that defendants' motions must be denied.
>
> Only this court, your Honor, can decide whether the combination and conspiracies in restraint of trade that we charge have violated the Sherman Act. . . .127/

The Court denied the motions, holding that deferral to the agency was not required because FCC rulemaking proceedings "provide for future conduct" and "do not determine the propriety of past conduct" and because "the F.C.C. is not empowered to adjudicate alleged antitrust violations."[128]

In view of the Supreme Court's decision in United States v. National Ass'n of Securities Dealers,[129] in November 1975

127/ Id. at 108. See also, id. at 18; Memorandum of the United States in Opposition to Defendants' Motions to Dismiss or Stay These Actions, October 16, 1972, at 9-11, 22.

> The plaintiff seeks an adjudication that the actions of each defendant be declared violative of Sections 1 and 2 of the Sherman Act. The Commission is without power to make a Sherman Act determination.

Id. at 22.

128/ United States v. National Broadcasting Co., 1974 Trade Cas. ¶ 74,885, at 95,992 (C.D. Cal. 1973). The Court also observed: "Nevertheless, assuming antitrust violations are proven, accommodation of antitrust policies to F.C.C. policy in terms of remedies will be a real and substantial problem." Id. This case was dismissed without prejudice on grounds not pertinent to these Comments and was refiled as the instant case United States v. American Broadcasting Cos., Civil Action No. 74-3600-RJK (C.D. Cal., filed December 10, 1974).

129/ 422 U.S. 694 (1975).

the three network defendants each separately moved to dismiss the actions on the ground that the Court lacked subject matter jurisdiction.[130] The networks argued that because of the FCC's pervasive regulatory scheme, exclusive jurisdiction resided in the FCC.[131]

In opposition, the Department repeated its earlier contention that the FCC was not then actively engaged in or considering any rulemaking related to the principal issues in the antitrust cases.[132] The Department also urged, as it had previously, that only the courts, and not the FCC, had authority to find violations of the antitrust laws.[133]

In a Memorandum of Decision and Order filed February 16, 1977, the Court denied defendants' motions, declining "to find that with respect to television programming activities Congress intended to displace the Sherman Act with the regulatory scheme of the Communications Act."[134] However, in so holding the Court

130/ Motions to Dismiss the Complaints With Prejudice for Lack of Subject Matter Jurisdiction, November 19, 1975.

131/ Id.

132/ Plaintiff's Supplemental Reply Memorandum in Opposition to Defendants' Motions to Dismiss for Lack of Subject Matter Jurisdiction, July 14, 1976, at 8-10.

133/ Memorandum of the United States in Opposition to Defendants' Motions to Dismiss the Complaints With Prejudice for Lack of Subject Matter Jurisdiction, January 13, 1976, at 11-12.

134/ United States v. American Broadcasting Co., Civil Action No. 74-3600-RJK slip op. at 10 (C.D. Cal. February 16, 1977).

noted that the FCC's regulatory scheme "can be considered nothing less than 'pervasive,'" and that "the FCC has been active in exercising its regulatory powers with respect to the subject matter of this suit."[135/] The Court further observed that although the Government "seeks an adjudication" of antitrust violation, "[t]he Commission's obligation to regulate for the public interest can, and should offer sufficient assurance that antitrust policy and concerns will be considered in the course of regulating the telecommunications industry."[136/]

It is now evident that the two reasons put forward by the Department of Justice as grounds for denying the network defendants' primary jurisdiction and exclusive jurisdiction motions have vanished. First, as we have shown the FCC has commenced a proceeding that covers precisely the issues before the Court.[137/] Indeed, this was done over the objections of the Department, which advised the Commission that its comments "should not be construed as suggesting that the inquiry encompass those issues now being litigated in the Federal District Court in California."[138/]

135/ Id. at 9.

136/ Id. at 7, 13-14. Compare United States v. Columbia Broadcasting System, Civ. 3762 (N.D. Ill. 1941) and United States v. Radio Corp. of America, Civ. 3763 (N.D. Ill. 1941) which were dismissed on the Government's motion after it became apparent the FCC had authority to eliminate the challenged practices. See CCH, The Federal Antitrust Laws with Summary of Cases 1890-1951, at 274-275 (1952).

137/ Notice of Inquiry in Docket No. 21049, supra note 11.

138/ Letter, Donald I. Baker, Assistant Attorney General, Antitrust Division, to Honorable Richard E. Wiley, Chairman, Federal Communications Commission (December 3, 1976).

Second, it is apparent that the Department's assertion that only a federal court may adjudicate antitrust violations, and that the FCC is without power to determine that issue,[139/] is nothing more than a makeweight argument. By agreeing to a consent decree, the Department of Justice no longer seeks a judicial determination of antitrust violation.[140/] The proposed consent decree does not find an antitrust violation. Nor does it "determine the propriety of past conduct." It only "provide[s] for future conduct."[141/] Thus, the mere assertion of a right to pursue an antitrust adjudication can no longer be viewed as a serious prosecutorial objective and should not be taken as an insuperable impediment to allowing the FCC to exercise its primary administrative jurisdiction over the subject matter of this litigation.

Although the parties to the proposed judgment have stipulated the Court has jurisdiction to enter the decree, it is well settled that the "jurisdiction of the federal courts -- their power to adjudicate -- is a grant of authority to them by Congress and thus beyond the scope of litigants to confer."[142/] The

139/ United States v. American Broadcasting Cos., Civil Action No. 74-3600-RJK slip op. at 7 (C.D. Cal. February 16, 1977); United States v. National Broadcasting Co., 1974 Trade Cas. ¶ 74,885 at 95,868 (C.D. Cal. 1973).

140/ See supra note 8.

141/ See supra p. 47 at note 128.

142/ Neirbo Co v. Bethlehem Shipbuilding Corp., 308 U.S. 165, 167-68 (1939). See also American Fire & Casualty Co. v. Finn, 341 U.S. 6, 17-18 (1951); People's Bank of Belleville v. Calhoun, 102 U.S. 256, 260-61 (1880); Beach v. KDI Corp., 490 F.2d

parties may not by stipulation oust the FCC from its primary role in this area. Thus, because there are substantial jurisdictional as well as practical conflicts between the proposed decree and the FCC's exercise of authority, the Court should reject the proposed decree.

At the very least, the Court should delay consideration of the proposed decree until the FCC has completed its new inquiry. The Notice of Inquiry in Docket 21049 makes it clear that the FCC believes that further consideration of the matters encompassed by the proposed decree is required. By deferring action on the proposed decree, the Court will afford the FCC, as well as other parties, including the Department, the opportunity to develop the necessary factual record on which to base a reasoned determination as to whether the proposed regulations are in the "public interest."

CONCLUSION

For all the above reasons, ABC urges the Department to withdraw its consent to the proposed decree. The decree disserves the public interest. Its entry would rob the FCC of its congressionally mandated administrative role in the telecommunications industry. If, upon consideration of these comments, the

142/ [Footnote continued from preceding page]

1312, 1318 (3d Cir. 1974); Mayer Paving & Asphalt Co. v. General Dynamics Corp., 486 F.2d 763, 771 (7th Cir. 1974); Babcock & Wilcox Co. v. Parsons Corp., 430 F.2d 531, 540 (8th Cir. 1970); Barbeau v. Addib Assoc., Inc., 345 F.2d 173, 174 (9th Cir. 1965); California Welfare Rights Organization v. Richardson, 348 F. Supp. 491, 493 (N.D. Cal. 1972); Olympic Capital Corp. v. Newman, 276 F. Supp. 646 (C.D. Cal. 1967).

Department nonetheless refuses to withdraw its consent, we request the Court to reject the decree or at least stay consideration of it. Indeed, whatever position the Department takes, ABC will ask the Court to dismiss or stay the action against it on grounds of primary jurisdiction.

Dated: February 15, 1977

Respectfully submitted,

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Response to Comments of American Broadcasting Companies, Inc. ("ABC") on the Proposed NBC Consent Decree

Introduction

In essence, ABC's comments assert that this Court has no guidelines, independent of the Communications Act of 1934 1/, for determining the public interest under the Antitrust Procedures and Penalties Act ("APPA") [15 U.S.C. §16(b)-(h)], and that the proposed Consent Judgment should not be entered because the Federal Communications Commission ("FCC") has either exclusive jurisdiction, primary jurisdiction or both. ABC is in error on both scores. As discussed below, the proper determination of public interest under Section 2(e) of the APPA [15 U.S.C. §16(e)] involves an antitrust standard, rather than one based on the Communications Act, and since the Court has already decided that the FCC has neither primary nor exclusive jurisdiction over this case 2/, this response will address only those ABC comments which relate to (1) the proper standard of judicial review to be applied in considering the proposed Judgment and (2) the substance of the proposed Judgment. 3/

1/ 47 U.S.C. §301 et seq. (1976).

2/ United States v. National Broadcasting Co., Inc., 1974-1 Trade Cas. ¶74,885 (C.D. Cal. 1973); United States v. CBS Inc., 1977 Trade Cas. ¶61,327 (C.D. Cal. 1977).

3/ The jurisdictional issues are treated in the Memorandum of the United States in Opposition to ABC's Motion for Reconsideration of its Motion to Dismiss or Stay, filed March 25, 1977.

Form OBD-183 12-8-76 DOJ

I. The Procedure and the Standard of Review Established Under the Antitrust Procedures and Penalties Act.

Pursuant to the APPA, the Court must find that entry of a proposed Judgment is in the public interest. [15 U.S.C. §16(e)]. While such a requirement is not new [United States v. Carter Products, 211 F.Supp. 144, 147-48 (S.D.N.Y. 1962)], the procedure for arriving at such a finding has been altered dramatically under the Act.

The APPA sets forth explicit requirements which must be satisfied by the Department of Justice before the Court can enter a judgment. The Act requires that notice be given to the public, and a Competitive Impact Statement ["CIS"] be filed with the Court and published in the Federal Register [15 U.S.C. §16(b)], that the public have a period of at least 60 days from publication within which to file comments to the proposed Judgment, and that the comments and the Government responses thereto be filed with the Court and published in the Federal Register. [15 U.S.C. §16(d)].

Once this procedure has been completed, the Court has broad discretion in deciding what further to consider. The APPA suggests that the Court consider the matters addressed in the CIS, including the competitive impact of the judgment, the provisions for enforcement or modification, the alternatives considered, and the impact on the public generally [15 U.S.C. §16(e)(1) and (2)].

While there is broad discretion in the Court in deciding what issues to consider and what steps to take to insure a complete ventilation of the consent process, the cases in

which the public interest standard has been considered and the legislative history both strongly suggest that the standard to be met in deciding whether entry is in the public interest, is whether the Judgment is consistent with the allegations of the complaint and the enforcement of the antitrust laws. United States v. Associated Milk Producers, Inc., 394 F.Supp. 29 (W.D. Mo. 1975), aff'd, 534 F.2d 113 (8th Cir.), cert. denied, U.S. , 97 S.Ct. 355 (1976); United States v. Gillette Co., 405 F.Supp. 713 (D. Mass. 1975); United States v. Morgan Drive Away, Inc., 1976-1 Trade Cas. §60,949 (D.D.C. 1976); see United States v. Carter Products, Inc., 211 F.Supp. 144, 148 (S.D.N.Y. 1962). This determination must include a recognition that antitrust consent settlements are an appropriate and beneficial enforcement tool, that compromise may be involved, and that the Attorney General has broad discretion as to the terms of such settlements.

In United States v. Associated Milk Producers, Inc., supra, the District Court entered a consent decree after finding the Government's resolution of dissolution or divestiture relief to be "well within the discretionary power of the Attorney General under existing law." [394 F.Supp. at 45]. The Eighth Circuit, in affirming, noted:

> It is axiomatic that the Attorney General must retain considerable discretion in controlling government litigation and in determining what is in the public interest. [534 F.2d at 117].

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In United States v. Gillette Co., supra, the Court, in approving a consent decree, explained:

> It is not the court's duty to determine whether this is the best possible settlement that could have been obtained if, say, the government had bargained a little harder. The court is not settling the case. It is determining whether the settlement achieved is within the reaches of the public interest. Basically I must look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass. [405 F.Supp. at 716].

In United States v. Morgan Drive Away, Inc., supra, the Court also imposed a limited standard of review in determining whether entry of the decree was in the public interest. Judge Flannery stated that:

> The result of the bargaining toward settlement should not be measured against what concessions the Government might have succeeded in exacting from the defendants had it bargained somewhat harder, or even against the probable outcome had the case gone to trial. [1976-1 Trade Cas. at p. 69,191]

The Court went on to rule, after considering comments in opposition, that the comments "have not undermined the conclusion of the United States that the proposed Judgment is in the public interest. . . ." [1976-1 Trade Cas. at p. 69,193].

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These decisions are consistent with the Congressional intent that consent decrees must remain a viable enforcement option. Such an option would not long remain viable were it necessary for a Court to conduct a de novo determination of the factual issues relevant to the adequacy of the proposed decree. 4/ In fact, the Senate Report advises that, "[o]nly where it is imperative that the court should resort to calling witnesses for the purpose of eliciting additional facts should it do so." [S. Rep. No. 298, 93d Cong., 1st Sess. 1, 6 (1973)]. 5/

4/ The Senate Report states:

> The Committee recognizes that the court must have broad discretion to accommodate a balancing of interests. On the one hand the court must obtain the necessary information to make its determination that the proposed consent decree is in the public interest. On the other hand, it must preserve the consent decree as a viable settlement option. It is not the intent of the Committee to compel a hearing or trial on the public interest issue. It is anticipated that the trial judge will adduce the necessary information through the least complicated and least time consuming means possible . . . .
>
> [S. Rep. No. 298, 93d Cong. 1st Sess. 6 (1973)].

5/ The competitive impact statement required by the APPA is similar to the environmental impact statement required by the National Environmental Policy Act of 1969

Moreover, Congressional intent is clear that the applicable public interest standard is one of judicial construction based on the antitrust laws and antitrust precedents. The original bill included a provision 6/ which stated that the entry of a consent decree must be found to be "in the public interest as defined by law." The phrase "as defined by law" was deleted from the bill according to the House Report,

> . . .as a recognition that the content of the phrase, "public interest," is a product of judicial construction in the context of particular statutes . . . and to provide

5/ continued

("NEPA"), 42 U.S.C. §4321, [119 Cong. Rec. 24599 (1973)]. NEPA, like the APPA, does not call for a de novo review of governmental action. Upper W. Fork River Watershed Ass'n. v. Corps of Engineers, 414 F.Supp. 908, 915 (N.D. W.Va. 1976). Cf. Camp v. Pitts, 411 U.S. 138 (1973). Further, the Court is neither empowered to substitute its own judgment for that of the Government, Environmental Defense Fund, Inc. v. Corps of Engineers, 470 F.2d 289, 300 (8th Cir. 1972), nor required to make findings of ultimate fact or resolve conflicts between the economic theory and data relied on by the Government and that presented by those objecting to the Government's action. Environmental Defense Fund, Inc. v. Froehlke, 368 F.Supp. 231, 240-41 (W.D. Mo. 1973), aff'd sub nom. Environmental Defense Fund, Inc. v. Callaway, 497 F.2d 1340 (8th Cir. 1974).

6/ In Section 2(e).

> illumination and consistency in the usage of the phrase, the "public interest" . . . . Preservation of antitrust precedent rather than innovation in the usage of the phrase, "public interest," is, therefore, unambiguous. 7/

Thus, based upon the Act itself, upon the interpretive Court decisions to date, and upon the Congressional intent as expressed in the legislative history, the Court must decide, after taking into consideration all evidence in support of the proposed Judgment and all opposition to it, whether the Government made a clear error in judgment or abused its discretion. If, based upon its review, the Court finds that the entry of the decree would be consistent with the allegations of the Complaint and the enforcement of the antitrust laws, then the Court should enter this Judgment in order to provide expeditious relief by eliminating anti-competitive restraints. See United States v. Carter Products, Inc., 211 F.Supp. at 148.

II. ABC's Comments on Specific Provisions of the Proposed Judgment.

ABC has commented adversely on the production limitation of Section V, the option term limitation of Section VI(E)(i), and the limitation on exclusivity against pay cable television in Section VI(E)(iii)(e) of the proposed Judgment.

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7/ H.R. Rep. No. 1463, 93d Cong., 2d Sess. 1, 11 (1974).

A. The Production Limitation in Section V of the Judgment is an Appropriate Restraint on NBC's Monopoly Power.

As discussed in the CIS, Section V, which would limit for 10 years the entertainment programming which could be produced by NBC for use on its network, should enhance competition in the entertainment program production market, "by eliminating the possibility that NBC could substantially increase its internal production of its network programs and thereby exclude independent program suppliers." [CIS at 8]. ABC's contention that the continued production of entertainment programming by the networks was approved by the FCC [ABC Comments, at 22], is disingenuous. ABC would have the Court believe that the FCC sanctioned in-house program production by the networks. However, the FCC language quoted by ABC for this proposition, in fact reflects the FCC's concern in 1965 with "continuing dominance by network corporations of the television program production and procurement process. . . ." 8/

8/ The Notice of Proposed Rulemaking, Docket 12782, 45 F.C.C. 2d 16, 21 (1965), states:

> Strict adherence to the principle of free competition would perhaps suggest the total elimination of network corporations from production and financial and proprietary control of television programming. However, the record of the Program Inquiry and our general knowledge of the situation as it currently exists in network television leads us to the view that the public interest

Moreover, the FCC concluded that network program production should be limited. 9/ This is precisely what Section V of the proposed Judgment would accomplish.

8/ continued

in a nationwide television structure sustained by network program service would not be furthered by eliminating network corporations entirely from the program production and procurement process. We are persuaded that, in order reasonably to insure the quantity and quality of television programming necessary to maintain adequate community service, network corporations should be permitted to engage to a substantial but limited degree in program production, procurement and financing. On the other hand, it is our tentative view that to permit continuing dominance by network corporations of the television program production and procurement processes as disclosed by the record of our Inquiry not only would injure the public interest in a competitive national television structure but also would act as a stricture on the "larger and more effective" use of television channels in the public interest.

9/ The FCC considered prohibiting each network from producing, procuring or financing entertainment programs during 50% of all prime time hours, something quite different than ABC's characterization. Ultimately, in 1970, the FCC prohibited each network from originating any entertainment

Significantly, the FCC has not objected to the proposed production limitation of Section V, but merely sought comment on that provision among others in its recently instituted inquiry into commercial television network practices. In fact, the FCC stated explicitly that its Notice of Inquiry was not intended to preclude the litigation of these network issues or the arrangement of an appropriate settlement. 10/

ABC also argues that the production limitation, when viewed from an economic and competitive standpoint, is unnecessary because the natural forces of the market limit each network's ability to produce and exhibit its own

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9/ continued

program during one hour of prime time, prohibited network acquisition of subsidiary interests or profit shares and prohibited each network from engaging in domestic syndication of television programming. These prohibitions are commonly referred to as the Prime Time Access, Financial Interest and Syndication Rules, 47 C.F.R. §73.658(j) (1975). [Report and Order, Docket No. 12782, 23 F.C.C. 2d 382, 384 (1970), aff'd sub nom. Mt. Mansfield Television, Inc. v. F.C.C., 442 F.2d 470, 482 (2d Cir. 1971)].

10/ See Notice of Inquiry, Docket No. 21049 (In The Matter of Commercial Television Network Practices and the Ability of Station Licensees to Serve the Public Interest], par. 5, 42 Fed. Reg. 4892 (January 14, 1977); see also the FCC Memorandum to the Court in this litigation, January 11, 1977.

programs. 11/ [ABC Comments at 26]. However, while the FCC rules severely limit the rights and interests which NBC can now acquire in independently produced programs, they permit the retention of certain rights in programs produced by NBC itself. This provides an added incentive for increased internal production by a network, which must be curbed if competition is to be maintained in television programming. Further, a central allegation of the case against NBC was that its "unrestricted ability to produce prime time television entertainment programming, together with its domination and control over access to its combined and affiliated group of television stations and its course of conduct, constitutes an unreasonable restraint of non-network program producers' ability to produce and negotiate for distribution and exhibition of their programming." 12/ The production limitations of Sections IV(A) and (B) and VI(A), are designed to

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11/ ABC erroneously contends that since the consent decree permits NBC some entertainment production, the issue is no longer whether program production violates the antitrust laws. Lest ABC be misled in its own case, the Government notes that it will seek to have an absolute production ban imposed on ABC, should its case go to trial. The fact that the NBC case is settled for less, is no bar to such a position since the proposed Judgment is not an "adjudication of any issue of fact or law." [Proposed Final Judgment, at p. 1].

12/ Government's Supplemental Statement of Genuine Issues, filed May 21, 1976, Issue I(G).

insure that NBC will not again abuse its market power to gain an unfair competitive advantage over independent program suppliers.

ABC's contention that the production limitation will inhibit NBC's scheduling of programming during periods of short supply [ABC Comments at 23] is based on sheer speculation. There is no shortage of supply in the industry, and no likelihood that one will develop. 13/ Further, insofar as this Judgment holds out the possibility that independent producers might share in the success of highly rated programs while on the network, and would permit such producers to retain rights and interests in programs after network exhibition, it should discourage any future shortage of supply by encouraging entry into the production of television programming.

ABC misstates the law when it argues that the production limitation is unnecessary because "[v]ertical integration through internal expansion is prima facie lawful under the antitrust laws." [ABC Comments at 26]. 14/ While vertical integration is not per se illegal,

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13/ Many more program pilots are produced for each network every year than are ever used. See discussion of Section VI(F), CIS at 12.

14/ None of the cases which ABC cites for this proposition holds that vertical integration is prima facie lawful. While some of them assume that vertical integration may bring a new competitor into the market, that is not the issue in this case, where the contention is that the vertical

> . . . a vertical enterprise, like other aggregations of business units (United States v. Aluminum Co. of America, 148 F.2d 416), will constitute monopoly which though unexercised, violates the Sherman Act, provided a power to exclude competition is coupled with a purpose or intent to do so. [Paramount Pictures, 334 U.S. at 174.]

The three complaints charge that each network excludes competition from program production through the exercise of monopoly power derived, in part, from the ability of each to produce, distribute and exhibit its own product nationwide. However, these actions are not based solely on vertical integration. Central to each charge is abuse of the monopoly power which derives from each network's combination with its owned and operated and affiliated television stations. A combination or conspiracy violates Section 2 of the Sherman Act whenever an appreciable part of interstate commerce is monopolized. 15/

14/ continued
integration is used for the purpose and with the effect of controlling or eliminating competition. United States v. Paramount Pictures, Inc., 334 U.S. 131, 174 (1948); see also United States v. Griffith, 334 U.S. 100, 108 (1948).

15/ United States v. Yellow Cab Co., 332 U.S. 218 (1947); United States v. Lehigh Valley R.R. Co., 254 U.S.

Although the proposed Judgment will, of course, provide no final determination as to the legality of NBC's internal production of entertainment programming for use on its own network of stations, this activity by a network poses serious antitrust questions which are the proper subject of a consent decree. 16/ If ABC believes that the Government will not prevail on the merits, it can proceed to trial in its own case, but its contentions should not interfere with NBC's decision to settle this litigation.

B. The Limitation on the Number of Years of Options which NBC Can Acquire for Program Series is Pro-Competitive.

ABC also objects to Section VI(E)(i), which limits to four the number of yearly options NBC may initially acquire

15/ continued
255 (1920). See Memorandum of the United States in Opposition to Defendants' Motions for Summary Judgment on the Sherman Act Claims, at 12-27 (filed January 19, 1976).

16/ In that connection, ABC also seeks [Comments at 27-28] to twist the court's decision on a motion for a preliminary injunction in Columbia Pictures Industries, Inc. v. American Broadcasting Companies, Inc., 1974 Trade Cas. ¶74,912 at 96,095 (S.D.N.Y. 1974), aff'd, 501 F.2d 894 (2d Cir. 1974), into a finding that ABC's internal production is permissible under the antitrust laws. Actually the Court recognized "that there are 'substantial, serious, difficult and doubtful' questions. . . ." concerning ABC's production and exhibition of feature films on its own network. [501 F.2d at 897].

for a program series, and permits an additional fifth year option only if the parties renegotiate the agreement. This provision would restrict NBC's present ability to initially obtain exclusive rights to programs for as long as 5-7 years and to renegotiate for even longer periods of time [CIS at 11]. This limitation seeks to increase competition for program series among the networks and with television stations at an earlier point in the life of a successful program. By permitting producers to share earlier in their programs' successes, this provision should encourage increased program production and attract new entrants into the field.

ABC contends that the FCC, by assuming that the networks would obtain longer options on program series, has sanctioned such options. [ABC Comments, at 28-29]. However, the FCC has never addressed itself to the contractual options granted to networks by producers, and even if it had, this could not immunize network conduct which violated the antitrust laws. More significantly, the FCC has not indicated that this or any other provision of the proposed Judgment is, in any fashion, inconsistent with its position. To the contrary, it states that its current Notice of Inquiry is in no way intended to interfere with the entry of this Judgment. 17/

C. The Provision on Pay Cable Exclusivity Has Been Withdrawn.

ABC also commented adversely about Section VI(E)(iii)(e), which would have limited NBC's right to acquire exclusivity

17/ Notice of Inquiry, at Paragraph 5. See also the FCC Memorandum to the Court in this litigation, January 11, 1973.

for theatrical feature films against their use on pay cable television. The relief proposed in this provision was simply intended to establish an upper limit on terms obtained by NBC, at a level lower than the current practice, rather than a determination of what period of network exclusivity would be reasonable under the Sherman Act. Because of strong adverse comment by numerous public interest and Congressional entities, and by pay cable television operators, asserting that the provision would establish a standard which would adversely affect the pay cable industry, the Government became convinced that it would not provide meaningful relief. And, since no agreement on a more limited period for this type of exclusivity could be reached with NBC, the Government seriously considered withdrawing its consent to entry of the Judgment. However, in a recent decision the District of Columbia Court of Appeals, citing "antitrust questions," ordered the FCC to consider and resolve this problem within 180 days. 18/ Consequently, it was decided that outright removal of this provision would be appropriate and desirable as well, because its deletion would permit entry of the remainder of

18/ Home Box Office, Inc. v. FCC, No. 75-1780 (D.C. Cir. March 25, 1977). In addition, since the Court vacated the FCC rules which limited pay cable's access to feature films during the third through the tenth year after their theatrical release, all of ABC's comments on this provision reflect a situation which is no longer in existence and are, therefore, obsolete.

the Judgment. The parties have stipulated that removal of this provision does not preclude any possible future action in this area against NBC, and does not in any way prejudice any person. 19/ It is our belief that this deletion from the NBC Judgment does not eliminate the issue from the pending litigation against CBS and ABC.

19/ The Stipulation, in pertinent part, provides:

> . . . the original inclusion and subsequent deletion of Section VI(E)(iii)(e) from the proposed Final Judgment, shall not estop plaintiff or defendant, or any person, in this or any other action or proceeding, from asserting any issue of fact or law as to the subject matter of Section VI(E)(iii)(e) or as to the use of contractual rights to the exclusive use of talent or of literary properties for television exhibition, nor shall they constitute any evidence or admission as to any such issue.

Bernard M. Hollander
Attorney for the United States

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3706 Mr. Hollander
Kaplan 3714

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January 19, 1977

Bernard M. Hollander, Esq.
Chief
Judgment and Judgment
Enforcement Section
Antitrust Division
Department of Justice
Room 3706
Washington, D.C. 20530

Dear Mr. Hollander:

These comments are submitted by the Institute for Public Interest Representation ("Institute") pursuant to the Antitrust Procedures and Penalties Act (hereinafter "APPA")(15 U.S.C. § 16(b)(1974)) relating to the proposed consent judgment entered against National Broadcasting Company, Inc. (hereinafter "NBC") in United States v. National Broadcasting Company, Inc. (Civil Action No. 74-3601-RJK)(C.D. Cal.).

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The Interest Of The Institute

The Institute is a public interest law firm operated by Georgetown University Law Center. The work of the Institute is centered around activities of federal agencies. Through written reports, participation in rulemaking proceedings and litigation undertaken when administrative remedies have been exhausted, the Institute strives to assist agencies of our government in carrying out their responsibilities to promote and protect the various public policies entrusted to them. The Institute, as a public interest law firm, is especially interested in the APPA. That Act embodies a Congressional intent to encourage participation by the public in the antitrust consent decree process by affording an opportunity to interested persons to comment on such decrees. In order to facilitate public comment, the Act requires the Antitrust Division to publish a competitive impact statement (hereinafter sometimes "CIS"). The Act requires such such statement to explain the nature and purpose of the case proposed to be settled and the estimated effect on competition of the proposed decree. The APPA also requires in subsection (b) that written comments from the public on proposed antitrust decrees

be forwarded by the Division to the district court which is considering the proposed decree.

In view of the Congressional interest in permitting informed public comment, the Institute, as a public interest law firm specializing in agency procedures, endeavors to insure that competitive impact statements filed by the Antitrust Division adhere to the requirements of the APPA. We believe we serve an important public interest in seeking to have the Division adhere to the Act's requirements in the NBC case and in asking the District Judge presiding in the case to consider our comments in the light of the purposes of the APPA.

Summary

Our comments undertake to demonstrate that the competitive impact statement in the NBC case fails to meet the requirements of the APPA in three important and distinct respects. First, it contains, we submit, a misstatement as to the relief provided. Second, it fails to explain adequately why the unusual provisions set out in sections VII and IX of the proposed decree were adopted. We submit that these provisions constitute an "unusual circumstance" within the

meaning of subsection (b)(3) of the APPA and therefore require an "explanation," which the Justice Department has failed to provide. Third, the competitive impact statement does not comport with the requirements of subsection (b)(3) insofar as it fails to explain the "anticipated effects on competition" of the relief that actually will be forthcoming in the event that similar injunctive relief is not obtained in final decrees entered against CBS and ABC. We seek to show below that the relief that the government will in fact obtain is largely dependent on the outcome of two other pending lawsuits; that the Division has entirely omitted in its discussion of the competitive impact statement the effects the decree will have on competition should the other lawsuits be lost or yield a substantially less restrictive final decree; and that the failure to submit such an alternative analysis violates the APPA and makes unnecessarily difficult public critical scrutiny of the proposed decree.

In our comments we do not consider whether the relief sought in the complaint is in the public interest. Nor do we consider the difficult question whether elimination of the anti-competitive evils alleged in the complaint would better be achieved by resort to the administrative remedies

provided at the Federal Communications Commission. Cf. CIS(2)(FCC rules govern certain relationships between major networks and independent producers). Nor do we consider whether or not it is wise for a final judgment in a Sherman Act case to be filled with injunctions of a "regulatory nature" as is the case here. See CIS(3), Section VI. The competitive impact statement filed by the Antitrust Division offers an inadequate basis for public comment on these questions.

Specific Comments

1. Subsection (b)(3) of the APPA (15 U.S.C. § 16(b)(3)(1974)) provides that " . . . the United States shall file with the district court . . . a competitive impact statement which shall recite --

* * *

> (3) an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief."

The competitive impact statement in section (1) describes the relief sought by the Government in the complaint

and then states that the consent decree "provides relief similar and substantially equivalent to that requested in the complaint." See CIS(1); see also CIS(6). That statement is, we submit, not correct. */ The complaint (prayer 5) sought to have NBC enjoined from producing any entertainment programs for broadcast over any commercial television network . Instead of a flat prohibition, the decree limits "the amount of television entertainment programming which may be produced by NBC." CIS(3), Section V.

2. Many of the more important provisions of the consent decree do not take effect unless and until similar injunctive relief is obtained in separate civil actions against CBS and ABC. See CIS(3), Section VII. Moreover, Section IX of the decree provides that if the Division loses either the case against CBS or that against ABC, the decree against NBC may be nullified, on motion of NBC, to the extent "necessary to prevent [NBC] from being placed at a competitive disadvantage." With respect to Section IX,

*/ We wish to emphasize that we have no evidence indicating, nor do we believe, that the Antitrust Division or its counsel acted in bad faith in this matter.

the competitive impact statement contains this cryptic sentence:

> While this type of provision is unusual in an antitrust judgment, it is warranted by the unique nature of this industry, and the pendency of the companion actions.

CIS(3), Section IX.

This conclusory and unilluminating statement hardly qualifies as an "explanation of any unusual circumstances giving rise to such proposal" as required by subsection (b)(3) of the APPA. Why does the Antitrust Division propose to enter into a consent decree containing such "unusual" provisions? What are the relevant "unique" aspects of "this industry?" Why is this provision "warranted" in view of the pendency of the companion actions?" The competitive impact statement neither asks nor answers any of these questions.

We submit that the Antitrust Division has an obligation under the APPA to disclose and explain, fully and fairly, all of the circumstances that gave rise to these unusual provisions. To be sure the APPA by its terms requires an explanation of "unusual circumstances," not "unusual" provisions. Thus it might be argued that usual "circumstances" could give rise to "unusual" provisions, and that in such a

situation no explanation is required by the APPA. But this would ignore one of the principal objectives of the APPA: to inform the public and the Court of any non-routine situation giving rise to any provision in any proposed antitrust consent decree. Interested persons would thereby be placed in a position to comment intelligently on such a decree.

In the words of Congresswoman Jordan on the floor of the House while the APPA was under consideration: The "simple purpose [of the APPA is] to ventilate the consent decree process . . . [The APPA] would pierce the secrecy with a requirement that the Justice Department file a competitive impact statement . . . The public will [then] have 60 days to comment . . ." 120 Cong. Rec. 36343-44 (1974).

If the Antitrust Division is not required to reveal in its competitive impact statement the reasons for adopting unusual provisions in consent decrees, the public is left to the mercy of the Division. It must trust the Division to decide what circumstances are unusual. It was the revelations surrounding the ITT case that provided a major impetus for adoption of the APPA. The drafters of that Act

intended to require the Division to reveal anything about any proposed antitrust consent decree that is "unusual." Thus a sensible construction of the Act, and one that comports with its broad remedial purposes, is to read it as establishing a requirement that the Division explain any unusual provisions in order that the Court and the public may be made aware of the circumstances that led the Division to propose them.

In brief, once a provision in a consent decree is admitted to be "unusual" as the Division does in the CIS in the NBC case, it can be inferred that "unusual circumstances" produced it. At the very least, it is incumbent upon the Division to explain the circumstances that lead to unusual provisions in order that the public and the courts may assess for themselves whether the circumstances warranted such unusual provisions. We ask, and we submit the APPA requires, that the Division describe and justify those circumstances in its CIS, whatever they were.

3. The relief the Division has obtained in the proposed NBC decree is almost entirely dependent on the outcome of the pending cases against CBS and ABC. This is demonstrated by close analysis of Sections VII and IX of the

decree itself. Section VII provides that six specific sections or subsections of the decree "shall not take effect until similar injunctive relief is obtained . . . against CBS [and] ABC." */ Section IX provides that NBC may have the remainder of the injunctive relief in the decree nullified if the Government loses either its case against ABC or CBS, or if the Government obtains against CBS or ABC "injunctions different . . . than those required by this Final Judgment . . . NBC . . . shall be granted a modification of . . . any terms set forth herein as may be necessary to prevent NBC from being placed at a competitive disadvantage . . ."

Subsection (3) of the competitive impact statement is captioned "The proposed consent judgment and its anticipated effect on competition." Nowhere in this section of the CIS is there discussed the "anticipated effect on competition" if similar relief is not obtained in the cases against CBS and ABC.

We submit that the CIS should have discussed separately (a) the likelihood that the Government will obtain relief against both CBS and ABC of the types that will take effect against NBC upon entry of the proposed decree; (b) the

*/ Sections V, VI(c), VI(E)(i), VI(F), VI(G) and VI(H).

likelihood that it will obtain relief against both CBS and ABC of the types contained in those parts of the proposed decree against NBC which do not go into effect until similar relief is obtained against both CBS and ABC; and (c) the anticipated effect on competition of that part of the decree against NBC which goes into effect immediately but would remain in effect only until the cases against CBS and/or ABC are finally concluded by entry of a decree containing no relief or different relief than that obtained in the proposed decree against NBC.

If the Division is unwilling or unable to make categorical predictions as to the outcome of the cases against CBS and NBC, then the competitive impact statement, we submit, should have evaluated the relief against NBC in the alternative. In other words, the competitive impact of the NBC decree should have been evaluated, first, on the assumption that similar relief will be obtained against both CBS and ABC, and second, on the assumption that such relief will not be obtained against both. Only if this is done can interested members of the public have a basis on which to judge whether the decree will have any significant "effects on competition" (APPA, subsection (b)(3)). The

failure to discuss these questions would be all the more serious if, as we are informed, both CBS and ABC separately advised the Antitrust Division before it filed its CIS that each would not consent to relief similar to that obtained against NBC.

Conclusion

We recognize that considerations of trial strategy may have made the Division hesitate to reveal the circumstances that caused it to enter into this unusual decree while the companion cases against CBS and ABC are pending. But the APPA, by mandating full disclosure of all unusual circumstances, requires the Division to assume the risk, if risk there be, of disclosure.

Our objection to the competitive impact statement filed in this case is not that the Division has been mistaken or misguided in its decision to enter into the decree against NBC. Rather, it is our position that the Division has failed to comply with the dictates of the APPA. That Act, we repeat, was intended -- quite literally -- to compel the Antitrust Division to disclose and justify any unusual circumstances surrounding acceptance of any unusual antitrust consent decree. The purpose of Congress in adopting this novel legislation was to open up the circumstances surrounding adoption of consent decrees to public scrutiny so that

interested members of the public could intelligently comment on them. We submit that the Division has not adhered to the legislative command in the APPA in its competitive impact statement filed in this case. Accordingly informed comment by the public on the question whether the proposed decree against NBC is in the public interest has been rendered very difficult, if not impossible.

We urge the Division either to withdraw its consent to the proposed decree, or to file an amended competitive impact statement correcting its deficiencies. If any amended CIS is filed, interested members of the public should be given sixty days after its publication to comment on the proposed NBC decree.

If the Antitrust Division should consider these comments to be substantially without merit, we respectfully urge the District Court */ to consider our comments and, if they are found to be sound, to direct the Antitrust

*/ Subsection 2(b) of the APPA requires the Division to file these comments and its response with the Court. See supra, pp. 2-3.

Division to file an amended competitive impact statement, correcting the deficiencies herein noted.

Respectfully submitted,

Victor H. Kramer
Director

Thomas Krattenmaker
Consultant

Response to the Institute For Public Interest Representation, Georgetown University Law Center

The Institute contends that the Competitive Impact Statement ("CIS") filed with respect to this proposed Judgment does not satisfy the requirements of the Antitrust Procedures and Penalties Act ["APPA"] [15 U.S.C. §16(b)-(h) [1974)), because it is inaccurate in characterizing the relief obtained; because it does not explain the unusual circumstances leading to the provisions in Sections VII and IX; and because it does not explain the effects on competition, if similar relief is not obtained from CBS and ABC. While the Department shares the Institute's desire to improve and upgrade the process for entry of Consent Judgments and the quality of Competitive Impact Statements, we disagree with its contentions here.

The CIS correctly states that the proposed Judgment provides relief which is similar and substantially equivalent to that requested in the complaint [CIS at 2-3]. The Institute points out that the proposed limitation on NBC's production of television entertainment programs is not substantially equivalent to the complete ban originally sought. The CIS, however, carefully and fully explains the differences between the Judgment provisions and the relief prayed for in the complaint, stating, with respect to the production limitation:

> A provision permanently prohibiting NBC from producing any television entertainment program for network exhibition was sought in the complaint. The compromise reached in Section V of the judgment would limit for ten years NBC's production of television entertainment for its network use, not only during prime time, but also during daytime or fringe hours. . . . While the Government at trial would have sought a complete prohibition of television entertainment program production by NBC, this judgment provides substantial relief which will prevent NBC from foreclosing significant amounts of independently produced programming from its television network. [CIS at 16-17].

While some may differ subjectively as to whether this is substantial and equivalent relief with respect to internal production, the CIS fully explains the relief sought and that obtained. In any event, the "similar and substantially equivalent" language of the CIS refers not to the relief provided by any section standing alone, but to the relief obtained in the Judgment as a whole. That relief, when viewed en tuto, is substantially equivalent to that requested in the complaint.

These actions were not brought to eliminate the three networks, but to limit their use of market power and encourage as much competition as possible within this three program buyer market structure. By opening up the stripping and syndication markets, by limiting network production, and by reducing program renewal options, the Judgment seeks to encourage competition in television entertainment program production, both among networks and between networks and other broadcasters. Moreover,

the injunctions in Sections IV and VI(A)-(C) should prevent NBC from abusing its market power when acquiring network exhibition rights.

Further, the Government does not believe that the CIS falls short in its discussion of the provisions of Sections VII or IX, or in its discussion of the anticipated effects on competition, if similar injunctive relief is not obtained from ABC or CBS. As explained, this is an unusual industry [CIS at 14], in that the three networks are the only purchasers of commercial television programming for simultaneous nationwide broadcasting. Each network as a purchaser has enormous market power, not subject to meaningful competition from the other two networks or from non-network television stations. This Judgment seeks to limit NBC's use of its power in purchasing television entertainment programs. If, however, the Court were to decide after a trial not to prohibit or limit the use of similar market practices by CBS or ABC, then it might be appropriate for NBC to seek relief from any portions of this Judgment which place it at a competitive disadvantage vis-a-vis CBS and ABC. For example, while Section VI(E)[ii] of the Judgment would limit to three years the period during which a prime time program series could be exclusive to NBC (as against syndication in other day parts], the present network practice is to require such exclusivity for the length of the initial 5-7 year contract, plus extensions which may run substantially longer. Should the Court after trial fail to award similar relief against CBS and ABC, then NBC should be free to seek modification of this provision,

upon a showing that it had been placed at a competitive disadvantage.

The same analysis is valid with respect to those other portions of the Judgment, which pursuant to Section VII will not become effective until similar injunctive relief is obtained against CBS and ABC. For example, Section V of the Judgment would enjoin NBC from producing for its own use more than 2-1/2 hours of prime time entertainment programming per week, plus 2 additional special programs every six months. Were the Court to rule after trial that CBS's or ABC's unlimited power to produce entertainment programming should not be curtailed, then NBC, because of the peculiar structure of the market, should not be subject to such a prohibition. 1/

The provisions of the decree which go into effect immediately, or within 30 days after entry of the Judgment, would have the procompetitive effect ascribed to them in the CIS. Section IV tracks the Federal Communications Commission Financial Interest and Syndication Rules (47 C.F.R. §73.658(j)), which are already in effect, and have increased competition for syndication rights and allowed program producers to retain more ownership rights in their programs.

1/ See CIS at 5-6. It should be noted, however, that the Government has not conceded that each provision which does not become effective until similar relief is obtained against CBS and ABC would place NBC at a competitive disadvantage if it were applicable to NBC alone.

Section VI(A) is a general injunction against abuse by NBC of its market power through acquiring more control over programs and producers than is necessary to permit network exhibition. Section VI(B) prevents NBC from conditioning access to its chain of stations on the producer's agreement to use NBC's production facilities in producing his program. This provision seeks to assure that a producer's decision on facility use will be made on a competitive basis and not to increase the chance that NBC would accept his program. Sections VI(E)(ii) and (iii) would limit the exclusivity rights which may be obtained by NBC in connection with its licensing of a program series or a motion picture, and should increase the amount of such programming available in the syndication and other media markets. All of these provisions would become effective upon entry of the Judgment, even if no injunctive relief were obtained against CBS or ABC.

In sum, we believe that the CIS satisfies the requirements of the APPA in every respect, and that entry of the Judgment against NBC would be in the public interest.

Bernard M. Hollander

Attorney for the United States

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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

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Price: $.35

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment revokes the position of Director, Conservation and Land Use Programs Division, because the position no longer meets Schedule C criteria.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3313(h)(8) is amended to read as follows:

§ 213.3313 Department of Agriculture.

* * * * *

(h) *Agricultural Stabilization and Conservation Service.* * * *

(8) (Revoked)

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–13876 Filed 5–16–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Private Secretary each to the Assistant Secretary and Deputy Assistant Secretary for Marketing Services because the positions are confidential in nature.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3313 (a)(37) and (a)(38) are added to read as follows:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(37) One Private Secretary to the Assistant Secretary for Marketing Services.

* * * * * *

(38) One Private Secretary to the Deputy Assistant Secretary for Marketing Services.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14062 Filed 5–16–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Army

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Secretary (Steno) to the Deputy Under Secretary of the Army is excepted under Schedule C because the position is confidential in nature.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, (202–632–4533).

Accordingly, 5 CFR 213.3307(b)(2) is added to read as follows:

§ 213.3307 Department of the Army

* * * * * *

(b) *Office of the Under Secretary.* * * *

(2) One Secretary (Steno) to the Deputy Under Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14061 Filed 5–16–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Executive Assistant to the Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner because the position is confidential in nature.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, (202–632–4533).

Accordingly, 5 CFR 213.3384(b)(18) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * * *

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* * * *

(18) One Executive Assistant to the Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14059 Filed 5–16–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Executive Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs because the position is confidential in nature.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3384(b)(19) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * * *

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* * * *

(19) One Executive Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14060 Filed 5-16-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Assistant to the Under Secretary is excepted under Schedule C because the position is confidential in nature.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling (202–632–4533).

Accordingly, 5 CFR 213.3312(a)(46) is added to read as follows:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(46) One Assistant to the Under Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14058 Filed 5-16-77;8:45 am]

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule A all positions not in excess of GS–13, whose incumbents will implement the National Youth Conservation Corps program and are to be paid out of funds allocated under title III of the Comprehensive Employment and Training Act of 1973, as amended. Employment under this exception is not to exceed 18 months from the date that funds are authorized for this program under title III of CETA. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3102(hh) is amended to read as follows:

§ 213.3102 Entire Executive Civil Service.

* * * * *

(hh) All positions not in excess of GS–13, whose incumbents will implement the National Youth Conservation Corps program and are to be paid out of funds allocated under title III of the Comprehensive Employment and Training Act of 1973, as amended. Employment under this exception is not to exceed 18 months from the date that funds are authorized for this program under title III of CETA.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14111 Filed 5-13-77;10:49 am]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of the Plant Protection and Quarantine Programs performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, MD 20782, 301–436–8247.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine Programs, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, March 18, 1977 (42 FR 15055) prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) the information as shown below:

The following entry is added to the table in 7 CFR 354.2:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

Commuted traveltime allowances

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Add:			
* * * * *			
Louisiana: Lake Charles.	Crowley		3
New Mexico: Columbus.	El Paso, Tex		6
Puerto Rico: Guanica.	Ponce		2
Texas:			
Bergstrom AFB	San Antonio		3
Robert Grey Army Airfield.	do		6
* * * * *			

(64 Stat. 561; (7 U.S.C. 2260).)

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., this 11th day of May, 1977.

JAMES O. LEE, JR.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.77-14023 Filed 5-16-77;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

BEEF RESEARCH AND INFORMATION

Procedure for Conduct of Referendums

CROSS REFERENCE: For a document establishing procedure for conducting referendums regarding any Beef Research and Information Order, see FR Doc. 77–14021, in the Rules and Regulations Section of this issue.

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Procedure for the Conduct of Referendums in Connection With Beef Research and Information Order

AGENCIES: Agricultural Marketing Service and Agricultural Stabilization and Conservation Service USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the procedure for conducting referendums with respect to any Beef Research and Information Order or amendment issued pursuant to the Beef Research and Information Act. Such a rule is necessary because an order must be approved in a referendum among eligible beef producers before the Order can become effective. It will give beef producers notice of eligibility requirements, registration and voting procedures, challenges of eligibility, and publication of the result of each referendum.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Cook, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7998).

SUPPLEMENTARY INFORMATION: The Act provides that the Secretary of Agriculture shall issue a Beef Research and Information Order, or amendments thereto, applicable to producers and slaughterers of cattle to effectuate the delcared policy of the Act. The Act further provides that the Secretary shall conduct a referendum among cattle producers for the purpose of ascertaining whether the issuance of an Order is approved or favored by cattle producers. This procedure for the conduct of referendums is in accordance with the authority vested in the Secretary of Agriculture by the Act.

The proposed rules for conducting referendums were published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19885), and interested persons were invited to submit comments on the proposal by April 30, 1977.

Two changes in the proposed rules were recommended in the comments received. One suggestion was to change the 12-day voting period provided for in § 1260.201(n) to an 11-day voting period in order that the voting period for the forthcoming referendum could be scheduled during a suggested period which included the 4th of July holiday-shortened workweek. Such a change is unnecessary since § 1260.204 provides that Sundays and Federal holidays are counted in the computation of time except where the last day falls on a Sunday or holiday; then the next business day shall be the last day. Also, these rules are applicable not only to the forthcoming referendum but to all referendums held under any order or amendments issued under the Act. Therefore, it would be impractical to include special provisions to accommodate particular situations occurring in different referendums.

It was also recommended that paragraph 1260.207(b) be changed to provide that a list of registered producers be prepared on a daily basis and made available for inspection throughout the registration period in addition to a complete list of registered producers to be prepared after the registration period closes. The recommended change is adopted since it results in a more open registration procedure by making the names of registrants available to the public daily rather than only after the registration period.

The following other changes are also made to clarify or correct provisions in the proposed rules:

Section 1260.202 is added to the rules. It was inadvertently omitted in the proposed rules published for comment. The section outlines responsibilities of the Deputy Administrator, ASCS, State ASC committees, and county ASC committees for conducting referendums. This added section represents no substantive change from the proposal since the duties of the Deputy Administrator and the State and county ASC committees are stated in other provisions elsewhere in the rules.

The wording of § 1260.206(b) is changed to show that proxy registration and voting is not permitted for individual producers.

Section 1260.209(a) is changed by adding a requirement that any challenge of a person's eligibility must be made prior to the end of the voting period. This requirement is necessary to provide adequate time for resolving any challenges or appeals and compiling the final results of the referendum within the limits specified in the rules.

Since this procedure is essentially the same as the proposed rule published April 15, 1977, and an earlier effective date will not impose any additional burden on any person, good cause exists for making the procedure effective on less than 30 days notice.

Accordingly, with these changes and additions, the proposed rules (7 CFR Part 1260) are adopted as set forth below.

Issued at Washington, D.C., this May 11, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

IRVING W. THOMAS,
Acting Administrator, Agricultural Marketing Service.

Subpart—Procedure for the Conduct of Referendums in Connection with Beef Research and Information Order

Sec.

1260.200 Referendums.
1260.201 Definitions.
1260.202 Supervision of referendum.
1260.203 Requirements of referendum.
1260.204 Computation of time.
1260.205 Public notice.
1260.206 Eligibility.
1260.207 Registration.
1260.208 Voting.
1260.209 Challenge of eligibility.
1260.210 Receiving ballots.
1260.211 Canvassing ballots.
1260.212 County ASCS Office report.
1260.213 State ASCS Office report.
1260.214 Results of the referendum.
1260.215 Disposition of ballots and records.
1260.216 Suspension and termination of order.
1260.217 Instructions and forms.

AUTHORITY: (Sec. 17, Pub. Law 94–294, 90 Stat. 537 (7 U.S.C. 2916).)

Subpart—Procedure for the Conduct of Referendums in Connection With Beef Research and Information Order

§ 1260.200 Referendums.

Referendums for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a Beef Research and Information Order, or the amendment, continuance, termination, or suspension of such an Order, is favored by producers, shall, unless supplemented or modified by the Secretary, be conducted in accordance with this Subpart.

§ 1260.201 Definitions.

(a) "Secretary" means the Secretary of Agriculture or any other officer or employee of the U.S. Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service.

(c) "Act" means the Beef Research and Information Act (7 U.S.C. 2901 et seq.) and any amendments thereto.

(d) "Deputy Administrator" means the Deputy or Acting Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(e) "State ASC Committee" means the group of persons within a State designated by the Secretary to act as the State Agricultural Stabilization and Conservation committee.

(f) "County ASC Committee" means the group of persons within a county elected to act as the county Agricultural Stabilization and Conservation committee, pursuant to the regulations governing the election and functioning of the county Agricultural Stabilization and Conservation committee.

(g) "County ASCS Executive Director" means the person employed by the county ASC committee to execute the policies of the county ASC committee and be responsible for the day-to-day operation of the county ASCS office, or the person acting in such capacity.

(h) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(i) "Cattle" means live domesticated bovine quadrapeds.

(j) "Producer" means any person who owns or acquires ownership of cattle

other than one who acquires cattle solely for the purpose of slaughter: *Provided*, That a person shall not be considered to be a producer if his only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

(k) "Order" means the Beef Research and Information Order or any amendment thereto promulgated pursuant to the Act with respect to which the Secretary has directed that a referendum be conducted.

(l) "Representative Period" means a consecutive twelve-month period preceding the referendum designated by the Secretary.

(m) "Registration Period" means a 12-day period to be announced for the registration of producers desiring to vote in a referendum. The registration period shall end not less than ten calendar days prior to the first day of the voting period.

(n) "Voting Period" means a 12-day period to be announced for voting in a referendum.

§ 1260.202 Supervision of referendum.

The Deputy Administrator shall be in charge of and responsible for conducting each referendum in accordance with this subpart. Each State ASC committee shall be in charge of and responsible for conducting the referendum in its State. Each county ASC committee shall be responsible for conducting the referendum in its county.

§ 1260.203 Requirements of referendum.

No Beef Research and Information Order or amendment thereto issued under the Act shall become effective unless the Secretary determines (a) that valid ballots were cast by at least 50 percent of the eligible producers registered to vote, and (b) that the issuance of such Order is approved or favored by not less than two-thirds of the producers casting valid ballots in such referendum.

§ 1260.204 Computation of time.

Sundays and Federal holidays shall be included in computing the time allowed for the filing of any documents or taking any action: *Provided*, That when such time expires on a Sunday or a Federal holiday, such period shall be extended to include the next following business day.

§ 1260.205 Public notice.

Advance public notice of the referendum shall be provided without advertising expense by the State and county ASCS offices by means of newspapers, television, county newsletter, county extension agents, etc. Such notice shall announce the registration requirements and other pertinent information.

§ 1260.206 Eligibility.

(a) *Eligible Producer.* Each person who was a producer at any time during the representative period is entitled to register and vote in the referendum. Each producer entity shall be entitled to cast only one ballot in the referendum.

(b) *Proxy Registration and Voting.* Proxy registration and voting is not authorized except that an officer or employee of a corporate producer, or any guardian, administrator, executor, or trustee of a producer's estate, or an authorized representative of any producer entity (other than an individual producer), such as a corporation or partnership, may register and cast a ballot on behalf of such entity. Any individual registering to vote in the referendum on behalf of any producer entity shall certify that he is authorized by such entity to take such acion.

(c) *Joint and Group Interest.* A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation, engaged in the production of cattle as a producer entity shall be entitled to only one vote: *Provided, however*, That any member of a group may register to vote as a producer if he is an eligible producer separate from the group.

§ 1260.207 Registration.

(a) *Registration procedure.* Each producer desiring to vote in the referendum must register during the registration period with the county ASCS office serving the county in which his farm or ranch headquarters is located. An absentee producer who does not have a local headquarters may register and vote in any county where his cattle are located, but shall register and vote in only one such county. To register, a producer must complete a registration card, Form ASCS–151, during the registration period. Registration may be in person or by mail. A producer who wishes to register by mail may request the county ASCS office to mail him a registration card. A registration card shall be considered received during the registration period if (1) it was delivered in person to the county ASCS office prior to the close of business on the final day of the registration period, or (2) it was postmarked not later than midnight of the final day of the registration period, and was received in the county ASCS office prior to the close of business on the fourth day after the close of the registration period.

(b) *List of registered producers.* A list of registered producers shall be prepared and posted daily in a conspicuous public location at the county ASCS office during the registration period. A final list shall be posted on the fifth day after the close of the registration period. The list shall include all persons who submitted a valid registration card in a timely manner.

§ 1260.208 Voting.

(a) *Facilities and ballot box.* Each county ASCS office shall provide (1) adequate facilities and space to permit producers to mark their ballots in secret and (2) a sealed ballot box which shall be kept under observation during office hours and secured at all times until the ballots are counted.

(b) *Voting.* Voting may be in person or by mail. A producer wishing to vote by mail may request the county ASCS office to mail him a ballot. Ballots will be issued only to eligible cattle producers who have registered to vote. Ballots will not be provided nor accepted prior to the voting period. Each registered cattle producer voting shall obtain and cast his ballot on Form ASCS–151A with the county ASCS office where he registered to vote. The ballot shall be marked to indicate "yes" or "no" and must be signed by the producer. Producers voting in person shall place their own ballots in the ballot box. Ballots received by mail shall be placed promptly in the ballot box.

§ 1260.209 Challenge of eligibility.

(a) *Who may challenge.* A person's eligibility to register and vote may be challenged by any person. The county ASCS executive director shall review all registrations and promptly challenge any registrant who appears to be ineligible. Any challenge of a person's eligibility to register and vote must be made prior to the end of the voting period.

(b) *Determinations of challenges.* Any person whose eligibility to register and to vote has been challenged must prove to the satisfaction of the county ASCS executive director that he was a producer during the representative period. Records such as tax returns, sales documents, purchase documents, or other similar documents may be submitted to prove that a person is a producer. The county ASCS executive director shall make his determination concerning the eligibility of a producer who has been challenged as soon as practicable, and in all cases before the opening of the ballot box.

(c) *Challenged ballot.* A person whose eligibility to register or to vote has been challenged but not resolved by the county ASCS executive director or by the county ASCS committee, if on appeal, may be allowed to cast a ballot, but such ballot shall be considered a challenged ballot for the purpose of the referendum until a resolution of the challenge has been made. A challenged ballot shall be determined to have been resolved if no appeal is taken from the determination of the county ASCS executive director within the time allowed for appeal or there has been a determination by the county ASC committee after appeal.

(d) *Appeal.* Appeal from a decision by the county ASCS executive director on the eligibility of a person to register or to vote must be made to the county ASC committee within three business days after notification of such decision. An appeal shall be determined by the county ASC committee as soon as practicable, but in all cases not later than 5 days after the opening of the ballot box.

§ 1260.210 Receiving ballots.

A ballot shall be considered to have been received during the voting period (a) if it was cast in the county ASCS office prior to the close of business on the final day of the voting period, or (b) if mailed, the ballot was postmarked not later than midnight on the final day of the voting period and received in the county ASCS office prior to the close of business on the fourth day after the close of the voting period.

§ 1260.211 Canvassing ballots.

(a) *Counting the Ballots.* As soon as possible after opening of the county ASCS office on the fifth day after the close of the voting period, employees of the county ASCS office shall open the ballot box and count the ballots. The ballots shall be tabulated as follows: (1) Number of eligible producers casting valid ballots, (2) number of producers favoring the order, (3) number of producers not favoring the order, (4) the number of challenged ballots deemed invalid, and (5) the number of spoiled ballots.

(b) *Spoiled Ballots.* Ballots shall be considered as spoiled ballots when they are unsigned, mutilated, or marked in such a way that it cannot be determined whether it is a "yes" or "no" vote. Spoiled ballots shall not be considered as approving or disapproving the Order, or as a ballot cast in the referendum.

(c) *Confidentiality.* All ballots shall be treated as confidential and the contents of the ballots shall not be divulged except as provided for in this Subpart or as the Secretary may direct. The public may witness the opening of the ballot box and the counting of the ballots, but shall remain a reasonable distance from the tabulation so as not to interfere with the tabulation or see how any person voted in the referendum.

§ 1260.212 County ASCS office report.

(a) *Preliminary report.* The county ASCS office shall notify the State ASCS office by telephone, telegraph, or messenger as to the preliminary results of the referendum as soon as possible. Such report shall also include the total number of eligible producers that registered to vote in the referendum. Each county ASCS office may release the unofficial results of the referendum in its county after the report has been given to the State ASCS office.

(b) *Final report.* Within seven days after the opening of the ballot box, each county ASCS office shall transmit a written summary certified by the county ASCS executive director of the final results of the referendum in its county to the State ASCS office. Any appeal concerning a producer's eligibilty shall be resolved by the county ASC committee prior to the date of the final report. A copy of the summary shall be posted for 30 days in the county ASCS office in a conspicuous place accessible to the public and a copy shall be kept on file in the county ASCS office for a period of at least 12 months.

§ 1260.213 State ASCS office report.

(a) *Preliminary report.* Each State ASCS office shall send to the Deputy Administrator by telegraph as soon as possible a summary of the preliminary results of the referendum received from the county ASCS offices within its State. Such report shall also include the total number of eligible producers that registered to vote in the referendum. Each State ASCS office may release the unofficial results of the referendum in its State after its report has been sent to the Deputy Administrator.

(b) *Final report.* Within ten days after the opening of the ballot boxes in the county ASCS offices each State ASCS office shall transmit to the Deputy Administrator a written summary of the final results of the referendum received from the county ASCS offices within the State. Such summary shall be prepared in triplicate and certified by the State ASCS executive director. The orginal and one copy of the summary shall be sent to the Deputy Administrator. One copy of the summary shall be maintained in the State ASCS office where it shall be available for public inspection for a period of not less than 12 months.

§ 1260.214 Results of the referendum.

(a) The Deputy Administrator shall prepare and submit to the Secretary or his designee a report of the results of the referendum. The official results of the referendum shall be published in the FEDERAL REGISTER. State summaries and related papers shall be available for public inspection in the office of the Deputy Administrator, Programs, ASCS, U.S. Department of Agriculture, Room 243–W, Administration Building, Washington, D.C.

(b) If the Deputy Administrator or the Secretary deems it necessary, the report of any State or county shall be reexamined and checked by such persons that may be designated by the Deputy Administrator or the Secretary.

§ 1260.215 Disposition of ballots and records.

The county ASCS executive director shall place the registration cards, list of registrants, eligible voter lists, voted ballots, challenged registration cards and challenged ballots found to be ineligible, spoiled ballots, and county summaries in sealed containers marked with the identification of the referendum. Such records shall be placed under lock in a safe place under the custody of the county ASCS executive director for a period of not less than 12 months after the referendum. If no notice to the contrary is received from the Deputy Administrator by the end of such time, the records shall be destroyed.

§ 1260.216 Suspension and termination of order.

The Secretary of Agriculture may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of cattle producers voting in the referendum approving the Order, to determine whether such producers favor the termination or suspension of the Order, and he shall suspend or terminate such Order six months after he determines that suspension or termination of the Order is approved or favored by a majority of the producers voting in such referendum who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production of cattle, and who produced more than 50 percent of the volume of cattle produced by the producers voting in the referendum.

§ 1260.217 Instructions and forms.

The Deputy Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart to govern the conduct of the referendum.

[FR Doc.77-14021 Filed 5-16-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Release of Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Webster County in Nebraska from areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the area quarantined. No areas in the State of Nebraska remain under quarantine.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goats, Equine, and Ectoparasites Staff, United State Department of Agriculture, Room 737, 6505 Belcrest Road, Federal Building, Hyattsville, Maryland 20782 (301–436–8322).

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Webster County in Nebraska from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded area, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect:

§ 73.1a [Amended]

In § 73.1a, paragraph (b) (1) relating to the State of Nebraska is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19140.)

The amendment relieves restrictions no longer deemed necessary to prevent

the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of May 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. I. BROWN,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-14055 Filed 5-16-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0099]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Revocation of Certain Previous Delegations Regarding Personnel, Buildings, etc.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate performance of certain of its functions, the Board of Governors revokes certain previous delegations regarding personnel matters, building matters, and other miscellaneous delegations.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., 20551 (202-452-3257).

SUPPLEMENTARY INFORMATION: The Board of Governors has amended its Rules Regarding Delegation of Authority by revoking certain functions previously delegated to Board members.

The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and deferred effective date, are not followed in connection with the adoption of these amendments, because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of that section.

Effective May 9, 1977, 12 CFR 265.1a is amended by deleting paragraph (a) and redesignating paragraphs (b) and (c) as (a) and (b) respectively. (12 U.S.C. 248(k))

Board of Governors of the Federal Reserve System, May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-14019 Filed 5-16-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13508, IC-9753; File No. S7-654]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Securities Confirmations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: This rule prescribes the delivery and disclosure requirements for confirmation slips sent to customers by brokers and dealers when they buy securities for or from customers or sell securities for or to those customers. The rule describes the situations in which confirmations must be sent and the information they must contain. It revises the confirmation requirements under the federal securities laws to provide investors with fundamental information pertaining to securities transactions consonant with the costs of providing that information.

EFFECTIVE DATE: January 1, 1978, except for paragraphs (b), (c), (d) and (e) as to which the effective date is June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Jeffrey L. Steele, Esq., Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-8746.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of Rule 10b-10 (17 CFR 240.10b-10) under the Securities Exchange Act of 1934 (the "Act")[1] and the intention to rescind Rule 15c1-4 (17 CFR 240.15c1-4). Rule 10b-10 will make it unlawful for any broker or dealer to effect transactions in securities for or with a customer without making certain written disclosures to that customer.[2]

Rule 10b-10 will become effective on January 1, 1978, with the exception of paragraphs (b), (c), (d) and (e) of the rule, which will become effective on June 1, 1977. Paragraph (b) provides for the optional use of quarterly statements in lieu of immediate confirmations in connection with certain regular investment plans.[3]

The Commission also expects to publish a release shortly setting forth certain proposed revisions to Rule 10b-10 or separate rules relating to, among other things, the provisions contained in Rule 10b-10 as originally proposed, with regard to "riskless principal" transactions, "special remuneration" in connection with principal transactions,[4] and the use of quarterly statements in lieu of immediate confirmations with respect to certain "investment company plans."[5] Those further provisions, together with the provisions adopted today, are expected to supersede Rule 15c1-4 in its entirety and the Commission currently intends to rescind that rule upon taking final action on the proposed additions to Rule 10b-10.

By adopting paragraphs (b), (c), (d) and (e) of Rule 10b-10 effective June 1, 1977, the Commission has sought to afford broker-dealers an immediate opportunity to implement the "periodic plan" provisions of paragraph (b). With respect to confirmations not covered by paragraph (b), however, brokers and dealers are urged to review the amendments to be proposed shortly before making major adjustments in confirmation preparation procedures.

BACKGROUND AND PURPOSE

As the Commission noted in proposing to adopt Rule 10b-10, it has undertaken a general review of the requirements under the federal securities laws which have imposed a duty upon brokers, dealers and municipal securities dealers to make written disclosures to their customers at or before completion of a transaction. The so-called "confirmation requirements" have, for the most part, been contained in section 11(d)(2) of the Act[6] and Rule 15c1-4.[7]

Numerous considerations have led the Commission to undertake a general review at this time. Business practices within the securities industry have been changing or have changed since the development of the basic confirmation requirements. In recent years, for example, broker-dealers and others have sought to attract increased participation by individual investors in the securities markets through regular or periodic investment plans. Employee stock purchase plans, dividend reinvestment plans and systematic plans for the purchase of investment company securities did not exist when the confirmation requirements were originally written.

The securities markets are also undergoing changes and the Securities Acts Amendments of 1975[8] reflect those changes in considerable measure. In enacting the 1975 Amendments, Congress substantially revised the Act to accomplish numerous purposes, including the development of a "national market system." In that connection, the Congress found, among other things, that it was in the public interest and appropriate for the protection of investors to assure fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets[9] and to assure equal regulation of all markets for securities qualified for trading in a national market system and of the brokers and dealers effecting transactions in such securities.[10] In addition, the Congress provided that persons effecting transactions in municipal securities would be subject for the first time to various provisions of the Act and the rules thereunder[11] and mandated the creation of the Municipal Securities Rulemaking Board (the "MSRB") to propose and adopt, subject to Commission approval, rules to effect the purposes of the Act with respect to transactions in municipal securities.[12]

In addition, changes are occurring in the types of market participants acting as intermediaries between investors and the securities markets. Under the federal securities laws, many of those participants are characterized as "brokers," "dealers," "banks" or "investment advisers." At the same time, those who are characterized other than as "borkers" or "dealers" (but who, nonetheless, deal directly with investors) are becoming more integrally involved in the process of effecting transactions in securities. Not all of those persons have been subject to Commission regulation and some have been subject to varying Commission regulation. A person who is a "broker"[13] or "dealer"[14] under the Act is, of course, required to comply with applicable provisions of the Act and the rules thereunder. A person who is characterized as an "investment adviser,"[15] on the other hand, is subject to different regulation. A "bank"[16] is excluded from the statutory definitions of "broker," "dealer" and "investment adviser." A number of commentators drew attention to the variations in the regulatory pattern and made suggestions that the coverage of the confirmation rule be extended. While the Commission has decided at this time to adhere to the traditional pattern of requiring only brokers and dealers to comply with the confirmation rule, it will continue to evaluate confirmation procedures with reference to the fundamental transactional information which should be made available to all investors.

PERSONS SUBJECT TO RULE 10b-10

BROKERS AND DEALERS

Rule 10b-10 applies to brokers and dealers. Section 11(d)(2) has since 1934 required a broker-dealer to disclose whether he has acted as a dealer for his own account or as a broker for the customer or some other person in effecting a transaction,[17] and Rule 15c1-4 has since 1937 imposed disclosure requirements upon brokers and dealers effecting transactions otherwise than on a national securities exchange. Rule 10b-10 will, however, apply regardless of the manner in which a broker-dealer conducts its business or the marketplace where transactions are effected.

MUNICIPAL SECURITIES

In 1976 the Commission amended Rule 15c1-4, effective July 5, 1976, to require a bank municipal securities dealer to disclose whether it has acted as agent or as principal in effecting a transaction in municipal securities.[18] Shortly after that amendment to Rule 15c1-4 became effective and shortly before the Commission proposed Rule 10b-10, the MSRB filed with the Commission a confirmation rule (MSRB rule G-15) to require all brokers, dealers and municipal securities dealers effecting transactions in municipal securities to disclose to their customers information pertaining to each transaction.[19] In proposing to apply Rule 10b-10 to transactions in municipal securities, the Commission called attention to MSRB rule G-15.[20]

Some who commented on Rule 10b-10, including the MSRB, urged the Commission to consider whether it was necessary for Rule 10b-10 to apply to transactions in municipal securities in view of the proposed MSRB confirmation rule. Generally, proposed MSRB rule G-15 would provide for more detailed disclosures relating specifically to the nature of the security being purchased or sold. Certain additional disclosures were, however, required by proposed Rule 10b-10. For example, as proposed, it would have required certain dealers to disclose their mark-up or mark-down (i.e, remuneration) in connection with "riskless" principal transactions. As noted above, the Commission intends to publish shortly revised proposals in that regard.

In urging the Commission to consider whether Rule 10b-10 need apply to transactions in municipal securities, some commentators referred to the expertise of the MSRB and its special role under the Federal securities laws. The MSRB was established by the Commission, at the direction of Congress,[21] to propose and adopt rules to effect the purposes of the Act with respect to transactions in municipal securities effected by brokers, dealers and municipal securities dealers.[22] The legislative history of the 1975 Amendments makes clear the desirability of taking "into account the uniqueness of the (municipal securities) industry,"[23] so long as investors are adequately protected. Accordingly, the Commission has determined to withdraw, at this time, the proposal to provide confirmation requirements applicable to municipal securities transactions in Rule 10b-10. The Commission anticipates that further consideration will be given to applying to the municipal securities markets the types of disclosures included or soon to be proposed for inclusion in Rule 10b-10. All brokers, dealers and municipal securities dealers should recognize that the requirements of Rule 15c1-4(a) remain in effect until January 1, 1978, and should anticipate that a comprehensive confirmation rule applicable to municipal securities will also be in effect by that date.

CONFIRMATION DELIVERY REQUIREMENTS UNDER RULE 10b-10

Paragraph (a) of Rule 10b-10 requires, as did Rule 15c1-4, that a written statement be given or sent to a customer at or

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[1] 15 U.S.C. 78a et seq.

[2] The proposal to adopt Rule 10b-10 was announced in Securities Exchange Act Release No. 12806 (Sept. 16, 1976). See 41 FR 41432 (Sept. 22, 1976) and Investment Company Act Release No. 9450 (Sept. 16, 1976). Interested persons were invited to submit comments, and 31 comment letters were received. Rule 10b-10, as adopted, has been revised for the most part on the basis of the comments received.

[3] See discussion below under Confirmation Delivery Requirements under Rule 10b-10.

[4] See paragraph (a)(3)(ii) of Rule 10b-10 as proposed in Securities Exchange Act Release No. 12806 (Sept. 16, 1976).

[5] See paragraph (d)(3) of Rule 10b-10 as proposed in Securities Exchange Act Release No. 12806 (Sept. 16, 1976).

[6] 15 U.S.C. 78k(d)(2).

[7] See also Securities Exchange Act Rules 15c1-5 and 15c1-6 (17 CFR 240.15c1-5 and c1-6) and *Affiliated Ute Citizens of Utah* v. *United States*, 406 U.S. 128 (1972); *Chasins* v. *Smith, Barney and Co.*, 438 F. 2d 1167 (2d Cir. 1970); and *Cant* v. *A. G. Becker & Co., Inc.*, 374 F. Supp. 36 (N.D. Ill. 1974). Confirmation rules have also been developed by various self-regulatory organizations and their members are required to comply with those requirements as well as with the requirements under the federal securities laws.

[8] Pub. L. No. 94-29 (June 4, 1975) (the "1975 Amendments").

[9] See Section 11A(a)(1)(C)(ii) of the Act (15 U.S.C. 78k-1(a)(1)(C)(ii)).

[10] See Section 11A(c)(1)(F) of the Act (15 U.S.C. 78k-1(c)(1)(F)).

[11] See generally Section 15B of the Act (15 U.S.C. 78o-4).

[12] See, e.g., Sections 15B(b)(2) and 15B(c)(1) of the Act (15 U.S.C. 78o-4(b)(2) and (c)(1)).

[13] Section 3(a)(4) of the Act, 15 U.S.C. 78c(a)(4).

[14] Section 3(a)(5) of the Act, 15 U.S.C. 78c(a)(5).

[15] See section 202(a)(11) of the Investment Advisers Act of 1940, 15 U.S.C. 80b-2(a)(11).

[16] Section 3(a)(6) of the Act, 15 U.S.C. 78c(a)(6) and section 208(a)(2) of the Investment Advisers Act of 1940, 15 U.S.C. 80b-2(a)(2).

[17] Section 11(d)(2) applies to any "member of a national securities exchange who is both a dealer, and a broker, (and) any person who both as a broker and a dealer transacts a business in securities through the medium of a member or otherwise."

[18] See Securities Exchange Act Release No. 12468 (May 20, 1976), 41 FR 22820 (1976).

[19] See Securities and Exchange Commission File No. SR-MSRB-76-9. The rules of the MSRB are adopted by the MSRB subject to Commission approval pursuant to section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)).

[20] See Securities Exchange Act Release No. 12806 (Sept. 16, 1976), 41 FR 41432 (Sept. 22, 1976).

[21] See section 15B(b)(1) of the Act (15 U.S.C. 78o-4(b)(1)).

[22] See section 15B(b)(2) of the Act (15 U.S.C. 78o-4(b)(2)). It is a violation of the Act if a broker, dealer or municipal securities dealer effects a transaction in a municipal security in contravention of a rule of the MSRB. See section 15B(c)(1) of the Act (15 U.S.C. 78o-4(c)(1)). Accordingly, a confirmation rule adopted by the MSRB and approved by the Commission would assume a status under the Federal securities laws that is substantially equivalent to any confirmation rule the Commission may adopt.

[23] Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 48 (1975).

before completion of a transaction. "Customer" and "completion of the transaction" are respectively defined in paragraphs (d)(1) and (d)(2) of the rule.

Proposed Rule 10b–10, however: *Provided*, That in lieu of the written statement required by paragraph (a), a monthly statement could be used in connection with transactions effected pursuant to a "periodic plan" and a quarterly statement could be used with respect to an "investment company plan."[24] The proposals with respect to periodic plans have been modified somewhat in Rule 10b–10 as adopted. The Commission intends to revise the provisions with respect to investment company plans in the release to be published shortly.

PERIODIC PLANS

Proposed Rule 10b–10 defined a "periodic plan" as a customer's written authorization to a broker to purchase or sell for his account a specific security or securities (other than investment company securities), in specific amounts (calculated in security units or dollars), at specific time intervals. That definition has not been substantially altered and appears in paragraph (d)(4) of Rule 10b–10, as adopted.

Some commentators objected to the requirement that transactions effected pursuant to a periodic plan must be agency transactions. It was observed that small transactions, such as those effected for dividend reinvestment plans, may involve odd-lot transactions which some broker-dealers have recently begun effecting on a principal basis. The Commission, however, is concerned that there may be risks to investor protection inherent in further relaxing the confirmation delivery requirements to permit a broker-dealer to effect transactions as a principal (and, therefore, at prices determined by the broker-dealer) without providing for reasonably current reporting to the customer under the confirmation rule.[25]

The Commission was also urged to permit the use of quarterly rather than monthly statements in connection with transactions effected pursuant to a periodic plan. Quarterly statements have been permitted by the Commission in connection with various plans for the purchase of certain investment company shares,[26] and the Commission has revised the rule, as adopted, to permit the use of quarterly statements in connection with periodic plans as well. In addition, Rule 10b–10, as adopted, will permit the delivery of quarterly statements in bulk to a person designated by the customer for distribution to the customer. A similar provision was also previously permitted in the case of purchases of investment company securities pursuant to a "group plan" under Rule 15c1–4, and the Commission has concluded that such a procedure would also be appropriate under a "periodic plan."

INVESTMENT COMPANY PLANS

In 1974, the Commission amended Rule 15c1–4 by adding paragraph (b) to provide for the use of quarterly statements in connection with certain transactions in securities issued by open end investment companies or unit investment trusts registered under the Investment Company Act of 1940 ("investment company securities"). Proposed Rule 10b–10 was drafted to restate the substance of that 1974 amendment. The Commission had, however, received indications that the quarterly procedure was not being used and accordingly solicited comments to assist it in determining what, if any, revisions would be appropriate.[27]

A number of comments confirmed that the quarterly procedure was not being used. A survey by the National Association of Securities Dealers, Inc. (the "NASD") of its members which act as principal underwriters for investment companies indicated that the quarterly statement procedure was not used because of various business problems. For example, many principal underwriters believe that the costs associated with establishing and maintaining dual confirmation systems (e.g., segregating those accounts for which a quarterly statement could be used), exceed the possible cost savings. Some also believed that for business reasons immediate confirmations were generally preferable. On the other hand, some who commented directly on proposed Rule 10b–10 and some who responded to the NASD survey indicated that various requirements contained in Rule 15c1–4 (and proposed Rule 10b–10) unnecessarily restricted the use of quarterly statements.

As noted above, the Commission intends to propose revised requirements with respect to the use of quarterly statements for investment company plans; and until such new requirements are proposed and finally adopted, the provisions of Rule 15c1–4(b) will continue in effect.

SUMMARY OF DISCLOSURE REQUIREMENTS UNDER RULE 10b–10

As now adopted, Rule 10b–10 provides for the written disclosure of certain material information[28] pertaining to a transaction effected by a broker or dealer for or with a customer. The rule is structured to require different disclosures depending upon whether the broker-dealer has acted as agent or as principal in effecting transactions.

DISCLOSURES TO BE MADE BY ALL BROKERS AND DEALERS

Paragraph (a)(1) of the rule requires disclosure of the capacity in which a broker or dealer acts in effecting a transaction. Since, in some instances, a broker may act as agent for someone other than the customer to whom the confirmation is to be sent, the rule has been revised to reflect that fact.

Paragraph (a)(2) of the rule requires disclosure of the date and time of the transaction (or the fact that the time of the transaction will be furnished upon request) and the identity, price and number of shares or units (or principal amount) of the security purchased or sold by the customer.[29]

TIME OF A TRANSACTION

A number of comments were received with regard to the existing requirement in Rule 15c1–4 that the time of the transaction be disclosed or made available upon request and the modification of that requirement proposed in Rule 10b–10. Time of a transaction was argued not to be material in the context of transactions in debt securities generally or in the context of certain transactions in securities issued by investment companies. Also the Commission was urged to clarify the meaning of "time of a transaction."

With respect to transactions in debt securities, the Commission believes that the time of a transaction may on occasion be of sufficient materiality to warrant its disclosure upon request and, since the time of a transaction is required to be maintained under Commission and MSRB recordkeeping rules,[30] there appears to be little burden created solely by advising customers that information on time is available on request.[31]

With respect to time of a transaction generally, it was suggested that Rule 10b–10 should be drafted to conform to the requirements of the Commission's recordkeeping rule, Rule 17a–3 (17 CFR 240.17a–3). That rule generally requires brokers and dealers to maintain a record of the "time of execution" of a transaction "to the extent feasible."[32] The Commission believes that the confirmation and recordkeeping requirements do not in fact differ with respect to the time of a transaction and paragraph (d)(3) of Rule 10b–10 defines the phrase "time of a transaction" to reflect that view.

PRICE OF A SECURITY

In proposing Rule 10b–10, the Commission noted that, under certain circumstances, it was not thought to be inappropriate for broker-dealers to send confirmations which reflect the average price where an order has been effected in several transactions.[33] For example, it was observed that a person exercising investment discretion with respect to several different accounts may decide to purchase or sell a particular security for one or more of such accounts. Because a substantial block may be involved, the purchase or sale of the security for all such accounts may be effected in several transactions over a reasonable period of time and, therefore, at varying prices. The question then arose as to whether the person exercising investment discretion should seek some basis for allocating particular purchases and sales to particular accounts, even though the investment decision for all such accounts was made simultaneously, or whether all such accounts would be more appropriately treated pari passu by attributing to each account an average price paid or realized for the series of transactions required to effect the overall purchase or sale. Under the circumstances described, it generally would not appear inappropriate for a broker to prepare and send confirmations which reflect the average price while making appropriate disclosures as to the overall series of transactions.

While several commentators suggested that a specific procedure be prescribed in the text of Rule 10b–10, it could be that any such formalization of the procedure might, at this juncture, prove premature and overly restrictive. Nevertheless, the Commission concurs generally with the view that an average price confirmation procedure would not be inappropriate (and would not in and of itself raise questions under either Rule 15c1–4 or Rule 10b–10) when (1) the order has been placed by a person known to the broker to have investment discretion with respect to the customers on whose behalf the order has been given, (2) the order is executed on an agency basis, and (3) the confirmations disclose that the price stated is an average price and that the actual transactional data is available on request.[34]

DISCLOSURES BY A BROKER-DEALER ACTING AS AGENT

Paragraph (a)(3) of Rule 10b–10 requires any broker-dealer effecting transactions in an agency capacity to make certain additional disclosures. As described below, the Commission has made certain technical revisions to this paragraph of Rule 10b–10.

OTHER PARTIES TO A TRANSACTION

Paragraph (a)(3)(i) requires disclosure of the name of the person from whom the security was purchased or to whom it was sold for the customer or that such information is available on request. In cases where a broker effects a transaction for a customer with another broker-dealer (who may in turn have been representing a third party) the rule requires disclosure of the name of that broker-dealer and does not obligate a broker to obtain information as to the capacity in which another broker-dealer was acting or the identity of any third party.

REMUNERATION

Paragraph (a)(3)(ii) of the Rule requires disclosure of the remuneration to be paid by the customer, and paragraph (a)(3)(iii) requires disclosure of the source and amount of any other remuneration[35] to be received by the broker in connection with the transaction. Paragraph (a)(3)(iii), however, alternatively permits, in most instances, a broker to state that the source and amount of other remuneration is available on request. As proposed, the alternative was subject to the proviso that the broker was not exercising investment discretion (as defined by section 3(a)(35) of the Act[36]) on behalf of such customer, or in the case of a purchase was not participating in a distribution, or in the case of a sale was not participating in a tender offer in connection with the transaction. A number of comments were received concerning the requirement to disclose on the confirmation the source and amount of remuneration in those three situations. While one commentator called the proposal a "sensible accommodation of competing considerations," others asserted that the source and amount of other remuneration should be required to be disclosed only on request regardless of the circumstances surrounding the transaction.

In proposing Rule 10b–10, the Commission noted that a number of persons had stated that there were practical difficulties in reporting on a confirmation the source and amount of remuneration paid or to be paid by someone other than the customer receiving the confirmation. At the same time, the Commission observed that dual agency representation presents a potential for abuse since there is a prima facie problem in representing fairly the rights of parties having conflicting interests. The three situations covered by the proviso represent either situations of special trust and confidence (where the broker is exercising investment discretion) or situations (distributions and tender offers) where the remuneration to be received may be anticipated, in many cases, to be substantially larger than might be customary in typical brokerage transactions, in which the difficulties inherent in a dual agency may be substantially less. Some commentators stated that the meanings of the terms "distribution" and "tender offer" were not clearly defined under the federal securities laws and that in any event other remuneration may be disclosed in a prospectus or other documents delivered to a customer.[37]

One alternative would be to rely solely on the general agency disclosure requirement with respect to source and amount of other remuneration set forth in Rule 15c1–4 since 1937. Nevertheless in view of the strong representations that have been made as to the administrative difficulties involved in providing disclosure

[24] As the Commission noted in proposing Rule 10b–10, the rule is not intended to require a broker dealing with the trustee of a plan to deliver statements to plan participants where the trustee is the shareholder of record of the securities being purchased or sold. Paragraph (a) of the rule would require such a broker only to deliver a confirmation to the plan trustee.

[25] These considerations do not appear to apply equally to "investment company plans" as defined in paragraph (d)(3) of proposed Rule 10b–10.

[26] See Rule 15c1–4(b).

[27] See Securities Exchange Act Release No. 11025 (Sept. 24, 1974), 39 FR 35345 (Oct. 1, 1974).

[28] The rule does not attempt to set forth all possible categories of material information to be disclosed by broker-dealers in connection with a particular transaction in securities. Rule 10b–10 only mandates the disclosure of information which can generally be expected to be material. Of course, in particular circumstances, additional information may be material and disclosure may be required. See, e.g., Securities Exchange Act Rules 15c1–5 and 15c1–6.

[29] As proposed, Rule 10b–10 would have required disclosure of "title" rather than "identity" of the security. Some commentators believed that the term "title" suggested that broker-dealers must employ the full corporate title as set forth in the issuer's certificate of incorporation or debt instrument. It was suggested that the term "identity" would allow greater flexibility without sacrificing the purpose of the disclosure, and the Commission has accepted that suggestion.

[30] See Securities Exchange Act Rule 17a–3(a)(6) and (7) (17 CFR 240.17a–3(a)(6) and (7)). See also MSRB rule G–8.

[31] With respect to investment company securities, it was observed that for those securities which are priced pursuant to Rule 22c–1 (17 CFR 270.22c–1) under the Investment Company Act of 1940, 15 U.S.C. 80a et seq., time (as opposed to date) of a transaction is not relevant. That rule requires pricing to be based on net asset value computed not less frequently than once daily as of the time of the close of trading on the New York Stock Exchange. With respect to the securities of investment companies the price of which is calculated pursuant to Investment Company Act Rule 22c–1, "time of transaction" for purposes of Rule 10b–10 may be treated as the time at which the price is required to be computed.

[32] See also Securities Exchange Act Release No. 3040 (Oct. 13, 1941), where it is stated, "the phrase 'to the extent feasible' was intended to be applicable only in exceptional circumstances where it might be actually impossible to determine the exact time of execution."

[33] See Securities Exchange Act Release No. 12806 (Sept. 16, 1976).

[34] See Kidder, Peabody & Co. Incorporated (available April 18, 1976).

[35] Questions were raised as to disclosure of remuneration where a transaction might be viewed as having multiple parties. For example, if the broker represented a seller offering 1,000 shares of a security and also represented two purchasers who each decided to purchase 500 shares of that security would it be necessary to disclose to each purchaser the compensation received from the other? In those circumstances, viewed solely from the perspective of one of the purchasers, it would be appropriate to consider the other purchaser to have effected a separate transaction. That conclusion could not, of course, be reached with respect to the seller who, in the example given, participated in both transactions.

[36] 15 U.S.C. 78c(a)(35).

[37] The term "distribution," of course, appears in other disclosure rules; see, e.g., Securities Exchange Act Rule 15c1–6.

of the type required by Rule 15c1–4,[38] the Commission has attempted to reach an accommodation that both permits the broker-dealer community to achieve greater efficiencies in transacting and adequately protects investors. Accordingly, the basic thrust of the proviso to paragraph (a)(3)(iii) has been retained, but some modifications have been made.

As adopted, Rule 10b–10 permits the broker to state on the confirmation that the source and amount of other remuneration is available on request except in two situations. When the customer has purchased the security in a transaction which is part of a distribution in which the broker is participating or when the customer has sold the security in response to a tender offer in which the broker is acting as a so-called "soliciting dealer," Rule 10b–10 requires disclosure of the source and amount of any remuneration received from any person.

The disclosure requirement in the case of transactions on behalf of an account over which the broker exercises investment discretion has been deleted in large part because the circumstances which are most likely to raise questions concerning a broker's impartiality, regardless of whether he is exercising investment discretion, would appear to occur in the case of distributions and tender offers.[39]

While the proviso, even as modified, may not provide the definiteness sought by many commentators, it does permit substantial additional flexibility as compared to the requirements of Rule 15c1–4. On the one hand, in the case of ordinary brokerage transactions, no disclosure on the confirmations is required as to the remuneration paid by the other side. On the other hand, in the case of a transaction effected as part of a "special offering," [40] or otherwise involving special selling efforts, it is apparent that disclosure is required.[41] The Commission anticipates that the proviso in modified form could substantially solve the asserted practical problems encountered in casual trading without creating unnecessary risks to investor protection.[42]

DISCLOSURES BY A BROKER-DEALER ACTING AS PRINCIPAL

Paragraph (a)(3)(ii) of Rule 10b–10, as originally proposed, set forth various disclosures to be made by any broker, dealer, or municipal securities dealer effecting a transaction, as principal, with a customer. The Commission has determined not to retain those requirements in the form proposed in Rule 10b–10 as adopted. In light of certain of the comments received, however, the Commission currently intends to revise certain of those proposals and to republish them.

MISCELLANEOUS MATTERS

CUSTOMER REQUESTS FOR INFORMATION

Various provisions of Rule 10b–10, as proposed and as adopted, offer broker-dealers the option of disclosing certain information on the confirmation or stating thereon that the information is available on request. As proposed Rule 10b–10 would have required such requests to be answered within five business days. A number of persons stated that the rule should be more specific as to how and when requests are to be made and that under some circumstances five days would not be sufficient time to answer, particularly if the request related to a transaction that occurred a month or more before the request.

In response to the comments received, the Commission has modified somewhat the requirements for customer requests for information. Paragraph (c) of the rule, as adopted, provides that a broker-dealer shall give or send requested information to a customer within five business days of the receipt of information except in the case of requests for information pertaining to a transaction effected more than 30 days before the request; in that case, the response must be given or sent within 15 business days. Furthermore, the rule generally specifies that requests for information should be written (although broker-dealers may, of course, respond to oral requests if they wish to do so).

REQUESTS FOR EXEMPTIONS

Several commentators briefly discussed circumstances under which the confirmation delivery or disclosure requirements, as set forth in proposed Rule 10b–10, might be further modified. For example, one commentator suggested that simplified confirmation requirements could be appropriate in connection with transactions in "money market" investment company securities. Money market investment companies permit investors to place funds, not otherwise invested, in securities on a short term basis. Some investors may, for example, desire to invest, on an automatic basis, the proceeds from the sale of securities in a money market investment company pending a determination on long term reinvestment. The Commission believes that the commentators may be correct in suggesting that there could be a basis, in very limited circumstances, for making particular adjustments to the requirements of Rule 10b–10. The Commission does not, however, currently believe it would be appropriate to attempt to anticipate all such circumstances in drafting Rule 10b–10. A new paragraph (e) has, however, been inserted in the Rule to provide that the Commission may exempt any broker or dealer from the requirements of Rule 10b–10 with respect to specified transactions or classes of transactions. Paragraph (e) is not intended to supplant the Commission's interpretive or no-action procedures; it is intended to provide an opportunity to make adaptations in the general provisions of Rule 10b–10 in limited circumstances and upon the substitution of alternative procedures which are adapted to implement adequately the investor protection purposes of the rule.

STATUTORY BASIS

The Securities and Exchange Commission acting pursuant to the Act, and particularly sections 3, 9, 10, 11, 15, 17, and 23 thereof (15 U.S.C. 78c, 78i, 78j, 78k, 78o, 78q, and 78w), hereby adopts § 240.10b–10 of Title 17 of the Code of Federal Regulations effective January 1, 1978, with the exception of paragraphs (b), (c), (d), and (e), which will be effective on June 1, 1977. The revisions made in § 240.10b–10 as originally proposed are either technical in nature or make less restrictive existing or proposed requirements; accordingly, the Commission finds, pursuant to the Administrative Procedure Act (5 U.S.C. 551 et seq.), that further notice and public procedure are not necessary. The Commission is providing for less than the normal 30-day delay in effectiveness of paragraphs (b), (c), (d), and (e) of the rule in view of the absence of objections to the confirmation relief proposed to be afforded under paragraph (b) and in order to allow brokers an earlier opportunity to begin offering periodic plans under the provisions adopted today.

The Commission also finds that adoption of Rule 10b–10's revised confirmation disclosure and delivery requirements should reduce burdens on competition by making confirmation disclosure requirements applicable to brokers and dealers more uniform and by making available to brokers a simplified confirmation procedure in connection with periodic plans. Furthermore, the Commission finds that to the extent those requirements impose a burden on competition such burdens are necessary and appropriate in furtherance of the purposes of the Act. The timely disclosure to investors of material information affords investors an opportunity to insure that brokers and dealers appropriately carry out obligations to their customers under the federal securities laws.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 5, 1977.

17 CFR Part 240 is amended by adding new Section 240.10b–10 as follows:

§ 240.10b–10 Confirmation of transactions.

(a) It shall be unlawful for any broker or dealer to effect for or with the account of a customer any transaction in, or to induce the purchase or sale by such customer of, any security (other than U.S. Savings Bonds or municipal securities) unless such broker or dealer, at or before completion of such transaction, gives or sends to such customer written notification disclosing

(1) Whether he is acting as agent for such customer, as agent for some other person, as agent for both such customer and some other person, or as principal for his own account; and

(2) The date and time of the transaction (or the fact that the time of the transaction will be furnished upon written request of such customer) and the identity, price and number of shares or units (or principal amount) of such security purchased or sold by such customer; and

(3) If he is acting as agent for such customer, for some other person, or for both such customer and some other person,

(i) The name of the person from whom the security was purchased, or to whom it was sold, for such customer or the fact that such information will be furnished upon written request of such customer; and

(ii) The amount of any remuneration received or to be received by him from such customer in connection with the transaction unless remuneration paid by such customer is determined, pursuant to a written agreement with such customer, otherwise than on a transaction basis; and

(iii) The source and amount of any other remuneration received or to be received by him in connection with the transaction: *Provided, however,* That if, in the case of a purchase, the broker was not participating in a distribution, or in the case of a sale, was not participating in a tender offer, the written notification may state whether any other remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of such customer.

(b) A broker or dealer may effect transactions for or with the account of a customer without giving or sending to such customer the written notification described in paragraph (a) of this section (until January 1, 1978, § 240.15c1–4(a)) if:

(1) Such transactions are effected pursuant to a periodic plan; and

(2) Such broker or dealer gives or sends to such customer within five business days after the end of each quarterly period a written statement disclosing each purchase or sale, effected for or with, and each dividend or distribution credited to, or reinvested for, the account of such customer (pursuant to the plan) during the period; the date of each such transaction; the identity, number and price of any securities purchased or sold by such customer in each such transaction; the total number of shares of such securities in such customer's account; any remuneration received or to be received by the broker or dealer in connection therewith; and that any other information required by paragraph (a) of this section will be furnished upon written request: *Provided, however,* That the quarterly written statement may be delivered to some other person designated by the customer for distribution to the customer.

(c) A broker or dealer shall give or send to a customer information requested pursuant to this rule within five business days of receipt of the request: *Provided, however,* In the case of information pertaining to a transaction effected more than 30 days prior to receipt of the request, the information shall be given or sent to the customer within 15 business days.

(d) For the purposes of this rule,

(1) "Customer" shall not include a broker or dealer;

(2) "Completion of the transaction" shall have the meaning provided in Rule 15c1–1 under the Act;

(3) "Time of the transaction" means the time of execution, to the extent feasible, of the customer's order;

(4) "Periodic plan" means any written authorization for a broker acting as agent to purchase or sell for a customer a specific security or securities (other than securities issued by an open end investment company or unit investment trust registered under the Investment Company Act of 1940), in specific amounts (calculated in security units or dollars), at specific time intervals and setting forth the commissions or charges to be paid by the customer in connection therewith (or the manner of calculating them).

(e) The Commission may exempt any broker or dealer from the requirements of paragraphs (a) and (b) of this section with regard to specific transactions or specific classes of transactions for which the broker or dealer will provide alternative procedures to effect the purposes of the section; any such exemption may be granted subject to compliance with such alternative procedures and upon such other stated terms and conditions as the Commission may impose.

[FR Doc.77–13958 Filed 5–16–77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 77–136]

INSPECTION, SEARCH, AND SEIZURE

Customs Regulations Amended

AGENCY: United States Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule sets forth Customs policy that unless required by law merchandise should only be seized for Customs violations in those situations in which seizure is necessary to protect the revenue of the United States. A monetary penalty shall be the remedy for violations of laws enforced by Customs unless it is determined that seizure is necessary. These amendments are needed to clarify those situations in which a monetary penalty should be assessed against the violator rather than seizing the merchandise.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Marvin M. Amernick, Attorney, Regulations and Legal Publications Division, 1301 Constitution Avenue NW., United States Customs Service, Washington, D.C. 20229 (202–566–8237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 162.21(a) of the Customs Regulations (19 CFR 162.21(a)) provides that any Customs officer having reasonable cause to believe that any law enforced by the Customs Service has been

[38] On several occasions, since early 1975, some commentators have suggested that those difficulties arose with the final elimination of minimum commission rates for exchange transactions. Though brokerage commissions for most exchange transactions were theoretically fixed by exchange rules until May 1, 1975, they were, nevertheless, subject to a practical process of negotiation. See, e.g., Securities Exchange Act Release Nos. 11093 (Nov. 8, 1974) and 11293 (Jan. 23, 1975), 40 FR 7403 (Feb. 20, 1975). Of course, Rule 15c1–4 only made explicit, in large part, general disclosure principles with respect to dual agency transactions effected in the over-the-counter market rather than exchange transactions. Because in many instances brokerage commissions for over-the-counter transactions were parallel to those for exchange transactions, it was frequently possible to rely on a blanket statement, to comply with Rule 15c1–4, that a "like" commission was charged the other party. Rule 10b–10 reflects, nevertheless, an effort to accommodate administrative problems but also reflects a view that, in some situations, information as to the commission charged on the other side of a cross is of sufficient importance to the customer to justify the expenditure of the time and effort required.

[39] Experience with Rule 10b–10 and other proposals (see, e.g., proposed Rule 206(3)–2 under the Investment Advisers Act of 1940, Investment Advisers Act Release No. 557 (Dec. 2, 1976)) may assist the Commission in analyzing concerns in this area. See also Investment Advisers Act Release No. 581 (Apr. 20, 1977), extending temporary Rule 206A–1 until April 30, 1978.

[40] See, e.g., New York Stock Exchange Rule 391.

[41] "[T]he term distribution is not defined either in the Securities Act of 1933 or in the Securities Exchange Act of 1934 and its meaning and applicability to particular persons in each context should be derived from the differing purposes for which it is used." Matter of Collins Securities Corporation, Securities Exchange Act Release No. 11766 (Oct. 23, 1975). In the context of Rule 10b–10, "a distribution is to be distinguished from ordinary trading transactions and other normal conduct of a securities business upon the basis of the magnitude of the offering and particularly upon the basis of the selling efforts and selling methods utilized." Bruns, Nordeman & Co., 40 SEC 652, 660 (1961). See also 3 Loss, Securities Regulation 1478, 1597 (1961); 6 Loss, Securities Regulation 3673, 3766 (1969); Weiss, Registration and Regulation of Brokers and Dealers 113 (1965).

A number of commentators noted that transactions in connection with distributions, particularly in the case of offerings registered under the Securities Act of 1933, were frequently structured as principal transactions, and, in those cases, dual agency disclosure requirements would not apply. Of course, in the case of offerings registered under the Securities Act of 1933, the final prospectus delivered to the customer should generally set forth the information required by the proviso with respect to source and amount of remuneration. Similarly, tender forms customarily set forth information with respect to fees proposed to be paid to brokers acting as "soliciting dealers." In such situations the information specified in the proviso need not be separately set forth on the confirmation.

[42] Should experience prove to the contrary, however, the provisions of Rule 15c1–4 could be reinstated.

violated, making any property subject to forfeiture, shall seize such property if available.

While certain provisions of the Tariff Act of 1930, as amended, require seizure of merchandise for violations, other provisions authorize the forfeiture of either the merchandise or its value. For example, under the provisions of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), the entry, or attempted entry, of merchandise into the commerce of the United States by means of any false declaration subjects the merchandise or its value to forfeiture. Seizure of merchandise is not required; a claim for its value may be made.

Section 148.19 of the Customs Regulations (19 CFR 148.19) provides that a passenger who makes any false statement or engages in other conduct which causes a Customs officer to pass an article free of duty or at less than the proper amount of duty has violated section 592. Therefore, except as otherwise provided, the article involved must now be seized if it is available and seizure is practicable. If the article is not available for seizure or if seizure is impracticable, the domestic value of the article shall be demanded from the passenger.

Likewise, § 162.41(a) of the Customs Regulations (19 CFR 162.41(a)), provides that when merchandise or the value thereof is subject to forfeiture, the district director may elect to seize the merchandise or assess a claim for its domestic value. However, if the merchandise is in the possession of an innocent purchaser, it shall not be seized. In such cases, or when the merchandise is not available for seizure, the district director shall proceed to recover the domestic value of the merchandise.

The United States Customs Service is aware that seizure of property may be an unnecessarily harsh action. Seizure of merchandise may place an importer in the position of being unable to continue his business, or of breaching his contractual commitments with his customers causing him unwarranted financial losses.

Recognizing the possible consequences that seizure of property may have in circumstances where absolutely prohibited importations are not involved, it is the position of the United States Customs Service that unless required by law, property should only be seized when it is necessary to protect the revenue.

In order to clearly set forth Customs policy in this regard, it has been determined that § 162.21(a) of the Customs Regulations should be amended to provide for assessment of a monetary penalty unless it is determined that seizure is necessary to protect the revenue. The revised language will remove any possible inference that this regulation compels seizure in all cases where the property that is subject to forfeiture is available for seizure.

Section 148.19 of the Customs Regulations is also amended to establish that in cases where a passenger violates section 592 of the Tariff Act, the article which is the subject of the violation shall be seized only if certain conditions are met. As amended, § 148.19 will include a reference to subparagraph (3) of § 162.41(a), which is being added to the regulations to specify the appropriate circumstances for seizure.

The amendment to § 162.41(a) of the Customs Regulations provides that merchandise shall only be seized when the district director is satisfied that the violator appears to be insolvent or may soon become insolvent, the violator or his assets appear to be beyond the jurisdiction of the United States, or, for some other reason, a claim for the domestic value of the merchandise would not protect the revenue.

Because these amendments merely state general policy and impose no additional requirements on the public, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of these regulations was Marvin M. Amernick, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service, Washington, D.C. 20229. However, personnel from other offices of the Customs Service participated in their development, both on matters of substance and style.

AMENDMENTS TO THE REGULATIONS

Sections 148.19, 162.21, and 162.41 of the Customs Regulations (19 CFR 148.19, 162.21, 162.41) are amended in the following manner:

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The second and third sentences of § 148.19 are amended to read as follows:

§ 148.19 False or fraudulent statement.

* * * In any such case the article involved shall be seized only if one or more of the conditions set forth in § 162.41(a)(3) of this chapter are present, if it is available for seizure at the time the violation is detected, and if such seizure is otherwise practicable, unless the article is in the possession of an innocent holder for value who has full right to possession as against any party to the Customs violation. If seizure is not made, the domestic value of the article, determined in accordance with section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606), shall be demanded from the passenger. * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 162—INSPECTION, SEARCH, AND SEIZURE

2. Section 162.21(a) is amended to read as follows:

§ 162.21 Responsibility and authority for seizures.

(a) *Seizures by Customs officers.* Except as provided for in § 162.41(a), any Customs officer having reasonable cause to believe that any law enforced by the Customs Service has been violated, making any property subject to forfeiture, shall seize such property if available.

3. Section 162.41(a) is amended to read as follows:

§ 162.41 Merchandise entered by false invoice, declaration, other document or statement, subject to forfeiture.

(a) *Election to proceed against merchandise or value when forfeiture incurred.* (1) When merchandise or the value thereof is subject to forfeiture under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), including any article seized under the provisions of section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), the district director may elect to proceed against the merchandise or its domestic value.

(2) If the merchandise is in the possession of an innocent purchaser, it shall not be seized. In such cases, or when the merchanise is not available for seizure, the district director shall proceed to recover the domestic value.

(3) Merchandise shall only be seized if the district director is satisfied that:

(i) The violator appears to be insolvent or may soon become insolvent;

(ii) The violator or his assets appear to be beyond the jurisdiction of the United States; or

(iii) For some other reason, a claim for the domestic value of the merchandise would not protect the revenue.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

VERNON D. ACREE,
Commissioner of Customs.

Approved: May 9, 1977.

BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-14072 Filed 5-16-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75N-0120]

PART 169—FOOD DRESSINGS AND FLAVORINGS

Mayonnaise, French Dressing, and Salad Dressing Standards Revision; Confirmation of Effective Date

AGENCY: Food and Drug Administration (FDA).

ACTION: Rule.

SUMMARY: This document confirms the effective date of a final regulation, published in the FEDERAL REGISTER of May 26, 1976 (41 FR 21444), revising the standards of identity for mayonnaise, french dressing, and salad dressing to provide for label declaration of ingredients, to allow the use of functional classes of safe and suitable ingredients that would not modify the fundamental characteristics of the foods, and to revise and update the format of the standards.

EFFECTIVE DATE: January 1, 1978, for all products initially introduced into interstate commerce on or after this date. Voluntary compliance, including any labeling changes required: July 26, 1976.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-1155).

SUPPLEMENTARY INFORMATION: The May 26, 1976 final regulation provided that any person who would be adversely affected by the amendments to §§ 169.115, 169.140, and 169.150 (21 CFR 169.115, 169.140 and 169.150, formerly §§ 25.2, 25.1, and 25.3 respectively, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) could at any time, on or before June 25, 1976, file written objections and, if desired, request a hearing on the specific provisions objected to. Five objections were filed, one from a consumer and four from industry. None of the objections were accompanied by a request for a hearing.

1. *Use of food additives.* One objection was to the use of food additives and ingredients other than vegetable oils, acids, egg ingredients, salt, and spices in salad dressing. Furthermore, the objection questioned the safety and necessity of the use of other ingredients.

The Commissioner of Food and Drugs advises that the salad dressing defined by the standard of identity under § 169.150 is traditionally a thick, whitish-colored dressing similar in appearance to mayonnaise, but having an entirely different flavor. Lower fat content and a starch ingredient further differentiate salad dressing from mayonnaise. The specific objection was to the use of starch in salad dressing. The Commissioner points out that starch is a characterizing ingredient in salad dressing and that starch, along with the other ingredients provided for, is necessary to obtain the traditional product recognized by consumers. Furthermore, only "safe and suitable" ingredients, as defined in § 130.3(d) (21 CFR 130.3(d), formerly § 10.1(d) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), that perform appropriate functions may be used in salad dressing. The Commissioner therefore concludes that it is neither practical nor necessary to limit further the ingredients that may be used in salad dressing.

2. *Cooked or partly cooked starchy paste.* Three objections pointed out that the Commissioner had not dealt fully with the comment on the proposal concerning "safe and suitable thickeners" in salad dressing (§ 169.150). These objections acknowledge the fact that the starchy paste is a characterizing ingredient, but request that the requirement that it be either cooked or partly cooked be dropped. These objections cite advances in starch technology and the development of pregelatinized starch that does not require cooking as reasons for eliminating this requirement.

The Commissioner acknowledges that in dealing with the main issue in the original comment, i.e., whether or not to allow the use of safe and suitable thickening agents in salad dressing, consideration should have been given to the request that the cooking requirement be eliminated from the standard. Upon reviewing these objections, the Commissioner agrees that the cooking requirement is unduly restrictive and has dropped it from the standard, as reflected below.

3. *Labeling of artificial colors.* One objection was to the Commissioner's contention that paprika and oleoresin of paprika, when used in french dressing (§ 169.115), need not be declared as "artificial coloring." The objection maintains that requiring β-apo-8'-carotenal to be declared as "artificial color" but not requiring paprika and oleoresin of paprika to be declared as "artificial color" when they clearly impart a color to french dressing that is not otherwise present, subjects products containing β-apo-8'-carotenal to an unfair competitive disadvantage.

The Commissioner acknowledges that his statement concerning the correct label declaration of paprika or oleoresin of paprika, added to french dressing for the sole purpose of imparting color, was erroneous. When either of these ingredients is added only to provide color to the food, its presence must be declared as "artificial color" or "artificial coloring" in accordance with § 101.22(a)(4) (21 CFR 101.22(a)(4), formerly § 1.12(a)(4) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) and § 70.3(f) (21 CFR 70.3(f), formerly § 8.1(f) prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)). Paprika and oleoresin of paprika may be added solely for flavoring purposes, but used in this way they still impart color to the food. In this instance, these ingredients must be declared on the label as either "spice and coloring" or by their common or usual names, "paprika" or "oleoresin of paprika", in accordance with § 101.22(a)(2).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that the objections filed to the final regulation revising the standards for dressings for foods under §§ 169.115, 169.140 and 169.150 are not accepted as valid, except that, in accordance with the foregoing:

It is ordered, That § 169.150, as promulgated in the FEDERAL REGISTER of May 26, 1976 (41 FR 21444), be amended by revising paragraph (a) to read as follows:

§ 169.150 Salad dressing.

(a) *Description.* Salad dressing is the emulsified semisolid food prepared from vegetable oil(s), one or both of the acidifying ingredients specified in paragraph (b) of this section, one or more of the egg yolk-containing ingredients specified in paragraph (c) of this section, and a starchy paste prepared as specified in paragraph (d) of this section. One or more of the ingredients in paragraph (e) of this section may also be used. The vegetable oil(s) used may contain an optional crystalization inhibitor as specified in paragraph (e)(8) of this section. All the ingredients from which the food is fabricated shall be safe and suitable. Salad dressing contains not less than 30 precent by weight of vegetable oil and not less egg yolk-containing ingredient than is equivalent in egg yolk solids content to 4 percent by weight of liquid egg yolks. Salad dressing may be mixed and packed in an atmosphere in which air is replaced in whole or in part by carbon dioxide or nitrogen.

* * * * * *

Effective date: Compliance with the final regulation, including any labeling changes required, may have begun on July 26, 1976, and all products initially introduced into interstate commerce on or after January 1, 1978, shall fully comply.

(Sec. 401, 701, 52 Stat. 1046 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371))

Dated: May 11, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13996 Filed 5-16-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected S.O. No. 1249; Amdt. 2]

PART 1033—CAR SERVICE

Octoraro Railway, Inc., Authorized To Operate Over Portion of USRA Line No. 142, Former Octoraro Branch of Penn Central Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 2 to Service Order No. 1249).

SUMMARY: This amendment extends for six months authority given the Octoraro Railway, Inc., to operate approximately 36.2 miles of railroad extending southwest from Wawa, Pennsylvania, to the Maryland-Pennsylvania state line in the vicinity of Sylmar. Service on this line was discontinued April 1, 1976, under authority of the Regional Railroad Reorganization Act of 1973 and the Railroad Revitalization and Railroad Reform Act of 1976. The line has since been purchased by an agency of the Common-

wealth of Pennsylvania. The Commonwealth has designated the Octoraro Railway, Inc., as its agent for the operation of this line. An application for permanent authority for the Octoraro Railway to operate this line has not been filed. Service Order No. 1249 enables the Octoraro Railway to provide rail service to shippers located adjacent to this line pending disposition by the Commission of its application for permanent authority.

DATES: Effective 11:59 p.m., May 15, 1977. Expires 11:59 p.m., November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202–275–7840.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of May 1977.

Upon further consideration of Corrected Service Order No. 1249 (41 FR 34607 and 50448), and good cause appearing therefor:

It is ordered, That, corrected Service Order No. 1249 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

§ 1033.1249 Octoraro Railway, Inc., authorized to operate over portion of USRA Line No. 142, former Octoraro Branch of Penn Central Transportation Co.

* * * * *

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 15, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., May 15, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.[1]

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14025 Filed 5-16-77;8:45 am]

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte 252 Sub-No. 2]

PART 1036—INCENTIVE PER DIEM CHARGES ON BOXCARS AND GONDOLA CARS

Incentive Per Diem

MAY 1977.

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at pages 23511 through 23513 in the FEDERAL REGISTER of Monday, May 9, 1977 (Vol. 40, No. 82).

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, 202–275–7693.

The following correction is made:

On pages 23512 and 23513, § 1036.4 is corrected to read as follows:

§ 1036.4 Use of funds on boxcars.

The net credit balances resulting from incentive per diem settlements on boxcars, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier to build, lease equivalent of purchase, or purchase, in whole or in part, new unequipped boxcars for general service described in § 1036.1, *Provided*, The carrier has in the same calendar year built, leased, or purchased its 1964–68 average acquisitions of such boxcars and made up an [sic] arrearage in having failed to maintain such average each year this order is in effect. Earmarked funds may also be used in whole or in part to lease any number of new unequipped boxcars for general use described in § 1036.1 in which the carrier is not acquiring an equity interest, *Provided*, The carrier has in the same calendar year leased its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year the order is in effect. Nonequity leases must be at least 10 years in duration, and, in connection with such leases, earmarked funds must not be used for the cost of maintenance. Earmarked funds may be used in whole or in part to rebuild any number or portion of general service, unequipped boxcars described in § 1036.1, *Provided*, The carrier has in the same calendar year rebuilt its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year the order is in effect. Net balances on Canadian-owned cars may be drawn without regard to prior acquisitions, but where the designee is a class I United States carrier such drawdowns shall not affect that carrier's accumulation of arrearages. However, upon application, including a showing that all parties to the proceeding herein have been notified by the carrier of such application and a showing of good cause why any carrier is unable to draw down in whole or in part the net credit balance resulting from incentive per diem settlements because it cannot comply with the above test period average requirement of having in the same calendar year built, rebuilt, leased, or purchased its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year this order is in effect, the Commission may, in its discretion, after consideration of all views regarding the application, modify the test period average to the extent consistent with the public interest and the national transportation policy. Such modification, as a minimum, shall require that a carrier match the earmarked funds it will use with an equal amount of its own funds. Similarly, a carrier using earmarked funds, in whole or in part, to build, rebuild, lease, or purchase general service, unequipped boxcars of the XF designation, shall only be required, as a minimum, to match the earmarked funds it will use to purchase XF boxcars with an equal amount of its own funds. Earmarked funds must be put to use within 18 months after the end of the calendar year in which the funds are collected and result in a net credit balance for the building, rebuilding, leasing, or purchasing of general service, unequipped boxcars described in § 1036.1 for addition to such carrier's or designee's fleet in accordance with this part. Upon a showing of good cause an application, including a showing that the parties to the proceeding herein have been notified by the carrier of such application, may be made to the Commission for waiver of the said 18-month period, which may, in the Commission's discretion, be granted after consideration of all views regarding the application. If the earmarked funds are not used within the 18-month period, they may be voluntarily surrendered to Rail Box whose establishment and operation was approved in *American Rail Box Car Co.—Pooling*, 347 I.C.C. 862. If the carrier fails within the stated period to put to use collected earmarked funds which result in a net credit balance, has not obtained relief from that requirement, and has not surrendered such funds to Rail Box, the Commission will investigate the matter to determine what, if any, corrective action is warranted. Appropriate corrective action would include section 16(12) remedies among others. Carriers may make temporary investments of unexpended funds in Government bonds or other liquid securities. Such securities must be readily convertible to cash so that funds remain available for boxcar purchases. Interest earned must become part of the earmarked fund. As used in this section and § 1036.5, "build," "rebuild," "lease," or "purchase" refer to the commitment to build, rebuild, lease, or purchase which results in the acquisition of a car on line ready for use within 10 months from the date of commitment, except that in extraordinary cases beyond the control of the carrier or the car supplier, a car that is delivered after 10 months from the date of commitment may qualify if approved by the Bureau of Accounts of this Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14076 Filed 5-16-77;8:45 am]

SUBCHAPTER 13—PRACTICE AND PROCEDURE

PART 1121—ABANDONMENT OF RAILROAD LINES

Modification of Regulations for the Abandonment of Railroad Lines and Discontinuance of Service

AGENCY: Interstate Commerce Commission.

ACTION: Reconsideration of Rulemaking.

SUMMARY: Upon consideration of all the evidence of record, including the petitions for reconsideration and arguments of the various parties, it was apparent that certain modifications to the adopted regulations were warranted, primarily to clarify the definition of a line "potentially subject to abandonment, the republication of category 3 lines pending before the Commission, the computation of revenues attributable and avoidable costs for the base year, and the procedue for the filing of the carrier's notice of intent to abandon a line of railroad.

EFFECTIVE DATE: May 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip Israel, Deputy Director, Section of Finance, Interstate Commerce Commission, Washington, D.C. 20423 (202–275–7245).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, (4RA) Public Law 94–210, the Interstate Commerce Commission and its Rail Services Planning Office jointly instituted a rulemaking proceeding entitled Ex Parte 274 (Sub-No. 2) for the purpose of developing and promulgating new regulations governing the abandonment of railroad lines and the discontinuance of service.

In the report and order served on November 10, 1976, in Ex Parte 274 (Sub-No. 2), published at 41 FR, November 4, 1976, page 48520, the abandonment regulations in Part 1121 of Chapter X of Title 49 of the Code of Federal Regulations were replaced in full by new regulations designed to implement rigid time limits on the processing of abandonment applications imposed by 4RA, to expand the type of notice required by a railroad proposing to abandon a line or discontinue service, and to provide an opportunity for parties wishing to preserve a line, with respect to which the Commission has found that the public convenience and necessity permit abandonment or discontinuance, to offer financial assistance to the railroad.

Several petitions for reconsideration of the report, order, and regulations were filed by carriers, shippers and other interested parties.

The proposed modifications for clarification were considered and accepted by the Commission in its report and order served May 3, 1977. Accordingly, the adopted regulations in Ex Parte 274 (Sub-No. 2) are modified to read:

§ 1121.20 System diagram map.

* * * * *

(b) * * *

(2) All lines or portions of lines potentially subject to abandonment are those which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

* * * * *

§ 1121.22 Filing and publication.

* * * * *

(c) Republication of category 3 lines, which prior to November 1, 1976, were already set for oral hearing, modified procedure, or for which an order has been issued finding public convenience and necessity not to require future continued operation of the line, is not required for compliance with the section.

* * * * *

§ 1121.30 Notice of intent to abandon line or discontinuance service.

(a)(1) The applicant shall give notice of its intent to file an abandonment or discontinuance application by (i) serving notice on the Commission by certified letter at least concurrently with service upon those shippers who are significant users (as defined in § 1121.11 (m)) of the line proposed to be abandoned or discontinued, or at the time the notice is first published, whichever first occurs, on the Governor (by certified mail), on the Public Service Commission (or equivalent agency), and on the designated State agency of each State in which all or part of the line of railroad sought to be abandoned or over which service is proposed to be discontinued is situated, or at the time the notice is first published whichever occurs first (ii) * * *

* * * * * *

§ 1121.32 Contents of application.

(d) * * * *

(1) Computation of the revenues attributable, avoidable costs, and reasonable return on value for the line to be abandoned for the base year (as defined by § 1121.11(c) and to the extent such branch level data is available), in accordance with the methodology prescribed in § 1121.45, as Exhibit 1.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14047 Filed 5-16-77;8:45 am]

Title 32A—National Defense, Appendix

CHAPTER VI—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 634—COPPER AND COPPER-BASE ALLOYS (DMS ORDER 4)

Revision of Schedule A—Set-Aside Percentages

AGENCY: Domestic and International Business Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Commerce Department revises the schedule establishing the amount of copper controlled materials that the copper industry must set-aside for use for programs authorized by the Director of the Federal Preparedness Agency of G.S.A. Although the need for copper controlled materials under these programs has not changed much since this schedule was last revised, the percentage set-asides for three copper products is reduced to reflect the greater production of these copper products in 1976 over 1975.

EFFECTIVE DATE: This revised schedule becomes effective July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gilbert J. Breer, Mobilization Operations & Plans Division, Office of Industrial Mobilization, Bureau of Domestic Commerce, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–3634.

SUPPLEMENTARY INFORMATION: The revision changes Schedule A of August 23, 1976, to DMS Order 4 by changing the base period from calendar year 1975 to calendar year 1976, and by changing the set-aside percentages from 7 to 4 percent on unalloyed rod, bar, shapes and wire; from 10 to 6 percent on alloyed seamless tube and pipe; from 3 to 2 percent on copper foundry products. The purpose of the proposed changes is to more adequately reflect the current structure of the copper controlled materials industry and current authorized program requirements for copper controlled materials.

This amendment of Schedule A to DMS Order 4 is found necessary and appro-

[1] Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

priate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended (50 U.S.C. App. 2154). In the formulation of this order, there was consultation with industry representatives, including trade association representatives, and consideration was given to their recommendations.

This amendment applies to authorized controlled material orders calling for delivery after June 30, 1977.

AUTHORITY: (Defense Production Act of 1950, as amended (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1673, 23 FR 5061, 6971, 24 FR 3779, 27 FR 9683, 11447, 3 CFR 1949–1953 Com., p. 962; Executive Order 11725, 38 FR 17175; DMO 3, 32A CFR 15; Department of Commerce Organization Orders 10–3, 40 FR 59764, as amended, 41 FR 28334, and 40–1, 40 FR 8978; Department of Commerce, Domestic and International Business Administration Organization and Function Orders 41–1, as amended 39 FR 2780, 39 FR 18490; 45–1, 40 FR 10217, 45–2, 40 FR 10218.)

SCHEDULE A TO DMS ORDER 4

SET-ASIDE PERCENTAGES

(See Sec. 6(f) of DMS Order 4)

Based Period—January–December 1976

(See Sec. 2(o) of DMS Order 4)

Product	Percentage of orders calling for delivery after June 30, 1977
Brass mill products:	
Unalloyed:	
Plate, sheet, strip and rolls	2
Rod, bar, shapes, and wire	4
Seamless tube and pipe	2
Brass mill products—Continued	
Alloyed:	
Plate, sheet, strip and rolls	2
Rod, bar, shapes and wire	2
Seamless tube and pipe	6
Military ammunition cups and discs	(1)
Copper wire mill products:	
Copper wire and cable:	
Bare and tinned	2
Weatherproof	2
Magnet wire	2
Paper and lead power cable	2
Paper and lead telephone cable	2
Asbestos cable	2
Portable and flexible cord	2
Communications wire and cable	2
Shipboard cable	2
Automotive and aircraft wire cable	2
Insulated power cable	2
Signal and control cable	2
Coaxial cable	2
Copper-clad steel wire containing over 20 percent copper by weight regardless of end use	2
Copper foundry products	2
Unalloyed copper powder mill products	(1)
Copper-base alloy powder mill products	(1)

(1) No reserve space required. Producers of these products are nevertheless required to accept authorized controlled material orders for such products in accordance with the provisions of DMS Regulation No. 1 and this order. However, Section 6(f) of DMS Order 4 does not apply to such authorized controlled material orders.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION,
BUREAU OF DOMESTIC COMMERCE,

JOHN P. KEARNEY,
Acting Deputy Assistant Secretary for Domestic Commerce.

[FR Doc.77–14233 Filed 5–16–77;10:20 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Parts 1421, 1446]

1977 CROP OF PEANUTS

Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to advise that the Secretary of Agriculture proposes to make determinations and issue regulations concerning a loan and purchase program for the 1977 crop of peanuts and to schedule a public meeting to receive oral comments. The Loan and Purchase Program is authorized by the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act, as amended. The program is intended to stabilize market prices and to protect producers, handlers, processors and consumers.

DATES: Comments must be received on or before June 24, 1977, to be sure of receiving consideration. The date of the public meeting will be June 9, 1977.

ADDRESS: Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Dallas R. Smith (ASCS) (202) 447–7405.

SUPPLEMENTARY INFORMATION: The present regulations, to which these changes are proposed for the 1977 crop, were published in the FEDERAL REGISTER on July 15, 1974 (39 FR 25959) and are entitled "General Regulations Governing 1974 and Subsequent Crop Peanut Warehouse Storage Loans". The new regulations to be issued will be a 1977 crop supplement to the general regulations. These regulations will include (1) loan and purchase rates by type of peanuts, (2) premiums and discounts, and (3) other operating provisions necessary to carry out the program.

Section 101 of the Agricultural Act of 1949, as amended, directs the Secretary to make support available on peanuts to cooperators, if producers have not disapproved marketing quotas at a level between 75 and 90 percent of the parity price with the minimum permissible level of support within such range to be determined by the supply percentage. Marketing quotas were approved for the 1975 through 1977 crops by 97 percent of the growers voting in a December 1974 referendum.

Section 401 of that Act requires that in determining the level of support in excess of the minimum level provided by law, consideration be given to the supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Section 403 of the Act provides that appropriate adjustments may be made in the support level for differences in grade, type, quality, location and other factors. The average of any such adjustments shall, so far as practicable, be equal to the level of support for peanuts for the applicable crop year determined in accordance with the Agricultural Act of 1949, as amended.

Current program provisions regarding peanut warehouse storage loans may be found in regulations in Title 7, Part 1446 of the Code of Federal Regulations. Current program provisions regarding peanut farm storage loans may be found in regulations governing loans, purchases and other operations for grain and similarly handled commodities which appear in Title 7, Part 1421 of the Code of Federal Regulations.

Prior to making any determination, the Department will give consideration to comments, data, views and recommendations submitted in writing within the comment period to the Director, Tobacco and Peanut Division. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 5746 South Building, 14th and Independence Avenue SW., Washington, D.C. (7 CFR 1.27(b)).

In addition to considering written comments, the Department will hold a public meeting in Washington, D.C., on June 9, 1977, at 9:00 a.m. in the Jefferson Auditorium, South Building, USDA. The meeting will be open to the public. The purpose of the meeting is to give members of the industry and other interested persons the opportunity to furnish oral comments and suggestions with respect to the proposed rule for the 1977 crop.

Signed at Washington, D.C. on May 12, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77–14141 Filed 5–13–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

ALASKA NORTH SLOPE CRUDE OIL PRICING AND ENTITLEMENTS TREATMENT

Change of Hearing Locations

AGENCY: Federal Energy Administration.

ACTION: Change of hearing locations.

SUMMARY: This notice changes the location for hearings in San Francisco and Anchorage in connection with the Federal Energy Administration's notice of proposed rulemaking respecting Alaska North Slope Crude Oil pricing and entitlements treatment issued April 30 (42 FR 22889, May 5, 1977).

The site of the hearing in San Francisco on May 26, 1977, remains the same except that Court Room No. 14 will be used instead of Court Room No. 15.

The location of the hearing in Anchorage on May 27, 1977, has been changed to: Z. J. Loussac Library, 427 F Street, Anchorage, Alaska.

Issued in Washington, D.C., May 11, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77–14078 Filed 5–13–77;8:56 am]

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Automatic and Semi-Automatic Clothes Washers and Determination That Test Procedures Cannot Be Developed for any Other Class of Clothes Washers

AGENCY: Federal Energy Administration.

ACTION: Proposed rule.

SUMMARY: The Federal Energy Administration (FEA) hereby proposes to amend its regulations in order to prescribe test procedures for automatic and semi-automatic clothes washers under the Energy Policy and Conservation Act. Automatic and semi-automatic clothes washers are classes included within the broader type of appliances, clothes wash-

ers, covered by the Act. The Act requires that standard methods for testing covered appliance types be prescribed as part of the energy conservation program for appliances. The Act further authorizes FEA to prescribe test procedures for classes within a given type of covered product and permits FEA to determine that test procedures cannot be developed for some class or classes within a given type. FEA has determined that test procedures cannot be developed which meet the requirements of section 323(b) for any class of clothes washers other than the automatic and semi-automatic classes. The intended effect of this proposal is to implement the Acts requirements by soliciting public comments before test procedures are prescribed and to give notice of and the reasons for FEA's determination that certain test procedures cannot be developed.

DATES: Comments by July 13, 1977, 4:30 p.m.; requests to speak by July 8, 1977, 4:30 p.m.; statements by July 15, 1977, 4:30 p.m.; hearing to be held on July 19, 1977, at 9:30 a.m.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box MN, Washington, D.C. 20461; statements to Regulations Management, Room 2214, Federal Energy Administration, 2000 M Street NW., Washington, D.C. 20461. Hearing held at: Federal Energy Administration, Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, Room 307, Old Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461 202–566–4635.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Energy Administration (FEA) proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for automatic and semi-automatic clothes washers pursuant to section 323, 42 U.S.C. 6293, of the Energy Policy and Conservation Act (Act) (Pub. L. 94–163). The Act requires that FEA prescribe standard methods for testing types of covered appliances and further authorizes FEA to prescribe test procedures for classes within a given type of covered product. Automatic and semi-automatic clothes washers are classes included within the type designated by the Act as "clothes washers".

Development of test procedures is one discrete part of the energy conservation program for appliances. Even when promulgated, final test procedures will not of themselves require testing to be conducted. They will merely establish standard methods for testing when testing is otherwise required by the Act itself or by regulations implementing other parts of the program. For example, the Federal Trade Commission (FTC), in exercising its appliance energy efficiency labeling authority regarding a particular appliance type, may well require the application of substantially less than all of the final test procedures applicable to that appliance type.

By notice issued May 10, 1976 (41 FR 19977, May 14, 1976), FEA proposed to establish Part 430, entitled "Energy Conservation Program for Appliances," in Chapter II of Title 10 of the Code of Federal Regulations. That notice proposed a Subpart A to Part 430, containing general provisions, and a Subpart C, containing proposed energy efficiency improvement targets. Proposed Subparts A and C have not yet been finalized. A further proposal of Subpart C will be necessary in order to meet the requirements of section 325(a)(1) of the Act as amended by section 161 of the Energy Conservation and Production Act (Pub. L. 94–385).

Subpart A as previously proposed (41 FR 19977, May 14, 1976; 42 FR 15423, March 23, 1977) contained definitions in proposed section 430.2, some of which are applicable to the test procedures for automatic and semi-automatic clothes washers. FEA is today withdrawing the previously proposed definition in § 430.2 of "clothes washer" and substituting a new definition of "clothes washer" which includes a description of each of the three different classes of clothes washers. In addition, FEA is proposing to add to the definition in § 430.2 of "Basic model", a subparagraph (10) applying specifically to automatic and semi-automatic clothes washers.

By notice issued July 22, 1976 (41 FR 31237, July 27, 1976), FEA proposed an amendment to proposed Part 430 to add a Subpart B which would contain the appliance test procedures required to be prescribed by section 323 of the Act. The notice issued July 22 described the requirements of section 323 and set forth proposed test procedures for room air conditioners. A further notice issued March 24, 1977 (42 FR 16811, March 30, 1977) solicited comments with respect to a clarification of the provision concerning the number of units to be tested. By notice issued March 17, 1977 (42 FR 15423, March 22, 1977) FEA proposed an amendment setting forth proposed test procedures for dishwashers. Test procedures for water heaters, television receivers, refrigerators and refrigerator-freezers, freezers and clothes dryers were issued on April 21, 1977 (42 FR 21576 et seq., April 27, 1977).

Section 323(a)(2) of the Act requires FEA to direct the National Bureau of Standards (NBS) to develop, for specifically named types of covered products, test procedures for the determination of the estimated annual operating costs and at least one other useful measure of energy consumption which FEA determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, FEA directed NBS to develop test procedures for FEA's use in prescribing test procedures under the Act. As part of this undertaking, NBS evaluated existing test procedures for measuring energy consumption of clothes washers.

NBS has transmitted to FEA a test procedure review document which recommends test procedures for both automatic and semi-automatic clothes washers. NBS also recommended that test procedures cannot be developed for any class of clothes washers other than automatic and semi-automatic clothes washers, as discussed below. The recommended test procedures incorporate the general approach to calculating the energy consumption of automatic clothes washers contained in the Association of Home Appliance Manufacturers (AHAM) standard HLW–2EC. Copies of the NBS review document will be made available for inspection by interested persons as provided for later in this notice.

B. Measures of Energy Consumption

The Act requires FEA to prescribe test procedures for the determination of estimated annual operating costs and at least one other useful measure of energy consumption which the Administrator determines is likely to assist consumers in making purchasing decisions. Since the annual operating cost of automatic and semi-automatic clothes washers differs significantly depending on whether the water used is electrically heated or heated by gas or oil, FEA is proposing to establish two alternate values for the estimated annual operating cost for automatic and semi-automatic clothes washers: one assuming that electrically heated water is used and the other assuming that either gas-heated or oil-heated water is used. In each case, the estimated annual operating cost is based upon the average number of normal cycles in which the machine is operated annually (representative average-use cycle), the cost of energy (representative average unit costs) and the energy consumption in both heating the water for and operating the machine during a normal cycle.

An additional proposed measure (§ 430.22(j)(2)) that is likely to assist consumers in making purchasing decisions is the energy factor, which is defined as the quotient of a load of clothes divided by the energy consumption per normal cycle. Among other possible applications, the energy factor may be used by FEA to determine the efficiency of automatic and semi-automatic clothes washers for the purposes of the energy efficiency improvement program described by section 325 of the Act.

FEA recognizes that there may be additional useful measures of energy consumption for automatic and semi-automatic clothes washers other than the measures described above. Accordingly, today's proposal, in proposed § 430.22(j)(3), provides for other useful measures which the Administrator determines are likely to assist consumers in making purchasing decisions. These measures, however, must be derived from the application of the uniform test method proposed today as Appendix J to Subpart B. Manufacturers would if required, only have to perform various computations while still applying the same test method contained in Appendix J. For example, if the Administrator determined that annual energy consumption for automatic and semi-automatic clothes washers would aid consumers in making purchasing decisions, this annual energy consumption figure could be derived by applying the uniform test method to calculate the appropriate amount of energy consumption and then performing computations involving this energy consumption data and the appropriate representative average-use cycle or cycles.

C. Laboratory Methodology

Proposed Appendix J to Subpart B provides for a controlled laboratory environment for measuring energy consumption for the various automatic and semi-automatic clothes washers which are available to the consumer.

Based on industry data supplied by AHAM regarding the production-weighted energy consumption for 1972 clothes washers, NBS determined that approximately 97 percent of the total energy required to operate a clothes washer is the energy needed to produce the hot water used by the machine.

NBS conducted tests to determine the effect of a clothes load on the hot water used by clothes washers. Laboratory tests on five representative standard (regular) automatic clothes washers (washers with a tub capacity of at least 16 gallons) indicated that the use of a seven-pound standard dry test load reduced the water consumption measured at the maximum fill level by approximately 6 percent. A test procedure utilizing a "standard" test load was judged to require a test procedure that would be unduly burdensome. NBS, therefore, recommended that the tests be made without a load. Tests conducted without a load will produce repeatable and uniform results for making model-to-model comparisons and for obtaining energy efficiency improvement target data that correspond with the 1972 base year data provided by AHAM.

For the proposed test procedures, NBS recommended that the six percent decrease in hot water consumption be converted to a 0.94 multiplying factor, *MF*, for the use in calculating the annual energy consumption of automatic and semiautomatic clothes washers in Appendix J. This factor is applicable, however, only for those machines where the amount of fill water is influenced by the clothes load. The 0.94 factor, accordingly, is proposed to be used only for clothes washers that are sensor filled, and not time filled.

Since none of the currently available clothes washers are known to have a water temperature control valve, NBS recommends that the test procedures be conducted using only cold water. Although cold water would introduce an inherent error in hot water consumption measurements, the error would not be significant. For example, the density of water decreases with a rise in the temperature in the typical temperature range of water used in clothes washers. Therefore, if a clothes washer is equipped with a pressure sensitive switch to regulate the water fill, the amount of water consumed on a nominal 20 gallon maximum fill would be approximately 20.0 gallons of water at 65°F, 20.30 gallons at 140°F, or 20.35 gallons at 155°F.

Appendix J (section 5) contains hot water usage data for various wash/rinse temperature selections. These data for automatic clothes washers resulted from an industry field usage study and have been published by AHAM as an appendix to HLW–2EC, "Test method for Measuring Energy Consumption on Household Clothes Washers," December, 1975. The data are used in the proposed test method to obtain the per-cycle temperature-weighted hot water consumption for maximum and minimum water fill levels.

Appendix J (section 6) contains hot water usage data for various wash/rinse cycle temperature settings for semi-automatic clothes washers. Semi-automatic clothes washers are those which require user intervention to change the temperature of the water in the machine. The user must manually adjust the hot and cold water faucet valves when operating a semi-automatic clothes washer in order to have a different temperature of water in the machine during the rinse cycle. Hot water usage data for semi-automatic clothes washers was determined by NBS. NBS has estimated that 50 percent of the time the user will not adjust the water faucet valves to the desired setting and, therefore, the water used during the rinse cycle will be the same temperature as that used for the wash cycle. This 50 percent user intervention factor assumes that the user does not intend to rinse in hot water.

The values present in section 6 of the Appendix were determined by NBS using the data in 5.1. Five temperature selection ($n=5$), and applying the 50 percent factor to account for user intervention. The hot/hot use factor shown in section 6 is derived by adding 50 percent of the hot/warm use factor in 5.1 to 50 percent of the hot/cold use factor in 5.1. The hot/warm use factor in 6 is derived by taking 50 percent of the hot/warm use factor in 5.1. The hot/cold use factor in 6 is derived by taking 50 percent of the hot/cold use factor in 5.1. The warm/warm use factor in 6 is derived by taking 50 percent of the warm/cold use factor in 5.1 and adding it to the warm/warm use factor in 5.1. The warm/cold use factor in 6 is derived by taking 50 percent of the warm/cold use factor in 5.1. The cold/cold use factor in 6 is derived by using the cold/cold use factor in 5.1.

Appendix J provides average, per load, energy consumption values for maximum and minimum water fill levels. Field usage data provided by Proctor and Gamble, referenced elsewhere, indicate that maximum fill is used 72 percent of the time and minimum fill 28 percent of the time. Using this information, a weighted average of the energy consumed at both the maximum and minimum fill levels can be calculated by multiplying the per cycle energy for a maximum fill, E_{max}, and the per-cycle energy for a minimum fill, E_{min}, by the appropriate usage fill factors and summing the products.

The same usage fill factors are proposed to be used both for standard or regular (having a tub capacity of at least 16 gallons) and for compact (having a tub capacity of less than 16 gallons) automatic and semi-automatic clothes washers.

Section 323(a)(6) provides that FEA is not required to develop test procedures for a given class within a type of covered product if the Administrator determines that test procedures cannot be developed which meet the requirements of section 323(b). The Administrator, however, must publish such determination in the Federal Register together with the reasons therefore. FEA has determined that test procedures cannot be developed which meet the requirements of section 323(b) for any class within the type of covered product designated as "clothes washers" other than for the classes of clothes washers defined in section 430.2 as automatic and semi-automatic. NBS recommended that test procedures for measures of energy consumption which would not be unduly burdensome to conduct cannot be reasonably designed for any class of clothes washers other than automatic and semiautomatic clothes washers.

A test procedure designed to produce test results which would meaningfully reflect the energy consumption of a clothes washer must be capable of measuring the total volume of water (or the water fill level) typically used by the machine and the amount of hot water that comprises this volume. These measurements are essential since approximately 97 percent of the energy consumed by the machine in a normal washing cycle is the energy required to produce the hot water. The amount of energy consumed is therefore directly related to the total volume of hot water.

An automatic clothes washer predetermines by means of a control system the total volume of water used per wash cycle and the hot water component of that volume. A semi-automatic clothes washer predetermines by means of a control system the total volume of water used, but not the hot water component of that volume. The hot water component, however, can be estimated in the laboratory from use factors for various wash/rinse temperature settings for various automatic clothes washers.

Since the total volume of water (or the water fill level) used by the machine is not predetermined for any class of clothes washers other than automatic and semi-automatic, the hot water component of that volume of water can not be measured in the laboratory or, it is felt, be estimated in a reasonable manner. In addition to these reasons, FEA is influenced by the consideration that automatic and semi-automatic clothes washers comprise approximately 95% of all clothes washers manufactured today.

D. Representative Average-Use Cycle

Section 323(b)(2) (42 U.S.C. 6293(b)(2)) of the Act provides that test procedures for determining estimated annual operating costs of any covered product shall be calculated from measurements

of energy use in a respresentative average-use cycle (as determined by the Administrator) and from representative average unit costs (as provided by the Administrator) needed to operate such product during such cycle. FEA has determined that the representative average-use cycle for regular or standard automatic or semi-automatic clothes washers is eight loads per week or 416 cycles per year. This determination is based upon NBS' recommendation to FEA which, in turn, is based upon a Procter and Gamble field study reporting 7.8 washer loads per week for automatic clothes washers. NBS' recommendation and the Procter and Gamble field study are available for inspection as provided for later in this notice. NBS has recommended four loads per week, or 208 cycles per year, as a typical consumer usage figure for compact washers, starting with the figures developed in the Procter and Gamble study and assuming that compact clothes washers would typically be used by individuals or small families.

FEA intends to develop representative average unit costs of energy needed to calculate the annual operating cost for the representative average-use cycle and to provide this information to manufacturers and FTC on or before the effective date of test procedures for automatic and semi-automatic clothes washers.

E. NUMBER OF UNITS TO BE TESTED

Proposed § 430.23(j) would provide for sampling of each basic model to be tested when testing of automatic and semi-automatic clothes washers is required by the Act or by program regulations of agencies responsible for administering the Act. This provision is intended both to provide an acceptable level of assurance that test results are applicable to any entire basic model for which testing is required and to minimize the testing burden on manufacturers. FEA believes that the sampling approach proposed today will enable consumers to make meaningful comparisons of information appearing on appliance labels, and also will meet the requirements of section 323(b) of the Act that test procedures not be unduly burdensome to conduct.

Under proposed § 430.23(j), a sample of sufficient size of each basic model would be tested to assure that, for each measure of energy consumption described in § 430.22(j), there is a 95 percent probability that the mean of the values of these measures of the sample is within 5 percent of the true mean of these measures of the basic model. The size of the sample of a particular basic model will depend upon the following factors:

(a) The level of confidence required (set at 95 percent in the proposed regulations);

(b) The maximum allowable difference between the sample mean and the mean of the basic model (expressed in the proposal as a percent of the true mean and set at 5 percent); and

(c) The relationship of the mean and standard deviation of the basic model. The relationship of the mean and standard deviation of the basic model can be determined from data available to manufacturers. With this information and using standard statistical techniques, manufacturers can determine the number of units required to be tested. In any case, no fewer than three units of each basic model must be tested. Sample units would be selected randomly from the production stream.

Manufacturers and other interested persons are encouraged to comment on the sampling approach. Manufacturers are especially encouraged to submit any data which relates to the size of the samples which the provision would require to be tested. Comments alleging that the sampling provision is burdensome should include a full discussion of the facts upon which such allegation is based.

F. REQUEST FOR PARTICULAR COMMENTS

While FEA is soliciting comments on all aspects of the proposed test procedures for automatic and semi-automatic clothes washers FEA is particularly interested in receiving comments on any other useful measures of energy consumption or data on typical consumer usage of automatic and semi-automatic clothes washers in addition to those proposed today.

Comments are also specifically requested addressing automatic or semi-automatic compact clothes washer product characteristics, market sales, and field usage patterns, since compact clothes washers are a relatively new product.

Comments concerning the actual procedures proposed to be followed by the laboratory technician and the necessary laboratory facilities and manpower required to perform the proposed tests are also particularly desired. For example, today's proposal includes a procedure, based upon HLW-2EC, which involves discrete hot water measurements for the fill, rinse, and spray rinse portions of a normal cycle for the wash/rinse temperature setting under test. FEA is particularly interested in comments on the advisability of an alternative approach which would allow the complete uninterrupted operation of the normal cycle for the wash/rinse temperature setting under test and would obtain the total electrical energy and volume of hot water consumed directly from the instrumentation.

In addition, FEA is interested in receiving comments on any definitions described in previously proposed § 430.2, as these provisions might affect the testing of automatic and semi-automatic clothes washers. Such comments are timely until the close of the written record, as specified below.

In addition to the definition of "basic model" for automatic and semi-automatic clothes washers, FEA is withdrawing the previously proposed definition in § 430.2 of "clothes washer" and substituting a new definition of "clothes washer" and of each of the three different classes of clothes washers.

G. COMMENT PROCEDURE

1. WRITTEN COMMENT

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed test procedures for automatic and semi-automatic clothes washers set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box MN, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Automatic and Semi-Automatic Clothes Washers—Proposed Test Procedures." Fifteen copies should be submitted. All comments received by July 13, 1977, before 4:30 p.m., e.d.t., and all other relevant information, will be considered by FEA before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and treat it according to its determination.

2. PUBLIC HEARINGS

a. *Request procedure.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on July 20, 1977.

FEA invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before 4:30 p.m., e.d.t., on July 8, 1977. Such a request may be hand delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Automatic and Semi-Automatic Clothes Washers—Proposed Test Procedures."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through July 19, 1977.

FEA will notify, before 4:30 p.m., July 11, 1977, each person selected to appear at a hearing. Each person selected to be heard must submit 50 copies of her or his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50 copy requirement, alternative arrangements can be made with the Office of Regulations Management in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the Office of Regulations Management at (202) 254-3345.

b. *Conduct of Hearings.* FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by FEA with respect to the subject matter of the hearing will be based on all information available to FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.d.t., July 13, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, included the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter. A copy of NBS's recommendations concerning test procedures for automatic and semi-automatic clothes washers along with the Proctor and Gamble field study will also be made available for inspection at the FEA Freedom of Information Office.

H. ENVIRONMENTAL AND INFLATIONARY REVIEW

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires FEA to assess the environmental impacts of any proposal by the Agency for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quantity or distribution of energy usage, FEA has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, FEA has determined that, with respect to prescribing test procedures under the conservation program for appliances, no environmental impact statement is required.

NOTE.—The proposal has been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A-107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 F.R. 23185.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C. May 11, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding a subparagraph (10) as part of the definition of "Basic model," by proposing the definition of "clothes washer," and by adding definitions of "automatic clothes washer," "semi-automatic clothes washer," and "other clothes washer" to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product manufactured by one manufacturer and—

* * * * *

(10) With respect to automatic and semi-automatic clothes washers, having essentially identical functional physical and other clothes washers.

* * * * *

"Clothes washer" means a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement, and must be one of the following classes: automatic clothes washers, semi-automatic clothes washers, an dother clothes washers.

"Automatic clothes washer" means a regular, standard or compact clothes washer which has a control system which is capable of scheduling a preselected combination of operations, such as regulation of water temperature, regulation of the water fill level, and performance of wash, rinse, drain and spin functions, without the need for user intervention subsequent to the initiation of machine operation.

"Semi-automatic clothes washer" means a regular, standard or compact clothes washer which is the same as an automatic clothes washer except that user intervention is required to regulate the water temperature by means of external water faucet valves.

"Other clothes washer" means a regular, standard or compact clothes washer that is not an automatic or semi-automatic clothes washer.

2. Section 430.22 is amended by adding a paragraph (j) to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(j) *Automatic and semi-automatic clothes washers.*

(1) The estimated annual operating cost for automatic and semi-automatic clothes washers shall be—

(i) When electrically heated water is used, the product of the following three factors: (A) The representative average-use cycle of 416 cycles per year for standard models or 208 cycles per year for compact models, (B) the total per-cycle energy consumption for the normal cycle in kilowatt-hours per cycle, determined according to 4.6 of Appendix J of this subpart, and (C) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year, and

(ii) When gas-heated or oil-heated water is used, the product of: the representative average-use cycle of 416 cycles per year for standard models or 208 cycles per year for compact models and the sum of both (A) the product of the per-cycle machine electrical energy consumption for the normal cycle in kilowatt-hours per cycle, determined according to 4.4 of Appendix J to this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator and (B) the product of the per-cycle water energy consumption for gas-heated or oil-heated water for the normal cycle, in Btu per cycle, determined according to 4.5 of Appendix J to this subpart, and the representative average unit cost in dollars per Btu for oil or gas, as appropriate, as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy factor for automatic and semi-automatic clothes washers shall be the quotient of one load of clothes divided by the clothes washer energy consumption per cycle, expressed as the sum of the machine electrical energy consumption and the maximum normal water energy consumption as determined in §§ 4.4 and 4.7, respectively, of Appendix J to this subpart. The resulting quotient for the energy factor shall be rounded off to the nearest 0.01 load per kilowatt-hour.

(3) Other useful measures of energy consumption for automatic or semi-auto-

matic clothes washers shall be those measures of energy consumption which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix J of this subpart.

* * * * *

3. Section 430.23 is amended by adding a paragraph (j), to read as follows:

§ 430.23 Units to be tested.

(j) *Automatic and semi-automatic clothes washers.*

(1) When testing of automatic or semi-automatic clothes washers is required for a measure or measures of energy consumption described in § 430.22 (j), a sample of sufficient size of each basic model shall be tested to ensure that, for each such measure of energy consumption, there is a 95 percent probability that the mean of the sample is within five percent of the true mean of such measures of the basic model, except that no fewer than three units of each basic model shall be tested.

(2) The sample selected for paragraph (j)(1) of this section shall be a simple random sample draw nfrom the production stream of the basic model being tested.

(3) A basic model having dual voltage ratings shall be separately tested at each design voltage such that the requirements of paragraph (j)(1) of this section are satisfied at each rating.

* * * * *

4. Subpart B of Part 430 is amended to add an Appendix J, to read as follows:

APPENDIX J—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF AUTOMATIC AND SEMI-AUTOMATIC CLOTHES WASHERS

1. Definitions

1.1 "AHAM" means the Association of Home Appliance Manufacturers.

1.2 "Compact" refers to a clothes washer with a tub capacity of less than 16 gallons of water.

1.3 "HLW–1" refers to the test standard published by the AHAM and titled "American National Standard Z224.1–1971 Performance Evaluation Procedure for Household Clothes Washers," December, 1971, designated as HLW–1.

1.4 "HLW–2EC" means AHAM "Test Method for Measuring Energy Consumption on Household Clothes Washers," December, 1975, designated as HLW–2EC.

1.5 "Normal cycle" means the cycle recommended by the manufacturer for washing cotton and/or linen clothes.

1.6 "Regular" refers to a clothes washer with a tub capacity of at least 16 gallons of water.

1.7 "Regular cycle" means normal cycle.

1.8 "Sensor filled" refers to a type of water fill control which uses a pressure or weight sensor to terminate the water fill cycle.

1.9 "Standard" means regular.

1.10 "Time filled" refers to a type of water fill control which uses a combination of water flow control in conjunction with time to terminate the water fill cycle.

1.11 "Tub capacity" means the volume of the tub in gallons of water at maximum fill.

1.12 "Temperature use factor" means the percentage of the total number of washes a user would wash with a particular wash/rinse temperature setting.

2. TESTING CONDITIONS

2.1 *Installation.* Install the clothes washer in accordance with manufacturer's instructions.

2.2 *Electrical energy supply.* Maintain the electrical supply to the clothes washer within one percent of the nameplate voltage.

2.3 *Water temperature.* The temperature of the water entering the inlet connections need not be controlled.

2.4 *Water pressure.* Maintain the pressure of the water supply between 32.5 and 37.5 pounds per square inch.

2.5 *Load.* The clothes washer shall be tested without a clothes load for determination of energy consumption.

2.6 *Energy flow and water flow instrumentation.*

2.6.1 *Water meters.* Install a water meter in both the hot and cold water inlet lines to measure water consumption. Each meter shall have a resolution no larger than 0.1 gallon and a maximum error no greater than 1.5 percent for all water flow rates from one to five gallons.

2.6.2 *Watt-hour meter.* A watt-hour meter shall be used to measure the electrical power equipped to operate the clothes washer through a complete normal cycle. It shall have a resolution no larger than 1 watt-hour and a maximum error no greater than one percent.

2.7 *Preconditioning.* If the clothes washer has not previously been tested nor filled with water in the preceding 96 hours, precondition it by running through it a cold rinse and drain to insure that hose, pump and sump are filled with water.

2.8 *Washer setting.* Set the wash time for a 10 minute wash period. The wash time (period of agitation) shall not be less than 9.75 minutes. Where controls are provided for agitation and spin speed, set for normal cycle.

3. TEST MEASUREMENTS

3.1 *Tub capacity.* Measure the tub capacity to determine compact or standard size by filling the clothes washer with the water level control set at its maximum setting. Record the total water accumulation, in gallons, in the tub.

3.2 *Test cycle.* Establish the testing conditions set forth in 2 of this Appendix.

3.2.1 *Per-cycle electrical energy consumption.* Set the water level selector at maximum fill and start the clothes washer. Measure the electrical energy consumption of the clothes washer for a complete normal cycle.

3.2.2 *Hot water consumption for a normal cycle with the water level selector at maximum fill.*

3.2.2.1 Set the water level selector at maximum fill.

3.2.2.2 For automatic clothes washers set the wash/rinse temperature selector to the hottest setting available (hot/warm). For semi-automatic clothes washers open the hot water faucet valve completely and close the cold water faucet valve to achieve the hottest setting (hot/hot).

3.2.2.3 Measure the gallons of hot water used to fill the tub.

3.2.2.4 Measure the total gallons of hot water used for all rinses.

3.2.2.5 Measure the total gallons of hot water used for all sprays.

3.2.2.6 For automatic clothes washers repeat 3.2.2.3, 3.2.2.4, and 3.2.2.5 for each of the other wash/rinse temperature selections available that use hot water. For semi-automatic clothes washers repeat 3.2.2.3, 3.2.2.4, and 3.2.2.5 for Hot/Cold, Warm/Cold, Warm/Warm, and Warm/Cold temperature settings with the following water faucet valve adjustments:

	Faucet position	
	Hot valve	Cold valve
Hot	Completely open	Closed.
Warm	do	Completely open.
Cold	Closed	Do.

3.2.3 *Hot water consumption for a normal cycle with the water level selector at minimum fill.* Set the water level selector at minimum fill and repeat 3.2.2.2 through 3.2.2.6.

3.2.4 *Hot water consumption for clothes washers that incorporate a partial fill during rinse.* For clothes washers that incorporate a partial water fill during rinse and cannot use the procedure in 3.2.2 and 3.2.3, measure hot water consumption over a complete normal cycle at maximum and minimum water fill levels and all wash/rinse temperature selections available that use hot water.

3.3 *Data recording.* Record for each test cycle in 3.2.

3.3.1 Total the kilowatt-hours of electrical energy, M_E, consumed during the test to operate the clothes washer in 3.2.1.

3.3.2 Total the hot water measured at maximum fill levels for each wash/rinse temperature selection.

3.3.3 Total the hot water measured at minimum fill levels for each wash/rinse temperature selection.

4. CALCULATION OF DERIVED RESULTS FROM TEST MEASUREMENTS

4.1 *Per-cycle temperature-weighted hot water consumption for maximum and minimum water fill levels.* Calculate for the cycle under test the per-cycle temperature-weighted hot water consumption for the maximum water fill level, V_{max}, and for the minimum water fill level, V_{min}, expressed in gallons per cycle and defined as:

$$V_{max}=\sum_{i=1}^{n}[V_i\times TUF_i],$$

where

V_i = Reported hot water consumption in gallons per cycle at maximum fill for each wash/rinse temperature selection, as provided in 3.2.2.
TUF_i = Applicable temperature use factor corresponding to wash/rinse temperature selection as shown in 5 or 6.
n = Number of wash/rinse temperature selections available to the user for the clothes washer under test,
and

$$V_{min}=\sum_{j=1}^{n}[V_j\times TUF_j]$$

where

V_j = Reported hot water consumption in gallons per cycle at minimum fill for each wash/rinse temperature selection, as provided in 3.3.3.
TUF_j = Applicable temperature use factor corresponding to wash/rinse temperature selection as shown in 5 or 6.
n = Number of wash/rinse temperature selections available to the user for the clothes washer under test.

4.2 *Total per-cycle hot water energy consumption for maximum and minimum water fill levels.* Calculate the total per-cycle hot water energy consumption for the maximum water fill level, E_{max}, and for the minimum water level, E_{min}, expressed in kilowatt-hours per cycle and defined as:

$$E_{max}=[V_{max}\times T\times K\times MF]$$

where

MF = multiplying factor to account for the influence of the clothes load volume=0.94 for clothes washers that are sensor filled and 1.0 for clothes washers that are time filled.
T = Temperature rise=90° F.
K = Water specific heat in kilowatt-hours per gallon degree F=0.00244.
V_{max} = As defined in 4.1,
and

$$E_{min}=[V_{min}\times T\times K\times MF]$$

where

MF = Multiplying factor to account for the influence of the clothes load volume=0.94 for clothes washers that are sensor filled and 1.0 for clothes washers that are time filled.
T = Temperature rise=90° F.
K = Water specific heat in kilowatt-hours per gallon degree F=0.00244.
V_{min} = As defined in 4.1.

4.3 *Total weighted per-cycle hot water energy consumption expressed in kilowatt-hours.* Calculate the total weighted per-cycle hot water energy consumption, E_T, expressed in kilowatt-hours per cycle and defined as:

$$E_T=[E_{max}\times F_{max}]+[E_{min}\times F_{min}]$$

where

F_{max} = Usage fill factor=0.72
F_{min} = Usage fill factor=0.28
E_{max} = As defined in 4.2.
E_{min} = As defined in 4.2

4.4 *Per-cycle machine electrical energy consumption.* The value recorded in 3.3.1 is the per-cycle machine electrical energy consumption, M_E, expressed in kilowatt-hours per cycle.

4.5 *Per-cycle water energy consumption using gas-heated or oil-heated water.* Calculate for the normal cycle the per-cycle water energy consumption. E_{TG}, using gas-heated or oil-heated water, expressed in Btu per cycle and defined as:

$$E_{TG}=E_T\times\frac{1}{e}\times 3412\ \text{Btu/Kwh}$$

where

e = Nominal gas or oil water heater efficiency=0.75
E_T = As defined in 4.3.

4.6 *Total per-cycle energy consumption when electrically heated water is used.* Calculate for the normal cycle the total per-cycle energy consumption, E_{TE}, using electrically heated water, expressed in kilowatt-hours per cycle and defined as:

$$E_{TE}=E_T+M_E$$

where

M_E = As defined in 4.4
E_T = As defined in 4.3.

4.7 *Maximum normal cycle water energy consumption.* Calculate the maximum normal cycle water energy consumption, E_{MC}, expressed in kilowatt-hours per cycle, and defined as:

$$E_{MC}=V_{max}\times T\times K$$

where

V_{max} = As defined in 4.1
T = As defined in 4.2
K = As defined in 4.2.

5. APPLICABLE TEMPERATURE USE FACTORS FOR DETERMINING HOT WATER USAGE FOR VARIOUS WASH/RINSE TEMPERATURE SELECTIONS FOR AUTOMATIC CLOTHES WASHERS

5.1 *Five temperature selection* (n=5).

Wash/rinse temperature setting:	Temperature use factor (TUF)
Hot/warm	0.25
Hot/cold	.15
Warm/warm	.30
Warm/cold	.20
Cold/cold	.10

5.2 *Four temperature selection* (n=4).

Wash/rinse temperature setting—Alternate I:	Temperature use factor (TUF)
Hot/warm	0.25
Hot/cold	.15
Warm/cold	.50
Cold/cold	.10
Alternate II:	
Hot/warm	0.25
Hot/cold	.15
Warm/warm	.30
Warm/cold	.30
Alternate III:	
Hot/cold	0.15
Warm/warm	.30
Warm/cold	.45
Cold/cold	.10

5.3 *Three temperature selection* (n=3).

Wash/rinse temperature setting:	Temperature use factor (TUF)
Alternate I:	
Hot/warm	0.40
Warm/cold	.50
Cold/cold	.10
Alternate II:	
Hot/cold	0.40
Warm/cold	.50
Cold/cold	.10
Alternate III:	
Hot/cold	0.40
Warm/warm	.50
Cold/cold	.10

6. APPLICABLE TEMPERATURE USE FACTORS FOR DETERMINING HOT WATER USAGE FOR VARIOUS WASH/RINSE TEMPERATURE SETTINGS FOR SEMI-AUTOMATIC CLOTHES WASHERS

6.1 *Six temperature settings* (n=6).

Wash/rinse temperature setting:	Temperature use factor (TUF)
Hot/hot	0.20
Hot/warm	.13
Hot/cold	.07
Warm/warm	.40
Warm/cold	.10
Cold/cold	.10

[FR Doc.77–14009 Filed 5–16–77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 762 3097]

CBS INC.

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order requires a New York publishing firm to cease mailing and billing for unauthorized magazines; sending collection letters to receivers of unordered magazines; misrepresenting the effects of nonpayment on credit ratings in such letters; and transferring unpaid accounts of recipients of unsolicited magazines to debt collection or consumer reporting agencies. Further, the order requires respondents to make proper restitution to individuals who paid for unordered magazines; and to send correction letters to consumers whose credit standings may have been adversely affected by respondent's actions. Additionally, respondent is required to maintain prescribed records; and to institute an adequate program of continued surveillance to ensure conformance with the terms of the order.

DATE: Comments must be received on or before July 14, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul R. Peterson, Director, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Bldg., 1240 East 9th St., Cleveland, Ohio 44199. (216–522–4207).

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION

[File No. 762 3097]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of CBS Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the CBS Consumer Publishing Division of CBS Inc., a corporation, and it now appearing that CBS Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from such acts and practices.

IT IS HEREBY AGREED by and between CBS Inc., by its duly authorized officer in his capacity as Vice President thereof and as President of CBS Publishing Group of which CBS Consumer Publishing is a division, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent CBS Inc. is a corporation organized, existing, and doing business under and by virtue of the Laws of the State of New York, with its office and principal place of business located at 51 West 52nd Street, in the City of New York, State of New York 10019, and one of its components is the CBS Publishing Group.

CBS Consumer Publishing Division, a division of the CBS Publishing Group, with its principal office and place of business located at 600 Third Avenue, New York, New York 10016, is engaged in the manufacture, distribution, and sale of consumer publications, including magazines.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondent waives: (a) Any further procedural steps; (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, togther with the draft of complaint here attached, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission within such 60-day period disclose facts or consid-

erations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the said copy of the complaint here attached which the Commission intends to issue.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in exact form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

IT IS ORDERED that respondent CBS Inc., a corporation, its successors and assigns, and respondent's agents, representatives, and employees, directly or through the CBS Consumer Publishing Divison, or any other corporation, subsidiary, division, or other device in connection with the advertising, publishing, distributing, offering for sale, or selling of magazines in commerce or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do continue to, and forthwith, cease and desist from:

A. Mailing, or causing to be mailed, magazines without the prior expressed request or consent of the recipient.

B. Mailing, or causing to be mailed, a bill to recipients of magazines mailed without the recipient's prior expressed request or consent.

C. Mailing, or causing to be mailed, collection letters to recipients of magazines mailed without the recipient's prior expressed request or consent.

D. Transferring, or causing to be transferred, the alleged delinquent accounts of recipients of magazines mailed without the recipient's prior expressed request or consent, to a debt collection or consumer reporting agency.

Provided, that respondent may act in accordance with the exceptions extended by the Postal Reorganization Act, Section 2, 39 U.S.C. Section 3009 (1970), as amended or modified.

II

IT IS FURTHER ORDERED that respondent CBS Inc., a corporation, its successors and assigns, and respondent's agents, representatives, and employees, directly or through the CBS Consumer Publishing Division, or any other corporation, subsidiary, division, or other device in connection with the collection of consumer debts in commerce or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do continue to, and forthwith, cease and desist from:

A. Using any forms, letters, or materials which represent directly or indirectly, by any means, that where payment due from a consumer in purported receipt of magazines is not received, the information of said delinquency is referred to a debt collection or consumer reporting agency, unless such agency is notified as represented.

B. Misrepresenting, by any means, the manner, extent, and consequences of the referral of debt delinquency information, compiled as a result of the purported receipt of magazines, to debt collection or consumer reporting departments or agencies.

C. Misrepresenting, by any means, that failure to pay the alleged debt or delinquency, as a result of the purported receipt of magazines, will result in the consumer's credit rating being adversely affected.

D. Misrepresenting, in any manner, the names, roles, functions, relationship to respondent, or titles of individuals who are engaged in the collection of money purportedly due and payable as a result of the purported receipt of magazines, or who transfer information regarding particular consumers to debt collection or consumer reporting departments or agencies as a result of money purportedly due and payable as a result of the purported receipt of magazines.

III

IT IS FURTHER ORDERED, That: A. Respondent deliver a copy of this order to each of its present and future operating Groups, magazine publishers, and employees directly responsible for magazine circulation marketing activities, and to each of its present and future independent contractors engaged in magazine subscription fulfillment activities or magazine subscription advertising activities.

B. Respondent, through its CBS Consumer Publishing Division, institute a program of continuing surveillance adequate to reveal whether the business practices of individuals or entities described in Section III, paragraph A, conform to the requirements of this order.

C. Respondent, through its CBS Consumer Publishing Division, maintain files containing all inquiries or complaints from any source relating to acts or practices prohibited by this order, for a period of two years after their receipt, and that such files be made available for inspection and copying by the Federal Trade Commission or its staff upon request.

IV

It is further ordered, That:

A. Respondent CBS Inc., through its CBS Consumer Publishing Division, shall offer a choice, at the option of the consumer, of full restitution ($2.98) or a free one (1) year subscription to Field & Stream magazine to any consumer who paid in full for an unordered subscription to Field & Stream magazine in connection with the Field & Stream Sweepstakes/Subscription promotion conducted in late 1974 and early 1975, after the receipt by such consumer of the letter signed by Ken Edwards or Vince Dema, which letter stated in part:

"DEAR FRIEND: When you sent us your Field & Stream subscription order I accepted it in good faith, and billed you as you requested.

Since that time I've sent you three action-packed issues of Field & Stream, but have not received your payment. You are long overdue. * * *"

This offer of full restitution or a free one (1) year subscription shall be made in the following manner:

(1) Within thirty (30) days after the date this order becomes final, respondent, through its CBS Consumer Publishing Division, shall identify all consumers described in Section IV, paragraph A.

(2) Within sixty (60) days after the date this order becomes final, respondent, through its CBS Consumer Publishing Division, shall notify in writing by first-class, post-paid mail, all consumers identified in Section IV, paragraph A(1), at their last known addresses, of their right to restitution in the language, manner, and form shown in Appendix A.

(3) The letter set forth in Appendix A shall request a response to respondent's offer by a certain date. Such date shall be at least one hundred twenty (120) days after the date this order becomes final. Any response to such offer postmarked after such date shall be null and void.

(4) Within one hundred fifty (150) days after the date this order becomes final, respondent, through its CBS Consumer Publishing Division, will, in accordance with consumers' replies to Appendix A, either refund, by first-class, post-paid mail, all monies paid by consumers identified in Section IV, paragraph A(1), or initiate, in accordance with the terms of said letter, a free one (1) year subscription to Field & Stream magazine on behalf of said consumer.

(5) Within two hundred ten (210) days after the date this order becomes final, respondent, through its CBS Consumer Publishing Division, will provide to the Commission the following information:

(a) A list of the consumers identified pursuant to Section IV, paragraph A(1), of this agreement.

(b) A list of the consumers to whom letters were sent pursuant to Section IV, paragraph A(2), and which were returned by the United States Postal Service to respondent's CBS Consumer Publishing Division, having been undelivered to consumer.

(c) A list of the consumers who do not return Appendix A or otherwise respond to Appendix A within the time period allowed for such response.

(d) A list of the consumers who elect to receive full two dollars and ninety-eight cents ($2.98) restitution under the terms of the offer extended by Appendix A.

(e) A list of the consumers who elect to receive a free one (1) year subscription to Field & Stream magazine under the terms of the offer extended by Appendix A.

B. Respondent, through its CBS Consumer Publishing Division, shall retain in its files for a period of thre years (3) years after the date that this order becomes final:

(1) All letters and their respective envelopes sent pursuant to Section IV, paragraph A(2), which are returned to respondent's CBS Consumer Publishing Division by the United States Postal Service as undeliverable.

(2) All letters (including those specified by Appendix A) sent to respondent's CBS Consumer Publishing Division by consumers in response to the offer extended by respondent's CBS Consumer Publishing Division pursuant to Section IV, paragraph A.

V

It is further ordered, That, within thirty (30) days after the date this order becomes final, respondent, through its CBS Consumer Publishing Division, shall notify in writing, by first-class mail, in the language, manner, and form shown in Appendix B, those consumers whose names were forwarded by it in respect of Field & Stream magazine to Credit Index, a division of Hooper-Holmes.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth the manner and form in which it has complied with this order.

APPENDIX A

Date

NAME,
Address,
City, State, ZIP code.

Re: 1975 World of Leisure Sweepstakes—Field & Stream Magazine.

DEAR ----------: Last year, we entered a subscription in your name to *Field & Stream* magazine.. If you are dissatisfied with the entry of this subscription and your payment therefore, we would like to make you the following offer:

☐ A cast refund of $2.98 paid; or
☐ A free one-year subscription to *Field & Stream* magazine (newsstand value of $12.00) to begin at once or added at the end of your current subscription.

Please indicate, by checking one box only, which of the above alternatives you desire.

In order to take advantage of this offer, this letter must be postmarkked by ---------
(Date)

We have enclosed a business reply envelope for your convenience.

Looking forward to hearing from you.

Very truly yours,
CBS Consumer Publishing.
By: ----------

APPENDIX B

Date

NAME,
Address,
City, State, ZIP code.

Re: 1975 World of Leisure Sweepstakes—Field & Stream Magazine.

DEAR ----------: Due to confusion with respect to an incompletely filled-out sweepstakes entry form/subscription order form, and the resultant billing to you with respect to copies of *Field & Stream* magazine, we referred your name to a direct-mail bad pay file with a consumer credit reporting agency.

Please be advised that we have caused your name to be removed from said file permanently.

By law (Fair Credit Reporting Act), all debt collection agencies or consumer credit reporting agencies must delete information with regard to this misunderstanding upon presentation of this letter.

You may wish to keep this letter and show it to any company who questions your *Field & Stream* bill with regard to the above.

Please excuse this misunderstanding, and accept our apology.

Very truly yours,
CBS Consumer Publishing.
By: ----------

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

CBS INC.

FILE NO. 762 3097

The Federal Trade Commission has accepted an agreement to a proposed consent order from CBS Inc.

The proposed consent order was placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that CBS Inc. violated Section 5 of the Federal Trade Commission Act by engaging in the following acts:

(1) Mailing unordered magazines to consumers;

(2) Billing consumers for the unordered magazines;

(3) Mailing collection letters to certain consumers;

(4) Transferring to a credit reporting agency the alleged delinquent accounts of consumers receiving and not paying for the unordered magazines.

The proposed consent order requires that CBS cease and desist from:

(1) Mailing magazines without the request or consent of the recipient;

(2) Billing for unordered magazines;

(3) Mailing collection letters to recipients of unordered magazines;

(4) Transferring to debt collection or consumer reporting agencies the accounts of recipients of unordered magazines.

In addition, the proposed consent order requires CBS to make refunds to certain individuals who paid for the unordered magazines, and to send a correction letter to those consumers whose credit may have been affected by the actions of CBS.

CBS must also cease and desist from misrepresenting in collection letters the effects of a consumer not paying his debts.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-14077 Filed 5-16-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. RM77-19]

LABOR DEPARTMENT, RESIDENTIAL ELECTRIC BILL DATA

Proposed Reporting Requirements

AGENCY: Federal Power Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to extend for fifteen months the required period of parallel reporting using Form No. 3–P or other electric bill data used to compute the Consumer Price Index (CPI). The Commission ordered the reporting of this information in old and new formats to insure continuity while the Bureau of Labor Statistics (BLS) is revising the CPI. Delays in the revision process require extending the parallel reporting period.

DATES: Comments must be received on or before June 1, 1977.

ADDRESS: Office of the Secretary, Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

William Graban, Bureau of Power (202–275–4731).

Pursuant to Section 553 of the Administrative Procedure Act, 5 U.S.C. 553 and Sections 301, 304, 309, and 311 of the Federal Power Act (49 Stat. 854–856, 858–859; 16 U.S.C. 825(a), 825(b), 825(c), 825(b), 825(c), 825h, 825j), the Commission gives notice that it proposes to amend the reporting requirements of FPC Form No. 3–P as specified in Order No. 554 issued September 15, 1976, 41 FR 41687, for the collection of monthly sample electric bill data for use in compiling the Bureau of Labor Statistics Consumer Price Index. The amendment does not involve altering 18 CFR 141.28 which specifies the information to be completed on Form No. 3–P.

Order 554 specified a temporary period of parallel reporting to serve the needs of both the old and new Consumer Price Index calculations, with the new Index planned to be operational in April 1977. However, the Bureau of Labor Statistics (BLS) has encountered problems with the computer activities associated with the new Index now projects the new Index will not be operational until the Fall of 1977. Consequently, the BLS has requested that the FPC extend the period of parallel reporting until six months overlap of the old and new indexes has been accomplished. To meet the BLS needs it is proposed that Order No. 554 be revised to change the date of termination of parallel reporting from September 1977 to December 1978, with provisions for earlier termination upon notification by BLS that its needs have been satisfied.

Section 311 of the Federal Power Act (49 Stat. 859; 16 U.S.C. 825j) provides that the Commission is to secure and keep current information relating to the rates, charges and contracts in respect of the sale of electric energy and its service to residential, rural, commercial and industrial consumers and other purchases by private and public agencies. In accordance with Section 311 and pursuant to an agreement between the Federal Power Commission and the Bureau of Labor Statistics (Division of Statistical Standards of the Bureau of the Budget) dated November 5, 1940, the Commission has been supplying monthly electric bill data for a selected number of communities to the Bureau of Labor Statistics in order to eliminate duplicate requests among government agencies for information on electric rates.

The data now collected are used in the compilation of the Consumer Price Index and the Wholesale Price Index, the Federal government's official indicators of price movements and are widely used

for measuring changes in the Nation's economy. The data, collected on FPC Form No. 3–P, consist of (1) residential electric bill data for the Consumer Price Indexes, and (2) commercial and industrial electric bill data for the Wholesale Price Index. The Bureau of Labor Statistics determine the data to be collected.

A total of 404 residential electric bills comprise the current monthly sample for the Consumer Price Index. Between three and five residential bills are reported for each community canvassed. Each residential electric bill consists of a net base bill, a total bill and where applicable a fuel adjustment, sales and/or gross receipts tax, and other tax or charge. If applicable, respondents are also requested to provide the monthly fuel cost and the fuel adjustment per kilowatt-hour and the rate of sales or other tax.

The Bureau of Labor Statistics (BLS) is presently revising the Consumer Price Index (CPI). The revisions include some changes in the information to be collected as well as some changes in the individual utilities required to submit reports. To insure continuity, in April 1976 BLS requested the Commission to institute a parallel reporting system. Utilities previously submitting CPI data on the existing schedule of Form No. 3–P were to continue submitting that information through September 1977. At the same time, utilities chosen to submit data for the revised CPI were to commence reporting on the revised schedule of Form No. 3–P immediately. Because some of the utilities already submitting CPI data on the existing schedule were also to submit data to the revised CPI, a certain amount of parallel reporting was expected to occur. The Commission ordered such parallel reporting in Order No. 554 issued September 15, 1976, 41 FR 41687.

At the time the Commission issued Order No. 554, it was expected that the revised monthly CPI would be released to the public for the first time in April 1977; it was also expected that the existing CPI would be discontinued in September 1977. However, by letter dated March 11, 1977, from W. John Layng, BLS Assistant Commissioner for Prices and Living Conditions, to Jack L. Weiss, Acting Chief, Bureau of Power, the Commission was informed that BLS will not implement the revised CPI in April 1977. The revised CPI is now expected to be published for the first time in the "fall of 1977." Since BLS still plans to continue publishing the existing CPI for at least six months past the time the revised CPI is implemented, BLS now asks the Commission to order an additional fifteen months of parallel reporting, i.e., that parallel reporting be extended from September 1977 through December 1978.

The utilities subject to the extended reporting requirements are listed in the several appendices. The fifty-three utilities listed in Appendix A are currently reporting residential data on the existing schedule, and under the proposed revision of Order No. 554 would continue to do so through December 1978, when such reporting shall be terminated. Their reporting of residential data on the revised schedule, as provided in Order No. 554, would be unchanged. The ten utilities listed in Appendix B are currently reporting residential data on the existing schedule and would continue to do so through December 1978, when such reporting shall be terminated. These utilities are currently reporting commercial and industrial data and shall continue to do so. The twenty-one utilities listed in Appendix C are currently reporting residential data on the existing schedule only, and would continue to do so through December 1978. At that time, all such reporting would be terminated. Appendix D shows an existing schedule for reporting residential data. Appendix E shows a revised schedule for reporting residential data.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than June 1, 1977, data, views, comments, or suggestions in writing concerning all or part of the revisions proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street NE., Room 1000, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The Staff, in its discretion, may grant or deny requests for conference.

The proposed amendments to the reporting requirements of FPC Form No. 3–P would be issued under the authority granted to the Federal Power Commission by the Federal Power Act, as amended, particularly Sections 301, 304, 309, and 311 (49 Stat. 854–856, 858–859; 16 U.S.C. 825(a), 825(b), 825(c), 825c (b), 825c(c), 825h, 825j).

Accordingly, the Commission proposes to amend Order No. 554 by changing the reporting requirements of FPC Form No. 3–P, as follows:

The fifty-three utilities listed in Appendix A are currently reporting residential data on the existing schedule, and shall continue to do so through December 1978, when such reporting shall be terminated, or until such earlier date as the Commission may establish based upon notification from the BLS that six months overlap of the old and new indexes, has been accomplished. In addition, they report residential data on the revised schedule as provided for in Order No. 554. The ten utilities listed in Appendix B are currently reporting residential data on the existing schedule and shall continue to do so through December 1978, when such reporting shall be terminated, or until such earlier date as the Commission may establish. These utilities are currently reporting commercial and industrial data and shall continue to do so. The twenty-one utilities listed in Appendix C are currently reporting residential data on the existing schedule only, and shall continue to do so through December 1978. At that time, all such reporting shall be terminated, or until such earlier date as the Commission may establish.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

The fifty-three utilities listed in Appendix A are currently reporting residential data on the existing schedule, and would continue to do so through December 1978, when such reporting shall be terminated. In addition, they report residential data on the revised schedule as provided for in Order No. 554.

Anchorage Municipal Light & Power Department, Alaska.
Chugach Electric Association, Inc., Alaska.
Pacific Gas & Electric Company, California.
San Diego Gas & Electric Company, California.
Southern California Edison Company.
Los Angeles Department of Water & Power, California.
Public Service Company of Colorado.
Connecticut Light & Power Company.
Potomac Electric Power Company, District of Columbia.
Georgia Power Company.
Hawaiian Electric Company, Inc
Commonwealth Edison Company, Illinois.
Illinois Power Company.
Indianapolis Power & Light Company, Indiana.
Central Maine Power Company.
Baltimore Gas & Electric Company, Maryland.
Boston Edison Company, Massachusetts.
Brockton Edison Company, Massachusetts.
Cambridge Electric Light Company, Massachusetts.
Massachusetts Electric Company.
Consumers Power Company, Michigan.
Detroit Edison Company, Michigan.
Northern States Power Company (Minn.).
Kansas City Power & Light Company, Missouri.
Union Electric Company, Missouri.
Independence Power & Light Department, Missouri.
Public Service Electric & Gas Company, New Jersey.
Consolidated Edison Company of N Y., Inc.
Long Island Lighting Company, New York.
New York State Electric & Gas Corporation.
Niagara Mohawk Power Corporation, New York.
Duke Power Company, North Carolina.
Cincinnati Gas & Electric Company, Ohio.
Cleveland Electric Illuminating Company, Ohio.
Ohio Power Company.
Pacific Power & Light Company, Oregon.
Portland General Electric Company, Oregon.
Duquesne Light Company, Pennsylvania.
Pennsylvania Power & Light Company.
Philadelphia Electric Company, Pennsylvania.
West Penn Power Company.
Nashville Electric Service, Tennessee.
Central Power & Light Company, Texas.
Dallas Power & Light Company, Texas.
Gulf States Utilities Company, Texas.
Houston Lighting & Power Company, Texas
Texas Power & Light Company.
Utah Power & Light Company.
Virginia Electric Power Company.
Puget Sound Power & Light Company, Washington.
Public Utility District No. 1 of Snohomish County, Washington.
Seattle Department of Lighting, Washington.
Wisconsin Electric Power Company.

APPENDIX B

The ten utilities listed in Appendix B are currently reporting residential data on the existing schedule and would continue to do so through December 1978 when such reporting shall be terminated. These utilities are currently reporting commercial and industrial data and would continue to do so.

Hartford Electric Light Company, Connecticut.
Orlando Utilities Commission, Florida.
Kansas Gas & Electric Company.
Kansas City Board of Public Utilities, Kansas.
Braintree Electric Light Department, Massachusetts.
Peabody Municipal Light Plant, Massachusetts.
Reading Municipal Light Department, Massachusetts.
Mississippi Power & Light Company.
Cleveland Division of Light & Power, Ohio.
Austin Electric Department, Texas.

APPENDIX C

The twenty-one utilities listed in Appendix C are currently reporting residential data on the existing schedule only, and would continue to do so through December 1978. At that time, all such reporting would be terminated.

Florence Electricity Department, Alabama.
Alaska Electric Light & Power Company.
Fairbanks Municipal Utilities System, Alaska.
Ketchikan Public Utilities, Alaska.
College Park Municipal Electric Light Department, Georgia.
East Point Municipal Electric Department, Georgia.
Northern Indiana Public Service Company.
Logansport Municipal Utilities, Indiana.
Iowa Electric Light Power Company.
Union Light, Heat & Power Company, Kentucky.
Wellesley Municipal Light Plant, Massachusetts.
Niles Board of Public Works, Michigan.
Otter Tail Power Company, Minnesota.
Nevada Power Company.
Atlantic City Electric Company, New Jersey.
Central Hudson Gas & Electric Corp., New York.
The Dayton Power & Light Company, Ohio.
Magnum Light & Power Department, Oklahoma.
Union Utility Department, South Carolina.
Martinsville Municipal Electric Department, Virginia.
Wisconsin Public Service Corporation.

[FR Doc.77-14000 Filed 5-16-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 145, 150, 172, 180, 189, 310, 430, 510, 589, and 700]

[Docket No. 77N–0085]

SACCHARIN AND ITS SALTS

Proposed Rule Making

Correction

In FR Doc. 77–11139, appearing at page 19996 in the issue of Friday, April 15, 1977, make the following changes:

1. On page 20005, the second number in the next to last line of the third full paragraph, first column, should read "189".

2. Also on page 20005, the next to last line of the second to last full paragraph should read "through 189" of Chapter I of Title 21 of the".

3. On page 20007, third column, the section number in the first full line under the heading for Part 172 should read "§ 172.135" and the second line of § 189.185(a) should read, "chemical, 1,2-benzisothiazoline-3-one-1,".

4. On page 20008, the seventh line of § 310.514 should read, "agement or mitigation of diabetes and".

5. Also on page 20008, third column, the words "used in manufacturing the drug product, or that the assay and other control procedures" should precede the word "are" in the last line of § 430.300 (b) (2) (ii).

[21 CFR Part 640]

[Docket No. 77N–0114]

ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS SOURCE PLASMA (HUMAN)

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations regarding Source Plasma (Human) to clarify the conditions under which a donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood may be plasmapheresed again within 8 weeks. Exceptions to the 8-week waiting period have become routine; this amendment would permit such waiver only when the donor possesses antibody that is (1) transitory, (2) of a highly unusual or infrequent specificity, or (3) of an unusually high titer.

DATE: Written comments by July 18, 1977.

ADDRESS: Comments may be addresed to the Hearing Clerk (HFC–20), Flood and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Bureau of Biologics (HFB–620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, (301–443–1920).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 12, 1976 (41 FR 10762) the Commissioner of Food and Drugs amended the Source Plasma (Human) regulations in §§ 640.60 through 640.70 (21 CFR 640.60 through 640.70) by redefining Source Plasma (Human) and clarifying and strengthening the standards in light of the inspectional and other regulatory experience of the Food and Drug Administration. Section 640.63(e) was amended to prevent subsequent plasmapheresis for 8 weeks of a donor who has not had the red blood cells returned during a plasmapheresis procedure or who has been a donor of a unit of whole blood, unless the donor has been examined and certified by a qualified licensed physician to be acceptable for further plasmapheresis.

The Commissioner expected that the 8-week waiting period would be waived by the physician only when the donor possessed an antibody that is (1) transitory, (2) of a highly unusual or infrequent specificity, or (3) of an unusually high titer. It was not intended that exceptions to the 8-week waiting period would become routine for any donor. Indeed, in the preamble of the March 12, 1976 final order, the Commissioner rejected two comments which suggested that plasmapheresis of a donor should be permitted after loss of red blood cells so long as the donor's hemoglobin or hematocrit value met prescribed levels, regardless of the elapsed time (41 FR 10763, item No. 7).

As the result of a review of license applications for Source Plasma (Human) and inspection reports of establishments collecting plasma, the Commissioner finds that § 640.63(e) has been misapplied to permit routine rather than occasional exceptions to the 8-week waiting period after loss of red blood cells.

For clarification, the Commissioner is proposing to amend § 640.63(e) to specify that exceptions to the 8-week waiting period be made only if the donor possesses an antibody that is (1) transitory, (2) of a highly unusual or infrequent specificity, or (3) of an unusually high titer, and further, consistent with § 606.160 (21 CFR 606.160), that records clearly document the antibody and the need for plasmapheresing the donor.

This proposal is consistent with the interpretation applied by the Bureau of Biologics, FDA, in its regulatory actions since March 12, 1976. Establishments found to misapply § 640.63(e) in their license applications onduring inspections have been advised that routine exceptions to the 8-week waiting period is a violation of the regulations which may result in regulatory action. Although this publication is a proposal, FDA will

continue regulatory action based upon its existing application of § 640.63(e).

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 640 by revising § 640.63(e) to read as follows:

§ 640.63 Suitability of donor.

* * * * *

(e) *Failure to return red blood cells.* Any donor who has not had the red blood cells returned from a unit of blood collected during a plasmapheresis procedure or who has been a donor of a unit of whole blood shall not be subjected to plasmapheresis for a period of 8 weeks, unless:

(1) The donor has been examined by a qualified licensed physician and certified by the physician to be acceptable for further plasmapheresis before expiration of the 8-week period; and

(2) The donor possesses an antibody that is (i) transitory, (ii) of a highly unusual or infrequent specificity, or (iii) of an unusually high titer; and

(3) The antibody and the need for plasmapheresing the donor is documented.

Interested persons may, on or before July 18, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this documents does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: May 11, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–13997 Filed 5–12–77;2:13 pm]

Public Health Service

[42 CFR Part 86]

EDUCATIONAL RESOURCE CENTERS

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

Grants for Occupational Safety and Health

AGENCY: Public Health Service, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would amend 42 CFR Part 86 to provide for the award of grants by the National Institute for Occupational Safety and Health (NIOSH) for the establishment of occupational safety and health educational resource centers. An educational resource center grant is an award of funds to an eligible institution or agency to pay part of or all of the costs of the combination of long-term and short-term training activities in occupational safety and health. The objective of the educational resource center grants program is to provide a mechanism for combining and expanding existing activities and arranging for coordinated multidiscipline and multilevel training and continuing education in occupational safety and health under a single grant serving a geographic area. Applications for educational resource center grants will be accepted upon publication of this notice and will be awarded subject to the final regulations.

DATES: Comments concerning these proposed amendments must be received on or before June 16, 1977. Because of the need to act expeditiously to award funds available in FY 1977, and in view of the nature of the grant review process, the comment period has been limited to 30 days. For projects to be funded in FY 1977, initial grant review is expected to begin in May 1977 and be completed by July 1977. Review and funding decisions are expected to be made by August 1977, with project periods beginning on or about September 1, 1977.

ADDRESSES: Written comments concerning the proposed amendments may be sent to Ms. Mary L. Hough, Regulations Office, NIOSH, Center for Disease Control, Room 3–32, Park Building, 5600 Fishers Lane, Rockville, MD 20857. (301–443–6268). Training grant applications (Form PHS 2499–1 (7–75)) may be obtained from the Division of Training and Manpower Development, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226. Completed applications should be submitted to Division of Research Grants, National Institutes of Health, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20014.

FOR FURTHER INFORMATION CONTACT:

Dr. Alan Stevens or Mr. David Thelen, Division of Training and Manpower Development, NIOSH, 513–684–8221.

SUPPLEMENTARY INFORMATION: Section 21(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)(1)) authorizes the Secretary of Health, Education, and Welfare to make grants for the conduct of educational programs to provide an adequate supply of qualified personnel to carry out the purpose of the Act. On July 10, 1975, the Department issued regulations to implement this authority (42 CFR Part 86, 40 FR 29076). The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare is proposing to further implement this authority by awarding grants for the establishment of educational resource centers. The specific project requirements for educational resource center grants are set forth in § 86.13(c) of the proposed rule, with the most distinctive feature being a cooperative arrangement for occupational safety and health training between a medical school, a school of nursing, a school of public health or its equivalent and a school of engineering or its equivalent. The educational resource center may be within one educational institution or agency, or comprised of an association of two or more institutions or agencies.

Funds available for this program in fiscal year 1977 are 2.25 million and it is intended to fund 4 or 5 centers. Ultimately, it is expected, depending upon the availability of funds, to support 10 educational resource centers, at least one in each Department of Health, Education, and Welfare region.

It is, therefore, proposed to amend Part 86 of Title 42, Code of Federal Regulations, as set forth below, effective on the date of republication of the amendments in the FEDERAL REGISTER.

(Catalog of Federal Domestic Assistance Program No. 13.263, Occupational Safety and Health Training Grants.)

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: March 8, 1977.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

1. In § 86.10, a new paragraph (c) is added to read as follows:

§ 86.10 Nature and purpose of training grants.

* * * * *

(c) *Educational Resource Center Grant.* An educational resource center grant is an award of funds to an eligible institution or agency, hereinafter called the "grantee," to pay part or all of the costs of organized identifiable activities, hereinafter termed the "project," that are undertaken to provide for the combination of long-term and short-term training activities as described in § 86.13 (c) of this subpart.

2. In § 86.11, paragraph (b) is revised to read as follows:

§ 86.11 Eligibility.

* * * * *

(b) *Projects eligible for long-term or short-term training grants or educational resource center grants.* Any project found by the Secretary to be a long-term training project within the meaning of § 86.10(a) or a short-term training project within the meaning of § 86.10 (b) or an educational resource center grant project within the meaning of § 86.10(c) shall be eligible for a grant award. However, no applicant is eligible for assistance for a separate training project grant in any project period in which it receives an educational resource center grant. Nothing in the section shall prevent an existing training grant from being incorporated into an educational resource center grant award.

3. In § 86.13, a new paragraph (c) is added to read as follows:

§ 86.13 Project requirements.

* * * * *

(c) In addition to the requirements set forth in paragraphs (a), (b)(1), and (b)(3) (ii) (iii) and (iv) of this section, an approvable application for an educational resource center grant must contain each of the following, unless the Secretary determines that the applicant has established good cause for its omission:

(1) A description, supported by appropriate documents, of cooperative arrangements to conduct an educational resource center among a medical school (with an established program in preventive or occupational medicine), a school of nursing, a school of public health or its equivalent, and a school of engineering or its equivalent. Other schools or departments with relevant disciplines and resources—e.g., toxicology, biostatistics, environmental health, law, business administration, education—may be represented and contribute as appropriate to the conduct of the total program.

(2) The identification of an educational resource center Director who possesses a demonstrated capacity for sustained productivity and leadership in occupational safety and health training who shall oversee the general operation of the educational resource center program and shall, to the extent possible, directly participate in training activities.

(3) A description of the full-time professional staff representing various disciplines and qualifications relevant to occupational safety and health and capable of planning, establishing, and carrying out or administering training projects undertaken by the educational resource center.

(4) A description of the training and research expertise, appropriate facilities and ongoing training and research activities in occupational safety and health areas.

(5) A description of its program for conducting education and training of occupational health physicians, occupational health nurses, industrial hygienists/engineers and safety personnel. There shall be full-time students in each of these core disciplines, with a goal of a minimum total of 30 full-time students. Training may also be conducted in other occupational safety and health career categories, e.g., industrial toxicology, biostatistics, epidemiology, and ergonomics. Training programs shall include appropriate field experience including experience with public health and safety agencies and labor-management health and safety activities.

(6) A specific plan for making an impact on the curriculum taught by relevant medical specialties, including radiology, orthopedics, dermatology, internal medicine, neurology, perinatal medicine, and pathology.

(7) A description of its program to assist other institutions or agencies located within the applicant's region including schools of medicine, nursing and engineering, among others, by providing curriculum materials and consultation for curriculum/course development in occupational safety and health, and by providing training opportunities for faculty members.

(8) A specific plan for preparing, distributing, and conducting courses, seminars and workshops to provide short-term and continuing education training courses for physicians, nurses, industrial hygienists, safety engineers and other occupational safety and health professionals, paraprofessionals and technicians, including personnel of labor-management health and safety committees, in the geographical region in which the educational resource center is located. The goal shall be that the training be made available each year to a minimum of 200–250 trainees representing all of the above categories of personnel with priority given to providing occupational safety and health training to physicians in family practice, as well as in industrial practice, and industrial nurses. These courses shall be structured so that educational institutions, public health and safety agencies, professional societies or other appropriate agencies can utilize them to provide training at the local level to occupational safety and health personnel working in the workplace. Further, the educational resource center shall have a specific plan and demonstrated capability for implementing such training directly and through other institutions or agencies in the region including cooperative efforts with labor unions and industry trade associations where appropriate.

4. In § 86.14, paragraphs (c), (d), and (e) are redesignated as paragraphs (d), (e), and (f) respectively and a new paragraph (c) is added to read as follows:

§ 86.14 Evaluation and grant award.

* * * * *

(c) In the case of educational resource center grants:

(1) the criteria set forth in paragraphs (a) and (b) of this section.

(2) the degree to which the proposed project adequately provides for the requirements set forth in § 86.13(c).

[FR Doc.77–14053 Filed 5–16–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 21]

[Docket Nos. 18261; 21039]

AVAILABILITY OF LAND MOBILE CHANNELS IN THE 470–512 MHz BAND

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time to file reply comments.

SUMMARY: An extension of time to file reply comments to a proposed rule making concerning the availability of land mobile channels in the 470–512 MHz band in the 13 largest urbanized areas in the United States is ordered because the National Association of Radio-telephone Systems filed comments offering a proposal which may be new to the proceeding. Allowing a modest extension of time will allow interested parties to reply to the comments without significantly delaying the outcome of the proceeding.

DATES: Reply Comments must be received on or before May 23, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Fred F. Fitzgerald, Common Carrier Bureau, telephone number 202–632–6450.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of Parts 21, 89, 91 and 93 of the Rules to reflect the availability of land mobile channels in the 470–512 MHz band in the 10 largest urbanized areas of the United States.

Amendment of Part 21 of the Rules to reflect the availability of land mobile channels in the 470–512 MHz band in 13 urbanized areas of the United States. (See 42 FR 13309.).

ORDER EXTENDING TIME TO FILE REPLY COMMENTS

Adopted May 6, 1977.

Released May 12, 1977.

1. Presently before the Chief, Common Carrier Bureau, is a motion by the National Association of Radiotelephone Systems (NARS), filed on May 2, 1977, requesting an extension of time until May 31, 1977 to file reply comments to the above-referenced docket. The Commission adopted a Memorandum Opinion and Order and Notice of Proposed Rule Making in the above-entitled matter on January 12, 1977, which was released on January 31, 1977.

2. In its initial comments filed in the above-captioned proceeding on April 8, 1977, NARS requested that the Commission adopt a "carriers carrier" approach to licensing the referenced frequencies, in contrast to the licensing plan proposed by the Commission in its January 12, 1977 order. The NARS comments offer a proposal which may be new to the proposed rule making proceeding. We desire reply comments to the NARS and other comments. However, if the Commission were to adopt the substance of the NARS proposal, we think it preferable that the Commission first issue a Further Notice of Proposed Rule Making. Therefore, we conclude that the extension of time requested by NARS will not serve the purpose of expediting the above-referenced docket.

3. Nevertheless, we realize that interested parties may be aware of the NARS request for an extension of time and may have expected the Bureau to grant the extension requested. We find that it is in the public interest to allow

a modest time extension in order that interested parties who may have expected to have additional time after May 9, 1977 to file reply comments have an opportunity to file their comments.

3. Accordingly, *it is ordered*, pursuant to delegated authority under § 0.303 of the Commission's Rules, that the time to file reply comments is extended from May 9, 1977 to May 23, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-14054 Filed 5-16-77;8:45 am]

[47 CFR Part 68]

CONNECTION OF TERMINAL EQUIPMENT TO TELEPHONE NETWORK

Telephone Equipment Registration; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time for filing comments.

SUMMARY: A motion has been filed to extend for a period of ninety days, the time for filing comments in this proceeding. In order to give the parties an opportunity to respond to this motion, the existing deadline for filing comments is being extended fifteen days.

DATES: Comments must be received no later than May 25, 1977 and reply comments must be received no later than June 14, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-632-9342).

Adopted: May 5, 1977.

Released: May 9, 1977.

Memorandum Opinion and Order. In the matter of amendment of Part 68 of the Commission's rules (Telephone Equipment Registration) to Specify Standards for and Means of Connection of Telephone Equipment to Lamp and/or Annunciator Functions of Systems, Docket No. 21182, RM-2829.[1]

1. American Telephone and Telegraph Company (AT&T) has filed a motion to extend the time for filing comments in this proceeding from the present specified date of May 10, 1977 until August 10, 1977 (ninety days). AT&T claims that this additional time is necessary because the Commission specified five complex and far reaching issues in its notice of proposed rulemaking, FCC 77-228, released April 1, 1977, which require extensive review and analysis by AT&T's staff.

2. In view of the substantial extension which is sought, interested parties may wish to be heard as to the advisability of granting it. However, such parties may not have an opportunity to respond to AT&T's motion prior to the May 10, 1977 due date for comments herein. To allow such responses, we are granting a fifteen day extension of time, without prejudice to a final disposition of the motion.

3. Accordingly, pursuant to §§ 0.303 and 1.46 of the Commission's rules, 47 CFR 0.303, 1.46: *It is hereby ordered*, That interested parties may file comments on the issues and proposed rules of Docket No. 21182 no later than May 25, 1977, and that replies to such comments may be filed no later than June 14, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-14071 Filed 5-16-77;8:45 am]

[47 CFR Part 73]

[Docket No. 20337; RM-2296]

FM BROADCAST STATION IN BAXLEY, GEORGIA

Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order and Further Notice of Proposed Rule Making.

SUMMARY: Memorandum Opinion and Order denying assignment of a proposed wide coverage Class C FM channel to Baxley, Georgia (1970 pop. 3,503) because of failure of petitioner to provide required justification. Class A channel, which has subsequently become available for assignment is proposed instead.

DATES: Comments must be received on or before June 24, 1977 and reply comments must be received on or before July 14, 1977.

ADDRESS: Send comments to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James Gross, Broadcast Bureau, 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 10, 1977.

Released: May 17, 1977.

Memorandum opinion and order and Further Notice of Proposed Rule Making. In the matter of amendment of § 73.202 (b), Table of Assignments, FM Broadcast Stations. (Baxley, Georgia), Docket No. 20337, RM-2296.

1. The Commission has before it comments in support of a first FM assignment to the Georgia community of Baxley (1970 pop. 3,503), as proposed in the Notice of Proposed Rule Making, 40 FR 4939 (1975). The Notice was in response to a 1973 petition by WHAB Radio, Inc. ("WHAB"), licensee of AM Station WUFE, Baxley, for the assignment of Channel 233 to Baxley.[1]

2. This assignment would have required substitution of Channel 228A for 232A at Sandersville, Georgia, and Channel 244A for 228A at Sparta, Georgia. The Notice erroneously stated that both channels were unapplied for, but in fact an application had been tendered by Radio Station WSNT, Inc., for Channel 232A at Sandersville, and the station was licensed on April 1, 1976. Any change in channels at Sandersville would now require reimbursement to WSNT for its costs in changing frequency.

3. Subsequent to the Notice, Channel 240A became available for assignment to Baxley as a result of changes made in the *Atlanta* decision (n. 1, supra). It is the Commission's usual procedure to assign Class A channels to small communities to conserve spectrum space. In the Baxley Notice, we said:

Class C vs. Class A Channel. Petitioner supports assignment of Class C channel to Baxley on the basis that there are presently no Class A channels that can be used at Baxley that would not cause the deletion of or changes in channel assignments elsewhere or changes in proposed rulemaking petitions. Additional support on this issue is requested from petitioner.

No such support was forthcoming. The Baxley petitioner has offered no showing of special circumstances to support a Class C assignment at Baxley. It appears that a Class A assignment would provide significant first service benefits at Baxley. Accordingly, we shall deny the proposed Class C assignment, and ask for comments on the assignment of Channel 240A at Baxley.[2] This proposal has the advantage of not requiring any other assignment changes or reimbursement. Petitioner should state whether it intends to apply for a station on this channel, if it is assigned.

4. Accordingly, it is proposed to amend the FM Table of Assignments (§ 73.202 (b) of the Commission's rules and regulations) to read as follows for the community listed below:

City	Channel No. Present	Channel No. Proposed
Baxley, Ga.[1]	----------	240A

[1] To comply with separation requirements, the transmitter site for Baxley would have to be 5 km (5 mi) south-southwest of the community. Proponents should show the reasonable availability of a site which would be free of obstruction to the propagation of FM signals to the community. See FCC rule 208(a)(4).

5. *It is further ordered*, That the proposal to assign Channel 233 to Baxley, Georgia, issued by the Notice of Proposed Rule Making, 40 FR 4939 (1975), is hereby denied.

6. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

7. Interested parties may file comments on or before June 24, 1977, and reply comments on or before July 14, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-14068 Filed 5-16-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21110; RM 2744]

TELEVISION BROADCAST STATIONS, OHIO

Proposed Change in Table of Assignment; Dismissal of Proposal

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order.

SUMMARY: Proposed assignments of TV Channel *63 to Maplewood, Channel *58 to Georgetown, Channel *17 to Celina and Channel *64 to Conneaut, Ohio are dismissed at request of petitioner, Ohio Educational Television Network Commission. As a result of this action, the Television Table of Assignments remains unchanged.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Gordon Godfrey, Broadcast Bureau (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order—Proceeding terminated. In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Maplewood, Georgetown, Celina, Conneaut, Ohio), Docket No. 21110, RM-2744.[1]

Adopted: May 3, 1977.

Released: May 9, 1977.

1. The Commission, by the Chief, Broadcast Bureau, has before it the Notice of Proposed Rule Making adopted in this proceeding on February 4, 1977, and a responsive filing from the petitioner, the Ohio Educational Television Network Commission.

2. In response to the petitioner's request, the Commission proposed to assign and reserve for noncommercial educational use channels at Maplewood (Channel *63), Georgetown (Channel *58), Celina (Channel *17) and Conneaut (Channel *64). Petitioner requested the assignments in order to operate high-powered UHF translators in these communities. Now, petitioner indicates that it no longer wishes to proceed with the assignments.

3. The Commission's decision to begin the proceeding was based on petitioner's request, Now that petitioner no longer desires to proceed in this manner, there is no reason not to terminate the proceeding. As a result of this action, § 73.606(b) of the Commission's rules, the Television Table of Assignments, remains unchanged.

4. *Accordingly, it is ordered*, That the subject proposal is dismissed and the proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-14070 Filed 5-16-77;8:45 am]

[1] See 42 FR 9039, February 14, 1977.

[1] See 42 FR 20315, April 19, 1977.

[1] A proposal by Broadcast Good Music Committee ("BGMC") to assign a seventh FM channel to Atlanta, Georgia, would have required substitution at seven Georgia communities and the assignment of Channel 269 to Baxley. That proposal was denied by the Commission, 49 F.C.C. 2d 1280 (1974), and affirmed *per curiam* by the U.S. Court of Appeals, District of Columbia Circuit, Case No. 75-1926 (October 29, 1976). BGMC opposed the WHAB proposal.

[2] Channel 234 has also become available for assignment at Baxley, but we shall not propose it for the same reasons as Channel 233 was denied. In addition, Channel 234 would preclude a proposal before us now for FM service at McRae, Georgia.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Order 77-5-41; Docket 27573, Agreement C.A.B. 26591, R-1 through R-6]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

Issued under delegated authority May 9, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

As set forth in the attachment, the agreement names three additional specific commodity rates under existing specific commodity rate descriptions, and three new commodity descriptions and rates, reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated April 27, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *It is ordered*, That:

Agreement C.A.B. 26591, R-1 through R-6, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

Attachment

Agreement CAB	Specific commodity item No.	Description and rate [1]
26591:		
R-1	6831	Plastic packaging material: 164 c/kg, minimum weight 100 kg, 121 c/kg, minimum weight 1,500 kg, from Helsinki to New York. 164 c/kg, minimum weight 100 kg, 121 c/kg, minimum weight 2,000 kg, from New York to Helsinki.
R-2	0003	Foodstuffs, spices and beverages, excluding caviar and hatching eggs: 128 c/kg, minimum weight 1,000 kg, from Los Angeles to Noumea.
R-3 [2]	2211	Yarn, thread, and/or fibres, natural and synthetic; cloth, exclusively in bales, bolts or pieces, not further processed or manufactured; clothing and footwear; textile manufactures—namely articles or material made principally of textiles: 169 c/kg, minimum weight 2,210 kg, from Hong Kong/Taipei to Los Angeles. 194 c/kg, minimum weight 2,015 kg from Hong Kong/Taipei to Chicago. 205 c/kg, minimum weight 2,021 kg, from Hong Kong/Taipei to New York.
R-4	4309	Electronic calculating machines: 249 c/kg, minimum weight 250 kg, from Delhi to New York.
R-5	4421	Record players and tape recorders/players: 249 c/kg, minimum weight 500 kg, from Delhi to New York.
R-6	4444	Transistor radios: 249 c/kg, minimum weight 250 kg, from Delhi to New York.

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] Shipped in type 2 containers.

[FR Doc.77-14033 Filed 5-16-77;8:45 am]

PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES—PHASE 2

[Order 77-5-47, Docket 23080-2]

Order To Show Cause

Adopted by the Civil Aeronautic Board at its office in Washington, D.C. on the 11th day of May, 1977.

By Order 74-1-89, January 16, 1974, the Board established temporary domestic service mail rates for sack mail and standard and daylight container mail, container minimum chargeable weights, and pickup and delivery charges effective on and after March 28, 1973.[1] On April 1, 1977, United Air Lines, Inc., (United) filed a petition requesting an amendment of this order to include the type LD-X narrow-bodied aircraft container as an additional mail container in selected markets. United also requests that the LD-X pivot weight be established at 800 pounds and that pickup and delivery charges be set at $5. The carrier proposes to offer this new container in daylight service between selected airports in DC-8 combination aircraft, subject to space availability.

In support of this request, United states that the relief requested is necessary in order that the carrier may utilize the LD-X container for the carriage of mail and be compensated at the temporary rates currently in effect for mail services. Also, United contends that its introduction of the LD-X container will provide the U.S. Postal Service (USPS) with on-airport container loading and unloading capability, thereby saving costs, and will enable the USPS to expand its daylight container mail program to many new city-pair markets. The 800 pounds pivot weight is based on the density applicable to the LD-3 container (13.3 pounds per cubic foot) multiplied by the capacity (61 cubic feet) of the LD-X container. The carrier further cites Orders 74-3-84, 74-7-116 and 74-11-16 in which similar relief was provided for the B, LD-11 and M-1 type containers, respectively.

The USPS, in its answer, supports certain aspects of United's petition and objects to others. While the USPS does not object to the Board establishing temporary service mail rates for LD-X containerized mail service, it does object to limiting the service to markets selected by United and to daylight service only. In the USP's view there is no basis for such a selective offering because it contends that United has had sufficient experience with the LD-X container to provide the service systemwide. Similarly the USPS does not object to a pivot weight of 800 pounds, but requests that a lower pivot weight of 700 pounds be established for standard container service, based on the findings contained in the Initial Decision of the Administrative Law Judge.[2] The USPS also refers to the ALJ's finding in the Initial Decision proposing to eliminate on-airport pickup and delivery charges, but does not object to their retention for temporary rate purposes.

[1] Amended by Order 76-12-60, December 10, 1976, fixing the currently effective temporary rates.
[2] Served October 27, 1976, pp. 112-113.

Subsequently, on April 21, 1977, United filed a motion for leave to file an otherwise unauthorized document in reply to the USPS answer.[3] The carrier states therein that the offering of the LD-X container is a limited one because it represents a new program of one container type in one aircraft type—the DC-8 combination aircraft. United wishes to begin by moving carefully and assessing initial development of this program; and, its offering, both as to market and time of tender, merely reflects its estimate of LD-X space and equipment availability for use by the USPS.

Upon consideration of the pleadings and all other relevant matters, the Board concludes that Order 74-1-89 should be amended to incorporate the LD-X container as requested by United. With respect to the USPS proposal for separate daylight and standard pivot weights, we are not persuaded to make such a distinction at this time. Under the current temporary rate structure, the pivot weights for each type of container used to carry mail are not distinguished by class of service so that the daylight and standard service pivot weight for a given container is uniform. The determination of whether daylight and standard container services should have different pivot weights is under consideration in the Domestic Service Mail Rate Investigation (along with many other isues regarding the level and structure of the rates for mail) and the reasonableness of such distinction will be determined there. In the interim, we are not persuaded to depart from the current rate structure. Accordingly, we propose to establish a uniform pivot weight of 800 pounds for the LD-X container pending our final decision on this proceeding.

The proposed $5 charge for pickup and delivery services does not appear to be unreasonable. This same charge is currently in effect for the LD-W container, which the LD-X container closely resembles.[4] We, therefore, tentatively find United's proposed charge of $5 to be fair and reasonable for temporary rate purposes.

In consideration of the foregoing, the Board tentatively finds and concludes that the rates and charges proposed herein for the LD-X container are fair and reasonable for the purpose of establishing temporary rates in this proceeding. When adopted, these rates will apply systemwide to such mail as is carried in LD-X containers, subject to the terms and conditions set forth in Appendix A of Order 74-1-89. However, it should be reiterated that the establishment of these rates, in itself, will neither authorize nor require any air carrier to provide LD-X container service for the Postmaster General. (See, e.g. Order 75-2-110.) A rate order does not purport to impose any service obligations.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302;

It is ordered, That: 1. All interested persons, particularly the Postmaster General and all carrier parties of record in Docket 23080-2, are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix the temporary rates and charges specified herein, pending the fixing of final rates and charges in this investigation, by amending subparagraphs (e) and (g) of ordering paragraph 3 of Order 74-1-89, January 16, 1974, by changing "LD-W" in the columns headed "Container Type" to "LD-W/LD-X";

2. Further procedures herein shall be in accordance with the Rules of Practice, 14 CFR Part 302, and if there is any objection to the rates and charges or to the other findings and conclusions proposed herein, notice thereof shall be filed within 8 days, and, if notice is filed, written answer and supporting documents shall be filed within 15 days, after the date of service of this order;

3. If notice of objection is not filed within 8 days, or if notice is filed and answer is not filed within 15 days, after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing temporary service mail rates and the Board may enter an order incorporating the findings and conclusions proposed herein, and fix and determine the temporary rates herein specified;

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable temporary rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR section 302.307; and

5. This order shall be served upon all parties to Docket 23080-2.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14032 Filed 5-16-77;8:45 am]

[3] We shall grant the motion as a matter of discretion.
[4] The LD-W container has an internal capacity of approximately 77 cubic feet while the LD-X container has an internal capacity of approximately 61 cubic feet.

[Docket 30656, 30657; Order 77-5-65]

ALIA—THE ROYAL JORDANIAN AIRLINES CORP. AND SYRIAN ARAB AIRLINES

Order Regarding Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of May, 1977.

On March 24, 1977, the Royal Jordanian Airlines (ALIA) and Syrian Arab Airlines (Syrianair) filed a motion to consolidate their above noted dockets and concurrently filed a joint motion for an order to show cause why the Board should not issue foreign air carrier permits for joint service between Syria and Jordan, on the one hand, and the United States, on the other.[1] The joint request is an application for the routes provided in air services agreements that were effected by an exchange of diplomatic notes between the United States Government and the Governments of Syria and Jordan on March 15, 1977.[2]

On May 10, 1977, the United States Department of State filed its comments supporting the expeditious handling of the instant application by show-cause procedures.

Upon consideration of all of the relevant facts and pleadings, we have decided to grant the request for consolidation of Dockets 30656 and 30657. In addition, we have decided to deny the joint request for the issuance of a show-cause order and to set the applications for hearing before an administrative law judge as promptly as the Boards' docket permits.

Our decision herein is based on the Board's policy not to utilize show-cause procedures for first certification in foreign air carrier cases. The rationale behind this policy is the belief that the issue of fitness should only be determined after all the evidence is explored in a oral proceeding.[3] Moreover, we believe that the hearing process will be beneficial in resolving certain issues present in this case. These issues include, among other things, Syrianair's fitness; the need for holding out provisions for the proposed services; the question of insurance liability arising from the operation of joint services; the extent that the charter authority requested conforms with the intergovernmental agreements; the degree, if any, to which the Board should exercise jurisdiction over the intercarrier agreement between ALIA and Syrianair for joint services to and from the United States; and what conditions, if any, should be imposed on any authority granted.

While we understand the Department of State desires to employ show-cause procedures, because of the first certification issue, we do not deem it advisable to dispense with a formal hearing. In any event, under an expedited hearing procedure, the applicants could receive their permits as fast or faster than by show-cause procedures.[4]

[1] ALIA currently holds a 402 permit to engage in nonscheduled foreign air transportation between the U.S. and Jordan via certain intermediate points. See Orders 75-3-85 and 76-7-30. Syrianair does not hold a permit under section 402 to provide service to the United States.
[2] The notes granted scheduled route rights to the Government of Jordan and specified scheduled route rights consistent with the Air Transport Services Agreement between the United States Government and the Government of Syria.
[3] The only exception to this rule is the U.S.-Canadian transborder carriers. However, those cases involved special circumstances which are not present. See Order 74-6-30, June 6, 1974.
[4] For example, see Docket 25863, Aeroflot Soviet Airlines, wherein the Board issued a permit to the applicant in approximately 60 days from date of hearing.

Accordingly, *it is ordered*, That:

1. The joint motion of the Royal Jordanian Airlines Corporation and Syrian Arab Airlines for an order to show cause be and it hereby is denied;

2. The joint motion of the Royal Jordanian Airlines Corporation and Syrian Arab Airlines to consolidate Dockets 30656 and 30657 be and it hereby is granted; and

3. The applications of the Royal Jordanian Airlines Corporation (Docket 30656) and Syrian Arab Airlines (Docket 30657) be and they hereby are set for hearing before an administrative law judge of the Board at a time and place to be designated hereafter.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14196 Filed 5-16-77;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL ENERGY ADMINISTRATION

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Associate Deputy Administrator, Office of the Deputy Administrator for Policy.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-13866 Filed 5-16-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Grant of Authority To Make A Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Secretary (Policy Development), Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-13868 Filed 5-16-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-13862 Filed 5-16-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Secretary (Program Goals), Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-13867 Filed 5-16-77;8:45 am]

DEPARTMENT OF INTERIOR

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Interior to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-13865 Filed 5-16-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Deputy Director, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14085 Filed 5-16-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

TOOELE ARMY DEPOT, UTAH

Notice of Filing of Final Environmental Impace Statements

In compliance with the National Environmental Policy Act of 1969, the Army on April 29, 1977, provided the Council on Environmental Quality with Final Environmental Impact Statements concerning the Transportation of Chemical Material from Tooele Army Depot (North Area), Utah, to Tooele Army Depot (South Area), Utah, and the Dugway Proving Ground, Utah, to Tooele Army Depot (South Area), Utah.

Copies of the Statements have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Commander, USA Armament Material Readiness Command, Attn.: DRSAR-ASN (Mr. Neil Baker), Rock Island Arsenal, IL 61201 (phone 309-794-5916).

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310 (phone 202-694-1163).

Dated: April 29, 1977.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc.77-13998 Filed 5-16-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ERDA-OWNED FOREIGN INVENTIONS

Availability for Licensing

The inventions listed below are the subject of U.S. Government-owned foreign patents and patent applications in the custody of the U.S. Energy Research and Development Administration and are available for licensing in accordance with ERDA Patent Licensing Regulations (Title 10 CFR 781.61):

ARGENTINA

ARGENTINE PATENT

208,118, Method for selectively orienting induced fractures in subterranean earth formations.

AUSTRALIA

AUSTRALIAN PATENTS

465,220, Compact dialyzer.
467,175, Folded membrane dialyzer.
467,849, Rotor for multistation photometric analyzer.
468,637, Multisensor particle sorter.
470,212, Glass polymer composites.
470,383, Hemodialyzer with tapered slit blood ports and baffles.
473,950, Reverse osmosis process using cross-linked aromatic polamide membranes.
475,215, Solder leveling.
475,853, Dynamic multistation photometer-fluorometer.
478,144, Dynamic multistation photometric analyzer for seriological testing.

478,367, Portable dynamic multistation photometer-fluorometer
478,804, Rotor for fluorometric measurement in fast analyzer of rotary type
480,952, Pumpable rockbolt method
481,171, Compact dynamic multistation photometer utilizing disposable cuvette rotor

AUSTRALIAN APPLICATION

83,415/75, Radiant energy collector

AUSTRIA

AUSTRIAN PATENTS

334,115, Compact dynamic multistation photometer utilizing disposable cuvette rotor
334,116, Automated sample-reagent loader

BELGIUM

BELGIAN PATENTS

833,846, Electrochemical cell assembled in discharged state
836,171, Process for solidifying nuclear materials
838,515, Method of preparing electrodes with porous current collector structure and solid reactants for secondary electrochemical cells
838,516, Photomultiplier tube gain regulating system
839,896, Method and apparatus for producing synthetic fuels from solid waste
840,425, Folded membrane dialyzer with mechanically sealed edges
840,426, Method for solidifying liquid radioactive wastes
841,140, Method for dissolving plutonium dioxide
841,665, Ferric ion as a scavenging agent in solvent extraction process
843,518, Method and apparatus for growing HgI_2 crystals
843,519, Purification of HgI_2 for nuclear detector fabrication
844,817, Recovery of cesium and palladium from nuclear reactor fuel processing waste
845,200, Method and apparatus for thermal energy storage
845,620, Bidentate organophosphorus solvent extraction process for actinide recovery and partition

CANADA

CANADIAN PATENTS

987,116, Pumpable rockbolt method
987,128, Portable dynamic multistation photometer-fluorometer
988,321, Compact dynamic multistation photometer utilizing disposable cuvette rotor
989,525, Method of detecting a fuel element failure
989,616, In situ coal bed gasification
989,623, Oxidative stripping process for the recovery of uranium from wet-process phosphoric acid
991,840, Chemical plating method for preparing 252 cf neutron source material
991,861, Chemical digestion of low-level solid nuclear solid waste material
991,885, Automated sample-reagent loader
994,999, Freeze drying method for preparing radiation source material
995,812, Computer generated optical sound tracks
996,526, Centrifugal particle elutriator and method of use
997,168, Method and apparatus for measuring pressures in fluid lines
999,686, Energy absorbing structure to prevent damage to the vessel wall as a result of the effects of a sodium-water reaction in a sodium-steam generator
999,757, Isotope-shift zeeman effect spectrometer
999,999, Refuse and sewage polymer impregnated concrete
1,000,421, Tag gas capsule with magnetic piercing device
1,000,876, Method of locating a leaking fuel element in a fast breeder power reactor
1,003,670, Diffraction smoothing aperture for an optical beam
1,004,662, Method for laser drilling subterranean earth formations
1,004,880, Ductile superconducting alloys
1,005,156, On-line ultrasonic gas entrainment monitor
1,006,376, Simplified rotor for fast analyzer of rotary cuvette type
1,006,631, Radioactive waste storage
1,007,945, Radiant energy collector

CANADIAN APPLICATIONS

252,867, Means of increasing efficiency of CPC solar energy collector
256,012, Reducing heat loss from the energy absorber of a solar collector
257,569, Solar collector with improved thermal concentration
271,829, Solar concentrator with restricted exit angles
271,833, Solar radiation absorbing material

FRANCE

FRENCH PATENTS

71.37,718, Removal of plutonium from plutonium hexafluoride-uranium hexafluoride mixtures
72.09,268, Thermoluminescence dosimeter system
72.36,027, Ferroelectric ceramic longitudinal electrooptic scattering mode devices
72.36,450, Process for the separation of components from gas mixtures
72.42,460, Ferroelectric-type optical filter
73.34,038, Chemical digestion of low-level solid nuclear solid waste material
73.40,330, Impregnated chemical separation particles
73.42,891, Pumpable rockbolt method

FRENCH APPLICATIONS

75/23,210, Radiant energy collector
76/19,437, Means of increasing efficiency of CPC solar energy collector
76/22,366, Reducing heat loss from the energy absorber of a solar collector.
76/22,367, Solar collector with improved thermal concentration.
77/6307, Solar concentrator with restricted exit angles.
77/6832, Solar radiation absorbing material.

GERMANY

GERMAN PATENTS

1,962,027 System providing stable pulse display.

GERMAN APPLICATIONS

P 25 33 530.2, Radiant energy collector.
P 26 28 557.4, Means of increasing efficiency of CPC solar energy collector.
P 26 33 029.0, Solar collector with improved thermal concentration.
P 26 33 030.3, Reducing heat loss from the energy absorber of a solar collector.
P 27 09 284.8, Solar concentrator with restricted exit angles.
P 27 09 637.9, Solar radiation absorbing material.

GREAT BRITAIN

BRITISH PATENTS

1,420,044, Zeeman effect absorption spectrometer.
1,436,921, X-ray image intensifier phosphor.
1,443,127, Pulsed multiline CO_2 laser oscillator appartus and method.
1,444,139, Filler alloys for fluxless brazing aluminum and aluminum alloys.
1,445,723, Ductile superconducting alloys.
1,446,762, Rotor for fluorometric measurements in fast analyzer of rotary type.
1,447,395, Portable dynamic multistation photometer-fluorometer.
1,448,789, Diagnoses of disease states by fluorescent measurements utilizing scanning laser beams.
1,449,080, Electrolyte for applying barrier anodic coatings.
1,449,195, Pumpable rockbolt method.
1,452,225, Formaldehyde based disinfectants.
1,455,203, Centrifugal particle elutriator and method of use.
1,456,599, Potential sensing cell analyzer.
1,457,325, Solder leveling.
1,457,650, Method for concentrating macromolecules.
1,458,132, Chemical trap.
1,465,241, Method for improving the extraction properties of a tributyl phosphate solution.
1,465,884, Process for radiation grafting hydrogels onto organic polymeric substrates.
1,466,518, Intrusion detector self-test system.
1,466,806, Cathode for a secondary electrochemical cell.
1,466,841, Encapsulated thermonuclear fuel.
1,467,887, Method of fabricating graphite for use as a skeletal prosthesis and product thereof.
1,469,024, Charge storage device.
1,470,123, Method of locating a leaking fuel element in a fast breeder power reactor.
1,470,280, Superconducting articles of manufacture and method of producing same.
1,475,245, Indentification of failed fuel element.

BRITISH APPLICATIONS

20,481/75, Radiant energy collector.
20,790/76, Means of increasing efficiency of CPC solar energy collector.
26,778/76, Reducing heat loss from the energy absorber of a solar collector.
26,779/76, Solar collector with improved thermal concentration.
6,076/77, Solar concentrator with restricted exit angles.
6,077/77, Solar radiation absorbing material.

INDIA

INDIAN PATENT

140,416, Portable dynamic multistation photometer-fluorometer.

ISRAEL

ISRAELI PATENTS

40,449, Reverse osmosis process using cross-linked aromatic polamide membranes.
42,632, Dynamic multistation photometric analyzer for serological testing.
42,689, Dynamic multistation photometer-fluorometer.
43,372, Compact dynamic multistation photometer utilizing disposable cuvette rotor.
43,681, Rotor for fluorometric measurements in fast analyzer of rotary type.
43,750, Portable dynamic multistation photometer-fluorometer.
44,583, Automated sample-reagent loader.

ISRAELI APPLICATION

47,516, Radiant energy collector.

ITALY

ITALIAN PATENTS

999,500, Rotor for fluorometric measurements in fast analyzer of rotary type.
1,000,868, Portable dynamic multistation photometer-fluorometer.
1,007,912, Automated sample-reagent loader.
1,009,685, Multisided electron beam excited electrically pumped gas laser systems.
1,009,735, Solder leveling.

ITALIAN APPLICATIONS

83,630 A/76, Means of increasing efficiency of CPC solar energy collector.
83,633 A/76, Reducing heat loss from the energy absorber of a solar collector.

83,634 A/76, Solar collector with improved thermal concentration.

JAPAN

JAPANESE PATENTS

800,646, System for detecting sodium boiling in a reactor.
805,924, Radiochemical counter for bulk materials.
809,517, System providing stable pulse display.
809,670, Analytical photometer with means for measuring, holding and transferring discrete liquid volumes and method of use thereof.
809,672, Antiferroelectric voltage regulation.
810,108, Improved position sensitive radiation detector.
819,091, Scavengers for radioactive iodine.
823,996, Compact dialyzer.

JAPANESE APPLICATIONS

78,482/75, Radiant energy collector.
76-73,059, Means of increasing efficiency of CPC solar energy collector.
76-87,693, Solar collector with improved thermal concentration.
76-88,101, Reducing heat loss from the energy absorber of a solar collector.
77-22,602, Solar concentrator with restricted exit angles.
77-25,330, Solar radiation absorbing material.

PORTUGAL

PORTUGUESE PATENT

63,471, Compact fast analyzer of rotary cuvette type.

SPAIN

SPANISH PATENTS

417,075, Dynamic multistation photometric analyzer for serological testing.
420,501, Rotor for fluorometric measurements in fast analyzer of rotary type.

SPANISH APPLICATIONS

438,813, Radiant energy collector.
450,085, Reducing heat loss from the energy absorber of a solar collector.
450,086, Solar collector with improved thermal concentration.

SWEDEN

SWEDISH PATENTS

72.05,169-1, High-transition-temperature subconductors in the Nb-Al-Ge system.
72.12,490-12, Ferroelectric ceramic longitudinal electrooptic scattering mode devices.
72.16,065-8, Rotor for multistation photometric analyzer.
72.16,659-8, Multisensor particle sorter.
73.11,327-6, Dynamic multistation photometer-fluorometer.
73.13,469-4, Compact dynamic multistation photometer utilizing disposable cuvette rotor.
73.16,035-0, Rotor for fluorometric measurements in fast analyzer of rotary type.
73.16,424-6, Portable dynamic multistation photometer-fluorometer.
74.04,747-3, Automated sample-reagent loader.
74.13,373-7, Method for concentrating macromolecules.

SWEDISH AMERICAN

75.7832-9, Radiant energy collector.

SWITZERLAND

SWISS PATENTS

574,735, Method of fabricating graphite for use as a skeletal prosthesis and product thereof.
575,750, Potential sensing cell analyzer.
576,136, Automated sample-reagent loader.
584,892, Compact fast analyzer of rotary cuvette type.

Copies of the foreign patents can be purchased from their respective foreign patent offices. Copies of the foreign patent applications can be purchased from ERDA for thirty cents ($0.30) per page. When ordering copies of a foreign patent or patent application it is necessary to identify the specific number and title of the patent or patent application.

Application forms for, inquiries as to and requests for a license should be directed to the Assistant General Counsel for Patents, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Each application for a license should be accompanied by a ten dollar ($10) processing fee payable to the U.S. Energy Research and Development Administration.

Dated at Washington, D.C., this 6th day of May 1977.

For the U.S. Energy Research and Development Administration.

HUDSON B. RAGAN,
Acting General Counsel.

[FR Doc.77-14063 Filed 5-16-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 728-6; OPP-50295]

CONREL, ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 36638-EUP-1. Conrel—An Albany International Company, Norwood, Massachusetts 02062. This experimental use permit allows the use of 500 pounds of the pheromone (Z,Z)-7,11-hexadecadien-o-ol acetate and (Z,E)-7,11-hexadecadien-o-ol acetate on cotton as a confusion agent in the control of the pink bollworm. A total of 20,000 acres is involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from April 1, 1977, to April 1, 1978. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on cottonseed has been established.

No. 35977-EUP-1. Hoffmann-LaRoche, Inc. Nutley, New Jersey 07110. This experimental use permit allows the use of 388.5 pounds of the herbicide sodium salt of 2,3:4,6-Bis-O-(1-methylethylidene - α - L - xylo - 2 - hexulofuranonosonic acid for chemical pinching of ornamentals (evergreen and deciduous azaleas, begonias, and fuchsias grown in greenhouse and field nurseries), and as a plant growth retardant on hedges, shrubs, and other ornamentals in outdoor locations. A total of 92.5 acres is involved; the program is authorized only in the States of Alabama, California, Florida, New Jersey, North Carolina, Ohio, Oregon, Texas, and Washington. The experimental use permit is effective from April 7, 1977, to April 7, 1978.

No. 39777-EUP-1. Ethyl Corporation, Richmond, Virginia 23219. This experimental use permit allows the use of 2,000 pounds of the microbiocide bromine chloride to evaluate disinfection of effluent in sewage disposal plants. A 100 gpm slip stream of nondisinfected plant effluent from the secondary clarifier will be treated at a dose of 7.5 ppm average for 210 days. Approximately 30 million gallons of effluent are to be treated; the program is authorized only in the State of Virginia. The experimental use permit is effective from April 7, 1977, to April 7, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.).)

Dated: May 9, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-14006 Filed 5-16-77;8:45 am]

[FRL 728-7]

SCIENCE ADVISORY BOARD, ECOLOGY ADVISORY COMMITTEE

Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held June 6-7, 1977, beginning at 9:00 a.m., the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street SW., Washington, D.C.

This is the twelfth meeting of the Ecology Advisory Committee. The agenda includes a report on the Science Advisory Board activities; responses to the Committee's review of EPA's draft "National Ecological Effects Research Program 1978-1982" and to the Committee's Advisory Statement, "Ecosystem Research Can Save Money"; discussions relative to the "Draft Sulfates Research Plan—Ecological Effects," and to the program plan, "Biological and Climate Effects Research (BACER)—Effects of Stratospheric Modification;" presentations on selected extramural research projects; discussions on collection and maintenance of scientific specimens, items for the Committee's future consideration; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Advisory Committee, (703) 557-7720.

Dated: May 9, 1977.

LLOYD T. TAYLOR,
Acting Staff Director,
Science Advisory Board.

[FR Doc.77-14003 Filed 5-16-77;8:45 am]

[FRL 729-2; OPP-00052]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of meeting.

SUMMARY: There will be a two-day special subcommittee meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Thursday, June 2, and Friday, June 3, 1977. The meeting will be held in the Department of Pathology Conference Room, School of Medicine, University of California, San Francisco, California. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-567), Room E-315, EPA, 401 M St., SW., Washington, D.C. 20460, telephone 202-755-4851.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topic:

Advance draft of the subpart on Hazard Evaluation: Human and Domestic Animals of the Guidelines for Registering Pesticides in the United States.

Any member of the public wishing to attend this meeting should contact Dr. H. Wade Fowler, Jr., at the address shown above. Time will be allotted for brief comments by the public each day; interested persons should contact Dr. Fowler for special instructions regarding oral statements. Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Advisory Panel. All statements will be made a part of the record and will be taken into consideration by the Panel in formulating its own comments.

All interested persons are further advised that the meeting announced in this notice is a subcommittee meeting of the Advisory Panel for the purpose of conducting preliminary reviews of draft proposed rulemaking. Formal review of topics considered by the subcommittee will be conducted by the FIFRA Scientific Advisory Panel at a later date.

(Sec. 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.); sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: May 12, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.77-14098 Filed 5-16-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-345]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

MAY 9, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

341-DSE-P-77 Board of Trustees, Coast Community College District, Huntington Beach, California. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°44'00", Long. 118°00'01". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

342-DSE-P-77 Central Texas College, Killeen, Texas. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°07'06", Long. 97°48'39". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

343-DSE-P-77 Duluth-Superior Area Educational Television Corporation, Duluth, Minnesota. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°47'06", Long. 92°08'52". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

344-DSE-P-77 Nashville Public Television Council, Inc., Nashville, Tennessee. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 36°08'07", Long. 86°46'01". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

345-DSE-P-77 Southwest Texas Public Broadcasting Council, Austin, Texas. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°23'06". Long. 97°43'56". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

346-DSE-P-77 Western New York ETV Association, Incorporated, Buffalo, New York. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 42°56'27", Long. 78°49'28". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

347-DSE-P-77 RCA Alaska Communications, Inc., Shishmaref, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 66°15'21", Long. 166°04'10". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

348-DSE-P/L-77 Home Entertainment Company, Seymour, Connecticut. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°21'43", Long. 73°06'48". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

349-DSE-ML-77 Wheeling Antenna Co., Inc. (WD26), Wheeling, West Virginia. Modification of license to make technical changes to utilize a 5 meter antenna instead of the original 10 meter antenna licensed.

[FR Doc.77-14030 Filed 5-16-77;8:45 am]

[Docket Nos. 21193, 21194; File Nos. BPH-9674, BPH-9847]

REX K. JENSEN AND KIDO BROADCASTERS, INC.

Applications for Construction Permit; Memorandum Opinion and Order

Adopted: May 6, 1977.

Released: May 11, 1977.

In re applications of Rex K. Jensen, Boise, Idaho, requests: 104.3 MHz, Channel 282, 30 kW (H & V); 2670 feet (H & V); KIDO Broadcasters, Inc., Boise, Idaho, requests: 104.3 MHz, Channel 282, 50 kW (H & V); 1790 feet (H & V).

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the above-captioned mutually exclusive applications of Rex K. Jensen (Jensen), Boise, Idaho, and KIDO Broadcasters, Inc. (KIDO), Boise, Idaho, for a construction permit for a new FM broadcast station at Boise, Idaho.

2. Jensen has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971) in three respects. First, from the information before us, it appears that the applicant has failed to survey leaders from a significant group comprising a part of the Boise community. *Voice of Dixie, Inc.*, 45 FCC 2d 1027, 24 RR 2d 1127 (1974), recon. den., 47 FCC 2d 526, 30 RR 2d 851, (1974). Specifically, in his demographic study, Jensen states that Boise is the center of economic and commercial activity in the area, and that the city's manufacturing has expanded so substantially in recent years as to become one of the major industrial employers. However, Jensen has interviewed only several small businessmen, and one representative of a bottling company,

and therefore, our review of his application reveals no one who can be considered as representative of industrial employers within Boise. Second, Jensen has not identified the person who conducted the general public survey as an employee or prospective employee of his proposed station. (See question and answer 11(b) of the *Primer*.) Third, Jensen has not complied with question and answer 29 of the *Primer* which requires that the broadcast matter proposed to meet the needs of the community must be fully described and show which programs are responsive to which problems and needs. For these reasons, a limited ascertainment issue will be specified.

3. Because Jensen proposes independent programming while KIDO proposes to duplicate some of the programming of its commonly owned AM station, KIDO; evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits and detriments to be derived from the proposed duplication which would offset its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360 (1967).

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. Accordingly, *it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine with respect to the efforts of Rex K. Jensen to ascertain the community problems of Boise, Idaho, first, whether the applicant consulted with leaders of industry; second, whether the person who conducted the applicant's general public survey was an employee or prospective employee of the proposed station; and third, whether the applicant's proposed programming meets the problems and needs revealed in his community ascertainment.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to Section 1.221(c) of the Commission's Rules, in person, or by attorney, shall, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

8. *It is further ordered*, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, in Section 1.594 of the Commission's Rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-14031 Filed 5-16-77;8:45 am]

[Docket No. 21179]

UHF CHANNEL READOUT ON TELEVISION RECEIVERS

Order

Adopted: May 6, 1977.

Released: May 11, 1977.

1. Springfield Television Broadcasting Company; National Business Network, Inc.; Delta Television Corporation; and Oklahoma City Broadcast Company have requested that the time for filing comments in this proceeding be extended to July 1, 1977 and that the time for filing reply comments be extended to July 22, 1977.

2. In support of their request, petitioners state that the additional time is needed to develop the information sought by the Commission in this proceeding. We wish to develop as much information as possible to help us resolve questions addressed in the Notice of Inquiry and are therefore granting the request.

3. Accordingly, *it is ordered*, Pursuant to Section 0.251(b) of the Rules and Regulations, 47 CFR 0.251(b), That the time for filing comments in this proceeding is extended to July 1, 1977, and that the time for filing reply comments is extended to July 22, 1977.

LAWRENCE W. SECREST III,
Deputy General Counsel.

[FR Doc.77-14034 Filed 5-16-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of April 29 Through May 6, 1977

Notice is hereby given that during the week of April 29 through May 6, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the applications within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

MAY 12, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Apr. 29 through May 6, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Apr. 29, 1977	Guam Oil & Refining Co., Inc., Dallas, Tex. (If granted: Guam Oil & Refining Co., Inc., would receive a stay of the requirements of 10 CFR 211.67(a) pending a final determination of its application for exception.)	FES-4105	Stay of 10 CFR 211.67(a)
Do	Keener Oil Co., Tulsa, Okla. (If granted: Keener Oil Co.'s Seminole County, Okla., leases from which production was sold to OKC Corp., would be recertified.)	FEE-4110	Price exception (sec. 212.73).
Do	UCO Oil Co., Whittier, Calif. (If granted: UCO Oil Co. would receive an extension of the relief granted in the FEA's Feb. 17, 1977, decision and order and would be assigned new, lower priced suppliers of motor gasoline.)	FXE-4111	Extension of the relief granted in UCO Oil Co., 5 FEA par. 83,065 (Feb. 17, 1977).
May 2, 1977	Commonwealth Oil Refining Co., Inc., Washington, D.C. (If granted: The FEA's Apr. 14, 1977, decision and order would be rescinded and the Commonwealth Oil Refining Co. would receive retroactive and prospective relief from its old oil entitlements program purchase obligations.)	FXA-1279	Appeal of the FEA's decision and order in Commonwealth Oil Refining Co., 5 FEA par. ---- (Apr. 14, 1977).
Do	Montara Petroleum Co., Palo Alto, Calif. (If granted: Crude oil produced from Montara Petroleum Co.'s DT-32x well in the Cat Canyon Oil field in Santa Barbara County, Calif., would be sold at upper tier ceiling prices on a retroactive basis.)	FEE-4113	Price exception (sec. 212.-73).
Do	Stovall Oil Co., Casper, Wyo. (If granted: Crude oil produced from the Caballo unit in the Dead Horse Creek field in Campbell County, Wyo., would be sold at upper tier ceiling prices.)	FEE-4112	Do.
Do	TOSCO Corp., Washington, D.C. (If granted: The FEA's Mar. 31, 1977, decision and order would be rescinded, TOSCO Corp. would not be required to refund overcharges resulting from the incorrect calculation of its May 15, 1973, selling prices, and the firm would be permitted to continue to utilize those prices in determining its maximum allowable selling prices.)	FXA-1280	Appeal of FEA's decision and order in TOSCO Corp., 5 FEA par. ---- (Mar. 31, 1977).

Date	Name and location of applicant	Case No.	Type of submission
May 3, 1977	Atlantic Richfield Co., Los Angeles, Calif. (If granted: The FEA's Jan. 13, 1977, decision and order, would be rescinded and Atlantic Richfield would not be required to comply with the requirements of the remedial order issued by region IX on Sept. 2, 1976.)	FMR-0104	Modification of FEA's decision and order in Atlantic Richfield Co., 5 FEA par. 80,521 (Jan. 13, 1977).
Do	Brooks Exploration Inc., Denver, Colo. (If granted: Crude oil produced from the Kitteison No. 1 well in Divide County, N. Dak., would be sold at upper tier ceiling prices for the benefit of the working interest owners.)	FEE-4114	Price exception (sec. 212.-73).
Do	B. J. Hickman, Kimball, Nebr. (If granted: Mr. B. J. Hickman would be permitted to determine the price of the crude oil which he produced and sold from the J. R. Cross property without regard to a current cumulative deficiency and would not be required to refund alleged over-charges in his sales of crude oil to Koch Oil Co.)	FEE-4119	Price exception (sec. 212.72)
Do	Johns-Manville, Denver, Colo. (If granted: The FEA's information request denial would be rescinded and Johns-Manville would receive a copy of the summary evaluation of the feasibility of total conversion of coal firing for the Waukegan BM plant of Johns-Manville Corp.	FFA-1283	Appeal of FEA's information request denial.
Do	Louis Kahan, Tulsa, Okla. (If granted: Louis Kahan would receive a stay of the requirements of the remedial order issued by FEA region VI on Apr. 11, 1977, pending a final determination on an appeal which the firm states it will file.)	FRS-1281	Stay of the redmedial order issued by region VI on Apr. 11, 1977.
Do	Laketon Asphalt Refining, Inc., Evansville, Ind. (If granted: The FEA would review the entitlements exception relief granted to Laketon Asphalt Refining, Inc., during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0156	Review of entitlements exception relief.
Do	Sun Co., Inc., Philadelphia, Pa. (If granted: The FEA's Feb. 25, 1977, decision and order issued to Amtel, Inc., would be rescinded and Sun Co., Inc., would not be required to reduce its sales price for motor gasoline which it supplies to Amtel, Inc.)	FXA-1282	Appeal of FEA's decision and order in Amtel, Inc., 5 FEA par. 83,091 (Feb. 25, 1977).
Do	UCO Oil Co. (UCO Terminals, Inc.), Whittier, Calif. (If granted: UCO Terminals, Inc., a subsidiary of the UCO Oil Co., would be permitted to import into district V, 1,227,500 bbls. of unfinished product gasoline on a fee-free basis during the allocation period May 1, 1977, through Apr. 30, 1978.)	FPI-0116	Exception to sec. 213.35.
Do	Vickers Energy Corp. (TransOcean Oil, Inc.). (If granted: TransOcean Oil, Inc., a subsidiary of Vickers Energy Corp., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Calumet, Mayfield, Patterson, and Putnam Oswego plants.)	FEE-4115—Price exception (sec. 212.-FEE-4118 165).	
May 4, 1977	Franklin Oil Co., Old Saybrook, Conn. (If granted: Franklin Oil Co. would be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, the A-1 Oil Co.)	FEE-4121	Exception to change suppliers (sec. 211.9).
Do	Peters Fuel Corp., Oakland, Md. (If granted: The FEA's Mar. 30, 1977, decision and order would be rescinded and Peters Fuel Corp. would be permitted to increase its prices for fuel oil above the maximum level permited under 10 CFR 212.93.)	FXA-1285	Appeal of FEA's decision and order in Peters Fuel Corp., 5 FEA par. ---- (Mar. 30, 1977).
Do	San Joaquin Refining Co., Newport Beach, Calif. (If granted: The FEA's Feb. 1977, entitlement notice issued Apr. 26, 1977, would be revised and San Joaquin Refining Co. would be permitted to sell 39,797 entitlements.)	FEA-1284	Appeal of FEA's February 1977, entitlement notice issued, Apr. 26, 1977.
Do	Texas Pacific Oil Co., Inc., Dallas, Tex. (If granted: Crude oil produced from the W. J. Decker lease within the 1st Wilcox sand unit B, East Baton Rouge Parish, La., would be sold at upper tier ceiling prices without regard to the property's cumulative crude oil production deficiency.)	FEE-4120	Price exception (sec. 212.-72).
May 5, 1977	Elliot's Flying Service, Des Moines, Iowa. (If granted: Elliot's Flying Service would be permitted to increase prices for 80 Octane Av Gas, 100 Octane Av Gas, and K-40 jet fuel above the maximum levels specified in 10 CFR 212.93.)	FEE-4123	Price exception (sec.212.-93.)
Do	Friendly Neighbors Gas Corp., Henryetta, Okla. (If granted: The Friendly Neighbors Gas Corp. would not be classified as a gas distributor and would not be required to remit a yearly pipeline division fee.)	FEE-4125	Exception.
Do	Gas Del Oro, Inc.; Gas Del Oro International, Inc.; and El Dorado Marketing Co. of Laredo, Houston, Tex. (If granted: The office of private grievances and redress would direct other FEA personnel to take action on the request for an interpretation submitted by Gas Del Oro, Inc.; Gas Del Oro International, Inc., and the El Dorado Marketing Co.)	FSG-0043	Request for special redress.
Do	Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, P.C. Washington, D.C. (If granted: The FEA information access office would be directed to respond to a request submitted by John M. Coffey for documents relating to the requirement that firms compute inventory costs on a companywide basis.)	FFA-1286	Appeal of FEA's information request denial.
Do	Southland Oil Co., Jackson, Miss. (If granted: Southland Oil Co. would receive an extension of the exception relief granted in the FEA's Dec. 15, 1976, decision and order and would not be required to purchase entitlements under the old oil entitlements program.)	FXE-4124	Extension of the relief granted in Southland Oil Co., 4 FEA par. 83,256 (Dec. 15, 1976).
Do	Victoria Equipment & Supply Co. (If granted: Crude oil produced from Keeran Ranch-D lease in Victoria County, Tex., would be sold at upper tier ceiling prices on a retroactive basis.)	FEE-4122	Price exception (sec. 212.73).

[FR Doc.77-14080 Filed 5-13-77;8:57 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Availability of Final Revised Programmatic Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C) and 10 C.F.R., parts 208, 303, and 305, the Federal Energy Administration (FEA) has prepared a final revised programmatic environmental impact statement (EIS) to reflect the amendment of section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), 15 U.S.C. 791 et seq., effected by the Energy Policy and Conservation Act, Pub. L. 94-163.

Under ESECA, as amended, the FEA is authorized to prohibit certain powerplants and major fuel burning installations from burning natural gas or petroleum products as their primary energy source and to require certain powerplants and major fuel burning installations in the early planning process to be designed and constructed to be capable of using coal as their primary energy source. The FEA implements this authority by issuing prohibition orders and construction orders, respectively. The final revised ESECA programmatic EIS includes public comments received on the draft revised ESECA programmatic EIS and FEA analyses and responses to those comments.

Single copies of the final revised programmatic EIS may be obtained from FEA's National Energy Information Center, Room 1404, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies of the final revised programmatic EIS will also be available for public inspection in the FEA Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit comments with regard to the final revised ESECA programmatic EIS to Executive Communications, Box MQ, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on comments submitted to FEA with the designation, "Final Revised ESECA Programmatic EIS." Fifteen copies should be submitted. All comments should be received by June 17, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Inquiries concerning the final revised programmatic EIS should be directed to Gerald J. Parker or Beverley Crispin,

Office of Coal Utilization, Federal Energy Administration, Room 6149, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. 202–566–9580).

Issued in Washington, D.C. on May 12, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–14079 Filed 5–13–77;8:57 am]

MID-CONTINENT PETROLEUM PIPELINE SYSTEMS

Public Hearing and Request for Data on Projected Throughputs for and Capacity

AGENCY: Federal Energy Administration.

ACTION: Notice.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice that it will hold a public hearing and receive written comments from pipeline companies and refiners and other firms participating in the Canadian Allocation Program (CAP) to enable it to determine the projected throughputs for and capacity of the petroleum pielines in the mid-continent serving Illinois and the Northern Tier states. The data received in this proceeding will enable the agency to assess more accurately the extent to which the mid-continent pipeline system can support additional volumes of domestic crude oil to be moved to Canada and exchanged for Canadian crude oil to supplement refiners' supplies in face of the declining export levels for Canadian crude oil.

DATES: Comments by May 27, 1977; requests to speak by May 24, 1977; statements by May 26, 1977; hearing to be held on May 27, 1977, at 9:30 a.m.

ADDRESSES: Written data and request to speak at the hearing to: Executive Communications, Room 3309, Federal Energy Administration, Box MP, Washington, D.C. 20461; statements to Regulations Management, Federal Energy Administration, Room 2214, 2000 M Street NW., Washington, D.C. 20461.

HEARING HELD AT:

Federal Energy Administration, Room 2105, 200 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanne Williams (FEA Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. (202) 566–9161.

Mario Cardullo (Program Office), 2000 M Street NW., Room 6128, Washington, D.C. 20461 (202) 254–8464.

Michael Paige or Samuel M. Bradley, (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202) 566–9565.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In January 1976 FEA adopted the Mandatory Canadian Crude Oil Allocation Regulations set forth in 10 CFR Part 214 in response to the Canadian National Energy Board's (NEB) decision in 1974 to gradually phase out exports of crude oil to the United States in the early 1980's. The regulations, which are intended to give the refiners that are most dependent on Canadian crude oil additional time to arrange for alternative crude oil delivery systems, provide for the allocation on a preferential basis of crude oil and plant condensate imported from Canada to priority classes of refiners and other firms.

Since 1974, the NEB has accelerated the decline in the export levels of Canadian crude oil, particularly the light crude oils, and many refiners are experiencing increasing difficulty in replacing their Canadian feedstocks. In light of the diminishing supply of Canadian crude oil, crude oil exchanges between United States and Canadian refiners appear to have become an increasingly important short-term supply supplement for refiners participating in the CAP. Canadian crude oil involved in such exchanges is considered to be outside the Canadian exportable surplus and therefore not subject to FEA's Mandatory Canadian Crude Oil Allocation Regulations.

The potential for crude oil exchanges between United States and Canadian refiners is limited by several factors, including (1) limited pipeline capacity from the Gulf of Mexico through Chicago to support exchanges of domestic for Canadian crude oil; (2) the NEB's policy that the Sarina/Montreal pipeline be maintained at full capacity; and (3) the NEB's requirement that, as one of the conditions precedent to NEB approval of exchanges of forign for Canadian crude oil via the Portland, Maine to Montreal pipeline, FEA confirm that the mid-continent pipeline system is at capacity. With regard to the third factor, at present FEA is greatly limited in its ability to furnish the NEB with meaningful data regarding the capacity of the mid-continent pipeline system because there is no requirement to report such data applicable to the firms which own the pipelines or the refiners which use the system. Although FEA has been able to obtain monthly utilization data from some pipeline companies, the agency does not have sufficient information essential to the development of a comprehensive policy for United States and foreign crude oil exchanges with Canadian refiners, such as monthly, quarterly and annual forecasts of required throughput to the various locations served by each pipeline, maximum pipeline capacity to each location, problems encountered by refiners in obtaining adequate throughput space, and expansion plans of each pipeline company.

In light of the increasing demand among refiners for crude oil exchanges with Canadian refiners in response to the declining export levels for Canadian crude oil, FEA has concluded that it should solicit at this time the pipeline information set forth below to improve FEA's ability to determine more adequately whether exchanges of United States for Canadian crude oil utilizing the mid-continent pipeline system should be limited in volume and duration due to a lack of spare pipeline capacity and, in addition, whether there is a resulting need for exchanges between United States and Canadian refiners involving solely foreign source crude oil.

FEA believes that it has ample existing statutory authority to institute a mandatory reporting requirements for pipeline companies and refiners with respect to the pipeline capacity and throughput information solicited in this notice. In the event that the information received in response to this notice is inadequate, FEA will consider the imposition of a mandatory reporting requirement to elicit the required data. In this regard, FEA specifically requests comments as to the extent to which this information is already available to the U.S. Government; the frequency of reports; what sort of analysis, if any, should accompany reports; the most appropriate reporting mechanism to be utilized; the costs and burdens of such a reporting requirement; and the extent to which pipeline throughput and capacity data should be accorded treatment as proprietary.

DATA REQUESTED FROM PIPELINE COMPANIES

The following information is requested from firms that own and/or operate crude oil and petroleum product pipelines in the mid-continent that provide direct or interconnecting service to Illinois and the Northern Tier states, i.e., Michigan, Wisconsin, Minnesota, North Dakota, Montana and Washington. Information furnished to FEA should not necessarily be limited to the items enumerated below but may be expanded to include any other factors affecting the pipelines' systems capabilities to transport crude oil and petroluem products into the Northern Tier states.

(1) Name of the pipeline, point of origin and locations served.

(2) The rated capacity of the pipeline by segment by calendar quarter for 1976 and the first half of 1977, and the projected rated capacity by calendar quarter for the second half of 1977, 1978, 1979, and 1980. The basis for the capacity figures, i.e., viscosity, service factors, etc., should be identified.

(3) The actual throughput by calendar quarter for 1976 and the first half of 1977, and the projected throughput by calendar quarter for the second half of 1977, 1978, 1979, and 1980. FEA recognizes that projections of throughput are generally used for planning purposes only and that they may vary from actual throughput and requests that the methodology used in developing projections of throughput be set forth.

(4) The crude oil and petroleum product capabilities of the pipeline, including quality of product and crude limitations, segregation requirements, tender sizes, terminal storage requirements and breakout tankage limitations.

(5) Any existing or projected operating constraints, i.e., dock, terminal or pumping limitations, environmental restrictions, etc., and any existing or future capabilities to increase throughput volumes.

(6) Interconnections with other pipelines and transfer capacities.

(7) Proration policy and procedures.

(8) Nomination procedures and time table.

(9) Planned expansions and modifications through 1980.

DATA REQUESTED FROM REFINERS SUBJECT TO CANADIAN ALLOCATION PROGRAM

The following information is requested from the refiners and other firms participating in the CAP that utilize the pipelines in the mid-continent system.

(1) Any operating factors that have limited or will limit utilization of pipelines in the mid-continent system.

(2) Any problems encountered in obtaining adequate throughput space in the mid-continent pipeline system.

In addition to the foregoing specific items, FEA also invites comments from both pipeline companies and refiners participating in the CAP as to an appropriate data collection procedure that will enable FEA to advise the NEB when the mid-continent pipeline system is operating at capacity and thus cannot support additional exchanges of domestic for Canadian crude oil.

CONFIDENTIAL INFORMATION

In accordance with the procedures stated in 10 CFR 205.9(f), any person or firm which believes that any information provided to FEA in its response is a trade secret or commercial or financial information that is privileged or confidental and that disclosure of this information may cause significant competitive damage to it must inform FEA of this conclusion. Specifically, the person or firm must (1) file, together with the response, a second copy of the response on which has been clearly indicated the information the release of which the person or firm believes would cause significant competitive damage and (2) indicate on the original response that it contains confidential information. The person or firm should file a statement which explains, item by item, the exact nature of the significant competitive damage which would result from the release of each item, and whether that item is customarily treated as confidential by the firm and the industry. FEA retains the right to make its own determination regarding any claim of confidentiality. Notice of the decision by FEA to deny such claim in whole or in part, and an opportunity to respond, shall be given to a person or firm claiming confidentiality of information no less than five days prior to its public disclosure.

PROCEDURES FOR PUBLIC HEARINGS AND SUBMISSION OF WRITTEN COMMENTS

A. *Written Comment Procedures.* Interested persons are invited to participate in this proceeding by submitting data, views, or arguments with respect to the specific items for comment set forth in this notice to Executive Communications, Federal Energy Administration. Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation, "Mid-continent Pipeline System", Box MP. Fifteen copies should be submitted. All written comments should be submitted by 4:30 p.m. on May 27, 1977. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

B. *Public Hearings*—1. *Request procedure.* A public hearing to receive oral presentation of data, views and arguments from interested persons will be held at the time and place indicated earlier in this notice.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., May 24, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue (N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Mid-continent Pipeline System."

The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through May 26, 1977.

Each person selected to be heard will be notified by FEA before 4:30 p.m., May 25, 1977, and must submit 15 copies of his or her statement to the address and by the date given earlier in this notice.

2. *Conduct of hearings.* FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., on the day prior to the hearing. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection in the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., May 13, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77–14130 Filed 5–13–77;11:52 am]

FEDERAL MARITIME COMMISSION

CAPITALIZATION OF THE COST OF FUNDS USED DURING VESSEL CONSTRUCTION

Request for Comments and Information

The issue of capitalizing the cost of funds employed during a period of construction has become a matter of interest to both the maritime industry and the Commission. This cost of funds concept includes two elements: (a) actual interest paid on funds borrowed to finance construction, and (b) the cost of other funds, if any, used for construction—representing the cost of equity funds.

Concern over the question of capitalizing actual interest expense during construction is not unique to the maritime industry. The accounting profession, through the Financial Accounting Standards Board, has the matter under active consideration. The Securities and Exchange Commission (SEC) has recently imposed a moratorium on changing to the capitalization method, with exceptions for utility companies, savings and loan associations, and retail land companies, which have all traditionally followed this practice.

The question of capitalization of the cost of using equity funds for construction is another matter. Although permitted by certain regulatory agencies, it does not have the broad support of interest expense capitalization.

Matson Navigation Company, (Matson) a common carrier by water in the domestic offshore trades, has petitioned the Commission to institute a rule-making proceeding which would result in the promulgation of the following rule:

Carriers using the uniform system of accounts prescribed by the Maritime Administration shall include in the original cost of a vessel acquired by the carrier from the builder: (a) actual interest expense paid on funds borrowed to finance the cost of construction of a new vessel or of conversion or alteration of an existing vessel prior to the time the new, converted or altered vessel is placed in service; and (b) the cost of other funds when so used, calculated at a rate representing the cost of the carrier of equity funds.

We do not have sufficient information on the capitalization of the cost of funds used in construction to determine whether the rule proposed by Matson is adequate or whether another rule would be more suitable. Before considering issuance of a Notice of Proposed Rulemaking regarding the capitalization of the cost of construction funds, we wish to solicit comments on the entire question of the capitalization of the cost of construction funds so that the Commission may be better informed as to the scope and impact of any proposed rule. In addition to comments on Matson's proposed rule, we are particularly interested in obtaining comments on the following questions:

(1) Should investment income be applied to reduce interest expense incurred during construction;

(2) Should capitalization of interest expense be limited to vessels, or include other assets;

(3) What method of computing the rate of interest should be used, such as:

(a) prime rate on paper of various maturities;

(b) current rate of long-term debt;

(c) rate to be earned on short-term investment;

(d) historic cost of obtaining construction funds, and

(e) interest on federally insured loans;

(4) What is the impact of cost of funds capitalization on Capital Construction Fund utilization;

(5) When is a period of construction terminated—e.g., date of delivery, date of completion, date asset is introduced into service, etc., and

(6) What is an appropriate method of determining the rate of return on investment when one carrier capitalizes the cost of funds and the other does not?

Interested persons should submit their comments to the Office of the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before June 17, 1977.

In light of the foregoing the petition for rulemaking is denied.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14075 Filed 5-16-77;8:45 am]

HAWAII AND MATSON

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Streeet, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement as indicated hereinafter) and the statement should indicate that this has been done.

STATE OF HAWAII
MATSON TERMINALS, INC.

and

CALIFORNIA AND HAWAIIAN SUGAR COMPANY

Notice of Agreement Filed by: E. Alvey Wright, Director, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Agreement No. T-2171-6, among the State of Hawaii (Hawaii), Matson Terminals, Inc., (Matson) and California and Hawaiian Sugar Company (C & H), modifies the basic agreement between Hawaii and Matson which provides for the lease of marine terminal space by Hawaii to Matson for use primarily as a container facility. The purpose of the modification is to provide for C & H's construction and installation of improvements on Parcel I for the purpose of receiving, storing and handling of bulk liquid molasses produced on the island of Oahu. Hawaii agrees to the intended construction and installation of the improvements and Matson's operation and maintenance of the improvements on behalf of C & H. C & H shall have title to the improvements, however, in the event that the lease is terminated, Hawaii shall have the option to acquire title to the improvements by paying C & H the then fair market value of such improvements.

Dated: May 12, 1977.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14074 Filed 5-16-77;8:45 am]

[Docket No. RI77-60]

FEDERAL POWER COMMISSION

ALFRED D. McKELVY

Petition for Special Relief

MAY 10, 1977.

Take notice that on April 15, 1977, Alfred D. McKelvy (Petitioner), c/o Richard Jones, 700 Farm Credit Banks Building, Wichita, Kansas 67202, filed in Docket No. RI77-60 a petition for special relief pursuant to Order Nos. 481 and 551 and § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Petitioner seeks to collect a rate of 30 cents per Mcf after Btu adjustment for the sale of natural gas to Northern Natural Gas Company from the Boyd No. 1 Gas Unit Well, Finney County, Kansas. Petitioner states that due to declining production and age and formation conditions, it was necessary to rework, tube and equip the well for the purpose of disposing of excessive amounts of salt water. Petitioner further states that as a result of reworking and reconditioning the well, it is anticipated that abandonment of the well will be postponed for a period of several years and that additional gas production will be secured.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 31, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13982 Filed 5-16-77;8:45 am]

[Docket No. CS75-380, et al.]

BOBCAT OIL COMPANY, ET AL.

Notice of Applications for "Small Producer" Certificates [1]

MAY 10, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS75-380 [1]	Apr. 25,1977	Bobcat Oil Co., 3120 Security Life Bldg., 1616 Glenarm Pl., Denver, Colo. 80202.
CS77-92	Apr. 28,1977	William C. Southmayd, 1908 East 38th St., Tulsa, Okla. 74105.
CS77-501	Apr. 27,1977	Mrs. Ethelyn Shadid, 445 18th St., Santa Monica, Calif. 90402.
CS77-502	Apr. 28,1977	Henry L. Hillman, 2500 1st City National Bank Bldg., Houston, Tex. 77002.
CS77-504	....do....	William J. McCormick, 2905 San Pablo Northeast, Albuquerque, N. Mex. 87110.
CS77-505	....do....	D. L. Hannifin Family Trust, P.O. Box 182, Roswell, N. Mex. 88201.
CS77-506	....do....	Myron Anderson, 250 Mid America Bldg., Midland, Tex. 79701.
CS77-507	....do....	Charles W. Perry, Jr., P.O. Box 371, Midland, Tex. 79701.
CS77-508	....do....	Fred G. Goodman, P.O. Box 4932, Midland, Tex. 79701.
CS77-509	....do....	The 1st National Bank & Trust Co. of Tulsa Executor of the Wm. H. Meissner Estate, P.O. Box 1227, Tulsa, Okla. 74193.
CS77-510	Apr. 29,1977	James H. Dill, P.O. Box 359, Belle Chasse, La. 70037.
CS77-511	....do....	B. H. Hastings, 307 M St., Salt Lake City, Utah 84103.
CS77-512	....do....	R. S. Petroleum, P.O. Bin 2427, Bakersfield, Calif. 93303.
CS77-513	....do....	Burlington Industries, Inc., P.O. Box 21207, Greensboro, N.C. 27420.
CS77-514	May 2,1977	E. B. Yale, P.O. Box 1, Tyler, Tex. 75701.
CS77-515	Apr. 27,1977	Justin H. Arata, 224 West Ludwig Rd., Fort Wayne, Ind. 46825.

[1] Bobcat Oil Co. has sold all of its producing oil and gas properties, and is not in the process of a formal corporation dissolution.

[FR Doc.77-13980 Filed 5-16-77;8:45 am]

[Docket No. RP72-142 (PGA77-5)]

CITIES SERVICE GAS CO.

Proposed Changes in FPC Gas Tariff

MAY 5, 1977.

Take notice that Cities Service Gas Company (Cities Service) on April 6, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that it has filed its Nineteenth Revised Sheet PGA-1 to be effective May 23, 1977, to track tariff changes made by two of its pipeline suppliers, Transwestern Pipeline Company (Transwestern), and Arkansas Louisiana Gas Company (Arkla).

Transwestern has filed its Sixth Revised Sheet Nos. 5 and 6 to its FPC Gas Tariff, Second Revised Volume No. 1, to track increased purchased gas costs and a decreased surcharge adjustment to clear the balance in its Gas Cost Adjustment Account. Such rates will become effective April 1, 1977, pursuant to the order issued March 31, 1977.

Arkla filed its Ninth Revised Sheet No. 185 to its FPC Gas Tariff, Original Volume No. 3, to track increases in its cost of gas due to pipeline supplier rate changes. Such rates became effective January 15, 1977, pursuant to FPC order issued January 18, 1977.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceeding in Docket Nos. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13967 Filed 5-16-77;8:45 am]

[Docket No. CP77-354]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

MAY 6, 1977.

Take notice that on April 22, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP77-354 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 170 Mcf of natural gas per day for Peoples Natural Gas Company (Peoples), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 170 Mcf of natural gas per day for a 2-year period for Peoples, which volumes would be received by Applicant into its Line 7917 in Menallen Township, Fayette County, Pennsylvania, from Peoples. Applicant states that it would redeliver the subject gas to Columbia Gas of Pennsylvania, Inc. (Columbia Pa.), a wholesale customer of Applicant, at an existing point of delivery located at the outlet side of the McClellandtown Compressor Station, German Township, Fayette County, Pennsylvania. Applicant states that the gas so delivered to Columbia Pa. would balance, in part, continuing intrastate exchange of natural gas between Columbia Pa., and Peoples made pursuant to authority of the Pennsylvania Public Utilities Commission at other locations all within the State of Pennsylvania.

It is stated that the gas to be transported is produced by Peoples from a small production field northwest of Uniontown in Fayette County, Pennsylvania. The production from this field has been declining over the years and the decrease in volume has made the continued operation of Peoples' Union Pump Station economically infeasible, it is said. Applicant asserts that the transportation of this gas would allow Peoples to shut down its Union Pump Station which is obsolete and uneconomical to operate; and provide a means for Peoples to utilize the remaining gas production.

Pursuant to a gas transportation agreement dated March 29, 1977, between Peoples and Applicant, Peoples has contracted to pay Applicant a transportation charge reflecting Applicant's average system-wide unit transmission and gathering costs, exclusive of company-use and unaccounted-for gas, which is 17.24 cents per Mcf. Applicant states it would retain for company-use and unaccounted-for gas a percentage of the total volume received for the account of Peoples, which percentage is currently 3.1 percent.

Applicant further states that it would transport the proposed volumes of gas subject to the limits of its pipeline capacity and to its service obligations to its CD, WS, SGES, G and SGS customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13985 Filed 5-16-77;8:45 am]

[Docket No. ES77-35]

COMMUNITY PUBLIC SERVICE CO.

Notice of Application

MAY 10, 1977.

Take notice that on April 29, 1977, the Community Public Service Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act with the Federal Power Commission seeking authorization to borrow from certain banks and to issue (prior to March 31, 1979) short-term unsecured promissory notes or commercial paper to evidence such borrowing in the maximum principal amount of $15,000,000.

Applicant was incorporated in the State of Texas on April 18, 1963, and is domesticated in the States of New Mexico and Arizona. Applicant is the surviving corporation following a merger with Community Public Service Company, a Delaware corporation.

According to Applicant, the purpose of the proposed short-term bank loans and commercial paper will be the reimbursement of the Applicant's treasury for expenditures for the construction, completion, extension or improvement of facilities.

Any person desiring to be heard or to protest the said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13983 Filed 5-16-77;8:45 am]

[Docket No. RP77-18]

EL PASO NATURAL GAS CO.

Notice of Tender of Tariff Filing

MAY 10, 1977.

Take notice that on May 2, 1977, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, certain revised and substitute tariff sheets to its FPC Gas Tariff,[1] providing proposed adjustments to its rates contained on the tariff sheets submitted in the notice of change in rates filed at Docket No. RP77-18 on November 30, 1976, and suspended until June 1, 1977, by order issued December 29, 1976, in this docket.

El Paso states that the rates set forth on the tendered tariff sheets differ from the rates which were suspended in Docket No. RP77-18 in that the suspended rates have been modified by: (i) The required changes resulting from the settlement agreement approved at Docket No. RP72-150, et al.; (ii) the restructured rates as provided by the settlement agreement dated March 21, 1977, pending approval at Docket No. RP76-59; and (iii) the authorized PGAC increases made effective on December 1, 1976, and April 2, 1977, respectively.

Tariff vol. No.	*Tariff sheet designation*
Original vol. No. 1	Substitute 20th revised sheet No. 3-B.
3d revised vol. No. 2	Substitute 10th revised sheet No. 1-D.
Original vol. No. 2 A	Substitute 12th revised sheet No. 1-c.
Original vol. No. 1	Substitute 5th revised sheet No. 63-C.5.
3d revised vol. No. 2	Substitute 5th revised sheet No. 1-M.5.
Original vol. No. 2 A	Substitute 5th revised sheet No. 7-MM.5.
Original vol. No. 1	5th revised sheet No. 27-B.
Original vol. No. 1	6th revised sheet No. 27-C.
Original vol. No. 1	3d revised sheet No. 27-D.

The filing states that El Paso has concurrently filed its motion to place into effect on June 1, 1977, the end of the suspension period in Docket No. RP77-18, the increased rates in Docket No. RP77-18, as contained in the instant tendered, as well as El Paso's related agreement and undertaking respecting El Paso's refund obligations.

El Paso has requested further that the Commission grant waiver of its Regulations Under the Natural Gas Act as may be necessary in order to implement the instant filing on June 1, 1977. El Paso states that copies of the filing and attachments thereto, have been served upon all parties of record in Docket No. RP77-18 and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before May 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13979 Filed 5-16-77;8:45 am]

[Docket No. E-9590]

GEORGIA POWER CO.

Filing of Application to Sell Facilities

MAY 10, 1977.

Take notice that on April 19, 1977 Georgia Power Company (Company) tendered for filing an application for an order authorizing (on or before June 1, 1977) the sale of approximately 68 miles of 115 kv transmission lines, 53 miles of 230 kv transmission lines, and nine substations to the City of Dalton, Georgia ("Dalton"). In addition, the Company filed a document on April 19, 1977 entitled "Motion for Waiver of Filing Requirement". In its motion, the Company requested a waiver of the requirement to file Exhibit D (as required by Section 33 of the Commission's Regulations), subject to the right of the Commission's Staff to request the Company to produce such parts of Exhibit D as are, in the opinion of Staff, necessary for its review of the application. According to the Company, the Company has never filed with the Commission a copy of its First Mortgage Indenture dated March 1, 1941, or supplements thereto. The Company states that the Indenture is 223 pages in length and there have been 42 supplements. The Company further states that assembling and copying these documents would require substantial amounts of time and expense. Finally, in its motion for waiver of requirements, the Company states that Dalton desires to purchase the transmission facilities on or before June 1, 1977.

On April 27, 1977, the Company submitted a letter addressed to the Secretary requesting that the Secretary not publish the notice submitted with the April 19th application. Also in that letter, the Company stated that it would provide the Secretary with an updated notice and a revised application.

On May 2, 1977, the Company tendered for filing a document entitled "First Amendment to Application of Georgia Power Company for Authorization to Sell Facilities." In that filed document the Company states that it seeks authority to sell to Dalton approximately 109 miles of 115 kv transmission lines, 48 miles of 230 kv transmission lines, and nine substations to Dalton. The Company also states that the parties have entered into an Integrated Transmission System Agreement (the "Transmission Agreement") providing for the establishment of an integrated transmission system to be operated by the Company and Dalton which will carry both of their loads free of charge (subject to the conditions of the Transmission Agreement). The Company also states that the Transmission Agreement requires an aggregate investment by each party in the transmission facilities which comprise the integrated transmission system in the proportion of the load in which each party (as defined in the Transmission Agreement) bears to the aggregate load on such system. The Company further states that Dalton desires to purchase certain transmission facilities presently owned by the Company which, after such sale, shall become the Dalton Transmission Facilities under the provisions of the Transmission Agreement.

Any person desiring to be heard or to protest said application should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13976 Filed 5-16-77;8:45 am]

[Docket No. RP77-61]

McCULLOCH INTERSTATE GAS CORP.

Proposed Changes in Rates and Charges

MAY 9, 1977.

Take notice that on April 29, 1977, McCulloch Interstate Gas Corporation (McCulloch) tendered for filing Eleventh Revised Sheet No. 32 and Second Revised Sheet No. 38 to its FPC Gas Tariff, Original Volume No. 1. The Proposed effective date of such revised tariff sheets is June 1, 1977. McCulloch proposes to increase its presently effective PL-1 rate to 132.66¢ per MMBtu (14.65 psia). The presently effective PL-1 rate is subject to final Commission action in Docket No. RP75-98 and McCulloch's pending PGA filing in Docket No. RP73-91. This proposed change in rate is made to recover increases in the cost of service on sales of gas in the Powder River Basin, Wyoming to Colorado Interstate Gas Company ("CIG"), due to diminishing gas reserves, and to insure a reasonable rate of return. McCulloch also proposes to decrease its presently effective X-1 rate to 7.67¢ per Mcf (14.65 psia). The presently effective X-1 rate is subject to final Commission action in Docket No. RP76-66. This proposed rate represents an annual increase in revenues of approximately $43,800 over that amount agreed to by stipulation between CIG and McCulloch in the aforementioned pending Docket No. RP76-66 proceeding. This proposed change in rate is made to recover the same increase in cost referred to hereinabove for PL-1 rates for the transporting of gas from the Spearhead Ranch Area, Wyoming through McCulloch facilities to CIG's Powder River Lateral, Section 34, Township 36 North Range 73 West, Converse County, Wyoming, and to insure a reasonable rate of return. McCulloch states further that this rate request will be applicable to sales of gas in Montana-Wyoming Area. According to McCulloch, its total net operating revenue for 1976 was $4,793,183.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13974 Filed 5-16-77;8:45 am]

[Docket No. RP77-58]

MID LOUISIANA GAS CO.

Proposed Change in FPC Gas Tariff

MAY 9, 1977.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on April 29, 1977, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Twenty-Fifth Revised Sheet No. 3a, Original Sheet No. 12c, Original Sheet No. 12d and Third Revised Sheet No. 26b.

Mid Louisiana states that the purpose of the filing is to reflect an increase in rates to be effective June 15, 1977, to submit a new transportation rate schedule and to make a change in the method of computing future purchased gas adjustments to reduce future surcharges. The proposed changes would increase Rate Schedules G-1, SG-1 and I-1 from 81.13 cents per Mcf to 108.73 cents per Mcf based on operations for the calendar year 1976, as adjusted.

Mid Louisiana states that the principal reasons for the proposed increase are (1) the cost increases arising from the connection and transportation of new sources of supply, at higher costs, to replace declining volumes from existing sources, (2) increases in employee pay-

[1] Gas tariff:

roll and benefit program expenses, and (3) other cost increases net of decreases arising during the past two years. Adjustments have also been made to reflect cost decreases associated with Mid Louisiana's sale of the Hester Storage Field to Transcontinental Gas Pipe Line Company (Transco) and the cost of future storage services to be provided by Transco. Mid Louisiana states that the net effect of these adjustments does not have a significant impact upon the Company's rates.

Copies of the filing have been served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13971 Filed 5-16-77;8:45 am]

[Docket No. RP76-4]

NATIONAL FUEL GAS SUPPLY CORP.

Filing of Revisions to Settlement Agreement

MAY 9, 1977.

Take notice that on April 18, 1977, National Fuel Gas Supply Corporation (National Fuel) tendered for filing certain revisions to the proposed settlement agreement certified to thecommission in the captioned proceeding on September 27, 1976. National Fuel states that the revisions, having resulted from further settlement discussions among the parties, reduce the settlement cost of service by $23,866.

Any person desiring to be heard or to protest said revisions to the proposed settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 23, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13981 Filed 5-16-77;8:45 am]

[Docket Nos. RP75-108 and RP76-106]

NATURAL GAS PIPELINE CO. OF AMERICA

Filing of Proposed Settlement Agreement

MAY 10, 1977.

Take notice that on April 28, 1977 Natural Gas Pipeline Company of America (Natural) tendered for filing a proposed settlement agreement in the captioned dockets. Natural states that the settlement agreement disposes of all issues in the two proceedings.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 23, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13978 Filed 5-16-77;8:45 am]

[Project Nos. 2498 and 2499]

NEKOOSA PAPERS INC.

Notice of Application for Approval of Transfer of Licenses

MAY 9, 1977.

Public notice is hereby given that an application was filed on March 11, 1977, under the Federal Power Act, 16 U.S.C. 791a–825r, by Nekoosa Papers Inc. (Correspondence to: Mr. Robert R. Johnson, Secretary, Nekoosa Papers Inc., 100 Wisconsin River Drive, Port Edwards, Wisconsin 54469; and Mr. John M. Forester, Ruder, Ware, Michler & Forester, S.C., P.O. Box 1244, Wausau, Wisconsin 54401) for Commission approval of the transfer of the minor licenses for the Hewittville Project, FPC No. 2498, and the Unionville Project, FPC No. 2499, to Potsdam Paper Corporation of Wilmington, Delaware. Projects Nos. 2498 and 2499 are located in St. Lawrence County, New York, on the Raquette River.

The Hewittville Project consists of: (1) a combination gravity and buttress dam 550 feet long and 19 feet high above bedrock, with flashboards which add two feet to the height of the dam when used; (2) six 18-foot-deep and 13-foot-wide masonry flumes which convey water to six waterwheels; and (3) a reinforced steel and concrete powerhouse containing generating facilities with a total installed capacity of 1,770 horsepower.

The Unionville Project consists of: (1) a concrete buttress dam 299 feet long and 18 feet high, with flashboards which add two feet to the height of the dam when used; (2) a masonry flume 18 feet wide and 80 feet long; and (3) a brick and reinforced concrete powerhouse containing generating facilities with a total installed capacity of 1,859 horsepower.

The projects are located adjacent to paper mills and the power generated at the projects is utilized in the mill operations.

Potsdam Paper Corporation has filed a certificate of incorporation, corporate by-laws, and a certificate of authority to do business in the State of New York as evidence of its compliance with all applicable State laws as required by Section 9(b) of the Federal Power Act, 16 U.S.C. 802(b). Following the conveyance of title to the project properties, the transferee would submit certified copies of all of the instruments of conveyance.

Applicant has requested the shortened procedure provided for under Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 1, 1977, file with the Federal Power Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules, of practice and procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's rules of practice and procedure, specifically § 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13970 Filed 5-16-77;8:45 am]

[Docket Nos. E-9068, E-9118, E-9407]

OHIO EDISON CO.

Filing of Settlement Agreement

MAY 9, 1977.

Take notice that, on May 3, 1977, Ohio Edison Company (Ohio Edison) tendered for filing to the Commission a settlement agreement between itself and twenty municipal intervenors in the above-captioned proceedings together with a Motion for Approval of Settlement Agreement and Termination of Proceedings.

Ohio Edison states that the Settlement Agreement resolves all issues in controversy between the parties in these proceedings.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 27, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHWELL,
Acting Secretary.

[FR Doc.77-13975 Filed 5-11-77;8:45 am]

[Docket No. G-17350, etc.]

PACIFIC GAS TRANSMISSION CO. AND NORTHWEST PIPELINE CORP.

Order Granting Reconsideration and Amending Prior Order

MAY 9, 1977.

On February 17, 1977, the Commission issued an order in the above docketed proceeding authorizing the continued importation of gas from Canada by Northwest Pipeline Corporation (Northwest) [Docket No. CP75-340] together with permission for Pacific Gas Transmission Company (PGT) [Docket Nos. G-17350, G-17351, CP69-346 and CP69-347] to transport the imported gas on a best efforts basis for the benefit of Northwest. Ordering Paragraph (C) of the February 17, 1977 order conditioned the importation such that none of the volumes "shall be used to displace alternate fuel capability or cause the gas to displace alternate fuel capability." On March 21, 1977, Northwest filed an untimely application for rehearing[1] requesting that the condition contained in Ordering Paragraph (C) be deleted. PGT submitted, on April 4, 1977, a statement in support of the Northwest application.

The most recent Northwest import request is a continuation of a series of arrangements with Canadian companies first authorized in Docket No. CP73-332 by order issued September 21, 1973.[2] The historical context of the Northwest imports is set forth in our February 17, 1977 order in this proceeding, and it is sufficient to note here that the instant application is part of an established pattern of imports that provides a substantial portion of the base supply of Northwest.

In its application for reconsideration, Northwest points out the long-term nature of the Canadian imports and their contribution to base supply. Northwest attempts, thereby, to differentiate its situation from the emergency type imports authorized this part winter,[3] which Northwest surmises, was the cause of the alternate fuel capability condition being imposed on it, since none of Northwest's prior import authorizations contain this restriction. Furthermore, Northwest contends that because the Canadian gas is part of its base supply used to service high priority customers, the possibility could arise that a Northwest customer may use imported gas to displace alternate fuel. Northwest concludes, therefore, that the logical result of the condition in Ordering Paragraph (C) would be to entirely prevent Northwest from being able to take the Canadian gas, thereby depriving its distributor customers of much needed gas supply.

Northwest has protested the inclusion of Ordering Paragraph (C) of the February 17, 1977 order primarily because it is not applicable to its particular situation, but the company also argues that Ordering Paragraph (D), to which Northwest is not opposed, will provide the same public interest protections as were intended by the alternate fuel capability displacement condition in Ordering Paragraph (C). Ordering Paragraph (D) provides that the importation is allowed with the understanding that Northwest may in the future be required by the Commission to sell the Canadian volumes to another pipeline with a greater need to protect high priority uses.

Upon reconsideration, we find that the alternate fuel capability displacement condition contained in Ordering Paragraph (C) of the February 17, 1977, order should be deleted. That restriction was imposed on the recipients of emergency foreign purchases for the purpose of insuring that the vitally needed assistance from Canada would be preserved for uses that only natural gas could satisfy and to prohibit the recipients from utilizing the more expensive imported gas to serve new customers. The Commission continues to encourage Northwest's customers to actively change over to alternate fuels where possible. The Commission is also opposed to the use of imported gas to permit the addition of system customers. However, due to Northwest's need for imported gas to service its base customers and the practical problems Northwest has in monitoring numerous indirect customers, the alternate fuel capability condition imposed on the company by Ordering Paragraph (C) of the February 17, 1977, order should be deleted.

The Commission finds: The motion of Northwest for reconsideration of the order issued on February 17, 1977, should be granted, and Ordering Paragraph (C) of said order should be deleted therefrom.

The Commission orders: The motion for reconsideration of the February 17, 1977, order in Docket Nos. G-17350, et al., filed by Northwest on March 21, 1977, is granted and Ordering Paragraph (C) of said order is herewith deleted therefrom.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13965 Filed 5-16-77;8:45 am]

[1] We will treat the late-filed application of Northwest as a motion for reconsideration.

[2] 50 FPC 825 (1973).

[3] See *Columbia Gas Transmission Corporation*, Docket No. CP77-126 (Orders issued January 18 and February 20, 1977).

[Docket No. RP77-62]

TENNESSEE GAS PIPELINE CO.

Filing of Proposed Changes in Rates

MAY 6, 1977.

Take notice that on April 29, 1977, Tennessee Gas Pipeline Company a Division of Tenneco Inc. (Tennessee), tendered for filing proposed changes in its FPC Gas Tariff to be effective June 1, 1977, consisting of the following revised tariff sheets:

Ninth Revised Volume No. 1: Seventh Revised Sheet Nos. 12A and 12B.

Sixth Revised Volume No. 2: Second Revised Sheet Nos. 246D, 247D, 248D, 249H, and 249I; Third Revised Sheet No. 245D; Fourth Revised Sheet Nos. 76 and 215; Fifth Revised Sheet Nos. 53, 54, 77 and 141; Eighth Revised Sheet Nos. 11 and 12.

The proposed changes would increase revenues from jurisdictional sales and services by $41,492,762 based on a test period consisting of the twelve months ended January 31, 1977, adjusted for known changes through October 31, 1977.

Tennessee states that the increased rates are required to reflect declining sales due to gas supply curtailment, an increase in rate of return to 11.67 percent and related income taxes, increased plant and related expenses, and increases in the cost of materials, supplies, wages, and taxes.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13968 Filed 5-16-77;8:45 am]

[Docket No. RP76-99]

TENNESSEE NATURAL GAS LINES, INC.

Filing of Stipulation and Agreement in Settlement of Rate Proceeding

MAY 10, 1977.

Take notice that on May 2, 1977, Tennessee Natural Gas Lines, Inc. (TNGL)

filed with the Commission a Stipulation and Agreement proposed in settlement of the above captioned rate proceeding and a motion for approval thereof. TNGL states that the Stipulation and Agreement, if approved by the Commission, provides for resolution of all issues in this proceeding "with the exception of the issue as to the proper-rate-making treatment to be applied to TNGL's LNG facilities and operations, which issue is reserved for hearing."

Any person desiring to be heard or to protest said stipulation and agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 1, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13977 Filed 5-16-77;8:45 am]

[Docket No. CP77-362]

TEXAS GAS TRANSMISSION CORP.

Application

MAY 6, 1977.

Take notice that on April 28, 1977, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP77-362 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation, and operation of two 1,100 horsepower compressor units and related pipeline facilities, and for permission and approval to abandon and relocate certain other facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that on March 17, 1977, Applicant was granted temporary authorization to install and operate a 1,100 horsepower, skid-mounted compressor engine as an emergency and temporary measure to ensure that Applicant would be able to receive 51,000 Mcf of natural gas per day (at 14.73 psia) which had, prior to February 23, 1977, been received through a three-way, best-efforts exchange arrangement among Applicant, Transcontinental Gas Pipe Line Corporation (Transco) and United Gas Pipe Line Company (United). Applicant states that on February 23, 1977, the exchange delieveries were terminated because of United's need for capacity to handle emergency deliveries of gas in the segment of United's system which was involved in the three-way exchange.

It is stated that in addition to providing a long-term solution of the three-way exchange, supra, the facilities have been designed to enable Applicant to bring directly into its system all gas being transported by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and Columbia Gulf Transmission Company (Columbia Gulf) through their offshore facilities, as well as to provide flexibility which is needed in an important segment of Applicant's supply system.

Applicant requests authorization to construct, install, and operate the following facilities:

Approximately 18.88 miles of 20-inch pipeline and appurtenant facilities in Acadia Parish, Louisiana, extending from Applicant's Eunice, Louisiana Compressor Station to the western terminus of Columbia Gulf's Blue Water System;

Two 1,100 horsepower compressor units to be relocated at Applicant's Eunice Compressor Station; and

Approximately .13 miles of 24-inch pipeline interconnecting Applicant's Eunice-Grand Cheniere pipeline and Michigan Wisconsin Pipe Line Company's (Michigan-Wisconsin) 30-inch pipeline near Grand Cheniere, Cameron Parish, Louisiana.

Applicant states that approximately 9.50 miles of the 18.88 miles of 20-inch pipeline would be pipe which would be removed from the Sharon-Carthage line of Applicant and relocated, and that only 9.38 miles of new 20-inch pipeline would be needed to complete the proposed interconnection between the Blue Water System and Application's Eunice Compressor Station. The 9.50 miles of the 13.61 miles of 20-inch loop pipeline to be relocated is the only portion of the 13.61 miles of 20-inch loop pipeline located on the Sharon-Carthage line which is reusable, it is said.

It is stated that the two existing 1,100 horsepower compressor units proposed to be relocated in the Eunice Compressor Station are presently installed in Applicant's Sharon, Louisiana Compressor Station, and that because of declining gas supplies in the North Louisiana and East Texas Areas attached to Applicant's system. Applicant does not foresee utilizing such units in the future. The estimated cost, to be financed from funds on hand, of the proposed facilities, including relocation, is $6,306,120, it is said.

Applicant requests permission and approval to abandon and relocate the following facilities:

Approximately 13.61 miles of 20-inch loop pipeline on its Sharon-Carthage line, of which approximately 9.50 miles would be relocated in South Louisiana; and

Two 1,100 horsepower compressor units proposed to be removed from the Sharon Compressor Station and relocated at Applicant's Eunice Compressor Station.

The 18.88 miles of 20-inch pipeline and the compressors proposed herein would be utilized by Applicant to receive directly into its system deliveries of natural gas transported for Applicant by Columbia Gulf and Tennessee through their offshore facilities, it is said. Applicant states that it proposes to abandon and relocate the reusable portion of the existing 20-inch loop pipeline, which is no longer required for service on the Sharon-Carthage line, to provide a portion of the pipeline required herein, in order to conserve energy and to utilize more fully the facilities of applicant's system. Applicant also proposes to retire two 1,100 horsepower compressor units and the property associated therewith at the Sharon Compressor Station and relocate certain of these facilities at Applicant's Eunice Compressor Station. Applicant states that one unit would transport gas which Applicant receives through the Blue Water System, and that the other unit would be used as a spare, or as required additional compression, in the event that significant additional quantities of gas are transported through the proposed line. Applicant further states that in this connection, the long-term supply projections for Applicant indicates that its major sources would be from the offshore Louisiana and offshore Texas Areas, and the relocation of unused horsepower located in North Louisiana, where development is relatively minor as compared to South Louisiana, provides flexibility in an area of increasing importance at the lowest cost.

It is stated that the other two units presently installed at the Eunice Compressor Station would be used to provide for continuity of service for additional gas supplies, and would be transported for Applicant through the High Island Offshore System and Michigan Wisconsin from Offshore Texas, thus assuring continuity of service for the gas which it would purchase offshore Texas. The Grand Cheniere tie-over to the facilities of Michigan Wisconsin would provide additional flexibility in the event of an outage on either system between Grand Cheniere and Eunice, which is an important segment of Applicant's supply system, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice, that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH E. PLUMB,
Secretary.

[FR Doc.77-13966 Filed 5-16-77;8:45 am]

[Docket No. CP76-363]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

MAY 10, 1977.

Take notice that on April 28, 1977, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP76-363 a petition to amend the Commission's order of August 13, 1976 (56 FPC—), issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to authorize Petitioner to render a new transportation service for Pine Hall Brick and Pipe Company, Inc. (Pine Hall) for gas purchased pursuant to a gas purchase contract, dated March 21, 1977, between Pine Hall and Herbert L. Miller and M. M. Miller, Jr., dba M. M. Miller & Sons (Miller), a producer in Duval County, Texas, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

On August 13, 1976, Petitioner was authorized to transport, on an interruptible basis, up to 1,250 Mcf of natural gas per day for Pine Hall for use in its brick plant at Madison, North Carolina. Petitioner states that it transported such gas to North Carolina Gas Service Division of Pennsylvania and Southern Gas Company (N.C. Gas), one of Petitioner's resale customers served under Rate Schedule CD-2, and that the gas was purchased from Wm. T. Burton Industries, Inc. and El Toro Production Corp., pursuant to a contract dated March 22, 1976, from production in the Egan Field, Acadia Parish, Louisiana. Because of salt water flooding of the well shortly after production commenced, deliveries from such well ceased in October 1976 and have not resumed, it is said. Petitioner states that efforts to rework the well have failed and such contract has been canceled. Petitioner indicates that Pine Hall gas supply has been completely curtailed since the end of November 1976.

It is stated that in order to obtain a supply of gas, Pine Hall has now executed a gas purchase contract, dated March 21, 1977, with Miller to purchase an estimated average daily quantity of 500 Mcf of natural gas and up to 1,250 Mcf per peak day from wells located in the Longhorn West Field, Duval County, Texas for a period ending August 1, 1977. Pine Hall and Miller have the option to extend such sale and purchase of gas under terms to be agreed upon, it is said. Petitioner indicates that Pine Hall would pay Miller $2.25 per million Btu's inclusive of existing taxes levied on the gas prior to delivery.

It is stated that Miller would deliver the subject gas to Esperanza Oil & Gas Company (Esperanza) at the inlet side of the measurement facilities of Esperanza's Benavides (J&J) Gathering System near Petitioner's pipeline in Section 24 of the Agua Poquita Survey Santos Flores Grant A-213, Duval County, Texas, and Esperanza would dehydrate and measure the gas and redeliver such gas to Petitioner at the existing point of interconnection between Esperanza's and Petitioner's pipelines designated Transco Meter Stations Nos. 1010 and 1011. Esperanza would charge Pine Hall 5 cents per Mcf for the gathering, dehydration and measurement services, it is said.

Petitioner states that it has entered into a transportation agreement, dated April 4, 1977, with Pine Hall and N.C. Gas, and that the subject agreement amends their previous transportation agreement dated April 8, 1976. Such agreement, as amended, provides that Petitioner would transport the subject gas for Pine Hall to existing delivery points of N.C. Gas in order that N.C. Gas may deliver such gas to Pine Hall's Madison, North Carolina plant. Petitioner proposes to increase its transportation rates for interruptible transportation into Zone 2 to 45.8 cents per Dekatherm. Pine Hall is said to be in Petitioner's Zone 2.

Petitioner states that it would retain 3.8% of the quantities of gas it receives for compressor fuel and line loss makeup.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 23, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13969 Filed 5-16-77;8:45 am]

[Docket No. RP77-64]

VALLEY GAS TRANSMISSION, INC.

Proposed Change in Rates

MAY 9, 1977.

Take notice that on April 29, 1977, Valley Gas Transmission, Inc., ("Valley"), filed proposed increased rates to its jurisdictional sale-for-resale customers. Valley also proposed an increase in its rate for jurisdictional transportation service. The proposed effective date is June 1, 1977.

The increased revenues from the rates as proposed would amount to $290,337 annually.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13973 Filed 5-16-77;8:45 am]

[Docket No. RP77-94]

WESTERN GAS INTERSTATE CO.

Proposed Changes in FPC Gas Tariff

MAY 9, 1977.

Take notice that on May 2, 1977, Western Gas Interstate Company ("Western") tendered for filing proposed changes in its FPC Gas Tariff to be effective on June 1, 1977, consisting of the following tariff sheets:

Seventh Revised Sheet No. 3A.
First Revised Sheet No. 33A.
First Revised Sheet No. 33B.
First Revised Sheet No. 33C.

The proposed changes would increase revenues from jurisdictional sales by $774,452 based upon the twelve month period ending December 31, 1976, as adjusted. Such revenue increase is exclusive of increases in purchased gas costs which will occur prior to the rates involved becoming effective and which would otherwise be recovered through the purchased gas adjustment clause provisions of Western's tariff. Western states that, at the time it moves to make effective the rates involved in the instant proceeding, it will revise the tendered base tariff rates so as to reflect its actual purchased gas costs as of the time of the rates becoming effective.

Western states that the principal reasons for the proposed rate increase are: (1) increase in overall rate of return necessary to maintain its financial integrity; (2) increases in plant and related cost of service items: (3) increases in cost of materials, supplies, wages, services, and other operating expenses necessary to maintain and operate its pipeline system and appurtenances; (4) increase in working capital; and (5) increases in taxes other than income.

Western states that there are other changes in its tariff in the sheets tendered but that these changes are either minor

word changes for clarification, updating of required information, or changes required to bring such sheets into conformity with the proposed rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13972 Filed 5-16-77;8:45 am]

[Docket No. CP77-347]

WESTERN GAS INTERSTATE CO.

Notice of Application

MAY 6, 1977.

Take notice that on April 18, 1977, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP77-347 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 10.12 miles of 4-inch transmission line and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Southern Union Supply Company (Susco), has filed with the Commission applications in Docket Nos. CI76-578 and CI76-579 for authority to sell gas to Southern Union Company (Southern Union) and El Paso Natural Gas Company (El Paso), respectively, and that the gas involved is to be produced for the Gallagher No. 2 Well. Applicant states that the subject gas would be gathered by Phillips Petroleum Company (Phillips), processed at Phillips' Lusk Gasoline Plant in Lea County, New Mexico, and delivered to El Paso at the tailgate of the Lusk Plant. Applicant further states that the primary purchaser of such gas would be Southern Union, and El Paso would transport the gas to be sold to Southern Union to various points along El Paso's lines in Texas, New Mexico, and Arizona for delivery to Southern Union. Whatever gas is not purchased by Southern Union would be sold by Susco to El Paso, it is said.

It is stated that Susco and Applicant developed a three-well proposal under which gas would be produced by Susco from three wells (The Gallagher No. 3 Well and the Supco State No. 1 Well, in addition to the Gallagher No. 2 Well), and delivered by Applicant through a proposed 4-inch line to a mutually agreeable point of interconnection with the Lusk-to-Caprock 20-inch pipeline of El Paso.

The facilities which Applicant requests authorization to construct and operate are described as follows:

(a) Approximately 10.12 miles of 4-inch transmission line and appurtenant facilities necessary to transport gas from the Gallagher No. 2 Well, the Gallagher No. 3 Well, and the Supco State No. 1 Well in Lea County, New Mexico, to a point of interconnection with the Lusk-to-Caprock 20-inch pipeline of El Paso; and

(b) Authority to transport and deliver said gas to El Paso.

Applicant indicates that the total estimated cost of the proposed facilities is $487,166, which cost would be financed from cash on hand, supplemented as necessary by short-term borrowings.

Applicant asserts that the construction and operation of the proposed transmission facilities, and the subject transportation of such gas pursuant to the three-well proposal would result in greater quantities of gas for the interstate market at lower prices.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.-10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13584 Filed 5-16-77;8:45 am]

[Opinion No. 798; Docket Nos. CP76-220, CI76-346]

ARKANSAS LOUISIANA GAS CO. v. AMAREX, INC.

Opinion and Order Directing the Delivery of Natural Gas

MAY 9, 1977.

1. On December 22, 1975, Arkansas Louisiana Gas Company (Arkla) filed a complaint in Docket No. CP76-220 asking the Commission to direct Amarex, Inc. (Amarex) to deliver Amarex's share of the natural gas produced from the Helmerich & Payne Cupp "C" No. 1 Well, Beckham County, Oklahoma (the Cupp C No. 1 Well) to Arkla pursuant to a prior dedication of that gas to interstate commerce. On January 14, 1976, Amarex filed a petition in Docket No. CI76-346 for a declaratory order that the natural gas in question is not dedicated to Arkla in interstate commerce. The Commission, on January 29, 1976, transmitted a copy of Arkla's complaint to Amarex and gave and published notice of the commencement of both proceedings. On February 17, 1976, Amarex filed an answer to the complaint in which it admitted the allegations of fact but denied the conclusion that the gas in question is deliverable to Arkla, reasserted the allegations in its petition for declaratory relief, moved for consolidation of the two proceedings on the basis of identity of issues and moved, further, for a decision on the pleadings on the basis that there are no factual issues. On March 5, 1976, Arkla filed an answer and joined Amarex's motion insofar as it sought consolidation, but requested a hearing on the ground that "the issue presented in these proceedings may not be entirely a legal issue.

2. By order issued July 15, 1976, the Commission, among other matters, found that there are no factual issues, consolidated Docket Nos. CP76-220 and CI76-346 for the purpose of decision and set a briefing schedule for direct Commission decision. The record before us therefore consists of the pleadings (including the briefs) and the attached documents which have been filed in the respective dockets, together with the notices and orders which have been issued therein. Additionally, we take official notice of Docket No. CS71-92 which contains, among other matters, Amarex's application for the small producer certificate of public convenience and necessity pursuant to which the natural gas service involved herein is claimed by Arkla to have been certificated, as well as certain other documents as specified herein.

THE "DEDICATION"

3. On or about May 4, 1967, the First State Bank of Pittsburg, Pittsburg, Kansas, and Isadore E. De Lappe, as co-trustees of certain testamentary trusts, executed an oil and gas lease (the 1967 Lease) to Sinclair Oil & Gas Company (Sinclair) covering approximately 160 acres which are identified therein as "The Southeast Quarter (SE/4) in Section 22, Township 10N, Range 26W" situated in Beckham County, Oklahoma,[1] for the term ending September 26, 1972, and as long thereafter as any of the products covered by the lease "is or can be produced." Among other matters, the lease authorized the unitization of the Southeast Quarter or any portion of it and provided, in this connection,

> "Any well drilled or operations conducted on any part of each such unit shall be considered a well drilled or operations conducted under this lease, and there shall be allocated to the portion of the above described land included in any such unit such proportion of the actual production from all wells on such unit as lessors' interest, if any, in such portion, computed on an acreage basis, bears to the entire acreage of such unit. And it is understood and agreed that the production so allocated shall be considered for all purposes, including the payment or delivery or royalty, to be the entire production from that portion of the above described land included in such unit in the same manner as though produced from the above described land under the terms of this lease."

In other words, unitization would transform the leasehold into an undivided part of a larger whole.[2]

4. Sinclair's interest in the 1967 Lease was assigned to Amarex on January 15, 1970, as part of an assignment of a large number of leases on that date. Thereafter, under a Gas Purchase Contract dated June 6, 1970 (the 1970 Gas Purchase Contract), Amarex agreed to sell and deliver to Arkla, and Arkla agreed to purchase and receive from Amarex "the natural gas production attributable to [Amarex's] interest in all Contract Wells, and to that end [Amarex] hereby subjects and commits hereto the Contract Leases" for the term ending on the 20th anniversary of the date of the first delivery from the subject properties.[3] The term, " 'Contract wells'," in the 1970 Gas Purchase Contract, "refers to all wells now or hereafter completed as commercially productive of natural gas on lands covered by the Contract Leases or on a production unit which includes any part of said lands," and the term, " 'Contract Leases' refers to the oil and gas leases and other mineral interests described in the schedule attached hereto and made part hereof as Exhibit A."[4]

5. Pursuant to another agreement dated June 6, 1970, Amarex assigned a 25 percent interest in the Exhibit A Contract Leases, including the 1967 Lease, to Arkla Exploration Company (Arkla Exploration), an affiliate of Arkla.[5] And by agreement dated August 20, 1970,[6] Arkla Exploration agreed to sell and deliver to Arkla, and Arkla agreed to purchase and receive form Arkla Exploration, Arkla Exploration's "share of all production attributable to" the Exhibit A Contract Leases, including the 1967 Lease, "on the same terms and conditions" as under the 1970 Gas Purchase Contract.

6. On November 2, 1970, Amarex filed an application in Docket No. CS71-92 pursuant to § 157.40 of the Commission's Regulations under the Natural Gas Act for a small producer certificate of public convenience and necessity. By Order No. 428 issued March 18, 1971, the Commission amended § 157.40 to provide in subsection (b) that such certificates would thereafter be blanket certificates covering existing and future jurisdictional sales.[7] And thereafter, by order issued in Docket No. CS71-92 on August 12, 1971, the Commission issued a blanket small producer certificate to Amarex (and to the applicants in numerous other dockets covered by the order) "authorizing the sale for resale and delivery of natural gas in interstate commerce by Applicants . . . as more fully described in the applications in this proceeding." The order also provides,

> "The grant of the certificates * * * shall not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon the termination of said contracts as provided by Section 7(b) of the Natural Gas Act."

7. Deliveries of natural gas to Arkla pursuant to Amarex's certificate of public convenience and necessity in Docket No. CS71-92 commenced under the 1970 Gas Purchase Contract on November 4, 1971, from acreage other than the Southeast Quarter and, conversely, "no natural gas was ever produced under the terms of the 1967 Lease."[8] On or about April 18, 1972, some five months before the primary term of the 1967 Lease was about to expire, The First State Bank of Pittsburg, Pittsburg, Kansas, and Isadore E. De Lappe, as co-trustees of the same testamentary trusts, executed an oil and gas lease (the 1972 Lease) of the Southeast Quarter to Amarex for a primary term of five years beginning September 26, 1972. The 1972 Lease is prepared on a more current revision of the form on which the 1967 Lease is prepared and contains provisions, including these pertaining to unitization, which are similar but not identical to those contained in the 1967 Lease. Furthermore, Amarex assigned a 25 percent interest in the 1972 Lease to Arkla Exploration pursuant to their agreement of June 6, 1970.

8. On February 17, 1975, Helmerich & Payne, as operator for Amarex and others, commenced drilling the Cupp C No. 1 Well in the Southwest Quarter in Section 22, Township 10N, Range 26W, Beckham County, Oklahoma (the Southwest Quarter), which apparently has not at any time been dedicated to interstate commerce, and the well was completed as a commercial producer of natural gas on August 21, 1975. The Southeast and Southwest Quarters, together with the other two quarters of Section 22, Township 10N, Range 26W, Beckham County, Oklahoma, have been designated as a 640 acre unit for the production of natural gas from the Cupp C No. 1 Well,[9] and the respective working interests attributable to the leaseholds embraced by that unit are committed for sale, and the production therefrom has been delivered (through the end of May 1976), as follows:

[In percent]

	Committed	Delivered [1]
To Michigan Wisconsin Pipe Line Co. (interstate)	36.42578	76.5
To Oklahoma Natural Gas Co. (intrastate)	38.57422	8.7
To Arkla (Arkla Exploration's interest—interstate)	6.25000	14.8
In dispute (Amarex's interest)	18.75000	0
Total	100.00000	100.0

[1] Although Amarex contends that Arkla is taking delivery of that part of Amarex's interest which exceeds Arkla's 6.25 pct interest, Arkla responds that its overtakes are within the parameters of the industry practice of balancing new wells pending the marketing of all fractional interests and the development of delivery patterns. Payments due Amarex from Arkla are being held in a suspense account pending resolution of the controversy and a final accounting of the volumes of gas.

POSITIONS OF THE PARTIES

9. Amarex takes the position in its initial brief that its share of the natural gas produced from the Cupp C No.

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[1] For convenience and particularly to distinguish the acreage from other acreage with which it was unitized, "The Southeast Quarter (SE/4) in Section 22, Township 10N, Range 26W" will be referred to simply as the Southeast Quarter.

[2] The lease also provides, "All provisions hereof, express or implied, shall be subject to all federal and state laws and the orders, rules or regulations (and interpretations thereof) of all governmental agencies administering the same * * *"

[3] The earliest date on which the 1970 Gas Purchase Contract can expire according to its terms is November 4, 1991.

[4] Exhibit A consists of some 134 pages headed "Undeveloped Oil & Gas Leases". In view of the differences in the numbers of leases identified on each page, and the deletions and hand written additions, an exact count of the number of leases embraced by Exhibit A has not been attempted. It appears, however, that at least 2,000 and probably not more than 3,000 leases, including the 1967 Lease, are so embraced by the 1970 Gas Purchase Contract.

[5] The agreement recites that Exhibit A covers approximately 290,000 net leasehold acres.

[6] The agreement dated August 20, 1970, is filed (insofar as it concerns Oklahoma acreage) as Arkla Exploration's FPC Gas Rate Schedule No. 39 and covers natural gas service which was certificated in Docket No. 72-81 by order issued March 27, 1972. Official notice is taken of the foregoing documents.

[7] Official notice is taken of Order No. 428. The Commission indicated therein that pending applications whould not have to be refiled under the amended regulation and, further, that "small producers shall be required to comply with Section 7(b) of the Act with respect to every small producer safe exempted herein."

[8] We read the foregoing statement in Amarex's initial brief as meaning that no natural gas was produced from the Southeast Quarter or from any production unit embracing any part of the Southeast Quarter during the primary term of the 1967 Lease which ended September 26, 1972. But we believe that fact to be immaterial. Under the Commission's concept that the service in which the producer engages under the Natural Gas Act is distinct from the contract which regulates the producer's relationship with the pipeline company (which concept was ratified by the Supreme Court in *Sunray, (infra)*, the initiation of deliveries under the 1970 Gas Purchase Contract on November 4, 1971, effected a "dedication" of the natural gas reserves underlying all of the acreage described in Exhibit A to that contract.

[9] No information has been furnished as to when the production unit was formed.

1 Well is not dedicated to Arkla in interstate commerce because the 1972 Lease of the Southeast Quarter is not subject to the 1970 Gas Purchase Contract. Amarex asserts that it agreed to sell and deliver, and that Arkla agreed to purchase and receive, "the natural gas production attributable to [Amarex's] interest in all Contract Wells, and to that extent [*sic.*, end] hereby subjects and commits hereto the Contract Leases." The term "Contract Wells" refers to wells "on lands covered by the Contract Leases", Amarex argues, and no lands are covered by a lease after it expires. Furthermore, Amarex asserts the term "Contract Leases" refers to those which are described in Exhibit A, and since the latter document refers to the lease of the Southeast Quarter in terms of both a lease number and an expiration date it is clear that the 1967 Lease, and not the 1972 Lease, was dedicated to the 1970 Gas Purchase Contract. And finally, Amarex argues, there is no provision in the 1970 Gas Purchase Contract for the inclusion of after-acquired leases as in the case of certain other gas purchase contracts between Arkla and various producers, copies of the pertinent portions of which are attached to Amarex's intial brief.

10. Arkla, in its initial brief, takes the opposite position that Amarex's interest in the natural gas produced from the Cupp C No. 1 Well is dedicated to it in interstate commerce and, as a result, that dedicated supply cannot be withdrawn from interstate commerce without Commission approval. Among other court decisions, it relies, in this connection, upon *The Atlantic Refining Co., et al.* v. *Public Service Commission of the State of New York, et al.*, 360 U.S. 378 (1959) (known as the *CATCO* decision) and *Sunray Mid-Continent Oil Co.* v. *Federal Power Commission*, 364 U.S. 137 (1960). Furthermore Arkla relies on *Pioneer Gathering System, Inc., et al.*, 23 FPC 261, 263 (1960), *Cumberland Natural Gas Company, Inc., et al.*, 34 FPC 132, 137 (1965), *Mitchell Energy Corporation*, — FPC —, (Opinion No. 733) (1975),[10] and *United Gas Pipe Line Co.* v. *Billy J. McCombs, et al.*, — FPC — (Opinion No. 740) (1975)[11] for the proposition that the dedication which is consummated by the initiation of deliveries under a certificated gas purchase contract includes all of the acreage which is described in the contract, whether proven or unproven, and whether connected to interstate transportation facilities or not so connected. Accordingly, Arkla asserts that the commencement of deliveries to it on November 4, 1971, consummated the dedication to it in interstate commerce of all of the acreage which is described in the 1970 Gas Purchase Contract.[12]

11. Turning to the question of the expiration of the 1967 Lease, Arkla relies on *El Paso Natural Gas Company, et al.*, — FPC —, (Opinion No. 737) (1975),[13] wherein the Commission said that "it makes no difference whether a lease is transferred or terminates, the obligation of service imposed upon the dedicated gas continues." Arkla asserts, in this connection, that the Supreme Court in *Sunray, supra*, ratified the Commission's long-standing view that an obligation to continue service arises under Section 7 of the Natural Gas Act, and that this obligation exists separate and apart from any contractual obligation to continue service and, therefore, outlasts the term of a contract to sell natural gas. Furthermore, Arkla adds, the statutory obligation to continue service exists both as to contracts for the sale of natural gas and as to the underlying leases, termination of which may impair the obligation of the contract but not the separate and distinct statutory obligation to continue service. Amarex has made no showing to justify abandonment, Arkla concludes, and consequently the Commission should direct Amarex to commence deliveries to it immediately in accordance with the dedication.[14]

12. Although the Commission staff did not file an initial brief, it filed a reply brief in which it asserts that Amarex's presentation of the issue finesses the critical question of whether the expiration of the 1967 Lease terminated the dedication to Arkla of the natural gas reserves underlying (and/or attribute to) the Southeast Quarter:

> Once it is determined that the 1967 lease reserves were dedicated to the 1970 contract and since no abandonment has been authorized under Section 7(b) of the Natural Gas Act, it is simply irrelevant that the subject reserves are now covered by a 1972 lease that was executed after the 1970 contract. Amarex dedicated the subject reserves to the 1970 contract and now that those supplies are being produced from the Cupp C No. 1 Well, Arkla is clearly entitled to the share of production allocated to the reserves committed by Amarex under the 1967 lease to the 1970 contract.

13. Amarex, in its reply brief, attempts to clarify certain statements in Arkla's initial brief; continues to argue that the 1972 Lease is not dedicated to the 1970 Gas Purchase Contract; and asserts that Arkla, by its silence with respect to that issue, concedes "an essential element of" Amarex's case, "for unless the 1972 Lease is covered by the 1970 [Gas Purchase] Contract, there can be no dedication of that lease to interstate use." Amarex cites numerous Commission decisions to the effect that dedication is to be determined by the terms of the contract, and it would distinguish *El Paso, supra*, on the ground that the 1972 Lease is not covered by the 1970 Gas Purchase Contract and, consequently, "the public has not relied on gas which may be produced by virtue of the 1972 Lease." And the Commission's application of *El Paso, supra*, to the present situation, Amarex urges, would invade the integrity of State recording acts by which bona fide purchasers take free and clear of unrecorded encumbrances, and would also violate the public policy against perpetuities insofar as rights created by Section 7(b) may vest at remote times in the future.

14. And Arkla, in its reply brief, asserts that Amarex dedicated the natural gas production attributable to Amarex's interest in Contract Wells which, in turn, are wells on lands covered by the Contract Leases or on production units which include any part of said lands. The reference to Contract Leases, Arkla argues, serves only to identify the acreage, as is evidenced by the fact that the term "Contract Leases" includes both the "oil and gas leases" and the "other mineral interests" described in Exhibit A. And the "mineral interests", Arkla continues to argue, are not limited in duration as in the case of the "oil and gas leases". The Cupp C No. 1 Well is completed on a production unit which includes the Southeast Quarter which, in turn, is acreage described in Exhibit A to the 1970 Gas Purchase Contract and is, therefore, a Contract Well, Arkla concludes.[15]

The Decision

15. While Amarex expresses its position in terms of the nondedication of a particular lease, and Arkla asserts its claim in terms of the dedication of particular acreage and/or the natural gas reserves underlying the acreage, the Natural Gas Act establishes no procedures by which leases, acreage or reserves, or anything else, for that matter, can be dedicated to interstate commerce. Section 7 of that Act establishes, instead, a procedure for certification, wherein subsection (c) provides in pertinent part,

> "No natural-gas company * * * shall engage in the transportation or sale of natural gas, subject to the jurisdiction of the Commission, or undertake the construction or extension of any facilities therefor, or acquire or operate any such facilities or extensions thereof, unless there is in force with respect to such natural-gas company a certificate of public convenience and necessity issued by the Commission authorizing such acts or operations. * * *"

and subsection (e) provides, also in pertinent part,

> "* * * [A] certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation, sale, service, construction, extension or acquisition covered by the application, if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed * * * and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required by the present of future public convenience and necessity. * * *"

16. Accordingly, while the Natural Gas Act is not couched in terms of dedication to interstate commerce, it does establish a procedure by which the Commission can certificate sales of natural gas in interstate commerce and, as the Supreme Court found in *Sunray, supra*,[16] the natural gas service which a particular sale initiates. Once the service is certificated, and the certificate is accepted and the service initiated, the service may not thereafter be discontinued without the permission and approval of the Commission under subsection (b) of Section 7 which provides,

> No natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained, after due hearing, and a finding by the Commission that the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.

17. The status of natural gas service as being terminable, lawfully, only through such Section 7(b) permission and approval, is commonly expressed in terms of particular leases being dedicated to interstate commerce, or in terms of the leaseholds or acreage covered by the leases as being so dedicated, or in terms of the underlying reserves or gas supply as being so dedicated. In other words, the term "dedicated" is commonly used by the natural gas industry and the Commission, as well as by the courts, to express the existence of that legal status. But, as the arguments of Amarex and Arkla demonstrate in this instance, the existence of the legal relationship known as "dedication" must be determined on a case by case basis.

18. In order to determine which of the parties is entitled to receive the natural gas from the well in question, we must look to the parameters of the certificated service as they are revealed by the documents through which it was initiated. To that end we turn to the application which Amarex filed in Docket No. CS71-92 for the small producer certificate of public convenience and necessity authorizing it to initiate the service in question, and the Commission's order of August 12, 1971, granting the application and issuing the certificate. *United Gas Pipe Line Company* v. *Billy J. McCombs, et al., supra*. And we focus on the question of whether the certificated service, or any part of it, is limited in its duration.

19. In looking to Amarex's application in Docket No. CS71-92 and the Commission's order of August 12, 1971, granting the application, we are guided by the Supreme Court's statement in *Sun Oil Company* v. *Federal Power Commission*, 364 U.S. 170, 175 (1960):

> [W]e agree with the Commission that the 1956 certificate was a permanent one. The application itself, under the construction we have given the statute in *Sunray*, did not with any explicitness ask for a limited certificate. It asked for one 'authorizing the sale of natural gas' under the 1947 contract; but as we said in *Sunray*, a permanent certificate would do that * * *. And the certificate issued makes no reference to any limitation of time. This is in contrast with explicit references to the limitation in those instances where the Commission had previously issued term certificates. [Footnote omitted.] The Commission's order, which blanketed the many applications before it in the mass proceeding, is no more explicit about limitation than the application, and refers, in fact, to the certificate as both 'authorizing the sale' of natural gas, and authorizing a 'service,' which accords with our construction of § 7(e) in *Sunray*. Under these circumstances we would hardly see any basis for overturning the Commission's view that no limitation as to time was implied."

20. Upon reviewing in their entireties Amarex's application for the certificate and the Commission's order issuing the certificate, we find nothing to suggest that Amarex was then seeking or that the Commission was then issuing a certificate which would be limited in its duration either with respect to the entire panorama of Amarex's service or with respect to any part of its service. And we find that no limitation in the duration of Amarex's service or any part of its service, including its service from or attributable to any one property and its service from any one gas producing well, was implied.

21. Turning to the 1970 Gas Purchase Contract, we find no suggestion of any limitation in the duration of any part of the certificated service which was initiated pursuant thereto[17] other than the possible limitation advocated by Amarex which is inherent in the expiration of a fixed term oil and gas lease. We believe, to the contrary, that unless there is a specific exercise of the Commission's abandonment authority under Section 7(b) of the Natural Gas Act in the order granting a certificate under which a sale is initiated, as where abandonment is authorized prospectively in the case of a limited term certificate, limitations of time in a gas purchase contract and in the underlying leases should not operate as limitations in the duration of the certificated service.[18]

22. As Arkla points out in its reply brief, and there is merit in its argument the term "Contract Leases" refers to both the "oil and gas leases" and to the "other mineral interests" which are described in Exhibit A; and since the "other mineral interests" do not have an inherent time limitation as in the case of the "oil and gas leases", the descriptions in Exhibit A are identifications of particular acreage (embracing both the "oil and gas leases" and the "other mineral interests") rather than identifications of particular leasehold tenures (embracing only the "oil and gas leases"). We would add that such a construction is reinforced by the fact that the term "Contract Leases" is defined by reference to the word "leases" (as well as to "interests"); and while the word "leases" can refer to specialized contracts pertaining to land and interests in land, the word "leases" can also refer to the land or interests land which are the subject of the specialized contracts. And the latter is a less strained and more natural construction in the light of the reference to "other mineral interests". To construe the term "Contract

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[10] Affirmed, *Mitchell Energy Corporation* v. *Federal Power Commission*, — F.2d — (No. 75-3110) (CA5, 1976).

[11] Reversed on other grounds October 18, 1976, *sub nom Billy J. McCombs, et al.* v. *Federal Power Commission*, No. 75-1829, CA10. Petition for rehearing pending. Arkla cites this case for the additional proposition that the share of production which is attributable to the Southeast Quarter is part of the dedicated gas supply even though the Cupp C No. 1 Well is completed on undedicated acreage.

[12] Arkla points out that, referring to *Phillips Petroleum Co.* v. *State of Wisconsin*, 347 U.S. 672 (1954), the United States Court of Appeals for the Third Circuit said in *J. M. Huber Corporation* v. *Federal Power Commission*, 236 F.2d 550, 558 (1956), "We think the sense of the Phillips decision is altogether opposed to permitting the Commission's control of sales to be nullified by the independent producer's abandonment of those sales at will."

[13] Reversed December 13, 1976, *sub nom Southland Royalty Company et al.* v. *Federal Power Commission*, Nos. 75-3373, et al., CA5. See discussion, infra.

[14] While Arkla also asks for restitution, Amarex has not on this record received any of its entitlement attributable to the Cupp C No. 1 Well. Without discoursing this subject further, the sense of the Ordering Paragraph is to require Amarex to deliver or cause delivery to Arkla of Amarex's share of the production from that well from August 21, 1975, on which date it was completed as a commercial producer of natural gas, forward.

[15] Arkla asserts, additionally, that expiration dates of leases are shown on Exhibit A because it was prepared for attachment to the agreement of June 6, 1970, by which Amarex sold at 25 percent interest in the leases to Arkla Exploration, as well as for attachment to the 1970 Gas Purchase Contract.

[16] 364 U.S., at pages 147 to 151.

[17] Although a limitation in the duration of natural gas service pursuant to the 1970 Gas Purchase Contract would not have the legal effect of limiting the duration of Amarex's service under its small producer certificate (*Sunray* and *Sun Oil, supra*), it is the sense of this and the following three paragraphs that when the 1970 Gas Purchase Contract and the 1967 Lease are viewed against the background of the principal court and Commission decisions pertaining to the duration and other parameters of certificated service, those documents are consistent with the unlimited duration of the service embraced by Amarex's small producer certificate as found in the preceding paragraph.

[18] As noted, the Commission's order of August 12, 1971, issuing the small producer certificate in question, states in furtherance of *Sunray* and *Sun Oil, supra*, that the grant of the certificate shall not imply approval of the terms relating to the cessation of service upon the termination of a contract. Since service under the 1970 Gas Purchase Contract is dependent upon service from the underlying leases, we believe that *Sunray* and *Sun Oil, supra*, should apply to the leases underlying the 1970 Gas Purchase Contract, as well as to that contract itself. In other words, we would not imply from the primary term of the 1967 Lease any limitation in the duration of the natural gas service from or attributable to that lease. Such service should be limited in its duration only by an express grant of abandonment authorization pursuant to Section 7(b), either prospectively as in the case of a limited term certificate, which was not done in this case, or subsequently. And our construction, *infra*, of the 1967 Lease in a manner which is consistent with our foregoing views is facilitated by the provisions in both leases to the effect that all of their provisions, express or implied, are subject to the Natural Gas Act and to the orders, rules or regulations (and interpretations thereof) of the Commission.

Leases" as identifying particular leasehold tenures, as Amarex contends, would clear the way "for every independent producer of natural gas to seek certification only for the limited period of its initial contract with the transmission company, and thus automatically be free at a future date, untrammeled by Commission regulation, to reassess whether it desired to continue serving the interstate market." *Sunray, supra*, 364 U.S., at page 142.

23. Furthermore, we find no suggestion in the 1967 Lease that natural gas service from the Southeast Quarter, or from a production unit embracing the Southeast Quarter commenced after the expiration of the primary term of that lease, should not be included in the service which was certificated in Docket No. CS71-92 and initiated on November 4, 1971. The Supreme Court said in *Sunray, supra* (364 U.S., at page 156), quoting in part from *CATCO, supra*,

> An initial application of an independent producer, to make movements of natural gas in interstate commerce, leads to a certificate of public convenience and necessity under which the Commission controls the basis on which "gas may be initially dedicated to interstate use. Moreover, once so dedicated there can be no withdrawal of that supply from continued interstate movement without Commission approval * * *"

The Commission elaborated upon the parameters of that dedicated supply in *Pioneer* and *Cumberland, supra*, indicating that the commencement of service from any of the acreage described in a gas purchase contract commits all of the acreage described therein to the service, whether proven or unproven, and whether connected to interstate transportation facilities or not so connected. *CATCO, Sunray, Pioneer*, and *Cumberland, supra*, all predated the 1967 Lease which, as noted, states that all of its provisions, "express or implied, shall be subject to all federal and state laws and the orders, rules, or regulations (and interpretations thereof) of all governmental agencies administering the same * * *." Given this background and the foregoing lease provision, Amarex cannot complain that the natural gas service from the Southeast Quarter, or from a production unit embracing the Southeast Quarter, was committed to interstate use by reason of production elsewhere as distinguished from production from or attributable to the Southeast Quarter.

24. From the foregoing, we find and conclude that no limitation in the duration of Amarex's service or any part of its service initiated pursuant to the 1970 Gas Purchase Contract under its blanket small producer certificate of public convenience and necessity issued in Docket No. CS71-92 is to be found in or implied from the 1970 Gas Purchase Contract or the 1967 Lease. We find, further, that Amarex's said certificate embraces all of the natural gas production from or attributable to the acreage which is identified in Exhibit A as being subject to the 1970 Gas Purchase Contract including, without limitation, the Southeast Quarter.

25. We turn, then, to the further question of the effect, if any, of the expiration of the primary term of the 1967 Lease on the certificated service. And we find that on December 13, 1976, while this consolidated proceeding was pending before us for decision, the United States Court of Appeals for the Fifth Circuit reversed our decision in *El Paso, supra, sub nom Southland Royalty Company, et al. v. Federal Power Commission*, 543 F.2d 1134, characterizing the principal issue as one of the "property rights vs. regulatory powers":

> Does the lessee under a 50-year fixed-term mineral lease, by making certificated sales of leasehold natural gas in interstate commerce, thereby dedicate to interstate commerce the gas which remains in the ground at the end of the 50th year?

The Fifth Circuit answered the question which it thus framed in the negative, rationalizing that under Texas law pertaining to real property "a person holding a present interest in real property which is limited in duration cannot create an estate which will extend beyond the term of his interest." [9]

26. We are gravely concerned that the Fifth Circuit's decision in *Southland* may open the floodgates of deregulation contrary to the public interest. In recent years the growth of the free or intrastate market for natural gas has effectively eroded the Commission's ability to regulate the price of natural gas flowing in the interstate market. But the Commission has been able to maintain the flow, principally because its Section 7(b) dike stood sacrosanct against the eroding forces of the intrastate market and would not permit natural gas service to be terminated without the Commission's permission and approval. The first breach in that dike appeared on October 18, 1976, when the United States Court of Appeals for the Tenth Circuit held in *McCombs, supra* that a de facto abandonment had occurred without the required statutory hearing and finding by the Commission. And two months later *Southland* revealed the course by which that trickle could develop into a significant flow and thereby undermine the integrity of Section 7(b) if that dike is not now plugged by judicial or legislative action.

27. In *Sunray* the Supreme Court ratified the Commission's long standing view that an obligation to continue service exists under Section 7 of the Natural Gas Act, and that such obligation is separate and apart from any contractual obligation to continue service. If, therefore, a gas purchase contract should expire or otherwise terminate, that separate statutory obligation would require the service to be continued until we permit and approve its termination. The gas consuming public will be able to rely on that service obligation so long as all or substantially all of the oil and gas leases used by the natural gas industry continue to provide in their habendum clauses that the leases shall remain in force for the life of the underlying reserves. But should the natural gas industry gradually change to fixed term leases in the light of *Southland*, and particularly if the industry should change to short term leases on a universal or quasi-universal basis, the statutory service obligation could be circumvented through the terminations of the oil and gas leases underlying that obligation. The gas could be lost to those who had been dependent on it, and our ability to carry out our mission to regulate the price of natural gas flowing in the interstate market would be eroded further, possibly to the point of deregulation, because we could not require the flow to be maintained.

28. If there is a separate statutory service obligation, as the Supreme Court has confirmed, in *Sunray*, why should it not apply to the oil and gas leases underlying gas purchase contracts, as well as to the contracts themselves, to the end that the integrity of that service would be maintained? The Fifth Circuit responds in *Southland* that one having an interest in real property which is limited in time cannot create an estate which will extend beyond the term of his interest. But that rationale does not address the fact that the interest which is limited in time was created by an oil and gas lease, and that an oil and gas lease, like a gas purchase contract, is a specialized form of contract. And the Fifth Circuit would leave us on a carousel on which we find that the statutory service obligation will survive the term of a gas purchase contract but cannot survive the term of an oil and gas lease underlying that contract.

29. If it is "black letter law" that one having an interest in real property which is limited in time cannot create an estate which will extend beyond the term of his interest", so, too, it is the law of the land that the Natural Gas Act, as expressed in Section 1(b), applies "to the sale in interstate commerce of natural gas for resale for ultimate public consumption". In *Interstate Natural Gas Co., Inc., v. Federal Power Commission*, 331 U.S. 682 (1947), in which the Commission's jurisdiction to regulate intrastate (field) sales of natural gas for eventual interstate consumption was unsuccessfully challenged, the Supreme Court said, at pages 692 and 693:

> We have held that these sales are in interstate commerce. It cannot be doubted that their regulation is predominantly a matter of national as contrasted to local concern. All the gas sold in these transactions is destined for consumption in States other than Louisiana. Unreasonable charges exacted at this stage of the interstate movement become perpetuated in large part in fixed items of costs which must be covered by rates charged subsequent purchasers of the gas, including the ultimate consumer. It was to avoid such situations that the Natural Gas Act was passed. [Footnote omitted.]

[9] Petitions for writs of certiorari were filed in the Supreme Court of the United States by the State of California on February 12 1977 (No. 76-1114), and by El Paso Natural Gas Company on February 16, 1977 (No. 76-1133), and will soon be filed by this Commission.

And in *Phillips Petroleum Co. v. Wisconsin*, 347 U.S. 672 (1954), the Supreme Court quoted the foregoing with approval and added, at page 681:

> The *Interstate* case is * * * said to be distinguishable in that it did not involve an asserted conflict with state regulation, and federal control was not opposed by the state authorities, while in the instant case there are said to be conflicting state regulations, and federal jurisdiction is vigorously opposed by the producing states. The short answer to this contention is that the jurisdiction of the Federal Power Commission was not intended to vary from state to state, depending upon the degree of state regulation and of state opposition to federal control."

And the Supreme Court added, further, at pages 682 to 684:

> There can be no dispute that the overriding congressional purpose was to plug the "gap" in regulation of natural-gas companies resulting from judicial decisions prohibiting, on federal constitutional grounds, state regulation of many of the interstate commerce aspects of the natural-gas business. A significant part of this gap was created by cases holding that "the regulation of wholesale rates of gas and electrical energy moving in interstate commerce is beyond the constitutional powers of the States." *Interstate Natural Gas Co. v. Federal Power Commission, supra* at 689. The Committee reports on the bill that became the Natural Gas Act specifically referred to two of these cases and to the necessity of federal regulation to occupy the hiatus created by them. Thus, we are satisfied that Congress sought to regulate wholesales of natural gas occurring at both ends of the interstate transmission systems. [Footnotes omitted.]

30. As a result of these decisions, we believe that any conflicts between the "black letter law" on which the Fifth Circuit relies in *Southland*, and the Natural Gas Act, must be resolved in favor of the latter and the service obligation which it creates, particularly where a lease, such as the 1967 Lease, unlike those in *Southland* [10], declares:

> All provisions hereof, express or implied, shall be subject to all federal and state laws and the orders, rules, or regulations (and interpretations thereof) of all governmental bodies administering the same * * *.

And whether or not a lease contains such a provision, we believe that anyone who entered into an oil and gas lease on or after June 21, 1938, which is the date on which the Natural Gas Act was approved, and, in any event, on or after June 7, 1954, which is the date on which the Supreme Court held in *Phillips* that independent producers of natural gas are subject to regulation under the Natural Gas Act, did so, and anyone who now enters into such a lease, does so, with actual or constructive knowledge of the provisions of the Natural Gas Act and/or the far-reaching effect of the *Phillips* decision. The 1925 lessors in *Southland*, on the other hand, obviously could not have known that Congress would regulate the interstate aspects of natural gas some 13 years later.

[10] For the purpose of comparison, we take official notice of the two leases which are described in, and the subject of, the *Southland* decision: The Waddell lease dated July 14, 1925, begins on page 135 of the Joint Appendix filed therein in the United States Court of Appeals for the Fifth Circuit, and the Goldsmith lease, dated August 7, 1925, begins on page 293 thereof. Both leases appear to have been prepared on the same oil and gas lease form.

31. The habendum clause which is common to the *Southland leases* (describes them as extending:

> * * * for the term of Twelve (12) years from the date hereof and as much longer thereafter as oil or gas (or other minerals, if produced hereunder) are produced from said land. Provided, that this lease shall not remain in force longer than fifty (50) years from this date * * *.

The leases are, therefore, life-of-the-reserve leases, such as are universal or almost universal in the natural gas industry today, but with outside fixed termination dates. The leases reached the Fifth Circuit in the context of those fixed termination dates, and its decision in *Southland* was prepared and issued in the same context.

32. The habendum clause of the 1967 Lease provides, on the other hand,

> This lease shall remain in force for a term ending September 26 1972, and as long thereafter as oil, gas, casinghead gas, casinghead gasoline or any of the products covered by this lease is or can be produced.

Since it does not have an outside fixed termination date, as in the case of the *Southland* leases, the 1967 Lease contemplates without question that certificated natural gas service from or attributable to the Southeast Quarter might continue indefinitely and, in any event, beyond the dates on which the lessors' interests might terminate or be transferred. It contemplates that no minerals covered by the lease of any economic consequence will remain in the ground at the time of its termination. And the primary or front-end termination date serves the obvious purpose, not of limiting the duration of the estate created by the lease, but of inducing the tenant to commence an early realization of any productive potential of the Southeast Quarter. Such date poses a threat that if the tenant does not start producing royalties for the lessors within the specified period, the lessors will be free to permit some other tenant to do so. In combination with another provision discussed infra under which the tenant is required to pay rentals so long as the Southeast Quarter is not productive, it deters the tenant from permitting the acreage to lie "fallow". In these respects, the termination provision of the 1967 Lease differs from those of the *Southland* leases.

33. Furthermore, the 1967 Lease argumentively did not expire on September 26, 1972. By its terms it was to remain in force as long as natural gas, among other products, "can be produced". A gas well was completed into the Southwest Quarter on August 21, 1975, and the Southeast and Southwest Quarters were unitized with two other quarters to obviate the necessity of drilling offset wells to protect the owners other than those of the Southwest Quarter. The parties thereby assumed the existence of natural gas on an economic basis underlying the Southeast Quarter, and considering the length of time which is required for the formation of natural gas, there exists a rational basis for finding, as we do, the natural gas was capable of economic production from, or at least attributable to, the Southeast Quarter on September 26, 1972.

34. We would note, in this connection, that there is no limit to the number of pre-drilling rental payments discussed infra which are permissible, and that the payments which were apparently made to extend the life of the 1972 Lease from year to year could have been applied to extensions without interruption of the 1967 Lease. Amarex contends that the 1967 Lease per se was dedicated under the 1970 Gas Purchase Contract and, in the light of that contention, we find that the 1972 Lease should be treated as an extension of the 1967 Lease for the purpose of enforcing its obligation under the Natural Gas Act to maintain interstate natural gas service.

35. In keeping with the Supreme Court's views in Phillips that the jurisdition of the Commission should not vary from state to state, depending upon state law, we believe that the statutory service obligation should not depend upon the construction under state law of an oil and gas lease, or upon the term of such a lease, or upon a question of whether such a lease is extended or replaced by a later lease. If the principal issue was correctly characterized in Southland as one of "property rights vs. regulatory powers", then the statutory service obligation should depend upon the extent to which Congress occupied the interstate commerce of natural gas and the supremacy of the Natural Gas Act over *any* inconsistent state law.[11]

36. The Supreme Court said in Phillips, in this connection, at page 682, that the Natural Gas Act gives the Commission jurisdiction over "all wholesales of natural gas in interstate commerce, whether by a pipeline company or not and whether occurring before, during, or after transmission by an interstate pipeline company." In the context of the free or intrastate market for natural gas which, of course, did not exist as a material market force at the time of Phillips, we believe that any state regulation (including a court decision which is based on state law) which adversely affects present or future volumes of natural gas

[11] Speaking of the Natural Gas Act, the United States Court of Appeals for the Eighth Circuit said in *State Corporation Commission of Kansas v. Federal Power Commission*, 206 F. 2d 690 (1953), at page 705, "[T]here is no room for the exercise of any local power to obstruct or prevent the lawful functioning of the federal agency entrusted with the federal power of regulation. The federal power to regulate the commerce in natural gas derives directly from the construction and is, of course, the dominant power. To the extent that Congress has entered the field, exercised its power and authorized its Commission to regulate charges by natural gas companies for the gas they produce and sell in interstate commerce for resale, its mandate must prevail."

in interstate commerce affects interstate "wholesales" of natural gas within the meaning of Phillips, including the price of that gas.

37. Our foregoing views are reinforced by the Supreme Court's decision in *Northern Natural Gas Co.* v. *State Corporation Commission of Kansas*, 372 U.S. 84 (1963), overturning a state conservation measure which affected natural gas in place and consequently, property rights to that gas, wherein the Supreme Court said with respect to the Natural Gas Act, at page 91:

> The federal regulatory scheme leaves no room either for direct state regulation of the prices of interstate wholesales of natural gas, *Natural Gas Pipeline Co.* v. *Panoma Corp.*, 349 U.S. 44, or for state regulations which would indirectly achieve the same result. These state orders necessarily deal with matters which directly affect the ability of the Federal Power Commission to regulate comprehensively and effectively the transportation and sale of natural gas, and to achieve the uniformity of regulation which was an objective of the Natural Gas Act. They, therefore, invalidly invade the federal agency's exclusive domain. (Footnote omitted.)

And they are ultimately confirmed by *United Gas Improvement Co.* v. *Continental Oil Co.*, et al., 381 U.S. 392 (1965) (known as the Rayne Field case), wherein the Supreme Court confirmed the Commission's assertion of jurisdiction over a sale of natural gas in place, noting that state law did not recognize such a sale, and stating, at page 400, "A regulatory statute such as the Natural Gas Act would be hamstrung if it were tied down to technical concepts of local law."

38. In ratifying the Commission's long standing view with respect to the Section 7 obligation to continue service, the Supreme Court, in Sunray, supra, rationalized that producers, and pipelines, would otherwise be free to insist on the inclusion in their certificates of provisions relieving them in advance of their obligations to continue service, thereby nullifying or seriously limiting the Commission's power to authorize abandonment under subsection (b). Such rationalization is applicable to the present situation because the 1967 Lease contains the following provision which, in its substance, is universal or almost universal in the natural gas industry:

> If operations for the drilling of a well for oil or gas are not commenced on said land on or before the 26th day of September, 1968, this lease shall terminate as to both parties, unless the lessee shall on or before said date pay or tender to the lessor * * * the sum of [$160] which shall operate as a rental and cover the privilege of deferring the commencement of operations for drilling for a period of one year. In like manner and upon like payments or tenders, the commencement of operations for drilling may further be deferred for like periods successively.

It is obvious that if Amarex were to prevail, any producer with such a provision in an oil and gas lease could simply fail to make the next payment and thereby permit the lease to lapse within the year free of the prior commitment of the underlying gas to interstate service. And the producer might obtain a new lease of the acreage prior to that time and sell the production from or attributable to that new lease in intrastate commerce, thereby withdrawing dedicated gas from interstate commerce.

39. In rationalizing Sunray, supra, the Supreme Court also relied on the rate-making scheme of the Natural Gas Act wherein a producer (or any other natural gas company) can file an initial rate under Section 4(c) subject to prospective change following an investigation under Section 5 and a finding that the rate is unjust and unreasonable. But the producer must file a rate change under Section 4(d), subject to suspension and refund following an investigation under Section 4(e) and scrutinization under the "just and reasonable" standard. If Amarex were to prevail, all producers in its shoes would be in a position to withdraw dedicated gas from interstate service and rededicate it to the same or a different interstate customer if they could thereby obtain a higher price for the gas, and in doing so they could file new rates subject only to prospective change while escaping rate change scrutinization under the "just and reasonable" standard and a possible refund obligation. Or they might sell the gas at a higher rate in the intrastate market. The current "Contract Price Schedule" under the 1970 Gas Purchase Contract is $.21 per Mcf, subject to Btu and tax adjustments, and subject to any higher "just and reasonable" area rates prescribed by the Commission. Under the national rate prescribed by Opinion No. 770 issued July 27, 1976, the current maximum rate applicable to gas produced from the Cupp C No. 1 Well is $1.42 per Mcf, subject to adjustments.[23]

40. We find, therefore, that the considerations leading to the Supreme Court's decision in Sunray are equally applicable to the present situation. When natural gas reserves underlying acreage which is described in numerous oil and gas leases are dedicated to interstate commerce as part of the same gas purchase contract, as in the case of the reserves underlying the acreage described in the Exhibit A leases and mineral interests, limitations of capital, equipment and manpower naturally limit a producer's ability to bring all of the reserves into production immediately. And priority will naturally be given to the most likely prospects for returning profits. The simultaneous dedication of numerous reserves envisions a flow which will begin with a single well, enlarge as new wells are brought into production and gradually diminish as the wells age and abandonment is authorized. And effective administration of the Natural Gas Act requires continuous Federal control over those reserves from the moment of their dedication to the moment of their authorized abandonment, whether or not they are producing natural gas at any particular intervening point in time.

41. Section 7(b) of the Natural Gas Act requires the Commission's permission and approval for abandonments of facilities and service and, conversely, prohibits abandonments through the unilateral decisions of particular producers based upon the economic considerations affecting them. Economic decisions to rework natural gas wells in reservoirs which are currently producing or which have produced in the past are naturally interlocked in priority with similar decisions to drill new wells into reservoirs which have never produced. Accordingly, once a natural gas service is initiated under a gas purchase contract (as was done herein on November 4, 1971, under the 1970 Gas Purchase Contract), none of the reservoirs which are thereby "dedicated" to that service may be withdrawn therefrom on the basis of a producer's unilateral decision to drill a particular well at one site ahead of some other well at another site and before the expiration of the primary term of an oil and gas lease for that other site. See the Commission's Order Determining Gas Dedication issued September 29, 1976, in *Northern Natural Gas Company* v. *Crawford*, Docket No. CS71-6, and its Order on Rehearing issued December 1, 1976.[24]

42. Although Amarex contends that the obligation under Section 7 of the Natural Gas Act to continue the service would invade the integrity of State recording acts as being in the nature of an unrecorded encumbrance, we find that Amarex was advised of its Section 7 obligation in a title opinion issued in connection with the 1972 Lease even though apparently only the 1967 Lease had been recorded:[25]

> By instrument dated June 6, 1970, Amarex, Inc. and Arkansas Louisiana Gas Company entered into a gas purchase contract covering the lease under consideration. The terms and conditions of the contract are not set forth in the instrument of record, but you are advised that any gas produced from the premises is subject to said contract.

And we find that the Section 7 obligation does not violate the public policy against perpetuities, as Amarex contends, because the obligation vests upon the initiation of the interstate service pursuant to the certificate.

Beneficiaries of certificated service might wish to consider recording copies of gas purchase contracts, as well as the underlying oil and gas leases, and Commission orders issuing certificates of public convenience and necessity, so that any prospective transferee of an interest in the affected real estate may be advised of the Section 7 obligation upon a proper title search.

[23] Helmerich & Payne, Inc., the operator of the Cupp C No. 1 Well, informed a member of the staff on May 14, 1976, that the interstate sale to Michigan-Wisconsin Pipe Line Company was being made at the national rate and that the intrastate sale to Oklahoma Natural Gas Company was being made at a rate of $1.68 per Mcf. While such information comes from a reliable source, it is not part of the record in this proceeding and has not been relied upon in reaching our decision. Assuming its truth, however, it is obvious that Amarex would prefer to sell its share of the gas to Oklahoma Natural Gas Company at the intrastate rate of $1.68 per Mcf instead of Arkla at the interstate rate of $1.42 per Mcf.

[24] Appeal pending in the United States Court of Appeals for the Fifth Circuit sub nom *Harrison* v. *Federal Power Commission*, No. 76-4318.

[25] The opinion is dated May 17, 1972, more than three years before the issuance of the Commission's Opinion No. 737 in El Paso, supra.

THE MOTION FOR INTERIM RELIEF

43. On May 3, 1976, Amarex filed a motion seeking an order which would permit it to sell the natural gas in question to Arkla pendente lite under the 1970 Gas Purchase Contract, provided (1) such a sale pendente lite would not be an admission that the gas is covered by the contract or dedicated to Arkla in interstate commerce, (2) such a sale pendente lite would not operate as a dedication of the gas to interstate commerce and (3) Arkla would repay the gas in kind in the event that Amarex ultimately prevails. In other words, Amarex would sell the gas to Arkla under the terms of the 1970 Gas Purchase Contract so long as the status quo was maintained pending the outcome of this consolidated proceeding. Arkla, on May 17, 1976, filed an answer opposing the motion on the ground that the gas in question is dedicated to it under the 1970 Gas Purchase Contract and that it does not favor an interim arrangement with a repayment provision in view of its short supply. The Commission, as part of its order of July 15, 1976, denied Amarex's motion, and Amarex, on August 10, 1976, filed an application pursuant to Section 19(a) of the Natural Gas Act and § 1.34 of the Commission's Rules of Practice and Procedure for rehearing of so much of that order as denied its motion to permit it to sell the gas to Arkla pendente lite. Thereafter, the Commission, by order issued September 9, 1976, granted rehearing for the purpose of further consideration.

44. Arkla refuses to purchase the gas from Amarex principally on the ground that it is opposed to a repayment requirement in the event of an ultimate determination that Arkla is not entitled to the gas, and it requests that it not be ordered to purchase the gas from Amarex. Amarex, on the other hand, has not asked for an order directing Arkla to purchase the gas, but only one permitting Amarex to sell the gas to Arkla while maintaining the status quo pendente lite. The Commission finds however, that Amarex's motion and application for rehearing are rendered moot by the action herein.

The Commission further finds: The interest of Amarex, Inc. in the natural gas which is produced from or attributable to the Southeast Quarter in Section 22, Township 10N, Range 26W, Beckham County, Oklahoma, is committed to Arkansas Louisiana Gas Company for interstate sale for resale, by the small producer certificate of public convenience and necessity which was issued to Amarex, Inc., in Docket No. CS71-92 by the Commission's order in that docket of August 12, 1971, and by the subsequent initiation of natural gas service under the Gas Purchase Contract dated June 6, 1970, and the natural gas which is so committed cannot be withdrawn from such interstate service without the permission and approval of the Commission first had and obtained pursuant to Section 7(b) of the Natural Gas Act.

The Commission orders: Commencing not later than sixty (60) days from the date of this opinion and order, Amarex, Inc., shall deliver or cause to be delivered to Arkansas Louisiana Gas Company, and Arkansas Louisiana Gas Company shall receive and take from Amarex, Inc., so much of the natural gas produced from the Helmerich & Payne Cupp "C" No. 1 Well, Beckham County, Oklahoma, from the completion thereof as a commercial producer of natural gas on August 21, 1975, forward, as is sold by Amarex, Inc., to Arkansas Louisiana Gas Company pursuant to the terms of the Gas Purchase Contract between them dated June 6, 1970.

By the Commission.[26]

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13990 Filed 5-16-77;8:45 am]

[Docket No. RP76-13]

CITIES SERVICE GAS CO.

Order Approving Settlement Agreement

MAY 10, 1977.

On September 22, 1975, Cities Service Gas Company (Cities) filed with the Commission Thirteenth Revised Sheet PGA-1 to Second Revised Volume No. 1 of its FPC Gas Tariff to reflect an increase in jurisdictional revenues of $20,175,304 for the test period (the twelve months ended May 31, 1975, adjusted for known and measurable changes through February 29, 1976). By its order issued October 22, 1975, the Commission accepted Thirteenth Revised Sheet PGA-1 and suspended the effectiveness thereof until March 23, 1976. The Base Tariff Rates on Thirteenth Revised Sheet PGA-1 reflected an average cost of purchased gas of 25.25 cents per Mcf as reflected on Substitute Second Revised Sheet No. 37D which was made effective as of April 23, 1975, without condition or refund obligation by the Commission's order issued September 13, 1976, in Docket No. RP75-27.

On February 23, 1976, Cities filed Alternate Substitute Thirteenth Revised Sheet PGA-1 and Third Revised Sheet No. 37D to reflect an average cost of purchased gas of 35.67 cents per Mcf previously filed pursuant to its PGA provision. There are no gas costs imbedded in the 35.67 cents per Mcf which are subject to refund pending hearing. By letter order dated April 1, 1976, these revised sheets were accepted, effective March 23, 1976, in lieu of the tariff sheet originally filed in this proceeding, with the rates subject to refund and any orders issued in Docket No. RP76-13.

In June, 1976, the Commission's Staff served its top sheets for settlement purposes and settlement conferences were held during June, September and October, 1976. During these conferences, the parties, including the Commission's Staff, reached the agreement reflected in Stipulation and Agreement (Stipulation) for the settlement of Docket No. RP76-13, with certain issues contingent upon the outcome of other pending Commission proceedings, and subject to the understanding that certain intervenors reserved the right to file comments objecting to certain aspects of the settlement[1] and the other parties reserved the right to file reply comments thereto.

On July 23, 1976, Cities tendered for filing further revisions to the subject tariff, requesting an effective date of August 23, 1976. The Comission by its order issued August 19, 1976, in Docket No. RP76-135 rejected the filing in part and accepted it in part, suspended the major part of the filing for five months, so as to be effective January 23, 1977, subject to refund and set the matter for hearing. As a result of these filings and the Commission's order, the proposed Stipulation and Agreement is for a locked-in period.

On December 6, 1976, the City Group Gas Defense Association, and the Kansas Municipal Intervenors, filed comments in opposition to the proposed Stipulation. On December 27, 1976, Cities filed reply comments in support of the Stipulation.

The City Group Gas Defense Association, and the City of Springfield, Missouri and the Board of Public Utilities of Springfield, Missouri, (City Group) takes issue with the settlement rate of return of 10.15%. City Group points out that in Docket No. RP75-27, the Commission approved a settlement overall rate of return computation of 9.47%, yielding a return on common equity of 10.00%. The City Group goes on to argue that the short interval since the September 13, 1976, overall rate of computation, plus the fact that the proposed settlement is based on "top sheets", plus the fact that in Opinion No. 547, 40 FPC 1033 (1968) the Commission found that the unusual capitalization of Cities indicates the need for a much lower return on equity than that of more conventionally financed companies; all show a lack of justification for the rate of return of 10.15% contained in the proposed stipulation. While the unusual capitalization of Cities persists and merits the Commission's consideration, particularly in future rate cases, we cannot say that the rate of return provided by the instant settlement for a locked-in period is inconsistent with our decisions in the two previous dockets, or do not adequately take into consideration the capitalization factor. Further, so much time has elapsed since

[26] Commissioner Watt's dissenting statement filed as part of the original document.

[1] Kansas Municipal Intervenors (City of Abbyville, Kansas, *et al.*), The City of Springfield, Missouri, and Board of Utilities of Springfield, Missouri, and City Group Gas Defense Association reserve the right to object to the rate of return on equity and the resulting overall rate of return. The Kansas Municipal Intervenors further reserved the right to comment upon the matter of cost classification, allocation and rate design.

our Opinion 547, in 1968, as to make that Opinion of limited utility in evaluating the correctness of the rate of return provided for in the proposed stipulation.

The Cities of Abbyville, Kansas, et al. and the Kansas Municipal Utilities (Kansas Cities) oppose the stipulation insofar as it adopts the 50–50 Seaboard formula for cost classification, cost allocation and rate design, and asks that the Commission order that the proper cost classification, cost allocation and rate design shall be governed by the Commission's final and nonappealable order on this issue in Docket No. RP74–4. Staff in its comments does not oppose adoption of the Seaboard method but "emphasizes that its support of the method of cost classification, allocation and rate design herein is limited solely to the resolution of those issues in this proceeding." We concur with Staff's view on this issue and will approve the settlement as being, on balance, just and reasonable, for the purposes of the locked-in period which it covers. Our order of February 2, 1976, in Docket No. RP74–4 in ordering paragraph (B) thereof provided as follows:

"(B) The Commission's determination of the issues of classification, allocation and rate design shall take effect prospectively from the date of the Commission's order with respect to reserved issues herein. However, *if Cities files a general rate change after the date of this order*, the Commission's determination shall take effect the date the new rates go into effect or the date of the order on the reserved issues, whichever is sooner." (Emphasis added).

As is indicated in Article I of the settlement, the above quoted provision of our order of February 2, 1976, in Docket No. RP74–4, provides that any change in cost classification, allocation or rate design will have prospective application only until the first general rate change filed by Cities Service after February 2, 1976, in this case the general rate change filed which was made the subject of our August 19, 1976, order in Docket No. RP76–135, supra.

The stipulation and agreement in summary, provides as follows:

Article I identifies the cost of service underlying the agreement. The cost of service is set forth in Appendix A to the agreement and to this order and is predicated on the test period consisting of the 12 months ended May 31, 1975, adjusted for known and measurable changes through February 29, 1976.

Article II discusses refunds and provides that for the locked-in period covered by the stipulation Cities Service shall refund to each of its jurisdictional customers, an amount determined on the basis of each customers' billing determinants for that period and the difference between Cities Service rates as originally filed in this proceeding and set forth in Appendix D of the settlement, and Appendix B to this order.

Article III concerns contingent issues and refunds. Section 1 of Article III provides that the issue as to the proper rate treatment of unrecovered purchased gas costs is a reserved issue pending decision in Docket No. RP74–4, and that the inclusion of this amount for unrecovered purchased gas costs shall be allowed to the extent permitted by a final order in Docket No. RP74–4. Section 2, provides that the inclusion of $700,000 in rate base for an advanced payment to Belco Petroleum Corporation, shall be allowed to the extent permitted by a final order on either Cities Service's application for rehearing or appeal relating to Docket Nos. R–411 and RM74–4 or its petition for a declaratory order in Docket No. RP76–85.[1]

Section 3 deals with the proper rate treatment of expenditures by Northern Natural Gas Company and by British Gas Corporation to develop a coal slagging gasifier to produce synthetic gas. The issue of proper rate treatment for the described research and development project is pending decision in Docket No. RP72–127 and R&D 75–1. Section 3 of Article III, provides that the inclusion of expenditures for this project shall be allowed to the extent permitted by a final Commission order in the above cited dockets.

Section 4 provides that the inclusion in settlement cost of service in Appendix A of sums for geophysical research expenditures in the Mid-Continent and Rocky Mountain areas are reserved issues in Docket No. RP74–4 and shall be allowed to the extent permitted by final order in that docket.

Section 5 provides for refunds to Cities Service's jurisdictional customers in the event any of the sums described in Sections 1 through 4 of Article III are not allowed as a result of final Commission orders in other pending dockets.

Article IV provides that the Commission's order approving the Stipulation shall constitute final authorization for Cities Service to utilize during the locked-in period covered by the stipulation book depreciation rates of 5.10 percent for gathering and products extraction plant, 3.60 percent for transmission plant and 3.15 percent for storage plant, and to revise depreciation accruals previously recorded for such plant for that period at a composite book depreciation rate of 4.45 percent to reflect such revised depreciation rates.

Article V provides that the Stipulation is effective pursuant to Article IX.

Article VI requires the submission to the Commission of a report of the distribution of refunds to its customers and a copy of such report to its affected jurisdictional customers, interested state commissions and all parties to Docket No. RP76–13.

Article VII provides that nothing in the Stipulation shall either diminish or enlarge the obligations of Cities Service.

Article VIII concerns the reserve for deferred income taxes deducted from the rate base.

Article IX provides that the Stipulation shall become effective only after it has been approved by a final and nonappealable Commission order, that the Commission order shall constitute elimination of any condition or refund obligation with regard to Third Revised Sheet No. 37D, which was accepted, effective as of March 23, 1976, and shall terminate the proceedings in Docket No. RP76–13, except as to contingent issues described in Article III.

Article X, Reservations, provide that the Stipulation represents a settlement only for Docket No. RP76–13 and will not bind any party, including the Commission in a future determination of any issue in any future proceeding.

The Commission further finds: The proposed stipulation and agreement the subject of Commission notice of filing of Stipulation and Agreement dated November 16, 1976, is reasonable and proper and in the public interest. Accordingly, it is approved as hereinafter ordered.

The Commission orders: (A) The stipulation and agreement noticed on November 16, 1976, is incorporated herein by reference, and is hereby accepted and approved.

(B) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, Cities or by any other party or person affected by this order in any proceeding now pending or hereinafter instituted by or against Cities or any other person or party.

(C) The secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] On October 26, 1976, the Commission issued a declaratory order in Docket No. RP76–85 denying rate base treatment for certain advances and granting intervention.

APPENDIX A

Cities Service Gas Co., Docket No. RP76–13—Settlement cost of service 12 months ended May 31, 1975, adjusted

[Amounts in dollars]

Line No.	Description	Total	Gas supply	Gathering	Products extraction	Storage	Transmission
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Operation and Maintenance:						
1	Gas purchased	108,940,115	108,940,115				
2	Gas stored underground, net	(631,250)	(631,250)				
3	Gas used by company	(4,103,881)	(4,103,881)				
4	Other gas supply expenses	2,222,219	365,940	$1,856,279			
5	Gathering expenses	4,064,597		4,064,597			
6	Products extraction expenses	324,293			$324,293		
7	Underground storage expenses	1,854,137				1,854,137	
8	Transmission expenses	13,038,256					13,038,256
9	Customer accounts expenses	643,966		643,966			
10	Sales expenses	301,036		301,036			
11	Administrative and general expenses	9,607,426		2,703,530	54,762	614,875	6,234,259
12	Total operation and maintenance	136,160,914	104,570,924	9,469,408	379,055	2,469,012	19,272,515
13	Depreciation expense	14,164,962		3,953,829	49,927	791,901	9,369,305
14	Amortization expense	46,839		7,588	167	2,378	36,706
15	Taxes other than income taxes	6,506,183		1,434,312	19,386	536,507	4,575,778
16	State income taxes	2,601,467	211,900	608,220	5,015	242,956	1,533,376
17	Federal income tax	24,539,593	1,998,853	5,737,328	47,303	2,291,737	14,464,312
18	Return	22,611,224	2,643,882	4,660,251	49,083	2,464,536	12,793,472
19	Other gas revenues, credit	(1,219,207)	(16,424)	(4,372)	(1,092,340)	(6,006)	(98,055)
20	Subtotal	205,471,975	109,409,135	25,866,564	(542,204)	8,791,081	61,947,399
21	Transfer between functions		(542,204)		542,204		
22	Total cost of service	205,471,975	108,866,931	25,866,564		8,791,081	61,947,399

APPENDIX B

Cities Service Gas Co., Docket No. RP76–13—Test period jurisdictional sales volumes and revenues at settlement base tariff rates

Rate schedule	Test period volume Mcf 14.65 No.	Settlement base tariff rates	Revenue at settlement base tariff rates
(1)	(2)	(3)	(4)
F–1:			
Base	12,032,907	47.84¢	$5,756,571
Excess	20,620,924	57.84	11,927,142
Total F–1	32,653,891	54.15¢	17,683,713
F–2:			
Base	56,581,713	56.20¢	31,798,923
Excess	101,027,452	65.20	66,880,173
Total F–2	157,609,165	62.61¢	98,679,096
C–1	1,739,734	44.60¢	775,921
C–2	14,767,304	50.00	7,472,256
I–1	4,705,970	41.10	1,934,154
I–2	64,515,943	45.10	29,096,600
LVS–2	1,353,824	45.10	610,575
F:			
Demand	(393,674)	$1.00	393,674
Commodity	11,963,412	40.60¢	4,857,145
Excess		75.00	
Total P	11,963,412	43.89¢	5,250,819
IRG–1:			
Monthly Charge	(48)	$50.00	2,400
Commodity	185,148	49.00¢	90,723
Total IRG–1	185,148		93,123
E			
Monthly Charge	(24)	$50.00	1,200
Commodity	9,152	75.00¢	6,864
Total E	9,152	88.11¢	8,064
Total jurisdictional	289,503,543		161,604,411

[FR Doc.77–13966 Filed 5–16–77;8:45 am]

[Docket No. RM74–16]

NATURAL GAS COMPANIES ANNUAL REPORT OF PROVED DOMESTIC GAS RESERVES: FPC FORM NO. 40

Order Deferring Action on Motion To Compel Production of Staff Witness for Cross-Examination and Affirming Judge in Denying Motions To Strike

MAY 6, 1977.

There are involved here an oral motion by Tenneco Oil Company at the hearing held on April 4, 1977, that the Staff be required to make a witness available for cross-examination on comments submitted by the staff and a written motion by Tenneco filed April 8, 1977, requesting the Commission to tender Staff member Gordon K Zareski for this purpose. Staff filed a response to the written motion on April 18, 1977. At the same hearing there were also motions (1) that staff comments be stricken unless staff were required to present witnesses, (2) that if the staff comments were stricken, comments of the producers should be stricken for the reason that the producers did not present witnesses in support of their comments, and (3) that the comments presented by non-producers be stricken for the same reason.

This proceeding commenced with the issue on April 15, 1974, of a Notice of Proposed Rulemaking proposing to require each natural gas company to file an annual report of proved domestic gas reserves on a new FPC Form No. 40. After the filing of comments and a public conference the Commission on February 25, 1975, issued Order No. 526, and later on rehearing, Order No. 526–A, which established a reporting system to provide it with information on the nation's proved reserves of natural gas. However, by orders of October 15, 1975, and June 2, 1976, the United States Court of Appeals in *Union Oil Company of California et al.* v. *F.P.C.*, — F. 2d — (CA9—No. 75–2891 *et al.*) set aside Order Nos. 526 and 526–A and remanded the proceeding to the Commission because the court was not able to determine that the Commission's orders were supported by substantial evidence.

By order of February 2, 1977, the Commission reopened the proceeding, it required the staff to serve written comments on all parties concerning the regulatory need for gas reservoir data, the availability of this data from other government agencies and the regulatory burden of submitting reservoir data; it provided opportunity for the filing of comments, testimony and exhibits, and prescribed a hearing.

A substantial number of written comments were filed and a hearing was held on April 4, 1977, before Presiding Administrative Law Judge Samuel Kanell. There witnesses were presented and cross-examined and their testimony was made part of the record, as were the comments. The oral motions referred to above were then made.

The motions were denied at the hearing because the Staff submission was made in compliance with the procedures prescribed by the Commission in its February 2, 1977 order and because the Commission's Rules (Section 1.19(a)) do not require evidentiary submissions through intervenors in rulemaking proceedings. Certification of his rulings to the Commission was made by the Judge on April 14, 1977.

Meanwhile on April 8, 1977, Tenneco filed its written motion with the Commission to compel production of Gordon Zareski for cross-examination. Tenneco argues that until all interested parties have an opportunity to explore through cross-examination the statements in staff's comments there will be no substantial evidence in the record to support reissuance of Form 40 and to satisfy the legal burden imposed by the Court of Appeals. In its response filed April 18, 1977, the staff contends that Tenneco is making a collateral attack on the Commission's order. Further, staff says, Tenneco's assertion that the staff's filing is not substantial evidence is not only false but would require the Commission to prejudge the remanded case on the basis of a motion. Also staff asserts the motion attempts to permit Tenneco to make its case through cross-examination without presenting an affirmative case.

It is clear that in a rulemaking proceeding information need not be submitted in the form of evidence in an adjudicative proceeding. The Court recognizes this, but concludes that under the Natural Gas Act, the record must contain sufficient factual data, however informally presented, to provide substantial evidentiary support for the ac-

tion taken. Whether the record including the staff's comments, the other comments, the testimony of the three witnesses and the cross-examination contains substantial evidence to support the issuance of Form 40 can only be determined by the Commission upon a full review of the record. If further evidence is necessary to support the Commission's action, the Commission will call for further proceedings. Therefore action on Tenneco's written motion and corresponding oral motion calling for staff witnesses should be deferred pending decision on the whole record. The motions to strike the staff comments and the comments of other parties should be denied on the ground that they form part of the body of evidence in this type of proceeding. *American Airlines, Inc.* v. *C.A.B.* 359 F.2d. 624, 632–633 (CADC–1966). Certiorari denied 385 U.S. 843 (1966).

The Commission further finds: (1) Tenneco's oral motion to require the staff to make a witness available for cross-examination on the comments submitted by the staff and the motions to strike listed above have been certified to the Commission.

(2) Commission ruling on the oral and written motions to require the staff to make witnesses available should be deferred; the motions to strike should be denied.

The Commission orders: (A) Commission ruling on the oral and written motions to require the staff to make witnesses available for cross-examination on the comments submitted by the staff is deferred pending a determination on the whole record in the reopened proceeding.

(B) The remaining oral motions consisting of motions to strike are denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13987 Filed 5-16-77;8:45 am]

[Docket No. CP73-332]

NORTHWEST PIPELINE CORP.

Findings and Order Further Amending Order Authorizing Importation of Natural Gas

MAY 10, 1977.

On December 23, 1976, Northwest Pipeline Corporation filed in Docket No. CP73-332 a petition to amend the Commission's order issued in Docket No. CP73-332 on February 26, 1975 (54 FPC—), pursuant to Section 3 of the Natural Gas Act so as to authorize the continued importation of short-term emergency natural gas from Canada at a cumulative average price up to $2.05 per Mcf in lieu of the previously authorized price of up to $1.91 per Mcf. Northwest also requests that the Commission remove Docket No. CP73-332 from the scope of the import authorization pricing orders issued September 9, 1976, and December 17, 1976, in Docket No. CP66-110, et al. The details of Northwest's proposal are more fully set forth in the petition to amend.

On February 26, 1975, the Commission issued an order in Docket No. CP73-332 adopting and modifying the Initial Decision of the Administrative Law Judge whereby Northwest was authorized to import from Canada up to 55,000 Mcf of short-term emergency natural gas per day purchased from Westcoast Transmission Company Limited (Westcoast) under the terms of a 1974 Temporary Agreement at an average border price ranging from $1.61 to $1.91 per Mcf over the life of the contract.[1] The 55,000 Mcf of gas per day partially offsets curtailments of heating season deliveries by Westcoast to Northwest. The subject volumes of gas are purchased by Westcoast from Pan-Alberta Gas Ltd. (Pan-Alberta) in Alberta, Canada, and are delivered to Westcoast by Pan-Alberta in British Columbia, Canada. Westcoast then transports and delivers such gas to Northwest at the Sumas import point on the international boundary. These emergency volumes are available for purchase by Northwest only to the extent Westcoast is unable to deliver gas under the Fourth Service Agreement.[2] Under the terms of the 1974 Temporary Agreement, Northwest is required to take or pay for a minimum annual volume which is equivalent to an 85 percent load factor.

In its order of February 26, 1975, the Commission found that the border price of the gas would, on the average, range between $1.61 and $1.91 per Mcf over the life of the contract subject to adjustments occasioned by the Canadian-U.S. exchange rate and Northwest's carrying costs on certain facilities to be constructed. The order requires Northwest to seek further authorization to continue importing gas under the 1974 Temporary Agreement if the border price rises above $1.91 per Mcf, on the average, over the life of the contract.

On October 8, 1974, Westcoast's Export License GL-41 was amended by the National Energy Board of Canada (NEB) to permit the exemption of the subject volumes of gas from the general pricing provisions affecting Canadian natural gas exports. By Order No. AO-11-GL-41, however, the NEB revoked this exemption and made the subject volumes of gas subject to the general border prices of $1.80 per million Btu effective October 1, 1976, and $1.94 per million Btu, effective January 1, 1977. By Commission orders issued in Docket No. CP66-110, et al., on September 9, 1976 (56 FPC —), and December 17, 1976, (56 FPC —), Northwest was authorized to pay the increased prices. On October 21, 1976, the NEB issued an order which reinstated the border price exemption for gas imported under the 1974 Temporary Agreement.

The average border price ranging between $1.61 and $1.91 per Mcf authorized by the order of February 26, 1975, was dependent upon Pan-Alberta's ability to sell the gas to other parties at the contractual commodity rate during the summer months when the gas could not be used by Northwest and, thus, offset to some degree the 85 percent take-or-pay obligation of Northwest. The high of $1.91 per Mcf represents the inability of Pan-Alberta to dispose of any gas, while the low of $1.61 represents its ability to sell all of the gas in Canada. Pan-Alberta was unable to sell any of the gas in Canada during the summer months to offset the take-or-pay obligation of Northwest. Further, Pan-Alberta was unable to deliver the full contractual volumes during the 1975–1976 heating season. Despite this, Northwest was still obligated to pay the fixed cost of the added transportation facilities of both Pan-Alberta and Westcoast. In view of the fact that it was unable to deliver full contract quantities during the 1975–1976 heating season, Pan-Alberta agreed to reduce its other charges to the extent required so that the total amount due Pan-Alberta and Westcoast over the term of the 1974 Temporary Agreement would not exceed $1.91 per Mcf, assuming that full volumes are delivered for the period October 1, 1976, through April 1, 1977. Despite this agreement, Northwest was unable to import full volumes in October because Westcoast had gas available on certain days under its GL-41 export authorization at the Sumas delivery point.

Northwest now estimates that the average cost of all volumes actually imported for the term of the 1974 Temporary Agreement will be $1.96 per Mcf if full deliveries can be taken during the remaining months of the agreement. However, Northwest states that it is impossible to predict with certainty the volumes that will finally be imported under the agreement. Northwest estimates that if, for example, it were unable to take gas for an additional 15 days during the remaining four months of the agreement (from the time of filing of the instant petition), the cumulative purchased gas cost would be $2.05 per Mcf.

Based on the foregoing facts, Northwest's average cumulative gas purchased cost will exceed the restriction of $1.91 imposed in the Commission order of February 26, 1975. The extent by which the $1.91 will be exceeded cannot be determined until after the agreement expires on April 30, 1977, because deliveries under the 1974 Temporary Agreement are subject to the uncertainty of Westcoast's inability to deliver gas from its own gas supply sources in British Columbia. In any event, the final average cumulative gas purchased cost is beyond the control of Northwest and, upon consideration of the various factors contributing to the average increased purchased cost, the request to raise the $1.91 per Mcf restriction to $2.05 per Mcf seems to be reasonable.

The 1974 Temporary Agreement contains a provision that if, at the end of the agreement, certain conditions are met, Northwest and Westcoast shall attempt to negotiate an extension of said agreement. Therefore, it should be noted that the bases for the determination of the instant proposal relate only to the subject 1974 Temporary Agreement and any application related to the proposed extension of this agreement will be considered on its own merits.

After due notice by publication in the FEDERAL REGISTER on January 24, 1977 (42 FR 4205), no petition to intervene, notice of intervention or protest to the granting of the petition to amend has been filed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and not inconsistent with the public interest to amend further the order issued in Docket No. CP73-332 on February 26, 1975, as amended, as hereinbefore described and as more fully described in the petition to amend in this proceeding.

The Commission orders: (A) The Commission's order issued in Docket No. CP73-332 on February 26, 1975, as amended, is further amended so as to authorize Northwest to pay an average price up to $2.05 per Mcf over the life of the contract, as hereinbefore described and as more fully described in the petition to amend in this proceeding. In all other respects said order, as amended, shall remain in full force and effect.

(B) The authorization granted herein is effective as of September 10, 1976.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-13986 Filed 5-16-77;8:45 am]

[Docket No. CP76-118]

U–T OFFSHORE SYSTEM

Notice of Further Extension of Time

MAY 9, 1977.

On April 19, 1977, U–T Offshore System filed a motion for a further extension of time to submit the rate schedules and cost of service studies pursuant to Ordering Paragraph (B) of the Commission's January 13, 1977 order.

Upon consideration, notice is hereby given that a further extension of time is granted to and including July 5, 1977.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-13989 Filed 5-16-77;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORP.

Order Approving Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares, less directors' qualifying shares, of the successor by merger to The Farmers & Merchants Bank, Ashford, Alabama ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Alabama, controls 14 bank subsidiaries with aggregate deposits of approximately $1.4 billion representing 15.1 per cent of total deposits in commercial banks in Alabama.[1] Acquisition of Bank (approximately $8.7 million in deposits) would increase Applicant's share of Statewide commercial bank deposits by less than 0.1 per cent and would have no appreciable effect upon the concentration of banking resources in the State.

Bank is the fifth largest of eight banks in the Dothan banking market, which is the relevant banking market,[2] and controls approximately 3.4 percent of the total deposits in commercial banks in the market. Applicant's subsidiary bank closest to Bank is located in Montgomery, approximately 100 miles from Bank, in a separate banking market. Applicant does have a nonbanking subsidiary that competes in the Dothan market with Bank and ten other firms for the origination of single-family residential mortgage loans within the market. However, Bank originated only $300 thousand in such loans during 1976, amounting to approximately 1.3 per cent of the amount of single-family residential mortgage loans originated in the market during the year. Thus, it appears that approval of this application will not eliminate a substantial amount of competition. It is concluded that consummation of the proposal would have only slightly adverse competitive effects.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval of the application. Considerations relating to banking factors are also consistent with approval of the application. Customers of Bank will have access to the services of Applicant's investment, bond, trust, industrial development, and international departments. Thus, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application, and in the Board's view outweigh any slightly adverse effects on competition that might result from consummation of this proposal. Accordingly, it is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective May 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14014 Filed 5-16-77;8:45 am]

EUROPEAN-AMERICAN BANCORP

Order Approving Formation of Bank Holding Company and Operation of New York Investment Company

European-American Bancorp, New York, New York, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of the formation of a bank holding company through the acquisition of all the voting shares (except directors' qualifying shares) of European-American Bank & Trust Company ("Bank"), New York, New York.

Applicant has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire all of the voting shares (except directors' qualifying shares and 130 additional shares) of European-American Banking Corporation ("EABC"), New York, New York. EABC is an investment company organized and operating under Article XII of New York State Banking Law[1] (a "New York Investment Company") that engages in the following activities: provision of lending and international banking services, including letters of credit, acceptances and other financing facilities in connection with exports and imports, international transfers of funds and foreign exchange services; investments and foreign exchange transactions for its own account; leasing improved real estate and data processing equipment; and maintenance of credit balances incidental to or related to the foregoing activities. Although Applicant believes that certain of EABC's activities have been determined by the Board in § 225.4(a)(1), (3), and (6) of Regulation Y to be permissible for bank holding companies, it has not applied to acquire shares of EABC on the basis of those provisions. Rather, based on the facts and circumstances of this particular case, Applicant has requested under § 225.4(a) of Regulation Y that the

[1] The Temporary Agreement will end on April 30, 1977.

[2] Northwest was authorized in Docket No. CP73-332 to import up to 800,000 Mcf pursuant to the Fourth Service Agreement dated October 1, 1970. Northwest is now authorized in Docket No. CP75-341 to import said gas.

[1] All banking data are as of June 30, 1976, except as otherwise indicated.

[2] The Dothan banking market is approximated by the boundaries of Houston County.

[3] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Jackson.

[1] See New York Banking Law sections 507-510, 4 McKinney's Consolidated Laws (1976)

Board determine by specific Order under section 4(c)(8) of the Act that its operation of EABC as a New York Investment Company is permissible under section 4(c)(8) of the Act because EABC is engaged in activities so closely related to banking or managing or controlling banks as to be proper incidents thereto.[1] Operation of a New York Investment Company has not heretofore been determined by the Board to be an activity permissible for bank holding companies.

Notice of receipt of these applications has been given in accordance with sections 3 and 4 of the Act (41 FR 49673) and the time for filing views and comments has expired. The Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)). No request for a hearing has been received.

Applicant is a nonoperating corporation organized for the purposes of becoming a bank holding company through the acquisition of Bank and of operating a New York Investment Company through the acquisition of EABC. Bank was chartered in 1953 as the Belgium-American Bank and Trust Company, with the Societe Generale de Banque, S.A., Brussels, Belgium as the sole shareholder. In 1968 the Midland Bank, Limited, London, England; Deutsche Bank A.G., Frankfurt, Germany; and Amsterdam-Rotterdam Bank, N.V., Amsterdam, The Netherlands, joined as shareholders, and Bank adopted its present corporate title. Shortly afterwards, Societe Generale, Paris, France, and Creditanstalt Bankverein, Vienna, Austria, also became shareholders of Bank. Bank had two branches in Manhattan and a limited service branch in the Cayman Islands until October 1974, when it acquired from the Federal Deposit Insurance Corporation ("FDIC") the deposits, selected assets, and a network of 100 branches of Franklin National Bank ("Franklin"), Brooklyn, New York. Prior to the Franklin transaction, Bank operated principally as a wholesale bank, serving primarily European companies in the American market and selected U.S. companies. Through the purchase of $1.6 billion of Franklin's assets, Bank became a major retail bank in the Metropolitan New York market,[2] with most of its operations concentrated on Long Island. Bank ($2.2 billion in domestic deposits) is the 11th largest bank in the market with 1.5 percent of the market's deposits.[4]

EABC was organized in 1950 as a New York Investment Company under Article XIII of New York Banking Law, under the name Belgian-American Banking Corporation, replacing and succeeding to the business of the New York agency of Banque Belge pour L'Etranger (Overseas), Ltd., London, England. EABC, which was owned by Banque de la Societe Generale de Belgiuque and other of its Belgian affiliates, assumed its present corporate title in 1968 when Amsterdam-Rotterdam Bank, Midland Bank, and a subsidiary of Deutsche Bank became shareholders. Societe Generale and Creditanstalt Bank later became shareholders of EABC. EABC operates through its main office in New York City, two branch offices in California and a foreign branch located in Nassau, The Bahamas. EABC also has five wholly-owned subsidiaries: Euram Realty Corporation and Euramcor Realty Corporation, Jersey City, New Jersey, special-purpose, single-transaction leasing companies that acquired and lease certain real property as accommodations to EABC's customers in accordance with the conditions of § 225.4(a)(6)(b) of Regulation Y; Disk Pack Leasing Corporation, New York, New York, which is now dormant but which was engaged in the leasing of data processing equipment; and two foreign subsidiaries, European-American Finance (Bermuda), Limited, Hamilton, Bermuda, and Euro-Credit S.A., Panama, Panama, Applicant's indirect acquisition of which the Board has approved by separate letter pursuant to section 4(c)(13) of the Act.

Both Bank and EABC are owned by the same shareholders in substantially the same proportions. The proposed transaction is essentially a restructuring of the interests of these shareholders whereby ownership of Bank and EABC will be transferred to a corporation similarly owned. While Bank and EABC have many similar banking powers, Bank engages to a substantial extent in retail banking, which EABC cannot do because it is prohibited by New York Banking Law from accepting deposits from the general public.[5] It appears from the facts of record that Bank and EABC have concentrated on complementary lines of service. EABC engages primarily in international lending and banking services, and Bank concentrates on providing domestic lending and banking services. This separation derives in part from statutory restrictions on EABC's general deposit-taking and trust powers, and in part from a respective business emphasis determined by the common management of the two companies. In light of the above and other facts in the record, it appears that consummation of Applicant's proposals will eliminate no significant competition. There is a long history of common ownership, common management, and cooperative operation of the two institutions, and it appears unlikely that this relationship would be altered if the subject applications were denied. On the basis of the record before it, the Board concludes that competitive considerations are consistent with approval of the applications.[6]

The financial and managerial resources of Applicant, which will be primarily dependent upon those of Bank and EABC, are considered satisfactory and its future prospects appear favorable. Thus, considerations relating to banking factors are consistent with approval of the application to acquire Bank.

In acting on the application to acquire EABC, the Board must first determine under the provisions of section 4(c)(8) of the Act whether the activities of EABC, as a New York Investment Company, are closely related to banking or managing or controlling banks. The New York Investment Company is a unique type of banking and financing corporation organized under a separate article of New York Banking Law that is believed to have no close institutional parallel under the laws of other States. Its singular powers and status chiefly reflect the diversity of New York's financial markets and the attractiveness of such markets to domestic and foreign financial institutions alike. There are now two principal types of New York Investment Companies. One type engages primarily in financing retail sales; included among this group are some of the nation's largest finance companies, such as General Motors Acceptance Corporation and Commercial Credit Company. The other type, including EABC, is engaged in transacting virtually all of

[1] Under section 4(c)(8) of the Act, the Board may determine that the prohibitions of section 4 of the Act shall not apply to the shares of any company the activities of which the Board after due notice and opportunity for hearing has determined by order or regulation to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

[2] The Metropolitan New York market consists of the five boroughs of New York City, plus Nassau, Putnam, Rockland, and Westchester Counties, and western Suffolk County, all in New York State, as well as the northern two-thirds of Bergen County and eastern Hudson County in New Jersey and southwestern Fairfield County in Connecticut.

[4] Bank deposit data are as of December 31, 1976; market share and market rank information are as of June 30, 1975.

[5] New York Banking Law Section 509, 4 *McKinney's Consolidated Laws* (1976).

[6] In reaching its determination on competitive factors in this application, the Board took into consideration the fact that Applicant will be owned by the same group of foreign banks that presently controls Bank and EABC and that controlled combined total assets on a world-wide basis of nearly $120 billion at year-end 1975. The subject application proposes a reorganization of these banks' existing interests in Bank and EABC, and does not represent an expansion of their joint presence in U.S. markets. No adverse comments have been received from the Department of Justice on this proposal. In a letter dated July 18, 1975, from Assistant Attorney General Thomas B. Kauper to Congressman Wright Patman, Mr. Kauper stated that the Department "was aware of no evidence which would indicate that the EABTC [Bank] venture is part of a more comprehensive illegal arrangement affecting the domestic or foreign commerce of the United States. Nor does it appear that the joint venture, when viewed in the context of a very large market containing numerous powerful domestic and foreign competitors, may substantially lessen competition as defined by the courts under Section 7 of the Clayton Act." It also appears from the record of this application that the existing joint ownership of Bank and EABC by six large European banks would not be altered if the subject applications were denied. Accordingly, in these circumstances, Applicant's ownership by six large European banks presents no adverse competitive considerations.

the usual activities of a commercial bank, except the general business of accepting deposits. These "banking" Investment Companies,[7] like EABC, are all ultimately controlled or affiliated with foreign banking organizations and are engaged primarily in internationally-related activities. In this regard, it appears that the New York Investment Company has, over the years, served as a means for foreign bank entry into New York in cases where entry through a direct branch or agency was either unavailable or undesirable for the purposes sought.

Each of the lending and banking services presently offered by EABC is offered by commercial banks generally and, in this connection, EABC competes with foreign banking organizations and domestic commercial banks and their Edge Corporation subsidiaries in the provision of such services in New York.[8] It is the Board's view, in light of the above and other facts of record, especially the unique structural and competitive circumstances existing in New York, that the present activities of EABC are closely related to banking.[9] In fact, EABC's activities are so like those generally provided by commercial banks, that there is a substantial question whether EABC should be considered a "bank" for purposes of the Act.

Section 2(c) of the Act (12 U.S.C. 1841(c)) defines the term "bank" to include any institution organized under the laws of any State of the United States which "accepts deposits that the depositor has a legal right to withdraw on demand" and engages in the business of making commercial loans. EABC is a State-chartered corporation that accepts "credit balances" for the account of its customers that the customers have a legal right to withdraw on demand, and it engages in the business of making commercial loans. Accordingly, if EABC's credit balances are deposits within the meaning of section 2(c), it would satisfy the definitional test.

In 1971, the Board determined that a similar New York Investment Company was not a "bank" within the meaning of section 2(c) based largely on three considerations.[10] First, the Board was persuaded at that time that Congress meant to include in the definition of "bank" only those institutions that offer to the public the general convenience of checking account facilities. In this regard, it was found that the New York Investment Company involved could accept credit balances only as an incident to transactions it was legally permitted to perform for its customers, that it could not solicit or accept deposits of idle funds, and that its customers were not permitted to use such balances in the manner of a general checking account, although drafts could be drawn on such accounts to pay for the import and export of goods. Second, the New York Superintendent of Banks had expressed the view that the distinction between credit balances and deposits was "meaningful" and "administrable" in New York. Third, the company involved was principally engaged in financing or facilitating transactions in international or foreign commerce. Since that time, the Board has generally reviewed the activities of New York Investment Companies owned by foreign banks in the course of considering proposed legislation to regulate foreign bank activities in the United States, and has recommended to Congress that these New York Investment Companies, such as EABC, should be subject to Federal banking regulation, including reserve requirements and interest rate controls on their credit balances. In this regard and in other situations, the Board has stated that it believes the credit balance accounts of foreign bank agencies and banking New York Investment Companies are in many respects the functional equivalent of deposits when maintained in connection with the provision of traditional commercial banking services.[11] The Board, however, has not determined that credit balances should be defined as demand deposits within the meaning of section 2(c) of the Act.

Viewing the credit balance activities of EABC in light of these precedents and other facts in the record, the Board is satisfied that the considerations reflected in its 1971 ruling apply equally to EABC and that therefore EABC should not be regarded as a "bank" because it does not accept demand deposits within the meaning of section 2(c) of the Act. The focus of the Act's legislative history on the general provision of checking accounts and the longstanding acceptance of the provision of checking accounts as one of the features distinguishing commercial banks from other financial institutions are factors that must be given particular weight.[12] When such factors are considered with the historical legal and administrative distinction between credit balance and deposit accounts in New York, and Congress' general intent to exclude international banking corporations from the Act's definition of "bank",[13] the Board believes that the Act need not be extended administra-

[7] In addition to EABC, there are: J. Henry Schroder Banking Corporation, New York, New York, a subsidiary of Schroders, Ltd., a registered foreign bank holding company; French-American Banking Corporation, New York, New York, a subsidiary of Banque Nationale de Paris, Paris, France, a registered foreign bank holding company; Nordic American Banking Corporation, New York, New York, which is owned by Svenska Handelsbanken; and Baer American Banking Corporation, New York, New York, a subsidiary of a private Swiss bank.

[8] The following banking and lending activities are those currently engaged in directly by EABC under authority of section 508 of New York Banking Law:

1. Borrowing and lending money (without limitation as to a single borrower);
2. Acquiring and disposing of bills of exchange, drafts, notes, acceptances, and other obligations for the payment of money, including bonds and mortgages on real property; making loans upon the security of such bonds and mortgages, and accepting bills of exchange or drafts upon them;
3. Issuing letters of credit;
4. Buying and selling foreign exchange;
5. Receiving funds for transmission to foreign countries;
6. Receiving and maintaining credit balances incidental to, or arising out of, the exercise of its lawful powers;
7. Investing in equity securities of any company (where such investments constitute no more than 5 per cent of the company's outstanding voting stock); and
8. Operating a foreign branch and through that branch receiving funds in the form of time account credit balances (almost entirely from foreign persons), lending such funds to banks and corporations primarily located outside the United States, and placing such funds in time accounts with banks.

[9] Two courts that have considered the "closely related" language in section 4(c)(8) of the Act have concluded, inter alia, that an activity generally engaged in by banks directly would generally qualify as "closely related" to banking or managing or controlling banks within the meaning of the statute. *National Courier Association* v. *Board of Governors of the Federal Reserve System*, 516 F.2d 1229 (D.C. Cir. 1975); *Alabama Association of Insurance Agents* v. *Board of Governors of the Federal Reserve System*, 533 F.2d 224 (5th Cir. 1976), modified, ---- F.2d ---- (5th Cir. January 10, 1977).

[10] Board letter of November 8, 1971 to the San Francisco Reserve Bank concerning the status of French-American Banking Corporation; see also Board Order of February 7, 1972 approving the application of Banque Nationale de Paris to retain French-American Banking Corporation under section 4(c)(9) of the Act, 58 Federal Reserve Bulletin 312 (1972).

[11] See the Board's Order of May 30, 1975, denying Bank of Tokyo's application to acquire Tokyo Bancorp International (Houston), Inc., Houston, Texas, under section 4(c)(9) of the Act, 61 Federal Reserve Bulletin 449 (1975); and a Board letter of March 17, 1977, to Citibank, N.A., New York, New York, regarding a proposal by Grindlays Bank, Ltd., London, England, to establish an agency in New York City.

[12] See *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 356 (1962), where the Supreme Court in explaining the cluster of products and services that make commercial banking a distinct line of commerce for purposes of section 7 of the Clayton Act, noted that: Some commercial banking products or services are so distinctive that they are entirely free of effective competition from products or services of other financial institutions; the checking account is in this category.

[13] The definition of "bank" in section 2(c) of the Act specifically excludes Edge Act and Agreement Corporations operating under sections 25(a) and 25 of the Federal Reserve Act, respectively, and any other "organization that does not do business within the United States except as an incident to its activities outside the United States."

tively to include institutions such as EABC or other New York Investment Companies owned by foreign banks, so long as they continue to engage primarily in international banking activities. The resolution of the status of such companies under Federal banking laws, in light of the above considerations, is more properly a matter for legislative determination and, in this connection, the Board has recommended to Congress that New York Investment Companies owned or controlled by foreign banks be subject to the same Federal regulation that Congress may impose on branches and agencies of foreign banks.

Although, as determined above, EABC is presently engaged in activities closely related to banking, Applicant has also applied to engage through EABC in all activities permissible to EABC as a New York Investment Company under Article XII of the New York Banking Law, except that Applicant has agreed that (1) notwithstanding its broad investment powers, EABC will not invest in more than 5 percent of the voting shares of any company except with prior Board approval under the Act, and (2) EABC will continue to conduct its indirect leasing activities in accordance with § 225.4 (a)(6) of Regulation Y. Because EABC is already affiliated with Bank, a member bank, it is foreclosed by section 20 of the Glass-Steagall Act (12 U.S.C. § 337) from engaging principally in securities underwriting and distribution activities even though Article XII of the New York Banking Law permits a broad range of such securities activities to New York Investment Companies. Applicant has stated that EABC is not now engaged in underwriting activities and in the future would only engage in underwriting activities permissible to Bank.[14] Subject to these limitations, EABC's present and proposed activities all appear to be closely related to banking.

In order to approve the subject application by Order under section 4(c)(8), the Board is required to determine that Applicant's proposed operation of EABC as a New York Investment Company is a proper incident to banking or managing or controlling banks. This test requires the Board to consider whether Applicant's acquisition and operation of EABC pursuant to this application "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices". This statutory test necessitates a positive showing by Applicant that the public benefits of its proposal outweigh the possible adverse effects of its proposed acquisition. In the present case, the Board has determined that, based on the particular facts and circumstances and unique public benefits associated with this application, factors relating to the convenience and needs of the community to be served lend weight to approval of Applicant's application to acquire Bank, and the public benefits of its application to acquire EABC, subject to the conditions noted in this Order, outweigh the possible adverse effects of that proposal and therefore satisfy the "proper incident" test of section 4(c)(8) of the Act.

It is expected that approval of the subject applications will result in the more efficient operation of both Bank and EABC through improved internal supervision. Moreover, interposition of a holding company structure in this situation can be expected to reduce borrowing costs and permit Bank and EABC to raise capital more efficiently; in particular, since Applicant will become a primary or joint obligor on Bank's note to the FDIC arising out of the Franklin acquisition, EABC's earnings may also be applied toward reducing that debt, thus better enabling Bank to meet the convenience and needs of the communities it serves. In this regard, Applicant specifically expects to reduce the borrowing costs of Bank and EABC through the commitment of its shareholder banks to advance $25 million, $15 million for the benefit of Bank, replacing more expensive debt, and $10 million to EABC as additional capital. Approval of this particular application will also insure that, notwithstanding its broad powers under Article XII of New York Banking Law, EABC, an existing affiliate of Bank, will only engage in activities that are closely related to banking and proper incidents thereto.

EABC, like similar New York Investment Companies owned by foreign banks and agencies of foreign banks, does not have to maintain reserves against its credit balance accounts, and these accounts are not subject to interest rate limitations. While maintenance of such accounts may not cause EABC to be a "bank" for purposes of section 2(c) of the Act, the Board believes that for purposes of reserve requirements and interest rate limitations, such accounts should be considered to be deposits. The Board has, in this regard, specifically recommended to the Congress that it be given the authority to impose reserve requirements and interest rate limitations on all foreign bank operations in this country—whether conducted through branches, agencies, New York Investment Companies, or bank subsidiaries—because of the growing importance of such institutions in this country's money markets and their particular ability to transmit funds from abroad. Thus, from a broader structural and monetary policy viewpoint, the Board is seriously concerned by the fact that credit balance accounts maintained by foreign banking organizations are not generally subject to reserve requirements. In the Board's view, any proposal under section 4(c)(8) of the Act that would have the effect of diminishing the reserve base either by facilitating the acceptance of reserve-free credit balances or encouraging a shift from reservable deposits to such balances would entail serious adverse effects. This particular application, however, involves only a reorganization of the ownership of EABC, and insofar as the credit balances of EABC are concerned, the proposal merely preserves the status quo and does not reduce the reservable deposit base of the banking system or otherwise create an opportunity to shift deposits that does not already exist. If necessary, and in particular if a deliberate attempt to evade or circumvent domestic reserve or interest requirements were discovered, the Board could in the future proceed by regulation or otherwise to subject credit balance accounts held by member bank affiliates engaged in banking operations to the requirements of Regulations D and Q.[15] However, to subject only EABC and possibly one or two other foreign bank operations to these requirements at this time,[16] when most other foreign bank operations are conducted free from monetary controls, would put these institutions at a competitive disadvantage under existing circumstances. The most equitable solution to the problem of reserve-free credit balance accounts at foreign bank operations is uniform foreign bank legislation, a solution the Board has proposed and consistently recommended since 1974.

EABC has established two branches in California at which it engages primarily in international banking and lending services, but at which it may also engage in purely domestic commercial lending activities. The Board does not believe that it was within the intent of Congress to authorize under section 4(c)(8) of the Act the ownership of companies that would enable domestic bank holding companies to conduct an international banking business on a multistate basis outside of the explicit legal framework set up by the Congress in sections 25 and 25(a) of the Federal Reserve Act.[17]

[14] The Board recently decided to defer action on a proposal to make underwriting and dealing in Federal Government securities and general obligations of States or their subdivisions a permissible activity for bank holding companies. Board Order of October 19, 1976, 62 Federal Reserve Bulletin 928, 973 (1976).

[15] Approximately 70 percent of EABC's credit balance accounts are maintained at its foreign branch and payable abroad, and deposits payable only outside the United States are generally exempt from reserve and interest rate requirements.

[16] J. Henry Schroder Banking Corporation is also affiliated with a member bank, and Grindlays Bank, Ltd., in which Citibank has a substantial equity interest, plans to open an agency in New York at which credit balances will be maintained.

[17] In 1972, the Board permitted a foreign bank holding company under section 4(c)(9) of the Act to retain its interest in a New York Investment Company even though it was organizing a bank subsidiary in California. Board Order of February 7, 1972 approving Banque Nationale de Paris' retention of French-American Banking Corporation, 58 Federal Reserve Bulletin 311 (1972). In 1975, the Board denied an application by Bank of Tokyo, Tokyo, Japan, a foreign bank holding company, to acquire an international banking company, Tokyo Bancorp International (Houston), Inc., in a State outside of its State of principal banking operations under section 4(c)(9). Board Order of May 30, 1975, 61 Federal Reserve Bulletin 449 (1975). The Board subsequently approved Bank of Tokyo's application to acquire the same corporation as an Agreement Corporation subsidiary subject to the restrictions of section 25 of the Federal Reserve Act. Board letter of January 26, 1976, 62 Federal Reserve Bulletin 164. While Applicant is owned by foreign banks, it will not be a foreign bank holding company, and thus the issue presented in this case is whether a domestic bank holding company, irrespective of its ownership, should be allowed to use section 4(c)(8) of the Act to conduct a combination of domestic and international banking activities across State borders.

In particular, EABC's California offices are not subject to the restrictions on domestic business imposed on Edge Act and Agreement Corporations. Acquisition of such offices could give Applicant a competitive advantage over other domestic banking organizations and could thus undermine the domestic structure of multistate international banking competition that has been carefully prescribed by the Congress to avoid the conduct of domestic commercial banking operations at offices in more than one State. Such possible adverse effects on the structure and conduct of banking operations in this country are not, in the Board's judgment, outweighed by any particular benefits to be derived from Applicant's acquisition of EABC's California offices. The competitive benefits that may be derived from Applicant's presence in California can be equally achieved through Applicant's direct or indirect acquisition of an Agreement Corporation subsidiary in California, in accordance with the framework established by the Congress for the conduct of such activities on a multistate basis.[18] Accordingly, the Board has determined that ownership by Applicant of EABC, if EABC maintains its California offices, is not a proper incident to banking or managing or controlling banks, and that to conform with this determination Applicant must, if it acquires EABC, divest EABC's California offices within two years from the date as of which Applicant becomes a bank holding company.

EABC also has a branch in Nassau, The Bahamas, which engages in the types of banking activities conducted by shell branches of U.S. banks. So long as this branch limits its activities to those permissible for EABC under this Order, the Board believes that Applicant may operate this branch of EABC under section 4(c)(8) of the Act.[19] If Applicant or EABC proposes to engage in activities outside this country that are not permissible for EABC under this Order, Applicant may file a separate application under section 4(c)(13) of the Act to organize a subsidiary to engage in those activities.

Applicant has also applied to engage in three activities permissible for New York Investment Companies but in which it is not now engaged and has no fixed present intention to engage: underwriting activities permissible to Bank, a member bank, dealing in coin and bullion, and acting as financial agent of the Federal Government and as depositary of Federal money. The Board has deferred consideration of a proposal to specify the first of these activities to be permissible for bank holding companies under Regulation Y,[20] and in the Board's judgement, Applicant has not established any public benefits that would be derived from its engaging in any of these three activities through EABC. For this reason, the Board is unable to conclude that ownership of EABC, if EABC engaged in these activities, would be a proper incident to banking or managing or controlling banks. The Board is compelled to conclude instead, in light of the facts in the record, that EABC as a subsidiary of a domestic bank holding company, should not engage in these activities until it is able to present specific proposals concerning them and the manner in which and extent to which they would be conducted, and the specific public benefits that would be derived.

In its consideration of this proposal, the Board also noted that Applicant will serve as a single vehicle for the ownership of Bank and EABC by their existing foreign bank shareholders. The Board has previously determined that no one of the foreign bank shareholders of Bank is now a bank holding company and that the shareholders have not heretofore formed themselves into a "company", as defined in the Act, to control Bank. On the basis of the record, this reorganization does not appear to affect those conclusions. However, the Board is concerned that the close association of Applicant's shareholders could create opportunities for additional investments and activities by this group in the United States under circumstances that could be inconsistent with the purposes of the Act. Accordingly, the Board's approval of these applications is conditioned on a requirement that Applicant's foreign bank shareholders not proceed, otherwise than through Applicant, in substantially the same combination to engage directly or indirectly in additional banking or nonbanking activities or business ventures in this country.[21] The Board may, in any event, reconsider the question whether the shareholders have combined to act together as a company if in the future it appears the shareholders are not acting independently as essentially passive investors, and take appropriate action under the Act.

On the basis of the foregoing and all the facts of record, the Board has determined that the considerations affecting the competitive, banking, and convenience and needs factors under section 3(c) of the Act, and the balance of the public interest factors the Board must consider under section 4(c)(8) of the Act in permitting a bank holding company to engage in an activity on the basis that it is closely related to banking both favor approval of the applications subject, however, to the following conditions:

(1) That EABC continue to engage principally in the financing or facilitating of transactions in international or foreign commerce, and not accept demand deposits;

(2) That EABC comply with all reserve and interest rate requirements that may be imposed on it either as a result of action of the Board or enactment of legislation;

(3) That Applicant cause EABC to divest its offices in California within two years from the date as of which Applicant becomes a bank holding company;

(4) That EABC confine the activities of its Nassau branch to those permissible to EABC at its head office under this Order;

(5) That EABC not engage in the activities of underwriting, selling, or distributing securities, buying or selling coin and bullion, or acting as a financial agent of the United States Government or as a depositary of public moneys of the United States, or in any new activity in which New York Investment Companies by subsequent enactment may be empowered to engage, without the prior approval of the Board; and

(6) That Applicant's shareholders, and their parent and subsidiary organizations, will not, except through Applicant with the Board's approval under the Act, engage, as part of a group consisting of substantially the same companies as are shareholders of Applicant, in any additional banking or nonbanking activities or business ventures within the United States, other than normal banking transactions,[22] and that none of

[18] The Board has considered Applicant submissions on this issue and believes the fact that EABC can engage in certain domestic activities not permissible to Edge Act or Agreement Corporations weighs in favor of denial rather than approval for the reasons cited in this Order.

[19] The Board notes that Regulation Y currently provides for the establishment of de novo branches under section 4(c)(8) in accordance with the procedures described in § 225.4(b)(1) of Regulation Y. These procedures, requiring local newspaper publication, are designed for domestic expansion of section 4(c)(8) offices; any bank holding company proposing to establish a branch of a section 4(c)(8) company outside of the United States should file a specific application to do so under § 225.4(b)(2). The Board has directed its staff to develop proposed procedures for the establishment of foreign offices of section 4(c)(8) companies to be published for public comment in the FEDERAL REGISTER.

[20] *Supra*, n. 14.

[21] The Board has imposed similar conditions in other circumstances where a bank is to be owned by several banking organizations. See Board Order of May 6, 1977 approving the amended application of SYB Corporation, Oklahoma City, Oklahoma, to become a bank holding company and Board letter of January 26, 1976, to Thomas L. Farmer, Esq. re UBAF Arab-American Bank, New York, New York.

[22] For the purpose of this condition, the exception for normal banking transactions is intended to permit several of Applicant's shareholders to participate independently in the same syndicated loan or other credit transaction, to maintain independently normal correspondent relationships with the same domestic bank, and to engage independently in other transactions of that character. The exception is not intended to permit the joint establishment of representative offices, branches, agencies, or the joint organization of or acquisition of voting shares in a United States organization by substantially the same shareholders as own Applicant.

Applicant's shareholders will sell, assign, or transfer any of its shares of Applicant unless it has obtained the agreement of any purchaser, assignee, or transferee to comply with this condition.

Subject to the conditions prescribed in this Order, the applications are hereby approved based on the record and for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order; and the acquisition of Bank and EABC shall not be made later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority. The determination as to Applicant's operation of EABC is subject to the conditions set forth in this Order and in § 225.4(c) of Regulation Y, and to the Board's authority to require reports by and make examinations of bank holding companies and their subsidiaries, and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's Orders and regulations issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] effective May 10, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-14015 Filed 5-16-77;8:45 am]

FIRST CITY BANCORP. OF TEXAS, INC.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by First City Bancorporation of Texas, Inc., Houston, Texas ("First City"), for a determination that, with respect to a sale by First City (through its subsidiary, Texas Bank and Trust Company of Dallas and its affiliate, Texas Fiduciary Corporation, both located in Dallas, Texas) of First Bank & Trust Company, Cedar Hill, Texas ("First B&T"), to Mr. Patrick J. Leonard, First City is not, nor will be, in fact capable of controlling either First B&T or Patrick J. Leonard.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than June 7, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, May 10, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14016 Filed 5-16-77;8:45 am]

WASHINGTON BANCORP.

Order Approving Formation of Bank Holding Company

Washington Bancorporation, Washington, Iowa ("Applicant"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 per cent (or more) of the voting shares of the successor by merger to The National Bank of Washington, Washington, Iowa ("Washington Bank"), and Ainsworth State Bank, Ainsworth, Iowa ("Ainsworth Bank"). The merger of The National Bank of Washington and Ainsworth State Bank was approved by the Comptroller of the Currency on February 1, 1977, under the charter and title of The National Bank of Washington ("Bank"). Upon consummation of the merger, the present office of Ainsworth State Bank would serve as a branch facility of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Consolidating figures from Washington Bank and Ainsworth Bank indicates that Bank would have deposits of $23.1 million[1] and be the largest of nine banks in the relevant market,[2] controlling approximately 23 per cent of the total deposits in commercial banks in the market. Upon acquisition of Bank, Applicant would control the 128th largest commercial bank in Iowa and .19 per cent of the total deposits in commercial banks in the State. Applicant presently has no subsidiaries and engages in no activities. Since the proposal is designed solely to place ownership of Bank into corporate form and Applicant has no subsidiaries, consummation of the proposal would neither eliminate significant existing or potential competition nor increase the concentration of banking resources in any relevant market. Accordingly, competitive considerations are consistent with approval of the application.

The financial and managerial resources of Washington Bank and Ainsworth Bank are generally satisfactory. The financial and managerial resources of Applicant and Bank, which will depend on the resources of Washington Bank and Ainsworth Bank, should also be generally satisfactory. Accordingly, considerations relating to the financial and managerial resources and future prospects of Applicant and Bank are consistent with approval of the application.

While it appears that no changes in services will be made as a result of Applicant's acquisition of Bank, it appears that consummation of the merger will improve and expand the services offered by Bank. Accordingly, considerations relating to the convenience and needs of the community to be served as they relate to this application are also regarded as consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the

[3] Voting for this action: Governors Wallich, Coldwell, Jackson and Partee. Voting against this action: Governor Lilly. Absent and not voting: Chairman Burns and Governor Gardner.

Dissenting statement of Governor Lilly filed as part of the original document. Copies are available upon request from the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or the Federal Reserve Bank of New York.

[1] Deposits as of June 30, 1976.

[2] The Washington County banking market is approximated by all of Washington County.

Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective May 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14017 Filed 5-16-77;8:45 am]

WINNER BANSHARES, INC.

Formation of Bank Holding Company

Winner Banshares, Inc., Winner, South Dakota, which currently owns 2.9 per cent of the voting shares of Farmers State Bank, Winner, South Dakota ("Bank"), has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of an additional 94.4 per cent of the voting shares of Bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 8, 1977.

Board of Governors of the Federal Reserve System, May 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14018 Filed 5-16-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 10, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 6, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

FEA requests clearance of a new voluntary Form FEA-U537-S-0, Media Survey (Radio and Television). The FEA-U537-S-0 will be used to survey all Radio and Television stations throughout the United States to ascertain to what extent Educational Energy Conservation Tapes distributed by the FEA are being aired. FEA estimates respondents to this survey number approximately 1,625 (a 25 percent sample of 5,500 Radio stations and 1,000 Television stations) and that reporting burden averages 15 minutes per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-14051 Filed 5-16-77;8:45 am]

[1] Voting for this action: Vice Chariman Gardner and Governors Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Jackson.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

PSYCHIATRY EDUCATION REVIEW COMMITTEE

Meeting Change

In FR Doc. 77-11370, appearing at pages 20503-04 in the issue of Wednesday, April 20, 1977, the dates for the meeting of the Psychiatry Education Review Committee have been changed from May 23-24 to June 20-21.

All other information about this open meeting remains as published April 20. Contact person—Connie Verney, Room 8C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-2120.

Dated: May 11, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-14002 Filed 5-16-77;8:45 am]

Food and Drug Administration

[Docket No. 77N-0162]

DRUGS FOR HUMAN USE; DRUG EFFICACY STUDY IMPLEMENTATION

Revocation of Exemption for Continued Marketing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the temporary exemptions under which certain drugs were allowed to remain on the market, labeled for their less-than-effective indications, beyond the time limit established for implementation of the Drug Efficacy Study. The drugs are azuresin, guanidine, and a combination containing dicyclomine hydrochloride, doxylamine succinate, and pyridoxine hydrochloride. The exemptions are no longer needed as the effectiveness classification of the drugs has now been resolved.

DATES: Effective date: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Administrative Compliance Branch (HFD-32), Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4650.

SUPPLEMENTARY INFORMATION. In a notice published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623), FDA issued a list of drugs that had been evaluated under the Drug Efficacy Study and classified as less than effective for their labeled indications but, because of medical need, could remain on the market pending completion of scientific studies to determine their effectiveness. The temporary exemption applied to the listed products and to any similar, identical, or related products, provided studies were undertaken. Among those listed were Diagnex Blue (azuresin) and guanidine. The December 14, 1972 notice was amended by a notice published in the FEDERAL REGISTER of May 15, 1974 (39 FR 17343) granting an exemption for continued marketing of combination drug products containing dicyclomine hydrochloride, doxylamine succinate, and pyridoxine hydrochloride.

As a result of subsequent study of the drug products, the questions of their effectiveness have now been resolved. Azuresin was reclassified as effective in a notice (DESI 607) published in the FEDERAL REGISTER of September 18, 1973 (38 FR 26137). Guanidine was reclassified as effective in a notice (DESI 1546) published July 8, 1974 (39 FR 24933). The three-component combination was reclassified as lacking substantial evidence of effectiveness in a notice (DESI 10598) published January 28, 1977 (42 FR 5422).

Inasmuch as the temporary exemptions for the products are no longer relevant, they are hereby revoked. Accordingly, the December 14, 1972 notice, as amended by the May 15, 1974 notice, is further amended by deleting the following sections:

VI. Diagnostic Agents.
XII. Guanidine.
XVI. Antiemetic Combination Drug.

(Secs. 505, 701, 52 Stat. 1052-1053 as amended, 1055-1056 as amended (21 U.S.C. 355, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).)

Dated: May 6, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13835 Filed 5-16-77;8:45 am]

[Docket No. 76P-0429]

DEL MONTE CORP.

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration has issued to the Del Monte Corp., as requested, a temporary permit to market test tomato juice made from concentrate prepared from tomato paste, water, and salt and in which the vitamin C content is raised to a level of 100 percent of the U.S. Recommended Daily Allowance (U.S. RDA) per 6-fluid-ounce serving. The finished product deviates from the standard of identity for tomato juice.

DATES: This permit is effective for a period of 15 months beginning no later than August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Benjamin M. Gutterman, Bureau of Foods (HFF-402), 200 C St. SW., Washington, D.C. 20204 (202-245-1231).

SUPPLEMENTARY INFORMATION: In accordance with § 130.17 (21 CFR 130.17, formerly 21 CFR 10.5 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Del Monte Corp., P.O. Box 3575, San Francisco, CA 94119. This permit covers interstate market testing of tomato juice that deviates from the standard of identity prescribed in § 156.145 (21 CFR 156.145, formerly §53.1 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). This permit provides for the temporary marketing of 120,000 cases of twelve 46-ounce cans of the product to be distributed as follows:

1. In the States of Arkansas, Illinois, and Tennessee.

2. In the metropolitan areas of Indianapolis, Indiana; Louisville and Paducah, Kentucky; Detroit and Grand Rapids, Michigan; St. Louis, Missouri; and Dayton, Ohio.

The test product will be manufactured in the Del Monte plant in Frankfort, Indiana. The product to be temporarily marketed has been prepared from tomato paste that complies with the requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)), formerly 21 CFR 53.30(a)(1) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), water, and salt. The finished product will be equivalent to a single-strength tomato juice normally found in the marketplace. In addition, ascorbic acid will be added in such quantity sufficient to raise the vitamin C level to 100 percent of the U.S. RDA in a 6-fluid-ounce serving.

The principal display panel of the labels will declare the product name as "Tomato Juice From Concentrate". The statement "enriched with vitamin C" will be prominently designated on the principal display panel. Each of the ingredients used, except for the tomato ingredient, will be declared on the label as required by the applicable sections of Part 101 (21 CFR Part 101, formerly 21 CFR Part 1 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). The tomato ingredient complying with the requirements of § 155.191(a)(1) will be declared as "tomato concentrate".

This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than August 15, 1977.

Dated: May 11, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-13995 Filed 5-16-77;8:45 am]

[Docket No. 76P-0508]

HANOVER BRANDS, INC.

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has issued to Hanover Brands, Inc., as requested, a temporary permit to market test tomato juice made from concentrate prepared from tomato paste, water, and salt. The finished product deviates from the standard of identity for tomato juice.

DATE: This permit is effective for a period of 15 months beginning no later than August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Benjamin M. Gutterman, Bureau of Foods (HFF-402), 200 C St. SW., Washington, D.C. 20204, 202-245-1231.

SUPPLEMENTARY INFORMATION: In accordance with § 130.17 (21 CFR 130.17, formerly 21 CFR 10.5 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Hanover Brands, Inc., P.O. Box 334, Hanover, PA 17331. This permit covers interstate marketing tests of tomato juice that deviates from the standard of identity prescribed in § 156.145 (21 CFR 156.145, formerly § 53.1 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). The permit provides for the temporary marketing of 15,000 cases of twenty-four 5½-ounce cans and 15,000 cases of twenty-four 12-ounce cans of the product to be distributed in the District of Columbia and the States of New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia.

The test product will be manufactured in the Hanover Brands, Inc., plant located in Hanover, Pennsylvania. The product to be temporarily marketed has been prepared from tomato paste that complies with the requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1), formerly 21 CFR 53.30(a)(1) prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), water, and salt. The finished product will be equivalent to a single-strength tomato juice normally found in the marketplace.

The principal display panel of the labels will declare the product name as "Tomato Juice From Concentrate." Each of the ingredients used, except for the tomato ingredient, will be declared on the label as required by the applicable sections of Part 101 (21 CFR Part 101, formerly 21 CFR Part 1 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). The tomato ingredient complying with the requirements of § 155.191(a)(1) will be declared as "tomato concentrate."

This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than August 15, 1977.

Dated: May 11, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-13993 Filed 5-16-77;8:45 am]

[FDA-225-77-4091]

REGULATORY INVESTIGATIONS INVOLVING DRUG, PESTICIDE, AND INDUSTRIAL CHEMICAL RESIDUES IN ANIMAL FEEDS AND IN MEAT AND POULTRY

Memorandum of Understanding With the Iowa State Department of Agriculture

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is announcing that a memorandum of understanding has been executed with the Iowa State Department of Agriculture. The purpose of the memorandum is to establish an FDA/State cooperative program for inspections and related activities to ensure the safety of foods for humans and animals.

DATES: The memorandum of understanding became effective March 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING BETWEEN THE IOWA DEPARTMENT OF AGRICULTURE AND THE FOOD AND DRUG ADMINISTRATION

REGULATORY INVESTIGATIONS INVOLVING DRUG, PESTICIDE, AND INDUSTRIAL CHEMICAL RESIDUES IN ANIMAL FEEDS AND IN MEAT AND POULTRY

The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301). In fulfilling its responsibilities under the act, FDA directs its activities toward the protection of the public health of the nation by ensuring that foods for humans and animals are safe and wholesome and that animal feeds are free of illegal drug, pesticide, and industrial chemical residues. This is accomplished by inspecting the processing and distribution of animal feeds and examining samples thereof to assure compliance with the act.

The Iowa Department of Agriculture, under its state authorities, conducts investigations and related activities to assure the safety and wholesomeness of foods and feeds.

Meat and poultry may become contaminated with illegal drug, pesticide, or industrial chemical residues from several sources, including the misuse of animal drugs, the use of animal feeds containing illegal drugs, pesticides, and industrial chemicals, or from the environment. As a result, the State agency and FDA have certain related objectives in carrying out their respective regulatory and service activities. Therefore, it is desirable from the standpoint of public interest to set forth in this Memorandum of Understanding, the work-sharing program being adopted to enable each agency to discharge, as effectively as possible, its responsibilities relative to the problem of illegal drug, pesticide, and industrial chemical residues in meat and poultry and in feeds for food-producing animals. This Memorandum of Understanding will augment the agreement between FDA and the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture relative to their regulatory programs involving residues in animal feeds and in meat and poultry, which was published in the FEDERAL REGISTER of April 10, 1975 (40 FR 16228).

I. *Purpose.* It is the purpose of this understanding to establish an FDA/State cooperative program wherein the Iowa State Department of Agriculture (ISDA) will conduct followup inspections on Animal and Plant Health Inspection Service, U.S. Department of Agriculture (APHIS/USDA) residue findings and thus avoid duplicative inspections by the FDA Kansas City Field Office and ISDA.

II. *Background.* Under the FDA/APHIS cooperative program formalized in the April 10 Memorandum of Understanding, the FDA Kansas City Regional Office is notified when violative residue findings are encountered in meat and poultry tissues under the APHIS National Residue Monitoring Program. APHIS also notifies the ISDA Director of Agriculture, Meat and Poultry Division of the residues. By informal agreement Kansas City Regional Office undertook all followup inspections.

There has been an increase in the residue reports requiring followup in Iowa, and there is a need for more expeditious investigation and reporting. The Kansas City Regional FDA Office and the Iowa State Department of Agriculture expressed interest in a joint Kansas City Regional FDA Office and ISDA program, which would reduce travel time and avoid any duplication in investigations.

III. *Work-Sharing Program.* A. Goals and Responsibilities: The parties to this understanding will share the responsibility for the investigation of APHIS/USDA reports of illegal residues found in edible tissue samples of meat or poultry originating in the State of Iowa. Close liaison and communications will be maintained to assure that manpower is efficiently utilized and regulatory efforts are properly coordinated to achieve a high level of industry compliance.

B. The Food and Drug Administration, Region VII, Kansas City Regional Office, will:

1. Designate a coordinator to accomplish the goals of this Memorandum of Understanding.

2. Coordinate with ISDA to determine whether APHIS/USDA residue findings represent a first, second, or subsequent violation.

3. On a first violation report, reach agreement with ISDA on which agency shall undertake the investigation except that Kansas City Regional FDA Office shall conduct an investigation where it appears that regulatory action can be supported on a first violation.

4. Conduct all second and subsequent violation followups in all cases where the investigation on the first violation resulted in evidence adequate to support regulatory action.

5. Issue the warning letter in all cases where the FDA Kansas City Regional Office has been called in to complete the investigation for regulatory purposes.

6. Provide copies of all investigation reports, warning letters, and responses from establishments to ISDA.

7. Provide training for ISDA personnel

7. Provide training for ISDA personnel concerning the documentation of violations of the Federal Food, Drug, and Cosmetic Act to identify the probable cause and responsible individuals.

8. Be responsible for the analysis of samples collected during the investigation, and properly store the sample required under section 702(b) of the act (21 U.S.C. 372 (b)) pending the outcome of the FDA or State investigations. This sample shall be retained for 3 years pending possible court action, unless the Kansas City regional FDA Office determines the culpability has not been established, or methology is not adequate to support a violation. In the latter event, the sample will be discarded.

C. The Iowa State Department of Agriculture will:

1. Upon the request of the Kansas City Regional FDA Office, conduct the investigation for the purpose of determining the probable cause of the violation and the culpable individual(s) and to promote voluntary compliance.

2. Immediately notify the Kansas City Regional FDA Office when their investigation identifies the probable cause and the responsible individual(s) and it appears that a regulatory action can be supported, so that FDA or joint inspection can be conducted to develop supporting evidence.

3. Where regulatory action cannot be supported, develop investigational reports, including an endorsement of proposed or actual followup, which shall be promptly submitted to the Kansas City Regional FDA Office. ISDA shall take the responsibility for forwarding copies of the reports to regional FDA offices.

4. At the request of Kansas City Regional FDA Office, conduct investigations of second incidents where the first investigation failed to disclose sufficient evidence to support regulatory action. This second investigation will be conducted under the same conditions as described under paragraphs C.1. and 2. above.

5. Bring any action that may be indicated under the State law, whether or not a case may or may not be brought by the Kansas City Regional FDA Office.

6. Notify the FDA Coordinator of actions being initiated and final results.

7. Keep the FDA Coordinator fully informed of pertinent details relating to this program, including copies of correspondence to producers, shippers, etc.

IV. *Term of Understanding.* A. This understanding will expire on March 24, 1978 unless renewed and signed by both cooperating agencies to continue it in effect for another year.

B. A new Memorandum of Understanding will be prepared each year with asterisks included to indicate revision.

C. This understanding in its entirety, or in part, may be revised by mutual consent or terminated upon 30 day advance written notice by either agency.

Approved and accepted for the Iowa State Department of Agriculture:

Dated: March 24, 1977.

R. H. Lorensberry, *Secretary, Iowa Department of Agriculture.*

Approved and accepted for the Food and Drug Administration:

Dated: March 24, 1977.

Lloyd R. Claiborne, *Regional Food and Drug Director, Food and Drug Administration, Kansas City, Regional Office.*

Effective date: This memorandum of understanding became effective March 24, 1977.

Dated: May 11, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-13994 Filed 5-16-77;8:45 am]

[Docket No. 77N-0086]

SOURCE PLASMA (HUMAN)

Extension of Effective Date for Shipment Without License; Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document (1) extends to July 11, 1977, the time within which manufacturers may continue to ship Source Plasma (Human) in interstate commerce without a license, and (2) announces the availability of guidelines for Source Plasma (Human).

EFFECTIVE DATE: May 17, 1977.

ADDRESSES: Written comments and requests for copies of guidelines (identified with the FDA docket number in the

heading of this document) to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT

Al Rothschild, Bureau of Biologics (HFB–620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014 (301–443–1920).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a notice, published in the FEDERAL REGISTER of April 5, 1977 (42 FR 18129), advising manufacturers of Source Plasma (Human) that they would no longer be permitted to ship such plasma in interstate commerce, regardless of its intended use, unless they had received a license or an approved amendment of a license by May 11, 1977.

In response to the April 1977 notice, the Commissioner received a request from the American Blood Resources Association (ABRA) to publish a notice of availability of Food and Drug Administration (FDA) guidelines employed in evaluating license applications for Source Plasma (Human) and to extend by 120 days the effective date after which manufacturers could no longer ship Source Plasma (Human) in interstate commerce without a license. Because the guidelines were not formally made available to all applicants, ABRA contends, licenses or amendments should not be denied for noncompliance.

The Commissioner advises that presently most applications comply with all FDA standards. With the exception of specific guidelines for noninjectable use and for red blood cell immunization, these application criteria have been applied to Source Plasma (Human) since 1973; they were well distributed in the plasmapheresis community. Moreover, the Commissioner notes that any application processing delay due to deviations caused by the unavailability of guidelines would be resolved in less than 60 days if the appplicant responded within a reasonable period of time after FDA gave notice of the deviations. However, to assure that a delay resulting from the guidelines being unavailable does not unfairly preclude an applicant from continuing shipment of Source Plasma (Human) for noninjectable products, the Commissioner is extending the effective date for 60 days to July 11, 1977. In addition, the guidelines have been placed in the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857 and are available upon request.

Concern was expressed by ABRA that some license application might be denied immediately before the deadline, thus precluding revision by the applicant to conform with FDA objections. The responsibility for filing approvable applications rests with the applicant. Several applications have been filed immediately prior to the deadline. Obviously, FDA cannot review and evaluate these applications within the remaining time. No extension of time would eliminate the problem of justified denial of applications coming close to the deadline for obtaining approval. The now extended July 11 date should eliminate all legitimate concerns about denials of inadequate applications.

Dated: May 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc 77-14107 Filed 5-16-77;8:45 am]

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1977:

NAME: National Advisory Council on Health Professions Education.

DATE AND TIME: June 6–7, 1977, 8:30 a.m.

PLACE: Conference Room No. 6, Building 31, National Institutes of Health, 6th floor, C-Wing, 9000 Rockville Pike, Bethesda, Marylind 20014, Open for entire meeting.

PURPOSE: The Council advises the Secretary with respect to the preparation of general regulations and with respect to policy matters in the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance.

AGENDA: The Council will meet in open session to review several drafts of program specifications prepared for use in the implementation of Pub. L. 94–484.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Lynn Stevens, Bureau of Health Manpower, Room 4–22, Federal Center Building No. 2, 3700 East West Highway, Hyattsville, Maryland 20782, Telephone (301) 436–6508.

Agenda items are subject to change as priorities dictate.

Dated: May 9, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc 77-14001 Filed 5-16-77;8:45 am]

National Institutes of Health

National Institute of Arthritis, Metabolism, and Digestive Diseases

NATIONAL DIABETES ADVISORY BOARD

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Diabetes Advisory Board and its subcommittees, National Institute of Arthritis, Metabolism, and Digestive Diseases, May 19 and 20, 1977, Conference Room 4137, HEW North Building, and Rooms 7A24, 9A51 and 10A24, Building 31, National Institutes of Health, which was published in the FEDERAL REGISTER, April 27, 1977, 42 FR 21521.

Dated: May 11, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc 77-14113 Filed 5-16-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. The meeting shall be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, Section 10(a)(2)).

DATES: June 9, 1977, 1:00 p.m. to 10:00 p.m., Committee Meetings; June 10, 1977, 8:00 a.m. to 9:30 p.m.; June 11, 1977, 8:00 a.m. to Noon.

ADDRESS: The Mills Hyatt House, Meeting and Queen Streets, Charleston, South Carolina 29401.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004 (202 376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to: Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes: South Carolina Director's Report; Adult Education Act—Futures and Amendments; Lifelong Learning; USOE/RER Project; Committee Reports; Annual Report; FY–78 NACAE Budget; Election of Council Chairman and Vice Chairman, 4:00 p.m., June 10, 1977.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C., 20004.

Signed at Washington, D.C. on May 10, 1977.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc 77-14035 Filed 5-16-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N 77 758]

DISCRETIONARY GRANTS IN BEHALF OF NEW COMMUNITIES

Dates for Submission of Applications for Fiscal Year 1977

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This notice sets the Fiscal Year 1977 deadline for requesting discretionary grants applicable to New Communities.

EFFECTIVE DATE: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Warner, Office of New Communities, Telephone: 202–755–7523.

SUPPLEMENTARY INFORMATION: One February 27, 1976 (41 FR 8612), the Secretary amended the Community Development Block Grant regulations to include, among other things, application dates for requesting discretionary grants applicable to New Communities during Fiscal Year 1976, 24 CFR Part 570.400 (c)(2)(iii)(A). This notice simply updates that deadline for Fiscal Year 1977. A finding of inapplicability of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. It is available for public inspection in the office of the Rules Docket Clerk, Room 10141, 451 7th Street SW., Washington, D.C., during normal business hours.

Accordingly, pursuant to this notice, applications for grants from the Secretary's Fund on behalf of New Communities under § 570.403 to be made from Fiscal Year 1977 funds will be accepted anytime during Fiscal Year 1977 (October 1, 1976 to close of business on September 30, 1977).

Issued at Washington, D.C., May 9, 1977.

ROBERT C. EMBRY, JR.,
Assistant Secretary for Community Planning and Development

[FR Doc 77-14022 Filed 5-16-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

[INT DES 77-16]

BONNEVILLE DAM INTEGRATING TRANSMISSION

Notice of Availability of Draft Supplement to Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft facility location supplement to its Fiscal Year 1978 Environmental Statement. This supplement covers the proposal for Bonneville Dam Integration Transmission.

Bonneville Dam Integrating Transmission involves the construction of transmission facilities to integrate the generation output of the second powerhouse at Bonneville Dam near the town of North Bonneville, Washington. The area under consideration lies in southwestern Washington in Clark and Skamania Counties.

Copies of the draft supplement are available for inspection in the library of the headquarters office of Bonneville Power Administration, 1002 NE. Holladay Street, Portland, Oregon 97232; the Washington, D.C., Office in the Interior Building, Room 5600; and at the Portland Area Office, Room 201, Lloyd Plaza Building, 919 NE. 19th Avenue, Portland, Oregon 97208.

Copies are also available at the following Government Depository Libraries:

GOVERNMENT DEPOSITORY LIBRARIES

IDAHO

Boise Public Library, Reference Department, 715 Capitol Blvd., Boise, Idaho 83706.
University of Idaho, Library—U.S. Documents, Moscow, Idaho 83834.
Documents Division, Idaho State University Library, Pocatello, Idaho 83209.
Boise State College Library, Boise, Idaho 83725.
Idaho State Library, 325 W. State Street, Boise, Idaho 83702.
Ricks College, David O. McKay Library, Rexburg, Idaho 83440.
Idaho State Law Library, Documents Librarian, Pocatello, Idaho 83201.
College of Idaho, Terteling Library, 2112 Cleveland Blvd., Caldwell, Idaho 83605.
College of Southern Idaho, Documents Library—Box 1238, 315 Falls Ave., Twin Falls, Idaho 83301.

MONTANA

Documents Librarian, Montana State University Library, Bozeman, Montana 59715.
University of Montana Library, Documents Division, Missoula, Montana 59081.

OREGON

Southern Oregon State College Library, Documents Section, Ashland, Oregon 97520.
Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, Oregon 97331.
University of Oregon Library, Documents Section, Eugene, Oregon 97403.
Harold W. Scott Memorial Library, Pacific University Forest Grove, Oregon 97116.
Eastern Oregon State College Library, Eighth at K, La Grande, Oregon 97850.
Northup Library, Linfield College, McMinnville, Oregon 97128.
Oregon College of Education Library, Monmouth, Oregon 97361.
Aubrey R. Watzek Library, Lewis and Clark College Attention: Reference Department, 0615 SW. Palatine Hill Road, Portland, Oregon 97219.
Library Association of Portland, 801 SW. Tenth Avenue, Portland, Oregon 97205.
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, Oregon 97207.
Eric V. Hauser Memorial Library, Reed College, 3203 SE. Woodstock, Portland, Oregon 97202.
Oregon State Library, State Library Building, Salem, Oregon 97301.
Willamette University Library, 900 State Street, Salem, Oregon 97301.
Oregon Supreme Court Library, 12th and State Streets, Salem, Oregon 97301.

WASHINGTON

Documents Division, Mabie Zoe Wilson Library, Western Washington State College, 516 High Street, Bellingham, Washington 98225.
Documents Department, Victor J. Bouillon Library, Central Washington State College, Ellensburg, Washington 98926.
Everett Community College Library, 801 Wetmore Avenue, Everett, Washington 98201.
Documents Center, Washington State Library, Olympia, Washington 98501.
University of Puget Sound, Everitt S. Collins Memorial Library, Tacoma, Washington 98416.
Eastern Washington State College, John F. Kennedy Memorial Library, Cheney, Washington 99004.
Evergreen State College, Daniel J. Evans Library, Olympia, Washington 98505.
Seattle Public Library, 1000 Fourth Ave., Seattle, Washington 98104.
University of Washington, School of Law Library, 300 Condon Hall, Seattle, Washington 98105.
Tacoma Public Library, 1102 Tacoma Ave S., Tacoma, Washington 98402.
Everett Public Library, 2702 Hoyt Ave., Everett, Washington 98201.
North Olympic Library System, Library Service Center, 2210 S. Peabody, Port Angeles, Washington 98362.
Spokane Public Library, Comstock Bldg., W. 906 Main Ave., Spokane, Washington 99201.
Port Angeles Public Library, 207 S. Lincoln Street, Port Angeles, Washington 98362.

A limited number of copies are also available and may be obtained by writing to the Environmental Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208 or to the Portland Area Manager at the above address. Comments on the supplement should be sent to the Environmental Office by

Dated: May 5, 1977.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

[FR Doc 77-14036 Filed 5-16-77;8:45 am]

Bureau of Land Management

ALASKA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

MAY 9, 1977.

The U.S. Department of Agriculture, Forest Service, filed application Serial No. AA-3060, on July 24, 1968, for a withdrawal in relation to the following described lands:

CHUGACH NATIONAL FOREST, SEWARD MERIDIAN ALASKA

RUSSIAN RIVER RECREATION AREA

T. 5 N., R. 4 W., Seward Meridian (Protracted)
Sec. 33: fractional part of N½ between Kenai River on the north and Russian River on the south; NE¼SE¼ lying east of Russian River.
Sec. 34: that part of SW¼NE¼, NW¼, N½SW¼, NW¼SE¼ lying south of Kenai River and east of Russian River
Containing approximately 340 acres.

COOPER LAKE RECREATION AREA

T. 4 N., R. 3 W., Seward Meridian (Protracted)
Sec. 36: SW¼SE¼ (fractional).
T. 3 N. R. 3 W., Seward Meridian (Protracted)
Sec. 1: W½ (fractional), W½E½.
Sec. 12: NW¼NE¼, N½NW¼ (fractional).
Containing approximately 375 acres.

JUNEAU FALLS RECREATION AREA

T. 5 N., R. 4 W., Seward Meridian (Protracted)
Sec. 13: SE¼SW¼, SW¼SE¼.
Sec. 24: W½NE¼, E½NW¼, NE¼SW¼, NW¼SE¼.
Containing approximately 320 acres.

The applicant desires that the land be reserved for three recreation areas within the Chugach National Forest.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on February 20, 1976, Volume 41, No. 35, Page 7795, Document No. 76-4875.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501 on or before July 1, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before July 1, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director

[FR Doc 77-13961 Filed 5-16-77;8:45 am]

ALASKA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The U.S. Department of the Interior, Bureau of Reclamation filed application Serial No. AA-502, on October 19, 1966, for a withdrawal in relation to the following described lands:

T. 15 N., R. 2 E., Seward Meridian, Alaska
Sec. 7, NE¼SE¼, SE¼NE¼;
containing 80 acres.

The applicant desires that the land be reserved for protection, maintenance and operation of the Eklutna Hydroelectric Project.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on March 8, 1967, 32 FR 3839, document No. 67-2538.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501 on or before June 15, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before June 15, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. MCVEE,
State Director.

[FR Doc 77-13960 Filed 5-16-77;8:45 am]

[OR 8844]

OREGON

Order Providing for Opening of Public Land

MAY 10, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States.

WILLAMETTE MERIDIAN

T. 14 S., R. 44 E.,
Sec. 16, NE¼SW¼;
Sec. 22, S½NE¼;
Sec. 23, S½NW¼;
Sec. 27, SW¼NW¼ and NW¼SW¼;
Sec. 28, S½NE¼, SW¼SW¼, and SE¼;
Sec. 33, N½ and N½SE¼;
Sec. 34, NW¼NW¼, S½NW¼, and NW¼SW¼.

The area described contains 1,120 acres in Baker County.

2. All minerals in the SW¼NW¼ and NW¼SW¼ of Sec. 27 and in the S½NE¼ and SE¼ of Sec. 28 were and continue to be in United States' ownership and open to operation of the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws.

3. The subject land is located in the southern portion of Baker County approximately 40 miles southeast of the City of Baker, Elevation ranges from 2,500 to 3,800 feet above sea level, and the topography is generally steep and rolling. Vegetation consists primarily of native grasses and sagebrush. In the past, the land has been for livestock grazing purposes, and it will be managed, together with adjoining national resource lands, for multiple use.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open (except as already provided in paragraph 2 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. June 15, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc 77-13962 Filed 5-16 77;8:45 am]

[OR 7536]

OREGON

Order Providing for Opening of Public Land

MAY 10, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, an amended and supplemented, 43 U.S.C. 315g (1970), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 1 N., R. 19 E.,
Sec. 2, that portion of NW¼SW¼, containing 10 acres, more or less, located north of the centerline of the John Day River;
Sec. 3, that portion of the N½SE¼, containing 10 acres, more or less, located north of the centerline of the John Day River;
Sec. 13, NW¼NW¼;
Sec. 14, NE¼NE¼ and that portion of the NW¼NE¼, containing 35 acres, more or less, located east of the centerline of the John Day River.

The area described contains 135 acres in Gilliam County.

2. The subject land is located adjacent to the John Day River approximately 27 miles northwest of the Town of Condon. Elevation ranges from 400 to 1,000 feet above sea level, and the topography varies from generally flat near the river to very rough and steep. Vegetation consists primarily of native grasses and sagebrush with some willows and poplars. In the past, the land has been used for livestock grazing purposes, and portions nearest the river also have outdoor recreational values. The land will be managed, together with adjoining national resource lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10 a.m. June 15, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations

[FR Doc 77-13963 Filed 5-16-77;8:45 am]

[OR 9300 (Wash.)]

WASHINGTON

Order Providing For Opening of Public Lands

MAY 10, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 10 N., R. 31 E.,
Sec. 1, S½S½
T. 10 N., R. 32 E.,
Sec. 7, lots 1 and 2, NE¼, and E½NW¼

The areas described aggregate 463.31 acres in Franklin County.

2. The subject lands are located in the area known as the Juniper Forest approximately 14 miles northeast of the City of Pasco. Elevation ranges from 800 to 1,060 feet above sea level, and the topography is generally flat to rolling. Vegetation consists primarily of sagebrush, native grasses, and some western juniper. In the past, the lands have been used for livestock grazing purposes. The lands also have outdoor recreational values, and they will be managed, together with adjoining national resource lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10 a.m. June 15, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-13964 Filed 5-16-77;8:45 am]

QUALIFIED JOINT BIDDERS

List; Amendment

According to the regulations 43 CFR 3302.3-2(a), any person who wishes to submit a joint bid for an oil and gas lease under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343) during the six month bidding period which began on May 1, 1977, must have filed no later than 45 days before that date a sworn statement of production covering the prior production period of July 1, 1976, through December 31, 1976. In order for the person to bid jointly without restriction, his statement should attest to an average daily production during that time of no more than 1.6 million barrels a day of crude oil, natural gas and liquified petroleum products.

Since March 17, 1977, a number of companies who had not timely filed their statements of production have inquired as to whether an extension of time might be granted. It has now been determined that acceptance of statements of production up until the close of business on June 14, 1977, would be in the national interest and not incompatible with the purposes of the regulations. Therefore, any such sworn statements as to production of an average daily amount of less than 1.6 million barrels a day of crude oil, natural gas and liquified petroleum products during the applicable production period (July 1, 1976, through December 31, 1976) will be accepted by this office until the close of business on June 14, 1977, to qualify the person filing to bid jointly during the bidding period ending October 31, 1977.

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

MAY 11, 1977.

[FR Doc 77-14073 Filed 5-16-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 17, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by May 27, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

ARIZONA

Coconino County

Flagstaff, *Bank Hotel*, Santa Fe and Leroux.

COLORADO

Baca County

Springfield, *Springfield Schoolhouse*, 281 W. 7th Ave.

Chaffee County

Buena Vista, *Grace Episcopal Church*, Main and Park Ave.

Costilla County

San Luis, *Plaza de San Luis de la* Culebra, CO 159.

Denver County

Denver, *Brinker Collegiate Institute*, 1725–27 Tremont Pl.
Denver, *Creswell Mansion*, 1244 Grant St.
Denver, *Enterprise Hill Historic District*, bounded roughly by Tremont, Welton, 20th, and 22nd sts.
Denver, *Humboldt Street Historic District*, Humboldt St. between E. 10th and E. 12th Aves.
Denver, *Ideal Building*, 821 17th St.
Denver, *Masonic Temple Building*, 1614 Welton St.
Denver, *Schleier, George, Mansion*, 1665 Grant St.
Denver, *Zang, Adolph, Mansion*, 709 Clarkson.

Garfield County

Glenwood Springs, *Hotel Colorado*, 526 Pine St.

Larimer County

Estes Park, *Stanley Hotel*, 333 Wonder View Ave.

Park County

Fairplay, *South Park Community Church*, 6th and Hathaway.

CONNECTICUT

Middlesex County

Middletown, *Williams, Capt. Benjamin, House*, 27 Washington St.

Windham County

Woodstock, *Bowen, Henry C., House*, CT 169.

GEORGIA

DeKalb County

Atlanta, *DeKalb Avenue–Clifton Road Archeological Site*, DeKalb Ave. between Clifton Rd. and Nelms St.

Polk County

Rockmart vicinity, *Rock Shelters*, S of Rockmart.

Sumter County

Andersonville vicinity, *Pennington–Horne Lithic Site*, E of Andersonville.

Upson County

Thomaston vicinity, *Minor, L. L., Archeological Site*, S of Thomaston.

GUAM

Inarajan, *Inarajan Village*, Rte. 4.

MARYLAND

Baltimore County

Catonsville, *Old Salem Church and Cemetery*, Ingleside Ave. and Calverton St.

Harford County

Fallston vicinity, *Bon Air*, S of Fallston.

Prince Georges County

Bowie, *Belair*, Tulip Grove and Belair Drives.

Washington County

Sharpsburg, *Belinda Springs Farm*, S of Sharpsburg off the Sharpsburg–Harpers Ferry Rd.

NEBRASKA

Dakota County

Homer vicinity, *O'Connor, Cornelius, House*, E of Homer.

Gage County

DeWitt vicinity, *DeWitt Flour Mills and King Iron Bridge*, E of DeWitt on Big Blue River.

PUERTO RICO

Arecibo vicinity, *Faro de Arecibo*, NE of Arecibo off Rte 686.
Arroyo vicinity, *La Iglesia Viega*, N of Arroyo on Rte 753.
San Juan, *El Capitolio de Puerto Rico*, Avenida Ponce de Leon and Avenida Munez Rivera.

SOUTH CAROLINA

Allendale County

Allendale vicinity, *Antioch Christian Church*, SW of Allendale on SC 3 off U.S. 301.

Lexington County

Lexington, *Berly, William, House*, 121 Berly St.

TEXAS

Harris County

Houston, *Ideson, Julia, Building*, 500 McKinney.

WISCONSIN

Columbia County

Portage, *Portage Canal*, between Fox and Wisconsin Rivers.

LaCrosse County

LaCrosse, *Laverty-Martindale House*, 237 S. 10th St.

Marathon County

Wausau, *Jones, Granville D., House*, 915 Grant St.

Milwaukee County

Milwaukee, *Machek, Robert, House*, 1305 N. 19th St.

Racine County

Racine, *Southside Historic District*, roughly bounded by Lake Michigan, DeKoven Ave., Villa, and 8th Sts.

Rock County

Janesville, *Court Street Methodist Church*, 36 S. Main St.

Waukesha County

Hartland vicinity, *Beaumont Hop House*, N of Hartland.

* * * * *

The commenting period for the following property will end on May 18, 1977.

TENNESSEE

Lauderdale County

Henning, *Palmer, W. E. House*, off U.S. 51.

[FR Doc.77-13721 Filed 5-16-77;8:45 am]

[Order No. 6]

MIDWEST REGION SUPERINTENDENTS, ET AL.

Delegation of Authority

SECTION 1. *Superintendents.* The National Park Service Superintendents of the Midwest Region, in the administration, operation, and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Regional Director, Midwest Region, by the Director, National Park Service, except with respect to the following:

(a) Approval of master plans.

(b) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $5,000, and (3) payment of the full amount of the damages is offered.

(c) Sales of timber pursuant to the Federal Property and Administrative Services Act of 1949, and the Federal Property Management Regulations when the fair market value of the timber involved in any single transaction exceeds $1,000.

(d) Approval of programs for destruction and disposition of wild animals which are damaging the land or its vegetative cover, and of permits to collect rare or endangered species.

(e) Acceptance of donations of personal property valued in excess of $10,000, and acceptance of donations of money in excess of $10,000.

(f) Authority to designate areas at which recreation fees will be charged, as specified by the Land and Water Conservation Fund Act of 1965 (78 Stat. 987), as amended.

(g) Authority to select from the fees established by 43 CFR Part 18 (38 FR 3385), specific fees to be charged at the designated areas in accordance with the Land and Water Conservation Fund Act of 1965 (78 Stat. 987), as amended.

(h) Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies, and services as follows:

(1) Superintendents of Indiana Dunes National Lakeshore, Jefferson National Expansion Memorial, Ozark National Scenic Riverways, and Isle Royal National Park—in excess of $100,000.

(2) Superintendents of Apostle Islands National Lakeshore, Lincoln Home National Historic Site, Voyageurs National Park, Sleeping Bear Dunes National Lakeshore, St. Croix National Scenic Riverway, and Cuyahoga Valley National Recreation Area—in excess of $50,000.

(3) All other Superintendents in Midwest Region—in excess of $10,000.

(i) Authority with respect to the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam

(j) Authority to approve land acquisition priorities.

(k) Authority to execute the land acquisition program, including contracting for acquisition of lands and related property, and options and offers to sell related thereto.

(l) Authority to issue revocable special use permits having a term of more than 10 years.

(m) Authority to hire, rent, or purchase personal property from employees.

(n) Authority to conduct archeological investigations and salvage activities.

SECTION 2. Delegation.

(a) *Associate Regional Director, Administration.* The Associate Regional Director, Administration, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, Midwest Region, except authority to contract for acquisition of land and related property, and options and offers to sell related thereto.

(b) *Regional Chief, Contracting and Property Management Division.* The Regional Chief, Contracting and Property Management Division, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, Midwest Region, except authority to contract for acquisition of land and related property, and options and offers to sell related thereto.

(c) *Regional General Supply Specialist.* The Regional General Supply Specialist may execute and approve purchase orders and contracts not in excess of $10,000.

(d) *Chief Archeologist, Midwest Archeological Center.* The Chief Archeologist, Midwest Archeological Center, may execute, approve, and administer contracts and issue purchase orders in amounts not to exceed $10,000 for equipment, supplies, and services, excluding archeological investigations and salvage activities, in conformity with applicable regulations and subject to the availability of appropriated funds.

(e) *Staff Curator (Museum Management).* The Staff Curator (Museum Management) may issue purchase orders not in excess of $1,000 for museum or exhibit specimens and historic house furnishings in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(f) *Chief, Division of Land Acquisition.* The Chief, Division of Land Acquisition, is authorized to:

(1) Approve and accept offers to sell to or exchange with the United States, lands or interests in lands, and to execute all necessary agreements and conveyances incident thereto.

(2) Accept deeds conveying to the United States lands or interests in lands.

(3) Approve on behalf of the National Park Service offers of settlement in condemnation cases.

(4) Approve claims for reimbursement under Public Law 91–646.

(g) *Field Land Acquisition Officers.* All Field Land Acquisition Officers are authorized to exercise authority with respect to the following:

(1) Approve and accept offers to sell to or exchange with the United States lands or interests in lands when the amount involved does not exceed $100,000.

(2) Accept deeds conveying to the United States lands or interests in lands.

(3) Approve claims for reimbursement under Public Law 91–646 when the amount involved does not exceed $5,000.

SECTION 3. *Redelegation.* The authority delegated in this order No. 6 may not be redelegated, except that a Superintendent may, in writing, redelegate to any officer or employee the authority delegated to him by this order and may authorize written redelegation of such authority. Each redelegation shall be published in the FEDERAL REGISTER.

SECTION 4. *Revocation.* This order supersedes Midwest Region Order No. 5, dated March 1, 1972, and published in 37 FR 6324–6325, as amended.

(National Park Service Order No. 77, 38 FR 7478 published March 22, 1973, as amended.)

Dated: February 25, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-14048 Filed 5-16-77;8:45 am]

[Order No. 5, Amdt. No. 6]

SUPERINTENDENTS, ET AL., SOUTHEAST REGION

Delegation of Authority

Order No. 5, approved March 17, 1972, and published in the FEDERAL REGISTER April 19, 1972 (37 FR 7721) as amended, sets forth limitations on redelegations of contracting and procurement authority. This amendment revises paragraphs (c), (d), and (e) of Section 2 and adds paragraphs (i) and (j) to Section 2 as follows:

(c) *Assistant Chief, Contracting and Property Management Division.* The Assistant Chief, Contracting and Property Management Division, may execute and approve contracts not in excess of $500,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds. This authority may be exercised by the Assistant Chief in behalf of any area administered by the Chief, Contracting and Property Management Division.

(d) *Contracting Specialist, Contracting and Property Management Division.* The Contracting Specialist may execute and approve contracts not in excess of $500,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Contracting Specialist in behalf of any area administered by the Chief, Contracting and Property Management Division.

(e) *Procurement Agent, Contracting and Property Management Division.* The Procurement Agent may execute and approve contracts not in excess of $50,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Procurement Agent in behalf of any area administered by the Chief, Contracting and Property Management Division.

(i) *Procurement Clerk, Contracting and Property Management Division.* The Procurement Clerk may execute and approve contracts not in excess of $10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Procurement Clerk in behalf of any area administered by the Chief, Contracting and Property Management Division.

(j) *Management Assistant, Contracting and Property Management Division.* The Management Assistant may execute and approve contracts not in excess of $25,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. This authority may be exercised by the Management Assistant in behalf of any area administered by the Chief, Contracting and Property Management Division.

(National Park Service Order No. 77 (38 FR 7478), published March 22, 1973, as amended.)

DAVID G. WRIGHT,
Acting Regional Director, Southeast Region.

Dated: February 4, 1977.

[FR Doc.77-14049 Filed 5-16-77;8:45 am]

[Order No. 5, Amendment No. 6]

CHIEF, DIVISION OF CHACO RESEARCH, SOUTHWEST CULTURAL RESOURCES CENTER

Delegation of Authority

Southwest Region Order No. 5, approved March 22, 1972, and published in the FEDERAL REGISTER of April 19, 1972 (37 FR 7722) as amended, is hereby amended to read as follows:

Section 2. Delegation.

(i) Chief Division of Chaco Research, Southwest Cultural Resources Center. The Chief, Division of Chaco Research may issue purchase orders not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478, as amended.)

Dated: February 17, 1977.

JOHN E. COOK,
Regional Director, Southwest Region.

[FR Doc.77-14050 Filed 5-16-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-30]

DISPLAY DEVICES FOR PHOTOGRAPHS AND THE LIKE

Order Continuing Preliminary Conference

The preliminary conference in the above styled proceeding which was noticed for Monday, May 16, 1977 (42 FR 24120, May 12, 1977), is hereby continued until 10 a.m. on Thursday, May 26, 1977.

The Secretary shall serve a copy of this Order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: May 12, 1977.

Judge MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-14083 Filed 5-16-77;8:45 am]

[Investigation No. 337-TA-32]

DOT MATRIX IMPACT PRINTERS

Order Continuing Preliminary Conference

The preliminary conference in the above styled proceeding which was noticed for May 18, 1977 (42 FR 24120, May

12, 1977), is hereby continued until 2:00 p.m. on June 2, 1977.

The Secretary shall serve a copy of this Order upon all parties of record, and shall publish it in the FEDERAL REGISTER.

Issued: May 12, 1977.

Judge MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-14082 Filed 5-16-77;8:45 am]

[Investigation No. 337-TA-34]

NUMERICALLY CONTROLLED MACHINING CENTERS AND COMPONENTS THEREOF

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on April 14, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) on behalf of the Burgmaster Division, Houdaille Industries, Inc. (hereinafter "Burgmaster" or "complainant") 13900 South Broadway, Los Angeles, California 90061, alleging that unfair methods of competition and unfair acts exist in the importation of certain machining centers with automatic tool changers (hereinafter "Numerically Controlled Machining Centers") into the United States, or in their sale, by reason of (1) the alleged coverage by claims 1 and 2 of U.S. Letters Patent 3,891,910 of a tool offset feature in the numerical control unit for the numerically controlled machining centers, (2) the alleged unfair use of know-how and trade secrets relating to the machining center unit of said machining centers, and (3) the unfair use of Houdaille's trademark "BURGMASTER" in the promotion and sale of the numerically controlled machining centers. The complaint further alleges that the effect or tendency of each of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests that the imports in question be both temporarily and permanently excluded from entry into the United States.

Having considered the complaint, the United States International Trade Commission, on May 11, 1977, determined that the complaint was properly filed and therefore has, that same day, Ordered—

(1) that, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c), whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there is a violation or reason to believe there is a violation of subsection (a) of this section in the importation of certain numerically controlled machining centers, and components thereof, including but not limited to—

(i) numerical control units for such numerically controlled machining centers, and,

(ii) machining centers units for such numerically controlled machining centers

into the United States, or in their sale, by reason of (A) a tool offset feature incorporated in the numerical control units allegedly being covered by claim 1 or 2 of U.S. Patent 3,891,910, (B) the alleged unfair use of know-how and trade secrets relating to the machining center units, and (C) the alleged deceptive practices used in the promotion and sale of the numerically controlled machining center such as unfair use of Houdaille's trademark "BURGMASTER," the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) That, for the purpose of the investigation so instituted the following persons, alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the complaint and this notice are to be served:

FOREIGN MANUFACTURER

Yamazaki Machinery Works, Ltd., 1 Norifune, Oguchi-Cho, Niwa-Gun, Aichi-Pref., Japan.

DOMESTIC IMPORTER

Yamazaki Machinery Corporation, 8025 Production Drive, Florence, Kentucky 41042.

(3) That, for the purpose of the investigation so instituted, Judge Myron R. Renick, United States International Trade Commission, 701 E Street NW., Washington, D.C., 20436, is hereby appointed as Presiding Officer; and

(4) That, for the purpose of the investigation so instituted Steven D. Moskowitz, United States International Trade Commission, 701 E Street NW., Washington, D.C., 20436, is hereby named as Commission Investigative Attorney.

Responses must be submitted to the parties in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (41 F.R. 17710, Apr. 27, 1976). Pursuant to sections 201.16(d) and 210.21(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of confidential information referred to therein, is available for inspection by interested persons at the Office of the Secretary, United States International Trade Commission Building, Washington, D.C., and in the New York City office of the Commission, 6 World Trade Center.

Issued: May 12, 1977.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc.77-14081 Filed 5-16-77;8:45 am]

[Investigation No. 337-TA-31]

STEEL TOY VEHICLES

Order Continuing Preliminary Conference

The preliminary conference in the above styled proceeding which was noticed for May 17, 1977 (42 FR 24120, May 12, 1977), is hereby continued until 1:00 p.m., May 18, 1977.

The Secretary shall serve a copy of this Order upon parties of record and shall publish it in the FEDERAL REGISTER.

Issued May 12, 1977.

Judge MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-14084 Filed 5-16-77;8:45 am]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

ADVISORY COMMITTEE ON JOINT BOARD ACTUARIAL EXAMINATIONS

Meeting

Notice is hereby given that the Advisory Committee on Joint Board Actuarial Examinations will meet in the Continental Plaza Hotel, North Michigan at Delaware, Chicago, Illinois on June 9, 1977 at 9:00 a.m.

The purposes of the meeting are to discuss topics, syllabi and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B); to review other actuarial examinations in order to make recommendations regarding such examinations' adequacy to demonstrate the education and training in actuarial mathematics and methodology required for enrollment by Title 29 U.S. Code, section 1242(a)(1); and to review college degree programs in order to make recommendations regarding such programs' equivalence to programs leading to degrees in actuarial mathematics within the meaning of Title 29 U.S. Code, section 1242(a)(1)(A).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the portion of the meeting dealing with discussion of questions which may appear on the Joint Board's examinations will fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such portion be closed to public participation.

The portion of the meeting dealing with examination topics and syllabi, other actuarial examinations, and college degree programs will commence at approximately 1:30 p.m. and will be open to the public as space is available. Time permitting, after discussion of agenda subjects by Committee members, interested persons may make statements germane to these subjects. Persons wishing to make oral statements should advise the Committee Management Officer in writing prior to the meeting to aid in scheduling the time available and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be restricted to ten minutes in length. Any interested person may file a written statement for consideration by the Committee by sending it to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

LESLIE S. SHAPIRO,
Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc.77-14026 Filed 5-16-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

M.D. PHARMACEUTICAL, INC.

Manufacture of Controlled Substances; Registration

By Notice dated February 4, 1977, and published in the FEDERAL REGISTER on February 11, 1977, (42 FR 8725), M.D. Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application on January 17, 1977, to the Drug Enforcement Administration (DEA), to be registered as a bulk manufacturer of diphenoxylate and methylphenidate, each being a basic class of controlled substance listed in Schedule II.

By a letter dated March 14, 1977, counsel for Ciba-Geigy Corporation submitted the comments and objections of that company in response to the above notice. Ciba-Geigy objected to the registration of M.D. Pharmaceutical, Inc. for the reasons that:

1. M.D. Pharmaceutical does not hold a New Drug Application (NDA) approved by the Food and Drug Administration and thus lacks the authority to manufacture and market methylphenidate for interstate commerce, and in view of that deficiency, should not be granted a manufacturer's registration by DEA.

2. The policy of the Drug Enforcement Administration, at least regarding the registration of importers, is that it is unnecessary and administratively burdensome to presently register applicants as a contingency measure in the event they may possibly conduct controlled substances activities in the future, and therefore to register M.D. Pharmaceutical in advance of their ability to manufacture methylphenidate for marketing is to contravene DEA's own policy.

The first objection raised by Ciba-Geigy regarding no approved NDA has been previously considered by this agency in "In the Matter of MBH Chemical Corp.," Dk 73-17, 73-18, 30 FR 12364-65, April 5, 1974. That proceeding was a hearing before Administrative Law Judge William E. Brennan on an application submitted by MBH Chemical Corp. to become registered as a manufacturer of two Schedule II controlled substances, one of which was methylphenidate. The issue presented in that case was whether the Administrator may, pursuant to 21 U.S.C. 823, register an applicant to manufacture a Schedule II controlled substance where it is a New Drug under the Federal Food, Drug, and Cosmetic Act and the applicant does not hold an approved NDA as that Act requires.

Upon consideration of that issue, in his final order in the MBH matter the then Administrator of the Drug Enforcement Administration granted the application for registration recognizing that the agency had no regulation which made obtaining an approved NDA a condition precedent to the issuing of a registration to manufacture controlled substances, and he stated in that order that he was granting the registration even though it remained unclear to him what benefits could be gained by registering an applicant who lacked an approved NDA for the drug they sought to manufacture.

In the present matter, as in the MBH matter, the nature of the application, the objection raised, the issue presented, and even the objector and the drug involved, are identical. Moreover, there continues to be no DEA regulation requiring an applicant to hold an approved NDA as a condition precedent to it obtaining a registration to manufacture.

Therefore, the Administrator similarly regards M.D. Pharmaceutical's lack of an approved NDA for methyphenidate to be no bar to DEA granting their application as a bulk manufacturer of that drug.

Ciba-Geigy's second objection is that DEA has a policy against registering applicants as importers who do not presently engage in importing activities but who may wish to do so in the future. Ciba-Geigy suggests that this policy should be extended to preclude registering an applicant as a manufacturer where he cannot for lack of an approved NDA engage in that activity.

The policy as set forth in 40 FR 43745-46 (September 23, 1975) stated that 21 U.S.C. 958(h) permits an applicant for registration as an importer to be expeditiously registered by DEA without the customary publication or advance notice of its application or opportunity for a hearing, provided there is an emergency situation as described in 21 U.S.C. 952(a) concerning the domestic unavailability of controlled substances. In view of that, the then Acting Administrator made a determination in the September 23, 1975 policy statement that a "contingency reserve" of importer registrants is "unnecessary and administratively burdensome" because it is as to them only that the statute provides for expeditious registration in emergency situations concerning the domestic supply of controlled substances, and in doing so eliminates their need for anticipatory registration.

It is the absence of this or a similar statutory provision as to manufacturer applicants which preserves their need to register in anticipation of their ability to manufacture, and which precludes extending to them the DEA policy against anticipatory registration of importers.

For the foregoing reasons, the application submitted by M.D. Pharmaceutical, Inc. dated January 17, 1977 shall be granted.

No other comments or objections having been received and no hearings having been requested, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Administration hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of diphenoxylate and methylphenidate is granted.

Dated: May 11, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-14020 Filed 5-16-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

ALASKA STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated November 10, 1976, from Edmund L. Orbeck, Commissioner, to

James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1910.1001(l)(l), Asbestos Record keeping—Exposure Records, as published in the FEDERAL REGISTER, 36 FR 23207, dated December 7, 1971, and amendments to 29 CFR 1910.1001(l)(l), dated March 19, 1976, 41 FR 11505.

These State standards, which are contained in Subchapter 4 Alaska Occupational Safety and Health Code, were promulgated after public notice under authority vested by AS 18.60.020 by Edmund Orbeck, Commissioner, on September 29, 1976.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly are approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003 Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Occupational Safety and Health Administration, New Department of Labor Building, Room N-3620 200 Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Section 1953.2 (c) of this chapter provides that where State standards are identical to or "at least as effective" as comparable Federal standards and have been promulgated in accordance with State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law including an opportunity for public comment and/or a public hearing, they are approved without an opportunity for further public comment.

This decision is effective May 17, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 9th day of March, 1977.

JAMES W. LAKE,
Regional Administrator, OSHA.

[FR Doc.77-14099 Filed 5-16-77;8:45 am]

NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

IDAHO WOMEN'S MEETING

Notice of Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1), announcement is made of the Idaho Women's Meeting to be held on May 20-22, 1977, in Boise at Boise State University.

The purposes of the meeting are to:

(1) recognize the contributions of women to the development of our country;

(2) assess the progress that has been made to date by both the private and public sectors in promoting equality between men and women in all aspects of life in the United States;

(3) assess the role of women in economic, social, cultural, and political development;

(4) assess the participation of women in efforts aimed at the development of friendly relations and cooperation among nations and to the strengthening of world peace;

(5) identify the barriers that prevent women from participating fully and equally in all aspects of national life, and develop recommendations for means by which such barriers can be removed;

(6) make nominations for and elect 14 representatives to the National Women's Conference in accordance with regulations promulgated by the National Commission on the Observance of International Women's Year and consistent with the requirement that the National Women's Conference shall be composed of:

(a) representatives of local, State, regional, and national institutions, agencies, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and

(b) members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

The meeting is scheduled to begin at 12 noon on May 20, 1977, and end at 1:15 p.m. on May 22, 1977.

Workshops and other discussions have been scheduled for 9:15 a.m. to 11:30 a.m., Saturday, May 21, 1977; 1:30 p.m. to 3:45 p.m., Saturday, May 21, 1977; and 8:45 a.m. to 11:00 p.m., Sunday, May 22, 1977.

Topics to be discussed during these periods include:

Rights of Homemakers, Rural Women, International Interdependence, Health, and other issues relating to the education, employment, welfare, and legal rights of women.

The election of delegates to the National Women's Conference is scheduled as follows:

Nominating Committee Report and Floor Nominations: 7:00 p.m. to 8:15 p.m., Friday, May 20, 1977.

Election of delegates: 12 noon to 8:30 p.m., Saturday, May 21, 1977.

This meeting is open to the public. All persons 16 years old or over who are residents of the State or enrollees at educational institutions in the State may register to participate in all activities. Participation in some activities may be limited by the available space.

Registration is premised upon a satisfactory showing of residency or educational institution enrollment and the payment of a nominal fee. All participants may vote on recommendations and delegates if they have registered before 12 noon Saturday, May 21, 1977.

All communications regarding this Meeting should be addressed to Hope Kading, Chairperson, International Women's Year Coordinating Committee, 1515 W. Franklin, Boise, Idaho 83702, or call (800) 632-5931.

General Notice of this meeting has been publicized in the media and the time available for organizing the details of the program schedule have made it necessary on an emergency basis to postpone publication of this notice until this time.

Dated: May 11, 1977.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-14046 Filed 5-16-77;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS AND THE HUMANITIES

COLLEGE LIBRARY PROGRAM PANEL ADVISORY COMMITTEE

Meeting

MAY 9, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the College Library Program Panel will convene at 9:00 a.m. in room 1023 at 806 Fifteenth Street NW., Washington, D.C. on June 10, 1977.

The purpose of the meeting is to review College Library applications submitted to the National Endowment for the Humanities for grants to educational institutions and nonprofit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 Fifteenth Street N.W., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-13999 Filed 5-16-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COUNCIL, TASK GROUP 2

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Task Group 2 of the NSF Advisory Council.
Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Date: June 2-3, 1977.
Time: 9 a.m. each day.
Type of meeting: Open.
Contact person: Dr. R. Lynn Carroll, NSF Staff Liaison—Advisory Council, National Science Foundation, Room 527, Washington, D.C. 20550. Telephone: 202-632-7443.
Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Tentative agenda: June 20-21: To identify and review the ways non-scientists now participate in the formation of the nation's science policy, the present arrangements for involving the public in the development of Foundation policies, and suggest possible new approaches or improvements in NSF practices.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 11, 1977.

[FR Doc.77-13955 Filed 5-16-77;8:45 am]

MINORITY PROGRAMS IN SCIENCE EDUCATION ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Minority Programs in Science Education.
Date: June 2-3, 1977.
Time: 9:00 a.m. each day.
Place: Room 651, 5225 Wisconsin Avenue, NW., Washington, D.C.
Type of meeting: Open.
Contact person: Ms. Fran Watts, Staff Assistant, Science Education Directorate, National Science Foundation, Room W-600, Washington, D.C. 20550, Telephone 202-282-7930.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, National Science Foundation, Room 248, Washington, D.C. 20550.
Purpose of advisory committee: To assist in the evaluation and assessment of activities within the Minority Centers for Graduate Education Program and other ethnic minority-focused Foundation programs.

Agenda: *June 2*

Report on Grants for Minority Centers for Graduate Education in Science and Engineering.
Research Initiation in Minority Institutions Program.
NSF Graduate Fellowship Program and the Minority Fellowship Program.
State of the Art of Science and Engineering Education for Minorities.
Differential Aprpoaches for Funding and Identification.

June 3

Workshop on Proposal Writing for Smaller Institutions.
Released Time for Minority Faculty in Science and Engineering.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 11, 1977.

[FR Doc.77-13954 Filed 5-13-77;8:45 am]

RESEARCH IN SCIENCE EDUCATION (RISE) SUBPANEL

Meeting

Name: Subpanel for Research in Science Education (RISE) of the Advisory Panel for Science Education Projects.
Date and time: June 1 through June 7, 1977—9 a.m. to 6 p.m. each day.
Place: Sheraton Park Hotel and Motor Inn, 2660 Woodley Road, NW., Washington, D.C. 20008.
Type of meeting: Closed.
Contact person: Dr. Richard West, Program Director, RISE Program, Room W-648, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7745.
Purpose of panel: To provide advice and recommendations concerning support for research in science education.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: Two proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 11, 1977.

[FR Doc.77-13956 Filed 5-16-77;8:45 am]

VERY LARGE ARRAY AD HOC ADVISORY PANEL

Open Meeting

In accordance with the Federal Advisory Committee Act. Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Advisory Panel for the Very Large Array.
Date: June 1-2, 1977.
Time: 9:30 a.m. each day.
Place: National Radio Astronomy Observatory, Very Large Array (VLA) Site, U.S. Highway 60 and State Highway 78, Socorro County, New Mexico, (52 miles west of Socorro, New Mexico).
Type of meeting: Open.
Contact person: Mr. Claud M. Kellett, Executive Secretary, Ad Hoc Advisory Panel for the Very Large Array, Room 618, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632-7340. Anyone who plans to attend should notify Mr. Kellett prior to the meeting.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of advisory panel: To advise the Director of the National Science Foundation concerning the management and future planning of the Very Large Array (VLA) Project of the National Radio Astronomy Observatory.

SUMMARY AGENDA

Time	*June 1*
9:30 a.m.	Introductory Remarks.
9:45 a.m.	VLA Site Tour.
12:30 p.m.	Recess.
1:30 p.m.	Review of VLA Technical Design and Scientific Goals.
4:30 p.m.	Adjourn.
	June 2
9:30 a.m.	Discussion of Program Management Details.
10:45 a.m.	Break.
11 a.m.	Continued Discussion of Program Management.
12:30 p.m.	Recess.
1:30 p.m.	Long Range Planning.
4:30 p.m.	Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 11, 1977.

[FR Doc.77-13957 Filed 5-16-77;8:45 am]

ADVISORY PANEL FOR THE INFORMATION DISSEMINATION FOR SCIENCE EDUCATION PROGRAM (IDSE)

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for the Information Dissemination for Science Education Program (IDSE).

DATE AND TIME: June 2, 1977—6:00 p.m.-9:30 p.m.; June 3, 1977—8:30 a.m.-5:00 p.m.; June 4, 1977—8:30 a.m.-5:00 p.m.

PLACE: Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, D.C.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Charles W. Wallace, Program Director, IDSE, Room W-422, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 282-7950.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in the IDSE program.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a

proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub-L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77–14037 Filed 5–16–77;8:45 am]

SUBPANEL ON THE HANDICAPPED IN SCIENCE PROGRAM OF THE ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Subpanel on the Handicapped in Science Program of the Advisory Panel on Science Education Projects.

DATE AND TIME: June 2 and 3, 1977—9:00 a.m. to 5:00 p.m. each day.

PLACE: Metropolitan Hotel, 1143 New Hampshire Avenue NW., Washington, D.C. 20037.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Lafe R. Edmunds, Student-Oriented Programs, Room W–400, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 282–7150.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in the Handicapped in Science Program.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77–14038 Filed 5–16–77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 9, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

FEDERAL RESERVE SYSTEM

Registration Statement, Deregistration Statement, Annual Report, G–1, G–2, G–4, single time, persons who make stock secured loans, C. Louis Kincannon, 395–3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, Oakland Unified School Mail-back Survey, Oakland Catholic Schools Mail-back Survey, ASE–1010–1 and 2, single time, parents of elementary-secondary students in Oakland, Calif., Sunderhauf, M. B., 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Evaluation of Housing Assistance Plans: Field Interview, Field Interview Guides, single time, local government agencies, Housing, Veterans, and Labor Division, C. Louis Kincannon, 395–3532.

DEPARTMENT OF LABOR

Employment and Training Administration, a Pilot Evaluation of the Impact of U.S. Employment Service, Single Time, ES applicants, Strasser, A., C. Louis Kincannon, 395–5867.

REVISIONS

VETERANS ADMINISTRATION

Application for Medical Benefits for Dependents or Survivors, VA 10–10D, on occasion, Ind. eligible for CHAMPVA or VA Specialized medical care benefits, Warren Topelius, 395–5872.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, June Enumerative Survey, annually, farmers, Gaylord Worden, 395–4730.

Agricultural Stabilization and Conservation Service, Uniform Grain Storage Agreement, CCC–25 and 25–2, on occasion, warehousemen, Lowry, R. L., 395–3772.

Agricultural Stabilization and Conservation Service, Uniform Rice Storage Agreement, CCC–26–2, on occasion, warehousemen, Lowry, R. L., 395–3772.

Statistical Reporting Service, Telephone, Electric and L.P. Gas Service, none, annually, farmers, Gaylord Worden, 395–4730.

REVISIONS

Food and Nutrition Service:
- Meal Service Application for Authorization to Participate, in the Food Stamp Program, FNS–252, FNS 252–1, through 252–4, on occasion, retail and wholesale food stores, and meal services, Warren Topelius, 395–5872.
- Regulations—Special Supplemental Food Program for Women, Infants and Children (WIC), on occasion, State health department and local health or welfare agencies, Warren Topelius, 395–5872.

DEPARTMENT OF DEFENSE

Departmental and other Service Academies Precandidate Questionnaire, 1908, on occasion, prospective candidates to service academies, Warren Topelius, 395–5872.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Retail Prices: Rent Collection, Segment Listing; Tenure Screening, BLS 2921A, BLS 2921B, BLS 2921C, BLS 2921D, monthly, retail units, Strasser, A., 395–5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Sales Memorandum and Record of Peanuts Dried or Shelled for Producers, MQ70, on occasion, peanut buyers, dryers and shellers, Warren Topelius, 395–5872

DEPARTMENT OF COMMERCE

Bureau of Census, Current Population Survey Questionnaire, CPS–1, monthly, CPS household respondents, George Hall, 395–6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Recordkeeping Requirements for Low-acid Canned Food Processors, on occasion, low-acid canned food processors, Warren Topelius, 395–5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management:
- Temporary Housing Insurance Certification, HUD 9968, on occasion, victims of Presidentially declared disasters, Housing, Veterans and Labor Division, 395–3532.
- Notice of Intent To Vacate, HUD–9974, on occasion, victims of Presidentially declared disasters, Housing, Veterans and Labor Division, 395–3532.
- Preplacement Questionnaire—Temporary Housing Assistance, HUD 9961, on occasion, victims of Presidentially declared disasters, Housing, Veterans and Labor Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–14159 Filed 5–16–77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 6, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202–395–4529, or from the reviewer listed.

NEW FORMS

U.S. COMMISSION ON CIVIL RIGHTS

Equal Employment Opportunity in Salt Lake Justice, agencies, single time, 10 employees at 5 government agencies, Kathy Wallman, Tracey Cole, 395–6140.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Aspen Cable and Television Workshop Participant and User Survey, single time, participants in the Aspen cable and TV workshop, C. Louis Kincannon, 395–3211.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Report of Tenants Accounts Receivable, HUD–52295, quarterly, Phas Unders Accs, Housing, Veterans and Labor Division, 395–3532.

DEPARTMENT OF THE INTERIOR

Bureau of Sport Fisheries and Wildlife, questionnaire on the Ecological Characterization of Coastal Maine, single time, government and other groups concerned with coastal ecology, Ellett, C.A., 395–5867.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management: Model Form of Operating Budget and Schedule Carrying Charge, HUD–93240, on occasion, low and moderate income households, Housing, Veterans and Labor Division, 395–3532.

Notice of Default Status on Multifamily Housing Projects, HUD–92426, on occasion, mortgagees, Housing, Veterans and Labor Division, 395–3532.

Request for Adaptation of Mobile Unit, HUD–9983, on occasion, victims of presidentially declared disaster, Housing, Veterans and Labor Division, 395–3532.

Damage Assessment for Temporary Housing Assistance, HUD–9958, on occasion, victims of presidentially declared disasters, Housing, Veterans and Labor Division, 395–3532.

Change of Information Record temporary Housing Assistance, HUD–9962, on occasion, victims of presentially declared disasters, Housing, Veterans and Labor Division, 395–3532.

Priority Consideration Request, HUD–9976, on occasion, victims of presidentially declared disasters, Housing, Veterans and Labor Division, 395–3532.

Notice of Intent to Vacate, HUD–9974, on occasion, victims of presidentially declared disasters, Housing, Veterans and Labor Division, 395–3532.

Temporary Housing Insurance Certification, HUD–9968, on occasion, victims of presidentially declared disasters, Housing, Veterans and Labor Division, 395–3532.

Request For Transient Accommodations, HUD–9969, on occasion, victims of presidentially declared disasters, Housing, Veterans and Labor Division, 395–3532.

Comparative Analysis of Utility Costs, HUD–51994A, HUD–51994B, HUD–51994C, HUD–51994D, on occasion, public housing agencies, Housing, Veterans and Labor Division, 395–3532.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:
- Estimate of Preliminary Annual Production, 6–1209–A, annually, producers of metals and nonmetals, C. Louis Kincannon, 395–3211.
- Crude Perlite, 6–1298–A, annually, producers of crude perlite, C. Louis Kincannon, 395–3211.
- Magnesium Compounds, Ores and Raw Materials (Production), 6–1232–A, annually, producers of magnesium compounds, C. Louis Kincannon, 395–3211.
- Expanded Perlite (Production and Disposition), 6–1299–A, annually, producers of expanded perlite, C. Louis Kincannon, 395–3211.
- Diatomite (Sales and Consumption), 6–1202–A, annually, producers of diatomite, C. Louis Kincannon, 395–3211.
- Iron and Steel Scrap, Metallized Iron, and Pig Iron—Consumers, monthly report, M33–AM, monthly, consumers of iron and steel scrap, C. Louis Kincannon, 395–3211.
- Pumice, Pumicite, Scoria, Volcanic Cinders, et ceters (Production), 6–1204–A, annually, producers of pumice and pumicite, C. Louis Kincannon, 395–3211.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–14158 Filed 5–16–77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON SPACE SYSTEMS

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the establishment of the Advisory Group on Space Systems is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, Office of Science and Technology Policy (OSTP) by the National Science and Technology Policy, Organization, and Priorities Act of 1976. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A–63, Revised.

1. Name of group. Advisory Group on Space Systems.

2. Purpose. The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on achievement of national goals and objectives will be identifying and evaluating the implications of technological advances such as the availability of the reusable space shuttle and other supporting systems on future space applications programs, specifically those related to national security.

The work of the Advisory Committee will be based upon inputs from the relevant departments and earlier work carried out by other organizations in the Executive Branch. The Advisory Committee will consider both the implications for policy and potential R&D opportunities and initiatives that may be appropriate to exploit advances that may be identified. The Committee will submit a report and briefing for appropriate officials in the Executive Branch upon completion of its activities.

3. Effective date of establishment and duration. The Advisory Committee is established to provide advice to the Director of the Office of Science and Technology Policy and is estbalished until October 1, 1977.

4. Membership. The membership of the Advisory Group on Space Systems shall be fairly balanced in the terms of the points of view represented and the group's function. Membership of the Advisory Group on Space Systems will consist of approximately eight members drawn from the private sector who are particularly knowledgeable in the areas of interest to the group.

5. Advisory group operation. The Advisory Group on Space Systems will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), OSTP policy and procedures, OMB Circular No. A–63, Revised, and other directives and instructions issued in implementation of the Act.

R. C. DREW,
Assistant Director.

[FR Doc.77–14211 Filed 5–16–77;9:16 am]

ADVISORY COMMITTEE ON SPACE SYSTEMS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Science and Technology Policy announces the following meeting:

FEDERAL REGISTER, VOL. 42, NO. 95—TUESDAY, MAY 17, 1977

NAME: Advisory Committee on Space Systems.

DATE: May 31 and June 1, 1977.
TIME: 9 a.m. to 4 p.m.

PLACE: Room 305, Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

TYPE OF MEETING: Closed.

CONTACT PERSON: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.

PURPOSE OF ADVISORY COMMITTEE: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on achievement of national goals and objectives will be identifying and evaluating the implications of technological advances such as the availability of the reusable space shuttle and other supporting systems on future space applications programs, specifically those related to military systems.

AGENDA: 9 a.m. to 4 p.m.—classified discussion of draft materials prepared as part of the policy review process for the President and the National Security Council.

REASON FOR CLOSING: The committee will be reviewing sensitive classified national security information involving design and employment of space systems. These discussions come under exemption 1 of the Government in the Sunshine Act, section 552b(c), Title 5 U.S.C.

AUTHORITY FOR CLOSING: The Director, Office of Science and Technology Policy has determined that this meeting deals with matters classified for national security and therefore should be closed.

The Committee Management Secretariat, OMB, has waived the requirement of 15 days publication of notice of determination in the FEDERAL REGISTER prior to the groups' establishment.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-14210 Filed 5-16-77;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

FREQUENCY MANAGEMENT ADVISORY COUNCIL

Meeting

Notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet at 9:30 a.m., at the Office of Telecommunications Policy, 1800 G Street NW., Washington, D.C. in Room 712 on June 1, 1977.

The principal agenda items will be (1) progress report on the ITU Conference preparations. (2) A proposed coordination process for mobile/transportable satellite earth terminals. (3) Naval electromagnetic compatibility analyses.

The meeting will be open to the public, except for (3) above. Any member of the public will be permitted to file a written statement with the Council, before or after the meeting.

Item (3) of the meeting will concern information covered by 5 U.S.C. 552 (b)(1), as such the meeting will be closed at that time pursuant to Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463).

Information pertaining to the meeting may be obtained from Mr. Jack E. Weatherford, Office of Telecommunications Policy, Washington, D.C. (Telephone: 202-395-5623.)

Dated: May 12, 1977.

L. D. O'NEILL,
Advisory Committee, Management Officer.

[FR Doc.77-14219 Filed 5-16-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 04/05-0086]

MARKET CAPITAL CORP.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Market Capital Corporation (MCC), 1102 N. 28th Street, P.O. Box 22667, Tampa, Florida 33622, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application with the Small Business Administration (SBA) pursuant to section 312 of the Act and covered by § 107.1004 of the SBA rules and regulations, governing Small Business Investment Companies (13 CFR 107.1004 (1977)) for approval of Conflict of Interest Transaction falling within the scope of the above Section of the Act and Regulations.

Subject to such approval, MCC proposes to invest $86,000 in Futral Markets, Inc. (Futral), 205 N. Scenic Highway, Frostproof, Florida 33843, to retire sizeable short term obligations and increase its working capital.

The proposed financing is brought within the purview of § 107.1004 of the SBA Regulations since Mr. Robert Herman Futral, is a member of the Board of Directors of Affiliated of Florida, Inc., a retail grocery cooperative, the membership of which are the stockholders of MCC. Accordingly, Mr. Futral is considered by SBA to be an Associate of MCC.

Notice is hereby given that any interested person may, not later than May 27, 1977, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 25, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-14005 Filed 5-16-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

AID PEST MANAGEMENT PROGRAM

Availability of Final Environmental Impact Statement

On September 30, 1976, the Agency for International Development (AID) published a notice of its issuance of a draft programmatic environmental impact statement concerning its pest management activities, including such activities conducted, supported or otherwise assisted by it for the procurement or use of pesticides. Public comment on the draft was solicited (41 FR 43202). The period for public comment on the draft statement ended on December 15, 1976.

The final environmental impact statement on AID's pest management program has been completed and copies were transmitted to the Council on Environmental Quality on May 13, 1977. A.I.D. will utilize the conclusions reached in this final EIS as a basis for the issuance of regulations which will govern A.I.D.'s future pest management activities.

Copies of the final statement are being sent to all government agencies and private organizations that made substantive comments on the draft statement, and to individuals who have previously requested copies. In addition, copies of the statement will be distributed to concerned international organizations and to foreign governments entitled to receive AID assistance.

Copies of the final statement are available for public inspection during regular working hours at the Agency for International Development, Room 409, Rosslyn Plaza C Building, 1601 North Kent Street, Arlington, Virginia; or single copies may be obtained upon request to A.I.D. Environmental Coordinator Albert Printz, Room 203B Rosslyn Plaza C, Agency for International Development, Washington, D.C. 20523.

Dated: May 13, 1977.

CURTIS FARRAR,
Assistant Administrator, Bureau for Technical Assistance.

[FR Doc.77-14200 Filed 5-16-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

INCOME TAX TREATY NEGOTIATIONS

The Treasury Department today announced the countries with which it is engaged in income tax treaty negotiations, released the text of its current "model" income tax treaty, and invited comments.

The Treasury Department has a general policy of announcing initial income tax treaty negotiations with particular countries, and giving an opportunity for comment. However, often negotiations are scheduled on short notice, making notice impractical, and often negotiations extend over a period of several years, so that earlier comments no longer reflect current problems. In order to give better guidance and in order to obtain comments from interested persons, the Treasury Department today announced that negotiations are currently in process (or contemplated in the near future) with the following countries:

Bangladesh	India
Brazil	Italy
Canada	Kenya
Denmark	Netherlands
France	Singapore
Germany	Sri Lanka
Hungary	Yugoslavia

The Treasury Department would welcome amendments to previous comments, or new or supplemental comments concerning negotiations with those countries. Comments should be sent in writing to Laurence N. Woodworth, Assistant Secretary of the Treasury, U.S. Treasury Department, Washington, D.C. 20220. In addition, the Treasury Department always welcomes comments with respect to the advisability of entering into or revising income tax treaties with any country.

The Treasury Department also made available today the text of its current "model" income tax treaty. The Treasury Department is currently suggesting this model as a starting point for negotiations. The model conforms closely to the revised draft treaty which has been developed by the Organization for Economic Cooperation and Development and should be published later this year. Any comments on this model may also be sent to Laurence N. Woodworth.

The Treasury Department also announced today that the negotiations are virtually completed with the following countries:

Morocco
Republic of China (Taiwan)
Spain

Income tax treaties with Cyprus, Egypt, Israel, the Philippines, South Korea, and the United Kingdom have been signed and (except for Cyprus) submitted to the Senate for approval.

DAVID S. FOSTER,
International Tax Counsel.

[FR Doc.77-14004 Filed 5-16-77;8:45 am]

[Public Debt Series—No. 12-77]

TREASURY NOTES OF MAY 31, 1979

Series Q-1979

MAY 12, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,500,000,000 of United States securities, designated Treasury Notes of May 31, 1979, Series Q-1979 (CUSIP No. 912827 GS 5). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated May 31, 1977, and will bear interest from that date, payable on a semiannual basis on November 30, 1977, and each subsequent 6 months on May 31 and November 30 until the principal becomes payable. They will mature May 31, 1979, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, May 18, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 17, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of

their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, May 31, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, May 26, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, May 24, 1977, if the check is drawn on a bank in another Federal Reserve District. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities in full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-14232 Filed 5-16-77;10:39 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Continued Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances, that the hearing noticed for, and commenced on, Thursday, May 5, 1977 at 10:00 A.M., was continued until Wednesday, June 8, 1977, at 9:00 A.M., at which time the Los Angeles Regional Office Station Committee on Educational Allowances shall in Room 7106, at 11000 Wilshire Blvd., Los Angeles, California, continue the conduct of a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in National Training College, 4300 Campus Drive, Newport Beach, Calif. 92660, should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: May 9, 1977.

JOHN G. MILLER,
Director,
VA Regional Office.

[FR Doc.77-14045 Filed 5-16-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 391]

ASSIGNMENT OF HEARINGS

MAY 12, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142124 Sub 1, Package Delivery, Inc. now assigned June 6, 1977 at Charlotte, North Carolina is cancelled, application dismissed.

MC 134755 (Sub-80), Charter Express, Inc., now assigned June 14, 1977 at Omaha, Nebraska, is cancelled and the application is dismissed.

MC 117416 Sub 53, Newman & Pemberton Corp., now assigned June 7, 1977, at Columbia, Ohio, is cancelled and transfered to modified procedure.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14065 Filed 5-16-77;8:45 am]

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission on or before June 17, 1977. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-11490. (Petition for modification) (CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE—POOLING — SILVER WHEEL FREIGHTLINES, INC.), published in the March 29, 1972, issue of the FEDERAL REGISTER. By petition filed September 9, 1976, Consolidated Freightways Corporation of Delaware and Silver Wheel Freightlines, Inc., seek modification of the order of February 12, 1973, as modified by order of February 15, 1973, which approved the pooling agreement in the above-entitled proceeding, in order to add eighteen points to the existing pooling agreement. The points to be added, all located in Oregon, are Adair Air Force Base, Adrian, Biggs Junction, Bonneville Dam, Brownlee, Draperville, Dufur, Enterprise, Gervis, Huntington, Jefferson, Maupin, Monmouth, Pilot Rock, Rickreall, Shedd, Tygh Valley, and Vale. Garrett Freightlines, Inc., which was authorized to participate in the pool to certain points by order of December 17, 1973, has not joined in the request to pool to the eighteen additional points.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14066 Filed 5-16-77;8:45 am]

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission on or before June 17, 1977. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-10124 (Petition for modification) (CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, ET AL., POOLING), published in the May 22, 1968, issue of the FEDERAL REGISTER. By petition filed January 25, 1977, Consolidated Freightways Corporation of Delaware, Lee Way Motor Freight, Inc., Riss International Corporation, Transcon Lines, Spector Freight System, Inc., Yellow Freight Systems, Inc., Ryan Freight Lines, Inc., and Red Ball Motor Freight, Inc., seek modification of the order of the Commission, dated March 1, 1971, which approved the pooling agreement in the above-entitled proceeding in order to substitute Red Ball Motor Freight, Inc., for Ryan Freight Lines, Inc., under said agreement, and that Red Ball Motor Freight, Inc., would assume the duties, responsibilities and obligations of Ryan Freight Lines, Inc., as set forth threin.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14067 Filed 5-16-77;8:45 am]

[Notice No. 63]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relates. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2025 (Sub-No. 1TA), filed April 22, 1977. Applicant: COLEMAN AMERICAN MOVING SERVICES, INC., P.O. Drawer 1568, Dothan, Ala. 36301. Applicant's representative: R. S. Richard, 57 Adams Avenue, Montgomery, Ala. 36103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, and unaccompanied baggage*, between points in Mobile, Baldwin, Washington, Clarke, Monroe, Escambia and Conecuh Counties, Ala., restriction said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, said operations are restricted to the performance of pick-up and delivery service in connection with packing, crating, and containerization, and unpacking, uncrating, and decontainerization of such traffic, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are 3 statements of support attached to application, which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 16903 (Sub-No. 49TA), filed April 15, 1977. Applicant: MOON FREIGHT LINES, INC., 120 West Grimes Lane, P.O. Box 1275, Bloomington, Ind. 47401. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane foam products, component parts and accessories* moving in the same vehicle, from Charleston, Ill. to points in West Virginia, Pennsylvania, North Carolina, Virginia, District of Columbia, Maryland, Delaware, New Jersey, New York, Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, Vermont, Tennessee, Mississippi, Alabama, Georgia and South Carolina, restricted to transportation originating at the plant-site of The Celotex Corporation, Charleston, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corporation, 1500 North Dale Mabry, Tampa, Fla. 33607. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 East Ohio Street, Rm. 469, Indianapolis, Ind. 46204.

No. MC 32779 (Sub-No. 12TA), filed April 19, 1977. Applicant: SILVER EAGLE COMPANY, 2532 S.E. Hawthorne Boulevard, Portland, Oreg. 97214. Applicant's representative: Robert R. Hollis, 520 S. W. Yamhill St., Suite 400, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment, (1) between Spokane, Wash., and Seattle, Wash., and their respectives Commercial Zones, serving intermediate and off route points in Lincoln, Adams, Grant and Kittitas Counties, Wash.: From Spokane over Interstate Highway 90 to Seattle and return over the same route, (2) between Spokane, Wash., and Portland, Oreg., and their respective Commercial Zones serving intermediate and off-route points in Lincoln, Adams, Franklin, Walla Walla, Benton and Klickitat Counties, Wash.: From Spokane over Interstate 90 to junction U.S. Highway 395, thence over U.S. Highway 395 to junction U.S. Highway 730, thence over U.S. Highway 730 to junction Interstate Highway 80 north, thence over Inter-

state Highway 80 north to Portland and return over the same route. (3) between Pasco, Wash., and Wenatchee, Wash., and their respective Commercial Zones, serving intermediate and off-route points in Benton, Yakima and Kittitas Counties, Wash.: From Pasco over U.S. Highway 12 to junction U.S. Highway 97, thence over U.S. Highway 97 to Wenatchee and return over the same route, for 180 days. Applicant intends to interline at Portland, Oreg., Seattle, and Spokane, Wash., and other interline points. Supporting shipper: There are 68 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Portland, Oreg. at the field office below. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S. W. Yamhill St., Portland, Oreg. 97204.

No. MC 47583 (Sub-No. 47TA), filed April 11, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Rd., Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose insulation*, in bags, blowing machines and replacement parts and supplies for blowing machines, from the plantsite and storage facilities of General Fiber Corporation, at or near Commerce City, Colo., to all points in Arkansas and Louisiana. (2) *materials, equipment and supplies* used in the manufacture and distribution of cellulose insulation, except commodities in bulk, from points in Arkansas and Louisiana, to the plantsite and storage facilities of General Fiber Corporation, at or near Commerce City, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Fiber Corporation, 50701 Dexter, Commerce City, Colo. 80022. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 48221 (Sub-No. 9TA), filed April 29, 1977. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, Suite 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A & C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodites in bulk), from Commerce City, Colo., to points in Arizona, California, Nevada, Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Don C. Romics, Sales Manager, Gold Star Beef Co., 4810 Newport, Commerce City, Colo. 80022. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 60131 (Sub-No. 10TA), filed April 29, 1977. Applicant: ROCKY FORD MOVING VANS, INC., 3811 West Industrial Avenue, P.O. Box 11, Midland, Tex. 79701. Applicant's representative: Robert J. Gallagher, 55 Madison Avenue, Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles* the shipment of automobiles will be restricted against secondary movement in driveaway service; and further restricted to movement solely by a truck, between points in California, Utah, Nevada, Arizona, New Mexico, Colorado, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Missouri, Georgia, Florida, North Carolina, South Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Michigan, Ohio, Indiana, Illinois, Kentucky, Tennessee, Alabama, Mississippi, Wisconsin, Minnesota, and the District of Columbia, for 180 days. Supporting shipper: There are 3 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., copies thereof which may be examined at the field office named below. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 75406 (Sub-No. 42TA), filed April 26, 1977. Applicant: SUPERIOR FORWARDING COMPANY, INC., 2600 South 4th Street, St. Louis, Mo. 63118. Applicant's representative: Gregory M. Rebman, 314 N. Broadway, Suite 1230, St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between junction of U.S. Highway 79 and Arkansas Highway 86, and junction Arkansas Highway 86 and U.S. Highway 49, serving intermediate points including Holly Grove, Ark., and serving joinder points above, for 180 days. Supporting shipper: Holly Grove Farm Store, Inc., Route 1, Holly Grove, Ark., Johnson's Groceries & Gen. Merchandise, P.O. Box 116, Holly Grove, Ark., Jeff Calloway, Inc., P.O. Box A–B, Holly Grove, Ark., O. & H. Equipment Co., P.O. Box 129, Holly Grove, Ark., Brooks, Rexall Drugs, P.O. Box "H", Holly Grove, Ark., Bank of Holly Grove, Arkansas, Lynlee Drive, Holly Grove, Ark. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Rm. 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 78400 (Sub-No. 52TA), filed April 28, 1977. Applicant: BEAFORT TRANSFER COMPANY, P.O. Box 151, Gerald, Mo. 63037. Applicant's representative John E. Burruss, Jr., P.O. Box 1069, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods, as defined by the Commission, and commodities requiring special equipment), between Linn, Mo., and Kansas City, Kansas, serving the intermediate points of Centertown, St. Martins, McGirk, Calif., Tipton, and Kansas City, Mo. and the off-route points of Lohman, Russellville, High Point, Latham, Clarksburg, and Prairie Home, Jamestown, Schubert, Bend, Bay, Copper Hill, Hope, Frankenstein, Ryors, Taos, Freedom, Swiss, Rich Fountain, and Luystown; From Linn, Mo., over U.S. Highway 50 to Kansas City, Kans. and return over the same route, also, between Tipton, Mo., and East St. Louis, Ill., serving the intermediate points of California, McGirk, Centertown, St. Martins, St. Louis, Mo., and the off-route points of Prairie Home, Jamestown, Lohman, Russellville, Frankenstein, Ryors, Taos, Freedom, Swiss, Rich Fountain, High Point, Latham, Clarksburg, Bend, Bay, Copper Hill, Hope, and Luystown. Restriction: The authority requested and the authority now held by applicant shall not be tacked or combined for the purpose of performing through service between St. Louis, Mo., Illinois, Kansas City, Missouri-Kans., and Jefferson City, Mo., for 180 days. Supporting shippers: There are 33 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Rm. 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 82063 (Sub-No. 78TA), filed April 28, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, St. Louis, Mo. 63127. Applicant's representative: W. E. Klipsch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid wood preservative paste*, in bulk, in tank vehicles, from Memphis, Tenn., to Roosevelt Town, N.Y., for further delivery in Foreign Commerce to St. Andre East, Quebec, Canada, and Madera, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Commercial Chemical Co., Division of Osmose Wood Preservative, Inc., P.O. Box 7275, Memphis, Tenn. 38107. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Rm. 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 103993 (Sub-No. 887TA), filed April 20, 1977. Applicant: MORGAN DRIVE AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single wide mobile homes* in initial movements, from points in Montgomery County, Tenn. to points in Illinois, Ohio, Indiana, Kentucky, Missouri, North Carolina, Tennessee, West Virginia, South Carolina, Georgia, Alabama, Mississippi and Arkansas, for 180 days. Supporting shipper: Modular Structures, P.O. Box 2296, Clarksville, Tenn. 37040. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 106398 (Sub-No. 773TA), filed April 18, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 S. Main, P.O. Box 3329, Tulsa Okla. 74101. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from the plantsites of Challenger Homes, Inc. and its division located in Columbia, Tenn., and the plantsite of American Pride Division of Challenger Homes, Inc., in Ardmore, Tenn., to points in Alabama, Georgia, Wisconsin, Mississippi, Louisiana, Missouri, Illinois, Indiana, Ohio, Kentucky, Michigan, West Virginia, Virginia, North Carolina, South Carolina, Pennsylvania, and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Challenger Homes, Inc. and American Pride Division of Challenger Homes, Inc., P.O. Box 1057, Demasters Lane, Columbia, Tenn. 38401. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 108393 Sub-No. 118TA, filed April 19, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: Thomas B. Hill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances and equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, between Belvidere, Ill., on the one hand, and, on the other, St. Joseph, Mich. and Clyde, Ohio, under a continuing contract or contracts with Whirlpool Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Whirlpool Corporation, Carl R. Anderson, Director of Corporate Traffic, Administrative Center, Benton Harbor, Mich. 49022. Send protests to: Transportation Assistant Particia A. Roxcoe, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Rm. 1396, Chicago, Ill. 60604.

No. MC 111045 (Sub-No. 140TA), filed April 12, 1977. Applicant: REDWING CARRIERS, INC., P.O. Box 426, 7809 Palm River Rd., Tampa, Fla. 33601. Applicant's representative: L. W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sand*, in bulk, in closed vehicles, from points in Florida to Montgomery, Ala., for 180 days. Supporting shipper(s): Brockway Glass Company, Inc., P.O. Box 8038, Montgomery, Ala. Send protest to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations Monterey Bldg., Suite 101, 8410 NW., 53rd Terrace, Miami, Fla. 33166.

No. MC 112520 (Sub-No. 338TA), filed April 28, 1977. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, 122 Appleyard Drive, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed clay catalyst*, in bulk, in tank vehicles, from Attapulgus, Ga. to Marcus Hook, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Engelhard Minerals & Chemicals Corp., Menlo Park, Edison, N.J. 08817. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 113784 (Sub-No. 61TA), filed April 19, 1977. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario, Canada L8L 7X7. Applicant's representative: Douglas Ross Gowland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Quick lime*, in pneumatic tank vehicles, for and on behalf of Canadian Gypsym Company, Limited, Guelph, Ontario, from ports of entry on the United States-Canada boundary line located on the Niagara River to the premises of Armco Steel Corporation located in Butler, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Canadian Gypsum Company, Limited, P.O. Box 4034, Terminal A, Toronto, Ontario M5W 1K8. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 West Huron St., Buffalo, N.Y. 14202.

No. MC 114045 (Sub-No. 464TA), filed April 14, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, except in bulk, in vehicles equipped with mechanical refrigeration, from the storage facilities utilized by M&M/MARS, located at or near Hampden Township, Cumberland County, Pa. to points in Texas, Utah, Washington, Arizona, California, Idaho, Louisiana, Nevada New Mexico, Oklahoma and Oregon, restricted to traffic moving for M&M/Mars originating at the above named origin and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Rm. 13012, Dallas, Tex. 75242. Supporting Shipper: M&M/Mars, a division of Mars, Incorporated, High St. Hackettstown, N.J. 07840.

No. MC 114097 (Sub-No. 8TA), filed April 29, 1977. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 South Front St., La Crosse, Wis. 54601. Applicant's representative: Edward H. Instenes, P.O. Box 676, Winona, Minn. 55987. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and return of empty beverage containers* between La Crosse, Wis., and St. Louis, Mo., under a continuing contract or contracts with G. Heileman Brewing Co., Continental Can Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. Heileman Brewing Co., La Crosse, Wis. 54601. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Rm. 202, Madison, Wis. 53703.

No. MC 116073 (Sub-No. 352TA) filed April 14, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles (except travel trailers), *and buildings*, in initial movement, from at or near Ocala and Sarasota, Fla.; Arkansas City and Halstead, Kans.; Bossier City, La; Kinderhook, N.Y.; Mocksville, N.C.; Ephrata, Leola, and Schaefferston, Pa.; Holmesville and Sugarcreek, Ohio and Temple, Tex. to all points in the United States, including Alaska but excluding Hawaii, and (2) *Buildings*, from Lancaster, Wis., to all points in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting shipper: Skyline Corporation, 2520 By-Pass Rd., Elkhart, Ind. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116254 (Sub-No. 180TA), filed April 22, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a com-

mon carrier, by motor vehicle, over irregular routes, transporting: *Spent phosphoric acid* in bulk in tank vehicles, from Clanton, Ala., and Pontotoc, Miss., to points in Texas and Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Glidewell Chemical Products, Inc., 2515 Decatur Street, Richmond, Va. 23224. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 116254 (Sub-No. 181TA), filed April 19, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peanut meal*, in bulk, in hopper-type vehicles, (1) from Enterprise, Ala., to Lafayette and Clinton, Ind., (2) from Graceville, Fla., to Lafayette and Clinton, Ind. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eli Lilly and Company, Box 618, Indianapolis, Ind. 46206. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 117119 (Sub-No. 623TA), filed April 20, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail discount stores (except commodities in bulk), from the facilities of Howard Bros. Discount Stores at Monroe, La., to McAlester and Ponca City, Okla., for 180 days. Supporting shipper: Howard Bros. Discount Stores, Inc., 3030 Aurora, Monroe, La. 71201. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117765 (Sub-No. 228TA), filed April 11, 1977. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, 5315 NW. 5th St., Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (not frozen) and *pet foods*, in containers (1) from the plantsite and facilities of Blytheville Canning Co., Inc., Blytheville, Ark., points in Alabama, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee, Texas and Wisconsin; (2) from the plantsite and facilities of Valley Canning Company, Cecilia, and Ville Platte, La. to points in Arkansas, Michigan, Oklahoma, and Wisconsin; (3) from the plantsite and facilities of Blytheville Canning Company, Inc., Muskogee, Okla. to points in Illinois, Indiana, Iowa, Minnesota and Wisconsin; and (4) from the plantsite and facilities of Bush Brothers Canning Company, Augusta, Wis. and Shiocton Kraut Company, Shiocton, Wis. to points in Arkansas, Colorado and Oklahoma, for 180 days. Supporting shipper: Blytheville Canning Co., Inc., P.O. Box 167, Blytheville, Ark. 72315. Send protests to: District supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 126612 (Sub-No. 9TA), filed April 29, 1977. Applicant: SALVATORE GIARRAPUTO, doing business as SEMOLINA HAULAGE COMPANY, 86 Kent Avenue, Brooklyn, N.Y. 11211. Applicant's representative: Murray S. Bornstein, 253 Broadway, New York, N.Y. 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk flour*, in special tank vehicles, from Brooklyn Eastern District Terminal, Brooklyn, N.Y., to West Haven and New Haven, Conn., under a continuing contract or contracts with Lender's Bagel Bakery, Inc., for 180 days. Supporting shipper: Lender's Bagel Bakery, Inc., Post Road, West Haven, Conn. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 126612 (Sub-No. 10TA), filed April 29, 1977. Applicant: SALVATORE GIARRAPUTO, doing business as SEMOLINA HAULAGE COMPANY, 86 Kent Avenue, Brooklyn, N.Y. 11211. Applicant's representative: Murray S. Bornstein, 253 Broadway, New York, N.Y. 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk flour*, in special tank vehicles, from Brooklyn Eastern District Terminal, Brooklyn, N.Y., to Bridgeport, Conn., under a continuing contract or contracts with Country Home Bakery, Inc., for 180 days. Supporting shipper: Country Home Bakery, Inc., 1722 Barnum Ave. Bridgeport, Conn. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 126904 (Sub-No. 21TA), filed April 20, 1977. Applicant: H. C. PARRISH TRUCK SERVICE, INC., RFD No. 2 Box 264, Freeburg, Ill. 62243. Applicant's representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, Mo. 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete filter blocks*, from St. Louis, Mo., to Piscataway, Md., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James E. Hereford, President, Hereford Concrete Products, Inc., 6655 Rockbrook Avenue, St. Louis, Mo. 63133. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 128007 (Sub-No. 99TA), filed April 11, 1977. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fish meal* (1) from Empire, La.; Port Arthur, Tex. and Gulfport, Miss. to points in Alabama, Georgia, Indiana, Kentucky, Louisiana, Minnesota, Mississippi, Tennessee and Wisconsin; (2) from Port Arthur, Tex. and Gulfport, Miss., to points in Texas; and (3) from Gulfport, Miss., to points in Arkansas, Illinois, Iowa, Kansas, Missouri, and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Petrou Fisheries, Inc., P.O. Box 128, Empire, La. 70050. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 129032 (Sub-No. 38TA), filed April 27, 1977. Applicant: TOM INMAN TRUCKING, INC., 6015 S. 40th West Avenue, P.O. Box 9667, Tulsa, Okla. 74107. Applicant's representative: Michael J. Stecher, 256 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, including dairy products* (except in bulk) in vehicles requiring mechanical refrigeration, from Plymouth, Wis., to points in Arizona, California, Colorado, Oregon and Washington, for 180 days. Supporting shipper: Borden Foods Division, Borden, Inc., 180 E. Broad Street, Columbus, Ohio 43215. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 129034 (Sub-No. 15TA), filed April 12, 1977. Applicant: LOOMIS COURIER SERVICE, INC., 390 Fourth St., San Francisco, Calif. 94107. Applicant's representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, Oreg. 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cash letters* (cash letters is as described in Bankers Dispatch Corp. Conv. 110 MCC 294) (1) between points in Oregon; (2) between points in Skamania and Klickitat Counties, Wash. and Wasco and Hood River Counties, Oreg.; and (3) between points in Skamania and Klickitat Counties, Wash., on the one hand, and, on the other, Portland, Oreg., and its commercial zone, under continuing contracts with Banks and banking institutions, for 180 days. Supporting shipper: There are approximately 6 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Claud W. Reeves, 211 Main-Suite 500, San Francisco, Calif. 94105.

No. MC 129963 (Sub-No. 5TA), filed April 27, 1977. Applicant: FAN McKELVEY TRUCKING, 5420 West Missouri Road, Glendale, Ariz. 85301. Applicant's representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, Ariz. 85014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite of Hoerner Waldorf located in Orange County, Calif., to points in Arizona and Colorado, under a continuing contract or contracts with American Forest Products Corporation, Calpine Containers, Vegetable Growers Supply Co., Weyerhaeuser Company and Capital Lumber Supply Co., Hoerner Waldorf, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hoerner Waldorf, 2250 Wabash Avenue, St. Paul, Minn. 55114. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Rm. 3427 Federal Bldg., 230 N. Frist Avenue, Phoenix, Ariz. 85025.

No. MC 133377 (Sub-No. 11TA), filed April 18, 1977. Applicant: COMMERCIAL SERVICES, INC., 114 Memorial Road, Storm Lake, Iowa 50588. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C, Appendix I, 61 M.C.C. 209 and 766, except hides and commodities in bulk, from Lyons, Nebr. to points in Iowa, Minnesota, and Wisconsin, restricted to traffic originating at the plantsite and storage facilities of Premier Boneless Meats at Lyons, Nebr. and destined to named States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joe Francis, President, Premier Boneless Meats, Inc. Box 37616, Omaha, Maine, 68137. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 134755 (Sub-No. 102TA), filed April 11, 1977. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except commodities in bulk, in tank vehicles, and hides), from the plantsite and storage facilities of Royal Packing Co., located at or near National City, Ill., to Danbury and Stamford, Conn.; Boston and Springfield, Mass.; Hawthorne and Patterson, N.J.; New York and Utica, N.Y.; and Philadelphia, Pa., for 180 days. Supporting shipper: Royal Packing Co., P.O. Box 156, National Stockyards, Ill. 62071. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 135982 (Sub-No. 15TA), filed April 27, 1977. Applicant: S. L. HARRIS, doing business as P. B. I., P.O. Box 7130, Longview, Tex. 75601. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers, and metal container ends*, and (2) *shrouds, pallets, chipboard and dunnage materials*, (1) from Longview, Tex., to Memphis, Tenn., and (2) from Memphis, Tenn., to Longview, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jos. Schlitz Brewing Company, 235 West Galena St., Milwaukee, Wis. 53121. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Rm. 13C12, Dallas, Tex. 75242.

No. MC 136077 (Sub-No. 6TA), filed April 29, 1977. Applicant: REBER CORPORATION, 2216 Old Arch Road, Norristown, Pa. 19401. Applicant's representative: Floyd A. Reber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, in pneumatic tank vehicles, from Plymouth Meeting, Pa., to North Carolina and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. & W. H. Corson, Inc., Plymouth Meeting, Pa. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Rm. 3238, Philadelphia, Pa. 19106.

No. MC 136792 (Sub-No. 1TA), filed April 29, 1977. Applicant: KISER-MECKLENBURG WRECKER SERVICE, INC., 3032 Rozzells Ferry Road, Charlotte, N.C. 28208. Applicant's representative: Ernest S. Delaney III, Suite 100, Civic Plaza, 801 East Trade St., Charlotte, N.C. 28202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled trucks, tractors and trailers* (except trailers designed to be drawn by passenger automobiles) and replacement vehicles for the aforementioned vehicles from Mecklenburg County, Gaston County, Union County, Cabarrus County, Lincoln County, and Catawba County, North Carolina, to Georgia, South Carolina, Virginia, Maryland, Alabama, Florida, Ohio, Kentucky, Delaware, New Jersey, Pennsylvania, Mississippi, Louisiana, and Arkansas, for 180 days. Supporting shippers: There are 8 statements of support attached to application which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office below. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC 516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 136817TA, filed April 28, 1977. Applicant: HUNTER BROKERAGE, INC., 427 E. Washington Ave, Suite 405, Council Bluffs, Iowa 51501. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from Moravia, Tama, Belle Plaine, Oxford Junction, and Guttenberg, Iowa, and points in their commercial zones, to Logan, Utah, and Los Angeles, Calif, and points in Minnesota, Wisconsin, Nebraska, Illinois, Ohio, Kentucky, Tennessee, Georgia, North Carolina, Virginia, Indiana, Arkansas, and Pennsylvania; (2) from points in Wisconsin, Illinois, and Missouri, to Belle Plaine and Oxford Junction, Iowa, and points in their commercial zones; and (3) from Grand Rapids, Michigan, and Stoughton, Wis., to Loveland, Colo. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with McGuffin Lumber, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James P. McGuffin, President, McGuffin Lumber, Inc., 3142 Central Street, Evanston, Ill. 60201. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 138486 (Sub-No. 3TA3) filed April 11, 1977. Applicant: DAVE WHITE, doing business as DAVE WHITE TRUCKING, R.R. No. 1, P.O. Box 488, Cerro Gordo, Ill. 61818. Applicant's representative: John E. Harvey, P.O. Box 1470, Decatur, Ill. 62525. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Grain or soybean products*, dry, in bulk, bags or boxes, in straight or mixed loads, from the plantsite and storage facilities of Archer Daniels Midland Company, Decatur, Ill., to points in Illinois, Minnesota, Iowa, Missouri, Tennessee, Kentucky, Indiana, Ohio, Michigan, and Wisconsin under a continuing contract with Archer Daniels Midland Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jerry C. Slaughter, General Traffic Manager, Archer Daniels Midland Company, 4666 Faries Parkway, P.O. Box 1470, Decatur, Ill. 62525. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 138931 (Sub-No. 3TA), filed April 20, 1977. Applicant: LOUIE SENSKE ANI JIM SENSKE, doing business as SENSKE AND SON TRANSFER, 117 4th Ave. North, Crookston, Minn. 56716. Applicant's representative: James B. Hovland, 414 Gate City Bldg., P.O. Box 1637, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes,

transporting: (1) *Earth moving scrapers and parts and attachments* for earth moving scrapers, from the facilities of Toreq, Inc., at or near Thief River Falls, Minn., to points in Texas, Oklahoma, Colorado, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Wisconsin, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, Kentucky, Pennsylvania, Ohio, Indiana, Illinois, and Michigan, and (2) *materials and supplies* (except commodities in bulk) used in the manufacture of earth moving scrapers, from points in Ohio, Illinois, and Indiana on and north of U.S. Highway 70, to the facilities of Toreq, Inc., at or near Thief River Falls, Minn., under a continuing contract or contracts with Toreq., Inc., Box 436, Thief River Falls, Minn. 56701. Supporting shipper: Toreq, Inc., Box 436, Thief River Falls, Minn. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 139017 (Sub-No. 4TA), filed April 11, 1977. Applicant: HEAD ENTERPRISES, INC., Route 2, Box 88, Adairsville, Ga. 30103. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, roofing or sheathing paper, including asbestos or felt paper, saturated* or not saturated, not coated, nor corrugated, nor decorated, from the facilities of Firstline Corporation at Valdosta, Ga., to Arlington and Malakoff, Tex.; Bloomington, Calif.; Boise, Idaho; Bourbon, Ind.; Champlain, N.Y.; Charlotte, N.C.; Detroit, Mich.; Hillsboro, Kans.; Lake Oswego, Oreg.; Loveland, Colo.; New Holland, Pa.; New Ulm, Minn.; Ocala, Fla.; and Seattle, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Firstline Corporation, 3435 Wilshire Blvd., Los Angeles, Calif. 90010. Send protests to: Sara K. Davis, Transportation Assistant, Bureau Of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 140033 (Sub-No. 23TA), filed April 28, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime in bags or boxes* (except commodities in bulk), from Midlothian and Dallas, Tex., to Allen Park, Mich.; Atlanta, Ga.; Beloit, Wis.; Brentwood, Md.; Council Bluffs, Iowa; Cucamonga, Calif.; Fall River, Mass.; Indianapolis, Ind.; Jackson, Miss.; Kirkwood, N.Y.; Los Angeles, Calif.; Louisville, Ky.; Lubbock, Tex.; Monroe, Wis.; Massillon, Ohio; Orlando, Fla.; Salisbury, N.C.; San Jose, Calif.; Topeka, Kan.; Vancouvre, Wash.; Williamsport, Pa.; Wooster, Ohio; and Oklahoma City, Okla.; for 180 days. Supporting shipper: Atlanters Chemical Services, P.O. Box 47101, Dallas, Tex. 75247. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Rm. 13C12, Dallas, Tex. 75242.

No. MC 140389 (Sub-No. 15TA), filed April 29, 1977. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77 North, Gadsden, Ala. 35902. Applicant's representative: Larry Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from plantsites of or used by Morgan Colorado Beef Company at or near Fort Morgan, Colo., to Calhoun, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morgan Colorado Beef Co., East Burlington Avenue, Fort Morgan, Colo. 80701. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce, Commission, Rm. 1616, 2121 Building, Birmingham, Ala. 35023.

No. MC 142038 (Sub-No. 2TA), filed April 28, 1977. Applicant: DARIO GUERRA, doing business as DARIO GUERRA TRANSFER, 1040 Biscayne Blvd., Ste. 303, Miami, Fla. 33132. Applicant's representative: Richard B. Austin, 5255 N.W. 87th Avenue, Ste. 214, Palm Coast II Bldg., Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A & B explosives, household goods, commodities in bulk, cement, motor vehicles and articles requiring specialized equipment), in shipper owned trailers between points in Dade County, Fla., on and north of North Kendall Drive (SR 94) and on and east of Krome Ave. (SR 27) restricted to traffic having an immediately prior or subsequent movement by water in interstate or foreign commerce, for 180 days. Supporting shippers: There are 4 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office below. Send protests to: Donna M. Jones, Transportation Assistant, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 142207 (Sub-No. 7TA), filed April 12, 1977. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29486, New Orleans, La. 70189. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Columbia County, Ark., to points in Louisiana, Mississippi and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arkansas-Louisiana Lumber Co., Emerson, Ark. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Ave., 9037 Federal Bldg., New Orleans, La. 70113.

No. MC 142844 (Sub-No. 1TA), filed April 29, 1977. Applicant: DON HAUSAUER, doing business as DON HAUSAUER TRUCKING, Fort Lincoln Estates, Bismarck, N. Dak. 58501. Applicant's representative: F. J. Smith, Suite 307—MDU Office Bldg., 420 North Fourth Street, Bismarck, N. Dak. 58501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Washington and Oregon to points in Minnesota and Wisconsin, under a continuing contract or contracts, with Owens Forest Products Company, for 180 days. Supporting shipper: Owens Forest Products Company, 2320 East First Street, Duluth, Minn. 55812. Send protests to: Ronall R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 23340, Fargo, N. Dak. 58102.

No. MC 143166TA, filed April 18, 1977. Applicant: WAYNE HELDERMAN TRUCKING COMPANY, Route 1, Box 152, Whitewater, Mo. 63785. Applicant's representative: Joseph J. Russell, 2027 Broadway, Cape Girardeau, Mo. 63701. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Mill feed*, in bulk or in bags, between points in Illinois, on the one hand, and, on the other, points in Cape Girardeau, Scott, Bollinger, Perry, Mississippi, Stoddard, Ste. Genevieve, New Madrid, Madison, Wayne, Butler, Dunkin, and Pemiscot Counties, Mo., for 180 days. Supporting shipper: There are approximately 4 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, J. B. Werthmann, Interstate Commerce Commission, Bureau of Operations, Rm. 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 143208TA, filed April 28, 1977. Applicant: SHENANDOAH RECYCLING, INC., P.O. Box 987, Waynesboro, Va. 22980. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals* for recycling, between points in Virginia on the one hand, and, on the other, points in Pennsylvania, Maryland, West Virginia, North Carolina and Ohio, for 180 days. Applicant

also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are 4 statements of support attached to application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the file office below. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commission, P.O. Box 210, Roanoke, Va. 24011.

No. W716 (Sub-No. 1TA) filed April 22, 1977. Applicant: FRANCIS F. FARRELL, 954 Hingham St., Rockland, Mass. 02370. Applicant's representative: L. Agnew Myers, Jr., 734-15th St. NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by self-propelled vessels, transporting: *Nuclear reactor pressure core structure and/or component parts*, from Portsmouth, N.H. to San Onofre and Long Beach, Calif., for 180 days. Supporting shipper: Combustion Engineering, Inc., 100 Prospect Hill Rd., Windsor, Conn. 06095. Send protests to: District Supervisor, John B. Thomas, Interstate Commerce Commission, 150 Causeway St., Room 501, Boston, Mass. 02114.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14064 Filed 5-16-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: National Mediation Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 22220, May 2, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m.; May 17, 1977.

CHANGES IN THE MEETING: Oral Argument in NMB Case No. R–4448 postponed until further notice.

Date of Notice: May 13, 1977.

[S–419–77 Filed 5–13–77;11:22 am]

2

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

DATE AND TIME: May 13, 1977, 2:30 p.m.

LOCATION: 8th Floor Conference Room, 1111–18th St., NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *CPSC Reorganization Plan.* The Commission will meet to continue its discussion of the reorganization plan proposed by Chairman Byington. In voting to hold the meeting and to close it to the public, the Commission also determined that Agency business required holding the meeting without seven days advance notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111–18th St., NW., Washington, DC 20207, telephone (202) 634–7700.

[S–420–77 Filed 5–13–77;11:22 am]

3

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: May 3, 1977, 42 FR 22468.

PREVIOUSLY-ANNOUNCED TIME AND DATE OF MEETING: May 12, 1977, 9:30 a.m.

CHANGES IN THE MEETING: By majority vote, the Commission voted to add three items to its agenda, to delete one item, and to begin the meeting at 9:00 a.m. The added items are:

1. *CPSC Reorganization Plan* (Closed to the public) The Commission met to discuss the record of its action on reorganization plans which it discussed at a meeting on May 10.

2. *Congressional Testimony* (Open) This discussion concerned draft testimony for a hearing on Tris and a national carcinogen policy, which will be held May 16 by the Oversight and Investigation Subcommittee, House Committee on Interstate and Foreign Commerce.

3. *Tris Press Release* (Open) Before the Commission is a release on CPSC enforcement of its ban of Tris-treated products.

Deleted from the agenda:

Proposal to Seek a Consent Agreement and/or Notice of Enforcement: Flammable Fabrics Act Case (BCMI #6–548).

In voting to revise the agenda, the Commission determined that agency business required holding a meeting without seven days advance notice.

[S–421–77 Filed 5–13–77;11:22 am]

4

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: FEDERAL REGISTER of May 16, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 A.M., May 17, 1977.

CHANGES IN THE MEETING: Please add to the open section of the agenda—2. FY 1979 Planning and Report of the Task Group on Principal Management Objectives.

[S–418–77 Filed 5–12–77;4:37 pm]

5

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Approximately 10:45 a.m. (following the open meeting), Thursday, May 19, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petitions for Reconsideration and related interlocutory pleadings in the George T. Hernreich (KAIT–TV), Jonesboro, Arkansas, television renewal proceeding (Docket No. 19292).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632–7260.

Issued: May 12, 1977.

[S–413–77 Filed 5–12–77;3:49 pm]

6

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m. Thursday, May 19, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Amendment of Sections 1.46(b) and 1.415(e) dealing with granting of motions for extension of time for filing pleadings.

Common Carrier—1—Carpenter Radio Company's request to reopen Docket No. 18177, which was an inquiry into the terms and conditions of interconnection between Carpenter and Lima Telephone Company. United Telephone Company of Ohio has since purchased the Lima Telephone Company. Carpenter is also complaining about the quality of service it is obtaining from United.

Cable Television—1—Petition for Order to Show Cause (CSC–155) filed by WGAL Television, Inc., (WGAL–TV, NBC, Channel 8), Lancaster, Pennsylvania directed to Hamburg TV Cable, Inc.; and opposition filed by Hamburg TV Cable, Inc., and comments filed by Westinghouse Broadcasting, Inc.

Cable Television—2—Petition for Special Relief (CSR–948) filed by KVOS Television Corporation, licensee of Station KVOS–TV (CBS Channel 12), Bellingham, Washington.

Renewal—1—Application of Bob Jones University, Inc. for renewal of license for Station WMUU, Greenville, South Carolina (BR–2377).

Aural—1—Application for a construction permit for Montgomery City, Missouri, filed by Montgomery County Broadcasting Corporation (BPH–9844).

Aural—2—Request for an extension of authority to remain silent on behalf of Hex Country Radio, Inc., licensee of AM station WCLY, Columbia, Pennsylvania.

Television—1—Petition for Reconsideration by the Town of Oyster Bay, New York, directed against the Bureau action of July 1, 1975, granting the application of The Long Island Educational Television Council, Inc., to change the transmitter location of noncommercial educational broadcast station WLIW (TV), Garden City, New York.

Broadcast—1—Petition for Rule Making to require the broadcast licensee to annually broadcast and publish in a local newspaper its list of significant community problems (RM–2700).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632–7260.

Issued: May 12, 1977.

[S–414–77 Filed 5–12–77;3:49 pm]

7

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Wednesday, May 18, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Implementation of Zero-Based Budget for Fiscal Year 1979.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632–7260.

Issued: May 11, 1977.

[S–415–77 Filed 5–12–77;3:49 pm]

8

AGENCY HOLDING THE MEETING: Federal Communications Commisison.

TIME AND DATE: Approximately 10 a.m. (following the special open meeting), Wednesday, May 18, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject:

Special—1: Continuation of discussion of the Fifth Notice of Inquiry relative to preparation for the 1979 World Administrative Radio Conference (Docket No. 20271).

Special—2: The Bilingual Coalition on Mass Media, Inc. v. FCC, Chinese for Affirmative Action v. FCC, and Black Broadcasting Coalition of Richmond v. FCC cases.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632–7260.

Issued: May 11, 1977.

[S–416–77 Filed 5–12–77;3:49 pm]

9

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: 9:30 a.m., May 31, 1977.

PLACE: Hearing Room, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Reorganization.
2. Agenda.
3. Minutes.
4. Ratifications.
5. Report on U.S. industries with high export potential.
6. Response to letter dated April 22, 1977, from the Administrative Conference of the United States (if a meeting is needed).

Portions closed to the public.

1. Reorganization (portions respecting the selection of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202) 523–0161.

[S–417–77 Filed 5–12–77;3:49 pm]

10

AGENCY HOLDING THE MEETING: U.S. Commission on Civil Rights.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24173, May 12, 1977.

PREVIOUS ANNOUNCED TIME AND DATE OF MEETING: May 12, 1977, 12 p.m.

CHANGES IN THE MEETING:

Meeting cancelled.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit (202–254–6697).

[S–412–77 Filed 5–12–77;3:38 pm]

11

HOLDING THE MEETING:

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, May 19, 1977, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. 20463.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion of meeting open to the public:

I. Future meetings.

II. Correction and approval of minutes.

III. Certification for presidential primary matching funds, Ellen McCormack.

IV. Request for copies of campaign contribution reports in public records.

V. Agency job classification actions.

Portion of meeting closed to the public:

VI. Executive session.

A. Presidential primary audit reports No. 3 and 4.
B. Compliance.
C. Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, Telephone: 202–523–4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S–411–77 Filed 5–13–77;2:57 pm]

12

AGENCY HOLDING MEETING: United States Parole Commission.

TIME AND DATE: Wednesday, May 25, 1977; 9 a.m. This meeting will be adjourned at close of business May 25, 1977 over May 26, 1977 and will resume at 9 a.m. on Friday, May 27, 1977.

PLACE: City Hall—501 Primrose Road, Burlingame, California (Burlingame, California is the location of the Western Regional Office of the Commission).

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Zero-based budgeting.* Report of the Executive Assistant to the Chairman on manner in which this method of budgeting now considered for government-wide operation will affect the Parole Commission.

2. *Guideline evaluation.* Report of Committee on Guideline Evaluation on a proposal or proposals to be considered by the Commission and, if approved, to be submitted for bids for an independent outside evaluation of the effectiveness of the Commission's guidelines. Additional future steps to implement this study will also be proposed.

3. *Changing reasons.* Changes to be effected by Regional Commissioners or Administrative Hearing Examiners.

4. *Report on Recent Case Law.*

5. *Hazardous duty.* Discussion of a Senate Bill (S–565) which provides certain benefits for hazardous duty employees.

6. *Recording preliminary interviews.* Consideration of whether or not to record such interviews and, if so, desired standard of record quality.

7. *Mandatory parole.* Suggested change in time allowed between ⅔ of sentence and hearing.

8. *Issues involving Bureau of Prisons.* Discussion with an Assistant Director, Bureau of Prisons, on recertification of Narcotic Addict Rehabilitation Act violators, file access, use of Bureau reports, and other matters of joint interest.

9. *New Appeal.* Provide for an appeal by any Commissioner to the Commission en banc for just cause.

10. *One-Third Hearings.* Problems raised by court decisions affecting possible elimination or reduction in the number of such hearings. Discussion of possible "contingency parole" procedures and their effect upon the one-third hearing. Consideration of related public comment.

11. *Proposed Guideline Revision.* Consideration of public comment received regarding proposed changes, certain modifications of the greatest severity category, and behavior patterns as affecting severity and predictability.

12. *Modification of Panel Recommendation.* Consideration of public comment received regarding Regional Commissioner's authority to extend panel recommendations to six months.

13. *Removal of limitation on Chairman's vote.* Consideration of public comment regarding procedures which allow Chairman to vote on all original jurisdiction appeals, where he formerly voted only when a Commissioner was absent.

14. *Committees.* Consideration of public comment on proposal that the Chairman appoint committees to study various subjects and make recommendations either to the Chairman or the Commission.

15. *Warrant Applications.* Timeliness of convictions used on warrant applications.

16. *Supplemental Warrants.* Proposal to discontinue sending applications for supplemental warrants to the F.B.I.

17. *Lists of intelligence personnel.* Proposal to exchange such lists for information purposes with Department of Justice.

18. *Original Jurisdiction references.* Proposal to contact Department of Justice when certain cases are referred, and to set up employee conferences with the Department.

19. *Waiver.* Proposal waiver of hearing at the ⅔ points in serving a sentence.

20. *Modification of sentence.* Consideration by the Commissioner as a new item of information.

21. *Modification of sentence.* Proposal to oppose any such modifications made after the 120 day period provided by Court Rules.

22. *Absence of Regional Commissioner.* Consideration of possible change in temporary replacement procedures.

23. *Notices of Action on Appeal.* Decide if copies should be sent to inmates' attorneys.

24. *Local Revocation Hearings.* Advise examiners concerning the announcement of decisions and reasons following such hearings.

25. *Summonses and Warrants.* Use of the above relating to preliminary interviews and revocation hearings.

26. *Improvement and Recording Hearings.* Report on improving recording equipment and methodology and consideration of alternatives to methods presently in use.

27. *Examiners.* Basis of disqualification of an examiner from holding certain hearings.

28. *Evaluations—Hearing Examiner Meetings.* Discussion of the evaluations made by examiners following the last Hearing Examiners Meeting.

29. *Guidelines—Community Program placement prior to hearings.* Discussion of Bureau of Prisons guidelines and memo on subject.

30. *Training.* Interregional work-training assignments for examiners.

31. *Forms Approval Procedure.* Proposal for circulation to Commissioners and staff using respective forms.

32. *Forms Modification.* Proposed revision of several forms.

33. *Appeal Criteria.* Proposal to increase present grounds for appeal to six and to indicate ground or grounds relied upon in documentation supporting appeal.

34. *Advisory Corrections Council Meeting.* Report by Acting Chairman Crawford of the activities at said meeting.

CONTACT PERSONS FOR MORE INFORMATION:

M. E. Malin Foehrkolb (Washington, D.C.), 202–724–3117.

Helen Moniz (Burlingame, California), 415–347–4737).

[S–405–77 Filed 5–12–77;12:59 pm]

13

AGENCY HOLDING MEETING: United States Parole Commission.

TIME AND DATE: Thursday, May 26, 1977; 9 a.m.

PLACE: City Hall—501 Primrose Road, Burlingame, California. (Burlingame, California, is the location of the Western Regional Office of the Commission.)

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Appeals to the Commission of approximately 32 cases decided by National Commissioners pursuant to a reference under 28 CFR § 2.17 and appealed pursuant to 28 CFR § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Daniel J. Capodanno, Case Analyst—(415)–347–4737.

[S–404–77 Filed 5–12–77;12:59 pm]

14

AGENCY HOLDING MEETING: United States Parole Commission.

TIME AND DATE: Friday, May 27, 1977 at 10:15 a.m.

PLACE: City Hall—501 Primrose Road, Burlingame, California. (Burlingame, California, is the location of the Western Regional Office of the Commission.)

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Report of Budget Committee for purpose of Commission approval of a fiscal year 1979 budget submission to Office of Management and Budget and the Congress; and for such other elements of fiscal planning and action as may be required.

2. Discussion of potential items for a fiscal year 1978 supplemental budget.

3. Legal Report—Discussion of strategy and steps taken and planned in litigation and precedents, statutes and regulations underlying such legal activity.

4. Report of Personnel and Training Committee for purposes of Commission action on location of examiners, filling certain positions, evaluation and problems involving specified employees, orientation of new personnel, and other internal personnel policies and practices.

5. Pending legislation—Formulation of the Commission's approach to S. 1437, H.R. 6862 and other legislation affecting its authority and/or structure.

CONTACT PERSONS FOR MORE INFORMATION:

M. E. Malin Foehrkolb (Washington, D.C.), 202–724–3117.

Helen Moniz (Burlingame, California), 415–347–4737.

[S–403–77 Filed 5–12–77;12:59 pm]

15

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: May 18, 1977, 2 p.m.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda), *Note-Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone (202) 275–4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA—7614TH MEETING, MAY 18, 1977, REGULAR MEETING, PART I (2 P.M.)

P–1—Docket No. ER77–313, Union Light Heat and Power Company.
P–2—Docket No. E–7453 (Jordan), Iowa-Illinois Electric Company.
P–3—Docket No. E–8927, Pennsylvania Power and Light Company.
P–4—Docket No. ER76–221, Potomac Edison Company.
P–5—Docket No. ER76–285, Public Service Company of New Hampshire.
P–6—Docket Nos. E–7631 and E–7633, *City of Cleveland, Ohio* v. *Cleveland Electric Illuminating Company;* Docket No. E–7713, City of Cleveland, Ohio.
P–7—Docket No. E–9306, Nevada Power Company.
P–8—Docket Nos. ER76–303 and ER76–399, Wisconsin Electric Power Company, Wisconsin Michigan Power Company.
P–9—Docket No. ER76–818, Northern States Power Company (Minnesota).
P–10—Docket No. ER76–789, Kentucky-Indiana Power Pool Agreement.
P–11—Docket No. E–7172, U.S. Department of the Interior Southwestern Power Administration.
P–12—Docket No. E–9581, Potomac Edison Company.
P–13—Docket No. E–9578, Texas Power & Light Company.
P–14—Docket Nos. E–8769, E–8770, E–9119, ER76–216, ER76–218 and ER76–219, Florida Power & Light Company.
P–15—Docket No. ES77–29, Iowa Electric Light and Power Company.
P–16—Project No. 2683, Crown Zellerbach Corporation.

MISCELLANEOUS AGENDA—7614TH MEETING, MAY 18, 1977, REGULAR MEETING, PART I

M–1—Docket No. RM76–29, policy statement concerning electric rate schedule filings and the requirement for filing of comparative rate information in certain situations.
M–2—Reserved.
M–3—Reserved.
M–4—Docket No. RM77–11, corrections, minor revisions, and clarifications to certain sections of title 18 of the Code of Federal Regulations.
M–5—Docket No. RM76–24, petition of certain utilities and others for amendment of 18 CFR § 1.4(d) to facilitate settlement or disposition of particular issues in proceedings before the Commission.
M–6—Docket No. RM76–17, research development and demonstration: Accounting: Advance approval of rate treatment.
M–7—Reserved.
M–8—Reserved.
M–9—Docket No. RM– , proposal by the Federal Power Commission relating to the incorporation of compensation provisions in curtailment plan.
M–10—Emergency supplies of natural gas to pipelines and distributors.
M–11—Carnegie Natural Gas Company.
M–12—Sabine Pipe Line Company.

GAS AGENDA—7614TH MEETING, MAY 18, 1977, REGULAR MEETING—PART I

G–1—Docket No. RP75–73, Texas Eastern Transmission Corporation.
G–2—Docket No. RP77–48, Transcontinental Gas Pipe Line Corporation.
G–3—Docket Nos. RP76–15 and RP76–98, Algonquin Gas Transmission Company.
G–4—Docket Nos. RP73–109 and RP74–95 (AP76–1), Northwest Pipeline Corporation.
G–5—Docket No. RP75–62, Cities Service Gas Company.
G–6—Docket No. RP76–38, *Arizona Electric Power Cooperative, Inc., and the City of Willcox, Arizona* v. *El Paso Natural Gas Company.*
G–7—Docket No. RP77–36, City of Philadelphia, Philadelphia Gas Works.
G–8—Docket No. RI77–24, George Heeter, d.b.a. Venture Gas Company.
G–9—FPC Gas Rate Schedule Nos. 554, 555, 556, 557, 559 and 560, Phillips Petroleum Company; FPC Gas Rate Schedule Nos. 537, 538, 539, 561, 562, 567, 569, 572, 576 and 577, Sun Oil Company.
G–10—Docket No. CS71–988, Damson Oil Corporation; Docket No. CS77–262, Ergon, Inc.; Docket No. CS73–208, H & L Operating Company; Docket No. CS72–912, Manana Gas Inc.; Docket No. CS71–22, Northern Pump Company.
G–11—FPC Gas Rate Schedule Nos. 47 and 202, Gulf Oil Corporation; FPC Gas Rate Schedule No. 50, Mesa Petroleum Company.
G–12—FPC Gas Rate Schedule Nos. 1, 3, 7 and 31, Aztec Oil & Gas Company; FPC Gas Rate Schedule No. 26, Union Texas Petroleum, a division of Allied Chemical Corporation.
G–13—Docket No. CI75–45 et al., Tenneco Oil Company.
G–14—Docket No. CI77–70, Getty Oil Company (formerly Skelly Oil Company).
G–15—Docket No. CI74–319, James M. Forgotson, operator for Gulf Coast Venture.
G–16—Docket No. CI76–743, Ladd Petroleum Corporation.
G–17—Docket No. CS71–631, Eason Oil Company; Docket No. CS76–842, Devon Corporation.
G–18—Docket Nos. CP74–289, CP73–334 and CP75–360, El Paso Natural Gas Company.
G–19—Docket No. CP74–299, Kansas-Nebraska Natural Gas Company, Inc.
G–20—Docket Nos. CP75–131 and CP76–129, Mountain Fuel Supply Corporation; Docket No. CP76–94, Phillips Petroleum Company.
G–21—Docket No. CP74–329, *Atlanta Gas Light Company, Applicant* v. *Southern Natural Gas Company, Respondent.*
G–22—Docket No. CP77–38, Tennessee Gas Pipeline, a division of Tenneco, Inc. and National Fuel Gas Supply Corporation.
G–23—Docket No. CP77–106, Mississippi River Transmission Company; Docket No. CP77–131, Natural Gas Pipeline Company of America.
G–24—Docket No. CP77–183, Columbia Gas Transmission Corporation.
G–25—Docket No. CP69–199, Transcontinental Gas Pipe Line Corporation; Docket No. CP77–107, Gas Gathering Corporation.
G–26—Docket No. CP76–511, Natural Gas Pipeline Company of America; Docket No. CP77–106, Mississippi River Transmission Corporation; Docket No. CP77–131, Natural Gas Pipeline Company of America.
G–27—Docket No. CP75–126, Northern Natural Gas Company.
G–28—Docket No. CP76–248, Sea Robin Pipeline Company.
G–29—Docket No. CP77–342, Tennessee Gas Pipeline Company.

POWER AGENDA—7614TH MEETING, MAY 18, 1977, REGULAR MEETING, PART II

CP–1—Docket No. ER77–221, Kentucky Utilities Company.
CP–2—Docket No. ER77–308, Louisville Gas & Electric Company.
CP–3—Docket No. ER77–266, Otter Tail Power Company.
CP–4—Docket No. ES77–5, Iowa Public Service Company.
CP–5—Docket No. ES77–27, Montana-Dakota Utilities Company.
CP–6—Docket No. ES77–28, Minnesota Power & Light Company.
CP–7—Docket No. E–9259, Long Island Lighting Company.
CP–8—Project No. 1989, Wisconsin Public Service Corporation.
CP–9—Project No. 2113, Wisconsin Valley Improvement Company.
CP–10—Project No. 2761, El Dorado County Water Agency.
CP–11—*Papago Tribal Utility Authority et al.* v. *F.P.C.*, D.C. Cir. No. 76–1937 (ER76–530).
CP–12—Project No. 2709, Monongahela Power Company, Potomac Edison Company, West Penn Power Company.

MISCELLANEOUS AGENDA—7614TH MEETING, MAY 18, 1977, REGULAR MEETING, PART II

CM–1—Upper White River Basin in Missouri and lower White River Basin in Missouri and Arkansas.
CM–2—Great Miami subregion portion of the Ohio River Basin Commission's comprehensive coordinated joint plan.
CM–3—Wabash subregion portion of the Ohio River Basin Commission's comprehensive coordinated joint plan.
CM–4—Reserved.
CM–5—Reserved.
CM–6—Blue Dolphin Pipe Line Company.
CM–7—Transwestern Pipeline Company.

GAS AGENDA—7614TH MEETING, MAY 18, 1977, REGULAR MEETING, PART II

CG–1—Docket No. RP74–100 (PGA Nos. 77–5 and 77–5A), National Fuel Gas Supply Corporation.
CG–2—Docket No. RP69–19 and RP72–157, Consolidated Gas Supply Corporation.
CG–3—Docket Nos. AR61–2, AR69–1 and RP74–41, Texas Eastern Transmission Corporation.
CG–4—Kerr-McGee Corporation, FPC Gas Rate Schedule No. 74.
CG–5—Docket No. CI76–268, Phillips Petroleum Company, Docket No. CI77–157, Amoco Production Company; Docket No. CI77–262, Union Oil Company of California.
CG–6—Docket No. CI60–466, et al., Cabot Corporation, et al.
CG–7—Docket No. CI62–1184, et al., Atlantic Richfield Company, et al.
CG–8—Docket No. G–7241, et al., Aztec Oil and Gas Company, et al.
CG–9—Docket No. CP77–184, Columbia Gas Transmisson Corporation.
CG–10—Docket No. CP77–334, Trunkline Gas Company.
CG–11—Docket No. CP77–206, Texas Eastern Transmission Corporation.
CG–12—Docket No. CP76–168, Transcontinental Gas Pipe Line Corporation.
CG–13—Docket No. CP77–135, Natural Gas Pipeline Company of America; Docket No. CP77–260, Texas Eastern Transmission Corporation.
CG–14—Docket No. CP77–292, Florida Gas Tranmission Company.
CG–15—Docket No. CP77–233, El Paso Natural Gas Company.
CG–16—Docket No. CP77–228, United Gas Pipe Line Company, Arkansas Louisiana Gas Company.
CG–17—Docket No. CP76–396, Consolidated Gas Supply Corporation.
CG–18—Docket No. CP77–84, Northern Natural Gas Company, operating as Peoples Natural Gas Division, Docket No. CP77–169, Panhandle Eastern Pipe Line Company.
CG–19—Docket No. CP77–293, Tennessee Gas Pipeline Company a Division of Tenneco Inc.
CG–20—Docket No. CP77–99, Northern Natural Gas Company.
CG–21—Docket No. CP76–311, Tennessee Gas Pipeline Company.
CG–22—Docket No. CP76–467, Michigan Wisconsin Pipeline Company.

CG-23—Docket Nos. CI75-173, CI77-131, CI77-149, CI77-199, CI77-255 and CI77-266, Gulf Oil Corporation.

KENNETH F. PLUMB,
Secretary.

[S-409-77 Filed 5-12-77; 12:08 pm]

16

AGENCY HOLDING THE MEETING: Occupational Safety and Health Review Commission.

TIME AND DATE: 9 a.m., May 16, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson (202) 634-7970.

For the Commission.

Dated: May 12, 177.

PAUL R. WALLACE,
Counsel to the Commission.

[S-406-77 Filed 5-12-77;11:53 am]

17

AGENCY HOLDING MEETING: Federal Reserve System.

NOTICE OF CHANGE IN SUBJECT OF MEETING

The previously announced meeting of the Board of Governors of the Federal Reserve System on May 11, 1977, included additional items:

1. Extension of the delegation of administrative responsibility to the Chairman of the Board of Governors to include approval of intradivisional organizational changes.

2. Reorganization of staff and related reallocation of budgeted funds within the Board of Governors.

The business of the Board required that the items be added, and no earlier announcement of the change was possible.

These items were closed to public observation because the items fall under exemption(s) in the Government in the Sunshine Act (5 U.S.C. § 552b(c)).

The previously announced closed items were:

1. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees.

2. Possible candidates for a position at a Federal Reserve Bank.

The meeting was held at 10 a.m. in the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-407-77 Filed 5-12-77;11:53 am]

18

AGENCY HOLDING THE MEETING: Federal Reserve System.

ADDITION OF PREVIOUSLY ANNOUNCED AGENDA ITEM

The Board of Governors has previously announced a meeting to be held on Monday, May 16, 1977, which will be closed to public observation under exemption(s) of the Government in the Sunshine Act (5 U.S.C. § 552b(c)). One of the items announced for inclusion at that meeting was consideration of any agenda items carried forward from a previous meeting. The purpose of this announcement is to inform the public that the following such items, postponed from Wednesday, May 11, 1977, will be considered at this meeting:

1. Extension of the delegation of administrative responsibility to the Chairman of the Board of Governors to include approval of intradivisional organizational changes.

2. Reorganization of staff and related reallocation of budgeted funds within the Board of Governors.

The previously announced closed item is:

1. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees.

The meeting will be held at 10 a.m. in the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-408-77 Filed 5-12-77;11:53 am]

federal register

TUESDAY, MAY 17, 1977
PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Final and Proposed Flood Elevation Determinations

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2604]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Oroville, Okanogan County, Washington

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the Town of Oroville, Okanogan County, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final Base Flood Elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the lobby of the Town Hall, 1308 Ironwood, Oroville.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the Federal Register under Part 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above national geodetic vertical datum, 1929
Okanogan River	Burlington Northern RR. Bridge.	917.6
	Cherry Street Bridge	918.0
Similkameen River	Downstream corporate limits (extended).	914.2
	Twelfth Avenue Bridge.	924.5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

J. Robert Hunter,
Acting Federal Insurance Administrator.

[FR Doc.77-13642 Filed 5-16-77;8:45 am]

[Docket No. FI-2584]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Brookneal, Campbell County, Virginia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the Town of Brookneal, Campbell County, Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917).

Final Base Flood Elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Town Hall, Brookneal, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the Federal Register under Part 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Roanoke River	Southwest corporate limits.	391
	North side of U.S. 501.	390
	Carolina Ave. (extended).	390
	Southeast corporate limits.	389
Falling River	North side of Va. 40	393
	820 ft north of Va. 40	393
	Southeast corporate limits.	392

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

J. Robert Hunter,
Acting Federal Insurance Administrator.

[FR Doc.77-13643 Filed 5-16-77;8:45 am]

[Docket No. FI-2554]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Honeoye Falls, Monroe County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the Village of Honeoye Falls, Monroe County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final Base Flood Elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Village Office, 5 East Street, Honeoye Falls.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the Federal Register under Part 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Honeoye Creek	Northwest corporate limit.	592
	Lehigh Valley R.R.	595
	North Main St. (NYS 65).	617
	East St. (NYS 65)	642
	Ontario St.	688

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

Howard B. Clark,
Acting Federal Insurance Administrator.

[FR Doc.77-13644 Filed 5-16-77;8:45 am]

[Docket No. FI-2692]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Evans, Erie County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the Town of Evans, Erie County, New York, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the bulletin board in Evans Town Hall, 42 North Main Street, Angola.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary
Lake Erie	1,000 ft southwest of Eighteenmile Creek Mouth	580	20
	90° from Lake Shore Rd. at Hamilton Dr.	580	60
	Delameter Rd. (extended)	580	50
	New Haven Rd. (extended)	580	80
	Larkin Rd. (extended)	579	50
	North of Shell Rd.	579	1,600
	South of Shell Rd. (extended)	579	140
	Ainsworth Rd.	579	(1)
	Westminster Rd.	579	(2)
	Beach Rd. (extended)	579	100
	Waterman Rd. (extended)	579	140
	Central Ave. (extended)	579	30
	Berrywood Ave. (extended)	579	100
	Point Breeze	579	100
	Summerdale Dr. (extended)	579	60
	South corporate limits	579	80

[1] 850 ft along Ainsworth from Lake Shore Rd.
[2] 800 ft along Westminster from Lake Shore Rd.

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-year flood boundary facing downstream	
			Left	Right
Muddy Creek	Lake Shore Rd.	583	20	280
	Pearl St. (extended)	586	320	80
	Oakland St.	588	320	100
	Reeves Rd.	589	760	200
	Corporate limits	591	180	300
Delaware Creek	Lake Shore Rd.	580	20	20
	Birch St.	588	40	240
	Herr Rd.	600	30	320
	Norfolk Western R.R.	645	20	80
	Holland Rd.	653	80	260
	Corporate limits	661	880	170
Big Sister Creek	Lake Shore Rd.	582	270	430
	Dennis Rd. (extended)	589	200	380
	Route 5	605	60	240
	Gold St.	605	70	40
	North corporate limit of Angola	621	60	70
	East corporate limit of Angola (extended).	644	70	260
	Route 20	655	10	100
	Route 90	666	30	20
	Ryther Rd.	680	90	50
	Derby Rd.	699	40	50
	Pontale Rd.	710	30	120
	South corporate limit	738	20	20
Eighteenmile Creek	Lake Shore Rd.	581	60	(1)
	Route 5	586	20	(1)
	Norfolk Western R.R.	601	20	(1)
	Versailles Rd.	613	50	(1)
	Town of Eden corporate limits	622	30	(1)

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13645 Filed 5-16-77;8:45 am]

[Docket No. FI-2676]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Momence, Kankakee County, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the City of Momence, Kankakee County, Illinois, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final Base Flood Elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the City Hall, 123 West River Street, Momence, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the FEDERAL REGISTER under Part 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Kankakee River	West corporate limits	615
	Elm St. (extended)	616
Kankakee River, main channel.	Dixie Highway, 100 ft downstream of Chicago & Eastern Illinois R.R.	617
	East corporate limits	620
Kankakee River, (north channel).	Dixie Highway	618
	Ash St. (extended)	619
	East corporate limits	620

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13646 Filed 5-16-77;8:45 am]

[Docket No. FI-2668]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Manteno, Kankakee County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the Village of Manteno, Kankakee County, Illinois, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final Base Flood Elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Village Hall on the Bulletin Board, 269 North Main Street, Manteno, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the FEDERAL REGISTER under Part 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
South Branch of Rock Creek.	100 ft upstream of I.C. Railroad Bridge.	662
	West corporate limits	665

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13647 Filed 5-16-77;8:45 am]

[Docket No. FI-2677]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Aroma Park, Kankakee County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the Village of Aroma Park, Kankakee County, Illinois, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final Base Flood Elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Village Hall, 269 North Main Street, Manteno, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the FEDERAL REGISTER under Part 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Kankakee River	State Highway 3 and 315 bridge.	600
	New York Central railroad bridge.	602

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13648 Filed 5-16-77;8:45 am]

[Docket No. FI-2657]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Itasca, Du Page County, Ill.

AGENCY: Federal Insurance Administration, HUD.

Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final Base Flood Elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the bulletin board, West Front Street, Aroma Park, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community. The effective date of the Flood Insurance Rate Maps will be published in the FEDERAL REGISTER under Part 1915.4.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Kankakee River	State Highway 3 and 315 bridge.	600
	New York Central railroad bridge.	602

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4011–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13649 Filed 5-16-77;8:45 am]

[Docket No. FI-1142]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Greenwich, Connecticut

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of his final determinations of flood elevations for the Town of Greenwich, Connecticut, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917).

Final base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, Greenwich Avenue, Greenwich, Connecticut 06830.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

DATES: In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

SUPPLEMENTARY INFORMATION: The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

The final 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Spring Brook	Rohlwing Rd.	689
	Valley Rd.	688
	Walnut Ave.	686
	Prospect Ave.	681
Salt Creek	Thorndale Ave.	682
	Industrial Rd. (extended).	681
Meacham Creek	Medinah Rd.	716
	Corporate limits	716
Devon Avenue Tributary.	North corporate limit (Devon Ave.).	686
	Pierce Rd.	687

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Byram River	Riversville Rd.	138.0
	Peckland Rd.	137.2
	Glenville Rd.	119.0
	Comly Ave.	42.4
	Putnam Ave.	16.6
	Putnam Ave.	14.5
East Brothers Brook.	Cardinal Rd.	53.9
	Fairfield Ave.	51.0
	Brook Ridge Dr.	45.5
	West Rd.	13.6
	Dam (Connecticut Turnpike).	12.5
	Valley Rd.	74.3
Mianus River	Palmer Hill Rd.	21.8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 13, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-13650 Filed 5-16-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2885]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Lyndon, Vermont

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Lyndon, Vermont, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Harold Dresser, Jr., Chairman, Board of Selectmen, Lyndonville, Vermont 05851.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 24 Main Street, Lyndonville, Vermont 05851.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passumpsic River	Railroad bridge	689
	U.S. 5	707
	Vermont 122	708
	At confluence with Millers Run.	709
	U.S. 5	709
	Vermont 114	711
	Railroad bridge	716
	Vermont 114	717
	TH 36	718
	TH 40	741
	Vermont 114	752
Calendar Brook	Route 5	734
Hawkins Brook	TH 89	686
	TH 6	706
Millers Run	Vermont 122	709
	I-91	714
	TH 31	718
Wheelock Branch	SA 10	708
	I-91	708
	TH 1	708
	TH 82	709

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13634 Filed 5-16-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2886]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Georgetown, Georgetown County, South Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Georgetown, Georgetown County, South Carolina, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1969 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Douglas L. Hinds, Mayor of Georgetown, Drawer 939, Georgetown, South Carolina 29440.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the lobby of the Municipal Building, 1114 Front Street, Georgetown, South Carolina.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Atlantic Ocean (Winyah Bay, Sampit and Pee Dee Rivers).	Fogel St.	13
	Poplar St.	12
	Meeting St.	12
	Fraser St.	11
	Collins St.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13635 Filed 5-16-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2887]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Lakewood, Cuyahoga County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Lakewood, Cuyahoga County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable William E. Blackie, Mayor of Lakewood, 1265 Detroit Avenue, Lakewood, Ohio 44107.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, Southwest, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall on the Bulletin Board, 12650 Detroit Avenue, Lakewood, Ohio.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Rocky River	Upstream corporate limits.	607
	Abandoned Ford Park Dr.	603
	Sewer at sewage treatment plant.	595
	Park Dr.	586
	Detroit Ave.	579
	Lake Rd.	576

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13636 Filed 5–16–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2888]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for City of Fayetteville, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Fayetteville, Cumberland County, North Carolina, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917. Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. William G. Thomas, City Manager, Fayetteville, North Carolina.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Inspection Office, City Hall, Fayetteville, North Carolina.

The proposed 100-year Flood Eelevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cape Fear River	Upstream corporate limits.	91
	Highway 301	84
	Person St.	83
	Downstream corporate limits.	82
Locks Creek	Person St.	83
	Interstate 95	83
Buzzards Branch	Clinton Rd.	83
Cross Creek	Highway 301	84
	Upstream of Anderson St.	91
	Upstream of central business loop.	100
	Upstream of Langdon St.	118
	Upstream corporate limits.	133
Blounts Creek	Hawley Lane	84
	Upstream of Gillespie St.	93
	Upstream of Whitfield St.	112
	Downstream of Owen Dr.	146
Branson Creek	Upstream of Robeson St.	105
	Upstream of Raeford St.	130
	Upstream of Murray Hill Rd.	178
	Upstream of Cliffdale Rd.	196
Hybarts Branch	Upstream of Mirror Lake Dr.	144
	Upstream of Morganton Rd.	161
	Upstream of Skye Dr.	188
Dark Branch	Upstream of Village Dr.	150
Little Cross Creek	Upstream of Jackson Ave.	108
	Downstream of Pamalee Rd.	133
Eutaw Creek	Upstream of McGougan Rd.	130
	Downstream of Stamper Rd.	158
Cool Spring Branch.	Upstream of Forest Hill Dr.	133
	Corporate limits	170
Country Club Branch.	Upstream of Rosehill Rd.	125
	Upstream of Country Club Dr.	139
	Downstream of Hilliard Dr.	147
Cedar Falls Creek	Downstream of Highway 401.	108
	Upstream corporate limits.	143

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13637 Filed 5–16–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2889]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of Nehawka, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Nehawka, Nebraska, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917. Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Raymond Anderson, Nehawka, Nebraska 68413.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Clerk's Office, Nehawka, Nebraska 68413.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Weeping Water Creek.	Nebraska Highway 734.	966

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD J. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13638 Filed 5–16–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2890]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Funkstown, Washington County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Funkstown, Washington County, Maryland, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917. Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Harvey Kersher, Mayor of Funkstown, Westside and Baltimore Streets, Funkstown, Maryland 21734.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact strict requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Fire Hall, Westside and Baltimore Streets, Funktown, Maryland.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Antietam Creek	Interstate 70.	459
	Downstream of Ridge Rd.	462
	Upstream of Baltimore St.	469

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77–13639 Filed 5–16–77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2801]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Frederick, Frederick County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administrator hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Frederick, Frederick County, Maryland, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1068 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917. Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Honorable Ronald N. Young, Mayor of Frederick, City Hall, Frederick, Maryland 21701.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the front reception area of City Hall, City Hall, Frederick, Maryland.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above level
Carroll Creek	Confluence with Monocacy River.	271
	Highland St	271
	Wisner St	275
	Carroll St	280
	South Court St	286
	Bentz Ave	287
	College Ave	289
	College Terrace	294
	Fairview Ave	299
	Shookstown Rd	308
	Baughman's Lane	310
Rock Creek	Confluence with Carroll Creek.	308
	Baughman's Lane	313
	Confluence with tributary No. 5.	325
	Willowdale Dr	336
	Waverly Dr	369
	Private Rd (corporate limits).	434
Tributary No. 5	Confluence with Rock Creek.	325
Tributary No. 6	West Patrick St	302
	Valley St	312
	Braddock Ave	318
	Unnamed road crossing upstream of interstate 15.	348
Tributary No. 8	East corporate limits	272
	Fairview Ave	317
Tributary No. 9	East corporate limits	274
	North Market St	281
Tributary No. 10	North corporate limits.	274
Tributary No. 11	North corporate limits.	274

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: April 27, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-13640 Filed 5-16-77;8:45 am]

federal register

TUESDAY, MAY 17, 1977

PART III



FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Notice of Intention To Issue Construction Orders to Certain Major Fuel Burning Installations

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Notice of Intention To Issue Construction Orders to Certain Major Fuel Burning Installations

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Construction Orders pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

Docket No.	Owner	Installation	Number of units	Location
OCU-0540-2-1	Anheuser-Busch, Inc.	Williamsburg Brewery	2	Williamsburg, Va.
OCU-0540-2-2				
OCU-0900-1-1	Supervisory committee of Bellefield boiler plant.	Bellefield boiler plant	1	Pittsburgh, Pa.
OCU-1050-1-1	Boeing Co.	Boeing Vertol	1	Ridley Township, Pa.

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views and arguments by interested persons regarding these proposed Construction Orders.

The proposed orders would require the above-named installations in the early planning process to be designed and constructed to be capable of using coal as their primary energy source.

Prior to the issuance of a Construction Order to an installation, section 2(c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c) require that FEA find that the installation is in the early planning process. A Construction Order may not be issued if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the installation are set out in Section I of the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction Order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue Construction Orders to some or all of the above-named installations. The Construction Orders will not become effective, however, until FEA has considered the environmental impact of each order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b) and 307.5. 10 CFR 307.7(c) required that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such notice of effectiveness. That analysis shall result in either 1) a declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or, 2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a notice of effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

Public comment on the proposal to issue a Construction Order to the installation(s) listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the environmental impact of the issuance of a notice making effective a Construction Order, including any site specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857, et seq.).

Pursuant to 10 CFR 303.173(a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9:00 a.m. on June 1, 2 and 3, 1977, at the Federal Building, Conference Room 11B 1421 Cherry Street, Philadelphia, Pennsylvania 19102. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Ed Gray, FEA Region III, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, (215) 597-3607. The request should be received before 4:30 p.m., Thursday, May 26, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 31, 1977. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Ed Gray, Federal Energy Administration, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, before 4:30 p.m., Monday, May 31, 1977. Speakers will be contacted by an FEA Representative before 4:30 p.m., Friday, May 27, 1977, to confirm receipt of the written request.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentation and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and make available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington D.C., and the FEA Regional Office, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, between the hours of 8 a.m and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed Construction Orders to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction Order.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

Region, Address, and Phone

I. Robert Mitchell, Regional Administrator, 150 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.
II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.
III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Rm. 1001, Philadelphia, Pennsylvania 19102—215-597-3390.
IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E., 8th Floor, Atlanta, Georgia 30309—404-526-2837.
V. N. Allen Andersen, Regional Administrator, Federal Office Building, Room A-333, 175 West Jackson Blvd., Chicago, Illinois 60604—312-353-0540.
VI. Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.
VII. Neil Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.
VIII. Dudley Faver, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.
IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.
X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. *Determination of candidate universe.*

On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A-1 and A-2 of Form FEA C-607-S-0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM BTU per hour).

Schedule A-1 contained basic identifying data for a particular MFBI. Schedule A-2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A-1 and A-2, FEA first determined which MFBI's were no longer in the early planning process according to § 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedules A-1 and A-2. To date, consideration of the following types of MFBI's has been deferred:

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in § 303.2 of the FEA regulations (10 CFR 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning of non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source because of programmatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C-607-S-0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

(1) refinery heaters and furnaces;
(2) copper refining and melting furnaces;
(3) chemical plant process heaters and recovery furnaces;
(4) oxygen blown steelmaking vessels;
(5) primary float glass tanks; and
(6) direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those MFBI's that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All

other MFBI's in the early planning process are required by FEA to complete Schedule A–3 of Form FEA C–607–S–0. Schedule A–3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A–3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A–3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show an historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: ---------- Installation), Washington, D.C. 20461, 202–566–7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–0540–2–1 OCU–0540–2–2	Anheuser-Busch, Inc.	Williamsburg brewery	28–310–5 28–310–4	Williamsburg, Va.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Anheuser-Busch, Incorporated shall be referred to as the "owner". Williamsburg Brewery Units 28–310–5 and 28–310–4 shall be referred to as the "MFBI's".

I. *Proposed findings.*—A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currerntly technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National Coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	782.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	389.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey," the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report," cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment we performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–0000–1–1	Supervisory committee of Bellefield boiler plant.	Bellefield boiler plant	Replacement 3.	Pittsburgh, Pa.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Supervisory Committee of Bellefield Boiler Plant shall be referred to as the "owner". Bellefield Boiler Plant Replacement 3 shall be referred to as the "MFBI".

I. *Proposed findings.*

A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be

available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975).

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.* A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* In the response to Form FEA C–607–S–0, the owner indicated that the MFBI would be designed and constructed to be capable of using coal as its primary energy source. FEA concludes, therefore, that the FEA requirement that the MFBI be designed and constructed to be capable of burning coal as its primary energy source will not require any increase in projected capital investment, nor result in a delay in the commencement of operations of the MFBI. FEA further concludes that since no increase in projected capital investment is required, and no delay in the commencement of operations will result, FEA is not required to consider the capability of the owner to recover any increase in projected capital investment.

Appendix

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–1050–1–1	Boeing Co.	Boeing Vertol	Unassigned	Ridley Township, Pa.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Boeing Company shall be referred to as the "owner". Boeing Vertol Unassigned Unit shall be referred as to the "MFBI".

I. *Proposed findings.*—A. *The MFBI is in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI is in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for this MFBI has not terminated.

3. Schedule A–2 of From FEA C–607–S–0 submitted by the owner shows that the MFBI meets the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
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(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from this MFBI and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once this MFBI and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for this MFBI once it becomes operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitment for the construction of the MFBI.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI be designed and constructed to be capable of using coal as its primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI to be capable of burning coal as its primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets,

the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77-13700 Filed 5-16-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Notice of Intention To Issue Construction Orders to Certain Major Fuel Burning Installations

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Construction Orders pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 307 to the following installations in the early planning process:

Docket No.	Owner	Installation	Number of units	Location
OCU-6650-3-1	Shell Oil Co.	Petrolia plant	2	Fellows, Calif.
OCU-6650-3-2				
OCU-6650-1-1	do.	Pricewell plant	2	Bakersfield, Calif.
OCU-6650-1-2				
OCU-6650-2-1	do.	Marco plant	2	Do.
OCU-6650-2-2				
OCU-8830-2-1	Standard Oil Co. of California/ Chevron, U.S.A., Inc.	NCD Cymric area, sec. 97	2	Oildale, Calif.
OCU-8830-2-2				
OCU-8830-1-1	do.	NCD Bakersfield area, sec. 27, Kern front.	2	Bakersfield, Calif.
OCU-8830-1-2				

FEA hereby also gives notice of the opportunity for written and oral presentation of data, views and arguments by interested persons regarding these proposed Construction Orders.

The proposed orders would require the above-named installations in the early planning process to be designed and constructed to be capable of using coal as their primary energy source.

Prior to the issuance of a Construction Order to an installation, section (c) of ESECA and 10 CFR 303.46(b), 307.3(b), and 307.3(c) require that FEA find that the installation is in the early planning process. A Construction Order may not be issued if FEA finds that an adequate and reliable supply of coal and coal transportation facilities are not reasonably expected to be available. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for the installation are set out in Section I of the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

In addition, section 2(c) of ESECA and 10 CFR 303.46(b) and 307.3(d) require that FEA consider certain other factors prior to issuance of a Construction Order. FEA's initial conclusions and a brief statement of the rationale for each, with respect to such considerations, are set out in Section II of the Appendix to this notice. The conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The conclusions and rationale will be included, with any amendments, in the Construction Order if it is issued.

Upon completion of the proceeding described in this notice, FEA may determine to issue Construction Orders to some or all of the above-named installations. The Construction Orders will not become effective, however, until FEA has considered the environmental impact of each order, pursuant to 10 CFR 208.3(a)(4) and 307.7, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.47(b), and 307.5. 10 CFR 307.7(c) requires that, prior to the issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either 1) a declaration that the Construction Order will not, if made effective by a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment; or, 2) the preparation by FEA of an environmental impact statement covering the significant site-specific impacts that are likely to result from the Construction Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts from the Construction Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

Public comment on the proposal to issue a Construction Order to the installations listed above is invited in the form of written and oral presentation of data, views and arguments.

Comments should address: (1) The adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, as well as the conclusions with respect to the other factors FEA must consider and rationale in support of these conclusions, (2) the environmental impact of the issuance of a notice making effective a Construction Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Construction Order believed to be relevant.

Any installation issued a Construction Order will have to comply with applicable new source performance standards prescribed by the Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

Pursuant to 10 CFR 303.173 (a) and (d), FEA hereby announces that a public hearing to receive oral presentation of data, views and arguments from interested persons will be held beginning at 9:00 a.m. on May 27, 1977, at the Holiday Inn, 1500 Van Ness, San Francisco, California 94109. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Eugene Stanley, FEA Region IX, 111 Pine Street, San Francisco, California 94109. The request should be received before 4:30 p.m., Friday, May 20, 1977. The request should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 26, 1977. Speakers should submit 10 copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to William Arntz, Regional Administrator, Federal Energy Administration, 111 Pine Street, San Francisco, California 94111, before 4:30 p.m., Thursday, May 26, 1977. Speakers will be contacted by an FEA Representative before 4:30 p.m., Tuesday, May 24, 1977, to confirm receipt of the written request.

Detailed technical data, views and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentation and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentary hearing. During oral presentations, only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., and the FEA Regional Office, 111 Pine Street, San Francisco, California 94111, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, or arguments with respect to the proposed Construction Orders to Executive Communications, Federal Energy Administration, Federal Building, Room 3317, Box MK, Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Construction Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or otherwise available to FEA will be considered by FEA prior to issuance of a Construction Order.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 of ESECA (10 CFR Parts 303 and 307) are available from the FEA Regional Offices:

FEDERAL ENERGY ADMINISTRATION, REGIONAL OFFICES

Region, address, and phone

I. Robert Mitchell, Regional Administrator, 150 Causeway St., room 700, Boston, Mass. 02113—617-223-3701.

II. Alfred Kleinfeld, Regional Administrator, 26 Federal Plaza, room 3206, New York, N.Y. 10007—212-264-1021.

III. J. A. LaSala, Regional Administrator, 321 Cherry St., room 1001, Philadelphia, Pa. 19102—215-597-3390.

IV. Donald Allen, Regional Administrator, 1655 Peachtree St., NE., 8th floor, Atlanta, Ga. 30309—404-526-2837.

V. N. Allen Andersen, Regional Administrator, Federal Office Bldg., room A-333, 175 West Jackson Blvd., Chicago, Ill. 60604—312-353-0540.

VI. Delbert Fowler, Regional Administrator, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235—214-749-7345.

VII. Neil Adams, Regional Administrator, 1150 Grand Ave., Kansas City, Mo. 64106—816-374-2061.

VIII. Dudley Faver, Regional Administrator, P.O. Box 26247, Belmar Branch, 1075 South Yukon St., Lakewood, Colo. 80226—303-234-2420.

IX. William Arntz, Regional Administrator, 111 Pine St., San Francisco, Calif. 94111—415-556-7216.

X. Jack B. Robertson, Regional Administrator, 1992 Federal Bldg., 915 2d Ave., Seattle, Wash. 98174—206-442-7280.

MFBI CONSTRUCTION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has conducted a two part process in which it first identified the potential universe of major fuel burning installations (MFBI's) that were in the early planning process in order to determine which MFBI's might be subject to Construction Orders requiring that the MFBI be designed and constructed to be capable of using coal as its primary energy source. FEA then performed a detailed analysis of individual potential order recipients to determine whether the facts would warrant publication of a Notice of Intention (NOI) to Issue a Construction Order to any of the potential order recipients.

I. *Determination of candidate universe.*—On February 3, 1977, FEA published in the FEDERAL REGISTER (42 FR 6621) a notice requiring owners of MFBI's in the early planning process to complete Schedules A-1 and A-2 of Form FEA C-607-S-0, entitled "Major Fuel Burning Installation Early Planning Process Identification Report." (An MFBI has entered the early planning process by completing its preliminary feasibility study.) Respondents were required to complete these schedules if the MFBI's were planned with at least the minimum required design firing rate (generally 100 MM Btu per hour).

Schedule A-1 contained basic identifying data for a particular MFBI. Schedule A-2 is designed to provide FEA with information on combustor capacity, combustor use, the primary energy source, and the design and construction schedule, including the processing status of any required government permits.

After receiving the information on Schedules A-1 and A-2, FEA first determined which MFBI's were no longer in the early planning process according to § 307.2 of the FEA regulations, which states that the early planning process terminates when the MFBI "can no longer be ordered, to be designed and constructed so as to be capable of burning coal as its primary energy source without suffering significant financial or operational detriment due to the impairment of prior commitments."

In addition, FEA deferred from further consideration certain other MFBI's based on the information contained in Schedules A-1 and A-2. To date, consideration of the following types of MFBI's has been deferred:

(a) Those planning to use exclusively non-fossil fuels as their primary energy source, usually wood waste, bagasse or electricity;

(b) Those planned so as to be capable of using only coal as their primary energy source;

(c) Those planning to construct units that will be used exclusively for process uses that require utilization of natural gas or petroleum products (process use is defined in § 303.2 of the FEA regulations (10 CFR § 303.2) as that fuel use for which alternate fuels are not technically feasible);

(d) Those planning exclusively to use waste gas that would not be added to the nationwide pipeline supply, or petroleum by-products that are not suitable for general commercial uses (typically these fuels are waste gases or petroleum by-products generated by refinery processes and are used in refinery steam generators).

Issuing orders to the first category of MFBI's, above, would not contribute to the saving of any oil or natural gas. Burning on non-fossil fuels, furthermore, contributes to the purpose of ESECA to aid in meeting the essential needs of the United States for fuels in the same manner as does the increased burning of coal.

In addition, FEA has exercised its administrative discretion to defer consideration of MFBI's currently planning to burn coal as their only energy source because of programmatic necessity to establish reasonable priorities. Should either units planning to use a non-fossil fuel, or units planning to burn only coal change their current plans they are to amend their response to Form FEA C-607-S-0.

FEA has applied its administrative discretion and technical expertise to determine that certain types of facilities should be covered by the "process use" exemption referred to in subparagraph (c) above. Certain of these processes reflect uses for which the burning of coal is not technically feasible. The following types of facilities have been included to date in the "process use" exemption:

(1) Refinery heaters and furnaces;

(2) Copper refining and melting furnaces;

(3) Chemical plant process heaters and recovery furnaces;

(4) Oxygen blown steelmaking vessels;

(5) Primary float glass tanks;

(6) Direct fired kilns and dryer burners (producing low alkaline products).

FEA has also determined that deferring issuance of NOI's to those

MFBI's that use waste gas or petroleum by-products not suitable for other commercial uses would best serve the purposes of ESECA. The uses to which these waste fuels are currently put represent efficient use of national resources. Prohibiting the use of these waste fuels would not significantly conserve national supplies of scarce fuels.

MFBI's deferred on the basis of the above criteria are notified by letter that they will not be required to submit further information at this time. All other MFBI's in the early planning process are required by FEA to complete Schedule A–3 of Form FEA C–607–S–O. Schedule A–3 is designed to elicit detailed financial information about the MFBI owner's estimate of capital costs that would be associated with the construction of a coal capable unit. Comparative fuel costs and the net operating cost differential resulting from burning coal are also elicited by Schedule A–3. The owner's financial history and information on coal availability are also obtained.

After receipt of the information contained in Schedule A–3, FEA analyzes the capability of the owner of the MFBI to recover any increase in projected capital investment costs required as a result of a Construction Order. An owner of an MFBI is capable of recovering any increase in projected capital investment that might be required as a result of a Construction Order if the MFBI is able to make the original investment planned (prior to issuance of a Construction Order) plus any increase required as a result of a Construction Order and continue in business in at least a financially breakeven posture over the long run. FEA presumes that an MFBI owner's capability to recover capital is confirmed when that owner can both raise the necessary capital for construction of an MFBI with coal burning capability and can show a historical profit profile. Factors used in analyzing that presumption include the size of the additional capital investment necessary to comply with a Construction Order, net property and plant assets, historical construction expenditures and total equity of the owner. FEA also considers any loss of revenue resulting from a delay caused by a Construction Order. Such losses, if any, are considered in terms of increased or additional costs which an MFBI incurs for goods or services, including power, which must be purchased by the MFBI to replace those goods or services which the MFBI would have produced for itself but for the issuance of a Construction Order. Such costs will be limited to the difference between the anticipated cost of production of the goods or services at the MFBI, and the cost of purchasing replacement goods or services.

In addition, section 2(c) of ESECA indicates that FEA may not issue Construction Order NOI's to an MFBI if it determines that an adequate and reliable supply of coal is not expected to be available. To meet this statutory requirement, FEA considers the availability nationwide of total tonnages of coal, based upon the presumption that an MFBI in the early planning process can be designed and constructed to use a wide range of coal types available.

FEA also considers, prior to issuance of an MFBI Construction Order NOI, the existence and effects of any contractual commitment for the construction of the MFBI upon the owner's capability to recover any increase in capital investment required as a result of a Construction Order.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU (Construction Order: _____ Installation), Washington, D.C. 20461.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C., May 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–6650–3–1 OCU–6650–3–2	Shell Oil Co.	Petrolia plant	E. & P. 4 E. & P. 5	Fellows, Calif.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company shall be referred to as the "owner". Petrolia Plant E & P 4 and E & P 5 shall be referred to as the "MFBI's".

I. *Proposed findings.*—A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.*—It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.*—The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.*—The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.*—Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBIs' location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.*—FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–O Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.*—FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.*—This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–6650–1–1 OCU–6650–1–2	Shell Oil Co.	Pricewell plant	E. & P. 4 E. & P. 5	Bakersfield, Calif.

These findings, determinations, and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company shall be referred to as the "owner." Pricewell Plant E & P 4 and E & P 5 shall be referred to as the "MFBI's."

I. *Proposed findings.*—A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.*—It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
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1982	369.9
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(2) *National demand exclusive of ESECA prohibition order demand.*—The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
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1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.*—The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitments for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.*—FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.*—This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years. In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX

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ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–0650–2–1 OCU–0650–2–2	Shell Oil Co.	Marco plant	E. & P. 3 E. & P. 4	Bakersfield, Calif.

These findings, determinations, and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Shell Oil Company shall be referred to as the "owner". The Marco Plant E & P 3 and E & P 4 shall be referred to as the "MFBI's".

I. *Proposed findings.*—*A. The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–O submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*— (a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.*—It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.*—The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.*—The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibtion Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand tsated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineer-

ing, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.*—FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the onwer concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.*—This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II.A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years. In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX [1]

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–8330–2–1 OCU–8340–2–2	Standard Oil Co. of California/ Chevron, U.S.A., Inc.	NCD Cymric area, sec. 97.	Undesignated.	Oildale, Calif.

[1] Attached to this Appendix is FEA's MFBI Construction Order Candidate Identification and Selection Methodology.

These findings, determinations and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Standard Oil Company of California/Chevron, U.S.A., Incorporated shall be referred to as the "owner." NCD Cymric Area, Section 97, Undesignated Units shall be referred to as the "MFBI's."

I. *Proposed findings.*

A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United Stats, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potentional mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

(2) *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

(3) *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from all Notices of Intention to issue prohibition orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational.

FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBIs' location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*

A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C–607–S–0 Schedule A–3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.* FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.* This analysis is based upon an evaluation of the owner's current financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1., above, and the plan change costs discussed in paragraph II. A., above to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years.

In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

APPENDIX [2]

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A CONSTRUCTION ORDER

ESECA and the FEA regulations require FEA to make certain findings and determinations and to consider certain factors before issuing a Construction Order to a Major Fuel Burning Installation (MFBI). FEA's proposed findings, as well as its proposed conclusions with respect to the factors FEA has considered, are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit	Location
OCU–8330–1–1 OCU–8330–1–2	Standard Oil Co. of California/ Chevron, U.S.A., Inc.	NCD Bakersfield area, sec. 27, Kern front.	Undesignated.	Bakersfield, Calif.

[2] Attached to this Appendix is FEA's MFBI Construction Order Candidate Identification and Selection Methodology.

These findings, determinations, and considerations, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Construction Order.

Standard Oil Company of California/Chevron, U.S.A., Incorporated shall be referred to as the "owner". NCD Bakersfield Area, Section 27, Kern Front Undesignated Units shall be referred to as the "MFBI's".

I. *Proposed findings.*—A. *The MFBI's are in the early planning process.* Based on an analysis of the information submitted to FEA by the owner on Form FEA C–607–S–0 and information provided by the owner in response to subsequent inquiry to assure the continued applicability and currency of such information, including, as appropriate, an on-site inspection visit, FEA proposes to find that the MFBI's are in the early planning process. This proposed finding is based on the facts, assumptions and reasoning referenced below:

1. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the preliminary feasibility study was completed.

2. Information supplied by the owner or otherwise acquired by FEA indicates that the early planning process for these MFBI's has not terminated.

3. Schedule A–2 of Form FEA C–607–S–0 submitted by the owner shows that the MFBI's meet the minimum design firing rate requirement.

B. *Within the terms of ESECA, FEA has been unable to determine that an adequate and reliable supply of coal is not expected to be available.* This proposed determination is based upon the facts, interpretations and assumptions stated below:

1. *Coal availability.*—(a) *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the future. United States Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability.

(b) *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned coal production (derived from responses to a survey of coal producing com-

panies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

(1) *National coal production.*—It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
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The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

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1982	369.9
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(2) *National demand exclusive of ESECA prohibition order demand.*—The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA. 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
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1983	935
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(3) *National ESECA prohibition order demand.*—The estimated potential demand for coal resulting from all Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under Section 2(a) of ESECA is no more than the following ("Availability Report"):

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1980	32.5
1981	35.8
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1983	59.8
1984	59.8

(c) *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

(d) *Conclusion.* Potential coal demand from these MFBI's and from all other MFBI's which are currently under consideration to receive Notices of Intention to issue Construction Orders under authority of Section 2(c) of ESECA is not included in the total national demand stated in paragraph 1.(b)(2), above. Coal demand from such MFBI's is also not calculated in currently projected ESECA generated demand since it is infeasible to anticipate specific quality characteristics for the coal that will be required by these MFBI's so far in advance of their actual construction.

As noted previously, plans for new coal production beyond 1980 are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future. The projection for national coal production potential in 1985 cited in paragraph 2.(a), above, tends to underestimate actual production potential.

FEA has considered these facts and the fact that the potential annual demand for coal will increase once these MFBI's and others become operational. FEA expects, however, (based on an analysis of the "BOM Survey", the Coal Mine Expansion Study, the FEA 1976 National Energy Outlook, and the "Availability Report", cited above) that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand for coal if all MFBI's currently under consideration were to receive Construction Orders under Section 2(c) of ESECA. Within the terms of ESECA, FEA has been unable to determine that coal is not expected to be available for these MFBI's once they become operational. The best available evidence suggests that coal production potential will, in fact, considerably exceed all demand for the years pertinent to this proposed order.

The coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

(e) *Coal transportation.* FEA has considered the availability of national coal transportation facilities. Generally, FEA considers construction lead times pertinent to MFBI's in the early-planning process to be sufficient to allow owners to secure appropriate coal transportation and coal transportation facilities prior to becoming operational.

II. *Factors which ESECA requires FEA to consider.*—A. *The existence and effects of any contractual commitment for the construction of the MFBI's.* FEA has considered the existence and effects of any contractual commitment for the construction of the MFBI's which the owner has reported to FEA in a Schedule of Plan Change Costs attachment to a Form FEA C-607-S-0 Schedule A-3, or otherwise. FEA has considered the additional costs which would be incurred in connection with existing contractual commitments should FEA require that the MFBI's be designed and constructed to be capable of using coal as their primary energy source. Accordingly, FEA has included these costs in its consideration of the capability of the owner to recover any increase in capital investment required as a result of a Construction Order.

B. *The capability of the owner to recover any increase in projected capital investment required as a result of a construction order.* FEA has considered, in the manner described below, the capability of the owner to raise and to recover the increased capital investment expected to result from the issuance of a Construction Order.

1. *Increased capital investment required as a result of a construction order.*— FEA has evaluated the additional capital investment costs required in order to design and construct the MFBI's to be capable of burning coal as their primary energy source. This calculation is based on existing FEA information and analysis, as well as information filed with FEA by the owner concerning the cost of equipment and facilities that would have to be acquired. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

2. *Capability of the owner to raise the increased capital investment.*—This analysis is based upon an evaluation of the owner's current finanical position as reported in the Dun and Bradstreet Reference Book, (March 1977). Where necessary, FEA has performed an independent analysis of the owner's financial capability. In those cases in which an independent analysis of the owner's ability to recover the additional capital investment was performed, FEA related the additional capital investment costs discussed in paragraph B.1, above, and the plan change costs discussed in paragraph II. A., above, to the owner's net property and plant assets, the owner's reported recent construction expenditures and the owner's equity.

In considering the owner's ability to recover the increased capital investment costs, FEA has compared these increased costs, the demonstrated ability of the owner to raise the additional capital, any loss of revenue resulting from a delay, if any, in the commencement of operations of the MFBI's resulting from a Construction Order, the owner's historical profit profile, and a presumed useful life of the MFBI's after construction of 40 years. In light of such considerations, FEA presumes that the owner's capability to recover any increase in capital is confirmed since the owner can both raise the necessary additional capital for construction with coal burning capability and has historically shown a profit profile.

[FR Doc.77-13702 Filed 5-16-77;8:45 am]

federal register

TUESDAY, MAY 17, 1977

PART IV



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

SURFACE MINING REGULATIONS

Competitive Coal Leasing; Correction

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular No. 2418]

PART 3040—ENVIRONMENT AND SAFETY

PART 3500—LEASING OF MINERALS OTHER THAN OIL AND GAS, GENERAL

PART 3520—PREFERENCE RIGHT AND COMPETITIVE LEASES

Competitive Coal Leasing Surface Mining Regulations: Coal; Correction

AGENCY: Land Management Bureau, Interior.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 4442 in the FEDERAL REGISTER of Tuesday, January 23, 1977 (FR Doc. 77-2256). Several minor errors were made in the text of the rulemaking document and the numbering system used in the document is not consistent with the numbering system used throughout Title 43. This document corrects the errors in the text and changes the numbering to conform with the numbering system used in Title 43.

EFFECTIVE DATE: May 17, 1977.

SUPPLEMENTARY INFORMATION: The final rulemaking document amended Parts 3040, 3500, and 3520 of Title 43 of the Code of Federal Regulations. Several minor errors were made in the text of the rulemaking document and the numbering system used in the document is not consistent with the numbering system used throughout Title 43. This document corrects the errors in the text and changes the numbering to conform with the numbering system used in Title 43. In connection with the renumbering process, sections of the rulemaking are rearranged to place them in proper sequence. No substantive changes are made in the final rulemaking; therefore, rulemaking procedures and public participation are not considered necessary.

FOR FURTHER INFORMATION CONTACT:

Billy R. Templeton, 202-343-8735.

Final rulemaking published on pages 4442 through 4457 of the FEDERAL REGISTER of January 25, 1977, is hereby corrected to read as follows:

PART 3040—ENVIRONMENT AND SAFETY

1. Subpart 3041, in Title 43, Part 3040 is revised as follows:

Subpart 3041—Surface Management and Protection

Sec.

3041.0-1 Purpose.
3041.0-3 Authorities.
3041.0-4 Responsibilities.
3041.0-5 Definitions.
3041.0-7 Applicability.
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§ 3041.0-1 Purpose.

(a) The purpose of this subpart is to establish rules and regulations to be followed in the management of the federally-owned coal estate consistent with the policies, goals, and objectives established by the Acts cited in § 3041.0-3 of this Subpart, regardless of surface ownership, to ensure effective and reasonable regulation of surface coal mining operations in accordance with the requirements hereof, as an appropriate and necessary means to minimize so far as practicable the adverse social, economic and environmental effects of such operations.

§ 3041.0-3 Authorities.

The regulations contained in this Subpart are issued pursuant to the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181-287), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359), and in accordance with the policies set forth in the National Environmental Policy Act of 1969, as amended, (42 U.S.C 4321-47). Regulations governing the issuance of Federal coal leases and licenses are found in 43 CFR 3500 of this Chapter. Regulations governing operations conducted on lands subject to lease, permit, or license are found in 30 CFR 211. Regulations setting forth the general and basic policies for disposal and management of the public lands are found in 43 CFR 1725 of this Chapter.

§ 3041.0-4 Responsibilities.

(a) The Bureau of Land Management (BLM) exercises at the Bureau level the Secretary's discretionary authority to determine whether or not mineral leases and licenses are to be issued in accordance with 43 CFR Part 3500. The BLM is responsible for issuing coal leases and licenses, and is the office of record in mineral leasing matters.

(b) The Geological Survey (GS) exercises the Secretary's authority regarding operations conducted within the area of operations by permittees, lessees, and licensees and determines the action to be taken by them from the standpoint of the development, conservation, and management of mineral resources under the jurisdiction of the Department. The Geological Survey is responsible for all geologic, engineering, and economic value determinations for the Department's mineral leasing program. These determinations include: the mineral characteristics of lease and permit areas; parceling; appropriate resource evaluation; reserves; investments, diligent development, and minimum production requirements; and all other terms and conditions relating to mineral operations under leases and licenses.

(c) The BLM or other Federal surface managing agency, in consultation with the GS and the surface owner if other than the United States, formulates the requirements to be incorporated in leases and licenses for the protection of the surface and nonmineral resources and for reclamation, using the reclamation obligations and standards of performance contained in § 3041.2-2 of these regulations and in 30 CFR Part 211.40.

(d) The GS reviews and approves exploration and mining plans, and authorizes the abandonment of operations, in consultation with the BLM or other appropriate Federal surface managing agency, and the surface owner, if other than the United States, on the adequacy of the surface use, environmental protection, and reclamation aspects of such plans and will not grant approval if inconsistent with the BLM's or other Federal surface managing agency's recommendations without further discussions and referrals for resolution pursuant to 30 CFR Part 211.

(e) As to the lands outside of the area of operations, the authorized officer of the BLM or other appropriate Federal surface managing agency is responsible for conducting compliance examinations and for assuring compliance by the lessee or licensee with the requirements of this Subpart, and the terms and conditions of a lease or license and for reporting noncompliance to the Mining Supervisor for appropriate action. As to the lands inside the area of operations the GS examines operations to ensure compliance by the lessee or licensee with the terms and conditions set forth in the provisions of any lease or license or any approved mining or exploration plan. GS refers to BLM any instance of noncompliance with lease terms which may require cancellation action, and BLM may initiate such action. With respect to approval of access roads, pipelines, utility routes and other surface uses outside the area of operations, the BLM, or other Federal surface managing agency, has the primary responsibility but obtains the recommendations of the GS before taking final actions. Except as may be expressly provided for in § 3041.7 of this Subpart and 30 CFR Part 211.72, orders to operators for any remedial action are the exclusive responsibility of the Geological Survey.

(f) Subject to the supervisory authority of the Secretary, the regulations in this Subpart shall be administered by the Director, Bureau of Land Management through the authorized officers having jurisdiction over the lands subject to these regulations and authorized to perform the duties described. Prior to issuance of any coal lease or license, the authorized officer shall consult with and accept and consider recommendations from the Mining Supervisor, the Federal surface managing agency when other than the BLM, or the surface owner, as to the terms and conditions required to

achieve the purpose of this Subpart. Any disagreements that cannot be resolved between the GS and BLM arising in connection with any such issuance of a lease or license will be referred for resolution to the appropriate Assistant Secretaries or to the Under Secretary of the Department of the Interior. Leases issued for lands, the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior, shall contain the terms and conditions prescribed by that agency with respect to the use and protection of the nonmineral interests in those lands.

§ 3041.0-5 Definitions.

As used in this Subpart, the following terms shall have the following meanings:

(a) *"Acid or toxic producing materials"* means natural or disturbed earth materials having chemical and physical characteristics that, under mining or postmining conditions of drainage, exposure, or other processes, may produce effluents that contain chemical constituents, such as acids, bases, or metallic compounds, in sufficient concentration to individually or in combination adversely affect the environment.

(b) *"Affected lands"* means any lands affected or to be affected by exploration, development, and mining operations and the construction of facilities necessary and related to such operations.

(c) *"Approximate original contour"* means the surface configuration achieved by backfilling and grading of the mined area so that it closely resembles the surface configuration of the land prior to mining (although not necessarily the original elevation) and blends into and complements the drainage pattern and topography of the surrounding terrain.

(d) *"Area of operations"* means that area of the leased or licensed lands which is required for exploration, development, producing, and processing operations, including all related surface structures and facilities, and which is delineated on a map or plat that is made a part of the approved exploration or mining plan.

(e) *"Authorized officer"* means any officer designated by any Federal surface managing agency to exercise its authority in matters relating to coal leases and licenses and to the provisions of this Subpart.

(f) *"Coal"* includes coal of all ranks from lignite to anthracite.

(g) *"Compaction"* means the reduction of porous spaces among the particles of soil and rock generally caused by running heavy equipment over the earth materials, as in the process of leveling the overburden material on strip mine spoil piles or banks, for the purpose of increasing the bearing capacity and stability of the earth materials.

(h) *"Contemporaneously as practicable"* means with respect to reclamation of mined or otherwise disturbed areas, the commencement, conduct and completion of reclamation activity as soon after disturbance as possible, without undue physical interference with ongoing operations, leaving a minimum of land unreclaimed, consistent with the objectives of environmental protection set forth in this Subpart.

(i) *"Daylighting"* is a term used to define the surface mining procedure for exposing an underground mined area to remove remaining coal.

(j) *"Director"* means the Director of the Bureau of Land Management, U.S. Department of the Interior.

(k) *"Exploration"* means the detailed investigation and acquisition of data pertaining to a mineral deposit, including activities for identifying regions or specific areas in which deposits are most likely to occur, and activities used to establish the nature of a coal deposit preparatory to mining.

(l) *"Exploration plan"* means a detailed plan submitted to the Mining Supervisor for approval before exploration operations commence showing the location and type of exploration work to be conducted, environmental protection procedures, roads, and reclamation procedures to be followed upon completion of such operations.

(m) *"General Coal Mining Order"* means a formal numbered order issued by the Mining Supervisor, with the prior approval of the Division Chief, and published, after opportunity for public comment, in the FEDERAL REGISTER, which implements the regulations in this Part and applies to coal mining and related operations in a specified geographic area.

(n) *"Impoundment"* means an artificially built, dammed, or excavated place for the retention of water or sediments. A permanent impoundment is one that is intended to remain after final abandonment of the operation, and shall be identified as such in approved plan.

(o) *"Leased lands, leased premises, or leased tract"* means lands embraced within a coal lease and subject to the regulations in this Subpart.

(p) *"Lessee"* means any person or persons, partnership, association, corporation, public body or governmental entity to whom a coal lease is issued, subject to the regulations in this Subpart, or an assignee of such lease under an approved assignment.

(q) *"Licensee"* means any individual, association or individuals, or municipality to whom a coal license is issued pursuant to the provisions of Section 208 of Title 30 of the United States Code, or any person, association, corporation, public body or governmental entity to whom an exploration license is granted under section 201(b) of Title 30 of the United States Code.

(r) *"Logical mining unit"* means an area of land designated as such by the Geological Survey pursuant to applicable Departmental regulations.

(s) *"Methods of operation"* means the method and manner by which any activities are performed by the operator, as described in an exploration or mining plan.

(t) *"Mine"* means an underground or surface excavation and the surface or underground support facilities that contribute directly or indirectly to coal mining, preparation, and handling.

(u) *"Mining plan"* means a detailed plan for development of the coal resource submitted to the Mining Supervisor for approval prior to commencement of any mining operation, showing the proposed location, method, and extent of mining and all related activities necessary and incidental to such operation, including steps to be taken to reclaim disturbed areas, to mitigate adverse impacts, and to otherwise meet the performance standards and requirements set forth in this Subpart.

(v) *"Mining Supervisor"* means the Area Mining Supervisor, Conservation Division, Geological Survey, or District Mining Supervisor or other subordinate acting under his direction.

(w) *"Notice of Availability"* means a formal notification, by the appropriate Federal officer, to appropriate Federal, state and local agencies and interested individuals or groups of individuals, of the availability for inspection of information, data, proposed plans or modifications thereof, pending decisions and other documents subject to such notice. Any such notice shall include the nature of the information, data, plan or modification, decision or other document involved; the name and mailing address of any applicant; the nature, location (county, township, range and section), duration and brief description of any proposed operations; the date upon which any proposed action might be taken; and, when appropriate, a specific time limit for public review, comment or request for any departmental action, including the holding of any public meeting. For the purpose of ensuring appropriate distribution of such notices, there shall be maintained at each office of a Mining Supervisor or authorized officer of the Department of the Interior a mailing list which shall consist of the names and mailing addresses of all appropriate Federal, state or local agencies and any individuals or groups of individuals who have requested in writing to be included on such lists. All notices of availability shall be mailed to such agencies, individuals or groups at the addresses indicated on such lists.

(x) *"Notice of noncompliance"* means a written notice of operator noncompliance issued pursuant to Section 211.72 of 30 CFR Part 211.

(y) *"Operator"* means a lessee or licensee, or one conducting operations on lands under the authority of the lessee or licensee.

(z) *"Overburden"* means the earth, soil, rock, and other natural materials which lie above the coal being mined.

(aa) *"Permanent abandonment"* means the cessation of exploration or mining or other operations set forth in an approved plan on all or any portion of lands covered by a lease or license and subject to the provisions of this Subpart, where it is the intent of the operator not to continue operations at the mine or portion thereof.

(bb) [Omitted].

(cc) [Omitted].

(dd) *"Pollution"* means man-made or man-induced adverse alteration of the

chemical, physical, biological, and radiological integrity of land, water or air, which reduces, or has the potential of reducing the beneficial uses of these resources.

(ee) *"Post mining land use"* means that use which will be made of affected lands after mining and reclamation is completed and which is specified in a mining or exploration plan approved pursuant to 30 CFR 211.

(ff) *"Preliminary data"* means data, consisting of maps and text, submitted by an applicant for a lease or license to the authorized officer of the BLM, which describes the applicant's proposal in the detail necessary to allow the authorized officer to conduct a technical examination and environmental analysis as described in § 3041.2.

(gg) *"Preparation"* means any crushing, sizing, cleaning, drying, mixing or other processing of coal to prepare it for market which is conducted on lands subject to this Subpart.

(hh) *"Reclamation"* means the process of returning affected lands to a stable condition and form consistent with their premining productivity and use, or other approved post mining land use.

(ii) *"Road"* means any open way for passage or travel upon which to transport people, equipment, materials, or coal, which is constructed, improved or maintained by the operator and which is used to service the pit, bench, underground mine workings, loading facilities or exploration activities.

(jj) *"Secretary"* means the Secretary of the Interior.

(kk) *"Significant vegetation"* means farm crops, including grasses and forbs, that are integral parts of agriculture or ranching operations and the natural vegetation of forests or meadows with significant recreational, watershed, agricultural, or wildlife habitat value.

(ll) *"Spoil"* means soil, rock, and other earth materials that are broken, moved, dumped, or otherwise significantly disturbed during surface coal mining operations subject to this Subpart.

(mm) *"Subsidence"* means a lowering of surface elevations over an underground mine caused by loss of support and subsequent caving of strata lying above the mine.

(nn) *"Surface owner"* means an entryman, or a person or persons who hold legal title to the land surface.

(oo) *"Topsoil"* means natural earth materials at or vertically adjacent to the land surface with physical and chemical characteristics suitable for support of vegetation.

(pp) *"Valley floors"* means the channelways, floodplains, and adjacent low terraces of streams that are flooded during periods of high flow and that are underlain by unconsolidated stream-laid deposits. Excluded are higher terraces and slopes underlain by colluvial and other surficial deposits normally occurring along valley margins.

(qq) *"Waste"* means solid or liquid refuse, rubbish, or other valueless material which is produced by or in connection with coal mining operations, including exploration, production, development, preparation and other related activities, and which has no useful purpose in connection with any remaining operations.

§ 3041.0–7 Applicability.

(a) This Subpart sets forth regulations governing reclamation standards, use of surface, bond requirements, and reports relating to leases and licenses issued by the BLM with respect to Federal coal deposits located on public domain and acquired lands of the United States and reserved Federal coal deposits underlying lands the surface of which is privately owned. These regulations do not govern the leasing or development of coal deposits owned by Indians and subject to the Trust protection of the United States, which are controlled by regulations found in 25 CFR Chapter 1.

(b) The provisions of this Subpart shall become effective upon May 17, 1976 except as hereinafter provided.

(1) Existing operations.

(i) On and after 180 days from the effective date of this Subpart, the provisions of § 3041.2–2(f) shall apply to all existing operations with respect to lands from which the overburden has not previously been removed, provided, however, that this subparagraph shall not be deemed or construed so as to apply the requirements of subparagraphs 3041.2–2(f) (1) and (2), hereof to any operation for which a mining plan has been approved on or before the effective date of this Subpart and for which a variance pursuant to the provisions of subparagraph 3041.2–2(f)(2) would be required.

(ii) On or before 18 months from the effective date of this Subpart, the operator of each existing operation shall have submitted and shall have obtained the approval of a plan or modification thereof which shall comply with all applicable provisions of this Subpart, provided, however, that if the Director of the GS determines that a proposed new plan or modification of an existing plan was prepared and submitted in timely fashion, taking into account the complexity of the operation and of the plan or modification involved, but that administrative delay thereafter has prevented approval within the time specified, the time for compliance with this paragraph may be extended by order of the Director of the GS for an amount of time equal to the duration of such delay.

(iii) For the purpose of this paragraph, the term "existing operation" shall mean:

(A) All operations for which a plan has been approved on or before the effective date of this Subpart, and

(B) All operations with respect to which a proposed plan has been submitted to the Department on or before the effective date of this Subpart, and with respect to which proposed plan the Department has on that date either completed its environmental assessment and determined that no environmental statement under Section 102(2)(C) of the National Environmental Policy Act is necessary, or has determined that such a statement is necessary and has commenced, and expended substantial resources of the Department in the preparation or completion of, such a statement.

(iv) On or before 90 days from the effective date of this Subpart, the Director of the Geological Survey shall review all proposed plans which have been submitted to the Department on or before the effective date of this Subpart and, after consultation with appropriate Federal surface managing agencies, publish in the FEDERAL REGISTER a list which shall identify each such proposed plan and whether it will be considered to cover an existing operation.

(2) All operations or proposed operations not included in the definition of "existing operation" in the preceding paragraph shall be considered to be new operations, and shall be subject to the provisions of this Subpart upon the effective date hereof.

(3) The provisions of § 3041.7(c) of this Subpart shall apply immediately upon the effective date of this Subpart.

(c) To the maximum extent possible, all environmental statements and all approvals of plans covering existing operations which are pending before the Department on the effective date of this Subpart shall take into account and shall reflect and implement the provisions and purposes hereof; provided, however, that nothing in this subparagraph shall be construed to relieve any operator of the obligation imposed by subparagraph (b)(1)(i) of this section.

(d) Nothing in this Subpart shall be deemed or construed as increasing or diminishing any rights not in conflict with Federal law held by any person, including any surface owner or entryman, arising under the laws of any State and relating to the giving or withholding of consent to, or consultation in connection with, entry to any land for the purpose of conducting operations subject to this Subpart.

§ 3041.1 Use of surface.

(a) The operator shall be entitled to use only so much of the surface of the lands subject to a lease or license as is deemed necessary and has been designated in an approved plan. This Subpart shall not be construed to authorize any use of the Federal lands for a power generation plant or a commercial or industrial facility. Separate permits for such uses must be obtained from the appropriate agency. The operator shall not be entitled to use any mineral materials subject to the Materials Act except as provided by Part 3600 of this Chapter.

(b) Operations conducted in connection with other authorized uses on the same lands shall not unreasonably interfere with or endanger operations conducted in connection with uses authorized under this Chapter, nor shall operations authorized and conducted pursuant to this Chapter unreasonably interfere with or endanger operations under any lease, permit, license, or other use authorized pursuant to the provisions of any other Act.

§ 3041.2 Technical examination/environmental assessment.

The appropriate authorized officer, with the assistance of the Mining Supervisor, shall make a technical examination and environmental assessment of the area covered by a competitive coal lease application or on Bureau motion, pursuant to the provisions of this section.

(a) The technical examination shall include:

(1) An examination of the technical aspects of the proposed operations set forth in any preliminary data and information; and

(2) An evaluation of the impacts of such operations or, if on BLM motion, the effect of coal leasing and development, on other land uses, resources, or land management programs on or adjacent to the area.

(b) The environmental assessment shall include an analysis of the impact of the proposed operations set forth in any preliminary data and information and of alternatives thereto, or, if on BLM motion, the impacts of coal leasing and development on the living and nonliving components of the environment.

§ 3041.2–1 Technical examination/environmental assessment report.

(a) Following completion of the technical examination and environmental assessment described in the preceding Section, the authorized officer shall prepare a report which sets forth recommendations as to (1) land which should be excluded from any lease or license in order to avoid mining where reclamation is not attainable or assured, or in recognition of other exclusive land use management priorities; (2) measures required to comply with the reclamation and performance standards set forth in this Subpart; (3) necessary conditions and amounts of bonds to cover estimated reclamation costs for areas that will be disturbed during the initial 5-year period of the lease, permit, of license; (4) any additional, more stringent requirements needed in the lease or license pursuant to § 3041.1(e) of this Subpart.

(b) If it is recommended that a specific area within the applied for lands be excluded from a lease or license, or modification thereof, the report shall set forth with reasonable specificity the facts upon which such recommendation is based.

§ 3041.2–2 Obligations and standards of performance.

(a) Any operator who accepts a coal lease or license shall comply with, and be bound by, the general obligations and standards of performance set forth in this section and such additional and more stringent specific requirements as may be contained in the terms and conditions of such lease or license.

(b) If the appropriate authorized officer of the BLM determines that an approved exploration or mining plan should be required to be revised or supplemented to adjust to changed conditions or to correct oversights, he may propose such revision or supplement to the Mining Supervisor for action pursuant to the provisions of 30 CFR Part 211 relating to changes in plans.

(c) Surface coal mining operations shall be conducted so as to assure the extraction of the coal resource to the maximum extent possible, taking into account existing technology, commercially available equipment, the cost of production, and the quality and quantity of the coal resource, so that future environmental disturbance through the resumption of mining will be minimized.

(d) The operator shall, in accordance with the terms and conditions of the lease or license (1) take visual resources identified by the Federal surface managing agency into account in the planning, design, location, and construction of facilities on the affected lands; and (2) take such action as may be needed to minimize, control, or prevent damage to the recreational, cultural, scientific, historical and known or suspected archeological and paleontological values of the land contained therein.

(e) The following performance standards shall be applicable to the surface effects of underground mining.

(1) Each operator of an underground coal mine shall adopt measures consistent with feasible known technology in order to prevent or, in those instances where the mining method used requires planned subsidence in a predictable and controlled manner, control subsidence; maximize mine stability; and maintain the value and use of surface lands.

(2) Where pillars or panels are not removed and controlled subsidence is not part of the mining plan, pillars or panels of adequate dimensions shall be left to assure stability giving due consideration of the thickness and strength characteristics of the coal beds and of the strata above and immediately below the coal bed.

(f) The following performance standards shall be applicable to all coal exploration, development, mining, preparation, handling, and reclamation operations on the surface of lands subject to this Subpart except as otherwise provided by the action of the Secretary under 30 CFR 211.75(a):

(1) The operator shall reclaim affected lands pursuant to his approved plan, as contemporaneously as practicable with operations, to a condition capable of supporting all practicable uses which such lands were capable of supporting immediately prior to any exploration or mining, or equal or better uses that have been approved in accordance with this Subpart.

(2) The operator shall replace overburden and waste materials in the mined area by backfilling (compacting, where necessary, to ensure stability or to prevent leaching of toxic materials), grading or other means, so as to cover all acid-forming or other toxic materials and eliminate highwalls and spoil piles and restore the approximate original contour. Where the thickness of the coal deposits relative to the volume of overburden is large and where the overburden and other spoil and waste materials are either insufficient or more than sufficient to restore the approximate original contour, the operator shall, in order to provide adequate drainage, backfill, grade, and where necessary, compact, using all available overburden or spoil material, to obtain the lowest practicable grade, which shall in any event be less than the angle of repose. Excess overburden or other spoil material shall be fully reclaimed in accordance with the requirements of this Subpart. Variance from the requirements of subparagraphs (1) and (2) of this paragraph may be allowed in an approved mining plan if the Director of the Geological Survey, with the concurrence of the Director of the Bureau of Land Management or the comparable appropriate authorized officer, determines that unusual physical conditions at the site, such as steeply dipping coal beds or multiple seam mining, exist, and such conditions make backfilling pursuant to such requirements impracticable as a result of the volume of material excavated or environmentally undesirable as a result of the duration of the operation.

(3) The operator shall stabilize and protect all surface areas, including spoil piles, affected by the coal mining and reclamation operation, to effectively control slides, erosion, subsidence, and attendant air and water pollution.

(4) The operator shall remove topsoil separately, for replacement on the backfill area, and if not so utilized immediately, segregate it in a separate pile from other spoil. When topsoil is not to be replaced on a backfill area within a time short enough to avoid deterioration, the operator shall establish and maintain an approved quick growing vegetative cover or employ other approved measures so that the topsoil is protected from wind and water erosion and establishment of noxious plant species, and is in a condition for sustaining vegetation when used during reclamation. If topsoil is of insufficient quantity or of poor quality for sustaining vegetation, and if other excavated materials can be shown to be more suitable for revegetation, then the operator may be authorized in the approved plan to remove, segregate, protect, and utilize in a like manner such other materials.

(5) The operator shall ensure that water impoundments, water retention facilities, dams, or settling ponds have been set forth in an approved plan, and ensure that:

(i) Any such facility is adequate for its intended purposes and the quality and quantity of impounded water will be suitable for its intended use.

(ii) Any such facility is designed, located, built, used, and maintained in accordance with sound engineering standards and practices and applicable Federal and State laws and regulations, to ensure that such facilities will have necessary stability with an adequate margin of safety.

(iii) Final grading will provide adequate safety and access for proposed or reasonably anticipated water users.

(iv) Such facilities will not have a significant adverse impact on the water resources utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses, provided, however, that this subparagraph shall not be deemed or construed to increase or diminish any property rights to any water held by any person.

(v) No mine or processing waste is used in the construction of such facilities unless authorized in the approved plan.

(6) The operator shall cover or plug all auger mine holes with noncombustible and, where necessary to minimize control or prevent harmful drainage, impervious material.

(7) The operator shall utilize the best practicable commercially available technology to minimize, control or prevent disturbances of the prevailing quality, quantity and flow of water in surface and ground water systems, and of the prevailing erosion and deposition conditions at the mine site and in affected offsite areas, both during and after coal mining operations and reclamation, by:

(i) Controlling acid or toxic drainage and the adverse consequences thereof by such measures as, but not limited to, diverting surface runoff water away from disturbed areas; excluding oxygen from, or restricting the flow of water through acid or toxic-producing minerals; treating drainage to reduce acid or toxic content which adversely affects downstream water upon being released to water courses; and casing, sealing, or otherwise treating drill holes, shafts, and wells to keep acid or toxic drainage from entering ground and surface waters.

(ii) Conducting surface mining operations so as to minimize, control, or prevent (A) contributions of suspended solids to streamflow or runoff outside the mining site above natural levels under seasonal flow conditions as measured for a period and at sites determined by the Mining Supervisor, in consultation with the appropriate authorized officer, and (B) except where specifically authorized in an approved plan, deepening or enlarging of stream channels where operations include the discharge of water from mines.

(iii) Removing or modifying siltation structures after disturbed areas are revegetated and stabilized unless otherwise authorized by the Mining Supervisor in an approved plan, with the concurrence of the appropriate authorized officer, provided, however, that any siltation structure retaining water shall, in any event, be subject to the requirements of § 3041.-2–2(f)(5) of this Subpart.

(iv) Protecting the quality, quantity and flow, including depth of flow, of upstream and downstream surface and ground water resources of those valley floors which provide water sources that support significant vegetation or supply significant quantities of water for other purposes, by such measures as, but not limited to, relocating and maintaining the gradients of stream, avoiding mining installing, reestablishing or replacing acquifers or acquicludes, and replacing soils, provided, however, that this subparagraph shall not be deemed or construed to increase or diminish any property rights to any water held by any person.

(8) The operator shall: (i) Treat or dispose of all rubbish and noxious substances in a manner designed to minimize, control or prevent air and water pollution and the hazards of ignition and combustion.

(ii) Dispose of all waste resulting from the mining and preparation of coal in a manner designed to minimize, control or prevent air and water pollution and hazards of ignition and combustion. Where surface disposal of solid wastes in areas other than the mine workings or other excavations has been authorized in the approved plan, stabilize such waste including, where necessary, constructing waste piles in compacted layers with the use of incombustible and impervious materials; shape waste piles to be compatible with the natural surroundings and terrain; cover with topsoil or other suitable material in accordance with subparagraph (f)(4) of this section; and revegetate in accordance with subparagraph (f)(13) of this section. All impoundments of liquid wastes shall comply with the requirements of subparagraph (f)(5) of this Section. Waste containing coal in such quantity that it may be later separated from the waste by washing or other means shall be stored separately.

(9) Except as provided herein, the operator shall not conduct excavation, drilling, or blasting operations within 200 feet of an active or abandoned underground mine. Where it can be established by certified maps or inspection of such an underground mine that such activities may be conducted without danger of interference with, or penetration of, an underground mine, they may be authorized in an approved plan to be conducted up to but not less than 25 feet from such underground mine provided that nothing in this paragraph shall preclude daylighting or similar surface coal mining activities intended to improve resource recovery, abate water pollution, or eliminate public hazards resulting from such underground mines.

(10) To prevent personal injury or damage to public and private property, the operator shall use explosives only in accordance with all applicable Federal and State laws and an approved plan and shall:

(i) Provide adequate advance written notice, by publication and/or posting of planned blasting schedules, to local governments and to residents who might be affected by the use of such explosives, and maintain a log of the magnitudes and times of blasts for a period of at least two years.

(ii) Limit the size, timing, and frequency of blasts, as determined by the physical conditions of the site.

(11) The operator shall design to applicable standards, construct, maintain and, when no longer necessary and unless otherwise authorized in an approved plan, remove, all roads, pipelines, powerlines and similar utility access facilities and associated bridges, culverts and ditches, into and across the site of operations, in a manner that will minimize control or prevent erosion and siltation, fugitive dust, pollution of water, damage to fish or wildlife or their habitat and public or public property.

(12) (i) Roads shall not be surfaced with any acid or toxic producing material. No access roads will be constructed unless (A) the operator shall have first submitted a surveyed profile accompanied by typical cross-sections of the road and ditches, showing pipe, entrance, exit channels and sediment control structures and other structures or configurations to be used on the road to meet performance standards and (B) the location shall have been marked and inspected, and approved by the Mining Supervisor, in consultation with the appropriate authorized officer and the surface owner, if other than the United States.

(ii) No access road shall be constructed in a stream, nor shall any stream or stream bed be used as an access road. Insofar as possible, all roads shall be located on benches, ridges, and flatter slopes to enhance stability and minimize disturbance. Stream fordings shall be avoided and the normal seasonal flow and the normal seasonal sediment load shall not be detrimentally affected by access roads in a continuous fashion that results in harm to the aquatic ecosystem. Provided, however, that nothing in this subparagraph shall be construed to prohibit relocation or alteration of such beds or channels pursuant to the provisions of this Subpart and as set forth in an approved plan.

(iii) For the purpose of paragraph (f)(12)(1) of this section, "access roads" shall not include temporary roads constructed within a working pit for the purpose of use by equipment and personnel for access to the coal being mined.

(13) (i) The operator shall, except where other reclamation based upon post-mining land use and not requiring revegetation pursuant to the requirements of this section is expressly provided for in an approved plan, establish on regarded areas and all other affected lands a diverse vegetative cover, native to the area and capable of regeneration and plan succession at least equal in density and permanence to the natural vegetation provided, however, that the Mining Supervisor, with the concurrence of the appropriate authorized officer may allow the use of approved mixtures of introduced or native species where preferable to achieve quick cover or assure successful revegetation. In approving such mixture, preference will be given to non-toxious species.

(ii) The operator's responsibility and liability under his performance bond for revegetation of each planting area shall extend until such time as the appropriate authorized officer, in consultation with the Mining Supervisor and the surface owner, if other than the United States, determines that successful revegetation in compliance with subparagraph (i) of this subsection has occurred, provided, however, that this period shall extend for

a minimum of five full years after the first planting, and for a total period of liability not to exceed 10 years from the original planting; and further provided that,

(A) Where the appropriate officer, in consultation with the Mining Supervisor, determines that natural conditions such as annual precipitation, soil characteristics and native vegetation are stable and favor rapid revegetation, and that revegetation pursuant to subparagraph (i) of this subsection is likely to occur before the expiration of such minimum period, he may specify in the lease, permit, or license that such minimum period will not apply with respect to some or all of the lands included in such lease, permit or license; and

(B) Where during any such minimum period such authorized officer, in consultation with the Mining Supervisor and the surface owner, if other than the United States, determines that natural conditions such as annual precipitation and soil characteristics are sufficiently unstable so as to favor only slow and uncertain revegetation, he may recommend to the Mining Supervisor that the liability of the operator be extended for a period of up to five years beyond the period initially established, if the financial liability that would be incurred by the operator as a result is reasonably commensurate with the increased probability of successful revegetation.

(iii) During the relevant period of liability, the Mining Supervisor and the appropriate authorized officer shall jointly inspect and evaluate the revegetated areas pursuant to subparagraph 3041.6 (b)(2) hereof.

(14) The operator shall: (i) Except as provided in subparagraph (ii) hereof, allow public access to and upon Federal lands subject to his lease, permit, or license for all lawful and proper purposes, except where such access would unduly interfere with his authorized use.

(ii) Regulate public access, vehicular traffic, and wildlife or livestock grazing in all areas of active operations, including lands undergoing reclamation, in order to protect the public, wildlife and livestock from hazards associated with such operations, and to protect revegetated areas from unplanned and uncontrolled grazing. For this purpose, the operator shall provide warning signs, fencing, flagmen, barricades, and other safety and protective measures as may be necessary.

(15) Coal storage areas shall be designed and maintained so as to eliminate fire hazards from spontaneous combustion and other accidential ignition. If a coal seam exposed by surface mining or an accumulation of slack coal or combustible waste becomes ignited during the term of a lease, the operator shall immediately take all necessary steps to extinguish the fire.

(16) Upon completion or temporary or permanent abandonment of mining operations in all or any part of a strip pit, the face of the coal shall be covered with noncombustible material that will effectively protect the coal bed from becoming ignited.

(17) The driving of any underground openings by auger or other methods from any strip pit shall not be undertaken except as specifically approved by the Mining Supervisor, in an approved plan.

§ 3041.3 Compliance or performance bond.

(a) The provisions of Subpart 3504 of this Chapter are hereby made applicable to this subpart. In addition each compliance bond will be conditioned upon faithful compliance with the regulations in this subpart and any additional terms and conditions of the lease or license.

(b) Prior to issuing a lease or license, the authorized officer, after consultation with the Mining Supervisor, shall ensure that the amount of the compliance bond or bonds to be furnished is sufficient to ensure reclamation in accordance with the performance and reclamation standards in § 3041.2–2, and with the terms and conditions of the lease or license.

(c) An application for a lease or license may be denied any applicant or offeror who has previously forfeited a bond because of failure to comply with an approved plan unless the affected lands covered by such plan have been reclaimed without cost to the Federal Government. Nothing in this subparagraph shall be deemed to modify or limit any discretionary authority of the authorized officer of the BLM otherwise to deny for cause any application for a lease or license.

(d) Once a lease or license has been issued the authorized officer, after consulting with and receiving the recommendation to increase or to release in whole or in part any compliance bond or bonds so that the amount of the compliance bond or bonds will at all times be sufficient to cover the estimated costs of completion of the remaining reclamation requirements of the approved plan and of the terms and conditions of the lease or license.

§ 3041.4 Procedures and public participation.

Written findings. Except as may be otherwise expressly set forth in this Subpart, decisions and determinations of any appropriate authorized officer acting pursuant to this Subpart or to 30 CFR Part 211 with respect to issuance of leases, approval of mining plans or modifications thereof, and abandonment of operations shall be in writing, shall set forth with reasonable specificity the facts and the rationale upon which such decisions or determinations are based, and shall be available for public inspection during normal business hours at the offices of such officer.

§ 3041.5 Completion of operations and abandonment.

(a) *Grading and backfilling.* Upon completion of backfilling and grading as required by the approved plan and prior to replacing topsoil and revegetation, the operator shall submit a report thereon, in duplicate, to the Mining Supervisor and request inspection for approval. Whenever it is determined by such inspection that the backfilling and grading has met the requirements of the approved plan, the Mining Supervisor shall recommend to the appropriate authorized officer release of an appropriate amount of the compliance bond for the area satisfactorily backfilled and graded.

(b) *Temporary abandonment.* In areas in which there are no current operations, but operations are to be resumed under an approved plan, the operator shall substantially backfill, fence, protect, or otherwise effectively close all surface openings, auger holes, areas prone to subsidence, and surface facilities or workings which are a hazard to people or animals. Conspicuous signs shall be posted prohibiting entrance of unauthorized persons. All such protective measures shall be maintained in a secure condition until such operations are resumed or permanently abandoned.

(c) *Permanent abandonment.* Before permanent abandonment of exploration or mining operations, all openings and excavations, including water discharge points, shall be closed or backfilled, or otherwise permanently dealt with in accordance with sound engineering practices and according to the approved plan. Drill holes, trenches, and other excavations for exploration, development or prospecting shall be abandoned in such a manner as to protect the surface and not to endanger any present or future underground operations or any deposit of oil, gas, other mineral resources, or ground water. Methods of abandonment shall be approved in advance by the Mining Supervisor in an approved plan, and may include backfilling, regrading, revegetation, cementing, and capped casing, or combinations of these, or other methods. Reclamation and clean-up of surface areas around and near permanently abandoned underground or surface mines, including, except where otherwise expressly provided in an approved plan, removal of equipment and structures related to the mining operation, shall commence without delay following cessation of mining operations. Areas affected by access roads will be graded, drained, and revegetated in accordance with the approved Mining Plan and therein approved post mining land use prior to bond release. In the event that access or haul roads are intended to remain after abandonment of the operation, pursuant to § 3041.2–2(f)(11) of this Subpart, they must be designed and constructed so as to be permanently stabilized using adequate drains, water barriers, and other practices.

(d) *Notice of abandonments release of bond.* (1) Not less than 30 days prior to cessation or abandonment of operations, the operator shall submit to the Mining Supervisor, in duplicate, a notice of his intention to cease or abandon operations, together with a statement of the exact number of acres affected by his operations, the extent and kind of reclamation accomplished, and a statement as to the structures and other facilities that are to be removed from or remain on the leased or licensed lands.

(2) Upon receipt of such notice, the Mining Supervisor and the appropriate authorized officer or officers shall promptly make a joint inspection to determine whether all operations have been completed in accordance with the terms and conditions of all leases, permits, and licenses, and with the requirements of approved operating plan. Where the operator has compiled with all such terms, conditions and requirements and the regulations of this Subpart the Mining Supervisor shall recommend to the appropriate authorized officer that the appropriate period of bonded liability be terminated.

(3) When the surface of lands in a lease permit or license is not owned by the United States the Mining Supervisor shall notify the surface owner and solicit and take into account his comments before recommending to the appropriate authorized officer that the period of such bond liability be terminated.

§ 3041.6 Reports.

(a) *Operations.* The operator shall file with the Mining Supervisor within 30 days after the end of each calendar year, and within 30 days after any temporary or permanent abandonment of operations, a report, in duplicate, containing the following with respect to his operations or the operations subject to such abandonment.

(1) Serial number of the lease, permit, or license and a description of the lands affected by operations.

(2) The number of acres disturbed and the number of acres reclaimed, including areas on which revegetation is being conducted.

(3) A description of the reclamation work remaining to be done on lands disturbed.

(b) *Revegetation.* (1) The operator shall file a report, in duplicate with the Mining Supervisor within 30 days after each planting is completed. The report shall: (i) Identify the lease or license; (ii) Show the types of planting or seeding, including mixtures and amounts; (iii) Show the date of planting or seeding; (iv) Identify or describe the planted or seeded lands; (v) Describe any surface manipulation, mulching, fertilization, and irrigation procedures, if any, and contain such other information as may be considered relevant.

(2) The Mining Supervisor and the authorized officer of the Federal surface managing agency shall, as soon as possible after each full growing season, jointly inspect and evaluate the revegetated areas to determine, in consultation with the surface owned if other than the United States, whether satisfactory vegetative growth has been established, or whether additional revegetation efforts should be ordered pursuant to 30 CFR 211.62(b)(2).

§ 3041.7 Notice of noncompliance: Revocation.

(a) The appropriate authorized officer and the Mining Supervisor shall have the right to enter upon the lands subject to this Subpart under lease or license, at any reasonable time.

(b) If an appropriate authorized officer discovers that an operator is conducting on lands subject to this subpart activities which are not in compliance with the requirements of a least or license, applicable regulations, or an approved plan and such activities do not threaten immediate and serious damage to the environment, resources, or the health and safety of the public, such authorized officer shall or, in the case of an appropriate authorized officer of any Federal surface managing agency not in the Department of the Interior, may refer the matter to the Mining Supervisor for remedial action pursuant to 30 CFR 211.72(a).

(c) If an appropriate authorized officer discovers that an operator is conducting on lands subject to this subpart activities which are not in compliance with the requirements of a lease or license, applicable regulations or an approved plan and such activities threaten immediate and serious damage to the environment, resources, or the health and safety of the public, and the Mining Supervisor is not available for appropriate remedial action pursuant to 30 CFR 211.72(c), such authorized officer may order the immediate cessation of such activities and shall promptly notify the Mining Supervisor. Upon such notification, the Mining Supervisor shall order immediate remedial action pursuant to 30 CFR 211.72(c).

(d) Failure of the operator to take action in accordance with an order for cessation of activities issued pursuant to paragraph (c) of this section, or with a written notice of noncompliance issued by the Mining Supervisor in accordance with the provisions of 30 CFR 211.72 shall be grounds for suspension of the operation and for possible cancellation of the lease, permit, or license in accordance with the regulations in 43 CFR 3500 of this Chapter.

§ 3041.8 Variances.

(a) Variances from compliance with the performance standards set forth in this subpart may be allowed as part of an approved mining plan under either of the following circumstances:

(1) Where an applicant states in a proposed plan or modification thereof that he cannot meet a performance standard specified in subparagraphs 3041.2-2(f) (2), (4), (6), (11), (12) or (13) of this subpart, he may request a variance from such performance standard where such variance would be compatible with the approved post mining land use, and shall support his request with appropriate information demonstrating the need therefor. The Mining Supervisor, after consultation with the appropriate authorized officer and the surface owner, if other than the United States, may approve or disapprove such variance, and shall advise the applicant and approve or disapprove the proposed plan or modification accordingly:

(2) Where an applicant proposes a post-mining land use that is substantially different from the land use immediately prior to any exploration and mining, the Mining Supervisor, with the concurrence of the appropriate authorized officer and after consultation with the surface owner, if other than the United States, may approve a mining plan containing variances from the performance standards of 30 CFR 211 and § 3041.2-2(f) hereof, provided that:

(A) After consultation with the appropriate land use planning agencies, if any, the proposed development is deemed to constitute an equal or better economic or public use of the affected land, as compared with the premining use.

(B) The granting of such variance is essential to achieving the proposed post mining land use.

(C) The applicant presents specific plans for the proposed post mining land use and appropriate assurances that such use will be: (i) Compatible with adjacent land uses; (ii) Supported by commitments and assured of investment from public agencies where appropriate; (iii) Practicable with respect to private financial capability for completion of the proposed development; (iv) Planned pursuant to a schedule made part of the proposed mining plan so as to integrate the mining operation and reclamation with the post mining land use; (v) Designed by qualified personnel in conformance with professional standards in order to assure the stability, drainage, and configuration necessary for the intended use of the site.

(D) To the degree possible and taking into account the subjective nature of the assessment, the applicant has considered the impact of the proposed land use on the aesthetic character of the area by consulting with inhabitants of the area, and utilizing expertise in the landscape and geomorphologic fields.

(b) Any application for a variance pursuant to paragraph (a) of this section shall demonstrate that any proposed disturbance of land above a highwall will facilitate compliance with the environmental protection and performance standards set forth in this subpart.

(c) Any application for variance pursuant to paragraph (a) of this section which proposes to place spoil or other material on the downslope below the bench used to mine an area classed as "steep slope," shall demonstrate to the satisfaction of Mining Supervisor that the permanent or temporary sediment loads in the receiving drainages and reclamation to the post-mining land use will not have significant adverse effects upon the aesthetics of the area.

(d) All variances granted pursuant to this section shall be reviewed by the Mining Supervisor and the appropriate authorized officer not more than three years after granting of the variance and incorporation in the mining plan, to ensure that the development is proceeding in accordance with the terms of the approved plan and the terms and conditions of any lease, permit, or license.

(e) An operator may apply for a variance pursuant to the provisions of paragraph (a) of this section only by submitting a new or revised mining plan to the Mining Supervisor for approval pursuant to the provisions of 30 CFR 211. Minor changes of operations which do not involve violations of the performance standards set forth in this subpart, and the granting of a variance pursuant to the description in § 3041.2-2(a)(2) of this subpart, will not be deemed to be subject to or require compliance with, the provisions of this section.

(f) If the Director of the GS determines that a decision to grant a variance would constitute a major Federal action significantly affecting the quality of the human environment, and that an environmental impact statement as required by Section 102(2)(C) of the National Environmental Policy Act has not been prepared with respect thereto, such a statement shall be prepared. If the Mining Supervisor grants a variance pursuant to this Section, he shall notify the appropriate land managing agency or land planning agency for the purpose of determining whether any changes may, as a result of such variance, be required in any land use plan.

PART 3500—LEASING OF MINERALS OTHER THAN OIL AND GAS: GENERAL

2. Section 3500.0-5 of 43 CFR is amended by revising paragraphs (h) and (i) as follows:

§ 3500.0-5 Definitions.

• • • • •

(h) *Public Bodies.* Public bodies are Federal and State agencies, municipalities, and rural electric cooperatives and similar types of organizations, and nonprofit corporations controlled by any of foregoing entities.

(i) *Government entities.* Governmental entities are Federal and State agencies, municipalities and subdivisions thereof, including any corporation primarily acting as an agency or instrumentality of a State, which produces electrical energy for sale to the public.

3. 43 CFR 3501.1-4 paragraphs (b)(1)(i) and (ii) are revised to read as follows:

§ 3501.1-4 Acreage limitations.

• • • • •

(b) • • •

(1) *Coal.* (i) No person, association, or corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation shall take, hold, own or control at one time Federal coal leases or permits on an aggregate of more than 46,080 acres in any one State, and in no case on an aggregate of more than 100,000 acres in the United States.

(ii) No person, association, or corporation holding, owning or controlling Federal coal leases or permits (by itself or through any subsidiary, affiliate, or person under common control with it) on an aggregate of more than 100,000 acres in the United States on August 4, 1976, shall be required to relinquish any lease or permit which it held on that date, but it shall not be permitted to take, hold, own or control any further Federal coal leases or permits until such time as its holding, ownership, or control of Federal leases or permits has been reduced below an aggregate of one hundred thousand acres within the United States.

• • • • •

4. 43 CFR 3501.1-5 is revised to read as follows:

§ 3501.1-5 Exceptions.

(a) *All leaseable minerals except coal.* No lands within the boundaries of the following areas in the public domain shall be leased under the provisions of this Part:

(1) National parks and monuments.

(2) Indian reservations.

(3) Incorporated cities, towns, and villages.

(4) Naval petroleum and oil shale reserves.

(5) Lands acquired under the act of March 1, 1911 (36 Stat. 961; 16 U.S.C. 513-519) known as the Appalachian Forest Reserve Act, or other acquired lands.

(b) *Coal.* No coal leasing shall be permitted on the public domain within the areas set forth in 43 CFR 3535.4.

5. 43 CFR 3501.2-1 is revised to read as follows:

§ 3501.2 Acquired lands.

§ 3501.2-1 Lands and deposits not subject to leasing.

(a) *All leaseable minerals except coal.* The following acquired lands are not subject to leasing:

(1) Lands acquired for the development of their mineral deposits;

(2) Lands acquired by foreclosure or otherwise for resale;

(3) Lands acquired as surplus under the Surplus Property Act of October 3, 1944 (58 Stat. 765; 50 U.S.C. 1611, et seq.);

(4) Lands in incorporated cities, towns, and villages;

(5) Lands in national parks and monuments; and

(6) Lands which are tide lands or submerged coastal lands within the Continental Shelf adjacent or littoral to any part of land within the jurisdiction of the United States.

(7) Lands in Naval Petroleum Reserves, The National Petroleum Reserve in Alaska, and oil shale reserves.

(b) *Coal.* No coal leasing shall be permitted on acquired lands within the areas set forth in 43 CFR 3525.4.

6. 43 CFR 3502.9 is amended to read as follows:

§ 3502.9 Public Bodies.

§ 3502.9-1 Coal.

(a) To obtain a coal lease on a tract set aside pursuant to 30 U.S.C. 201(a) a public body must submit:

(1) Evidence of the manner in which it is organized;

(2) Evidence that it is authorized to hold a lease or permit;

(3) Evidence that the action proposed has been duly authorized by its governing body; and

(4) A definite plan to produce energy solely for its own use or for sale to its members or customers (except for short-term sales to others).

(b) To obtain a license to mine coal pursuant to 30 U.S.C. 208, a municipality must submit:

(1) Evidence of the manner in which it is organized;

(2) Evidence that it is authorized to hold a license; and

(3) Evidence that the action proposed has been duly authorized by its governing body.

(c) To obtain a coal lease pursuant to 30 U.S.C. 352 on a tract of acquired lands set apart for military or naval purposes, a governmental entity must submit:

(1) Evidence of the manner in which it is organized, including the state in which it is located;

(2) Evidence that it is authorized to hold a lease;

(3) Evidence that the action proposed has been duly authorized by its governing body; and

(4) Evidence that it is producing electricity for sale to the public in the state where the lands to be leased is located.

(d) Where the material required in paragraphs (a), (b) and (c) of this section has previously been filed, a reference by serial number of the record in which it has been filed, together with a statement as to any amendments, will be accepted.

7. 43 CFR Subpart 3503 is amended by adding a new § 3503.3-3 to read as follows:

§ 3503.3-3 Coal.

(a) A coal lease shall require payment of a royalty of not less than 12½ per centum of the value of the coal removed from a surface mine.

(b) A coal lease shall require payment of a royalty of not less than 8 per centum of the value of the coal removed from an underground mine, except that the authorized officer may determine a lesser amount if conditions warrant.

(c) The value of coal removed from a mine is defined for royalty purposes in 30 CFR 211.63.

8. 43 CFR § 3503.3-1(b) is amended by revising paragraph (1) to read as follows:

§ 3503.3-1 General statement rentals.

• • • • •

(b) *Leases*—(1) *Coal.* Annual rental per acre or fraction thereof for coal leases shall not be less than 25 cents for the first year, not less than 50 cents for the second through fifth years and not less than $_____ for each and every year thereafter during the continuance of the lease.

(i) *Leases issued before August 4, 1976.* The rental paid for any year shall be credited against the royalties for that year until the lease is readjusted.

(ii) *Leases issued or adjusted after August 4, 1976.* Rental payments may not be credited against royalties.

§§ 3505.1-1, 3505.2-1 through 3505.2-4 [Reserved]

9. 43 CFR Subpart 3505 is amended by revoking and reserving §§ 3505.1-1, 3505.2, 3505.2-1, 3505.2-2, 3505.2-3, and 3505.2-4.

§§ 3511.2–1 and 3511.2–2 [Amended]

10. 43 CFR Subpart 3511 is amended by revoking and reserving paragraph (b) (1) of § 3511.2–1(b)(1) and § 3511.2–2.

PART 3520—PREFERENCE RIGHT AND COMPETITIVE LEASES

11. Section 3520.0–3 is revised as follows:

§ 3520.0–3 Authorities.

(a) *Public domain and acquired lands.* The Secretary is authorized to divide into leasing units and award leases of mineral lands and mineral deposits owned by the United States as set forth in § 3500.1–1 subject to the provisions of the Mineral Leasing Act, as amended and supplemented, and the Mineral Leasing Act for Acquired Lands as set forth in § 3500.0–3. Coal leasing is governed by the application procedures in 43 CFR Subpart 3525. Other leaseable minerals are covered by the procedures in 43 CFR Subpart 3521.

14. Section 3521.2–1 is revised as follows:

§ 3521.2–1 Application or Bureau motion.

(a) *Application.* (1) *Forms.* (i) Where filed and copies. An application for a lease must be filed in duplicate in the proper office. No specific form is required. Competitive-coal lease applications will be accepted only as authorized by 43 CFR Subpart 3525. The application should include the information set forth in (ii) to (v) of this subparagraph.

(ii) The applicant's name and address.

(iii) State of citizenship and qualifications.

(iv) A complete and accurate description of the lands for which the lease is desired. See § 3501.1–3.

(v) Evidence that the land is valuable for the mineral for which application is made, with a statement as to the character, extent and mode of occurrence of the deposit.

(2) *Additional Statements Required.* The contemplated investment for the development and purchase of equipment of a producing mine of a stated average daily output. Phosphate. To the extent such information is known to the applicant, a description of the phosphate and associated or related mineral deposits in the land based upon such actual examination as can be effected without an injury to the land or deposits (such examination shall not be deemed a trespass), giving nature and extent of the deposits; an outline in general terms of the proposed method of mining and processing the same; the proposed investment in mining operations thereon, and processing facilities therefor.

(3) Evidence showing in sufficient detail that:

(i) The amount of phosphate lands, Federal and non-Federal, held by him, together with the lands described in the application are necessary for his proposed development plan.

(ii) He intends to explore, mine and develop the property in good faith.

(iii) His proposed operations of the property will be in accordance with good conservation practice and this additional development is needed in order to supply an existing demand which cannot otherwise be reasonably met.

12. Section 3521.2–2 is revised as follows:

§ 3521.2–2 Qualifications.

(a) Compliance with Subpart 3502 is required.

(b) Bureau motion. (1) Bureau of Land Management responsibility.

(2) Geological Survey responsibility.

(c) *Leasing Units.* (1) *Phosphate.* If the authorized officer shall determine, after consultation with the Mining Supervisor of the Geological Survey that specific lands or deposits, not under an outstanding permit or application for preference right lease, which constitute an acceptable leasing unit are subject to phosphate lease, they will be offered for such lease on the terms and conditions to be specified in the notice of lease offer to the qualified person who offers the highest bonus by competitive bidding equal to the fair market value of the mineral deposit either at public auction or by sealed bids as provided in the notice of lease offer.

(2) *Solid (hardrock) minerals.* Any qualified person may file an application for the competitive offering of such deposits. Leasing units may not exceed, in reasonably compact form, 2,560 acres of land described in the manner required by this section. The authorized officer may prescribe a lesser area for any mineral deposit if the Geological Survey reports that such lesser area is adequate for a logical leasing unit.

(f) *Exception.* (a) *Phosphate.* In a notice for a phosphate lease, the detailed statement will set forth that the terms of minimum production will not be reduced or waived at the lessee's request as provided in § 3503.3–2(b)(3), (d), (e), or upon a satisfactory showing that market conditions are such that the lessee cannot operate except at a loss.

(b) *Asphalt.* All leases will be issued through competitive bidding only in the same manner as that provided for in Subpart 3120.

(c) *Publication.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week, or for such other period as may be deemed available, in a newspaper of general circulation in the county in which lands are situated.

13. The following sections are repealed and reserved: 43 CFR § 3520.0–4, 43 CFR § 3520.1–2, 43 CFR § 3520.1–3.

14. Title 43 CFR § 3520.2–1 is amended to read as follows:

§ 3520.2–1 Duration of Leases.

Leases shall be issued for indeterminate periods subject to readjustment or renewal at the end of the first 20-year period upon such terms and conditions as may be incorporated in each lease or prescribed in general regulations issued by the Secretary of the Interior, including covenants relative to mining methods, waste, period of preliminary development and minimum production (a) *Exceptions.* (1) *Asphalt.* Asphalt leases are issued for 10 years and so long thereafter as the lessee complies with the terms and conditions of the lease.

(2) *Solid (hardrock) minerals.* The lease will be issued for a period not exceeding 20 years the term to be determined upon the advice of the agency having jurisdiction over the surface and the U.S. Geological Survey.

(3) *Coal leases issued or readjusted after August 4, 1976.* The term of the lease shall be twenty years, and as long thereafter as the lessee is producing coal annually in commercial quantities.

§ 3524.1–1 [Reserved]

15. 43 CFR Subpart 3524 is amended by revoking and reserving § 3524.1–1.

16. 43 CFR 3524.2–1 is amended to read as follows:

§ 3524.2–1 Coal.

(a) *Application.* A lessee may obtain modification of his lease to include coal lands or coal deposits contiguous to those embraced in his lease if the authorized officer determines that it would be in the interest of the United States to do so. In no event shall the total area added by such modifications to an existing coal lease exceed one hundred sixty acres or the same number of acres as that in the original lease, whichever is less. The lessee shall file his application for modification in duplicate in the proper land office, describing the additional lands desired, and the needs and reasons for and the advantage to the lessee of such modification.

(b) *Availability*—(1) *Noncompetitive.* Upon determination by the authorized officer that the modification is justified and that the interest of the United States is protected, the lease will be modified without competitive bidding to include such part of the land or deposits as he shall prescribe.

(2) *Competitive.* If it is determined that the additional lands or deposits can be developed as part of an independent operation or that there is a competitive interest in them, they will be offered as provided in Subpart 3525.

(c) *Terms and conditions.* The authorized officer shall require changes in the terms and conditions of the original lease to make them consistent with the modified lease. Before a lease is modified under paragraph (a) or (b) of this section, the lessee shall file his written acceptance of the conditions imposed in the modified lease and the written consent of the surety under the bond covering the original lease to the modification of the lease and to extension of the bond to cover the additional land.

17. Subpart 3525—Energy Minerals Activity Recommendation System (EMARS) is renumbered, reorganized, and corrected to read as follows:

Subpart 3525—Energy Minerals Activity Recommendation System (EMARS)

Sec.
3525.0–2 Objectives.
3525.0–3 Authority.
3525.0–6 Policy.
3525.1 Competitive leases.
3525.2 Lands subject to leasing.
3525.2–1 Special leasing opportunities.
3525.2–2 Request for information on areas of interest.
3525.3 Applications: Short-term sales.
3525.3–1 Conditions of acceptance.
3525.3–2 Preliminary date required.
3525.4 Land Use Plans.
3525.5 Consent to leasing.
3525.5–1 Consultation with Federal surface managing agency.
3526.5–2 Consultation with Governors.
3525.6 Notice of lease sale.
3525.7 Consultation with Attorney General.
3525.8 Award of leases.
3525.9 Documentation.

Subpart 3525—Energy Minerals Activity Recommendation System (EMARS)

3525.0–2 Objectives.

The objectives of the Department's coal leasing process called Energy Minerals Activity Recommendation System (EMARS), include: the orderly and timely development of federally-owned coal; appropriate uses of the resources; effective environmental protection; and a fair market return to the public for the resources sold. The program consists of three principal elements: nominations; multiple resource land-use planning; and environmental assessment. Nominations provide the first indication of tracts which should or should not be leased. The nominations received are then compared with resource values through the Bureau's land-use planning process, including Management Framework Plans. From these phases, proposed tract recommendations will be made and environmental assessment will be undertaken on the proposed coal lease tracts. The integration of these three elements, i.e., nominations, multiple resource land-use planning, and environmental assessment—each of which will be undertaken with State and public participation—will produce specific coal lease recommendations for Secretarial decision.

§ 3525.0–3 Authority.

(a) *Acts.* (1) The Act of February 25, 1920, 41 Stat. 437, as amended by the Act of June 3, 1948, 62 Stat. 248, the Act of September 9, 1959, 73 Stat. 490, the Act of August 31, 1964, 78 Stat. 710, and the Act of August 4, 1976, 90 Stat. 1083, 30 U.S.C. 201(a).

(2) The Act of August 7, 1947, 61 Stat. 913, and the Act of August 4, 1976, 90 Stat. 1090, 30 U.S.C. 352.

§ 3525.0–6 Policy.

It is the policy of the Department to encourage the development of Federally-owned coal, where such development is authorized, through a program that will provide for the protection, orderly development and conservation of Federal mineral and nonmineral resources in a manner that will avoid, minimize or correct adverse impacts on society and the environment resulting from coal development, without undue duplication or administrative delay by Federal officers. It is also the policy of the Department to issue leases for coal only where reclamation of the affected lands to the standards set forth in 43 CFR Part 3040 is attainable and assured and a reclamation program will be undertaken as contemporaneously as practicable with operations.

§ 3525.1 Competitive leases: Procedures.

(a) *Establishment of leasing tracts.* General coal land or deposits shall be divided into suitable leasing tracts and leased competitively. The Energy Minerals Activity Recommendation System (EMARS) shall be used to identify tracts suitable for leasing through nominations and multiple-use land management planning. All competitive lease sales, except those that qualify under the short-term leasing criteria, will be on Bureau motion.

(b) *Selection of proposed tracts.* (1) *Bureau Motion.* Proposed tracts will be selected by the Bureau of Land Management and United States Geological Survey field offices, with participation from affected State governments, and other surface management agencies, if other than the Bureau of Land Management, based upon relevant information including information from the appropriate land-use plan, from nominations and from competitive coal lease applications on file.

(2) *Selection of Proposed Tracts: Short-term Sale.* Proposed tracts for short-term sales will be selected using the same criteria as Bureau motion tracts. Prior to selecting a proposed short-term tract the Bureau must determine that the application meets the short-term leasing criteria.

(3) No lands may be included in a proposed tract unless: (i) the land is included in a completed land-use plan and leasing is compatible with the plan; (ii) the lands have been included in a known recoverable coal resource area (KRCRA);

(iii) the lands have been included in a nomination or have been identified by BLM as potential leasing tracts or included in a short-term lease application.

(4) *Tract Selection Factors.* The selection of proposed lease tracts will include consideration of such factors as: depth, quality, thickness and extent of the coal resource; water resource availability; relationship to existing communities; potential impacts on economic structure (e.g., employment, available services, etc.); service and access corridors; aesthetic qualities such as scenic, cultural, Wildlife, and vegetative values; rehabilitation potential and Coal Resources Regulations Guideline No. 1 (41 FR 43722).

(c) *Compliance with NEPA.* The National Environmental Policy Act will be complied with as follows: If several proposed leasing units have significant related characteristics and would sustain similar or related environmental impacts, as determined by the Secretary, they may be covered by a single regional environmental impact statement. Where leasing actions are adequately covered in a regional impact statement, no additional impact statement need be prepared. A public hearing will be held after publication of a draft regional environmental impact statement. An environmental assessment record or an impact statement, as appropriate, will be prepared for proposed leasing actions not included in a regional impact statement. The Department will provide public notice and an opportunity for a public meeting on an environmental assessment record for a coal leasing proposal that indicates that an environmental impact statement is not required.

(d) *Technical examinations.* A technical examination in accordance with the procedures in 43 CFR 3041.2 and 3041.2–1 will be completed on each unit after completion of the final environmental impact statement or environmental assessment to identify specific reclamation requirements and tracts requiring special environmental consideration and to prepare bonding requirements and stipulations to minimize impacts upon the environment and other resources, lands uses, or programs. Reclamation requirements will be imposed in accordance with 43 CFR 3041. The technical examination will include an evaluation of the proposed leasing unit to balance the value of the coal against the cost of mining, the cost of mitigation of environmental damage, and the significance of unmitigable damages. The Bureau will obtain from the Geological Survey an evaluation and comparison of the effects of recovering coal by deep mining, by surface mining, and by other methods to determine which method or methods achieves the maximum economic recovery of the proposed tract.

(e) *Recommendation of tentative coal lease tracts.* (1) After the BLM has completed the actions required by paragraphs (a)–(d) of this section, after State government and surface management agency consultation, and after holding a public hearing, on the record, in the area which may be affected by the proposed coal lease sale, the State Director will recommend suitable tentative coal lease tracts to the Director. The Director will consolidate approved field recommendations into a proposed Coal Lease Sale Schedule for review and approval by the Secretary.

(2) The Director's recommendation, and the Secretary's final approval, shall include a written synopsis of earlier analyses which evaluates and compares:

(i) The effects of recovering coal by deep mining, by surface mining and by any other method to determine which method or methods or sequence of methods achieves the maximum economic recovery of the coal within the proposed leasing tract, and

(ii) The effects which mining the proposed lease might have on an impacted community or area, including impacts on the environment, on agriculture and other activities, and on public services.

(f) Qualified applicants. Leases may be issued to qualified applicants listed in Subpart 3502 of this chapter unless:

(1) The qualified applicant, or any subsidiary, affiliate, or person controlled by or under the common control of the qualified applicant holds a lease or leases to coal deposits issued by the United States and has held the lease for 10 years and is not producing coal in commercial quantities.

Exceptions. A lessee is not disqualified from holding a lease if either production is interrupted by strikes, the elements, or casualties not attributable to the lessee, or the Secretary has suspended the requirement of continued operation upon payment of advance royalties.

(i) The 10-year period referred to in paragraph (a) of this section shall begin on August 4, 1976, or the date the lease is issued, whichever is later.

(ii) For the purpose of this paragraph, production of coal in commercial quantities means production adequate to meet the requirement for continuous operation as defined in § 3500.0–5(g) of this chapter; or

(2) The qualified applicant holds or controls more than 46,080 acres of Federal coal leases in any one state or 100,000 acres of Federal coal leases in the entire United States.

§ 3525.2 Lands subject to leasing.

(a) The Secretary may issue coal leases on all lands owned by the United States except lands in the:

(1) National Park System;

(2) National Wildlife Refuge System;

(3) National Wilderness Preservation System;

(4) National System of Trails;

(5) Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act;

(6) Incorporated cities, towns and villages; and

(7) Tide lands, submerged coastal lands within the Continental Shelf adjacent or littoral to any part of land within the jurisdiction of the United States.

(8) Lands acquired by the United States for the development of mineral deposits, for foreclosure or otherwise for resale, or reported as surplus property pursuant to the provisions of the Surplus Property Act of 1944.

(9) Naval Petroleum Reserves, The National Petroleum Reserve in Alaska, and oil shale reserves.

(b) (1) The Secretary may issue coal leases with the consent of the Secretary of Defense on acquired lands set apart for military or naval purposes only if the leases are issued to a governmental entity, including any corporation primarily acting as an agency or instrumentality of a State, which

(i) Produces electrical energy for sale to the public; and

(ii) Is located in the State in which the leased lands are located.

(2) A government entity is located in a State if its production facilities are in that State, and the coal produced from the lease will be used in the State.

(c) The regulations in Subpart 3525 of Title 43 CFR do not apply to the leasing and development of coal deposits owned by Indians and subject to the trust protection of the United States. Regulations governing those deposits are found in 25 CFR Chapter I.

§ 3525.2–1 Special leasing opportunities.

(a) The Secretary shall, under the procedures established under this subpart, reserve and offer a reasonable number of coal lease tracts within competitive lease sales each year as special leasing opportunities. Except for the limitation on bidding contained in paragraph (b) of this section, all of the requirements of this subpart apply to special leasing opportunities including the requirement that the coal be leased at its fair-market value.

(b) Only public bodies, including Federal agencies, rural electric cooperatives, or non-profit corporations controlled by any of these entities which have a definite plan to produce energy for their own use or for sale of their members or customers will be eligible to bid for leases designated as special leasing opportunities. Evidence of qualification to bid for leases designated as special leasing opportunities must be filed with the Department at least 60 days prior to a sale.

(c) The Secretary may designate certain coal lease tracts as special leasing opportunities only if a public body has requested, in the nomination process or elsewhere, that the procedures of this section apply.

(d) Leases issued under this Section may be assigned only to another public body.

§ 3525.2–2 Request for information on areas of interest.

(a) *Purpose.* This section establishes a procedure by which industry, the general public, and State and local governments can inform the Department of the Interior of their views on coal leasing in particular areas. The Department will incorporate the information it receives into its internal planning processes for Federal coal leasing tract selections. Except for short-term leasing applications, nominations are the primary source of information on the need for additional coal leasing.

(b) *Description of process.* The Director will request information on an annual basis, or as necessary. Any person may file with the Bureau, a statement with supporting information, asking the Director to make a request for nominations. The Bureau is not required to act on the statement. The Request for Information on Areas of Interest will consist of two types.

(1) *Industry nominations.* Nominations from industry of tracts of land that the Department should or should not make available for coal leasing including, as appropriate, statements describing why the tracts should or should not be leased.

(2) *Areas of public concern.* Concurrently with Industry Nominations, State and local governments and the general public are requested to submit Areas of Public Concern covering tracts of land that the Department should or should not make available for coal leasing including, as appropriate, statements describing why the tracts should or should not be leased.

(c) *Use of nominations.* Information obtained through the nominations process will be analyzed and compared with multiple resource opportunities identified in the land-use planning process. Proposed coal lease tracts will then be developed on the basis of nominations and multiple resource information.

(d) *Description of nominations.* All nominations or statements of information for or opposed to leasing shall: (1) (i) Describe the lands by legal subdivisions, section, township, and range; or in the case of land covered only by protracted surveys, by section, township, and range according to an approved protraction diagram; or

(ii) Use the Bureau of Land Management's Surface/Minerals Management Quads (minerals ownership maps) to indicate nominated areas. A readily discernible line on these maps conforming to legal subdivision and section lines will be accepted as the description required in paragraph (d) (1) (i) of this section. The maps are available for sale at BLM State and most District Offices.

(2) Describe reasonably compact areas, which will be assumed to include all Federal coal within the boundaries described, and may not exceed 25,000 acres.

(e) *Multiple nominations.* If a person submits two or more nominations for leasing or two or more nominations against leasing, choices shall be ranked in order of importance and shall be numbered consecutively. Nominations should be ranked on a nationwide basis.

(f) *Inspection and copying.* The procedures in 43 CFR Part 2 govern the public inspection and copying of information submitted under this section.

(g) *Notice of requests for nominations on areas of interest.* (1) Notice of each Request for Information on Areas of Interest will be published in the FEDERAL REGISTER and in a newspaper(s) of general circulation in the State affected and will specify the area or areas covered by the call, the size and ranking of nominations, the period of time within which to submit nominations, and the addresses to which the nominations are to be submitted.

(2) *Lands Eligible for Nominations.* Nominations will be accepted only for those lands that are eligible for coal leasing. Lands not subject to leasing include (i) lands listed in § 3525.5; (ii) lands withdrawn from coal leasing or otherwise not subject to the provisions of the Mineral Leasing Act; (iii) land subject to a coal lease, permit or preference right lease application; and (iv) areas designated by BLM as primitive areas.

(h) *Areas nominated in national forest system.* The authorized officer will notify the Secretary of Agriculture of all lands nominated for leasing that are in the National Forest System.

(i) *Meeting on Nominations.* Prior to the selection of proposed tracts, the Bureau will hold a public meeting on nominations if the public has not had an opportunity to comment on the nominations in the land-use planning process.

§ 3525.3 Applications: Short-term sales.

§ 3525.3–1 Conditions of acceptance.

Applications for coal leases will be accepted only if the applicant shows that (a) the coal is needed to maintain an existing mining operation, or (b) the coal is needed as a reserve for production in the near future.

§ 3525.3–2 Preliminary data.

(a) Any application for coal lease filed pursuant to the regulations in this Chapter shall contain preliminary data to assist the authorized officer in making a technical evaluation and environmental assessment as described in § 3041.2.

(b) Such preliminary data shall include: (1) Such map, or maps, as may be available from State or Federal sources, on which shall be shown the topography of the land applied for, and on which the applicant shall show physical features and natural drainage patterns and existing roads, vehicular trails, and utility systems; the location of any proposed exploration operations, including seismic lines, drill holes, to the extent known, the location of any proposed mining operations and facilities, trenches, access roads or trails, and support facilities incidental thereto, including the approximate location and aerial extent of the areas to be used for pits, overburden, and tailings; and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto.

(2) A narrative statement, including: (i) The anticipated scope, method, and schedule of exploration operations, including the types of exploration equipment to be used.

(ii) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to be followed.

(iii) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-Federal lands.

(iv) A brief description, including suitable maps or aerial photographs as appropriate, of the existing land use within and adjacent to the lands applied for; and of known geologic, visual, cultural, or archaeological features; and the known habitat of fish and wildlife, particularly threatened and endangered species, that may be affected by the proposed or reasonably anticipated exploration or mining operations.

(v) A brief description of the proposed measures to be taken to maximize, control, or prevent fire, soil erosion, pollution of surface and ground water, damage to fish and wildlife or other natural resources, air and noise pollution, and hazards to public health and safety; to reclaim the surface; and to otherwise meet applicable laws and regulations, which the applicant wishes to have considered by the authorized officer.

(c) The applicant shall not enter upon the land for any operational purpose, except for casual use, without prior authorization. Casual use, as used in this section, means activities which do not cause significant surface disturbance or damage to lands, resources, and improvements, such as activities which do not include (1) the use of heavy equipment or explosives, or (2) vehicular movement off established roads and trails which causes such disturbance.

(d) The authorized officer, after reviewing the preliminary data contained in an application, and at any time during a technical examination and environmental assessment, may request additional information from the applicant.

§ 3525.4 Land-use plans.

(a) *Preparation of a land-use plan.* The Secretary may not issue a lease for coal deposits unless the lands containing coal deposits have been included in a comprehensive land-use plan and the sale is compatible with the plan. A comprehensive land-use plan shall:

(1) Use and observe the principles of multiple use and sustained yield set forth in the Federal Land Policy and Management Act of 1976;

(2) Use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) Give priority to the designation and protection of areas of critical environmental concern;

(4) Rely, to the extent it is available, on the inventory of the public lands, their resources, and other values;

(5) Consider present and potential uses of the public lands;

(6) Consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(7) Weigh long-term benefits to the public against short-term benefits;

(8) Provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(9) Assess the amount of coal deposits contained in the land and shall, based on available information, identify the amount of coal that is recoverable by deep mining operations and the amount that is recoverable by surface mining operations.

(b) Planning responsibilities.

(1) The Bureau of Land Management will prepare plans for land under its jurisdiction in accordance with its procedures.

(2) The Department of Agriculture and other federal agencies with jurisdiction over lands where there is interest in coal mining will prepare land-use plans for those lands.

(3) If the Secretary finds that because of non-Federal interest in the surface, or because the coal resources are insufficient to justify the costs of a Federal comprehensive land use-plan, in an area, he may lease lands in that area if the lands containing the coal deposits have been included in either a comprehensive land-use plan prepared by the State within which the lands are located, or a land-use analysis prepared by the Secretary of the Interior.

(c) *Consultation and public hearing.* A plan will not be adequate for the purposes of this section unless the agency that prepares the plan has:

(1) Consulted appropriate State and local governments and the general public during the preparation of a plan; and

(2) Provided an opportunity for a public hearing on a proposed plan prior to its adoption if requested by any person who may be adversely affected by the adoption of the plan.

(d) *Hearing Requirements.* The agency that conducts the hearing shall: (1) Publish a notice of the hearing in a newspaper of general circulation at least once in each of two consecutive weeks in the affected geographical area;

(2) Provide an opportunity for testimony by anyone who desires to do so;

(3) Compile a complete transcript of the hearing if a request for a transcript is filed, in writing, at least 10 days prior to the hearing;

(4) Plans adopted prior to August 4, 1976 will be considered adequate if the public had an adequate opportunity to comment on the plan prior to its adoption, even if a formal hearing was not held.

(e) Availability of land use plans. The Bureau's land-use plan and multiple land-use management plans of other Federal agencies, as appropriate, will be available for inspection at the appropriate Bureau or agency office. Upon the request of the Governor of a State affected by coal lease actions, the State Director will make available for his review the land-use plans for that State, and, as appropriate, adjacent States.

§ 3525.5 Consent to leasing.

§ 3525.5–1 Consultation with Federal surface managing agency.

(a) The Secretary may not issue leases for lands the surface of which is under the jurisdiction of any agency other than the Department of the Interior unless the Federal agency has consented to the issuance of the lease, but any lease shall contain terms and conditions as the head of the agency may prescribe for the use and protection of the nonmineral interests in those lands.

(b) The Secretary must accept the conditions prescribed by the surface managing agency, but may prescribe additional terms and conditions that are consistant with the terms proposed by the surface managing agency to protect the interests of the United States and to safeguard the public welfare.

§ 3525.5–2 Consultation with [illegible] officers.

(a) *General consultation.* Prior to offering a coal lease for competitive sale, the Secretary shall consult the Governor of the State in which the land to be leased is located.

(b) *Consultation for surface mining proposals in national forest.* (1) Prior to offering a coal lease in a National Forest where the method of mining which achieves maximum economic recovery of the coal resources is surface mining, the Secretary shall submit the lease pro-

posal to the Governor of the State in which the coal deposits are found.

(2) The Secretary may not issue a lease in a National Forest for a lease which the method of mining that achieves maximum economic recovery is surface mining until at least 60 days after he notifies the Governor of the lease proposal.

(3) If the Governor fails to object to the lease proposal in 60 days, the Secretary may issue the lease. If within the sixty-day period the Governor notifies the Secretary, in writing, that he objects to the lease proposal, the Secretary may not approve the lease for six months from the date the Governor objects to the lease.

(4) The Governor may, during this six-month period, submit a written statement of reasons why the lease should not be issued, and the Secretary shall, on the basis of this statement, reconsider the lease proposal.

§3525.6 Notice of lease sale.

(a) *Notice of lease sale.* (1) Publication. Prior to the lease sale, the Authorized Officer shall publish in the FEDERAL REGISTER and in a newspaper(s) of general circulation in the county affected by the sale a notice of the proposed sale. The newspaper notice shall be published once a week for three consecutive weeks.

(2) The notice will show the time and place of sale whether the sale will be at public auction or by sealed bids, the description of the land, and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained.

(3) It will also contain a statement that sealed bids may not be modified or withdrawn unless the modifications or withdrawals are received prior to the time fixed for opening of the bids.

(4) The detailed statement will set forth the terms and conditions of the sale, including the manner in which the bids may be submitted.

(5) The detailed statement will also contain a warning to all bidders against violation of 18 U.S.C. 1860, which prohibits unlawful combination or intimidation of bidders.

(6) The detailed statement will specify that the Government reserves the right to reject any and all bids. If the sale is by public auction, the statement of terms and conditions of the sale will also specify that sealed bids may be submitted. If any bid be rejected, the deposit will be returned.

(7) The detailed statement will also contain a request for comments on the fair market value of the tracts to be sold. The notice shall state the address to where the comments on fair market value should be submitted.

§ 3525.7 Consultation with Attorney General.

(a) Subsequent to a lease sale, but prior to issuing a lease, the Secretary shall notify the Attorney General of the proposed lease issuance, the proposed lessee, normally the high bidder in a sale, and other relevant information. The Secretary may not issue a lease until 30 days after he notifies the Attorney General.

(b) The Secretary shall not issue the lease to the proposed lessee if, during this 30-day period, the Attorney General notifies the Secretary that the proposed lease issuance would create or maintain a situation inconsistent with the antitrust laws, which means:

(1) The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (15 U.S.C., et seq.), as amended;

(3) The Federal Trade Commission Act (15 U.S.C. 41, et seq.), as amended;

(4) Sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; or

(5) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a)."

(c) If the Attorney General notifies the Secretary that a lease should not be issued the Secretary may:

(1) Reject all other bids or may request the Attorney General in accordance with paragraph (a) of this section to consider the issuance of the proposed lease to the next qualified high bidder; or

(2) Issue the lease if, after he conducts a public hearing on the record in accordance with the Administrative Procedures Act, he determines that: (i) Issuance of the lease is necessary to carry out the purposes of the Federal Coal Leasing Amendments Act of 1975; (ii) Issuance of the lease is consistent with the public interest; and (iii) There are no reasonable alternatives to the issuance of the lease that are consistent with the Federal Coal Leasing Amendments Act of 1975, the antitrust laws and the public interest.

(d) If the Attorney General does not give a written reply to the notification in paragraph (a) of this section within 30 days, the Secretary may issue a lease without waiting for the advice of the Attorney General.

§ 3525.8 Award of leases.

(a) *Pre-sale evaluation.* Before the lease sale, the U.S. Geological Survey, considering public comments on fair market value and available geotechnical, engineering and economic data, shall make a coal resource economic evaluation of each tract to be sold and shall submit it to the authorized officer.

(b) *Notification of award.* Bids will be received only until the hour on the date specified in the notice of competitive leasing. All bids submitted after the hour will be rejected. The authorized officer will read all sealed bids. If the procedure calls for sealed bids followed by oral bids the oral bidding will begin at the level of the highest sealed bid received. After the oral bidding has ceased, the highest bid will be announced. The high bidder will be required to comply with 43 CFR § 3521.2–4 and 43 CFR § 3521.4–2. No decision to accept or reject any bid will be made at this time. The sale will be adjourned and the sale panel will convene to determine if the bid adequately reflects fair market value considering, among other factors, comments on fair market value. The recommendations of the panel will be sent to the authorized officer who, after the Department complies with § 3525.8 of this subpart, will make the final decision to accept a bid or reject all bids, as soon as possible after the sale date. The successful bidder will be notified in writing. The Department reserves the right to reject any and all bids but will not accept any bids which are less than the fair market value of the tract. The Department also reserves the right to offer a lease to the second high bidder if the successful bidder fails to execute the lease.

(c) *Intertract competition.* The use of bidding competition between tracts (intertract bidding) is hereby authorized when and if the Bureau of Land Management and the U.S. Geological Survey determine it is needed in the public interest. The authorization to utilize intertract competition does not preclude the use of any other form of competitive bidding procedure.

(d) *Compliance with notice of competitive lease offer.* (1) *Action by successful bidder.* Four copies of the lease will be sent to the successful bidder, who will be required not later than the 15th day after receipt thereof, or the 30th day after the date of the sale, whichever is later, to execute them, pay the balance of the bonus bid or the first payment of the deferred bonus payment on the first year's rental, and file a bond as required by Subpart 3504.

(2) *Death of bidder.* If the bidder dies before the lease is issued, there must be compliance with § 3502.8 of this chapter.

(e) *Deferred Bonus Payment Policy.* All competitive coal lease sales shall be held on a deferred bonus payment basis. In a deferred bonus payment the lessee shall pay the bonus payment in five (5) equal installments: The first installment shall be made as required by § 3525.8(d)(1). The balance shall be paid in equal annual installments due and payable on the first four anniversary dates of the lease. If a lease is relinquished or otherwise terminated, the unpaid remainder of the bid shall be immediately payable to the United States.

§ 3525.9 Documentation.

(a) *Preparation of documents.* Except as may be otherwise expressly set forth in this subpart, decisions and determinations of any appropriate authorized officer acting pursuant to this subpart with respect to issuance of leases, shall be in writing, shall set forth with reasonable specificity the facts and the rationale upon which such decisions or determinations are based, and shall be available for public inspection during normal business hours at the offices of such officer.

(b) *Availability of documents.* Except for documents which are subject to withholding under the Freedom of Information Act, any application for a lease, together with the proposed terms, conditions, and special stipulations and any preliminary data submitted under this subpart shall be available for public inspection in the appropriate BLM office. To allow for such public inspection, a notice of the availability of any such documents shall be prepared by the appropriate officer of the BLM and promptly posted at his office and mailed to the surface owner, if other than the United States, to appropriate Federal and State agencies, and to the clerk or other appropriate officer in the county in which the proposed operation is located for posting or publication in accordance with the procedures of that office. No final action with respect to such documents shall be taken for a period of 30 days after such posting and mailing. A copy of such notice shall be published by the applicant in a local newspaper of general circulation in the locality of the proposed operation at least once a week for four consecutive weeks.

(c) *Transcript of hearings.* Where a hearing under this subpart has been held on the record, a complete transcript, of the hearing, including any written comments submitted for the record, shall be kept and maintained available to the public during normal business hours at the appropriate Federal office under whose auspices such meeting is conducted, and shall be furnished at cost to any interested party.

GUY R. MARTIN,
Assistant Secretary of the Interior.

MAY 9, 1977.

[FR Doc.77-13899 Filed 5-13-77;8:45 am]

federal register

TUESDAY, MAY 17, 1977

PART V



ENVIRONMENTAL PROTECTION AGENCY

■

AQUACULTURE PROJECTS

Requirements for Approval of Discharges

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 415-2]

SUBCHAPTER D—WATER PROGRAMS

PART 115—AQUACULTURE PROJECTS

Requirements for Approval of Discharges

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Section 318(a) of the Federal Water Pollution Control Act (Pub. L. 92-500) authorizes the Administrator to permit, after public hearings, the discharge of pollutants to navigable waters associated with an approved aquaculture project under Federal or State supervision. The regulations provide the mechanism by which discharge of pollutants to navigable waters from an aquaculture project and a point source can be permitted. The regulations provide a means for beneficially utilizing nutrient and other specified pollutants for the growth, maintenance, or propagation of aquatic organisms. Crops which can be grown include both plant and animal species which can be used for human food directly or when processed used as an animal fodder.

DATE: The regulations shall be effective June 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-0100.

SUPPLEMENTARY INFORMATION: On June 13, 1974, Notice was published in the FEDERAL REGISTER (39 FR 20770) that the Environmental Protection Agency (EPA or Agency) was proposing regulations to permit the discharge of pollutants (as defined in the Federal Water Pollution Control Act, Pub. L. 92-500, section 502) to navigable waters in association with approved aquaculture projects, and the procedures for approval of the aquaculture projects. A complete description of the regulations was given in the June 13, 1974, Notice.

Only those aquaculture projects, as defined herein, conducted in navigable waters and receiving a discharge from a point source (as defined in section 502 of the Act) are to be permitted under section 318 permits. Aquaculture activities not covered by these regulations are those facilities operated in ponds, silos, and other structures not within navigable waters, and those facilities operated in navigable waters not receiving a discharge of a pollutant.

EPA received numerous comments on the proposed regulations and procedures which can be grouped as follows. The Agency responses to the comments, including modifications of the proposed regulations, are also set forth below.

1. A general concern was that the application fee of $1,000 as proposed was too high especially in light of the application fee for the National Pollutant Discharge Elimination System (NPDES) permit fee of $100 and the size of most aquaculture operations.

The Agency agrees and accordingly has set the fee for a section 318 permit application at $100.

2. There was general confusion regarding the applicability of a section 318 permit and what operations would be covered under an aquaculture permit.

It may be helpful to clarify the relationship between this program and the NPDES program provided for under section 402 of the Act. The NPDES program is administered either by the Federal government pursuant to the regulations contained in Part 125 of this subchapter or by States pursuant to the requirement of Part 124 of this subchapter. This program is not, in contrast to the program under section 402, one which may be administered by the States; all aquaculture permits are to be issued by the Federal Government.

In many instances both the NPDES permit and the aquaculture permit under this part will be required. For example, a discharger of heat in Maine to a lobster cultivation project will require a permit under this program for the discharge of heat to the project area during the winter months and will also require an NPDES permit during the summer period if the discharge is returned directly into navigable waters rather than to the project area. Also, many projects will currently have NPDES permits. In addition to applying for permits under this program the supplier of the pollutant may have to request modification or termination of his NPDES permit or give notification to the State or EPA Regional Office of the proposed changes to the discharge as required in §§ 124.45(a) and 125.22(a)(1) of this title. Failure to comply with the requirements of an aquaculture permit constitutes a violation of section 301 of the Act, and subjects the violator or violators to enforcement procedures set forth in section 309 of the Act.

New wording has been included in § 115.2(d) outlining which types of projects are subject to these regulations.

3. The adequacy of the public hearing procedures in the regulations was questioned. Some commenters felt that a public hearing is mandatory when issuing a section 318 permit and that such hearing must be held as an adjudicatory-type hearing.

The regulations, as proposed, require that a public hearing be held if an individual alleges that there will be an adverse impact resulting from the proposed project. No changes have been made in this section. Further, since the permit issuance action is not required by the statute to be "on the record," no adjudicatory hearing is required by the Administrative Procedures Act (5 U.S.C. 551 *et seq.*).

4. Since the permit program under section 318 will be Federally operated, certain commenters expressed a concern that State sovereignty will be contravened when designating siting of aquaculture projects. At issue is State designation of the water uses.

While section 401 is not applicable to discharges into the approved project, these (State certification) regulations provide that the State certifying agency, under section 401, will be asked to certify that additions of pollutants to navigable waters outside of the project area will not exceed permissible levels established under sections 301, 302, 306, and 307 of the Act that would be applicable if the designated project area were itself a point source.

5. Monitoring requirements imposed upon the aquaculture operator and pollutant supplier were alleged to be too stringent.

Monitoring requirements in the regulations are essentially identical for both the NPDES program and the section 318 permit system and, like NPDES monitoring, will be adapted to meet individual requirements.

6. The requirements for joint application and permitting procedures in the regulations were considered to be too cumbersome and would discourage aquaculture development.

Aquaculture projects using pollutants within navigable waters will be unique since discharges in excess of those permitted pursuant to effluent limitations are to be allowed within the project area. Therefore, in order to define, monitor, and control both the pollutants added to the project and those migrating or being discharged from the project area, it is necessary that both the supplier of pollutants and the aquaculture operator must apply for a joint permit and each be responsible for their discharges to navigable waters. As discussed in §§ 115.10(f) and 115.12, effluent limitations apply to both the discharges to the aquaculture area and to those pollutants discharged or migrating from the aquaculture area.

No Inflationary Impact Statement is required by Executive Order 11821 for these proposed regulations since the economic effects will not exceed the criteria established by EPA and approved by the Office of Management and Budget for the preparation of such statements.

In consideration of the foregoing, 40 CFR, Chapter 1, Subchapter D is hereby amended to add a new Part 115, "Requirements for Approval of Discharges to Aquaculture Projects," and is to read as set forth below.

The regulations shall be effective June 16, 1977.

Dated: April 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart A—General

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115.1 Definitions.
115.2 Purpose and scope.
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115.4 Delegation of authority.

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Subpart C—Criteria, Terms and Conditions of Permits

115.10 Criteria for issuance of permits.
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Subpart D—Notice and Public Participation

115.14 Formulation of tentative determinations and draft permits.
115.15 Public notice.
115.16 Public hearings.
115.17 Public access to information.

AUTHORITY: Secs. 318, 501, Federal Water Pollution Control Act, as amended (33 U.S.C. 1328, 1361); Pub.L. 92-500.

Subpart A—General

§ 115.1 Definitions.

(a) All terms used in this part but not defined herein shall have the meaning given them in section 502 of the Act.

(b) The term "Act" means the Federal Water Pollution Control Act, as amended; 33 U.S.C. 1251, et seq.

(c) The term "discharge of pollutants associated with an aquaculture project" means the addition or discharge of specific pollutants in a controlled manner from a point source to an aquaculture project to enhance the growth or propagation of the species under culture.

(d) The term "aquaculture project" means a defined managed water area which uses discharges of pollutants into the designated project area for the maintenance, propagation and/or production of harvestable freshwater, estuarine, or marine plant or animal species.

(e) The term "designated project area" means those portions of the navigable waters within which the applicant for a permit pursuant to this part proposes to confine the cultivated species, utilizing a method or plan of operation (including, but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants permitted under this part, and suffer harvesting within a defined geographic area.

(f) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(g) The term "Regional Administrator" means one of the ten Regional Administrators of the U.S. Environmental Protection Agency.

(h) The term "applicant" means an applicant for a permit for a discharge of pollutants to an aquaculture project and the operation of the aquaculture project.

(i) The term "operator" means the person or persons operating the aquaculture project in the designated project area.

(j) The term "supplier of the pollutant" means the person or persons operating the point source from which the discharge of pollutants associated with an aquaculture project are made.

(k) The term "permit" means any permit or equivalent document or requirement issued to regulate the discharge of pollutants to an aquaculture project.

§ 115.2 Purpose and scope.

(a) The regulations in this part establish the procedures and guidelines for approval of an aquaculture project and for approval of any discharge of pollutants associated with an aquaculture project.

(b) The regulations are intended to authorize, on a selective basis, controlled discharges which would otherwise be unlawful under the Act in order to determine, in a carefully supervised manner, the existing and potential feasibility of utilizing pollutants to grow aquatic organisms which can be harvested and used beneficially, and to encourage such projects, while at the same time protecting other beneficial uses of the waters.

(c) The regulations in this part do not apply to those aquaculture facilities such as fish hatcheries, fish farms and similar projects which do not utilize discharges of wastes from a separate industrial or municipal point source for the maintenance, propagation and/or production of harvestable freshmater, marine or estuarine organisms. Such projects are regulated under Title IV of the Act.

(d) The regulations pertain only to those projects which are located in navigable waters and into which there is a discharge of pollutants as defined in section 502 of the Act.

§ 115.3 Approval of discharges to aquaculture projects.

(a) The Regional Administrator shall grant a permit authorizing a discharge if he determines that:

(1) Such discharge is associated with an aquaculture project, and

(2) The discharge and the aquaculture project meet the requirements of the Act and of this part.

(b) The granting of a permit for a discharge pursuant to this part will mean that the aquaculture project with which the discharge is associated is an approved aquaculture project within the meaning of section 318(a) of the Act.

(c) All discharges of pollutants or combinations of pollutants from all point sources into the navigable waters, the waters of the contiguous zone or the ocean are unlawful and subject to the penalties provided by the Act, unless the discharger:

(1) Has a permit issued pursuant to this part, part 125 of this chapter, or by a State which has an approved National Pollutant Discharge Elimination System program pursuant to part 124 of this chapter, or

(2) Is specifically relieved by law or regulation from the obligation of obtaining a permit.

§ 115.4 Delegation of authority.

(a) The authority to issue and condition permits, to deny applications for permits, or to revoke permits for discharges pursuant to this part and section 318 of the Act is hereby delegated to each of the Regional Administrators for the area which he administers.

(b) The delegation of authority at 40 CFR 125.5 as relating to section 308 (a) and (b) of the Act shall be applicable to this Part.

Subpart B—Processing of Permits

§ 115.5 General provisions.

(a) The decision whether to issue a permit authorizing a discharge or what conditions should be placed on any such permit shall be based upon an evaluation of how such discharge will meet applicable requirements under the Act and this part.

(b) The expected impact of a proposed discharge or the present impact of an existing discharge, in connection with an aquaculture project on the quality and uses of the receiving body of water, also shall be considered. The objections of any State or interstate agency whose waters may be affected by the discharge shall be duly considered when making any permit decision, whereas pursuant to § 115.9 of this subpart State certification of discharges from the designated project area is provided for.

§ 115.6 Application for a permit.

(a) An application for a permit shall be prepared in accordance with the application form prescribed therefor by the Administrator as in effect on the date of filing of the application.

(b) An applicant for a permit may secure the required application forms from the Regional Administrator. The original and six copies of the application forms must be filed with the Regional Administrator of the EPA Region which includes the State in which the aquaculture project is operating or will operate.

(c) An application submitted by a corporation must be signed by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the application form originates, or the aquaculture project. In the case of a partnership or a sole proprietorship, the application must be signed by a general partner or the proprietor, respectively. In the case of a municipality, State, Federal or other public entity, the application must be signed by either a principal executive officer, ranking elected official, or other duly authorized employee.

(d) Application for a permit or renewal of a permit shall be accompanied by a payment of $100.00 to cover the cost of processing the application and project surveillance.

(1) Checks and money orders shall be payable to the Environmental Protection Agency.

(2) Agencies or instrumentalities of Federal, State or local governments will not be required to pay the fee provided for in this paragraph.

(e) The application for approval of a discharge to an aquaculture project shall be made jointly by both the supplier of

the pollutant and by the operator. The supplier and the operator may be one person. Any permit issued shall be issued jointly.

(f) Applications for discharges to aquaculture projects presently in existence shall be made within 180 days after the date of promulgation of these regulations.

(g) Any person who plans to begin a discharge to an aquaculture project or plans to establish an aquaculture project shall apply for a permit no later than 180 days in advance of the date on which the discharge or the project is to be commenced unless permission for a later application date has been granted by the Regional Administrator.

(h) In addition to the information expressly required to be included in the application, there shall be added any other information the applicant believes necessary to provide a complete description of the project.

(i) Information required need be given only insofar as it is known or reasonably available. In the even any required information is omitted, the applicant shall provide the information that it does have or could reasonably obtain and an explanation of the efforts made to obtain such information.

(j) An application for a permit shall include, at a minimum, the identification of the kind and quantity of pollutants to be used in the aquaculture project.

§ 115.7 Access to facilities and further information during evaluation of the application.

Permit application forms are designed to fit the normal situation for most aquaculture projects in the United States. In many cases, however, further information and site visits may be necessary in order to evaluate the project completely and accurately. When the Regional Administrator determines that either further information or a site visit is necessary in order for the Environmental Protection Agency to evaluate the aquaculture project, he shall so notify the applicant setting forth a date, which is no later than 60 days from the date of notification by which arrangements must be made for receipt of the requested information and/or scheduling of the site visit. In the event that a satisfactory response is not received, the permit may be denied and the applicant so notified.

§ 115.8 Distribution of application and permit.

(a) When an application for a permit is received, the Regional Administrator shall determine if the applicant has provided all of the information required by the application form and by this part.

(b) In order to ensure that the Secretary of the Army, acting through the Chief of Engineers, has adequate time to evaluate the impact of the proposed discharge on anchorage and navigation, the Regional Administrator will forward to the District Engineer in the appropriate district one copy of the application form immediately upon its receipt in the Regional Office in completed form. Accompanying the application will be notice that the District Engineer has a stated number of days to evaluate the impact of granting such permit upon anchorage and navigation and to advise the Regional Administrator of his evaluation. District Engineers of the Corps of Engineers will normally be given thirty days for such evaluation. Where the Regional Administrator finds that less time should be allowed, he shall so advise the District Engineer of such lesser period of time and specify his reasons. Failure of the District Engineer to answer within the allotted period of time will be deemed to be a statement that the District Engineer does not choose to comment on the application. Where the District Engineer advises the Regional Administrator that anchorage and navigation of any of the navigable waters would be substantially impaired by the granting of a permit, such permit will be denied and the applicant shall be so notified. Where the District Engineer advises the Regional Administrator that the imposition of specified conditions upon the permit is necessary to avoid any substantial impairment of any of the navigable waters, the Regional Administrator shall include in the permit the conditions so specified by the District Engineer. Where the District Engineer notifies the Regional Administrator that additional time is needed for his evaluation, such additional time shall be granted where the Regional Administrator determines that the public interest warrants the extension of time to comment.

(c) Complete copies of all applications for discharge of pollutants in association with an aquaculture project filed with the Environmental Protection Agency subsequent to final promulgation of these regulations shall be furnished to the Department of Interior, Department of Commerce, Department of Health, Education, and Welfare, and the Food and Drug Administration for comment, provided that these agencies may waive their right to receive any such applications. The Regional Administrator shall meet with appropriate officials of the Department of Interior and Department of Commerce, Department of Health, Education and Welfare, and the Food and Drug Administration in order to reach agreement as to which existing application forms those agencies are to receive. When an application is transmitted to these agencies, the Regional Administrator shall notify the agencies that they have a stated number of days in which to evaluate the impact of granting such permit upon the fish, shellfish, wildlife resources or food resources of the State in which the discharge will occur, and to advise the Regional Administrator of such evaluations. The normal period of time for such evaluation will be 60 days. Failure of such agencies to advise the Regional Administrator of their evaluation within the allotted period of time will be deemed to be a statement that the agencies do not choose to comment on the application. Where the agencies advise the Regional Administrator that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, wildlife resources or food resources, the Regional Administrator may include in the permit the conditions specified by the agencies. Where such agencies request additional time for evaluation, such additional time will be granted where the Regional Administrator determines that the public interest warrants the extension of time to comment.

(d) Upon receipt of an application from a Federal agency or instrumentality, the Regional Administrator shall make one copy of the application form available to the State water pollution control agency for the State in which the aquaculture project will operate. The State may comment on whether a permit for such aquaculture project shall be granted or if any conditions should be applied to any permit that might be issued. The State shall indicate conditions it believes are necessary in order that the aquaculture project will comply with sections 301, 302, 306 and 307 of the Act. Such comments shall be received within thirty days from receipt of the application form unless the Regional Administrator allows additional time.

(e) The Regional Administrator shall assist applicants for permits in coordinating the requirements of the Act and this part with those of appropriate public health agencies.

(f) If a permit is issued, a copy of the permit and, if not previously transmitted, a copy of the application form shall be transmitted to the State in which the discharge is located. Copies of these documents shall be available for inspection and reproduction by the public in the appropriate Regional Office of the Environmental Protection Agency.

§ 115.9 State certification.

(a) No permit shall be granted until a State certification has been obtained, or has been waived, that discharges from the designated project area would meet the requirements of sections 301, 302, 306 and 307 as if the designated project area were a point source. Pursuant to State certification required by this subsection a statement indicating that the project will be in compliance with State regulations on wildlife and on the introduction or management of wildlife or other biological material is required. A waiver occurs when the certifying agency fails or refuses to act on a request for certification within a reasonable period of time (which shall not exceed one year) after receipt of such request. Three months shall generally be considered to be a reasonable period of time. If, however, special circumstances require that action on a permit application be taken within a more limited period of time, the Regional Administrator may specify a lesser period of time which he determines to be reasonable. He shall then advise the certifying agency of the need for action by a particular date, and that if certification is not received by the

date established, it will be considered that the requirement for certification has been waived. Similarly, if it appears that circumstances may reasonably require a period of time longer than three months, the Regional Administrator may afford the certifying agency up to one year to provide the required certification before determining that a waiver has occurred. Where such extension of time is made at the request of the certifying agency, the request must be in writing and must include the reasons for the request.

(b) Upon receipt of an application which does not include a State certification, the Regional Administrator will make available one copy of the application form to the State water pollution control agency for the State in which the aquaculture project operates or will operate. The Regional Administrator shall advise the State agency that the State must:

(1) Certify that the aquaculture project will comply with the applicable provisions of sections 301, 302, 306, and 307; or

(2) Certify that there are no applicable limitations under sections 301, 302, 306 and 307; or

(3) Deny such certification; or

(4) Waive its right to certify.

The Regional Administrator shall specify a reasonable period of time within which such certification or denial must be received or a waiver will be deemed to have occurred.

Subpart C—Criteria, Terms and Conditions of Permits

§ 115.10 Criteria for issuance of permits.

(a) No permit shall be issued unless:

(1) The Regional Administrator determines that the aquaculture project:

(i) Is intended by the project operator to produce a crop which has commercial value or will be used as food or otherwise in the development of a harvestable crop in the designated project area having commercial value (or is intended to be operated for research into possible production of such a crop); and

(ii) Does not occupy a designated project area which is larger than can be economically operated for the crop under cultivation;

(2) The applicant has demonstrated, to the satisfaction of the Regional Administrator, that the use of the pollutant to be discharged to the acquaculture project will result in an increased harvest of the organisms under culture over what would naturally occur in the area;

(3) The applicant has demonstrated to the satisfaction of the Regional Administrator that, if the species to be cultivated in the aquaculture project is not indigenous to the immediate geographical area, there will be minimal deleterious effects on the flora and fauna which are indigenous to the area, that the total commercial value of the introduced species is at least equal to that of the displaced or affected indigenous species (or is intended to research into possible production of such a crop), and that there is minimal probability that the introduced species will serve as a carrier or vector of disease to man or to indigenous flora or fauna;

(4) The Regional Administrator determines that the crop will not have a significant potential for human health hazards resulting from its consumption;

(5) The Regional Administrator determines that migration of pollutants from the designated project area to water outside of the aquaculture project will not violate water quality standards or violate effluent limitations applicable to the supplier of the pollutant established pursuant to sections 301, 302, 306, and 307 of the Act as if the aquaculture project were itself a point source. The approval of an aquaculture project shall not result in the enlargement of a pre-existing mixing zone area beyond that which had been designated by the State for the original discharge.

(b) No permit shall be issued for any aquaculture project in conflict with a plan or an amendment to a plan approved pursuant to section 208(b) of the Act.

(c) No permit shall be issued for any aquaculture project located in the territorial sea, the waters of the contiguous zone, or the oceans, except in conformity with guidelines issued under section 403(c) of the Act.

(d) Designated project areas shall in no event include a portion of a body of water such that a substantial portion of the biota indigenous thereto will be exposed to the conditions obtained within the designated project area. For example, the designated project area shall not include the entire width of a watercourse, since all organisms indigenous to that watercourse might be subjected to discharges of pollutants that would, except for the provisions of section 318 of the Act, violate section 301 of the Act.

(e) Any modifications caused by the construction or creation of a reef, barrier or containment structure shall not unduly alter the tidal regimen of an estuary or interfere with migrations of unconfined aquatic species.

(f) Any pollutants not required by or beneficial to the aquaculture crop shall not exceed effluent limitations established for such pollutants pursuant to the Act when entering the designated project area.

§ 115.11 Terms and conditions of permits.

Pursuant to § 125.22 of this chapter, the Regional Administrator shall ensure that the terms and conditions of the permit are identical to those which would be placed in a permit issued pursuant to section 402 of the Act; and, in addition, the Regional Administrator shall ensure that the terms and conditions provide for and ensure:

(a) The right of the Regional Administrator or his designee to sample, and inspect, at reasonable times, the crop being grown in the designated project area;

(b) Permits are subject to periodic review and if the project is not in compliance with these regulations, the permit may be suspended. Permits will not be issued for a period of more than five years, which may be renewed;

(c) The issuance of a permit to discharge pollutants in association with an aquaculture project shall not relieve the permittee from any public or private liability associated with the aquaculture project.

§ 115.12 Effluent limitations in permits.

In the application of effluent standards and limitations, water quality standards, and other applicable requirements, the Regional Administrator shall specify for each permit the average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weights and concentrations, or in the case of pH, temperature, radiation, and any other pollutants not appropriately expressed by weight, by an appropriate unit of measure based upon usual scientific practice. The effluent limitations proposed by the Regional Administrator shall apply to both the discharger of pollutants to the project and to the discharge of pollutants from the aquaculture area.

§ 115.13 Monitoring, recording, and reporting.

Any permit shall be subject to such monitoring requirements as may be reasonably required by the Regional Administrator, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). Such monitoring, recording and reporting requirements shall be the same as those that would be required pursuant to § 125.27 b (2), and (3); and, (c), (d), and (e) of this chapter for permits issued pursuant to section 402 of the Act.

Subpart D—Notice and Public Participation

§ 115.14 Formulation of tentative determinations and draft permits.

(a) The Regional Administrator shall formulate and prepare tentative determinations with respect to a permit in advance of public notice of the proposed issuance or denial of the permit. Such tentative determinations shall include at least the following:

(1) A proposed determination to issue or deny a permit for the discharge to and from the aquaculture project described in the application; and,

(2) If the determination proposed in paragraph (a)(1) of this section is to issue the permit, the following additional tentative determinations should be included:

(i) Proposed effluent limitations for those pollutants to be utilized.

(ii) A brief description of any other proposed special conditions which will have a significant impact upon the discharge from the aquaculture project described in the application, and

(iii) Proposed effluent limitations on all other pollutants to be discharged from the point source.

(b) The Regional Administrator shall organize the tentative determinations prepared pursuant to paragraph (a) of this section into a draft permit.

§ 115.15 Public notice.

Public notice of every complete application for a permit shall be circulated in a manner designated to inform interested and potentially interested persons of the aquaculture project and of the proposed determination to issue or to deny a permit, or the intention to hold a hearing on the matter. Procedures for the circulation of public notice shall include at least the following:

(1) Notice shall be circulated within the geographical area of the proposed aquaculture project. Such circulation shall include at least one of the following:

(i) Posting in the post office and public places of the municipality nearest the premises of the applicant in which the aquaculture project is located; or

(ii) Posting near the entrance to the applicant's premises; or

(iii) Publishing in local newspapers and periodicals, or if appropriate, in a daily newspaper of general circulation; except that public notice of hearings shall be published in at least one newspaper of general circulation within the geographical area of the discharge in all cases.

(2) Notice shall be mailed to the applicant and to any person or group upon request.

(3) The Regional Administrator shall place the name of any persons or group upon request on a mailing list to receive copies of notices for all applications within the State or within a certain geographical area.

(4) The Regional Administrator shall notify Federal and State fish, shellfish, and wildlife resource agencies and other appropriate government agencies of each completed application for a permit and of hearings and shall provide such agencies an opportunity to submit their written views and recommendations on each completed application.

(b)(1) Where notice is given of an application for a permit, the Regional Administrator shall provide a period of not less than thirty days following the date of the public notice during which interested persons may submit their written views concerning the tentative determinations or may request that a hearing be held. All written comments submitted during the thirty-day comment period shall be retained by the Regional Administrator and considered in the formulation of his final determinations with respect to the application. Extensions of time for the receipt of comments following the end of the comment period may be granted by the Regional Administrator when the public interest warrants.

(2) Where notice is given of a hearing, the Regional Administrator shall provide a period of not less than thirty days following the date of the public notice during which interested persons may prepare themselves for the hearing.

(c) The contents of public notice of an application shall include at least the following:

(1) The name, address, and telephone number of the Regional Office issuing the public notice;

(2) The name and address of each applicant;

(3) A brief description of each applicant's activities or operations which utilize the discharge described in the application including a statement of whether the application will result in a violation of water quality standard outside of the project area;

(4) The name of the waterway in which the aquaculture project is to be constructed;

(5) A brief description of the procedures to be followed in the formulation of final determinations, including thirty-day comment period required by paragraph (b) of this section and any other means by which interested persons may influence or comment upon those determinations;

(6) A statement of the tentative determination made pursuant to § 115.14 of this part; and

(7) A comparison of the discharges to be permitted and those limitations which would otherwise apply.

(d) The contents of public notices of any hearing shall include at least the following:

(1) The name, address, and telephone number of the Regional Office holding the hearing;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) The name of the waterway and a short description of the location where the aquaculture project is or will be located;

(4) A brief reference to the public notice issued for each application, including the Standard Industrial Code (SIC) number of the discharge source, if applicable, and the date of the public notice of the application;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) The address and telephone number of premises at which interested persons may obtain further information, request a copy of each draft permit prepared pursuant to section 115.14 of this part, and inspect and copy forms and related documents; and

(8) Where applicable, a statement that confidential information deemed confidential under 5 U.S.C. 552(b)(4) or 33 U.S.C. 1318 has been received may be used to determine some of the conditions for the permit.

(e) The Regional Administrator, at his discretion, may include in any notice of application for a permit under paragraph (c) of this section a notice of hearing in accordance with paragraph (d) of this section, whether or not any request for such hearing shall have been submitted to him.

(f) If individual States, in connection with applications for certification required by § 115.9 of this part, wish to enter into agreement for joint Federal-State public notice concerning permits, the Regional Administrator may, after consulting with the headquarters of the Environmental Protection Agency, approve mutually satisfactory agreements consistent with this section.

§ 115.16 Public hearings.

(a) Any applicable affected person may, within thirty days of compliance by the Regional Administrator with the provisions of § 115.15, object to the issuance of the permit described in the public notice, and may request a public hearing.

(b) Within 10 days of receipt of any request for a public hearing under paragraph (a) of this section by any person who alleges facts which, if true, would be relevant to the decision to grant or deny the permit, the Regional Administrator shall call a public hearing, to be held as near as practicable to the location of the proposed aquaculture project. Notice of any such hearing shall be given under § 115.15 and shall be given not less than 10 working days prior to the time scheduled for the hearing. The Regional Administrator may convene a public hearing in any other case in which he determines there is substantial public interest in, or opposition to, the proposed permit, including any case in which his tentative determination is to deny the permit.

(c) Hearings convened pursuant to paragraph (b) of this section shall be conducted before a presiding officer to be designated by the Regional Administrator. The presiding officer shall have the authority to limit the introduction of irrelevant or repetitious evidence, and to limit cross-examination. Following the conclusion of the hearing, the presiding officer shall, within 15 working days, submit written findings and recommendations as to whether the tentative determination of the Regional Administrator should be adhered to, or modified in any respect.

§ 115.17 Public access to information.

Certifications issued pursuant to § 115.9, the comments of all governmental agencies on a permit application, and all information and data provided by an applicant or permittee identifying the nature of the aquaculture project shall be available to the public in accordance with the requirements of section 308(b) of the Act.

[FR Doc.77-14012 Filed 5-16-77;8:45 am]

federal register

TUESDAY, MAY 17, 1977

PART VI

COMMODITY FUTURES TRADING COMMISSION

■

REPORTS—GENERAL PROVISIONS

Adoption of Amendments to the Reporting Requirements

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 15—REPORTS—GENERAL PROVISIONS

Adoption of Amendments to the Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("the Commission") has found that the growth in trading volume and open interest in certain markets has resulted in the filing of an ever increasing number of reports that are not necessary to the Commission's market surveillance program.

The Commission has therefore adopted amendments to its reporting regulations under the Commodity Exchange Act, as amended ("Act"), to raise the position levels in certain commodities at which series '03 reports must be filed by traders and series '01 reports must be filed by futures commission merchants ("FCM's") and foreign brokers.

The intended effect of this action is to alleviate an unnecessary reporting burden on the public and to reduce the amount of paperwork processed by the Commission.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Lamont L. Reese, Office of the Chief Economist, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, 202–254–7406.

SUPPLEMENTARY INFORMATION: Reporting levels are set in various commodities to ensure that the Commission receives adequate information to carry out its market surveillance programs, which include detection and prevention of market congestion and price manipulation and enforcement of Commission and exchange imposed speculative limits on trading and net positions.[1] Generally, the reporting levels refer to the number of open positions in a commodity futures contract on any one contract market owned or controlled by a trader that require the trader and the FCM or foreign broker of which he is a customer to file reports with the Commission. The FCM or foreign broker identifies the trader on a Form 102 and reports on the series '01 reports all positions carried for the trader that equal or exceed the reporting level in any community. The trader, if his position is equal to or in excess of the reporting level, is required to report on a series '03 report all positions he owns or controls as well as trades and deliveries in the subject commodity.

Upon review of the information it currently collects, the Commission has found that the growth in trading volume and open interest in certain markets has resulted in the filing of an ever increasing number of reports that are not necessary to the Commission's market surveillance program. Accordingly, the Commission has determined that reporting levels should be raised for the following commodities: in wheat, corn and soybeans, from 200,000 bushels to 500,000 bushels; in silver bullion, from 50 contracts to 100 contracts; in soybean oil, soybean meal, cattle, hogs, sugar, copper, gold and silver coins, from 25 contracts to 50 contracts;[2] reporting levels in all other commodities are not changed. In selecting the new levels, the Commission has considered its current information requirements for surveillance purposes and its anticipated requirements if the series '03 reports are eliminated as the Commission has proposed.[3] Reporting levels at which merchandisers, processors, and dealers in certain commodities must file series '04 reports are unaffected by these amendments. Regulation 15.03(b), as amended, 41 FR 4811 (November 2, 1976).

In consideration of the foregoing, the Commission, pursuant to its authority under sections 4g(1), 4i, and 8a(5) of the Act, 7 U.S.C. 6g(1), 6i and 12a(5) (Supp. V, 1975), hereby amends Part 15 of the Code of Federal Regulations as follows:

§ 15.03 Quantities fixed for reporting.

(a) The quantities fixed for the purpose of reports filed under Parts 17, 18 and § 19.02 of this Chapter are as follows:

Commodity:	
Wheat (bushel)	500,000
Corn (bushel)	500,000
Soybeans (bushel)	500,000
Oats (bushel)	200,000
Rye (bushel)	200,000
Barley (bushel)	200,000
Flaxseed (bushel)	200,000
Soybean oil (contract)	50
Soybean meal (contract)	50
Live cattle (contract)	50
Hogs (contract)	50
Sugar (contract)	50
Copper (contract)	50
Gold (contract)	50
Silver coins (contract)	50
Silver bullion (contract)	100
Cotton (bales)	5,000
All other commodities (contracts)	25

. . . . .

The foregoing amendment is adopted effective June 1, 1977. The Commission finds that the foregoing action relieves a burden heretofore imposed and, therefore, that the notice and other public procedures called for by 5 U.S.C. 553 are not required.

Issued in Washington, D.C., on May 12, 1977.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77–14024 Filed 5–16–77;8:45 am]

[1] The following commodities are those for which Commission speculative limits are in effect: wheat, grains (including oats, barley and flaxseed), corn, soybeans, rye, eggs, cotton, and potatoes. 17 CFR Part 150 (1976), as amended, 41 FR 35060 (August 19, 1976).

[2] Soybean oil, soybean meal, cattle, hogs, sugar, copper, gold and silver coins were, prior to this amendment, included in the "all other commodities" category in § 15.03(a).

[3] See 41 FR 3050 (July 23, 1976).

Just Released

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(Revised as of January 1, 1977)

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federal register

WEDNESDAY, MAY 18, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for July are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Dean Smith, 202–523–5282.

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Executive Order 11985 • **May 13, 1977**

United States Foreign Intelligence Activities

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to reflect certain organizational changes for the control and direction of intelligence activities, it is hereby ordered as follows:

SECTION 1. The Table of Contents of Executive Order No. 11905 of February 18, 1976, is amended by deleting "Committee on Foreign Intelligence" and "Operations Advisory Group" and substituting therefor "NSC Policy Review Committee" and "NSC Special Coordination Committee" respectively.

SEC. 2. Section 2(d) of Executive Order No. 11905 is amended by deleting "Committee on Foreign Intelligence" and substituting therefor "NSC Policy Review Committee".

SEC. 3. Section 3(a) of Executive Order No. 11905 is amended by adding thereto the following new paragraph:

"(4) The National Security Council Policy Review Committee and the National Security Council Special Coordination Committee assist the National Security Council in the performance of its functions. Membership on each committee includes, in addition to the National Security Council, such members as the President may direct. In addition to the performance of policy development and coordination responsibilities which may be assigned by the President, these committees are responsible for those duties specified by this Order.".

SEC. 4. Section 3(b) of Executive Order No. 11905 is amended as follows:

(a) In the title, delete *"Committee on Foreign Intelligence"* and substitute therefor *"NSC Policy Review Committee"*.

(b) Delete paragraph (1) and substitute the following new paragraph:

"(1) Whenever the NSC Policy Review Committee, hereinafter referred to as the PRC, performs the functions assigned in this Order, the PRC shall be chaired by the Director of Central Intelligence, hereinafter referred to as the DCI, and include as members the Deputy Secretary of Defense, the Deputy Assistant to the President for National Security Affairs, and a senior representative of the Secretary of State.".

(c) In paragraphs (2) through (5), delete "CFI" wherever it occurs and substitute therefor "PRC".

(d) Insert in paragraph (3) immediately after the word "supported" the words "in its functions under this Order".

(e) Insert in paragraph (4) immediately after the last word the words "under this Order".

(f) Insert in paragraph (5) immediately before the word "may" the words "under this Order".

SEC. 5. Section 3(c) of Executive Order No. 11905 is amended as follows:

(a) In the title, delete *"The Operations Advisory Group"* and substitute therefor *"NSC Special Coordination Committee"*.

(b) Delete paragraph (1) and substitute therefor the following new paragraph:

"(1) Whenever the NSC Special Coordination Committee, hereinafter referred to as the SCC, meets to perform the functions assigned in this Order, the SCC shall be chaired by the Assistant to the President for National Security Affairs and include the Secretary of State, Secretary of Defense, Director of Central Intelligence and Chairman of the Joint Chiefs of Staff, as members, and the Attorney General and Director of the Office of Management and Budget, as observers.".

(c) In paragraphs (2) through (4), delete "Operations Group" wherever it occurs and substitute therefor "SCC".

SEC. 6. Section 6 of Executive Order No. 11905 is amended as follows:

(a) In paragraph (1) of subsection (a), delete "The members of the Oversight Board may also serve on the President's Foreign Intelligence Advisory Board (Executive Order No. 11460 of March 20, 1969).".

(b) Delete subsection (f).

SEC. 7. Section 8(a) of Executive Order No. 11905 is amended by deleting the words "Committee on Foreign Intelligence" and substituting therefor "PRC".

Jimmy Carter

THE WHITE HOUSE,
May 13, 1977.

[FR Doc.77-14283 Filed 5-16-77;3:53 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg Z; FC–0060, FC–0061, FC–0062, FC–0063, FC–0064, and FC–0065]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitation stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

[FC–0060]

§ 226.4(c) and § 226.401—Immediate termination of service is not required as a sine qua non for preserving the characterization of a charge as being one for late payment.

APRIL 4, 1977.

This is in response to your letter of • • •, wherein you requested an official staff interpretation of § 226.4(c) of Regulation Z. Your client retails residential fuel oil, and some of his customers are on account with payment due upon receipt of the invoice. Of those customers, there are a few who are slow to pay their bills, and your client wishes to impose a late charge in order to insure prompt payment. Your client does not want the imposition of a late charge to be construed as a finance charge under § 226.4 of the regulation.

In your letter, and in subsequent telephone conversations with staff, you express concern that a literal reading of Board Interpretation of § 226.401 would require your client in all cases to terminate service to customers who are intermittently delinquent in paying their bills. Since your client provides fuel oil for home heating, he views such a requirement as particularly harsh in its effect.

Public Information Letters 797 and 838 discuss application of § 226.4(c) to situations where there is a credit plan already in effect. There staff advised that if a creditor continues to assess late payment charges without treating an account as being delinquent and the customer as being in default on an obligation, then that creditor is imposing a finance and not a late payment charge.

Because the distinction between "late payment" and "finance" charge depends upon the unique interplay of facts in each individual case, staff cannot provide an exhaustive list of factual criteria. Two generalized statements, however, can be made. A charge assessed for late payment is distinguishable from a finance charge in that it is imposed for an actual and unanticipated event; and the ultimate evidence of the nature of a charge imposed is an objective viewing of the course of conduct between your client and each of his customers.

Insofar as the particular requirements of Interpretation § 226.401 are concerned, staff is of the opinion that the interpretation does not require termination of your client's service to his intermittently delinquent customers as a sine qua non to meeting the test set forth in § 226.4(c). On the other hand, continued imposition of late charges on a delinquent account, without taking positive action to collect the account, including eventual termination of additional credit privileges, would result in viewing such late charges as finance charges.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts outlined herein. We trust that it will be of assistance to you.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0061]

§ 226.6(a)—The term "finance charge" must be more conspicuous only if it is required to be used, but it is permissible to make it more conspicuous whenever it appears.

APRIL 4, 1977.

This is in reply to your letter of • • •, requesting two official staff interpretations of Regulation Z. Staff can issue an official interpretation only on the first question you raised since its views on the second question are not such as might be relied upon by a creditor. An unofficial staff interpretation will be issued on your second question and sent to you separately.

Your question concerns the requirement in § 226.6(a) that the term "finance charge" be printed more conspicuously than other required terminology. You point out that the words "finance charge" are frequently used in several different parts of a disclosure statement, e.g., when stating the amount of the total finance charge, in describing the components of the finance charge, in the phrase "prepaid finance charge," and in stating the date on which the finance charge begins to accrue. You ask whether Regulation Z requires that the words "finance charge" be printed more conspicuously whenever they appear anywhere on the disclosure statement.

It is staff's opinion that this is not necessary. Section 226.6(a) states that the term "finance charge" must appear more conspicuously than other required terminology only when that specific term is required to be used by the regulation. Consequently, the "more conspicuous" requirement does not apply whenever the words "finance charge" are used, but only where this term is required to be used. On the other hand, it is staff's position that it is permissible to make the words "finance charge" more conspicuous whenever they appear in a disclosure statement if the creditor so desires.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts as presented herein. It appears that your client may be a creditor subject to the law of the State of Connecticut and not the Federal law. Since that State has been granted an exemption under the relevant portion of the Truth in Lending Act you may wish to contact the office of the State Banking Commissioner for their views.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0062]

§ 226.4(a) and § 226.7(b)—Creditor may exclude checking account service charge in computing finance charge on customer's overdraft credit line unless specified minimum balance is so small that service charge is imposed primarily on credit customers.

APRIL 11, 1977.

This is in response to your letter of • • •, in which you request an official staff interpretation of Regulation Z, Truth in Lending, regarding treatment of a checking account service charge for purposes of §§ 226.4(a)(2) and 226.7(b)(1)(iv).

Your client, a bank, currently imposes a service charge on a checking account if the customer's balance falls below a specified minimum ($100 at present) at any time during the monthly cycle. This service charge consists of a flat maintenance charge component plus a charge for each item handled during that cycle.

The bank proposes to offer customers a credit line or cash reserve feature in the nature of an overdraft account in connection with their checking accounts. Under this plan, an extension of credit to the customer's overdraft account will be triggered when the customer overdraws the account. (The fi-

nance charge to be imposed with respect to the credit line will be appropriately disclosed and is not the subject of your inquiry.)

You explain that a transaction which overdraws an account, and thereby activates the overdraft feature, will be subject to the checking account service charge, since in an overdraft situation the customer's account will be under the specified $100 minimum balance. Such a transaction, however, may or may not be the one that caused the account to drop below the specified minimum.

The illustrations you give indicate that, in any event, imposition and computation of the checking account service charge will be on the same basis whether or not an account has the cash reserve feature, and whether or not that feature is utilized.

Sections 226.4(a)(2) and 226.7(b)(1)(iv) of the regulation require that service charges be included in the finance charge to the extent that they exceed any charges the customer is required to pay when a checking account is not being used to extend credit. It is the staff's opinion that, on the facts described, the checking account service charge is not a finance charge and that the bank may properly exclude it in calculating the finance charge on the overdraft account pursuant to footnote 2 under § 226.4(a)(2) and footnote 9 under § 226.7(b)(1)(iv). In our view, the fact that a particular transaction that activates the credit line is subject to a checking account service charge and that it may have caused the account to fall below the specified minimum balance is irrelevant for the purpose of determining whether the charge is part of the finance charge.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) of the regulation. It is limited in its application to the facts outlined above, and, in this connection, staff would caution that if, in a situation such as you describe, the specified minimum balance is so small as to result in the imposition of a checking account service charge primarily on credit customers who utilize the overdraft feature, such a charge could be considered a finance charge. Under such circumstances, failure to disclose it as such could be considered an attempt to circumvent or evade the requirements of the Act and Regulation Z.

I note that your client is a creditor subject to the laws of the State of Connecticut and not the Federal law. Since that State has been granted an exemption under the relevant portion of the Truth in Lending Act, I suggest that you contact the office of Mr. Lawrence Connell, Jr., Bank Commissioner of the State of Connecticut, for his views.

I trust this letter is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0063]

§ 226.7(b)—Cumulative daily posting of amounts of transactions and payments on an overdraft checking plan is permissible. No reference to a particular check or portion of a check causing the extension of credit or payment need be made.

APRIL 14, 1977.

This is in reply to your letter of * * *, in which you requested staff's opinion with respect to certain disclosure requirements under Regulation Z in connection with an ovedraft checking plan offered by your client.

The plan involves the use of a combined checking and overdraft account statement. A running balance is kept on a cumulative basis and shown for each date that it changes in a column labeled "Balance." If a customer's checking account is overdrawn, the balance will be shown in conjunction with the designation "OD." If the account is not overdrawn, then the balance will not have that designation following it, which will indicate that the balance in the account is the customer's own funds rather than funds which were generated by an extension of credit. Other columns on the face of the statement show (1) the "Date," (2) "Deposits," and (3) "Checks and Credit Transactions." Any checks written on the account are first attributed to drawing down any of the customer's own funds which may currently be in the account. If such funds are insufficient, the transactions will be debited to the account in a fashion so that the "Balance" column will reflect an overdraft credit balance. Conversely, any deposits to the customer's account are credited first as payment of any overdraft balance in the "Balance" column. Any amount of any deposit in excess of the amount of the overdraft balance is treated as a normal deposit to the checking account.

Each check drawn on the account is reflected by its posting date and amount. Whenever one or more checks are posted to the account on any given day and the cumulative total of the check(s) results in the account being overdrawn or in an increase of a previous overdraft balance, the statement reflects the total credit extended that day by a separate designation of the amount of the increase in the overdraft balance labeled as a "credit advance." This is done on a cumulative daily basis rather than by attempting to attribute any particular portion of the credit advance to any portion of any individual instrument which is entered on that day. Likewise, any portion of a deposit which pays an overdraft balance, in part or in whole, is separately itemized as to amount and labeled as a "payment" without reference to the instrument by which the deposit is made.

For example, if on day 1 the "Balance" column shows a $50 overdraft and on day 2 the customer, without writing any other checks on the account, deposits $150 in the account, the entire deposit will be shown as $150. In addition, a separate itemization of a $50 "payment" would be shown without reference to the instrument by which the deposit is made, and the balance column would reflect the fact that the account now contains $100 of the customer's own funds. If, on the other hand, the balance in the account on day 1 were to be shown as $100 and on day 2 checks for $75, $50, and $25 were entered in the account, each of those checks would be itemized and a separate listing of a $50 "credit advance" would be shown along with an adjustment in the balance column to reflect a $50 overdraft. However, no attempt is made to apportion the credit advance to any particular one of the three checks or to any particular portion of all three checks.

You ask whether this method of disclosing payments and credit transactions on a daily cumulative basis, rather than by reference to the particular instruments entered on any particular day, is sufficient for purposes of § 226.7(b)(1)(iii) and § 226.7(k)(3)(ii). You are concerned that our earlier Public Information Letter 1091 infers that those sections require that the credit advances and payments be referenced to a particular check or instrument.

In staff's view, Public Information Letter 1091 was not intended to mean that reflecting payments and credit transactions for overdraft checking accounts, such as the one described in your letter, by reference to a particular document or instrument is the only way of complying with § 226.7(b)(1)(iii) and § 226.7(k)(3)(ii). That letter only reflected the provisions of Regulation Z requiring that payments and transactions on an open end credit account be itemized and identified with respect to their amounts. In staff's view, the system that you propose, which contemplates a cumulative debiting of credit advances and crediting of payments on a daily basis, when, in conjunction with the date, the amount of the payment or extension of credit is separately stated and labeled as a "payment" or "credit advance," is sufficient for compliance with these sections.

It should be noted, however, that this opinion should not be read to indicate staff's approval or disapproval of such a system of disclosing and identifying transactions and payments for any type of open end credit system other than the overdraft plan discussed herein.

This is an official staff interpretation issued under § 226.1(d)(3) of Regulation Z and limited in its application to the facts outlined herein. We trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0064]

§ 226.9(a) and § 226.902—Although a customer in a credit transaction that is secured by property in a decedent's estate may later inherit real property from the estate and use it as a principal residence, the right of rescission is inapplicable because, for purposes of § 226.9, that customer does not own the property when the transaction is consummated.

APRIL 14, 1977.

This will respond to your letter of * * *, in which you request an official staff interpretation of § 226.9 of Regulation Z. You ask whether the rescission provisions of § 226.9 apply when a customer, who may have an interest in a decedent's estate and expect to use real property in the estate as a primary residence, contracts for funeral services for a deceased. You explain that under the law of your State the estate property, including the real property, is subject to a claim for funeral expenses that may be perfected by a judgment lien without a due process hearing.

Section 226.9 of Regulation Z requires the delivery of the notice of opportunity to rescind: * * * in the case of any credit transaction in which a security interest is or will be retained in any real property which is used or is expected to be used as the principal residence of the customer * * *

In order to be entitled to exercise the right to rescind a person must be both an owner of the property and a party to the transaction (see Interpretation § 226.902 of Regulation Z). Accordingly, if the property to be used as a primary residence is held by the estate, the customer is not entitled to rescind the transaction under § 226.9 since the property is not owned by the customer when the transaction is consummated.

On the other hand, if the property has passed to the customer without having passed through the estate (e.g., by right of survivorship), we assume no lien attaches since the property is not part of the decedent's estate. The right of rescission is therefore not applicable to this situation.

A third possible situation arises when the property was co-owned with the deceased, so that part of the property is owned by the customer and part is in the estate when the transaction is consummated. Under these circumstances we assume the lien attaches only to the interest in the property formerly held by the deceased. The customer is not entitled to rescind this transaction under § 226.9 as the lien does not apply to the customer's interest in the property.

This is an official staff interpretation of Regulation Z, issued in accordance with

§ 226.1(d)(3) of the regulation and limited in its application to the facts set forth herein. I trust it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0065]

§ 226.7(f)—Change of name of credit card and addition of check guarantee feature to card do not constitute changes in terms which would require giving of notice under § 226.7(f) to current cardholders or to applicant who applies for card with one name and no check guarantee but is issued card with another name with check guarantee.

Terms referred to in § 226.7(f) are those terms required to be disclosed in open end credit accounts pursuant to § 226.7(a).

§ 226.13(a)—Issuance of a credit card bearing one name and having a check guarantee feature in response to an application for a credit card bearing another name and having no check guarantee feature does not constitute issuance of an unsolicited credit card in violation of § 226.13(a)(1).

APRIL 14, 1977.

This is in response to your letter of * * *, requesting an official staff interpretation of Regulation Z. Your questions concern the application of § 226.7 (a) and (f) and § 226.13 (a) to a course of action which [the Bank] proposes to follow with regard to the issuance of credit cards with a check guarantee feature.

Your letter indicates that the Bank proposes to issue to all of its cardholders a new card under [a new] name [ ] in substitution for their existing [cards]. The new [ ] card will have all of the features of the old [card]. Additionally, it is proposed that the [new] card will have a check guarantee feature not available on the [old card]. The new [ ] cards will contain a logo [ ] which will indicate the check guarantee feature. The check guarantee program would permit a merchant who honors the [check guarantee] feature of the card to have any check presented by a [new] cardholder guaranteed by communicating with the Bank and obtaining an authorization number. The bank would ascertain whether the customer was a current cardholder in good standing. No verification as to the amount of funds in the customer's checking, savings or other account would be made. In the event that the check was later returned to the merchant unpaid, the merchant would be permitted to return the check to the Bank, and the Bank would pay it and debit the amount of the check to the customer's credit card account. The debit would appear as a cash advance on the customer's credit card periodic statement, and the usual finance charge would be applied.

In addition to issuing the new [ ] cards with the check guarantee feature to the Bank's present [ ] cardholders, you propose to issue [new] cards with the [ ] check guarantee feature to all qualified individuals who apply for a credit card. Although your are supplying your [old card] merchants with [new card] application forms and instructing them to destroy the old [ ] applications, you believe that the Bank will continue to receive [the old card] applications for a period of time. You indicate that the [old card] applications contain the required Truth in Lending disclosures on the [old card] Agreement printed on a tear-off panel at the bottom of the application. You further state that this portion of the application is being changed to reflect the [new] name and the addition of the [ ] check guarantee feature. Of course, these changes do not appear on the old [ ] applications.

You first ask whether changes in the cardholder agreement reflecting the [ ] name change and addition of the check guarantee feature constitute a "change in terms" so as to trigger the 15-day notice requirement of § 226.7(f) with respect to the Bank's current [card] customers. It is staff's position that the "terms" referred to in § 226.7(f) are those terms required to be disclosed in open end credit accounts pursuant to § 226.7(a). Since neither the name under which a credit card is issued nor the addition of the check guarantee feature of the [new] card, as you describe it, are disclosures required by § 226.7(a), neither a change in the name of your card nor the addition of the check guarantee feature to the card necessitate the change in terms disclosure specified by § 226.7(f).

Secondly, you ask whether the disclosure of a change in terms required by § 226.7(f) must be sent to individuals who apply for a new credit card using an obsolete [ ] application which makes no mention of the [new] name or the [ ] check guarantee feature of the [new] card. Inasmuch as neither the change of name of your credit card from [the old name] to [new name] nor the addition of the check guarantee feature to the card constitutes a change in terms within the meaning of § 226.7(f), no disclosure of these factors to new credit card applicants is necessary under § 226.7(f). However, you suggest that you could mail a revised credit card agreement detailing these features at the time the [new] card is sent to the new cardholder. While such a procedure is not required by the regulation when disclosure of all relevant terms is made with the application, staff believes that it would be beneficial for a new customer who has inadvertently submitted [an old card] application to receive an explanation of why a [new] card is being issued to him or her and a description of the check guarantee feature of the [new] card.

Your final question is whether the issuance of a [new] card with the [ ] check guarantee feature to persons who submit obsolete [ ] applications containing no mention of the check guarantee capacity of the card constitutes an unsolicited issuance of a credit card in violation of § 226.13(a)(1). In Official Staff Interpretation FC–0012, staff took the position that the issuance of a new [ ] card with the [ ] check guarantee feature to current [ ] cardholders in substitution for their [old cards] which do not have the check guarantee capacity would not constitute an unsolicited issuance of a credit card as prohibited by § 226.13(a)(2). Similarly, staff is of the opinion that the issuance of a [new] card with the check guarantee feature, in response to an application for an [old card], which makes no mention of a check guarantee feature, does not constitute the issuance of an unsolicited credit card in violation of § 226.13(a)(1). The fact that the card actually issued has an additional feature not available on the card for which the customer applied does not render the card an unsolicited credit card. Of course, § 226.7 (a) requires that, before the first transaction is made on the new account, the Bank must provide the cardholder with a disclosure of all the terms applicable to any credit plan which that feature may access.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts as stated herein. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–14092 Filed 5–17–77;8:45 am]

[Reg Z; FC–0066, FC–0067, FC–0068, FC–0069, FC–0070, and FC–0071]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

[FC–0066]

§ 226.6(c) and § 226.15(b)—Separate schedule of depreciation values for leased vehicle is not required to be disclosed, but may be disclosed as additional information.

§ 226.6(f) and § 226.15(b)(15)—Disclosure of wholesale value as estimated value of vehicle in both purchase option and nonpurchase option leases is permissible; disclosure of lower value is permissible only in purchase option leases, unless lower value complies with § 226.6(f) requirements.

§ 226.15(b)(15)—Lessor must make disclosures required by § 226.15(b)(15)(i) only for "basic term" of lease; "minimum term" disclosures would be those for early termination. Excess mileage charge should not be included in excess liability calculations subject to rebuttable presumptions under § 226.15(b)(15)(ii).

§ 226.15(c)—Lease consummated before March 23, 1977, and extended after that date for more than 6 months on a month-to-month basis or otherwise becomes subject to lease disclosure requirements.

APRIL 15, 1977.

This is in response to your letter of * * *, in which you posed seven questions with respect to the amendments to Regulation Z implementing the Consumer Leasing Act of 1976. While your questions deal with a number of issues, they are all concerned with the open end vehicle leasing program engaged in by your client.

It is the staff's opinion that an official staff interpretation is an appropriate response to only some of your questions. An official interpretation under § 226.1(d) of Regulation Z would be inappropriate for the remaining questions and they will be dealt with in an unofficial staff interpretation which will be sent to you separately. This letter will respond to the following five questions. For convenience, each question will be stated and followed by the staff's response.

1. Will dislosure statements be required after March 23, 1977, for extensions of existing leases not now subject to the Act?

Section 226.15(c) states, "If any existing lease is renegotiated or extended, such renegotiation or extension shall be considered a new lease subject to the disclosure requirements of this Part." It is the staff's opinion that if a lease consummated before March 23, 1977, is extended after the end of the original term for more than six months on a month-to-month basis or otherwise, it would become a "consumer lease" for which disclosures would have to be made. As an extension of more than six months on a month-to-month basis or otherwise requires new disclosures under § 226.15 (c) (2), it is the staff's opinion that a lease which is extended in this manner must be treated as a new lease subject to the disclosure requirements of Regulation Z.

While the disclosures with respect to the lessee's end-term liability may be somewhat more difficult to make in an open end automobile lease where the calculations of the lessee's liability at the end of the original term were made prior to the imposition of the limitations on that liability contained in Section 183(a) of the Act, it is the staff's opinion that such calculations can and should be provided to the lessee in the situation where the lease has become subject to the regulation's requirements.

2. Does § 226.6(f), which permits lessors to underestimate the value of the leased property at the end of the lease term in purchase option leases, permit lessors to use the "wholesale blue book price (or a lower value)" in estimating the value of the leased property at the end of the term?

It is the staff's opinion that the lessor may disclose the wholesale value of the vehicle as the estimated value in both purchase option and non-purchase option leases. There is no requirement in the Act or Regulation Z that the estimated residual value assigned to the vehicle be a retail value. Staff believes that an estimate of the value of the property at the end of the lease term which is based upon the wholesale blue book figure would be reasonable and based upon the best information available to the lessor, as required by § 226.6(f), if the lessor intends to assign a wholesale value to the vehicle at the end of the term.

Use of a lower value than that indicated by the best information available to the lessor, whether blue book or otherwise, as suggested in your letter, would be impermissible in non-purchase option leases, except where the lessor could demonstrate that use of the lower value was based on objective experience in the used motor vehicle market.

3. Should a charge assessed by the lessor at the end of the lease term on mileage driven in excess of a stated number of miles be included in the calculation of the excess liability subject to the rebuttable presumptions of unreasonableness and bad faith under Section 183(a) of the Act and § 226.15(b)(15)(ii) of Regulation Z?

It is the staff's opinion that a charge for excess mileage should not be included in the calculation of excess liability subject to those rebuttable presumptions. Such excess mileage charges may be disclosed by the lessor in conjunction with a standard for determining excessive wear or use of the leased vehicle and could affect the determination of lessee's liability for excessive use and, to some extent, the realized value of the vehicle. However, such charges should not be considered as a portion of the liability of the lessee which is based on the difference between the estimated and realized values.

4. Must your client make the disclosures required by § 226.15(b)(15)(i) not only for the "basic term" but also for the "minimum term" of the lease?

Your client's present open end lease agreement specifies the "basic term" of the lease contemplated by the parties at the inception of the lease, usually a term of 24 or 36 months. The agreement also provides that the lessee may terminate the lease prior to the expiration of the basic term at any time after a "minimum term" of 12 months. The same method is used for determining the lessee's liability upon early termination (after expiration of the "minimum term") or at the end of the lease (the "basic term"). You inquire whether your client must make disclosures for each such lease as though there were two leases, one for the "basic term" and one for the "minimum term," i.e., must the lessor disclose the total lease obligation, the estimated value of the vehicle at the end of the lease term, and the difference between them, for both the "basic term" and "minimum term."

It is the staff's opinion that the lessor is required to disclose those terms listed above, as required by § 226.15(b)(15)(i), only for the "basic term," as this is the lease term contemplated by the parties and the term upon which the calculations of depreciation of the vehicle's value are based. There are required disclosures concerning the lessee's liability and rights at early termination, which would be used in making the disclosures concerning the "minimum term," but they do not involve making the disclosures required by § 226.15(b)(15)(i).

5. May your client continue its present practice of incorporating by reference into the lease contract a separate schedule of depreciation values (usually in the form of a computer printout) which sets forth on a monthly basis the estimated value of the vehicle from the inception of the lease through the end of the maximum holdover term, or must your client include the schedule in the disclosure statement required by Regulation Z?

It is the staff's opinion that such a separate schedule of residual values need not be made part of the required disclosures. Regulation Z does not require disclosure of the estimated residual value of the vehicle at every point during the lease term, although the actual and estimated values of the vehicle must be disclosed at consummation and at the end of the term, respectively, in accordance with § 226.15(b)(15)(i). The schedule of residual values may be disclosed as additional information pursuant to § 226.6(c).

As indicated above, we believe that your remaining questions are inappropriate for an official staff interpretation. Therefore, they will be dealt with in a separate letter to you which does not have official status.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d) of the regulation and limited to the facts stated herein.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0067]

§ 226.15(c)—A lease extended month-to-month for more than 6 months requires new disclosures; disclosures should be made for a month-to-month lease. New disclosures are required at 6-month intervals thereafter.

APRIL 15, 1977.

This is in response to your letter of * * *, in which you raised several questions concerning the Consumer Leasing Act and the amendments to Regulation Z which implement it. Staff believes that two of your questions would be appropriately answered by an official staff interpretation of Regulation Z, while the responses to your other questions would be more appropriately addressed in an unofficial staff interpretation. Therefore, this letter, an official interpretation, will respond only to your questions on renegotiations and extensions.

You inquire what disclosures must be made for a lease which, after the expiration of the initial term, has been extended on a month-to-month basis for six months. Although § 226.15(c) states that an existing lease which is renegotiated or extended shall be considered a new lease, § 226.15(c)(2) states that a lease which is extended for not more than six months, on a month-to-month basis or otherwise, shall not be considered a new lease subject to the disclosure requirements of Regulation Z. Thus, although an existing lease which is extended for not more than six months on a month-to-month basis does not require new disclosures, a lease which is extended for more than six months on a month-to-month basis becomes subject to disclosure requirements. You inquire what lease term should be used in determining the disclosures at the time new disclosures are required.

It is the staff's opinion that disclosures made for a month-to-month extension of a consumer lease should be based on the fact that it is a month-to-month lease. As noted in your letter, the total length of the lease extension cannot be determined at that point and, consequently, the required disclosures cannot be made with any certainty for any period of time longer than one month. Obviously, some of the disclosures would be inapplicable to such a lease disclosure.

Your second question is, "If the lease extends beyond the seventh month on the same month-to-month basis will disclosures then be required again, at the beginning of the eight month, or only at every six month interval during the extension of this month-to-month lease?" It is the staff's opinion that a lease which has been extended after six months on a continuing month-to-month basis (and for which disclosures have been made at the commencement of the seventh month) would not require new disclosures at the beginning of every month thereafter. Staff believes that new disclosures would only be required at the end of the next six-month interval and any additional six-month interval thereafter during which the lease continues in effect. It would be an unnecessary burden on both lessees and lessors to require that new disclosures be given every month after the first six-month extension of a lease beyond its original term.

This is an official staff interpretation issued in accordance with § 226.1(d)(3) of Regulation Z and is limited solely to the facts stated herein. Your other questions will be dealt with in a separated unofficial staff interpretation. I trust this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0068]

§ 226.13(a)—Where bank intends to issue a new credit card under a new name in substitution for an existing credit card, the requirement that the existing card be taken out of circulation or voided in some manner can be satisfied by mailing the new card together with a notification that the existing card is no longer valid and should be destroyed immediately

APRIL 19, 1977.

This is in response to your letter of * * *, requesting an official staff interpretation of § 226.13(a) of Regulation Z concerning the issuance of credit cards in substitution for previously issued credit cards.

You indicate in your letter that banks within the United States intend to issue new credit cards under [a] new name [ ] in substitution for the existing [cards]. A new application will not be obtained, but accompanying the new credit card will be a notification explaining the conversion from [the old card] to [the new card] and advising the cardholder that his or her existing [card] is no longer valid and should be destroyed immediately.

You state that staff indicated in official staff interpretation FC–0012 that the issuance by a bank of a [new] card incorporating a check guarantee feature would not prevent the [new] card from being considered a card issued in substitution for an accepted credit card in accordance with § 226.13(a)(2) of Regulation Z. You question the meaning of the following statement which appeared in FC–0012:

"We should point out, however, that this position is based on the assumption that the [credit card] which is currently held by your bank's customers will be taken out of circulation or voided in some manner."

You state that some banks have construed this statement as requiring either the expiration of the existing [card] or the actual return of the outstanding card to the bank as a condition precedent to the issuance of a substitute [new] card without a new application.

You ask whether such a construction was intended by the staff, or whether mailing the [new] cards together with a notification advising that the existing [cards] are no longer valid and should be destroyed immediately can be considered the issuance of a card in substitution for an accepted credit card.

Staff's statement in FC–0012 that the outstanding [cards] "be taken out of circulation or voided in some manner" does not necessarily contemplate requiring either expiration of the [the old card] prior to issuance of the [new] card or the actual return to the bank of the outstanding [card]. Staff agrees with your suggestion that the requirement that existing [cards] be taken out of circulation or voided in some manner can be satisfied by mailing the [new] cards together with a notification advising that the existing [cards] are no longer valid and should be destroyed immediately.

This is an official staff interpretation issued in accordance with § 226.1(d)(3) of Regulation Z and is limited solely to the facts and issues presented herein. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0069]

§ 226.8(j)—When the only change in the terms of an existing extension of credit is a reduction in APR accompanied by a reduction in the periodic payment or shortening of the maturity of the obligation necessary to reflect the lower rate, no new disclosures are required.

APRIL 19, 1977.

This is in response to your letter of * * *, in which you request an official staff interpretation of Regulation Z with regard to § 226.8(j) of the regulation and Official Board Interpretation § 226.817.

You ask whether a mortgage lender who has given a borrower proper Truth in Lending disclosures at the inception of a loan is required to give new disclosures if, during the life of the loan, the lender elects to reduce the annual percentage rate. You point out that a reduction in the annual percentage rate will necessarily result in either a reduction of the periodic payments to be made by the borrower or a shortening of the original maturity of the loan. You inquire whether the reduction of the annual percentage rate of a mortgage loan with the concomitant lowering of the periodic payment or shortening of the maturity of the loan constitutes a refinancing under § 226.8 (j) and thereby necessitates giving new disclosures under the Truth in Lending Act and Regulation Z.

As your letter points out, Board Interpretation § 226.817 provides, "When no other credit terms are changed, a reduction in the annual percentage rate applicable to an existing extension of credit does not constitute a refinancing under § 226.8(j), and no disclosures are required." It is staff's position that, when the only change in the terms of an existing extension of credit is a reduction in the annual percentage rate accompanied by the lowering of the periodic payment or the shortening of the maturity of the obligation necessary to reflect the lower rate, Board Interpretation § 226.817 is applicable and the creditor need make no new disclosures.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited to the facts and issues discussed herein. I trust that this interpretation is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0070]

§ 226.2(m) and § 226.13(a)—Where spouse A requests the opening of a "family credit card account" or an account for which spouses A and B may be authorized users, credit cards sent to spouse A will be viewed as properly solicited; provided that only spouse A is the cardholder, regardless of the name(s) in which the cards are issued, and that no primary contractual liability on the credit card account is imposed upon spouse B merely by issuing a card at the request of spouse A.

Spouse A may request a credit card in the name of spouse B only if, under State agency law, spouse A is empowered to make such a request where spouse B will, through spouse A's request, become a cardholder. (Distinguish 642 and 700.)

Spouse A as cardholder can authorize the issuance of a credit card to spouse B as an authorized user in either spouse's name, even in the absence of a request from Spouse B.

A card issuer may renew properly issued credit card either in the name of a cardholder or in the name of an authorized user. A card issuer may also substitute a user's name on a renewal card where cardholder's name appeared on the previously issued card. The mere issuance of such renewal cards will not render the authorized user(s) contractually liable on the account. (Supersedes 1136 and part of 1129.)

APRIL 21, 1977.

This is in response to your request for an official staff interpretation of § 226.13 of Regulation Z regarding the solicitation of credit cards and the mailing of renewal cards. As reflected in your letters of * * *, and in your oral representations to staff on * * *, you first request the staff to verify that: Spouse A may request the opening of a "family account" or an account for which spouses A and B may be authorized users; and, in response thereto the credit card issuer may issue credit cards in the name(s) of either or both spouse(s) and that such credit cards will not be deemed to be unsolicited within the meaning of Regulation Z.

Staff is of the view that credit cards sent to spouse A in response to such a request will be viewed as properly solicited; provided that only the requesting spouse (spouse A) is the cardholder, as contemplated by § 226.2(m), regardless of the name(s) in which the cards are issued, and that no primary contractual liability on the credit card account is imposed upon the other spouse (spouse B) merely by issuing a card at the request of spouse A. Staff believes that this practice is consistent with the requirements of § 226.13 of Regulation Z and sections 132 and 133 of the Truth in Lending Act, all of which contemplate that card issuers may issue cards to authorised users (who are not contractually liable on the account) at the behest of a cardholder. As evidence of this, it should be noted that § 133(a) of the Act and § 226.13(c) of Regulation Z specifically require the card issuer to provide a means of identifying each user, if the cardholder is to be held liable for unauthorized use to the $50 maximum.

Credit card issuers should be mindful, however, that Regulation B (Equal Credit Opportunity) requires that both spouses have an equal opportunity to have an individual account. So, for example, a policy of responding to a wife's request by requiring the husband to become the cardholder, regardless of the credit worthiness of the wife, would violate Regulation B. Subject to this caveat, staff believes either spouse may authorize the opening of an account for which both spouses will be users and for which the requesting spouse will be contractually liable.

This interpretation is to be distinguished from the opinions stated in Public Information Letters 642 and 700. In those letters staff took the position that spouse A may request a credit card in the name of spouse B only if, under State agency law, spouse A is empowered to make such a request. Staff maintains this position where spouse B will, through spouse A's request, become a cardholder. Where only spouse A will become the cardholder, no authorization under State agency law is necessary to permit spouse A to request a credit card in the name of spouse B as an authorized user.

Similarly, staff maintains the position stated in Public Information Letter 690 that a cardholder's request for additional "user" cards would be sufficient to authorize the issuance of such cards under § 226.13(b). Read together, Public Information Letters 642, 690 and 700 express the opinion that one spouse (spouse A) can authorize the issuance of a credit card to the other spouse (spouse B) in either spouse's name, even in the absence of a request from spouse B.

Essentially, the same rationale applies to the issue raised in your second letter dealing with renewal credit cards. Staff is of the

opinion that it is permissible for a card issuer to renew cards that have previously been properly issued, either in the name of a cardholder or in the name of an authorized card user. It is also permissible in such cases to substitute a card user's name on a renewal card where a cardholder's name appeared on the card which was previously issued. It should be noted, however, that the mere issuance of such renewal cards will not render the authorized user(s) contractually liable on the account.

In light of staff's statements in the preceding paragraph, Public Information Letter 1138 appears to have no further independent justification. Since that letter, which was intended to correct Public Information Letter 1129, contains a technical conflict with this letter in that the distinction between a cardholder and an authorized user is not clearly maintained, and since all issues addressed therein are covered by the preceding paragraph, letter 1138 and the first sentence of the third paragraph of letter 1129 are superseded. The positions articulated in this letter should be applied to letter 1129.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited solely to the facts and issues presented herein. I regret our delay in responding and trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC–0071]

§ 226.8(b)—Permissible method of disclosure when security interest is taken in a series of sales, where State law requires release of the security interest in items for which the creditor has been fully compensated.

APRIL 28, 1977.

This will respond to your letter of * * *, in which you request a formal Board interpretation of § 226.8(b)(5) of Regulation Z.

Your client engages in closed end credit sale transactions secured by the items purchased. The specific items being purchased in which a security interest is retained are described in the disclosure statement provided in connection with each transaction. All transactions between the same creditor and customer are consolidated with all previous ones, and the latest transaction retains a security interest in all items purchased in the previous transactions. You appear to have no difficulty identifying the property purchased in the latest transaction as being covered by the security interest taken in that transaction. You inquire as to what must be done to identify the property covered by the security interest, as required by § 226.8(b)(5), with respect to property purchased in earlier transactions.

Your question is asked within the context of a North Carolina law which, you indicate, requires in such situations that a security interest be released as the creditor becomes fully paid for any particular item. Because of the provisions of that law, a notice informing the customer making, for example, a third purchase that a security interest is retained in items purchased in the present transaction, as well as those purchased in the previous two, may not be accurate if the creditor has been fully paid for some of the items purchased in the previous transactions. If such were the case, the security interest, under State law, would not apply to some of the items purchased in the previous transactions.

You wish to know if under Regulation Z you may properly describe the property in which a security interest is retained without making the determination as to which items from earlier transactions have been released from the security interest pursuant to State law.

Creditors are required by § 226.8(b)(5) to identify the type of security interest retained and provide a clear identification of the property to which the security interest relates. If identification of the property on the disclosure statement is not possible due to its length, the note, other instrument evidencing the obligation, or separate disclosure statement must contain a reference to another document evidencing the security interest. A copy of this document must be furnished to the customer as promptly as practicable.

The staff is of the opinion that it is permissible to provide the customer with a description of all items in which a security interest is retained, supplemented to indicate that some items may not be subject to the security interest because of the State law requiring release of items for which the seller has been fully paid. Accordingly, your client may comply with the provisions of § 226.8(b)(5) by: (1) providing a disclosure that refers to items, directly or by contract number or other reference, in which a security interest has been retained in the latest transaction and the previous transactions which are currently outstanding, (2) limiting the application of the security interest by explaining that it does not apply to items for which the creditor has been fully paid, and (3) giving the customer, as promptly as practicable, a copy of the security agreements or other documents containing a clear identification of the items purchased under the present or previous transaction.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues outlined herein.

We hope this response has been helpful If we may be of further assistance, please do not hesitate to contact us.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–14094 Filed 5–17–77;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1021—ENVIRONMENTAL REVIEW

Interim Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Interim rule on which comment is solicited.

SUMMARY: This notice proposes and issues as interim rules procedures to be followed by the Consumer Product Safety Commission in carrying out its responsibilities under the National Environmental Policy Act (NEPA). The procedures issued here provide for identification of CPSC actions which require environmental impact statements, designate officials who will be responsible for the statements, describe the content and review process for necessary documents, and, provide for obtaining information and comment from public agencies and interested persons.

DATE: The rules will be effective, on an interim basis, immediately on May 18, 1977. Comments must be received in the Office of the Secretary of the Commission no later than July 5, 1977.

ADDRESS: Comments to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Jeanette Wiltse, General Law Division, Office of the General Counsel, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207 (202–634–7770).

SUPPLEMENTARY INFORMATION: In this notice, the Consumer Product Safety Commission (CPSC) issues, as interim rules, procedures to carry out its responsibilities under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347 as amended by Pub. L. 94–83, August 8, 1975). NEPA, implemented by Executive Order 11514 of March 5, 1970, and the Council on Environmental Quality's Guidelines of August 1, 1973, (40 CFR Part 1500) requires that all agencies of the Federal Government prepare detailed environmental impact statements on proposals for legislation and other major Federal actions significantly affecting the quality of the environment. NEPA requires that agencies include in their decisionmaking process an appropriate and careful consideration of all environmental aspects of proposed actions and their alternatives, of ways to avoid or minimize adverse effects of proposed actions, and ways to restore or enhance environmental quality.

The Consumer Product Safety Commission (CPSC) administers and enforces the Consumer Product Safety Act (15 U.S.C. 2051, et seq.), the Flammable Fabrics Act (15 U.S.C. 1191, et seq.), the Federal Hazardous Substances Act (15 U.S.C. 1261, et seq.), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471, et seq.) and the Refrigerator Safety Act (15 U.S.C. 1211, et seq.). These laws confer authority upon CPSC to investigate risks of injury associated with various consumer products, to regulate products to reduce or eliminate certain risks of injury associated with them, and to enforce the laws. In accord with the explicit requirements and criteria of the several laws, Commission action may take any of several forms including: Safety performance standards, bans on the sale of products in interstate commerce, orders requiring recall and/or correction of products, requirements for cautionary labeling of products, and requirements for safety packaging of products.

The CPSC will follow the procedures required by the regulatory statutes it administers in making findings and decisions regarding product safety regulatory actions. The environmental review procedures issued herein will be reserved for analysis and findings concerning the effects regulatory action may have upon the environment. The CPSC will base its substantive decisions regarding regulatory action on consideration of the results of environmental review in addition to the considerations required by CPSC's regulatory statutes. (See "EDF v. Mathews", 410 F. Supp. 336 (1976).)

The procedures issued here provide for identification of CPSC actions which require environmental impact statements, designate officials who will be responsible for the statements, describe the content and review process for necessary documents, and, provide for obtaining information and comment from public agencies and interested persons.

The procedures generally follow the guidelines of the Council on Environmental Quality for preparation of environmental impact statements, but represent a different approach for identifying actions likely to require environmental statements and actions likely not to require environmental statements than the Council has suggested. In 40 CFR 1500.6(c), the Council has suggested that agencies identify three categories of action: Types of actions which normally do require statements, types of actions which normally do not, and types of actions which may require statements, depending on the circumstances. These procedures adopt a different approach which is more easily tailored to CPSC actions. In this approach, CPSC actions are classified to those which are normally "major Federal actions" and those which are normally not "major Federal actions" in terms of importance and of Federal resources required. The procedures prescribe an environmental assessment report to be followed by an impact statement or a negative declaration, for any CPSC action of a type classified as "major." These documents are required for non-major actions only as circumstances dictate. It is expected that this approach will be effective in allowing both the CPSC and the public to identify actions which will require impact statements. Comments are solicited on this approach and on the identification of major and non-major actions in § 1021.5.

Federal agencies wishing comment by CPSC on their impact statements should be aware that the CPSC has special expertise in analyzing chemical and mechanical hazards and also fire hazards which derive from them. Federal agencies should send their impact statements to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (202) 634–7700.

Because this document contains rules of agency procedure or practice, the relevant provisions of the Administrative Procedure Act (APA, 5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are not applicable. In addition, even if it were to be found that these procedures of the APA apply, the agency for good cause finds that notice and public procedure and delayed effective date are unnecessary because the procedures do not affect anyone's substantive rights and it is in the public interest to have these regulations in effect as soon as possible.

In accordance with Commission policy to solicit public participation and comment whenever practicable, interested persons are invited to submit written comments on these procedures (preferably in five copies) to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207 until July 5, 1977. Late-received comments will be considered to the extent practicable. The Commission may make changes in the procedures as a result of comments received or experience with the interim procedures. After reviewing all timely comments, the Commission will publish in the FEDERAL REGISTER, a notice describing what action it will take regarding the procedures.

Accordingly, pursuant to provisions of the National Environmental Policy Act (Pub. L. 91–190, 42 U.S.C. 4321–4347, as amended by Pub. L. 94–83, August 9, 1975) and Guidelines issued by the President's Council on Environmental Quality (40 CFR Part 1500 et seq., 38 FR 20550–20562, August 1, 1975), the Consumer Product Safety Commission proposes the following new Part 1021 of Title 16, Chapter II, Subchapter A. (Until final action is taken on comments received, these procedures will serve as interim guidelines effective for CPSC actions commenced after publication of this document in the FEDERAL REGISTER.)

Subpart A—General

Sec.
1021.1 Purpose.
1021.2 Policy.
1021.3 Definitions.
1021.4 Overview of environmental review process for major CPSC actions
1021.5 CPSC actions subject to environmental review.
1021.6 Criteria for determining whether an EIS will be prepared.

Subpart B—Procedures

1021.7 Responsible official.
1021.8 Coordination of environmental review with CPSC regulatory procedures.
1021.9 Public hearing on draft EIS.
1021.10 Legislative proposals.
1021.11 Public participation—notice and comment.

Subpart C—Contents of Environmental Review Documents

1021.12 Environmental assessment report.
1021.13 Negative declaration.
1021.14 Environmental impact statement.

AUTHORITY: National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852, 42 U.S.C. 4321–4347, as amended by Pub. L. 94–83, August 9, 1975) and Guidelines issued by the President's Council on Environmental Quality (40 CFR; Part 1500 et seq. 38 FR 20550–20562, August 1, 1975).

Subpart A—General

§ 1021.1 Purpose.

This part contains Consumer Product Safety Commission procedures for review of environmental effects of proposed major Consumer Product Safety Commission actions and for preparation of environmental impact statements and related documents. These procedures supercede any other procedures that might have previously been applicable. The procedures provide for identification of effects on the environment; for assessment of their significance; for consideration of the effects, whether significant or not, at all stages of the Consumer Product Safety Commission's decisionmaking process; and for preparation of environmental impact statements for major actions significantly affecting the environment, in accord with the Council on Environmental Quality's Guidelines of August 1, 1973 (40 CFR Part 1500, et seq.). In order that the public can understand and participate in this environmental review process, these procedures include provisions for appropriate notices to the public, for public hearings, and for public availability of environmental review documents.

§ 1021.2 Policy.

It is the policy of the Consumer Product Safety Commission to weigh and consider the effects upon the environment of proposed major actions as it does product safety effects of the actions. All major actions will be designed to avoid or minimize adverse effects upon the environment wherever possible.

§ 1021.3 Definitions as used in this part.

(a) The term "Commission" means the five Commissioners of the Consumer Product Safety Commission;

(b) The term "CPSC" means the entire organization which bears the title Consumer Product Safety Commission";

(c) "Environmental assessment" is an analysis of environmental effects of a proposed major action which is undertaken concurrently with technical and economic studies of the proposed action. The analysis of environmental effects is developed and considered by CPSC during development of the proposed action, as are technical and economic studies.

(d) "Environmental assessment report" is the final, written report of the results of the environmental assessment. Together with any other pertinent information, the environmental assessment report serves as a basis for deciding whether an environmental impact statement is needed.

(e) "Draft environmental impact statement" ("draft EIS") is a comprehensive written report that identifies and analyzes the anticipated environmental impact of a proposed major CPSC action.

(f) "Final environmental impact statement" ("final EIS") is the final written report on the anticipated environmental impact of a major CPSC action. It includes and addresses substantive comments submitted by all persons who respond to publication of the draft environmental impact statement.

(g) "Negative declaration" is a written statement that gives the reasons for a determination, based on an evaluation of the environmenal assessment report and other pertinent information, that an environmetal impact statement need not be prepared.

(h) "Summary sheet" is a document, prepared in accordance with 40 CFR 1500.8(d) of the CEQ guidelines, that accompanies each draft and final environmental impact statement.

(i) "Major action" is a CPSC action of considerable importance involving substantial CPSC planning, time, resources, or expenditures.

§ 1021.4 Overview of environmental review process for major CPSC actions.

The environmental review process begins when CPSC resources are committed to development of a proposal for major CPSC action and progresses through the following steps:

(a) *Environmental assessment.* This assessment is initiated when the proposal and realistic alternatives are defined. Its purpose is to identify and describe foreseeable effects, if any, of the action and its alternatives on the environment. Sources of information for assessment include CPSC staff studies and research reports, information gathered at hearings or meetings held to obtain the views of the public on the proposed action, and other information received from members of the public and from governmental entities. The assessment culminates in a written report. This environmental assessment report generally contains analysis of the same categories of information as would an EIS, but in a much less detailed fashion. It contains sufficient information to form a basis for deciding whether effects on the environment are likely to be significant. (See §§ 1021.5 and 1021.12) The report will suggest any methods or approaches identified which would avoid or minimize adverse effects on the environment.

(b) *Decision as to significance of effects on the environment.* This decision is made by the Executive Director of the CPSC, and is based upon the results of the environment assessment as well as any other pertinent information. Considerations involved in determining significance are described in § 1021.6. If the effects may be significant, public notice (§ 1021.11) is given and preparation of a draft EIS is begun. If not, a negative declaration is prepared.

(c) *Negative Declaration.* This is a written document which gives the reasons for concluding that effects of a proposed action or its alternatives on the environment will not be significant (§ 1021.13). Together with the environmental assessment report, it should convincingly demonstrate the soundness of the conclusion. The negative declaration and environmental assessment report accompany the proposed action throughout the CPSC decisionmaking process. Public notice is given of the availability of the negative declaration and environmental assessment report (§ 1021.11).

(d) *Draft EIS.* The contents of this document are described in § 1021.14. The draft EIS pertaining to a rulemaking proposal shall be before the Commission at the time it takes the proposed action under consideration and shall be available to the public when the notice of proposed rulemaking is published or soon thereafter. The draft EIS for all proposed major actions shall normally be available at least ninety (90) days before any final action is taken. The draft EIS shall accompany the proposed action through the CPSC decisionmaking process.

(e) *Final EIS.* The contents of this document are described in § 1021.14. A final EIS shall normally be before the Commission when it considers a final action and shall be available to the public at least thirty (30) days before final action is taken.

§ 1021.5 CPSC actions subject to environmental review.

(a) The following categories of CPSC action are ordinarily major actions and have the potential of producing significant effects on the environment. An environmental review is required for any action in these categories, unless the Executive Director of the CPSC has made written findings and a determination that an individual action will not be a major action and that its impact on the environment will be negligible or nonexistent. Either an EIS, or a negative declaration together with an environmental assessment report shall be prepared for any action which requires environmental review.

(1) Recommendations or favorable reports to Congress on proposed legislation, including specific appropriations, that will substantially enlarge the scope of regulatory authority of the CPSC or authorize construction of facilities.

(2) Promulgation of rules to provide design or performance standards for products, or major revision or revocation of such standards.

(3) CPSC actions requiring the destruction or disposal of large quantities of products or components of products.

(4) Promulgation of rules banning products from interstate commerce.

(5) Construction or major renovation of CPSC facilities.

(b) The following categories of CPSC action are normally non-major actions with little or no potential for affecting the environment, therefore, an environmental review is not normally required for any action in these categories. However, should any action within these categories become a major action anticipated to affect the environment, an environmental review shall be required.

(1) Promulgation of amendments, exemptions, and revisions to an existing product design or performance standard that do not alter the principal purpose or effect of the standard.

(2) Promulgation of product certification or labeling rules.

(3) Promulgation of rules requiring poison prevention packaging of products.

(4) CPSC actions to require individual manufacturers to give notice of and/or to correct, repair, replace, or refund the purchase price of banned or hazardous products.

(5) Recommendations or favorable reports to Congress on proposed legislation to amend, delete or add procedural provisions to existing CPSC statutory authority.

(6) Decisions on petitions for rulemaking.

§ 1021.6 Criteria for determining whether an EIS will be prepared.

(a) *Determination of significance of environmental effects.* The following general considerations shall be taken into account when reviewing a proposed major CPSC action to determine the significance of its anticipated effects on the environment and deciding whether an EIS is needed:

(1) Indirect effects on the environment shall be considered as well as direct effects. For example, in the case of a CPSC action which has the direct effect of removing a chemical from consumer products, foreseeable indirect effects, associated with the use of a substitute chemical in the products or associated with disposal of stocks of the original chemical, shall be considered.

(2) Consideration shall be given to the extent to which the anticipated effects on the environment are cumulative with effects of prior or future CPSC actions, and to predictable long range effects in addition to short term effects.

(3) Special attention shall be given to the effects on natural resource use (including fuels), on air and water quality, on noise levels, on solid waste disposal, and on the range of beneficial uses of the environment (e.g., recreation).

(4) Determinations of significance shall be made on the basis of quantitative as well as qualitative factors, whenever possible. For example, it may be possible to achieve a good estimate of such items as proportionate effect on use of a natural resource, or on water quality or of dollars of cost or savings in waste treatment.

(b) *Circumstances in which an EIS is required.* An EIS shall be prepared whenever:

(1) A proposed major action may have a significant beneficial and significant adverse impact on the environment, even though on balance, the beneficial effects will outweigh the adverse effects.

(2) The significance of anticipated effects on the environment of a proposed major action is a matter of great controversy among the general public.

(3) A proposed major action may have significant effects on the environment, and the impact of such effects will be confined to one locality.

Subpart B—Procedures

§ 1021.7 Responsible official.

(a) The Executive Director of the CPSC shall have the responsibility to ensure that the Commission's policies and procedures set forth in this part are carried out. He or she shall have the following specific powers and duties:

(1) To determine whether a major CPSC action requires preparation of an EIS.

(2) To make the findings and determination required by § 1021.5(a) whenever he/she decides that an environmental review is not necessary for a CPSC action of a type described in § 1021.5(a), (1)–(5).

(3) To ensure that environmental review documents are before CPSC decisionmakers at all stages of review of proposed major actions.

(4) To make provision for soliciting public comment on the anticipated effects of proposed major actions on the environment at any stage of environmental review, whenever he or she decides that such comment will be helpful. The Executive Director shall have the power to require that provision for soliciting such comments, written or oral, be included in any announcement of a public hearing on proposed rulemaking or on the merits of a petition for rulemaking.

(5) To determine whether a special public hearing is needed on a draft EIS, in accord with § 1021.9.

(6) To call upon all resources and expertise available to CPSC to ensure that environmental review is accomplished through an interdisciplinary effort.

(7) To delegate any of his or her powers and duties, other than the determinations required by paragraphs (a) (1) and (2) of this section, to any officer or employee of the CPSC.

§ 1021.8 Coordination of environmental review with CPSC regulatory procedures.

(a) The preparation and completion of assessments and statements required by this part shall be scheduled to assure that available environmental information is before CPSC decisionmakers at all stages of development of major actions along with technical and economic information otherwise required. Environmental assessments shall be initiated as early as possible in the development of an action.

(b) Draft EIS's or negative declarations, together with environmental assessment reports shall be made available to the public for comment at the time of publication in the FEDERAL REGISTER of CPSC proposals for regulatory action which require environmental review (§ 1021.5), or promptly thereafter. In such cases, draft EIS's shall be made available to the public at least ninety (90) days, and final EIS's at least thirty (30) days, before a Commission final decision on a rule.

(c) If the Commission finds it necessary to take an immediate regulatory action to safeguard the public health and safety and time is too short to allow completion of the procedures of this part prior to the action, the Executive Director or his delegee shall consult with the Council on Environmental Quality regarding alternative arrangements for meeting the requirements of its guidelines concerning minimum periods for agency review and advance availability of environmental impact statements.

(d) Whenever the Commission solicits offers by an outside person or organization to develop a proposed consumer product safety standard in accordance with section 7 of the Consumer Product Safety Act (15 U.S.C. 2056), the Executive Director shall recommend to the Commission whether the "offeror" should perform an environmental assessment during development of the proposed standard. In making this recommendation, the Executive Director shall take into account the resources of the "offeror," including expertise and money available to it. If the Commission decides that the "offeror" should perform an assessment, the agreement between the Commission and the offeror shall so provide.

§ 1021.9 Public hearings on draft EIS.

(a) A public hearing on a draft EIS will be held whenever such a hearing can be expected to aid in clarification of complex and controversial issues, or to facilitate presentation of information helpful to the CPSC. In deciding whether to hold such a public hearing, the extent to which the public has already been involved through earlier public hearings or meetings, or through comments or information contributed during development of the action, shall be taken into account.

(b) Notice of a public hearing to be held on a draft EIS shall be given in the FEDERAL REGISTER and in the CPSC Public Calendar (see 16 CFR 1012.3(a)) at least 15 days and where possible 30 days in advance of the hearing, and no sooner than 30 days after distribution of the draft EIS.

§ 1021.10 Legislative proposals.

Draft EIS's on legislative proposals which may significantly affect the environment shall be prepared as described in Office of Management and Budget Circular No. A–19. The draft EIS shall accompany the legislative proposal or report to Congress and shall be forwarded to the Council on Environmental Quality. Comments received and CPSC's responses shall be forwarded to the appropriate congressional committees. Because legislation undergoes continuous changes in Congress beyond the control of CPSC, no final EIS need be prepared by CPSC.

§ 1021.11 Public participation notice and comment.

(a) In addition to information and comment obtained from the public through hearings, meetings, or otherwise (see §§ 1021.7(a)(4) and 1021.9), information and comment shall be solicited from and provided to the public on anticipated environmental effects of major CPSC actions as follows:

(1) Promptly after a decision is made to prepare a draft EIS, a notice of intent to prepare the draft EIS shall be published in the CPSC Public Calendar, and, if deemed appropriate, in the FEDERAL REGISTER. The notice shall state the nature of the proposed action and the environmental issues identified. The notice shall solicit information and comment by other governmental agencies and the public.

(2) As soon as practicable after a negative declaration is completed, a copy of the negative declaration together with the environmental assessment report shall be forwarded to the Office of the Secretary of the Commission to be made available to the public. Notice of availability of the above documents for public inspection at Commission headquarters shall promptly be given in the CPSC Public Calendar and, if deemed appropriate in the FEDERAL REGISTER. The notice shall state that information and comments received from the public on the documents will be considered and will accompany the documents through the CPSC decisionmaking process, but that comments will not ordinarily be answered individually.

(3)(i) Upon completion of a draft EIS, a notice of its availability for comment shall be published in the CPSC Public Calendar. Five (5) copies of the draft EIS shall be forwarded to the Council on Environmental Quality which will publish a notice of its receipt in the FEDERAL REGISTER. The length of the comment period on the draft EIS shall be stated in the notice of availability and on the cover of the draft EIS. The comment period shall be a minimum of 45 days from the date the notice of receipt is published in the FEDERAL REGISTER by the Council on Environmental Quality. It should also be stated in the notice that comments received during the comment period will be addressed in the final EIS, whereas late comments will be considered to the extent practicable, and that all comments will be appended to the final EIS.

(ii) Copies of the draft EIS shall be sent to public and private organizations known by CPSC to have special expertise with respect to the environmental effects involved, those who are known to have an interest in the action, and those who request an opportunity to comment. Also, copies shall be circulated for comment to Federal, State and local agencies with jurisdiction by law and special expertise with respect to environmental effects involved. Appendices II, III, and IV of the Council on Environmental Quality Guidelines (40 CFR Part 1500) shall be consulted for details of this procedure.

(iii) Draft EIS's shall be available to the public in the Office of the Secretary, at Commission headquarters.

(4) Upon completion of a final EIS, a notice of its availability in the Office of the Secretary, shall be published in the CPSC Public Calendar. Five (5) copies of the final EIS shall be forwarded to the Council on Environmental Quality, and one (1) copy shall be sent to each entity or person who commented on the draft EIS.

(5) A list of EIS's under preparation, and of EIS's or negative declarations and environmental assessment reports completed shall be available to the public in the Office of the Secretary, at Commission headquarters. The list shall be continuously updated. A list of EIS's under preparation and negative declarations completed shall be forwarded to the Council on Environmental Quality on a quarterly basis. The Council will

periodically publish such lists in the FEDERAL REGISTER.

(6) In addition to publication in the CPSC Public Calendar and the FEDERAL REGISTER, notices called for by this section should also be publicized through press releases or local newspapers whenever appropriate.

Subpart C—Contents of Environmental Review Documents

§ 1021.12 Environmental assessment report.

(a) An environmental assessment report shall first briefly describe the proposed action being considered and realistic alternative actions. Next, it shall identify all effects (primary and secondary, beneficial and adverse) on the environment that can be anticipated to result from the proposed and alternative actions. After each anticipated effect is identified, it shall be described as fully as can be done with available data in order to show its magnitude and significance. This examination of effects will normally go on to touch upon the same general areas of concern as an EIS (§ 1021.14); however, the focus of the report shall be upon identification and description of effects.

(b) If, during environmental assessment, any methods or approaches are discovered which would avoid or minimize anticipated adverse effects on the natural environment, these methods or alternatives shall be described in the report.

§ 1021.13 Negative declaration.

(a) A negative declaration shall cite and be attached to the environmental assessment report upon which it is based. It shall refer to anticipated effects upon the environment identified in the environmental assessment report and give the reason(s) why those effects will not be significant. The final paragraph of a negative declaration shall give the reasons why the overall impact on the natural environment is not regarded as significant.

(b) The signature of the Executive Director shall appear at the end of the negative declaration.

§ 1021.14 Environmental impact statement.

(a) The objective of an EIS shall be to give CPSC decisionmakers and the public an in-depth analysis of anticipated environmental effects of a proposed major action and alternative actions, and to show clearly where tradeoffs exist between achieving the goals of the proposed action and causing adverse effects on the natural environment. An EIS shall set out information in a manner that is comprehensible to readers without scientific expertise and in a manner that will facilitate independent evaluation by the reader.

(b) It will be necessary to include in an EIS a description of effects which are not effects on the natural environment, but rather are, for example, purely economic or safety effects. For this reason, an EIS will often include issues and facts that are thoroughly analyzed in other comprehensive CPSC documents such as hazard analyzes, economic impact analyzes, or analyzes of impact on particular age groups among consumers. In such cases, the EIS shall not duplicate the other documents, but rather shall cite and summarize from them. A list of background documents and sources of data cited in the EIS shall appear at the end of every EIS.

(c) An EIS must address the issues described in this paragraph. In addition, CPSC shall use the Council on Environmental Quality Guidelines (40 CFR 1500.8) as basic guidance for the content of EIS's. The major portion of an EIS shall be devoted to paragraph (c) (1) through (3) of this section.

(1) *Background and description of the proposed action and alternative actions.* (i) The EIS shall describe the purpose of the proposed action and briefly set forth the history of the proposal and the schedule for implementing it. If other governmental agencies are involved in the proposed action or are pursuing similar actions, the relationship of their actions to the proposed CPSC action shall be described.

(ii) The EIS shall describe all realistic alternatives to the proposed action, including the alternatives of taking no action or postponing action. The effects on product safety anticipated to result from the proposed action and from alternative actions shall be compared briefly.

(2) *Anticipated effects on the environment.* The EIS shall identify and analyze anticipated effects of the proposed action and alternative actions on the environment. All such effects, whether direct or indirect, adverse or beneficial, shall be addressed.

(3) *Adverse effects.* The EIS shall contain a section which lists the anticipated adverse effects on the environment which cannot be avoided if the proposed actions or alternative action is carried out. In the same section, anticipated adverse effects which can be avoided shall be listed and accompanied by a description of the method(s) for avoiding them.

(4) *Relationship between short term uses of the natural environment and enhancement of long-term productivity.* The EIS shall describe the extent to which achieving the immediate goals of the proposed action will result in long-term loss in use of natural resources or long-term detriment to the quality of the natural environment.

(5) *Irreversible and irretrievable commitments of resources.* The EIS shall indicate whether the proposed action or alternative actions will irreversibly commit or destroy natural resources, reduce the quality of the natural environment, or limit other uses of the natural environment.

(6) *Comments by Federal, State and local agencies and by other interested persons.* (i) Each final EIS shall respond to all substantive comments and new information received during the comment period on the draft EIS. The final EIS shall discuss in detail any major issues newly raised by the comments and give reasons for the CPSC position whenever it disagrees with any major objections raised in the comments.

(ii) All substantive comments received shall be attached to the final EIS.

(7) *Summary sheet.* A summary sheet, prepared as described in 40 CFR Part 1500, Appendix I, shall accompany each draft, and final, EIS.

Interested persons are invited to submit, on or before July 5, 1977, written comments regarding this notice. Comments received after that date will be considered to the extent practicable. Comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Comments received by the Commission may be inspected in the Office of the Secretary, at 1111 18th Street N.W., Washington, D.C., during working hours, Monday through Friday.

Dated: May 11, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-14101 Filed 5-17-77;8:45 am]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Loperamide in Schedule V

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This is a final rule issued by the Administrator of the Drug Enforcement Administration placing the drug loperamide into schedule V of the Controlled Substances Act (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801–966)).

The Notice published in the FEDERAL REGISTER proposing this rule (41 FR 31553, July 29, 1976) was initiated by the Administrator after he received a request dated January 23, 1976, from the Assistant Secretary for Health, Department of Health, Education, and Welfare, that loperamide be placed into schedule V of the Act for reasons set forth in the Assistant Secretary's letter and in the July 29, 1976 Notice, and after the Administrator's own study of the drug.

The effect of this order is to require that the manufacture, distribution, dispensing, importation and exportation of loperamide be subject to controls as provided by the Act, and by regulations of the Drug Enforcement Administration as codified in Title 21, Code of Federal Regulations, Part 1300 to End.

DATES: Effective date: June 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Chief, Regulatory Control Division, Telephone (202) 382-5676

SUPPLEMENTARY INFORMATION: A Notice was published in the FEDERAL REGISTER on Thursday, July 29, 1976 (41 FR 31553) proposing that schedule V of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812 (c)) be amended to include loperamide. All interested persons were given until August 31, 1976 to submit their comments or objections in writing regarding their proposal.

One comment was received in response to the proposal, from Janssen R & D, Inc. who stated they might in the future raise the issue of whether schedule V controls for loperamide are warranted after they review data which might then become available, but would not presently oppose control and in fact recognized the need for it regarding substances with a potential for abuse.

No further comments or objections were received, nor were there any requests for a hearing, and in view thereof, and based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Assistant Secretary in behalf of the Secretary of Health; Education, and Welfare, received pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, loperamide has a low potential for abuse relative to the drugs or other substances currently listed in schedule IV;

2. Loperamide has a currently accepted medical use in treatment in the United States;

3. Abuse of loperamide may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that § 1308.15(c) of Title 21 of the Code of Federal Regulations (CFR) be amended by adding a new paragraph (c) to read as follows:

§ 1308.15 Schedule V.

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

* * * * * * *

(c) Loperamide 9125

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Dated: May 13, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-14216 Filed 5-17-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 722-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart O—Office of Management and Finance

SUPERVISORY RESPONSIBILITY FOR THE OFFICE OF MANAGEMENT AND FINANCE

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Existing Department regulations provide that the Assistant Attorney General for Administration, who heads the Department's Office of Management and Finance, shall carry out assigned functions under the direction of the Associate Attorney General. Prior to the establishment of the position of Associate Attorney General, the Assistant Attorney General for Administration reported to the Deputy Attorney General. However, the functions of the Office of Management and Finance relate to areas of responsibility of both the Associate Attorney General and the Deputy Attorney General. To avoid overlapping of responsibility, this order places the Assistant Attorney General for Administration under the immediate supervision of the Attorney General.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530. (202-739-2041).

§§ 0.75, 0.76, and 0.77 [Amended]

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, §§ 0.75, 0.76, and 0.77 of Subpart O of Part 0 of Chapter I of Title 28, Code of Federal Regulations, are each amended by substituting the phrase "Subject to the general supervision and direction of the Attorney General" for the phrase "Subject to the general supervision of the Attorney General, and under the direction of the Associate Attorney General".

Dated: May 10, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-14203 Filed 5-17-77;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 515—CUBAN ASSETS CONTROL REGULATIONS

Transactions Incidental to Authorized Travel to Cuba

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The existing general license (§ 515.560) in the Cuban Assets Control Regulations authorizes persons who visit Cuba to pay for their transportation to, from, and in Cuba, and expenses for meals, hotels, etc. while in that country. That license is being amended (1) to permit other persons (e.g., travel agencies) to assist American travelers in making arrangements for such travel; (2) to permit charters of aircraft and ships for travel to Cuba; and (3) to facilitate the use of checks, drafts, traveler's checks and credit cards in connection with travel to Cuba.

The amendment will facilitate Cuban travel by permitting the arrangement of group charter tours to Cuba. Scheduled commercial service between the United States and Cuba is not authorized for either domestic or foreign carriers. Travel agents who arrange individual or group travel to Cuba may, among other matters, make block reservations, sell passage aboard a foreign carrier providing regularly scheduled service to Cuba from points outside the United States, charter an aircraft or vessel, transfer funds to Cuban nationals on behalf of travelers, and receive commissions from Cuban enterprises for services rendered in arranging and assisting such travel.

United States firms are authorized to process and pay checks, drafts, traveler's checks and credit card instruments (vouchers, drafts or sales receipts) in connection with Cuban travel. Foreign credit card firms owned or controlled by U.S. persons are authorized to contract with a Cuban enterprise for the extension of credit through the use of credit cards. However, a domestic credit card issuer is not authorized to contract with a Cuban enterprise for the extension of credit to any traveler for any purpose.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

George F. Hazard, Chief of Licensing, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 (202) 376-0428.

SUPPLEMENTARY INFORMATION: Since this amendment relaxes existing restrictions and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rule making, an opportunity for public participation, and a delay in effective date are inapplicable.

The primary author of this amendment is Dennis M. O'Connell.

Section 515.560 of the Cuban Assets Control Regulations is amended to read as follows:

§ 515.560 Certain transactions incident to travel to and in Cuba.

(a) The following transactions are authorized:

(1) All transactions ordinarily incident to travel to and from Cuba.

(2) All transactions ordinarily incident to travel in Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there.

(3) The purchase in Cuba, and importation as accompanied baggage, of merchandise with a foreign market value not to exceed $100 per person, for personal use only. Such merchandise may not be resold. The authorization in this subparagraph may only be used once in every six consecutive months.

(4) All transactions by any person incident to arranging or assisting travel by any other person or group of persons to, from, or in Cuba. This authorization includes arranging through transportation to Cuba; selling passage aboard a foreign carrier providing regularly scheduled service to Cuba from points outside the United States; chartering an aircraft or vessel; arranging hotel accommodations in Cuba, ground transportation, local tours and similar travel activities in Cuba; transfer of funds to Cuba or any national thereof; and receipt from Cuba or a national thereof of consideration for authorized services.

(5) All transactions on behalf of aircraft or vessels incidental to nonscheduled flights or voyages to, from, and in Cuba. This paragraph does not authorize the carriage of any merchandise to and from Cuba except accompanied baggage and merchandise authorized by paragraph (a) (3) of this section.

(6) All transactions incident to the processing and payment of checks, drafts, traveler's checks, and similar instruments negotiated in Cuba by any person under the authority of this section.

(7) Processing and payment by United States credit card issuers of credit card instruments (vouchers, drafts, or sales receipts) for authorized expenditures in Cuba forwarded by credit card companies in third countries to the domestic issuer for payment or reimbursement. Foreign credit card firms owned or controlled by U.S. persons are authorized to contract with a Cuban enterprise for the extension of credit through the use of credit cards. However, this paragraph does not authorize a domestic credit card issuer to contract with a Cuban enterprise for the extension of credit to any traveler for any purpose.

(b) Persons who travel to Cuba for the purpose of gathering news, making news or documentary films, engaging in professional research or for similar activities are authorized to acquire and import into the United States, as accompanied baggage or otherwise, such photographs, films, books, magazines, newspapers, and similar publications as are directly related to their professional activities, without limitation as to value. Such merchandise may only be acquired and imported for their own professional use or that of their employers at the time of the travel, and may not be sold to other persons.

(c) Persons who travel in Cuba after March 18, 1977, and who prior to that date were not designated nationals of Cuba, are licensed as unblocked nationals. This subparagraph does not authorize any transaction prohibited by any other section of this part.

(d) This section does not authorize any person subject to the jurisdiction of the United States to make any investment in Cuba, establish any branch or agency in Cuba, or transfer any property to Cuba except transfers by or on behalf of individual or group travelers, and air craft or vessels, as authorized in this section.

(50 U.S.C. App. 5(b); 32 U.S.C. 2370(a); Executive Order 9193, 3 CFR 1943 Cum. Supp.; Treasury Department Order No. 128, 32 FR 3472.)

STANLEY L. SOMMERFIELD,
Acting Director.

Approved: May 12, 1977.

BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-14105 Filed 5-13-77;10:33 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 719-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Disapproval of Revision of Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule announces the Administrator's disapproval of a variance request submitted to EPA by the State of Maryland on behalf of the Kelly-Springfield Tire Company, Cumberland, Maryland. The variance would have allowed Kelly-Springfield to convert from residual oil to coal and burn the coal for a period of two years after delivery to the State of a copy of an executed purchase order for the installation of control equipment designed to control particulate (TSP) emissions. The Company is located in an area that is currently not meeting the national ambient air quality standards (NAAQS) for TSP.

EFECTIVE DATE: Immediately on May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Frankford, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On October 14, 1975, the State of Maryland submitted to the Regional Administrator, EPA Region III, a request for a variance from the air pollution control regulations governing Maryland Area I (Maryland portion of the Cumberland-Keyser Interstate Air Quality Control Region (AQCR)). The State asked that this variance request be reviewed and processed as a revision to the Maryland State Implementation Plan (SIP) for the attainment and maintenance of national ambient air quality standards.

The variance, issued by the State on September 24, 1975 would exempt the Kelly-Springfield Tire Company of Cumberland, Maryland from compliance with Maryland Regulations 10.03.36.02C(2) (Control and Prohibition of Visible Emissions) and 10.03.36.03B(3) (Control of Particulate Matter from Fuel Burning Equipment) for a period of two years from the delivery to the State of a copy of an executed purchase order for high-efficiency (99 percent) electrostatic precipitators (ESP). The exception request further permits Kelly-Springfield to burn coal in boilers No. 61 and No. 62 immediately after the boilers are converted to dual firing capability (coal or oil) and temporarily equipped with refurbished medium efficiency mechanical dust collectors. Prior to this request, the Kelly-Springfield Company was burning 1.0 percent sulfur residual oil.

The State of Maryland and the Kelly-Springfield Company justify the variance request with the following:

1. Kelly-Springfield's Cumberland plant represents a substantial economic factor in the Western Maryland area.

2. The competitive position of the Cumberland plant is in jeopardy because of the increase in the cost of fuel oil. The uncertainty of foreign fuel oil supply creates a continuous production threat to the Company.

3. Conversion from fuel oil to Western Maryland coal as a primary fuel will significantly reduce manufacturing costs and in turn stimulate the Western Maryland economy.

4. An analysis by the Company's consultant indicates that the impact of emissions into the ambient air from the coal fired boilers during the two year conversion period may not significantly affect ambient air particulate concentrations.

The State of Maryland submitted proof that a public hearing was held on July 23, 1975 in Cumberland, in accordance with the requirements of 40 CFR 51.4.

On December 30, 1976 (41 FR 56831), the Regional Administrator proposed the variance request submitted by the State of Maryland as a revision of the Maryland State Implementation Plan and provided for a 30-day public comment period, ending January 31, 1977. During the public comment period, no comments were received.

On November 13, 1975, EPA informed the State of Maryland and the Kelly-Springfield Company that if the variance request were approved, the annual particulate concentration levels would increase in an AQCR that is not presently attaining the annual national ambient air quality standard for partiqulates. Furthermore, if certain meteorological conditions occurred, ambient particulate concentration levels would increase to a point at which human health could be imminently and substantially endangered.

For these reasons, EPA demonstrated to Maryland and the Kelly-Sringfield Tire Company alternative control programs that would preclude either the need for a variance or the need for the Kelly-Springfield Company to go out of compliance with the applicable regulations of the Maryland SIP. However, the Kelly-Springfield Company chose not to adopt or utilize the alternative control programs suggested by the Administrator, or to develop any other satisfactory alternative. Therefore, EPA informed the State of Maryland in March, 1976 that the variance request could not be approved, as the proposed revision would adversely impact the air quality in a presently non-attaining AQCR. Since then, no withdrawal action has been taken by the State.

In view of the fact that the variance request issued by the State of Maryland to the Kelly-Springfield Company would result in increased particulate concentration levels in an AQCR currently designated as a non-attainment area for particulates and the fact that the variance would permit a source that had been in compliance with the applicable Maryland regulations to go out of compliance, the Administrator concludes that approval of this variance request as a revision of the Maryland SIP would be inappropriate.

Therefore, the Administrator hereby disapproves the variance request submitted by the State of Maryland on behalf of the Kelly-Springfield Tire Company as a revision of the Maryland State Implementation Plan.

Copies of the variance request and the analysis on which it is based are available for public inspection during normal business hours at the following locations:

United States Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Mr. Harold Frankford.

Maryland Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Maryland 21201, Attn: Mr. George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

(42 U.S.C. 1857c-5.)

Dated: May 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-14089 Filed 5-17-77;8:45 am]

[FRL 721-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to Stanislaus County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this action to promulgate final approval of revisions to the Stainislaus County Air Pollution Control District's rules and regulations with the exception of regulations concerning new source review, emergency episode, and gasoline vapor recovery.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by EPA or the State and local air pollution control agencies, and therefore pose no further requirement on any affected facility.

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, Chief, California SIP Section, Air Programs Branch, San Francisco, California 94111, (415-556-7288).

SUPPLEMENTAL INFORMATION: On February 8, 1977 (42 FR 7968), EPA proposed approval of revisions to the Stanislaus County Air Pollution Control District's rules and regulations submitted on July 25, 1973, July 19, 1974, April 10, 1975, and August 2, 1976. These revisions were submited by the California Air Resources Board for inclusion in the California State Implementation Plan (SIP). The Proposed Rulemaking Notice provided for a 30-day public comment period. No comments were received on the changes being acted on in this final rulemaking notice. A description of the regulations being acted on in this rulemaking is available in the Proposed Rulemaking Notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: April 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) (21) (vii), (24) (iv), (27) (i), and (32) (ii) are revised as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(vii) Stanislaus County APCD.

(A) Rules 101–112.

(B) Rules 301–305.

(C) Rules 401–410, 412–421.

(D) Rules 501–518.

* * * * *

(24) * * *

(iv) Stanislaus County APCD.

(A) Rules 101–113.

(B) Rules 301–306.

(C) Rules 401–410, 412–421.

(D) Rules 501–518.

* * * * *

(27) Revised regulations for the following APCD's submitted on April 10, 1975 by the Governor's designee.

(i) Stanislaus County APCD.

(A) Rule 212.

(B) Rule 409.

* * * * *

(32) * * *

(ii) Stanislaus County APCD.

(A) Rules 101–114.

(B) Rules 303–305.

(C) Rules 407.1, 416, 422, 423.

(D) Rules 501–504, 508–511.

2. Section 52.224(a)(5)(i) is revised as follows:

§ 52.224 General requirements.

(a) * * *

(5) San Joaquin Valley Intrastate:

(i) Stanislaus County APCD.

* * * * *

3. Section 52.254(a)(1)(i) is revised as follows:

§ 52.254 Organic solvent usage.

(a) This section is applicable in the Sacramento Valley, San Francisco Bay Area, and San Joaquin Valley Intrastate Air Quality Control Regions (the "Regions"), except as follows:

(1) In the following portions of the San Joaquin Valley Region, only the hourly emission limitations contained in paragraphs (b), (c), and (d) of this section are in effect; the following paragraphs, needed for interpretation and enforcement of these emission limitations, are also in effect: paragraphs (e) through (l) and (o) through (q) of this section:

(i) Stanislaus County.

* * * * *

[FR Doc.77-14090 Filed 5-17-77;8:45 am]

[FRL 727-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule and reopening of public comment on proposed rule.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) is taking two actions; both actions involve revision to the New York State Implementation Plan (SIP) through changes made to Title 6 of the State's Official Compilation of Codes, Rules and Regulations, Part 225 (6 NYCRR 225) entitled, "Fuel Composition and Use." One action, by reopening EPA's period for public comment, postpones EPA approval/disapproval action regarding proposed changes to New York State's sulfur-in-fuel-oil limitation for the Niagara Frontier. The other action approves a SIP revision concerning

changes made by the State to 6 NYCRR 225.

DATES: The approval action will become effective June 17, 1977. Additional comments on the proposed revision to the sulfur-in-fuel-oil limitation for the Niagara Frontier received on or before July 18, 1977 will be considered.

ADDRESSEES. All comments should be addressed to: Gerald M. Hansler, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007.

Copies of the unapproved part of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Region II Office, Air Programs Branch, Room 908, 26 Federal Plaza, New York, New York 10007.

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

New York State Department of Environmental Conservation, Region 9 Office, 584 Delaware Avenue, Buffalo, New York 14202.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION:

A. INTRODUCTION

A request to EPA to revise the SIP was made by the State on September 20, 1976. Announcement of receipt of the request and a detailed description of the proposed revision are contained in the EPA notice of proposed rulemaking published in the December 16, 1976 FEDERAL REGISTER (41 FR 54955). What follows is a discussion of the EPA decision to postpone approval/disapproval action for a part of the revision requested by the State and to approve the remaining part of the request.

B. POSTPONEMENT OF APPROVAL/DISAPPROVAL ACTION FOR PROPOSED CHANGES TO SULFUR-IN-FUEL-OIL LIMITATION FOR THE NIAGARA FRONTIER

1. SUMMARY OF PROPOSED REVISION

The proposed revision to § 225.1 of 6 NYCRR allows the temporary use in part of the Niagara Frontier Air Quality Control Region (Erie and Niagara Counties) of higher sulfur content fuel oil than currently required by the SIP. New York State proposes that the allowable sulfur-in-fuel-oil content be increased from 1.1 percent to 1.7 percent (on a 3-month average) until December 1, 1977, whereupon, the allowable sulfur-in-fuel-oil content will once again be 1.1 percent. However, for the South Buffalo-Lackawanna area of the Niagara Frontier, the allowable fuel oil sulfur content remains at 1.1 percent.

2. RATIONALE FOR POSTPONEMENT OF EPA'S DECISION ON WHETHER TO APPROVE OR DISAPPROVE

a. *Unhealthful air quality in the area and the need for a thorough control strategy demonstration*—(i) *Discussion.* EPA is postponing its decision on whether to approve or disapprove the proposed revision to relax the limitation on sulfur-in-fuel-oil content for the Niagara Frontier because the State control strategy demonstration is presently inadequate to determine the effect of this revision. The need for a thorough control strategy demonstration is highlighted by the unhealthful air quality which exists in this area. The EPA December 16, 1976 FEDERAL REGISTER notice contains air quality data showing that the primary national ambient air quality standard for the pollutant, sulfur dioxide, is exceeded in the Niagara Frontier. This health-related standard is contravened at two monitoring sites in the South Buffalo-Lackawanna area. In addition, the primary national ambient air quality standard for particulate mattr is also exceeded in the Niagara Frontier.

When establishing the national ambient air quality standards for sulfur dioxide and particulate matter, EPA considered the synergistic effects between these two pollutants. EPA remains concerned about possible synergistic effects and, as noted in a June 24, 1976 memorandum from the EPA Administrator, EPA policy requires a thorough control strategy demonstration prior to EPA approval of any plan revision to allow an increase in sulfur dioxide emissions. Such control strategy demonstrations must provide a high degree of certainty for attainment of sulfur dioxide standards, especially in areas with high levels of total suspended particulates. The Niagara Frontier is such an area. It is also EPA policy, as noted in the June 24, 1976 memorandum, to discourage increases in sulfur dioxide emissions in the heavily industrialized northeastern states until better data are collected on the adverse health effects of sulfates. However, no national standards are yet in effect for sulfates.

As discussed in the EPA December 16, 1976 FEDERAL REGISTER notice, the analysis submitted by the State on the air quality impact of its proposed plan revision is based on rollback techniques. Although rollback techniques are suitable in some situations, atmospheric diffusion modeling generally is required to prepare an acceptable control strategy demonstration for SIP revision. EPA believes that the nature of the revision proposed by the State would minimize the impact of the use of fuel oil with sulfur content greater than 1.1 percent, but at this time EPA is deferring approval/disapproval action until more definite information concerning the proposal can be obtained. In this regard, EPA will continue to work with the State to complete an accurate emission inventory for the Niagara Frontier. This work is being done under an EPA contract and will be followed by diffusion modeling of the polluting sources in the area. The work is scheduled for completion in mid-1977 and EPA has decided to await its completion prior to taking final action on the proposed revision to the sulfur-in-fuel-oil limitation for the Niagara Frontier.

(ii) *Public comments.* Seven of the thirteen written comments received from interested parties in response to the EPA December 16, 1976 notice were from individuals who expressed concern about the existing unhealthful air quality in the Niagara Frontier and generally opposed relaxation of the allowable sulfur-in-fuel-oil content. One commentator questioned the validity of the ambient air quality standards as to whether they are stringent enough to protect public health. The commentator noted the synergistic effect between sulfur dioxide and particulate matter and also suggested that sulfur concentrations are likely to increase as a result of relaxation of sulfur-in-fuel-oil limitations.

The validity of the ambient air quality standards established by EPA was recently reaffirmed by the National Academy of Sciences. To protect the public's health from the adverse effects caused by sulfur dioxide by itself or in combination with other pollutants, EPA requires a thorough control strategy demonstration showing that violations of the sulfur dioxide standard will not be caused or exacerbated by a proposed revision to a control plan. Any potential for an increase in sulfate concentrations will be minimized by requiring protection of the sulfur dioxide standards.

Comments were received from the Erie County Department of Environmental Quality (now the Department of Environment and Development) which supported the use of 1.7 percent sulfur content fuel oil in the Niagara Frontier and seriously questioned the need to reduce this limitation to 1.1 percent after December 1, 1977. The Department stated that nonconforming fuel oil currently is being used in the Niagara Frontier and, therefore, the SIP revision would not significantly change emissions. The County also believes that sulfur dioxide emissions outside the South Buffalo-Lackawanna area have no significant impact on South Buffalo-Lackawanna.

For the period after December 1, 1977, the State has informally notified EPA that it expects to request another revision to its SIP accompanied by a control strategy demonstration meeting the stringent EPA requirements. The sulfur-in-fuel-oil limitations proposed by the State would be based on the results of State and EPA efforts to improve the emission inventory and to perform diffusion modeling. Thus, the need to have a 1.1 percent sulfur-in-fuel-oil limitation for the entire Niagara Frontier after December 1, 1977 will be critically examined.

In addition to Erie County, the State, in its submittal, also informed EPA that nonconforming fuel oil is being used in the Niagara Frontier. The State further informed EPA that the proposed revision will increase sulfur dioxide emissions by 3,000 tons per year over the quantity emitted in 1975, a year when oil with a sulfur-in-fuel content greater than 1.1 percent was used. EPA believes that the extent to which the current use of nonconforming fuel oil is contributing to the existing contraventions of air quality standards or the extent any additional increase in sulfur dioxide emissions will contribute to the contravention of standards cannot be determined with certainty without a more thorough control strategy demonstration and improved emission inventory. The EPA requirement for a thorough control strategy demonstration is intended to document whether a proposed SIP revision will cause or exacerbate air quality problems.

Another commentator stated that current sulfur dioxide emissions are unusually low because of an economic recession and that the air quality impact of relaxing sulfur-in-fuel-oil limitations would be more severe than that estimated by the State. The improvement to the inventory will establish normal operating conditions of sources of sulfur dioxide and thus EPA believes the effect of any changes in sulfur-in-fuel-oil limitations will be accurately accounted for.

In another matter regarding emission estimates, the State clarified an item which appeared in the December 16, 1976 notice. The State indicated that its submittal for the proposed revision specified that the control of coke oven emissions from Bethlehem Steel Corporation, through compliance with 6 NYCRR 214, "By-Product Coke Oven Batteries," would occur after 1977 and not in 1976 and 1977 as incorrectly stated in the EPA notice.

b. *Fuel supply*—(i) *Discussion.* A constraining factor in the development of sulfur-in-fuel-oil limitations for any revision to the SIP is the limited supply of low sulfur fuel oil for the Niagara Frontier. The problem pertains to both short-term and long-term fuel supplies. In addition to providing more time to develop a thorough control strategy demonstration, EPA is postponing its decision on whether to approve or disapprove the proposed revision in order to determine whether adequate low sulfur fuel oil is available to meet the proposed and existing SIP requirements.

In the December 16, 1976 FEDERAL REGISTER notice, EPA noted the State's contention that severe problems exist in supplying oil with a sulfur-in-fuel content of 1.1 percent throughout the Niagara Frontier. EPA also was recently informed that major fuel suppliers for the area applied to the State for emergency variances to sell oil with a sulfur-in-fuel content greater than the limitations contained in the proposed plan revision. These variances were denied by the State. In order to fully investigate the fuel supply situation, EPA plans to contact the Federal Energy Administration and all major fuel oil suppliers for the Niagara Frontier to assess the availability of conforming fuel oil. This assessment will be made both for the period until December 1, 1977, the period for which the proposed plan revision applies, and for the period after December 1, 1977. The information will be used to review the adequacy of the SIP provisions to provide for attainment of standards and to establish available control strategy options. This work also relates to the EPA and State planning effort to provide for maintenance of standards. This effort evaluates the adequacy of the existing control strategy for the next 10 years.

(ii) *Public comments.* EPA received a comment from the League of Women Voters of Buffalo in which the League called for the installation of sulfur removal equipment to protect against the degradation of the air of western New York. The League also asked for an honest assesment as to whether the long term requirement of 1.1 percent sulfur-in-fuel-oil can ever be enforced.

Comments received from the major fuel suppliers to the Niagara Frontier (Mobil Oil Corporation, Ashland Oil, Inc. and the United Refining Co.) generally supported the proposed plan revision. These companies informed EPA that they cannot now supply conforming 1.1 percent sulfur content fuel oil to the Niagara Frontier and might not be able to do so after December 1, 1977. The suppliers cited the uncertainty of the sulfur content of fuel oil distributed by the common carrier pipelines which supply the Niagara Frontier. One of the suppliers also informed EPA that export of Canadian crude oil to the area was to be curtailed at the end of the first quarter of 1977 and that the Canadian crude oil currently available has a high sulfur content.

In comments received from the New York State Department of Environmental Conservation, the State clarified another item which appeared in the December 16, 1976 notice. The State indicated in its submittal that no natural gas curtailments were expected in the Niagara Frontier during 1976 and 1977. In its notice EPA indicated the contrary.

The comments made by interested parties make it incumbent that EPA examine the short-term and long-term fuel supply situation and fuel consumption needs for the Niagara Frontier. By postponing the decision to approve or disapprove the proposed SIP revision as it applies to the sulfur content of fuel oil for use in the Niagara Frontier, EPA will be better able to obtain the information needed to respond to the issues raised by the commenters.

3. INTERIM ENFORCEMENT POLICY

a. *Discussion.* During the period encompassing the preparation of an improved control strategy demonstration and the obtainment of more detailed fuel supply information, EPA will use discretion in the enforcement of the current SIP limitation of 1.1 percent sulfur content fuel oil.

b. *Public comment.* A commentator stated that having two sulfur-in-fuel-oil limitations in the Niagara Frontier, 1.1 percent and 1.7 percent (on a 3-month average), has the effect of precluding citizen enforcement of the SIP under Section 304, "Citizen Suits," of the Clean Air Act. EPA believes that through one of its other actions contained in this notice, approving revision to § 225.7, "Reports, sampling and analysis," the State will have greater authority to obtain the names of all fuel purchasers and to obtain fuel analyses and data on the quantities of fuel received and sold. Consequently, citizens will have greater access to fuel information to initiate a citizen suit, if appropriate. In addition, the results of the EPA enforcement effort to determine the sale or use of nonconforming fuel oil will also provide fuel information. Consequently, EPA believes that having two sulfur-in-fuel-oil limitations within the Niagara Frontier should not hinder citizen involvement or prevent EPA from approving the plan revision if all other EPA requirements are satisfied.

C. APPROVAL ACTION

1. SUMMARY OF APPROVED REVISION TO THE SIP

The revision to the New York SIP being approved by EPA accomplishes the following:

a. Upon demonstration by a source owner that the use of higher sulfur coal will not contribute to the contravention of ambient air quality standards, coal burning sources of greater than 100 million Btu per hour heat capacity may be approved for a special limitation under § 225.2. The previous heat capacity cutoff for requiring a source-generated demonstration was 250 million Btu per hour.

b. The formula contained in § 225.5(a), which determines sulfur dioxide emissions from the burning of fuel mixtures, is modified to include gaseous fuels. Process gases are also included in the formula by the deletion of § 225.5(a)(2).

c. Through revisions to § 225.7, fuel suppliers are required to furnish fuel sale records upon the request of the State.

d. The word "rated" is deleted from §§ 225.1(a)(1), 225.2 and 225.6 wherever the phrase "rated total heat input" previously appeared.

2. RATIONALE FOR APPROVAL ACTION

EPA concurs with the conclusions reached in the technical support document provided by the State in its request to revise the SIP for the four items noted previously in Section C.1.

One commenter addressed the revision affecting special limitations for coal burning sources. He believes that the reason given for approval by the State is not appropriate. He stated that decreasing the cutoff point for applicability of § 225.2(c) for coal burning sources because "coal users have a greater air pollution impact than oil users of an equivalent heat input" is not valid because this disparity is already accounted

for by the different sulfur-in-fuel requirements for the two fuels.

In response, the State submittal notes that provisions for special limitations in 6 NYCRR 225 permit the use of oil with a sulfur content of 3.0 percent and coal with a sulfur content of 2.8 lbs per million Btu. Since 3.0 percent sulfur content fuel oil is equal to a sulfur content of 1.64 lbs per million Btu, a coal facility rated at 150 million Btu per hour heat input has a potential total sulfur emissions of 420 lbs per hour, which is slightly greater than the emissions of 410 lbs per hour from an oil facility rated at 250 million Btu per hour heat input. Moreover, the sulfur content within a shipment of coal can vary by plus or minus 30 percent. Therefore, to protect against the contravention of the 24-hour ambient air quality standard during the possible use of coal with a sulfur content up to 30 percent greater than allowable, the applicability of §§ 225.2(b) and 225.2 (c) for facilities using coal is being modified from 250 million Btu per hour to 100 million Btu per hour.

Another commenter asked that § 225.2(b) be revised to delete the words "for sulfur dioxide." This would mean that applicable ambient air quality standards for all pollutants would need to be attained before a special limitation increasing the allowable sulfur-in-fuel content can be granted by the State. As noted in Section B of this notice, protection of the sulfur dioxide standards will protect the public from the adverse effects of sulfur dioxide by itself or in the presence of other pollutants. The protection of sulfur dioxide standards must be demonstrated before EPA approves any special limitation.

The same commenter stated that the State special limitation requirements contained in §§ 225.2 and 225.3 are inconsistent with Section 110(f)(1) of the Clean Air Act. This section requires that requests for postponements of applicable SIP requirements be initiated prior to the source's scheduled compliance date.

EPA recognizes the commenter's concern for public notice before any relaxation of an emission standard is permitted. However, since special limitations adopted by the State must be approved by EPA through normal SIP revision procedures, adequate public notice and opportunity for comment is provided. Moreover, the adoption by the State of a special limitation and EPA approval of such a plan revision is not a postponement of an otherwise applicable requirement. Rather, it is the adoption of a new requirement.

D. APPROVAL AND REQUEST FOR ADDITIONAL PUBLIC COMMENTS

EPA finds the revision to 6 NYCRR 225 as it relates to the four items listed in Section B consistent with current EPA policies and goals set forth in the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and EPA regulations contained in 40 CFR Part 51 in that it is not expected to result in the contravention of any applicable ambient air quality standard.

EPA further finds that the proposed revision as it applies to sulfur-in-fuel-oil limitations for the Niagara Frontier should be subject to further deliberation. Therefore, EPA is reopening the period for public comment on whether the plan revision for the sulfur-in-fuel-oil limitations for the Niagara Frontier should be approved.

(Secs. 110 and 301, Clean Air Act, as amended, (42 U.S.C. 1857c–5, 1857g).)

Dated: May 11, 1977.

DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency.

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. In § 52.1670, paragraph (c) is amended by adding new subparagraph (32) as follows:

§ 52.1670 Identification of plans.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(32) Revision to Part 225 submitted on Septembber 20, 1976 and November 5, 1976 by the New York State Department of Environmental Conservation which accomplishes the following:

(i) Upon demonstration by a source owner that the use of the higher sulfur coal will not contribute to the contravention of ambient air quality standards, coal burning sources of greater than 100 million Btu per hour heat capacity may be approved for a special limitation under § 225.2. The previous heat capacity cutoff for requiring a source-generated demonstration was 250 million Btu per hour.

(ii) The formula contained in § 225.5 (a), which determines sulfur dioxide emissions from the burning of fuel mixtures, is modified to include gaseous fuels. Process gases are also included in the formula by the deletion of § 225.5 (a)(2), which precluded such inclusion.

(iii) Fuel suppliers are required to furnish fuel sale records upon request of the State through revision to § 225.7.

(iv) The word "rated" is deleted from §§§ 225.1(a)(1), 225.2 and 225.6 wherever the phrase "rated total heat input" previously appeared.

[FR Doc.77–14091 Filed 5–17–77;8:45 am]

[FRL 727–3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Nebraska Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document formally approves Nebraska's continuous monitoring regulation as part of the State Implementation Plan. Approval means that the Federal Government, as well as the State, may enforce this State regulation.

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Dewayne E. Durst, Chief, Air Support Branch, Air and Hazardous Materials Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108 (816–374–3791).

SUPPLEMENTARY INFORMATION: On November 2, 1976, the Governor of Nebraska officially submitted an amendment to Rule 17 of the Nebraska Air Pollution Control Rules and Regulations to be approved as a revision to the State Implementation Plan (SIP) for the attainment and maintenance of the National Ambient Air Quality Standards. The Revision was subjected to a public hearing in Omaha, Nebraska, on September 10, 1976, and was adopted as of September 22, 1976.

On February 11, 1977 (42 FR 8672), EPA announced receipt of the proposed revision and requested public comment on it. Copies of the revision and supporting documents were made available at several locations. The comment period has expired and no comments have been received.

The revised rule requires continuous opacity monitoring on all existing fossil fuel-fired steam generators of over 250 million Btu-per-hour-heat input. Compliance is required by March 30, 1978. The rule exempts units that burn only gas and oil if they comply with regulations without control equipment and have never been found in violation of visible emission limits. It also gives the director of the Department of Environmental Control the authority to require continuous monitoring by any other emission sources.

The proposed revision is Nebraska's response to the amendments to 40 CFR Part 51 and Appendix P of Part 51 which EPA published October 6, 1975 (40 FR 64620). Appendix P specifies the minimum emission monitoring requirements to be contained in SIPs. The State adopted only opacity monitoring for power plants since there are no other sources subject to Appendix P in Nebraska.

After careful review of this proposed revision, the Administrator has determined that it meets the requirements of Section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51, "Requirements for Preparation, Adoption and Submittal of State Implementation Plans." The revision to Rule 17 is hereby approved and made part of the State of Nebraska implementation plan

Also published at this time is the date of submission of compliance schedules which were approved March 25, 1977 (42 FR 16139). This addition to the list under "Identification of Plan" was inadvertently omitted from the March 25 action.

(42 U.S.C. 1857c–5.)

Dated: May 11, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart CC—Nebraska

In § 52.1420, paragraph (c) is revised by adding new subparagraphs (19) and (20) as follows:

§ 52.1420 Identification of plan.

* * * * *

(19) Compliance schedules were submitted by the Governor on October 27, 1976.

(20) Revised Rule 17, requiring continuous opacity monitoring by power plants, was submitted on November 2, 1976, by the Governor.

[FR Doc.77–14108 Filed 5–17–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20877; RMs 2535, 2541, 2560 and 2634]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Fleminsburg, Lancaster, Lawrenceburg, Lebanon and Versailles, Ky., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This is a Report and Order adopting one of four alternative proposals for FM service in several Kentucky communities because it offers the most potential for first FM service to the public and also provides first local FM service to communities where an interest has been expressed in operating an FM station. The Order retains the assignment at Falmouth, assigns first FM channels to Flemingsburg and Lebanon, deletes a vacant channel at Lancaster, and moves (with a frequency change) the assignment at Lawrenceburg to Versailles where it is presently used. The Versailles station has consented to modification of its license without reimbursement.

EFFECTIVE DATE: June 22, 1977.

ADDRESSEES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau. (202–632–7792).

SUPPLEMENTARY INFORMATION:

Adopted: May 9, 1977.

Released: May 16, 1977.

By the Chief, Broadcast Bureau: 1. The Commission now considers the comments and reply comments received in response to its Notice of Proposed Rule Making, 41 FR 29710 (published July 19, 1976; adopted July 2, 1976), which proposed four alternative assignment plans for the Kentucky communities named above, based on four interrelated petitions for rule making.

2. The petitioners and their proposals were as follows:

(a) Lebanon-Springfield Broadcasting Company, licensee of AM Station WLBN ("WLBN"), Lebanon, Kentucky, requested the reassignment of occupied Channel 265A from Lawrenceburg, Kentucky,[1] to Lebanon (1970 pop. 5,528), as a first FM assignment to that community. Vacant Channel 292A at Lancaster could then be moved to Versailles as a replacement channel. RM–2535.

(b) John M. Barrick ("Barrick") requested reassignment of unoccupied Channel 237A from Falmouth, Kentucky (1970 pop. 2,593) to Versailles, as a second FM assignment there, and assignment of Channel 292A at Falmouth as a replacement. RM–2541.

(c) Irvenna Broadcasting Company, Inc. ("Irvenna"), licensee of AM Station WIRV, Irvine, Kentucky, proposed the reassignment of unoccupied Channel 292A from Lancaster, Kentucky (1970 pop. 3,230), to Irvine (1970 pop. 2,918), as a first FM assignment. RM–2560.

(d) James Short ("Short") seeks Channel 292A as a first broadcast assignment to Flemingsburg, Kentucky (1970 pop. 2,483). RM–2634. Fleming Co. Broadcasting, Inc., applicant for an AM station at Flemingsburg, has also expressed an intent to apply for this channel if assigned.

3. Based on the conflicting petitions[2] the Commission asked for comments on four different combinations of assignments, as well as preclusion effects, and showings of first and second service. See Roanoke Rapids, N.C., 9 F.C.C. 2d 672 (1967); Anamosa, Ia., 46 F.C.C. 2d 720 (1974). The four assignment plans were as follows:

City	Population	Present	Plan— I	II	III	IV
Falmouth	2,593	237A	292A	237A		
Flemingsburg	2,483			292A	292A	292A
Irvine	2,918		292A			
Lancaster	3,230	292A				292A
Lawrenceburg	3,579	265A				
Lebanon	5,528			265A	265A	265A
Versailles	5,679		265A, 237A	292A	292A, 237A	237A

4. Some of the parties failed to respond to the Notice. Although Lancaster Broadcasters, Inc. ("LBI"), licensee of AM Station WIXI, Lancaster, informed the Commission prior to the Notice that it was preparing an application for a new station on Channel 292A at Lancaster and therefore opposed the deletion of that channel, LBI has filed neither an application nor formal comments in this proceeding. No other party has expressed an interest in an assignment at Lancaster. Petitioner Irvenna also did not comment on the proposals issued by the Commission, and no one has expressed the required intent to construct and operate a station at Irvine if the channel were assigned. Petitioner Barrick filed reply comments, but did no more than state his intent to apply for a second assignment at Versailles. He did not supply the showing of first or second service which was required by the Notice.

5. Other parties presented new considerations. On February 17, 1977, Norkey Enterprises, Incorporated, tendered its application to the Commission for authority to construct a new FM broadcast station on Channel 237A presently assigned to Falmouth. Mid-America Radio, Inc., licensee of FM Station WXTZ (Channel 277) at Indianapolis, Indiana, requested the substitution of Channel 237A for 276A proposed at Versailles, Indiana (which would require the deletion of Channel 237A at Falmouth). The removal of adjacent Channel 276A from Versailles, Indiana, would permit Mid-America to move its transmitter closer to the center of Indianapolis and still meet the Commission's separation requirements. Such a move, Mid-America states, would enable it to provide a city grade signal to the recently expanded city of Indianapolis. Charles Cutler has filed comments proposing that Channel 237A be assigned to Milton, Kentucky (1970 pop. 756), if it is deleted at Falmouth. The Commission had previously rejected this assignment because of short-spacing to Falmouth (letter of January 9, 1976), but Cutler resubmitted

[1] Channel 265A is licensed to Woodander Broadcasting Company ("Station WJMM") and operated at Versailles, Kentucky, under the Commission's 10-mile rule. Section 73.207(b).

[2] The conflict results from the Commission's minimum co-channel separation requirements, Section 73.207(a), which prevent the use of Channel 292A at all four of the communities involved in these proposals:

(a) Assignment at Versailles (proposed by WLBN) would prevent assignment of the same channel at Falmouth (Barrick) and Irvine (Irvenna).

(b) Assignment of the channel at Irvine (Irvenna's proposal) conflicts with assignment of that channel at Versailles (WLBN) and Flemingsburg (Short).

(c) Assignment at Flemingsburg (Short's proposal) conflicts with assignment at Irvine (Irvenna) and Falmouth (Barrick).

(d) Assignment at Falmouth (Barrick) would conflict with assignment at Flemingsburg (Short) and Versailles (WLBN).

it in light of the possible deletion of the Falmouth channel.

6. The following tabulation shows the major arguments advanced by the various parties [3] in favor of each of the plans and the impact each would have in terms of preclusion and the Commission's assignment criteria.[4] All of the plans are compatible with Mid-America's request to facilitate a transmitter move, and with Cutler's proposal to assign a channel to Milton, except Plan II which would not delete Channel 237A at Falmouth.

[3] See the following footnote:

Commenting Parties:	Supports plan No.
John M. Barrick, Versailles, Kentucky (petitioner, RM-2541)	3, 1
Charles N. Cutler, Milton, Kentucky	1, 3, 4
Fleming Co. Broadcasting, Inc., Flemingsburg, Kentucky	2, 3, 4
Lebanon-Springfield Broadcasting Company, WLBN, Lebanon, Kentucky (petitioner, RM-2535)	2, 3, 4
Mid-America Radio, Inc., WXTZ, Indianapolis, Indiana	1, 3, 4
James Short, Flemingsburg, Kentucky (petitioner, RM-2634)	2
Woodander Broadcasting Company, WJMM, Versailles, Kentucky	2

Mid-America, Short, and Lebanon-Springfield filed reply comments also; Barrick filed reply comments only.

[4] The Commission's FM assignment criteria are set forth and discussed in the Further Notice of Proposed Rule Making in Docket No. 14185, 27 FR 7797 (1962), and incorporated by reference in the Third Report, Memorandum Opinion and Order, 40 F.C.C. 747, 758 at para. 25 (1963). The Commission's preclusion policy is explained in Anamosa and Iowa City, Iowa, 40 F.C.C. 2d 250 (1974).

City, channel No. and population	Present local aural service	Service to underserved areas	Preclusion
Plan I			
Falmouth, channel 292A (2,593).	None, channel 237A assigned unused.	1st FM service to 1,503 population. 2d FM service to 7,147 population. No 1st or 2d aural service.	Minor cochannel.
Irvine, channel 292A (2,918).	1 AM daytime only.	No data	Significant cochannel preclusion including 1 community with no FM assignment and 6 with neither AM nor FM.
Versailles, channels 237A and 265A (5,679).	1 FM	do	265A, already in operation. 237A, minor cochannel preclusion.
Plan II			
Falmouth, Ky., channel 273A (2,583).	Channel 237A assigned unused.	1st FM service to 1,503 population. 2d FM service to 7,145 population. No 1st or 2d aural service.	None.
Flemingsburg, Ky., channel 292A (2,483).	None	1st FM service to 1,506 population. 2d FM service to 14,200 population. No 1st or 2d aural service.	Minor cochannel preclusion.
Lebanon, Ky., channel 265A (5,528).	1 AM daytime only.	1st FM service to 14,940 population. 2d FM service to 11,146 population. 2d nighttime aural service to 14,732 population.	Cochannel preclusion for Springfield, Ky.
Versailles, Ky., channel 292A (5,679).	1 FM	No data	Preclusion of 5 communities without FM service. 2 have AM stations, other 3 less than 2,000 population.
Plan III			
Flemingsburg, Ky., channel 292A (2,483).	None	1st FM service to 1,506 population. 2d FM service to 14,200 population. No 1st or 2d aural service.	Minor cochannel preclusion.
Lebanon, Ky., channel 265A (5,528).	1 AM daytime only.	1st FM service to 14,940 population. 2d FM service to 11,146 population. 2d nighttime aural service to 14,732 population.	Cochannel preclusion for Springfield, Ky.
Versailles, Ky., channels 237A and 292A (5,679).	1 FM	No data	237A, minor cochannel preclusion. 292A, preclusion of 5 communities without FM service. 2 have AM stations, other 3 less than 2,000 population.
Plan IV			
Flemingsburg, Ky., channel 292A (2,483).	None	1st FM service to 1,506 population. 2d FM service to 14,200 population. No 1st or 2d aural service.	Minor cochannel preclusion.
Lancaster, Ky., channel 292A (3,230).	1 AM daytime only.	No data	None.
Lebanon, Ky., channel 265A (5,528).	do	1st FM service to 14,940 population. 2d FM service to 11,146 population. 2d nighttime aural service to 14,732 population.	Cochannel preclusion for Springfield, Ky.
Versailles, Ky., channel 237A (5,679).	1 FM	No data	Minor cochannel preclusion.

7. We have carefully considered the record in this proceeding, and based upon the pleadings and the information summarized above, it is our conclusion that Plan II best serves the public interest. This plan is consistent with the Commission's assignment policies which place high priority on providing first aural service and first local FM service. Plan II offers the most first service, as well as first local FM assignments to Flemingsburg and Lebanon, where intentions have been expressed for prompt broadcast applications. Service is continued at Versailles and actual use of the channel there would be reflected in the Table by its deletion at Lawrenceburg.[5] Falmouth, where an application is now pending, would keep its assignment.

8. Plan II is superior to the other plans for the following reasons. Plan I would assign a channel to Irvine where no continuing interest was expressed. Plan III (and Plan I) would assign two channels to Versailles instead of a first channel and first service at another community of comparable size. Plan IV (and Plan III) would delete the assignment at Falmouth for which interest has now been expressed, and Plan IV would assign a channel at Lancaster where there appears to be no present interest in a new station. In our choice of Plan II we are aware of the fact that the Mid-America and Cutler plans cannot be adopted. Nevertheless, we find that the relative size and needs of the population of Falmouth justify this decision.

9. Plan II has the disadvantage of causing somewhat more preclusion than the other plans, primarily due to the Channel 292A assignment at Versailles. Our study indicates that five communities in Kentucky will be precluded from future assignments on Channel 292A. Those communities are Nicholsville (1970 pop. 5,829), Irvine (2,918), Carlisle (1,579), Midway (1,278) and Owingsville (1,381). Of these, Nicholsville and Irvine currently have AM broadcast stations. The petitioner at Irvine dropped out of this proceeding, and no one at the other communities has commented on or expressed interest in an FM assignment there. These communities have small populations compared to Versailles. The co-channel preclusion that Channel 265A at Lebanon will occasion at Springfield, Kentucky, is mitigated by the fact that Springfield is near Lebanon and will benefit from the additional FM service to the area. LBI states that it maintains auxiliary studios in Springfield for WLBN at Lebanon, and would propose to serve Springfield from a Lebanon FM station if so authorized. We therefore find that the first and second service that can be provided by the adoption of Plan II outweighs the disadvantage of the somewhat greater preclusion it would entail.

10. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations, *It is ordered*, That effective June 22, 1977, the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, is amended [6] for the Kentucky communities listed hereafter, to read as follows:

City:	Channel No.
Flemingsburg, Ky.	292A
Lancaster, Ky.	----
Lawrenceburg, Ky.	----
Lebanon, Ky.	265A
Versailles, Ky.	292A

11. Since Woodander Broadcasting Company, Station WJMM, Versailles, has consented to modification of its license without reimbursement to operate on Channel 292A at Versailles, *it is further ordered*, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Woodander Broadcasting Company for Station WJMM at Versailles, Kentucky, IS MODIFIED effective June 22, 1977, to specify operation on Channel 292A in lieu of 265A. Station WJMM may continue to operate on Channel 265A subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 292A, the licensee of Station WJMM shall submit to the Commission the technical information normally requested of an applicant;

(b) At least 10 days prior to commencing operation on Channel 292A, the licensee of Station WJMM shall submit the measurement data required of an applicant for an FM broadcast station license; and

(c) The licensee of Station WJMM shall not commence operation on Channel 292A without prior Commission authorization.

12. *It is directed*, That the Secretary of the Commission send a copy of this Report and Order by certified mail, return receipt requested, to Woodander Broadcasting Company, Station WJMM, Versailles, Kentucky.

13. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-14069 Filed 5-17-77;8:45 am]

[5] Station WJMM at Versailles supports this plan and states that it is willing to shift to Channel 292A without reimbursement.

[6] The assignment of Channel 237A at Falmouth will remain unchanged.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

[12 CFR Part 202]

[Reg. B; Docket No. R-0100]

EQUAL CREDIT OPPORTUNITY

Credit Program; Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed interpretation.

SUMMARY: In response to requests for guidance concerning the intended coverage of the provisions of Regulation B relating to special purpose credit programs offered by Federal and State agencies, the Board proposes to interpret the term "expressly authorized by law." Lenders have sought this clarification to determine whether the government loan programs in which they participate qualify for the partial exemption provided in Regulation B. The Board is seeking public comment to aid in the determination of whether the proposed interpretation properly implements the Equal Credit Opportunity Act.

DATE: Comments must be received on or before June 17 1977.

ADDRESSES: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20009.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Acting Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (202-452-3946).

SUPPLEMENTARY INFORMATION: (1) To aid in the consideration of this proposed interpretation by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. Any such information should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than June 17, 1977. All material submitted should include the docket number R-0100. Such information will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

(2) Authority: 15 U.S.C. 1691(b).

In order to provide guidance concerning the intended coverage of § 202.8(a) [1] of Regulation B, the Board interprets a term used in that section as follows: A credit program is considered to be "expressly authorized by Federal or State law" if it is authorized by the terms of a Federal or State statute or by a regulation lawfully promulgated by the agency responsible for implementing the program.

In addition, the Board announces that it will not make determinations as to whether particular programs benefit an "economically disadvantaged class of persons." The Board believes that such a determination is more properly made by the agency charged with the administration of the loan program.

By order of the Board of Governors, effective May 9, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-14095 Filed 5-17-77;8:45 am]

[1] Standards for programs. Subject to the provisions of subsection (b), the Act and this Part are not violated if a creditor refuses to extend credit to an applicant solely because the applicant does not qualify under the special requirements that define eligibility for the following types of special purpose credit programs: (1) any credit assistance programs expressly authorized by Federal or State law for the benefit of an economically disadvantaged class of persons.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1245]

PATENT WAIVER REGULATIONS

Proposed General Procedures

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed Regulation Revision.

SUMMARY: NASA proposes to revise its Patent Waiver Regulations as set forth below. This revision is needed in order to promote Government-wide uniformity in regulations for the allocation of rights to inventions between the Government and its contractors. This proposed revision, together with a related revision of the NASA Procurement Regulations (NASA PR 9-107 and 9-109; PRD 76-14) is intended to provide such uniformity, to the extent consistent with the requirements of section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457).

DATE: Comments or suggestions respecting the proposed revision should be submitted in writing not later than June 17, 1977.

ADDRESS: General Counsel, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Robert F. Kempf, Assistant General Counsel for Patent Matters. Telephone (202) 755-3932 National Aeronautics and Space Administration, Washington, DC 20546.

SUPPLEMENTARY INFORMATION: The proposed revision to the NASA Patent Waiver Regulations is based in part on related regulations covering the allocation of rights in inventions resulting from federally sponsored research and development that were developed by the General Services Administration in cooperation with the Committee on Government Patent Policy, Federal Council for Science and Technology, in order to uniformly implement the revised Presidential Statement of Government Patent Policy (36 FR 16887, Aug. 26, 1971). These related regulations have been adopted by the Federal Procurement Regulations (41 CFR 1-9.107 & 9.109), and have been incorporated in the Armed Services Procurement Regulations (ASPR 9-107 & 109). NASA intends to include relevant portions of such related regulations, to the extent consistent with the requirements of section 305 of the Space Act, in the proposed revision to its Patent Waiver Regulations.

The proposed revision to the NASA Patent Waiver Regulations also includes a policy statement (§ 1245.103(c)) that, whenever NASA awards contracts for research, development or demonstration work on behalf of or in support of a program of the Energy Research and Development Administration (ERDA) on a reimbursable basis pursuant to agreement between ERDA and NASA, the waiver policy, regulations and procedures of ERDA will be applied.

Subpart 1 is revised in its entirety as follows:

Subpart 1—Patent Waiver Regulations

Sec.
1245.100 Scope.
1245.101 Applicability.
1245.102 Definitions and terms.
1245.103 Policy.
1245.104 Advance waivers.
1245.105 Waiver after reporting inventions.
1245.106 Waiver of foreign rights.
1245.107 Reservations.
1245.108 License to contractor.
1245.109 Revocation and voidability of waivers.
1245.110 Content of petitions.
1245.111 Submission of petitions.
1245.112 Notice of proposed Board action and reconsideration.
1245.113 Hearing procedure.
1245.114 Findings and recommendation of Board.
1245.115 Action by the Administrator.
1245.116 Filing of patent applications and reimbursement of costs.
1245.117 Publication and record of decisions.

AUTHORITY: 42 U.S.C. 2457.

§ 1245.100 Scope.

This Subpart 1 prescribes regulations for the waiver of rights of the United States to inventions made under NASA contract.

§ 1245.101 Applicability.

The provisions of this subpart apply to all inventions made or which may be made under conditions enabling the Administrator to determine that the rights therein reside in the United States pursuant to section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)).

§ 1245.102 Definitions and terms.

As used in this subpart:

(a) "Contract" means any actual or proposed contract, agreement, understanding, or other arrangement with the National Aeronautics and Space Administration (NASA) or another Government agency on NASA's behalf, including any assignment, substitution of parties or subcontract executed or entered into thereunder, and including NASA grants awarded under the authority of 42 U.S.C. 1891-1893.

(b) "Contractor" means the party who has undertaken to perform work under a contract or subcontract.

(c) "Invention" includes any art, method, process, machine, manufacture, design or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(d) "Made," when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(e) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine, and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(f) "Board" means the NASA Inventions and Contributions Board established by the Administrator of NASA within the Administration under section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)).

(g) "Chairman" means Chairman of the NASA Inventions and Contributions Board.

(h) "Petitioner" means a contractor or prospective contractor who requests that the Administrator waive rights in an invention or class of inventions made or which may be made under a NASA contract. In the case of an identified invention, the petitioner may be the inventor(s).

(i) "Government agency" includes any executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(j) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(k) "Administrator" means the Administrator of the National Aeronautics and Space Administration or his duly authorized representative.

§ 1245.103 Policy.

(a) In implementing the provisions of section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)) and in determining when the interests of the United States would be served by waiver of all or any part of the rights of the United States in inventions made in the performance of work under NASA contracts, the Administrator will be guided by the objectives set forth in the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451-2477) and by the basic policy of the revised Presidential Memorandum and Statement of Government Patent Policy issued August 23, 1971 (36 FR 16887-16892). Among the most important goals thereof are to provide incentives to foster inventiveness and encourage reporting of inventions made under NASA contracts, to provide for the widest practicable dissemination of new technology resulting from NASA programs, and to promote early utilization, expeditious development and continued availability of this new technology for commercial purposes and the public benefit. In applying this regulation both the need for incentives to draw forth private initiatives and the need to promote healthy competition in industry must be weighed.

(b) Several different situations when waiver of all or any part of the rights of the United States may be requested are prescribed in §§ 1245.104-1245.106. Under § 1245.104, advance waiver of rights to any or all of the inventions which may be made under a contract may be requested prior to the execution of the contract, or within 30 days after execution of the contract. Waiver of rights to an identified invention made and reported under a contract may be requested under any of these provisions even though a request under a different provision was not made, or if made, was not granted. Waiver of foreign rights under § 1245.106 may be requested concurrently with domestic rights or independently thereof.

(c) With respect to inventions which may be or are made or conceived in the course of or under contracts for research, development or demonstration work awarded by NASA on behalf of the Energy Research and Development Administration (ERDA) or in support of an ERDA program, on a reimbursable basis pursuant to agreement between ERDA and NASA, the waiver policy, regulations and procedures of ERDA will be applied.

§ 1245.104 Advance waivers.

(a) The provisions of this § 1245.104 apply to petitions for waiver of domestic rights to any or all of the inventions which may be made under a contract. Such petitions may be submitted by the contractor prior to its execution of the contract or within 30 days thereafter.

(b)(1) The Board shall recommend to the Administrator that waiver of domestic rights to any or all of the inventions which may be made under the NASA contract involved be granted when the Board makes each of the findings of paragraphs (c) and (d) of this section and concludes that the interest of the United States would be served thereby. Such waiver shall apply to inventions reported during the term of the contract and which are designated at the time of reporting as being an invention on which the waiver recipient intends to file or has filed a U.S. patent application.

(2) When the Board is unable to make one or more of the findings to support a waiver under paragraph (c) of this section as to the contract but nevertheless finds that exceptional circumstances exist so that the public interest would best be served by a waiver of rights to any or all of the inventions which may be made under the contract, the Board shall recommend to the Administrator that waiver be granted (conditions of paragraph (d) of this section are not relevant to the Board's findings under this subparagraph). A finding of exception circumstances shall be accompanied by a discussion of the rationale therefor. Examples of exceptional circumstances would include: A contract where participation of the contractor may only be secured through the grant of waiver and such contractor is deemed essential to a NASA program objective; a contract having as a principal objective the application of aerospace rated technology to other uses in accordance with an established NASA technology application program and where the grant of waiver would materially advance this objective; or, a cooperative endeavor where the contract calls for a significant contribution of funds by the contractor to the work to be performed. In the case of an invention which is identified prior to execution of the contract, exceptional circumstances may also be found where waiver is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical or commercial application and where either (i) the contratcor has established substantial equities at its own expense in the development of the invention; or, (ii) the grant of advance waiver will significantly advance the availability of the invention to the general public.

(c) (1) It is not a principal purpose of the contract to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations.

(2) It is not a principal purpose of the contract to explore into fields which directly concern the public health, public safety, or public welfare.

(3) The contract is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developed of the field, and the acquisition of exclusive rights at the time of contracting would not likely confer on the petitioner a preferred or dominant position.

(4) The contract is ont for services of the petitioner for (i) the operation of a Government-owned research or production facility; or (ii) coordinating and directing the work of others.

(d) (1) The purpose of the contract is to build upon existing knowledge or technology, to develop information, products, processes, or methods for use by the Government.

(2) The work called for by the contract is in a field of technology in which the petitioner has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position), and either (i) the work is directly related to an area in which the petitioner has an established nongovernmental commercial position; or (ii) the commercial position of the petitioner is not sufficiently established, but a special situation exists such that the public interest in the availability of inventions would best be served by a waiver of rights to the petitioner. Such special situations include, but are not limited to the following:

(A) A newly formed company having a definite program for establishing a nongovernmental commercial position in the field of the contract or in an area directly related thereto.

(B) An established company lacking an established nongovernmental commercial position in the field of the contract or a directly related field, but having established plans and programs for achieving such a position.

(C) An educational or nonprofit institution having a promulgated policy and an effective program for acquiring rights to inventions and for acting by itself or through others to bring the results of such inventions to commercial application.

(e) When a petition for waiver is submitted pursuant to paragraph (a) of this section, prior to contract execution, it will be processed expeditiously so that a decision on the petition may be reached prior to execution of the contract. However, if there is insufficient time or insufficient information is presented, or for other reasons which do not permit a recommendation to be made without unduly delaying execution of the contract, the Board will inform the contracting officer that no recommendation has been made and the reason therefor. The contracting officer will then notify the petitioner of the Board's action.

(f) After notification by the contracting officer under paragraph (e) of this section, the petitioner may, upon its execution of the contract, or within 30 days thereof, request the Board to reconsider the matter under paragraph (b) of this section either on the record or with any additional statements submitted in support of the original petition.

(g) A waiver granted pursuant to a petition submitted under this § 1245.104 shall apply only to those inventions reported during the term of the applicable contract and which are designated at the time of reporting as being an invention on which the petitioner intends to file or has filed a U.S. patent application. The waiver shall extend to the claimed invention of any division or continuation of the patent application filed on the reported invention provided the claims of the subsequent application do not substantially broaden the scope of the reported invention.

(h) A waiver granted pursuant to a petition submitted under this § 1245.104 shall extend to any contract changes, modifications, or supplemental agreements, so long as the purpose of the contract or the scope of work to be performed is not substantially changed.

§ 1245.105 Waiver after reporting inventions.

(a) (1) The provisions of this § 1245.105 apply to petitions for waiver of domestic rights to identified inventions which have been reported to NASA and to which a waiver of rights has not been granted pursuant to § 1245.104. A petition for a waiver under this section should be filed promptly after the reporting of the invention to NASA, and must be submitted prior to the filing by NASA of a U.S. patent application claiming the reported invention.

(2) A waiver granted pursuant to this section shall extend to the claimed invention of any division or continuation of the patent application filed on the reported invention provided the claims of the subsequent application do not substantially broaden the scope of the reported invention.

(b) The Board shall recommend to the Administrator that waiver of domestic rights to an identified invention be granted where the Board makes all of the findings below and concludes that the interest of the United States would be served thereby:

(1) The invention is not directly related to a governmental program for creating, developing, or improving products, processes, or methods for use by the general public at home or abroad.

(2) The invention is not likely to be required by governmental regulations for use by the general public at home or abroad.

(3) The invention does not directly concern the public health, public safety, or public welfare.

(4) The invention is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the acquisition of exclusive rights in the invention would not likely confer on the petitioner a preferred or dominant position.

Provided, That the Board also finds in view of the petitioner's plans and intentions to bring the invention to the point of practical application, and the activities of the Government, the incentives provided by waiver will increase the likelihood that the benefits of the invention would be readily available to the public at an early date.

(c) If the Board is unable to make one of the findings to support a waiver under paragraph (b) (1) through (4) of this section, the Board may nevertheless recommend that waiver of domestic rights be granted by the Administrator if the Board further finds that such waiver is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical application, or that the Government's contribution to the invention is small compared to that of the contractor.

§ 1245.106 Waiver of foreign rights.

(a) The Board will consider the waiver of domestic and foreign rights concurrently when so requested by the petitioner in accordance with § 1245.110 (d). Where the Board makes the findings necessary to support a waiver of domestic rights, the petitioner will normally be granted the right to secure patents in any country in which it elects to file provided that the grant of such right is consistent with the economic interests of the United States. The Board may also recommend the grant of only foreign rights, in accordance with the guidelines of paragraph (b) of this section, when the interests of the United States will best be served thereby.

(b) The Board will also consider a separate request for the waiver of the right to secure a patent in any country in which the petitioner elects to file as to an identified invention when so requested by the petitioner in accordance with § 1245.110(d). Waiver of such foreign rights will normally be granted in countries in which the Administrator does not desire to file an application for patent provided that the grant of such rights is consistent with the economic interests of the United States.

(c) When the Administrator determines that it is in the best interest of the Government and the petitioner to withhold the release or publication of information on an invention for which the petitioner has requested waiver and is to file foreign patent applications thereon, NASA may agree, upon written request by the petitioner, to use its best efforts to withhold publication until a patent application is filed thereon, but in no event shall the Government or its employees be liable for any publication thereof.

§ 1245.107 Reservations.

(a) With respect to any particular invention, each waiver of domestic or foreign rights granted shall be subject to the reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the U.S. Government or any agency thereof, any foreign government pursuant to any existing or future treaty or agreement with the United States, or States and/or domestic municipal governments unless the Administrator determines, based upon a recommendation of the Board, that it would not be in the public interest to acquire the license for States and/or domestic municipal governments.

(b) With respect to any particular invention, each waiver of domestic rights granted shall be subject to the reservation by the Administrator of the right to require the granting of a nonexclusive or exclusive license for the practice of the invention to any responsible applicant on terms that are reasonable under the circumstances:

(1) Unless the waiver recipient, its licensees, or assigns have taken effective steps within 3 years after a U.S. patent issues on the invention to bring the invention to the point of practical application and thereafter continue to work the invention and make its benefits reasonably accessible to the public; or

(2) Unless within 3 years after a U.S. patent issues on the invention, the waiver recipient, its licensee, or its assigns have made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances; or

(3) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill health, safety, or welfare needs, or for other public purposes stipulated in the contract.

(c) With respect to any particular invention, each waiver granted for domestic or foreign rights shall be subject to the reservation by the Administrator of the right to require refund of any amounts received as royalty charges on the waived invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the waived invention.

(d) With respect to any particular invention, each waiver granted for domestic or foreign rights shall be subject to any other reservations called for by the Administrator on the grant of the petition.

(e) The waiver recipient shall be given an opportunity to show cause before the Board why it should not be required to grant a license under paragraph (b) of this section or why it should retain the principal or exclusive rights as provided by waiver for a further period of time.

§ 1245.108 License to contractor.

Each contractor reporting an invention is granted a license for each filed patent application and any resulting patent in which the Government acquires title of the scope and on the terms and conditions specified in the NASA Procurement Regulations (41 CFR 18-9.107-5(d)).

§ 1245.109 Revocation and voidability of waivers.

(a) If the waiver recipient fails to file a domestic or foreign patent application on any waived invention within the prescribed time periods, or decides not to continue prosecution of any such patent application, or to pay any of the required maintenance fees, or for any reason decides not to retain title to any such patent application or any patent issued thereon, the waiver recipient shall notify the Chairman and shall, upon request, convey to NASA the entire right, title and interest in the invention, and to any corresponding patent application or patent. The conveyance shall be made by delivering to the Chairman duly executed instruments (prepared by the Government) and, if applicable, such other papers as are deemed necessary to vest in the Government the entire right, title, and interest in the invention and any corresponding patent application, and to enable the Government to prosecute the application. In addition, any waiver of rights (domestic or foreign) shall be voidable as set forth in paragraphs (b)-(d) of this section.

(b) With respect to any particular invention, each waiver of domestic rights shall be voidable at the option of the Administrator unless:

(1) Within 6 months from the date of reporting an invention under a contract, subject to a waiver granted pursuant to § 1245.104 or 6 months from the date of the granting by the Administrator of a waiver pursuant to § 1245.105, or such longer periods as may be approved by NASA for good cause shown, the waiver recipient causes an application for U.S. Letters Patent to be filed disclosing and claiming the invention and shall include as the first paragraph of the specification following the abstract, the statement:

> The invention described herein was made in the performance of work under NASA Contract No. ---------- and is subject to the provisions of section 305 of the National Aeronautics and Space Act of 1958 (72 Stat. 435; 42 U.S.C. 2457).

(2) Within 2 months after such filing or within 2 months after the date of the grant of waiver if such patent application previously has been filed, the waiver recipient delivers to the Chairman a copy of such application including the filing date and serial number.

(3) Within 6 months after such filing, or within 6 months after the grant of waiver if a patent application has been previously filed, the waiver recipient delivers to the Chairman a duly executed and approved instrument prepared by the Government, fully confirmatory of all the rights to which the Government is entitled, and provide the Administrator an irrevocable power to inspect and make copies of the patent application.

(4) The waiver recipient furnishes to the Chairman a copy of the patent within 2 months after the patent is issued on such application.

(5) The waiver recipient notifies the Chairman not less than 30 days before the expiration of the initial response period for any action required by the Patent and Trademark Office of any decision not to continue prosecution of the application and delivers to the Chairman executed instruments granting the Government a power of attorney to prosecute the application.

(6) The waiver recipient grants any license which the Administrator may require pursuant to § 1245.107.

(7) The waiver recipient files a utilization report with the Board, upon NASA's written request, not more often than annually. Such report shall set forth in detail the steps taken by the waiver recipient or its transferee regarding the progress, development, application, and commercial use being made and that is intended to be made of the waived invention.

(8) The waiver recipient notifies the Chairman in not less than 60 days prior to any transfer of principal rights in such invention to any party, and submits a statement of the transferee's development and commercialization plans to bring the invention to the point of practical application. Such statement should accompany the notification or it may be submitted in not less than 30 days prior to the transfer of rights. The statement must show to the Board's satisfaction that the property rights left in the transferee will increase the likelihood that the benefits of the invention would be made readily available to the public at an early date.

(9) The waiver recipient complies with any other terms and conditions called for by the Administrator with respect to the grant of the petition.

(c) With respect to any particular invention, each waiver granted shall be voidable at the option of the Administrator if a patent claiming such invention is held, in a final determination, to have been used in violation of the antitrust laws in any suit, action, or proceeding brought before a properly constituted authority authorized to hear such matters.

(d) With respect to any particular invention, waiver of foreign rights as to any foreign country shall be voidable at the option of the Administrator unless:

(1) A patent application is filed in the country within 8 months from the date a corresponding U.S. application is filed, or 6 months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited for security reasons, or such longer periods as may be expressly approved by the Administrator;

(2) The waiver recipient furnishes to the Chairman the identifying serial number and filing date of each foreign patent application filed promptly upon receipt thereof; and, upon request, a copy of an English version of the foreign application without additional compensation and a copy of the foreign patents;

(3) The waiver recipient executes and furnishes to the Chairman instruments fully confirmatory of the rights herein reserved by the Government; and

(4) The waiver recipient, in the event it elects not to continue prosecution of any foreign application filed on such invention or if it intends to abandon a foreign patent by the nonpayment of a maintenance tax, notifies the Chairman within sufficient time to allow assumption of prosecution by the Government, or payment of the maintenance tax, respectively, and delivers to the Chairman such duly executed instruments as are necessary to vest in the Administrator title thereto, including an instrument of assignment.

§ 1245.110 Content of petitions.

(a) General contents and forms. Forms which may be used in petitioning for waiver and for filing utilization reports are available from the NASA Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. Each request for waiver of domestic or foreign rights under § 1245.104, § 1245.105, or § 1245.106 shall be by petition to the Administrator and shall include:

(1) An identification of the petitioner, its place of business and address, an if the petitioner is represented by counsel, the name, address, and telephone number of the counsel;

(2) An identification by number of the pertinent NASA contract or proposed contract;

(3) The nature and extent of the rights rights desired and a citation to the section under which the petition is submitted; and

(4) The signature of the petitioner or its authorized representative, and date of signature.

(b) Petitions for advance waiver § 1245.104. In addition to the information specified in paragraph (a) of this section, each petition for waiver under § 1245.104 shall include:

(1) A copy of the statement of work of the pertinent NASA contract or proposed contract;

(2) A full and detailed statement of facts sufficient to enable the Board to make the findings regarding the contract and the petitioner as specified in § 1245.104 and, if applicable, whether exceptional circumstances of § 1245.104(b) and/or special situations under § 1245.-104(d)(2) are present; and

(3) The date of contractor's execution of the contract, if the petition is filed subsequent to contract execution.

(c) Petitions for waiver for identified inventions under § 1245.105. A separate petition shall be submitted for each identified invention except as provided by § 1245.105(a)(2). In addition to the information specified in paragraph (a) of this section, such petition shall include:

(1) The full names of all inventors;

(2) A statement whether a patent application has been filed on the invention, together with a copy of such application if filed; or, if not filed, a complete description of the invention;

(3) If a patent application has not been filed, any information which may indicate a potential statutory bar to the filing of a patent application under 35 U.S.C. 102 or a statement that no bar is known to petitioner to exist;

(4) A full and detailed statement of facts sufficient to enable the Board to make the findings regarding the invention as specified in § 1245.105 (b) or (c);

(5) Where principal rights in the waived invention are to be transferred to another party, a statement identifying such party and its relationship to the petitioner; and

(6) Where the petitioner(s) is the inventor(s), a statement in writing from the contractor that the contractor will not request waiver of rights and authorization of the contractor.

(d) Petitions for waiver of foreign rights under § 1245.106. A petition for waiver of foreign rights may accompany and be a part of a petition for waiver of domestic rights under either § 1245.104 or § 1245.105, or a petition for foreign rights may be submitted independently of any request for domestic rights under § 1245.106(b). In addition to the information specified in paragraph (a) of this section, petition for waiver of foreign rights shall include, where feasible, a denomination of the foreign countries in which petitioner elects to secure or intends to file patent applications, and its plans and intentions to practice and/or license the invention in such countries.

(e) Petitions for waiver under § 1245.-103(c). Contents of the petition shall normally be as prescribed by the other Government agency, and petitioner may use any forms provided by such agency.

§ 1245.111 Submission of petitions.

Petitions for advance waiver of domestic rights under § 1245.104 or advance waiver of foreign rights under § 1245.106 presented prior to contract execution must be submitted to the contracting officer. Any such petitions submitted by organizations selected for negotiation of a contract will be processed and forwarded to the Board for consideration as specified in the NASA Procurement Regulations (41 CFR 18-9.109-6(e)). All other petitions shall be submitted directly to the Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. Any waiver petitions submitted under § 1245.103(c) should be submitted directly to the contracting officer.

§ 1245.112 Notice of proposed Board action and reconsideration.

(a) Notice. Except as provided by § 1245.104(e) the Board will notify the petitioner, through the contracting officer for petitions for advance waiver prior to contract execution, and directly for all others:

(1) Whether it proposes to recommend to the Administrator that the petition be:

(i) Granted in the extent requested;

(ii) Granted in an extent different from that requested; or

(iii) Denied.

(2) Of the reasons for any recommended action adverse to or different from the waiver of rights requested by the petitioner.

(b) Request for reconsideration and statements required.

(1) If, pursuant to paragraph (a) of this section, the Board notifies the petitioner that the Board proposes to recommend action adverse to or different from the waiver requested, the petitioner may, within such period as the Board may set, but not less than 15 days from such notification, request reconsideration by the Board.

(2) If reconsideration has been requested within the prescribed time, the petitioner shall, within 30 days from the date of the request for reconsideration, or within such other time as the Board may set, file a statment setting forth the points, authorities, arguments, and any additional material on which it relies.

(3) Upon filing of the reconsideration statement by the petitioner, the petition will be assigned for reconsideration by the Board upon the cpntents of the petition, the record, and the reconsideration statement submitted by the petitioner.

(4) The Board, after its reconsideration, will notify the petitioner of its proposed recommendation to the Administrator. If the Board's proposed action is adverse to, or different from, the waiver requested, the petitioner may request an oral hearing within such time as the Board has set.

§ 1245.113 Hearing procedure.

(a) If the petitioner requests an oral hearing within the time set, pursuant to § 1245.112(b)(4), the Board shall set the time and place for such hearing and shall so notify the petitioner.

(b) Oral hearings held by the Board shall be open to the public and shall be held in accordance with the following procedures.

(1) Oral hearings shall be conducted in an informal manner, with the objective of providing the petitioner with a full opportunity to present facts and arguments in support of the petition. Evidence may be presented through means of such witnesses, exhibits, visual aids as are arranged for by the petitioner. Petitioners may be represented by any person including its attorney. While proceedings will be ex parte, members of the Board and its counsel may address questions to witnesses called by the petitioner, and the Board may, at its option, enlist the aid of technical advisors or expert witnesses. Any person present at the hearing may make a statement for the record.

(2) A transcript or equivalent record of the proceeding shall be arranged for by the Board. The petitioner shall submit for the record a copy of any exhibit or visual aid utilized during the hearing.

§ 1245.114 Findings and recommendations of the Board.

(a) *Findings of the Board.* The Board shall consider the petition, the NASA contract, if relevant, the goals cited in § 1245.103(a), the effect of the waiver on the objectives of the related NASA programs, and any other available facts and information presented to the Board by an interested party. The Board shall then determine and make, if applicable, each of the specific findings of fact required by § 1245.104, §1245.105, or § 1245.106 under which the petition was submitted. The Board shall document its findings.

(b) *Recommendation of the Board.* (1) Except as provided in § 1245.104(e), after making the findings of fact, the Board shall formulate its proposed recommendation to the Administrator as to the grant of waiver as requested, the grant of waiver upon terms other than as requested, or denial of waiver.

(2) If the Board proposes to recommend, initially or upon reconsideration or after oral hearing, that the petition be granted in the extent requested or, in other cases, where the petitioner does not request reconsideration or a hearing during the period set for such action, or informs the Board that such action will not be requested, or fails to file the required statements within the prescribed time, the Board shall transmit the petition, a summary record of hearing proceedings, if applicable, its findings of fact with respect thereto, and its recommendation to the Administrator.

§ 1245.115 Action by the Administrator.

(a) After receiving the transmittal from the Board, the Administrator shall determine, in accordance with § 1245.103, whether or not to grant any waiver of rights of the petitioner. A waiver pursuant to § 1245.104(b)(2) will be granted only when the Board so recommends.

(b) In the event of denial of the petitioner by the Administrator, a written notice of such denial will be promptly transmitted by the Board to the petitioner. The written notice will be accompanied with a statement of the grounds for denial.

(c) If the waiver is granted by the Administrator, the petitioner shall be sent an original and one copy of an instrument of waiver confirmatory of the conditions and reservations of the waiver grant for his execution. The petitioner shall return the executed copy to the Chairman within 30 days from the grant of waiver. Failure to return such copy within the prescribed time may result in revocation of the waiver of rights granted. Before such action is taken, notice shall be given to petitioner so that it may show cause before the Board why the waiver should not be revoked.

§ 1245.116 Filing of patent applications and reimbursement of costs.

(a) In order to protect the interests of the Government and the petitioner in inventions, a petitioner may file a United States patent application for such inventions prior to the Administrator's determination on a petition for waiver. If an application on an identified invention is filed during the pendency of the petition, or within 60 days prior to the receipt of a petition, NASA will reimburse the petitioner for any reasonable costs of such filing and patent prosecution that may have occurred, provided:

(1) Similar patent filing and prosecution costs are not normally reimbursed to the petitioner as direct or indirect costs chargeable to Government contracts;

(2) The petition is ultimately denied with respect to domestic rights, or with respect to foreign and domestic rights, if both are requested; and

(3) Prior to reimbursement, petitioner assigns the application to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

§ 1245.117 Publication and record of decisions.

The findings of fact and recommendations made to the Administrator by the Board with respect to each petition for waiver shall be recorded and made available to the Public. In addition, selected findings and recommendations of the Board shall be published annually.

A. M. LOVELACE,
Acting Administrator.

[FR Doc.77-14106 Filed 5-17-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1021]

ENVIRONMENTAL REVIEW

Proposed and Interim Rule

CROSS REFERENCE: For an interim rule regarding procedures implementing the National Environmental Policy Act, see FR Doc. 77-14101 appearing in the Rules and Regulations section of this issue.

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM77-1]

JUST AND REASONABLE RATE OF RETURN ON EQUITY FOR NATURAL GAS PIPELINE COMPANIES AND PUBLIC UTILITIES

Extension of Time for Filing Reply Comments

AGENCY: Federal Power Commission.

ACTION: Extension of Time for Reply Comments.

SUMMARY: The Commission is extending the time for filing Reply Comments in the proposed rulemaking proceeding docketed as RM77-1.

DATES: Reply comments must be received on or before June 2, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary (202) 275-4166.

SUPPLEMENTARY INFORMATION: On May 2, 1977, the Oglethorpe Electric Membership Corporation and North Carolina Electric Membership Corporation filed a motion requesting a further extension of time for filing Reply Comments in the rulemaking proceeding noticed October 15, 1976, and published October 22, 1976 (41 FR 46618), in Docket No. RM77-1. The date for filing Reply Comments was last extended to May 2, 1977, by Notice issued March 24, 1977, and published March 31, 1977 (42 FR 17142).

Upon consideration, notice is hereby given that the date for filing Reply Comments is further extended to and including June 2, 1977.

KENNETH F. PLUMB,
Secretary.

MAY 9, 1977.

[FR Doc.77-14191 Filed 5-17-77;8:45 am]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Part 4]

TRADEMARK FORMS

Extension of Comment Period

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Extension of period for receipt of written comments to the notice published May 3, 1977 (42 FR 22378), proposing revision of certain existing forms for trademark cases.

SUMMARY: This notice extends the closing date for the receipt of comments from June 1, 1977, to August 1, 1977, to provide interested persons with an adequate comment period following the reprinting of the FEDERAL REGISTER notice in the Official Gazette (Trademark section) of the Patent and Trademark Office. This reprinting could not be accomplished earlier than May 31, 1977.

DATES: New closing date for written comments: August 1, 1977.

ADDRESSES: Comments may be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. All comments received will be available for public inspection in Room 11E10, Crystal Plaza, Building 3, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Miss Katharine Hancock, Patent and Trademark Office, (703) 557-5380, or by mail addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, Attn. Miss Katharine Hancock.

Dated: May 10, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved: May 12, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc.77-14110 Filed 5-17-77;8:45 am]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-4]

RECORDATION AND CERTIFICATION OF COIN-OPERATED PHONORECORD PLAYERS

Extension of Comment Periods

AGENCY: Library of Congress, Copyright Office.

ACTION: Advance Notice of Proposed Rulemaking, Extension of Comment Periods.

SUMMARY: This notice extends the periods for initial and reply comments to the notice, published March 30, 1977 (42 FR 16838), requesting informtion to assist the Copyright Office in formulating a tentative regulation pertaining to the recordation and certification of coin-operated phonorecord players under Pub. L. 94-553 (90 Stat. 2541), the Act for General Revision of the Copyright Law. Requests for extension of time were orally submitted by representatives of the manufacturers and operators of coin-operated phonorecord players, on the grounds that additional time was necessary to collect, assemble and present data on an industry-wide basis. As this proceeding is an information gathering device and it is important to secure data from the manufacturers and operators, we have granted the request. The reply period has also been correspondingly extended.

DATES: Initial comments should be received on or before May 30, 1977. Reply comments on or before June 15, 1977.

ADDRESS: Interested persons should submit five copies of their written comments to: Office of the General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559.

FOR FURTHER INFORMATION, CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-553: §§ 116; 702; 708.)

Dated: May 12, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-14143 Filed 5-17-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

LAND MANAGEMENT PLAN, SAN GABRIEL UNIT—ANGELES NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Management Plan, San Gabriel Unit, Angeles National Forest, California, USDA-FS-R5-DES(Adm)-77-05.

The environmental statement concerns selection of a management plan for the 186,570 acres of National Forest lands known as the San Gabriel Unit of the Angeles National Forest, in Los Angeles and San Bernardino Counties, California. Sixty-two thousand acres within the Unit have been inventoried as "roadless," and 36,137 acres are included in the National Wilderness Preservation System as the San Gabriel Wilderness.

This draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on May 11, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
Regional Forester, U.S. Forest Service, Rm. 529, 630 Sansome Street, San Francisco, California 94111.
Forest Supervisor's Office, Angeles National Forest, 150 S. Los Robles, Pasadena, California 91101.
Forest Service, District Ranger, Glendora, California.
Forest Service, District Ranger, Flintridge, California.
Forest Service, District Ranger, Parblossom, California.

Copies are also available for review at public libraries in Pasadena, Altadena, Claremont, La Verne, San Dimas, Duarte, Monrovia, Azuza, Glendora, Sierra Madre, Palmdale, and Lancaster, California. A limited number of single copies are available, upon request, from Forest Supervisor, Angeles National Forest, 150 S. Los Robles, Pasadena, CA 91101.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental effect for which comments have not been specifically requested.

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor William T. Dresser, Angeles National Forest, 150 S. Los Robles, Pasadena, California 91101. Comments must be received within 60 days after transmittal to CEQ in order to be considered in the preparation of the final environmental statement.

DOUGLAS R. LEISZ,
Regional Forester.

MAY 11, 1977.

[FR Doc.77-14171 Filed 5-17-77;8:45 am]

USE OF HERBICIDES ON NATIONAL FORESTS OF ALASKA

Availability of the 1977 Final Addendum to the 1975 Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final addendum to the 1975 Final Environmental Statement on the use of herbicides on the National Forests of Alaska, USDA-FS-R10-FES(Adm)-75-03.

The action proposed by this statement concerns vegetation control with the use of herbicides on road, railroad and power line rights-of-way through the Chugach and Tongass National Forests in Alaska.

This final addendum was transmitted to CEQ on May 6, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agricultural Building, Room 3231, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Alaska Regional Office, Federal Building, Juneau, Alaska 99802.
Forest Supervisor, Chugach National Forest, Suite 230, 2221 E. Northern Lights Blvd., Anchorage, Alaska 99504.
Forest Supervisor, Tongass National Forest, Chatham Area, Federal Building, Sitka, Alaska 99835.
Forest Supervisor, Tongass National Forest, Ketchikan Area, Federal Building, Room 313, Ketchikan, Alaska 99901.
Forest Supervisor, Tongass National Forest, Stikine Area, Federal Building, Petersburg, Alaska 99833.

A limited number of copies are available upon request to the Regional Forester, U.S. Forest Service, P.O. Box 1628, Juneau, Alaska 99802.

Copies of this final addendum have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

CARL W. SWANSON,
Environmental Coordinator, Alaska Region.

MAY 6, 1977.

[FR Doc.77-14172 Filed 5-17-77;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Deletion of Systems of Records

Notice is hereby given that the Department of Agriculture, in accordance with 5 U.S.C. 552a(e) (4) and (11), proposes to delete two systems of records that do not contain personal information about individuals. The deleted systems are USDA/ASCS-1, Acknowledgement of Responsibility for Docket Security and USDA/ASCS-32, Warehouse Business Agents. Both systems were initially established as a result of misinterpreting the Privacy Act requirements. System USDA/ASCS-1 contains only an individual's signature on a card whereby the individual acknowledges that he understands his responsibility for maintaining docket security. System USDA/ASCS-32 only contains information relating to corporations, businesses, and firms. The systems notices were previously republished on September 14, 1976 at 41 FR 39205 and 41 FR 39217 respectively. The delegations will be effective May 18, 1977.

Dated: May 12, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-14142 Filed 5-17-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30660; Order 77-5-63]

AMERICAN AIRLINES, INC. AND EASTERN AIR LINES, INC.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of May, 1977.

By tariff revisions [1] marked to become effective May 15, 1977, American Airlines, Inc. (American) and Eastern Air Lines, Inc. (Eastern) propose to increase normal fares in the U.S. mainland-Puerto Rico/Virgin Islands market by three percent for travel on and after June 1, 1977. Eastern first filed with an effective date of May 1, 1977 (which was subsequently postponed to May 15), bas-

[1] Revisions to American Airlines, Inc., Tariff C.A.B. No. 244, and Eastern Air Lines, Inc., Tariff C.A.B. No. 448.

ing its proposal on combined carrier results for the year ended June 30, 1976, as set forth in Order 76–12–96, adjusted for cost inflation to the proposed tariff effective date. In addition, it proposes to modify the return on investment (ROI) calculation to reflect an adjustment in passenger-fare yield and other revenues as discussed below. American has matched Eastern's filing. It has combined its results with those of Eastern for calendar year 1976; has applied the established ratemaking adjustments; and has computed that a three-percent increase in normal fares will result in an ROI for this ratemaking entity of 11.87 percent.

Eastern contends in its justification that several modifications should be made to the ratemaking adjustments employed in reviewing entity ROI. First, it states that, in developing a new fare structure in Order 76–12–96, full-fare passenger yield was overstated because it did not reflect the dilution caused by travel at joint fares, and by traffic moving through the entity to international points beyond San Juan. The carrier alleges that based upon an internal survey for the month of January 1977, the passenger yield used in Order 76–12–96 was overstated by slightly more than one percent. It contends that this adjustment translates into an additional 1.9-percent fare increase over and above a two-percent increase warranted by results, as currently adjusted.

The second point raised by Eastern relates to "other revenues," which are offset against total expenses to obtain passenger operating expense. The carrier states that 32.4 percent of these revenues are passenger-related,[2] so that, when assuming a traffic decline due to the effect of a fare increase, (i.e., application of the demand elasticity factor), it is reasonable to assume a reduction in these particular passenger-related "other revenues." Eastern has computed the change in "other revenues" to be $266,000 for the industry for the year ended June 30, 1976. The net effect is to reduce ROI three one-hundredths of one percent.

Finally, Eastern argues that the nonfuel cost inflation factor it has used is actually understated since it is based upon an "artificially" depressed level of expenses during the latter half of fiscal 1976, which was created by the wage freeze the carrier put in effect during 1976. While it does not attempt to make an adjustment for this factor, it nevertheless contends that the wage freeze should be recognized in determining the nonfuel inflation factor.

The Commonwealth of Puerto Rico (Commonwealth) has filed a complaint against Eastern's proposal alleging that the request is inadequate and improper since it is based on costs for the year ended June 30, 1976, which are now outdated. It also contends that there is no basis for recognizing IATA Caribbean traffic moving on low promotional-fare yields as full-fare traffic for ratemaking purposes, and that this traffic should be treated like other promotional-fare traffic and made subject to the discount-fare adjustment. With respect to the "other revenue" adjustment, the Commonwealth contends that Eastern has provided no evidence to support the conclusion that certain of these revenues will decrease if fares increase.

Upon consideration of the filings, the complaint, and all other relevant matters, the Board has determined that the complaint does not set forth sufficient facts to warrant investigation and the request therefor, and consequently the request for suspension will be denied and the complaint dismissed.

In keeping with the Board's decision in the *Mainland U.S.-Puerto Rico/Virgin Islands Fares* case that all markets should comprise a single ratemaking entity (except with respect to application of the load factor standards), the combined results of the carriers for calendar year 1976 have been adjusted to reflect established ratemaking standards to determine return on investment from operations in this entity with the requested three-percent increase. Included in our calculation are annualization of past fare increases and the application of a cost inflation factor to bring costs forward to the fare application date of June 1. A minor modification in the computation related to application of the −0.7 elasticity factor has also been made, as is discussed below. The final result reflects an adjusted ROI of 11.94 percent with the requested increase.[3] Accordingly, we will permit the proposed increase to become effective. (See Appendix A. Appendix A filed as part of the original document.)[4]

One of the most significant changes which has occurred in this operating entity since the Board's last review of ROI is the increase in fuel cost which American has experienced this year. American's average fuel cost per gallon for calendar year 1976 was 24.39 cents—well below Eastern and atypically low for the industry in general. Beginning in January, however, American's fuel costs has risen sharply, to the point that by March it was 33.41 cents per gallon compared with 35.83 cents for Eastern. In keeping with the established practice of projecting fuel cost forward to the fare-effectiveness date, the Board has estimated that fuel cost per gallon will increase one cent from March to June, based upon Eastern's average monthly increase over the period October 1976–March 1977. We have concluded that American's experience for the past six months should not be combined with that of Eastern for purposes of determining a trend because of the very significant increase American has experienced over this period.[5]

Eastern contends that two "adjustments" in the standard ROI computation should be made. The first relates to an alleged overstatement of passenger yield created by the failure to account for joint-fare traffic and traffic originating at or destined to foreign points when the present fare structure was established in January 1977, pursuant to the Board's decision in the formal proceeding. Had adequate data been available at that time it would have been appropriate to adjust for revenue dilution as Eastern alleges.[6]

Accordingly, the fare structure and level were predicated upon the carriers' combined cost of operations plus return on investment, without reference to actual revenue. However, an adjustment for dilution would have been appropriate to insure that actual (i.e., diluted) revenues would cover cost plus return on investment. The ROI analysis undertaken here, however, is not concerned with establishing a fare structure, but rather is concerned only with overall revenue need. Consequently, the traditional ROI analysis, which uses as its starting point actual cost and revenue, has been followed. As a result, revenue dilution caused by joint-fare travel and the domestic portion of international trips is reflected both in actual revenues and in the amount of additional revenue required to cover cost plus return on investment as of the tariff effective date. In summary, the analytical technique used for determining the fare structure this past January was different from that here used to determine revenue need. While a dilution adjustment would have been appropriate in the former instance, it is, in effect, built into the latter. Consequently, the dilution adjustment suggested by Eastern would constitute a double adjustment, and would overstate revenue need.

The second "adjustment" proposed by Eastern concerns that part of "other revenue" related to passenger travel, as described earlier. In the Board's opinion, this adjustment is reasonable and should be made. The rationale behind applying the −0.7 elasticity factor in the case of a fare increase is that a certain amount of traffic will be "lost" because of the increase. There are other categories of revenue which have historically been associated with the volume of traffic carried. It is only reasonable to assume that, if this volume decreases, these revenues would also decrease. In the present case the adjustment which we have made has an extremely small effect upon ROI—reducing it by three one-hundredths of one percent.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. The complaint in Docket 30660 be and hereby is dismissed; and 2. A copy of this order be served upon American Airlines, Inc., Eastern Air Lines, Inc., and the Commonwealth of Puerto Rico.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–14195 Filed 5–17–77;8:45 am]

[2] The categories of passenger-related "other" revenue are net liquor revenue, excess baggage revenue, and reservation-cancellation revenue.

[3] As indicated at the outset, Eastern proposes to increase only normal fares at this time. While such a decision has no impact on determining adjusted ROI since the discount-fare adjustment "normalizes" discount-fare revenues, we question the logic of not increasing discount fares at the same time normal fares are increased if, as alleged, current revenues are deficient.

[4] The details of the Board's analysis will be available for public inspection in the Public Reference room, Room 710, Monday, May 16, 1977.

[5] In this connection we note that American has used the latest fuel data it had available at the time of filing, which was for the month of February 1977.

[6] This was not an error of omission, but simply the fact that the carriers had supplied no data to indicate the extent of this dilution.

[Docket No. 30880; Order No. 77–5–62]

VARIOUS CARRIERS

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of May, 1977.

By tariff revisions marked to become effective either May 15 or June 1, 1977, all trunkline and local service carriers propose a two-percent increase in the level of passenger fares within the 48 States and the District of Columbia.[1] In support of this proposal, the carriers assert that additional revenue is necessary to counter continuing inflationary pressures, particularly rapidly rising fuel costs.

The carriers have generally followed the methodology used by the Board in its analysis of the fare increase proposed in January 1977 (Order 77–1–93), and have based their analyses on data for the year ended September 30, 1976 brought forward to May 15, 1977. Continental and National contend that costs should be projected beyond the tariff effective date.[2] Additionally, American and Eastern argue that the utilization adjustment is unwarranted since there is nothing abnormal about current utilization levels. However, all contend that a two-percent general increase is justified under the Board's present ratemaking methodology.

The National Passenger Traffic Association, Inc. (NPTA) has filed a complaint against use of results for the year ended September 30, 1976 as the basis for the carrier's ROI analyses, and contends that there is no basis for permitting any fare increase in the absence of a careful and thorough review of results for calendar year 1976. NPTA further urges that, in view of the continuing failure of the trunklines to reduce controllable costs and their continuing pursuit of discount fare pricing policies, no further increase should be permitted at this time.

The answering carriers state that they have, in fact, used the latest data available at the time of filing.[3] Additionally, they argue that NPTA's contention that the carriers' have failed to control costs is unfounded, and that their discount policies are fully consistent with the *DPFI* methodology.

Upon consideration of the proposals, the complaints and answers thereto, and all relevant matters, the Board concludes that the proposal may be unjust, or unreasonable, or unjustly discriminatory, or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Based upon the most current data now available, that for calendar year 1976, the computed ratemaking ROI as of May 15, 1977 (the earliest tariff effective date), is 11.3 percent after adjustment for utilization, standard seating, the 55-percent load-factor standard, removal of discount fares, and annualization of past fare increases and cost increases. Adjusting the ROI to reflect the proposed two-percent fare increase results in a ratemaking ROI of 13.2 percent.

The argument advanced by Continental and National that costs should be projected beyond the tariff effective date was thoroughly addressed by the Board in Order 77–1–93, January 14, 1977, at which time the Board concluded that this revision should not be reflected in the evaluation of revenue need. No new information or argument not previously considered by the Board has been presented here and we will not, therefore readdress the issue. With regard to the allegation of American and Eastern that the utilization adjustment should be terminated, the Board is continuing its consideration of this matter and is not prepared at this time to change its approach. In any event, eliminating the utilization adjustment would not alter our disposition of this proposal.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. An investigation be instituted to determine whether the fares and provisions described in Appendices B[4] and C[4] attached hereto, and rules, regulations and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix B[4] hereto are suspended and their use deferred to and including August 12, 1977, and the fares and provisions described in Appendix B hereto are suspended and their use deferred to and including August 29, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Dockets 30612 and 30720 are hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order will be filed with the aforesaid tariff and served upon all scheduled certificated carriers operating between points within the 48-contiguous States and the District of Columbia.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–14197 Filed 5–17–77;8:45 am]

[1] Revisions to Airline Tariff Publishing Company, Agent, C.A.B. No. 259.

[2] See Order 77–1–93, January 14, 1977, for a thorough discussion by the Board of recognizing anticipatory cost in its ratemaking evaluations.

[3] American, Eastern, Trans World, and United submitted answers to NPTA's complaint.

[4] Appendices filed as part of original.

[Order 77–5–60, Docket 27573, Agreement C.A.B. 26469]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Cargo Rate Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of May, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA).

The agreement would establish proportional rates for the U.S. interior points Denver, Salt Lake City, and Wichita at 29 cents per kg. over Los Angeles for use with specified North/Central Pacific general cargo rates. The rates are not out of line with other North/Central Pacific proportionals approved by the Board, and will be approved herein.

The Board, acting pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), and 412 thereof, does not find Resolution JT31/JT123(Mail 101)556a incorporated in Agreement C.A.B. 26469 as indicated, to be adverse to the public interest or in violation of the Act:

Agreement C.A.B.	*IATA Resolution*
26469	JT31/JT123(Mail 101)556a

Accordingly, *It is ordered* that:

Agreement C.A.B. 26469 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–14194 Filed 5–17–77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

SUGAR INDUSTRY

Prospects for Adjustment Assistance for Firms

The Department of Commerce has conducted a study of the firms growing and processing sugar cane and sugar beets pursuant to Section 264 of the Trade Act of 1974. Such a study is required whenever the U.S. International Trade Commission makes an import relief investigation under Section 201 of the Act.

The Commission reported to the President on March 17, 1977, that the domestic sugar industry is being threatened with serious injury by increased imports and recommended that quota restraints be imposed on imports to relieve the threat. The Commission was evenly divided, 3 to 3, over whether the annual import quota applied to imports of sugar, syrup or molasses should be set at 4.275 million short tons or at 4.4 million short tons, raw value. According to Section 202 of the Trade Act, the President shall determine whether to provide import relief and what method and amount of import relief will be provided.

Sugar is produced from the juice of sugar cane and sugar beets. The juice milled from sugar cane is processed into raw sugar, a product consisting of large sucrose crystals coated with molasses, which is the principal "sugar" shipped in world trade. Sugar beets, however, are usually converted directly into refined sugar. Most sugar is for human consumption as a caloric sweetener and for food preservative purposes, but it also is used in livestock feeds and in producing alcohol.

In the United States, about one-third of the sugar consumed goes to household users and two-thirds is for industrial consumption in such products as beverages, bakery and cereal products, confectionery, fruits and vegetables, and dairy products. About 55 percent of the sugar consumed annually in the United States comes from domestic sources (using both sugar beets and sugar cane), and 45 percent comes from cane sugar imports from foreign countries.

The domestic sugar industry is composed of those firms growing, milling, processing, and refining sugar cane and sugar beets. Sugar beets account for 56 percent of the total U.S. production. In the 1976/77 crop year, the United States produced 6.9 million short tons (raw value) of sugar, equal to about 7 percent of the world's production. (The crop year begins at various times of the calendar year depending on the climate of the growing area.)

Sugar beets are currently produced as annual crops in the temperate zones of 18 states, but most of them are grown in 10 states: California, Minnesota, Idaho, Colorado, North Dakota, Washington, Nebraska, Michigan, Wyoming, and Montana. Sugar cane is grown in subtropical areas in Florida, Louisiana, Texas, Hawaii, and Puerto Rico.

In 1976, the leading suppliers of U.S. imports of raw cane sugar were the Dominican Republic, Australia, the Philippines, the West Indies, Peru, and Guatemala. Collectively, they accounted for 69 percent of the 4.66 million short tons of sugar imports. Imported sugar was equivalent to 74 percent of domestic production of cane sugar in 1976.

To be certified eligible to apply for trade adjustment assistance, a sugar grower, processor or refiner must petition the Department of Commerce and demonstrate that increased imports of articles "like or directly competitive with those produced by the firm" contributed importantly to declines in the firm's sales or production, or both, and to the separation, or threat of separation, of a significant number or proportion of the firm's workers. A trade-impacted producing firm may petition the Department for certification at any time regardless of a prospective Commission finding or its results. For firms in the sugar industry that are considering petitioning for certification, the first requirement of the qualifying criteria probably is met, since U.S. imports of sugar increased in 1976 over 1975.

As of the date of this report, no petitions have been filed by firms in the sugar industry seeking certification to apply for adjustment assistance. The likelihood of any firm in the industry being able to meet the qualifying criteria for certification would depend on a number of unknown factors which could vary considerably in individual cases.

The Department is unable to estimate the number of firms that are "likely to be certified as eligible for adjustment assistance." However, if any firms do submit petitions, they would most likely be from independent sugar cane and sugar beet growers. The growers would have to submit relevant data for their entire operations. In the case of sugar beet growers, the sugar beet harvest may only represent a small portion of their total farm output and total sales. Growers of sugar cane, on the other hand, generally grow only the one crop on their farms.

Sugar cane millers and sugar beet processors all are often associated with the growers. For certification purposes, all of the affiliated operations would have to be examined in order to determine if the firm meets the requisite criteria.

The sugar cane refiners, most of which are affiliates of large corporations, are least likely to qualify for certification. These refiners also import the bulk of the raw cane sugar from foreign countries. The sugar-refining segment is the largest component of the total sugar industry as far as sales and profits are concerned.

Under the program of adjustment assistance for firms authorized by the Trade Act and administered by the Economic Development Administration ("EDA") in the Department of Commerce, financial assistance to a certified firm may take the form of direct loans and loan guarantees, and technical assistance, to enable a firm to establish a competitive position in the same or a different industry. Financial assistance may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

The Trade Act also provides for certification of communities located in trade-impacted areas or in areas where a firm or subdivision has transferred to a foreign country.

Certified communities are eligible for public works, grants, loans, and loan guarantees—all of which can be directed towards assisting affected firms. Under the Public Works and Economic Development Act of 1965 ("PWEDA"), as amended, direct and indirect assistance to firms is available without Trade Act certification. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit indirectly from grants to the designated places and related entities for financing public works, and directly from business development loans and guarantees. Under PWEDA, neither loans nor guarantees can be used to assist firms in industries found to have long-term overcapacity. However, PWEDA does authorize technical assistance to firms regardless of location, and grants of loanable funds to communities with actual or threatened unemployment.

The Farmers Home Administration ("FmHA") of the Department of Agriculture has programs of both farm ownership loans and farm operating loans that could benefit sugar growers which operate family farms. Processors or refiners may be able to participate in a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries characterized by long-term overcapacity.

The Small Business Administration ("SBA") administers two programs of potential assistance to small firms: a business loan program of direct, participating, and guaranteed loans; a management assistance program for small businesses; and a loan program for local development companies. Eligibility is limited to independently owned and operated firms that are not dominant in their field and do not have over 500 average employment. The amount of the guaranteed loan, however, cannot exceed $500,000, and participating and direct loans have even lower limits.

Additional information about the adjustment assistance program and copies of the report Prospects for Adjustment Assistance for Firms in the Sugar Industry, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5113.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-14151 Filed 5-17-77;8:45 am]

INDUSTRY PRODUCING TELEVISION RECEIVERS AND SUBASSEMBLIES THEREOF

Prospects for Adjustment Assistance for Firms

The Department of Commerce has conducted a study of the firms in the industry producing television receivers and subassemblies pursuant to Section 24 of the Trade Act of 1974. Such a study is required whenever the U.S. International Trade Commission makes an industry investigation under Section 201 of the Act.

In its report on March 22, 1977, the Commission determined (by a 6 to 0 vote) that increased imports of color television receivers are causing or threatening to cause serious injury to the domestic industry. Three of the Commissioners also determined that monochrome television receiver imports, and certain subassemblies of both color and monochrome television receivers, are causing serious injury to the domestic industry. Five of the Commissioners recommended higher tariffs on imported receivers as import relief for U.S. television manufacturers, and one recommended quantitative restrictions as the appropriate remedy. Three of the Commissioners recommending higher duties included both color and monochrome television receivers in their remedy recommendations, while the remaining Commissioners only included color sets. According to Section 202 of the Trade Act, the President shall determine whether to provide import relief and what method and amount of import relief will be provided.

The number of firms producing television receivers in the United States declined from 15 in 1971 to 12 in 1976, four of which are owned by foreign firms. All 12 firms produced color receivers in 1976, but only seven produced monochrome sets. The two largest domestic producers accounted for more than 50 percent of total output of color receivers within the U.S. during 1976, while three other firms accounted for less than two percent. In addition to their domestic production facilities, many of the large U.S. firms have established plants in foreign countries to manufacture various components and to assemble television receivers.

Total average employment in the television receiver industry increased during the first nine months of 1976, reversing a trend of falling employment which had characterized the industry since 1971. Estimated shipments of domestically-produced television receivers increased in 1976 by more than three percent to 7.7 million units, while imports amounted to almost 7.8 million units, an increase of 86 percent. Although a majority of the Commissioners concluded that firms producing components and subassemblies should be considered as a part of the television receiver industry, the Commission did not collect data from those firms.

To be certified eligible to apply for trade adjustment assistance, a firm must petition the Department of Commerce and demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in sales or production, or both, and to the separation, or threat of separation, of a significant number or proportion of the firm's workers. A trade-impacted producing firm may petition the Department for certification at any time regardless of a prospective Commission finding or its results. For firms in the television receiver industry that are considering petitioning for certification, the first requirement of the qualifying criteria apparently has been met, since U.S. imports of receivers increased in 1976.

As of the date of this report, no firms in the industry producing television receivers have petitioned for certification of eligibility to apply for adjustment assistance. However, based upon the data obtained by the Commission during its investigation and made available to the Department, only two of the 12 domestic firms appear to meet the Trade Act criteria of absolute declines in either total sales or total production, and employment. Moreover, it appears unlikely that either firm could establish that imports contributed importantly to those declines.

The same criteria would be applicable for those firms manufacturing components or subassemblies for television receivers that are considering petitioning the Department for certification. However, such firms must establish that imports of items like or directly competitive with the components they are producing, not television receivers, have increased and have contributed importantly to their declines. Because there is no data available for producers of subassemblies, the Department is unable to determine the number of firms in this industry segment that are likely to be certified eligible.

Under the program of trade adjustment assistance for firms authorized by the Trade Act and administered by the Economic Development Administration ("EDA") in the Department of Commerce, a certified firm may apply for adjustment assistance to carry out its recovery plan. However, the fact that a firm is certified does not imply that such assistance will be furnished. That decision will depend upon whether the firm's adjustment proposal meets all of the statutory criteria essential for approval. Adjustment assistance may consist of financial assistance, technical assistance, or both. Financial assistance, in the form or direct loans or loan guarantees, may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for amanagement and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

The Trade Act also provides for certification of communities located in trade-impacted areas or in areas where a firm or subdivision has transferred to a foreign country. Certified communities are eligible for public works grants, loans, and loan guarantees—all of which can be directed towards assisting affected firms. Under the Public Works and Economic Development Act of 1965 ("PWEDA"), as amended, direct and indirect assistance to firms is available without Trade Act certification. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit indirectly from grants to the designated places and related entities for financing public works, and directly from business development loans and guarantees.

Under PWEDA, neither loans nor guarantees can be used to assist firms relocating from one area to another or to expand production in an industry found to have long-term overcapacity. However, even though an industry is characterized by long-term overcapacity, firms in that industry may obtain assistance under PWEDA for purposes of assuring the retention of existing capacity and employment. Moreover, PWEDA does authorize technical assistance to firms regardless of location and grants of loanable funds to communities with actual or threatened unemployment.

The Small Business Administration ("SBA") administers three programs of potential assistance to firms adversely affected by imports: a management assistance program for small business; a loan program for local development companies; and a business loan program of direct, participating, and guaranteed loans. Eligibility is limited to independently owned and operated firms that are not dominant in their field and do not have over 750 average employment. The amount of the guaranteed loan, however, cannot exceed $500,000, and participating and direct loans have even lower limits.

The Farmers Home Administration ("FmHA") of the Department of Agriculture has two programs that could benefit firms affected by imports. Some companies may be able to participate in a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries found to have long-term overcapacity. FmHA also can make grants and loans to public bodies, such as local development organizations and governments, in areas other than cities of over 10,000 population. These funds can be used for public works projects, such as utility extensions and access roads, that would benefit industry.

Additional information about the adjustment assistance program and

copies of the report Prospects for Adjustment Assistance for Firms in the Industry Producing Television Receivers and Subassemblies Thereof, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–5113.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77–14152 Filed 5–17–77;8:45 am]

Patent and Trademark Office

PUBLIC ADVISORY COMMITTEE FOR TRADEMARK AFFAIRS

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting.

The Public Advisory Committee for Trademark Affairs will meet from 10 a.m. until noon on June 8, 1977 in the Commissioner's Conference Room at the Patent and Trademark Office, 2021 Jefferson Davis Hwy., Crystal Plaza Building 3, Arlington, Virginia 22204 and from 2 p.m. until 5:30 p.m. at the National Lawyers Club, 1815 H St., NW., Washington, D.C. 20006, The Hughes Room. The Committee will also meet on June 9, 1977 at 9 a.m. at the National Lawyers Club in the Opinion and Decision Room.

The Committee was established in 1970 to advise the Patent and Trademark Office on steps which can be taken in order to increase the efficiency and effectiveness of the administration of the Trademark Act and to provide a continuing source of knowledge from the private sector to the government in the field.

The agenda for the meeting is:

(1) Introductory Remarks.
(2) Computerization Study.
(3) Report on Patent and Trademark Office Activities.
(4) Mutliple Class Applications.
(5) Inter Partes Rules of Practice.
(6) Petitions to the Commissioner.
(7) Assignments.
(8) Retention of Patent and Trademark Office Files.
(9) Pendency of Trademark Applications.
(10) Letters of Protest.

The meeting will be open to public observation; approximately 15 seats will be available for the public on a first come-first served basis. If time permits, oral comments by the public of 3 minutes on each topic within the above agenda items will be allowed. To insure proper consideration at the meeting, any comments or suggestions relating to the agenda items should be submitted in writing before June 3. Further comments and suggestions will be accepted after the meeting on any of the matters discussed.

Copies of the minutes will be available upon request 90 days after the meeting. Inquiries may be addressed to the Committee Control Officer, Patricia M. Davis, Office of Trademark Program Control, Room 11C17 Crystal Plaza Building 3, Telephone: 703–557–3881.

Dated: May 11, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved: May 11, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc.77–14109 Filed 5–17–77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON AND MAN-MADE TEXTILE PRODUCTS FROM THE PHILIPPINES

Increasing the Import Levels

MAY 16, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels for certain cotton and man-made fiber textile products exported from the Philippines during the twelve-month period which began on October 1, 1976.

SUMMARY: Paragraphs 8 and 9(a)(1) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975 between the Governments of the United States and the Republic of the Philippines provide for increases in specific category ceilings to allow for flexibility and the carryover of shortfalls in those categories from the previous agreement year. At the request of the Government of the Philippines, pursuant to either one, or both, of the foregoing provisions of the bilateral agreement, the import restraint levels for Categories 39, 45/46/47, 49, 50, 51, 224, 229, 235, and 237 are being increased for the agreement period which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–5423).

SUPPLEMENTARY INFORMATION: On September 27, 1976, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 42234), which established import restraint levels for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the Philippines and entered or withdrawn from warehouse for consumption in the United States during the twelve-month period which began on October 1, 1976. In the letter published below the Commissioner of Customs is directed to increase the twelve-month levels of restraint previously established for Categories 39, 45/46/47, 49, 50, 51, 224, 229, 235, and 237 to the amounts indicated.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20229.

MAY 16, 1977.

DEAR MR. COMMISSIONER: On September 22, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977 of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Philippines in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraphs 8 and 9(a)(1) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on May 19, 1977, the levels of restraint previously established for Categories 39, 45/46/47, 49, 50, 51, 224, 229, 235 and 237 to the following amounts:

Category:	*Amended 12-mo. level of restraint*[1]
39	476,896 doz. pairs
45/46/47	4,419,100 yd[2] equivalent.
49	50,504 doz.
50	126,260 doz.
51	122,481 doz.
Pt. 224[3]	114,490 lb.
Pt. 224[3]	114,490 lb.
229	252,520 doz.
235	37,878 doz.
237	227,268 numbers.

[1] The levels of restraint have not been adjusted to reflect any entries made after Sept. 30, 1976.

[2] (Only T.S.U.S.A. Nos. 380.0420 and 380.-8143).

[3] (Only T.S.U.S.A. Nos. 380.0402 and 380.-8103.

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975 between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) Within the group limits, specific levels of restraint may be exceeded by 7 percent in any agreement year; (2) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the receiving year's applicable limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton and man-made fiber textile products from the Philippines, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77–14234 Filed 5–17–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP 42023B; FRL 729–1]

MARYLAND

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On September 15, 1976, the Maryland State Plan was approved contingent upon promulgation of necessary regulations implementing the legislation. Notice of contingent approval was published in the FEDERAL REGISTER on October 15, 1976 (41 FR 45620). Subsequently, on November 10, 1976 regulations necessary to implement the Maryland legislation were promulgated. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region III, hereby gives notice that the Maryland State Plan is now a fully approved State Plan.

Dated: April 25, 1977.

ALVIN R. MORRIS,
Acting Regional Administrator, Region III.

[FR Doc.77–14097 Filed 5–17–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

MANDATORY OIL PRICING AND ALLOCATION REGULATIONS

Establishment of Task Force on Compliance and Enforcement; Opportunity to Submit Views

On May 13, 1977, the Administrator of the Federal Energy Administration created a Task Force on Compliance and Enforcement to make recommendations for measures to strengthen FEA's enforcement program. The Adminstrator, with the concurrence of the Chairman of the Securities and Exchange Commission, has appointed Mr. Stanley Sporkin of the Securities and Exchange Commission as Chairman of the Task Force. The Task Force will be in existence for a period of 60 days beginning May 13, 1977.

In addition to Mr. Sporkin, the following persons have been appointed as members of the Task Force:

William C. Arntz, Regional Administrator, Region IX, FEA.
Paul L. Bloom, Deputy General Counsel, FEA.
Ralph Ferrara, Executive Assistant to the Chairman, Securities and Exchange Commission.
Gordon W. Harvey, Assistant Deputy Assistant Administrator for Compliance, FEA.
Richard B. Herzog, Deputy Assistant Administrator for Compliance, FEA.
Shelley Kolbert, Special Assistant to the Administrator, FEA.
Avrom Landesman, Assistant General Counsel for Compliance, FEA.
Theodore H. Levine, Assistant Director, Division of Enforcement, Securities and Exchange Commission.
Robert Nordhaus, FEA.
William Taylor, Regional Counsel, Region III, FEA.
Larry White, Regional Director of Compliance, Region VI, FEA.
Robert A. Wolfe, Special Assistant to the Assistant Administrator for Regulatory Programs, FEA.

Jerry L. Pfeffer, Office of Program Integration, ERDA, will serve as Executive Director of the Task Force.

The Administrator has asked the Task Force to make recommendations concerning the following matters:

1. A strategy for the disposition of pending cases.

2. A conceptual design for a compliance and enforcement strategy for the future, addressing the audit coverage to be given to the various types of firms subject to FEA's pricing and allocation regulations.

3. Techniques and procedures for auditing; for example, the use of preliminary audits.

4. Audit, legal and other national and regional staffing needs.

5. Legal support for compliance functions.

6. Communications and allocation of authority between National and Regional offices, between the General Counsel and the Office of Regulatory Programs (at the National and Regional levels), and among different regions.

7. Additional legislation in support of compliance functions.

8. Procedures for investigation of suspected willful violations.

In order to receive the broadest possible range of views, the Task Force solicits comments from the public with respect to the particular subjects enumerated above. Such comments may be in the form of written statements, not to exceed 30 pages (including exhibits). Two copies of the statement should be submitted. Written views should be submitted no later than the close of business on Friday, June 10, 1977, and should be addressed to Mr. Jerry L. Pfeffer, Room 5302, 2000 M Street, NW., Washington, D.C. 20461. Envelopes should be marked "Comments to Task Force." Comments addressing matters not within the agenda specified above are not likely to be considered by the Task Force but will be considered by the FEA staff as part of its ongoing effort to monitor and improve its Compliance Program. The commentator should identify any information in the comment that he or she considers confidential and submit only one copy of that information.

In addition to considering written comments, the Task Force members will interview knowledgeable persons, both inside and outside of FEA, to receive their views orally on the subjects enumerated above. Members of the public who submit comments and who wish to be heard orally by a representative of the Task Force should so state in their written comments. The Task Force will attempt to honor as many requests for meetings as possible. Priority will be given to persons who are spokespersons for groups of other persons, whether formed for the purpose of presenting views to the Task Force, or previously in existence, such as public interest groups, trade associations and professional organizations.

Any questions regarding this notice should be addressed to Jerry L. Pfeffer, Task Force Executive Director, at 202/254–8700.

Issued in Washington, D.C., May 13, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77–14222 Filed 5–16–77;8:23 am]

STRATEGIC PETROLEUM RESERVE

Availability of a Supplement to the Final Environmental Impact Statement for the Bayou Choctaw Salt Dome Storage Site

Pursuant to section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C), the Federal Energy Administration (FEA) has prepared a supplement to the environmental impact statement (EIS) for the Bayou Choctaw salt dome site. The supplement describes the environmental impacts of a proposed change in pipeline siting associated with the Bayou Choctaw storage facility.

The Bayou Choctaw site has been selected as a key element of the Strategic Petroleum Reserve. The Reserve (mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C. 6231 et seq.) will be created for the storage of crude oil and/or petroleum products for use in the event of a Presidential determination of a severe energy supply interruption or a requirement to meet the obligations of the United States under the International Energy Program.

FEA will allow a minimum of 30 days for interested parties to comment before taking any administrative action with regard to the proposed pipeline alteration. Moreover, FEA will endeavor to comply with any requests (received during the 30-day period) for extensions of

the review period up to a maximum of 15 days.

Single copies of the supplement to the Bayou Choctaw EIS (DES–76/77–4) may be obtained from the FEA, Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Copies of the supplement will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested persons are invited to submit data, views or arguments with respect to the supplement to Executive Communications, Box MS, Room 3317, Federal Energy Administration, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Supplement to the Bayou Choctaw EIS (FES–76–5)." Fifteen copies should be submitted. All comments should be received by FEA by June 17, 1977, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., May 13, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–14223 Filed 5–16–77;8:23 am]

FEDERAL ENERGY ADMINISTRATION

ENVIRONMENTAL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat 770), notice is hereby given that the Environmental Advisory Committee will meet Friday, June 3, 1977, at 9 a.m., Room 5041, FEA Headquarters, 12th and Pennsylvania Avenue, NW, Washington, D.C.

The Committee was established to provide advice and information to FEA concerning environmental aspects of FEA policies and programs.

The agenda for the meeting is as follows:

1. Old Business—Report on the Status of Environmental Advisory Committee Recommendations and Requests and FEA Commitments.
2. Report and Recommendations from Energy Conservation Subcommittee on Administration Proposals for Energy Conservation and Energy Pricing.
3. Report and Recommendations from Nuclear Policy Subcommittee on Administration Energy Proposals.
4. Report and Recomendations from OCS/Energy Facility Siting Subcommittee on Administration Energy Proposals.
5. Report and Recommendations from Coal Policy Subcommittee on Administration Proposals to Increase Coal Usage.
6. Report and Recommendations from Air Quality Standards Subcommittee on Administration Energy Proposals.

The following Environmental Advisory Committee Subcommittees will meet Thursday, June 2, 1977 from 2 p.m. until 4:30 p.m.:

Energy Conservation Subcommittee, Room 5041–A, FEA Headquarters to discuss the energy conservation and energy pricing measures proposed by the Administration.

Coal Policy Subcommittee and Air Quality Standards Subcommittee (joint meeting), Room 5041–B, FEA Headquarters to discuss the Administration's proposals for increased coal usage.

The meetings are open to the public. The Chairman of the Committee or Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or a Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, 202–566–9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning these meetings may be obtained from the Advisory Committee Management Office.

Transcriots of the meetings will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on May 16, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77–14255 Filed 5–16–77;11:57 am]

FEDERAL HOME LOAN BANK BOARD

[No. AC–36]

HOMESTEAD SAVINGS AND LOAN ASSOCIATION, SALINA, KANSAS

Notice of Approval of Conversion

(Notice of Final Action)

MAY 13, 1977.

Notice is hereby given that on May 11, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 77–300, approved the application of The Homestead Savings and Loan Association, Salina, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77–14193 Filed 5–17–77;8:45 am]

FEDERAL MARITIME COMMISSION

LYKES BROS. STEAMSHIP CO., INC. AND STATES STEAMSHIP CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 7, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10142–3, between the above-named parties, modifies their basic agency agreement by deleting therefrom all the functions performed by States Steamship Company with respect to Lykes Bros. Steamship Co.'s joint rail-water container service in the States of California, Oregon and Washington.

By Order of the Federal Maritime Commission.

Dated: May 13, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–14206 Filed 5–17–77;8:45 am]

SOUTH AND EAST AFRICA/USA CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 7, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, Chairman, South and East Africa/U.S.A. Conference, 25 Broadway, New York, New York 10004.

Agreement No. 8054–15, entered into by the member lines of the South and East Africa/U.S.A. Conference, amends various articles of the conference agreement to provide for:

(1) An increase from 30 to 60 days in the notice period required for resignation from the conference;

(2) The selection of a Chairman by the parties and conforming changes throughout the agreement;

(3) The posting of a financial guarantee in the amount of $20,000 against conference obligations;

(4) A description of expenses to be borne and of how they are to be shared; and

(5) The formal authorization for the Chairman to file amendments with the Commission.

By Order of the Federal Maritime Commission.

Dated: May 13, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–14205 Filed 5–17–77;8:45 am]

UNITED STATES/SOUTH AND EAST AFRICA CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 7, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, Chairman, United States/South and East Africa Conference, 25 Broadway, New York, New York 10004.

Agreement No. 9502–10, entered into by the member lines of the United States/South and East Africa Conference, amends various articles of the conference agreement to provide for:

(1) A decrease from 100 to 60 days in the notice period required for resignation from the conference;

(2) The election of a Chairman other than from among the members and routine alterations to conform the agreement to that change;

(3) The formal authorization for the Chairman to file amendments with the Commission;

(4) A clarification of conference expenses to be shared; and

(5) The posting of a financial guarantee in the amount of $20,000 against conference obligations.

By order of the Federal Maritime Commission.

Dated: May 13, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[For Doc.77–14204 Filed 5–17–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77–329]

BOSTON EDISON CO.

Filing

MAY 10, 1977.

Take notice that Boston Edison Company (Edison), on April 28, 1977, tendered for filing a letter agreement dated September 24, 1977 between Edison and Central Maine Power Company extending through October 31, 1978 of an assignment by Edison of its entitlement in electricity produced by The New Brunswick Electric Power Commission.

Edison indicates that copies of this filing were served upon Central Maine Power Company and Maine Electric Power Company, Inc., from which the New Brunswick power is purchased.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14178 Filed 5–17–77;8:45 am]

[Docket No. CP77–363]

COLUMBIA GAS TRANSMISSION CORP. AND NATIONAL FUEL GAS SUPPLY CORP.

Notice of Application

MAY 11, 1977.

Take notice that on April 28, 1977, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, and National Fuel Gas Supply Corporation (National Fuel), 308 Seneca Street, Oil City, Pennsylvania 16301, (Applicants) filed in Docket No. CP77–363 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to transport on a best efforts basis up to 10,000 Mcf of natural gas per day for UGI Corporation, Gas Utility Division

(UGI), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport the proposed volumes of gas pursuant to a letter agreement dated March 29, 1977, between Applicants and UGI for 10 years. Applicants indicate that UGI would purchase the gas proposed herein to be transported from Jack L. Henning pursuant to a gas purchase agreement dated March 29, 1977, among UGI, UGI Development Co. and Jack L. Henning, and that the subject gas is local production gas produced in Northwestern Pennsylvania which would be used by UGI partially to offset current and projected curtailments by its pipeline supplier. Applicants further indicate that UGI would pay Jack L. Henning for all gas delivered from wells spudded prior to January 1, 1978, during any given pricing year (April 1to March 30) a total of the following price components, as applicable:

(a) $1.44 per Mcf base price for each pricing year;

(b) 8.04 per Mcf for each compression stage for each pricing year;

(c) 8.17 per Mcf for extraordinary gathering facilities for each pricing year;

(d) starting in the pricing year April 1, 1978, through March 30, 1979, and every pricing year thereafter, an automatic increase per Mcf reflecting increased value (currently 8.04 per Mcf);

(e) starting in the pricing year April 1, 1978, through March 30, 1979, and every pricing year thereafter, an increase, if warranted, to compensate for additional increased value of gas or for increases in operating cost, such amount to be agreed upon by the parties;

(f) a price shall be determined annually on or before April 1 of each year for all gas delivered from wells spudded after January 1, 1978, during pricing years (April 1–March 30) beginning on and after April 1, 1978.

It is stated that the subject gas is to be purchased by UGI at the tailgate of the sellers' plant located in Warrant 3188, Township, Forest County, Pennsylvania, and the local production gas would be delivered for transportation to National Fuel by UGI through existing intrastate facilities at the point of interconnection of UGI's existing 8-inch intrastate pipeline and National Fuel's existing 20-inch Line D in Warren County, Pennsylvania. National Fuel would receive the subject gas from UGI at the proposed point of interconnection in Warren County, Pennsylvania and would transport (by displacement or physical haul) and deliver such volumes to Columbia Transmission, for the account of UGI, at the existing Ellwood City Columbia Transmission-National Fuel delivery point in Beaver County, Pennsylvania, or other mutually agreeable delivery point(s). Applicants state that Columbia Transmission would receive the subject gas from National Fuel at the existing Ellwood City delivery point, or other mutually agreeable delivery point(s) and would transport and deliver volumes up to 10,000 Mcf of natural gas per day (less company-use and unaccounted-for gas, currently estimated at 3.1% of the volumes received) to UGI at existing points of delivery from Columbia Transmission to UGI in southeastern Pennsylvania, to the extent its operating conditions permit, through the utilization of existing facilities.

It is stated that National Fuel proposes to construct, or cause to be constructed, at UGI's expense, requisite metering facilities at the proposed point of interconnection of National Fuel's 20-inch Line D and UGI's 8-inch gathering line in Warren County, Pennsylvania, at an estimated cost of $13,577. Applicants state that initial deliveries of local production gas are estimated by UGI at approximately 1,000 Mcf of natural gas per day and that the purchase contracts contemplate a drilling program under which it is anticipated that up to 6,000 Mcf of natural gas per day would be available to UGI by 1978. UGI contemplates purchasing additional volumes up to 4,000 Mcf of natural gas per day as such volumes become available in the vicinity of its said intrastate facilities, it is said.

National Fuel proposes to charge UGI for such transportation service an amount equal to its average system-wide unit transmission cost, as in effect from time to time, this being 12.94 cents per Mcf, and Columbia Transmission proposes to charge UGI an amount equal to its average system-wide unit storage and transmission costs, exclusive of company-use and unaccounted-for gas, this being 22.21 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14183 Filed 5-17-77;8:45 am]

[Docket No. ER77-333]

COMMONWEALTH EDISON CO.

Filing Letter Agreement

MAY 10, 1977.

Take notice that Commonwealth Edison Company (Edison), on April 29, 1977, tendered for filing a proposed letter agreement between Edison and Wisconsin Electric Power Company (Wisconsin Electric). Edison indicates that the proposed agreement provides for the delivery of 190 megawatts of Limited Term Power by Edison to Wisconsin Electric for ten months of a twelve-month period beginning June 1, 1977 under the terms of Service Schedule A of the Interconnection Agreement between the two parties (Commonwealth Edison Company Rate Schedule FPC No. 14). The monthly Capacity Charge is proposed to be $2.15 per kilowatt.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14181 Filed 5-17-77;8:45 am]

[Docket No. ID-1811]

ERNEST D. HUGGARD

Notice of Application

MAY 11, 1977.

Take notice that on May 2, 1977, Ernest D. Huggard of Atlantic City, New Jersey, filed an application with the Federal Power Commission, pursuant to Section 305(b) of the Federal Power Act, seeking authorization to hold the position of Vice-President of Deepwater Operating Company, a New Jersey corporation, in addition to the positions of Vice President-Control and Assistant Treasurer of Atlantic City Electric Company, a New Jersey corporation. Applicant has previously made no other application under Section 305(b) of the Act.

Atlantic City Electric Company is a New Jersey corporation principally engaged in the business of providing electric service to the public throughout the southern part of New Jersey.

Deepwater Operating Company is a New Jersey corporation and its stock is wholly owned by Atlantic City Electric Company. Deepwater Operating Company operates the Deepwater Generating Station at Deepwater, New Jersey, and the Greenwich Station near Gibbstown, New Jersey.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14186 Filed 5-17-77;8:45 am]

[Docket No. ID-1682]

FREDERICK LANGE

Notice of Application

MAY 11, 1977.

Take notice that on May 2, 1977, Frederick Lange of Atlantic City, New Jersey, filed an application with the Federal Power Commission, pursuant to Section 305(b) of the Federal Power Act, seeking authorization to hold the position of Senior Vice-President of Atlantic City Electric Company, a New Jersey corporation, in addition to the position of Vice-President of Deepwater Operating Company, a New Jersey corporation. The Applicant has previously made application under Section 305(b) of the Act to hold positions in Atlantic City Electric Company and Deepwater Operating Company.

Atlantic City Electric Company is a New Jersey corporation principally engaged in the business of providing electric service to the public throughout the southern part of New Jersey.

Deepwater Operating Company is a New Jersey corporation and its stock is wholly owned by Atlantic City Electric Company. Deepwater Operating Company operates the Deepwater Generating Station at Deepwater, New Jersey, and the Greenwich Station near Gibbstown, New Jersey.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14185 Filed 5-17-77;8:45 am]

[Docket No. ER76-785]

MONONGAHELA POWER CO.

Filing of Settlement Agreement

MAY 10, 1977.

Take notice that on May 1, 1977, Monongahela Power Company (Monongahela) tendered for filing to the Presiding Administrative Law Judge two settlement agreements, one between itself and Harrison Rural Electrification Associates, Inc., City of New Martinsville, West Virginia, and City of Philippi, West Virginia (the Customers) and the other between itself and the Potomac Edison Company (Potomac Edison) together with a joint motion to certify the settlement agreements to the Commission for approval.

Monongahela states that under the terms of the proposed settlement agreements, the Company's annual revenues from the Customers and Potomac Edison would be increased by approximately $160,000 in addition to revenues produced by application of local surcharge taxes. The increase is to be effective as of September 15, 1976.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 27, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14189 Filed 5-17-77;8:45 am]

[Docket No. ER77-354]

MISSOURI UTILITIES CO.

Tariff and Rate Schedule Changes

MAY 11, 1977.

Take notice that Missouri Utilities Company of Cape Girardeau, Missouri (MUCo), on May 2, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1, and other special contract rates for wholesale electric service rendered to jurisdictional customers within its Southeast Missouri service area. MUCo states that the proposed changes would increase revenues from jurisdictional sales and service by $358,870 based on the 12 month period ending October 31, 1976 and that these changes in rates are proposed to become effective as of June 1, 1977, or at such other time as allowed by the "Rate Redetermination" provision of existing wholesale electric service agreements.

MUCo indicates that the proposed changes in rates are to compensate MUCo for increases in its costs of supplying wholesale electric service within its Southeast Missouri service area.

MUCo further indicates that copies of the filing were served upon MUCo's jurisdictional customers and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections, 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14184 Filed 5-17-77;8:45 am]

[Docket No. RP77-52]

NORTHERN NATURAL GAS CO.

Petition for Extraordinary Relief

MAY 11, 1977.

Take notice that on April 5, 1977, Northern Natural Gas Company (Northern) filed, pursuant to Section 1.7(b) of the Commission's Rules of Practice and Procedure, a petition for extraordinary relief seeking Commission authorization to provide natural gas service to its existing utility customers in accordance with its presently effective Agricultural Crop drying Service Rate Schedule ACDS–1. Northern seeks authorization to make available, on a best efforts basis volumes of gas for the drying of seed, grain and other agricultural crops during a twelve month period commencing with the date of the order.

On September 28, 1973, the Commission issued an Order at Docket No. CP74–63 granting extraordinary relief permitting Northern to provide natural gas service to its existing utility customers pursuant to a new Agricultural Crop Dryer Service, Rate Schedule ACDS–1. The Commission order authorized Northern to provide natural gas service to its existing utility customers up to a maximum of 750,000 Mcf for a six month period. Similar approval has been granted to Northern at Docket No. RP75–12–1, Docket No. RP75–12–3, and Docket No. RP76–105–1.

Northern estimates that it will have available for sale under the ACDS–1 Rate Schedule a total of 750,000 Mcf for the period September 15, 1977 through March 15, 1978. Volumes under ACDS–1 will be made available by Northern on a best efforts basis pursuant to advance operating arrangements on a daily basis.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14190 Filed 5–17–77;8:45 am]

[Docket No. ER77–336]

OKLAHOMA GAS AND ELECTRIC CO.

Filing of Wholesale Electric Service Agreements

MAY 11, 1977.

Take notice that Oklahoma Gas and Electric Company (OG&E), on April 29, 1977, tendered for filing Electric Service Agreements for wholesale service for the Cities of Pond Creek, Purcell, Tonkawa and Waynoka, Oklahoma, Clarksville, Arkansas, the Town of Okeene, Oklahoma, Cimarron Electric Cooperative, Incorporated, and Red River Valley Rural Electric Association. OG&E indicates that the proposed Electric Service Agreements cancel and supersede existing contracts presently on file with the Commission. The proposed effective dates are June 1, 1977, for Tonkawa and Okeene, June 13, 1977, for Waynoka, July 1, 1977, for Purcell and Clarksville, July 11, 1977, for Red River Valley Rural Electric Association, and July 27, 1977, for Pond Creek and Cimarron Electric Cooperative, Incorporated.

OG&E states that copies of the proposed Electric Service Agreements have been mailed to Pond Creek, Purcell, Tonkawa, Waynoka, Okeene, Clarksville, Cimarron Electric Cooperative, Incorporated, Red River Valley Rural Electric Association, the Corporation Commission of the State of Oklahoma, and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14182 Filed 5–17–77;8:45 am]

[Docket No. ER77–355]

SOUTHERN CALIFORNIA EDISON CO.

Tariff Change

MAY 10, 1977.

Take notice that Southern California Edison Company (Edison) on April 29, 1977 tendered for filing a change of rate for interruptible transmission services under the provisions of Edison's agreement with San Diego Gas & Electric Company as embodied in Rate Schedule FPC No. 86. Edison indicates that the new rate for these services is 1.45 mills per kilowatthour. Edison indicates that this is an increase of .02 mills per kilowatt. Edison further indicates that said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new overall rate of return on retail operations to be reasonable for Edison, the rate for interruptible transmission service shall be adjusted based on said new rate of return and that said new rate of return was authorized in CPUC Decision 86794.

Edison requests a waiver of the Commission's notice requirement to allow this rate to become effective as of January 13, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14177 Filed 5–17–77;8:45 am]

[Docket No. ER77–337]

TUSCON GAS & ELECTRIC CO.

Cancellation

MAY 10, 1977.

Take notice that Tuscon Gas & Electric Company (TG&E) on April 22, 1977 tendered for filing a notice of Cancellation of the November 25, 1976, TG&E Rate Schedule FPC No. 13. TG&E indicates that the aforementioned Rate Schedule is identified as the San Juan Generating Station Energy Sale Agreement among TG&E, El Paso Electric Company, and Public Service Company of New Mexico. TG&E further indicates that the Agreement was dated November 5, 1976, and the termination date as set forth in the Agreement is May 31, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14180 Filed 5–17–77;8:45 am]

[Docket No. ER77–203]

WISCONSIN ELECTRIC POWER CO.

Filing of Change in Rate Schedule

MAY 10, 1977.

Take notice that on April 27, 1977, Wisconsin Electric Power Company (WEPCO) tendered for filing with the Federal Power Commission notification of a change in the Rate Schedule as provided for in the Power Supply Agreement between Wisconsin Electric and Wisconsin Michigan Power Company designated as WE Rate Schedule FPC No. 2.

WEPCO indicates that the Public Service Commission of Wisconsin has authorized an increase in the return on common equity from 12% to 13% for both companies and further indicates that if the proposed change is authorized for use in the Power Supply Agreement the pooling charges to be billed Wisconsin Michigan Power Company in 1977 will be reduced by an estimated $186,382.

WEPCO requests a waiver of the FPC timely filing requirement and that the change be made effective with the February, 1977 billing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Paragraph 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 19, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14188 Filed 5–17–77;8:45 am]

[Docket Nos. CP77–100—CP77–103]

TENNECO ATLANTIC PIPELINE CO. AND TENNESSEE GAS PIPELINE CO.

Order Providing for Hearing, Prescribing Procedures and Granting Petitions to Intervene

MAY 5, 1977.

On December 20, 1976, Tenneco Atlantic Pipeline Company (TAPCO) and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed applications pursuant to Sections 3 and 7 of the Natural Gas Act in Docket Nos. CP77–100, CP77–101, CP77–102 and CP 77–103, for authorization to implement a project designed to supply the east coast of the United States with Algerian liquified natural gas (LNG). Under their proposal LNG would be delivered by cryogenic tankers to the east coast of Canada near Saint John in the Province of New Brunswick where it would be vaporized and transported to the U.S.-Canadian border near Calais, Maine for further transportation through the states of Maine, New Hampshire, Massachusetts and New York by TAPCO. The gas would be used to serve existing customers of Tennessee. This project is more fully set forth in the applications in this proceeding.

By order issued February 12, 1977, in this proceeding, the Commission found that TAPCO's and Tennessee's applications were patently deficient in many material respects and ordered these deficiencies cured by April 1 and June 1 depending on the particular subject matter in question. Subsequent to the Commission's February 12 order, these applications were supplemented on February 18, 1977, by the filing of an environmental report, on March 22, 1977, by the filing of additional information and studies on the New Brunswick terminal facilities, and on April 1, 1977, by the filing of an engineering study of the New Brunswick terminal and additional gas supply information.[1] In our February 12, 1977 order we mentioned that the initial gateway for an expedited proceeding is the submittal of an application which is so complete that meaningful review can begin. We are hopeful that by June 1, 1977, the Applicant's efforts will fully open this door. In this order, procedural steps will be taken to open the remaining gateways so that a final Commission decision may be made on the disposition of this project by the close of this year, 1977.

The applications which we have heretofore consolidated required an examination, under Section 3 of the Natural Gas Act (Act), 15 U.S.C. 717b, to determine whether the importation would be in the public interest. The construction and operation of facilities and the sale for resale in interstate commerce of LNG as proposed in the applications require a determination that these activities are required by the public convenience and necessity under section 7 of the Act, 15 U.S.C. 717f. We believe that the significant questions presented by these applications require a formal public hearing at which time all issues bearing upon the public interest can be developed. Among the issues which we deem relevant for consideration are reliability of service of the foreign supply, the dependence of certain distributors on foreign LNG to meet residential and commercial markets, environmental impact of any proposed action, the proper method of pricing of the LNG supply, shipping costs, overall economic feasibility of the project, end-use allocation of the LNG supply, availability of alternate fuels for the markets to be served by the project, engineering feasibility of the project, and overall project safety.

In order to maintain a schedule which will allow a final decision by the end of 1977, we believe the following approximate milepost should be maintained as much as possible:

July 11—Circulation of Staff's Draft Environmental Impact Statement, and beginning of evidentiary hearing.
September 12—Circulation of Final Environmental Impact Statement.
November 2—Initial Decision.
November 21—Briefs on Exceptions.
November 30—Briefs Opposing Exceptions.

In our previous order, a number of interventions were granted. Since that period of time additional late petitions to intervene have been filed by:

The New York State Department of Environmental Conservation.
The Columbia County, Environmental Management Council.
Alabama-Tennessee Natural Gas Company.
Orange and Rockland Utilities, Inc.
The Society for the Protection of New Hampshire Forests.
The Peoples Gas Light and Coke Company.

Having reviewed these petitions, we believe these parties have an adequate interest in this proceeding to warrant intervention.

The Commission finds: (1) It is appropriate and in the public interest that a formal evidentiary hearing should be held in this consolidated proceeding.

(2) Good cause exists for accepting the aforesaid late petitions to intervene and participation by the aforementioned interveners may be in the public interest.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, and the Commission's rules of practice and procedure, a public hearing shall be held in a hearing room of the Federal Power Commission on or before July 11, 1977, respecting all matters and issues in this consolidated proceeding.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to § 3.5(d) of the Commission's general rules, 18 CFR 3.5(d) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions with the exception of petitions, motions to consolidate and sever, and motions to dismiss, as provided for in the Commission's rules of practice and procedure.

(C) On or before June 6, 1977, applicants shall complete the filing of their direct case including testimony and exhibits on all aspects.

(D) A prehearing conference shall be convened on June 23, 1977, at 10:00 a.m. in a hearing room of the Federal Power Commission before the designated Administrative Law Judge to discuss procedural issues, clarification of issues and the orderly presentation of evidence.

(E) The aforesaid petitioners to intervene are permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; *And provided, further,* That the admission of such intervenors shall

[1] Responses to various environmental deficiency questions from the Commission Staff were tendered on April 7, 1977.

not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14192 Filed 5-17-77;8:45 am]

[RP77-65 etc.]

ALABAMA-TENNESSEE NATURAL GAS CO. ET AL

Hearings to Evaluate the Impact of Natural Gas Shortages

MAY 11, 1977.

	Docket Nos.
Alabama-Tennessee Natural Gas Co	RP77-65
Algonquin Gas Transmission Co	RP77-66
Arkansas-Louisiana Gas Co	RP77-67
Cities Service Gas Co	RP77-68
Colorado Interstate Gas Co	RP77-69
Columbia Gas Transmission Corp	RP77-70
Consolidated Gas Supply Corp	RP77-71
East Tennessee Natural Gas Co	RP77-72
Eastern Shore Natural Gas Co	RP77-73
El Paso Natural Gas Co	RP77-74
Equitable Gas Co	RP77-75
Florida Gas Transmission Co	RP77-76
Michigan Wisconsin Pipe Line Co	RP77-77
Midwestern Gas Transmission Co	RP77-78
Mississippi River Transmission Co	RP77-79
National Fuel Gas Supply Corp	RP77-80
Natural Gas Pipeline Co. of America	RP77-81
Northern Natural Gas Co	RP77-82
Northwest Pipeline Corp	RP77-83
Panhandle Eastern Pipe Line Co	RP77-84
Southern Natural Gas Co	RP77-85
Tennessee Gas Pipeline Co	RP77-86
Tennessee Natural Gas Lines, Inc	RP77-87
Texas Gas Transmission Corp	RP77-88
Transcontinental Gas Pipe Line Corp	RP77-89
Transwestern Pipeline Co	RP77-90
Trunkline Gas Co	RP77-91
United Gas Pipe Line Co	RP77-92
Texas Eastern Transmission Corp	RP77-93

On July 20, 1976, the Commission issued an Order in Alabama-Tennessee Natural Gas Company, et al., Docket Nos. RP76-116, et al., for the purpose of ascertaining the magnitude and potential impact of projected curtailment during the course of the 1976-1977 winter heating season. The latter order was triggered by the report released by the Commission on June 18, 1976, summarizing FPC Form 16 projected data for the period of time between April 1, 1976, and March 31, 1977. The latter report generally reflected that the supply situation for the aforementioned period of time would be more critical than it was for the comparable period of time for the previous year.

The purpose of the instant order is to once again embark on a series of proceedings similar in nature to those initiated through the aforementioned July 20, 1976, order. Increased natural gas curtailment coupled with record cold winter weather experienced by the entire nation east of the Rocky Mountains last winter led to emergency situations of major proportions on many jurisdictional pipeline systems. As a result of the possible grave nature of a situation that can be created by the combination of cold weather and increased curtailment, the Commission is of the view that it should accelerate the time table of its curtailment assessment proceedings this year in order that it may have more time to consider the situation generally and to provide an over view of possible curtailment impact for the forthcoming winter on an expedited basis.

Last year's proceedings (Alabama-Tennessee, supra) specifically related to the nineteen pipelines that had submitted Form No. 16 projected curtailments of 20-percent or greater for the 1976-1977 winter. The so-called "omnibus proceeding" this year will make provision that proceedings be conducted in a similar manner as last year relative to those nineteen pipelines and require that they provide the information set forth in this order. Is addition to the latter pipelines we shall also include in this year's omnibus proceedings certain additional pipeline companies that may experience difficulties in the maintenance of service during the course of next winter's heating season. Hence, all of the respondent pipelines to this order are subject to high levels of curtailment during the oncoming winter period.

Due to our uncertainty of the resultant impact that such high levels of curtailment will have upon the service areas of those pipelines this forthcoming winter, we shall require these pipelines to urge their customers, both direct and indirect, to inform us: (1) as to how the projected shortage will have an impact on their systems; (2) how they plan to deal with the shortages and (3) the flexibility the pipelines and their customers may have at their disposal to deal with the anticipated curtailments.

Of major significance in enabling us to make an assessment of the impact of this winter's projected curtailments is the extent to which industrial customers may possess an alternate fuel capability to off-set the loss of natural gas supplies.[1] The bulk of this information is required to be filed under FPC Form No. 69,[2] and its counterpart, Federal Energy Administration (FEA) Form No. G-101-P. The purpose of these Forms is to appraise appropriate Federal entities of the particular alternate fuels that can be used by the direct and indirect industrials that consume natural gas and the quantities of alternate fuels that are required to off-set projected curtailments. Unfortunately, the information provided by the latest submittals of the aforementioned forms probably will not be collated in time to enable an accurate assessment of the impact of curtailment on the industrial segment of the nation prior to completion of these proceedings.

In order to assure that this information is available on an expedited basis, the Commission will require that the captioned pipelines made parties to the above-styled proceedings distribute copies of this order to their distribution company customers and direct industrial customers. Concurrently therewith, the pipelines are to request that these customers provide to them a list of their customers that may be forced to shut down this winter because they lack either a supply of alternate fuel or alternate fuel equipment to off-set projected natural gas curtailments on a normal and 10-percent colder than normal winter period. The distribution customers that must be called upon to provide the information requested herein should file this data with their respective jurisdictional pipeline suppliers on or before May 31, 1977. The Commission will require that the pipelines file their reports, predicated upon this information and the other matters related thereto herein with the Commission by June 15, 1977. The reports submitted by the respondent pipelines are to both analyze and collate the data referred to and should be more than a mere accumulation of the mass data collected. If the filings by the pipelines are fashioned as requested, the task of assessing and providing an appropriate overview of the curtailment impact this winter by the Commission will be expedited. These pipelines should also, by June 15, 1977, provide and file with the Commission the other supporting data that is associated with FPC Form No. 16 described below. This information requested herein is undoubtedly available to the various distributors being serviced by these pipelines because of their reporting obligations under the aforementioned FEA forms. In the event that a distributor fails to provide the requested information, the Commission may be required to conclude that commercial and industrial customers served by such distributor will not have fuel deficiency problems that may force them to shut down during the impending winter months. The respondent pipelines to these proceedings shall provide the corresponding information requested from the distributors for their own direct industrial customers.

We shall further require that each of the individual pipelines present supporting testimoney relative to the FPC Form No. 16 report filed in April of 1977. This testimony should cover all aspects of its aforementioned filing and should specifically include discussion of:

(1) Gas supply projections and any anticipated variations in suply due to emergency purchases, methods utilized to make the supply forecasts, inclusion of producer work-overs in such forecasts, contingency arrangements for supply interruptions caused by such anticipated events as hurricanes, freeze-ups, etc.;

(2) The derivation of requirements used in the report reflecting any significant change to fully indicate the current situation. The requirements that are provided for in this report should be presented in the pipeline reports in a manner that would reflect the impact of curtailment for both a normal and a 10 percent colder than normal winter basis.[3] The data to be provided by the distribution companies to the pipeline should fuly take this into account.

(3) Computation of curtailments should be explained in detail and each pipeline should provide a study to show the level of requirements and curtailments by system-wide aggregate for each priority of service for each month of the 1977-1978 winter heating season (November 1977 through March 1978). (Should include both normal and a 10 percent colder than normal winter heating season basis.)

This order, in view of the additional analysis and collating of requisites provided for, places an additional task upon the respondent pipelines over and above what was required by the aforementioned July 20, 1976, order. The Commission will not require that the pipelines provide it was data covering one hundred percent of their sales. The Commission would view a report that had adequately covered between 80 to 90 percent of such sales volumes as constituting substantial compliance. It is further the belief of the Commission that it might substantially slow down the collecting process of the pipelines if it were to require that they provide an equivalent percent of data relative to the sales they make to so-called "small customers". In this regard the Commission is of the view that a sampling of approximately ten percent of small customers would suffice as a basis for making an estimate of the situation of this type of customer. In order to provide for uniformity in the definition of a 'small' customer or distributor for the purposes of this order we shall consider those customers with maximum daily contract entitlements of 5,000 Mcf per day or less as falling into this category.

The data that we are calling for herein is intended to provide a reasonably accurate overview of the anticipated impacts next winter and such submissions should not be a substitute for the FPC-FEA detailed data collection in Form Nos. 69 and G-101-P. In the event that hearings are convened with respect to particular pipelines, it is the purpose of this Commission to assure that the reports and other data presented at the hearing that we have required in this order are properly incorporated into the formal hearing record. This will facilitate the task of the Commission Staff who in turn will be charged with the task of making and tendering its own report predicated upon the data obtained subsequent to the conclusion of the last hearing that may be conducted in these proceedings. It appears obvious that no useful purpose will be served by requiring that strict evidenciary and procedural rules be followed that might tend to either delay the proceedings or preclude the introduction of the data called for herein by the Commission into the hearing record. It would also not serve the purposes of the Commission to permit any hearing that may be conducted in conjunction with these proceedings to linger needlessly.

In our order issued on May 7, 1976, concerning alternate fuel demand of direct end use customers of interstate pipelines due to curtailments, Docket No. R-472, regarding public access to FEA data relating to the publication of the Commission Staff's report relating to the curtailment impact, we expressed our view that the over-riding public need for this information was far greater than any individual or private right involved. In view of the fact that our publication of data this year may not be as comprehensive as it was last year and the experience of the numerous emergency situations that confronted the nation last winter, the Commission is of the belief that a similar publication is justified this year. It is clear that an impelling public need exists to render an assessment of the situation and make it available to government and public alike so that effective and timely action can be taken to lessen the harmful impacts that may be highlighted therein.

The Commision recognizes that the possibility of convening of hearings within a short time period is an undertaking which will cause our Staff and other parties scheduling difficulties. We shall therefore provide that any hearings that are to be conducted with respect to the respondent pipelines are to be held between June 27, 1977, and July 22, 1977, and we shall direct that any hearings required to be held with respect to these proceedings be scheduled by the Chief Administrative Law Judge between the above-noted dates. In order to provide that scheduling flexibility be assured with a minimization of effort we shall provide that the Secretary may by notice reschedule any proceeding set for hearing in the event that any difficulties with data or pipeline reports submitted can be elminated between the submission date and hearing date.

Since the focus of these hearings is directed toward the accumulation of data which is wholly factual by nature, we shall forego the filing of briefs normally contemplated by the Commission. Instead we shall call upon our Staff and the other parties to file with the Commission by August 12, 1977, summary memoranda in which the data presented in these proceedings is analyzed and in which any party may be free to tender any comments that he feels warranted in light of the facts and data developed in such hearing.

In light of the fact that there may exist certain common elements of interest between the above-styled proceedings and the curtailment proceedings that are currently in various stages of determination relative to the aforementioned pipelines, we shall automatically permit any party permitted to intervene in such proceedings the right to intervene and to have all the rights of a party in the corresponding pipeline proceedings instituted herein.[4] Appropriate provision will be made for other persons interested or desiring to intervene in the above-styled proceedings.

The FEA is requested by the Commission to participate and to provide for the record in these proceedings state and regional information relative to alternate fuel availability for the forthcoming winter-heating season. State energy agencies and state public service commissions are also requested to participate and to provide information relating to (1) the end-use profie of natural gas for ultimate consumption which lies within the regulatory authority vested in them, (2) the lack of alternate fuel capabilities of end-users in areas subject to their jurisdiction, and (3) local conservation measures that are either directed or coordinated by them to off-set the impact of the natural gas shortage. All others, including interested federal and state agencies are also invited to participate in these proceedings.

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[1] Alternate fuel capability as used herein relates to customers having facilities installed capable of burning an alternate fuel.

[2] See Order No. 531 issued in Docket No. R-472 on June 25, 1975, adding Section 260.-165 to part 260, Statements and Reports, ----- FPC -----.

[3] The 10 percent colder than normal basis should be computed on the assumption of an increase in average monthly degree day difficulties of 10 percent in excess of historical normal as computed by the Department of Commerce.

[4] The curtailment proceedings relating to the twenty-nine pipelines named in the caption of this order are as follows:
Alabama-Tennessee Natural Gas Company, Docket No. RP74-42.
Arkansas-Louisiana Gas Company, Docket No. RP71-122.
Cities Service Gas Company, Docket No. RP75-62.
Columbia Gas Transmission Corporation, Docket No. RP72-89.
East Tennessee Natural Gas Company, Docket No. RP75-28.
Eastern Shore Natural Gas Company, Docket Nos. RP71-121, and RP72-21.
El Paso Natural Gas Company, Docket No. RP72-6.
Northwest Pipeline Corporation, Docket No. RP74-49.
Panhandle Eastern Pipeline Company, Docket No. RP71-119.
Tennessee Natural Gas Lines, Inc., Docket No. RP74-54.
Texas Eastern Transmission Corporation, Docket Nos. RP71-130, and RP72-58.
Texas Gas Transmission Corporation, Docket No. RP72-64.
Transcontinental Gas Pipe Line Corporation, Docket No. RP72-99.
Transwestern Pipeline Company, Docket No. RP73-101.
Trunkline Gas Company, Docket No. RP71-100, and United Gas Pipe Line Company, Docket Nos. RP71-29, and RP71-120.
Algonquin Gas Transmission Co., Docket Nos. RP71-131, et al.
Equitable Gas Co., (None assigned).
Colorado Interstate Gas Co., Docket No. RP 72-122.
Consolidated Gas Supply Corp., Docket No. RP77-29.
Florida Gas Transmission Co., Docket No. RP71-128.
Michigan Wisconsin Pipe Line Co., Docket No. RP76-50.
Midwestern Gas Transmission Co., Docket No. RP74-29, RP74-69.
Mississippi River Commission Corp., Docket No. RP73-6.
National Fuel Gas Supply Corp., Docket No. RP74-100.
Natural Gas Pipeline Co. of America, Docket No. RP70-42.
Northern Natural Gas Co., Docket No. RP74-102, and RP76-52.
Southern Natural Gas Co., Docket No. RP72-74, and RP74-6.
Tennessee Gas Pipeline Co., Docket No. RP 74-24.

The Commission finds: (1) It is in the public interest and consistent with the purposes of the Natural Gas Act to schedule hearings in certain of the proceedings hereinabove named, for the purpose of determining the impact of projected curtailments of natural gas deliveries over the 1977–78 winter heating season.

(2) It is in the public interest to allow all persons permitted to intervene in the corresponding pipeline curtailment proceedings set forth in the text of this order permission to intervene in the corresponding proceeding instituted by this order.

The Commission orders: (A) Pursuant to the authority conferred upon the Commission under the Natural Gas Act, particularly Sections 4, 5, 7, 14, and 15 hearings shall be scheduled to be held as provided in ordering paragraph (B) hereof in the above-styled procedings in order to determine the impact of projected curtailment for the 1977–1978 winter heating season.

(B) The hearing provided for in ordering paragraph (A) shall be convened at such times and places as provided for in a Notice to be issued by the Secretary after receipt of a recommendation made by the General Counsel and Chief of the Bureau of Natural Gas after consultation on this matter with the Chief Administrative Law Judge. The Commission contemplates that in a number of instances, formal hearings may not be necessary and the Secretary shall be so advised by the General Counsel after consultation with BNG, and in such event, no hearing will be convened by the Secretary. In formulating the hearing schedule to be undertaken by the General Counsel and the Chief of the Bureau of Natural Gas, manpower resources and work schedule demands of the Office of Administrative Law Judges will be given full consideration.

(C) An administrative Law Judge to be designated by the Chief Administrative Law Judge shall preside over the hearings that will be scheduled in the above-styled proceedings noted above in Ordering Paragraphs (A) and (B) and shall prescribe relevant procedural matters not herein provided and assure the development of an adequate record with the incorporation therein of the information sought and requested by the Commission in the text of this order.

(D) Each of the respondent pipelines designated in this order shall provide on a best efforts basis, the information called for in the body of this order no later than June 15, 1977. All parties to the instant proceedings are hereby requested and all customers of the respective pipeline companies are hereby urged to provide their pipeline suppliers with the necessary information by May 31, 1977, to enable the pipelines to comply with this order. Copies of the aforementioned data shall be served, upon the appropriate state regulatory bodies, and the Washington office of the Federal Energy Administration.

(E) An analysis in memorandum form of the information obtained in these proceedings shall be presented to the Commission by the Commission Staff and other interested parties desiring to submit such memorandum or comments to the Commission by August 12, 1977.

(F) All parties previously granted intervention in the curtailment proceedings set forth in the text of this order are permitted to intervene in and participate in the corresponding pipeline proceeding that has been instituted by this order subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene in the aforementioned curtailment proceedings: *And provided, further,* That the admission of such intervenors shall not be construed by the Commission that subject interveners might be aggrieved because of any order or orders issued by the Commission in these proceedings.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14176 Filed 5–17–77;8:45 am]

[Docket No. ER77–347]

WISCONSIN POWER AND LIGHT CO.

Tariff Change

MAY 10, 1977.

Take notice that Wisconsin Power and Light Company (WP&L), on May 2, 1977 tendered for filing proposed changes in its W–2 and W–3 Electric Service Tariffs, Wholesale For Resale. WP&L indicates that the proposed changes would increase revenues from W–2 Customers by $1,680,445 and from W–3 Customers by $3,745,011 based on the 12-month period ending June 30, 1978.

WP&L states that the proposed rate increase is necessary to meet rising financial and operating costs. The proposed effective date of the rates contained in the filing is July 1, 1977.

WP&L further states that copies of the filing were served upon the public utility's jurisdictional customers, and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14187 Filed 5–17–77;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST OF GRANDFIELD CORP.

Formation of Bank Holding Company

First of Grandfield Corporation, Grandfield, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares of First State Bank, Grandfield, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 3, 1977.

Board of Governors of the Federal Reserve System, May 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–14131 Filed 5–17–77;8:45 am]

MAHASKA INVESTMENT CO.

Order Denying Formation of Bank Holding Company

Mahaska Investment Company, Oskaloosa, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 51.47 percent of the voting shares of Farmers Savings Bank, Fremont, Iowa ("Bank"). Applicant has also applied, pursuant to the Board's Regulation Y, for permission to continue to engage directly in the activity of leasing real property or acting as agent, broker or advisor in leasing such real property, and to engage indirectly, through its wholly owned subsidiary, MIC Leasing Co., Oskaloosa, Iowa ("MIC"), in the activity of leasing personal property or acting as agent, broker or advisor in leasing such personal property. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(6)(a) and (b)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (42 FR 3876). The time for filing comments and views has expired and the applications and all comments received have been considered in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c)(8) of the Act.

Applicant, a corporation organized under the laws of Iowa, is currently engaged, either directly or indirectly, in the leasing of real and personal property and brokering of credit life, accident and health insurance and mortgage guaranty insurance for mobile homes.[1] Upon acquisition of Bank ($12.4 million in deposits), Applicant would control the 276th largest commercial bank in Iowa, with approximately 0.1 percent of the total deposits in commercial banks in the State.[2]

Bank is the third largest of the five commercial banks in the Mahaska County banking market and control approximately 13.5 percent of the total commercial bank deposits in the relevant banking market.[3] In analyzing the competitive effects of this proposal, it is also necessary to consider Applicant's affiliate relationship with Mahaska State Bank, Oskaloosa, Iowa ("Mahaska Bank") the largest commercial banking organization in the market. Mahaska Bank holds total deposits of $44.1 million, representing 47.7 percent of the deposits in the market, and is more than twice the size of the next largest competitor in the market. In view of the nature and scope of Applicant's affiliation with Mahaska Bank, the Board is of the view that competitive effects of this proposal are such that denial of the application is warranted.

Applicant was originally incorporated in February 1973 as a wholly-owned subsidiary of Mahaska Bank for the purpose of leasing a site for a new drive-in facility to that bank. Subsequently, during November 1973, as a result of a directive by the Iowa Superintendent of Banking, Mahaska Bank was required to divest of Applicant and it caused Applicant's shares to be spun-off to the then shareholders of Mahaska Bank. Since that time, there has been a close identity of shareholders, as well as a commonality of management, involving Mahaska Bank and Applicant. At the present time, four of Applicant's six directors serve as directors of Mahaska Bank and 126 of Applicant's 133 shareholders collectively own 100 percent of the shares of Mahaska Bank.

While this proposal does not itself involve Mahaska Bank, the Board does not believe that it would be appropriate to ignore the identity of interests between Applicant and Mahaska Bank in assessing the competitive effects of a proposal that seeks to bring bank into the affiliated group through the formation of a bank holding company. Applicant's president, who also serves in the same capacity with Mahaska Bank, acquired in an individual capacity approximately 52 percent of the shares of Bank in 1976 by means of a loan from an unaffiliated bank. As part of this proposal, Applicant would assume the outstanding indebtedness (as well as accrued interest) in return for the shares now held by its president. Thereafter, as a corporation, Applicant would proceed to retire the acquisition debt from dividends from Bank and earnings from its nonbanking activities.

Section 3(c) of the Bank Holding Company Act requires the Board to consider whether any proposed acquisition by a bank holding company (1) would further the monopolization or attempted monopolization of a banking market, or (2) may substantially lessen competition or tend to create a monopoly in any posed acquisition involves the use of a banking market. Where, as here, a proholding company by a group of individuals to acquire control of a bank that is a competitor of another bank under the control of essentially the same individuals, the Board believes it must apply these standards.[4]

In the Board's view, the subject proposal presents a compelling case where the holding company form is being used to further an anticompetitive arrangement. Under this proposal, two banks that up to last year were independent banks competing as the first and third largest banks in the Mahaska County market would be brought under common control through the use of a holding company structure. In view of the sizes of the organizations involved and their collective position in the Mahaska market (together the two banks hold 61.2 percent of the market's deposits), the Board is of the opinion that approval of this proposal would have significant adverse competitive effects. While denial of this proposal may not immediately result in a complete termination of the present situation (Applicant's president would continue to own Bank), it would preserve the distinct possibility that Bank could again become an independent organization in the future. Approval, on the other hand, would almost certainly foreclose that possibility since, as a result of the flexibility afforded by the holding company structure, Applicant would appear capable of servicing its acquisition debt and, in addition, a mutuality of interest between Mahaska Bank and Bank would likely be established.

On the basis of the foregoing and the facts of record, the Board concludes that approval of this application would have significant adverse competitive effects. Accordingly, under the standards set forth in the Bank Holding Company Act, the proposal may not be approved unless the adverse competitive factors are clearly outweighed by other public interest considerations reflected in the record.

The financial and managerial resources and future prospects of Applicant, which are dependent upon Bank, MIC, and Applicant's leasing activities, are considered satisfactory and generally consistent with approval of the subject application. Therefore, considerations relating to banking factors are consistent with approval of the application. Applicant plans changes and improvements in the form of both physical expansion of Bank's facilities and new and additional banking services. The Board finds that considerations relating to the convenience and needs of the community lend some weight toward approval but, in the Board's view, do not outweigh the significant adverse findings with respect to competitive considerations. Accordingly, it is the Board's judgment that approval of this application would not be in the public interest and that the application should be denied.

On the basis of all facts of the record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that consummation of the proposal to form a bank holding company would not be in the public interest and that the application should be, and is hereby, denied for the reasons summarized herein.[5]

By order of the Board of Governors,[6] effective May 11, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–14132 Filed 5–17–77;8:45 am]

NATIONAL DETROIT CORP.

Order Denying Acquisition of Bank

National Detroit Corporation, Detroit, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Brighton State Bank, Brighton, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of two shareholders of Bank opposing the proposal, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest bank holding company in Michigan, controls five banks with aggregate deposits of approximately $5.0 billion, representing 16.3 percent of the total commercial bank deposits in the State.[1] Acquisition of Bank ($54.9 million in deposits) would not significantly increase the concentration of banking resources in Michigan; however, consistent with approval of the application.

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[1] Applicant has indicated that it intends to terminate all of its insurance activities if these applications are approved.

[2] Unless otherwise indicated, all banking data are as of June 30, 1976.

[3] The relevant geographic market for purposes of analyzing the competitive effects of the proposed transaction is approximated by Mahaska County, Iowa.

[4] Even in the absence of any use of the holding company form, the standards of sections 1 and 2 of the Sherman Act may apply to the acquisition by a group of individuals of control of a bank that is a competitor of another bank controlled by essentially the same group.

[5] Denial of Applicant's § 3(a)(1) application renders moot Board action on the accompanying § 4(c)(8) application.

[6] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Jackson.

[1] All banking data are as of June 30, 1976. Applicant received approval to acquire the National Bank of Port Huron, Port Huron, Michigan, a proposed new bank, on September 27, 1976; however, the bank has not yet opened for business. (See 62 Federal Reserve Bulletin 861, 1976.)

ever, it would have adverse effects upon concentration in the relevant market.

Bank, the 25th largest of 46 banking organizations in the relevant market,[2] has total deposits of approximately $54.9 million, $48.9 million of which are in offices within the Detroit market, representing 0.3 percent of the total commercial bank deposits in the relevant market. Applicant has a significant presence in the Detroit banking market as it operates three banks with 107 banking offices in the market controlling $4.96 billion in deposits, which represent 30 percent of total commercial bank deposits in the market. The four largest banking organizations in the Detroit market hold in the aggregate 70.2 percent of total commercial bank deposits in the market. Acquisition of Bank would result in a further increase in market concentration and continue the trend toward concentration that the market has exhibited in the last year.

In addition to having adverse effects upon the concentration of banking resources in the Detroit market, it appears that consummation of this proposal would eliminate existing competition within the Detroit market between Bank and Applicant. The Board notes that this proposal involves the acquisition of the largest independent bank in the Livingston County portion of the Detroit market by the largest bank holding company in the market and the State. Although Michigan law would prohibit Applicant from branching into most of the Livingston County portion of the Detroit market, Applicant is in a strong financial position and clearly has the resources to expand into Livingston County; in particular, Applicant has previously expressed an interest in that portion of the market and is clearly capable of de novo entry through the establishment of a new bank there.[3] In light of the above, the Board concludes that consummation of the proposal would eliminate significant existing competition within the Detroit market.

The financial and managerial resources and prospects of Bank are regarded as satisfactory. The financial and managerial resources and future prospects of Applicant and its subsidiaries are also regarded as satisfactory. Applicant would exchange shares of its common stock for the outstanding stock of Bank and would purchase convertible debentures of Bank for cash. The Board finds that considerations relating to financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are consistent with approval; however, such considerations do not lend significant weight for approval of the application.

Applicant states that it would improve Bank's services somewhat by increasing Bank's loan portfolio to include more consumer and commercial loans, upgrading some of Bank's physical facilities and increasing Bank's hours of operation. However, it apepars that the major banking needs in the community are currently being met. Accordingly, the Board finds that little weight can be accorded such services and that considerations relating to the convenience and needs of the community to be served lend no significant weight toward approval of the application. In summary, therefore the considerations relating to banking factors and the considerations relating to the convenience and needs of the community to be served do not outweigh the substantially adverse competitive effects that would result from Applicant's acquisition of Bank.

On the basis of the facts of record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application is denied for the reasons summarized herein.

By order of the Board of Governors,[4] effective May 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

APPENDIX A

CITIES AND TOWNSHIPS ADDED TO THE DETROIT BANKING MARKET

County—city or township

Lapeer—Almont, Dryden, Hadley, and Metamora.
Monroe—Ash and Berlin.
Washtenaw—Salem.
St. Clair—Algonac City, Berlin, Casco, China, Clay, Columbus, Cottrellville, East China, Ira, Marine City, Memphis City, New Baltimore City, Riley, St. Clair City, and St. Clair Twp.
Livingston—Brighton City, Brighton Twp., Genoa, Green Oak, Hartland, Howell City, Howell Twp., Iosco, Marion, Oceola, and Tyrone.

[2] In the previous cases involving the Detroit area, the Board has generally been confronted with bank holding company applications to acquire banks located near the center of the Detroit banking market and has defined that market somewhat loosely as being approximated by Macomb, Oakland, and Wayne Counties. This proposal involves the acquisition of a bank on the fringe of the Detroit market and consequently the Board has examined more closely the available census data so as to define more precisely the Detroit banking market for purposes of analyzing the competitive effects of this proposal. On the basis of a detailed study of commuting patterns and population trends, it appears that a significant proportion of the population of the five counties surrounding Macomb, Oakland, and Wayne Counties, work in Macomb, Oakland, and Wayne Counties, and therefore, the definition of the Detroit market should be expanded somewhat to include 33 cities and townships from the counties of St. Clair, Lapeer, Livingston, Washtenaw, and Monroe. (See Appendix A.)

[3] Applicant contends that the relatively low ratios of population and deposits per banking office in Livingston County make de novo entry there unattractive. However, between 1960 and 1970 the population of Livingston County grew by 54.2 percent, a rate four times the State average. Between 1970 and 1975, available data indicate that the county's population grew by 32 percent of the 1970 base. Accordingly, the Board is unable to agree with Applicant's contention that the county is unattractive to de novo entry.

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Jackson.

[FR Doc.77-14133 Filed 5-17-77;8:45 am]

PEOTONE BANCORP, INC.

Formation of Bank Holding Company

Peotone Bancorp, Inc., Peotone, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Peotone Bank and Trust Company, Peotone, Illinois. The factors that are considered in action on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 7, 1977.

Board of Governors of the Federal Reserve System, May 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14198 Filed 5-17-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

STATE PLANNING COMMISSIONS PROGRAM—INTRASTATE PLANNING

Allocation Formula and Program Guidelines

AGENCY: Office of Education, HEW.

ACTION: Final Notice of Allocation Formula and Program Guidelines for fiscal year 1977.

SUMMARY: A notice of allocation formula and program guidelines is issued to implement the State Planning Commissions Program—Intrastate Planning under Section 1203(a) of the Higher Education Act of 1965, as amended, for fiscal year 1977. This program is operated as a formula grant program, and it is necessary to publish both the formula used to allocate the available funds and the program guidelines each year. The program is designed to provide assistance to State Postsecondary Education Commissions to conduct statewide comprehensive planning activities for postsecondary education.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this notice has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmissions, subject to the provisions therein concerning Congressional action and adjournment.

ADDRESSES: State Planning Commissions Program, Bureau of Postsecondary Education, Room 4052, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Charles I. Griffith, Telephone: (202) 245-2671.

SUPPLEMENTARY INFORMATION:

A. Publication as Final Notice of Rulemaking.

The Commissioner of Education for good cause finds that resort to proposed rulemaking procedures with respect to this notice is unnecessary within the meaning of 5 U.S.C. 553(b). Publication of a proposed allocation formula and program guidelines for fiscal year 1977 in this case is unnecessary because they are identical to the allocation formula and program guidelines utilized in fiscal year 1976 which were subject to public comment.

B. Response to Comments Previously Received.

The Commissioner published a Notice of Intent to Issue Regulations implementing the provisions of the Education Amendments of 1976 in the FEDERAL REGISTER of November 29, 1976 (41 FR 52410, 52418). Comments were invited concerning the feasibility of either expanding the existing program guidelines for intrastate planning for postsecondary education or developing new guidelines. Five public conferences were held at various locations between December 13-17, 1976, at which time the Office of Education received comments on this and other provisions of the Education Amendments. Further written comments were also received through December 30, 1976. The following is a summary of the comments received and the Office of Education's response.

Comment.—Seven comments were received, and each recommended that no change be made in the existing program guidelines since the program is operating successfully with maximum flexibility afforded to the State Commissions under the existing guidelines.

Response.—The allocation formula and program guidelines for fiscal year 1976 will be continued for fiscal year 1977.

NOTE: The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order No. 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.550; State Planning Commissions Program—Intrastate Planning.)

Dated: April 21, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

POSTSECONDARY EDUCATION: STATE PLANNING COMMISSIONS PROGRAM—INTRASTATE PLANNING

ALLOCATION FORMULA AND PROGRAM GUIDELINES

1. *Allocation formula.* Such funds as may become available for grant awards during fiscal year 1977 for intrastate planning under the State Plannnig Commissions Program will be allocated in the following manner among those State Postsecondary Education Commissions which have filed the required information concerning establishment with the Office of Education and which have applied for funds:

(a) A base amount of $30,000 will be distributed to each State Commission.

(b) The balance of the available funds will be distributed on the basis of the ratio of the population of a postsecondary age, namely 17 and above (as indicated in the latest data available from the U.S. Bureau of the Census), in a given State to the total population of a postsecondary age in all States with such Commissions.

2. *Program guidelines.* Grants made under these provisions must be used by a State Commission to conduct comprehensive inventories of, and studies with respect to, all public and private postsecondary educational resources in the State, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the State who desire, and who can benefit from, postsecondary education may have an opportunity to do so. Such comprehensive studies and inventories should be developed in coordination with all segments of postsecondary education in the State and should be of such a nature as will assist the State Commission in planning for:

(a) Maximizing the development of human resources within the State through encouragement of student entrance to postsecondary education and the provision of the students of needed, guidance, counseling and financial assistance;

(b) Providing comprehensive postsecondary education programs and services;

(c) Achieving efficient operation and orderly growth;

(d) Providing the fullest possible financial support together with efficient use of resources;

(e) Attracting and retaining qualified faculty and professional personnel; and

(f) Providing adequate and appropriate facilities and instructional equipment and securing efficiency in their use.

20 U.S.C. 1142b(a)

[FR Doc.77-14137 Filed 5-17-77;8:45 am]

Health Resources Administration

ADVISORY COMMITTEE

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1977:

Name: Health Services Research Study Section.
Date and time: June 1-3, 1977 9 a.m.
Place: Room A, Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008.
Open June 1, 9 a.m.-10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session on June 1, 1977, will be devoted to a business meeting covering administrative matters and reports. During the closed session, the study section will be reviewing research grant applications relating to the delivery, organization, and financing of health services. These applications contain personal information on project staff as well as research protocol design, raw research data, technical information, and interim research reports, all considered proprietary in nature and therefore the meeting will be closed to the public. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Deputy Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Hoke S. Glover, National Center for Health Services Research, Room 15-29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443-2920.

Name: Health Care Technology Study Section.
Date and time: June 6-8, 1977, 9 a.m.
Place: Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, D.C. 20036
Open June 6, 9 a.m.-10 a.m.
Closed for remainder of the day.
Closed June 7, all day.
Open June 8, 9:00 a.m. until adjournment.
Purpose: The committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session on June 6, 1977, will be devoted to a business meeting covering administrative matters. The meeting on June 8, 1977, will also be open, consisting of a seminar on assessment of proposals to evaluate health care information systems. During the closed sessions, a review of health services research grant applications relating to the delivery, organization, and financing of health services will be conducted. These applications contain personal information on project staff as well as research protocol design, raw research data, technical information, and interim research reports, all considered proprietary in nature and therefore the meeting will be closed to the public, in accodance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Deputy Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, Room 15-29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443-2950.

Name: Health Services Developmental Grants Study Section.
Date and time: June 9-10, 1977, 8:30 a.m.
Place: Circle Room, Dupont Plaza, Connecticut and Massachusetts Avenue NW., Washington, D.C. 20036.
Open June 9, 8:30 a.m.-10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.
Agenda: The open session of meeting on June 9, 1977, will be devoted to administrative matters and reports. During the closed session, the Study Section will be reviewing research grant applications relating to the delivery, organization, and

financing of health services. These applications contain information on project staff as well as research protocol, design, raw research data, technical information, and interim research reports, all considered proprietary in nature and therefore the meeting will be closed to the public. The closing is in accordance with provision set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Deputy Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. David McFall, National Center for Health Services Research, Room 15-29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2930.

After May 16 the contact person for the above Study Sections will be located at: Federal Center Building No. 2, Room 7-50A, 3700 East West Highway, Hyatteville, Maryland 20782, and have the following telephone numbers;

Mr. Hoke S. Glover—(301) 436-2918.
Mr. Alan E. Mayers—(301) 436-6196.
Mr. David McFall—(301) 436-6916.

Agenda items are subject to change as priorities dictate.

Dated: May 11, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-14093 Filed 5-17-77;8:45 am]

National Institutes of Health

REPORT ON CARCINOGENESIS BIOASSAY OF NITRILOTRIACETIC ACID

Availability

Nitrilotriacetic acid has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: Bioassays for the carcinogenicity of nitrilotriacetic acid, trisodium salt, monohydrate ($Na_3NTA \cdot H_2O$) were conducted at Stanford Research Institute (SRI), using Fischer 344 rats, and at Litton Bionetics, Inc. (LBI), using both Fischer 344 rats, and B6C3F1 mice. Similar bioassays, using rats and mice, were conducted at LBI on the free acid nitrilotriacetic acid (NTA). Each chemical was mixed in respective diets and administered adlibitum. The $Na_3TA \cdot H_2O$ was tested in rats at SRI at 200, 2,000, and 20,000 ppm for a 24-month period. It was also tested in rats at LBI at 7,500 and 15,000 ppm and in mice 2,500 and 5,000 ppm using 18-month feeding periods for both species. The NTA was tested in rats and mice at LBI at 7,500 and 15,000 ppm for the 18-month period. The numbers of animals used in tests at SRI were 24 of each sex for each dose group and for the controls; at LBI, 50 of each sex for each dose group and 20 of each sex for the controls. Since equimolar quantities of $Na_3NTA \cdot H_2O$ and NTA were not used, given concentrations of $Na_3NTA \cdot H_2O$ represented 30% less NTA than did equal concentrations of the free acid.

Average weights attained by high-dose groups of rats and mice were consistenly lower than those of control groups. Less difference was observed with the low-dose groups. Survival, however, was not decreased by the compounds administered, except in rats given 20,000 ppm $Na_3NTA \cdot H_2O$.

Lesions of the urinary tract were found in most treated groups of both rats and mice. They were characterized especially in the high-dose groups, by primary tumors of epithelial origin. These tumors were particularly significant since they were not found in the urinary tract of the control mice and only rarely occur spontaneously in the strains of animals on test. Lesions of the urinary tract were also characterized by hydronephrosis and/or nephritis in high-dose rats and by nephritis in both high- and low-dose mice.

Statistical evidence of the carcinogenicity of $Na_3NAT \cdot H_2O$ and NTA was provided by incidences of tumors at different sites in the urinary tract. For example, among animals given 20,000 ppm $Na_3NTA \cdot H_2O$ at SRI, tumors of the kidney occurred in male (treated, 9/24; untreated, 0/24; P=0.001) and female (treated, 4/24; untreated, 0/24; P=0.054) rats; tumors of the ureter, in male (treated, 8/24; untreated, 0/24; P=0.002) and female (treated, 6/24; untreated, 0/24; P=0.011) rats; and tumors of the bladder, in female rats (treated, 5/24; untreated, 0/22; P=0.031). Similarly, among animals given 15,000 ppm NTA at LBI, tumors of the bladder occurred in female rats (treated, 12/48; untreated, 0/18; P=0.014) and tumors of the kidney occurred in male mice (treated, 24/44; untreated, 0/20 P <0.001). Additional tests at LBI, using 15,000 and 7,500 ppm $Na_3NTA \cdot H_2O$ and 7,500 ppm NTA in male and female rats, 15,000 and 7,500 ppm $Na_3NTA \cdot H_2O$ and 7,500 ppm NTA in male mice, also induced tumors of the urinary tract, but in numbers too low to be statistically significant. Metastatic tumors, appearing to have arisen from primary tumors of the urinary tract, were found in 5/24 male and 5/24 female rats given 20,000 ppm $Na_3NTA \cdot H_2O$ at SRI and in one male rat given 15,000 ppm NTA at LBI; none were found in rats given lower doses or in mice.

Thus, NTA and $Na_3NTA \cdot H_2O$ were shown to be carcinogenic to the urinary tracts of both rats and mice at the higher doses tested. Lower doses, as delineated in this report, did not induce significant numbers of such lesions.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: April 26, 1977.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.77-13519 Filed 5-17-77;8:45 am]

COMBINED MODALITY COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Combined Modality Committee, National Cancer Institute, National Institutes of Health, May 31-June 1, 1977, which was published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23175).

Dated: May 11, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-14121 Filed 5-17-77;8:45 am]

STUDY SECTIONS

Amended Notice of Meetings

Notice is hereby given of a change in the meeting date, time or place of the following National Institutes of Health Study Sections which were published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23176-77).

The Medicinal Chemistry A Study Section was to have met in La Jolla Village Inn, La Jolla, CA, but will meet at the Town and Country Hotel, San Diego, CA, June 16-19, 1977 at 9 a.m., the same dates and time for which it was originally scheduled. The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

The Microbial Chemistry Study Section was to have met in Building 31, Room 8, C-Wing, Bethesda, MD, but will meet at the Holiday Inn, Bethesda, MD, June 16-18, 1977 at 8:30 a.m., the same dates and time for which it was originally scheduled. The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

The Neurology A Study Section was to have met June 1-4, 1977, but will meet June 1-3, 1977 at 9 a.m. at Building 31, Room 4, A-Wing, Bethesda, MD, the same location for which it was originally scheduled. The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

The Physiological Chemistry Study Section will meet as scheduled June 9-11, 1977 at 9 a.m. at the Embassy Row Hotel, Washington, DC. However, they will hold an additional session on June 8, 1977, at 7 p.m. until adjournment at the Embassy Row Hotel, Washington, DC. The open portion of this meeting will be held on June 9, 1977, at 9 a.m. for approximately one hour.

Dated: May 12, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-14124 Filed 5-17-77;8:45 am]

NEW FINDINGS ON THE COMPLEXITY OF NUCLEIC ACIDS IN VIRAL GENOMES

Notice of Workshop

Notice is hereby given of a Workshop on New Findings on the Complexity of Nucleic Acids in Viral Genomes sponsored by the Experimental Virology Study Section, University of Wisconsin, Madison, Wisconsin, June 16, 1977, from 8:30 a.m. to adjournment.

Further information may be obtained from Dr. Eugene Zebovitz, Executive Secretary, Experimental Virology Study Section, Westwood Building, Room 206, telephone 301/496-7474.

This workshop will be open to the public. Attendance by the public will be limited to space available.

Dated: May 11, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-14122 Filed 5-17-77;8:45 am]

SICKLE CELL DISEASE ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, June 23 and 24, 1977. The meeting will be held in Conference Room 10, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20014. The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on both days, to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 5A03, (301) 496-4236, will provide summaries of the meeting and rosters of Committee members.

Mr. Howard F. Manly, Executive Secretary, Sickle Cell Disease Advisory Committee, NHLBI, NIH, Building 31, Room 4A29, (301) 496-6931, will furnish substantive program information.

Dated: May 11, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-14123 Filed 5-17-77;8:45 am]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

Part S (fomerly Part 4) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions and Delegations of Authority for the Social Security Administration (SSA). Sections SG.00, SG.10 and SG.20 (formerly sections 4-06-00 through 4-06-20, published at 40 FR 36612-13 on August 21, 1975) describe the Mission, Organization and Functions for SSA's Bureau of Hearings and Appeals (BHA). Notice is hereby given that all references to Hearing Examiners—Supplemental Security Income in sections SG.00, SG.10 and SG.20 are eliminated. In addition, section SG.20I of the BHA material is hereby amended to reflect the abolishment of BHA's Regional Development Centers and certain minor editorial changes. The revised material reads as follows:

Sec. SG.20 *Bureau of Hearings and Appeals*—(Functions).

I. *The Office of the Regional Chief Administrative Law Judge (SG F1/SG FX).*—A. Represents the Bureau Director at the regional level with respect to all matters pertaining to the hearings process.

B. Plans, organizes, and administers a regional program for scheduling and conducting independent and impartial hearings on appealed determinations involving claims for retirement, survivors and disability insurance benefits under title II of the Social Security Act as amended (the Act); health insurance benefits under title XVIII of the Act; and supplemental security income benefits under title XVI of the Act, as well as disability and survivors benefits under the "Black Lung" Act.

C. Provides substantive guidance, administrative direction and leadership to Administrative Law Judges and their staffs.

D. Coordinates operations and administrative activities with the HEW Regional Office; other SSA components; State agencies; and other parties, as required.

E. Exercise general administrative supervision over Administrative Law Judges and their supporting staffs within the region.

Dated: May 3, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14135 Filed 5-17-77;8:45 am]

Public Health Service

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH, OFFICE OF ADMINISTRATIVE MANAGEMENT, ADMINISTRATIVE SERVICES CENTER

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HA, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare, entitled Office of Assistant Secretary for Health (38 FR 18571-74, 7/12/73, as amended by 40 FR 55889, 12/2/75) is amended to reflect the establishment of the Division of Public Health Service Claims within the Administrative Services Center, Office of Administrative Management.

Section HA-B, Organization and Functions, is changed as follows: Under the Office of Administrative Management (HAU), Administrative Services Center (HAU1), insert the following statement after the statement for the Division of Materiel Management (HAU13):

Division of Public Health Service Claims (HAU14). The Division Director is responsible for and coordinates a total PHS claims program within authorities delegated by the Department for claims filed against the Government under the Federal Tort Claims Act, Military Personnel and Civilian Employees' Claims Act, and the Small Claims Act; debt claims by the Government under the Federal Claims Collection Act; and claim filing procedures and initial processing of claims under new health programs such as the Swine Flue Immunization Program. This Division: (1) investigates and evaluates claims; (2) recommends disposition of claims to the Department Claims Officer or undertakes disposition within delegated authority; (3) procures and provides official records, documents and materials as may be required by the Office of General Counsel and the Department of Justice in defense of suits against the Government; (4) obtains medical evaluations; and assists, where necessary, in arranging for the appearance of witnesses with respect to malpractice claims and litigation; (5) provides professional advice and technical direction to PHS personnel on claim functions; (6) cooperates with Office of General Counsel, Departments of Justice and State, and other public and private organizations concerned with administrative claims and tort litigation; (7) organizes and provides training for medical and paramedical personnel in the legal aspects of hospital records and medical professional liability; and (8) develops, recommends, and implements claims procedures.

Dated: May 3, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14136 Filed 5-17-77;8:45 am]

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

Determination

Notice is hereby given, pursuant to 42 CFR 110.605, that in the month of April 1977 the following entity has been determined to be a qualified health maintenance organization under section 1310 (d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE ORGANIZATION

NAME, ORGANIZATIONAL TYPE, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b))

1. Intergroup Prepaid Health Services, Inc. (Individual Practice Association type, see section 1310(b)(2)(A) of the Public Health

Service Act), CNA Plaza, Chicago, Illinois 60685. Service area: Illinois—Counties of Champaign, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodward. Indiana—Counties of Lake and Porter. Date of qualification: April 18, 1977.

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, at the Office of Quality Standards, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 14A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: May 9, 1977.

WILLIAM B. MUNIER,
Director,
Office of Quality Standards.

[FR Doc.77–14170 Filed 5–17–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 34079]

MONTANA

Amendment to Application

MAY 11, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 185 (1970 Supplement V), Kansas-Nebraska Natural Gas Company, Inc., has applied for an amendment to their application for a right-of-way for a natural gas gathering system across the following Federal lands:

PRINCIPAL MERIDIAN, MONTANA

T. 33 N., R. 32 E.,
Sec. 26, S½SW¼; and
Sec. 35, SE¼SE¼.

This amendment consists of a tie-in site 100 feet by 100 feet and 1,286.23 feet of pipeline in Sec. 26, and 1,569.47 feet of pipeline in Sec. 35. This entire system will be used to gather natural gas from wells in Phillips County, Montana, and convey it to an existing transmission line.

The purpose of this notice is to inform the public that the Bureau will proceed with consideration of whether the application and the amendment should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, Drawer 1160, Lewistown, Montana 59457.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14163 Filed 5–17–77;8:45 am]

[NM 30517 and 30518]

NEW MEXICO

Applications

MAY 11, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 6-inch and one 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 16 S., R. 25 E.,
Sec. 21, W½SE¼ and SE¼SE¼;
Sec. 27, SW¼NW¼ and SW¼.
T. 18 S., R. 28 E.,
Sec. 12, E½NE¼ and NE¼SE¼.
T 18 S., R. 29 E.,
Sec. 7, lots 3 and 4;
Sec. 18, NE¼SW¼.

These pipelines will convey natural gas across 2.576 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14164 Filed 5–17–77;8:45 am]

[NM 30520]

NEW MEXICO

Application

MAY 11, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 29, E½SW¼ and NW¼SE¼.

This pipeline will convey natural gas across 0.461 of a mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested person desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14165 Filed 5–17–77;8:45 am]

[NM 30334]

NEW MEXICO

Application

MAY 10, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 12 W.,
Sec. 20, E½NE¼.

This pipeline will convey natural gas across 0.235 of a mile of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Mangement, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14166 Filed 5–17–77;8:45 am]

[NM 30516]

NEW MEXICO

Application

MAY 10, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northern Natural Gas Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 37 E.,
Sec. 5, SE¼SW¼.

This pipeline will convey natural gas across 0.151 of a mile of national resource land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14167 Filed 5–17–77;8:45 am]

[OR 5508]

OREGON

Order Providing for Opening of Public Lands

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 24 S., R. 14 E.,
Sec. 33, NW¼NW¼;
Sec. 34, NE¼NW¼;
Sec. 36, NE¼SW¼, S½SW¼, and SE¼.
T. 24 S., R. 15 E.,
Sec. 36, NW¼NE¼, S½NE¼, NW¼, NW¼SW¼, SE¼SW¼, and SE¼.
T. 25 S., R. 15 E.,
Sec. 16.
T. 24 S., R. 16 E.,
Sec. 36, N½NE¼, SE¼NE¼, NW¼, and S½.
T. 20 S., R. 16 E.,
Sec. 36, N½NE¼, and SE¼NE¼.
T. 27 S., R. 19 E.,
Sec. 25, SE¼.
T. 29 S., R. 22 E.,
Sec. 16.
T. 34 S., R. 22 E.,
Sec. 36.
T. 35 S., R. 23E.,
Sec. 36, lots 1, 2, 3, and 4, N½, and N½S½.
T. 39 S., R. 23 E.,
Sec. 16, except 4.33 acres in highway right-of-way conveyed to the State of Oregon by deed recorded June 21, 1950, at Page 315, Book 108, Record of Deeds, Lake County, Oregon.
T. 39 S., R. 24 E.,
Sec. 16, lots 2, 3, and 6.
T. 30 S., R. 25 E.,
Sec. 16.
T. 29 S., R. 26 E.,
Sec. 16;
Sec. 36.

The areas described aggregate, after making the aforesaid exception, 6,998.92 acres in Lake and Harney Counties.

2. The subject lands consist of widely scattered parcels generally located in northern and eastern Lake County and in western Harney County. Elevation ranges from 4,000 to 6,500 feet above sea level, and the topography varies from generally flat to steep and rocky. Vegetation consists primarily of sagebrush and native grasses with juniper and ponderosa pine on a few parcels. In the past, the lands have been used for livestock grazing purposes, and some parcels have wildlife habitat and outdoor recreational values. The lands will be managed, together with adjoining national resource lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10 a.m., June 16, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14168 Filed 5–17–77;8:45 am]

[Cheyenne 041555—Amend.]

WYOMING

Application

MAY 10, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Utilities, Inc., of Casper, Wyoming filed an application for an amendment to existing right-of-way Cheyenne 041555 to construct a sixteen inch natural gas pipeline for the purpose of transporting natural gas across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 34 N., R. 89 W.,
Sec. 31, Lot. 3.
T. 33 N., R. 90 W.,
Sec. 4, Lot 1.
T. 34 N., R. 90 W.,
Sec. 33, SE¼SE¼;
Sec. 34, SW¼SW¼;
Sec. 35, S½S½.

Northern Utilities, Inc., seeks to amend its existing right-of-way No. C–041555 the primary purpose being to construct, operate, and maintain approximately 17,000 feet of 16" natural gas pipeline commencing in the NW¼ of section 4, T. 33 N., R. 90 W., and extending to the east a distance of 17,000 feet to terminate in the SW¼ of sec. 31, T. 34 N., R. 89 W., all in Fremont County, Wyoming. This pipeline will be qualified by pressure testing and tied-in to existing pipelines.

There are presently three natural gas pipelines located in the right-of-way (C–41555). One pipeline is a bare ten inch pipeline, the second is a bare fourteen inch pipeline, and the third is a coated sixteen inch pipeline. It is not economically or practically feasible to up-grade the existing bare pipeline and, therefore, it is necessary to replace them with a single sixteen inch pipeline.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14169 Filed 5–17–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 16284]

LANDS IN ROUTT COUNTY, COLORADO

Coal Lease Offering Rescheduled

MAY 13, 1977.

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado. Notice is hereby given that, due to circumstances requiring reconsideration of sales procedures and lease terms, the May 25, 1977 coal lease offering published in FEDERAL REGISTER Vol. 42, No. 69, April 11, 1977 at page 18905 is rescheduled for June 21, 1977.

JACK G. LORTS,
Chief, Division of Technical Services.

[FR Doc.77–14354 Filed 5–17–77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant:

Patuxuent Wildlife Research Center
U.S. Fish and Wildlife Service
Laurel, Maryland 20811
Lucille F. Stickel, Director.

PRT 2-695 C07

NATIONAL FORM NO. 10
GEN. FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

DATE: April 19, 1977

TO : Chief, Permit Branch
Federal Wildlife Permit Office

FROM : Director, Patuxent Wildlife Research Center

SUBJECT: Additional information needed for wolf research permit

The following additional information is provided in response to your request of April 12, 1977, concerning the processing of FWS/WPO PRT 2-695-C07.

Item 1. Shipping containers

The wolf will be transported in either of two ways: (1) anesthetized and muzzled in aircraft or vehicles, or (2) for longer distances in canine transport cages (9 gauge welded wire, approximately 44" x 27" x 27") with floor. Food will not be supplied during transportation for the safety of the animals, and water will be supplied as necessary to caged animals.

Item 2. Importation from Canada

Importation from Canada will be through a port of entry unless later requirements dictate otherwise, in which case an exemption will be sought at that time.

Item 3. Permits from Canada

Your instructions have been provided Dr. David Mech and he will make use of them in requesting necessary permits from Canada.

Thank you for guidance in indicating the types of information needed for the issuance of a permit to conduct research on endangered wolves.

Lucille F. Stickel

Lucille F. Stickel

OMB NO. 42-R1470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
This is a request for a permit to allow scientific study of the eastern timber wolf (Canus lupus lycaon) involving procedures listed in the attachment (some of which was previously carried out under permit no. PRT-8-50-C).

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Patuxent Wildlife Research Center
U. S. Fish and Wildlife Service
Laurel, Maryland 20811

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Wildlife research to enhance the status of endangered and threatened species by scientific research.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR ETC.
Lucille F. Stickel, Director, 301-776-4880
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Primarily the Carlos Avery Wildlife Management Area game farm facilities, (Minnesota Department of Natural Resources), Forest Lake, Minnesota, but possibly also the U.S. Veterans Administration Hospital, Minneapolis, Minnesota, the St. Paul Zoo in St. Paul, Minnesota, Duluth Zoo, Duluth, Minnesota, or the Minnesota State Zoo in Apple Valley, Minnesota.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s))
PRT 8-85-C, PRT 8-169-C, PRT 2-913-BA, PRT 8-86-B-C, PRT 8-50-C, PRT 2-197

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Permit issued by the State of Minnesota. No. 2588

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: May 1, 1977

11. DURATION NEEDED: December 31, 1979

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) IS MORE FULLY DESCRIBED IN THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:
17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Lucille F. Stickel | DATE 3/14/77

3-200
16-742

GPO 695-042

Application for an Endangered Species Permit for Scientific Purposes

The following information is as requested, item for item, under Section 17.22 of 50 CFR 17 (p. 14):

(1) Eastern timber wolf (*Canis lupus lycaon*), Gray wolf (*Canis lupus*). Application is for (A) the live-trapping, anesthetizing, ear-tagging, radio-collaring, blood sampling, urine-sampling, biopsying, hair-sampling, saliva-sampling, fecal-sampling, dyeing (for identification), radio-tracking and observing (from the ground and air), photographing, and otherwise non-fatally investigating allages and both sexes of as many wolves in the wild as is necessary to fulfill the obligations of official USFWS studies; and temporary processing, holding, transporting, (inter and intrastate) and releasing these animals back into the wild, in their original range; and (B) holding captive and observing, anesthetizing, blood sampling, dyeing, ear-tagging, tattooing, urine-sampling, biopsying, hair-sampling, saliva-sampling, fecal-sampling, photographing, and otherwise studying as many pre-act wolves and their offspring as is necessary to fulfill the obligations of official USFWS studies; and (C) holding captive and observing, transporting, anesthetizing blood-sampling, dyeing, ear-tagging, tattooing, urine-sampling, biopsying, hair-sampling, saliva-sampling, fecal-sampling, photographing, and otherwise studying up to 30 post-act, captive-raised wolves of all ages and both sexes; and (D) live-trapping in the wild, anethetizing, transporting, holding captive, and studying as above, up to 30 wild wolves and their offspring, of all ages and both sexes; and (E) exporting, importing, and releasing into the native range of the subspecies up to 50 live-trapped wild wolves of all ages and both sexes to and from Canada and the U.S., for experimental studies or reintroduction attempts; and (F) the collecting, transporting, and holding of scientific specimens from any wolf carcass.

(2) All animals mentioned above are still in the wild except: 2 wild-caught and held under Permit PRT–8–50–C and Amendment No. 1 and various pre-act captive-raised individuals and their offspring.

(3) All wolves studied in captivity would be captive-raised except when circumstances require wild-caught wolves only.

(4) The two wild-caught wolves mentioned above were live-trapped in Minnesota, USA.

(5) Primarily the Carlos Avery Wildlife Management Area game farm facilities (Minnesota Department of Natural Resources), Forest Lake, Minnesota; but also possibly the U.S. Veterans Administration Hospital, Minneapolis, Minnesota, the St. Paul Zoo, St. Paul, Minnesota, Duluth Zoo, Duluth, Minnesota, or the Minnesota State Zoo, Apple Valley, Minnesota.

(6) (i) See attached diagrams; (ii) will be cared for by professional biologists, graduate students, and/or game farm or zoo personnel, all of whom have technical expertise in the care, raising, handling, feeding and other requirements of the species; (iii) will cooperate in a captive breeding program and contribute data to a studbook; (iv) see diagram; watering, feeding, and care will be provided as in (6–ii) above; and (v) 4 animals lost during last 5 years as follows:

1. one wolf killed its kennel-mate
2. one wolf lost to oral anesthetic.
3. two wolves were shot after escape.

Use of oral anesthetic has been discontinued, kennels have been reinforced.

(7) See work units—Endangered Wildlife Research Program, Patuxent

(8) Same as 7; any leftover wolves will be donated to other studies, to zoos, or will be humanely disposed of and specimens collected for scientific purposes.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–695–C07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14126 Filed 5-17-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant:

University of Florida
Department of Zoology
511 Bartram Hall
Gainesville, Florida 32611.

OMB NO. 42-R1470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To determine habitat occupancy and boundaries of sea turtles along the fringe reef system; individuals will be tagged. These techniques require captive and short-time restraint.

3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Thomas Carr (904) 392-1250
511 Bartram Hall
Department of Zoology
University of Florida
Gainesville, Florida 32611

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 6'2" | WEIGHT 175 lbs.
DATE OF BIRTH March 15, 1948 | COLOR HAIR blonde | COLOR EYES blue
PHONE NUMBER WHERE EMPLOYED (904) 392-1250 | SOCIAL SECURITY NUMBER 267-82-7437
OCCUPATION Environmental consultant

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
N/A

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
N/A

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. (904) 392-1250
Dr. Archie Carr, Principal Investigator
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Culebra Island, Puerto Rico

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))
X

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of document(s))

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE: June 1976

11. DURATION NEEDED: July 1977

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED; IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:
Section 17.22 Permits for scientific purposes or for the enhancement of propagation or survival.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Thomas Carr | DATE March 8, 1977

3-200
16-742

Section 17.22 Permits for scientific purposes or for the enhancement of propagation or survival.

(1) Those species to be covered by Permit are as follows: Green turtle (*Chelonia mydas*), Hawksbill turtle (*Eretmochelys imbricata*) Loggerhead turtle (*Caretta caretta*), Leatherback turtle (*Dermochelys coriacea*), Ridley turtle (*Lepidochelys kempii*). *Sex and age groups to be captured:*

Both sexes will be taken.

All age groups encountered will be tagged and code-marked. The prevalent age groups are the yearling to three-year-old occupants of the reef-system habitats.

(2) All specimens being studied are still in the wild.

(3) To be taken underwater, to be netted, and to be tagged while nesting on the beach.

(4) N/A.

(5) Not to be removed from Culebra area.

(6) N/A.

(7) See attached Memorandum.

(8) (i) To capture, measure and tag all species of marine turtles found in Culebra Island area.

(ii) Individuals will be captured by hand, using diving gear, by nets or when found on beaches nesting.

(iii) All activities covered by permit are for the purpose of completing contract for the U.S. Dept. of the Interior, Fish and Wildlife Service entitled Ecology, Seasonality and Populations Levels of Marine Turtles and Terrestrial Reptiles at Culebra Island.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-725-07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14127 Filed 5-17-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1972 (Pub. L. 93-205).

Applicant:
International Crane Foundation
City View Road
Baraboo, Wisconsin 53913.
Mildred L. Zantow, Administrator.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Importation of one (1) Japanese crane (Grus japonensis)for propagation and scientific research purposes at Baraboo, Wi

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
International Crane Foundation
City View Road
Baraboo, Wisconsin 53913

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Non-profit research center for propagation of cranes

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
International Crane Foundation Research Center

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 608-356-3553
Mildred L. Zantow, Administrator

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Wisconsin

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Headquarters of International Crane Foundation at City View Road, Baraboo, Wisconsin

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
PRT-2-632 PRT-2-661-07

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Export permit from USSR (Moscow Zoo has required permit)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: July 20, 1977

11. DURATION NEEDED: until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. See attached information CFR 17.22 this permit request is for both Endangered Species and Conv. Must cover the return of the carcass in case the crane dies.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Mildred L. Zantow Administrator — DATE April 18, 1977

3-200 (5/74) GPO 895-042

CFR 17.22 Submitted under "Rules and Regulations" Title 50, Federal Register, Endangered and Threatened Wildlife and Plants.

1. To import 1 Japanese Crane (female) (*Grus japonensis*) for propagation purposes.

2. Crane is now in captivity having been removed from the wild. This crane is the possession of the Moscow Zoological Park, Moscow, Russia.

3. The only supply of these cranes is from the wild or from collectors who have breeding stock in their possession.

4. The exact location of removal from the wild is not known at the International Crane Foundation.

5. The crane covered by this permit is in the possession of the Moscow Zoological Park. The subject crane will be on loan to the International Crane Foundation for breeding purposes and progeny will be divided and returned to Russia.

6. (i) ICF has well-built, modern facilities for keeping and raising cranes. There is a well-appointed incubator and brooder room designed especially for hatching and rearing very young cranes, as well as a specially designed building for raising older crane chicks. A nine acre field is available for immature and non-breeding cranes. There is finally a series of large, specious pens for individual pairs of cranes (see photographs already on file at USDI). Each pen has a 15' x 15' shelter where the birds are protected from wind, harsh weather and intrusion from wild predators. Pens are covered with net to prevent birds from flying into the pens or the captive bird from trying to escape.

(ii) The staff at ICF has had many years experience breeding and raising cranes. ICF was founded in 1973 and since that time more than 45 cranes have been hatched and reared at its facilities. Before that time, ICF's director of propagation, George Archibald, spent more than nine years working with cranes, including hatching and raising young birds.

(iii) The International Crane Foundation maintains at present several contracts with zoos in this country and abroad for trade and cooperative breeding programs for cranes. ICF is always willng to participate in breeding programs and files data on its cranes with the studbook of Dr. Asakura at the Tama Zoological Park in Tokoyo, Japan.

(iv) This crane will be transported in a crate with plenty of room and air for comfort. This type of crate has been used unversally for transporting cranes. This crane will be flown from Moscow, Russia directly to New York and will not need provisions for food and water enroute. The Globe Customs Broker in New York will transport the crane immediately to the quarantine facility in Clifton,"NJ where food and water will be provided.

(v) Japanese Cranes (*Grus japonensis*) have been kept at ICF and we have had 4 fatalities as follows:

No. 1. Female, adult. Killed by male Japanese Crane during acclimatization period.

No. 2. Male, adult. Died of liver carcinoma.

No. 3. Male, adult. Died of shock following an operation to repair an injured wing.

No. 4. Chick, unsexed. Died of hemorrhage at age of 3 weeks.

Fatality No. 1 might possibly have been avoided had the female been separated for a longer time from the male before the birds were introduced to each other. However, they were separated for one month previous to the death of the female and showed no obvious aggression when placed in adjoining pens. Male Japanese crane No. 2 died shortly after of a liver carcinoma. It is possible that his agressiveness was the result of chronic illness.

The International Crane Foundation has bred and raised 5 Japanese chicks.

Progeny from the subject Japanese Crane will be divided per loan agreement and those belonging to USSR will be shipped to them, and ICF portion will be used for restocking back to the natural habitats.

Dr. George Archibald is a PhD from Cornell University, New York. He has studied and researched cranes in many countries of the world. At the present time he has 14 of the 15 species of cranes in his care at the International Crane Foundation. Dr. Archibald is considered an authority on crane care and propagation.

Permission is requested to export the carcass of this crane in the event it should die while on loan to the International Crane Foundation. The Moscow Zoological Park requests the remains be returned to them.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-761-C07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14128 Filed 5-17-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

John Norman Rinne
Rocky Mountain Forest & Range Experiment Station
Forest Hydrology Lab, ASU
Tempe, Arizona 85281.

OMB NO. 42-R1670

DEPAR ...NT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
Scientific Research
Evaluate habitat requirements of Gila trout.
Take, transport, and hold in lab 50 live Gila trout
Sacrifice a maximum of 200 Gila trout for food habit, taxonomic and chromosome study

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
John Norman Rinne
Fisheries Biologist
Rocky Mountain Forest & Range Experiment Station, Forest Hydrology Lab, ASU
Tempe, Arizona 85281

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 6' 1" | WEIGHT 175 lbs.
DATE OF BIRTH 3-19-44 | COLOR HAIR Brown | COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 261-4365(FTS) | SOCIAL SECURITY NUMBER 506-56-2805
OCCUPATION Fisheries Research Biologist

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
USDA, U.S.Forest Service; responsible for protection and management of range, watershed, and wildlife on National Forests.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Arizona and New Mexico
Gila, (including Gila Wilderness & Black Range Primitive Areas), Apache-Sitgraves, Prescott, and Coronado National Forests, Fort Apache Indian Reservation.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Arizona Game and Fish, Management & Research Permit#154. NM.Game & Fish Dept. Permit-in application

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $ N/A

10. DESIRED EFFECTIVE DATE: IMMEDIATELY

11. DURATION NEEDED: Through calendar yr. 1980

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. Attachments as itemized under 17.22a of Title 50, "Rules and Regulations", Part 17, Subpart C.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) — DATE

3-200 (5/74) GPO 895-042

Item 12

Attachment to Permit Application for Gila Trout

by

John N. Rinne

As listed under 17.22 in Title 50, Part 17, Subpart C, "Rules and Regulations", Federal Register, 40(188): 44424, Friday, September 26, 1975.

Item.—1. Gila trout; *Salmo gilae* Miller.

Activity	Number	Age	Sex
Take and return to stream alive in habitat evaluation.	(1)	All	Both.
Sacrifice for food habit, chromosome, and taxonomic studies.	200	All	Do.
Take alive for temperature tolerance.	50	All	Do

[1] Estimated hundreds.

2. i. All Gila trout applied for in this application are yet in the wild.

3. Experience with capture and handling of several hundred Gila trout occurred during one week in summer 1976. This involved electrofishing, holding alive while measuring and weighing, and then returning fish alive to the stream. No mortality occurred.

The applicant has had extensive experience with collection and handling of fishes in the Southwestern U.S. and in East Africa (see reprints enclosed). Capture, handling, tagging, and release activities were conducted with about 10,000 individual fishes over a two-year period in Lake Victoria. In the past few months he has set up holding facilities (see enclosed photos of Forest Hydrology greenhouse) for rainbow trout, and other native, southwestern fishes.

4. Not applicable.

5. a. Address: Forest Hydrology Laboratory, Arizona State University, Tempe, Arizona 85281.

b. The forest Hydrology Laboratory greenhouse will, in part, house live specimens for temperature tolerance studies. In addition, Laboratories in the Life Sciences Center (ASU) will be used (see photographs enclosed for facilities). Sacrificed specimens will be deposited in the fish museum of the Department of Zoology at Arizona State University and/or a major recognized musuem in the U.S.

6. i. The new life sciences building on the ASU campus is equipped with many aquaria, forced air, controlled temperature and photoperiod units, and backup generator facilities. The Forest Hydrology greenhouse is less elaborately equipped at present but will be designed to hold trout for short periods of time (see photos enclosed).

ii. See item 3 above. In addition, Dr.(s) W. L. Minckley and S. D. Gerking of the Zoology Department at Arizona State University who have had extensive experience in handling and experimentation with live fishes will be consulted for transportation, handling, holding activities, and experimentation with Gila trout.

iii. Not applicable.

iv. Holding tanks and aquaria are constructed of fiberglass and glass (see photographs enclosed). Transportation of fishes from the field to the lab will be in styrofoam or thermos coolers with aeration provided by DO tabs or pumps. Fishes will be held in tanks and raceways and cared for and monitored by the applicant and technicians under his advice and that of the professors listed above.

v. None involved.

7. Personnel involved with handling, collecting, and holding of Gila trout will be the applicant and individuals under his immediate supervision. These will include station technicians, professors in the field of genetics and cytology in the ASU Department of Zoology and as indicated above, Dr.(s) Minckley and Gerking who will serve as consultants.

Copies of the study plan prospectus, study plan, and pertinent correspondence are attached. The study will begin upon granting of a permit and last until 1980.

8. Justification statement: The above research activities by the applicant at the Tempe Station of the Rocky Mountain Forest and Range Experiment Station is justified on the basis of Section 7 of the Endangered Species Act of 1973. This species of fish inhabits only National Forests, Wilderness, and Primitive areas. The Rocky Mountain Station as a research branch of the U.S. Forest Service has the responsibility to provide information which will aid in protection, maintenance, and enhancement of this natural resource.

i. These are included within the study plan (enclosed)

ii. These are included within the study plan (enclosed)

iii. These are included within the study plan (enclosed)

iv. All specimens of Gila trout sacrificed will ultimately be deposited in the Arizona State University or another major U.S. fish museum. Fish alive following temperature tolerance studies will be returned to the wild. Museums (preserved material) and localities (live fish) selected will follow directives of the Recovery Team for this species and the State Game and Fish Departments.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-649-07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977 will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14138 Filed 5-17-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
George Speidel, Director
Milwaukee County Zoological Park
10001 W. Bluemound Road
Milwaukee, Wisconsin 53226

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE — ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Transport two (2) male Cotton-top Marmosets from Rochester, NY to Milwaukee, WI for public display and propagation.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Milwaukee County Zoo
10001 West Bluemound Road
Milwaukee, WI. 53226
(414) 771-3040

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Non-profit, county owned and operated public Zoological Park.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. (414) 771-3040
George Speidel, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Interstate shipment from Rochester, NY to Milwaukee, WI

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
See attachment #5

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Permit applied for from state of NY by owner, Kenneth J. Fess

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE
30 days

11. DURATION NEEDED
Permanent

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In Ink) Geo. Speidel — DATE 1/25/77

PARK COMMISSION,
Milwaukee County, Wis.,
January 25, 1977.

DIRECTOR,
Department of the Interior,
U.S. Fish and Wildlife Service,
Washington, D.C. 20240.

DEAR SIR: Pursuant to the Code of Federal Regulations, Title 50, we hereby respectfully apply for a permit to transfer and keep endangered wildlife for the Milwaukee County Zoo.

In accordance, and to comply with all regulations affected, we include the following documentations:

1. Original of Form 3-200, Federal Fish and Wildlife License/Permit Application, duly completed and signed by the Zoo Director.

2. Official name and address: The Milwaukee County Zoo, 10001 West Bluemound Road, Milwaukee, Wisconsin 53226.

3. Name of Zoo Director: George Speidel.

4. Name and scientific name of animals: 50 CFR Sec. 17.23 A-1. Two (2) male Cotton-top Marmoset (Saguinus oedipus), Born 12/21/74 and 12/27/75 at Rochester, NY. See attachment No. 1.

5. Copy of contract (letter) in which the Milwaukee County Zoo agrees to purchase 2.0 Cotton-top Marmoset from Kenneth J. Fess, Marmoset Breeding Farm, Rochester, NY. 50 CFR 17 Sec. 17.25 A-2. See attachment No. 2.

6. Purpose of the permit: To transport, exhibit and propogate the Cotton-top Marmoset at the Milwaukee County Zoo. 50 CFR 17 Sec 17.25 A-3.

7. The Cotton-top Marmosets were born on 12/21/74 and 12/27/75 at Rochester, NY. 50 CFR 17 Sec 17.23 A-5. See attachment No. 1.

8. Description and drawing where wildlife is to be held. 50 CFR 17 Sec 17.23 A-7 No. 1. See attachment No. 3.

9. The technical expertise: The Milwaukee County Zoo presently has: two (2) female Cotton-top Marmosets (Saguinus oedipus). There has been five (5) births of this species at the Milwaukee County Zoo in the past. 50 CFR 17 Sec 17.23 A-7 No. 2.

10. The Milwaukee County Zoo is willing to participate in breeding loans to other approved zoos as evidenced by the enclosed list of breeding loan animals. 50 CFR 17 Sec 17.23 A-3. See attachment No. 4.

11. Animals to be shipped via air carrier direct to Chicago via United Airlines, Flight #899, leaving Rochester at 10:15 a.m. and arriving at Chicago-O'Hare at 10:54 a.m. Animals will be picked up at O'Hare Field by Milwaukee County Zoo staff. 50 CFR 17 Sec 17.23 A-4. See attachment No. 2.

12. A report will be sent to the Director within ten days of receiving the animals covered in the permit. The Milwaukee County Zoo further agrees to report immediately any deaths or escapes, and also agrees to make the remains available to interested institutions for scientific use. 50 CFR 17 Sec 17.23 B-1 and B-2.

13. The desired effective date of permit is 30 days from application date.

14. I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Dated this 25th Day of January, 1977

GEORGE SPEIDEL,
Zoo Director
Milwaukee County Zoo

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-618-07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Dated: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Fish and Wildlife Service.

[FR Doc.77-14139 Filed 5-17-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
Equitable Environmental Health, Inc.
455 Fullerton Avenue
Elmhurst, Illinois 60126.
Dr. James E. Brower, Director.

Form NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
New Site Survey for Proposed Generating Station. Would be conducting a mussel survey at 6 locations two different times. Possibility that we may collect Lampsilis higginsi. We would, however keep only one or two specimens for taxonomic verification. Remainder would be returned to river live.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Equitable Environmental Health Inc.
455 Fullerton Avenue
Elmhurst, IL 60126,

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Environmental Consulting Firm

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 312 - 832-9880
Dr. James F. Brower, Director, Biological Sciences

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
New York

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Mississippi River between River Miles 446 and 456 near Muscatine, Iowa

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? N/A ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
N/A

10. DESIRED EFFECTIVE DATE
April 20, 1977

11. DURATION NEEDED
6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED; IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22 a

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Louis C Brower
DATE 3/15/77

3-200
16-738

✓ *Attachment

ATTACHMENT

(1) Possible collection of Higgins' Eye pearly mussel (*Lampsilis higginsii*)—only references specimens would be retained—any others would be returned to the water.

(2) Wildlife which may be collected is still in the wild.

(3) Collections would be made by diver—no dredges would be utilized except possibly a crowfoot bar.

(4) N/A.

(5) Reference specimens would be maintained at the Chicago Regional Office listed as No. 3 on application.

(6) N/A.

(7) The collection activity is in the proposal process and would be contingent only upon our receipt of a contract. Copies of the contract would be forwarded upon receipt.

(8) Collection is conjunction with an environmental site survey of a proposed new generating facility would be to establish if, in fact, *Lampsilis higginsii* is present in an area which would be impacted by construction or operation activities. If so, recommendations would be made to modify those activities and/or relocate certain structures so as to mitigate any effects upon the population, if present, in the area.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-722-07; please refer to this number when submitting comments. All relevant comments received on or before June 17, 1977, will be considered.

Date: May 13, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-14140 Filed 5-17-77;8:45 am]

National Park Service

PROPOSED ACCEPTANCE OF HISTORIC PRESERVATION EASEMENTS, GREEN SPRINGS HISTORIC DISTRICT

Policies and Procedures

The Secretary of the Interior is currently considering the acceptance of several historic preservation easements pertaining to certain properties located within the Green Springs Historic District pursuant to the Historic Sites Act of 1935, 49 Stat. 666, 16 U.S.C. 461 et seq. The policies and procedures for the Green Springs proposal are as follows:

1. Offer to donate historic preservation easements to the United States by private individuals or organizations (accomplished).

2. Review of offered easements to determine if their acceptance will significantly contribute to the preservation of those values which are fundamental to the Green Springs Historic District as recognized by national landmark designation (staff study of general sufficiency of the easements completed).

3. Preparation of environmental assessment and subsequent promulgation of environmental impact statement or notice of negative declaration, as appropriate. In connection with preparation of assessment, hold a public hearing (accomplished).

4. If an environmental impact statement is determined to be required upon completion of the environmental assessment, follow usual impact statement procedures.

5. If a notice of negative declaration is determined to be appropriate upon completion of the environmental assessment, publish notice of such in the FEDERAL REGISTER, circulate it to interested persons (by letter, press releases, etc.) and promptly hold a public meeting to discuss and explain the environmental assessment and to receive additional public comment on the proposal prior to final decision.

6. At least 30 days after publication of the notice of negative declaration or notice of final environmental impact statement, as the case may be, make the final decision, with the Secretary determining whether or not the acceptance of the Green Springs historic preservation easements will significantly contribute to the preservation of those values which are fundamental to the Green Springs Historic District as recognized by national landmark designation.

Dated: May 13, 1977.

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc.77-14150 Filed 5-17-77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. LAKE COUNTY CONTRACTORS ASSOCIATION, INC. AND LAKE COUNTY CONTRACTORS DEVELOPMENT ASSOCIATION, INC.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgment and a competitive impact statement (CIS) as set out below have been filed with the United States District Court for the Northern District of Illinois, Eastern Division, in *United States of America* v. *Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc.*, Civil Action No. 76 C 1860. The complaint in this case alleged that the two construction industry trade association defendants violated Section 1 of the Sherman Act by entering into bid support agreements with general contractors doing business in Lake County, Illinois. These agreements had the effect of raising bid prices on the construction projects to which they applied. The proposed judgment perpetually enjoins both defendants from entering into bid support agreements or from following any practice, plan, or program having a similar purpose or effect. The CIS describes the terms of the judgment and the background of the action and concludes that the relief obtained does not differ in any important ways from that sought in the complaint. Public comment is invited on or before July 6, 1977. These comments and the Department of Justice's responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John E. Sarbaugh, Chief, Midwest Office, Antitrust Division, Department of Justice, Room 2634, 219 South Dearborn Street, Chicago, Illinois 60604.

Dated: May 6, 1977.

CHARLES F. B. MCALEER,
Assistant Chief, Judgment and Judgment Enforcement Section, Antitrust Division.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

United States of America, Plaintiff, v. *Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc.*, Defendants.

Civil Action No. 76 C 1860.

Filed: May 6, 1977.

Entered: ----------

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shal be of no effect whatever and the making of this stipulation shall be without prejudice to the plaintiff and defendants in this and any other proceeding.

For the Plaintiff: Donald I. Baker, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Elizabeth B. Wurzburg, John E. Sarbaugh, Francis C. Hoyt, James J. Kubik, *Attorneys*, Department of Justice, Rm. 2634 Everett M. Dirksen Building, Chicago, Illinois 60604 (312-353-7523).

For the Defendants: Edward H. Hatton, Theodore R. Tetzlaff, Robert A. Spanner, *Jenner & Block*, One IBM Plaza, Chicago, Illinois 60611 (312-222-9350).

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

United States of America, Plaintiff, v. *Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc.*, Defendants.

Civil Action No. 76 C 1860.

Filed: May 6, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on May 19, 1976, and defendants having appeared and filed jointly thier Answer to the Complaint denying the substantive allegations thereof, and the plaintiff and defendants, by their respective attorneys, each having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or an admission by any party hereto with respect to any such issue;

Now, Therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties aforesaid, it is hereby

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association or other business or legal entity;

(B) "Association Support Agreement" means an agreement or contract between a defendant and a General Contractor whereby the latter agrees that if it is the successful bidder on a construction project or projects in Lake County, Illinois, it will pay a fee to the defendant, one portion of said fee to be retained by the defendant and the other portion to be refunded or distributed by the defendant to the unsuccessful bidders on the construction project or projects to which the agreement or contract is applicable; and

(C) "General Contractor" means a person engaged in the business of constructing, altering, remodeling, building additions to, renovating, reconstructing, or repairing governmental and commercial buildings under direct contract with the owner or architect.

III

The provisions of this Final Judgment apply to the defendants and to their officers, directors, members, agents and employees, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is hereby:

(A) Required to eliminate all provisions that refer or relate to an Association Support Agreement from its constitution, bylaws, code of ethics or other rules and regulations;

(B) Enjoined from entering into, adhering to, enforcing, claiming any right under, or furthering an Association Support Agreement or any other agreement having similar terms or provisions, or following any practice, plan or program having a similar purpose or effect.

(C) Enjoined from collecting a fee, in the form of dues or otherwise, from a General Contractor based on the General Contractor's successful participation in the bidding on a construction project or projects (*Provided, however*, That nothing in this paragraph shall prevent a defendant from collecting a fee from a successful bidder in return for the performance of bona fide services to the bidder); and

(D) Enjoined from paying money to a General Contractor based on the General Contractor's unsuccessful participation in the bidding on a construction project or projects.

V

Each defendant is ordered and directed to:

(A) Serve a copy of this Final Judgment upon its officers, directors, employees, and members within thirty (30) days after the date of entry of this Final Judgment;

(B) File an Affidavit of Compliance with the Court, copy to plaintiff's attorneys, within sixty (60) days after the date of entry of this Final Judgment stating the fact and manner of compliance with paragraph V(A) above;

(C) Publish once a week for a period of six weeks in the Dodge Construction News, beginning within sixty (60) days after the entry of the Final Judgment, a notice which shall fairly and fully apprise the readers thereof of the substantive terms of this Final Judgment; and

(D) File an Affidavit of Compliance with the Court, copy to plaintiff's attorneys, within one hundred and twenty (120) days after the date of entry of this Final Judgment stating the fact and manner of compliance with paragraph V(C) above

VI

For a perod of five (5) years from the date of entry of this Final Judgment, each defendant is ordered to file with the plaintiff, on the anniversary date of this Final Judgment, a report setting forth the steps it has taken during the prior year to advise its members and its appropriate officers, directors and employees of its and their obligations under this Final Judgment.

VII

(A) For the sole purpose of determining or securing compliance with this Final Judgment and for no other purpose:

(1) Duly authorized representatives of the Department of Justice shall, upon written

request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, servants, or employees of the defendant, who may have counsel present, regarding any such matters.

(2) Any defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to its principal office, shall submit such reports in writing, under oath if requested, wth respect to any of the matters contained in this Final Judgment as may from time to time be requested.

(B) No information or documents obtained by the means provided in this paragraph VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliances therewith and for the punishment of violations thereof.

IX

The entry of this Final Judgment is in the public interest.

Dated: ----------

United States District Judge.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

United States of America, Plaintiff, v. *Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc.*, Defendants.

Civil Action No. 76 C 1860.

Filed: May 6, 1977.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16 (b)–(h), Pub. L. 93–528 (December 21, 1974)), the United States of America hereby files this Competitive Impact Statement relating to the proposed final judgment in this civil antitrust proceeding.

I

NATURE AND PURPOSE OF THE PROCEEDING

This is a civil antitrust action by the United States against the Lake County Contractors Association, Inc., and Lake County Contractors Development Association, Inc., both of Waukegan, Illinois. The complaint, which was filed on May 19, 1976, alleges that the defendants have engaged in an unlawful combination and conspiracy to restrain interstate trade and commerce in the construction industry in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

The instant case was brought to terminate the alleged unlawful combination and conspiracy, to prevent its recurrence, and to prevent the perpetuation of its effects.

II

PRACTICES AND EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

A general contractor as defined in the complaint means a contractor or contracting firm engaged in the business of constructing, altering, remodeling, building additions to, renovating, reconstructing, or repairing governmental and commercial buildings under direct contract with the owner or architect General contractors sometimes perform all phases of a given construction project, but usually they arrange with subcontractors for the performance of certain mechanical and other special items or phases of the project.

Both defendants are trade associations which have as members many of the larger contractors operating in Lake County, Illinois. They have the same officers and directors and are operated, according to the complaint, as a single entity.

Officers, directors, agents, representatives, and members of the two defendant associations, as well as general contractors operating in Lake County, Illinois, are included in the complaint as co-conspirators.

The complaint alleged a conspiracy commencing in or about the year 1947, by means of which the defendants requested any general contractor bidding on building construction projects in Lake County, Illinois, to enter into a bid support agreement (hereafter referred to as an "Association Support Agreement") whereby said contractor would agree that if he were awarded the bid he would pay a fee to the Lake County Contractors Development Association, Inc. Prior to 1972, this fee was paid to the Lake County Contractors Association.

It was further agreed that if any bidder refused to enter into an Association Support Agreement, all other bidders would be notified of this fact 24 hours prior to the time when bids were due and no agreement would be in effect with respect to the bidding on that construction project. It was also agreed that if all bidders agreed to pay a fee and if a fee was paid, the Lake County Contractors Development Association, Inc., would distribute one half of the fee equally among the losing bidders and would retain the remainder for its own use.

The complaint further alleged that total expenditures for construction projects in Lake County, Illinois, were in excess of $50,000,000 in 1974.

According to the complaint, the alleged conspiracy had the effect of restraining general contractors from freely competing for contracts on building construction projects in Lake County, Illinois, and caused the bidders' prices for such construction projects to be made higher by including therein the amount of the fee to be paid to the defendants.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and defendants have agreed that a final judgment, in the form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The stipulation provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the judgment is conditioned upon a determination by the Court that it is in the public interest.

Section IV(A) of the proposed final judgment requires each defendant to eliminate from its by-laws, constitution, code of ethics, or other rules all provisions that refer or relate to an Association Support Agreement. Section IV(B) enjoins the defendants from entering into, enforcing or claiming any rights under such an agreement, or any other agreement having similar terms or provisions, or from following any practice, plan, or program having a similar purpose or effect. Section IV(C) enjoins them from collecting a fee, in the form of dues or otherwise, from a general contractor based on the general contractor's successful participation in the bidding on a construction project but provides that they may charge a successful bidder a fee for performing bona fide services to the bidder. Section IV(D) enjoins the defendants from paying money to a general contractor based on the general contractor's unsuccessful participation in the bidding on a construction project.

The proposed final judgment expressly provides in Section III that its terms apply to the consenting defendants and each of their officers, directors, members, agents, employees, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of the terms of the judgment.

By its terms, the proposed final judgment perpetually restrains the prohibited conduct. As explained below, there are other provisions in the judgment that will terminate in a period of years.

Under the proposed final judgment, the defendants are obligated to take affirmative steps which are aimed at preventing any recurrence of the restraints on competition alleged in the complaint. Section V requires the defendants to serve a copy of the final judgment upon their officers, directors, employees, and members and to file an affidavit of compliance with the Court that they have fulfilled this requirement. They are also required to publish once a week for six weeks in the Dodge Construction News a notice describing the substantive details of the final judgment and to file an affidavit of compliance with the Court when they have complied with this requirement. In addition, pursuant to Section VI of the final judgment, each defendant is required for a period of five years to file with the plaintiff an annual report setting forth the steps it has taken during the prior year to advise its officers, directors, employees, and members of its and their obligations under the Final Judgment. Finally, under Section VII of the final judgment, the Department of Justice will have access, upon reasonable notice, to the records and personnel of the defendants in order to determine the defendants' compliance with the provisions of the final judgment, and under Section VIII of the final judgment, jurisdiction is retained by the

Court for the purpose of enabling any party to apply for such orders or directions as may be necessary to carry out the final judgment, for modification of any of its provisions, or for the punishment of violations of it.

IV

REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured in his business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered as well as costs and reasonable attorney's fees. Entry of the proposed final judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed final judgment will have no prima facie effect in any subsequent private lawsuit which may be brought against the defendants since it is a consent judgment that will be entered before any testimony has been taken.

V

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedure and Penalties Act, any person believing that the proposed final judgment should be modified may submit written comments to John E. Sarbaugh, Chief, Midwest Office, Antitrust Division, Department of Justice, Room 2634, 219 South Dearborn Street, Chicago, Illinois 60604, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed final judgment at any time prior to its entry if it should determine that some modification of the final judgment is necessary.

VI

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of the proposed final judgment. The only injunctive relief requested in the complaint that is not included in the terms of the proposed final judgment is a provision prohibiting the defendants from accepting or retaining as members any individuals or firms participating in a bid support system (i.e., an Association Support Agreement) or similar arrangement. The Department of Justice has come to the conclusion that such a provision is not necessary and would be redundant because the proposed final judgment prohibits the defendants from entering into or furthering any Association Support Agreement or any other practice, plan, or program having a similar purpose or effect.

A proposal was submitted by the Midwest Office of the Department of Justice that the defendants be requested to file an annual report for 10 years setting forth the steps they have taken to comply with their obligations under the proposed final judgment. After negotiations with the defendants, this time period has been reduced to 5 years. This eliminates the administrative burden on the defendants but does not affect the requirement that the defendants take steps to advise their appropriate officers, directors, employees, and members of their obligations under the final judgment.

VII

OTHER MATERIALS

There are no materials or documents which the Government considered determinative in formulating this proposed final judgment. Therefore, none are being filed along with this Competitive Impact Statement.

JOHN E. SARBAUGH,
FRANCIS C. HOYT,
JAMES J. KUBIK,
Attorneys, Department of Justice.

[FR Doc.77-14087 Filed 5-17-77;8:45 am]

Drug Enforcement Administration

IMPORTER OF CONTROLLED SUBSTANCES

Registration

By Notice dated March 23, 1977, and published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16878–79), Stepan Chemical Company, Natural Products Dept., 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaf, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and, pursuant to Section 1008 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: May 12, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-14202 Filed 5-17-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated March 23, 1977, and published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16879), Stepan Chemical Co., Natural Products, 100 W. Hunter Avenue, Maywood, New Jersey 07606, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	*Schedule*
Cocaine	II
Ecgonine	II

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: May 12, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-14201 Filed 5-17-77;8:45 am]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Registration

By notice dated March 23, 1977, and published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16878), the following manufacturers made application to the Drug Enforcement Administration to be registered as bulk manufacturers of the basic classes of controlled substances listed below:

S. B. Penick Co., a unit of CPC International Inc., 158 Mount Olivet Ave., New Jersey 07114 (Feb. 23, 1977):

Drug:	*Schedule*
Opium extracts	II
Opium fluid extracts	II
Opium powders	II
Opium granulated	II
Opium tinctures	II
Codeine	II
Fentanyl	II
Hydrocodone	II
Morphine	II
Oxycodone	II
Thebaine	II
Dihydrocodeine	II
Methadone	II
Methadone—intermediate	II
Pethidine	II
Phenazocine	II
Mixed Alkaloids of opium	II
Diphenoxylate	II
Concentrate of poppy straw	II
Alphacetylmethadol	I
Pholcodine	I

S. B. Penick & Co., a unit of CPC International Inc., 530 New York Avenue, Lyndhurst, New Jersey 07071 (2/23/77):

Drug:	*Schedule*
Methadone	II
Methadone—intermediate	II
Alphacetylmethadol	I
Concentrate of poppy straw	II
Diphenoxylate	II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR Section 1301.54(e), the Acting Deputy Administrator hereby orders that the applications submitted by each of the above firms for registration as bulk manufacturers of the basic class of controlled substances listed therein are granted.

Dated: May 12, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-14199 Filed 5-17-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

MEETING

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2). This document is intended to notify the general public of their opportunity to attend.

DATES: Meetings—June 14, 1977, from 8:30 a.m. to 5 p.m.; June 15, 1977, from 8:30 a.m. to 12 Noon.

ADDRESS: Davison Conference Center, University of Southern California, University Park, Los Angeles, California 90007.

FOR FURTHER INFORMATION CONTACT:

James A. Turman, Executive Director, National Advisory Council on Extension and Continuing Education, 425 13th Street NW.; Suite 529, Washington, D.C. 20004. 202–376–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89–329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA), including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meeting of the Council will be open to the public beginning at 8:30 a.m. on June 14, 1977, and ending 5 p.m.; and beginning at 8:30 a.m. on June 15, 1977, ending at 12 Noon. This meeting will be held at the Davison Conference Center, University of Southern California, University Park, Los Angeles, California 90007.

The proposed agenda includes:

1. Executive Director's Report
2. Action on previous meeting minutes
3. Committee discussions and reports
4. Review of legislative activities
5. Review of National University Community Services Program
6. Review of By-Laws
7. Election of Council officers
8. Committee appointments
9. Discussion of future actvities of the Council
10. Emerging issues of continuing education

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street NW., Washington, D.C.

Dated: May 9, 1977.

JAMES A. TURMAN,
Executive Director.

[FR Doc.77–14088 Filed 4–17–77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA WAGE COMMITTEE

[Notice 77–35]

Notice of Meeting

Pursuant to the provisions of Section 10 of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the National Aeronautics and Space Administration Wage Committee is scheduled for June 22, 1977, from 1:30 p.m. to 4:30 p.m. The meeting will be held in Room 226–B, 600 Independence Avenue SW., Washington, D.C. 20546.

The Committee's primary responsibility is to consider and make recommendations to the Director of Personnel, National Aeronautics and Space Administration, on all matters involved in the development and authorization of a wage schedule for the Cleveland, Ohio, wage area pursuant to Public Law 92–392.

The approved agenda of the Committee provides that it will consider wage survey data, local reports, recommendations, and statistical analyses and proposed wage schedules derived therefrom.

Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(4), it has been determined that this meeting will be closed to the public.

However, members of the public who may wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, National Aeronautics and Space Administration Wage Committee, Mail Stop 3–9, Lewis Research Center, NASA, 21000 Brookpark Road, Cleveland, Ohio 44135.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

MAY 11, 1977.

[FR Doc.77–14103 Filed 5–17–77;8:45 am]

[Notice 77–36]

RESEARCH AND TECHNOLOGY ADVISORY COUNCIL INFORMAL COMMITTEE ON ROTORCRAFT TECHNOLOGY

Meeting

An informal Committee on Rotorcraft Technology of the Research and Technology Advisory Council will meet on June 21 and 22, 1977, at the NASA Ames Research Center, Moffett Field, California. The meeting will be held in Conference Room 213 of Building 200. The meeting will be open to the public on a first-come, first-served basis, up to the seating capacity of the room, which is about 25 persons. All visitors must report to the Ames Research Center Receptionist in Building 200.

The informal Committee on Rotorcraft Tehcnology of the Research and Technology Advisory Council is to identify needs and challenges in rotorcraft technology in relation to the nation's civil transportation system, the world marketplace, and in support of military needs. The Chairman of the committee is Mr. Robert R. Lynn.

For further inforcation, please contact John F. Ward (Area Code 202–755–2415) or C. Robert Nysmith, Executive Secretary, Research and Technology Advisory Council (Area Code 202–755–8550), NASA Headquarters, Washington, D.C. 20546.

JUNE 21, 1977

Time	*Topic*
8:15 a.m.	Registration.
9 a.m.	NASA remarks. (Purpose: To familiarize the committee participants with the scope of the committee role and its interaction with NASA technology planning and advocacy activities.)
9:30 a.m.	Description of NASA rotorcraft technology program, activities and plans. (Purpose: To describe the ongoing NASA technology activities; discuss the results of efforts to identify needs, opportunities, and benefits from the technology program; and discuss possible future thrusts.)
1:15 p.m.	Industry/Government presentations. (Purpose: To provide an opportunity for industry and Government committee members to present a brief statement of their view of the key rotorcraft technology needs.
2:45 p.m.	Group discussions: Aerodynamics, structures and materials, propulsion, operating systems. (Purpose: To address the degree to which NASA's ongoing and future rotorcraft program is responsive to the technology needs; and to provide recommendations on goals and options.)
4:15 p.m.	Groups formulate prioritized technology objectives.
4:45 p.m.	Adjournment.

JUNE 22, 1977

8:30 a.m.	Group reports. (Purpose: Present summaries of results of group discussions.)
10 a.m.	General discussion. (Purpose: To discuss the proposed NASA program goals in relation to prioritised technology needs.)
11:30 a.m.	Chairman's report. (Purpose: To present an initial summary of the meeting, the consensus views and recommendations of the committee.)
12 m.	Adjournment.

MAY 12, 1977.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs National Aeronautics and Space Administration.

[FR Doc.77–14104 Filed 5–17–77;8:45 am]

[Notice 77–34]

SPACE PROCESSING AD HOC ADVISORY SUBCOMMITTEE

Meeting

The NASA Space Processing Ad Hoc Advisory Subcommittee of the Applications Steering Committee will meet at NASA Headquarters, 600 Independence Avenue, SW., Washington, D.C., on June 6–8, 1977. The meeting will be held in Room 226B of FOB 10B from 8 a.m. to 4:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for Materials Processing Investigations on Space Shuttle Missions. Discussion of the professional qualifications of the proposers and their potential scientific contributions to Materials Technology would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it is hereby determined that the sessions should be closed to the public.

For further information, please contact Mr. Mark B. Nolan, NASA Headquarters, Washington, D.C., at Area Code 202–755–3848.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs.

MAY 11, 1977.

[FR Doc. 77–14102 Filed 5–17–77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE ON ETHICS AND VALUES IN SCIENCE AND TECHNOLOGY

Part-Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Committee on Ethics and Values in Science and Technology (EVIST) Meeting in Collaborative Session with the Advisory Committee on Science, Technology and Human Values (STHV) of the National Endowment for the Humanities.

DATE AND TIME: June 3, 1977, 9:30 a.m.

PLACE: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C.

TYPE OF MEETING: Part-Open

CONTACT PERSON: Dr. William A. Blanpied, Program Director, Ethics and Values in Science and Technology, Office of Science and Society, National Science Foundation, Washington, D.C., 20550 (Telephone 202/282–7770). Individuals planning to attend are requested to notify Dr. Blanpied by May 31.

PURPOSE OF ADVISORY COMMITTEE: To provide advice and recommendations concerning support of activities to explore the ethical and value issues associated with developments in science and technology, in conjunction with cooperative programs of the National Science Foundation (NSF) and the National Endowment for the Humanities (NEH).

AGENDA

9:30–12:30 A.M. (OPEN)

Reports and Discussion on NSF and NEH Programs; NSF–Office of Science and Society, Public Understanding of Science, Ethics and Values in Science and Technology, Science for Citizens; NEH—Program of Science, Technology and Human Values.

12:30–5:00 P.M. (CLOSED)

REASON FOR CLOSING: The categories and quality of applications presently under consideration for funding will be discussed. This will involve consideration of individual proposals currently being reviewed which include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522(b), Government of the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 18, 1977.

Dated: May 13, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77–14220 Filed 5–17–77;8:45 am]

ADVISORY PANEL FOR HISTORY AND PHILOSOPHY OF SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for History and Philosophy of Science.

DATE AND TIME: June 3 and 4, 1977—9 a.m. each day.

PLACE: Board Room, Institute for Advanced Study, Princeton, N.J.

TYPE OF MEETING: Open from 3 p.m. to 5 p.m., June 3, 1977. Closed 9 a.m.–3 p.m. June 3. Closed 9 a.m.–5 p.m. June 4.

CONTACT PERSON:

Dr. Ronald Overmann, Assistant Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, Telephone 202–632–4182.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF PANEL: To provide advice and recommendations concerning support research in history and philosophy of science.

AGENDA, CLOSED SESSION: To review and evaluate research proposals and projects as part of the selection process for awards.

AGENDA, OPEN SESSION: Suggestion and General Discussion by panel members of research topics which may deserve special emphasis.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries: and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING. This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 13, 1977.

[FR Doc.77–14221 Filed 5–17–77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

List of Requests

CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for for use in collecting information from the public received by the Office of Management and Budget on May 11, 1977 (44 U.S.C. 3509). The purpose of publishing this list

in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after the brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Support of Basic Research by Industry, single-time R. & D. performing companies, Charles Ellett, 395–5867.

DEPARTMENT OF COMMERCE

Economic Development Administration, community Emergency Drought Relief Program Application, ED–196, on occasion, State and local units of governments, Lowry, R. L., 395–3772.

Survey of Economic Development Evaluation Activities and Needs, ED–441Q, single-time, economic development organizations (public & private) economics and general government division, C. Louis Kincannon, 395–3451.

DEPARTMENT OF COMMERCE

Bureau of Census:

Reconciliation Questionnaire for Household Roster Check 1977 Census of Oakland, California, DH–132, single-time, households in Oakland with questionable population counts, George Hall, 395–6140.

REVISIONS

VETERANS ADMINISTRATION

Request for Information To Make Direct Payment to Child Reaching Majority, FL 21–863, on occasion, children of veterans, Warren Topelius, 395–5872.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service Regulations—Plant Variety Protection, 7 CFR 180, on occasion, seed firms, Warren Topelius, 395–5872.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration:

Cosmetic Raw Material Composition Statement, FD2513, on occasion, cosmetic raw material manufacturers and suppliers, Warren Topelius, 395–5872.

Discontinuance of Commercial Distribution of Cosmetic Product or Cosmetic Raw Material, FD2514, on occasion, cosmetic product, raw material manufacturers and distributors, Warren Topelius, 395–5872.

Cosmetic Product Ingredient Statement, FD 2512, on occasion, cosmetic manufacturers, packers and distributors, Warren Topelius, 395–5872.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Motor Vehicle Safety Regulation—Defect Reports, on occasion, motor vehicle manufacturers, Strasser, A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-14289 Filed 5-17-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–13514; File No. SR–Amex 77–5]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change; Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on March 29, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change, as amended on April 29, 1977, as follows:

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the "Amex") proposes to amend its Constitution, Rules and policies relating to membership to liberalize them in light of the 1975 Amendments to the Act, and to eliminate certain regulatory constraints on the capital-raising efforts of member organizations. The text of the proposed rule changes is attached as Exhibit A, and the terms of substance are summarized as follows:

(a) *General membership requirements*—(i) *Allied membership.* The definition of "allied member" would be changed to apply to any employee who is in a control relationship with a member organization. Principal executive officers and employees who are directors are presumed to control a member organization and would continue to be allied members, but the requirement that they be holders of voting stock would be deleted. (Article I, Section 3(c); Article IV, Section 1(c).)

(ii) *Approved persons.* Non-employees who are deemed to control a member organization would be required to become approved persons. Persons controlled by or under common control with a member organization who transact business generally as brokers or dealers in securities or act as investment advisors would also be required to become approved persons. (Article I, Section 3(g); Rule 310(e).)

(iii) *Age requirement.* The age requirement for applicants for members, officers and registered representatives, currently 21, would be changed to the minimum age required to be responsible for contracts in the jurisdictions in which such persons do business (Article IV, Sections 1(a)(2), 1(b)(2) and 1(d); Commentary .07 to Rule 341).

(iv) *Voting stock requirement.* The requirement that members (including the member qualifying a member corporation), directors and principal executive officers own voting stock in their member corporations would be deleted (Article I, Section 3(e); Article IV, Section 2(e)(1), and numerous conforming changes throughout the Constitution and Rules).

(b) *Foreign membership.* The proposed changes would remove the limit of 45% on the interest in a member organization's capital or profits which may be owned by a foreign entity, and would require that every member organization, except firms admitted prior to the effective date of the proposed amendments, be organized under the laws of, and have its principal place of business in, the United States (Article IV, Sections 1(a)(2), 1(b)(2), 2(m) and 2(n); Rule 319(c)).

(c) *Principal purpose of membership.* The Exchange proposes to re-phrase its requirements that members and member organizations be principally engaged in the securities business by eliminating reference to a "public" securities business test and providing only that an active securities business be the member or member organization's principal purpose. (Article IV, Section 2(d); Rule 314.)

(d) *Member organization capital.* A number of the proposed changes are designed to give member organizations greater flexibility in raising capital. These include the following:

(i) Removal of the distinction which places greater restrictions on member organizations whose securities are closely held than on those having freely transferable securities (Article IV, Sections 2(e), 2(h), 2(j) and 2(s), and numerous conforming changes).

(ii) Exchange approval of outside investors in a member organization would no longer be required unless the investors are in a control relationship with the member organization (Article IV, Section 2(h) and 2(k), Rule 310(e)).

(iii) Member organizations that act as registered traders and floor brokers would be permitted to raise capital by selling securities to the public (Article IV, Section 2(i)).

(iv) Principals of member organizations would no longer be required to have a fixed interest in the entire business of their member organizations (Article IV, Section 2(v)).

(v) The requirement that a qualifying member devote the major portion of his time to his member corporation would be eliminated. However, a member with supervisory responsibilities would continue to be required to devote his entire time during business hours to his organization (Article IV, Section 2(e)(4); Rule 342; and numerous conforming changes.)

(vi) Member organizations would be permitted to hire part-time registered representatives (Rule 342).

(vii) The present prohibition against a person being associated with more than one member organization would be eliminated; however, a member would not be permitted to use his membership to qualify more than one member organization. In addition, no member could be associated with any registered broker/dealer without prior approval of the Exchange (Rules 313 and 342).

(viii) Limitations on the percentage of ownership and participation in profits of member organizations by outside investors would be eliminated (Rule 319(a)).

(e) *Member business connections.* A provision which now permits the Board of Governors to require members to sever business connections which may be detrimental to the Exchange or which may result in domination of a member or member organization by a non-member would be deleted (Article V, Section 7(a) and 7(b)).

(f) *Investments in specialist and registered trader joint accounts.* Present Exchange policy does not permit direct investments by members and member organizations in specialist and registered trader joint accounts unless the member or an individual in the member organization actively participates as a specialist or registered trader in the joint account.

Under the proposed amendments, participation by any one member or member organization in a specialist or registered trader joint account not exceeding 20%, with total participation by all outside investors not exceeding 40 percent, would be permitted. Investment by clearing firms would be limited to 10% because of the special relationship that exists between a specialist unit or registered trader firm and its clearing agent. The Exchange would have authority to limit such investments in certain circumstances. Such investments are subject to limitations because the Exchange believes that specialists and registered traders, in view of their responsibilities under Exchange rules, should have a substantial stake in joint accounts in which they participate. Non-members are prohibited from participating directly in the profits or losses of a specialist or registered trader joint account in order to avoid capital-raising efforts aimed at unsophisticated investors with respect to such joint accounts. Of course, the rule places no limitations on investment by members, member organizations or non-members in any member organization participating in a specialist or registered trader joint account. Such investment is governed by the provisions applicable to investment in member firms generally (Rule 365).

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed changes are as follows:

In March 1976 the Commission, pursuant to section 31(b) of the Securities Acts Amendments of 1975, notified the Amex that certain of its rules relating to membership raised questions under the Securities Exchange Act. The changes proposed above are designed to resolve those questions, to update Amex membership rules generally, and to liberalize certain restrictions on capital-raising efforts of member organizations.

The basis under the Act for adopting the proposed changes is generally to carry out the purposes of the Act; to remove unnecessary restrictions on the ability of persons to become members or to become associated with members of the Exchange; and to remove impediments to the mechanism of a free and open market, as exemplified by the following:

The amendments proposed in sections (a) and (b) of the Statement of Terms of Substance (the "Statement") which would amend various requirements for members and approved persons, are consistent with section 6(b)(2) of the Act in that they would remove certain restrictions on the ability of any registered broker or dealer or associated natural person to become associated with a member of the Exchange.

The amendments in section (c) of the Statement, which would eliminate the requirement that a member have as its principal purpose the conduct of a public securities business, are proposed to enable the Amex to comply with the Act and with the rules of Commission, consistent with Section 6(b)(1) of the Act. The requirement that a member have as its principal purpose the conduct of a securities business would be retained to assure that persons who hold memberships are active in the securities business and to enable the Exchange to limit its involvement in businesses not related to its jurisdiction. Moreover, the number of Exchange memberships is limited because the physical capacity of the Exchange is limited, and it is therefore important that memberships actually be used, and not held solely for investment or speculative purposes.

The amendments proposed in sections (d)(i), (ii), (iii), (iv) and (viii) of the Statement would give member organizations greater flexibility in raising capital, thus removing impediments to the mechanism of a free and open market, consistent with section 6(b)(5) of the Act.

The amendments proposed in sections (d)(v), (vi), and (vii) are consistent with Section 6(b)(2) of the Act in that they permit part-time employment by members and persons associated therewith and permit member status in more than one member organization, thus removing barriers for qualified persons to become members or to be associated therewith.

The amendments proposed in section (e) of the Statement, which would remove the power to disapprove members' business connections which may be detrimental to the Exchange or result in domination of a member organization by a non-member, would be consistent with section 6(b)(5) of the Act in that they eliminate Exchange rules not related to the purposes of the Act or the administration of the Exchange.

The amendments described in section (f) of the Statement would permit investment in a specialist or registered trader joint account by members and member organizations which are not active participants as specialists or registered traders in the joint account, up to certain limits. This would broaden the sources of financing for such accounts and thereby generally removing impediments to the mechanism of a free and open market, consistent with Section 6(b)(5) of the Act.

No comments were solicited or received from Exchange members or others.

The proposed rule changes are designed to eliminate certain burdens on competition. The Amex has concluded that any burdens on competition which may continue to exist in the amended provisions, notwithstanding the proposed rule changes, are permissible, under Section 6(b)(8), because they are in furtherance of proper regulatory objectives, specifically:

Inclusion of investment advisory activities within the definition of "securities or kindred business" (which has the effect of requiring investment advisors associated with a member to become approved persons) is justified by the Exchange's interest in maintaining regulatory jurisdiction over activities which are closely connected to the brokerage business and which can affect members' compliance with the Exchange's Constitution and rules.

Since limitations on foreign ownership of member organizations have been removed, the requirement that a member organization be organized under the laws of, and maintain its principal place of business in, the United States is a *de minimis* burden which has been retained to assist the Exchange in carrying out its self-regulatory activities.

Certain restrictions on members with supervisory responsibilities have been retained because, in the Exchange's view, it is necessary for such members to devote their entire time during business hours to the administration of their duties, in order to fulfill supervisory responsibilities imposed by the Act and by the Exchange.

On or before June 22, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned

self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 8, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 6, 1977.

EXHIBIT A

AMERICAN STOCK EXCHANGE, INC.

Annex A—Amendments to the Constitution [1]

1. Article I, Section 3(c) is amended to read as follows:

ALLIED MEMBER

(c) The term "allied member" means:

(1) a general partner in a regular OPTIONS PRINCIPAL or associate member firm *or an employee who controls such member firm* who is not a regular, OPTIONS PRINCIPAL or associate member of the Exchange; or

(2) an employee of a regular, OPTIONS PRINCIPAL or associate member corporation who is actively engaged in its business [and devotes the major portion of his time thereto] (unless he is in active government service or his health does not permit), who is not a regular, OPTIONS PRINCIPAL, or associate member of the Exchange, and who is either:

[(i) a director and a holder of record and beneficial owner of voting stock of such corporation, or]

[(ii)] (i) a principal executive officer [and a holder of record and beneficial owner of voting stock] of such corporation, or

[(iii)] (ii) a [holder of record and beneficial owner of 5% or more of the outstanding voting stock of] *person who controls* such corporation; [or]

[(3) an employee of an associate member corporation who is a director or principal executive officer of such associate member corporation and is not an associate member of the Exchange;] and who in each case has become an allied member as provided in Article IV.

2. Article I, Section 3(e) is amended to read as follows:

MEMBER CORPORATION

(e) The term 'member corporation' means a corporation, transacting business as a broker or dealer in securities, approved by the [Board of Governors] *Exchange* as a member corporation having (1) in the case of a regular member corporation, at least one regular member of the Exchange who is [a holder of voting stock therein] *associated with such corporation* and is actively engaged in [the] *its* business [of such corporation and devotes the major portion of his time thereto,] or (2) IN THE CASE OF AN OPTIONS PRINCIPAL MEMBER CORPORATION, AT LEAST ONE OPTIONS PRINCIPAL MEMBER OF THE EXCHANGE WHO IS *associated with such corporation* [A HOLDER OF VOTING STOCK THEREIN] AND IS ACTIVELY ENGAGED IN [THE] *its* BUSINESS [OF SUCH CORPORATION AND DEVOTES THE MAJOR PORTION OF HIS TIME THERETO], OR (3) in the case of an associate member corporation, at least one associate member of the Exchange who is a director or an executive officer thereof. A corporation shall cease to be a member corporation if the approval of the [Board of Governors] *Exchange* is withdrawn, or if it shall cease to transact business as a broker or dealer in securities, or if, in the case of an associate member corporation, it shall cease to have an associate member of the Exchange as a director or an executive officer thereof or if, in the case of a regular member corporation OR AN OPTIONS PRINCIPAL MEMBER CORPORATION, it shall cease to have a regular member OR AN OPTIONS PRINCIPAL MEMBER, AS THE CASE MAY BE, of the Exchange who is [a holder of voting stock therein] *associated with such corporation* and is actively engaged in its business [and devotes the major portion of his time thereto], unless the corporation has been approved by the [Board of Governors] *Exchange* as a temporary member corporation pursuant to Section 1(c)] *(d)* or Section 6(a) of Article IV.

3. Article I, Section 3(g) is amended to read as follows:

APPROVED PERSON

(g) The term "approved person" means a party who is neither an employee of a regular, OPTIONS PRINCIPAL or associate member organization nor a regular, OPTIONS PRINCIPAL, associate or allied member of the Exchange [, but who is either a director of a regular, OPTIONS PRINCIPAL or associate member corporation or who, directly or indirectly, controls, is controlled by, or is under common control with, a regular, OPTIONS PRINCIPAL or associate member organization, and] *who* has become an approved person as provided in [Article IV] *the rules of the Exchange and who is either:*

(i) a person who controls a member, *member firm or member corporation, or*

(ii) a person engaged in a securities or kindred business who is controlled by or under common control with a member, member firm or member corporation. The terms "control," "person" and "engaged in a securities or kindred business" as used herein shall be defined in the rules of the Exchange.

4. Article I, Section 3(h) is amended to read as follows:

[FREELY TRANSFERABLE] Publicly held Security; Voting Stock; Non-Voting Stock

(h) The term ["freely transferable] *public held* security" with respect to a member organization means (1) any stock which on its face may be transferred without it being necessary that the Exchange approve the transferee, and (2) any debt instrument which on its face may be transferred without it being necessary that the Exchange approve the transferee and which evidences a liability subordinated to general creditors as approved by the Exchange *any class of equity security issued by a member corporation which is owned beneficially by one hundred or more persons who are not members or employees of the member corporation.*

The term "voting stock" means stock in a corporation the holders of which are entitled to vote for the election of the directors of such corporation.

The term "non-voting stock" means stock of any class in a corporation other than voting stock.

5. Article II, Section 1(a) is amended to read as follows:

CLASSIFICATION

Sec. 1. (a) The Board of Governors shall be composed of twenty-one governors as follows:

(1) Ten regular, OPTIONS PRINCIPAL, associate or allied members of the Exchange having the following qualifications: (i) each shall be a principal executive officer of a regular, OPTIONS PRINCIPAL or associate member corporation, or a principal partner of a regular, OPTIONS PRINCIPAL or associate member firm, or a regular OR OPTIONS PRINCIPAL member of the Exchange who is not [a holder of voting stock in any member corporation or a partner in any member firm] *associated with any member organization;* (ii) at least four of the ten governors shall be principal executive officers of regular or associate member corporations or general partners of regular or associate member firms, which firms or corporations engage in a business involving substantial direct contact with public securities customers, and at least two of such four governors shall reside and have their principal place of business more than 100 miles from the City of New York; (iii) at least two of the ten governors shall be registered as specialists and shall spend a substantial part of their time on the Floor of the Exchange; and (iv) not more than three of the ten governors shall spend a substantial part of their time on the Floor of the Exchange;

(2) ten representatives of the public, none of whom are, or are affiliated with, a broker or dealer in securities; and

(3) the Chief Executive Officer of the Exchange, who shall be the Chairman of the Board.

7. Article II, Sections 4(b) and 4(c) are amended as follows:

EXAMINATION, INVESTIGATION, ETC.

(b) Any committee authorized by the Board or by the Constitution shall have power to examine, or to authorize any officers, employees or representatives of the Exchange to examine the books, papers and records of any member or of his employee or of his member firm or of any partner or employee thereof, or

[1] Note: *Italics* indicate material to be added and [brackets] indicate material to be deleted. Language in CAPITAL LETTERS represents proposed changes contained in File No. SR–Amex–75–15 (relating to Options Principal Members) which has not yet been approved by the SEC.

the books, papers and records of the member corporation [in which any member is a stockholder, director or executive officer] *with which any member is associated,* or the books, papers and records of any officer, director or employee of such member corporation, or books, papers and records of any approved person or of any employee thereof, and any such committee shall have power to order the production of such books, papers and records for examination either by such committee or by any officers, employees or representatives of the Exchange designated by such committee. Any such committee shall also have power to require any member to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, or to require any member to cause any of his partners or employees or any of the directors, officers or employees of the member corporation [in which the member is a stockholder, director or executive officer] *with which the member is associated,* to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such member or his member firm or member corporation or of any employee of such member or his member firm or member corporation, or of any partner of his member firm or of any director or officer of his member corporation, or to require any approved person to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, or to require any approved person to cause any of his or its employees to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such approved person of any employee of such approved person.

ADDITIONAL COMMITTEE MEMBERS

(c) The chairman of any committee authorized by the Board, other than a committee to which the Board has delegated powers vested in it pursuant to the Constitution or applicable law, shall, with the approval of the Chairman, be empowered to appoint any member of any member firm or partner of any member firm or [holder of voting stock in] *member associated with* any member corporation to serve on said committee for such time as the chairman of such committee, with the approval of the Chairman, may decide. Such appointees shall serve as additional members of the committee to which they may be appointed and shall be entitled to vote.

8. Article III, Section 4 is amended to read as follows:

Sec. 4. No person shall be eligible as a nominee for office if he, or a member who is a partner in his firm, or a member who is [a stockholder, director or executive officer in] *associated with* his member corporation, is under suspension from membership, and any such candidate for office who has been nominated prior to such suspension shall be thereby disqualified.

9. Article III, Section 5 is amended to read as follows:

Sec. 5. The Nominating Committee shall be composed of:

(a) Four regular, OPTIONS PRINCIPAL, associate or allied members of the Exchange, each of whom shall be a principal executive officer of a regular, OPTIONS PRINCIPAL or associate member corporation, or a principal partner of a regular, OPTIONS PRINCIPAL or associate member firm, or a regular OR OPTIONS PRINCIPAL member of the Exchange who is not [a holder of voting stock in any member corporation or a partner in any member firm] *associated with any member organization;* and

(b) Four representatives of the public, none of whom shall be, or are affiliated with a broker or dealer in securities.

10. Article IV, Section 1(a)(2) and 1(b)(2) are amended to read as follows:

REQUIREMENTS

(a)(2) Every application for regular membership must be at least [twenty one years of age and a citizen of the United States] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business.* An application for regular membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. No person may be admitted to regular membership unless his application is approved by the Exchange in accordance with the provisions of Section 1[(f)](g) of this Article IV.

* * * * *

(b)(2) AN APPLICANT FOR OPTIONS PRINCIPAL MEMBERSHIP MUST BE AT LEAST [TWENTY ONE YEARS OF AGE AND A CITIZEN OF THE UNITED STATES] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business.* AN APPLICATION FOR OPTIONS PRINCIPAL MEMBERSHIP SHALL BE IN WRITING AND SHALL BE IN SUCH FORM, AND CONTAIN SUCH INFORMATION, AS THE EXCHANGE MAY FROM TIME TO TIME PRESCRIBE. SUCH APPLICANT MUST AGREE THAT HIS PRIMARY OCCUPATION WILL BE THE TRANSACTION OF BUSINESS IN OPTIONS AS PRINCIPAL ON THE FLOOR OF THE EXCHANGE. NO PERSON MAY BE ADMITTED TO OPTIONS PRINCIPAL MEMBERSHIP UNLESS HIS APPLICATION IS APPROVED BY THE EXCHANGE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 1(g) OF THIS ARTICLE IV.

11. Article IV, Section 1(c) is amended to read as follows:

ALLIED MEMBERSHIP

(c) Allied membership—Any person, not a regular, OPTIONS PRINCIPAL or associate member of the Exchange, shall upon approval by the Exchange become an allied member of the Exchange by pledging himself to abide by the Constitution as it has been or shall be from time to time amended, and by all rules adopted pursuant to the Constitution, and by *becoming* either:

(i) [becoming] a general partner in a regular, OPTIONS PRINCIPAL or associate member firm *or an employee who controls such member firm;* or

(ii) [becoming] an employee of regular, OPTIONS PRINCIPAL or associate member corporation who actively engages in the business of such regular, OPTIONS PRINCIPAL or associate member corporation and [devotes the major portion of his time thereto, and] who is either: (1) [a director and a holder of record and beneficial owner of voting stock of such member corporation,] *a person who controls such corporation,* or (2) a principal executive officer [and a holder of record and beneficial owner of voting stock] of such member corporation. [or (3) a holder of record and beneficial owner of 5% or more of the outstanding voting stock of such member corporation, or

(iii) becoming an employee of an associate member corporation who actively engages in the business of such associate member corporation and devotes the major portion of his time thereto and who is either a director or principal executive officer of such associate member corporation.]

Such pledge to abide by the Constitution and rules shall be made by written instrument filed with the Exchange in which the signer pledges himself as aforesaid.

* * * * *

[When an allied member of a member firm ceases to be a general partner in a regular, OPTIONS PRINCIPAL or associate member firm, his allied membership shall terminate unless he forthwith becomes a general partner in another regular, OPTIONS PRINCIPAL or associate member firm continuing the business of the first firm or forthwith meets the conditions set forth in subdivisions (ii) or (iii) of this subsection (c) in a member corporation continuing the business of the first firm. When an allied member of a member corporation ceases to meet the requisite conditions for such allied membership set forth in subdivisions (ii) or (iii) of this subsection (c) his allied membership shall terminate unless he forthwith meets the conditions set forth in subdivisions (ii) or (iii) in another member corporation continuing the business of the first corporation or forthwith becomes a general partner in a regular, OPTIONS PRINCIPAL or associate member firm continuing the business of the first corporation.]

When an allied member ceases or fails to meet the requirements of an allied member in his member organization, as

provided above, and does not forthwith ***qualify as an allied member in a member organization continuing the business of*** *the first member organization, his allied membership shall terminate.*

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12. Article IV, Section 1(d) is amended to read as follows:

ASSOCIATE MEMBERSHIP

(d) Associate membership—The number of associate members shall be such as may be determined by the Board of Governors from time to time. Any person not less than [twenty one years of age] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business* who is actively engaged in the business of buying and selling securities as broker or dealer, either as a partner of a firm or as a director or executive officer of a corporation may make application for associate membership.

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MAY NOMINATE PARTNER [OR VOTING STOCKHOLDER] FOR REGULAR MEMBERSHIP

An associate member, who is a general partner in a member firm or a director or executive officer of a member corporation, may nominate for regular membership a general partner in such firm or a [holder of voting stock in] *person associated with* such corporation who is actively engaged in the business of such corporation [and devotes the major portion of his time thereto].

• • • • •

13. Article IV, Section 2(b) is amended to read as follows:

Approval of general partners [and holders of voting stock] *of member firms and members associated with member corporations.*

(b) Without the prior approval of the Exchange, no member shall have as a general partner in a member firm any person who is not a regular, OPTIONS PRINCIPAL, associate or allied member of the Exchange, nor shall any member be [the holder of voting stock or a director or executive officer in] *associated with* a member corporation unless all [holders of such voting stock and all directors and executive officers] *members associated with and approved persons* of such member corporation who are required to be approved by the Exchange are so approved.

14. Article IV, Section 2(c), 2(d), 2(e)(1), (4) and (7), and 2(h) are amended to read as follows:

MEMBER LIMITED TO ONE MEMBER ORGANIZATION

(c) Except as may be permitted by a Rule adopted by the Board of Governors or otherwise specifically permitted by the Board of Governors, no party shall at the same time be a member [or approved person or a special or limited partner] in more than one member organization.

PURPOSE OF MEMBER FIRM, MEMBER CORPORATION AND MEMBER

(d) Every member firm, member corporation and member who is not [a general partner in a member firm or a director, executive officer or holder of voting stock in] *associated with* a member [corporation] *organization* shall have as [its or his] *the* principal purpose *of its or his membership* the [conduct of a public securities business, as defined by rule of the Board of Governors] *transaction of business as a broker or dealer in securities.* [With respect to members, member firms and member corporations on January 16, 1973 the Board of Governors shall prescribe by rule such period of time and such terms and conditions, as it deems appropriate, pursuant to which such members, member firms and member corporations shall be required to comply with the provisions of this subsection.]

CONDITIONS OF APPROVAL OF MEMBER CORPORATIONS

(e) The Exchange shall not approve a corporation as a member corporation unless:

(1) in the case of regular AND OPTIONS PRINCIPAL member corporations, [every director of the corporation is a holder of record and owns beneficially voting stock of the corporation and] at least one regular OR OPTIONS PRINCIPAL member of the Exchange is [a holder of record and owns beneficially voting stock of] *associated with* the corporation and is actively engaged in its business [and devotes the major portion of his time thereto]; and

• • • • •

(4) every member of the Exchange who is an employee of the corporation actively engages in its business [and devotes the major portion of his time thereto] (unless he is in active government service or health does not permit); and

• • • • •

(7) the [primary activity] *principal purpose* of the corporation is the transaction of business as a broker or dealer in securities; and

• • • • •

WITHDRAWAL OF APPROVAL OF CERTAIN STOCKHOLDERS

(h) [Each share of a member corporation which is not a freely transferable security and each properly subordinated debt instrument of such member corporation which is not a freely transferable security shall be owned by a party approved by the Exchange. In addition,] Whenever a party who is required to be approved by the Exchange as a member or approved person fails or ceases to be so approved, each member corporation [having outstanding any shares of stock which are freely transferable securities] shall promptly redeem or convert to a fixed income security such of its outstanding [freely transferable securities] *voting stock* as may be necessary to reduce such party's ownership of voting stock in the member corporation below that level which enables such party to exercise controlling influence over the management or policies of such member corporation.

15. Section 2(i) is deleted as follows:

[PRIMARY ACTIVITY

(i) Except as otherwise provided in any rule adopted by the Board of Governors, no member corporation may have outstanding any freely transferable security if its primary activity is that of a registered trader or floor broker.]

16. Sections 2(j) is redesignated as Section 2(i) and is amended to read as follows:

NON-VOTING COMMON STOCK

[(j)] (i) Without the prior approval of the Exchange [, (a)] no member corporation shall issue any [freely transferable] *publicly held* security in the form of non-voting common stock [, (b) after it has issued any freely transferable security, it shall not issue any more non-voting common stock, and (c) after three years from June 1, 1970 every member corporation having outstanding any freely transferable security shall not have outstanding any non-voting common stock, and all non-voting common stock previously outstanding shall, before the end of such three year period, have been retired by redemption or converted into voting common stock.]

17. Section 2(k) is deleted in its entirety as follows:

[AFFIDAVIT AS TO 5% STOCKHOLDERS

(k) The chief executive officer of each member organization which has issued any freely transferable security shall submit to the Exchange at such times as the Exchange may require an affidavit listing to the best of his knowledge and belief, the name of each non-member who controls, is controlled by or is under common control with, the member organization.]

18. Sections 2(l) and (m) are redesignated as Sections (j) and (k), and Section (k) as so redesignated is amended to read as follows:

LOCATION

[m] (k) Every member firm shall be a partnership and every member corporation shall be a corporation created or organized under the laws of, and shall maintain its principal place of business in, the United States [or Canada,] or any State [or Province] thereof. *The provisions of this paragraph shall not operate to disqualify an organization admitted as a member organization prior to , 1977.* [Insert effective date of amendment.]

19. Section 2(n) is deleted in its entirety as follows:

[(n) No member firm or member corporation shall have as a parent any party other than a citizen of the United States or Canada or a corporation or partnership created or organized under the laws of the United States or Canada, or any State or Province thereof.]

20. Section 2(o) through (r) are redesignated as Sections 2(l), 2(m), 2(n), and 2(o) respectively, and Section 2(o) as so redesignated is amended to read as follows:

WRITTEN NOTIFICATION OF PROPOSED ACTS

[(r)] (o) A member shall promptly notify the Exchange in writing if he intends to enter into or to form a partnership or to admit another person to a member firm, or if he intends to organize a member corporation [or to become a stockholder in] *or to qualify a corporation as* a member corporation, or if he intends to become [a director or officer or stockholder in] *associated with* an associate member corporation, or if [a] *his* regular OR OPTIONS PRINCIPAL member corporation [in which he is a stockholder] intends to permit another person to become a member or an approved person of such member corporation. Upon receipt of such notification, the Secretary shall post on the Bulletin Board in the Exchange for such period as the Board of Governors may determine the names of all proposed partners of such member or the names of all proposed members and all proposed approved persons of such regular OR OPTIONS PRINCIPAL member corporation.

21. Section 2(s) is redesignated as Section 2(p) and is amended to read as follows:

ASSIGNMENT OF MEMBERSHIP OR INTEREST IN MEMBER FIRM OR MEMBER CORPORATION

[(s)](p) No member shall assign or in any way encumber his membership in the Exchange without the prior approval of the Exchange. [No general or limited partner in a member firm shall assign or in any way encumber his interest in such member firm and no holder of shares of stock of a member corporation (other than any share which is a freely transferable security) shall assign or in any way encumber such shares without the prior written approval of the Exchange.]

22. Sections 2(t) and 2 (u) are redesignated as Section 2(q) and 2(r) and are amended to read as follows:

SUBMISSION OF INFORMATION AS TO PROPOSED CHANGES

[t] (q) If a member intends to enter into a partnership agreement or to alter the terms of an existing partnership agreement, or if a member corporation [of which a member is a stockholder, director or executive officer] *with which a member is associated* intends to amend its certificate of incorporation or its by-laws, such member shall submit such papers and information relating to such agreement or change as the Exchange may require.

RETIREMENT FROM MEMBER FIRM OR MEMBER CORPORATION

[u] (r) A member who is a partner in a member firm or [a stockholder, director or executive officer of] *associated with* a member corporation shall give, or cause to be given, to the Exchange prompt notice of the retirement of any partner from such member firm or of the retirement of any member from such member corporation or of the retirement of such member as a director or executive officer of such member corporation or of the dissolution of such member firm or member corporation.

23. Section 2(v) is deleted in its entirety as follows:

[FIXED INTEREST

(v) Every partner in a member firm and every stockholder in a member corporation must have a fixed or determinable interest in its entire business.]

24. Sections 2(w) through 2(z) are redesignated as Sections 2(s), 2(t), 2(u) and 2(v) respectively.

25. Article IV, Section 3(a) is amended to read as follows:

SALARIED MARKET EMPLOYEES

Sec. 3(a) Upon request of a regular member elected prior to June 1, 1923, the Exchange may permit such regular member to designate a representative, to be known as his authorized salaried market employee, who shall be limited to the execution of orders on the Floor of the Exchange for the account of such regular member or of the firm in which such regular member may be a partner or of the member corporation [in which such regular member is a holder of voting stock] *with which such member is associated.* Such regular member shall, however, relinquish his Floor privileges during the period when such employee is acting as his representative. The Exchange may revoke such privilege at any time. A partner of a regular member or a stockholder of a member corporation [in which a regular member is a holder of voting stock] *with which such member is associated* shall not, however, be approved as the salaried market employee of such regular member or of his member corporation.

26. Article IV, Sections 3(b), 3(c), 3(d), 3(e) and 3(g) are amended to read as follows:

GOVERNOR REPRESENTATIVES

(b) The Exchange may authorize an allied member partner of any regular member governor or an employee of any regular member governor or of a member corporation [in which he is a holder of voting stock,] *with which he is associated* to exercise the privilege of transacting on the Floor of the Exchange the business of such governor or of the [firm of which such governor is a partner or of the member corporation in which such governor is a holder of voting stock,] *member organization with which such governor is associated* during such time as such governor is engaged in Exchange business.

TEMPORARY REPRESENTATIVES

(c) A regular member may, with the approval of the Exchange, designate another regular member as his representative to execute his orders or the orders of his firm or the orders of a member corporation [in which he is a holder of voting stock,] *with which he is associated* during his absence from the Floor on Exchange business.

REPRESENTATION WHILE ENGAGED IN MILITARY OR NAVAL SERVICE OR IN PUBLIC PROGRAM FOR DEFENSE OF U.S.

(d) The Exchange may authorize an allied member or an employee of a regular member or an employee of a regular member corporation [in which such regular member is a holder of voting stock,] *with which such regular member is associated* to exercise the privilege of transacting on the Floor of the Exchange the business of such regular member or of the [firm of which such regular member is a partner or of the member corporation in which such regular member is a holder of voting stock,] *member organization with which such regular member is associated* during such time as such regular member is actively engaged in any military, naval or other public service incident to the defense of the United State or of any nation which is a belligerent against one or more of the enemies of the United States.

REPRESENTATION WHILE ENGAGED IN MILITARY OR NAVAL TRAINING SERVICE

(e) The Exchange may authorize an allied member or an employee of a regular member or an employee of a regular member corporation [in which such regular member is a holder of voting stock,] *with which such regular member is associated* to exercise the privilege of transacting on the Floor of the Exchange the business of such regular member or of the [firm of which such regular member is a partner or of the member corporation in which such regular members is a holder of voting stock,] *member organization with which such regular member is associated* during such time, not exceeding thirty days in any calendar year, as such regular member is participating in camp or cruise duty or other military or naval training service as an officer or in the enlisted personnel of the Army, Navy, Coast Guard or Air Force of the United States, or the Guard, militia or other military establishment of any State.

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CONTRACTS BY REPRESENTATIVES

(g) Contracts made on the Floor of the Exchange by any such representative or salaried market employee authorized pursuant to this Section shall be considered contracts made by the regular member represented by such representative or employee or by [such regular member's firm or by the member corporation in which such regular member is a holder of voting stock] *the member organization with which such regular member is associated.*

27. Article IV, Section 4(c) is amended to read as follows:

CONTRACTS PENDING TRANSFER

(c) A regular OR OPTIONS PRINCIPAL member proposing to transfer his

membership to an applicant for membership shall not, pending action by the Exchange on the proposed transfer, after the third day of the posting of notice of the proposed transfer, make any contract on the Exchange, unless the contract is expressly made on behalf of another member of the Exchange or on behalf of a member firm which shall continue to be a member firm notwithstanding the completion of such transfer or on behalf of a member corporation which shall continue to be a member corporation notwithstanding the completion of such transfer. No contract made after the third day by a member proposing to transfer his membership or by [his firm or by a member corporation in which he is a holder of voting stock] *the member organization with which he is associated* shall, if the transfer is approved by the Exchange, be the basis of a claim against the proceeds of the transfer thereof under this Section, but may, if the transfer is to another [partner in the member firm in which the transferring member is a partner or if the transfer is to a stockholder in a member corporation in which the transferring member is a stockholder] *person associated with the same member organization*, constitute the basis of a claim under this Section against the proceeds of the subsequent transfer of such membership by the [partner or stockholder] *person* to whom it is transferred.

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28. Article IV, Section 4(d) is amended to read as follows:

DISTRIBUTION OF PROCEEDS

(d) Upon any transfer of A regular OR OPTIONS PRINCIPAL membership, whether made by a REGULAR OR OPTIONS PRINCIPAL member or his legal representatives, voluntarily or by the Board in pursuance of the provisions of the Constitution, the proceeds thereof shall be applied to the following purposes and in the following order of priority, viz.:

EXCHANGE CHARGES

FIRST.—The payment of such dues, fines, assessments, contributions to the Gratuity Fund (IN THE CASE OF A REGULAR MEMBER) and charges as the Exchange shall determine are or may become due to the Exchange by the member whose membership is transferred or by the [member firm in which such member is a partner or by a member corporation voting stock of which is held by such member] *member organization with which such member is associated.*

* * * * *

SURPLUS AFTER CLAIMS

FOURTH.—The surplus, if any, of the proceeds of the transfer of a regular OR OPTIONS PRINCIPAL membership shall be paid to the person whose membership is transferred, or to his legal representatives, upon the execution by him or them of a release or releases satisfactory to the Exchange, unless the Exchange shall determine either (a) that the protection of the creditors of the member [firm or member corporation or former member firm or former member corporation in which such member is or was last a general partner or holder of voting stock] *ganization with which such person is or was associated* requires the use of said surplus, or any part thereof, or (b) that said member has expressly agreed that said surplus shall be paid to such firm or corporation, in either of which events said surplus shall be paid over to such firm or corporation upon the execution by said member or such firm or corporation of a release or releases satisfactory to the Exchange.

29. Article IV, Section 4(f) is amended to read as follows:

INTRA-PARTNERSHIP OR INTRA-CORPORATION CLAIMS

(f) Claims growing out of business transactions between the member of the Exchange whose membership is being disposed of (herein called the "retiring member") and [one of his partners or one of the stockholders of his member corporation] *another person associated with the same member organization*, or out of such transactions between the retiring member and the [member firm or the member corporation in which he was a partner or a holder of voting stock] *member organization with which he was associated* at the time of such transactions shall not share in the proceeds of the membership of the returned member until all other claims allowed by the Exchange have been paid in full.

30. Article IV, Section 6(a) is amended to read as follows:

Death of sole regular OR OPTIONS PRINCIPAL member general partner in regular OR OPTIONS PRINCIPAL member firm, or sole regular OR OPTIONS PRINCIPAL member [director and holder of voting stock in] *associated with* regular OR OPTIONS PRINCIPAL member corporation

Sec. 6. (a) A firm which continues the business of a regular OR OPTIONS PRINCIPAL member firm following the death of the sole regular member OR SOLE OPTIONS PRINCIPAL MEMBER, AS THE CASE BAY BE, who was a general partner in such member firm or a corporation which continues the business of a regular OR OPTIONS PRINCIPAL member corporation following the death of the sole regular member OR SOLE OPTIONS PRINCIPAL MEMBER, AS THE CASE MAY BE, who was [a holder of voting stock in] *associated with* such member corporation and actively engaged in the business of such corporation [and devoted the major portion of his time thereto] may be granted the status of a temporary member firm or a temporary member corporation for such period of time as the Exchange may determine, upon application to and approval by the Exchange.

31. Article IV, Section 6(c) is amended to read as follows:

APPLICATION REQUIREMENTS

(c) The Exchange may not grant an application of a corporation for the status of temporary member corporation unless:

[Continuance in business and of holdings of voting stock]

(1) the member corporation continues in business; and

Use and proceeds of membership

(2) the deceased member shall have agreed in a writing filed with the Exchange that such member corporation, if permitted by the Exchange to have the status of a temporary member corporation, shall be entitled to the use of his membership while such corporation is a temporary member corporation; and that the proceeds of his membership shall be an asset of the corporation, in so far as may be necessary for the protection of the creditors of the corporation and subject to the Constitution and rules of the Exchange, while such corporation is a temporary member corporation; and

Agreement to be filed; Subject to rules

(3) the applicant corporation files with the Exchange an agreement, in such form as the Exchange may prescribe, providing that such corporation and each member therein, while such corporation is a temporary member corporation, will be subject to and comply with the Constitution and rules of the Exchange to the same extent as if a regular OR OPTIONS PRINCIPAL member of the Exchange were [a holder of voting stock in] *associated with* such corporation and actively engaged in the business of such corporation [and devoted the major portion of his time thereto]; and

Capital

(4) the capital of the applicant corporation is, in the opinion of the Exchange, adequate.

32. Article IV, Sections 6(e), 6(f) and 6(g) are amended to read as follows:

STATUS EFFECTIVE

(e) The status of temporary member firm or temporary member corporation shall be deemed effective in respect of any [firm or corporation] *member organization* at the time of the death of the regular OR OPTIONS PRINCIPAL member [partner or voting stockholder] *associated with such member organization* in any case where an application for such status has been granted, and pending the consideration of an application, a firm or corporation which satisfies such requirements as the Exchange may prescribe shall be entitled to the rights and shall be subject to the obligations of a temporary member firm, or temporary member corporation, as the case may be.

TERMINATION OF STATUS

(f) The status of temporary member firm or temporary member corporation may be terminated with respect to any such firm or corporation by the Exchange at any time, in the sole discretion of the Exchange, and, in any event, shall terminate when a regular member OR AN OPTIONS PRINCIPAL MEMBER, AS THE CASE MAY BE, is admitted to general partnership in such temporary member firm or when a regular member OR AN OPTIONS PRINCIPAL MEMBER, AS THE CASE MAY BE, becomes [a holder of voting stock in] *associated with* such temporary member corporation and actively engaged in the business of such corporation [and devotes the major portion of his time thereto].

PROCEEDS OF MEMBERSHIP SUBJECT TO CLAIMS

(g) The proceeds of the sale of a regular OR OPTIONS PRINCIPAL membership, the use of which has been contributed to a temporary member firm or to a temporary member corporation, shall be subject to claims of the Exchange, the American Stock Exchange Clearing Corporation, the Options Clearing Corporation, regular AND OPTIONS PRINCIPAL members and regular AND OPTIONS PRINCIPAL member firms and regular AND OPTIONS PRINCIPAL member corporations against such temporary member firm or temporary member corporation to the same extent as if the deceased member were living and a general partner in such temporary member firm or [a holder of voting stock in] *associated with* such temporary member corporation who was actively engaged in the business of such corporation [and devoted the major portion of his time thereto] at the time of the transactions giving rise to such claims.

33. Article V, Section 3(a) is amended to read as follows:

AUTOMATIC SUSPENSION

Sec. 3(a) A member who fails to perform his contracts or is insolvent or is in such financial or operating condition that he cannot be permitted to continue in business with safety to investors, his creditors, other members or the Exchange, or a member who is [a partner in a member firm or a stockholder, director or executive officer of a] *associated with a* member [corporation] *organization* which fails to perform its contracts or is insolvent or is in such financial or operating condition that it cannot be permitted to continue in business with safety to investors, its creditors, other members or the Exchange, shall immediately inform the Chairman, in writing, of such fact, and prompt announcement thereof shall be made by the Chairman to the Exchange, and such member or member organization shall upon such notice to the Exchange, become automatically suspended until and unless such member or member organization has been reinstated as provided in Section 5 of Article IV.

34. Article V, Section 3(d) is amended to read as follows:

SALE OF REGULAR OR OPTIONS PRINCIPAL MEMBERSHIP AND REVOCATION OF ASSOCIATE MEMBERSHIP

(d) If the Board of Governors determines, after not less than ten days' notice to a regular OR OPTIONS PRINCIPAL member who has been suspended or whose member organization has been suspended under the foregoing provisions of this Section, that the protection of the persons, firms and corporations entitled to make claim against the proceeds of the transfer of his regular OR OPTIONS PRINCIPAL membership, AS THE CASE MAY BE, under Section 4 of Article IV or the protection of the creditors of the member organization [in] *with* which such regular OR OPTIONS PRINCIPAL member is or was last [a general partner or holder of voting stock] *associated* requires the transfer of the membership of such member, such membership may be disposed of by the Board of Governors.

* * * * *

35. Article V, Section 4(s) is amended to read as follows:

SUSPENSION OR EXPULSION OF MEMBERS OF SUSPENDED OR EXPELLED MEMBER ORGANIZATION

(s) Unless the Board or a committee authorized by the Board otherwise determines, when a member organization is suspended or expelled in a proceeding under this Article, each regular, OPTIONS PRINCIPAL, associate and allied member who is [a general partner or holder of voting stock in or a director or executive officer of] *associated with* such member organization shall thereupon be suspended or expelled, as the case may be; and any such suspension shall continue during the suspension of such member organization or during such lesser period as the Board or such committee may determine.

36. Article V, Section 4(t) is amended to read as follows:

CONTINUED FAILURE TO PAY FINES, DUES, ETC.

(t) If fines, dues, assessments, charges or contributions to the Gratuity Fund (IN THE CASE OF A REGULAR MEMBER) of any suspended regular, OPTIONS PRINCIPAL or associate member are not paid at the end of ninety days after they become payable, the membership of such suspended regular OR OPTIONS PRINCIPAL member shall be disposed of by the Board under the provisions of Section 7 of Article IV, and in the case of an associate member, the Board shall revoke his membership.

Whenever the Treasurer shall report to the Chairman that a member organization has neglected to pay a fine for forty-five days after the same is payable, the membership of each regular, OPTIONS PRINCIPAL, associate and allied member who is [a general partner, holder of voting stock or director or executive officer in] *associated with* such member organization shall be suspended, unless the Board of Governors shall have granted an extension of time to pay such fine. Should payment not be made within one year after payment is due, the membership of any such regular OR OPTIONS PRINCIPAL member may be disposed of, and the membership of any such associate member may be revoked, by the Board on at least ten days' written notice mailed to such regular OR OPTIONS PRINCIPAL or associate member at his address registered with the Exchange.

37. Article V, Section 5(b) is amended to read as follows:

Procedure

(b) In any proceeding under this Section 5, the method of procedure required by Section 1(b) of this Article V shall not apply, but the accused shall be given not less than ten days' notice in writing that an Exchange Disciplinary Panel will conduct a hearing to determine whether or not to suspend or expel the accused, as the case may be, as provided in this Section 5. At the hearing before the Disciplinary Panel, the accused member, or any [general partner, holder of voting stock, director or executive officer of] *person associated with* the accused member organization who is a member of the Exchange and is designated in writing by the accused member organization to represent it for all purposes at such hearing, shall be afforded an opportunity to explain why it would be inappropriate for the Disciplinary Panel to accept the finding of such other exchange, association or agency or to suspend or expel the accused, notwithstanding the suspension, expulsion or bar by such other exchange, association or agency. In the event that the Disciplinary Panel determines not to accept the finding of guilt by such other exchange, association or agency, it may order a proceeding under any other Section of this Article V. In the event that the accused fails or refuses to appear before the Disciplinary Panel, the Disciplinary Panel may nevertheless determine the matter and suspend or expel the accused as provided in this Section 5. If the Disciplinary Panel determines to accept the finding of guilt by such other exchange, association or agency and to suspend or expel the accused, such determination shall be supported by a written statement setting forth the specific grounds on which such action is based. Such written statement shall be served upon the accused in the manner provided by Section 1(b) of this Article V, and a copy thereof shall be sent to each member of the Board of Governors. Any action by an Exchange Disciplinary Panel pursuant to this Section 5 shall be subject to review in accordance with the procedures specified in paragraph (5) of Section 1(b) of this Article V. In the event no request for review is filed within twenty days after the accused is notified of the determination of the Disciplinary Panel, such determination shall become final and conclusive.

38. Article V, Section 7 is deleted in its entirety as follows:

[DETRIMENTAL TO EXCHANGE INTEREST

SEC. 7 (a) Whenever it shall appear to the Board that a member is a partner in a partnership, a stockholder, officer or director in or an employee of a corporation, or has an office or headquarters, or is individually or through any part-

ner of his member firm or through any stockholder in his member corporation interested in a partnership, corporation or business, or has any business connection whatever, whereby the interest or good repute of the Exchange may suffer, the Board may require the member to dissolve any such partnership or to sever all connection therewith (whether or not such partnership is a member firm) or require the member to sever all connection with the corporation (whether or not it is a member corporation) and cease to be a stockholder, officer or director therein or employee thereof or may require the member to discontinue such business, office or headquarters or business connection, as the case may be.

DOMINATION BY NON-MEMBER CORPORATION OR ASSOCIATION

(b) Whenever it shall appear to the Board that a member, individually or through his member firm or member corporation or through any partner of his member firm or through any officer, director or employee of his member corporation, has such a business connection with a non-member corporation or association that said non-member corporation or association dominates the business of the member or member firm or member corporation, or controls the policy of such business, the Board may require the member to discontinue such business connection.]

39. Article VII, Section 1(a) is amended to read as follows:

REGULAR MEMBERS

SEC. 1 (a) Regular Members—The initiation fee for regular membership shall be based upon the latest price at which a regular membership shall have been sold and transferred to an applicant for membership, otherwise than for a nominal consideration or through a private sale or pursuant to Article IV, Section 1(a)(4), prior to the date when such initiation fee is due. Such initiation fee shall be $1,000, if such sale price shall have been $5,000 or less, and such fee shall be increased by $500 for each additional $5,000; but in no case shall such initiation fee exceed $2,500.

Notwithstanding other provisions of the Constitution, an applicant for regular membership who is an associate member on the effective date of this amendment and continues to be such down to the date of the filing of his application for regular membership, or is a general partner or a director [holding voting stock in] *of* a firm or corporation which was an associate member firm or corporation on the effective date of this amendment and continues to be an associate member firm or corporation down to the date of the filing by such applicant of his application for regular membership, shall not be required to pay any initiation fee.

The above initiation fee shall be paid prior to the approval by the Exchange of an applicant for regular membership.

* * * * *

40. Article VII, Section 1(b) is amended to change the cross reference appearing therein from Article IV, Section 1(c) to Article IV, Section 1(d).

41. Article VII, Section 1(c) is amended to read as follows:

(c) OPTIONS PRINCIPAL MEMBERS—A PERSON ACQUIRING AN OPTIONS PRINCIPAL MEMBERSHIP DIRECTLY FROM THE EXCHANGE PURSUANT TO A PLAN OFFERING SUCH MEMBERSHIPS TO QUALIFIED APPLICANTS, AND PAYING TO THE EXCHANGE THE FEE PRESCRIBED IN SUCH PLAN FOR AN OPTIONS PRINCIPAL MEMBERSHIP, SHALL NOT BE REQUIRED TO PAY AN INITIATION FEE. IN ALL OTHER CASES (EXCEPT AS HEREINAFTER PROVIDED), THE INITIATION FEE FOR OPTIONS PRINCIPAL MEMBERSHIP SHALL BE BASED UPON THE LATEST PRICE AT WHICH AN OPTIONS PRINCIPAL MEMBERSHIP SHALL HAVE BEEN SOLD AND TRANSFERRED TO AN APPLICANT FOR MEMBERSHIP, OTHERWISE THAN FOR A NOMINAL CONSIDERATION OR THROUGH A PRIVATE SALE, PRIOR TO THE DATE WHEN SUCH INITIATION FEE IS DUE. SUCH INITIATION FEE SHALL BE $1,000, IF SUCH SALE PRICE SHALL HAVE BEEN $5,000 OR LESS, AND SUCH FEE SHALL BE INCREASED BY $500 FOR EACH ADDITIONAL $5,000, OR FRACTION THEREOF, BY WHICH SUCH SALE PRICE SHALL HAVE EXCEEDED $5,000; BUT IN NO CASE SHALL SUCH INITIATION FEE EXCEED $2,500.

NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBSECTION, IF AN OPTIONS PRINCIPAL MEMBER WHO IS A PARTNER IN A MEMBER FIRM TRANSFERS HIS MEMBERSHIP TO ANOTHER PARTNER IN SUCH MEMBER FIRM AND THE PARTNERS CONTINUE THE BUSINESS OF SUCH FIRM WITHOUT INTERRUPTION OR CHANGE, OTHER THAN SUCH CHANGES AS MAY BE OCCASIONED BY THE DEATH OR RETIREMENT OF THE OPTIONS PRINCIPAL MEMBER WHOSE MEMBERSHIP IS BEING TRANSFERRED, OR IF AN OPTIONS PRINCIPAL MEMBER WHO IS [A VOTING STOCKHOLDER IN] *associated with* A MEMBER CORPORATION TRANSFERS HIS MEMBERSHIP TO ANOTHER [VOTING STOCKHOLDER IN] *person associated with* SUCH MEMBER CORPORATION AND SUCH CORPORATION CONTINUES TO ENGAGE IN THE BUSINESS OF BUYING AND SELLING SECURITIES AS BROKERS OR DEALERS WITHOUT INTERRUPTION OR CHANGE, OTHER THAN SUCH CHANGES AS MAY BE OCCASIONED BY THE DEATH OR RETIREMENT OF THE OPTIONS PRINCIPAL MEMBER WHOSE MEMBERSHIP IS BEING TRANSFERRED, THE INITIATION FEE PAYABLE IN CONNECTION WITH SUCH TRANSFER SHALL BE $500.

THE INITIATION FEE REQUIRED BY THIS SUBSECTION SHALL BE PAID PRIOR TO THE APPROVAL BY THE EXCHANGE OF AN APPLICANT FOR OPTIONS PRINCIPAL MEMBERSHIP.

ANNEX B

AMERICAN STOCK EXCHANGE, INC.

Amendments to "Admission of Members—Regular Members—Associate Members—Allied Members"[1]

1. The section entitled "Admissions Committee" is deleted as follows:

[The Admissions Committee of the Exchange, composed of two Floor Governors, two Office Governors and one Out-of-town or Public Governor, considers membership applications and other admissions matters.]

[Any two members of the Committee may interview membership candidates in most circumstances. The full Committee, or all members available, interviews any candidate whose application appears to present an unusual question. An out-of-town applicant may be interviewed in the Committee's behalf by a Governor or other prominent member or allied member in the area.]

[The Committee presents its recommendations on admissions matters to the Board of Governors. Final decisions are made by the Board.]

2. Paragraphs two, four and seven of "Requirements—Regular Membership" are amended to read as follows:

An applicant for regular membership must be at least [21 and, depending on circumstances, should not be over 60 years of age] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business*. He must be [a citizen of the United States and] of good character and reputation.

* * * * *

[Sponsorship of an applicant is required from two members or members' partners who have known the applicant for a substantial period of time or from other sponsors acceptable to the Exchange.] Letters of reference from five [other] responsible persons must be furnished.

* * * * *

An applicant who is in a partnership or corporation in the securities business must take the required steps to qualify his organization as a member organization. [Without Exchange approval, he may not have an interest in more than one organization in the securities business or be associated with any outside business enterprise.]

3. Paragraphs (5), (6) and (7) of "Admissions Procedure—Regular Membership" are amended to read as follows:

(5) The Exchange staff conducts a thorough investigation of the applicant. [with the goal of spotting any unusual

[1] NOTE.—*Italics* represent material to be added. [Brackets] represent material to be deleted.

questions for consideration by the Admissions Committee.]

(6) The applicant [and his sponsors where necessary are then] *may be* requested to *meet with representatives of the Membership Services Division to discuss any* [appear for an interview. Where an unusual] questions [has] *that have* arisen *during the Exchange's investigation*. [the applicant is advised of the matter and interviewed on that point by the full Admissions Committee. Otherwise the interview is by two members of the Committee or by its out-of-town representative. Sponsors of out-of-town applicants may ordinarily submit letters instead of appearing for interviews.]

(7) [The Admissions Committee then either recommends election of the candidate or, if it decides not to recommend approval, presents its findings and reasons to the full Board of Governors.] *The Membership Services Division then either approves the applicant or, if it decides not to approve, it notifies the applicant of its reasons for disapproval and that the applicant is entitled to a hearing under Article IV, Section 1(g) of the Constitution.*

4. Paragraphs one, two and three of "Requirements—Associate Membership" are amended to read as follows:

An applicant must be at least [21 years of age] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business* and actively engaged in the business of buying and selling securities as broker or dealer, either as a partner of a firm or as a [director or executive officer of] *person associated with* a corporation.

A detailed membership application must be filed and the applicant must [have the same sponsorship required of a regular member candidate] *submit letters of recommendation from five responsible persons*. He must have adequate experience in the securities business and pass the office partner examination, unless he has satisfied the examination requirements of the New York Stock Exchange.

[An associate member is subject to the same restrictions as a regular member as to other business affiliations.] The required steps must be taken by the applicant to qualify his firm or corporation as an associate member organization.

5. Paragraphs one and two of "Admissions Procedure—Associate Membership" are amended to read as follows:

There is a 5-day posting period for associate membership applicants and the Exchange staff conducts a thorough investigation of the applicant. The candidate *may be requested to meet with the representatives of the Membership Services Division to discuss any questions that have arisen during the Exchange's investigation*. [is not ordinarily interviewed but may be in the discretion of the Admissions Committee. Letters of sponsorship are normally accepted from sponsors in lieu of an interview.]

[After reviewing the facts, the Admissions Committee either recommends the applicant's election or presents its reasons for not doing so to the Board of Governors, which makes the final decision.] *The Membership Services Division then either approves the applicant or, if it decides not to approve, it notifies the applicant of its reasons for disapproval and that the applicant is entitled to a hearing under Article IV, Section 1(g) of the Constitution.*

6. Paragraphs one and two of "Allied Membership" are amended to read as follows:

An allied membership application must be filed [and sponsorship by two members or members' partners provided] *with the Exchange*. The applicant must have adequate experience in the securities business and pass the office partner examination, unless he has satisfied the examination requirements of the New York Stock Exchange. The Exchange must be notified in writing of the member organizations' intention to admit [the applicant as a partner or stockholder] *any person required to become an allied member under the provisions of Article IV, Section 1(c) of the Constitution.*

[Allied membership applications are considered by the Admissions Committee following a thorough investigation of the applicant by the Exchange staff. Interviews are not normally required. The Committee makes its recommendations to the Board of Governors regarding election of candidates.]

Following a thorough investigation by the Exchange staff, an applicant for allied membership may be requested to meet with representatives of the Membership Services Division to discuss any questions that may have arisen during the Exchange's investigation. The Membership Services Division then either approves the applicant or, if it decides not to approve, it notifies the applicant of its reasons for disapproval and that the applicant is entitled to a hearing under Article IV, Section 1(g) of the Constitution.

ANNEX C

AMERICAN STOCK EXCHANGE, INC.

Amendments to Rules of the Board of Governors[1]

1. Paragraph 1 of "Definitions" is amended to read as follows:

"MEMBER," "ALLIED MEMBER," "MEMBER FIRM," AND "MEMBER CORPORATION," ETC.

1. The terms "member," "allied member," "member firm" and "member corporation," etc. shall have the meanings specified in Article I, Section 3, of the Constitution. The terms "approved person," "[freely transferable] *publicly held* security," "voting stock," and "non-voting stock," when used with respect to a member corporation, shall have the meanings specified in Article I, Section 3 of the Constitution.

2. Paragraph 3 of "Definitions" is deleted in its entirety, and a new paragraph 3 is added, as follows:

[1] NOTE.—*Italics* indicate material to be added and [brackets] indicate material to be deleted.

["PARENT"

3. The term "parent" with reference to another party means any party who has the power to exercise controlling influence over the management or policies of such other party, unless such power is solely the result of an official position with such other party.

Language in CAPITAL LETTERS represents proposed changes contained in File No. SR-Amex-75-15 (relating to Options Principal Members) which has not yet been approved by the SEC.

Any party who owns beneficially, either directly or indirectly, more than 25% of the outstanding voting securities of a first corporation, or more than 25% of the outstanding voting securities of any other corporation which directly or through one or more subsidiaries owns beneficially more than 25% of the outstanding voting securities of the first corporation shall be presumed to be the first corporation's parent. Any party who does not so own more than 25% of the outstanding voting securities of a corporation, shall be presumed not to be such corporation's parent. Any such presumption may be rebutted by evidence but shall continue until a determination to the contrary has been made by the Exchange.]

3. *"Associated with a Member or Member Organization"*

For the purposes of the Constitution and these Rules, the term "associated with a member or member organization" shall have the same meaning as the definition given to the term "associated with a member" in Section 3(a)(21) of the Securities Exchange Act of 1934.

3. Paragraph 13 of "Definitions" is amended to read as follows:

["CONTROLLING PERSON"

13. For the purposes of the Constitution and these Rules, a person shall be presumed to control another person, if such person has a right to participate to the extent of more than 25% in the profits of such other person, or owns beneficially, directly or indirectly, more than 25% of the voting securities or more than 25% of the total capitalization of such person. Any person who does not so participate in profits or who does not so own voting securities or total capitalization of another person shall be presumed not to control such other person. Any such presumption may be rebutted by evidence but shall continue until a determination to the contrary has been made by the Exchange.]

"Control"

13. For the purposes of the Constitution and these Rules, the term "control" means the power to direct or cause the direction of the management or policies of a person whether through ownership of securities, by contract or otherwise. A person shall be presumed to control another person if such person, directly or indirectly,

(i) has the right to vote or cause to be voted 25 percent or more of the voting securities,

(ii) is entitled to receive 25 percent or more of the net profits, or

(iii) is a general partner, director or principal executive officer (or person occupying a similar status or performing similar functions) of such person. Any person who does not come within one of the foregoing categories shall be presumed not to control such other person. Such presumption may be rebutted by evidence, but shall continue until a determination to the contrary has been made by the Exchange.

4. New Paragraphs 15 and 16 are added to "Definitions" as follows:

"Person"

15. The term "person" shall mean a natural person, corporation, partnership, association, joint stock company, trust, fund or any organized group of persons whether incorporated or not.

"Engaged in a Securities or Kindred Business"

16. The term "engaged in a securities or kindred business" shall mean acting as an investment advisor or transacting business generally as a broker or dealer in securities, including servicing customer accounts or introducing them to another organization.

Rule 13 is amended to read as follows:

MEMBERS' ACCESS TO RECORDS

Rule 13. Members, member firms [or partners thereof], OR member corporations [or stockholders therein,] shall not have access to the minutes of the Board of Governors or to the minutes or records of any committee or to the records of the Exchange unless personally interested therein.

5. Rule 50(a) is amended to read as follows:

MEMBER AND PARTNER EXAMINATION REQUIREMENTS

Rule 50. (a) Every applicant for regular, OPTIONS PRINCIPAL, associate or allied membership or for approval as a general partner or officer of an associate member organization shall pass a qualifying examination prescribed by the Exchange, unless the examination is waived by the Exchange.

Each such applicant shall, prior to his approval, agree with the Exchange that he will, within three months after either failing to pass the examination within one year of approval or failing the examination three times, whichever occurs first, disposed of his regular OR OPTIONS PRINCIPAL membership or resign as an allied member and retire as a general partner of [, or dispose of all his voting stock (other than any share of stock which is a freely transferable security) in,] his regular or OPTIONS PRINCIPAL member organization *or sever such business relations with his member organization as require him to be an allied member* or retire as a general partner or officer of his associate member organization, except as provided in (1) or (2) below.

• • • • •

6. Commentary .03 to Rule 111 is amended to read as follows:

.03 An off-Floor order for an account in which a member has an interest is to be treated as an on-Floor order if it is executed by the member who initiated it.

In addition to transactions originated on the Floor by a Registered Trader for an account in which he has an interest, the following transactions are considered on-Floor trading for the purposes of Rules 108, 109, 110 and 111 and subject to all the restrictions on Registered Traders:

• • • • •

(2) Any transaction for a member firm or member corporation for an account in which it has an interest:

• • • • •

(b) which results from an order entered off the Floor following the unsolicited submission from the Floor to the office of a quotation in a stock and the size of the market by a member on the Floor who is a partner of [or stockholder in] such member firm or *is associated with such* member corporation; or

(c) which results from an order entered off the Floor which is executed by a member on the Floor who is a partner of [or stockholder in] such member firm or *is associated with such* member corporation and who had handled the order on a "not-held" basis; provided, however, that the following are not on-Floor orders and such restrictions shall not apply to an order

• • • • •

(ii) to purchase or sell stock for an account in which the member firm or member corporation is directly or indirectly interested if the member or his member firm or member corporation was invited to participate on the opposite side of a block transaction by another member, member [firm or member corporation or a partner or stockholder therein] *organization or member associated therewith, or an approved person thereof,* because the market on the Floor could not readily absorb the block at a particular price or prices; or

(iii) To purchase or sell stock for an account in which the member firm or member corporation is directly or indirectly interested if the transaction is on the opposite side of a block order being executed by the member firm or member corporation for the account of its customer and the transaction is made to facilitate the execution of such order; or

(d) Which results from an order entered off the Floor which is executed by a member on the Floor who is a partner of [or stockholder in] such member firm or *associated with such* member corporation and who has changed the terms of the order.

7. Rules 150 (a) and (b) are amended to read as follows:

PURCHASES AND SALES WHILE HOLDING UNEXECUTED MARKET ORDER

Rule 150. (a) No member shall (1) personally buy or initiate the purchase of any security on the Exchange for his own account or for any account in which he or his member organization or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g), of the Constitution] therein is directly or indirectly interested, while such member personally holds or has knowledge that his member organization or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein holds an unexecuted market order to buy such security in the unit of trading for a customer, or (2) personally sell or initiate the sale of any security on the Exchange for any such account, while he personally holds or has knowledge that his member organization or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein holds an unexecuted market order to sell such security in the unit of trading for a customer.

PURCHASES AND SALES WHILE HOLDING UNEXECUTED LIMIT ORDER

(b) No member shall (1) personally buy or initiate the purchase of any security on the Exchange for any such account, at or below the price at which he personally holds or has knowledge that his member organization or any member, [limited partner,] officer, employee, or approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein holds an unexecuted limit price order to buy such security in the unit of trading for a customer, or (2) personally sell or initiate the sale of any security on the Exchange for any such account at or above the price at which he personally holds or has knowledge that his member organization or any member, [limited partner,] Officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein holds an unexecuted limited price order to sell such security in the unit of trading for a customer.

8. Rule 152(a) is amended to read as follows:

TAKING OR SUPPLYING STOCK TO FILL CUSTOMER'S ORDER

Rule 152. (a) No member or member organization shall take or supply for any account in which the member, member organization or any other member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] . therein has any direct or indirect interest, of which the member knows or should have known, the securities named in a sell or buy order accepted for execution by the member or member organization except as follows:

• • • • • •

9. Rule 152(a)(2)(iv) is amended to read as follows:

(iv) In the case of an order received from a nonmember customer of the member or member organization, the member or member organization prior

to effecting the transaction shall have obtained from the customer the customer's consent that the securities may be taken or supplied for an account in which the member, member organization, or any member, [partner, director, or] officer *or approved person* therein has an interest, and shall also have obtained the customer's agreement that the member or member organization is to charge the customer an amount equal to the commission that would be charged for a similar transaction if executed on an agency basis;

• • • • • •

10. Rule 152(a)(2)(v) is amended to read as follows:

(v) In the case of an order received from another member or member organization, the member or member organization receiving the order, promptly after effecting the transaction notifies such other member or member organization that the member or member organization receiving the order took or supplied the securities named in the order for the account of the member, member organization or a member, [partner or director,] *officer or approved person* therein [or a stockholder therein (other than a holder of a freely transferable security only)], and such other member or member organization accepts the trade, in which event such other member or member organization may with his or its consent be charged an amount equal to the commission that would be charged for a similar transaction if executed on an agency basis; and

• • • • •

11. Rule 152(b) is amended to read as follows:

(b) In the event that a member or member organization having executed a sell or buy order accepted for execution as a broker finds that inadvertently the securities sold or purchased in such execution were taken or supplied for an account in which the member, member organization or any member, [partner or director] *officer or approved person* therein [or any stockholder therein (other than a holder of a freely transferable security only)] has a direct or indirect interest, such member or member organization shall report that fact to his or its principal who may accept or reject the trade, and with the principal's consent the member or member organization may charge the principal an amount equal to the commission that would be charged for a similar transaction if executed on an agency basis.

12. Rule 153(b) is amended to read as follows:

(b) Every member shall preserve for at least twelve months a record of every order originating on the Floor of the Exchange given to such member for execution, and of every order originating off the Floor, transmitted by any person other than a member or a member organization or a member, [partner or director] officer *or employee* therein [or a stockholder therein (other than a holder of a freely transferable security only)], to such member on the Floor, which record shall include the name, amount and price of the security and the time when such order was so given or transmitted.

13. Rule 170(e) is amended to read as follows:

(e) No member (other than a specialist acting pursuant to paragraphs (c) or (d) above), [limited partner,] officer, employee, or approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution,] who is affiliated with a specialist or specialist member organization, shall, during the period of such affiliation, purchase or sell any security in which such a specialist is registered for any account in which such person or party has a direct or indirect interest. Any such person or party may, however, reduce or liquidate an existing position in a security in which such specialist is registered provided that such orders are (1) identified as being for an account in which such person or party has a direct or indirect interest; (2) approved for execution by a Senior Floor Official; and (3) executed by the specialist in a manner reasonably calculated to contribute to the maintenance of price continuity with reasonable depth. No order entered pursuant to this paragraph (e) shall be given priority over, or parity with, any order represented in the market at the same price.

14. Commentary .03 to Rule 171 is amended to read as follows:

.03 Except for such reasonable periods of time and subject to such conditions as the Exchange may approve, specialist units of less than three [men] *natural persons* will not be permitted.

15. Rule 175 is amended to read as follows:

SPECIALIST PROHIBITIONS

Rule 175. No specialist or his member organization, or any member, [limited partner,] officer, employee, or approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein shall, directly or indirectly:

• • • • • •

16. Rule 186 is amended to read as follows:

SPECIALIST MAY NOT BE OFFICER OF CORPORATION

Rule 186(a) No specialist or any member in his member organization, [limited partner,] officer, employee or approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein shall be an officer or director of a corporation which has a security admitted to trading on the Exchange in which security the specialist is registered; and

• • • • • •

17. Rule 190(a) and the Commentary to Rule 190 are amended to read as follows:

SPECIALIST'S TRANSACTIONS WITH PUBLIC CUSTOMERS

Rule 190. (a) No specialist or his member organization, or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein, shall, directly or indirectly effect any business transaction with a company or any officer, director or 10% stockholder of a company in which stock the specialist is registered.

• • • • • •

Commentary.

It is contrary to good business practice for a specialist or his member organization, or any member, [limited partner,] officer, employee, *or* approved person [or party approved pursuant to Article IV, Section 2(g) of the Constitution] therein to make any recommendation in any security in which such specialist is registered or to make public statements, oral or written, for the purpose of encouraging or discouraging the purchase or sale of any such security. For purposes of this Commentary, an advertisement identifying a firm as a specialist in any security will be considered a recommendation with respect to such security.

18. Rule 193 is amended to read as follows:

AFFILIATED PERSONS OF SPECIALISTS

Rule 193. (a) Every [limited partner,] approved person [and every party approved pursuant to Article IV, Section 2(g) of the Constitution] who is affiliated with a specialist member organization must agree, in a stipulation approved by the Exchange, not to violate Rules 103, 170, 175, 186 and 190 or cause a specialist or a specialist member organization to violate these or any other rules relating to specialists.

19. Rule 203 is amended to read as follows:

ODD-LOT DEALER JOINT-ACCOUNTS

Rule 203. No odd-lot dealer or his member organization, or [a] *any* member, [partner or director] *officer, or approved person* therein [or a stockholder therein (other than a holder of a freely transferable security only),] shall, directly or indirectly, acquire or hold any interest of participation in any joint-account for buying or selling on the Exchange in a security in which such odd-lot dealer is registered, except a joint-account with a partner of such odd-lot dealer or a regular member or regular member firm or regular member corporation of the Exchange which joint-account has been reported to the Exchange pursuant to Rule 360 and not disapproved.

20. Rules 310(a) and (b) are deleted as follows:

[Rule 310. (a) All shares of stock issued by a member corporation (other than any share which is a freely transferable security) shall be held of record and beneficially by a party approved by the Exchange.

SUBORDINATED DEBT INSTRUMENTS

(b) All debt instruments issued by a member organization and subordinated to the claims of general creditors of such member organization (other than any debt instrument which is a freely transferable security) shall be held of record

and beneficially by a party approved by the Exchange.]

21. Rules 310 (c), (d) and (e) are redesignated as Rules 310 (a), (b) and (c) respectively and, as redesignated, Rules 310(a) and 310(c) are amended to read as follows:

NOTICE TO EXCHANGE

[(c)] (a) [A regular, OPTIONS PRINCIPAL or associate member] *Any party* who intends to organize a member organization, or who intends to become a [stockholder or partner in a member organization or a director or executive officer of an associate member corporation or] *member* in a corporation or firm for which application is made for approval as a member organization [, or who intends to admit any party in a] *and any* member organization [as a] *which proposes to admit therein any* member or [an] approved person [or a limited partner or any other party approval of whom is required by paragraph (a) or (b) of this Rule], shall notify the Exchange in writing before any such action is taken, and shall submit such information in connection therewith *concerning the involved parties and their business activities and relationships* as may be required by the Exchange.

Procedure for approval of [non-member directors and] approved person

[(e)] (c) Any person who [is a director of a member corporation but not a member, and any party who owns beneficially 5% or more of the outstanding voting stock of a member corporation] *controls a member or member organization, or who engages in a securities or kindred business and is controlled by or under common control with a member or member organization* but is not [a] *an employee or a member or allied* member shall apply for approval by the Exchange as an approved person of such [member corporation] *organization* by furnishing the Exchange with such information with respect to such applicant, its or his history and business, its stockholders, officers, *partners and* directors, any parent of such applicant, and such other information as the Exchange may from time to time require. Each such applicant shall agree in writing with the Exchange:

(i) *To supply the Exchange with information with respect to such applicant's relationship and dealings with the member or member organization with which it is associated as the Exchange may reasonably require; and*

(ii) *To supply the Exchange with information relating to the existence of any statutory disqualification to which the applicant or person associated with the applicant may be subject, as defined in the Securities Exchange Act of 1934; and*

(iii) *To abide by such provisions of the Constitution and rules of the Exchange relating the approved persons as shall from time to time be in effect; and*

(iv) *To permit examination by the Exchange*, or any person *designated by it*, at any time or from time to time, of its books and records to *verify the accuracy* of the information *required to be* supplied herein and by the rules of the Exchange.

22. Rules 311 (a) and (b) are amended, and commentary is added thereto, reading as follows:

MEMBER ORGANIZATION CHANGES

Giving notice to Exchange

Rule 311. (a) Each member organization shall give prompt written notice to the Exchange: (1) of the death, retirement or other termination of any party therein required to be approved by the Exchange; (2) of the dissolution of the member organization; [(3) of the proposed issue, redemption, retirement, purchase or sale by a member corporation of any share of stock therein; (4)] (3) if any of the conditions for approval of such organization as a member corporation specified in Section 2(e) of Article IV of the Constitution has ceased to be complied with; [(5)] (4) of the fact that the [primary activity] *principal purpose* of such member organization has ceased to be the transaction of business as a broker or dealer in securities *as provided in Rule 314*; [(6) of any proposed change in the holdings of any stock issued by such member corporation (other than any share of stock which is a freely transferable security) or of any subordinated debt instrument issued by such member corporation (other than a debt instrument which is a freely transferable security), (7)] (5) of any material change in the stockholdings of any member or approved person of such member corporation; or [(8)] (6) of any proposed change in or amendment to the charter, certificate of incorporation, bylaws or other documents or agreements of or relating to such member corporation and its stockholders which the Exchange requires to be submitted to or filed with it.

Giving notice to member corporation

(b) Each member and approved person of a member corporation shall promptly notify his member corporation of any material acquisition or disposition of shares of stock of such corporation [which are freely transferable securities.]

* * * *Commentary.*

.10 For purposes of Section (a) and (b) of this Rule a material acquisition or disposition of stock shall be:

(1) a transaction as a result of which any member or approved person of a member corporation becomes or ceases to be the owner of 1% of the outstanding shares of stock of such corporation; or

(2) A transaction on behalf of a member or approved person of a member corporation involving 1% or more of the outstanding shares of stock of such corporation.

23. Rule 312(a) is amended to read as follows:

Rule 312(a). Any prospectus or other offering circular prepared by a member corporation and used in connection with the offering of any security issued by it shall, prior to such use, be submitted by such member corporation to [and be acceptable to] the Exchange.

24. Rule 312(c) is deleted and a new Rule 312(c) is added.

[SOLICITATION OF PROXIES

(c) Each member corporation which has any freely transferable security outstanding shall, prior to each annual or other meeting of the holders of such securities, solicit proxies, consents or authorizations in respect thereof, and in connection with such solicitation shall transmit to the Exchange and to all holders of record of such securities information substantially equivalent to the information required to be transmitted pursuant to a solicitation of proxies subject to Section 14(a) of the Securities Exchange Act of 1934, as amended, and the rules thereunder.]

Lists to be submitted to the Exchange on request

(c) Each member corporation shall, at such times as may be required by the Exchange, submit to the Exchange a list or lists, certified by an officer, stating:

(i) The number of shares of each class of stock of the member corporation held of record or beneficially or both by each member and approved person of such corporation;

(ii) The name of each person directly or indirectly beneficially owning 1 percent or more of the outstanding voting stock of such member corporation and showing the percentage of such ownership; or

(iii) The name of each person who controls, is controlled by, or is under common control with the member organization.

25. Rules 312 (d) and (e) are deleted in their entirety as follows:

[List of members and approved persons

(d) Each member corporation shall, at such times as may be required by the Exchange, submit to the Exchange through its chief executive officer a certified list of its members and approved persons showing to the best of his knowledge and belief the number of shares of each class of stock of such member corporation held of record or beneficially or both by each such party.

List of 1 percent stockholders

(e) Each member corporation shall, at such times as may be required by the Exchange, submit to the Exchange through its chief executive officer an affidavit listing to the best of his knowledge and belief the name of each party directly or indirectly beneficially owning 1 percent or more of the outstanding voting stock of such member corporation and showing the percentage of such ownership.]

26. Rule 312 (f) is redesignated rule 312 (d) and is amended to read as follows:

PROVISIONS IN CERTAIN CERTIFICATES OF INCORPORATION

[(f)] (d) (i) The certificate of incorporation of each member corporation [which proposes to issue any freely transferable shares] shall contain provisions authorizing the corporation to redeem or convert to a fixed income security all or any part of the outstanding shares of *voting* stock [which are freely transferable securities] of such member corporation owned by any person required to be approved by the Exchange as a member or approved person who fails or ceases to be so approved *as may be necessary to reduce such party's ownership of voting stock in the member corporation policy that level which enables each party to exercise controlling influence over the management or policies of such member corporation.*

(ii) If the certificate of incorporation of a member corporation subject to Rule 470 provides that a stockholder may compel the redemption of his stock, such certificate must provide that without the prior written approval of the Exchange, the redemption may only be effected on a date not less than six months after receipt by the member corporation of a written request for redemption given no sooner than six months after the date of the original issuance of such shares (or any predecessor shares) and in no event shall such redemption be effected if prohibited under the provisions of Securities and Exchange Commission Rule 15c3–1 (see SEC Rule 15c3–1(e)).

Each member corporation shall promptly notify the Exchange of the receipt of any request for redemption of any stock or if any redemption is not made because prohibited under the provisions of Securities and Exchange Commission Rule 15c3–1(e).

Each stock certificate of a member corporation shall carry on its face a statement of such charter provisions or a full summary thereof.

[(See Commentary .20(5) to Rule 170 for responsibility of member organizations to replace capital schedules for withdrawal.)]

27. Rules 312 (g) through (k) are redesignated as Rules 312(e), 312(f), 312(g), 312(h) and 312(i) respectively and, as redesignated, Rules 312(e)(i) and 312(f) through 312(i) are amended to read as follows:

REDUCTION OF CAPITAL

[(g)] (e) (i) A member corporation shall not reduce its capital or purchase or redeem any *shares of any* class of its stock [or in any way amend its charter, certificate or incorporation or by-laws] without the prior written approval of the Exchange, and the Exchange may at any time in its discretion require the corporation to restore or increase capital or surplus, or both.

* * * * *

Issuance of [stock or bonds] *debt instruments*

[(h) A member corporation shall not issue any shares of any class of its stock without the prior written approval of the Exchange, or transfer any such shares (other than any share which is a freely transferable security) without such approval.] (f) A member corporation shall not issue any bonds, notes or other instruments evidencing funded indebtedness of the corporation [without the prior written approval of the Exchange] *except pursuant to the terms and provisions of an instrument or an agreement between the member corporation and the holder of such security the form of which instrument or agreement has been previously filed with, and approved by, the Exchange.*

PARTY CEASING TO BE APPROVED

[(i)] (g) Whenever a party fails or ceases to be approved by the exchange as a member or approved person of a member corporation, such corporation [shall redeem all shares of its stock owned by such party (other than shares which are a freely transferable security) or shall take such other action as may be necessary to cause such party to dispose of such shares. In addition, such member corporation] shall redeem or convert to a fixed income security such of its [freely transferable shares] *voting stock* owned by such party or take such other action as may be necessary to reduce such party's interest in such corporation below that level which enables such party to exercise controlling influence over the management or policies of the member corporation.

[Whenever a parent of a member corporation fails or ceases to satisfy the requirements of Article IV, Section 2(n) of the Constitution of the Exchange, the member corporation shall redeem or convert to a fixed income security such of its outstanding voting securities owned directly or indirectly by such parent as may be necessary to reduce such parent's direct or indirect ownership of such voting securities below that level which enables the parent to exercise controlling influence over the management or policies of the member corporation.]

TRANSACTIONS BY MEMBER CORPORATION IN ITS SECURITIES

[(j)] (h) After the completion of [the] *a* distribution of [a freely transferable security] *its securities*, no member corporation shall effect any transaction (except on an unsolicited basis) for the account of any customer in, or make any recommendation with respect to, any such security issued by such member corporation or *make any recommendation of any security issued* by any corporation controlling, controlled by or under common control with such member corporation.

No member corporation *which has any publicly held security outstanding* shall, without the prior written approval of the Exchange, dispose of any [of its freely transferable] such securities[ly for its own account and no such member corporation shall acquire any [of its freely transferable] *such* securities]ly for its own account *or for the account of any corporation controlling, controlled by or under common control with such member corporation* except with the prior written approval of the Exchange or pursuant to the terms and provisions of such security or of any agreement between the member corporation and the holder of such security, which agreement has previously been filed with and approved by the Exchange.

SPECIAL LIMITATIONS REGARDING OFFERING OF [FREELY TRANSFERABLE] STOCK

[(k) The use of the proceeds of any offering by a member corporation of any freely transferable security issued by it shall be limited to raising capital.]

(i) The Exchange may require any member organization to file with the Exchange a written report showing the use made by the member organization of the proceeds of any offering of any [freely transferable] security issued by such member organization.

28. Rule 312(l) is redesignated as Rule 312(j) and Rules 312 (m) and (n) are deleted as follows:

[AGREEMENT OF STOCKHOLDER

(m) Each holder of any share of stock of a member corporation which share is not to be a freely transferable security shall with respect to such stock agree with the Exchange that so long as the corporation continues as a member corporation, such stockholder will not without the prior written approval of the Exchange transfer, sell, assign, pledge or otherwise create, or permit to be created, any lien, charge or encumbrance upon such stock.]

[AGREEMENT WITH EXCHANGE WHERE NO FREELY TRANSFERABLE STOCK OUTSTANDING

(n) A member corporation, having no stock outstanding which is a freely transferable security, and all of its stockholders shall agree with the Exchange that if any of the stock in such corporation shall at any time be acquired, held or owned by a person not approved by the Exchange, excepting the estate of a decreased stockholder for such period as may be allowed by the Exchange, or if any stockholder shall violate his agreement with the Exchange referred to in paragraph (I) above, the corporation may be deprived by the Exchange of all the privileges of a member corporation.]

29. Rule 312(o) is redesignated as Rule 312(k) and is amended to read as follows:

SHAREHOLDERS AGREEMENT WITH EXCHANGE [WHERE FREELY TRANSFERABLE STOCK OUTSTANDING]

[(o)A] (k) *Each* member corporation [having any stock outstanding which is a freely transferable security] and each member and approved person of [such] *the* corporation shall agree with the Exchange that [if any share of stock of such corporation which is not a freely transferable security shall at any time be acquired, held or owned by a person not approved by the Exchange, except the estate of a deceased stockholder for such period as may be allowed by the Exchange, or] if any person required to be approved by the Exchange as [an] *a member or* approved person fails or

ceases to be so approved [, or if any stockholder shall violate his agreement with the Exchange,] the corporation may be deprived by the Exchange of all the privileges of a member corporation [and/or] *unless* the corporation [may] redeems or converts the stock held by such person[s] *as required by Section 2(h) of Article IV of the Constitution.*

*30. Rule 313 (a) and (b) are deleted in their entirety as follows:

OWNERSHIP OF INTEREST IN ANOTHER IN MEMBER ORGANIZATION

Rule 313. [(a) Except as provided in PARAGRAPHS (c) AND (e) below no party shall be a member in more than one member organization.

(b) Except as provided in (c) or (d) below, no person who is a member in any member firm, or a member or director in any member corporation, or an individual Exchange member, may beneficially own any stock of any other member corporation, except for such period of time not to exceed one year as the Exchange may permit in connection with a merger into, or acquisition of assets, or other takeover by, or of, such other member corporation, except as otherwise specifically approved by the Exchange; and no individual member or member organization may beneficially own any stock of any other member corporation, except (1) for such period of time not to exceed one year as the Exchange may permit in connection with any such merger, acquisition or other takeover; or (2) in connection with an underwriting of such stock, or (3) in connection with his or its activity as a market maker in such stock, in which event the member or member organization shall be required to be registered with the Exchange as a market maker in such stock; or (4) as provided in (c) or (d) below.]

*31. Rule 313(c) is redesignated as Rule 313(a), and is amended to read as follows:

[(c)] (a) One or more regular member organizations may, with the approval of the Board of Governors, own all of the voting stock of another regular or associate member corporation [except for qualifying shares of voting stock held by members or directors of such controlled corporation].

An associate member organization may, with the approval of the EXCHANGE, own all of the voting stock of a regular or an associate member corporation [except for qualifying shares of voting stock held by members or directors of such controlled corporation].

Members in each parent member organization referred to in this paragraph [(c)] (a) may be approved as members in the controlled member corporation owned by such parent member organization, but no regular or associate member shall qualify more than one organization for membership.

*31. Rule 313(d) is deleted in its entirety as follows:

[(d) Any member or member organization or any member in or employee of a member organization may own less than 5% of the stock of another member corporation, provided such stock is freely transferable and is publicly held. Under appropriate circumstances the Exchange may treat as a single holding stock which is nominally held by different persons or organizations.]

*33. Rule 313(e) is redesignated as Rule 313(b) and is amended to read as follows:

[(e)](b)—THE PARTNERS IN A REGULAR OR OPTIONS PRINCIPAL MEMBER FIRM MAY, WITH THE PRIOR APPROVAL OF THE EXCHANGE, FORM ANOTHER REGULAR OR OPTIONS PRINCIPAL MEMBER FIRM WHOSE PRIMARY ACTIVITY SHALL BE ONE OR MORE OF THE FOLLOWING: SPECIALIZING, ACTING AS A MARKET MAKER OR REGISTERED TRADER IN OPTIONS OR ACTING AS A REGISTERED TRADER IN EQUITY SECURITIES ON THE FLOOR OF A NATIONAL SECURITIES EXCHANGE. [THE GENERAL PARTNERS IN BOTH SUCH REGULAR MEMBER FIRMS SHALL BE THE SAME, AND SHALL BE APPROVED AS MEMBERS IN BOTH FIRMS, BUT] NO REGULAR OR OPTIONS PRINCIPAL MEMBER SHALL QUALIFY MORE THAN ONE FIRM FOR MEMBERSHIP. THE GENERAL PARTNERS MAY HAVE DIFFERENT INTERESTS IN EACH SUCH MEMBER FIRM.

*34 Commentary .01 to Rule 313 is deleted in its entirety as follows:

* * * Commentary.

[.01 For the purposes of this Rule, the term "market maker" shall mean a member or member organization which, with respect to a particular stock of another member corporation, holds himself or itself out (by entering indications of interest in purchasing and selling in an inter-dealer quotations system or otherwise) as being willing to buy and sell for his or its own account on a continuous basis.

In order to become registered as a market maker for the purposes of this Rule with respect to the stock of any member corporation, a member or member organization shall file with the Exchange such application as it may require, shall have and maintain minimum net capital as defined in Rule 470 of $100,000 plus $5,000 for each such stock in excess of five in respect to which such member or member organization is registered as a market maker under this Rule, and shall, except when such activity is unlawful, meet all of the following conditions with respect to such stock:

(i) Such member or member organization publishes bona fide competitive bid and offer quotations in a recognized inter-dealer quotations system;

(ii) Such member or member organization furnishes bona fide competitive bid and offer quotations to other broker and dealers on request;

(iii) Such member or member organization is ready, willing and able to effect transactions in reasonable amounts and at his or its quoted prices with other brokers or dealers; and

(iv) Such member or member organization has a satisfactory rate of inventory turn-over.]

*35. Commentary .02 to Rule 313 is redesignated as Commentary .10 and is amended to read as follows:

[.02] (.10)—FOR THE PURPOSES OF FORMING CONTROLLED REGULAR MEMBER CORPORATIONS UNDER PARAGRAPH [(c)] (a) OF THIS RULE THERE MUST BE AT LEAST ONE REGULAR MEMBER WHO HAS CONTRIBUTED THE USE OF HIS MEMBERSHIP TO EACH OF THE PARENT MEMBER ORGANIZATIONS AND SUBORDINATED HIS INTEREST THEREIN TO THE CLAIMS OF CREDITORS OF SUCH MEMBER ORGANIZATIONS, AND ANOTHER REGULAR MEMBER WHO HAS CONTRIBUTED HIS MEMBERSHIP TO THE USE OF THE CONTROLLED MEMBER CORPORATION AND SUBORDINATED HIS INTEREST THEREIN TO THE CLAIMS OF CREDITORS OF SUCH CONTROLLED MEMBERS CORPORTION. SIMILARLY, UNDER PARAGRAPH [(e)] (b) OF THE RULE THERE MUST BE AT LEAST ONE GENERAL PARTNER WHO IS A REGULAR MEMBER AND HAS CONTRIBUTED THE USE OF HIS REGULAR MEMBERSHIP TO THE FIRST MEMBER FIRM AND SUBORDINATED HIS INTEREST THEREIN TO THE CLAIMS OF CREDITORS OF SUCH MEMBER FIRM, AND A SECOND GENERAL PARTNER WHO IS A REGULAR MEMBER AND HAS CONTRIBUTED THE USE OF THIS MEMBERSHIP TO THE SECOND MEMBER FIRM AND SUBORDINATED HIS INTEREST THEREIN TO THE CLAIMS OF CREDITORS OF SUCH MEMBER FIRM.

36. Rule 314 is amended to read as follows:

[Primary Activity] *Principal Purpose* as Broker or Dealer in Securities

Rule 314. (a) The [primary activity] *principal purpose* of every member organization shall be the transaction of business as a broker or dealer in securities.

Criteria.

(b) For the purposes of this Rule, a member organization's activities shall be considered to be the "transaction of business as a broker or dealer in securities" when such member organization (including the corporate affiliates and subsidiaries controlled by the member organization), acts as a Floor trader, specialist, so-called "two dollar broker," odd-lot broker, arbitrageur, or holds itself out to, and transacts business generally with, the public as a broker or dealer in securities, including servicing customers' accounts and introducing them to another member organization. A member organization's ["primary activity"] *"principal purpose"* shall be presumed to be the transaction of business as a broker or dealer in securities, if its gross income

* Language in CAPITAL LETTERS in Rule 313 represents proposed changes contained in both File Nos. SR-Amex-75-15 and SR-Amex-75-16.

(including the gross income of its corporate affiliates and subsidiaries controlled by the member organization) from activities of the type described in the preceding sentence and from interest charges imposed with respect to debit balances in customers' accounts is at least 50% of its total gross income (including the gross income of its corporate affiliates and subsidiaries controlled by the member organization). Any member organization whose gross income fails to satisfy the above requirement shall be presumed not to have as its [primary activity] *principal purpose* the transaction of business as a broker or dealer in securities. Any such presumption may be rebutted by evidence but shall continue until a determination to the contrary has been made by the Exchange.

37. Rule 319 is retitled and is amended by deleting sections (a) and (c) as follows:

[INTEREST IN OWNERSHIP AND PROFIT]

Minimum Compensation for ABC Seatholders

Rule 319. [(a) In the case of a regular member organization which does not have outstanding any freely transferable security, persons other than:

(i) Regular, OPTIONS PRINCIPAL or allied members in a regular member organization or employees of a regular member corporation,

(ii) Former regular, OPTIONS PRINCIPAL or allied members or former employees of a regular member corporation who, after at least five years of service as regular, OPTIONS PRINCIPAL or allied members in their regular member organization or as employees of their regular member corporation, have retired from the organization and from active business life, and

(iii) Widows of persons who at the time of death or retirement were REGULAR, OPTIONS PRINCIPAL or allied members in a regular member organization, or employees of a regular member corporation which widows became participants either prior to or as a result of the death of their husbands,

AND IN THE CASE OF AN OPTIONS PRINCIPAL MEMBER ORGANIZATION WHICH DOES NOT HAVE OUTSTANDING ANY FREELY TRANSFERABLE SECURITY, PERSONS OTHER THAN:

(i) OPTIONS PRINCIPAL MEMBERS, OR ALLIED MEMBERS IN AN OPTIONS PRINCIPAL MEMBER ORGANIZATION OR EMPLOYEES OF AN OPTIONS PRINCIPAL MEMBER CORPORATION;

(ii) FORMER OPTIONS PRINCIPAL MEMBERS OR ALLIED MEMBERS OR FORMER EMPLOYEES OF AN OPTIONS PRINCIPAL MEMBER CORPORATION WHO, AFTER AT LEAST FIVE YEARS OF SERVICE AS OPTIONS PRINCIPAL OR ALLIED MEMBERS IN THEIR OPTIONS PRINCIPAL MEMBER ORGANIZATION OR AS EMPLOYEES OF THEIR OPTIONS PRINCIPAL MEMBER CORPORATION HAVE RETIRED FROM THE ORGANIZATION AND FROM ACTIVE BUSINESS LIFE, AND

(iii) WIDOWS OF PERSONS WHO AT THE TIME OF DEATH OR RETIREMENT WERE OPTIONS PRINCIPAL MEMBERS OR ALLIED MEMBERS IN AN OPTIONS PRINCIPAL MEMBER ORGANIZATION, OR EMPLOYEES OF AN OPTIONS PRINCIPAL MEMBER CORPORATION WHICH WIDOWS BECAME PARTICIPANTS EITHER PRIOR TO OR AS A RESULT OF THE DEATH OF THEIR HUSBAND;

may not own an interest in such member firm or member corporation entitling them to participate to an amount in excess of 45% in the direct or indirect distribution of the profits of such firm or corporation. In the case of a regular member firm or regular member corporation which does not have outstanding any freely transferable security, regular, OPTIONS PRINCIPAL and allied members and employees of regular member corporations must own an interest in such regular member firm or regular member corporation entitling them to participate to an amount of at least 35% in the direct or indirect distribution of the profits of such firm or corporation AND IN THE CASE OF AN OPTIONS PRINCIPAL MEMBER FIRM OR OPTIONS PRINCIPAL MEMBER CORPORATION WHICH DOES NOT HAVE OUTSTANDING ANY FREELY TRANSFERABLE SECURITY, OPTIONS PRINCIPAL AND ALLIED MEMBERS AND EMPLOYEES OF OPTIONS PRINCIPAL MEMBER CORPORATIONS MUST OWN AN INTEREST IN SUCH OPTIONS PRINCIPAL MEMBER FIRM OR OPTIONS PRINCIPAL MEMBER CORPORATION ENTITLING THEM TO PARTICIPATE TO AN AMOUNT OF AT LEAST 35% IN THE DIRECT OR INDIRECT DISTRIBUTION OF THE PROFITS OF SUCH FIRM OR CORPORATION.]

[(b)] A regular member who is a general partner *in a member firm* or [voting stockholder in] *who is associated with* a member organization and whose membership is the subject of an ABC agreement shall be guaranteed at least $16,000 a year by his organization in salary and/or participation in profits. He may be charged with his share of losses or be guaranteed against loss as he and his member organization may agree.

[(c) Neither the interest in capital nor in profit of a regular member organization, owned by all persons as a group who are not United States or Canadian citizens, shall exceed 45%.]

38. Commentaries .10 and .20 to Rule 319 are deleted as follows:

[.10 Interest of regular, OPTIONS PRINCIPAL and allied members. For the purposes of Paragraph (a) of this Rule, the interest of regular, OPTIONS PRINCIPAL and allied members shall include:

(1) In a regular OR OPTIONS PRINCIPAL member partnership the capital accounts of general partners, plus their shares of undistributed profits and less their share of undistributed losses, plus all subordinated borrowings by the regular OR OPTIONS PRINCIPAL member partnership from them and plus the market or fair value of any exchange membership owned by them and not recorded on the books, the proceeds of which are available for firm creditors.

(2) In a regular OR OPTIONS PRINCIPAL member corporation the book value (fair value of net assets applicable to each class of stock) of all capital stock held by holders of voting stock, all debentures held by them, all subordinated borrowings by the member corporation from them, and plus the market value of fair value of any exchange memberships owned by them and not recorded on the books, the proceeds of which are available for creditors of the corporation.

.20 Special requirements for Canadian member organizations.

(1) The member organization and any guaranteed subsidiaries may conduct only an agency business as a securities and commodities broker, plus related minimum risk activities such as investment advisory service, corporate financing advice, merger deals, etc.

(2) All underwriting, firm trading or other substantial risk business must be conducted in a corporate affiliate (Rule 317).

(3) The following must be held in the United States:

(a) All securities carried for the accounts of U.S. customers;

(b) Sufficient other assets to equal at least 105 percent of all other liabilities to U.S. customers and non-customer creditors. In determining the amount of additional assets required to be held in the U.S., consideration must be given to the percentage allowance, if any, accorded such assets under Rule 470.

(4) The member organization must enter into an agreement with the Exchange providing that Section 3(e) of the United States Securities Exchange Act of 1934, as amended, and the rules thereunder, shall be deemed applicable to any hypothecation of securities carried for the account of any customer, whether or not a U.S. customer, and that the member organization will comply therewith in connection with any such hypothecation.

(5) If the member organization does not register with the Securities and Exchange Commission, it must execute a "consent to service" in a form acceptable to the Exchange, designating an acceptable U.S. corporation engaged in such business to be its agent for accepting service of legal documents. See Exhibit VI.]

39. Commentary .02 to Rule 340 is amended to read as follows:

.02 Investigations and Records.—Members and member organizations should make a thorough inquiry into the previous record and reputation of persons whom they contemplate employing. The background and reputation check should, whenever possible, include at least personal conversations with all employers during the previous three years and verification before or promptly after employment of business history for the previous ten years. Further inquiry should be

made where appropriate in the light of background information developed, the position for which the person is being considered, or other circumstances. The verification and investigation should be done by a partner or [voting stockholder] *principal executive officer*, or by an authorized person under their supervision.

* * * * *

40. Commentary .01 to Rule 341 is amended to read as follows:

* * * Commentary.

.01 Employees Required to be Registered or Approved.—Although the employment of each employee of a member or member organization is subject to disapproval by the Exchange, only registered employees, defined to include registered representatives and branch office managers by definitions 6, 7 and 8 commencing at ¶ 9205 of the American Stock Exchange Guide, must be registered, and only officers of a member corporation (and supervisory analysts under Rule 343) must be approved. This Rule relates only to registered employees and officers of member organizations. The requirements for persons seeking Exchange approval as regular members, OPTIONS PRINCIPAL MEMBERS, allied members, partners, [stockholders, directors] *approved persons* and subordinated lenders are set forth in Article IV, Section 2 of the Constitution and Rules 300, 301, 310, 311, 312, 317, 318 and 470. Such persons must file forms prescribed by the Exchange which are available from the Membership Services Division.

* * * * *

41. Commentary .07 to Rule 341 is amended to read as follows:

.07 Qualifications.

(A) Officers.—In determining an individual's qualifications for approval as an officer, the Exchange looks for evidence of the integrity of the individual and record of high standards of business conduct, as shown in the Exchange's investigation and in the investigations and observations of his member corporation employer, previous employers, educational institutions attended, etc. In addition such an individual must be at least [21 years of age] *the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business.*

(B) Registered Representatives. — In determining a candidate's qualifications for registration the Exchange looks for evidence of:

(1) The integrity of the candidate and his record of high standards of business conduct, as shown in Exchange investigations and in the investigations and observations of his member organization employer, previous employers, educational institutions attended, etc.;

(2) His potential ability to perform creditably the duties of a registered representative, as shown by an employment period of specific training for these duties in a member office or equivalent other experience in the securities business; and

(3) His preparation in the areas of knowledge necessary for a registered representative as demonstrated in an Exchange examination.

Age.—A candidate for registration must be at least [21 years of age] *the minimum age of majority required for his contracts in each jurisdiction in which he conducts business.*

42. Rule 342 and the Commentary thereto are deleted and a new Rule 342 and the Commentary are added as follows:

[REGISTERED EMPLOYEES AND OFFICERS]

Rule 342. (a) Every registered employee or officer of a member or member organization shall devote his entire time during business hours to the business of the member or member organization employing him, and shall not own any stock, or have, directly or indirectly, any financial interest in any other member organization or any non-member organization engaged in any securities, financial or kindred business and, except as permitted by paragraph (b) of this rule, shall not at any time be engaged in any other business or be employed by any other corporation, firm, or individual, or serve as an officer or director of any other corporation without the prior written approval of the Exchange, or except as otherwise permitted by the Rules of the Board of Governors.

(b) The approval of the Exchange is not required to permit a registered employee or officer of a member or member organization to serve as a director or officer of other corporations (1) if the employer wishes to have the registered employee or officer so serve, and if such service will not interfere with the full time performance of his duties as a registered employee or officer of the member or member organization and the positions involve nonoperational duties and responsibilities, or (2) if such employee is subject to and complies with, or receives approval under, the rules and regulations of another exchange having rules comparable to paragraph (a) above and clause (1) of this paragraph, unless the American Stock Exchange otherwise directs.

(c) Every registered employee or officer of a member or member organization shall report to the Exchange each position as an officer or director of any other corporation in which he serves on the date he becomes subject to this rule, and shall thereafter promptly report any changes therein additions thereto, except that no report is required if such employee or officer is subject to and complies with or receives approval under, the rules and regulation of another exchange having rules comparable to paragraph (a) and clause (1) of paragraph (b) of this rule unless the American Stock Exchange otherwise directs.]

[* * * Commentary.

.01 Reports and Approvals. Under this rule, each registered employee not registered with, and each officer not approved by, the New York Stock Exchange must report promptly by letter each outside office and directorship held or changed to the Membership Services Division of the Exchange. Applications for approval for outside employment not complying with the rule should also be made by letter to that Division and will be considered on their particular circumstances.

.02 Leave of Absence. The consent of the Exchange is not required for a leave of absence if the following conditions are met.

(a) The employer retains a written record of the leave;

(b) The registered representative granted the leave is not physically present at any office of the employer and does not act as a registered representative of the employer;

(c) The registered representative does not engage in the securities business during the leave;

(d) The total leave of absence does not exceed one year;

(e) The registered representative does not receive any compensation from the empoyer other than maintenance of fringe benefits, such as medical insurance and the like.

The Exchange will consider the particular circumstances of any request for a leave which does not conform to these conditions.]

Association of Members, Member Organizations, and Persons Associated With Member Organizations

Rule 342. (a) Unless otherwise permitted by the Exchange, every member, allied member, registered representative and officer of a member or member organization who is assigned or delegated any responsibility or authority pursuant to Article IV, Section 2(e)(6) of the Constitution or Rule 320 shall devote his entire time during business hours to the business of such member or member organization.

(b) No member, allied member or employee of a member or member organization shall at any time be engaged in any other business; or be employed or compensated by any other person; or serve as an officer, director, partner or employee of another business organization; or own any stock or have, directly or indirectly, any financial interest in any other organization engaged in any securities, financial or kindred business without the prior written consent of his member organization employer.

(c) No member shall be associated with any broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 without the prior approval of the Exchange.

(d) Prompt written notice shall be given the Exchange whenever any member or member organization knows, or in the exercise of reasonable care should know, that any person, other than a member, allied member or employee, directly or indirectly, controls, is controlled by or is under common control with such member or member organization.

(e) Any member or allied member may become a partner, officer, director or employee in one or more member organizations provided that such member or allied member may have supervisory responsibilities pursuant to Article IV, Section 2(e)(6) of the Constitution or Rule 320 in only one member organization. No member shall qualify more than one member organization for membership.

(f) Except as otherwise permitted by the Exchange.

1. No member or member organization shall have as a person associated with such member or member organization, any person who is known, or in the exercise of reasonable care should be known, to be subject to any "statutory disqualification" defined in the Securities Exchange Act of 1934; and

2. No allied member, approved person, employee or any person directly or indirectly controlling, controlled by or under common control with a member or member organization shall have associated with him any person who is known, or in the exercise of reasonable care should be known, to be subject to any "statutory disqualification" as defined in the Securities Exchange Act of 1934.

** * * Commentary.*

.10 For the purposes of this rule, the term "associated with a broker or dealer" shall have the same meaning as defined in the Securities Exchange Act of 1934.

43. Rule 365 is amended and Commentary is added thereto, reading as follows:

Rule 365. *Without the prior approval of the Exchange,* [N]no member [firm] or member [corporation] *organization* may participate in the profits or losses of a specialist or registered trader joint account [the transactions of which the firm or corporation clears,] unless [a general partner of the firm or a voting stockholder of the corporation] *the member or an individual in the member organization* is registered and active [at the post] *on the Floor* as a specialist *or registered trader* in such joint account.

* * * *Commentary.*

.10 *A member or member organization may be permitted by the Exchange to provide capital to and participate in the profits or losses of a specialist or registered trader joint account without becoming registered and acting as a specialist or registered trader in such joint account, subject to the following conditions*

(a) The participation in the profits or losses of the joint account by any one such member or member organization may not ordinarily exceed 20 percent, and the total participation by all such members and member organizations in the profits or losses of the joint account will generally be limited to 40 percent.

(b) If the member organization clears the transactions of the joint account, its participation in the profits or losses of the joint account normally may not exceed 10 percent.

(c) The Exchange may limit the number of such joint accounts in which a single member or member organization may make investments and have a participation in profits or losses, with a view to prohibiting any undue concentration or dominance over specialist and registered trader joint accounts.

.20 No non-member may participate directly in the profits or losses of a specialist or registered trader joint account.

44. Rule 413 is amended to read as follows:

Rule 413. No form of general agreement between a member firm or member corporation and a customer shall warrant the firm or corporation in using securities carried for the customer for delivery on sales made by the firm or corporation for its own account or for any account in which such firm or [any partner thereof or such] corporation [or any stockholder therein] *or any approved person thereof* is directly or indirectly interested.

45. Rule 420(b) is amended to read as follows:

(b) No member organization shall address and mail statements, confirmations or other communications to a non-member customer in care of any member or member organization or [officer or employee thereof, or any partner of a member firm or stockholder of] *person associated with* a regular OR OPTIONS PRINCIPAL member [corporation] *organization* unless the customer so directs in writing and duplicate copies are sent to such customer at some other address. The Exchange may, on written request, waive the requirement of sending duplicate copies.

The provisions of this paragraph shall not apply to an account of:

(1) [A member, a partner of a member firm or a holder of stock (other than any freely transferable security) in a regular member corporation] *a member or a person associated with a member organization;*

[(2) an officer or employee of a member organization;]

[(3)] (2) an individual who maintains desk space at the office of a member or member organization and who thereby establishes such office as his place of business;

[(4)] (3) a corporation of which a person included in subparagraph (1) [or (2)] above is an officer or director, or the account of a corporation over which such person has a power of attorney, provided, in each case, such person is duly authorized by the corporation to receive communications covering the account;

[(5)] (4) a trust, provided a person included in subparagraph (1) [or (2)] above is a trustee and has been duly authorized by all other trustees to receive communications covering the account;

[(6)] (5) an estate, provided a person included in subparagraph (1) [or (2)] above is an executor or administrator of the estate and has been duly authorized by all other executors or administrators to receive communications covering the account; and

[(7) (6) a *husband or* wife under circumstances in which [the husband] *his or her spouse* acts as agent, if the [husband] *spouse* is a person included in Subparagraph (1) [or (2)] above.

* * * * *

46. Rule 462 (b) is amended as follows:

(b) The margin which must be maintained in margin accounts of customers, whether members, [partners of members,] member [firms, member corporations or stock holders therein] *organizations or approved persons thereof* or non-members shall be as follows:

* * * * *

47. Rule 462(c)3 is amended to read as follows:

3. Joint Accounts in which the Carrying Member Organization or a Partner *or Member or Approved Person* Thereof [or Stockholder Therein] Has an Interest. In the case of a joint account carried by a member organization in which such organization, or any member [or partner] or any [stockholder (other than a holder of freely transferable stock only)] *approved person* of such member organization, participates with others, the interest of each participant other than the carrying member organization shall be margined by each such participant pursuant to the provisions of this Rule as if such interest were in a separate account.

48. Rule 462(d)4 is amended to read as follows:

4. Guaranteed Accounts. Any account guaranteed by another account may be consolidated with such other account and the required margin may be determined on the net position of both accounts, provided the guarantee is in writing and permits the member organization carrying the account, without restriction, to use the money and securities in the guaranteeing account to carry the guaranteed account or to pay any deficit therein, and provided further that such guaranteeing account is not owned directly or indirectly by (a) a member [or partner] or any [stockholder (other than a holder of freely transferable stock only) in] *approved person of* the organization carrying such account or (b) a member, member organization [or partner] *or approved person* thereof [or any stockholder (other than a holder of freely transferable stock only) therein] having a definite arrangement for participating in the commissions earned on the guaranteed account. [However, the guarantee of a limited partner, if based upon his resources other than his capital contribution to a member firm, or the guarantee of a holder of non-voting stock if based upon his resources other than his interest in a member corporation is not affected by the foregoing prohibition, and such a guarantee may be taken into consideration in computing margin in the guaranteed account.]

* * * * *

49. Rule 471(c) is amended to read as follows:

(c) No drawings, unsecured or partly secured loans or advances of funds by a member organization or any partner, director, officer, employee, [stockholder,] subordinated lender, secured demand note contributor or persons or entities related to, controlled by, or under common control with such persons or in which such persons are employed, hold

office or have a financial interest and no guarantees of obligations of any person shall be made, except with prior written approval of the Exchange, when any of the following conditions exist in a member organization doing a public business, or if such drawings, loans, advances or guarantees would result in any of the following conditions:

* * * * *

50. Rule 521 is amended to read as follows:

Rule 521. Every member [,] and member [firm and member corporation] *organization* shall report promptly to the Exchange any disciplinary action taken by any other exchange, association or government regulatory body against the member, member [firm or partner or employee thereof, or member corporation or officer, director, stockholder or employee thereof,] *organization or any person associated therewith*, together with a statement of the facts upon which the disciplinary action was based.

51. Rule 560(c)(5) is amended to read as follows:

(5) No member or member organization shall directly or indirectly receive any part of the commission referred to in (b) above in connection with any purchase or sale, as the case may be, for his or its own account or the account [of a partner thereof or a stockholder therein (other than a holder of a freely transferable security only)] *of an approved person thereof* or for the account of any other member [,] *or* member organization, [or partner thereof or stockholder therein (other than a holder of a freely transferable security only)] *or approved person thereof* made pursuant to a Special Offering or Special Bid, except that a member or member organization may accept and retain such commission for his or its own account in respect of securities purchased or sold as principal for the bona fide purpose of distribution or acquisition from others, as the case may be, even though such member organization has been unable to distribute or acquire the securities.

52. Rule 724(b) is amended to read as follows:

(b) A member organization which does not regularly have [a partner or voting stockholder] *an associated person* on the Floor, and which enters orders directly through a member on the Floor, shall be deemed to have appointed the member to whom such orders are given as its agent for the purpose of resolving questions, and receiving and signing DK Notices, relating to the execution of such orders.

[FR Doc.77-13914 Filed 5-17-77;8:45 am]

[Release No. 13527; SR-MSE-76-20]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MAY 10, 1977.

On September 20, 1976, the Midwest Stock Exchange, Inc. ("MSE"), 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. This proposed rule change was amended on February 23, 1977.

This rule change amended MSE Rule 4 to adopt certain provisions of amended Rule 17a-5.

Notice of the proposed rule change together with the terms of a substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13409, March 28, 1977) and by publication in the FEDERAL REGISTER (42 FR 17927, April 4, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of sections 6 and 17(a) and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on September 20, 1976 and amended on February 23, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14154 Filed 5-17-77;8:45 am]

[Release No. 13526]

NATIONAL SECURITIES CLEARING CORP.

Filing of ("NSCC") Plan for Consolidating Three Operating Divisions of NSCC; and Request for Comments

MAY 10, 1977.

In accordance with the Commission's order granting NSCC registration as a clearing agency,[1] NSCC has filed with the Commission its proposed plan for consolidating the three operating divisions of NSCC. The Commission is requesting public comment on the proposed plan from interested persons by June 6, 1977. The text of the proposed plan is as follows:

CONVERSION PLAN FOR CONSOLIDATED OPERATIONS

This document presents an overview of a systems plan to combine the operations of NSCC's three divisions (the SCC Division, the ASECC Division and the NCC Division) into a single consolidated system. NSCC has determined that the CNS System now being used by the SCC and ASECC Divisions can best meet the needs of the membership. Accordingly, the general approach will be to build on this system and to gradually assume the processing of the NCC Division CNS System.

[1] Securities Exchange Act Release No. 13163 (January 19, 1977), 42 FR 3916 (January 21, 1977).

Condition four of the SEC order granting registration to NSCC required that NSCC make arrangements with another clearing corporation to provide an inter-regional OTC trade comparison capability. By letter dated March 9, 1977, Pacific Clearing Corporation (PCC) has agreed to perform this function. Condition four also required NSCC to make its OTC trade comparison system available to any registered clearing agency that wishes to provide intra-regional OTC comparison services for its participants. NSCC has, by letter, offered to provide its system to any registered clearing agency. A bona fide request has been received from Midwest Clearing Corporation (MCC) and NSCC will shortly be providing the OTC comparison system to them.

Condition one requires that NSCC established interfaces with MCC, PCC and the Stock Clearing Corporation of Philadelphia (SCCP). Listed interfaces will soon be completed when bond transactions are made eligible. The arrangement with PCC provides the basis for adding OTC issues to the interface and thus, with its implementation, the condition will be satisfied. Each of MCC and SCCP, however, must still decide how they wish to handle their intra-regional OTC comparison.

The SEC's first condition also mandates the establishment of appropriate links with Boston Stock Exchange Clearing Corporation and TAD Depository Corporation. NSCC has met with both, developed an approach, and will shortly be providing a proposed method of "linking" to each organization for their review.

Finally, the SEC required that NSCC establish coordinating groups to monitor the progress of the interfaces, links and the sharing of branch facilities. NSCC has written to all parties offering to establish such coordinating groups and anticipates establishing them as responses are received.

Following are the major remaining phases of the consolidation plan. While they are described sequentially, there will be a significant overlap in the development and implementation of many of the steps. Additionally, if conditions dictate, the sequence may be reordered.

I. ENTER INTO A NEW AGREEMENT WITH BRADFORD NATIONAL CLEARING CORPORATION COVERING THE CONSOLIDATION PERIOD

NSCC and Bradford would mutually agree to cancel the existing NCC Division Service agreement and enter into a new agreement to cover the consolidation period. Among the terms of the new agreement would be a provision whereby NSCC would transfer individual NCC Division functions or services to SIAC facilities management in a flexible manner.

II. TRANSFER RESPONSIBILITY FOR THE NCC DIVISION BRANCH OPERATIONS TO SIAC

As a first step in the actual consolidation process, the responsibility for and staffing of the NCC Division branch office network would be assumed by SIAC. Everything would operate as today, except that SIAC, rather than Bradford, would operate the branch office network.

III. ADD A BRANCH CAPABILITY TO THE EXISTING SCC/ASECC SYSTEM FOR LISTED TRANSACTIONS

After transferring responsibility for the operation of the branch office network to SIAC, a branch capability would be added to the present NSCC Listed CNS System. In this phase, the branch offices would be interacting in New York with Bradford for regional OTC transactions, and with SIAC for listed transactions. To the extent possible, regional securities shipments and transmission equipment would be shared by the two systems.

If NSCC's revised rate structure is not in place prior to the start of this phase, the existing SCC/ASECC rate structure will be applied to listed transactions processed through branch offices. The operating cost of the branches will be passed back to the firms utilizing them in much the same manner as direct clearing firms pay their share of the cost of operating the existing direct clearing service.

When the revised rate structure is installed (and interface fees are eliminated), the cost of branch operations will be assumed by NSCC.

IV. SHARE BRANCH OFFICES WITH OTHER CLEARING AGENCIES

Concurrent with the addition of the branch office listed capability, NSCC would begin sharing its branch facilities with other clearing corporations which had indicated their interest in such an arrangement. Separate agreements would be negotiated with each such clearing corporation covering services to be provided and the method of sharing costs.

V. INTERPOSE THE NSCC LISTED SYSTEM AS AN INTERMEDIARY IN THE SETTLEMENT OF ALL NCC DIVISION/PCC INTERFACE TRANACTIONS

This step would establish the basic mechanism by which the CNS operation of the NCC Division would be transferred to the NSCC Consolidated System. It contemplates leaving the comparison processing as it is today, but interposing the NSCC Listed System between the NCC Division and PCC on the settlement of all NCC Division/PCC OTC interface transactions. This would be accomplished by having the NCC Division change the name on its PCC interface account to that of NSCC (i.e., the SCC/ASECC CNS System), by having PCC substitute the NSCC Listed System rather than the NCC Division System as its contra side for settlement and by entering offsetting transaction into the NSCC CNS Listed System between the NCC Division and PCC Systems. In order to accommodate this procedure, PCC each day would transmit to SIAC a copy of the same compared trade file that it transmits to the NCC Division. Using this file, the required offsetting transactions would be generated in the NSCC Listed CNS System by substituting the NCC Division for each NCC Division participant; substituting PCC for each PCC participant and entering these items into the NSCC Listed CNS System for settlement.

VI. BEGIN IMPLEMENTATION OF THE LINKS MANDATED BY THE SEC'S FIRST CONDITION

In this step, the appropriate links specified by the SEC will start to be implemented. The definition of the links would be accomplished at an earlier date and their implementation would be completed by Step IX.

VII. ADD OTC TRANSACTIONS FROM OTHER CLEARING CORPORATIONS (INCLUDING SEVERAL SMALL NEW YORK NSCC CONSOLIDATED SYSTEM PARTICIPANTS)

In this step, PCC, which has agreed to act as the inter-area OTC comparison agent, would begin to accept OTC inter-area trades (trades between participants of different clearing corporations) from other clearing corporations, including the OTC comparison system operated for NSCC by SIAC. PCC would also continue to receive OTC transactions from the NCC Division until such time as all present NCC Division participants had been converted to the NSCC Consolidated System.

Each participating clearing corporation, including NSCC's Consolidated System, would be assigned a unique regional identifier code (the NCC Division regional codes would remain as at present). The NCC Division System would be modified to extract and send to PCC, along with regular NCC Division/PCC interface trades, any trade where the contra side participant number contained a regional code designating another clearing corporation. The other clearing corporations would also transmit their sides of these trades to PCC for comparison.

NCC Division firms which had been converted to the NSCC Consolidated System would report their OTC trades to SIAC, and all others would continue reporting to the NCC Division. The settlement of these items would be the same as in Step V. Operating in this manner, with the NCC Division treating converted firms (along with interface trades with other clearing corporations) as quasi-PCC members, the NCC Division and NSCC Consolidated Systems would be interfaced.

After receiving the daily trade transmissions, PCC would perform the inter-area comparison and transmit the results relating to each area back to the respective clearing corporation. In addition, PCC would transmit a file to SIAC containing all inter-area compared trades between participants of clearing corporations that do not have a settlement interface. All inter-area trades where a PCC participant was on one side, and where PCC had an interface with the contra side participant's clearing corporation, would be settled by PCC into the appropriate PCC interface account. Those trades where a PCC participant was on one side, but where PCC did not have a settlement interface with the contra side participant's clearing corporation would be settled by PCC into the same common account that is presently used for the PCC/NSCC listed interface.

Inter-area trades in which neither side was a PCC participant would be compared by PCC and transmitted back to the two clearing corporations involved. In addition, for purposes of control, each side of these trades which were between participant's of clearing corporations that do not have a settlement interface would also be settled by PCC into the same common account that is presently used for the PCC/NSCC listed interface (with PCC as the contra side) where they would net out.

Upon receipt of its inter-area compared trade file from PCC, each participating clearing corporation would substitute the account of the contra side participant's clearing corporation for the contraside participant if the two clearing corporations have a settlement interface. For those trades where the clearing corporation did not have a settlement interface with the clearing corporation of the contra side participant, the account number or symbol used for the settlement of transactions with the NSCC Consolidated System would be substituted.

Using the file received from PCC containing compared inter-area trades between participants of clearing corporations that did not have settlement interfaces, SIAC would generate the entries necessary to place the NSCC Consolidated System on the contra side of each such trade. The NSCC Consolidated System would then become the contra side for settlement on all inter-area transactions between clearing corporations that are not interfaced for settlement.

As firms are transferred from the NCC Division System to the NSCC Consolidated System, any shares in their NCC Division free accounts would be placed on automatic deposit to either their TAD or DTC depository accounts. Valued positions in the NCC Division System would be allowed to initially cycle down. At some point, any remaining valued positions would probably be journaled to the NSCC Consolidated System.

In order to eliminate the requirement that PCC convert the various participant numbers or symbols used by each clearing corporation to common participant numbers for comparison purposes, each participating clearing corporation would be responsible for converting its members' numbers or symbols to standard numbers prior to transmitting their inter-area trades to PCC. Any reconversion after comparison would also be the responsibility of the originating clearing corporation.

NSCC would maintain a master list of standard participant numbers and all participating clearing corporations would agree to use these numbers for the comparison and settlement of inter-area trades. Further, in order to facilitate the identification of the clearing center of the major and minor brokers, each standard participant number would have a one-position suffix identifying that participant's clearing corporation. In the case

of the NSCC Consolidated System, at least for an interim period, there would be multiple suffix codes.

The standard code for security identification would be CUSIP and it would be the responsibility of each participating clearing corporation to make necessary conversions.

VIII. PHASE IN THE OTC BRANCH OPERATIONS

After successfully operating all OTC services for several small New York firms settling at NSCC and several firms settling in other clearing corporations, the consolidated OTC operation would be expanded to the regions, one branch at a time.

As branches were added, the NCC Division System would be further modified to additionally extract, for transmission to PCC, any trade where the contra side participant number contained the regional identifier of a converted branch. Subsequent processing and settlement for these transactions would be the same as in Step VII.

IX. PHASE IN THE REMAINING NEW YORK FIRMS

After all regional processing had been totally converted to the NSCC Consolidated System, the last step remaining would be to transfer the OTC business of the larger New York firms, and with them the bulk of the NCC Division free stock, to the consolidated system. The procedure here, as in Steps VII and VIII would be to use the modified NCC Division/PCC interface to route transactions to the proper system. The volume of transactions routed to the NCC Division System would eventually diminish to zero.

X. PHASE IN OTHER NCC DIVISION SYSTEMS

Other systems operated by the NCC Division, such as bond comparison, envelope settlement and national envelope settlement, would be consolidated and transferred to the YIAC operation near the end of the phasing described above.

Concurrent with the implementation steps as outlined above, the rules for clearing fund, membership standards, pricing and systems operation will be developed and submitted to the SEC for review and approval. The initial rules submission will be for a new pricing structure covering the operation of the consolidated system. Subsequent submissions will occur prior to implementation of the various steps in the conversion plan.

The Commission requests that all comments be submitted no later than June 6, 1977. Six copies of each comment letter should be submitted and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Reference should be made to File No. 600-15. All such communications will be placed in the file and will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14157 Filed 5-17-77;8:45 am]

[Release No. 20022; 70-6008]

OHIO EDISON CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding and the Issuance of Bonds for Sinking Fund Purposes

MAY 10, 1977.

Notice is hereby given that the Ohio Edison Company ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308 a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison proposes to issue and sell at competitive bidding up to $75,000,000 principal amount of its First Mortgage Bonds ("new bonds"), in one or more series, each series to mature in not less than 5 nor more than 30 years. The price, which will not be less than 100 percent (unless Ohio Edison shall authorize a lower percentage, not less than 99 percent) nor more than 102¾ percent of the principal amount thereof and accrued interest, and the interest rate (which will be a multiple of ⅛ of 1 percent) will be determined by competitive bidding.

The new bonds are proposed to be issued under the Ohio Edison Indenture dated as of August 1, 1930, to Bankers Trust Company, as Trustee, as heretofore amended and supplemented and as proposed to be amended and supplemented by a Twenty-sixth Supplemental Indenture to be dated as of the fifteenth day of the month in which the new bonds are issued.

The proceeds from the sale of the new bonds are to provide funds for the repayment in part of unsecured short-term debt (estimated to amount to $30,000,000 at the time of such issue) and to provide funds for its construction program which is estimated at approximately $357,000,000 for 1977.

By order dated November 24, 1976 (HCAR No. 19774), this Commission, among other things, authorized Ohio Edison to issue during 1977 an aggregate amount of $12,285,000 principal amount of its First Mortgage Bonds, 3¼ percent Series of 1955, due 1985, in connection with the withdrawal of sinking fund deposits to be made during 1977. These bonds were to be issued on the basis of unfunded property additions.

The estimate of $12,285,000 did not reflect the issuance of the new bonds, which issuance will increase the sinking fund deposit required on or before November 1, 1977, by up to $510,000.

Ohio Edison now also proposes to issue on or about November 1, 1977, a total of $510,000 principal amount of First Mortgage Bonds, 3¼ percent Series of 1955 due 1985 ("additional sinking fund bonds"), in addition to the $12,285,000 principal amount of bonds previously authorized. The bonds will be issued under the indenture of Ohio Edison to Bankers Trust Company, Trustee, as amended and supplemented. The additional sinking fund bonds are to be of the series provided for by the Twelfth Supplemental Indenture dated as of May 1, 1955, and will be identical with those previously authorized. The cash to be withdrawn from the Trustee will be included in Ohio Edison's general funds.

The fees and expenses to be incurred by Ohio Edison in connection with the issue of additional sinking fund bonds are estimated at $1,100, including legal fees of $1,000. The fees and expenses to be incurred in connection with the proposed issue and sale of the new bonds and the fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 6, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14155 Filed 5-17-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 10, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which company has applied to list and register that security on one or more other national securities exchanges:

American Express Company, File No. 7-4943, Common stock, $0.60 par value

Upon receipt of a request, on or before May 25, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14156 Filed 5-17-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Application No. 03/03-5130]

FIRST COLONIAL INVESTMENT CORP.

Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by First Colonial Investment Corporation (Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1977).

The officers and directors are as follows:

Marion G. Robertson, President and Director, P.O. Box 6322, Portsmouth, Virginia 23703.
Fred W. Schwarz, Secretary-Treasurer and Director, 423 W. Hanbury Road, Chesapeake, Virginia 23322.
Henry S. Poteet, Director, 750 Alder Circle, Virginia Beach, Virginia 23462.

The applicant, a Delaware Corporation, authorized to operated in the State of Virginia, will maintain an office at Pembroke Four, Virginia Beach, Virginia 23463, and will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 250 shares of common stock at $2,000 per share to The Christian Broadcasting Network, Inc., a non-stock charitable corporation which is engaged in national broadcasting and is concerned with the establishment of radio and television broadcast stations, satellite earth stations, television rental and repair services, two-way radios, paying systems, community antennas, etc.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or eonomic disadvatages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and management and the probability of successful operations of the Applicant under this management, including adequat- profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than June 2, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Virginia Beach, Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 11, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-14135 Filed 5-17-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

OVERSEAS DEVELOPMENT COORDINATOR/PARIS

Redelegation of Authority Regarding Contract Functions No. 99.1.85, Sahel Development Program—Livestock Sector

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Overseas Development Coordinator/Paris, the authority to sign and approve:

1. U.S. Government contracts, grants and amendments thereto provided that the aggregate amount of each contract, grant or amendment does not exceed $50,000 or its local currency equivalent.

2. Contracts with individuals for the services of the individual alone up to $50,000.

The authority herein delegated may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within A.I.D. and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Overseas Development Coordinator may be exercised by duly authorized persons who are performing the functions of the Overseas Development Coordinator in an acting capacity.

This redelegation of authority shall be effective on the date of signature.

Dated: May 4, 1977.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc.77-14226 Filed 5-17-77;8:45 am]

OXFAM-AMERICA AND INTERNATIONAL DEVELOPMENT FOUNDATION

Termination of Registration

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (AID Regulation 3) 22 CFR, Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that registration with the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development has been voluntarily terminated by the following agencies:

Oxfam-America, 302 Columbus Avenue, Boston, Massachusetts 02116.

International Development Foundation, 176 Clearbrook Road, Elmsford, New York 19523.

Dated: May 10, 1977.

ALLAN R. FURMAN,
Acting Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.77-14209 Filed 5-17-77;8:45 am]

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Ninth meeting of the Board for International Food and Agricultural Development on June 13, 1977. The purpose of the meeting is to review guidelines for the participation of the United States Department of Agriculture and of the National Oceanic and Atmospheric Administration in Title XII activities, to receive a briefing on the activities of the Private Voluntary Organizations in developing countries, to further discuss the strengthening of U.S. universities for participation in Title XII activities and to continue discussion on the matter of eligibility of various universities for participation in Title XII.

The meeting will be held in Room 1105, U.S. Department of State, 21st and Virginia Avenue NW., Washington, D.C., and will begin at 9 a.m. and adjourn at 5:30 p.m. The meeting is open to the public. Dr. Erven J. Long, Associate Assistant Administrator, is designated as the Federal Officer at the meeting. It is suggested that those desiring more specific information contact him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or call 703-235-9054.

Dated: May 13, 1977.

ERVEN J. LONG,
Federal Officer, Board for International Food and Agricultural Development.

[FR Doc.77-14208 Filed 5-17-77;8:45 am]

Office of the Secretary

[Public Notice CM-7/67]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 1 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on June 16, 1977 in Conference Room B-841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., at 9:30 a.m.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to review the status of work under way in U.S. Study Group 1 in preparation for the international meeting in January, 1978.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: May 11, 1977.

GORDON L. HUFFCUTT,
Chairman, United States CCIR National Committee.

[FR Doc.77-14162 Filed 5-17-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

LEATHER WEARING APPAREL FROM THE REPUBLIC OF CHINA

Amendment of Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: United States Customs Service, Treasury Department.

ACTION: Amending Scope of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that the scope of the countervailing duty investigation involving leather wearing apparel, previously classifiable under TSUS item 791.75, from the Republic of China (Taiwan) is being amended to cover such articles classifiable under TSUS item 791.76. Pursuant to Executive Order 11974 (FR 11230A), TSUS item 791.75 was superseded by TSUS items 791.74 and 791.76. The petitioner has requested that the investigation be limited to TSUS item 791.76 articles from the Republic of China.

EFFECTIVE DATE: This amendment will become effective on the date of publication of this notice in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Vince Kane, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 7, 1977, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (42 FR 12941). It was stated that "'(t)he term 'leather wearing apparel', as used in the petition, covers wearing apparel of leather, other than reptile leather, and is classifiable under item 791.75, Tariff Schedules of the United States (TSUS)."

Executive Order No. 11974 of February 25, 1977 (42 FR 11230A), modified a number of item listings in the Tariff Schedules of the United States (TSUS) for purposes of duty-free treatment under the Generalized System of Preferences (GSP), Title V of the Trade Act of 1974. TSUS item 791.75 (wearing apparel not specifically provided for, of leather) was superseded by TSUS items 791.74 and 791.76. Articles classifiable under TSUS item 791.76 are eligible for GSP treatment when imported directly from beneficiary developing countries (except from the Republic of China and the Republic of Korea), while articles classifiable under TSUS item 791.74 are not eligible.

In view of the Executive Order No. 11974 modifications and at the request of the petitioner, the investigation will be confined to leather wearing apparel, classifiable under TSUS item 791.76, from the Republic of China. Furthermore, as long as such articles from the Republic of China are dutiable, it will not be necessary to refer this matter to the U.S. International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), as indicated in the March 7, 1977 notice.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

VERNON D. ACREE,
Commissioner of Customs.

Approved: MAY 9, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-14119 Filed 5-17-77;8:45 am]

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Open Meeting

Notice is hereby given that pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, a meeting of the Commissioner's Advisory Group will be held on June 6 and 7, 1977, in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224. The meeting will begin at 10 a.m. on June 6 and 9 a.m. on June 7. The agenda will include various topics concerning the procedures and operations of the Internal Revenue Service.

The meeting will be open to the public. It is to be held in a room accommodating 50 people. In addition to discussion of agenda topics by Committee members, there will be time for statements by nonmembers. Persons wishing to make oral statements should so advise the Executive Secretary prior to the meeting to aid in scheduling the time available. Any interested person may file a written statement for consideration by the Committee by sending it to the Executive Secretary, Room 3011, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mr. Meade Emory, Assistant to the Commissioner, 202-566-4071 (not toll free).

JEROME KURTZ,
Commissioner.

[FR Doc.77-14217 Filed 5-17-77;8:45 am]

VETERANS ADMINISTRATION

HEALTH MANPOWER TRAINING ASSISTANCE REVIEW COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of a meeting of the Health Manpower Training Assistance Review Committee, authorized by the Administrator of Veterans Affairs on August 26, 1974 in the FEDERAL REGISTER (39 FR 30873). This meeting will be in the Veterans Administration Central Office building, Room 119 at 8:30 a.m. to 4 p.m. on June 6 and 7, 1977. The meeting will be for the purpose of review of certain continuation applications for grant assistance to institutions engaged in health manpower training, which assistance is authorized by Pub. L. 92-541. The committee provides recommendations to the Chief Medical Director concerning disposition of the continuation applications being considered. In addition, the committee will consider and advise the agency on the topics of extension legislation for the program, critique and evaluation of the program and preparation of an annual report to Congress.

The meeting will be open to the public each day up to the seating capacity of the room from 8:30 a.m. until 12:30 p.m. to discuss general policies and current status of the program. Because of the limited seating capacity of the room those who plan to attend should contact Dr. Chester W. DeLong, Executive Secretary of the Committee, Department of Medicine and Surgery, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. 20420, prior to May 20, 1977. Telephone: 202-389-3072.

The meeting will be closed from 12:30 p.m. until 4 p.m. each day for consideration of individual applications. The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of individual grant applications and similar documents which are exempt from disclosure under section 552b(c)(4) and seection 552b(c)(6) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Minutes of the meeting and rosters of the committee members may be obtained from Dr. DeLong at the address given above.

Dated: May 10, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-14161 Filed 5-17-77;8:45 am]

MEDICAL SCHOOL ASSISTANCE REVIEW COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of a meeting of the Medical School Assistance Review Committee, authorized by the Administrator of Veterans Affairs on August 26, 1974 in the FEDERAL REGISTER (39 FR 30873). This meeting will be in the Veterans Administration Central Office Building, Room 119 on June 6 and 7, 1977 starting at 8:30 a.m. The meeting will be for the purpose of review of applications from medical schools for assistance in developing their programs, which assistance is authorized by Pub. L. 92-541. The committee advises the Chief Medical Director on the approval, deferral, return for revision, or disapproval of these applications. In addition the committee will consider and advise the agency on the topics of extension legislation for the program, critique and evaluation of the program and preparation of an annual report to Congress.

The meeting will be open to the public each day up to the seating capacity of the room from 8:30 a.m. to 12:30 p.m. to discuss the general policies and current status of the program. Because of the limited seating capacity of the room those who plan to attend should contact Dr. Chester W. DeLong, Executive Secretary of the Committee, Department of Medicine and Surgery, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, prior to May 20, 1977. Telephone: 202-389-3072.

The meeting will be closed from 12:30 p.m. until 4 p.m. each day for consideration of individual applications. The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of individual grant applications and similar documents which are exempt from disclosure under section 552b(c)(4) and section 552b(c)(6) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Minutes of the meeting and rosters of the committee members may be obtained from Dr. DeLong at the address given above.

Dated: May 10, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-14160 Filed 5-17-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 392]

ASSIGNMENT OF HEARINGS

MAY 13, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135288 (Sub-7), McGill's Taxi and Bus Lines, Inc., d/b/a Asheboro Coach Co., now assigned June 1, 1977 at Greensboro, North Carolina, has been postponed to September 7, 1977 (3 days) at Greensboro, North Carolina, in a hearing room to be later designated.

MC 142827, De Marlie Trucking, Inc., application dismissed.

MC 129631 (Sub-No. 53), Pack Transport, Inc., now assigned July 13, 1977, at Seattle, Wash., is postponed indefinitely.

MC 140394 (Sub-No. 1), H.E. & A. National Corp., DBA Roberts Hawaii-Holiday Lines, application dismissed.

MC 140829 (Sub-No. 14), Cargo Contract Carrier Corp., now assigned June 16, 1977, at Omaha, Nebr. is canceled and application dismissed.

MC 340 Sub 41, Querner Truck Lines, Inc. now assigned May 12, 1977 at Dallas, Texas is cancelled.

MC 111545 Sub 230, Home Transportation Co., Inc., MC 123407 Sub 328, Sawyer Transport, Inc., and MC 114552 Sub 124, Senn Trucking Co. now assigned June 1, 1977 at Jacksonville, Florida and will be held in Room 100, Voyager Building, 2255 Phillips Street.

MC 94350 Sub 370, Transit Homes, Inc. now assigned June 6, 1977 at Jacksonville, Florida and will be held in Room 100, Voyager Building, 2255 Phillips Street.

MC-C 9106, Freightways Express, Inc. v Seco Trucking, Inc. now assigned June 3, 1977 at Memphis, Tennessee and will be held in Room 978, Federal Building, 165 Main Street.

MC 100666 Sub 334, Melton Truck Lines, Inc now assigned June 1, 1977 at Albuquerque, New Mexico and will be held at the Bernalillo County Courthouse, Juvenile Court Room, 415 Tijeras Avenue N.W.

MC 141743 Sub 1, Mark IV Charter Lines, Inc. now assigned June 6, 1977 at Los Angeles, California and will be held in Room 442, U.S. Courthouse, 312 North Spring Street.

AB 12 Sub 29, Southern Pacific Transportation Company Abandonment of Its Napoleonville Branch Between Supreme and Glenwood in Assumption Parish, Louisiana and will be held in the Police Jury Meeting Room, 2nd Floor, Old Courthouse Building, Green Street, at Thibodeau, Louisiana.

MC 128273 Sub 236, Midwestern Distribution, Inc. now assigned June 8, 1977 at New Orleans, Louisiana and will be held in the East Courtroom 223, U.S. Court of Appeals, 600 Camp Street.

MC 128273 Sub 235, Midwestern Distribution, Inc. and MC 111231 Sub 204, Jones Truck Lines, Inc. now assigned June 3, 1977 at New Orleans, Louisiana and will be held in the East Courtroom 223, U.S. Court of Appeals, 600 Camp Street.

MC 115860 Sub 10, Dalby Transfer and Storage, Inc. now assigned June 20, 1977 at Denver, Colorado and will be held in the U.S. Court of Appeals, Division One, 1961 Stout Street.

MC-F 12962, F-B Truck Line Company—Control—Machinery Transport, Inc. now assigned June 7, 1977 at Denver, Colorado and will be held in Room 587, U.S. Federal Building and Courthouse, 19th and Stout Streets

MC 128273 Sub 242, Midwestern Distribution, Inc. now assigned June 15, 1977 at Denver, Colorado and will be held in the U.S. Court of Appeals, Division Two, 1961 Stout Street.
MC 123407 Sub 342, Sawyer Transport, Inc. now assigned June 13, 1977 at Denver, Colorado and will be held in the U.S. Court of Appeals, Division Two, 1961 Stout Street.
MC 107295 Sub 827, Pre-Fab Transit Co. now assigned June 7, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.
MC 113325 Sub 145, Slay Transportation Co., Inc. now assigned June 8, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.
MC 142188 Sub 1, Mary Wimberly and Betty Beals, dba Wimberly Bus Service now assigned June 13, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.
MC 119765 Sub 38, Eight Way Xpress, Inc. now assigned June 9, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.
MC 134755 Sub 79, Charter Express, Inc. now assigned June 9, 1977 at St. Louis, Missouri and will be held in Court Room 3, 5th Floor, 1114 Market Street.
MC 119974 Sub 61, L.C.L. Transit Company now assigned June 14, 1977 at Chicago, Illinois and will be held in Court Room 1903, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 8964 Sub 31, Witte Transportation Co. now assigned June 13, 1977 at Des Moines, Iowa and will be held in Room 113, Federal Building, 210 Walnut Street.
MC 116915 (Sub-28), Eck Miller Transportation Corporation, now assigned June 1, 1977 at Louisville, Kentucky, will be held in the Holiday Inn South I–65 & 3317 Fern Valley Road.
MC 112617 (Sub-145), Liquid Transporters, Inc., now assigned June 6, 1977 at Louisville, Kentucky, will be held in Room 1052A Federal Building, 600 Federal Place.
MC 135235 (Sub-No. 5), Loma Cargo, Inc., now assigned June 6, 1977 at Chicago, Illinois, will be held in Room 206 Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC–F–13011, Jack I. Murphree—Continue Control—Jimco, Inc.: MC 98961 (Sub-3), West Tennessee Motor Express, Inc., and MC 142586, Jimco, Inc., now assigned June 7, 1977 at Nashville, Tennessee, will be held in Room A–44 U.S. Courthouse Annex, 801 Broadway.
MC 142291, MDI, Inc., now assigned June 7, 1977 at Minneapolis, Minnesota, will be held in Court Room 2 Federal Building and U.S. Courthouse, 316 North Robert Street.
MC 127811 (Sub-8), Brynwood Transfer, Inc., now assigned June 8, 1977 at Minneapolis, Minnesota, will be held in Court Room 2 Federal Building and U.S. Courthouse, 316 North Robert Street.
MC 113855 (Sub-358), International Transport, Inc., now assigned June 9, 1977 at Minneapolis, Minnesota, will be held in Court Room 2 Federal Building and U.S. Courthouse, 316 North Robert Street.
AB–1 (Sub-29), Chicago and Northwestern Transportation Company Abandonment Between Hayward and Bayfield, Also Between Ashland Junction and Ashland, all in Sawyer, Ashland and Bayfield Counties, Wisconsin, now assigned June 13, 1977 at Ashland, Wisconsin, will be held in the County Board Room Ashland County Courthouse.
MC 112595 (Sub-64), Ford Brothers, Inc.; MC 112617 (Sub-346), Liquid Transporters, Inc. and MC 116254 (Sub-166), Chem-Haulers, Inc., now assigned June 2, 1977 at Louisville, Kentucky, will be held in the Holiday Inn South, I–65 and 3317 Fern Valley Road.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–14174 Filed 5–17–77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

MAY 13, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission May 30, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 1647 (Sub-No. 3), filed June 4, 1974. Applicant READDING VAN & STORAGE CO., INC., 1725 Pine Avenue, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household Goods*, as defined by the Commission, between points in the District of Columbia, on the one hand, and, on the other, points in Massachusetts, Rhode Island, and Connecticut. The purpose of this filing is to eliminate the gateway of points in Cape May County, N.J. within 20 miles of Egg Harbor City, N.J.

No. MC 4405 (Sub-No. E29) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of October 28, 1975, and republished, as corrected, this issue. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Roger D. Smith (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities* as require special equipment and handling by reason of their unusual weight, bulk, or length, and *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Washington, on the one hand, and, on the other, points in E. St. Louis, Ill., restricted against the transportation of traffic between those points in Washington, east of Benton, Douglas, Grant, and Okanogan Counties, on the one hand, and, on the other, those in Missouri in and west of Mercer, Grundy, Livington, and Carroll Counties, and of Inyo, Fresno, Madera, Mariposa, Stanislaus, San Joaquin, Contra Costa, and San Francisco Counties. The purpose of this filing is to eliminate the gateway of E. St. Louis, Ill., points in Oklahoma, Texas, New Mexico, and those in California in and south of Mono, Tuolumme, Stanislaus, Santa Clara, and Santa Cruz Counties, and north of a line beginning at the Pacific Ocean extending through Monterey, Salinas, Fresno, Dunlap, and Independence, Calif., to the California-Nevada State line.

NOTE.—The purpose of this correction is to alter the radial territory so that it includes points in California in and south of the named counties.

No. MC 4405 (Sub-No. E58) (correction), filed June 4, 1974, and published in the FEDERAL REGISTER issue of December 17, 1975, and republished, as corrected, this issue. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Roger D. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require special equipment and handling by reason of their unusual weight, bulk, or length, and *self-propelled articles*, each weighing 15,000 pounds or more, and related *machinery, tools, parts, and supplies* moving in connection therewith, between points in Arkansas, Louisiana, Tennessee, Mississippi, Alabama, Florida, Georgia, North Carolina, and South Carolina, on the one hand, and, on the other, points in New Mexico and Arizona. The purpose of this filing is to eliminate the gateway of points in Arkansas or Mississippi and Texas and New Mexico.

NOTE.—The purpose of this correction is to add points in Florida, Georgia, North Carolina, and South Carolina which were inadvertantly omitted in the prior publication.

No. MC 4405 (Sub-No. E60) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of December 17, 1975, and republished, as corrected, this issue. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Roger D. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as require special equipment and handling by reason of their unusual weight, bulk, or length, and *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection herewith, between points in Washington, on the one hand, and, on the other, points in E. St. Louis, Ill., restricted against the transportation of traffic between those points in Washington, east of Benton, Douglas, Grant, and Okanogan Counties, on the one hand, and, on the other, those in Missouri in and west of Mercer, Grundy, Livington, and Carroll Counties, and those in Clay and Day Counties. The purpose of this filing is to eliminate the gateway of Savannah, Ga.

NOTE.—The purpose of this correction is to restrict the scope of applicant's proposal to conform with its underlying authority.

No. MC 4405 (Sub-No. E86), filed June 4, 1974. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Roger D. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck and trailer bodies* (A) from points in South Carolina to points in Arizona, California, Idaho, Nevada, Utah, Oregon, Washington, and those in New Mexico on and south of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 84 to junction U.S. Highway 66 to the New Mexico-Arizona State line; (B) from points in South Carolina on and east of U.S. Highway 1 to points in Montana, Wyoming, Texas, and those in New Mexico north of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 66 to the New Mexico-Arizona State line; (C) from points in North Carolina to those points in Arizona on and south of U.S. Highway 60, points in California, Oregon, Washington, and Nevada (except Elko County, Nev.); (D) from points in North Carolina on and east of U.S. Highway 1 to points in Idaho and those in Montana on and west of a line beginning at the International Boundary line between the United States and Canada and extending along Montana Highway 238 to junction U.S. Highway 87 to the Montana-Wyoming State line; (E) from points in Virginia on and east of U.S. Highway 15 to points in Arizona, and those in California on, south, and west of a line beginning at the Pacific Ocean and extending along Interstate Highway 80 to junction U.S. Highway 99 to junction California Highway 168 to the California-Nevada State line; (F) points in Virginia on and east of U.S. Highway 301 (except points in Northampton and Accomac Counties) to points in California north of a line beginning at the California-Nevada State line and extending along U.S. Highway 50 to Sacramento, thence along Interstate Highway 5 to junction Interstate Highway 580 to junction Interstate Highway 80 to the Pacific Ocean; and (G) from those points in Virginia on, south, and east of a line beginning at the Chesapeake Bay and extending along Virginia Highway 33 to junction Interstate Highway 64 to junction Interstate Highway 95 to the Virginia-North Carolina State line (except points in Northampton and Accomac Counties) to points in Nevada, Utah, Washington and those in Texas north of Interstate Highway 10. The purpose of this filing is to eliminate the gateway at Savannah, Ga.

No. MC 60014 (Sub-No. E149), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils, between points in Wisconsin, on the one hand, and, on the other points in Maryland. Gateways to be eliminated: points in Columbiana County, Ohio.

No. MC 60014 (Sub-No. E150), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils, between points in Wisconsin on the one hand, and, on the other, points in Delaware, New Jersey, New York, Pennsylvania, points in Virginia on and east of a line beginning at a point on Virginia Highway 311 at Alleghany, Virginia, near the Virginia-West Virginia State Line, thence south on Virginia Highway 311 to Roanoke, Virginia, thence south on the Blue Ridge Parkway to the Virginia-North Carolina State Line, points

No. MC 60014 (Sub-No. E151), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, post, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils, the transportation of which by reason of their size or weight, require the use of special equipment between points in Wisconsin on the one hand, and, on the other, points in Ohio on and east of a line at Sandusky, Ohio, thence south on Highway 4 to Marion, thence south on Highway 423 to U.S. Highway 23, thence south on U.S. Highway 23 to Columbus, thence south on U.S. Highway 23 to Chillicothe, thence south on U.S. Highway 23 to Portsmouth, Ohio. Gateways to be eliminated: (1) points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State Line (except points in Licking County, Ohio).

No. MC 60014 (Sub-No. E152), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils, between points in Wisconsin on the one hand, and, on the other, points in Connecticut, Maine, New Hampshire, Rhode Island, points in Massachusetts on and east of line commencing at a point north of North Heath, Massachusetts, on State Highway 8A, thence south on State Highway 8A to Windsor, Massachusetts, thence east on State Highway 9 to Cummington, Massachusetts, thence south on State Highway 112 to Huntingdon, Massachusetts, thence west on U.S. Highway 20 to West Beckett, Massachusetts, thence south on State Highway 8 to the Massachusetts-Connecticut State line and points in Vermont east of a line commencing at a point south of Rock Island, Quebec, on U.S. Highway 5 to Derby Center, Vermont, thence south on U.S. Highway 5 to Saint Johnsbury, Vermont, thence west on U.S. Highway 2 to Montpelier, Vermont, thence south on State Highway 12 to Bethel, Vermont, thence east on State Highway 107 to the intersection State 14 and State Highway 107, thence south on State Highway 14 to White River Junction, Vermont, thence south on U.S. Highway 5 to Massachusetts-Vermont State line.

Gateways to be eliminated: (1) points in Columbiana, Counties, Ohio, points in that part of Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pa., thence along Interstate Highway 147 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to Trout Run, thence along U.S. Highway 15 to the Pennsylvania-New York State line, (3) points in Pennsylvania on New York, and points in that part of Massachusetts on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence along Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E153), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, pil-*

ing, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils (except commodities requiring special equipment), between: points in the Wisconsin north and west of a line commencing on U.S. Highway 51 at Beloit, Wisconsin, thence north on U.S. Highway 51 to Janesville, Wisconsin, thence north of State Highway 26 to Fort Atkinson, Wisconsin, thence east on State Highway 106 to the intersection of State Highway 107 and State Highway 67, thence south on State Highway 67 to Eagle, Wisconsin, thence north on State Highway 59 to Waukesha, Wisconsin, thence east on State Highway 59 to Milwaukee, Wisconsin, on the one hand, and, on the other, points in Massachusetts. Gateways to be eliminated: (1) points in Columbiana County, Ohio, in Pennsylvania on and west of a line extending from the Pennsylvania Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line, (2) points in Pennsylvania, or New York, (3) Greenwich, Connecticut, points within 10 miles of Greenwich, (4) points in Massachusetts on and east of U.S. Highway 5, and, (5) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E155), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), between: points in Illinois on the one hand, and, on the other, points in Maryland. Gateways to be eliminated: Points in Columbiana, Cuyahoga, Mahoning, Summit, or Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E154), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), between: points in Wisconsin north and west of a line commencing on U.S. Highway 51 at Beloit, Wisconsin, thence north on U.S. Highway 51 to Janesville, thence north on Highway 26 to Port Atkinson, thence east on Wisconsin Highway 106 to the intersection of Wisconsin Highway 106 to the intersection of Wisconsin Highway 107 and Wisconsin Highway 67, thence south on Wisconsin Highway 67 to Eagle, thence north on Wisconsin Highway 59 to Waukesha, thence east on Wisconsin Highway 59 to Milwaukee, Wisconsin, on the one hand, and, on the other (F) points in Massachusetts.

Gateways to be eliminated: (1) Points in Columbiana County, Ohio, those in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line, (2) points in Pennsylvania or New York, (3) Greenwich, Connecticut, and, points within 10 miles of Greenwich, (4) points in Massachusetts on and east of U.S. Highway 5, points in Connecticut.

No. MC 60014 (Sub-No. E156), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire* in coils (except commodities requiring special equipment), between points in Wisconsin on the one hand, and, on the other, points in West Virginia and points in Virginia east of U.S. Highway 23. Gateways to be eliminated: (1) *Cambridge and Zanesville, Ohio.*

No. MC 60014 (Sub-No. E157), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (the transportation of which, by reason of their size or weight, require the use of special equipment), between points in Illinois on the one hand, and, on the other, points in Ohio east of a line beginning at Lake Erie, thence along Ohio Highway 13 to Ohio Highway 61, thence along Ohio Highway 61 to Ohio Highway 98, thence along Ohio Highway 98 to Ohio Highway 19, thence along Ohio Highway 19 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 61, thence along Ohio Highway 61 to junction Interstate Highway 71, thence along Interstate Highway 71 to U.S. Highway 33, thence along U.S. Highway 33 to junction Ohio Highway 93, thence along Ohio Highway 93 to the U.S. Highway 35, thence along U.S. Highway 35 to Ohio Highway 160, thence along Ohio Highway 160 to the Ohio River. Gateways to be eliminated: (1) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E158), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Illinois, south of Interstate Highway 80 and points north of a line beginning at Iowa-Illinois State Line and extending along Illinois Highway 104 to U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 36 and 54, thence along U.S. Highway 36 and 54 to junction on the one hand, and, on the other, points in Ohio east of a line beginning at Lake Erie, thence along Ohio Highway 13 to Ohio Highway 61, thence along Ohio Highway 61 to Ohio Highway 98, thence along Ohio Highway 98 to Ohio Highway 19, thence along Ohio Highway 19 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 61, thence along Ohio Highway 61 to junction Interstate Highway 71, thence along Interstate Highway 71 to U.S. Highway 33, thence along U.S. Highway 33 to junction Ohio Highway 93, thence along Ohio Highway 93 to the U.S. Highway 35, thence along U.S. Highway 35 to Ohio Highway 160, thence along Ohio Highway 160 to the Ohio River. Gateways to be eliminated: (1) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E159), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (the transportation of which, because of their size or weight, require the use of special equipment), between points in Illinois on and south of a line beginning at the Illinois-Indiana State Line and extending along U.S. Highway 41 to U.S. Highway 460, thence along U.S. Highway 460 to junction Interstate Highway 264, thence along Interstate Highway 264 to junction U.S. Highway 31W, thence along U.S. Highway 31W to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 403, thence along Indiana Highway 403 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction Indiana Highway 203, thence along Indiana Highway 203 to junction Indiana Highway 356, thence along Indiana Highway 356 to junction Indiana Highway 56/62, thence along Indiana Highway 56/62 to junction Indiana Highway 107, thence along Indiana Highway 107 to junction Indiana Highway 62, thence along Indiana Highway 62 to junction Indiana Highway 250, thence along Indiana Highway 250 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Ohio on and east of a line beginning at the Michigan-Ohio State line and extending along U.S. Highway 23 to junction Interstate Highway 425, thence along Interstate Highway 425 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Ohio Highway 199, thence along Ohio Highway 199 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Ohio Highway 13, thence along Ohio Highway 13 to junction Ohio Highway 33, thence along Ohio Highway 33 to the West Virginia-Ohio State line.

Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E160), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment) between points in Indiana on and south of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 41 to U.S. Highway 460, thence along U.S. Highway 460 to junction Interstate Highway 264, thence along Interstate Highway 264 to junction U.S. Highway 31W, thence along U.S. Highway 31W to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 403, thence along Indiana Highway 403 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction Indiana Highway 203, thence along Indiana Highway 203 to junction Indiana Highway 356, thence along Indiana Highway 356 to junction Indiana Highway 56/62, thence along Indiana Highway 56/62 to junction Indiana Highway 107, thence along Indiana Highway 107 to junction Indiana Highway 62, thence along Indiana Highway 62 to junction Indiana Highway 250, thence along Indiana Highway 250 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in Ohio on and east of a line beginning at the Michigan-Ohio State line and extending along U.S. Highway 23 to junction Interstate Highway 425, thence along Interstate Highway 425 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Ohio Highway 199, thence along Ohio Highway 199 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Ohio Highway 13, thence along Ohio Highway 13 to junction Ohio Highway 33, thence along Ohio Highway 33 to the West Virginia-Ohio State line.

Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E161), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment) between points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along Indiana Highway 18 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Interstate Highway 69, thence along Interstate Highway 68 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Ohio State line, on the one hand, and, on the other, points in Ohio on and west of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 23 to junction Highway 22, thence along U.S. Highway 22 to junction Ohio Highway 37, thence along Ohio Highway 37 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Ohio Highway 79, thence along Ohio Highway 79 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line. Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E170–E), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment), between points in Pennsylvania on the one hand, and, on the other, points in Ohio on and southwest of a line beginning at Lake Erie, and extending along Ohio Highway 306 to junction U.S. Highway 322, thence along U.S. Highway 322 to the Ohio-Pennsylvania State line. Gateways to be eliminated: Points in that part of Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pa., thence along Interstate Highway 83 to Harrisburg, thence along Pennsylvania Highway 147 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line.

No. MC 60014 (Sub-No. E171), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment) between points in Indiana on and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 50 to junction U.S. Highway 50/150, to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Indiana Highway 337, thence along Indiana Highway 377 to junction Indiana Highway 135, thence along Indiana Highway 135 to the Indiana-Kentucky State line, on the one hand, and on the other, points in Ohio on and east of a line beginning at Lake Erie and extending along Ohio Highway 163 to junction Ohio Highway 105, thence along Ohio Highway 105 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 423, thence along Ohio Highway 423 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 56, thence along Ohio Highway 56 to junction Ohio Highway 327, thence along Ohio Highway 327 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Ohio Highway 588, thence along Ohio Highway 588 to the Ohio-West Virginia State line. Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E173), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, *iron and steel angles, bars, channels, conduit, fencing flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats roofing, strip, structurals, tank parts tubing and wire in coils*, (the transportation of which, because of their size or weight, require the use of special equipment) between points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along Indiana Highway 18 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Interstate Highway 69, thence along Interstate Highway 68 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Ohio State line, on the one hand, and, on the other, points in Ohio on and west of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 23 to junction Highway 22, thence along U.S. Highway 22 to junction Ohio Highway 37, thence along Ohio Highway 37 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Ohio Highway 79, thence along Ohio Highway 79 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line. Gateways to be eliminated: Points in that part of Ohio on and east of a line extending from

Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E174), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line and extending along Pennsylvania Highway 14, thence along Pennsylvania Highway 14 to junction Pennsylvania Highway 154, thence along Pennsylvania Highway 154 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to junction Pennsylvania Highway 239, thence along Pennsylvania Highway 239 to junction Pennsylvania Highway 93, thence along Pennsylvania Highway 93 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Pennsylvania Highway 248, thence along Pennsylvania Highway 248 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in Connecticut. Gateways to be eliminated: (1) Points in New York; and (2) Greenwich, Conn.

No. MC 60014 (Sub-No. E175), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in Pennsylvania on and south of a line beginning at the Ohio-Pennsylvania State line and extending along Pennsylvania Highway 358, to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 321, thence along Pennsylvania Highway 321 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 255, thence along Pennsylvania Highway 225 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 118, thence along Pennsylvania Highway 118 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Maine.

Gateways to be eliminated:

(1) Points in New York. (2) Greenwich, Connecticut. (3) Points in Massachusetts on and east of U.S. Highway 5. (4) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E176), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), points in Indiana, on the one hand, and, on the other, points in New Hampshire, Rhode Island, Connecticut, Maine, Vermont, on and east of a line beginning at the Canada-United States Border, extending along U.S. Highway 5 to the junction of U.S. Highway 302, thence along U.S. Highway 302 to the Vermont-New Hampshire State line and Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along Massachusetts Highway 8A to the junction of Massachusetts Highway 9, thence along Massachusetts Highway 9 to the junction of Massachusetts Highway 112, thence along Massachusetts Highway 112 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-Connecticut State line.

Gateways to be eliminated: (1) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (2) Pennsylvania. (3) New York. (4) Greenwich, Connecticut. (5) Points in Massachusetts on and east of U.S. Highway 5. (6) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (a nr near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E177), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, and tubing and wire in coils*, between points in Indiana west of a line beginning at the Ohio-Indiana State line and extending along Indiana Highway 32 to junction Interstate Highway 69, thence along Interstate Highway 69 to Junction U.S. Highway 36, thence along U.S. Highway 36 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Indiana-Kentucky State line, on the one hand, and, on the other, points in West Virginia on and east of a line beginning at the Pennsylvania-West Virginia State line and extending along West Virginia Highway 69 to junction U.S. Highway 250, thence along U.S. Highway 250 to the junction of U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Maryland State line.

Gateways to be eliminated: (1) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (2) And points in Brooke, Hancock, Marshall, and Ohio Counties, West Virginia.

No. MC 60014 (Sub-No. E178), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (the transportation of which by reason of their size or weight, require the use of special equipment), between points in Indiana, on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Delaware and the District of Columbia.

Gateways to be eliminated: (1) Points in Columbiana, Cuyahoga, Mahonig, Summit and Trumbull Counties, Ohio. (2) And points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north

along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220, (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line.

No. MC 60014 (Sub-No. E179), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mates, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Indiana, on the one hand, and, on the other, points in Maryland.

Gateways to be eliminated:

(1) Points in Columbiana, Cuyahoga, Mahoning, Summit and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E180), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in New Jersey, on the one hand, and, on the other, points in Massachusetts on and east of US Highway 5. The purpose of this filing is to eliminate the gateways of (1) points in New York and points in Connecticut within 10 miles of Greenwich, Conn., and (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E181), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment) between points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line, and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to the New Jersey-New York State line, on the one hand, and, on the other, points in Connecticut.

Gateways to be eliminated: (1) Points in New York and points in Connecticut within 10 miles of Greenwich, Conn. (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. 182), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in New Jersey, to points in Alabama, Mississippi, Kentucky and points in Tennessee west of U.S. Highway 27. Gateway to be eliminated: (1) Wheeling and Beechbottom, W. Va.

No. MC 60014 (Sub-No. E183), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line, and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to junction New Jersey Highway 284, thence along New Jersey Highway 284 to the New Jersey-New York State line, on the one hand, and, on the other, joints in Vermont on and east of a line beginning at the International Boundary line between the United States and Canada and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction of Vermont Highway 15/15A, thence along Vermont Highway 15/15A to junction Vermont Highway 15, thence along Vermont Highway 15 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 302, thence along U.S. Highway 302 to junction Vermont Highway 110, thence along Vermont Highway 110 to junction Vermont Highway 14, thence along Vermont Highway 14 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 106;

Thence along Vermont Highway 106 to junction Vermont Highway 131, thence along Vermont Highway 131 to the Vermont-New Hampshire State line; points in New Hampshire on and northeast of a line beginning at the Vermont-New Hampshire State line and extending along New Hampshire Highway 12/103, thence along New Hampshire Highway 12/103 to junction New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line, points in Rhode Island on and north of Interstate Highway 6.

Gateways to be eliminated: (1) Points in New York, points in Connecticut, (2) Within 10 miles of Greenwich, Connecticut, and (3) Points in Massachusetts on and east of U.S. Highway 5.

No. MC 60014 (Sub-No. E184), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison, P.O. Box 308, Monroeville, Pa. 15146. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between: points in Maryland on the one hand, and, on the other, points in Connecticut. Gateways to be eliminated: (1) points in New York and points within 10 miles of Greenwich, Conn.

No. MC 60014 (Sub No. E185), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, the transportation of which, because of their size or weight, require the use of special equipment), between points in Maryland, on the one hand, and, on the other, points in Ohio. Gateways to be eliminated: (1) Points in West Virginia. (2) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E186), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mates, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in Maryland, on the one hand, and, on the other, points in Maine, New Hampshire, points in Vermont on and east of a line beginning at the International Boundary line between the United States and Canada and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction of U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line points in Rhode Island on and north of a line beginning at Connecticut-Rhode Island State line and extending al ng Rhode Island Highway 165 to the junction of Rhode Island Highway 102, thence along Rhode Island Highway 102 to the junction of U.S. Highway 1–A, thence along U.S. Highway 1–A to Rhode Island Sound, points in Massachusetts on and east of U.S. Highway 5.

Gateways to be eliminated: (1) Points in New York, (2) points within 10 miles of Greenwich, Connecticut, (3) points in Massachusetts on and east of U.S. Highway 5, (4) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E187), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in Maryland, to points in Mississippi, points in Alabama on and west of a line beginning at the Mississippi-Alabama State line, and extending along Alabama Highway 10 to the junction of Alabama Highway 5, thence along Alabama Highway 5 to the junction of Alabama Highway 116, thence along Alabama Highway 116 to the junction of Alabama Highway 36, thence along Alabama Highway 36 to the junction of Alabama Highway 23, thence along Alabama Highway 23 to the junction of Alabama Highway 81, thence along Alabama Highway 81 to the junction of Alabama Highway 22, thence along Alabama Highway 22 to the junction of Alabama Highway 140, thence along Alabama Highway 140 to the junction of Alabama Highway 8, thence along Alabama Highway 8 to the junction of Alabama Highway 75, thence along Alabama Highway 75 to the Alabama-Georgia State line, points in Tennessee on and west of a line beginning at the Tennessee-Alabama State line and extending along Tennessee Highway 27 to the junction of Tennessee Highway 108, thence along Tennessee Highway 108 to the junction of Tennessee Highway 111, thence along Tennessee Highway 111 to the junction of Tennessee Highway 42, thence along Tennessee Highway 42 to the Tennessee-Kentucky State line, points in Kentucky on and west of a line beginning at the Virginia-Kentucky State line, extending along U.S. Highway 25 to the junction of Kentucky Highway 80, thence along Kentucky Highway 80 to the junction of U.S. Highway 460, thence along U.S. Highway 460 to the Kentucky-Virginia State line. Gateway to be eliminated: Wheeling, W. Va.

No. MC 60014 (Sub-No. E188), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, the transportation of which, because of size or weight, require the use of special equipment), between points in Delaware, on the one hand, and, on the other, points in Ohio. Gateways to be eliminated: (1) Points in Pennsylvania. (2) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E189), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), between points in Delaware, on the one hand, and, on the other, points in Connecticut. Gateways to be eliminated: (1) New York. (2) Within 10 miles of Greenwich, Conn. Greenwich, Connecticut.

No. MC 60014 (Sub-No. E190), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146 Applicant's representative: William J. Rorison (same as above). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in Delaware on the one hand, and, on the other, points in Massachusetts on and east of U.S. Highway 5. Gateways to be eliminated: (1) points in New York and points within 10 miles of Greenwich, Conn. (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E191), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146 Applicant's representative: William J. Rorison (same as above). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in Delaware on the one hand, and, on the other, points in Maine. Gateways to be eliminated: (1) Points in New York within 10 miles of Greenwich, Conn. (2) Points in Massachusetts on and east of U.S. Highway 5. (3) Points within 35 miles of Boston, Mass.

No. MC 60014 (Sub-No. E192), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146 Applicant's representative: William J. Rorison (same as above). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in Delaware, on the one hand, and, on the other, points in New Hampshire, Rhode Island, and points in Vermont on and east of a line beginning at Lake Champlain, thence along U.S. Highway 7 to the intersection of U.S. Highway 7 and Vermont Highway 103, thence along Vermont Highway 103 to the intersection of Vermont Highway 155, thence along Vermont Highway 155 to the intersection of Vermont Highway 100, thence along Vermont Highway 100 to the intersection of Vermont Highway 30, thence along Vermont Highway 30 to the intersection of U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line. Gateways to be eliminated: (1) Points in New York. (2) Greenwich, Connecticut. (3) Points in Massachusetts on and east of U.S. Highway 5. (4) Points in that part of Massachusetts on and east

of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E193), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in Delaware to points in Mississippi, points in Kentucky on and east of a line beginning at the West Virginia-Kentucky State line and extending along U.S. Highway 23 to the junction of U.S. Highway 23/460, thence along U.S. Highway 23/460 to the junction of Kentucky Highway 80, thence along Kentucky Highway 80 to the junction of Kentucky Highway 421, thence along Kentucky Highway 421 to Kentucky-Virginia State line, points in Tennessee on and west of a line, beginning at the Kentucky-Tennessee State line, extending along Tennessee Highway 42 to the junction of U.S. Highway 70–S, thence along U.S. Highway 70–S to the junction of Tennessee Highway 56, thence along Tennessee Highway 56 to Tennessee-Alabama State line, points in Alabama on and west of a line beginning at the Tennessee-Alabama State line, extending along U.S. Highway 231/431 to the junction of U.S. Highway 231, thence along U.S. Highway 231 to the junction of Alabama Highway 79, thence along Alabama Highway 79 to junction of U.S. Highway 11, thence along U.S. Highway 11 to the junction of Alabama Highway 5, thence along Alabama Highway 5 to the junction of U.S. Highway 43, thence along U.S. Highway 43 to the junction of Alabama Highway 56, thence along Alabama Highway 56 to the Alabama-Mississippi State line. Gateway to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E194), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in New York to points in Kentucky, Mississippi, Alabama; points in Tennessee on and west of a line from the Virginia-Tennessee State line extending along Tennessee Highway 33 to the junction of Tennessee Highway 31, thence along Tennessee Highway 31 to the junction of U.S. Highway 11W, thence along U.S. Highway 11W to the junction of U.S. Highway 25E, thence along U.S. Highway 25E to the junction of Tennessee Highway 32, thence along Tennessee Highway to the junction of Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line. Gateway to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E196), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, the transportation of which, because of their size or weight, require the use of special equipment, between points in New York, on the one hand, and, on the other points in Michigan. Gateways to be eliminated: (1) Points in Pennsylvania. (2) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (4) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E197), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in New Jersey, on the one hand, and, on the other, points in Maine. Gateways to be eliminated: (1) Points in New York within 10 miles of Greenwich, Connecticut; (2) points in Massachusetts on and east of U.S. Highway 5; (3) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E198), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in New York on and south of a line beginning at Lake Ontario and extending along New York Highway 31, thence along New York Highway 31 to junction of New York Highway 96, thence along New York Highway 96 to junction of U.S. Highway 20, thence along U.S. Highway 20 to junction of Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the New York-Connecticut State line extending along Interstate Highway 84 to junction of Connecticut Highway 8, thence along Connecticut Highway 8 to junction of U.S. Highway 6/202, thence along U.S. Highway 6/202 to junction of Interstate Highway 84, thence along Interstate Highway 84 to junction of Interstate Highway 91, thence along Interstate Highway 91 to junction of Connecticut Highway 159, thence along Connecticut Highway 159 to the Connecticut-Massachusetts State line. Gateways to be eliminated: (1) White Plains, New York; (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E199), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except commodities requiring special equipment), between points in New York on and south of a line beginning at Pennsylvania-New York State line extending along New York Highway 79 to junction of New York Highway 17, thence along New York Highway 17 to junction of New York Highway 97, thence along New York Highway 97 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction of Interstate Highway 87, thence along Interstate Highway 87 to junction of U.S. Highway 1, thence along U.S. Highway 1 to the New York-Con-

necticut State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the New York-Connecticut State line extending along Connecticut Highway 15 to junction of Interstate Highway 91, thence along Interstate Highway 91 to the Connecticut-Massachusetts State line. Gateways to be eliminated: (1) White Plains, New York; (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E260), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Po. 15146. Applicant's representative: William J. Rarison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails rods roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Vermont on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Connecticut-Massachusetts State line extending along Connecticut-Rhode Island State line. Gateways to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC 60014 (Sub-No. E261), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rarison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling pipe, post, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Vermont on the one hand, and, on the other, points in Rhode Island. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E262), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire and coils*, between points in New Hampshire on the one hand, and, on the other, points in Rhode Island. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC 60014 (Sub-No. E263), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in New Hampshire on and south of a line beginning at New Hampshire-Maine state line extending along New Hampshire Highway 101, thence along New Hampshire Highway 101 to junction of New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction of New Hampshire Highway 124, thence along New Hampshire Highway 124 to New Hampshire-Massachusetts state line, on the one hand, and, on the other points in Vermont on and west of a line beginning at New York-Vermont state line extending along Vermont Highway 22A, thence along Vermont Highway 22A to junction of U.S. Highway 7, thence along U.S. Highway 7 to junction of Vermont Highway 15, thence along Vermont Highway 15 to junction of Vermont Highway 100C, thence along Vermont Highway 100C to Vermont Highway 100, thence along Vermont Highway 100 to U.S. Highway 5, thence along U.S. Highway 5 to Vermont-Canada International bouhdary; and those points in Vermont on and south of a line beginning at New York-Vermont state line extending along Vermont Highway 149, thence along Vermont Highway 149 to junction of Vermont Highway 30, thence along Vermont Highway 30 to New Hampshire-Vermont state line.

MC 60014 (Sub-No. E264), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rarison, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel Angles, bars, channels, conduit, fencing, yooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in New Hampshire on the one hand, and, on the other, points in Connecticut south and east of a line beginning at the New York-Connecticut state line extending along Interstate Highway 95, thence along Interstate Highway 95 to junction of U.S. Highway 1, thence along U.S. Highway 1 to junction of Connecticut Highway 52, thence along Connecticut Highway 52 to the Connecticut-Massachusetts state line. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC 60014 (Sub-No. E265), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in New Hampshire on and east of a line beginning at the Massachusetts-New Hampshire state line extending along New Hampshire Highway 13, thence along New Hampshire Highway 13 to junction of New Hampshire Highway 77, thence along New Hampshire Highway 77 to junction of New Hampshire Highway 114, thence along New Hampshire Highway 114 to junction of U.S. Highway 202, thence along U.S. Highway 202 to junction of Interstate Highway 93, thence along Interstate Highway 93 to the Vermont-New Hampshire state line, on the one hand, and, on the other points in Connecticut. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), then over Massachusetts Highway 56 to junction

Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC-60014 (Sub-No. E266), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, pest, rails, rods, roof belt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in New Hampshire on and east of a line beginning at the Massachusetts-New Hampshire state line extending along New Hampshire Highway 13, thence along New Hampshire Highway 13 to junction of New Hampshire Highway 77, thence along New Hampshire Highway 77 to junction New Hampshire Highway 114 to junction of U.S. Highway 202, thence along U.S. Highway 202 to junction of Interstate Highway 93, thence along Interstate Highway 93 to the Vermont-New Hampshire state line, on the one hand, and, on the other points in Massachusetts. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

MC 60014 (Sub-No. 267), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representive: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire coils*, between points in New Hampshire on the one hand, and, on the other points in Pennsylvania north and west of a line beginning at the Ohio-Pennsylvania Highway 58, thence along Pennsylvania Highway 58 to junction of U.S. Highway 322, thence along U.S. Highway 322 to junction of Pennsylvania Highway 77, thence along Pennsylvania Highway 77 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction of Pennsylvania Highway 27, thence along Pennsylvania Highway 27 to Pennsylvania-New York state line and those points in Pennsylvania north and east of a line beginning at New York-Pennsylvania state line extending along Interstate Highway 84, thence along Interstate Highway 84 to junction of Pennsylvania Highway 6, thence along Pennsylvania Highway 6 to junction of Pennsylvania Highway 590, thence along Pennsylvania Highway 590 to junction of Pennsylvania Highway 435, thence along Pennsylvania Highway 435 to junction of U.S. Highway 11, thence along U.S. Highway 11 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania-New York state line. Gateway to be eliminated: (1) points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.; points in (2) New York.

No. MC 60014 (Sub-No. E268), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in Pennsylvania to points in Kentucky, Alabama, Mississippi, points in Tennessee on and west of a line beginning at the Tennessee-Virginia state line extending along Tennessee Highway 63 to the junction of U.S. Highway 25W, thence along U.S. Highway 25W to the junction of Tennessee Highway 95, thence along Tennessee Highway 95 to the junction of U.S. Highway 11, thence along U.S. Highway 11 to the junction of Tennessee Highway 30, thence along Tennessee Highway 30 to the junction of U.S. Highway 411, thence along U.S. Highway 411 to the Tennessee-Georgia state line. Gateway to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E269), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, pests, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment between points in Pennsylvania on the one hand, and, on the other points and places in Massachusetts on and east of a line beginning at the Connecticut-Massachusetts state line, extending along U.S. Highway 5 to the junction of National Interstate Highway 90 to the junction of Massachusetts Highway 32, thence along Massachusetts Highway 32 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-New Hampshire state line. Gateways to be eliminated: (1) New York. (2) Greenwich, Connecticut. (3) Connecticut.

No. MC 60014 (Sub-No. E280), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Virginia on and west of a line beginning at the North Carolina-Virginia State line extending along U.S. Highway 220, thence along U.S. Highway 220 to junction of Interstate Highway 64, thence along Interstate Highway 64 to junction of U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-West Virginia State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along U.S. Highway 202, thence along U.S. Highway 202 to junction of U.S. Highway 6/202, thence along U.S. Highway 6/202 to junction of Connecticut Highway 69, thence along Connecticut Highway 69 to junction of Connecticut Highway 72, thence along Connecticut Highway 72, to junction of Interstate Highway 84 thence along Interstate Highway 84 to junction of Connecticut Highway 66, thence along Connecticut Highway 66 to junction of Connecticut Highway 10, thence along Connecticut Highway 10 to junction of Connecticut Highway 150, thence along Connecticut Highway 150 to junction of Connecticut Highway 22, thence along Connecticut Highway 22 to U.S. Highway 1, thence along U.S. Highway 1 to the Atlantic Ocean. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.)

No. MC 60014 (Sub-No. E281), filed August 28, 1976. Applicant: AERO

TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Pennsylvania, on the one hand, and, on the other, points in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line extending along Rhode Island Highway 138, thence along Rhode Island Highway 138 to junction of Rhode Island Highway 108, thence along Rhode Island Highway 108 to the Rhode Island Sound. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E282), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Pennsylvania, on the one hand, and, on the other, points in New Hampshire. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E283), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line extending along Pennsylvania Highway 49, thence along Pennsylvania Highway 49 to junction of Pennsylvania Highway 349, thence along Pennsylvania Highway 349 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction of Pennsylvania Highway 949, thence along Pennsylvania Highway 949 to junction of Interstate Highway 80, thence along Interstate Highway 80 to junction of U.S. Highway 322, thence along U.S. Highway 322 to junction of Pennsylvania Highway 68, thence along Pennsylvania Highway 68 to junction of Pennsylvania Highway 839, thence along Pennsylvania Highway 839 to junction of Pennsylvania Highway 85, thence along Pennsylvania Highway 85 to junction of Pennsylvania Highway 954, thence along Pennsylvania Highway 954 to junction of Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction of Pennsylvania Highway 160, thence along Pennsylvania Highway 160 to the Pennsylvania-Maryland State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 32, thence along Connecticut Highway 32 to junction of Connecticut Highway 2, thence along Connecticut Highway 2 to the Connecticut-Rhode Island State line.

Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts 56 to junction Massachusetts Highway 12 (near Rochadle, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E284), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strips, structurals, tank parts, tubing, and wire in coils*, between points in New Jersey, on the one hand, and, on the other, points in New Hampsire on and east of a line beginning at the Vermont-New Hampshire State line extending along New Hampshire Highway 12/103, thence along 12/103 to junction of New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction of New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction of New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line; and points in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line extending along Interstate Highway 6, thence along Interstate Highway 6 to the Rhode Island-Massachusetts State line. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence over along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E285), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line extending along Pennsylvania Highway 49, thence along Pennsylvania Highway 49 to junction of Pennsylvania Highway 349, thence along Pennsylvania Highway 349 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction of Pennsylvania Highway 949, thence along Pennsylvania Highway 949 to junction of Interstate Highway 80, thence along Interstate Highway 80 to junction of U.S. Highway 322, thence along U.S. Highway 322 to junction of Pennsylvania Highway 68, thence along Pennsylvania Highway 68 to junction of Pennsylvania Highway 839, thence along Pennsylvania Highway 839 to junction of Pennsylvania Highway 85, thence along Pennsylvania Highway 85 to junction of Pennsylvania Highway 954, thence along Pennsylvania Highway 954 to junction of Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction of Pennsylvania Highway 160, thence along Pennsylvania Highway 160 to the Pennsylvania-Maryland State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 32, thence along Connecticut Highway 32 to junction of Connecticut Highway 2, thence along Connecticut Highway 2 to the Connecticut-Rhode Island State line.

Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts 56 to junction Massachusetts Highway 12 (near Rochadle, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E284), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strips, structurals, tank parts, tubing, and wire in coils*, between points in New Jersey, on the one hand, and, on the other, points in New Hampsire on and east of a line beginning at the Vermont-New Hampshire State line extending along New Hampshire Highway 12/103, thence along 12/103 to junction of New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction of New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction of New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line; and points in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line extending along Interstate Highway 6, thence along Interstate Highway 6 to the Rhode Island-Massachusetts State line. Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence over along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E285), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line extending along Pennsylvania Highway 49, thence along Pennsylvania Highway 49 to junction of Pennsylvania Highway 349, thence along Pennsylvania Highway 349 to junction of U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction of Pennsylvania Highway 949, thence along Pennsylvania Highway 949 to junction of Interstate Highway 80, thence along Interstate Highway 80 to junction of U.S. Highway 322, thence along U.S. Highway 322 to junction of Pennsylvania Highway 68, thence along Pennsylvania Highway 68 to junction of Pennsylvania Highway 839, thence along Pennsylvania Highway 839 to junction of Pennsylvania Highway 85, thence along Pennsylvania Highway 85 to junction of Pennsylvania Highway 954, thence along Pennsylvania Highway 954 to junction of Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction of Pennsylvania Highway 160, thence along Pennsylvania Highway 160 to the Pennsylvania-Maryland State line, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 32, thence along Connecticut Highway 32 to junction of Connecticut Highway 2, thence along Connecticut Highway 2 to the Connecticut-Rhode Island State line.

Gateways to be eliminated: (1) New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts 56 to junction Massachusetts Highway 12 (near Rochadle, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E286), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Maryland and the District of Columbia, on the one hand, and, on the other, points in New Hampshire and those in Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E287), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Maryland and the District of Columbia, on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 32, thence along Connecticut Highway 32 to junction of Connecticut Highway 2, thence along Connecticut Highway 2 to the Connecticut-Rhode Island State line. Gateways to be eliminated: (1) Points in New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E288), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Delaware, on the one hand, and, on the other, points in New Hampshire and Rhode Island. Gateways to be eliminated: (1) Points in New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E289), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Delaware, on the one hand, and, on the other, points in Connecticut north and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 12, thence along Connecticut Highway 12 to junction of U.S. Highway 6, thence along U.S. Highway 6 to the Connecticut-Rhode Island State line. Gateways to be eliminated: (1) Points in New York. (2) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 102003 (Sub-No. E1), filed May 19, 1974. Applicant: MORRIS VAN LINES, INC., P.O. Box 353, Anderson, South Carolina 29622. Applicant's representative: O. V. Morris, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) (a) between those points in Georgia on and south of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 369, thence along Georgia Highway 369 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line and on and north of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 84 to junction Georgia Highway 311, thence along Georgia Highway 311 to junction Georgia Highway 257, thence along Georgia Highway 257 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Georgia Highway 49, thence along Georgia Highway 49 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction U.S. Highway 278, thence along U.S. Highway 278 to junction Georgia Highway 44, thence along Georgia Highway 44 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in North Carolina on and east of U.S. Highway 25. (b) between points in Georgia on and north of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 369, thence along Georgia Highway 369 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line, on the one hand, and, on the other, points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending along North Carolina Highway 16 to junction U.S. Highway 321, thence along U.S. Highway 321 to the North Carolina-South Carolina State line. (c) between points in Georgia on and south of a line beginning at the Atlantic Ocean and extending along Georgia Highway 38 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 301, thence along

U.S. Highway 301 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction Georgia Highway 257, thence along Georgia Highway 257 to junction Georgia Highway 311, thence along Georgia Highway 311 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Georgia-Florida State line, on the one hand, and, on the other, points in North Carolina on, west, and north of a line beginning at the North Carolina-South Carolina State line and extending along Interstate Highway 85 to junction North Carolina Highway 49, thence along North Carolina Highway 49 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean.

(d) Between points in Georgia on, south, east, and north of a line beginning at the Georgia-South Carolina State line and extending west along U.S. Highway 378 to junction Georgia Highway 44, thence along Georgia Highway 44 to junction U.S. Highway 441, thence south along U.S. Highway 441 to junction Georgia Highway 49, thence along Georgia Highway 49 to junction Interstate Highway 75, thence south along Interstate Highway 75 to junction U.S. Highway 280, thence east along U.S. Highway 280 to junction U.S. Highway 301, thence northeast along U.S. Highway 301 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in North Carolina on, west, and north of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 321 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Interstate Highway 85, thence along Interstate Highway 85 to the North Carolina-Virginia State line. (2) (a) between points in Georgia on and north of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 369, thence along Georgia Highway 369 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line, on the one hand, and, on the other, points in Virginia on and east of Interstate Highway 77. (b) between those points in Georgia on and south of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 123 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Georgia Highway 369, thence along Georgia Highway 369 to junction Georgia Highway 20, thence along Georgia Highway 20 to the Georgia-Alabama State line and on and north of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 441 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in Virginia. (3) between points in Florida, on the one hand, and, on the other, points in Virginia.

(4) (a) between points in Georgia on and north of a line beginning at the Georgia-North Carolina State line and extending along U.S. Highway 19 to junction Georgia Highway 52, thence along Georgia Highway 52 to junction Georgia Highway 98, thence along Georgia Highway 98 to junction Georgia Highway 72, thence along Georgia Highway 72 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in Florida on and east of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 19 to junction Florida Highway 257, thence along Florida Highway 257 to junction Florida Highway 14, thence along Florida Highway 14 to the Gulf of Mexico. (b) between points in Georgia bounded by a line beginning at Comer and extending west on Georgia Highway 72 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction Georgia Highway 52, thence southeast along Georgia Highway 52 to junction Georgia Highway 98, thence along Georgia Highway 98 to the points of beginning, on the one hand, and, on the other, points in Florida on and south of Interstate Highway 4. (5) (a) between points in Florida on and south of a line beginning at Florida-Georgia State line and extending along U.S. Highway 301 to junction Florida Highway 24, thence along Florida Highway 24 to the Gulf of Mexico, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Georgia-Tennessee State line and extending along Interstate Highway 75 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Tennessee-Kentucky State line. (b) between those points in Florida on and east of U.S. Highway 319 and on and west of a line beginning at the Florida-Georgia State line and extending along U.S. Highway 301 to junction Florida Highway 24, thence along Florida Highway 24 to the Gulf of Mexico, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 129 to junction U.S. Highway 441, thence along U.S. Highway 441 to the Tennessee-Kentucky State line.

(6) (a) between points in Florida on and east of U.S. Highway 319, on the one hand, and, on the other, points in North Carolina on and west of Interstate Highway 85. (b) between points in Florida on and west of U.S. Highway 319, on the one hand, and, on the other, points in North Carolina on and east of Interstate Highway 85. (7) (a) between points in Tennessee on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 11 to junction Tennessee Highway 68, thence along Tennessee Highway 68 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Tennessee-Kentucky State line, on the one hand, and, on the other, points in North Carolina and east of Interstate Highway 85. (b) between those points in Tennessee on and west of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 441 to the Tennessee-Kentucky State line and on and east of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 27 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Tennessee Highway 95, thence along Tennessee Highway 95 to junction U.S. Highway 411, thence along U.S. Highway 411 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Tennessee-North Carolina State line, on the one hand, and, on the other, points in North Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 401 to junction North Carolina Highway 24, thence along North Carolina Highway 24 to junction U.S. Highway 258, thence along U.S. Highway 258 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 17, thence along U.S. Highway 17 to the North Carolina-Virginia State line.

(8) (a) Between points in Georgia bounded by a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 29 to junction Georgia Highway 77, thence along Georgia Highway 77 to junction Georgia Highway 79, thence along Georgia Highway 79 to junction Georgia Highway 47, thence along Georgia Highway 47 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Georgia-Florida State line, thence east along Georgia-Florida State line to the Atlantic Ocean, thence north along the Georgia-South Carolina State line to the point of beginning, on the one hand, and, on the other, points in Tennessee. (b) between points in Georgia on and east of a line beginning at the Georgia-South Carolina State line and extending along Interstate Highway 85 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Georgia Highway 257, thence along Georgia Highway 257 to junction Georgia Highway 91, thence along Georgia Highway 91 to junction Georgia Highway 37, thence along Georgia Highway 37 to junction Georgia Highway 97, thence along Georgia Highway 97 to the Georgia-Florida State line, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 129 to junction U.S. Highway 441, thence along U.S. Highway 441 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateway of Anderson, S.C.

No. MC 105045 (Sub-No. E180) (Correction), filed March 24, 1976, published in the FEDERAL REGISTER issue of April 21, 1977, and republished, as corrected, this issue. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: George H. Veech (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products* (except commodities in bulk) which, because of their size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; *Machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, picking up of pipe except the stringing or picking up pipe in connection with main or trunk pipelines, from points in Georgia to points in Idaho, North Dakota, South Dakota, Montana, Washington, Oregon, Wyoming, and Utah. The purpose of this filing is to eliminate the gateway from the plant site and storage facilities of Consolidated Aluminum Corporation at Carrollton, Ky.

NOTE.—The purpose of this republication is to add the destination state of Idaho, previously omitted.

No. MC 112070 (Sub-No. E26), filed June 4, 1974. Applicant: GRAY MOVING STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) from points in Pennsylvania to points in Arizona, California, Colorado, Idaho, Nebraska, Nevada, New Mexico, Oklahoma, Texas, and Utah. (2) (A) From points in Pennsylvania, to points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line and extending south along U.S. Highway 71, to junction U.S. Highway 70, thence west along U.S. Highway 70 to the Arkansas-Oklahoma State line. (B) From points in Pennsylvania on and east and north of a line beginning at the Pennsylvania-New York State line, and extending south along U.S. Highway 11 to junction Pennsylvania Highway 492, thence east along Pennsylvania Highway 492 to junction Pennsylvania Highway 376, thence east along Pennsylvania Highway 376 to the Pennsylvania-New York State line, to points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line, and extending south along U.S. Highway 65 to junction Arkansas Highway 7, to junction Arkansas Highway 27, thence south along Arkansas Highway 27 to junction Arkansas Highway 14, thence south along Arkansas Highway 14 to junction Arkansas Highway 29, thence south along Arkansas Highway 29 to the Arkansas-Louisiana State line. (C) From points in Pennsylvania to Ft. Smith, Ark. (3) From points in Pennsylvania to points in Kansas. (4) From points in Pennsylvania, to points in Missouri on and west of a line beginning at the Missouri-Iowa State line, and extending south along U.S. Highway 65 to the Missouri-Arkansas State line. (5) From points in Pennsylvania to points in South Dakota on and west of a line beginning at the South-Dakota-North Dakota State line, and extending south along U.S. Highway 85 to junction South Dakota Highway 79, thence south along South Dakota Highway 79 to junction U.S. Highway 385, thence south along U.S. Highway 385 to the South Dakota-Nebraska State line. (6) (A) From points in Pennsylvania to points in Wyoming on and west and south of a line beginning at the Nebraska-Wyoming State line and extending west along U.S. Highway 20 to junction U.S. Highway 87, thence north along U.S. Highway 87 to the Wyoming-Montana State line. (B) From points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line, and extending south along Pennsylvania Highway 29, to junction Pennsylvania Highway 309, thence south along Pennsylvania Highway 309 to the Atlantic Ocean, to points in Wyoming. The purpose of this filing is to eliminate the gateways of: Sec. (1), (2), (4), (6), points in Ohio and Kansas; Sec. (3) points in Ohio, and Kansas City, Mo.; Sec. (5) points in Ohio, Kansas, and Kansas City, Mo.

No MC 112070 (Sub-No. E117), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Iowa on and north and west of a line beginning at the Iowa-Missouri state line, and extending along Interstate Highway 35 to junction Interstate Highway 80, to junction U.S. Highway 65, to junction Iowa Highway 330, to junction Iowa Highway 14, to junction Iowa Highway 57, to junction U.S. Highway 20, to the Iowa-Illinois state line, on the one hand, and, on the other, Norfolk, Va., and points in the Isle of Wight and Nansemond Counties, Va.; (B) between points in Iowa, on the one hand, and, on the other, points in Delaware, Massachusetts, and Wicomico, Somerset, and Worcester Counties, Md.; (C) between points in Iowa on and west of a line beginning at the Iowa-Missouri state line and extending along U.S. Highway 59 to the Iowa-Minnesota state line, on the one hand, and, on the other, points in Maryland on and east of a line beginning at the Maryland-Pennsylvania state line, and extending along Interstate Highway 83 to Baltimore, Md., and points on and east of the Chesapeake Bay to the Maryland-Delaware state line; (D) between points in Iowa on and west of a line beginning at the Iowa-Minnesota state line, and extending along U.S. Highway 75, thence along U.S. Highway 75 to the City of River Sioux, on the Missouri River, on the one hand, and, on the other, points in Maryland on and east of a line beginning at the Maryland-Pennsylvania state line and extending along Interstate Highway 81, to the Maryland-West Virginia state line.

(E) Between points in Iowa on and north and west of a line beginning at the Iowa-Minnesota state line and extending along U.S. Highway 75 to junction Iowa Highway 3, thence along Iowa Highway 3 to the Iowa-South Dakota state line, on the one hand, and, on the other, points in Virginia on and east of a line beginning at the Virginia-West Virginia state line, and extending along Interstate Highway 81 to junction Interstate Highway 64, to junction Virginia Highway 6, to junction U.S. Highway 29, thence along U.S. Highway 29 to the Virginia-North Carolina state line; (F) between points in Iowa on and west of a line beginning at the Iowa-Minnesota state line and extending along U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri state line, on the one hand, and, on the other, points in Virginia on and east of a line beginning at the Maryland-Virginia state line, and extending along Interstate Highway 95, thence along Interstate Highway 95 to the Virginia-North Carolina state line; (G) between points in Iowa on and west of a line beginning at the Iowa-Wisconsin state line and extending along U.S. Highway 18, to junction Iowa Highway 13, to junction Iowa Highway 187, to junction U.S. Highway 20, to junction U.S. Highway 63, to junction U.S. Highway 30, to junction Iowa Highway 330, to junction U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Missouri state line, on the one hand, and, on the other, points in Washington, D.C.; (H) between points in Lyon, Sioux, and Plymouth Counties, Iowa, on the one hand, and, on the other, points in West Virginia on and east of a line beginning at the Maryland-West Virginia state line, and extending along U.S. Highway 522, thence along U.S. Highway 522 to the West Virginia-Virginia state line. The purpose of this filing is to eliminate the gateways of points in Illinois, Pennsylvania, and Easton, Pa., and points within 15 miles thereof.

No. MC 112070 (Sub-No. E118), filed June 4, 1976. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in Maryland on and east of a line beginning at the Pennsylvania-Maryland state line, and extending along Interstate Highway 70, to the Maryland-Virginia state line; (B) between points in the Upper Peninsula of Michigan, on and west of a line beginning at Lake Superior and extending along U.S. Highway 41 to Little Bay De Noc, on the one hand, and, on the other, points in Delaware; (C) between points in the Upper Peninsula of Michigan on and west of a line beginning at Lake Superior and extending along U.S. Highway 41 to Little Bay De Noc, on the one hand, and, on the other, Washington, D.C.; (D) between points in Keweenaw, Ontonagon, Houghton, Baraga, Gogebic, and Iron Counties, Mich., on the one hand, and, on the other, Norfolk, Va. The purpose of this filing is to eliminate the gate-

ways of points in Illinois, Pennsylvania, and Easton, Pa., and points within 15 miles thereof.

No. MC 112070 (Sub-No. E119), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Virginia on and east of a line beginning at the Maryland-Virginia state line, and extending along Interstate Highway 95 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in Minnesota; (B) between points in Virginia on and east of a line beginning at the Maryland-Virginia state line, and extending along Interstate Highway 81 to junction Interstate Highway 64, to junction Virginia Highway 6, to junction U.S. Highway 29, thence along U.S. Highway 29 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in Kittson County, Minn. The purpose of this filing is to eliminate the gateways of points in Illinois, Pennsylvania, and Easton, Pa., and points within 15 miles thereof.

No. MC 112070 (Sub-No. E121), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Household goods*, as defined by the Commission, (A) between points in Norfolk, Nansemond, and Isle of Wight Counties, Va., on the one hand, and, on the other, points in Kansas; (B) between points in Virginia on and east of a line beginning at the Virginia-Maryland state line, and extending along Interstate Highway 95 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in South Dakota; (c) between points in Nansemond and Isle of Wight Counties, Va., on the one hand, and, on the other, points in Illinois on and north of a line beginning at the Illinois-Indiana state line and extending along Interstate Highway 74 to junction U.S. Highway 24, thence along U.S. Highway 24, to the Illinois-Missouri state line; (D) between points in Virginia on and east of a line beginning at the Virginia-Maryland state line, and extending along Interstate Highway 95 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in Wyoming; (E) between points in Virginia on and east of a line beginning at the Virginia-Maryland state line and extending along Interstate Highway 95 to junction U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateways of points in Illinois, Missouri, Pennsylvania, and Easton, Pa. and points within 15 miles thereof.

No. MC 112070 (Sub-No. E122), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Maryland on and east of a line beginning at the Maryland-Pennsylvania state line, and extending along U.S. Highway 83 to Baltimore, Md., and all points east of the Chesapeake Bay, on the one hand, and, on the other, points in Minnesota, those points in Wisconsin on and west of a line beginning at Lake Superior, and extending along U.S. Highway 53 to junction U.S. Highway 63, to junction U.S. Highway 12, thence along U.S. Highway 12, to the Wisconsin-Minnesota state line, those points in Iowa on and west of a line beginning at the Minnesota-Iowa state line, and extending along U.S. Highway 59 to the Iowa-Missouri state line, those points in Missouri on and west of a line beginning at the Iowa-Missouri state line, and extending along U.S. Highway 71, thence along U.S. Highway 71 to the Missouri-Arkansas state line; (B) between points in Wicomico, Somerset, and Worcester Counties, Md., on the one hand, and, on the other, points in Iowa; (C) between points in Wicomico, Somerset, and Worcester Counties, Md., on the one hand, and, on the other, points in Illinois and Missouri; (D) between points in Maryland, on the one hand, and, on the other, Dubuque, Rock Island, and Quincy, Iowa; (E) between points in Maryland, on and east of a line beginning at the Maryland-Pennsylvania state line, and extending along Interstate Highway 70 to Washington, D.C., on the one hand, and, on the other, points in Kansas, Nebraska, and South Dakota; (F) between points in Maryland, on and east of a line beginning at the Pennsylvania-Maryland state line and extending along Interstate Highway 70 to Washington, D.C., on the one hand, and, on the other, points in Colorado and Wyoming;

(G) Between points in Maryland, on the one hand, and, on the other, points in South Dakota, Nebraska, except the counties of Richardson, Pawnee, Johnson, Nemaha, Otoe, Cass, and those points in Kansas on and west of a line beginning at the Kansas-Nebraska state line, and extending along U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Oklahoma state line; (H) between points in Maryland, on the one hand, and, on the other, points in Minnesota on and west of a line beginning at the Minnesota-Wisconsin state line, and extending along Interstate Highway 35 to junction U.S. Highway 61, to junction Minnesota Highway 23, to junction Minnesota Highway 4, thence along Minnesota Highway 4 to the Minnesota-Iowa state line, those points in Iowa on and west of a line beginning at the Minnesota-Iowa state line and extending along Iowa Highway 60, thence along Iowa Highway 60 to the Iowa-Nebraska state line. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points within 15 miles thereof and points in Illinois.

No. MC 112070 (Sub-No. E123), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Delaware, on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Minnesota, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points within 15 miles thereof, points in Illinois and Missouri.

No. MC 112070 (Sub-No. E124), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Washington, D.C., on the one hand, and, on the other, points in Colorado, Kansas, Minnesota, Nebraska, South Dakota, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points in Pennsylvania within 15 miles thereof, and points in Illinois and Missouri.

No. MC 112070 (Sub-No. E125), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Washington, D.C., on the one hand, and, on the other, points in Missouri on and east of a line beginning at the Iowa-Missouri state line and extending along U.S. Highway 65 to the Missouri-Arkansas state line; (B) between points in Washington, D.C., on the one hand, and, on the other, points in Iowa on and east of a line beginning at the Minnesota-Iowa state line and extending along U.S. Highway 65 to the Iowa-Missouri state line. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points in Pennsylvania within 15 miles thereof, and points in Illinois and Missouri.

No. MC 112304 (Sub-No. E89), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 E. Broad St., Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E90), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line, and extending along U.S. Highway Alternate 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Vermont. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E91), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidate Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E92), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south along U.S. Highway Alternate 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in Connecticut. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E96), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Kentucky on, and west of a line beginning at the Kentucky-Indiana State line and extending along U.S. Highway 41 and U.S. Highway Alternate 41 to the Kentucky-Tennessee State line, to points in Virginia on, and east of a line beginning at the Virginia-District of Columbia State line and extending along U.S. Highway 29 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E97), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in North Carolina. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E98), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line, and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in South Carolina. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E99), filed Octobr 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 E. Broad St., Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size, or weight, require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Georgia. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E100), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*,

which by reason of size, or weight, require the use of special equipment, from points in Illinois on, north, and east of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Florida. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E101), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Alabama. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E102), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Virginia on and west of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 220 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E103), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size, or weight, require the use of special equipment, from points in Illinois on, and east of a line bounded by a line beginning at the Mississippi River on Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Maine. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E104), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded by a line beginning at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E105), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING Co., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded by a line beginning at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Illinois. The purpose of this filing is to eliminate the gateway of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E106), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E107), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Rhode Island. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E108), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 by-pass to the Mississippi River on the Illinois-Missouri State line, to points in Connecticut. The purpose of ths filing is to eliminate the gateway of the facilities of the Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 114868 (Sub-No. 10), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household Goods*, as defined by the Commission, between points in Berkeley, Hampshire, Morgan, and Jefferson Counties, W. Va., on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 123407 (Sub-No. E293) (Correction), filed March 30, 1976, published in the FEDERAL REGISTER issue of April 6, 1977, and republished, as corrected, this issue. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* used as building materials, from Lee County, Ill., to points in North Carolina, and South Carolina, and to points in Georgia in and east of Rabun, Habersham, Stephens, Banks, Madison, Oglethorpe, Taliaferro, Warren, Glascock, Jefferson, Emanuel, Treutlen, Wheeler, Telfair, Ben Hill, Turner, Webster, Mitchell, Towns and Decatur Counties, Ga. The purpose of this filing is to eliminate the gateways at Warren, Ill. and New Castle, Ind.

NOTE.—The purpose of this correction is to add the county of Towns to the destination point, previously omitted.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14175 Filed 5-17-77;8:45 am]

PIPELINES

Tentative Valuations

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

INITIAL REPORTS

Valuation Docket No.	
1440	American Petrofina Pipe Line Co., P.O. Box 2159, Dallas, TX 75221.
1439	Amdel Pipeline, Inc., P.O. Box 2159, Dallas, TX 75221.

On or before June 17, 1977, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in the valuation of any carrier named above may, pursuant to rule 72 of the Commission's "General Rules of Practice" (49 CFR 1100.72), file an original and three copies of a petition for leave to intervene and, if granted, thus to come within the category of "additional parties as the Commission may prescribe" under section 19a(h) of the act, thereby enabling the party to file a protest. Blanket petition to intervene in all or several of these proceedings is not permissible. Individual petitions to intervene must be filed with respect to each valuation in which participation is sought. It is also required that a copy of the petition to intervene be served at the address shown above upon the carrier whose property is the subject of the tentative valuation and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the act need not file a petition; they are entitled to file protest as a matter of right under the statute.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14207 Filed 5-17-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

TIME AND DATE: 11 a.m., May 12, 1977.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Personnel Management at the CAB, including discussion of a recent Civil Service Commission Report on this subject.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Civil Service Commission has mandated an initial response to its report by May 19, 1977. The following Members have voted that agency business requires that the Board meet on this matter at the earliest possible time and that no earlier notice of the meeting was possible.

Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member R. Tenney Johnson

The following Members have voted that the meeting will be closed to public observation:

Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member R. Tenney Johnson

EXPLANATION OF THE CLOSING

This meeting will concern the internal personnel practices of the Civil Aeronautics Board, particularly those which are the subject of a Civil Service Commission report entitled "Review of Personnel Management at the Headquarters, Civil Aeronautics Board, April 1977," prepared by the U.S. Civil Service Commission Bureau of Personnel Management Evaluation. The Civil Service Commission states that "This report has been prepared for the use of agency management and staff personnel. Agencies should not release Commission evaluation reports or excepts from reports to the public. Any questions regarding release of information in this report should be referred to the Commission office where it originated." Accordingly, the Board finds that public observation of this meeting would involve matters which relate solely to the internal personnel rules and practices of an agency within the meaning of the exemption provided under 5 U.S.C. 552b(c)(2) and 14 CFR 310b.5(2) and that the meeting will be closed to public observation.

PERSONS ATTENDING

Board members:
Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member R. Tenney Johnson
Assistants to Board Members:
Mr. John Golden
Mr. Elias C. Rodriquez
Mr. James L. Casey
Mr. Robert E. Cohn
Office of the Managing Director:
Dr. Norma Maine Loeser
Office of the General Counsel:
Mr. James C. Schultz
Ms. Carol Light
Other:
Alderson Reporting Company
Ms. Kathy Prewitt

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(2) and 14 CFR 310b.5(2).

JAMES C. SCHULTZ,
General Counsel.

MAY 12, 1977.

[S-427-77 Filed 5-16-77;9:11 am]

2

AGENCY HOLDING THE MEETING: Federal Home Loan Mortgage Corporation.

TIME AND DATE: 10 a.m., May 19, 1977.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Late notice of meeting to consider open and closed items.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

MATTERS TO BE CONSIDERED:

Open item. Consideration of Status Report on Corporation Move to New FHLBB Building

Closed item. Appointment of Corporate Officer .

No. 25, May 1, 1977

RONALD A. SNIDER,
Assistant Secretary.

[S-422-77 Filed 5-13-77;2:41 pm]

3

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 F.R. 24357.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: May 18, 1977, 10 a.m.

CHANGES IN THE MEETING:

Addition of the following item to the closed session:

3. Sea-Land Service, Inc.—Proposed Amendments to Freight All Kinds Items—U.S. Atlantic/Puerto Rico Trade.

[S-428-77 Filed 5-16-77;10:11 am]

4

AGENCY HOLDING THE MEETING: Federal Reserve System.

The previously announced meeting of the Board of Governors of the Federal Reserve System on Wednesday, May 18, 1977, will include an additional item:

The appointment of a Federal Reserve Branch director.

The business of the Board requires that the item be added, and no earlier announcement of the change was possible.

This item will be closed to public observation because the item falls under exemption(s) in the Government in the Sunshine Act (5 U.S.C. § 552(c)).

The previously announced items are:

1. The appointment of a Federal Reserve Bank director.

2. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees. This matter was originally scheduled for a meeting in May 4, 1977.

The meeting will be held at 10 a.m. in the Board's offices at 20th Street and Constitution Avenue, NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, May 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-423-77 Filed 5-16-77;9:11 am]

5

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Friday, May 20, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue, NW., Washington, D.C., to consider the following items of official Board business:

1. Draft testimony to be presented before the Senate Committee on Banking, Housing and Urban Affairs, regarding S. 71 (a bill to strengthen the supervisory authority of the Federal banking agencies over financial institutions and their affiliates), S. 73 (a bill to prohibit interlocking management and director relationships between depositary institutions), S. 895 (a bill to amend the Federal Deposit Insurance Act), and S. 1433 (the "Depository Institutions Conflict of Interest Act", a bill that proscribes "revolving door" employment practices at the financial regulatory agencies).

2. Computer purchase by the Federal Reserve Board.

3. Personnel assignments within the Board's staff.

4. Positions to be taken on proposed legislation regarding the operation of foreign banks in the U.S.

5. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. § 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, May 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-424-77 Filed 5-16-77;9:11 am]

6

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Monday, May 23, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue, NW., Washington, D.C., to consider the following items of official Board business:

1. Draft testimony to be presented before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, regarding S. 600, the Regulatory Reform Act of 1977, which sets out a procedure for the submission of regulatory reform proposals by the President according to an eight-year schedule.

2. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, May 13, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-425-77 Filed 5-16-77;9:11 am]

7

AGENCY HOLDING THE MEETING: Indian Claims Commission.

TIME AND DATE: 10:15 a.m., May 25, 1977.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open to the Public.

Docket 29-J, Hannahville [Potawatomi].

Docket 272, Creek.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street, NW., Washington, D.C. 20006. Tel. 202-653-6184.

[S-429-77 Filed 5-16-77;10:11 am]

8

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

TIME AND DATE: 2 p.m., Thursday, May 19, 1977.

PLACE: Commission's Offices, 12th and Constitution Avenue, NW., Washington, D.C.

STATUS: Short Notice—Open Special Conference.

MATTERS TO BE CONSIDERED:

Operating Rights—Commodities in Bulk, Draft Notice of General Policy.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, Tel. 202-275-7252.

[S-426-77 Filed 5-16-77;9:11 am]

9

AGENCY HOLDING MEETING: United States Parole Commission—National Commissioners (the three Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Friday, May 20, 1977; 1 p.m.

PLACE: Room 338 Federal Home Loan Bank Board Building, 320 First Street, NW., Washington, D.C. 20537.

STATUS: Closed—Pursuant to 5 U.S.C. 552b(c)(10) and 28 C.F.R. 16.205(b)(1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 15 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-430-77 Filed 5-16-77;11:02 am]

federal register

WEDNESDAY, MAY 18, 1977

PART II



FEDERAL ENERGY ADMINISTRATION

■

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intent To Issue Prohibition Orders to Certain Installations

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intent To Issue Prohibition Orders to Certain Installations

The Federal Energy Administration (FEA) hereby gives notice of its intention to issue Prohibition Orders, pursuant to the authorities granted it by Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended (ESECA), and Title 10, Code of Federal Regulations (10 CFR), Parts 303 and 305 to the following installations:

Docket No.	Owner	Installation	Unit No.	Location
OCU-0400	Chesapeake Corp.	West Point Mill	8	West Point, Va.
OCU-0089	Continental Forest Industries, a member of the Continental Group, Inc.	Hopewell Mill	3	Hopewell, Va.
OCU-1512	E. I. Dupont de Nemours & Co.	Seaford Plant	8	Seaford, Del.
OCU-1678	Allied Chemical	Hopewell Chemical Plant	12	Hopewell, Va.
OCU-1716	Union Carbide Corp.	Institute Plant	12	Institute, W. Va.
OCU-2776	Scott Paper Co.	Chester Plant	8	Chester, Pa.
OCU-2839	FMC Corp.	Fredericksburg Plant	58	Fredericksburg, Va.
			59	
			60	
			61	
			62	
OCU-2840	Avtex Fibers, Inc.	Front Royal Plant	1	Front Royal, Va.
			2	
			3	

FEA hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding these proposed Prohibition Orders.

The proposed orders would prohibit the above-named installations from burning natural gas or petroleum products as their primary energy source.

Prior to issuance of a Prohibition Order to an installation, Section 2(a) of ESECA and 10 CFR 303.36(b) and 305.4(b) require that FEA find that the installation had the capabiliy and necessary plant equipment to burn coal as of June 22, 1974. A Prohibition Order may not be issued unless FEA can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA and that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect. FEA's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, for each installation are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by FEA pursuant to this notice and other information available to FEA. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, FEA may determine to issue Prohibition Orders to some or all of the above-named installations. These Prohibition Orders will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with Section 119(d)(1)(B) of the Clean Air Act, that the installation is able to burn coal and to comply with all applicable air pollution control requirements without a compliance date extension under Section 119 (c) of such Act, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, pursuant to Section 119(d)(1)(B) of the Clean Air Act, is the earliest date that the installation will be able to comply with all applicable requirements of Section 119 of that Act, and (2) FEA has considered the environmental impact of making the order effective, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected installation with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to an installation, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness, That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by FEA of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Programmatic Environmental Impact Statement or in other official documents made publicly available. If FEA prepares an environmental impact statement covering significant site-specific impacts resulting from making a Prohibition Order effective, the statement shall be prepared and published for comment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement. With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, it should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the installation that has been issued and order. It is expected that, in almost every case, an installation to which a Prohibition Order is issued will be eligible to apply to EPA for a compliance date extension. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons. Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the installation will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue Prohibition Orders to the installations listed above is invited in the form of written and oral presentation of data, views, and arguments. Comments should relate to individual docket numbers and should make clear to which docket number the individual comment is addressed.

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of these findings, (2) the environmental impact making effective a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173(a) and (d) and 305.5, FEA hereby announces that a public hearing to receive oral presentation of date, views, and arguments of interested persons will be held beginning at at 9:00 a.m. on June 1, 2 and 3, 1977, at the Federal Building, Conference Room 11B, 1421 Cherry Street, Philadelphia, Pennsylvania 19102. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Ed Gray, FEA Region III, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, (215) 597-3607. The request should be received before 4:30 p.m., Thursday, May 26, 1977. The request should describe the person's interest in the issue(s) involved; if appropirate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give concise summary of the proposed oral presentation and a phone number where the person may be contacted through May 31, 1977. Speakers should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Ed Gray, Federal Energy Administration, Room 1001 1421 Cherry Street, Philadelphia, Pennsylvania 19102, before 4:30 p.m., Monday, May 31, 1977. Speakers will be contacted by an FEA representative before 4:30 p.m., Friday, May 27, 1977, to confirm receipt of the written request.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While FEA will endeavor to provide adequate opportunity to all who desire to speak, FEA reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The FEA will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views, and arguments.

An FEA official will be designed to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit written questions to the presiding officer to be asked of any person making an oral presentation. The presiding officer will determine whether to ask the question, having first determined whether the question is relevant, and whether adequate time may be afforded for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, and the FEA Regional Office, Room 1001, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Executive Communications, Box MK, Federal Energy Administration, Federal Building, Room 3317, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Comments and other documents submitted to FEA Executive Communications should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the _____ Installation." Fifteen copies should be submitted.

All written comments received by 4:30 p.m., Tuesday, June 14, 1977, all oral presentations, and all other relevant information submitted to or available to FEA will be considered by FEA prior to issuance of a Prohibition Order.

Any information or date considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following FEA Regional Offices:

REGION, ADDRESS, AND PHONE

I. Robert Mitchell, Regional Administrator, 1500 Causeway Street, Room 700, Boston, Massachusetts 02113—617-223-3701.
II. Alfred Eleinfeld, Regional Administrator, 26 Federal Plaza, Room 3206, New York, New York 10007—212-264-1021.
III. J. A. LaSala, Regional Administrator, 1421 Cherry Street, Room 1001, Philadelphia, Pennsylvania 19102—215-597-3390.
IV. Donald Allen, Regional Administrator, 1655 Peachtree Street, N.E.—8th Floor, Atlanta, Georgia 30309—404-526-2837.
V. N. Allen Anderson, Regional Administrator, Federal Office Building, 175 West Jackson Blvd., Room A-333, Chicago, Illinois 60604—312-353-0540.
VI. Delbert Fowler, Regional Administrator, Post Office Box 35228, 2626 West Mockingbird Lane, Dallas, Texas 75235—214-749-7345.
VII. Nell Adams, Regional Administrator, 1150 Grand Avenue, Kansas City, Missouri 64106—816-374-2061.
VIII. Dudley Paver, Regional Administrator, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226—303-234-2420.
IX. William Arntz, Regional Administrator, 111 Pine Street, San Francisco, California 94111—415-556-7216.
X. Jack B. Robertson, Regional Administrator, 1992 Federal Building, 915 Second Avenue, Seattle, Washington 98174—206-442-7280.

MFBI PROHIBITION ORDER CANDIDATE IDENTIFICATION AND SELECTION METHODOLOGY

FEA has engaged in a two year, two part, process in which it first identified, after extensive information gathering, the potential universe of major fuel burning installations (MFBI's) in order to determine which MFBI's might be subject to Prohibition Orders. FEA then performed a detailed analysis of individual potential order recipients to determine whether facts would warrant publication of a Notice of Intention (NOI) to Issue a Prohibition Order to any of the potential order recipients.

I. Determination of candidate universe

On March 20, 1975, by Notice in the FEDERAL REGISTER (40 FR 12706), FEA required MFBI's with design firing rates in excess of 100 million BTU's per hour to provide basic identifying information. (FEA in its regulations published on May 9, 1975, (40 FR 20463) adopted the 100 million BTU's per hour design firing rate as the minimum size MFBI that would be eligible for a Prohibition Order).

On April 18, 1975, FEA published notice in the FEDERAL REGISTER (40 FR 17328) that it would mail to all then known MFBI's a questionnaire, entitled "Major Fuel Burning Installation Coal Conversion Report" (Form FEA C-602-S-0), designed to provide FEA with additional information needed to help determine whether the MFBI's would be candidates for Prohibition Orders. Questionnaires were mailed to those respondents to the March 20, 1975, FEDERAL REGISTER notice and to other MFBI's identified through data provided by FEA regional personnel, the Environmental Protection Agency, other Federal agencies, and through contact with trade associations. A total of 822 parent companies responded to the survey, identifying 3,482 installations and 6,289 individual units.

The first survey provided FEA with historical information on quantity and quality of fuel use and preliminary pollution control data relative to the facilities in question.

Compilation and evaluation of the information received from the survey led to development of a supplemental questionnaire (Form FEA C-602-S-1) to elicit data on the financial situation of owners of MFBI's, including information designed to ascertain what the effects of a Prohibition Order would be on an individual company basis. This questionnaire was designed to provide a basis for subsequent analysis of the MFBI in terms of financial capability, additional capital investment costs resulting from a Prohibition Order, operating cost differentials and coal and coal transportation availability. This supplemental questionnaire was sent in June 1976 to various owners of MFBI's to obtain information on 161 sites and 281 individual units.

Most of the supplemental questionnaires (involving 138 sites and 246 units) were sent to owners of MFBI's identified as capable of burning coal in the first questionnaire and which, in 1974, burned at least 150,000 barrels of oil or 921,000,000 cubic feet of natural gas or a BTU equivalent combination. These MFBI's were chosen because of their potential for large fuel savings and the potential low conversion costs to fuel saving ratio.

The other supplemental questionnaires were sent to MFBI's which had indicated an intention to discontinue coal use (23 sites at which there were 35 units).

In September 1976, after responses to the supplemental questionnaires had been received, FEA consulted with the Environmental Protection Agency (EPA) to obtain EPA's best estimate as to the means by which these MFBI's could burn coal and comply with all applicable air pollution control requirements. EPA indicated whether particular MFBI's would require upgrading, or

installation of electrostatic precipitators, installation of flue-gas desulfurization devices, or whether the MFBI could burn coal that would conform to air pollution control requirements without pollution control equipment.

II. *Site specific analysis.*

Once FEA had gathered the supplemental data relating to the 161 sites, it then conducted a technical analysis for each respondent to the supplemental questionnaire.

FEA prepared a technical summary based on the information provided to enable the Agency to analyze each respondent's potential amenability to receipt of an NOI. The technical summary consisted of the following data:

a. Expected remaining useful life (respondent's and FEA's estimates);

b. Unit capacity;

c. Fuel consumption for 1975;

d. The last year coal was burned at the installation;

e. Costs of converting to coal, including pollution control equipment costs, if any (respondent's and FEA's estimates);

f. Type of pollution control equipment, if any, required (respondent's and EPA's estimates); and

g. Other relevant factors, such as percent sulfur content in coal that would be required to insure compliance with environmental standards.

FEA eliminated or deferred from further consideration those MFBI's for which the following criteria were applicable:

a. Remaining useful life of the MFBI on January 1, 1978 would be less than one year (based on an expected useful life of 40 years);

b. The utilization factor of the MFBI was less than 20 percent;

c. Space required for coal use at the installation was inadequate or unavailable;

d. Since filing the original questionnaire, the MFBI had been converted to coal as its primary energy source or the owner has certified that the MFBI will be so converted in the near future;

e. The MFBI used (in the latest year for which fuel use figures are available) significantly less than 2×10^{13} Btu's of oil or natural gas.

Items a or b above, would prevent FEA from finding that burning coal by the MFBI would be practicable. FEA assumed a forty-year useful life as a reasonable estimate based on general industrial averages. FEA has decided not to analyze MFBI's that have already converted to coal, since the basic purposes of ESECA have already been accomplished by such conversions and FEA has concluded that its resources would be better allocated by concentrating on those MFBI's which are not now burning coal.

Certain MFBI's were eliminated from further analysis upon FEA's determination that one or more of the factors which FEA must consider pursuant to § 305.4(c) of its regulations would have resulted in disqualification of a particular MFBI. Such eliminations were based on factors such as process fuel uses peculiar to the MFBI's, inadequate land or space for coal related facilities, unique or unusual environmental constraints, and other similar disqualifying considerations.

If in FEA's judgment, analysis of the summary information raised issues that required further investigation, FEA conducted visits to the specific sites. Site visits were employed in circumstances in which large discrepancies between FEA's and the MFBI's cost estimates were observed, unusual technical problems were presented by the MFBI with respect to coal use, and when other disparities occurred between the information submitted by the MFBI and that developed independently by FEA. Information developed during the site visits served to either eliminate an MFBI from further consideration, through the aforementioned criteria, or served to demonstrate that FEA should continue its analysis.

For each MFBI not eliminated through any of the above criteria, FEA has calculated the net operating cost differential between using coal as the MFBI's primary energy source and using either natural gas or petroleum products.

A. *Calculation of net operating cost differential.* The net operating cost differential consists of the sum of (1) annualized increased capital investment costs required for conversion to coal, (2) differences in operating and maintenance costs (including the fuel cost differential), and (3) the potential tax consequences attendant to conversion. Initially, FEA performs two calculations in determining the net operating cost differential, one using cost figures supplied by the MFBI and the other using FEA's own estimates. When the MFBI's figures are within a reasonable range of FEA's estimates, FEA generally accepts the MFBI's figures. Gross discrepancies are examined in more detail by FEA to determine the reasonableness of the differing estimates and to reconcile differences.

The elements of the three parts of the net operating cost differential are explained below:

1. *Capital investment costs.* The primary element in this part is the cost of equipment acquisition and refurbishment required for conversion to coal, including refurbishment or acquisition of pollution control equipment. In determining the estimated annual increase fixed costs to the owner resulting from such capital investment, FEA calculates the annual depreciation of equipment costs over the expected remaining useful service life of the MFBI (including consideration of the investment tax credit) and adds the estimated annual cost of capital.

Annual depreciation is calculated as follows:

a. Determine cost of new equipment (including pollution control equipment) minus investment tax credit of 10 percent.

b. Divide the figure in a, above, by the expected remaining useful life of the MFBI after conversion is completed. FEA presumes that the MFBI's determination of remaining useful life is correct if it results in a total useful life of at least 40 years. Otherwise, FEA will conduct a more detailed examination of the MFBI.

Calculation of the approximate annual cost of capital is as follows:

a. New and refurbished equipment costs minus the investment tax credit, plus.

b. Twice the cost of land acquisitions required for conversions to coal burning.

c. The total of 1) and 2) is divided by 2 and then multiplied by a 10 percent interest rate.

2. *Operating and maintenance costs.* The primary factor considered in this calculation is the annual fuel cost differential which represents the difference between operating the MFBI with coal as its primary energy source in lieu of petroleum products or natural gas. (If the current supply of natural gas to the MFBI is curtailed, then the calculation of the fuel cost differential does not include natural gas as part of the MFBI's current fuel use to the extent of that curtailment. In such cases the NOCD was calculated on the basis of actual fuel usage). FEA has generally accepted the coal price reported by the MFBI's. If FEA considered the stated price to be unreasonable, it further examined coal prices based upon an analysis of delivered prices of coal in the area of the MFBI under consideration and an analysis of likely coal sources. Projected coal use after conversion was calcuated by converting latest annual fuel use data to its BTU equivalent for coal.

Determination of the differential relating to labor costs and the differential relating to other operating and maintenance costs was based upon estimates supplied by MFBI's.

3. *Potential tax effects.* Federal and state tax rates have been applied to the net operating cost differential to determine maximum potential tax effects resulting from a Prohibition Order.

If the NOCD for an MFBI was positive, i.e., projects an increase in annual costs of operations, then a calculation of the cost per barrel of oil saved was performed by dividing the NODC by the number of barrels of oil actually used on an annual basis (or, if the MFBI was a natural gas user, the number of barrels of oil which would be required to replace the gas use on an equivalent Btu basis). This figure (cost per barrel of oil saved) was then considered in terms of the number of barrels of oil and/or MCF of natural gas that would be saved by issuance of a Prohibition Order, the effect of the NOCD on the MFBI owner's operating expenses, as well as various environmental and other factors in reaching the final determination as to which candidates should receive an NOI.

It is to be noted that much of the information used by FEA to make its practicability findings is arguably confidential under 18 U.S.C. 1905. Therefore, such information has not appeared in the Appendix to the NOI. The calculations have been explained in each case and the data are available to the representatives of the owner of the MFBI.

Any questions regarding this Notice should be directed to the FEA National Office as follows: Federal Energy Administration, Code OCU Prohibition Order: _____ Installation), Washington, D.C. 20461 (202) 566–7941.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185).)

Issued in Washington, D.C. May 9 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0400.....	Chesapeake Corp...	West Point Mill...	8	West Point, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Chesapeake Corporation shall be referred to as the "owner" and as "Chesapeake". West Point Mill Unit 8 shall be referred to as the "MFBI" and as "West Point 8".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, West Point 8 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Chesapeake, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 12, 1975, indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based on information Chesapeake filed with FEA dated July 21, 1976, and other information available to FEA, the following plant equipment and facilities at West Point 8 would have to be acquired or refurbished in order for the MFBI to burn coal as its primary energy source:

1. Unloaders.
2. Conveyors.
3. Crushers.
4. Pulverizers.
5. Feeders.
6. Combustors.
7. Soot blowers.
8. Instrumentation and controls.
9. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, West Point 8 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at West Point 8 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973–1975, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the fatcs and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at West Point 8 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at West Point 8 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1a.–c., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of West Point 8 will represent an annual savings.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of West Point 8 is reasonable.

As a result of conversion, Chesapeake will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boiler after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boiler should result.

The use of coal at West Point 8 will result in a substantial annual savings of barrels of oil that otherwise would be used as boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at West Point 8 are totally offset by the current fuel cost differential between oil and coal burning at West Point 8, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by West Point 8 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Order, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Chesapeake. FEA related these additional capital investment costs to the total capitalization of Chesapeake and the remaining useful life after conversion of West Point 8.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Chesapeake to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Chesapeake MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Chesapeake's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to West Point 8 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental

protection requirements, FEA proposes to conclude that a Prohibition Order to West Point 8 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this MFBI during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report").

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.* FEA's "Availability Report" has determined that a boiler of the type used at West Point 8 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp (° F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	120

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to this MFBI (in a probable regional supply/demand relationship related to the location of the MFBI) from BOM Districts 1 through 6 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	5,771
1979	11,338
1980	14,018
1981	16,565
1982	17,425
1983	18,478
1984	22,504

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 1 through 6 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	2,090
1979	4,268
1980	6,504
1981	7,369
1982	17,258
1983	19,298
1984	19,298

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 1 through 6 with a 1.41–1.81 percent sulfur content (which includes the 1.5 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 1.41–1.8*
1978	1,916
1979	3,045
1980	4,465
1981	5,222
1982	5,318
1983	5,318
1984	5,318

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 1 through 6 uncommitted coal production that meets the requirements of West Point 8 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 1 through 6. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for West Point 8 would probably come from BOM District 2 as the primary supply area and from BOM District 7 as the alternate supply area. While these supply regions are the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for West Point 8 is to originate coal near Rockwood, Pennsylvania in BOM District 2 on the Baltimore and Ohio (Chessie System) which would move it to Alexandria, Virginia. The Richmond, Fredericksburg and Potomac (RF&P) would move it to Richmond, Virginia where the Southern Railway would pick it up for delivery to West Point 8. The total rail distance is about 360 miles.

The alternate route from the primary supply area originates coal in BOM District 2 on Consolidated Railroad Corporation (ConRail). ConRail would move the coal via Harrisburg, Pennsylvania, and Baltimore, Maryland to Washington, D.C. The RF&P would then move the coal to Richmond, Virginia where the Southern Railway would pick it up for delivery to West Point 8. The total rail distance is about 460 miles.

An alternate route from the alternate supply area would originate coal in BOM District 7 in the area of Radford, Virginia on the Norfolk and Western (N&W).

N&W would move the coal to Burkeville, Virginia where the Southern Railway would pick it up for delivery to West Point 8. The total rail distance is about 255 miles.

3. *Originating trunk carrier.* The Chessie System, the originating carrier of coal for West Point 8, has approximately 75,000 hopper cars in service with plans to add 5,000 more in the near future. Using an average number of 20 deliveries per year per 77-ton car, the Chessie may need as many as 126 additional cars to handle the increased demand from West Point 8. This estimated assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. Chessie's capacity to build new hopper cars in its own shops exceeds 2,500 per year, and it anticipates no significant constraints in adding adequate capacity for all foreseeable demands.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive order under Section 2(a) of ESECA.

The Chessie indicated that transportation facilities at mine sites within BOM District 2 served by the Chessie are in good conditions and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Designation carrier and MFBI facilities.* The Southern Railway provides freight service to West Point 8. Chesapeake reports that coal was burned at West Point 8 until 1968 but that some modernization of their coal receiving and storage facilities would be desirable. It is expected that these repairs can be accomplished prior to the effective date for coal burning. There are no other obstacles to the delivery of coal to West Point 8.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to West Point 8 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-0989	Continental Forest Industries, a member of the Continental Group, Inc.	Hopewell Mill	2 3	Hopewell, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Continental Forest Industries, A Member of The Continental Group, Inc., shall be referred to as the "owner" and as "Continental". Hopewell Mill Units 2 and 3 shall be referred to as the "MFBI's" and as "Hopewell 2 and 3".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Hopewell 2 and 3 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Continental, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0) filed on May 20, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Continental filed with FEA dated September 30, 1976, and other information available to FEA, the following plant equipment and facilities at Hopewell 2 and 3 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Crushers.
4. Pulverizers.
5. Feeders.
6. Burners.
7. Ash handling and loading equipment.

C. FEA proposes to find that on June 22, 1974, Hopewell 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Hopewell 2 and 3 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Hopewell 2 and 3 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner, and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Hopewell 2 and 3 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Hopewell 2 and 3, will represent an annual savings.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Hopewell 2 and 3 is reasonable.

As a result of conversion, Continental will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boilers should result.

The use of coal at Hopewell 2 and 3 will result in a substantial annual savings of barrels of oil savings that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at Hopewell 2 and 3 are totally offset by the current fuel cost differential between oil and coal burning at Hopewell 2 and 3 and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Hopewell 2 and 3 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to MFBI's owned by Continental. FEA related these additional capital investment costs to the total capitalization of Continental and the remaining useful life after conversion of Hopewell 2 and 3.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Continental to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Continental MFBI's.

However, due to the potential offsetting aggregate value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Continental's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Hopewell 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Hopewell 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 90 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production Potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.* FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Hopewell 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.8

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
Year: 1980 and thereafter	160

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristics.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–2.2 percent sulfur content (which includes the 1.8 percent maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 1.41 to 2.2*
1978	288
1979	1,042
1980	1,918
1980	1,918
1981	1,918
1982	1,918
1983	1,918
1984	1,918

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.* FEA has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.* FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Hopewell 2 and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Hopewell 2 and 3 would probably come from BOM District 8 as both the primary and alternate source of supply. While these supply regions are among the nearest available source able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.* The primary route for coal delivery for Hopewell 2 and 3 is to originate coal near Andover in Southwestern Virginia, BOM District 8 on the Norfolk and Western (N&W) which would haul it via Lynchburg and Petersburg, Virginia, to Hopewell 2 and 3. The total rail distance is approximately 390 miles.

The alternate route from the primary supply area originates coal on the Southern Railway which would haul coal from BOM District 8 to Bristol, Tennessee. The N&W would then move it via Roanoke to Alberta, Virginia, where the Seaboard Coast Line (SCL) would pick up the coal for delivery to Hopewell 2 and 3. The total rail distance is about 420 miles.

The alternate route from the alternate supply area originates coal near Clinton, Tennessee, in BOM District 8 on the Southern Railway which would move the coal to Bristol, Tennessee. The N&W would move it via Roanoke, Virginia, to Alberta, Virginia, where the SCL would pick up the coal for delivery to Hopewell 2 and 3. The total rail distance is approximately 470 miles.

3. *Originating trunk carrier.* The N&W, originating carrier of coal for Hopewell 2 and 3, has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average number of deliveries of 20 per year per 83-ton car, the N&W may need as many as 110 additional cars by 1979 to handle the increased demand from Hopewell 2 and 3. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

The N&W indicated that the retirements from its hopper fleet are not expected to exceed 1,200 per year and that N&W has shop capacity to build 1,500 to 5,000 new cars per year, depending on demand.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive order under Section 2(a) of ESECA.

The N&W indicated transportation facilities at mines sites within BOM District 8 served by N&W are operating satisfactorily and that loading facilities are adequate to handle the increased coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.* Hopewell 2 and 3 are served by both the

N&W and SCL. Continental reported that coal had been burned as a boiled fuel at Hopewell 2 and 3 until the 1969–1971 period. Both the N&W and SCL tracks are now used for heavy freight service. There are no other obstacles to the delivery of coal to Hopewell 2 and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Hopewell 2 and 3 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU–1512	E.I. DuPont de NeMours & Co.	Seaford Plant	2, 3	Seaford, Del.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

E. I. DuPont de Nemours & Company shall be referred to as the "owner" and as "DuPont". Seaford Plant Units 2 and 3 shall be referred to as the "MFBI's" and as "Seaford 2 and 3".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Seaford 2 and 3 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. DuPont, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 12, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information DuPont filed with FEA dated July 20, 1976, April 7, 1977, and other information available to FEA, the following plant equipment and facilities at Seaford 2 and 3 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Crushers.
4. Pulverizers.
5. Scales.
6. Feeders.
7. Combustors.
8. Air heaters.
9. Soot blowers.
10. Special instrumentation and controls.
11. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, Seaford 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Seaford 2 and 3 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1975, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Seaford 2 and 3 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Seaford 2 and 3 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraph A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Seaford 2 and 3 will represent an annual savings.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Seaford 2 and 3 is reasonable.

As a result of conversion, DuPont will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boilers should result.

The use of coal at Seaford 2 and 3 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increased annual capital investment costs and operating and maintenance costs at Seaford 2 and 3 are totally offset by the current fuel cost differential between oil and coal burning at Seaford 2 and 3, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Seaford 2 and 3 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by DuPont. FEA related these additional capital investment costs to the total capitalization of DuPont and the remaining useful life after conversion of Seaford 2 and 3.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of DuPont to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to DuPont MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, DuPont's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Seaford 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Seaford 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to met the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extent that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to product coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Demand (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following (Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Seaford 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[2] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.0

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
Year: 1979 and thereafter	104

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year	*Production (thousand tons)*
1978	54,090
1979	97,325
1980	124,328
1981	149,252
1982	158,268
1983	170,320
1984	201,207

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	19,952
1979	33,160
1980	37,779
1981	44,246
1982	47,145
1983	51,293
1984	58,891

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8, and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,771
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts, 7, 8, and 13 with a 0.61–1.4% sulfur content (which includes the 1.0% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 0.61 to 1.4*
1978	2,831
1979	5,825
1980	10,484
1981	11,673
1982	16,937
1983	16,937
1984	16,937

The regional planned production of coal stated in paragraph A.3.c., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8, and 13 uncommitted coal production that meets the requirements of Seaford 2 and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.*—Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for the Seaford 2 and 3 would probably come from BOM District 8 as the primary supply area and from BOM District 2 as the alternate supply area. While these supply areas are the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely routes as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Seaford 2 and 3 is to originate coal in BOM District 8 near Charleston, West Virginia on the Baltimore and Ohio (Chessie System). The Chessie System would move it via Hagerstown, Maryland to Newark, Delaware where Consolidated Railroad Corporation (Conrail) would pick it up for delivery to Seaford 2 and 3. The total rail distance is approximately 530 miles.

The alternate route from the primary supply area is to originate coal in BOM District 8 on the Chesapeake and Ohio (Chessie System) which moves it via Covington, Virginia and Washington, D.C. to Newark, Delaware where Conrail would pick it up for delivery to Seaford 2 and 3. The total rail distance is approximately 550 miles.

An alternate route from the alternate supply area would originate coal in BOM District 2 in Allegheny or Westmoreland Counties near Pittsburgh, Pennsylvania on Conrail, which would move it via Coatesville, Pennsylvania for delivery at Seaford 2 and 3. The total rail distance is approximately 350 miles.

3. *Originating trunk carrier.*—The Chessie System, originating carrier of coal for Seaford 2 and 3 has about 76,000 hopper cars with an average capacity of 77 tons. Using an average of 20 deliveries per year per 77-ton car, the Chessie System may need as many as 86 additional cars to handle the increased demand from Seaford 2 and 3. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating capacity nor obtain cars from other carriers in the originating vicinity. The Chessie System has indicated that an existing appropriation to buy and build new cars will increase their holdings to over 80,000.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.*—Seaford 2 and 3 has used coal as an alternate fuel and now maintains an emergency inventory in storage silos. No difficulty is foreseen in delivering and receiving coal using facilities now in place.

There are no other obstacles to the delivery of coal to Seaford 2 and 3.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Seaford 2 and 3 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1673	Allied Chemical	Hopewell Chemical Plant	12	Hopewell, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Allied Chemical shall be referred to as the "owner" and as "Allied". Hopewell Chemical Plant Unit 12 shall be referred to as the "MFBI" and as "Hopewell Chemical 12".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Hopewell Chemical 12 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Allied, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14 (Form FEA C–602–S–0), filed on May 14, 1975, indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based on information Allied filed with FEA dated August 5, 1976, and other information available to FEA, the following plant equipment and facilities at Hopewell Chemical 12 would have to be acquired or refurbished in order for this MFBI to burn coal as its primary energy source:

1. Bunkers
2. Soot blower
3. Burner
4. Conveyor
5. Pulverizers
6. Scales
7. Feeders
8. Unloaders
9. Ash handling equipment

C. FEA proposes to find that on June 22, 1974, Hopewell Chemical 12 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a leak of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Hopewell Chemical 12 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973–1977, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Hopewell Chemical 12 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Hopewell Chemical 12 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential (which represents

the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Hopewell Chemical 12 will represent an annual savings.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Hopewell Chemical 12 is reasonable.

As a result of conversion, Allied will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boiler after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boiler should result.

The use of coal at Hopewell Chemical 12 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at Hopewell Chemical 12 are totally offset by the current fuel cost differential between oil and coal burning at Hopewell Chemical 12, and potential future increases in the fuel cost differential, in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Hopewell Chemical 12 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Allied. FEA related these additional capital investment costs to the total capitalization of Allied and the remaining useful life after conversion of Hopewell Chemical 12.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Allied to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Allied MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Allied's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Hopewell Chemical 12 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Hopewell Chemical 12 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this MFBI during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 98% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.2
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.2
1983	1,017.4
1984	1,028.7
1985	1,039.6

The figures shown above are derived from FEA's *Coal Mine Expansion Study* (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	363.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For these companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.* FEA's "Availability Report" has determined that a boiler of the type used at Hopewell Chemical 12, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[2] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.25

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
1979 and thereafter	144

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	Production (thousand tons)
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to the MFBI (in a probable regional supply/demand relationship related to the location of the MFBI) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	26,032
1979	47,383
1980	53,062
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.82–2.2% sulfur content (which includes the 1.82% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) Percent Sulfur 1.81 to 2.2
1978	62
1979	145
1980	145
1981	145
1982	145
1983	145
1984	145

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Hopewell Chemical 12 as described in paragraph A.3.a., above. FEA proposes to find that this uncommited coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Hopewell Chemical 12 would come from BOM District 8 as both the primary and alternate source of supply. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Hopewell Chemical 12 is to originate coal near Andover, Virginia, in BOM District 8, on the Norfolk and Western (N&W), which would move it via Lynchburg and Petersburg, Virginia, to the plant. The total rail distance is approximately 390 miles.

The alternate route from the primary supply area originates coal in the same area on the Southern Railway which would haul the coal to Bristol, Tennessee. The N&W would then move the coal via Roanoke to Alberta, Virginia where the Seaboard Coast Line (SCL) would pick the coal up for delivery to the plant. The total rail distance is about 420 miles.

The alternate route from the alternate supply area is to originate coal near Clinton, Tennessee in BOM District 8 on the Southern Railway which would move the coal to Bristol, Tennessee. The N&W would move the coal via Roanoke, Virginia to Alberta, Virginia where the SCL would pick it up for delivery to Hopewell Chemical 12. The total rail distance is approximately 470 miles.

3. *Originating trunk carrier.*—The N&W, the originating carrier of coal for Hopewell Chemical 12, has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average number of deliveries of 20 per year per 83-ton car, the N&W may need as many as 80 additional cars by 1979 to handle the increased demand from Hopewell Chemical 12. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity. The N&W indicated that the retirements from its hopper fleet are not expected to exceed 1,200 per year and that N&W has shop capacity to build 1,500 to 5,000 new cars per year, depending on the demand.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The N&W indicated that transportation facilities at those sites within BOM District 8 served by N&W are operating satisfactorily and that loading facilities are adequate to handle the increased volume.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.*—Hopewell, Virginia is served by both the N&W and SCL. Hopewell Chemical 12 reported that coal had been burned as a boiler fuel until a few years ago. Both the N&W and SCL tracks are now used for heavy freight service.

There are no other obstacles to the delivery of coal to this MFBI.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Hopewell Chemical 12 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-1716	Union Carbide Corp.	Institute Plant	12	Institute, W. Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Union Carbide Corporation shall be referred to as the "owner" and as "Union Carbide". Institute Unit 12 shall be referred to as the "MFBI" and as "Institute 12".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Institute 12 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Union Carbide, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0) filed on May 20, 1975 indicated that the MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boiler had been designed and constructed or modified to burn coal as its primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI may not have been burning coal as its primary energy source.

B. Based in information Union Carbide filed with FEA dated June 21, 1976 and other information available to FEA, the following plant equipment and facilities at Institute 12 would have to be acquired or refurbished in order for this MFBI to burn coal as its primary energy source:

1. Conveyors.
2. Crushers.
3. Feeders.
4. Soot Blowers.
5. Unloaders.
6. Special instrumentation and controls.
7. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, Institute 12 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Institute 12 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of this boiler for the period 1973–1977, the remaining useful service life of the boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations reference below:

A. *The burning of coal is practicable.*—1. *Anticipated fuel supplies.—Curtailment of natural gas supply.* Based on information obtained from the Federal Power Commission, the natural gas supplier, and in certain cases the owner, FEA presumes that the MFBI will experience a substantial curtailment of its present supply of natural gas. This curtailment will result in increased reliance on alternate fuels in the future.

2. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Institute 12 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Institute 12 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boiler after conversion, FEA has determined that the net annual operating cost differential, hereafter "NOCD", (which represents the difference between operating the boiler with coal and alternate fuel(s) as its primary energy source), resulting from the conversion of Institute 12 will represent an annual cost increase of $208,000.

3. *Reasonableness of additional costs of burning coal.*—The following analysis of the costs of conversion provides the basis for deciding that compliance with the proposed order is not unreasonable.

By converting from burning natural gas to burning coal as the primary energy source the MFBI would experience a net annual operating cost increase, but would save a substantial amount of natural gas. This cost would only be incurred for a limited period because the MFBI will eventually experience a substantial curtailment of its supply of natural gas. If the Prohibition Order were not issued to the MFBI it could alternatively replace its current natural gas supply with either petroleum products or coal for the period following such substantial curtailment of its natural gas supply.

In the calculation of the NOCD, FEA has considered oil as a substitute fuel for curtailed natural gas. In calculating the NOCD, in those instances where the MFBI has experienced no curtailment of its natural gas supply, FEA considered the present fuel usage. The net annual operating cost increase for this MFBI resulting from operating on coal as the primary energy source, instead of petroleum products (and/or natural gas where applicable), will be approximately $208,000.

Although the use of the coal alternative, instead of potential petroleum products, could be expected to result in a net annual operating cost increase, FEA has determined that the prohibition of burning natural gas or petroleum products as the primary energy source at Institute 12 is not unreasonable. Burning of coal by the MFBI as its primary energy source instead of petroleum products would result in additional capital investment costs and annual operating and maintenance costs exclusive of fuel costs. Any additional conversion costs would, however, be mitigated by the savings in fuel costs inherent in burning coal. Notwithstanding the fact that the MFBI could experience annual savings in its total fuel costs should it convert to coal instead of converting to petroleum products, there would be a net increase in the costs to the MFBI.

Although conversion to the burning of coal instead of petroleum products would be expected to increase the costs incurred by Institute 12 by $208,000 per year, FEA proposes to find that such increased cost, per barrel of oil saved is not unreasonable given the purposes of ESECA. This determination is based on consideration of the substantial potential oil savings that would result from conversion to coal. The determination that the costs of burning coal instead of petroleum products would not be unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the MFBI, the size and resources of the owner as examined in the following discussion of financial capability, and the nature of the expected operations of the MFBI.

The additional costs that would be incurred if FEA were to prohibit the burning of natural gas or petroleum products as the primary energy source at Institute 12 would only be incurred for a limited period of time. In view of the scarcity of national supplies of natural gas and the likelihood that Institute 12 will experience a substantial curtailment of its present natural gas supply in the future, FEA has determined that the cost of burning coal in lieu of natural gas is not unreasonable. (Final Report Oil and Gas Resources, Reserves, and Productive Capacities Volumes I and II, Federal Energy Administration, October 1975.)

4. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Institute 12 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Union Carbide. FEA related these additional capital investment costs to the total capitalization of Union Carbide and the remaining useful life after conversion of Institute 12.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Union Carbide to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, excluding fuel costs) associated with the burning of coal as opposed to natural gas attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders if any, issued to date under authority of Section 2(a) and (c) of ESECA to Union Carbide MFBI's.

Notwithstanding the potential offsetting value of fuel cost savings, attributable to compliance with this NOI and all other NOI's currently under consideration, Union Carbide's total annual costs after conversion will increase by $208,000.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Institute 12 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for this MFBI to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Institute 12 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to this MFBI during the period until December 31, 1984*

A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight.

To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyon 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's "Coal Mine Expansion Study" (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 production, therefore, tends to underestimate actual production potential.

An FEA study, "Coal Availability Report, April 1977" (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at this MFBI. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for this MFBI.*—FEA's "Availability Report" has determined that a boiler, of the type used at Institute 12, will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.1

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from this MFBI.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1978 and thereafter	95

c. *National planned production, characteristic coal.* FEAs "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to this MFBI in a nationwide market as follows:

Year:	*Production (thousand tons)*
1978	61,390
1979	112,998
1980	141,696
1981	169,688
1982	179,742
1983	193,201
1984	228,474

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	*Demnd (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to this MFBI (in a probable regional supply/demand relationship related to the location of this MFBI) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	23,720
1979	41,682
1980	46,902
1981	54,781
1982	58,159
1983	62,984
1984	72,417

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e. above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to this NOI, from all other Notices of Intention to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,771
1981	18,005
1982	23,582
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 0.61–1.4% sulfur content (which includes the 1.1% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under the authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) Percent sulfur 0.61 to 1.4*
1978	2,831
1979	5,578
1980	9,839
1981	11,028
1982	16,292
1983	16,292
1984	16,292

The regional planned production of coal stated in paragraph A.3.c., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Institute 12 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for this MFBI will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes however, that the MFBI could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation*—1. *Location of MFBI and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for Institute 12 would probably come from BOM District 8 as the primary supply area and as the alternate supply area. While this supply region is among the nearest available source able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternates routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Institute 12 is to originate coal in District 8 near Lexington, Kentucky, on the Chesapeake and Ohio Railway Co. (Chessie System) which would move it to Institute 12 via Huntington and Charleston, West Virginia. Total rail distance is approximately 172 miles. The alternate route from the primary supply area originates coal in the Corbin, Kentucky area on the Louisville and Nashville (L&N) which moves it to Lexington, Kentucky, where the Chessie System picks it up to deliver to Institute 12. Total rail distance is about 262 miles.

An alternate route from the alternate supply area is to originate coal BOM District 8 in the Whitesville, West Virginia area on the Chesapeake and Ohio line, which would deliver coal to Institute 12. Total rail distance is about 45 miles.

3. *Originating trunk carrier.*—The Chessie System, originating carrier of coal for Institute 12 has about 76,000 hopper cars with an average capacity of 77 tons. Using an average number of deliveries of 20 per year, per 77 ton car, the Chessie System may need as many as 198 additional cars starting in 1980 to handle the increased demand from Institute 12. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

"FEA's Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.*—Institute 12 has indicated that coal has been delivered to it in the past by the Chessie System.

There are no other obstacles to the delivery of coal to Institute 12.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Institute 12 presently exist, and alternate routes are available.

APPENDIX [1]

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

[1] Attached to this Appendix is FEA's MFBI Prohibition Order Candidate Identification and Selection Methodology.

Docket No.	Owner	Installation	Unit No.	Location
OCU-2776	Scott Paper Co	Chester Plant	8, 9	Chester, Pa.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Scott Paper Company shall be referred to as the "owner" and as "Scott Paper." Chester Plant Units 8 and 9 shall be referred to as the "MFBI's" and as "Chester 8 and 9".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Chester 8 and 9 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Scott Paper, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on June 13, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy scource, notwithstanding the fact that on June 22, 1974, the MFBI's may have been burning coal as their primary energy source.

B. Based on information Scott Paper filed with FEA dated July 22, 1976, and other information available to FEA, the following plant equipment and facilities at Chester 8 and 9 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Unloaders.
2. Conveyors.
3. Scales and feeders.
4. Silos.
5. Pulverizers.
6. Combustors.
7. Soot blowers.
8. Special instrumentation.
9. Waste water treatment equipment.
10. Ash handling and ponding equipment.

C. FEA proposes to find that on June 22, 1974, Chester 8 and 9 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Chester 8 and 9 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1976, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance

with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Chester 8 and 9 have been determined.

This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on Information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Chester 8 and 9 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Chester 8 and 9 will represent an annual cost increase of $478,000.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Chester 8 and 9 is reasonable.

As a result of conversion, Scott Paper will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Increased costs of conversion will be mitigated by the decrease in fuel costs. The net result, however, will be an increase in the annual cost of operating the boilers.

The use of coal at Chester 8 and 9 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel. Although conversion to the burning of coal would be expected to increase the cost of operating at Chester 8 and 9, FEA proposes to find that such increased cost per barrel of oil saved is not unreasonable. This determination is based on consideration of the substantial savings of oil that will result from this conversion. The determination that the costs of converting are not unreasonable is further supported by consideration of such costs in relation to the expected remaining useful life of the boilers after conversion, the size and resources of Scott Paper as examined in the following analysis of financial capability, the nature of the expected operation of these boilers, and potential future increases in the fuel cost differential in favor of coal.

3. *Financial capability of the owner*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Chester 8 and 9 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Scott Paper. FEA related these additional capital investment costs to the total capitalization of Scott Paper and the remaining useful life after conversion of Chester 8 and 9.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Scott Paper to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to Scott Paper MFBI's.

Notwithstanding the potential offsetting aggregate value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Scott Paper's total annual costs after conversion will increase by $622,998.

B. *Consistency with the purposes of* ESECA.—Because the issuance of a Prohibition Order to Chester 8 and 9 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Chester 8 and 9 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which togther provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection therefore tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereinafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) or ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other

Notices of Intention to issued Prohibition Orders to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristics coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers, of the type used at Chester 8 and 9 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (° F)	[1] 2,200
Sulfur (approximately) (percent	[2] 5

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	*Demand (thousand tons)*
1980 and thereafter	93

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nation-wide market as follows:

Year:	*Production (thousand tons)*
1978	27,235
1979	46,396
1980	59,975
1981	72,159
1982	77,998
1983	85,538
1984	99,731

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	*Demand (thousand tons)*
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	*Production (thousand tons)*
1978	2,273
1979	4,624
1980	5,120
1981	6,174
1982	6,527
1983	6,989
1984	8,596

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8, and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons)*
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 0.4 to 0.6% sulfur content (which includes the 0.5% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 0.4 to 0.6*
1978	72
1979	952
1980	2,389
1981	2,883
1982	3,296
1983	3,709
1984	3,709

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitted coal production that meets the requirements of Chester 8 and 9 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report") coal for Chester 8 and 9 would probably come from BOM District 8 as both the primary and alternate source of supply. While this supply region is the nearest available source able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Chester 8 and 9 is to originate coal in BOM District 8 near Hazard, Kentucky on the Louisville and Nashville (L&N) Railroad which would move it to Lexington, Kentucky. The Chesapeake and Ohio and Baltimore and Ohio (Chessie System) would then move it via Charleston, West Virginia and Baltimore, Maryland to Chester, Pennsylvania. The total rail distance is about 610 miles.

The alternate route from the primary source is to originate coal near Prestonburg, Kentucky on the Chessie System which would move it via Huntington, West Virginia to Pittsburgh, Pennsylvania. Consolidated Railroad would then move it to Chester, Pennsylvania. The total rail distance is about 705 miles.

An alternate route from the alternate supply area would originate coal in BOM District 8 on the Chesapeake and Ohio line near Charleston, West Virginia, which would haul it to Washington, D.C. Conrail would then move the coal to Chester, Pennsylvania. Total rail distance is about 505 miles.

3. *Originating trunk carrier.*—The L&N, originating carrier of coal for Chester 8 and 9 has about 34,000 hopper cars with an estimated average capacity of 75 tons per car. Using an average number of 20 deliveries per year per 75-ton car, the L&N may need as many as 79 additional cars by 1980 to handle the increased demand from Chester 8 and 9. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition

Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The L&N indicated that transportation facilities at nine sites within BOM District 8 served by the L&N are in good condition and that loading facilities could handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Destination carrier and plant facilities.*—Freight service to Chester 8 and 9 is provided by Conrail and the Chessie System as illustrated above. This plant used coal as a boiler fuel until the early 1950's, but unloading, handling, and storage facilities would need to be reinstalled. It is expected that this installation can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Chester 8 and 9.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Chester 8 and 9 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU 2-80	FMC Corp.	Fredericksburg Plant	58, 59, 60, 61, 62	Fredericksburg, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

FMC Corporation shall be referred to as the "owner" and as "FMC". Fredericksburg Plant Units 58, 59, 60, 61 and 62 shall be referred to as the "MFBI's" and as "Fredericksburg 58, 59, 60, 61 and 62".

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Fredericksburg 58, 59, 60, 61 and 62 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. FMC, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 30, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information FMC filed with FEA dated July 21, 1976, and other information available to FEA, the following plant equipment and facilities at Fredericksburg 58, 59, 60, 61 and 62 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Coal handling equipment.
2. Ash handling equipment and ponding facilities.
3. Stokers.
4. Soot blowers.

C. FEA proposes to find that on June 22, 1974, Fredericksburg 58, 59, 60, 61 and 62 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Fredericksburg 58, 59, 60, 61, and 62 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1976, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Fredericksburg 58, 59, 60, 61 and 62 have been determined. This determination was based on existing FEA information and analysis as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Fredericksburg 58, 59, 60, 61 and 62 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraphs A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Fredericksburg 58, 59, 60, 61 and 62, will represent an annual savings.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Fredericksburg 58, 59, 60, 61 and 62 is reasonable.

As a result of conversion, FMC will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boilers should result.

The use of coal at Fredericksburg 58, 59, 60, 61 and 62 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increased capital investment costs and operating and maintenance costs at Fredericksburg 58, 59, 60, 61 and 62 are totally offset by the current fuel cost differential between oil and coal burning at Fredericksburg 58, 59, 60, 61 and 62, and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Fredericksburg 58, 59, 60, 61 and 62 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book March 1977. Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Sections 2 (a) and (c) of ESECA to MFBI's owned by FMC. FEA related these additional capital investment costs to the total capitalization of FMC and the remaining useful life after conversion of Fredericksburg 58, 59, 60, 61 and 62.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of FMC to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Sections 2 (a) and (c) of ESECA to FMC MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, FMC's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Fredericksburg 58, 59, 60, 61 and 62 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Fredericksburg 58, 59, 60, 61 and 62 would be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. *Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984.*

A. *Coal availability.*—1. *National coal reserves.*—United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) [hereafter "BOM Survey"]). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	Production potential (million tons)
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977 (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	Production (million tons)
1978	124.3
1979	243.1
1980	293.3
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	Demand (million tons)
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	Demand (million tons)
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Fredericksburg 58, 59, 60, 61 and 62 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb.	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (°F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.6

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year: 1980 and thereafter	Demand (thousand tons) 236

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	Production (thousand tons)
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal regardless of characteristics.* The national planned production of characteristics coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all ourstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	8,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. Regional ESECA prohibition order demand for coal by sulfur characteristic. The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8% sulfur content (which includes the 1.8% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	*Demand (thousand tons) percent sulfur 1.41 to 1.8*
1978	226
1979	897
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.c., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

• 4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8 and 13 uncommitteed coal production that meets the requirements of Fredericksburg 58, 59, 60, 61 and 62 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2 (a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observers, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and coal supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977 (hereafter "Transportation Availability Report"), coal for the Fredericksburg 58, 59, 60, 61 and 62 would probably come from BOM District 8 as both the primary and alternate source of supply. While these supply regions are among the nearest available sources able to supply complying coal to Fredericksburg 58, 59, 60, 61 and 62, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Fredericksburg 58, 59, 60, 61 and 62 is to originate coal in BOM District 8 on the Norfolk and Western (N&W) Railroad near Williamson, West Virginia. N&W would haul it to Lynchburg, Virginia and the Chesapeake and Ohio (Chessie System) would move the coal to Richmond, Virginia where the Richmond, Fredericksburg, and Potomac (RFP) would pick it up for delivery to Fredericksburg 58, 59, 60, 61 and 62. The total rail distance is about 460 miles.

An alternate route from the primary supply area originates coal in BOM District 8 near Appalachia, Virginia on the N&W which would load and move the coal via Roanoke to Meherrin, Virginia. The Southern Railway would then move it to Richmond, Virginia. The RFP would deliver the coal to Fredericksburg 58, 59, 60, 61 and 62. The total rail distance is about 460 miles.

An alternate route would originate coal in BOM District 8 Southeast of Charleston, West Virginia on the Chesapeake and Ohio (Chessie System) which would haul it via Covington and Charlottesville, deliver it to Fredericksburg 58, 59, 60, 61 and 62. The total rail distance is approximately 370 miles.

3. *Originating Trunk carrier.*—The N&W, the originating carrier of coal for Fredericksburg 58, 59, 60, 61 and 62, has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average number of deliveries of 20 per year per 83-ton car, the N&W may need as many as 155 additional cars to handle the increased demand from Fredericksburg 58, 59, 60, 61 and 62. The N&W indicated that the retirements from their hopper fleet are not expected to exceed 1,200 per year and that N&W has shop capacity to build 1,500 to 5,000 new cars per year, depending on demand. This estimate assumes that the railroad would neither have excess originating capacity nor obtain cars from other carriers in the originating vicinity.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The N&W indicated that transportation facilities at mines within BOM District 8 served by the N&W are operating satisfactorily and that loading facilities could handle the required coal volumes.

4. *Destination carrier and MFBI's facilities.*—FEA has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carrier should they be used.

The RFP currently provides heavy freight service to Fredericksburg 58, 59, 60, 61 and 62. Although the plant used coal as a primary fuel until 1970, it reports that new coal unloading and handling equipment and facilities would need to be reinstalled. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Fredericksburg 58, 59, 60, 61 and 62.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major constraints to coal delivery over the primary route to Fredericksburg 58, 59, 60, 61 and 62 presently exist, and alternate routes are available.

APPENDIX

PROPOSED FINDINGS AND RATIONALE FOR NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the FEA regulations require FEA to make certain findings before issuing a Prohibition Order to a major fuel burning installation (MFBI). FEA's proposed findings are set out below with respect to the MFBI's named below. Supporting rationale and conclusions are also set forth.

Docket No.	Owner	Installation	Unit No.	Location
OCU-2840	Avtex Fibers Inc.	Front Royal Plant	1, 2, 3	Front Royal, Va.

These findings, which are now proposed by FEA, are based on the information that has been provided to and developed by FEA prior to the issuance of this Notice of Intention (NOI) to issue a Prohibition Order.

Avtex Fibers, Inc., shall be referred to as the "owner" and as "Avtex." Front Royal Units 1, 2 and 3 shall be referred to as the "MFBI's" and as "Front Royal 1, 2 and 3."

I. *Capability and necessary plant equipment to burn coal.*

FEA proposes to find that on June 22, 1974, Front Royal 1, 2 and 3 had the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. Avtex, in a Major Fuel Burning Installation Coal Conversion Report, Section II, Questions 6, and 12–14, (Form FEA C–602–S–0), filed on May 30, 1975, indicated that each MFBI had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the MFBI's may not have been burning coal as their primary energy source.

B. Based on information Avtex filed with FEA dated September 28, 1976 and other information available to FEA, the following plant equipment and facilities at Front Royal 1, 2 and 3 would have to be acquired or refurbished in order for these MFBI's to burn coal as their primary energy source:

1. Pulverizers.
2. Coal handling equipment.

C. FEA proposes to find that on June 22, 1974, Front Royal 1, 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the equipment and facilities listed in paragraph B, above, do not individually or in combination constitute a lack of capability and necessary plant equipment to burn coal, as of June 22, 1974.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.*

FEA proposes to find that the burning of coal in lieu of petroleum products or natural gas at Front Royal 1, 2 and 3 is practicable and consistent with the purposes of ESECA. This proposed finding is based upon an analysis by FEA of the fuel consumption of these boilers for the period 1973–1977, the remaining useful service life of each boiler after conversion, the net operating cost differential that would result from compliance with a Prohibition Order, as well as the facts and interpretations referenced below:

A. *The burning of coal is practicable.*—1. *Costs associated with burning coal.*—a. *Capital investment costs.* The total estimated initial capital investment costs, including financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Front Royal 1, 2 and 3 have been determined.

This determination was based on existing FEA information and analysis, as well as information filed with FEA by the owner. Approximate costs to comply with applicable environmental protection requirements have also been considered, including the cost of compliance with the air pollution control requirements of the Clean Air Act.

b. *Annual operating and maintenance costs.* The expected increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal has been calculated based on information supplied by the owner or otherwise acquired by FEA.

c. *Fuel costs.* Based on an analysis of annual fuel consumption and fuel cost information supplied by the owner and/or, in appropriate circumstances, upon FEA's fuel cost estimates, FEA has determined that the burning of coal in lieu of natural gas or petroleum products at Front Royal 1, 2 and 3 will result in a decrease in annual fuel costs.

d. *Net operating cost differential.* Based on the factors stated in paragraph A.1.a.–c., above, as well as the expected remaining useful life of the boilers after conversion, FEA has determined that the net annual operating cost differential (which represents the difference between operating the boilers with coal and alternate fuel(s) as their primary energy source), resulting from the conversion of Front Royal 1, 2 and 3 will represent an annual savings.

2. *Reasonableness of costs of conversion.*—The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of Front Royal 1, 2 and 3 is reasonable.

As a result of conversion, Avtex will incur additional capital investment costs, including financing costs, and additional annual operating and maintenance costs, exclusive of fuel costs, but will experience an annual savings in its total fuel costs for the expected remaining useful service life of the boilers after conversion.

Since all increased costs of conversion will be offset by the decrease in fuel costs, a net decrease in the annual cost of operation of the boilers should result.

The use of coal at Front Royal 1, 2 and 3 will result in a substantial annual savings of barrels of oil that otherwise would be used as a boiler fuel.

FEA proposes to find that, since the increase in capital investment costs and operating and maintenance costs at Front Royal 1, 2 and 3 are totally offset by the current fuel cost differential between oil and coal burning at Front Royal 1, 2 and 3 and potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capability of the owner.*—a. *Recovery of capital investment.* FEA proposes to find that compliance with a Prohibition Order by Front Royal 1, 2 and 3 would be economically feasible. FEA's analysis took into consideration the financial capability of the owner and is based upon the owner's financial position as reported in the Dun and Bradstreet Reference Book (March 1977). Where necessary, FEA performed an independent analysis of the owner's financial capability, considering such factors as the owner's current financial statement and the additional capital investment required for the owner to comply with this NOI and all other NOI's which are currently under consideration, as well as additional capital investment costs related to all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2 (a) and (c) of ESECA to MFBI's owned by Avtex. FEA related these additional capital investment costs to the total capitalization of Avtex and the remaining useful life after conversion of Front Royal 1, 2 and 3.

FEA does not consider the effect of the added capital investment costs to represent an unreasonable burden given the financial capabilities of Avtex to assume such costs.

b. *Total annual costs associated with conversion.* The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI and all other NOI's which are currently under consideration has been determined. FEA also took into consideration total annual costs resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of Section 2(a) and (c) of ESECA to Avtex MFBI's.

However, due to the potential offsetting value of fuel cost savings attributable to compliance with this NOI and all other NOI's currently under consideration, Avtex's total annual costs after conversion should decrease.

B. *Consistency with the purposes of ESECA.*—Because the issuance of a Prohibition Order to Front Royal 1, 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased used of coal, FEA proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which FEA is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these MFBI's to comply with the Clean Air Act and other applicable environmental protection requirements, FEA proposes to conclude that a Prohibition Order to Front Royal 1, 2 and 3 would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

Coal and coal transportation facilities will be available to these MFBI's during the period until December 31, 1984. A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines (BOM) data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable (Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey")). Within these recoverable reserves approximately 200 billion tons contain 1% or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, FEA has examined several studies referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984. .

2. *National coal production and demand.*—The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnage of uncommitted planned national coal production (derived from responses to a survey of coal producing companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total planned national coal production for 1985 already meets 99% of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year:	*Production potential (million tons)*
1977	732.3
1978	791.6
1979	851.4
1980	911.7
1981	960.0
1982	994.3
1983	1,017.4
1984	1,028.7
1985	1,029.6

The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability Report, April 1977, (hereafter "Availability Report"), indicates current plans for nationwide production of uncommitted coal as follows:

Year:	*Production (million tons)*
1978	124.3
1979	243.1
1980	293.2
1981	350.0
1982	369.9
1983	396.2
1984	475.5
1985	544.9

b. *National demand exclusive of ESECA prohibition order demand.* The estimated national demand, excluding any increased demand resulting from FEA action under the authority of Section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year:	*Demand (million tons)*
1978	730
1979	764
1980	799
1981	842
1982	887
1983	935
1984	985
1985	1,040

c. *National ESECA prohibition order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA is no more than the following ("Availability Report"):

Year:	*Demand (million tons)*
1978	11.0
1979	22.4
1980	32.5
1981	35.8
1982	57.4
1983	59.8
1984	59.8

3. *Characteristic coal production and demand.*—FEA's "Availability Report" identifies coal of specific quality characteristics

available for use at these MFBI's. The survey is based on data from 31 mining companies that supplied useful information on 96 mining units. Responses from these companies identified planned production of coal which is not now committed to a specific buyer. For those companies which did not respond to the survey, FEA estimated their uncommitted planned production based on their 1974 production.

a. *Characteristic coal requirements for these MFBI's.* FEA's "Availability Report" has determined that boilers of the type used at Front Royal 1, 2 and 3 will be able to burn coal of the following characteristics and comply with all applicable air pollution control requirements.

Btu's/lb	[1] 10,000
Moisture (percent)	[2] 15
Ash (percent)	[2] 20
Volatile (percent)	[1] 15
Ash softening temp. (° F)	[1] 2,200
Sulfur (approximately) (percent)	[2] 1.7

[1] Minimum.
[2] Maximum.

b. *Characteristic coal demand from these MFBI's.* The potential demand for coal, of the type described above, which would result from this NOI is estimated to be as follows:

Year:	Demand (thousand tons)
Year: 1980 (and after)	250

c. *National planned production, characteristic coal.* FEA's "Availability Report" has determined that coal of the type described in paragraph A.3.a., above, is uncommitted to a specific buyer and will be potentially available to these MFBI's in a nationwide market as follows:

Year:	Production (thousand tons)
1978	67,937
1979	127,138
1980	158,932
1981	189,318
1982	200,259
1983	214,838
1984	253,700

d. *National ESECA prohibition order demand for coal, regardless of characteristics.* The national planned production of characteristic coal, as stated in paragraph A.3.c., above, exceeds potential demand for coal regardless of characteristic expected from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. National ESECA Prohibition Order demand as previously stated in paragraph A.2.c., above, is no more than the following ("Availability Report"):

Year:	Demand (thousand tons)
1978	11,032
1979	22,434
1980	32,483
1981	35,755
1982	57,362
1983	59,815
1984	59,815

e. *Regional planned production, characteristic coal.* Coal with the characteristics described in paragraph A.3.a., above, is uncommitted and will be potentially available to these MFBI's (in a probable regional supply/demand relationship related to the location of these MFBI's) from BOM Districts 7, 8 and 13 as follows ("Availability Report"):

Year:	Production (thousand tons)
1978	26,032
1979	47,383
1980	53,082
1981	61,661
1982	65,354
1983	70,552
1984	80,964

f. *Regional ESECA prohibition order demand for coal, regardless of characteristic.* The expected regional production of characteristic coal, as stated in paragraph A.3.e., above, exceeds the potential demand for coal regardless of characteristic from BOM Districts 7, 8 and 13 expected to result from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA. This potential regional demand is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons)
1978	3,268
1979	9,149
1980	16,321
1981	18,005
1982	23,682
1983	24,095
1984	24,095

g. *Regional ESECA prohibition order demand for coal by sulfur characteristic.* The potential regional demand for coal from BOM Districts 7, 8 and 13 with a 1.41–1.8% sulfur content (which includes the 1.7% maximum sulfur content described in paragraph A.3.a., above) resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Secton 2(a) of ESECA is estimated in FEA's "Availability Report" to be no more than the following:

Year:	Demand (thousand tons) Percent sulfur 1.41 to 1.8
1978	226
1979	837
1980	1,773
1981	1,773
1982	1,773
1983	1,773
1984	1,773

The regional planned production of coal stated in paragraph A.3.e., above, with the characteristics described in paragraph A.3.a., above, far exceeds this potential ESECA regional demand for coal by sulfur characteristic.

4. *State or local laws.*—FEA has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to FEA's attention.

5. *Conclusion.*—FEA's "Availability Report" has identified nationally and in BOM Districts 7, 8, and 13 uncommitted coal production that meets the requirements of Front Royal 1, 2, and 3 as described in paragraph A.3.a., above. FEA proposes to find that this uncommitted coal exists in amounts sufficient in any year to meet the estimated additional demand for coal, both nationally and from these Districts, resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders to date and from all outstanding Prohibition Orders issued to date under authority of Section 2(a) of ESECA.

Coal for these MFBI's will probably be bought from producers according to regional supply/demand relationships related to the MFBI's location from BOM Districts 7, 8 and 13. FEA observes, however, that the MFBI's could purchase coal in other markets as such production becomes available. (The Feasibility of Considering Expanded Use of Western Coal by Midwestern and Eastern Utilities in the Period 1978 and Beyond, School of Engineering, University of Pennsylvania, November 7, 1975.)

B. *Coal transportation.*—1. *Location of MFBI's and Coal Supply.* Based on an FEA study, Coal Transportation Availability Report, April 1977, (hereafter "Transportation Availability Report"), coal for Front Royal 1, 2 and 3 would probably come from BOM District 8 as both the primary and alternate source of supply. While these supply regions are among the nearest available sources able to supply complying coal to the plant, complying coal could be transferred by rail from other identified sources within the United States as well. The analysis of transportation availability is based on the most likely route as well as two alternate routes. These routes were chosen to demonstrate transportation availability.

2. *Route of coal shipment.*—The primary route for coal delivery for Front Royal 1, 2 and 3 is to originate coal near Williamson, West Virginia in BOM District 8 on the Norfolk and Western Railroad Company (N&W) which would deliver it via Bluefield, West Virginia to Front Royal 1, 2 and 3. The total rail distance is about 390 miles.

The alternate route from the primary supply source would originate coal near Williamson, West Virginia on the N&W which would move it to Beckley, West Virginia. The Chesapeake and Ohio would move the coal via Covington, Virginia to Strasburg, Virginia where the Southern Railway would pick it up for delivery to Front Royal 1, 2 and 3. The total rail distance is about 365 miles.

The alternate route from the alternate supply area would originate coal on the Chesapeake and Ohio (Chessie System) in BOM District 8 near Charleston, West Virginia. The Chessie System would move it to Waynesboro, Virginia where the N&W would pick it up and deliver it to Front Royal 1, 2 and 3. The total rail distance is about 325 miles.

3. *Originating trunk carrier.*—The N&W, the originating carrier of coal for Front Royal 1, 2 and 3 has approximately 54,000 hopper cars with an estimated average capacity of 83 tons. Using an average delivery of 20 per year per 83-ton car, the N&W may need as many as 111 additional cars to handle the increased demand from the Front Royal 1, 2 and 3. N&W reports that their own car shop which repairs and builds cars has a capacity of 1,500 new cars per year depending on market demand. They do not anticipate any difficulty in meeting the requirements of Front Royal 1, 2 and 3.

FEA's "Transportation Availability Report" concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. This study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all MFBI's studied were to receive orders under Section 2(a) of ESECA.

The N&W indicates that transportation facilities at mine sites within BOM District

8 served by the N&W are operating satisfactorily and that loading facilities can handle the required coal volumes.

FEA has not found nor has it been informed of any apparent constraints to carrying coal for any originating alternate or intermediate carriers should they be used.

4. *Destination carrier and MFBI facilities.*—Front Royal, Virginia is served by a short branch line from tracks of both the Norfolk and Western and Southern Railway. Coal was delivered to the plant until a few years ago. Some maintenance will probably be required to refurbish the unloading and handling facilities. It is expected that these repairs can be accomplished prior to the effective date for coal burning.

There are no other obstacles to the delivery of coal to Front Royal 1, 2 and 3.

5. *Conclusion.*—Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no major contraints to coal delivery over the primary route to Front Royal 1, 2 and 3 presently exist, and alternate routes are available.

[FR Doc.77-13694 Filed 5-17-77; 8:45 am]

federal register

WEDNESDAY, MAY 18, 1977

PART III



FEDERAL ENERGY ADMINISTRATION

■

ADMINISTRATIVE PROCEDURES AND SANCTIONS

1974 Price and Allocation Interpretations

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1974 Price and Allocation Interpretations

AGENCY: Federal Energy Administration.

ACTION: Notice of Interpretations.

SUMMARY: Attached are all price and allocation Interpretations issued by the General Counsel of the Federal Energy Administration (FEA) in calendar year 1974 plus certain Interpretations issued in 1974 by FEA Regional Counsels. This is one of a series of Notices intended to make FEA Interpretations available to the public through publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Laura Holtz (Office of General Counsel), Room 7132, The Federal Building, 12th and Pennsylvania, NW, Washington, DC. 20461, 202–566–2085.

SUPPLEMENTARY INFORMATION: In accordance with FEA's initial Notice concerning the publication of Price and Allocation Interpretations (42 FR 7923, February 8, 1977), appended hereto are all Interpretations issued during calendar year 1974 by the FEA General Counsel pursuant to 10 CFR Part 205, Subpart F, and the Interpretations issued by Regional Counsels after October 31, 1974.

Prior to November 1974, Regional Counsels had been delegated authority to issue Interpretations without the review and approval of the General Counsel. These early regional Interpretations were issued in large numbers and often according to a less formal format than that followed subsequently. At the end of October 1974 FEA instituted a new procedure by which Interpretations issued by Regional Counsels are required to be reviewed and approved by the General Counsel prior to issuance. For purposes of FEA's program for publication of Interpretations, FEA has elected to include in today's Notice of 1974 Interpretations only those regional Interpretations which were issued after October 31, 1974, with the General Counsel's approval. This selection is not intended to reflect in any way on the validity of regional Interpretations issued prior to November 1, 1974. All 1974 regional Interpretations, whether or not they were issued with the specific approval of the General Counsel, continue to be available to the public through FEA's public reading room.

FEA would prefer to number Interpretations by year and the order in which they were issued—e.g., Interpretation 1974–1, 1974–2, etc.—as in the manner of FEA Rulings. Many Interpretations issued in 1974 have already been reprinted in FEA's Compliance Manual under such a sequential numerical designation system. That system does not, however, reflect a complete listing of Interpretations issued in 1974 (all regional Interpretations were omitted) and does not entirely follow the chronological order in which the Interpretations reprinted therein were issued. Because FEA's Compliance Manual is available to the public through Freedom of Information procedures and Interpretations as numbered therein have been cited in proceedings before FEA and elsewhere, FEA believes that unnecessary confusion would result if FEA were to seek to renumber all 1974 Interpretations strictly in accordance with the date of issuance.

Therefore, FEA has assigned numerical designations to 1974 Interpretations as follows: (1) Interpretations 1974–1 through 1974–27 are the same as Interpretations 1974–1 through 1974–27 in the Compliance Manual, except that (a) non-interpretive letter reproduced in the Compliance Manual as Interpretation 1974–9 is omitted here; (b) Interpretations 1974–11 and 1974–25, which were also reproduced in the Compliance Manual, are listed by name, date, "rules interpreted" heading, and classification code herein, but the text of each is omitted because (i) Interpretation 1974–11 was vacated on administrative appeal based upon an error in fact, and (ii) Interpretation 1974–25 was modified by Interpretation 1976–11; and (c) Interpretations 1974–2, 1974–4, 1974–5, 1974–6, 1974–13, and 1974–24, which were neither reproduced nor listed by name in the Compliance Manual, are included herein; and (2) Interpretations 1974–28; and 1974–29 are all other Interpretations issued in 1974 (regional Interpretations issued after October) numbered in accordance with the chronological order of their issuance.

Older Interpretations are more likely to relate to regulations, rulings or laws which have been amended, revised or revoked, compared with more recent Interpretations. Thus, for example, 1974 Interpretations construing and applying FEA's definition of "property" may be of little interest or questionable continued validity in view of significant changes in that definition effective September 1, 1976. FEA has not attempted to review the Interpretations published today for continuing applicability and validity (except as noted above with respect to Interpretations 1974–11 and 1974–25). Interested persons should therefore note with particular attention the limitations on the applicability of Interpretations as stated below.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal (§ 205.86). Several of the Interpretations published herewith have been affirmed on appeal to date and none of them has been modified or reversed on appeal except as noted above. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA Notice cited above.

Issued in Washington, D.C., May 11, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX.—*Table of 1974 Interpretations*

Number	To	Date	Category
1974–1	Portable Sanitation Association	Mar. 15	Allocation.
1974–2	Sound Refining, Inc	Mar. 18	Do.
1974–3	Hamilton Brothers Oil Co	Apr. 19	Do.
1974–4	Signal Oil and Gas Co	May 17	Allocation/price.
1974–5	Greene Bros. LP Gas & Oil Co	May 28	Price.
1974–6	Charter Oil Co	May 20	Allocation.
1974–7	Greenbelt Consumer Services, Inc	June 20	Price.
1974–8	Atlantic Richfield Co	June 24	Do.
1974–9	[1]		
1974–10	Standard Oil Co. of Ind	July 9	Allocation.
1974–11	Liquid Waste Disposal Co	July 17	Price.
1974–12	Estron Oil Corp., et al	July 18	Allocation/price.
1974–13	McCulloch Gas Processing Corp	July 25	Price.
1974–14	Exxon Co	Aug. 2	Do.
1974–15	Sky Harbor Air Services, Inc.; Atlas Aircraft Corp	Aug. 8	Allocation.
1974–16	Amoco Oil Co. (Ind.)	Sep. 3	Price.
1974–17	Celanese Corp	Sep. 14	Allocation.
1974–18	Williams Energy Co	Sep. 11	Do.
1974–19	Swann Oil, Inc	Oct. 16	Do.
1974–20	Petro US, Inc	Nov. 4	Price.
1974–21	The Flying Tiger Line, Inc: Tesoro-Alaskan Petroleum Corp	Nov. 15	Allocation.
1974–22	Darrell Jackson	Dec. 2	Price.
1974–23	Pru Lease, Inc	Dec. 6	Do.
1974–24	National Life and Accident Insurance Co	Dec. 1	Do.
1974–25	National Convenience Stores, Inc	Dec. 10	Allocation.
1974–26	Continental Oil Co	Dec. 12	Price.
1974–27	Department of Defense	Dec. 17	Allocation.
1974–28	United Oil Co., Inc	Dec. 13	Price.
1974–29	Expo Car Wash, Inc	Dec. 30	Allocation.

[1] No interpretation designated 1974–9 was issued.

INTERPRETATION 1974—1

To: Portable Sanitation Association.

Date: March 15, 1974.

Rule Interpreted: § 211.103(a)(1)(iv).

Code: GCW—AL—Allocation Levels, Definition of Sanitation Services.

Your recent letter requested an interpretation of § 211.103(a)(1)(iv) of the Petroleum Allocation and Price Regulations as that section applies to members of your association. Section 211.103(a)(1)(iv) provides that end-users who are bulk purchasers or wholesale purchasers of motor gasoline have an allocation level of one hundred percent of current requirements when used to provide sanitation services.

We understand that members of your association provides portable sanitation units for construction sites, sporting events, recreation areas, the scenes of accidents and natural disasters, and other locations where permanent toilet facilities are not available. Services include delivery and installation of portable chemical toilets, and regular maintenance, including pumping and disposal of the toilet effluent and furnishing fresh chemicals, toilet paper, deodorant blocks and other supplies.

It is my opinion that a member of your association collects and disposes of solid wastes for the general public when performing the services described in the preceding paragraph and is therefore engaged in providing sanitation services. Accordingly, a member who is an end-user bulk purchaser or wholesale purchaser of motor gasoline would qualify for the allocation level provided by the § 211.103(a)(1)(iv) of the Regulations when providing such sanitation services subject to any other applicable provisions of the regulations.

This interpretation is made under § 205.101 of the regulations which provides that only the person to whom it is addressed may rely upon it and that it may be subsequently revoked or modified. However, as your request appears to present a subject matter of general applicability to your industry, we are considering a ruling for publication under § 205.181 for the guidance of the industry.

INTERPRETATION 1974—2

To: Sound Refining, Inc.

Date: March 18, 1974.

Rule Interpreted: § 211.64(a).

Code: GCW—AI—December 1 Rule.

This is in response to your January 31, 1974, letter requesting an interpretation of § 211.64(a) of the Mandatory Petroleum Allocation and Price Regulations. We understand that under a contract in effect on December 1, 1973, Sound Refining, Inc., bought crude oil from Union Oil Company and sold asphalt and unfinished middle distillate to Union. The contract was to have expired on December 31, 1973.

You have asked whether § 211.64(a) requires that Union continue to supply crude oil to Sound and if so, whether Sound must continue supplying asphalt and unfinished distillate to Union.

Section 211.64(a), as amended, states: All supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program except purchases and sales made to comply with this program: *Provided, however,* That (1) any contract or agreement for the sale, purchase, or exchange of domestic crude oil may be terminated by the mutual consent of both parties; (2) the provisions of this paragraph do not apply to the first sale of crude oil pursuant to § 210.32 of this chapter; and (3) the provisions of this chapter shall not apply to the seller of any crude oil if the present purchaser of such crude oil refuses, after notice by the seller, to meet any bona fide offer made by another purchaser to buy such crude oil at a lawful price above the price paid by the present purchaser.

Sound takes the position that since the regulation refers specifically to crude oil, only crude oil arrangements in existence on December 1, 1973, are to continue and that the intention of § 211.64(a) was not to freeze supply arrangements as to other products. Sound, therefore, would require Union to continue to supply crude oil to Sound without a requirement that Sound compensate Union with asphalt or other products. Sound notes that neither asphalt nor unfinished distillate is subject to the Mandatory Petroleum Allocation Regulations. Finally, Sound states that it would be inequitable to require it to continue supplying the quantities of asphalt and unfinished distillate called for in the contract because those amounts, which were based on greater than normal inventories, are substantially in excess of quantities Sound previously supplied to Union under a series of contracts.

Under § 211.64(a) the supplier/purchaser relationships specified in the contract in effect on December 1, 1973, between Sound and Union must be continued. The supplier/purchaser relationship between Union and Sound was based upon Union's selling crude oil to Sound and Sound's selling asphalt and unfinished distillate to Union. The basis for that relationship must be continued unless terminated as provided in § 211.64(a)(1). Therefore, if Sound wishes to receive crude oil from Union, Sound must compensate Union by exchanging asphalt and distillate with Union on a basis acceptable to Sound and Union.

INTERPRETATION 1974—3

To: Hamilton Brothers Oil Co.

Date: April 19, 1974.

Rules Interpreted: §§ 210.62, 211.64.

Code: GCW—AI—December 1 Rule, Normal Business Practices.

We are writing in response to your letter of March 25, 1974, requesting interpretations of "normal business practices" under 10 CFR 210.62 and termination "by the mutual consent of both parties" under 10 CFR 211.64, in connection with a controversy between Hamilton and Ashland Oil, Inc. ("Ashland"). The facts relating to this controversy are as follows:

Hamilton supplied approximately 1,100 barrels per day of crude oil to Ashland under a contract the term of which expired on December 31, 1973, pursuant to notice given by Hamilton on June 13, 1973. Ashland and certain other companies filed suit in December 1973 against Hamilton for determination of the propriety of various charges made by Hamilton as operator under an oil and gas lease, the production of which is not involved in this matter. Hamilton has refused to sell crude oil to Ashland since December 31, 1973, because Ashland might refuse to make payment therefor in order to use such amount as set-off in the legal proceeding. However, Ashland made the required payments for the November and December 1973 crude deliveries by Hamilton. In addition, Ashland assured Hamilton on January 15, 1974 that it would pay for any crude oil purchased from Hamilton and that it would not offset any amounts due Hamilton against claims in such proceeding. Ashland filed a complaint against Hamilton for alleged violation of the Mandatory Petroleum Allocation Regulations on March 20, 1974.

Hamilton contends that it has no obligation to supply Ashland with additional crude oil because either (1) the parties mutually consented to the termination of the related contract under proviso (1) of § 211.64(a) or (2) Hamilton's refusal to deal with Ashland constitutes a normal business practice under § 210.62.

Under § 211.64(a), a supplier/purchaser relationship in effect under contract on December 1, 1973 is required to remain in effect, regardless of contract terms that would permit termination of such relationship. FEO interprets "terminated by the mutual consent of both parties" as used in § 211.64(a) to mean that the parties to a contract or agreement for sale of crude oil must affirmatively agree to terminate their supplier/purchaser relationship in light of the promulgation of § 211.64. Since the promulgation of § 211.64, Ashland has not affirmatively consented to terminate its contractual relationship with Hamilton. Accordingly, Hamilton may not rely on that Section in refusing to deal with Ashland after December 31, 1973.

FEO interprets "normal business practices" under § 210.62 to mean that Hamilton is not required to sell crude oil to Ashland pursuant to the Mandatory Petroleum Allocation Regulations if Ashland refuses to arrange proper credit or to pay for the crude oil. Hamilton has not alleged any facts which would indicate that Ashland might refuse to pay for crude oil received from Hamilton. Furthermore, Ashland has made the two required payments since the commencement of its legal proceeding against Hamilton and has assured Hamilton that it will make any further required payments. Accordingly, Hamilton may not avail itself of a defense based on § 210.62 in refusing to deal with Ashland after December 31, 1973.

INTERPRETATION 1974—4

To: Signal Oil and Gas Co.

Date: May 17, 1974.

Rules Interpreted: §§ 211.63, 212.52.

Code: GCW—AI, PI—December 1 Rule, Sales by Federal, State and Local Governments.

You recently requested an interpretation of the Federal Energy Office's regulations concerning supplier/purchaser relationships for crude oil under § 211.63 of the Mandatory Petroleum Allocation Regulations. In connection with your request, submissions were made on behalf of the California State Lands Commission, U Save Automatic Corporation, and World Oil Company.

We understand the relevant facts to be as follows:

Signal Oil and Gas Company ("Signal") on December 1, 1973, was the lessee from the State of California under two oil and gas leases the provisions of which permit California to take royalty crude oil under the leases or, in lieu thereof, cash. On December 1, 1973, Signal was purchasing the royalty crude oil under the two leases since the royalty crude oil was not being taken in kind by California.

However, in November 1973 California completed steps to direct the royalty crude under the two leases to purchasers other than Signal commencing May 1, 1974. On November 29, 1973, California accepted bids from two other firms—U Save Automatic Corporation and World Oil Company—for its royalty shares of the crude oil under the two leases, deliveries to commence May 1, 1974, and to continue for a five-year period. Signal was one of the unsuccessful bidders for the royalty crude oil. The price to be paid by the successful bidders was the lesser of the posted price for oil exempt from price

restrictions plus a specified bonus, or the maximum price under the price control regulations so long as they were in effect. If the posted price exceeded the posted price on September 26, 1973, plus the applicable bonus, the bidders would have the option of terminating their purchase contracts.

Since deliveries of the royalty crude oil to the two successful bidders were not to commence until May 1, 1974, Signal was the purchaser of the royalty crude on December 1, 1973. Section 211.63 (former section 211.64) of FEO's Mandatory Petroleum Allocations Regulations was issued and revised in the period intervening between December 1, 1973, and May 1, 1974. Section 211.63 of the FEO's regulations established mandatory supplier/purchaser relationships for crude oil as follows:

(a) All supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program, • • • *Provided, however,* That • • • (3) the provisions of this paragraph shall not apply to the seller of any crude oil if the present purchaser of such crude oil refuses, after notice by the seller, to meet any bona-fide offer made by another purchaser to buy such crude oil at a lawful price above the price paid by the present purchaser.

(b) New crude petroleum may be sold to any person. Once the sale is made, the seller of such new crude petroleum shall continue to sell to that purchaser subject to the provisions of paragraph (a) (1), (2), and (3) of this section.

Pursuant to § 211.63(a) (3), California, by letter dated February 1, 1974, offered Signal the opportunity for a period of ten days to meet the two bids which California had accepted in November 1973. Signal rejected this offer by letter dated February 6, 1974. Subsequently, however, on February 21, 1974, an FEO proceeding for a proposed rule, which had been initiated October 25, 1973, was concluded by the FEO and, as proposed in the Notice of Rulemaking, the exemption from price controls for sales by State and local governments (including sales of crude oil) was removed with respect to all sales made on and after October 25, 1973. Signal then notified California that it would purchase the royalty oil "pursuant to the applicable provisions of Federal Energy Office regulations and for so long as sale of such royalty oil shall not be price exempt under such regulations."

The issues for consideration are whether (1) the acceptance by California on November 29, 1973, of the bids for the sale of California's royalty crude oil terminated the supplier/purchaser relationship as to such crude oil between California and Signal, and (2) if such supplier/purchaser relationship was not terminated by the acceptance of such bids, Signal's response to such bids in February 1974 permits California to terminate such relationship.

Based upon the foregoing, it is our conclusion that the acceptance by California of such bids on November 29, 1973, did not terminate the supplier/purchaser relationship imposed by § 211.63, since Signal was the purchaser of the crude oil on December 1, 1973. The fact that contracts existed that would alter that relationship at a later date does not affect the supplier/purchaser relationships imposed by § 211.63.

With respect to the second issue, it is our conclusion that the removal of the exemption for prices charged by State and local governments, referred to above, rendered the exempt prices offered to be paid by the respective bidders unlawful prices and, accordingly, Signal was not required to meet such bids under subparagraph (3) of § 211.63 (a) to preserve its supplier/purchaser relationship with California. The notice of proposed rulemaking initiated on October 25, 1973, placed all parties on notice that a final rulemaking when issued would be effective as of October 25, 1973. The two bids received by California in November 1973 were therefore made with notice that they might subsequently be unlawful by virtue of the rulemaking. To treat the two bids otherwise would require an exception from FEO's regulations. Accordingly, it is our opinion that the supplier/purchaser relationships imposed by § 211.63 cannot be terminated by the refusal of a purchaser to meet a bid for crude oil at a price which subsequently is determined to exceed the maximum amount allowed by the regulations.

However, as you know, the FEO decision on February 21, 1974, to terminate the exception from price controls for sales by State and local governments with respect to all sales made on and after October 25, 1973, has been reversed by the courts and the exemption for State and local governments has been held to apply prior to February 21, 1974. Accordingly, as of the date of this letter, the bids of World Oil and U Save Automatic have been made at lawful prices and the supplier/purchaser relationship terminated by the refusal of Signal to meet those bids. However, if the FEO should prevail upon the appeal of this matter, the prices of such bids would be rendered unlawful and the supplier/purchaser relationship would be reinstated.

Consideration of the fact that a certain volume of "new" crude petroleum is produced under one of the leases is unnecessary, since one separate bid was made for such production.

INTERPRETATION 1974—5

To: Greene Bros. LP Gas & Oil Co.

Date: May 28, 1974.

Rule Interpreted: § 212.93.

Code: GCW—PI—Product Cost Increases.

Mr. Allott in the Colorado office of the Federal Energy Office has referred your April 8 request for an interpretation to our office for a reply. Your letter referred to the meaning of certain language appearing in § 150.359 of the Cost of Living Council price regulations. This regulation has been adopted by FEO at § 212.93 of its regulations.

We have completed our review of your request to include certain enumerated business costs of a seller in the calculation of "increased costs," and conclude that none of the factors listed may be included in the calculations required by § 212.93(a).

The FEO, and the Cost of Living Council prior to January 15, 1974, designed the petroleum price rules in a manner which initially permitted only the increased cost of the product to be added to the May 15, 1973 selling price in determining lawful base prices for regulated petroleum products under § 212.93(a).

Since January 15, 1974, however, FEO has recognized that virtually all sellers have incurred increases in certain non-product (business) costs, and § 212.93(b) of the regulations has provided for the inclusion of a limited amount of such costs when computing lawful base prices. On April 1, 1974, FEO amended its regulations, at § 212.93 (b)(4), to provide:

With respect to propane beginning with April 1974: In retail sales, a seller may charge one cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases which the seller incurred after May 15, 1973; and, with respect to all other sales, a seller may charge one-half cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases which the seller incurred after May 15, 1973.

INTERPRETATION 1974—6

To: Charter Oil Co.

Date: May 29, 1974.

Rules Interpreted: §§ 211.62, 211.65, 211.11 (b), 211.104, EPAA § 4(b).

Code: GCW—AI—Definitions of Base Period Supplier and Processing Agreements.

On March 20, 1974, FEO received from Charter Oil Company (hereinafter "Charter") a request for Interpretation, Determination and/or Exception (hereinafter "request"). The request seeks (1) an interpretation and determination that Standard Oil Company of California is a base period supplier of Charter; (2) an interpretation and determination that Charter's business operations are conducted by two entities—marketing and brokerage—which would permit Charter to utilize a separate allocation fraction for each entity; and (3) an exception permitting Charter to use dual allocation fractions notwithstanding a finding by FEO that separate entities do not exist for allocation purposes. In support of its request, Charter has submitted copies of a contract with Chevron Oil Company (hereinafter "Standard") titled "Crude Oil Sales Agreement" and a contract with Standard Oil of Kentucky (hereinafter "KySo") designated as a "process agreement."

Charter Oil and its attorney were afforded an opportunity to elucidate the points of the request at a meeting with FEO on April 26, 1974.

Charter's request was forwarded to Standard Oil Company of California, which, on May 10, 1974, responded by letter to Charter's submission. On May 16, representatives of Standard, accompanied by counsel, met with FEO to discuss Standard's position relative to Charter's request.

For the reasons stated below, FEO has concluded that Standard is a base period supplier of Charter. Consideration of Charter's additional request for interpretation, determination and/or exception to legitimize the use of dual allocation fractions, is unnecessary in light of a letter of May 21, 1974, from Charter's counsel withdrawing that portion of the request in the event FEO determines that a supplier-purchaser relationship is found to exist between Standard and Charter.

I. THE SUPPLY RELATIONSHIP BETWEEN CHARTER AND STANDARD

A. *The Terms of the Contracts.*—The contracts submitted by Charter indicate that from January 1972 until December 1972, Chevron Oil Company (a wholly-owned subsidiary of Standard Oil Company of California) was obligated to sell Charter XXXXXX barrels per day of crude oil. The crude, technically delivered to Charter at Empire, Louisiana, was to be shipped through the Standard pipeline to the KySo refinery at Pascagoula, Mississippi. Title to and risk of loss of the crude passed to Charter when the crude entered the Standard pipeline on its journey to the refinery.

On January 1, 1972, the same date the crude purchase agreement was executed, Charter entered into the "process agreement" with KySo (a wholly-owned subsidiary of Standard Oil of California). Under the terms of this contract, KySo agreed to receive the XXXXXX barrels a day of crude to be "delivered" by Charter, and to provide Charter with one barrel of gasoline for each barrel of crude delivered to the refinery. Charter was also obligated to pay KySo a "processing fee" of about XXXXXX per barrel of gasoline delivered. Risk of loss and title to the crude passed to KySo as the crude entered the refinery from the pipeline and Charter took title to and assumed the risk of loss of the gasoline only at the time it was delivered to Charter.

B. *The Effect of the Contracts.*—The contracts, read together, appear to be part of an integrated transaction in which, in the final analysis, Charter purchased gasoline, not crude, from Standard. The contracts were not independent instruments. They were signed on the same day, had the same duration and provided for the purported sale and processing of identical quantities of crude. As a practical matter, it appears that Standard, on paper, "sold" crude to itself via an intermediary—Charter. At no time did the crude leave Standard's physical control and although title and risk of loss of the crude passed to Charter upon delivery, it remained with Charter only for the brief time in which the crude traveled in Standard's pipeline to Standard's refinery. In effect, Charter received title and control over the product only when the gasoline was delivered.

Unlike the customary type of industry processing agreement, Charter did not receive any refined products other than gasoline. A barrel of crude will not, as a practical matter, yield a barrel of gasoline. The actual refinery yield of a barrel of crude is a mixture of varying percentages of gasoline and other distillates depending upon the quality of crude, the operation and type of refinery. In the customary processing agreement, the owner of the crude, after processing, receives a mix of product, including gasoline. For the service of processing the crude, the refiner generally receives payment in kind or a fixed compensation.

It appears, therefore, that the contracts here in question were part of a transaction which keyed the price of the gasoline sold to Charter to the price charged for the crude with the addition of the fixed per barrel "processing fee." Charter had no ownership rights, not even an undivided interest, in the crude once it had reached Standard's refinery. After delivery of the crude to the refinery, Charter's only ownership interest attached to gasoline at the delivery point.

Moreover, according to Charter officials, Standard presented Charter with the two contracts and indicated that execution of both was necessary in order to purchase gasoline (the only product Charter desired). Standard officials and counsel, in a meeting with the FEO, were confronted with Charter's account of the transaction, but were never able to offer a business justification for handling such a transfer of product in this "two-step" manner.

C. *Impact of FEO Regulations on the Contracts.*—The FEO regulations provide a definition of "processing agreement." Section 211.62 of 10 CFR provides that processing agreements are those agreements "pursuant to which an owner of crude oil agrees to have that crude processed or refined by another person and *retains ownership* in some or all of the petroleum products so processed or refined from the crude oil." (Emphasis added.) Charter *retained* no ownership at any time as the crude was processed in Standard's refinery, nor did Charter retain any ownership in petroleum products processed or refined. Title to product vested only upon delivery from the refinery. Under the FEO definition, therefore, the contract between Charter and Standard would not be a processing agreement.

In sum, Standard merely had a contractual duty to sell barrels of gasoline a day to Charter, which Charter paid for by paying a fixed per barrel charge at the refinery plus the fluctuating per barrel cost of the crude.

Under FEO regulations (10 CFR 211.51), a supplier is any "refiner, importer, marketer, jobber, distributor, terminal operator, firm, corporation • • • or other person who supplies, sells, consigns, transfers or otherwise furnishes any allocated substance either to end-users or for resale • • •."

Suppliers of motor gasoline are required to allocate their total allocable supply among their wholesale purchasers in proportion to their wholesale purchaser's base period volumes, (or adjusted base period volumes (10 CFR 211.11(b)), and must supply their wholesale purchasers of record as of the base period (10 CFR 211.104). A "wholesale purchaser" includes, among others, any firm or corporation "which purchases, receives through transfer, or otherwise obtains an allocated substance in bulk or under contract at the wholesale level • • •."

Based upon the above definitions, and the conclusion that the agreements described above represent a sale of gasoline, Charter is a wholesale purchaser and Standard is a supplier of motor gasoline to Charter and must, pursuant to FEO regulations, provide product to Charter in the amount of base period volumes.

Since FEO has determined that the alleged "processing agreement" is, in substance, no more than a sale of gasoline, Standard's contention, that forcing it to provide gasoline to Charter will prove inconsistent with the crude allocation program, is academic. Section 211.65 (10 CFR) of the May 14 amendments to the crude program enables, in certain circumstances, refiner-buyers to purchase crude. The amount of crude a refiner-buyer is permitted to buy is equal to one quarter of the volume of the refiner-buyer's 1972 refinery crude runs to stills less the volume of crude oil runs to stills of such refiner-buyer for the period February through April 1974, as adjusted under other provisions of the program. The only relevant adjustment allows refiner-buyers to include in their 1972 crude runs to stills the volume of crude oil "processed by another refiner • • • pursuant to a processing agreement." (10 CFR 211.65(a)(2)).

Therefore, Standard urges, pursuant to the regulations, Charter, as a refiner-buyer, will be able to purchase an additional amount of crude because its 1972 volume of crude oil runs to stills will be increased by the volumes refined under the processing agreement. However, since FEO has determined that the Charter-Standard agreement is not a processing agreement, Charter cannot include the crude involved in its arrangement with Standard, in its 1972 crude oil runs to still for purposes of 10 CFR 211.65.

D. *Objectives of the Mandatory Allocation Program.*—In administering the mandatory allocation program, Congress directed, among other things, that, to the maximum extent practicable, the FEO preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers and branded independent marketers and provide for equitable distribution of refined petroleum products (Emergency Petroleum Allocation Act of 1973, section 4(b), Pub. L. 93-159).

Ultimate equity is achieved by this interpretation of the Standard-Charter relationship since it has the effect of preserving established 1972 supplier-purchaser relationships and tends to protect Charter and other independent marketers such as Diamond Shamrock, La Gloria and Triangle who are, in turn, dependent upon Charter for supply of product. The continuation of the supply and distribution scheme, established in 1972 in the Standard-Charter relationship and in Charter's relationship to its purchasers, tends to promote equitable distribution of motor gasoline, without unnecessary interference with market mechanisms.

II. CONCLUSION

For the above-stated reasons, Standard Oil of California is a base period supplier of motor gasoline to Charter in the amount of *x* barrels per day.

INTERPRETATION 1974—7

To: Greenbelt Consumer Services, Inc.

Date: June 20, 1974.

Rule Interpreted: § 212.31.

Code: GCW—PI—Class of Purchaser.

This is in response to your letter of October 1, 1973, re: "Greenbelt Consumer Services, Inc.—Request for Interpretation," which was addressed to the Internal Revenue Service—Stabilization, P.O. Box 1466, Baltimore, Maryland 21203. The request relates to the maximum lawful prices that may be charged for refined petroleum products under Subpart L of the Phase IV Price Regulations of the Cost of Living Council. As you know, the Cost of Living Council delegated its authority over petroleum prices on December 26, 1973, to the Federal Energy Office, and the former Cost of Living Council Regulations now appear as part of the FEO regulations at 10 CFR Part 212. I regret the delay which has occurred in responding to this request.

The essential facts upon which the request is based are as follows:

Greenbelt Consumer Services, Inc., until September 16, 1973, was a branded independent marketer of BP Oil Corporation petroleum products, under a March 25, 1970 Dealer Agreement between BP and Greenbelt. The Agreement specified that unless otherwise terminated or cancelled, it would be in force for one year beginning July 9, 1972, and from year to year thereafter, with either party to the Agreement having the right to terminate at the end of any yearly period, upon 30 days' prior written notice. On April 2, 1973, BP notified Greenbelt of its decision to terminate the Dealer Agreement on July 9, 1973 (the end of the first one year period provided for in the Dealer Agreement). On August 9, 1973, BP and Greenbelt entered into a new Sales Agreement, effective September 16, 1973, under which Greenbelt no longer had the right to use the BP trademarks and brand names, and under which Greenbelt was to pay the lowest of the following prices for gasoline purchased from BP:

(1) The spot (unbranded) price; or

(2) The dealer tankwagon price less *x* cents; or

(3) The maximum legal price or prices in effect from time to time during the term of the agreement.

The interpretation requested by Greenbelt is that under the Phase IV Price Regulations (now 10 CFR Part 212), the maximum lawful prices that BP may charge Greenbelt must be determined by reference to the May 15, 1973 prices which BP charged Greenbelt, which was at that time a branded dealer, rather than by reference to the May 15, 1973 prices which BP charged to nonbranded dealers, which Greenbelt has been since September 16, 1973.

The request indicates that the May 15, 1973 prices charged by BP to branded dealers were higher than the May 15, 1973 prices charged by BP to nonbranded dealers. The request, however, includes a showing of the monetary value of the equipment, services, and credit that were provided without charge by BP to Greenbelt under the Dealer Agreement, but which are not provided by BP to unbranded dealers, and for purposes of this interpretation it is assumed that Greenbelt is correct in asserting that the current value of such equipment, services, and credit is greater than the difference between the

May 15, 1973 prices charged by BP to branded dealers and to nonbranded dealers. It is also assumed for purposes of this interpretation that the prices BP is charging to Greenbelt are the lawful prices for purchasers in a class of purchaser which includes nonbranded dealers, since Greenbelt has not made any assertion to the contrary.

The issue, therefore, is whether, upon the September 16, 1973 termination of the Dealer Agreement between BP and Greenbelt, and the resulting change of Greenbelt from a branded to a nonbranded dealer, BP may charge Greenbelt prices which are determined by reference to the May 15, 1973 prices it charged to nonbranded dealers, or whether BP must determine its prices to Greenbelt by reference to the May 15, 1973 prices it charged to Greenbelt as a branded dealer and thereby take into account the value of the equipment, services and credit which was furnished to Greenbelt under the Dealer Agreement that was in effect at that time.

The FEO has concluded that upon the termination of the Dealer Agreement, and the resulting change of Greenbelt to a nonbranded dealer, BP may charge Greenbelt prices which are determined by reference to the May 15, 1973 prices to nonbranded dealers.

This result flows from the fact that under FEO regulations, the termination of franchise agreements per se is not violative of those regulations. Indeed, the Congress explicitly declined to adopt a provision of the Emergency Petroleum Allocation Act of 1973 that would have prohibited suppliers from terminating leases or franchises, except for cause. See Conference Report No. 93-628, 93rd Congress, First Session, 1973 at 30. And, given the fact that there has been a change in the underlying contractual relationship between BP and Greenbelt which is not in violation of FEO regulations, we have further concluded that it would not be appropriate to do anything other than permit Greenbelt to be included in a class of purchaser that includes other nonbranded dealers.

The treatment requested by Greenbelt would, in effect, create an exceptional class of purchaser—those purchasers which are now nonbranded but were branded on May 15, 1973. Purchasers in this class would receive a price that could only be established by FEO on a case-by-case basis and which would, assuming the correctness of Greenbelt's showing, be a lower price than that charged to other nonbranded dealers. As a practical matter, this would create a favored class of nonbranded dealers and place those nonbranded dealers who were also nonbranded on May 15, 1973, at a disadvantage. Also, under the interpretation requested by Greenbelt, any dealer which changed from a nonbranded to a branded status after May 15, 1973 would presumably be required to continue to pay the higher price charged to nonbranded dealers, even though that dealer had become a branded dealer.

Further reasons for not granting the interpretation requested by Greenbelt are the administrative difficulties and the unfairness that would be inherent in attempting to ascribe monetary values to the equipment, services, and credit which Greenbelt no longer receives as a nonbranded dealer. Not only are some of the values highly subjective, but many of them change from month to month, as the costs of providing them change. We have concluded in this regard that the only practicable means of insuring that prices are not increased by discontinuance of services provided to a class of purchaser is to insure that all such services are maintained to each member of the class. But where membership in a class is by virtue of a contractual relationship which FEO does not require be kept in effect, FEO will not undertake to keep the relationship in effect, in all but name, through price adjustments.

We wish to emphasize that in many instances classes of purchasers are determined solely on the basis of price and credit terms, and that this resonse to your request for interpretation is limited solely to the situation in which there has been a fundamental change in underlying relationship between the parties, by virtue of the termination of a branded Dealer Agreement.

INTERPRETATION 1974—8

To: Atlantic Richfield Co.

Date: June 24, 1974.

Rule Interpreted: § 212.72 (formerly § 212.74).

Code: GCW—PI—Current Cumulative Deficiency.

Your letter of March 8, 1974 requested an interpretation of the section of the Federal Energy Office price regulations that pertains to the calculation of the amount of "new" crude from a property's current month's production that may be sold at a price in excess of the ceiling price (§ 212.74(a)) and to the pricing of "released" crude (§ 212.74 (b)). The request was sugendered by a disagreement between the Atlantic Richfield Company and the Amerada Hess Corporation. The facts as they relate to the amount of the month's total production of crude, and the amount of "new" crude are not in dispute. The issue is the proper pricing of the December, 1973 base production control level crude according to the price formula of § 212.74(b) of the regulations.

INTERPRETATION

Section 212.74(a) operates as a condition precedent that must be satisfied before there can be pricing of any crude in accordance with the formula in § 212.74(b). Paragraph (a) provides that there can be no sale of new crude at a price in excess of the ceiling price unless the cumulative production deficiencies of crude in prior months have been satisfied. Such deficiencies arise when the amount of crude produced from a property in a specific month is less than the base production control level for that property in that month. The deficiencies are eliminated by the sale at or below ceiling price of the current month's production of "new" crude in an amount sufficient to equal the cumulative past deficiency. Therefore, if the base production control level in May, for example, was 100 barrels and 110 barrels were produced, there would be 10 barrels of new crude. If no deficiencies have been carried forward, all 10 barrels can be sold at a price higher than the ceiling price (the free market price); if the cumulative past deficiency amounts to 10 barrels, none of the new crude can be sold at the free market price; and if the cumulative deficiency is 5 barrels, 5 of the 10 barrels must be sold at or below the ceiling price, and 5 barrels can be sold at the free market price.

The latter situation is analogous to the fact situation herein. Paragraph (a) of the regulations requires that the 5 barrels of new crude utilized to satisfy the production deficiency must be sold "at or below its ceiling price." You are correct in stating that there can be no pricing of a current month's production of crude in accordance with the formula in paragraph (b) of the regulations until the deficiency, or underage, has been satisfied from the current month's production of new crude and, further, that there must remain new crude that can be sold in accordance with paragraph (a). In the fact situation presented in your letter, this condition precedent has been satisfied.

The actual result of pricing the base production level of old crude in accordance with the formula in paragraph (b), assuming there are no production deficiencies that must be satisfied from a current month's production of new crude, is to provide the producer of crude with revenues equal to those which would be received if he sold one barrel of old crude at the free market price for every barrel of new crude that is sold at the free market price, as limited by paragraph (a). Since paragraph (a) only allows such new crude to be sold when past production deficiencies have been satisfied, the present definition of the formula symbol "Cpr" is inadvertently inconsistent with that limitation because it does not make provision for the subtraction from the current month's total crude production of the new crude that is required to be utilized to satisfy deficiencies carried forward from prior months.

The end-result of a calculation according to the formula in a month in which there were past deficiencies to be satisfied, given the present definition of "Cpr," would be contrary to the intention of § 212.74 because the formula would allow revenues received by a producer from the sale of free market price of a quantity of crude under the price formula of § 212.74(b) to exceed the income that would be derived from matching the sale of each barrel of new crude sold at the free market price, in accordance with paragraph (a), with the sale of a barrel of released crude at the same price. It is our interpretation, therefore, that for purposes of the price formula of § 212.74(b), deficiencies under § 212.74(a) must first be subtracted from the total production. The definition of the symbol "Cpr" in § 212.74(b) will be amended to make this requirement explicit by eliminating from the month's total production of crude the new crude used to satisfy the requirements of the second sentence of § 212.74(a).

INTERPRETATION 1974—9

[No Interpretation designated 1974—9 was issued.]

INTERPRETATION 1974—10

To: Standard Oil Co. of Indiana.

Date: July 9, 1974.

Rule Interpreted: § 211.51.

Code: GCW—AI—Definition of Wholesale Purchaser-Reseller; Commission Agents.

On behalf of Standard Oil Company of Indiana (Amoco), you have requested an opinion of whether Amoco commission agents are wholesale purchaser-resellers as defined in FEO regulations, 10 CFR 211.51. Alternatively, Amoco appeals from a letter of April 8, 1973 from the Regional Administrator of FEO region VII, which letter expressed the view that Mr. L. W. Green, as a former Amoco commission agent in Winfield-Oxford, Kansas, is a consignee entitled to an allocation.

In Amoco's request, you state that Amoco's commission agents are hired by the company to operate and to sell petroleum products from bulk facilities owned by the company. According to the information supplied by Amoco, the agent makes no capital investment in the bulk plant, except for a tank truck chassis, nor is the plant (owned by Amoco) leased to the agent. Moreover, Amoco asserts that product is neither sold nor consigned to the agent, and risk of loss and title to the product remains with Amoco until it is delivered to an end-user. Commission agents, according to the sample employment contract submitted by Amoco, are permitted to extend credit to accounts not authorized by the company, and the agent remains liable for credit extended in this manner. Agents receive an extra bonus from Amoco for carrying such "unauthorized" credits. Compensation of these agents, according to Amoco, is on a commission basis keyed to a percentage of net sales, and Amoco pays state employment taxes, workmen's compensation, and unemployment compensation taxes on behalf of these agents. In addition, commission agents participate in Amoco's employee benefit plans, including health and life insurance, employee savings and retirement plans. Finally, at least ¼ of the commission agents are represented by unions who engage in collective bargaining with Amoco.

In support of the interpretation request, Amoco has supplied sample copies of employment contracts, savings and pension plan enrollment forms, a sample collective bargaining agreement, a letter from the Treasury Department stating that commission agents are employees for purposes of federal employment tax, and a letter from the NLRB impliedly recognizing the status of your commission agents as employees. Amoco has also provided delivery tickets, invoices, salary statements and other documentary evidence relating to the operation of the Winfield-Oxford, Kansas bulk plant.

In response to Amoco's request for interpretation, Mr. Lloyd W. Green and his attorney have filed a reply. Mr. Green contends that, at least insofar as the requested interpretation would adversely affect him, it should be denied, since his function as an Amoco commission agent was equivalent to that of a consignee—not a mere employee. Since a consignee (but not an employee) is included within 10 CFR 211.51's definition of wholesale purchaser-reseller, Mr. Green believes that as a consignee he is entitled to an allocation from Amoco notwithstanding his dismissal as an Amoco commission agent.

In support of his position, Mr. Green alleges that, doing business as the L. W. Green Company, he delivered fuel from the Amoco bulk plants to customers, he would account to Amoco on a weekly basis for the total product delivered, and that he arranged for and personally extended credit to approximately 90 percent of his customers.

Mr. Green has also indicated that prior to 1972, he was a petroleum distributor in the Oxford, Kansas area for 25 years, and that prior to becoming an Amoco commission agent he sold the bulk plant to Amoco. Mr. Green speculates that he was fired as an Amoco commission agent because of his efforts to help unionize Amoco commission agents for Kansas.

Amoco, in reply to Mr. Green's allegations, has submitted copies of invoices, delivery tickets, and other material indicating that product was not sold to customers under the name L. W. Green Company, that Mr. Green had to account to Amoco for each sale of product, and that there were at least six "authorized" credit accounts at the Winfield-Oxford location. The documents indicate that no deliveries of product were made to an "L. W. Green Company" and all sales tickets recite that the seller is the "Standard Oil Division-American Oil Company" (Amoco).

Based upon an analysis of the facts recited above, and the exhibits submitted, the FEO has concluded that Amoco's commission agents, of the type described above, are employees of the company and are not within the contemplation of the definition of "wholesale purchaser-reseller" in the regulations.

The regulations provide (10 CFR 211.51) that a wholesale purchaser-reseller means "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

The concept of wholesale purchaser-reseller envisions an entity having more than the very limited physical control possessed by Amoco's commission agents over the distribution of the product. Amoco, rather than the agent, apparently exercises direct control over the inventory, pricing, and sales territory of the bulk distribution facilities here involved and retains title to the product until transferred to the ultimate purchaser. Also, Amoco exercises complete control over the commission agent, to the extent that a master-servant relationship apparently exists. The commission agent has an employment contract, may be part of a bargaining unit recognized by the NLRB, obtains all company health and welfare benefits and differs from a salaried employee only in the method of compensation; i.e., the agent's compensation is based on a commission formula. The only independent function exercised by the commission agent is his freedom, expressed in the employment contract, to extend credit (not authorized by the company) to customers on his own behalf. The company grants an extra bonus to the agent based on the aggregate dollar amount of credit carried by the agent.

On the basis of the facts presented to FEO, Amoco's commission agents appear to be mere commissioned employees of the company who serve a sales and supervisory function in relation to a bulk distribution facility.

The agent, in essence, functions in a manner analogous to plant or branch managers of the concern. Therefore, such agents are not "wholesale purchaser-resellers" within the contemplation of FEO regulations and Mr. L. W. Green, as a former commission agent, is not entitled to an allocation.

Amoco's alternative request for an "appeal" from the letter of the regional administrator need not be reached, since this interpretation is dispositive of the issue raised therein.

INTERPRETATION 1974—11

To: Liquid Waste Disposal Co.

Date: July 17, 1974.

Rules Interpreted: §§ 212.71, 212.72, 212.73, 212.74.

Code: GCW—PI—Reclamation of Waste Crude Oil.

(Text omitted because Interpretation 1974—11 was vacated on appeal based upon an error in fact. *Tesoro Petroleum Corp.*, 2 FEA ¶ 80,514 (January 22, 1975).)

INTERPRETATION 1974—12

To: Estron Oil Corp., *et al.*

Date: July 18, 1974.

Rules Interpreted: §§ 211.51, 211.106(b)(1), 212.31.

Code: GCW—AI, PI—Wholesale Purchaser-Resellers; Definition of Resellers, Retailers.

This is in response to your letter dated February 22, 1974, requesting an interpretation pursuant to 10 CFR 205.101 et seq. of certain provisions of the Mandatory Petroleum Allocation and Price Regulations. Your request was made on behalf of Estron Oil Corporation, Spartan Petroleum Corporation, Spiegel Oil Corporation, Tartan Oil Corporation and Winner Petroleum Corporation (collectively referred to herein as the "companies"). As set forth in your request, the relevant facts are as follows:

The companies are parties to agreements with American Oil Company ("Amoco"), substantially in the form of the agreement dated September 29, 1972 between M. Spiegel & Sons Oil Corp and Amoco, a copy of which was attached to your letter, with respect to the solicitation by Spiegel of service station accounts at specified locations. Under the agreement, Spiegel was entitled to receive commissions of 2.8 cents per gallon of gas (subject to reduction in certain events) and of 10% of the dollar volume (exclusive of taxes) of motor oils sold to such service stations by Amoco. In the agreement, Spiegel represented that the specified service stations were leased to, or owned by, retail dealers, and that Spiegel did not participate in the operation of such stations. In addition, Spiegel agreed to cause such dealers to execute and deliver standard form dealer agreements with Amoco. Amoco agreed to cancel any such dealer agreement upon the expiration of its agreement with Spiegel. Amoco was required to furnish pumps, tanks and identification signs for the dealers.

Amoco delivered all gasoline and other products directly to and was paid therefor by the retail dealers (hereinafter referred to as the "dealers") whose accounts had been solicited by the companies; the commissions due the companies were paid directly to them by Amoco.

The agreements between the companies and such dealers, a form of which as used by Winner Petroleum Corporation was attached to your letter, provide that the particular company would sell and deliver and/or cause to be sold and delivered the dealer's entire requirements of gasoline, motor oil and specified other products. The dealer agreed to sell such products only under the particular company's designated brand name. The company was authorized to make certain alterations or repairs on the service station concerned to properly identify the brand name under which gasoline was being sold. Your letter additionally stated that the companies provide training, financial assistance and limited credit to the dealers, engaged in sales promotion activities, develop new business, provide and maintain marketing equipment and contribute to wholesale gasoline price reductions during price wars. In all but a few cases, the companies collect only enough rent from each dealer to pay the cost of owning or leasing the station site. Each dealer contract with Amoco would terminate if the agreement between Amoco and the company which solicited such dealer's account terminated.

The first issue as to which an interpretation is requested is whether in the base period a supplier/purchaser relationship existed between the companies and Amoco. More precisely, are the companies wholesale purchaser-resellers?

The definition of wholesale purchaser-reseller in 10 CFR 211.51 reads as follows: "Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

10 CFR 211.106(b)(1) provides as follows: Each firm or part of a firm which operates an ongoing business at a retail sales outlet shall be considered a separate firm with respect to each such outlet for purposes of this subpart and, therefore, shall be separate wholesale purchaser-reseller. The entity which merely holds a real property interest in a retail sales outlet on which another entity operates the ongoing business shall not be considered the wholesale purchaser-reseller with respect to that outlet.

It is our conclusion that the companies do not constitute wholesale purchaser-resellers entitled to be supplied by Amoco. In no instance according to the facts submitted to us, did the companies purchase, receive through transfer or otherwise obtain any gasoline from Amoco. All sales of gasoline by Amoco were made directly to each dealer under an agreement between the dealer and Amoco, and the companies then were paid a

Commission by Amoco. In addition, the agreement between Amoco and Spiegel described above recites that Spiegel did not participate in the operation of stations assigned to Amoco by it. The economic interest of the companies in the operations of the dealers derives solely from their position as lessors of service station sites and from their receipt of commissions from Amoco. Our conclusion is supported by the language of § 211.106(b)(1) which basically states that the lessor of the real property for a retail sales outlet on which another entity operates the ongoing business shall not be considered a wholesale purchaser-reseller as to that outlet.

A second issue upon which interpretation is requested is whether the companies may take the one-half cent non-product cost pass-through allowed by § 212.93 of the regulations.

Section 212.93 is applicable to resellers, reseller-retailers, and retailers (§ 212.91). Resellers, reseller-retailers and retailers are each defined, in part, as a firm which "carries on the trade or business of purchasing covered products and reselling them * * *" (§ 212.31).

Since the companies do not purchase and resell covered products, they are not subject to § 212.93, and they may not, therefore, take any action pursuant thereto.

INTERPRETATION 1974—13

To: McCulloch Gas Processing Corp.

Date: July 25, 1974.

Rules Interpreted: §§ 212.31; EPAA §§ 3 (5), (6), 4(a); FEAA § 5(b)(11).

Code: GCW—PI—Definition of Refiner, Natural Gas Liquid Products.

The Office of General Counsel has received and reviewed the June 4, 1974 "Petition for Interpretation and Exception Relating to Pricing of Propane, Butane, and other Liquid Products by McCulloch Gas Processing Corporation," which requested an interpretation with respect to the applicability of certain Federal Energy Administration (formerly Federal Energy Office) price regulations to McCulloch Gas Processing Corporation (MGPC) and its activities. Our interpretation is set forth below, and we are transmitting a copy of this interpretation to the FEA Office of Exceptions and Appeals, with which MGPC has also filed a copy of its June 4 "Petition."

FACTS

The essential facts with respect to MGPC's interpretation request are that MGPC is a processor of "wet" natural gas which it purchases from various producers of natural gas. MGPC obtains from the natural gas, by its processing activities, various natural gas liquids including propane, butane and natural gasoline. MGPC sells the liquids to third parties and sells the remaining "dry" (residue) natural gas in interstate commerce subject to Federal Power Commission regulation. Part of the payment made by MGPC to the producers of the natural gas, from which these liquids are processed, is under contracts which call for payment to the producers of a percentage of the revenue obtained by MGPC in its sales of those liquids.

MGPC has requested an interpretation that its pricing of natural gas liquids is not subject to FEA regulation. MGPC has previously made similar requests to the Dallas and Denver Regional Offices of FEA. The FEA Denver Region has advised MGPC that it is subject to FEA regulation.

INTERPRETATION

Since the June 4, 1974 date of MGPC's request, the FEO on June 27, 1974 commenced its role as the Federal Energy Administration, pursuant to the provisions of the Federal Energy Administration Act of 1974 (39 F.R. 23185). However, no change has occurred in the FEO regulations, which are now the FEA regulations, which would affect MGPC's request.

All producers or processors of propane, butane and natural gasoline are subject to FEA price regulations, and have been considered to be within the scope of the petroleum price control program since its commencement in August 1973 by the Cost of Living Council. The Cost of Living Council, under the Economic Stabilization Act of 1970, as amended, had general authority to "stabilize prices" and the specific authority to allocate "petroleum products" (Pub. L. 92–210 and 93–26). In August, 1973, with the commencement of Phase IV of the Economic Stabilization Program, the Council developed regulations that applied to natural gas processors. On June 13, 1973, the Council had instituted a generally applicable 60 day price freeze (38 F.R. 15763, June 15, 1973). In August, the Council extended "the freeze on prices charged for crude petroleum, natural gas liquids, and refined petroleum products" (38 F.R. 21993, August 14, 1973). The Council then introduced its Phase IV price controls for the petroleum industry (6 CFR, Part 150, Subpart L, 38 F.R. 22536, August 22, 1973), which were effective as of August 15, 1973. The products covered under the regulations were described as:

> a product described in the 1972 edition, Standard Industrial Classification Manual, Industry Code 1311 (except natural gas), 1321 or 2911. (6 CFR 150.352)

The Council excluded natural gas from its controls in recognition of the fact that natural gas prices are generally regulated by the Federal Power Commission. The products processed from natural gas were, however, specifically covered by the inclusion of SIC Code 1321 in the definition of covered products. SIC Code 1321 describes the production of liquid hydrocarbons from oil and gas field gases, and includes butane, propane and natural gas liquids. These same products, generated in a refinery process from crude oil are described in SIC Code 2911 as "Gases, liquified petroleum."

Although the language of SIC Code 1321 uses the term "production," and SIC Code 2911 uses the terms "refining," the Council for price regulation purposes used the single term "refining" to encompass both production under SIC Code 1321 and refining under SIC Code 2911. Thus, the Council, FEO and now FEA, have defined a "refiner" to include firms refining "liquid hydrocarbons from oil and gas field gases." To confirm this position, the Council issued a Question and Answer (CLC Release No. 467, Phase IV Q&A No. 18, November 30, 1973, Question No. 5) stating that natural gas liquids extracted from natural gas are subject to the regulations governing refiner's prices.

The Cost of Living Council Phase IV price controls for the petroleum industry have been continued in essentially their initial form to the present, and were in effect at the time the Congress considered and enacted the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159, November 27, 1973) (EPAA), under the authority of which the FEA now administers the price control regulations. FEA has concluded that this authority includes authority over the prices of natural gas liquids, and that the price control regulations with respect to natural gas liquids were therefore unaffected by the expiration on April 30, 1974, of the Economic Stabilization Act of 1970, as amended, the authority under which they were initially promulgated.

The products covered by the EPAA are "crude oil, residual fuel oil and refined petroleum products" (section 4(a) of the EPAA), with refined petroleum products defined as "gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils or diesel fuel," and LPG further defined as "propane and butane, but not ethane" (sections 3 (5), (6) of the EPAA). While the Congress addressed specifically "refined petroleum products," FEA believes this term to have been used by the Congress in the same sense that it was used by the Cost of Living Council, and to include both the "refining" of certain products from crude oil and the "production" of those products from natural gas. Indeed, Congressional concern was focused on the prices and supplies of butane and propane when the EPAA was enacted, and it cannot be concluded that such concern was limited to these products only as they are made from crude oil in a "refinery." Most of the volume of these products in fact, is attributable to natural gas processing, and to exclude this process from regulation would leave FEA unable to implement effectively a program for assuring supply and regulating prices of propane and butane, two of the most important of the natural gas liquids involved.

In this connection, it is worthy of note that the Conference Report on the EPAA states: By requiring that both allocations and prices be covered in the regulation required to be promulgated and implemented under section 4(a), Congress intends to force the Administration to rationalize and harmonize the objective of equitable allocation of fuels with the objectives of the Economic Stabilization Act. The committee wishes to emphasize that the pricing controls called for in this legislation may, in those circumstances where pricing controls established pursuant to other federal authority are consistent with the requirements and objective of this Act, merely conform those controls in the regulation to be promulgated under authority of section 4 of this Act. It is expressly contemplated, for example, that the price controls established by Phase IV under authority of the Economic Stabilization Act would continue in effect unless and until required to be modified by the price regulation required to carry out the purpose of this Act. As a matter of administrative convenience, the President may wish to continue to exercise federal pricing controls through the Cost of Living Council and may, pursuant to section 5(b), assign to that agency responsibility for administering the price controls called for in this Act.

The language of the statute under which FEA was established, the Federal Energy Administration Act of 1974 (Pub. L. 93–275), provides further support and insight into the scope of the controls program which FEA may implement. Section 5(b)(11) of that Act requires that in exercising price authority over propane, the FEA must provide "for equitable allocation of all component costs of producing propane gas." This language clearly indicates the scope of FEA authority is not limited to products "refined" from crude oil. The use of the word "producing" is parallel to the SIC Code 1321 language which has been used by the Council and FEA, which includes all methods for manufacturing propane, and which is applicable to the processing of liquid hydrocarbons from natural gas.

It is therefore our interpretation that the provisions of 10 CFR Part 212, are applicable to MGPC, which is a "refiner" as that term is defined in § 212.31, and which is subject to the regulatory authority of the Federal Energy Administration with respect to its operations in processing natural gas liquids from natural gas.

INTERPRETATION 1974—14

To: Exxon Co.

Date: August 2, 1974.

Rule Interpreted: § 212.91.

Code: GCW—PI—Five Percent Rule.

This is in response to your informal request for an interpretation as to the applicability of 10 CFR 212.91, et. seq., to the activities of Exxon Corporation in the U.S. Virgin Islands.

FACTS

As we understand the facts, the subsidiary of Exxon Corporation which sells covered products in the Virgin Islands acquires more than 5 percent of those products from a foreign subsidiary of Exxon Corporation.

INTERPRETATION

Our interpretation is that the subject activities of Exxon in the Virgin Islands are within the scope of FEA rules applicable to refiners.

The language of 10 CFR 212.91 which is involved in this matter states that an entity of a refiner, which is engaged in the business of purchase and resale of covered products, can qualify as a "reseller," rather than a refiner if it does not purchase more than 5 percent of the covered products it sells from the refiner, "including any entities which it (the refiner) directly or indirectly controls" and if the entity of the refiner has exercised exclusive price authority over its sales historically and consistently.

Our view of this language is that the phrase in quotes above plainly encompasses any and all entities which the refiner controls, whether or not these entities are domestic corporations. The test of whether 5 percent or less of such covered products are purchased from entities uncontrolled by the refiner is not where the selling entity is located, but is simply whether the selling entity is directly or indirectly controlled by the refiner. We see no relevant reason for differentiating for this purpose between entities which might be incorporated or have their corporate headquarters or operations in a foreign country and entities which might be similarly situated in the United States.

Thus, a subsidiary of Exxon Corporation operating in the U.S. Virgin Islands which buys more than 5 percent of its covered products from a foreign seller which is controlled by that subsidiary's U.S. parent firm (consolidated and unconsolidated, directly or indirectly controlled), is a "refiner," and is required to price its products in accordance with the regulations governing refiners set forth in subpart E of Part 212, Title 10, Code of Federal Regulations.

INTERPRETATION 1974—15

To: Sky Harbor Air Services, Inc. and Atlas Aircraft Corp.

Date: August 8, 1974.

Rules Interpreted: FEA Ruling 1974–19, § 211.09.

Code: GCW—AI—Base Period Suppliers.

This is in response to your request for an interpretation of the Mandatory Petroleum Allocation Regulations to the effect that the supplier/purchaser provisions of the regulations do not apply to the Defense Fuel Supply Center (DFSC). Your request was made on behalf of Sky Harbor Air Services, Inc., and Atlas Aircraft Corporation (the companies).

We understand that neither Sky Harbor nor Atlas were suppliers of DFSC during 1972, although both companies have been successful bidders for DFSC supply contracts at other times. The companies therefore were not base period suppliers of DFSC.

Your request for an interpretation essentially questions whether the Mandatory Petroleum Allocation Regulations prevent DFSC from entertaining competitive bids for its fuel requirements and thereafter awarding contracts to suppliers other than its base period suppliers, such as the companies.

The companies urge that the laws and regulations which require competitive bids by DFSC for its procurements should not be preempted by FEA's regulations. This issue was addressed by FEA Ruling 1974–19 entitled "Competitive Bids: Supplier/Purchaser Relationships" (a copy of which is enclosed for your information).

The pertinent portion of Ruling 1974–19 provides as follows: The Mandatory allocation regulations in 10 CFR Part 211, provide no exemption for Federal, State or local governments * * *. The competitive bid requirements of the laws and ordinances (of such governments) * * * are superseded to the extent they are inconsistent with the allocation regulations.

Since DFSC is a wholesale purchaser-consumer under FEA's regulations, the portions of the ruling which discuss wholesale purchaser-consumers are pertinent to Sky Harbor and Atlas and should provide additional guidance to you. However, it is clear that 10 CFR 211.09 was intended to apply to DFSC and that DFSC must be supplied by its base period suppliers except as otherwise required or permitted by the Mandatory Petroleum Allocation Regulations or FEA order. The laws and regulations which require DFSC to entertain competitive bids for its fuel suppliers are superseded to the extent they are inconsistent with the supplier/purchaser provisions of FEA's regulations. Consequently, the interpretation requested by Sky Harbor and Atlas would be incorrect.

INTERPRETATION 1974—16

To: Amoco Oil Co. (Indiana).

Date: September 3, 1974.

Rules Interpreted: § 210.62(a), Ruling 1974–10.

Code: GCW—PI—Normal Business Practices.

This is in response to your letter of May 16, 1974, in which you requested an exception for Amoco Oil Company to permit it to implement, on a voluntary basis, a revised system for reimbursing retailer dealers for sales receipts from sales made to customers who used Amoco credit cards. We have concluded that the appropriate response to this request is the interpretation which is set forth herein.

FACTS

As we understand the facts, Amoco currently operates under a system whereby dealers may submit Amoco credit card sales receipts when they pay for gasoline purchased from Amoco, and receive credit for the amount of those sales receipts toward the payment for the gasoline.

The proposed new system, referred to as direct dealer mailing, requires dealers to mail Amoco credit card sales receipts directly to Amoco, which will then issue checks to the dealers in payment for those receipts. Under this system, dealers would no longer be able to use Amoco credit card sales receipts as a form of payment for gasoline purchased from Amoco. Amoco has requested an exception to permit the implementation of its proposed new system on a voluntary basis, with those dealers who chose not to use the credit card sales receipts as a form of payment for gasoline purchased from Amoco.

INTERPRETATION

As you know, under FEA price regulations, Amoco may not now discontinue accepting credit card sales receipts as payment for gasoline and, instead, require that the receipts be submitted to Amoco, with payment to the dealer for the credit card sales receipt to be made at a later date by check, because the May 15, 1973 price charged by Amoco included the acceptance of credit card sales receipts. Discontinuance of this practice would therefore constitute an impermissible increase in the May 15, 1973 price, because the cost of credit, for the amount of the credit card sales receipts between the time the receipts would be submitted to Amoco and the time payment from Amoco would be received by the dealer, would be a new cost incurred by the dealer in connection with obtaining gasoline from Amoco. (See FEO Ruling 1974–10, 39 FR 15140, May 1, 1974, "Changes in Credit Terms").

We have concluded, however, that the implementation of the direct dealer mailing credit card system, on a voluntary basis, is permissible under FEA regulations. This conclusion has been reached in light of the following considerations:

(a) FEA has been fully informed of the proposed change in credit practices;

(b) No dealer will incur the price increase described above, except if he voluntarily changes to the direct dealer mailing system;

(c) There are benefits to the dealer under the direct dealer mailing system which Amoco has described and which individual dealers may conclude adequately compensate for the price increase which they incur under the new system.

Thus, FEA has concluded that, as long as each dealer's right to continue to obtain the credit terms that were included in the May 15, 1973 price is properly maintained, it should not foreclose the implementation of an alternative system which other dealers may prefer. The FEA is not in a position to make an overall evaluation that the benefits conferred under the proposed alternate plan outweigh the cost involved in each and every situation. At the same time, however, the FEA does not want to preclude any dealer from making his own evaluation and concluding that the alternative plan is better for him. Thus, we believe that it would be an overly-rigid interpretation of FEA regulations to preclude each individual dealer from making its own judgment under these plans. We therefore conclude that the FEA regulations are adequately carried out, as long as the right of dealers to avail themselves of the May 15, 1973 credit terms is preserved.

INTERPRETATION 1974—17

To: Celanese Corp.

Date: September 4, 1974.

Rules Interpreted: §§ 211.10(b)(2), 211.11(a), (c), 211.12(e)(3).

Code: GCW—AI—Allocation Entitlement, Supplier/Purchaser Relationship.

This is in response to your letter of April 2, 1974, on behalf of the Celanese Corporation requesting an interpretation of the Mandatory Petroleum Allocation Regulations. The interpretation concerns the respective rights and obligations of Celanese Corporation ("Celanese"), Exxon Company, U.S.A. ("Exxon"), Wanda Petroleum Company ("Wanda") and Coastal States Gas Producing Company ("Coastal"). As set forth in your request and your conferences with members of this office on May 23, and July 17, 1974, we understand the relevant facts to be as follows:

Until December 31, 1973, Celanese purchased propane from Exxon pursuant to an agreement which was for a twenty-year term with provisions to negotiate price terms before the commencement of each of the four five-year periods of the agreement. The parties agreed that if a revised price could not be negotiated before the end of the fourth year of any of the four five-year periods, the agreement would terminate at the end of such five-year period. The initial five-year term ended December 31, 1973. In November 1972, Celanese and Exxon failed to agree upon a revised price and it was agreed that the contract would terminate at the end of the initial term.

The propane purchased under the agreement was to be used by Celanese as a petrochemical feedstock at its petrochemical plant at Bishop, Texas, and was used for the intended purpose from the start of deliveries until February 2, 1973, at which time Celanese ceased operations at the Bishop plant. The propane actually used at this plant was not obtained directly from Exxon; rather, Exxon supplied the propane through an exchange agreement with Wanda, pursuant to which Wanda received propane from Exxon at Clear Lake, Texas and in turn released propane on Exxon's behalf to Celanese in Bishop to meet Exxon's obligations to Celanese.

After the Bishop plant was closed in February 1973, Celanese agreed to sell the propane it was obligated to purchase from Exxon to Wanda and Coastal for the remainder of the contract term. All of the propane which Celanese was required to purchase from February 1973 until the expiration of the contract on December 31, 1973, was resold to Wanda and Coastal. No contracts were signed between Wanda and Celanese or between Coastal and Celanese for additional sales of propane beyond December 31, 1973. Also, Celanese did not enter into any contracts after February 2, 1973, with other suppliers for quantities of propane for resale to Wanda, Coastal or other purchasers.

The "base period" which forms the basis for determining entitlements to propane under the Mandatory Petroleum Allocation Regulations is defined at § 211.82 of the regulations as follows:

"Base period" means each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter except that for the period June 1, 1974, through June 30, 1974, purchasers of propane may, at their option, use the period June 1, 1972 through June 30, 1972, as the base period.

CELANESE AS A WHOLESALE PURCHASER-CONSUMER

Between April 1, 1972 and February 2, 1973, of the base periods, Celanese was a wholesale purchaser-consumer of propane, using product as feedstock for its then operating petrochemical plant in Bishop, Texas. On February 2, 1973, this plant ceased to operate. Thus, the first issue for consideration is whether Celanese is entitled to an allocation of propane for any period corresponding to a base period during which it used propane as a wholesale purchaser-consumer of propane as a petrochemical feedstock.

Section 211.11 of the regulations provides in pertinent part as follows:

§ 211.11 *Basis for purchaser's entitlement to allocation.* (a) *Basis of entitlement.* A wholesale purchaser or an end-user entitled to an allocation level shall receive an allocation based upon its conduct of an ongoing business or maintenance of an established end use.

* * * * *

(c) *Loss of allocation entitlement for going out of business.* Wholesale purchasers and end-users which have gone out of business shall not be eligible for allocations based on volumes received or purchases made prior to going out of business.

* * * * *

It is our conclusion that Celanese is not entitled to an allocation of propane for any period corresponding to the period April 1, 1972 through February 2, 1973, of the base periods for propane, since as of the latter date, it ceased to conduct an ongoing business with an established end-use for propane. Thus, on a calendar basis, Celanese is not entitled to an allocation of propane from Exxon for the months of January and April through December. With respect to the exchange agreement between Wanda and Exxon, § 211.10(b)(2)(ii) provides neither Exxon nor Wanda shall include the exchange in their supply obligations to one another except the "difference between the total amounts received under exchange agreements and the total amounts supplied to customers through exchange agreements."

CELANESE AS A WHOLESALE PURCHASER-RESELLER

The second issue for consideration is whether Celanese is entitled to an allocation of propane during any period corresponding to a base period during which it acted as a wholesale purchaser-reseller. This would be for any period corresponding to February 1973 through March 31, 1973.

Between February 3, 1973 and March 31, 1973, Celanese was a wholesale purchaser-reseller of propane, since it purchased propane and resold it to other purchasers without substantially changing its form. "Wholesale purchaser-reseller" is defined at 10 CFR 211.51. However, with the termination of the Exxon/Celanese agreement on December 31, 1973, Celanese no longer had propane to resell and consequently went out of business as a wholesale purchaser-reseller of propane.

It is significant that Celanese's contracts with Wanda and Coastal for the resale of propane only covered the period when Celanese was obligated to accept propane from Exxon and Celanese itself had no end-use for the propane. In fact, Celanese made no arrangements to purchase propane after December 31, 1973, so that it could continue to resell to Wanda and Coastal. It is apparent that but for the implementation of the Mandatory Petroleum Allocation Program in January 1974, Celanese would not have anticipated that it should or could continue to resell propane to Wanda and Coastal.

For these reasons, it is our conclusion that Celanese went out of business as a wholesale purchaser-reseller of propane on December 31, 1973 within the meaning of 10 CFR 211.11(c). Therefore, Celanese is not entitled to an allocation of propane from Exxon based upon the period February 3, 1973 through March 31, 1973.

WANDA AND COASTAL

The final issue for consideration is whether Exxon has any supply obligation for propane under the regulations to Wanda or Coastal for the period during which Celanese acted as a wholesale purchaser-reseller of propane.

In the period February 3 to March 31, 1973, during which Celanese acted as a wholesale purchaser-reseller, Wanda and Coastal had no direct supplier/purchaser relationship with Exxon; rather, their supplier/purchaser relationship was with Celanese. See 10 CFR 211.10(b)(2). A wholesale purchaser-reseller's supplier has no supply obligation to the wholesale purchaser-reseller's customers. Thus, it is our conclusion that Exxon has no supply obligation for propane to Wanda or to Coastal under the regulations and that Celanese is the base period supplier of Wanda and Coastal for this period of time. This means that Celanese has a supply obligation to Wanda and Coastal for February and March of any period corresponding to a base period. However, to the extent that Celanese does not have an allocable supply of propane for distribution to Wanda and Coastal, its allocation fraction will be zero and it will distribute no propane to either Wanda or Coastal.

Wanda and Coastal may apply for the assignment of a new base period supplier and a base period volume pursuant to § 211.12(e)(3) for February and March since its base period supplier Celanese, no longer has adequate suppliers to supply them. Requests for assignment in the case of propane are handled by the FEA Regional Offices pursuant to the procedures set forth in 10 CFR 205.30 et seq. The appropriate Regional Office is located at 212 North Saint Paul Street, Dallas, Texas, 75201.

INTERPRETATION 1974—18

To: Williams Energy Co.

Date: September 11, 1974.

Rule Interpreted: § 211.9(a)(2).

Code: GCW—AI—Supplier/Purchaser Relationships.

This is in response to your request of June 7, 1974 (supplemented by letter dated July 8, 1974) for a ruling with respect to mutual termination of supplier/purchaser relationships under the Mandatory Petroleum Allocation Regulations. Your request was made on behalf of Williams Energy Company ("Williams") and concerned the termination of supplier/purchaser relationships established by FEA regulations between Williams and certain of its wholesale purchaser customers. This interpretation is not in response to other requests made by Williams with respect to supplier/purchaser relationships between Ashland Oil Company and certain of its propane customers.

FACTS

During the base period for propane, Williams was the supplier of propane to certain wholesale purchasers which are entitled to allocations of propane under the Mandatory Petroleum Allocation Regulations. In order to service these wholesale purchasers, Williams needs to determine whether these purchasers intend to purchase their entitlements under the Mandatory Petroleum Allocation Program for the next year. Consequently, Williams has written its wholesale purchasers requesting that they notify Williams prior to July 1, 1974 of their intent to purchase their entitlements and the actual quantities of such entitlements they will require on a month-to-month basis over the next year. In its letter to these purchasers, Williams stated that it would consider the failure to respond to its request by July 1, 1974 as a mutual termination of the supplier/purchaser relationships which may exist between those purchasers and Williams. By letter to FEA dated July 8, 1974, Williams provided copies of the responses of certain purchasers which replied to its request and a list of those purchasers which failed to respond to its request by July 1, 1974. Williams' July 8 letter requested a ruling that the responses attached to its letter constitute a termination of the supplier/purchaser relationships between Williams and those purchasers and that the supplier/purchaser relationships between Williams and those purchasers which failed to reply to Williams' request by July 1, 1974 are terminated.

APPLICABLE REGULATIONS

The pertinent provisions of the Mandatory Petroleum Allocation Regulations are set forth at 10 CFR 211.9 and provide as follows:

(a) *Supplier/wholesale purchaser relationship.* Each supplier of an allocated product shall supply all wholesale purchasers-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

(2)(i) Unless otherwise provided in this part or directed by FEO the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of FEO.

(ii) Unless otherwise provided in this Part or directed by FEO, the supplier/wholesale purchaser-consumer relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be revised or otherwise terminated except that any such relationship may be terminated by the mutual consent of both parties.

INTERPRETATION

WHOLESALE PURCHASER-RESELLERS

With respect to wholesale purchaser-resellers, § 211.9(a)(2)(i) clearly does not permit a mutual termination or waiver of the supplier/purchaser relationships required by FEA regulations. We would also note that the regulations do not require a wholesale purchaser-reseller to purchase, or to disclose its intention to purchase, its entitlement for any period corresponding to a base period.

The termination of a supplier/purchaser relationship with a wholesale purchaser-reseller may only be accomplished by FEA. This would be accomplished on a case-by-case basis and would involve proper notice to and an opportunity to comment by each wholesale purchaser-reseller. The wholesale purchaser-reseller must clearly understand that FEA has been requested to terminate its right to an entitlement under FEA's regulations from its base period supplier, and that such termination may leave it without a base period supplier.

We would also observe that the response of Clarendon Gas Company (which we assume to be a wholesale purchaser-reseller) enclosed with your July 16, 1974 letter does not clearly indicate an intention to terminate its supplier/purchaser relationship with Williams, only a current intention not to purchase its entitlements. The response of Herring Gas Service, Inc. (which we also assume to be a wholesale purchaser-reseller) is as tentative as Clarendon's. We assume that Hercules, Inc. and the Greenville Utilities Commission are wholesale purchaser-consumers. Therefore, their responses will be discussed elsewhere in this letter.

We recognize that it is not satisfactory for Williams to have an obligation to provide propane to these purchasers without knowing if they will demand their right to such supplies in the future. In such situations, we recommend that Williams (as it has done in these cases) request the appropriate office of FEA to terminate such relationships. FEA should then contact such wholesale purchaser-resellers and determine whether termination should be ordered. However, we caution that such requests will be reviewed on an individual basis and that terminations will not be granted solely because a wholesale purchaser-reseller is not purchasing its entitlements from its base period supplier.

In light of the foregoing, we cannot provide an interpretation that FEA has authorized the termination of the supplier/purchaser relationship between Williams and the aforementioned wholesale purchasers. Williams may, of course, pursue the matter before FEA as suggested above.

WHOLESALE PURCHASER-CONSUMERS

With respect to wholesale purchaser-consumers, § 211.9(a)(2)(ii) provides that the supplier/purchaser relationship can be mutually terminated. However, we do not think that a base period supplier could "mutually terminate" a relationship with a wholesale purchaser-consumer by requiring that the wholesale purchaser-consumer respond to a request to terminate by a particular date. A "mutual termination" would require a clearly expressed agreement by the wholesale purchaser-consumer which indicated that it is relinquishing its right to an entitlement under FEA's regulations. We would be reluctant to conclude that failure to respond to such a request warrants an agreement to terminate rights under the allocation program. Therefore, we conclude that the supplier/purchaser relationships between Williams and those base period wholesale purchasers-consumers which failed to provide purchase information by July 1, 1974 have not been mutually terminated.

With respect to the response of Hercules, Inc. (which we assume to be a wholesale purchaser-consumer), we do not interpret its response to be an agreement to a mutual termination of any relationship with Williams. At best Hercules states that it is not aware of any relationship with Williams, but that, in any event, Hercules will not purchase its entitlement from Williams. As previously indicated a statement by a wholesale purchaser-consumer that it does not intend to purchase its entitlement does not constitute a mutual termination of the supplier/purchaser relationship. It may mean that Hercules will not purchase its entitlement for this July but that next July it may wish to, if there is an allocation program in effect.

Finally, the response of the Greenville Utilities Commission indicates that it will mutually terminate its relationship with Williams if FEA assigns another supplier to Greenville. Clearly, this is not an agreement to terminate Greenville's right to an entitlement. This matter, we understand from Greenville's response, is before the FEA for consideration. Williams should pursue the matter with Greenville at such time as Greenville obtains such a new supplier.

INTERPRETATION 1974—19

To: Swann Oil, Inc.

Date: October 16, 1974.

Rules Interpreted: §§ 211.9, 211.10(g), 211.166.

Code: GCW—AI—Supplier/Purchaser Relationships, Method of Allocation, Surplus Product.

Your letter of June 11, 1974 on behalf of Swann Oil, Incorporated ("Swann") requested an interpretation of certain provisions of the Mandatory Petroleum Allocation Regulations concerning supplier/purchaser relationships for utilities.

FACTS

Swann is the base period supplier of residual fuel oil for the City of Vineland ("Vineland") which operates an electric utility. As a utility, Vineland is allocated residual fuel oil by its base period suppliers pursuant to the National Utility Residual Fuel Oil Allocation Program of the Federal Energy Administration.

For June 1974, FEA's utility notice designated Swann as Vineland's base period supplier for Vineland's allocation of 67,200 bbls. of residual fuel oil (39 FR 18050, May 22, 1974). By letter dated May 23, 1974, Swann advised Vineland that Swann would supply Vineland with the 67,200 bbls. of residual fuel oil. Vineland, however, notified Swann that it would not purchase its residual fuel oil entitlement from Swann for June 1974. Instead, Vineland purchased residual fuel oil from another supplier for delivery and use in June.

The other supplier certified that it had surplus product to distribute and had complied with the provisions of 10 CFR 211.10(g). This supplier was not a base period supplier to Vineland.

ISSUE

The issue presented for consideration is whether a utility which is allocated residual fuel oil from its base period supplier pursuant to the National Utility Residual Fuel Oil Allocation Program may decline to purchase its allocation from such supplier, and, instead, purchase residual fuel oil from a non-base period supplier which has surplus product for sale under 10 CFR 211.10(g).

INTERPRETATION

The supplier/purchaser relationship between Swann and Vineland is defined by 10 CFR 211.9 and 211.166 which provide in pertinent part:

§ 211.9 *Supplier/purchaser relationships.* (a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

* * * * *

(2)(ii) Unless otherwise provided in this part or directed by FEA the supplier/wholesale purchaser-consumer relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be revised or otherwise terminated except that any such relationship may be terminated by the mutual consent of both parties.

* * * * *

§ 211.166 *Method of allocation.* (d)(2) For purposes of calculating the allocation of residual fuel oil to utilities for delivery in every month after February 1974—

(i) The FEA will determine the amount of residual fuel oil allocated for delivery to each utility for a single month or several months at a time. The volume of residual fuel allocated to each utility for each month shall be based upon the supply available for utilities, the considerations specified in § 211.163(b)(3) and other relevant considerations.

(ii) Following the determination in paragraph (d)(2)(i) of this section, the FEA will publish the amounts of residual fuel oil allocated to each utility for delivery for a single month or several months at a time, and the amounts required to be supplied for each month by each supplier.

These regulations impose an obligation on base period suppliers, such as Swann, to allocate residual fuel oil to utilities in accordance with FEA's monthly notice of allocation to utilities. This obligation may be terminated by mutual agreement. How-

ever, there is no indication that Vineland and Swann have reached such an agreement.

A wholesale purchaser-consumer, such as Vineland, has no entitlement to residual fuel oil from anyone other than its base period supplier. Although the regulations provide for an entitlement, they do not obligate a utility to purchase its monthly allocation. In essence, the regulations insure that a purchaser will have supplies if it is willing to purchase them. A purchaser's failure to purchase entitlements under the regulations in one month, without more, does not terminate its right to purchase in a subsequent month. In addition, a wholesale purchaser-consumer's failure to purchase its entitlement during a period corresponding to a base period does not prevent its purchasing surplus product as provided by § 211.10(g).

Section 211.10(g)(7) of the Mandatory Petroleum Allocation Regulations reads as follows:

(7) *Purchaser's rights.* Notwithstanding the provisions of § 211.12 any wholesale purchaser or end-user may purchase allocated product from any supplier which certified that it has surplus product to distribute and that it has complied with the provisions of § 211.10(g).

The provisions of 10 CFR 211.166(d) establishing the method of allocation of residual fuel oil to utilities contain no restrictions which would prevent a utility from purchasing surplus product pursuant to § 211.10(g). Therefore, it is our opinion that Vineland could forego its allocation of residual fuel oil from Swann for June, 1974 and could purchase surplus product from any supplier which has conformed to the provisions of 10 CFR 211.10(g).

INTERPRETATION 1974—20

To: Petro US, Inc.

Date: November 4, 1974.

Rules Interpreted: Subpart D, § 212.83.

Code: GCW—PI—Definition of Producer, Reclamation of Waste Crude Oil, Transfer Pricing.

Your letter of August 7, 1974 to Mr. Mel Goldstein, Office of Exceptions and Appeals, requesting an exception from the price regulations of the Federal Energy Administration (FEA) was referred to this office after it was decided that an initial interpretation regarding the status of Petro Zwab, Inc. is necessary. (10 CFR 205.50) A copy of this interpretation is being forwarded to Mr. Richard Tedrow of the Office of Exceptions and Appeals, for further, appropriate action concerning other activities described in your letter. Our interpretation is set forth below.

FACTS

As disclosed by information submitted by you, Petro Zwab, Inc. is to engage in a petroleum processing operation intended to increase product supplies from sources of crude oil not generally utilized. Petro Zwab, Inc. will gather certain distressed crude petroleum from sources which include spilled oil, certain transport and storage cleaning, production slops, discarded marine equipment, and other sources. In such cases of crude petroleum recovery, the actual origin of the crude oil is often unknowable to Petro Zwab, Inc. Petro Zwab, Inc. did not engage in such activity during 1972, and has been recently formed in order to supply this recovered material to Petro US, Inc. as feedstock in its refining operation.

INTERPRETATION

Subpart D of the price regulations of the FEA (10 CFR 212.71 et seq.) applies to producers of crude petroleum. Based upon the facts presented in your letter, it is our interpretation that the activities of Petro Zwab, Inc. in recovering crude petroleum, as described, are properly regarded as "producer" activities, even though the production occurs as a result of reclamation processes.

The purpose of FEA price regulations which permit a producer to sell "new" crude petroleum at a price not subject to the ceiling price rule of § 212.73 is to encourage increased volumes of crude petroleum. Thus, even though Petro Zwab, Inc. does not recover this crude petroleum from reservoirs and deposits in the earth, it proposes to engage in activities and apply techniques to yield usable crude oil previously regarded as unrecoverable. In this way, Petro Zwab, Inc., in its reclamation of the contaminated or waste crude oil, satisfies an important purpose of the FEA regulations, and therefore the reclaimed crude oil not previously recovered can properly be considered "new" crude petroleum not subject to the ceiling price rules for sales by producers.

FEA regulations governing the cost of crude oil transferred between affiliated entities would apply to transfers of reclaimed crude oil by Petro Zwab, Inc. to Petro US, Inc., and Petro US, Inc., would be subject to the provisions of 10 CFR 212.83 concerning the measurement of domestic crude oil costs which could be used in the calculation of base prices.

INTERPRETATION 1974—21

To: The Flying Tiger Line, Inc. and Tesoro-Alaskan Petroleum Corp.

Date: November 15, 1974.

Rule Interpreted: § 211.145(d)(1).

Code: GCW—AI—Designation of Base Period Supplier.

This interpretation is issued in response to agreement reached among counsel for The Flying Tiger Line, Inc. ("Tiger"), and Tesoro-Alaskan Petroleum Corporation ("Tesoro"), with the concurrence of United States District Court Judge John Lewis Smith during a conference held in Judge Smith's chambers on November 11, 1974. Both Tiger and Tesoro have agreed that they shall waive their rights to administrative appeal of the interpretation prior to submission of the matter to Judge Smith for his review. Judge Smith has indicated that under the circumstances of this case, he shall consider all parties' administrative remedies to have been exhausted with respect to the issues discussed herein, and FEA accepts this determination.

FACTS

Based on the submissions, the following facts are assumed for the purposes of this interpretation: Tesoro-Alaskan Petroleum Corporation ("Tesoro") is a refiner and a supplier of aviation fuel. The Flying Tiger Line, Inc. ("Tiger") is a civil air carrier. N&H Associates ("N&H") is a wholesale purchaser-reseller/supplier of aviation fuel.

Tesoro and N&H entered into a contract dated March 14, 1973 for the sale and delivery of aviation fuel to N&H by Tesoro in specified amounts at specified prices (the "Tesoro contract"). The Tesoro contract has subsequently been modified several times. The term of the March 14, 1973 contract was for three years commencing April 1, 1973, with an option for renewal for an additional three years.

The Tesoro contract was supplemented by a letter of amendment signed by Tesoro on July 2, 1973 and accepted by N&H July 5, 1973. The letter, which incorporated by reference an April 25, 1973 letter from Tesoro to N&H, established new price and volume terms.

On August 16, 1973, N&H and Tiger entered into a contract (the "Tiger contract") whereby N&H agreed to supply Tiger with aviation fuel which N&H, in turn, obtained from Tesoro under the Tesoro contract.

Associated with the Tiger contract is a one-page document generally described by the parties as a "guaranty." The guaranty consists of a representation by Tesoro that "In consideration of the foregoing agreement between * * * (Tiger) * * * and * * * (N&H) * * * Tesoro hereby guarantees that it* will provide N&H with sufficient Tesoro jet fuel * * * to meet * * * (Tiger's) * * * estimated maximum gallonage requirements * * * set forth in paragraph 3 of the foregoing agreement." The asterisk therein refers to a footnote incorporating by reference the terms of the Tesoro contract, as modified by the July 2, 1973 letter of amendment. The guarantee was initialed by Tiger's representative on September 14, 1973.

On April 10, 1974, Tiger purchased N&H in its entirety, and N&H became a wholly-owned subsidiary of Tiger. The only business of N&H now consists of providing aviation fuel to Tiger including into-plane delivery thereof to Tiger.

N&H commenced delivery of aviation fuel to Tiger on January 1974 under the Tiger contract. Delivery was subsequently terminated pursuant to the mandatory allocation program since N&H was not Tiger's 1972 base period supplier of aviation fuels. Further, Tesoro had no obligation to supply N&H since Tesoro was not a 1972 base period supplier of N&H. Currently, Tiger's base period supplier is a firm other than Tesoro or N&H.

It is assumed, however, that the Tesoro contract between Tesoro and N&H, and the Tiger contract between Tiger and N&H and the guarantee are in force and effect but for the operation of FEA regulations, which require other supplier/purchaser relationships.

On October 24, 1974, by telex, Tiger, pursuant to § 211.145(d)(1), as amended, 39 FR 39768 (October 25, 1974), purported to designate Tesoro as its base period supplier. Section 211.145(d)(1) permits civil air carriers to designate as their base period supplier, "any supplier which had entered into a contract with that carrier prior to November 1, 1973 for the purchase of aviation fuel * * *." But for a valid designation pursuant to § 211.145(d)(1) or an assignment by FEA, Tesoro would not be a base period supplier of Tiger.

By a telex dated October 25, 1974, Tesoro refused to supply Tiger, contending that it "does not consider that it is a supplier of a civil air carrier pursuant to a contract with such carrier for the purchase of aviation fuels entered into prior to November 1, 1973." Tesoro contended that while "a contract exists between Tesoro-Alaskan and N&H Associates, Inc., however, no contract exists between Tesoro-Alaskan and the Flying Tiger Lines, Inc."

ISSUE

Is Tesoro a base period supplier of Tiger by reason of an effective designation pursuant to § 211.145(d)(1)?

INTERPRETATION

Section 211.145(d)(1) provides in pertinent part that "any civil air carrier may designate as a base period supplier, any supplier which had entered into a contract with that carrier prior to November 1, 1973 for the purchase of aviation fuels * * *." Section 211.145(d)(1) imposes other conditions which must exist for an effective designation to be made, but which are not relevant for the purposes of this interpretation which assumes that those conditions exist.

The basic issue, therefore, is whether Tesoro entered into a contract with Tiger prior to November 1, 1973. If the Tiger contract, the Tesoro contract and the guaranty when viewed together or separately constitute a contract between Tiger and Tesoro then Tiger can designate Tesoro as its base period supplier pursuant to § 211.145(d). If, on the other hand, the Tiger contract, the Tesoro contract and the guaranty when viewed together or separately do not constitute a contract between Tiger and Tesoro, Tiger cannot designate Tesoro as its base period supplier pursuant to § 211.145(d).

NO CONTRACT EXISTED BETWEEN TESORO AND TIGER

If we assume that the Tiger contract, the Tesoro contract and the guaranty when viewed separately or together did not constitute a contract between Tiger and Tesoro, then Tiger cannot designate Tesoro as its base period supplier under § 211.145(d). Thus, under this assumption, there is no question that if Tiger had not acquired N&H in April, 1974 that Tiger as a civil air carrier could designate N&H as its base period supplier pursuant to § 211.145(d) since the Tiger contract with N&H was entered into prior to November 1, 1973. However, in these circumstances, the regulations do not provide a mechanism for N&H, in turn, to designate Tesoro as its base period supplier since N&H would be a wholesale purchaser-reseller and would not be a civil air carrier. If Tiger designates N&H as a base period supplier, Tesoro would be required to supply N&H only if an assignment by FEA pursuant to § 211.12(e) is made or if an exception to FEA's regulations based upon a serious hardship or gross inequity were to be granted.

Thus, the basic issue under this assumption would be whether Tiger's acquisition of N&H would provide a basis for its designation of Tesoro as a base period supplier pursuant to § 211.145(d). Under this assumption, Tesoro did not enter into a contract with a civil air carrier prior to November 1, 1973, but rather with a wholesale purchaser-reseller. Tiger thus could not designate Tesoro as its base period supplier. The fact that N&H has subsequently been acquired by Tiger does not alter N&H's status of solely being a wholesale purchaser-reseller prior to November 1, 1973.

The purpose of § 211.145(d) is to provide a different basis for supplier/purchaser relationships between civil air carriers and suppliers than their 1972 supplier/purchaser relationships which would otherwise obtain and thereby alleviate the effects of FEA's regulations upon those firms which made substantial changes in their supplier/purchaser relationship after 1972. FEA assumed that suppliers designated under § 211.145(d) would have an adequate source of supply for civil air carriers which designate them as base period suppliers pursuant to § 211.145(d). The feasibility of this rule, then, rests on the assumption that suppliers such as N&H had base period suppliers and would be able to meet their contract obligations following a § 211.145(d) designation. However, since N&H does not have a base period supplier, Tiger is prevented from effectively exercising its rights under § 211.145(d).

FEA did not intend when it adopted § 211.145(d) to treat wholesale purchaser-resellers acquired by civil air carriers subsequent to November 1, 1973 as if they were civil air carriers prior to November 1, 1973. That interpretation would only serve to encourage possible acquisition of resellers like N&H by carriers unrelated to that reseller in order to gain the benefits of the rule for a carrier which would otherwise not be entitled to those benefits. Any such result would thus clearly circumvent the intent of the rule.

Since Tiger acquired N&H prior to the adoption of § 211.145(d), it obviously did not acquire N&H in order to circumvent the intent of the rule. However, the logic of determining the status of an entity as of a date prior to November 1, 1973 rather than at the present time for purposes of this rule must also dictate the result in this case.

Practical reasons dictated limiting designation under § 211.145(d) to air carriers. In order to make the provision immediately effective, FEA endeavored to insure that designation be made only where direct supply could be easily arranged and where no complicated disputes over supply arrangements would develop. Thus, it provided for designation only by air carriers which had pre-existing contracts. By contrast, § 211.145(c), for which two months notice was given prior to effectiveness, allows for designation by any wholesale purchaser. Designations under § 211.145(c) must be made one month in advance, allowing time to establish supply channels.

Finally, we would also note in connection with an assumption that no contract exists between Tiger and Tesoro that under § 211.145(c)(1) for periods corresponding to base periods commencing after December 31, 1974, Tiger may unilaterally terminate its relationships with its current base period supplier. If Tiger were to do so, it would be our opinion that under the provisions of § 211.145(c)(2), Tiger, as a wholesale purchaser, could "implement mutually acceptable arrangements with any supplier of aviation fuel * * *." Provided that the Tesoro contract, the Tiger contract and the guaranty are otherwise valid and enforceable but for FEA's regulations and the other preconditions are met, it is our opinion that such contracts are mutual arrangements which may be made or implemented under § 211.145(c)(2). Thus, for periods after December 31, 1974, Tiger can accomplish the same results as contemplated by § 211.145(d). Such designation may be made at any time hereafter in accordance with § 211.145(c), but not to be effective until a period corresponding to a base period commencing after December 31, 1974.

A CONTRACT DID EXIST BETWEEN TIGER AND TESORO

As previously noted, it may be that the Tiger contract, the Tesoro contract and the guaranty constituted a contract between Tiger and Tesoro for the purchase of aviation fuels prior to November 1, 1973. If such a finding were made, then Tiger could designate Tesoro as its base period supplier pursuant to § 211.145(d).

We have not expressed an opinion, however, as to whether a contract was entered into between Tiger and Tesoro prior to November 1, 1973 for the purchase of aviation fuels since we consider that a question for resolution in the proceeding before Judge Smith. Our discussion therefore has been limited to the results which could follow such a determination.

INTERPRETATION 1974—22

To: Darrell Jackson.

Date: December 2, 1974.

Rules Interpreted: § 212.54 (formerly § 210.-32), EPAA § 4(e)(2).

Code: GCW—PI—Stripper Well Lease Exemption, Unitization, Definition of Property, Average Daily Production.

This is in response to your June 20, 1974 request for an interpretation concerning the applicability of 10 CFR 210.32 (the stripper well lease exemption of the FEA Mandatory Petroleum Price and Allocation Regulations), to the production of domestic crude petroleum which is attributed to leases owned by you and subject to the "Unit Agreement, Shafter Lake San Andres Unit, Andrews County, Texas." (Unit Agreement.) This request was initially submitted to the Cost of Living Council on January 16, 1974. I regret the delay which occurred in responding to your request.

FACTS

As disclosed by the information submitted by you, you are the owner of two oil, gas and mineral leases, known as the Armstrong Lease and the Armstrong E Lease. These leases are subject to the Unit Agreement, which became effective July 1, 1967.

Production of crude petroleum during the calendar year 1973 from the Unit Area and subject to the Unit Agreement totalled 1,207,772 barrels. The Unit Area contains 282 wells. The average production under the Unit Agreement in calendar year 1973 was therefore 11.78 barrels per well per day.

The oil allocated under the Unit Agreement for calendar year 1973 to your Armstrong Lease was 1,334 barrels, and to your Armstrong E Lease was 1,189 barrels. You state that each of your leases contains one well, and that the production from your leases in calendar year 1973 was therefore 3.66 barrels per well per day for the Armstrong Lease and 3.26 barrels of oil per well per day for the Armstrong E Lease.

You have requested an interpretation that the oil allocated to your leases under the Unit Agreement is exempt from FEA Mandatory Petroleum Price Regulations pursuant to the exemption that is afforded to the first sale of domestic crude petroleum produced from a stripper well lease. The same exemption, to which your request refers, was set forth in § 150.54(a) of the Cost of Living Council price regulations, and is currently set forth in § 210.32 of the FEA regulations.

INTERPRETATION

Section 210.32 of the FEA regulations states, in paragraph (a), that: The first sale of domestic crude petroleum and petroleum condensates, including natural gas liquids produced from any stripper well lease is exempt from (the Mandatory Price and Allocation Regulations).

A stripper well lease is defined in § 210.32(b), as

* * * a "property" whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed 10 barrels per day during the preceding calendar year.

A "property" is, in turn, also defined in § 210.32(b) as

The right which arises from a lease in existence in 1972 or from a fee interest to produce domestic crude petroleum in existence in 1972 and is coextensive with that property used in section 212 for purposes of determining "base production level."

"Average daily production" is also defined in § 210.32(b), in pertinent part, to mean

The qualified maximum total production of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from a property during the preceding calendar year, divided by a number equal to the number of days in that year times the number of wells which produced crude petroleum and petroleum condensates, including natural gas liquids, from that property in that year.

The issue raised by your request for interpretation is whether, in determining "average daily production" for purposes of the stripper well lease exemption, one looks to the Unit Area as a "property" or to each of the individual leases, which have been com-

bined under the Unit Agreement. Our conclusion is that the entire Unit Area subject to the Unit Agreement constitutes the "property" for purposes of determining the "average daily production".

This conclusion flows from the fact that an essential element for purposes of computing average daily per well production is "the number of wells which produce crude petroleum * * * from that property in that year". Under the Unit Agreement the location of producing wells with respect to individual leases cannot be determined, and the only number of producing wells that can be taken into account for this computation is with respect to the entire Unit Area.

The purpose of the Unit Agreement is "to conduct a secondary recovery, pressure maintenance, or other recovery program" * * *. (Introduction to the Unit Agreement.) To that end, the Unit Agreement provides in § 3.1 that "operations may be conducted as if the Unitized Formation had been included in a single lease * * *." Section 3.4 of the Unit Agreement further provides that

"[o]perations, including drilling operations, conducted with respect to the Unitized Formation on any part of the Unit Area, or production from any part of the Unitized Formation, * * * shall be considered as operations upon or production from each Tract, * * * just as if such operations had been conducted and a well had been drilled on and was producing from each Tract."

Thus, under the Unit Agreement, it is no longer possible to ascribe rights or make determinations based on whether a producing well is physically located on the area covered by a particular lease, since all production is considered to take place on all leases covered by the Unit Agreement. Typically, in methods of secondary recovery or pressure maintenance, which the Unit Agreement is designated to permit, a number of producing wells are closed in or are used for injection, and are therefore no longer used for production.

The determination of average daily production based upon physical location of producing wells with respect to particular leases would therefore be arbitrary and contrary to the terms of the Unit Agreement, since only those owners which retained production wells physically located on their lease could possibly calculate a per well production figure for purposes of the stripper well exemption, whereas those owners whose leases contained former production wells that were closed in or used for injection could not possibly claim a stripper well exemption. This point is underscored by § 6.1 of the Unit Agreement, which provides that oil produced under the Unit Agreement is allocated to leases in accordance with specified participation percentages, without regard to whether such amounts allocated are more or less than the actual production "from the well or wells, if any, on such Tract * * *"

Section 6.2 of the Unit Agreement provides that

"[i]f the participation of any Oil and Gas Rights * * * depends on the average production per well or the average pipeline runs per well on any Tract for any specified period, such average per-well production or such average per-well pipeline runs shall be determined from and after the effective date (of the Unit Agreement) by dividing the quantity of (oil) allocated to such Tract by the number of wells located thereon which are completed in the Unitized Formation as of the effective date (of the Unit Agreement)."

This provision of the Unit Agreement cannot serve as a basis for determining the number of wells to be counted in computing average daily per well production, since it relates to wells completed as of July 1, 1967, the effective date of the Unit Agreement, whereas the definition of average daily production permits only the number of wells "which produced crude petroleum * * * from that property in that (the preceding calendar) year" to be taken into account.

The FEA is aware that, as you suggested in your request, the existence of the stripper well lease exemption, which is required under § 4(e)(2) of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), does serve as a disincentive to secondary recovery methods, insofar as those methods typically involve a decrease in the number of producing wells and therefore a corresponding increase in the average number of barrels of oil produced per well. This disincentive, however, operates not only with respect to possible unitization agreements, but affects in like manner a single lease which could be converted from primary to secondary recovery methods, but which would result in an increase in per well production to a level in excess of 10 barrels per day.

The FEA is currently considering whether, and how, its regulations should be amended in order to overcome this disincentive, and thereby facilitate secondary recovery (and unitization agreements intended to promote secondary recovery). It should be noted, however, that the stripper well lease exemption was intended to ensure that wells producing at low production levels be continued in operation, rather than be shut in because of high operating costs in relation to the volume produced. Since the Unit Agreement that covers your leases was effective July 1, 1967, long before the stripper well lease exemption was adopted, it would not appear that further price incentive could be justified as necessary to facilitate unitization or to insure that production under the Unit Agreement is sustained.

INTERPRETATION 1974—23

To: Pru Lease, Inc.

Date: December 6, 1974.

Rule Interpreted: § 212.111.

Code: GCW—PI—New Item Rule.

Your letter of November 19, 1974, submitted to the Federal Energy Administration (FEA) on behalf of the Pru Fuel and Supply Division of Pru Lease, Inc. ("Pru Fuel") requested an interpretation of the effect upon certain pending transactions described herein of § 212.111 of the FEA Mandatory Petroleum Price Regulations, which pertains to the computation of maximum lawful prices for "new items."

FACTS

The request was engendered by the following fact situation.

(1) Since January, 1974, New England Power Company ("NEPCO") has been allocated monthly volumes of No. 6 residual fuel oil pursuant to the FEA's Mandatory Petroleum Allocation Regulations. Asiatic Petroleum Corporation ("Asiatic") and Golden Eagle Oil Company ("Golden Eagle") are NEPCO's base period suppliers under the regulations.

(2) In an effort to assure itself of the availability of adequate supplies of fuels on a continuing basis, NEPCO considers the maintenance of relatively large reserves of oil and coal to be essential. The cost to NEPCO of maintaining these fuels reserves, however, has become increasingly burdensome due to the large volumes of fuels involved, higher fuel costs, and higher interest rates. As a result, large amounts of funds, needed for other purposes, have been required to maintain fuel inventory. In order to defer payments for fuel, and thereby to make substantial amounts of capital available for other purposes, NEPCO proposes to enter into a "Fuel Reserve and Supply Agreement" ("Agreement") with Pru Fuel under which NEPCO will assign to Pru Fuel its rights under its existing contracts for the purchase of fuel oil, including its contracts with Asiatic and Golden Eagle. Pru Fuel will then purchase fuel from the contracting parties, including Asiatic and Golden Eagle, in accordance with the terms of the contracts, and will receive and store the fuel in NEPCO's storage facilities for its Brayton Point and Salem Harbor stations.

(3) Deliveries of No. 6 fuel oil by Pru Fuel to NEPCO are to be made in "cargo lots." This high volume method of delivering fuel to a utility is unique within Pru Fuel's market area.

(4) According to the terms of the proposed Agreement, NEPCO will pay to Pru Fuel at the end of each month a charge, consisting of the following:

(a) The actual cost of Pru Fuel, including incidental costs, handling, and storage, of all fuel deemed under the Agreement to have been delivered from Pru Fuel to NEPCO during the prior month; plus

(b) A service charge expressed as a percentage (such percentage to be equal to x of the value of all fuel deemed under the Agreement to have been held in inventory by Pru Fuel as of the beginning of the prior month multiplied by a fraction the numerator of which is the number of days in the prior month and the denominator of which is 360;

(c) A service charge expressed as a percentage (such percentage to be equal to x of the net value of all fuel deemed under the Agreement to have been added to Pru Fuel's inventory during the prior month multiplied by a fraction the numeratof of which is the number of days in the prior month and the denominator of which is 360; and

(d) A service charge expressed as a percentage (such percentage to be equal to x of the sum of (a), (b), and (c) above multiplied by a fraction the numerator of which is the number of days from and including the 27th day of the prior month to and including the day on which payment is received and the denominator of which is 360.

Payments are to be made on or before the 20th day of the month following the month in which fuel is deemed delivered under the Agreement.

(5) Neither Pru Lease nor any of its affiliated entities is, or has been within the past year, otherwise involved in the production, refining, or marketing of crude oil or any other product covered by FEA regulations.

(6) Although NEPCO's "base charge to its customers for electrical energy may be adjusted to pass on increased fuel costs, only that portion of the monthly charge paid by NEPCO under the Agreement which represents the actual cost of fuel to Pru Fuel, including incidental costs as described in paragraph 4(a), above, will be passed on by NEPCO to its customers as an increased fuel cost. The remainder of the monthly charge is to be treated by NEPCO as a cost of service incurred by NEPCO which is subject to FPC review and which may only be passed on to NEPCO's customers pursuant to an extraordinary rate increase authorized by the FPC.

ISSUE

The question presented is whether the charge to be made by Pru Lease for fuel furnished NEPCO under the Agreement is at or below the maximum lawful price which may be charged under FEA price regulations.

INTERPRETATION

Pru Lease submits that it should be regarded under the FEA price regulations as a "reseller," (as defined in 10 CFR 212.31) of a "new item" (as defined in 10 CFR 212.111(a)). Pru Lease further submits that sales of fuel to NEPCO in the manner provided for in the Agreement would result in a lawful price "comparable to that which a hypothetical seller could charge, given a May 15, 1973 selling price plus an amount which reflects on a dollar-for-dollar basis increased costs of the fuel oil," under the regulatory provisions of 10 CFR 212.111(b)(3) and 10 CFR 212.93.

Section 212.111(a)(1) of the FEA regulations provides for the determination of lawful prices in accordance with paragraph (b) of the same section where:

"(i) (t)he firm concerned did not produce, sell or lease it (the product) in the same or substantially similar form at any time during the 1 year period immediately preceding the day on which the firm offers it for sale or lease * * *; and (ii) it (the product) is substantially different in purpose, function, quality, or technology, or its use or service effects a substantially different result from any other item which the firm concerned currently sells or leases or sold or leased at any time during the 1 year period immediately preceding the first date on which the firm offers it for sale or lease."

Accordingly, § 212.111 is applicable to sales offered by Pru Fuel.

Since Pru Fuel will be purchasing a No. 6 fuel oil for resale to an ultimate consumer without substantially changing its form, Pru Fuel is a "retailer," as defined in 10 CFR 212.31.

Paragraph (b)(3) of § 212.111 states the method by which the maximum lawful prices for sales of "new items" by retailers are to be determined, as follows:

"A reseller, reseller-retailer or retailer, offering a new item, shall for purposes of applying the price rule of § 212.93 determine the May 15, 1973 selling price for that item as the price at which that item is priced in transactions at the nearest comparable outlet on the day when the item is first offered for sale. For purposes of computing the "increased cost," the cost of the item first offered for sale shall be used rather than the May 15, 1973 cost."

This price rule does not provide for a price "comparable to that which a *hypothetical seller* could charge given a May 15, 1973 selling price plus an amount which reflects on a dollar-for-dollar basis increased costs of fuel oil, (emphasis added)" as Prue Fuel suggests. Rather, it requires prices to be determined by reference to transactions at "the nearest comparable outlet," implicitly an outlet which actually exists.

While the phrase "comparable outlet" is not defined in the regulations, it ordinarily connotes an ongoing, identifiable business or a subsidiary or division thereof, selling the same or a similar product in the same or similar volumes to customers who put the product to the same or similar use. In this circumstance there appears to be no other reseller of No. 6 fuel oil which sells that product in similar volumes of utilities for use in the generation of electricity, except for Asiatic, and literal application of § 212.111(b)(3) would limit Pru Fuel to charging the same prices for fuel as Asiatic.

Given the unique circumstances of this transaction, however, it is necessary that FEA consider not only the language of the rule, but also the policies its regulations are intended to effect and, in light of these unique circumstances, to advise as to whether the prices charged under such circumstances are consistent with the intent of the regulations.

A basic objective of FEA in administering the price rules has been to prevent the insertion of a new entity in an established line of distribution for a petroleum product in a manner which would result in higher prices to downstream marketers and to ultimate consumers. Accordingly, where a newly created marketing entity is inserted in the distribution chain, § 212.111(b) generally requires that where such entity serves a function comparable to that of existing marketing entities, its prices for product shall also be comparable to those of the existing entity. It is FEA's intention by this regulation to prevent prices from being artifically increased by the insertion of an additional marketer which offers no additional services in the distribution chain. Thus, if NEPCO were a retailer of gasoline, it would not be permitted to insert a new entity, serving no additional marketing purpose, between itself and its supplier, and thereby be able to raise its lawful selling price of gasoline to the public.

The circumstances under which Pru Fuel proposed to engage in the marketing of No. 6 fuel oil are not properly characterised as those in which a new entity has been inserted in the distribution chain for the purpose of raising the prices charged to consumers for energy.

Upon examination of the price terms contained in the Agreement between Pru Fuel and NEPCO, and upon consideration of the circumstances which led to the Agreement, the FEA has determined that, for purposes of its price regulations, the monthly charge to NEPCO for fuel under the Agreement is a combination of two elements: The first element consists of the portion of the charge to NEPCO which, as described above, constitutes Pru Fuel's cost of fuel, including incidental costs, plus a service charge; and the second element consists of the various charges based on the application of a percentage rate to the valuation of a continuous inventory, and constitutes the cost of carrying that inventory pending future use.

The first of these elements, representing the total price charged for fuel deemed delivered to NEPCO during the prior month, is essentially no different to NEPCO than it would have been had NEPCO continued to purchase fuel directly from its suppliers. This means the insertion of Pru Fuel into the distribution chain will not materially increase the fuel adjustment costs passed on in the prices paid for energy by NEPCO's customers.

The second element representing the cost to NEPCO of having Pru Fuel maintain for NEPCO an inventory sufficient to satisfy NEPCO's long-term fuel needs, is a cost which NEPCO formerly incurred as an operating cost. Although there is no ready means of comparing the magnitude of that direct cost, formerly incurred by NEPCO, with the cost which will be incurred by NEPCO in its payments to Pru Fuel under the Agreement, presumably the payments to Pru Fuel include an element representing Pru Fuel's profit on the transaction.

The FEA therefore regards the portion of the total charge to NEPCO which represents financing costs incurred by Pru Fuel, together with Pru Fuel's profit margin, simply as a new means of financing NEPCO's inventory, and therefore as representing a cost to NEPCO which it would incur in any event, although possibly through a number of various possible arrangements. Since this portion of the charge to NEPCO will not automatically be passed on to customers as an increased fuel cost and in light of the fact that the price charged to NEPCO's customers for electricity depends upon many factors other than the cost of fuel and is regulated by another agency, the FEA does not regard such portion of the charges paid by NEPCO as constituting a price charged for fuel. Moreover, the function served by Pru Fuel which relates to the second element of the monthly charge is one which tends to justify the insertion of Pru Fuel into the distribution chain, since there is legitimate service provided thereby.

Upon consideration of that portion of NEPCO's monthly charge which is properly regarded as a price paid for fuel in light of § 212.111(b), and the policy considerations of the FEA regulations, outlined above, the FEA has concluded that the charge to be made to NEPCO under the Agreement is a lawful price under FEA price regulations. This determination rests on the fact that this cost of fuel element of the charge is essentially the same as the price formerly charged by Asiatic for the fuel so that the cost of fuel to NEPCO for purposes of implementing fuel adjustment clause rate increases remains essentially unchanged. It further rests on the fact that FEA is well aware that electric utilities face serious financial problems, which result in significant part from increased fuel costs, and that the Agreement here at issue is essentially an effort intended to alleviate these problems. The FEA therefore does not believe its price regulations should unnecessarily interfere with this effort.

The FEA is not in a position to assess the ultimate impact of the Agreement upon NEPCO's customers (beyond the threshold question of the effect under the fuel adjustment clause), and it is therefore specifically provided that this interpretation is not to be regarded as determinative of any question, such as the nature of the costs incurred by NEPCO under the Agreement, for purposes of rate determinations or for purposes of determining NEPCO's compliance with any other regulatory requirement. Nor does this interpretation apply to any sales of product by Pru Fuel, other than sales to NEPCO pursuant to the Agreement.

INTERPRETATION 1974—24

To: National Life and Accident Insurance Co.

Date: December 1, 1974.

Rules Interpreted: Subpart G, Ruling 1974-20, § 212.111.

Code: GCW—PI—Base Rent Rule, New Item Rule.

The Office of General Counsel has completed its review of the June 5, 1974 request for interpretation submitted by National Life and Accident Insurance Company (National) to the Atlanta regional office of the Federal Energy Administration (FEA). That regional office has forwarded to this office National's written request and exhibits setting forth National's questions regarding the charging of rent in excess of the "base rent" for real property used in the retailing of gasoline under 10 CFR, Subpart G, of FEA regulations. Our interpretation is set forth below.

FACTS

The salient facts set forth in National's request disclose that National owns certain real property which it leases, and has leased since 1956, to Texaco, Inc., for use in the retailing of gasoline. During October 1972 the parties entered certain agreements calling for improvements to the real property in question and for an increase in agreed rentals to be paid to National upon completion of the improvements. On May 15, 1973, pursuant to the agreements between National and Texaco, the rent charged was ---------- per month; beginning on July 1, 1973, National charged monthly rentals to Texaco of ---------- Texaco paid this increased rental until May 1974, when Texaco advised National of its view that the increased rental was a violation of 10 CFR 212.102, whereupon National submitted its request, suggesting that the phrase, "the contractual terms prevailing on May 15, 1973," includes the October 1972 agreement and that the rental increase was permissible.

INTERPRETATION

During the period of August 17, 1973 through April 30, 1974, Federal controls exercised over rentals for real property used in the retailing of gasoline, stated that: the base rent * * * is the rent charged for that station pursuant ot the contractual terms prevailing on May 15, 1973. (6 CFR 150.360 (b), and 10 CFR 212.102).

The rule prohibited a lessor or lessee from increasing, offering to increase, or giving notice of intent to increase the rent in excess of the "base rent." (6 CFR 150.360(c), recodified at 10 CFR 212.103(a)).

These regulations were promulgated by the Cost of Living Council and adopted by the Federal Energy Office (now FEA), under authority of the Economic Stabilization Act of 1970, as amended. (Pub. L. 92–210, and Pub. L. 93–28; CLC Order No. 47, 39 FR 24) The applicable language was identical at all times until the expiration of the Stabilization Act on April 30, 1974.

The Council's rule became effective August 17, 1973, almost one year after National entered its agreement to increase the rental at issue here, and immediately after the end of the broad economic freeze imposed in June 1973 (E.O. 11723, 38 FR 15763, June 15, 1973), the month in which construction was completed.

The language employed by the Council, and adopted by FEA, limited rentals to the amount defined as "base rent," as quoted above. Two separate elements are embodied in that definition: The amount must have been "charged" and must have been established pursuant to the contractual terms prevailing on May 15, 1973.

The present situation does not involve the "charging" of the increased rental until after May 15, 1973. While the agreements were indeed executed before May 1973, and there was a possibility of charging the increased rental (e.g., if construction had been completed by May 15, 1973), the facts here show that the increase was not imposed and was not due nor paid on May 15, 1973. Therefore, the increased amount at issue does not meet a necessary element to qualify as the "base rent" between National and Texaco.

It is therefore our interpretation that the increase in rent discussed above is not a part of the "base rent" between National and Texaco.

Although the point is not raised by National, the FEA on May 1, 1974, changed the scope of the rent regulations involved in this request. During the period August 17, 1973 through April 30, 1974, the rent controls included any lessor or lessee, irrespective of the nature of the business of such parties (6 CFR 150.360(a) and 10 CFR 212.101). On May 1, 1974, by amendment to 10 CFR 212.101, FEA restructured the scope of these rent rules to include such leases only where the parties to the lease are members of the petroleum industry (39 FR 15139, May 1, 1974). The change was implemented to reflect the more narrow scope of the authority remaining to FEA upon the expiration of the Economic Stabilization Act on April 30, 1974.

This interpretation therefore applies only during the period that the lessor, National, was subject to the rent regulations discussed, which ended April 30, 1974, since National does not appear to be (according to the documents submitted by it) a refiner, reseller, reseller-retailer, or retailer within FEA price regulations.

By its letter, National has urged this office to advise it of the likelihood of success in the event National seeks an exception to the regulations herein discussed. This office is not responsible for exceptions matters, and this request must therefore be declined. General standards for exception requests are set forth in Part 205 of FEA regulations.

National further urges this office to conclude, alternatively, that the property involved, after completion of the agreed construction, is "new real property" under 10 CFR 212.111. Because of the view of "base rent" described above, and as suggested by FEA Ruling 1974–20, we conclude that the October 1972 agreement and the nature of the construction undertaken do not bring the property within the "new real property" concept of FEA rules.

INTERPRETATION 1974—25

To: National Convenience Stores, Inc.

Date: December 10, 1974.

Rules Interpreted: §§ 211.12, 211.24(a), 211.106(b)(1), 211.106(d)(1).

Code: GCW—AI—Base Period Supply Obligations.

(Text omitted because Interpretation 1974—25 was modified by Interpretation 1976—11, issued on March 5, 1976, (see 42 FR 7935, February 8, 1977).)

INTERPRETATION 1974—26

To: Continental Oil Co.

Date: December 12, 1974.

Rule Interpreted: § 212.54 (formerly § 210.32).

Code: GCW—PI—Stripper Well Lease Exemption.

This is in response to your request for interpretation, on behalf of Continental Oil Company (CONOCO), concerning the meaning of certain language appearing in 10 CFR 210.32 (Stripper Well Leases).

FACTS

CONOCO is a producer and refiner of domestic crude petroleum. Among CONOCO's producing concerns are certain leases from which crude oil and casinghead gas are obtained. Casinghead gas here refers to natural gas produced with oil from an oil well, as opposed to natural gas produced from a gas well. CONOCO's operations in this regard involve the separation of the casinghead gas from the crude oil at the well through lease separation facilities. After separation, the casinghead gas is metered and sold by CONOCO at the lease.

CONOCO indicates that it has little or no knowledge of whether, after the gas is sold, any natural gas liquids (as the phrase appears in 10 CFR 210.32) are extracted from the gas "at points beyond the lease limits," or what amounts of natural gas liquids, if any, are extracted.

CONOCO, as producer on such leases, seeks an interpretation of the meaning of "natural gas liquids" under the FEA's Stripper Well Lease regulation, § 210.32. Specifically, CONOCO asks whether, in its production and sale of casinghead gas as described above, the phrase "natural gas liquids" requires it to take into account only the volume of those natural gas liquids "produced and identified at the well site or on the lease," for purposes of measuring the volume of lease production under the requirements of § 210.32.

INTERPRETATION

The provisions of 10 CFR 210.32 require that, to qualify for the first sale exemption of that regulation, a lease must have had an average daily production during the preceding calendar year not in excess of ten barrels "of domestic crude petroleum and petroleum condensates, including natural gas liquids," per well. The stripper well lease regulation implements the Congressional directives expressed in section 4(e)(2) of the Emergency Petroleum Allocation Act of 1973 (EPAA) (Pub. L. 93–159). The ten barrel per well daily average production is therefore based upon a total volume of a variety of raw (crude) petroleum oils obtained in the operation of the lease. Among such hydrocarbon compounds are those natural gas liquids obtainable from CONOCO's casinghead gas.

Although the provisions of § 210.32 enumerate the compounds required to be included in calculating the volume of production, this regulation does not itself address the question of the location or time at which those volumes should be determined.

The first sale exemption is, however, stated to apply generally to the producer's sale and therefore includes all amounts of crude petroleum and petroleum condensates, including natural gas liquids which a producer may be deemed to have sold. The FEA is aware that, in sales of casinghead gas such as CONOCO's, the producer is neither responsible for nor aware of, the possible subsequent removal of natural gas liquids from such gas beyond the limits of the lease and after the gas has been sold, and that to require CONOCO ultimately to account for all natural gas liquids ultimately recovered from the casinghead gas it sells would be impracticable. Nevertheless, CONOCO's first sale of casinghead gas does include a first sale of natural gas liquids, since at the time of sale the liquids are contained in the casinghead gas in a mixed state.

FEA is also aware that, in some cases, the seller of casinghead gas retains an entitlement to, or a claim to revenues from the sale of the natural gas liquids ultimately recovered from that casinghead gas. In such cases, the volumes of such liquids are in fact attributed back to the lease in a variety of agreed-upon methods. And in such cases, FEA does consider these liquids attributed back to the lease (whether recovered on-site or away from the lease), as part of the production volume of that lease for purposes of 10 CFR 210.32.

It is, therefore, our interpretation that, in a sale of casinghead gas such as described by CONOCO, the "crude petroleum and petroleum condensates, including natural gas liquids" which must be included to determine the volume of production under the provisions of § 210.32, includes natural gas liquids recovered at the lease and natural gas liquids, wherever recovered, which are allocated to the lease for some purpose.

INTERPRETATION 1974—27

To: Department of Defense.

Date: December 17, 1974.

Rule Interpreted: § 210.62.

Code: GCW—AI—Normal Business Practices, EPAA Supercession of Other Federal Laws.

This is in response to your request on behalf of the Department of Defense ("DoD"), for an interpretation concerning the interrelationship between Federal Energy Administration regulations and the statutes and regulations applicable to procurement activities of DoD.

FACTS

DoD has traditionally obtained its domestic fuel requirements through competitive bid procedures. Since the implementation of the Mandatory Petroleum Allocation Regulations (10 CFR 211.1 et. seq.), suppliers of fuel to DoD have been designated pursuant to those regulations, generally on the basis of 1972 supplier-purchaser relationships, without competitive bids.

This change in procurement methods has made DoD's current procurement activities subject to certain provisions of procurement statutes and regulations, which did not apply to competitive bid procedures.

DoD is required by the provisions of 31 U.S.C. 200 to enter into a contract with each of its suppliers. Under the Truth in Negotiations Act (Pub. L. 87–653) (10 U.S.C. 2306 (f)), contractors are required to submit to DoD certified cost or pricing data for all negotiated contracts or modifications in excess of $100,000, unless a procurement is otherwise determined by the procuring agency to fall within one of the exceptions set forth therein.

In addition, section 719 of the Defense Production Act of 1950, as added by Pub. L. 91–379 (50 U.S.C. App. 2168) established the Cost Accounting Standards ("CAS") Board to promulgate uniform cost accounting standards for use by defense contractors. Among other things, the CAS Board requires of certain contractors the execution of a Cost Accounting Standards Board Disclosure Statement (Form CASB–DS–1) and acceptance by the contractor of the Cost Accounting Standards Clause set forth in 4 CFR 331.50, ASPR 7–104.83, unless excepted by the procuring agency or the CAS Board. Uniform cost accounting standards are applicable to all negotiated prime and subcontract material defense procurements in excess of $100,000.

The issue as to which an interpretation has been requested is whether the requirements of FEA regulations, promulgated pursuant to the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159), supersede the requirements of law and regulation applicable to DoD contractors, as outlined above.

INTERPRETATION

The basic principle that has been followed by FEA in interpreting the scope of its statutory authority, as reflected in its regulations, is that its regulations do not supersede any other provision of law or regulation, unless there is a clear inconsistency between the provisions at issue. In the case of an irreconcilable conflict, the FEA regulations would be regarded as the controlling authority, if that were necessary to insure attainment of the objectives of the Emergency Petroleum Allocation Act of 1973.

In our view, there is no inconsistency between the requirements of law and regulation applicable to DoD procurement through non-competitive bid procedures, as outlined above, and the FEA allocation and price regulations.

The fact that suppliers are required to supply DoD pursuant to FEA allocation regulations does not preclude compliance with the statutory requirement that DoD enter into contracts with its suppliers. The FEA is aware that many of the details of supplier-purchaser relationships which are established by FEA have traditionally been specified by private contracts. Where, as here, the Congress has seen fit to provide by law that contracts shall be entered into and that certain requirements shall be met with respect to such contracts, the FEA regulations should not be interpreted so as to interfere with that legislative determination, as long as the two requirements are not inconsistent.

Thus, the FEA would not regard the unwillingness of a supplier to enter into a contract containing terms and conditions requird by the laws and regulations governing DoD procurement activities as justification for failure to comply with the allocation regulations. It appears that th requirements of both the laws and regulations governing DoD's procurement activities and the FEA regulations can be readily complied with, and that the refusal of a supplier to abide by the procurement requirements applicable to DoD would have the effect of frustrating the objectives of the Emergency Petroleum Allocation Act and the regulations issued thereunder.

We note that the objective of the statutory and regulatory requirements applicable to DoD's procurement activities is apparently to insure that DoD does not pay disproportionately high prices for the products it purchases. We anticipate that the FEA price regulations, and the cost calculations required of refiners thereunder, would be of substantial assistance to the CAS Board in this regard, and FEA is willing to cooperate to the fullest extent possible with the CAS Board, to insure that the Board is fully aware of FEA regulations and procedures.

The fact that both FEA regulations and the requirements governing DoD procurement activities are directed toward similar objectives does not mean, however, that the FEA regulations must be treated as the exclusive means to this end. FEA allocation and price regulations are necessarily the only basis upon which supplier-purchaser relationships and a supplier's maximum lawful price may be determined. Nevertheless, just as private parties are generally free to negotiate privately for contractual terms that are not inconsistent with FEA regulations, private parties dealing with government agencies must be deemed to be subject to the statutes and regulations governing procurement by those agencies, subject only to the overall limitations imposed by the FEA regulations.

The FEA has promulgated a regulation which requires, generally, that:

"Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period * * * and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter" (10 CFR 210.62).

This regulation does not, however, serve to prevent all changes in business practices by suppliers. Rather, it is a regulation which seeks to prevent any circumvention of FEA regulations which might otherwise be accomplished through altered business practices. Although the requirements of the law or regulation applicable to DoD's procurement activities outlined above would necessarily affect the "normal business practices" of DoD suppliers, that change would not result in circumvention of FEA regulations. Rather, it would simply be a result of the fact that suppliers were now subject to a different set of requirements because they are no longer supplying DoD through competitive bid procedures.

INTERPRETATION 1974—28

To: United Oil Co., Inc.

Date: December 13, 1974.

Rules Interpreted: Subpart G, Ruling 1974—24.

Code: GCR(I)—PI—Base Rent Rule.

This letter is in response to your written Request for an Interpretation of August 30, 1974 relative to the base rent rule of the Petroleum Price and Allocation Regulations (10 CFR Ch. II) as it applies to a lease to which you are a party.

FACTS

In your letter of August 30, you stated that in February, 1973, you leased a service station to an individual who has operated the station since that time. The initial rent was based on conditions which you expressed in your letter as follows: "At that time, the marketing area of this service station was experiencing depressed prices and low profit margins for the station operators. Therefore, in order to assist this dealer in getting started, we afforded him a low flat base rent with an escalation clause based on any increase in his gross gasoline profits that were in excess of the margin he was making at that time. This was done in anticipation of the marketing area eventually straightening out, and, at that time, we would be able to enjoy a reasonable return on our investment: *Provided*, The dealer was able to increase his profit margin on the sale of gasoline."

In your August 30 letter, as supplemented by a telephone conversation on November 13 with Ms. Casey of our Regional Counsel's office, you stated that the leasee of this station has now increased his profits largely due to the allowance for a ------ increase in non-product costs under the FEA Regulations (§ 212.93). You maintain that the escalation clause of the lease should now take effect, providing for an increase in rent based on an increase in profits.

INTERPRETATION

The Federal Energy Administration, Region I, determines that the United Oil Co., Inc., as an Independent Branded Wholesale Gasoline Distributor, is bound by the base rent rule, §§ 212.101–103, which requires that resellers, retailers, or retailer-resellers of gasoline charge the rent for real property used in the retailing of gasoline which was in effect according to contractual terms prevailing on May 15, 1973.

FEA Ruling 1974–24 has given strict application of the base rent rule provision limiting rent to that charged under terms in effect on May 15, 1973. Under that Ruling, a petitioner was denied permission to: (1) Increase the rent based upon a percentage of total sales revenues of fuel and (2) to increase the minimum dollar amount above levels which prevailed on May 15, 1973.

Under the operation of Ruling 1974–24, the United Oil Company may not put into effect an escalation clause which was not among the "terms prevailing on May 15, 1973." Even if this provision could be given effect, however, it is doubtful that an increase in "profits" attributed to the ------ increase in non-product costs allowed to your lessee under FEA Regulations could be properly construed as an "increase in profit margin," enabling an increase of rent under your lease escalator provision. These non-product cost increases are incidental to the operation of the Petroleum Price and Allocation Program and did not arise from an improved market situation as anticipated by the terms of your lease allowing for rent increases.

Relief in this situation might be sought, however, through a Petition for Exception under § 205.52(b)(2) if United Oil could show that maintaining the present rental terms would result in serious hardship or gross inequity to the company. In a recent decision by the FEA (Federal Energy Guidelines, Par. 20,575, Case No. FEE—0881), a modified exception was granted to the Exxon Company from the base rent rules (§§ 212.-101–103) allowing an increase in rent where it was proven that: (1) A $1 per month rental was intended by both parties to be in existence for a very short period of time and (2) that the rental was "grosaly disproportionate to the *current market value of the property*". (Emphasis added.) If, however, as you have stated, your lessee's increased profits are based on the non-product cost increase allowance and not on a change in *market conditions*, it is doubtful that this avenue of relief is open to your company.

I am enclosing copies of Ruling 1974—24 and the ruling in Exception Case No. FEE—0881 for your information.

INTERPRETATION 1974—29

To: Expo Car Wash, Inc.

Date: December 30, 1974.

Rules Interpreted: §§ 211.10(e), 211.106(c).

Code: GCR(IX)—AI—Transfer of Allocation Entitlement.

The following is in response to a request for interpretation by Expo Car Wash, Inc., received by our office on December 23, 1974. In its submissions, Expo indicated that it was the owner of the property at 2105 Arden Way, Sacramento, California. On October 31, 1974, Expo obtained a writ of possession which ordered the lessee, Mr. Zia D. Kadri, to turn over possession of the personal property, located on the aforementioned real property to Expo. Expo proposes to operate the business in the same manner as formerly operated by Mr. Kadri; and will be able to establish this business within a reasonable time following the relinquishment of the properties by Mr. Kadri.

Based on these submissions, it is our determination that upon repossession by Expo Car Wash, Inc., Mr. Kadri lost his entitlement to gasoline pursuant to 10 CFR 211.106 (c). Expo Car Wash, Inc. is the successor reseller on the site, and is entitled to the allocation formerly held by Mr. Kadri pursuant to 10 CFR 211.10(e).

[FR Doc.77-14013 Filed 5-17-77;8:45 am]

federal register

WEDNESDAY, MAY 18, 1977

PART IV



ENVIRONMENTAL PROTECTION AGENCY

■

WASTEWATER TREATMENT WORKS

Loan Guarantees for Construction

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

[FRL 725–7]

PART 39—LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

AGENCY: Environmental Protection Agency.

ACTION: Interim rule.

SUMMARY: These interim regulations implement Pub. L. 94–558 which added section 213 to Pub. L. 92–500 (Federal Water Pollution Control Act of 1972, as amended). Under this amendment municipalities may apply for a loan guarantee from EPA for a loan from the Federal Financing Bank (FFB) to finance the local share of grant-funded wastewater treatment works. These regulations set forth application requirements, the criteria that must be met to qualify for a loan, as well as conditions of the guarantee. This amendment provides a source of last resort financing when municipalities are unable to sell bonds or other maturities at reasonable interest rates on the open market.

DATES: Effective Date: June 1, 1977. Comments received on or before September 1, 1977 will be considered in the development of final regulations.

ADDRESS: Send comments to: Director, Grants Administration Division (PM–216), Attention: Loan Guarantee Regulations, Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Alexander J. Greene, Director, Grants Administration Division (PM–216) Environmental Protection Agency, Washington, D.C. 20460, Telephone: 202–755–0860.

SUPPLEMENTARY INFORMATION: An advance notice of proposed rulemaking was published in the FEDERAL REGISTER on November 23, 1976. Following this notice a public meeting was held on February 14, 1977 to discuss regulations in draft form. These interim regulations incorporate changes resulting from discussions at that meeting, as well as written comments received. The more significant changes that were made are as follows:

(1) The definition of the term "local share" in § 39.105(f) was revised to limit the local share to the total grant eligible and allowable project costs which a public body is obligated to pay under the grant.

(2) Definition of the term "reasonable terms" in § 39.105(i) provides that reasonable terms are rates determined by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

(3) The regulations have been revised to include in § 39.110(b) specific conditions which will limit the extent to which refinancing will be authorized.

(4) A paragraph has been added to the regulations to establish in § 39.110(d) (2) a fee for issuance of a commitment to guarantee a loan, to make the program self-sustaining, to the extent feasible by providing a reserve fund to offset potential defaults.

(5) Section 39.115 has been rewritten to simplify the language and make the loan guarantee conditions less restrictive.

(6) Section 39.140 was revised to provide for alternative provision regarding drawdowns of loan proceeds.

(7) The regulations have been revised to provide in § 39.145 for a late payment penalty in the event a public body defaults in the due and timely payment of its installments of principal and interest.

(8) Based on public comments received, § 39.150 has been substantially revised to simplify the language and to make the provisions concerning defaults and remedies more practicable and less restrictive. Comments will be retained on file at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. and may be inspected between 8 a.m. and 4:30 p.m. at that location.

Dated: May 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Chapter I is amended by revising Part 39, in its entirety to read as follows:

Sec.

39.100 Purpose.
39.105 Definitions.
39.110 Applications.
39.115 Conditions of loan guarantee.
39.120 Limitation on assistance.
39.125 Determination of eligibility for assistance and issuance of guarantee.
39.130 Determination of reasonable rates.
39.135 Loan terms.
39.140 Loan proceeds.
39.145 Loan payments by borrower.
39.150 Defaults and remedies.

AUTHORITY: Pub. L. 94–558, Sec. 213 of the Federal Water Pollution Control Act, as amended (86 Statute 816 et seq. (33 U.S.C. 1281 et seq.) as amended).

§ 39.100 Purpose.

This part implements section 213 of the Federal Water Pollution Control Act Amendments of 1972, as amended, by establishing policies and procedures to ensure that inability to borrow necessary funds from other sources on reasonable terms does not prevent the construction of any wastewater treatment works for which a grant has been, or will be, awarded in compliance with the Act. It provides for the guarantee by the Administrator of full and timely payment of principal and interest on any obligation of the State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance the local share of the costs of any such project.

§ 39.105 Definitions.

The following words and terms shall have the meaning set forth below:

(a) *Act.* The Federal Water Pollution Control Act Amendments of 1972, as amended (Pub. L. 92–500, 33 U.S.C. 1281 et seq.).

(b) *Bank.* The Federal Financing Bank established pursuant to the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.).

(c) *Guaranteed Loan Program.* The program established pursuant to Pub. L. 94–558 which amended the Act by adding section 213.

(d) *Loan agreement.* A written agreement between the Bank and the guaranteed borrower stating the terms of the loan.

(e) *Loan guarantee agreement.* A written agreement between EPA and the guaranteed borrower stating the terms of the loan guarantee.

(f) *Local share.* The amount of the total grant eligible and allowable project costs which a public body is obligated to pay under the grant.

(g) *Note.* An evidence of the debt, including a bond, obligation to pay, or other evidence of indebtedness where appropriate.

(h) *Public body.* A State, interstate agency, a municipality, or an intermunicipal agency, as defined below:

(1) *State.* A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) *Interstate agency.* An agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of water pollution.

(3) *Municipality.* A city, town, borough, county, parish, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created by or pursuant to State law, or an Indian Tribe or an authorized Indian tribal organization, having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under section 208 of the Act. This definition excludes a special district, such as a school district, which does not have as one of its principal responsibilities the treatment, transport, or disposal of liquid wastes.

(i) *Reasonable terms.* Rates determined by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

§ 39.110 Application.

(a) *Who may apply.* A public body which has applied for a grant under Title II of the Act (including grantees whose projects are eligible for reimbursement under section 206 of that title) or which has committed itself to finance the local share of any project(s) for which a grant has been awarded, or for which an application is being processed, may apply through the State agency to the appropriate Regional Administrator for a loan and the commitment to guarantee such loan to finance the local share of such project.

(b) *Financing.* Applications for loan guarantees will be limited to:

(1) Financing that portion of the local share for which permanent financing has not been arranged.

(2) Refinancing that portion of the local share of those projects on which construction has not been completed and for which the public body initially held a public solicitation on a bond issue, received no bids, and subsequently accepted or negotiated financing at interest rates greater than 10 percent.

(c) *Application requirements.* The application shall include documentation of the following:

(1) *Inability to obtain necessary financing.* The applicant shall document that it is unable to obtain on reasonable terms as defined in § 39.105(i) sufficient credit to finance the local share of the project(s). Such documentation shall include: (i) The results of any public solicitation for bids for obligations to finance the local share or (ii) a certification, acceptable to the Administrator, from a municipal bond underwriter(s), which submitted or might normally have submitted a bid for the obligations. An applicant with an obligation to pay the local share not in excess of $250,000 may obtain certification from two or more local or regional banks to meet subdivision (ii) of this subparagraph. An applicant representing communities with a population of 10,000 or less must also submit a written statement from an authorized representative of the Farmers Home Administration that grants, loans, or loan guarantees are not available from Farmers Home Administration in an adequate amount or within a reasonable time, as determined by the Administrator.

(2) *Ability to repay.* The application for a loan guarantee shall be accompanied by an official statement intended to provide EPA with the information needed to reach an informed judgment as to whether there is reasonable assurance of repayment. The official statement must conform to the guidelines for such statement which are available to applicants from the EPA regional office upon request.

(3) *Legal authority of applicant.* The application shall be accompanied by a legal opinion establishing that the applicant has legal authority to obligate itself for payment of the local share, to comply with the loan conditions, and to issue the obligations, and that the obligations will be legal and binding obligations.

(4) *Assurances.* The application shall be accompanied by assurances set forth in an ordinance or other evidence of authority acceptable to the Administrator that it can and will comply with all of the conditions set forth in § 39.115.

(d) *Fees.* The following fees will be charged in order to make the program self-sustaining. These fees may be revised from time to time as determined by the Administrator.

(1) *Application processing.* EPA will charge a non-refundable minimum fee of $1,000 or ⅛ of one percent of the loan amount, whichever is greater, but not to exceed $25,000 for processing applications. This fee will be submitted with the application and will be retained by the EPA whether or not a loan is consummated.

(2) *Fee for issuance of a commitment to guarantee.* A fee will be charged for the issuance of a commitment to guarantee a loan. This fee will be ½ of 1 percent of the principal amount of the loan, and shall be placed in a contingency reserve to offset defaults. This fee is contingent upon the loan being obtained by the applicant and is payable within 30 days of the date of loan approval.

(e) *Format.* The Administrator may, from time to time, prescribe a form or format for the submission of the application or any portion thereof.

§ 39.115 Conditions of loan guarantee.

Any loan guarantee made pursuant to this part shall be subject to the following conditions:

(a) *Step 1 or Step 2.* Each public body applying for a loan guarantee for the local share of Step 1 or Step 2 costs must assure that:

(1) It will repay the loan using all local resources legally available; and

(2) Any funds due to the public body from the amounts appropriated under section 206 of the Act may be used if such use is necessary for repayment.

(b) *Step 3.* Each public body applying for a loan for the local share of Step 3 costs must assure that:

(1) It will repay the loan using all local resources legally available and, if necessary, (i) all or any portion of the funds retained by it under section 204 (b) (3) of the Act, and (ii) any funds due to such grantee from the amounts appropriated under section 206 of the Act;

(2) The facilities are maintained in good repair and operating condition during the period in which the notes or the obligations financed by the Bank are outstanding;

(3) Adequate insurance and bonding are maintained to protect the guarantor;

(4) Financial reports and records necessary to reflect the planned and actual receipt of revenues for repayment are maintained and preserved until 3 years after the notes or the obligations financed by the Bank have been retired.

(5) Revenue plans adequate to assure repayment of principal and interest of the notes or the obligations financed by the Bank are adopted; and

(6) The Administrator is promptly notified whenever it appears that projected annual revenues will be insufficient to meet payments for principal, interest, and operating and maintenance costs. Such notification shall include a description of the steps being taken to remedy the problem.

(c) *Other covenants.* Among other covenants made by the public body in the loan guarantee are the following:

(1) *Application of loan proceeds.* The loan proceeds shall only be applied to the payment of costs associated with the project for which EPA has awarded grant assistance in accordance with § 39.140.

(2) *Payment.* The public body covenants that if amounts adequate for the payment of principal and interest are not available when due and payable, appropriate steps will be taken to levy sufficient additional taxes, fees, or charges and to make such payments in a timely manner.

(3) *Accounts and reports.* The public body shall keep complete and accurate books, records, and accounts relating to the loan, the loan guarantee, and the funds and accounts used to pay the amounts due on the loan. Such books, records, and accounts shall be subject to inspection by the Administrator or the Comptroller General of the United States at reasonable times.

(4) *Status of other encumbrances.* The public body will not on or after the date of execution of the loan guarantee by EPA, create or suffer to be created any lien or charge, which would constitute a lien prior to the lien created to secure the loan. Any bonded indebtedness or liens created by the public body on or after the date of execution of the loan guarantee by EPA and associated with the treatment works being constructed with Federal grant assistance may, at the discretion of the Administrator, be on a parity with the lien of the loan guaranteed by the Administrator.

(d) *Enforcement.* The public body agrees to the enforcement of the foregoing conditions by the Administrator in a court of appropriate jurisdiction pursuant to any of the remedies provided for under § 39.150, Defaults and remedies, in order to avert an Event of Default.

§ 39.120 Limitation on assistance.

The amount of any grant, loan, loan guarantee, or other assistance available from another Federal agency, a State, or other third parties on reasonable terms shall be deducted from the local share amount before the loan guarantee amount is determined.

§ 39.125 Determination of eligibility for assistance and issuance of guarantee.

(a) The Administrator shall make the following determinations before issuing a loan guarantee:

(1) The project for which the loan guarantee is requested is eligible for grant assistance under Title II of the Act;

(2) The applicant is unable to obtain, on reasonable terms, sufficient credit to finance the local share without such a loan guarantee; and

(3) There is reasonable assurance that the applicant will be able to repay the loan or obligation to the Bank.

(b) If the application is approved, the Administrator will issue the loan guarantee and, subsequent to grant award, will request issuance by the Bank.

(c) If the loan application is disapproved, such disapproval shall be final and conclusive unless appealed within 30 days after receipt of the notice of disapproval pursuant to Subpart J, Disputes, of the general grant regulations (40 CFR 30.1100 et. seq.).

§ 39.130 Determination of reasonable rates.

The Secretary of the Treasury in accordance with the Act shall make a determination of whether financing is available at reasonable rates.

§ 39.135 Loan terms.

(a) *Interest rates.* The interest rate(s), to be charged for each loan shall be determined by the Secretary of the Treasury in accordance with section 6(b) of the Federal Financing Bank Act of 1973.

(b) *Repayment period.* The repayment period for any obligation guaranteed by the Environmental Protection Agency shall be for a reasonable term not to exceed the useful life of the project or forty years whichever is less.

§ 39.140 Loan proceeds.

The loan proceeds shall be applied solely to pay costs associated with the construction of the treatment works for which EPA has awarded a grant. Loan proceeds may be dispersed in a lump sum upon execution of the loan agreement, or drawdowns under the loan agreement may be pursuant to a schedule or requests submitted to the Bank by the borrower. Any loan proceeds or drawdown requests which are paid in advance of the current need for funds to pay costs associated with the EPA grant will be placed by the borrower in investments approved by the Bank under the loan agreement until such time as the proceeds are applied to such costs.

§ 39.145 Loan payments by borrower.

The borrower will submit his payments of principal and interest on the loan directly to the Bank in accordance with the loan agreement. A late payment penalty of 1 percent per month of the payment amount due shall be charged pursuant to the loan agreement and the provisions of the loan guarantee agreement in the event any payment of principal and interest is not paid when due.

§ 39.150 Defaults and remedies.

(a) Each of the following events shall be defined as an "Event of Default":

(1) Default by the public body in the payment of any Principal Installment, if any, on any loan guaranteed by the Administrator when due;

(2) Default by the public body in the payment of any installment of interest on the loan when due; and

(3) Failure or refusal by the public body to comply with section 213 of the Act, or default in the performance or observance of any other of the covenants, agreements, or conditions contained in the loan agreement, or loan guarantee agreement, where such failure, refusal or default shall continue for a period of 45 days after written notice thereof is issued by the Administrator.

(b) The loan agreement and guarantee shall provide that upon the happening and continuance of any event described in paragraph (a) of this section, the Administrator may proceed on behalf of the Environmental Protection Agency and the United States to protect and enforce its rights and the rights of the Federal Financing Bank by such of the following remedies as the Administrator being advised by counsel, shall deem most effectual:

(1) Enforce by mandamus or other suit, action or proceedings at law or in equity all rights of the Administrator including the rights to require the public body to enforce, collect and receive taxes, fees, or charges adequate to carry out the covenant or payment of principal and interest when due, and to require the public body to carry out any other covenant or agreement with the Administrator to perform its duties under the Act, these regulations and the loan agreement and loan guarantee agreement;

(2) Bring suit upon the loan;

(3) Require the public body by action or suit to account as if it were the trustee of an express trust for the holders of the evidence of indebtedness of the loan;

(4) Enjoin by action or suit any acts or things which may be unlawful or in violation of the rights of the Administrator or the Bank;

(5) Declare all remaining payments of principal and interest on the loan due and payable, and, if all default shall be made good, then, to annul such declaration and its consequences; and

(6) In the event that all the remaining principal and interest on the loan be declared due and payable, apply to a court having jurisdiction for other appropriate administrative and judicial relief.

[FR Doc.77-14144 Filed 5-17-77;8:45 am]

federal register

WEDNESDAY, MAY 18, 1977

PART V



INTERSTATE COMMERCE COMMISSION

System Diagram Maps

INTERSTATE COMMERCE COMMISSION

[AB 152 (SDM)]

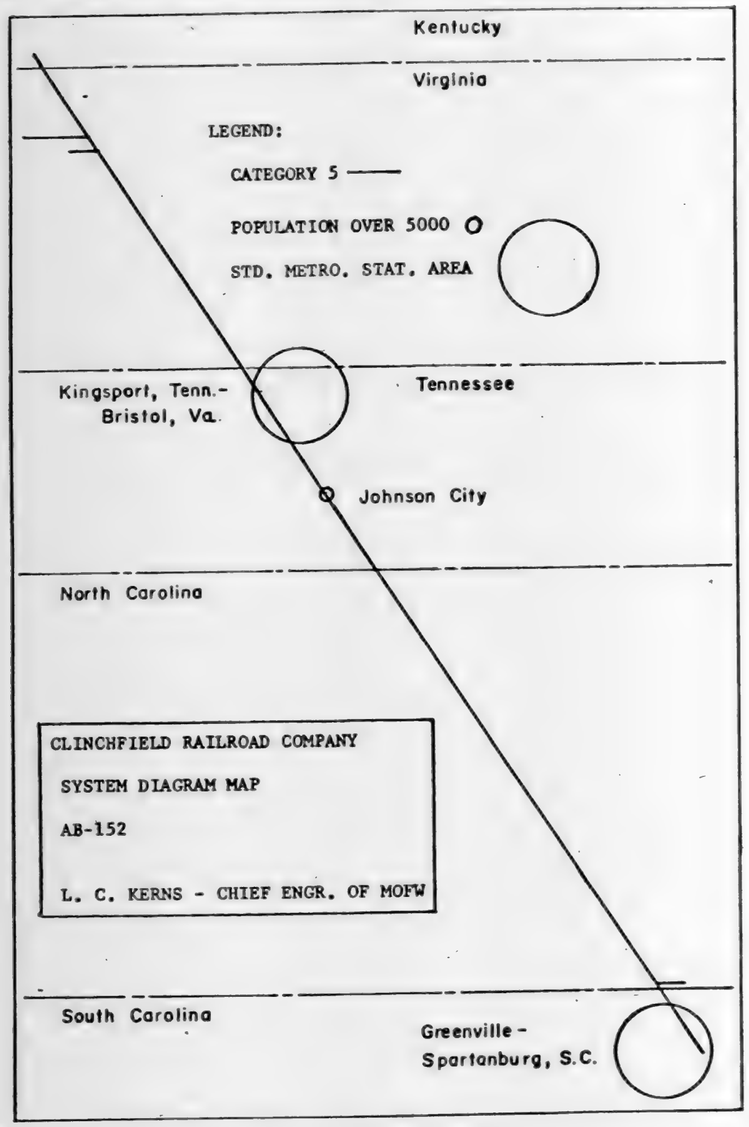
CLINCHFIELD RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Clinchfield Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 152 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–152 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13948 Filed 5-17-77;8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 96—WEDNESDAY, MAY 18, 1977

[AB 155 (SDM)]

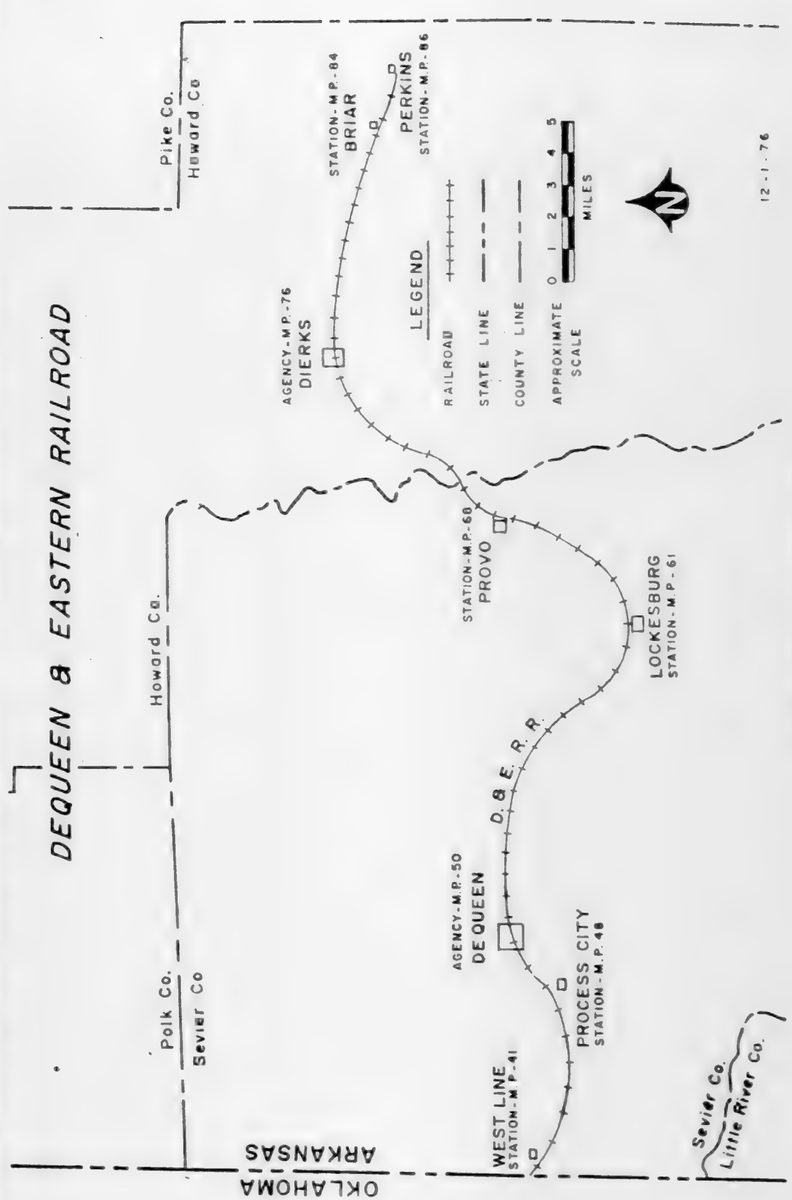
DeQUEEN & EASTERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the DeQueen and Eastern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 155 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 155 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13949 Filed 5-17-77;8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 96—WEDNESDAY, MAY 18, 1977

[AB 94 (SDM)]

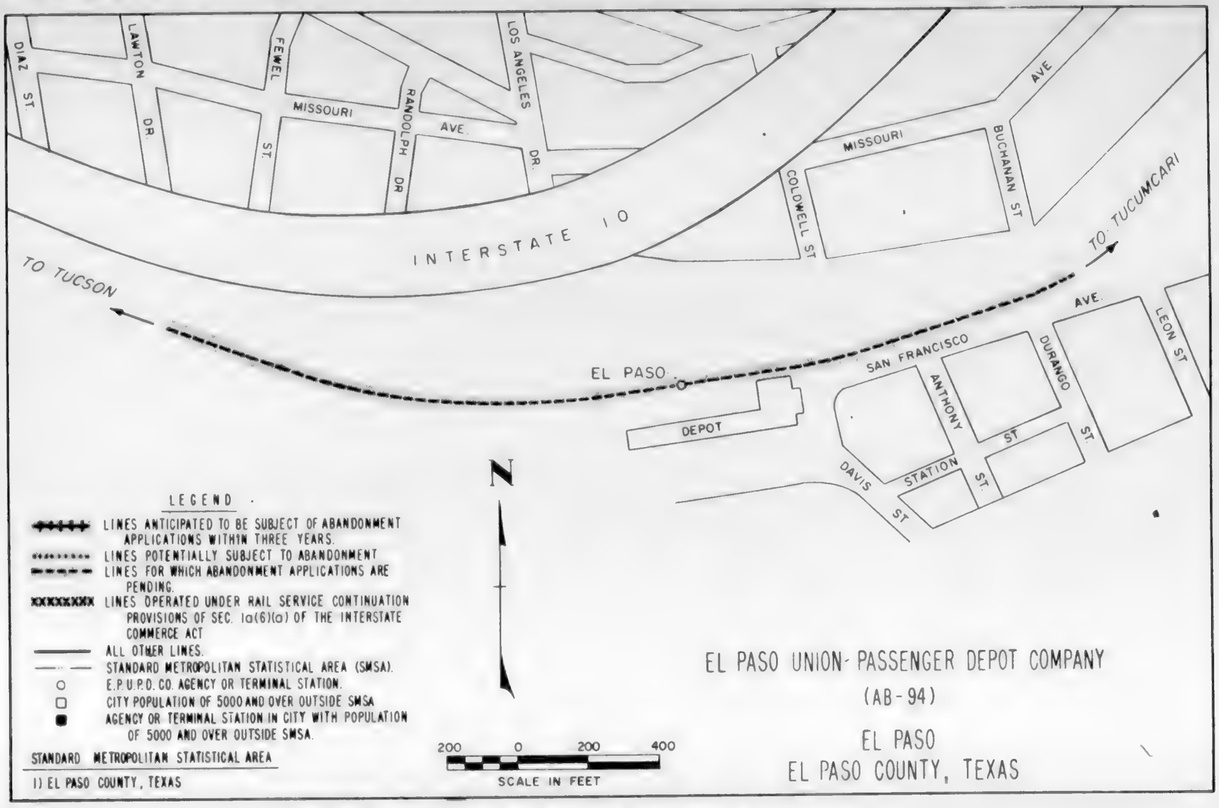
EL PASO UNION PASSENGER DEPOT CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the El Paso Union Passenger Depot Company, has filed with the Commission its color-coded system diagram map in docket No. AB 94 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 94 (SDM).

ROBERT L. OSWALD,
Secretary.



EL PASO UNION PASSENGER DEPOT COMPANY

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.21), the following is a description of lines of the El Paso Union Passenger Depot Company as shown on the system diagram map:

Lines for Which Abandonment Application Are Pending Before the Interstate Commerce Commission

TEXAS

(1) (a) Designation of Line: Main Line.
(b) States in which Located: Texas.
(c) Counties in which Located: El Paso.
(d) Milepost Locations: Entire line of 0.416 miles.
(e) Agency or Terminal Stations of the Line: El Paso.

[FR Doc.77-13944 Filed 5-17-77;8:45 am]

[AB 168 (SDM)]

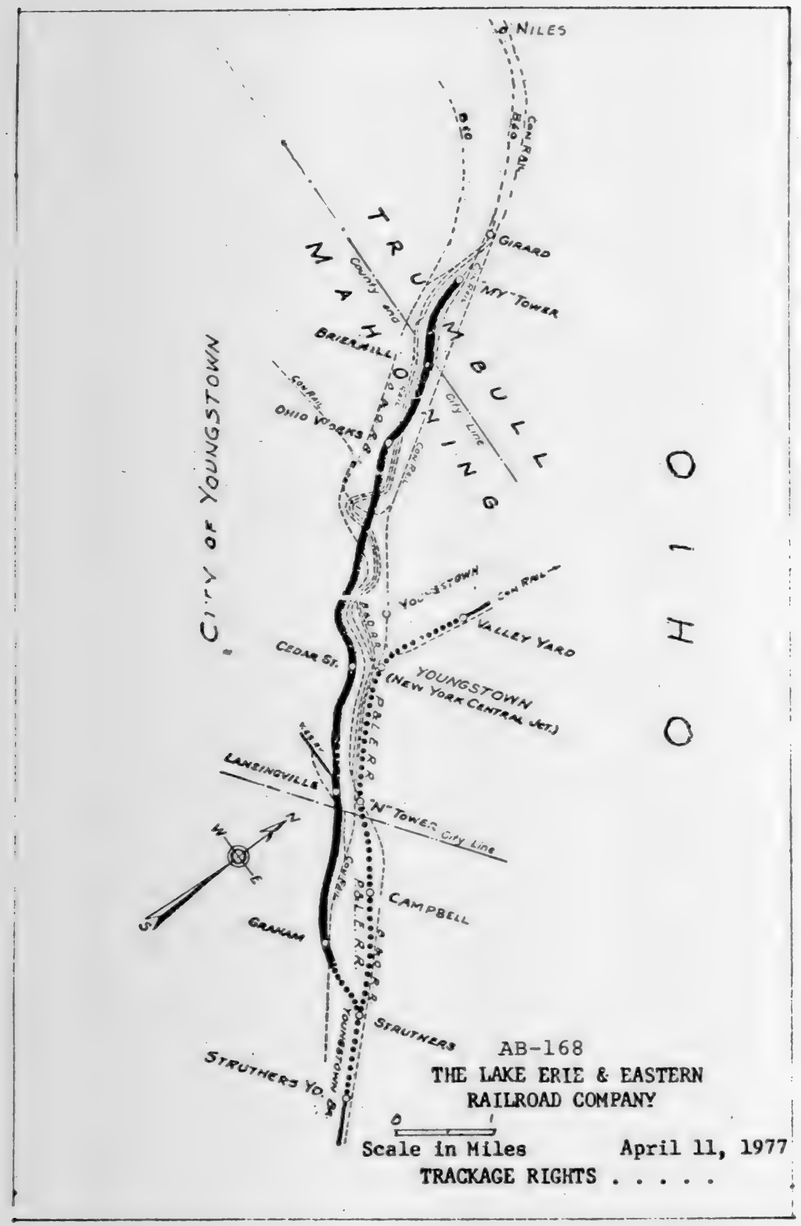
LAKE ERIE & EASTERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Lake Erie & Eastern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 168 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the States designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 168 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13940 Filed 5-17-77;8:45 am]

[AB 15 (SDM)]

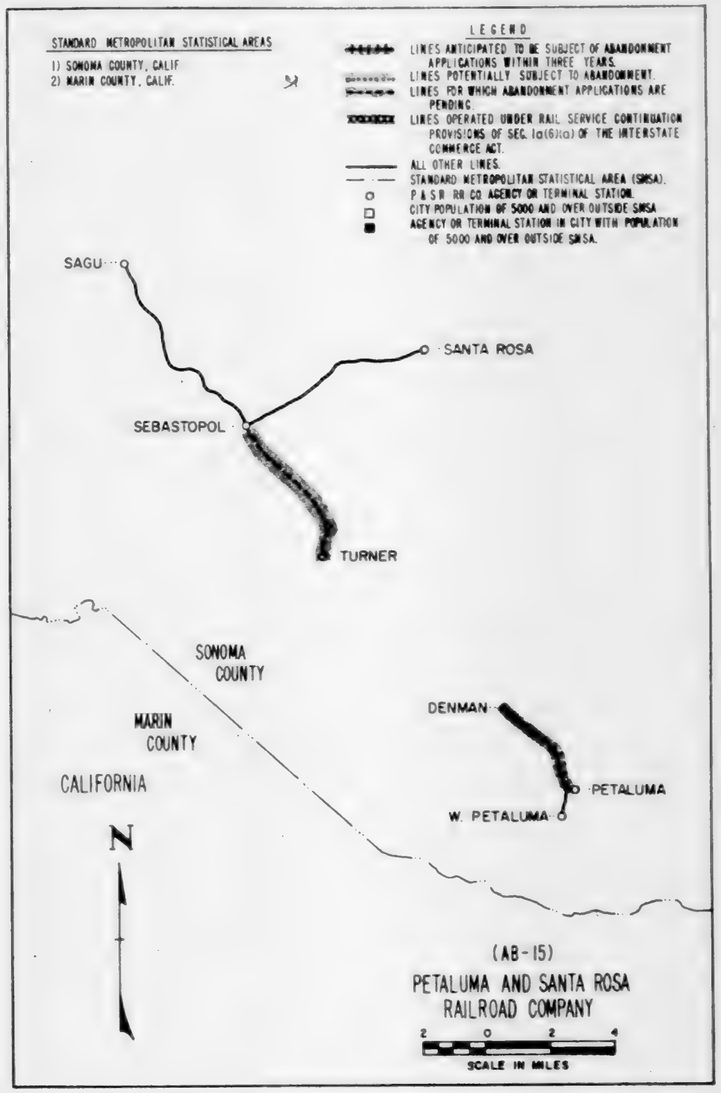
PETALUMA AND SANTA ROSA RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Petaluma and Santa Rosa Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 15 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–15 (SDM).

ROBERT L. OSWALD,
Secretary.



PETALUMA AND SANTA ROSA RAILROAD COMPANY

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.-21), the following is a description of lines of the Petaluma and Santa Rosa Railroad Company as shown on the system diagram map:

Lines Anticipated To Be Subject of Abandonment Applications Within Three Years

CALIFORNIA

(1) (a) Designation of Line: Main Line.
(b) States in which Located: California.
(c) Counties in which Located: Sonoma.
(d) Milepost Locations: 1.212 at or near Petaluma to 3.587 at or near Denman.
(e) Agency or Terminal Stations: Denman (milepost 3.587).

Lines for Which Abandonment Applications Are Pending Before the Interstate Commerce Commission

CALIFORNIA

(1) (a) Designation of Line: Main Line.
(b) States in which Located: California.
(c) Counties in which Located: Sonoma.
(d) Milepost Locations: 11.138 at or near Turner to 16.660 at or near Sebastopol.
(e) Agency or Terminal Stations: Turner (milepost 11.3).

[FR Doc.77-13945 Filed 5-17-77;8:45 am]

[AB 12 (SDM)]

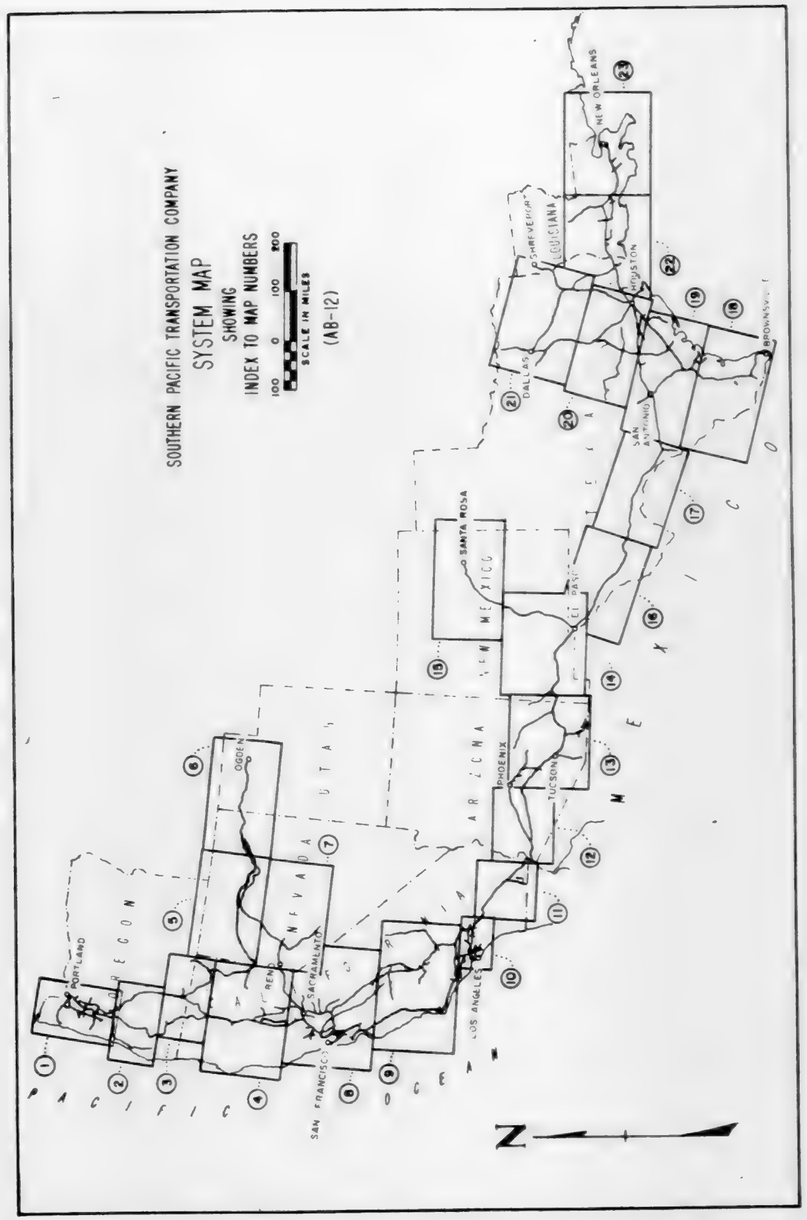
SOUTHERN PACIFIC TRANSPORTATION CO.

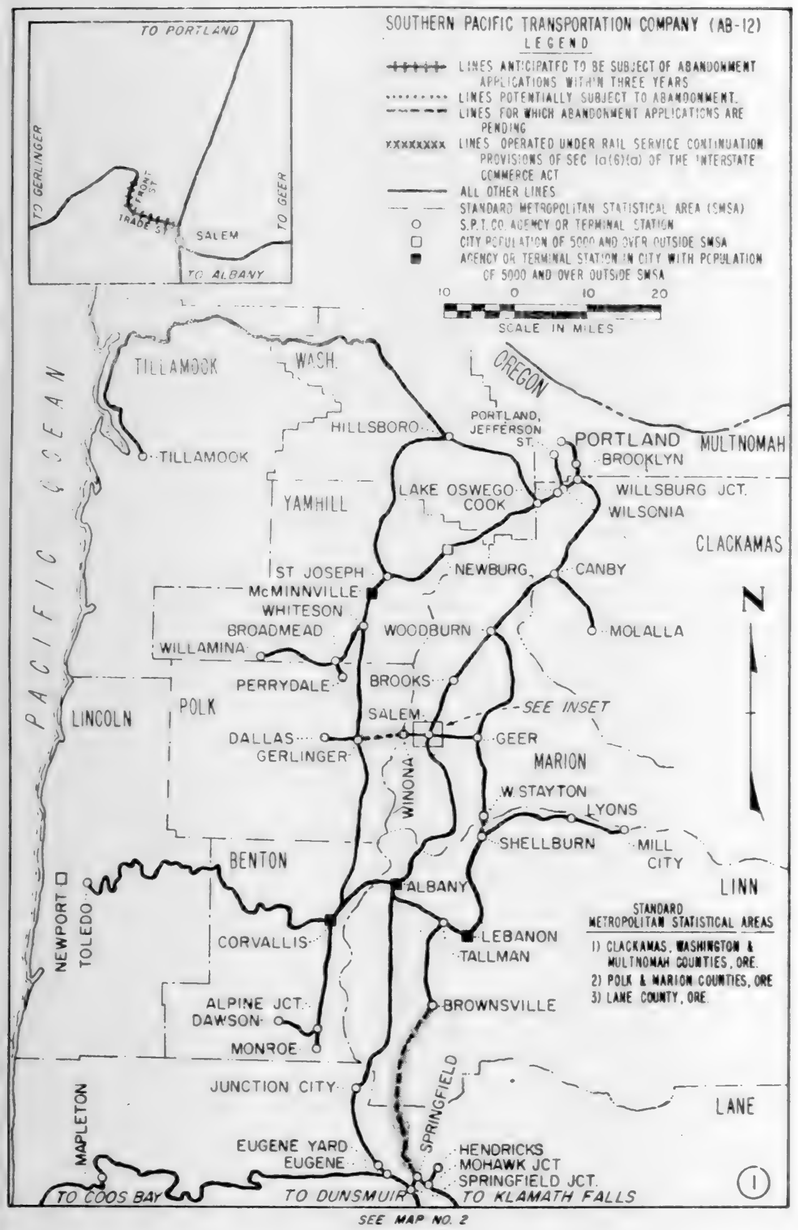
System Diagram Map

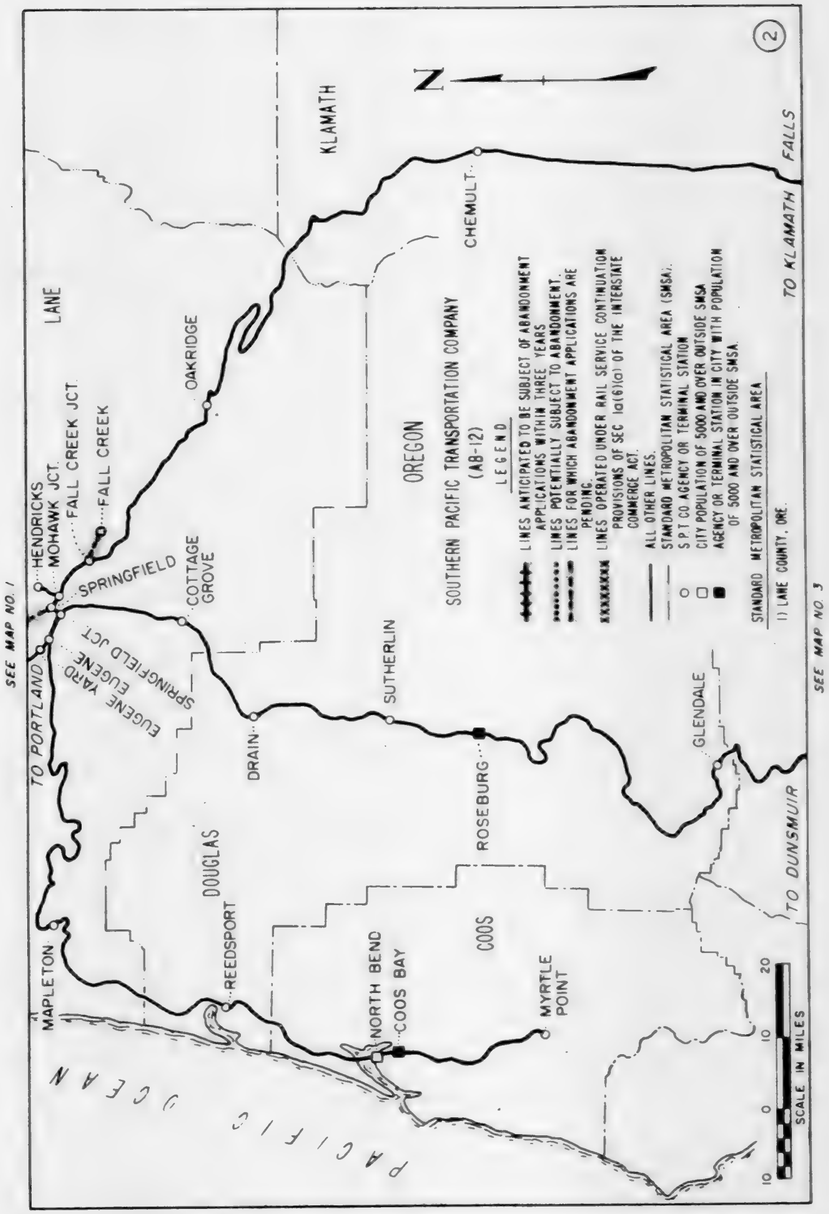
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Southern Pacific Transportation Company, has filed with the Commission its color-coded system diagram map in docket No. AB-26 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

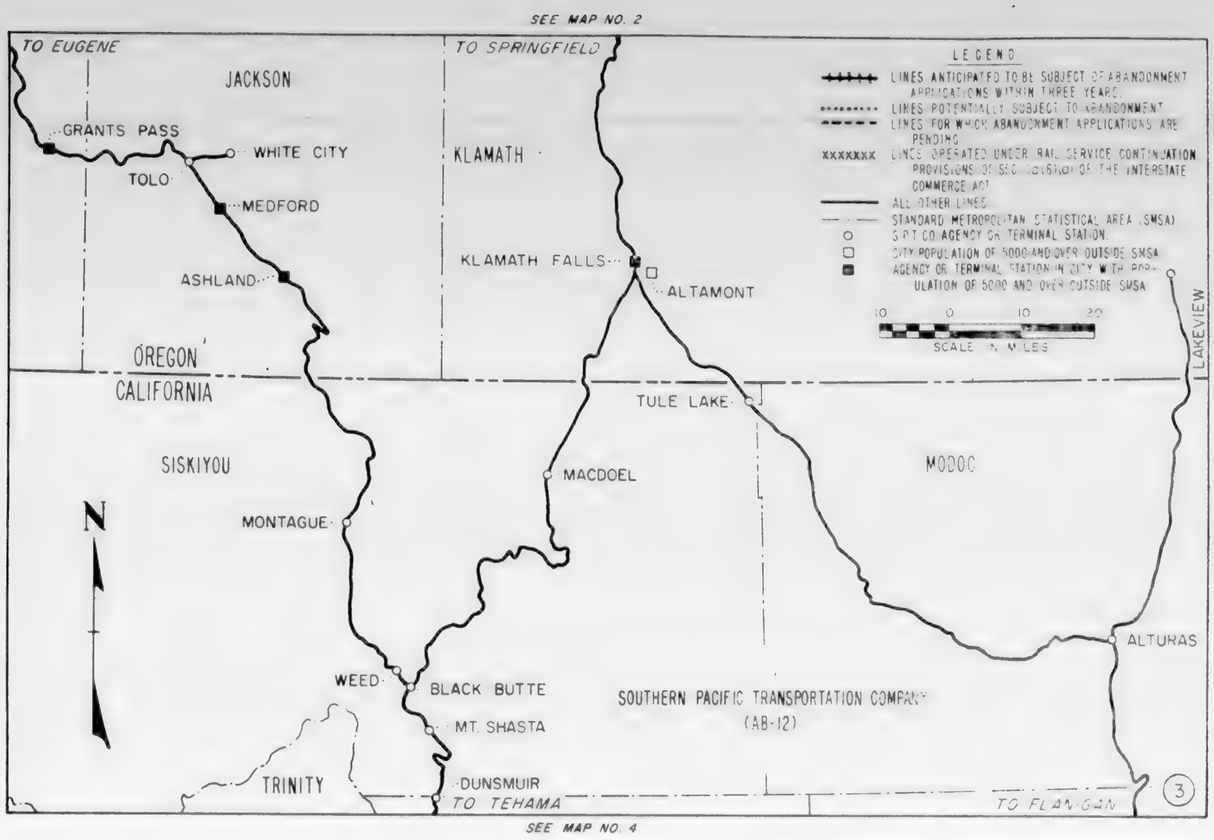
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets by requesting docket No. AB-12 (SDM).

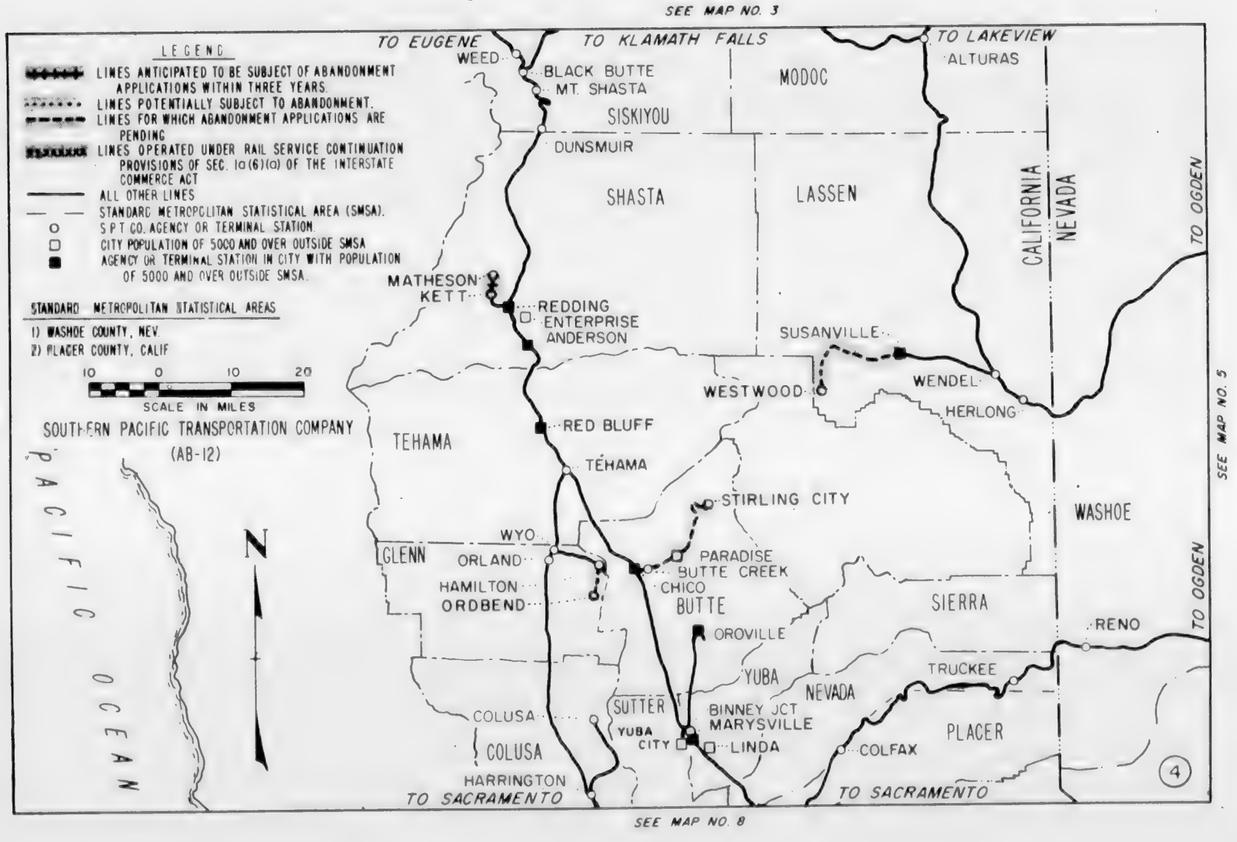
ROBERT L. OSWALD,
Secretary.

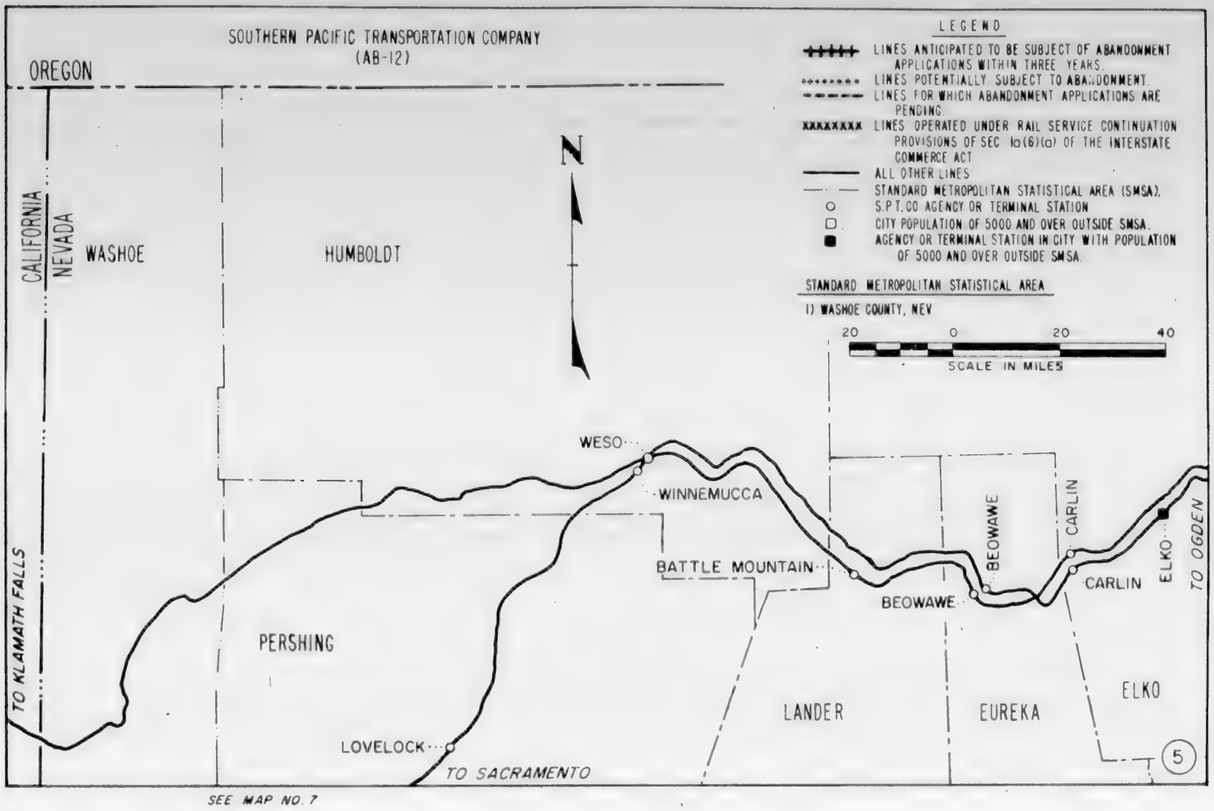


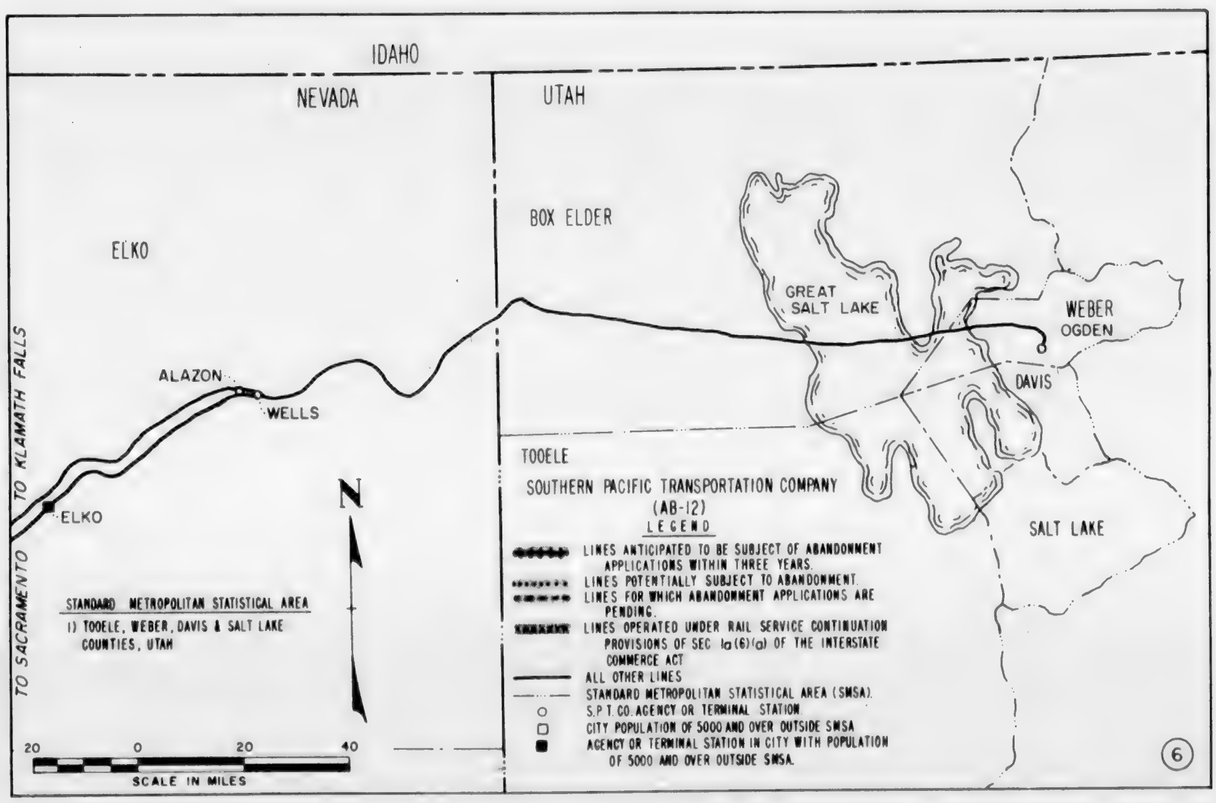

SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC 1a(6)(a) OF THE INTERSTATE COMMERCE ACT
ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA)
S.P.T.CO. AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA
10 0 10 20
SCALE IN MILES
TO PORTLAND
TO GERLINGER
TO GEER
TO ALBANY
TRADE ST.
SALEM
PACIFIC OCEAN
TILLAMOOK
WASH.
OREGON
HILLSBORO
PORTLAND, JEFFERSON ST.
PORTLAND
BROOKLYN
MULTNOMAH
WILLSBURG JCT.
WILSONIA
CLACKAMAS
YAMHILL
LAKE OSWEGO
COOK
ST JOSEPH
NEWBURG
CANBY
McMINNVILLE
WHITESON
BROADMEAD
WOODBURN
MOLALLA
WILLAMINA
PERRYDALE
BROOKS
LINCOLN
POLK
SALEM
SEE INSET
DALLAS
GERLINGER
GEER
MARION
WINONA
W.STAYTON
LYONS
SHELLBURN
MILL CITY
BENTON
LINN
ALBANY
NEWPORT
TOLEDO
CORVALLIS
LEBANON
TALLMAN
STANDARD METROPOLITAN STATISTICAL AREAS
1) CLACKAMAS, WASHINGTON & MULTNOMAH COUNTIES, ORE.
2) POLK & MARION COUNTIES, ORE
3) LANE COUNTY, ORE.
ALPINE JCT.
DAWSON
BROWNSVILLE
MONROE
JUNCTION CITY
SPRINGFIELD
LANE
MAPLETON
EUGENE YARD
EUGENE
HENDRICKS
MOHAWK JCT
SPRINGFIELD JCT.
TO COOS BAY
TO DUNSMUIR
TO KLAMATH FALLS
1
SEE MAP NO. 2

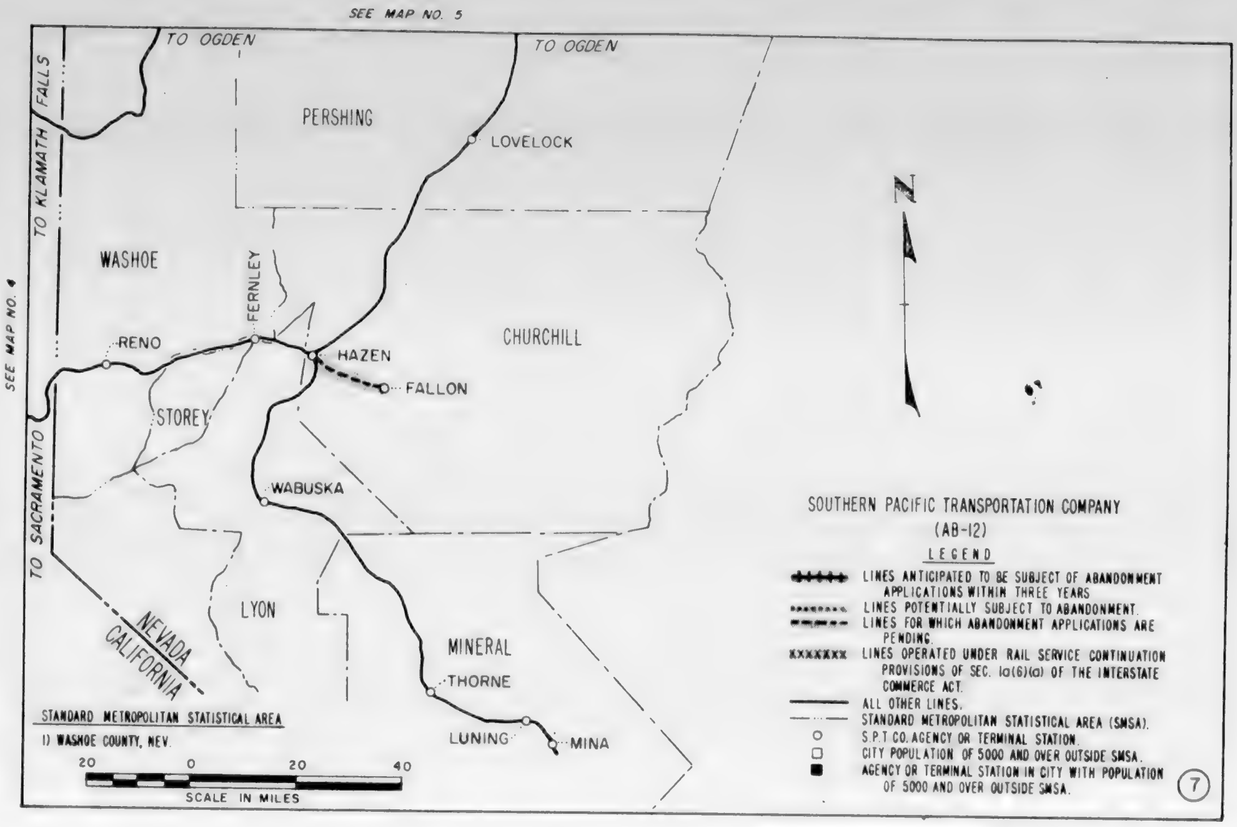

SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREA
1) LANE COUNTY, ORE.
OREGON
KLAMATH
CHEMULT
TO KLAMATH FALLS
LANE
OAKRIDGE
HENDRICKS
MOHAWK JCT.
FALL CREEK JCT
FALL CREEK
SPRINGFIELD
COTTAGE GROVE
SEE MAP NO. 1
EUGENE YARD
SPRINGFIELD JCT
EUGENE
TO PORTLAND
SUTHERLIN
DRAIN
GLENDALE
ROSEBURG
DOUGLAS
TO DUNSMUIR
REEDSPORT
MAPLETON
NORTH BEND
COOS BAY
COOS
MYRTLE POINT
PACIFIC OCEAN
SCALE IN MILES
SEE MAP NO 3
2

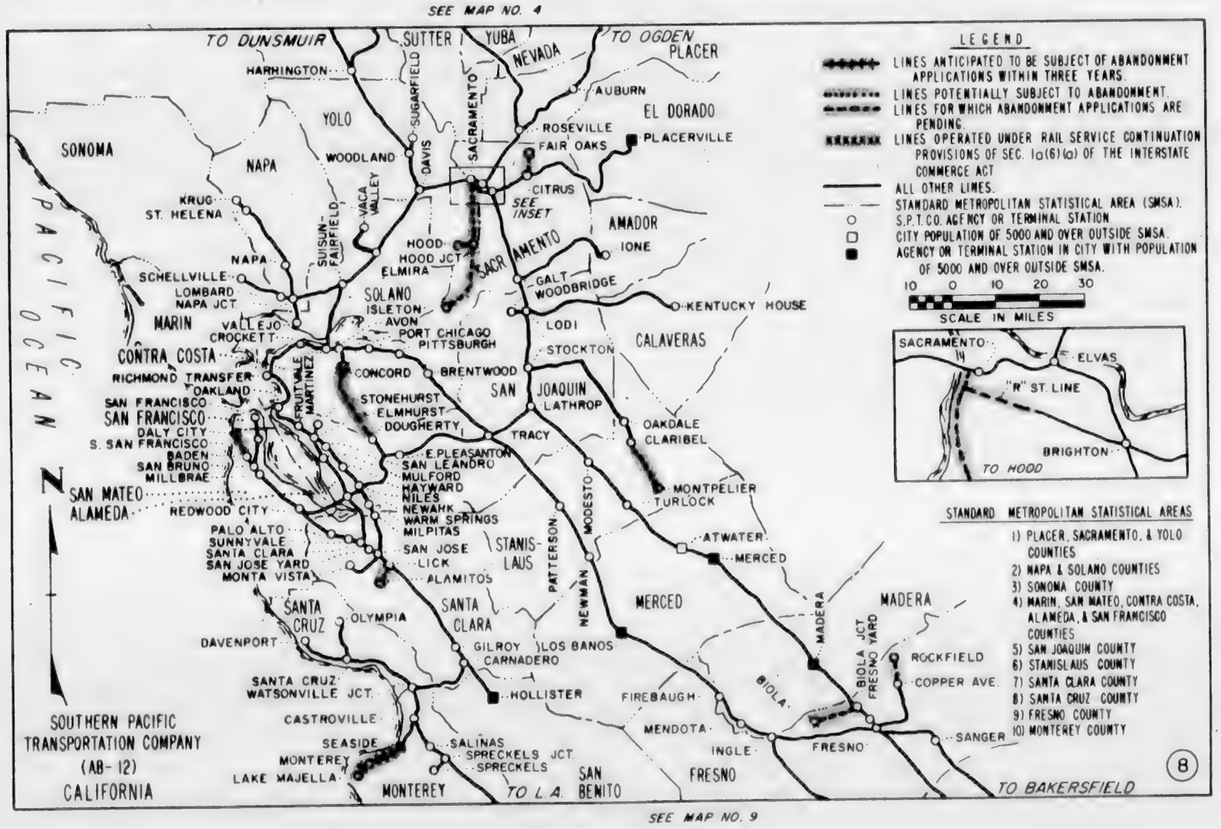

SEE MAP NO. 2
TO EUGENE
TO SPRINGFIELD
JACKSON
GRANTS PASS
WHITE CITY
TOLO
MEDFORD
ASHLAND
KLAMATH
KLAMATH FALLS
ALTAMONT
LAKEVIEW
OREGON
CALIFORNIA
TULE LAKE
SISKIYOU
MACDOEL
MODOC
MONTAGUE
ALTURAS
WEED
BLACK BUTTE
MT. SHASTA
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
TRINITY
DUNSMUIR
TO TEHAMA
TO FLANAGAN
3
SEE MAP NO. 4
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
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ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T. CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
10 0 10 20
SCALE IN MILES
N

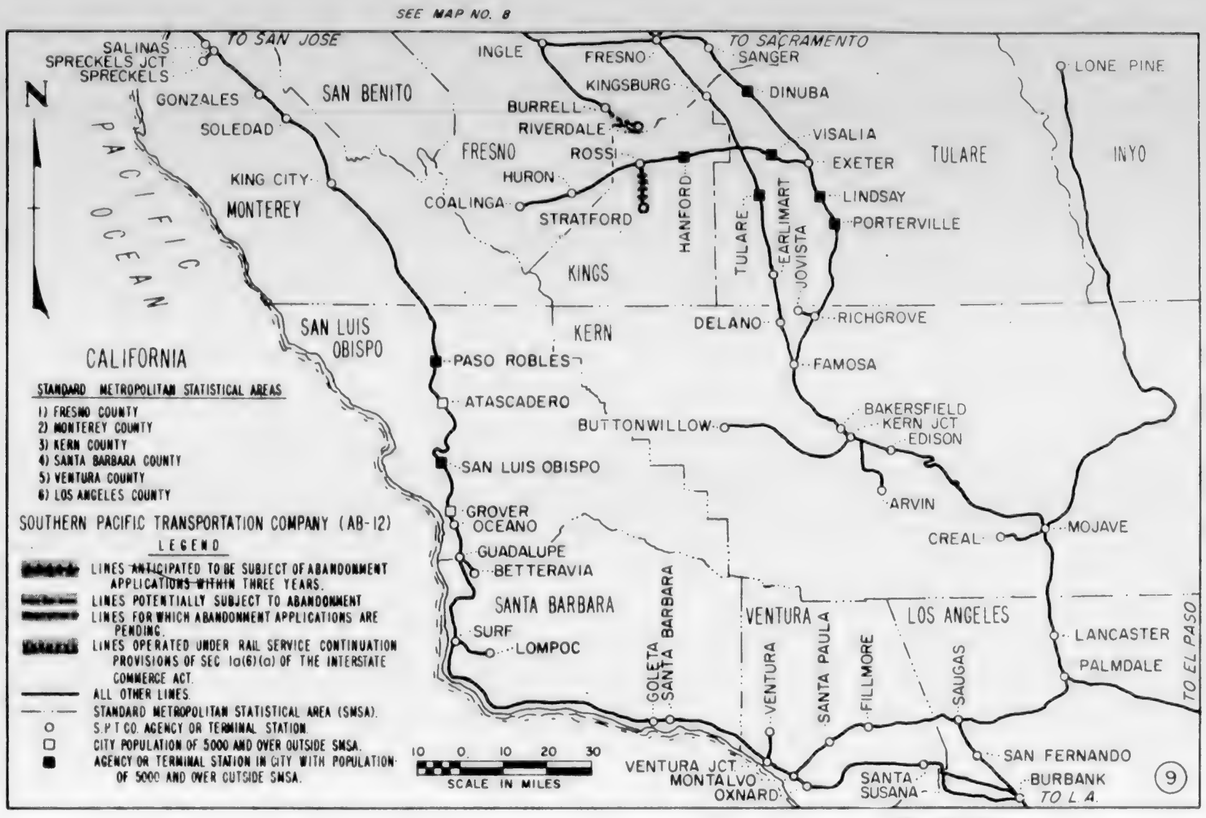

SEE MAP NO. 3
TO EUGENE
TO KLAMATH FALLS
TO LAKEVIEW
WEED
BLACK BUTTE
MT. SHASTA
MODOC
ALTURAS
SISKIYOU
DUNSMUIR
SHASTA
LASSEN
CALIFORNIA
NEVADA
TO OGDEN
MATHESON
KETT
REDDING
ENTERPRISE
ANDERSON
SUSANVILLE
WESTWOOD
WENDEL
HERLONG
RED BLUFF
TEHAMA
STIRLING CITY
WASHOE
WYO
GLENN
ORLAND
PARADISE
BUTTE CREEK
CHICO
HAMILTON
ORDBEND
BUTTE
SIERRA
OROVILLE
RENO
YUBA
NEVADA
TRUCKEE
SUTTER
BINNEY JCT
MARYSVILLE
COLUSA
YUBA CITY
LINDA
COLFAX
PLACER
HARRINGTON
TO SACRAMENTO
TO SACRAMENTO
4
SEE MAP NO. 5
SEE MAP NO. 8
PACIFIC OCEAN
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
STANDARD METROPOLITAN STATISTICAL AREAS
1) WASHOE COUNTY, NEV.
2) PLACER COUNTY, CALIF.
10 0 10 20
SCALE IN MILES
N
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
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STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T. CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.

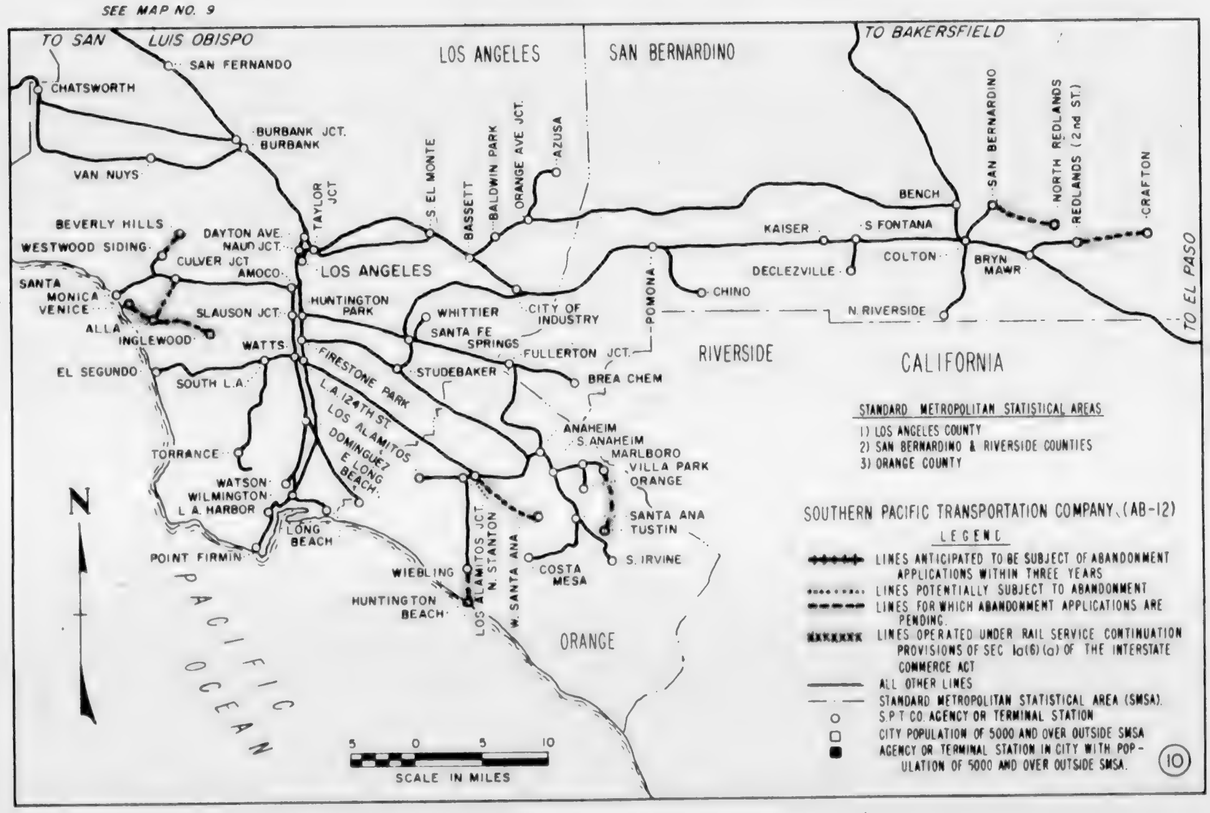

SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
OREGON
CALIFORNIA
NEVADA
WASHOE
HUMBOLDT
PERSHING
LANDER
EUREKA
ELKO
WESO
WINNEMUCCA
BATTLE MOUNTAIN
BEOWAWE
CARLIN
ELKO
LOVELOCK
TO KLAMATH FALLS
TO SACRAMENTO
TO OGDEN
SEE MAP NO. 4
SEE MAP NO. 7
SEE MAP NO. 6
N
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
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ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREA
1) WASHOE COUNTY, NEV
20 0 20 40
SCALE IN MILES
5

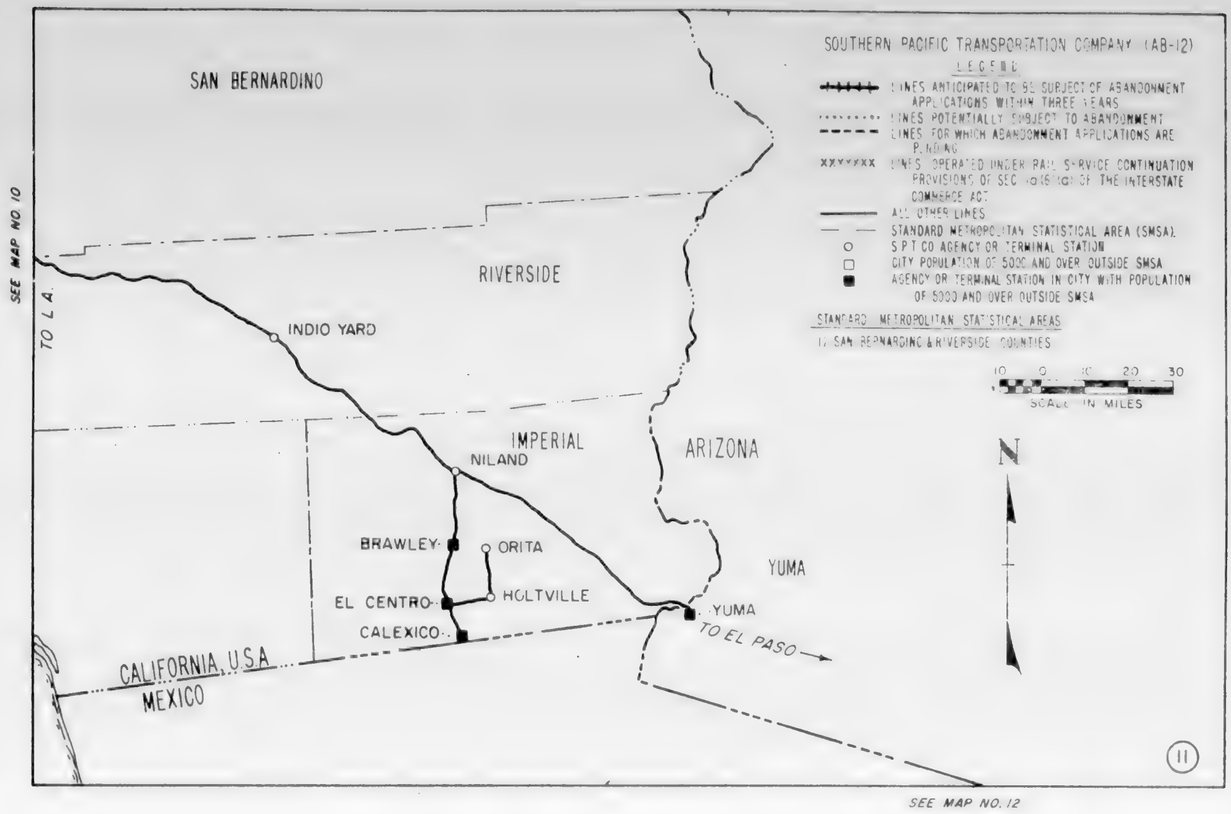

IDAHO
NEVADA
UTAH
ELKO
BOX ELDER
TOOELE
ALAZON
WELLS
ELKO
GREAT SALT LAKE
WEBER
OGDEN
DAVIS
SALT LAKE
TO KLAMATH FALLS
TO SACRAMENTO
SEE MAP NO. 5
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
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LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC 1a(6)(a) OF THE INTERSTATE COMMERCE ACT
ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T. CO. AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREA
1) TOOELE, WEBER, DAVIS & SALT LAKE COUNTIES, UTAH
N
20 0 20 40
SCALE IN MILES
6

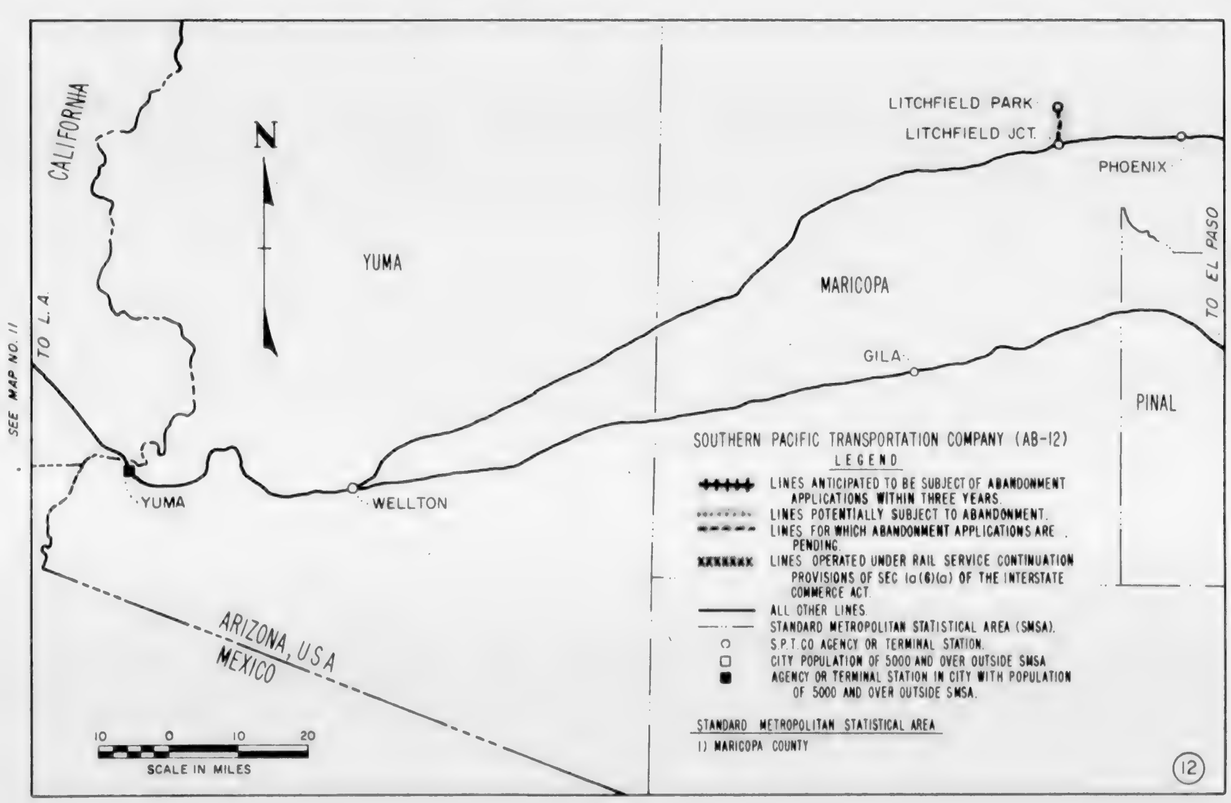

SEE MAP NO. 5
TO OGDEN
TO OGDEN
TO KLAMATH FALLS
SEE MAP NO. 4
TO SACRAMENTO
PERSHING
LOVELOCK
WASHOE
FERNLEY
RENO
HAZEN
FALLON
CHURCHILL
STOREY
WABUSKA
LYON
NEVADA
CALIFORNIA
MINERAL
THORNE
LUNING
MINA
STANDARD METROPOLITAN STATISTICAL AREA
1) WASHOE COUNTY, NEV.
20 0 20 40
SCALE IN MILES
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
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ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
7


SEE MAP NO. 4
TO DUNSMUIR
SUTTER
YUBA
NEVADA
TO OGDEN
PLACER
HARRINGTON
AUBURN
YOLO
SACRAMENTO
SUGARFIELD
DAVIS
ROSEVILLE
EL DORADO
FAIR OAKS
PLACERVILLE
SONOMA
NAPA
WOODLAND
CITRUS
SEE INSET
KRUG
ST. HELENA
VACA VALLEY
SUISUN-FAIRFIELD
HOOD
HOOD JCT.
ELMIRA
SACRAMENTO
AMADOR
IONE
NAPA
SCHELLVILLE
LOMBARD
NAPA JCT.
GALT
WOODBRIDGE
KENTUCKY HOUSE
SOLANO
ISLETON
AVON
PORT CHICAGO
PITTSBURGH
MARIN
VALLEJO
CROCKETT
LODI
STOCKTON
CALAVERAS
CONTRA COSTA
RICHMOND TRANSFER
OAKLAND
CONCORD
BRENTWOOD
SAN JOAQUIN
LATHROP
FRUITVALE
MARTINEZ
SAN FRANCISCO
SAN FRANCISCO
STONEHURST
ELMHURST
DOUGHERTY
OAKDALE
CLARIBEL
DALY CITY
S. SAN FRANCISCO
TRACY
E. PLEASANTON
SAN LEANDRO
BADEN
SAN BRUNO
MILLBRAE
MULFORD
HAYWARD
NILES
MONTPELIER
TURLOCK
SAN MATEO
ALAMEDA
REDWOOD CITY
NEWARK
WARM SPRINGS
MILPITAS
MODESTO
ATWATER
PALO ALTO
SUNNYVALE
SANTA CLARA
SAN JOSE YARD
MONTA VISTA
SAN JOSE
LICK
ALAMITOS
STANIS-LAUS
PATTERSON
MERCED
SANTA CRUZ
OLYMPIA
SANTA CLARA
NEWMAN
MADERA
MADERA
DAVENPORT
GILROY
LOS BANOS
CARNADERO
BIOLA JCT.
FRESNO YARD
ROCKFIELD
COPPER AVE.
SANTA CRUZ
WATSONVILLE JCT.
HOLLISTER
FIREBAUGH
BIOLA
CASTROVILLE
MENDOTA
SEASIDE
SALINAS
SPRECKELS JCT.
SPRECKELS
INGLE
FRESNO
SANGER
MONTEREY
LAKE MAJELLA
MONTEREY
TO L.A.
SAN BENITO
FRESNO
TO BAKERSFIELD
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
CALIFORNIA
PACIFIC OCEAN
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
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ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
10 0 10 20 30
SCALE IN MILES
SACRAMENTO
ELVAS
"R" ST. LINE
BRIGHTON
TO HOOD
STANDARD METROPOLITAN STATISTICAL AREAS
1) PLACER, SACRAMENTO, & YOLO COUNTIES
2) NAPA & SOLANO COUNTIES
3) SONOMA COUNTY
4) MARIN, SAN MATEO, CONTRA COSTA, ALAMEDA, & SAN FRANCISCO COUNTIES
5) SAN JOAQUIN COUNTY
6) STANISLAUS COUNTY
7) SANTA CLARA COUNTY
8) SANTA CRUZ COUNTY
9) FRESNO COUNTY
10) MONTEREY COUNTY
8
SEE MAP NO. 9


SEE MAP NO. 8
SALINAS
SPRECKELS JCT
SPRECKELS
TO SAN JOSE
INGLE
FRESNO
TO SACRAMENTO
SANGER
LONE PINE
GONZALES
SAN BENITO
KINGSBURG
DINUBA
SOLEDAD
BURRELL
RIVERDALE
VISALIA
FRESNO
ROSSI
EXETER
TULARE
INYO
KING CITY
HURON
LINDSAY
MONTEREY
COALINGA
STRATFORD
HANFORD
TULARE
EARLIMART
JOVISTA
PORTERVILLE
KINGS
DELANO
RICHGROVE
SAN LUIS OBISPO
KERN
CALIFORNIA
PASO ROBLES
FAMOSA
STANDARD METROPOLITAN STATISTICAL AREAS
1) FRESNO COUNTY
2) MONTEREY COUNTY
3) KERN COUNTY
4) SANTA BARBARA COUNTY
5) VENTURA COUNTY
6) LOS ANGELES COUNTY
ATASCADERO
BAKERSFIELD
KERN JCT
EDISON
BUTTONWILLOW
SAN LUIS OBISPO
ARVIN
GROVER
OCEANO
CREAL
MOJAVE
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
GUADALUPE
BETTERAVIA
LEGEND
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S.P.T.CO AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
SANTA BARBARA
SURF
LOMPOC
GOLETA
SANTA BARBARA
VENTURA
LOS ANGELES
VENTURA
SANTA PAULA
FILLMORE
SAUGAS
LANCASTER
PALMDALE
TO EL PASO
10 0 10 20 30
SCALE IN MILES
VENTURA JCT
MONTALVO
OXNARD
SANTA SUSANA
SAN FERNANDO
BURBANK
TO L.A.
9
SEE MAP NO. 10


SEE MAP NO. 9
TO SAN LUIS OBISPO
SAN FERNANDO
LOS ANGELES
SAN BERNARDINO
TO BAKERSFIELD
CHATSWORTH
BURBANK JCT.
BURBANK
VAN NUYS
TAYLOR JCT
S. EL MONTE
BASSETT
BALDWIN PARK
ORANGE AVE JCT.
AZUSA
SAN BERNARDINO
NORTH REDLANDS
REDLANDS (2nd ST.)
CRAFTON
BENCH
KAISER
S. FONTANA
BEVERLY HILLS
DAYTON AVE.
NAUD JCT.
WESTWOOD SIDING
CULVER JCT.
AMOCO
LOS ANGELES
COLTON
BRYN MAWR
DECLEZVILLE
CHINO
SANTA MONICA
VENICE
HUNTINGTON PARK
WHITTIER
CITY OF INDUSTRY
POMONA
N. RIVERSIDE
SLAUSON JCT.
ALLA
INGLEWOOD
WATTS
SANTA FE SPRINGS
FULLERTON JCT.
RIVERSIDE
CALIFORNIA
EL SEGUNDO
SOUTH L.A.
FIRESTONE PARK
STUDEBAKER
BREA CHEM
L.A. 124TH ST.
LOS ALAMITOS
DOMINGUEZ
E. LONG BEACH
ANAHEIM
S. ANAHEIM
MARLBORO
VILLA PARK
ORANGE
TORRANCE
WATSON
WILMINGTON
L.A. HARBOR
LONG BEACH
SANTA ANA
TUSTIN
S. IRVINE
POINT FIRMIN
WIEBLING
LOS ALAMITOS JCT.
N. STANTON
W. SANTA ANA
COSTA MESA
HUNTINGTON BEACH
ORANGE
PACIFIC OCEAN
5 0 5 10
SCALE IN MILES
STANDARD METROPOLITAN STATISTICAL AREAS
1) LOS ANGELES COUNTY
2) SAN BERNARDINO & RIVERSIDE COUNTIES
3) ORANGE COUNTY
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS
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ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
10
SEE MAP NO. 11


SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
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S.P.T.CO AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) SAN BERNARDINO & RIVERSIDE COUNTIES
10 0 10 20 30
SCALE IN MILES
SAN BERNARDINO
RIVERSIDE
INDIO YARD
IMPERIAL
NILAND
ARIZONA
BRAWLEY
ORITA
EL CENTRO
HOLTVILLE
CALEXICO
YUMA
YUMA
TO EL PASO
CALIFORNIA, U.S.A.
MEXICO
SEE MAP NO. 10
TO L.A.
SEE MAP NO. 12
N
11

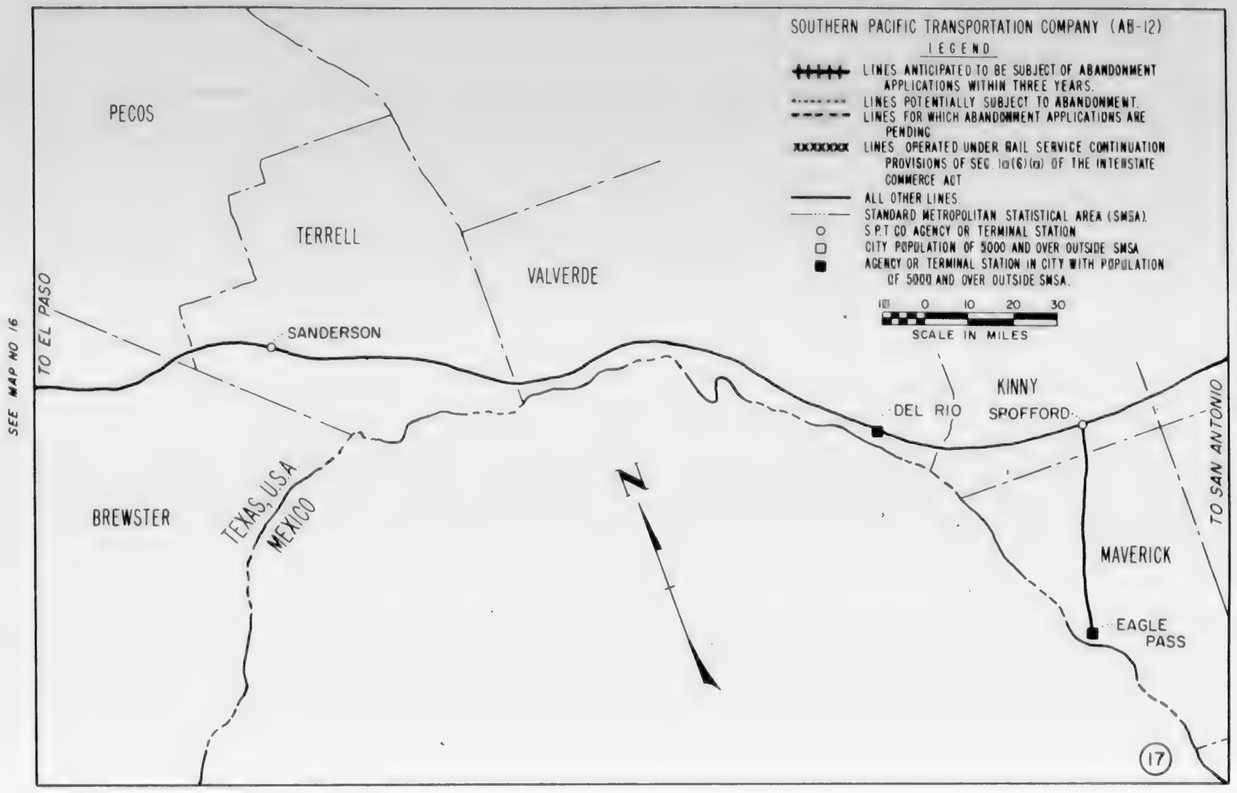

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CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREA
1) MARICOPA COUNTY
10 0 10 20
SCALE IN MILES
CALIFORNIA
N
YUMA
LITCHFIELD PARK
LITCHFIELD JCT.
PHOENIX
MARICOPA
GILA
PINAL
TO EL PASO
SEE MAP NO. 13
SEE MAP NO. 11
TO L.A.
YUMA
WELLTON
ARIZONA, U.S.A.
MEXICO
12

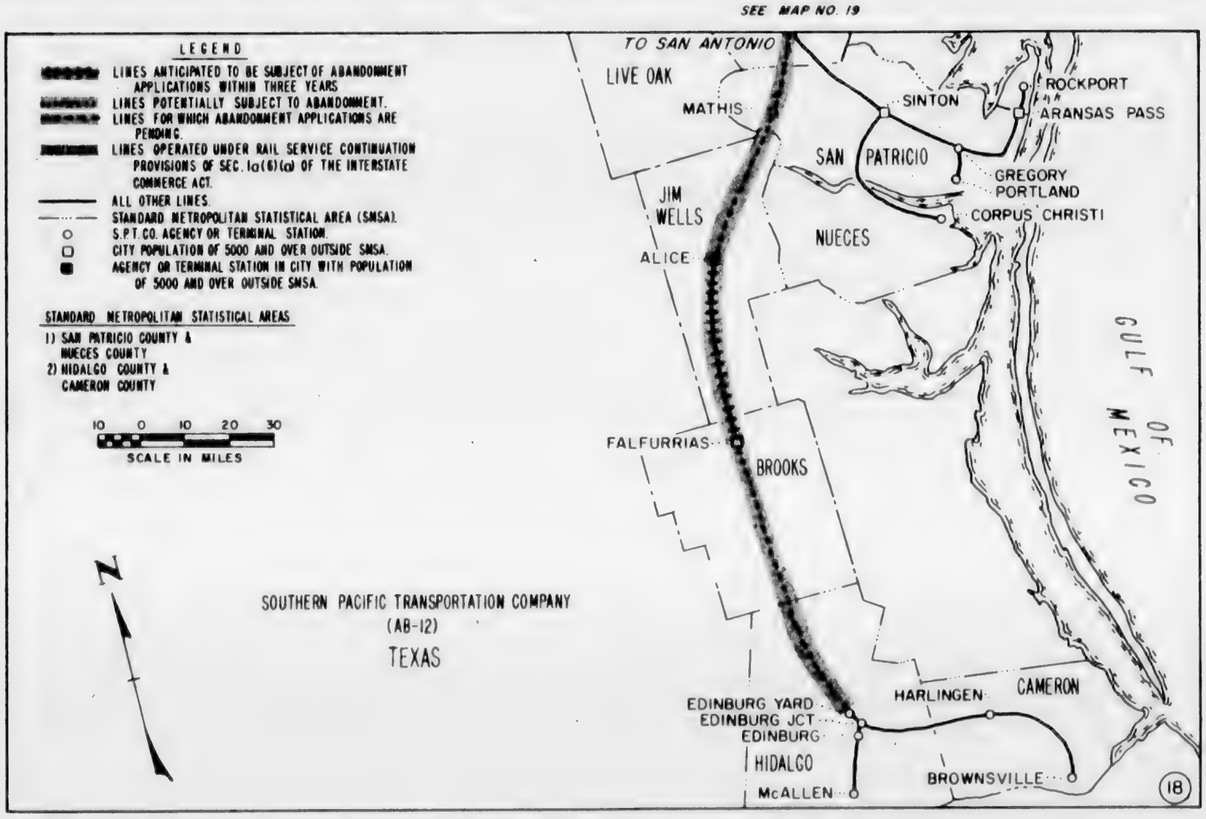
SEE MAP NO. 14
TO EL PASO
NEW MEXICO
CLIFTON
LORDSBURG
GREENLEE
SAFFORD
BOWIE
COCHISE
DOUGLAS
BISBEE JCT
CORTA
BISBEE
GALENA
WILLCOX
BENSON
GRAHAM
LEWIS SPRINGS
ARIZONA U.S.A.
MEXICO
SANTA CRUZ
FORT HUACHUCA
NOGALES
GLOBE
MIAMI
WINKELMAN
HAYDEN
GILA
PINAL
TUCSON
MARICOPA
PHOENIX
TEMPE JCT.
MESA
W. CHANDLER
DOCK
CASA GRANDE
PICACHO
MAGMA
LITCHFIELD PARK
LITCHFIELD JCT
TO L.A.
SEE MAP NO 12
13
N
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
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CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) MARICOPA COUNTY
2) PIMA COUNTY
10 0 10 20
SCALE IN MILES

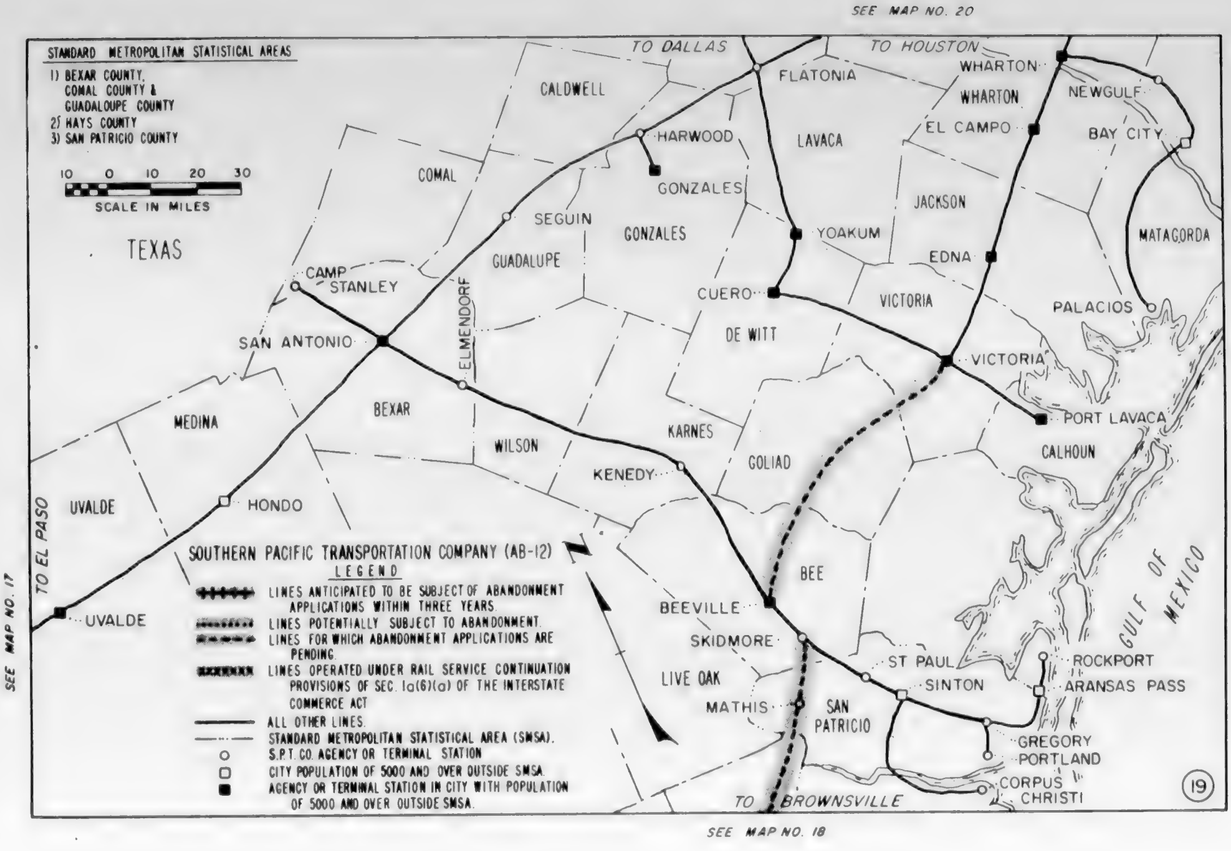
SEE MAP NO. 14
TO EL PASO
NEW MEXICO
CLIFTON
LORDSBURG
GREENLEE
SAFFORD
BOWIE
COCHISE
DOUGLAS
BISBEE JCT
CORTA
BISBEE
GALENA
WILLCOX
BENSON
GRAHAM
LEWIS SPRINGS
ARIZONA U.S.A.
MEXICO
SANTA CRUZ
FORT HUACHUCA
NOGALES
GLOBE
MIAMI
WINKELMAN
HAYDEN
GILA
PINAL
TUCSON
MARICOPA
PHOENIX
TEMPE JCT.
MESA
W. CHANDLER
DOCK
CASA GRANDE
PICACHO
MAGMA
LITCHFIELD PARK
LITCHFIELD JCT
TO L.A.
SEE MAP NO 12
13
N
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) MARICOPA COUNTY
2) PIMA COUNTY
10 0 10 20
SCALE IN MILES

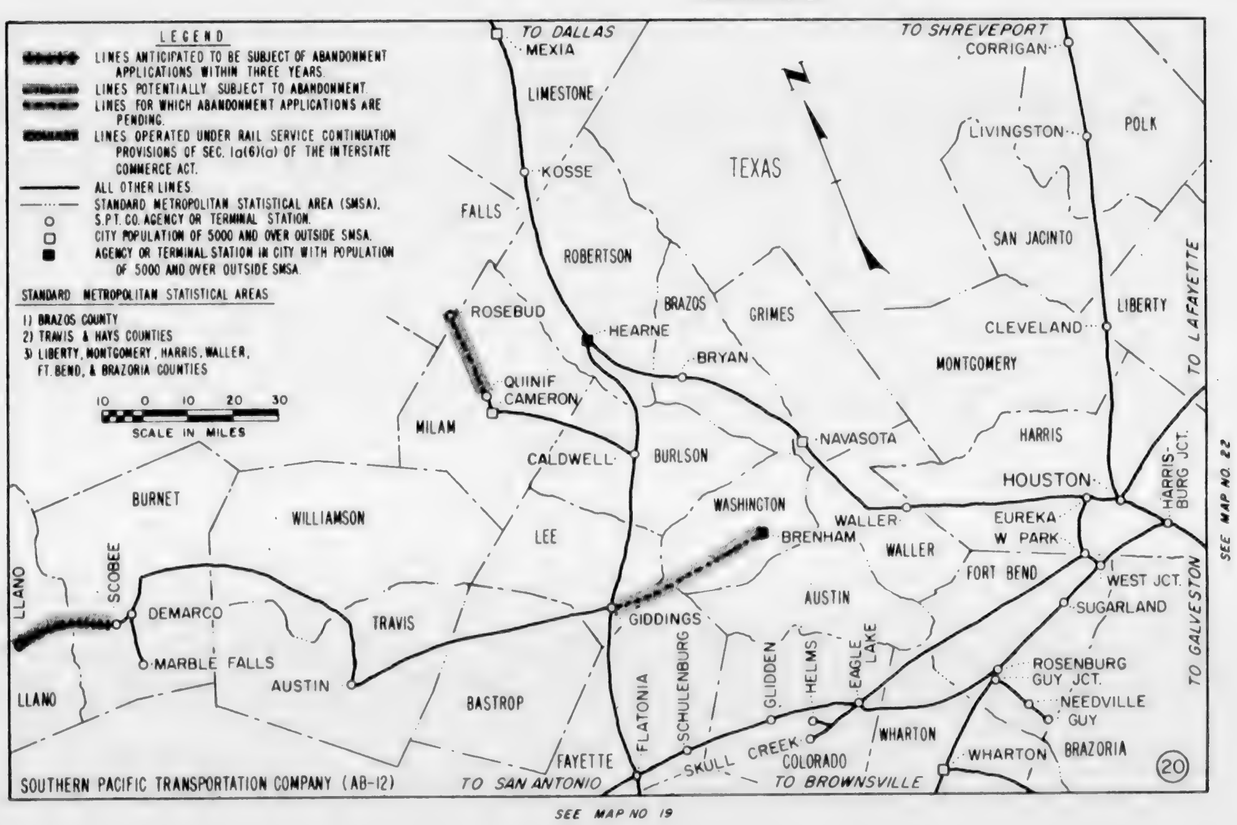
15
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
NEW MEXICO
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a (6)(a)) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA)
S.P.T.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
20 0 20 40
SCALE IN MILES
N
SANTA ROSA
GUADALUPE
TORRANCE
VAUGHN
LINCOLN
TO EL PASO
SEE MAP NO. 14

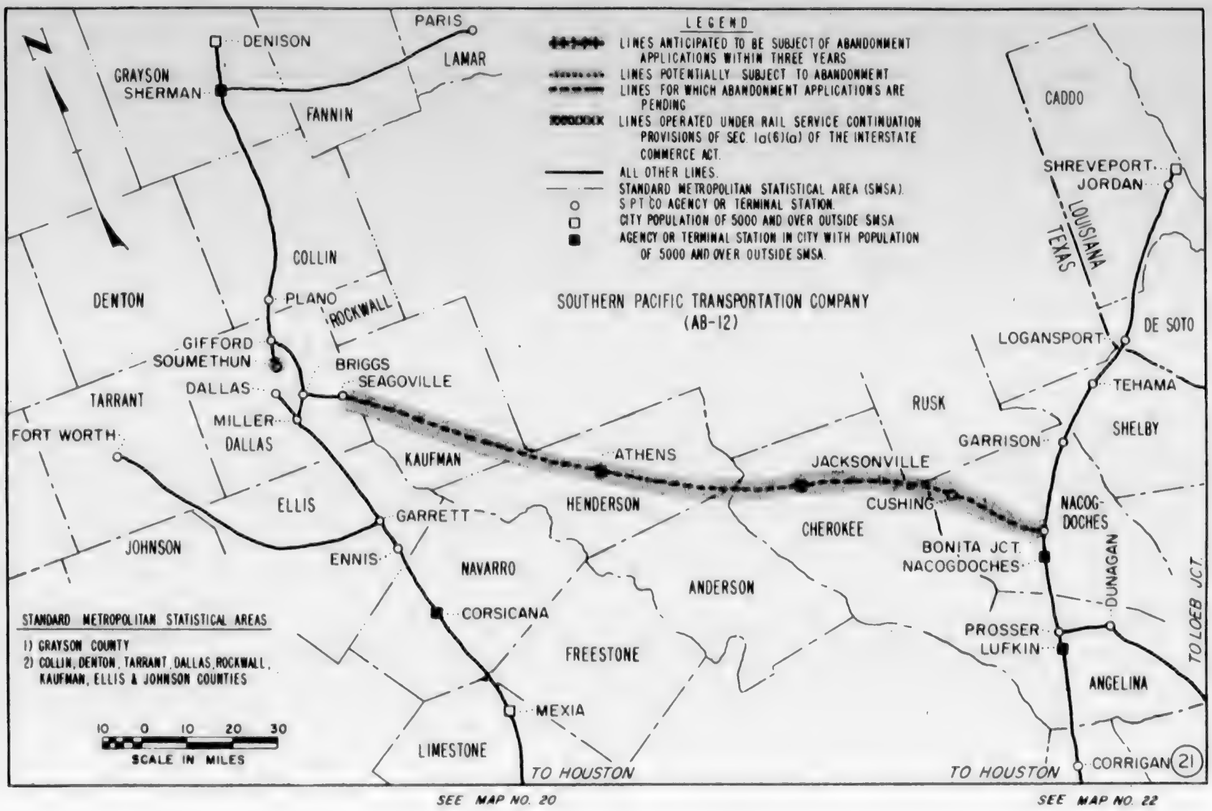
SEE MAP NO. 17
TO SAN ANTONIO
16
ALPINE
MARATHON
BREWSTER
JEFF DAVIS
MARFA
PRESIDIO
CULBERSON
HUDSPETH
SIERRA BLANCA
FABENS
EL PASO
TO TUCSON
TO SANTA ROSA
NEW MEXICO
TEXAS
MEXICO
TEXAS, USA
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a (6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA
STANDARD METROPOLITAN STATISTICAL AREA
1) EL PASO COUNTY, TEXAS
10 0 10 20 30
SCALE IN MILES
N
SEE MAP NO. 14

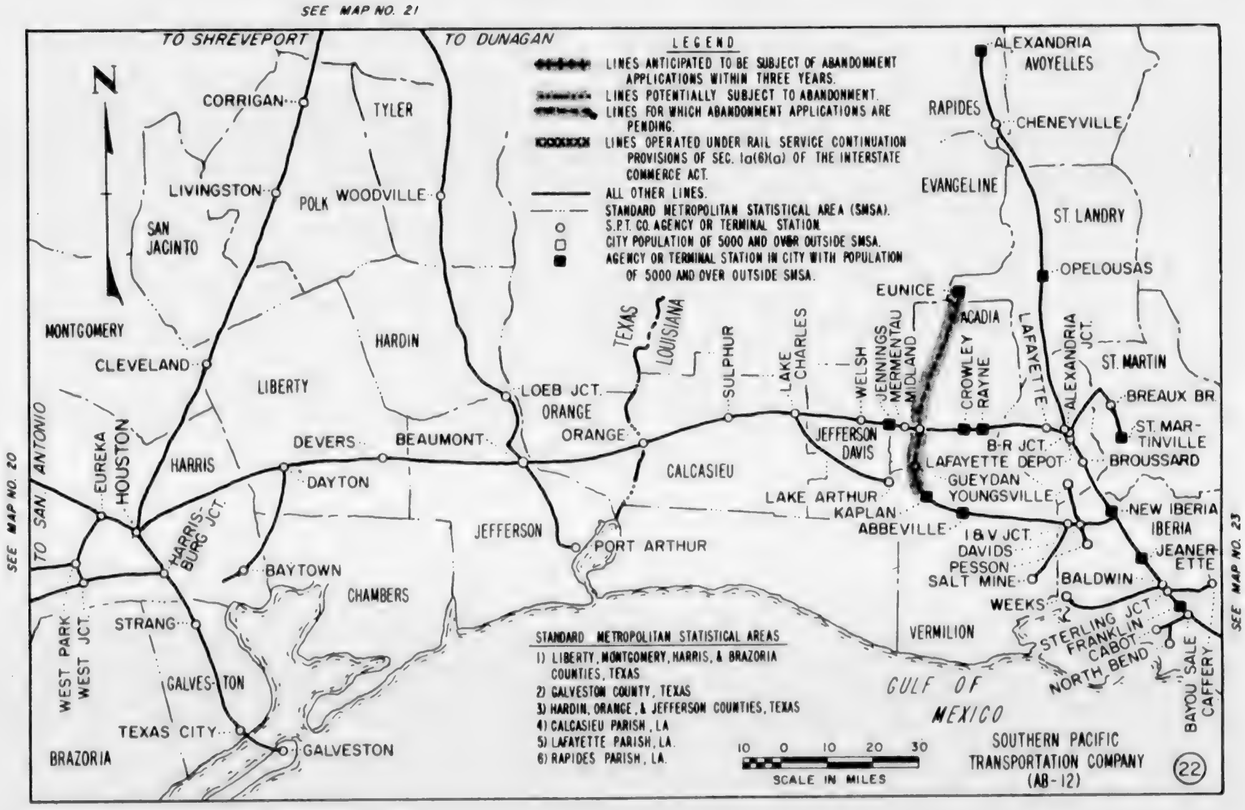

SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
10 0 10 20 30
SCALE IN MILES
PECOS
TERRELL
VALVERDE
SANDERSON
TO EL PASO
SEE MAP NO 16
KINNY
DEL RIO
SPOFFORD
SEE MAP NO. 19
TO SAN ANTONIO
BREWSTER
TEXAS, USA
MEXICO
MAVERICK
EAGLE PASS
N
17

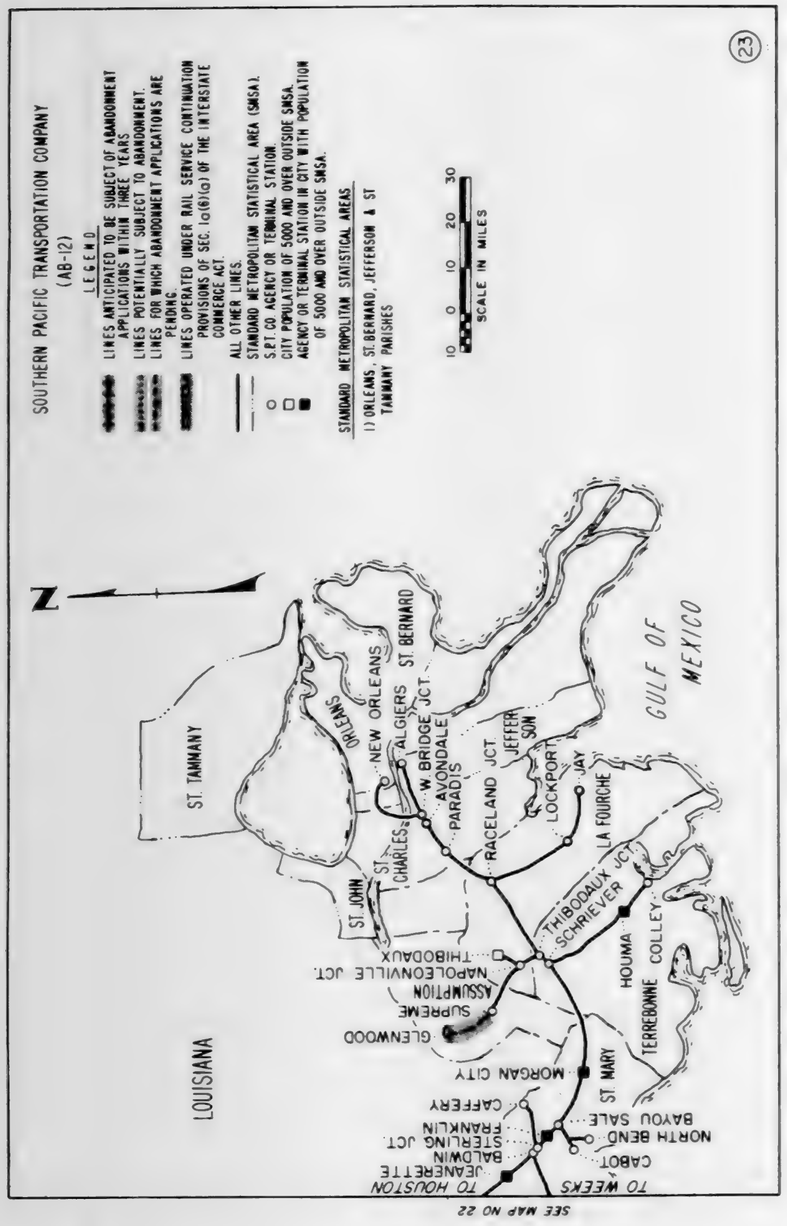

SEE MAP NO. 19
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) SAN PATRICIO COUNTY & NUECES COUNTY
2) HIDALGO COUNTY & CAMERON COUNTY
10 0 10 20 30
SCALE IN MILES
SOUTHERN PACIFIC TRANSPORTATION COMPANY
(AB-12)
TEXAS
N
TO SAN ANTONIO
LIVE OAK
MATHIS
SINTON
ROCKPORT
ARANSAS PASS
SAN PATRICIO
GREGORY
PORTLAND
CORPUS CHRISTI
JIM WELLS
NUECES
ALICE
GULF OF MEXICO
FALFURRIAS
BROOKS
EDINBURG YARD
EDINBURG JCT
EDINBURG
HIDALGO
McALLEN
HARLINGEN
CAMERON
BROWNSVILLE
18


SEE MAP NO. 20
STANDARD METROPOLITAN STATISTICAL AREAS
1) BEXAR COUNTY, COMAL COUNTY & GUADALOUPE COUNTY
2) HAYS COUNTY
3) SAN PATRICIO COUNTY
10 0 10 20 30
SCALE IN MILES
TEXAS
TO DALLAS
TO HOUSTON
CALDWELL
FLATONIA
WHARTON
WHARTON
NEWGULF
EL CAMPO
BAY CITY
HARWOOD
LAVACA
COMAL
GONZALES
JACKSON
SEGUIN
GONZALES
YOAKUM
MATAGORDA
GUADALUPE
EDNA
CAMP STANLEY
CUERO
VICTORIA
PALACIOS
ELMENDORF
SAN ANTONIO
DE WITT
VICTORIA
MEDINA
BEXAR
PORT LAVACA
WILSON
KARNES
CALHOUN
KENEDY
GOLIAD
UVALDE
HONDO
TO EL PASO
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS
LINES POTENTIALLY SUBJECT TO ABANDONMENT
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT
ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T. CO. AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
BEE
BEEVILLE
GULF OF MEXICO
SKIDMORE
ST PAUL
ROCKPORT
LIVE OAK
SINTON
ARANSAS PASS
MATHIS
SAN PATRICIO
GREGORY
PORTLAND
CORPUS CHRISTI
TO BROWNSVILLE
19
SEE MAP NO. 17
SEE MAP NO. 18


SEE MAP NO. 21
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T. CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) BRAZOS COUNTY
2) TRAVIS & HAYS COUNTIES
3) LIBERTY, MONTGOMERY, HARRIS, WALLER, FT. BEND, & BRAZORIA COUNTIES
10 0 10 20 30
SCALE IN MILES
TO DALLAS
MEXIA
TO SHREVEPORT
CORRIGAN
LIMESTONE
LIVINGSTON
POLK
KOSSE
TEXAS
FALLS
SAN JACINTO
ROBERTSON
ROSEBUD
BRAZOS
GRIMES
HEARNE
CLEVELAND
LIBERTY
BRYAN
MONTGOMERY
TO LAFAYETTE
QUINIF
CAMERON
MILAM
NAVASOTA
HARRIS
CALDWELL
BURLSON
HOUSTON
HARRIS-BURG JCT.
BURNET
WASHINGTON
WALLER
EUREKA
W PARK
WILLIAMSON
BRENHAM
WALLER
LEE
FORT BEND
WEST JCT.
SCOBEE
LLANO
AUSTIN
SUGARLAND
DEMARCO
TRAVIS
GIDDINGS
MARBLE FALLS
ROSENBURG
GUY JCT.
AUSTIN
SCHULENBURG
GLIDDEN
HELMS
EAGLE LAKE
NEEDVILLE
GUY
LLANO
BASTROP
FLATONIA
WHARTON
FAYETTE
SKULL CREEK
COLORADO
WHARTON
BRAZORIA
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
TO SAN ANTONIO
TO BROWNSVILLE
TO GALVESTON
20
SEE MAP NO 22
SEE MAP NO 19


LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T.CO AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
STANDARD METROPOLITAN STATISTICAL AREAS
1) GRAYSON COUNTY
2) COLLIN, DENTON, TARRANT, DALLAS, ROCKWALL, KAUFMAN, ELLIS & JOHNSON COUNTIES
SCALE IN MILES
PARIS
DENISON
LAMAR
GRAYSON
SHERMAN
FANNIN
COLLIN
DENTON
PLANO
ROCKWALL
GIFFORD
SOUMETHUN
BRIGGS
SEAGOVILLE
DALLAS
TARRANT
MILLER
DALLAS
FORT WORTH
KAUFMAN
ATHENS
JACKSONVILLE
ELLIS
GARRETT
HENDERSON
CUSHING
JOHNSON
ENNIS
NAVARRO
CHEROKEE
ANDERSON
CORSICANA
FREESTONE
MEXIA
LIMESTONE
TO HOUSTON
CADDO
SHREVEPORT
JORDAN
LOUISIANA
TEXAS
LOGANSPORT
DE SOTO
TEHAMA
RUSK
SHELBY
GARRISON
NACOG-DOCHES
BONITA JCT.
NACOGDOCHES
DUNAGAN
TO LOEB JCT.
PROSSER
LUFKIN
ANGELINA
CORRIGAN
21
SEE MAP NO. 20
SEE MAP NO. 22


SEE MAP NO. 21
TO SHREVEPORT
TO DUNAGAN
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
S.P.T. CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
CORRIGAN
TYLER
LIVINGSTON
POLK
WOODVILLE
SAN JACINTO
MONTGOMERY
HARDIN
CLEVELAND
LIBERTY
EUREKA
HOUSTON
HARRIS
DEVERS
BEAUMONT
DAYTON
HARRISBURG JCT.
BAYTOWN
CHAMBERS
STRANG
WEST PARK
WEST JCT.
GALVESTON
TEXAS CITY
BRAZORIA
TO SAN ANTONIO
SEE MAP NO. 20
LOEB JCT.
ORANGE
ORANGE
TEXAS
LOUISIANA
SULPHUR
LAKE CHARLES
WELSH
JENNINGS
MERMENTAU
MIDLAND
JEFFERSON
DAVIS
CALCASIEU
LAKE ARTHUR
KAPLAN
JEFFERSON
PORT ARTHUR
ABBEVILLE
VERMILION
GULF OF MEXICO
ALEXANDRIA
AVOYELLES
RAPIDES
CHENEYVILLE
EVANGELINE
ST. LANDRY
OPELOUSAS
EUNICE
ACADIA
CROWLEY
RAYNE
LAFAYETTE
ALEXANDRIA JCT.
ST. MARTIN
BREAUX BR
ST. MARTINVILLE
B-R JCT.
BROUSSARD
LAFAYETTE DEPOT
GUEYDAN
YOUNGSVILLE
NEW IBERIA
IBERIA
I&V JCT.
DAVIDS
PESSON
SALT MINE
JEANERETTE
BALDWIN
WEEKS
STERLING JCT.
FRANKLIN
CABOT
NORTH BEND
BAYOU SALE
CAFFERY
SEE MAP NO. 23
STANDARD METROPOLITAN STATISTICAL AREAS
1) LIBERTY, MONTGOMERY, HARRIS, & BRAZORIA COUNTIES, TEXAS.
2) GALVESTON COUNTY, TEXAS
3) HARDIN, ORANGE, & JEFFERSON COUNTIES, TEXAS
4) CALCASIEU PARISH, LA
5) LAFAYETTE PARISH, LA.
6) RAPIDES PARISH, LA.
SCALE IN MILES
SOUTHERN PACIFIC TRANSPORTATION COMPANY (AB-12)
22



SOUTHERN PACIFIC TRANSPORTATION COMPANY

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.21), the following is a description of lines of the Southern Pacific Transportation Company as shown on the system diagram map:

Lines Anticipated to be Subject of Abandonment Applications Within Three Years

OREGON

(1)(a) Designation of Line: Dallas Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Marion.
(d) Milepost Locations: 718.36 to 719.74 at or near Salem.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

CALIFORNIA

(1)(a) Designation of Line: Matheson Branch.
(b) States in which Located: California.
(c) Counties in which Located: Shasta.
(d) Milepost Locations: 263.2 at or near Kett to 267.2 at or near Matheson.
(e) Agency or Terminal Stations on the Line: Kett (milepost 263.2), Matheson (milepost 267.2).

(Map No. 4)

(2)(a) Designation of Line: Monterey Branch.
(b) States in which Located: California.
(c) Counties in which Located: Monterey.
(d) Milepost Locations: 123.30 at or near Seaside to 130.0 at or near Lake Majella.
(e) Agency or Terminal Stations on the Line: Seaside (milepost 123.3), Monterey (milepost 125.7), Lake Majella (milepost 130.0).

(Map No. 8)

(3)(a) Designation of Line:—San Ramon Branch.
(b) States in which Located: California.
(c) Counties in which Located: Contra Costa.
(d) Milepost Locations: 40.29 to 42.60 at or near Concord.
(e) Agency or Terminal Stations on the Line: Concord (milepost 42.5).

(Map No. 8)

(4)(a) Designation of Line: Stratford Branch.
(b) States in which Located: California.
(c) Counties in which Located: Kings.
(d) Milepost Locations: 263.438 at or near Rossi to 271.69 at or near Stratford.
(e) Agency or Terminal Stations on the Line: Stratford (milepost 271.1), Rossi (milepost 263.5).

(Map No. 9)

TEXAS

(1)(a) Designation of Line: Brownsville Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Jim Wells, Brooks.
(d) Milepost Locations: 40.9 at or near Alice to 80.2 at or near Falfurrias.
(e) Agency or Terminal Stations on the Line: Alice (milepost 43.2), Falfurrias (milepost 79.6).

(Map No. 18)

(2)(a) Designation of Line: Llano Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Burnet, Llano.
(d) Milepost Locations: 74.0 at or near Scobee to 99.07 at or near Llano.
(e) Agency or Terminal Stations on the Line: Llano (milepost 98.8).

(Map No. 20)

(3)(a) Designation of Line: Soumethun Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Dallas.
(d) Milepost Locations: 269.813 to 269.156 at or near Soumethun.
(e) Agency or Terminal Stations on the Line: Soumethun (milepost 269.4).

(Map No. 21)

Lines for Which Abandonment Applications are Pending Before the Interstate Commerce Commission

OREGON

(1)(a) Designation of Line: Dallas Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Polk.
(d) Milepost Locations: 721.41 at or near Winona to 729.01 at or near Gerlinger.
(e) Agency or Terminal Stations on the Line: Winona (milepost 722.6).

(Map No. 1)

(2)(a) Designation of Line: Woodburn—Springfield Branch.
(b) States in which Located. Oregon.
(c) Counties in which Located: Marion, Linn.
(d) Milepost Locations: 704.68 at or near Shelburn to 708.11 at or near West Stayton.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

(3)(a) Designation of Line: Woodburn—Springfield Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Lane, Linn.
(d) Milepost Locations: 644.889 at or near Springfield to 669.800 at or near Brownsville.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

(4)(a) Designation of Line: Fall Creek Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Lane.
(d) Milepost Locations: 610.49 at or near Fall Creek Junction to 608.35 at or near Fall Creek.
(e) Agency or Terminal Stations on the Line: Fall Creek (milepost 608.4).

(Map No. 2)

CALIFORNIA

(1)(a) Designation of Line: Westwood Branch.
(b) States in which Located: California.
(c) Counties in which Located: Lassen.
(d) Milepost Locations: 381.900 at or near Susanville to 412.433 at or near Westwood.
(e) Agency or Terminal Stations on the Line: Westwood (milepost 411.3).

(Map No. 4)

(2)(a) Designation of Line: Stirling City Branch.
(b) States in which Located: California.
(c) Counties in which Located: Butte.
(d) Milepost Locations: 189.00 at or near Butte Creek to 215.462 at or near Stirling City.
(e) Agency or Terminal Stations on the Line: Stirling City (milepost 215.4).

(Map No. 4)

(3)(a) Designation of Line: Colusa Branch.
(b) States in which Located: California.
(c) Counties in which Located: Glenn.
(d) Milepost Locations: 169.0 at or near Hamilton to 161.7 at or near Ordbend.
(e) Agency or Terminal Stations on the Line: Ordbend (milepost 162.1).

(Map No. 4)

(4)(a) Designation of Line: Fair Oaks Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 104.37 at or near Citrus to 106.36 at or near Fair Oaks.
(e) Agency or Terminal Stations on the Line: Fair Oaks (milepost 106.3).

(Map No. 8)

(5)(a) Designation of Line: "R" Street Line.
(b) State in which Located: California.
(c) Counties in which Located Sacramento.
(d) Milepost Locations: 89.592 to 91.225 at or near Sacramento.
(e) Agency or Terminal Stations in the Line: None.

(Map No. 8)

(6)(a) Designation of Line: Walnut Grove Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 91.10 at or near Sacramento to 104.96 at or near Hood.
(e) Agency or Terminal Stations on the Line: Hood Junction (milepost 104.6), Hood (milepost 105.3 (on spur from Hood Jct.).)

(Map No. 8)

(7)(a) Designation of Line: Walnut Grove Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 104.96 at or near Hood Junction to 122.11 at or near Isleton.
(e) Agency or Terminal Stations on the Line: Isleton (milepost 121.9).

(Map No. 8)

(8)(a) Designation of Line: San Ramon Branch.
(b) States in which Located: California.
(c) Counties in which Located: Contra Costa, Alameda.
(d) Milepost Locations: 42.60 at or near Concord to 62.10 at or near Dougherty.
(e) Agency or Terminal Stations on the Line: Nonc.

(Map No. 8)

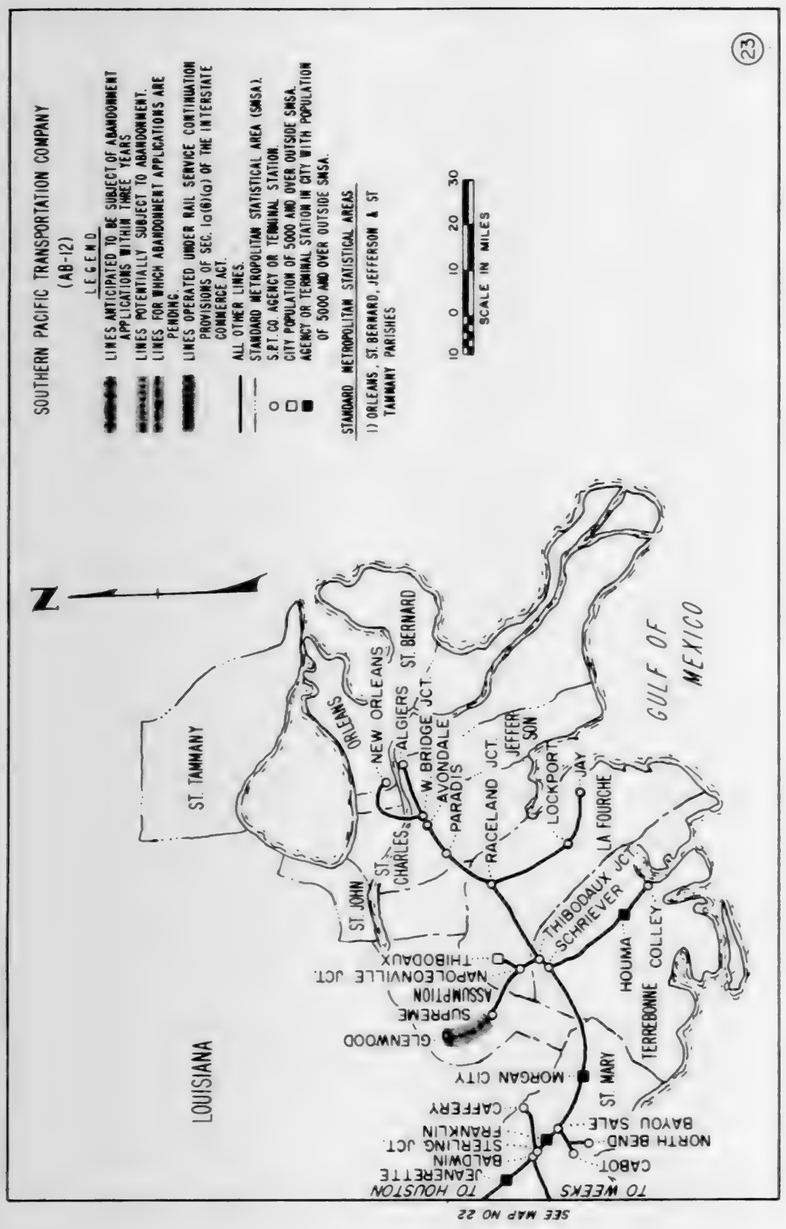
(9)(a) Designation of Line: San Bruno Branch.
(b) States in which Located: California.
(c) Counties in which Located: San Matec.
(d) Milepost Locations: 7.39 at or near Daly City to 10.80 at or near Baden.
(e) Agency or Terminal Stations on the Line: Daly City (milepost 7.4).

(Map No. 8)

(10) (a) Designation of Line: Oakdale Branch.
(b) States in which Located: California.
(c) Counties in which Located: Stanislaus.
(d) Milepost Locations: 127.02 at or near Claribel to 140.29 at or near Montpellier.
(e) Agency or Terminal Stations on the Line: Montpellier (milepost 139.8).

(Map No. 8)

(11) (a) Designation of Line: Lick Branch.
(b) States in which Located: California.
(c) Counties in which Located: Santa Clara.
(d) Milepost Locations: 55.24 at or near Lick to 58.97 at or near Alamitos.
(e) Agency or Terminal Stations on the Line: Alamitos (milepost 58.9).



SOUTHERN PACIFIC TRANSPORTATION COMPANY

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.21), the following is a description of lines of the Southern Pacific Transportation Company as shown on the system diagram map:

Lines Anticipated to be Subject of Abandonment Applications Within Three Years

OREGON

(1)(a) Designation of Line: Dallas Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Marion.
(d) Milepost Locations: 718.36 to 719.74 at or near Salem.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

CALIFORNIA

(1)(a) Designation of Line: Matheson Branch.
(b) States in which Located: California.
(c) Counties in which Located: Shasta.
(d) Milepost Locations: 263.2 at or near Kett to 267.2 at or near Matheson.
(e) Agency or Terminal Stations on the Line: Kett (milepost 263.2), Matheson (milepost 267.2).

(Map No. 4)

(2)(a) Designation of Line: Monterey Branch.
(b) States in which Located: California.
(c) Counties in which Located: Monterey.
(d) Milepost Locations: 123.30 at or near Seaside to 130.0 at or near Lake Majella.
(e) Agency or Terminal Stations on the Line: Seaside (milepost 123.3), Monterey (milepost 125.7), Lake Majella (milepost 130.0).

(Map No. 8)

(3)(a) Designation of Line:—San Ramon Branch.
(b) States in which Located: California.
(c) Counties in which Located: Contra Costa.
(d) Milepost Locations: 40.29 to 42.60 at or near Concord.
(e) Agency or Terminal Stations on the Line: Concord (milepost 42.5).

(Map No. 8)

(4)(a) Designation of Line: Stratford Branch.
(b) States in which Located: California.
(c) Counties in which Located: Kings.
(d) Milepost Locations: 263.438 at or near Rossi to 271.69 at or near Stratford.
(e) Agency or Terminal Stations on the Line: Stratford (milepost 271.1), Rossi (milepost 263.5).

(Map No. 9)

TEXAS

(1)(a) Designation of Line: Brownsville Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Jim Wells, Brooks.
(d) Milepost Locations: 40.9 at or near Alice to 80.2 at or near Falfurrias.
(e) Agency or Terminal Stations on the Line: Alice (milepost 43.2), Falfurrias (milepost 79.6).

(Map No. 18)

(2)(a) Designation of Line: Llano Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Burnet, Llano.
(d) Milepost Locations: 74.0 at or near Scobee to 99.07 at or near Llano.
(e) Agency or Terminal Stations on the Line: Llano (milepost 98.8).

(Map No. 20)

(3)(a) Designation of Line: Soumethun Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Dallas.
(d) Milepost Locations: 269.813 to 269.156 at or near Soumethun.
(e) Agency or Terminal Stations on the Line: Soumethun (milepost 269.4).

(Map No. 21)

Lines for Which Abandonment Applications are Pending Before the Interstate Commerce Commission

OREGON

(1)(a) Designation of Line: Dallas Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Polk.
(d) Milepost Locations: 721.41 at or near Winona to 729.01 at or near Gerlinger.
(e) Agency or Terminal Stations on the Line: Winona (milepost 722.6).

(Map No. 1)

(2)(a) Designation of Line: Woodburn—Springfield Branch.
(b) States in which Located. Oregon.
(c) Counties in which Located: Marion, Linn.
(d) Milepost Locations: 704.68 at or near Shelburn to 708.11 at or near West Stayton.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

(3)(a) Designation of Line: Woodburn—Springfield Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Lane, Linn.
(d) Milepost Locations: 644.889 at or near Springfield to 669.800 at or near Brownsville.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 1)

(4)(a) Designation of Line: Fall Creek Branch.
(b) States in which Located: Oregon.
(c) Counties in which Located: Lane.
(d) Milepost Locations: 610.49 at or near Fall Creek Junction to 608.35 at or near Fall Creek.
(e) Agency or Terminal Stations on the Line: Fall Creek (milepost 608.4).

(Map No. 2)

CALIFORNIA

(1)(a) Designation of Line: Westwood Branch.
(b) States in which Located: California.
(c) Counties in which Located: Lassen.
(d) Milepost Locations: 381.900 at or near Susanville to 412.433 at or near Westwood.
(e) Agency or Terminal Stations on the Line: Westwood (milepost 411.3).

(Map No. 4)

(2)(a) Designation of Line: Stirling City Branch.
(b) States in which Located: California.
(c) Counties in which Located: Butte.
(d) Milepost Locations: 189.00 at or near Butte Creek to 215.462 at or near Stirling City.
(e) Agency or Terminal Stations on the Line: Stirling City (milepost 215.4).

(Map No. 4)

(3)(a) Designation of Line: Colusa Branch.
(b) States in which Located: California.
(c) Counties in which Located: Glenn.
(d) Milepost Locations: 169.0 at or near Hamilton to 161.7 at or near Ordbend.
(e) Agency or Terminal Stations on the Line: Ordbend (milepost 162.1).

(Map No. 4)

(4)(a) Designation of Line: Fair Oaks Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 104.37 at or near Citrus to 106.36 at or near Fair Oaks.
(e) Agency or Terminal Stations on the Line: Fair Oaks (milepost 106.3).

(Map No. 8)

(5)(a) Designation of Line: "R" Street Line.
(b) State in which Located: California.
(c) Counties in which Located Sacramento.
(d) Milepost Locations: 89.592 to 91.225 at or near Sacramento.
(e) Agency or Terminal Stations in the Line: None.

(Map No. 8)

(6)(a) Designation of Line: Walnut Grove Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 91.10 at or near Sacramento to 104.96 at or near Hood.
(e) Agency or Terminal Stations on the Line: Hood Junction (milepost 104.6), Hood (milepost 105.3 (on spur from Hood Jct.).)

(Map No. 8)

(7)(a) Designation of Line: Walnut Grove Branch.
(b) States in which Located: California.
(c) Counties in which Located: Sacramento.
(d) Milepost Locations: 104.96 at or near Hood Junction to 122.11 at or near Isleton.
(e) Agency or Terminal Stations on the Line: Isleton (milepost 121.9).

(Map No. 8)

(8)(a) Designation of Line: San Ramon Branch.
(b) States in which Located: California.
(c) Counties in which Located: Contra Costa, Alameda.
(d) Milepost Locations: 42.60 at or near Concord to 62.10 at or near Dougherty.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 8)

(9)(a) Designation of Line: San Bruno Branch.
(b) States in which Located: California.
(c) Counties in which Located: San Matec.
(d) Milepost Locations: 7.39 at or near Daly City to 10.80 at or near Baden.
(e) Agency or Terminal Stations on the Line: Daly City (milepost 7.4).

(Map No. 8)

(10) (a) Designation of Line: Oakdale Branch.
(b) States in which Located: California.
(c) Counties in which Located: Stanislaus.
(d) Milepost Locations: 127.02 at or near Claribel to 140.29 at or near Montpellier.
(e) Agency or Terminal Stations on the Line: Montpellier (milepost 139.8).

(Map No. 8)

(11) (a) Designation of Line: Lick Branch.
(b) States in which Located: California.
(c) Counties in which Located: Santa Clara.
(d) Milepost Locations: 55.24 at or near Lick to 58.97 at or near Alamitos.
(e) Agency or Terminal Stations on the Line: Alamitos (milepost 58.9).

(Map No. 8)

(12) (a) Designation of Line: Biola Branch.
(b) States in which Located: California.
(c) Counties in which Located: Fresno.
(d) Milepost Locations: 208.617 at or near Biola Junction to 199.934 at or near Biola.
(e) Agency or Terminal Stations on the Line: Biola (milepost 200.5).

(Map No. 8)

(13) (a) Designation of Line: Clovis Branch.
(b) States in which Located: California.
(c) Counties in which Located: Fresno.
(d) Milepost Locations: 223.15 at or near Copper Avenue to 225.77 at or near Rockfield.
(e) Agency or Terminal Stations on the Line: Rockfield (milepost 225.7).

(Map No. 8)

(14) (a) Designation of Line: Riverdale Branch.
(b) States in which Located: California.
(c) Counties in which Located: Fresno.
(d) Milepost Locations: 208.73 at or near Burrell to 214.85 at or near Riverdale.
(e) Agency or Terminal Stations on the Line: Riverdale (milepost 214.6).

(Map No. 9)

(15) (a) Designation of Line: West Los Angeles Branch.
(b) States in which Located: California.
(c) Counties in which Located: Los Angeles.
(d) Milepost Locations: 501.62 at or near Westwood Siding to 502.84 at or near Beverly Hills.
(e) Agency or Terminal Stations on the Line: Beverly Hills (milepost 502.5).

(Map No. 10)

(16) (a) Designation of Line: Alla Branch.
(b) States in which Located: California.
(c) Counties in which Located: Los Angeles.
(d) Milepost Locations: 498.017 at or near Alla to 495.385 at or near Venice.
(e) Agency or Terminal Stations on the Line: Venice (milepost 495.385).

(Map No. 10)

(17) (a) Designation of Line: Alla Branch.
(b) States in which Located: California.
(c) Counties in which Located: Los Angeles.
(d) Milepost Locations: 494.249 at or near Culver Junction to 498.017 at or near Alla.
(e) Agency or Terminal Stations on the Line: Alla (milepost 498.1).

(Map No. 10)

(18) (a) Designation of Line: Inglewood Branch.
(b) States in which Located: California.
(c) Counties in which Located: Los Angeles.
(d) Milepost Locations: 498.112 at or near Alla to 502.200 at or near Inglewood.
(e) Agency or Terminal Stations on the Line: Inglewood (milepost 502).

(Map No. 10)

(19) (a) Designation of Line: West Santa Ana.
(b) States in which Located: California.
(c) Counties in which Located: Orange.
(d) Milepost Locations: 507.811 at or near North Stanton to 514.965 at or near West Santa Ana.
(e) Agency or terminal Stations on the Line: West Santa Ana (milepost 514.9), North Stanton (milepost 508.0).

(Map No. 10)

(20) (a) Designation of Line: Tustin Branch.
(b) States in which Located: California.
(c) Counties in which Located: Orange.
(d) Milepost Locations: 516.655 at or near Villa Park to 522.408 at or near Tustin.
(e) Agency or Terminal Stations on the Line: Villa Park (milepost 516.7), Tustin (milepost 522.4).

(Map No. 10)

(21) (a) Designation of Line: Stanton Branch.
(b) States in which Located: California.
(c) Counties in which Located: Orange.
(d) Milepost Locations: 522.56 at or near Wiebling to 524.65 at or near Huntington Beach.
(e) Agency or Terminal Stations on the Line: Huntington Beach (milepost 524.5).

(Map No. 10)

(22) (a) Designation of Line: San Bernardino Branch.
(b) States in which Located: California.
(c) Counties in which Located: San Bernardino.
(d) Milepost Locations: 542.09 at or near San Bernardino to 549.37 at or near North Redlands
(e) Agency or Terminal Stations on the Line: North Redlands (milepost 549.2).

(Map No. 10)

(23) (a) Designation of Line: Redlands Branch.
(b) States in which Located: California.
(c) Counties in which Located: San Bernardino.
(d) Milepost Locations: 547.86 at or near Redlands (2nd Street) to 551.57 at or near Crafton.
(e) Agency or Terminal Stations on the Line: Redlands (2nd Street) (milepost 547.86), Crafton (milepost 551.4).

(Map No. 10)

NEVADA

(1) (a) Designation of Line: Fallon Branch.
(b) States in which Located: Nevada.
(c) Counties in which Located: Churchill.
(d) Milepost Locations: 288.713 at or near Hazen to 304.561 at or near Fallon.
(e) Agency or Terminal Stations on the Line: Fallon (milepost 303.9).

(Map No. 7)

ARIZONA

(1) (a) Designation of Line: Litchfield Branch.
(b) States in which Located: Arizona.
(c) Counties in which Located: Maricopa.
(d) Milepost Locations: 892.25 to 894.26 at or near Litchfield Park.
(e) Agency or Terminal Stations on the Line: Litchfield Park (milepost 894.0).

(Map No. 12 and 13)

(2) (a) Designation of Line: Globe Branch.
(b) States in which Located: Arizona.
(c) Counties in which Located: Gila.
(d) Milepost Locations: 1232.57 to 1232.98 at or near Miami.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 13)

(3) (a) Designation of Line: Fort Huachuca Branch.
(b) State in which Located: Arizona.
(c) County in which Located: Cochise.
(d) Milepost Locations: 1058.77 at or near Lewis Springs to 1070.99 at or near Fort Huachuca.
(e) Agency or Terminal Stations on the Line: Lewis Springs (milepost 1058.8), Fort Huachuca (milepost 1070.8).

(Map No. 13)

TEXAS

(1) (a) Designation of Line: Brownsville Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Brooks, Hidalgo.
(d) Milepost Locations: 80.2 at or near Falfurrias to 138.9 at or near Edinburg.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 18)

(2) (a) Designation of Line: Beeville Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Bee, San Patricio, Jim Wells.
(d) Milepost Locations: 1.0 at or near Skidmore to 40.9 at or near Alice.
(e) Agency or Terminal Stations on the Line: Mathis (milepost 14.1).

(Map No. 18 and 19)

(3) (a) Designation of Line: Beeville Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Victoria, Goliad, Bee.
(d) Milepost Locations: 93.7 at or near Victoria to 145.0 at or near Beeville.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 19)

(4) (a) Designation of Line: Cameron Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Falls, Milam.
(d) Milepost Locations: 119.7 at or near Quinif to 133.70 at or near Rosebud.
(e) Agency or Terminal Stations on the Line: Rosebud (milepost 133.3).

(Map No. 20)

(5) (a) Designation of Line: Austin Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Washington, Lee, Fayette.
(d) Milepost Locations: 20.86 at or near Brenham to 55.78 at or near Giddings.
(e) Agency or Terminal Stations on the Line: Brenham (milepost 21.0).

(Map No. 20)

(6) (a) Designation of Line: Athens Branch.
(b) State in which Located: Texas.
(c) Counties in which Located: Dallas, Kaufman, Henderson, Anderson, Cherokee.
(d) Milepost Locations: 298.70 at or near Seagoville to 203.43 at or near Jacksonville.
(e) Agency or Terminal Stations on the Line: Athens (milepost 243.0).

(Map No. 21)

(7) (a) Designaiton of Line: Jacksonville Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: Cherokee, Rusk, Nacogdoches.
(d) Milepost Locations: 203.43 at or near Jacksonville to 154.56 at or near Bonita Junction.
(e) Agency or Terminal Stations on the Line: Jacksonville (milepost 201.2), Cushing (milepost 172.1), Bonita Junction (milepost 154.6).

(Map No. 21)

LOUISIANA

(1) (a) Designation of Line: Midland Branch.
(b) States in which Located: Louisiana.
(c) Counties in which Located: Vermilion, St. Landry, Acadia.
(d) Milepost Locations: 31.0 at or near Kaplan to 80.56 at or near Eunice.
(e) Agency or Terminal Stations on the Line: Eunice (milespost 79.4), Gueydan (milepost 45.3).

(Map No. 22)

(2) (a) Designation of Line: Napoleonville Branch.
(b) States in which Located: Louisiana.
(c) Counties in which Located: Assumption.
(d) Milepost Locations: 15.28 at or near Supreme to 23.14 at or near Glenwood.
(e) Agency or Terminal Stations on the Line: Glenwood (milepost 22.9).

(Map No. 23)

[FR Doc.77-13936 Filed 5-17-77;8:45 am]

[AB 39 (SDM)]

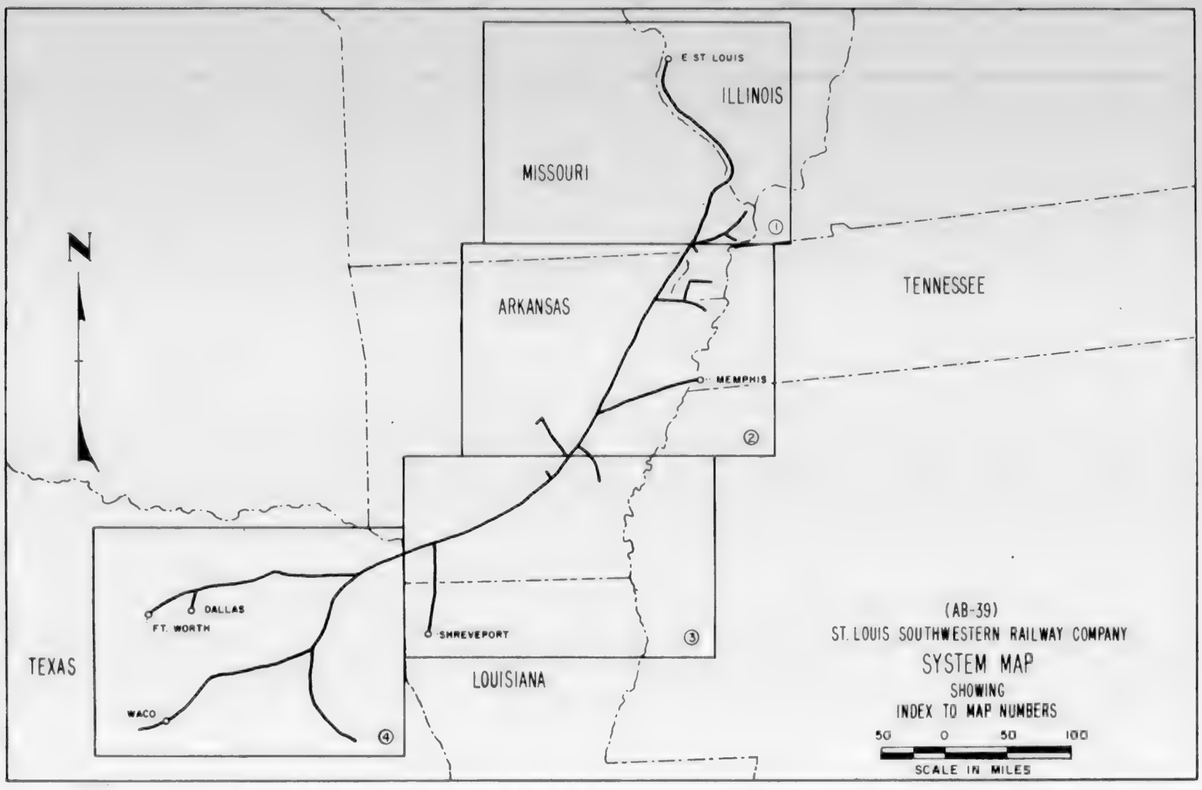
ST. LOUIS SOUTHWESTERN RAILWAY CO.

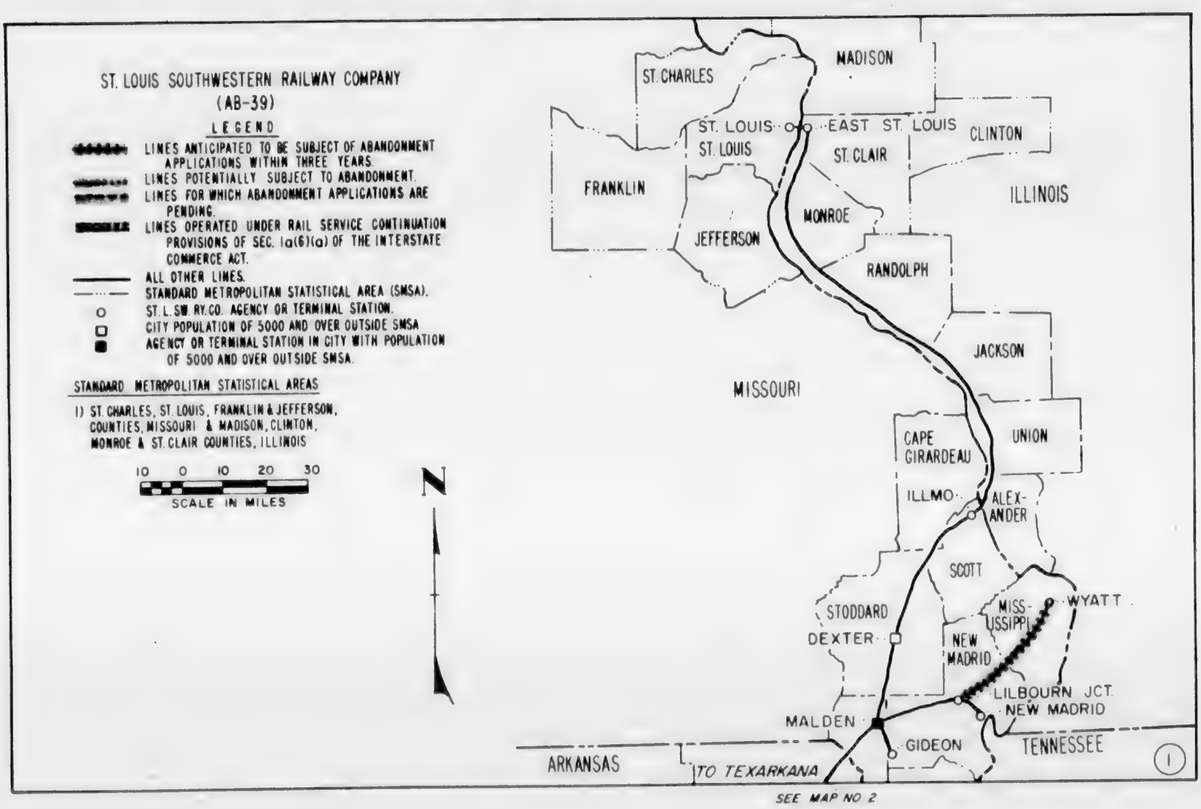
System Diagram Map

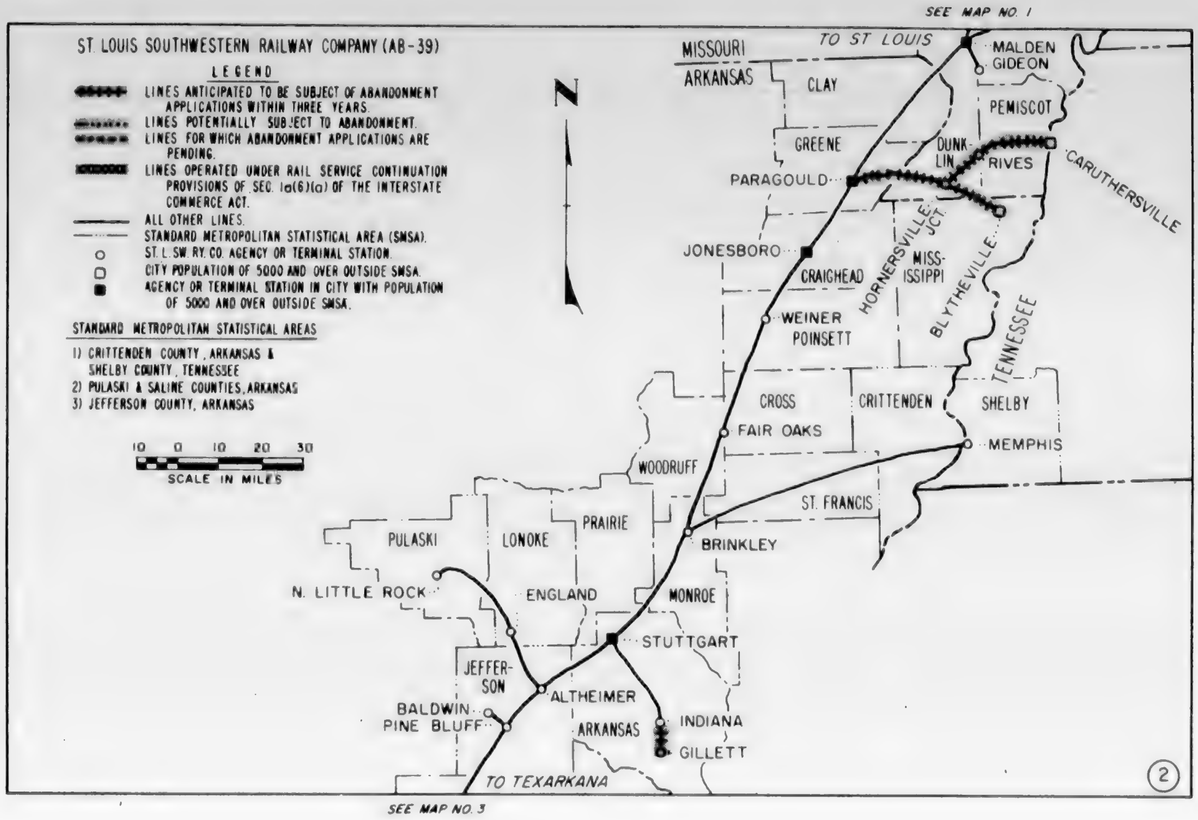
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the St. Louis Southwestern Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB-39 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

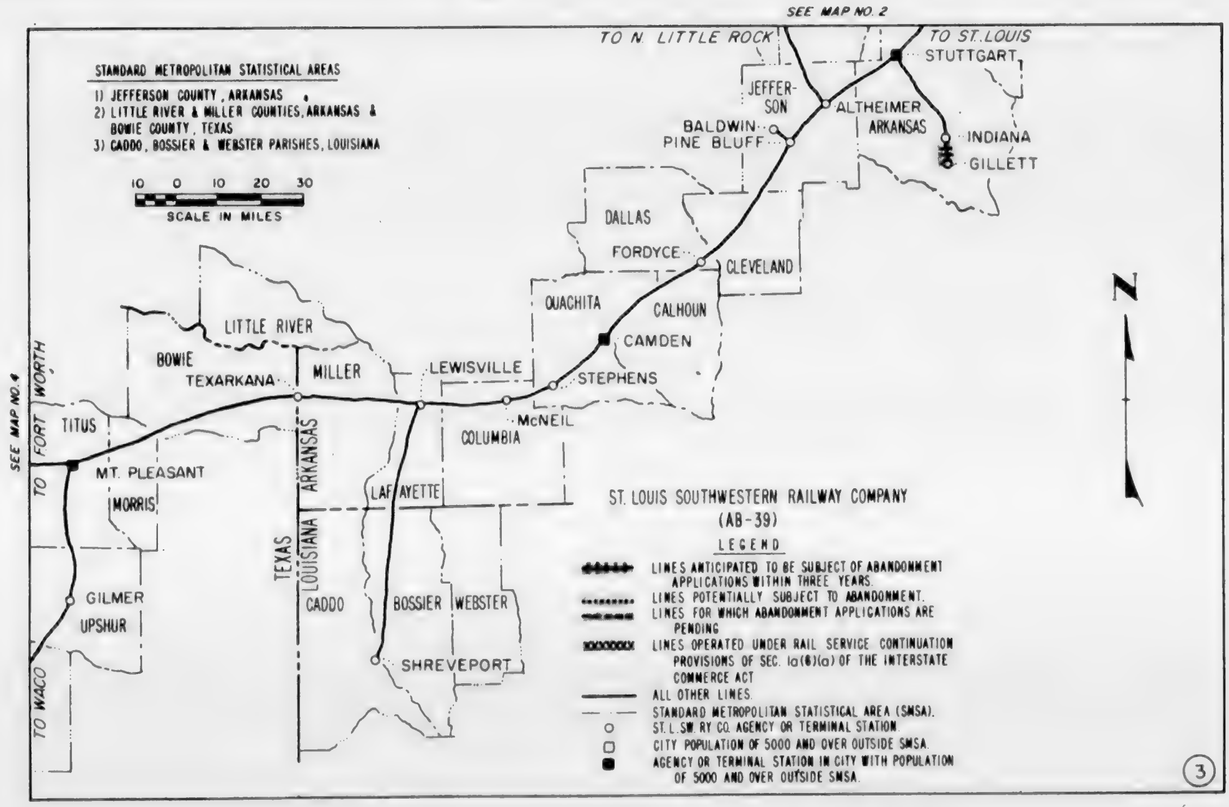
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 39 (SDM).

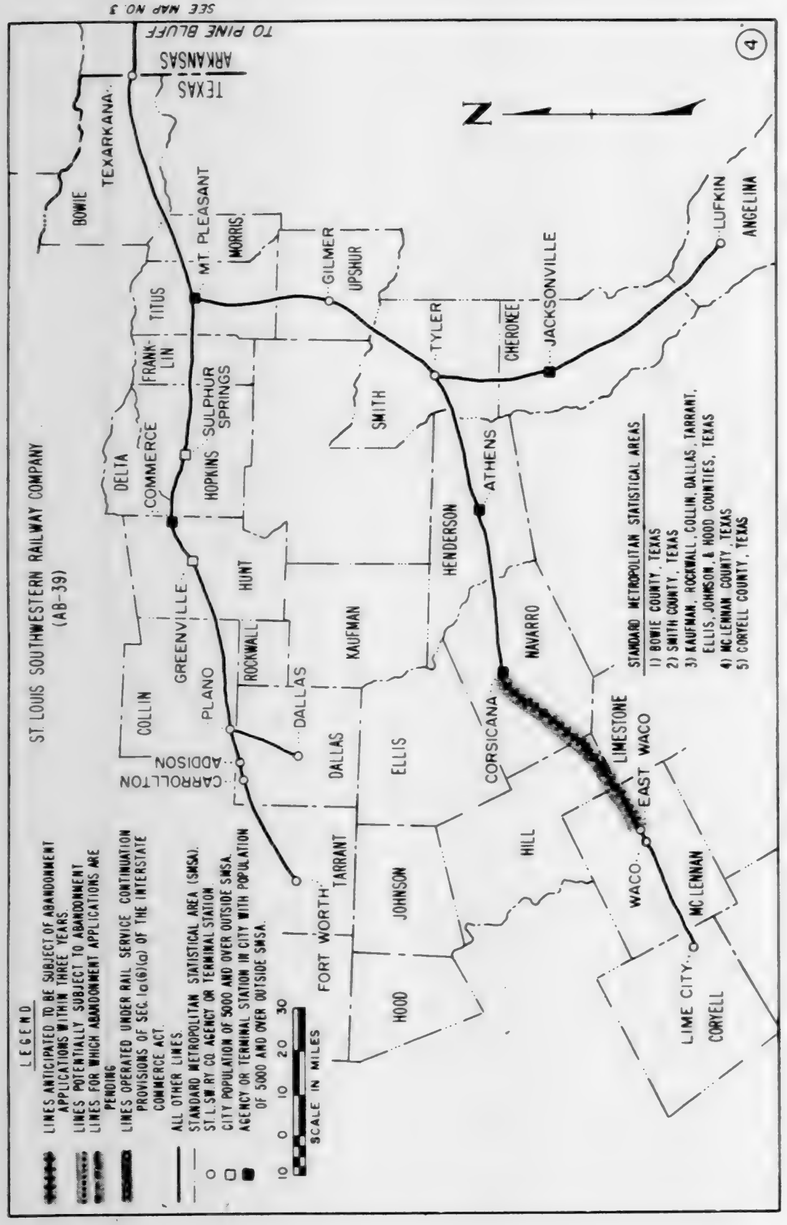
ROBERT L. OSWALD,
Secretary.


E ST LOUIS
ILLINOIS
MISSOURI
ARKANSAS
TENNESSEE
MEMPHIS
DALLAS
FT. WORTH
SHREVEPORT
TEXAS
LOUISIANA
WACO
(AB-39)
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
SYSTEM MAP
SHOWING
INDEX TO MAP NUMBERS
50 0 50 100
SCALE IN MILES


ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
(AB-39)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
ST. L. SW RY.CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) ST. CHARLES, ST. LOUIS, FRANKLIN & JEFFERSON, COUNTIES, MISSOURI & MADISON, CLINTON, MONROE & ST. CLAIR COUNTIES, ILLINOIS
10 0 10 20 30
SCALE IN MILES
MADISON
ST. CHARLES
ST. LOUIS
ST. LOUIS
EAST ST. LOUIS
CLINTON
ST. CLAIR
FRANKLIN
ILLINOIS
MONROE
JEFFERSON
RANDOLPH
JACKSON
MISSOURI
CAPE GIRARDEAU
UNION
ILLMO
ALEX-ANDER
SCOTT
STODDARD
MISS-ISSIPPI
WYATT
DEXTER
NEW MADRID
LILBOURN JCT
NEW MADRID
MALDEN
GIDEON
TENNESSEE
ARKANSAS
TO TEXARKANA
SEE MAP NO 2


ST LOUIS SOUTHWESTERN RAILWAY COMPANY (AB-39)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
ST. L. SW. RY. CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) CRITTENDEN COUNTY, ARKANSAS & SHELBY COUNTY, TENNESSEE
2) PULASKI & SALINE COUNTIES, ARKANSAS
3) JEFFERSON COUNTY, ARKANSAS
10 0 10 20 30
SCALE IN MILES
SEE MAP NO. 1
TO ST LOUIS
MISSOURI
ARKANSAS
MALDEN
GIDEON
CLAY
PEMISCOT
GREENE
DUNKLIN
RIVES
CARUTHERSVILLE
PARAGOULD
JONESBORO
CRAIGHEAD
HORNERSVILLE JCT.
MISSISSIPPI
BLYTHEVILLE
TENNESSEE
WEINER
POINSETT
CROSS
CRITTENDEN
SHELBY
FAIR OAKS
MEMPHIS
WOODRUFF
ST. FRANCIS
PRAIRIE
PULASKI
LONOKE
BRINKLEY
N. LITTLE ROCK
ENGLAND
MONROE
STUTTGART
JEFFERSON
ALTHEIMER
BALDWIN
PINE BLUFF
ARKANSAS
INDIANA
GILLETT
TO TEXARKANA
SEE MAP NO. 3
2


STANDARD METROPOLITAN STATISTICAL AREAS
1) JEFFERSON COUNTY, ARKANSAS
2) LITTLE RIVER & MILLER COUNTIES, ARKANSAS & BOWIE COUNTY, TEXAS
3) CADDO, BOSSIER & WEBSTER PARISHES, LOUISIANA
10 0 10 20 30
SCALE IN MILES
SEE MAP NO. 2
TO N. LITTLE ROCK
TO ST. LOUIS
STUTTGART
JEFFERSON
ALTHEIMER
BALDWIN
PINE BLUFF
ARKANSAS
INDIANA
GILLETT
DALLAS
FORDYCE
CLEVELAND
OUACHITA
CALHOUN
CAMDEN
LITTLE RIVER
BOWIE
TEXARKANA
MILLER
LEWISVILLE
STEPHENS
McNEIL
COLUMBIA
SEE MAP NO. 4
TO FORT WORTH
TITUS
MT. PLEASANT
MORRIS
ARKANSAS
LAFAYETTE
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
(AB-39)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
ST. L. SW. RY. CO. AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
TEXAS
LOUISIANA
CADDO
BOSSIER
WEBSTER
GILMER
UPSHUR
SHREVEPORT
TO WACO
3



ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.21), the following is a description of lines of the St. Louis Southwestern Railway Company as shown on the system diagram map:

Lines Anticipated to be Subject of Abandonment Applications Within Three Years

MISSOURI

(1) (a) Designation of Line: Wyatt Branch.
(b) States in which Located: Missouri.
(c) Counties in which Located: New Madrid, Mississippi.
(d) Milepost Locations: 5.52 at or near Wyatt to 37.21 at or near Lilbourn Junction.
(e) Agency or Terminal Stations on the Line: Wyatt (milepost 5.9).

(Map No. 1)

(2) (a) Designation of Line: Caruthersville Branch.
(b) States in which Located: Missouri.
(c) Counties in which Located: Dunklin, Pemiscot.
(d) Milepost Locations: "W–99.04 at or near Hornersville Junction to "R"–98.95 at or near Caruthersville.
(e) Agency or Terminal Stations on the Line: Rives (milepost "W"–93.4), Caruthersville (milepost "R"–98.95).

(Map No. 2)

(3) (a) Designation of Line: Blytheville Branch.
(b) States in which Located: Arkansas, Missouri.
(c) Counties in which Located: Greene, Mississippi (in Arkansas); Dunklin, (in Missouri).
(d) Milepost Locations: "P"–103.0 at or near Paragould to "P"–140.33 at or near Blytheville.
(e) Agency or Terminal Stations on the Line: Hornersville Junction (milepost "P"–125.8), Blytheville (milepost "P"–140.1).

(Map No. 2)

ARKANSAS

(1) (a) Designation of Line: Blytheville Branch.
(b) States in which Located: Arkansas, Missouri.
(c) Counties in which Located: Greene, Mississippi (in Arkansas); Dunklin, (in Missouri).
(d) Milepost Locations: "P"–103.0 at or near Paragould to "P"–140.33 at or near Blytheville.
(e) Agency or Terminal Stations on the Line: Hornersville Junction (milepost "P"–125.8), Blytheville (milepost "P"–140.1).

(Map No. 2)

(2) (a) Designation of Line: Gillett Branch.
(b) States in which Located: Arkansas.
(c) Counties in which Located: Arkansas.
(d) Milepost Locations: 262.0 at or near Indiana to 268.10 at or near Gillett.
(e) Agency or Terminal Stations on the Line: Gillett (milepost 267.8).

(Map No. 2 and 3)

TEXAS

(1) (a) Designation of Line: Gatesville Branch.
(b) States in which Located: Texas.
(c) Counties in which Located: McClennan, Hill, Limestone, Navarro.
(d) Milepost Locations: 621.70 at or near Corsicana to 674.06 at or near East Waco.
(e) Agency or Terminal Stations on the Line: None.

(Map No. 4)

[FR Doc.77-13946 Filed 5-17-77;8:45 am]

[AB 170 (SDM)]

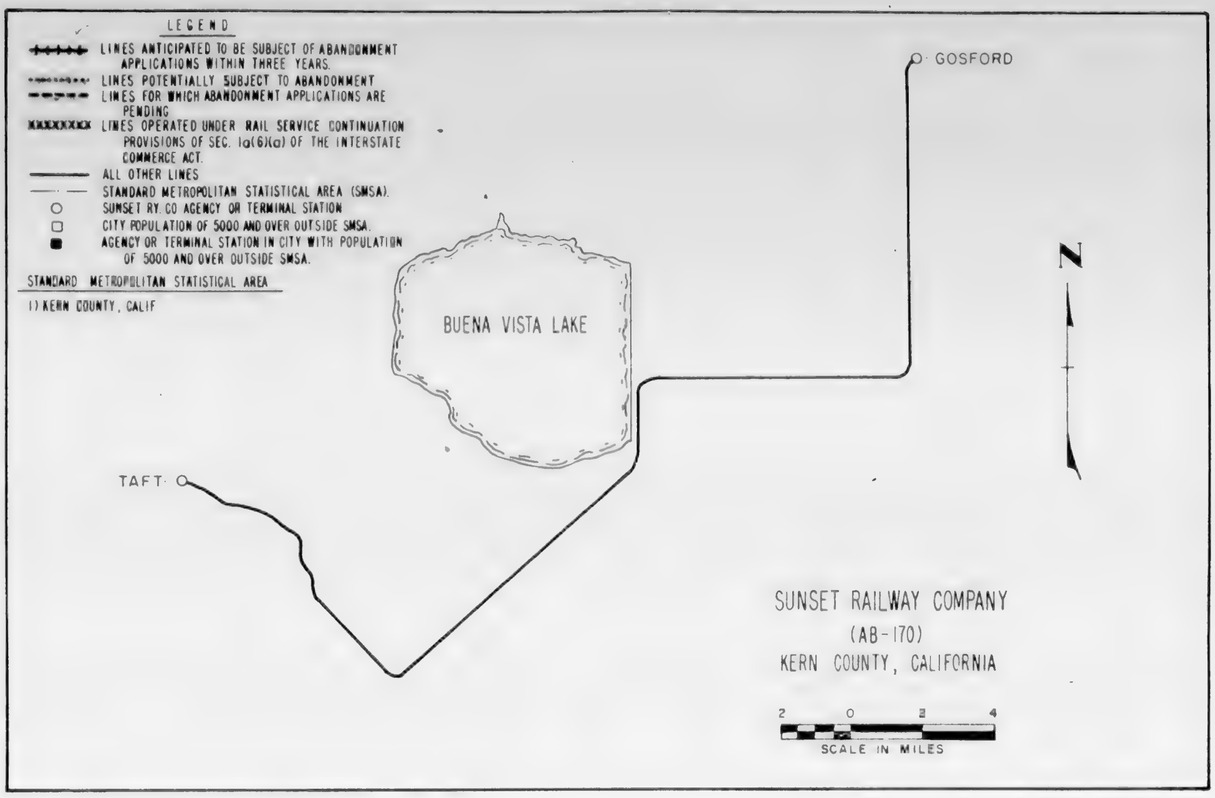
SUNSET RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Sunset Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB–170 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–170 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13943 Filed 5-17-77;8:45 am]

[AB 154 (SDM)]

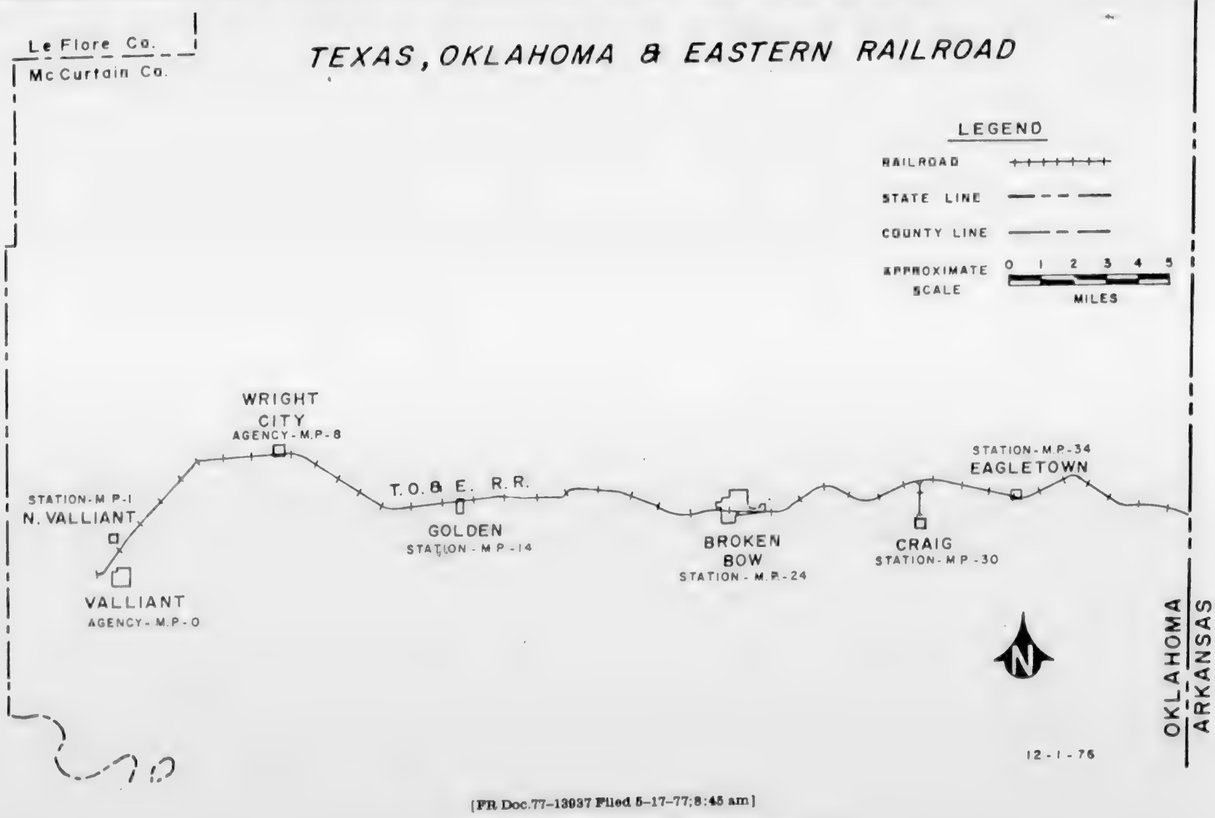
TEXAS, OKLAHOMA & EASTERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Texas, Oklahoma & Eastern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB-154 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB-154 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13937 Filed 5-17-77;8:45 am]

[AB 183 (SDM)]

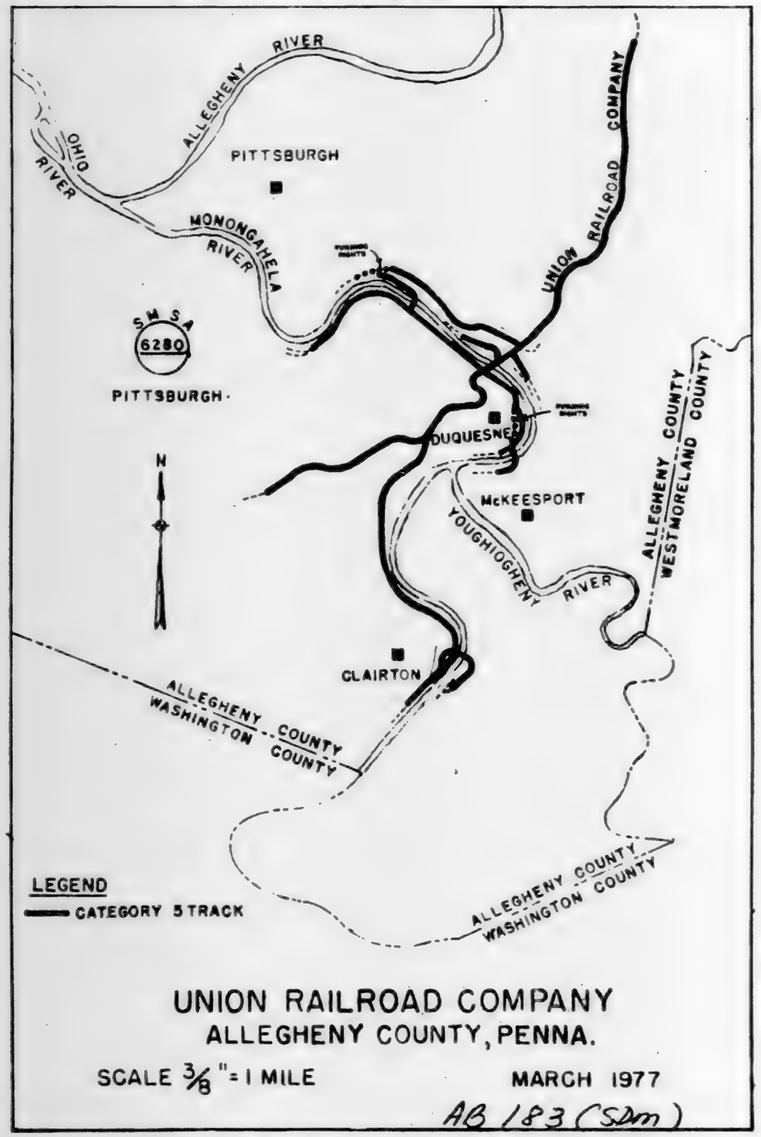
UNION RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Union Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 183 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 183 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13942 Filed 5-17-77;8:45 am]

[AB 17 (SDM)]

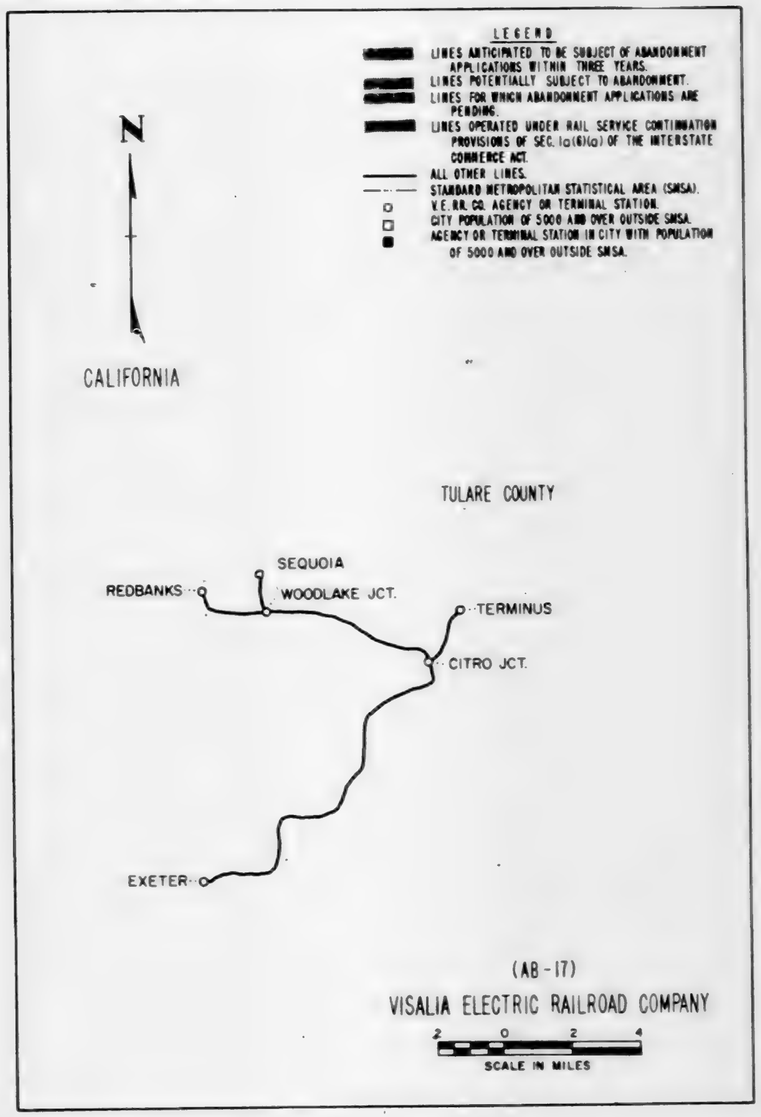
VISALIA ELECTRIC RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulation, Part 1121.22, that the Visalia Electric Railroad Company, has filed with the Commission its colorcoded system diagram map in docket No. AB–17 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–17 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-13947 Filed 5-17-77;8:45 am]

[AB 105 (SDM)]

WESTERN PACIFIC RAILROAD CO.

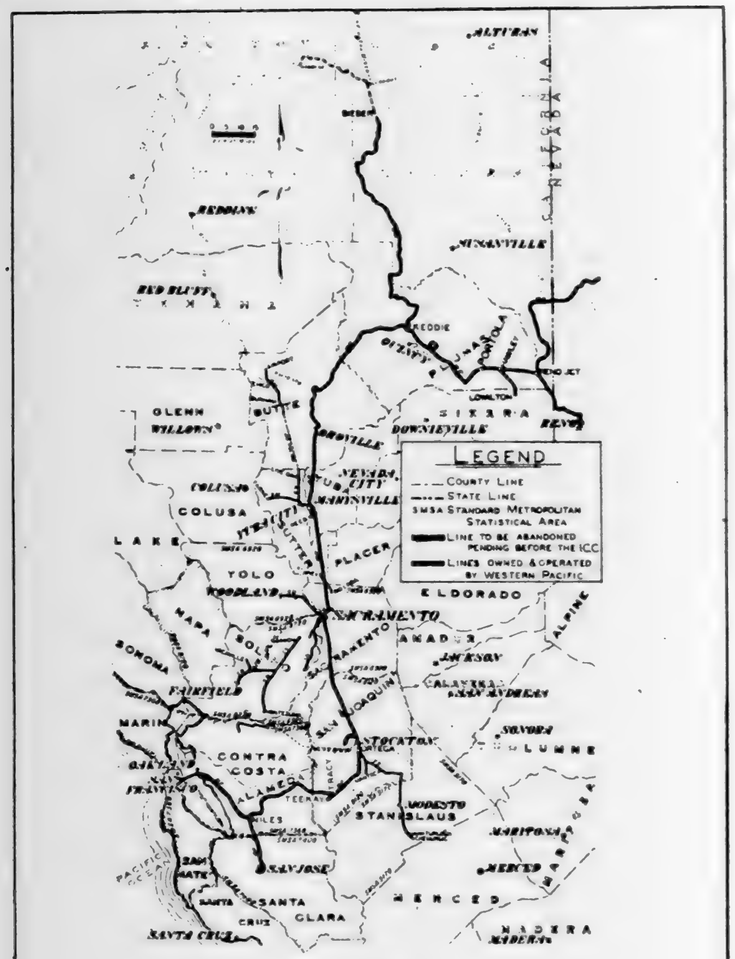
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Western Pacific Railroad Company, has filed with the Commission its color-coded system diagram map in docket in AB 105 (SDM).

The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 2, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

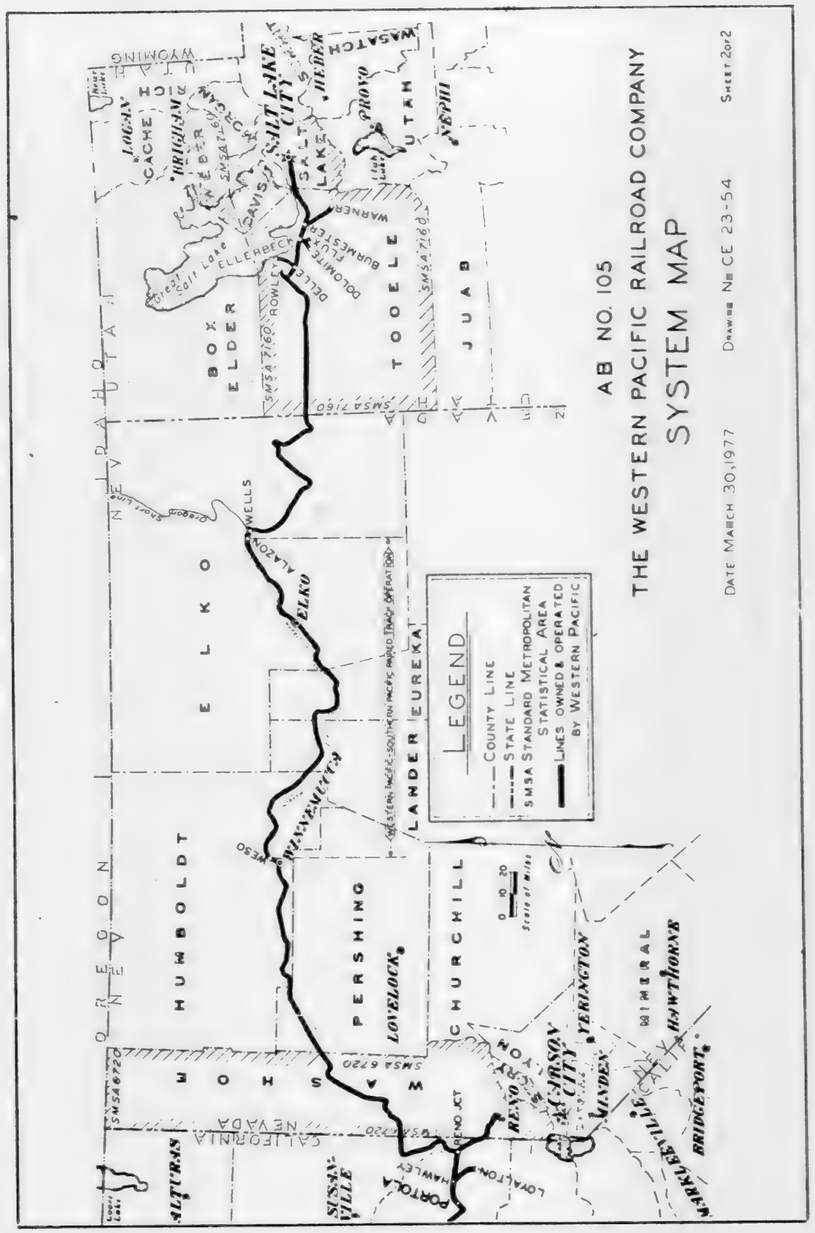
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 105 (SDM).

ROBERT L. OSWALD,
Secretary.



AB NO. 105
THE WESTERN PACIFIC RAILROAD COMPANY
SYSTEM MAP

DATE MARCH 30,1977 DRAWING NO CE 23-54 SHEET 1 OF 2



AB NO. 105
THE WESTERN PACIFIC RAILROAD COMPANY
SYSTEM MAP

DATE MARCH 30,1977 DRAWING NO CE 23-54 SHEET 2 OF 2

AB–105

THE WESTERN PACIFIC RAILROAD COMPANY
SYSTEM MAP

DESCRIPTION OF LINES IN CATEGORIES 1–3
(49 CFR 1121.21)

In compliance with requirements of 49 CFR 1121.21 The Western Pacific Railroad Company herein provides a description of the only line identified on its system diagram map as falling within categories 1 through 3 [49 CFR 1121.20(b) (1) through (3)]. Western Pacific's only such line falls within category three [49 CFR 1121.20(b)(3)]; a description thereof is as follows:

1. The line is designated as the North Channel Line.
2. The line is located within the State of California.
3. The line is located within the County of San Joaquin.
4. The line extends in a westerly direction from Milepost 96.18 near Engineer's Station 169+85.97 on the Western Pacific Main Line at its junction with the North Channel Line to Milepost 5.892 which is the terminus of the North Channel Line being a distance of 5.892 miles.
5. There are no agency or terminal stations on the line.

As indicated by its category designation, application for authority to abandon this line was filed with the Interstate Commerce Commission on July 12, 1976, is currently pending before the Commission and has been assigned Docket No. AB–105.

Dated: April 22, 1977.

EUGENE J. TOLER,
Attorney for the
Western Pacific Railroad Company.

[FR Doc.77–13939 Filed 5–17–77;8:45 am]

[AB 182 (SDM)]

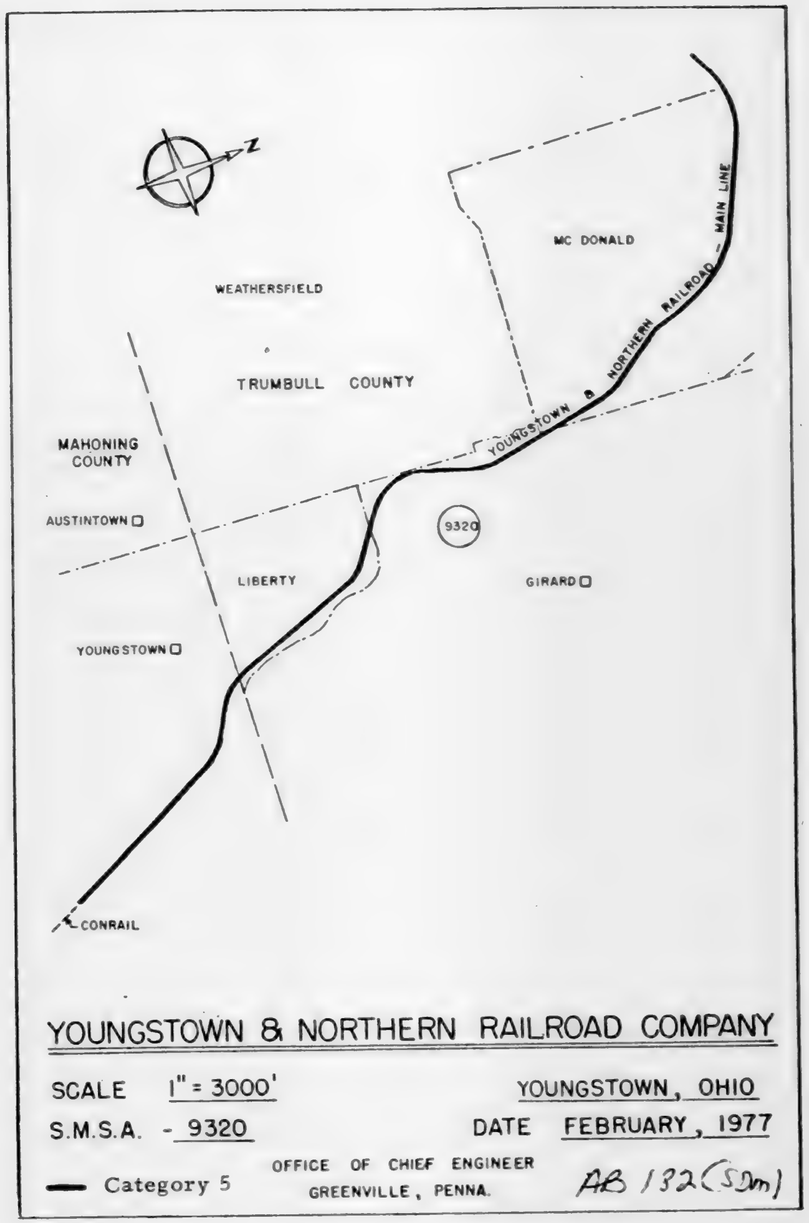
YOUNGSTOWN & NORTHERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Youngstown & Northern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 182 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–182 (SDM).

ROBERT L. OSWALD,
Secretary.

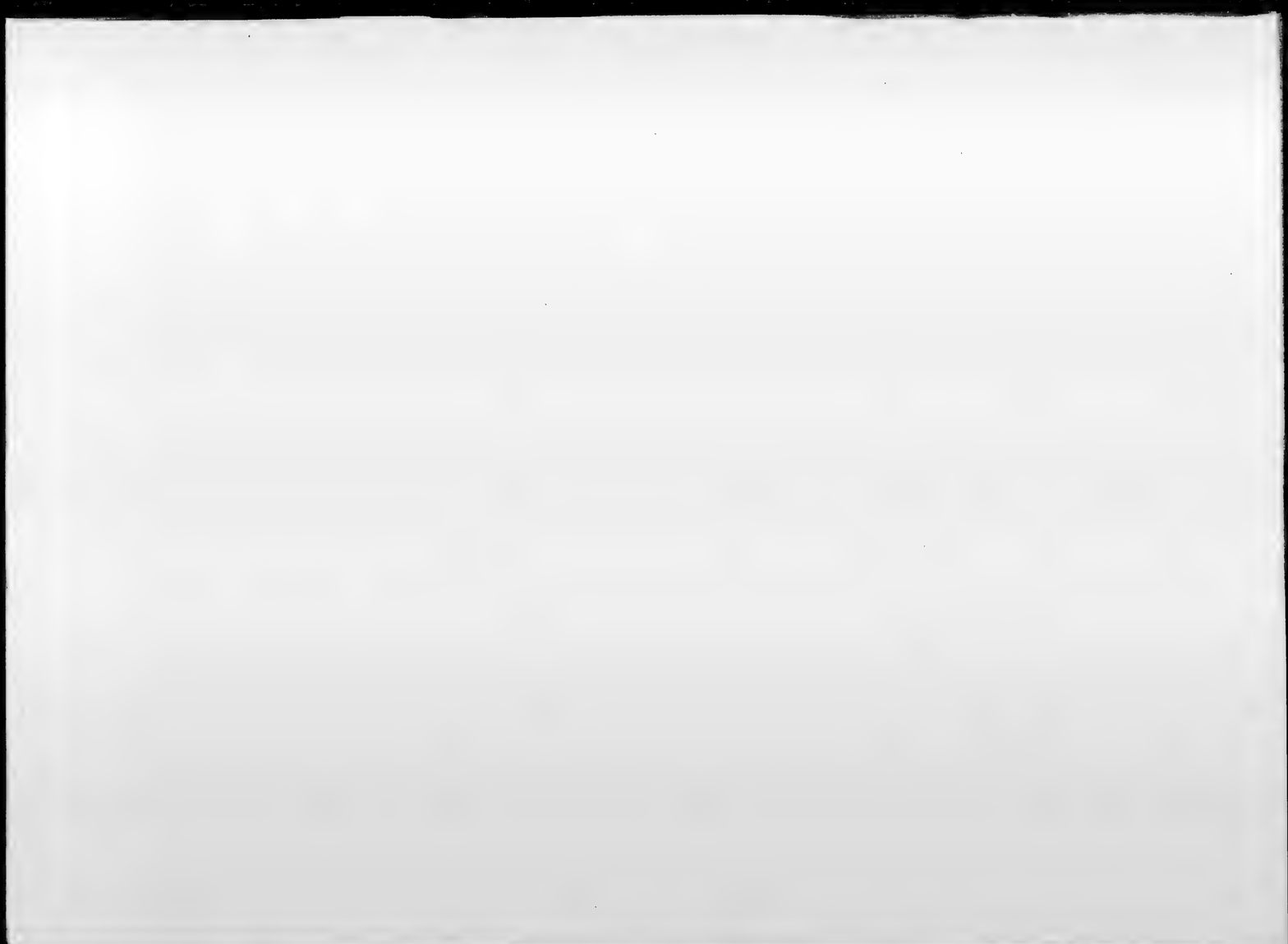


[FR Doc.77–13941 Filed 5–17–77;8:45 am]









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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 556]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 20–26, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges continues to improve.

Average f.o.b. price was $3.49 per carton on 363 cars for the week ended May 12, as compared with $3.33 per carton on 254 cars the previous week.

Track and rolling supplies at 137 cars were down 56 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information becomes available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on May 17, 1977.

§ 908.856 Valencia Orange Regulation 556.

(b) Order. (1) The quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 20, 1977, through May 26, 1977, are hereby fixed as follows:

(i) District 1: 287,000 cartons;

(ii) District 2: 413,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 18, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14502 Filed 5-18-77;11:25 am]

[Papaya Reg. 7, Amdt. 2]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment relaxes the quality and size requirements for Hawaiian papayas shipped out-of-state during the period May 16 through May 25, 1977. It also deletes or revises certain terms used in previous regulations. Due to a delay in the seasonal peak production of Hawaiian papayas, this amendment is needed to increase the supply of papayas available for export to the benefit of producers and consumers.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the recommendations of the Papaya Administrative Committee, established under the marketing agreement and order, and upon other available information, it is found that this amendment will tend to effectuate the declared policy of the act.

The committee reports that due to a delay in seasonal peak production of Hawaiian papayas, ample supplies of larger sized fruit will be later than nor-

mal. Therefore, the committee has recommended that the current requirements for papayas for export of at least Hawaii No. 1 grade and a weight of not less than 10 ounces each set to expire on May 15, 1977, be extended through May 25, 1977. During the remainder of 1977, papayas for export are required to weight at least 11 ounces each and grade at least Hawaii No. 1 except that the tolerance for defects is 5 percent instead of 10 percent. This amendment also deletes the requirement that papayas for export be of pyriform shape and revises certain regulation terms to conform with current standards.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of papayas grown in Hawaii.

Order. The provisions of § 928.307 (Papaya Regulation 7; 42 FR 1; 17099) are hereby amended to read as follows:

§ 928.307 Papaya Regulation 7.

(a) During the period January 1 through December 31, 1977, no handler shall ship any container of papayas to any destination within the production area unless said papayas grade at least Hawaii No. 1 and are of a size which individually weigh not less than 14 ounces: *Provided*, That papayas handled as Hawaii Fancy grade shall be of a size which individually weigh not less than 16 ounces.

(b) During the period January 1 through May 25, 1977, no handler shall ship any container of papayas to any export destination unless said papayas grade at least Hawaii No. 1: *Provided*, That such papayas shall weigh not less than 10 ounces each.

(c) During the period May 26 through December 31, 1977, no handler shall ship any container of papayas to any export destination unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided*, That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall weigh not less than 11 ounces each.

(d) When used herein "Hawaii Fancy" and "Hawaii No. 1" shall have the same meaning as set forth in the State of Hawaii Standards for Hawaii-Grown Papayas, Subsection 5.32, as amended. All other terms shall have the same meaning as when used in the marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: May 13, 1977, to become effective May 16, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14279 Filed 5-18-77;8:45 am]

PART 953—POTATOES GROWN IN SOUTHEASTERN STATES

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $11,125 and establishes a rate of assessment of one-fourth cent per hundredweight of potatoes for the functioning of the Southeastern Potato Committee for the 1977–78 fiscal period. The regulation will enable the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 104 and Order No. 953, both as amended, regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

Notice was published in the April 22, 1977, FEDERAL REGISTER (42 FR 20825) regarding the proposal. It afforded interested persons an opportunity to submit written comments not later than May 13, 1977. None was received.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular period shall apply to all assessable potatoes from the beginning of such period.

The regulation is as follows:

§ 953.214 Expenses and rate of assessment.

(a) The expenses the Secretary finds may be necessary to be incurred during the fiscal period June 1, 1977, through May 31, 1978, by the Southeastern Potato Committee for its maintenance and functioning will amount to $11,125.

(b) The rate of assessment to be paid by each handler in accordance with the amended Marketing Agreement and this part shall be one-fourth cent ($0.0025) per hundredweight of potatoes handled by him as the first handler thereof during the said fiscal period except potatoes for canning, freezing, and other processing shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section shall have the same meaning as when used in the said amended marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 16, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14328 Filed 5-18-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1976 Crop Corn Supplement, Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1976 Crop Corn Loan and Purchase Program; Correction

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at pages 10302 and 10303 in the FEDERAL REGISTER of February 22, 1977 (FR Doc. 77–5264).

EFFECTIVE DATE: May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, (ASCS) (202–447–9223).

The following corrections are made to § 1421.113(a):

1. On page 10302, left column, under heading "Iowa" the entry that reads "Kossuth $1.52" is changed to read "Kossuth $1.42".

2. On page 10303, right column, under heading "Texas" the entry that reads "Lamb $1.52" is changed to read "Lamb $1.57".

Signed at Washington, D.C., on May 12, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-14330 Filed 5-18-77;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

GAO CLEARANCES

Reporting and Record Keeping Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations which include reporting or record keeping requirements subject to clearance by the General Accounting Office. The amendments add notations, or up-date existing notations, which state that the reporting or record keeping requirements have been approved by the General Accounting Office, and include the appropriate GAO approval number. These amendments are required in order to conform with the regulations of the General Accounting Office "Clearance of proposals by independent Federal regulatory agencies to conduct or sponsor the collection of information." The amendments will furnish currently effective information regarding GAO clearances of NRC reporting and record keeping requirements.

EFFECTIVE DATE: May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–492–7211.

SUPPLEMENTARY INFORMATION: Because these amendments relate solely to minor matters, good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary. Since the amendments do not impose obligations on persons other than the Nuclear Regulatory Commission, the Commission has found that good cause exists for making the amendments effective immediately without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 20, 30, 31, 32, 33, 34, 35, 36, 40, 50, 55, 70, 71, 73, 140, and 150 are published as a document subject to codification.

§ 20.601 [Amended]

1. The note at the end of Appendix D of Part 20 is deleted and a note is added following § 20.601 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0043), (R0044), and (R0084).

§ 30.71 [Amended]

2. A note is added following § 30.71 of Part 30 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0079), (R0089), and (R0173).

§ 31.5 [Amended]

§ 31.11 [Amended]

3. Footnote 3 to § 31.5 of Part 31 is deleted and a note is added following § 31.11 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0088), (R0160).

§ 32.51 [Amended]

§ 32.110 [Amended]

4. Footnote 4 to § 32.51 of Part 32 is deleted and a note is added following § 32.110 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0038).

§ 33.100 [Amended]

5. A note is added following § 33.100 of Part 33 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0085).

§ 34.51 [Amended]

6. A note is added following § 34.51 of Part 34 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0052), (R0335).

§ 35.100 [Amended]

7. A note is added following § 35.100 of Part 35 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0068), (R0334).

§ 36.50 [Amended]

8. A note is added following § 36.50 of Part 36 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0090).

§ 40.65 [Amended]

§ 40.90 [Amended]

9. Footnote 1 to § 40.65 of Part 40 is deleted and a note is added following § 40.90 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0128), (R0147), (RO203), (RO413), (RO040).

§ 50.33a [Amended]

§ 50.65 [Amended]

§ 50.110 [Amended]

10. Footnote 1 to § 50.33a, footnote 2 to § 50.65, and the note following § 50.110 of Part 50 are deleted and a note is added following § 50.110 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0071).

§ 55.60 [Amended]

11. A second note is added following § 55.60 of Part 55 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0113), (R0358).

§ 70.22 [Amended]

§ 70.57 [Amended]

§ 70.59 [Amended]

§ 70.71 [Amended]

12. Footnote 1 to § 70.22, footnote 1 to § 70.57, footnote 2 to § 70.59, and the note at the end of § 70.71 are deleted and a note is added following § 70.71 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0061), (R0172), (R0041), (R0040).

§ 71.64 [Amended]

13. The note at the end of Appendix D of Part 71 is deleted and a note is added following § 71.64 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0056).

§ 73.80 [Amended]

14. A note is added following § 73.80 of Part 73 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0039).

§ 140.90 [Amended]

15. A note is added following § 140.90 of Part 140 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0115).

§ 150.30 [Amended]

16. A note is added following § 150.30 of Part 150 to read as follows:

NOTE.—The reporting and record keeping requirements contained in this part have been approved by the General Accounting Office under B–180225 (R0040), (R0078), (R) 414).

Effective date: These amendments become effective on May 19, 1977.

(Sec. 161, 68 Stat. 948 (42 U.S.C. 2201; Sec. 201, 88 Stat. 1242 (42 U.S.C. 5841)).)

Dated at Bethesda, Md., this 11th day of May 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-14257 Filed 5-18-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76–EA–65; Amdt. 39–2885]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires an inspection for cracks in the main land-

ing gear wheel well angles P/N 215–32200–58, –59, –60, –61 in the Canadair CL–215–1A10 type airplanes. The cracks had been reported by an operator of the aircraft.

EFFECTIVE DATE: May 9, 1977.

ADDRESSES: Canadair Circular 104–CL–215 may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

L. Lipsius, Airframe Section, Engineering and Manufacturing Branch, AEA–212, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION: The FAA published a Notice of Proposed Rulemaking on this subject on page 5701 of the FEDERAL REGISTER for January 31, 1977. Interested parties were given 30 days in which to respond. There were no objections received. Further, there are no CL–215 type aircraft presently registered in the United States.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective May 9, 1977, as published.

CANADAIR: Applies to Canadair CL–215–1A10 airplanes, Serial Nos. 1001 to 1040 inclusive, not altered with Canadair Reinforcement Kit K215–30043 or an FAA approved equivalent

Compliance is required as indicated.

To assure the structural integrity of the main landing gear wheel well angles, P/N 215–32200–58, –59, –60, –61, accomplish the following:

(a) On aircraft with 1000 or more hours in service, compliance with paragraph (c) is required before the next flight. The inspection of paragraph (c) must be repeated at intervals not to exceed 150 hours in service.

(b) On aircraft with less than 1000 hours in service, compliance with paragraph (c) is required at or before 1000 hours in service. The inspections of paragraph (c) must be repeated at intervals not to exceed 150 hours in service.

(c) Inspect for cracks and modify in accordance with Canadair Service Information Circular No. 104–CL–215 dated September 5, 1975, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, Eastern Region.

(d) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance time in this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 313(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

The principal authors of this document are Mr. L. Lipsius, Airframe Section, and Mr. T. Halloran, Office of the Regional Counsel, Eastern Region.

Issued in Jamaica, New York, on April 25, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77–14116 Filed 5–18–77;8:45 am]

[Docket No. 76–EA–66; Amdt. 39–2886]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires Canadair CL–215–1A10 type airplanes with 12 months or more service time to be restricted to land operations until the nose landing gear door closing rods and sequencing redundancy mechanism rods have been inspected and reworked. Exposure to water leakage has affected the rods.

EFFECTIVE DATE: May 9, 1977.

ADDRESSES: Canadair Circular 101–CL–215 dated May 6, 1975, may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

L. Lipsius, Airframe Section, Engineering and Manufacturing Branch, AEA–212, Federal Building, J.F.K. International Airport, Jamaica, New York. 11430, Tel. 212–995–2875.

SUPPLEMENTARY INFORMATION: The FAA published a Notice of Proposed Rule Making on this subject on page 5702 of the FEDERAL REGISTER for January 31, 1977. Interested parties were given 30 days in which to comment. No objections have been received. Further there are no Canadair C1–215 type airplanes registered with the United States.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective May 9, 1977, as published.

CANADAIR: Applies to Canadair CL–215–1A10 airplanes, Serial Numbers 1001 to 1040 inclusive, in all categories

Compliance is required as indicated unless already accomplished.

To assure the structural integrity of the nose landing gear door closing rods, P/N 215–85009, and the sequencing redundancy mechanism rod, P/N 215–85026, accomplish the following:

(a) On aircraft that have been in service for 12 months or more, compliance with paragraph (c) is required and flight operations are restricted to land operations until compliance is shown.

(b) On aircraft that have been in service less than 12 months, compliance with paragraph (c) is required before achieving 12 months in service.

(c) Inspect and rework in accordance with Canadair Service Information Circular No. 101–CL–215 dated May 6, 1975 or an equivalent method of compliance. A later revision and an equivalent method of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(d) Upon request, with substantiating data submitted through an FAA Maintenance Inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 313(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

The principal authors of this document are Mr. L. Lipsius, Airframe Section, and Mr. T. Halloran, Office of the Regional Counsel, Eastern Region.

Issued in Jamaica, New York, on April 25, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77–14117 Filed 5–18–77;8:45 am]

[Docket No. 76–EA–67; Amdt. 39–2887]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) requires a periodic inspection and rework where necessary, of the lower rudder bearing of corrosion on Canadair CL–215–1A10 type airplanes. Water contamination through leakage appears to have affected the bearing.

EFFECTIVE DATE: May 9, 1977. Initial compliance requires an inspection prior to 1200 hours in service.

ADDRESSES: Canadiar Circular 110–CL–215, dated October 27, 1975, may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

L. Lipsius, Airframe Section, Engineering and Manufacturing Branch, AEA–212, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, 212–995–2875.

SUPPLEMENTARY INFORMATION: The FAA published a Notice of Proposed Rulemaking on this subject on page 7160 of the FEDERAL REGISTER for February 7, 1977. Interested parties were given 30 days in which to respond to the NPRM. No objections have been received. Further, there are no Canadair CL–215 type airplanes presently registered in the United States.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective May 9, 1977, as published.

CANADAIR: Applies to Canadair CL–215–1A10 Airplanes, Serial Numbers 1001 and 1043 inclusive and 1046, not altered in accordance with Appendix I of Canadair Information Circular 110–CL–215 dated October 27, 1975 or an FAA approved equivalent.

Compliance is required as indicated.

To prevent failure of the lower rudder bearing due to water ingress and subsequent corrosion, accomplish the following:

(a) Prior to 1200 hours in service, and at each 1050 hours in service or one year, whichever occurs first thereafter, inspect for corrosion as outlined in paragraphs "Inspection" and "Rework" in Canadair Information Circular 110–CL–215 dated October 27, 1975 or later approved revision thereto, or an FAA approved equivalent.

(b) Equivalent alterations and inspections must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(c) Upon request with substantiating data submitted through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance times specified in this AD

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 313(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

The principal authors of this document are Mr. L. Lipsius, Airframe Section, and Mr. T. Halloran, Office of the Regional Counsel, Eastern Region.

Issued in Jamaica, New York, on April 25, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77–14115 Filed 5–18–77;8:45 am]

[Airworthiness Docket No. 77–SW–15; Amdt. 39–2903]

PART 39—AIRWORTHINESS DIRECTIVES

Mooney Aircraft Corporation Models M20E, F, and J Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Immediate adopted rule.

SUMMARY: Amendment 39–2877, 42 FR 21102, Airworthiness Directive (AD) 77–08–06, is being amended to revise the list of airplanes required to be inspected and to include an additional model oil cooler which must be removed from service.

DATES: Effective date May 19, 1977, and was effective upon receipt for all recipients of the airmail letter dated May 16, 1977.

Compliance required within the next five (5) hours time in service after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Martin J. Saunders, Propulsion Section (ASW–214), Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 524.

SUPPLEMENTARY INFORMATION: The FAA has received information which indicates that the listing of airplanes and oil coolers identified in Amendment 39–2877, 42 FR 21102 (AD 77–08–06), is incorrect. Therefore, the applicability section of this AD is being revised.

The principal authors of this document are W. F. Wells, Flight Standards Division, and Joseph Kovarik, Office of the Regional Counsel.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39–2877, 42 FR 21102, Airworthiness Directive 77–08–06 is amended as follows:

1. By amending the list of applicable airplanes to read as follows:

MOONEY: Applies to Models M20E (Serial Numbers 101 through 466, 470 through 1217, 1219, 1221, 1223 through 1308, 670001 through 670062, 690001 through 690073, 700001 through 700039, 700041 through 700043, 700045 through 700052, 700055, 700056, 700060, 700061, 21–0001 through 21–1180); M20F (Serial Numbers 670001 through 670363, 670365 through 670385, 670387 through 670482, 670484 through 670539, 680001 through 680206, 690001 through 690090, 690092, 700001 through 700061, 700063, 700066 through 700070, 700072, 22–0001 through 22–1497); M20J (Serial Numbers 24–0001 through 24–0154) airplanes.

2. By amending paragraph (a) of the compliance section to read as follows:

(a) Before the next flight of the affected airplanes, remove the engine cowl and visually check the engine oil cooler to determine whether it is a Stewart-Warner Model 8432H (Serial Numbers 001 through 499) or a Stewart-Warner Model 8432F (Serial Numbers 1610 through 1717).

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OBM Circular A–107.

This amends airmail letter dated April 15, 1977, and Amendment 39–2877 (42 FR 21102), AD 77–08–06.

Issued in Fort Worth, Texas, on May 9, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77–14356 Filed 5–18–77;8:45 am]

[Docket No. 77–WE–13–AD; Amdt. 39–2902]

PART 39—AIRWORTHINESS DIRECTIVES

Rockwell International NA–265–80 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Instrument Inverter Remote Reset Circuit Breaker Relay (K1066) has been positioned improperly and wired incorrectly in certain NA–265–80 airplanes. Since this condition results in (1) a lack of thermal isolation between relay K1066 and the No. 2 Inverter Power Relay, and (2) a lack of short circuit protection of the Instrument Inverter power input cable, an airworthiness directive is being issued to require repositioning of relay K1066 and appropriate reconnection of the inverter cable. This condition, if not corrected, could result in a fire or loss of all electrical power.

EFFECTIVE DATE: May 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone 213–536–6351; or Richard G. Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone 213–536–6274.

SUPPLEMENTARY INFORMATION: The improper positioning of the relay and wiring error were discovered in the aircraft assembly line; there have been no reported instances of service difficulties. The orientation of relay K1066 with respect to the No. 2 inverter relay could result in premature tripping of relay K1066 only under conditions of previous failure of No. 2 inverter. A fault to ground on the instrument inverter power input cable would result in the loss of the standby instrument a.c. power, and could also cause a fire or loss of all electrical power. Since this condition exists in NA–265–80 Model airplanes equipped with rotary inverters, corrective action is necessary to preclude the possibility of a fire or loss of electrical power.

The principal authors of this Airworthiness Directive are Lonnie Tarver, Aerospace Engineer, AWE–132, Aircraft Engineering Division, FAA Western Region, and Richard G. Wittry, Attorney, AWE–7.2, Office of the Regional Counsel, FAA Western Region.

Accordingly, and pursuant to the authority delegated to me by the Administrator (11 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR Part 39) is amended by adding the following new Airworthiness Directive:

ROCKWELL INTERNATIONAL: Applies to NA-265-80 airplanes, serial numbers 380-1 through 380-4, 380-6 through 380-9, 380-11 through 380-13, 380-15, 380-17, 380-19, 380-21, 380-23, 380-25, 380-27, 380-30, 380-32, 380-34, 380-36 and 380-38 through 380-54, with Relay K1066 installed. (Cutler-Hammer P/N 6141H126), certificated in all categories.

Compliance required on or before June 7, 1977, unless already accomplished.

To provide electrical protection for the Instrument Inverter power input cable, and improve thermal isolation of the Instrument Inverter Remote Reset Circuit Breaker Relay (K1066), accomplish the following:

(a) Modification specified in Rockwell International Sabreliner Service Bulletin No. 28, dated April 12, 1977, or later FAA approved revisions.

(b) Equivalent procedures may be approved by the Chief, Aircraft Engineering Division, FAA Western Region, upon submission of adequate substantiation data.

(c) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the modification required by this AD.

This amendment becomes effective May 23, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California, on May 6, 1977.

ROBERT H. STANTON,
Director, Western Region.

[FR Doc.77-14118 Filed 5-18-77;8:45 am]

[Docket No. 15176; Amendment Nos. 91-138 and 133-6]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS

Operations Review Program Amendment No. 2: Rotorcraft External-Load Operations

Correction

In FR Doc. 77-13607 appearing at page 24196 of the issue for Thursday, May 12, 1977:

1. In the table in the middle column, page 24196, the fifth entry under "FAR", now reading "§ 133.10", should read "§ 133.1".

2. In the third line from the bottom, middle column, page 24197, "§ 133.3(f)" should read "§ 133.31(f)".

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER A—GENERAL

[Docket No. R-77-441]

PART 200—INTRODUCTION

Subpart D—Delegations to Particular Positions

LOAN ASSISTANCE COMMITTEE

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule delegating authority.

SUMMARY: The Assistant Secretary for Housing—Federal Housing Commissioner is revising the Delegations of Authority to the Loan Assistance Committee in order to reflect the changed composition of the committee and its new functions and responsibilities.

EFFECTIVE DATE: April 4, 1977.

SUPPLEMENTARY INFORMATION: On June 18, 1976, the Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner and the Office of the Assistant Secretary for Housing Management were merged into the Office of the Assistant Secretary for Housing—Federal Housing Commissioner (41 FR 24755). As a result, delegations of authority to various officials and committees within that office require revision. This document brings current the delegations to the Loan Assistance Committee under § 200.94. Since the amendment involves only internal matters of agency management, it does not require comment or public procedure and good cause exists for making the change effective April 4, 1977. Environmental and inflation determinations are not required.

Accordingly, Part 200 is amended as follows:

§ 200.94 Loan Assistance Committee.

(a) *Members.* The Loan Assistance Committee is composed of the following members, or their designees: the Director, Office of Loan Origination, Chairman; the Director, Office of Policy Development and Evaluation; the Director, Office of Management; and (by agreement with the Assistant Secretary for Administration) the Director, Office of Finance and Accounting.

(b) *Functions.* The functions of the Loan Assistance Committee are the review and approval or disapproval of requests for cancellation or waiver of repayment, in whole or in part, of loans made under Section 106 of the Housing and Urban Development Act of 1968 and Section 207 of the Appalachian Regional Development Act of 1965, as amended.

(Secretary's delegation of authority to redelegate published at 41 FR 24755, June 18, 1976.)

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-14280 Filed 5-18-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 721-77]

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

EQUAL EMPLOYMENT OPPORTUNITY WITHIN THE DEPARTMENT OF JUSTICE

Authority To Direct Remedial Action in EEO Complaints

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The regulations governing discrimination complaints filed by employees and applicants for employment in the Department of Justice provide that the Complaint Adjudication Officer, appointed by the Assistant Attorney General in charge of the Civil Rights Division, shall render decisions on complaints from employees and applicants for employment within the Department. This order clarifies and updates the present regulations and provides that in cases where no discrimination is found, any remedial action ordered by the Complaint Adjudication Officer shall have the prior approval of the Assistant Attorney General in charge of the Civil Rights Division in consultation with the Deputy Attorney General.

EFFECTIVE DATE: May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Acting Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, Washington, D.C. 20530 (202-739-2041).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, and in conformity with 5 CFR Part 713, Subpart A of Part 42 of Title 28, Code of Federal Regulations, is amended as follows:

Subpart A—Equal Employment Opportunity Within the Department of Justice

§ 42.1 Policy.

It is the policy of the Department of Justice to seek to eliminate discrimination on the basis of race, color, religion, sex, national origin or age in employment within the Department and to assure equal employment opportunity for all employees and applicants for employment in the Department, in conformity with the policies and requirements of Executive Order No. 11478 of August 8, 1969, relating to equal employment opportunity in the Federal Government, section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16), section 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 633a), and the regulations of the United States Civil Service Commission relating to equal employment opportunity (5 CFR Part 713).

§ 42.2 Designation of Director of Equal Employment Opportunity and Complaint Adjudication Officer.

* * * * *

(b) The Assistant Attorney General in charge of the Civil Rights Division shall appoint a Complaint Adjudication Officer, who shall render final decisions for the Department of Justice on complaints of discrimination filed by employees and applicants for employment in the Department pursuant to the Department's Equal Employment Opportunity Regulations. In rendering decisions, the Complaint Adjudication Officer shall order such remedial action as may be appropriate, whether or not there is a finding of discrimination, but in cases where no discrimination is found any remedial action ordered shall have the prior approval of the Assistant Attorney General in charge of the Civil Rights Division, who shall consult with the Deputy Attorney General on the matter.

Dated: May 9, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-14235 Filed 4-18-77;8:45 am]

Title 31—Money and Finance

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

Amendment of Regulations Governing United States Savings Bonds

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: These amendments of the regulations governing U.S. savings bonds eliminate the requirement that women named as coowners or beneficiaries on such bonds must be identified by a courtesy title if their social security numbers are not furnished. The primary author of these amendments is A. E. Martin, Attorney-Adviser, Bureau of the Public Debt.

EFFECTIVE DATE: May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

A. E. Martin, Attorney-Adviser, Bureau of the Public Debt (202-376-0255).

Accordingly, Department of the Treasury Circular No. 530, Tenth Revision, dated December 5, 1973, as amended, (31 CFR Part 315); Department of the Treasury Circular No. 653, Ninth Revision, dated April 23, 1974, as amended (31 CFR Part 316); and Department of the Treasury Circular No. 905, Sixth Revision, dated April 19, 1974 (31 CFR Part 332), are amended as follows:

PART 315—REGULATIONS GOVERNING UNITED STATES SAWNGS BONDS

§ 315.5 [Amended]

Section 315.5 of 31 CFR, Part 315 is amended by the deletion of the twelfth sentence which begins with the words, "If a woman * * *"

PART 316—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES E

§ 316.2 [Amended]

Section 316.2 of 31 CFR, Part 316 is amended by the deletion of the first two sentences of Footnote 2.

PART 332—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES H

§ 332.2 [Amended]

Section 332.2 of 31 CFR, Part 332 is amended by the deletion of Footnote 1.

The foregoing amendments are issued under the authority of 5 U.S.C. 301, 31 U.S.C. 757c. As they involve the fiscal policy of the United States, notice and public procedures thereon are found to be unnecessary.

Dated: May 13, 1977.

DAVID MOSSO,
Fiscal Assistant Secretary of the Treasury.

[FR Doc.77-14331 Filed 5-18-77;8:45 am]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

PART 553—ARMY NATIONAL CEMETERIES

Arlington and Soldiers' Home National Cemeteries

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending its regulations on eligibility criteria for burial in Arlington National Cemetery and its regulations on policies and procedures for the administration of Arlington and Soldiers' Home National Cemeteries. The amendment also reflects the transfer of the major part of the National Cemetery System to the Veterans Administration and stipulates that the Army has retained control of Arlington and Soldiers' Home National Cemeteries. The eligibility criteria are being expanded because during the last few years the cemetery has acquired approximately 200 acres of land previously occupied by South Post, Fort Myer which will provide additional gravesites. Therefore, it was determined that certain disabled veterans and those who had received certain decorations should be included in the eligibility criteria.

DATES: Comments must be received on or before June 20, 1977. Effective date of regulations, April 15, 1977.

ADDRESS: Comments should be submitted to HQDA (DAAG-PED), Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

LTC Ellsworth S. Clarke (202-693-0882).

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of Public Law 93-43, the National Cemetery System was transferred from the Department of the Army to the Veterans Administration on September 1, 1973. Notice to this effect was published in the FEDERAL REGISTER on January 4, 1974, (39 FR 1024). This notice deletes information in 32 CPR regarding the National Cemetery System and describes procedures and policies for the administration of Arlington and Soldiers' Home National Cemeteries which were retained by the Department of the Army.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 13, 1977.

By authority of the Secretary of the Army.

T. C. SHAYLOR,
Colonel, United States Army, Director, Personal Affairs, TAGCEN.

It is proposed to amend Title 32, Chapter V of the Code of Federal Regulations by revising Part 553 as follows:

Sec.	
553.1	Purpose.
553.2	Statutory authority.
553.3	Scope and applicability.
553.4	Responsibility.
553.5	Federal jurisdiction.
553.6	Donations.
553.7	Design and layout of Army national cemeteries.
553.8	Arlington Memorial Amphitheater.
553.9	Power of arrest.
553.10	Solicitations.
553.11	Procurement.
553.12	Encroachments and revocable licenses.
553.13	Standards of construction, maintenance, and operations.
553.14	Authority for interments.
553.15	Persons eligible for burial in Arlington National Cemetery.
553.16	Persons eligible for burial in Soldiers' Home National Cemetery.
553.17	Persons ineligible for burial in an Army national cemetery.
553.18	Assignment of gravesites.
553.19	Disinterments.
553.20	Headstones and markers.
553.21	Monuments and inscriptions at private expense.
553.22	Visitors rules for Arlington National Cemetery.

AUTHORITY: 24 U.S.C. Ch. 7, unless otherwise noted.

§ 553.1 Purpose.

The following specifies the authority and assigns the responsibilities for the development, operation, maintenance, and administration of the Arlington and Soldiers' Home National Cemeteries, a civil works activity of the Department of the Army.

§ 553.2 Statutory authority.

Basic statutory authority pertaining to the Army national cemeteries is in Chapter 7, Title 24, United States Code, entitled "National Cemeteries." Many of the provisions of this chapter were repealed by Section 7(a) of the National Cemeteries Act of 1973 (Public Law 93–43, 18 June 1973, 38 U.S.C. 1000 et seq.); but Section 7(b) provides that nothing in this section shall be deemed to affect in any manner the functions, powers, and duties of the Secretary of the Army with respect to Arlington and Soldiers' Home National Cemeteries.

§ 553.3 Scope and applicability.

(a) *Scope.* The development, operation, maintenance, and administration of Arlington National Cemetery and the Soldiers' Home National Cemetery are governed by this Part and TM 10–287. AR 210–190 assigns responsibilities for the operation, maintenance, and administration of Army post cemeteries.

(b) *Applicability.* The provisions of AR 290–5 are applicable to active and retired members of the Armed Forces, certain disabled veterans, and veterans who were awarded certain military decorations.

§ 553.4 Responsibilities.

The Army national cemeteries, consisting of the Arlington National Cemetery, Arlington, Virginia, and Soldiers' Home National Cemetery, Washington, D.C., are under the jurisdiction of the Department of the Army. The Assistant Secretary of the Army for Civil Works is directly responsible to the Secretary of the Army for policy formulation in the administration of these cemeteries. The Adjutant General is responsible for their day-to-day administration, operation, and maintenance. Specific responsibilities for Arlington and Soldiers' Home National Cemeteries are delegated to the Commander, Military District of Washington in accordance with a Memorandum of Understanding.

§ 553.5 Federal jurisdiction.

Where the State legislature has given the consent of that State to purchase the land which now comprises an Army national cemetery, the jurisdiction and power of legislation of the United States over Army national cemeteries will, in all courts and places, be held to be the same as is granted by Section 8, Article 1, Constitution of the United States.

§ 553.6 Donations.

(a) *Policy.* Under Department of the Army policy, proffered donations or gifts for beautifying Army national cemeteries may be accepted from legitimate societies and organizations or from reputable individuals, subject to the following provisions:

(1) The society, organization, or individual does not associate the name of the Department of the Army in any way with soliciting for the donation or gift.

(2) Delivery is made to the cemetery or to another point designated by the Department of the Army without expense to the Government.

(3) Installing, constructing, placing, or planting is in keeping with the planned development of the cemetery and the donor agrees to the use of the gift at any designated place within the cemetery.

(4) The donor is not permitted to affix any commemorative tablet or plaque to the items donated or to place one in the cemetery or elsewhere on Department of the Army property.

(b) *Processing.* All proffers of donations to Army national cemeteries will be referred to The Adjutant General with the recommendation of the cemetery superintendent as to the action to be taken.

(c) *Conditional gifts.* The Secretary of the Army is authorized, at his discretion, to accept, receive, hold, administer, and expend any gift, devise, or bequest of real or personal property on condition that the item be used for the benefit of, or in connection with, the operation maintenance, or administration of the two national cemeteries under the jurisdiction of the Department of the Army. The Adjutant General will take appropriate action on conditional gifts as prescribed in AR 1–100.

(d) *Unconditional gifts.* All proffers or donations of gifts which are unconditional will be accompanied by a report stating all material facts in connection with the source, nature, and purpose of the gift.

§ 553.7 Design and layout of Army national cemeteries.

(a) General cemetery layout plans, landscape planting plans and gravesite layout plans for Army national cemeteries will be maintained by The Adjutant General.

(b) New burial sections will be opened and prepared for burials only with the approval of The Adjutant General and after types and sizes of monuments on permanent sites have been established.

§ 553.8 Arlington Memorial Amphitheater.

(a) The Act of 2 September 1960 (74 Stat; 24 USC 295a) provides that the Secretary of Defense or his designee may send to Congress in January of each year recommendations on the memorials to be erected and the remains of deceased members of the Armed Forces to be entombed in the Arlington Memorial Amphitheater in Arlington National Cemetery. The Act further provides that—

(1) No memorial may be erected and no remains may be entombed in the Arlington Memorial Amphitheater unless specifically authorized by Congress;

(2) The character, design, or location of any memorial authorized by Congress is subject to the approval of the Secretary of Defense or of his designee.

(b) Under the provisions of the Act of 2 September 1960, the Secretary of the Army has been designated to act in behalf of the Secretary of Defense.

(c) The Department of the Army will seek the advice of the Commission of Fine Arts concerning any requests relative to inscriptions or memorials within the Arlington Memorial Amphitheater.

§ 553.9 Power of arrest.

The superintendents of Army national cemeteries are authorized to arrest any person who willfully destroys, cuts, breaks, injures, or removes any tree, shrub, or plant within the limits of the cemetery and to bring that person before any United States magistrate or judge of any district court of the United States within any State or district where the cemeteries are situated, to hold that person to answer for the misdemeanor, and then and there to make a complaint in due form.

§ 553.10 Solicitations.

Solicitations to the public of any type of business including the sale of souvenirs and refreshments within the cemetery are prohibited. Violators who do not leave when so ordered or who unlawfully reenter the cemetery after being evicted will be subject to prosecution.

§ 553.11 Procurement.

Cemetery supplies and services will be procured in accordance with the provisions of the Armed Services Procurement Regulation (ASPR) and the Army Procurement Procedure (APP).

§ 553.12 Encroachments and revocable licenses.

(a) *Encroachments.* No railroads will be permitted upon the right-of-way acquired by the United States leading to Arlington or Soldiers' Home National Cemetery or to encroach upon any roads or walks thereon and maintained by the United States.

(b) *Revocable licenses.* The construction or erection of poles and lines (including underground lines) for transmitting and distributing electric power or for telephone and telegraph purposes, as well as water and sewer pipes, will not be permitted without the authority of the Department of the Army. Requests for revocable licenses to construct water, gas, or sewer lines or other appurtenances on or across the cemetery or an approach road in which the Government has a right-of-way or fee simple title or other interest will be submitted for final action to the cemetery superintendent with a complete description of the privilege desired and a map showing the location of the project on the roadway in question. The superintendent will forward the application and inclosures with his comments and recommendation to Headquarters, Department of the Army.

§ 553.13 Standards of construction, maintenance, and operations.

The following standards of the Department of the Army will be observed in the development, operation, maintenance, administration, and support of Army national cemeteries and will be considered in relation to budgetary reviews within the Department of the Army:

(a) As permanent national shrines provided by a grateful nation to the honored dead of the Armed Forces of the United States, the standards for construction, maintenance, and operation of Army national cemeteries will be commensurate with the high purpose to which they are dedicated.

(b) Structures and facilities provided for Army cemeteries will be permanent in nature and of a scope, dignity, and aesthetic design suitable to the purpose for which they are intended.

(c) Cemeteries will be beautified by landscaping and by means of special features based on the historical aspects, location, or other factors of major significance.

(d) Accommodations and services provided to the next of kin of the honored dead and to the general public will be of high order.

§ 553.14 Authority for interments.

The Act of 14 May 1948 (62 Stat. 234), as amended by the Act of 14 September 1959 (73 Stat. 547; 24 U.S.C. 281), and other laws specifically cited in this Part authorize burial in Arlington and Soldiers' Home National Cemeteries under such regulations as the Secretary of the Army may, with the approval of the Secretary of Defense, prescribe.

§ 553.15 Persons eligible for burial in Arlington National Cemetery.

(a) Any active duty member of the Armed Forces (except those members serving on active duty for training only).

(b) Any retired member of the Armed Forces. A retired member of the Armed Forces, in the context of this paragraph, is a retired member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or a Reserve component who has served on active duty (other than for training), is carried on an official retired list, and is entitled to receive retired pay stemming from service in the Armed Forces. If, at the time of death, a retired member of the Armed Forces is not entitled to receive retired pay stemming from his service in the Armed Forces until some future date, the retired member will not be eligible for burial.

(c) Any former member of the Armed Forces separated for physical disability prior to 1 October 1949 who has served on active duty (other than for training) and who would have been eligible for retirement under the provisions of 10 U.S.C. 1201 had that statute been in effect on the date of his separation.

(d) Any former member of the Armed Forces whose last active duty (other than for training) military service terminated honorably and who has been awarded one of the following decorations:

(1) Medal of Honor.

(2) Distinguished Service Cross (Air Force Cross or Navy Cross).

(3) Distinguished Service Medal.

(4) Silver Star.

(5) Purple Heart.

(e) Persons who have held any of the following positions, provided their last period of active duty (other than for training) as a member of the Armed Forces terminated honorably:

(1) An elective office of the United States Government.

(2) Office of the Chief Justice of the United States or of an Associate Justice of the Supreme Court of the United States.

(3) An office listed in 5 U.S.C. 5312 or 5 U.S.C. 5313.

(4) The Chief of a mission who was at any time during his tenure classified in class I under the provisions of 411 of the Act of 13 August 1946, 60 Stat. 1002, as amended (22 U.S.C. 866, 1964 ed.).

(f) The spouse, widow or widower, minor child and, at the discretion of the Secretary of the Army, unmarried adult child of any of the persons listed above.

(1) The term "spouse" refers to a widow or widower of an eligible member, including the widow or widower of a member of the Armed Forces who was lost or buried at sea or officially determined to be permanently absent in a status of missing or missing in action. A surviving spouse who has remarried and whose remarriage is void, terminated by death, or dissolved by annulment or divorce by a court with basic authority to render such decrees regains eligibility for burial in Arlington National Cemetery unless it is determined that the decree of annulment or divorce was secured through fraud or collusion.

(2) An unmarried adult child may be interred in the same grave in which the parent has been or will be interred, provided that child was incapable of self-support up to the time of death because of physical or mental condition. At the time of death of an adult child, a request for interment will be submitted to the Superintendent of Arlington National Cemetery. The request must be accompanied by a notarized statement from an individual who has direct knowledge as to the marital status, degree of dependency of the deceased child, the name of that child's parent, and the military service upon which the burial is being requested. A certificate of a physician who has attended the decedent as to the nature and duration of the physical and/or mental disability must also accompany the request for interment.

(g) Widows or widowers of service members who are interred in Arlington National Cemetery as part of a group burial may be interred in the same cemetery but not in the same grave.

(h) The surviving spouse, minor child, and, at the discretion of the Secretary of the Army, unmarried adult child of any person already buried in Arlington.

(i) The parents of a minor child or unmarried adult child whose remains, based on the eligibility of a parent, are already buried in Arlington National Cemetery.

§ 553.16 Persons eligible for burial in Soldiers' Home National Cemetery.

The Board of Commissioners of the US Soldiers' and Airmen's Home will prescribe rules governing burial in the Soldiers' Home National Cemetery.

§ 553.17 Persons ineligible for burial in an Army national cemetery.

(a) A father, mother, brother, sister, and in-law is not eligible for interment by reason of relationship to an eligible service person even though he/she is dependent upon the service member for support and/or is a member of his/her household.

(b) A person whose last separation from one of the Armed Forces was under other-than-honorable conditions is not eligible for burial even though he may have received veterans benefits, treatment at a Veterans Administration hospital, or died in such a hospital.

(c) A person who has volunteered for service with the Armed Forces but has not actually entered on active duty.

(d) Nonservice-connected spouses who have been divorced from the service-connected members or who have remarried after the interment of the service-connected spouse and whose remarriage is still valid are not eligible because of the decedent's service.

(e) Dependents are not eligible for burial in Arlington National Cemetery unless the service-connected family member has been or will be interred in that cemetery. This does not apply to widows or widowers of members of the Armed Forces lost or buried at sea or officially determined to be permanently absent in a status of missing or missing in action.

§ 553.18 Assignment of gravesites.

(a) Under present policy of the Department of the Army, only one gravesite is authorized for the burial of a service member and eligible family members.

(b) Gravesites will not be reserved.

(c) Gravesite reservations made in writing before the one-gravesite-per-family unit policy was established will remain in effect as long as the reservee remains eligible for burial in Arlington.

§ 553.19 Disinterments.

(a) Interments in Arlington National Cemetery of eligible decedents are considered permanent and final, and disinterments will be permitted only for cogent reasons. Disinterments and removal of remains will be approved only when all living close relatives of the decedent give their written consent or when a court order directs the disinterment.

(b) All requests for authority to disinter remains will include the following information:

(1) A full statement of reasons for the proposed disinterment.

(2) Notarized statements by all close living relatives of the decedent that they interpose no objection to the proposed disinterment. "Close relatives" are widow or widower, parents, adult brothers and sisters, and adult children of the decedent and will include the person who directed the initial interment, if living, even though the legal relationship of that person to the decedent may have changed.

(3) A sworn statement by a person who knows that those who supplied affidavits comprise all the living close relatives of the deceased, including the person who directed the initial interment.

(c) In lieu of the documents required, an order of a court of competent jurisdiction will be recognized. The Department of the Army or officials of the cemetery should not be made a party or parties to the court action since this is a matter that concerns the family members involved.

(d) Any disinterment that may be authorized under this paragraph must be accomplished without expense to the Government.

§ 553.20 Headstones and markers.

All graves in Army national cemeteries will be appropriately marked in accordance with 24 U.S.C. 279. Government headstones and markers are provided by the Veterans Administration in accordance with the provisions of the National Cemeteries Act of 1973. When requested by the next of kin, an appropriate memorial headstone or marker will be furnished by the Veterans Administration and erected by cemetery personnel in a memorial section of the cemetery which has been set aside for this purpose. Headstones will be of white marble, upright slab design.

§ 553.21 Monuments and inscriptions at private expense.

(a) The erection of markers and monuments at private expense to mark graves in lieu of Government headstones and markers is permitted only in sections of Arlington National Cemetery in which private monuments and markers were authorized as of 1 January 1947. These monuments will be of simple design, dignified, and appropriate to a military cemetery. The name of the person(s) or the name of an organization, fraternity, or society responsible for the purchase and erection of the marker will not be permitted on the marker or anywhere else in the cemetery. Approval for the erection of a private monument will be given with the understanding that the purchaser will make provision for its future maintenance in the event repairs are necessary. The Department of the Army will not be liable for maintenance of or damage of the monument.

(b) Where a monument has been erected to an individual interred in Arlington National Cemetery and the next of kin desires to have inscribed on it the name and appropriate data pertaining to a deceased spouse, parent, son, daughter, brother, or sister whose remains have not been recoverd and who would have been eligible in their own right for burial in Arlington, such inscriptions may be incised on the monument at no expense to the Government. The words "In Memoriam" or "In Memory Of" are mandatory elements of these inscriptions.

(c) Except as may be authorized for marking group burials, ledger monuments of freestanding cross design, narrow shafts, mausoleums, or overground vaults are prohibited. Underground vaults may be placed at private expense, if desired, at the time of interment.

(d) Specific instructions concerning private monuments and markers are contained in TM 10-287.

§ 553.22 Visitors rules for the Arlington National Cemetery.

(a) *Purpose.* The regulations of this section define the standards of conduct required of all visitors to the Arlington National Cemetery, Arlington, Va. Applicable Army regulations and directives should be consulted for all other matters not within the scope of this section.

(b) *Scope.* Pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, and based upon the delegation of authority from the Administrator, General Services Administration, this section applies to all Federal property within the charge and control of the Superintendent, Arlington National Cemetery, and to all persons entering in or on such property. Any person who violates any of the rules set out in paragraphs (c), (d), (e), and (f) of this section shall be subject to prosecution before a U.S. Commissioner or a Judge of the District Court of the United States under the terms of the Act of June 1, 1948, chapter 359 (62 Stat. 281; 40 U.S.C. 318), as amended.

(c) *Visitors hours.* Visitors hours shall be established by the Superintendent and posted in conspicuous places. Unless otherwise posted or announced by the Superintendent, visitors will be admitted during the following hours: October through March—8 a.m. through 5 p.m.; April through September—8 a.m. through 7 p.m. It is unlawful to enter or remain in the cemetery beyond the time established by the posted visitors hours.

(d) *Destruction or removal of property.* It is unlawful to willfully destroy, damage, mutilate, or remove any monument gravestone, or other structure, or to willfully destroy, damage, mutilate, or remove any tree, shrub, or plant located within the cemetery grounds.

(e) *Conduct within the cemetery.* Since the Arlington National Cemetery is a shrine to the honored dead of the Armed Forces of the United States and since certain acts, appropriate elsewhere, are not appropriate in the Arlington National Cemetery, all visitors are expected to observe proper standards of decorum and decency while within the cemetery grounds. In this regard, it is unlawful to:

(1) Conduct any service, ceremony, or demonstration within the cemetery except those approved by the Superintendent in accordance with the rules established in Technical Manual 10-287;

(2) Engage in any picketing or similar conduct within the cemetery grounds;

(3) Engage in any orations or similar conduct to assembled groups of people, unless the oration is part of an authorized funeral or memorial service;

(4) Display any placards, banners, or foreign flags within the cemetery grounds, unless the same is approved by the Superintendent and is part of an authorized funeral or memorial service;

(5) Engage in any disorderly conduct within the cemetery grounds. For purpose of this section a person shall be guilty of disorderly conduct if, with purpose to cause public inconvenience, annoyance or alarm, or with knowledge that he is likely to cause public inconvenience, annoyance, or alarm, he:

(i) Engages in fighting, or in threatening, violent, or tumultuous behavior;

(ii) Makes unreasonable noise or coarse utterance, gesture, or display, or addresses abusive language to any person present; or

(iii) Otherwise creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

(f) *Soliciting and vending.* It is unlawful to display or distribute commercial advertising or to solicit business within the cemetery grounds.

[FR Doc.77-14228 Filed 5-18-77;8:45 am]

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Order No. 163; Docket No. RM 77-3]

PART 3001—RULES OF PRACTICE

Public Attendance at Meetings of the Postal Rate Commission and Ex Parte Communications

MAY 12, 1977.

AGENCY: Postal Rate Commission.

ACTION: Final rules.

SUMMARY: The changes to the rules, as proposed by the notice issued April 13, 1977 (42 FR 20639, April 21, 1977), are being adopted. They provide for the delegation, in the absence of the General Counsel, of the General Counsel's responsibility for certifying that a Commission meeting may be properly closed; add a provision affording a person an opportunity to request the Commission to review its decision to open or close an impending meeting; and expand the rule governing payment of fees for duplication of records to include documents furnished pursuant to the Sunshine Act. In addition, the restriction against electronically recording or photographing meetings open to the public is being removed.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Barbara Weller, Advisory Attorney, Office of the General Counsel, Postal Rate Commission, Washington, D.C. 20268 (202-254-3840).

SUPPLEMENTARY INFORMATION: By notice dated April 13, 1977 (42 FR 20639), the Postal Rate Commission initiated a rulemaking proceeding to amend certain sections of 39 CFR Part 3001, Subpart A, to incorporate modifications and additions to the rules the Commission adopted[1] to implement the open meeting requirements of section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409). The changes to the rules were proposed to provide for the delegation, in the absence of the General Counsel, of the General Counsel's responsibility for certifying that a Commission meeting may be properly closed; to expand the rule governing payment of fees for duplication of records to include documents furnished pursuant to the Sunshine Act; and to add a provision affording a person an opportunity to request the Commission to review its decision to open or close an impending meeting.

There were no comments received in response to the publication of the Commission's proposed rulemaking. The Commission has determined it should incorporate the proposed modifications and additions in the original rules. In addition, the Commission is further amending the rules to remove the restriction against photographing or electronically recording meetings open to the public. However, the latter amendment is being adopted herein without undertaking the usual "notice and comment" procedure as prescribed by 5 U.S.C. 553 inasmuch as the Commission believes that it is unnecessary and not in the public interest to do so.[2] The amendment relieves a restriction on the public contained in the rules as originally adopted. Accordingly, it is unlikely there would be any adverse comments received if the notice of change were published. Moreover, it is in the public interest to minimize the delay in permitting the additional freedom in Commission meetings which this change would afford the public.

Fees for duplication of documents under the Sunshine Act. The Commission is amending § 3001.42(c)(4) of the current rules of practice and procedures by adding documents furnished pursuant to the Sunshine Act to the provision for payment of fees for duplication. The Sunshine Act specifies that copies of minutes or transcripts of meetings shall be furnished to any person at the actual cost of duplication (5 U.S.C. 552b(f)(2)), which is currently 15 cents per page in the Commission's Public Information Room. Paragraph (c)(4) of § 3001.42 also provides that the fee may be waived or reduced when the Commission determines it is in the public interest.

Delegation of the General Counsel's certification. The Commission also is amending § 3001.43(f)(1) in order to provide for the delegation of the General Counsel's responsibility to certify that in his or her opinion a Commission meeting may be closed pursuant to an exemption whenever the General Counsel is unavailable. The senior advisory Assistant General Counsel available has been designated to act in the General Counsel's absence. The Commission believes the amendment will help assure the proper functioning of the rules under the Sunshine Act when the General Counsel is unavailable.

Commission review of requests to open or close a meeting. The new paragraph (g) to § 3001.43 contains procedures which permit any person to request the Commission to open or close a meeting once the Commission has announced a contrary determination. The procedures have been patterned upon those adopted by other independent regulatory agencies in conjunction with their adoption of rules implementing the Sunshine Act.

The Commission believes it is advisable to incorporate an agency appeal provision in order to afford individuals an opportunity to present the Commission with an opposing view and request reconsideration of the Commission's determination. Implementation of the additional procedure would be advisable for two reasons: (1) It might serve to avert an unnecessary complaint being filed in federal district court if the disagreement can be resolved at the administrative level; and (2) if the disagreement cannot be so resolved, the process of pursuing administrative remedies would better refine and focus the parties' positions prior to the filing of a suit.

Removal of restrictions on photographing or electronically recording Commission meetings by the public. In a letter of April 19, 1977, Ms. Barbara Allen Babcock, Assistant Attorney General, Civil Division, Department of Justice, suggested that agencies subject to the Sunshine Act consider amending their rules to the extent that their rules do not permit members of the public to take notes and photographs or make sound recordings of agency meetings in a non-obtrusive manner. Ms. Babcock states that those activities "* * * will enhance the public's ability to observe meetings and still permit the agency's business to proceed."

Under the current rules of the Commission, persons attending meetings open to the public are not permitted "* * * to participate nor to record any of the discussions by means of electronic devices, or cameras."[3] In view of Ms. Babcock's recommendation, the Commission has determined that its rules should be amended to make them consistent with the policy of augmenting the public's opportunity to observe meetings while maintaining the ability of the agency to carry out its responsibilities. In that connection, paragraph (a) of § 3001.43 is being revised to permit members of the public to attend open meetings and electronically record the proceedings provided they use battery-operated devices at their seats. In addition, cameras may be used by observers to photograph proceedings provided it is done from their seats and no flash or lighting equipment is used. However, none of the permitted activity may interfere with the conduct of business by the members of the Commission or other persons' ability to observe, or to record or photograph, the meeting.[4]

Accordingly, in consideration of the foregoing findings, Part 3001 of Chapter III of Title 39 of the Code of Federal Regulations is amended, effective May 31, 1977, as follows:

1. Amend the first sentence of paragraph (c)(4) of § 3001.42 to read as follows:

§ 3001.42 Public information and requests.

* * * * * * *

(c) * * *

(4) *Fees.* Documents furnished pursuant to the Freedom of Information Act of the Government in the Sunshine Act shall be subject to a fee of 15 cents a page to meet the costs of duplication. * * *

* * * * * * *

2. Amend § 3001.43 by making the following changes:

(a) Revise § 3001.43(a) to read as follows:

(b) Amend the first sentence of § 3001.43(f)(1) to read as follows:

(c) Add a new paragraph (g) to read as follows:

§ 3001.43 Public attendance at Commission meetings.

(a) *Open Commission meetings.* (1) Commissioners shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in paragraph (c) of this section, every portion of every meeting of the Commission shall be open to public observation. Access to documents being considered at Commission meetings shall be obtained in the manner set forth in § 3001.42.

(2) Members of the public may not participate in open meetings. They may record the proceedings, provided they use battery-operated recording devices at their seats. Cameras may be used by observers to photograph proceedings, provided it is done from their seats and no flash or lighting equipment is used. Persons may electronically record or photograph a meeting, as long as such activity does not impede or disturb the members of the the Commission in the performance of their duties, or members of the public attempting to observe.

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[1] 42 FR 13287 (1977).

[2] 5 U.S.C. 553(B) provides an exception to the "notice and comment" procedure "* * * when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

[3] 39 CFR 3001.43(a).

[4] Observers should thus refrain from using any noisy equipment (e.g., motor-drive cameras) which is likely to interfere either with the meeting or with another observer's making a recording.

or to record or photograph, the Commission meeting.

* * * * *

(f) *Certification of closed meetings; transcripts, electronic recordings, and minutes.* (1) Before any meeting to be closed pursuant to paragraphs (c)(1) through (c)(10) of this section, the General Counsel of the Commission, or in the General Counsel's absence, the senior advisory Assistant General Counsel available, should publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision.

* * *

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(g) *Requests to open or close Commission meetings.* (1) (i) Any person may request in writing that the Commission open to public observation discussion of a matter which it has earlier decided to close.

(ii) Such requests shall be captioned "Request to open ---------- (date) Commission meeting on item ---------- (number or description)." The request shall state the reason(s) therefor, the name and address of the person making the request and, if desired, a telephone number.

(iii) Ten copies of such requests must be received by the Office of the Secretary no later than three working days after the issuance of the Notice of Meeting to which the request pertains. Requests received after that time will be returned to the requester with a statement that the request was untimely received and that copies of any nonexempt portions of the transcript or minutes for the meeting in question will ordinarily be available in the Office of Public Information ten working days after the meeting.

(2) (i) Any person whose interests may be directly affected may request in writing that the Commission close to public observation discussion of a matter which it has earlier decided to open as provided for in paragraph (d)(2) of this section.

(ii) Such requests shall be captioned "Request to Close ---------- (date) Commission meeting on item ---------- (number or description)," shall state the reason(s) therefor, the name and address of the person making the request and, if desired, a telephone number.

(iii) Ten copies of such requests should be filed with the Office of the Secretary as soon as possible after the issuance of the Notice of Meeting to which the request pertains. A single copy of the request will be accepted. Requests to close meetings must be received by the Office of the Secretary no later than the time scheduled for the meeting to which such request pertains.

(3) The Secretary shall retain one copy of timely requests and forward one copy to each Member, one copy to the interested Office, and two copies to the Docket Section, one for entry in the appropriate docket file, if any, and one to be posted on the Public Notice Board located in that section as an attachment to the Notice of Meeting to which it pertains.

(4) Pleadings replying to requests to open or close shall not be accepted.

(5) Any Member may require that the Commission vote upon the request to open or close. If the request is supported by the votes of a majority of the agency membership, notice of change in meeting shall be issued and the Secretary shall immediately notify the requester and, before the close of business the next working day, have posted such vote and other material required by paragraphs (d) and (e) of this section on the Commission's Public Notice Board.

(6) If no Commission Member requests that a vote be taken on a request to open or close a Commission meeting, the Secretary shall by the close of the next working date after the meeting to which such request pertains certify that no vote was taken. The Secretary shall forward one copy of that certification to the requester and two copies of that certification to the Docket Section, one to be placed in the appropriate Docket file, if any, and one to be posted on the Public Notice Board, where it will be displayed for one week.

(39 U.S.C. 3603, 84 Stat. 759; 5 U.S.C. 552b (g), 90 Stat. 1246; 5 U.S.C. 553, 80 Stat. 383.)

By the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-14329 Filed 5-18-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 727-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This approval of a revision to the Massachusetts Implementation Plan permits James River Associates, Inc., and a part of Fitchburg Paper Company, Fitchburg, Massachusetts (located in the Central Massachusetts Intrastate Air Quality Control Region), to burn 2.2 percent sulfur content fuel oil during seven months of the year, April through October. During the five-month heating season, November through March, they will be limited to burning fuel oil with a sulfur content not in excess of 1 percent. All sources located in Fitchburg presently burn 1 percent sulfur content fuel oil. The Massachusetts Department of Environmental Quality Engineering submitted this revision pursuant to a state law which requires periodic review of the Implementation Plan to determine if any of the regulations are more stringent than necessary to attain and maintain National Ambient Air Quality Standards.

EFFECTIVE DATE: May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Air Branch, Environmental Protection Agency, J. F. Kennedy Federal Bldg., Boston, MA 02203 (617-223-5609).

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10872) pursuant to Section 110 of the Clean Air Act and to 40 CFR Part 51, the Administrator approved, with exceptions, the Massachusetts Implementation Plan for the attainment of National Ambient Air Quality Standards (NAAQS).

On March 9, 1977 there was published in the FEDERAL REGISTER (42 FR 13128) a proposal for a change in the sulfur content of fuel burned by large fossil fuel burning sources in the city of Fitchburg, Massachusetts. The City of Fitchburg is located in the Central Massachusetts Intrastate Air Quality Control Region (the "AQCR").

A prior revision to the Massachusetts State Implementation Plan (SIP) for this AQCR, which relaxed sulfur limitations for large fossil fuel burning sources in the AQCR, was approved by EPA on February 15, 1977 (42 FR 9176). Excluded from this revision, however, were the cities of Fitchburg and Worcester, which remained subject to regulations permitting the burning of fossil fuel having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content residual fuel oil).

The Massachusetts Department of Enviromental Quality Engineering ("the Massachusetts Department") submitted additional information in support of a seasonal control strategy for large fossil fuel burning sources located in the City of Fitchburg. This strategy allows fossil fuel users of over 100 million Btu's per hour rated energy input capacity to burn fossil fuel having a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent sulfur content residual fuel oil) during 7 months of the year, April through October. During the 5-month heating season, November through March, these sources would burn fuel oil with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content residual fuel oil). All other sources in Fitchburg would be limited to 1 percent sulfur content fuel oil year round.

Technical support documentation was submitted by the Massachusetts Department for the four sources in Fitchburg of the size category under consideration: James River Associates, Inc., Fitchburg Paper Company, General Electric Company, and Fitchburg Gas and Electric Company. Based upon the Massachusetts Department's submittal and additional modeling performed by EPA to evaluate the strategy, the analysis by EPA indicates that the 2.2 percent sulfur content fuel oil could be burned by Fitchburg Paper Company only in those

boilers which emit through the 55 meter stack, and by James River Associates, Inc., without violations of NAAQS for sulfur dioxide.

During the 30-day comment period, comments were received from General Electric Company, James River Associates, Inc., and the Central Massachusetts Lung Association. General Electric Company submitted a proposal whereby they could be considered for approval to burn a higher sulfur content fuel oil. However, further calculations by EPA indicate that the potential for NAAQS violations still exists. Therefore, General Electric Company cannot be approved for this revision.

James River Associates, Inc. submitted comments supporting approval of the revision.

The Central Massachusetts Lung Association questioned whether the SO_2 3-hour secondary standard had been considered in EPA's evaluation of the revision. EPA's evaluation shows that none of the sources being approved to burn the higher sulfur content fuel is predicted to cause or contribute to violations of the primary or secondary NAAQS for SO_2.

No comments were received from Fitchburg Gas and Electric, which must be disapproved.

In order to use the higher sulfur content fuel, the two approved sources, James River Associates, Inc., and part of Fitchburg Paper Company, must first receive a permit from the Massachusetts Department. The Massachusetts Department has the authority to require the establishment of a network of total suspended particulate (TSP) and continuous ambient sulfur dioxide monitors at specified locations in the vicinity of the facility eligible to burn higher sulfur content fuel. The Massachusetts Department will take all actions necessary to assure maintenance of the NAAQS, including requiring the approved sources to return permanently to burning lower sulfur fuel if there are any recorded violations of SO_2 standards in the vicinity of the facility.

Further, neither of the approved sources will be permitted to continue burning higher sulfur content fuel if the source has particulate emissions in excess of the emission limitation established for it in the SIP. This determination will be made from stack emission testing which is a condition of the Massachusetts Department permit for all sources.

Although an increase in particulate emissions will likely occur with the increase in the sulfur content of fuel, EPA has determined that neither of the sources being approved to burn the higher sulfur content fuel will exacerbate the existing particulate problem in AQCR, nor will they cause violations of NAAQS for particulates.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts Implementation Plan.

The Agency finds good cause exists for making this action effective May 19, 1977, for the following reasons:

1. The Implementation Plan revision is already in effect under State Law and EPA approval imposes no additional regulatory burdens.

2. Immediate effectiveness of the actions enables the sources involved to proceed with certainty in conducting their affairs.

(Sec. 110(a) of the Clean Air Act, as amended, U.S.C. § 1857c-5(a).)

Dated: May 12, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter 1, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. Section 52.1120, paragraph (c) is amended by adding paragraph (11) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(11) Regulation 5.1, Sulfur Content of Fuels and Control Thereof, for the Central Massachusetts Air Pollution Control District (revised and adopted by the Massachusetts Department of Environmental Quality Engineering on March 29, 1976, with specific provisions for the City of Fitchburg) submitted on June 25, 1976, by the Secretary of Environmental Affairs.

2. Section 52.1126, paragraph (c) is revised to read as follows:

§ 52.1126 Control strategy: Sulfur oxides.

* * * * *

(c) Massachusetts Regulation 5.1 which allows a relaxation of sulfur in fuel limitations for the Central Massachusetts Air Pollution Control District, except in the City of Worcester, is approved except as to the following sources which remain subject to the previously approved requirements of Regulation 5.1 which stipulates that sources are permitted to burn fossil fuel having a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1 percent sulfur content residual fuel oil by weight):

Borden, Incorporated, Chemical Division, Leominster, Massachusetts.
The Felters Company, Millbury, Massachusetts.
Part of Fitchburg Paper Company, (boilers serving the 23 meter stacks), Fitchburg, Massachusetts.
Fitchburg Gas and Electric Company, Fitchburg, Massachusetts.
General Electric Company, Fitchburg, Massachusetts.
Whitten Machine Works, Whitinsville, Massachusetts.

[FR Doc.77-14229 Filed 5-18-77;8:45 am]

[FRL 707-8]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

State and Local Governments Permitted to Control Certain Aspects

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule clarifies EPA's intention that its regulations for the phased reduction of lead additives in motor gasolines do not preempt State or local governments from controlling other aspects of fuel and additives used in motor gasolines. This clarification results from a recent U.S. Court of Appeals decision which held that EPA's regulations preempted New York City's regulation limiting the vapor pressure of gasoline. The effect of this rule will be to permit State or local governments to regulate fuels and additives not explicitly regulated by EPA.

DATES: Rule is effective on May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald F. Walters, Office of Air Quality Planning and Standards (MD-11), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number 919-688-8146, extension 541.

SUPPLEMENTARY INFORMATION: On January 17, 1977, the U.S. Court of Appeals for the Second Circuit held that the existence of EPA's regulations for the phased reduction of lead additives in motor gasolines preempted New York City's regulations limiting lead in gasoline. The Court also struck down New York City's regulations limiting the vapor pressure of gasoline (aimed at reducing hydrocarbon emissions). The preemption of local regulation of vapor pressure was based on the Court's interpretation that EPA, by stating in 40 CFR 80.1 that "[t]his part prescribes regulations for the control and/or prohibition of fuels and additives for use in motor vehicles and motor vehicle engines," had regulated motor vehicle fuels in general and therefore intended to preempt all State or local regulation of any aspects of fuel and additives for motor vehicles.

Part 80 does not regulate all aspects of gasoline nor did EPA intend in § 80.1 to express its intentions on preemption. The quoted words simply provide the user of the Code of Federal Regulations with the general information that Part 80 relates to regulation of fuels and additives rather than to another subject. In fact § 80.1 was promulgated eleven months before the lead phase-down regulations considered by the Court. In addition to not regulating aspects of gasoline other than lead additives, EPA has not made a finding pursuant to section 211(c)(4)(A)(i) of the Clean Air Act that other controls are unnecessary.

Therefore, to prevent misinterpretation of this regulation and to make clear that EPA's regulations are not intended to preempt State and local regulation of other aspects of gasoline, the following amendment to 40 CFR 80.1 is made. Because of the clarifying nature of this amendment the Administrator finds good cause for omitting an unnecessary proposal and public comment prior to publication of this amendment.

(Secs. 211, 301(a), Clean Air Act, as amended (42 U.S.C. 1857f–6c, 1857g).)

Dated: May 4, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 80 of Chapter I, Title 40 of the Code of Federal Regulations is amended to add to § 80.1 a new paragraph (b) as follows:

§ 80.1 Scope.

* * * * *

(b) Nothing in this part is intended to preempt the ability of State or local governments to control or prohibit any fuel or additive for use in motor vehicles and motor vehicle engines which is not explicitly regulated by this part.

[FR Doc.77–14277 Filed 5–18–77;8:45 am]

Title 41—Public Contract and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA–PR Tem. Reg. No. 31]

PART 9–51—REVIEW AND APPROVAL OF CONTRACT ACTIONS

Noncompetitive Procurement

AGENCY: Energy Research and Development Administration.

ACTION: Temporary Regulation No. 31.

SUMMARY: ERDA Temporary Regulation No. 24, December 10, 1976, is canceled in its entirety and replaced by this regulation. As written, Temporary Regulation No. 24 overcontracted certain steps in the procurement process. The change is intended to involve the appropriate levels of management in the process.

EFFECTIVE DATE: This regulation is effective May 19, 1977.

ADDRESSES: Hugh M. Turpie, Division of Procurement, Rm. C–167, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Hugh M. Turpie (301–353–4541).

SUPPLEMENTARY INFORMATION: Expiration date—This regulation will remain in effect until canceled and replaced by a permanent ERDA Procurement Regulation.

Interested persons may submit comments on this regulation and those received on or before July 13, 1977, will be considered in determining whether revision of this regulation may be advisable.

Section 9–51.302, *Noncompetitive procurement*, is revised as follows:

Subpart 9–51.3 *Other approval requirements.*

* * * * *

§ 9–51.302 Noncompetitive procurement.

(a) While "negotiated procurement shall be on a competitive basis to the maximum practical extent" (FPR 1–3.101(d)) and "reasonable competition shall be obtained in making small purchases in excess of $500" (FPR 1–3.603–(1)), there are circumstances where one source has exclusive capability to perform the work within the time required and at reasonable prices, e.g., by reason of experience, specialized facilities, or technical competence. In such a circumstance, the initiating program office may conclude that only one source is qualified to perform the work and, therefore, recommend that a contract be negotiated only with that source. The recommendation shall be in writing and will be contained in a spearate document entitled, "Justification for Noncompetitive Procurement" and shall examine the reasons for the procurement being noncompetitive in accordance with paragraph (c) of this section.

For a noncompetitive procurement, an approved justification shall be attached to the procurement request when the request is sent to a procurement officer for action.

A Justification for noncompetitive procurement is also required where "new" procurements (i.e., outside the contractual scope of work) are initiated through modifications to existing contracts.

If a noncompetitive procurement has been justified and approved, in accordance with this section 9–51.302, as a part of an annual procurement plan and such plan has been reviewed and approved by the Administrator, it will not be necessary to resubmit the justification for approval at the time each individual procurement action is processed. Such justifications shall be made a part of the permanent contract file (see ERDA–PR 9–55.102–2).

(b) The provisions of this regulation do not apply to:

(1) Procurements of $500 or less (see FPR 1–3.603–1(a)(1));

(2) Acquisitions from or through other Government agencies;

(3) Procurements of utility services where the services are available from only one source (see FPR 1–4.4);

(4) Subscriptions to periodicals;

(5) Procurements resulting from Program Opportunity Notices, ERDA–PR 9–4.57, or Program Research and Development Announcements, ERDA–PR 9–4.58 (which are forms of competitive solicitations and subject to requirements stated in the respective regulations);

(6) Procurements subject to the procedures set forth in ERDA–PR 9–4.51, Research Agreements and Contracts With Educational Institutions;

(7) Procurements subject to the procedures set forth in ERDA–PR 9–4.52, Unsolicited Proposals;

(8) Contracts for management and operation of the major ERDA laboratories and production facilities;

(9) On-site service contracts of a continuing nature; or

(10) Contracts which are subject to separate justification for recompetition or extension.

(c) *Justification for noncompetitive procurement.*

(1) The document entitled, "Justification for Noncompetitive Procurement" shall examine the reasons for the procurement being noncompetitive and shall contain, in the first sentence of the document, an appropriate recommendation (e.g., "I recommend that negotiations be conducted only with (name of entity) for the supplies and services described herein.")

(2) Each justification shall set forth enough facts and circumstances to clearly and convincingly establish that competition would not have been feasible or practicable. The following format includes considerations to be made in preparing the justification.

(i) *Description of supplies or services to be procured:*

A. A brief, general, nontechnical description and statement of the general application and particular significance or specialized character of the procurement.

B. A description of all associated supplies or services, e.g., technical data, reports, engineering services, and so forth to be procured.

(ii) *Procurement history, estimated future requirements, and long range procurement objectives:*

A. Brief statement of the technical and contractual evolution of the supplies or services being procured from initiation to present status.

B. Brief statement as to whether the work is a continuation of previous effort performed by the proposed contractor.

C. Reference should be made to any advance planning information previously prepared or furnished, together with information with respect to any changes proposed in the present justification which represents a departure or modification of prior procurement plans, including a statement of the effect of the changes, if any, on scheduled milestones.

D. Brief statement as to what actions have been taken to develop competition and eliminate a noncompetitive situation in future procurements of the proposed supplies or services.

(iii) *Estimated cost:*

A. The estimated cost of the procurement and a brief description of assumptions made and data used by the initiating program office to develop the estimate.

B. The estimated cost listed by fiscal years.

C. Whether the proposed contractor or the Government have a substantial investment of some kind that would have to be duplicated at Government expense by another source.

(iv) *Schedule requirements:*

A. The basis for establishing schedule requirements.

B. An explanation of the urgency, if any, of the requirement. Describe why the schedules are critical and why only the proposed contractor can meet them.

C. Describe what significant cost savings or other benefits could result if schedules could be relaxed and whether competition could thus be obtained.

(v) *Exclusive capability.*

A. Does the proposed contractor have personnel considered unquestionably predominant experts in the particular field?

B. What prior experience of a highly specialized nature does the source exclusively possess that is vital to the proposed effort?

C. What facilities and/or test equipment does the source exclusively have that are complex or specialized and vital to the effort?

D. Is competition precluded because of the existence of patent rights, copyrights, secret processes, trade secrets, technical data, or other proprietary data?

E. What other capability and/or capacity does the proposed contractor have that is necessary for the specific effort and makes it clearly the only source that can perform the work on the required time schedule without incurring clearly unreasonable costs?

(vi) *Other.*

A. If lack of drawings or specifications are a constraining factor, why is the proposed contractor clearly best able to perform under these circumstances? Why are the drawings and specifications lacking? What is the lead time required to get drawings and specifications suitable for competition?

B. Are parts or components being procured as replacement parts in support of equipment specially designed by a manufacturer, where data available is not adequate to assure that the parts or components obtained from another source would perform the same function?

(d) *Review and approval.* The justification shall, as a minimum requirement, be reviewed and approved as follows: (In the case of cost sharing contracts, the contractor's shared amount is included in the dollar amounts specified.)

(1) For procurements in excess of $500, but not in excess of $10,000 (small purchases), the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the approval of the assistant administrator (or designee) or the head of the staff office (or designee) (Headquarters), the field office manager (or designee), or the energy research center director (or designee).

(2) For procurements in excess of $10,000, but not in excess of $1 million, the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the review and concurrence of, at Headquarters (i) the Senior Procurement Advisor (or designee) and (ii) the Office of the General Counsel or, in the field, legal counsel, and shall be submitted for the approval of the assistant administrator (or designee) or the head of the staff office (or designee) (Headquarters), the field office manager (or designee), or the energy research center director (or designee).

(3) For procurements in excess of $1 million, but not in excess of $5 million, the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the review and concurrence of, at Headquarters (i) the Senior Procurement Advisor (or designee), (ii) the Office of the General Counsel and (iii) the Office of the Controller or, in the field, legal counsel, and shall be submitted for the approval of the assistant administrator (or designee) or the head of the staff office (or designee) (Headquarters), the field office manager (or designee), or the energy research center director (or designee).

(4) For procurements in excess of $5,000,000, but not in excess of $10 million, the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the review and concurrence of (i) the division director (Headquarters) or the manager (field), (ii) the Assistant Director of Procurement for Program Support, (iii) the Office of the General Counsel and (iv) the Office of the Controller and shall be submitted for the approval of the assistant administrator or the head of the staff office (Headquarters).

(5) For procurements in excess of $10 million, the justification shall be submitted by the initiating office, with the advice and assistance of the Division of Procurement Program Support staff, for the review and concurrence of (i) the division director (Headquarters) or the manager (field), (ii) the Director of Procurement, (iii) the Office of the General Counsel, (iv) the Office of the Controller, (v) the assistant administrator or the head of the staff office (Headquarters), (vi) the Assistant Administrator for Administration, and (vii) the Assistant Administrator for Field Operations *and* shall be submitted for the approval of the Administrator.

AUTHORITY: Section 105 of the Energy Reorganization Act of 1974 (Pub. L. 93–438)

Dated: May 3, 1977.

M. J. TASHJIAN,
Director of Procurement.

Noncompetitive procurement justification—Review and approval

In excess of (dollars)—	But not in excess of (dollars)—	Concur	Approve
500	10,000 (small purchases).[1]		AA (or designee) or the head of the staff office (or designee) (Headquarters), the Field Office Manager (or designee), or the ERC Director (or designee).
10,000	1 million	HQ—Senior Procurement Advisor (or designee) and General Counsel. Field—Legal Counsel.	AA (or designee) or the head of the staff office (or designee) (Headquarters), the Field Office Manager (or designee), or the ERC Director (or designee).
1 million	5 million	HQ—Senior Procurement Advisor (or designee), General Counsel and Controller. Field—Legal Counsel.	AA (or designee) or the head of the staff office (or designee) (Headquarters), the Field Office Manager (or designee), or the ERC Director (or designee).
5 million	10 million	Division Director (HQ) or Field Office Manager, General Counsel, Controller and Assistant Director of Procurement for Program Support.	Assistant Administrator or the head of the staff office (Headquarters).
10 million		Division Director (HQ) or Field Office Manager, General Counsel, Controller, Director of Procurement, Assistant Administrator or the head of the staff office (HQ), Assistant Administrator for Administration and Assistant Administrator for Field Operations.	Administrator.

[1] "Reasonable competition shall be obtained in making small purchases in excess of $500" (FPR 1–3.603–1).

[FR Doc.77–14215 Filed 5–18–77;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1071—GRANTEE PROPERTY ADMINISTRATION

Termination of Moratorium on Grantee Excess Property Acquisition

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The CSA moratorium on grantee acquisition of excess government personal property is ended. It was established to facilitate an accurate inventory of grantee excess property and is no longer needed since that inventory is complete. This action will again allow CSA grantees to acquire Federal excess property, although after October 17, 1977 their ability to do so will be limited by the provisions of Pub. L. 94–519.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

E. W. Covington, Community Services Administration, Office of Administration, 1200 19th Street, NW., Washington, D.C. 20506, phone 202–254–6310.

SUPPLEMENTARY INFORMATION: The CSA moratorium on grantee acquisition of excess property was imposed effective April 1, 1977 by a March 23 issuance appearing at 42 FR 15704 in order to facilitate compliance with Pub. L. 94-519 and GSA Bulletin FPMR H-28 requiring each agency to report all government excess property in possession of its grantees by June 14, 1977.

As this action relieves a restriction on grantees, a thirty day period between the publication and the effective date of this issuance is not required.

Therefore, effective June 1, 1977 the suspension of the provisions of 45 Code of Federal Regulations 1071.30 (CSA Instruction 7001-01a, Section 4a) is ended.

AUTHORITY: 78 Stat. 528 (42 U.S.C. 602(n)).

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc.77-14282 Filed 5-18-77;8:45 am]

CHAPTER XVI—LEGAL SERVICES CORPORATION

PART 1611—ELIGIBILITY

Maximum Income Levels for Individuals Eligible for Legal Assistance; Correction

AGENCY: Legal Services Corporation.

ACTION: Correction of Final Rule.

SUMMARY: This corrects the rule published Friday, May 13, 1977, 42 FR 24271, establishing maximum income levels for individuals eligible for legal assistance.

EFFECTIVE DATE: May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Linda Davis, Legal Services Corporation, 733 15th Street, NW., Suite 700, Washington, D.C. 20005, 202-376-5113.

Substitute the following figures for the ones previously published:

FOR ALL STATES EXCEPT ALASKA AND HAWAII

For family units with more than six members, add $1,200 for each additional member.

POVERTY GUIDELINES FOR ALASKA

For family units with more than six members, add $1,500 for each additional member.

POVERTY GUIDELINES FOR HAWAII

For family units with more than six members, add $1,375 for each additional member.

JAMES E. COLEMAN,
Assistant Counsel,
Legal Services Corporation.

[FR Doc.77-14316 Filed 5-18-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD-75-017]

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

PART 35—OPERATIONS

Air Compressors on Tank Vessel

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This document amends the tanker regulations by prohibiting the installation of air compressors in the cargo areas of new tank vessels and the use of installed air compressors in the cargo areas of existing vessels. The Coast Guard has determined that hazardous cargo vapors that may exist in cargo areas pose a potentially explosive hazard if air compressors are used in those areas. Prohibiting the installation in those areas on new vessels and their use on existing vessels should eliminate this hazard.

EFFECTIVE DATE: These amendments are effective on June 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Proposed rules were published in the FEDERAL REGISTER on August 13, 1975 (40 FR 33996). Interested parties were given an opportunity to submit comments to the Coast Guard concerning the proposed requirements not later than September 15, 1975. A discussion of comments received is contained in the following paragraphs.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Mr. Ralph T. Simmons, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley M. Colby, Project Attorney, Office of Chief Counsel.

DISCUSSION OF MAJOR COMMENTS

1. Four comments were received objecting to the requirements of proposed § 35.35-80. These requirements would prohibit the draining of cargo into a cargo handling room bilge, except during repairs of maintenance of cargo handling equipments, and would require prompt removal of any cargo accumulated in that bilge. The principal objections were that the prohibition on draining cargo into a cargo handling bilge would greatly interfere with cargo transfer operations and would pose economic hardship. Also, two commenters stated that the requirement to remove cargo promptly from a pumproom bilge would create a possibility of overboard discharge. Proposed § 35.35-80 has not been adopted in the final rules. The comments received show the need for additional review concerning the draining of cargo into pumproom bilge and its removal from the bilge. Any further regulatory action pertaining to these requirements will be based upon the additional review and will be preceded by a notice of proposed rulemaking in the FEDERAL REGISTER.

2. One commenter asked whether § 32.35-15 prohibits the use of vacuum pumps as priming devices for cargo oil pumps and bilge pumps in the cargo handling room of tank vessels. Section 32.35-15 applies to air compressors and not vacuum pumps

3. One commenter noted that a strict interpretation of § 32.35-15(b), which prohibits installation of an air compressor and air compressor intake in an enclosed space containing cargo piping, could prohibit the use of an air compressor in the main engine room of an LNG carrier approved for utilizing cargo tank boil-off as fuel in boilers. When the cargo reaches the piping in the main engine room of an LNG carrier, it is considered to be fuel and no longer cargo. Therefore, the prohibition in § 32.35-15(b) is not applicable. Proposed regulations for LNG vessels are in the October 14, 1976 issue of the FEDERAL REGISTER (41 FR 43822) and contain specific safeguards for main engine room piping that would allow safe operation of air compressors.

4. One commenter recommended that § 32.35-15(d) be changed to allow installation of an air compressor adjacent to a tanker's cargo hold space having cylindrical or independent tanks. He stated that a source of ignition can usually be placed directly adjacent to the hold space bulkhead because there will be a cofferdam (two bulkheads) between the cargo and the source of ignition. This recommendation was not adopted. Alternate arrangements of this type can be considered by the Coast Guard on an individual case basis. If a particular cofferdam does provide protection for a cargo hold space and the tank in the hold space, installation of an air compressor adjacent to the cofferdam and hold space may be authorized under 46 CFR 30.15-1.

5. Three comments were received recommending that § 32.35-15 not be made applicable to oil pollution clean-up vessels. The commenters stated that the operation of these vessels would be seriously affected if they were required to comply with § 32.35-15 as proposed. At the present time, the Coast Guard is reviewing the vessel regulations to determine those that should be made applicable to oil pollution clean-up vessels. Regulatory proposals for these vessels will be drafted at the conclusion of the review and will be published as a notice of proposed rulemaking in the FEDERAL REGISTER. Accordingly, the proposal is changed and the rule is not applicable to oil pollution clean-up vessels.

6. One commenter recommended that proposed § 32.35-15 should apply to petroleum products of grades A thru D but not to grade E and heavier. This recommendation has been adopted for § 32.35-15. Cargoes that are grade E or heavier do not give off sufficient vapors to make operation of an air compressor hazardous.

7. One commenter suggested that existing air compressors and air compressor intakes be allowed in all spaces where Coast Guard regulations allow installation of non-explosion proof electrical equipment. The proposal as presently written does not preclude the use of air compressors in the spaces referred to by the commenter. Non-explosion proof electrical equipment is used on occasion in some spaces that have small concentrations of vapors that do not pose a hazard to operation of the equipment. Use of an air compressor in one of these

spaces would not create a hazard any greater than the use of non-explosion proof electrical equipment.

8. One commenter asked whether vessels subject to the requirements for bulk dangerous cargoes in Subchapter O of Title 46, Code of Federal Regulations, must comply with the regulations adopted in this rulemaking. A vessel that is subject to the requirements in Subchapter O will have to comply with the regulations adopted in this rulemaking if it is certificated under the provisions of the tank vessel regulations in Subchapter D, as required under § 151.01-10.

9. One commenter remarked that § 32.35-15(f) was unclear. This paragraph has been changed to read the same as § 32.45-1(f)(4-a), for clarity and consistency.

In accordance with the foregoing, Part 32 and Part 35 of Title 46, Code of Federal Regulations, are amended as follows:

1. By adding a new § 32.35-15 to read as follows:

§ 32.35-15 Installation of air compressors on tank vessels contracted for on or after June 15, 1977—TB/ALL.

No tank vessel, except an oil pollution clean-up vessel, that carries petroleum products grades A thru D contracted for on or after June 15, 1977 may have an air compressor or an air compressor intake installed in any of the following cargo areas:

(a) A cargo handling room.

(b) An enclosed space containing cargo piping.

(c) A space in which cargo hose is stowed.

(d) A space adjacent to a cargo tank or cargo tank hold.

(e) A space within three meters of any of the following:

(1) A cargo tank opening.

(2) An outlet for cargo gas or vapor.

(3) A cargo pipe flange.

(4) A cargo valve.

(5) An entrance or ventilation opening to a cargo handling room.

(f) The cargo deck space. For the purpose of this paragraph, "cargo deck space" means the volume bounded by the open deck over the cargo tank block, including all ballast tanks within the cargo tank block, extending to the full width of the vessel, plus three meters (about 10 feet) fore and aft of the cargo tank block and up to a height of 2.4 meters (about 8 feet) above the deck.

(g) An enclosed space having an opening into a location described in paragraphs (a)-(f) of this section.

(h) A location similar to those described in paragraphs (a)-(g) of this section in which cargo vapors or gases may be present.

2. By adding a new § 35.35-85 to read as follows:

§ 35.35-85 Air Compressors—TB/ALL.

(a) No person may operate an air compressor in a cargo area described in § 32.35-15 of this subchapter.

(b) The owner of a vessel that has an air compressor or an air compressor intake in a cargo area described in § 32.35-15 of this subchapter must have the equipment made permanently inoperative or removed from that location at the next drydocking or inspection for certification of the vessel after June 15, 1977, whichever occurs first. The equipment may not be reinstalled thereafter in a cargo area described in § 32.35-15 of this subchapter.

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4417a, as amended (46 U.S.C. 391a); R.S. 4462, as amended (46 U.S.C. 416); sec. 1 Pub L. 86-244, 73 Stat. 475 (46 U.S.C. 481(a)); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46 (b) and (n)(4).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: May 9, 1977.

O. W. SILER,
Admiral, United States
Coast Guard, Commandant.

[FR Doc.77-14317 Filed 5-18-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 1—PRACTICE AND PROCEDURE

Editorial Amendments Concerning Notice and Rule Making Proceedings

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Rules amended to make it clear that Subpart C of Part 1 (the rules of procedure) applies only to notice and comment rulemaking proceedings and has no application to formal rule making (or rate making).

EFFECTIVE DATE: May 20, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Upton Guthery, Office of General Counsel, 202-632-6444.

SUPPLEMENTARY INFORMATION:

Adopted: May 5, 1977.

Released: May 9, 1977.

Order. In the matter of editorial amendment of Part 1, rules of practice and procedure.

1. Confusion and uncertainty appear to have arisen concerning the scope of both § 1.4(b)(1) and Subpart C of the rules and regulations. The cited procedures apply only to notice and comment rulemaking proceedings conducted under 5 U.S.C. 553. Recently, however, some persons have real them as applying to either formal rulemaking (or rate making) proceedings. To dispel any misunderstanding, they are hereby amended to more expressly state their scope.

2. Authority for this action is contained in sections 4 (i) and (j) and 303 (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r), and in § 0.231(d) of the rules and regulations, 47 CFR 0.231(d). Because the amendments are editorial and procedural in nature, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.

3. *Accordingly, it is ordered,* effective May 20, 1977, that Part I of the rules and regulations is amended as set out below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is revised as follows:

1. Section 1.4(b)(1) is revised to read as follows:

§ 1.4 Computation of time.

* * * * *

(b) * * *

(1) For documents in notice and comment rule making proceedings, the date of public notice is the date of publication in the FEDERAL REGISTER.

* * * * *

2. Following the designated center heading at the beginning of Subpart C, § 1.399 is added, to read as follows:

§ 1.399 Scope.

This subpart shall be applicable to notice and comment rulemakings proceedings conducted under 5 U.S.C. 553, and shall have no application to formal rule making (or rate making) proceedings unless the Commission directs that it shall govern the conduct of a particular proceeding.

§ 1.417 [Deleted]

3. Section 1.417 is deleted.

[FR Doc.77-14236 Filed 5-18-77;8:45 am]

[FCC 77-319]

PART 19—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Improvement of the Commission's Overall Financial Disclosure System

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This is an Order adopting an amendment of the criteria of position categories, and requiring incumbents to file statements of employment and financial interests. The action, taken with the agreement of the U.S. Civil Service Commission, increases the number of employees who must file such statements. The amendment was adopted pursuant to the Commission's policy of strengthening the standards of ethical conduct, and improving its overall financial disclosure system.

EFFECTIVE DATE: May 26, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Fred J. Goldsmith, Office of Executive Director, 202–632–7143.

SUPPLEMENTARY INFORMATION:

Adopted: February 10, 1977.

Released: May 13, 1977.

Order. In the matter of amendment of Part 19 to improve the Commission's overall financial disclosure system.

1. These amendments to Part 19 of the Commission's rules and regulations are made pursuant to the Commission's policy of strengthening the standards of ethical conduct, and improving the Commission's overall financial disclosure system.

2. Because the amendment involves internal Commission personnel and management matters exclusively, compliance with the prior notice and effective date requirements of 5 U.S.C. 553 is unnecessary.

3. *Accordingly, it is ordered,* Effective May 26, 1977, pursuant to the authority contained in sections 4(i), 303(r) and 5(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(b), and 303(r), that § 19.735–403 of Part 19 of the FCC rules is hereby deleted, and the following inserted in lieu thereof:

§ 19.735–403 Employees required to submit statements.

Except as provided in § 19.735–404, statements of employment and financial interests shall be required from the following employees of the Commission:

(a) Employees who are Administrative Law Judges.

(b) Employees who are Members of the Review Board.

(c) Employees who are in Grade GS–13 or above.

(d) Employees who are in Grade GS–11 or above and who are Heads or Supervisors of Assistant Heads or Supervisors of field offices.

(e) All purchasing agents and all employees, professional, administrative, and clerical, in the offices of the Commissioners.

(f) All employees serving as auditors or accountants, with the principal duty of auditing private enterprises.

(g) All employees, professional, administrative, and clerical, in the offices of the Commissioners.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–14292 Filed 5–18–77;8:45 am]

[1] Commissioner Lee absent.

PART 73—RADIO BROADCAST SERVICES

Effects of Terrain on Signal Propagation, Evaluation; Temporary Suspension of Certain Portions of Sections

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Indefinite stay of procedures for evaluating effects of terrain on signal propagation. This further stay is necessary pending Commission action to finalize more accurate procedures for employing terrain roughness corrections, even in those cases where terrain anomalies are encountered.

EFFECTIVE DATE: Effective date stayed.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John M. Taff, Policy and Rules Division, Broadcast Bureau, 202–632–5414.

SUPPLEMENTARY INFORMATION:

Adopted: April 28, 1977.

Released: May 9, 1977.

Order. In the matter of temporary suspension of certain portions of §§ 73.313, 73.333; 73.684 and 73.699 of the Commisison's Rules and Regulations, order.

1. By Commission Order, released May 10, 1976 (FCC 76–382), use of terrain roughness corrections in filings by FM and TV station applicants was stayed. Specifically, the effectiveness of §§ 73.313 (f), (g), (h), (i) and (j); 73.333, Figures 4 and 5; 73.684 (h), (i), (j), (k) and (l); and, 73.699, Figures 10d and 10e was stayed until May 1, 1977. In its Order, the Commission expressed the belief that the period of the stay would provide enough time to complete its study of ways to deal with atypical terrain configurations and develop appropriate procedures for employing the sound concepts on which terrain roughness corrections are based, even in those limited number of cases where terrain anomalies are encountered.

2. While the Commission's effort in regard to the foregoing is essentially complete, the results of that study lead to the conclusion that a further rule making proceeding is required. In light of the time that will be needed to complete this undertaking, and in the interest of orderly administration, we find it necessary to order a further stay of the effectiveness of the subject rule sections.

3. During the period of the additional stay ordered here, the situation will remain as it has been during the preceding stay. That is, predicted contours will be calculated using the new curves but without regard to terrain roughness. As we observed earlier, where doubt is expressed about the accuracy of these contours, parties are free to file supplemental showings under § 73.684(f) of these rules.[1] The use of predicted contours calculated with the new propagation curves is limited, naturally, only to those regulatory areas not subject to earlier Commission proclamations as to the use of predicted contours.[2]

4. *Accordingly, it is ordered,* Pursuant to sections 4(i), 403 and 408 of the Communications Act of 1934, as amended, That the effectiveness of §§ 73.313 (f), (g), (h), (i) and (j); 73.333, Figures 4 and 5; 73.684 (h), (i), (j), (k) and (l); and, 73.699, Figures 10d and 10e are stayed until further order of the Commission.

(Secs. 4, 403, 408, 48 Stat., as amended, 1066, 1094, 1096, (47 U.S.C. 154, 403, 408).)

FEDERAL COMMUNICATIONS COMMISSION,[3]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–14322 Filed 5–18–77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Sherburne National Wildlife Refuge, Minnesota to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Sherburne National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: May 1, 1977, through February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Route 2, Zimmerman, Minnesota 55398 (John E. Wilbrecht) Phone 612–389–3323.

[1] If the parties wish to do so, they may offer showings based on terrain roughness. These showings will be reviewed by the Commission and given such consideration as they merit.

[2] See e.g., Notice of Proposed Rule Making, in Docket 20496, FCC 75–635, 53 F.C.C. 2d 1009 (1975), (41 FR 19949), where the Commission adopted special procedures for the use of signal strength contours in cases concerning, inter alia, cable television broadcast station carriage.

[3] Commissioner Lee absent.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sports fishing is permitted on the Sherburne National Wildlife Refuge, Minnesota, only on the areas designated by signs as being open to fishing. These areas comprising approximately 1,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(a) The open season for sport fishing extends from May 1, 1977 through February 28, 1978, inclusive.

(b) During periods when no ice exists, fishing activity is confined to the St. Francis River.

(c) Access to all fish areas is permitted only at designated access sites.

(d) Boats, without motors, may be used on the St. Francis River only from designated access sites.

(e) The use of snowmobiles, all terrain vehicles, trail bikes, motorcycles, minibikes, and other such conveyances are prohibited on the refuge at all times.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

JOHN E. WILBRECHT,
Refuge Manager.

APRIL 7, 1977.

[FR Doc.77–14290 Filed 5–18–77;8:45 am]

PART 33—SPORT FISHING

Special Regulations Sport Fishing for Individual Wildlife Refuge Areas

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule permits fishing on Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota. The Fish and Wildlife Service must establish a new fishing season for each year. The intended effect of this action is to allow sport fishing on Lake Ilo National Wildlife Refuge under regulations of the Fish and Wildlife Service.

EFFECTIVE DATES: May 7, 1977, through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles Peck (701–385–4468).

SUPPLEMENTARY INFORMATION: The purpose of this document is to permit sport fishing on Lake Ilo National Wildlife Refuge from May 7, 1977, through September 30, 1977. This action is needed to fulfill requirements found in CFR Title 50, Chapter I. §§ 33.1, 33.2, 33.3, and 33.4. The area open to fishing comprises 1,050 acres, and is delineated on maps available at refuge headquarters, 1 mile west of Dunn Center, North Dakota, and from the Area Manager, U.S. Fish and Wildlife Service, Post Office Box 1897, Bismarck, North Dakota 58501. Sport fishing shall be in accordance with all applicable State regulations, subject to the following special conditions:

(1) Fishing at all times shall be limited to daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1977.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

CHARLES S. PECK,
Project Leader, Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota 58626.

MAY 2, 1977.

[FR Doc.77–14344 Filed 5–18–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 201]

FEDERAL SEED ACT REGULATIONS

Proposed Amendments to Standards for Certified Seed

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and notice of hearing.

SUMMARY: The proposed amendments would change the land requirements, isolation, and restriction of contaminating plants for growing certified classes of seed of certain crops so as to maintain varietal purity in an effective and practicable manner.

DATES: Comments by June 10, 1977.

ADDRESS: Send comments, in duplicate, to the Hearing Clerk, USDA, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Clyde R. Edwards, Chief, Seed Branch, Grain and Seed Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250. 202–447–9340.

SUPPLEMENTAL INFORMATION: The Agricultural Marketing Service is considering amendments of the regulations under the Federal Seed Act to change certain standards for certified seed.

Under section 402 of the Federal Seed Act, as amended (7 U.S.C. 1592), and the administrative procedure provisions of 5 U.S.C. 553, notice is hereby given of intention to amend the Part 201 regulations (7 CFR Part 201) under the Act.

A public hearing with respect to the proposed amendments will be held on June 10, 1977 at 9:00 a.m., in Room 2096, South Agricultural Building, 14th and Independence Avenue SW., Washington, D.C. Interested persons may appear at the hearing to present oral or written data or views relative to the proposed amendments. Also, written data and views may be submitted, in duplicate, to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250 not later than June 10, 1977. Data or views submitted in writing will be given the same consideration as data or views presented orally at the hearing.

All written data and views filed with the Hearing Clerk, and a transcript or summary of the public hearing, will be available to the public for inspection at the Office of the Hearing Clerk during official hours of business.

A final decision in this matter will be based on the written data and views filed with the Hearing Clerk, the transcript or summary of the public hearing, and other information available to the Department. A notice of promulgation will be published in the FEDERAL REGISTER after the hearing. It is planned that the amendments will be made effective not later than September 1, 1977.

The substantive proposed changes are summarized as follows: 1. Land requirements for cowpea, field pea, and mung bean would be made more strict by requiring, if the crop the previous year was the same kind, that it must have been of certified class equal to or superior to that of the crop being certified. The current regulation only requires that it have been a class of certified seed of the same variety.

2. Isolation for all classes of certified cowpea seed would be relaxed from 10 feet to any distance adequate to prevent mechanical mixture.

3. Isolation for the Registered and Certified classes of crambe would be relaxed by requiring only 10 feet between fields of classes of the same variety.

4. Isolation for different classes of the same variety of milkvetch would be relaxed by changing the distance from 25 percent of the required distance from other varieties to 10 feet.

5. Field standards for cowpea and mung bean would be made more strict by increasing the minimum number of plants of the certified variety per each off-type plant.

It is proposed to amend 7 CFR Part 201 as follows:

§ 201.76 [Amended]

1. Section 201.76, Table 5 would be amended as follows:

(a) Under land requirements for cowpea, field pea, and mung bean, delete superscript "7" and add superscript "8."

(b) Under isolation for all three classes of cowpea, delete "10" and insert "0" in lieu thereof, and add superscript "23" for all three classes.

(c) Under isolation for the Registered and Certified classes of crambe add the superscript "24."

(d) Under isolation for all classes of milkvetch, delete superscript "4" and add superscript "47."

(e) Under field standards for cowpea and mung bean delete "1,000," "500," and "200" for the three classes and insert in lieu thereof "2,000," "1,000," and "500" for the three classes, respectively.

(f) Footnote 20 would be reworded as follows:

"These distances apply when there is no border removal. Border removal applies only to fields of 5 acres or more. Removal of a 9-foot border (after flowering) decreases the required distance for Foundation, Registered and Certified seed to 600, 225, and 100 feet respectively, for cross-pollinated species, and to 30, 15, 15 feet respectively for apomictic and self-pollinated species. Removal of a 15-foot border (after flowering) allows a further decrease to 450, 150, and 75 feet respectively, for cross-pollinated species.

(g) Footnote 40 would be reworded as follows:

"Isolation between varieties shall be 100 feet if aerial seeded and 50 feet of ground broadcast.

Done at Washington, D.C. on May 13, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77–14327 Filed 5–18–77;8:45 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 252]

LANDING OF ALIEN CREWMEN

Proposal To Terminate Program for Issuance of New Permanent Crewman's Landing Permits and Identification Cards (Form I–184)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of proposed rule making.

SUMMARY: This is a proposal to revoke the regulation of the Immigration and Naturalization Service which provides for the issuance of permanent type crewman's landing permits to nonimmigrant alien crewmen. These permits have not been issued for several years and therefore the Service proposes to terminate the program formally and revoke the regulation. Formal termination of the program will make it unnecessary for the Service to maintain inventories of the permits at its various offices.

DATE: Representations must be submitted on or before June 20, 1977.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, 425 Eye Street NW., Room 7100, Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone 202–376–8373.

SUPPLEMENTARY INFORMATION: This notice of proposed rule making is being published under the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383).

Under the regulations of the Immigration and Naturalization Service set forth in 8 CFR 252.1(d)(1), a nonimmigrant alien crewman serving aboard a vessel or aircraft may be authorized to land temporarily for shore leave purposes for a period not exceeding 29 days, if the examining immigration officer is satisfied the crewman will depart on the same vessel on which he arrived or on another aircraft of the same transportation line, and the crewman's passport is surrendered to the master of the arriving vessel.

The existing Service regulations at 8 CFR 252.4(a) provide that a nonimmigrant alien crewman who seeks to land temporarily in the United States under the conditions set forth in 8 CFR 252.1 (d)(1) who is employed on a passenger vessel with a complement of 100 or more nonimmigrant alien crewmen which makes regular trips to the United States may apply for a permanent type crewman's landing permit and identification card which is valid indefinitely for an unlimited number of conditional landings, without endorsement.

The Service has not issued any of these cards for the past several years. Therefore, it is proposed to discontinue the program formally and revoke the regulations which provide for issuance of new permanent crewman's landing permits and identification cards.

The Service is not proposing to revoke those permanent crewman's landing permits which are presently outstanding, and they will remain valid unless revoked for a cause specified in 8 CFR 252.4 as hereinafter set forth.

The regulations and procedures in 8 CFR 252.1(d)(1) under which nonimmigrant alien crewmen may be granted permission to land temporarily for shore leave purposes will remain in effect, and crewmen determined to be eligible for shore leave under that regulation will be issued Form I–95 which will be valid for a number of conditional landings in this country upon endorsement by an immigration officer.

Written representations concerning this proposed rule are invited and should be sent to the Commissioner of Immigration and Naturalization at the above address on or before the date indicated. Oral representations may not be submitted in any manner and will not be considered. All relevant written representations submitted on or before the closing date for representations will be considered.

In the light of the foregoing, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as set forth below:

It is proposed to revise 8 CFR 252.4 by revoking 8 CFR 252.4(a), and by redesignating existing 8 CFR 252.4(b) as 8 CFR 252.4, and republishing it without change. As revised, 8 CFR 252.4 reads as follows:

§ 252.4 Permanent landing permit and identification card, Form I–184.

A Form I–184 is valid until revoked. It shall be revoked when an immigration officer finds that the crewman is in the United States in willful violation of the terms and conditions of his admission, or that he is inadmissible to the United States. On revocation, the Form I–184 shall be surrendered to an immigration officer. No appeal shall lie from the revocation of Form I–184.

(Sec. 103 and 252(a); 8 U.S.C. 1103 and 1282(a).)

Dated: May 12, 1977.

CARL J. WACK, JR.,
Acting Commissioner of Immigration and Naturalization.

[FR Doc.77–14256 Filed 5–18–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77–NE–9]

EDWARD F. KNAPP STATE AIRPORT, BARRE-MONTPELIER, VT.

Alteration of Control Zone and 700-foot Transition Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice (NPRM) proposes to amend the description of the Barre-Montpelier, Vermont, control zone and 700-foot transition area. This change would create more controlled airspace for aircraft executing a revised instrument approach procedure (Amendment 5) to VOR Runway 35 at the Edward F. Knapp State Airport, Barre-Montpelier, Vermont.

DATES: Comments on or before June 19, 1977. (Proposed effective date: August 11, 1977.)

ADDRESSES: Comments in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ANE–7, Attn: Rules Docket Clerk, Docket No. 77–NE–9, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE–536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. (617–273–7285.)

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rule making will be filed in the public regulatory docket.

[1] Map filed as part of original

Persons desiring copies of the NPRM should contact: Rules Docket Clerk, Office of the Regional Counsel, ANE–7, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment would convert uncontrolled airspace to controlled airspace in the vicinity of Barre-Montpelier, Vermont. The FAA has determined that this amendment to the Barre-Montpelier, Vermont, control zone and 700-foot transition area is necessary to provide controlled airspace for aircraft executing a revised instrument approach procedure (Amendment 5) to VOR Runway 35 at the Edward F. Knapp State Airport, Barre-Montpelier, Vermont.

The principal authors of this document are Richard G. Carlson, Air Traffic Division, and George L. Thompson, Office of the Regional Counsel, Northeast Region.

Accordingly, the Federal Aviation Administration proposes to amend the description of the Barre-Montpelier, Vermont, control zone and 700-foot transition area in Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171 and 71.181), effective August 11, 1977, to read as follows:

§ 71.171 Montpelier, Vermont, Control Zone.

"Within a 6-mile radius of the center, lat. 44°12'15" N., long. 72°33'45" W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, Vermont; within 3 miles each side of the Montpelier VOR, lat. 44°12'41" N., long. 72°33'45" W., 163° radial extending from the 6-mile radius zone to 8.5 miles south of the VOR; within 2 miles each side of the center line of Runway 23 extending from the 6-mile radius zone to 8 miles southwest of the end of Runway 23."

§ 71.181 Montpelier, Vermont, 700-foot transition area.

"That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, lat. 44°12'15" N., long. 72°33'45" W., of Edward F. Knapp (Barre-Montpelier) State Airport, Barre-Montpelier, Vermont; within 6.5 miles west and 5 miles east of the Montpelier VOR, lat. 44°12'41" N., long. 72°33'45" W., 163° radial extending from the 10-mile radius zone to 17.5 miles south of the VOR; within 4.5 miles each side of the Mount Mansfield NDB, lat. 44°23'01" N., long. 72°42'00" W., 332° and 152° bearing from the NDB, extending from the 10-mile radius zone to 10.5 miles northwest of the NDB, excluding that portion within the Morrisville, Vermont, transition area."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Burlington, Massachusetts, on April 27, 1977.

WILLIAM E. CROSBY,
Acting Director, New England Region.

[FR Doc.77–14114 Filed 5–18–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-CE-12]

LINCOLN MUNICIPAL AIRPORT, NEB.[1]

Proposed Alteration of Federal Airway

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to establish three airway segments in Nebraska and to exclude two of them from the Lincoln Military Operations Area (MOA) during the time that the MOA is active to permit sharing of the airspace for civil or military use. This action is necessary to accommodate a type of military training that is not normally conducted in airways, and for which suitable airspace is not readily available elsewhere. Since nonregulatory action to establish the Lincoln MOA depends on the airways being excluded, the description of the MOA is included in this notice for consideration.

DATES: Comments must be received on or before June 16, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 77-CE-12, FAA, 601 E. 12th Street, Kansas City, Mo. 64106.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. (202—426-3715.)

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before June 16, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

[1] Map filed as part of original.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would designate VOR Federal airways identified as V-50 from the Hastings, Nebr., direct to Pawnee City, Nebr.; V-61 from Grand Island, Nebr., direct to Pawnee City and V-79 from Hastings direct to Lincoln, Nebr. Both V-50 and V-61 would exclude the Lincoln MOA during the time it is activated by NOTAM. The Lincoln MOA is proposed to be established as follows:

LINCOLN MOA

Boundaries: Beginning at Lat. 40°45'00" N., Long. 97°00'00" W., to Lat. 40°12'00" N., Long. 97°00'00" W., to Lat. 40°03'00" N., Long. 98°10'00" W., to Lat. 40°24'00" N., Long. 98°10'00" W., to point of beginning.

Altitudes: 8,000 feet MSL to but not including FL 180.

Time of use. By NOTAM (Normally 0900-1600 Local, Tuesday-Sunday).

Controlling agency: Federal Aviation Administration, Minneapolis ARTC Center.

Scheduling agency: Commander, 155 Tactical Reconnaissance Group (ANG) Lincoln Municipal Airport, Lincoln, Nebraska.

DRAFTING INFORMATION

The principal authors of this document are Everett L. McKisson, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) as follows:

"V-50 From Hastings, Nebr., via Pawnee City, Nebr., excluding the Lincoln MOA during the time that the MOA is activated by NOTAM," is added.

"V-61 From Grand Island, Nebr., to Pawnee City, Nebr., excluding the Lincoln MOA during the time that the MOA is activated by NOTAM," is added.

"V-79 From Hastings, Nebr., to Lincoln, Nebr." is added.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 11, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-14008 Filed 5-13-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-CE-10]

O'NEILL MILITARY OPERATIONS AREA[1]

Proposed Alteration of Federal Airway

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to exclude V-71 and V-380 airways from the O'Neill Military Operations Area (MOA) during the time that the MOA is active to permit sharing of the airspace for civil or military use. This action is necessary to accommodate a type of military training that is not normally conducted in airways, and for which suitable airspace is not readily available elsewhere. Since nonregulatory action to establish the O'Neill MOA depends on the airway being excluded, the description of the MOA is included in this notice for consideration.

DATE: Comments must be received on or before June 16, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 77-CE-10, FAA, 601 E. 12th Street, Kansas City, Mo. 64106.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. (202-426-3715.)

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before June 16, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this docket may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

[1] Map filed as part of original.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to exclude VOR Federal airways identified as V-71 and V-380 from the O'Neill Military Operations Area (MOA) during the time that the MOA is active. This action would permit sharing of the airspace for civil use and military training in an area proposed to be established as follows:

O'NEILL MOA

Boundaries: Beginning at Lat. 42°22'00" N., Long. 98°23'00" W.; to Lat. 42°20'00" N., Long. 97°46'00" W.; to Lat. 41°53'00" N., Long. 97°46'00" W.; to Lat. 41°27'00" N., Long. 98°24'00" W.; to Lat. 41°26'00" N., Long. 98°53'00" W.; to Lat. 42°13'00" N., Long. 98°53'00" W.; to Lat. 42°15'00" N., Long. 98°51'00" W.; thence via the 15 NM arc of ONL Vortac to point of beginning.

Altitudes: 500 feet AGL to but not including FL 180.

Time of use: By NOTAM (normally 1000 to 2200 local time, Tuesday through Sunday).

Controlling agency: Federal Aviation Administration, Minneapolis ARTC Center.

Scheduling agency: Commander, 155th Tactical Reconnaissance Group (ANG), Lincoln Municipal Airport, Lincoln, Nebr.

DRAFTING INFORMATION

The principal authors of this document are Everett L. McKisson, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) by adding the following to the definition of V-71 and V-380 airways.

The airspace within the O'Neill MOA is excluded during the time that the MOA is activated by NOTAM.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 11, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-14007 Filed 5-13-77;8:45 am]

POSTAL RATE COMMISSION

[39 CFR Part 3001]

[Docket No. RM77-3]

PUBLIC ATTENDANCE AT MEETINGS OF THE POSTAL RATE COMMISSION

Proposed Amendments to Rules

Correction

In FR Doc. 77-11604 appearing at page 20639 of the issue for Thursday, April 21, 1977, the comment date in the third line of the last paragraph, reading "April 15, 1977", should read "April 25, 1977".

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 228]

[FRL 723-5]

OCEAN DUMPING

Intent To Consider Relocation of Municipal Sewage Sludge Dumping and Announcement of Public Hearing

Correction

In FR Doc. 77-13139 appearing at page 23163 in the issue for Friday, May 6, 1977, in the paragraph *Location of the Hearing*, "Ocean City College" should read "Ocean County College".

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 64]

[Docket No. 20828]

COMPUTER INQUIRY

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time for filing comments.

SUMMARY: An extension of time for the filing of comments and reply comments in the Computer Inquiry is being granted. This action is being taken in response to motion for extension of time filed in this proceeding and will extend the respective comment dates approximately three weeks.

DATES: Comments must be received on or before June 6, 1977, and Reply Comments must be received on or before July 25, 1977.

ADDRESSES: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James K. Smith, Common Carrier Bureau, 632-9342.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1977.

Released: May 13, 1977.

Order. In the matter of amendment of §64.702 of the Commission's rules and regulations (Computer Inquiry), Docket No. 20828.

1. On May 9, 1977 American Telephone and Telegraph Company (AT&T) and American Cable and Radio Corporation (AC&R) requested that additional time be allowed for the filing of comments and reply comments in Docket 20828. AT&T has requested that the time for filing comments be extended from May 16, 1977 to June 6, 1977 and that the time for filing reply comments be extended from June 30, 1977 to July 23, 1977. AC&R requested that the time for filing initial comments be extended for two weeks until May 30, 1977 (See 42 FR 23615, May 10, 1977).

2. AT&T states that it needs more time in which to analyze and comment on the additional items of inquiry set forth in the "Supplemental Notice of Inquiry and Enlargement of Proposed Rulemaking", released March 8, 1977 (FCC 77-151). Moreover, AT&T states that it's having a special analysis prepared which has not yet been completed. It contends that completion of the analysis and AT&T's own subsequent evaluation cannot be accomplished within the time frame presently alloted by the Commission, AC&R cites corporate personnel conflicts as the basis for its request.

3. The Supplemental Notice has substantially broadened the scope of Docket 20828, and particular mention was made therein of the possible relevance of the 1956 Consent decree to certain issues raised in the Inquiry. This is of particular significance to AT&T. In order to permit the parties to develop an adequate record, and that the Commission may have the benefit of more thorough comments, we believe the public interest would be served by granting the request for additional time in which to comment. The additional time requested by AT&T and AC&R is relatively short and will not prejudice other participants in this Inquiry. Due to the closeness of the existing deadline for filing comments in this proceeding, pursuant to §1.45(e) of the Commission's rules, we are taking this action without waiting for responsive pleadings to be filed.

4. Accordingly, the motions for extension of time filed by AT&T and AC&R are granted. The time for all parties to file comments and reply comments in Docket 20828 is hereby extended to June 6, 1977 and July 25, 1977,[1] respectively.

[1] Since AT&T's requested date of July 23, 1977 falls on a Saturday, we are extending the date for filing reply comments to the following Monday.

5. This action is taken under delegated authority pursuant to § 0.303(c) of the Commission's rules and regulations.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-14293 Filed 5-18-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21136]

EDUCATIONAL BROADCAST STATIONS

Noncommercial Nature; Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Extension of comment period.

SUMMARY: This document extends the comment period to the Notice of Inquiry published at 42 FR 15927.

DATE: Comments must be received on or before June 30, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Stephen Sewell, 202-632-7048.

SUPPLEMENTARY INFORMATION:

ORDER EXTENDING TIME FOR FILING COMMENTS TO THE NOTICE OF INQUIRY

In the Matter of Commission policy concerning the Noncommercial Nature of Educational Broadcast Stations, Docket No. 21136.

Adopted: May 13, 1977.

Released: May 16, 1977.

1. The Corporation for Public Broadcasting, National Public Radio, the Publice Broadcasting Service and the Southern Educational Communications Association have petitioned for an extension of time until June 30, 1977 to file comments in response to the Notice of Inquiry, 42 FR 15927 (March 24, 1977), FCC 77-162, adopted March 2, 1977, released March 15, 1977. Comments are now due by May 16, 1977.

2. The parties seeking the extension state that this proceeding is the first general overview of the regulation of educational broadcasting since 1970 and the passage of the long-range funding bill for public broadcasting, and that the subjects under inquiry are of great importance to educational broadcasters. The parties state that they need the additional time to consider the matters raised, collect the information requested, and prepare responsive comments.

3. We believe that the comments of, and information submitted by, the parties will be particularly helpful to the Commission in considering the matters under inquiry. Accordingly, we believe that the grant of the extension request will serve the public interest.

4. *Accordingly, it is ordered,* That the period for filing comments in Docket No. 21136 is hereby extended to and including June 30, 1977.

5. This action is taken pursuant to authority found in sections 4(i), 5(d) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-14295 Filed 5-18-77;8:45 am]

[47 CFR Part 73]

TELEVISION TABLE OF ASSIGNMENTS

Adding New VHF Stations in the Top 100 Markets; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Order extends the time for filing comments and reply comments by 90 days to allow parties time to study materials recently released that were a part of the Commission's analysis in the VHF Drop-In Proceeding, Docket 20418. A separate comment period will be established by subsequent Order when the Johnstown-Altoona ITS terrain study is completed and made available.

DATES: Comments must be received on or before August 22, 1977 and reply comments must be received on or before September 22, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Policy and Rules Division Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1977.

Released: May 13, 1977.

In the matter of petition for rulemaking to amend television table of assignments to add new VHF stations in the top 100 markets and to assure that the new stations maximize diversity of ownership, control and programming. Docket No. 20418; RM-2346, RM-2727.

1. The Association of Maximum Service Telecasters, Inc. ("MST"), has petitioned the Commission for a six-month extension of time to file comments in response to the Memorandum Opinion and Order and Notice of Proposed Rule Making ("Notice") 42 FR 16782 (March 30, 1977); 63 F.C.C. 2d —— (adopted March 7, released March 18, 1977). Comments are now due by May 20, 1977, and reply comments by June 20, 1977.

2. The request for additional time is joined by Holston Valley Broadcasting Corporation, licensee of WKPT-TV, Channel 19, Kingsport, Tennessee; KSL, Incorporated, licensee of KSL-TV, Salt Lake City, Utah; Storer Broadcasting Company, licensee of WJW-TV, Cleveland, Ohio; and South Central Broadcasting Corporation, licensee of WTVK, Knoxville, Tennessee. The Group for the Advancement of Television Service, Johnstown, Pennsylvania, opposes any long term postponement.

3. The parties seeking the extension state that the docket records are lengthy and complex, and that the Commission relied on several reports and studies in its deliberations, which were not put in the docket until after release of the Notice. They believe that parties should be given additional time to study these reports and prepare their filings.

4. Two studies relied upon by the Commission in the Drop-Ins proceeding were recently completed and placed in the docket record. They are:

(a) Office of the Chief Engineer Study of Planning Factors (FCC/OCE RS77-01); and

(b) "Comparison of TV Channel Offset Frequencies: Zone Offset and 10.010 Hz (Precise) Offset Project No. 229-73" FCC Laboratory Division.

The availability of these studies was announced May 3, 1977. Under these circumstances we find it appropriate to grant a modest extension in the comment period. We believe that an extension of 90 days should be sufficient to enable the parties to consider and respond to these reports.

5. All other reports and studies have now been placed in the docket record, with the exception of the ITS terrain study of the Altoona/Johnstown proposal which the Notice stated would be conducted during the comment period. The Notice also said that an appropriate time would be granted for comment on the report when it is completed, and we agree that at least 30 days is required after the ITS report is placed in the docket. That revised deadline will be specified in a subsequent Order. However, we reject arguments that this report is germane to comments on proposals other than Altoona/Johnstown proposals. Therefore, all other filings need be completed by the dates specified herein.

6. *Accordingly, it is ordered,* That the period for filing comments in Docket 20418 is hereby extended to and including August 22, 1977, and the date for filing reply comments to and including September 22, 1977; excepting comments related to the Johnstown-Altoona ITS study as noted in para. 5 above, for which a separate Order will be issued.

7. This action is taken pursuant to authority found in sections 4(i), 5(d), ad 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-14294 Filed 5-18-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Ch. II]

[Docket No. RSC-76-6; Notice No. 2]

MINIMUM SAFETY REQUIREMENTS FOR RAILROAD CABOOSE CARS

Advance Notice of Proposed Rulemaking; Extension of Time to Comment

AGENCY: Federal Railroad Administration, DOT.

ACTION: Extension of comment period for advanced notice of proposed rulemaking.

SUMMARY: On April 13, 1977, the FRA published in the FEDERAL REGISTER (42 FR 19359) an ANPRM concerning minimum safety requirements for railroad caboose cars. The purpose of this notice is to extend the period of time for the public to submit views and comments on this ANPRM.

DATES: Written comments must be received on or before August 1, 1977.

ADDRESSES: *Submission of written comments:* Written comments should identify the docket number and be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

Examination of written comments: All written comments received will be available for examination, both before and after the closing date for written comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Edward F. Conway, Jr., (202-426-8836).

SUPPLEMENTARY INFORMATION:

BACKGROUND INFORMATION

On April 13, 1977, FRA published in the FEDERAL REGISTER an ANPRM soliciting views and comments from the public regarding the necessity of, and the costs and benefits to be derived from issuance of Federal regulations requiring minimum design specifications and performance standards for railroad cabooses (42 FR 19359).

Comments were requested to be submitted on or before May 30, 1977. The Association of American Railroads (AAR) has petitioned for an extension of time within which to submit comments. In order to fully answer the questions asked in the ANPRM, AAR and its member railroads are examining in depth all available information concerning cabooses. This information will then be compiled, reviewed and digested by personnel of various disciplines within railroad mechanical and operations departments and will also be studied and reviewed by railroad safety officers and environmental coordinators. The product of all of these working groups will then be assembled and reviewed and an industry response prepared and approved.

In order to enable the AAR and other commenters to prepare and submit comprehensive comments to assist FRA in this proceeding, the period for filing of written comments is hereby extended to August 1, 1977. Comments should be filed on or before that date, in triplicate, with the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 202, Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by sec. 5(b) of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94-348, 90 Stat. 817, July 8, 1976; § 1.49(n) of the regulations of the Office of the Secretary (49 CFR 1.49(n)).)

Issued in Washington, D.C., on May 13, 1977.

RAYMOND K. JAMES,
Chief Counsel.

[FR Doc.77-14225 Filed 5-18-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 35]

HUMAN USES OF BYPRODUCT MATERIAL

Human Uses of Teletherapy Units

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations regarding human uses of byproduct (i.e., reactor-produced) material in teletherapy units. The proposed rule requires teletherapy licensees to:

1. Have a qualified expert perform full calibration measurements on each teletherapy unit at least once each year;

2. Perform spot-check measurements on the output of their units at least monthly; and

3. Report to the U.S. Nuclear Regulatory Commission radiation doses that differ from prescribed doses by more than 10 percent.

The proposed rule is needed to ensure that teletherapy units are properly calibrated. The proposed amendments are designed to ensure that patients can receive the correct radiation dose and to prevent recurrence of overexposure events due to improperly calibrated teletherapy units.

DATES: Comments must be received by July 5, 1977.

ADDRESSES: Written comments or suggestions for consideration in connection with the proposed amendment should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received will be available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia C. Vacca, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. (301-427-4232).

SUPPLEMENTARY INFORMATION: Following its organization under the Energy Reorganization Act of 1974 (Public Law 93-438), the Nuclear Regulatory Commission (NRC) has stated its intention of reviewing those of its regulations and procedures pertaining to the licensing and regulation of nuclear facilities and materials that were originally promulgated by the Atomic Energy Commission, with a view to considering what changes should be made. In this context, the Commission is currently reviewing its regulations pertaining to the human use of byproduct material including teletherapy units.

Byproduct material licenses are issued on the basis that the licensee is qualified by training and experience to use licensed material in such manner as to protect health and minimize danger to life or property. Implicit in the issuance of the license on that basis is the concept that the licensee is expected to be aware of the accepted standards of practice in his particular area of usage and to establish administrative procedures sufficient to ensure that the licensed material is used in accordance with NRC regulations and accepted standards of practice.

In the area of teletherapy, existing standards include National Council on Radiation Protection and Measurements (NCRP) Report No. 33, "Medical X-Ray and Gamma-Ray Protection for Energies Up to 10 MeV—Equipment Design and Use," American National Standards Institute, Inc. (ANSI) Publication N449-1974, "Guidelines for Maintaining Cobalt-60 and Cesium-137 Teletherapy Equipment" and the criteria for accreditation of the Joint Committee on Hospital Accreditation.

Despite the existence and general acceptance of these standards, recent evidence indicates that a significant number of teletherapy units may deliver a radiation dose that differs from the prescribed dose by more than 10 percent. (With proper calibration, the radiation output of a teletherapy unit can be determined with an uncertainty of less than 3 percent.) The evidence also indicates that up to five years has elapsed since the last calibration of some teletherapy units.

The Commission has conducted an investigation of a recent incident in which approximately 400 patients treated for cancer with a cobalt-60 teletherapy unit received radiation doses that exceeded the prescribed doses by as much as 41 percent. This incident occurred because the radiation dose rate from the teletherapy unit had not been properly determined.

Soon after its investigation, the Commission took actions to ensure that all teletherapy units licensed by the NRC

were properly calibrated. The Commission believes that these actions were adequate to prevent recurrence of overexposure events due to improperly calibrated units during the time required to implement necessary changes in its regulations.

Because of the events described above, it appears that the Commission should impose such controls as are necessary to ensure that teletherapy units continue to be used in such manner as to deliver radiation doses that are not significantly different from the doses prescribed by the physician. Accordingly, the Commission is proposing an amendment to § 35.13 to require that a qualified expert perform periodic full calibration measurements and establish monthly spot-check procedures in accordance with accepted standards. The proposed regulation defines the qualifications of the expert, the measurements to be made, tht frequency and circumstances under which the measurements are to be performed and the procedures to be used. The proposed amendment also requires that licensees notify the U.S. Nuclear Regulatory Commission when their measurements indicate that patients treated with teletherapy units may have received radiation doses differing from the prescribed dose by more than 10 percent.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 35 is contemplated.

In addition to comments and suggestions on the merits of the proposed amendments, the Nuclear Regulatory Commission also wants to receive comments designed to clarify any possible ambiguities in the rule. All interested persons who desire to submit written comments or suggestions with regard to the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by July 5, 1977. Copies of comments on the proposed amendment may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

1. Section 35.13 is amended to read as follows:

§ 35.13 Specific licenses for human use of byproduct material in sealed sources.

(a) An application for a specific license for use of a sealed source for human use will be approved if:

(1) The applicant satisfies the general requirements specified in § 30.33 of this chapter; and

(2) The applicant or, if the application is made by an institution, the individual user, (i) has specialized training in the therapeutic use of the radioactive device considered (teletherapy unit, beta applicator, etc.), or has experience equivalent to such training; and (ii) is a physician.

(b) (1) Any licensee who is authorized to use teletherapy units for human use shall cause full calibration measurements on each teletherapy unit to be performed:

(i) Prior to the first use of the unit for treating humans;

(ii) Whenever the radiation meter or other device related to radiation output shows a continued significant change in its normal reading;

(iii) Following replacement of the radiation source or following reinstallation of the unit in a new location and prior to the use of the unit for treating humans;

(iv) At intervals not exceeding one year.

(2) Full calibration measurements shall include determination of:

(i) The exposure rate or dose rate for the range of field sizes used and for each treatment distance used by radiation therapy;

(ii) The congruence between the radiation field and the field indicated by the localizing device when localizing devices are used;

(iii) The uniformity of the radiation field and its dependence upon the direction of the useful beam;

(iv) Timer accuracy.

(3) Full calibration measurements shall be made in accordance with the procedures recommended by the Scientific Committee on Radiation Dosimetry of the American Association of Physicists in Medicine (Physics in Medicine and Biology, Vol. 16, No. 3, 1971, pp. 379–396).[1]

(4) Spot-check measurements shall be performed at intervals not exceeding one month and shall include:

(i) Determination of timer accuracy;

(ii) Determination of congruency of the useful beam with the light localizer;

(iii) Determination of the exposure rate, dose rate or a quantity related in a known manner to these rates for one typical set of machine operating conditions;

(iv) Comparison of the measurements made in Section (iii) of this paragraph with values calculated from physical decay of the radiation source.

(5) Calibration measurements required by paragraph (b)(1) of this section shall be performed by a qualified expert such as an individual certified by the American Board of Radiology in Therapeutic Radiological Physics, Radiological Physics, Roentgen Ray and Gamma Ray Physics or X-ray and Radium Physics or an individual who has equivalent qualifications. (A description of the qualified expert's training and qualifications shall be submitted to the Commission for review. If the qualified expert is certified in one of the specialties listed in this paragraph only a statement of that fact and the date of certification is required.) Spot-check measurements required by paragraph (b)(4) of this section shall be performed and evaluated in accordance with procedures established by the qualified expert. The qualified expert shall review the results of spot-check measurements and shall recommend corrective action when significant differences are noted.

(6) When measurements made pursuant to paragraphs (b)(1) and (b)(4) of this section indicate that patients treated by teletherapy units may have received a radiation dose differing from the prescribed dose by more than 10 percent, the licensee shall notify the appropriate Regional Office of Inspection and Enforcement listed in Appendix D of 10 CFR Part 20, and, where practicable, the referring physicians of affected patients. This notification shall be made within 24 hours after the licensee's discovery that such misadministration is likely to have occurred.

(7) The licensee shall maintain for inspection by the Commission records of the measurements made pursuant to paragraphs (b)(1) and (b)(4) of this section and of reports made to referring physicians pursuant to paragraph (b)(6) of this section.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93–438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 17th day of May 1977.

For the U.S. Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary for the Commission.

[FR Doc.77-14429 Filed 5-18-77;8:45 am]

[1] This incorporation by reference provision was approved by the Acting Director of the Federal Register on August 6, 1976. Copies are available for inspection at the United States Nuclear Regulatory Commission, Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

[10 CFR Parts 50, 70, and 73]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES; SPECIAL NUCLEAR MATERIAL; PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Licensee Safeguards Contingency Plans

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: Under the proposed rule, licensee authorized to operate a nuclear reactor (other than certain research and test reactors) and those authorized to possess strategic quantities of plutonium or uranium-235 would be required to develop and implement acceptable plans for responding to threats, thefts, and sabotage of licensed nuclear materials and facilities. The plans are needed to ensure a structured, orderly, and timely response to safeguards contingencies and are integral with other safeguards contingency planning activities being carried out as required by statute. Licensee safeguards contingency plans would result in organizing licensees' safeguards resources in such a way that, in the unlikely event of a safeguards contingency, the responding participants would be identified, their several responsibilities specified, and the responses coordinated.

DATES: Comments must be received on or before July 18, 1977.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Thomas F. Carter, Jr., Chief, Contingency Planning Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–427–4191.

SUPPLEMENTARY INFORMATION: The Office of Nuclear Material Safety and Safeguards within the Nuclear Regulatory Commission was charged by Congress, in the Energy Reorganization Act of 1974, with the development of safeguards contingency plans for dealing with threats, thefts, and sabotage relating to licensed special nuclear material and nuclear facilities.

In many safeguards contingencies, responses will be expected from more than one person or organization. Fulfillment of the Congressional mandate requires that the response continuum be completed. The Office of Nuclear Material Safety and Safeguards is already addressing contingency plans at the Federal level. The Commission is now proposing to complete the continuum by requiring safeguards contingency plans of those licensees having materials and facilities of greatest safeguards importance. See discussion below.

The Nuclear Regulatory Commission has under consideration amendments to its regulations in 10 CFR Part 50, "Licensing of Production and Utilization Facilities," 10 CFR Part 70, "Special Nuclear Material," and 10 CFR Part 73, "Physical Protection of Plants and Materials," which, in the interest of the common defense and security and public health and safety, would require certain licensees to develop and follow licensee safeguards contingency plans for dealing with threats, thefts, and sabotage relating to special nuclear material and nuclear facilities licensed under the Atomic Energy Act of 1954, as amended. The proposed amendments would apply to those licensees subject to the physical protection requirements for transportation and fixed sites contained in 10 CFR §§ 73.30(a), 73.50, 73.55, and/or 73.60.

For the purposes of this rule making proceeding, "sabotage" as used in §§ 50.34(d) and 70.22 means "industrial sabotage" as defined in § 73.2(p) of 10 CFR Part 73, except that the deliberate acts are also postulated to occur during transportation.

A contingency is a situation, regarded as remotely possible in the future, that develops unexpectedly and requires prompt attention. In a practical sense, a safeguards contingency may be regarded as an extraordinary situation that requires the execution of security plans and procedures not normally performed on a day-to-day basis. Such situations may or may not occur; they are planned for under assumed conditions of occurrence in order to deal with them effectively if they should occur.

In many safeguards contingencies, responses will be expected from more than one person or organization. At the Federal level, responses may involve not only the NRC but also, among others, the Federal Bureau of Investigation, the Energy Research and Development Administration, and various organizations within the Department of Defense. An important element of safeguards contingency planning by the Commission is the coordination of these various responses.

The responsibilities assigned to the Office of Nuclear Material Safety and Safeguards by the Congressional mandate of section 204(b)(2)(B) of the Energy Reorganization Act of 1974 are being addressed by developing safeguards contingency plans at the Federal level. At the same time, the Commission recognizes the importance of safeguards actions by those persons who possess special nuclear material and operate certain facilities. Indeed, licensees would have the primary role in many safeguards contingencies because of their intimate connection with the materials and facilities at risk. The Commission further recognizes the necessity for assuring coordinated responses to all safeguards contingencies, including responses by licensees. To provide and maintain adequate safeguards, therefore, the Commission must ensure that each licensee having important safeguards responsibility develops and follows a "licensee safeguards contingency plan" that is compatible with the Federal level plans for responding to safeguards contingencies.

The proposed rule would define a licensee safeguards contingency plan as a documented plan to give guidance to licensee personnel in order to accomplish specific, defined objectives in the event of threats, thefts, or sabotage relating to special nuclear material or nuclear facilities licensed under the Atomic Energy Act of 1954, as amended. The plan would contain (1) A predetermined set of decisions and actions to satisfy the stated objectives, (2) An identification of the data, criteria, procedures, and mechanisms necessary to effect efficiently the decisions and actions, and (3) A specification of the individual, group, or organizational entity responsible for each decision and action. The plan is not intended to include actions under any emergency plans that deal with the hazards to public health and safety that are the consequence of nuclear accidents or releases of nuclear materials—even though those accidents or releases might result from acts of threats, thefts, or sabotage—other than steps to initiate the implementation of such emergency plans. Accordingly, the licensee contingency plans that would be required by the proposed amendments would be complementary to radiological emergency plans including those developed for all nuclear power reactors pursuant to Appendix E of 10 CFR Part 50 and for fuel-cycle facilities developed pursuant to § 70.22(i) of 10 CFR Part 70.

The goals of licensee safeguards contingency plans for dealing with threats, thefts, and sabotage are (i) to organize the response effort at the licensee level, (ii) to provide predetermined structured responses by licensees to safeguards contingencies, (iii) to integrate the licensee response with the responses by other entities, and (iv) to achieve a measurable performance in response capability. Licensee safeguards contingency planning would result in organizing the licensee's responding resources in such a way that the participants would be identified, their several responsibilities specified, and the responses coordinated. Because they would be predetermined, the responses are more likely to be structured and orderly rather than executed impulsively. It is anticipated that the responses would thus be effected in a timely manner and would be consistent among themselves and with Federal responses. To the extent that requisite data and criteria were predetermined, the response capability of the participants could be predicted and assessed.

A methodology for developing licensee safeguards contingency plans has been devised and evaluated, and typical plans have been drawn up for fuel-cycle plants, nuclear reactors, and road transportation of special nuclear material. Licensees will receive the benefit of this experience by means of Regulatory Guides to be issued by the time the rule is issued in effective form.

In accordance with the provisions of National Security Decision Memorandum 347, certain portions of the Safeguards Contingency Plans for fuel-cycle licensees will be classified. Therefore, dissemination of information in some portions of the plans will be limited to individuals who hold appropriate security clearances and have a need to know the information. Certain information in safeguards contingency plans may be withheld from public disclosure in accordance with the provisions of § 2.790(d) of 10 CFR Part 2.

amendments to 10 CFR Parts 50, 70, and

If the Commission adopts the proposed 73, each affected licensee would be given a period of 120 days following publication in the FEDERAL REGISTER of the rule in effective form to submit a licensee safeguards contingency plan. In addition, each licensee would be given until 300 days after publication in the FEDERAL REGISTER or 30 days after the submitted plan is approved, whichever is later, to be in a position to follow his plan.

The Commission has determined under Council of Environmental Quality guidelines and the criteria in 10 CFR Part 51 not to prepare an environmental impact statement for the proposed amendments to 10 CFR Parts 50, 70, and 73. Concurrently with the publication of this notice of proposed rule making the Commission is making available in its Public Document Room at 1717 H Street, NW., Washington, D.C., an "Environmental Impact Appraisal of Amendments to 10 CFR Parts 50, 70, and 73, Licensee Safeguards Contingency Plans," intended to support a negative declaration.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 50, 70, and 73 is contemplated. All interested persons who wish to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by July 18, 1977. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. Section 50.34 of 10 CFR Part 50 is amended by adding a new paragraph (d) to read as follows:

§ 50.34 Contents of applications: Technical information.

* * * * *

(d) Safeguards contingency plan. Each application for a license to operate a production or utilization facility that shall be subject to §§ 73.50, 73.55, or 73.60 shall include a licensee safeguards contingency plan for dealing with threats, thefts, and industrial sabotage, as defined in Part 73 of this chapter, relating to the special nuclear material and nuclear facilities licensed under this chapter and in the applicant's possession and control. Appendix C to Part 73 of this chapter sets forth the criteria to be followed in developing such plans.

2. Section 50.54(p) of 10 CFR Part 50 is amended to read as follows:

§ 50.54 Conditions of licenses.

Whether stated therein or not, the following shall be deemed conditions in every license issued:

* * * * *

(p) The licensee shall make no change which would decrease the effectiveness of a security plan prepared pursuant to § 50.34(c) or Part 73 of this chapter, or a licensee safeguards contingency plan prepared pursuant to § 50.34(d) or Part 73, as applicable, without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 50.90. The licensee shall maintain records of changes to the plans made without prior Commission approval for a period of two years from the date of the change, and shall furnish to the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix D of Part 20 of this chapter, a report containing a description of each change within two months after the change is made

PART 70—SPECIAL NUCLEAR MATERIAL

3. In § 70.22 of 10 CFR Part 70, paragraph (g) is amended and a new paragraph (j) is added to read as follows:

§ 70.22 Contents of applications.[1]

* * * * *

(g) Each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in § 73.1(b)(2) of this chapter shall include (1) a description of the plan for physical protection of special nuclear material in transit in accordance with §§ 73.30 through 73.36 and 73.70(g) of this chapter, including a plan for the selection, qualification and training of armed escorts, or the specification and design of a specially designed truck or trailer as appropriate, and (2) a licensee safeguards contingency plan for dealing with threats, thefts, and sabotage[2] relating to the special nuclear material in transit. Appendix C to Part 73 of this chapter sets forth the criteria to be followed in developing licensee safeguards contingency plans.

* * * * *

(j) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams=(grams contained U-235)+2.5 (grams U-233+grams plutonium) other than a license for possession or use of such material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall include a licensee safeguards contingency plan for dealing with threats, thefts, and industrial sabotage, as defined in Part 73, relating to the special nuclear material and nuclear facilities licensed under Parts 50 or 70 of this chapter and in his possession and control. Appendix C to Part 73 of this chapter sets forth the criteria to be followed in developing such plans.

4. Section 70.32 of 10 CFR Part 70 is amended by adding a new paragraph (g) to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(g) The licensee shall make no change that would decrease the safeguards effectiveness of any licensee safeguards contingency plan prepared pursuant to §§ 70.22(g), 70.22(j), 73.30(g), or 73.40 of this chapter without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to §§ 50.90 or 70.34 of this chapter, as appropriate. The licensee may make changes to the licensee safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to any such plan made without prior approval for a period of two years from the date of the change and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within two months after the change is made.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

5. Paragraph 73.30(g) of 10 CFR Part 73 is revised to read as follows:

§ 73.30 General requirements.

* * * * *

(g) By September 16, 1977, each licensee subject to the requirements of paragraph (a) of this section shall submit to the Commission for approval a licensee safeguards contingency plan for dealing with threats, thefts, and sabotage relating to the transport of the special nuclear material in his possession and control. The plan shall be implemented and followed (when appropriate) by the licensee within 30 days after approval by the Commission or 300 days after September 16, 1977, whichever is later.

6. Section 73.40 of 10 CFR Part 73 is amended to read as follows:

§ 73.40 Physical protection: General requirements at fixed sites.

Each licensee shall provide physical protection against industrial sabotage and against theft of special nuclear material at the fixed sites where licensed activities are conducted. The provisions of a licensee's security plan as approved by the Commission shall be followed by the licensee. By September 16, 1977 each licensee subject to the requirements §§ 73.50, 73.55, and/or 73.60 shall submit to the Commission for approval a licensee safeguards contingency plan in accordance with the criteria set forth in Appendix C to this part for dealing with threats, thefts, and industrial sabotage relating to the special nuclear material and nuclear facilities licensed under Parts 50 or 70 of this chapter and in his possession and control. The plan shall be implemented and followed (when appropriate) by the licensee within 30 days after approval by the Commission or 300 days after September 16, 1977, whichever is later.

7. A new Appendix C is added to 10 CFR Part 73 to read as follows:

APPENDIX C

LICENSEE SAFEGUARDS CONTINGENCY PLANS

INTRODUCTION

Certain licensees and license applicants are required to prepare licensee safeguards

[1] Sabotage as used in this section has the same meaning as in § 73.2(p) of this chapter except that the deliberate acts are postulated to occur during transportation rather than at a fixed site

contingency plans pursuant to §§ 50.34(d), 70.22(g), 70.22(j), 73.30(g), or 73.40 of this chapter. A licensee safeguards contingency plan is a documented plan to give guidance to licensee personnel in order to accomplish specific, defined objectives in the event of threats, thefts, or sabotage relating to special nuclear material or nuclear facilities licensed under the Atomic Energy Act of 1954, as amended. The plan shall contain (1) a predetermined set of decisions and actions to satisfy stated objectives, (2) an identification of the data, criteria, procedures, and mechanisms necessary to effect efficiently the decisions and actions, and (3) a specification of the individual, group, or organizational entity responsible for each decision and action. It is important to note that the licensee safeguards contingency plans are complementary to any emergency plans developed pursuant to Appendix E of Part 50 of this chapter and to § 70.22(i) of Part 70 of this chapter.

The goals of licensee safeguards contingency plans for dealing with threats, thefts, and sabotage are (1) to organize the response effort at the licensee level, (2) to provide predetermined, structured responses by licensees to safeguards contingencies, (3) to integrate the licensee response with the responses by other entities, and (4) to achieve a measurable performance in response capability. Licensee safeguards contingency planning should result in organizing the licensee's response resources in such a way that the participants will be identified, their several responsibilities specified, and the responses coordinated. The responses should be timely, internally consistent among themselves, and compatible with Federal responses.

CONTENTS OF THE PLAN

Each licensee safeguards contingency plan shall include five categories of information:

1. Background.
2. Generic Planning Base.
3. Licensee Planning Base.
4. Responsibility Matrix.
5. Procedures.

1. *Background.* Under the following topics, this category of information shall identify and define the perceived dangers and incidents with which the plan will deal and the general way it will handle these:

a. Perceived Danger—A statement of the perceived danger to the security of special nuclear material, licensee personnel, and licensee property, including covert diversion of special nuclear material, sabotage, and overt attacks.

b. Purpose of the Plan—A discussion of the general aims and operational concepts underlying implementation of the plan.

c. Scope of the Plan—A delineation of the types of incidents covered and not covered in the plan.

d. Definitions—A list of terms and their definitions used in describing operational and technical aspects of the plan.

2. *Generic Planning Base.* Under the following topics, this category of information shall define the criteria for initiation and termination of responses to safeguards contingencies together with the specific decisions, actions, and supporting information needed to bring about such responses:

a. Identification of those events that will be used for signaling the beginning or aggravation of a safeguards contingency according to how they are perceived initially by licensee's personnel. Such events may include alarms or other indications signaling penetration of a protected area, vital area, or material access area; material control or material accounting indications of material missing or unaccounted for; or threat indications—either verbal, such as telephoned threats, or implied, such as escalating civil disturbances.

b. Definition of the specific objective to be accomplished relative to each identified event. The objective may be to obtain a level of awareness about the nature and severity of the safeguards contingency in order to prepare for further responses; to establish a level of response preparedness; or to successfully nullify or reduce any adverse safeguards consequences arising from the contingency.

3. *Licensee Planning Base.* Under the following topics, this category of information shall include the factors affecting contingency planning that are specific for each facility or means of transportation:

a. Licensee's Organizational Structure—A delineation of the organization's chain of command and delegation of authority as these apply to safeguards contingencies.

b. Physical Layout—(i) Fixed Sites—A description of the physical structures and their location on the site, and a description of the site in relation to nearby towns roads, and other important environmental features.

(ii) Transportation—A description of the vehicles, shipping routes, and related features that would affect contingency responses.

c. Safeguards Systems Hardware—A description of the physical security and accounting system hardware that influences how the licensee will respond to an event. Examples of systems to be discussed are communications, alarms, locks, seals, area access, armaments and surveillance.

d. Law Enforcement Assistance—A listing of available local law enforcement agencies and a description of their response capabilities and their criteria for response; and a discussion of working agreements or arrangements for communicating with these agencies.

e. Policy Constraints and Assumptions—A discussion of State laws, local ordinances and company policies and practices that govern licensee response to incidents. Examples that may be discussed include:

Use of deadly force.
Use of employee property.
Use of off-duty employees.
Site security jurisdictional boundaries.

f. Administrative and Logistical Considerations—Descriptions of licensee practices that may have an influence on the response to safeguards contingency events. The descriptions shall include provisions for ensuring that all equipment needed to effect a successful response to a safeguards contingency will be easily accessible, in good working order, and in sufficient supply to provide redundancy in case of equipment failure

4. *Responsibility Matrix.* This category of information consists of detailed identification of the organizational entities responsible for each decision and action associated with specific responses to safeguards contingencies This identification shall be done by means of a matrix composed of an array of cells for each event, each cell correlating a decision or action with a member or unit of the organization and containing a task, i.e., a detailed description of how a decision is to be made or an action is to be taken

5. *Procedures.* In order to aid implementation of the detailed plan as developed in the matrix, this category of information shall summarize the actions to be taken and decisions to be made by each member or unit of the organization as planned in the matrix

DEVELOPMENT AND MAINTENANCE OF THE PLAN

When submitting a licensee safeguards contingency plan to the Commission for approval, each license applicant and licensee shall also submit a description of the steps that he has taken to ensure that:

(1) Safeguards contingency responsibilities are assigned in a manner that precludes conflicts in duties or responsibilities that would prevent the execution of the plan in any safeguards contingency;

(2) Adequate resources are available at all times for carrying out the plan;

(3) The plan will be reviewed and updated periodically to take due account of changing conditions; and

(4) Periodic drills or tests will be made to ensure that safeguards contingency responses follow those set forth in the plan.

(Sec. 1611, Pub. L. 83-703, 68 Stat. 948; secs. 201, 204(b)(1), Pub. L. 93-438, 88 Stat. 1243, 1245 (42 U.S.C. 2201, 5841, 5844).)

Dated at Washington, D.C. this 13th day of May 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK
Secretary of the Commission

[FR Doc.77-14258 Filed 5-18-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

JOHN DAY PLANNING UNIT

Availability of Draft Environmental Statement; Supplement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Supplement to the Draft Environmental Statement for the John Day Planning Unit Land Use Plan, USDA–FS–R6–DES(Adm)–76–3.

One new roadless area—Fox Creek—has been identified and added to the roadless inventory. Additional roadless land has been added to four existing roadless areas—Greenhorn Mountain, Jump-Off Joe, North Strawberry, and South Strawberry. The additional inventoried roadless areas identified in this supplement total 32,367 acres within the John Day Planning Unit. These adjustments have transpired since the John Day Planning Unit Draft Environmental Statement was issued. This new information could influence the comments on the Draft Statement. Therefore, the Supplement is being issued and given the same circulation as the Draft Environmental Statement, with an appropriate extension in the time allowed for the submission of comments.

The Supplement to the Draft Environmental Statement was transmitted to CEQ on May 13, 1977.

Copies of the Draft and Supplement are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 SW. Pine Street, Portland, Oregon 97204.
USDA, Forest Service, Malheur National Forest, 139 NE. Dayton Street, John Day, Oregon 97845.
USDA, Forest Service, Umatilla National Forest, 2517 SW., Hailey Avenue, Pendleton, Oregon 97801.

A limited number of Supplements is avilable upon request to Forest Supervisor, Dan E. Williams, Malheur National Forest, 139 NE. Dayton Street, John Day, Oregon 97845.

Copies of the Environmental Statement and Supplement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Dan E. Williams, Malheur National Forest, 139 NE. Dayton Street, John Day, Oregon 97845. Comments must be received by July 12, 1977, in order to be considered in the preparation of the final environmental statement.

JOHN H. POPPINO,
Acting Regional Environmental Coordinator, Planning, Programing, and Budgeting.

MAY 13, 1977.

[FR Doc.77-15293 Filed 5-18-77;8:45 am]

LAND USE PLAN, OPHIR-DOG-MACDONALD PASS PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Land Use Plan—Ophir-Dog-MacDonald Pass Planning Unit, Forest Service Report Number USDA–FS–R1(12)–DES–Adm–76–18.

The environmental statement concerns the proposed preparation and implementation of an intensive Multiple Use Plan for the Ophir-Dog-MacDonald Pass Planning Unit, Helena Ranger District, Helena National Forest, Powell and Lewis and Clark Counties, State of Montana. About 50,600 acres of National Forest land are affected. The planning unit is divided into five management units. Significant values, management direction, and specific statements to guide land management have been developed for each subunit.

This final environmental statement was transmitted to CEQ on May 13, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, Missoula, Montana 59801.
USDA, Forest Service, Helena National Forest, 616 Helena Avenue, Helena, Montana 59601.
USDA, Forest Service, Helena Ranger District, 2003 Poplar, Helena, Montana 59601

A limited number of single copies are available upon request to:

USDA, Forest Service, Helena National Forest, 616 Helena Avenue, Helena, Montana 59601.
USDA, Forest Service, Helena Ranger District, 2003 Poplar, Helena, Montana 59601.

Copies of the environmental statement have ben sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

JAMES G. STEFFAN,
Acting Forest Supervisor, Helena National Forest.

MAY 13, 1977.

[FR Doc.77-14301 Filed 5-18-77;8:45 am]

MOUNT HEBGEN MANAGEMENT ALTERNATIVES

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Mount Hebgen management alternatives, Forest Service report number USDA–FS–R1(11)–DES–Adm–76–25.

The environmental statement concerns alternatives for ski development on Mount Hebgen and a proposed special use permit for Ski Yellowstone, Inc., to develop a ski area on approximately 1,800 acres of National Forest land in Gallatin County, Montana.

This final environmental statement was transmitted to CEQ on May 13, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agricultural Bldg., Room 3230, 12th Street and Independence Ave. SW., Washington, D.C 20250.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59807.
USDA, Forest Service, Gallatin National Forest, Federal Building, Bozeman, MT 59715
USDA, Forest Service, Hebgen Lake District, West Yellowstone, MT 59758.

A limited number of single copies are available upon request to the Forest Supervisor, Gallatin National Forest, P.O. Box 130, Bozeman, MT 59715.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

MAY 13, 1977.

KEITH M. THOMPSON,
Acting Regional Forester, Northern Region, Forest Service.

[FR Doc.77-14299 Filed 5-18-77;8:45 am]

MULTIPLE USE PLAN, NINEMILE-MILL PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Multiple Use Plan Ninemile-Mill Planning Unit, USDA–FS–R1(16)–FES–Adm–76–20.

The environmental statement concerns a proposed action to implement a revised Multiple Use Plan for the Ninemile-Mill Planning Unit, located on the Ninemile and Missoula Ranger Districts, Lolo National Forest in Missoula, Mineral, Lake, and Sanders Counties, Montana. The action affects 120,950 acres of National Forest Land. The plan recommends that 101,030 acres be managed in various combinations for recreation, esthetics, fisheries, wildlife, watershed, timber and range. An area of 19,920 acres which will remain unroaded will be managed for recreation, esthetics, wildlife, and watershed.

The primary environmental effects involve the modification of natural conditions on 33,400 acres that are presently roadless. The major changes will be in the vegetative patterns and tree species resulting from management of the vegetative resources; the availability of products, employment, and services provided; and in the natural condition of vegetation, soil, water, and wildlife.

This final environmental statement was transmitted to CEQ on May 5, 1977. Copies are available for inspection during regular working hours at the following locations.

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, 340 N. Pattee, Missoula, MT 59801.
USDA, Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59801.
USDA, Forest Service, Ninemile Ranger District, Huson, MT 59846.
USDA, Forest Service, Missoula Ranger District, 2801 Russell, Missoula, MT 59801.
University of Montana, University Library, Documents Division, Missoula, MT 59801.
University of Montana, Forestry School Library, Room 411, Science Complex, Missoula, MT 59801.
Missoula City—County Library, Washington and East Main, Missoula, MT 59801.

A limited number of single copies are available upon request to Orville L. Daniels, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Copies of the environmental statement have been sent to various federal, state and local agencies as outlined in the CEQ guidelines.

RUSSELL E. MILLER,
Acting Forest Supervisor.

MAY 6, 1977.

[FR Doc.77-14300 Filed 5-18-77;8:45 am]

VEGETATION MANAGEMENT WITH HERBICIDES IN OREGON AND WASHINGTON

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Draft Environmental Statement for vegetation management with herbicides in Oregon and Washington, USDA–FS–R6–DES(Adm)–75–18 (revised).

The Environmental Statement concerns a proposed series of vegetative treatments on National Forest lands using the herbicides 2,4–D, 2,4,5–T, silvex, strazine, dicamba, dalapon, amitrole–T, picloram, monosodium methanearsenate, cacodylic acid, and Krenite as a part of various resource management activities including site preparation, conifer release, precommercial thinning of conifers, control of noxious or poisonous plants, range revegetation, and maintenance of improvement.

This Draft Environmental Statement was transmitted to CEQ on May 11, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th & Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, Oregon 97204.

A limited number of single copies are available upon request to Regional Forester, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208.

Copies of the Draft Environmental Statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments must be received by July 10, 1977 in order to be considered in the preparation of the Final Environmental Statement. Comments concerning the proposed action and requests for additional information should be addressed to Regional Forester, Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208

CURTIS L. SWANSON,
Regional Environmental Coordinator Planning, Programing and Budgeting.

MAY 11, 1977.

[FR Doc.77-14302 Filed 5-18-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 30656 and 30657]

ALIA—THE ROYAL JORDANIAN AIRLINES CORP. AND SYRIAN ARAB AIRLINES

Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on May 26, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Arthur S. Present.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement at the prehearing conference.

Dated at Washington, D.C., May 13, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-14227 Filed 5-18-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ALBERT MEDEIROS

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for Certificate of Exemption under Pub. L. 94–359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Albert Medeiros, Koch & Son Scrimshaw, 88 North Street, Mattapoisett, MA 98122.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States; (ii) The prohibition, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interestate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part; (iii) The prohibitions, as set forth in sections 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 302 pounds of whale teeth.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before June 20, 1977.

ROBERT J. AYERS,
Acting Associate Director for Fisheries Management.

MAY 13, 1977.

[FR Doc.77-14325 Filed 5-18-77;8:45 am]

FISHING IN MEXICAN GULF OF MEXICO WATERS

Licensing Procedures

The first annual consultation relative to the implementation of the Fisheries Agreement between Mexico and the United States was held in Mexico City on April 26–27, 1977. Procedures for licensing U.S. vessels to fish for shrimp or snapper/grouper in the Mexican Zone (12 to 200 miles off the Mexican coast) were developed for the August 1, 1977, through July 31, 1978 fishing season. Applications for entering vessels in this fishery may be obtained by contacting the Regional Director, National Marine Fisheries Service, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, telephone number: 813–893–3141. Applications are available also from the Brownsville Trawlers Association, Star Route, Box 5, Brownsville, Texas 78521, telephone number: 512–831–4862; the Southeastern Fisheries Association, 124 West Jefferson Street, Tallahassee, Florida 32301, telephone number: 904–224–0612; and the Texas Shrimp Association, P.O. Box 1666, Brownsville, Texas 78520, telephone number: 512–546–5389.

Completed application forms must be received by the National Marine Fisheries Service or any of the three associations no later than May 30, 1977, for transmittal to the Mexican Government. License fees and charges per vessel for the fishing season are as follows:

Location	Permit fee	Performance: Catch charge	Performance: Bond or deposit
SHRIMP			
Tampico	$80	$2,006	Up to $1,600.
Contoy	80	1,538	Do.
SNAPPER/GROUPER			
Mexican zone	80	563	Do.

Issued in Washington, D.C., May 13, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.77-14212 Filed 5-18-77;8:45 am]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL; NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Availability of Draft Environmental Impact Statement/Fishery Management Plan on the Atlantic Clam Fishery and Public Meetings and Hearing Thereon

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, and the Mid-Atlantic and New England Fishery Management Councils have prepared a draft environmental impact statement for the proposed implementation of the Fishery Management Plan for the Atlantic Clam Fishery. In accordance with the provisions of the Fishery Conservation and Management Act of 1976 (P.L. 94–265) the plan has been prepared by the Mid-Atlantic and New England Fishery Management Councils and requires approval by the Secretary of Commerce prior to its implementation.

The environmental statement concerns a proposal to adopt and implement a fishery management plan for the surf clam and ocean quahog fisheries off the Mid-Atlantic and Northeastern United States, pursuant to the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources to 200 nautical miles and establishes a program for their management. Upon approval, the plan will serve to manage these fisheries for optimum yield. The plan proposes to rebuild the declining surf clam stocks within a 10 year period, to minimize short term dislocation of fishermen and to prevent overfishing of the ocean quahog stocks. The following regulatory measures are recommended:

A. Restriction of surf clam landings to 35 million pounds of meats for 1977;

B. restriction of ocean quahog landings to 60 million pounds of meats for 1977;

C. establishment of a minimum shell size for surf clams at 4½ inches; and

D. restriction of new entrants into the surf clam fishery.

Written comments on the draft environmental impact statement/fishery management plan may be submitted on or before July 5, 1977 to:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North New Streets, Dover, Delaware 19901.

Individuals or organizations wishing to comment on the draft environmental impact statements/fishery management plan may also do so at public meetings.

The Mid-Atlantic Fishery Management Council will hold its public meetings at the following locations on:

June 1, 1977—Omni International Hotel, 777 Waterfront Drive, Norfolk, Virginia 23510.
June 2, 1977—Sheraton Fontainebleu Hotel, 10100 Ocean Highway, Ocean City, Maryland 21842.
June 3, 1977—Golden Eagle Motor Inn, Philadelphia Avenue, Cape May, New Jersey 08204.
June 6, 1977—Asbury Avenue Pavillion, Asbury and Ocean Avenues, Asbury Park, New Jersey 07712.

A public hearing will be held on June 16, 1977, at the Southhampton Inn, 91 Hill Street, Southhampton, Long Island, New York 11968. All sessions will convene at 7:30 p.m. and adjourn at 9:30 p.m.

The New England Gishery Management Council will hold its public meetings at the following locations on:

June 14, 1977—Bourne Community Building, 239 Main Street, Buzzards Bay, Massachusetts
June 15, 1977—Newport Harbor Treadway Inn, On the Harbor, Newport, Rhode Island.
June 16, 1977—Holiday Inn, Woodbury Avenue, Portsmouth, New Hampshire.

All sessions will convene at 7:30 p.m.

Members of the public interested in obtaining a copy of the draft environmental impact statement/fishery management plan may contact:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North New Streets, Dover, Delaware 19901.
Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Copies of the draft environmental statement/fishery management plan may also be viewed at the public meetings and summaries of the fishery management plan will be distributed at the public meetings. Copies are also available for inspection at:

National Oceanic and Atmospheric Administration, Environment Science Information Center, Page Building 2, Room 193, 3300 Whitehaven Street NW., Washington, D.C. 20235.

This Notice is being published at the request of and in cooperation with the Mid-Atlantic and New England Fishery Management Councils.

Dated this 13th day of May, 1977 at Washington, D.C.

JACK W. GEHRINGER,
Deputy Director.

[FR Doc.77-14230 Filed 5-17-77;8:45 am]

ROBERT J. HONIS

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94–359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Robert J. Honis, 8390 Kumquat Avenue, Seminole, Florida 33540.

Period of exemption. The applicant requests that the period to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States; (ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species; part; (iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign connmerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 42 whale teeth and 5 pieces of whale bone.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before June 20, 1977.

ROBERT J. AYERS,
Acting Associate Director
for Fisheries Management.

MAY 13, 1977.

[FR Doc.77-14326 Filed 5-18-77;8:45 am]

COST ACCOUNTING STANDARDS BOARD

RESTATEMENT OF OBJECTIVES, POLICIES AND CONCEPTS

In March 1973, the Cost Accounting Standards Board published a Statement of its operating policies, procedures and objectives within which the Board was formulating Cost Accounting Standards and related rules and regulations in carrying out its legislative mandate under Pub. L. 91–379. The Board published that document to improve general understanding of the Board's fundamental objectives and concepts. The Board stated at that time that it may from time-to-time amplify, supplement or modify its views as it proceeds with consideration of individual issuances.

The Board is now publishing a restatement of its objectives, policies and concepts. This publication is intended to make known the current views of the Cost Accounting Standards Board in these matters. Interested members of the public should, on the basis of this Statement, be better able to focus on the complex and difficult issues which the Board faces in promulgating Cost Accounting Standards. Anticipating that the Board, from time-to-time, expects to revise this document, the Board welcomes the views of interested persons on the objectives, policies and concepts stated herein.

MAY 1977.

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OBJECTIVES

The primary objective of the Cost Accounting Standards Board is to implement Pub. L. 91–379 by issuing clearly stated Cost Accounting Standards to achieve (1) an increased degree of uniformity in cost accounting practices among Government contractors in like circumstances, and (2) consistency in cost accounting practices in like circumstances by individual Government contractors over periods of time. In accomplishing this primary objective, the Board takes into account the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits of such Standards.

Increased uniformity and consistency in accounting improve understanding and communication, reduce the incidence of disputes and disagreements, and facilitate equitable contract settlements.

A Cost Accounting Standard is a statement formally issued by the Cost Accounting Standards Board that (1) enunciates a principle or principles to be followed, (2) establishes practices to be applied, or (3) specifies criteria to be employed in selecting from alternative principles and practices in estimating, accmulating, and reporting costs of contracts subject to the rules of the Board. A Cost Accounting Standard may be stated in terms as general or as specific as the Cost Accounting Standards Board considers necessary to accomplish its purpose.

UNIFORMITY

Uniformity relates to comparison of two or more accounting entities and the Board's objective in this respect is to achieve comparability of results of entities operating under like circumstances. The Board recognizes the impracticality of defining or attaining absolute uniformity, largely because of the problems related to defining like circumstances. The Board will, nonetheless, seek ways to attain a practical degree of uniformity in cost accounting.

Absolute uniformity would be achieved only if contractors in the same circumstances (with respect to a given subject) always followed the same cost accounting practices. The Board does not seek to establish a single uniform accounting system or chart of accounts for all the complex and diverse businesses engaged in defense contract work. Any increase in uniformity, however, will provide more comparability among contractors whose circumstances are similar. Therefore, if the Board were to be satisfied that circumstances among all concerned contractors are substantially the same in a given subject area the Board would not be precluded from establishing a single cost accounting treatment for use in such circumstances.

CONSISTENCY

Consistency pertains to the use by one accounting entity of compatible cost accounting practices which permit comparability of contract results under similar circumstances over periods of time. Like uniformity, the attainment of absolute consistency can only be measured when like circumstances can be defined. Essentially, consistency relates to the allocation of costs, both direct and indirect, and to the treatment of cost with respect to individual cost objectives as well as among cost objectives in like circumstances. The Board believes that consistency within an entity enhances the usefulness of comparisons between estimates and actuals. It also improves the comparability of cost reports from one time period to another where there are like circumstances.

ALLOWABILITY AND ALLOCABILITY

The CASB does not determine categories or individual items of cost that are allowable. Allowability is a procurement concept affecting contract price and in most cases is established in regulatory or contractual provisions. An agency's policies on allowability of costs may be derived from law and are generally embodied in its procurement regulations. A contracting agency may include in contract terms or in its procurement regulations a provision that will refuse to allow certain costs incurred by contratcors that are unreasonable in amount or contrary to public policy. In accounting terms, those same costs may be allocable to the contract in question.

Allocability is an accounting concept involving the ascertainment of contract cost; it results from a relationship between a cost and a cost objective such that the cost objective appropriately bears all or a portion of the cost. For a particular cost objective to have allocated to it all or part of a cost there should exist a beneficial or causal relationship between the cost objective and the cost.

Cost Accounting Standards provide for the definition and measurement of costs, the assignment of costs to particular cost accounting periods, and the determination of the bases for the direct and indirect allocation of the total assigned costs to the contracts and other cost objectives of these periods. The use of Cost Accounting Standards has no direct bearing on the allowability of those individual items of cost which are subject to limitations or exclusions set forth in the contract or which are otherwise specified as unallowable by the Government.

The Board recognizes that contract costs are only one of several important factors which should be involved in negotiating contracts. Therefore, the promulgation of Cost Accounting Standards, and the determination of contract costs thereunder, cannot be considered a substitute for effective contract negotiation. It should be emphasized that where Cost Accounting Standards are applicable, they are determinative as to the costs allocable to contracts. It is a contracting agency's prerogative to negotiate the allowability of costs which are allocated to contracts; however, the definition defense contracts and how the amount thereof is to be allocated is a function of Cost Accounting Standards.

FAIRNESS

The Board considers a Cost Accounting Standard to be fair when, in the Board's best judgment, the Standard shows neither bias nor prejudice to either party to affected contracts.

The results of contract pricing may ultimately be regarded as fair or unfair by either or both parties to that contract. But if the Cost Accounting Standards uutilized in the negotiation, administration, and settlement of the contract provided the contracting parties with accounting data which are representative of the facts, the Standards themselves are fair.

VERIFIABILITY

Verifiability is generally accepted as an important goal for information used in cost accounting. Contract cost accounting systems should provide for verifiability to the greatest extent practical. Contract costs should be auditable by examination of appropriate data and documents supporting such costs or by reference to the facts and assumptions used to allocate the costs to the contract.

The Board recognizes that under some Cost Accounting Standards individual contractors may accumulate or allocate certain contract costs on a different basis, or in greater detail, than would otherwise be provided in a contractor's general books of account. The Board has stated in the prefatory comments of certain Standards that contractors may use memorandum accounting records to meet the requirements of Stand-

ards. These statements reflect the Board's intent that, for these Standards and else where, only such detail of cost allocation and record keeping should be required as is necessary to provide the verifiability that is needed to satisfy regulatory contract cost audit requirements. Detailed contractor accounting records of contract costs should be reconcilable with the general books of account.

Cost Allocation Concepts

In order to achieve increased uniformity and consistency in accounting for costs of negotiated defense contracts, Cost Accounting Standards should provide criteria for the allocation to cost objectives of the costs of resources used. As used in this discussion cost is the monetary value of the resources used. A cost objective as defined by the Board is "a function, organizational subdivision, contract, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc." Standards deal with all aspects of cost allocability, including:

1. The definition and measurement of costs which may be allocated to cost objectives,

2. The determination of the cost accounting period to which such costs are assignable, and

3. The determination of the methods by which costs are to be allocated to cost objectives.

The Board will adhere to the concept of full costing whenever appropriate. Full allocation of all costs of a period, including general and administrative expenses and all other indirect costs is considered by the Board generally to be the basis for determining the cost of negotiated defense contracts.

Under the full costing concept, all costs initially allocated to intermediate cost objectives must be subsequently reallocated to final cost objectives. For this purpose, a final cost objective may be established to include unreasonable costs or costs unallowable for other reasons. The bases selected for allocation of costs from intermediate cost objectives to final cost objectives are the devices used to associate costs with final cost objectives when such costs are not directly identifiable with those cost objectives. If the base selected is a reasonable measure of the relationship between the cost and cost objectives, the cost will be reasonably allocated to such cost objectives. The Board has referred to this conceptual relationship in Standards as the beneficial or causal relationship between costs and cost objectives. In addition to the expression of this concept, Standards define in appropriate circumstances what criteria should be used to select the allocation base which best expresses this conceptual relationship.

Hierarchy for allocating costs

As an ideal, each item should be assigned to the cost objective which was intended to benefit from the resource represented by the cost or, alternatively, which caused incurrence of the cost. To approach this goal, the Board believes in the desirability of direct identification of costs with final cost objectives where the following allocation characteristics exist:

1. The beneficial or causal relationship between the incurrence of cost and cost objectives is clear and exclusive.

2. The amount of resource used is readily and economically measurable.

However, if all items of cost incurred for the same purpose in like circumstances do not have these characteristics, then none of these items should be identified directly with final cost objectives.

In addition, the Board recognizes that there are circumstances where although the units of resource used can be directly identified with a final cost objective, it would be inappropriate or unnecessary to directly identify the cost with the final cost objective. Where the units of resource used are interchangeable, as for example in the use of like machinery and equipment, consumption of materials and supplies or utility services, the amount of cost to be allocated to cost objectives may more appropriately be determined on the basis of an average cost and not on the actual cost of each unit used. The Board believes that this averaging concept should be applied in appropriate circumstances. Individual Standards treat with specific instances where, although the incidence of resource use is directly identified with particular final cost objectives, the cost of the resource used should be determined on an averaging or indirect basis.

Where units of resource used are not directly identified with final cost objectives, the cost of such resources should be grouped into logical and homogeneous pools for allocation to cost objectives in accordance with a hierarchy of preferable techniques. Homogeneity means that the costs of functions allocated by a single base have the same or a similar relationship to the cost objectives for which the functions are performed, and the grouping of such costs in homogeneous pools for allocation to benefited cost objectives results in a better identification of cost with cost objectives. There are circumstances where unlike functions will have the same or a similar relationship to cost objectives; it may be appropriate to group the cost of such functions and use a measure of the common relationship as the base for cost allocation purposes. Finally, where the final output of either goods or services is the same or similar (i.e., homogeneous), all indirect functions attributable to the common output may be grouped for allocation of the costs of those functions.

The Board believes that the preferable allocation techniques for distributing homogeneous pools of cost are as follows:

1. The preferred representation of the relationship between the pooled cost and the benefiting cost objectives is a measure of the activity (input) of the function or functions represented by the pool of cost. This relationship can be measured in circumstances where there is a direct and definitive relationship between the function or functions and the benefiting cost objectives. In such cases, a single unit of measure can generally represent the consumption of resources in performance of the activities represented by the pool of cost. Measures of the activity ordinarily can be expressed in such terms as labor hours, machine hours, or square footage. Accordingly, costs of these functions can be allocated by use of a rate, such as a rate per labor hour, rate per machine hour or cost per square foot of the support activity.

2. Where such measures are unavailable or impractical to ascertain the basis for allocation can be a measurement of the output of the function or functions represented by the pool of cost. Thus the output becomes a substitute measure for the use of resources and is a reasonable alternative where direct measurement of input its impractical. Output can be measured in terms of units of end product produced by the functions, as for example, number of printed pages for a print shop, number of purchase orders processed by a purchasing department, number of hires by an employment office.

3. Where neither activity (input) nor output of the functions can be measured practically, a surrogate must be used to measure the resources used. Surrogates used to represent the relationship generally measure the activity of the cost objectives receiving the service and should vary in proportion to the services received. For example, a personnel department may provide various services which cannot be measured practically on an activity or output basis. Number of personnel served may reasonably represent the use of resources of the personnel function for the cost objectives receiving the service, where this base varies in proportion to the services performed.

4. Pooled costs which cannot readily be allocated on measures of specific beneficial or causal relationship generally represent the cost of overall management activities. Such costs do not have a direct and definitive relationship to the benefiting cost objectives. These costs should be grouped in relation to the activities managed and the base selected to measure the allocation of these indirect costs to cost objectives should be a base representative of the entire activity being managed. For example, the total cost of plant activities managed might be a reasonable base for allocation of general plant indirect costs. The use of a portion of a total activity, such as direct labor costs or direct material costs only, as a substitute for a total activity base, is acceptable only if the base is a good representative of the total activity being managed.

In developing allocation techniques for individual Standards, the Board will define the circumstances where direct identification or an appropriate level of the allocation hierarchy should be used.

Accounting standards and the flow of costs

Standards on cost allocation treat with the accounting for the flow of incurred costs as resources are used. The costs of resources used are initially allocated to a cost pool or to final cost objectives. The cost pools are intermediate cost objectives under the full costing concept of cost allocation as used by the Board. Cost pools are either service centers, overhead pools or general and administrative (G&A) cost pools. Costs are allocated from cost pools to other cost pools and to final cost objectives until all costs are accumulated in final cost objectives, thus determining the total cost of those final cost objectives. Costs accumulated in service center pools can be allocated to other service center pools, to overhead pools, to G&A pools and to final cost objectives. The costs accumulated in the overhead and G&A cost pools are allocated only to final cost objectives.

The particular distribution and cost flow characteristics of a cost pool can be identified by relating the cost flow concept described above with the hierarchy of preferable allocation techniques described previously. As stated, costs initially allocated to the various cost pools and final cost objectives are costs which can be directly identified with those cost objectives. Cost pools which are identified as service centers normally will distribute their costs on a base which measures the activity or output of the service center and, as a result, these costs can be allocated to any cost objective benefitting from that service including other cost pools. Cost pools which are identified as overhead pools will distribute their costs using an allocation base which measures the total activity of a period. These costs are allocated only to cost objectives which ultimately reflect that total activity, i.e., the final cost objectives of a business unit.

As Standards are developed for the treatment of pools of cost, each pool is categorized either as a function of general support (e.g., overhead pool) or specific support (e.g., service center). The classification is determined by the type of allocation base and flow of cost that is prescribed for that pool.

Operating Policies

The following descriptions of policies show a number of important considerations which will be relevant to the Board as it seeks the objectives discussed previously.

Relationship to other authoritative bodies

A number of authoritative bodies have been established to issue pronouncements affecting accounting and financial reporting. The Cost Accounting Standards Board views its work as relating directly to the preparation, use, and review of cost accounting data in the negotiation, administration, and settlement of negotiated defense contracts. The Board is the only body established by law with the specific responsibility to promulgate Cost Accounting Standards. Furthermore, its Cost Accounting Standards have the force and effect of law in the negotiation, administration and settlement of defense contracts.

The accounting areas of interest to the Board which are also of interest to others for financial and tax accounting purposes are: (1) Definition and measurement of costs; (2) assignment of the cost of resources consumed to time periods; and (3) allocation of direct labor, direct material, and indirect costs to the goods and services produced in a period.

The Cost Accounting Standards Board seeks to avoid conflict or disagreement with other bodies having similar responsibilities and will through continuous liaison make every reasonable effort to do so. The Board will give careful consideration to the pronouncements affecting financial and tax reporting, and in the formulation of Cost Accounting Standards it will take those pronouncements into account to the extent it can do so in accomplishing its objectives. The nature of the Board's authority and its mission, however, is such that it must retain and exercise full responsibility for meeting its objectives.

Transition method

The process of converting from preexisting cost accounting practices to the practice required by a new Standard could be a source of disagreement between the contracting parties. To eliminate such disagreements, the Board has on occasion spelled out means by which a new Standard can be put into operation so as to place the contracting parties in a position where any amounts that might be left to be dealt with by an equitable adjustment would be immaterial. For other Standards, the impact of changes in cost accounting practices required by new Standards will be accommodated by price adjustments for covered prime contracts and subcontracts through the equitable adjustment provision of the contract clause.

Applicability to nondefense contracts

As a matter of administrative policy the General Services Administration has elected to apply Standards to some but not all nondefense contracts. As a result, there may be instances where contractors have contracts which, because they are with defense agencies, are subject to Standards, whereas similar contracts with nondefense agencies are not. The Board recognizes that this situation can be the source of some difficulty in administration by contractors. Nonetheless, nondefense contracts are beyond the jurisdiction of the Cost Accounting Standards Board. The Board has encouraged Government agencies to adopt regulations to achieve consistency among defense and nondefense contracts wherever possible. The Board will continue to work in this direction.

Single Government representative

To assure maximum uniformity of interpretation of its promulgations, the Board believes that it is highly desirable to have Federal agencies agree upon a single representative to deal with a given contractor regarding application of the requirements of the Board. Because of its conviction of the merit of such a procedure, the Board recommended that the agencies arrange for a single contracting officer for each contractor, or major component thereof, to be designated to negotiate as needed to achieve consistent practices relating to the Standards issued by the Board.

As a result, agencies have established procedures by which a Government contractor may be certain that only one contracting officer will deal with him to resolve issues that may arise under the contractor's Government contracts concerning the application of Cost Accounting Standards, rules and regulations.

The Board is optimistic about the benefits to be derived by both the Government and contractors from this single-representative system and will continue to encourage and assist Government agenices in assuring that the system matures and functions effectively.

Responsibility for compliance

The Board recognizes that the basic responsibility for securing compliance by contractors with Board promulgations, as with all contractual matters, rests with the relevant Federal contracting agencies. They are responsible for such things as:

1. Incorporating all applicable CASB promulgations into their procurement regulations;

2. Including the contract clause in all covered contracts;

3. Receiving Disclosure Statments;

4. Reviewing and approving the adequacy of such Statements;

5. Reviewing contractors' records to determine whether or not contractors have (a) followed consistently their disclosed cost accounting practices and (b) complied with promulgated Cost Accounting Standards;

6. Making appropriate contract price adjustments because of changed accounting practices, failure to follow existing Standards, or the issuance of new Standards; and

7. Evaluating the validity of claims by contractors for exemptions and waivers under criteria established by the Board, or exclusions as established by Pub. L. 91-379.

It should be noted that section 719(j) of the Act gives to any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States, the right to examine and make copies of any documents, papers, or records relating to compliance with Board promulgations.

Another element of compliance concerns the manner in which relevant contracting agencies implement the requirements established by the Board. Special and recurring reviews of agencies' compliance with Board promulgations should be performed by the agencies' internal review staffs and by the U.S. General Accounting Office.

The Board must retain responsibility for evaluating the effectiveness of the Standards, rules, and regulations that it promulgates. Some of the Board's evaluative needs can be met by reviewing reports from contracting and audit organizations. To this end, the Board and the major contracting agencies have worked cooperatively to establish reporting requirements which have been embodied in the agencies' procurement regulations.

The Board also recognizes its responsibility for receiving evaluations of promulgating Standards and regulations from contractors, professional associations, and other associations and persons outside the Government who are concerned with the effectiveness of the Board's Standards, rules and regulations. The Board holds periodic Evaluation Conferences on promulgated Standards and Regulations. Additionally, the Board welcomes comments and inquiries at any time.

Interpretations

The Board notes the existence of contractual and administrative provisions for the resolution or settlement of disputes arising under a contract, and the Board will not intervene in or seek to supersede such provisions. When there are widespread and serious questions of the Board's intention or meaning in its promulgations, however, the Board may at its discretion respond to requests for authoritative interpretations of its rules, regulations, and Cost Accounting Standards. Such interpretations will be published in the Federal Register and will be considered by the Board as an integral part of the rules, regulations, and Standards to which the interpretations relate. This formalized procedure does not preclude unofficial consultation between inquirers and the Executive Secretary and members of the Board's staff.

Exemptions and waivers

The Board is authorized by law to grant exemptions to such classes or categories of contractors or contracts as it determines are appropriate and consistent with the purposes sought to be achieved by the Board's basic legislation. In previous years the Board has used the authority granted to it to (1) exempt from its rules and regulations certain categories of contractors, (2) grant waivers of its requirements for certain individual contracts, (3) limit the requirements for formal disclosure of accounting practices to the larger defense contractors, (4) limit the application of some individual Standards either by exempting certain categories of contractors or by establishing a dollar threshold for the application of the Standard, and (5) exempt certain classes of contractors from the requirement to comply with Standards on the condition that they accept application of the Disclosure Statement regulations.

The Board anticipates that it will grant waivers only in rare and unusual cases. The Board notes that the granting of an exemption or a waiver from Standards or the disclosure regulation reduces the extent to which the primary goals of increased uniformity and consistency are achieved.

The Process of Developing Standards

Research and development of standards

The promulgation of any Cost Accounting Standard is characterized by an in-depth study of the subject and by participation of various interested parties. The Board is not committed to any specific research process, but uses those techniques and resources which are appropriate to the topic. Typical research steps in the development of Standards are briefly described below.

1. *Selection of topics.* The Board's objectives are clearly set forth in Pub. L. 91-379; the Board seeks to develop Cost Accounting Standards to provide increased uniformity

and consistency in cost accounting practices of contractors. Specific subjects for research and possible development of Cost Accounting Standards are selected after considering the nature and magnitude of the costing problems related to the subject, as well as the relationship of the subject to other Standards and other staff research projects. The Board has sought advice from interested parties in the selection of topics of research. Board approval of a work project or its continuance does not imply the ultimate promulgation of a Standard.

2. *Research of concepts and existing practices.* Early research generally involves review of the accounting concepts and existing practices. This review includes examination of available literature, and often involves discussions with representatives of professional accounting and other organizations. Early research also usually involves review of the treatment of the cost in connection with negotiated contracts. This requires examination of Government procurement regulations, and the decisions of courts and of Boards of Contract Appeals. It also involves meeting with representatives of procurement agencies and of contractors. Reviews are made of the Disclosure Statements filed with the Board and various reports received from Government agencies as to practices currently being followed. Personal interviews and plant visits are made to review existing practices further in connection with contracts. The extent of this phase of the research and the amount of participation by interested parties depend on the nature of the topic.

3. *Analysis of alternatives.* Information gained from the early research into a subject, including field visits to contractors, helps to identify relevant issues. The Board develops analytical discussions of such issues and prepares questions designed to elicit opinions and empirical data concerning the subject. Upon development of an issues paper, it is distributed widely to interested parties whose responses are considered in connection with the development of a preliminary draft of a Cost Accounting Standard.

4. *Staff draft of a standard.* Analysis of problems, practices, and the possible choices for action, usually leads to the development of a staff draft of a possible Cost Accounting Standard which is distributed to interested parties for comment. Frequently such drafts are accompanied by questions designed to elicit information concerning potential administrative problems and estimated costs of implementation. The comments received are helpful in developing a proposed Standard for exposure in the FEDERAL REGISTER.

5. *Federal Register proposal.* The proposed Cost Accounting Standard is published in the FEDERAL REGISTER. This publication serves as an important part of the research process. It also serves as a formal public notice by the Board of the proposal on which comments are invited. FEDERAL REGISTER publication is supplemented by direct mailing to the organizations and individuals on a mailing list maintained by the Board. The Board seeks comments from all interested parties, and allows an ample period for response. The FEDERAL REGISTER publication provides an opportunity for participation by all those who are interested in the work of the Board. The Board reviews the responses received, and determines what changes may be warranted in its proposal. When major changes are made in the proposal, the Board will consider republishing the proposal in the FEDERAL REGISTER for additional comments. Follow-up visits to Government agencies and contractors may be arranged in connection with particular comments received. Sometimes, representatives of interested groups may be invited to meet with the Board.

6. *Promulgation.* After careful consideration of all comments and further discussions held with interested parties, the Board makes appropriate revisions to the proposed Cost Accounting Standard. The revised Standard is promulgated and published in the FEDERAL REGISTER along with prefatory comments setting forth the Board's analysis of the major issues identified in the comments received.

7. *Submission to Congress.* Standards promulgated by the Board are sent to the Congress at the time of final publication in the FEDERAL REGISTER along with an evaluation of the costs versus the benefits. The Standards become effective unless the Congress, within 60 days of continuous session, passes a concurrent resolution stating in substance that it does not favor the proposed Standard. In the absence of such a resolution and upon completion of the 60-day period, the Board's promulgations have the full force and effect of law.

8. *Continuing review.* The Board has provided for annual reports from Government agencies. Industry views are obtained through conferences for this purpose. The Board also keeps informed on the operation of Standards in actual contract situations. The Board will publish authoritative interpretations where there are widespread and serious questions of the Board's intention or meaning in its promulgations. The Board will also modify any of its promulgations if experience shows that modification is desirable.

FORMAT OF STANDARDS

The Board uses the same general format for all of its Standards to facilitate their use.

The "General Applicability" Section establishes the overall coverage of each Cost Accounting Standard. The "Purpose" Section normally provides a brief description of the goals of the Board in promulgating the Standard. The "Definition" Section reprints from the "Definitions" part of the Board's regulations, terms which are prominent in a particular Standard.

The "Fundamental Requirement" Section contains the broad principles or practices to be applied in accounting for the costs covered by the Standard

The "Techniques for Application" Section provides criteria for the selection of alternative practices to implement the concepts contained in the "Fundamental Requirement." The techniques for application may describe the practices to be followed with respect to particular fundamental requirements or in particular circumstances. As a general rule, the techniques for application will narrow the accounting options in accordance with the concepts in the fundamental requirement. This Section may also provide special techniques for applying the concepts of the fundamental requirement to give consideration to materiality or special circumstances.

Examples of how the Standard is to operate in specific circumstances appear under "Illustrations." Usually this Section describes actual or hypothetical accounting practices and specifies whether or not such practices would comply with the provisions of the Standard. This Section may also illustrate specific practices which may be followed in particular circumstances.

The final two Sections of a Standard are "Exemptions," and "Effective Date." Where necessary, this format of a Standard may be supplemented by additional material, such as appendices, which also are an integral part of the Standard.

No one Section of a Standard stands alone, and all Sections must be read in the context of the Standard as a whole

PREFATORY COMMENTS

The Board prefaces its issuance of Standards, rules, and regulations with analytical comments to provide additional insight into the process by which the issuance was developed and the factors which led to the provisions set out in the issuance. The prefatory comments summarize the comments received in response to the initial publication and explain the reasons for any significant changes made as well as the reasons for not making changes which were suggested. Although these prefatory comments are not a formal part of any promulgation, they nonetheless are authoritative statements by the Board. As such, the Board encourages their use as aids in applying Standards, rules, and regulations to specific situations.

COMPARING COSTS AND BENEFITS

Section 719 of the Defense Production Act of 1950, as amended by Pub. L. 94-152 requires the Board, in promulgating Standards, to take into account "the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits, including advantages and improvements in the pricing, administration, and settlement of contracts."

The Board views costs and benefits in a broad sense. All disruptions of contractors' and agencies' practices and procedures are viewed as costs. Prior to making a final promulgation decision, the Board makes specific inquiries into the likely costs of implementing proposed Standards, both for contractors and for affected agencies of the Government. In this inquiry, an effort is made to distinguish transitional costs from those that may persist on a recurring basis. Also, the Board makes a distinction between (1) incremental administrative costs, i.e., the cost of added activities over and above that which would otherwise have been incurred, and (2) costs that are absorbed in implementing and administering Standards, i.e., the cost of effort or resources diverted to the implementation and administration of Standards that otherwise would have been applied elsewhere.

Out-of-pocket administrative expenses can be estimated, albeit with difficulty, and any increase in such expenses must be regarded as a cost.

Benefits from CAS include anticipated reductions in the number of time-consuming controversies stemming from unresolved aspects of cost allocability as well as greater equity to all concerned. The Board also expects that benefits will be achieved through simplified negotiation, administration, audit, and settlement procedures. Also, Standards should serve to reduce the opportunities for the manipulation of accounting methods alleged to have existed prior to establishment of the Board. Finally, and most importantly, the availability of better cost data stemming from the use of Cost Accounting Standards will permit improved comparability of offers and facilitate better negotiation of resulting contracts. The Board believes that it would be extremely difficult, if not impossible, to quantify the benefits which are sought from Standards.

The Board is interested in data which will enable it to gauge the impact of a proposed Standard on the amount of costs that will shift to or from Government contracts as a result of one or more Standards. The Board recognizes that a fair Cost Accounting Standard may result in a shift of cost either to or from Government contracts. In formulating Standards, the Board will not regard such shifts of costs as determinative.

The likely impact of a Cost Accounting Standard on a contract is to modify the distribution of his costs among time periods or among his projects in a given time period. Standards may increase administrative costs which, if not offset by the benefit of increased productivity in defense contracting, would contribute to inflation; the Board considers the total of benefits relative to the total cost.

ARTHUR SCHOENHAUT,
Executive Secretary.

MAY 16, 1977.

[FR Doc.77-14291 Filed 5-18-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Cancelled Meeting

MAY 12, 1977.

The meeting of the USAF Scientific Advisory Board Tactical Panel scheduled for June 1, 1977, as published in the FEDERAL REGISTER May 9, 1977, 42 FR 23533, has been cancelled. This meeting has not been rescheduled.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4811.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77-14304 Filed 5-18-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 9, 1977.

The USAF Scientific Advisory Board Aerospace Vehicles Panel will hold a meeting on June 20-21, 1977, at Kelly AFB, Texas from 8:30 a.m. to 5 p.m. both days.

The Panel will receive classified briefings and conduct classified discussions concerning maintenance and operational support requiremets of several critical weapon systems.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc. 77-14303 Filed 5-18-77;8:45 am]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN AMENDMENTS AND PROJECT APPROVALS

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 25, 1977, commencing at 2 p.m. The hearing will be held in the Titian Peale Room of the Holiday Inn, 16th and Market Streets, Philadelphia, Pa. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact:

1. *Myerstown Water Authority (D-77-31 CP).* A well water supply project to augment public water supplies in Myerstown Borough and portions of Jackson Township, Lebanon County, Pa. Designated as Well No. 5, the new facility is expected to yield 500,000 gallons per day.

2. *Wernersville Municipal Authority (D-77-21 CP).* A well water supply project to augment public water supplies in Wernersville Borough, Berks County, Pa. Designated as Well No. 8, the new facility is expected to yield 180,000 gallons per day and will be used to provide service in Wernersville Borough and portions of Lower Heidelburg and South Heidelburg Townships.

3. *Borough of Alburtis (D-77-22 CP).* A well water supply project to augment public water supplies in the Borough of Alburtis, Lehigh County, Pa. Designated as Well No. 3, the new facility is expected to yield approximately 170,000 gallons per day.

4. *Metropolitan Edison Co. (D-76-73).* Modification to existing cooling water discharge structures and industrial waste treatment facilities at the company's Portland Generating Station, Upper Mount Bethel Township, Montgomery County, Pa. New outfall facilities will improve thermal mixing for a cooling water discharge to the Delaware River of approximately 313 million gallons per day. Approximately 2.5 million gallons per day of treated industrial wastes will also discharge to the Delaware River.

5. *Quaker Alloy Casting Co. (D-77-34).* An existing cooling water discharge at the company's manufacturing facility in Myerstown Borough and Jackson Township, Lebanon County, Pa. Approximately 500,000 gallons per day of non-contact cooling water discharges to Tulpehocken Creek.

6. *Colebrookdale Builders, Inc. (D-77-11).* A leachate treatment plant at the Colebrookdale Landfill in Earl Township, Berks County, Pa. Removal of 95 percent of BOD_5 and 88 percent of suspended solids will be provided to a wastewater flow of about 50,000 gallons per day. Treated effluent will discharge to Furnace Run, tributary to Manatawny Creek, tributary to the Schuylkill River.

7. *Delaware Valley Industrial Sewage Co., Inc. (D-76-76).* An industrial waste-water treatment project for the A & P Dairy milk processing plant in Upper Dublin Township, Montgomery County, Pa. Chlorination will be added to existing pre-treatment facilities which will be considered as a complete treatment plant and will provide 95 percent removal of BOD_5 and suspended solids from a wastewater flow of about 130,000 gallons per day. Treated effluent will discharge to Pine Run in the Wissahickon Creek Watershed.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,
Secretary.

MAY 13, 1977

[FR Doc.77-14305 Filed 5-18-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 725-5]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

I. INTRODUCTION AND BACKGROUND

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act") (42 U.S.C. 1857f-6a(b)), I am deciding not to withdraw those waiver actions announced in the January 11, 1977, decision, see 42 FR 3192 (January 17, 1977), which were concerned with the application of the California fuel evaporative emission standard and test procedures (SHED test)[1] to 1978 and subsequent model year gasoline-powered medium duty and heavy duty[2] motor vehicles. I am also granting the State of California a waiver of Federal preemption to enforce the California fuel evaporative emission standard and SHED test procedures, as amended on October 5, 1976, applicable to 1978 and subsequent model year gasoline-powered passenger cars and light duty trucks.

Under section 209(b) of the Act, the Administrator is required to grant the State of California a waiver of Federal preemption, after opportunity for a public hearing, unless he finds that California does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California test procedures are inconsistent. For the reasons given below, I have concluded that the statutory criteria of section 209(b) have all been met in the case of the California

[1] The most important aspect of the California evaporative emission (SHED) regulations is that the standard is measured under the SHED test. The SHED test is a method used to determine evaporative emission levels by placing a vehicle in a sealed enclosure. However, in addition to a SHED test, the California test procedure regulations include provisions for demonstrating compliance with the evaporative emission standard, such as requiring SHED tests to be run at periodic intervals on 50,000 mile durability vehicles. This aspect of the California regulations will be referred to as "50,000 mile SHED durability testing" throughout this decision.

[2] When the term "heavy duty" vehicles is used throughout this decision, it will mean all heavy duty vehicles except medium duty vehicles. As defined by California, the medium duty vehicles class is a subset of the heavy duty vehicle category.

evaporative emission regulations, and that, therefore, this waiver decision should be issued.

The history of the California waiver requests in the area of evaporative emissions control were briefly traced in the January 11, 1977, decision. See 42 FR 3192, 3193, 3194 (January 17, 1977). Subsequent to that decision, a public hearing was held on January 27, 1977, pursuant to notice published by the Environmental Protection Agency (EPA) in the FEDERAL REGISTER, see 42 FR 1065 (January 5, 1977), to consider the questions that pertain to today's decision. The January 27, 1977, hearing also considered questions relating to the adoption of exhaust emission standards and test procedures for 1979, 1980–1982, and 1983 and subsequent model year gasoline-powered and diesel-powered heavy duty vehicles and engines. A decision on these questions will be published in the FEDERAL REGISTER in the near future.

As a result of the waiver actions announced in this decision, California will require 50,000 mile SHED durability testing for 1979 and subsequent model year passenger cars and light duty trucks. California has been granted a waiver of Federal preemption for this testing requirement even though EPA specifically rejected this method for evaluating the durability of evaporative emission control systems when it promulgated Federal SHED regulations for light duty vehicles and light duty trucks. See 41 FR 35626, 35627 (August 23, 1976).

In recommending this position to the Administrator, the Administrator's technical staff considered several alternative approaches to evaluating the durability of an evaporative emission control system, and concluded that the current knowledge regarding the state of the art of durability evaluation of evaporative emission control systems did not permit the identification by EPA of one or more valid durability test procedures. See id. Based on this conclusion, EPA determined that there was no sound basis at the time of the promulgation of Federal SHED regulations, see 41 FR 35626 (August 23, 1976), for requiring the Federal approval of the manufacturer's proposed methods for evaluating the durability of these systems. EPA is unaware of new data that could change that conclusion at this time, and California has presented no such data. From the experience gained during the 1978 model year, EPA will examine the methods of durability evaluation utilized by the various manufacturers and may amend the present Federal SHED regulations as it deems appropriate.

However, the determinations and conclusions reached at the Federal level have limited bearing on a California waiver situation. As has been stated in previous waiver decisions, questions concerning the wisdom of California's actions are beyond the scope of the Administrator's review under section 209(b) of the Act. See 42 FR 3192, 3194 (January 17, 1977); 41 FR 44209 (October 7, 1976); 40 FR 23102, 23104 (May 28, 1975).

II. DISCUSSION

Stringency and compelling conditions. Under one of the criteria of section 209 (b) of the Act, I am authorized to withhold a waiver from California if I find that California "does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions." In discussing the relative stringency of the Federal and California fuel evaporative emission standards, the vehicles within the coverage of the California SHED regulations should be divided into those vehicles for which Federal SHED regulations are currently in effect and those for which Federal SHED regulations are not currently in effect. No Federal SHED regulations are currently in effect for 1978 model year (and some 1979 and subsequent) medium duty vehicles, and 1978 and subsequent model year heavy duty vehicles. For these vehicles the California evaporative emission standard clearly satisfies the stringency condition. See 42 FR 3192, 3194 (January 17, 1977). However, Federal SHED regulations are currently in effect for 1978 and subsequent model year passenger cars and light duty trucks, and most 1979 and subsequent model year medium duty vehicles. For this group of vehicles, various manufacturers argued that the California fuel evaporative emission standard is not more stringent that the applicable Federal standard. The manufacturers have the burden of demonstrating that this allegation is true. See 40 FR 30311, 30314 (July 18, 1975). In this case, I conclude that they have not discharged that burden.[2]

The current Federal SHED regulations establish a fuel evaporative emission standard of 6 grams hydrocarbons (HC) per test, which is the same as the California standard. General Motors stated that since that Standard is the same as the corresponding California standard, California should have been denied a waiver for its fuel evaporative emission standard and SHED test procedures for those classes of vehicles that are also subject to Federal SHED regulations. See Tr. of January, 1977, Hearing at 239. Ford stated that the California SHED regulations did not meet the stringency criterion even though they contained a durability evaluation requirement which was not contained in the Federal regulations, since "an added California requirement unrelated to control capability would not qualify an otherwise identical regulation for a waiver of Federal preemption." See TR. of January, 1977, Hearing at 278. Ford also contended that inasmuch as the manufacturers who have developed a method for durability testing would utilize the same method in complying with both the Federal and California evaporative emission certification requirements, and since the California fuel evaporative emission test procedures would require emission control components identical to those required under the applicable Federal regulations, the California fuel evaporative emission standard applicable to those vehicles for which Federal SHED regulations were also currently in effect is not more stringent than the corresponding Federal standard. See Memorandum from John P. Eppel, Ford Motor Company, to Benjamin Jackson, Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency, February 21, 1977, at 7–11. However, the Federal and California SHED regulations under consideration establish different methods for demonstrating compliance with the standard, in the sense of demonstrating the durability of an evaporative emission control system. These methods for demonstrating compliance with a standard, generally known as accompanying enforcement procedures, can have a direct bearing on the stringency of the standard itself. See 40 FR 30311, 30313 (July 18, 1975); 42 FR 3192, 3194 (January 17, 1977). The 1978 California SHED regulations applicable to gasoline-powered passengers cars, light duty trucks and medium duty vehicles provide that the demonstration of the durability of the evaporative emission control system shall be made either through bench testing or durability testing. In the event that a manufacturer should elect the bench test alternative for model year 1978, its proposed bench test method would be subject to approval by the Executive Officer of the California Air Resources Board (CARB). The Federal procedures, however, require only that a manufacturer inform EPA of the manner in which it chooses to assess durability and that it report any data obtained. No Federal approval is required. The fact that EPA may accept test methods and demonstration procedures used to satisfy arguably more stringent California requirements for compliance with Federal test requirements does not, as Ford suggested, render the requirements equivalent. These differences in the required durability evaluation procedures may make the 1978 California fuel evaporative emission standard more stringent than the 1978 Federal standard currently in effect, and therefore, I cannot find that the 1978 California standard is not more stringent than the applicable Federal standard. Furthermore, for the reasons stated in the January 11, 1977, decision, see 42

[2] General Motors argued that I should not grant California a waiver of Federal preemption unless I can make the requisite findings required to support California's contention that a waiver should be granted. See Transcript of Public Hearing to Consider California's Request for Waiver of Federal Preemption With Respect to Exhaust Emission Standards and Test Procedures for 1979 and Subsequent Model Year Heavy Duty Motor Vehicles, and Application of SHED Evaporative Test Procedures for 1978 and Subsequent Model Year Motor Vehicles, January 27, 1977, at 244 (hereinafter "Tr. of January, 1977, Hearing"). However, I have interpreted section 209 of the Act to impose on the manufacturers the burden of demonstrating that the conditions exist which warrant the denial of a waiver request. See 41 FR 44209 (October 7, 1976).

FR 3192, 3194 (January 17, 1977), I continue to believe that the differences between the California and Federal enforcement procedures applicable to 1979 and subsequent model year passenger cars and light duty trucks, and most 1979 subsequent model year medium duty vehicles, may make the California standard more stringent than the Federal standard, and therefore, I cannot find that the California standard for these classes of vehicles is not more stringent than the applicable Federal standard.

In addition, American Motors contended that the number of medium duty motor vehicles subject to the 1978 California fuel evaporative emission standard and SHED test procedures was too insignificant to mitigate any compelling and extraordinary conditions in California. See Tr. of January, 1977, Hearing at 217. Ford also claimed that no information had been presented at the January 27, 1977, hearing which indicated that the burdens imposed by the 1979 California SHED regulations on the automobile manufacturers would result in a reduction of air pollution in California. See Memorandum from John P. Eppel, Ford Motor Company, to Benjamin Jackson, Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency, February 21, 1977, at 11–12. Such arguments all fall within the EPA Practice of leaving the decision on controversial matters of public policy to California's judgment. See 41 FR 44209, 44210 (October 7, 1976); 42 FR 3192, 3194 (January 17, 1977).

Consistency. Under section 209(b), I may also deny a California waiver request if I find that the California "standards and accompanying enforcement procedures are not consistent with section 202(a)" of the Act. General Motors and Ford argued at the hearing that the relevant California enforcement procedures were not consistent with the applicable Federal enforcement procedures, see Tr. of January, 1977, Hearing at 248–250, 279–281, and Toyo Kogyo made somewhat the same point. See Letter from Eisuke Niguma, General Manager, Toyo Kogyo U.S.A. Representative Office, to Benjamin Jackson, Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency, January 24, 1977.

However, I continue to believe that the requirement of consistency has been met in the matter under consideration. See 42 FR 3192, 3194 (January 17, 1977). In effect, the California SHED test procedures under consideration would only require a more intense effort on the part of the manufacturers than that required under the applicable Federal regulations, and thus, I have concluded that a motor vehicle which complies with the California fuel evaporative emission standard in terms of the California SHED test procedure will automatically comply with the Federal fuel evaporative emission certification requirements. In referring to the requirement of consistency, the legislative history of section 209(b) indicates that a manufacturer should not be "faced with different methods of obtaining certification." S. Rep. No. 403, 90th Cong., 1st Sess. 33 (1967). Since EPA will now accept the California SHED test results as demonstrating compliance with the Federal SHED test requirements, this goal will have been achieved.

Technology and lead time. No information was presented for the record which indicated that the requisite technology was unavailable to meet the 1978 California standard. However, two manufacturers claimed that there was inadequate lead time to permit them to meet the California SHED test requirements for 1978 model year gasoline-powered passenger cars, light duty trucks and medium duty vehicles. See Tr. of January, 1977, Hearing at 211–218, 236–239. Although General Motors suggested that the October 5, 1976, California SHED amendments were of no lawful effect until the SHED waiver decision had been published on January 17, 1977, see 42 FR 3192 (January 17, 1977), and that my determination with respect to lead time should be based on this date rather than on the date on which California first adopted its fuel evaporative emission standard, see Tr. of January, 1977, Hearing at 238, nevertheless, General Motors did state in response to questioning that it had begun to run emission durability testing on vehicles which would allow it to comply with the California SHED regulations for the 1978 model year. See Tr. of January, 1977, Hearing at 253–254, 259–262, 272–273.

American Motors Corporation contended that it was technically infeasible for it to comply with the California 50,000 mile SHED durability test requirements, for the 1978 model year, see Tr. of January, 1977, Hearing at 212–214, 217. It stated, though, that it had not yet begun its 50,000 mile exhaust emissions or SHED durability testing for the 1978 model year. See Tr. of January, 1977, Hearing at 226–228. Under these circumstances there seems to be no reason why American Motors could not decide to elect the 50,000 mile SHED durability testing option provided in the California SHED regulations. In fact, American Motors did suggest that it would probably elect this option in order to demonstrate the durability of its evaporative emission control systems. See Tr. of January, 1977, Hearing at 233. Although American Motors contended that it could not comply with the 50,000 mile SHED durability testing requirement merely because it may face the risk of having to restart this testing at a late date, see Tr. of January, 1977, Hearing at 228–229, such a risk of failure is inherent in any compliance testing program. In addition, no evidence was presented which indicated that the evaporative emission control system utilized by American Motors in its 1978 model year durability vehicles would not remain in effect for 50,000 miles even though American Motors has the burden of proof on this issue. See Tr. of January, 1977, Hearing at 230.

Finally, it should be noted that Ford indicated in its testimony that it had just received approval from the Executive Officer of the CARB for its method of durability testing and of determining the deterioration factor for each evaporative emission engine family, and thus, it could also comply with the California SHED test requirements for the 1978 model year. See Tr. of January, 1977, Hearing at 21–22, 282, 284, 287–288.

In considering the lead time question, it should be mentioned that the October 5, 1976, California SHED amendments were, in fact, adopted in response to the concerns of the manufacturers that had been previously expressed on this matter and were intended to alleviate these concerns. See 42 FR 3192, 3195 (January 17, 1977). Under these amendments the manufacturers will be able to comply with the optional bench testing procedure in a significantly shorter period of time than would have been required under the regulations in effect prior to October 5, 1976, which had provided that the manufacturers could satisfy the durability evaluation requirements only by running a SHED test at specified intervals on a durability vehicle. Compare Tr. of January, 1977, Hearing at 215, with Transcript of Public Hearing to Consider California's Request for Waiver of Federal Preemption With Respect to Medium Duty Vehicles, Application of SHED Test Procedure, and Fill Pipe and Opening Specifications, August 25 and 26, 1976, at 244 (hereinafter "Tr. of August, 1976, Hearing"); see also 42 FR 3192, 3195 (January 17, 1977).

General Motors and Chrysler also contended that it was technically infeasible for them to comply with the 1979 and subsequent model year mandatory durability test requirements applicable to gasoline-powered passenger cars, light duty trucks and medium duty vehicles which require that the manufacturers' proposed methods for durability testing be approved by the Executive Officer of the CARB prior to conducting the actual test, since the lack of further specification in the California regulations made these requirements ambiguous.[1] See Tr. of January 1977, Hearing at 236, 239–241, 244–247, 291–292. However, I believe that the California SHED test regulations for model year 1979 do impose reasonable limits on the discretionary authority of the Executive Officer. These regulations require the Executive Officer to review and approve the manufactur-

[1] General Motors and Chrysler further contended that the 1979 and subsequent model year California SHED regulations failed the due process test for vagueness established in *Connally* v. *General Construction Company*, 269 U.S. 385 (1926). See Tr. of January 1977, Hearing at 236, 239, 241, 244–247, 291–292. I have determined that I cannot agree with their position on this question. Concerning the constitutional claim, regardless of the validity of this argument, the EPA waiver hearing is not the proper forum in which to raise it. Cf. 41 FR 44209, 44212 (October 7, 1976); 42 FR 2337, 2339 (January 11, 1977). Questions concerning the constitutionality of the California regulations are beyond the scope of my review under section 209(b).

ers' proposed test methods if they meet the three requirements stated in the regulations. No information was presented that the Executive Officer has evidenced a lack of good faith in carrying out his responsibilities under these regulations. In fact, the CARB has already indicated to the manufacturers which types of testing methods would meet the approval of the Executive Officer and will make Ford's bench test procedure available to the manufacturers upon its approval by the Executive Officer as an example of an acceptable method of durability testing. See Tr. of January, 1977, Hearing at 21–22. The CARB has also expressed its willingness to continue to negotiate with the manufacturers in the future on matters related to the approval of proposed methods for durability testing. See id.

Therefore, in light of the above discussion, I have decided that I cannot deny the waiver request on the grounds of lead time and technology.

With regard to the cost of compliance with the California SHED requirements for passenger cars, light duty trucks and medium duty and heavy duty vehicles, very little information was provided by the manufacturers at the hearing. Although the performance of SHED tests on passenger cars, light duty trucks, and medium duty vehicles, and the need to acquire additional SHED facilities may result in additional costs to the manufacturers, no specific information was provided in this regard.

Adequate notice objections. General Motors and American Motors contended that adequate notice was not given of the fact that the January 27, 1977, hearing agenda would include the question of granting California a waiver of Federal preemption for the October 5, 1976, amendments, see Tr. of January, 1977, Hearing at 210, 251–252, since EPA did not publicly announce such notice until January 17, 1977. However, adequate notice of an opportunity to comment on this SHED waiver question was given to all of the manufacturers by the publication of the January 11, 1977, decision, see 42 FR 3192 (January 17, 1977), in light of the fact that the public record remained open for a period of two weeks after the January 27, 1977, hearing. See 44 U.S.C. 1508 (1968). Furthermore, the EPA did provide actual and timely notice of the hearing agenda to most of the manufacturers by oral conversations conducted in December, 1976. In addition, no party alleged at the hearing that its procedural interests were prejudiced by the method of notice employed.

General Motors and American Motors also objected to the notice given with respect to the October 5, 1976, amendments to the SHED test procedures for 1978 and subsequent model year passenger cars and light duty trucks. They contended that EPA had violated the statutory mandate of section 209 by reinstating the July 11, 1975, waiver, see 30 FR 3011 (July 18, 1975), and waiving application of these amendments prior to holding a public hearing on this action. See Tr. of January, 1977, Hearing at 211, 242–244. Their position is based on the assumption that the durability evaluation requirements imposed by the October 5, 1976, amendments affect the stringency of the California fuel evaporative mission standard, and therefore, a public hearing should have been held prior to this alleged action by EPA. However, these manufacturers do not apparently recognize that the reinstated waiver did not include any of the October 5, 1976, amendments. The January 11, 1977, decision merely reinstated the SHED waiver as originally granted to California on July 11, 1975. See 42 FR 3192, 3193 (January 17, 1977); see also 40 FR 30311 (July 18, 1975). The new burdens imposed on the manufacturers as a result of the October 5, 1976, amendments were the subject of the January 27, 1977, hearing, and have been considered in reaching today's decision.

Finally, General Motors challenged the notice given with regard to the October 5, 1976, SHED amendments applicable to 1978 and subsequent model year medium duty vehicles. It contended that EPA had violated section 209 of the Act by granting California a waiver for these amendments prior to holding a public hearing on this matter. See Tr. of January, 1977, Hearing at 242–244. In addressing this argument, it is necessary to examine the nature of the concerns that were raised by the manufacturers concerning the California medium duty SHED regulations under consideration at the August 25 and 26, 1976, waiver hearing. Ford and General Motors stated at this hearing that there was insufficient time to permit a medium duty vehicle evaporative emission control system to undergo 50,000 mile SHED durability testing for the 1978 model year. See 42 FR 3192, 3194 (January 17, 1977). The CARB indicated that they were sensitive to the manufacturers' concerns regarding lead time and encouraged the manufacturers to submit their recommendations concerning any proposed amendments to the California SHED regulations. See Tr. of August, 1976, Hearing at 201, 273–274. As a result of its examination of the durability testing requirements based on the manufacturers' comments in this matter, the CARB adopted amendments to its medium duty SHED regulations on October 5, 1976, which appear to eliminate the lead time problems raised by the manufacturers during both the August 25 and 26, 1976, hearing, see 42 FR 3192, 3195 (January 17, 1977), and the two weeks susequent to the hearing in which the record remained open. In addition to the opportunity for comment provided during the August 25 and 26, 1976, hearing, General Motors requested and was given a meeting with the Director of the Mobile Source Enforcement Division on October 4, 1976, to specifically discuss any waiver issues with regard to the October 5, 1976, California SHED amendments. In light of the above discussion, I continue to believe that the EPA has not violated the statutory mandate of section 209 of the Act in this matter. No evidence was presented which indicated that the procedures employed during the course of events which led to the January 11, 1977, waiver decision denied any party the opportunity for comment on the October 5, 1976, California SHED regulations, and in addition, the manufacturers were expressly given an opportunity to comment upon the optional durability testing provision adopted as part of October 5, 1976, California SHED amendments during the public hearing held on January 27, 1977. See 42 FR 3192, 3193, 3195 (January 17, 1977). This conclusion is reaffirmed by my analysis of the information presented at the January 27, 1977, hearing, which indicated that no information had been obtained subsequent to the August 25 and 26, 1976, hearing which would have caused me to change the January 11, 1977, waiver decision.

Findings. Having given due consideration to the record of the public hearing, all material submitted for that record, and other relevant information, I hereby make the following findings.

1. The State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles.

2. Compelling and extraordinary conditions continue to exist in the State of California. The State oxidant pollution problem remains the worst in the nation. Recent testimony of the representatives of the CARB has revealed that unless a virtual shutdown of Los Angeles is assumed, no current projections indicate that compliance with the ambient air quality standards can be achieved for California's South Coast Air Basin, a region which contains five percent of the nation's population.

3. I have not been provided with sufficient information to support the findings required to withdraw the California waiver granted on January 11, 1977, see 42 FR 3192 (January 17, 1977), with respect to the California fuel evaporative emission standard and test procedures (SHED test) applicable to 1978 and subsequent model year gasoline-powered medium duty and heavy duty vehicles.

4. I cannot find that the California evaporative emission standard and test procedures (SHED test) for 1978 and subsequent model year gasoline-powered passenger cars and light duty trucks are not more stringent than applicable Federal standards.

5. The California evaporative emission standard and test procedures (SHED test), and accompanying enforcement procedures, applicable to 1978 and subsequent model year gasoline-powered passenger cars and light duty trucks, are consistent with section 202(a) of the Clean Air Act. Taking into account the cost of compliance, I find that the requisite technology is currently available and that there appears to be adequate lead time to permit the application of this technology so as to achieve compliance with the California requirements by the 1978 model year.

III. Decision

Based upon the above discussion and findings, I hereby determine that the waiver actions announced in the waiver decision of January 11, 1977, see 42 FR 3192 (January 17, 1977), with respect to gasoline-powered medium duty and heavy duty motor vehicles, will not be withdrawn. I also hereby waive application of section 209(a) of the Act to the State of California with respect to the following section of Title 13 of the California Administrative Code:

Section 1976, as amended October 5, 1976, and "California Evaporative Emission Standard and Test Procedures for 1978 and Subsequent Model Gasoline-Powered Motor Vehicles Except Motorcycles," as last amended October 5, 1976, as applicable to gasoline-powered passenger cars and light duty trucks.

A copy of the above standards and procedures, as well as the record of the hearing and those documents used in arriving at this decision, is available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, California 95812.

Dated: May 11, 1977.

Douglas M. Costle,
Administrator.

[FR Doc.77-14224 Filed 5-18-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

APCO OIL CORP.

Action Taken on Consent Order

Pursuant to 10 CFR 205.197(C), the Federal Energy Administration (FEA) hereby gives notice of final action taken on a Consent Order.

On December 27, 1976, FEA published notice of a Consent Order which was executed between Apco Oil Corporation (Apco) and FEA (41 FR 56,218 (December 27, 1976)). With that notice, and in accordance with 10 CFR 205.197(C), FEA invited interested persons to comment on the Consent Order.

One comment was received from a non-aggrieved party and was not material to this Consent Order. Therefore, FEA has concluded that the Consent Order as executed between FEA and Apco is an appropriate resolution of the compliance proceedings described in the notice published on December 27, 1976 and hereby gives notice that the Consent Order shall become effective as proposed without modification upon publication of this notice in the Federal Register.

Issued in Washington, D.C., May 13, 1977.

Eric J. Fygi,
Acting General Counsel.

[FR Doc 77-14281 Filed 5-18-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Change in Schedule for Public Hearing in Dallas, Tex., Regarding Intention To Issue Prohibition Orders to Certain Major Fuel Burning Installations

The Federal Energy Administration (FEA) gave notice in the Federal Register on Friday, May 13, 1977, that FEA has issued a "Notice of Intention to Issue Prohibition Orders to Certain Major Fuel Burning Installations" and would hold a hearing on the notice of intention on May 24 and 25, 1977, in Dallas Texas.

This notice is to inform persons interested in that notice of intention that an additional hearing will be held May 26, 1977, in Oklahoma City, Oklahoma, Hilton Inn West, Interstate 40 and Merridian, beginning at 9 a.m.

Consequently the revised schedule for public hearing on the above-mentioned notice of intention is as follows:

May 24, 25—Dallas, Texas, Room 250, Federal Energy Administration, 2626 West Mockingbird Lane, at 9 a.m.

May 26—Oklahoma City, Oklahoma, Hilton Inn West, Interstate 40 and Merridian, at 9 a.m.

Issued in Washington, D.C., on May 16, 1977.

Eric J. Fygi,
Acting General Counsel.

[FR Doc.77-14359 Filed 5-18-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Change in Schedule for Public Hearing in Dallas, Tex., Regarding Intention To Issue Prohibition Orders to Certain Powerplants

The Federal Energy Administration (FEA) gave notice in the Federal Register on Monday, May 2, 1977 (42 FR 22268), that FEA had issued a "Notice of Intention to Issue Prohibition Orders to Certain Powerplants" and would hold a hearing on the notice of intention on May 23, 24, and 25, 1977, in Dallas, Texas.

This notice is to inform persons interested in that notice of intention that the hearing originally scheduled on May 23, 1977, in Dallas, will now be held May 26, 1977, in Oklahoma City, Oklahoma, Hilton Inn West, Interstate 40 and Merridian, beginning at 9 a.m. Consequently the revised schedule for public hearing on the above-mentioned notice of intention is as follows:

May 24, 25—Dallas, Texas, Room 250, Federal Energy Administration, 2626 West Mockingbird Lane, at 9 a.m.

May 26—Oklahoma City, Oklahoma, Hilton Inn West, Interstate 40 and Merridian, at 9 a.m.

Issued in Washington, D.C., on May 16, 1977.

Eric J. Fygi,
Acting General Counsel.

[FR Doc.77-14360 Filed 5-18-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Change in Schedule for Public Hearing in Dallas, Tex., Rregarding Intention To Issue Construction Orders to Certain Major Fuel Burning Installations

The Federal Energy Administration (FEA) gave notice in the Federal Register on Friday, May 13, 1977, that FEA has issued a "Notice of Intention to Issue Construction Orders to Certain Major Fuel Burning Installations" and would hold a hearing on the notice of intention on May 24 and 25, 1977, in Dallas, Texas.

This notice is to inform persons interested in that notice of intention that an additional hearing will be held May 26, 1977, in Oklahoma City, Oklahoma, Hilton Inn West, Interstate 40 and Merridian, beginning at 9 a.m.

Consequently the revised schedule for public hearings on the above-mentioned notice of intention is as follows:

May 24, 25—Dallas, Texas, Room 250 Federal Energy Administration, 2626 West Mockingbird Lane, at 9 a.m.

May 26—Oklahoma City, Oklahoma, Hilton Inn West, Interstate 40 and Merridian, at 9 a.m.

Issued in Washington, D.C., on May 16, 1977.

Eric J. Fygi,
Acting General Counsel.

[FR Doc. 77-14361 Filed 5-18-77;8:45 am]

FEDERAL MARITIME COMMISSION

BOARD OF TRUSTEES OF THE GALVESTON WHARVES AND COOK TERMINAL CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for information purposes.

Agreement filed by: Mr. Carl S. Parker, Jr., Traffic Manager, Port of Galveston, P.O. Box 328, Galveston, Texas 77550.

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico.

Agreement No. T-2814-C, between the Board of Trustees of the Galveston Wharves (Wharves) and Cook Terminal Company, Inc., (CTC), involves three separate agreements between Wharves and CTC (previously approved by the Commission) relating to the construction, lease and guarantee of a materials handling facility at Galveston, Texas: (1) Agreement No. T-2814, as amended, provides for the construction of a materials handling facility to CTC's specification for the warehousing, storage, conditioning and shipping of bulk commodities; (2) Agreement No. T-2814-A,

as amended, provides for the lease of the facility to CTC; and (3) Agreement No. T–2814–B, as amended, which is between Wharves and CTC's parent company, Cook Industries, Inc., provides for the guarantee of CTC's obligations to Wharves under Agreement No. T–2814–A, above.

The purpose of Agreement No. T–2814–C is to formally terminate Agreements Nos. T–2814, T–2814–A, and T–2814–B. It is contemplated that the facility now operated by Cook will be operated in the future by Farmers Export Company pursuant to FMC Agreement No. T–3463 or T–3464, which have been filed by the Commission for approval.

Dated: May 16, 1977.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–14297 Filed 5–18–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP77–54]

ARKANSAS LOUISIANA GAS CO.

Revised Tariff Sheet

MAY 13, 1977.

Take notice that on April 29, 1977, Arkansas Lousiana Gas Company (Arkla) tendered for filing "Revised Sheet No. 185 issued on May 1, 1977" to its Rate Schedule No. X–26, FPC Gas Tariff Original Volume No. 3, which Arkla states represents the rates as filed in the captioned docket adjusted to reflect its currently effective purchased gas cost of 52.29¢ per Mcf at 14.73 psia and surcharge rate of 11.49¢ per Mcf at 14.65 psia.

Arkla requests the above described tariff sheet be substituted for the "Revised Sheet No. 185 issued on April 15, 1977" in its Notice of Rate Change filed on April 15, 1977 in Docket No. RP77–54 to be effective June 1, 1977.

Arkla also states that copies of its filing were mailed to the jurisdictional customer affected and other interested parties.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14273 Filed 5–18–77;8:45 am]

[Docket No. RP77–55]

ARKANSAS LOUISIANA GAS CO.

Proposed Changes in FPC Gas Tariff

MAY 12, 1977.

Take notice that Arkansas Louisiana Gas Company ("Arkla") on April 18, 1977, tendered for filing proposed changes in its FPC Gas Tariff First Revised Volume No. 1. The proposed changes affect one rate schedule, Arkla's FPC Gas Rate Schedule No. G–2, under which gas is sold to several customers in Oklahoma and Kansas, and would increase revenues from jurisdictional sales and service by approximately $352,000 based on the 12-month period ending December 31, 1976, as adjusted. Arkla states that the rate increase is necessitated by a revenue deficiency caused by increases in plant and related cost of service items, including increases in costs of operation, services, taxes, employee wages, pensions and benefits and other costs. The proposed effective date is June 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14243 Filed 5–18–77;8:45 am]

[Docket No. RI77–65]

ATLANTIC RICHFIELD CO.

Petition for Special Relief

MAY 13, 1977.

Take notice that on May 2, 1977, Atlantic Richfield Company (Petitioner), P.O. Box 2819, Dallas, Texas, 75221, filed a petition for special relief seeking an increase in rate for natural gas sales to Northern Natural Gas Company from the Smith Gas Unit, Well No. 1–36, Clark County, Kansas. Petitioner seeks an increase from a rate of 29.43¢ per Mcf as prescribed in Opinion No. 749 to the contractually authorized rate of 40.0¢ per Mcf. Petitioner states that the requested increase rate will permit it to install compression facilities on the Smith Gas Unit, Well No. 1–36 which will prevent premature abandonment and increase present day productivity.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14272 Filed 5–18–77;8:45 am]

[Docket No. E–9593]

CENTRAL POWER AND LIGHT CO., ET AL.

Application

MAY 13, 1977.

Take notice that on April 27, 1977, Central Power & Light Company (CP &L), Public Service Company of Oklahoma (PSO), Southwestern Electric Power Company (SWEPCO), and West Texas Utilities Company (WTU) (collectively referred to hereinafter as "Petitioners"), filed an Emergency Petition For Proceedings and Joint Hearings Pursuant to Section 307 and 209(b) of the Federal Power Act.

CP&L is a Texas corporation with its principal place of business at Corpus Christi, Texas. PSO is an Oklahoma corporation with its principal place of business at Tulsa, Oklahoma. SWEPCO is a Delaware corporation with its principal place of business at Shreveport, Louisiana. WTU is a Texas corporation with its principal place of business at Abilene, Texas. All of the outstanding shares of common stock of CP&L, PSO, SWEPCO, and WTU are owned by Central and South West Corporation (C&SW), a Delaware corporation with its offices at Wilmington, Delaware.

The Petitioners request that joint hearings be held by the Federal Power Commission and Texas Public Utilities Commission on the entire Texas interconnection question. Petitioners contend that since hearings are now scheduled by the Texas Commission on at least part of the issues that confront both Commissions, this Commission should take the necessary measures to make them joint hearings. Petitioners content that a joint hearing would avoid potentially duplicative presentation of evidence, avoid wasteful and inefficient use of Counsels' and Witnesses' time, and generally avoid repetitious and redundant proceedings.

CP&L and WTU contend that prior to May 4, 1976, they were interconnected and operated in synchronism with the major member of the Electric Reliability Council of Texas (ERCOT), Texas Electric Service Company (TESC), and through it with other operating subsidiaries of Texas Utilities Company (TU), Dallas Power and Light Company (DP&L) and Texas Power & Light Company (HL&P). WTU states that on May 4, 1976, it commenced sales of electricity to three small communities in Oklahoma from its previously intrastate transmission lines, thus placing all ERCOT systems in interstate commerce. CP&L and WTU state that TESCO and HL&P responded by opening their interconnections with CP&L and WTU. On July 21, 1976, in Docket No. E–9558, the Commission entered an order authorizing emergency interconnection pursuant to Section 202(d) of the Federal Power Act. Petitioners contend that HL&P and TU have steadfastly refused to reconnect pursuant to such order for reasons never fully explained.

Petitioners assert that instead, HL&P and TU have embarked on a campaign to confuse the Texas Public Utilities Commission and various electrical systems in Texas by ascribing to interstate electrical operation, as such, a number of allegedly undesirable effects which, if they exist at all, are solely attributable to the insistence (through the apparently unnecessary means of continuing physical disconnection) of HL&P and TU of avoidance of Federal Power Commission jurisdiction—no matter what the cost in loss of reliability or other negative electric impacts.

Therefore, Petitioners ask this Commission immediately to institute an investigation under Section 307, to convene joint hearings with the Texas Public Utilities Commission under Section 209(b) by taking the necessary and appropriate steps to become co-sponsor of the hearings of that Commission, and upon conclusion of the joint hearings, to provide appropriate relief.

Any person desiring to be heard or to make any protest with reference to this application should on or before May 27, 1977, file petitions or protests with the Federal Power Commission, Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken. Copies of this petition are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14267 Filed 5–18–77;8:45 am]

[Docket Nos. CP76–137, 76–268, etc.]

CITIES SERVICE GAS CO.

Extension of Time

MAY 11, 1977.

Docket Nos. CP76–137, CP76–268, CP76–269, CP76–345 and CP76–417.

On May 2, 1977, Cities Service Gas Company filed a motion to extend the time for installing and placing into operation the taps and appurtenant facilities, authorized by Commission order issued November 2, 1976. The order directed that the facilities be constructed and placed in operation within 6 months from the date of the order, as authorized in paragraphs (b) of § 157.20 of the Commission's Regulations.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 2, 1977, within which Cities Service Gas Company shall comply with Ordering Paragraph (C) of the November 2, 1976 order.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14274 Filed 5–18–77;8:45 am]

[Docket No. ER76–494]

DELMARVA POWER AND LIGHT CO. AND SUBSIDIARIES

Motion for Certification of a Proposed Settlement Agreement

MAY 12, 1977.

Take notice that Delmarva Power and Light Company and Subsidiaries (Delmarva) on May 2, 1977, tendered for filing a Motion for Certification of a Proposed Settlement Agreement dated April 28, 1977. Delmarva indicates that the Settlement Agreement submitted with this motion disposes of all pending questions in the proceeding and that the interests of all parties will be best served by approval of the Settlement Agreement.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 20, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

LOIS D. CASHEL,
Acting Secretary.

[FR Doc.77–14251 Filed 5–18–77;8:45 am]

[Docket No. CP73–321]

EQUITABLE GAS CO.

Extension of Time

MAY 11, 1977.

On April 29, 1977, Equitable Gas Company filed a motion for an extension of time to file the cost statements required by § 157.20(c) of the Commission's Regulations under the Natural Gas Act.

Upon consideration, notice is hereby given that an exension of time is granted to and including May 31, 1977.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77–14249 Filed 5–18–77;8:45 am]

[Docket Nos. CS71–898, et al.]

GOLDKING PROPERTIES, INC. ET AL.

Applications for "Small Producer" Certificates[1]

MAY 12, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 13, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

Docket No.	Date filed	Applicant
CS71–898	Apr. 25, 1977	Goldking Properties, Inc., 2000 South Post Oak Rd., suite 1530, Houston, Tex. 77056.
CS77–503	May 2, 1977	Orr Oil Co., 1415 Cooley, Borger, Tex. 79007.
CS77–516	...do.....	Vulcan Energy Corp., 6161 North May Ave., suite 265, Oklahoma City, Okla. 73112.
CS77–517	..do.....	Hanesco, Inc., P.O. Box 182, Roswell, N. Mex. 88201.
CS77–518	.do.....	Pete Caldwell Drilling Co., Inc., 3809 White's Ferry Rd., West Monroe, La.
CS77–519	.do.....	William G. Kern, 250 Mid America Bldg., Midland, Tex. 79701.
CS77–520	.do.....	Worrall Engineering, Inc., 1106 4th National Bank Bldg., Tulsa, Okla. 74119
CS77–521	May 3, 1977	B. W. Beebe, P.O. Box 334, Boulder, Colo. 80306.
CS77–522	.do.....	Tally Johnson, route No. 1, Terlton, Okla. 74081.
CS77–523	May 4, 1977	Paraffine Oil Corp., 2500 1st City National Bank Bldg., Houston, Tex. 77002.
CS77–524	May 5, 1977	Elizabeth Hannifin, 700 South Lea, Roswell, N. Mex.
CS77–525	do.....	A. Nelson McCarter, 1820 Southwest Tower Bldg., Houston, Tex. 77002.
CS77–526	May 6, 1977	Margaret Wygocki, 721 Robins Rd., Lansing, Mich. 78917.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.77–14252 Filed 5–18–77;8:45 am]

[Docket No. RP77-5]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Proposed Change in Rates

MAY 13, 1977.

Take notice that on April 26, 1977, Kansas-Nebraska Natural Gas Company (Kansas-Nebraska) tendered for filing Replacement First Revised Sheet No. 4 superseding First Revised Sheet No. 4 of Kansas-Nebraska's FPC Gas Tariff, Third Revised Volume No. 1 as filed on October 29, 1976 in the captioned docket.

Kansas-Nebraska states that in its filing on October 29, 1976 it proposed rates which included purchased gas costs based upon the Commission's Opinion No. 770. An adjustment to the proposed rates is necessary since the subsequent issue of Opinion No. 770–A slightly decreased Kansas-Nebraska's cost of purchased gas. A second adjustment to the rates proposed in October 29, 1976 is needed, Kansas-Nebraska states, because Kansas-Nebraska's October 29, 1976 filing incorrectly credited to the jurisdictional cost of service a credit balance in Kansas-Nebraska's PGA account. Kansas-Nebraska states that Replacement Sheet No. 4 reflects these adjustments.

Kansas-Nebraska states that copies of the filing have been served upon the company's jurisdictional customers and other interested persons including public bodies.

Any person desiring to be heard or protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties of the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14270 Filed 5-18-77;8:45 am]

[Docket No. RP77-5]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Motion To Place Tariff Sheets Into Effect

MAY 13, 1977.

Take notice that on April 25, 1977, Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) filed a motion pursuant to Section 4(e) of the Natural Gas Act that First Revised Sheet Nos. 1, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 27, and 32 of Kansas-Nebraska's FPC Gas Tariff, Third Revised Volume No. 1, filed on October 29, 1976, be permitted to go into effect as of April 29, 1977.

Rather than moving that First Revised Sheet No. 4 of Kansas-Nebraska's FPC Gas Tariff Third Revised Volume No. 1, filed on October 29, 1976, be permitted to go into effect, Kansas-Nebraska states that it is filing concurrently with the filing of the instant motion Replacement First Revised Sheet No. 4 which reflects certain adjustments to First Revised Sheet No. 4.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14271 Filed 5-18-77;8:45 am]

[Docket No. RI77-69]

McGALLIARD AND SPARKS

Petition for Special Relief

MAY 12, 1977.

Take notice that on April 27, 1977, McGalliard and Sparks, Incorporated (McGalliard), 1612 C & I Building, Houston, Texas 77002, filed a petition for special relief in Docket No. RI77-69.

McGalliard seeks authorization to charge $1.75 per Mcf for the sale of gas to Natural Gas Pipeline Company of America from the W. C. Leveridge Gas Unit No. 2T in the East Bernard Field, Wharton County, Texas. McGalliard states that it is no longer economically feasible to continue producing the subject gas at the current price of 74 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14250 Filed 5-18-77;8:45 am]

[Docket No. ER77-348]

MISSOURI UTILITIES CO.

Tariff and Rate Schedule Changes

MAY 12, 1977.

Take notice that Missouri Utilities Company of Cape Girardeau, Missouri (MUCo), on May 2, 1977, tendered for filing a proposed new Agreement for Wholesale Electric Service applicable to the City of California, Missouri. MUCo states that the proposed new agreement specifies all terms and conditions applicable to the service to be rendered thereunder; it replaces in its entirety the previously effective agreement dated September 7, 1954, which was cancelled by MUCo effective December 20, 1976. MUCo also states that the proposed agreement would increase revenues from jurisdictional sales and service by $89,994 based on the 12 month period ending October 31, 1976. This change in rates is proposed to become effective as of June 1, 1977.

MUCo indicates that the proposed change in rates is to compensate MUCo for increases in its cost of supplying wholesale electric service to the City of California, Missouri.

MUCo further indicates that copies of the filing were served upon the City of California, Missouri, and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14253 Filed 5-18-77;8:45 am]

[Docket No. RP77-52]

NORTHERN NATURAL GAS CO.

Petition for Extraordinary Relief

MAY 11, 1977.

Take notice that on April 5, 1977, Northern Natural Gas Company (Northern) filed, pursuant to Section 1.7(b) of the Commission's Rules of Practice and Procedure, a petition for extraordinary relief seeking Commission authorization to provide natural gas service to its existing utility customers in accordance with its presently effective Agricultural Crop drying Service Rate Schedule ACDS–1. Northern seeks authorization to make available, on a best efforts basis volumes of gas for the drying of seed, grain and other agricultural crops during a twelve month period commencing with the date of the order.

On September 28, 1973, the Commission issued an Order at Docket No. CP74–63 granting extraordinary relief permitting Northern to provide natural gas service to its existing utility customers pursuant to a new Agricultural Crop Dryer Service, Rate Schedule ACDS–1. The Commission order authorized Northern to provide natural gas service to its existing utility customers up to a maximum of 750,000 Mcf for a six month period. Similar approval has been granted to Northern at Docket No. RP75–12–1, Docket No. RP75–12–3, and Docket No. RP76–105–1.

Northern estimates that it will have available for sale under the ACDS–1 Rate Schedule a total of 750,000 Mcf for the period September 15, 1977 through March 15, 1978. Volumes under ACDS–1 will be made available by Northern on a best efforts basis pursuant to advance operating arrangements on a daily basis.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14275 Filed 5-18-77;8:45 am]

[Docket No. ER77-334]

PUBLIC SERVICE CO. OF OKLAHOMA

Cancellations

MAY 12, 1977.

Take notice that the Public Service Company of Oklahoma (Oklahoma) on April 29, 1977, tendered for filing two Cancellations: (1) Cancellation of a Letter Agreement dated October 20, 1971, between Oklahoma and Associated Electronic Cooperative Inc. (AEC), Supplement 5 to Rate Schedule FPC 186, and (2) Cancellation of a Letter Agreement dated October 21, 1971, between Oklahoma and AEC, Supplement 6 to Rate Schedule FPC 186. Oklahoma indicates that these Cancellations are to be effective as of May 31, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14244 Filed 5-18-77;8:45 am]

[Docket No. CP77-365]

SEA ROBIN PIPELINE CO., ET AL.

Application

MAY 13, 1977.

Take notice that on May 3, 1977, Sea Robin Pipeline Company (Sea Robin), Columbia Gas Transmission Corporation (Columbia Gas), and Columbia Gulf Transmission Company (Columbia Gulf) filed a joint application in Docket No. CP77–365 for a temporary and permanent certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act requesting authorization to effect an exchange of gas. Applicants state that Columbia Gulf, as it proposes in its application in Docket No. CP77–326, will transport quantities of gas purchased by Sea Robin from Block 609 and 617 West Cameron Area through its own system and by using its own system and by using its reserved capacity in the Blue Water System, and deliver such gas to Columbia Gas, for the account of Sea Robin, at the outlet side of a measuring station near the terminus of the Blue Water System pipeline near Egan, Acadia Parish, Louisiana. By means of this application, Columbia Gas and Sea Robin propose to exchange thermally equivalent volumes at the outlet side of Sea Robin's measuring station at Erath, Vermilion Parish, Louisiana, and Egan, Acadia Parish, Louisiana, respectively. Applicants further state that the exchange of the gas which Columbia Gulf transports for Sea Robin, as specified above, for the gas which Sea Robin transports for Columbia Gas, under Sea Robin's Rate Schedule X–3, will be on a Btu for Btu basis and that no new facilities will be required, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 1, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14268 Filed 5-18-77;8:45 am]

[Project No. 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Application for Use of Project Lands and Waters

MAY 12, 1977.

Public notice is hereby given that an application was filed November 12, 1976, under the Federal Power Act, 16 U.S.C. § 791a et seq., by the South Carolina Public Service Authority (Applicant) (Correspondence to: Mr. William C. Mescher, President and Chief Executive Officer, South Carolina Public Service Authority, P.O. Box 398, Moncks Corner, South Carolina 29461; and to Mr. Ira M. Grady, Jr., P.O. Box 685, Moncks Corner, South Carolina 29461) for Commission approval to authorize the excavation by Mr. Ira M. Grady, Jr., of a canal 30 feet wide, 8 feet deep and 320 feet long, with a 30-foot by 50-foot turning basin, adjacent to Lot No. 14, Thornley Forest II subdivision, located on Lake Moultrie, near Moncks Corner, Berkeley County, South Carolina.

The purpose of the proposed canal is to allow Mr. Grady private access to project waters in Lake Moultrie for recreational use. Approximately 2,800 cubic yards of material would be excavated and deposited above the normal high water level (75.0' m.s.l.) in a 30 by 280 feet area on Lessee's lot adjacent to the proposal canal.

Applicant has requested the shortened procedure provided for under Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 20, 1977, file with the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32 (b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14240 Filed 5-18-77;8:45 am]

[Project No. 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Application for Use of Project Lands and Waters

MAY 12, 1977.

Public notice is hereby given that an application was filed on March 24, 1977, under the Federal Power Act, 16 U.S.C. § 791a et. seq., by the South Carolina Public Service Authority (Applicant) (Correspondence to: Mr. William C. Mescher, President and Chief Executive Officer, South Carolina Public Service Authority, P.O. Box 398, Moncks Corner, South Carolina 29461; and to Mr. Dale P. Gregg, Ware Brothers Investment Company, P.O. Box 626, Moncks Corner, South Carolina 29461) for Commission approval to authorize the use of project lands and waters for the development of a proposed public recreational project to be located on the west side of the tailrace canal below the Pinopolis Dam of Project No. 199, and adjacent to U.S. Highway 52, approximately two miles east of Moncks Corner, Berkeley County, South Carolina.

The proposed recreational development would be a public marina to be constructed by Ware Brothers Investment Company on a 28.7 acre tract leased or proposed to be leased from the Applicant. The immediate development plans would include the construction of an entrance canal, boat ramp, boat lift, 45 wet storage stalls, parking area, and a facilities area to include a snack and tackle shop and dry boat storage area. The entrance channel would be 40-feet by 1,800-feet to be cut through a hardwood swamp. Approximately 13,400 cubic yards of the excavated material would be placed on a one-acre tract of wetlands. An additional 54,000 cubic yards of excavated material will be deposited in a 200' x 2,700' non-wetland area. Future development (outside the project boundary) may include a motel, service station, and facilities for camping, swimming, tennis, par 3 golf course and a baseball field.

Ware Brothers have received conditioned permits from the U.S. Corps of Engineers, the State of South Carolina State Budget and Control Board, and the South Carolina Department of Health and Environmental Control, as well as letters of approval with attached provisions from the U.S. Department of Interior, the U.S. Environmental Protection Agency and the South Carolina Wildlife and Marine Resources Department.

Applicant has requested the shortened procedure provided for under Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32 (b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 20, 1977, file with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14241 Filed 5-18-77;8:45 am]

[Project No. 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Application for Use of Project Lands and Waters

MAY 12, 1977.

Public notice is hereby given that an application was filed on October 14, 1976, under the Federal Power Act, 16 U.S.C. § 791 et. seq., by the South Carolina Public Service Authority (Applicant) (Correspondence to: Mr. William C. Mescher, President and Chief Executive Officer, South Carolina Public Service Authority, P.O. Box 398, Moncks Corner, South Carolina 29461; and to Mr. H. B. Rickenbaker, c/o Rogers, Riggs & Rickenbaker, Attorneys at Law, 23 West Boyce Street, Manning, South Carolina 29102) for Commission approval to authorize (1) the permanent connection of 3 constructed canals with project lands and waters, and (2) the extension of two of the three aforementioned canals.

The three canals, constructed in 1973 and 1974 without prior Commission authorization, extend off the Lizzie Creek Arm of Wyboo Creek, Lake Marion, Clarendon County, South Carolina, approximately 4.5 miles south of Davis Station. Canal I is approximately 80 feet wide and 760 feet long on Mr. Rickenbaker's property, and averages 90 feet wide and 180 feet long on Applicant's property within the project boundary. No extension of this canal is proposed by the application. Canal II is "L" shaped and is approximately 80 feet wide and 1,300 feet long on Mr. Rickenbaker's property. The entrance section on Applicant's land within the project boundary is 130 feet long and varies in width from 90 feet to 270 feet. The application seeks to extend this canal approximately 500 feet at a 90-foot width. Canal III is approximately 500 feet long and 100 feet wide on Mr. Rickenbaker's land. An entrance section on Applicant's land within the project boundary is approximately 110 feet wide and 100 feet long. A 500 foot extension of this canal is requested.

By order issued March 13, 1975, the Commission consolidated into the hearing ordered on the Applicant's application for a new license for Project No. 199, a complaint filed by James H. Quackenbush on behalf of W. T. Jones and the Society for Law & Ecology for Wyboo. That complaint alleged that illegal dredging operations were taking place in Lizzie Creek. Such dredging operations were allegedly ruining recreational activities on that body of water. As indicated, supra, the application concerning the canals referred to in the complaint was subsequently filed by the Applicant on behalf of Mr. Rickenbaker.

The purpose of the canals, and the requested extensions thereto, is to permit the development of a residential subdivision on lands owned by Mr. Rickenbaker. Maps furnished with the application depict thirty-four proposed lots adjacent to canals Nos. 1 and 2. Each lot would be more than 0.60 acre in area, including land to be leased from the Applicant. Similar development is proposed along proposed canal extensions.

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 20, 1977, file with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14242 Filed 5-18-77;8:45 am]

[Project No. 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Application for Use of Project Lands and Waters

MAY 12, 1977.

Public notice is hereby given that an application was filed on November 2, 1976, under the Federal Power Act, 16 U.S.C. § 791a et seq., by the South Carolina Public Service Authority (Applicant) (Correspondence to: Mr. William C. Mescher, President and Chief Executive Officer, South Carolina Public Service Authority, P.O. Box 398, Moncks Corner, South Carolina 29461; and to Mr. Johnny M. James, % Land and Harness, Attorneys at Law, 23 South Mill Street, Manning, South Carolina 29102) for Commission approval to authorize the permanent connection of a constructed canal approximately 120 feet wide by 300 feet in length across lands owned by the Applicant within the project boundary of Santee-Cooper Project No. 199. That portion of the canal off project lands is approximately 65 feet wide and 1,050 feet in length. The canal is on the southeast side of the Dean Swamp Impoundment (Wyboo Creek) in Clarendon County, South Carolina. The canal, excavated in 1976, follows the natural flow of McCoy's Branch, a perennial stream and minor tributary to the Dean Swamp Impoundment.

As indicated, the purpose of the requested approval is to authorize the connection of the James Canal with project lands and waters in the Dean Swamp Impoundment. Mr. James has subdivided his land along the canal on his property into eleven waterfront residential lots for sale to the public. Each lot contains more than 30,000 square feet and each will be served by a separate well and septic tank.

During construction of the canal, and subsequent thereto, the James canal waters were separated from project waters by an earthen plug located on Mr. James' land. The plug was later removed without prior Commission approval, causing commingling of canal and project waters. By order issued September 24, 1976, the Commission directed the Applicant to reinstall the earthen plug at the entrance to the canal on project lands. After Mr. James' application was filed, this order was later modified to require a temporary barrier. Currently, Mr. James has erected a fence across the canal pending Commission action on his application.

Applicant has requested the shortened procedure provided for under Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.32 (b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 20, 1977, file with the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32 (b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14245 Filed 5-18-77;8:45 am]

[Docket No. RP76-22]

SOUTH GEORGIA NATURAL GAS CO.

Revision to Rates

MAY 13, 1977.

Take notice that on April 25, 1977, South Georgia Natural Gas Company (South Georgia) tendered for filing Third Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1.

South Georgia states that the above tariff sheet and its filing represents compliance with the Commission's Order issued March 25, 1977, in Docket No. RP76-22, particularly Ordering Paragraphs (B) and (C) of said order. An effective date of March 25, 1977 is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14269 Filed 5-18-77;8:45 am]

[Docket No. RP77-59]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Filing of Proposed Changes in FPC Gas Rates

MAY 13, 1977.

Take notice that South Texas Natural Gas Gathering Company, on April 29, 1977, tendered for filing proposed changes in its FPC Gas Rate Schedule Nos. 1 and 2 to be effective June 1, 1977.

The proposed changes would increase revenues from jurisdictional sales by $2,746,857 based on the test period consisting of the twelve months ended December 31, 1976, adjusted for known and measurable changes through September 30, 1977.

South Texas states that the increased rates are required to reflect declining natural gas production from dedicated reserves.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14276 Filed 5-18-77;8:45 am]

[Docket Nos. CP68-166, *et al.*]

TENNESSEE GAS PIPELINE CO., DIVISION OF TENNECO INC.

Petition To Amend

MAY 11, 1977.

Take notice that on April 29, 1977, Tennessee Gas Pipeline Company, Division of Tenneco Inc. (Petitioner) Tenneco Building, Houston, Texas 77002, filed in Docket Nos. CP68-166, et al. a petition to amend the Commission's order of December 2, 1975 (54 FPC ____), issued in the instant dockets pursuant to Section 7(c) of the Natural Gas Act so as to authorize a revision of the daily volumes limits of natural gas delivered to the Berkshire Gas Company (Berkshire), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that on December 2, 1975, it was authorized to render gas service to Berkshire under Petitioner's Rate Schedule CD-6 pursuant to a gas sale contract dated July 24, 1975, between the two parties. Under the terms of said contract Petitioner sells and delivers a contracted demand of up to 19.948 Mcf of natural gas per day to Berkshire, and Berkshire purchases and receives the subject gas at four delivery points, it is said. Applicant indicates that such contract provided for Berkshire to receive its gas from Petitioner at four delivery points in Massachusetts with the following daily volume limits by delivery points:

Delivery point:	*Daily volume limits*
Pittsfield	7,786
North Adams	6,324
Stockbridge	1,938
Greenfield	3,900
Total	19,948

By this amendment Petitioner proposes to render natural gas service to Berkshire pursuant to a precedent agreement dated March 25, 1977, between the two parties. Petitioner states that under this proposed new gas sales contract a revision in the daily volume limits by delivery points is proposed as follows:

Delivery point:	*Revised daily volume limits*
Pittsfield	10,000
North Adams	10,000
Stockbridge	5,000
Greenfield	3,900
Total	28,900

Petitioner states that Berkshire has requested these new delivery point daily volume limits in order to provide it with operational flexibility among delivery points. It is indicated that the total of the revised daily volume limits exceeds Berkshire's contracted demand of 19,948, and that under the instant proposal Berkshire would not be entitled to take on any day a total volume at all delivery points greater than its presently effective contracted demand of 19,948 Mcf of natural gas per day. Petitioner further states that the proposed increase in the volumes of gas delivered to Berkshire at the four delivery points would not allow Berkshire to exceed its annual volumetric limitation or its curtailment period quantity entitlement, and that these increases are based on Berkshire's existing high priority customer needs.

It is stated that Berkshire requests these increases for the following reasons:

1. The Greenfield Service Area is presently being served by pipeline natural gas from Petitioner as well as by a 22-mile 6-inch lateral line from Bay State's Northampton area. With this supply and a proposed new LNG plant, this service area will have an adequate amount of natural gas and Berkshire has not requested any increase in this area.

2. The Stockbridge Service Area (Secondary Station to the Pittsfield Service Area) currently has a daily volume limit of 1,938 Mcf with a peak load requirement of 3,000 Mcf. At the present time, propane-air is flowing from the Pittsfield Service Area to supplement the Stockbridge Service Area. By raising the daily volume limit to 5,000 Mcf, all of the peak load requirements would be met utilizing pipeline natural gas. The remaining 2,000 Mcf over peak load requirements at Stockbridge would then be utilized by back-feeding into the Pittsfield Service Area enabling Berkshire to supplement the Pittsfield Service Area with pipeline gas. The existing propane-air facilities would be maintained for emergency purposes.

3. The Pittsfield Service Area currently has a daily volume limit of 7,786 Mcf with a peak load requirement of 13,000 Mcf. The difference is supplemented with propane-air which also flows into the Stockbridge Service Area. By raising the daily volume limit to 10,000 Mcf and by utilizing a proposed new LNG facility, the total requirements for the Pittsfield Service Area would be met without the use of more expensive propane-air. Should the proposed LNG facility be shut down for any reason, Berkshire could back-off its other service areas daily volume limits, utilize the 10,000 Mcf and supplement with the more expensive propane-air facilities at each of the Service Areas including Pittsfield.

4. The North Adams Service Area currently has a daily volume limit of 6,324 Mcf with a peak load requirement of 10,000 Mcf. By increasing the daily volume limit to 10,000 Mcf, all of the peak load requirements for the North Adams Service Area would be met utilizing pipeline natural gas. The existing propane-air facilities would be maintained for emergency purposes.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 1, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14246 Filed 5-18-77;8:45 am]

[Docket No. ER77-247]

VIRGINIA ELECTRIC AND POWER CO.

Revised Contract Supplement

MAY 12, 1977.

Take notice that on April 27, 1977, Virginia Electric and Power Company (VEPCO) tendered for filing a revised supplement to the contract between VEPCO and Halifax Electric Membership Corporation. VEPCO states that the revised contract supplement corrects certain items to reflect changes made in the past at Enfield Delivery Point as set forth below:

Present FPC No.	Proposed FPC No.	Item corrected
91-5	91-19	4.5(3), 8

VEPCO states that the revised contract supplement is intended to supersede the listed FPC Rate Schedule and requests that the Commission's notice requirements be waived so that the revised supplement may become effective on November 24, 1976, the requested effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14248 Filed 5-18-77;8:45 am]

[Docket No. ER77-339]

WEST TEXAS UTILITIES CO.

Tariff Change

MAY 10, 1977.

Take notice that West Texas Utilities Company (Tex) on May 2, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff, Rate Schedule CPS-77. Tex indicates that the proposed changes would increase revenues from jurisdictional sales and service by $392,533 based on the 12 month period ending May 31, 1978.

Tex further indicates that it presently is earning a rate of return of 7.12% on the wholesale service to Community Publice Service Company based on book figures based on the 12 months ended December 31, 1976 and for the 12 months ending May 31, 1978, it is estimated that this rate of return will decrease to 5.63% without relief. Tex states that the proposed changes modify the fuel adjustment clause to conform with the requirements of 35.14 and also revises other charges to more accurately reflect the cost of service.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14247 Filed 5-18-77;8:45 am]

FEDERAL RESERVE SYSTEM

CONSUMER ADVISORY COUNCIL

Meeting

Notice is hereby given that the Consumer Advisory Council will meet on Thursday, June 2, 1977. The meeting, which will be open to public observation, will take place in the Board Room of the Main Federal Reserve Building beginning at 9:30 a.m. and concluding at approximately 4 p.m. The Board Building is located at 20th Street and Constitution Avenue, NW., Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities with regard to consumer credit legislation and regulation. It is anticipated that the June 2 meeting of the Council will include consideration of the following topics:

I. *Task Force Reports.* Two Consumer Advisory Council task forces (one in St. Louis and one in Washington, D.C.) have visited with industry and consumer representatives and will report on problems under Truth in Lending and Equal Credit Opportunity Acts which indicate need for changing Regulations Z or B or the respective laws.

II. *Simplification of Truth in Lending.*

A. Board proposals for simplification of Regulation Z, approved by the Board April 25 for issuance for comment, will be explained and discussed.

B. Council members' views will be solicited on pending Truth in Lending simplification bills.

C. Council members' views will be solicited on a draft Truth in Lending Act being prepared by Board staff.

III. *Federal Trade Commission Improvement Act.*

A. *"Unfair or deceptive" banking acts and practices.* Council members' views will be solicited on potential unfair or deceptive acts and practices by banks on methods of investigating those acts and practices.

B. *Holder in due course.* A report on the status of the Board's proposal and of the FTC proposed trade regulation rule on this subject.

IV. The following issues will also be discussed as time permits:

A. *Continuation of previous council concerns.* Staff reports on the status of issues previously considered by the Council.

B. *Consumer aspects of electronic fund transfers.* Review of interim report of National Commission on EFT with particular attention to liability limits for debit cards, distribution of unsolicited debit cards, and treatment of EFT transactions as either check or credit transactions.

C. *Member bank compliance with consumer laws.* Discussion of the Board's new compliance and member bank education program.

D. *Open discussion.* Any additional topics which Council members would like to discuss.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors, May 17, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-14472 Filed 5-18-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 13, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 6, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of the report required by § 287.3a of the Board's Economic Regulations (14 CFR 287.3a). This report provides data as to certain interlocking relationships between air carriers and commercial lending institutions as defined therein. Submission of these reports is necessary to maintain the exemption from section 409 of the Federal Aviation Act of 1958, as amended, provided by § 287.3a of the Board's Economic Regulations. CAB estimates reporting burden to average 8 hours per annual report and respondents to be approximately 18 air carriers.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-14278 Filed 5-18-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

Office of the Federal Register

NATIONAL FIRE CODES

Proposed Revision of Standards

AGENCY: Office of the Federal Register, GSA.

ACTION: Notice and invitation for comment.

SUMMARY: The Office of the Federal Register is publishing these proposed changes to the fire safety standards developed by the National Fire Protection Association to inform the general public and invite comments from interested persons. The standards are frequently used as the basis for Federal regulations concerning fire safety and are published in the public interest.

DATES: Comments due on or before June 27, 1977. Fall Meeting: November 14-17, 1977.

ADDRESSES: Assistant Vice President of Standards, 470 Atlantic Avenue, Boston, Massachusetts 02210.

FOR FURTHER INFORMATION CONTACT:

Martha Girard, 202-523-5240.

SUPPLEMENTARY INFORMATION: Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal agencies as the basis for Federal regulations. Often, this has been accomplished through incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The

NFPA standards are known collectively as the National Fire Codes.

Revisions of existing standards and adoption of new are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May of each year. The NFPA invites public comment on its Technical Committee Reports.

Action at the NFPA Fall Meeting in November, 1977 is being proposed on the NFPA standards listed below:

No.	Title	Action
11B	Synthetic foam	O–P
30	Flammable and combustible liquids code.	O–P
33	Spray application	O–C
51	Oxygen-fuel gas systems for welding and cutting.	O–P
51B	Cutting and welding processes.	O–P
56F	Nonflammable medical gas systems.	O–P
70E	Electrical safety requirements for employee work places.	N–O
76A	Essential electrical systems in health care facilities.	O–C
76B	Safe use of electricity in patient care areas of health care facilities.	T–O
77	Static electricity	O–P
82	Linen and waste handling systems and equipment.	O–C
86A	Ovens and furnaces	O–C
86C	Industrial furnaces using a special processing atmosphere.	O–P
105	Smoke and draft control door assemblies.	N–O
211	Chimneys, fireplaces and vents.	O–C
214	Water-cooling towers	O–C
220	Types of building construction.	O–P
291	Fire hydrants	O–C
311	Security of port facilities and ships in harbors.	W
321M	Fire hazard properties of flammable liquids, gases and volatile solids.	O–C
329	Underground leakage	O–P
395	Storage of flammable and combustible liquids on farms and isolated construction projects.	O–P
415	Aircraft fueling ramp drainage	R
417	Aircraft loading walkways	O–C
423	Aircraft engine test facilities	N–O
701	Fire tests for flame resistant textiles and films.	O–P
803	Fire protection for nuclear power plants.	N–O
903M	Property survey manual	N–O
1201 (formerly No. 4).	Organization for fire services	O–C
1962 (formerly No. 198).	Care, use and maintenance of fire hose including connections and nozzles.	O–C

TYPES OF ACTION

PROPOSED ACTION ON OFFICIAL DOCUMENTS

O–P—Partial amendments
O–C—Complete revision
O–T—Tentative revision

PROPOSED ACTION ON NEW DOCUMENTS

N–T—Tentative adoption
N–O—Official adoption

PROPOSED ACTION ON TENTATIVE DOCUMENTS

T–P—Partial amendments
T–C—Complete revision
T–O—Official adoption

OTHER PROPOSED ACTION

R—Reconfirmation
W—Withdrawal

Single copies of the 1977 Fall Technical Committee Reports are available at no charge from the National Fire Protection Association, Publications Department, 470 Atlantic Avenue, Boston, Mass. 02210.

Interested persons may participate in these revisions by submitting written data, views, or arguments to the Assistant Vice President-Standards, NFPA, 470 Atlantic Avenue, Boston, Mass. 02210. Commenters may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his name and address, identify the notice, and give reasons for any recommendations. Comments received on or before June 27, 1977 will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical Committee Documentation by September 23, 1977, prior to the Fall Meeting. A copy of the Technical Committee Documentation will be sent automatically to each commenter. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Fall Meeting, November 14–17, 1977, at the Atlanta Marriott, Atlanta, Georgia, by NFPA members who are members of record thirty (30) days prior to that meeting.

Copies of the Technical Committee Reports and Technical Committee Documentation, when published, will also be available for review at the Office of the Federal Register, 1100 L Street NW., Washington, D.C.

FRED J. EMERY,
Director, Office of the Federal Register.

[FR Doc.77–14214 Filed 5–18–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

DESIGNATION OF HEALTH SERVICE AREAS

Correction

FR Doc. 75–22664 published as a Notice 1975 (40 FR 40306–40315) contained a list of health service areas designated under section 1511 of the Public Health Service Act (P.L. 93–641). Inadvertently, a number of errors were made on the original list. Subsequent corrections were published in the FEDERAL REGISTER on January 5, 1976 (41 FR 804–805) and on July 29, 1976 (41 FR 31600).

The purpose of this Notice is to set forth further corrections of the health service areas designated in the State of Connecticut. The complete listing of the health service areas in Connecticut is listed below:

Dated: May 9, 1977.

JAMES A. WALSH,
Acting Deputy Administrator, Health Resources Administration.

Health Service Area numbered *1* is the geographic area comprised of the towns of:

Bridgeport	Norwalk
Darien	Stamford
Easton	Stratford
Fairfield	Trumbull
Greenwich	Weston
Monroe	Westport
New Canaan	Wilton

Area 2

Ansonia	New Haven
Bethany	North Branford
Branford	North Haven
Derby	Orange
East Haven	Oxford
Guilford	Seymour
Hamden	Shelton
Madison	Wallingford
Meriden	West Haven
Milford	Woodbridge

Area 3

Ashford	Lyme
Bozrah	Mansfield
Brooklyn	Middlefield
Canterbury	Middletown
Chaplin	Montville
Chester	New London
Clinton	North Stonington
Colchester	Norwich
Columbia	Old Lyme
Coventry	Old Saybrook
Cromwell	Plainfield
Deep River	Pomfret
Durham	Portland
Eastford	Preston
East Haddam	Putnam
East Hampton	Salem
East Lyme	Scotland
Essex	Sprague
Franklin	Sterling
Griswold	Stonington
Groton	Thompson
Haddam	Union
Hampton	Voluntown
Killingly	Waterford
Killingworth	Westbrook
Lebanon	Willington
Ledyard	Windham
Lisbon	Woodstock

Area 4

Andover	Manchester
Avon	Marlborough
Berlin	New Britain
Bloomfield	Newington
Bolton	Plainville
Bristol	Plymouth
Burlington	Rocky Hill
Canton	Simsbury
East Granby	Somers
East Hartford	Southington
East Windsor	South Windsor
Ellington	Stafford
Enfield	Suffield
Farmington	Tolland
Glastonbury	Vernon
Granby	West Hartford
Hartford	Wethersfield
Hartland	Windsor
Hebron	Windsor Locks

Area 5

Barkhamsted	Canaan
Beacon Falls	Cheshire
Bethel	Colebrook
Bethlehem	Cornwall
Bridgewater	Danbury
Brookfield	Goshen

Area 5—Continued

Harwinton	Roxbury
Kent	Salisbury
Litchfield	Sharon
Middlebury	Sherman
Morris	Southbury
Naugatuck	Thomaston
New Fairfield	Torrington
New Hartford	Warren
New Milford	Washington
Newtown	Waterbury
Norfolk	Watertown
North Canaan	Winchester
Prospect	Wolcott
Redding	Woodbury
Ridgefield	

[FR Doc. 77–14231 Filed 5–17–77;8:45 am]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Meeting

AGENCY: Department of Health, Education, and Welfare, U.S. Office of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend and to participate.

DATES: June 14, 1977, 1:30 p.m. to 9:30 p.m., local time; June 15, 8:30 a.m. to 5 p.m.; June 16, 9 a.m. to 4:45 p.m.; and June 17, 9 a.m. to 4 p.m. Requests for oral presentations before the Committee must be received on or before June 3, 1977. All written material which a party wishes to file may be submitted at any time and will be considered by the Advisory Committee.

ADDRESS: Sheraton National Motor Hotel, 900 Orme Street, Arlington, Virginia 22204.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB3, 400 Maryland Ave., SW., Washington, D.C. 20202 (202–245–9873).

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is directed to:

1. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and designation of accrediting agencies and associations wishing to be designated as nationally recognized accrediting agencies and associations, and recommend desirable changes in criteria and procedures;

2. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and listing of State agencies wishing to be designated as reliable authority as to the quality of public postsecondary vocational education, and of nurse education, and recommend desirable changes in criteria and procedures;

3. Review and advise the Commissioner of Education in the formation of all current and future policy relating to the matter of institutional eligibility.

4. Review the provisions of current legislation affecting Office of Education responsibility in the area of accreditation and institutional eligibility and suggest needed changes to the Commissioner of Education;

5. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition and designation of accrediting agencies and associations in accordance with legislative provisions, Presidential directives, or interagency agreements;

6. Review and recommend to the Commissioner of Education for designation as nationally recognized accrediting agencies and associations of reliable authority all applicant accrediting agencies and associations which meet criteria established under (5) above;

7. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition, designation and listing of State agencies in accordance with statutory provisions, Executive Orders, or interagency agreements;

8. Review and recommend to the Commissioner of Education for designation as State agencies of reliable authority as to the quality of public postsecondary vocational education, and of nurse education, all applicant State agencies which meet criteria established under (7) above;

9. Develop, under the authority of the Vocational Education Act of 1963, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of private vocational training institutions which have no alternative route by which to establish eligibility for Federal funding programs;

10. Develop, under the authority of the Higher Education Act of 1965, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of institutions of higher education, for which there is no recognized accrediting agency or association, in order to establish eligibility for participation in the student loan programs authorized by Title IV–B thereof;

11. Maintain a continuous review of Office of Education administrative practice, procedures and judgments relating to accreditation and institutional eligibility and advise the Commissioner of needed changes;

12. Keep within its purview the accreditation and approval process as it develops in all levels of education;

13. Advice the Commissioner of Education concerning the relations of the Office with accrediting agencies or associations, or other approval bodies as the Commissioner may request.

14. Advice the Commissioner of Education, pursuant to the Bureau of the Budget (Office of Management and Budget) policy dated December 23, 1954, regarding the award of degree-granting status to Federal agencies and institutions.

15. Not later than March 31 of each year, make an annual report of its activities, findings and recommendations.

The meeting on June 14, 15, 16 and 17, 1977, will be open to the public. This meeting will be held at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia. On June 14 and 15, the Committee sessions will be in the form of an Invitational Conference on the Federal Government's Relationship to the Nationally Recognized Accrediting Agencies. The purpose of the conference session is to enable members of the Committee and officials of the nationally recognized accrediting agencies to review and discuss issue of mutual interest, tension points and means for enhancing a constructive relationship. Major topics to be discussed include the accreditation-eligibility framework, new regulations regarding eligibility, revisions to the Criteria for Recognition of Accrediting Bodies, and pertinent studies regarding accreditation and eligibility. Conference participants will hear speakers on a variety of subjects related to the major topics listed above, and will participate in seminars.

On June 16 and 17, the Committee will conduct business sessions to review petitions and reports by accrediting and State approval agencies for initial or continued recognition by the U.S. Commissioner of Education. The Committee also will hear presentations by representatives of the petitioning agencies and interested third parties. Agencies having petitions and reports pending before the Committee are:

American Council on Education for Journalism, Accrediting Committee.
American Dental Association, Commission on Accreditation of Dental and Dental Auxiliary Programs.
American Medical Association, Council on Medical Education, as the coordinating agency in allied health education accreditation.
American Medical Association, Council on Medical Education, in cooperation with: Committee on Accreditation in Education, American Physical Therapy Association, Curriculum Review Board, American Association of Medical Assistants, Joint Review Committee on Educational Programs in Nuclear Medicine Technology.
American Physical Therapy Association, Committee on Accreditation in Education
Council on Education for Public Health.
Engineers' Council for Professional Development.
Iowa State Board of Public Instruction.
Kansas State Board of Education.
Minnesota State Board for Vocational-Technical Education.
National Association of Schools of Art, Commission on Accreditation and Membership.
National Council for Accreditation of Teacher Education.
National Home Study Council, Accrediting Commission.

Requests for oral presentations before the Committee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Requests must be received by the Division of Eligibility and Agency Evaluation on or before June 3, 1977. Time constraints may limit oral presentations. However, all additional written material that a party wishes to

file will be considered by the Advisory Committee.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C., on May 13, 1977.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc.77-14306 Filed 5-18-77;8:45 am]

Office of Human Development

Office of Child Development

CHILD WELFARE RESEARCH AND DEMONSTRATION GRANTS PROGRAM

Announcement of Grants for Fiscal Year 1977 (Program Announcement 13608-771)

The Office of Child Development, Office of Human Development, announces that applications will be accepted until July 20, 1977 from public or nonprofit private agencies or organizations wishing to compete for grants in Fiscal Year 1977 under the Child Welfare Research and Demonstration Grants Program authorized by 42 U.S.C. 626(a)(1) (A) and (B), (Section 426, Part B, Title IV of the Social Security Act).

All applications received by the closing date or postmarked by July 15, 1977 which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for an award.

The regulations applicable to this program are contained in Part 205 of Title 42 of the Code of Federal Regulations (42 CFR Part 205), "Research Projects Relating to Maternal and Child Health Services and Crippled Children's Services, and Research or Demonstration Projects Relating to Child Welfare Services."

Scope Of This Program Announcement: This program announcement identifies the funding priorities of the Child Welfare Research and Demonstration Grants Program for Fiscal Year 1977.

A. *Program Purposes.*—The purpose of the Child Welfare Research and Demonstration Grants Program is to support major research and demonstration efforts in selected areas of high impact and national concern where the utilization of findings is expected to make a substantial contribution to the development and welfare of children and their families.

B. *Eligible Applicants.*—Grants may be made to public or other nonprofit institutions of higher learning, public or other nonprofit agencies and organizations engaged in research or child welfare activities, state or local public agencies responsible for administering or supervising the administration of child welfare services. Grants are not awarded to individuals even though they may be affiliated with a public or private nonprofit organization.

In certain cases, a specific program announcement may further define or limit eligibility to, for example, the single State agency or organizational unit responsible for social services to children and families.

C. *Available Funds.*—Of the $14.7 million appropriated by the Congress for the Child Welfare Research and Demonstration Grants Program in Fiscal Year 1977, the Office of Child Development expects to award approximately $2 million for new grants in the program areas identified below. A new grant is the initial grant made in support of a project requested on an application.

It is expected that approximately 20 grants will be awarded pursuant to this announcement. The average award and number of grants are given in (D) with each of the funding priorities.

In Fiscal Year 1976, 300 applications to the Child Welfare Research and Demonstration Grants Program were accepted for review and consideration. Of these, approximately $2 million was awarded to 20 grantees.

D. *Program Objectives and Priorities For Funding.*—Applications are solicited for proposals with the following objectives:

1. Use of Service Contracts.—The Office of Child Development is soliciting grant applications for three-year demonstration projects which develop and use service contracts as a case management tool in dealing with cases involving: (1) provision of services to enable children to remain in their own homes instead of going into substitute care, and (2) the return of children from foster care to their own homes or to a permanent placement. The service contract is a written agreement between the agency and other key participants in a case, i.e., natural parents, foster parents, and, where appropriate, the children, which lays out the roles, responsibilities, tasks and obligations of the participants and the agency within a manageable timetable.

Applicants should submit proposals for projects which develop and use service contracts as a case management tool in order to answer the following questions:

(a) Where services are provided to keep children at home with their families, does the use of service contracts help enable more children to remain with their families rather than being placed in foster care?

(b) Where children are placed in foster family care, does the use of service contracts help enable more children to be returned to their natural parents or placed in permanent adoptive or foster family homes in a shorter period of time than would otherwise be the case?

(c) What are the costs to the project which would indicate whether the use of service contracts as a case management tool results in service delivery costs less than, more than, or the same as, when service contracts are not used?

(d) What are the key features of training, record keeping and management of services contracts which contribute to its success or failure?

Eligibility to apply is limited to the single State agency or its organizational unit responsible for social services to families and children which includes foster family care services, any similar county, multicounty, or metropolitan subunits of the single State agency.

It is anticipated that four grants will be made of approximately $30,000–$40,000 each, for each of three years. The funds are to be used to train participating caseworkers and to keep needed records. In addition to the four grants, a national evaluation contractor will provide on-site and group technical assistance to the grantees in setting up records needed to carry out an effective evaluation of results.

2. Intensive Supportive Services.—The Office of Child Development is soliciting grant applications for three-year projects which demonstrate that intensive supportive services to "families at risk" will substantially reduce placement of children away from their own families. Applicants should submit proposals for projects which prevent separation of children from their families by reducing familial dysfunction and providing supportive services. A separately-funded research and evaluation component will examine the different approaches used by grantees and facilitate the development of practical models that will be within the capacity of other public agencies to develop and carry out.

The purpose of these grants is to try out different approaches which will ultimately provide practical models within the capacity of States to accomplish. These grants will provide the opportunity for States, through their public agencies, to explore the following issues:

(a) Whether intensive, supportive service to "families-at-risk" (those whose children will be removed if strong supportive and supplemental services are not available) offered in a coordinated, aggressive, timely manner by knowledgeable, professional caseworkers will substantially reduce placement of children away from their own families;

(b) Whether immediate and long-range cost savings can be demonstrated; and

(c) Whether existing resources can be shifted to make early prevention a viable part of on-going programs.

Eligibility to apply is limited to the single State agency or organizational substate units responsible for social services to families and children which include preventive and foster care services, with specific interest in long-range development.

It is anticipated that four grants will be made of approximately $125,000–$150,000 each, for each of three years. A National Evaluation Contractor will provide technical assistance to an evaluator/researcher employed by each of the grantees.

3. Information for Parents With Very Young Children.—The Office of Child Development is soliciting grant applications which will generate scientific knowledge about the provision and use of child development and family support service information by different types of families, with emphasis on information that is useful to families with very young children. Specifically, the Agency will fund projects which deal with two content areas: Child Development Information and Family Support Service Information. Proposals should not overlap the two content areas, although within an area, a proposal may address more than one question. Researchers should specify hypotheses derived from one or more of the substantive questions stated below.

a. *Child Development Information.*—(1) What types of information do parents have about child development? How do parents' knowledge bases and expectations for their child's development affect parent/child interactions, child development outcomes and utilization of family support services?

(2) What do parents perceive as their child development information needs? How do parents' perceived child development information needs vary as a function of family circumstances and conditions? What kinds of child development information do parents with very young children find most useful for child rearing?

(3) How can scientific knowledge about child development be communicated in culturally sensitive ways to different types of families? What information and dissemination strategies are most effective in increasing parents' awareness of child development processes and in expanding parents' knowledge bases without preempting their role as primary decision-makers in the rearing of their children? Does the type of child development information disseminated to parents affect their pattern of utilization of family support services?

b. *Family Support Service Information.*—(1) What kinds of family support networks and services (e.g., day care, preschool, health screening) do different types of families use? What factors account for differences among families in their pattern of family support service utilization? How does the selection and use of family support services vary as a function of family attitudes towards these service providing institutions?

(2) What information do families with very young children have available; what information do they use; and what information do they consider to be most important when making decisions about the selection of family support services?

(3) How is information about services made available to parents, especially those with very young children? What are the most effective strategies for disseminating such information to different types of families in different circumstances?

The Office of Child Development will support projects which involve working directly with families from a diversity of ethnic backgrounds and socioeconomic levels.

It is anticipated that approximately 5 grants will be awarded at approximately $125,000 each, for a 12–18 month period.

4. Other Projects. The Office of Child Development will consider grant applications for one-, two-, or three-year projects which, while not specifically addressing the foregoing three priority areas, nevertheless show promise of making a substantial contribution to our knowledge within the general fields of child development and/or child welfare.

Priority will be given to proposals which: (a) Address problems of children and families about which the present state of knowledge is inadequate;

(b) Involve children and families from a diversity of socioeconomic levels and ethnic backgrounds, e.g., Oriental-Americans;

(c) Incorporate independent variables that capture the subtleties of social class and ethnic differences/similarities;

(d) Focus on policy-relevant variables that can be experimentally manipulated and are potentially amenable to change on a wide scale.

Since the Office of Child Development is currently supporting research and demonstration projects under its National Center on Child Abuse and Neglect, it will not fund additional child abuse and neglect activities under authority of the Child Welfare Research and Demonstration Grants Program.

It is anticipated that approximately 6 grants of $75,000–$100,000 will be awarded.

E. *Grantee Share of Project.*—Program regulations require that all grantees share in the costs of projects. It is generally expected that grantees will provide at least five percent of total project costs. Grantee contributions must be project-related and may be in any or all of the budget categories as allowable under the Department's applicable cost principles in 45 CFR Part 74 Subpart Q.

F. *The Application Process.—Application Submission.* In order to be considered for a grant under the Child Welfare Research and Demonstration Grants Program, an application must be submitted on the forms supplied and in the manner prescribed by the Office of Child Development. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the Program.

One signed original and two copies of the grant application, including all attachments, are required, and two additional copies are requested with the original. The original and the four additional copies, which are for review purposes, are to be submitted to the central receiving office of the Office of Human Development.

Application Consideration. The Director of the Office of Child Development determines the final action to be taken with respect to each grant application. Applications which do not conform to this announcement, or are not complete, or which do not meet the deadline are not accepted for consideration, and applicants are notified accordingly. Otherwise, all applications will be considered for funding.

All accepted grant applications are subjected to a competitive review and evaluation conducted by non-Federal experts in the areas of child and family development and welfare. The results of the competitive review supplement and assist the Director's consideration of the competing applications. The Director also takes into account the comments of the HEW Regional Offices and the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants both within and outside the Government.

After the Director has decided either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified by letter of that decision. The letter will include an explanation of the reasons for disapproval or non-funding or will indicate that an explanation may be obtained upon request.

Grant Awards. The Director makes grant awards consistent with the purposes of the legislation, the regulations, and program announcements within the limits of Federal funds available for the purpose of supporting research and demonstration projects. The Official grant award document is the Notice of Grant Awarded (NGA). This notifies the grantee and others of the award of the grant, contains or references all terms and conditions of the grant, and provides the documentary basis for recording the obligation of Federal funds in the Department's accounting system. The NGA sets forth in writing to the grantee the amount of funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, the budget period for which support is given, and the total grantee participation, if any. The initial award also specifies the total project period for which support is contemplated, although support beyond the first year is dependent upon satisfactory progress and availability of funds.

G. *Criteria for Review and Evaluation of Applications.*—All competing grant applications will be reviewed and evaluated by non-Federal experts in the areas of child and family development and welfare against the following criteria: (1) The estimated cost to the government for the proposed project is reasonable considering anticipated results.

(2) Project personnel are or will be well qualified, and the applicant organization has or will have adequate financial staff and institutional resources.

(3) Insofar as practicable, the proposed methodology, if well executed, is capable of attaining project objectives. Reviewers will consider the following:

(a) Review of literature; (b) Innovativeness of approach/design; (c) Objectives/hypotheses clearly stated; (d) Procedures:

1. Sample size; 2. Comparison/control group(s); 3. Treatment(s); 4. Design; 5. Measures/instruments; 6. Data analysis plan; 7. Time schedule; 8. Reports.

4.a. Project objectives are identical with or capable of achieving the specific program objectives defined in the program announcement. (See Section D 1, 2, 3) or

b. For Other Projects, proposals address the general considerations stated in Section D 4.

5. Dissemination/Utilization Plan: (a) Applicant indicates knowledge of appropriate users;

(b) Applicant presents an appropriate utilization plan; i.e., understands potential implications of results with regard to whichever of the following may be relevant; policy, programs, service delivery systems, legislation, research and demonstration activities, training, teaching, staffing, other.

6. Comparability of proposed study to other completed and/or ongoing studies: (a) Applicant indicates awareness of related completed and/or ongoing projects;

(b) Applicant utilizes marker measures and marker variables, as appropriate.

7. Protection of Human Subjects. If subjects are at risk, appropriate safeguards have been taken.

H. *Closing Date for Receipt of Applications.*—The closing date for receipt of applications under this program announcement is July 20, 1977. Applications may be mailed or hand delivered to: Department of Health, Education, and Welfare, Office of Human Development/Switzer Building, Grants Management Branch, Room 1427, 330 C Street, S.W., Washington, D.C. 20201 (Attention: 13608–771). Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m.

An application will be considered to have arrived by the closing date if:

1. The application is at the OHD Receiving Office on or before the closing date of July 20, 1977 or

2. The application is postmarked by July 15, 1977.

I. *Late Applications.*—Late applications are not accepted. They are returned without consideration, and applicants are notified accordingly.

J. *Availability of Application Forms.*—Application kits which contain the prescribed application forms and information for the applicant may be obtained by writing:

Division of Research and Evaluation, Office of Child Development, P.O. Box 1182, Washington, D.C. 20013 (Attention: 13608–771), telephone: (202) 755–7755; 755–7758.

(Catalog of Federal Domestic Assistance Program Number 13.608 Child Welfare Research and Demonstration Grants Program)

Dated: May 10, 1977.

JAMES L. ROBINSON,
Acting Director,
Office of Child Development.

Approved: May 13, 1977.

ARABELLA MARTINEZ,
Assistant Secretary for
Human Development.

[FR Doc.77–14254 Filed 5–18–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I–4032]

IDAHO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

MAY 12, 1977.

The Forest Service, Department of Agriculture, filed application Serial No. I–4032, on March 3, 1971, for a withdrawal in relation to the following described lands:

BOISE MERIDIAN, KANIKSU NATIONAL FOREST

LAKE PEND OREILLE WATER INFLUENCE ZONE

T. 55 N., R. 1 E.
Sec. 12, southwest 450 feet of Mineral Survey No. 2995.

The area described aggregates 6.20 acres, more or less, in Bonner County.

The applicant desires that the land be preserved for public purposes for recreation areas in the Kaniksu National Forest.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on May 5, 1971, Volume No. 36, Page 8408 as document No. 71–6235.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724, on or before June 20, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before June 20, 1977.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Management, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, Idaho 83724.

VINCENT S. STROBEL,
Chief, Branch of
L & M Operations.

[FR Doc.77–14307 Filed 5–18–77;8:45 am]

[NM 30513]

NEW MEXICO

Application

MAY 11, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 12 W.,
Sec. 17, S½NE¼.

This pipeline will convey natural gas across 0.137 mile of national resource land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77–14310 Filed 5–18–77;8:45 am]

[NM 30530]

NEW MEXICO

Application

MAY 11, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 15 S., R. 29 E.,
Sec. 21, NE¼NE¼.

This pipeline will convey natural gas across 0.119 of a mile of national resource land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PEDILLA,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77–14309 Filed 5–18–77;8:45 am]

[NM 30557 and 30558]

NEW MEXICO

Applications

MAY 11, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a dehydration site and two 4½-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 32 E.,
Sec. 13, W½NE¼ and NE¼NW¼;
Sec. 36, NE¼SE¼.

The 5 acre dehydration site and 0.546 mile of pipeline are to be used in connection with natural gas operations on national resource land is Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc.77–14308 Filed 5–18–77;8:45 am]

[NM 30584 and 30535]

NEW MEXICO

Applications

MAY 12, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for two 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 23 E.,
Sec. 34, NE¼SW¼ and N½SE¼.
T. 17 S., R. 24 E.,
Sec. 19, lots 3, 4, SE¼SW¼ and S½SE¼;
Sec. 20, SW¼SW¼;
Sec. 29, NE¼ and N½NW¼.
T. 19 S., R. 24 E.,
Sec. 28, SE¼NW¼ and SW¼SW¼;
Sec. 33, W½W½.
T. 20 S., R. 24 E.,
Sec. 4, lot 4;
Sec. 5, lot 1, SE¼NE¼ and E½SE¼;
Sec. 8, N½NE¼, SW¼NE¼ and NW¼SE¼.

These pipelines will convey natural gas across 5.736 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc.77–14311 Filed 5–18–77;8:45 am]

[Wyoming 59139]

WYOMING

Application

MAY 11, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company of Casper, Wyoming filed an application for a right-of-way to construct a 8 inch crude oil pipeline for the purpose of transporting crude oil across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 51 N., R. 93 W.,
Sec. 18, Lots 1, 2, 3, 4;
Sec. 19, Lot 1, E½NW¼, NE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 29, W½NE¼, SE¼NE¼, N½NW¼;
Sec. 30, NE¼NE¼.
T. 51 N., R. 94 W.,
Sec. 1, Lot 5, E½SW¼, SW¼SE¼;
Sec. 12, W½NE¼, E½SE¼, NW¼SE¼;
Sec. 13, NE¼NE¼;
T. 52 N., R. 94 W.,
Sec. 10, Lots 2, 3, 4SF, W½SE¼;
Sec. 14, W½SW¼;
Sec. 15, E½NE¼, NW¼NE¼, NE¼SE¼;
Sec. 23, NW¼NW¼, E½W½;
Sec. 26, Lots 2, 3, W½NE¼, NW¼SE¼.

The pipeline will transport oil and other synthetic liquid fuels from a point in section 28, T. 51 N., R. 93 W., and extend to a point in Lot 42, section 3, T. 52 N., R. 94 W., all in Big Horn County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands
and Minerals Operations.

[FR Doc.77–14312 Filed 5–18–77;8:45 am]

Geological Survey

OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF (OCS)

Proposed OCS Standard No. 2 (GSS–OCS–2) Systems Design Analysis

AGENCY: Department of the Interior, Geological Survey.

ACTION: Proposed USGS Standard.

SUMMARY: The Geological Survey has developed and is soliciting comments on a proposed OCS Standard (GSS–OCS–2) which details a method of performing a Systems Design Analysis (SDA) on oil and gas production facilities on the Outer Continental Shelf (OCS).

The SDA is a method of identifying potential undesirable conditions—such as injury or death to personnel, fires or explosions, or environmental pollution—before they become actualities (while the equipment is still in the design phase) and to permit necessary corrections to systems before they are installed.

DATE: Comments must be received on or before August 15, 1977.

ADDRESS: Acting Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Gene Bennett, U.S. Geological Survey, 434 Imperial Office Building, 3301 North Causeway Boulevard, P.O. Box 7944, Metairie, Louisiana 70011. Phone 504–837–4720. Extension 319.

SUPPLEMENTARY INFORMATION: Because of its volume, the proposed Standard (which also includes a separate Appendix) is not being published in the FEDERAL REGISTER. Copies of this document may be obtained from the aforementioned Reston, Virginia, address.

The requirement to perform an SDA will be included in a subsequent OCS Order.

W. A. RADLINSKI,
Acting Director.

[FR Doc.77-14313 Filed 5-18-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA-201-25]

LIVE CATTLE AND CERTAIN EDIBLE MEAT PRODUCTS OF CATTLE

Additional Public Hearing

Notice is hereby given that the United States International Trade Commission has scheduled an additional public hearing in its investigation of live cattle and certain meat products of cattle fit for human consumption. The hearing will be held in Kansas City, Mo., beginning on Tuesday, July 19, 1977. The dates and places of previously announced public hearings in this investigation, in Rapid City, S. Dak., beginning on Tuesday, June 14, 1977; in Dallas, Tex., beginning on Tuesday, June 28, 1977; and in New York, N.Y., beginning on Tuesday, July 12, 1977, are unchanged. Times and locations of the hearings will be announced later. Requests for appearances should be filed with the Secretary of the United States International Trade Commission, in writing, at his office in Washington, D.C., not later than noon of the fifth calendar day preceding the hearing at which an appearance is requested.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of April 13, 1977 (42 FR 19389).

Issued: May 16, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-14345 Filed 5-18-77;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

GUARDS AND INVESTIGATORS COMMITTEE

Meeting

Notice is hereby given that the Guards and Investigators Committee of LEAA's Private Security Advisory Council (PSAC) will meet Thursday and Friday, June 2-3, 1977. The meeting will convene at 9 a.m. June 2, in the United Way North Room of the Ramada Inn Alexandria, Alexandria, Virginia. The meeting is scheduled to adjourn by 1 p.m., June 3.

Discussion at the meeting will focus upon the development of a model guard training curriculum. The meeting will be open to the public.

For further information, please contact: Mr. William F. Powers, Special Programs Division, Office of Regional Operations, LEAA, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531 (202-376-3550).

JAY A. BROZOST,
Attorney-Advisor.

[FR Doc.77-14315 Filed 5-18-77;8:45 am]

PRIVATE SECURITY ADVISORY COUNCIL

Meeting

Notice is hereby given that the Private Security Advisory Council, an advisory committee to LEAA, will meet Wednesday, Thursday and Friday, June 8, 9, and 10, 1977. The meeting will convene at 9 a.m., June 8, in the Cameron East Room of the Ramada Inn Alexandria, Alexandria, Virginia. The meeting is scheduled to adjourn by 1 p.m., June 10.

Discussion at the meeting will focus upon several reports prepared by Committees of the Council, as well as discussion of the recently published Report of the Task Force on Private Security and preparation of recommendations to LEAA regarding its future relationship with private security. The meeting will be open to the public.

For further information, please contact: Mr. William F. Powers, Special Programs Division, Office of Regional Operations, LEAA, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531 (202-376-3550).

JAY A. BROZOST,
Attorney-Advisor.

[FR Doc.77-14314 Filed 5-18-77;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

COMPREHENSIVE PLAN FOR THE NATIONAL CAPITAL: FOREIGN MISSIONS AND INTERNATIONAL AGENCIES

Availability

The National Capital Planning Commission is circulating for public comment a proposed Foreign Missions and International Agencies element, and proposed related modifications to other elements, of the Comprehensive Plan for the National Capital, together with a Planning Report and a Description of Environmental Impact on the proposed element and proposed related modifications. Copies of the materials are available from the Commission's Office of Public Affairs, 1325 G Street NW., Washington, D.C. 20576, telephone (202) 382-1161. Telephone and written requests will be honored.

The Commission will afford interested and affected organizations and individuals an opportunity to present their views on the proposed element, and on the proposed related modifications to other elements, of the Comprehensive Plan in writing prior to and/or in person at the meeting of the Commission on July 14, 1977, at 9:30 a.m., in the Commission's Tenth Floor Conference Room.

Organizations and individuals desiring to make a statement at the meeting or otherwise communicate their views should advise Samuel K. Frazier, Jr., Chief, Office of Public Affairs. To insure that written comments are placed before the Commission at the Commission meeting, written statements must be received by Mr. Frazier by July 13, 12:00 Noon.

DANIEL H. SHEAR,
Secretary.

MAY 13, 1977.

[FR Doc.77-14239 Filed 5-18-77;8:45 am]

PROCEDURES FOR CITIZEN PARTICIPATION AND INTERGOVERNMENTAL LIAISON

Tentative Agenda Items

In order to provide notice regarding matters which may be acted upon by the Commission and to solicit written comments prior to and oral comments at meetings of the Commission in accordance with the Commission's Procedures for Citizen Participation and Intergovernmental Liaison, approved April 7, 1977, there is set forth below a list of agenda items tentatively scheduled for consideration by the Commission at its meeting on June 2 and 9, 1977 and at subsequent meetings. The Commission meets in its Tenth Floor Conference Room at 1325 G Street, NW., Washington, D.C.

JUNE 2 AND 9, 1977

File No.	Item
CP12	Capital Improvements Program, Arlington County, Virginia. (Commission action requested: comments on Federal interest to Arlington County Board.)
0180A	Arlington National Cemetery, Arlington, Virginia — Columbarium. (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952.)
0787	Metro: Branch Avenue Route, South Capitol and M Streets to Anacostia Station, proposed alternative alignment. (Commission action requested: report and recommendations to Washington Metropolitan Area Transit Authority.)
0841	Defense Mapping Agency, Herndon, Virginia—Land Utilization Survey Report. (Commission action requested: comments to General Services Administration.)

File No.	Item
1435	Federal Capital Improvements Program for the National Capital Region, Fiscal Year 1978 - 1983. (Commission action requested: adoption pursuant to Section 7(a) of the National Capital Planning Act of 1952, as amended.)
1577	Memorial to Bernardo de Galvez, Virginia Avenue and 22nd Street, NW (Commission action requested: approval of site and design pursuant to Public Law 94-287.)
1614	Bolling / Anacostia Tract, District of Columbia, Defense Intelligence Agency. (Commission action requested: comments on preliminary site and building plans pursuant to Section 610(a) of Military Construction Authorization Act, 1974.)
1648	National Naval Medical Center, Bethesda, Maryland: a. Interim Wastewater Treatment Facility. (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952.)
1649	b. Armed Forces Radiological Research Institute, Animal Research Facility. (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952.)
1671	Street and alley closing, part of Virginia Avenue, SE., adjacent to U.S. Reservation 26 at Ninth Street (S.O. 76-245). (Commission action requested: recommendations to Council of the District of Columbia pursuant to D.C. Code, sec. 7-401.)
1672	National Zoological Park, Central Area Development, Renovations to Small Mammals Building, Reptile House and New Outdoor Exhibit. (Commission action requested: approval of preliminary site and building plans pursuant to National Capital Planning Act of 1952, sec. 5-428.)
1673	Community Headquarters Building, 1724 F Street, NW., Exterior stairway. (Commission action requested: approval of preliminary and final site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952 and D.C. Code, sec. 5-428.)
1674	Zoning Commission Case No. 76-17, Map amendment R-1-B to R-3, Arizona Avenue and MacArthur Boulevard, NW (lots 806 and 807 in Square 1441 and lot 833 in Square 1417). (Commission action requested: report to Zoning Commission pursuant to D.C. Code, sec. 5-417.)
1675	Zoning Commission Case No. 76-20, Map amendment R-1-B to C-1 at Arizona Avenue and MacArthur Boulevard, NW. (lots 42 and 823 in Square 1417). (Commission action requested: report to Zoning Commission pursuant to D.C. Code, sec. 5-417.)
1599	Zoning Commission Case No. 76-14P, preliminary application for planned unit development and map amendment from R-5-C to C-2-B, Square 121. (Commission action requested: supplemental report to Zoning Commission pursuant to Section 8(a) of National Capital Planning Act of 1952, as amended.)
1670	Zoning Commission Case No. 76-4, map amendment R-1-B to C-1, 1855 Wisconsin Avenue, NW. (part of lots 818 and 1009 in Square 1299). (Commission action requested: report to Zoning Commission pursuant to D.C. Code, sec. 5-417.)

JULY 7 AND 14, 1977

File No.	Item
MP49	West Potomac Park, District of Columbia: a. Subarea Master Plan. (Commission action requested: approval pursuant to Section 5 of the National Capital Planning Act of 1952.)
0976	b. Franklin Delano Roosevelt Memorial. (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952.)
MP134	Henderson Hall, Arlington County, Virginia, Master Plan. (Commission action requested: approval pursuant to Section 5 of the National Capital Planning Act of 1952.)
	National Naval Medical Center, Bethesda, Maryland:
1611	a. Bowling Alley. (Commission action requested: approval of final site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952.)
1650	b. Exchange. (Commission action requested: approval of preliminary site and building plans pursuant to Section 5 of the National Capital Planning Act of 1952.)
1669	Zoning Commission Case No. 76-1, Southwest Urban Renewal Area. (Commission action requested: report to Zoning Commission pursuant to D.C. Code, sec. 5-417.)

AUGUST 4 AND 11, 1977

File No.	Item
MP120	Washington Navy Yard, 8th and M Streets SE., Revised Master Plan. (Commission action requested: approval pursuant to Section 5 of the National Capital Planning Act of 1952.)

The Commission affords interested and affected organizations and individuals an opportunity to present their views on any of the items in writing prior to and/or in person at the meeting at which such item is considered, with such limitations on the number and length of oral presentations as the agenda item and the length of the agenda appear to warrant.

Organizations and individuals desiring to make a statement or otherwise communicate their views on any item tentatively scheduled for the June 2 and 9 meeting should advise Samuel K. Frazier, Jr., Chief, Office of Public Affairs, National Capital Planning Commission, Washington, D.C. 20576, tele-

phone 382–1161. Copies of the Executive Director's Recommendation on any item on the agenda for the June 2 and 9 meeting may be obtained from Mr. Frazier on or after May 31. Agenda items with respect to which no organization or individual has advised Mr. Frazier by Thursday, May 26, 12:00 Noon, of a desire to present views in person to the Commission and on which the Executive Director recommends approval or a favorable report, may be placed on the "consent calendar" and acted upon by the Commission, without presentation or discussion, at the beginning of the Commission meeting on June 2. To insure that written comments on any item are placed before the Commission prior to Commission action thereon, written statements must be received by Mr. Frazier, by Wednesday, June 1, 12:00 Noon.

The Commission's Procedures for Citizens Participation and Intergovernmental Liaison, copies of which may be obtained from Mr. Frazier, generally provide that comments on District plans and projects should address their effect on the Federal establishment and/or on Federal interests in the National Capital Region.

DANIEL H. SHEAR,
Secretary.

MAY 13, 1977.

[FR Doc.77-14238 Filed 5-18-77;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

SUPPLIERS COMMITTEE; COMPETITION AMONG VENDORS

Request for Comment

The National Commission on Electronic Fund Transfers (NCEFT) is examining competition in the EFT suppliers market.

This investigation, authorized by Title II of Pub. L. 93–495 is intended to aid the Commission in developing its recommendations to Congress and the President regarding appropriate administrative action and legislation necessary in conection with the possible development of public or private electronic fund transfer systems.

As part of its investigation, the Commission is soliciting the views of knowledgeable groups and individuals on the discussion paper and the trial recommendations contained in it. These recommendations are tentative in nature, and do not reflect the consensus opinion of the NCEFT. They are the result of studies in secondary source material and consultations made with experts in the fields of economics, communications regulations, and antitrust law. In addition to comments on the assertions in the paper, and the recommendations themselves, comments should be made regarding the effects which these recommendations may have on:

(1) The cost and availability of EFT services to small businesses, financial institutions and the general public;

(2) The encouragement or discouragement to innovation in EFT system development which might result;

(3) The selection of equipment and services which would be available to EFT providers;

(4) The potential effect on exchange of transaction data between geographically separate EFT systems (interchange);

(5) The practical consequences of an arm's-length separate subsidiary structure for telecommunications carrier involvement;

(6) The sharing of EFT systems between or among financial institutions; and

(7) The entry cost to suppliers to provide EFT equipment and services to consumers.

Anyone may submit a written statement for the public record of the Commission. Written statements and any supporting documentation must be received by the Executive Director, National Commission on EFT, 1000 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036, by June 20, 1977. These statements will be available for public review and comment for a period of ten (10) days following June 20. For further information contact either John J. McDonnell, Jr., or Diana L. Jones at 202–634–1823.

I. SUMMARY AND CONCLUSIONS

1. The National Commission on Electronic Fund Transfers (NCEFT) has made recommendations to Congress in its interim report[1] in several areas which are vital in determining the ways in which EFT will develop. Among the issues dealt with in these recommendations are consumer rights and responsibilities in EFT, the appropriate level of regulation of EFT terminals by financial regulatory bodies, how and under what circumstances EFT systems and terminals should be shared, and the role of the federal government in the operation of EFT systems and services.

2. In making all of its recommendations to date, the Commission has been guided by its mandate to preserve and promote competition while minimizing government regulation and protecting the rights and options of consumers.[2]

3. The Suppliers Committee has recently completed its examination of another area critical to the growth and development of EFT systems and services. It involves the development and sale of the equipment and services required to construct and operate EFT systems.

4. In examining this marketplace the Suppliers Committee has evaluated the roles in EFT of communications common carriers, computer equipment vendors, data processing service bureaus, financial institutions, and federal and state communications regulatory agencies.

5. The Suppliers Committee has found that changes in the technology upon which EFT systems are based have been rapid. Uncertainties in the existing law which governs the nation's telecomunications system create the potential that existing or proposed EFT systems may fall under the purview of communications regulatory agencies. This means that government agencies with primary responsibility for telephone service could also control entrance, exit, rates, and services available in EFT systems. This has not yet occurred, but the potential is real.

6. Aside from this potential, related problems that have required examination were forcefully brought to the Suppliers Committee's attention at its December 1976 hearings. The potential exists, it was said, for unfair competition between regulater telecommunications companies and data processing companies competing to supply EFT providers with similar services. After an initial examination, it was determined that existing accounting procedures in the telecommunications industry and the vertically integrated nature of the telephone industry prevent any real comparison of the costs of research, development, promotion, manufacture, and maintenance of EFT systems components thus making the proving of the allegations difficult, if not impossible.

7. However, faced with these problems and the belief that development of EFT, with the proper safeguards for consumers and for competition between financial institutions, should be beneficial to the nation, the Suppliers Committee feels required to point out potential roadblocks to the development of EFT.

8. After consideration of the various technological and legal uncertainties affecting EFT, the anti-competitive problems which are alleged to exist in the EFT marketplace and the several alternative solutions available, the Suppliers Committee is considering asking the Commission to endorse the following specific recommendations to Congress.

9. Except for compliance with the Federal Communications Commission (FCC) registration requirements, EFT terminal equipment should not be regulated by either state or federal communications regulatory agencies;

10. Only the underlying communications transmission and distribution (transparent) facilities used with EFT systems should continue to be regulated by appropriate state and federal communications regulatory agencies and only to the extent they are provided by first level established or specialized common carriers;

11. EFT system services and related terminal equipment should not be offered

[1] EFT and the Public Interest, Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (stock No. 048–000–00296–0).

[2] "Central to all of the Commission's inquiries has been a recognition that the consumer's interests are primary in all regulatory, legislative, and policy decisions affecting EFT, and the consumer's interests must be reflected in such decisions. The consumer's interests are considered by the Commission to be the most critical factor in all it's recommendations. Also of central importance to the Commission's work has been the belief that competition and the free market system afford the consumer the most diverse choices at the least cost.", ibid., p. xii.

under tariff by regulated communications common carriers. If offered by companies which also provide regulated communications common carrier services, and/or terminal equipment should be offered only through a separate arms-length unregulated subsidiary. Legislation should be adopted which would permit AT&T to establish such a separate subsidiary, notwithstanding the restriction of the 1956 Consent Decree or current FCC rules.

12. It is premature to establish federally mandated standards for EFT terminals and systems. At the same time, interface standards and communication protocols used by EFT equipment manufacturers who achieve a dominant position in the EFT market must be made publicly available in a timely fashion.

II. INTRODUCTION

13. Uncertainties in regulations, standards, and other factors have tended to retard EFT developments. These uncertainties may artificially hold back technological development, add unnecessary costs to EFT systems, and limit the variety and scope of EFT offerings. Future EFT developments will likely be fragmented by geographical areas and more costly if resolutions to these uncertainties are not found. Furthermore, allegations have been made that the present market structure has created anti-competitive problems that could also present artificial obstacles to EFT development. Therefore, the Suppliers Committee has found it necessary to examine the alternatives which are available to resolve the problems which arise from these uncertainties and make the appropriate recommendations to Congress. In order to understand the alternatives which are available, it is necessary to understand the basic structure of the two industries which are competing for the EFT market, the unregulated data processing industry (consisting of both equipment manufacturers and service bureaus) and the regulated communications industries.

III. MARKET STRUCTURE

14. Twenty-five years ago it was simple to differentiate between the data processing industry and the telecommunications industry. The data processing industry supplied hardware, such as a central processing unit (CPU) and various peripherals. These devices were collocated and performed data processing in a batch mode, that is, work was physically brought to the computer room by the user. Some manufacturers also provided data processing services through wholly-owned service bureaus.

15. Even then, the basic technology—relays and vacuum tube switches—being utilized by both the data processing industry and the telecommunications industry was the same. Engineers, called logic designers, designed both the central circuit switches being utilized by the common carriers (telephone companies) and the CPU's and peripherals of the computer industry.

16. The primary difference between the two industries was not technology but function. The common carriers traditionally provided the wherewithal for communications and the computer manufacturers provided data processing equipment. But one other major difference existed—the communications industry was regulated as to entry, exit, and pricing and the data processing industry was not.

17. The entire communications industry was regulated by the Federal Communications Commission under the Communications Act of 1934 primarily because communications in 1934 was deemed to have the characteristics of a natural monopoly[3] and, therefore, subject to regulation for the public good.

18. The FCC's jurisdiction was limited to interstate communications, while each state brought intrastate communications under regulation through a state regulatory agency.

19. Over the last twenty-five years there has been a restructuring of both industries through antitrust proceedings, changes in regulatory policy, and rapid technological development.

20. The initial restructuring took place in 1956 when the dominant company in the data processing industry (IBM) and the dominant company in the telecommunications industry (AT&T) entered into Consent Decrees to settle antitrust suits initiated by the U.S. Department of Justice.

21. The principal provision of IBM's Consent Decree[4] was that IBM was required to operate its data processing service business as a separate subsidiary. The principal provision of AT&T's Consent Decree[5] was that AT&T agreed to limit its activities to providing only common carrier communications services. This provision became one of the principle deterrents to AT&T's entering the data processing marketplace as a supplier.

22. The decade following 1956 was marked by rapid technological growth in both the data processing and communications industries. The advent of the transistor drastically changed the size and speed of computers and communications switches. With the advent of computerized airline reservation systems the era of on-line, real time data processing had begun and computers were utilized extensively in telecommunications networks. It became increasingly difficult for the FCC to determine which services and products of common carriers should be regulated and which should not. This situation led in 1966 to the first Computer Inquiry.[6] Several years later the FCC published rules defining the role of common carriers in data processing.[7]

23. The last decade has been a period of even more rapid growth and change. Advances in technology (micro processors) and data communications utilization (distributed processing) have caused a further blurring of the distinction between communications and data processing. It is no longer certain which services should be regulated as communications services. This phenomenon has caused the FCC to reopen the Computer Inquiry.[8] Nowhere is the problem more evident than in existing and emerging electronic fund transfer (EFT) systems.

24. IBM has been, and is, the defendent in several antitrust proceedings.

[3] "Natural monopoly occurs when economies of scale are so extensive relative to the size of the market that only one firm can operate efficiently within the bounds of market demand. Remedy by means of the structural modifications intended to create competitive conditions is impossible. Instead, direct regulation, under the rubric of 'public utility' regulation has been utilized." Almarin Phillips, "Promoting Competition in Regulated Markets," Brookings Institution, 1975. One of the most unfortunate phrases ever introduced into law or economics was the phrase 'natural monopoly'. Every monopoly is a product of public policy. No present monopoly, public or private, can be traced back through history in a pure form. (N)atural monopolies in fact originated in response to a belief that some goal, or goals, of public policy would be advanced by encouraging or permitting a monopoly to be formed, and discouraging or forbidding future competition with this monopoly." James R. Nelson, "The Role of Competition in the Regulated Industries" 11 "The Antitrust Bulletin" 1,3 (Jan.-Apr., 1966).

[4] *U.S. v. IBM*, 1956 "Trade Cases," pp. 68, 245 (S.D.N.Y., 1956) amended, Civil No. 72–344 (S.D.N.Y. 1963 and 1970).

[5] *U.S. v. Western Electric*, 1956 "Trade Cases," par. 68, 246. "The defendant AT&T is enjoined and restrained from engaging either directly, or indirectly through its subsidiaries other than through Western and Western's subsidiaries, in any business other than the furnishing of common carrier communications; * * *" Western Electric, the manufacturing subsidiary of AT&T, is also "enjoined and restrained from engaging, either directly or indirectly, in any business not of a character or type engaged in * * * for (the operating) companies of the Bell System* * *".

[6] Regulatory and policy problems presented by the interdependence of computer and communication services and facilities, 28 FCC 2d. 267, (final decision and order, 1971). 28 FCC 2d. 291 (tentative decision, 1970).

[7] 47 CFR 64.702 (1976). The "computer rules" which were adopted as a result of the first computer inquiry, require that communications common carriers offer data processing services only through separate arms-length subsidiaries, modeled after the 1956 IBM consent decree limitation on The Service Bureau Company. See Gilchrist and Wessel, "Government Regulation of the Computer Industry," (1972). "Arms-length" in this context requires a separate board of directors, separate books, capitalization and identifiable payments to the parent corporation for shared research and development, marketing, legal services, and lobbying expenses. Provisions of the "final" computer rules which prohibited dealings between the carrier and its data processing subsidiary were struck down on court appeal. *GTE Service Corporation v. FCC*, 474 F. 2d 724 (1973).

[8] "In the Matter of Amendment of § 64.702 of the Commission's rules and regulations", 61 FCC 2d. 103 (August 9, 1976). The inquiry was significantly modified by an additional notice, released March 8, 1977, 42 FR 13029 (March 8, 1977).

Some have been initiated by private companies, others by the U.S. Department of Justice.[9] Since the second Department of Justice antitrust suit was filed in 1969, two major companies have abandoned the computer field.[10] In spite of this fact, and in spite of the problems which have spawned all of the antitrust litigation, there are more companies competing in the data processing industry today than ever before.[11] This is primarily due to the rapidly changing technology.

25. AT&T today is also engaged in both private [12] and government antitrust action.[13] Also, because of new technology and FCC policy, it is facing more competition in non-monopoly service offerings than ever before.

26. Communications facilities and services are now provided by or are capable of being provided by a variety of entities: Telephone companies [14], specialized common carriers who own their own facilities [15], and resellers who broker or add value to facilities obtained from other communications common carriers (underlying carriers).[16] While these entities vary greatly in size and services offered, they have one thing in common—regulation. Regulation affects entry into and exit from markets, pricing, an entity's ability to raise money, and in some cases corporate structure.[17] In some cases a communications user may provide its own private facilities or may share facilities with other users. While these arrangements are not directly regulated as common carrier offerings, they too are affected by regulation.

27. The last decade has also seen the emergence of consumer oriented electronic funds transfer systems and services. Together, these two industries—data processing and communications—provide the infrastructure for EFT systems and services.

28. For several years depository institutions and retailers have been installing proprietary EFT systems utilizing both attended and unattended terminals. These systems have been assembled from computer equipment manufactured by both large and small manufacturers. This equipment has been connected using phone lines provided by regulated communications common carriers under existing state and federal tariffs.

29. Systems are now being developed involving several depository institutions. In some cases these systems are assembled by connecting several proprietary systems of the type outlined above. The mechanism that accomplished this interconnection is called a switch.

30. A switch is nothing more than a computer programmed to perform the communication function of routing messages to their proper destination. In addition, in an EFT system the computer, which is the switch, usually performs data processing functions such as settlement and provision of an audit trail for transactions. It is also possible to configure a system where the terminals communicate directly with the switch and the switch communicates with the computers of the various depository institutions.

31. For all configurations, the entire system, consisting of terminals, switch and depository institution processing centers, can be assembled using equipment obtained from data processing equipment manufacturers and tariffed communications lines provided by regulated carriers.

32. The equipment for these systems can be procured from one supplier, such as IBM, NCR or Burroughs, or can be procured from any number of different suppliers. The ease with which the latter approach can be pursued depends on the level of compatibility among the suppliers.

33. It is also possible to assemble an EFT system utilizing terminals and message services provided under tariff by AT&T. AT&T offers EFT terminals for use in conjunction with the dial network which are tariffed in forty-eight (48) states. These terminals are called Transaction Telephones. In 1976 AT&T introduced Transaction Network Service consisting of a new EFT terminal (Transaction III) and message switching services. TNS has a terminal communications protocol and polling technique which is different from those presently used by the data processing industry. Thus, other manufacturers must modify their existing terminals if they wish to be compatible with TNS.

34. TNS can interface with existing telephone plant and equipment. Therefore Transaction I and II telephones and the dial network can be utilized in conjunction with TNS. However, the message switch is self contained and unique to TNS and does not depend on existing switching gear in the telephone system. Also, TNS does not provide settlement or audit trail features.

35. Other entities in the data processing industry, such as service bureaus, are either providing or capable of providing EFT services in conjunction with financial institutions. Likewise, communications common carriers, other than AT&T, are capable of providing more than just the basic circuits necessary to interconnect EFT equipment. Communications regulation has a definite impact on all entities presently offering EFT terminals, systems and services.

36. Changing technology is not only reducing the cost of communications and data processing, but also the way in which data communications and data processing are conducted. The net effect on EFT is that some services which are not cost effective today may be cost effective tomorrow and that any one of a number of entities may be able to provide EFT services.

IV. Problem Areas

37. EFT is developing in a market environment in which unregulated data processing companies, to a degree, compete directly with regulated communications carriers; where it is it is virtually impossible to determine a priori whether or not an EFT network or service will be subject to both financial and communications regulation and whether the outcome of current litigation may alter the structure of both the data processing and communications industries. This market structure has created several problem areas for the development of EFT.

38. At the Commission's Hearings in December, there were many allegations

[9] "U.S. v. IBM", (Civil Action No. 69–200, S.D.N.Y.) was filed in 1969. The only private suit which has proceeded to trial and decision was *Telex v. IBM*, 510 F. 2d 894 (10th Cir. 1975), although a settlement was reached prior to Supreme Court consideration of the petition for certiorari.

[10] RCA and General Electric.

[11] "The Director of Vendors contains • • • 430 companies that offer a wide range of products and services of interest to banks and thrift institutions", "Datapro Reports on Banking Automation", 1976.

[12] These cases have been brought by equipment manufacturers, specialized common carriers, radio-telephone carriers, and cable television companies. Such cases tend to drag on for years until out of court settlements are reached. On the complexity and expense of antitrust litigation generally, see Kinter, "An Antitrust Primer", 2d Edition, MacMillan, 1973, p. 138.

[13] The government antitrust suit seeks divestiture of Western Electric, the AT&T Long Lines Division, and parts of Bell Labs, from the parent company. *U.S. v. American Telephone and Telegraph Company*, Civ. Action No. 74–1698 (D.D.C., filed Nov. 20, 1974).

[14] There are 23 Bell operating companies and about 1600 independent telephone companies, most of which are relatively small, although some larger companies are owned by General Telephone and Electric. All of these telephone companies are interconnected for long-distance service by AT&T Long Lines—although a recently initiated ComSat General Corp. satellite system now connects the GTE companies while by-passing the Bell Long Lines system of land-based microwave relay towers and cables.

[15] A new class of intercity telecommunications supplier, created by a FCC 1971 decision. They build terrestrial and/or satellite microwave facilities to provide "private line service" to large business users in competition with AT&T. The SCCs include Microwave Communications Inc., Southern Pacific Communications, Inc., RCA Global Communications, among others.

[16] "Resale carrier" is a new nomenclature for a company which leases circuits from an "underlying carrier" and adds additional equipment to offer new communications services, such as "packet-switching" for data transmission. Another application has been facsimile transmission of documents and graphic information. These new companies have often been called "value-added" carriers. Among the first of this new class of carrier are Telenet and Graphnet. The manner in which these companies are to be regulated, or left alone as shared systems, and the borderline between the two are now a subject of *AT&T et al. v. FCC*, (No. 77–4057, et. al. 2nd Cir.). The case has raised special concerns in the computer industry which fears that remote data processing services now unregulated may now become subject to regulation.

[17] See Draft Internal Working Document 45 entitled "The Effect of Existing Law and Regulation on the offering of Telecommunication Services" for more detailed discussion.

made about anti-competitive practices which arise when an unregulated industry competes with a regulated industry. While an unregulated industry has advantages such as the freedom of entry and exit from a market and the ability to set prices unilaterally, this is offset by the possibility that the regulated company can cross-subsidize its competitive products or services with profits from its monopoly products and services.

39. According to testimony before the Commission, the competitive products and services could actually be tariffed below cost by the regulated company until the products and services offered in competition disappeared from the marketplace. At that point, the tariffs would be increased to reflect costs and to maximize the rate of return. Specifically, in the case of EFT, the regulated industry involved is the communications industry and the companies are the common carriers.

40. The data processing industry has alleged that other predatory marketing practices could be used by common carriers to enhance their EFT offerings. Since common carriers supply the underlying circuits which financial institutions and others must utilize to interconnect the equipment sold and leased by computer equipment manufacturers to create EFT networks, they could adversely price or limit the availability of those underlying circuits.

41. Also, it has been alleged that there are inequities in the depreciation schedules imposed by the regulators of common carriers which result in artificially low tariffs for products and services competitive with those offered by the data processing industry. It has been further alleged that common carriers are bundling their monopoly services with their competitive EFT offerings and are including data processing as part of their tariffed offerings (in violation of the Consent Decree).

42. Another problem brought before the Commission was that companies dominating the data processing and communications industries may create de facto standards for some of the essential elements of an EFT system such as equipment interfaces and communications protocols. At present there are few universally accepted standards for the various elements of EFT. Whether these standards should evolve through the voluntary standards-making process, be determined by dominant companies in the market, or be mandated by government remains an important question of public policy.

43. In investigating these problem areas, the Suppliers Committee has uncovered another problem area involving communications regulation. It is unclear whether or not EFT systems will be regulated by communication regulatory agencies. As has been indicated earlier,[18] the FCC regulates communications but not data processing and communication system resellers but not communication system sharers. The principal criteria for differentiating between resellers and sharers are whether or not, under present FCC definitions, the service being provided is more data processing or more communications and whether or not the entity providing the service intends to make a profit on that part of the service which is defined as communications. Therefore, financial institutions who offer EFT services may also find that under present law the EFT networks they put together are subject to regulation by state and federal communications regulatory agencies.

44. Furthermore, because of the structure of the banking industry and the laws governing it, existing consumer oriented EFT networks are only being assembled on an intrastate basis and therefore have not been subject to examination by the FCC. This is also true of AT&T's Transaction Network Service.

45. However, the NCEFT has recommended that financial institutions be permitted to deploy EFT terminals across state lines and that the consumer can use his debit card to access his funds anywhere.[19] If Congress enacts legislation to that effect, both proprietary and shared systems could become interstate in nature and therefore subject to FCC review and, possibly, to FCC regulation.

V. Policy Alternatives

46. As described above, both existing and proposed communications regulatory policies have an impact on the future configuration of EFT networks. Providers should be free to offer services without encountering price or service differentiation from established carriers or the necessity for compliance with the laws governing communications common carriers. This section discusses various options which may be chosen to minimize the effect of these policies on EFT, and to avoid unfair competition between the regulated common carrier and the unregulated equipment supplier.

47. One policy alternative is to maintain the status quo. Basically this means that solutions for the various problems brought to the attention of the NCEFT will be left to present regulatory or antitrust processes.

48. There is no evidence to indicate that maintaining the status quo will solve any of the aforementioned problems in sufficient time to eliminate them as obstacles to the development of EFT systems and services.

49. The FCC took 52 months from the opening of the first Computer Inquiry docket to the publication of its final decision. Within 6 years the FCC found it necessary to initiate a new Computer Inquiry docket which is still open for comment. Based on historical evidence, it will be years before a final decision is reached if it is indeed possible to separate data processing from communications at all.[20]

50. Also, there is historical evidence to indicate that antitrust enforcement does not provide time effective solutions to competitive problems involving firms with very large well-established market positions. In a period of technological change, artificial impediments to developing technology such as the slow and sometimes ineffective regulatory processes are best avoided.

51. Furthermore, maintaining the status quo would preclude AT&T from offering data processing services and equipment. In an area such as EFT where it is now difficult to separate data processing from communications, AT&T might not be free to enhance TNS or provide it on an interstate basis. The EFT market could be deprived of a significant source of innovation.

52. Another drawback to maintaining the status quo is that the Communications Act is not relevant to current technology and requires regulation of all communications common carriers—including resellers who construct nothing.

53. Lastly, the status quo environment subjects some suppliers to regulation while not imposing the same burden on others. Therefore, the Commission does not feel that maintaining the status quo is a satisfactory policy alternative.

54. Another policy alternative would be to subject all offerers of EFT services and equipment to federal communications regulation. Aside from the fact that this alternative appears to be contrary to the NCEFT's mandate,[21] it would appear to resolve some of the problems outlined above. Today, large regulated companies can seek tariffs on a state-by-state basis where most regulatory agencies are ill-equipped to deal with a filing of such complexity and magnitude. Federal communications regulation could accomplish uniformity of accounting procedures and marketing practices and could mandate communications standards which would foster interchange in EFT systems. However, complying with regulation can be expensive to both in-

[18] See paragraph 26.

[19] See chapter 3, "EFT and the Public Interest, op. cit."

[20] See footnote 6.

[21] "The Commission shall conduct a thorough study and investigation and recommend appropriate administrative action and legislation necessary in connection with the possible development of public or private electronic fund transfer systems, taking into account, among other things—

(2) The need to • • • assure Government regulation and involvement or participation in a system competitive with the private sector be kept to a minimum • • •

(8) The implications of such a system expanding • • • into other forms of electronic communications; • • •

(9) The need to protect the legal rights of users and consumers.", Pub. L. 93–495, October, 1974.

dustry and government.[22] Subjecting emerging EFT systems to communications regulation does not appear to be necessary. Also, at this time consumer oriented POS systems have not exhibited the characteristics of a natural monopoly that would call for such regulation.[23]

55. Therefore, unnecessary federal communications regulation of market structure and competition may present more problems than it solves.

56. This brings us to the final policy alternative of minimizing regulation and enhancing the strengths of the competitive marketplace through legislation. First, it must be determined which elements of an EFT system must be regulated.

57. Traditionally, elements of an industry that have not been influenced by effective competive pressures often have been regulated. In the past this has included local exchange and message toll services (the public dial-up network), as well as local distribution of leased lines. Although these services are generally thought to be natural monopoly today, the rapidly changing technology may alter that perception in the future. It is beyond the scope of the NCEFT to determine whether or not leased circuits that are now subject to competition should continue to be regulated. However, as these circuits are the basic infrastructure of EFT systems, they should be available on an equitable basis under the same terms and conditions to all providers and suppliers of EFT systems.

58. The Commission has found no justification for tariffing EFT terminals at either the state or federal levels. The intent of this is not to exclude any supplier of EFT terminals from access to the market. Common carriers should be free to develop and market EFT terminals in competition with computer equipment manufacturers. The FCC has determined that common carriers should participate in data processing only through separate arms-length subsidiaries. The Consent Decree of 1956 has been interpreted to mean that AT&T cannot have such a subsidiary. This closes the door on an important source of innovation in EFT from a large market force. New legislation should be enacted to remove that barrier.

59. Having come to that conclusion, it must still be recognized that these terminals interface with the public network—both dial-up and leased line. Therefore, these terminals should still be regulated in that regard. The FCC has established a registration program [24] to ensure that equipment interfacing with the public network does not harm the network. EFT terminals should be certified by the FCC's registration program or be required to interface with the network through a protective device furnished by the carrier.

60. EFT systems may also include components such as concentrators, multiplexers, modems, switches and other equipment necessary to the implementation of any data communications network. Just like terminals, some system components are available as tariffed offerings from common carriers or through purchase or lease agreements from other equipment manufacturers. Following the same line of reasoning that was used for EFT terminals, these system components should not be provided through tariff but should comply with the FCC registration program as necessary.

61. It also follows that EFT systems which are put together utilizing the above components should not be regulated by communications regulatory commissions, either state or federal, since the underlying circuits are already regulated. No one should be restricted from offering such systems. This provision should hold regardless of whether the system falls under the heading of resale or shared as currently defined by the FCC. If common carriers choose to offer EFT systems, they should be offered only through the same separate, arms-length, unregulated subsidiary (as described above for terminals) or possibly through another separate subsidiary altogether.

62. The problem of de facto standards is a difficult one. Mandating standards would be contrary to achieving flexibility while de facto standards are alleged to be anti-competitive. Because EFT is in such an early state of development and because setting equipment standards prematurely might stifle innovation, mandating standards is not the desired course of action at this time. To minimize the problem of de facto standards, any company which achieves a dominant position in the EFT market should be required to publish any interface and protocol standards being utilized by them which are at variance with ANSI standards. Likewise, at any time these company standards are changed, the changes should be published. In order to assure maximum lead time for other manufacturers to design compatible equipment, these standards should be published when they are certified for use within the dominant company. This provision should apply only to standards necessary to achieve interconnection of equipment and not the proprietary designs which affect the performance of the equipment itself.

63. Assuming that the policy alternative of maximizing flexibility and enhancing the competitive marketplace is the desirable approach, action by Congress is needed.

64. The primary obstacle to implementing this alternative is the fact that AT&T has already tariffed EFT terminals and services and cannot, in today's environment, offer them through an unregulated subsidiary. Congress should enact legislation which modifies the 1956 Consent Decree and the FCC computer rules to permit the creation of this unregulated, arms-length subsidiary.

65. This legislation must also preempt the role of the states in tariffing EFT terminals and services. EFT is not inherently intrastate in nature. In addition, Congress must legislatively resolve the legal controversy over the FCC registration program and exempt offerers of EFT systems and services from FCC regulation as value added resellers.

66. And finally, Congress should enact legislation requiring that companies which achieve a dominant position in the EFT marketplace must provide sufficient technical information in a timely manner to enable other manufacturers to interconnect their equipment with the equipment manufactured by the dominant suppliers.

WILLIAM B. WIDNALL,
Chairman.

MAY 17, 1977.

[FR Doc.77-14402 Filed 5-18-77;8:45 am]

[22] "Although the total budget of the major regulatory agencies (nearly $4.7 billion in fiscal year 1975) is small compared with the combined federal budget ($235 billion in fiscal year 1975), it does not reflect the costs incurred by private participants in the regulatory process nor the gargantuan costs—and, presumably, benefits—imposed on the private sector by agency decisions." William Lilley III and James C. Miller III, "The New Social Regulation," "The Public Interest," No. 47, Spring 1977, National Affairs, Inc., New York, pg. 49.

[23] A major examination of this to date reaches the same conclusion. See Baxter, Cootner and Scott, "Retail Banking in the Electronic Age," Chapter 6, Allanheld, Osmun & Co., Montclair, New Jersey, 1976.

[24] The FCC's registration requirement does not apply to a completely dedicated intrastate private line system which cannot access any interstate network. The FCC registration program requires the registration of protective circuitry or the complete terminal device with the FCC pursuant to recently adopted standards and procedures.

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups and of the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published in FR Vol. 42, April 21, 1977, page 20691. Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FR approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancelled or rescheduled, or whether changes have been made in the agenda for the June 9–11, 1977 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202–634–1374, Attn: Mary E. Vanderholt) between 8:15 a.m. and 5 p.m., EDT.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Reactor Fuel*, May 20, 1977, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff to discuss a variety of subjects pertaining to reactor fuels including, for example, fuel surveillance and effects of fission gas release rates for burnup of 20,000 MWD/T. Notice of this meeting was published in the FEDERAL REGISTER on May 5, 1977, page 22965.

Electrical Systems, Control and Instrumentation, May 20, 1977, Windsor, CT. The Subcommittee will meet with representatives of the NRC Staff, Combustion Engineering (CE) and the Arkansas Power and Light Company (AP&L) to hold a generic discussion with NRC and CE representatives regarding proprietary information on the CE Core Protection Calculator System (CPCS), and to discuss proprietary information with AP&L regarding the application of the CPCS to the Arkansas Nuclear One, Unit 2, Nuclear Power Plant. Notice of this meeting was published in the FEDERAL REGISTER on May 5, 1977, page 22956.

**Fluid/Hydraulic Dynamic Effects*, May 25–26, 1977, Los Angeles, CA. The Subcommittee will meet with representatives of the NRC Staff, Combustion Engineering and Westinghouse to discuss the effects of blowdown loadings on reactor pressure vessels and their supports under severe accident conditions and, also, water hammer effects. Notice of this meeting was published in the FEDERAL REGISTER on May 9, 1977, page 23566.

ACRS–RSK, May 31, June 1 and June 3, 1977, Cologne, Germany. Representatives of the ACRS will meet with representatives of the Reaktor-Sicherheitskommission (RSK) of the Federal Republic of Germany to discuss items of mutual interest related to nuclear safety and regulation.

**General Atomic Standard Safety Analysis Report (GASSAR–6)/Gas-Cooled Fast Breeder Reactor (GCFBR)*, June 1–2, 1977, San Diego, CA. Postponed to July 11–12, 1977, Washington, DC.

**Regulatory Activities*, June 8, 1977, Washington, DC. The Subcommittee will meet to review working papers, future Regulatory Guides, and changes to existing Regulatory Guides; also, to discuss pertinent activities which affect the current licensing process and/or reactor operations.

**Fire Protection Working Group/Regulatory Activities Subcommittee Joint Meeting*, (tentative) June 8, 1977, Washington, DC. The purpose of this meeting is to continue the review of Rev. 1 to Regulatory Guide 1.120, "Fire Protection Guidelines for Nuclear Power Plants."

**Reactor Safety Research*, June 16, 1977, Denver, CO. The Subcommittee will meet with representatives from the Energy Research and Development Administration and from NRC to discuss current plans and programs for research associated with advanced reactors.

**Diablo Canyon Nuclear Station, Units 1 and 2*, June 21–23, 1977, Los Angeles, CA. The Subcommittee will meet to continue its review of the seismic design and other aspects of the application of the Pacific Gas and Electric Company for an operating license.

**Arkansas Nuclear One, Unit 2*, June 24, 1977, Russellville, AR. The Subcommittee will meet to review some of the site-related portions of the application of the Arkansas Power and Light Company for a license to operate the plant.

**San Joaquin Nuclear Project*, June 24, 1977, Los Angeles, CA. The Subcommittee will meet to review a limited number of items related to the suitability of the San Joaquin site. These items include hydrology, geology and seismology, and seismic input.

**Reactor Safety Study Working Group/Siting Evaluation Subcommittee Joint* Meeting, June 27, 1977, Washington, DC. The Working Group and the Subcommittee will meet to discuss the assumption of various degrees of fission product release (as described in WASH–1400) as they affect emergency plans and design features.

**Fluor-Pioneer Balance of Plant Standard Safety Analysis Report (BOPSSAR)*, June 28, 1977, Washington, DC. The Subcommittee will meet to review the application of Fluor-Pioneer for preliminary design approval of their proposed standard balance-of-plant design (BOPSSAR).

**Decommissioning of Nuclear Plants*, June 29, 1977, Washington, DC. The Subcommittee will meet to review current plans for decommissioning nuclear power plants. (This meeting was postponed from May 11, 1977.)

**Black Fox Station, Units 1 and 2*, June 30, 1977, Tulsa, OK. The Subcommittee will meet to review the application of the Public Service Company of Oklahoma for a permit to construct Units 1 and 2.

**Electrical Systems, Control and Instrumentation*, June 30, 1977, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff, Combustion Engineering (CE), and the Arkansas Power and Light Company (AP&L) to continue its review of the CE Core Protection Calculation System (CPCS). The Subcommittee may also discuss information concerning the application of the CPCS to the Arkansas Nuclear One, Unit 2, Nuclear Power Plant.

**General Atomic Standard Safety Analysis Report (GASSAR–6)*, July 11, 1977, Washington, DC. The Subcommittee will meet to review the application by the General Atomic Company for preliminary design approval of the General Atomic Standard Safety Analysis Report (GASSAR–6).

**Gas Cooled Fast Reactor (GCFR)*, July 12, 1977, Washington, DC. The Subcommittee will meet with representatives of the NRC Staff and the General Atomic Company to hear a status report on the development of a design for a gas-cooled fast breeder reactor.

**Regulatory Activities*, July 13, 1977, Washington, D.C. The Subcommittee will meet to review working papers, future Regulatory Guides, and changes to existing Regulatory Guides; also, to discuss pertinent activities which affect the current licensing process and/or reactor operations.

**Fire Protection Working Group/Regulatory Activities Subcommittee Joint Meeting*, July 13, 1977 (tentative, providing meeting is not held June 8) Washington, DC. The Working Group and Subcommittee will meet to continue the review of Rev. 1 to Regulatory Guide 1.120, "Fire Protection Guidelines for Nuclear Power Plants."

**Waste Management*, July 19–20, 1977, Richland, WA. The Subcommittee will meet to review current Energy Research and Development Administration (ERDA) Waste Management Plans and to be briefed on the American Physical Society Report on Radioactive Waste Management. Members of the Subcommittee will visit the ERDA waste solidification facilities on July 20.

**Hypothetical Core Disruptive Accident for Fast Reactors*, July 21–22, 1977, Los Alamos, NM. The Working Group will meet with representatives of NRC, the Energy Research and Development Administration, and the Los Alamos Scientific Laboratory to discuss the development of the SIMMER Code (S_n Implicit Multifield Multicomponent Eulerian Recriticality Code) to model hypothetical core disruptive accidents for advanced reactor designs.

**Green County Plant*, Week of July 25, 1977 (tentatively July 28), Albany, NY. The Subcommittee will meet to review the application of the Power Authority of the State of New York for a permit to construct the Green County Nuclear Power Plant.

**Babcock and Wilcox Water Reactors*, July 26, 1977, Washington, DC. The Subcommittee will meet to review the Babcock and Wilcox Standard Plant Design (BSAR–205).

**Siting Evaluation*, July 28–29, 1977, San Francisco, CA. The Subcommittee will meet to discuss the NRC Reactor Siting Policy as it pertains to the evaluation of alternate site locations. This will be a continuation of a series of discussions held with the NRC Office of Standards Development to review and revise the current policy, rules, and regulations on reactor siting.

FULL COMMITTEE MEETINGS

JUNE 9–11, 1977

A. *Zion Generating Station, Units 1 and 2—Operating License Review.

B. *Shippingport Atomic Power Station—Reactor Operation.

JULY 14–16, 1977

Agenda to be announced.

Dated: May 17, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-14431 Filed 5-18-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON FLUID/HYDRAULIC DYNAMIC EFFECTS

Meeting; Additional Information

The meeting of the ACRS Subcommittee on Fluid/Hydraulic Dynamic Effects scheduled for May 25–26, 1977, announced in the FEDERAL REGISTER, May 9, 1977, page 23566, will be held at the Quality Inn/Airport, 5249 W. Century Blvd., Los Angeles, CA 90045.

The agenda for Thursday morning, May 26, 1977, has been changed as follows:

9 A.M.–11 A.M. (OPEN)

The Subcommittee will meet with representatives of the NRC Staff, and their consultants, to discuss the analyses of blowdown loadings on reactor pressure vessels and their supports under severe accident conditions for individual plants.

11 A.M.–12 NOON (OPEN)

The Subcommittee will meet with representatives of the NRC Staff and Babcock and Wilcox (B&W) to discuss the status of B&W's analysis of the asymmetric load problem.

All other matters pertaining to the meeting remain the same.

Dated: May 12, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-14262 Filed 5-18-77;8:45 am]

[Docket No. PRM-50-12]

ATLANTIC COUNTY CITIZENS COUNCIL ON ENVIRONMENT

Denial of Petition for Rule Making

By letter dated June 19, 1974, the Atlantic County Citizens Council on Environment (ACCCE), 2 Old Turnpike, Pleasantville, New Jersey, petitioned the U.S. Atomic Energy Commission[1] to amend its regulations in 10 CFR Part 50 to require full scale operational system testing of pilot model or prototype versions of nuclear power plants, in the configuration they are expected to be employed in situ, prior to licensing for production manufacture wherein it is evident that such plants are to be assembly line manufactured, mass produced, or otherwise turned out in substantial quantity for distribution on a wide scale. The petitioner recommended that the license to manufacture, in such cases, be limited to a pilot model or prototype until systems operations testing has been successfully completed. The petitioner suggested also that the amendment be made to Section XI, test control, of Appendix B of 10 CFR Part 50.

The basis for this request is the ACCCE conviction that the different circumstances of the OPS type application,[2] in terms of likely proliferation and widespread implementation of future assembly line or mass production methods for construction of the nuclear power plants, warrants more extensive or full scale operational testing of a pilot model or prototype version than has been accorded individual or single sited land based plants. While the petitioner is primarily concerned with the floating nuclear plants, the discussion in this notice may be considered to apply to all plants licensed under Appendix M of 10 CFR Part 50.

A notice of filing of petition for rule making was published in the FEDERAL REGISTER on August 9, 1974 (39 FR 28662). The comment period expired on October 8, 1974 and was extended to November 7, 1974 at the request of the ACCCE as noted in the FEDERAL REGISTER on October 3, 1974 (39 FR 35700). Sixty-five interested parties have submitted comments regarding the petition, of which 62 supported the petition and 3 opposed the petition. Almost all the comments received from those supporting the petition expressed opposition to the proposed Atlantic Generating Station (Docket Nos. 50-477 and 50-478) and general concern over the safety of nuclear power plants. However, few of those supporting the petition addressed the specific issues that were raised by the petition.

The NRC has evaluated the need for full scale operational testing of pilot models or prototype versions of nuclear power plants in the context of the overall nuclear regulatory program, with particular emphasis placed on the testing and analysis aspects of the program. Before describing the Commission's program it would be worthwhile to briefly discuss the overall philosophy of nuclear power plant design verification. The primary purpose of design verification is to provide assurance that a nuclear power plant will perform according to expectations during all modes of operation, including accident modes, and under extreme environmental conditions.

There are different ways to accomplish design verification depending upon the information available and the particular application being considered. At the early stages of a developing technology, such as nuclear energy power development during the late fifties and early sixties, experimental prototypes are used to provide needed scientific and engineering information and to essentially "prove the principle" of the design. As the technology matures, and a broad base of experience and large body of engineering data is accumulated, experimental prototypes are no longer necessary to "prove the principle" and it becomes more advantageous to verify the design on the actual, as-built hardware. This is the present status of the nuclear power program. The proposed offshore floating nuclear plants, even with some novel features, do not represent basic new technology but are based on many years of experience with many power reactors and numerous harbors, ocean going tankers and ocean oil drilling rigs. Thus, rather than reliance on an experimental prototype for design verification, the NRC approach relies on a multifaceted program culminating in a detailed testing and qualification phase on the actual, as-built plant. It is felt that this approach provides the greatest assurance that the public will be protected. The salient features of the NRC regulatory program that pertain to the subject of the petition are described in the following paragraphs.

A paramount purpose of the NRC's regulatory program is the protection of both the public health and safety and the environment. This purpose is achieved with a licensing and inspection program that governs a nuclear power plant throughout its lifetime, from initial siting and design through to decommissioning and ultimate disposal. This includes inspection during the manufacturing process to verify that the conditions of the license are being satisfied. The basic approach of the regulatory program relative to ensuring reactor safety may be described as one of "defense in depth". It essentially involves three levels of safety which may be described as follows:

1. First Level of Safety—Design and build the plant so that it will operate as intended with a high degree of reliability. The object is to prevent accidents through intrinsic features of the plant design including quality, redundancy, testability and inspectability of components.

2. Second Level of Safety—Despite the care taken under the first level of safety relative to design, construction and operation, it is assumed that safety problems still occur. Protective devices and systems are provided to assure that such incidents will be prevented, arrested or accommodated safely without harm to the operators, public or the plant. Extensive testing programs are carried out to verify that the protective systems function adequately.

3. Third Level of Safety—Provide additional safety systems as appropriate, based on evaluation of effects of hypothetical accidents, where some protective systems are assumed to fail simultaneously with the accident they are intended to control. This supplements the first two levels of safety through features which add margin to the plant design by providing protection to the public even in the event of the occurrence of extremely unlikely and unforeseen circumstances. Several severe hypothetical accident sequences, called Design Basis Accidents, are selected for this evaluation.

The NRC's regulatory program for the protection of the public health and safety involves numerous specific requirements related to the testing of nuclear power plants. For example, in the Commission's regulation, "Licensing of Production and Utilization Facilities," 10 CFR Part 50, paragraph (b)(6)(iii) of § 50.34, "Contents of applications; technical information," requires that the final safety analysis report, which is to be included with each application for a license to operate a facility, include plans for preoperational testing and initial operations. In Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," of 10 CFR Part 50, Criterion II, "Quality Assurance Program," requires that an applicant establish a quality assurance program that, among other things, takes into account "the need for verification of quality be inspection and test." Appendix B, Criterion XI, "Test Control," of the same appendix, requires that a test program be established which "shall include, as appropriate, proof tests prior to installation, preoperational tests, and operational tests during nuclear power plant or fuel reprocessing plant operation." Test procedures are to include provisions for assuring "that the test is performed under suitable environmental conditions."

Appendix A, "General Design Criteria for Nuclear Power Plants," requires that various structures, systems, and components important to safety be designed such as to permit appropriate periodic inspection and testing of their operability and functional performance.

Under the Commission's regulations relative to preoperational and initial startup testing programs for water-cooled nuclear power plants, an applicant is responsible for the development of suitable preoperational and initial startup test programs for its facility, the preparation of adequate procedures for carrying out the programs, the proper conduct of the test programs, and assuring the validity of the test results. The test programs typically include the following features:

(a) Simulation of equipment failures and control system malfunctions that could reasonably be expected to occur during the plant lifetime.

(b) Testing for interactions such as the performance of interlock circuits in the reactor protection systems.

(c) Tests conducted prior to fuel loading to demonstrate the capability of structures, systems, and components to to meet safety-related performance requirements. Included would be tests of the reactor coolant system, the reactivity control systems, the protection systems, the emergency core cooling systems, the radiation protection system and the radioactive waste system.

(d) Initial startup testing consisting of precritical tests, low-power tests (including critical tests), and power-ascension tests performed after fuel loading and before commercial operation. These tests confirm the design bases and demonstrate, where practical, that the plant is capable of withstanding the anticipated transients and postulated accidents.

The test programs are monitored by the NRC Office of Inspection and Enforcement by selective review of test procedures, examination of test results, and witnessing of tests.

The NRC emphasizes functional testing of finished systems in the fully assembled plant in order to provide real assurance of adequate design and construction for safety. Many months are devoted to preoperational testing. NRC verifies that deficiencies identified by the preoperational test program are corrected, or determines that the applicant's proposed corrections provide adequate assurance for the public health and safety, prior to approving fuel loading. A slow and careful approach to power is made. Then many months are spent in extensive programs of start-up tests to assure that all of the individual components function together properly as a system and do their required job. In addition to these preoperational and start-up tests the NRC requires that nuclear reactors be designed to permit the conduct of extensive testing during the life of the plant to verify continual capability of system operation.

A number of regulatory guides have been issued by the NRC staff that relate to the testing of structures, systems, and components. These guides include:

(a) Regulatory Guide 1.15, "Testing of Reinforcing Bars for Category I Concrete Structures"

(b) Regulatory Guide 1.22, "Periodic Testing of Protection System Actuation Functions"

(c) Regulatory Guide 1.30, "Quality Assurance Requirements for the Installation, Inspection, and Testing of Instrumentation and Electric Equipment"

(d) Regulatory Guide 1.41, "Preoperational Testing of Redundant On-Site Electric Power Systems to Verify Proper Load Group Assignments"

(e) Regulatory Guide 1.52, "Design, Testing, and Maintenance Criteria for Atmosphere Cleanup System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants"

(f) Regulatory Guide 1.68, "Preoperational and Initial Startup Test Programs for Water-Cooled Power Reactors"

(g) Regulatory Guide 1.68.1, "Preoperational and Initial Startup Testing of Feedwater and Condensate Systems for Boiling Water Reactor Power Plants"

(h) Regulatory Guide 1.79, "Preoperational Testing of Emergency Core Cooling Systems for Pressurized Water Reactors"

(i) Regulatory Guide 1.80, "Preoperational Testing of Instrument Air Systems"

(j) Regulatory Guide 1.108, "Periodic Testing of Diesel Generators Used as Onsite Electric Power Systems at Nuclear Power Plants"

(k) Regulatory Guide 1.118, "Periodic Testing of Electric Power and Protection Systems"

These regulatory guides are not regulations but reflect NRC staff judgments as to acceptable methods of satisfying the regulations.

A specific level of surveillance testing for safety-related systems is specified in the operating license for every reactor. NRC inspectors perform selective reviews of surveillance testing procedures and results and from time to time observe the conduct of tests to assure adequacy of such testing. Besides functional testing the NRC also requires qualification testing of individual components to assure adequate performance under all service conditions, especially those highly unlikely ones such as extreme environmental conditions and post-accident conditions that cannot be readily simulated in preoperational and start-up tests. In those cases where testing cannot be performed detailed analyses are required, using extremely conservative assumptions, to predict the behavior of structures, systems, and components important to safety. For example, in the case of an earthquake, qualification testing is combined with a very conservative analysis of earthquake motion to predict the structural behavior of the nuclear plant during the course of the earthquake.

The preceding sections have discussed the general aspects of the overall NRC regulatory program. In view of the concerns of the petitioner regarding the offshore floating nuclear plants, considerations relative to these plants will now be discussed.

Floating nuclear plants are essentially the same as land-based plants except for certain unique features associated with mounting the nuclear steam supply system on a floating foundation. The nuclear steam supply system is similar to those that have been previously licensed for land-based systems especially the McGuire Nuclear Station Units 1 and 2 (Docket Nos. 50-369 and 50-370), and the Catawba Nuclear Station Units 1 and 2 (Docket Nos. 50-413 and 50-414). The safety evaluations of these other facilities have previously been published and are available for public inspection at the Nuclear Regulatory Commission's Public Document Room described at the end of this Notice.

As mentioned above, major aspects of the floating nuclear plants are not unique and, as a result, much of the experience that was gained on land-based plants is directly applicable to the floating plants. The parts of the NRC program, relative to qualification testing of new components and preoperational and startup testing, as discussed previously, will continue to be applied in the case of the floating nuclear plants.

[1] The Atomic Energy Commission was abolished by the Energy Reorganization Act of 1974, which also created the Nuclear Regulatory Commission and gave it the licensing and related regulatory functions of the AEC.

[2] Application filed by Offshore Power Systems (OPS) (Docket No. STN 50-437) for a license to manufacture eight floating nuclear power plants under Appendix M of 10 CFR Part 50. This application is still undergoing NRC review.

The primary novel features of a floating nuclear plant to be located offshore are:

(a) A breakwater, if required, which protects the plant against storm generated waves and ships.

(b) A floating platform to support the nuclear power plant.

(c) A mooring system to restrict platform motion to acceptable levels.

(d) An environmental control system to control airborne salt, mist and fog and thus prevent the degradation of important safety systems.

(e) An electric power transmission system that utilizes a flexible connection at the plant and a high voltage cable embedded in the seabed.

(f) Vibratory motion which is different than that for land-based plants both as a result of overall platform rocking as well as machinery induced vibrations such as from the turbine generator.

These novel features are required to be design qualified. In addition to the usual extensive testing performed on all nuclear power plants, further emphasis is placed on assuring that the unique features of the floating plants function properly. This is done by requiring a combination of extensive detailed analyses, qualification testing, model testing, special system tests and verification tests to provide final assurance as to the functional capability of the features. The specific measures required will vary on a case-by-case basis depending, among other things, upon the features being considered and the different siting and environmental conditions. For example, extensive analysis is being required in the design of the breakwater. Impact calculations are required to be performed, using typical ship and breakwater parameters, to determine the ability of the breakwater to withstand a ship collision. In addition, scale model tests are being required in order to investigate ship collisions as well as to determine the effects on the breakwater of extreme storm conditions. Wind tunnel tests have been required to study the effect that different breakwater designs have on the wind loads produced on the nuclear plant.

The floating platform is also receiving much attention to assure its proper functioning. It has been designed utilizing experience gained in the design of ocean oil drilling rigs, oceangoing barges and supertankers. Detailed three-dimensional analyses are being required to assure adequate design. Furthermore, deflection and draft measurements are to be made during actual construction to verify that the design is adequate and nondestructive testing and visual inspections must be carried out after construction. Finally, special protective coatings will be required to be used to prevent corrosion in the splash zone and nonwetted areas while a cathodic protection system is to be used to prevent underwater corrosion.

Scale model tests are being required of the total floating system combining the platform, mooring system, mooring basin geometery and breakwater design to verify that the various parts interact properly. Model tests are also being required for different mooring system arangements, along with extensive analysis, in order to choose a final mooring system design.

The vibratory motion likewise is being treated as a special case for the floating nuclear plants. The dynamic testing and analysis techniques that will be used are receiving detailed review and approval by NRC. Extensive analyses must be carried out on the total turbine generator/turbine foundation/platform system to verify that the turbine is effectively decoupled from the platform. A preoperational dynamic effects test program will be required to measure the machinery induced vibrations similar to that developed during actual operations. Based on the test program, design modifications will be made as needed, with corrective restraints or other damping measures added, to assure that motions are within acceptable levels. Verification tests are to be performed to assure that the corrective measures were effective. Special turbine rotor deflection and bearing load tests are also planned to provide further assurance that the turbine will function properly. It should be emphasized that these tests will be performed on the actual, as-built floating plant at the manufacturing facility.

Summarizing, the NRC utilizes various techniques to verify the adequacy of a given design. These techniques include functional testing during the preoperational and startup phases, qualification testing of individual items, and surveillance and testing during the construction and operational phases. These testing techniques are combined with extremely conservative design analysis. The advantage of this philosophy of design verification is that it provides the greatest assurance that the specific power plant under consideration will function safely. On the other hand, the successful construction and operational testing of a pilot model or prototype version of a nuclear power plant will not guarantee the safe operation of a similar, but different, plant. Prototype testing can result in the testing of designs that are out-of-date and not representative of what is actually being installed. The NRC approach is an on-going approach which results in verification of the design of the plant actually being installed at the site. The land-based plants are the basic prototype for the floating nuclear plants and all the novel features of the floating plants will receive detailed case-by-case consideration, to assure safe and reliable operation.

The Commission has considered the petition for rule making as submitted by the ACCCE, as well as the comments that were received during the public comment period. The Commission agrees with the petitioner that the floating nuclear plants require extensive testing and that design qualification of these plants is needed. However, the Commission does not agree with the approach that full scale operational system testing of pilot models or prototype versions of the floating nuclear plants, in the configuration expected in situ, is the best way to meet this need. Rather, it is the opinion of the Commission that the previously described approach of detailed design qualification of each of the novel features on a case-by-case basis, along with the usual NRC procedures that are followed on all nuclear power plants, is more effective and will provide adequate assurance that the health and safety of the public will be protected. Adding an extra requirement for prototype testing is not likely to provide any significant increase in this assurance. The petitioners have not shown that the requested rule change would enhance the public health and safety or lessen the impact on the environment. The requested rule change would impede the licensing process and prove costly to the industry, both in time and money, without any corresponding benefit or improvement in the regulatory process.

Hence the Commission has decided to deny the petition for rule making.

A copy of the petition for rule making and copies of the letters of comment concerning the petition are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Washington, D.C., this 17th day of May 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-14430 Filed 5-18-77;8:45 am]

[Docket No. 50-254]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Facility Operating License No. DPR-29, issued to Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company), which revised the license and Technical Specifications appended thereto for operation of the Quad Cities Nuclear Power Station Unit No. 1 (the facility) located in Rock Island County, Illinois. The amendment is effective as of its date of issuance.

The amendment (1) authorized operation with additional 8 x 8 fuel assemblies, (2) incorporated revised MAPLHGR and MCPR limits in response to the plant specific analysis for reload 3, and (3) modified License Condition 3.C to reflect end-of-cycle scram reactivity conditions for reload 3.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 21, 1977, and a supplement thereto dated April 25, 1977, (2) Amendment No. 41 to License No. DPR-29, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Moline Public Library, 504 17th Street Moline, Illinois 60625. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this third day of May 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-14265 Filed 5-18-77;8:45 am]

[Docket No. PRM-50-20]

FREE ENVIRONMENT, INC., ET AL.

Filing of Petition for Rule Making

Notice is hereby given that Louis J. Sirico, Jr., Esquire, has filed with the Nuclear Regulatory Commission a petition for rulemaking dated April 25, 1977, on behalf of Free Environment, Inc.; Citizens United for Responsible Energy; the Iowa Public Interest Research Group; the Good News General Store Cooperative; the New Pioneer Cooperative Society; the Iowa Federation of Women's Clubs; the Women's International League for Peace and Freedom, Des Moines Branch; and Citizens for Environmental Action.

The petitioners request the Commission to amend its regulation "Licensing of Production and Utilization Facilities," 10 CFR Part 50, before proceeding with any processing of license applications for the Central Iowa Nuclear Project, to require that:

1. Nuclear reactors be located below ground level; and

2. Nuclear reactors be housed in sealed buildings, within which permanent heavy vacuums are maintained, and

3. A full-time federal employee, with full authority to order the plant to be shut down in case of any operational abnormality, always be present in a nuclear generating station; and

4. The Central Iowa nuclear project and other reactors be sited at least 40 miles from major population centers.

The petitioners refer to the petition for rulemaking (PRM-50-19) filed with the Commission on January 21, 1977, by the Connecticut Citizens Action Group, et al., for arguments and documentation to support this petition (PRM-50-20).

The petitioners state that:

> Briefly, the placing of reactors underground has been recommended by nuclear proponent Dr. Edward Teller and others; housing reactors in sealed buildings is practiced by Canada in CANDU reactors as a safety measure; placing a full-time Federal employee on the premises with authority to order a shutdown, and also locating reactors in sparsely populated areas, have been recommended by numerous citizens' groups, with the latter of these two being endorsed in non-binding NRC guidelines for reactor siting.

In the exercise of its continuing responsibility to provide adequate protection for the health and safety of the public and to carry out its licensing and related regulatory functions in a manner which will assure that nuclear power plants are constructed and operated in accordance with strict safety standards, the Commission has work under way on two of the matters addressed in the petition. Since information on this work may be of interest to persons desiring to comment on the petition, a brief description of it is provided in this notice.

In the spring of 1975, the Commission contracted for a study on the underground siting of nuclear power reactors. A report on the results of this study is expected to be completed by mid-1977. This report will address a portion of the factors that must be considered in determining the overall utility of underground siting of nuclear power plants.

In November 1976, the Commission staff undertook an assessment of the feasibility of instituting a program of full-time inspection at operating reactors. This assessment, which contains an analysis of various alternatives for inspecting operating reactors, including as one of the alternatives the placement of a full-time NRC employee in the control room of each nuclear power plant, also is expected to be completed by mid-1977.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by July 18, 1977.

Dated at Washington, D.C., this 13th day of May 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-14261 Filed 5-18-77;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications that will allow operation of DAEC in Core Cycle 3 by appropriately modifying the core thermal limits and adding a restriction on operations in the natural circulation mode.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 31, supplemented by letters dated March 10, March 15, March 28 and May 5, (2) Amendment No. 33 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of May 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-14039 Filed 5-18-77;8:45 am]

[Docket Nos. STN 50-580 and STN 50-581]

OHIO EDISON CO., ET AL.

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, the Ohio Edion Company, the Cleveland Electric Illuminating Company, Duquesne Light Company, Pennsylvania Power Company, and the Toledo Edison Company have filed an Environmental Report, dated April 29, 1977, in support of their application to construct and operate the Erie Nuclear Plant, Unit Nos. 1 and 2 to be located in Erie County Ohio. The report, which discusses environmental considerations related to the construction and operation of the proposed facility is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and the Berlin Township Public Library, 4 East Main Street, Berlin Heights, Ohio. Copies of the report are also being made available at the Office of the Governor, State Clearinghouse, State Office Tower, 30 East Broad Street, Columbus, Ohio, and at the Toledo Metropolitan Area Council of Governments, 420 Madison Avenue, Toledo, Ohio.

After the Environmental Report has been analyzed by the Office of Nuclear Reactor Regulation staff, a Draft Environmental Statement will be prepared. Upon preparation of the draft Environmental Statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Rockville, Maryland, this 9th day of May 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-14042 Filed 5-18-77;8:45 am]

REGULATORY GUIDES

Expiration of Initial Public Comment Period

The Nuclear Regulatory Commission staff has, after consideration of the public comments received to date on seven guides from its Regulatory Guide Series, determined thatt here is no need for a revision at this time. Most regulatory guides are revised to reflect additional staff review and public comments received during the initial 60-day comment period following a guide's first issuance. However, in a few cases, a guide may deal with a noncontroversial subject or may be a simple codification of existing practice, and therefore there may be no need for a revision. The guides noticed here are in this latter category, and for this reason the staff has concluded that no changes are needed at this time. The staff is therefore now using the guides in evaluating applicant and licensee submittals and performance, as noted in the guides' implementation sections.

The guides involved are 1.8, "Personnel Selection and Training"; 1.112, "Calculation of Releases of Radioactive Materials in Gaseous and Liquid Effluents from LWRs"; 2.4, "Review of Experiments for Research Reactors"; 3.30, "Selection, Application, and Inspection of Protective Coatings (Paints) for Fuel Reprocessing Plants"; 3.31, "Emergency Water Supply Systems for Fuel Reprocessing Plants"; 7.5, "Administrative Guide for Obtaining Exemption from Certain NRC Requirements Over Radioactive Material Shipments"; and 8.10, "Operating Philosophy for Maintaining Occupational Radiation Exposure As Low As Is Reasonably Achievable."

The first pages of the guides (or the entire guide, in the case of 1- or 2-page guides) with the words "For Comment" deletd are being reissued to the distribution list for the appropriate division. The letter "R" added to the revision number is to indicate that the page (or guide) has been reissued with no changes in the text. For example, "Revision O-R" indicates that the guide as originally issued is being reissued unchanged.

Requests for single copies of the reissued first pages (or guides) should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control.

Comments and suggestions for improvements in regulatory guides are encouraged at all times, and guides are revised, as appropriate, to accommodate comments and reflect new information or experience. However, newly issued guides have an initial comment period of about two months after issuance. Following the expiration of this period, the staff reviews the comments and revises the guides, as appropriate, to reflect such suggestions as alternative ways of achieving acceptable levels of safety and safeguards.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 9th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-14040 Filed 5-18-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.41, Revision 1, "Validation of Calculational Methods for Nuclear Criticality Safety," provides a procedure acceptable to the NRC staff for validating methods of calculation, primarily for electronic computer codes. This guide endorses ANSI Standard N16.9-1975, "Validation of Calculational Methods for Nuclear Criticality Safety." Consideration of public comments and additional staff review indicated the need for only minor changes in this revision to correct the designation of the standard.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 10th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-14264 Filed 5-18-77;8:45 am]

[Docket Nos. 50-361-OL and 50-362-OL]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

(San Onofre Nuclear Generating Station, Units 2 and 3.)

This action is in reference to a notice published by the Commission on April 7, 1977, in the FEDERAL REGISTER (42 FR 18460) entitled "Receipt of Application for Facility Operating Licenses; Availability of Environmental Report; and Opportunity for Hearing".

The members of the Board and addresses are as follows:

John M. Frysiak, Esq., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Cadet H. Hand, Jr., Member, Director, Bodega Marine Laboratory, University of California, P.O. Box 247, Bodega Bay, California 94923.

Mr. Lester Kornblith, Jr., Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Md., this 12th day of May 1977.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
JAMES R. YORE,
Chairman.

[FR Doc.77-14266 Filed 5-18-77;8:45 am]

[Docket No. PRM-20-9]

TECH/OPS

Filing of Petition for Rule Making

Notice is hereby given that Tech/Ops Radiation Products Division, 40 South Avenue, Burlington, Massachusetts, by letter dated April 15, 1977, has filed with the Nuclear Regulatory Commission a petition for rule making to amend the Commission's regulation "Standards for Protection Against Radiation", 10 CFR Part 20.

The petitioner requests the Commission to amend 10 CFR Part 20 by revising paragraph 20.205(c)(2) to read as follows:

§ 20.205(c)(2). If radiation levels are found at five centimeters from the external surface of the package in excess of 100 millirem per hour, or at three feet from the external surface of the package in excess of 10 millirem per hour, the Licensee shall immediately notify by telephone and telegraph, mailgram or facsimile, the Director of the appropriate NRC Regional Office listed in Appendix D, and the final delivering carrier. Radiation levels shall be determined by measurements averaged over a cross sectional area of ten square centimeters with no linear dimension greater than five centimeters.

The petitioner states that determination of the maximum radiation intensity at the surface of the package requires measurements at a finite distance from the surface of the package, knowledge of the non-uniformity of the radiation field, and calculations to correct for the averaging of the detector and the geometry of the package, survey instrument and detector. It is the view of the petitioner that this procedure is impractical and can lead to inconsistent results.

The petitioner contends that as the rationale for specifying surface radiation level limits is to provide a degree of control on external radiation dose rates to personnel, this control can be maintained through specification of radiation level limits which can be practicably implemented. The petitioner states that specification of radiation level limits at a distance of five centimeters from the surface of the package allows the level to be actually measured at the axis of a detector, and specification of the area over which the intensity may be averaged minimizes the inconsistency which arises over non-uniform radiation fields and large versus small detectors.

The petitioner states that the proposed amendment would provide lower radiation levels than the current regulation in all cases with the exception of devices with a source to surface distance in the range of 2.00 to 4.82 inches. The petitioner contends that although the surface radiation level in this size region is greater, there is a greater degree of control of whole body exposure than is allowed for larger packages under the current regulation.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by July 18, 1977.

Dated at Washington, D.C., this 12th day of May 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-14259 Filed 5-18-77;8:45 am]

[Docket No. PRM-34-1]

TECH/OPS

Filing of Petition for Rule Making

Notice is hereby given that Tech/Ops, Radiation Products Division, 40 South Avenue, Burlington, Massachusetts, by letter dated April 15, 1977, has filed with the Nuclear Regulatory Commission a petition for rule making to amend the Commission's regulation "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations," 10 CFR Part 34.

The petitioner requests the Commission to amend 10 CFR Part 34 by revising section 34.21 to read as follows:

§ 34.21 Limits on levels of radiation for radiographic exposure devices and storage containers. With the sealed source in the shielded or "off" position radiographic exposure devices and storage containers for sealed sources shall have no radiation level in excess of 100 millirocntgens per hour at five centimeters from any exterior surface of the device and 10 millirocntgens per hour at one meter from any exterior surface of the device. Compliance with the exposure limits shall be determined by measurements averaged over a cross sectional area of ten square centimeters with no linear dimension greater than five centimeters.

The petitioner states that determination of the maximum radiation intensity at the surface of the device requires measurements at a finite distance from the surface of the device, knowledge of the non-uniformity of the radiation field, and calculations to correct for the averaging of the detector and the geometry of the device, survey instrument and detector. It is the view of the petitioner that this procedure is impractical for radiographic operations and can lead to inconsistent results.

The petitioner contends that as the rationale for specifying surface radiation levels limits is to provide a degree of control on external radiation dose rates to personnel, this control can be maintained through specification of radiation level limits which can be practicably implemented. The petitioner states that specification of radiation level limits at a distance of five centimeters from the surface of the device allows the level to be actually measured at the axis of a detector, and specification of the area over which the intensity may be averaged minimizes the inconsistency which arises over non-uniform radiation fields and large versus small detectors.

The petitioner states that the proposed amendment would provide lower radiation levels than the current regulation in all cases with the exception of devices with a source to surface distance in the range of 4.00 to 4.82 inches, and in this range the levels allowed by the proposed amendment exceed those allowed by the

current regulation by a maximum of 12%.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by July 18, 1977.

Dated at Washington, D.C., this 12th day of May 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-14260 Filed 5-18-77;8:45 am]

[Docket Nos. STN 50-518, STN 50-519, STN 50-520, and STN 50-521]

TENNESSEE VALLEY AUTHORITY (HARTSVILLE NUCLEAR PLANTS, UNITS A1, B1, A2 AND B2)

Issuance of Construction Permits

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board dated April 28, 1977, the Nuclear Regulatory Commission (the Commission) has issued Construction Permits Nos. CPPR-150, CPPR-151, CPPR-152 and CPR-153 to the Tennessee Valley Authority for construction of four boiling water nuclear reactors at the applicant's site, on the Cumberland River, approximately 40 miles northeast of Nashville in Smith and Trousdale Counties, Tennessee.

The proposed reactors, known as the Hartsville Nuclear Plants, Units A1, B1, A2 and B2 (the facilities), are each designed for a rated power of 3579 megawatts thermal with a net electrical output of 1233 megawatts.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permits. Each construction permit includes a statement that it is subject to the outcome of the proceedings in *Natural Resources Defense Council* v. *Nuclear Regulatory Commission* (D.C. Circuit, July 21, 1976) Nos. 74-1385 and 74-1586. The application for the construction permits complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of their dates of issuance. The earliest date for completion of Unit A1 is November 30, 1981, and the latest date for completion is February 28, 1983. The earliest date for completion of Unit B1 is May 31, 1982, and the latest date for completion is August 31, 1983. The earliest date for completion of Unit A2 is November 30, 1982, and the latest date for completion is February 29, 1984. The earliest date for completion of Unit B2 is May 31, 1983, and the latest date for completion is August 31, 1984. The permits shall expire on the latest dates for completion of the facilities.

A copy of (1) the Initial Decision dated April 28, 1977; (2) Construction Permits Nos. CPPR-150, CPPR-151, CPPR-152 and CPPR-153; (3) the report of the Advisory Committee on Reactor Safeguards, dated May 13, 1976; (4) the Office of Nuclear Reactor Regulation's Safety Evaluation Report dated April 1976, and supplements thereto; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the Applicant's Environmental Report dated October 10, 1974, and supplements thereto; (7) the Draft Environmental Statement dated December 1974; and (8) the Final Environmental Statement dated June 1975, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and the Fred A. Vought Library, 311 White Oak Street, Hartsville, Tennessee 37173. A copy of the item (2), may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management. Copies of the Safety Evaluation Report (NUREG-0014) and the Final Environmental Statement (NUREG-75/039) may be purchased, at current rates, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 9th day of May, 1977.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc.77-14043 Filed 5-18-77;8:45 am]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment deletes the provision for visual inspections of accessible portions of the reactor coolant system from the reactor coolant system surveillance requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 9, 1976, (2) Amendment No. 38 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Greenfield Public Library, 422 Main Street, Greenfield, Massachusetts 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of May 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-14044 Filed 5-18-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-20]

STATISTICAL CHART; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Chart of 1976 Transportation Fatalities. The transportation death toll in the United States levelled off in 1976 after three years of decline, according to preliminary statistics released May 14 by the National Transportation Safety Board.

There were 49,565 fatalities in all transport models last year, as compared with 49,502 in 1975, a different of 0.15 percent. Highway fatalities turned slightly upward, increasing from 44,690 to 44,807, or less than 1 percent. There had been a nearly 20 percent decrease in 1974 and a 2 percent decrease in 1975. Highway fatalities historically account for more than 90 percent of all U.S. transportation fatalities.

In the various modes, grade crossing fatalities increased by 24 percent, from 910 to 1,124. Pipeline fatalities rose from 30 to 82, an increase of 173 percent. Other modes all showed decreases, with airlines down from 124 to 45 (64 percent); railroads, 564 to 503 (11 percent); marine, 1,860 to 1,741 (6 percent); and general aviation, 1,324 to 1,273 (4 percent).

The Safety Board's statistics were issued in the form of its annual pie chart of transportation fatalities, attached to press release SB 77-26.

NEW AVIATION SAFETY RECOMMENDATIONS

A-77-23, issued May 11 to the Federal Aviation Administration. Safety Board investigation of the accident involving a Bell Model 206B helicopter last February 18 at Atlanta, Georgia, has revealed that the main rotor hub trunnion (P/N 206-011-113-1) fractured and separated as the helicopter departed an aerial pickup station. The helicopter was at an altitude of approximately 60 feet when witnesses saw parts separate from the main rotor system. The helicopter struck the ground about 600 yards beyond the point of departure. The pilot was injured seriously; the second crewmember, positioned in the right rear seat, was injured slightly.

The Safety Board analyzed the fractured trunnion at its metallurgical laboratory and found that the trunnion failed in fatigue, which had originated in the radius of the bearing journal as a result of machine grinding burns. Total time on this trunnion was 4,060.3 hours. The trunnion has an infinite service life, provided it passes the prescribed magnetic particle inspection at 1,200 hour intervals. While this particular trunnion had been inspected only 380 service hours before it fractured, there was no evidence of a crack even though traces of proseal were found to be present in the crack during postaccident examination, indicating that the crack had originated prior to that inspection.

In view of the potentially catastrophic consequences associated with such a failure, the Safety Board recommends that FAA:

Issue an Airworthiness Directive to require an immediate one-time magnetic particle inspection of all Bell main rotor hub trunnions P/N 206-011-113-1, in accordance with the Bell Helicopter published maintenance and overhaul procedures, to detect machining deficiencies, surface irregularities, and cracks. (A-77-23) (Class I-Urgent Followup)

A-77-24 and 25, issued May 13 to the Federal Aviation Administration. Concern about alcohol as a cause or factor in aircraft accidents has led the Safety Board to ask FAA to amend its regulations.

During its investigation of a Piper Cherokee Cruiser accident, which occurred last December 19 at the Baltimore (Maryland) Memorial Stadium, the Safety Board and the City of Baltimore had difficulty obtaining a blood sample taken from the pilot when he was admitted to the hospital. A court order was required to obtain samples for alcohol testing.

The Board has determined that alcohol is a cause or a factor in about 40 aircraft accidents each year, almost all fatal. However, in many survived accidents, the Board is unable to obtain a blood alcohol test of the pilot since he must consent to the testing. Because of the consent limitations, there is currently no method for determining the number of alcohol-related survivable aircraft accidents. Accordingly, the Safety Board recommends that FAA:

Amend 14 CFR 61.3 to include an implied consent clause which would be a condition for the issuance of a pilot certificate. (A-77-24) (Class II—Priority Followup)

Amend 14 CFR 91.11 to specify alcohol levels at which a pilot is considered to be under the influence of alcohol. (A-77-25) (Class II—Priority Followup)

SAFETY RECOMMENDATION RESPONSES

Aviation: A-71-59. Letter of May 6 from the Federal Aviation Administration updates progress in implementing the Board's recommendation calling for FAA to initiate action to incorporate in its airworthiness requirements a provision for fuel system safety devices which will be effective in the prevention and control of both in-flight and postcrash fuel system fires and explosions.

FAA reports that it has been reviewing the numerous comments in response to its notice of proposed rulemaking No. 74-16 (39 FR 12260, April 4, 1974), which is directly related to this subject. FAA states, "Some commenters argued that the proposed requirements would have little or no effect in reducing the hazards of impact-survivable airplane accidents when the fuel system integrity is breached." Some commenters claimed that the problems the proposed requirements were trying to solve could be more efficiently and effectively accomplished by other means, according to FAA.

FAA believes that a public hearing would provide a forum to obtain additional information which would help determine the proper course of action on this and related matters. Therefore, FAA has scheduled a public hearing from June 13 to June 17, 1977, as officially announced in the April 25, 1977, FEDERAL REGISTER (42 FR 21202).

Highway: H-76-31 and 32. Federal Highway Administration's letter of April 22 is in response to recommendations developed following investigation of the February 7, 1976, collision of a freight train and a pickup truck at Beckemeyer, Illinois. (See 41 FR 44235, October 7, 1976.) The recommendations asked FHWA to develop a formula for use in determining when to close a hazardous grade crossing (H-76-31) and to publish models, formulae, and criteria, make them available to each State and to operating railroads, and urge their use in assessing grade crossings (H-76-32).

FHWA's letter notes the similarity of these recommendations and recommendations H-76-21 and 22 which arose from Board investigation of a collision between a passenger train and a truck at Elwood, Illinois, November 19, 1975. (See 41 FR 26078, June 24, 1976.) FHWA reports that the general subject of railroad/highway crossings have been discussed in interagency meetings and communication exchanges over the past several months.

FHWA asks that recommendation H-76-31 be considered in light of its formal responses last October (41 FR 47291, October 28, 1976) to recommendations H-76-21 and H-76-22, as well as the response last December (42 FR 1323, January 6, 1977) by the Federal Railroad Administration to Safety Board recommendation R-76-14 which cross-referenced the FHWA response to H-76-22. Those responses described work initiated about 18 months ago to develop a Railroad-Highway Grade Crossing Handbook, which will include grade crossing upgrading and closure criteria, according to FHWA. In addition, FHWA has worked with a task force of the National Advisory Committee on Uniform Traffic Control Devices to develop a new section of the Manual on Uniform Traffic Control Devices. This new section will include a supplement (Part VIII, Railroad-Highway Grade Crossings) which will contain criteria for analyzing need for upgrading, eliminating, or closing railroad-highway crossings.

It is not considered possible, according to FHWA, to develop models or formulae in view of the varying character of and circumstances surrounding grade crossings. FHWA has adopted the approach, therefore, of establishing criteria for crossing closure. FHWA states:

Although each grade crossing requires individual analysis, a systems approach can be advantageous in determining recommendations regarding a series of crossings on a single line of railroad or in a community or a defined portion of an urban area. The systems approach should be related to the affected street system of the area and should have as an objective the elimination of nonessential grade crossings not provided with adequate active traffic control systems. Such eliminations may be accomplished by constructing grade separations where they are justified, closing nonessential crossings, and installing active traffic control systems at crossings not so equipped. In some situations, it may be practical to eliminate or relocate the line of railroad.

FHWA states that these subjects should be given attention in evaluating the necessity for a crossing: (1) The nature of the area served by the street or highway in the vicinity of the grade crossing, including school, hospital, fire station, police station, business establishment, and other public building; (2) growth trends and prospective development along the street, based on short-range planning; (3) daily volume and type of vehicular traffic using crossing; (4) availability of alternate crossings, route circuity, and added traffic distance; and (5) accident experience or

potential hazards at the crossing, including number and severity of accidents, type and number of trains, train speeds, time crossing is blocked, restricted view, adverse physical conditions, and time and volume of vehicle and pedestrian traffic.

FHWA further notes that closing of a grade crossing should result in one or more of the following benefits:

1. One point of potential collision between train and vehicular traffic will be eliminated.
2. There will be resulting economy for both the public authority and the railroad in eliminating the cost of maintenance of the crossing surface, roadway approaches, and traffic control devices.
3. In most instances, an alternate vehicular route will be available over a crossing equipped with superior traffic control devices or a grade separation because that route is a more important road with a greater traffic volume.
4. Regardless of the relative importance of the closed route and its alternate, the potential for grade crossing accidents will be reduced for the combined traffic because it has been demonstrated that the rate of occurrence of accidents increases at a slower rate than increase in traffic volume, other influencing factors being equal.

Concerning recommendation H–76–32, FHWA reports that the Railroad-Highway Grade Crossing Handbook, planned for this June but now scheduled for completion in October 1977, will contain criteria for determining railroad-highway grade crossing improvements, elimination, or closure. This handbook is intended as a digest of technical and procedural information, in easy-to-understand language, on railway-highway crossings for use by practicing design, traffic, railroad, and utility engineers. The handbook will also serve as a source document for consulting engineers, educators, students, and others involved in grade crossing safety. Additional information regarding railway-highway crossings may be found in the October 1976 response by FHWA to recommendations H–76–21 and 22.

According to FHWA, a further publication of crossing closure criteria will be contained in the Part VIII Supplement (Railroad-Highway Grade Crossings) to the Manual on Uniform Traffic Control Devices. FHWA plans to issue within its directives communication system, a Notice which will be distributed to appropriate State agencies and to operating railroads through the Association of American Railroads.

Pipeline: P–76–1. Southern Union Gas Company of Dallas, Texas, under date of April 28 updates information on a project underway since last summer to evaluate equipment which would make feasible the identification of locations where crevice corrosion had taken place. The recommendation, which asked Southern Union to work with developmental manufacturing firms to determine if an internal inspection tool could be utilized to detect defective flash welds in its Farmington-Albuquerque pipeline system, was issued following Board investigation of the March 15, 1974, natural gas pipeline rupture near Farmington, New Mexico. (See 41 FR 4366, January 29, 1976.)

Southern Union reports that it has run tests utilizing acoustic emission equipment supplied by Trodyne, Inc., of New Jersey. The final tests were completed in late Novmeber, but because of the winter heating season, the company was unable to inspect the pipeline on which the tests had been run. Such inspection was proposed for the early spring, but now Southern Union has contracted with another firm to inspect this same line, using a device utilizing a field of magnetic flux. When the survey has been made, Southern Union will compare the results to those achieved with the acoustic emission system. Each "suspect" area will be visually examined to determine whether at present there is any system by which crevice corrosion may be determined. Completion is expected by mid-year.

Railroad: R–75–24. Federal Railroad Administration letter of April 26 updates initial response of September 8, 1975 (40 FR 43097, September 18, 1975). The recommendation resulted from the Safety Board's investigation of the December 1, 1974, commuter train accident at Huntington Station, New York. FRA was asked to promulgate regulations for rail transit operators which will (1) prevent or reduce the incidence of serious injury to persons entering or leaving rapid transit cars, (2) specify the information passengers should be furnished to assure their safety when entering or leaving transit cars, and (3) require a standard door incident reporting system to evaluate the effectiveness of various door systems and operating practices.

Results of FRA's investigation of various aspects of car door safety and FRA's conclusions regarding promulgation of Federal car door safety standards are synopsized in a letter dated March 30, 1977, addressed by FRA to the Honorable John Carey, Mayor of Rye, New York; FRA has provided a copy of that letter.

As indicated in FRA's letter to the Mayor of Rye, on March 8, 1975, FRA was petitioned to initiate rulemaking that would prescribe safety standards for power operated side doors on passenger cars such as those used by rail commuters in the Rye area. FRA's subsequent investigation included meetings with carriers operating rail commuter equipment in the Rye area and other metropolitan regions and with representatives of the car manufacturers, sliding door equipment manufacturers and several rapid transit operators. Also FRA safety personnel conducted individual inspections of this type of equipment and the operating practices of carriers using the equipment.

FRA has recently completed a full-scale review of the data obtained from these efforts, and states, "That review disclosed that the operation of sliding doors on rail commuter cars presents a small safety hazard in terms of overall rail safety." FRA also told the Mayor, "Furthermore, the particular danger that you addressed in your letter has produced an accident record that is geographically limited to your general area of the country."

In view of the limited magnitude of the problem and its regional nature, FRA said that it ". . . decided to work initially with the carriers in your region to try to obtain voluntary efforts to resolve this problem. These carriers have responded to FRA's efforts and have taken actions to correct the deficiencies that appear to present the dangers you associated with these doors." FRA's March 30 letter to the Mayor further states:

> These voluntary efforts, in FRA's judgment, will resolve the problem for the existing passenger car fleet operating in your region. FRA is also initiating efforts, together with the Urban Mass Transit Administration, so that new rail commuter and rapid transit equipment will incorporate safer performance criteria for power operating sliding doors.
>
> FRA also considered the issue of whether a regulation on this subject would be beneficial regardless of carrier efforts to correct the deficiencies. Consequently, FRA conducted an economic analysis to study the relative costs and benefits that a regulation would produce. That analysis indicated that the prospective costs of a regulation would be high since large scale modification work would be required on a nationwide basis. The benefits of such a regulation would not be sufficient, in FRA's judgment, to warrant this increased cost.
>
> Consequently, FRA has concluded that a regulation, such as that proposed in your March 8, 1975, letter, is not the appropriate course of action and FRA hereby denies your petition for rulemaking.

Railroad: R–76–15. Federal Railroad Administration letter of April 21 responds to the Safety Board's request of last November 18 for reexamination of and the provision of additional clarifying information regarding this recommendation. FRA was asked to insure that switches in signal territory are so protected that related signals governing train movements will display their most restrictive aspects if the switch points do not close properly.

The Board's November 18 letter was in reply to FRA's initial response of October 26 (41 FR 48617, November 4, 1976), wherein the Board stated that its recommendation refers to signal protection provided when the switch points do not properly fit the rail (rather than to a device to detect a broken or damaged switch point), and was made to correct an unsafe condition which arose and can arise again when switch points are not aligned and the misalignment is undetected by the signal system. The recommendation resulted from investigation of the collision of two Penn Central freight trains near Pettisville, Ohio, February 4, 1975.

FRA's letter of April 21 provides an account of the operation of the east switch (1A) of the crossover at Pettisville at the time of the accident. FRA concludes that the signal system was "unable to detect the broken and run through switch."

FRA notes that the carrier must maintain the point detector adjustment within ¼" of both full normal and full reverse positions as required by "Rules, Standards and Instructions for Railroad Signal Systems," section 236.334. ("Applicable Rules and Regulations" for reference are attached to the FRA letter.) The carrier complied with requirements of section 236.334 and with the monthly switch obstruction test requirements of sections 236.382 and 236.109 of these Rules.

FRA further states that in the Pettisville accident, one train passed a signal which displayed a "Stop" aspect and ran through switch 1A, which was not lined for the move. FRA said, "The crew failed to comply with the signal indication, proceeded through the control limits of CP327, breaking and bending the switch, and failed to notify anyone that switch 1A was damaged. The crew also failed to protect the switch against all trains. This is a violation of the carrier's Operating Rule 'F'."

General Railway Signal Company manufactures independent normal and reverse point detector rods for GRS switch machines, according to FRA, and the Union Switch and Signal Company manufactures switch machines equipped with latchout devices to detect improper operation over the switch. "Had switch 1A been equipped with independent point detector rods," FRA stated, "the signal system may have detected the run through switch. If switch 1A had been operated by a Union Switch and Signal Company switch machine, equipped with a latchout device, the point detector rod would have moved when the switch was run through. Therefore, the signal system would not have detected the improper movement."

FRA finds, however, that the existing signal rules "adequately and effectively provide protection in the normal operation of the railroad." FRA does not consider it feasible to provide signal protection for any instance in which switch fittings or rods are bent or broken through vandalism or employee negligence.

Railroad: R–76–52 through 55. Federal Railroad Administration's letter of April 22 is an initial response to the recommendations resulting from Board investigation of the auto-train derailment which occurred May 5, 1976, near Jarratt, Virginia. (See 41 FR 52116, November 26, 1976.

In answer to R–76–52, which asked FRA to establish national standards for inspecting railroad wheels to insure detection of critical conditions in wheels before in-service failures occur, FRA recounts its research efforts. In a study of the fracture resistance of railroad wheels, estimates have been obtained on the minimum crack size that could result in a wheel failure under various adverse service conditions, such as drag braking. Also, in an investigation of Metroliner wheels, mechanical and thermal conditions that produce thermal fatigue cracking were defined, and in another study, a wheel fatigue analysis was conducted to determine the mechanical and thermal service environments of wheels. FRA notes that as part of the industry-government track-train dynamics effort, additional data on wheel/rail loads and temperatures occurring typically during revenue service will be obtained.

FRA states that several wayside wheel inspection techniques, including ultrasonics, acoustics and magnetics, have been investigated also. A detailed evaluation of a commercially available ultrasonic device showed that it was capable of detecting cracks in wheel rims. A research device which tests wheels acoustically has been fabricated, and although it has been demonstrated only for detecting plate cracks, FRA finds that it appears potentially useful for detecting rim cracks and substantial changes in residual stresses. Another study to determine the feasibility of using the Barkhausen Effect, a magnetic technique, to determine residual stresses in wheels indicates that this technique can measure large changes in residual stresses. FRA said that this technique appears less promising than the already investigated acoustic and ultrasonic techniques.

For informational purposes, FRA provided the following applicable reports of research activities:

Ultrasonic Detection of Plate Cracks in Railway Wheels.
Analysis of Railroad Car Truck and Wheel Fatigue.
The Cause of Thermal Fatigue Cracking in Metroliner Wheels.
Fracture Resistance of Railroad Wheels.
Feasibility of Flaw Detection in Railroad Wheels Using Acoustic Signatures.
Stress Measurements in Railroad Wheels Via the Barkhausen Effect.

When all research has been completed and results analyzed, FRA will determine the feasibility of detecting critical conditions before in-service failure occurs and the necessity for national railroad wheel inspection standards.

Re R–76–53, which asked FRA to review the methods for marking wheels and to determine whether the present method of marking wheel rims is detrimental to the service life of railroad wheels, FRA responds, "Actual wheel failure is caused by lost compression in the rim, not by markings on the rim. Once compression is lost, the failure then will follow the weakest path through the wheel, generally through a stress riser or marking. Although some wheel manufacturers do mark wheels on the rim, others mark the plate or hub." FRA said it will review the performance of wheels with markings in various locations to identify any relationship between wheel markings and wheel failure. If any particular method of marking wheels is found to be detrimental to the service life of railroad wheels, FRA will take appropriate corrective action.

Recommendation R–76–54 asked FRA to develop a method that does not depend on crew observation to detect automatically when a wheel(s) has failed or derailed. FRA states, "Although nondestructive testing techniques are expected to reduce the number of in-service failures by locating incipient defects prior to breakdown, some failures always will occur." Accordingly, FRA is sponsoring several projects to develop concepts capable of automatically detecting when a wheel has failed or derailed. Some project findings are detailed in a report provided by FRA entitled "Anti-Derailment Sensor System." FRA is continuing research into this area to find the best method of detecting wheel failure and/or derailment.

R–76–55 recommended that FRA revise the Code of Federal Regulations to insure that wheels exposed or suspected of being exposed to critical temperatures are removed from service. In answer to that Class I (Urgent Followup) recommendation, FRA says it is currently investigating the merits of several concepts to determine their reliability in detecting whether a wheel has been subjected to critical wheel temperatures. One such concept involves the use of metal clips with known melting points or ranges. If successful, FRA said, this concept would provide a visual indication of excessive wheel temperatures. When research has been completed and results verified, FRA will consider revising the regulations to require use of temperature detectors.

NOTE: The above summarizes Safety Board documents made available and safety recommendation responses received during the week preceding publication of this notice in the FEDERAL REGISTER. The statistical chart and the complete safety recommendation letters as issued are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

MAY 16, 1977.

[FR Doc.77–14342 Filed 5–18–77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

SPECIALTY STEEL QUOTAS

Possible Reallocation

MAY 16, 1977.

AGENCY: Office of the Special Representative for Trade Negotiations.

ACTION: Notice of Possible Reallocation of Specialty Steel Quota Shortfalls.

SUMMARY: Written comments are solicited from interested parties on the possible reallocation, within certain quota categories, from suppliers who are not likely to export the quantity of steel that would fill the current quotas assigned to them, to other suppliers who are able to supply additional steel.

DATES: Comments should be received on or before May 23, 1977. It is anticipated that any reallocations would be published in the FEDERAL REGISTER by May 31, 1977.

ADDRESS: Comments should be sent to the Secretary, Trade Policy Staff Committee, Room 728, 1800 G Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Karen Alleman, Office of the Special Representative for Trade Negotiations, Washington, D.C. 20506 (202–395–3395).

SUPPLEMENTARY INFORMATION: On June 11, 1976, the President proclaimed import relief for the domestic specialty steel industry for a period of three years in the form of an orderly marketing agreement with Japan and quotas on imports from other foreign suppliers. Headnote 2 of Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (TSUS) gives the Special Representative for Trade Negotiations authority to reallocate shortfalls during the last three months of each quota year.

This notice identifies likely shortfalls in quota quantities for the current restraint period (June 14, 1976–June 13, 1977) as listed below:

TSUS item	Supplier	Revised [1] quota quantity	Estimated charges by June 13, 1977 in short tons	Potential shortfalls
923.20 (sheet and strip)	Col. 1,[2] Sweden	3,162	2,093	1,069
		6,700	5,827	873
923.22 (bar)	European Economic Community, Canada.	2,100	1,200	900
		1,100	953	147

[1] Revised quota quantities incorporate shortfall reallocations published in the FEDERAL REGISTER on March 18, 1977 (42 FR 15157).

[2] Countries entitled to the rate of duty in rates of duty columns numbered 1 in the Tariff Schedules of the United States but which have not been provided separate quota quantities.

Estimated charges by June 13, 1977 are extrapolated from actual charges against each quota quantity through April 29, 1977. No shortfalls are projected for th estainless steel rod or alloy tool steel categories. While shortfalls are possible in the plate category, no suppliers have filled their revised quotas at expected rates.

For the stainless steel sheet and strip and bar categories, in which likely shortfalls by some suppliers are projected, there are other suppliers who may be able to ship amounts in excess of the quotas now allocated to them and thus would benefit from any reallocations made. These suppliers are:

TSUS item	Supplier
923.20 (sheet and strip).	European Economic Community.
923.22 (bar)	Other col. 1 countries, Sweden.

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

[FR Doc.77-14381 Filed 5-18-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-009]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from February 11, 1977 to March 22, 1977 (List No. 4–77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/111/1, Model LS–1711 E survival capsule launching winch; approval listed for mechanical components only, and for a maximum working load of 18,000 lbs. on a single-part fall; identified by assembly drawing 57414, revision K dated April 15, 1976, and drawing list 41349–03–200 dated November 5, 1974, approved for use on artificial islands, fixed structures, and drilling rigs, both self-propelled and nonself-propelled with the Whittaker Survival Capsule, manufactured by Lake Shore, Inc., Iron Mountain, Michigan 49801, effective March 15, 1977. (It supersedes Approval No. 160.015/111/0 dated November 12, 1976 to show change of working load.)

SIGNALS, DISTRESS, HAND RED FLARE, FOR MERCHANT VESSELS

Approval No. 160.021/6/3, International hand red flare distress signal, 500 candlepower, 2-minute burning time, assembly dwg. No. CP–4326–1–1 dated February 24, 1977, manufactured by Kilgore Corporation, Toone, Tennessee 38381, effective March 22, 1977. (It supersedes Approval No. 160.021/6/2 dated November 8, 1973 to show change in construction.)

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT FOR MERCHANT VESSELS

Approval No. 160.033/28/7, Rottmer type, size 299 releasing gear, approved for maximum working load of 15,720 pounds per set (7860 pounds per hook), identified by arrangement dwg. 320074, Rev. B dated September 17, 1975, manufactured by Lake Shore, Inc., Welin Davit & Boat Division, P.O. Box 809, Iron Mountain, Michigan 49801, effective February 22, 1977. (It supersedes Approval No. 160.033/28/7 dated February 14, 1973 to show change in dwg. Nos.)

LIFEBOATS

Approval No. 160.035/85/2, 12.0′ x 4.4′ x 1.9′ steel, oar-propelled lifeboat, 4-person capacity, identified by general arrangement dwg. No. 49R 1213 dated August 16, 1951 and revised March 1, 1967, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=640 pounds; Condition "B"=1,396 pounds, approved for use on vessels in Bays, Sounds, and Lakes; and Rivers, approved for 6-person capacity as replacement lifeboat, if mechanical disengaging apparatus is installed, it shall be of an approved type and installed in accordance with drawings approved by the Commandant, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective March 17, 1977. (It is an extension of Approval No. 160.035/85/2 dated May 3, 1972.)

Approval No. 160.035/87/3, 14.0′ x 5.0′ x 2.17′ steel, oar-propelled lifeboat, 6-person [1] capacity, identified by general arrangement and construction dwg. No. 49R–1412, dated August 20, 1950, revised December 3, 1966, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=805 pounds; Condition "B"=2,498 pounds, approved for use on vessels in Great Lakes, Bays, Sounds and Lakes, and River Service, as well as for use on certain coastwise tank barges, if mechanical disengaging apparatus is fitted, it shall be of an approved type and the installation in this particular lifeboat shall be approved by the Commandant, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective March 17, 1977. (It is an extension of Approval No. 160.035/87/3 dated April 17, 1972.)

[1] Approved for 9-person capacity for replacement lifeboats.

Approval No. 160.035/280/4, 26.0′ x 9.0′ x 3.83′ aluminum, oar-propelled lifeboat, 53-person capacity, identified by construction and arrangement dwg. No. 26–6, Rev. E dated February 23, 1972, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=2,740 pounds; Condition "B"=12,522 pounds, manufactured by Marine Safety Equipment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective February 22, 1977. (It is an extension of Approval No. 160.035/280/4 dated May 3, 1972.)

Approval No. 160.035/348/1, 12.0′ x 4.4′ x 1.9′ aluminum, oar-propelled lifeboat, 4-person capacity, identified by general arrangement dwg. No. 52–1217 dated December 17, 1952 and revised April 10, 1967, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=376 pounds; Condition "B"=1,112 pounds, approved for use on vessels in Bays, Sounds, and Lakes; and Rivers, approved for 6-person capacity as replacement lifeboat, if mechanical disengaging apparatus is installed, it shall be of an approved type and installed in accordance with drawings approved by the Commandant, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective March 17, 1977. (It is an extension of Approval No. 160.035/348/1 dated May 3, 1972.)

Approval No. 160.035/413/1, 24.0′ x 8.0′ x 3.5′ steel, hand-propelled lifeboat, 40-person capacity, identified by general arrangement and construction dwg. No. 53–2446 dated October 6, 1953 and revised January 30, 1967, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=4,100 pounds; Condition "B"=11,528 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, New York 11231, effective March 17, 1977. (It is an extension of Approval No. 160.035/413/1 dated May 3, 1972.)

Approval No. 160.035/453/0, 28.0′ x 9.8′ x 4.12′ steel, hand-propelled lifeboat, 66-person capacity, identified by general arrangement and construction dwg. No. 28–003–01 Rev. A dated April 10, 1967, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=5,250 pounds; Condition "B"=17,659 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan, Street, Brooklyn, New York 11231, effective March 17, 1977. (It is an extension of Approval No. 160.035/453/0 dated May 3, 1972.)

Approval No. 160.035/468/1, 26.0′ x 9.0′ x 3.83′ fibrous glass reinforced plastic (FRP), Class 1, motor-propelled lifeboat, 48-person capacity, identified by "Drawing List for 26 Foot Open Lifeboat" dated August 14, 1976, and general arrangement drawing 6605, revision B dated July 23, 1976, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=4,325 pounds; Condition "B"=13,445 pounds, manufactured by Lake Shore, Inc., Welin Boat & Davit Division, P.O. Box 809, Iron Mountain, Michigan 49801, effective March 18, 1977. (It supersedes Approval No. 160.035/468/0 dated January 21, 1976 to show engine change.)

Approval No. 160.035/476/1, 26.0′ x 9.0′ x 3.83′ fibrous glass reinforced plastic (FRP), totally enclosed (covered) Class 1 motor-propelled lifeboat, 43 person capacity identified by "Drawing List for 26 foot Covered Lifeboat" dated September 14, 1976, and general arrangement drawing 6615, Rev. B dated August 2, 1976, 46 CFR 160.035–13(c) Marking. Weights: Condition "A"=5,931 pounds; Condition "B"=14,785 pounds, manufactured by Lake Shore, Inc., Welin Boat & Davit Division, P.O. Box 809, Iron Mountain, Michigan 49801, effective February 23, 1977. (It supersedes Approval No. 160.035/476/0 dated January 5, 1976 to show engine change.)

FISHING TACKLE, KITS, EMERGENCY FOR MERCHANT VESSELS

Approval No. 160.061/5/0, emergency fishing tackle kit, dwg. No. 1X234 dated March 11, 1977, manufactured by Emge Aviation Marine Products, Inc., Langhorne, Pennsylvania 19047, effective March 18, 1977.

MARINE BUOYANT DEVICE

Approval No. 160.064/1/2, adult medium, competition vest, model GT–5, cloth covered PVC foam, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–16, Type III PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvania 18407, effective February 24, 1977. (It is an extension of Approval No. 160.064/1/2 dated March 6, 1972.)

Approval No. 160.064/2/2, child meduim, competition vest, model GT–5, clothcovered PVC foam, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–16, Type III PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvania 18407, effective February 24, 1977. (It is an extension of Approval No. 160.064/2/2 dated March 6, 1972.)

Approval No. 160.064/13/0, 18-inch ring buoy, vinyl dipped unicellular plastic foam, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–16, Type IV PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvania 18407, effective February 24, 1977. (It is an extension of Approval No. 160.064/13/0 dated March 7, 1972.)

Approval No. 160.064/18/2, adult large, competition vest, model GT–5, cloth covered PVC foam, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–16, Type III PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvania 18407, effective February 24, 1977. (It is an extension of Approval No. 160.064/18/2 dated March 6, 1972.)

Approval No. 160.064/291/0, adult small, Model Guardian, cloth covered PVC foam, utility vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–16, Type III PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvania 18407, effective February 24, 1977. (It is an extension of Approval No. 160.064/291/0 dated March 23, 1972.)

Approval No. 160.064/292/0, adult medium, Model Guardian, cloth covered PVC foam, utility vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–16, Type III PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvania 18407, effective February 24, 1977. (It is an extension of Approval No. 160.064/292/0 dated March 23, 1972.)

Approval No. 160.064/293/0, adult large, Model Guardian, cloth covered PVC foam, utility vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ–16, Type III PFD, manufactured by Gentex Corporation, Carbondale, Pennsylvaina 18407, effective February 24, 1977. (It is an extension of Approval No. 160.064/293/0 dated March 23, 1972.)

Approval No. 160.064/432/0, adult X-large, Model No. 800, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 174, Type III PFD, manufactured by Fabrionics, Inc., West Austin Street, Tolono, Illinois 61880, effective March 15, 1977. (It supersedes Approval No. 160.064/432/0 dated January 12, 1973 to show change in Model No.)

Approval No. 160.064/433/0, adult large, Model No. 700, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 174, Type III PFD, manufactured by Fabrionics, Inc., West Austin Street, Tolono, Illinois 61880, effective March 15, 1977. (It supersedes Approval No. 160.064/433/0 dated January 12, 1973 to show change in model No.)

Approval No. 160.064/434/0, adult medium, Model No. 650, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 174, Type III PFD, manufactured by Fabrionics, Inc., West Austin Street, Tolono, Illinois 61880, effective March 15, 1977. (It supersedes Approval No. 160.064/434/0 dated January 12, 1973 to show change in model No.)

Approval No. 160.064/636/0, child medium, Model No. 400, vinyl dipped unicellular palstic foam "Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 174, Type III PFD, manufactured by Fabrionics, Inc., West Austin Street, Tolono, Illinois 61880, effective March 15 1977. (It supersedes Approval No. 160.064/636/0 dated July 30, 1974 to show change in model No.)

Approval No. 160.064/893/0, adult, Model No. 900, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 174, Type III PFD, manufactured by Fabrionics, Inc., West Austin Street, Tolono, Illinois 61880, effective March 15, 1977. (It su-

persedes Approval No. 160.064/893/0 dated August 18, 1975 to show change in model No.)

Approval No. 160.064/1080/1, child, Model No. 5038, cloth covered unicellular plastic foam "Hunt and Fish Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective February 22, 1977. (It supersedes Approval No. 160.064/1080/0 dated March 2, 1976.)

Approval No. 160.064/1081/1, youth, Model No. 5138, cloth covered unicellular plastic foam "Hunt and Fish Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective February 22, 1977. (It supersedes Approval No. 160.064/1081/0 dated March 2, 1976.)

Approval No. 160.064/1082/1, adult small, Model No. 5538, cloth covered unicellular plastic foam "Hunt and Fish Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective February 22, 1977. (It supersedes Approval No. 160.064/1082/0 dated March 2, 1976.)

Approval No. 160.064/1083/1, adult medium, Model Nos. 5638, 5628, 6110, and 7118, cloth covered unicellular plastic foam "Hunt and Fish Buoyant Vest", "General Purpose Buoyant Vest", and "Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective February 22, 1977. (It supersedes Approval No. 160.064/1083/0 dated March 2, 1976.)

Approval No. 160.064/1084/1, adult large, Model Nos. 5738, 5728, 6218, and 7218, cloth covered unicellular plastic foam "Hunt and Fish Buoyant Vest", "General Purpose Buoyant Vest", and "Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective February 22, 1977. (It supersedes Approval No. 160.064/1084/0 dated March 2, 1976.)

Approval No. 160.064/1085/1, adult X-large, Model Nos. 5838, 5828, 6318, and 7318, cloth covered unicellular plastic foam "Hunt and Fish Buoyant Device", "General Purpose Boating Vest", and "Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 196, factory location: 76 Railroad Street, New London, Ohio 44875, Type III PFD, manufactured by Kent Sporting Goods, 710 Orange Street, Ashland, Ohio 44805, effective February 22, 1977. (It supersedes Approval No. 160.064/1085/0 dated March 2, 1976.)

FIRE EXTINGUISHING SYSTEMS, FOAM TYPE

Approval No. 162.033/7/1, National AER-O-FOAM 100 Marine Foam Fire Extinguishing Systems, with AER-O-FOAM 100 foaming concentrate and catalyst, for use on polar solvents (alcohols, ketones, etc.) or ordinary petroleum products, Instruction Sheet No. 628, Revised August 12, 1966, manufactured by National Foam System, Inc., Union and Adams Streets, West Chester, Pennsylvania 19380, effective February 28, 1977. (It is an extension of Approval No. 162.033/7/1 dated June 9, 1971.)

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/91/0, "Marinite XL-S" asbestos free calcium silicate composite type panel, impregnated with silicate of soda on both sides, base panel identical to that described in National Bureau of Standards Test Report No. 3921, dated October 18, 1976, and Underwriters Laboratories, Inc. Test Report 76NK4807, file R7975-1, dated October 12, 1976, approved as meeting Class B-15 requirements in 3/4 inch thickness and as a component in Class A-60 construction, manufactured by Johns-Manville Sales Corporation, Denver, Colorado 80217, Plant location: High Street, North Billerica, Massachusetts 01802, effective March 2, 1977.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/142/0, "Nadisco" fibrous glass cloth faced incombustible fibrous glass thermal insulation board, identical to that described in National Bureau of Standards Test Report No. FR3767 dated July 6, 1971, approved in a density of 4 pounds per cubic foot and a thickness of one inch, manufactured by Jamestown Fiberglass, Inc., 834 Monroe Street, Jamestown, New York 14708, effective February 11, 1977. (It is an extension of Approval No. 164.009/142/0 dated February 14, 1972 and change of address of manufacturer.)

INTERIOR FINISHES FOR MERCHANT VESSELS

Approval No. 164.012/15/0, pressure-sensitive tape (aluminum foil) in 2 mil thickness, for applications not exceeding 33 percent of the exposed area, to be applied with manufacturer's adhesive IA-8100, manufactured by Morgan Adhesive Company, 4560 Darrow Road, Stow, Ohio 44224, effective March 14, 1977. (It supersedes Approval No. 164.012/15/0 dated January 18, 1977.

Dated: May 12, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-14318 Filed 5-18-77;8:45 am]

[77-103]

NEW YORK HARBOR VESSEL TRAFFIC SERVICE ADVISORY COMMITTEE

Open Meeting

The New York Harbor Vessel Traffic Service Advisory Committee will conduct an open meeting on Thursday, June 16, 1977, in the Vessel Traffic Center, Building 400, Section N, Governors Island, New York. The meeting is scheduled to begin at 10:30 a.m.

The agenda for this meeting of the New York Harbor Vessel Traffic Service Advisory Committee is as follows:

1. Presentation of the Annual Report for 1976.
2. Status Report on the implementation of the New York Vessel Traffic Service given by the Vessel Traffic Service Staff.
3. Comments or questions from the floor.

The New York Harbor Vessel Traffic Service Advisory Committee was established by the Commander, Third Coast Guard District to advise on the need for, and development, installation and operations of a Vessel Traffic Service for New York Harbor.

Members of the Committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may obtain additional information or the summary of the minutes of the meeting by writing to Commander D. A. Sumi, Project Officer, Vessel Traffic Service, Building 400, Section N, Third Coast Guard District, Governors Island, New York 10004, or by calling 212-264-0409.

This Notice is issued under section 10 (a) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1).

Dated: April 29, 1977.

B. E. THOMPSON,
Captain, U.S. Coast Guard Guard, Chief of Staff, Third Coast Guard District.

[FR Doc.77-14319 Filed 5-18-77;8:45 am]

Federal Highway Administration

[FHWA Docket No. 76-9]

BAYONNE BRIDGE, GOETHALS BRIDGE, GEORGE WASHINGTON BRIDGE AND OUTERBRIDGE CROSSING TOLLS

Order

AGENCY: Federal Highway Administration, DOT.

ACTION: Order.

SUMMARY: This Order informs the parties of the date by which they must file briefs and exceptions to the recommended decision of Administrative Law Judge John E. Faulk.

DATES: All exceptions and briefs must be filed by June 13, 1977.

ADDRESS: Exceptions and briefs should be submitted to FHWA Docket Number 76-9, Room 4226, HCC-1, Mr. William M. Cox, Federal Highway Administrator, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Dowell H. Anders, Acting Chief Counsel (202/426-0740), Federal Highway Administration. Office hours are 7:45 a.m. to 4:15 p.m. E.d.t., Monday-Friday.

The following is the Order in this case.

ORDER IN THE MATTER OF THE BAYONNE BRIDGE, GOETHALS BRIDGE, GEORGE WASHINGTON BRIDGE AND OUTERBRIDGE CROSSING TOLLS

Pursuant to the toll bridge procedural rules, 49 CFR 310, Administrative Law Judge John E. Faulk issued a recommended decision in this case on May 9, 1977. That decision was served on all parties by mail on May 11, 1977. The parties, therefore, will have until June 13, 1977, to file exceptions to Judge Faulk's finding of fact, conclusions of law, and recommended order. These exceptions may be accompanied by a supporting brief.

All exceptions and briefs must be addressed to Mr. William M. Cox, Federal Highway Administrator, FHWA Docket Number 76-9, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. All exceptions and briefs must be served on all parties to this proceeding. A copy of the current service list is attached.

Issued this 13th day of May, 1977, in Washington, D.C.

(33 U.S.C. 494, 49 CFR Part 310.)

WILLIAM M. COX,
Administrator,
Federal Highway Administration.

MAY 12, 1977.

Honorable Peter A. Peyser, House of Representatives, Washington, D.C. 20515.
Mr. Stanley D. Ver Nooy, 241 Larch Avenue, Bogota, New Jersey 07603.
Matthew J. Derham, Chairman, AAA Clubs of New Jersey, 1 Hanover Road, Florham Park, New Jersey 07932.
Joseph Lesser, Esquire, Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.
Honorable Matthew Feldman, Majority Leader, New Jersey Senate, 790 Grange Road, Teaneck, New Jersey 07666.
Myron B. Wolf, Executive Director, National Council of Salesmen's Organizations, Inc., 127 John Street, New York, New York 10038.
Honorable Linda Winikow, New York Senate, Albany, New York 12224.
Albert R. Lamb, Jr., M.D., 161 Fort Washington Avenue, New York, New York. 10082.
Honorable Benjamin A. Gilman, House of Representatives, Washington, D.C. 20015.
Diana W. Rivet, County Attorney, The County of Rockland, County Office Building, 11 New Hempstead Road, New City, New York 10956.
Frank J. Biondolillo, D.D.S., Councilman at Large, City Council of New York, 5 Keegans Lane, Staten Island, New York 10308.
Mr. W. Bernard Richland, Corporation Counsel of the City of New York, Municipal Building, New York, New York 10007.
Mr. Gerald M. Hansler, Regional Administrator, Reg. 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
Mr. Dowell H. Anders, Acting Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.
Honorable Albert Burstein, Assemblyman, New Jersey Senate, 26 Journal Square, Jersey City, New Jersey 07306.
Honorable Byron Baer, Assemblyman, New Jersey Senate, 420 Landana Avenue, Englewood, New Jersey 07632.
Jeffrey C. Cohen, Esquire, Vice President, Citizens for Clean Air, Inc., 25 Broad Street, New York, New York 10004.
Lawrence Berman, Esquire, Transway International Corp., 747 Third Avenue, 38th Floor, New York, New York 10017.
Robert N. Rickles, P.E., Ph. D., Executive Director, Institute for Public Transportation, 211 East 43rd Street, New York, New York 10017.
Rueben Gross, Esquire, 30 Bay Street, Second Floor, Staten Island, New York 10301.
Ms. Toni L. Goldfarb, 263 Pine Street, Teaneck, New Jersey 07666.
Thaddeus Raczkowski, Esquire, New Jersey Motor Truck Ass'n., 81 East Railroad Avenue, Jamesburg, New Jersey 08831.
Mr. Harold C. Meyers, Automobile Club of New York, 28 East 78th Street, New York, New York 10021.
Mrs. Julia F. Lamb, 301 Lydecker Street, Englewood, New Jersey 07631.
Honorable John M. Murphy, House of Representatives, Washington, D.C. 20515.
Mr. Alan Sagner, Commissioner, New Jersey State Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625.
Mr. John E. Faulk, Administrative Law Judge, 800 Independence Avenue SW., Washington, D.C. 20594.
Mr. George W. Hofmann, 166 Lafayette Avenue, Chatham, New Jersey 07928.
Ms. Phoebe Hahn, 964 Mountain Avenue, Berkeley Hgts., N.J. 07992.
Mr. Roy E. Frenske, 706 Ellington Road, Ridgewood, New Jersey 07450.
Mr. Sol Weil, 18 Linderwood Court, Washington Township, Westwood, New Jersey 07675.
Francis A. Mulhern, Esquire, Deputy General Counsel, Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.
Brian T. Ketchum, P.E., Vice President and Staff Engineer, Citizens for Clean Air, Inc., 25 Broad Street, New York, New York 10004.
Mr. James J. Stapleton, HCC-20, Assistant Chief Counsel for Motor Carrier and Highway Safety Law, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.
Mr. Gerald M. Tierney, HCC-20, Office of the Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.
Mr. Bayard S. Forster, Secretarial Representative, Department of Transportation, Room 2339, Docket 76-9, 26 Federal Plaza, New York, New York 10007.
Mr. Raymond T. Schuler, Commissioner, New York State Department of Transportation, 1220 Washington Avenue, State Campus Building No. 5, State Campus, Albany, New York 12232.
Mr. James T. B. Tripp, Counsel, Environmental Defense Fund, Inc., 162 Old Town Road, East, Seatucket, New York 11733.

[FR Doc.77-14346 Filed 5-18-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 393]

ASSIGNMENT OF HEARINGS

MAY 16, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-9382, Tucker Freight Lines, Inc., now assigned June 1, 1977, at Chicago, Ill. is canceled.

MC 141861 Sub 1, Ira Greer now being assigned July 14, 1977 (2 days) at Kansas City, Missouri in a hearing room to be later designated.

MC 138274 Sub 42, Shippers Best Express, Inc. now being assigned July 14, 1977 (2 days) at Seattle, Washington in a hearing room to be later designated.

MC 140487 Sub 1, Yellowstone Trucking, Inc. now being assigned July 13, 1977 (1 day) at Seattle, Washington in a hearing room to be later designated.

MC 110410 Sub 19, Benton Bros. Film Express, Inc. now being assigned July 19, 1977 (9 days) at Atlanta, Georgia in a hearing room to be later designated.

MC 106644 Sub 235, Superior Trucking Co., Inc. now being assigned July 19, 1977 (1 day) at San Francisco, California in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14324 Filed 5-18-77;8:45 am]

[Volume No. 17]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

MAY 13, 1977.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 111231 (Notice of Filing a Petition to Delete Restriction), filed April 12, 1977. Petitioner: JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764. Petitioner's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Petitioner holds a motor *common carrier* Certificate in No. MC 111231, issued May 22, 1967, authorizing, transportation over regular routes, of *general commodities*, (except Classes A and B explosives and livestock), as pertinent, between Springfield, Mo., and Rogers, Ark., serving intermediate points in Arkansas on southbound operation and all intermediate points on northbound operation: From Springfield over U.S. Highway 60 to Monett, Mo., thence over Missouri Highway 37 to the Missouri-Arkansas State line, thence over Arkansas Highway 47 to Gateway, Ark., and thence over U.S. Highway 62 to Rogers, and return over the same route. By the instant petition, petitioner seeks to delete the northbound and southbound restrictions on operations to and from intermediate points in Missouri and Arkansas, so as to read: Between Springfield, Mo. and Rogers, Ark., serving all intermediate points.

No. MC 124735 (Sub-No. 1) (Notice of Filing a Petition to Modify a Permit), filed April 21, 1977. Petitioner: R. C. KERCHEVAL, JR., 2201 Sixth Ave., South, Seattle, Wash. 98134. Petitioner's representative: George R. LaBissoniere (same address as applicant). Petitioner holds a motor *contract carrier* Permit in No. MC 124735 (Sub-No. 1), issued February 2, 1977, authorizing transportation, over irregular routes, as pertinent, of *Parts of mobile homes and utility trailers, automotive springs, suspensions and parts thereof, brake drums, brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts*, and *parts* for motor vehicle chassis and motor vehicle undercarriage, from points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, and Wisconsin, to Billings, Butte, and Great Falls, Mont., and Seattle and Spokane, Wash., under a continuing contract, or contracts, with Motor Wheel and Parts, Inc., Six Robblees' Inc., and Northwest Wheel, Inc. By the instant petition, petitioner seeks to change the contracting shipper's name to Trailer Equipment Distributors, Inc./Motor Wheel & Parts, Inc., in lieu of Motor Wheel and Parts, Inc.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 129068 (Sub-No. 32) (Republication), filed October 21, 1976, published in the FEDERAL REGISTER issue of November 24, 1976, and republished this issue. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 S. Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 409 S. Boston, 1300 Mid Continent Bldg., Tulsa, Okla. 74130. An Order of the Commission, Review Board Number 2, dated April 15, 1977, and served May 3, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *trailers* designed to be drawn by passenger automobiles, in initial movements, and (2) *prefabricated buildings*, in sections, mounted on wheeled undercarriages, from points in Colorado to points in the United States (except Alaska, Hawaii, and Colorado); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the deletion of the restriction against the transportation of modular units or prefabricated buildings in applicant's grant of authority.

No. MC 129631 (Sub-No. 50) (republication), filed September 1, 1976, published in the FEDERAL REGISTER issue of October 15, 1976, and republished this issue. Applicant: PACK TRANSPORT, INC., 3975 So. 300 West, Salt Lake City, Utah 84107. Applicant's representative: Max D. Eliason, P.O. Box 2602, Salt Lake City, Utah 84110. An Order of the Commission, Review Board Number 2, dated April 14, 1977, and served April 27, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *pre-cut log buildings*, from the facilities of Authentic Homes Corporation, located at or near Laramie, Wyo., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the substitution of the facilities of Authentic Homes Corporation, located at or near Laramie, Wyo., as the origin point in lieu of points in Laramie County, Wyo., in applicant's grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application. Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1117 (Sub-No. 13), filed March 21, 1977. Applicant: M.G.M. TRANSPORT CORPORATION, 70 Maltese Drive, Totowa, N.J. 07512. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Liberty, Salisbury, Troy, Brisco, Greensboro, Lexington, Ashboro, Lincolnton and Mount Airy, N.C., to Connecticut, New Jersey, New York, and Philadelphia, Pa.; (2) *furniture frames*, from Greensboro, N.C., to Connecticut, New Jersey, New York, and Philadelphia, Pa.; and (3) *new furniture and furniture parts*, from Garden City, N.Y., to points in North Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 1328 (Sub-No. 25), filed March 15, 1977. Applicant: MGS TRANSPORTATION, INC., P.O. Box 270, Alexandria, Ind. 46001. Applicant's representative: Charles Garrett (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool and mineral wool products*, between the plantsite of Johns-Manville Sales Corporation located at Alexandria, Ind., and rail piggyback facilities located in Indiana, restricted to traffic having a prior or subsequent movement by rail, under a continuing contract or contracts with Johns-Manville Sales Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 2202 (Sub-No. 534), filed March 28, 1977. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Sun City Fashions, Inc., located at or near Midlothian, Tex., as an off-route point, in connection with applicant's present authority.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Washington, D.C.

No. MC 2202 (Sub-No. 537), filed April 29, 1977. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the plantsite and warehouse facilities of John Deere Company located at or near Conyers, Georgia, as an off-route point in connection with carrier's authorized regular route operation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 2860 (Sub-No. 154), filed March 30, 1977. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsite and shipping facilities of Heinz U.S.A., Division of H. J. Heinz Company, located at Fremont and Toledo, Ohio, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Virginia, Maryland, New Jersey; points in that part of New York on and east of a line beginning at the junction of New York Highway 57 and Lake Ontario, and extending along New York Highway 57 to its junction with U.S. Highway 11 at or near Syracuse, thence along New York Highway 11 to the New York-Pennsylvania State line; and points in that part of Pennsylvania on and east of U.S. Highway 220, restricted to traffic originating at the above origins and destined to the above described destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with similar applications at either Washington, D.C., or Harrisburg, Pa.

No. MC 3062 (Sub-No. 38), filed March 18, 1977. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Ave., P.O. Box 1060, Cape Girardeau, Mo. 63701. Applicant's representative: Brainerd W. LaTourette, Jr., 11 South Meramec, St. Louis, Mo. 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Norris City, Ill., and Cave in Rock, Ill., serving all intermediate points, and the off-route points of Ridgway, Ill.: from Norris City over U.S. Highway 45 to junction Illinois Highway 1, thence over Illinois Highway 1 to Cave in Rock, and return over the same route; (2) between Harrisburg, Ill., and Rosiclare, Ill., serving all intermediate points: from Harrisburg over Illinois Highway 34 (also portion Illinois Highway 146), and return over the same route; (3) between Vienna, Ill., and junction Illinois Highways 1 and 146, serving all intermediate points: from Vienna

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

over Illinois Highway 146, to junction Illinois Highway 1, and return over the same route: (4) between Boles, Ill. (also known as West Vienna, Ill.), and Olmsted, Ill., serving all intermediate points and the off-route point of Karnak, Ill.: from Boles (also known as West Vienna) over Illinois Highway 37 to Olmsted, and return over the same route; (5) between Harrisburg, Ill., and junction Illinois Highways 145 and 146, serving all intermediate points: from Harrisburg, over Illinois Highway 145 (also portion Illinois Highway 34), to junction Illinois Highway 146, and return over the same route; (6) between Harrisburg, Ill., and Shawneetown, Ill., serving all intermediate points: from Harrisburg over Illinois Highway 13 to Shawneetown, and return over the same route; (7) between New Harmony, Ind., and Evansville, Ind., serving all intermediate points: from New Harmony over Indiana Highway 69 to junction Indiana Highway 62, thence over Indiana Highway 62 to Evansville, and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Marion, Ill., or Evansville, Ind.

MC 4405 (Sub-No. 553), filed March 24, 1977. Applicant: DEALERS TRANSIT, INC., a corporation, 522 South Boston Avenue, Enterprise Bldg., Tulsa, Okla. 74103. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), and *trailer converter dollies* in initial movements in truckaway service, from points in McMinn County, Tennessee, to points in the United States, excluding Alaska and Hawaii; (2) (a) *Trailer converter dollies* in secondary movements in truckaway service; and (2) (b) *Motor vehicle bodies, packer bodies, lift gates,* and *containers* and *hoists* and *materials, supplies* and *parts* (except commodities in bulk) used in the manufacture, assembly, or servicing of the commodities described in (1) and (2) above, between points in the United States, excluding Alaska and Hawaii, on the one hand, and, on the other, points in McMinn County, Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Illinois, or Milwaukee, Wisconsin.

No. MC 4405 (Sub-No. 554), filed March 24, 1977. Applicant: DEALERS TRANSIT, INC., 522 Boston Avenue, Tulsa, Okla. 74103. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrode masts, and other air correction device components*, from the plantsite of Leckenby Company of Arkansas, located at Fort Smith, Ark., to points in the United States (except Alaska and Hawaii); and (2) *materials, parts and supplies*, used in the manufacture of electrode masts, from points in the United States (except Alaska and Hawaii), to the plantsite of Leckenby Company of Arkansas, located at Fort Smith, Ark.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 11207 (Sub-No. 387), filed March 30, 1977. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mining equipment;* (2) *attachments and parts of mining equipment;* and (3) *equipment, materials, and supplies*, used in the manufacture of mining equipment, between the facilities of Reading US, Inc., located at or near Orange Park, Fla., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Jacksonville or Tampa, Fla.

No. MC 11722 (Sub-No. 5), filed April 26, 1977. Applicant: BRADER HAULING SERVICE, INC., Post Office Box 635, Zillah, Wash. 98953. Applicant's representative: Douglas A. Wilson, 303 East D Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *farm supplies*, limited to *coir yarn, hop cloth, sisal, steel wire* and *paper twine*, restricted to traffic having a prior movement by water, from ports of entry at Seattle and Tacoma, Washington, and Portland, Oregon, to Yakima and Benton Counties, Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oregon, or Seattle, Washington. Applicant holds contract carrier authority in No. MC 124658 (Sub-No. 2 and others); therefore dual operations may be involved.

No. MC 14215 (Sub-No. 10), filed April 20, 1977. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, Ohio 43952. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Activated carbon*, in bulk, in dump vehicles, from Catlettsburg, Kentucky, Neville Island, Pennsylvania, and Bayport, Texas, to points in the United States, except Alaska and Hawaii; and, *Spent Carbon*, in bulk, in dump vehicles, on return; (2) *Coal*, from points in Illinois, Indiana, Kentucky, Maryland, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, to Catlettsburg, Kentucky, and Neville Island, Pennsylvania; (3) *Pitch*, from Follansbee, West Virginia, to Catlettsburg, Kentucky; (4) *Raw materials* used in the manufacture and processing of activated carbon, in bulk, in dump vehicles, from Ironton, Ohio, to Catlettsburg, Kentucky; and (5) *Coconut shells*, from Baltimore, Maryland, to Neville Island, Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pennsylvania, or Washington, D.C.

No. MC 19227 (Sub-No. 234), filed April 24, 1977. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 NW. 20th Street, P.O. Box 520602, Miami, Fla. 33152. Applicant's representative: Thomas A. Leonard, 2515 NW. 20th Street, P.O. Box 520602, Miami, Fla. 33152. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled utility graders, and self-propelled paving machines, and trailers, and parts thereof*, from Gwinnett County, Georgia, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 19778 (Sub-No. 95), filed March 30, 1977. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION CO., 516 W. Jackson Boulevard, Suite 508, Chicago, Ill. 60606. Applicant's representative: Robert F. Munsell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, from Sioux Falls, S. Dak., and points within three (3) miles thereof, to points in North Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Pierre, S. Dak.

No. MC 22195 (Sub-No. 170), filed April 27, 1977. Applicant: DAN DUGAN TRANSPORT CO., a corporation, 31st and Grange Avenue, Sioux Falls, South Dakota 57105. Applicant's representative: F. Fred Fischer, 41st and Grange Avenue, Sioux Falls, South Dakota 57105. Authority sought to engage in operation as a *common carrier*, by motor vehicle, in interstate commerce, over irregular routes, in the transportation of: (1) *Dry fertilizer*, in bulk, from Moorhead, Minnesota, to points in Iowa, Nebraska, North Dakota, South Dakota, Wisconsin, and Minnesota; (2) *Fertilizer and fertilizer ingredients*, from Climax, Minnesota, to points in North Dakota; (3) *Fertilizer and fertilizer ingredients (dry), also urea (dry)*, (a) from Carrington and Colfax, North Dakota, to points in South Dakota and Minnesota, (b) from Dilworth, Minnesota, to points in North Dakota, (c) from Grand Forks, North Dakota, to points in Minnesota.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Minneapolis, Minn., or Sioux Falls, S. Dak.

No. MC 28088 (Sub-No. 23), filed March 24, 1977. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main Street, Harrisonburg, Va. 22801. Applicant's representative: John R. Sims, Jr., 425 13th Street NW., 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat and meat products* (except in bulk), from Blackey, Ky.; Timberville, Va.; and Mt. Airy, Md., to points in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi; and (2) *frozen foods*, from Mt. Airy, Md., to the destination points listed in (1) above, restricted to traffic originating at and destined to points named in (1) and (2) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Harrisonburg, Va.

No. MC 30378 (Sub-No. 60), filed March 25, 1977. Applicant: ASSOCIATED TRANSPORTS, INC., 9050 Pershall Road, P.O. Box 85, Hazlewood, Mo. 63042. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles, new trucks, and new chassis*, in initial and secondary movements, in truckaway and driveaway service, and *new automobile parts and accessories* incidential to the vehicles transported when moving at the same time with the above-described vehicles, between Claycomo, Mo., on the one hand, and, on the other, points in Iowa, Nebraska, and South Dakota, restricted to traffic originating at the plantsite and warehouse facilities utilized by Ford Motor Company, and further restricted to a prior movement by motor, rail or water.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich., or St. Louis, Mo.

No. MC 30844 (Sub-No. 585), filed March 30, 1977. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, Iowa 50702. Applicant's representative: Christian V. Graf, 407 N. Front St., Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsite and shipping facilities of Heinz U.S.A., Division of H. J. Heinz Company, located at Fremont and Toledo, Ohio, to points in New York on and south of Interstate Highway 84; points in New Jersey on and north of New Jersey Highway 33; and points in Massachusets and Connecticut, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with other similar applications at either Washington, D.C., or Pittsburgh, Pa.

No. MC 35807 (Sub-No. 69), filed March 28, 1977. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, checks, business papers, records, payroll checks, reports, and audit and accounting media*, between Hamden, Conn., and points in Ulster, Orange, and Dutchess Counties, N.Y., under a continuing contract or contracts, with Northeast Data Com. Inc; Rondout Savings Bank; Saving & Loan Association of Newburgh; Ellenville Savings Bank, and Mid-Hudson Savings Bank.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Boston, Mass.

No. MC 40235 (Sub-No. 33), filed March 25, 1977. Applicant: I.R.C. & D. MOTOR FREIGHT, INC., 128 S. 2nd Street, Richmond, Ind. 47374. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Liberty and Brookville, Ind.: from Liberty, Ind., over Indiana Highway 101, serving all intermediate points, (2) between New Trenton and Indianapolis, Ind.: from New Trenton, Ind., over U.S. Highway 52 serving all intermediate points, (3) between Connersville, Ind. and junction of Indiana Highway 121 and U.S. Highway 52: from Connersville, Ind. over Indiana Highway 44 to junction Indiana Highway 121, thence over Indiana Highway 121 to junction U.S. Highway 52, serving all intermediate points; and (4) between Rushville and Dunreith, Ind.: from Rushville, Ind. over Indiana Highway 3 to Dunreith, Ind., serving all intermediate points and off-route points of Carthage and Mays, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or Columbus, Ohio.

No. MC 47786 (Sub-No. 6), filed April 27, 1977. Applicant: ROSSMEYER & WEBER, INC., doing business as Raritan Valley Bus Service, P.O. Box 312, Metuchen, N.J. 08040. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, N.Y. 10018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting passengers and their baggage in the same vehicle with passengers from New York, New York to Vermont and Maine and return, in charter operations.

NOTE.—Applicant proposes to join this authority with its authority authorizing charter operations from New York to New Hampshire, Maine, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Ohio, Nebraska, Maryland, the District of Columbia, and return. If a hearing is deemed necessary, applicant requests that it be held at New York, New York.

No. MC 56640 (Sub-No. 37), filed March 15, 1977. Applicant: DELTA LINES, INC., 333 Hegenberger Road, Oakland, Calif. 94621. Applicant's representative: Marshall G. Berol, 601 California Street, Suite 1900, San Francisco, Calif. 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between junction Interstate Highway 10 and California Highway 111 (near Indio) and Tucson, Ariz., serving all intermediate points: From junction Interstate Highway 10 and California Highway 111 (near Indio) over Interstate Highway 10 (also portion U.S. Highway 95 and 60) to Tucson and return over the same route; (2) Between Winterhaven, Calif., and junction Interstate Highway 8 and Interstate Highway 10 (near Arizona City, Ariz.), serving all intermediate points: From Winterhaven over Interstate Highway 8 (also portion U.S. Highway 80), to junction Interstate Highway 8 and Interstate Highway 10 and return over the same route; (3) Between Tucson, Ariz., and Gila Bend, Ariz., serving all intermediate points: From Tucson over U.S. Highway 80 (also portion U.S. Highway 89 and 60) to Gila Bend and return over the same route; (4) Between Mesa, Ariz., and junction Interstate Highway 10, and Arizona Highway 87, located near Eloy, Ariz., serving all intermediate points: From Mesa over Arizona Highway 87 (also portion Arizona Highway 93, 387 and 287), to junction Interstate Highway 10, located near Eloy, and return over the same route;

(5) Between junction Interstate Highway 10 and Arizona Highway 287 and junction U.S. Highway 80 and Arizona Highway 287, serving all intermediate points: From junction Interstate Highway 10 and Arizona Highway 287, over Arizona Highway 287 (also portion Arizona Highway 87), to junction U.S. Highway 80 (also portion U.S. Highway 89), and return over the same route; (6) Between junction Interstate Highway 10 and Arizona Highway 387 and junction Arizona Highway 87, serving all intermediate points: From junction Interstate Highway 10 and Arizona Highway 387, over Arizona Highway 387 to junction Arizona Highway 387 and Arizona Highway 87 and return over the same route; serving as off-route points, points in Pima County, Ariz., east of the Papago Indian Reservation, points in Pinal County, Ariz., and points in Maricopa County, Ariz.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco and Los Angeles, Calif., and Phoenix and Tucson, Ariz.

No. MC 59583 (Sub-No. 161), filed April 18, 1977. Applicant: THE MASON AND DIXON LINES, INCORPORATED, Eastman Road, P.O. Box 969, Kingsport, Tennessee 37662. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wis-

consin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment), serving the plantsite and facilities of S. S. Kresge Company Distribution Center in Coweta County, Georgia, as an off-route point in connection with applicant's authorized regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Altanta, Georgia or Washington, D.C.

No. MC 71902 (Sub-No. 85), filed March 21, 1977. Applicant: UNITED TRANSPORTS, INC., 4900 North Santa Fe, P.O. Box 18547, Oklahoma City, Okla. 73118. Applicant's representative: John R. Sims, Jr., 425–13th Street, NW., 915 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New motor vehicles*, in initial movements, in truckaway service, from the plantsite or facilities of the Chrysler Corporation located at or near Belvidere, Ill., to points in Oklahoma, Texas and New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich., or Washington, D.C.

No. MC 76032 (Sub-No. 326), filed March 30, 1977. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Eldon E. Bresee (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving the Palo Verde Nuclear Generating Plantsite, located at or near Wintersburg (Maricopa County), Ariz., as an off-route point in connection with carrier's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Denver, Colo.

No. MC 78118 (Sub-No. 31), filed March 30, 1977. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, Pa. 17602. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsite and shipping facilities of Heinz U.S.A., Division of H. J. Heinz Company located at Fremont and Toledo, Ohio, to points in Pennsylvania on and east of U.S. Highway 220, points in Delaware, Maryland, New Jersey, Virginia and the District of Columbia, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held with similar applications at either Washington, D.C. or Harrisburg, Pa.

No. MC 80430 (Sub-No. 162), filed April 25, 1977. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, Wisconsin 54601. Applicant's representative: F. Neil Aschemeyer (Same address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and other facilities of the John Deere Company at or near Conyers, Georgia, as an off-route point in connection with applicant's authorized regular route operations. Restriction: The service proposed immediately above is subject to the following conditions: Said operations are restricted against the transportation of traffic originating at the facilities of the John Deere Company at or near Conyers, Georgia and destined to or interlined at Atlanta, Georgia. Said operations are restricted against the transportation of traffic originating at Atlanta, Georgia and destined to or interlined at the facilities of the John Deere Company at or near Conyers, Georgia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Georgia.

No. MC 82492 (Sub-No. 149), filed March 17, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from St. Joseph, Mo., to points in Indiana, Kentucky, Michigan and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Omaha, Nebr.

No. MC 82492 (Sub-No. 152), filed April 20, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from Chagrin Falls, Ohio, to points in Illinois, Indiana, Iowa, Michigan and Missouri.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Cleveland, Ohio, or Washington, D.C.

No. MC 82492 (Sub-No. 153), filed April 20, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum* and *petroluem products*, in containers, and (2) *paper products, uniforms* and *such commodities* as are dealt in by automotive service centers when transported with the commodities in (1) above, from Cincinnati, OH, to points in Chicago, Illinois; Indianapolis, Indiana; St. Louis and Kansas City, Missouri; Milwaukee, Wisconsin, and points in their commercial zones as defined by the Commission.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 83217 (Sub-No. 73), filed March 24, 1977. Applicant: DAKOTA EXPRESS, INC., 550 East Fifth Street South, South St. Paul, Minn. 55075. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from points in the United States (except Alaska and Hawaii), to the ports of entry on the International Boundary line between the United States and Canada, located at or near Pembina, N. Dak., and Noyes, Minn., on traffic destined to Winnipeg, Manitoba, Canada; and (2) from the ports of entry on the International Boundary line between the United States and Canada, located at or near Pembina, N. Dak., and Noyes, Minn., to points in the United States (except Alaska and Hawaii), on traffic originating at Winnipeg, Manitoba, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 83539 (Sub-No. 456), filed March 24, 1977. Applicant: C & H TRANSPORTATION CO., INC., 1936—2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials, machinery, equipment, and supplies* (except commodities in bulk) used in the manufacture and distribution of contractors' construction; (2) *mining machinery, equipment and parts*, from points in the United States, including Alaska, but excluding Hawaii to the facilities of Bucyrus-Erie Co., located at Pocatello, Idaho.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Washington, D.C.

No. MC 83835 (Sub-No. 139), filed March 28, 1977. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum scrap*, between the facilities of Texas Reduction Corp., located at or near Nanvel, Tex., on the one hand, and, on the other, points in Alabama, Arkansas, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Ohio, Oklahoma, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas or Houston, Tex.

No. MC 93235 (Sub-No. 10), filed March 31, 1977. Applicant: INDIANA TRUCKING, INC., 6500 Industrial Highway, Gary, Ind. 46406. Applicant's representative: R. D. Besser (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, gypsum and gypsum products, building materials, lime, fabricated metal products, paint and paint products*, and *such materials* as are used in the manufacture, installation and distribution thereof, between the facilities of the United States Gypsum Company, located in Cook County, Ill. and Lake County, Ind., on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Michigan, Ohio and Wisconsin, under a continuing contract, or contracts, with United States Gypsum Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 93840 (Sub-No. 28), filed: March 31, 1977. Applicant: W. W. GLESS, dba Gless Bros., P.O. Box 216, Blue Grass, Iowa 52726. Applicant's Representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *gypsum, crushed, crude, ground, or pulverized in bulk in dump equipment*, from Marion County, Iowa, to the plantsite of the Marquette Cement Company, at or near Oglesby, Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or St. Louis, Missouri.

No. MC 94350 (Sub-No. 385), filed March 29, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Double-wide mobile homes*, in secondary movements, from points in Alabama, Georgia, Mississippi, North Carolina and South Carolina, to points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbia, S.C. and Mobile, Ala.

No. MC–94430 Sub No. 41, filed April 27, 1977. Applicant: WEISS TRUCKING COMPANY, INC., P.O. Box 7, Mongo, Indiana 46771. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Plastic and wood moldings, from Middlebury, Indiana, to points in the United States, except Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Michigan, or Washington, D.C. Common control may be involved.

No. MC 95920 (Sub-No. 46), filed March 10, 1977. Applicant: SANTRY TRUCKING COMPANY, a corporation, 11552 S.W. Pacific Highway, Portland, Oreg. 97223. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magnesium oxide and calcined magnesite*, in containers, from Gabbs, Nev., to the Port of Entry on the International Boundary Line between the United States and Canada located at or near Blaine, Wash., restricted to traffic destined to the Province of British Columbia, Canada, under a continuing contract or contracts with Van Waters & Rogers, Ltd.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 96938 (Sub-No. 3), filed March 29, 1977. Applicant: ARKANSAS TRANSIT HOMES, INC., 8400 Mabelvale Pike, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles (except travel trailers and recreational vehicles), and *buildings*, in sections (except prefabricated buildings, in initial movements, from points in Arkansas, to points in Oklahoma, Texas, Louisiana, Mississippi and Tennessee; and (2) *trailers*, designed to be drawn by passenger automobiles (except travel trailer and recreational vehicles), and *buildings*, in sections (except prefabricated buildings), in secondary movements, from points in Texas, Louisiana and Mississippi, to points in Arkansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark., Memphis, Tenn. or Washington, D.C.

No. MC 103051 (Sub-No. 394), filed March 24, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934, 44th Avenue, North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid arsenic acid*, in bulk, in tank vehicles, from Bonham, Tex., to Conley, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or Nashville, Tenn.

No. MC 103993 (Sub-No. 886), filed March 28, 1977. Applicant: MORGAN DRIVE AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: James B. Buda (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial movements, and *containers and cargo containers* from points in Dauphin County, Pa., to points in the United States (except Alaska and Hawaii); and (2) *trailer and trailer chassis* (except those designed to be drawn by passenger automobiles), in secondary movements between points in Dauphin County, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 103993 (Sub-No. 889), filed April 25, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 U.S. 20 West, Elkhart, Indiana 46514. Applicant's representatives: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, Indiana 46514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: trailers, semitrailers, and trailer chassis, other than those designed to be drawn by passenger automobiles, in initial and secondary movements in truckaway service between Murfreesboro, Tennessee, on the one hand, and on the other, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Minneapolis, Minnesota.

No. MC 103993 (Sub-No. 890), filed April 25, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 U.S. 20 West, Elkhart, Indiana 46514. Applicant's representatives: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, Indiana 46514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: buildings and sections of buildings on undercarriages from Box Elder County, Utah to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, Applicant requests it be held at Detroit, Michigan or Chicago, Illinois.

No. MC 104210 (Sub-No. 69), filed March 30, 1977. Applicant: THE TRANSPORT COMPANY, INC., 5505 Agnes, P.O. Box 4726, Corpus Christi, Tex. 78408. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank vehicles, from the plantsite and storage facilities of Merichem Company, located at Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston or Dallas, Tex.

No. MC 105045 (Sub-No. 67), filed March 28, 1977. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Articles*, which because of size or weight require the use of special equipment, and (2) *articles* which do not require the use of special equipment when moving on the same vehicle and at the same time in mixed loads with the commodities named in (1) above, between the plantsite and facilities of Rockwell International, MGD Graphic Systems Group located at or near Wyomissing and Elizabethville, Pa., on the one hand, and, on the other, points in the United Staes in and east of Illinois, Kentucky, Mississippi, Tennessee and Wisconsin, restricted to traffic originating at or destined to the above named plantsite and facility.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Pitteburgh, Pa. or Washington, D.C.

No. MC 105045 (Sub-No. 68), filed April 27, 1977. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, IN 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: iron and steel and iron and steel articles from Huntington, W. Va., to points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, restricted to traffic originating at the plant site and other facilities of Connors Steel Company, Inc., Huntington, W. Va.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Charleston, W. Va. Applicant also states that it presently holds so-called size-and-weight authority between points in West Virginia, on the one hand, and, on the other, points in various States.

No. MC 105566 (Sub-No. 138), filed April 25, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's Representative: Thomas F. Kilroy, Suite 406 Springfield Executive Building, 6901 Old Keene Mill Road, Springfield, Virginia 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *foodstuffs, plastic articles, and rubber articles* from the plantsite and storage facilities of or utilized by Ross Laboratories, Division of Abbott Laboratories, located at or near Sturgis, Michigan to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 105566 (Sub-No. 139), filed April 25, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's Representative: Thomas F. Kilroy, Suite 406 Springfield Executive Building, 6901 Old Keene Mill Road, Springfield, Virginia 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *printed matter* from Corinth, Miss., and Dresden, Tenn., to all points in Colorado with service limited to the delivery of a shipment, the remainder of which is moving to a point beyond Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 105566 (Sub-No. 140), filed April 25, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's Representative: Thomas F. Kilroy, Suite 406 Springfield Executive Building, 6901 Old Keene Mill Road, Springfield, Virginia 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: household appliances including gas or electric ranges, ovens or surface cooking units, gas or electric; dishwashing machines; garbage disposal units; stove parts; household type compactors; microwave ovens; hoods; cooling boxes or refrigerators and cooling and freezing combined; dishwasher parts; and refrigerator parts from Mansfield, Ohio, Nashville, Tenn., Springfield, Tenn., Murray, Ky., and Dalton, Ga., to all points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 105566 (Sub-No. 141), filed April 25, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's Representative: Thomas F. Kilroy, Suite 406 Springfield Executive Building, 6901 Old Keene Mill Road, Springfield, Virginia 22150. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: printed matter from Carlstadt, New Jersey to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 106603 (Sub-No. 153), filed April 22, 1977. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, Michigan 49508. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Michigan 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Refractories and refractory products* from Audrain County, Missouri, to points in Michigan (except the facilities of Mueller Brass at Port Huron), and Wisconsin.

NOTE.—Applicant holds motor contract carrier authority in Permit No. 46240 and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago Illinois; Detroit, Michigan; or Washington, D.C.

No. MC 107002 (Sub-No. 500), filed March 30, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123 (U.S. Highway 80 West), Jackson, Miss. 39205. Applicant's representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insecticides*, liquid, in bulk in tank vehicles, from Becker, Miss., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Miss., or Atlanta, Ga.

No. MC 107295 (Sub No. 848), filed April 21, 1977. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common* carrier, by motor vehicle over irregular routes, transporting: *steel door frames* and *iron* or *steel doors*, from Brooklyn, New York, to points in Colorado, Florida, Georgia, Kansas, Kentucky, Nebraska and South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 107403 (Sub-No. 1009), filed April 17, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Liquid Chemicals, in bulk, in tank vehicles, From: Bainbridge, New York. To: points in Rhode Island, New Hampshire, Vermont, Maine, Massachusetts, Delaware and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107403, (Sub-No. 1010), filed April 21, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as above). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Sodium Sulfate (salt cake)*, in bulk, in tank vehicles, from Nitro, West Virginia, to Baltimore, Maryland.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107403, (Sub-No. 1011), filed April 21, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as above). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Reclaiming Oil*, in bulk, in tank vehicles, from Lorain, Ohio, to the plant site of Motor Oils Refining at or near Lyons, Illinois.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107460 (Sub-No. 64), filed March 28, 1977. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Accessories, parts, materials and supplies* (except commodities in bulk) used in the manufacture, repair, assembly and distribution of agricultural machinery, implements and components thereof, (a) from points in Connecticut, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Tennessee, Wisconsin, and from the plantsites of the Sperry Rand Corporation, New Holland Division, located at or near Grand Island and Lexington, Nebr., to the plantsite on the Sperry Rand Corporation, New Holland Division, located at or near Fowler, Calif.; and (b) from the plantsite of the Sperry Rand Corporation, New Holland Division, located at or near Fowler, Calif., to the plantsites of the Sperry Rand Corporation, New Holland Division, located at or near Grand Island and Lexington, Nebr., under a continuing contract, or contracts, with Sperry Rand Corporation, New Holland Division.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Harrisburg, Pa.

No. MC 107515 (Sub-No. 1069), filed March 30, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Spencer Foods, Inc., located at Spencer, Hartley and Ft. Dodge, Iowa, and Fremont and Schuyler, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia.

NOTE.—Applicant controls Refrigerated Transport, Inc., which has contract carrier authority in MC 126436 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 107544 (Sub-No. 135), filed March 22, 1977. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, P.O. Box 580, Marion, Va. 24354. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground, pulverized and crushed limestone, silica sand materials, and premixed materials*, from Buchanan, Va., to points in Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, West Virginia and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 113959 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Roanoke, Va. or Washington, D.C.

No. MC 108046 (Sub No. 6), filed April 21, 1977. Applicant: CURATOLA BROS. TRUCKING, INC., 180 Atlantic Avenue, Garden City Park, N.Y. 11040. Applicant's representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores, between all points in New Jersey, New York, N.Y., Nassau, Suffolk, and Westchester Counties, N.Y. *Restriction:* The operations authorized herein are limited to a transportation service to be performed, under a continuing contract or contracts, with Abraham and Straus, a Division of Federated Department Stores, Inc.

NOTE.—Applicant states that it holds authority to serve Abraham and Straus, a Division of Federated Department Stores, Inc., which partially duplicates the authority sought. Applicant consents to the revocation of its present duplicating authority contained in Permit MC 108046 (Sub No. 6). If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y.

MC 108119 (Sub-No. 58), filed March 31, 1977. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, 3303 Sibley Memorial Highway, P.O. Box 3010, St. Paul, Minnesota 55165. Applicant's Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minnesota 55402. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *trailer-mounted chippers and debarkers in tow-away service*, between the plantsite and storage facilities of Nicholson Manufacturing Co., located in King County, Washington, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Washington. Common control may be involved.

No. MC 108207 (Sub-No. 458), filed March 31, 1977. Applicant: FROZEN FOOD EXPRESS, a Corporation, 318 Cadiz Street, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products and foodstuffs*, from St. Louis, Mo. and points in its commercial zone, to points in Kansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Dallas, Tex.

No. MC 109443 (Sub-No. 25) (Correction), filed March 18, 1977. Published in the FEDERAL REGISTER issue of May 5, 1977 as MC 109433, and republished as corrected this issue. Applicant: SEABOARD TANK LINES, INC., Monahan Ave., Dunmore, Pa. 18512. Applicant's representative: Joseph F. Hoary, 121 S. Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Litharge*, dry, in bulk, from Dunmore, Pa., to points in Ohio.

NOTE.—The purpose of this republication is to indicate applicant's correct docket number is MC 109433 in lieu of MC 109443 as previously published. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109612 (Sub-No. 40), filed March 28, 1977. Applicant: LEE MOTOR LINES, INC., 4319 South Madison, Muncie, Ind. 47305. Applicant's representative: Donald W. Smith, Suite 2465—One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers and plastic articles*, from Seymour, Ind., to points in Illinois, Ohio and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 109821 (Sub-No. 52), filed March 31, 1977. Applicant: H. W. TAYNTON COMPANY, INC., 40 Main Street, Wellsboro, Pa. 16901. Applicant's representative: Dewey T. Whitford (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery and machine parts*; (2) *ores and ore concentrates, chemicals and chemical compounds, oxides, metallurgical compounds, metal compounds, carbide powder*, and the refined, smelted, or otherwise processed *products* of these ores and derivatives, therefrom including metals, metal parts, metal powder, billets, wire, rods, pellets, sheet, plate and foil, perforated sheets, coils, and electrodes; (3) *apperture masks*; (4) *rare earths*; (5) *phosphors*; and (6) *chemical mixtures*, and *related materials and derivatives and products* therefrom, and *articles* used in the sale, manufacture and distribution thereof, (except in bulk), between the facilities

of G.T.E. Sylvania, Incorporated, Chemical and Metallurgical Division, located at or near Towanda, Pa., on the one hand, and, on the other, points in Connecticut, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or New York, N.Y.

No. MC 110012 (Sub-No. 34), filed March 24, 1977. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, Tenn. 37814. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Nashville, Tenn. to points in the United States (including Alaska nad Hawaii); and (2) *returned shipments* of new furniture, from the destination points named in (1) above, to Nashville, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110149 (Sub-No. 10), filed March 28, 1977. Applicant: PAN AMERICAN VAN LINES, INC., 18420 South Santa Fe Avenue, P.O. Box 923, Long Beach, Calif. 90801. Applicant's representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty household goods shipping containers*, set up or knocked down, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 110525 (Sub-No. 1187), filed March 30, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank vehicles, from the plantsite of Merichem Company and the storage facilities of Merichem Company, located at Houston, Tex., to points in Arkansas, Louisiana, Mississippi, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex.

No. MC110683 (Sub-No. 119), filed April 28, 1977. Applicant: SMITH's TRANSFER CORP., Post Office Box 1000, Staunton, Va. 24401. Applicant's representative: Thomas N. Willess, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment). Serving the plantsite and warehouse facilities of the John Deere Company, located at or near Conyers, Georgia, as an off-route point in connection with applicant's authorized regular route operations serving Atlanta, Georgia. Restricted against the transportation of traffic between Atlanta, Georgia, on the one hand, and, on the other, the plant site and warehouse facilities of the John Deere Company, located at or near Conyers, Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Georgia, or Washington, D.C.

MC 111812 (Sub-No. 532), filed April 27, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: Ralph H. Jinks, P.O. Box 1233, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *foodstuffs in mixed shipments with meats* (as previously authorized) in mechanically refrigerated vehicles (restricted against commodities in bulk) from the plantsites and warehouse facilities of Oscar Mayer located at or near Madison, Wisconsin, and Davenport, Iowa, to points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison, Wisconsin. Common control may be involved.

No. MC 111956 (Sub-No. 37), filed March 30, 1977. Applicant: SUWAK TRUCKING CO., 1105–15 Fayette Street, Washington, Pa. 15301. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsite and shipping facilities of Heinz U.S.A., Division of H. J. Heinz Company located at Fremont and Toledo, Ohio, to points in Pennsylvania on and east of U.S. Highway 220, points in New York on and south of Interstate Highway 84, points in New Jersey on and north of New Jersey Highway 33, and the District of Columbia, restricted to transportation originating at the above origins and destined to the above destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be heard on a consolidated record with similar applications at either Washington, D.C., or Harrisburg, Pa.

No. MC 112304 (Sub-No. 116), filed March 30, 1977. Aplicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk, Classes A and B explosives, household goods as defined by the Commission, livestock and articles of unusual value), between the port site and facilities of the Paducah-McCraken County Riverport Authority, located at or near Paducah, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 112713 (Sub-No. 198), filed April 22, 1977. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, Kans. 66207. Applicant's representative: John M. Records (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, articles of unusual value, commodities requiring special equipment and those contaminating or injurious to other lading), serving the plantsite of Minnesota Valley Engineering Company at New Prague, MN, as an off-route points in connection with carrier's otherwise authorized operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, MN, or Washington, DC.

No. MC 112713 (Sub-No. 199), filed April 22, 1977. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, Kans. 66207. Applicant's representative: John M. Records (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosive, household goods as defined by the Commission, commodities in bulk, articles of unusual value, and commodities requiring special equipment), serving the plantsite of Prairie States Enterprises, Inc., located on Missouri Highway 31 near Clarksdale, DeKalb County, MO, as an off-route point in connection with carrier's otherwise authorized operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO, or St. Joseph, MO.

No. MC 112750 (Sub-No. 342), filed March 24, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except currency and negotiable securities)

as are used in the business of banks and banking institutions, from Berlin, N.H., to Boston, Mass., under a continuing contract, or contracts, with North Country Bank and The Berlin City Bank.

NOTE.—Applicant holds common carrier authority in various subs under MC 111729, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112822 (Sub-No. 417), filed April 27, 1977. Applicant: BRAY LINES, INC., 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pails*, from Denver, Colorado, to points in Iowa, Kansas, Missouri, Nebraska, Oklahoma, and Texas. Restricted to the transportation of traffic originating at the named origin and destined to the named destination states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Denver, Colo., or Kansas City, Mo.

No. MC 113158 (Sub-No. 29), filed March 31, 1977. Applicant: TODD TRANSPORT CO., INC., Secretary, Md. 21664. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, Pa. 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Macaroni noodles, spaghetti noodles and other noodles and noodle products*, from the facitilites of Gioia Speciality Foods, Inc., located at Buffalo, N.Y., to Landover, Md.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa., or Washington, D.C.

MC 113855 (Sub-No. 371), filed March 24, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., a corporation, 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Yard tractors* between Lyons, Ill., on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 113908 (Sub-No. 395), filed March 31, 1977. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G.S.S., 2105 East Dale Street, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed supplements, feed ingredients, and feed additives*, in bulk, from Marshall, Mo., and points in Saline County, Mo., to points in Alabama, Arkansas, California, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 114115 (Sub-No. 27), filed March 21, 1977. Applicant: TRUCKWAY SERVICE, INC., 1099 Oakwood Blvd., Detroit, Mich. 48217. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk (1) from Erie, Pa., to points in New York; and (2) from Toledo, Ohio, to points in Indiana, Illinois, and Michigan, restricted in (1) and (2) to traffic originating at the plantsites of Domtar Chemicals, Inc., located at Erie, Pa., and Toledo, Ohio, under a continuing contract or contracts with Domtar Chemicals, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Detroit, Mich., or Washington, D.C.

No. MC 114457 (Sub-No. 299), filed April 22, 1977. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranesporting: *Plastic containers*, from New Berlin, Wisconsin, to Jeffersonville, Indiana, and Kansas City, Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis-St. Paul, Minnesota, or Chicago, Illinois.

No. MC 114457 (Sub-No. 300), filed April 22, 1977. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and equipment, materials, and supplies used in the manufacture and distribution of the described commodities* (except commodities in bulk), from Perrysburg, Ohio, to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, the Upper Peninsula of Michigan, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minnesota, or Chicago, Illinois.

No. MC 114533 (Sub-No. 357), filed March 28, 1977. Applicant: BANKERS DISPATCH CORP., 1106 West 35th St., Chicago, Ill. 60609. Applicant's representative: Warren W. Wallin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media, reports and pattern samples*, between Manhattan, Kans., on the one hand, and, on the other, Kansas City, Mo., restricted to shipments having a prior or subsequent movement by air.

NOTE.—Applicant holds contract carrier authority in MC 128616 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 114569 (Sub-No. 173), filed March 21, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs* (except in bulk, in tank vehicles), in mechanically controlled refrigerated equipment, from the plantsite and storage facilities of Kraft, Inc., located at or near Champaign, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to traffic originating at the above named origin and destined to the above named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 114608 (Sub-No. 31), filed March 31, 1977. Applicant: CAPITAL EXPRESS, INC., 5635 Clay, Grand Rapids, Mich. 49508. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ranges and ovens*, including microwave ovens, from Marion, Ohio, to Grand Rapids, Greenville, Holland, Kentwood, Muskegon, and Wyoming, Mich., under a continuing contract, or contracts, with Gibson Products Corporation, and Kelvinator, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lansing or Detroit, Mich., or Chicago, Ill.

No. MC 114632 (Sub-No. 107), filed March 28, 1977. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Andrew Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from Bonner Springs, Kansas, to points in Illinois, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, Texas, and Wisconsin.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant request it be held at Kansas City, Missouri.

No. MC 114896 (Sub-No. 48), filed March 24, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040.

Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency and securities*, between New Orleans, La., on the one hand, and on the other, points in Alabama, Florida, and Mississippi, under a continuing contract or contracts with Federal Reserve Bank of Atlanta.

NOTE.—Applicant holds common carrier authority in MC 140345 (Sub-No. 1), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 115180 (Sub-No. 98), filed March 30, 1977. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 205 W. 14th Street, New York, N.Y. 10014. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cocoa beans, cocoa butter, cocoa cake, chocolate liquor, and confectionary* (except commodities in bulk), from Philadelphia, Pa., to the facilities of Blommer Chocolate Co. and World's Finest Chocolate, Inc., located at Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Chicago, Ill.

No. MC 115311 (Sub-No. 214), filed March 28, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Calif. 31061. Applicant's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from St. Clair, Mich., Akron, Ohio, and Iberia Parish, La., to points in North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La.

No. MC 115841 (Sub-No. 535), filed March 25, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, Tenn. 37919. Applicant's representative: E. Steven Heisley, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Nursery or infant materials and supplies* in mixed loads with foodstuffs, from Skyland, N.C., to points in Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Oregon, Tennessee, and Washington; and (2) *foodstuffs* (except frozen) *and infant materials and supplies* in mixed loads with foodstuffs, in mechanically refrigerated vehicles between the plantsite and facilities of Gerber Products Company located at or near Skyland, N.C. and Fremont, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Asheville, N.C. or Washington, D.C.

No. MC 116045 (Sub-No. 47), filed April 18, 1977. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins WY 82301. Applicant's Representative: Leslie R. Kehl of Suite 1600 Lincoln Center Building, 1660 Lincoln Street, Denver CO 80264. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting sulphuric acid, in bulk, from Casper, Casper Air Force Base, Rawlins, Medicine Bow, Bonneville, Rock Springs, and Douglas, Wyo., to points in Wyo., restricted to the transportation of shipments having an immediately prior movement by rail.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colorado.

No. MC 116763 (Sub-No. 376), filed March 24, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Northern Star Company located at Minneapolis, Minn., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 117072 (Sub-No. 4), filed March 28, 1977. Applicant: ARMORED TRANSPORT, INC., 1130 South Flower Street, Los Angeles, Calif. 90015. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency and securities*, including savings bond stock, between Los Angeles, Calif., on the one hand, and on the other, points in Arizona, under a continuing contract, or contracts, with Federal Reserve Bank of San Francisco.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles or San Francisco, Calif.

No. MC 117416 (Sub-No. 54), filed March 25, 1977. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue, N.W., Knoxville, Tenn. 37921. Applicant's representative: Herbert Alan Dubin, 1819 H Street, NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal powders and barium ferrite* (except in bulk), from points in Loudon County, Tenn., to points in Illinois, Indiana, Kentucky, Michigan and Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117574 (Sub-No. 284), filed March 31, 1977. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Self-propelled construction equipment weighing 15,000 pounds or more, and parts and attachments for such commodities, from Lorain, Ohio and Chattanooga, Tennessee to points in the United States in and east of Colorado, Montana, New Mexico and Wyoming (except Tennessee), restricted to the transportation of shipments originating at the facilities of Lorain Division, Koehring, Inc., at Chattanooga, Tennessee or Lorain, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 117765 (Sub-No. 226), filed March 28, 1977. Applicant: HAHN TRUCK LINE, INC., 5315 N.W. 5th Street, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Austin, Minn., to points in Arkansas, Kansas, Missouri and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 117815 (Sub-No. 263), filed April 20, 1977. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. 20th Street, Des Moines, Iowa 50309. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Charcoal, charcoal briquets, woodchips (not charred), charcoal lighter fluid (naptha distillate), potting soil plant bedding, fireplace log, vermiculite other than crude, from the plantsite and warehouse facilities of Kingsford Company at or near Belle, Missouri to points in Iowa and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Louisville, Kentucky or Kansas City, Missouri.

No. MC 119632 (Sub-No. 72), filed April 1, 1977. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, Ohio 43512. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* (except in bulk), from the plantsite and facilities of U.S. Sugar Co., located at Chicago, Ill., to points in Indiana, and Kentucky, those points in the lower peninsula of Michigan, and points in New York, Ohio, Pennsylvania, and West Virginia, restricted to traffic originating at the named origins, and destined to the named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119741 (Sub-No. 67), filed March 30, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 Fifth Avenue South, P.O. Box 1235, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Edible animal fats, animal oils, and vegetable oils, in packages;* (2) *products and blends* of the commodities in (1) above, in packages; and (3) *oleomargarine*, in packages, from the facilities utilized by Swift Edible Oil Company, located at Bradley and Kankakee, Ill., to points in Minnesota and Wisconsin, restricted to the transportation of shipments originating at the named origins, and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119777 (Sub-No. 335), filed March 30, 1977. Applicant: LIGON SPECIALIZED HAULER, INC. Highway 85 East, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, Ky. 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, pallets, skids, bases, boxes, crates, crating, baskets, treads, risers, sills, moldings, cardboard cartons, nails, treated poles, treated piling, treated crossarms, treated crossties, and treated lumber*, from points in Georgia, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Lower Peninsula of Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia West Virginia, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 126970 (Sub-No. 1) and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 119777 (Sub-No. 336), filed March 30, 1977. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, Ky. 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air coolers and air conditioners, and parts, attachments, and accessories*, for air coolers and air conditioners, from Tyler, Tex., to points in the United States (except Alaska, Hawaii, and Texas).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Los Angeles, Calif.

No. MC 119789 (Sub-No. 332), filed March 28, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Air conditioners, air coolers and apparatus, furnace or heating units and related parts, and furnaces and air conditioning apparatus* combined, from Milledgeville, Ga., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (B) *Materials and supplies* used in the production of air conditioners, air coolers and apparatus, *furnaces or heating units and related parts*, and *furnaces and air conditioning apparatus* combined, from points in Connecticut, Delaware Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and Wisconsin, to Milledgeville, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fort Smith or Little Rock, Ark.

No. MC 119789 (Sub-No. 333), filed March 28, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from St. Francisville and Belledeau (Avoyelles County), La., to points in Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Peoria, Ill., or Dallas, Tex.

No. MC 119789 (Sub-No. 339), filed March 28, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformers and parts* (except commodities which because of size or weight require the use of special equipment), from Pine Bluff, Ark., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Pine Bluff or Little Rock, Ark.

No. MC 119789 (Sub-No. 344), filed April 21, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Plastic Film*, in mechanically refrigerated equipment, (a) From Illiopolis, Ill, to Texas, and (b) from Carson, Cal. to Washington and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbus or Cincinnati, Ohio.

No. MC 119864 (Sub-No. 69), filed March 29, 1977. Applicant: CRAIG TRANSPORTATION CO., a corporation, 26699 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are distributed or dealt in by food distributors and wholesale or retail grocers (except commodities in bulk), from the plantsite and facilities of Fostoria Distribution Service Company, located at or near Fostoria, Ohio, to St. Louis, Mo., and points in Illinois and Michigan.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 119917 (Sub-No. 41) (Correction), filed February 24, 1977, and published in the FEDERAL REGISTER issue of April 21, 1977 and republished this issue. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive SE., Atlanta, Ga. 30316. Applicant's representative: Theodore Polydoroff 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (except frozen), (1) from the plant sites and shipping facilities of Nabisco, Inc., located at Henrico County, Va., and Atlanta, Ga., to points in Arkansas and Oklahoma and to points in Texas on and east of U.S. Highway 281; and (2) from the plant site and shipping facilities of Nabisco, Inc., located at or near Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and the District of Columbia.

NOTE.—The purpose of this republication is to correct applicant's commodity description. If a hearing is deemed necessary the applicant requests it be held at Washington, D.C.

No. MC 119934 (Sub-No. 216), filed April 21, 1977. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Indiana 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Indiana 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn starch*, dry, in bulk, from New Orleans, Louisiana, to points and places in Louisiana, restricted to shipments having had a prior movement by rail.

NOTE.—Applicant holds contract carrier authority in MC-128161 and Sub-No. 1, thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at either New Orleans, Louisiana, or Washington, D.C.

No. MC 119974 (Sub-No. 65), filed April 28, 1977. Applicant: L. C. L. TRANSIT CO., 949 Advance Street, Green Bay, Wis. 54304. Applicant's representative: L. F. Abel, P.O. Box 949, Green Bay, Wis. 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Meat and Meat Products*, from the

plant site of Armour & Company at Green Bay, Wisconsin, to points in Ohio.

NOTE.—If hearing is deemed necessary, the applicant requests it be held at Chicago, Illinois, or Milwaukee, Wisconsin.

No. MC 119988 (Sub-No. 111), filed March 30, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shelving*, in cartons, and *new store fixtures*, in crates, and *materials, equipment and supplies*, utilized in the manufacture and distribution thereof (except commodities in bulk), between points in Kaufman County, Tex., on the one hand, and, on the other, points in the United States (except Alaska, Hawaii and Texas).

NOTE.—Applicant holds contract carrier authority in MC 140271, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 120880 Sub-No. 2), filed March 28, 1977. Applicant: RONALD PEARSON, doing business as PEARSON'S EXPRESS, 132 Vale Street, Fall River, Mass. 02724. Applicant's representative: Ronald B. Pearson, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, Classes A and B explosives, commodities in bulk and commodities requiring special equipment), between points in Massachusetts.

NOTE.—By instant application applicant seeks to convert its Certificate of Registration in MC 120880 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, the applicant requests it be held at either Providence, R.I., or Hartford, Conn.

No. MC 123048 (Sub-No. 355), filed April 18, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum products*, and *supplies, materials*, and *equipment* used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc., located at Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley, and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Twin Falls, Idaho; Chicago and Morris, Ill.; Lebanon, Bristol, and Franklin, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Ore.; Bloomsburg, Pa.; Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marshfield, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that this application be consolidated with other similar applications at Washington, D.C.

No. MC 123069 (Sub-No. 16), filed March 31, 1977. Applicant: ALLER & SHARP, INC., 817 West Fifth Avenue, Columbia, Ohio 43212. Applicant's representative: Thomas F. Kilroy, P.O. Box 2069, Springfield, Va. 22152. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickles, pickled tomatoes, sauerkraut, and relishes* in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the plantsite of Claussen Pickle Co. located at or near Woodstock, Ill., to points in Delaware, Indiana, Kentucky, Maryland Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the named plant site and destined to the named states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 123405 (Sub-No. 58), filed April 22, 1977. Applicant: FOOD TRANSPORT, INC., R.D. No. 1, Thomasville, Pa. 17364. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petro-chemicals), in containers, from New Kensington, Pa., to points in Florida and Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa., or Washington, D.C. Common control may be involved.

No. MC 123407 (Sub-No. 360), filed March 25, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation materials, and materials, accessories and supplies*, used in the installation thereof, from Earth City, Mo., located at Bridgeton (St. Louis County), Mo., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cleveland or Columbus, Ohio.

No. MC 123407 (Sub-No. 361), filed March 25, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation materials, and materials, accessories and supplies*, used in the installation thereof, from Solon, Ohio to points in the United States in and east of Arkansas, Iowa, Louisiana, Minnesota, and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cleveland or Columbus, Ohio.

No. MC 123407 (Sub-No. 362), filed March 28, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling rooms* (except such commodities, which because of size or weight require special equipment), from Dallas, Tex., to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 123407 (Sub-No. 328) (Correction), filed October 6, 1976, published in the FEDERAL REGISTER issue of October 29, 1976, and republished this issue. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paneling*, between the facilities of the Pan American Gyro-Tex Company located at or near Jacksonville, Fla., on the one hand, and, on othe other, points in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

NOTE.—The purpose of this republication is to indicate Oklahoma as a destination state in lieu of Ohio. Common control may be involved.

Hearing: June 1, 1977 at Jacksonville, Fla. (3 days), at 9:30 a.m. local time. A tentative time allowance is shown for this hearing. Location of hearing room will be by subsequent notice.

No. MC 123744 (Sub-No. 26), filed April 1, 1977. Applicant: BUTLER TRUCKING COMPANY, a Corporation, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: Christian V. Graf, 401 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products, materials and supplies* used in the installation and manufacture of refractory products, between the plantsite and facilities of North American Refractories Co., located at White Cloud, Mich., on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Harrisburg, Pa.

No. MC 124306 (Sub-No. 27), filed April 25, 1977. Applicant: KENAN TRANSPORT COMPANY, INC., P.O. Box 2729, Chapel Hill, NC 27514. Applicant's Representative: Richard A. Mehley, 1000 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquefied petroleum gas, in bulk, in tank vehicles*, from Albermarle, N.C.; to Cowpens, S.C.; Dalton, Ga.; and Nashville, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Charlotte, N.C., or Washington, D.C.

No. MC 124328 (Sub-No. 111), April 21, 1977. Applicant: BRINK'S INCORPORATED, One Crossroads of Commerce, Suite 710, Algonquin Road and Route 53, Rolling Meadows, Ill. 60008. Applicant's representative: Chandler Lee van Orman, 704 Southern Building, 15th and H Streets, NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, securities and other rare or valuable documents or items* between Gorham, NH, and Lewiston, ME, under a continuing contract or contracts with White Mountain Trust Company.

NOTE.—Dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., or Washington, D.C.

No. MC 124411 (Sub-No. 11), filed April 15, 1977. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, Iowa 50251. Applicant's Representative: Antonio Colacino, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *Common Carrier* by motor vehicle over Irregular routes in the transportation of: (1) *Liquid and dry fertilizer, in bulk*, from Fulton, Illinois to points in Wisconsin, Minnesota, Iowa, Illinois and Missouri, restricted to traffic originating at the plantsite of Agrico Chemical Company and the Fulton River Terminal located at Fulton, Illinois; and (2) *Fertilizer and fertilizer ingredients, in bulk*, (a) from Jackson Junction, Iowa to Freeborn, Mower, Fillmore, Houston, Steele, Dodge, Olmsted, Winona, and Wabasha Counties, Minnesota; Buffalo, Trempealeau, Jackson, La Crosse, Monroe, Vernon, Richland, Crawford, Grant, Iowa, Lafayette, Green, Rock, and Walworth Counties, Wisconsin; and Jo Daviess, Stephenson, Winnebago, Boone, Carroll, Ogle, Whiteside, Lee and Rock Island Counties, Illinois, and (b) from Keota, Iowa, to Putnam, Schuyler, Scotland, Clark, Sullivan, Adair, Knox, and Lewis Counties, Missouri and Rock Island, Whiteside, Henry, Mercer, Henderson, Warren, Knox, Hancock, and McDonough Counties, Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Des Moines, Iowa or Chicago, Illinois.

No. MC 124692 (Sub-No. 175), filed March 28, 1977. Applicant: SAMMONS TRUCKING, a Corporation, P.O. Box 4347, Missoula, Mont. 59806. Applicant's representative: J. David Douglas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal buildings*, knocked down, and *materials, equipment and supplies*, used in the construction and erection thereof; and (2) *building materials*, from Watertown, S. Dak., to points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn., or Portland, Oreg.

No. MC 124857 (Sub-No. 1), filed April 1, 1977. Applicant: INTERSTATE TOWING, INC., 1700 S. 19th Ave., Phoenix, Ariz. 85009. Applicant's representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, Ariz. 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Disabled, wrecked, abandoned, seized, repossessed and stolen motor vehicles*, in a wrecker service, and *replacement vehicles*, between points in Arizona, on the one hand, and, on the other, points in Nevada, Utah, Colorado, Texas, Oklahoma and Wyoming; and (2) *replacement vehicles*, in a wrecker service, between points in New Mexico, Arizona and California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Phoenix, Ariz.

No. MC 124887 (Sub-No. 32), filed April 25, 1977. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, Fla. 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Fertilizer* and *Fertilizer materials, dry*, from Dale County, Ala. to points in the United States east of Texas, Oklahoma, Kansas, Nebraska, South Dakota and North Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Jacksonville, Fla., Tallahasse, Fla. or Atlanta, Ga.

No. MC 125010 (Sub-No. 16), filed March 21, 1977. Applicant: GIBCO MOTOR EXPRESS, INC., 3405 North 33rd Street, P.O. Box 312, Terre Haute, Ind. 47808. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys*, from Calvert City, Ky., to Flat Rock, Mich., and Defiance, Ohio, under a continuing contract or contracts with Airco Alloys, Division of Airco, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 125368 (Sub-No. 18), filed April 15, 1977. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, North Carolina 28445. Applicant representative: C. W. Fletcher, same address. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, and articles distributed by meat packinghouses as described in Sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (Except hides and commodities in bulk), from the plantsite and storage facilities of Swift Fresh Meats Company at Guymon, Oklahoma to points in Alabama, Georgia, North Carolina, South Carolina, Tennessee (except Memphis) and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Chicago, Illinois.

No. MC 126082 (Sub-No. 3), filed March 31, 1977. Applicant: SLENTZ & SONS, INC., R.R. No. 2, Grabill, Ind. 46741. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer* (except in tank vehicles), from Butler, Ind., to points in Allen, Wood, Ottawa, Sandusky, Erie, Lorain, Hancock, Seneca, Huron, Medina, Wyandot, Crawford, Richland, Ashland, Wayne, Hardin, Marion, Morrow, Knox, Holmes, Coshocton, Mercer, Auglaize, Darke, Shelby, Miami, Logan, Champaign, Clark, Union, Madison, Delaware, Franklin, Pickaway, Licking and Fairfield Counties, Ohio, under a continuing contract, or contracts, with Kaiser Agricultural Chemical Company, Division of Kaiser Aluminum and Chemical Sales, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind. or Chicago, Ill.

No. MC 126555 (Sub-No. 46), filed April 21, 1977. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, S. Dak. 57701. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: wood chips, sawdust, bark and shavings, between points in South Dakota restricted to shipments having a subsequent movement by rail.

NOTE.—Applicant holds contract carrier authority in MC 125809 (Sub-No. 8); therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Rapid City, South Dakota.

No. MC 127047 (Sub-No. 25), filed April 25, 1977. Applicant: ED RACETTE & SON, INC., 6021 North Broadway, Wichita, Kansas 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kansas 66603. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting (1) *implement cabs, bale loaders, combine scanners and accessories for implement cabs*, from the plantsite and warehouse facilities of Full

Vision, Inc. at Newton and Peabody, Kansas to points in the United States, except Hawaii and Alaska. Restricted to traffic originating at the plant and warehouse facilities of Full Vision, Inc. (2) *Materials and supplies* from the destination points shown in (1) above to the plant and warehouse facilities of Full Vision, Inc. at Newton and Peabody, Kansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Missouri or Wichita, Kansas.

No. MC 127524 (Sub-No. 14), filed April 20, 1977. Applicant: QUADREL BROS. TRUCKING COMPANY, INC., 1603 Hart Street, Rahway, N.J. 07065. Applicant's representative: John L. Alfano, Esq., 550 Mamaroneck Avenue, Harrison, New York 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic Acid*, in bulk, from Baltimore, Md. to Belvidere and Nutley, N.J.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at New York, N.Y.

No. MC 127602 (Sub-No. 15), filed April 25, 1977. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., 5555 East 58th Avenue, Commerce City, Colorado 80022. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles)*, From Denver, Fort Morgan, Greeley, and Sterling, Colorado; to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin. Restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo.

No. MC 128030 (Sub-No. 115), filed March 21, 1977. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, Urbana, Ill. 61801. Applicant's representative: James R. Madler, 120 West Madison, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from Champaign, Ill., to points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC-5352, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago or Springfield, Ill.

No. MC 128217 (Sub-No. 21), filed March 30, 1977. Applicant: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, N. Dak. 58401. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bagged insulation*, from Valley City, N. Dak., to points in Minnesota, Montana, and South Dakota, under a continuing contract with LeFevre Sales, Inc.

NOTE.—Applicant holds common carrier authority in MC 120978 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Fargo, N. Dak., or Minneapolis, Minn.

No. MC 128273 (Sub-No. 258), filed March 21, 1977. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Vicksburg, Mich., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 128698 (Sub-No. 15), filed March 30, 1977. Applicant: ERDNER BROS. INC., Fow and Leahy Avenues, Swedesboro, N.J. 08085. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plantsite and shipping facilities of Heinz U.S.A., Division of H. J. Heinz Company, located at or near Fremont and Toledo, Ohio, to points in New Jersey, those points in that part of New York on and south of Interstate Highway 84, and King of Prussia, Oaks and Philadelphia, Pa., restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Harrisburg, Pa.

No. MC 129387 (Sub-No. 31), filed March 22, 1977. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: Bill Payne (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs;* (2) *pharmaceutical materials, supplies, and products;* (3) *chemicals;* (4) *alcoholic beverages;* (5) *tobacco products;* (6) *pet foods;* (7) *such commodities* as are dealt in by distribution or consolidation warehouses for the commodities described in (1) through (6) above; and (8) *exempt commodities* when moving with regulated commodities, (a) from Denver, Colo., to those points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, and (b) from those points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, to Denver, Colo., restricted against the transportation of commodities in bulk.

NOTE.—Applicant seeks to tack (a) and (b) at Denver, Colo. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 129633 (Sub-No. 5), filed April 21, 1977. Applicant: KARL B. HERTZ, doing business as KARL B. HERTZ TRANSPORTATION, 2460 North Garey Avenue, Pomona, Calif. 91767. Applicant's representative: Jerry Solomon Berger, 433 North Camden Drive, 6th floor, Beverly Hills, Calif. 90210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste glass and cullet for recycling*, in bulk, in dump type vehicles, from points in Arizona to points in California.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held in Pomona, California.

No. MC 129742 (Sub-No. 11), filed March 23, 1977. Applicant: PUROLATOR COURIER, LTD., Valhalla Executive Centre, 302 The East Mall, Islington, Ontario, Canada M9B 6C7. Applicant's representative: Elizabeth L. Henoch, 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, moving in courier service (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and such commercial papers, documents and written instruments as are used in the business of banks and banking institutions) (1) between the ports of entry on the International Boundary line between the United States and Canada located at or near Mooers, Champlain, Rouses Point, and Trout River, N.Y., on the one hand, and, on the other, points in New York; (2) between the ports of entry on the International Boudary line between the United States and Canada located at or near Alburg, Swanton, Morses, Richford, North Troy, Derby Line, and Norton, Vt., on the one hand, and, on the other, points in Vermont; and (3) between ports of entry on the International Boundary line between the United States and Canada, located at or near Jackman and Woburn, Maine, on the one hand, and, on the other, points in Maine, restricted (a) against the transportation of packages weighing more than 50 pounds and each package or article shall be considered a separate and distinct shipment; (b) against the transportation of packages or articles weighing in the aggregate more than 100 pounds

from one consignor at one location to one consignee at one location, in any on day, (c) against traffic from or to the premises of banks and banking institutions, and (d) to traffic moving in foreign commerce.

NOTE.—Applicant holds contract carrier authority in various subs under MC 129456, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., New York, N.Y., or Boston, Mass.

No. MC 133095 (Sub-No. 156), filed April 1, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Des Moines, Iowa, to points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Chicago, Ill.

No. MC 133570 (Sub-No. 5), filed April 24, 1977. Applicant: MELVIN A. ATKIN, JR., d.b.a. ATKIN'S TRUCKING, P.O. Box 27, Hamilton, Ind. 46742. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier* over irregular routes, transporting: *Metal working press, metal drawing press, metal rolling machinery, machine parts, rought castings and weldings and gear and materials and supplies* used in the manufacturing of the items above, between Salem, Ohio, and points in the continental United States. Restricted to traffic originating or destined to the plant and facilities of Gulf & Western Manufacturing Company—E. W. Bliss Division at Salem, Ohio. Restricted to service under a contract with Gulf & Western Manufacturing Company—E. W. Bliss Division at Salem, Ohio.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Washington, D.C., or Indianapolis, Ind.

No. MC 134029 (Sub-No. 5) (correction), filed January 21, 1977, published in the FEDERAL REGISTER issue of March 10, 1977, and republished as corrected this issue. Applicant: SIGEL'S HAULING, INC., P.O. Box 286, Cadiz, Ohio 43907. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used machinery, used equipment*, and *materials and supplies incidential thereto* (except commodities in bulk, and iron and steel, and iron and steel articles), between points in Boyd, Carter, and Greenup Counties, Ky.; Ashtabula, Ottawa, Columbiana, Coyahoga, Trumbull, Jackson, Jefferson, Scioto, Summit, Lawrence, Medina, Portage, Stark, Pike, and Mahoning Counties, Ohio; Beaver and Cambria Counties, Pa.; and Hancock County, W. Va., restricted (1) to the transportation of machinery and equipment that require dismantling or erection for purposes of transportation, and (2) to the transportation of shipments originating at or destined to the plantsite or facilities of The Standard Slag Company.

NOTE.—The purpose of this correction is to indicate the addition of Mahoning County, Ohio, which was inadvertently omitted in the territorial description. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

MC 134035 (Sub-No. 18), filed April 24, 1977. Applicant: DOUGLAS TRUCKING COMPANY, P.O. Box 698, Highway 75 South, Corsicana, Tex. 75110. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, *Bakery goods, other than frozen*, from Corsicana, Tex., to points in California, Colorado, Georgia, Illinois, Louisiana, Michigan, Missouri, New York, Ohio, Pennsylvania, Tennessee, and Washington.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held in Dallas or Houston, Texas.

No. MC 134073 (Sub-No. 17), filed March 30, 1977. Applicant: GENOVA TRANSPORT, INC., 484 Clayton Road, Williamstown, N.J. 08094. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods and materials, equipment and supplies* used in the manufacture and sale of canned goods (except commodities in bulk); and (2) *those commodities*, the transportation of which is otherwise exempt from economic regulations when transported in the same vehicle, and at the same time with the commodities in (1) above, between Glassboro and Williamstown, N.J., on the one hand, and, on the other, points in Ohio and Maine, under a continuing contract, or contracts with Violet Packing Co., located at Williamstown, N.J., and Ron Son Mushroom Products Co., Inc., located at Glassboro, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa., or Washington, D.C.

No. MC 134286 (Sub-No. 20), filed March 28, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and warehouse facilities of Krey Packing Company, located at or near St. Louis, Mo., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the named origin and destined to the above-described states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 134328 (Sub-No. 4), filed April 11, 1977. Applicant: D & G TRUCKING CO., INC., 1450 Hamilton Avenue, P.O. Box 1004, Wynne, Ark. 72396. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103. Applicant hereby applies for authority to engage in operation, in interstate or foreign commerce, as a *contract carrier* by motor vehicle over irregular routes, in the transportation of: (1) *Copper tubing, rubber, neoprene, freon and products made from copper, rubber, neoprene and freon and fittings, attachments and accessories* therefor from Wynne and Colt, Ark., to points in the United States (except Alaska and Hawaii); and (2) *Commodities* used in the manufacture and distribution of items listed in (1) above from points in the United States (except Alaska and Hawaii) to Wynne and Colt, Ark. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract for contracts, with Halstead Industrial Products, a Division of Halstead Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Memphis, Tenn.

No. MC 134477 (Sub-No. 150) (correction), filed February 28, 1977, published in the FEDERAL REGISTER issue of April 14, 1977, and republished as corrected this issue. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and equipment*, used in the manufacture and sale of clothing and finished goods, from points in Delaware, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, and Virginia, to the facilities of Munsingwear, Inc., located at or near Ashland, Wis., and Little Falls and Minneapolis-St. Paul, Minn.

NOTE.—The purpose of this correction is to indicate the addition of Little Falls,

Minn., as a destination point, which was inadvertantly omitted. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

MC 134477 (Sub-No. 161), filed April 20, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from Denver, Colo., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; (2) from Fort Morgan, Colo., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted in (1) and (2) above to the transportation of shipments originating at the above described origin points and destined to the above described destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

MC 134477 (Sub-No. 162), filed April 21, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) from Independence and Kansas City, Mo., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, and the District of Columbia. Restricted to traffic originating at the above named origin points and destined to the above named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

MC 134477 (Sub 164), filed April 24, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *fresh and processed pork* from Dayton and Washington Court House, Ohio, to ports of entry on the United States-Canada boundary line at or near Pembina, ND; Noyes, MN; Blaine, WA; Detroit, MI; Buffalo, NY; Houlton, ME, and Sweetgrass, MT, when destined to the following named points in Canada: Winnipeg, Manitoba; Vancouver, British Columbia; Toronto, Ontario; Frederickton, New Brunswick, and Calgary, Alberta.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Columbus, Ohio.

No. MC 134676 (Sub-No. 5), filed March 3, 1977. Applicant: H. H. MOORE, JR., P.O. Box 477, Appomattox, Va. 24522. Applicant's representative: Richard J. Lee, 4070 Falstone Road, Richmond, Va. 23234. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ground level steel reservoirs and materials, supplies and equipment* used in the manufacture of ground level steel resorvoirs, between the plantsite of Flippo's and Company, located at our near Powhatan, Va., on the one hand, and, on the other, points in Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia, and the District of Columbia; and (2) *kyanite, kyanite ore, mullite, mullite ore,* and *materials, supplies and equipment* used in the manufacture, distribution and sales of kyanite, kyanite ore, mullite, mullite ore, between the facilities of Kyanite Mining Corp., located in Appomattox, Buckingham, and Prince Edward Counties, Va., on the one hand, and, on the other, points in California, Colorado, Delaware, Georgia, Illinois, Indiana, Kansas, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Utah, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Richmond, Va.

No. MC 134755 (Sub-No. 104), filed April 25, 1977. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Compressed fireplace logs and related advertising materials and display racks in mixed loads with compressed fireplace logs, from Suffolk, Virginia, to points in Ohio, Pennsylvania, Maryland, Kentucky, Tennessee, Michigan, Indiana, Mississippi, Louisiana, Arkansas, Missouri, Illinois, Wisconsin, Minnesota, Iowa, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, and Colorado.

NOTE.—Applicant holds motor contract carrier authority in MC 138398 and sub numbers thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at either Kansas City, Missouri, or Norfolk, Virginia.

No. MC 135684 (Sub-No. 35), filed April 27, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street, NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Cleaning and water purifying products, materials, supplies and equipment used in the manufacture, sale and distribution of cleaning and water purifying products, between St. Louis, MO and points in Illinois, Indiana and Ohio.

NOTE.—Applicant holds motor contract authority in No. MC-87720 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 135684 (Sub-No. 36), filed April 27, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Federal Bar Building West, 1819 H Street, NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Plastic products, except in bulk, in tank vehicles, from Hazelton, Pa., to Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin and the District of Columbia. (2) Materials, supplies and equipment utilized in the manufacture, sale and distribution of Plastic Products from the above-described destination states to Hazleton, Pa.

NOTE.—Applicant holds motor contract authority in No. MC-87720 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 135874 (Sub-No. 77), filed April 1, 1977. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, Minn. 55075. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Eau Claire, Wis., to points in the United States (except Alaska, Hawaii, Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi and Tennessee).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 135944 (Sub-No. 1), filed March 31, 1977. Applicant: RODGERS EXPRESS, INC., 1310 South West Street, Indianapolis, Ind. 46225. Applicant's representative: Donald W. Smith, 2465 One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment): Between Indianapolis, Ind. and Jacksonville, Ill., serving the intermediate points of Alexander, Arnold and Orleans, Ill., and serving the off-route points of Arcadia, Arenzville, Chapin, Clements, Concord, Franklin, Literbury, Lynnville, Jerome, Meredosia, Murrayville, Neelys, Nortonville, Pisgah, Prentice, Rees, Station, Rohrer, Sinclair, South Jacksonville, Waverly and Woodson, Ill.: (1) From Indianapolis over U. S. Highway 36 to Jacksonville, and return over the same route; and (2) From Indianapolis over Interstate Highway 74 to Champaign, Ill., thence over Interstate Highway 57 to junction Interstate Highway 72, thence over Interstate Highway 72 to Jacksonville, and return over the same routes, as an alternative route for operating convenience only, restricted in (1) and (2) above against the transportation of traffic having an immediately prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 136371 (Sub-No. 22), filed March 31, 1977. Applicant: CONCORD TRUCKING CO., INC., 1 Scout Avenue, South Kearny, N.J. 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount department stores, between the facilities of Lady Rose Division, located at Westbury, N.Y., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, Minnesota, New Jersey, New York, Ohio, and Pennsylvania, under a continuing contract, or contracts, with Lady Rose Division.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 136409 (Sub-No. 4), filed March 24, 1977. Applicant: M. A. ELLEFSON & SON, INC., doing business as ACME MOVING & STORAGE, 1615 Nixon Road, P.O. Box 5444, Augusta, Ga. 30906. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty household goods shipping containers*, set up or knocked down, between points in Georgia and South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests it be held on a consolidated record with Global Van Lines, Inc.

No. MC 136464 (Sub-No. 28), filed March 28, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floorcoverings and materials and supplies*, used in the installation, manufacture, packaging, and sale of floor coverings from Sparks, Nev., to points in California, Oregon, and Washington, under a continuing contract or contracts with Bigelow-Sanford Inc.

NOTE.—Applicant holds common carrier authority in MC 98635 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Greenville, S.C.

Mr. MC 136818 (Sub-No. 17, filed March 21, 1977. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, Ariz. 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Ontario, Oreg., and Burley, Idaho to Phoenix, Tempe and Tucson, Ariz.

NOTE.—Applicant holds motor contract carrier authority in MC 136897 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Phoenix, Ariz.

No. MC 136828 (Sub-No. 16), filed April 28, 1977. Applicant: COOK TRANSPORT, INC., P.O. Drawer O, Pinson, Ala. 35126. Applicant's representative: Robert M. Pearce, P.O. Box 1111, Bowling Green, Ky. 42101. Authority sought as as *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fans, fanwheels, and pollution control equipment*, from the plant sites, warehouses, and storage facilities utilized by Barron Industries, Inc., and its subsidiaries, and sub-contractors, located at or near Leeds, Ala., and Anniston, Ala., to points in and east of Arizona, Utah, Wyoming, and Montana, and also from points in Alabama, to points in and east of Arizona, Utah, Wyoming, and Montana, and (2) *fans, fanwheels, materials, equipment, and supplies* used in connection with the manufacture or distribution of the commodities named in (1) above, from points in and east of Arizona, Utah, Wyoming, and Montana, to the origin points and areas named in (1) above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Nashville, Tenn.

No. MC 136899 (Sub-No. 22), filed March 10, 1977. Applicant: HIGGINS TRANSPORTATION, LTD., a corporation, 1165 E. Haseltine St., P.O. Box 192, Richland Center, Wis. 53581. Applicant's representative: Wayne W. Wilson, 329 West Wilson Street, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Air diffusing and ventilating equipment and related attachments, accessories, and parts* from Verona and Madison, Wis., and Sanford, N.C., to points in the United States (except Alaska and Hawaii); (2) *materials, equipment and supplies* (except in bulk, in tank vehicles) used or useful in the manufacture, sale, distribution, or installation of the commodities named in (1) above, between Madison and Verona, Wis., on the one hand, and, on the other, points in Sanford, N.C.; and (3) *urethane products*, (a) from Middleton, Wis., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Missouri; and (b) from Council Bluffs, Iowa, to Middleton, Wis., restricted to traffic originating at or destined to the facilities of Carnes Company, a Division of Wehr Corporation in (1) and (2) above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Madison or Milwaukee, Wis.

No. MC 138080 (Sub-No. 9), filed April 25, 1977. Applicant: EDWARD R. WOLFE, doing bsuiness as WOLFE TRUCKING, 20425 Ahha Lane, Bend, Oreg. 97701. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *contract carrier*, motor vehicle, over irregular routes, transporting: (1) *Line sludge*, from points in Yakima County, Wash., to points in Oregon; (2) *Pumice aggregate*, from points in Deschutes County, Oreg., to points in Yakima and Benton Counties, Wash.; and (3), *Crushed agri gypsum rock*, from Empire, Nev., to points in Crook, Deschutes, and Jefferson Counties, Oreg., under continuing contracts with Soil Conditioners, Inc., located at Zillah, Wash., and Midstate Fertilizer Co., located at Redmond, Oreg.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Bend, Oreg., or Portland, Oreg.

No. MC 138157 (Sub-No. 35), filed April 18, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as Southwest Motor Freight, 2931 South Market Street, Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Florist supplies, paper products, plastic products, and novelty items*, and (2) *materials, equipment, and supplies* utilized in the manufacture, sale, and distribution of the commodities named in (1) above, between Hobart, Okla.; Fredericktown, Mo.; Colton, Calif.; and Highland, Ill., restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use

of special equipment, and further restricted to the transportation of traffic originating at or destined to the above-named points.

NOTE.—Applicant holds contract carrier authority in No. MC 134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 138157 (Sub-No. 36), filed April 19, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Florist supplies, paper products, plastic products, and novelty items*, and (2) *materials, equipment, and supplies* utilized in the manufacture, sale, and distribution of the commodities named in (1) above, between the facilities of Highland Manufacturing & Sales Co. at or near Hobart, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment, and further restricted to the transportation of traffic originating at or destined to the facilties of Highland Manufacturing & Sales Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex. Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved.

No. MC 138304 (Sub-No. 12), filed March 24, 1977. Applicant: NATIONAL PACKERS EXPRESS, INC., 3445 Patterson Plank Road, P.O. Box 162, North Bergen, N.J. 07047. Applicant's representative: Craig B. Sherman, 1108 Kane Concourse, Bay Harbor Islands, Fla. 33154. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt Beverages* (except commodities in bulk), from Chicago, Ill., to points in New York, New Jersey, Pennsylvania, Maryland, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Miami, Fla.; Washington, D.C.; New York, N.Y.; or Chicago, Ill.

No. MC 138382 (Sub-No. 4), filed March 29, 1977. Applicant: PATTERSON COASTAL TRANSPORT, INC., 70607 South La Grange Road, Frankfort, Ill. 60423. Applicant's representative: Anthony E. Young, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products, and textile machinery, materials, supplies and equipment* incidental to, or used in the manufacture, sale or distribution of textile products, between Burbank, Calif., on the one hand, and, on the other points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts with Varsity International Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 138446 (Sub. No. 7), filed March 28, 1977. Applicant: MURRAY'S TRANSFER & STORAGE, INC., 1011 Floral Lane, Davenport, Iowa 52802. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I, to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Davenport, Iowa, and the facilities of Hygrade Food Products Corp., at Chicago, Ill., to points in Iowa and those points in Missouri on and north of U.S. Highway 36.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 138635 (Sub-No. 37), filed March, 24, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, 1511 K Street NW., Suite 712, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wallula, Wash., to points in the United States in and east of Louisiana, Arkansas, Missouri, Iowa, and Minnesota.

NOTE.—Applicant holds contract carrier authority in MC 136464 (Sub-No. 2) and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Pasco or Seattle, Wash.

No. MC 138872 (Sub-No. 3), filed April 1, 1977. Applicant: ART ARMITAGE, doing business as ART ARMITAGE TRUCKING, 162 Vimy Rd., Bible Hill, Truro, Nova Scotia, Canada. Applicant's representative: Douglas B. Chapman, 109 Main Street, Bar Harbor, Maine 04609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and articles* as are used or useful in the manufacture of tires, between Woodland, Maine, and the International Boundary line between the United States and Canada located at or near Calais, Maine, restricted to traffic having a prior or subsequent movement by rail, and further restricted to foreign commerce, under a continuing contract, or contracts, with Michelin Tires (Canada), Limited.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Portland, Maine, or Boston, Mass.

No. MC 139254 (Sub-No. 7), filed March 25, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *lubricating oils and greases; carbon, gum*, or *sludge removing compounds; automotive filters, valves*, and *parts; fender covers; brake fluids and compressor oils; antifreeze and engine coolant preparations; cleaning scouring, washing, buffing, or polishing compounds*; and *display racks*: from Painesville, Wickliffe, and Cleveland, Ohio; Marcus Hook and Philadelphia, Pa.; Pennsauken, N.J.; Evansville, Ind.; Albion, Chicago, and Elk Grove Village, Ill.; and Metairie and New Orleans, La.; to points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary Line between the United States and Canada; and (2) *returned shipments* of the above commodities, on return; restricted in (1) and (2) above against the transportation of commodities in bulk, and further limited to service performed under a continuing contract or contracts with STP Corporation, of Fort Lauderdale, Fla.

NOTE.—Common control may be involved. Applicant has pending motor common carrier authority in No. MC 142559, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139368 (Sub-No. 2), filed March 30, 1977. Applicant: VERLYN G. CLARK and WILLIAM GENE CLARK, a partnership, doing business as V. CLARK & SON TRUCKING, 318 Ninth Avenue West, Ashland, Wis. 54806. Applicant's representative: Wayne W. Wilson, 329 West Wilson Street, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products and shipping containers*, for bakery products, between points in Saint Louis County, Minn.; points in Gogebic County, Mich.; and points in Wisconsin on and north of U.S. Highway 8.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Ashland or Madison, Wis.

No. MC 139420 (Sub-No. 15), filed March 21, 1977. Applicant: ART GREENBERG, doing business as GLACIER TRANSPORT, Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Hovland, 414 Gate City Building, P.O. Box 1637, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except in bulk), from Madison, Wis.; Jacksonville, Ark.; Military, Kans.; Des Moines, Iowa; and Omaha, Nebr., to points in North Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fargo, N. Dak., or Minneapolis, Minn.

No. MC 139444 (Sub-No. 1), filed April 21, 1977. Applicant: Ross Trucking Company, a corporation, 123 36th Street, Pittsburgh, Pa. 15201. Applicant's representative: Sheldon Silverman, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from the facilities of Commonwealth Warehouse and Storage, Inc., located at Pittsburgh, Pa., to points in those portions of Ohio and West Virginia on and east of a line beginning at Cleveland, Ohio, and extending along Ohio Highway 21 to its intersection with Interstate Highway 77, and thence along Interstate Highway 77 to the West Virginia-Virginia State line; and (2) returned shipments from the area in Ohio and West Virginia described in (1) on return to Pittsburgh; under a continuing contract with Commonwealth Warehouse and Storage, Inc.

NOTE.—Applicant states it holds a permit in No. MC 139444 authorizing service for the same shipper from the facilities of Commonwealth Warehouse and Storage, Inc., in Pittsburgh to points in Pennsylvania on and west of U.S. Highway 15. By this application, it seeks to extend its operations for the same shipper to the described areas in Ohio and West Virginia. If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa.

No. MC 139495 (Sub-No. 226), filed March 25, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical wire and cable*, from Lincoln and Pawtucket, R.I., Milford, N.H., and Worcester, Mass., to points in Washington.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Seattle, Wash.

No. MC 139495 (Sub-No. 227), filed March 29, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: new furniture in cartons from Portland, Oreg., to points in the States of Colorado, Idaho, and Utah.

NOTE.—Applicant holds contract carrier authority in No. MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 139495 (Sub-No. 233), filed April 7, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans., 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregluar routes, transporting: *toilet preparations*, in vehicles equipped with mechanical refrigeration, from Elizabethton, Tenn. to points in Indiana, Kansas, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 234), filed April 8, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kan. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *prepared animal and poultry feeds* (except in bulk) from the plantside of Doane Products Company at Muscatine, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 235), filed April 20, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of M&M/Mars, Division of Mars, Inc., at or near Chicago, Ill. and its commercial zone to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, restricted to traffic originating at above-named origins and destined to the above-named destinations.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual opertions may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140030 (Sub-No. 4), filed April 15, 1977. Applicant: RAY KURTZ and LINDA FARLEY, doing business as PLASTIC EXPRESS, P.O. Box 5593, Orange, Calif. 92667. Applicant's representative: Jerry Solomon Berger, 433 North Camden Drive, 6th floor, Beverly Hills, CA 90210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Lubricating oil and oil products* and materials, equipment, and supplies used in the storage and dispensing of oil and oil products, (1) from Vernon, Calif., to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington; (2) from Alameda, Calif. to points in Nevada and Oregon; (3) from Portland, Oreg. to points in California, Idaho, Montana, and Washington; and (4) from points in the Los Angeles Harbor Commercial Zone as defined by the Commission to Los Angeles, Calif., and, (B) *Pallets, vats, and containers*, from all destination points to all origin points named in (A) above, under a continuing contract, or contracts, with the Pennzoil Company.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Los Angeles, Calif.

No. MC 140030 (Sub-No. 5), filed April 15, 1977. Applicant: RAY KURTZ and LINDA FARELY, doing business as PLASTIC EXPRESS, P.O. Box 5593, Orange, Calif. 92667. Applicant's representative: Jerry Solomon Berger, 433 North Camden Drive, 6th floor, Beverly Hills, CA 90210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in containers, from Henderson, Nev. to Anaheim, Calif., under a continuing contract, or contracts, with LaHabra Products, Inc.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Los Angeles, Calif.

No. MC 140421 (Sub-No. 17), filed March 21, 1977. Applicant: ACTION MOTOR EXPRESS, INC., 8307 Almonaster Ave., P.O. Box 29102, New Orleans, La. 70189. Applicant's representative: Sandra H. Roberson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, containers, ends, and components*, from the plant site and warehouses of The Continental Group, Inc., located in Alabama, Arkansas, Georgia, Louisiana, Mississippi and Tennessee; and (2) *materials and supplies* used in the manufacture thereof, on return, under a continuing contract or contracts with The Continental Group, Inc.

NOTE.—Applicant holds common carrier authority in MC 142610 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New Orleans or Baton Rouge, La.

No. MC 140463 (Sub-No. 3) (Partial correction), filed January 26, 1977, published in the FEDERAL REGISTER issue of March 17, 1977, as 140643 (Sub-No. 3), and republished as corrected in part this issue. Applicant: ORREN J. LEE, 2312 Braemer Drive, Sioux Falls, S. Dak. 57105. Applicant's representative: Mark Menard, 5301 N. Cliff Ave., P.O. Box 480, Sioux Falls, S. Dak. 57101. The purpose of this partial republication is to indicate applicant's correct docket number as, 140463 (Sub-No. 3) in lieu of 140643 (Sub-No. 3). The rest of the publication remains the same.

No. MC 140612 (Sub-No. 16), filed April 1, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in King, Whatcom and Skagit Counties, Wash., to points in Illinois, Indiana, Iowa, Kentucky, Minnesota, Ohio, and Tennessee.

NOTE.—Applicant holds contract carrier authority in MC 138003 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Seattle, Wash.

No. MC 140866 (Sub-No. 1), filed March 25, 1977. Applicant: HOLT COUNTY TRANSPORTATION CO., a corporation, Route 4, Atkinson, Nebr. 68713. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from the facilities of Olson Brothers Manufacturing Company, Inc. located in Holt County, Nebr., to Chicago; Ill. and Sioux City, Iowa, under a continuing contract, or contracts, with Olson Brothers Manufacturing Company, Inc., located at Atkinson, Nebr.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, or Omaha, Nebr.

No. MC 140849 (Sub-No. 8), filed March 28, 1977. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271, Poteau, Okla. 74953. Applicant's representative: Prentiss Shelley, P.O. Drawer "G", Poteau, Okla. 74953. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fabrics, piece goods and materials, and supplies* used in the manufacture of clothing (except commodities in bulk), from points in Alabama, to Idabel, Pauls Valley, and Frederick, Okla., under a continuing contract, or contracts, with Kellwood Company.

NOTE.—Applicant holds common carrier authority in MC 126243 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Oklahoma City, Okla., or Washington, D.C.

No. MC 141097 (Sub-No. 7), filed March 29, 1977. Applicant: CAL-TEX, INC., 3051 Capri Lane, Costa Mesa, Calif. 92626. Applicant's representative: Greg P. Steffirs, 700 South Flower Street, Suite 818, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic yarn, synthetic fiber*, and *materials and supplies* used in connection with the manufacture thereof, from the facilities, production and plantsite of American Enka, located at Enka and Ashville, N.C., Clemson, S.C., and Lowlands, Tenn., on the one hand, and, on the other, the facilities of Pharr Yarns, Inc., located at McAdenville, Gastonia, Belmont and Spencer Mountain, N.C., Clover, S.C., Rome, Ga., and Los Angeles and Costa Mesa, Calif., under a continuing contract, or contracts, with Pharr Yarns, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles, Calif., Raleigh, N.C. or Washington, D.C.

No. MC 141197 (Sub-No. 18), filed March 28, 1977. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, Mo. 64151. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Bldg., 101 W. 11th St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mill scale*, from Kansas City, Mo., to points in Iowa, Kansas, Missouri, and Nebraska.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 141197 (Sub-No. 19), filed April 27, 1977. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, Missouri 64151. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, Missouri 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Nowata, Craig, Ottawa, Delaware, Rogers and Mayes Counties, Oklahoma, to Kansas City Commercial Zone.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, Mo. or Oklahoma City, Okla.

No. MC 141652 (Sub-No. 12), filed March 28, 1977. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: K. Edward Wolcott, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Covered copper wire and fluorescent lamp ballasts*, from Mendenhall, Miss., to points in Arizona, California, Colorado, Connecticut, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Utah, Virginia, and Washington.

NOTE.—The purpose of this application is to convert applicant's contract carrier authority to a common carrier authority. Applicant holds contract carrier authority in MC 138807 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either New York City, N.Y., or Washington, D.C.

No. MC 141652 (Sub-No. 15), filed April 15, 1977. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, Miss. 39208. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Cleaning compounds and toiletries* (except commodities in bulk), from Jackson, Miss., to points in Arizona, California, Colorado, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah and Washington, restricted to the transportation of traffic originating at the facilities of American Cyanamid Company located at the above named origin and destined to the above named destinations.

NOTE.—Applicant states the purpose of filing is to convert existing contract carrier authority in MC–138807 to common carrier authority. Applicant holds contract carrier authority in No. MC–138807 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests it be held at either New York City, N.Y. or Washington, D.C.

No. MC 141865 (Sub-No. 3), filed April 1, 1977. Applicant: B. R. ELLIS, doing business as ACTION DELIVERY SERVICE, 3021 Pinewood Drive, Arlington, Tex. 76010. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as as is marketed by home products distributors, from the warehouse and storage facilities of Amway Corporation, located at Arlington, Tex., to points in Iowa, Montana, Nebraska, North Dakota, South Dakota and Wyoming, under a continuing contract, or contracts, with Amway Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 141958 (Sub-No. 1), filed: April 29, 1977. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Route 32 South, Effingham, Illinois 62401. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Illinois 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) air conditioners, furnaces, dishwashers, washers, dryers, dry cleaners, central air conditioning units, heating units, air cleaners, humidifiers, and materials and supplies used in the manufacture, production and distribution thereof (except commodities in bulk), between the plantsite of Fedders Corporation at Effingham, Illinois, on the one hand, and on the other, points in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, New Mexico, No. Carolina, No. Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, So. Carolina, So. Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin; and, (b) steel laminations from Chicago, Illinois to the plant-site of R.M.R. Corporation at Elkton, Maryland; and (c) materials and supplies used in the manufacture, production and distribution of air conditioners, furnaces, dishwashers, washers, dryers, dry cleaners, central air conditioning units, heating units, air cleaners and humidifiers (except commodities in bulk), between the plant-site of Fedders Corporation at Effingham, Illinois, the plant-site of Fedders Corporation at Edison, New Jersey, the plant-site of Fedders Corporation at Frederick, Maryland, the plant-site of R.M.R. Corporation at Elkton, Maryland; and (d) air conditioners, furnaces, dishwashers, washers, dryers, dry cleaners, central air conditioning units, heating units, air cleaners and humidifiers, from Edison, New Jersey to points in Illinois, Indiana, Michigan, Missouri, Ohio, Tennessee and Wisconsin; and, (e) aluminum, from Huntingdon, Tennessee to Edison, New Jersey, under a continuing contract or contracts with Fedders Corporation, located at Effingham, Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, Missouri or Springfield, Illinois.

No. MC 142113 (Sub-No. 2), filed March 31, 1977. Applicant: CHESTER A. RICHMOND, SR., doing business as RICHMOND CARTAGE, Box 337, Craigsville, W. Va. 26205. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), (1) between Summersville, W. Va. and Union, W. Va., serving all intermediate points, and serving the off-route points of Fayette, Raleigh, Summers, and Monroe Counties, W. Va.: From Summersville over U.S. Highway 19 to Hico, thence over U.S. Highway 60 to junction U.S. Highway 21 at Chimney Conners, thence over U.S. Highway 21 to Beckley, thence over West Virginia Highway 3 to Pickaway, thence over U.S. Highway 219 to Union; (2) between Charleston, W. Va. and Craigsville, W. Va.: From Charleston over U.S. Highway 60 to Gauley Bridge, thence over West Virginia Highway 39 to junction West Virginia Highway 41, thence over West Virginia Highway 41 to Craigsville, as an alternate route for operating convenience only in connection with applicant's presently held authority.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Charleston, W. Va. or Columbus, Ohio.

No. MC 142118 (Sub-No. 4), filed March 29, 1977. Applicant: VALLEY TRUCKING, INC., R.R. No. 2 Box 55, Fargo, N. Dak. 58102. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from the plantsite of Flavorland Industries, Inc., located at or near West Fargo, N. Dak., to Sergeant Bluff and Sioux City, Iowa, under a continuing contract, or contracts, with Flavorland Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Fargo, N. Dak. or Denver, Colo.

No. MC 142186 (Sub.-No. 5), filed April 21, 1977. Applicant: WHEELS WEST, INC., 612, 159th Place South East, Bellevue, Washington 98008. Applicant's representative: Henry C. Winters, 235 Evergreen Building, Renton, Washington 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Tire shop equipment and supplies, and parts and accessories for automobiles, for trucks, for utility trailers, for mobile homes, and for off-road pneumatic-tired machinery from points in Illinois, Indiana, Kentucky, Michigan, Ohio, and Pennsylvania to points in California, Idaho, Montana, Oregon, Utah and Washington, restricted to a transportation service to be performed under a continuing contract with Rivco Pacific, Inc. of Portland, Oregon.

Note.—If a hearing is deemed necessary, the applicant requests that it be held at Seattle, Wash.

No. MC 142239 (Sub-No. 8), filed March 30, 1977. Applicant: WASHINGTON TRANSPORTATION CO., a corporation, 1717 North 70th Avenue, Omaha, Nebr. 68104. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), from the facilities of Great Plains Beef Co., located at or near Council Bluffs, Iowa, and Omaha, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to a transportation service to be performed under a continuing contract or contracts, with Great Plains Beef Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 142343 (Sub-No. 1), filed April 25, 1977. Applicant: JOSEPH MACRI, doing business as J & M TRUCKING, 8237 West Mexico, Lakewood, Colorado 80226. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Offal in bulk; and dead animals, hides, fat, bones and grease*, from points in Arizona, Colorado, Idaho, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah and Wyoming, to Denver, Colorado, Restricted to traffic originating at or destined to the facilities utilized by Denver Recycling Co., and under a continuing contract or contracts with Denver Recycling Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo.

No. MC 142625 (Sub-No. 1), filed April 20, 1977. Applicant: DUANE M. CAMPBELL, doing business as CAMPBELL TRUCK, 1902 Tidelands Avenue, National City, California 92050. Applicant's representative: Fred H. Mackensen, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, between National City, California, on the one hand, and, on the other, points in Arizona, under a continuing contract, or contracts, with Dixieline Lumber Co.

NOTE.—If a hearing is demeed necessary, applicant requests it be held at San Diego or Los Angeles, Calif.

No. MC 142670 (Sub-No. 1), filed April 20, 1977. Applicant: O.S.S., INC., 17402 Parker Drive, Tustin, California 92680. Applicant's representative: William J. Augello, Esq. 120 Main Street, P.O. Box Z, Huntington, New York 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated or crated, with or without glass, upholstered or unupholstered:* (1) From Gaston and Pendleton, Oregon and Auburn, Battleground and Walla Walla, Washington to points in California and Arizona, under a continuing contract, or contracts, with Harris Pine Mills, located at Pendleton, Oreg.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, California.

No. MC 142674 (Sub-No. 1), filed March 25, 1977. Applicant: TERRY D. BROWN, doing business as RDM DELIVERY SERVICE, 4612 N. River Rd., Schiller Park, Ill. 60176. Applicant's representative: Thomas J. Peterman, 6800 River Road, Suite 100, Rosemont, Ill. 60018. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Medical isotopes, medical test kits, radioactive drugs and radiopharmaceuticals*, between Chicago, Ill.; Milwaukee, Wis.; and Indianapolis, Ind., on the one hand, and, on the other, points in Illinois, Indiana and Wisconsin, restricted to shipments having a prior movement by air, under contract with New England Nuclear Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 142689 (Sub-No. 3), filed March 25, 1977. Applicant: REM

TRANSPORT CO., INC., 25–36 Jackson Avenue, Long Island City, N.Y. 11101. Applicant's representative: Harold Sacks, 19 West 44th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Film, sheeting and chemicals* (except in bulk), from the plantsites of Tenneco Chemicals, located at Piscataway, N.J., to points in Suffolk, Middlesex and Norfolk Counties, Mass.; (2) *film, sheeting and Chemicals* (except in bulk), from the plantsites of Tenneco Chemicals, located at Piscataway, N.J., to New York, N.Y., and points in Nassau and Suffolk Counties, N.Y.; and (3) *film, sheeting and chemicals and materials, supplies and equipment*, used in the manufacture, distribution and packaging thereof (except in bulk), from points in Norfolk and Suffolk Counties, Mass., to New York, N.Y.; points in Nassau and Suffolk Counties, N.Y.; and points in Middlesex, Passaic, Essex, and Union Counties, N.J., under a continuing contract or contracts with Tenneco Chemicals, Inc., located at Piscataway, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

MC 142715 (Sub-No. 5), filed April 17, 1977. Applicant: LENERTZ, INC., 411 Northwestern National Bank Bldg., South St. Paul, Minnesota 55075. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minnesota 55402. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles* distributed by meat packinghouses, as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk). From St. Paul, Minnesota to points in Illinois, Michigan, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 142766 (Sub-No. 4), filed March 31, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Ave., Kearny, N.J. 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles, school and office supplies;* and (2) *supplies, equipment and materials* used in the manufacture and sale of the commodities named in (1) above (except commodities in bulk), between the facilities of Sterling Plastics Co., located at Mountainside, N.J. on the one hand, and, on the other, City of Industry, Redondo Beach, Los Angeles, and San Francisco, Calif.; Miami, St. Petersburg, Fla.; Itosca and Chicago, Ill.; Baltimore, Md.; Boston and Beabody, Mass.; Bloomington and Minneapolis, Minn.; Portland, Oreg.; Philadelphia, Pa.; Houston, Tex.; Seattle, Wash. and Manitowoc, Wis., under a continuing contract, or contracts, with Sterling Plastics Co., located at Mountainside, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 142772 (Sub-No. 2), filed March 28, 1977. Applicant: HRDLICKA ENTERPRISES, INC., Route 7, Box 59, Chippewa Falls, Wis. 54729. Applicant's representative: Roderick A. Cameron, 101 N. Broadway, Stanley, Wis. 54768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and roofing slabs, tile and panels*, and *related materials, parts, supplies and accessories*, from Cornell, Wis., to points in Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, the Upper Peninsula of Michigan, and Wisconsin, restricted to shipments having a subsequent movement in interstate commerce by rail or water; and (2) *wood fabricated components* for cabinets and store fixtures, *wood building materials and lumber*, and *materials* used or useful in the transportation and installation of these commodities, from Chippewa Falls, Wis., to points in Illinois, Indiana, Iowa, and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Eau Claire, Wis., or Minneapolis, Minn.

No. MC 143002 (Sub-No. 1), filed March 28, 1977. Applicant: C.D.B., Incorporated, 5170 36th Street, S.E., Grand Rapids, Michigan 49508. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *household and personal care products and related items and materials and supplies used in the manufacture and distribution thereof*, between Ada, Michigan, on the one hand and on the other, Santa Ana, Los Angeles, Buena Park, Torrance and La Mirada, California; Portland, Oregon; Arlington, Texas; Atlanta, Georgia; and Dayton, Jamesburg and Secaucus, New Jersey under continuing contract with the Amway Corporation located at Ada, Michigan.

NOTE.—Applicant is under common control with Bruce Cartage, Incorporated, a common carrier holding authority in MC 98154 and sub-numbers thereto. Therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Grand Rapids, Michigan or Lansing, Michigan.

No. MC 143028 (Sub-No. 1), filed April 1, 1977. Applicant: CHRYSLER TRANSPORT, INC., 8555 Lynch Road, Detroit, Mich. 48288. Applicant's representative: L. D. Blanchard (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts, components, racks, materials, equipment supplies*, and *such commodities* as are used in the assembly and manufacture of automobiles, and *related equipment*, between Detroit, Marysville, Port Huron, Trenton, Sterling Heights, Mt. Clemens, Rochester, Pontiac, Troy, Northville, Plymouth, Chelsea, and Ann Arbor, Mich., and ports of entry on the International Boundary line between the United States and Canada located at points in Michigan, for furtherance to the Province of Ontario, Canada, under a continuing contract, or contracts, with Chrysler Corporation and Chrysler Canada, Ltd.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 143057, filed March 14, 1977. Applicant: MARSHALL TRUCKING CO., INC., 12 Middle Road, Westville, N.H. 03865. Applicant's representative: Frank Crosson, 100 State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials* as are used in the manufacture of furniture and cabinets, from points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, New Jersey and Virginia, to points in Colorado and those points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas and Texas, under a continuing contract, or contracts, with Marshall Company, Inc. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 143058, filed March 17, 1977. Applicant: TRANS WEST CARRIERS, INC., 1231 North Blue Gum Street, Anaheim, Calif. 92806. Applicant's representative: Jerry Solomon Berger, 433 North Camden Drive, 6th floor, Beverly Hills, Calif. 90210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers goods*, from the plantsite and storage facilities utilized by Norris Industries, Plumbing Fixture Division, located at or near the City of Industry, Calif., to points in California, Idaho, Oregon, and Washington, under a continuing contract or contracts with Norris Industries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either City of Industry or Los Angeles, Calif.

No. MC 143097, filed March 30, 1977. Applicant: EGGS INCORPORATED, 27 East Square, Washington, Ga. 30673. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages* (except in bulk), from Ft. Worth, Tex., to Little Rock, Ark., under a continuing contract or contracts with Twin City Beverage Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 143099, filed March 30, 1977. Applicant: JOHN T. DODD, SR., doing business as DODD TRUCKING & LEASING CO., 1374 Lake Avenue, Pasadena, Md. 21122. Applicant's representative: Harold P. Boss, 1100 Seventeenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast concrete products and accessories and materials* incidental to the installation thereof, from the plant sites and facilities of Concrete Structures, Incorporated, located at or near Davidsonville, Md., and at or near Richmond, Va., to points in Delaware, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, and the District of Columbia; and (2) *supplies and materials* (except commodities in bulk) used in the manufacture or production of precast concrete products, from points in the destination territory described in (1) above, to the plant sites and facilities of Concrete Structures, Incorporated, located at or near Davidsonville, Md., and at or near Richmond, Va., under a continuing contract or contracts with Concrete Structures, Incorporated.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 143101 (Sub-No. 1), filed March 30, 1977. Applicant: DISTRIBUTION TRANSPORT CORP., 38 Jackson Street, Hoboken, N.J. 07030. Applicant's representative: Bruce J. Robbins, 118–21 Queens Boulevard, Suite 402, Forest Hills, N.Y. 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by manufacturers, distributors and dealers of toys, novelties and giftware, between points in the New York, N.Y. Commercial Zone as defined in the Fifth Supplemental Report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemption provided by Section 203 (b) (8) of the Act (the exempt zone), and South Brunswick, N.J., on the one hand, and, on the other, points in Connecticut, New Jersey, New York and Pennsylvania, under a continuing contract with Concord Brokerage Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 143103, filed March 22, 1977. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, Okla. 74023. Applicant's representative: Donald L. Stern, 7100 West Center, Suite 530, Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products* in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of M&M/MARS, located at Chicago, Ill., to points in Arizona, California, Oregon, Nevada, Utah, Washington and New Mexico, under a continuing contract, or contracts, with M&M/MARS.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., Dallas, Tex. or Oklahoma City, Okla.

No. MC 143104, filed March 24, 1977. Applicant: PULP TRANSPORT CORPORATION, 1000 East Noir Street, P.O. Box 1305, Lumberton, N.C. 28358. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *cotton linter pulp*, from the facilities of Alpha Cellulose Corporation located at or near Lumberton, N.C. to points in the United States, (except Alaska and Hawaii), under a continuing contract or contracts with Alpha Cellulose Corporation, of Lumberton, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 143105, filed March 28, 1977. Applicant: JOHN RUTLEDGE, SR., doing business as RAY'S TRANSFER AND STORAGE, 2015 Ben Ficklin Rd., San Angelo, Tex. 76903. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Coke, Coleman, Concho, Irion, Runnels, Schleicher, Sterling and Tom Green Counties, Tex., restricted to the transportation of shipments having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with the packing, crating and containerization, or the unpacking, uncrating or decontainerization of used household goods.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Angelo or Dallas, Tex.

No. MC 143107, filed March 31, 1977. Applicant: J.B.K. TRANSPORTATION, INC., 11 Muriel Avenue, Lawrence, Long, Island, N.Y. 11559. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Welding wire, and materials, equipment and supplies* used in the manufacture and sale of welding wire (except commodities in bulk), (1) from piers in New York, N.Y. Harbor as defined by the Commission, to Covington, Ohio; and (2) from Covington, Ohio, to points in Hudson, Bergen, Passaic, Essex, Union, Morris, Middlesex and Somerset Counties, N.J., Maspeth, N.Y., New Haven and West Hartford, Conn., Baltimore and Seat Pleasant, Md., Will Grove, Pa., New Orleans, La. and Stockton, Calif., under a continuing contract, or contracts, with Unibraze Corporation, located at Covington, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or New York, N.Y.

No. MC 143108, filed March 25, 1977. Applicant: DANIEL A. DUTHLER, doing business as DUTHLER DELIVERY SERVICE, 2386 Knollview, Wyoming, Mich. 49509. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, household and industrial cleaning products, brooms, brushes, mops, insect repellants, grooming aides, food products, clothes hangers, medicated sprays and promotional materials*, (except commodities in bulk in tank vehicles), from the facilities of or utilized by Duthler Delivery Service, located at or near Kentwood and Wyoming, Mich., to those points in that part of Michigan, west of a line beginning at the Ohio-Michigan State Line and extending north along U.S. Highway 23 to Ann Arbor, Mich., and south of a line extending from Ann Arbor, Mich., to Jackson, Mich., along Interstate Highway 94, and west of a line extending from Jackson, Mich., north along U.S. Highway 127 to Lansing, Mich., and from Lansing, Mich., north along U.S. Highway 27 to the junction of U.S. Highway 27 and U.S. Highway 10, and south of a line extending from the junction of U.S. Highway 27 and U.S. Highway 10 to Lake Michigan along U.S. Highway 10, including points on the indicated portions of the highways specified, under a continuing contract, or contracts, with The Fuller Brush Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 143109, filed March 30, 1977. Applicant: ASSOCIATED DIESEL SERVICE, INC., 4999 Jackson, Denver, Colo. 80216. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Flavorland Industries, Inc., located at Denver, Colo., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Michigan, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts with Flavorland Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 143110, filed March 29, 1977. Applicant: K & B EXPRESS INC., P.O. Box 801, Union, N.J. 07083. Applicant's representative: Robert A. Russell, P.O. Box 215, Mountain Lakes, N.J. 07046. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, building and insulating and maintenance materials* (except iron and steel articles and commodities in bulk), from the plantsite and warehouse facilities of Tremco, Inc., located at Cleveland, Ohio, to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Missouri,

Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming; and (2) *materials, equipment and supplies* used in the manufacture of the commodities named in (1) above, from the destination points named in (1) above to the plantsite and warehouse facilities of Tremco, Inc., located at Cleveland, Ohio, under a continuing contract, or contracts with Tremco, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Newark, N.J. or New York, N.Y.

No. MC 143121 (Sub-No. 2), filed April 21, 1977. Applicant: TILLAMOOK CARRIERS, INC., 4906 East Compton Blvd., Paramount, Calif. 90723. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, California 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *porcelainware, stoneware, plastic bowls, cups, dishes or plates*, between Lake City and Jeannette, Pa. and Sebring and Bedford Heights, Ohio, on the one hand, and, on the other, points in the United States in and West of New Mexico, Colorado, Wyoming, North Dakota and South Dakota, under a continuing contract or contracts with Jeannette Corporation, located at Jeannette, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif.

No. MC 143167, filed April 18, 1977. Applicant: SEYFORTH EXPRESS, INC., Suite 1209, Barnett Regency Tower, Jacksonville, Florida 32211. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drink preparation powder, vitamins, liquid food supplements*, and *cosmetics*, from Hayward and Orange, California; Dallas, Texas; and Atlanta, Georgia, to all points in the United States, including Alaska and Hawaii, under a continuing contract or contracts with Seyforth Laboratories, Inc., restricted to traffic destined to the warehouses and facilities of Seyforth Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Florida.

No. MC 143185, filed April 19, 1977. Applicant: LORENZ TRANSPORT AND SHIP LINES, INC., Mobile Highway, Montgomery, Alabama 36108. Applicant's representative: Robert E. Tate, P.O. Box 517; Evergreen, Alabama 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and hides and materials and supplies used in the manufacture and processing of meats, meat products, meat by-products, and hides between the plant site of Frosty Land Foods International, Inc., d.b.a. Lorenz International in Montgomery, Alabama on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii, under a continuing contract, or contracts, with Frosty Land Foods International, Inc., d.b.a. Lorenz International.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Montgomery or Birmingham, Ala.

No. MC 143186, filed April 13, 1977. Applicant: JOSHUA TRANSPORTATION CO., INC., 184 Stone Street, Clinton, Mass. 01510. Applicant's representative: John F. O'Donnell, P.O. Box 238, Milton, Mass. 02187. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* (except in bulk) from Leominster and Clinton, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, District of Columbia, and those in New York on, north and west of New York Highway 8 and those in Pennsylvania on and west of U.S. Highway 15, under a continuing contract or contracts with Amory Chemical & Plastic Co., Inc., Clinton, Mass.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 143187, filed April 18, 1977. Applicant: R. F. DeGAETANO TRANSPORTATION, INC., 7 Gilman Street, Worcester, Mass. 01605. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick, flue pipe, lime, clay products, and materials and supplies* used in the manufacture and distribution of such products, except in bulk in tank trucks, between points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Boston, Mass.; Providence, R.I.; or Hartford, Conn.

No. MC 143188, filed April 21, 1977. Applicant: THE G. & K. HAULING CO., a corporation, Box 7, Mongo, Ind. 46771. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, grain, and feed and grain products*, from points in Illinois, Indiana, and Ohio, to Alexander, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 143189, filed April 21, 1977. Applicant: LEASE-IT, INC., 3716 West Run Road, Munhall, Pa. 15120. Applicant's representative: Arthur J. Diskin, Esq., 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, over irregular routes, transporting malt beverages, from the facilities of Stroh Brewery Co. in Detroit, Mich., to the warehouse of McKeesport Beer Distributor, Inc., at McKeesport, Pa., under continuing contract with McKeesport Beer Distributor, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 143198, filed April 25, 1977. H–N TRUCKING CO., INC., 415 Hospital Trust Building, Providence, R.I. 02903. Applicant's representative: Dennis J. Roberts II, Ten Dorrance Street, Providence, R.I. 02903. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *carbonated and noncarbonated beverages* including malt, distilled and fermented beverages, juices, syrups, wine, cocktail mixes in packages, in glass and metal containers, in barrels and boxes; and (2) *empty beverage containers* including glassware, baskets, and barrels between (1) points in Rhode Island on the one hand, and on the other hand, points in Masachusetts, New York, New Jersey, and Baltimore, Md.; New Haven, Conn.; Nashua, N.H.; and Portland, Maine; and (2) Franklin and Needham, Mass., on the one hand, and, on the other hand, points in New York, New Jersey, and Rhode Island, under a continuing contract or contracts with Considine Boston Distributing Co., Inc. located at Needham Height, Mass.; Wayne Distributing Co., Inc., located at Pawtucket, R.I., and others.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Providence, R.I.; Boston, Mass.; or Hartford, Conn.

No. MC 143199, filed April 25, 1977. Applicant: COP's, INC., 6400 Colorado Boulevard, Commerce City, Colo. 80022. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Denver, Ft. Morgan, Greeley, and Sterling, Colo.; to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo.

No. MC 143200, filed April 25, 1977. Applicant: RONALD R. BARROWS, doing business as MIDWEST TRANSPORT SERVICE, 8310 S. 27th Street, Oak Creek, Wis. 53154. Applicant's representative: Ronald R. Barrows (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting *Agricultural limestone* in cartons and/or bulk from the town of Lisbon, Waukesha County, and Sussex, Wis., to points in Illinois, Iowa, Minnesota, North Dakota, South Dakota, and Nebraska, under a continuing contract, or contracts, with Vulcan Materials Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Milwaukee, Wis., or Chicago, Ill.

PASSENGER APPLICATIONS

No. MC 946 (Sub-No. 7), filed March 15, 1977. Applicant: FERDINAND ARRIGONI, INC., 3320 Hutchinson Avenue, Bronx, N.Y. 10475. Applicant's representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, N.Y. 11021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations beginning and ending at Bronx, N.Y., and extending to Atlantic City, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 112805 (Sub-No. 3), filed March 29, 1977. Applicant: ST. CLOUD CHARTER SERVICE, INC., 427 Lincoln Avenue NE., St. Cloud, Minn. 56301. Applicant's representative: Howard F. Thedinga, 403 Wilson Ave., P.O. Box 37, Menomonie, Wis. 54751. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passenger and their baggage* in round trip charter operations, beginning and ending at Menomonie, Wis., and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Paul, Minn., or Eau Claire or Madison, Wis.

No. MC 126203 (Sub-No. 6), filed April 22, 1977. Applicant: EVERETT CHARTER SYSTEM, INC., 3131 Cedar Street, Everett, Wash. 98201. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers, their baggage and personal effects* when transported in the same vehicle with passengers, over irregular routes between Everett, Wash., on the one hand, and, on the other, Anacortes, Wash., for traffic moving to and from Victoria, B.C., Canada, via the International Ferry between Anacortes, Wash., and Sidney, B.C., Canada; (2) *passengers and their baggage*, in charter and special operations in sightseeing and pleasure tours beginning and ending at points in Snohomish, Skagit, Island, and San Juan Counties, Wash., and extending to the States of Washington, Oregon, California, Alaska, Arizona, Colorado, Idaho, Montana, Nevada, Utah, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Everett or Seattle, Wash.

No. MC 141669 (Sub-No. 5), filed April 21, 1977. Applicant: BILL'S BUS SERVICE, 6705 Northgate Parkway, Clinton, Md. 20735. Applicant's representative: Lorna L. Mullenax, 6705 Northgate Parkway, Clinton, Md. 20735. Authority sought to operate as a common carrier by motor vehicle over regular routes, in the transportation of passengers and baggage between Hughesville, Md., and the Naval Research Laboratory, Washington, D.C., serving all intermediate and off-route points from Hughesville over Maryland State Highway 5 to junction Maryland State Highway 301, thence over Maryland State Highway 301 South to St. Charles City, thence proceed on Maryland State Highway 301 North and Maryland State Highway 5 to junction Maryland State Highway 223, thence over Maryland State Highway 223 West to Clinton Shopping Center, thence proceed on Maryland State Highway 223 East to junction Maryland State Highway 5, thence over Maryland State Highway 5 North to junction Interstate Highway 495, thence over Interstate Highway 495 to junction Interstate Highway 295 and thence over Interstate Highway 295 to the Naval Research Laboratory and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at the ICC offices.

Docket No. MC 142738 (Sub-No. 2), filed April 26, 1977. Applicant: SAGELAW CORP., doing business as DELUXE AMERICA TOURS, 2001 Kirby, Suite 614, Houston, Tex. 77019. Applicant's representative: David J. Nagle, 2001 Kirby, Suite 614, Houston, Tex. 77019. Authority is sought to engage in interstate and foreign commerce as a *common carrier* by motor vehicle over irregular routes in the transportation of *passengers and passengers' baggage* by special and charter operation, beginning and ending at Houston, Tex., round trip, to all parts of the United States and across the United States border to Mexico and to Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Houston, Galveston, or Dallas, Tex.

No. MC 143055, filed March 7, 1977. Applicant: M & E BUS LINE, INC., 33 Storms Avenue, Jersey City, N.J. 07306. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transportating: *Passengers and their baggage, and personal effects* in the same vehicle, beginning and ending at points within the New York, N.Y., Commercial Zone and extending to points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts with Surface Line Operators Fraternal Organization, Inc., and Hispanic Transit Society.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

BROKER APPLICATIONS

No. MC 130027 (Sub-No. 1), filed March 28, 1977. Applicant: THE COLUMBUS AUTOMOBILE CLUB, a corporation, 174 East Long Street, Columbus, Ohio 43215. Applicant's representative: Gerald P. Wadkowski, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Columbus, Del., and Lancaster, Ohio, to sell or offer to sell the transportation of *passengers and their baggage*, in all-expense tours, in special and charter operations, by motor, air, and rail carriers, beginning and ending at points in Champaign, Del.; Fairfield, Fayette, Knox, Licking, Logan, Madison, Ross, Perry, Pickaway, and Union Counties, Ohio, and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Del. or Mt. Vernon, Ohio.

No. MC 130447, filed March 21, 1977. Applicant: TRAVEL SYSTEMS, LTD., Post Office Box 1667, Zephyr Cove, Nev. 89448. Applicant's representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Reno, Stateline, Zephyr Cove, and Incline Village, Nev.; San Francisco, Sacramento, and South Lake Tahoe, Calif., to sell or offer to sell the transportation of *passengers and their baggage* both as individuals and in groups, in special and charter operations, by motor bus transportation in all-expense tours and sightseeing trips, between points in California and Nevada, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Reno, Nev.

WATER CARRIER APPLICATION

No. WC 1291 (Sub-No. 1), filed April 28, 1977. Applicant: ALUMINA TRANSPORT CORP., 6600 West Broad Street, Richmond, Va. 23261. Applicant's representative: John H. Caldwell, Suite 404, 900 17th Street NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate or foreign commerce as a *contract carrier by water* in transportation of articles exceeding 18 feet in height, or 12 feet in width, or 50 feet in length, or 45 net tons in weight, components parts thereof and related equipment, materials, and supplies, by self-propelled vessels, between ports and points on the Columbia River, on the one hand, and on the other hand, ports and points on the Gulf of Mexico and tributary waterways, except points on the Mississippi River system north of Baton Rouge, La., under a continuing

contract, or contracts, with Bingham-Willamette Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C., or Portland, Oreg.

FREIGHT FORWARDER APPLICATION

No. FF 441 (Sub-No. 1), filed April 4, 1977. Applicant: HARLE LAND & SEA FORWARDERS (Harle-Thru), a division of J. P. Harle Forwarding Co., a corporation, P.O. Box 52908, 614 Cotton Exchange Bldg., Houston, Tex. 77052. Applicant's representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, Tex. 77002. Authority sought to engage in operation, in interstate commerce as a *freight forwarder*, through use of the facilities of common carriers by railroad and motor vehicle, in the transportation of *general commodities* for export (except explosives and hazardous articles, perishables, articles of unusual value, commodities in bulk, used household goods, unaccompanied baggage, and used automobiles), from points in Arkansas, Kansas, Mississippi, Tennessee, and points in McDonald, Newton, Jasper, Barton, Vernon, Bates, Cass, Jackson, Platte, Lawrence, Green, and Barry Counties, Mo., to ports in Louisiana, Texas, and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Wichita, Kans.; Ft. Smith, Ark.; or Joplin, Mo.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-10124 (petition for modification) (CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, et al., pooling), published in the May 22, 1968, issue of the FEDERAL REGISTER. By petition filed January 25, 1977, Consolidated Freightways Corp. of Delaware, Lee Way Motor Freight, Inc., Riss International Corp. Transcon Lines, Spector Freight System, Inc., Yellow Freight System, Inc., Ryan Freight Lines, Inc., and Red Ball Motor Freight, Inc., seek modification of the order of the Commission, dated March 1, 1971, which approved the pooling agreement in the above-entitled proceeding in order to substitute Red Ball Motor Freight, Inc., for Ryan Freight Lines, Inc., under said agreement and that Red Ball Motor Freight, Inc., would possess the same duties, responsibilities, and obligations as set forth therein except that the duties, responsibilities, and obligations of Ryan Freight Lines, Inc., would be assumed by Red Ball Motor Freight, Inc.

No. MC-F-13196. Authority sought for purchase by LTL PERISHABLES, INC., 550 E. 5th Street, South St. Paul, MN, 55075, of the operating rights of Benson Transport, Inc., 7710 N.E. Main, Minneapolis, MN 55432, and for acquisition by Michael Noel, also of South St. Paul, MN, 55075, of control of such rights through the purchase. Applicants' attorney: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NB, 68106. Operating rights sought to be transferred: (1) Frozen pizza, as a contract carrier over irregular routes from Minneapolis, Minn., to points in California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming; and (2) Materials and suplies used in the manufacture and distribution of frozen pizza (except commodities in bulk), from points in the destination States in (1) above, to the origin in (1) above, with restrictions; frozen pizza, from Minneapolis, Minn., to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and materials and supplies used in the manufacture of pizza, from the above-named destination States, to Minneapolis, Minn., with restrictions. Vendee is authorized to operate as a common carrier in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-135874 (Sub-No. 83) is directly related matter.

No. MC-F-13208. Authority sought for purchase by NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA, 17047, of the operating rights of Eagle Truck Transport, Inc., Suite 300, Axe Wood West, Broad Axe, PA, 19002, and for acquisition by Edward H. Arnold, and Virginia A. Phillips, both of P.O. Box 630, Lebanon, PA, 17042, of control of such rights through the purchase. Applicants' attorneys: S. Harrison Kahn and Jeremy Kahn, Suite 733, Investment Building, Washington, DC, 20005, Ira Megdal, 499 Cooper Landing Road, Cherry Hill, NJ, 08002. Operating rights sought to be transferred: General commodities, except those of unusual value, and except high explosives, livestock, milk, household goods, tobacco, alcoholic beverages, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a common carrier over regular routes between the fixed termini, and to and from the intermediate and off-route points, specified below: Between Wilmington, Del., and New York, from Wilmington over U.S. Highway 13 to Trenton, N.J., thence over U.S. Highway 1 to New York, and return over the same route. Intermediate points: Chester, Marcus Hook, and Bristol, Pa.; and Newark, Jersey City, New Brunswick, Trenton, Riverside, Rahway, and Highland Park, N.J. Off-route points: Points and places in Delaware, within 10 miles of Wilmington, Del., in Pennsylvania, within 35 miles of Philadelphia, Pa., and in New York and New Jersey, within 35 miles of New York, N.Y. Between Philadelphia, Pa., and Trenton, N.J., as follows: from Philadelphia over the Delaware River to Camden, N.J., thence over New Jersey Highway 41 to junction U.S. Highway 130, thence over U.S. Highway 130 to junction U.S. Highway 206, and thence over U.S. Highway 206 to Trenton, and return over the same route; and from Philadelphia over U.S. Highway 1 to Trenton, and return over the same route; and over irregular routes, in truckload lots, from Philadelphia, Pa., to Palmerton, Reading, and Allentown, Pa., and Penns Grove, Belvidere, Atlantic City, Bridgeton, Paulsboro, and Wildwood, N.J., returning empty. Vendee is authorized to operate as a common carrier in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, the District of Columbia, West Virginia, Ohio and Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13214. Authority sought for purchase by COOPER MOTOR LINES, INC., 301 Hammett Street, Greenville, S.C. 29608, of a portion of the operating rights of Modern Transfer Co., Inc., 502 Turner Street, Allentown, Pa. 18102, and for acquisition by Calhoun Lemon, 301 Hammett Street, Greenville, S.C. 29608, of control of such rights through the purchase. Applicant's attorney: Francis W. McInerny, and Harry J. Jordan, both of 1000 16th Street, NW., Washington, D.C. 20036. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between New York, N.Y., and Schenectady, N.Y., as follows: From New York over U.S. Highway 9 via Hudson, N.Y., to Latham, N.Y., thence over New York Highway 7 to Schenectady, and return over the same route. From New York, N.Y., over U.S. Highway 9 to Wappingers Falls, thence over New York Highway 9D to Beacon, N.Y., thence over New York Highway 52 to Newburgh, N.Y., thence over U.S. Highway 9–W to Albany, N.Y., and thence over New York, Highway 5 to Schenectady, and return over the same route. From New York to Hudson as specified above, thence over New York Highway 23 to Claverack, N.Y., thence over New York Highway 217 to junction unnumbered highway (Near Harlemville, N.Y., thence over unnumbered highway to Spencertown, N.Y., thence over New York Highway 203 to Valatie, N.Y., thence over U.S. Highway 9 to junction New York Highway 150, thence over New York Highway 150 to Troy, N.Y., and thence over New York Highway 7 to Schenectady, and return over the same route. Service is authorized to and from the intermediate and off route points of Poughkeepsie, Hyde Park, Staatsburg, Rhinebeck, Red Hook, Livingston, Nevis, Clermont, Hudson, Kinderhook, Greenbush, Albany, Loudonville, Rennsselaer, Wappingers Falls, Beacon, Newburgh, Marlboro, Milton, Highland, West Park, Esopus, Port Ewen, Kingston, Highland, West Park, Scotia, Menands, Cohoes, Troy, Waterford, Watervliet, and Athens, N.Y.; General commodities, with exceptions as a common carrier over irregular routes between New York, N.Y., and Yonkers, N.Y. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13215. Authority sought for purchase by COOPER–JARRETT, INC., Hanover Plaza, Morristown, NJ 07960, of the operating rights of Central City Express, Inc., Post Office 7402, Nashville, TN 37210, and for acquisition by R. E. Cooper, Jr., Hanover Plaza, Morristown, NJ 07960, of control of such rights through the purchase. Applicants' attorneys: Irvin Klein, Southgate Tower, 371 Seventh Avenue, New York, NY 10001 and George M. Catlett, 703–706 McClure Bldg., Frankfort, KY 40601. Operating rights sought to be transferred: *General commodities*, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular routes serving Paradise, Ky., as an off-route point in connection with carrier's authorized regular route operations, between Nashville, Tenn., and Central City, Ky., serving all intermediate points between Russellville, Ky., and Central City (except Russellville) with restriction. Vendee is authorized to operate as a *common carrier* in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Washington, West Virginia and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 20894 (Sub-No. 23), filed March 30, 1977. Applicant: P. CALLAHAN, INC., 5240 Comly Street, Philadelphia, Pa. 19135. Applicant's representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street, N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores and mailorder houses, between Baltimore, Md., and the District of Columbia, on the one hand, and, on the other, the plantsite of R. T. French Company located at or near Sanderton, Pa., New York, N.Y., and points in Nassau, Suffolk and Westchester Counties, N.Y. and points in New Jersey, restricted against the transportation of traffic to or from the facilities of Honorbilt Products, Inc., located at Philadelphia, Pa.

NOTE.—The purpose of this application is to eliminate the gateway of Chester, Pa., a point within the Philadelphia, Pa. Commercial Zone. This is a matter directly related to a Section 5(2) finance proceeding in MC–F–13183 published in the FEDERAL REGISTER issue of April 21, 1977. If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 41432 (Sub-No. 150), filed April 14, 1977. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207. Applicant's representative: Wyman C. Knapp, 825 City National Bank, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular and regular routes, transporting: (A) Irregular routes: *General commodities* with the following exceptions: (1) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or Boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting); (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers; (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles;

(5) Commodities when transported in bulk in dump type trucks or trailers or in hopper-type trucks or trailers; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment; and (8) Logs, between those points near Los Angeles, Calif., beginning at the intersection of State Highway 27 and State Highway 1; northerly on State Highway 27 to U.S. Highway 101; westerly on U.S. Highway 101 to a point where the city limits of the City of Los Angeles are intersected thereby; northerly and easterly along said city limits of Los Angeles to a point from which an imaginary line drawn easterly intersects Interstate Highway 405; easterly from such point along such imaginary line to Interstate Highway 405; southerly along Interstate Highway 405 to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando, westerly and northerly along said corporate boundary to McClay Avenue; thence northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to State Highway 38; westerly along State Highway 38 to Bryant Street north of Yucaipa; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to Interstate Highway 10; northwesterly along Interstate Highway 10 to and including the City of Redlands; westerly along Interstate Highway 10 to Interstate Highway 15; southerly along Interstate Highway 15 to Alessandro near March Air Force Base; westerly along Van Buren Boulevard to Arlington; southwesterly along Magnolia Avenue to State Highway 91; southwesterly and westerly along State Highway 91 to State Highway 55; southerly along State Highway 55 to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to the point of beginning, included within the territory immediately above described are all places within the corporate limits of any city which is bisected by state and interstate highways and county roads constituting the boundary of such territory between Yucaipa and Newport Beach, (hereinafter the territory described above will be referred to as the Los Angeles Basin Area).

(B) Regular routes: *General commodities*, with the exceptions listed in (1) above: Between Santa Barbara, Calif. and the Los Angeles Basin Area described in (1) above: From Santa Barbara over U.S. Highways 101 and 101 Alternate, serving all intermediate points and said highways and all points laterally within five miles of said highways: From Santa Barbara over U.S. Highways 101 and 101 Alternate, to the Los Angeles Basin Area, and return over the same route.

NOTE.—The purpose of this filing is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 5(2) finance proceeding in MC–F–13193, published in the FEDERAL REGISTER issue of April 28, 1977. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif. or Washington, D.C.

No. MC 42487 (Sub-No. 863), filed April 19, 1977. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: E. T. Liipfert, Suite 1000, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *General commodities*, between points in Spartanburg County, South Carolina, and between points in Spartanburg County and points in South Carolina; (2) *General commodities*, including household goods (except Classes A and B explosives, petroleum products in bulk and commodities requiring special equipment): between points in Union County, South Carolina, and between points in Union County, and points in South Carolina; (3) *Cotton piece goods and rayons* finished and unfinished: between points in South Carolina; (4) *General commodities*, between points in York County, South Carolina, and between points in York County and points in South Carolina; and, between points in Aiken County, South Carolina, and between points in Aiken County and points in South Carolina; and between points in Charleston County, South Carolina, and points in South Carolina; (5) *General commodities*, (except asphalt, liquid petroluem products in bulk in tank trucks, Classes A and B explosives and other dangerous commodities, and household goods): between points in Charleston, Greenville, and Richland Counties, South Carolina, and points in South Carolina; and between points in Greenville, Spartanburg, and Union Counties, South Carolina, and between points in Greenville, Spartanburg, and Union Counties, South Carolina, and points in South Carolina.

NOTE.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a finance proceeding under Section 5(2) in MC–F–13199, published in the FEDERAL REGISTER issue of May 5, 1977. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 93649 (Sub-No. 20), filed April 12, 1977. Applicant: GAINES MOTOR LINES, INC., P.O. Box 1549, Hickory, N.C. 28601. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Products of, and materials and supplies used by textile manufacturing plants, from Boston, Somerville, and Haverhill, Mass., New Haven, Conn., Pawtucket, East Providence, Providence, and Warren, R.I. to Maiden, N.C., and points in North Carolina and South Carolina within 45 miles of Maiden (eliminating the gateway of Newark, N.J.); (2) Textiles and textile products, from points in South Carolina and points in North Carolina within 45 miles of Maiden, N.C., to Boston, Somerville, and Haverhill, Mass., New Haven, Conn., Pawtucket, East Providence, Providence, and Warren, R.I. (eliminating the gateway of a point in New Jersey within 50 miles of Newark, N.J.); and (3) Cotton yarn and cotton knit goods, from Maiden, N.C., and points in North Carolina within 25 miles of Maiden, N.C., to Boston, Somerville, and Haverhill, Mass., New Haven, Conn., Pawtucket, East Providence, Providence, and Warren, R.I. (eliminating the gateway of a point in New Jersey within 50 miles of Newark, N.J.).

NOTE.—This application is directly related to MC–F–13192, Gaines Motor Lines, Inc.—Purchase (Portion)—Hi-Cube Transport, Inc., filed April 12, 1977, pursuant to Ex Parte No. 55 (Sub-No. 8), Petition to Eliminate Gateways, and published in the FEDERAL REGISTER issue of April 28, 1977.

No. MC 105008 (Sub-No. 25), filed April 7, 1977. Applicant: EDWARD W. CHADDERTON, doing business as, CHADDERTON TRUCKING, P.O. Box 687, Budd St., Sharon, Pa. 16146. Applicant's representative: Stanley E. Levine, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between the Borough of Mercer, Pa., and points in Mercer County, Pa., located on and west of U.S. Highway 19, on the one hand, and, on the other, points in Pennsylvania.

NOTE.—The purpose of this application is to convert applicant's Certificate of Registration to a Certificate of Public Convenience and Necessity. This is a matter Directly Related to a Section 5(2) finance proceeding in MC–F–13137 published in the FEDERAL REGISTER issue of March 10, 1977. If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. MC 142268 (Sub-No. 13), filed February 2, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada NOR 1GO. Applicant's representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Neutral grain spirits*, in bulk, in tank vehicles, from Clinton and Muscatine, Iowa, and Atchison, Kans., to Allen Park, Mich., restricted to traffic destined to the facilities of Heublein, Inc., located at Allen Park, Mich.; and (2) *alcoholic beverages* (except in bulk) from Allen Park, Mich., to points in Florida, Georgia, Illinois, Kansas, North Carolina, Oklahoma, South Carolina, Texas, Virginia, and West Virginia, restricted to shipments originating at the facilities of Heublein, Inc., located at Allen Park, Mich.

NOTE.—The purpose of this application is to convert applicant's contract carrier authority to common carrier authority. This is a matter Directly Related to a Section 5(2) finance proceeding in MC–F–12898 published in the FEDERAL REGISTER issue of August 19, 1976. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 142723 (Sub-No. 1), filed April 16, 1977. Applicant: BRISTOL CONSOLIDATORS, INC., 4133 Clarenceaux Dr., Gibsonia, Pa. 15044. Applicant's representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail variety, department and drug stores, and *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk) between Pymatuning Township, Pa., on the one hand, and, on the other, points in Maryland, New York, Ohio, West Virginia, New Jersey, Pennsylvania, Indiana, Virginia, Kentucky, Michigan, Illinois, and the District of Columbia, under a continuing contract or contracts with G. C. Murphy Company of McKeesport, Pa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa., or Washington, D.C. This application is directly related to MC–F–13191, published in the FEDERAL REGISTER issue of April 28, 1977, in which John J. Ghaznavi seeks to control J & S, Inc., and to continue in control of Bristol Consolidators, Inc.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules —Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 728), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed May 10, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Kingman, Ariz., over Interstate Highway 40 (using U.S. Highway 66 until Interstate Highway 40 is completed) to Seligman, Ariz., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Kingman, Ariz., over U.S. Highway 66 to Seligman, Ariz., and return over the same route.

No. MC 67024 (Deviation No. 3), SERVICE COACH LINE, INC., 525 Madison St., P.O. Box 1441, Tampa, Fla. 33602, filed May 6, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From McIntosh, Ga., over Georgia Highway 196 to junction U.S. Highway 17, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From McIntosh, Ga., over U.S. Highway 82 (formerly Georgia Highway 38) to Midway, Ga., thence over U.S. Highway 17 to junction Georgia Highway 196, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Oklahoma Docket No. MC 40463, filed April 28, 1977. Applicant: DISPATCH DELIVERY & STORAGE, INC., 809 Southwest 7th, Oklahoma City, Okla. 73112. Applicant's representative: William D. Watts, 1600 Midland Center, Oklahoma City, Okla. 73102. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities—Film:* (1) Between Oklahoma City, Okla., and Midwest City, Del City, Bethany, Warr Acres, The Village, and Nichols Hills, Okla., and return; (2) between Oklahoma City, Okla., and Edmond, Nicoma Park, Spencer, Mustang, and Newcastle, Okla., and return; (3) between Oklahoma City, Okla., and Moore and Norman, Okla., via Interstate Highway 35, and return; and (4) between Oklahoma City, Okla., and Yukon, Okla., via Interstate Highway 40, and return. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place scheduled for June 6, 1977, at 9 a.m., in the Referee's Court Room, Second Floor, Jim Thorpe Office Building, Oklahoma City, Okla. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14173 Filed 5-18-77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE AND RECYCLING (GENERAL MOTOR CARRIER LICENSING

Filing of Petition for Declaratory Order

MAY 19, 1977.

Filed February 11, 1977. Petitioner: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Petitioner's representative: Charles W. Singer, 2440 E. Commercial Blvd., Ft. Lauderdale, Fla. 33308. On December 21, 1970, the Interstate Commerce Commission initiated proceedings to develop a streamlined application procedure to allow motor carriers to transport "waste" products for reuse and recycling in furtherance of a recognized pollution control program. On the basis of the reports in 114 M.C.C. 92, and 124 M.C.C. 583, regulations were promulgated which allowed participation in a Special Certificate on the basis of the filing of a written request containing certain representations including a letter of support from the organization or organizations engaged in the pollution control program. See 49 CFR Part 1062. Petitioner, a motor carrier holding both common carrier authority and a Special Certificate seeks, by the instant petition, a declaratory order from the Commission to clarify certain definitional aspects of the criteria adopted in the above proceedings as applied to factual situations. Petitioner requests the Commission to consider the following questions: (1) Who qualifies as a sponsor of a recognized pollution control program, and (2) what transportation service can be performed for that sponsor or others under the Special Certificate. Petitioner also contends that in some instances Commission decisions pursuant to the involved rule have been inconsistent. The Commission will consider the issues raised by petitioner, review filings pursuant to the rule to identify possible inconsistencies, and take any action as the circumstances may require to insure that all services performed by carriers presently operating under the Special Certificate are within the limits authorized by the regulation. All persons interested in commenting on the above issues are invited to file written statements with the Commission. An original and 15 copies (wherever possible) of such statements should be submitted on or before June 20, 1977 to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423. A copy should also be served on petitioner's representative.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14323 Filed 5-18-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

TIME AND DATE: 10 am., May 24, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Docket 29139, EDR–296. Re-examination of the Board's Policies Concerning Deliberate Overbooking and Oversales.

STATUS: Open.

PERSONS TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

[S–434–77 Filed 5–16–77;3:59 pm]

2

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 11, 1977, 42 FR 23935.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., May 19, 1977.

CHANGES IN THE MEETING: The meeting will begin at 2 p.m., instead of at 9:30, and will include consideration of the first three items previously announced:

1. Gas-fired Space Heaters and Catalytic Heaters, Petitions CP 74–10 and 75–16.

2. Possible Substantial Product Hazard: B. Altman & Co. trolley ride toy (ID 77–14).

3. Report on the Office of Public Participation and Financial Compensation Program.

The remaining two items previously announced have been deleted from the agenda. The Commission will consider the Policy on Official Appearances at Facilities with Discriminatory Policies as a ballot vote item. The Policy on Voluntary Standards will be rescheduled.

[S–433–77 Filed 5–16–77;1:56 pm]

3

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT.

PREVIOUSLY ANNOUNCED TIME AND DATE: 2:30 p.m., May 13, 1977.

CHANGES IN MEETING: The Commission voted to add to this meeting a discussion of Tris litigation, in light of a U.S. Appellate Court decision on May 12, staying a previous Order from the U.S. District Court. This discussion preceded the previously-scheduled discussion of CPSC Reorganization. Both portions of the meeting were closed to the public.

[S–432–77 Filed 5–16–77;1:56 pm]

4

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: 9:30 a.m., May 26, 1977.

LOCATION: 3rd Floor Hearing Room, 1111, 18th St., NW., Washington, D.C.

STATUS: Part is open to the public; part is closed.

MATTERS TO BE CONSIDERED:

Portion open to the public:

1. *Petition on Nylon Threads in Children's Bedding and Clothing (Petition HP 75–19).* The petitioner has asked the Commission to take regulatory action on loose threads in these products, which might pose a hazard to children who are entangled.

2. *Policy on Voluntary Standards.* This policy would describe CPSC philosophy on (a) support and participation in voluntary standards development, (b) reliance on mechanisms other than issuing CPSC mandatory standards, and (c) consideration of voluntary standards in developing and/or promulgating mandatory safety standards. Commissioner Franklin prepared an outline for this discussion. (Originally scheduled for May 19, 1977 meeting.)

3. *Refuse Bins.* The Commission will consider a draft banning rule for unstable refuse bins, which was prepared by the staff. Portion closed to the public.

4. *Proposal to seek Consent Agreement and/or Notice of Enforcement: Flammable Fabrics Act Case.* BCMI No. 6–048 (originally scheduled for May 12, 1977 meeting).

5. Recommendation to Seek Civil Penalty: Flammable Fabrics Act Case, OS package No. 389.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207. Telephone 202–634–770.

[S–436 Filed 5–17–77;9:34 am]

5

AGENCY HOLDING THE MEETING: National Railroad Passenger Corporation.

In accordance with rule 4a. of Appendix A of the By-laws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on May 26, 1977.

A. The meeting will be held on Thursday, May 26, 1977, in the Renoir Room of the L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, Southwest, Washington, D.C., beginning at 9 a.m. The portion of the meeting beginning at 9 will be closed to the public, during which time the Board will consider agenda item No. 1, as identified below.

B. The meeting will be open to the public beginning at 9:30 a.m. starting with agenda item No. 2, as identified below.

C. The agenda items to be discussed at the meeting follow:

AGENDA

NATIONAL RAILROAD PASSENGER CORPORATION, MEETING OF THE BOARD OF DIRECTORS—MAY 26, 1977

(9) *Closed Session*

1. Internal Personnel Matters.

(9:30) *Open Session*

2. Approval of Minutes of Regular Meeting of April 22, 1977.

3. Committment Approval Requests.

77–122 Retire and Scrap Nine Passenger Cars.
77–137 Convert Ten E–8 Type Locomotives into Steam Generator Units.
77–141 Harrisburg, Pa.—Structural Repairs.
77–146 Conversion of 25 Sleeping Cars.

4. Board Committee Reports.

A. Northeast Corridor Improvement Project: (1) General Status Report; (2) Status of Baseline Implementation Master Plan; (3) Electrification; (4) Concrete Ties; and (5) Grade Crossing Situation.

B. Planning/Equipment: (1) Capital Plan Reprogramming; (2) Single-level Long Distance New Equipment; (3) Route Criteria-Task III Options; (4) ASEA Locomotive Test Results; and (5) French Locomotive Program Status.

C. Audit/Finance: (1) Arthur Anderson & Co. Presentation of Preliminary Year-End Audit Work.

5. President's Reports.

A. Operations: (1) National Operations; (2) Operations Support; and (3) Northeast Corridor Operations.

B. Marketing.

C. Government Affairs.

6. Financial Reports.

7. Approval of Retirement Income Plan Changes.

8. New Business.

9. Adjournment.

D. Inquiries regarding the information required to be made available to the public pursuant to Appendix A of the Corporation's By-laws should be directed to the Corporate Secretary at 202–484–7679.

Dated: May 16, 1977.

ELYSE G. WANDER,
Corporate Secretary.

[S–431–77 Filed 5–16–77;12:03 pm]

6

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24175, May 12, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 19, 1977, 9:30 a.m. (NM–77–11a).

CHANGES IN THE MEETING: The following agenda item has been added:

Annual Report to Congress, Calendar Year 1976.

[S–437–77 Filed 5–17–77;9:34 am]

7

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

TIME AND DATE: 2:30 p.m., Thursday, May 19, 1977 (NM–77–12).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Closed.

MATTER TO BE CONSIDERED:

Discussion re Selection of the Chief, Field Investigation Division, Bureau of Accident Investigation.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202–755–4930.

[S–438–77 Filed 5–17–77;9:34 am]

8

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

TIME AND DATE: 9:30 a.m., Thursday, May 26, 1977 (NM–77–13).

PLACE: Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Discussion re Alternatives for ATC-Tape Processing.

2. Letter to Federal Railroad Administration re ANPRM Dkt. RSGM–1, Improved Glazing Material in Windows of Certain Railroad Cars.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202–755–4930.

[S–439–77 Filed 5–17–77;9:34 am]

9

AGENCY HOLDING THE MEETING: National Transportation Safety Board.

TIME AND DATE: 2:30 p.m., Thursday, May 26, 1977 (NM–77–14).

PLACE: Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Closed.

MATTER TO BE CONSIDERED:

Opinion and Order.—Administrator v. Lewis, Dkt. SE–3340; Disposition of Administrator's Appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202–755–4930.

[S–440–77 Filed 5–17–77;9:34 am]

10

AGENCY HOLDING THE MEETING: U.S. Railroad Retirement Board.

TIME AND DATE: 10 a.m., May 25, 1977.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois 60611.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

(1) Hearings transcripts of appealed cases.

(2) Disclosure of information by the Social Security Administration to the Railroad Retirement Board for use in administering the Railroad Unemployment Insurance Act.

(3) Outside review of data base proposal.

(4) Working papers for data base.

(5) Proposed draft letter to the Office of Management and Budget concerning the Board's temporary employment ceiling request.

(6) Amending the Regulations of the Railroad Retirement Board under the Railroad Unemployment Insurance Act concerning the determination of a rate of unemployment.

(7) Problems in the computer room.

Portions closed to the public:

(8) Appeal to the Board of denial of annuity application, Edwin L. Falloon.

(9) Appeal to the Board of denial of annuity application, Robert L. McDonald.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board. Telephone No. 312–387–4920.

[S–435 Filed 5–17–77;9:34 am]

11

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Tuesday, May 24, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Nonadjudicative Matters:

The Commission has not yet scheduled any Nonadjudicative items for discussion at this meeting.

Adjudicative Matters Under Part 3 of the Rules of Practice:

(1) Approval of Minutes of Adjudicative Matters Considered at Commission Meeting of May 17, 1977.

(2) Consideration of Complaint Counsel's Request for Authorization of Judicial Enforcement of Subpoenas Issued to Certain Respondents In Exxon Corp., Docket No. 8934.

(3) Consideration of Final Decision in Central California Lettuce Producers Cooperative, Docket No. 8970.

(4) Consideration of withdrawing Safety Stores, Inc., Docket No. 9053, from Adjudication to consider proposed consent agreement.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: (202–523–3830); Recorded Message: (202–523–3806).

[S–441–77 Filed 5–17–77;10:58 am]

12

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Wednesday, May 25, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Discussion of Proposed Rules Changes and Additions dealing with Assurance of Confidentiality with regard to and Protection of Confidential Business Information.

(2) Report from General Counsel on Congressional Matters.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information: (202–523–3830); Recorded Message: (202–523–3806).

[S–442–77 Filed 5–17–77;10:58 am]

federal register

THURSDAY, MAY 19, 1977

PART II

FEDERAL COMMUNICATIONS COMMISSION

LIST OF CANADIAN FM BROADCASTING STATIONS AND ALLOCATIONS WITHIN 250 MILES OF THE CANADA–U.S.A. BORDER

Amendment of Table A of the Canadian–U.S.A. FM Broadcasting Agreement of 1947; Supplement No. 2

CANADIAN FM BROADCASTING STATION

List of Canadian FM Broadcasting Stations and Allocations Within 250 Miles of the Canada-U.S.A. Border

MAY 6, 1977.

The FCC has released a list of Canadian FM Broadcasting Station Assignments and Allocations that is recapitulative and contains information supplied by the Department of Communications of Canada. It reflects all the additions, changes and deletions notified to the FCC by the above date and supersedes previous lists issued by the Commission.

Further additions, changes and deletions, as coordinated between the Commission and the Canadian Department of Communications will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the list may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20006, telephone 202-452-1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission.

CANADIAN-U.S.A. FM BROADCASTING AGREEMENT LIST OF ASSIGNMENTS AND ALLOCATIONS FOR FM BROADCASTING

LISTED BY PROVINCE

CANADA

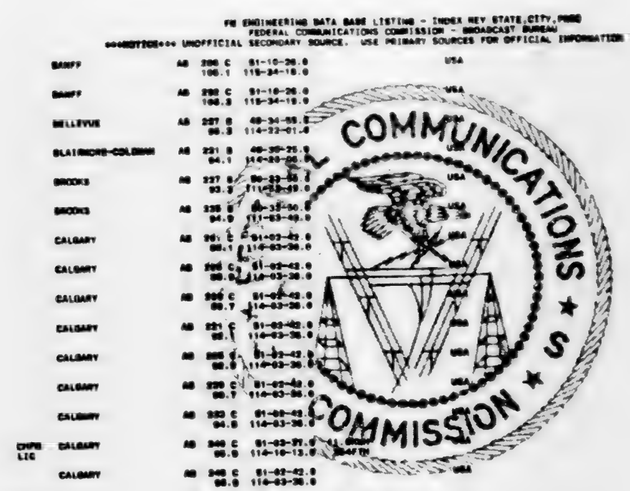
PROVINCE ABBREVIATIONS

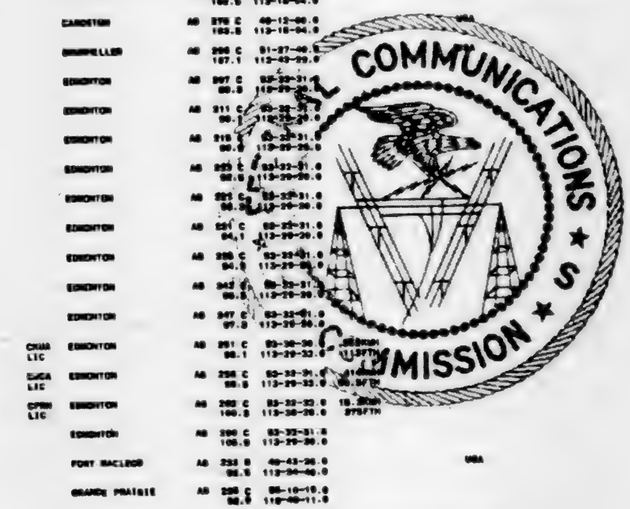
Alberta, AB.
British Columbia, BC.
Manitoba, MB.
New Brunswick, NB.
Newfoundland NF.
Northwest Territories, NT.
Nova Scotia, NS.
Ontario, ON.
Prince Edward Island, PE.
Quebec, QU.
Saskatchewan, SA.
Yukon Territory, YU.

PARAMETER ABBREVIATION

Directional Antenna, DA.
Horizontal Polarization, HOR.
Vertical Polarization, V.
Feet, FT.
Kilowatt, KW.
License, LIC.
Construction Permit, CP.
Class of Station, A,B,C,D.

Revised to April 12, 1977.





	GRANDE PRAIRIE	AB	256 C 99.9	55-10-19.0 118-48-11.0					770107
	HANNA	AB	283 B 100.5	51-38-35.0 111-55-26.0			USA		711001
	HIGH RIVER	AB	253 A 99.8	50-34-30.0 113-52-16.0			USA		711001
	LACOMBE-STETTLER	AB	273 B 102.8	52-27-43.0 113-43-52.0			USA		770107
	LACOMBE-STETTLER	AB	283 B 104.3	52-27-43.0 113-43-52.0			USA		770107
CKUA-8 LIC	LETHBRIDGE	AB	257 C 99.3	49-43-50.0 112-57-36.0	100KWH 686FTH	100KWV 686FTV	USA		750913
	LETHBRIDGE	AB	281 C 100.1	49-42-00.0 112-49-59.0			USA		711001
CHEC LIC	LETHBRIDGE	AB	288 C 100.9	49-41-45.0 112-48-34.0	.345KWH 160FTH		USA		750818
	LETHBRIDGE	AB	299 C 107.7	49-42-00.0 112-49-59.0			USA		711001
	MEDICINE HAT	AB	213 C 98.6	50-02-06.0 110-40-30.0			USA		711001
CKUA-9 LIC	MEDICINE HAT	AB	247 C 97.3	49-41-50.0 110-38-21.0	100KWH 727FTH	100KWV 727FTV	USA		750913
	MEDICINE HAT	AB	254 C 98.7	50-02-06.0 110-40-30.0			USA		711001
	MEDICINE HAT	AB	269 C 101.7	50-03-06.0 110-40-30.0			USA		711001
	PROVOST	AB	286 C 105.1	52-21-14.0 110-16-01.0					711001
CKRD LIC	RED DEER	AB	295 C 98.9	52-17-37.0 113-50-37.0	1.0KWH 225FTH		USA		750915
	RED DEER	AB	266 C 101.1	52-18-05.0 113-48-40.0			USA		711001
	TABER	AB	294 C 106.7	46-47-17.0 112-09-36.0			USA		711001
	ALERT BAY	BC	298 A 108.1	50-35-00.0 126-55-00.0			USA		781014

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CBUD LIC	COMMINOTON	BC	222 A 92.8	49-29-33.0 117-29-16.0	.04KWH -130FTH		DA USA		750818
	BURNS LAKE	BC	256 B 99.1	54-14-00.0 125-46-00.0			USA		770324
	CAMP MOSS	BC	225 B 92.9	50-10-10.0 120-34-06.0					781014
	CASTLEGAR	BC	274 C 102.7	49-18-34.0 117-39-40.0			USA		711001
	CASTLEGAR	BC	286 C 107.5	49-18-34.0 117-38-40.0			USA		711001
CHUM-1 LIC	CHILLIWACK	BC	271 A 103.1	49-09-39.0 121-50-47.0	.091KWH 953FTH		USA		750818
	CHILLIWACK	BC	286 A 107.5	49-10-17.0 121-57-04.0			USA	SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.	781007
CFPR-2 LIC	CLEARWATER	BC	294 B 93.7	51-41-04.0 120-10-53.0	.022KWH 157FTH		USA		750818
CFPR-4 LIC	CLINTON	BC	293 A 106.8	51-09-10.0 121-48-38.0	.012KWH 178FTH		USA		750818
	COURTENAY	BC	266 C 101.8	49-41-38.0 125-01-01.0			USA		711231
	COURTENAY	BC	281 B 100.1	49-41-20.0 125-01-01.0			USA	SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.	781007
	CRANBROOK	BC	263 C 100.6	49-30-30.0 115-46-01.0			USA	SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.	781007
	CRANBROOK	BC	287 C 101.3	49-30-32.0 115-46-01.0					711001
	DAWSON CREEK	BC	221 C 92.1	55-45-56.0 120-14-00.0					711231
CBRD LIC	DAWSON CREEK	BC	229 A 93.7	55-47-06.0 120-13-23.0	.070KWH 200FTH				750818
	DAWSON CREEK	BC	269 C 101.7	55-45-40.0 120-14-20.0					711001
	FERNIE	BC	254 C 104.7	49-30-29.0 115-03-43.0			USA		711001
	FERNIE	BC	286 C 108.8	49-30-29.0 115-03-43.0			USA		911001

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	PORT FRASER	BC	275 B 103.9	54-04-00.0 124-33-00.0			USA		770324
	GOLDEN	BC	299 A 101.7	51-18-00.0 116-58-00.0			USA		780121
	HOPE	BC	299 A 101.7	49-22-59.0 121-36-20.0			USA		781014
	HOPE	BC	299 B 108.1	49-22-59.0 121-36-20.0			USA	SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.	781007
CFVL-1 LIC	INVERMERE	BC	298 C1 107.1	50-25-35.0 116-00-23.0	.001KWH 2390FTH		USA		750818
	KAMLOOPS	BC	261 C 98.1	50-40-12.0 120-19-12.0			USA		711001
	KAMLOOPS	BC	231 C 94.1	50-40-12.0 120-19-12.0			USA		781204
	KAMLOOPS	BC	263 C 98.9	50-40-12.0 120-19-12.0			USA		711001
CFFR LIC	KAMLOOPS	BC	255 C 98.3	50-40-15.0 120-33-50.0	5.0KWH 489FTH		USA		750818
	KELOWNA	BC	235 B 94.8	49-52-09.0 119-29-31.0			USA		711001
	KELOWNA	BC	239 C 95.7	49-52-09.0 119-29-31.0			USA		781204
	KELOWNA	BC	258 B 99.1	49-52-09.0 119-29-31.0			USA		711001
CJOY LIC	KELOWNA	BC	264 C 104.7	49-59-00.0 119-31-40.0	5.0KWH 1011FTH		USA		750818
	KIMBERLY	BC	243 C 96.9	49-41-10.0 115-58-59.0					711001
	KIMBERLY	BC	258 C 98.8	49-41-10.0 115-58-59.0			USA	SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.	781007
CBUR LIC	KITIMAT	BC	288 A 101.1	54-03-12.0 128-36-35.0	.005KWH -937FTH	.005KWV -937FTV	USA		750818
	LYTTON	BC	272 B 103.3	50-14-00.0 121-34-00.0			USA		781014
CFFB-3 LIC	MERRITT	BC	280 C 103.9	50-11-40.0 120-58-16.0	.012KWH 3125FTH		USA		750818

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	MERRITT	BC	298 C 107.1	50-06-43.0 120-47-20.0			USA		711001
CFPR-6 LIC	MOUNT TIMOTHY	BC	298 C 98.9	51-54-00.0 121-15-30.0	.09KWH 1667FTH		USA		750818
	NANAIMO	BC	237 C 95.3	49-09-48.0 123-58-13.0					711231
	NELSON	BC	283 B 94.5	49-29-34.0 117-17-47.0			USA		711001
	NELSON	BC	301 B 104.1	49-29-34.0 117-17-47.0			USA		751204
CFBT LIC	NEW WESTMINSTER	BC	288 C 101.3	49-09-43.0 122-55-17.0	100KWH 1096FTH	100KWV 1096FTV	USA		750818
	NORTH VANCOUVER	BC	241 C 96.1	49-19-30.0 123-04-30.0					770107
	OLIVER	BC	298 B 99.7	49-11-00.0 119-33-00.0					711001
	OLIVER	BC	302 B 100.8	49-11-00.0 119-33-00.0					781014
	PENTICTON	BC	288 B 98.6	49-29-31.0 119-36-58.0			USA	SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.	781007
	PENTICTON	BC	327 A 93.3	49-29-31.0 119-36-58.0					711001
CKOR LIC	PENTICTON	BC	246 C 97.1	49-31-44.0 119-36-55.0	1.0KWH 755FTH		USA		750818
	PORT ALBERNI	BC	288 A 104.9	49-14-17.0 124-48-14.0					711001
	PORT ALBERNI	BC	288 A 107.5	49-14-17.0 124-48-14.0					711001
	POWELL RIVER	BC	301 A 100.1	49-53-19.0 124-33-00.0			USA		711001
	POWELL RIVER	BC	276 A 103.1	49-53-19.0 124-33-00.0			USA		711001
	PRINCE GEORGE	BC	265 C 100.9	53-54-00.0 122-44-40.0					770107
	PRINCE GEORGE	BC	287 C 101.8	53-54-00.0 122-44-40.0					770107

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	PRINCE RUPERT	BC	222 C 92.3	54-19-47.0 130-19-30.0		USA		770107
	PRINCE RUPERT	BC	260 C 99.9	54-19-47.0 130-19-30.0		USA		770107
	PRINCETON	BC	261 B 100.1	49-27-23.0 120-30-43.0		USA		725406
	PRINCETON	BC	278 C 103.1	49-27-23.0 120-30-43.0		USA		784526
	REVELSTOKE	BC	279 C 103.5	50-59-24.0 118-11-31.0		USA		770107
	REVELSTOKE	BC	282 B 104.3	50-59-24.0 118-11-31.0		USA		770107
	ROSSLAND	BC	249 C 97.7	49-04-41.0 117-47-56.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		781007
	SALMON ARM	BC	221 B 92.1	50-42-00.0 119-16-59.0		USA		711001
CFPR-1 LIC	SAVONA	BC	270 A 101.9	50-45-45.0 120-52-00.0	100KWH -1490FTH	USA		750615
	TRAIL	BC	205 C 88.9	49-05-49.0 117-42-04.0		USA		711001
CJAT LIC	TRAIL	BC	294 C 106.7	49-09-26.0 117-49-08.0	10.5KWH 1489FTH	TZ:5KW 1469FTV USA		750615
	VANCOUVER	BC	200 C 89.7	49-15-00.0 123-06-00.0		USA		711001
	VANCOUVER	BC	213 C 90.5	49-15-00.0 123-06-00.0		USA		711001
	VANCOUVER	BC	217 C 91.8	49-15-00.0 123-06-00.0		USA		711001
	VANCOUVER	BC	229 C 93.7	49-15-00.0 123-06-00.0		USA		750408
	VANCOUVER	BC	233 C 94.5	49-15-00.0 123-06-00.0		USA		750408
CBUF LIC	VANCOUVER	BC	249 C 97.7	49-21-12.0 122-57-18.0	50KWH 1623FTH	USA		750615
CKLG LIC	VANCOUVER	BC	257 C 99.3	49-21-05.0 122-54-06.0	100KWH 535FTH	USA		750615

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CFPR-FM LIC	VANCOUVER	BC	274 B 100.7	49-16-21.0 123-04-49.0	3.7KWH 647FTH	3.7KWV 647FTV USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		751007
CHQM LIC	VANCOUVER	BC	278 C 103.5	49-21-17.0 122-57-36.0	95KWH 1630FTH	(DKW DA +1580FTV USA		750615
CBU LIC	VANCOUVER	BC	289 C 105.7	49-21-12.0 122-57-18.0	50KWH 1623FTH	USA		750615
	VANCOUVER	BC	305 B 107.0	49-15-00.0 123-06-00.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		751007
	VERNON	BC	285 B 100.9	50-16-01.0 119-16-01.0		USA		711001
	VERNON	BC	288 C 105.5	50-16-01.0 119-16-01.0		USA		711001
	VICTORIA	BC	201 C 88.1	48-26-00.0 123-21-00.0		USA		711001
	VICTORIA	BC	205 C 89.5	48-26-00.0 123-21-00.0		USA		711001
	VICTORIA	BC	221 C 92.1	48-26-00.0 123-21-00.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		751007
	VICTORIA	BC	245 C 96.9	48-26-00.0 123-21-00.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		751007
CFAX LIC	VICTORIA	BC	253 C 98.5	48-25-07.0 123-30-36.0	10KWH 882FTH	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		751007
	VICTORIA	BC	257 C 100.3	48-26-00.0 123-21-00.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		751007
	VICTORIA	BC	270 B 101.9	48-26-00.0 123-21-00.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		751007
	VICTORIA	BC	297 B 107.3	48-26-00.0 123-21-00.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		751007
	SOISSEVAIN	MB	290 C 105.9	49-13-00.0 100-03-14.0		USA		770107
	BRANDON	MB	207 C 90.5	49-50-31.0 99-57-00.0		USA		711001
	BRANDON	MB	213 C 90.5	49-50-31.0 99-57-00.0		USA		711001
	BRANDON	MB	217 C 91.5	49-50-31.0 99-57-00.0		USA		711001

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	BRANDON	MB	234 C 93.7	49-50-31.0 99-57-03.0		USA		730000
CKX LIC	BRANDON	MB	241 C 96.1	49-40-05.0 100-00-40.0	85KWH 1042FTH	USA		750615
	BRANDON	MB	258 C 97.9	49-50-31.0 99-57-00.0		USA		711001
	BRANDON	MB	296 C 107.1	49-50-31.0 99-57-00.0		USA		730000
	CARBERRY	MB	263 B 100.3	49-52-05.0 99-21-29.0		USA		730000
	DAUPHIN	MB	227 C 92.5	51-08-56.0 100-03-00.0		USA		711001
	DAUPHIN	MB	248 C 97.1	51-08-56.0 100-03-00.0		USA		711001
	EMERSON	MB	249 B 99.9	49-00-18.0 97-12-32.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		781007
	FAIRFORD	MB	203 B 104.3	50-36-00.0 98-41-00.0		USA		750131
	FISHER BRANCH	MB	229 B 96.3	51-05-00.0 97-27-00.0		USA		750131
	FLIN FLON	MB	221 C 92.1	54-46-01.0 101-52-01.0		USA		711001
	FLIN FLON	MB	225 C 92.9	54-46-01.0 101-52-01.0		USA		711001
	GIMLI	MB	298 C 107.5	50-37-59.0 96-59-24.0		USA		711001
	JACKHEAD	MB	224 B 92.7	51-53-56.0 97-10-00.0		USA		750131
	MELITA	MB	254 C 98.1	49-16-16.0 100-59-24.0		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		781007
	MORDEN-WINKLER	MB	300 C 107.8	49-11-36.0 98-05-04.0		USA		770107
	NEEPAWA	MB	286 B 101.1	50-13-41.0 99-26-01.0		USA		730000
	PORTAGE LA PRAIRIE	MB	286 C 103.9	49-58-19.0 98-17-24.0		USA		770107

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	PORTAGE LA PRAIRIE	MB	294 C 104.9	49-58-19.0 98-17-24.0		USA		770107
	RUSSEL	MB	270 C 103.5	50-46-56.0 101-17-06.0		USA		711001
	SELKIRK	MB	264 C 100.7	50-09-46.0 96-52-19.0		USA		711001
	STEINBACH	MB	288 C 100.9	49-31[illegible] 96-41-00.0		USA		711001
	THE PAS	MB	230 C 95.5	53-49-56.0 101-15-00.0		USA		711001
CBTY LIC	THOMPSON	MB	288 C 99.5	55-45-45.0 97-51-40.0	100KWH 250FTH	USA		750615
	TRANSCONA	MB	225 B 93.1	49-53-[illegible].0 97-06-00.0		USA		711001
	TRANSCONA	MB	258 C 99.1	49-53-46.0 97-05-00.0		USA		711001
	VIRDEN	MB	256 C 98.5	49-51-00.0 100-55-00.0		USA		711001
	WINNIPEG	MB	201 C 88.1	49-53-00.0 97-09-20.0		USA		750820
	WINNIPEG	MB	205 C 89.9	49-53-00.0 97-09-20.0		USA		711001
	WINNIPEG	MB	209 C 90.7	49-53-00.0 97-09-20.0		USA		711001
CKY LIC	WINNIPEG	MB	221 C 92.1	49-53-46.0 97-10-04.0	50KWH 1214FTH	USA		751211
CHIQ-FM LIC	WINNIPEG	MB	233 C 94.3	49-53-01.0 97-08-10.0	8.5KWH [illegible]FTH	USA		750615
	WINNIPEG	MB	244 C 96.7	49-53-56.0 97-09-20.0		USA		711001
CHRB LIC	WINNIPEG	MB	248 C 97.5	49-48-57.0 97-12-54.0	210KWH 226FTH	USA		750615
CBW LIC	WINNIPEG	MB	252 C 98.3	49-44-06.0 97-08-28.0	25.4KWH 471FTH	USA		750615
	WINNIPEG	MB	286 C 90.7	49-53-00.0 97-09-20.0		USA		750615

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	WINNIPEG	MB	560 C	49-52-56.0		USA		711001
			99.9	97-09-29.0				
CHRPB LIC	WINNIPEG	MB	566 B	49-48-32.0	0.05KW	USA		700813
			101.5	97-48-04.0	1000FT	1000FT		
	WINNIPEG	MB	572 C	49-52-56.0				711001
			100.3	97-09-29.0				
	WINNIPEG	MB	575 C	49-52-56.0		USA		711001
			100.1	97-09-29.0				
	WINNIPEG	MB	580 C	49-52-56.0		USA		711001
			100.0	97-09-29.0				
	WINNIPEGOSIS	MB	907 C	51-38-56.0		USA		700102
			100.3	99-58-56.0				
	BATHURST	NB	561 C	47-36-56.0		USA		701007
			100.1	65-39-56.0		SPECIAL TEMPORARY AUTHORITY-POWER ALLOCATION.		
	CAMPBELLTON	NB	551 C	48-04-11.0				711001
			99.1	66-40-56.0				
	CAMPBELLTON	NB	560 C	48-04-11.0				711001
			99.9	66-40-56.0				
	CHATHAM	NB	570 C	47-01-56.0		USA		711001
			101.5	65-26-11.0				
	CHATHAM	NB	572 C	47-01-56.0		USA		711001
			100.3	65-26-11.0				
	DALHOUSIE	NB	560 C	48-02-56.0		USA		711001
			100.7	66-22-01.0				
	DALHOUSIE	NB	561 C	48-02-56.0				711001
			100.7	66-22-01.0				
	EDMUNDSTON	NB	563 C	47-21-47.0				700802
			99.8	68-19-56.0				
	EDMUNDSTON	NB	568 C	47-21-47.0				700802
			99.5	68-19-56.0				
	EDMUNDSTON	NB	584 C	47-21-47.0		USA		700802
			99.7	68-19-56.0				
	FREDERICTON	NB	910 C	45-57-56.0		USA		700802
			99.9	66-39-56.0				

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	FREDERICTON	NB	910 C	45-57-56.0		USA		700802
			99.9	66-39-56.0				
	FREDERICTON	NB	951 C	45-57-56.0		USA		700802
			99.1	66-39-56.0				
CKCW-FM LIC	FREDERICTON-ST.JOHN	NB	972 C	45-39-39.0	1.97KW			751211
			100.5	66-19-53.0	1312FT			
	FREDERICTON	NB	977 C	45-57-56.0				700802
			100.3	66-39-56.0				
	FREDERICTON	NB	980 C	45-57-56.0		USA		700802
			107.5	66-39-56.0				
CKCW-FM LIC	GRAND MANAN	NB	970 C	44-47-27.0	1.97KW			751211
			100.5	66-47-56.0	1312FT			
	MONCTON	NB	555 C	46-06-56.0				711001
			99.3	64-47-03.0				
	MONCTON	NB	570 C	46-06-56.0				711001
			99.7	64-47-03.0				
	MONCTON	NB	580 C	46-06-56.0				711001
			100.9	64-47-03.0				
	NEWCASTLE	NB	540 B	47-00-56.0		USA		711001
			97.5	65-34-01.0				
	NEWCASTLE	NB	557 C	47-00-56.0		USA		711001
			99.5	65-34-01.0				
	NEWCASTLE	NB	580 C	47-00-56.0		USA		711001
			101.1	65-34-01.0				
CBAM-FM LIC	RICHIBUCTO	NB	953 A	46-40-56.0				700815
			99.5	64-53-56.0				
	SACKVILLE	NB	900 C	45-53-46.0				711001
			99.3	64-22-16.0				
	SACKVILLE	NB	906 C	45-53-46.0		USA		711001
			99.1	64-22-16.0				
	SACKVILLE	NB	920 C	45-53-46.0		USA		711001
			99.7	64-22-16.0				
CFBC-FM LIC	SAINT JOHN	NB	988 C	45-18-49.0	0.05KW	USA		700815
			98.9	66-04-56.0	171FTH			
	SAINT JOHN	NB	990 C	45-18-49.0		USA		711001
			99.7	66-03-26.0				

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	SAINT JOHN	NB	253 C	45-10-23.0		USA		711001
			100.9	66-03-26.0				
	SAINT JOHN	NB	268 C	45-10-23.0		USA		711001
			101.5	66-03-26.0				
	SAINT JOHN	NB	272 C	45-10-23.0				751211
			100.3	66-03-26.0				
	SAINT JOHN	NB	288 C	45-10-23.0				711001
			100.0	66-03-26.0				
	ST STEPHEN	NB	943 C	45-11-11.0		USA		700107
			99.5	67-16-56.0				
	ST STEPHEN	NB	958 C	45-11-11.0				711001
			100.9	67-16-56.0				
	SUSSEX	NB	955 C	45-43-56.0				711001
			104.9	65-31-01.0				
	WOODSTOCK	NB	550 C	46-08-56.0				711001
			99.5	67-34-56.0				
	WOODSTOCK	NB	568 C	46-08-56.0				711001
			104.3	67-34-56.0				
CFLC-FM LIC	CHURCHILL FALLS	NF	958 C	53-31-11.0				700815
			97.5	63-57-56.0				
	CORNER BROOK	NF	562 C	48-57-56.0				711001
			99.0	57-57-56.0				
	CORNER BROOK	NF	565 C	48-57-56.0				711001
			99.1	57-57-56.0				
	GANDER	NF	551 C	48-57-56.0				711001
			99.1	54-34-56.0				
	GRAND FALLS	NF	548 C	48-56-56.0				711001
			99.9	55-39-56.0				
CFCY-FM LIC	ST ANDREWS	NF	948 C	47-49-13.0	0.97KW			700815
			97.7	66-17-56.0	984FTH			
	ST JOHNS	NF	952 C	47-34-56.0				711001
			99.5	52-43-56.0				
	ST JOHNS	NF	960 C	47-34-56.0				711001
			99.1	52-43-56.0				
	ST JOHNS	NF	968 C	47-34-56.0				711001
			99.9	52-43-56.0				

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	ST JOHNS	NF	914 C	47-34-56.0				711001
			99.7	52-43-56.0				
	ST JOHNS	NF	988 C	47-34-56.0				730000
			99.7	52-43-56.0				
	ST JOHNS	NF	970 C	47-34-56.0				730000
			101.5	52-43-56.0				
	ST JOHNS	NF	980 C	47-34-56.0				730000
			100.5	52-43-56.0				
	STEPHENVILLE	NF	900 C	48-32-56.0				711001
			99.3	58-23-56.0				
	WABANA	NF	900 C	47-37-56.0				711001
			99.3	52-57-56.0				
	WINDSOR	NF	956 C	48-57-56.0				711001
			99.1	56-34-56.0				
CHOM-FM LIC	BAKER LAKE	NT	952 AA	64-19-00.0				700815
			99.5	96-04-10.0				
	YELLOWKNIFE	NT	952 C	62-28-00.0				700815
			99.1	114-22-56.0				
	ANNAPOLIS	NS	944 C	44-43-56.0				730000
			99.3	64-12-56.0				
	ANTIGONISH	NS	900 C	45-37-26.0				711001
			99.9	61-59-56.0				
	ANTIGONISH	NS	907 C	45-37-56.0		USA		711001
			99.3	61-59-56.0				
	ANTIGONISH	NS	908 C	45-37-26.0				711001
			99.1	61-59-56.0				
	BRIDGEWATER	NS	937 C	44-22-41.0				711001
			99.3	64-31-10.0				
	DARTMOUTH	NS	227 C	44-40-16.0		USA		711001
			99.3	63-34-56.0				
	DARTMOUTH	NS	270 C	44-40-16.0		USA		700815
			101.9	63-34-56.0		ALLOCATION USES HALIFAX, NS.		
	DOMINION	NS	947 C	46-12-46.0				711001
			97.3	60-01-10.0				
	GLACE BAY	NS	954 C	46-11-26.0				711001
			99.7	59-57-22.0				

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	GLACE BAY	NS	288 C	46-11-34.0				711001
			90.9	59-57-22.0				
	HALIFAX	NS	301 C	44-38-53.0		USA		711001
			88.1	63-35-31.0				
	HALIFAX	NS	305 C	44-38-53.0		USA		711001
			88.9	63-35-31.0				
	HALIFAX	NS	309 C	44-38-53.0		USA		711001
			89.7	63-35-31.0				
	HALIFAX	NS	313 C	44-38-53.0		USA		711001
			90.6	63-35-31.0				
	HALIFAX	NS	322 C	44-38-53.0		USA		711001
			92.3	63-35-31.0				
	HALIFAX	NS	341 C	44-38-53.0		USA		758015
			96.1	63-35-31.0				
	HALIFAX	NS	351 C1	44-38-53.0		USA		711001
			100.1	63-38-31.0				
CHFX LIC	HALIFAX	NS	270 C	44-38-03.0	89.9KHW	89.9KW DA	AUBA	758015
			101.9	63-39-20.0	548FTV	548FTV ALLOCATED TO DARTMOUTH, N.S.		
CBHFR LIC	HALIFAX	NS	274 C	44-39-53.0	100KW	100KW	USA	781211
			102.1	63-39-36.0	731FTH	731FTV		
	HALIFAX	NS	278 C	44-38-53.0		USA		711001
			103.9	63-35-31.0				
	HALIFAX	NS	299 C	44-38-53.0		USA		711001
			105.7	63-35-31.0				
CKDH LIC	KENTVILLE	NS	249 C	45-06-46.0	50KW		USA	758015
			97.7	64-32-27.0	1000FTH			
	LIVERPOOL	NS	231 C	44-02-06.0		USA		711001
			94.1	64-43-16.0				
	NEW GLASGOW	NS	252 C	45-35-20.0		USA		711001
			98.3	62-38-31.0				
	NEW WATERFORD	NS	230 C	46-15-00.0				778107
			93.9	60-04-56.0				
	NORTH SYDNEY	NS	232 C	46-12-20.0				711001
			93.3	60-15-29.0				
	PICTOU	NS	263 C	45-40-44.0		USA		758015
			104.5	62-42-29.0				

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	SHELBURNE	NS	291 C	43-45-43.0		USA		779107
			104.1	65-22-16.0				
	SPRINGHILL	NS	293 C	45-39-00.0		USA		711001
			106.5	64-03-29.0				
	STELLARTON	NS	300 C	45-33-43.0				711231
			107.9	62-39-36.0				
	SYDNEY	NS	311 C	46-08-17.0				711001
			90.1	60-10-40.0				
	SYDNEY	NS	226 C	46-08-17.0				711001
			93.1	60-10-40.0				
CJCB LIC	SYDNEY	NS	235 C	46-10-56.0	875KW			758015
			94.9	60-11-30.0	810FTH			
	SYDNEY	NS	259 C	46-08-17.0				711001
			100.9	60-10-40.0				
	SYDNEY	NS	268 C0	46-08-17.0				711001
			107.5	60-10-40.0				
	SYDNEY MINES	NS	276 C	46-06-50.0				740029
			102.7	60-10-55.0				
CKCL LIC	TRURO	NS	288 C	45-20-37.0	4.65KW		USA	758015
			100.9	63-16-53.0	199FTH			
	WESTVILLE	NS	233 C1	45-53-29.0		USA		711001
			94.5	62-10-18.0				
	WOLFVILLE	NS	218 C	45-05-54.0		USA		711001
			91.1	64-21-43.0				
	WOLFVILLE	NS	220 C	45-05-54.0		USA		711001
			91.9	64-21-43.0				
	YARMOUTH	NS	247 C	43-50-06.0				740029
			97.3	66-07-12.0				
	BARRIE	ON	238 C1	44-23-06.0		USA		731016
			93.1	79-41-31.0				
	BARRIE	ON	239 B	44-23-06.0		USA		731016
			93.7	79-41-31.0				
	BARRIE	ON	288 A	44-23-06.0		USA		731016
			101.1	79-41-31.0				
	BELLEVILLE	ON	227 B	44-10-01.0				711001
			88.3	77-22-40.0				

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	BELLEVILLE	ON	228 A	44-10-01.0		USA		711001
			94.9	77-22-40.0				
	BELLEVILLE	ON	288 C1	44-10-01.0		USA		711231
			98.9	77-22-40.0				
CJBQ LIC	BELLEVILLE	ON	248 B	44-11-56.0	77.5KW			758015
			97.1	77-34-16.0	150FTH			
	BELLEVILLE	ON	272 B	44-10-01.0		USA		781007
			100.3	77-22-40.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
CFTL LIC	830 TROUT LAKE	ON	260 A	53-55-00.0	50KW			778107
			100.9	89-53-00.0	731FTH			
CFMYFR LIC	BRAMPTON	ON	271 C1	43-41-21.0	887KW		USA	758015
			102.1	79-46-48.0	151FTH	ALLOCATED TO TORONTO, ONT.		
CKPC LIC	BRANTFORD	ON	251 B	43-15-49.0	50KW	50KW	USA	758015
			92.1	80-19-52.0	385FTH	385FTV		
	BROCKVILLE	ON	262 C1	44-38-31.0		USA		711231
			100.9	75-41-13.0				
	BROCKVILLE	ON	271 A	44-38-31.0		USA		711001
			100.1	75-41-13.0				
	BRUCE PENINSULA	ON	260 C	44-48-50.0		USA		780219
			100.5	81-09-00.0				
	CHATHAM	ON	232 C1	42-24-18.0		USA		781007
			94.8	82-11-13.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	CHATHAM	ON	236 B	42-24-18.0		USA		781007
			95.1	82-11-13.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	CHATHAM	ON	272 A	42-24-18.0		USA		781007
			102.3	82-11-13.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	COBOURG	ON	224 A	43-57-46.0		USA		781007
			92.7	78-09-58.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	COBOURG	ON	276 C1	44-04-14.0		USA		781007
			103.1	78-08-36.0		SPEC. NEGTED SHORT-SPACED ALLOC. LTD. TO 117 KW & 648' HAAT.		
	CORNWALL	ON	263 C1	45-01-19.0		USA		711231
			98.9	74-43-37.0				
	CORNWALL	ON	221 A	45-01-19.0		USA		711001
			90.1	74-43-37.0				
	CORNWALL	ON	288 A	45-01-19.0		USA		711001
			99.5	74-43-37.0				

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	CORNWALL	ON	251 A	45-01-19.0		USA		781007
			98.1	74-43-37.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
CJSS LIC	CORNWALL	ON	283 C1	45-04-47.0	25KW		USA	758015
			104.5	74-46-06.0	468FTH			
	CORNWALL	ON	299 A	45-01-19.0		USA		711001
			107.7	74-43-37.0				
	FT FRANCES	ON	212 C1	48-36-40.0		USA		711231
			90.9	93-23-31.0				
	FT FRANCES	ON	223 C	48-36-40.0		USA		711001
			88.9	93-23-31.0				
	FT FRANCES	ON	296 C	48-36-40.0		USA		711001
			97.5	93-23-31.0				
	FT WILLIAM	ON	261 C1	48-23-53.0		USA		711231
			99.1	89-15-07.0				
	GUELPH	ON	275 B	43-32-43.0		USA		781007
			100.5	80-19-00.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
CKLAFM LIC	GUELPH	ON	291 B	43-29-18.0	50KW	50KW	USA	758015
			100.1	80-19-30.0	540FTH	540FTV		
	HAMILTON	ON	211 C1	43-15-06.0		USA		711231
			90.1	79-51-55.0				
CKOC LIC	HAMILTON	ON	237 C1	43-12-47.0	10KW	10KW	USA	758015
			98.5	79-46-30.0	1000FTH	1000FTV		
	HAMILTON	ON	275 D	43-15-06.0		USA		781007
			100.9	79-51-55.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	HAMILTON	ON	300 B	43-15-06.0		USA		781007
			107.9	79-51-55.0		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	HUNTSVILLE	ON	251 B	45-19-19.0				711001
			98.1	79-13-06.0				
	HUNTSVILLE	ON	288 C	45-19-19.0		USA		758015
			99.5	79-13-06.0				
	KAPUSKASING	ON	227 C	49-25-06.0		USA		711001
			88.3	82-25-46.0				
	KAPUSKASING	ON	248 C	49-25-06.0		USA		711001
			96.9	82-25-46.0				
	KENORA	ON	228 C	49-46-10.0		USA		778107
			88.5	94-28-56.0				

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	KENORA	ON	970 C 101.9	49-46-16.0 94-26-59.0			USA			770197
	KENORA	ON	990 C 105.1	49-46-16.0 94-26-50.0			USA			770197
	KINGSTON	ON	919 C1 90.3	44-13-56.0 76-30-00.0			USA			711291
CFRC LIC	KINGSTON	ON	220 C1 91.9	44-13-37.0 76-29-43.0	1.27KW 190FTH		USA			750819
CKWS-FM LIC	KINGSTON	ON	242 B 98.3	44-10-06.0 76-28-40.0	2.7KW 500FTH	2.7KW 500FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
CKLC LIC	KINGSTON	ON	282 C1 98.3	44-25-35.0 76-38-20.0	47.7KW 819FTH	47.7KW 819FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	KINGSTON	ON	298 A 99.5	44-13-59.0 76-30-00.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	KINGSTON	ON	298 C1 103.5	44-13-59.0 76-30-00.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	KIRKLAND LAKE	ON	256 C 99.1	48-08-48.0 80-01-59.0			USA			770197
	KIRKLAND LAKE	ON	288 C 101.5	48-08-46.0 80-01-56.0			USA			770197
CKGL-FM LIC	KITCHENER-WATERLOO	ON	244 B 96.7	43-24-15.0 80-38-05.0	3.24KW 606FTH		USA			770197
CKWR LIC	KITCHENER	ON	254 A 98.7	43-27-54.0 80-31-34.0	202MW 146FTH		USA			750819
CFCA LIC	KITCHENER-WATERLOO	ON	287 C1 105.3	43-24-15.0 80-38-05.0	100KW 606FTH	100KW 606FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			770197
	LEAMINGTON	ON	276 A 103.1	42-03-04.0 82-48-00.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	LONDON-ST THOMAS	ON	202 C1 98.3	42-59-02.0 81-14-13.0			USA			770197
	LONDON-ST THOMAS	ON	297 C1 99.3	42-59-02.0 81-14-13.0			USA			770197
	LONDON-ST THOMAS	ON	229 C1 92.5	42-59-02.0 81-14-13.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			770197
CFPL LIC	LONDON-ST THOMAS	ON	240 C1 96.9	42-57-15.0 81-15-56.0	178KW 886FTH	178KW DA 885FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			770197

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	LONDON-ST THOMAS	ON	240 B 97.5	42-59-02.0 81-14-13.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			770197
	LONDON-ST THOMAS	ON	257 B 99.3	42-59-02.0 81-14-13.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			770197
	LONDON-ST THOMAS	ON	276 A 103.1	42-59-02.0 81-14-13.0			USA			770197
	LONDON-ST THOMAS	ON	295 A 106.0	42-59-02.0 81-14-13.0			USA			770197
	BANKTOWANING	ON	279 C 103.7	45-44-00.0 81-09-00.0			USA			790219
	MIDLAND	ON	299 B 107.9	44-45-00.0 79-58-00.0			USA			790219
	NEW LISKEARD	ON	260 C 100.9	47-30-00.0 79-40-00.0			USA			790219
	NIAGARA FALLS	ON	214 C1 90.7	43-05-31.0 79-04-37.0			USA			770197
	NIAGARA FALLS	ON	262 A 100.3	43-05-31.0 79-04-37.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			770197
	NIAGARA FALLS	ON	298 A 107.5	43-05-31.0 79-04-37.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			770197
CKAT LIC	NORTH BAY	ON	259 C 99.7	46-19-01.0 79-29-15.0	3.95KW 328FTH		USA			750819
	NORTH BAY	ON	276 C 99.1	46-19-01.0 79-29-01.0			USA			750819
	NORTH BAY	ON	261 C 99.1	46-19-01.0 79-29-01.0			USA			711001
	NORTH BAY	ON	301 C 104.1	46-19-01.0 79-29-01.0			USA			711001
	ORILLIA	ON	302 A 100.3	44-35-54.0 79-25-13.0			USA			721016
	ORILLIA	ON	299 B 105.9	44-35-54.0 79-25-13.0			USA			721016
	OSHAWA	ON	252 A 98.3	43-53-40.0 78-51-43.0			USA			711001
CHUM LIC	OSHAWA	ON	320 B 94.9	43-57-15.0 78-48-24.0	200KW 474FTH	200KW 474FTV	USA			750819

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	OSHAWA	ON	240 A 98.9	43-53-40.0 78-51-43.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781814
	OTTAWA-HULL	ON	218 C1 99.9	45-24-29.0 75-41-31.0			USA			750820
	OTTAWA-HULL	ON	214 C1 99.7	45-24-29.0 75-41-31.0			USA			750839
	OTTAWA-HULL	ON	218 C1 91.5	45-24-29.0 75-41-31.0			USA			711231
CKCUFM LIC	OTTAWA-HULL	ON	220 B 93.1	45-25-36.0 75-51-58.0	4.78KW 351FTH	4.78KW 351FTV	USA			790913
CFRA LIC	OTTAWA	ON	230 C 98.9	45-20-11.0 75-51-02.0	66KW 1077FTH	66KW 1077FTV	USA			750819
	OTTAWA-HULL	ON	228 C1 94.9	45-24-29.0 75-41-31.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	OTTAWA-HULL	ON	256 A 99.1	45-24-29.0 75-41-31.0			USA			750820
CBOF LIC	OTTAWA-HULL	ON	273 C1 102.9	45-20-11.0 75-51-02.0	70KW 1077FTH	70KW 1077FTV	USA			750819
CBO LIC	OTTAWA	ON	277 C1 103.5	45-20-11.0 75-51-02.0	70KW 1077FTH	70KW 1077FTV	USA			750819
CKBY LIC	OTTAWA	ON	287 C1 106.9	45-20-11.0 75-51-02.0	70KW 1077FTH	70KW 1077FTV	USA			750819
	OTTAWA-HULL	ON	291 C1 109.1	45-24-29.0 75-41-31.0			USA			711231
	OTTAWA-HULL	ON	295 C1 109.9	45-24-29.0 75-41-31.0			USA			711231
	OTTAWA-HULL	ON	300 A 107.0	45-24-29.0 75-41-31.0			USA			711231
	OWEN SOUND	ON	234 B 94.7	44-34-00.0 80-56-31.0			USA			721016
	OWEN SOUND	ON	254 C1 99.7	44-34-00.0 80-56-31.0			USA			721016
	OWEN SOUND	ON	276 C1 100.7	44-34-00.0 80-56-31.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	OWEN SOUND	ON	295 B 104.5	44-34-00.0 80-56-31.0			USA			721016

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	PARRY SOUND	ON	232 B 94.3	45-20-36.0 80-01-00.0			USA			711001
	PARRY SOUND	ON	248 B 97.5	45-20-36.0 80-01-00.0			USA			711001
	PARRY SOUND	ON	277 B 103.3	45-20-36.0 80-01-00.0			USA			790819
	PEMBROKE	ON	225 B 92.5	45-45-18.0 77-07-01.0			USA			711001
	PEMBROKE	ON	244 C1 96.7	45-45-18.0 77-07-01.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	PEMBROKE	ON	259 B 97.9	45-45-18.0 77-07-01.0			USA			711001
	PEMBROKE	ON	269 C1 99.0	45-45-18.0 77-07-01.0			USA			711231
	PEMBROKE	ON	284 B 100.7	45-45-18.0 77-07-01.0			USA			711001
	PEMBROKE	ON	300 B 104.0	45-45-18.0 77-07-01.0			USA			711001
	PENETANGUISHENE	ON	243 B 96.5	44-46-54.0 79-56-55.0			USA			790422
CFMPR LIC	PETERBOROUGH	ON	288 C1 101.5	44-18-00.0 78-18-03.0	31KW 810FTH		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	PETERBOROUGH	ON	296 B 103.0	44-17-56.0 78-14-56.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	PETERBOROUGH	ON	268 B 106.1	44-17-56.0 78-14-56.0			USA			711001
	PETERBOROUGH	ON	292 B 106.3	44-17-56.0 78-14-56.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	PORT COLBORNE	ON	288 B 104.9	42-53-00.0 79-10-00.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997
	ST CATHERINES	ON	218 C1 91.7	43-09-54.0 79-14-54.0			USA LTD TO 90 HR & 5000' HAAT TOWARDS ROCHESTER, NY.			770197
	ST CATHERINES	ON	208 C1 88.5	43-09-54.0 79-14-54.0			USA			770197
CKTB LIC	ST CATHERINES	ON	248 B 97.7	43-08-08.0 79-15-46.0	3KW 362FTH	3KW 362FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			781997

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CHBC LIC	ST CATHERINES	ON	299 B 105.7	43-05-30.0 79-12-05.0	50KWH 880FTH		USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	SARNIA	ON	252 A 98.3	42-58-19.0 82-23-49.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	SARNIA	ON	280 B 99.8	42-58-19.0 82-23-49.0			USA SPEC. NEGTD SHORT-SPACED ALLOC. LTD. TO 50 KW & 880' HAAT.			701097
	SARNIA	ON	288 A 101.6	42-58-19.0 82-23-49.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	SARNIA	ON	280 A 103.0	42-58-19.0 82-23-49.0			USA			711091
	SARNIA	ON	292 B 106.3	42-58-19.0 82-23-49.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	SAULT STE MARIE	ON	209 C1 90.7	46-30-29.0 84-19-41.0			USA			750815
	SAULT STE MARIE	ON	242 C 90.3	46-30-29.0 84-19-41.0			USA			750815
CJIC LIC	SAULT STE MARIE	ON	269 C 100.5	46-30-32.0 84-19-36.0	3.6KWH 710FTH		USA			750815
CKCV LIC	SAULT STE MARIE	ON	282 C 104.9	46-30-33.0 84-19-30.0	3.76KWH 1037FTH		USA			750815
	SIMCOE	ON	298 A 107.8	43-00-00.0 80-19-00.0			USA			750815
CJET LIC	SMITHS FALLS	ON	300 C1 101.1	44-52-06.0 76-00-37.0	47.8KWH 278FTH	47.8KW 305FTV	USA			750815
	STRATFORD	ON	224 B 92.7	43-22-10.0 80-58-59.0			USA			711091
	STRATFORD	ON	281 A 104.1	43-22-10.0 80-58-59.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	STURGEON FALLS	ON	279 C 101.9	46-22-00.0 79-56-30.0			USA			770107
	STURGEON FALLS	ON	300 C 107.8	46-23-02.0 79-56-30.0			USA			770107
	SUDBURY	ON	201 C1 88.1	46-30-00.0 81-00-00.0			USA			711231
	SUDBURY	ON	208 C1 90.8	46-30-00.0 81-00-00.0			USA			711231

CKSO LIC	SUDBURY	ON	224 C 88.7	46-30-02.0 81-01-10.0	100KWH 880FTH		USA			750815
	SUDBURY	ON	248 C 97.1	46-30-00.0 81-00-00.0			USA			711091
	SUDBURY	ON	251 C 98.1	46-30-00.0 81-00-00.0			USA			711091
	SUDBURY	ON	287 C 100.3	46-30-00.0 81-00-00.0			USA			711091
	SUDBURY	ON	288 C 101.7	46-30-00.0 81-00-00.0			USA			711091
	THUNDER BAY	ON	294 C 93.7	48-22-52.0 89-15-07.0			USA			750498
CJSO-FM LIC	THUNDER BAY	ON	282 C 94.5	48-22-52.0 89-15-07.0	100KWH 1000FTH		USA			750815
	THUNDER BAY	ON	230 C1 90.1	48-22-52.0 89-15-07.0			USA			750498
	THUNDER BAY	ON	248 C 92.9	48-22-52.0 89-15-07.0			USA			750498
	THUNDER BAY	ON	274 C 102.7	48-22-52.0 89-15-07.0			USA			750498
	THUNDER BAY	ON	288 A 100.5	48-22-52.0 89-15-07.0			USA			750498
CHOT LIC	TILLSONBURG	ON	287 B 101.3	42-50-54.0 80-50-10.0	950WH 464FTH	950WV 954FTV	USA			750815
	TIMMINS	ON	221 C 88.1	48-30-34.0 81-19-56.0			USA			711091
CKGB LIC	TIMMINS	ON	233 C 84.9	48-30-01.0 81-19-43.0			USA			750815
	TIMMINS	ON	272 C 100.9	48-30-34.0 81-19-56.0			USA			711091
	TORONTO	ON	201 C1 88.1	43-40-01.0 79-24-00.0			USA			711231
	TORONTO	ON	266 B 98.1	43-40-01.0 79-24-00.0			USA			711231
CJOY LIC	TORONTO	ON	218 C 91.1	43-38-33.0 79-23-15.0	50KWH 880FTH	50KWV 880FTV	USA			701097

CBLFR LIC	TORONTO	ON	231 C1 98.1	43-38-33.0 79-23-15.0	39KWH 1380FTH	39KWV 1380FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	TORONTO	ON	242 A 98.3	43-40-01.0 79-24-00.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	TORONTO	ON	247 B 97.3	43-40-01.0 79-24-00.0			USA			711231
CHFI LIC	TORONTO	ON	251 C1 98.1	43-38-33.0 79-23-15.0	44KWH 1380FTH	44KWV 1380FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	TORONTO	ON	258 C1 99.3	43-40-01.0 79-24-00.0			USA SPEC. NEGTD SHORT-SPACED ALLOC. LTD. TO 50 KW & 880' HAAT.			701097
CKFM LIC	TORONTO	ON	280 C1 98.9	43-38-33.0 79-23-15.0	40KWH 1380FTH	40KWV 1380FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
CHIN LIC	TORONTO	ON	284 B 100.7	43-38-33.0 79-23-15.0	41KWH 1380FTH	41KWV 1380FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	TORONTO	ON	871 C1 102.1	43-40-01.0 79-24-00.0			USA ALLOCATION USED BEFORE 1/1/			770815
CHUM LIC	TORONTO	ON	283 C1 104.8	43-38-33.0 79-23-15.0	40KWH 1380FTH	40KWV 1380FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	TORONTO	ON	299 C1 107.1	43-40-01.0 79-24-00.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			751014
	WATERLOO	ON	213 C1 88.5	43-27-11.0 80-29-29.0			USA			711231
	WATERLOO	ON	254 A 98.7	43-27-11.0 80-29-29.0			USA			750815
	WELLAND	ON	288 A 101.1	43-00-20.0 79-19-06.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
CJOM LIC	WINDSOR	ON	204 C1 88.7	42-16-24.0 83-01-01.0	540WH 880FTH	540WV 880FTV	USA SPEC. NEGTD SHORT-SPACED ALLOC. EDUCATIONAL TO BE USED COMMERC			701097
	WINDSOR	ON	210 C1 88.9	42-16-06.0 83-01-01.0			USA SPEC. NEGTD SHORT-SPACED ALLOC. EDUCATIONAL TO BE USED COMMERC			701097
CKLW LIC	WINDSOR	ON	230 C1 93.0	42-16-06.0 83-02-06.0	50KWH 867FTH	50KWV 867FTV	USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	WINDSOR	ON	300 A 107.9	42-16-06.0 83-01-01.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	WINDHAM	ON	238 A 93.8	43-03-17.0 81-10-46.0			USA			711091

	WINDHAM	ON	266 B 100.8	43-03-17.0 81-10-46.0			USA			711231
	WINDHAM	ON	265 B 101.7	43-03-17.0 81-10-46.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			701097
	WOODSTOCK	ON	263 A 100.5	43-07-46.0 80-46-25.0			USA			790419
CBC LIC	CHARLOTTETOWN	PE	278 C 103.1	46-14-11.0 63-07-44.0	50KWH 880FTH		USA			750815
	CHARLOTTETOWN	PE	287 C 106.5	46-14-11.0 63-07-47.0			USA			750815
	SUMMERSIDE	PE	224 C 92.7	46-23-42.0 63-47-26.0			USA			711091
	SUMMERSIDE	PE	287 C 107.3	46-23-42.0 63-47-26.0			USA			711091
	ALMA	QU	249 C1 97.5	48-32-52.0 71-38-11.0			USA			720498
	AMOS	QU	247 C 97.3	48-34-19.0 78-07-01.0			USA			711091
	BAIE ST PAUL	QU	288 C 103.8	47-26-36.0 70-30-23.0			USA			750815
	CAUSAPSCAL	QU	252 A 98.0	48-21-00.0 67-14-00.0			USA			750121
	CHAMBORD	QU	294 B 106.7	48-26-56.0 72-03-06.0			USA			741031
CHUTFM LIC	CHICOUTIMI	QU	244 C 96.7	48-24-27.0 71-06-06.0	42KWH 660FTH	42KWV DA 660FTV	USA			751210
CBJ LIC	CHICOUTIMI	QU	265 C 104.9	48-25-29.0 71-06-33.0	50KWH 294FTH	50KWV 294FTV	USA			750815
CBJF LIC	CHICOUTIMI	QU	300 C 107.9	48-25-29.0 71-06-33.0	96KWH 294FTH	96KWV 294FTV	USA			750815
	DORNACONA	QU	241 B 96.1	46-40-30.0 71-44-24.0			USA SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.			761997
CFDR LIC	DRUMMONDVILLE	QU	262 B 104.3	45-47-47.0 72-29-04.0	50KWH 132FTH	50KWV 132FTV	USA			750815
	DRUMMONDVILLE	QU	243 A 96.5	45-53-00.0 72-24-46.0			USA			750815

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	GRANBY	QU	278 A	45-24-07.0			USA		751007
			103.5	72-43-48.0			SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
CHCH LIC	HULL-OTTAWA	QU	335 C1	45-30-11.0	74KHK	74KHV	USA		750015
			94.5	75-51-02.0	3077FTH	3077FTV	ALLOCATED TO OTTAWA-HULL		
	JOLIETTE-SOREL	QU	276 B	46-01-26.0			USA		770107
			103.1	73-26-20.0			SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	JONQUIERE	QU	229 B	48-24-40.0			USA		750029
			93.7	71-15-22.0					
	JONQUIERE	QU	229 C	48-24-40.0			USA		711001
			96.7	71-15-22.0					
	JONQUIERE	QU	290 C	48-24-40.0			USA		750029
			105.9	71-15-22.0					
	LAC-AU-SAUMON	QU	247 B	48-29-00.0			USA		750121
			97.3	67-21-00.0					
	LACHUTE	QU	271 A	45-39-04.0			USA		711001
			102.1	74-20-06.0					
CHOE LIC	LA POCATIERE	QU	275 C	47-21-51.0	.79KHK		USA		750015
			102.9	70-02-36.0	544FTH				
	LA TUQUE	QU	254 B	47-26-17.0			USA		770107
			92.7	72-46-52.0					
CFGL LIC	LAVAL	QU	269 C1	45-36-58.0	100KHK	100KHV	USA		750013
			100.7	73-42-53.0	398FTH	398FTV	ALLOCATED TO MONTREAL-LAVAL, QU.		
	LENNOXVILLE	QU	203 C1	45-24-02.0			USA		726135
			88.5	71-53-31.0					
	LENNOXVILLE	QU	207 C1	45-24-02.0			USA		711231
			89.3	71-53-31.0					
	LENNOXVILLE	QU	219 C1	45-24-02.0			USA		711231
			90.9	71-53-31.0					
CBIM LIC	MADELEN ISL	QU	228 B	47-23-03.0	6.5KHK				750015
			93.5	61-58-03.0	670FTH				
CBFL LIC	MANIWAKI	QU	255 A	46-23-22.0	.05KHK		USA		750015
			99.9	75-58-42.0	30FTH				
	MATANE	QU	254 C	48-58-49.0			USA		750015
			100.7	67-02-06.0					
	MEGANTIC	QU	229 B	45-34-41.0			USA		711001
			93.7	70-53-06.0					

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	MONT JOLI	QU	236 C	48-35-13.0			USA		711001
			90.1	68-11-24.0					
	MONTMAGNY	QU	271 B	46-58-37.0			USA		711001
			102.1	70-33-36.0					
	MONTREAL	QU	301 C1	45-30-00.0			USA		711231
			98.1	73-36-29.0					
	MONTREAL	QU	305 C1	45-30-00.0			USA		711231
			98.9	73-36-29.0					
	MONTREAL	QU	313 C1	45-30-00.0			USA		711231
			90.9	73-36-29.0					
	MONTREAL	QU	317 C1	45-30-00.0			USA		711231
			91.3	73-36-29.0					
CFQR LIC	MONTREAL	QU	323 C1	45-30-00.0	41.4KHK		USA		781007
			93.5	73-36-32.0	370FTH		SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	MONTREAL	QU	236 C1	45-30-00.0			USA		711231
			99.5	73-36-29.0					
CHMP LIC	MONTREAL	QU	232 C1	45-30-20.0	41.4KHK		USA		750015
			94.5	73-35-32.0	370FTH				
CBM LIC	MONTREAL	QU	236 B	45-30-20.0	54.0KHK		USA		750015
			95.1	73-35-32.0	823FTH				
CJPX LIC	MONTREAL	QU	240 C1	45-30-20.0	41.2KHK		USA		750015
			95.9	73-35-32.0	370FTH				
	MONTREAL-VERDUN	QU	245 C1	45-30-00.0			USA		781007
			96.5	73-36-29.0			ALLOCATED TO MONTREAL,QU.SPECIAL NEGOTIATED SHORT-SPACED ALLOC.		
CHOM LIC	MONTREAL	QU	249 C1	45-30-20.0	41.2KHK		USA		750015
			97.7	73-35-32.0	370FTH				
MEM LIC	MONTREAL	QU	253 C1	45-29-54.0	100KHK	100KHV	USA		781007
			98.5	73-34-10.0	710FTH	710FTV	SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
CINW LIC	MONTREAL	QU	257 A	45-31-44.0	.007KHK	.007KHV	USA		781322
			99.3	73-34-40.0	160FTH	160FTV	SPEC NEGTD SHORT-SPACED ALLOC. CHANNEL DELETED PER LTR 12-3-76		
CBF LIC	MONTREAL	QU	264 C1	45-30-20.0	100KHK		USA		750015
			100.7	73-35-32.0	823FTH				
	MONTREAL	QU	269 B	45-30-00.0			USA		711001
			101.5	73-36-29.0					
	MONTREAL-LAVAL	QU	269 C1	45-30-00.0			USA		750015
			100.7	73-36-29.0			ALLOCATED TO LAVAL, QU.		

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	MONTREAL	QU	293 C1	45-30-00.0			USA		711231
			100.9	73-36-29.0					
	MONTREAL	QU	297 C1	45-30-00.0			USA		711231
			107.9	73-36-29.0					
	NEW CARLISLE	QU	230 C	48-00-26.0			USA		711001
			93.1	65-20-10.0					
	PORT ALFRED	QU	298 C	48-19-48.0			USA		711001
			105.1	70-52-46.0					
	QUEBEC CITY	QU	222 C1	46-48-29.0			USA		711231
			88.3	71-13-41.0					
CKBL LIC	QUEBEC CITY	QU	266 C1	46-46-45.0	1.4KHK		USA		750015
			99.3	71-18-46.0	255FTH				
	QUEBEC CITY	QU	222 B	46-48-29.0			USA		711001
			92.3	71-13-41.0					
	QUEBEC CITY	QU	227 C1	46-48-29.0			USA		711231
			93.3	71-13-41.0					
	QUEBEC CITY	QU	233 C1	46-48-29.0			USA		711231
			94.5	71-13-41.0					
CBV LIC	QUEBEC CITY	QU	237 C1	46-51-46.0	100KHK	100KHV	USA		750015
			95.3	71-04-46.0	541FTH	541FTV			
CHRC LIC	QUEBEC CITY	QU	251 C1	46-49-05.0	81KHK		USA		750015
			98.1	71-29-46.0	1184FTH				
	QUEBEC CITY	QU	263 B	46-48-29.0			USA		711001
			100.5	71-13-41.0					
	QUEBEC CITY	QU	264 C1	46-48-29.0			USA		711231
			104.7	71-13-41.0					
	QUEBEC CITY	QU	268 C1	46-48-29.0			USA		711231
			105.5	71-13-41.0					
	QUEBEC CITY	QU	282 B	46-48-29.0			USA		711001
			106.3	71-13-41.0					
	QUEBEC CITY	QU	290 C1	46-48-29.0			USA		730023
			107.5	71-13-41.0					
CJQR LIC	RIMOUSKI	QU	298 C	48-10-41.0	30KHK		USA		750015
			101.5	68-50-27.0	631FTH				
	RIVIERE DU LOUP	QU	295 C	47-48-52.0			USA		770107
			107.1	69-32-10.0					

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	ROBERVAL	QU	288 C	48-30-50.0			USA		711001
			99.9	72-13-23.0					
	ROUYN	QU	243 C	48-14-17.0			USA		711231
			96.5	79-01-12.0					
	SEPT ILES	QU	245 C	50-13-00.0			USA		750432
			96.9	66-23-00.0					
	SEPT-ILES	QU	251 C	50-17-00.0			USA		750015
			99.1	66-23-00.0					
	STE ADELE	QU	256 B	45-56-17.0			USA		781322
			99.0	74-09-19.0					
	ST ANN BEAUP	QU	267 C	46-14-40.0			USA		740030
			101.3	70-46-46.0					
CBFOFG LIC	ST. FABIEN	QU	243 C	47-38-23.0	63.2KHK		USA		750015
			96.5	69-09-01.0	488FTH				
	ST JEAN	QU	256 C1	45-18-20.0			USA		750000
			99.1	73-15-20.0					
	ST JEAN	QU	267 C1	45-18-20.0			USA		711231
			91.9	73-15-20.0					
	ST JEAN	QU	255 B	45-18-20.0			USA		711001
			104.9	73-15-20.0					
	ST JEROME	QU	260 C	45-46-46.0			USA		711001
			103.9	74-03-16.0					
	SHAWINIGAN FALLS	QU	272 B	46-33-52.0			USA		770107
			103.3	72-44-51.0			SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	SHERBROOKE	QU	221 B	45-24-02.0			USA		781007
			88.1	71-53-31.0					
	SHERBROOKE	QU	230 B	45-24-02.0			USA		781007
			89.7	71-53-31.0			SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	SHERBROOKE	QU	269 C1	45-24-02.0			USA		781007
			101.1	71-53-31.0			SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
	SHERBROOKE	QU	272 B	45-24-02.0			USA		781007
			101.8	71-53-31.0			SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		
CHLT LIC	SHERBROOKE	QU	274 C1	45-18-43.0	63KHK		USA		781007
			102.7	72-14-32.0	1851FTH		SPEC. NEGTD. SHORT-SPACED ALLOC. LTD. TO 100 KW & 1851' HAAT.		
	SHERBROOKE	QU	281 B	45-24-02.0			USA		781007
			104.1	71-53-31.0			SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.		

Prepared By Data Automation Division

	THETFORD MINES	QU	298 C1 99.1	46-56-24.0 71-17-56.0		USA		770107
	THREE RIVERS	QU	230 B 93.9	46-20-53.0 72-32-31.0		USA		711001
NEW LIC	THREE RIVERS	QU	261 C1 100.1	46-23-27.0 72-29-00.0	4.32KW 923FTH	USA		760603
	THREE RIVERS	QU	295 B 106.9	46-20-53.0 72-32-31.0		USA		711001
	VAL D'OR	QU	254 C 98.7	48-06-07.0 77-47-28.0		USA		770107
CKVL LIC	VERDUN	QU	245 C1 96.9	45-29-54.0 73-34-16.0	30KW 912FTH	USA ALLOCATED TO MONTREAL/VERDUN, QU.		770107
	VICTORIAVILLE	QU	247 B 97.3	46-03-00.0 71-58-00.0		USA		781254
	ASSINIBOIA	SA	298 C0 101.1	49-37-52.0 106-53-31.0		USA		711001
	BIGGAR	SA	239 C 95.7	52-03-29.0 107-58-01.0		USA		711001
	BROADVIEW	SA	268 C 101.5	50-22-30.0 102-34-36.0		USA		711001
	ESTEVAN	SA	235 C 94.9	49-06-28.0 102-59-46.0		USA		711001
	ESTEVAN	SA	296 C 105.1	49-06-28.0 102-59-46.0		USA		711001
	ESTON	SA	250 C 97.9	51-09-01.0 109-45-11.0		USA		711001
	GRAVELBOURG	SA	278 C 103.5	49-52-34.0 106-33-29.0		USA		711001
	HERBERT	SA	241 C 96.1	50-25-34.0 107-13-16.0		USA		711001
	INDIAN HEAD	SA	282 C 104.3	50-31-41.0 103-40-19.0		USA		711001
	KINDERSLEY	SA	221 C 92.1	51-28-01.0 109-09-25.0		USA		711001
	LLOYDMINSTER	SA	278 C 103.5	53-16-52.0 110-00-00.0				711001

	LLOYDMINSTER	SA	294 C 109.7	53-16-52.0 110-00-00.0				711001
	MAPLE CREEK	SA	290 C 105.9	49-54-29.0 109-28-44.0		USA		711001
	MAPLE CREEK	SA	297 C 107.3	49-54-29.0 109-28-44.0		USA		711001
	MELVILLE	SA	264 C 100.7	50-55-34.0 103-48-00.0		USA		711001
	MOOSE JAW	SA	237 C 90.3	50-23-35.0 105-32-20.0		USA		711001
	MOOSE JAW	SA	254 C 96.3	50-23-35.0 105-32-20.0		USA		711001
	MOOSE JAW	SA	270 C 101.9	50-23-35.0 105-32-20.0		USA		711001
	MOOSE JAW	SA	274 C1 103.7	50-23-35.0 105-32-20.0		USA		711001
	NOKOMIS	SA	272 C 103.0	50-06-38.0 105-39-58.0		USA		711001
	NORTH BATTLEFORD	SA	288 C 99.6	52-46-34.0 108-17-38.0		USA		770107
	NORTH BATTLEFORD	SA	261 C 100.2	52-46-34.0 108-17-38.0		USA		770107
	OKSOW	SA	276 C 103.1	50-13-52.0 102-10-23.0		USA		711001
	PRINCE ALBERT	SA	265 C 100.8	53-12-07.0 105-45-11.0		USA		770107
	PRINCE ALBERT	SA	269 C 101.7	53-12-07.0 105-45-11.0		USA		770107
	PRINCE ALBERT	SA	273 C 102.5	53-12-07.0 105-45-11.0				770107
	REGINA	SA	203 C1 99.5	50-27-00.0 104-36-36.0		USA		711231
	REGINA	SA	207 C1 99.3	50-27-00.0 104-36-36.0		USA		711231
	REGINA	SA	211 C1 99.1	50-27-00.0 104-36-36.0		USA		711231

CFRE LIC	REGINA	SA	221 C 98.1	50-30-29.0 104-36-10.0	6.3KW 152FTH	USA		750618
	REGINA	SA	238 C 98.9	50-27-00.0 104-36-36.0		USA		711001
	REGINA	SA	229 C 98.7	50-27-00.0 104-36-36.0		USA		711001
	REGINA	SA	238 C 98.9	50-27-00.0 104-36-36.0		USA		711001
	REGINA	SA	246 C 98.9	50-27-00.0 104-36-36.0		USA		711001
CKHFM LIC	REGINA	SA	249 C 97.7	50-26-36.0 104-36-36.0	13.7KW 981FTH	USA		760913
	ROSETOWN	SA	256 C 98.9	51-33-11.0 107-59-56.0		USA		711001
CJWW LIC	SASKATOON	SA	266 C0 99.5	52-07-00.0 106-39-11.0	3.5KW 182FTH	USA		750819
	SASKATOON	SA	213 C1 99.9	52-07-44.0 106-39-50.0		USA		711231
	SASKATOON	SA	217 C1 99.9	52-07-44.0 106-39-50.0		USA		711231
CFQC LIC	SASKATOON	SA	266 C 103.0	52-07-41.0 106-39-49.0	9.02KW 167FTH	USA		750819
	SASKATOON	SA	284 C 104.7	52-07-54.0 106-39-50.0		USA		711001
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	SASKATOON	SA	296 C 107.1	52-07-44.0 106-39-50.0		USA		711001
	SHAUNAVON	SA	280 C 104.3	49-39-48.0 108-24-29.0		USA		711001
	SHAUNAVON	SA	288 C 106.1	49-39-48.0 108-24-29.0		USA		711001
	SWIFT CURRENT	SA	237 C 99.9	50-17-18.0 107-47-48.0		USA		770107

	SWIFT CURRENT	SA	221 C 94.1	50-17-18.0 107-47-48.0		USA		770107
	WATROUS	SA	298 C 99.9	51-40-18.0 105-28-06.0		USA		711001
	WEYBURN	SA	215 C1 99.9	49-39-48.0 103-51-11.0				711231
	WEYBURN	SA	292 C 106.9	49-39-48.0 103-51-11.0		USA		711001
	WEYBURN	SA	297 C 107.3	49-39-48.0 103-51-11.0		USA		711001
	WILKIE	SA	228 C 98.9	52-26-26.0 108-43-48.0		USA		711001
	WYNYARD	SA	269 C 107.9	51-44-48.0 104-11-02.0		USA		711231
	YORKTON	SA	288 C 99.1	51-13-41.0 102-28-01.0		USA		711001
	YORKTON	SA	292 C 99.9	51-13-41.0 102-28-01.0		USA		711001
	DAWSON CITY	YU	281 C 99.1	64-03-00.0 139-25-00.0		USA		711001
	WHITEHORSE	YU	252 C1 99.9	60-43-00.0 135-03-00.0		USA		711001

[FR Doc.77-14029 Filed 5-18-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

AMENDMENT OF TABLE A OF THE CANADIAN–U.S.A. FM BROADCASTING AGREEMENT OF 1947

Supplement No. 2

MAY 9, 1977.

(To the table of Canadian FM Broadcasting Channel Assignments and allocations within 250 miles of the Canada-U.S.A. border, dated April 29, 1977, as revised, April 12, 1977.)

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. FM Broadcasting Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20036, telephone 202–452–1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission.

PB ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,FREQ APR 29, 1977 PAGE 1
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NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

CACHE CREEK	BC	237 A 95.3	50-45-20.0 121-18-00.0	USA	770428
HOUSTON	BC	271 B 102.1	54-26-33.0 126-39-30.0	USA	770428
SMITHERS	BC	248 A 97.5	54-47-00.0 127-10-00.0	USA	770428
WILLIAMS LAKE	BC	248 A 97.5	52-06-55.0 122-11-39.0	USA	770428
NEWCASTLE	NB	296 B 106.7	47-00-00.0 65-34-01.0	USA	770428
PERAMBOKUR	QU	262 A 100.5	51-48-07.0 83-59-22.0	USA	770428
GASPE	QU	276 A 103.1	48-50-00.0 64-29-00.0	USA	770428
JONQUIERE	QU	223 A 92.5	48-26-21.0 71-14-58.0	USA	770428
RIVIERE AU RENARD	QU	300 A 97.9	49-00-00.0 64-23-00.0	USA	770428

Prepared By Data Automation Division

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FRIDAY, MAY 20, 1977

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Pink Bollworm; Miscellaneous Amendments to Regulated Areas

Correction

In FR Doc. 77-7150 appearing at page 13533 in the issue for Friday, March 11, 1977, in the list under § 301.52-2a, in "Arkansas" "Little Power County" should have read "Little River County".

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 93]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 22-28, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons continues steady this week.

Average f.o.b price was $6.23 per carton the week ended May 14, 1977, compared to $5.99 per carton the previous week.

Track and rolling supplies at 150 cars was unchanged from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on May 17, 1977.

§ 910.393 Lemon Regulation 93.

* * * * *

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 22, 1977 through May 28, 1977, is established at 310,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 18, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14654 Filed 5-19-77;11:51 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Parmer County in Texas because of the existence of cattle scabies.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goats, Equine, and Ectoparasites Staff, United States Department of Agriculture, APHIS, VS, Room 737, 6505 Belcrest Road, Federal Building, Hyattsville, Maryland 20782 (301-436-8322).

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of Parmer County in Texas because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, in paragraph (a) relating to the State of Texas a new paragraph (a)(5) relating to Parmer County is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(a) * * *

(5) That portion of a Capitol Syndicate Subdivision of Parmer County comprised of sec. 32, T. 11 S., R. 3 E.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141).)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of May 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

R. I. BROWN,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77–14286 Filed 5–19–77;8:45 am]

PART 79—SCRAPIE IN SHEEP

Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of McLean County in Illinois because of the existence of scrapie in sheep.

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. A. L. Klingsporn, Sheep, Goats, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Room 739, Federal Building, Hyattsville, Maryland 20782 (301–436–8231).

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of McLean County in Illinois because of the existence of scrapie in sheep. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of sheep from or through quarantined areas as contained in 9 CFR Part 79, as amended, will apply to the quarantined area.

Accordingly, § 79.2 of Part 79, Title 9, Code of Federal Regulations, as amended, which quarantines a portion of Illinois because of scrapie in sheep, a contagious, infectious, and communicable disease, is hereby amended in the following respect:

Section 79.2 is amended to read:

§ 79.2 Notice of quarantine.

* * * * *

(1) The premises of Sherwood R. Jackson, Seneca, Illinois, Miller Township in La Salle County, comprised of the South ¾ of the Southwest ¼ of Sec. 13, T. 34 N., R. 5 E. and the Northeast ¼ of Sec. 14, T. 34 N., R. 5 E.

(2) The premises of Mrs. Herbert Garling, occupied by the John W. King flock, located in Normal township in the Northeast ¼, Sec. 26, T. 24 N., R. 2 E.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of scrapie in sheep, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of May 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

R. I. BROWN,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77–14263 Filed 5–19–77;8:45 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Credit Union Use of Blanket Bonds

AGENCY: National Credit Union Administration.

ACTION: Final Rule.

SUMMARY: This rule provides minimum requirements for a Federal credit union with respect to the amounts of in-transit and on-premises coverage afforded by its surety bond. This final revision of the rule removes ambiguities which were exposed during the comment period.

DATES: Effective immediately.

FOR FURTHER INFORMATION CONTACT:

Steven R. Bisker, Office of General Counsel, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456, telephone: (202) 254–9810.

SUPPLEMENTARY INFORMATION: On February 25, 1977, the Administrator published a proposed rule (42 FR 11016) designed to provide minimum requirements for a Federal credit union with respect to the amount of in-transit coverage afforded by its surety bond. The purpose of the proposed rule was to minimize the risk to a Federal credit union of an in-transit loss (e.g., by theft) of money or certain other property, a portion of which would be in excess of the limits afforded by the credit union's surety bond. This coverage requirement was placed in subpart (e) together with "on premises" daily cash fund requirements, which were most recently published on February 25, 1977, at 42 FR 10977.

Comments received on the proposed rule indicated various possible interpretations of the language set forth in subpart (e). In response to those comments, the language of Section 701.20(e) has been substantially revised, for purposes of clarification only.

The final regulation incorporates a definitional section for the words "money" and "securities" which was not contained in the proposed version. The 30-day period given to a Federal credit union to obtain increased limits is retained in the new rule.

Changes are made in order to clarify that if the total of the daily cash fund (change fund plus maximum anticipated daily receipts) of the credit union, its securities, and its food stamps (if any), located on the premises of the credit union, are of a greater value than its "on premises" limits presently afforded by its surety bond, the credit union must obtain the increased limits from its bond carrier in 30 days or less after its discovery of the need for such increase. The new regulation makes clear that such increase is also necessary when the total value of the credit union's money, securities, and food stamps (if any), placed in transit from or to the credit union exceeds the limits afforded by the surety bond's "in transit" coverage. An increase is, therefore, necessary when either the "on premises" (in-house) valuation or the "in transit" valuation exceeds the amount of the credit union's present "on premises" or "in transit" limits.

The proposed rule was also unclear as to whether two separate shipments of money, securities, and food stamps (if any), placed with the same or different carriers but to different destinations in a single day must be added together in order to determine whether the limits of the bond were inadequate. The new rule requires increased limits of the entire surety bond if a single shipment of money, securities, and food stamps (if

any), is above the limits provided by the present surety bond of the Federal credit union. For example, if the credit union makes three separate shipments to three separate locations or if three separate shipments are sent by third parties to the credit union (providing that the risk of loss is upon the credit union), each shipment's valuation is separate from the others. If one shipment is of a greater value than the limits of the credit union's present surety bond, then the increase required by this rule becomes operational.

Accordingly, the Administrator hereby revises paragraph (e) of § 701.20 of the National Credit Union Administration Rules and Regulations to read as set forth below, effective immediately upon publication.

C. AUSTIN MONTGOMERY,
Administrator.

MAY 13, 1977.

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1014 (12 U.S.C. 1789)

Section 701.20(e) of the Regulations involving surety bond coverage is amended to read as follows:

§ 701.20 Surety bond coverage for Federal credit unions.

* * * * *

(e)(1) Where any of the following amounts exceed a Federal credit union's minimum limits as specified in paragraph (f) of this section, the minimum limits of that Federal credit union shall be increased to be equal to the greater of the following amounts:

(i) The aggregate amount of the daily cash fund (change fund plus maximum anticipated daily receipts), securities, and food stamps (if any), on the Federal credit union's premises, or

(ii) The aggregate amount of the Federal credit union's money, securities, and food stamps (if any), placed in transit in any one individual shipment.

(2) Such increased limits must be obtained no more than 30 days after the discovery of the need for such increase.

(3) For the purposes of this section, the term "money" shall include currency, coin, bank notes, Federal Reserve notes, revenue stamps, and postage stamps. The term "securities" shall include mortgages, and instruments in the nature of mortgages, upon real estate or upon chattels and upon any interest therein. Further included are assignments of mortgages and instruments in the nature of mortgages and abstracts of title held in connection with such instruments. "Securities" also include money orders, bonds, United States Savings Stamps, debentures, scrip, warrants, drafts, bills of exchange, promissory notes, passbooks held as collateral, certificates of deposit, certificates of indebtedness, share certificates, certificates of stock, documents of title, interim receipts, and all other instruments similar to or in the nature of the foregoing.

* * * * *

[FR Doc.77–14446 Filed 5–19–77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR–117, Amdt. 62]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Amendment of Delegation of Authority to Bureau of Accounts and Statistics

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: These amendments to the delegated authority of the Bureau of Accounts and Statistics grant authority to the Bureau to require special reports from air carriers when necessary, and to grant or deny requests for data reported by commuter air carrier. The amendments also revoke two currently unused delegations of authority, in areas of establishing classifications and extending record preservation periods. This action is the result of a review by the Bureau of its delegated authority in order to improve the administration and operation of the Board's regulations.

DATES: Effective: May 17, 1977. Adopted: May 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202–673–5444.

SUPPLEMENTARY INFORMATION: The Bureau of Accounts and Statistics has recently completed a review of its delegated authority in §§ 385.17, 385.18, and 385.18a of Part 385 of the Board's Organization Regulations. As a result of this review and the recommendations of the Bureau, the Board has decided that certain amendments to these sections are needed to improve the administration and operation of our regulations.

The Board has found that it frequently becomes necessary to obtain information from the air carriers which is neither provided nor required in the present recurrent reports. This information is received on a once-only basis to serve a special need, and, in the majority of cases, is readily available within the record system of the air carrier. It is used to assist in evaluations of a carrier's financial condition or to comply with special information requests from Congress and the Board, as well as from other government agencies. In cases where such information is not significant enough to need Board approval, the Director of the Bureau of Accounts and Statistics has relied on the delegated authority in § 385.18(a), which permits him to require submission of special statements by the carrier when needed to explain any accounting or reporting practice. Since the authority delegated in that section is limited in application, a separate delegation of authority is being made to meet these temporary information requirements.

As the commuter air carrier sector of the aviation industry continues to grow, there will probably be an increasing number of requests for the data reported on Schedule T–1 of CAB Form 298–C. These data may not be disclosed except in certain specified instances. Since the Board's standards and policies regarding the release of these commuter carrier statistics are defined in § 298.62 of the Economic Regulations, direct consideration by the Members of each request is unnecessary. The Chief, Statistical Data Division, Bureau of Accounts and Statistics, has already been delegated authority with regard to requests for analogous data with respect to scheduled airlines, which have similar restrictions on disclosure. Board policy as to the procedures for approving access to scheduled airline data is similar to that for the commuter data, and is used regularly by the Chief, Statistical Data Division to process information requests in those areas already delegated to him. By delegating authority to the Chief, Statistical Data Division, to grant or deny requests for these commuter data, the Board will take advantage of existing expertise, as well as relieving itself of a repetitious administrative burden in an area where overall policy guidance has been established.

The Board has delegated authority in § 385.18(g) to the Chief, Accounting and Statistical Regulation Division, Bureau of Accounts and Statistics, to extend, with the concurrence of the Director, Bureau of Enforcement, the time period for the preservation of certain records relating to errors, oversales, irregularities, and delays in handling of passengers. This authority has not been used in recent years, and will probably not be needed in the future. It is therefore revoked as unnecessary.

Also, at one time, the authority delegated under § 385.18a(a) to the Chief, Statistical Data Division, Bureau of Accounts and Statistics, was necessary for establishing the preliminary reporting classifications of aircraft types for reporting financial data and traffic and capacity statistics. This authority is no longer needed since classifications are now well-formulated and noncontroversial. If any additions or amendments to the classifications are necessary, they can be prescribed by the issuance of an Accounting and Reporting Directive. This subsection is therefore also revoked.

As an editorial amendment to reflect the current organization of Bureau of Accounts and Statistics, the title of § 385.18 is being amended to read "Delegation to the Chief, Accounting and Re-

porting Systems Division, Bureau of Accounts and Statistics."

Since these amendments are administrative in nature, affecting a rule of agency organization and procedure, it is found that notice and public procedures are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

1. In § 385.17, a new paragraph (g) is added to read as follows:

§ 385.17 Delegation to the Director, Bureau of Accounts and Statistics.

* * * * *

(g) Require special reports from any air carrier under circumstances where he finds that such reports are necessary to meet temporary information needs, assist in an evaluation of continued financial fitness, or comply with special information requests by Congress, the Board, or another agency or component of the Federal Government.

2. In § 385.18, paragraph (g) is revoked, and the title of the section is amended to read as follows:

§ 385.18 Delegation to the Chief, Accounting and Reporting Systems Division, Bureau of Accounts and Statistics.

* * * * *

3. In § 385.18a, paragraph (a) is revised to read as follows:

§ 385.18a Delegation to the Chief, Statistical Data Division, Bureau of Accounts and Statistics.

(a) Grant or deny requests for data reported by commuter air carriers on Schedule T-1 of CAB Form 298-C in accordance with the limitations on the availability of these data contained in section 298.62 of this chapter.

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 F.R. 5989 (49 U.S.C. 1324 (note)))

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14439 Filed 5-19-77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 950—ENVIRONMENTAL DATA

Type and Availability of Services and Information Available From Environmental Data Service

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Final rule.

SUMMARY: The information that follows describes the type and availability of environmental data, information, and assessment services that may be obtained from the Environmental Data Service for use by Federal, State, and local agencies, and the general public, including those segments engaged in commerce, industry, science, and engineering.

DATES: This rule becomes effective May 20, 1977.

FOR FURTHER INFORMATION:

An office location and phone number is provided for each type of environmental data, information, and assessment service covered by the regulation. For general information concerning the entire regulation contact Leon LaPorte at 202-634-7305.

SUPPLEMENTARY INFORMATION: (Background) The purpose of this regulation is to update the type and availability of various services, data, and information available from the Environmental Data Service. This publication supercedes regulations published on December 4, 1975 (40 CFR 56653), which are presently codified in 15 CFR, Part 950. The republication of this part is necessary to better conform the part with the services, data, and information available.

These regulations are general statements of agency policy, organization practice, and procedure, and are adopted without notice of proposed rulemaking and an accompanying comment period as provided by 5 U.S.C. 553(b)(A). The effective date of the regulations has been shortened to the date of publication as provided for in 5 U.S.C. 553(d)(2).

INFLATIONARY IMPACT STATEMENT: The National Oceanic and Atmospheric Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

ROBERT M. WHITE,
Administrator.

MAY 16, 1977.

Part 950 is revised to read as follows:

Sec.

950.1 Scope and purpose.
950.2 Environmental Data Service (EDS).
940.3 National Climatic Center (NCC).
950.4 National Oceanographic Data Center (NODC).
950.5 National Geophysical and Solar-Terrestrial Data Center (NGSDC).
950.6 Center for Experiment Design and Data Analysis (CEDDA).
950.7 Environmental Science Information Center (ESIC).
950.8 Center for Climatic and Environmental Assessment (CCEA).
950.9 Satellite Data Services Branch (SDSB).
950.10 Comprehensive Referral Service.

AUTHORITY: (5 U.S.C. 552, 553), Reorganization Plan No. 4 of 1970.

§ 950.1 Scope and purpose.

This part describes the Environmental Data Service (EDS), a principal organization element of the National Oceanic and Atmospheric Administration and EDS management of environmental data and information.

§ 950.2 Environmental Data Service (EDS).

The Environmental Data Service is the first Federal agency created specifically to manage environmental data. EDS disseminates worldwide environmental (aeronomy, atmospheric, marine, solar, and solid earth) data and information for use by commerce, industry, the scientific and engineering community, and the general public as well as by Federal, State, and local governments. It also provides experiment design and data management support to large-scale environmental experiments; assesses the impact of environmental fluctuations on food production, energy production and consumption, and environmental quality; and manages or provides functional guidance for NOAA's scientific and technical publication and library activities. In addition, EDS operates related World Data Center-A subcenters and participates in other international data and information exchange programs. To carry out this mission, EDS operates a network of specialized service centers and a comprehensive referral service.

§ 950.3 National Climatic Center (NCC).

The National Climatic Center disseminates climatological data; develops analytical and descriptive products to meet user requirements; and provides facilities for the World Data Center-A (meteorology and Nuclear Radiation). It is the collection center and custodian of all United States weather records, the largest of the EDS center, and the largest climatic center in the world:

(a) Climatic data available from NCC include:

(1) Hourly Surface Observations from Land Stations (ceiling, sky cover, visibility, precipitation or other weather phenomena, obstructions to vision, pressure, temperature, dew point, wind direction, wind speed, gustiness).

(2) Three-Hourly and Six-Hourly Surface Observations from Land Stations, Ocean Weather Stations, and Moving Ships (variable data content).

(3) Upper Air Observations (radiosondes, rawinsondes, rocketsondes, low-level soundings, pilot balloon winds, aircraft reports).

(4) Radar Observations (radar log sheets, radar scope photography).

(5) Selected Maps and Charts (National Meterological Center products).

(6) Derived and Summary Data (grid points, computer tabulations, digital summary data).

(7) Special Collections (Barbados Oceanographic and Meteorological Experiment meteorological data, Global Atmospheric Research Program basic data set, solar radiation data, many others).

(b) Queries should be addressed to: National Climatic Center, National Oceanic and Atmospheric Administration, Asheville, N.C. 28801, Tel. 704-258-2850 Ext. 683.

§ 950.4 National Oceanographic Data Center (NODC).

The National Oceanographic Data Center disseminates oceanographic data; develops analytical and descriptive products to meet user requirements; and provides facilities for the World Data Center—A (Oceanography). It was the first NODC established and houses the world's largest usable collection of marine data.

(a) Oceanographic data available from NODC include:

(1) Mechanical and expendable bathythermograph data in analog and digital form.

(2) Oceanographic station data for surface and serial depths, giving values of temperature, salinity, oxygen, inorganic phosphate, total phosphorus, nitrite-nitrogen, nitrate-nitrogen, silicate-silicon, and pH.

(3) Continuously recorded salinity-temperature-depth data in digital form.

(4) Surface current information obtained by using drift bottles or calculated from ship set and drift.

(5) Biological data, giving values of plankton standing crop, chlorophyll concentrations, and rates of primary productivity; also papers on marine biology.

(b) Queries should be addressed to:

National Oceanographic Data Center, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, Tel. 202-634-7500.

§ 950.5 National Geophysical and Solar-Terrestrial Data Center (NGSDC).

The National Geophysical and Solar-Terrestrial Data Center disseminates solid earth and marine geophysical data as well as ionospheric, solar, and other space environment data; develops analytical, climatological and descriptive products to meet user requirements; and provides facilities for World Data Center—A (Solid-Earth Geophysics, Solar Terrestrial Physics, and Glaciology).

(a) Geophysical and solar-terrestrial data available from NGSDC include:

(1) Marine geology and geophysics. Bathymetric measurement; seismic reflection profiles; gravimetric measurements; geomagnetic total field measurements; and geological data, including data on heat flow, cores, samples, and sediments.

(2) Solar-terrestrial physics. Ionosphere data, including ionograms, frequency plots, riometer and field-strength strip charts, and tabulations; solar activity data; geomagnetic variation data, including magnetograms; auroral data; cosmic ray data; and airglow data.

(3) Seismology. Seismograms; accelerograms; digitized strong-motion accelerograms; earthquake data list (events since January 1900); earthquake data service, updates on a monthly basis.

(4) Geomagnetic main field. Magnetic survey data and secular-change data tables.

(b) Queries should be addressed to: National Geophysical and Solar-Terrestrial Data Center, National Oceanic and Atmospheric Administration, Boulder, Colorado 80302, Tel.: 303-499-1000, Ext. 6215.

§ 950.6 Center for Experiment Design and Data Analysis (CEDDA).

The Center for Experiment Design and Data Analysis provides service and support in data management and scientific analysis for large-scale environmental field research projects, and assists in the planning, design, and implementation of such projects to ensure that data needs are met.

(a) To date, CEDDA has participated in three major field experiments:

(1) BOMEX—The Barbados Oceanographic and Meteorological Experiment. BOMEX was conducted in the tropical Atlantic east of Barbados as a national, multiagency study of the behavior and interaction of the ocean-atmosphere system in subtropical and tropical waters. The complete set of data resulting from this project is available at the National Climatic Center.

(2) IFYGL—The International Field Year for the Great Lakes. IFYGL was a joint United States-Canada program of environmental research aimed at achieving more effective management of Lake Ontario water resources and at solving the water management problems posed by a growing population in the lake basin area. Most of the data resulting from this project are available at the National Climatic Center.

(3) GATE—The Global Atmospheric Research Project (GARP) Atlantic Tropical Experiment. GATE was a multinational research project that spanned the Atlantic Ocean and studied the equatorial atmosphere and ocean—the main heat sources driving the atmosphere's general circulation. A set of basic data from this project is available from the National Climatic Center.

(b) The Marine Assessment Division helps NOAA to meet requirements placed upon it by the Deepwater Port (DWP) Act of 1974. The Act establishes procedures for the location, construction, and operation of deepwater ports off the coasts of the United States. It invests licensing authority in the Secretary of Transportation, while the Administrator of NOAA is called upon to provide essential support. To meet NOAA's obligation, the Assessment Division reviews, evaluates, and prepares recommendations for the Administrator on DWP license applications, related environmental impact statements, and adjacent coastal State status. It has provided assessments for the Louisiana Offshore Oil Port and the SEADOCK port of Galveston, Texas. It is currently assessing the environmental aspects of storage schemes for developing national strategic petroleum reserves.

(c) Queries should be addressed to:

Center for Experiment Design and Data Analysis, National Oceanic and Atmospheric Administration, Washintgon, D.C. 20235, Tel. 202-634-7251.

§ 950.7 Environmental Science Information Center (ESIC).

The Environmental Science Information Center develops policies for and provides editorial and publishing services to NOAA components; manages a central library system; provides functional guidance to other NOAA libraries; and develops and implements automated scientific information systems for NOAA and external use.

(a) ESIC issues a "NOAA Publications Announcement" several times a month. This booklet describes NOAA publications by title, author, source, date, abstract, keywords, and availability.

(b) The NOAA libraries are open to the public for reference use. The Atmospheric Sciences Library, 8060 13th Street, Silver Spring, Maryland, specializes in climatic publications; the Marine and Earth Sciences Library, 6001 Executive Boulevard, Rockville, Maryland, in cartographic, oceanographic, and fisheries publications; the NOAA Miami Library, 15 Rickenbacker Causeway, Miami, Florida, in oceanographic, cartographic, and climatic publications; and the NOAA Environmental Research Laboratories Library, University of Colorado, Boulder, Colorado, in solar-terrestrial physics.

(c) ESIC also responds to requests for copies of NOAA technical publications by sending out those in stock or referring the request to the proper NOAA or non-NOAA source.

(d) Queries should be addressed to:

Environmental Science Information Center, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, Tel. 202-634-7399.

§ 950.8 Center for Climatic and Environmental Assessment (CCEA).

(a) CCEA provides tailored assessment services and products to Federal agencies concerned with the impact of the environment on national social and economic programs and policies.

(b) CCEA is participating in the joint USDA-NOAA-NASA program called the Large Area Crop Inventory Experiment (LACIE). The aim of the LACIE experiment is to improve the timeliness and accuracy of major crop forecasts by combining current and historical, surface and satellite, crop and weather source data. CCEA develops and refines the mathematical models that relate crop yields to weather conditions and provides processed climatological and meteorological data.

(c) Special studies and consultant services are provided to government agencies along with the following products: early warning and timely crop/climate alerts, crop yield estimates on a monthly basis, global weather briefings which relate climate impact on socio-economic systems, and risk assessments of climatological phenomena on national resources.

(d) Three different weekly assessment reports are prepared. The first, prepared for Congress, consists of a 1 or 2 page summary with accompanying map of the principal global droughts, floods, and other weather anomalies. The second, prepared for LACIE, is 30 to 60 pages and analyzes and describes the effects of the past week's weather on the major wheat

producing areas of the world outside the U.S. (i.e., Argentina, Australia, Brazil, Canada, China, India, and U.S.S.R.). The third, prepared for the State Department, is 15 to 20 pages and analyzes and describes crop weather over the seventeen country band of sub-Saharan Africa from Mauritania and Senegal in the west to Ethiopia, Somalia, and the Sudan in the east.

(e) Queries should be addressed to:

Center for Climatic and Environmental Assessment, 600 East Cherry Street, Columbia, MO 65201, Tel. 314–442–2271, Ext. 3261.

§ 950.9 Satellite Data Services Branch (SDSB).

The Satellite Data Services Branch of the EDS National Climatic Center provides environmental and earth resources satellite data to other users once the original collection purposes (i.e., weather forecasting) have been satisfied. The branch also provides photographs collected during NASA's SKYLAB missions. Available from SDSB are:

(a) Satellite data from SDSB include: (1) Data from the TIROS (Television InfraRed Observational Satellite) series of experimental spacecraft; much of the imagery gathered by spacecraft of the NASA experimental NIMBUS series; full-earth disc photographs from NASA's Applications Technology Satellites (ATS) I and III geostationary research spacecraft; tens of thousands of images from the original ESSA and Current NOAA series of Improved TIROS Operational Satellites; and both full-disc and sectorized images from the Synchronous Meteorological Satellites (SMS) 1 and 2, the current operational geostationary spacecraft. In addition to visible light imagery, infrared data are available from the NIMBUS, NOAA, and SMS satellites. Each day, SDSB receives about 239 negatives from the polar-orbiting NOAA spacecraft, more than 235 SMS–1 and 2 negatives, and several special negatives and movie film loops.

(2) Multispectral imagery derived from data collected by NASA's Earth Resources Technology Satellites (ERTS), currently LANDSAT–1 and 2.

(3) Photographs (both color and black-and-white) taken during the three SKYLAB missions (May–June, 1973, July–September, 1973, and November 1973–February 1974).

(b) Queries should be addressed to:

Satellite Data Services Branch, World Weather Building, Room 606, Washington, D.C. 20233, Tel. 301–763–8111.

§ 950.10 Comprehensive Referral Service.

The Environmental Data Index (ENDEX) provides rapid, automated referral to multi-discipline environmental data files of NOAA, other Federal agencies, state and local governments, universities, research institutes, and private industry. A complementary, literature-based system, Oceanic and Atmospheric Scientific Information System (OASIS) provides a parallel subject-author-abstract referral service. A telephone call to any EDS data or information center or NOAA library will allow a user access to this service.

[FR Doc.77–14443 Filed 5–19–77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Doc. No. 76N–0327]

PART 25—DRESSINGS FOR FOOD

ENVIRONMENTAL IMPACT CONSIDERATIONS

Procedural Changes for Impact Statements

Correction

In FR Doc. 77–10899 appearing at page 19985 in the issue for Friday, April 15, 1977, on page 19993, the 6th line of § 25.25(b) now reading "filing published in the FEDERAL REGISTER" should be completed to read "filing published in the FEDERAL REGISTER, the Federal Register • • •".

[Docket No. 75N–0122]

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 310—NEW DRUGS

SUBCHAPTER H—MEDICAL DEVICES

PART 801—LABELING

Intrauterine Contraceptive Devices; Professional and Patient Labeling

Correction

In FR Doc. 77–13098 appearing in the issue of Tuesday, May 10, 1977 on page 23772, the following corrections should be made:

1. On page 23775, in the first column, paragraph 14 should read as follows:

14. One comment suggested that it is unfair to require inappropriate and inapplicable statements to be included in the labeling of products to which the statement has only "tangential" relevance. The section "Continuation and removal" and portions of the section on "Insertion technique," for example, may not apply to all devices.

The Commissioner agrees that specific instructions for continuation and removal and insertion techniques are best left to the manufacturer. Therefore, information on specific insertion techniques applicable to a particular device, and information on the need periodically to remove a particular device will be under • • •

2. On page 23778, in the third column, under the heading, "Adverse Reactions", the 2nd paragraph, the 7th in line should read:

"• • • of the IUD, pelvic infection, vaginitis, leukor-. • • •"

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

Subpart G—Sponsors of Approved Applications

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration approves a new animal drug application (107–958V) filed by Music City Supplement Co., 155 First Ave. S., P.O. Box 1286, Nashville, TN 37202, proposing safe and effective use of a tylosin premix for the manufacture of complete feed to be fed to swine for increased rate of weight gain and improved feed efficiency. The Commissioner of Food and Drugs is amending §§ 510.600 and 558.625 (21 CFR 510.600 and 558.625) to reflect this approval.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 (301–443–5247).

SUPPLEMENTARY INFORMATION: In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding aa new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

• • • • • •

(c) • • •

(1) • • •

Firm name and address:	*Drug listing No.*
• • • • •	
Music City Supplement Co., 155 1st Avenue South, P.O. Box 1286, Nashville, Tenn. 37202	017519
• • • • •	

(2) • • •

Drug listing No:	Firm name and address
•	• • • •
017519	Music City Supplement Co., 155 1st Avenue South, P.O. Box 1286, Nashville, Tenn. 37202.
•	• • • •

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(51) to read as follows:

§ 558.625 Tylosin.

• • • • • •

(b) • • •

(51) To 017519: 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

• • • • • •

Effective date: This regulation becomes effective May 20, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: May 13, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77–14376 Filed 5–19–77;8:45 am]

SUBCHAPTER G—COSMETICS

[Docket No. 75N–0110]

PART 701—COSMETIC LABELING

Designation of Ingredients; Termination of Judicial Stay of Effective Date

Correction

In FR Doc. 77–9715 appearing at page 18061 in the issue of Tuesday, April 5, 1977, in the third column, the 12th line of the first full paragraph now reading "May 31, 1976 that can continue to be" should have read "May 31, 1976 must comply with § 701.3,".

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

SUBCHAPTER D—ELECTRICAL EQUIPMENT, LAMPS, METHANE DETECTORS; TESTS FOR PERMISSIBILITY; FEES

PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

Miscellaneous Amendments; Correction

AGENCY: Mining Enforcement and Safety Administration, Department of the Interior.

ACTION: Correction.

SUMMARY: An error which appeared in miscellaneous amendments to 30 CFR Part 18 on Thursday, February 10, 1977, is corrected.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald P. Schlick, Assistant Administrator—Technical Support, Room 900, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703–235–1580).

In FR Doc. 77–4312 appearing at page 8373 in the FEDERAL REGISTER of Thursday, February 10, 1977, the following change should be made:

Item 6, which changes abbreviations in Figure 4 in Appendix II of Subpart D, is revoked. The words "MESA No. ____" should be resubstituted for the words "B. of M. No. ____."

Dated: May 16, 1977.

ANTHONY RASPOLIE,
Acting Assistant Secretary of the Interior.

[FR Doc.77–14444 Filed 5–19–77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER R—CHARTERS

PART 351—DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

AGENCY: Office of the Secretary of Defense.

ACTION: Issuance of DoD Charter Directive 5129.1.

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Director of Defense Research and Engineering and has delegated to him specific authorities. This Directive serves as the instrument that authorizes the Director of Defense Research and Engineering to carry out his charter.

EFFECTIVE DATE: April 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), 202–695–4278.

Accordingly, Part 351 reads as follows:

Sec.
351.1 Purpose.
351.2 Responsibilities.
351.3 Functions.
351.4 Relationships.
351.5 Authorities.

AUTHORITY: 10 U.S.C. Chapter 4, sec. 135.

§ 351.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under the provisions of Title 10, United States Code, section 135, the Director of Defense Research and Engineering (hereafter "the DDR&E") is hereby assigned responsibilities, functions, and authorities as prescribed herein.

§ 351.2 Responsibilities.

The DDR&E is the principal adviser and assistant to the Secretary of Defense for Department of Defense scientific and technical matters; basic and applied research; development and acquisition of weapon systems; and, through the Assistant Secretary of Defense (Communications, Command, Control and Intelligence), for matters assigned to that Assistant Secretary. For each of his assigned areas the DDR&E shall:

(a) Conduct analyses, develop policies, provide advice, make recommendations, and issue guidance on Defense plans and programs.

(b) Develop systems and standards for the administration and management of approved plans and programs.

(c) Initiate programs, actions, and tasking to ensure adherence to DoD policies and national security objectives and to ensure that programs are designed to accommodate operational requirements.

(d) Review and evaluate programs for carrying out approved policies and standards.

(e) Inform appropriate organizations and personnel of new and significant scientific trends or initiatives.

(f) In conjunction with the Assistant Secretary of Defense (Comptroller), review proposed resource programs, formulate budget estimates, recommend resource allocations, and monitor the implementation of approved programs.

(g) Participate in those planning, programming, and budgeting activities which relate to DDR&E responsibilities.

(h) Review and evaluate recommendations on requirements and priorities.

(i) Promote coordination, cooperation, and mutual understanding within the Department of Defense and between the DoD and other Federal agencies and the civilian community.

(j) Serve on boards, committees, and other groups pertaining to his functional areas, and represent the Secretary of Defense on DDR&E matters outside the DoD.

(k) Perform such other duties as the Secretary of Defense may from time to time prescribe.

§ 351.3 Functions.

The DDR&E shall carry out the responsibilities described in § 351.2 for the following functional areas:

(a) Scientific and technical information.

(b) Basic and applied research.

(c) Design and engineering, including life-cycle considerations.

(d) Development and acquisition of weapon systems, including procurement policy and production planning.

(e) Environmental science.

(f) Assignment and reassignment of research and engineering responsibility for systems, activities, and programs.

(g) Coproduction and research interchange with friendly and allied nations, in conjunction with the Assistant Secretary of Defense (International Security Affairs).

(h) Contract placement and administration for research, development and weapon systems acquisition programs.

(i) Such other areas as the Secretary of Defense may from time to time prescribe.

§ 351.4 Relationships.

(a) In the performance of his duties, the DDR&E shall:

(1) Coordinate and exchange information with other DoD organizations having collateral or related functions.

(2) Use existing facilities and services, whenever practicable, to achieve maximum efficiency and economy.

(b) All DoD organizations shall coordinate all matters concerning the functions cited in § 351.3 with the DDR&E.

(c) The DDR&E shall have staff and operational direction of the Assistant Secretary of Defense (Communications, Command, Control and Intelligence), who shall also serve as the Principal Deputy Director of Defense Research and Engineering.

(d) The DDR&E shall have staff and operational direction of the Director, Defense Advanced Research Projects Agency.

§ 351.5 Authorities.

The DDR&E is hereby delegated authority to:

(a) Issue DoD Instructions and one-time directive-type memoranda which carry out policies approved by the Secretary of Defense in his assigned fields of responsibility. Instructions to the Military Departments will be issued through the Secretaries of those Departments or their designees. Instructions to Unified and Specified Commands will be issued through the Joint Chiefs of Staff.

(b) Obtain such reports, information, advice, and assistance, consistent with the policies and criteria of DoD Directive 5000.19,[1] as he deems necessary.

(c) Communicate directly with heads of DoD organizations, including the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Director of Defense Agencies, and, through the Joint Chiefs of Staff, the Commanders of Unified and Specified Commands.

(d) Establish arrangements for DoD participation in those nondefense governmental programs for which he has been assigned primary cognizance.

(e) Approve, modify or disapprove research and development programs and projects of the military departments and other Department of Defense agencies in his assigned fields.

(f) Communicate with other Government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 16, 1977.

[FR Doc.77-14373 Filed 5-19-77;8:45 am]

PART 352—ASSISTANT SECRETARY OF DEFENSE (MANPOWER, RESERVE AFFAIRS, AND LOGISTICS)

AGENCY: Office of the Secretary of Defense.

ACTION: Issuance of DoD Charter Directive 5124.1.

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)) and has delegated to him specific authorities. This Directive serves as the instrument that authorizes the ASD(MRA&L) to carry out his charter.

EFFECTIVE DATE: April 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration) 202-695-4278.

Accordingly, Part 352 reads as follows:

Sec.
352.1 Purpose.
352.2 Responsibilities.
352.3 Functions.
352.4 Relationships.
352.5 Authorities.

AUTHORITY: 10 U.S.C. Chapter 4, sec. 136.

§ 352.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under the provisions of Title 10, United States Code, one of the positions of Assistant Secretary of Defense is designated the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (hereinafter "the ASD(MRA&L)"), with responsibilities, functions and authorities as prescribed herein.

§ 352.2 Responsibilities.

The ASD(MRA&L) is the principal staff adviser and assistant to the Secretary of Defense for Department of Defense civilian and military requirements, policy and planning; reserve affairs; logistics; and installations management. For each of his assigned areas he shall:

(a) Develop policies, conduct analyses, provide advice, make recommendations, and issue guidance on Defense plans and programs.

(b) Develop systems and standards for the administration and management of approved plans and programs.

(c) Initiate programs, actions, and taskings to ensure adherence to DoD policies and national security objectives; and to ensure that programs are designed to accommodate operational requirements and promote the readiness and efficiency of the forces.

(d) Review and evaluate programs for carrying out approved policies and standards.

(e) Participate in those planning, programming, and budgeting activities which relate to ASD(MRA&L) responsibilities.

(f) Review and evaluate the implications of proposed weapon systems for manpower, personnel and logistics support functions.

(g) Review and evaluate recommendations concerning manpower and logistics requirements and priorities.

(h) Promote coordination, cooperation, and mutual understanding within the Department of Defense and between the DOD and other Federal agencies and the civilian community.

(i) Serve on boards, committees, and other groups pertaining to his functional areas, and represent the Secretary of Defense on MRA&L matters outside the DOD.

(j) Exercise staff supervision over the Director, Defense Logistics Agency.

(k) Provide policy guidance to, and supervise the operation of the following OSD field activities: Defense Dependents Schools; Manpower Data Center.

(l) Perform such other duties as the Secretary of Defense may from time to time prescribe.

§ 352.3 Functions.

The ASD(MRA&L) shall carry out the responsibilities described in § 352.2 for the following functional areas:

(a) Force structure analysis as related to quantitative and qualitative manpower requirements, manpower utilization, logistics and support.

(b) Development of manpower programs to meet requirements.

(c) Administration of controls on military and civilian manpower strengths.

(d) Attraction and retention of military personnel.

(e) Compensation, retired pay, per diem, travel and transportation allowances.

(f) Civilian and military personnel training and education.

(g) Personnel management systems.

(h) Labor-management relations.

(i) Nonappropriated fund activities.

(j) Commercial affairs, credit unions, commissaries, and post exchanges.

(k) Morale, discipline and welfare.

(l) Personnel utilization.

(m) Community services.

(n) National Guard and Reserve Affairs as provided in Title 10, United States Code, including facilities and construction, logistics, training, mobilization readiness and other related aspects of reserve affairs.

(o) Equal opportunity, including employment and utilization of personnel, education in race relations and human relations, and contractor compliance with equal opportunity requirements of Defense contracts.

(p) Career development.

(q) Supply systems.

(r) Transportation management and sealift and airlift readiness.

(s) Postal policy.

(t) Customs inspection.

(u) Warehousing.

(v) Provision of DoD resources to other agencies for drug and narcotics enforcement efforts.

(w) Equipment and support readiness, including repair, overhaul and modification.

(x) Safety and accident prevention.

(y) Environmental quality.

(z) Energy management and conservation.

(aa) International logistics and coproduction arrangements.

(bb) Installations and real property acquisition, maintenance, and disposal.

(cc) Military base structure and utilization.

(dd) Military construction and family housing.

(ee) Economic adjustment.

(ff) Federal-state relations.

(gg) Such other areas as the Secretary of Defense may from time to time prescribe.

§ 352.4 Relationships.

(a) In the performance of his duties, the ASD(MRA&L) shall:

(1) Coordinate and exchange information with other DoD organizations having collateral or related functions.

(2) Use existing facilities and services, whenever practicable, to achieve maximum efficiency and economy.

(b) All DoD organizations shall coordinate all matters concerning the functions cited in § 352.3 with the ASD (MRA&L).

§ 352.5 Authorities.

The ASD(MRA&L) is hereby delegated authority to:

(a) Issue instructions and one-time directive-type memoranda which carry out policies approved by the Secretary of Defense, in his assigned fields of responsibility. Instructions to the Military Departments will be issued through the Secretaries of those Departments or their designees. Instructions to Unified and Specified Commands will be issued through the Joint Chiefs of Staff.

(b) Obtain such reports, information, advice, and assistance, consistent with the policies and criteria of DoD Directive 5000.19[1], as he deems necessary.

(c) Communicate directly with heads of DoD organizations, including the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Directors of Defense Agencies, and, through the Joint Chiefs of Staff, the Commanders of the Unified and Specified Commands.

(d) Establish arrangements for DoD participation in those non-defense governmental programs for which he has been assigned primary cognizance.

(e) Communicate with other Government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 16, 1977.

[FR Doc.77-14374 Filed 5-19-77;8:45 am]

[1] Filed as part of original. Single copies may be obtained, if needed, from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 300.

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Whitewater Boat Trips; Colorado River

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: The amendments set forth below are necessary to bring certain boating regulations into conformance with recent legislative actions affecting five park areas along the Colorado River in northern Arizona. These changes relate primarily to boundary adjustments and the amended regulations, therefore, are principally a reorganization of existing regulations.

EFFECTIVE DATE: June 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Merle E. Stitt, Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Arizona 86023, Telephone 602-638-2411.

PREVIOUS PUBLICATIONS: These regulations were published as a Notice of Proposed Rulemaking in the FEDERAL REGISTER of June 18, 1976 (41 FR 24714). Interested persons were given 30 days within which to submit comments on this proposal. No such comments were received, either during or after the 30 day period.

SUPPLEMENTARY INFORMATION: On January 3, 1975, Public Law 93-620 substantially altered the boundaries of Grand Canyon National Park. Marble Canyon and Grand Canyon National Monuments were absorbed by the enlarged park and portions of Glen Canyon and Lake Mead National Recreation Areas were also transferred to it. These transfers all affect portions of the Colorado River on which whitewater boat trips take place. This necessitated combination and reorganization of the existing regulations for boating in the five areas, with the result that only Grand Canyon and Glen Canyon require such regulations. A further change, not related to boundary adjustments, was made in order to make it clear that these regulations apply on the waters of the Colorado River, as well as on the lands along it, in specified portions of these two park areas.

In consideration of the foregoing, Part 7 of Title 36, Code of Federal Regulations, is amended as set forth below.

Dated: May 10, 1977.

GARY EVERHARDT,
Director,
National Park Service.

§ 7.4 Grand Canyon National Park.

* * * * *

(h) *Colorado River whitewater boat trips.* The following regulations shall apply to all persons using the waters of, or Federally owned land administered by the National Park Service along, the Colorado River within Grand Canyon National Park, upstream from Diamond Creek at approximately river mile 226:

* * * * *

(9) Possession of a permit to conduct, guide, outfit, or lead a river trip also authorizes camping along the Colorado River by persons in the river trip party, except on lands within the Hualapai Indian Reservation which are administered by the Hualapai Tribal Council; *Provided, however,* That no person shall camp at Red Wall Cavern, Elves Chasm, the mouth of Havasu Creek, or along the Colorado River bank between the mouth of the Paria River and the Navajo Bridge.

* * * * *

§ 7.48 [Amended]

2. Section 7.48, Lake Mead National Recreation Area, is amended by revoking paragraph (e) in its entirety.

§ 7.60 [Reserved]

3. Section 7.60, Grand Canyon National Monument, is revoked in its entirety.

4. Section 7.70 is amended by revising the introductory portion of paragraph (e) and (e)(8) as follows:

§ 7.70 Glen Canyon National Recreation Area.

* * * * *

(e) *Colorado River whitewater boat trips.* The following regulations shall apply to all persons using the waters of, or Federally owned land administered by the National Park Service along, the Colorado River within Glen Canyon National Recreation Area, from the Lees Ferry launch ramp downstream to the eastern boundary of Grand Canyon National Park:

* * * * *

(8) No camping is allowed along the Colorado River bank between the Lees Ferry launch ramp and the Navajo Bridge.

* * * * *

§ 7.88 [Reserved]

5. Section 7.88, Marble Canyon National Monument, is revoked in its entirety.

[FR Doc.77-14433 Filed 5-19-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 41—DEPARTMENT OF THE INTERIOR

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Appraisal Services (Real Property)

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes policies and procedures for procurement of appraisal services for real property. These requirements are necessary in order to

insure uniformity in the manner in which appraisal services are acquired within the Department.

DATE: This amendment is effective immediately.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, Procurement Analyst, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, Washington, D.C. 20240, telephone number 202-343-5914.

SUPPLEMENTARY INFORMATION: The Department of the Interior has has determined that this document does not certain a major rule requiring preparation of an Inflation Impact Statement under Executive Order 11821 or OMB Circular A-107.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

MAY 13, 1977.

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR Part 14-4 is amended as follows:

1. The Table of Contents of Part 14-4 is amended by adding a new Subpart 14-4.52 to read as follows:

Subpart 14-4.52—Appraisal Services (Real Property)

Sec.

14-4.5201 Definitions.
14-4.5202 Negotiation authority.
14-4.5203 Publication of requirements.
14-4.5204 Selection of offerors.
14-4.5205 Designation of contracting officer's authorized representatives.
14-4.5206 Qualifications requirements for appraisers.
14-4.5207 Appraisal review and acceptance.
14-4.5208 Appraisal standards.

2. Part 14-4 is amended by adding a new Subpart 14-4.52 to read as follows:

Subpart 14-4.52—Appraisal Services (Real Property)

§ 14-4.5201 Definitions.

Appraisal services for real property shall, for the purposes of acquisition by contract or purchase orders, be considered professional services.

§ 14-4.5202 Negotiation authority.

(a) Real property appraisal services may be procured by negotiation under the applicable authorities contained in 41 CFR Subpart 1-3.2.

(b) The policies and procedures for procurement of professional architect-engineer services contained in Subpart 1-4.10 of this title shall not be used to procure appraisal services since appraisal services are considered to be outside the definition of architect engineer services set forth under § 1-4.1002 of this title.

§ 14-4.5203 Publication of requirements.

Advance notice of procurements for real property appraisal services shall be publicized in accordance with the requirements of § 1-1.1003-3(b) of this title. When circumstances are present which preclude publication, the contract file must be documented accordingly.

§ 14-4.5204 Selection of offerors.

Selection of offerors for negotiation and award shall be in accordance with the requirements of § 1-3.805 of this title.

§ 14-4.5205 Designation of contracting officer's authorized representatives.

Only personnel who are determined by the contracting officer to be experienced in real property appraisal work may be designated as the contracting officer's authorized representative (COAR) to monitor real property appraisal contracts. Personnel designated as COAR's should be familiar with Federal procurement policies as they relate to the contract being monitored or given appropriate training in such requirements.

§ 14-4.5206 Qualifications requirements for appraisers.

(a) If it is anticipated that the required appraisal will be subject to court action, prospective offerors must be recognized and approved by the Department of Justice as a minimum qualification to submitting a proposal. A listing of qualified appraisers is maintained by each U.S. Attorney's Office and by the Lands Division in the Department of Justice, Washington, D.C.

(b) Where no court action respecting a required appraisal is anticipated, an offeror must be able to furnish proof that it is a qualified appraiser, as for example, through membership in a professional appraisers' organization, or by demonstrative evidence in the form of previous appraisal assignments involving properties similar to those under consideration for contract. Possession of these qualifications along with any other specialized requirements (e.g., restrictions as to location, special ability or knowledge) must be clearly specified in the solicitation for the required services.

§ 14-4.5207 Appraisal review and acceptance.

The Contracting Officer's Authorized Representative (COAR) shall make the initial or final (according to practices in individual procuring activities) review of all real property appraisals performed under contract. Payment shall not be made for appraisals of real property having more than token value or involving highly complicated appraisal problems, until the COAR attaches to the appraisal report a memorandum indicating the scope of the review and acceptability of the report for the purposes ordered.

§ 14-4.5208 Appraisal standards.

All appraisals made for the Department of the Interior shall conform to the requirements of the Interagency Land Acquisition Conference publication entitled "Uniform Appraisal Standards for Federal Land Acquisitions." This publication is available from the Government Printing Office. These uniform standards must be made a part of all appraisal services procurement documents.

[FR Doc.77-14445 Filed 5-19-77;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Amdt. G-40]

PART 101-40—TRANSPORTATION AND TRAFFIC MANAGEMENT

Loss and Damage Claims

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule updates regulations for reporting and adjusting transportation-related loss, damage, and shortage in shipments received by Government agencies from commercial carriers by recognizing changes which are currently in effect. Those changes include (1) modified reporting and documentation procedures which were effective on April 1, 1974, with use of the revised Standard Form 1103, U.S. Government Bill of Lading, and (2) a new Government-wide minimum of $25 per bill of lading for filing loss and damage claims which was authorized, but not required, by the Comptroller General of the United States on August 20, 1975; that is, agencies are not required to file formal claims for transportation discrepancies of $25 or less.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. I. W. Rhodes, Agency Transportation Coordination Division, Office of Transportation and Public Utilities, Federal Supply Service, General Services Administration, Washington, D.C. 20406 (703-557-8510).

The table of contents for Part 101-40 is amended to include the following revised entries:

Sec.

101-40.702 Documenting and reporting discrepancies.
101-40.702-2 Discrepancies in Government bill of lading shipments.
101-40.703-1 [Reserved]
101-40.703-2 Notice of visible loss, damage, or shortage.
101-40.703-3 Notice of concealed loss, damage, or shortage.
101-40.705 Disposition of overages and astray or misconsigned shipments.
101-40.712 Referral of loss and damage claims to the General Accounting Office or to the Department of Justice.

Subpart 101-40.7—Reporting and Adjusting Discrepancies in Government Shipments

1. Section 101-40.700 is revised as follows:

§ 101-40.700 Scope of subpart.

This subpart prescribes regulations and procedures for reporting and adjusting overages, shortages, losses, damages, and other discrepancies between the quantity or condition of property in shipments received from commercial carriers and the quantity or condition of that property as shown on the covering bill of lading or other transportation document. (Specific additional requirements for reporting discrepancies in shipments received from GSA or DOD are set forth in the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings, issued pursuant to Subpart 101-26.8.)

2. Section 101-40.701 is amended as follows:

§ 101-40.701 Receipt of shipment from carrier.

When accepting delivery of a shipment from the carrier, a careful inspection and check shall be made of the quantity and condition of the property received, and an accurate record shall be made and kept of any discrepancies or variations between the data shown on the covering bill of lading or other transportation document and the quantity and condition of property actually received. When an overage, shortage, loss, damage, or other discrepancy is noted upon receipt of shipment, a discrepancy report shall be prepared as required in § 101-40.702-3. A damaged shipment shall not be rejected regardless of the degree of damage or the contract delivery terms, except as indicated in § 101-40.704-1(c). The consignee shall take reasonable precautions to protect the damaged property in order to mitigate the losses to the carrier. Care shall be taken to preserve the contents, the original package, and the packing material pending completion of inspection by the carrier. Where applicable, the following actions shall be taken in checking and documenting delivery conditions:

(a) When a shipment is received in a closed conveyance, a notation shall be made on the carrier's delivery receipt or freight bill and on the consignee's copy of the delivery receipt or freight bill of the number and condition of any seals; i.e., intact, broken, or missing, on the carrier's conveyance and whether the shipment was properly loaded, stowed, blocked, and braced.

* * * * *

(c) A notation shall be made on the carrier's delivery receipt, if available, and the consignee's copy of the delivery receipt or freight bill of the condition of the railcar, motor vehicle, container, or other conveyance with particular attention to any circumstance that might contribute to loss or damage; e.g., loose flooring or sides or protruding nails or bolts. When there is suspicion or evidence of damage to an ocean shipment, the ocean carrier or his agent shall be requested to furnish details concerning the manner of stowage of the shipment aboard the vessel.

(d) If a shipment is received in apparent bad order; e.g., if the load is shifted or jumbled or containers are broken or leaking, photographs of the damaged freight and/or of conditions of loading which might have contributed to the damage shall be made, whenever possible, for use as documentary evidence in the event of a claim. Each photograph shall be marked indelibly with the Government or commercial bill of lading number, the ocean or international air bill of lading number and/or the carrier's delivery receipt number, the vehicle identification number or vessel's name, and the date the photograph was taken. Photographs of damaged shipments delivered by ocean carriers shall be made at the ocean carrier's terminal prior to accepting the shipment.

* * * * *

3. Section 101-40.702 is revised by changing the caption as follows:

§ 101-40.702 Documenting and reporting discrepancies.

4. Section 101-40.702-1(a) is revised as follows:

§ 101-40.702-1 Exception on carrier's delivery receipt.

(a) Before signing the carrier's delivery receipt, the Government consignee (or representative) shall note on the receipt specific details regarding the nature and extent of all apparent overages, shortages, losses, damages, or other discrepancies between the quantity and condition of the property as received and as shown on the covering bill of lading or other transportation document. Any notation placed on the carrier's delivery receipt shall also be shown on the consignee's copy of the delivery receipt or freight bill. The consignee shall sign and date these notations and request the carrier's driver or representative also to sign the notations.

* * * * *

5. Section 101-40.702-2 is revised and its caption is changed, as follows:

§ 101-40.702-2 Discrepancies in Government bill of lading shipments.

(a) When a shipment is made on a Standard Form 1103, U.S. Government Bill of Lading, or a Standard Form 1131, U.S. Government Transit Bill of Lading, the consignee shall make certain the Government bill of lading number is shown on both the carrier's delivery receipt and the consignee's copy of the delivery receipt. When a shipment is made on a commercial bill of lading to be converted to a Government bill of lading, in which case the Government bill of lading number would not normally be known at the time of delivery, the consignee shall sign the delivery receipt and enter the Government bill of lading number, when it becomes available, on the consignee's copy of the delivery receipt.

(b) When a discrepancy occurs in a shipment made on a Government bill of lading, appropriate notations shall be made on the delivery receipt as required in § 101-40.702-1 and a discrepancy report shall be prepared as required in § 101-40.702-3.

(c) The agency responsible for payment of freight charges, as identified in the "Charges to be billed to" space on the Government bill of lading, is usually also responsible for determining carrier liability (see § 101-40.707-2) and processing claims (see § 101-40.710). The consignee shall forward a discrepancy report and copies of supporting documents; e.g., delivery receipts, photographs, and carrier's inspection reports, to that agency, to the shipper at the address shown on the Government bill of lading, and to any other addresses as may be required by the agency's regulations. In addition, copies of discrepancy reports and supporting documents relating to special categories of property shall be forwarded to appropriate offices as required in § 101-40.702-3 (c), (d), and (e).

6. Section 101-40.702-3 is revised and paragraphs (d) and (e) are added, as follows:

§ 101-40.702-3 Preparation of a discrepancy report.

(a) Government agencies are authorized, but not required, to observe a minimum of $25 in processing loss and damage claims against carriers or forwarders and to absorb losses of $25 or less.

(b) When the total value of the loss, damage, or other discrepancy, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document exceeds $25, the receiving activity shall prepare a written discrepancy report as soon as possible, but no later than 30 calendar days after receipt of the shipment or discovery of the discrepancy. Every effort shall be made to reconcile overages or shortages within 10 workdays after discovery. (Suspected pilferage, theft, or loss during transit of narcotics, hazardous articles, or sensitive materials, regardless of dollar value, shall be reported to the appropriate agencies within 24 hours in accordance with paragraphs (c), (d), and (e), below.) Any photographs taken as documentary evidence (see § 101-40.701 (d)) should be attached to the discrepancy report to support claim action. Standard Form 361, Discrepancy in Shipment Report (see § 101-40.4906-3), or Standard Form 363, Discrepancy in Shipment Confirmation (see § 101-40.4906-6), may be used by executive agencies for this purpose. Guidelines for the preparation of these Standard forms are in §§ 101-40.4906-4 and 101-40.4906-7, respectively. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (Subpart 101-26.8), for specific requirements for reporting discrepancies in shipments from GSA or DOD.) Losses of $25 or less for which no claims have been filed shall be absorbed by Government agencies.

(c) Pilferage, theft, or loss, regardless of dollar value, occurring in a shipment of narcotics or other controlled substances (as identified in 21 CFR 1308.11-1308.15) shall be reported by telephone within 24 hours after discovery to both the agency or activity responsible for the shipment and the appropriate regional office of the Drug Enforcement Administration, Department of Justice. In addition, a written discrepancy report shall be prepared and distributed

immediately, and a copy shall be forwarded to the same office of the Drug Enforcement Administration to which the telephone report is made.

(d) Pilferage, theft, or loss, regardless of dollar value, occurring in a shipment of ammunition, explosives, or other hazardous articles (as identified in 49 CFR 172) shall be reported by telephone within 24 hours after discovery to both the agency or activity responsible for the shipment and the Office of Hazardous Materials, Department of Transportation, Washington, D.C. 20590. In addition, a written discrepancy report shall be prepared and distributed immediately, and a copy shall be forwarded to the Office of Hazardous Materials identified above.

(e) Pilferage, theft, or loss, regardless of dollar value, occurring in a shipment of (1) security classified material, (2) protected (sensitive) material; e.g., small arms, which are highly pilferable and have a ready use during civil disturbances or a sale potential in illicit markets, or (3) protected (controlled) material; e.g., money, negotiable instruments, precious metals, or alcoholic beverages, shall be reported by telephone within 24 hours after discovery to the agency responsible for the shipment. In addition, a written discrepancy report shall be prepared and distributed immediately.

7. Section 101–40.703–1 is deleted and reserved as follows:

§ 101–40.703–1 [Reserved]

8. Section 101–40.703–2 is revised and its caption is changed, as follows:

§ 101–40.703–2 Notice of visible loss, damage, or shortage.

(a) Usually, it is sufficient to notify the last line-haul or delivering carrier of a shipment discrepancy by annotating the carrier's delivery receipt. This notation shall also be entered on the consignee's copy of the delivery receipt. When the entire shipment is lost, the consignee shall notify the origin carrier. When the carrier's delivery receipt is not available at the time of delivery of the shipment, notification shall be made within 24 hours by telephone to the nearest office of the delivering carrier to provide the carrier an opportunity, if desired, to verify the loss, damage, or shortage. In every instance of loss, damage, or shortage, the delivering carrier shall be notified in writing within 5 workdays of receipt of the shipment and invited to perform an inspection, except in those instances where it is known that the total amount of the loss, damage, or shortage, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document, does not exceed $25. If the carrier waives the opportunity to perform an inspection, the responsible Government employee receiving the shipment shall make a written record of the waiver, including the date the request for inspection was made and the name of the carrier representative who was contacted and waived inspection. Use of Standard Form 363 is recommended to request an inspection by the carrier. In the instance of an international shipment by an ocean or air carrier, the notice of discrepancy must be made in writing before the property is removed from the carrier's possession, except as provided in § 101–40.702–1(b).

(b) If the damaged property is of a perishable nature or is in such a condition as to be potentially injurious to life, health, or property, prompt notification to the carrier shall be made by telephone and confirmed in writing. If the carrier fails to perform a timely inspection and to participate in the disposition proceedings, necessary steps shall be taken to dispose of the property in a manner which will mitigate the loss to the carrier and avoid injury to other property or persons.

(c) In the instance of a domestic shipment, if the lost or damaged shipment involves nonperishable material, the property shall be held for a reasonable time (usually 5 workdays after notification) to allow the carrier time to complete inspection.

9. Section 101–40.703–3 is revised and its caption is changed, as follows:

§ 101–40.703–3 Notice of concealed loss, damage, or shortage.

(a) *Domestic shipments.* When loss, damage, or shortage that was not apparent at the time of delivery is subsequently discovered when the packages are opened, the delivering carrier (not a drayage or switching carrier) shall be notified promptly by telephone and requested to inspect the property involved, except in those instances where it is known that the total amount of loss, damage, or shortage, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document, does not exceed $25. Unless there are extenuating circumstances, the notification and request for inspection shall be made by telephone not later than 15 calendar days from the date of receipt of the shipment, followed by written confirmation. The written notification shall include the date the telephone request for inspection was made and the name of the carrier representative who was contacted. A copy of the notification and request for inspection shall be retained for possible claim purposes. Use of Standard Form 363 is recommended for this purpose. Wrappings, packing materials, and any unopened packages shall be retained for the carrier's inspection. A copy of the carrier's inspection report shall be requested for use in determining liability or preparing a claim. If the carrier fails to make an inspection within a reasonable time as stated in § 101–40.703–2(c), or if the carrier waives the opportunity to perform an inspection, the carrier shall shall be requested in writing to furnish a written waiver. Use of Standard Form 363 is recommended for this purpose.

(b) *International shipments.* When loss, damage, or shortage that was not apparent at the time of removal of the property from the carrier's possession is subsequently discovered when the packages are opened, the carrier shall be notified promptly in writing. Use of Standard Form 363 is recommended for this purpose. When an ocean carrier is involved, the written notice shall be given to the carrier or his agent at the port of discharge within 3 calendar days of delivery (46 U.S.C. 1303(6)). When an international air carrier is involved, the written notice shall be given within 7 calendar days of receipt of the property (Article 26 of the Warsaw Convention; 49 Stat. 3020). Written notices to ocean and international air carriers shall indicate a nominal period of time for inspecting concealed loss or damage.

10. Section 101–40.704–2 is revised as follows:

§ 101–40.704–2 Transportation for account of the supplier.

When the transportation is performed by the carrier for the supplier rather than for the Government; e.g., when property is purchased f.o.b. destination, accurate notations of discrepancies shall be made on the carrier's delivery receipt and the consignee's copy of the carrier's delivery receipt or freight bill to assist the supplier in filing claims for transportation losses. Prompt notification shall be furnished to the supplier, or to the agency contracting officer as individual agency regulations may provide, with a request for information regarding the disposition of the damaged property. Standard Form 363 is recommended for this purpose. The notification shall include supporting documents; i.e., a copy of the annotated delivery receipt, photos, carrier's inspection report, or written waiver. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (Subpart 101–26.8), with regard to damage to stock or nonstock items procured from GSA for direct delivery.)

11. Section 101–40.705 is revised and its caption is changed, as follows:

§ 101–40.705 Disposition of overages and astray or misconsigned shipments.

(a) When the number of packages offered for delivery is more than that shown on the applicable bill of lading or other transportation document and when all packages are marked for the consignee, the overages shall be accepted. The consignee shall attempt to reconcile overages and astray freight with corresponding shortages associated with other shipments received at that activity.

(b) If excess freight on one bill of lading is identical with a reported shortage on another bill of lading, the excess or overage shall be used to offset the previous shortage. If excess freight cannot be identified or used to offset other shortages within 5 workdays after the date of discovery, the consignee shall request

disposition instructions from the consignor or shipper and shall convey these instructions to the delivering carrier. Standard Form 363 is recommended for these purposes.

(c) If a carrier attempts to deliver a shipment containing packages which are marked for another consignee or which cannot otherwise be identified, the misdirected or astray packages shall not be accepted.

12. Section 101–40.707–1 is revised as follows:

§ 101–40.707–1 Transportation for account of the supplier.

When the transportation is performed by the carrier for the supplier rather than for the Government; e.g., when the property is purchased f.o.b. destination, determination of liability for discrepancies in shipment will be resolved between the carrier and the supplier. However, in such instances the Government receiving activity shall make accurate notations of discrepancies on the carrier's delivery receipt and the consignee's copy of the delivery receipt or freight bill, and shall furnish a report of the discrepancies to the supplier, or to the agency contracting officer as individual agency regulations may provide, to assist the supplier in resolving the discrepancies. Standard Form 363 is recommended for this purpose. The report shall include supporting documents; i.e., a copy of the annotated delivery receipt, photos, inspection report, or written waiver.

13. Section 101–40.707–2 is amended as follows:

§ 101–40.707–2 Transportation for account of the Government.

Determination of liability for discrepancies shall be the responsibility of the Government agency paying the transportation charges (a) in all instances where a shipment is made on a Government bill of lading, commercial bill of lading to be converted to a Government bill of lading, commercial bill of lading bearing a notation that charges will be borne by the U.S. Government, commercial bill of lading under commercial forms and procedures for small shipments (see § 101–41.304–2), or purchase order for local drayage, and (b) in other instances where the Government assumes the risk for loss and damage at origin; e.g., when property is purchased f.o.b. origin, freight prepaid. While no precise formula can be prescribed for agencies to follow in determining whether liability for loss and damage rests with the carrier, the shipper, or a third party, an analysis shall be made of all the pertinent factors and circumstances involved, including, when appropriate, consideration of the following:

* * * * *

14. Section 101–40.709(b) is revised as follows:

§ 101–40.709 Time limitations.

* * * * *

(b) *Government bills of lading.* Loss, damage, or shortage claims for shipments made on Government bills of lading, commercial bills of lading to be converted to Government bills of lading, or commercial bills of lading bearing a notation that the shipment is subject to the terms and conditions of Government bills of lading, are exempt from the commercial bill of lading requirement for filing claims within 9 months following the delivery of the shipment. (See § 101–41.302–3(g) for exemption authority.) Nevertheless, every effort shall be exerted to effect prompt settlement of claims in this category.

* * * * *

15. Section 101–40.710 is revised as follows:

§ 101–40.710 Processing claims against carriers.

When the transportation is for the account of the Government (see § 101–40.707–2), and when it is determined that the carrier is responsible for loss and/or damage to a shipment, a claim shall be prepared on Standard Form 362, U.S. Government Freight Loss/Damage Claim (see § 101–40.4906–5), and forwarded to the appropriate carrier in duplicate with the necessary supporting documents; e.g., delivery receipts, photographs, inspection report, except as otherwise provided in § 101–40.711. (See 49 CFR Part 1005 for additional regulations concerning processing of claims against carriers subject to the Interstate Commerce Act and 49 CFR 1056.17 (a) and (b) for acknowledgment and disposition of claims against motor common carriers of household goods.) The appropriate carrier against whom the claim shall be filed is (a) usually the destination line-haul carrier (not the drayage company or switching carrier performing the delivery service for the destination line-haul carrier) in instances of domestic shipments made on a Standard Form 1103, U.S. Government Bill of Lading, a Standard Form 1131, U.S. Government Transit Bill of Lading, or a commercial bill of lading converted to a Government bill of lading, or (b) usually the origin carrier in instances of ocean or international air shipments. When it is conclusively known on which carrier's line the loss or damage occurred, the claim may be filed against that carrier. When no part of the shipment has been delivered, the claim would normally be filed against the origin carrier which accepted the shipment. Under Interstate Commerce Commission regulations, carriers are required to acknowledge receipt of a formal claim to the claimant in writing within 30 days after receipt.

16. Section 101–40.711–1 is revised as follows:

§ 101–40.711–1 Claims against domestic carriers.

Formal claims (Standard Form 362 with supporting documents) for amounts exceeding $25 on a single bill of lading or other transportation document shall be filed with rail carriers, motor carriers, inland water carriers, domestic forwarders, and other carriers subject to the Interstate Commerce Act. Carriers shall be allowed 120 calendar days (plus a reasonable period of additional time if requested by the carrier in writing) to respond with payment of a claim or evidence of nonliability before action is taken to collect the claim by setoff; i.e., the withholding of payments from amounts otherwise due and payable to carriers for transportation and related services. Earlier collection by setoff may be made if it is known that the carrier is involved in a bankruptcy, insolvency, or reorganization proceeding, and it is clearly in the Government's interest to do so (4 CFR Parts 102 to 104).

17. Section 101–40.711–2(b) is revised as follows:

§ 101–40.711–2 Claims against ocean and international air carriers.

* * * * *

(b) If the carrier does not consent to the withholding action prescribed in (a), above, or if the claim is not otherwise compromised or withdrawn in accordance with 4 CFR Part 103 or 104, referral of the matter shall be made to the Department of Justice for consideration of the need for suit to reduce the Government's claim to judgment. The referral shall be made at least 90 calendar days prior to the expiration of the 1-year period for bringing suit against ocean carriers (46 U.S.C. 1303(6)) or the 2-year period for bringing suit against international air carriers (Article 29 of the Warsaw Convention; 49 Stat. 3021)

18. Section 101–40.712 is revised and its caption is changed, as follows:

§ 101–40.712 Referral of loss and damage claims to the General Accounting Office or to the Department of Justice.

Loss and damage claims which cannot be collected, compromised, or terminated in accordance with 4 CFR Parts 102 to 104 shall be determined uncollectable and reported to the General Accounting Office or the Department of Justice for appropriate action under criteria established by GAO.

19. Section 101–40.713 is revised as follows:

§ 101–40.713 Clearing carriers of liability.

When it is determined as the result of investigation or evidence submitted by a carrier that loss or damage to a Government shipment is not the responsibility of the carrier, the consignee shall take necessary steps to clear the carrier of liability and to withdraw or amend any claim which may have been filed for recovery of losses. In this regard, the consignee shall prepare a document which will effectively remove or amend any exception that had been noted on the carrier's delivery documents. While no precise form or format is prescribed, this document shall be prepared in sufficient detail to identify the shipment and to show the basis for relieving the carrier of liability. This includes (a) a reference to

the Government bill of lading number or other transportation document; (b) a detailed description of the property shipped; (c) a reference to the exception taken to the quantity or condition of the property delivered; (d) the number and date of any claim which has been filed with the carrier; and (e) the basis on which the exception or claim is being withdrawn. The consignee shall forward the original of this document to the carrier against whom the claim has been filed (or, in case the claim has not yet been filed, to the carrier that is billing for transportation charges or related services), and a copy shall be attached to the blue memorandum copy (Memorandum Copy-Consignee) of the bill of lading. In addition, the consignee shall send copies of the document to other offices involved in the initial claim action. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (Subpart 101–26.8), for reports required in connection with shipments from GSA or DOD.)

Subpart 101–40.49—Forms, Formats, and Agreements

1. Section 101–40.4906–5 is revised to illustrate the September 1975 edition of Standard Form 362, U.S. Government Freight Loss/Damage Claim.

NOTE.—The form illustrated in § 101–40.4906–5 is filed as part of the original document.

(Sec. 205(c), 63 Ctat. 390; 40 U.S.C. 486(c).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: April 30, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77–14372 Filed 5–19–77;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 144—NATIONAL DIRECT STUDENT LOANS

Public Hearing on Interim Final Regulation

AGENCY: Office of Education, HEW.

ACTION: Notice of public hearing on Interim Final Regulation.

SUMMARY: The Office of Education announces a public hearing on the National Direct Student Loan Program, Interim Final Regulation that was published in the FEDERAL REGISTER on November 24, 1976, at volume 41, pages 51946–51982.

The Office of Education has received numerous requests for clarification of § 144.48 of this regulation, and has determined that additional public participation is needed before the development of the final regulation.

DATES: A public hearing will be held on Tuesday, June 14, 1977, from 8 a.m. until 4:30 p.m.

ADDRESSES: The public hearing will be held at the following location: Room 3652 ("Gold Room") in Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Send comments on § 144.48 to Mr. Norman B. Brooks, Acting Deputy Director, Division of Student Financial Aid, Bureau of Student Financial Assistance, 400 Maryland Avenue SW., Washington, D.C. 20202 (202–245–9717).

FOR FURTHER INFORMATION CONTACT:

Mr. Norman B. Brooks, Acting Deputy Director, Division of Student Financial Aid, Bureau of Student Financial Assistance, 400 Maryland Avenue SW., Washington, D.C. 20202 (202–245–9717).

SUPPLEMENTARY INFORMATION:

GENERAL

Among the numerous comments which have been received on the interim regulation have been requests for clarification of § 144.48, which forbids an institution to use a billing service and a collection agency which share common ownership or control. There are loan servicing functions which may be performed by a collection agency, by a billing service, or by a third party. Among these are skip-trace and routine telephone contact with a borrower to determine the reason for late payment.

Requests have been received from various of the affected parties for clarification of § 144.48 with respect to specific boundaries between billing service and collection agency activities. Clarification has also been requested as to which of such activities may properly be charged to the fund at an institution as an "other collection cost" under § 144.46 and as to the permissible amount of such charges.

INSTRUCTIONS FOR COMMENTS

1. Interested persons desiring to comment on this matter should register before the day of the hearing by writing or telephoning the person whose name is listed at the beginning of this notice. Efforts will also be made to accommodate those who register on the day of the hearing.

2. Commenters are encouraged to make available a written copy of their oral presentations, which will be recorded on tape but not transcribed.

3. Written comments will also be accepted from those who do not wish to make oral presentations.

4. Persons who register or submit written comments should provide their name, address, telephone number, and (if appropriate) the name of the organization they represent.

AVAILABILITY OF MEETING RECORDS FOR PUBLIC INSPECTION

Records of the oral comments made at the meeting and of the written comments recevied will be available for public inspection in Room 4004, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C.

Dated: May 13, 1977.

ERNEST L. BOYER,
United States Commissioner of Education.

[FR Doc.77–14386 Filed 5–19–77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC–96]

PART 1002—FEES

PART 1003—LIST OF FORMS

PART 1043—SURETY BONDS AND POLICIES OF INSURANCE

PART 1045A—BROKERS' SPECIAL LICENSING PROCEDURES

Extension of Time for Filing Petitions for Reconsideration

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing petitions for reconsideration.

SUMMARY: The time for filing petitions for reconsideration in the above-entitled proceeding (42 FR 21782, April 29, 1977) has been extended from May 26, 1977 to June 24, 1977, pursuant to a request from Robert E. Goldstein, counsel for Campus Travel Inc., et al. The Commission will accept and consider petitions for reconsideration from any interested person whether or not such person has previously participated in this proceeding.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423, 202–275–7292.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–14321 Filed 5–19–77;8:45 am]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 55 (Sub-No. 24)]

PART 1100—RULES OF PRACTICE

Report of the Commission; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: In the Report of the Commission in the above-entitled proceeding of April 28, 1977, served May 2, 1977, clerical errors were made in §§ 1100.5(c) and 1100.12(e). They are hereby corrected as set forth under "Supplementary Information".

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak (Rates) (202–275–7245).
Philip Israel (Finance) (202–275–7245).
Michael Erenberg (Operating Rights) (202–275–7292).

SUPPLEMENTARY INFORMATION:

§ 1100.5 [Amended]

In § 1100.5(c) The term "complainant" means a person filing a complaint; "defendant" means a person against whom a complaint is filed; "applicant" means a person filing an application; "respondent" means a person designated in an investigation; "protestant" means a person opposed to the granting of an application, to any tariff or schedule becoming effective or to a tentative valuation; "intervener" means a person permitted to intervene as provided in Rule 70 or 71, and "petitioner" means any person seeking relief other than by complaint, protest or application.

§ 1100.12 [Amended]

Paragraph (e) of § 1100.12 is corrected to read as follows:

* * * * *

(e) *Termination of joint board jurisdiction; subsequent procedure.* The jurisdiction of a joint board over a referred matter shall be terminated in the event of (1) Service of an initial decision as provided in paragraph (d) of this section; (2) submission of the board's conclusions without a written initial decision; (3) waiver of action in writing by appropriate authority of each State from which a member is entitled to be appointed; (4) failure of all members of the board to appear at the hearing; (5) failure of a majority of the board to agree on substantive matters; or (6) entry of an order vacating the order of reference to the joint board. Except where an initial decision is served as provided in paragraph (d) of this section, in which event the subsequent procedure will be as provided in Rules 96, 97, 98, and 99, a referred matter, after termination of joint board jurisdiction, will be decided by the Commission or be made the subject of another officer's initial decision on the record theretofore made or after such hearing or further hearing as may be required.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–14471 Filed 5–19–77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 280—PACIFIC TUNA FISHERIES

Miscellaneous Amendments

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulations.

SUMMARY: This document provides for an annual catch quota, small vessel allocations, open seasons, provisions for fishing inside or outside the regulatory area, required reporting, and vessel inspection procedures for the taking and landing of Pacific yellowfin tuna during 1977. These regulations are published by the National Oceanic and Atmospheric Administration to implement conservation measures of the Inter American Tropical Tuna Commission.

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Center, 300 South Ferry Street, Room 2016, Terminal Island, California 90731 (213–548–2575).

SUPPLEMENTARY INFORMATION: The proposed rulemaking of March 4, 1977 (42 FR 12443), pointed out that the Commission's Resolution for 1977 allows vessels of less than 400 short tons carrying capacity to fish for yellowfin tuna within the regulatory area during the closed season under such restrictions as may be necessary to limit the catch of yellowfin tuna by such vessels to 6,000 short tons. It also noted that an additional 700 tons of yellowfin tuna, which was thought to be available from the unused portion of the overall country 15 percent incidental catch, has traditionally been allotted by the National Marine Fisheries Service to these vessels. An examination of the records for the periods of 1971 to 1976 reveals that the average unused portion of the overall country incidental catch has not been the 700 short tons allotted but has averaged 400 short tons. The National Marine Fisheries Service, considering the above, proposed that the allotment be reduced from 6,700 short tons to 6,400 short tons and that due to the decline of seiner carrying capacity during 1976, the 300 short ton reduction come from the small seiners.

Comments presented at the hearing were in opposition to any reduction in the small boat allotment. Spokesmen for the bait fleet and the small seiner fleet saw no reason for reducing the allocation to vessels that comprise such a small segment of the tuna fleet. The baitboat spokesman presented an argument for increasing the share of the allotment to the baitboats based upon a 6,700 short ton allocation and a 6,400 short ton allocation. Speakers for the small boats expressed the opinion that an increase in the incidental catch rate for both categories of the small boat fleet would lead to full utilization of the allotment, shorten the length of trips, and thereby lead to a greater economic return to the fleet.

Other spokesmen suggested that vessels between 401 and 500 short tons carrying capacity be allowed to fish under the small boat allotment since these vessels are operating at a competitive disadvantage with the newer and larger purse seiners.

Careful consideration has been given to the oral and written testimony regarding the small boat allocation, and records of the National Marine Fisheries Service have been examined to evaluate the comments received.

The request that other vessels be included under the special allotment cannot be accommodated for 1977 since the vessels that are eligible to fish on the allotment are mandated by the Commission's resolution for 1977 as mentioned in the proposed rules. For 1977, only vessels of 400 ton carrying capacity and less are eligible.

The National Marine Fisheries Service recognizes that there is a wide fluctuation in the unused portion of the overall country 15 percent incidental catch, but, from recent experience, can only justify the addition of 400 short tons to the small boat allotment instead of the 700 short tons that has been added previously. Therefore, the small boat allotment for 1977 will be 6,400 short tons.

In regard to the distribution of the allotment and the incidental catch rate, it is recognized that (1) the small seiner fleet has been recently reduced in capacity, (2) full utilization of the allotment depends on fishing conditions, and (3) removing the 300 short tons reduction from the small seiners will maintain the allotment per registered capacity ton at the levels existing during the 1975 and 1976 closed seasons. For the above reasons, the National Marine Fisheries Service feels that the 300 ton reduction should come from the small seiners. Also, the National Marine Fisheries Service believes that under the present regulations and conditions of the fleet, an increase in the incidental catch rate in both categories will contribute to full utilization of the allotment without leading to overutilization.

Considering the above, the tonnage allotments for the two categories during 1977 will be:

1. Purse seiners of 400 short tons carrying capacity and less: 3,600 short tons.
2. Bait and jig boats: 2,800 short tons.

The incidental catch rate for the two categories during the period each is accumulating its allotment will be:

1. Purse seiners 301–400 short tons carrying capacity: 50 percent by round weight.
2. Purse seiners 300 short tons carrying capacity or less: 70 percent by round weight.
3. Bait and jig boats: 60 percent of each vessel's established short tons carrying capacity.

No comments were received on incorporating three new sections in place of the former § 280.7, "Closed Season Restrictions Applicable to Fishing Vessels." This reorganization was for clarity and convenience and is adopted as proposed.

There was a great deal of concern by the small boat fleet over the proposed § 280.9(b) which requires that the Regional Director be notified 48 hours prior to a vessel unloading its catch at more than one location. As mentioned in the proposed regulations, the intention of the National Marine Fisheries Service was to properly document foreign unloadings. Section 280.9(b) has, therefore, been modified and is adopted for 1977 as follows:

Section 280.9(b): Any fishing vessel wishing to unload its catch in a port of the United States and in a foreign port shall notify the Regional Director 48 hours prior to the commencement of each unloading, giving the date of the unloading and the estimated tonnage by species to be unloaded at each location.

There was some objection to the penalties stated in § 280.9(e). The purpose of this section is to notify those individuals governed by these regulations of the penalties that exist under the Act. The proposed change does not institute new penalties, therefore, § 280.9(e) is adopted as proposed.

There was no objection to § 280.17(a)(3) in the proposed regulations that calls attention to the fact that a notice of sale or delivery of tuna is a vessel responsibility and is required when unloading in a foreign port as well as in a U.S. port. This section is adopted as proposed.

There was no opposition to the proposed § 280.10(b)(1) on providing inspections, but it was suggested that other ports in South America be included. As stated in the proposed section, all inspections are subject to advance notification, availability of personnel and immigration clearances. This Section is adopted as proposed.

No opposition was presented to changing Greenwich Mean Time (GMT) to Coordinated Universal Time (CUT) in §§ 280.6(b) and 280.8(a) or in changing the NMFS Suspense Account Number in § 280.16(c). These changes are adopted.

No comments were presented on changing the dates to the appropriate years in the former §§ 280.6(b), 280.1(g), and 280.7(d). These changes are adopted.

A proposal was made to allow vessels which did not fish in the eastern tropical Pacific during 1976 or the open season of 1977 to qualify for a last open season trip. The conditions under which a vessel is allowed a last open trip are mandated by the Commission's Resolution for 1977; therefore, the request that other vessels be included cannot be accommodated during 1977. The dates in the former § 280.7(a) (now § 280.6(c)(1)) are adopted as proposed to conform with the Commission's Resolution.

In addition to changes adopted from proposed regulations, the National Marine Fisheries Service wishes to adopt less restrictive measures under § 280.15, "Restrictions Applicable to Cargo Vessels." The National Marine Fisheries Service believes that removing albacore from the list of round tuna requiring documentation will not hinder the enforcement of the provisions of that section. To this end, §§ 280.15(h) and 280.15(i) are renumbered (i) and (j) respectively, and a new paragraph, § 280.15(h), is added to read: "For the purpose of this Section, round tuna requiring documentation shall not include albacore (*Thunnus alalunga*).

These amendments are issued under the authority contained in subsection (c) of Section 6 of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 995(c)), as modified by Reorganization Plan No. 4 effective October 3, 1970 (35 FR 15627).

Issued at Washington, D.C., and dated May 13, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

Title 50 is amended by revising Part 280 to read as follows:

Sec.
280.1 Definitions.
280.2 Basis and purpose.
280.3 Catch limits.
280.4 Open season.
280.5 Closed season.
280.6 Provisions for fishing inside and outside CYRA open season trips.
280.7 Provisions for fishing inside CYRA on closed season trips.
280.8 Provisions for fishing outside CYRA on closed season trips.
280.9 Reports required prior to unloading from closed season trips.
280.10 Provisions for well inspections during closed season.
280.11 [Reserved].
280.12 [Reserved].
280.13 [Reserved].
280.14 Emergency action by Service director.
280.15 Restrictions applicable to cargo vessels.
280.16 Restrictions applicable to purchasers.
280.17 Recordkeeping and written reports.
280.18 Persons and vessels exempted.
280.19 National Oceanic and Atmospheric Administration Employee designated as enforcement agents.
280.20 State Officers designated as enforcement agents.

AUTHORITY: 64 Stat. 777, as amended (16 U.S.C. 951), as modified by Reorganization Plan No. 4, effective Oct. 3, 1970 (35 FR 15627).

§ 280.1 Definitions.

For the purposes of this part, the following terms shall be understood to mean:

(a) *United States.* All areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

(b) *Convention.* The Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, D.C., May 31, 1949, by the United States of America and the Republic of Costa Rica (1 U.S.T. 230).

(c) *Commission.* The Inter-American Tropical Tuna Commission established pursuant to the Convention.

(d) *Director of investigations.* The Director of Investigations, Inter-American Tropical Tuna Commission, La Jolla, California.

(e) *Service director.* The Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

(f) *Regional director.* The Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California, telephone number, area code, 213, 548–2575.

(g) *Regulatory area.* All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines: Beginning at a point on the mainland where the parallel of 40° north latitude intersects the coast; thence due west to the meridian of 125° west longitude; thence due south to the parallel of 20° north latitude; thence due east to the meridian of 120° west longitude; thence due south to the parallel of 5° north latitude; thence due east to the meridian of 110° west longitude; thence due south to the parallel of 10° south latitude; thence due east to the meridian of 90° west longitude; thence due south to the parallel of 30° south latitude; thence due east to a point on the mainland where the parallel of 30° south latitude intersects the coast. For 1977 only, exclude from the regulatory area on an experimental basis the two areas defined as follows: (1) The area encompassed by a line drawn commencing at 110° W. longitude and 5° N. latitude extending east along 5° N. latitude to 95° W. longitude; thence south along 95° W. longitude to 3° S. latitude; thence east along 3° S. latitude to 90° W. longitude; thence south along 90° W. longitude to 10° S. latitude; thence west along 10° S. latitude to 110° W. longitude; thence north along 110° W. longitude to 5° N. latitude and (2) the area encompassed by a line drawn commencing at 115° W. longitude and 5° N. latitude extending west along 5° N. latitude to 120° W. longitude; thence north along 120° W. longitude to 20° N. latitude; thence east along 20° N. latitude to 115° W. longitude; thence south along 115° W. longitude to 5° N. latitude.

(h) *Yellowfin tuna.* No other fishes except the species *Thunnus* ALBACARES.

(i) *Mingled species.* (1) Any species of billfish or shark; and (2) No other species of the family Scombridae except; Skipjack (*Genus Euthynnus*), bigeye (*Thunnus obesus*), bluefin (*Thunnus thynnus*), albacore (*Thunnus alalunga*), or bonito (*Sarda chiliensis*).

(j) *Fishing vessel.* All watercraft subject to the jurisdiction of the United States which are used for catching or processing fish, except purse seine skiffs.

(k) *Fishing voyage.* The period between the date a fishing vessel departs from any port to carry out fishing operations and the date such vessel unloads any of its catch or the date such vessel returns to any port for the express purpose of receiving an inspection by a designated agent of the National Marine Fisheries Service.

(l) *Cargo vessel.* All watercraft which are used for transporting fish or fish products, except fishing vessels.

(m) *Person.* Individual, association, corporation, or partnership subject to the jurisdiction of the United States.

(n) *Open season.* The time during which yellowfin tuna may lawfully be captured without limitation by any fishing vessel operating within the regulatory area.

(o) *Closed season.* The time during which yellowfin tuna may not be captured in the regulatory area, except in limited quantities as an incident to fishing for species with which yellowfin may be mingled.

(p) *Port facility in the Americas.* All port facilities in North, South and Central America, including all the Caribbean ports, but excluding ports in Argentina, Brazil and Uruguay.

§ 280.2 Basis and purpose.

(a) At a special meeting held at Long Beach, Calif., on September 14, 1961, the Commission recommended to the Governments of Costa Rica, Ecuador, Panama, and the United States of America, parties to the Convention, that they take joint action to limit the annual catch of yellowfin tuna from the eastern Pacific Ocean by fishermen of all nations during the calendar year 1962. This recommendation was made pursuant to paragraph 5 of Article II of the Convention on the basis of scientific investigations conducted by the Commission over a period of time dating from 1951. The most recent years of this period were marked by a substantial increase in fishing effort directed toward the yellowfin tuna stocks, resuting in a rate of exploitation of these stock greater than that at which the maximum sustainable yield may be obtained. The Commission's recommendation for joint action by the parties to regulate the yellowfin tuna fishery has as its objective the restoration of these stocks to a level of abundance which will permit maximum sustainable catch and the maintenance of the stocks in that condition in the future.

(b) At each annual meeting held since 1962, the Commission affirmed its conclusions regarding the need for regulating the yellowfin tuna fishery in the eastern Pacific Ocean and at each meeting recommended to the parties to the Convention that they take joint action to:

(1) Establish a prescribed tonnage limit on the total catch of yellowfin tuna by the fishermen of all nations during each calendar year from an area of the eastern Pacific Ocean defined by the Commission;

(2) Establish open and closed seasons for yellowfin tuna under prescribed conditions;

(3) Permit the landing of an incidental catch by weight of yellowfin tuna when landed with one or more of the following fishes usually caught mingled with yellowfin tuna, that are taken on a fishing trip begun after the close of the yellowfin tuna fishing season: Skipjack tuna, bigeye tuna, bluefin tuna, albacore tuna, bonito, the billfishes, and the sharks; and

(4) Obtain from governments not parties to the Convention, but having vessels which operate in the fishery, cooperation in effecting the recommended conservation measures.

(c) The regulations in this part are designed to implement the Commission's recommendations for the conservation of yellowfin tuna so far as they affect vessels and persons subject to the jurisdiction of the United States.

§ 280.3 Catch limits.

The annual limitation on the quantity of yellowfin tuna permitted to be taken from the regulatory area by the fishing vessels of all nations participating in the fishery will be fixed and determined on the basis of recommendations made by the Commission pursuant to paragraph 5 of Article II of the Convention. Upon approval by the Secretary of State and the Secretary of Commerce of the recommended catch limit, announcement of the catch limit thus established shall be made by the Service Director through publication of a suitable notice in the FEDERAL REGISTER. The Service Director, in like manner, shall announce any revision or modification of an approved annual catch limit which may subsequently enter into force.

§ 280.4 Open season.

The open season for yellowfin tuna fishing shall begin annually at 0001 hours on the first day of January and terminate at 0001 hours on a date to be announced as provided in § 280.5. Time in hours shall refer to local time in the area affected.

§ 280.5 Closed season.

Pursuant to authority granted by the Commission, the Director of Investigations will determine the date on which he deemed the yellowfin fishing season should close and will promptly notify the Service Director of such date. The Service Director shall then announce the season closure date thus established by publication of a notice in the FEDERAL REGISTER. The closure date so announced shall be final except that if it shall at any time become evident to the Director of Investigations that the closure date initially determined had been affected by changed circumstances, he may substitute another date which shall be announced by the Service Director in like manner as provided for the date originally determined.

§ 280.6 Provisions for fishing inside and outside CYRA on open season trips.

(a) During the open yellowfin tuna season, every fishing vessel operating within the regulatory area shall transmit once each calendar week a message between 0900 and 2400 hours local California time. The message shall be transmitted directly to the Director of Investigations through the shore representative of the fishing vessel and shall state: the name of the reporting vessel and the tonnage by species of fish aboard. The above reporting procedure shall go into effect on a date to be announced by the Service Director through publication of a notice in the FEDERAL REGISTER.

(b) During the open yellowfin tuna season, every fishing vessel operating in the Pacific Ocean, but outside the regulatory area, shall transmit daily a message between 1600 Coordinated Universal Time (C.U.T.) and 1800 C.U.T. This requirement will also apply, for 1977 only, to every fishing vessel operating in the area described in the second sentence of paragraph (g) of § 280.1. The message shall be transmitted directly to Coast Guard Radio San Francisco (NMC) on frequency 16,565.0, 12,421.0, or 8,281.2 KHz and shall state: "This message is being transmitted in compliance with the U.S. eastern tropical Pacific yellowfin tuna regulations and confirms that the vessel (name of reporting vessel) is fishing in the Pacific Ocean, but outside the regulatory area as of this date (give date)".

(c) Any fishing vessel which has departed port to engage in tuna fishing, prior to the date of closure of the yellowfin season, may continue to capture yellowfin tuna within the regulatory area without restriction until the fishing voyage has been completed.

(1) In addition, for 1977, only, any fishing vessel which is in port at the closure and has either (i) completed a voyage in the regulatory area during the 1977 open season or (ii) completed a voyage in the regulatory area during 1976 will be allowed one additional unrestricted fishing voyage provided that departure is made within 30 days thereafter: *Provided, however,* That if the Director of Investigations, as a result of emergency measures adopted at a special meeting of the Commission, notifies the Contracting Government to the Convention that further unrestricted fishing for yellowfin tuna shall cease, or that other measures must be taken to protect the stocks, every fishing vessel at sea, having yellowfin tuna aboard in excess of the incidental catch limitations provided in § 280.7(a), shall return directly without delay to its home port, port of departure, or such other port as may be designated by the Regional Director to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service. This requirement shall take effect upon publication of notice in the FEDERAL REGISTER by the Service Director, or on a date to be specified in such notice. Any vessel failing to comply with the above requirements shall be restricted to the incidental catch limitations of § 280.7(a) for its entire fishing voyage; vessels in port on the effective date of such notice will not be allowed an additional unrestricted fishing voyage, but shall be subject to the incidental catch limitations of § 280.7(a). Other, less restrictive measures may be specified, in the manner provided above, as necessary to implement the notification from the Director of Investigations.

(2) A vessel which is determined by the Regional Director to be in the Atlantic ocean or the Caribbean sea or west of 150° W. longitude in the Pacific ocean at the closure shall, for the purpose of paragraph (c)(1) of this section only, be considered to be "in port": *Provided, however,* That a vessel located west of 150° W. longitude in the Pacific ocean shall, in order to be so considered, observe the following procedure:

(i) Prior to the closure, notify the Regional Director of the vessel's intent to engage in the one additional unrestricted fishing voyage in the regulatory area permitted by paragraph (a)(1) of this section; and

(ii) Report as required by paragraph (b) of this section (open season) or

§ 280.8(a)(1) (closed season), as appropriate; and

(iii) If transit of the regulatory area is required to reach the port from which the vessel will depart for such additional unrestricted fishing voyage, enter the regulatory area north of 25° N. latitude and proceed directly without delay to port.

(3) For the purpose of the above, departure refers to the date a vessel leaves port prepared to carry out fishing operations. A stopover at a single intermediate port, not exceeding 48 hours, may, however, be made to meet deficiencies in outfitting, supplying, fueling, provisioning or manning needs for a fishing voyage. Remaining in excess of 48 hours shall constitute a new fishing voyage corresponding to the delayed departure date.

(4) Any vessel which, solely by reason of seizure or other enforcement activity of a foregin government against such vessel, is unable to reach the port of its choice prior to the closure of the yellowfin fishing season shall be allowed, subject to written approval by, and under conditions set by, the Regional Director, to proceed to another port for the purpose of unloading and still qualify for the one additional unrestricted fishing voyage, subject to the restrictions of paragraphs (c) (1) and (2) of this section except for the in-port requiremer+

(d) All reports required in this section, except messages transmitted directly to Coast Guard Radio San Francisco, shall be telephoned to area code 714, telephone number, 233–5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

§ 280.7 Provisions for fishing inside CYRA on closed season trips.

Except as otherwise provided in § 280.6 (c) and this section, after notice has been published in the FEDERAL REGISTER announcing closure of the yellowfin season, it shall be unlawful for any person or fishing vessel to land yellowfin tuna captured from within the regulatory area in any port or place until the season reopens on the following January 1.

(a) Any fishing vessel which departs port on a fishing voyage after closure of the yellowfin season, except as provided in § 280.6(c), may land yellowfin tuna captured from within the regulatory area in limited quantities as provided in paragraphs (a) (1) to (3) of this section as an incident to fishing for species with which yellowfin may be mingled. The Service Director may, however, through publication of a notice in the FEDERAL REGISTER adjust the incidental catch limitations to assure that the special allotments designated for vessels of 400 short tons carrying capacity or less are not underutilized and the 15 percent overall incidental catch for the entire tuna fleet is not exceeded. Any quantity of yellow fin tuna landed in excess of the limitations provided in (a) (1) to (a) (3) of this section shall be subject to seizure and forfeiture pursuant to the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

(1) Purse seiners over 400 short tons carrying capacity may land in any port or place yellowfin tuna captured from within the regulatory area as an incident to fishing for species with which yellowfin may be mingled, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 15 percent by round weight of its total catch.

(2) Purse seiners of 400 short tons carrying capacity or less may land in any U.S. port yellowfin tuna captured from within the regulatory area as an incident to fishing for species with which yellowfin may be mingled, but in no event shall any vessel of 301–400 short tons carrying capacity be permitted to land yellowfin tuna in excess of 50 percent by round weight of its total catch: *Provided however*, That any vessel of 301–400 short tons carrying capacity which is on a fishing voyage longer than 70 days may land 20 percent yellowfin tuna by round weight of its established short ton carrying capacity. Nor shall any purse seiner of 300 short tons carrying capacity or less be permitted to land yellowfin tuna in excess of 70 percent by round weight of its total catch: *Provided however*, That any such vessel that is at sea longer than 50 days may land 25 percent yellowfin tuna by round weight of its established short ton carrying capacity. That local wet fish seiners may accumulate the 70 percent allowance by weight for the separate period from the date of closure of the yellowfin fishing season until the end of that month, and for each separate period consisting of one calendar month thereafter provided such vessels have not landed any yellowfin tuna during the open season and make deliveries only on a daily basis. When the catch of yellowfin tuna by purse seiners of 400 short tons carrying capacity or less reaches 3600 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. After a date to be announced through publication of a notice in the FEDERAL REGISTER by the Service Director, any vessel departing on a fishing voyage shall be subject to this reversion limitation of 15 percent.

(3) Bait and jig boats may land in any U.S. port fellowfin tuna captured from within the regulatory area, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 60 percent by round weight of its short ton carrying capacity once established in accordance with paragraph (a)(4) of this section. When the catch of yellowfin tuna by bait and jig boats collectively reaches 2800 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. During the period of the closed season that bait and jig boats are fishing for their allotments, all such boats must notify the Regional Director when they depart port on a fishing voyage. After a date to be announced through publication of a notice in the FEDERAL REGISTER by the Service Director, any vessel departing on a fishing voyage shall be subject to this reversion limitation of 15 percent.

(4) The short ton capacity of vessels will be determined from tables prepared by the Commission which relate carrying capacity to registered tonnages and from official unloading records available to the National Marine Fisheries Service.

(i) Managing Owners of purse seine vessels of 400 short tons carrying capacity or less will be notified by registered mail that their vessels are in this category and is subject to the provisions of paragraph (a)(2) of this section.

(ii) Except as provided below for bait and jig boats, managing owners not receiving notification by registered mail can assume that their vessel is over 400 short tons carrying capacity and is subject to the provisions of (a)(1) of this section.

(iii) To qualify for the bait and jig boat yellowfin allocation, managing owners of such vessels shall supply the Regional Director documentation concerning the gross and net tonnage of their vessels together with records of prior unloadings. This information will be used by the Regional Director to establish the short ton carrying capacity of each vessel. Failure to comply shall result in each such vessel being limited to 15 percent yellowfin tuna by round weight of its total catch. This 15 percent limitation shall remain in effect until the aforesaid documentation is furnished by the vessel's managing owner.

(5) The tonnage limitations specified in (a) (2) and (3) of this section may be adjusted upward or downward. Any such adjustment will be based upon the estimated use of the incidental catch allowances, and shall be apportioned as determined by the Service Director. Announcement of such adjustment shall be made by publication of a notice in the FEDERAL REGISTER by the Service Director.

(b) Any fishing vessel operating within the regulatory area which began its fishing voyage during the closed season and is restricted to the catch limitations as provided in paragraph (a) of this section shall be subject to such limitation regardless of its arrival date in port. In addition, any vessel so restricted which discharges some but not all of its catch, shall be subject to the same restrictions upon completion of its next fishing voyage.

(c) All fishing vessels that are permanently based in a foreign country, which elect to participate in the allocation provisions for vessels of 400 tons carrying capacity or less, shall (1) unload in a U.S. port after each voyage begun during the closed season, or (2) transship all fish taken on such voyages to a U.S. port in accordance with paragraph (i) of this section. Any vessel failing to follow the procedures of this paragraph shall be limited to an incidental rate of yellowfin tuna not to exceed 15 percent by round weight of its total catch.

NOTE.—The amount of yellowfin tuna that may be legally landed by a vessel subject to a specified percent incidental catch rate of yellowfin tuna based upon the round weight of the total catch is determined by the following formula:

$$\text{Quantity of legal yellowfin tuna} = \frac{(\text{Quantity of mingled species}) \times (\text{Specified incidental catch rate in percent})}{(100 \text{ percent}) - (\text{Specified incidental catch rate in percent})}$$

For Example, if the incidental catch rate of yellowfin tuna is 15 percent, then:

$$\text{Quantity of legal yellowfin tuna} = \frac{(\text{Quantity of mingled species}) \times (15)}{85}$$

(d) All reports required in this section, shall be telephoned to area code 714, telephone number, 233–5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

§ 280.8 Provisions for fishing outside CYRA on closed season trips.

(a) Any fishing vessel electing to fish exclusively in the Pacific Ocean, but outside the regulatory area, shall report to the Regional Director, within 48 hours before leaving port, giving name of the reporting vessel and the port of departure; within 24 hours before leaving the regulatory area, giving the latitude of departure and the approximate time of departure; and within 24 hours before returning to the regulatory area, giving the latitude of reentry, the approximate time of reentry, and the tonnage by species aboard. For 1977 only, the area described in the second sentence of paragraph (g), § 280.1, is considered to be outside the regulatory area.

(1) In addition, every fishing vessel operating in the Pacific Ocean, but outside the regulatory area, shall transmit daily a message between 1600 coordinated universal time (c.u.t.) and 1800 c.u.t. This message shall be transmitted directly to Coast Guard Radio San Francisco (NMC) on frequency 16.565.0, 12.421.0, or 8.281.2 KHz and shall state: "This message is being transmitted in compliance with the U.S. eastern tropical Pacific yellowfin tuna regulations, and confirms that the vessel (name of reporting vessel) is fishing in the Pacific Ocean but outside the regulatory area as of this date (give date)". Any vessel failing to receive acknowledgement from Coast Guard San Francisco, must transmit the same message on the following day. Should the vessel fail to receive acknowledgement within three consecutive days, the vessel's radio equipment shall be considered inoperative and the vessel shall return directly to port without delay to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service.

(b) Any fishing vessel electing to fish exclusively in the Pacific Ocean, but outside the regulatory area, shall proceed without delay to waters outside the regulatory area and upon reentering the regulatory area shall proceed directly to port without delay.

(1) If a vessel must, however, make an emergency port call, it shall proceed directly to port without delay and shall notify the Regional Director, not less than 48 hours prior to arrival, giving the name of the port to be entered. If the vessel elects to resume fishing outside the regulatory area, it must follow the procedures required in paragraph (a) of this section and shall proceed without delay directly to waters outside the regulatory area.

(c) Any fishing vessel which on the same voyage operates within and outside this paragraph shall be restricted to the incidental catch limitations as set forth in § 280.7(a) unless such vessel is made available for inspection as provided in § 280.9.

(d) All reports required in this section, except messages transmitted directly to Coast Guard Radio San Francisco, shall be telephoned to area code 714, telephone number, 233–5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

(e) Any vessel sighted inside the regulatory area while reporting its position as outside the regulatory area shall return to port for inspection or to a U.S. port for unloading within ten days after receipt by the owner of the vessel or his agent of a certified letter from the Regional Director advising him of such sighting.

(f) Any vessel failing to file the reports and to follow the procedures of this paragraph, shall be restricted to the incidental catch limitations set forth in paragraph (b) of § 280.7, for its entire fishing voyage.

§ 280.9 Reports required prior to unloading from closed season trips.

(a) All fishing vessels shall notify the Regional Director not less than 48 hours prior to any sale or delivery in a foreign country, of fish caught in the Pacific Ocean from within or outside the regulatory area. Such reports shall include the tonnage by species unloaded and whether such fish were caught in or out of the regulatory area.

(b) Any fishing vessel wishing to unload its catch in a port of the United States and in a foreign port shall notify the Regional Director 48 hours prior to the commencement of each unloading, giving the date of the unloading and the estimated tonnage by species to be unloaded at each location.

(c) All fishing vessels shall notify the Regional Director not less than 48 hours prior to transferring fish caught in the Pacific Ocean from within or outside the regulatory area to another vessel for the purpose of transshipment. Such reports shall include the date and place of unloading, name and destination of the oncarrying vessel, tonnage by species of fish transferred and whether the transferred fish were caught in or outside the regulatory area.

(d) All fishing vessels, except vessels proceeding directly to Puerto Rico or to any other U.S. port for unloading, shall notify the Regional Director not less than 48 hours prior to leaving the regulatory area via the Panama Canal. In addition, all fishing vessels, except vessels without fish aboard, shall notify the Regional Director not less than 48 hours prior to entering the regulatory area via the Panama Canal. Each report shall include the name of the reporting vessel, the tonnage by species of fish aboard and whether the fish were caught in or outside the regulatory area in Pacific waters or from Atlantic waters. Any vessel failing to file the reports and to follow the procedures of this paragraph, shall be restricted to the incidental catch limitations set forth in § 280.7(a) for its entire fishing voyage, regardless of its arrival date in port.

(e) Any person failing to follow the procedures or to make the reports required by this section may be subject to the criminal penalties provided for in the Act in addition to other restrictions which may apply.

(f) All reports required in paragraphs (a) to (d) of this section, shall be telephoned to area code 714, telephone number, 233–5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

§ 280.10 Provisions for well inspection during closed season.

(a) Any fishing vessel having incidentally caught yellowfin tuna aboard may, begin fishing on January 1 for yellowfin tuna without restriction, provided such vessels are made available for inspection during the period December 27 through December 31. A request for the designation of an inspection port shall be made to the Regional Director on or before December 23. Upon notification by the Regional Director of the availability of an inspection port, each vessel shall proceed to such port for inspection by a designated agent of the National Marine Fisheries Service. Official seals will be affixed to wells containing incidentally caught yellowfin tuna and the same will be noted in the vessel's log. Fish in the wells at the time of inspection shall be subject to the incidental catch limitations as set forth in § 280.7(a), regardless of the date of unloading. In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of any unloadings from inspected vessels. Upon arrival at point of sale or delivery, the official seals will be removed by a designated agent of the National Marine Fisheries Service. Inspected vessels shall not be allowed to leave port to resume fishing activity until 0001 hours, January 1.

(b) Any fishing vessel electing to change fishing areas, without having that portion of its catch taken outside the regulatory area restricted to such incidental catch limitations, shall request inspection services from the Regional Director. Vessels within the regulatory area shall report not less than 48 hours prior to electing to leave the area, stating their intention and requesting the

designation of an inspection port. Vessels outside the area shall report within 24 hours before returning to the regulatory area, stating their intention, requesting the designation of an inspection port, and giving the latitude of reentry, the approximate time of reentry and the tonnage by species of fish aboard. Upon notification by the Regional Director of the availability of an inspection port, each vessel shall proceed directly without delay to such port for inspection by a designated agent of the National Marine Fisheries Service. Official seals will be affixed to wells containing fish captured within or outside the regulatory area as appropriate, and the same will be noted in the vessel's log. In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of unloadings from inspected vessels. Upon arrival at point of sale or delivery, the official seals will be removed by a designated agent of the National Marine Fisheries Service.

(1) The National Marine Fisheries Service will provide two inspections per month in foreign ports from June 1 through December 1 in the Canal Zone and Puntarenas, Costa Rica. These inspections will be provided upon advanced notification on the first and second and the fifteenth and sixteenth day of each month, respectively, at no cost to the requestor. Inspection service may be provided in foreign ports at other times at the expense of the requesting vessel. Such additional inspections will be provided subject to advance notification, availability of personnel, immigration clearances and approval of the Regional Director. Well inspections will be provided at U.S. ports as they are needed subject to proper notification.

(2) Any vessel failing to file the reports and to follow the procedures of this paragraph shall be restricted to the incidental catch limitation set forth in § 280.7(a) for its entire fishing voyage.

§ 280.11 [Reserved]

§ 280.12 [Reserved]

§ 280.13 [Reserved]

§ 280.14 Emergency action by Service Director.

If during the closed yellowfin season, the Service Director finds that the provisions relating to the fishing outside the regulatory area are inadequate to insure that the recommendations of the Commission are met, he shall announce such findings through publication of a notice in the FEDERAL REGISTER and immediately thereafter:

(a) Every fishing vessel at sea, having yellowfin tuna aboard in excess of the incidental catch limitations as provided in § 280.7(a) which is claimed to have been captured outside the regulatory area, but in the Pacific Ocean, shall return directly without delay to its home port or port of departure to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service. Any vessel failing to comply with the above requirements, shall be restricted to the incidental catch limitations set forth in § 280.7(b) for its entire fishing voyage.

(b) Any fishing vessel which has operated in the regulatory area at any time during the calendar year and which departs on any fishing voyage within the Pacific Ocean after the notice described in this section is published in the FEDERAL REGISTER, shall be restricted to the incidental catch limitations as provided in § 280.7(a).

§ 280.15 Restrictions applicable to cargo vessels.

(a) Any fishing vessel shall be deemed to have completed a fishing voyage whenever any part of its catch is transferred to a cargo vessel in conformity with the requirements of this section.

(b) In keeping with the provisions of 46 U.S.C. 251, no foreign-flag vessel, whether documented as cargo vessel or otherwise, is permitted to land in port of the United States any fish or fish products taken on board such vessel on the high seas.

(c) The transfer of fish from a fishing vessel to a cargo vessel while in a foreign country or in waters over which each country has recognized jurisdiction is subject to the applicable laws and regulations of such foreign country.

(d) During the closed yellowfin tuna season, no fishing vessel shall transfer on the high seas any part of its catch to a cargo vessel documented under the laws of the United States and no such cargo vessel shall receive, possess, or bring to any place in the United States, fish taken on board on the high seas from a fishing vessel unless the cargo vessel shall hold a permit issued in conformity with paragraph (e) of this section.

(e) Upon written application made to him, the Regional Director may issue a permit authorizing a cargo vessel documented under the laws of the United States to receive, possess, transport to the United States, fish transferred from fishing vessels on the high seas during the closed yellowfin tuna season. Such permit may authorize the possession and transportation of yellowfin tuna by a cargo vessel without regard to the quantities of fish received, but it shall contain restrictions as the Regional Director shall determine to be necessary to achieve compliance with the regulations in this part and the objectives of the yellowfin tuna conservation program.

(f) Any cargo vessel seeking permission to enter into the United States a cargo of round tuna (that is, tuna that has not been gilled, gutted, or beheaded) any part of which was received ex-vessel through a port facility in the Americas shall provide to the nearest Customs Office as a prerequisite to obtaining such permission from Customs the following information with respect to the part of such cargo received ex-vessel through a port facility in the Americas:

(1) Name, official number, and flag of each fishing vessel (including, for purposes of this paragraph, any foreign flag fishing vessel) from which was received any tuna that is aboard the cargo vessel at the time the aforesaid permission to enter is sought;

(2) Date and location of such receipt of tuna; and

(3) Certification from the master of each such fishing vessel setting forth, as to tuna received by the cargo vessel:

(i) Tonnage by species of tuna caught inside the regulatory area;

(ii) Tonnage by species of tuna caught in waters west of the regulatory area to the meridian of 150° west longitude;

(iii) Tonnage by species of tuna caught in other waters; and

(iv) As to each caetgory, the dates of the fishing voyages on which the tuna were caught.

(g) Any cargo of round tuna for which permission to enter into the United States is sought by a cargo vessel shall be accompanied by a bill of lading indicating whether the tuna was received ex-vessel through a port facility (and, if so, from what vessels and what ports) or by other named means, such as from freezer or other storage facilities, and such bill of lading shall be provided to Customs at the time permission to enter is sought.

(h) For the purpose of this section, round tuna requiring documentation shall not include albacore (*Thunnus alalunga*).

(i) Any cargo vessel failing to provide the documentation required by paragraphs (f) and (g) of this section shall be denied permission to enter into the United States undocumented lots of round tuna. If tuna is denied entry under the provisions of these regulations, the District Director of Customs shall refuse to release the tuna for entry into the United States and shall issue a notice of such refusal to the importer or consignee: Provided, however, that the tuna not accompanied or covered by the required documentation or certification when offered for entry may be entered into the United States if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the required documentation or certification. The bond shall be in the amount required under 19 C.F.R. 113.14. Within 90 days after such Customs entry, or such additional period as the District Director of Customs may allow for good cause shown, the importer or consignee shall deliver a copy of the required documentation and certification to the District Director of Customs, and the original of the required documentation and certification to the Regional Director of the National Marine Fisheries Service. If such documentation and certification is not delivered to the District Director of Customs for the port of entry of such fish within 90 days of the date of Customs entry or such additional period as may have been allowed by the District Director of Customs for good cause shown, the importer or consignee shall redeliver or cause to be redelivered to the District Director of Customs those fish which were released in accordance with this paragraph. In the event that any such tuna is not redelivered within five days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence under a bond given on Form 7551. Tuna refused entry or released for entry into the United States through the use of bonding procedure provided in this paragraph may be subject to the forfeiture provisions of the Tuna Conventions Act of 1950 as is any other tuna imported into the United States in violation of the Act. Tuna which is denied entry or which is redelivered in accordance with the above and which is not exported under Customs supervision within 90 days from the date of notice or refusal of admission or date of redelivery shall be disposed of under Customs laws and regulations.

(j) Any person who knowingly enters or permits the entering of round tuna from a cargo vessel in violation of paragraph (f) or (g) of this section, or who knowingly provides false information with respect to the requirements of paragraph (f) or (g) of this section, shall, as well as the cargo of tuna, be subject to the penalties provided in the Tuna Conventions Act of 1950 (16 U.S.C. 951–961).

§ 280.16 Restrictions applicable to purchasers.

(a) Except as provided in paragraphs (b) and (d) of this section, it shall be unlawful for any person knowingly to receive, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any yellowfin tuna taken or retained by a fishing vessel in violation of the regulations in this part.

(b) In view of the perishable nature of yellowfin tuna when not processed otherwise than by chilling or freezing, and persons authorized to enforce the regulations in this part may cause to be sold, and any person may purchase, for not less than its reasonable market value such quantities of perishable yellowfin tuna as may be seized and forfeited pursuant to the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

(c) The proceeds of any sale made pursuant to paragraph (b) of this section after deducting the reasonable costs of the sale, if any, shall be remitted by the purchaser to the Regional Director for deposit and retention in the Suspense Account of the National Marine Fisheries Service (Account No. 13X6875(17)) pending judgment of the court or other disposition of the case.

(d) If a duly constituted official acting under authority and in behalf of a State of the United States, of the Commonwealth of Puerto Rico, or of American Samoa seized any yellowfin tuna under the applicable laws or regulations of such government, such yellowfin tuna may be forfeited and sold or otherwise disposed of pursuant to such laws or regulations. Any yellowfin tuna so seized by an official of State, the Commonwealth of Puerto Rico or American Samoa shall not be seized by an officer or employee of the Federal Government unless it is voluntarily turned over to him to be processed against under applicable Federal laws or regulations.

§ 280.17 Recordkeeping and written reports.

(a) The master or other person in charge of a tuna vessel or such person as may be authorized in writing to serve as the agent of either of such persons shall throughout the open and closed yellowfin tuna fishing seasons:

(1) Keep an accurate log of all operations conducted from the vessel entering therein for each day the date, noon position (stated in latitude and longitude or in relation to known physical features), and the tonnage of fish aboard by species. The record and bridge log maintained at the request of the Commission shall be sufficient to comply with this paragraph provided the items of information specified herein are fully and accurately entered in such log.

(2) Furnish on form obtainable from the Regional Director, following the sale or delivery of a catch of fish made by such vessel, a report, certified to be correct as to facts within the knowledge of the reporting individual giving the name and official number of the fishing vessel, the dates of beginning and ending of the fishing voyage, the port of departure, and a listing separately by species of the round weight quantities (pounds or short tons) of fish sold or delivered. At the option of the vessel master or other person in charge, a copy of the fish ticket, weighout slip, settlement sheet, or similar record issued by the fish dealer or his agent may, however, be used for reporting purposes in lieu of the form obtainable from the Regional Director, if such alternate record is similarly certified and contains all items of information required by this paragraph. In addition, any vessel landing its catch in California and reporting by means of a copy of the California fish ticket, the California Fish and Game boat number may be indicated in lieu of the vessel's official number. Such sale and delivery reports shall be delivered or mailed to the Regional Director within 72 hours after weighout has been completed.

(3) The requirements of this section shall apply to the sale or delivery of a catch of tuna regardless of whether the transaction occurs in a U.S. or a foreign port.

(b) Any person authorized to carry out enforcement activities under the regulations in this part and any person authorized by the Commission shall have power, without warrant or other process to inspect, at any reasonable time, log books, catch reports, statistical records, or other reports as required by the regulations in this part to be made, kept or furnished.

§ 280.18 Persons and vessels exempted.

Nothing contained in § 280.2 to § 280.18 shall apply to:

(a) Any person or vessel authorized by the Commission, the Service Director, or any State of the United States to engage in fishing for research purposes.

(b) Any person or vessel engaged in sport fishing for personal use.

§ 280.19 National Oceanic and Atmospheric Administration Employees designated as enforcement agents.

Any employee of the National Oceanic and Atmospheric Administration duly appointed and authorized to enforce Federal laws and regulations administered by the National Oceanic and Atmospheric Administration is authorized and empowered to carry out enforcement activities under the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

§ 280.20 State Officers designated as enforcement agents.

Any officer or employee of a State of the United States, of the Commonwealth of Puerto Rico or of American Samoa who has been duly designated by the Service Director or his delegate with the consent of the Government concerned is authorized to function as a Federal law enforcement agent and to carry out enforcement activities under the Tuna Convention Act of 1950, as amended (16 U.S.C. 951–961).

[FR Doc.77-14497 Filed 5-19-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner because the position is confidential in nature.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(b)(20) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* * * *

(20) One Special Assistant to the Assistant Secretary—Commissioner.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14394 Filed 5-19-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Staff Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner because the position is confidential in nature.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(b)(21) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* * * *

(21) One Staff Assistant to the Assistant Secretary—Commissioner.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14395 Filed 5–19–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service one position of Coordinator of Shipboard Training at the U.S. Merchant Marine Academy, Maritime Administration. This position replaces the position of Department Head, Shipboard Training which was previously excepted. This exception is granted because it is impractical to competitively examine for this position.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling
(202–632–4533).

Accordingly, 5 CFR 213.3114 is amended to read as follows:

§ 213.3114 Department of Commerce.

* * * * *

(h) *Maritime Administration.* * * *

(10) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers; including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; and seven Company Officers.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14392 Filed 5–19–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Administrator, Health Care Financing Administration.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

James E. Farley (202–632–5446).

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

Raymond J. Sumser (202–245–2133).

Accordingly, 5 CFR 213.3316(s)(1) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

(s) *Health Care Financing Administration.* (1) Administrator, Health Care Financing Administration.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14393 Filed 5–19–77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Confidential Assistant (Secretary) to the Assistant Administrator for Energy Resource Development because of the confidential nature of the position.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388(j)(3) is added and set out below:

§ 213.3388 Federal Energy Administration.

* * * * *

(j) *Office of the Assistant Administrator for Energy Resource Development.*

* * *

(3) One Confidential Assistant (Secretary) to the Assistant Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14546 Filed 5–19–77;10:54 am]

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Annual Report—Request for Additional Comments

AGENCY: Department of Labor.

ACTION: Request for additional comments on annual report regulations under Title I of the Employee Retirement Income Security Act of 1974.

SUMMARY: The Department of Labor is requesting additional comments on proposed regulations concerning annual reports and summary annual reports for employee benefit plans, which appeared in the FEDERAL REGISTER on August 3, 1976 (41 FR 32522).

COMMENT DATE: Comments should be submitted on or before July 5, 1977.

ADDRESSES: Send comments to: "Annual Report Regs.," Room C4526, Office of Regulatory Standard and Exceptions, Pensions and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Peter A. Straub, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C., Telephone 202–523–8684.

SUPPLEMENTARY INFORMATION:

Solicitation of Comments

On August 3, 1976 (41 FR 32522) the Department of Labor published regulations under the Employee Retirement Income Security Act of 1974 concerning annual reports, which must be filed with the Department, and summary annual reports, which must be furnished to plan participants and beneficiaries, by employee benefit plans.

In order to facilitate the preparation of annual reports for the 1975 plan year, these regulations were made effective immediately. However, comments were solicited for consideration in the preparation of final annual report regulations, the comment period ending on

December 31, 1976. The Department received extensive comments on the August 3, 1976 regulations and is currently considering those comments in preparing the annual report regulations for final publication.

In conjunction with the publication of a request for comments on revising the annual report forms (DOL/IRS Form 5500) elsewhere in this issue of the FEDERAL REGISTER, the Department is hereby soliciting further comments on the August 3, 1976 regulations. Of particular concern to the Department in this regard is that members of the public be afforded an opportunity to consider the annual report regulations together with the annual report forms in the light of practical experience in using the regulations. Of course, additional comments submitted by interested persons should not duplicate comments made by such persons during the earlier comment period.

Accordingly, interested persons are invited to submit additional written data, views or arguments concerning the August 3, 1976 regulations on or before July 5, 1977. Such data, views and arguments should be submitted to "Annual Report Regs.," Room C4526, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216.

All comments should be clearly referenced to the numbers of the sections to which the comments are directed.

Signed at Washington, D.C. this 19th day of May, 1977.

TRAVIS KNIGHT,
Assistant Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77–14632 Filed 5–19–77;10:30 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 967]

[Docket No. AO–354–A2]

CELERY GROWN IN FLORIDA

Decision on Proposed Further Amendment of Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreement and order for celery grown in Florida. Celery growers will vote in a referendum to determine whether they favor the proposed changes in the order.

The major purpose of the proposed amendment is to provide a method for producers to enter the celery industry and increase the size of existing celery operations. Additional proposed changes include the addition of a public member to the administrative committee, and provision of authority to fund production research under the order.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing published January 13, 1977 (42 FR 2691) with a supplement on January 28, 1977 (42 FR 5362).

Notice of Recommended Decision issued March 29, 177 and published April 1, 1977 (42 FR 17458).

Preliminary Statement

A public hearing was held on proposed further amendment of the marketing agreement, as amended, and Order No. 967, as amended (7 CFR Part 967), (hereinafter referred to collectively as the "order") regulating the handling of celery grown in Florida. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the appliacable rules of practice (7 CFR Part 900), at Orlando, Florida, on February 1, 1977, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on March 29, 1977, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity file written exceptions there to through April 18, 1977, later extended to May 1, 1977.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to correction of inadvertent, grammatical or obvious errors and the following modifications:

1. Under Material Issue No. (2) concerning the method of establishing Base Quantities paragraph 8 is revised.

2. Under Material Issue No. (3) concerning the method of determining celery producers' annual sales allotments paragraphs 3 and 5 are revised and a new paragraph is added immediately following paragraph 5.

Material Issues

The material issues of record are as follows:

(1) Providing for a public member on the committee;

(2) Amending § 967.37 "Base Quantities" to clarify the basis for determining Base Quantities, to provide conditions for obtaining and retaining Base Quantities and to add authority to require annual registration by producers;

(3) Amending § 967.38 "Marketable Allotments" to revise the basis for determining each celery producer's annual sales allotment;

(4) Amending § 967.44 Research and Development" to authorize production research;

(5) Providing for the receipt of voluntary contributions to finance research projects;

(6) Making such changes in the order as may be necessary to bring the entire order, as amended, into conformity with the amendatory action resulting from the hearing.

Findings and Conclusions

The following findings and conclusions on the material issues are based on the record of the hearing:

(1) The Florida celery marketing agreement and order (hereinafter in the text of findings and conclusions collectively referred to as the "order") should be amended to provide for a representative of the public on the administrative committee. To effectuate such a change, § 967.25 of the current order providing for the establishment and membership of the Florida Celery Committee should be revised to enlarge the committee from 15 members to 16 members, with the additional member to be a public member. Further, § 967.26 providing for eligibility of committee members should be revised to indicate the criteria for the public member, and a new paragraph (f) should be added to § 967.27 "Nominations" to indicate the procedures which should be used in the nomination of the public member.

Record evidence indicates that public representation on commodity committees could improve the exchange of information and viewpoints between industry members and the public. Proponent witnesses indicated that the industry likely would benefit from the judgment and knowledge that a public member could contribute to industry decisions. In turn, such a member could be effective in enlightening the general public with respect to the nature and operation of the celery order. As is provided for producer or handler members, the additional public member should have an alternate.

Individuals selected from the public to serve on the committee should meet specified eligibility requirements. The record indicates that it would be appropriate that public member and alternate member nominees not have a direct financial interest nor be closely associated with the production, processing, financing or marketing of agricultural commodities. Also, such nominees should be able to devote sufficient time and express a willingness to attend committee meetings regularly and to familiarize themselves with the practices and the economics of the industry. The evidence further indicates that preference should be given to selecting nominees who are residents of the production area so that participation in committee meetings and other activities will be more convenient and less expensive.

The public member and alternate member should be nominated by the committee in accordance with rules or regulations which should indicate the qualification requirements for public member nominees and the procedure by which the committee will receive names of candidates. The committee should have the duty of recommending such procedural rules for approval by the Secretary. Record evidence indicates that the public member should be nominated by July 1 each year. This will insure sufficient time for the Secretary to consider the nominations so that selection can be made prior to the beginning of each term of office which would be the same as the terms for producer or handler members. However, the nomination of the initial public member may be made later than July 1 but as soon as practical after said member's position on the committee is authorized.

The committee's responsibility with regard to nominations of public members will require a conforming change in § 967.31 "Duties." A paragraph (m)

should be added specifying that one of the committee's duties will be to secure suitable candidates for the public member and alternate positions and to nominate eligible persons to be the public member and alternate on the committee.

(2) Section 967.37 "Base Quantities" should be amended by clarifying the basis for determining Base Quantities, adding a requirement for periodic review of Base Quantities, and modifying the procedure for allocating an annual reserve. The order became effective on November 15, 1965. Since then significant changes have taken place in the distribution of sales authority among producers as reflected in individual producers' holdings of Base Quantities, and the use made of the Base Quantity provisions of the order to establish and maintain orderly marketing conditions. To ensure that regulatory activities related to the Base Quantity provision are more in accord with current and prospective production and marketing trends in the Florida celery industry, this section should be modified as follows:

Paragraphs (a) and (b) specify the procedures which were used in determining the initial Base Quantities under the order. Since these provisions are obsolete, they should be deleted and replaced by a new paragraph (a) which should provide that Base Quantities of producers with a history of production and participation under the order shall be those in effect for the 1976–77 season, as recorded by the committee.

Under the present order, as amended, initial Base Quantities for each producer were determined on the basis of the greatest number of crates of harvested celery sold by him or on his behalf during a specified historical representative period. This method of determining Base Quantities, which is authorized by Section 8c(6)(B) of the act, resulted in allocations to existing producers of authority to sell celery on the basis of a uniform rule for the first season (1965–66) of operation under the Florida Celery Marketing Order. In subsequent years a number of producers transferred their Base Quantities to other producers. Such transfers are authorized by § 967.39 "Transfers" of the order which provides that any producer's Base Quantity may be transferred in part or total for a specified period of time subject to approval of the committee. As a result, producers' Base Quantities in effect for the 1976–77 season as recorded by the Committee on December 15, 1976 are the product of the Base Quantities originally issued under a uniform rule, as subsequently modified by authorized transfers by producers to other producers. Therefore the proposed basis for determining Base Quantities of producers with a history of sales under the order is substantially the same as the basis set forth when the order was issued in 1965.

Provision also should be made for determining Base Quantities for other producers; i.e. those without a history of sales under the order. Under proposed requirements discussed later herein, such producers may acquire a base from a reserve to be established and allocated annually. Base Quantities of both existing and new producers would be subject to modification because of periodic updating of the method of determining Base Quantities, any increases which might accrue from additive allocations from a reserve to be established by the committee, cancellation of a Base Quantity due to non-use, or transfers of Base Quantity pursuant to § 967.39.

A new paragraph (b) should be incorporated to require the committee to review Base Quantities periodically, and recommend appropriate changes in the basis for determining Base Quantities. This requirement would provide a means of keeping Base Quantities consistent with sales performance.

The record indicates that over a period of time, individual producers often modify their participation in the celery business, increasing or decreasing the size of their operation and in some instances discontinuing celery production and marketing. This results in a disparity between the aggregate of Base Quantities and the production and marketing capacity of the celery industry which affects other aspects of operations under the order. For example, when a grower does not grow and market celery for one or more years, there may be an important effect on the annual sales allotments issued to producers. Each year a determination is made of the total quantity of celery to be marketed (Marketable Quantity). The ratio of the Marketable Quantity to total Base Quantities is applied to individual producers' Base Quantities to determine the quantity or allotment of celery handlers may acquire from each producer. When total Base Quantities include unused individual Base Quantities, some allotments go to inactive producers while active producers may have allotments smaller than warranted by their productive capacity and the total market requirements.

The record indicates that revisions which should be made in the order to provide for entry of new producers, expansion of existing producers' celery operations, or elimination of Base Quantities of persons who do not make a bona fide effort to grow and market celery, could have a substantial effect upon the structure of the industry in terms of numbers of producers and the size of individual celery enterprises. Therefore, in order for the Base Quantities to continue to reflect the productive and market capacity of the industry, it is appropriate to require the committee to review the use being made of Base Quantities. Such appraisals should be made at least every five years but may be made more often to correlate with the rate of change within the industry. In the event a change is deemed necessary, and after due consultation with the industry to solicit their views and suggestions, the committee should so recommend to the Secretary. Record evidence shows, and so should the proposed amendment to the order, that the Secretary may then establish through rule making procedure a revised appropriate basis for determining Base Quantities.

Paragraph (d) should be revised to require a reserve to be established and allocated annually, and to indicate the procedures which should be followed in allocating such reserve. This paragraph currently authorizes a reserve on a permissive basis whereas the proposed reserve requirement would be mandatory.

The order's present reserve authority was designed to permit adjustments in Base Quantities of producers who for various reasons had been adversely affected in their marketing operations during the representative period, or to expand the industry's production capacity in the event existing capacity was unable to satisfy increased market demand. The proposed reserve provision would permit Base Quantity adjustments for the same reasons, and in addition, should reduce the monetary value accuring to Base Quantities. Record evidence shows that until recently Base Quantities were transferred among producers for various financial considerations. However, with a substantial amount of Base Quantity available for acquisition by bona fide producers at no cost, existing Base Quantities should have little or no monetary value. This would be consistent with respect to the objective of the order, which is to achieve orderly marketing rather than to create value in a sales base. For these reasons, the proposed revision should be implemented.

Evidence in the record shows that the annual reserve should amount to six percent of total Base Quantities. Such a reserve would insure year to year stability, and still be adequate to permit new producers to gain entry into the industry, and to allow established producers to expand. The reserve to be allocated for a given year should be calculated from the total Base Quantities in effect the preceding year. The record indicates that half of the reserve should be available to new producers and the other half to existing producers. This is a reasonable and appropriate method of distributing the reserve, and should properly serve the equity interests of both new and existing producers.

Proponent witnesses recommended that the order should provide for any unallocated reserve Base Quantities for new producers to be prorated at the committee's discretion among existing producers on a uniform basis. Such a distribution would be contrary to the basic intent of the reserve authority as it relates to existing producers. The record shows that existing producers may be granted increases in Base Quantities from the reserve upon request, supported by substantial evidence of a production and marketing capability consistent with such request. To grant Base Quantities otherwise, even though on a uniform basis, would serve no useful purpose and, further, would tend to dilute the significance of Base Quantities granted to new producers. Therefore, any reserve for new producers which is unallocated should not be made available to other producers.

The record indicates, and so should the proposed amendment, that additive Base Quantities issued to existing producers from a reserve should be valid for only one season but Base Quantities issued or allocated to new producers should be permanent. Allocations to existing producers would be related to new or additional resources acquired by them or a potential new market. If experience warrants continued production and marketing at the higher level, the producer could again request an additive Base Quantity. The new producer faces different circumstances justifying different treatment with regard to receiving a Base Quantity for a reserve. The establishment of a new farming operation to produce and market celery requires the expenditure of a large amount of money. A producer may not be willing or able to make resource commitments of the magnitude required for a celery business without assurance of an opportunity to market future crops. Therefore, it is fair and reasonable to provide that Base Quantities issued to new producers should not be subject to reissuance each year. At the same time, new producers should be obligated to demonstrate their intent to maintain a viable celery operation. For this reason, and to preclude speculation with respect to reserve Base Quantities, the record shows that the order should provide that Base Quantities issued to new producers cannot be transferred within three years after issuance.

The order should continue to provide that the committee shall establish, subject to approval of the Secretary, rules and procedures to be used in determining the reserve and the adjustments to be made in Base Quantities. The guidelines set forth in the order for the size of the reserve and its allocation to new and existing producers, and for obtaining Base Quantities will help insure equitable treatment for both an applicant and other producers. Therefore, such standards are determined to be proper and adequate for administration of the order. The specific criteria would help insure that adjustments would be fair and reasonable.

Requests for Base Quantity under the reserve authority, together with supporting material, should be made to the committee not later than April 1. This would provide adequate time for the committee to evaluate each request and inform each person of its decision early enough for those granted new Base to initiate plans for the ensuing season. Because of the time required to develop procedures governing the establishment and distribution of the reserve, the order should provide that the reserve feature of the program will become effective for the 1978–79 season.

A new paragraph (e) should be added to empower the committee to cancel a producer's Base Quantity if he does not make a bona fide effort during two consecutive seasons to produce and market celery thereunder. The record indicates that two consecutive years of not marketing should be construed to be evidence of a producer's withdrawal from the celery industry. Cancellation of unused Base Quantities would make the annual calculation of the Marketable Quantity more realistic, should enhance the committee's ability to evaluate potential production, and should contribute to more efficient program operation. This provision should not be mandatory, however, in order that exceptions may be made to recognize extenuating circumstances. Record evidence indicates that one indication of a bona fide effort to produce and market celery would be a producer's marketing of at least half of the alloted celery in which he has a proprietary interest; that is, celery which he owns in part or in total. Other criteria may be similarly designed to preclude token production to preserve a Base Quantity. Rules and regulations should be developed by the committee for approval of the Secretary indicating the procedures to be used in implementing this procedure.

A new paragraph (f) should be added to require annual registration by producers. Under such a requirement, each person planning to grow celery during the ensuing season would have to register with the committee, and indicate his commitments to produce and market celery. Commitments as used in the order relate to the obligation of resources of production, either potentially or in fact. Such resources would include not only the land, labor, and facilities, but also the finances which are necessary to produce celery. The registration procedure would impose no unreasonable burden on the individual, and would contribute greatly to more efficient operation of the order. Registration would provide the committee with a better indication of the potential for production so that a meaningful Marketable Quantity and individual producers' sales allotments could be determined. In the event a producer chose not to register, his Base Quantity should not be affected for that season but he should not receive a marketable allotment. Otherwise, the beneficial effect of the program in achieving a balance of supply with market requirements would be greatly diminished.

The record indicates that all producers should register no later than May 1 each year. This is necessary so that the committee will have sufficient time prior to June 15 to evaluate commitments of registering producers to grow and market celery in the ensuing season. June 15 is the final date for the committee to meet and adopt a marketing policy, including a recommended Marketable Quantity. The 45 day interval from May 1 through June 14 probably is the minimum amount of time needed to evaluate the industry's production capacity and its relationship to prospective market demands. The committee may find through experience that more time would be desirable. If it should be decided that registration should be required by some date other than May 1, the order should allow for such a change.

Proponent witnesses testified that although May 1 should normally be the final date for registration, a later date in 1977 should be specified by the Secretary, provided that such date be no later than July 31 Such a deadline is necessary because producers would not have sufficient time in which to adjust their farming operation to an allocation calculated on the basis of Base Quantities registered after July 31. The requested latitude in setting an initial registration date would permit the implementation of this feature of the proposal a year earlier than would otherwise be practicable and therefore should be provided.

(3) Paragraph (a) of § 967.38 Marketable Allotments should be revised to provide that the Uniform Percentage shall be calculated each year by dividing the Marketable Quantity by the total Base Quantities of producers who register with the committee. As discussed earlier, some Base Quantities may not be used every year. The inclusion of such Base Quantities in the calculation of the Uniform Percentage would distort the relationship between production capacity and market requirements, contrary to the objective of the order.

Such a change in calculation of the Uniform Percentage would require a conforming change in § 967.15 Uniform Percentage so that it would state that such percentage would be derived by dividing the Marketable Quantity by the total Base Quantities of registered producers as provided in § 967.38.

Also, paragraph (e) of § 967.38 Marketable Allotments should be revised to provide that whenever the Marketable Quantity is equal to or smaller than total Base Quantities, the first 37,500 crates of all producers' Base Quantities shall be omitted in the calculation and application of the Uniform Percentage. The order presently specifies that only the Base Quantities of those producers with Base Quantities of 37,500 crates or less must be omitted in calculation of the Uniform Percentage.

The objective of the current provision is to prevent undue hardship for the relatively small producers. Each year the Secretary determines the total amount of celery which should be marketed (Marketable Quantity). The Marketable Quantity is divided by the total Base Quantities of registered producers, with the result being the Uniform Percentage. This percentage is then applied to each producer's Base Quantity to determine each producer's annual sales allotment. However, the Base Quantities of the smaller producers, those with 37,500 crates or less of Base Quantity, are excluded from both the calculation and the application of the Uniform Percentage. Their annual sales allotments must be equal to (or in the event of a Uniform Percentage above 100 percent, larger than) their total Base Quantity. While this provision is beneficial to producers who choose to maintain a small celery business, it tends to discourage expansion on the part of other small producers. For example, a producer with a Base Quantity of 37,500 crates acquiring one additional crate of Base Quantity becomes subject to application of the Uniform Percentage; if such percentage were 90, his Marketable Allotment would be 33,751 crates. By acquiring the additional crate of Base Quantity, he would reduce his sales allotment by 3,750 crates.

The proposed revision would still protect the small producer from a reduction in his sales allotment when the Marketable Quantity is smaller than total Base Quantities. However, by exempting the first 37,500 crates of every producer's Base Quantity from application of the Uniform Percentage under such circumstances, a deterrent to expansion on the part of small producers would be eliminated.

It was proposed that in the event the Uniform Percentage exceeded 100 percent, such percentage should be applied to both the exempted first 37,500 crates and the additional base, if any, of each producer. This would result in a total of producers' marketable allotments exceeding the Marketable Quantity which would be contrary to the objective of the program. Therefore, the order should provide that when the Marketable Quantity is larger than total Base Quantities there shall be no exemption for the first 37,500 crates in the calculation of the Uniform Percentage.

A new paragraph (f) should be added to this section to provide that Marketable Allotments shall be issued only to those producers who register with the committee by May 1 each year. As discussed earlier herein, registration by producers to indicate their intent and commitment to produce and market celery is essential to effective operation of the order. Therefore, such a requirement is appropriate.

(4) Section 967.44 of the order should be amended to authorize production research. The order presently contains authority for the committee to undertake or finance marketing research and development projects and marketing promotion. Celery growers in Florida requested of the Secretary that the order be amended to authorize committee expenditures for production research to broaden the possibilities for reseach beneficial to the Florida celery industry and its customers.

The record indicates that the need for research on matters related to the production of celery is great. Producers this crop are beset by a variety of problems ranging from those associated with attacks by disease and insects to the need for varieties better suited to the production area.

Expert witnesses testified to the continuing requirement for research in order to solve the severe problems caused in recent years by insects, particularly the leaf miner which is a relative newcomer on the local list of problem pests. Leaf miner infestations have sharply curtailed yields of good quality celery, and control efforts thus far have been only partially effective. Harmful soil organisms remain a problem, as do virus and root disease, and the various blights.

The improvement of existing varieties and development of new varieties might contribute significantly to the production of celery that is better able to withstand the attacks of the many pests. Varietal research may also lead ultimately to a reduced incidence of premature bolting or growth cracks, and lower the susceptibility of celery to damage by low temperatures.

Research in any or all of the aforementioned areas would contribute to lower costs and more efficient production. However, production research should not be limited to such areas. The committee should have broad and flexible authority for timely development of production research programs on any problems that arise.

In recent years, there has been active competition for research dollars within the agricultural community. Celery must share with many other crops, with similar production problems, the available research time, effort, and funds. Indications are that a relatively small amount of celery industry money, provided by the committee, will encourage research into the areas especially desired by the industry. The act provides that an assessment can be levied for specific purposes including production research. With these added funds, the committee can make a substantial commitment to such research.

Record evidence shows that currently most production research on celery in Florida is performed by public agencies, such as the University of Florida or the U.S. Department of Agriculture. Research funded by the committee would most likely also be carried out by such public agencies. However, this would not rule out having private organizations or the committee itself conduct such research.

All proposals for research must be submitted to the Secretary for approval. Also, the committee should have the authority to make any necessary changes in the format of the research project as long as it does not change the original objectives. Any change that required a greater expenditure of funds would require Departmental approval. Activity reports on research conducted should be issued by the committee annually, although interim reports on research projects may be issued. Reports should also be issued in writing or verbally by the organization conducting the research. All written reports should be provided to the Secretary and committee members as well as any other interested parties.

The record has demonstrated that a program of production research administered by the marketing order committee should have a positive effect upon the production of Florida celery, thereby increasing returns to growers. In view thereof, it is concluded that the order should be amended to authorize production research.

(5) A new § 967.63 should be added to the order to provide for the receipt of voluntary contributions to be used only for research and development projects. Record evidence indicates that research and market development projects for Florida celery directly benefit growers of that commodity, and secondarily benefit other groups and businesses whose interests are allied with the production and marketing of celery. These groups frequently desire to contribute resources to research and development projects and the order should provide that such contributions may be accepted by the committee. It is important, however, that the committee have complete control over the use of any contributions, which must be free of any encumbrances by the donor.

(6) Some of the amendatory actions included in this recommended decision require that certain conforming changes be made so that the order, as amended, will be in conformity with those actions. One such change (add a new paragraph (m) to § 967.31, *Duties*) is discussed with the issue to which it is pertinent. All such changes should be incorporated in the recommended amendment of the order.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed February 11, 1977, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing. One brief was filed by John Joseph Cassidy, Esq., and Jamie S. Gorelick, Esq., on behalf of Gressinger and Sons. Every point in the brief was carefully considered along with record evidence in making the findings and reaching the conclusions herein set forth. To the extent that the findings and conclusions in the brief are inconsistent with findings and conclusions contained herein, requests to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with this recommended decision.

In addition to containing proposed findings and conclusions on the material issues, the brief recommended that all information obtained by the committee concerning transactions, activities, and use being made of base quantities and marketable allotments be available to committee members. The act prohibits the disclosure of information that may affect detrimentally the business operations of the persons who furnish reports required under marketing orders. However, since the operation of this allocation program is inextricably involved with individual producers' base quantities and marketable allotments, this information should not be treated as confidential. All other information must remain confidential and in the custody of the committee staff, as required under § 967.73 of the order.

Rulings on exceptions. Within the period provided therefor, an exception to the proposed amendment was filed by the Federal Trade Commission. The exception endorsed the objectives of the proposed changes but recommended several modifications. One recommendation was that the order provide that the Uniform Percentage should not be so changed each season as to nullify the effect on the Marketable Quantity of increasing total Base Quantities. This would require that the Marketable Quantity be established each year as a constant relative to total

Base Quantities. Such a procedure would differ materially from that now used. Under the Florida celery marketing order, the Secretary establishes each year a Marketable Quantity which is the total amount of celery which may be marketed. The Marketable Quantity is determined after careful evaluation by the committee and the Secretary of the numerous factors associated with the production and marketing of celery, and is the amount of celery deemed necessary to meet market requirements and establish orderly marketing conditions. It is obvious that to substitute an inflexible method of determining the Marketable Quantity, which might have little or no relevance to the amount of celery needed to balance supply with market requirements, for the procedures now in use would defeat the purpose of the order. Therefore, the recommendation must be denied.

Another suggestion was that issuance of Base Quantities from the reserve be mandatory. The record evidence and the recommended decision based thereon showed that under the proposed amendments the Committee would be required each year to establish a reserve in the amount of six percent of total Base Quantities, with the implied understanding that such reserve was to be allocated to bona fide producers who apply for additional base. However, for clarification the recommended decision and order are revised to indicate that a reserve shall be established and allocated annually to producers who apply for such base.

It was also recommended that the order provide that Base Quantities be allocated to existing producers ranked on the basis of their sales relative to allotments the previous year and that a minimum economic unit be considered in allocating a base quantity to a new producer. Such considerations may be appropriate in allocating reserve Base Quantities to producers, but as discussed in the recommended decision and order the committee should take into consideration many more factors including past production of celery by applicant, acreage planted, average yields, the production capacity of the farm or land the applicant expects to use, land, labor, and equipment available to applicant for celery production, economic and marketing factors, and other factors deemed pertinent by the committee.

Contentions were made that the requirement for established producers to renew requests for additional Base Quantities annually might discourage such requests. On the other hand, the record shows that this provision is needed to prevent the unwarranted acquisition and transfer of reserve Base Quantities by individuals who have no basic desire to expand their celery operation. For this reason, the exception must be denied. Another contention with regard to the requirement for annually renewing requests for additive base was that it might result in little actual increase in production by existing producers. The record shows that established producers would have available to them 50 percent of the reserve Base Quantities and that the size of the reserve would increase each year. Thus, actual expansion could be significant for individual established producers.

Contentions also were made that the proposed provision under the order for forfeiture of unused Base Quantities may permit large quantities of base to lie idle if the only indication of non-use would be a producer marketing less than half of his total Base Quantity. Such a development appears unlikely, however. The order provides that additional criteria shall be developed by the committee, subject to approval of the Secretary, as to whether bona fide efforts are being made to produce and sell celery. Additionally, the record shows that the requirement for periodic review and updating of Base Quantities should materially reduce the incidence of unused allotments or Base Quantities. Producers who intend to stay in the celery business will have a strong incentive to market as much celery as authorized and thereby maximize their history of sales which may be incorporated when an updated basis for establishing Base Quantities is promulgated.

Each point in the exception was given careful consideration in conjunction with the record evidence. To any extent that any exception is not specifically ruled upon or the findings and conclusions contained herein are at variance with the exception, such exception is hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Celery Grown in Florida," and "Order Amending the Order, as Amended, Regulating the Handling of Celery Grown in Florida," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of celery grown in Florida, is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1976, through May 15, 1977.

The agents of the Secretary to conduct such referendum are hereby designated to be William C. Knope and James B. Wendland.

Signed at Washington, D.C., on: May 16, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF CELERY GROWN IN FLORIDA

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 967, as amended (7 CFR Part 967, regulating the handling of celery grown in Florida.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of celery grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

due recognition to the differences in the production and marketing of celery grown in the production area; and

(5) All handling of celery grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of celery grown in Florida, shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Acting Administrator on March 29, 1977, and published in the FEDERAL REGISTER on April 1, 1977 (42 FR 17458), with a slight modification in § 967.38(e), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Revise § 967.15 to read as follows:

§ 967.15 Uniform percentage.

"Unform Percentage" means the percentage for any given season resulting from dividing the Marketable Quantity by the total Base Quantities registered by producers as provided in § 967.38.

2. Revise § 967.25 to read as follows:

§ 967.25 Establishment and membership.

There is hereby established a Florida Celery Committee consisting of 16 members, including 15 producer or handler members and one public member to administer the terms and provisions of this part. Each shall have a respective alternate who shall have the same qualifications as the member.

3. Revise § 967.26 to read as follows:

§ 967.26 Eligibility.

Each member and alternate of the committee, except for the public member and alternate, shall be at the time of his selection and during his term of office, a producer or handler, or an officer or employee of a producer or handler in the group for which selected. The public member shall be neither a producer nor handler and shall have no direct financial interest in the production or marketing, except as a consumer, of agricultural products.

4. Revise § 967.27 by adding a new paragraph (f) to read as follows:

§ 967.27 Nominations.

* * * * *

(f) The members of the committee selected by the Secretary pursuant to § 967.32 shall nominate a public member and alternate member of the committee. The committee shall recommend rules for receiving names of persons to be considered for nomination to the public member and alternate positions. Rules shall also be recommended for establishing eligibility of persons nominated to the public member and alternate positions. The persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by July 1 of each year together with information deemed pertinent by the committee or as requested by the Secretary.

5. Amend § 967.31 by adding paragraph (m) to read as follows:

§ 967.31 Duties.

* * * * *

(m) To secure suitable candidates for the public member and alternate positions, and to nominate persons for such positions on the committee.

6. Amend § 967.37 to read as follows:

§ 967.37 Base Quantities.

(a) (1) Base Quantities for producers with a history of production and order participation for the period 1965–66 through 1976–77 shall be Base Quantities in effect for the 1976–77 season, as recorded by the Florida Celery Committee on December 15, 1976, subject to modifications relating to current production and marketing experience specified in (b) through (e) of this section, or to transfers pursuant to § 967.39.

(2) Base Quantities for other producers shall be established pursuant to Base Quantity reserve as specified in paragraph (d) of this section, subject to modifications relating to current production and marketing experience specified in (b) through (e) of this section, or to transfer pursuant to § 967.39.

(b) Periodically, but at least once each five years, the committee shall review Base Quantities and recommend any change in the formula, to be prescribed by the Secretary, for determining Base Quantities which may be deemed appropriate.

* * * * *

(d) (1) Beginning with the 1978/79 season, a reserve in the amount of six percent of the total Base Quantities shall be established annually. Such reserve shall be used for the issuance of Base Quantities to new producers and adjustments in Base Quantities for producers with existing Base Quantities, with 50 percent being made available for new producers and 50 percent available for adjustments for producers with existing Base Quantities.

(2) Base Quantities issued to new producers shall be permanent, subject to requirements of § 967.37(e). Base Quantities issued to new producers shall not be transferrable within three years after issuance. Any adjustments in Base Quantities issued to producers with existing Base Quantities shall be effective for one season only and a new request by such producers for adjustment in Base Quantity shall be submitted each season.

(3) The committee may recommend rules for establishing such reserve and for procedures whereby persons may apply for Base Quantities thereunder. Such rules shall be subject to approval by the Secretary. Rules may provide for open informal hearings by the committee on applicants' requests and may establish guides or standards for equitable and thorough consideration of pertinent factors relating to each case, including but not limited to past production of celery by applicant, acreage planted, average yields, the production capacity of the farm or land the applicant expects to use, land, labor, and equipment available to applicant for celery production, economic and marketing factors, and other factors deemed pertinent.

(4) Each person filing an application hereunder for a new Base Quantity or adjustment in an established Base Quantity shall be notified by the committee of its determinatfon thereon. Such determination and considerations appertaining thereto shall be subject to review by the Secretary. If a Base Quantity is issued to an applicant hereunder, the requirements of § 967.38(c) shall then apply.

(e) A condition for the continuing validity of a Base Quantity is production of celery thereunder. If no bona fide effort is made to produce and sell celery thereunder for two consecutive seasons commencing with the 1977–78 season, the Base Quantity may be declared invalid due to lack of use and cancelled at the end of the second season of nonproduction. The committee shall determine criteria, subject to approval by the Secretary, as to whether a bona fide effort has been made to produce and sell celery, including one requirement that the producer must have sold at least 50 percent of each of his seasonal Marketable Allotments, unless prevented from doing so by acts of God or other circumstances beyond his control.

(f) Annual registration of Base Quantity holders will be required no later than May 1 or such other date as may be approved pursuant to regulations. For the 1977–78 season Base Quantity holders shall register within 30 days following the effective date of this part but no later than July 31, 1977. Any Base Quantity holder who does not register or who has not made firm and substantial commitments to produce celery for the forthcoming season shall have his Base Quantity eliminated from the calculations in determining the Uniform Percentage. However, such procedure will not cause the Base Quantity holder to lose his Base Quantity.

7. Amend § 967.38 to read as follows:

§ 967.38 Marketable Allotments.

(a) When the Secretary establishes a season's Marketable Quantity, a percentage shall be determined by dividing the amount fixed as the season's Marketable Quantity by the total Base Quantities of producers who have registered with the committee pursuant to § 967.37(f).

* * * * *

(e) When the Marketable Quantity is equal to or smaller than total Base Quantities, the first 37,500 crates of each producer's Base Quantity shall be subtracted from both the Marketable Quan-

Base Quantities. Such a procedure would differ materially from that now used. Under the Florida celery marketing order, the Secretary establishes each year a Marketable Quantity which is the total amount of celery which may be marketed. The Marketable Quantity is determined after careful evaluation by the committee and the Secretary of the numerous factors associated with the production and marketing of celery, and is the amount of celery deemed necessary to meet market requirements and establish orderly marketing conditions. It is obvious that to substitute an inflexible method of determining the Marketable Quantity, which might have little or no relevance to the amount of celery needed to balance supply with market requirements, for the procedures now in use would defeat the purpose of the order. Therefore, the recommendation must be denied.

Another suggestion was that issuance of Base Quantities from the reserve be mandatory. The record evidence and the recommended decision based thereon showed that under the proposed amendments the Committee would be required each year to establish a reserve in the amount of six percent of total Base Quantities, with the implied understanding that such reserve was to be allocated to bona fide producers who apply for additional base. However, for clarification the recommended decision and order are revised to indicate that a reserve shall be established and allocated annually to producers who apply for such base.

It was also recommended that the order provide that Base Quantities be allocated to existing producers ranked on the basis of their sales relative to allotments the previous year and that a minimum economic unit be considered in allocating a base quantity to a new producer. Such considerations may be appropriate in allocating reserve Base Quantities to producers, but as discussed in the recommended decision and order the committee should take into consideration many more factors including past production of celery by applicant, acreage planted, average yields, the production capacity of the farm or land the applicant expects to use, land, labor, and equipment available to applicant for celery production, economic and marketing factors, and other factors deemed pertinent by the committee.

Contentions were made that the requirement for established producers to renew requests for additional Base Quantities annually might discourage such requests. On the other hand, the record shows that this provision is needed to prevent the unwarranted acquisition and transfer of reserve Base Quantities by individuals who have no basic desire to expand their celery operation. For this reason, the exception must be denied. Another contention with regard to the requirement for annually renewing requests for additive base was that it might result in little actual increase in production by existing producers. The record shows that established producers would have available to them 50 percent of the reserve Base Quantities and that the size of the reserve would increase each year. Thus, actual expansion could be significant for individual established producers.

Contentions also were made that the proposed provision under the order for forfeiture of unused Base Quantities may permit large quantities of base to lie idle if the only indication of non-use would be a producer marketing less than half of his total Base Quantity. Such a development appears unlikely, however. The order provides that additional criteria shall be developed by the committee, subject to approval of the Secretary, as to whether bona fide efforts are being made to produce and sell celery. Additionally, the record shows that the requirement for periodic review and updating of Base Quantities should materially reduce the incidence of unused allotments or Base Quantities. Producers who intend to stay in the celery business will have a strong incentive to market as much celery as authorized and thereby maximize their history of sales which may be incorporated when an updated basis for establishing Base Quantities is promulgated.

Each point in the exception was given careful consideration in conjunction with the record evidence. To any extent that any exception is not specifically ruled upon or the findings and conclusions contained herein are at variance with the exception, such exception is hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Celery Grown in Florida," and "Order Amending the Order, as Amended, Regulating the Handling of Celery Grown in Florida," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of celery grown in Florida, is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1976, through May 15, 1977.

The agents of the Secretary to conduct such referendum are hereby designated to be William C. Knope and James B. Wendland.

Signed at Washington, D.C., on: May 16, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF CELERY GROWN IN FLORIDA

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 967, as amended (7 CFR Part 967, regulating the handling of celery grown in Florida.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of celery grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

due recognition to the differences in the production and marketing of celery grown in the production area; and

(5) All handling of celery grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of celery grown in Florida, shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Acting Administrator on March 29, 1977, and published in the FEDERAL REGISTER on April 1, 1977 (42 FR 17458), with a slight modification in § 967.38(e), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Revise § 967.15 to read as follows:

§ 967.15 Uniform percentage.

"Unform Percentage" means the percentage for any given season resulting from dividing the Marketable Quantity by the total Base Quantities registered by producers as provided in § 967.38.

2. Revise § 967.25 to read as follows:

§ 967.25 Establishment and membership.

There is hereby established a Florida Celery Committee consisting of 16 members, including 15 producer or handler members and one public member to administer the terms and provisions of this part. Each shall have a respective alternate who shall have the same qualifications as the member.

3. Revise § 967.26 to read as follows:

§ 967.26 Eligibility.

Each member and alternate of the committee, except for the public member and alternate, shall be at the time of his selection and during his term of office, a producer or handler, or an officer or employee of a producer or handler in the group for which selected. The public member shall be neither a producer nor handler and shall have no direct financial interest in the production or marketing, except as a consumer, of agricultural products.

4. Revise § 967.27 by adding a new paragraph (f) to read as follows:

§ 967.27 Nominations.

* * * * *

(f) The members of the committee selected by the Secretary pursuant to § 967.32 shall nominate a public member and alternate member of the committee. The committee shall recommend rules for receiving names of persons to be considered for nomination to the public member and alternate positions. Rules shall also be recommended for establishing eligibility of persons nominated to the public member and alternate positions. The persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by July 1 of each year together with information deemed pertinent by the committee or as requested by the Secretary.

5. Amend § 967.31 by adding paragraph (m) to read as follows:

§ 967.31 Duties.

* * * * *

(m) To secure suitable candidates for the public member and alternate positions, and to nominate persons for such positions on the committee.

6. Amend § 967.37 to read as follows:

§ 967.37 Base Quantities.

(a)(1) Base Quantities for producers with a history of production and order participation for the period 1965–66 through 1976–77 shall be Base Quantities in effect for the 1976–77 season, as recorded by the Florida Celery Committee on December 15, 1976, subject to modifications relating to current production and marketing experience specified in (b) through (e) of this section, or to transfers pursuant to § 967.39.

(2) Base Quantities for other producers shall be established pursuant to Base Quantity reserve as specified in paragraph (d) of this section, subject to modifications relating to current production and marketing experience specified in (b) through (e) of this section, or to transfer pursuant to § 967.39.

(b) Periodically, but at least once each five years, the committee shall review Base Quantities and recommend any change in the formula, to be prescribed by the Secretary, for determining Base Quantities which may be deemed appropriate.

* * * * *

(d)(1) Beginning with the 1978/79 season, a reserve in the amount of six percent of the total Base Quantities shall be established annually. Such reserve shall be used for the issuance of Base Quantities to new producers and adjustments in Base Quantities for producers with existing Base Quantities, with 50 percent being made available for new producers and 50 percent available for adjustments for producers with existing Base Quantities.

(2) Base Quantities issued to new producers shall be permanent, subject to requirements of § 967.37(e). Base Quantities issued to new producers shall not be transferrable within three years after issuance. Any adjustments in Base Quantities issued to producers with existing Base Quantities shall be effective for one season only and a new request by such producers for adjustment in Base Quantity shall be submitted each season.

(3) The committee may recommend rules for establishing such reserve and for procedures whereby persons may apply for Base Quantities thereunder. Such rules shall be subject to approval by the Secretary. Rules may provide for open informal hearings by the committee on applicants' requests and may establish guides or standards for equitable and thorough consideration of pertinent factors relating to each case, including but not limited to past production of celery by applicant, acreage planted, average yields, the production capacity of the farm or land the applicant expects to use, land, labor, and equipment available to applicant for celery production, economic and marketing factors, and other factors deemed pertinent.

(4) Each person filing an application hereunder for a new Base Quantity or adjustment in an established Base Quantity shall be notified by the committee of its determinatfon thereon. Such determination and considerations appertaining thereto shall be subject to review by the Secretary. If a Base Quantity is issued to an applicant hereunder, the requirements of § 967.38(c) shall then apply.

(e) A condition for the continuing validity of a Base Quantity is production of celery thereunder. If no bona fide effort is made to produce and sell celery thereunder for two consecutive seasons commencing with the 1977–78 season, the Base Quantity may be declared invalid due to lack of use and cancelled at the end of the second season of nonproduction. The committee shall determine criteria, subject to approval by the Secretary, as to whether a bona fide effort has been made to produce and sell celery, including one requirement that the producer must have sold at least 50 percent of each of his seasonal Marketable Allotments, unless prevented from doing so by acts of God or other circumstances beyond his control.

(f) Annual registration of Base Quantity holders will be required no later than May 1 or such other date as may be approved pursuant to regulations. For the 1977–78 season Base Quantity holders shall register within 30 days following the effective date of this part but no later than July 31, 1977. Any Base Quantity holder who does not register or who has not made firm and substantial commitments to produce celery for the forthcoming season shall have his Base Quantity eliminated from the calculations in determining the Uniform Percentage. However, such procedure will not cause the Base Quantity holder to lose his Base Quantity.

7. Amend § 967.38 to read as follows:

§ 967.38 Marketable Allotments.

(a) When the Secretary establishes a season's Marketable Quantity, a percentage shall be determined by dividing the amount fixed as the season's Marketable Quantity by the total Base Quantities of producers who have registered with the committee pursuant to § 967.37(f).

* * * * *

(e) When the Marketable Quantity is equal to or smaller than total Base Quantities, the first 37,500 crates of each producer's Base Quantity shall be subtracted from both the Marketable Quan-

tity and total Base Quantities when the Uniform Percentage is calculated in this section (§ 967.38(a)), and the Uniform Percentage for the first 37,500 crates will be 100 percent. In the event the Marketable Quantity exceeds total Base Quantities, there shall be no exemption for the first 37,500 crates and the Uniform Percentage shall be applied to each producer's total Base Quantity.

(f) Marketable allotments shall be issued only to producers who have registered by May 1, or such other date prescribed by the Secretary, and indicated firm and substantial commitments for the production of celery for the forthcoming season.

8. Revise the section heading and the first two sentences of § 967.44 to read as follows:

§ 967.44 Research and development.

The committee may, with the approval of the Secretary, establish or provide for the establishment of projects involving production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve or promote the marketing, distribution and consumption or efficient production of celery. The expenses of such projects shall be paid by funds collected pursuant to §§ 967.61 or 967.63.* * *

9. Add a new § 967.63 to read as follows.

§ 967.63 Contributions.

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 967.44. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

§ 967.91 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instruments as if all signatures were contained in one original.

§ 967.92 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ 967.93 Order with marketing agreement.

Each signatory handler requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of celery in the same manner as is provided for in this agreement. The undersigned hereby authorizes the Director, or Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, to correct any typographical errors which may have been made in this marketing agreement.

In witness whereof, the contracting parties, acting under the provisions of the act, for the purpose and subject to the limitations therein contained, and not otherwise, have hereto set their respective signatures and seals.

---------- By: ----------[2]
(Firm Name) (Signature)

(Mailing Address) (Title)

(Corpoorate Seal; if none, so state) ---------- (Date of Execution)

[2] If one of the contracting parties to this agreement is a corporation my signature constitutes certification that I have the power granted to be by the Board of Diretcors to bind this corporation to the marketing agreement.

[FR Doc.77-14470 Filed 5-19-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 730-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Air Pollution Control; State Statutes and State and Washoe County Regulations; State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval with exceptions.

SUMMARY: Through this notice EPA proposes to approve with exceptions certain State statutes, and State and local regulations pertaining to motor vehicles, new and modified stationary sources, power plants, public availability of emission data, stack testing, and other miscellaneous items. These items have been submitted by the State on February 20, and June 14, 1974; and July 7, September 10, and October 31, 1975 as revisions to various portions of the State implementation plan (SIP) for attainment and maintenance of the National Ambient Air Quality Standards. EPA also proposes to disapprove portions of the approved SIP which have not been resubmitted and to rescind certain previous disapproval and substitute rulemaking actions. EPA has reviewed the submissions, identified those portions which are considered revisions, and evaluated the revisions for consistency with 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans, and the Clean Air Act, as amended.

DATE: Comments by: June 20, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch (A-4), EPA, Region IX, 100 California Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air & Hazardous Materials Division, Attn: Morris Goldberg, EPA, Region IX, 100 California Street, San Francisco, California 94111. Telephone 415-556-7473.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 28, 1972, pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the State of Nevada submitted to EPA an implementation plan for the attainment and maintenance of the National Ambient Air Quality Standards. The plan contained State statutes, State and local regulations, control strategies and other information. On May 31, 1972 (37 FR 10842) the Administrator approved the SIP with specific exceptions. Since then, Nevada has submitted to EPA numerous revisions to portions of the SIP including new and revised legislative actions and regulations adopted by the State and local agencies. EPA has reviewed, or is in the process of reviewing these revisions. Revisions to various portions of the SIP were submitted on February 20, and June 14, 1974; and July 7, September 10, and October 31, 1975.

DISCUSSION OF ACTION

The adoption of regulations by the State and local agencies and the adoption of SIP revisions by the State were in conformance with the procedural requirements of 40 CFR 51.4. Pursuant to 40 CFR 51.4, all regulations and SIP revisions were the subject of a public hearing. Notice of such hearings were prominently advertised at least thirty days in advance. Also the items subject to hearing were available for public inspection in the region affected for at least thirty days prior to the hearing date.

The SIP revisions submitted on February 20 and June 14, 1974 have been subdivided. Some portions have been proposed for approval and others have been approved or disapproved in other FEDERAL REGISTER issuances. The remaining portions have been superseded by the SIP revision submitted on October 31, 1975.

The SIP revision submitted on July 7, 1975 contained Air Pollution Control Regulations of the District Board of Health of Reno-Sparks-Washoe County (Washoe County Regulations) for the review of new and modified stationary and complex (indirect) sources.

The SIP revision submitted on September 10, 1975 contained revisions to the Nevada Revised Statutes. The statutes relating to air pollution control address authority for vehicular inspection and testing, complex source review, power plant emissions, public availability of emission data, stack testing, and other miscellaneous items.

The SIP revision submitted on October 31, 1975 contained only a revised version of the Nevada Air Quality Regulations covering amendments adopted through September 18, 1975.

Items submitted as revisions to the SIP on which no action is being taken at this time include: (1) State statutes and resolutions relating to non-air pollution control matters and those upon which the Administrator has no authority to act, (2) State statutes and State and county regulations relating to complex source review and authority because revisions to these statutes are being considered in the present legislative session and because EPA is currently precluded from enforcing its comparable indirect source regulations, and (3) variances to air pollution control regulations because they have expired. The complex source review authority termination will be the subject of a future FEDERAL REGISTER document.

Other items excluded from this action include those which have been the subject of previous proposed or final approval or disapproval actions and have not been revised, with two exceptions. These exceptions are: (1) Article 2.11.4 of the Nevada Air Quality Regulations on the subject of public hearings on the renewal of variances, approved on May 31, 1972 (37 FR 10842), now proposed for disapproval because it does not meet the requirements of 40 CFR 51.4(a)(1); and (2) the control strategy portions of the SIP for carbon monoxide and hydrocarbons-photochemical oxidants in the Las Vegas area of Clark County, Clark-Mohave-Yuma Interstate Air Quality Control Region (AQCR), approved on May 31, 1972 (37 FR 10842), now proposed for disapproval because they do not meet the requirements of 40 CFR 51.14(a)(1).

Disapproval is proposed for a portion of the Nevada Revised Statutes, NRS 445.635, submitted to EPA on September 10, 1975 as Section 1. of Senate Bill 612. The amendment to the statute limits the authority of the State to control emissions from motor vehicles by limiting the authority to inspect and test vehicles. This amendment severely limits the effectiveness of an important part of the SIP approved control strategies for carbon monoxide and hydrocarbons-photochemical oxidants for the Clark-Mohave-Yuma Interstate AQCR (Las Vegas area). Other controls will be needed to remedy the deficiency found in the control strategies, proposed for disapproval in another paragraph of this notice.

Disapproval is also proposed for a portion of the Nevada Revised Statutes, NRS 445.546(7), submitted on September 10, 1975 as portions of Assembly Bills 480 and 708. The amendment to the statute places a moratorium on all actions relating the enforcement of county regulations for power plants with a capacity greater than 1000 megawatts. EPA must propose disapproval of the moratorium because it renders the EPA approved regulations unenforceable by the State or county through July 1, 1977.

The Regional Administrator proposes to approve all portions of the specified revisions with the exception of those mentioned above.

Nevada Revised Statute, NRS 445.576, and Nevada Air Quality Regulation, NAQR Article 2.7.1, were disapproved on September 26, 1974 (39 FR 34537) because they could, in some circumstances, prohibit the disclosure of emission data to the public as is required by 40 CFR 51.11(a)(6), Legal Authority, and 40 CFR 51.10(e), General Requirements. Revisions to NRS 445.576 submitted on September 10, 1975 and to NAQR Article 2.7 submitted on October 31, 1974 correct the deficiencies. Thus, the Regional Administrator proposes to approve these revisions and to rescind the disapprovals at 40 CFR 52.1473(a), as it applies to emission data for sources under the jurisdiction of the State agency, at 40 CFR 52.1473(c), and at 40 CFR 52.1474(a). Also, the substitute regulations promulgated at 40 CFR 52.1473(b) will no longer apply to sources under the jurisdiction of the State.

The Washoe County regulations were disapproved on May 14, 1973 (38 FR 12709) because they did not include legally enforceable means of preventing the construction or modification of a stationary source if it would interfere with the attainment or maintenance of a national standard as is required by 40 CFR 51.18(c). The revision to the Washoe County regulations, Section 030., submitted on June 14, 1974, corrects the deficiency. Thus, the Regional Administrator proposes to approve the revision, as it applies to the review of new and modified stationary sources, and to rescind the disapproval and substitute regulations promulgated at 40 CFR 52.1478 (a) and (b), respectively.

PUBLIC COMMENTS

Interested persons are invited to submit comments concerning the proposed action to the Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, 100 California Street, San Francisco, California 94111. Relevant comments received on or before June 20, 1977, will be considered. All comments received will be available for inspection during normal working hours at the EPA-Region IX office and the EPA Public Information Reference Unit. The receipt of comments will be acknowledged, but substantive responses to individual comments will be provided only in the preamble to the final rulemaking.

AVAILABILITY OF DOCUMENTS

Copies of the applicable regulations and statutes, the EPA evaluation report and this FEDERAL REGISTER notice are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Regional Office, Region IX, Library, 100 California Street, San Francisco, California 94111.
Nevada Department of Human Resources, Environmental Protection Services, 201 South Fall Street, Carson City, Nevada 89710.
Washoe County District Health Department, Division of Environmental Protection, 10 Kirman Avenue, Reno, Nevada 89502.
Clark County District Health Department, Air Pollution Control Division, 625 Shadow Lane, Las Vegas, Nevada 89106.
Elko County Public Library, Elko, Nevada.
Public Information Reference Unit, Room 2922 (EPA Library), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: May 5, 1977.

PAUL DE FALCO, JR.,
Regional Administrator,
Region IX.

[FR Doc.77-14352 Filed 5-19-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 83]

[RM-2833; Docket No. 21240; FCC 77-320]

SHIP RADIO STATIONS OPERATING ON FREQUENCIES IN THE 1605-3500 kHz BAND

Channel Operation Requirements

AGENCY: Federal Communications Commission.

ACTION: Rulemaking proposal.

SUMMARY: This is a proposal to change the rules in response to a public request to provide that ship radio stations that operate in the frequency band 1605-3500 kHz need be equipped with only one, rather than two, working channels, if they are also equipped for operation in high frequency bands above 3500 kHz. This will permit ship stations to operate on more high frequency channels. The action also denies a request for certain relaxation of the 2182 kHz distress and calling frequency equipment and listening watch requirements. This denial will continue a requirement for a listening

watch on 2182 kHz for safety and efficient operational reasons.

DATES: Comments to be filed by: June 27, 1977, and reply comments by: July 7, 1977.

ADDRESSES: Send comments to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

S. W. Pratt, Aviation and Marine Division, Safety and Special Radio Services Bureau (202–632–7197).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 83 of the rules concerning equipment required for ship radio stations operating on frequencies in the 1605–3500 kHz band; Docket No. 21240; RM–2833.

Adopted: May 11, 1977

Released: May 18, 1977

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given.

2. We have received a petition from WJG, Inc., licensee of a public coast station at Memphis, Tennessee, to amend our rules in Parts 81 and 83 concerning required listening watches on the distress and calling frequency 2182 kHz and concerning the number of channels in the 1605–3500 kHz band with which a ship station operating in that band must be equipped for navigations exclusively in the Mississippi River system and connecting inland waters.

RULE CHANGES REQUESTED

3. Specifically, as we understand its petition, WJG requests as follows:

a. Section 81.104 (b) and (c) and 81.191(c)(1) of the rules, and any related sections, that require public coast stations operating in the band 1605–3500 kHz to be equipped to operate and maintain a listening watch on the frequency 2182 kHz, should be amended to exclude stations that communicate exclusively with vessels that are operating "solely within the waters of the Mississippi River system and connecting inland waterways".

b. Section 83.106(a) and any related sections that require all ship radio stations operating in the band 1605–3500 kHz to be equipped for operation on the frequency 2182 kHz and at least two other frequencies within that band, should be amended by reducing the requirement to "one other frequency", for vessels operating "solely within the waters of Mississippi River system and connecting inland waterways".

c. Section 83.213(b) and any related sections that require a listening watch buy noncompulsorily equipped vessels on the frequency 2182 kHz should be amended to exclude vessels operating "solely within the waters of the Mississippi River system and connecting inland waterways".

REASONS FOR RULE CHANGES

4. In support of its petition, WJG asserts, essentially, as follows:

a. There is no need for the subject public coast stations to be equipped for operation on 2182 kHz, and to maintain a listening watch on that frequency because the coast stations maintain watches on their working frequencies, and can, thus, be contacted by vessels on the working frequencies.

b. There is no need for vessels to maintain listening watches on 2182 kHz for safety reasons because there is now adequate VHF maritime radiocommunication service on the subject waters and distress or other communications can be established in that band (on the distress and calling frequency 156.8 MHz).

c. The requirement for vessels operating in the subject bands to have transmitters equipped with 2182 kHz and two working channels prevents vessel operators, who increasingly are operating ship stations on high frequencies above 3500 kHz, from equipping their stations with needed high frequencies. WJG asserts that most ship stations are using six channel radio sets and a reduction in the number of now required channels below 3500 kHz would make a proportionate number of channels available for operations on the higher frequencies.

DISCUSSION

5. With respect to WJG's request for rule changes to reduce the listening watch requirements on the distress and calling frequency 2182 kHz, and the elimination of the requirement that ship and public coast stations be equipped for operation on that frequency, we are going to deny that request. We do not conclude that the public interest would be adequately served at this time by diminishing the capability or role of those stations to participate in the maritime safety system and thereby furnish assistance to vessels in need of help. We recognize that the use of VHF maritime radio is widely used on the subject waters and elsewhere. We understand, however, there are still some areas on the Mississippi River, or its connected waterways, where a VHF signal, because of technical, atmospheric, operational, or other reasons, may not be heard, in which instance the only practicable method of summoning help would be by using the frequency 2182 kHz. Aside from the safety considerations, it may be true, as asserted by WJG, that a public coast station maintains watches on its working frequencies and can thus be so contacted, by ship stations. Vessel stations, however, do not often maintain watches on public coast station working channels and therefore can only be contacted from a point on shore by the coast station calling on the designated calling frequency 2182 kHz. Further, the ITU Radio Regulations are clear in their intent that all ships and coast stations licensed for operation in the 2 MHz band will be fitted with and listen for calls on 2182 kHz during their hours of operation. For these reasons we think it contrary to the international Radio Regulations and the public interest to relax the listening watch requirements on 2182 kHz, or to eliminate the existing requirements that vessel and coast stations be equipped for operations on that frequency.

6. Regarding WJG's request that the number of mandatory working channels for operation in the band 1605–3500 kHz in a ship station be reduced from two to one for vessels that are operating on other high frequencies, we conclude that this request may have merit. Consequently, we are proposing herein, as shown in the attached Appendix, that our rules be amended to so provide. This change would permit the licensee of a ship station, using a six channel radio set, to equip the station with up to four high frequencies above 3500 kHz, if the station were also equipped for operation on 2182 kHz and one working frequency in the band 1605–3500 kHz.

ORDER

7. Accordingly, the Petition of WJG, Inc., for rule making IS GRANTED, to the extent indicated in the attached Appendix, and in all other respects IS DENIED.

8. These rule changes, as set forth in the Attached Appendix, are proposed pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's rules, interested persons may file comments on or before June 27, 1977, and reply comments on or before July 7, 1977. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of Section 1.419 of the rules, an original and 5 copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

The footnotes (1 through 4) in § 83.106 are deleted, and paragraph (a) is amended to read as follows:

§ 83.106 Required frequencies for radiotelephony.

(a) Each ship radiotelephone station licensed to operate in the band 1605 to 3500 kHz shall be able to receive and transmit the emission A3H on the carrier frequency 2182 kHz, and, if the station is used for other than safety communications, it shall be capable also of receiving and transmitting the emission A3A and A3J on at least two other frequencies in that band; Provided, however, that for ship stations on vessels operating (1) exclusively on the Mississippi River and its connecting waterways, and (2) also on high frequency bands above 3500 kHz, such stations may be equipped with only one, instead of two, other frequencies within the band 1605–3500 kHz in addition to the frequency 2182 kHz.

* * * * *

[FR Doc.77–14441 Filed 5–19–77;8:45 am]

[47 CFR Parts 89, 91, 93 & 95]

[Docket No. 21137]

AUTOMATIC MORSE CODE IDENTIFICATION EQUIPMENT

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order Extending Time for Filing Comments and Reply Comments in Docket 21137.

SUMMARY: The Engineering Industries Association (EIA) petitioned for a 60 day extension of time for filing comments in Docket 21137 (amendment of Parts 89, 91, 93 and 95 of the Commission's Rules to permit the use of automatic Morse Code equipment) in order to evaluate potentially adverse effects on paging and notch-filtered data communications systems.

The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, concurred with the EIA request, and extended the time for filing comments from May 17, 1977, to July 18, 1977, and the time for filing reply comments from July 18, 1977, to August 18, 1977.

DATES: Comments must be received on or before July 18, 1977 and reply comments must be received on or before August 18, 1977.

ADDRESSES: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Federal Communications Commission, Safety and Special Radio Services, Bureau, Mr. James E. McNally, Jr. at (202) 632–6497.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 89, 91, 93, and 95 of the Commission's rules and regulations to permit the use of automatic Morse Code identification equipment. (See 42 FR 14124).

Adopted: May 12, 1977.

Released: May 16, 1977.

1. The Chief, Safety and Special Radio Services Bureau, acting under delegated authority, has under consideration a petition filed by the Electronic Industries Association (Communications Division) for an extension of time for filing comments in the above-captioned proceeding. The prescribed time for filing comments ends May 17, 1977. The petitioner requests that this deadline be extended to July 18, 1977.

2. In support of its petition, the Electronic Industries Association (EIA) indicates that there may be some technical problems with automatic Morse Code identification as proposed, particularly with respect to its potential adverse impact when used in paging or notch-filtered data communications systems. EIA states that it has not had the opportunity to fully explore these technical problems, and that others may arise during technical-level industry discussion of this proposal. Accordingly, they feel that the requested extension of time would serve the public interest.

3. Because the proposed automatic Morse Code station identification would be optional, it seems to us that advance determination of its suitability in various types of communications systems may not be a necessary prerequisite to our making a proper decision in this matter. Nevertheless, the availability of a comprehensive technical analysis of potentially adverse technical ramifications of automatic Morse Code identification would be of value from an informational standpoint, and could serve to alert those licensees contemplating the use of automatic Morse Code with potentially incompatible communications systems. For this reason, we believe the requested extension of time is reasonable and would serve the public interest.

4. Accordingly, it is ordered, pursuant to the authority contained in §§ 0.331 and 1.46 of the Commission's rules, That the time for filing comments in Docket 21137 is extended to July 18, 1977, and that the time for filing reply comments is extended to August 18, 1977.

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.77–14442 Filed 5–19–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 191]

GUIDANCE AND COUNSELING PROGRAMS

Proposed Criteria for Award of Grants

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Under the authority contained in Part D, Title III of the Education Amendments of 1976, Pub. L. 94–482 (20 U.S.C. 2531–34) (the Act), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to issue regulations governing the Guidance and Counseling programs that were enacted as part of the Act.

The proposed regulations set forth rules and criteria governing the award of grants by the Commissioner of Education to eligible applicants under these guidance and counseling programs. (See purposes under Supplementary Information.)

DATES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed regulation. All written comments must be received on or before July 5, 1977.

ADDRESS: Written and oral comments may be directed to Dr. Donald Twiford, Guidance and Counseling Program, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3608, ROB No. 3) Washington, D.C. 20202. Written responses to this notice may be inspected by the public in Room 3608, ROB No. 3, Washington, D.C. Monday through Friday between 8:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Donald Twiford, Telephone: (202) 245–2243.

SUPPLEMENTARY INFORMATION:

PURPOSES

The Act authorizes three new guidance and counseling initiatives described below, with the intent of (1) providing programs, projects and leadership activities by States in guidance and counseling for FY 1977, (2) increasing the coordination of guidance and counseling activities at the Federal, State, and local levels, and (3) improving the qualifications of guidance and counseling personnel, with special emphasis on inservice training which takes educational professionals into the work-places of business, industry, and the professions.

Subpart B of the regulations governs a program of grants to States in Fiscal Year 1977 for "programs, projects, and leadership activities to expand and strengthen guidance and counseling services in elementary and secondary schools." These grants will be allotted to the States on a formula grant basis, and to Guam, American Samoa, the Virgin Islands, the Trust Territory, schools for Indian children operated by the Department of the Interior, and the overseas dependent schools of the Department of Defense on the basis of their respective needs.

Subpart C of the regulations governs a competitive grant program for Fiscal Years 1978 and 1979 to assist State and local educational agencies, institutions of higher education, and private nonprofit organizations in conducting institutes, workshops, and seminars to improve the professional guidance qualifications of teachers, counselors, and supervisory and technical personnel having responsibilities for guidance and counseling, and to improve guidance and counseling supervisory services in State and local educational agencies and nonpublic elementary and secondary school systems.

Subpart D governs a program of grants to be made to States to assist them in

carrying out programs to coordinate new and existing programs of guidance and counseling.

Additionally, the Congress provides for the establishment or designation of an administrative unit within the Office of Education to (1) provide information regarding guidance and counseling activities to Federal, State, and local governments, (2) advise the Commissioner on coordinating guidance and counseling at the Federal level and, where practicable, at the State and local levels, and (3) administer the programs under this part.

CITATIONS OF LEGAL AUTHORITY

As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of statutory or other legal authority for each section of the regulation has been placed in parenthesis on the line following the text of the section. References to "Sec." in the citations of authority following provisions of the proposed regulation refer to sections of the Education Amendments of 1976, Pub. L. 94–482. If the citation uses the word, "interprets," the regulation provisions include an interpretation of the cited statutory provision. If the citation uses the word, "implements," the regulation provisions include rules deemed necessary to implement the statute.

PUBLIC RESPONSE TO THE NOTICE OF INTENT TO ISSUE REGULATIONS

On November 22, 1976 the Office of Education published in the FEDERAL REGISTER a Notice of Intent to Publish Regulations, which provided the public with an opportunity to offer ideas and to make recommendations regarding the Guidance and Counseling Program under Part D of Title III of Pub. L. 94–482.

Thirty-five responses were received as a result of this notice. The responses were representative of eligible applicants under Part D, with more responses from State and local educational agencies than from institutions of higher education and private, nonprifit organizations. A number of responses were received from State and national professional associations and advisory councils, which are concerned with guidance and counseling.

These responses were addressed primarily to the 12 issues set forth in the Notice of Intent. The issues are restated from the Notice of Intent in the order in which they appeared, accompanied by a summary of the public's comments and a response by the Office of Education.

Issue No. 1: Definition of State agency for Purposes of Sections 342(a) and 344(b). Should there be regulation provisions to define what State agencies may apply on behalf of the "State" or to avoid multiple applications from within a particular State under Sections 342(a) and 344(b)?

Comments: A majority of the responses addressing this issue indicated that the State educational agency should be the only agency applying for Federal funds on behalf of the State under Sections 342(b) and 344(b) of the Act; also, a significant number of comments expressed the view that all applications received for competitive grant projects under Section 344(a) of Part D should be coordinated by, or cleared through the State educational agency.

Response: The proposed regulations in § 191.17(b) and § 191.42 provide that the eligible agency to receive grants to States under Sections 342(b) and 344(b) is the State agency which is vested with the direct and primary responsibility for State supervision of programs of guidance and counseling at the elementary and secondary levels. Also, to further assure coordination at the State level, an applicant for competitive grants under Section 344(a) must provide a copy of the application to the State educational agency for its review and comment as set forth in § 191.32.

Issue No. 2: Training needs of Counselors and Teachers. In seeking to improve the guidance and counseling qualifications of teachers and counselors through the competitive grant program authorized by Section 344(a) of Part D, the Office of Education is interested in comments on the specific areas in which guidance and counseling professionals are most in need of further training. Should these areas of need be reflected in the priorities developed for evaluation of applications?

Comments: Responses to this issue expressed a wide variety of training needs, such as: career development, group guidance, decision making, problem solving, placement, counseling and consultation skills, and projects to serve as models for training practices and procedures. A number of responses emphasized the importance of flexibility in order that training needs may be determined in accordance with varying needs of the applicants and expressed the position that national priorities for training should not be stipulated in the regulations.

Response: In response to comments received, national priorities are not stipulated in the proposed regulations, thus permitting flexibility in terms of developing projects to meet the varying needs of applicants. Emphasis has been given in § 191.33(g) to the establishment of demonstration models which can be replicated by other agencies or institutions with similar educational needs. Also consistent with the statute and its legislative history, emphasis is given in the application criteria, set forth in § 191.33 (h) and (i), on the extent to which a proposed project has the potential to contribute to the alleviation of unemployment among youth, through interrelationships with the world of work, and the extent to which the project involves inservice training to increase the understanding of teachers and counselors of the world of work, and to provide for increased use of persons in business, industry, the professions and other occupational pursuits in the guidance and counseling program.

Issue No. 3: Needs Assessment. Should applicants be required to submit a needs assessment plan so as to ensure targeting of funds to areas of need?

Comment: Responses almost unanimously endorsed "a needs assessment" to provide a basis for determining types of training projects as a requirement for project applications. The comments reflected the view that the projects should provide inservice training for teachers, counselors, and supervisory and technical personnel who currently are functioning in those capacities.

Response: The proposed regulations reflect the recommendations received by requiring in § 191.31(d)(1) a needs assessment.

Issue No. 4: Achievement of Maximum Impact in Grant Program. Given the limitations on the levels and duration of Federal funding, how should the competitive grant program under Section 344(a) be designed to achieve the maximum impact?

(a) Should the emphasis be upon funding many small grants or a few large grants?

(b) Should projects be funded as seed grants, as demonstrations, or as service projects?

(c) Should geographic distribution of projects be a funding consideration?

(d) Should there be specific limits in the regulation on the types of expenditures which will be allowable in these projects?

Comments: Small or large grants: The majority of responses favor a large number of small grants rather than a few large grants. However, several responses indicated that both small and large grants should be considered depending upon need. One recommendation would have two or more large "National" grants, each fielding a large number of small teams to cover specified target areas.

Demonstration-seed-service: For the most part responses favored demonstration and service grants over seed grants, with more opting for demonstration than for service.

Geographic distribution: There was strong consensus that geographical distribution should be considered in funding of projects. A number of responses specified that there should be balance among urban, rural, and suburban areas.

Types of Expenditures: Many responses addressing this issue indicated that expenditures should be for program or services rather than capital outlay or equipment. Some would eliminate stipends but recommend reasonable amounts for necessary costs such as travel and per diem.

Response: The position taken in the proposed regulations incorporates the predominant recommendations from the responses. Flexibility has been provided in § 191.36 with reference to size of grants, but with an expressed intention to fund mostly grants of limited size. Flexibility also has been provided with reference to types of grants (demonstration, service, or seed) with more emphasis upon demonstration in relation to model projects as indicated in § 191.29(a)(4) and § 191.30(b)(5). Consideration is given in § 191.33(f)(1) to geographic distribution in the funding of projects, and in § 191.35 to types of expenditures by way of de-emphasizing equipment and excluding stipends.

Issue No. 5: Involvement with World of Work. How can the Office of Education ensure that in the grants made under Section 344(a) there is coordination and involvement of business, industry, and the professions, as provided for under the statute? Should payments to business, industry, and other institutions for the costs of involvement and coordination be an allowable expenditure for a recipient of a grant under Section 344(a)?

Comments: None of the responses would specifically require involvement of business and industry, the professions, and other occupational pursuits in all training applications. A number of responses stated that such involvement should not be required in all training projects. Responses dealing with payment to these agencies would, for the most part, either not allow payments or would limit them to costs incident to participation in training projects such as travel, and per diem costs.

Response: The proposed regulations do not require that each training project include activities related to business and industry, the professions and other occupational pursuits. Such involvement, however, is encouraged by including reference to it in § 191.29(a), and in § 191.33 (h) and (i) in the application review criteria. Payment to trainees and participants from occupational pursuits by recipients is limited in § 191.35 to costs such as travel and per diem costs.

Issue No. 6: Improvement of Supervisory Services. How can supervisory services in guidance and counseling be improved?

(a) Do the supervisory services needs differ according to the agency or institution providing the guidance and counseling?

(b) Where are the most pressing needs for Federal funding in the area of supervisory services for guidance and counseling?

Comments. The comments reflected agreement that needs for improving supervisory services differ according to the agency or institution. Some expressed the view that experimentation in supervisory models should be encouraged. There was no consensus on the most pressing needs for improving supervisory services, except that a majority believe such services should be expanded.

Response: In accordance with the opinions expressed by a majority of the comments, no attempt has been made in the proposed regulations to establish priorities for improvement of supervisory services. It was clear from the comments that needs vary widely according to the individual agency or institution. However, special consideration in the application review criteria, § 191.33(g), is given to project applications which reflect a model approach to supervisory services.

Issue No. 7: Duration of Training. What should be the duration of the training to be provided under grants:

(a) For improvement of professional guidance and counseling qualifications of teachers and counselors; and

(b) For improvement of supervisory services?

Comments: There was no consensus for duration of training in terms of specific time limits. A majority of the responses stressed flexibility, but more favored short-term than long-term.

Response: The proposed regulations provide in § 191.34 for a grant period of up to one year. Short-term training only is authorized, as provided in § 191.29(a)(5).

Issue No. 8: Number of Counselors and Teachers to be Served. Should projects funded under Section 344(a) plan on training all of the counselors in a given school system or a few counselors from each of a number of school systems?

Comment: A majority of the responses addressing this issue indicate that all counselors in a school system should have the opportunity for training, but that this is a matter to be left to the individual applicant.

Response: In compliance with comments and recommendations received, this issue has not been addressed in the proposed regulations.

Issue No. 9: Competitive Grants to States. In making grants to States under Section 344(b) should a limited number of competitive awards be made, or should every State be funded, subject to certain standards of quality?

Comment: Responses to this issue were almost unanimous in support of funding every State subject to certain standards of quality.

Response: The proposed regulations in § 191.47 express the intent to make a grant to all those States that meet the requirements and satisfy the criteria which are established for funding.

Issue No. 10: Funding Criteria for Coordination Grants to States. Under the grant program authorized by Section 344(b), what should be the funding criteria or standards?

Comment: Many of the responses did not specifically address this issue. The major emphases among those that did respond to the question were upon the needs, objectives, activities, evaluation, size, and scope as criteria for funding proposed projects.

Response: Required application data in § 191.44 and the criteria in § 191.45 in the proposed regulations incorporate the recommendations.

Issue No. 11: Coordination by States. For the purpose of determining project eligibility under Section 344(b), what should the term "coordinate" include? Should there be specific allowable expenditures?

Comments: Responses to this issue were limited. The responses which addressed this issue generally interpret "coordinate" broadly to include leadership by the State educational agency in coordinating total guidance efforts within a given State (including guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs) in the establishment and implementation of State-wide guidance and counseling objectives and activities.

Response: The concept of coordination as expressed by a number of respondents has been incorporated in § 191.43 in the proposed regulations.

Issue No. 12: Teachers as Counselors. Under Section 344(a), to what extent should emphasis be given to preparing teachers as professional counselors?

Comment: The majority of comments and recommendations did not favor preparing teachers as professional counselors. The view expressed by most of the responses to this issue recognize specific guidance roles and responsibilities of teachers within the framework of a total guidance program.

Response: In accordance with the prevailing point of view expressed in comments received, the proposed regulations in § 191.26 limit in-service training to that which assist teachers, counselors, and supervisory and technical personnel more effectively to carry out their specific current roles in a guidance program.

INVITATION TO COMMENT

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation to Dr. Donald Twiford, Guidance and Counseling Program, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3608, ROB No. 3) Washington, D.C. 20202. Written responses to this notice may be inspected by the public at the above office Monday through Friday between 8:30 a.m. and 4 p.m.

All written comments must be received on or before July 5, 1977.

It is expected that the opportunity for written comments will constitute an adequate opportunity for public response to the proposed regulation, particularly given the non-controversial nature of its contents. Since this is a new budget authorization in which no final funding decisions have been made, no public hearings are scheduled on the proposed regulations.

Oral inquiries concerning the proposed regulation may be directed to: Dr. Donald Twiford, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3608, ROB No. 3) Washington, D.C. 20202. Telephone: 202–245–2243.

It is hereby certified that this proposed rule has been screened pursuant to Executive Order No. 11821, and does not require an Inflationary Impact Evaluation.

Dated: February 18, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

Approved: May 13, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance No. 13.577 Guidance and Counseling Program.)

PART 191—GUIDANCE AND COUNSELING

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AUTHORITY: Secs. 341–44, Pub. L 94–482 (20 U.S.C. 2531–34).

Subpart A—General

§ 191.10 Scope.

(a) The regulations in this part govern the award of grants with funds appropriated pursuant to Part D of Title III of the Education Amendments of 1976, Pub. L. 94–482.

(b) The award of grants under this part is subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters, 45 CFR Parts 100, 100a) except that application requirements set forth in § 100a.16 and evaluation criteria set forth in § 100a.36(b) do not apply to awards under this part.

(Sec. 341, 20 U.S.C. 2531, 1221c.)

§ 191.11 Purpose.

The purpose of this part is through Federal financial assistance, to:

(a) Provide programs, projects, and leadership activities by the State to expand and strengthen counseling and guidance services in elementary and secondary schools.

(Sec. 342(b)(1), 20 U.S.C. 2532(b)(1).)

(b) Improve the professional guidance qualifications of teachers and counselors.

(Sec. 344(a), 20 U.S.C. 2534(a).)

(c) Provide training for supervisory and technical personnel having responsibilities for guidance and counseling.

(Sec. 344(a), 20 U.S.C. 2534(a).)

(d) Improve guidance and counseling supervisory services; and

(Sec. 344(a), 20 U.S.C. 2534(a).)

(e) Coordinate new and existing programs of guidance and counseling in the States.

(Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.12 Definitions.

As used in this part:

(a) "Guidance" means a program provided by or under the leadership and supervision of, professional counselors, involving teachers and resource personnel, to assist elementary and secondary school students in their educational, vocational, and personal-social development. A program of guidance services includes, but is not limited to, counseling, information, placement, appraisal, and follow-up and research.

(Interprets Sec. 341, 20 U.S.C. 2531.)

(b) "Counseling" is one of the basic components which constitute a program of school guidance services, and means a process conducted by a professional counselor in face-to-face or group settings to assist the student for the purpose of resolving or better understanding a problem, or planning and carrying out a course of action.

(Interprets Sec. 341. 20 U.S.C. 2531.)

(c) "Elementary school" means a day or residential school which provides elementary education, as determined under State law, and "Elementary school level" means the educational level at which elementary education is provided under State law.

(Interprets Secs. 342, 344, 20 U.S.C. 2532, 2534.)

(d) "Inservice training" means institutes, workshops, or seminars to improve guidance qualifications of teachers, counselors, and guidance supervisory and technical personnel in State and local educational agencies or nonpublic elementary and secondary school systems during their time of service.

(Interprets Sec. 344(a), 20 U.S.C. 2531(a).)

(e) "Institution of higher education" means an institution of higher education in any State as defined in section 1201 of the Higher Education Act of 1965, as amended (20 U.S.C. 1141).

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(f) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of school districts or counties recognized in a State as an administrative agency for its public elementary or secondary schools. This term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(g) "Nonprofit organization" means an organization owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(h) "Nonpublic elementary and secondary school system" means two or more private elementary and/or secondary schools joined together in a common education program under central administrative control or direction.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(i) "Secondary school" means a day or residential school which provides secondary education as determined under State law except that it does not include any education provided beyond grade 12, and "Secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided as determined under State law.

(Interprets Secs. 342, 344, 20 U.S.C. 2532,

(j) "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(Interprets Secs. 342, 344, 20 U.S.C. 2532, 2534.)

(k) "Students" refers to elementary or secondary school students and not teachers, counselors, supervisors, and technical personnel who are participants in institutes, workshops, and seminars.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

(l) "Supervisory services" means those activities which are specifically designed to improve programs of guidance and counseling, and which are carried out by professional guidance personnel who have responsibilities within State and local educational agencies and nonpublic school systems for directing and coordinating the guidance and counseling efforts of staff members in the respective agencies or school systems.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

(m) "State educational agency" means the State board of education or other agency or officer primarily responsible for State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

§§ 191.13—191.14 [Reserved]

Subpart B—Strengthening Guidance and Counseling Services

§ 191.15 Scope.

This subpart applies to the program of guidance and counseling for which grants are authorized by Section 342(b) of Part D of Title III of Pub. L. 94–482. This program is authorized for fiscal year 1977.

(Sec. 342, 20 U.S.C. 2532.)

§ 191.16 Purpose.

The purpose of the program authorized by this subpart is to provide for programs, projects, and leadership activities designed to expand and strengthen guidance and counseling services in elementary and secondary schools through grants (a) to States and (b) to other recipients set forth in § 191.17(a).

(Sec. 342, 20 U.S.C. 2532.)

§ 191.17 Eligible recipients.

(a) Eligible recipients under this subpart include: (1) the States, (2) the Department of the Interior (for children and teachers in elementary and secondary schools operated for Indian children in the Department of Interior), and (3) the Department of Defense (for children and teachers in the overseas dependent schools of the Department of Defense).

(b) A grant to a State under this subpart will be made to that State agency which is vested with the direct and primary responsibility for State supervision of programs of guidance and counseling at the elementary and secondary school levels.

(Implements Sec. 342, 20 U.S.C. 2532.)

§ 191.18 Required application.

Any State or other eligible applicant under § 191.17 desiring to receive funds for the purpose of this subpart shall, as a condition to the receipt of these funds, file an application with the Commissioner providing the following information:

(a) Documentation that the applicant agency is the appropriate grant recipient under § 191.17;

(b) The needs to be met by the proposed activity;

(c) Objectives which are clearly related to the purposes of this program and capable of being attained by the proposed activities;

(d) A description of the activities to be carried out with these funds which satisfies the Commissioner (1) that these activities are designed to achieve the stated objectives, and (2) that funds will be used only to carry out the purposes of this subpart;

(e) A description of the program staff and other resources to carry out the activities;

(f) Provision for such methods of administration as are necessary for the proper and efficient administration of the proposed project; and

(g) Provisions for such fiscal control and fund accounting procedures and reports as may be required pursuant to applicable provisions of Part 100a of this chapter.

(Implements Sec. 342, 20 U.S.C. 2532, 1232c (b) 1221e–3(a)(1).)

§ 191.19 Distribution of funds.

(a) From sums appropriated for purposes of this subpart, the Commissioner will first allot amounts to Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific according to their respective needs. The Commissioner generally bases a determination of these needs on the number of children aged five to seventeen inclusive in each jurisdiction.

(b) The amounts allotted to the Department of Defense (for children and teachers in the overseas dependent schools of the Department of Defense) and to the Department of the Interior (for children and teachers in the elementary and secondary schools operated for Indian children in the Department of the Interior) are based upon the amounts necessary for the programs, projects, and activities authorized under this subpart. These amounts are to be determined with reference to the number of children aged five to seventeen inclusive in these schools.

(c) After the amounts under paragraphs (a) and (b) have been allotted, the Commissioner allots to each State, other than Guam, American Samoa, the Virgin Islands, and the Trust Territories of the Pacific, from those amounts that remain, in accordance with Section 342(b)(3)(B) of the Act, an amount which bears the same ratio to those remaining amounts as the number of children in that State, aged five to seventeen inclusive, bears to the total number of children in all these States.

(Implements Sec. 342, 20 U.S.C. 2532.)

§ 191.20 Allowable costs.

The Commissioner determines allowable costs pursuant to this subpart in accordance with principles set forth in Appendix B of Subchapter A of this chapter (Office of Education General Provisions Regulations).

(20 U.S.C. 1221c.)

§§ 191.21—191.24 [Reserved]

Subpart C—Improving Guidance Qualifications of Personnel and Improving Supervisory Services

§ 191.25 Scope.

(a) This subpart applies to the award of grants under the program of guidance and counseling authorized by section 344(a) of Part D of Title III of Pub. L. 94–482.

(b) The award of any contracts under Section 344(a) will be made in accordance with applicable procurement regulations in 41 CFR Chapters I and 3 and the provisions of specific requests for proposals, and will not be subject to the provisions of this subpart.

(Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.26 Purpose.

(a) The purpose of this subpart is (1) to improve the professional guidance qualifications of teachers, counselors, supervisory personnel, and technical personnel through inservice training to enable them more effectively to carry out their specific current roles, and (2) to improve supervisory services in the field of guidance and counseling;

(b)(1) Two kinds of projects will be funded under this subpart:

(i) Inservice training projects described in § 191.29; and

(ii) Projects to improve supervisory services described in § 191.30.

(2) An applicant may propose a single project with activities described under both of these sections.

(Interprets Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.27 Eligible applicants.

The following agencies and organizations are eligible for grants under this subpart: (a) State educational agencies; (b) Local educational agencies; (c) Institutions of higher education; and (d) Private nonprofit organizations.

(Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.28 Eligible participants.

The following persons are eligible to participate as trainees in training programs funded under § 191.29:

(a) Teachers and counselors in State and local educational agencies;

(b) Teachers and counselors in nonpublic elementary and secondary school systems;

(c) Supervisory and technical personnel in State and local educational agencies with responsibilities for guidance and counseling; and

(d) Supervisory and technical personnel in nonpublic elementary and secondary school systems with responsibilities for guidance and counseling.

(Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.29 Projects for training.

(a) *Nature of project.* (1) The projects funded under this section support inservice training programs in the form of institutes, workshops, and seminars to improve the professional guidance qualifications of teachers, counselors, and supervisory and technical personnel in their current roles, for the purpose of improving the guidance and counseling program provided to students in elementary and secondary schools.

(2) Two major emphases which an applicant may choose to address in these projects are:

(i) To increase the understanding of teachers and counselors about the world of business, industry, professions, and other occupational pursuits through exposure to these areas; and

(ii) To provide for increased use of persons experienced in business, industry,

the professions, and other occupational pursuits in guidance and counseling programs, by (A) bringing these persons into the schools as counselors and advisors for students; and (B) bringing students into the workplace for observation and participation to acquaint them with the nature of the work.

(3) To receive assistance under this part, an inservice training project must:

(i) Be designed on the basis of a needs assessment for a specific group of trainees; and

(ii) Serve as a resource for contributing to improved programs of guidance and counseling services within the schools served by the trained counselors or teachers. (For example, a counselor, as a participant in an institute provided by a grant recipient, could spend one day a week in industry so that, upon completion, the counselor would be more aware of the opportunities and requirements of different occupations and would thus be able to provide a better program of guidance and counseling services.)

(4) Applicants may wish to propose specific training activities designed to demonstrate exemplary ways of involving persons from business and industry, the professions, and other occupational pursuits in guidance and counseling programs.

(5) Inservice training programs supported under this subpart must be short-term, with no program exceeding a year for each group of trainees. Normally, a workshop, institute, or seminar conducted on a daily basis may not exceed a three-month period for each group of trainees. However, training may be carried out on a more extended, but periodic basis, e.g., 1 to 6 hours a week, but for a period not to exceed a year.

(Implements Secs. 341, 344(a), 20 U.S.C. 2531, 2534(a).)

(b) *Types of activities.* Projects designed for training purposes may include, among other training activities, one or more of the following:

(1) Inservice training programs which involve counselors and teachers in demonstration models which bring individuals with experience in occupational pursuits into schools as counselors or advisors for students, and which bring students into work-places to acquaint students with the nature of the work;

(2) In service training programs for teachers and guidance counselors in State and local educational agencies and non-public elementary and secondary school systems so that they can obtain experience in business and industry, the professions, and other occupational pursuits. (These programs may include individual and group experiences in observing or participating in various occupational pursuits); and

(3) Training of supervisory and technical personnel designed to improve the supervisory knowledge and skills, including effective management and administrative procedures, of persons assigned to guidance and counseling programs. As used in this subparagraph, "supervisory and technical personnel" means professional guidance staff who have designated responsibilities within State and local educational agencies or nonpublic school systems for directing and coordinating the efforts of staff working in guidance programs in the respective agencies or school systems, or for providing technical assistance in such areas of specialty as elementary school guidance, student appraisal, career development, occupational information, counseling, techniques, and group procedures, to improve the quality of services within guidance and counseling programs.

(Implements Secs. 341, 344(a), 20 U.S.C. 2531, 2534(a).)

§ 191.30 Projects for improving supervisory services.

(a) *Nature of projects.* (1) Projects under this section are designed to improve supervisory services of guidance and counseling in State and local educational agencies and nonpublic school systems, as opposed to concentrating on personnel qualifications of supervisory personnel.

(2) The Commissioner encourages the submission of projects providing for exemplary supervisory practices which may serve as models for replication by other State and local educational agencies and nonpublic school systems. Exemplary approaches to accountability in terms of evaluating guidance outcomes is an example of a type of project which has potential for improving supervisory services. (Educational accountability includes a process of establishing objectives, delineating tasks and activities, and having personnel who are held responsible for accomplishing the objectives.)

(b) *Types of activities.* Activities designed to improve supervisory services in the field of guidance and counseling in State and local educational agencies and nonpublic elementary and secondary school systems may include, but are not limited to, one or more of the following:

(1) Expanding and coordinating supervisory services in guidance and counseling programs;

(2) Providing or increasing technical or consultative assistance to guidance and counseling personnel;

(3) Implementing or improving accountability through:

(i) Assessment of students' needs for guidance;

(ii) Planning and implementing guidance objectives; and

(iii) Evaluating guidance outcomes;

(4) Planning and preparing guidance and counseling materials and information; and

(5) Demonstrating successful supervisory practices in guidance and counseling.

(Implements Secs. 341, 344(a), 20 U.S.C. 2531, 2534(a).)

§ 191.31 Content of application.

An eligible applicant which seeks to receive a grant under this subpart shall file an application which must include:

(a) A cover sheet(s) which includes the following:

(1) The identification of the purpose and the type of activity such as training or improved supervisory services to which the application is addressed; and

(2) A brief abstract of the proposed project;

(b) A copy of the letter of transmittal of the application which was submitted to the appropriate State educational agency for the purpose of State review and comment as provided under § 191.32;

(c) A statement that the special needs of handicapped students and the need for reducing race and sex stereotyping have been considered in the development of the operational plan described in paragraph (d); and

(d) An operational plan describing in detail how the applicant proposes to achieve the purpose(s) identified in the application.

(1) This plan must include, but need not be limited to:

(i) A description of the needs determined by a needs assessment (including an assessment of needs of students, such as unemployment needs, to be served in guidance and counseling programs) and the procedures used in carrying out the needs assessment;

(ii) Objectives which are related to the purposes of this subpart;

(iii) A description of project activities and information on the size, scope, and duration of the proposed project;

(iv) An evaluation design;

(v) Milestones and dates for the completion of project activities;

(vi) Identification of all proposed staff positions, and a description of the duties and qualifications required for these positions;

(vii) An estimated cost for each of the program activities;

(viii) A description of the resources available to the applicant to carry out the proposed project; and

(ix) A description of any activities to be contracted.

(2) If the applicant proposes to improve the professional guidance qualifications of personnel, in addition to the other information required by this section, the following information must be included in the operational plan:

(i) A description of the target population, methods, and criteria to be used in selecting participants;

(ii) Evidence of any commitment already received from outside organizations, groups, or individuals to cooperate in the implementation of the proposed activities, including any evidence of involvement with persons from business and industry, the professions, and other occupational pursuits and evidence of cooperation with other agencies and organizations which are involved in providing guidance and counseling services; and

(iii) In cases where an applicant proposes to train personnel who are not in their employ, a copy of the training agreement between the applicant and the agency or organization where the prospective trainees are located.

(3) The applicant is encouraged to respond in the operational plan to each criterion in § 191.33. Except with respect to paragraph (f) of § 191.33, if the plan does not provide information responsive to a particular criterion, this will deny the applicant the opportunity to receive points for that criterion.

(Implements Sec. 344(a), 20 U.S.C 2534(a).)

§ 191.32 State review of application.

(a) The applicant must provide a copy of its application to the State educational agency of each State in which is located the agency or organization where the prospective trainees are employed concurrently with its submission of the application to the Commissioner.

(b) The Commissioner will not approve an application submitted by an applicant unless each appropriate State educational agency under paragraph (a) has been given an opportunity to review and comment on the application.

(c) The Commissioner may establish a cut-off date for submission of comments on applications by State educational agencies. If the Commissioner establishes such a date, failure by a State educational agency to submit comments to the Commissioner within the period specified shall be deemed a waiver of the State educational agency's opportunity to comment on that application.

(Implements Secs. 343(a)(3), 344(a), 20 U.S.C. 2533(a)(3), 2534(a).)

§ 191.33 Application review criteria.

Applications submitted under this subpart will be reviewed to determine the extent to which they meet specific program criteria. Each criterion is assigned a maximum score and is weighted in terms of its relative value to the rest of the application criteria. The total number or points for all criteria is 100. The criteria and the maximum point score for each criterion are as follows:

(a) *Need.* Maximum score, 10. The application clearly describes the need, through documented evidence for training and/or improved supervisory services, and the procedures used in determining the need. The need should be based on the guidance needs of students in the location where trainees are employed.

(b) *Objectives and activities.* Maximum score, 30. The application:

(1) Clearly sets forth objectives which are: designed to meet the purposes of this subpart; sharply defined; clearly stated; capable of being attained; and capable of being measured;

(2) Sets forth activities, tasks, and strategies, which, when implemented, will achieve the stated objectives, including milestones and dates by which to monitor the completion of each of the proposed activities;

(3) Sets forth training or supervisory objectives and activities which respond effectively to the needs of students documented in the needs assessment;

(4) Sets forth project activities which are designed to serve as a resource for improving guidance and counseling services within schools which receive supervisory services, or which are served by teacher and counselor trainees;

(5) Gives evidence, in those applications proposing to provide training, of commitments from outside organizations, groups, or individuals to cooperate in the implementation of proposed activities or in those applications proposing to improve supervisory services, of plans for working with other appropriate units;

(6) Clearly describes the criteria and processes for selecting participants in training activities and clearly describes criteria and processes for developing comprehensive and coordinated guidance programs in activities to improve supervisory services.

(c) *Evaluation plan.* Maximum score, 10. The quality of provisions set forth in the application for evaluating the effectiveness of the project and for determining the extent to which each of the objectives will be achieved.

(d) *Personnel.* Maximum scores, 10. The qualifications and experience of project staff and strength of commitment from individuals and groups whose assistance is needed to accomplish the proposed objectives.

(e) *Budget.* Maximum score, 10. The application gives evidence that the size, scope, and duration of the project are reasonable and that the estimated cost is reasonable in relation to the anticipated results of each of the proposed activities.

(f) *Distribution of projects.* Maximum score, 10. The extent to which approval of the project will contribute to:

(1) An equitable geographic distribution of programs funded under this subpart throughout the United States in both urban and rural areas; and

(2) The funding of a wide variety of projects which collectively can demonstrate diverse approaches to meet effectively the purposes of this subpart.

(g) *Models.* Maximum score, 10. The extent to which approval of the project will contribute to the establishment of a model or models which can be replicated by other agencies or institutions with similar educational needs. In applying this criterion, the Commissioner shall consider (1) the extent to which similar needs to those addressed by the proposed project exist in other agencies or institutions and (2) the design of the proposed project.

(h) *Alleviation of unemployment among youth.* Maximum score, 5. The extent to which approval of the project has potential for contributing to the alleviation of unemployment among youth through interrelationships with business and industry, the professions, and other occupational pursuits.

(i) *World of work.* Maximum score, 5. The project involves inservice training to increase the understanding of teachers and counselors of the world of business, industry, professions, and other occupational pursuits through exposure to these areas, and to provide for increased use of persons employed in business, industry, the professions and other occupational pursuits in the guidance and counseling programs, by bringing these persons into the schools to assist teachers and counselors, and bringing students into the work-place for observation and participation in order to acquaint them with the nature of the work.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.34 Project duration.

Project awards pursuant to this subpart will be for a grant period of up to one year. If a grantee seeks to receive assistance under this part for an additional period beyond the grant period, it must submit a new application for a new grant award. The new application will be evaluated in competition with applications from other former grantees as well as from applicants which have not previously received assistance under this part.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

§ 191.35 Allowable costs.

(a) Allowable costs in grants pursuant to this subpart are determined in accordance with principles set forth in the applicable appendices to Subchapter A of this chapter (Office of Education General Provisions for Programs), subject to the following provisions.

(b) Costs of materials and equipment are limited and allowed only if essential and reasonable in relation to anticipated results.

(c) Allowable costs may include travel, meals, lodging, and other costs incident to trainees' participation in institutes, workshops, and seminars, designed to improve professional guidance qualifications, but shall not include stipends or other forms of compensation. Payment of substitutes for teachers and counselors during the time of their participation in the inservice training is allowable only if specifically approved in writing by the Commissioner.

(d) (1) The costs of bringing representatives of business and industry, the professions, and other occupational pursuits into schools as counselors or advisors to students, and of bringing students into work-places to acquaint them with the nature of the work are allowable program costs only if carried out through workshops, institutes, or seminars and if they serve training purposes for participant counselors and teachers.

(2) Allowable costs of these activities (operated in institute, workshop, or seminar settings) are limited to travel, per diem expenses, and other incidental costs, and do not include stipends or other types of compensation to participant students, trainees, or representatives of occupational pursuits.

(Implements Sec. 344(a), 20 U.S.C. 2534(a), 1221c.)

§ 191.36 Amount of award.

The amount of an award will be affected by the quality of the project pursuant to criteria in § 191.33. It is expected that the amount of an award for in-service training projects as specified in § 191.29 will be relatively small, with most awards within the range of $5,000 or less to $25,000, and normally will not exceed $50,000. Awards for projects to improve supervisory services, as specified in § 191.30, normally will not exceed $100,000. Nothing in this section shall be construed as a limitation on the amount of a particular grant.

(Implements Sec. 344(a), 20 U.S.C. 2534(a).)

§§ 191.37—191.39 [Reserved]

Subpart D—Coordinating Guidance and Counseling Programs

§ 191.40 Scope.

This subpart applies to the program of guidance and counseling for which grants are authorized by section 344(b) of Part D of Title III of Pub. L. 94–482.

(Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.41 Purpose.

The purpose of the program authorized by this subpart is to assist States in coordinating new and existing programs of guidance and counseling in the States, working with the assistance of and in cooperation with the administrative unit within the Office of Education responsible for coordinating and providing information on guideance and counseling under section 343(a), Part D, Title III of Pub. L. 94–482.

(Sec. 343(a)(3), 344(b), 20 U.S.C. 2533(a)(3), 2534(b).)

§ 191.42 Eligible applicants.

Grants under this subpart may be made only to that State agency within each State which is vested with the direct and primary responsibility for State supervision of programs of guidance and counseling at the elementary and secondary school levels.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.43 Activities.

Coordination of guidance and counseling programs supported under this subpart may include, but is not limited to, the following activities:

(a) Identification of guidance and counseling programs supported jointly or separately by Federal programs, and by State and local programs;

(b) Initiating and conducting a Statewide guidance and counseling needs assessment to determine priorities for program development;

(c) Development of a plan and strategies for implementing these programs in terms of common goals and objectives as determined through the needs assessment;

(d) Planning and conducting appropriate action steps to accomplish goals and objectives such as preparation of position statements, providing for consultative or technical assistance, conducting conferences and workshops, sharing information through appropriate publications and other means, evaluating program outcomes in terms of established objectives, and other related activities necessary for the coordination and improvement of new and existing programs of guidance and counseling in the State; and

(e) Participating in the activities of the Office of Education's administrative unit pursuant to section 343(a) of Pub. L. 94–482.

(Interprets Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.44 Required application data.

Each applicant for assistance under this subpart must submit an application which includes:

(a) A cover sheet(s) which includes a brief abstract of the proposed project; and

(b) An operational plan describing in detail how the applicant proposes to achieve the purposes of the program.

(1) The operational plan must include, but need not be limited to:

(i) A description of the needs to be met by the proposed plan, e.g., the need to reduce duplication of efforts in the State in guidance and counseling;

(ii) Objectives which are clearly related to the purposes of this subpart;

(iii) A description of the project activities and information on the proposed size, scope, and duration of the project;

(iv) Plans to include other institutions and agencies in the proposed activities;

(v) An evaluation design;

(vi) Identification of all proposed staff, their duties, and a description of the qualifications possessed by all proposed professional staff;

(vii) An estimated cost for each of the proposed activities;

(viii) Milestones and dates for the completion of each project activity; and

(ix) A description of any activities to be contracted.

(2) Applicants are encouraged to respond in the operational plan to each of the criteria in § 191.45 in the sequence described.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.45 Review criteria.

(a) Applications submitted under this subpart will be reviewed to determine the extent to which they meet the criteria in this section. Each criterion is assigned a maximum score and is weighted in terms of its relative value to the rest of the criteria. The total number of points for all criteria is 100.

(b) The following criteria will be utilized by the reviewers in reviewing applications:

(1) *Need.* Maximum score, 10. The need for the proposed plan to reduce duplication of efforts in the State in guidance and counseling is clearly established.

(2) *Objectives.* Maximum score, 25. The proposed plan includes sharply defined and clearly stated objectives which are related to the purpose of this subpart and which are capable of being attained by the proposed activities and capable of being measured.

(3) *Activities.* Maximum score, 25. The project activities are designed to achieve each of the proposed objectives, and milestones and dates for completing each project activity are clearly set forth.

(4) *Evaluation.* Maximum score, 10. The quality of the evalution design to determine the attainment of objectives.

(5) *Personnel.* Maximum score, 10. The quality of staff with specified duties and qualifications necessary to achieve objectives.

(6) *Budget.* Maximum score, 10. The estimated cost for each of the proposed activities is reasonable in relation to anticipated results, and the size, scope, and duration of the project is adequate to secure productive results.

(7) *Cooperative arrangements.* Maximum score, 10. The strength and quality of arrangements made by the applicant to work with other appropriate institutions and agencies.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.46 Project duration.

Project awards pursuant to this subpart will be for a grant period of up to one year. If a grantee seeks to receive assistance under this part for an additional period beyond the grant period, a new application for a new grant award must be submitted.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.47 Project funding.

(a) While there is no formula for the distribution of funds under this subpart, the Commissioner intends to make a grant to all States that meet the requirements in § 191.44 and propose projects of sufficient quality under the criteria set forth in § 191.45.

(b) The size of an award will be affected by the Commissioner's intent to fund all the States in accordance with paragraph (a) of this section and by the scope and quality of the project as measured by criteria set forth in § 191.45.

(Implements Sec. 344(b), 20 U.S.C. 2534(b).)

§ 191.48 Allowable costs.

Allowable costs pursuant to this subpart shall be determined in accordance with principles set forth in appendix B of Subchapter A of this chapter (Office of Education General Provisions Regulations).

(20 U.S.C. 1221c.)

[FR Doc. 77-14634 Filed 5-19-77;11:06 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR, EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-102]

EL PASO NATURAL GAS CO., ET AL.

Emergency Order

On May 9, 1977, El Paso Natural Gas Company (El Paso) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to make certain emergency purchases of natural gas. For the reasons set forth below, I authorize these emergency purchases.

El Paso has executed the following contracts to purchase natural gas under Section 6 of the Act:

1. By contract dated May 5, 1977, El Paso agreed to purchase the natural gas produced, pending completion, from eleven wells of Yates Petroleum Corporation in Eddy County, New Mexico.

2. By contract dated May 5, 1977, El Paso agreed to purchase the natural gas produced from three wells, pending completion, of Yates Drilling Company in Eddy County, New Mexico.

3. By contract dated May 5, 1977, El Paso agreed to purchase the natural gas produced from two wells of Alan J. Antweil and Moranco in Eddy County, New Mexico.

4. By contract dated May 5, 1977, El Paso agreed to purchase the natural gas produced from six wells of Depco, Inc. in Eddy County, New Mexico.

5. By contract dated May 6, 1977, El Paso agreed to purchase the natural gas produced from five wells of Husky Oil Company in Eddy County, New Mexico.

Each contract executed by El Paso as purchaser and Yates Petroleum Corporation, Yates Drilling Company, Alan J. Antweil and Moranco, Depco, Inc., and Husky Oil Company (Sellers) will begin as soon as practicable as an emergency purchase and will continue until July 31, 1977.

El Paso will purchase these supplies at a price of $2.25 per MMBtu inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso advises and I find that the gas made available by Sellers will result in a commingling of interstate natural gas with Sellers' normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Sellers and their producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale of gas for which El Paso seeks approval may result in some commingling of interstate natural gas with Sellers' normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas.

Under the provisions of section 9(b), (c) of Pub. L. 95–2 (91 Stat. 4, 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Sellers or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of Section 9 of Public Law 95–2 since Sellers are selling gas for El Paso pursuant to Section 6(a) of that Act. Sellers and any third person whose gas is commingled with ElPaso's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Yates Petroleum Corporation, Yates Drilling Company, Alan J. Antweil and Moranco, Depco, Inc., and Husky Oil Company are not classified as natural gas companies within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *." Stat. at 8. In addition section 6(c)(2) provides:

Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act, I hereby authorize Yates Petroleum Corporation, Yates Drilling Company, Alan J. Antweil and Moranco, Depco, Inc., and Husky Oil Company as sellers to sell El Paso natural gas from said wells located in Eddy County, New Mexico, on the terms and conditions set forth in El Paso's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso, Yates Petroleum Corporation, Yates Drilling Company, Alan J. Antweil and Moranco, Depco, Inc., and Husky Oil Company. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 94–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 17, 1977.

[FR Doc.77-14492 Filed 5-19-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Indiana Grain Inspection Point

Notice is hereby given that the Frankfort Grain Inspection, which is designated under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official agency at Frankfort, Indiana, has changed its name to Frankfort Grain Inspection, Inc. The change in name does not involve a change in management or ownership.

Done in Washington, D.C. on May 13, 1977.

D. R. GALLIART,
Interim Administrator.

[FR Doc.77-14832 Filed 5-19-77;8:45 am]

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Public Hearings

Notice is hereby given of seven public hearings to be held by the Department of Agriculture to consider comments regarding possible legislative changes for the Special Supplemental Food Program for Women, Infants, and Children (WIC Program) (42 U.S.C. 1786). The program is currently conducted under regulations published at 7 CFR Part 246.

The legislation governing the administration of the WIC Program expires at the end of Fiscal Year 1978. These hearings are being held to solicit public comment for consideration in formulating new legislative proposals which will be submitted to Congress.

The WIC Program is a grant-in-aid program which provides funds to State agencies to operate the program. The State agencies fund local agencies to provide specified nutritious food supplements to pregnant and nursing women, and to infants and children up to 5 years

of age who are determined by competent professionals to be at "nutritional risk" because of inadequate nutrition and inadequate income. Additionally, a primary component is nutrition education for adult recipients and the guardians of child and infant recipients.

As of February 1977, there were 64 State agencies (49 States, Puerto Rico, the Virgin Islands and 13 Indian agencies) serving 785,700 participants per month. Services are provided to participants through local health facilities.

All hearings will be held between the hours of 9 a.m. and 3 p.m. and on the dates and at the locations listed at the end of this notice.

If you are interested in attending any of these hearings, please contact Ms. Jennifer Nelson, Chief, Program Operations and Monitoring Branch, Special Supplemental Food Division, FNS, U.S. Department of Agriculture, 500 12th Street SW., Washington, D.C. 20250. Please indicate which hearing you will attend, who will be speaking in your behalf and approximately how long your testimony will be.

If you wish to contact the Department by phone, please call (202) 477–8704 and state the nature of your call. Written statements may be submitted before or after the hearings for those that wish to comment and are unable to attend one of the hearings in person.

The hearings will be held as follows:

JUNE 6—PORTLAND, OREGON

Room 827, 385 Federal Building, 1220 Southwest 3rd.

JUNE 8—ALBUQUERQUE, NEW MEXICO

Room 1410, Federal Building, 517 Gold, SW.

JUNE 13—MINNEAPOLIS, MINNESOTA

Room B–15, Federal Building, U.S. Courthouse, 110 S. 4th Street.

JUNE 15—KANSAS CITY, MISSOURI

Room 148, Federal Building (east end of 1st floor), 601 E. 12th Street.

JUNE 20—HARTFORD, CONNECTICUT

Hartford Public Library (Auditorium), 500 Main Street.

JUNE 22—PHILADELPHIA, PENNSYLVANIA

Conference Room B, 11th Floor, Federal Building, West, 1241 Cherry Street.

JUNE 27—BIRMINGHAM, ALABAMA

Room 345, Federal Building, Courthouse, 1800 5th Avenue, N.

Dated: May 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc.77–14405 Filed 5–19–77;8:45 am]

Rural Electrification Administration

ARKANSAS ELECTRIC COOPERATIVE CORP.

Final Environmental Impact Statement

Notice is hereby given that the U.S. Army Corps of Engineers, as lead agency, on behalf of itself and the Rural Electrification Administration (REA) has prepared a Final Environmental Impact Statement, in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, for the White Bluffs Generating Plant, to be constructed near Redfield, Arkansas.

REA has cooperated in the preparation of this document and gives notice of the issuance of the Final Environmental Impact Statement, in connection with an anticipated loan guarantee to Arkansas Electric Cooperative Corporation, P.O. Box 9469, Little Rock, Arkansas 72209.

The anticipated loan will provide AECC with the financing required to participate with Arkansas Power and Light Company and the City Water and Light Plant of the City of Jonesboro, Jonesboro, Arkansas, in the joint construction of the above 1400 MW coal-fired generating plant.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator, Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue, SW., Washington, D.C., or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after 30 days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969, have been met.

Dated at Washington, D.C., this 9th day of May 1977.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.77–14213 Filed 5–19–77;8:45 am]

PLAINS ELECTRIC GENERATION AND TRANSMISSION COOPERATIVE, INC.

Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration anticipates that it will prepare an Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a possible loan guarantee for Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, NE., Albuquerque, New Mexico, 87107, which will provide financing for an EHV transmission line, together with related terminal facilities, to be constructed in the countries of Rio Arriba and Taos, in the State of New Mexico.

The facilities are needed to meet the projected load growth of Kit Carson Electric Cooperative of Taos, New Mexico, which is served by Plains Electric Generation and Transmission Cooperative, Inc. Present studies indicate that the line should be built to operate at a nominal voltage level of 345 kV. It is anticipated that the line, the length of which will be approximately 40 miles, will be constructed to current Rural Electrification Administration wood pole construction standards.

Additional information may be secured by request submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C., 20250.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received on or before June 20, 1977, to be considered in connection with the proposed use of loan funds.

Any loan which may be made pursuant to this possible application will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 12th day of May 1977.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77–14387 Filed 5–19–77;8:45 am]

Soil Conservation Service

FOURCHE CREEK WATERSHED PROJECT, MISSOURI, ARKANSAS

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Fourche Creek Watershed Project, Ripley County, Missouri; Randolph County, Arkansas.

The environmental assessment of this Federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this part of the project.

The project concerns a plan for watershed protection, flood prevention, agricultural water management, and nonagricultural water management. The planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by three single-purpose floodwater retarding structures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various Federal, State, and local agencies. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65201. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until June 6, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008.)

Dated: May 13, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, Department of Agriculture.

[FR Doc. 77–14414 Filed 5–19–77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77–5–61; Docket 29123. Agreement C.A.B. 26588]

IATA

Agreement Adopted Relating to Baggage Matters

Issued under delegated authority May 13, 1977.

An agreement has been filed with the Civil Aeronautics Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would amend the baggage-allowance rules reached in a limited agreement by certain IATA members which was approved by the Board subject to conditions in Order 77–4–97 (April 20, 1977). Specifically, the instant agreement would add Sapporo to the Japanese points designated in the resolution governing the level of excess-baggage charges between Osaka, Fukuoka, and Tokyo on the one hand, and U.S. west-coast points on the other hand. The agreement will be approved subject to the conditions set forth in Order 77–4–97.

Pursuant to authority duly delegated by the Board's Regulations 14 CFR 385.14, it is not found that Resolution JT31 (Mail 127)311, incorporated in Agreement C.A.B. 26588, is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions stated in Order 77–4–97.

Accordingly, *it is ordered*, That:

Agreement C.A.B. 26588 be and hereby is approved subject to the condition stated herein.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–14437 Filed 5–19–77;8:45 am]

[Docket 26354]

NORTH CENTRAL AIRLINES, INC.

Certificate Application (Milwaukee/Duluth/Superior-Winnipeg); Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on May 31, 1977 (42 FR 21635), is assigned to be held on June 10, 1977, at 9:30 a.m., in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., May 13, 1977.

KATHERINE A. KENT,
Administrative Law Judge.

[FR Doc.77–14434 Filed 5–19–77; 8:45 am]

[Order 77–5–44; Docket 30721]

TRANS WORLD AIRLINES, INC.

Proposed Reduced Cargo Charter Minimum Charges

Order Dismissing Complaint

By tariff revisions[1] bearing an issue date of April 7 and marked to become effective May 7, 1977, Trans World Airlines, Inc. (TWA) proposes to remove the minimum charge provision for westbound cargo charters originating in Europe (excluding Algeria, Greece, Morocco, Tunisia, and Turkey) departing between the hours of 9:00 p.m. Saturday and 3:00 p.m. on the following Monday. The current minimum charge is based upon $7.25 per plane mile multiplied by the total number of charter miles. Removal of the minimum charge provision will result in a rate of $6.00 per charter mile.

A complaint has been filed by Seaboard World Airlines, Inc. (Seaboard) requesting suspension pending investigation. The complainant alleges, inter alia, that by TWA's own admission the resulting round-trip average revenue of $6.63 per mile is below its operating expenses of $6.68; that in Order 76–12–98, which approved in part the North Atlantic IATA cargo rate package reached at Miami, the Board showed a TWA freighter rate of return as a negative 21.4 percent; that in support of the Miami package, the carrier stated its plane mile costs to be $8.50; and that TWA has not indicated that the shippers that will use this weekend rate are new to air transportation, and that the proponent will merely attract current users of either scheduled or charter air service and will dilute its own revenues in the process.

In support of its proposal and in answer to the complaint TWA asserts, inter alia, that this revision is necessary to attract return cargo charter trips from Europe during the hours when TWA has available cargo aircraft and would allow TWA to increase its cargo fleet utilization during otherwise inoperative periods of the week when scheduled cargo demand is low; that the domestic cargo fleet operates on a five-day per week basis and is essentially grounded from early Saturday until after midnight on Monday; that if these aircraft can be operated in charter service at a price which exceeds variable expenses, they will help to defray a portion of the overhead expenses assigned to the freighter operation and thereby help achieve more profitable operations; that the proposal is marginally below operating expenses per mile of $6.68, however, to the extent that these trips will be performed by aircraft which would otherwise not be in operation, they provide a positive contribution to operating results since the revenues exceed variable costs; that the variable costs are only $5.34 per mile; that the proposed level will not have any dilutionary effect on present revenues since TWA is not participating in any westbound charter trips; and that the proposal is expected to increase revenues by approximately $5.5 million per year, and will exceed variable costs and offset overhead expenses by $1.1 million, thereby reducing the need of the scheduled operations to bear this burden.

Upon full consideration of the tariff filing, the carrier's justification, the complaint, the answer, and all other relevant factors, the Board has determined to dismiss the complaint and permit the filing to become effective.

The proposal has, according to the carrier, the capability of attracting additional volumes of new traffic with a minimal possibility for diverting existing traffic. It is noted that the complainant does not allege the proposal will result in any specific diversion from existing air traffic, and TWA indicates no meaningful dilution of current revenues will result since it is not now participating in westbound charter trips. We believe the proposal has the potential for generating new traffic to air transport and for increasing cargo fleet utilization during otherwise inoperative periods.

[1] Revisions to tariff C.A.B. No. 270 issued by Trans World Airlines, Inc.

Accordingly, *it is ordered*, That:

The complaint of Seaboard World Airlines, Inc. in Docket 30721, be and hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14438 Filed 5-19-77;8:45 am]

TEXAS INTERNATIONAL AIRLINES, INC.

Application For Amendment of Certificate of Public Convenience and Necessity

MAY 16, 1977.

Notice is hereby given that the Civil Aeronautics Board on May 16, 1977, received an application, Docket 30887, from Texas International Airlines, Inc. for amendment of its certificate of public convenience and necessity for route 82 so as to delete the requirement contained in condition (4) of Texas International's certificate that one intermediate stop be made on services between Dallas-Fort Worth, Texas, and Los Angeles-Long Beach, California.

The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14435 Filed 5-19-77;8:45 am]

[Order 77-5-81; Dockets 30277, et al.]

WRIGHT AIRLINES, ET AL.

Chicago-Midway Low-Fare Route Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of May, 1977.

In the matter of Chicago-Midway Low-Fare Route Proceeding, Docket 30277; applications of Wright Air Lines (Docket 29911), Midway Airlines (Docket 29914), Continental Air Lines (Docket 30030), Midway (Southwest) Airway (Docket 30189), Chicago Airlines (Docket 30407), Delta Air Lines (Docket 30409), Northwest Airlines (Docket 30410), North Central Airlines (Docket 30412), Southern Airlines (Docket 30413), Trans World Airlines (Docket 30414), Ozark Air Lines (Docket 30417), for authority pursuant to Section 401 of the Federal Aviation Act of 1958, as amended. Application of Allegheny Airlines and Chicago Airlines (Docket 30443), pursuant to Sections 408 and 409 of the Federal Aviation Act of 1958, as amended. Application of Southwest Airlines, M. Lamar Muse, and Herbert D. Kelleher (Docket 30415), pursuant to Sections 408 and 409 of the Federal Aviation Act of 1958, as amended.

By Order 76-12-149, December 28, 1976, the Board requested all interested persons to submit comments concerning the scope of this proceeding. In addition, the Board requested that all other applications and motions to consolidate be submitted within 30 days.

In response to this order, applications were filed by Chicago Airlines, Docket 30407; Delta Air Lines, Docket 30409; North Central Airlines, Docket 30412; Northwest Airlines, Docket 30410; Ozark Air Lines, Docket 30417; Southern Airways, Docket 30413; and Trans World Airlines, Docket 30414.[1]

In addition to these route applications, applications for approval of control and interlocking relationships were filed by Allegheny Airlines, Chicago Airlines, and Marvin S. Kahn in Docket 30443, and by Southwest Airlines, M. Lamar Muse, and Herbert D. Kelleher in Docket 30415. All of the foregoing applications were accompanied by motions to consolidate with this proceeding.

Petitions for leave to intervene have been filed by Braniff Airways, Frontier Airlines, Southern Airways, Texas International Airlines, United Air Lines, the City of Chicago, Cincinnati, Dayton, Illinois Department of Transportation, Iowa Department of Transportation, Kansas City, Minneapolis/St. Paul Airports Commission, Minnesota Department of Transportation, Niagara Frontier Transportation Authority, Ohio Department of Transportation, Pittsburgh, St. Louis, the Texas Aeronautics Commission, and the Wayne County Board of Road Commissioners and Greater Detroit Chamber of Commerce. An answer to the petition of Texas International was filed by Midway (Southwest). In turn, Texas International filed a reply accompanied by a motion for leave to file an otherwise unauthorized document.[2]

Comments in response to Order 76-12-149 were filed by American Airlines, Continental Air Lines, Delta Air Lines, Midway Airlines, Midway (Southwest) Airway, Trans World Airlines, United Air Lines, the Louisville and Jefferson County Air Board, Des Moines, Detroit, the Department of Justice, and the Department of Transportation. Answers to the comments were received from several parties. All the pleadings are summarized in Appendix B. (All appendices filed as part of the original document).

The comments and answers received have been helpful in assisting the Board to define the scope of the proceedings. As expected, however the pleadings presented a wide spectrum of route, rate and control issues. At one extreme it is argued that the Board must reconsider virtually every element of the Domestic Passenger Fare Investigation together with every standard route case consideration; at the other extreme it is contended that the impact of the proposed services on other carriers and the system as a whole need not even be considered, and that the only question to be resolved is the fitness of the applicants.

Neither extreme is acceptable. Because this case may have a profound impact upon the air transportation system, the Board has the responsibility of assuring that the issues are explored in sufficient detail for it to make a reasoned final decision. Nevertheless, there are limits as to how much can be accomplished in one proceeding. This is particularly true since the Board has an obligation to reach a final decision as expeditiously as possible. Accordingly, the number of issues and markets must be limited to keep the case within manageable proportions.

To be assured of an informed decision in a reasonable amount of time, the Board has made the following determinations which are explained in detail below: (1) the number of markets to be considered will be the six largest proposed; (2) the only Chicago authority at issue will be to serve Midway Airport; (3) there will be no pretrial restrictions on fares and services, although all such restrictions will be in issue; (4) mandatory joint fares will not be considered within the scope of this investigation; (5) while the parties should explore, to the extent necessary, the implications of this service on the Board's domestic fare policies, this proceeding will not be used as a forum for parties to challenge or alter our previous DPFI findings; and (6) the various section 408 and 409 applications will be consolidated and heard contemporaneously herewith.

1. NUMBER OF MARKETS

The Board has determined that it must limit the number of markets at issue in order to make this case manageable. A total of 15 nonstop city-pair markets have been proposed for consolidation into this proceeding. Midway (Southwest), North Central, Northwest, and Southern seek nonstop authority from Chicago to Buffalo, Cincinnati, Cleveland, Columbus, Dayton, Des Moines, Detroit, Kansas City, Louisville, Memphis, Minneapolis/St. Paul, Omaha, Pittsburgh, and St. Louis. Each other application includes from one to twelve of the above markets. In addition, Wright proposes service to an additional point—Indianapolis.

Even if only one city-pair market were in issue in this case, it would be far more complex from an analytical point of view than most route cases the Board tries. Not only are the traditional route case questions—traffic, service quality, and carrier selection—at issue, but complicated questions relating to price must be considered, such as the extent of price elasticity, cross elasticity, and diversion from other markets resulting from price differentials. With a potential impact far beyond the local markets, each city-pair market considered magnifies by geometric proportions the scope of analysis necessary to build an adequate record. Moreover, as explained below, we will not impose a pretrial restriction completely prohibiting direct service between

[1] Applications for service to Midway Airport had previously been filed by Wright Air Lines in Docket 29911, Midway Airlines in Docket 29914, and Midway (Southwest) Airway in Dockets 30188 and 30189.

[2] The motion will be granted.

[2] O'Melia, Vice Chairman, filed a dissent, filed as a part of original document.

coterminal points in issue. Thus, to the extent that there is a possibility of direct service between coterminal points via Midway, the direct diversionary impact on those markets must be considered as well.

In determining how to scope its cases, the Board must continually appraise the effect upon its own limited resources. While this case is certainly an important one, it must not be permitted to so dominate the staff's workload that other important applications cannot be heard or that pending cases will be delayed. The Board expects the staff to contribute substantially to the development of the record in this case by (1) developing DPFI cost-based fares for each market in issue; (2) developing DPFI fares for each market in issue adjusted to reflect individual carrier operations and costs of the proposed service; (3) analyzing individual carrier costs for each market at issue; (4) analyzing traffic and revenue forecasts for each market at issue as to diversion, generation, direct price elasticity, cross price elasticity, quality/price tradeoff and other factors; (5) analyzing the impact of these low-fare filings on other markets (domino effect); and (6) analyzing the effect of these low-fare filings on the DPFI as it relates to the remaining system. Considering the scope of this effort, the impact on workload of considering even a few markets will be substantial.

For example, with six nonstop city-pairs in issue, the potential number of single-plane markets for study is 21. If all markets are heard, the potential number of single-plane markets increases six-fold to a total of 120. The domino effect on other markets in the system increases similarly.

There would be only two ways to achieve the monumental task of processing this case with all 15 nonstop markets in issue. Either the proceeding would have to be extremely time consuming, or other route cases would have to be deferred in order to devote adequate staff to this case. Neither is an acceptable alternative.

Accordingly, the Board has determined that the line should be drawn at the top six Chicago markets which have been proposed.[3] In order of size they are Minneapolis/St. Paul, Detroit, St. Louis, Cleveland, Kansas City, and Pittsburgh. The difference between the Chicago-Pittsburgh market and the seventh largest, Cincinnati, is substantial. In CY 1975 Chicago-Pittsburgh generated 269,740 true O&D passengers while Chicago-Cincinnati generated 194,430. This represents a difference of over 200 passengers per day, and hence a logical place to limit the proceeding. Other criteria, such as population and enplanements, also generally support the selection of these points.[4]

The Board has considered the argument of Midway (Southwest) that service to all the proposed points would enhance the development of Midway Airport as a viable alternative to O'Hare. While this argument has some appeal, the Board nevertheless has determined that the potential benefits do not outweigh the administrative burdens and delay which the inclusion of all the proposed markets would entail. It is our view that the viability of Midway Airport will not be appreciably diminished if six, rather than fifteen markets, are in issue.

2. ONLY MIDWAY AUTHORITY WILL BE CONSIDERED

We have determined that any new Chicago authority awarded in this case will be restricted to Midway Airport. In any event, only three applicants—North Central, TWA, and Continental are seeking awards which would not be restricted to Midway Airport. These applications will be consolidated only to the extent that they seek authority at Midway Airport. In addition Continental's restriction removal application will be limited to consideration of unrestricted Kansas City-Midway Airport authority.

Our decision on this point is based on the unique circumstances of this case and will not necessarily apply in other low-fare proceedings. This case is unique insofar as the applicants and civic parties have contended that, on the one hand, there is a large pool of potential air travelers in the local Chicago markets who would fly if low price transportation were made available, and, on the other hand, there is a completely unutilized airport convenient to downtown Chicago which could easily absorb the increased frequencies needed to tap this market. No one is arguing that service from O'Hare Airport to the cities in issue is inadequate. Indeed, it would be counterproductive if the result of this proceeding would be increased activity at O'Hare. On the contrary, the reduction of traffic at O'Hare as a result of diversion from Midway Airport flights will be evaluated with respect to the Board's policy of encouraging service that will reduce congestion at saturated facilities. We do not necessarily view O'Hare and Midway Airports as constituting two different markets. Rather, at issue is a proposal for high frequency short- to medium-haul air service which depends upon the availability of adequate facilities and the opportunity for well-timed flights throughout the day.

Since O'Hare authority will not be in issue for any applicant, the same will hold true for Continental's application for restriction removal in the Chicago-Kansas City market. No applicant will be able to obtain authority superior to that which Continental could obtain; therefore, Continental will not be prejudiced.

3. PRETRIAL RESTRICTIONS

Upon consideration of the pleadings, the Board has determined that there is not enough information available to properly decide prior to the hearing whether restrictions on services and fares are required. Accordingly, all such proposed restrictions will be in issue in this case.

4. JOINT FARES

As indicated, the Board has determined that the issue of mandatory joint fares for services between the points at issue herein and all other certificated points will not be included within the scope of this investigation. In doing so, the Board is simply following its normal policy regarding this issue in route cases. For example, the question of mandatory joint fares was not considered in either the Air New England or Air Midwest certification proceedings.[5] Further, it is apparent that the types of service proposed by the applicants are dissimilar to the types of service covered by our Phase 4 decision. Thus, a de novo examination of the joint fare question would have to be made and such litigation would add to the complexity of this case and unduly delay its completion. In the event that a certificate is awarded to any of the applicants and the circumstances warrant, the issue of joint fares can be considered in a separate proceeding.[6]

5. CONSIDERATION OF THE DPFI

The relationship between the DPFI and the proposals in this case not only generated a great deal of comment from the parties, but also produced a great deal of confusion. The Board wishes to make clear that we do not intend for the parties to relitigate the DPFI in this route case, nor do we believe there is any need to do so. Any significant technical adjustments to the DPFI fare formula or changes in policies that may be necessary as a result of this investigation can be handled in a subsequent proceeding.[7]

This does not mean that the standards established in the DPFI can be ignored in this case since the institution of low-fare service in the markets at issue would undoubtedly have a major impact on the fares currently in effect in these markets

[3] The Board's authority to so limit a case is well established. City of *San Antonio* v. *C.A.B.*, 374 F.2d 326 (D.C. Cir. 1967).

[4] See Appendix A.

[5] New England Service Investigation, Docket 22973; Air Midwest Certification Proceeding, Docket 28262.

[6] Again we are following the same procedure used previously. Both Air Midwest and Air New England were required to maintain joint fares only after they were certificated and only after the Board determined that both carriers could be brought within the scope of Phase 4 without producing any significant impact on the rest of the system. See Orders 74-10-101 (October 18, 1974) and 74-10-102 (October 18, 1974) for Air New England; and Orders 76-11-3 (November 2, 1976) and 76-12-22 (December 8, 1976) for Air Midwest.

[7] However, if an award permitting institution of a low fare service is made to a carrier currently subject to our orders in Phases 4 or 9 of the DPFI, modifications of those orders may be made in this investigation to the extent necessary to allow those carriers to conduct service at the fares contemplated, and any party may offer evidence in support of such modifications.

and could affect the fares in other markets. The Board clearly must be in a position to weigh this impact in determining the merits of any application. Accordingly, we expect the parties to focus upon the effect this low-fare service would have on the rest of the certificated system, examining such questions as matching fares, on-line fares, the effect on load factors, the domino effect that these fares may have on fares in other markets, and the potential for cross-subsidization of the low fares in these markets by fares in other markets. But, again, we must emphasize that while we expect the parties to explore the implications that institution of these low-fare services may have on the Board's domestic fare policies, we do not intend this route proceeding to be used as a forum for the parties to challenge or alter our DPFI findings.

6. CONTROL QUESTIONS

Midway Airlines suggests that the Board should not hear the Sections 408 and 409 applications of Alleghany and Southwest in this proceeding. The Board has decided to consolidate these applications with the instant proceeding. Contrary to the views of Midway Airlines, the Board believes that consideration of the control issues will not unduly burden or delay the proceeding. The evidentiary presentation required will virtually duplicate that relating to the fitness issue; the basic questions remaining will be those of law and policy.

7. CONSOLIDATION AND INTERVENTION

It is argued by Midway (Southwest) that the Board is not required by Ashbacker principles to consolidate competing applications of the current interstate carriers since these are not premised on the type of low fare service proposed; or, in the alternative, that the Board should, by pretrial restriction, limit the case to the consideration of low-fare service. Whether or not the Board could lawfully exclude non-low-fare applications, as a matter of discretion the Board has determined to grant consolidation of all competing applications and not limit the scope of the proceeding by imposing a pretrial low-fare restriction. While the Board contemplates that the primary focus of the case will be on proposals for low-fare service between Midway Airport and the enumerated cities, it does not intend to preclude the litigation of proposals for service between Midway and the named cities that lack this low-fare feature. Accordingly, the Board believes that all elements of the public convenience and necessity should be in issue and considered, including possible public benefits that might flow from the diversion of traffic and flights from O'Hare to Midway Airport.

All motions for leave to intervent will be granted. The Board is especially desirous of the full participation of Texas International which, along with Braniff and Midway (Southwest), will be able to contribute substantially to the Board's knowledge concerning the experience of low-fare air transportation in Texas.

8. PROCEDURAL AND OTHER CONSIDERATIONS

Due to the complexity and potential importance of this proceeding to the future of air transportation regulation, the Board has directed the staffs of the Bureau of Economics and the Bureau of Operating Rights to prepare jointly a proposed statement of issues, evidence request, and proposed schedule which are attached to this order. A notice will be issued shortly setting forth the date for responses by the parties to the evidence request and the date for the prehearing conference. The administrative law judge assigned to this case will retain full discretionary authority to modify any and all of the staff submissions based on the comments of the parties received prior to the prehearing conference. Each Bureau will be free when they become separate and independent parties to suggest modifications or additions.[c] In light of these considerations the Board desires to set forth certain general procedural principles, directions, and requests to the parties.

First, the Board desires that this case be processed through the various procedural steps rapidly, but consistent with the development of an evidentiary record sufficient to allow the Board to reach a final decision. To this end, the Board earnestly requests the cooperation of the applicants, carrier intervenors and all other parties to expedite the case. The administrative law judge will have full discretionary power to allow sufficient time for all parties to develop the minimum evidentiary presentation described below, as well as any other evidence which the Judge deems to be relevant and material to the issues. As a preliminary matter the Board has determined that petitions for reconsideration of this order shall be due within 30 days and answers 10 days thereafter.

Second, in order to achieve the above objective, the Board considers it essential that to the extent feasible, the evidentiary presentation required by the administrative law judge be on a comparable basis with respect to all forecasts and estimates relating to costs, traffic, revenues, and diversion.

Third, the Board requests that standardized evidentiary formats be utilized so that the varying estimates in each of these categories are displayed on a comparable basis. In this connection, the Board expects the parties to strictly comply with the usual ground rules which provide that the basis for each estimate, and each subdivision of each estimate, be clearly set forth in footnotes or otherwise, and supported by narrative written discussion to the extent appropriate. For example, estimates that are essentially based on expert judgment should be expressly so-labeled; and if the experience in other markets, for example, in Texas intrastate markets, is utilized, the matter should be clearly spelled out.

To the maximum extent possible, all parties should submit prior to the hearing any proposed stipulations, conditions, limitations, and restrictions, as well as requests for exemption from any provision of Title IV.[b] In particular, the Board requests the administrative law judge and the parties to explore whether any or all authority which may be granted in this proceeding should be permissive in character, and if so, whether it is economically feasible and desirable to award authority to more than one carrier in each market.

Accordingly, *it is ordered*, That:

1. This proceeding is instituted pursuant to the Federal Aviation Act of 1958, as amended, particularly Sections 204, 401, 404, 408, 409, 412, 416(b), and 1002. The primary issues in this proceeding are whether the public convenience and necessity require the certification of an additional carrier or carriers between Chicago's Midway Airport, on the one hand, and Minneapolis/St. Paul, Detroit, St. Louis, Cleveland, Kansas City and/or Pittsburgh, on the other hand; what should be the duration of any authority awarded; and what terms, conditions, and limitations should be placed on such authority;

2. Any authority granted in this proceeding shall be ineligible for federal subsidy; mandatory joint fares are not at issue in this proceeding;

3. The applications of Wright Air Lines, Docket 29911, Continental Air Lines, Docket 30030; Chicago Airlines, Docket 30407; Delta Air Lines, Docket 30409; Northwest Airlines, Docket 30410; North Central Airlines, Docket 30412; Southern Airways, Docket 30413; Trans World Airlines, Docket 30414; and Ozark Air Lines, Docket 30417, be and they hereby are consolidated into the Chicago Midway Low-Fare Route Proceeding insofar as they conform to the scope of the proceeding as set forth in paragraph (1) above; to the extent not consolidated, the foregoing applicaitons be and they hereby are dismissed without prejudice;

4. The applications of Southwest Airlines, M. Lamar Muse, and Herbert D. Kelleher, in Docket 30415; and Allegheny Airlines, Chicago Airlines, and Marvin S. Kahn in Docket 30443, be and they hereby are consolidated with the Chicago Midway Low-Fare Route Proceeding, Docket 30277;

5. The petitions for leave to intervene filed by Braniff Airways, Frontier Airlines, Southern Airways, Texas International Airlines, United Air Lines, the City of Chicago, Cincinnati, Dayton, the Illinois Department of Transportation, the Iowa Department of Transportation, Kansas City, Minneapolis/St. Paul Airports Commission, Minnesota Department of Transportation, the Niagara Frontier Transportation Commission, the Ohio Department of Transportation, Pittsburgh, St. Louis, the Texas Aeronautics Commission, and the Wayne County Board of Road Commissioners and Greater Detroit Chamber of Commerce, be and they hereby are granted.

6. The motions of Texas International, the City of Chicago, United Air Lines and Midway Airlines for leave to file otherwise unauthorized documents be and they hereby are granted; and

7. Petitions for reconsideration of this order shall be filed no later than thirty days from the service date of this order and any answers thereto shall be filed ten days thereafter.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14436 Filed 5-19-77;8:45 am]

[c] Because of the continuing need in this case for expert analysis of the facts and legal issues, no staff component will become a party to the proceeding until the order on reconsideration has been issued.

[b] This is not intended to preclude any party from advancing such proposals on brief to the administrative law judge, but only to encourage early submission in order to aid in the development of the record.

CIVIL SERVICE COMMISSION

COMMUNITY SERVICES ADMINISTRATION

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Community Services Administration to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Special Assistant to the Director for Transition Planning, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14396 Filed 5-19-77;8:45 am]

DEPARTMENT OF DEFENSE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorized the Department of Defense to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Deputy Assistant Secretary (Policy Plans and NSC Affairs), ODAS (Policy Plans and NSC Affairs), OASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14397 Filed 5-19-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Title Change in Noncareer Executive Assignment

By notice of January 19, 1971, FR Doc. 71-706, the Civil Service Commission authorized the Department of Health, Education, and Welfare to fill by noncareer executive assignment the position of Deputy Commissioner for School Systems, Office of Education, Bureau of School Systems. This is notice that the title of this position is now being changed to Deputy Commissioner for Elementary and Secondary Education, Office of Education, Bureau of Elementary and Secondary Education.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14398 Filed 5-19-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary for External Affairs, Office of the Secretary, Immediate Office.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14399 Filed 5-19-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Director for Program Review, Office for Civil Rights, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14400 Filed 5-19-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Director for Compliance and Enforcement, Office for Civil Rights, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14401 Filed 5-19-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

CARNEGIE—MELLON UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00049. Applicant: Carnegie-Mellon University, 5000 Forbes Avenue, Pittsburgh, Pa. 15213. Article: Phototitus Light Valve. Manufacturer: LEP (Laboratories d' Electronique et de Physique Applique), France. Intended use of article: The article is intended to be used for the study of electro-optical effect in DKDP. The phenomena to be investigated will include cycle time, resolution contrast, wavelengths of write and read same.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability to read, write, and store data. The National Bureau of Standards (NBS) advises in its memorandum dated April 28, 1977 that (1) the capability described above for the article is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of

equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14366 Filed 5-19-77;8:45 am]

FLORIDA A&M UNIVERSITY ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 201).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90 day period. . . . If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20 day period, or fails to resubmit a new application within the 90 day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

> • • • the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket Number: 75-00180-33-77040. Applicant: Florida A&M University, Tallahassee, Florida 32307. Article: Mass Spectrometer, MS30B and accessories. Manufacturer: AEI Scientific Apparatus, Ltd., Japan. Date of denial without prejudice to resubmission: July 28, 1976.

Docket Number: 76-00378. Applicant: University of Oregon, Department of Geology, Eugene, Oregon 97403. Article: Scanning Electron Microscope, Model JSM-35U and accessories. Date of denial without prejudice to resubmission: January 5, 1977.

Docket Number: 76-00497. Applicant: The Johns Hopkins University, Charles and 34th Street, Baltimore, Md. 21218. Article: T.V. Projector modified for special multiplex operation with Zenon Arc Lamp, Model PGP-561. Date of denial without prejudice to resubmission: January 19, 1977.

Docket Number: 76-00480. Applicant: University of New Orleans, Lakefront Drive, New Orleans, LA 70122. Article: Gas Chromatograph-Mass Spectrometer Mat 311A with (Computer Combination, 100 MS). Date of denial without prejudice to resubmission: December 13, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14370 Filed 5-19-77;8:45 am]

MIAMI UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00075. Applicant: Miami University, Oxford, Ohio 45056. Article: Electron Microscope, Model HS-9-1 and accessories. Manufacturer: Hitachi Limited, Japan. Intended use of article: The article is intended to be used for research involving the structural and developmental characteristics of cell division and the motile reproductive cells in the Green Algae (Chlorophyta). One objective of the research is to enhance understanding of the evolutionary origin and development of the Green Algae and the line of evolution that gave rise to land plants. Another objective is to elucidate the function of certain organelles in the process of cell division. The article will also be used for training graduate and undergraduate students in the courses: Botany 750—Special Problems, Botany 645—Plant Ultrastructure, Botany 643—Phycology, and Botany 421/521—Mycology. In addition, the article is to be used as a backup instrument to teach Zoology 648.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (April 21, 1976). Reasons: The foreign article is a relatively-simple, easy to operate, medium resolution electron microscope designed for confident use in teaching beginning students with a minimum of detailed programming. The article provides 6Å point-to-point resolution, an accelerating voltage of 75 kilovolts, and low distortion magnification from 500X through 100,000X plus 200X for scanning which permits an overlap of light and electron microscopy. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated April 22, 1977 that relative simplicity and full magnification range without a pole piece change are pertinent to the applicant's intended purposes. HEW also advises that it knows of no domestic instrument which provided all the pertinent features at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14362 Filed 5-19-77;8:45 am]

NORTHWESTERN UNIVERSITY ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 9, 1977.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00206. Applicant: Northwestern University Medical School, Department of Pharmacology, 303 E. Chicago Avenue, Chicago, Illinois 60611. Article: Recording Oscilloscope Camera, PC-3A and accessories. Manufacturer: Nihon Kohden Kogyo Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of bioelectric potential changes from excitable tissues. Membrane potential and membrane current are recorded from nerve and muscle tissues displayed on an oscilloscope, and photographed on a film. Membrane electrical properties including ionic conductances are then measured from the recorded film. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00207. Applicant: University of Chicago, Billings Hosp., Department of Pathology, 950 East 59th Street, Chicago, Illinois 60637. Article: Electron Microscope, Model EM 201 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the investigation of atherosclerosis and atherosclerotic heart disease. Research is performed mainly on experimental animals and also utilizes some human tissues obtained at autopsy. The article will also be used for the training of future scientists as well as for the instruction of medical students, residents and staff scientists and physicians. Application received by Commissioner of Customs: April 21, 1977.

Docket Number: 77-00208. Applicant: National Institutes of Health, National Eye Institute, Bldg. 6, Rm. 213, 9000 Rockville Pike, Bethesda, MD 20014. Article: Ultrotome IV Ultramicrotome, Model LKB 2128-010 and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of eye tissues of the human in both normal and pathological conditions. Experiments on the visual system will include: (1) fine structural study of the photosensitive lamellar membranes of the photoreceptor cells following light exposure in various conditions; (2) phagocytic activity of the pigment epithelium of the retina; (3) fine structural study of the retina and cornea of vitamin A deficient animals (4) cytologic study of the cataractous lenses; and (5) experimentally induced eye diseases in animals. Materials will be embedded in the epoxy resin appropriate for the material being studied before sectioning. Application received by Commissioner of Customs: April 22, 1977.

Docket Number: 77-00209. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, Arizona 85705. Article: Klystron, Model VRB 2113A 30 SN. 70443. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: The article will be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: April 25, 1977.

Docket Number 77-00210. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 808, Livermore, California 94550. Article: Combination Scanning Microinterferometer and Scanning Microdensitometer, Model M85/M86 with accessories. Manufacturer: Vickers Instruments Inc., United Kingdom. Intended use of article: The article is intended to be used to measure the coatings that develop on targets used in laser fusion energy production experiments and to inspect the final target themselves. For transparent argets, such as the hollow glass spheres currently being used, the instrument will be interfaced to a computer controlled ball manipulator and data taking station which will "map" the entire sphere. For spheres with opaque coatings, a modification of the optics will be made to allow reflection interferometric measurements of surface features. In this configuration, the computer controlled scan and data readout will again be used to map the sphere surface. Application received by Commissioner of Customs: April 25, 1977.

Docket Number 77-00211. Applicant: University of Miami (Rosenstiel School of Marine and Atmospheric Science), 4600 Rickenbacker Causeway, Miami, Florida 33149. Article: Deep Sea Reversing Thermometer. Manufacturer: Watanabe Keiki Manufacturing Co., Ltd., Japan. Intended use of article: The article is intended to be used for the collection of temperature, depth and conductivity of sea water in the study of the oceans. Application received by Commissioner of Customs: April 25, 1977.

Docket Number: 77-00212. Applicant: NASA/Headquarters, Contracts Division, Code JHC-4, Washington, D.C. 20546. Article: Six (6) Ultrasonic Flowmeters and Associated Electronics and Spares. Manufacturer: O.N.E.R.A., France. Intended use of article: The article will be used to ascertain the oscillatory flow component of liquid oxygen being perturbated by a positive displacement pulser as it flows through a turbopump. The accurate determination of the flow disturbance, both upstream and downstream of the turbo pump are essential in the use of the four terminal network method for establishing the transfer function characteristics of the turbo pump and subsequently the Space Shuttle Main Engine System. The determination of the transfer functions is essential in the definition of the Space Shuttle Vehicle dynamic characteristics relative to the Pogo phenomenon. Application received by Commissioner of Customs: April 25, 1977.

Docket Number: 77-00213. Applicant: U.S. Department of Commerce, Maritime Administration, U.S. Merchant Marine Academy, Steamboat Road, Kings Point, New York 11024. Article: TD-35 Varimax Test and Research Engine Rig and accessories. Manufacturer: Tecquipment Ltd., United Kingdom. Intended use of article: The article is intended to be used for instruction of Marine Engineering students in the courses Internal Combustion Engines E 464 and Internal Combustion Engines E465. Application received by Commissioner of Customs: April 25, 1977.

Docket Number: 77-00214. Applicant: Birth Defects Institute, Embryology Laboratory, Albany Medical Center Receiving Dock, 12 New Scotland Ave., Albany, New York 12208. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section animal tissues that have been embedded in hardened epoxy resins. These speciments will be used for ultrastructural studies on tissues and cells, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues and subcellular changes in cells induced by changes in their biochemical and physical environments. Application received by Commissioner of Customs: April 25, 1977.

Docket Number: 77-00215. Applicant: University of Hawaii, Chemistry Department, 2545 The Mall, Honolulu, HI 96822. Article: Low Temperature Flash Photolysis Apparatus. Manufacturer: Applied Photophysics, United Kingdom. Intended use of article: The article is intended to be used to detect extremely short-lived excited states of organic compounds. Investigations will be conducted in order to understand the photochemical processes of vision pigments and related compounds immediately after their exposure to light. The article will also be used in the course Chemistry 699 Directed Research to conduct research projects leading to a better general understanding of decay processes of electronically excited organic molecules, including those related to the visual process. In addition, the article will be used for informal instruction of researchers. Application received by Commissioner of Customs: April 27, 1977.

Docket Number: 77-00216. Applicant: Medical College of Ohio, C.S. 10008, Toledo, Ohio 43699. Article: Scanning Electron Microscope, Model S180. Manufacturer: Cambridge-Imanco, United Kingdom. Intended use of article: This article is intended to be used in various

research projects by faculty and students which include the following:

1. Yeast Survival: An Indicator of Environmental Health.
2. Bacterial Control of Aquatic Blue-Green Algae.
3. Quantitative Analysis of Scanning Electron Microscope Images.
4. Scanning Transmission Electron Microscopy of Autoradiographs.
5. Sertoli Cell—Germ Cell Association.
6. Detection and Measurement of Extracellular Material (Seminiferous Tubules).
7. Structural difference of chemically-treated and untreated normal and abnormal human sperm without any artifact due to a prolonged waiting period.
8. Detecting and estimating the low level of radioactivity in autoradiographs of very small intracellular structures of mouse and sea urchin sperm.
9. Study of mouse egg fertilized under in vitro and in vivo conditions.
10. Other research in anatomy, pathology, obstetrics and gynecology, and surgery.

In addition, the article is intended to be used for educational purposes in the following courses: Electron Microscopy, Scanning Electron Microscopy, Advanced Techniques in Microscopy for anatomy, pathology, microbiology, and physiology; and Graduate M.D. training. Application received by Commissioner of Customs: April 27, 1977.

Docket Number: 77-00217. Applicant: Northeastern Ohio Universities—College of Medicine, 275 Martinel Drive, Kent, Ohio 44240. Article: NMR spectrometer, Model WP-80 and Accessories. Manufacturer: NMR Bruker Scientific, West Germany. Intended use of article: The article is intended to be used for studies of the liquid-gel phase transitions of model and biological membranes and, the interaction of proteins, bile salts, drugs, carcinogens with these membranes. The experiments to be conducted include:

(1) Study of the effect of proteins, inserted into the membrane, on the segmental order parameters of the phospholipid alkyl chains,

(2) Study of the effect of bile salts, heat, detergents, drugs, carcinogens on the same order parameters, and

(3) Examination of the effect of Na^+, K^+, Ca^{+2} and Mg^{+2} on the order parameters for various positions in the phospholipid alkyl chains.

Application received by Commisioner of Customs: April 28, 1977.

Docket Number: 77-00218. Applicant: Simon Greenberg Foundation, Post Office Box 8244, Philadelphia, PA 19101. Article: Combined Scanning Interferometer & Densitometer and Accessories. Manufacturer: Vickers, Ltd., United Kingdom. Intended use of article: The article is intended to be used for investigation of the changes in the stratum corneum, the outmost layer of the epidermis, in relation to aging and a variety of disease processes. In aging studies exfoliative cytological specimens are collected from protected and exposed regions of two age cohorts. In the disease, studies of psoriasis and dandruff, exfoliative cytological specimens will be collected before and during various treatment schedules. The objective of these studies are to develop non-invasive, non-intrusive methods for evaluating changes in the human stratum corneum. This will provide a foundation for the development of effective therapeutic and prohylactic treatment for easing various dermatologic problems. In addition, the article will be used for instruction in the courses: Independent Study (U399), Independent Study and Research (G999) and Dermatologic Research (M800). Basic instruction on the article is achieved by having the student calibrate the projected area meter using standard polystyrene spheres of two different radii. Application received by Commissioner of Customs: April 28, 1977.

(Catalog of Fedreal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14368 Filed 5-19-77;8:45 am]

TEXAS CHRISTIAN UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00486. Applicant: Texas Christian University, Chemistry Department, Fort Worth, Texas 76129. Article: Nuclear Magnetic Resonance Spectrometer, Model JNM-FX-60. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for rapid proton and C-13 studies of CIDNP phenomena induced by the photochemical decomposition of dioxetanes and related materials, the determination of organic natural product structures using C-13 NMR. These will usually involve small amounts of materials and pose problems of line assignments which can only be resolved by using sophisticated experimental techniques.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (September 24, 1975). Reasons: This application is a resubmission of Docket Number 76-00218-01-77030 which was denied without prejudice to resubmission on April 16, 1976 for informational deficiencies. The foreign article provides a dual frequency (for ^{13}carbon and proton) variable temperature, 10 millimeter sample probe. The National Bureau of Standards (NBS) advises in its memorandum dated April 22, 1977 that (1) the specification of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14367 Filed 5-19-77;8:45 am]

UNIVERSITY OF CALIFORNIA—LOS ALAMOS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00070. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Laser System, Pulsed CO_2. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for the study of laser induced fusion of cryogenic targets. Typical targets would include various hydrocarbon and materials such as carbon dideuterium. The system will be used to investigate radiation damage in materials and the feasibility of controlled thermonuclear fusion.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a small signal gain at 10.6 microns greater than or equal to 50. The National Bureau of Standards (NBS) advises in its memorandum dated April 25, 1977 that the specification described above is pertinent to the applicant's intended purposes. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14363 Filed 5-19-77;8:45 am]

UNIVERSITY OF CHICAGO—ARGONNE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00055. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439. Article: Oxygen Meter Probe. Manufacturer: Interatom, West Germany. Intended use of article: The article is intended to be used to measure the concentration of oxygen in liquid sodium, as a means of detecting a leak of water into Na in a fast breeder reactor steam generator. Experiments will be conducted to develop an accurate reliable method for detecting water leaks into sodium, for use in the CRBR and future IMFBR sodium-heated steam generators.

Comments: No comments have been received with respect to this application. Decision: Application approved: No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 2, 1976). Reasons: The foreign article provides a metal-to-ceramic seal capable of withstanding high temperatures (approx 371 to 426.7 degrees centigrade) for a long period of time (2½ to 3 years). The National Bureau of Standards advises in its memorandum dated April 20, 1977 that (1) the specification of the article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available domestically at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14365 Filed 5-19-77;8:45 am]

UNIVERSITY OF MONTANA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00069. Applicant: University of Montana, Missoula, Montana 59801. Article: Reaction Coulometer Mark IIA with accessories. Manufacturer: Reaction Coulometers Ltd., United Kingdom. Intended use of article: The article is intended to be used for studies of cellulose, raw wood and foliage in which the heat of combustion of volatile pyrolysis products will be investigated to determine the available heat content of forest fuels.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of directly relating oxygen consumption to the heat of combustion. The National Bureau of Standards (NBS) advises in its memorandum dated April 25, 1977 that the capability of the article described above is pertinent to the applicant's intended uses. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14364 Filed 5-19-77;8:45 am]

UNIVERSITY OF SOUTH FLORIDA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00025. Applicant: University of South Florida, College of Medicine, Dept. of Medical Microbiology, Box 10, 12901 N. 30th St., Tampa, FL 33612. Article: Tachonhor, Model LKB 2127-001 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological molecules which include proteins, peptides, and metabolites from animal tissue. The investigations to be conducted will involve studies on in vitro and/or in vivo reactions between molecules following increase, decrease or absence of one or all of the reacting molecules. The objective pursued in the course of these investigations is to understand the interrelationship between the biological molecules and to correlate these changes with chemical alterations seen in human diseases. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides sensitivities in nanomole quantities with sample volumes of 0.1 to 50 microliters. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 21, 1977 that (1) the capability described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14369 Filed 5-19-77;8:45 am]

UNIVERSITY OF UTAH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00084. Applicant: University of Utah, Department of Biology, Room 225 South Biology Building, Salt Lake City, Utah 84112. Article: Electron Microscope, Model EM 201 with High Goniometer Stage and Refrigerated Water Circulating System. Manufacturer: Philips Electronics Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used for the following research projects:

(1) Examination of the characterization of the DNA made in vitro of eukaryotic and prokaryotic systems.

(2) Study of the effect of methylation on DNA replication in vivo and in vitro in an attempt to relate the distribution of methyl groups to the in vitro synthesis of the small DNA pieces which are synthesized after methylation.

(3) A plant cell project in which the article will provide a rapid assay in the preparation for materials for autoradiographic experiments.

(4) Work on chemotaxis and *Escherichia coli* seeking rapid characterization of mutants which can be carried out by examination of flagella under the electron microscope.

(5) Investigation of the control assembly and termination of proteins which is aimed at obtaining conditional (temperature-sensitive) lethal mutants of animal cell viruses in an attempt to elucidate the mechanism of viral neoplasic transformation.

Graduate students of the Biology Department will receive training in use of the article which will ultimately benefit them in their chosen careers of independent biological research.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (November 6, 1976). Reasons: The foreign article is equipped with a high tilt (± 60 degrees) eucentric goniometer stage. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated April 23, 1977 that the eucentri-goniometer stage of the article is pertinent to the applicant's intended uses. HEW further advises that it knows of no domestic instrument which provided a scientifically equivalent eucentric goniometer stage at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 77-14371 Filed 5-19-77;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Proposed Additional System of Records

The purpose of this notice is to propose an additional Privacy Act System of Records for the National Bureau of Standards, COMMERCE/NBS-8, Nuclear Reactor Operator Licensees File.

The purpose of the system is to provide documentation that operators of the nuclear reactor facility, which NBS operates under license from the Nuclear Regulatory Commission, are trained, tested, qualified, and periodically requalified, as required by the NRC.

The principal routine use of information in this system is disclosure to the NRC for the purpose of conducting audits of the qualifications of reactor operators. The proposed system is printed below.

The Commerce Department submitted a New System Report dated May 3, 1977, to the Congress, the Office of Management and Budget, and the Privacy Protection Study Commission, as required by the Privacy Act.

Although the Act requires the opportunity for public comment only as to the proposed "routine uses", comments regarding any portion of this Notice will be given due consideration before final publication. Any interested person may submit written data, views or arguments to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5026), U.S. Department of Commerce, 14th and E Streets, NW., Washington, D.C. 20230, any time on or before June 20, 1977. The comments received will be available, as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m. Monday through Friday (except holidays).

This system of records will become effective 30 days from the date of publication (June 20, 1977), provided the Department's request for a waiver of the 60-day advance notice requirement is granted by the Office of Management and Budget, or unless the Department notices to the contrary.

AUTHORITY: 5 U.S.C. 552a(e) (4), (11), sec. 3, Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896).

Dated: May 3, 1977.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

COMMERCE/NBS-8

System name:

Nuclear Reactor Operator Licensees File—COMMERCE/NBS-8.

System location:

Reactor Operations Section, Reactor Radiation Division, Institute for Materials Research, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system:

NBS employees who are licensed as Nuclear Reactor Operators, those whose applications for licenses are being processed, and those whose licenses have expired.

Categories of records in the system:

These records contain information relating to the application for a Nuclear Reactor Operator's license, certification of competency, certification of medical history, results of medical examination and related correspondence, reactor operator examination and examination results, records of training, and license or denial letter.

Authority for maintenance of the system:

Sections 107, 161(i), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2137, and 2021(i), 15 U.S.C. 272.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information in these records may be disclosed: To the Nuclear Regulatory Commission for the purpose of conducting audits of the qualifications of reactor operators. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by name.

Safeguards:

Records are maintained in a locked filing cabinet in a limited access building.

Retention and disposal:

All records relating to an individual's license and documentation for license including requalification requirements will be retained as long as is required by the Reactor License and will thereafter either be turned over to the individual concerned or destroyed.

System manager(s) and address:

Deputy Chief, Reactor Operations Section, Reactor Radiation Division, Institute for Materials Research, National Bureau of Standards, Washington, D.C. 20234.

Notification procedures:

Information may be obtained from:

Associate Director for Administration, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Requester should provide name and additional factual data as appropriate, pursuant to the inquiry provisions of the Department's rules, would appear in 15 CFR Part 4b.

Record access procedures:

Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories:

Subject individual, licensed physician, employees of the Reactor Radiation Division, and those authorized by the subject individual to supply information.

[FR Doc.77-14288 Filed 5-19-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 23, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703-557-1145).

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 7930

Rinse Additive, Dishwashing 7930-00-619-9575 (for 60% of Government's requirements).
7930-00-619-9578.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-14410 Filed 5-19-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Receipt Period of May 9 through May 13, 1977

The following is a list of environmental impact statements received by the Council on Environmental Quality from May 9 through May 13, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability (July 4, 1977). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

San Gabriel Unit, Angeles National Forest, San Bernardino and Los Angeles Counties, Calif., May 13: This statement proposes several alternative land use management plans for the 186,570-acre San Gabriel Planning Unit, Angeles National Forest, California. The unit includes the 36,000-acre San Gabriel Wilderness, the 3,500-acre Cucamonga Wilderness Study Area, the 56,000-acre Sheep Mountain Wilderness Study Area, the 6,060-acre San Dimas undeveloped area, and the 17,000-acre San Dimas Experimental Forest. Impacts vary according to the alternate selected. (ELR Order No. 70590.)

Final

Ninemile-Mill Unit Plan, Lolo National Forest, several counties, Montana, May 9: The proposed action is the implementation of a revised multiple use plan for the Ninemile-Mill Planning Unit, Lolo National Forests. This action affects 120,950 acres of National Forest land of which 115,262 acres are in Missoula County, 5,120 acres are in Mineral County, 330 acres are in Lake County, and the remaining 238 acres are in Sanders County. Adverse effects include alteration of the natural landscape and disturbance of the natural condition of vegetation, soil, water, and wildlife. Comments made by: FPC, EPA, DOI, State agencies, and concerned citizens. (ELR Order No. 70566.)

Supplement

Alaskan National Forests, Herbicide Use (S-2), Alaska, May 12: This statement is a final addendum to the final EIS on the use of herbicides on the National Forests of Alaska in 1977. The proposed action is control of vegetation through the use of herbicides on road, railroad, and powerline rights-of-way. The herbicides proposed for use include 2,4-D, picloram, amitrole, sodium metaborate, sodium chlorate, and bromacil. Susceptible target and nontarget vegetation in the treatment areas will be reduced in vigor and, in most cases, killed. (ELR order No. 70561.)

1976 Coop. Western Spruce Budworm Plan (S-1), several counties, Washington, May 9: This statement is a final addendum to a final EIS filed with CEQ in 1976 on the Western Spruce Budworm Pest Management Plan. Based on entomological and biological considerations, the USDA-Forest Service, in cooperation with the Washington State Department of Natural Resources, USDI-Bureau of Indian Affairs, and USDI-Bureau of Land Management, will treat western spruce budworm on 440,000 acres out of a total infestation of 1,100,020 acres in the spring and summer of 1977. The method of treatment will be aerial application of carbaryl (Sevin 4 Oil). Application of the chemical will result in reduction of wild bee populations, microathopods, and aquatic insect populations. (ELR order No. 70568.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Beluga Station Nos. 7, 8, 9—Bernice Lake Unit 3, Alaska, May 12: Proposed is the granting of financial assistance to Chugach Electric Association for the construction of additional generating capacity at the Beluga Station and the Bernice Lake Power Plant in Alaska. Plans include expansion of Units 7, 8, and 9 at the Beluga Station, located 40 air miles west and across Cook Inlet from Anchorage, and expansion of Unit 3 at the Bernice Lake Power Plant, located at Nikiski, within the Kenai Peninsula Borough. The major impact resulting from the action will be release of some oxides of nitrogen from the new generating station facilities. (ELR order No. 70582.)

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Contact: Dr. William Aron, Director, Office of Ecology and Environment Conservation, NOAA—Room 5813, Department of Commerce, Washington, D.C. 20230, 202-967-5181.

Draft

Atlantic Clam Fishery Management, May 13: The Mid-Atlantic Regional Fisheries Management Council has proposed the adoption of this management plan for surf clam and ocean quahogs caught off the Mid-Atlantic and Northeastern United States. The plan proposed the following objectives, to: rebuild the declining surf clam stocks within a 10-year period; minimize the short term economic disclocation to the extent possible consistent with the rebuilding of the surf clam stocks, and promote economic efficiency; and prevent overfishing of the ocean quahog stocks. Few adverse effects are anticipated. (ELR order No. 70592.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000

Independence Avenue, SW., Washington, D.C. 20314, 202–693–6795.

Draft

Packer River Terminal, Barge Terminal Expansion, Dakota County, Minn., May 12: The proposed action is expansion of an existing barge terminal in South St. Paul, Minnesota, by the Packer River Terminal Inc. (Packer). Packer plans to fill approximately 23 acres of wetlands to increase the capacity of their terminal to store and handle an estimated additional 635,000 tons of commodities per year. The primary impact would result from loss of the wetlands, which presently serve the functions of water quality, food chain production, general habitat, nesting and rearing habitat, and flood storage. Also, the habitat value of adjacent wetlands would be reduced. (ELR order No. 70585.)

Pembiller Lake and Dam (2), Pembia and Cavalier Counties, N. Dak., May 9: The proposed project calls for the construction of a rolled earth type dam across the Pembina River about 2 miles southwest of Walhall, North Dakota, near the Cavalier-Pembina County Line. The reservoir would have a controlled storage capacity of 147,000 acre-feet of which 15,000 acre-feet would be in an 800 foot surface area conservation pool. Storage within the conservation pool would be allocated to water supply, recreation, and sedimentation. The project would result in the permanent inundation of about 800 acres of the valley. (St. Paul District.) (ELR order No. 70570.)

Port Clinton Harbor, Maintenance Operations, Ottawa County, Ohio, May 12: The proposed action is the intermittent dredging of the existing navigation channel at Port Clinton Harbor, Ohio. Structure maintenance of the existing jetties, by replacing the rubble and improving the safety for pedestrian uses, would be performed when necessary. An open area of Lake Erie and possible beach nourishment areas have been proposed for disposal of dredged materials. In the dredging, disposal, and repair areas, temporary turbid conditions will be created and water quality will decline, disturbing or destroying aquatic life. (Detroit District.) (ELR order No. 70578.)

Final

Punta Gorda Isles, Inc.-Section 15 (Permit), Charlotte County, Fla., May 13: This statement concerns the application by Punta Gorda Isles, Inc., for a permit to conduct activities in the navigable waters of the United States for the purpose of constructing a boat lock in a canal connecting to the north branch of Alligator Creek. The development involves approximately 922 acres. The proposed work would cause the removal of the mangrove and Juncus Grass communities, and would adversely affect water quality. Approximately 146 acres of wetlands would be filled. (Jacksonville District.) Comments made by: USDA, DOC, HEW, DOI, EPA, State and local agencies, and concerned citizens. (ELR order No. 70588.)

Removal of Water Hyacinth, Aquatic Plant Control, Louisiana, May 9: This statement discusses two actions which are similar in scope. The first project consists of the removal of water hyacinth and other plants from navigable waters of Louisiana, so far as they are or may become an obstruction to navigation. The second action is the control and progressive eradication of water hyacinth, alligator-weed, Eurasian watermilfoil, and other obnoxious aquatic plant growths from navigable waters, tributary streams, connecting channels, and other allied waters of the United States. The primary effort under these programs is the spraying of herbicide 2, 4-D under strictly controlled conditions. No adverse effects are anticipated. (New Orleans District.) Comments made by: DOC, DOT, EPA, AHP, State and local agencies and Concerned Citizens. (ELR order No. 70564.)

Vermilion Lock Replacement, Gulf ICW, Vermilion County, La., May 10: This final EIS updates a revised draft EIS filed with CEQ in November, 1975. The project provides for construction of an earth-chambered sector-gated replacement lock for the existing Vermilion Lock, Gulf Intracoastal Waterway, Louisiana Section. The primary adverse impacts will be the loss of 806 acres of marsh and existing vegetation and wildlife, increased turbidity, and the loss of some benthic organisms. (New Orleans District.) Comments made by: EPA, DOI, DOC, USDA, DOT, HEW, AHP, State and local agencies, concerned citizens. (ERL Order No. 70573.)

Appalachian Power Co., Power Plant, New Haven, Mason County, W. Va., May 13: Proposed is the construction and operation of a 1,300,000 kV coal-fired power plant in New Haven, West Virginia. The plant will use cooling water from the Ohio River and will discharge station waste to the river. Adverse impacts of the project include the discharge of waste from ash disposal and station drains, and passage of water through the station system, the use of chemical additives to water used in the station system, and the breakdown of the pollution control system. The project will also require the clearing of forest land and the relocation of Little Broad Run. (Huntington District.) Comments made by: EPA, DOI, USDA, DOC, FPC, DOT, ORBC, AHP, State and local agencies, concerned citizens. (ERL Order No. 70591.)

Supplement

Buena Vista Flood Protection (S–1), Rockbridge County, Va., May 9: Proposed is the Buena Vista Flood Protection Project which provides for flood protection measures consisting of an 11,700-foot levee and floodwall, a 200-foot wide channel 2,800 feet long, a 5,700-foot interior drainage canal and three closures. Adverse effects include the covering of 72 acres of low-use habitat with levee and floodwall, loss of vegetation on riverbank adjacent to channel, and increased rate of sedimentation into the Maury River during construction. Relocation of businesses, utilities, and transportation facilities will also result. (Norfolk District.) (ERL Order No. 70563.)

NAVY

Contact: Mr. Ed Johnson, Department of the Navy, Room 4B486, Pentagon, Washington, D.C. 20350, (202–697–3639).

Draft

San Diego Naval Sta., Berthing/Repair Pier No. 2, San Diego County, Calif., May 11: Proposed is the construction of a reinforced concrete pier 120 feet wide by 1,005 feet long at the Naval Station, San Diego, California. The project site of the proposed new berthing pier No. 2 will be midway between berthing piers No. 1 and 3, where the water is approximately 300 feet MLLW. The project will deepen the area to 35 MLLW and the dredged material will be disposed of about 8 miles west of Point Loma. Dredging will temporarily disturb marine and bottom life. (ELR Order No. 70576.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Impact, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461 (202–566–9760).

Final

Coal Conversion Program, May 13: This statement proposes FEA's issuance of orders to fossil fuel-fired facilities prohibiting them from burning natural gas or petroleum products as their primary energy source and requiring facilities in the early stages of planning to be built with the capability of burning coal. The following impacts are generally associated with coal burning and vary in degree from site to site: (1) An increase in emissions of air pollutants, (2) increases in solid waste generation, (3) potential increases in land requirements, (4) increases in water pollution, and (5) increases in coal mining, processing, and transport. Comments made by: ICC, USDA, FPC, EPA, HEW, distribution system. (ELR Order No. 70586.)

Supplement

Bayou Choctaw Salt Dome—SPR (S–1), Iberville County, La., May 13: This statement supplements a final EIS filed with CEQ in December, 1976. Proposed is the implementation of the Strategic Petroleum Reserve, Title I, Part B of the Energy Policy and Conservation Act of 1975 through the development of a 94 million barrel crude oil storage facility at the Bayou Choctaw Salt Dome. The oil transportation proposed in the final EIS has been revised to provide direct connections by pipeline to the existing oil distribution system at St. James, Louisiana. This supplement is concerned with the construction and operation of this revised oil distribution system (ELR Order No. 70586.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202–566–0405.

Supplement

Fort Holabird Disposal, Amended (S–3), Baltimore County, Md., May 13: This statement supplements a final EIS filed with CEQ in November, 1975. Proposed is the disposal of 226.85 acres of Fort Holabird, Baltimore City and Baltimore County, Maryland. This acreage will be disposed of as follows: (1) approximately 179.20 acres through negotiated sale with the city of Baltimore for general public purposes; (2) approximately 37 acres by assignment to BOR for conveyance to the city of Baltimore for park and recreational purposes; (3) approximately 4 acres by assignment to BOR for conveyance to Baltimore County for park and recreational purposes; and (4) approximately 6.65 acres through Sealed Bid Sale. (ELR Order No. 70594.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202–755–6308.

Draft

Parkway Forest Subdivision, Harris County, Tex., May 11: Proposed is the approval, for mortgage insurance purposes, of the 543.42-acre Parkway Forest Subdivision in eastern Harris County, Texas. The development plan calls for construction of 2680 housing units with additional acreage reserved for commercial, open space, and recreational uses. Plant and animal communities currently existing on the site will be disrupted. The action will also result in increases in automobile traffic, vehicle emissions, and noise levels. (ELR Order No. 70574.)

CandleRidge—South Ridge Communities, Tarrant County, Tex., May 12: Proposed is the approval of an application by CandleRidge Development Corporation and the Foster Financial Company for FHA mortgage insurance for the proposed communities of CandleRidge and South Ridge. The 1,684-acre project is located 8 miles southwest of

the Fort Worth Central Business District and is designed to accommodate a 1985 population of 15,500 persons with a housing supply of 5,664 units. Of these units, 2,796 are low-density single family homes, 1,164 units are medium-density apartments, and another 1,704 units are cluster housing, condominiums, townhomes and duplexes. Adverse effects include loss of prairie lands, and degradation of water. (ELR Order No. 70583.)

Final

Georgetown ASP 75–28, Chatham County, Ga., May 9: Proposed is the planned unit development of 2206 acres in Chatham County, Georgia. The planned land uses include single-family detached houses, apartments and townhouses, regional and neighborhood commercial areas, recreation facilities, a school complex, an office park, a warehouse/light industry area, an activity center and a sewage treatment plant. The major adverse impacts will be increased demands on schools and highways, and loss of agriculturally productive and. Comments made by: AHP, .COE, FPC, ERDA, EPA, GSA, USDA, DOC, HEW, DOI, state and local agencies, and concerned citizens. (ELR order No. 70565.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are enot available from HUD).

SECTION 104 h

Draft

Santa Rosa, S. Park Neighborhood Development, Sonoma County, Calif., May 9: This statement provides a comprehensive analysis of the environmental consequences of full implementation of the South Park Neighborhood Development Program in Santa Rosa, California. Redevelopment activities have been underway in the neighborhood for over three years and are anticipated to continue for another ten. Specific features of the plan are the rezoning of a seven-block area to be totally commercial, the expansion of a neighborhood park, and the construction of a new roadway completing a beltway around the neighborhood. Alternatives include cessation of redevelopment, and reduced funding. (ELR order No. 75069.)

Renton, Cedar River Trail System, King County, Wash., May 9: Proposed is the construction of a continuous multi-use recreational system along the Cedar River from the mouth of the river at Lake Washington to the proposed King County Park, adjacent to the Maplewood Golf Course five miles up river. The project is to be completed in phases and includes three different environmental zones: the Industrial/Park Zone, the Urban Zone, and the Natural Zone. These areas fall directly within Census Tracts 253, 256, and 257. Adverse impacts are expected to be minimal. (ELR order No. 70571.)

Final

Memphis, Tenn.—New Chicago Area, Tennessee, May 12: Proposed are a number of improvements to the New Chicago area in Memphis, Tennessee. Plans include improvements to streets, curbs, gutters, and structures. The 2689-acre project area is in north Memphis, bounded by Wolf River on the north, Chelsea Avenue on the south, North Cypress Creek on the east, and an industrial complex on the west. No adverse effects are anticipated. Comments made by: EPA, DOI, and interested parties. (ELR order No. 70584.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 5311, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF LAND MANAGEMENT

Final

Navajo Reservation, Coal Lease and Mining Plan, San Juan County, N. Mex., May 11: Proposed is the approval of a coal mining lease and associated mining and reclamation plan on the Navajo Indian Reservation in New Mexico. The major environmental impacts of the proposal will include substantial income to the Navajo Tribe, relocation of the Navajo people residing on the mining area, and the temporary disruption of all surface uses in the area. The audio-visual impact of strip mining and railroad operations, and the permanent alteration of topography also will result. Comments made by: EPA, DOT, ICC, FEA, HEW, DOI, state agencies, Navajo Tribe, and interested parties. (ELR order No. 70575.)

BUREAU OF OUTDOOR RECREATION

Final

Continental Divide and Kit Carson Trails, May 9: Proposed is the designation of a 3,100-mile route from Canada to Mexico as the Continental Divide National Scenic Trail, pursuant to the National Trails System Act (P.L. 90–543). The designated trail would be limited to those sections already in existence on Federal lands, while new trail development would be deferred until the more immediate trail needs of population centers in the vicinity are met. Adverse impacts would occur for some of the trail segments due to anticipated increased use by hikers, horseback riders and pack animals, and increased disposal of wastes. Comments made by: USDA, DOT, HUD, EPA, DOI, state and local agencies, and interested parties. (ELR order No. 70567.)

BUREAU OF RECLAMATION

Final

Dolores Project, Colorado, Montezuma and Dolores Counties, Colo., May 9: The proposed project involves the diversion of water from the Dolores to the San Juan River Basin, Colorado. The project would include McPhee Reservoir on the Dolores River, the smaller Monument Creek and Dawson Draw Reservoirs in the San Juan River Basin, and two major conveyance systems. An average of 126,600 acre-feet of water annually would be developed for the irrigation of 26,300 acres of supplemental service land and 35,360 acres of full service land, for municipal and industrial use, and for fish and wildlife enhancement. Adverse effects include relocation of 42 families, and the inundation of about 4,850 acres. Comments made by: DOI, AHP, USDA, DOD, EPA, HEW, HUD, DOT, state and local agencies, and concerned citizens. (ELR order no. 70562.)

Final

Monongahela River Basin Study, Maryland, Pennsylvania, and West Virginia, May 9: Proposed is adoption of the Monongahela R. Basin Plan for implementation of one major reservoir, one upstream watershed project, flood zoning and insurance at 13 locations, four local protection projects, 104 municipal wastewater treatment facilities, 130 mile drainage abatement areas, and the replacement of one navigation lock and one lock and dam. Adverse impacts of the plan include the inundation of 4,376 acres of open and green space, disruption of 55 miles of existing natural stream channel by four projects, and the possible loss of 2,650 acres of coal resources and associated jobs. Comments made by: USDA, USA, DOC, HEW, HUD, DOI, DOT, ERDA, FPC, EPA, CEQ state agencies, and concerned citizens. (ELR order No. 70559.)

Contact: Mr. Lindsey Grant, Director, Office of Environmental Affairs, Room 7822, Department of State, Washington, D.C. 20520, 202–632–9278.

Final

AID Pest Management Program: This EIS addresses all activities of the Agency for International Development (AID) which are intended to control or eliminate pests. Conceptually, the AID program is organized according to: (a) program area (food production and preservation, public health, and all other pest management programs); (b) program element (pesticide activity, research, training and technical assistance, other pest management activities); and (c) geographical region (the United States, less developed countries, and extraterritorial global areas). AID activities will include development assistance through land and grant programs of technical assistance and training. Comments made by: USDA, HEW, DOI, USCG, DOT, EPA, CEQ, international organizations, foreign governments. (ELR Order No. 70593.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202–426–4357.

BONNEVILLE POWER ADMINISTRATION

Draft

Fiscal year 1978 Bonneville Dam Integrations Transmission, Clark and Skamania Counties, Wash., May 12: The proposed action is construction of transmission facilities to integrate the electricity from the second powerhouse at Bonneville Dam, in the State of Washington, into BPA's grid system. Two alternatives are discussed, both of which involve the construction of approximately 1.3 miles of new 230–kV line and the addition of 21 miles of conductor to the vacant side of existing BPA double circuit towers. Depending upon the final route location chosen, between 6 and 24 acres of new right-of-way would be required, and approximately 100 acres of trees and brush would be cleared for construction. (ELR Order No. 70579.)

FEDERAL AVIATION ADMINISTRATION

Draft

Hollywood-Burbank Airport, California, May 9: Proposed is the public acquisition and continued operation of the existing Hollywood-Burbank Airport. Lockheed Air Terminal, Inc., the current owner/operator, has given notice that it will close the airport to public use, and divest itself of the airport facility. The alternatives to public acquisition and operation of the airport consist of two basic options: "No Action" and the substitution of "Alternative Transportation Modes" for the transportation functions presently served by the Airport. (Western Region.) (ELR Order No. 70572.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Lee's Summit Rd. Improve, U.S. 24—I–70, Jackson County, Mo., May 9: Proposed is the improvement of Lee's Summit/Kiger Roads within the corporate boundary of the City of Independence, Missouri, from U.S. 24 Highway on the north to and including the proposed I–70 diamond interchange on the south. It is a north-south arterial street between Noland Road on the west and M–291

on the east. The existing roadway is two lanes to be improved to four lanes for a length of approximately four miles. Adverse effects include the acquisition of 25.4 acres of land for right-of-way and the relocation of 30 families. (Region 7.) (ELR Order No. 70560.)

S.R. 42, Algood Bypass—Livingston Bypass, Overton and Putnam Counties, Tenn., May 12: Proposed is the construction of State Route 42 in Putnam and Overton Counties, Tennessee. The 13-mile project begins at the proposed Algood Bypass and extends in a northeasterly direction on new location to south of the Livingston Bypass. Plans call for construction of a 4-lane divided highway on a minimum right-of-way width of 250' utilizing various proposed typical roadway sections. Adverse effects include displacement of residences, loss of natural habitat, introduction of a new source of noise and air pollution, and temporary siltation of all involved streams during construction. (Region 4.) (ELR Order No. 70577.)

Final

U.S. 81 and U.S. 30, Columbus, Nebr.; Polk, Butler, and Platte Counties, Nebr., May 12: The project consists of the improvement of two separate roadways, U.S. 81 and U.S. 30 south of Columbus, and L-71-D, U.S. 81 to U.S. 30 connection, in the city of Columbus. The improvement includes the construction of new bridges over Platte and Loup Rivers as well as over various creeks and drainageways. The project will require the acquisition of 50 acres of land for right-of-way and the displacement of families and businesses. A 4(f) statement concerning Pawnee Park is included. Comments made by: DOT, USAF, COE, USDA, DOI, EPA. (ELR Order No. 70580.)

Mapleton Center Street, Utah County: Utah, May 9: Proposed is the improvement and extension of Mapleton Center Street from Maple Street to Hobble Creek Canyon Road, a distance of 1.5 miles. Bituminous surface will cover 2 12-foot lanes and 2 8-foot shoulders, for a total width of 40 feet. Adverse impacts include the relocation of 3 families and construction disruption resulting especially from a cut and fill section and structure for Hobbel Creek. (96 pages.) Comments made by: DOI, USDA, EPA, HUD, DOC, HEW, AHP, State agencies, interested parties. (ELR Order No. 70558.)

Oneida St. Bridge and approaches, Appleton: Outgamie County, Wis., May 9: The proposed project involves the construction of a new bridge across the Fox River and a Government Lock Canal and its approaches in the City of Appleton. The bridge, located 600' west of the present Oneida Street crossing, would be four lanes wide and .67 mile long. The construction of the north approach roadways will require the acquisition of a portion of Jones Park (a 4(f) statement is included) and the south approach will sever the practice area of Riverview Country Club's golf course. Three residences will have to be relocated, one warehouse will have to be acquired and Peerless Point Co. will be displaced by construction. (Region 5.) Comments made by: USCG, DOI, COE, USDA, HEW, EPA, State and local agencies, concerned citizens. (ELR Order No. 70561.)

U.S. COAST GUARD
WASHINGTON, D.C. 20590
202-426-2010

Draft

Tanker Regs—Double Bottoms, Segregated Ballast, May 13: Proposed are certain changes in regulations related to two earlier rulemakings that were issued under Title II of the Ports and Waterways Safety Act of 1972. The regulatory changes would apply segregated ballast requirements to tank vessels both new and existing of 20,000 deadweight tons or greater and would require that all new tank vessels have double bottom spaces to achieve the required segregated ballast capacity. These regulations would apply to U.S. tankers and to foreign tankers entering U.S. waters. Beneficial impacts are anticipated. (ELR Order No. 70587.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-14428 Filed 5-19-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

PRIVACY ACT OF 1974

New System of Records

The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows:

FR Doc. 75-21075 (40 FR 35151) August 18, 1975.
FR Doc. 75-22781 (40 FR 41970) September 9, 1975.
FR Doc. 75-26296 (41 FR 2952) January 20, 1976.
FR Doc. 76-20187 (41 FR 28806) July 13, 1976.
FR Doc. 76-21185 (41 FR 30824) July 26, 1976.
FR Doc. 76-27015 (41 FR 39798) September 16, 1976.
FR Doc. 76-32920 (41 FR 49960) November 11, 1976.
FR Doc. 77-5005 (42 FR 9700) February 17, 1977.
FR Doc. 77-9080 (42 FR 16465) March 28, 1977.
FR Doc. 77-11071 (42 FR 20172) April 18, 1977.
FR Doc. 77-11277 (42 FR 20326) April 19, 1977.
FR Doc. 77-11857 (42 FR 21310) April 26, 1977.

Notice is hereby given that the Department of the Army submitted a proposed new system of records on May 10, 1977 pursuant to the provisions of Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The Department of the Army invites public comments concerning the proposed new record system. Interested persons are invited to submit written data, views and arguments to Headquarters, Department of the Army, ATTN: DAAG-AMR-R, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20314 on or before June 20, 1977. The system will become effective, within 30 days (June 20, 1977), as proposed without further notice unless comments are received which result in a contrary determination.

A0727.05bDAPE

System name:

DOD Discharge Review Program (Special)

System location:

a. Primary manual/paper file record located at the Joint Liaison Office, US Army Reserve Components Personnel Administration Center (RCPAC), St. Louis, MO; at the National Personnel Records Center (NPRC) of General Services Administration (GSA), St. Louis, MO; US Army Administration Center, Ft. Harrison, IN; Army Discharge Review Board, The Pentagon, Washington, DC 20310; Army Council of Review Boards, Office, Secretary of the Army, The Pentagon, Washington, DC 20310. Demographic data on people applying will exist in the Office, Secretary of Defense.

b. Automated case summary information for all former military members, regardless of Service, maintained by Headquarters, Department of the Army (HQDA), US Army Management Systems Support Agency, The Pentagon, Washington, DC 20310.

Categories of individuals covered by the system:

Former members of the Army who seek discharge upgrade action in accordance with Department of Defense special discharge review program and case summary sheet data on former military members of the Navy, Marine Corps, and Air Force, and the Coast Guard.

Categories of records in the system:

Contains information initially provided by individual when seeking discharge upgrade consideration; includes but is not limited to: Name, social security number (SSN), mailing address, telephone number, former service number(s), and dates of military service. File subsequently contains information provided by requester in written form; information includes discharge date (between August 4, 1964 and March 28, 1973 except where otherwise noted), type discharge, desertion data (if applicable), branch of service, SSN, service number(s), address, hearing method, and dates of confirmation letter.

Case data sheet consolidates preceding information as well as information provided from official military records pertaining to the requester and includes, but is not limited to, the following: index reference and case number associated with individual request, date official military personnel file received from NPRC, date of birth, home of record, officer or inductee/enlistee, sex, race, date entered/discharged from service, reason and authority for discharge, documents submitted by individuals meriting special consideration, dates of accomplishment of steps related to processing of request; discharge review date; conclusions (upgrade to honorable, general, or appeal denied); vote of discharge review board and reasons (special considerations, mitigating factors, compelling reasons, deserving post service conduct); date of applicant notification of discharge review determination, and application for rehearing if applicable.

Information which may be obtained from military service records pertaining

to the requester includes whether individual completed tour in Southeast Asia or Western Pacific, was wounded in combat, decorated for valor or merit, honorably discharged from previous tour, satisfactorily served 24 months prior to discharge or completed alternative service, or was excused in accordance with Presidential Proclamation 4313. Mitigating data pertaining to request include general aptitude, length of service at time of discharge, education level, socio-economic background, factors related to personal distress, waiver(s) granted for service entry, offense(s) motivated by conscience, drug/alcohol related discharge, and good citizenship. Disqualifying data include whether discharged for act(s) of violence/dishonor, offense(s) subject to civilian criminal prosecution, and desertion in or from combat theater.

Automated record contains summary data from case data summary sheet described above, accumulated by Army for all military services, and includes type record, SSN or service number(s), discharge date (between August 4, 1964 and March 28, 1973), name, address, telephone number, hearing method, date of inquiry, date of confirmation letter.

Authority for maintenance of the system

Title 5 U.S.C., Section 301; Title 10 U.S.C., Sections 3012, 1553, and 1554.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

To support Army Discharge Review Board actions and notify appropriate government agencies (e.g., Veterans Administration) of matters pursuant to such action.

To render recurring reports on number of cases processed by each military service, and matters associated therewith.

To respond to inquiries from individuals to whom records pertain, their counsel, members of Congress, and other government agencies concerning the status and disposition of cases.

To obtain views and recommendations, as required, from other governmental activities within their area of responsibility, including The Attorney General and other law enforcement agencies in those cases alleging acts of force or violence and criminal conduct deemed to be so serious as to warrant continued investigation or possible prosecution.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in files, card indexes, computer magnetic tapes/disks, computer punch cards, and computer printouts.

Retrievability:

By name, SSN or service number, case number or other individually unique identifier assigned the record. Case Summary may be grouped by military service Discharge Review Board and thereunder filed alphabetically by name, case number, SSN or service number, or by other appropriate identifier.

Safeguards:

Manual records are stored in buildings which employ security guards; records are accessible only to authorized personnel.

Automated records are under the control of a cardkey access system which requires positive identification and authorization, and are located in a designated controlled area to which access is limited to selected personnel only.

Retention and disposal:

Final determination and associated supporting documentation incorporated into the Official Military Personnel Folder of the Army member and returned to NPRC, GSA upon completion of action by the Discharge Review Board. Copy of case data summary sheet for each former military service member (Army, Navy, Marine Corps, Air Force) and copy of a comprehensive final report by each military service upon completion of the program will be retained by the Army Council of Review Boards for a period not yet determined.

Automated record information retained for 5 years or until such time as necessary to complete all special Discharge Review Board program actions and attendant administrative matters associated with accounting, reporting, and historical file maintenance in support of DOD requirements. Subsequently destroyed.

System manager(s) and address:

HQDA, ATTN: DAPE-HRL, The Pentagon, Washington, DC 20310.

Army Discharge Review Board, OSA, Room 1E-474, The Pentagon, Washington, DC 20310.

Commander, US Army Management and Systems Support Agency (for ADP portions of the DOD system).

Notification procedure:

Information may be obtained by contacting the respective military department discharge review boards. Addresses are as follow:

Office of the Secretary of the Army, ATTN: Discharge Review Board (Special Discharge Review Program), Room 1E-474, The Pentagon, Washington, DC 20310, Telephone: Area Code 202/697-3071.

Office of the Secretary of the Navy, ATTN: Discharge Review Board (Special Discharge Review Program), Room 910, Ballston Centre Tower No. 2, 801 North Randolph Street, Arlington, VA 22203, Telephone: Area Code 202/692-4991.

Office of the Secretary of the Air Force, ATTN: Discharge Review Board (Special Discharge Review Program), Room 920, Commonwealth Building, 1300 Wilson Boulevard, Arlington, VA 22209, Telephone: Area Code 202/694-5669.

Record access procedures:

Requests from individuals formerly with the Army should be addressed as indicated above. Written requests should contain the full name, SSN, former service number(s), address, telephone number and case number (if known) of the requester, and the fact that the request is related to the DOD Discharge Review Program (Special). Requests for information from other former service personnel should be addressed as indicated under "Notification procedure". (Requests of former members of the Coast Guard should be addressed to the Navy Discharge Review Board.)

For personal visits, the individual should be able to provide some acceptable identification such as driver's license and verbal information which can be used to verify that information contained in the record sought (e.g., SSN, former service number(s), address, and case number).

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA, ATTN: DAPE-HRL, The Pentagon, Washington, DC 20310.

Record source categories:

Official Army personnel files and related records.

Reports from the Navy, Marine Corps, and the Air Force.

Correspondence, documents, and other material generated as a result of action required by the DOD Discharge Review Program (Special).

Systems exempted from certain provisions of the act:

None.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 17, 1977.

[FR Doc.77-14423 Filed 5-19-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 782-8; OPP-00051A]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Amended Meeting

The three-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel scheduled for Wednesday, May 25, Thursday, May 26, and Friday, May 27, 1977 has been changed to a two-day meeting now scheduled for Thursday, May 26 and Friday, May 27, 1977. The meeting will be held in Room 2812 (a) and (b), Waterside Mall, 401 M Street, SW., Washington, D.C.

This change is due to the postponement of the third item on the agenda, namely the Subpart on proposed chem-

on the east. The existing roadway is two lanes to be improved to four lanes for a length of approximately four miles. Adverse effects include the acquisition of 25.4 acres of land for right-of-way and the relocation of 30 families. (Region 7.) (ELR Order No. 70560.)

S.R. 42, Algood Bypass—Livingston Bypass, Overton and Putnam Counties, Tenn., May 12: Proposed is the construction of State Route 42 in Putnam and Overton Counties, Tennessee. The 13-mile project begins at the proposed Algood Bypass and extends in a northeasterly direction on new location to south of the Livingston Bypass. Plans call for construction of a 4-lane divided highway on a minimum right-of-way width of 250' utilizing various proposed typical roadway sections. Adverse effects include displacement of residences, loss of natural habitat, introduction of a new source of noise and air pollution, and temporary siltation of all involved streams during construction. (Region 4.) (ELR Order No. 70577.)

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U.S. COAST GUARD
WASHINGTON, D.C. 20590
202-426-2010

Draft

Tanker Regs—Double Bottoms, Segregated Ballast, May 13: Proposed are certain changes in regulations related to two earlier rulemakings that were issued under Title II of the Ports and Waterways Safety Act of 1972. The regulatory changes would apply segregated ballast requirements to tank vessels both new and existing of 20,000 deadweight tons or greater and would require that all new tank vessels have double bottom spaces to achieve the required segregated ballast capacity. These regulations would apply to U.S. tankers and to foreign tankers entering U.S. waters. Beneficial impacts are anticipated. (ELR Order No. 70587.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-14428 Filed 5-19-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

PRIVACY ACT OF 1974

New System of Records

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FR Doc. 76-21185 (41 FR 30824) July 26, 1976.
FR Doc. 76-27015 (41 FR 39798) September 16, 1976.
FR Doc. 76-32920 (41 FR 49960) November 11, 1976.
FR Doc. 77-5005 (42 FR 9700) February 17, 1977.
FR Doc. 77-9080 (42 FR 16465) March 28, 1977.
FR Doc. 77-11071 (42 FR 20172) April 18, 1977.
FR Doc. 77-11277 (42 FR 20326) April 19, 1977.
FR Doc. 77-11857 (42 FR 21310) April 26, 1977.

Notice is hereby given that the Department of the Army submitted a proposed new system of records on May 10, 1977 pursuant to the provisions of Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The Department of the Army invites public comments concerning the proposed new record system. Interested persons are invited to submit written data, views and arguments to Headquarters, Department of the Army, ATTN: DAAG-AMR-R, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20314 on or before June 20, 1977. The system will become effective, within 30 days (June 20, 1977), as proposed without further notice unless comments are received which result in a contrary determination.

A0727.05bDAPE

System name:

DOD Discharge Review Program (Special)

System location:

a. Primary manual/paper file record located at the Joint Liaison Office, US Army Reserve Components Personnel Administration Center (RCPAC), St. Louis, MO; at the National Personnel Records Center (NPRC) of General Services Administration (GSA), St. Louis, MO; US Army Administration Center, Ft. Harrison, IN; Army Discharge Review Board, The Pentagon, Washington, DC 20310; Army Council of Review Boards, Office, Secretary of the Army, The Pentagon, Washington, DC 20310. Demographic data on people applying will exist in the Office, Secretary of Defense.

b. Automated case summary information for all former military members, regardless of Service, maintained by Headquarters, Department of the Army (HQDA), US Army Management Systems Support Agency, The Pentagon, Washington, DC 20310.

Categories of individuals covered by the system:

Former members of the Army who seek discharge upgrade action in accordance with Department of Defense special discharge review program and case summary sheet data on former military members of the Navy, Marine Corps, and Air Force, and the Coast Guard.

Categories of records in the system:

Contains information initially provided by individual when seeking discharge upgrade consideration; includes but is not limited to: Name, social security number (SSN), mailing address, telephone number, former service number(s), and dates of military service. File subsequently contains information provided by requester in written form; information includes discharge date (between August 4, 1964 and March 28, 1973 except where otherwise noted), type discharge, desertion data (if applicable), branch of service, SSN, service number(s), address, hearing method, and dates of confirmation letter.

Case data sheet consolidates preceding information as well as information provided from official military records pertaining to the requester and includes, but is not limited to, the following: index reference and case number associated with individual request, date official military personnel file received from NPRC, date of birth, home of record, officer or inductee/enlistee, sex, race, date entered/discharged from service, reason and authority for discharge, documents submitted by individuals meriting special consideration, dates of accomplishment of steps related to processing of request; discharge review date; conclusions (upgrade to honorable, general, or appeal denied); vote of discharge review board and reasons (special considerations, mitigating factors, compelling reasons, deserving post service conduct); date of applicant notification of discharge review determination, and application for rehearing if applicable.

Information which may be obtained from military service records pertaining

to the requester includes whether individual completed tour in Southeast Asia or Western Pacific, was wounded in combat, decorated for valor or merit, honorably discharged from previous tour, satisfactorily served 24 months prior to discharge or completed alternative service, or was excused in accordance with Presidential Proclamation 4313. Mitigating data pertaining to request include general aptitude, length of service at time of discharge, education level, socio-economic background, factors related to personal distress, waiver(s) granted for service entry, offense(s) motivated by conscience, drug/alcohol related discharge, and good citizenship. Disqualifying data include whether discharged for act(s) of violence/dishonor, offense(s) subject to civilian criminal prosecution, and desertion in or from combat theater.

Automated record contains summary data from case data summary sheet described above, accumulated by Army for all military services, and includes type record, SSN or service number(s), discharge date (between August 4, 1964 and March 28, 1973), name, address, telephone number, hearing method, date of inquiry, date of confirmation letter.

Authority for maintenance of the system

Title 5 U.S.C., Section 301; Title 10 U.S.C., Sections 3012, 1553, and 1554.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

To support Army Discharge Review Board actions and notify appropriate government agencies (e.g., Veterans Administration) of matters pursuant to such action.

To render recurring reports on number of cases processed by each military service, and matters associated therewith.

To respond to inquiries from individuals to whom records pertain, their counsel, members of Congress, and other government agencies concerning the status and disposition of cases.

To obtain views and recommendations, as required, from other governmental activities within their area of responsibility, including The Attorney General and other law enforcement agencies in those cases alleging acts of force or violence and criminal conduct deemed to be so serious as to warrant continued investigation or possible prosecution.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in files, card indexes, computer magnetic tapes/disks, computer punch cards, and computer printouts.

Retrievability:

By name, SSN or service number, case number or other individually unique identifier assigned the record. Case Summary may be grouped by military service Discharge Review Board and thereunder filed alphabetically by name, case number, SSN or service number, or by other appropriate identifier.

Safeguards:

Manual records are stored in buildings which employ security guards; records are accessible only to authorized personnel.

Automated records are under the control of a cardkey access system which requires positive identification and authorization, and are located in a designated controlled area to which access is limited to selected personnel only.

Retention and disposal:

Final determination and associated supporting documentation incorporated into the Official Military Personnel Folder of the Army member and returned to NPRC, GSA upon completion of action by the Discharge Review Board. Copy of case data summary sheet for each former military service member (Army, Navy, Marine Corps, Air Force) and copy of a comprehensive final report by each military service upon completion of the program will be retained by the Army Council of Review Boards for a period not yet determined.

Automated record information retained for 5 years or until such time as necessary to complete all special Discharge Review Board program actions and attendant administrative matters associated with accounting, reporting, and historical file maintenance in support of DOD requirements. Subsequently destroyed.

System manager(s) and address:

HQDA, ATTN: DAPE-HRL, The Pentagon, Washington, DC 20310.

Army Discharge Review Board, OSA, Room 1E-474, The Pentagon, Washington, DC 20310.

Commander, US Army Management and Systems Support Agency (for ADP portions of the DOD system).

Notification procedure:

Information may be obtained by contacting the respective military department discharge review boards. Addresses are as follow:

Office of the Secretary of the Army, ATTN: Discharge Review Board (Special Discharge Review Program), Room 1E-474, The Pentagon, Washington, DC 20310, Telephone: Area Code 202/697-3071.

Office of the Secretary of the Navy, ATTN: Discharge Review Board (Special Discharge Review Program), Room 910, Ballston Centre Tower No. 2, 801 North Randolph Street, Arlington, VA 22203, Telephone: Area Code 202/692-4991.

Office of the Secretary of the Air Force, ATTN: Discharge Review Board (Special Discharge Review Program), Room 920, Commonwealth Building, 1300 Wilson Boulevard, Arlington, VA 22209, Telephone: Area Code 202/694-5669.

Record access procedures:

Requests from individuals formerly with the Army should be addressed as indicated above. Written requests should contain the full name, SSN, former service number(s), address, telephone number and case number (if known) of the requester, and the fact that the request is related to the DOD Discharge Review Program (Special). Requests for information from other former service personnel should be addressed as indicated under "Notification procedure". (Requests of former members of the Coast Guard should be addressed to the Navy Discharge Review Board.)

For personal visits, the individual should be able to provide some acceptable identification such as driver's license and verbal information which can be used to verify that information contained in the record sought (e.g., SSN, former service number(s), address, and case number).

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA, ATTN: DAPE-HRL, The Pentagon, Washington, DC 20310.

Record source categories:

Official Army personnel files and related records.

Reports from the Navy, Marine Corps, and the Air Force.

Correspondence, documents, and other material generated as a result of action required by the DOD Discharge Review Program (Special).

Systems exempted from certain provisions of the act:

None.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 17, 1977.

[FR Doc.77-14423 Filed 5-19-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 732-8; OPP-00051A]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Amended Meeting

The three-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel scheduled for Wednesday, May 25, Thursday, May 26, and Friday, May 27, 1977 has been changed to a two-day meeting now scheduled for Thursday, May 26 and Friday, May 27, 1977. The meeting will be held in Room 2812 (a) and (b), Waterside Mall, 401 M Street, SW., Washington, D.C.

This change is due to the postponement of the third item on the agenda, namely the Subpart on proposed chem-

istry requirements of the Guidelines for Registering Pesticides in the United States. The other agenda items remain the same as published in the FEDERAL REGISTER on May 11, 1977. However a discussion on the National Pesticide Monitoring Plan will be added as an additional agenda topic. For further information contact: Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH–567), Room E–315, EPA, 401 M St., SW., Washington, D.C. 20460, telephone 202–755–4851.

(Sec. 25(d) of FIFRA, as amended (86 Stat. 97; 89 Stat. 751; 7 U.S.C. 136(a) et seq.) and sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770).)

Dated: May 18, 1977.

JAMES M. CONLON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-14508 Filed 5-19-77;8:45 am]

[OPP–30000/14; FRL 729–8]

PESTICIDE PROGRAMS

Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Pronamide

The Deputy Assistant Administrator, Office of Pesticide Programs, Environmental Protection Agency (EPA), has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing pronamide [N-(1,1-dimethyl - 2 - propynyl) 3,5 - dichlorobenzamide].[1]

I. REGULATORY PROVISIONS

A. *General.* Title 40, Part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 971, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in § 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption is issued when the evidence related to risk meets the criteria set forth in § 162.11(a)(3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

Accordingly, all registrants and applicants for registration are invited pursuant to § 162.11(a)(4) to submit evidence in rebuttal of this presumption, and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may also submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to section 6(a)(1) of FIFRA.

B. *Rebuttal Criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of non-target organisms is not likely to result in any significant acute adverse effects" (40 CFR 162.11(a)(3)(i) and (iii));

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" (40 CFR 162.11(a)(ii)); or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

(C) *Benefits Information.* In addition to submitting evidence to rebut the presumption of risk, § 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence submitted by the registrant,[2] applicants and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically, § 162.11(a)(5)(iii) provides that if the "benefits appear to outweigh risks," the Administrator may (1) issue a notice of intent to hold a hearing pursuant to Section 6(b)(2) of FIFRA rather than a notice of intent to cancel or (2) deny registration pursuant to section 3(c)(6) of FIFRA. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to section 3(c)(6) or section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to Section 6(c) of the Act.

Stated below is the § 162.11(a)(3) risk criterion which the Agency has found to have been met or exceeded by registrations and applications for registration of pesticide products containing pronamide. The Agency's basis for concluding that this risk criterion has been met or exceeded is set out in "Pronamide: Position Document 1", which follows. This document was prepared by an Agency Working Group. Copies of the attachments to the Position Document which are not published with this notice are available for public inspection. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the Position Document should be directed to Project Manager Richard Troast, Office of Special Pestiside Reviews (WH–566), EPA, Rm. 447, East Tower, 401 M St. SW., Washington, D.C. 20460 (202–755–8050).

II. PRESUMPTION

40 CFR 162.11(a)(ii)(A) provides, "A rebuttable presumption shall arise if a pesticide's ingredient(s). * * * (i)nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *." As a further clarification of the provision, the preamble to the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402) states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing pronamide, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

III. REGISTRATIONS AND PRODUCTS SUBJECT TO THE NOTICE

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until June 27, 1977, to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the FEDERAL REGISTER.

IV. DUTY TO SUBMIT INFORMATION ON ADVERSE EFFECTS

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of pronamide products has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which has not been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

V. PUBLIC COMMENTS

During the time allowed for submission of rebuttal evidence, comments on the presumptions set forth in this notice and on the material contained in the Position Document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed, are requested to be submitted to the EPA as soon as possible. Similarly, any studies or comments on the benefits from the use of pronamide are requested to be submitted. All comments and information received, as well as any other relevant information and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to Section 162.11(a)(5).

All comments and information should be sent to:

Federal Register Section, Technical Services Division (WH–569), Rm. 401 East Tower, 401 M Street, SW., Washington, D.C. 20460.

Three copies of the comments or information should be submitted if possible to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP–30000/14." Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with § 162.11(a)(5)(ii).

Comments received after the specified time period will be considered only to the extent feasible consistent with the time limits imposed by § 162.11(a)(5)(ii). All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. on normal working days.

Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since (1) All of the information received may serve as a basis for final determination pursuant to § 162.11(a)(5) and (2) the Agency will not generally publish a summary of information received in the FEDERAL REGISTER at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the FEDERAL REGISTER, but rather handled by mail with affected parties. Omissions will be corrected by notice in the FEDERAL REGISTER.

Dated: May 9, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Federally Registered Products Containing Pronamide

Registrant No.	Name and address	Product No. and name
000538	O. M. Scott & Sons Co., Marysville, Ohio 43040	00084—Proturf 27-0-13 POA Annua Control Plus Fertilizer. 00115—Scotts Proturf POA Annua Control V. 00118—Scotts Proturf POA Annua Control.
000557	Swift Agricultural Chemical Corp., 111 West Jackson Blvd., Chicago, Ill. 60604.	01906—Farex POA Annua Control Plus Fertilizer.
000707	Rohm & Haas Co., Independence Mall, Philadelphia, Pa. 19105.	00028—Kerb 50-W Selective Herbicide 00113—Kerb Technical.
002169	Patterson Chemical Co., Inc., 1400 Union Ave., Kansas City, Mo. 64101.	00248—Pattersons Kerb 50W.
005481	Amvac Chemical Corp., 4100 East Washington Blvd., Los Angeles, Calif. 90023.	00170—Kerb Granules 1.

Applicants for Registration of Products Containing Pronamide

Registrant No.	Name and address	Product No. and name
000707	Rohm & Haas Co., Independence Mall, Philadelphia, Pa. 19105.	04594—Kerb 50-W. 04595—Kerb 50-W. 04596—Kerb 50-W. 06619—Kerb 50-W. 07620—Kerb 50-W. 07623—Kerb 50-W.
002342	Kerr-McGee Chemical Corp., Manager, Packaging and Labeling, Kerr-McGee Center, Oklahoma City, Okla. 73102.	06948—Turfmaster with Kerb.
005481	Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles, Calif. 90023.	07509—Kerb Granules 1. ROE—Kerb Granules 2. ROG—Kerb Granules 3. ROU—Kerb Granules 4.
009404	Chase & Co., Box 1667, Sanford, Fla. 32771	10533—Sunniland POA Annua Control plus fertilizer.
009782	Woodbury Chemical Corp., P.O. Box 4319, Princeton, Fla. 33030.	03630—Kerb 1 pct.

PRONAMIDE: POSITION DOCUMENT 1

PRONAMIDE WORKING GROUP, RICHARD TROAST, PROJECT MANAGER, U.S. ENVIRONMENTAL PROTECTION AGENCY

Contents

I. Background.
A. General Chemistry.
B. Residue Chemistry.
C. Environmental Chemistry.
D. Toxicology.
E. Uses and Production.
F. Alternative Pesticides.
G. Human Exposure.
II. Regulatory History.
III. Summary of Scientific Evidence to Support Rebuttable Presumption on the Basis of Chronic Toxicity.
A. Chronic Feeding Studies in Which Oncogenic Effects Were Observed.

[1] This notice of presumption differs in presentation from previously published notices. Specifically, in the past the Agency has published a notice of rebuttable presumption which included a discussion of the substantive reasons for the action taken. This notice does not include such a discussion, but instead incorporates the substantive discussion contained in the lengthy Position Document which is also published. These changes were made in order to streamline the process of information dissemination while providing as much information as possible to affected and interested parties.

[2] Registrants or other interested persons who desire to submit benefit information should consider submitting benefit information on the following subjects, along with any other relevant information they desire to submit.

1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the minor uses of the pesticide, including estimated quantities used by category such as turf and agricultural uses.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon user productivity (e.g. yield per acre and/or total output) from using available substitute pesticides or from using or no other pesticide.
6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

B. Chronic Feeding Studies Reporting No Oncogenic Effects.
1. "Toxicology Study on the Effect of Adding RH-315 to the Diet of Rats for a Period of Two Years."
2. "Toxicologic Study on the Effect of Adding RH-315 to the Diet of Beagle Dogs for a Period of Two Years."

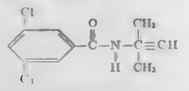
List of Appendices.

1. *Background.*—A. *General Chemistry.* Pronamide (N-(1,1-dimethyl-2-propynl) 3, 5-dichlorobenzamide) was patented as a herbicide in 1964 by Dr. A. Crovetti of Abbott Laboratories, Northbrook, Ill.[2] The proprietary rights to the compound were transferred to Rohm and Haas Company, Inc., in 1968. Abbott Laboratories still receives a royalty from Rohm and Haas from pronamide production.

There are no currently registered pesticides that are chemically similar to pronamide. Rohm and Haas has indicated that pronamide is probably the most biologically active compound of its type (*1*).

Physical characteristics of this compound are:

Melting point, 155° C; solubility in H_2O, 15 ppm; vapor pressure, 8.5×10^{-6} mm.



Pronamide

Pronamide is synthesized as a solid. The technical chemical is packaged as a coarse powder formulation. Pronamide products that are ready for application are wettable powders or granules.

B. *Residue chemistry.* In a study of pronamide metabolism, cows and rats fed pronamide excreted over half the amount they ingested directly through the gastrointestinal tract in the feces. Radioisotope studies in the cows and rats indicated that only a slight percentage of the ingested pronamide is metabolized in the gastrointestinal tract. However, once pronamide is absorbed through the intestinal lining, at least seven metabolites can be identified in the urine (*2*).

Pronamide metabolism in mammals is similar to fatty acid metabolism in that the aliphatic chain is modified by a series of carboxylic acid transformations. Since these chemical transformations follow fatty acid metabolism, which is a liver function, pronamide metabolism may also largely be a function of the liver.

Metabolism of pronamide by plants was demonstrated by Yih and Swithenbank in 1971 (*3*). A plant study using alfalfa revealed that at least ten metabolites could be identified in the alfalfa tissue after treatment with pronamide. This study indicated that the treated crop should not be harvested until 120 days after the last pronamide application. A list of pronamide metabolites and media in which they occur may be found in Figure 1 and Table 1.

C. *Environmental chemistry.* Soil degradation patterns of pronamide follow pathways similar to the metabolic pathways found in plants and animals. Residues of pronamide in soil were detectable in amounts of 0.27 ppm for up to 112 days after field application (*3*). In a study using ^{14}C-pronamide, Fisher found that 13 percent of the pronamide changed to $^{14}CO_2$ after 33 days. Fisher speculates that this change was accomplished by soil bacteria since there was no significant $^{14}CO_2$ liberation in a similar test in sterilized soil (*4*).

Walker (*5*), Yih et al. (*6*), and Leistra et al. (*7*) conducted additional studies of the persistence of pronamide in soil. All of these studies indicated that pronamide may persist in soil. The half-life of the molecule is wholly dependent on soil temperature and moisture. A 10 percent soil moisture, Walker reported half-lives of 29 days at 23°C, 63 days at 15°C, and 140 days at 8°C. Reducing the soil moisture to 5 percent increased half-life by a factor of almost two at 23°C. Leistra et al. additionally found that the mobility of pronamide is slight beneath the top 5 cm of soil and is totally dependent on the breakdown kinetics of the herbicide.

FIGURE 1.—*Pronamide Metabolites*

Metabolite No.
Compound A (Pronamide)
Structure

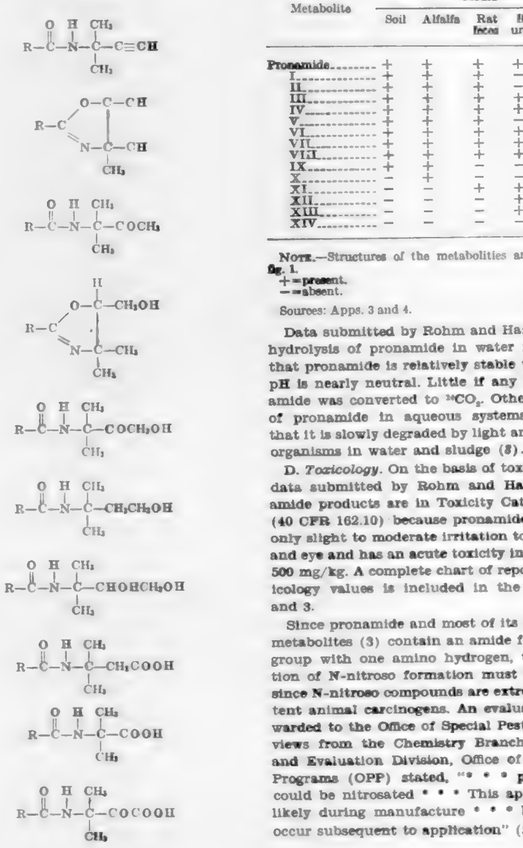


TABLE 1.—*Occurrence of pronamide metabolites in soil, plants, and mammals*

Metabolite	Media				
	Soil	Alfalfa	Rat feces	Rat urine	Cow urine
Pronamide	+	+	+	+	−
I	+	+	+	−	−
II	+	+	+	−	−
III	+	+	+	+	−
IV	+	+	+	+	−
V	+	+	+	−	−
VI	+	+	+	+	−
VII	+	+	+	+	+
VIII	+	+	+	+	+
IX	+	+	−	−	−
X	−	+	−	−	−
XI	−	−	+	−	−
XII	−	−	−	+	+
XIII	−	−	−	+	+
XIV	−	−	−	−	+

NOTE.—Structures of the metabolities are given in fig. 1.
+=present.
−=absent.

Sources: Apps. 3 and 4.

Data submitted by Rohm and Haas on the hydrolysis of pronamide in water indicated that pronamide is relatively stable when the pH is nearly neutral. Little if any ^{14}C-pronamide was converted to $^{14}CO_2$. Other studies of pronamide in aqueous systems showed that it is slowly degraded by light and microorganisms in water and sludge (*8*).

D. *Toxicology.* On the basis of toxicological data submitted by Rohm and Haas, pronamide products are in Toxicity Category III (40 CFR 162.10) because pronamide exhibits only slight to moderate irritation to the skin and eye and has an acute toxicity in excess of 500 mg/kg. A complete chart of reported toxicology values is included in the Tables 2 and 3.

Since pronamide and most of its identified metabolites (3) contain an amide functional group with one amino hydrogen, the question of N-nitroso formation must be raised since N-nitroso compounds are extremely potent animal carcinogens. An evaluation forwarded to the Office of Special Pesticide Reviews from the Chemistry Branch, Criteria and Evaluation Division, Office of Pesticide Programs (OPP) stated, "* * * pronamide could be nitrosated * * * This appears unlikely during manufacture * * * but could occur subsequent to application" (*9*).

[2] U.S. Patents 3,534,098 and 3,640,699 granted on October 13, 1970, and February 8, 1972.

TABLE 2.—*Acute toxicity of pronamide products*

Test	Species and sex	Product	LD_{50}
Oral	Rat—male	Kerb 75 WP (RH-315 75 WP)	4,125 mg/kg.
Do	Rat—male	Kerb technical (RH-315)	8,350 mg/kg.
Do	Rat—female	do	5,620 mg/kg.
Do	Rat—male	Kerb 50W (RH-315 50 WP)	10,000 mg/kg.
Do	Rat—female	do	16,000 mg/kg.
Do	Dog	Kerb—technical (RH-315)	>10 g/kg.
Dermal	Rabbits	do	>3.16 g/kg.
Do	do	Kerb 50W (RH-315 50 WP)	>10 g/kg.
Primary skin irritation	do	do	Not considered primary irritant at 0.5 g.
Percutaneous	Rabbits—male.	Kerb 75 WP (RH-315 75 WP)	>20 g/kg.
Eye irritation	Rabbits	Kerb technical (RH-315)	Slight conjunctual redness at 3 mg; no corneal damage.
Do	do	Kerb 50W (RH-315 50 WP)	Slight irritant to unwashed eye at 100 mg.
Inhalation	Rats	do	No mortality, but spots on lungs at 3.32 mg/l air.

Source: Sec. C of pesticide petitions 1F1139 and 9G0821.

TABLE 3.—*Wildlife toxicity of pronamide products*

Test	Species, sex	Product	LD_{50}/LC_{50}
Oral	Japanese quail	Kerb 75 WP	8,770 mg/kg.
	Male	do	9,340 mg/kg.
	Female	do	8,000 mg/kg.
	Mallard duck	do	>14,000 mg/kg.
Tank water	Goldfish	do	LC_{50}=350 p/m.
	Guppies	do	LC_{50}=150 p/m.
	Rainbow trout	do	LC_{50}=72 p/m.
	Catfish	do	LC_{50}>200 p/m.
Treated foliage (2 lb/acre)	Honey bee	do	24-hr mortality=0 pct.
	Leafcutter bee	do	24-hr mortality=5 pct. (Control=4 pct.)

Source: Section C of pronamide petitions 1F1139 and 9G0821.

The potential for N-nitroso formation is especially likely since some pronamide is marketed in a formulation with nitrogen fertilizers. N-nitroso formation may also occur after the pesticide is applied if there are nitrates present. This formation is therefore possible in soil, water, air, plants, and animals including man.

While some data show that pronamide does metabolize, the metabolites have essentially the same molecular structure except for the last two carbons. If the amide moiety of the molecule undergoes nitrosation to form an N-nitrosoamide, which is in a class of compounds shown to be potent oncogens in laboratory animals, then some pronamide metabolites may be oncogens. Moreover, there are no experimental data that demonstrate clearly that pronamide breaks down or is metabolized to harmless substances. Presence of CO_2 as a byproduct does not constitute sufficient evidence that this has occurred.

Other Rohm and Haas data show that pronamide is a low order toxicant in cold and warm water fish, waterfowl, and game birds. Pronamide had no effect on pollinating bees (*10*).

E. *Uses and production.* Rohm and Haas is the only registered producer of technical grade pronamide and is also the largest formulator of pronamide products. Most of the technical grade pronamide manufactured and Haas Kerb 50 W (EPA Reg. No. 707–98). and Haas Kerg 50 W (EPA Reg. No. 707–98). Rohm and Haas produces most of the pronamide products registered for agricultural uses. Because production data are confidential, they are available for internal use within EPA only (Table 4).

Pronamide is most widely used on certain grasses and broad leaf weeds in alfalfa, other forage crops, and lettuce. Ornamental turf weed and grass control is the major nonagricultural pronamide use. All formulators hold registrations for this use. Pronamide is marketed in formulations for turf grass weed control in several concentrations and occasionally with fertilizers in the formulation as nutrient for the remaining grass. Other ornamental uses include weed control in commercial forest plantings. However, the use of pronamide on ornamental turf appears minor when compared to the agricultural uses.

Rohm and Haas exports varying amounts of formulated pronamide each year. Use patterns abroad are similar to those in the United States. Countries to which pronamide is exported include Canada (alfalfa), South Africa (pasture management), Spain (citrus), Italy (orchard crops, lettuce), United Kingdom (beans, peas, lettuce), France (lettuce), and Japan (pasture management) (*1*).

F. *Alternative pesticides.* Alternative pesticides are registered for most of the uses and sites but not all the target organisms covered by pronamide registrations. Of the 41 alternatives currently identified, five are candidates for RPAR (three arsenicals, paraquat, and pentachlorophenol). In addition several other chemicals have been referred to the Office of Special Pesticide Reviews but have not yet been reviewed and accepted as candidates.

G. *Human exposure.* Humans are most likely to be exposed to pronamide from the ingestion of treated lettuce. Residue data provided in the Rohm and Haas tolerance petitions for lettuce indicate that residues range from <0.01 to 1.8 ppm with a mean level of 0.3 ppm (*10*).

Other raw foods treated with pronamide which humans may ingest directly are cane fruits (blackberries, boysenberries, and raspberries), and blueberries. Use patterns for these crops indicate that pronamide is applied in the winter and 100 days or more before berries are harvested for human consumption.

While alfalfa has the highest permissable pronamide tolerance of all raw agricultural commodities, the amount of alfalfa that humans consume directly is very small. Residues from alfalfa are usually ingested via secondary routes of exposure: consuming meat, milk, and eggs of animals fed treated alfalfa. Levels of pronamide found in chickens fed field-aged alfalfa ranged from 0.02–0.09 ppm in the kidney <0.01–0.04 ppm in the liver, <0.01–0.02 in the gizzard, and <0.01–0.03 in fat (*11*).

Pronamide levels found after feeding cows alfalfa treated with pronamide also showed a wide variance. Concentrations in the liver varied from 0.02–0.17 ppm and those in the kidney were from <0.01 to 0.04 ppm. In a study performed in 1975, L. E. St. John and D. J. Lusk fed cows pure pronamide and found residues in milk ranging from 0.01–0.08 ppm (*12*).

The Food and Drug Administration (FDA) has not reported pronamide residues in samples from in their Market Basket Survey. However they have not been specifically examining food for pronamide residues (*13*).

II. *Regulatory History.* Since the first pronamide product was registered, there have been no restrictive or enforcement actions taken by EPA.

Tolerances for residues resulting from the direct application of pronamide have been established (40 CFR 180.317) 10 ppm, alfalfa; 5 ppm, clover and forage legumes; 2 ppm, lettuce and endive (escarole); 0.05 ppm, cane fruits (blackberries, boysenberries, and raspberries) and blueberries.

The following tolerances for secondary residues resulting from feeding treated material to animals that produce meat, milk, and eggs were also established (40 CFR 180.137):

0.2 ppm	Kidney and liver of beef cattle, goats, hogs, poultry, horses, and sheep.
0.02 ppm	Eggs, milk, meat, fat, and meat byproducts (except kidney and liver) of cattle, goats, hogs, horses, poultry, and sheep.

A temporary tolerance based on an experimental use permit was granted on August 9, 1974 (39 FR 29418) for the use of pronamide on almonds, apples, apricots, cherries, grapes, nectarines, peaches, pears, pistachio nuts, plums, prunes, and walnuts. The experimental permit was for the 1974–75 growing season and was limited to 1500 lb pronamide. Rohm and Haas withdrew this permit in July 1976.

III. *Summary of Scientific Evidence to Support a Rebuttable Presumption on the Basis of Chronic Toxicity.* 40 CFR 162.11(a)(3) provides that a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) meet or exceed (1) acute toxicity risk criteria relating to hazards to humans, domestic animals or wildlife, or (11) chronic toxicity risk criteria relating to oncogenic, mutagenic, and delayed toxic effects in man and/or test animals, or relating to population reductions in nontarget organisms or fatality to members or endangered species.

The Pronamide Working Group has concluded that pesticide products containing pronamide meet the chronic risk criteria relating to oncogenic effects in test animals set forth in this Section.

A. *Chronic Feeding Study in Which Oncogenic Effects Were Observed.* The Working Group recommendation to presume against pronamide because of its oncogenic effects is based on data presented in a chronic feeding study submitted with a petition for tolerances for alfalfa and fresh hay: "Eighteen Month Study on the Carcinogenic Potential of Kerb (RH–315; Pronamide) in Mice" (*14*). Rohm and Haas, who submitted the study, holds that the results indicate that pronamide is not a true carcinogen and does not represent a substantial hazard to humans. However, three groups within EPA

have reviewed this data and each has concluded that pronamide is a carcinogen.

The first reviews occurred in 1974–75 when Toxicology Branch specialists in the Registration Division evaluated these petitions and concluded that pronamide was a potential human carcinogen.[4]

Later, in connection with the current RPAR review of pronamide, a CED contractor, Battelle Memorial Laboratories, Columbus, Ohio, received this data and concluded that pronamide is an oncogen (*15*). The Criteria and Evaluation Division further stated in summary:

"Based on the assumption that an adequate histopathology * * * was conducted * * * it may be concluded that pronamide is a carcinogen in (C57BL/6) x (C3HAnf) F1 male mice (*16*). The EPA Carcinogen Assessment Group (CAG) also concluded that the study indicated that pronamide is a carcinogen. CAG wrote "The mouse study showed a statistically significant excess of liver carcinomas in males associated with a 78 week exposure to 1,000 and 2,000 ppm of pronamide in the Diet" (*17*).

Data from the chronic feeding studies upon which these conclusions are based are presented in Tables 5, 6, and 7. The data in Table 5 indicate that 19 percent of 100 mice ingesting 1,000 ppm pronamide daily in the diet developed malignant tumors, and that 28 percent of 99 mice ingesting 2,000 ppm pronamide developed malignant tumors. By contrast, malignant tumors were found in 8 percent of 100 control animals.

[4] On November 29, 1974, the Toxicology Branch, Registration Division (RD), reviewed an 18-month feeding study submitted with a tolerance petition for alfalfa (*14*). Because of the increased frequency of hepatic carcinomas in male mice in this study, he concluded that pronamide might be a carcinogen (*18*).

The Chief of the Toxicology Branch, in a memo dated Dec. 9, 1974 to Pesticide Science Officer, Registration Division reported the findings of the study and requested that the opinion of "at least one additional pathologist be secured before a recommendation that the tolerance be granted is made." (*19*)

On the basis of the Toxicology Branch memo, Registration Division then requested an advisory opinion from the Director of CED. The Director of CED replied in a memo dated December 18, 1974, "You may request an additional pathologist * * * to analyze the slides. However, given the usual residue analysis of these materials on foodstuffs, 2,000 ppm or 1,000 ppm would be orders of magnitude different to the point where we do not anticipate a human toxicological problem with carcinogenicity." (*20*)

The study was subsequently reexamined by Toxicology Branch and review dated October 10, 1975, reaffirmed the initial conclusion that pronamide may be a carcinogen (*21*). In this review Toxicology Branch stated, "The evidence submitted * * * is very strong that (pronamide) is a potential human carcinogen. * * * It does produce * * * cancers * * * in the mouse." The Registration Division referred pronamide to the Office of Special Pesticide Reviews for further study.

TABLE 5.—*Tumors at all sites in male mice ingesting pronamide* [1]

Dose	Mice with benign tumors		Mice with malignant tumors		Total mice with tumors	
	Number	Percent	Number	Percent	Number	Percent
Parts per million:						
0	0/100	0	8/100	8	8/100	8
1,000	0/100	0	19/100	[2] 19	19/100	19
2,000	1/99	1	28/99	28	29/100	29

[1] This table records the number of mice with tumors and not the total number of tumors. Thus a mouse with more than 1 tumor is counted only once.
[2] 3 questionable tumors are not included.

The CAG review also noted other liver lesions found in male mice that included adenomatous hyperplasia, degeneration, hyperplasia, intrahepatic cholestasis, necrosis, and/or fatty change (Table 6). Mice which had cholestasis, an extremely rare lesion, did not have carcinomas of the liver. There were no lesions of the liver reported for female mice in the control group and only 1 and 2 percent in the liver of female mice ingesting 1000 and 2000 ppm pronamide, respectively (Table 7).

TABLE 6.—*Liver lesions in male mice ingesting pronamide* [1]

Dose	Mice with hyperplasia		Mice with adenomatous hyperplasia		Mice with carcinomas		Total mice with lesions	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Parts per million:								
0	0/100	0	0/100	0	7/100	7	7/100	7
1,000	0/100	0	3/100	[2] 3	18/100	18	21/100	21
2,000	5/99	5	6/99	[3] 6	24/99	[3] 24	36/99	36

[1] 28 mice had intrahepatic cholestasis which were not tabulated. The number of mice in each group would be slightly higher if results were corrected for survival time.
[2] Includes 2 mice with questionable carcinomas.
[3] 1 mouse also had biliary cirrhosis.

TABLE 7.—*Liver lesions in female mice ingesting pronamide* [1]

Dose	Mice with adenomatous hyperplasia		Mice with carcinomas		Total mice with lesions	
	Number	Percent	Number	Percent	Number	Percent
Parts per million:						
0	0/100	0	0/100	0	0/100	0
1,000	0/100	0	1/100	1	1/100	1
2,000	0/99	0	2/99	2	2/99	2

[1] The number of mice in each group would be slightly smaller if results were corrected for survival time.

Metastases of the liver tumors were not observed in this study. CAG explained that because this study was terminated at 18 months, the animals had not lived long enough for metastases to develop. Therefore, although there were no reported metastases by the conclusion of the study, this data does not conclusively demonstrate that metastases would not have occurred if the study had gone to 24 months, i.e., the full life expectancy of the mouse. Moreover, CAG predicted that if the study had not terminated after 18 months and if known histological trends were followed, mice that had hyperplasia would most likely have developed carcinomas. CAG characterized the nonhepatic tumors as lymphomas.

In summary, both CED and CAG reported that pronamide increases hepatic carcinomas in male (C57BL/6 x C3HAnf) F1 mice, CAG also identified additional tumors which cannot be properly evaluated because of the method of tissue collection.

Thus the Working Group concludes that a rebuttable presumption against the registration of pronamide products should be issued based on its oncogenic potential as demonstrated in the Rohm and Haas 18-month mouse feeding study.

B. *Chronic Feeding Studies Reporting No Oncogenic Effects.*—1. *"Toxicologic Study on the Effect of Adding RH–315 to the Diet of Rats for a Period of Two Years".* Rohm and Haas fed groups of 30 rats pronamide in their diet at levels of 30, 100, and 300 ppm for 2 years (*22*). Results of the study are reported in Tables 8–11. Rohm and Haas concluded that no toxic effects were shown. CAG reported that male and female rats developed tumors in both the control and treated groups but that no trend or dose response relationship could be observed (*17*). The CED report noted the tumor formation but could not offer comment without a complete histopathologic reexamination. CED recommended that future feeding studies include a tissue residue analysis for proper assessment of potential toxic effects (*15*). For these reasons neither CED nor CAG could conclude from these studies that pronamide caused oncogenic effects. However, because CAG also noted that a reexamination of organs containing tumors would be worthwhile, the Agency has requested that Rohm and Haas submit slides of these tissues for examination.

TABLE 8.—*Benign and malignant tumors in male rats ingesting pronamide* [1]

Dose	Rats with benign tumors		Rats with malignant tumors		Total rats with tumors	
	Number	Percent	Number	Percent	Number	Percent
Parts per million:						
0	2/22	9	0/22	0	2/22	9
30	3/22	14	1/22	[2] 5	4/22	18
100	0/21	0	0/21	0	0/21	0
300	2/19	15	0/19	0	2/19	15

[1] Tumors of the mammary glands and pituitary are listed in another table and are not included here.
[2] Reticulum cell sarcoma of the lung.

TABLE 9.—*Benign and malignant tumors in female rats ingesting pronamide* [1]

Dose	Rats with benign tumors		Rats with malignant tumors		Total rats with tumors	
	Number	Percent	Number	Percent	Number	Percent
Parts per million:						
0	1/22	5	0/22	0	1/22	5
30	0/17	0	0/17	0	0/17	0
100	3/22	14	0/22	0	3/22	14
300	4/21	19	1/21	[2] 5	5/21	24

[1] Tumors of the mammary glands and pituitary are listed in another table and are not included here.
[2] Carcinoma of the uterus with metastases to the adrenals.

TABLE 10.—*Tumors of the mammary glands and pituitary in female rats ingesting pronamide*

Dose	Rats with mammary gland tumors [1]		Rats with pituitary tumors		Total rats with tumors [2]	
	Number	Percent	Number	Percent	Number	Percent
Parts per million:						
0	12/22	55	6/22	27	15/22	68
30	9/17	53	4/17	24	12/17	71
100	11/22	50	4/22	18	13/22	59
300	11/21	52	1/21	5	11/21	52

[1] Tumors were described as fibromas or adenomas. This table records the number of rats with tumors and not the total number of tumors.
[2] Rats that had both types of tumors are counted only once in this column.

TABLE 11.—*Tumors of the mammary glands and pituitary in male rats ingesting pronamide*

Dose	Rats with mammary gland tumors [1]		Rats with pituitary tumors		Total rats with tumors [2]	
	Number	Percent	Number	Percent	Number	Percent
Parts per million:						
0	1/22	5	2/22	9	3/22	14
30	1/22	5	0/22	0	1/22	5
100	2/21	10	0/21	0	2/21	10
300	2/19	11	0/19	0	2/19	11

[1] Tumors were described as fibromas or adenomas. This table records the number of rats with tumors and not the total number.
[2] Rats that had both types of tumors are counted once in this column.

2. *"Toxicologic Study on the Effect of Adding RH–315 to the Diet of Beagle Dogs for a Period of Two Years".* This study, which was submitted by Rohm and Haas (*23*) could not be used to assess oncogenic or other chronic effects since the dogs were fed pronamide for only 2 years which is not "the greater part of the animal's life span" as required by the National Cancer Institute guidelines. In addition the number of animals tested was small. The Criteria and Evaluation Division concluded "* * * with the sacrifice of one dog at the end of one year statistical differences would be difficult to obtain with only the remaining animals of each sex per dose" (*16*). The CAG report on this study reached the same conclusion. Therefore, EPA will not request the opportunity to reevaluate these tissue slides.

[5] Documents marked "Copyright" are available for public inspection in the Office of Special Pesticide Reviews but may not be copied or distributed by the Agency. Papers marked "Confidential" may not be inspected or distributed.

LIST OF APPENDICES[5]

(*1*) Troast, R. January 14, 1977. Biological Activity of Kerb, Export Uses of Kerb. Memorandum to files of telephone conversation with Dr. E. Swisher, Rohm and Haas, Co. 1 p.

(*2*) Yih, R. Y., and C. Swithenbank 1971. Identification of metabolites of *N*-(1,1-dimenthylpropynyl) - 3,5-dichlorobenzamide in rat and cow urine and rat feces. J. Agr. Food Chem. 19(2):320–324. Copyright.

(*3*) Yih, R. Y. and C. Swithenbank 1971. Identification of metabolites of *N*-(1,1-dimethylpropynyl) - 3,5-dichlorobenzamide in soil and alfalfa. J. Agr. Food Chem. 19(2): 314–319. Copyright.

(*4*) Fisher, J. D. 1974. Metabolism of the herbicide pronamide in soil. J. Agr. Food Chem. 22(4):606–608. Copyright.

(*5*) Walker, A. 1970. Persistence of pronamide in soil. Pestic. Sci. 1:237:239. Copyright.

(*6*) Yih, R. J., C. Swithenbank, and D. H. McRae. 1970. Transformations of the herbicide N(1,1 -dimethylpropynyl) - 3,5-dichlorobenazamide in soil. Weed Sci. 18(5):601–607. Copyright.

(*7*) Leistra, M., J. H. Smelt, J. G. Verlaat, and R. Zandvoort. 1974. Measured and computed concentration patterns of propyzamide in field soils. Weed Res. 14:87–95. Copyright.

(*8*) Rohm and Haas Company. May 1972. KERB: 3,5-Dichloro-*N*-(1,1-dimethyl - 2-propynyl)-benzamide. Environmental Data on Soil, Water, Fish and Wildlife Based on PR Notice 70–15. (Data in support of EPA pesticide registration 707–98.) 436 pp. Confidential.

(*9*) Severn, D. December 1, 1976. Pronamide. Memorandum to R. Troast, OSPR. 1 p.

Severn, D. December 10, 1974. Pronamide—Further Comments on Possible Nitroso Derivative. Memorandum to R. Troast, OSPR. 1 p.

(*10*) Rohm and Haas Company. April 1971. Permanent Tolerance Petition for Kerb—3,5-Dichloro-*N*-(1,1-dimethyl - 2 - propynyl) benzamide: Lettuce: Vol. 1 and 2 (Pesticide Petition 1F1139) 1155 pp. Confidential.

(*11*) Adler, I. L., L. D. Haines, and J. P. Warge, Jr. 1972. Studies with dairy cows and laying hens fed alfalfa containing field-aged residues due to 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl) benzamide. J. Agr. Food Chem. 20(6):1233-1235. Copyright.

(*12*) St. John, L. E., and D. J. Lusk. 1975. A feeding study with the herbicide, Kerb (*N*-(1,1-dimethylpropynyl) - 3,5 - dichlorobenzamide, in the dairy cow. Bull. Environ. Contam. Toxicol. 13(4):433–435. Copyright.

(*13*) Troast, R. March 25, 1977. FDA Market Basket Survey for Pronamide Residues Memorandum to the files of telephone conversation with P. Corneliussen, FDA. 1 p.

(*14*) Medical College of Virginia. 1974. Eighteen Month Study on the Carcinogenic Potential of Kerb (RH–315; Pronamide) in Mice, EPA Pesticide Petition 5F1552. 242 pp Confidential.

(*15*) Freudenthal, R. I., and P. Leber February 11, 1977. Evaluation of Pronamide Toxicity Data to Determine Its Potential Health Hazard to Man or Domestic Animals. 42 pp. Unpublished.

(*16*) Potrepka, R. F. February 17, 1977. Validation of Pronamide (Kerb) Chronic Feeding Studies. Memorandum to R. Troast, Project Manager, OSPR. 1 p.

(*17*) Albert, R. E. March 17, 1977. The Carcinogen Assessment Group Preliminary Review of Oncogenicity of Pronamide. 39 pp Unpublished.

(*18*) Coberly, R. November 29, 1974. 3,5-Dichloro-*N*-(1-1-dimethyl-2-propynyl) benzamide (Kerb). Memorandum to J. E. Mayes, Acting Chief, Coordination Branch, Registration Division. 12 pp.

(*19*) Williams, C. H. December 9, 1974. Petition No. 5F1552 KERB. Memorandum to Dr. Martin H. Rogoff, Pesticides Science Officer, Registration Division. 1 p.

(*20*) Axelrod, L. December 18, 1974. Petition No. 5F1562—Kerb. Memorandum to M. H. Rogoff, Pesticides Science Officer, Registration Division. 1 p.

(*21*) Ritter, D. October 10, 1975. PP No. 5G1618 KERB; 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl) benzamide and its metabolites calculated as KERB. Proposal for temporary tolerances in or on sugar beet tops at 0.75 ppm, sugar beet roots at 0.1 ppm. Memorandum to L. Zink, Assistant Product Manager and Chemistry Branch. 7 pp.

(*22*) Department of Pharmacology, Medical College of Virginia. 1968. Toxicologic Study on the effect of Adding RH–315 to the Diet of Albino Rats: (Two-Year Feeding Study) First Month Report, EPA Pesticide Petition 1F1139. 313 pp. Confidential.

(*23*) Department of Pharmacology, Medical College of Virginia. 1970. Effect of Adding Technical Kerb (RH–315) to the Diet of Dogs for Two Years. EPA Pesticide Petition 1F1139. 239 pp. Confidential.

[FR Doc.77–14096 Filed 5–18–77; 8:45 am]

[FRL 730-6]

STATE PLAN FOR CERTIFICATION OF PESTICIDE APPLICATORS

Extension of Contingency Approval

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Richard Lamm, Governor of the State of Colorado, submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA) for approval, contingent upon enactment of appropriate legislation and promulgation of implementing regulations. On March 3, 1977, the Regional Administrator, EPA, Region VIII, approved the Plan on a contingency basis. Contingency approval was granted until May 1, 1977. Notice of the approval was published in the FEDERAL REGISTER on March 14, 1977 (42 FR 13861).

Subsequently, on April 27, 1977, the State of Colorado requested an extention of the period of the contingency approval in order to allow additional time for the Colorado Legislature to consider pending legislation. The Agency finds that there is good cause for approving this request and as such has granted an extension until June 18, 1977.

Dated: April 28, 1977.

JOHN A. GREEN,
Regional Administrator,
Region VIII.

[FR Doc.77-14348 Filed 5-19-77;8:45 am]

[FRL 730-2]

SUBMITTAL OF SIP REVISIONS

Notice of Schedules for Submittal of Revisions to Arkansas Implementation Plan for Particulate Matter

On July 16, 1976 (41 FR 29478), the Regional Administrator called for revisions to Arkansas' State Implementation Plan (SIP) for attainment of the 24-hour standard for particulate matter. The revisions are to correct deficiencies in the control strategies for the Air Quality Control Regions (AQCRs) listed below.

Central Arkansas (Little Rock AQMA)
Metropolitan Fort Smith Interstate
Metropolitan Memphis Interstate
Monroe-El Dorado Interstate
Northeast Arkansas

In the notice, the State was requested to submit a SIP revision by July 1, 1977, that would provide for attainment of the 24-hour standard. At the time the call was made, an analysis was being conducted to determine the extent of the problem and the control measures that would be needed. Results from the analysis were to provide the necessary information for the State to develop the SIP revision. The analysis will not be completed until May 1977. Consequently, the majority of the revision development work cannot be accomplished until after that date. However, since the completion date is near, it was possible to negotiate a detailed work schedule for the SIP development and submittal. This schedule is shown below.

PARTICULATE REVISION SCHEDULE

Identification of SIP Revision Requirements, Oct. 15, 1977.
Complete Control Strategy, Feb. 15, 1978.
Public Hearing, Apr. 15, 1978.
Final State Adoption, June 15, 1978.
Submit to EPA, June 30, 1978.

In the call for revision, the SIP was also cited as deficient for maintaining the primary 24-hours standard for particulate matter. However, a request for maintenance of the standard was not made. For the same reasons, a maintenance demonstration is not being requested in this notice. Once the attainment date for the primary 24-hour standard is determined, a work schedule for submitting a maintenance demonstration will be negotiated.

This notice is not subject to rulemaking procedures. The need for the plan revision was based on a technical finding by the Regional Administrator that the control strategy for particulate matter is inadequate and needs to be revised. Authority for such action is provided in Sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the control strategy revision will be provided during the public hearing that the State is required to hold.

AUTHORITY: Section 110(a)(2)(H) of the Clean Air Act, and section 110(c) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5(c).

Dated: May 5, 1977.

JOHN C. WHITE,
Regional Administrator.

[FR Doc.77-14351 Filed 5-19-77;8:45 am]

[FRL 730-4]

SUBMITTAL OF SIP REVISIONS

Notice of Schedules for Submittal of Revisions to the New Mexico Implementation Plan for Particulate Matter

On July 16, 1976 (41 FR 29486), the Regional Administrator called for a revision to New Mexico's State Implementation Plan (SIP) to correct deficiencies with respect to the control of particulate matter emissions from existing and projected potash plants in the Pecos-Permian Basin Air Quality Control Region (AQCR) for attainment and maintenance of primary ambient air quality standards.

At the time the call for SIP revision was published, New Mexico was conducting an analysis to make a more accurate determination of the future impact of particulate emissions from potash plants, and to better define control requirements. Consequently, a date for submitting a revision to the control strategy was deferred until the analysis could be completed. The analysis has been completed, which made it possible to negotiate a work schedule with New Mexico for submitting the particulate matter revision. December 1977, is considered the earliest reasonable date by which the revision can be submitted.

PARTICULATE REVISION SCHEDULE

1. Complete emission inventory, Completed.
2. Complete control strategy, June 1977.
3. Select emission limits, July 1977.
4. Public hearing, September 1977.
5. Final State adoption, November 1977.
6. Submit to EPA, December 1977.

This notice is not subject to rulemaking procedures. The need for the plan revision was based on a technical finding by the Regional Administrator that the control strategy for particulate matter is inadequate and needs to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the control strategy revision will be provided during the public hearing that the State is required to hold.

AUTHORITY: Section 110(a)(2)(H) of the Clean Air Act, as amended, 42 U.S.C. 1857-5(c).

Dated: May 6, 1977.

JOHN C. WHITE,
Regional Administrator.

[FR Doc.77-14350 Filed 5-19-77;8:45 am]

[FRL 730-1]

SUBMITTAL OF SIP REVISIONS

Notice of Schedules for Submittal of Revisions to the Texas Implementation Plan for Particulate Matter

On July 16, 1976 (41 FR 29488), the Regional Administrator called for revisions to Texas' State Implementation Plan (SIP) to correct deficiencies with respect to attainment and maintenance of the national standards for particulate matter. In the call for revision, a distinction was made with regard to requirements for attainment of the standards and requirements for maintenance of the standards.

ATTAINMENT OF STANDARDS

Attainment deficiencies were cited for the Air Quality Control Regions (AQCRs) listed below:

Amarillo-Lubbock
Brownsville-Laredo
Corpus Christi-Victoria
Houston-Galveston
Dallas-Fort Worth
San Antonio
El Paso-Las Cruces-Alamogordo

For these AQCRs, the Regional Administrator requested that the State submit a SIP revision by July 1, 1977, for attainment of the national primary standards.

At the time the call for revision was made, the state was conducting a study to determine the extent of the problem and the control measures that would be needed. This particulate attainment analysis was submitted to EPA in March 1977. It was possible for the State to accomplish only a limited amount of definitive control strategy development prior to completing the analysis. Consequently, considerable development work concerning initiation of regulation changes, completing the control strategy, adopting the revision, and complying with EPA's revision submittal requirements, could not be done until the analysis was completed.

A detailed work schedule has been negotiated with Texas for accomplishing the above tasks. This schedule is shown below.

PARTICULATE REVISION SCHEDULE

Select Emission Limits, June 24, 1977.
Determine Most Effective Methods of Control, Aug. 1, 1977.
Draft Revision of Regulation 1, Aug. 22, 1977.
Public Hearing on Regulation 1, Nov. 29, 1977.
Final State Adoption, Jan. 27, 1978.
Public Hearing on Control Strategy, Apr. 7, 1978.
Final State Adoption, May 26, 1978.
Submit to EPA, June 16, 1978.

MAINTENANCE OF STANDARDS

In the call for revision the Corpus Christi, Dallas-Fort Worth, Houston, Galveston, and Beaumont Air Quality Maintenance Areas (AQMAs) were identified as needing a control strategy revision for maintenance of standards. However, no date was established for submitting maintenance revisions. Consequently no schedules for submitting these revisions have been negotiated.

This notice is not subject to rulemaking procedures. The need for the plan revisions was based upon a technical finding by the Regional Administrator that the control strategies for particulate matter are inadequate and need to be revised. Authority for such action is provided in sections 110(a)(2)(H) and 110(c) of the Clean Air Act, 1970. Ample opportunity for public comment on the control strategy revisions will be provided during the public hearing that the State is required to hold.

AUTHORITY: Section 110(a)(2)(H) of the Clean Air Act, and section 110(c) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5(c).

Dated: May 5, 1977.

JOHN C. WHITE,
Regional Administrator.

[FR Doc.77-14349 Filed 5-19-77;8:45 am]

[FRL 729-7]

STATE OF MISSISSIPPI

Determination of Primary Enforcement Responsibility

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and § 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

An application, dated April 8, 1977, has been received from the Chief of the Bureau of Health requesting that the Mississippi State Board of Health be granted primary enforcement responsibility for water systems in the State of Mississippi, in accordance with the provisions of this Act.

In response, I have determined that the Mississippi State Board of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for water systems in the State of Mississippi. The State—

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 5 p.m., Monday through Friday, at the following offices:

Mississippi State Board of Health, 2423 North State Street, Jackson, Miss. 39205.
Regional Administrator, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

All interested parties are invited to submit written comments on this determination and may request a public hearing. Written comments and/or a request for a public hearing must be submitted on or before June 20, 1977. A request for a public hearing shall include the following information:

(1) The name, address, and telephone number of the individual, organization or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made within thirty (30) days after this notice, a public hearing will be held. The Regional Administrator will give further notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State of Mississippi of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing, the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective thirty (30) days after issuance of this initial notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: May 11, 1977.

JACK E. RAVAN,
Regional Administrator, Environmental Protection Agency, Region IV.

[FR Doc.77-14347 Filed 5-19-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

AM BROADCAST SERVICE WORKING GROUP, 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Meeting

MAY 17, 1977.

Pursuant to Pub. L. 92-463, notice is hereby given of the following meeting for June 1977.

WARC-79 AM BROADCASTING SERVICE GROUP

Thursday, June 9, 1977, 10:30 a.m. to 12:30 p.m., Room 8210, 2025 "M" Street, NW., Washington, D.C.

Chairman: D. C. Everist
FCC Liaison: Dennis Williams

The Agenda for the meeting is as follows:

1. Call to order by the Chairman.
2. Approval of minutes of the previous meeting.
3. Draft reply to Fifth Notice of Inquiry, Docket No. 20271.
4. Setting next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14420 Filed 5-19-77;8:45 am]

[Report No. 858]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 16, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21233–CD–P–77 Tel - Page Corporation (KRH631), C.P. for additional facilities to operate on 158.70 MHz to be located at a new site described as Loc. No. 3: 989 James Street, Syracuse, New York.

21243–CD–MP–(2)–77 California Aircraft Telephone, Co., c/o Intrastate Radiotelephone (KWU510), Mod permit for additional Control facilities to operate on 2164.0 MHz to be located at a new site described as Loc. No. 2: 2201 West Olive, Burbank: and 2114.0 MHz Repeater at Loc. No. 1: Cast Mountain, 4.9 Miles NNE of Chatsworth, California. (Airground)

21255–CD–P–77 General Telephone Company of Florida (KWT890), C.P. for additional facilities to operate on 152.84 MHz to be located at a new site described as Loc. No. 4: Corner of Main St. and S.R. 37, Bradley Junction, Florida.

21290–CD–P–77 William G. Bowles Jr. d.b.a. Mid-Missouri Mobilfone (KWU202), C.P. to change antenna system operating on 152.06 MHz at 2438 Katy Lane, Poplar Bluff, Missouri.

21291–CD–P–(2)–77 Telstar Communications, Inc. (New), C.P. for a new 2-way station to operate on 454.125 and 454.325 MHz to be located 8 miles SSW of Cheyenne, Wyoming.

21292–CD–P–77 Silverado Communications (New), C.P. for a new 2-way station to operate on 454.10 MHz to be located at 1190 Thompson Avenue, Napa, California.

21293–CD–P–(3)–77 Ram Broadcasting of Colorado, Inc. (KUC862), C.P. to replace transmitter operating on 454.250, 454.275 and 454.300 MHz located at Western Federal Saving Building, 17th and California Streets, Denver, Colorado.

21294–CD–P–77 Gulf Telephone Company (KIB528), C.P. to change antenna system operating on 152.54 MHz at Loc. No. 1: 116 North Alston Street, Foley; and 152.63 MHz at Loc. No. 2: Telephone Office, Summerdale, Alabama.

21295–CD–P–77 Airvoice, Inc. (KUC899), C.P. for additional facilities to operate on 454.05 MHz to be located at Murphy Mill Road, 1 mile south of Americus, Ga.

21296–CD–P–(2)–77 David R. Williams d.b.a. Industrial and Communications (KWU212), C.P. for additional facilities to operate on 454.150 and 454.175 MHz to be located at a new site described as Loc. No. 2: Kessler Peak, 6 miles SW of Magna, Utah.

21297–CD–P–(2)–77 David R. Williams d.b.a. Industrial Communications (KWU216), C.P. for additional facilities to operate on 454.200 and 454.250 MHz to be located at a new site described as Loc. No. 2: Kessler Peak, 6 miles SW of Magna, Utah.

21298–CD–P–(3)–77 Central Mobile Radio Phone Service (KQD599), C.P. to change antenna system operating on 454.05 and 454.225 MHz (Loc. No. 3; and relocate facilities operating on 454.150 MHz to (Loc. No. 3) 2345 Symmes Street, Cincinnati, Ohio.

21299–CD–MP–(4)–77 Central Mobile Radio Phone Service (KQA770), Mod permit to replace transmitter, change antenna system and relocate facilities operating on 454.05, 454.75, 454.125, and 454.150 MHz to be located 3165 Olentangy River Road, Columbus Ohio.

21300–CD–MP–(2)–77 Central Mobile Radio Phone Service (KQC875), Mod permit to change antenna system and replace transmitter operating on 454.100 and 454.350 MHz. located 0.15 mile West of Springfield south of Wright Bros. Memorial Hwy, Ohio.

21301–CD–P–77 Edward C. Smith Answerite Professional Telephone Service (New), C.P. for a new 1-way station to operate on 158.70 MHz. to be located at Episcopal-Catholic Apartment Ave. L, NW, Winter Haven, Florida.

21302–CD–P–77 Central Radio Dispatch, Inc. (New), C.P. for a new 1-way station to operate on 43.22 MHz. to be located 2 miles south of Highway 271 on Rt. 323, Tyler, Texas.

21303–CD–P–(4)–77 The Bell Telephone Company of Pa., (KGA476), C.P. to change antenna and relocate facilities operating on 454.375, 454.425, and 454.475 MHz at a new site described as Loc. No. 2: KDKA-TV Tower Grizella and Montana Street, Pittsburgh, Pennsylvania.

21304–CD–P–77 Wilson J. Trahan and Ralph E. Antles, d.b.a. Western Electronics & Communications (KWH307), C.P. for additional facilities to operate on 158.70 MHz to be located at Hayden Peak, 11 miles SE of Kingman, Arizona.

21305–CD–P–(11)–77 Michigan Bell Telephone Company (KRS714), C.P. to change antenna system operating on 158.10 MHz. (Loc. No. 1) Located at 1365 Cass Avenue; 158.10 MHz (Loc. No 2) located 882 Oakman Blvd., Detroit; 158.10 MHz (Loc. No. 3) located at Centerline; 158.10 MHz (Loc. No. 4) located at 23850 Wick Road, Taylor; 158.10 MHz (Loc. No. 7) located at 25189 Lahser Road, Southfield; Relocate facilities operating on 158.10 MHz (Loc. No 5) to be located at 11770 Merriman, Livonia; Also for additional facilities to operate on 158.10 MHz to be located at new location No. 10 thru No. 15 as follow: Loc. No. 10: 34100 South Gratiot North of Roseville; Loc. No. 11: 35928 Ann Annapolis, Wayne; Loc. No. 12: 38900 Ten Mile Road, Farmington Hills; Loc. No. 13: 775 West Big Beaver Road, Troy; Loc. No. 14: 54 North Mill Street, Pontiac; Loc. No 15: 8061 Hann, Michigan.

21307–CD–P–(3)–77 Edward C. Smith d.b.a. Answerite Professional Telephone Service, (New) C.P. for a new 2-way station to operate on 454.225 454.325 454.350 MHz to be located at 4015 Bayshore Blvd., Tampa, Florida.

DEVELOPMENTAL RENEWAL OF LICENSE EXPIRING 7–6–77

Terms July 6, 1977 to July 6 1978

New York Telephone Company, within territory of grantee, KC5161.

MAJOR AMENDMENT

Marc Weber Tobias and Michael Charles Tobias d.b.a. MT Systems, Inc., FN: 20834–CD–P–77 Amend to add control facilities on 158.55 MHz at Loc. No. 2, 119 E. 1st Avenue, Mitchell, South Dakota and Loc. No. 3, water Tower, 2 miles SSE of Sioux Falls, South Dakota.

CORRECTION

21232–CD–P–77 Tel-Page Corporation, Syracuse, New York Correct call sign KRH631 to read KHR643. All other particulars are to remain the same as reported on PN No. 857 dated May 19, 1977.

INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to Commission's Rules regarding ex parte presentations, by reasons of potential electrical interference.

Frequency: 158.70 MHz:

Charles R. Crawford, Santa Ynez Peak, California, (New) 20864–CD–P–77.

Mobile Radio Systems of Ventura, Inc., Ventura, California, KSV976, 21151–CD–P–77.

Coast Mobilphone Ser., Santa Ynez Peak, California, KUA301, 20765–CD–P–77.

Frequency: 454.250 MHz:

Salinas Valley Radio Telephone Company, Mt. Toro, California, KMA837, 20257–CD–P–77.

Mobile Radio System of San Jose, Inc., Los Gatos, California, KMA741, 20759–CD–P–77.

RURAL RADIO

60272–CR–P/L–(3)–77 The Pacific Telephone and Telegraph Company (New), C.P. for a new Rural Subscriber-Fixed station to operate on 157.77 and 157.89 MHz to be located 23.5 Miles WNW of Westmorland, California.

POINT TO POINT MICROWAVE RADIO SERVICE

2438–CF–MP–77 American Telephone and Telegraph Company (WBB294), 200 East Burke Street, Martinsburg, (Berkeley) West Virginia. Mod. of C.P. (4879–CF–P–76) to move antenna on frequency 3750H MHz toward Clear Spring, Maryland on azimuth 358.3°.

2439–CF–MP–77 Same (KGJ68), 2.2 Miles West of Clear Springs, (Washington) Maryland. Mod. of C.P. (4880–CF–P–76) to move antenna on frequency 4110H MHz toward Martinsburg, West Virginia on azimuth 178.3°.

2292–CF–P–77 Midwestern Relay Company (New), Tims Hill, Route 83, 3 miles West of Spirit, Wisconsin. (Lat. 45°26'35" N., Long. 90°10'33" W.): Construction permit for new station—6404.8V MHz toward WLEF–TV, Wisconsin, on azimuth 352.2°.

2310–CF–MP–77 Pilot Butte Transmission Company, Inc. (KPK 29), White Mtn., 5.0 miles West of Rock Springs, White Mountain, Wyoming. (Lat. 41°34'43" N., Long. 109°19'12" W.): Construction permit to add 6212.06V, 6271.39V, 6330.67V, 6389.98V, and 6301.02H MHz toward Table Rock Wyoming, via power split, on azimuth 90.6°.

2311–CF–P–77 Pilot Butte Transmission Company, Inc. (New), 5 miles SE of Table Rock, Wyoming (Lat. 41°34'13" N., Long. 108°21'38" W.): Construction permit for new station—5989.68V, 6048.98V, 6108.28V, 6167.59V, and 5960.03H MHz toward Colorado Interstate Gas, Wyoming, on azimuth 326.4°.

2326–CF–P–77 Eastern Microwave, Inc. (KTF 96), 1.5 mile NNW of Italy Hill, New York (Lat. 42°27'12" N., Long. 77°15'17" W.): Construction permit to add 6360.7H MHz toward Geneva, New York, via power split, on azimuth 32.8°.

2343–CF–P–77 Number One Radio, Inc. (New), Keystone Peak, 15 miles West of Green Valley, Arizona (Lat. 31°32'37.2" N., Long. 111°12'52.2" W.): Construction permit for new station—5945.2V MHz toward Tucson, Arizona, on azimuth 42.0°.

CORRECTION

2290–CF–P–77 Penn Service Microwave, Inc. WQQ 37), Wyoming Mtn., 4 miles SSE of Wilkes-Barre, Pennsylvania (Lat. 44° 55'15" N., Long. 89°41'30" W.): This entry appearing on Public Notice of May 9, 1977, correct to delete all reference to Chestnut Hill, Pennsylvania. All other particulars remain the same as previously reported with the exception of the spelling of Mehoopany, Pennsylvania.

POINT TO POINT MICROWAVE RADIO SERVICE

2312–CF–P–77 Puerto Rico Communications Authority (WZ37), Marquesa Road 795 Cerro Marquesa Auguas Buenas, Puerto Rico Lat. 18°16'00" N., Long. 65°05'06" W. C.P. to add a new point of communication on frequency 2162H MHz toward Guaynabo, Puerto Rico on azimuth 168.5°.

2313–CF–P–77 Same (New), Esmeralda Ayenue No. 5 Guaynabo, Puerto Rico Lat. 18° 22'26" N., Long. 66°06'28" W. C.P. for a new station on frequency 2112H MHz toward Marquesa, Puerto Rico on azimuth 348.5°.

2317–CF–P–77 General Telephone Company of Florida (KGP52), Plant City Jct. 1.73 WNW of Plant City, Florida Lat. 28°01'32" N., Long. 82°10'01" W. C.P. to add antenna and frequency 6197.2V MHz toward Highland City, Florida on azimuth 106.5°.

2318–CF–P–77 Same (KIB48), Peterson and Highland Rd. Highland City, Florida Lat. 27°57'40" N., Long. 81°55'21" W. C.P. increase antenna structure height, add antenna and frequencies 5945.2V MHz toward Plant City and 6004.5H MHz toward Eva, Florida.

2319–CF–P–77 Same (KGP53), Hwy. 33, 2.3 miles South of Eva, Florida Lat. 28°17'37 N., Long. 81°49'57" W. C.P. to add frequency 6256.5H MHz toward Highland City, Florida and 6315.9V MHz toward Dade City, Florida on azimuth 282.5°.

2328–CF–P–77 The Bell Telephone Company of Pennsylavnia (New), Shaffer Rd one-half mile E of Energy, Pennsylvania Lat. 40°-55'51" N., Long. 80°15'22" W. C.P. for a new station on frequencies 6226.9H and 6286.2H MHz toward Sharon, Pennsylvania on azimuth 336.80°.

2329–CF–P–77 Same (New), Route 62, 2.7 miles E of Sharon, Pennsylvania Lat. 41°14'13" N., Long. 80°25'48" W. C.P. for a new station on frequencies 5945.2H and 6004.5 MHz toward Energy, Pennsylvania on azimuth 156.68° and 5974.8H MHz toward Kashner, Pennsylvania on azimuth 32.31°.

2330–CF–P–77 Same (New), Donation Rd. one-half mile N of Kashner, Pennsylvania Lat. 41°23'05" N., Long. 80°18'21" W. C.P. for a new station on frequencies 6256.5V MHz toward charon, Pennsylvania on azimuth 212.4° and 6226.9V MHz toward Frenchtown, Pennsylvania on azimuth 33.76°.

2331–CF–P–77 Same (New), Frenchtown Route 27, 3.4 miles E of Meadville, Pennsylvania Lat. 41°38'01" N., Long. 80°05'02" W. C.P. for a new station on frequencies 5945.2V MHz toward Kashner on azimuth 213.91° and 5945.2H MHz toward McKean on azimuth 357.84°.

2338–CF–P–77 Southern Bell Telephone and Telegraph Company (KJA75), Renewal of Development radio license expiring June 14, 1977 term: June 14, 1977 to June 14, 1978.

[FR Doc.77–14421 Filed 5–19–77;8:45 am]

NOTE: For a Federal Communications Commission document announcing future meetings of the Radio Technical Commission for Marine Services, see FR Doc. 77–14419 appearing at page 25944 of this issue of the FEDERAL REGISTER.

FEDERAL MARITIME COMMISSION

GREECE/U.S. ATLANTIC RATE AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 13, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John R. Attanasio, Esquire, Billig, Sher & Jones, P.C., 2033 K Street NW., Washington, D.C. 20006.

Agreement No. 9238–8 modifies the above-named rate agreement by (1) extending the scope of the agreement to apply to inland points in Greece, (2) establishing voting requirements, (3) establishing self-policing procedures and cargo inspection services, (4) establishing a financial guarantee in the amount of $10,000 per participant, (5) establishing the sharing of office space, personnel and facilities with other agreements or conferences and (6) making other administrative changes.

By Order of the Federal Maritime Commission.

Dated: May 17, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–14424 Filed 5–19–77;8:45 am]

[Fact Finding Investigation No. 9]

POSSIBLE REBATES AND SIMILAR MALPRACTICES IN THE UNITED STATES FOREIGN COMMERCE

Amendment To Order of Investigation

The Commission, by order served May 12, 1977, denied a motion to quash subpoena and also determined to amend the order of investigation in this proceeding.

Accordingly, *it is ordered*, That the first ordering paragraph of the Comsion's July 9, 1976 Order of Investigation in the above-captioned matter is amended to read as follows:

That, pursuant to sections 22 and 27 of the Shipping Act, 1916 (46 U.S.C. 821 and 826) and section 214(a) of the Merchant Marine Act of 1936 (46 U.S.C. 1124(a)), a non-adjudicatory investigation is hereby instituted into the practices of rebates, absorptions, allowances in excess of those set forth in the tariff and any other methods of obtaining or allowing other persons to obtain transportation of property at less than the rates or charges which would otherwise be applicable, in the United States foreign commerce, said investigation to be conducted pursuant to the Commission's Rules of Practice and Procedure. 46 CFR 502.281–291 (Rule 18).

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–14425 Filed 5–19–77;8:46 am]

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN/KOREA AND JAPAN/KOREA-ATLANTIC AND GULF FREIGHT CONFERENCE

Agreements Filed

Notice is hereby given that the following agreements have been filed with the

Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 13, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement Nos. 150–65 and 3103–65 amend, respectively, Articles 25(f)(4) of the Trans-Pacific Freight Conference of Japan/Korea Agreement and the Japan/Korea-Atlantic and Gulf Freight Conference Agreement to provide that the Neutral Body shall be authorized to assess liquidated damages in an amount not to exceed $120,000 for each breach of the agreement, tariff rates, or rules and regulations. Presently, each agreement provides for a graduated scale of liquidated damages to be assessed in the following respective maximum amounts for the first, second, third, fourth and subsequent breaches, i.e., $20,000, $60,000, $80,000 and $120,000.

By Order of the Federal Maritime Commmission.

Dated: May 16, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14422 Filed 5-19-77;8:45 am]

FEDERAL RESERVE SYSTEM

DETROITBANK CORP.

Acquisition of Bank

Detroitbank Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by merger to Kentwood National Bank, Kentwood, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 10, 1977.

Board of Governors of the Federal Reserve System, May 16, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14409 Filed 5-19-77;8:45 am]

FIRST MIDWEST BANCORP, INC.

Acquisition of Bank

First Midwest Bancorp, Inc., St. Joseph, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Farmers Bank of Gower, Gower, Missouri ("Bank") and of L.W.J.S. Corporation, Gower, Missouri, a bank holding company that controls Bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 13, 1977.

Board of Governors of the Federal Reserve System, May 16, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14408 Filed 5-19-77;8:45am]

GENERAL SERVICES ADMINISTRATION

(Intervention Notice No. 30)

PUBLIC SERVICE COMPANY OF COLORADO AND COLORADO PUBLIC UTILITY COMMISSION

Proposed Intervention in Utility Rate Application

Correction

In FR Doc. 77-13463, appearing in the issue of Wednesday, May 11, 1977, on page 233879, the intervention notice number in the heading should read as set forth above.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of July 1977:

COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

Date and time: July 9–11, 7 p.m.

Place: Ramada Inn, State Room, 8400 Wisconsin Avenue, Bethesda, Maryland 20014 (301–654–1000).

Type of meeting: Open.

Contact: Mr. Sidney Leopold, Room 11–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301–443–1374).

Purpose: The Committee provides initial review of applications for community services alcoholism demonstration grants for special treatment and rehabilitation programs to the Director of the National Institute on Alcohol Abuse and Alcoholism and to the National Advisory Council on Alcohol Abuse and Alcoholism.

Agenda: The meeting will be open for the entire discussion. The Committee will be developing new criteria for NIAAA consideration for performing initial review of grant applications for Federal assistance.

Substantive information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. Harry Bell, Associate Director for Public Affairs, NIAAA, Room 11A–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301–443–3306).

Dated: May 16, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-14379 Filed 5-19-77;8:45 am]

PSYCHOLOGICAL SCIENCES FELLOWSHIP REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of June 1977:

PSYCHOLOGICAL SCIENCES FELLOWSHIP REVIEW COMMITTEE

Date and time: June 8–10, 1 p.m.

Place: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Type of meeting: Open—June 8, 1 to 3 p.m.; Closed—Otherwise.

Contact: Mrs. Mary Cope, Parklawn Building, Room 9C–15, 5600 Fishers Lane, Rockville, Maryland 20857 (301–443–3856).

Purpose: The Committee is charged with the initial review of fellowship applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychological sciences fellowships and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 1 to 3 p.m., June 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of fellowship applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301–443–3600).

Dated: May 16, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-14378 Filed 5-19-77;8:45 am]

Food and Drug Administration

[Docket No. 77N–0163]

LEMMON PHARMACAL CO.; STATOBEX (PHENDIMETRAZINE TARTRATE 70 MG) DOSAGE FORMS

Opportunity for Hearing on Proposal To Refuse To Approve New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs proposes to refuse approval of an abbreviated new drug application for Statobex (phendimetrazine tartrate 70 milligram) tablets and capsules (ANDA 85–095) by Lemmon Pharmacal Company, P.O. Box 30, Sellersville, PA 18960 ("Lemmon"), on the grounds (1) that (a) the application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not Statobex is safe for use under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof, and (b) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether Statobex is safe for use under such conditions, and (2) that Statobex is a new drug as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the "act") and information relating to its safety and effectiveness must be contained in a new drug application in order to be approved under section 505 of the act (21 U.S.C. 355). This notice does not apply to those portions of ANDA 85–095 regarding Statobex (phendimetrazine tartrate 35 milligram) tablets and capsules; all references to "Statobex" in this notice, unless otherwise indicated, refer to the 70 milligram strength dosage forms only.

DATES: Any request for a hearing must be submitted on or before June 20, 1977. In support of any such request, all data and information relied upon to justify a hearing and any other comments from interested persons must be submitted on or before July 19, 1977.

ADDRESS: Requests, supporting data and information, and other comments shall be submitted, with FDA Docket No. 77N–0163 clearly indicated in the filings, to the FDA Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3650).

SUPPLEMENTARY INFORMATION:

BACKGROUND

As required by the Drug Amendments of 1962, FDA is engaged in a Drug Efficacy Study Implementation (DESI) program under which each drug covered by a new drug application (NDA) that was approved by FDA on the basis of safety between 1938 and 1962, is reviewed to determine whether substantial evidence exists to demonstrate that the drug is effective for its labeled indications. As reviews are completed, notices are published in the FEDERAL REGISTER announcing the agency's conclusions on the effectiveness of the drugs reviewed.

In the FEDERAL REGISTER of February 12, 1973 (38 FR 4280) FDA published DESI Notice 11673 stating that Plegine Tablets containing 35 milligrams of phendimetrazine tartrate as a single active ingredient and marketed by Ayerst Laboratories is effective "in the management of exogenous obesity as a short term adjunct (a few weeks) in a regimen of weight-reduction based on caloric restrictions." The Indications section further was to read: "The limited usefulness of agents of this class * * * should be measured against possible risk factors inherent in their use * * *." The DESI notice also stated that Plegine Tablets is regarded as a "new drug" as defined in section 201(p) of the act, and that "a new drug application is required from any person marketing such drug without approval." Furthermore, "all identical, related, or similar drugs, not the subject of an approved new drug application * * * are subject to this notice," citing the current 21 CFR 310.6. Finally, referring to a prior general announcement by FDA published in the FEDERAL REGISTER of July 14, 1970 (35 FR 11273), DESI Notice 11673 advised that "marketing of such drugs may be continued * * * [by] any person who does not hold an approved or effective new drug application, [upon] the submission of an abbreviated new drug application" (ANDA) within 60 days of the notice. The July 14, 1970 announcement also permitted manufacturers to commence marketing upon the filing of an NDA or ANDA. (On September 22, 1975, FDA published in the FEDERAL REGISTER a general notice (40 FR 43531) that in effect revoked those portions of the July 14, 1970 announcement that were inconsistent with the District Court's order in *Hoffmann-LaRoche, Inc.* v. *Weinberger*, 425 F. Supp. 890 (D.D.C., 1975), reprinted in the September 22, 1975 notice. That order, and the September 22, 1975 notice, withdrew any "permission" from FDA for a new supplier of a drug listed in DESI notice 11673 to commence marketing upon submission of an an NDA or ANDA but prior to the approval of an NDA or ANDA.)

APPLICATION FOR STATOBEX

On March 23, 1976, Lemmon submitted an ANDA (assigned number ANDA 85–095) for the following products:

Statobex Tablets (phendimetrazine tartrate, 35 mg and 70 mg), Statobex Tablets–D (phendimetrazine tartrate, 35 mg and 70 mg), Statobex–D Capsules (phendimetrazine tartrate, 35 mg and 70 mg).

The ANDA form of a new drug application does not contain preclinical or clinical studies demonstrating the safety or effectiveness of the drug product. 21 CFR 314.1(f). The proposed labeling for Statobex contained a statement of indications identical to that set forth in DESI Notice 11673. On December 14, 1976, after a series of correspondence and meetings with the firm, Lemmon was formally advised by FDA that an ANDA was not an acceptable form of application for a product containing 70 mg of phendimetrazine tartrate.

On December 28, 1976, the firm requested that the application, insofar as it pertains to the 70–mg dosage form, be filed over protest, as provided for in 21 CFR 314.110(d). Under that regulation, FDA is required to reevaluate the application and within 60 days the agency must either approve the application or give written notice of an opportunity for a hearing on the question of whether the application is approvable. The request to file over protest is regarded by FDA as applicable to both the 70–mg tablet and the 70–mg capsule. (As noted earlier, references to "Statobex" in this notice apply only to the 70–mg dosage forms unless otherwise stated.) In a meeting on February 8, 1977 between officials of the firm and FDA, Lemmon agreed to hold the request to file over protest in abeyance until it had reconsidered its position. By letter dated March 11, 1977, received March 16, 1977, the firm reinstated its request to file over protest, and agreed to permit FDA until May 15, 1977, to complete its reevaluation of ANDA 85–095 and choose one of the courses allowed under 21 CFR 314.110(d). This notice is provided pursuant to that regulation.

SAFETY CONCERNS REGARDING STATOBEX

Phendimetrazine tartrate is related chemically and pharmacologically to

amphetamine and appears to have a similar potential for abuse and risk of causing dependence in the user. Actual abuse of the 35 mg dosage was a significant factor in the decision of the Department of Justice to schedule phendimetrazine under the Controlled Substances Act (see 38 FR 15721; June 15, 1973), as well as in FDA's decision to require a drug dependence warning in the labeling (see DESI Notice 11673). Because higher strength dosage forms would be even more attractive for abuse purposes, this safety problem increases and significantly alters the benefit-risk assesment. Another question raised by the 70–mg dosage is whether it provides any therapeutic benefit to the patient to offset its inherent risks. The approved labeling for Plegine Tablets provides for a usual dose of one 35-mg tablet two or three times daily. It further states that dosage should be individualized to obtain an adequate response with the lowest effective dose; that in some cases one-half tablet (17.5 mg) is adequate; and that dosage should not exceed two tablets (70 mg) three times a day. The labeling makes it very clear that 70 mg three times a day is the exception rather than the rule. The 35-mg dosage form adequately provides the intended flexibility in dosage. A 70-mg capsule would not permit any titration, and a 70-mg tablet would substantially reduce the physician's ability to individualize the dose to, say 17.5 mg. At the same time, amphetamine and amphetamine analogs such as phendimetrazine produce in patients a tolerance to the therapeutic effects. It is not known whether this tolerance develops more quickly at higher dosage levels, but if so, the duration of therapy described in the labeling would be unsupported by evidence of effectiveness. Finally, special safety problems may be presented to the patient from a 70-mg tablet; in addition to the possibly more rapid onset of dependence to the drug, the risks of accidental overdosage are increased by a large dosage. Thus, no medical advantage, but possible serious disadvantages, seem to exist for the 70-mg dosages compared to the 35–mg tablet. Stated differently, there does not appear to be a significant patient population in whom the risks from a 70-mg dosage form are outweighed by the benefits of such a product. This is not to say that clinical evidence that measures the safety and effectiveness could not demonstrate that a 70-mg product meets the standards of the act. Rather, it is that such data are necessary before FDA can conclude that the novel questions posed by this significantly different dosage can be answered. For these reasons, FDA has determined that a new dosage of a drug, even one that at another dosage is generally recognized as safe and effective, is not always and immediately recognizable as safe and effective. See 21 CFR 310.3(h)(5). The agency, therefore, has required a "full" NDA or a supplemental NDA, containing clinical evidence demonstrating the safety and effectiveness of a different dosage of an approved drug..

The Director concludes that the fact that phendimetrazine tartrate (35 mg) was found to be safe and effective for certain indications, as stated in DESI notice 11673, is not a basis for concluding that Statobex is safe for the same indications.

Requirements for Safety Data in ANDA

The history of the new drug provisions of the act and the agency's implementation of them, including introduction of the ANDA, is described in detail in the preamble to a notice of proposed rulemaking published in the Federal Register on June 20, 1975 (40 FR 26142). The Director will not reiterate that history here. He believes, however, that several points bear emphasizing. First, an ANDA is a new drug application; it represents a form of application in which certain information normally part of an NDA is not required because it is not essential to the agency's reaching a decision on the approvability of the drug product under section 505 of the act. This information requirement is waived because the agency already has sufficient publicly available data and information in its files to make appropriate conclusions on those elements of the drug approval decision. (Information contained in other approved NDA's may or may not be public. See 21 CFR 314.14. If not public, it may be relied upon by a second applicant only with the express permission of the first applicant. 21 CFR 314.11.) Generally, the information allowed to be omitted relates to preclinical and clinical studies regarding the safety and effectiveness of the active ingredients. As the Commissioner stated in the June 20, 1975 notice:

> [A]n abbreviated NDA is appropriate only for those drugs which, from a generic standpoint, are generally recognized as safe and effective when they are properly labeled and manufactured. The submission of an abbreviated NDA has thus been required only to assure the quality of drug products and their proper labeling and manufacture, not to show the basic safety and effectiveness of the generic chemical entity involved. (40 FR 26147).

The purpose of an ANDA is to provide a means to eliminate unnecessary animal and human experimentation, to reduce the burdens on manufacturers in attempting to market duplicates of established drugs, and to ease the workload of FDA in reviewing and processing applications.

Second, in order for FDA to waive such requirements, it must affirmatively conclude that it has sufficient public information to make the requisite conclusions. Because the ANDA is an exception to the general rule requiring a complete NDA, the decision to allow use of an ANDA must be consciously and prospectively made by the agency (See 21 CFR 314.1(a): "if the drug * * * is one for which an abbreviated new drug application has been *found* by the Food and Drug Administration to be sufficient * * *." (emphasis added).) These decisions are formal and are officially issued, generally by a notice in the Federal Register but on rare occasions by other public notice. These decision cannot extend to products for which little or no public information is available and which were not considered by FDA in making the ANDA decision. The products covered by this notice illustrate why this is so. They have never been approved for marketing in the United States and their potential for drug abuse problems appears quite substantial. Other examples of unforeseen variations in drugs reviewed in the DESI program have also recently been uncovered in the process of implementing the court order in the "Hoffmann-LaRoche" case (discussed earlier), including sustained release formulations and untested combinations of two or more drugs. Clearly, it is contrary to the public interest, as well as the language of sections 201(p) and 505 of the act and implementing regulations cited above, for FDA to waive any information essential to determine the approvability of such a drug without even being aware that such a drug may potentially be, or actually is being, marketed.

Third, the choice between NDA (including a supplemental NDA) and ANDA is not an "either-or" option. For many years, the agency has imposed on applicants using either application process a variety of requirements depending on the nature of the drug product, the types of information publicly available regarding the drug, and similar factors. Thus, some NDA's require chronic animal toxicology testing, and others do not; some ANDA's require detailed manufacturing data, and others do not; some NDA's and ANDA's require bioavailability data, and others do not. As noted, the most common distinction between the NDA and the ANDA relates to requirements for preclinical and clinical data. But this distinction should not blur the close similarity on most matters. To repeat, both the traditional "full" NDA and the most "abbreviated" ANDA are merely types of applications described in section 505 of the act.

Fourth, the fact that FDA does not waive any of the requirements of an NDA for a particular product does not necessarily mean that an applicant must conduct its own preclinical and clinical studies regarding safety or effectiveness. The applicant may be able to include in its applications published articles and other publicly available data and information that provide an adequate basis for the agency's making the evaluation and approvability decision required under section 505. An NDA can be approved on such a submission.

The Director finds that use of an ANDA for Statobex would be inconsistent with the purposes of the ANDA form of application, has not been authorized by FDA, and would not fulfill the requirements of section 505 of the act regarding the requisite basis of approval for these products. Because of this the Director further finds that Lemmon must submit an application form described in 21 CFR 314.1(c) containing reports of investigations and adequate tests, by all means reasonably applicable, to show whether or not its product is safe for use under the conditions in the proposed labeling.

Lack of Information in Application for Statobex

The Director finds that the ANDA for Statobex lacks any reports of preclinical or clinical investigations on phenidimetrazine tartrate (70 mg). Because the application totally lacks safety data, the information contained therein has not been evaluated to determine whether it satisfies the other requirements of the act and new drug regulations. If, as a result of this notice, a hearing is requested and it is determined that a hearing will be ordered, the Bureau of Drugs will then review the other parts of the application and raise any remaining issues in the notice of hearing.

Notice of Opportunity for Hearing

Therefore, notice is given to Lemmon and all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(d) of the act refusing to approve ANDA 85–095 on the following grounds: That (1) the application does not contain any reports of investigations or adequate tests, by all methods reasonably applicable, to show whether or not Statobex is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, and (2) upon the basis of the information submitted as part of the application, FDA has insufficient information to determine whether the drug is safe for use under such conditions.

This notice does not apply to portions of the abbreviated new drug application (ANDA 85–095) regarding Statobex Tablets and Capsules containing 35 mg of phendimetrazine tartrate.

If Lemmon elects to avail itself of the opportunity for hearing pursuant to section 505(d) of the act and 21 CFR 314.200, it must file with the Hearing Clerk, Food and Drug Administration, (1) written notice of appearance and request for hearing by June 20, 1977, and (2) the data, information, and analyses on which it relies to justify a hearing, as specified in § 314.200, by July 19, 1977. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant to file a timely written appearance and request of hearing as required by 21 CFR 314.200 constitutes an election not to avail himself of the opportunity for a hearing, and the Director of the Bureau of Drugs will summarily enter a final order refusing to approve application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the appliaction, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgement against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be field in quintuplicate with the Hearing Clerk, Food and Drug Administration.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Office of the Hearing Clerk (address given above) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the Federal Register of March 22, 1977 (42 FR 15553)).

Dated: May 13, 1977.

J. Richard Crout,
Director, Bureau of Drugs.

[FR Doc.77-14375 Filed 5-19-77;8:45 am]

[Docket No. 76P-0344]

MEDICAL DEVICES

Public Hearing on Proposed Action on California Application for Exemption From Preemption of Requirements

AGENCY: Food and Drug Administration.

ACTION: Notice of Public Hearing.

SUMMARY: This is an announcement that a public hearing before the Commissioner of Food and Drugs will be held on July 19, 1977 to receive comments and views from interested persons on the proposed action by the Food and Drug Administration (FDA) on the State of California application for exemption from Federal preemption of the State's medical device requirements.

DATES: Written notice of appearance by June 20, 1977; the hearing will be held on July 19, 1977.

ADDRESS: Notices of appearance to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Daniel S. Woloshen, Bureau of Medical Devices and Diagnostic Products (HFK–122), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910 (301–427–7114).

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94–295), amending the Federal Food, Drug, and Cosmetic Act (hereinafter referred to as "the act"), became law on May 28, 1976. Section 521(a) of the amended act (21 U.S.C. 360k(a)) prohibits any State or its political subdivision from establishing or continuing in effect for a device intended for human use any requirement that is (1) different from, or in addition to, any requirement applicable to a device under the act, and (2) related to the safety or effectiveness of the device or to any other matter included in a requirement applicable to the device under the act. Section 521(b) of the act sets forth specific conditions under which the Commissioner may by regulation permit a State or local government to establish, or continue in effect, device requirements that would otherwise be preempted by section 521(a) of the act.

A proposal to grant, with one exception, the application of the State of California Department of Health for exemption from Federal preemption for certain California State laws and regulations pertaining to medical devices was published in the Federal Register of February 15, 1977 (42 FR 9186). A notice of opportunity for oral hearing on the proposal was published in the same issue of the Federal Register (42 FR 9226), as required by section 521(b) of the act. Under that notice, eight requests for an oral hearing were submitted and are on display in the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

This notice advises interested persons that based on the requests received, an oral hearing will be held on the proposal in accordance with the regulations relating to public hearings before the Commissioner at 21 CFR Part 15 formerly Subpart E of Part 2, prior to recodification published in the Federal Register of March 22, 1977 (42 FR 15612)), and that persons who wish to present comments and views at the hearing must file a written notice of appearance. This notice also sets forth specific issues on which the Commissioner seeks comments and views.

The hearing announced in this notice will provide a public forum for interested persons to present comments and views on the proposed action on the California application for exemption from preemption. Although views may be presented on any aspect of the proposed action, the Commissioner specifically invites well-documented comments on the following issues:

1. The burden, if any, imposed by the proposed action on interstate commerce.

2. The effect of the proposed action on the economy under the criteria established by OMB Circular A–107 and agency guidelines.

3. The proposal to exempt from preemption, with one exception, the re-

quirements of standards Z80.1 and Z80.2 of the American National Standards Institute relating to prescription ophthalmic devices, as adopted by statute by the State of California.

The hearing will be held at 9:30 a.m. in Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. The presiding officer will be Mr. David Link, Director, Bureau of Medical Devices and Diagnostic Products.

Although the regular comment period for the proposed action on the California application ended on April 18, 1977, the record of the hearing will remain open until August 3, 1977, to permit submission of additional written comments and views limited to matters discussed during the hearing. In preparing a final regulation, the Commissioner will consider the administrative record of the hearing, together with all other written comments received during the comment period specified in the proposal.

Persons who wish to present comments and views at the hearing must file by June 20, 1977, a written notice of appearance with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, in accordance with 21 CFR 15.21 (formerly 21 CFR 2.402 prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)). The notice of appearance shall contain the FDA Hearing Clerk Docket No. (76P–0344), the name, address, telephone number, and any business affiliation of the person desiring to make a statement, a summary of the presentation, and the approximate time requested for the presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations. The Commissioner may require joint presentations by persons with common interests.

The Commissioner will allocate the time available for the hearing among the persons who properly file a notice of appearance and will mail a schedule for the hearing to each such person. Each person may use his allotted time in whatever way he wishes, consistent with the conduct of a reasonable and orderly hearing. Formal written statements on the issues may be presented to the presiding officer on the day of the hearing for inclusion into the record of the hearing.

The hearing will be open to the public. At the discretion of the presiding officer and as time permits, any interested person in attendance may be heard regarding the proposed action on the California application.

Dated: May 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–14377 Filed 5–19–77;8:45 am]

Health Care Financing Administration

ALTERNATE PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Public Hearing

Pursuant to the "Regulatory Policies" of the Secretary of the Department of Health, Education, and Welfare (41 FR 34811, August 17, 1976) and in accordance with an approved Regulation Development Plan, it has been determined that public hearings on alternate Professional Standards Review Organizations (PSROs) are appropriate prior to the publication of proposed rules.

Notice is hereby given that an additional public hearing will be held to aid the Department in obtaining a broad level of input for the development of proposed rules on criteria for establishing organizations which may qualify to become PSROs under section 1152(b)(1)(B) of the Social Security Act (42 U.S.C. 1320c–1(b)), where organizations composed of physicians meeting the requirements of section 1152(b)(1)(A) of the Act are not available. Such nonphysician composed organizations have been termed "alternate PSROs" by the Department. Regulations establishing the criteria and other requirements are a prerequisite to the designation of alternate PSROs under section 1152(b)(1)(B). Alternate PSRO Public Hearings have already been held in Baton Rouge, Louisiana; Chicago, Illinois; and in San Francisco and San Diego, California.

The final public hearing will be held:

June 14, 1977, 9:30 a.m. to 5 p.m., Sheraton Olympic Villas off Interstate 4 at Highway 528, Orlando, Florida.

Region IV, DHEW is coordinating hearing arrangements. Public hearings on alternate PSROs have been and continue to be directed at those geographic regions, where to date, there exists little or no formal physician interest to sponsor the preferred type of PSRO as specified under section 1152(b)(1)(A) of the Social Security Act.

PURPOSE OF THE HEARINGS

Public hearings on alternate PSROs will be an integral part of the regulation development process. As did the prior hearings, this additional hearing will assist the Department in reaching as many concerned individuals, organizations, and potentially affected areas as possible, regarding the development of criteria for establishing alternate PSROs.

ALTERNATE PSRO PUBLIC HEARING PROCEDURES

1. These hearings, open to the public, are divided into two segments—a scheduled witness session and an unscheduled witness session.

2. The scheduled witness session will be to hear witnesses who have notified the appropriate Regional Office PSRO Branch Chief in the Division of Quality and Standards, DHEW, of their intent to present testimony at least five days prior to the hearing date.

3. The unscheduled witness session will be conducted under an "open-mike" format, whereby any attendee will be allowed to testify without prior notice to DHEW on a first come basis.

4. Unscheduled witnesses will be asked to sign up on the sheets provided at the witness tables at the hearing room door. These witnesses will be called in the order they signed up, subject only to a time limit and order rulings from the moderator.

5. The exact time limit for unscheduled witnesses will be announced at the beginning of the session and will depend on the number of witnesses who wish to testify.

6. Each witness may be asked questions from the hearing moderator and the members of the Federal resource panel.

7. All witnesses are encouraged to submit written statements or exhibits in addition to oral testimony. Written statements will carry the same weight as oral presentations and will be made part of the hearing record. Written material should be handed to the stenographer, and it should be clearly marked with the name and address of the witness.

8. Witnesses are requested to summarize their written testimony when making an oral presentation. A court stenographer will incorporate written testimony into the record.

9. Scheduled witnesses should generally be prepared to keep their presentations limited to 20 minutes; however, time allotted may be reduced if necessary to accommodate all scheduled witnesses.

BACKGROUND INFORMATION ON ALTERNATE PSROS

Given the possibility that there may be no qualified physician organizations as specified under section 1152(b)(1)(A) of the Act in some of the designated areas by January 1, 1978, the Department must determine eligibility criteria which will be used in designating alternate PSROs. Under section 1152(c) of the Act [42 U.S.C. 1320–1(c)], on January 1, 1978, the Secretary may commence designating qualified organizations other than the statutorily preferred type of physician organizations designated under section 1152(b)(1)(A) of the Act to serve as PSROs.

Beginning on this date, the Secretary is authorized to designate as PSROs, as provided in section 1152(b)(1)(B) of the Act:

* * * such other public, nonprofit private or other agency or organization, which the Secretary determines, in accordance with criteria prescribed by him in regulations, to be of professional competence and otherwise suitable;

Section 1152(b)(1)(B) of the Social Security Act and the Senate Finance Committee Report (No. 92–1230, 92nd Congress, 2nd Session, 1972) offer some assistance in determining appropriate eligibility criteria for selecting alternate PSROs, as follows:

(1) Each alternate PSRO must be a "* * * public, nonprofit private, or other agency or organization * * *" (Section 1152(b)(1)(B) of the Social Security Act)

(2) The alternate organization must "be of professional competence" (Section 1152(b)(1)(B) of the Social Security Act)

(3) The Secretary may seek alternative applicants from "among other medical organizations, State and local health departments, medical schools, and failing all else, carriers, intermediaries or other health insurers" (Senate Finance Committee Report No. 92–1230 pp. 259–260)

(4) Each alternate organization must possess the willingness and capability to perform "in an effective, timely and objective manner and at a reasonable cost, the duties, functions and activities of a Professional Standards Review Organization * * *" (Section 1152(b)(2) of the Social Security Act)

In response to a request made by the National Professional Standards Review Council, the formation and responsibilities of which are mandated in section 1163 of the Social Security Act, the Department has drafted a preliminary policy paper concerning alternate PSROs. Although this paper suggests possible criteria which could be used to designate alternate PSROs, it should not be interpreted to represent the Department's final position and policies concerning alternate PSROs. Public input may cause substantial revision in the views developed by the Department thus far. Those parties interested in securing a copy of this paper should contact either Michael J. Goran, M.D., Director, Bureau of Quality Assurance, Room 16A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; or the appropriate Regional Office PSRO Branch Chief, Division of Quality and Standards, DHEW.

The Department has developed the following preliminary criteria which could be used to designate alternate PSROs:

I. Each alternate PSRO must not make a profit (i.e., reimbursement for more than the actual cost) from its PSRO activities.

II. No organized medical society or association or organization "controlled" by such organizations can be designated an alternate PSRO.

III. Each alternate PSRO must have or demonstrate the capability to obtain the services of individuals with medical expertise to competently perform review activities.

IV. Each alternate PSRO must have the capability to adequately service the PSRO area.

V. Each alternate PSRO must not have inherent conflicts of interest that affect its role as a reviewer of health care.

These potential criteria should not be interpreted as definitive Department policy but rather as a preliminary attempt to stimulate discussion and interest in this area of concern. The Department invites public comment on these tentative criteria for establishing alternate PSROs. Moreover, the Department desires to solicit additional or alternative criteria which could supplement, complement and/or replace those suggested above and which will ensure that organizations designated by the Secretary as alternate PSROs could function effectively in this capacity.

Attendance at the June 14 hearing is open to the interested public, but limited to the space available. For further information concerning this hearing contact:

Mr. C. Dexter Kimsey, PSRO Branch Chief, DHEW, Region IV, Peachtree-Seventh Building, Room 860, 50 Seventh Street, NE., Atlanta, Georgia 30323, Telephone 404–881–4472.

Dated: May 13, 1977.

DON WORTMAN,
Administrator, Health Care Financing Administration.

[FR Doc.77–14413 Filed 5–19–77;8:45 am]

Office of Education

INDIAN EDUCATION ACT

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 303(b) of the Indian Education Act, Title IV, Part A of Pub. L. 92–318, as amended by Title VI, Part C of Pub. L. 93–380 (20 U.S.C. 241aa–241ff), applications are being accepted from schools located on or near reservations which are nonlocal educational agencies, or local educational agencies which have been local educationa' agencies for less than three years. A nonlocal educational agency is defined in 45 CFR 186.2. Eligibility factors, found in 45 CFR 186.32(a) are: (1) Whether the governing body of the school or school system was selected by, is representative of, and is solely responsible to the Indian tribe or Indian community which that school or school system serves; and (2) Whether the governing body derives authority from such community to carry out such functions as: (i) Employing, managing, and terminating personnel: (ii) Developing and revising curricula; (iii) Establishing attendance, academic, and other relevant standards: (iv) Developing and approving budgets: (v) Establishing operational policies; and (vi) Raising funds.

Section 303(b) authorizes the Commissioner to provide financial assistance to support applicants for programs designed to meet the special educational needs of Indian students. Assistance may be used for the purposes of planning and developing elementary and secondary school programs and for meeting costs incurred in connection with the establishment, maintenance, and operation of such programs.

Applications must be received by the U.S. Office of Education Application Control Center on or before June 20, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202. Attention: 13.551. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than June 15, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Office of Indian Education, Division of Special Projects and Programs, Elementary and Secondary Special Projects Branch, U.S. Office of Education, Room 2153, Federal Office Building Six, 400 Maryland Avenue, SW., Washington, D.C. 20202.

D. *Awards.* Applicants who wish to expand their multi-year programs, applicants who received assistance last fiscal year for a project period of one year, and eligible applicants for new grants, will compete for increased funds appropriated by Congress to supplement the previous reduced level of appropriations. Approximately $1,090,909 is available for new grants. Approximately nine grant awards for an average amount of $125,-500 will be made.

E. *Application regulations.* Awards under section 303(b) of the Indian Education Act will be subject to the requirements of the Act and to relevant provisions of 45 CFR Part 186. Assistance under this program is also subject to applicable provisions in 45 CFR Part 100a. Criteria for the selection of applications

are contained in 45 CFR 100a.26(b) and in 45 CFR 186.33.

(20 U.S.C. 241bb(b).)

Dated: May 13, 1977.

(Catalog of Federal Domestic Assistance Number 13.551; Indian Education—Grants to Non-LEA's (Part A).)

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77-14385 Filed 5-19-77;8:45 am]

INFORMATION AND DATA ACQUISITION ACTIVITY

Comments on Collection

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before June 20, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attn: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: May 17, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of Proposed Activity*

Field Test of the Parent Education curriculum including pilot television programs and nonbroadcast materials.

2. *Agency/Bureau/Office*

U.S. Office of Education/Bureau of Elementary and Secondary Education/Office of Libraries and Learning Resources.

3. *Agency Form Number*

OE 577.

4. *Legislative Authority for this Activity*

Sec. 402. (a)(1) Sec. 2. It is the purpose of this Act to authorize the Commissioner of Education (hereinafter referred to as the 'Commissioner') to carry out special projects—

"(1) to experiment with new educational and administrative methods, techniques, and practices; * * *" (P.L. 93-380: 20 USC 1851).

5. *Voluntary/Obligatory Nature of Response*

Voluntary.

6. *How Information Collected Will be Used*

The data will be used for formative evaluation of the parent education curriculum.

7. *Data Acquisition Plan*

a. METHOD OF COLLECTION: Mail and interviews

b. TIME OF COLLECTION: Summer 1977

c. FREQUENCY: On occasion

8. *Respondents*

a. *Type.*—Individuals (to be contacted through local education agencies, Head Start centers, Parent Teacher Associations, and other private organizations).

b. *Number.*—1,300.

c. *Estimated Average Man-Hours Per Respondent.*—0.5.

9. *Information to be Collected*

Each respondent will answer a short questionnaire dealing with basic demographic data on age, sex, parenting status, level of income and education. Then each participant will view the three television pilots either in the home or in a group setting. One-half of the home viewers will respond to a brief telephone call after viewing to ascertain appeal of the program and if the message is understandable. All of the viewers will respond to post-test questions about appeal of the program and whether viewers learned from watching. Certain incidents are described and the parent marks the preferred action that a parent should take. This will test whether learning objectives of the program were attained.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of Proposed Activity*

Financial Status and Performance Reports for Basic Institutional Development Program.

2. *Agency/Bureau/Office*

Office of Education, Bureau of Postsecondary Education, Division of Institutional Development.

3. *Agency Form Number*

OE 1049-4 and OE 1049-5.

4. *Legislative Authority for This Activity*

"Sec. 304. (c)(1)(D) An application for assistance for the purposes described in subsection (b)(1) shall be approved only if it * * * provides for such fiscal control and fund accounting procedures as may be necessary to insure proper disbursement of and accounting for funds made available under this title to the applicant; * * *" Public Law 89-329.

"Each Federal sponsoring agency shall require recipients to use the standardized Financial Status Report to report the status of funds for all nonconstruction projects or programs. * * * Recipients shall submit a performance report for each agreement. * * * Recipients shall submit the performance reports to Federal sponsoring agencies and the Financial Status Reports covering the same period * * *" Attachment H—OMB Circular A-110.

5. *Voluntary/Obligatory Nature of Response*

Required to obtain or maintain benefits.

6. *How Information Collected Will Be Used*

Information will be used to monitor the performance and merits of funded programs in the Title III Program, Higher Education Act of 1965, as amended. It is used to determine whether goals are achieved and what actual impact the Title III Program has on institutional development. It will also serve as a basis in the evaluation of future applications from the grantee.

7. *Data Acquisition Plan*

a. *Method of Collection.*—Mail.

b. *Time of Collection.*—30 days after the mid-point of grant period and 90 days after the end of grant period.

c. *Frequency.*—Semi-annually.

8. *Respondent*

a. *Type.*—Colleges and Universities.

b. *Number.*—650.

c. *Estimated Average Man-Hours Per Respondent.*—10.

9. *Information To Be Collected*

The grantee will present for each approved program in their application (including National Teaching Fellowships or Professor Emeriti as separate program(s) if funded) the following:

1. Goals and objectives established for grant period.

2. Accomplishments—compared with goals and impact on program. Specific measurable qualitative and quantitative data is to be included.

3. Slippage—(a) Impact on program, and (b) Reason why goals were or were not met.

4. Overall impact on institution realized from all programs in the grant.

5. The standard Financial Status Report form is used.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of Proposed Activity*

Annual Survey of Children in Institutions, Operated or Supported by a State Agency, for Neglected or Dilinquent Children, or Children in Adult Correctional Institutions, ESEA, Title I.

2. *Agency/Bureau/Office*

Office of Education, Bureau of Elementary and Secondary Education, Division of Education for the Disadvantaged.

3. *Agency Form Number*

OE Form 4376.

4. *Legislative Authority for this Activity*

"A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section * * *" * * * the grant which such an agency shall be eligible to receive shall be * * * multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children * * *" (P.L. 89-10, as amended. 20 U.S.C. 241-(3), 45 CFR 116c).

5. *Voluntary/Obligatory Nature of Response*

Agencies are obligated to respond. Failure to submit this report will result in loss of Title I funds.

6. *How Information Collected Will be Used*

Program Management: The average daily attendance data will be used to compute Title I allocations for State agencies responsible for providing free public education for institutionalized neglected or delinquent children.

7. *Data Acquisition Plan*

a. *Method of Collection.*—Mail.

b. *Time of Collection.*—Fall.

c. *Frequency.*—Annually.

8. *Respondents*

a. *Type.*—State agencies responsible for providing education for institutionalized neglected or delinquent children.

b. *Number.*—150.

c. *Estimated Average Man-Hours Per Respondent.*—5.

9. *Information to be Collected*

State agencies will furnish the names and types of institutions and the average daily attendance data for institutionalized neglected or delinquent children in State-operated or supported schools.

[FR Doc.77-14412 Filed 5-19-77; 8:45 am]

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Public Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the Nonmajority/Minority Task Force and the Legislative/Administrative Task Force. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act [5 U.S.C., Appendix 1, 10(a)(21)]. This document is intended to notify the general public of their opportunity to attend.

DATE AND PLACE OF MEETING: June 10, 1977; New York, New York.

ADDRESS: Room 5890, No. 2 Tower of the World Trade Center.

FOR FURTHER INFORMATION CONTACT:

Rosemarie Maynez, Administrative Assistant, NACEEO, 1325 G Street, NW., Suite 710, Washington, D.C. 20005, Phone 202-382-7985.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (P.L. 92-318, Title VII, as amended by P.L. 93-380 and P.L. 94-482). The Council is established to: (1) advise the Assistant Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 9:30 a.m. until 4:30 p.m. Presentations will be made by various ESAA grant recipients concerning the need for such a program. Inquiry will be made with regard to how well the various racial and ethnic groups involved in ESAA projects are having their specific needs addressed. Discussions concerning ESAA eligibility requirements as pertaining to nonmajority/minority districts will be a major focus.

Requests for oral presentations by the public before the Task Forces must be submitted in writing to the Executive Director of NACEEO, Mr. Leo A. Lorenzo, and should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Following the presentation, the statement in writing shall be submitted to the Executive Director. In the event that the tentative agenda is completed prior to the projected time, the Task Forces will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street, NW., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C., on May 18, 1977.

LEO A. LORENZO,
Executive Director.

[FR Doc.77-14542 Filed 5-19-77;8:45 am]

NATIONAL ADVISORY COUNCIL FOR CAREER EDUCATION

Meeting

AGENCY: National Advisory Council for Career Education, HEW/OE.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meeting is required by the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: June 16-17, 1977. June 16-9:00 a.m. to 4:00 p.m. June 17-9:00 a.m. to 4:00 p.m.

ADDRESS: Federal Office Building #6 (FOB#6)—Room 3000 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert D. Bhaerman, Office of Education, Office of Career Education, Room 3100—ROB No. 3, 7th and D Sts., S.W., Washington, D.C. 20202 (202-245-2547).

SUPPLEMENTARY INFORMATION: The National Advisory Council for Career Education is established under Section 406 of the Education Amendments of 1974, P.L. 93-380, (88 Stat. 552, 553.) The Council is directed to:

Advise the Commissioner of Education on the implementation of Section 406 of the Education Amendments of 1974 and carry out such advisory functions as it deems appropriate, including reviewing the operation of this Section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining need for further legislative remedy in order that all citizens may benefit from the purposes of career education as described in Section 406.

The Council with the assistance of the Commissioner conducted a survey and assessment of the current status of career education programs, projects, curricula and materials in the United States and submitted to Congress a report on such survey.

The meeting of the Council shall be open to the public. The meeting on June 16 and June 17 will begin at 9:00 a.m. and end at 4:00 p.m. The meeting will be held at the Office of Education, Federal Office Building No. 6 (FOB No. 6), located at 400 Maryland Avenue SW., Room 3000, Washington, D.C. 20202.

The proposed agenda includes:

(1) Research Report: National Institute of Education
(2) Miscellaneous Business
(3) Legislative Report on Prospects of Senate Bill 1328 from the Legislative Subcommittee
(4) Progress Report on Supportive Activities and Public Information
(5) Research Report: National Assessment of Educational Progress—Career and Occupational Development
(6) Discussion of Commissioned Papers
(7) Discussion of NACCE Priorities, Activities and Next Steps

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of Career Education located at 7th and D Streets SW., Room 3100, ROB No. 3, Washington, D.C. 20202.

Signed at Washington, D.C. on May 12, 1977.

JOHN LINDIA,
Delegate, National Advisory Council for Career Education.

[FR Doc.77-14407 Filed 5-19-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

BONNEVILLE DAM INTEGRATING TRANSMISSION

Public Meeting

This notice is published to notify interested citizens of a public meeting to be held by the Bonneville Power Administration on Wednesday, June 22, 1977, at 7:30 p.m. in Stevenson High School, Stevenson, Washington.

The environmental impact of constructing approximately 1.3 miles of new 230-kV line and the addition of 21 miles of conductor to the vacant side of existing BPA double-circuit towers will be described. Comments on these proposed new facilities will be received from the public.

All interested parties are urged to attend. All comments are welcomed in or-

der to assist the administration in fully evaluating the environmental factors pertinent to this particular aspect of BPA's Fiscal Year 1978 Program. Comments received will be considered in the preparation of the Final Environmental Statement.

The purpose of the above project is to integrate the electricity from the second powerhouse at Bonneville Dam into BPA's regional transmission grid.

In addition to building approximately 1.3 miles of new 230–kV line and the addition of 21 miles of conductor to the vacant side of existing double-circuit towers, approximately 1.3 miles of new access road would be constructed. Between one-half and 1 mile of existing access road would need improvement.

Between 6 and 24 acres of new right-of-way would be required. Approximately 100 acres of trees and brush would have to be cleared for construction and conductoring purposes. Some erosion and sedimentation would occur. Minor short-term disturbances to agricultural land would also occur. In addition, there would be some visual impact as well as noise and other minor disturbances during construction.

In addition to the nonconstruction alternative, with its lack of environmental impacts and resultant inability to integrate the output from the second powerhouse at Bonneville Dam, two alternative route locations for the proposed transmission line have been identified. The alternative locations of the transmission line and the environmental impact associated with each are more thoroughly presented in the Draft Facility Location Supplement for Bonneville Dam Integrating Transmission.

Copies of the Draft Facility Location Supplement describing the proposal are available for inspection in the library of the BPA headquarters, 1002 NE. Holladay Street, Portland, Oregon 97232; the BPA Washington, D.C., Office in the Interior Building, Room 5600; and at the Portland Area Office, Lloyd Plaza Building, 919 NE. 19th Avenue, Room 3621, Portland, Oregon 97208.

Dated: May 17, 1977.

WILLIAM H. CLAGETT,
Assistant Administrator.

[FR Doc.77–14404 Filed 5–19–77;8:45 am]

Bureau of Land Management

[N–15766]

NEVADA

Airport Lease Application

Notice is hereby given that pursuant to the Act of May 24, 1928, (49 U.S.C. 211–214), Alfred Woodward has applied for an airport lease on the following lands:

MOUNT DIABLO MERIDIAN, NEVADA

T. 43 N., R. 37 E.
Sec. 34, S½NE¼, SE¼NW¼, NE¼SW¼ NE¼SE¼.

The purpose of this notice is to inform the public that the filing of this application segregated the described public lands from all other forms of appropriation under the public land laws. Interested persons desiring their views should promptly send their comments together with their name and address to the Las Vegas District Manager, Bureau of Land Management, 4765 Vegas Drive, Las Vegas, Nevada 89108.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc.77–14380 Filed 5–19–77;8:45 am]

Fish and Wildlife Service

UNIVERSITY OF CALIFORNIA, LOS ANGELES

Issuance of Permits for Marine Mammals

On Monday, January 10, 1977, a notice was published in the FEDERAL REGISTER (Vol. 42, No. 6) that an application had been filed with the Fish and Wildlife Service by University of California, Los Angeles, California, for a permit to capture, tag, and release up to sixteen (16) California sea otters.

Notice is hereby given that on Wednesday, May 11, 1977, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–4107), the Fish and Wildlife Service issued a permit to University of California, subject to certain conditions set forth therein. The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Dated: May 17, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc.77–14415 Filed 5–19–77;8:45 am]

WALRUS

Change in Alaska State Regulations

Notice is hereby given of a change in the Alaska State walrus regulations originally approved by the Director, United States Fish and Wildlife Service, on April 5, 1976 (41 FR 14372), and amended on October 13, 1976 (41 FR 44875).

In order to stabilize the walrus kill significantly below the levels of the annual take during the past few years, the State has proposed, following approval of the Alaska Board of Game on April 5, 1977, that the Alaska Fish and Game Code, 5 AAC 81.350, be changed to include the seasons and bag limits noted below.

I have determined that these changes are more restrictive than the regulations now in force and have no effect on the extent of the waiver of the moratorium on the taking of Pacific walrus. Pursuant to 50 CFR 18.56(d), I have consulted with the Marine Mammal Commission on the proposed changes to determine whether the State regulations (with the proposed changes) continue to comply with the requirements of 50 CFR subpart F; the Commission supports the intent of the changes. I hereby approve the changes, effective May 20, 1977.

A complete set of the State of Alaska walrus hunting regulations is available for inspection from 8 a.m. to 4 p.m., Monday to Friday, at 1612 K Street, NW., Washington, D.C., suite 1200.

This notice was prepared by Rupert R. Bonner, Marine Mammal Coordinator, Office of Wildlife Assistance.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

5 AAC 81.350. Marine mammal hunting. (5) Walrus

Unit	Open season	Bag limits	Areas	Maximum annual quota per regulatory year
Unit 9	No open season			
Unit 17, except for that portion in the Walrus Islands State Game Sanctuary (including all waters within ½ mile of Round Island).	Resident: Oct. 20–Dec. 1 Mar. 1–Apr. 30.	One walrus for food, by permit only. A total of 50 permits will be issued to applicants who appear in person at the villages of Togiak, Manokotak, Twin Hills, and Clarks Point, on a basis of first come, first served.		
	Nonresident: No open season.			
Unit 18	Resident: No closed season.	One adult bull per permit; provided, however, that residents of settlements on the Bering Sea coast of Unit 18 dependent upon and utilizing walrus for food may take up to 5 adult cows or subadults (either sex) and adult bulls without limit; and provided further that orphaned calves may be taken for food without contributing to the bag limit.		
	Nonresident: No closed season.	One adult bull per permit.		
Unit 22	Resident: No closed season.	One adult bull per permit; provided, however, that residents of settlements on the Bering and Chukchi Sea coasts of Unit 22 dependent upon and utilizing walrus for food may take up to 10 walrus, not more than 5 of which may be adult cows or subadults (either sex); that orphaned calves may be taken for food without contributing to the bag limit; and that certain specific area quotas apply, as listed in next column.	1. The waters of Bering Sea near the settlement of Gambell within the area bounded by lines connecting the following positions: 64°30′ N., 171°22′ W.; 64°30′ N., 171°00′ W.; 63°00′ N., 171°00′ W.; 63°00′ N., 174°59′ W.; and the U.S.–Russia convention: Line of 1867 between 63°00′ N., 174°59′ W. and 64°30′ N., 171°22′ W.	450
			2. The waters of Bering Sea near the settlement of Savoonga within the area bounded by lines connecting the following positions: 64°30′ N., 171°00′ W.; 64°30′ N., 168°00′ W.; 63°00′ N., 168°00′ W.; 63°00′ N., 171°00′ W.; 64°30′ N., 171°00′ W.	450
			3. The waters of Norton Sound and Bering Sea near the settlements of Nome and King Island within the area bounded by lines connecting the following positions: 65°10′ N., 168°50′ W.; 65°10′ N., 166°35′ W.; 64°33′ N., 163°50′ W.; 63°00′ N., 163°20′ W.; 63°30′ N., 163°50′ W.; 65°10′ N., 168°50′ W.	250
			4. The waters of the Bering and Chukchi Seas near the settlement of Wales within the area bounded by lines connecting the following positions: 66°00′ N., 167°55′ W.; 66°00′ N., 167°20′ W.; 65°10′ N., 167°20′ W.; 65°10′ N., 167°50′ W.; 65°32′ N., 168°40′ W.; 65°45′ N., 168°40′ W.; 66°00′ N., 167°55′ W.	150
			5. Waters of the Bering and Chukchi Seas near the settlement of Diomede within the area bounded by lines connecting the following positions: 66°20′ N., 168°50′ W.; 66°20′ N., 167°30′ W.; 66°00′ N., 167°30′ W.; 66°00′ N., 167°55′ W.; 65°52′ N., 168°20′ W.; 65°10′ N., 168°20′ W.; 65°10′ N., 166°45′ W.; 65°36′ N., 168°59′ W.; 66°20′ N., 168°59′ W.	450
			6. Waters of the Chukchi Sea near the settlements of Shishmaref within the area bounded by lines connecting the following positions: 67°00′ N., 167°30′ W.; 67°00′ N., 164°00′ W.; 66°36′ N., 164°00′ W.; 66°00′ N., 167°00′ W.; 66°00′ N., 167°30′ W.; 67°00′ N., 167°30′ W.	150
Units 23 and 26	Resident: No closed season.	One adult bull per permit; provided however, that residents of settlements on the Chukchi and Beaufort Sea coasts of Units 23 and 26 dependent upon and utilizing walrus for food may take up to 5 walrus; that orphaned calves may be taken for food without contributing to the bag limit; and that certain specific area quotas apply, as listing in next column.	7. Waters of the Chukchi Sea near the settlement of Wainwright within the area bounded by lines connecting the following positions: 71°30′N., 161°30′W.; 71°30′N., 158°30′W.; 70°48′N., 158°30′W.; 70°15′N., 161°30′W.; 71°30′N., 161°30′W.	160
			8. Waters of the Chukchi and Beaufort Seas near the settlement of Barrow within the area bounded by lines connecting the following positions: 72°10′N., 158°30′W., 72°10′N., 154°00′W.; 70°50′N., 154°00′W.; 70°48′N., 158°30′W.; 72°10′N., 158°30′W.	180
	Nonresident: No closed season.	One adult bull per permit.		

[FR Doc.77–14343 Filed 5–19–77;8:45 am]

National Park Service

SLEEPING BEAR DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission will be held at 1:00 p.m. (EDT) on Friday, June 17, 1977, at Money's Restaurant, Honor, Michigan.

The Commission was established by Public Law 91–479 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Sleeping Bear Dunes National Lakeshore.

The members are as follows:

Mr. Noble D. Travis (Chairman)
Mr. William B. Bolton
Mr. John B. Daugherty
Mr. Samuel F. Eberly
Mr. Carl T. Johnson
Mr. John A. Stahlin
Mr. John D. Stanz
Mr. Louis F. Twardzik
Mrs. Charles R. Williams
Mr. Charles H. Yeates

Principal items of discussion will be the status of land acquisition and operating plans for the coming visitor season at the National Lakeshore.

The meeting will be open to the public. Money's Restaurant is located on U.S. 31, the Main Street in Honor, Michigan.

Any member of the public may file with the Commission, a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact the Superintendent, Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan 49635 at area code 616 352–9611. Minutes of the meeting will be available for public inspection four weeks after the meeting, in the office of the Superintendent, 400 Main Street, Frankfort, Michigan.

Dated: May 10, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77–14426 Filed 5–19–77;8:45 am]

WESTERN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a combined public meeting and field trip of the Western Regional Advisory Committee will be held in Lake Mead National Recreation Area and Las Vegas, Nevada. The public meeting will begin at 9:00 a.m. on June 11, 1977, in the Las Vegas Convention Center, 3150 Paradise Road, Room 4.

The purpose of the Western Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Western Region.

The members of the Advisory Committee are as follows:

Ben Avery, Phoenix, Arizona
David W. Ballie, Jr., Waipahu, Hawaii
Lewis S. Eaton, Fresno, California (Chairman)
Ed Fike, Las Vegas, Nevada
Bernard Fontana, Tucson, Arizona
Jean Ford, Las Vegas, Nevada
Sonya Thompson, Agoura, California
Jack Walston, San Marino, California
Todd Watkins, Bishop, California

Friday morning, June 10, beginning at 8:00 a.m. a field trip will be provided the Committee to see, on-site, those activities involved in a water reservoir recreation area. Due to a lack of space, only those associated with the Advisory Committee and National Park Service personnel will be provided transportation for the field trip portion of the meeting.

Saturday morning the public meeting will be held to discuss the previous day's observations. The meeting will be open to the public but in addition any member of the public will also be able to file, with the Committee, a written statement concerning Lake Mead.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Ray C. Foust, Executive Assistant to the Regional Director, Western Regional Office, at (415) 556–8227.

Resolutions, as a result of this meeting, will be available for public inspection four weeks after the meeting at the Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102.

Dated: May 9, 1977.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

[FR Doc.77–14427 Filed 5–19–77;8:45 am]

Office of the Secretary

[INT FES 77–14]

PROPOSED WATER SYSTEM, DE LUZ HEIGHTS MUNICIPAL WATER DISTRICT, CALIFORNIA

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Proposed Water System, De Luz Heights Municipal Water District, California, to be constructed with a loan under the Small Reclamation Projects Act of 1956.

The Municipal Water District plans to construct a pipe distribution system to convey water from the San Diego Aqueduct to irrigate agricultural lands and to furnish municipal water to scattered rural residences. The project area lies in northern San Diego County, California, about 15 miles inland.

Copies of the final environmental impact statement are available for inspection at the following locations:

Office of the Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240. Telephone 202–343–4991.
Division of Engineering Support, Technical Services and Publications Branch, R&R Center, Denver Federal Center, Denver, Colorado 80225. Telephone 303–234–3006.
Office of the Regional Director, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005. Telephone 702–293–8464.

Single copies of the final statement may be obtained upon request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: May 16, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant
Secretary of the Interior.

[FR Doc.77–14390 Filed 5–19–77;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

[Commissioner's Administrative Order No. 27–1]

PROCUREMENT AND CONTRACTING OFFICER AUTHORITY

Redelegation From the Commissioner to Other Bureau Officials

1. *Purpose.* The purpose of this Order is to redelegate the authority and responsibility for procurement and contract activities.

2. *Effect of this Order.* This Order is effective April 1, 1977. It cancels Commissioner's Administrative Order No. 27.

3. *Authorities Delegated to the Commissioner.* A. DLMS–2, Chapter 800, delegates contracting officer authority to the Commissioner for the procurement of statistical and economic research services and for the sale of special statistics.

B. Assistant Secretary Fred G. Clark's memorandum of March 11, 1977 (effective April 1, 1977), on the subject of "Delegation of Procurement and Contracting Officer Authority," delegates to the Commissioner the following procurement and contracting officer authority:

(1) To use FEDSTRIP for GSA common catalogued and supplied office furnishings, equipment and supplies.

(2) To order from GSA supply schedule contract all items except ADP equipment (software and hardware), office copiers and ADP communication devices.

4. *Redelegation of Statistical and Research Contract Authority.* A. The Commissioner of Labor Statistics has the sole authority and responsibility—with the concurrence of the parties involved—to sign contracts that involve the release of confidential data outside the Bureau.

B. The Associate Commissioner for Administrative Management and the Chief of the Division of Planning and Financial Management (DPFM) are hereby delegated contracting officer authority for the functions in 3.A above, except contracts which involve the release of confidential data outside the Bureau.

C. The Chief of the Branch of Financial Information and Contracting, DPFM, is hereby delegated contracting officer authority for the functions in 3.A above involving less than $10,000, excluding contracts which involve the release of confidential data outside the Bureau.

D. The Regional Commissioners for BLS are hereby granted the authority and responsibility to enter into and execute contracts related to BLS/State cooperative programs with participating State agencies, provided they have the written concurrence of the Chief of the Division of Planning and Financial Management and the appropriate Program Office (e.g., OSHS and ES&T) for each contract. The Regional Commissioners will serve as Contract Officers and have the authority to appoint the Government Authorized Representatives for each contract.

5. *Redelegation of FEDSTRIP and GSA Schedule Procurement Authority.* The Associate Commissioner for Administrative Management and the Chief of the Division of Administrative Services are hereby granted contracting officer authority for the functions in 3.B above.

6. *Further Redelegation.* None of the above officials may redelegate their authority further.

Signed at Washington, D.C., this 12th day of May 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77–14451 Filed 5–19–77;8:45 am]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 16th day of May, 1977.

ROBERT J. MCCONNON,
Deputy Assistant Secretary,
for Employment and Training.

Applications received during the week ending May 13, 1977

Name of applicant	Location of enterprise	Principal product or activity
Kammerer, Symes & Associates, Inc	Willingboro, N.J	Consulting-engineering services.
Canterbury Stores Inc	Upper Penns Neck, N.J	Retail supermarket (thriftway foodstore.
Boden Mining Corp	Buckhannon, W. Va	Coal mining and washing.
Waccamaw Pottery Co., Inc. (tenant of Grand Strand Water and Sewer Authority).	Myrtle Beach, S.C.	Manufacture and sales of pottery and dinnerware.
Sitkin Smelting & Refining, Inc	Headland, Ala	Manufacture of brass and bronze ingots.
Outer Banks Haven, Inc	Nags Head, N.C	Intermediate and skilled nursing care.
Gator Hole Golf Course	North Myrtle Beach, S.C.	Golf course.
Peavy Farm Service, Inc	Camilla, Ga	Grain elevator.
Neitzel Enterprises, Ltd	Onalaska, Wis	Contract construction and sales of building materials.
Spears Carpet Mills, Inc	Hope, Ark	Manufacture of carpeting.
James Clyde Duncan, Jr., d.b.a. Sutler's.	Fort Davis, Tex	Motel.
IXL Manufacturing Co., Inc., (tenant of City of Bernie).	Bernie, Mo	Wooden tool handles and furniture.
H–K Contractors, Inc	Idaho Falls and Rexburg, Idaho.	Reconstruction of flood-damaged roads and water systems.

[FR Doc.77–14411 Filed 5–19–77;8:45 am]

GOVERNOR'S GRANTS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Allocations for FY 1977

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the allocations which have been made for Fiscal Year 1977 to Governors. The grants were made under Title I of the Comprehensive Employment and Training Act pursuant to the regulations at 29 CFR 95.50–95.51.

FOR FURTHER INFORMATION CONTACT:

Adolf Wansong, Chief, Division of Financial Management, Rm. 4010, 601 D St., NW., Washington, D.C. 20213, 202–376–6060.

SUPPLEMENTARY INFORMATION: This notice has been prepared under the direction and control of Albert J. Angebranndt, Administrator for Administration and Management, Employment and Training Administration. The notice lists allocations separately for Vocational Education (VOC ED), State Manpower Services Councils (SMSC) and State manpower services (ST SVCES).

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION I			
CONNECTICUT	234,973	1,468,577	1,174,862
MAINE	80,984	506,156	404,974
MASSACHUSETTS	480,238	3,001,485	2,401,188
NEW HAMPSHIRE	43,646	272,792	218,234
RHODE ISLAND	87,865	549,156	439,325
VERMONT	35,973	224,832	179,867

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION II			
NEW JERSEY	534,431	3,340,193	2,672,154
NEW YORK	1,291,044	8,069,014	6,455,212
PUERTO RICO	356,930	2,230,809	1,784,648
VIRGIN ISLANDS	11,916	74,484	59,581

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION III			
DELAWARE	38,849	242,810	194,248
MARYLAND	229,639	1,435,241	1,148,193
PENNSYLVANIA	760,603	4,753,767	3,803,014
VIRGINIA	285,437	1,783,985	1,427,188
WEST VIRGINIA	126,393	789,961	631,969
WASHINGTON D. C.	85,629	535,186	428,148

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION IV			
ALABAMA	254,435	1,590,219	1,272,175
FLORIDA	640,221	4,001,381	3,201,105
GEORGIA	344,657	2,154,107	1,723,286
KENTUCKY	236,461	1,477,884	1,182,308
MISSISSIPPI	164,173	1,026,080	820,864
NORTH CAROLINA	391,058	2,444,111	1,955,289
SOUTH CAROLINA	207,438	1,296,486	1,037,189
TENNESSEE	306,044	1,912,772	1,530,218

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION V			
ILLINOIS	649,270	4,057,937	3,246,350
INDIANA	348,882	2,180,507	1,744,406
MICHIGAN	766,999	4,793,736	3,834,989
MINNESOTA	222,499	1,390,618	1,112,494
OHIO	683,401	4,271,258	3,417,003
WISCONSIN	262,858	1,642,863	1,314,290

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION VI			
ARKANSAS	157,322	983,262	786,610
LOUISIANA	270,845	1,692,781	1,354,225
NEW MEXICO	79,695	498,097	398,477
OKLAHOMA	181,225	1,132,656	906,125
TEXAS	710,860	4,442,868	3,554,295

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION VII			
IOWA	145,720	910,752	728,601
KANSAS	115,027	718,920	575,136
MISSOURI	302,937	1,893,357	1,514,685
NEBRASKA	89,408	558,802	447,041

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION VIII			
COLORADO	139,426	871,413	697,131
MONTANA	54,561	341,002	272,801
NORTH DAKOTA	37,614	235,088	188,071
SOUTH DAKOTA	37,250	232,815	186,252
WYOMING	18,957	118,483	94,787
UTAH	75,990	474,935	379,948

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION IX			
ARIZONA	152,178	951,112	760,890
CALIFORNIA	1,642,363	10,264,759	8,211,808
HAWAII	55,763	348,518	278,814
NEVADA	47,698	298,111	238,489
AMERICAN SAMOA	2,341	14,633	11,706
GUAM	9,746	60,918	48,736
PACIFIC TRUST	3,083	19,268	15,414

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I--FY 1977
GOVERNORS' GRANTS
AS OF 10/14/76

	SMSC	VOC ED	ST SVCES
REGION X			
ALASKA	31,253	195,332	156,265
IDAHO	56,702	354,390	283,512
OREGON	188,273	1,176,710	941,368
WASHINGTON	276,656	1,729,101	1,383,281

Signed at Washington, D.C., this 8th day of April 1977.

ALBERT J. ANGEBRANNDT,
Administrator,
Administration and Management.

[FR Doc.77-14056 Filed 5-19-77;8:45 am]

INCENTIVE GRANTS TO CONSORTIA UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Allocations for FY 1977

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the allocations which have been made for Fiscal Year 1977 as incentives to consortia under Title I of the Comprehensive Employment and Training Act pursuant to the regulation at 29 CFR 95.2(c)(1).

FOR FURTHER INFORMATION CONTACT:

Adolf Wansong, Chief, Division of Financial Management, Rm. 4010, 601 D Street, NW., Washington, D.C. 20213, 202-376-6060.

SUPPLEMENTARY INFORMATION: This notice has been prepared under the direction and control of Albert J. Angebranndt, Administrator for Administration and Management, Employment and Training Administration.

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION — OAM 1/6/77
TITLE I - CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
BRIDGEPORT CSRT	336,069
HARTFORD CSRT	473,729
NEW HAVEN CSRT	338,326
STAMFORD CSRT	124,325
CONNECTICUT	1,272,449
PENOBSCOT CNTY	113,788
MAINE	113,788
NEW BEDFORD CSRT	188,145
HAMPDEN CNTY CSRT	423,181
WORCESTER CSRT	224,876
LOWELL CSRT	201,518
BROCKTON CSRT	150,567
MASSACHUSETTS	1,188,287
ROCK/STAFFORD CSR	113,579
NEW HAMPSHIRE	113,579
REGION I	2,688,103

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION — OAM 1/6/77
TITLE I-- CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
HUDSON CSRT	569,216
NEW JERSEY	569,216
CHAUTAUQUA CSRT	193,681
BUFFALO/ERIE CSRT	842,630
NASSAU COUNTY CSRT	687,273
SUFFOLK CNTY CSRT	581,462
NEW YORK	2,305,046
SAN JUAN CSRT	601,147
PUERTO RICO	601,147
REGION II	3,475,409

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION — OAM 1/6/77
TITLE I-- CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
DEL INTGOV MA S.C.	278,864
DELAWARE	278,864
BALTIMORE CSRT	1,383,171
WESTERN MD CSRT	204,243
MARYLAND	1,587,414
LEHIGH VALLEY CONS	247,997
LANCASTER CSRT	221,151
SCHUYLKILL CSRT	165,801
TRI-COUNTY CSRT	163,826
MERCER CNTY CSRT	236,779
S. ALLEGANY CSRT	345,635
SUSQUEHANNA CSRT	209,127
LYCOMING CSRT	117,269
PENNSYLVANIA	1,707,585
PENNINSULA CSRT	177,245
STAMA CSRT	453,976
ROANOKE CSRT	144,385
VIRGINIA	775,606
W. VA. STATEWIDE	1,231,694
WEST VIRGINIA	1,231,694
REGION III	5,581,163

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION OAM 1/6/77
TITLE I - CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
ROCKFORD CSRT	146,000
CHAMPAIGN CSRT	84,630
SANGAMON CNTY CSRT	79,904
ILLINOIS	310,534
FT WAYNE CSRT	267,069
DELAWARE CSRT	96,110
SOUTHWESTERN CSRT	230,791
INDIANA	593,950
GENESSEE/FLINT CSR	462,168
LANSING CSRT	282,294
JACKSON CSRT	210,422
KENT CNTY CSRT	446,318
MUSKEGON CSRT	189,890
MICHIGAN	1,591,092
AKRON CSRT	378,748
CANTON CSRT	248,139
CLEVELAND CSRT	1,256,862
COLUMBUS CSRT	508,736
MIAMI VALLEY CSRT	436,500
LICKING/DEL CSRT	119,721
TOLEDO CSRT	374,936
NE OHIO MNPWR CSRT	451,035
RICHLAND/MORROW CS	108,143
OHIO	3,879,820
MADISON-DANE CSRT	131,708
TRICO CETAC	176,188
WISCONSIN	307,896
REGION V	6,683,292

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION OAM 1/6/77
TITLE I - CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
BIRMINGHAM CSRT	470,905
HUNTSVILLE CSRT	140,323
MOBILE CSRT	269,846
MONTGOMERY CSRT	157,604
ALABAMA	1,038,678
BROWARD CSRT	622,267
MIAMI/DADE CNSRT	1,275,337
HATLND PMPWR CNSRT	280,768
LEON/GADSDEN CNSRT	106,460
NE FLA PMPWR CNSRT	378,859
ORANGE/ORLANDO CRT	303,954
ST PETERSBURG CSRT	428,873
TAMPA CSRT	450,502
FLORIDA	3,797,620
CSRA CSRT	202,462
MID. GA CSRT	165,568
SAV/CHATHAM CSRT	109,537
GEORGIA	477,567
BLUEGRASS MA CSRT	172,662
LVILLE/JEFF CSRT	448,526
KENTUCKY	621,188
JACKSON CSRT	166,759
MISSISSIPPI	166,759
S. CAROLINA CSRT	2,036,390
SOUTH CAROLINA	2,036,390
MEMPHIS CSRT	455,423
KNOXVILLE CSRT	191,577
TENNESSEE	647,000
REGION IV	8,705,402

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION OAM 1/6/77
TITLE I - CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
CENT. ARK CSRT	279,329
ARKANSAS	279,329
CALCASIEU/JEFF CRT	134,897
LOUISIANA	134,897
ALBUQUERQUE CSRT	256,475
NEW MEXICO	256,475
TULSA CSRT	293,253
OKLAHOMA	293,253
PANHANDLE MA CSRT	128,936
CAPITAL AREA CSRT	253,172
SE TEX COMP MA CRT	221,117
COASTAL BEND CSRT	289,249
WEST CENTRAL CSRT	155,222
EL PASO CTY/CNTY	267,494
CENTRAL TEXAS CSRT	109,642
HIDALGO CNTY CSRT	199,693
ALAMO CSRT	767,970
REGION XI CSRT	170,697
N TEXAS PLAN CSRT	122,270
TEXAS	2,685,462
REGION VI	3,649,416

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION OAM 1/6/77
TITLE I - CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
CENT IOWA RALG	307,080
LINN CNTY CSRT	74,156
IOWA	381,236
TOPEKA CSRT	95,622
KANSAS	95,622
KANSAS CITY CSRT	526,682
MISSOURI	526,682
OMAHA CSRT	329,491
NEBRASKA	329,491
REGION VII	1,333,031

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION OAM 1/6/77
TITLE I - CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
COL SPRINGS CSRT	125,159
COLORADO	125,159
UTAH STATEWIDE CSR	721,851
UTAH	721,851
REGION VIII	847,010

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION — OAM 1/6/77
TITLE I - CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
TUCSON-PIMA COUNTY	245,072
ARIZONA	245,072
ORANGE CNTY MANP	925,537
SANTA CLARA VALLEY	702,239
SACRAMENTO/YOLO	517,649
STCKTN/SAN'JOAQUIN	261,466
FRESNO CTY/CNTY	410,947
INLAND MANP ASSOC	931,269
TULARE/KINGS CNTY	216,801
SAN DIEGO RETC	1,135,874
CALIFORNIA	5,101,782
LAS VEGAS CSRT	271,266
NEVADA	271,266
REGION IX	5,618,120

U. S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION — OAM 1/6/77
TITLE I-- CONSORTIA INCENTIVE
FY 1977

	INCENTIVE
IDAHO STATEWIDE	541,496
IDAHO	541,496
M-WILM VAL MPA CSR	200,538
JACKSON CNTY CSRT	136,556
OREGON	337,094
SPOKANE CSRT	209,708
KING SNO CSRT	1,113,888
WASHINGTON	1,323,596
REGION X	2,202,186
NATIONAL TOTAL	40,863,132

Signed at Washington, D.C., this 8th day of April 1977.

ALBERT J. ANGEBRANNDT,
Administrator,
Administration and Management.

[FR Doc.77-14057 Filed 5-19-77;8:45 am]

Pension and Welfare Benefit Programs

DEPARTMENT OF TREASURY

Internal Revenue Service

PENSION BENEFIT GUARANTY CORPORATION

ANNUAL INFORMATION RETURNS

Reports

The Department of Labor (DOL), the Internal Revenue Service (IRS), Department of Treasury, and the Pension Benefit Guaranty Corporation (PBGC) have developed annual information returns/reports to be filed by a plan administrator or sponsor of a pension or welfare benefit plan as required by sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 and sections 6057, 6058(a), and 6059(a) of the Internal Revenue Code of 1954.

The three agencies are interested in receiving written comments and suggestions for improving the forms and instructions, certain elements of which are subject to the Federal Reports Act. The forms are as follows:

Form 5500, Annual Return/Report of Employee Benefit Plan (with 100 or more participants)
Form 5500-C, Annual Return/Report of Employee Benefit Plan (with fewer than 100 participants, none of whom is an owner-employee)
Form 5500-K, Annual Return/Report of Employee Pension Benefit Plan for Sole Proprietorships and Partnerships (with fewer than 100 participants and at least one owner-employee)
Schedule A (Form 5500), Insurance Information
Schedule B (Form 5500) Actuarial Information
Schedule SSA (Form 550), Identification of Separated Participants with Deferred Vested Benefits
Schedule A (Form PBGC-1), Annual Report

Comments should be based on the latest (1976) report forms and instructions. Copies of the Form 5500 series are available at Labor-Management Services Administration (LMSA) Area Offices of the DOL and at local offices of the IRS. Copies of Schedule A (Form PBGC-1) are available at LMSA area offices or may be obtained from the PBGC.

Persons who wish to comment should note that the comments period closes on July 5, 1977.

Three copies of any comments or suggestions should be sent to Mr. Paul Weisbord, Room N4647, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20216.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

ALVIN D. LURIE,
Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service.

MATTHEW M. LIND,
Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc.77-14418 Filed 5-19-77;8:45 am]

Office of the Secretary

[TA-W-1699]

AIRCO SPEER ELECTRONICS

Termination of Investigation

Pursant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 3, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing fixed carbon composition and carbon film resistor components at the Bradford, Pennsylvania plant of Airco Speer Electronics.

Notice of the Investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13628). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Bradford, Pennsylvania plant of Airco Speer Electronics were previously certified eligible to apply for adjustment assistance on August 25, 1975 (see TA-W-64).

The existing certification will expire on August 25, 1977 unless terminated by the Secretary of Labor. Since workers newly separated, toally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (October 3, 1974) and before the certification expiration date (August 25, 1977), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 28th day of April 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-14452 Filed 5-19-77;8:95 am]

[TA-W-1324]

BABCOCK & WILCOX COMPANY, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1324: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing pipe fittings at the Elkhart, Indiana plant of Babcock & Wilcox Company, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54553). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Babcock & Wilcox, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

Significant Total or Partial Separations. Average employment declined 26 percent in 1976 compared to 1975 at the Elkhart, Indiana plant.

Sales or Production, or Both, Have Decreased Absolutely. Annual sales by the Elkhart, Indiana plant decreased 48 percent in quantity in 1976 compared to 1975.

Annual production at the Elkhart plant decreased 47 percent in quantity in 1976 compared to 1975.

Increased Imports. Imports of carbon and stainless steel butt-welding fittings increased to 44.1 million pounds in 1972 from 1971, then decreased to 37.3 million pounds in 1973. Imports of carbon and stainless steel butt-welding fittings increased in 1975 to 48.9 million pounds from 48.8 million pounds in 1974. In the first nine months of 1976 imports decreased to 29.4 million pounds compared to 39.1 million pounds for the like period in 1975.

The ratio of imports to production for carbon and stainless steel butt-welding fittings increased to 34.1 percent in 1972 from 30.2 percent in 1971, then decreased to 29.3 percent in 1973. The ratio of imports to production for carbon and stainless steel butt-welding fittings decreased in 1975 to 26.5 percent from 30.2 percent in 1974. In the first nine months of 1976 the import to production ratio increased to 35.6 percent from 26.7 percent for the like period in 1975.

Imports of carbon and stainless steel forged flanges decreased from 23.9 million pounds in 1971 to 23.1 million pounds in 1972 then decreased to 12.7 million pounds in 1973. Imports increased to 45.0 million pounds in 1974. Imports decreased 51.2 percent in the first 9 months of 1976 compared to 41.4 million pounds.

The ratio of imports to domestic production of carbon and stainless steel forged flanges increased from 14.7 percent in 1971 to 15.0 percent in 1972, then decreased to 9.3 percent in 1973. The ratio increased to 31.4 percent in 1974 and 74.3 percent in 1975. The ratio of imports to domestic production of carbon and stainless steel forged flanges decreased in the first 9 months of 1976 compared to the like period in 1975; from 77.5 percent to 65.5 percent.

The import to production ratio in 1975 and in the first 9 months of 1976 is more than double the ratio of any other year between 1971 and 1974. The import to production ratio in the first 9 months of 1976 is 126.6 percent greater than the average yearly ratio of imports to production for the period 1971 through 1975.

Contributed Importantly. A survey was conducted among customers of the Elkhart plant. Many of these customers stated that imports were a problem for them in their market areas. Many of the distributors for Babcock & Wilcox's fittings indicated that they have been forced to reduce their purchases from the Elkhart plant because their customers are purchasing cheaper imports than are offered by other distributors. Some of the customers contacted stated that they have purchased imported fittings directly and have decreased their purchases of the fittings made at the Elkhart plant. These customers revealed that the lower prices on the imports caused them to switch.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of import articles like or directly competitive with pipe fittings produced at the Elkhart, Indiana plant of Babcock & Wilcox Company, Incorporated contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Elkhart, Indiana plant of Babcock & Wilcox Co., Inc., who became totally or partially separated from employment on or after November 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14453 Filed 5-19-77;8:45 am]

[TA-W-1707]

BOB LEE MANUFACTURING CO.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 3, 1977 in response to a worker petition dated February 14, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers formerly producing women's coats at Bob Lee Manufacturing Co., Inglewood, California.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

During the course of the investigation, it was established that all separations at Bob Lee Manufacturing Company have occurred by December 1975 more than one year prior to the date of the petition, February 14, 1977. Section 223(b)(1) of the Trade Act 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than twelve months before the date of the filing under Title II, Chapter 2 of the Trade Act of 1974.

The date of the petition in this case is February 14, 1977 and, thus, workers terminated prior to February 14, 1976 are ineligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974.

Signed at Washington, D.C. this 2nd day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-14454 Filed 5-19-77;8:45 am]

[TA-W-1335]

CHEMETRON CORP. TUBE TURNS DIVISION

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1335: investigation regarding certification of ability to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker

petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel butt-welding fittings and customs forgings at the Louisville, Kentucky plant of Tube Turns, a division of Chemetron Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55601). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tube Turns, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met for workers engaged in the production of forgings, criterion (2) has not been met.

With respect to workers engaged in the production of butt-welding fittings, the investigation has revealed that the first three criteria have been met, but criterion four (4) has not been met.

Significant Total or Partial Separations. In the first eleven months of 1976, total plant employment declined 10.3 percent and average weekly hours declined 2.7 percent compared to the like period in 1975.

Sales or Production, or Both, Have Decreased Absolutely. Sales of butt-welded fittings declined 63.3 percent in quantity and 59.9 percent in value in the first eleven months of 1976 compared to the like 1975 period.

Production of butt-welded fittings decreased 66.7 percent in quantity and 60.5 percent in value in the first eleven months of 1976 from the like period in 1975.

Sales of forgings increased 17.2 percent in quantity and 14.5 percent in value in the fourth quarter of 1975 compared to the fourth quarter of 1974. Sales of forgings increased 17.0 percent in quantity and 2.1 percent in value in the first eleven months of 1976 compared to the like period in 1975.

Production of forgings increased 4.2 percent in quantity and 17.2 percent in value in the fourth quarter of 1975 compared to the fourth quarter of 1974. Production of forgings increased 17.0 percent in quantity and 5.7 percent in value in the first eleven months of 1976 compared to the like period in 1975.

Increased Imports. Imports of carbon and stainless steel butt-welding fittings increased from 43.0 million pounds in 1971 to 44.1 million pounds in 1972. Imports of fittings declined to 37.3 million pounds in 1973, then increased to 48.8 million pounds in 1974 and to 48.9 million pounds in 1975. In the first nine months of 1976, imports of fittings were 29.4 million pounds, a decline of 24.8 percent from imports in the first nine months of 1975.

The ratio of imports to domestic production of carbon and stainless steel butt-welding fittings increased from 30.2 percent in 1971 to 34.1 percent in 1972. The ratio declined to 29.3 percent in 1973, then increased to 30.2 percent in 1974. In 1975 the ratio declined to 26.5 percent. The import to production ratio increased from 26.7 percent in the first 9 months of 1975 to 35.6 percent in the first 9 months of 1975.

Contributed Importantly. The Office of Trade Adjustment Assistance conducted a survey of Tube Turns' largest customers of fittings. The customers who purchased fittings were primarily distributors. None increased purchases of imported fittings and reduced purchases from Tube Turns.

Customers explained that a scarcity in 1974 caused buyers to stockpile fittings in 1975. Demand for these fittings never met expectations and most customers were still working down inventories in 1976. Consequently, fittings manufacturers like the Tube Turns Division of Chemetron had a great year for sales in 1975 and experienced depressed sales in 1976.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with carbon steel butt-welding fittings produced at the Louisville, Kentucky plant of Tube Turns, a division of Chemetron Corporation, did not contribute importantly to the total or partial separation of workers at that plant as required for certification under Section 222 of the Trade Act of 1974.

I further conclude that neither sales nor production of steel forgings produced at the Louisville, Kentucky plant of Tube Turns, a division of Chemetron Corporation, decreased as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14455 Filed 5-19-77;8:45 am]

[TA-W-1613]

CONVERSE RUBBER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1613: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 31, 1976 in response to a worker petition received on January 31, 1976 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing canvas and athletic footwear at the Andover, Massachusetts plant of Converse Rubber Company.

The notice of investigation was published in the FEDERAL REGISTER on February 15, 1977 (42 FR 9238). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Converse Rubber Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations. Employment of production workers at the Andover plant of Converse Rubber Company decreased 25 percent in 1975 compared to 1974 and 8 percent in 1976 compared to 1975. Employment declined 80 percent in the first 2 months of 1977.

Sales or Production, or Both, Have Decreased Absolutely. Sales of canvas and athletic footwear by Converse Rubber Company declined 12 percent in quantity and 8 percent in value in 1975 compared to 1974 and 13 percent in quantity and 7 percent in value in 1976 compared to 1975.

Production of canvas and athletic footwear at the Andover, Massachusetts plant of Converse Rubber Company declined 30 percent in 1975 compared to 1974 and 7 percent in 1976 from 1975. In March 1977 the plant closed.

Increased Imports. Imports of athletic footwear increased in absolute terms and relative to domestic production each year from 1971 through 1975, except for 1973 when imports increased absolutely but decreased relative to domestic production. In 1975, imports increased 102 percent in absolute terms. The ratio of imports to domestic production increased from 84.3 percent in 1974, to 148.0 percent in 1975. In the first 9 months of 1976, imports increased 119 percent in absolute terms. The ratio of imports to domestic production increased from 203.9 percent in the first 9 months of 1975 to 333.3 percent in the first 9 months of 1976.

Imports of rubber/canvas footwear increased in absolute terms and relative to domestic production each year from 1972 through 1974. Imports decreased in absolute terms from 1974 to 1975 and increased 17 percent in the first 9 months of 1976 compared to the first 9 months of 1975. The ratio of imports to domestic production remained stable from 1974 to 1975, then increased from 18.3 percent in the first 9 months of 1975 to 25.4 percent in the first 9 months of 1976.

Contributed Importantly. Imports of canvas and athletic footwear by Converse Rubber Company increased 1,010 percent in quantity and 1,011 percent in value in 1975 compared to 1974 and declined 10 percent in quantity and 12 percent in quantity in 1976 compared to 1975.

Customers of Converse Rubber Company indicated they have decreased their purchases of canvas and athletic footwear and have increased their purchases of imported footwear.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with canvas and athletic footwear produced at the Andover, Massachusetts plant of Converse Rubber Company, contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Andover, Massachusetts plant of Converse Rubber Company who became totally or partially separted from employment on or after August 22, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14456 Filed 5-19-77;8:45 am]

[TA-W-1672]

CONVERSE RUBBER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1672: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 22, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers at the Wilmington, Massachusetts corporate offices of Converse Rubber Company.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13084). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials and publications of Converse Rubber Company, its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations. Employment of workers at the corporate office of Converse Rubber Company decreased 1 percent in 1975 compared to 1974 and 6 percent in 1976 compared to 1975.

Sales or Production, or Both Have Decreased Absolutely. Sales of canvas and athletic footwear by Converse Rubber Company declined 12 percent in quantity and 8 percent in value in 1975 compared to 1974 and 13 percent in quantity and 7 percent in value in 1976 compared to 1975.

Production of canvas and athletic footwear by Converse Rubber Company declined 29 percent in 1975 compared to 1974 and 13 percent in 1976 from 1975.

Increased Imports. Imports of athletic footwear increased in absolute terms and relative to domestic production each year from 1971 through 1975, except for 1973 when imports increased absolutely but decreased relative to domestic production. In 1975 imports increased 102 percent in absolute terms. The ratio of imports to domestic production increased from 84.3 percent in 1974, to 212.4 percent in 1975. In the first 9 months of 1976, imports increased 119 percent in absolute terms. The ratio of imports to domestic production increased from 203.9 percent in the first 9 months of 1975 to 33.3 percent in the first 9 months of 1976.

Imports of rubber/canvas footwear increased in absolute terms and relative to domestic production each year from 1972 through 1974. Imports decreased in absolute terms from 1974 to 1975 and increased 17 percent in the first 9 months of 1976 compared to the first 9 months of 1975. The ratio of imports to domestic production remained stable from 1974 to 1975, then increased from 18.3 percent in the first 9 months of 1975 to 25.4 percent in the first 9 months of 1976.

Contributed Importantly. Imports of canvas and athletic footwear by Converse Rubber Company increased 1,010 percent in quantity and 1,011 percent in value in 1975 compared to 1974 and declined 10 percent in quantity and 12 percent in value in 1976 compared to 1975.

Customers of Converse Rubber Company indicated they have decreased their purchases of canvas and athletic footwear from Converse Rubber Company and have increased their purchases of imported footwear.

Conclusion. After careful review of the facts obtained in the investigation, I concluded that increases of imports like or directly competitive with canvas and athletic footwear produced at the Malden, Massachusetts plant of Converse Rubber Company (certified on December 9, 1976, TA-W-1137) contributed importantly to the total or partial separation of the workers at the corporate and sales offices listed below. In accordance with the provisions of the Act, I make the following certification:

All workers of the Wilmington, Massachusetts corporate office and the Baltimore, Maryland; Elk Grove Village, Illinois; Dallas, Texas; Burlingame, California; Canovanas, Puerto Rico; New York, New York; and Atlanta, Georgia sales offices of Converse Rubber Company who became totally or partially separated from employment on or after February 14, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14457 Filed 5-19-77;8:45 am]

[TA-W-1356]

DE LAVAL TURBINES, INC.

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance Correction

In FR Doc. 77-10562 appearing at page 19180 in the FEDERAL REGISTER of April 12, 1977, one phrase was inadvertently omitted on page 19181. Accordingly, the following correction should be made:

The 2nd column, 4th full paragraph, 2nd line, is corrected by adding the phrase "Delroyd Worm Gear Division," immediately following the word "Incorporated".

Signed at Washington, D.C. this 6th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14464 Filed 5-19-77;8:45 am]

[TA-W-1345]

HAMMOND VALVE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1345: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing valves at the Hammond, Indiana plant of the Hammond Valve Corporation, Hammond, Indiana.

The Notice of Investigation was published in the Federal Register on December 21, 1976 (41 FR 55606). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hammond Valve Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criteria (2) and (4) have not been met.

Significant Total or Partial Separations. Average annual employment of production workers at the Hammond Valve Corporation declined 17.8 percent in 1975 compared to 1974. Average employment declined 2.6 percent in 1976 compared to 1975. Employment declined 20 percent in the fourth quarter of 1975 compared to the same quarter in 1974. Employment declined 8.7 percent and 7.6 percent, respectively, in the first and second quarters of 1976 compared to the same quarters in 1975.

Sales or Production, or Both, Have Decreased Absolutely. Sales by the Hammond Valve Corporation increased 2.9 percent in the fourth quarter of 1975 compared to the preceding quarter. Sales increased 14.2 percent in 1976 compared to 1975.

Production at the Hammond Valve Corporation plant increased 83.3 percent in the fourth quarter of 1975 compared to the preceding quarter. Production increased 5.0 percent in 1976 compared to 1975.

Increased Imports. Imports of valves and similar devices in terms of value increased each year from $56.5 million in 1971 to $165.1 million in 1975. Imports further increased from $127.6 million in the first nine months of 1975 to $134.2 million in the first nine months of 1976.

The ratio of imports to domestic production of valves and similar devices increased each from 1971 to 1975, from 2.4 percent in 1971 to 4.7 percent in 1975. The ratio of imports to production decreased from 4.9 percent in the first nine months of 1975 to 4.5 percent in the first nine months of 1976.

Contributed Importantly. Most customers of Hammond Valve surveyed did not purchase imported valves.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with valves produced by the Hammond, Indiana plant of the Hammond Valve Corporation did not contribute importantly to the total or partial separation of workers at that plant as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14458 Filed 5-19-77;8:45 am]

[TA-W-1368]

HUNTINGDON MACHINES DIVISION OF GULF AND WESTERN INDUSTRIES

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1366: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel pipe fittings and couplings at Huntingdon Machines Division of Gulf and Western Industries, Huntingdon, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 881). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Huntingdon Machines Division, Bonney Forge, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

Significant Total or Partial Separations. Employment decreased 25 percent in company fiscal year 1976 compared to company fiscal year 1975 (fiscal year August 1 to July 31). Employees work interchangeably between product lines.

Sales or Production, or Both, Have Decreased Absolutely. Production decreased 60 percent in company fiscal year 1976 compared to company fiscal year 1975. Sales data was not available.

Increased Imports. Imports of carbon and stainless steel butt-welding fittings increased from 43.0 million pounds in 1971 to 44.1 million pounds in 1972 and then decreased to 37.3 million pounds in 1973. Imports increased to 48.8 million pounds in 1974 and 48.9 million pounds in 1975. Imports decreased from 39.1 million pounds in the first nine months of 1975 to 29.4 million pounds in the first nine months of 1976.

The ratio of imports to domestic production of carbon and stainless steel butt-welding fittings increased from 30.2 percent in 1971 to 34.1 percent in 1972, then decreased to 29.3 percent in 1973. The ratio increased to 30.2 percent in 1974 and then decreased to 26.5 percent in 1975. The ratio of imports to domestic production increased from 26.7 percent in the first nine months in 1975 to 35.6 percent in the first nine months of 1976.

Imports of steel couplings increased each year from 1971 to 1975, from 3.2 million pounds in 1971 to 13.2 million pounds in 1975. Imports decreased from 9.9 million pounds in the first 9 months of 1975 to 7.1 million pounds in the first nine months of 1976.

The ratio of imports to domestic production of steel couplings increased from 25.0 percent in 1971 to 39.8 percent in 1972, then decreased to 35.3 percent in 1973. The import to production ratio declined in 1974 to 24.3 percent, then increased to 51.8 percent in 1975. The ratio of imports to domestic production of couplings increased from 45.4 percent in the first 9 months of 1975 to 57.3 percent in the first 9 months of 1976.

Contributed Importantly. Customers of Huntingdon Machines and Bonney Forge (another division of Gulf and Western Industries which acts as sales outlet for Huntingdon's catalog fittings and couplings) were contacted. Direct customers of Bonney Forge indicated that while they purchased no imports, they have lost many orders because of imported steel pipe fittings and couplings. Companies who bought from Bonney Forge's customers were subsequently contacted and some of these companies indicated that they had switched purchases to steel pipe fittings and couplings of foreign origin.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with steel pipe fittings and couplings made at the Huntingdon Machines Division contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Huntingdon Machines Division of Gulf and Western Industries who became totally or partially separated from employment on or after November 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14459 Filed 5-19-77;8:45 am]

[TA-W-1741]

MALINE SEWING CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1741: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on March 1, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's bottoms at the Philadelphia, Pa. plant of the Maline Sewing Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Maline Sewing Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the first three criteria have been met but the fourth criterion has not been met.

Significant Total or Partial Separations. Average annual employment of production workers at the Philadelphia plant declined 7 percent in 1976 compared to 1975.

Sales or Production, or Both, Have Decreased Absolutely. Annual sales by the Philadelphia plant decreased in value 12 percent in 1976 compared to 1975.

Annual production at the Philadelphia plant decreased in quantity 18 percent in 1976 compared to 1975.

Increased Imports. Imports of women's bottoms are included in several import categories. Women's skirts, which may also include culottes, are included in tables for Women's, Misses' and Children's Skirts, Knit, and Women's, Misses' and Children's Skirts, woven. Women's slacks and shorts are included in Women's, Misses' and Children's Slacks and Shorts, Knit, and Women's, Misses' and Children's Slacks and Shorts, woven. Data for most of these categories, except imports, are only available for the period 1972–1975 inclusive.

Imports of womens', misses' and children's skirts, both knit and woven, decreased from 593,000 dozen in 1972 to 308,000 dozen in 1973, decreased further in 1974 to 254,000 dozen, increased to 508,000 dozen in 1975, and to 780,000 in 1976. The import to production ratio for women's skirts, both knit and woven, decreased from 10.0 percent in 1972 to 5.3 percent in 1973, decreased further in 1974 to 4.9 percent, then increased in 1975 to 8.3 percent.

Imports of women's, misses' and children's slacks and shorts, both knit and woven, decreased from 12,094,000 dozen in 1972 to 11,831,000 dozen in 1973, decreased further to 8,923,000 dozen in 1974, then increased to 10,067,000 dozen in 1975, and increased again to 11,040,000 dozen in 1976. The import to production ratio for women's slacks and shorts, both knit and woven, decreased from 40.4 percent in 1972 to 40.3 percent in 1973, decreased again in 1974 to 30.3 percent, then increased to 32.1 percent in 1975.

Contributed Importantly. Customers of Maline Sewing Corporation have not switched purchased of the sewing of women's bottoms from Maline Sewing Corp. to foreign sources. Maline did contract work for 3 manufacturers in 1976. One customer who is their main manufacturer has not decreased purchases from Maline.

This customer does not purchase any imported bottoms and uses only Maline and other demostic contractors to perform sewing operations. Maline's second largest customer of Maline's sales in 1975 but only 12 percent in 1976. This does not purchase imported women's bottoms and has shifted to other domestic producers. The third firm that Maline contracted for indicated that they used Maline on a one-time job in 1976. In addition, this firm does not purchase any imported women's bottoms.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with women's bottoms sewn at the Philadelphia, Pennsylvania plant of the Maline Sewing Corporation did not contribute importantly to the total or partial separation of workers at the plant as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14460 Filed 5-19-77;8:45 am]

[TA-W-1510]

PACIFIC STATES STEEL CORP.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of

TA-W-1510: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 22, 1976 in response to a worker petition received on December 22, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at Pacific States Steel Corporation, Union City, California. The petition was expanded to include workers represented by all three unions at Pacific States Steel and its division, American Forge Company.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2377). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pacific States Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the United Steelworkers of America, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any of the other criteria have been met, criterion (3) has not been met in regard to the production of merchant bars or grinding media and criterion (4) has not been met in regard to the production of reinforcing bars.

Significant Total or Partial Separations. Production workers are not separately identifiable by product line. The average number of production workers at Pacific States Steel declined 15.8 percent from 1974 to 1975 and declined 3.8 percent from 1975 to 1976.

Sales or Production, or Both, Have Decreased Absolutely. Total sales of all products at Pacific States Steel increased 11.0 percent from 1975 to 1976. Total steel production declined 21.0 percent from 1974 to 1975 and declined 2.4 percent from 1975 to 1976.

Sales of grinding media declined .7 percent from 1975 to 1976. Sales of merchant bars increased 77.2 percent from 1975 to 1976. Sales of reinforcing bars declined 18.0 percent from 1975 to 1976.

Increased Imports. Imports of grinding media increased absolutely in each year from 1972 through 1974 and then declined 14.1 percent from 1974 to 1975 and declined 25.4 percent from 1975 to 1976. The ratios of imports to domestic production and consumption declined from 4.5 percent and 4.6 percent, respectively, in 1975 to 3.4 percent and 3.6 percent, respectively, in 1976.

Imports of carbon steel bar-size light shapes, which includes merchant bars, increased absolutely from 1971 to 1972, declined from 1972 to 1973, increased 14.0 percent from 1973 to 1974 and then declined 67.9 percent from 1974 to 1975. Imports declined 36.9 percent in the first three quarters of 1976 compared to the same period in 1975. The ratios of imports to domestic shipments and consumption declined from 27.3 percent and 21.6 percent, respectively, in the first three quarters of 1975 to 15.2 percent and 13.6 percent, respectively, in the first three quarters of 1976.

Imports of concrete reinforcing bars declined both absolutely and relative to domestic shipments in each year from 1971 through 1973, increased from 1973 to 1974 and then declined 70.3 percent from 1974 to 1975. Imports increased 18.2 percent in the first nine months of 1976 compared to the same period in 1975. The ratio of imports to domestic shipments and consumption increased from 4.4 percent and 4.3 percent, respectively, in the first nine months of 1975, to 4.8 percent and 4.6 percent, respectively, in the first nine months of 1976.

Contributed Importantly. Customers, who purchased reinforcing bars from Pacific States Steel, indicated that they did not reduce purchases from Pacific States Steel in favor of imported reinforcing bars.

Lack of work in the construction industry was cited as the dominant reason for reduced rebar purchases. Consumption and demand for reinforcing bars are closely related to business in the construction industry. Total construction, in constant dollars, from 1974 to 1975 declined 13.0 percent, while nonresidential construction, the primary consumer of reinforcing bars, in the same time period, declined 17.1 percent.

Business declines in the market for reinforcing bars produced at Pacific States Steel can be attributed to general declines in the construction industry.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that imports of grinding media and merchant bars did not increase and that increased imports of reinforcing bars did not contribute importantly to the total or partial separations or to the decline in sales or production at Pacific States Steel Corporation and its division, American Forge Company, Union City, California as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C., this 12th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14462 Filed 5-19-77;8:45 am]

[TA-W-1550]

ROBERT HALL CLOTHES

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1550: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 5, 1977 in response to a worker petition received on January 5, 1977 which was filed on behalf of workers and former workers of the Advertising Department of Robert Hall Clothes, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5454). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Robert Hall Clothes and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Robert Hall Clothes operates a nationwide chain of retail clothing stores selling men's, women's and children's apparel. It has two manufacturing subsidiaries which closed by October 1976. These facilities had produced some of the men's wear sold in Robert Hall stores.

The advertising department of Robert Hall handles advertising for Robert Hall's retail stores throughout the country. Robert Hall sells imported as well as domestically produced apparel. The advertising staff provided advertising services to the retail stores for all apparel sold, both imported and domestic.

Robert Hall underwent a management reorganization in 1976 which focused on company-wide organization, as well as departmental organization. Some personnel were shifted between job responsibilities, some were laid off and some new personnel were added.

Any layoffs that have occurred in the Advertising Department were a direct result of a management decision to reorganize Robert Hall.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increased imports did not contribute importantly to the total or partial separations of workers of the advertising department of Robert Hall Clothes, New York, New York. The petition is, therefore, denied.

Signed at Washington, D.C. this 2nd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14461 Filed 5-19-77;8:45 am]

[TA-W-1683 and 1995]

UNIROYAL, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1683 and TA-W-1995: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on February 23, 1977 and April 20, 1977, respectively, in response to worker petitions received on February 11, 1977 and April 17, 1977 which were filed by the United Rubber Workers on behalf of bargaining unit workers and former workers producing rubber/canvas and waterproofed footwear at the Naugatuck, Connecticut plant of Uniroyal, Incorporated and by Uniroyal, Incorporated on behalf of salaried workers and former workers at the Naugatuck plant.

The Notices of Investigation were published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13094) and May 10, 1977 (42 FR 23657). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of Uniroyal, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant Total or Partial Separations. Employment of production workers at the Naugatuck, Connecticut plant of Uniroyal, Incorporated declined 7.6 percent in 1975 compared to 1974 and declined 3.1 percent in 1976 compared to 1975.

Employment of salaried workers at the Naugatuck, Connecticut plant of Uniroyal, Incorporated increased 0.4 percent in 1975 compared to 1974 and declined 3.8 percent in 1976 compared to 1975.

Uniroyal, Inc. has announced that in July 1977, some of their production lines will close down. This will effect about 40 percent of the plant's workforce.

Sales or Production, or Both, Have Decreased Absolutely. Production of rubber/canvas footwear at the Naugatuck, Connecticut plant of Uniroyal, Incorporated declined 8.7 percent in terms of quantity in 1975 compared to 1974. Production in 1976 declined 34.3 percent compared to 1975.

Increased Imports. Imports of rubber/canvas footwear increased from 20,139 thousand pairs in 1972 to 24,184 thousand pairs in 1973. Imports increased to 26,266 thousand pairs in 1974. Imports declined to 23,607 thousand pairs in 1975. Imports in 1976 rose to 31,941 thousand pairs.

The ratio of imports to domestic production of rubber/canvas footwear increased from 12.6 percent in 1972 to 16.3 percent in 1973. The ratio increased in 1974 to 18.2 percent, then decreased to 17.6 percent in 1975. In 1976, the ratio increased to 29.1 percent.

Contributed Importantly. Customers of Uniroyal, Incorporated increased purchases of imported rubber/canvas footwear while decreasing purchases from Uniroyal. Uniroyal, Incorporated increased company imports of rubber/canvas footwear 86.2 percent in 1976 compared to 1975.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with rubber/canvas footwear produced at the Naugatuck, Connecticut plant of Uniroyal, Incorporated contributed importantly to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Naugatuck, Connecticut plant of Uniroyal, Incorporated who became totally or partially separated from employment on or after February 7, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14463 Filed 5-19-77;8:45 am]

DOLE CO., INC.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an approprate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligble to apply for adjustment assstance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 30, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 30, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Dole Co. (Oahu Cannery) (ILWU).	Oahu, Hawaii	May 2, 1977	Apr. 25, 1977	TA-W-2,043	Fresh and canned pineapple—all sizes and bites.
Kohala Sugar Co. (ILWU).	Hawi, Hawaii	do	do	TA-W-2,044	Growing and processing of raw sugar.
Lilyette Brassiere Co., Inc. (Corset & Brassiere Workers Union).	New York, N.Y.	do	Apr. 28, 1977	TA-W-2,045	Shipping and warehousing of brassieres.
Morgan Shirt Co., Inc. (ACTWU).	Morgantown, W. Va.	do	Apr. 27, 1977	TA-W-2,046	Men's and ladies' tailored shirts.

[FR Doc.77-14285 Filed 5-19-77;8:45 am]

Office of the Secretary

INTERNATIONAL SHOE CO.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 30, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 30, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 4th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
International Shoe Co. (workers).	Salem, Mo	May 3, 1977	Apr. 26, 1977	TA-W-2,047	Women's dress shoes

[FR Doc.77-14284 Filed 5-19-77;8:45 am]

LEGAL SERVICES CORPORATION

LEGAL AID OF WESTERN OKLAHOMA

Grants and Contracts Application

MAY 17, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides:

At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid of Western Oklahoma in Oklahoma City, Oklahoma to serve the counties of Comanche, Caddo, Grady and Pottawatomie.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado.

THOMAS EHRLICH,
President.

[FR Doc.77-14450 Filed 5-19-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-37]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL COMMITTEE ON GUIDANCE, CONTROL AND INFORMATION SYSTEMS

Meeting

The NASA Research and Technology Advisory Council, Committee on Guidance, Control and Information Systems will meet on June 15-16, 1977 at the George C. Marshall Space Flight Center near Huntsville, Alabama 35812. The meeting will be held in the 10th Floor Conference Room, Building 4200. The meeting is open to the public on a first-come, first-served basis, up to the seating capacity of the room which is about 110 persons. All visitors should enter MSFC via Gate No. 9 (Governors Drive) and follow visitors signs to Building 4312. Appropriate badges and directions for reaching the designated meeting place will be issued there.

The NASA Research and Technology Advisory Council, Committee on Guidance, Control and Information Systems provides technical advice and recommendations on program goals, scope, content and balance in electronics, electromechanical and electro-optical systems development for aeronautics and space. The current Chairman is Dr. Gene Strull. There are 13 members. The following list sets forth the approved agenda and schedule for the June 15-16, 1977 meeting of the Guidance, Control and Information Systems Committee. For further information, please contact Dr. Peter R. Kurzhals, NASA Headquarters (Code RE), Washington, D.C. 20546 (202-755-3260).

JUNE 15, 1977

Time	Topic
8:45 a.m.	Report of the Chairman. (Purpose: To inform Committee members of actions taken at the Council meeting held in February 1977.)
9:15 a.m.	Report of the Executive Secretary (Purpose: To inform the Committee of program highlights and activities, program or organizational changes since the December 1976 meeting, and the fiscal year 1978 program outlook.)

Time	Topic
10 a.m.	Space Technology New Initiatives Briefing. (Purpose: To describe OAST planning activities leading to potential new initiatives in space technology and obtain Committee comments and recommendations.)
1:30 p.m.	Aeronautics New Initiative Briefing. (Purpose: To describe OAST planning activities leading to potential new initiatives in aeronautics technology and obtain Committee comments and recommendations.)

JUNE 16, 1977

Time	Topic
8:30 a.m.	OAST Technology Assessment Study. (Purpose: To review status and results of the study and obtain Committee comments and recommendations.)
10 a.m.	Committee Deliberations. (Purpose: To summarize discussions of agenda items and develop official Committee positions and recommendations.)
12:30 p.m.	Adjourn.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

MAY 17, 1977.

[FR Doc.77-14417 Filed 5-19-77;8:45 am]

[77-38]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL PANEL ON AVIATION SAFETY AND OPERATING SYSTEMS, SUBCOMMITEE ON AVIATION SAFETY REPORTING SYSTEM

Meeting

The NASA Research and Technology Advisory Council (RTAC), Subcommittee on Aviation Safety Reporting System will meet on June 14-15, 1977, in Washington, DC. The meeting will be held in the Conference Room, National Business Aircraft Association, One Farragut Square. The meeting is being held at this time to complete the report on the one year evaluation of the Aviation Safety Reporting System in accordance with the PAA/NASA Memorandum of Agreement. The meeting is open to the public on a first come, first served basis up to the seating capacity of the room which is about 25 persons. Any member of the public who wishes to comment about the operation or procedures of the Aviation Safety Reporting System is requested to submit them in writing prior to the meeting for consideration at the meeting. Comments should be submitted to Mr. E. Gene Lyman, Executive Secretary, NASA Headquarters, Code RB, Washington, DC 20546. All visitors must report to the receptionist, 11th floor conference room, National Business Aircraft Association.

The RTAC Subcommittee on Aviation Safety Reporting System serves in an advisory capacity only. This Subcommittee reviews and evaluates the NASA Aviation Safety Reporting System design and implementation plan in terms of its responsiveness to current and future aviation safety needs, provides advice and recommendations on the overall objectives, approach, content and structure of this program relative to aviation safety needs, and reports its recommendations to the RTAC Panel on Aviation Safety and Operating Systems. The Chairman is Mr. John H. Winant. There are 12 members. The following list sets forth the approved agenda and schedule for the June 14-15, 1977, meeting of the Aviation Safety Reporting System Subcommittee. For further information please contact Mr. E. Gene Lyman, NASA Headquarters, Code RB, Washington, D.C. 20546 (202-755-2380).

JUNE 14, 1977

Time	Topic
9:00 a.m.	Report of the Chairman. (Purposes: To summarize activities relating to the Aviation Safety Reporting System (ASRS) since the last subcommittee meeting.)
9:30 a.m.	Report on the Aviation Safety Reporting System. (Purpose: To describe status of activities pertaining to ASRS operations. Members will comment on these activities and identify items requiring additional attention.)
10:30 a.m.	Report on 1 year evaluation of the Aviation Safety Reporting System. (Purpose: To evaluate the operation and procedures of the ASRS in response to the FAA/NASA Memorandum of Agreement.)

JUNE 15, 1977

Time	Topic
9 a.m.	Report on comments from the general public. (Purpose: To allow members an opportunity to consider comments from the general public.)
10 a.m.	Continuation of the report on the 1 year evaluation of the Aviation Safety Reporting System.
11:30 a.m.	Adjourn.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

MAY 16, 1977.

[FR Doc.77-14416 Filed 5-19-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR REGULATORY BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting.

NAME: Advisory Panel for Regulatory Biology.

DATE AND TIME: June 6 and 7, 1977, 9 a.m. to 6 p.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Dr. Nancy B. Clark, Program Director, Regulatory Biology Program, Room 333, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4298.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in Regulatory Biology.

AGENDA: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determination by the Acting Director, NSF, on February 16, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 17, 1977.

[FR Doc.77-14449 Filed 5-19-77;8:45 am]

ADVISORY PANEL FOR SOCIAL AND DEVELOPMENTAL PSYCHOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting.

NAME: Advisory Panel for Social and Developmental Psychology.

DATE AND TIME: June 6 and 7, 1977, 9 a.m. to 5 p.m. each day.

PLACE: Room 511, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Dr. Allan I. Teger, Program Director, Social and Developmental Psychology, Room 511, National Science Foundation, Washington, D.C. 20550 (202-632-5714).

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in social and developmental psychology.

AGENDA: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5

U.S.C. 552b(c), Government in The Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 17, 1977.

[FR Doc.77-14448 Filed 5-19-77;8:45 am]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

CHANGE OF AGENDA IN OPEN MEETING

In accordance with subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, the National Transportation Policy Study Commission announces a change of starting time for its meeting scheduled to be held May 26, 1977. Notice of the meeting was originally published in the May 11, 1977 FEDERAL REGISTER, 42 FR 23887.

The starting time for the meeting has been changed from 9:30 a.m. to 9:00 a.m., in Room 2167 of the Rayburn House Office Building.

Dated: May 17, 1977.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc.77-14406 Filed 5-17-77;12:11 pm]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

WORKING GROUP ON BASIC RESEARCH IN THE DEPARTMENT OF DEFENSE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

NAME: Working Group on Basic Research in the Department of Defense.

DATE: June 6 and 7, 1977.

TIME: 9:00 a.m. to 4:00 p.m.

PLACE: Room 3014, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500.

TYPE OF MEETING: Open.

CONTACT PERSON: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.

PURPOSE OF ADVISORY COMMITTEE: The Office of Science and Technology Policy is conducting a study which will lead to the formulation of policy governing the performance of basic research by or for the mission agencies. Under the guidance of the Steering Committee on Basic Research in Mission Agencies, the Group on Basic Research in the DOD is to examine the policies and procedures and research programs of that agency for adequacy and balance between near-term and long-term technical objectives.

AGENDA: 9:00 a.m. to 4:00 p.m. Planning meeting to discuss detailed objectives of the study, methods of approach, and work schedule and assignments.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-14353 Filed 5-19-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70, "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment." Notice of 3rd Meeting, Monday, June 6, 1977, 10 a.m. (All-day meeting.) U.S. Coast Guard Base, Governors Island, New York, New York.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC-70 Summary Record.
4. Reports on Work Assignments.
5. Progress Reports on incompleted Work Assignments.
6. Discussion of problem areas.
7. Solicitation of additional Work Assignments.
8. Other business.
9. Establishment of next meeting date.

The thirteenth meeting of SC-69, FCC WARC-79 Advisory Committee for Maritime Mobile Service, previously scheduled for Tuesday, May 24, has been cancelled. The new meeting date is Tuesday, June 7. The agenda for the June 7 meeting will be the same as that previously published for the now-cancelled May 24 meeting.

RTCM SC 69 FCC WARC-79 Advisory Committee for Maritime Mobile Service, Thirteenth Meeting, 1919 M Street, NW., Washington, D.C., Room 847, 9:30 a.m. to 12:30 p.m., Tuesday, June 7, 1977.

AGENDA

1. Call of the Agenda.
2. Chairman's Opening Remarks.
3. Reports of the Task Forces.
4. Review work to be accomplished.
5. Further.
6. Set date for next meeting.
7. Adjournment.

Charles Dorain, Chairman SC 69, COMSAT, General, 950 L'Enfant Plaza, SW., Washington, D.C. 20024.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainly that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632-6490.)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14419 Filed 5-19-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1323]

COLORADO

Declaration of Disaster Loan Area

Correction

In FR Doc. 77-13508 appearing on page 24133 in the issue for Thursday, May 12, 1977, the bracketed Declaration of Disaster Loan Area No. in the document heading, should be changed to read as set forth above.

[Declaration of Disaster Loan Area #1326]

MISSOURI

Declaration of Disaster Loan Area

Cape Girardeau County and adjacent counties within the State of Missouri, constitute a disaster area as a result of damage caused by torrential rains, high winds, and flooding which occurred on March 26-28, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 11, 1977, and for economic injury until the close of business on February 9, 1978, at:

Small Business Administration, District Office, 12 Grand Bldg., 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106.

or other locally announced locations.

Dated: May 9, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-14388 Filed 5-19-77;8:45 am]

[Declaration of Disaster Loan Area #1325]

WISCONSIN

Declaration of Disaster Loan Area

Calumet County, and adjacent counties within the State of Wisconsin, constitute a disaster area because of physical damage to wells resulting from drought which occurred from June 17, 1976 through April 22, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage as a result of drought until the close of business on July 8, 1977, and for economic injury until the close of business on February 7, 1978, at:

Small Business Administration, District Office, 122 West Washington Avenue, Room 700, Madison, Wisconsin 53703.

or other locally announced locations.

Dated: May 7, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-14389 Filed 5-19-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 156, Amend. 1]

ASSISTANT COMMISSIONER (COMPLIANCE)

Delegation of Authority

MAY 18, 1977.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This Amendment permits the Assistant Commissioner (Compliance) to act upon certain requests regarding the tax status of individuals who are designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government pursuant to Internal Revenue Code section 6103(g)(2). Authority is also delegated to the Assistant Commissioner (Compliance), Deputy Assistant Commissioner (Compliance) and Director, Disclosure Operations Division to disclose returns and return information to Federal officers or employees for administration of Federal laws not relating to tax administration pursuant to Internal Revenue Code 6103(l). The text of the Amendment appears below.

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard T. Martin, CP:D, 1111 Constitution Avenue NW., Room 1603, Washington, D.C. 20224. Telephone number 202-566-3908 (not toll-free).

HOWARD T. MARTIN,
Director,
Disclosure Operations Division.

Subject: Authority to Permit Disclosure of Certain Returns and Return Information Under Internal Revenue Code 6103(g)(2) and (l).

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated as follows:

(1) The Assistant Commissioner (Compliance) is authorized to disclose to the authorized representatives of the Executive Office of the President or to the Federal Bureau of Investigation on behalf of the President, return information described in IRC 6103(g)(2) (other than return information that is adverse to the taxpayer) with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Authority is also delegated to act on all requests by the heads of Federal agencies, or the Federal Bureau of Investigation on behalf of such heads, for return information described in IRC 6103(g)(2) with respect to categories of individuals discussed above. Upon receipt of any request under IRC 6103(g)(2), authority to notify the individuals with respect to whom the request has been made is also delegated. The authority delegated in this paragraph may be redelegated but not lower than:

(a) Deputy Assistant Commissioner (Compliance), in the case of requests by or on behalf of the President where the return information to be disclosed is not adverse to the taxpayer,

(b) Assistant Director, Disclosure Operations Division, in the case of requests by or on behalf of the heads of Federal agencies where the return information to be disclosed is adverse to the taxpayer,

(c) Chief, Tax Disclosure Branch, Disclosure Operations Division, in the case of requests by or on behalf of the heads of Federal agencies where the return information to be disclosed is not adverse to the taxpayer, and

(d) Chief, State and Federal Section, Tax Disclosure Branch, Disclosure Operations Division, concerning the notification of individuals with respect to whom a request has been made.

(2) The Assistant Commissioner (Compliance), Deputy Assistant Commissioner (Compliance), and Director, Disclosure Operations Division are authorized:

(a) To act on requests for returns and taxpayer return information by officers and employees of a Federal agency pursuant to, and upon the grant of, an ex parte order by a Federal District Court judge, when needed for use in, or preparation for, any proceeding (or investigation which may result in such proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration), and to withhold such returns and taxpayer return information, subject to the conditions prescribed in IRC 6103(l)(1). The authority delegated in this paragraph (other than the authority to withhold returns and taxpayer return information) may be redelegated to the Assistant Director, Disclosure Operations Division, Branch Chiefs, Disclosure Operations Division, and Section Chiefs, Disclosure Operations Division.

(b) To act on requests for return information (other than taxpayer return information) by, and to withhold such return information (other than taxpayer return information) from, the head of a Federal agency, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General when needed for use in, or preparation for, any proceeding (or investigation which may result in such proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration), subject to the conditions prescribed in IRC 6103(l)(2). The authority delegated in this paragraph (other than the authority to withhold return information (other than taxpayer return information)) may be redelegated to the Assistant Director, Disclosure Operations Division, Branch Chiefs, Disclosure Operations Division, and Section Chiefs, Disclosure Operations Division.

(c) To disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of Federal criminal laws to the head of the appropriate Federal agency charged with the responsibility for enforcing such laws, subject to the conditions prescribed in IRC 6103(l)(3). The authority delegated in this paragraph may be redelegated to Assistant Director, Disclosure Operations Division, Branch Chiefs, Disclosure Operations Division, and Section Chiefs, Disclosure Operations Division.

(d) To make determinations with regard to the entering into evidence of returns and return information in any proceeding prescribed in IRC 6103(l)(4). The authority delegated in this paragraph may not be redelegated.

(e) To disclose returns and return information with respect to the tax imposed by IRC Chapter 1 upon a taxpayer subject to the provisions of the Renegotiation Act of 1951 to officers or employees of the Renegotiation Board, subject to the conditions prescribed in IRC 6103(l)(5). The authority delegated in this paragraph may be redelegated to the Assistant Director, Disclosure Operations Division, Branch Chiefs, Disclosure Operations Division, and Section Chiefs, Disclosure Operations Division.

(3) Paragraph 1 of this Amendment supplements Delegation Order No. 156. Paragraph 2 of this Amendment supersedes paragraph 5 and amends paragraph 9(c) of Delegation Order No. 156. Delegation Order No. 156, issued May 19, 1976, is printed in the FEDERAL REGISTER dated May 21, 1976, Vol. 41, Number 100, Page 20898.

Dated: May 13, 1977.

JEROME KURTZ,
Commissioner.

[FR Doc.77-14469 Filed 5-19-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 394]

ASSIGNMENT OF HEARINGS

MAY 17, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 123872 (Sub-56), W & L Motor Lines, Inc., now assigned June 15, 1977 at Omaha, Nebraska, will be held in Room 616 Union Pacific Plaza, 110 North 14th Street.

MC 138627 (Sub-14), Smithway Motor Xpress, Inc., now being assigned June 16, 1977 (2 days), in Room 616 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebraska.

MC 113678 (Sub-640), Curtis, Inc., now assigned June 20, 1977 at Omaha, Nebraska, will be held in Room 616 Union Pacific Plaza, 110 North 14th Street.

MC 142491 (Sub-1), D & E Transport, Inc., now assigned June 23, 1977 at Omaha, Nebraska, will be held in Room 616 Union Pacific Plaza, 110 North 14th Street.

MC 110563 (Sub-191), Coldway Food Express, Inc., now assigned June 23, 1977 at Omaha, Nebraska, will be held in Room 616 Union Pacific Plaza, 110 North 14th Street.

MC 142567 Sub 1, Greenville Transit, Inc. now assigned June 23, 1977 at Washington, D.C. is canceled, application dismissed.

MC 125952 (Sub-26), Interstate Distributor Co., now assigned July 7, 1977 at Seattle, Washington, is canceled and the application is dismissed.

MC 110166 (Sub-No. 22); Tennessee Carolina Transportation, Inc., now assigned June 1, 1977, at Raleigh, N.C. is canceled.

MC 142629, Ed Hopson Produce Company, Inc., now being assigned July 6, 1977 (1 day) at Birmingham, Alabama, in a hearing room to be later designated.

MC 106644 (Sub-226), Superior Trucking Company, now being assigned July 7, 1977 (2 days) at Birmingham, Alabama, in a hearing room to be later designated.

MC 141033 (Subs 2 & 3), Continental Contract Carrier Corp., now being assigned July 11, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 117109 (Sub-16), Sykes Transport Company, now being assigned July 12, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 142769 (Sub-1), Colonial Refrigerated Transportation, Inc., now being assigned July 13, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 115730 (Sub-23), The Mickow Corp., now being assigned July 14, 1977 (2 days) at Dallas, Texas, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14467 Filed 5-19-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 17, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43364—*Beet or Cane Sugar from Points in Montana, Trans-Continental and WTL Territories.* Filed by Western Trunk Line Committee, Agent, (No. A-2736), for interested rail carriers. Rates on sugar, beet or cane, dry, in bulk, in carloads, as described in the application, from points in Montana, trans-continental and western trunk-line territories, to Kansas City, Mo.-Kan., Skokie, Ill., Denver, Colorado, and Coldspur, Kansas.

Grounds for relief—Rate relationship and returned shipments.

Tariffs—Supplement 190 to Western Trunk Line Committee, Agent, tariff 159-O, I.C.C. No. A-4481, and 4 other schedules named in the application.

Rates are published to become effective on June 15, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-14466 Filed 5-19-77;8:45 am]

[Notice No. 167]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 20, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77123. By application filed May 5, 1977, DIRECT VAN LINES, INC., 6121 Lincolnia Road, Alexandria, Va. 22312, seeks temporary authority to lease the operating rights of Golden Worldwide Van Service, Inc., 1701 South Amphlett Blvd., San Mateo, Calif., 94402, under section 210a(b). The transfer to Direct Van Lines, Inc., of the operating rights of Golden Worldwide Van Service, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-14465 Filed 5-19-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 94, page 24799, Monday, May 16, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., May 18, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall [202-376-3012].

CHANGES IN THE MEETING:

THE FOLLOWING ITEMS ARE ADDED TO THE AGENDA FOR THE OPEN PORTION OF THE MEETING:

Formal Application for Conversion—North Carolina Savings and Loan Association, Albemarle, North Carolina.

EFTS-RSU Application—"TIME"—First Federal Savings and Loan Association of Wisconsin, Milwaukee, Wisconsin.

REU Application—SLATE Project, Dayton, Ohio.

[S-443-77 Filed 5-17-77;11:54 am]

2

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: 9:30 a.m., May 25, 1977.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

9:30 a.m.; open to the public. Zero-Base Budgeting Goals, Objectives and Issues. A briefing by the staff. 2 p.m. Briefing on Asbestos.

The staff has prepared a draft banning rule for certain asbestos-containing products, based on the Commission's action at the April 28 Commission meeting.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-444-77 Filed 5-17-77;3:20 pm]

3

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

TIME AND DATE: 10:30 a.m., May 23, 1977.

PLACE: Room 6023, FDIC Building, 330, 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Requests pursuant to section 19 of the Federal Deposit Insurance Act for the Corporation's consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,040-L—International City Bank and Trust Company, New Orleans, Louisiana.

Case No. 43,046-L—American Bank & Trust, Orangeburg, South Carolina.

Case No. 43,057-L—Franklin National Bank, New York, New York.

Case No. 43,052-L—Bank of Picayune, Picayune, Mississippi.

Case No. 43,057-L—Franklin National Bank, New York, New York.

Case No. 43,059-L—First State Bank of Hudson County, Jersey City, New Jersey.

Case No. 43,061-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Memorandum and resolution requesting the Board of Directors to approve the proposed sale of the capital stock of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Amalie, Virgin Islands, under authority contained in Section 11(k) of the Federal Deposit Insurance Act, and also approve the form and substance of the proposed Offering Circular.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary (202-389-4446).

[S-445 Filed 5-17-77;2:32 pm]

4

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

TIME AND DATE: 10:45 a.m., May 23, 1977.

PLACE: Room 6023, FDIC Building, 550, 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Bank of Kenney, to be located at the intersection of Sheldon and Johnson Streets, Kenney, DeWitt County, Illinois.

Community State Bank of Princeton, to be located at Fifth Avenue and Third Street South, Princeton, Mille Lacs County, Minnesota.

Community State Bank of Shelbina, to be located at 601 Center Street, Shelbina, Shelby County, Missouri.

Bank of the Northwest, to be located at the intersection of 11th Avenue and High Street, Eugene, Lane County, Oregon.

Valley State Bank, to be located at the southwest corner of the intersection of West 11th Avenue and Bailey Hill Road, Eugene, Lane County, Oregon.

Virginia Beach Bank of Commerce, to be located at 3400 Pacific Avenue, Virginia Beach, Virginia.

Applications for consent to establish branches:

The State Bank of Forest City, Altamonte Springs, Florida, at Sweetwater Square, Wekiwa Springs Road and Fox Valley Drive), Longwood, Seminole County, Florida.

Imperial Bank of Lakeland, Lakeland, Florida, in the Lakeside Plaza Shopping Center, at the intersection of U. S. High-

way 98 North and Forest Lake Drive, in an unincorporated area of Polk County (P.O. Lakeland), Florida.

Bank of West Orange, Ocoee, Florida, at 1550 Maguire Road, Ocoee, Orange County, Florida.

First Bank of Rockledge, Rockledge, Florida, on the north side of Sarno Road, one quarter mile west of the intersection of Sarno Road and Apollo Boulevard, Melbourne, Brevard County, Florida.

Citizens Bank of Pasco, Zephyrhills, Florida, at the intersection of U.S. Highway 301 and North Avenue, Zephyrhills, Florida.

The Howard Savings Bank, Newark, Essex County, New Jersey, at the A & P Shopping Center, Route 71 and Snyder Avenue, Spring Lake Heights, Monmouth County, New Jersey.

The Rome Savings Bank, Rome, Oneida County, New York, on the north side of Route 5 (Seneca Turnpike), approximately 1,800 feet east of the junction of Routes 5 and 5A, New Hartford, Oneida County, New York.

Request for an extension of time in which to establish a branch:

The Mercantile-Safe Deposit and Trust Company, Baltimore (Independent City), Maryland, for an extension of time to April 27, 1978, within which to establish a branch at the Intersection of Perry Hall Boulevard and White Marsh Boulevard, one mile west of the John F. Kennedy Expressway (I-95), White Marsh, Baltimore County, Maryland.

Applications for consent to establish remote service facilities:

The LaSalle State Bank, Jena, LaSalle Parish, Louisiana, at 142 West Oak Street, Jena, LaSalle Parish, Louisiana.

The Murfreesboro Bank & Trust Company, Murfreesboro, Rutherford County, Tennessee, in a Kroger grocery store incide the Murfreesboro Mall on North West Broad Street, Murfreesboro, Tennessee.

Application for consent to establish a teller facility:

The Citizens and Southern Bank of Cobb County, Austell, Georgia, at 2671 Windy Hill Road, Marietta, Cobb County, Georgia.

Application for consent to move main office and to establish one branch:

Central Bank of Georgia, Macon, Georgia, to move its main office from 756 Poplar Street, Macon, Georgia, to 455 Walnut Street, Macon, Georgia, and to retain the present main office as a branch.

Request for approval of subordinated capital note and issuance of a subordinated note:

Bank of Finance, Los Angeles, Los Angeles County, California.

Application for consent to merge, establish eighteen branches, and interchange designation of main office and branch.

Bank of Virginia-Southwest, Bristol, Virginia, for consent to merge with Bank of Virginia N.A., Roanoke, Virginia **(BOVNA) under the charter and title of Southwest and to establish the eighteen** offices of BOVNA as branches of the resultant bank.

Applications to merge and establish one branch:

Bank of Putnam County, Monterey, Tennessee, for consent to merge with Bank of Cookeville, Tennessee ("Cookeville Bank") under the charter and title of BPC, and to establish the sole office of Cookeville Bank as a branch of the resultant bank.

Bank of Commerce, Woodbury, Tennessee, for consent to merge with Bank of Auburn, Auburntown, Tennessee, under the charter of and with the title Bank of Commerce, and to establish the sole office of Bank of Auburn as a branch of the resultant bank.

Applications for consent to consolidate and establish branches:

Valley Bank of Hartford, Wisconsin, for consent to consolidate with Bank of North Lake, North Lake, Wisconsin, under the charter and title of Valley Bank of Hartford, and to establish the sole office of Bank of North Lake as a branch of the resultant bank.

Alpena Savings Bank, Alpena, Michigan, for consent to consolidate under its charter and title with Hillman State Bank, Hillman, Michigan, and to establish the two offices of the latter as branches of the resultant bank.

Application for consent to acquire assets and assume liabilities:

The First National Bank of Boston, Boston, Massachusetts, for consent to acquire the assets and assume the liabilities of Banco International, S. A., Montevideo, Uruguay (BISA), a noninsured directly owned subsidiary of FNBB.

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,041—SR—American Bank & Trust Company, New York, New York.
Case No. 43051-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.
Case No. 43,056-NR—United States National Bank, San Diego, California.
Case No. 43,062-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.
Case No. 43,076-L—Franklin National Bank, New York, New York.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Chapman and Cutler, Chicago, Illinois, in connection with the liquidation of State Bank of Clearing, Chicago, Illinois.

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Recommendations with respect to the settlement or disposition of claims filed against the corporation in its capacity as receiver of American Bank and Trust Company, New York, New York:

Claim No. 224.
Claim No. 253.

Recommendations with respect to the initiation of cease-and-desist proceedings or termination-of-insurance proceedings against certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(10)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary (202-389-4446).

[S-446-77 Filed 5-17-77;2:32 pm]

5

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

TIME AND DATE: 11:00 a.m., May 23, 1977.

PLACE: Board Room, 6th Floor, FDIC Building, 550, 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,053-L—Berea Bank and Trust Company, Berea, Kentucky
Case No. 43,058-NR—United States National Bank, San Diego, California
Memorandum and resolution re: The Hamilton Bank and Trust Company, Atlanta, Georgia.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, Inc., San Diego, California, in connection with the receivership of United States National Bank, San Diego, California.

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Branson, Bronson & McKinnon, San Francisco, California, in connection with the liquidation of First State Bank of Northern California, San Leandro, California.

Patterson & Patterson, Whitfield, Manikoff and Write, Bloomfield Hills, Michigan, in connection with the receivership of Birmingham Bloomfield Bank, Birmingham, Michigan.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Recommendation with **respect to the** amendment of Corporation regulations:

Memorandum and resolution proposing the publication for comment of a new Part **340 of the Corporation's rules and** regulations, to be entitled, "Minimum Offering Circular Requirements for Public Distribution of Bank Securities."

Memorandum recommending the payment of a first dividend of 40%, subject to court approval, on proven claims of the Mt. Zion Deposit Bank, Mount Zion, **Kentucky—in Receivership.**

Memorandum with reference to the relocation of the **Columbus Regional** Office.

Reports of Committees and Officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests **approved by him** and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation with respect to the status of the Deposit Insurance National Bank of the Virgin Islands, **Charlotte Amalie, St. Thomas,** Virgin Islands, as of **January 31, 1977.**

Final statement, as of March 31, 1977, of assets acquired from First State Bank of Bonne Terre, Bonne Terre, **Missouri,** under a purchase and assumption agreement dated August 28, 1970, submitted by the **Chief, Accounting and Budget** Branch, Office of the Controller.

Reports of security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary (202-389-4446).

[S-447-77 Filed 5-17-77;2:32 pm]

6

AGENCY HOLDING MEETING: Federal Power **Commission.**

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Issued 5/17/77), 42 FR (25406).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., **May 16, 1977.**

CHANGE IN THE MEETING: Addition of G-30, Docket No. RP74-6, et al., Southern Natural Gas **Company (MacMillan** Bloedel, Inc.). Addition of G-31, Docket No. **RI76-65,** Dev. Corporation (Operator), et al. Addition of G-32, Docket No. **CP77-280, Transcontinental Gas Pipe** Line Corporation. Docket No. CP77-258, Texas Gas Transmission, Corporation.

KENNETH F. PLUMB,
Secretary.

[S-448-77 Filed 5-17-77;3:20 pm]

7

AGENCY HOLDING THE MEETING: **Federal Trade Commission.**

TIME AND DATE: 10 a.m., Thursday, **May 26, 1977.**

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Monthly Program Status Meeting: Review of Program J01, Point of Sales Practices.

(2) Monthly Program Review of Program J02, Vocational Schools.

(3) Monthly Program Status Meeting: Review of Program J04, Land Sales.

(4) Monthly Program Status Meeting: Review of Program AB, **Energy Study** and Enforcement Follow-up.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information (202-523-3830); Recorded Message (202-523-3806).

[S-449-77 Filed 5-17-77; 4:01 pm]

8

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

TIME AND DATE: 9:30 a.m., Tuesday, May 24, 1977.

PLACE: Commission's Offices, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Open Special Conference.

MATTERS TO BE CONSIDERED:

1. Ex Parte No. 332, Voting Trust Regulations

2. Briefing by the Bureau of Accounts on "Revision to Uniform System of Accounts for Railroads"

3. Discussion of the Commission's Training Program

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, Telephone 202-275-7252.

[S-450-77 Filed 5-18-77;8:45 am]

9

AGENCY HOLDING THE MEETING: Interstate Commerce Commission, Division 3.

TIME AND DATE: 10 am., May 19, 1977.

PLACE: Room 5124, Commission's Offices, 12th and Constitution Avenue NW., **Washington, D.C.**

STATUS: Short Notice of Closed Meeting. Commissioners Brown, Macfarland, Clapp and Christian have unanimously voted to close this conference because it will concern the disposition of particular case of formal adjudication conducted pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after an opportunity for hearing within the meaning of 5 U.S.C. b(c)(10) and 49 CFR 1012.7(d)(12).

In addition to the Division members, the following persons are expected to attend:

Deputy Director Israel, Assistant Deputy Director Bober, **Examiner Canning,** Examiner Green, **Examiner Guise, Examiner Hanson, Examiner Hetronimus,** Examiner Lewis, Examiner Streeter, Examiner Taggart, **Examiner Thompson.**

MATTERS TO BE CONSIDERED:

1. Docket No. MC-F-12692 Mallinger Truck Line, Inc.—Purchase (Portion)—B. J. McAdams, Inc.[1];

2. Docket No. MC-F-12781, Cartwright Van Lines, Inc.—Purchase (Portion)—Adobe Van & Storage, Inc.[2]; and

3. Docket No. MC-F-12647, M.G.M. Transport Corporation — Purchase (Portion)—DeHart Motor Lines, Inc.[2]

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, Telephone 202-275-7252.

[S-451-77 Filed 5-18-77;8:45 am]

10

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Wednesday, May 25, 1977, at 12 noon a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following item(s) of official Board business:

1. A possible amendment to the Board's Rules Regarding Delegation of Authority that would authorize (1) the Federal Reserve Banks to enter into written agreements with bank holding companies or their nonbank subsidiaries or with State member banks concerning the correction of unsafe or unsound practices, and (2) the Director of the Division of Banking Supervision and Regulation to deny an application to stay, modify, terminate or set aside any cease and desist order previously issued by the Board or any written agreement between the Board or the Reserve Bank and a bank holding company or any nonbanking subsidiary thereof or a State member bank.

2. Possible authorization for staff to begin processing certain foreign "shell" branch applications under existing delegation of authority rules.

3. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of **The Marblehead Bank and** Trust **Company, Marblehead, Massachusetts, with Essex County Bank and** Trust Company, Lynn, Massachusetts.

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[1] This matter is related to MC-F-12781 et al. and MC-F-12647 et al., which will be treated at the same conference.

[2] These matters are related to MC-F-12692 which will be treated at the same conference.

4. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of Sullivan County National Bank, LaPorte, Pennsylvania, with Citizens & Northern Bank, Ralston, Pennsylvania.

5. Proposed communication to the Department of Defense concerning the applicability of reserve requirements and interest rate limitations to deposits at overseas military banking facilities operated by member banks.

This meeting will be open to public observation. Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202–452–3204.

Board of Governors of the Federal Reserve System, May 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–452–77 Filed 5–18–77; 8:45 am]

11

AGENCY HOLDING THE MEETING: Overseas Private Investment Corporation.

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday, May 24, 1977 at 9 a.m. (Closed Portion) and 11 a.m. (Open Portion).

PLACE: Offices of the Corporation, 7th Floor Board Room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 11 a.m. will be closed to the public. The open portion of the meeting will start at 11 a.m.

MATTERS TO BE CONSIDERED:

(Closed to the Public: 9 a.m. to 11 a.m.)

1. Personnel Matters.
2. Policy and Legislative Recommendations to President Carter.
3. Financing of African Project.
4. Insurance of African Project.
5. Claims.
6. Information Reports on (a) Status of a Finance Project (b) Applications Rejected and (c) Insurance Applications for Large Projects.

FURTHER MATTERS TO BE CONSIDERED:

(Open to the Public: 11 a.m.)

1. Approval of Minutes of Previous Board Meeting.
2. Confirmation of Scheduled Board Meetings.
3. OPIC Finance Program.
4. OPIC Organization Industry Functional Teams.
5. Financial Statement for Nine Months as of March 31, 1977.
6. Seabed Mining: Risk Coverage.
7. Information Reports on (a) U.S. Benefits and LDC Developmental Efforts and (b) Political Risk Investment Insurance Issued as of March 31, 1977.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202–632–1839.

ELIZABETH A. BURTON,
Corporate Secretary.

MAY 17, 1977.

[S–453–77 Filed 5–18–77; 10:34 am]

12

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 10 a.m., May 25, 1977.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Notation Items Disposed of During April 1977.
2. Report on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during April 1977.
3. Report on Applications for Admission to Practice approved during April 1977.
4. Assignment of Informal Dockets during April 1977.
5. Agreement No. 2744, et al., Modification of eight of the Associated Latin American Freight Conference Agreements—Admission Fee and Authority to Execute Agreements.
6. Agreement 8600–4—Modification of an inter-conference ratemaking agreement between TPFCJ/K and JKAGFC.
7. Agreements Nos. 8470–7 and 8530–3—Modifications of Household Goods Rate Agreements to include Inland Points.
8. Agreement No. 9474–3—Modification of the Thailand Pacific Freight Conference Agreement for Establishment of Through Rates.
9. Agreement No. 10137–4—Extension of the Barber-Blue Sea Line Joint Service Agreement.
10. Docket No. 77–7—Agreements Nos. 9929–2, 9929–3, 9929–4, et al., Energy and Environmental Assessment.
11. Docket No. 71–76—Bethlehem Steel Corporation v. Indiana Port Commission: Request for Oral Argument.

Portions closed to the public:

1. Docket No. 75–28—Submission of Revenue and Cost Data Concerning General Rate Increases and Certain Surcharges Filed by Common Carriers, Conferences, and Member Carriers of Rate Agreements.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202–523–5727).

[S–454–77 Filed 5–18–77; 10:34 am]

13

AGENCY HOLDING THE MEETING: United States Railway Asociation.

TIME AND DATE: 1 p.m., May 26, 1977.

PLACE: Board Room, Room 2200, Trans Point Building, 2100 Second Street SW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions closed to the public (1 p.m.).

1. Review of Conrail and Delaware & Hudson Railway Company proprietary and financial information for monitoring and investment purposes.

Portions open to the public (2 p.m.),

2. Approval of the minutes of the Executive Committee meeting on April 29, 1977.
3. Approval of Conrail Drawdown request for June.
4. Discussion of Conrail Investment Commitment request for the third quarter of 1977.
5. Status report on Section 211(h) loan program.
6. Report on Conrail monitoring.
7. Contract extensions.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow (202–426–4250).

[S–455–77 Filed 5–18–77; 10:34 am]

14

AGENCY HOLDING MEETING: Federal Power Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Issued 5/17/77) 42 FR (25406).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., May 18, 1977.

CHANGE IN MEETING: Addition of P–17, Docket No. ER76–494, Delmarva Power and Light Company. Addition of G–34, Hartsville Gas Company and Creal Springs, Illinois.

KENNETH F. PLUMB,
Secretary.

[S–456–77 Filed 5–18–77; 12:51 pm]

federal register

FRIDAY, MAY 20, 1977

PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

NATIONAL HEALTH SERVICE CORPS AND RELATED PROVISIONS

Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 23]

NATIONAL HEALTH SERVICE CORPS AND RELATED PROVISIONS

AGENCY: Public Health Service, HEW.

ACTION: Notice of intent.

SUMMARY: This Notice of Intent informs the public of the intent to propose regulations which will implement modifications to the National Health Service Corps Program made by a recent amendment to the Public Health Service Act. The National Health Service Corps Program assigns physicians, dentists, nurses, and other health professionals to health manpower shortage areas in order to improve the delivery of health services to these areas. Issues identified in the Notice of Intent concern implementation and interpretation of the law. The public is invited to comment on the issues of concern to them.

DATES: Comments must be received in writing by July 5, 1977 in order to ensure that the Secretary will be able to consider such comments while preparing the proposed regulations.

ADDRESSES: Comments must be addressed to the Director, Division of Policy Development, Bureau of Community Health Services, HSA, PHS, Department of Health, Education, and Welfare, Room 6–17, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT:

George P. Tolbert, M.D., Director, National Health Service Corps, Bureau of Community Health Services, HSA, PHS, Department of Health, Education, and Welfare, Room 6–05, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4434.

SUPPLEMENTARY INFORMATION: Section 407(b)(3) of Public Law 94–484, the "Health Professions Educational Assistance Act of 1976," amends, effective October 1, 1977, the National Health Service Corps portion of the Public Health Service Act, by repealing the present authority and adding a new Subpart II—National Health Service Corps Program to Part C, Title III, of the Public Health Service Act.

The National Health Service Corps program, begun in 1972, is designed to improve the delivery of health services in health manpower shortage areas through the assignment to such areas of members of the Corps (physicians, dentists, nurses, and other health professionals).

The Notice of Intent identifies the major issues raised by the new statutory provisions. Alternative criteria and procedures for implementing the program are presented for the public's comments. The major issues identified in this Notice include the criteria to be used by the Secretary in assigning a Corps member to a health manpower shortage area; the standards for determining whether to allow a waiver to an entity for repayment to the Federal Government of both (1) the costs of assigning Corps members to the shortage area, and (2) any loan; the criteria and procedures for withholding eligibility for a hospital to receive Federal funds under the Public Health Service Act and under Titles XVIII and XIX of the Social Security Act if the hospital denies admitting privileges to a qualified physician or dentist of the Corps; the criteria and procedures for determining whether to sell equipment purchased with Federal funds to an entity when Corps members have completed their assignment in a health manpower shortage area; and the criteria for making a grant to assist a former Corps member to establish a private practice in a shortage area.

Following are the major issues identified by the Secretary.

Assignment of Corps Personnel

1. Section 333 of the Act states that the Secretary may assign members of the Corps to provide health services in or to a health manpower shortage area (which can include a population group or facility designated as a shortage area). Assignment may be made only after receipt and approval of an application submitted by a public or private nonprofit entity located in the shortage area or having a demonstrated interest in the area.

Assignments are to be made in accordance with a number of stipulations in the statute which cover priority for areas with the greatest health manpower shortage; special consideration for entities using physician assistants, nurse practitioners, and expanded function dental auxiliaries; consideration for community assistance and cooperation; and consideration of comments from appropriate health professional societies. Thus, the statute requires that a "priority," a "special consideration," and two "considerations" come into play when making assignments of Corps personnel. In carrying out this provision, assignments could be made by using several different methods. One method of implementation would be to proceed successively to utilize the "priority" for areas with the greatest shortage of health manpower as the first determinative for making assignments. Only when two or more areas, competing for assignment of a Corps member, have an equivalent shortage of health manpower would determinations be made on the basis of the "special consideration" regarding the use of physician assistants, nurse practitioners, and expanded function dental auxiliaries. Then, only if competing areas have equivalent shortages of health manpower and all the areas utilized physician assistants, nurse practitioners, or dental auxiliaries would determination be made on the basis of the first "consideration"—and so on until the second "consideration" (i.e., regarding comments from professional societies) influenced the assignment of personnel.

Another method would be to assign weights to the "priority," the "special consideration," and the "considerations." All factors would be involved in making determinations about assignments but would be afforded various weights; for example, the "priority" could be given a weight of 60, the "special consideration" could be given a weight of 20, and the two "considerations" could each be given a weight of 10.

The preceding are merely for the purpose of illustration and should not be regarded as showing any preference or predisposition on the part of the Department. Many other means could be devised for determining the assignment of Corps members to particular areas according to the "priority," "special consideration," and "considerations" specified in the statute. Recommendations on how assignments should be made in accordance with the statute are welcome.

After taking into account the statutory priority and considerations, the Secretary may have to decide among entities competing to serve an area. The Secretary may have to determine whether an entity actually located in the shortage area should receive consideration over one that is not located in the shortage area but has a demonstrated interest in the area; whether first consideration should be given to an entity that has actually shown (by viable projects, for example) an active interest in the area; or whether the two entities should be on a par for consideration. Recommendations on this matter would be welcome.

2. Section 333 of the Act provides that where an entity has previously had a Corps member assigned to it the Secretary may reassign Corps members only after he has made an evaluation and determined that:

(I) There is continued need for health manpower for the area;

(II) There has been appropriate and efficient use of Corps members previously assigned to the entity for the area;

(III) There is general community support for the assignment of Corps members to the entity;

(IV) The area has made continued efforts to secure health manpower for the area; and

(V) There has been sound fiscal management, including efficient collection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members previously assigned to such entity.

Suggestions are solicited on the criteria to be utilized by the Secretary in making these required determinations. Regarding point (I), it appears that determination of "continued need" should be based on the same criteria that apply to designating health manpower shortage areas under Pub. L. 94–484. Point (II), the "appropriate and efficient use of Corps personnel," is very difficult to measure, and suggestions for evaluation measures, such as number of patient visits and encounters, would be helpful. With respect to point (III) on "community support," there appear to be many approaches for determining if such support exists, e.g., has the community made available a suitable building for use as a health care facility, or is there housing available for Corps personnel. On point (IV), whether "the area has made continued efforts to secure health manpower" as a replacement for previously assigned personnel, an assessment could be made of a community's efforts, such as: advertising in appropriate publications, recruiting at medical schools and other training facilities, and retaining the services of health manpower search agencies. On point (V), "sound fiscal management," should the proposed means of assessing sound fiscal management as stated in the "CPA Audit Guidelines of the DHEW Audit Agency" and in "Standards for Audits of Governmental Organizations, Program Activities and Functions" be used, or should other means be developed? These publications are available through the Regional Administrators of the Regional Offices of the Department of Health, Education, and Welfare at the addresses set forth at 45 CFR 5.31(b).

Matching of Corps Assignees to Areas

Under section 333(e), the Secretary is directed to assign to an area a Corps member and spouse, if any, who have characteristics which increase the probability of their remaining in the area upon completion of the assignment. The process of matching professionals to areas presently used by the NHSC involves (1) gathering information about the characteristics of areas in need, (2) having Corps members and spouses complete questionnaires about their backgrounds and personal preferences regarding the characteristics desired of an area in which they prefer to work and reside, and (3) matching as closely as possible the Corps members and spouses to areas which meet their preferences. Information given to a prospective assignee about an area could include the number and specialties of physicians and medical facilities in that area; size of the medical practice and community where an assignee would be working; climate of the region; and the cultural, social, and sport activities available. A Corps member and spouse usually will have several potentially acceptable areas from which to make a selection, and a visit to one area at Government expense is permitted by law.

Recommendations are solicited on the other methods of matching Corps members and spouses to areas, and on ways to improve the currently used method.

Technical Assistance to Shortage Areas

Section 333(f)(3) requires that the Secretary provide to health manpower shortage areas to which Corps members have not been assigned (1) technical assistance to assist in their recruitment of health manpower, and (2) current information on public and private programs which offer assistance in the securing of health manpower. Recommendations are solicited from the public regarding technical assistance and information which would be the most helpful and effective for areas wishing to recruit and secure health manpower.

Cost Sharing

1. Section 334 requires an entity to which a member of the NHSC has been assigned to repay to the United States each quarter (or other period specified by the Secretary) the portion of the salary and allowances received by such assignee during such period. Where an assignee has received a scholarship under the scholarship program, the entity is required by the statute to also repay the amount of the scholarship in proportion to the length of obligated service and actual service at such site by the assignee during such period. Finally, the entity is required by statute to repay the amount of any loan received by the entity under section 335(c).

It appears that the statute requires a site to repay on the basis of exact calculations with regard to the assignee's salary, allowances, and any scholarship aid received. (Under existing procedures repayment is based on average costs of assignees.) The public's views are requested on how the Department should carry out the requirement in a practical and equitable manner. If sites are to pay for assignees on the basis of actual costs, rather than average costs, some sites will be required to repay a greater amount than others depending, for example, on whether the assignees received scholarship aid.

2. Under section 334(b)(1) the Secretary may waive, in whole or in part, application of the requirement for reimbursement of the costs of a Corps assignee's salary and allowances, medical scholarship cost, and loan made to an entity if it is determined the entity is financially unable to meet the reimbursement requirement or that the reimbursement provisions would unreasonably limit the ability of the entity to provide adequate support for the provision of health services by Corps members.

Following are examples of possible factors which the Secretary will consider using to determine the entity's ability to reimburse:

The present and projected costs necessay to maintain the quality and level of health services by assigned personnel, and the present and projected income and other financial resources (such as contributions) available to meet such costs;

The extent of efforts to collect payments and third-party reimbursements;

The degree to which the established fees are designed to cover the reasonable costs of operation; and

The efficiency of management and the use of cost-saving mechanisms.

3. Under section 334(b)(2) the Secretary may also waive reimbursement in whole or in part for entities located in health manpower shortage areas that have a significant percentage of the population living in poverty, or who are elderly; or that have other characteristics which indicate to the Secretary the inability to meet in whole or in part the reimbursement provisions. This may permit a waiver on the basis of population served prior to determining that the entity is not, in fact, able to repay all or part of the required reimbursement. It is proposed to use the Community Services Administration (CSA) Income Poverty Guidelines (45 CFR 1060.2) for determining if persons are living in poverty (e.g., $5,500 per annum for a nonfarm family of four) and to consider as elderly those 65 years and older. What constitutes a "significant percentage" of the population is difficult to determine. One way would be to rank all counties by the above factors and establish the lower boundary of the top quartile of those counties having the greatest number of persons living in poverty, and persons who are elderly, as the significant percentage cutoff in judging whether to grant a waiver. Service areas meeting any cutoffs established will not automatically be entitled to a waiver; the granting of a waiver will remain optional and be made only after a review of any site's resources and potential ability to reimbursement the Government. Waivers will be time limited and will be monitored to insure that the need for the waiver continues. Suggestions are needed for procedures to use in determining whether an entity is unable to fully reimburse the Government because of the significant percentage of elederly and persons in poverty living in the area served by the entity.

Suggestions are also invited regarding identification of other characteristics having impact on the ability of an entity to meet reimbursement requirements, such as the unique working conditions of migratory agricultural workers.

4. Under section 334(c) of the Act, if there are any funds collected in excess of the amount paid to the United States, such funds must be used by the entity to expand and improve the provision of health services to the shortage area or to recruit or retain health manpower for such area. Also, if reimbursement is fully or partially waived, all the funds collected for the provision of health services by Corps members assigned to the entity shall be used to improve the capability of the entity to deliver health services. Standards or criteria must be developed to determine what is meant by expansion or improvement in this context, and what limitations should be imposed. Comments on the matter are so solicited.

5. Under section 334(d) of the Act, any persons receiving health services given by Corps members shall be charged on the basis of a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. No persons, however, may be denied services because of inability to pay, and the Secretary must provide for the furnishing of services at a reduced rate or without charge. It does not appear appropriate to set out approvable rates in regulations as they may vary from area to area and change from time to time. On the other hand, it seems appropriate that the regulations require entities to

establish fee schedules and discounts and have them approved by the Secretary.

Entities can establish fee schedules in several ways. Under other programs, it has been determined that persons with incomes below the CSA Income Poverty Guidelines are unable to pay other than nominal fees, and it has also been determined that those persons with incomes twice as great as the poverty level income should be required to pay full cost for services received. One way of establishing fee schedules would be to have the entities use the Medicare prevailing charges as a guide. Suggestions and recommendations concerning the development of regulations to implement the fee schedule provisions are solicited.

ADMITTING PRIVILEGES

In section 335 there is a unique provision regarding admitting privileges for authorized physician or dentist members of the Corps. The provision states:

(e)(1)(A) It shall be unlawful for any hospital to deny an authorized physician or dentist member of the Corps admitting privileges when such Corps member otherwise meets the professional qualifications establish by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease, for a period to be determined by the Secretary, to receive and to be eligible to receive any Federal funds under this Act or under Titles XVIII or XIX of the Social Security Act.

(2) For purposes of this subsection, the term "hospital" includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

Public comment is solicited on the questions of the timing of the notice of violation and the opportunity for a hearing. These items are not specified in the statute nor are there any standards for determining the length of suspension for violations. In addition, public comment is solicited concerning the definition of the term "any related facility" as used in the definition of "hospital" quoted above.

RIGHT TO PRACTICE

Section 333(h) states that, notwithstanding any other law, any Corps member licensed to practice medicine, osteopathy, or dentistry in any State shall, while serving in the Corps, be allowed to practice such profession in any State. Comments on the manner in which the provision should be utilized, or recommended restrictions on its use, will be appreciated.

SALE OF EQUIPMENT

Upon the expiration of the assignment of all Corps members to a shortage area, section 335(d) provides that the Secretary may (notwithstanding any other provision of law) sell, to any appropriate local entity, equipment and other property of the United States utilized by such members in providing health services. Sales must be made at the fair market value (as determined by the Secretary); except that the Secretary may make such sales for a lesser value to an appropriate local entity if he determines that the entity is financially unable to pay the full market value.

In determining whether to make such sale, it is proposed that the Secretary consider the extent of the need of the Department for such equipment and other property in another shortage area, and the proposed use by the entity of the equipment and other property. In addition, the Secretary is considering adding a requirement that an entity which received equipment or other property at less than fair market value must provide reasonable assurance satisfactory to him that the equipment or other property will be used by the designated entity for its estimated useful life in providing health care and services to individuals in the health manpower shortage area served by the entity.

It is also proposed that the Secretary will determine whether an entity is financially unable to purchase equipment or other property at fair market value based upon consideration of the entity's present financial resources available to purchase the equipment or other property in light of its current assets and liabilities, and the entity's ability to obtain the funds necessary to purchase the equipment or other property as evidenced by documentation provided by the designated entity of the steps it has taken to obtain such funds. Such steps might include community fund-raising activities, seeking of loans from both lending entities and private individuals, study of the possibility of increasing the fee schedule, and increasing efficiency and reducing operating costs.

Comments will be appreciated on the appropriateness of these criteria for determining whether an entity is unable to purchase such property at fair market value.

LOANS TO ENTITIES

Section 335(c) provides that the Secretary may make one loan of up to $50,000 to an entity with an approved application to assist in meeting the costs of the following:

(1) Establishing medical, dental, or other health professional practices, including the development of medical practice management systems;

(2) Acquiring equipment for use in providing health services;

(3) Renovating buildings to establish health facilities; and

(4) Establishing appropriate continuing education programs.

The Department is studying the question of whether or not interest should be charged on loans and what the interest rate should be, if any. Suggestions are requested on this matter.

The new loan authority replaces the somewhat broader authority under section 329(d)(2) of the previous legislation to make one grant to an entity for up to $25,000 for development of medical practice management systems, acquiring supplies and equipment, and for other expenses related to the provision of health services.

It is suggested to establish the following as permissible costs for which such loans may be utilized:

(1) The costs of establishing medical, dental, and other health professional practice management systems for Corps personnel, including the cost of ancillary personnel such as receptionists and bookkeepers, the cost of obtaining assistance on the methods of preparing and using medical and fiscal records, and the costs of billing and collection;

(2) The cost of acquiring equipment for use in providing health services;

(3) Renovating buildings in which to establish health facilities;

(4) Payment for primary and support staff during developmental and initial stages of operation; and

(5) The continuing professional education of Corps personnel.

This list of permissible costs is based upon the permissible costs under the grant program and is revised to account for the statutory changes made in the program under the new legislation.

Recommendations are solicited on the conditions under which the provision for loans should be implemented.

COMPETITIVE PAY FOR CORPS ASSIGNEES

Under section 331(d) the Secretary has the option to increase the monthly pay and allowances of a Corps assignee engaged in the delivery of health services up to a maximum of $1,000 per month for the first 36 months of the Corpsman's assignment. The provision is designed to provide monthly income to assignees which is competitive with the income of professionals with equivalent training and experience. If additional compensation is given, the sites will be required to reimburse the Government on the basis of such increased salary. The Department solicits recommendations with regard to the preparation of regulations to cover this subject.

GRANTS TO ESTABLISH PRIVATE PRACTICE

To aid in the establishment of a private practice in a shortage area, the Secretary may, under section 755, make one grant to an individual who has completed the period of obligated service in the Corps and who has agreed in writing to observe the conditions set forth in section 753. The amount of the grant shall be $12,500 for practicing at least 1 year, but less than 2, or $25,000 if the individual agrees to practice for a period of at least 2 years. If the grant is accepted but the agreement is breached, the United States shall be entitled to recover from the individual, in accordance with the formula stated in section 754, triple repayment in relation to time served and the obligated services.

Public comment is invited on implementation of the above.

PRIVATE PRACTICE

Section 753 of the statute provides that an individual may be released from all or part of a Corps service obligation if he applies for a release and subsequently enters into a written agreement with the Secretary that he will engage in full-time private clinical practice, for a period equal to the remaining period of his service obligation, in the health manpower shortage area where he has been assigned or in a shortage area which has a priority for the assignment of Corps members. This provision applies only to recipients of scholarships under the new scholarship program established under Pub. L. 94-484. The shortage area must have a sufficient financial base to sustain such private practice and to provide the individual with an income equal to the income received as a member of the Corps.

During the period of private practice, the physician providing health services in connection with his practice must charge for such services at the usual and customary rate prevailing in the area. If, however, the patient is unable to pay the charges, such patient shall be charged at a reduced rate or not charged any fee. Further, there must be no discrimination against any person on the basis of ability to pay or because payment for the health services will be made under Title XVIII of the Social Security Act or under a State plan covered by Title XIX of the Act. Recommendations are solicited with respect to developing standards to judge whether an area has sufficient financial base to support a private practice.

Dated: March 10, 1977.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc.77-14134 Filed 5-19-77;8:45 am]

federal register

FRIDAY, MAY 20, 1977
PART III



DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

■

EMPLOYEE BENEFIT PLANS

Notice of Pendency of Exemption Relating to a Transaction Involving the Retirement Plan for Employees of Dallas North Lumber and Affiliates

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

EMPLOYEE BENEFIT PLANS

Notice of Pendency of Exemption Relating to a Transaction Involving the Retirement Plan for Employees of Dallas North Lumber Company and Affiliates (Application No. D–345)

Notice is hereby given of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) of a proposed exemption from the restrictions of section 406(a) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) (A) through (D) of the Code. The pending exemption was requested in an application filed by Harold R. Clark, Trustee for the Retirement Plan for Employees of Dallas North Lumber Company and Affiliates (Plan) and by Texteel Manufacturing Company, Inc. (Texteel), an employer of employees covered by the Plan, to exempt the sale of a note by the Plan to Texteel and assumption by Texteel of a first lien note held by the Plan. Mr. Clark and his wife own 100 per cent of the outstanding common stock of Texteel. The application was filed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75–26, 1975–1 C.B. 722.

Summary of Representations. The application contains facts and representations with regard to the pending exemption, which are summarized below. Interested persons are referred to the application on file with the Department and the Service for a complete statement of representations.

In early 1972, the Plan purchased 100 acres of unimproved land approximately two miles Northwest of the City of Allen, Collin County, Texas. This land was purchased for $150,039. The Plan acquired the property subject to a note in the amount of $85,022 secured by a first lien on the property, and executed a note for $27,507 secured by a second lien. The balance of the purchase price was paid in cash.

Less than one year after the purchase, the land was sold by the Plan for $323,976. A promissory note for the full purchase price was accepted by the Plan, and the Plan agreed to continue to pay the principal and interest on the aforementioned first lien note. The $323,976 promissory note provided for interest only to be paid for the first ten years of the note (through 1982) with equal principal payments over the note's remaining years. Under the terms of the note, in the event of default, the Plan could look only to the property for satisfaction of the note and not to the maker of the note.

In early 1975, the administrators of the Plan decided to terminate the Plan due to the termination or change in ownership of the corporations participating in the Plan. Rather than attempt to distribute beneficial share interests in the assets of the Plan to the participants, or, alternatively, defer payment of benefits until normal retirement, the Plan administrators decided to sell the note to provide sufficient funds for distribution of benefits to the beneficiaries.

Attempts were made to sell the note through advertisements in the Wall Street Journal and through direct negotiations with local banks and financial institutions. As a result of these efforts, one tentative offer was received which would not have produced sufficient assets with which to pay the actuarially determined post-termination accrued benefits when combined with the other assets of the Plan.

To provide the Plan with sufficient funds to pay benefits, Texteel agreed to purchase the note from the Plan. The terms of the transaction provided for an assumption by Texteel of the unpaid balance on the first lien note, credits for prepaid interest and accrued interest on the first lien, and a cash payment to the Plan of $134,311. The sale of the note to Texteel, which occurred on April 30, 1975, produced sufficient funds for the Plan to pay all post-termination accrued benefits plus additional benefits equivalent to approximately 10 per cent of the post-termination accrued benefits. Under the terms of the Plan, subsequent to termination, all assets remaining after distribution of post-termination accrued benefits to participants and beneficiaries shall be returned to the employer. However, the assets in excess of that necessary to pay post-termination accrued benefits will be paid to the participants and beneficiaries and will not be returned to the employer.

In early December, 1975, subsequent to the sale of the note, the maker of the note suggested to Texteel that the maker and Texteel agree to reduce the principal amount of the note from $323,976 to $199,370; otherwise, there would be a default on the note. Texteel agreed as a compromise to accept 75 per cent of the interest then due.

An appraisal of the property was made on June 1, 1976, which valued the property at $175,000 as of May 1, 1975.

Notice of the Plan's decision to terminate was filed with the Pension Benefit Guaranty Corporation (PBGC). The PBGC examined the information provided and informed the applicant that it appears that the assets of the Plan may be sufficient to satisfy all vested benefits payable under the Plan. In addition, the PBGC informed the Department and the Service that Plan assets are sufficient to satisfy the guaranteed nonforfeitable benefits of the participants in the Plan.

On or before May 25, 1977, a copy of the notice will be provided to each participant and beneficiary by first class mail. Copies of all such notifications will be forwarded to the Department and Service at the time they are available or distributed.

General Information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan participants and beneficiaries and in a prudent fashion in accordance with subsection 404(a)(1)(B) of the Act, nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The pending exemption does not extend to transactions prohibited under section 406(b)(1) and (3) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department and the Service must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries, and protective of the rights of such participants and beneficiaries.

(4) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provision of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

All interested persons are invited to submit written comments on the pending exemption. In order to receive consideration, such comments must be received by the Department on or before June 20, 1977. In addition, any interested person may submit a written request that a hearing be held relating to the pending exemption. Such written request must be received by the Department on or before June 20, 1977, and should state the reasons for the request and the nature of the person's interest in the pending exemption. All written comments and requests for a hearing (preferably six copies) should be addressed to the Pension and Welfare Benefit Programs, Office of Regulatory Standards and Exceptions, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–345.

The application for exemption, requests for a hearing and comments will be available for public inspection at the

Public Document Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216, and at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

Pending Exemption. Based upon the application, hereinabove described, the Department and the Service have under consideration the granting of the requested exemption, under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75–26, 1975–1 C.B. 722, so that, effective April 30, 1975, the restrictions of sections 406 (a) and 406(b)(2) of the Act and the taxes imposed under section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to a transaction involving the sale of a note by the Plan to Texteel and assumption by Texteel of a first lien note held by the Plan pursuant to the terms, conditions and representations set forth in the application.

The pending exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction consummated pursuant to the exemption.

Signed at Washington, D.C., this 11th day of May 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs, Department of Labor.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77–14112 Filed 5–19–77;8:45 am]

federal register

FRIDAY, MAY 20, 1977

PART IV



DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

■

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Alaska, Hawaii, Puerto Rico, Virgin Islands, and Guam

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[FSP No. 1977-2.2, Amdt. 107]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS, FOOD STAMP PROGRAM

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: ALASKA

Appendix B—Alaska

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for Alaska appearing in Appendix B to Part 271 which were effective January 1, 1977. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8325.

SUPPLEMENTARY INFORMATION:

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, and adjustment based on the cost of the Thrifty Food Plan in February 1977 has been made in the coupon allotment for all except the one- and two-person households. The cost of food did not increase enough for a change in the coupon allotment for the one- and two-person households, since section 7(a) specifies that no such adjustment shall be made unless the increase in the coupon allotment is a minimum of $2.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustments, the law specified that the first adjustment be made in January 1974 to reflect changes in the food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August, as required by the Act. The income standards and coupon allotments set forth below are based on the allotment table adopted for the continental United States, adjusted for the cost of food in Alaska in February 1977.

Households in which all members are included in the federally-aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance, general assistance, or supplemental security income benefit, in Alaska, shall be as follows:

Household size:	*Maximum allowable monthly income standards—Alaska*
One	[1] $307
Two	427
Three	614
Four	780
Five	927
Six	1,113
Seven	1,227
Eight	1,407
Each additional member	+173

[1] 1976 USDA Poverty Guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended, (7 U.S.C. 2016, Public Law 91-671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Alaska shall be as follows:

Monthly coupon allotments and purchase requirements—Alaska

Monthly net income	For a household of— 1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	$70	$128	$184	$234	$278	$334	$368	$422
	And the monthly purchase requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	32	34	35	36
$130 to $139.99	27	32	33	34	35	37	38	39
$140 to $149.99	30	35	36	37	38	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	45	50	52	53	54	54	56	57
$210 to $229.99	51	56	58	59	60	61	61	63
$230 to $249.99	56	62	64	65	66	67	68	69
$250 to $269.99	56	68	70	71	72	73	74	75
$270 to $289.99	56	74	76	77	78	79	80	81
$290 to $309.99	56	80	82	83	84	85	86	87
$310 to $329.99		86	88	89	90	91	92	93
$330 to $359.99		92	94	95	96	97	98	99
$360 to $389.99		101	103	104	105	106	107	108
$390 to $419.99		102	112	113	114	115	116	117
$420 to $449.99		102	121	122	123	124	125	126
$450 to $479.99			130	131	132	133	134	135
$480 to $509.99			139	140	141	142	143	144
$510 to $539.99			148	149	150	151	152	153
$540 to $569.99			157	158	159	160	161	162
$570 to $599.99			162	167	168	169	170	171
$600 to $629.99				176	177	178	179	180
$630 to $659.99				185	186	187	188	189
$660 to $689.99				194	195	196	197	198
$690 to $719.99				203	204	205	206	207
$720 to $749.99				205	213	214	215	216
$750 to $779.99				205	222	223	224	225
$780 to $809.99				205	231	232	233	234
$810 to $839.99					240	241	242	243
$840 to $869.99					248	250	251	252
$870 to $899.99					246	259	260	261
$900 to $929.99					246	268	269	270
$930 to $959.99						277	278	279
$960 to $989.99						286	287	288
$990 to $1,019.99						295	296	297
$1,020 to $1,049.99						298	305	306
$1,050 to $1,079.99						298	314	315
$1,080 to $1,109.99						298	323	324
$1,110 to $1,139.99						298	328	333
$1,140 to $1,169.99							328	342
$1,170 to $1,199.99							328	351
$1,200 to $1,229.99							328	360
$1,230 to $1,259.99								369
$1,260 to $1,289.99								378
$1,290 to $1,319.99								378
$1,320 to $1,349.99								378
$1,350 to $1,379.99								378
$1,380 to $1,409.99								378

For issuance to households of more than eight persons use the following formula:

A. *Value of the total allotment.* For each person in excess of eight, add $52 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $1,289.99 or less per month.

2. For households with monthly incomes of $1,290 or more, use the following formula: For each $30 worth of monthly income (or portion thereof) over $1,289.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $1,289.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $48 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

In view of the need for placing this notice into effect on July 1, 1977, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: May 11, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-14145 Filed 5-19-77;8:45 am]

[FSP No. 1977-3.2, Amdt. 108]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS FOOD STAMP PROGRAM

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: HAWAII

Appendix C—Hawaii

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for Hawaii appearing in Appendix C to Part 271 which were effective January 1, 1977. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-8325).

SUPPLEMENTARY INFORMATION:

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in February 1977 has been made in the coupon allotment for all households.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustments, the law specified that the first adjustment be made in January 1974 to reflect changes in the food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of food plan in the preceding August, as required by the Act. The income standards and coupon allotments set forth below are based on the allotment table adopted for the continental United States, adjusted for the cost of food in Hawaii in February 1977.

Households in which all members are included in the federally-aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance, general assistance, or supplemental security income benefit, in Hawaii, shall be as follows:

Household size	*Maximum allowable monthly income standards—Hawaii*
One	[1] $273
Two	413
Three	593
Four	753
Five	893
Six	1,073
Seven	1,187
Eight	1,354
Each additional member	+166

[1] 1976 USDA Poverty Guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Hawaii shall be as follows:

Monthly coupon allotments and purchase requirements—Hawaii

Monthly net income	For a household of— 1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	$62	$114	$178	$226	$268	$322	$356	$406
	And the monthly purchase requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
20 to $29.99	1	1	0	0	0	0	0	0
30 to $39.99	4	4	4	4	5	5	5	5
40 to $49.99	6	7	7	7	8	8	8	8
50 to $59.99	8	10	10	10	11	11	12	12
60 to $69.99	10	12	13	13	14	14	15	16
70 to $79.99	12	15	16	16	17	17	18	19
80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	32	33	35	36
$130 to $139.99	27	32	33	34	35	37	38	39
$140 to $149.99	30	35	36	37	38	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	45	50	52	53	54	55	56	57
$210 to $229.99	51	56	58	59	60	61	61	63
$230 to $249.99	54	62	64	65	66	67	68	69
$250 to $269.99	54	68	70	71	72	73	74	75
$270 to $289.99	54	74	76	77	78	79	80	81
$290 to $309.99		80	82	83	84	85	86	87
$310 to $329.99		86	88	89	90	91	92	93
$330 to $359.99		92	94	95	96	97	98	99
$360 to $389.99		96	103	104	105	106	107	108
$390 to $419.99		96	112	113	114	115	116	117
$420 to $449.99			121	122	123	124	125	126
$450 to $479.99			130	131	132	133	134	135
$480 to $509.99			139	140	141	142	143	144
$510 to $539.99			148	149	150	151	152	153
$540 to $569.99			156	158	159	160	161	162
$570 to $599.99			156	167	168	169	170	171

Monthly net income	For a household of— 1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	$88	$124	$178	$226	$268	$322	[illegible]	$406
	And the monthly purchase requirement is—							
$600 to $629.99				176	177	178	179	180
$630 to $659.99				185	186	187	188	189
$660 to $689.99				194	195	196	197	198
$690 to $719.99				198	204	205	206	207
$720 to $749.99				198	213	214	215	216
$750 to $779.99				198	222	223	224	225
$780 to $809.99					231	232	233	234
$810 to $839.99					236	241	242	243
$840 to $869.99					236	250	251	252
$870 to $899.99					236	259	260	261
$900 to $929.99						268	269	270
$930 to $959.99						277	278	279
$960 to $989.99						286	287	288
$990 to $1,019.99						286	296	297
$1,020 to $1,049.99						286	305	306
$1,050 to $1,079.99						286	314	315
$1,080 to $1,109.99							316	324
$1,110 to $1,139.99							316	333
$1,140 to $1,169.99							316	342
$1,170 to $1,199.99							316	351
$1,200 to $1,229.99								360
$1,230 to $1,259.99								362
$1,260 to $1,289.99								362
$1,290 to $1,319.99								362
$1,320 to $1,349.99								362
$1,350 to $1,379.99								362

For issuance to households of more than eight persons use the following formula:

A. *Value of the total allotment.* For each person in excess of eight, add $50 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $1,229.99 or less per month.

2. For households with monthly incomes of $1,230 or more, use the following formula: For each $30 worth of monthly income (or portion thereof) over $1,229.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $1,229.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $46 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

In view of the need for placing this notice into effect on July 1, 1977, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: May 11, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-14146 Filed 5-19-77;8:45 am]

Appendix D—Puerto Rico

[FSP No. 1977-4.2, Amendment 109]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS FOOD STAMP PROGRAM

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: PUERTO RICO

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for Puerto Rico appearing in Appendix D to Part 271 which were effective January 1, 1977. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8352.

SUPPLEMENTARY INFORMATION:

Section 5(b) of the Food Stamp Act requires the establishment of special standards of eligibility and coupon allotment schedules, not to exceed those in the fifty States, which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in Puerto Rico.

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in February 1977 has been made in the coupon allotment for all households.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the economy food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in the food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August, as required by the Act. The income standards and coupon allotments set forth below are based on the allotment table adopted for the continental United States, adjusted for the cost of food in Puerto Rico in February 1977.

Households in which all members are included in the federally-aided public assistance or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance or general assistance, in Puerto Rico, shall be as follows:

Household size:	*Maximum allowable monthly income standards—Puerto Rico*
One	[1] $245
Two	[1] 322
Three	453
Four	573
Five	680
Six	820
Seven	900
Eight	1,033
Each additional member	+127

[1] 1976 USDA Poverty Guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7(a) and (b) of the Food Stamp Act, as amended, (7 U.S.C. 2016, Public Law 91-671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amounts charged for the monthly coupon allotment in Puerto Rico shall be as follows:

Monthly coupon allotments and purchase requirements—Puerto Rico

Monthly net income	For a household of— 1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	$52	$94	$126	$172	$204	$246	$270	$310
	And the monthly purchase requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	6
$40 to $49.99	6	7	7	7	8	8	8	11
$50 to $59.99	8	10	10	10	11	11	12	13
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	36	36	37	39	40	41	42
$150 to $159.99	33	39	40	41	42	43	44	46
$160 to $169.99	36	44	44	45	47	48	49	50
$170 to $179.99	42	50	52	53	54	55	56	57
$180 to $209.99	42	56	58	60	60	61	62	63
$210 to $229.99	42	63	66	67	68	68	68	68
$230 to $249.99	42	63	66	66	66	67	67	67
$250 to $269.99		66	70	71	72	73	74	74
$270 to $289.99		74	76	77	78	79	80	81
$290 to $309.99		74	82	83	84	85	86	87
$310 to $329.99		74	88	89	90	91	92	93
$330 to $359.99			94	95	96	97	98	99
$360 to $389.99			106	106	106	106	107	108
$390 to $419.99			115	113	114	114	116	117
$420 to $449.99			118	123	123	124	125	126
$450 to $479.99			118	131	132	133	134	135
$480 to $509.99				140	141	142	143	144
$510 to $539.99				149	150	151	152	153
$540 to $569.99				148	159	160	161	162
$570 to $599.99				148	165	169	170	171
$600 to $629.99					176	178	179	180
$630 to $659.99					176	187	188	189
$660 to $689.99					176	196	197	198
$690 to $719.99						205	206	207
$720 to $749.99						214	215	216
$750 to $779.99						214	224	225
$780 to $809.99						214	233	234
$810 to $839.99						214	234	243
$840 to $869.99							234	253
$870 to $899.99							234	261
$900 to $929.99							234	270
$930 to $959.99								270
$960 to $989.99								270
$990 to $1,019.99								270
$1,020 to $1,049.99								270

For issuance to households of more than eight persons use the following formula:

A. *Value of the total allotment.* For each person in excess of eight, add $38 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $929.99 or less per month.

2. For households with monthly incomes of $930 or more, use the following formula: For each $30 worth of monthly income (or portion thereof) over $929.99, add $9 to the monthly purchase requirement for an eight-person household with an income of $929.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $34 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

In view of the need for placing this notice into effect on July 1, 1977, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: May 11, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-14147 Filed 5-19-77;8:45 am]

[FSP No. 1977-5.2, Amdt. 110]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS FOOD STAMP PROGRAM

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: VIRGIN ISLANDS

Appendix E—Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for the Virgin Islands appearing in Appendix E to Part 271 which were effective January 1, 1977. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8352.

SUPPLEMENTARY INFORMATION:

Section 5(b) of the Food Stamp Act requires the establishment of special standards of eligibility and coupon allotment schedules, not to exceed those in the fifty States, which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in the Virgin Islands.

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in February 1977 has been made in the coupon allotment for all except the one-person household. The cost of food did not increase enough for a change in the coupon allotment for the one-person household, since section 7(a) specifies that no such adjustment shall be made unless the increase in the coupon allotment is a minimum of $2.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjust-

ment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January allotment based on the cost of the food plan in the preceding August, as required by the Act. The income standards and coupon allotments set forth below are based on the allotment table adopted for the continental United States adjusted for the cost of food in the Virgin Islands in February 1977.

Households in which all members are included in the federally-aided public assistance grant or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance or general assistance, in the Virgin Islands, shall be as follows:

Household size:	*Maximum allowable monthly income standards—Virgin Islands*
One	[1] $245
Two	393
Three	560
Four	713
Five	847
Six	1,013
Seven	1,127
Eight	1,287
Each additional member	+160

[1] 1976 USDA Poverty Guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended, (7 U.S.C. 2016, Public Law 91–671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in the Virgin Islands shall be as follows:

Monthly coupon allotments and purchase requirements—Virgin Islands

Monthly net income	For a household of— 1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	$64	$118	$168	$214	$254	$304	$338	$386
	And the monthly purchase requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	45	50	52	53	54	55	56	57
$210 to $229.99	50	56	58	59	60	61	62	63
$230 to $249.99	50	62	64	65	66	67	68	69
$250 to $269.99		68	70	71	72	73	74	75
$270 to $289.99		74	76	77	78	79	80	81
$290 to $309.99		80	82	83	84	85	86	87
$310 to $329.99		86	88	89	90	91	92	93
$330 to $359.99		92	94	95	96	97	98	99
$360 to $389.99		92	103	104	105	106	107	108
$390 to $419.99		92	112	113	114	115	116	117
$420 to $449.99			121	122	123	124	125	126
$450 to $479.99			130	131	132	133	134	135
$480 to $509.99			139	140	141	142	143	144
$510 to $539.99			148	149	150	151	152	153
$540 to $569.99			146	158	159	160	161	162
$570 to $599.99				167	168	169	170	171
$600 to $629.99				176	177	178	179	180
$630 to $659.99				185	186	187	188	189
$660 to $689.99				186	195	196	197	198
$690 to $719.99				186	204	205	206	207
$720 to $749.99					213	214	215	216
$750 to $779.99					222	223	224	225
$780 to $809.99					222	232	233	234
$810 to $839.99					222	241	242	243
$840 to $869.99					222	250	251	252
$870 to $899.99						259	260	261
$900 to $929.99						268	269	270
$930 to $959.99						268	278	279
$960 to $989.99						268	287	288
$990 to $1,019.99						268	296	297
$1,020 to $1,049.99							296	306
$1,050 to $1,079.99							296	315
$1,080 to $1,109.99							296	324
$1,110 to $1,139.99							296	333
$1,140 to $1,169.99								342
$1,170 to $1,199.99								342
$1,200 to $1,229.99								342
$1,230 to $1,259.99								343
$1,260 to $1,289.99								343

For issuance to households of more than eight persons use the following formula:

A. *Value of the total allotment.* For each person in excess of eight, add $48 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $1,169.99 or less per month.

2. For households with monthly incomes of $1,170 or more, use the following formula: for each $30 worth of monthly income (or portion thereof) over $1,169.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $1,169.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $44 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107 and certifies that an Economic Impact Statement has been prepared.

In view of the need for placing this notice into effect July 1, 1977, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps.)

Dated: May 11, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77–14148 Filed 5–19–77;8:45 am]

[FSP No. 1977–6.2, Amdt. No. 111]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS FOOD STAMP PROGRAM

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: GUAM

Appendix F—Guam

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable income standards and basis of coupon issuance for Guam appearing in Appendix F to Part 271 which were effective January 1, 1977. Semi-annual adjustments in coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Act. These adjustments will continue to provide households with coupon allotments sufficient to purchase nutritionally adequate diets.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–8325).

SUPPLEMENTARY INFORMATION:

Section 5(b) of the Food Stamp Act requires the establishment of special standards of eligibility and coupon allotment schedules, not to exceed those in the fifty States, which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in Guam.

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in February 1977 has been made in the coupon allotment for all except the one- and two-person households. The cost of food did not increase enough for a change in the coupon allotment for the one- and two-person households, since Section 7(a) specifies that no such adjustment shall be made unless the increase in the coupon allotment is a minimum of $2.00.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semi-annual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the July adjustment based on the cost of the food plan in the preceding August, as required by the Act. Based on prices provided for Guam, the Agricultural Research Service estimated that the allotment table adopted for the continental United States, adjusted for the cost of food in Guam would be higher than in the fifty States. Thus, the income standards (except for the one-person household which is the same as Hawaii), and the coupon allotments set forth for Guam are the same as those which will become effective in Alaska on July 1, 1977.

Households in which all members are included in the federally-aided public assistance grant or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance, general assistance, or supplemental security income benefit, in Guam shall be as follows:

Household size:	*Maximum allowable monthly income standards—Guam*
One	[1] $278
Two	427
Three	614
Four	780
Five	927
Six	1,113
Seven	1,227
Eight	1,407
Each additional member	+173

[1] 1976 USDA Poverty Guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act, as amended, (7 U.S.C. 2016, Pub. L. 91–671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Guam shall be as follows:

Monthly coupon allotments and purchase requirements—Guam

Monthly net income	For a household of— 1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	$70	$128	$184	$234	$278	$334	$368	$422
	And the monthly purchase requirement is—							
0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	13
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	39	44	46	47	48	49	50	51
$190 to $209.99	45	50	52	53	54	55	56	57
$210 to $229.99	51	56	58	59	60	61	62	63
$230 to $249.99	56	62	64	65	66	67	68	69
$250 to $269.99	60	68	70	71	72	73	74	75
$270 to $289.99	66	74	76	77	78	79	80	81
$290 to $309.99		80	82	83	84	85	86	87
$310 to $329.99		86	88	89	90	91	92	93
$330 to $359.99		92	94	95	96	97	98	99

Monthly net income	For a household of—							
	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
	The monthly coupon allotment is—							
	$70	$128	$184	$234	$278	$334	$368	$422
	And the monthly purchase requirement is—							
$360 to $389.99		101	103	104	105	106	107	108
$390 to $419.99		102	112	113	114	115	116	117
$420 to $449.99		102	121	122	123	124	125	126
$450 to $479.99			130	131	132	133	134	135
$480 to $509.99			139	140	141	142	143	144
$510 to $539.99			148	149	150	151	152	153
$540 to $569.99			157	158	159	160	161	162
$570 to $599.99			162	167	168	169	170	171
$600 to $629.99			162	176	177	178	179	180
$630 to $659.99				185	186	187	188	189
$660 to $689.99				194	195	196	197	198
$690 to $719.99				203	204	205	206	207
$720 to $749.99				206	213	214	215	216
$750 to $779.99				206	222	223	224	225
$780 to $809.99				206	231	232	233	234
$810 to $839.99					240	241	242	243
$840 to $869.99					246	250	251	252
$870 to $899.99					246	259	260	261
$900 to $929.99					246	268	269	270
$930 to $959.99						277	278	279
$960 to $989.99						286	287	288
$990 to $1,019.99						295	296	297
$1,020 to $1,049.99						298	305	306
$1,050 to $1,079.99						298	314	315
$1,080 to $1,109.99						298	323	324
$1,110 to $1,139.99						298	328	333
$1,140 to $1,169.99							328	342
$1,170 to $1,199.99							328	351
$1,200 to $1,229.99							328	360
$1,230 to $1,259.99								369
$1,260 to $1,289.99								378
$1,290 to $1,319.99								378
$1,320 to $1,349.99								378
$1,350 to $1,379.99								378
$1,380 to $1,409.99								378

For issuance to households of more than eight persons use the following formula:

A. *Value of the total allotment.* For each person in excess of eight, add $52 to the monthly coupon allotment for an eight-person household.

B. *Purchase requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $1,289.99 or less per month.

2. For households with monthly incomes of $1,290 or more, use the following formula: For each $30 worth of monthly income (or portion thereof) over $1,289.99, add $9 to the monthly purchase requirement shown for the eight-person household with an income of $1,289.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $48 for each person over eight to the maximum purchase requirement shown for an eight-person household.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotment.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Economic Impact Statement has been prepared.

In view of the need for placing this notice into effect on July 1, 1977, and the lead-time needed by the State agency for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: May 11, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-14149 Filed 5-19-77;8:45 am]

federal register

FRIDAY, MAY 20, 1977

PART V



SECURITIES AND EXCHANGE COMMISSION

■

INDUSTRY AND HOMOGENEOUS GEOGRAPHIC SEGMENT REPORTING

Disclosure Forms and Rules; Amendment

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 239, 240, 249]

[Release Nos. 33–5826, 34–13525, 35–20023, IC–9761]

INDUSTRY AND HOMOGENEOUS GEOGRAPHIC SEGMENT REPORTING

Proposed Amendments of Disclosure Forms and Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Rule.

SUMMARY: The Commission proposes to revise certain disclosure forms and rules, in part to coordinate the Commission's line of business information with the industry segment information required by a recent statement issued by the Financial Accounting Standards Board and to avoid any duplication resulting from compliance with such statement. Certain of these proposals would require presentation of detailed descriptions of industry segments in which a registrant engages in business. Other amendments would require five-year financial information relating to industry segments and foreign and domestic operations. As a part of the latter proposal, the amendments would codify the position of the staff of the Commission's Division of Corporation Finance that segment financial information must be included in certain proxy and information statements and in annual reports to shareholders. In conjunction with these specific proposals, the Commission proposes the development of a new, integrated disclosure form. In addition, comments are sought on whether or not segment financial information should be required on a quarterly basis in the interim reports.

DATE: Comments should be submitted on or before August 10, 1977.

ADDRESS: Comments should refer to File S7–695 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Linda L. Griggs, Office of Disclosure Policy and Proceedings, Division of Corporation Finance (202–75–1750) or Edward R. Cheramy, Office of the Chief Accountant (202–376–8020), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In December 1976, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 14, "Financial Reporting for Segments of a Business Enterprise" ("SFAS No. 14"). SFAS No. 14 requires corporations to disclose certain financial information by industry and homogeneous geographic segments as defined in the statement. In part of this release, the Commission is proposing the revision of certain of its disclosure requirements in order to integrate the information to be furnished pursuant to SFAS No. 14 with the textual disclosures required by the Commission forms. Registrants may include any of the information specified in these proposed amendments within the Commission registration and reporting forms prior to the adoption of any revisions in order to provide more meaningful disclosure.

General Statement

The Securities and Exchange Commission today published for comment proposed amendments to certain of its reporting forms under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)) and the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). If adopted, these proposals would require registrants to discuss separately, within the business and property discussions contained in documents on Form S–1 (17 CFR 239.11) under the Securities Act and Forms 10 (17 CFR 249.210) and 10–K (17 CFR 249.310) under the Exchange Act, each industry segment into which their business operations are classified and to present a five-year tabular presentation of certain financial information concerning these industry segments and foreign and domestic operations in documents filed on Forms S–1, S–7 (17 CFR 239.26) and S–8 (17 CFR 239.16b) under the Securities Act and Forms 10 and 10–K under the Exchange Act. Concomitant with the latter proposal, the Commission proposes amendments which would codify the position of the staff of the Division of Corporation Finance (the "Staff") with respect to the disclosure of financial information relating to industry segments within the business description required by Item 14 of Schedule 14A of Regulation 14A (17 CFR 240.14a–101) under the Exchange Act and in annual reports to shareholders and which would require disclosure of financial information relating to foreign and domestic operations in these documents. Forms S–1 and S–7 are forms for the registration of securities under the Securities Act. Form S–8 is the form for the registration of securities under the Securities Act to be offered to employees pursuant to certain plans. Form 10 is the general form for the registration of securities under the Exchange Act. Form 10–K is the form for annual reports filed pursuant to section 13 or 15(d) of the Exchange Act and Schedule 14A specifies the information required to be set forth in proxy and information statements filed pursuant to Section 14 of the Exchange Act. Schedule 14A under the Exchange Act is also applicable to the solicitation of proxies under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)) and the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)).

In view of the extensive nature of the revisions necessitated by these proposals, the Commission is taking this opportunity to propose the development of Form S–K which would be an integrated disclosure form whose first two items would be the items affected by the proposed amendments discussed above. Items 9 and 10 of Form S–1, Item 5 of Form S–7, Item 18 of Form S–8, Items 1 and 3 of Forms 10 and 10–K, Rules 14a–3 (17 CFR 240.14a–3) and 14c–3 (17 CFR 240.14c–3) and Item 14 of Schedule 14A would be revised to refer specifically to the appropriate disclosure requirements contained in this integrated disclosure form.

In addition, the Commission requests comments as to whether it is necessary or appropriate in the public interest or for the protection of investors to amend Form 10–Q for quarterly reports (17 CFR 249.308) under the Exchange Act to require the inclusion of quarterly financial information relating to the industry segments into which a registrant's business is classified. Specific amendments to form 10–Q are not proposed at this time.

This release contains a general discussion of the background, purpose and effect of the proposals and requests comments on certain additional areas for disclosure.

A. BACKGROUND

In proposing these amendments at this time, the Commission has considered the impact on reporting obligations of corporations of the Statement of Financial Accounting Standards No. 14 ("SFAS No. 14") and has taken note of certain tentative recommendations made by the Advisory Committee on Corporate Disclosure (the "Advisory Committee"). A discussion of SFAS No. 14 and the Advisory Committee's recommendations follows.

SFAS No. 14. SFAS No. 14 requires the reporting of financial information relating to industry segments and foreign and domestic operations when a company issues annual financial statements or a complete set of interim period financial statements (i.e., balance sheet, income statement, statement of source and application of funds and notes to the financial statements).[1] The requisite information must be presented within the financial statements or the notes thereto or must be referenced in the financial statements if not clearly a part thereof.[2]

Companies are required to report the amounts of revenues, with intersegment sales or transfer shown separately, operating profit or loss (revenue less operating expenses) and identifiable assets for each significant industry segment.[3] In addition, the information about revenue, profitability and identifiable assets must be reconciled to the related amounts in the consolidated financial statements of the enterprise.[4] Certain other related disclosures are also required. A segment is regarded as significant and therefore reportable if its revenues, operating profits (or losses) or identifiable assets are ten percent or more of the related combined amounts for all of a company's industry segments.[5] To ensure that the reportable segments represent a substantial portion of the company's overall operations, SFAS No. 14 stipulates that the combined revenues of the reported segments must equal or exceed 75 percent of the company's total revenues.[6]

[1] SFAS No. 14, Paragraph 4.
[2] Id. Paragraph 28.
[3] Id. Paragraph 21.
[4] Id. Paragraph 30.

SFAS No. 14 requires companies to furnish financial information for their operations in different geographic areas of the world which is similar to that required for industry segments.[7] The financial information is to be presented for the company's domestic operations and for its foreign operations, either in the aggregate, or, if appropriate, by geographic area, if the revenue generated by the company's foreign operations from sales to unaffiliated customers contributed ten percent or more to consolidated revenue or if the identifiable assets of the company's foreign operations are ten percent or more of consolidated assets.[8] SFAS No. 14 also requires disclosure of the amount of export sales from an enterprise's home country to unaffiliated customers in foreign countries when this amount is ten percent or more of total revenue from sales to unaffiliated customers.[9]

Finally, if a company derives ten percent or more of its revenue from sales to any single customer, SFAS No. 14 requires disclosure of that fact and of the amount of revenue received from each such customer.[10]

SFAS No. 14 is effective for fiscal years beginning after December 15, 1976 and for interim periods within those fiscal years for which complete financial statements are provided. When financial statements are presented for more than one fiscal year, the segmental information must be presented for each such year.[11]

Recommendation of the Advisory Committee on Corporate Disclosure. At its February, 1977 meeting the Advisory Committee agreed to recommend that the Commission take action to (1) integrate the textural disclosures required in Commission forms with the segmental financial statement disclosures required by SFAS No. 14 and (2) require the inclusion of segmental financial statement disclosure in interim reports on Form 10–Q.[12] In furtherance of the integration of disclosures, the Advisory Committee also recommended that segment information be discussed in the Management's Discussion and Analysis of the Summary of Operations pursuant to Guides 22 and 1 (Accounting Series Release No. 159 (August 14, 1974), 39 FR 31894) of the Guides for the Preparation and Filing of Registration Statements under the Securities Act (17 CFR Part 231) and of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Exchange Act (17 CFR Part 241).

[5] Id. Paragraph 15.
[6] Id. Paragraph 17.
[7] Id. Paragraph 35.
[8] Id. Paragraph 32.
[9] Id. Paragraph 36.
[10] Id. Paragraph 39.
[11] Id. Paragraphs 3, 41.
[12] See Minutes of the Sixth Meeting of the Securities and Exchange Commission Advisory Committee on Corporate Disclosure on February 7 and 8, 1977.

B. PURPOSE AND EFFECT OF PROPOSED REVISIONS

These proposals represent the continuing efforts of the Commission to provide necessary information to investors and to minimize any consequent burden to registrants by making the various disclosure requirements more uniform. The specific proposals set forth herein should accomplish these goals by (1) taking the first step in providing an integrated disclosure form; (2) coordinating certain Commission line of business disclosure requirements with the segment disclosure requirements of SFAS No. 14; (3) improving segment disclosure for the benefit of investors; and (4) codifying a Staff position with respect to business related disclosure.

The proposal to begin the development of a new integrated disclosure form, Form S–K, should improve and simplify significantly the disclosure process by eliminating immaterial differences among the disclosure requirements in the various registration and reporting forms. If the proposed Form S–K is adopted, future amendments affecting many disclosure forms would be reflected in the new form with appropriate revisions and cross-references added to the disclosure forms.

Certain of the Commission forms now require disclosure of sales and income information for lines of business and income information for classes of similar products or services. The identification of the various lines of business has primarily been left to registrants by the Commission, although the Commission forms present general guidelines for such a determination.[13]

As a result of the issuance of SFAS No. 14 by the FASB, registrants will be required to include within their financial statements more detailed financial information relating to the reportable industry segments in which they do business. In addition, the Commission anticipates that companies complying with SFAS No. 14 may classify their business into industry segments which differ from the lines of business previously reported in the Commission forms. In order to avoid duplicative reporting of similar information as a result of SFAS No. 14, the Commission is proposing to amend its disclosure requirements to require the presentation of financial information relating to industry segments in lieu of lines of business in registration statements on Forms S–1, S–7, S–8 and 10, and in annual reports on Form 10–K.[14] In conjunction with these amendments the Commission is proposing revisions which would codify the Staff's policy that segment information should be included in certain proxy and information statements and in annual reports to shareholders.

The Commission also believes that the financial disclosure relating to domestic and foreign operations required by SFAS No. 14 will provide meaningful information to investors as to the volume of operations abroad and the importance to the company of both foreign operations and export sales. Therefore, amendments are proposed which would require inclusion of financial information relating to domestic and foreign operations in documents on Forms S–1, S–7, S–8, 10 and 10–K, in certain proxy and information statements and in annual reports to shareholders.

It is the opinion of the Commission that meaningful segment information is crucial to reasoned investment decision-making in multi-segment companies. Therefore, the Commission proposes certain amendments which would require the textual business discussion in Forms S–1, 10 and 10–K to be presented by industry segment.

The proposed amendment to require detailed descriptions of the industry segments as well as the amendments to require disclosure of financial information relating to industry segments and foreign and domestic operations should provide more specificity in the business information and should achieve more uniformity in the type of information in the documents and in the methods of presentation of this data. In addition, these proposed amendments would partially implement the aforementioned recommendations made by the Advisory Committee. The Commission is not proposing specific amendments to Guides 22 and 1 at this time, however, because additional amendments to these guides are contemplated. Nevertheless, registrants are urged to include within the management's discussion and analysis of the five-year summary of operations analyses of the performance of the industry segments.

[13] The Commission determined that it was not feasible or desirable to be very specific in defining a line of business because of the numerous ways in which companies are organized to do business. See Securities Act Release 4988 (July 14, 1969), 34 FR 12176.

C. COMMENTS INVITED ON DISCLOSURE BY FOREIGN ISSUERS AND ON QUARTERLY SEGMENTAL REPORTING

Comments are specifically requested on the resulting applicability of the proposed amendments to foreign issuers

[14] In general, the proposed amendments require the type of financial information required by SFAS No. 14. The Commission now is considering a petition submitted under Rule 4 of the rules of practice (17 CFR 201.4) by Tax Analysts and Advocates. The petition requests that disclosure be required of net income by geographic area in order that information may be obtained concerning, among other things, a corporation's effective tax rate on United States and foreign activities. The Commission will announce its action on the petition at a later time.

which file registration statements under the Securities Act. Interested persons are invited to discuss the proposed requirements that industry segments be described and that five-year financial information be furnished as to industry segments and foreign and domestic operations as they relate to foreign issuers.

Another recommendation of the Advisory Committee to the Commission is that quarterly reports contain segmental financial statement disclosure because of the importance of the information required by SFAS No. 14. Since SFAS No. 14 is applicable only to a complete set of financial statements, the statement would have no impact upon Form 10–Q financial statement requirements absent further Commission action. The Commission specifically invites comments on the need for this additional disclosure and on the burdens of maintaining accounting systems which would enable this information to be made available.

D. COMPLIANCE WITH THE PROPOSED AMENDMENTS PRIOR TO THEIR ADOPTION

In order to encourage the inclusion of more detailed segmental information in documents filed pursuant to the securities acts, the Commission has determined to permit registrants to include any of the information called for by these proposals upon their publication so long as the existing disclosure requirements are satisfied.

SPECIFIC PROPOSALS

A. FINANCIAL INFORMATION FOR INDUSTRY SEGMENTS

As noted above, the Commission proposes to amend certain disclosure forms to require the presentation of financial information relating to the industry segments into which the registrant's business is classified in lieu of the disclosure required now as to lines of business. These revisions would coordinate the disclosure required by the securities regulations with that required by SFAS No. 14 [16] and would result in more complete disclosure about registrants' businesses since the Commission forms only require disclosure of revenue and income information for individual lines of business.

Financial information relating to lines of business is required by specific instruction in the textual business descriptions contained in registration statements on Forms S–1, S–7, S–8, and 10 and in annual reports on Form 10–K. In addition, it has been the policy of the Staff to obtain, through the comment procedures, income, and revenue information for individual lines of business in certain proxy and information statements.[17] Line of business information has also been required in annual reports to shareholders by the statement in Rules 14a–3 and 14c–3 of Regulation 14A under the Exchange Act that the report should contain information as comprehensive as that required by paragraphs (c)(1) and (c)(2) of Item 1 of Form 10–K regarding lines of business and classes of similar products and services respectively. The Commission proposes to revise the type of disclosure in these documents and, at the same time, codify the Staffs position on segment disclosure in proxy and information statements and in annual reports to shareholders.

Proposed Item 1(c)(1) and (2) of the new integrated disclosure form, Form S–K, set forth the provisions relating to industry segment [17] and classes of product or service disclosure. Item 9 of Form S–1, Item 5 of Form S–7, and Item 1 of Forms 10 and 10–K would be amended to refer to the disclosure provisions in Item 1 of the integrated disclosure form. The requirement in Item 18 of Form S–8 to include information as comprehensive as that required in the Form 10–K regarding lines of business would be similarly amended. In addition, Rules 14a–3 and 14c–3 and Item 14(b) of Schedule 14A would be amended to specifically require the presentation of the information required by Item 1 paragraph (c) of the Form S–K.

Proposed Item 1(c)(1) requires disclosure of the following financial information relating to the industry segments into which a registrant's business is classified: (1) The amount of total sales and revenues with sales/transfers to unaffiliated customers and to other industry segments shown separately; (2) the amount of operating profit or loss (i.e., revenue less all operating expenses); (3) the aggregate amount of identifiable assets exclusively used by and those allocated to each segment; and (4) certain related disclosures. In addition, registrants would be required to reconcile the amounts of revenue, operating profit or loss and identifiable assets to the related amounts in the consolidated financial statements. Appendix A to the proposed item of Form S–K sets forth definitions appropriate to the disclosures required by this subparagraph and guidelines relevant to the determination of reportable industry segments. The disclosures which would be required as to industry segments in the Commission forms are generally the same as those required by SFAS No. 14.

Paragraph 20 of SFAS No. 14 provides an exception from the requirement to provide industry segment financial information. Whenever an enterprise operates exclusively in a single industry or a dominant portion of its operations are in a single industry segment, the financial information as to industry segments need not be given. SFAS No. 14 defines a dominant industry segment as a segment whose revenue, operating profit or loss, and identifiable assets each constitute more than 90 percent of related totals for all industry segments, when no other industry segment is deemed significant. Notwithstanding the provisions of SFAS No. 14, the Commission believes that financial information relating to a dominant industry segment should be presented where the segment is or was experiencing a material change in the trend of revenues or market share and/or profitability during either of registrant's two most recent fiscal years. Proposed Item 1(c)(1) requires such a presentation.

In addition, the Commission believes that the disclosure forms should contain more information concerning intersegment sales or transfers. Paragraphs 23 and 10(c) of SFAS No. 14 require separate disclosure of intersegment sales and an explanation of the basis of accounting for such sales.[18] Proposed Item 1(c)(1) would extend the requirements of SFAS No. 14 and require registrants to indicate the following by footnote to the amounts of intersegment sales: (1) The identity or identities of the industry segment(s) to which such intersegment sales by product or service were made and the amount(s) made to each; (2) the relationship between the per unit dollar amounts at which intersegment sales or transfers are reflected and the per unit dollar amounts of sales to unaffiliated third parties of identical products or services; and (3) the percentage of aggregate revenues of such identical products or services accounted for by the intersegment sales or transfers. This information should aid investors in determining the importance of intersegment transfers to a particular segment and in assessing the extent to which the profitability of one segment is dependent upon intersegment transfers.

The Commission forms presently require the presentation of financial information relating to lines of business for five years. SFAS No. 14, however, only requires industry segment information for each fiscal year beginning after December 15, 1976, and for each interim period for which complete financial statements (i.e., balance sheet, income statement, statement of source, and application of funds and notes to the financial statements) are included. Registration statements and certain proxy and information statements usually contain a complete set of financial statements for one fiscal year and possibly one interim period [19] and annual reports to

[16] This approach is consistent with the Commission's efforts to look to the private sector for leadership in establishing and improving accounting principles and standards through the FASB. See Accounting Series Release No. 150 (December 20, 1973), 39 FR 1260.

[17] Paragraph (b)(1) of Item 14 (Mergers, consolidations, acquisitions, and similar matters) of Schedule 14A requires corporations to describe the business of the issuer and of each person which is to be merged into the issuer or into or with which the issuer is to be merged or consolidated or the business or assets of which are to be acquired or which is the issuer of securities to be acquired by the issuer in exchange for all or a substantial part of its assets or to be acquired by security holders of the issuer and action is to be taken with respect to such transaction.

[17] To the extent that this information is responsive to the requirements of SFAS No. 14, a cross reference to the appropriate financial data in the business description could be included in the notes to the financial statements by registrants wishing to comply with SFAS No. 14 in this manner.

[18] The Commission expects that registrants will establish reasonable bases for accounting for such sales.

[19] See Form S–1, Instructions as to Financial Statements; Form S–7, Item 11(a); Form 10, Instructions as to Financial Statements.

shareholders and reports on Form 10–K set forth complete financial statements for two fiscal years.[20] Therefore, SFAS No. 14 would require the presentation of financial information relating to industry segments for at most two fiscal years.

The Commission believes that the business description in Forms S–1, S–7, S–8, 10, and 10–K, in proxy and information statements and in annual reports to shareholders should include the financial information required by SFAS No. 14 relating to industry segments for five years since the disclosure forms have required the presentation of line of business and income statement [21] information for this period of time for purpose of year to year comparison. Therefore, amendments are proposed which would require segmental information for the registrant's last five fiscal years or for each fiscal year during which the registrant has been engaged in business.

The Commission has not determined, however, whether the information relating to segments should be required for fiscal years which are not or have not been subject to SFAS No. 14. Therefore, comments are requested specifically on whether five-year financial information should be required for those fiscal years beginning on or prior to December 15, 1976. Since the Commission believes that historical information is essential for a complete understanding of a corporation's business, persons are requested to recommend the type of information which should be required in order to present comparative financial information if the adopted amendments were to apply prospectively only. Persons may wish to comment on the following possible alternative methods of presentation of five-year data: (1) The presentation of five-year line of business information together with industry segment information for fiscal years beginning after December 15, 1976, until five-year industry segment information is required; (2) the presentation of industry segment information for fiscal years beginning after December 15, 1976, with line of business data for earlier periods arrayed alongside the segment information to the extent they are comparable and with explanations of the reasons for any lack of comparability with earlier periods as a result of the change in reporting requirements; or (3) the presentation of industry segment information for fiscal years beginning after December 15, 1976, and line of business information for the balance of the five-year period together with a reconciliation with the segment information.

Information may be needed for a period of time in excess of five years. The proposed amendments note that the five-year period is merely a guide to disclosure and that information regarding operations occurring outside this period may be material under certain circumstances and should be disclosed. In addition, when registrants include a complete set of financial statements for an interim period in a report or registration statement, the required financial information should be provided for that interim period together with the five-year date.

B. TEXTILE DISCUSSION OF BUSINESS AND PROPERTY

The Commission proposes to amend Items 9 and 10 of Form S–1 and Items 1 and 3 of Forms 10 and 10–K to refer to the more detailed information relating to industry segments [22] which would be required by Items 1 and 2 of the new integrated disclosure document, Form S–K.

The Form S–K would require registrants to describe within the description of their business each industry segment into which their business is classified. The description would include matters such as the following: Competition; dependence upon a few customers; principal products and services; backlog; sources and availability of raw materials; the importance to the business and duration and effect of material patents and the like; research and development; number of employees; and the seasonality of the business. In order to obtain meaningful information about the industry segment, the Commission proposes to require registrants to discuss these matters to the extent they are material to each segment.

In addition to detailed disclosure relating to the industry segments, the proposed amendments would require registrants to discuss any of the aforementioned matters, if appropriate, within the general discussion of their business. As a result, research and development matters which do not affect any one existing industry segment and principal customers which purchase products from various industry segments, for instance, would be described in this general discussion of the business.

The proposal to require more detailed information about industry segments necessitates the revision of the instructions relating to the exhibits to be filed with Forms S–1, 10 and 10–K. The proposed amendments would require registrants to file contracts as exhibits to those documents if the contracts are material either to a particular industry segment or to the registrant as a whole. Existing provisions require the filing of only those contracts which are material to the registrant.

In conjunction with the drafting of the business description item for the new integrated disclosure form, the Commission has re-examined certain existing provisions of the business items included in Forms S–1, 10, and 10–K, to evaluate differences and reconsider the specific requirements. As noted above, certain differences between the items in the three forms have been eliminated through the proposed item of Form S–K. This re-examination has also resulted in the proposal to delete existing instructions 5 and 2 of paragraphs (b)(1) and (b)(2) respectively of Item 9 of Form S–1 and Instructions 5 and 2 of paragraphs (c)(1) and (c)(2) respectively of Item 1 of Forms 10 and 10–K. These instructions provide that financial information regarding classes of products or services in operations regulated by Federal, State, or municipal authorities may be limited to those classes of products or services required by any uniform system of accounts prescribed by such authorities. Comments are invited on whether the deletion of these instructions would have any adverse effects on the reporting obligations of any corporations regulated by State or municipal authorities.

The Commission proposes to add a sentence to the subparagraph in the business item of the Form S–K, Item 1 relating to research and development costs. Item 1(b)(7)(i) would require expenditures for company-sponsored research activities to be stated in accordance with generally accepted accounting principles. The Commission believes that it is appropriate to use the definition of research and development costs adopted by the FASB in making this disclosure.

The Commission also proposes to amend Item 10 of Form S–1 and Item 3 of Forms 10 and 10–K to implement the recommendation of the Advisory Committee that the property used by registrants be described by industry segment. Properties of a registrant would be discussed if they were material to the particular segment for which they were used or to the general operations of the registrant.

C. FOREIGN AND DOMESTIC OPERATIONS

The Commission believes that the information concerning a corporation's foreign and domestic operations required by SFAS No. 14 is meaningful to the analysis of a corporation's business. Therefore, amendments are proposed which would require the inclusion of this data within the business discussions set forth in registration statements on Forms S–1, S–7, S–8, and 10, in annual reports on Form 10–K, in annual reports to shareholders and in certain proxy and information statements. The Commission forms generally have not elicited very specific information about foreign operations; they merely require registrants to discuss the importance of material foreign operations or sales to the company and the risks attendant thereto and to present information with respect to volume and relative profitability of such operations "insofar as practicable." Existing Item 16 of Form S–8, Rules 14a–3 and 14c–3 of Regulation 14A and Item 14(b) of Schedule 14A are silent as to the appropriate disclosure concerning foreign operations in the Form S–8, in annual reports to shareholders and in certain proxy and information statements.

[20] See Form 10–K, Instructions as to Financial Statements.

[21] See Item 6, Summary of Earnings, Form S–1; Item 6, Statements of Income, Form S–7; Item 18, The Issuer's Business and Management, Form S–8; Item 2, Summary of Operations, Form 10; Item 2, Summary of Operations, Form 10–K.

[22] Amendments to Form S–7 to require detailed descriptions of the industry segments are not proposed because the information will be available to the investing public in the annual report on Form 10–K which is filed with the Commission.

Proposed paragraph (d) of Item 1 of the new integrated disclosure form (Form S–K) would continue to require a narrative discussion of the importance of a registrant's operations in foreign countries and any accompanying risks if the registrant and its subsidiaries engage in material operations in foreign countries, or if a material portion of sales or revenues is derived from customers in foreign countries. Subparagraph (1) would require the presentation of financial information relating to the registrant's foreign operations, either in the aggregate or by appropriate geographic area, and as to its domestic operations if the revenue generated by the registrant's foreign operations from sales to unaffiliated customers is 10 percent or more of total consolidated revenue or if the identifiable assets of the registrant's foreign operations are 10 percent or more of consolidated total assets as reported in the registrant's financial statements for either of the last two fiscal years or for the most recent interim period for which complete financial statements are furnished. The financial information to be furnished would be the amounts of revenue, with sales or transfers between geographic areas shown separately, and operating profit or loss and the aggregate carrying amount of identifiable assets. Registrants would also be required to reconcile the information about revenue, profitability and identifiable assets to the related amounts in the consolidated financial statements. In addition, the proposals would require registrants to present additional information about intraenterprise sales or transfers similar to that required as to intersegment sales or transfers so as to improve profitability analysis.

Subparagraph (2) would require registrants to state the amount of export sales from their home country to unaffiliated customers in foreign countries in the aggregate or by any appropriate geographic areas if the total amount of export sales contributed 10 percent or more to total sales to unaffiliated customers during either of the last two fiscal years.

Appendix A to proposed Item 1 of Form S–K sets forth definitions appropriate to the disclosures required by these subparagraphs and guidelines relevant to the determination of reportable foreign geographical areas.

In order to provide investors with truly useful historic information adequate to assess any recent trends in this aspect of the issuer's business, the Commission propose to require the presentation of information about foreign and domestic operations and about export sales for five fiscal years or such shorter times as the registrant may have engaged in business. No disclosure would be required for fiscal years beginning on or prior to December 15, 1976 because the Commission forms do not require such detailed disclosure now. Registrants are specifically requested to comment on the availability of this information to them for fiscal years prior to the effective date of SFAS No. 14; any interested persons are invited to comment on the usefulness of the historic information for fiscal years beginning on or prior to December 15, 1976.

Any interim information about foreign operations required by SFAS No. 14 to be included in the financial statements should be presented together with the information about foreign and domestic operations for five years (or any appropriate shorter period of time) in the business discussion, instead of or in addition to its placement in the notes to or schedules of the financial statements.

D. DISCLOSURE TABLES

In order to alleviate the burden on registrants as a result of these amendments, the Commission proposes the adoption of appendices to Item 1 of new Form S–K which contain tables that may be used for the presentation within the business discussion of the additional information regarding industry segments and foreign and domestic operations. Comments are specifically requested as to the usefulness of the tables.

Schedule of recommendations—Type of form to which amendments apply

	Form—							Annual report to shareholders	Certain proxy and information statements
	S–K	S–1	S–7	S–8	10	10–K			
1. Form amendments to items of disclosure;[1] Disclosure of:									
(a) 5 year historical financial information relating to industry segments to be applied either retroactively or prospectively.	X	X	X	X	X	X	X		X
(b) 5 year historical financial information relating to foreign and domestic operations to be applied prospectively.	X	X	X	X	X	X	X		X
(c) Amount of export sales for each of the last five years to be applied prospectively.	X	X	X	X	X	X	X		X
(d) Detailed business related descriptions of matters which are material to industry segments.	X	X	.....		X	X	.....		
(e) Discussion of property by industry segment.	X	X	.....		X	X	.....		
2. Form amendments to exhibits: Filing of contracts material to industry segments as exhibits.	X	X	.....		X	X	.....		

[1] An integrated disclosure form, form S–K, is proposed which would contain the proposed requirements. The disclosure forms affected by the proposed amendments would be amended to require the information required by the appropriate form S–K items.

PROPOSED AMENDMENTS

The text of the proposed amendments is set forth below:

1. Form S–K is proposed to read as follows:

§ 239.1 Form S–K, integrated disclosure form for the registration of securities under the Securities Act of 1933.

§ 249.300 Form S–K, integrated disclosure form for use under the Securities Exchange Act of 1934.

This integrated disclosure form shall be used to the extent provided in forms promulgated under the Securities Act of 1933 and under the Securities Exchange Act of 1934.

ITEM 1. DESCRIPTION OF BUSINESS

(a) *General.* Describe the business done and intended to be done by the registrant and its subsidiaries and the general development of such business during the past five years, or such shorter period as the registrant may have been engaged in business. Information shall be disclosed for earlier periods of time if necessary for a complete understanding of the general development of the business. To the extent appropriate, the general discussion of the business shall include the information specified in paragraphs (b)(1) through (b)(9) below.

(b) *Narrative disclosures by segment.* Each industry segment into which the registrant's business is classified shall be described separately. The description of each such segment shall include the information specified in paragraphs (b)(1) through (b)(9) below to the extent material to the segment.

(1) Competitive conditions in the industry segment involved and the competitive position of the registrant, if known or reasonably available to the registrant. If several products or services are involved, separate consideration shall be given to the principal products or services or classes of products or services. The principal methods of competition (e.g., price, service, warranty or product performance) should be identified and positive and negative factors pertaining to the competitive position of the registrant, to the extent that they exist, should be explained if known or reasonably available to the registrant. An estimate of the number of competitors and registrant's competitive position in the industry should be included; where material, the particular markets in which the registrant competes should be identified. In connection with these disclosures the names of either customers or competitors are not required in the usual case; however, where one or a small number of competitors are dominant, they should be identified. If the registrant voluntarily includes such names, no objection is ordinarily raised unless in the particular case the effect of including such names is misleading.

(2) If a material part of the business of the industry segment involved is dependent upon a single customer or a few customers, the loss of any one or more of whom would have a materially adverse effect on the business of the registrant, the name of the customer or customers, their relationship, if any, to the registrant and material facts regarding their importance to the business of the registrant.

(3) The principal products produced and services rendered by the registrant in the industry segment, the principal markets for, and methods of distribution of, such products and services, including any significant changes in the kinds of products produced or services rendered, or in the markets or methods of distribution, during the past three fiscal years (See Paragraph (c)(2) below).

(4) To the extent that information concerning backlog is material to an understanding of the business of the industry segment, the dollar amount of backlog orders believed to be firm, as of a recent date and as of a comparable date in the preceding fiscal year, together with an indication of the portion thereof not reasonably expected to be filled within the current fiscal year, and seasonal or other material aspects of the backlog.

(5) The sources and availability of raw materials essential to the business of the industry segment.

(6) The importance to the industry segment and the duration and effect of all material patents, trade marks, licenses, franchises and concessions held.

(7)(i) The estimated dollar amount spent during each of the last two fiscal years on material research activities relating to the development of new products or services or the improvement of existing products or services, indicating separately those activities which were company-sponsored and/or those which were customer-sponsored and disclosure of financial information relating to research and development activities. The disclosure of expenditures for company-sponsored research activities shall be stated in accordance with generally accepted accounting principles.

(ii) If there has been a public announcement of, or if information otherwise has become public about, a new product or industry segment requiring the investment of a material amount of total assets, a description of the status of such product or segment (e.g., whether in the planning stage, whether prototypes exist, the degree to which product design has progressed or whether further engineering is necessary). This subparagraph requires a description of the status of product development in addition to the description of the business otherwise required by the item. The subparagraph is not intended to require disclosure of otherwise non-public corporate information the disclosure of which would adversely affect the registrant's competitive position. It is intended to elicit additional specific information only where there has been a public announcement or where information has otherwise become public concerning a new product or industry segment requiring the investment of a material amount of total assets.

(iii) Where material, state the appropriate number of employees engaged fulltime in each of the activities described in 7(i) above during each fiscal year and in 7(ii) above.

(8) The extent to which the business of the industry segment or a material portion thereof is or may be seasonal.

(9) The number of persons employed by the registrant.

Instructions. 1. In identifying the appropriate reportable industry segments, the registrant shall consider the relevant provisions of Appendix A to this item.

2. If the registrant proposes to introduce or has recently introduced a new product or proposes to do business or has recently begun to do business in a new industry segment requiring the investment of a material amount of its total assets, provide as supplemental information at the time of filing of the document, but not as part thereof, a copy of any studies conducted or performed by or for the registrant relating to such business or product and a statement as to the actual or proposed use of such study. If any such study is not available at the time of filing, it should be provided as soon thereafter as practicable. Where material, disclosure of the absence of such study is required.

3. Where material to understanding the business, the practices and conditions of the registrant and the industry as they relate to working capital items should be explained (e.g., where the registrant's business is highly seasonal, where the registrant is required to carry significant amounts of inventory to meet rapid delivery requirements of customers or to assure itself of a continuous allotment of goods from suppliers; or where the registrant has provided extended payment terms to customers).

4. The description shall not relate to the powers and objects specified in the charter, but to the actual business done and intended to be done. Include the business of subsidiaries and affiliates of the registrant insofar as is necessary to understand the character and development of the business conducted by the total enterprise.

5. Appropriate disclosure shall also be made as to the material effects that compliance with Federal, State and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the registrant and its subsidiaries. Registrant shall disclose any material estimated capital expenditures for environmental control facilities for the remainder of its current fiscal year and its succeeding fiscal year and for such further periods as the registrant may deem material.

6. In describing developments, information shall be given as to matters such as the following: The nature and results of any bankruptcy, receivership or similar proceedings with respect to the registrant or any of its significant subsidiaries; the nature and results of any other material reorganization, readjustment or succession of the registrant or any of its significant subsidiaries; the acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; and any material changes in the mode of conducting the business.

7. The business of a predecessor or predecessors shall be deemed to be the business of the registrant for the purpose of this item.

8. Appropriate disclosure shall be made with respect to any material portion of the business which may be subject to renegotiation of profits or termination of contracts or subcontracts at the election of the Government.

(c) *Financial information about Industry Segments and Classes of Similar Products or Services.* (1) State for each of the registrant's last five fiscal years (or for each fiscal year beginning after December 15, 1976,)[*] or for each fiscal year the registrant has been engaged in business, whichever period is shorter, and for each interim period in a fiscal year beginning after December 15, 1976 for which the registrant includes in the document a complete set of financial statements (i.e., balance sheet, income statement, statement of source and application of funds and notes to the financial statements) the information set forth in (i)–(vii) below. The information shall be presented as to each of the reportable industry segments into which the business of the registrant and its subsidiaries is classified for the purpose of responding to paragraph (b) above and in the aggregate for the remainder of the enterprise's industry segments not deemed reportable segments. Registrants should note, however, that the five-year period is merely a guide to disclosure and that disclosure of information regarding operations occurring outside this five-year period may be material under certain circumstances. The financial information required by this subparagraph need not be furnished if all of the registrant's business is in a single industry segment or if a single industry segment contributes amounts of revenue and operating profit or loss each of which equals more than 90 percent of registrant's total revenue and operating profit or loss respectively and utilizes more than 90 percent of the registrant's identifiable assets during each of its two most recent fiscal years. If, however, such dominant segment is experiencing during either of those years a material change in the trend of revenues, market share or profitability, the financial data required by the subparagraph shall be provided. Appendix A to this item contains definitions and guidelines for compliance with the subparagraph and the required information may be presented in the form of the table set forth in Appendix B.

(i) The amount of total sales and revenues with intersegment sales/transfers shown separately. By footnote to the amount of total intersegment sales/transfers, state: (A) The identity of the industry segment(s) to which such intersegment sales/transfers by product or service were made and the amount(s) made to each; (B) the relationship between the per unit dollar amounts at which intersegment sales/transfers are reflected and the per unit dollar amount of sales to unaffiliated third parties of identical products or services; and (C) the percentage of aggregate revenues of such identical products or services accounted for by the intersegment sales/transfers.

(ii) The amount of operating profit or loss (revenue less operating expense).

(iii) The aggregate carrying amount of identifiable assets.

(iv) Reconciliations of the information about revenue, profitability and identifiable assets to the related amounts in the registrant's consolidated financial statements.

(v) The aggregate amount of depreciation, depletion, and amortization expense.

(vi) The amount of capital expenditures, i.e., additions to its property, plant, and equipment.

(vii) The equity in the net income from and investment in the net assets of unconsolidated subsidiaries and other equity method investees whose operations are vertically integrated with the operations of that segment. Disclosure shall also be made of the geographic areas in which those vertically integrated equity method investees operate.

(2) State for each fiscal year specified in (1) above the amount or percentage of total sales and revenues contributed by each class of similar products or services which accounted for 10 percent or more of total sales and revenues in either of the last two fiscal years, or 15 percent or more of total sales and revenues if total sales and revenues did not exceed $50,000,000 during either of the last two fiscal years. This paragraph calls for information with respect to classes of similar products or services regardless of whether the registrant's business activities are classified into more than one industry segment and reported pursuant to paragraph (c)(1) above. However, this information may be combined, where appropriate, with the response to paragraph (c)(1).

[*] The language in brackets would be included in the subparagraph if the Commission determines that segment reporting should be required only prospectively. In this event, an instruction would be added to the subparagraph which would require the presentation of information which would make possible an analysis of the performance of the registrant's business during a period of five years. See text of release for alternative methods of presentation of the historical financial information relating to the various segments of a registrant's business.

(d) *Financial information about foreign and domestic operations and export sales.* If the registrant and its subsidiaries engage in material operations in foreign countries, or if a material portion of sales or revenues is derived from customers in foreign countries, appropriate disclosure shall be made with respect to the importance of that part of the business to the registrant and the risks attendant thereto.

(1) State for each of the registrant's last five fiscal years, or for each fiscal year beginning after December 15, 1976, or for each fiscal year the registrant has been engaged in business, whichever period is less, and for each interim period in a fiscal year beginning after December 15, 1976 for which the registrant includes in the document a complete set of financial statements (i.e. balance sheet, income statement, statement of source and application of funds and notes to the financial statements) the information set forth in (i)–(iv) below. The information shall be presented as to the registrant's domestic operations in the aggregate and as to its foreign operations, either in the aggregate or by appropriate homogeneous geographic segment, if the revenue generated by the registrant's foreign operations from sales to unaffiliated customers is 10 percent or more of consolidated revenue or if the identifiable assets of the registrant's foreign operations are 10 percent or more of consolidated total assets as reported in the registrant's financial statements during either of the last two fiscal years or during the most recent interim period for which complete financial statements are furnished. Separate information about domestic operations need not be presented if the revenue from sales to unaffiliated customers and the identifiable assets of the domestic operations are less than 10 percent of related consolidated amounts.

(i) The amount of total sales and revenues with sales or transfers between geographic areas (i.e., intraenterprise transfers) shown separately. By footnote to the amount of intraenterprise sales or transfers, state: (A) The identity of the geographic area(s) (foreign and domestic) to which such sales/transfers by product or service were made and the amount(s) made to each; (B) the relationship between the per unit dollar amounts at which the intraenterprise sales/transfers were reflected and the per unit dollar amount of sales to unaffiliated third parties of identical products or services; and (C) the percentage of aggregate revenues of such identical products or services accounted for by the intraenterprise sales/transfers between the geographic areas.

(ii) The amount of operating profit or loss, net income or some other measure of profitability between operating profit or loss and net income as long as a common level of profitability is reported for all geographic areas.

(iii) The aggregate carrying amount of identifiable assets.

(iv) Reconciliations of the information about revenue, profitability, and identifiable assets to related amounts in the registrant's consolidated financial statements.

(2) State for each fiscal year and interim period specified in (d)(1) above, the amount of export sales from the registrant's home country to unaffiliated customers in foreign countries in the aggregate or by any appropriate geographic areas if the total amount of export sales contributed 10 percent or more to total sales to unaffiliated customers during either of the last two fiscal years or during the most recent interim period for which complete financial statements are provided.

Instruction. Registrants should note that the five-year period is merely a guide to disclosure and that disclosure of information regarding operations occurring outside this five-year period may be material under certain circumstances. Appendix A to this item contains definitions and guidelines for compliance with this paragraph and the required information may be presented in the form of the table set forth in Appendix C.

(e) The Commission may, upon written request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. In addition to the information expressly required to be included in a registration statement, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

APPENDIX A—DEFINITIONS AND GUIDELINES FOR COMPLIANCE WITH INDUSTRY AND HOMOGENEOUS GEOGRAPHIC SEGMENT REPORTING REQUIREMENTS

The definitions and guidelines set forth below are relevant to the segment reporting requirements of the business item of this form:

DEFINITIONS

Certain terms are defined as follows:

1. *Segment.* An industry segment or a homogeneous geographic segment.

2. *Industry segment.* A component of the business of a registrant and its subsidiaries (hereinafter registrant) engaged in providing a product or service or a group of related products or services primarily to unaffiliated customers (i.e., customers outside the registrant) for a profit.[24] Disaggregation of the vertically integrated operations of a registrant is not required.

3. *Foreign operations.* Those revenue-producing operations (except for unconsolidated subsidiaries and other unconsolidated investees) that (a) are located outside of the registrant's home country (the United States for U.S. enterprises) [25] and (b) are generating revenue either from sales to unaffiliated customers or from intraenterprise sales or transfers between geographic areas.[26]

4. *Homogeneous geographic segments.* Domestic operations, in the aggregate, and foreign operations, either in the aggregate or, if appropriate, by geographic areas.

5. *Domestic operations.* Those revenue-producing operations of the registrant located in its home country that generate revenue either from sales to unaffiliated customers or from intraenterprise sales or transfers between geographic areas. Sales to unaffiliated customers include both (a) sales to customers within the registrant's home country and (b) sales to customers in foreign countries.

6. *Export sales.* Sales to customers in foreign countries.

7. *Reportable segment.* An industry or a homogeneous geographic segment (or, in certain cases, a group of two or more closely related segments—see paragraph 19) for which information is required to be reported by Item 1 of this form.

8. *Revenue.* The revenue of an industry or homogeneous geographic segment includes revenue both from sales and transfers to unaffiliated customers (i.e., revenue from customers outside the business as reported in the registrant's income statement) and from intersegment or intraenterprise sales or transfers, if any, of products and services similar to those sold to unaffiliated customers.[27] Interest from sources outside the business and interest earned on intersegment or intraenterprise trade receivables is included in revenue if the asset on which the interest is earned is included among the segment's identifiable assets (see paragraph 10), but interest earned on advances or loans to other segments is not included.[28] For purposes of this Item, revenue from intersegment or intraenterprise sales or transfers shall be accounted for on the basis used by the registrant to price the intersegment or intraenterprise sales or transfers. If the basis is changed, disclosure shall be made of the nature of the change and its effect on the reportable segment's operating profit or loss in the period of change.

9. *Operating profit or loss.* The operating profit or loss of an industry segment is its revenue as defined in paragraph 8 minus all operating expenses. As used herein, operating expenses include expenses that relate to both revenue from sales to unaffiliated customers and revenue from intersegment sales or transfers; those operating expenses incurred by registrant shall be allocated on a reasonable basis among the industry segments for whose benefit the expenses were incurred. Methods used to allocate operating expenses among segments in computing operating profit or loss should be reasonable and consistently applied from period to period (but, if changed, disclosure shall be made of the nature of the change and its effect on the reportable segment's operating profit or loss in the period of change). For purposes of this Item, intersegment purchases shall be accounted for on the same basis as intersegment sales or transfers (i.e., on the basis used by the registrant to price the intersegment sales or transfers). None of the following shall be added or deducted, as the case may be, in computing the operating profit or loss of an industry segment: Revenue earned at the corporate level and not derived from the operations of any industry segment; general corporate expenses; [29] interest expenses,[30] domestic and foreign income taxes; equity in income or loss from unconsolidated subsidiaries and other unconsolidated investees; gain or loss on discontinued operations; extraordinary items; minority interest; and the cumulative effect of a change in accounting principles.

10. *Identifiable assets.* The identifiable assets of a segment are those tangible and intangible enterprise assets that are used by the segment, including (i) assets that are used exclusively by that segment, and (ii) an allocated portion of assets used jointly by two or more segments. Assets used jointly by two or more segments shall be allocated among the segments on a reasonable basis. Because the assets of a segment that transfers products or services to another segment are not used in the operations of the receiving segment, no amount of those assets shall be allocated to the receiving segment. Assets that represent part of a registrant's investment in a segment, such as goodwill, shall be included in the segment's identifiable assets.[31] The identifiable assets of a segment shall not include advances or loans to or investments in another segment, except that advances or loans to other segments shall be included in the identifiable assets of a financial industry segment because the income therefrom is included in computing the financial segment's operating profit or loss (see footnote 5). Asset valuation allowances such as the following shall be taken into account in computing the amount of a segment's identifiabe assets: Allowance for doubtful accounts, accumulated depreciation, and marketable securities valuation allowance. With respect to industry segments, assets maintained for general corporate purposes (i.e., those not used in the operations of any industry segment) shall not be allocated to industry segments.

DETERMINATION OF REPORTABLE INDUSTRY SEGMENTS

11. The reportable segments of a registrant shall be determined by (a) identifying the individual products and services from which the registrant derives its revenue, (b) grouping those products and services by industry lines into industry segments (see paragraphs 12–14), and (c) selecting those industry segments that are significant with respect to registrant as a whole (see paragraphs 16–19).

12. The determination of a registrant's industry segments must depend to a considerable extent on the judgment of the registrant's management. Nevertheless, a registrant's existing profit centers represent a logical starting point for determining the industry segments. The term "profit center" is used to refer to a registrant's individual products and services or groups of related products and services, particularly with respect to its domestic operations, that are sold primarily to outside markets and for which information about revenue and profitability is accumulated. If a registrant's existing profit centers cross industry lines, it will be necessary to disaggregate the existing profit centers into smaller groups of related products and services (except as provided in paragraph 15). If a registrant operates in more than one industry but does not presently accumulate any information on a less-than-total-enterprise basis (i.e., its only profit center is the enterprise as a whole), it shall disaggregate its operations along industry lines (except as provided in paragraph 15).

13. Among the factors that should be considered in determining whether products and services are related (and, therefore, should be grouped into a single industry segment) or unrelated (and, therefore, should be separated into two or more industry segments) are the following:

(a) *The nature of the product.* Related products or services have similar purposes or end uses. Thus, they may be expected to have similar rates of profitability, similar degrees of risk, and similar opportunities for growth.

(b) *The nature of the production process.* Sharing of common or interchangeable production or sales facilities, equipment, labor force, or service group or use of the same or similar basic raw materials may suggest that products or services are related. Likewise, similar degrees of labor intensiveness or similar degrees of capital intensiveness may indicate a relationship among products or services.

(c) *Markets and marketing methods.* Similarity of geographic marketing areas, types of customers, or marketing methods may indicate a relationship among products or services. For instance, the use of a common or interchangeable sales force may suggest a relationship among products or services. The sensitivity of the market to price changes and to changes in general economic conditions may also indicate whether products or services are related or unrelated.

14. Broad categories such as manufacturing, wholesaling, retailing, and consumer products are not per se indicative of the industries in which a registrant operates, and those terms should not be used without identification of a product or service to describe the industry segments.

15. Industry segmentation on a worldwide basis is a desirable objective but it may be impracticable for some registrants. To the extent that revenue and profitability information is accumulated along industry lines for a registrant's foreign operations, as defined in paragraph 3, or that it would be practicable to do so, industry segments shall be determined on a worldwide basis. To the extent that it is impracticable to disaggregate part or all of its foreign operations along industry lines, the registrant shall disaggregate along industry lines its domestic operations and its foreign operations for which disaggregation is practicable and shall treat the aggregate of its foreign operations for which disaggregation is not practicable as a single industry segment. When that segment qualifies as a reportable industry segment (see paragraphs 16–19), disclosure shall be made of the types of industry operations included in the foreign operations that have not been disaggregated.

16. An industry segment is identified as a reportable segment for which financial information must be presented (see paragraph 17)—if it satisfies one or more of the following tests in either of the last two fiscal years.

(a) Its revenue (including both sales to unaffiliated customers and intersegment sales or transfers) is 10 percent or more of the combined revenue (sales to unaffiliated customers and intersegment sales or transfers) of all of the registrant's industry segments.

(b) The absolute amount of its operating profit or operating loss is 10 percent or more of the greater, in absolute amount, of:

(i) The combined operating profit of all industry segments that did not incur an operating loss; or

(ii) The combined operating loss of all industry segments that did incur an operating loss.

(c) Its identifiable assets are 10 percent or more of the combined identifiable assets of all industry segments.

Revenue, operating profit or loss, and identifiable assets relating to those foreign operations that have not been disaggregated along industry lines on grounds of impracticability (see paragraph 15) shall be included in computing the combined revenue, combined operating profit or operating loss, and combined identifiable assets of the registrant's industry segments.

17. The results of applying the percentage tests in paragraph 16 shall be evaluated from the standpoint of interperiod comparability before final determination of a registrant's reportable segments is made. For instance, interperiod comparability would most likely require that an industry segment that has been significant in the past and is expected to be significant in the future be regarded as a reportable segment even though it fails to satisfy the tests in paragraph 16 in either fiscal year.

18. The combined revenue from sales to unaffiliated customers of all reportable segments (that is, revenue not including intersegment sales or transfers) shall constitute at least 75 percent of the combined revenue from sales to unaffiliated customers of all industry segments. The test shall be applied separately for each of the last two fiscal years. Revenue relating to those foreign operations that have not been disaggregated along industry lines on grounds of impracticability shall be included in the denominator of the computation required by this paragraph and will be included in the numerator if those operations have bene identified (in accordance with paragraphs 15 and 16) as a reportable segment. If the industry segments identified as reportable in accordance with paragraphs 16 and 17 do not satisfy the 75 percent test in this paragraph, additional industry segments shall be identified as reportable segments (subject to the provisions of this paragraph) until the 75 percent test is met.

19. As the number of industry segments tha would be identified as reportable segments in accordance with paragraphs 16–18 increases above 10, the question of whether a practical limit has been reached comes increasingly into consideration, and combining the most closely related industry segments into broader reportable segments may be appropriate. Combinations shall be made, however, only to the extent necessary to contain the number of reportable segments within practical limits while still meeting the 75 percent test.

DETERMINATION OF REPORTABLE FOREIGN HOMOGENEOUS GEOGRAPHIC SEGMENTS

20. If a registrant's foreign operations are conducted in two or more geographic areas as defined in paragraph 21 the financial information required by this item shall be

[24] In some industries, it is normal practice for a company to purchase and sell substantially identical commodities to minimise transporting or other costs. In those situations, sales and purchases of substantially identical commodities shall be netted for the purpose of determining whether a product or service or a group of related products or services is sold primarily to unaffiliated customers. Although those sales and purchases are netted for the purpose of identifying an industry segment, it is not intended that this rule change a registrant's accounting practice with respect to determining its revenue or that of any of its industry segments.

[25] A registrant whose home country is other than the United States but that prepares financial statements in conformity with U.S. generally accepted accounting principles shall classify operations outside of its home country as foreign operations.

[26] Difficulties may arise in classifying the activities of certain types of registrants. The following examples may provide useful guidelines: (1) Determination of whether the employment of a registrant's mobile assets, such as offshore drilling rigs or ocean-going vessels, constitutes foreign operations should depend on whether such assets are normally identified with operations located and generating revenue from outside the home country. If they are normally identified with the registrant's foreign operations, revenue generated from abroad would be considered foreign revenue. If they are normally identified with domestic operations, revenue generated from abroad would be considered export sales; (2) Services rendered by the foreign offices of a service company such as a consulting firm, having offices or facilities located both in the home country and in foreign countries, would be considered foreign operations, and the revenue should be considered foreign revenue. Revenue generated abroad from services, provided by domestic offices should be considered export sales.

[27] Intersegment billings for the cost of shared facilities or other jointly incurred costs do not represent intersegment sales or transfers as that term is used in this item.

[28] Interest earned on advances or loans to other segments is included in computing the operating profit or loss of a segment whose operations are principally of a financial nature (e.g., banking, insurance, leasing, or financing).

[29] Some of the expenses incurred in a registrant's central administrative office may not be general corporate expenses, but rather may be operating expenses of segments that should therefore be allocated to those segments. The nature of an expense rather than the location of its incurrence shall determine whether it is an operating expense. Only those expenses identified by their nature as operating expenses shall be allocated as operating expenses in computing segment's operating profit of loss.

[30] Interest expense is deducted in computing the operating profit or loss of a segment whose operations are principally of a financial nature (e.g., banking, insurance, leasing, or financing).

[31] Any related depreciation or amortization expense is deducted in determining the operating profit or loss of the segment.

presented separately for each significant foreign geographic area, and in the aggregate for all other foreign geographic areas not deemed significant. A geographic area shall be regarded as significant, for the purpose of applying this paragraph, if its revenue from sales to unaffiliated customers or its identifiable assets are 10 percent or more of related consolidated amounts.

21. Foreign geographic areas are individual countries or groups of countries as may be determined to be appropriate in registrant's particular circumstances. No single method of grouping the countries in which a registrant operates into the geographic areas can reflect all of the differences among international business environments. Each registrant shall group its foreign operations on the basis of the differences that are most important in this particular circumstances. Factors to be considered include proximity, economic affinity, similarities in business environments, and the nature, scale, and degree of interrelationship of the registrant's operations in the various countries.

APPENDIX B—INDUSTRY SEGMENT REPORTING

The table set forth below is an illustration of the presentation in tabular form of the information required by paragraph (c)(1) of the business item regarding industry segments.

Financial information relating to industry segments

	Industry segment		Other industry segments	Adjustments and eliminations	Consolidations
	A	B			
Sales to unaffiliated customers (year):					
1					
2					
3					
4					
5					
Intersegment sales (year):					
1					
2					
3					
4					
5					
Total revenue (year):					
1					
2					
3					
4					
5					
Depreciation, depletion and amortization expense (year):					
1					
2					
3					
4					
Capital expenditures (year):					
1					
2					
3					
4					
5					
Operating profit or loss (year):					
1					
2					
3					
4					
5					
Equity in net income of vertically integrated X Co. (year):					
1					
2					
3					
4					
5					
Identifiable assets at end of (year):					
1					
2					
3					
4					
5					
Investment in net assets of vertically integrated X Co. (year):					
1					
2					
3					
4					
5					

APPENDIX C—FOREIGN AND DOMESTIC OPERATIONS

The table set forth below is an illustration of the presentation in tabular form of the information required by paragraph (d) of the business item regarding foreign and domestic operations.

	United States [1]	Geographic area		Adjustments and eliminations	Consolidations
		A	B		
Sales to unaffiliated customers (year):					
1					
2					
3					
4					
5					

	Industry segment		Other industry segments	Adjustments and eliminations	Consolidations
	A	B			
Export sales to unaffiliated customers (year):					
1					
2					
3					
4					
5					
Transfers between geographic areas (year):					
1					
2					
3					
4					
5					
Total revenue (year):					
1					
2					
3					
4					
5					
Operating profit or loss [2] (year):					
1					
2					
3					
4					
5					
Identifiable assets at end of (year):					
1					
2					
3					
4					
5					

[1] Or appropriate area of domestic operations.
[2] Or some other reasonable measure of profitability.

ITEM 2. DESCRIPTION OF PROPERTY

(a) State briefly as to each of registrant's industry segments discussed in Item 1 the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries. If any such property is not held in fee or is held subject to any major encumbrance, so state and briefly describe how held. (The remainder of this item would be the same as existing Item 10 of Form S–1 except for changes in cross references and the inclusion of information relevant to filings under the Exchange Act.)

2. Item 1 of Form 10 is proposed to be revised to read as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * *

ITEM 1. BUSINESS

(a) State the year in which the registrant was organized and its form of organization (such as "a corporation," or "unincorporated association" or other appropriate statement).

(b) The description of the business shall include the information required by Item 1 of Form S–K.

(c) (This paragraph is the same as Instruction 9 to Item 1 of Form 10 and the Note thereto.)

* * * * *

3. Item 1 of Form 10–K is proposed to be revised to read as follows:

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

ITEM 1. BUSINESS

The description of the business shall include the information required by Item 1 of Form S–K.

4. Item 9 of Form S–1 is proposed to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

ITEM 9. DESCRIPTION OF BUSINESS

(a) The description of the business shall include the information required by Item 1 of Form S–K.

(b) (This paragraph is the same as Instruction 9 to Item 9 of Form S–1 and the Note thereto.)

* * * * *

5. Paragraphs (b) and (d) of Item 5 of Form S–7 are proposed to be amended to read as follows:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

ITEM 5. BUSINESS

(a) * * *

(b) Information relating to industry segments and classes of similar products and services shall be furnished in accordance with the provisions of paragraph (c) of Item 1 of Form S–K.

(c) * * *

(d) Information relating to foreign operations and export sales shall be furnished in accordance with the provisions of paragraph (d) of Item 1 of Form S–K.

* * * * *

6. Item 18 of Form S–8 is proposed to be amended to read as follows:

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * *

(a) Include a description of the business done by the issuer and its subsidiaries during the fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the issuer and its subsidiaries. Information relating to the issuer's industry segments, classes of similar products and services, foreign operations and export sales shall be furnished in accordance with paragraphs (c) and (d) of Item 1 of Form S–K.

* * * * *

7. Paragraph (b)(8) of Item 14 of Securities Exchange Act Schedule 14A is proposed to be amended to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statements.

Item 14. * * *

(b) * * *

(8) Information relating to the issuer's industry segments, classes of similar products and services, foreign operations and export sales shall be furnished in accordance with the provisions of paragraphs (c) and (d) of Item 1 of Form S–K.

8. Paragraph (b)(6) of Rule 14a–3 and Paragraph (a)(6) of Rule 14c–3 are proposed to be amended to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

§ 240.14c–3 Annual report to be furnished security holders.

* * * * *

(6) The report shall contain information relating to the issuer's industry segments, classes of similar products and services, foreign operations and export sales furnished in accordance with the provisions of paragraphs (c) and (d) of Item 1 of Form S–K.

* * * * *

9. Item 10 of Form S–1, Item 3 of Form 10 and Item 3 of Form 10–K are proposed to be amended to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

PROPERTIES

Information relating to properties shall be furnished in accordance with the provisions of Item 2 of Form S–K.

10. Paragraph (a) of Instruction 13 of the Instructions as to Exhibits of Form S–1 and Paragraph (a) of Instruction 9 of the Instructions as to Exhibits of Form 10 are proposed to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * *

(a) Copies of every contract material to an industry segment and not made in the ordinary course of business which is to be performed in whole or in part at or after the filing of the registration statement or which was made not more than two years before filing, except contracts called for, or the omission of which is expressly authorized by the foregoing instructions. Only contracts need be filed as to which the registrant or a subsidiary of the registrant is a party or has succeeded to a party by assumption or assign-

ment, or in which the registrant or such subsidiary has a beneficial interest.

* * * * *

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 121, 155; (15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78o(d), 78w(a)).)

STATUTORY AUTHORITY FOR PROPOSED AMENDMENTS

The foregoing amendments to Forms S–1, S–7 and S–8 are proposed pursuant to section 6, 7, 8, 10 and 19(a) of the Securities Act and the revisions submitted as to Forms 10 and 10–K and to Regulation 14A are proposed pursuant to sections 6, 7, 8, 10 and 19(a) of the the Exchange Act, sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and sections 20(a) and 38(a) of the Investment Company Act of 1940.

Pursuant to section 23(a)(2) of the Exchange Act, the Commission has considered the impact that these proposals would have on competition and is not aware, at this time, of any burden that such rules, if adopted, would impose on competition not necessary or appropriate in furtherance of the purposes of that Act. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

In addition, the Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 10, 1977.

[FR Doc.77–14237 Filed 5–19–77;8:45 am]

federal register

FRIDAY, MAY 20, 1977

PART VI



DEPARTMENT OF LABOR

Office of the Secretary

■

WALSH-HEALEY PUBLIC CONTRACTS ACT

Procedures and Interpretation

DEPARTMENT OF LABOR

Office of the Secretary

[41 CFR Part 50–201 and 50–206]

WALSH-HEALEY PUBLIC CONTRACTS ACT

Procedures and Interpretation

AGENCY: Department of Labor.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend our regulations and codify our interpretations issued under the Walsh-Healey Public Contracts Act. Experience has demonstrated a need for these clarifying and interpretative amendments.

DATE: Comments on this proposal will be received until June 20, 1977.

ADDRESSES: Comments should be sent to the Administrator, Wage and Hour Division, Room S3502, New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C., 20210. The comments may be examined during regular working hours. After expiration of the time for submitting comments the comments will be evaluated and appropriate action taken.

FOR FURTHER INFORMATION CONTACT:

Alvin Bramow, Deputy Associate Solicitor, Division of General Legal Services, Office of the Solicitor, Room N2464, New Department of Labor Building, 200 Constitution Ave., NW., Washington, D.C. 20210, phone 202–523–8293.

SUPPLEMENTARY INFORMATION: It is proposed to codify in 41 CFR Part 50–201 the fact that Walsh-Healey Public Contracts Act determinations of eligibility of a bidder as a manufacturer or regular dealer are usualy made by the contracting officer and reviewed by the Department of Labor. It is further proposed to codify our position that bad faith misrepresentations concerning a bidder's being a regular dealer or manufacturer are a basis for the contracting officer's voiding the contract *ad initio*. Also new Walsh-Healey Act regulations issued by agencies other than the Department of Labor would require approval of the Administrator prior to becoming effective. Current regulations would not require such approval and would remain in effect except for those at variance with Department of Labor Regulations. Interpretation of the terms manufacturer, assembler and regular dealer are proposed to be included in a new part, 41 CFR Part 50–206.

This document was prepared under the direction and control of Warren D. Landis, Acting Administrator, Wage and Hour Division, Room S3502, New Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210, phone 202–523–8305.

Accordingly, it is proposed to amend Part 50 of Title 41 as follows:

1. It is proposed to amend Part 50–201 by adding a new paragraph (b) to § 50–201.101, making the present section into paragraph (a) with appropriate redesignation of the subparagraphs therein, as follows:

PART 50–201—GENERAL REGULATIONS

§ 50–201.101 Manufacturer or regular dealer.

(a) *Definitions.* A bidder or contractor shall be deemed to be a "manufacturer" or "regular dealer" within the meaning of the stipulation required by section 1(a) of the act and § 50–201.1(a) if he falls within one of the following categories:

(1) A manufacturer is a person who owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

(2) A regular dealer is a person who owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.

(i) A regular dealer in lumber and timber products, if a wholesale lumber dealer, may be a person who owns, operates, or maintains a place of business in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business: *Provided*, That at least more than 50 percent of his business is such purchase and sale of such materials, supplies, articles, or equipment; *And provided further*, That upon all orders to manufacturers for direct shipment to the United States he agrees to insert a notice to the manufacturer to the effect that the supplies are purchased for the United States and that the manufacturer is within the terms of § 50–201.104 requiring compliance with the provisions of the Public Contracts Act.

(ii) A machine tool dealer may be a person possessing, through contract or agreement with a manufacturer, the responsibility for selling that manufacturer's products, with respect to a specific territory and who is authorized by such manufacturer to offer its products and to negotiate and conclude contracts for the furnishing thereof: *Provided*, That upon all orders to manufacturers for direct shipment to the United States he agrees to insert a notice to the manufacturer to the effect that the supplies are purchased for the United States and that the manufacturer is within the terms of § 50–201.104 requiring compliance with the provisions of the Public Contracts Act.

(iii) A regular dealer in hay, grain, feed, or straw may be a person who owns, operates, or maintains a store, warehouse, or other place of business in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business, and whose principal business is such purchase and sale of such materials, supplies, articles, or equipment.

(iv) A regular dealer in raw cotton may be a person who owns, operates or maintains a store, warehouse, or other place of business in which materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business, and whose principal business is such purchase and sale of such materials, supplies, articles, or equipment.

(v) A regular dealer in green coffee may be a person who owns, operates or maintains a store, warehouse, or other place of business in which materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business, and whose principal business is such purchase and sale of such materials, supplies, articles or equipment.

(vi) A regular dealer in petroleum may be a person who owns, operates, or maintains petroleum distribution equipment and a store, warehouse, or other place of business in which petroleum products of the general character described by the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business, and whose principal business is such purchase and sale of such petroleum products.

(vii) A regular dealer in agricultural liming materials may be a person who owns or controls the necessary equipment customarily required for delivering agricultural liming materials to farms or for spreading such materials on fields, who has made arrangements to purchase liming materials of the general character described by the specifications and required under the contract from a manufacturer, and who offers such material for sale to the public in the usual course of business.

(viii) A regular dealer in tea may be an importer who owns, operates, or maintains a store, warehouse, or other place of business in which materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business.

(ix) A regular dealer in raw or unmanufactured cotton linters may be a person who owns, operates or maintains a store, warehouse, or other place of business in which materials, supplies, articles, or equipment of the general character described in the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business, and whose principal business is such purchase and sale of such materials, supplies, articles, or equipment.

(x) A regular dealer in used automatic data processing equipment may be a person who owns or controls previously owned or used items, materials, supplies, articles, or equipment of the general character described in the specifications and required under the contract and who offers such items for sale to the public in the usual course of business and whose principal business is the purchase and sale of such items, materials, supplies, articles, or equipment.

(3) (i) (A) Except as hereinafter provided, every bid received from any bidder who does not fall within one of the foregoing categories shall be rejected by the contracting officer.

(B) If it is discovered after an award that the bidder did not act in good faith in representing that it was a manufacturer or regular dealer within the meaning of the stipulations as interpreted in this Chapter 50, such contract shall, immediately upon such discovery, be voided *ab initio* by the contracting officer. Lack of good faith may be inferred from the facts in the case.

(ii) Whenever justice and the public interest will be served, bids for a contract or class of contracts will be exempted from the foregoing requirement by the Secretary of Labor upon the request of the head of the contracting agency or department when accompanied by his finding of fact that it will be so difficult to obtain satisfactory bids for the contract or class of contracts under the stipulated restrictions, that the conduct of the Government business will be seriously impaired.

(b) *Determination of eligibility.* (1) The responsibility for applying the stated eligibility requirements in order to determine whether or not a bidder is qualified as a manufacturer or regular dealer before award rests in the first instance with the contracting agency pursuant to authority delegated by the Secretary of Labor in accordance with section 4 of the Act. (Circular Letter 8–61.) Contracting agencies shall obtain and consider all available factual evidence essential to eligibility determinations for all bidders on contracts subject to the Act.

(2) Any decision of the contracting agency is subject to review by the Department of Labor according to the procedures outlined below. The decision of the Department of Labor shall be final with respect to the procurement or procurements at issue.

(3) The Department of Labor shall give great weight to the technical knowledge and expertise of the contracting agencies and the Department of Labor shall uphold the contracting agencies' initial determinations unless the determinations are found to be arbitrary, capricious or otherwise not in accordance with the evidence presented or with the law.

(4) The Department of Labor may determine the qualifications of a bidder in the first instance in the absence of any decision by the contracting agency.

(5) The contracting agency shall investigate and determine the Walsh-Healey eligibility status of a bidder in at least the following circumstances and shall not merely rely on the representation or affirmation of a bidder:

(i) In all cases where a bidder has not previously been awarded a contract subject to the Act by the individual procuring office;

(ii) In all cases where a pre-award investigation or survey of a bidder's operations is otherwise made;

(iii) In all cases where there is a protest of a bidder's eligibility; and

(iv) In all cases where a contracting officer may have reason to question a bidder's eligibility, such as where the proposed place of contract performance and shipment is other than the location of the bidder's place of business.

(6) The following procedures shall be utilized by the contracting officer in processing an eligibility case:

(i) When the contracting officer has determined that an apparently successful bidder or offeror is ineligible, the contracting officer shall promptly notify the bidder or offeror in writing that:

(A) It does not meet the eligibility requirements, and the specific reason therefor;

(B) If it wishes to protest such determination, it may submit any evidence concerning its eligibility to the contracting officer within a reasonable time as set by the contracting officer; and

(C) If, after review of the evidence submitted by the bidder or offeror, the contracting officer does not reverse the decision, the bidder's or offeror's protest, together with all pertinent evidence, will be forwarded to the Administrator of the Wage and Hour Division of the Department of Labor for a final determination, and the bidder or offeror will be so notified.

(ii) When another bidder or offeror challenges the eligibility of the apparently successful bidder or offeror prior to award:

(A) The contracting officer shall promptly notify the protestor and the apparently successful bidder or offeror in writing:

(*1*) That they may submit evidence concerning the matter to the contracting officer within a reasonable time as set by the contracting officer; and

(*2*) That after review of such evidence, the contracting officer will direct a preaward survey, if necessary, and reach a decision on all the evidence. The contracting officer shall then forward the decision and entire record to the Administrator of the Wage and Hour Division for a final determination.

(iii) (A) If the contracting officer forwards the case to the Department of Labor for review of eligibility under the Act, award will be held in abeyance until the contracting officer receives a final determination from the Department of Labor, unless the contracting officer finds that award should be made immediately because:

(*1*) The items to be procured are urgently required; or

(*2*) Delay of delivery or performance by failure to make the award promptly will result in substantial hardship to the Government.

(B) If the contracting officer decides to proceed with the award, the contracting officer shall give written notice of the decision to proceed to the protester, the Department of Labor and to other concerned parties.

(iv) If an award is made under paragraph (b) (6) (iii) of this section, the contracting officer shall submit to the Department of Labor documentation explaining the need for making an award prior to the receipt of a final determination from the Administrator of the Wage and Hour Division.

(v) A protest received after award, but before final completion of the contract, shall be investigated and processed under the provisions outlined in paragraph (b) (6) (ii) of this section and forwarded to the Department of Labor, and the protestor shall be so notified.

(vi) If the contract has been completed before receipt of the protest, the protester shall be notified that no action will be taken on the protest.

2. It is proposed to add to Part 50–201 a new § 50–201.301 reading as follows:

§ 50–201.301 Agency regulations.

The head of each agency shall prescribe regulations for the administration of the Walsh-Healey Public Contracts Act and the regulations in this part. Agency regulations, directives and orders for such purpose shall be submitted to the Administrator of the Wage and Hour Division prior to issuance and may not be enforced prior to approval by the Administrator or prior to 60 days after submission if not disapproved by the Administrator. Currently existing regulations are not affected by this section, except where such regulations are not in conformity with the Walsh-Healey Public Contracts Act and the Department of Labor regulations. In such cases, agency regulations shall be appropriately revised.

3. It is proposed to add a new Part 50–206 to Chapter 50, Title 41, as follows:

PART 50–206—THE WALSH-HEALEY PUBLIC CONTRACTS ACT INTERPRETATIONS

Subpart A—General

Sec.	
50–206.1	The Walsh-Healey Public Contracts Act.
50–206.2	Administration of the Act.
50–206.3	Purpose and scope of this part.

Subpart B—[Reserved]

Subpart C—Contractors

QUALIFICATION OF CONTRACTOR

50–206.50	To whom covered contracts may be awarded—eligibility.
50–206.51	Manufacturer.
50–206.52	Assembler.
50–206.53	Regular dealer.
50–206.54	Regular dealer in particular products.
50–206.55	Agents.
50–206.56	Administrative exemptions.

AUTHORITY: Sec. 4, 49 Stat. 3038, 41 U.S.C. 38, Secretary of Labor's Order No. 16–75, 40 FR 55913, and Employment Standards Order 2–76, 41 FR 9016.

Subpart A—General

§ 50–206.1 The Walsh-Healey Public Contracts Act.

The Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35–45), hereinafter referred to as the Act, was enacted "to provide conditions for the purchase of supplies and the making of contracts by the United States." It is not an act of general applicability to industry. The Supreme Court has described it as an instruction by the Government to its agents who were selected and granted final authority to fix the terms and conditions under which the Government will permit goods to be sold to it. Its purpose, according to the Supreme Court, "was to impose obligations upon those favored with Government business and to obviate the possibility that any part of our tremendous national expenditures would go to forces tending to depress wages and purchasing power and offending fair social standards of employment." ("Perkins v. Lukens Steel Co.," 310 U.S. 113, 128 (1940); "Endicott Johnson Corp. v. Perkins," 317 U.S. 501 (1943).) To this end, the Act requires those who enter into contracts to perform Government work subject to its terms to adhere to specifically prescribed representations and stipulations as set forth in 41 CFR 50–201.1 pertaining to qualifications of contractors, minimum wages, overtime pay, safe and sanitary working conditions of workers employed on the contract, the use of child labor or convict labor on the contract work, and the enforcement of such provisions. Except as otherwise specifically provided, these representations and stipulations are required to be included in every contract "for the manufacture or furnishing of materials, supplies, articles, and equipment in any amount exceeding $10,000" which is made and entered into by an agency of the United States or other entity as designated in section 1 of the Act, hereinafter referred to as "contracting agency." Contractors performing work subject to the Act thus "enter into competition to obtain government business on terms of which they are fairly forewarned by inclusion in the contract." ("Endicott Johnson Corp. v. Perkins, supra," 317 U.S. at 507.) The Act also provides for enforcement of the required representations and stipulations by various methods. Certain exemptions from the application of the Act are provided in section 9 of the statute. Other exemptions, variations, and tolerances may be provided under section 6 of the statute by the Secretary of Labor or the President.

§ 50–206.2 Administration of the Act.

(a) The Secretary of Labor is authorized and directed to administer the provisions of the Act, to make investigations, findings, and decisions thereunder, and to make, amend, and rescind rules and regulations with respect to its application (see sections 4 and 5). The Supreme Court has recognized that the Secretary may issue rulings defining the coverage of the Act. ("Endicott Johnson Corp. v. Perkins, supra",) According to the Court (ibid.), in the statute as originally enacted "Congress submitted the administration of the Act to the judgment of the Secretary of Labor, not to the judgment of the courts." An amendment to the Act in 1952 added specific provisions for judicial review (see section 10). The Secretary has promulgated regulations to carry out provisions of the Act, which are set forth elsewhere in this chapter (Part 50–201 (general regulations); Part 50–202 (minimum wage determinations); Part 50–203 (rules of practice); and Part 50–204 (Safety and Health Standards)). The Secretary of Labor has delegated to the Administrator of the Wage and Hour Division through the Assistant Secretary for Employment Standards the authority to promulgate regulations and to issue official rulings and interpretations. So long as such regulations, rulings, and interpretations are not modified, amended, rescinded, or determined by judicial authority to be incorrect, they may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947 (61 Stat. 84, 29 U.S.C. 251, et seq., discussed in 29 CFR Part 790). Furthermore, these interpretations are intended to indicate the construction of the law which the Department of Labor believes to be correct and which will be followed in the administration of the Act unless and until directed otherwise by Act of Congress or by authoritative rulings of the courts. ("Skidmore v. Swift & Co.", 323 U.S. 134 (1944), "Roland Co. v. Walling", 326 U.S. 657 (1946); "Endicott Johnson Corp. v. Perkins, supra", and "Perkins v. Lukens Steel Co., supra".)

(b) The courts have held that the "interpretations of the Walsh-Healey Act and the regulations adopted thereunder, as made by the Secretary of Labor acting through his Administrator, are both correct and reasonable." ("Jno. McCall Coal Company v. United States," 374 F. 2d 689, 692 (C.A. 4, 1967); see also "United States v. Davison Fuel and Dock Company," 371 F. 2d 705, 711–714 (C.A. 4, 1967).) These policies are designed to protect not only employees but also the competitive interest of all firms qualified to compete for covered contracts.

§ 50–206.3 Purpose and scope of this part.

It is the purpose of this Part 50–206 to make available, in codified form for the guidance of agencies of the United States or other entities designated in section 1 of the Act and persons or firms contracting therewith, official rulings and interpretations with respect to the Walsh-Healey Public Contracts Act. This part constitutes the official statement of the position of the Department of Labor in matters relating to this Act. The interpretative rules herein stated supersede, to the extent of any inconsistency, Rulings and Interpretations No. 3 and all other rulings, interpretations, and enforcement policies not set forth in this chapter. This Part 50–206 illustrates the principles stated herein by showing their application to situations which frequently arise. Since it cannot include every possible situation, no inference should be drawn from the fact that a subject or illustration is omitted. If doubt arises, inquiries should be directed to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington, D.C. 20210, or to any Regional Office of the Wage and Hour Division.

Subpart B—[Reserved]

Subpart C—Contractors

QUALIFICATIONS OF CONTRACTORS

§ 50–206.50 To whom covered contracts may be awarded—eligibility.

(a)(1) Section 1(a) of the Act requires that every contract subject to the Act shall contain a representation and stipulation by the contractor that it is either "the manufacturer of or a regular dealer in" the commodities to be manufactured or used in the performance of the contract. As noted in the following sections, these terms are defined by regulation. The legislative history makes it clear that this statutory requirement is intended, among other things, to eliminate the award of contracts to "bid brokers," and to provide labor standards protection for employees who actually engage in the manufacture or furnishing of the goods to the Government, by requiring, among other things, that the Government award contracts only to bona fide manufacturers or regular dealers. A breach of this required stipulation is a violation of the Act; however, a contractor who has been awarded a contract in spite of its failure to qualitfy as a manufacturer or regular dealer is not relieved of its obligation to comply with the other requirements of the Act and regulations, which are also contract stipulations.

(2) In implementing Section 1(a) of the Act, the Secretary of Labor has defined in 41 CFR 50–201.101 the terms "manufacturer" and "regular dealer" by stating the affirmative requirements that must be met by potential contractors before they may receive Government contracts subject to he Act. Every bid from any bidder who is not a manufacturer or regular dealer, as defined therein and in accordance with this subpart, must be rejected by the contracting officer. See 41 CFR 50–201.101(a)(3)(i).

(3) The provisions of 41 CFR 50–201.1 require that the representations and stipulations prescribed in section 1 of the Act must be included in invitations to bid and in contracts subject to the Act, either in full or by incorporation by reference. Since no qualifications may be placed on the required representations and stipulations, any bid which seeks to avoid full compliance with the Act by any qualification or reservation must be rejected. (See 16 Comp. Gen. 593.)

(b) The responsibility for applying the stated eligibility requirements in order to determine whether or not a bidder is qualified as a manufacturer or regular dealer before award rests in the first instance with the contracting agency pursuant to authority delegated by the Secretary of Labor in accordance with section 4 of the Act (Circular Letter 8–61), as detailed in § 50–201.101(b) of Part 50–201 of this chapter. It is the obligation of the contracting agencies to obtain and consider all factual evidence essential to eligibility determinations for all bidders on contracts subject to the Act.

§ 50–206.51 Manufacturer.

(a)(1) Section 50–201.101(a)(1) of Regulations 41 CFR Part 50–201, defines a manufacturer as a "person who owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications."

(2) Generally, there should be no question as to a bidder's eligibility. The bidder either has, or has not, the requisite plant, equipment and personnel to produce on its own premises the goods called for under the Government contract.

(b) A bidder who desires to qualify for an award as a manufacturer must show before the award that it is (1) an established manufacturer of the particular good or goods of the general character sought by the Government (i.e., that the bidder has a plant, equipment and personnel to manufacture on its own premises the goods called for under the contract) or (2) if the bidder is "newly entering" into such manufacturing activity that the bidder has made all necessary prior arrangements and definite commitments for (i) manufacturing space, (ii) equipment, and (iii) personnel to perform on its own premises the manufacturing operations required for the fulfillment of the contract. A new firm which, prior to the award of a contract, has made such definite prior arrangements and commitments in order to enter a manufacturing business which will qualify it should not be barred from receiving the award because it has not yet done any manufacturing, even if such arrangement and commitments are contingent upon the award of a Government contract. However, in order to meet the "definite commitment" test for "newly entering" firms, the bidder must have entered into written, legally binding arrangements and commitments prior to, even though contingent upon, award, under which the bidder would acquire for itself plant, equipment and personnel if awarded the Government contract. This would be evidence of a bona fide intent to establish a continuing manufacturing entity and, as such, to become an eligible manufacturer. This requirement is intended to exclude from eligibility bidders who make unsubstantiated assertions that they are eligible and then totally subcontract or broker the contract after award.

(c)(1) In general, such "newly entering" firm must show that the manufacturing activity in question is not one which has been set up solely to produce on a Government contract and whose operations will be terminated upon completion of that contract. In effect, the firm must have established arrangements on a continuing basis for production of the goods desired by the Government.

(2) The documentation required to evidence prior arrangements and definite commitments will vary depending upon the facts and circumstances of the particular case. The contents and bona fides of all documentation and arrangements must be examined to determine if the spirit and intent of the Act and the regulations have been met. The following are examples of what the Department of Labor considers as sufficient evidence of all necessary prior arrangements and definite commitments:

(i) Manufacturing space can be either owned or leased by and in the name of the bidder. A recorded deed to the bidder's property in which the manufacturing is to take place, or a copy of a properly executed bona fide lease agreement clearly identifying the manufacturing space and setting forth the terms and conditions of the lease, would generally be considered evidence of prior arrangements and definite commitments for space. In addition, as noted above, any such lease agreement must be legally binding on the part of both parties to the agreement, the space must be for the exclusive and unrestricted use of the lessee, and the term of the lease must be of sufficient duration so that the bidder will be able to clearly fulfill the contract before the lease expires.

(ii)(A) The bidder must own or have made written, legally binding definite commitments to purchase or lease sufficient equipment to manufacture the goods, materials, or articles required for contract fulfillment. A bidder must have full, complete and unrestricted control of the necessary equipment. A bill of sale or a purchase order may evidence definite commitments for equipment. The general requirements with respect to a bill of sale or purchase order are that it be dated and signed by the bidder, specifically identifying and describing the equipment and the terms of payment for the equipment purchased or to be purchased, and containing the date by which the vendor delivered or is required to deliver the equipment.

(B) The vendor must provide written evidence of acceptance, such as a bill or invoice, acknowledging receipt of the purchase order, as written, and setting forth the terms of payment in accordance with prevailing business practice. Such documentation is normally associated with the consummation of a sale in the usual conduct of business transactions.

(C) Letters of intent for space and equipment or vendor quotations or offers to sell or lease space or equipment, or affidavit that a sale or conveyance has occurred, do not constitute legally binding contractual agreements or definite commitments.

(iii) The best evidence of available personnel is the presence on the payroll of the manufacturing employees necessary to fulfill the contract. However, affirmative evidence which the bidder submits showing what prior arrangements and definite commitments it has made to hire its own manufacturing personnel will be considered.

(d) A bidder's mere representation or affirmation that he is a qualified manufacturer or has fulfilled the above applicable conditions is insufficient. Evidence must be presented to the contracting agency which shows that these conditions are, in fact, met prior to any award of a contract subject to the Act. If it is discovered after an award that the bidder did not act in good faith by actually fulfilling these acquisition requirements, such contract award shall, in accordance with § 50–201.101(a)(3)(i)(A) immediately upon such discovery, be voided *ab initio* by the contracting officer.

(e) The plain language of the Act and regulations makes it clear that covered contracts are to be awarded only to contractors who are currently capable of manufacturing on their premises the goods called for under the contract or who, if newly entering into manufacturing, have made binding commitments before award to enable them to produce such goods as discussed above. Thus, a bidder's arrangements to use, rent, or share the equipment, personnel, or space of another legal entity on a time and material or "as needed" basis do not constitute the making of all necessary prior arrangements or definite commitments. (See "In re Metalcraft Mfg. Sale Corp.", 15 WH Cases 557, 566 (1962).) The Department has consistently held that the availability of the manufacturing and producing establishments of others does not qualify the contractor as a manufacturer as the term is defined herein. See, for example, "In re Electric Ventilating Corp.", 13 WH Cases 220, "In re Dimensional Displays", 12 WH Cases 847, and "In re Paramount Industries, Inc.", 11 WH Cases 721.

(f) Every bidder must qualify in its own right as a manufacturer under the Act. Therefore, all evidence documenting a bidder's eligibility must be in the name of the bidder. Arrangements or proposals for subcontracting, or a bidder's affiliation or relation with another firm, even one having the same officers or ownership, are not definite commitments nor are they evidence of the bidder's own eligibility as a manufacturer, even though such affiliate or subcontractor might be a qualified manufacturer. The fact that one legal entity may qualify as a manufacturer does not confer such status upon another legal entity. (See Decision of the Hearing Examiner, "In re Alden Industries, Inc.," PC–551, March 16, 1954; "In re Alsco Commercial Furniture Co., Inc.," PC–469, July 16, 1952.)

(g) A bidder's eligibility status on a previous Walsh-Healy contract or its performance as a subcontractor on Walsh-Healy contracts are not determinative evidence of the bidder's present eligibility as a manufacturer.

(h) Activities such as engineering, planning, design, inspection, quality control, testing, marking, packaging, and repackaging and shipping may be incidental, ancillary or necessary to manu-

facturing. Nevertheless, such operations are not, standing alone, or in combination, considered "manufacturing," i.e. fabrication or production. The proposed performance solely of such activities does not qualify a firm as a manufacturer.

(i) A certificate of competency issued by the Small Business Administration is not material to Walsh-Healey eligibility status or determinations. As stated by the Comptroller General in Decision B–135444 (37 Comp. Gen 676, 678):

"Since by its terms section 213 of the Small Business Act, 15 U.S.C. 642, makes conclusive the Administration's certification of a small business concern as competent with respect to 'capacity and credit,' we think such provision must be construed as controlling only insofar as it conflicts with a determination by a procurement officer as to the 'capacity or credit' of a bidder. However, if a bidder is found not to be qualified for other reasons, as for example * * * if he is found not to be a 'manufacturer' or 'regular dealer' * * * under the * * * (Walsh-Healey Public Contracts Act) in our view the certificate of competency, being limited by statute to 'capacity and credit,' would not be determinative of the award to be made."

(See also Decision of the Comptroller General, B–152716, dated January 27, 1964 (not officially published); B–176738, dated August 30, 1972 (not officially published); B–180384, dated January 21, 1974 (not officially published); and "GSE Dynamics, Inc. v. Doe," 381 F. Supp. 1088 (E.D. N.Y., 1974).)

§ 50–206.52 Assembler.

(a) As a result of changing technology in the area of manufacturing, the Department has concluded that it is now necessary to provide a fuller discussion of the standards that an assembler must meet to qualify as a manufacturer.

(b)(1) "Assembly" means piecing or bringing together various interdependent or interrelated parts or components so as to make an operable whole or unit. (Decision of the Comptroller General, B–164770, September 3, 1968 (not officially published).) A firm which produces final items on its premises by assembling component parts, all or some of which have been purchased from others, will generally be considered to be a "manufacturer" where it performs a series of assembly operations utilizing machines, tools and workers which constitute substantial and significant fabrication or production of the desired product. The qualifications of a bidder as a manufacturer who proposes to "assemble" must be decided on the basis of all the facts and circumstances surrounding a particular procurement.

(2) Thus, the determination of whether a bidder proposing to assemble a final product from component parts is an eligible manufacturer must rest on whether the bidder has demonstrated an independent ability, with its plant, equipment and personnel, to perform a significant or substantial portion of the manufacturing operations and efforts required in producing the final product for which the government contracted.

(3) In the alternative, a bidder may also qualify as a manufacturer if it has the facilities to produce on its premises a significant portion of the required component parts needed for the final product even if the bidder will only perform assembly operations under a particular procurement.

(c) Firms which only perform minimal operations upon the item being procured cannot qualify as manufacturers. To allow any such bidder to do so would obviously frustrate the purposes of the Act. As stated in the Decision of the Hearing Examiner "In re Brentwood Radios, Inc.," 12 WH Cases 158, 162 (1954):

Confident that the Act and Regulations defining a manufacturer contemplate something more than the occasional and isolated performance of such a simple assembly operation on but two Government contract items of a sundry nature, as disclosed by the record in this case, I have concluded that the corporation cannot justifiedly be regarded as bona fide manufacturer, even of such items, qualified to do business with the Government. Except for the negligible amount of time expended by the two officers of the corporation on such assembly operation over seven years of corporate existence, the corporation has at no time engaged in any other assembly or manufacturing operations for the Government and in no civilian production at all.

(See also "Tyco, Inc. v. Hodgson," 67 CCH Labor Cases ¶ 32,652 (E.D. Va., 1971 (not officially published)); and "In re John F. Noble Company," Decision of the Trial Examiner, PC–184, March 29, 1945.) As the court stated in "George v. Mitchell," 262 F.2d 486, 493 (C.A. D.C., 1960), while Congress in enacting the Walsh-Healey Public Contracts Act "may have been concerned for the small businessman capable of sustaining the administrative burdens of bidding for and processing Government contracts, we do not think it intended to protect producers who could not independently perform those minimal contracting functions."

(d) Packaging by itself does not constitute "assembly." For example, a bidder who proposes to supply bottles of aspirin in units of 100 and whose only operations would be the purchase in bulk of the aspirin and the bottles, the transferring of the aspirin from the bulk container to the bottles, and the labeling, wrapping, and shipping of the bottled aspirin, would not qualify as a manufacturer. Furthermore, a bidder proposing to purchase a hose and a clamp and place the clamp on the hose to make a "hose assembly," and then package and ship the item, is not a manufacturer within the intent of the Act. (See also Decision of the Comptroller General, B–164770, September 3, 1968 (not officially published).)

§ 50–206.53 Regular dealer.

(a) A bidder may qualify as a regular dealer under 41 CFR 50–201.101(b) if it owns, operates, or maintains a store, warehouse, or other establishment in which the commodities or goods of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business. The storage of goods in a public warehouse will not in itself satisfy the place of business requirements of this definition unless there is a continuing right (i.e. bona fide written lease agreement) to a specified, identified amount of space in the warehouse. A bidder who desires to qualify for award as a regular dealer must show to the satisfaction of the contracting agency prior to any award that it is engaged in an established, regular business meeting all the criteria of 41 CFR 50–201.101(a)(2). It is not enough in the case of a regular dealer to show only that arrangements have been made to set up such a business; before an award can be made, it is essential that it shows an already established business regularly dealing in the particular goods or goods of the general character offered to the Government.

(b) A bidder must be able to show before award:

(1) That the bidder has an establishment or leased or assigned space in which it regularly maintains a stock of goods in which it claims to be a dealer; if the space is in a public warehouse, it must be maintained on a continuing, and not on a demand, basis;

(2) That the stock maintained is a true inventory from which sales are made; the requirement is not satisfied by a stock of sample or display goods, or by a stock consisting of surplus goods remaining from prior orders, or by stock unrelated to the supplies which are the subject of the bid, or by a stock maintained primarily for the purpose of token compliance with the Act from which few, if any, sales are made;

(3) That the goods stocked are of the same general character as the goods to be supplied under the contract; to be of the same general character, the items to be supplied must be either identical with those in stock or goods for which dealers in the same line of business would be an obvious source;

(4) That sales are made regularly from stock on a recurring basis; they cannot be only occasional and constitute an exception to the usual operations of the business; the proportion of sales from stock that will satisfy the requirements will depend upon the character of the business;

(5) That sales are made regularly in the usual course of business to the public, i.e., to purchasers other than Federal, State, or local Government agencies; this requirement is not satisfied if the contractor merely seeks to sell to the public but has not yet made such sales; if Government agencies are the sole purchasers, the bidder will not qualify as a regular dealer; the number and amount of sales which must be made to the public will necessarily vary with the amount of total sales and the nature of the business; and

(6) That the business is an established and going concern; it is not sufficient to show that arrangements have been made to set up such a business.

(c) With regard to the test in paragraphs (b) (5) and (6) of this section, as stated in the Decision of the Administrator, "In re Herbert Co." (9 WH Cases 561, 562 (1950)): "It is plain that the Act and Regulations intended to bar from receipt of Government contracts those persons whose regular method of operation is to secure contracts and thereafter buy elsewhere the goods necessary to fill the contract. While it was not contemplated by the regulations that every Government contract awarded to a dealer be filled from stock on hand, it was the intention to require that Government contracts should be awarded only to those dealers who maintain a stock of goods of the general character required under the Government contract in question, and who, as a regular course of business dealings, make sales from such stocks. It is not sufficient for a dealer to show that some sales are made from stock, or that sales from stock are not unusual in his business; rather he must show that in the usual course of his business a very substantial amount of his sales are made from stocks on hand" (emphasis added).

(d) Coal dealers are exempted from the regular dealer requirements of the Act on certain express terms and conditions which are set forth in 41 CFR 50–201.604(a). The exemption will be applicable only if these conditions are complied with. If they are not, the general definition of regular dealers contained in 41 CFR 50–201.101(a)(2) of the regulations would be applicable.

§ 50–206.54 Regular dealer in particular products.

In addition to the exemptions from the requirements of section 1(a) of the Act which have been granted for certain types of contracts as set forth in 41 CFR 50–201.604, special alternate qualifications have been prescribed for hay, grain, feed, or straw; raw cotton; lumber and timber products; machine tools; green coffee, petroleum; agricultural liming materials; tea; raw or unmanufactured cotton linters; certain uranium products and used automated data processing (ADP) equipment in recognition of existing industrial and commercial practices in those industries. These special qualifications may be found in 41 CFR 50–201.101(a)(2) and 41 CFR 50–201.604. Characteristic of these alternative qualifications is the absence of a requirement that the dealer physically maintain a stock.

§ 50–206.55 Agents.

A "manufacturer" or "regular dealer" within the meaning of the Act and regulations may bid, negotiate, and contract through an authorized agent if the agency is disclosed and the agent bids and contracts in the name of the principal. Brokers from whom foreign-made goods consigned directly to the Government are purchased need not qualify as regular dealers under 41 CFR 50–201.101(a)(2) since the contract itself is not subject to the Act.

§ 50–206.56 Administrative exemptions.

Sections 50–201.101(a)(3)(ii) and 50–201.601 of Regulations 41 CFR Part 50–201, provide for the granting of exceptions and exemptions from the application of section 1(a) of the Act upon request by the head of a contracting agency to the Administrator, Wage and Hour Division. Such request should contain all pertinent information enabling the Administrator to determine if such exemption is necessary to avoid the serious impairment of the conduct of Government business. Any such request will be published in the FEDERAL REGISTER as a proposal with time for public comment.

Signed at Washington, D.C., on this 13 day of 1977.

WARREN D. LANDIS,
Acting Administrator,
Wage and Hour Division.

[FR Doc.77–14487 Filed 5–19–77;8:45 am]

federal register

FRIDAY, MAY 20, 1977

PART VII



FEDERAL COMMUNICATIONS COMMISSION

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LAND MOBILE SERVICES

Inquiry Into Practices and Procedures for Spectrum Management

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR 89, 91, 93]

[Docket No. 21229; FCC 77-287]

LAND MOBILE SERVICES

Practices and Procedures for Spectrum Management Governed by Parts 89, 91, 93 of the Commission's Rules; Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry, Request for Comments.

SUMMARY: The Commission is seeking public response to its plan for developing a new program of spectrum management for the land mobile radio services. These services include most private uses of two way radio and radio paging by police, fire, business, and other industrial users. The Commission invites comments on a new aplication form that will be used to build a computerized data base. The Commission also announces its intention to develop new rules and standards for the selection of requencies for land mobile systems. Also included is a report on spectrum monitoring that the Commission has been conducting in Chicago on a trial basis. Public response to any of the material presented will be considered in the development of the new program.

DATES: Comments must be received on or before July 15, 1977, and Reply Comments must be received on or before August 15, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Morgan O'Brien, Safety and Special Radio Services Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-254-3301).

SUPPLEMENTARY INFORMATION:

Adopted: April 27, 1977

Released: May 17, 1977

1. The Federal Communications Commission hereby gives notice of an inquiry into practices and procedures for more comprehensive management of the land mobile services. The Commission has developed a new program of spectrum management of the land mobile services with the following immediate objectives:

a. A nationwide data base of all land mobile systems, computerized to permit access by the Commission, the land mobile community, and the general public. The Commission has set forth herein the data elements of the proposed data base. It requests comments on these and on several alternate data base designs.

b. Rules and standards for private frequency coordinators, to be formulated in a proceeding that will be initiated within the next several months. In conjunction with the development of rules and standards, the Commission will establish a program to audit the performance of the coordinators.

c. Monitoring to collect channel utilization statistics for areas of severe congestion. Comments are invited on formats for presenting utilization information to the land mobile users, coordinators and vendors. Representative formats have been included and comments are invited.

d. Relaxation of radio service block allocations to permit wider sharing of frequencies in Chicago on a trial basis.

2. These objectives are the result of extensive staff study, and are based on several years of experience with the Chicago pilot. The declaration of specific objectives is not intended to foreclose comments suggesting modifications to the new program. It is intended to present a clear picture of the Commission's present intentions. Interested parties are encouraged to take issue with all or any part of the program. The resources presently available to the Commission for the land mobile services, and those that become available over the next several years, will be committed to achieving the objectives that are finally resolved by the Commission after careful consideration of the comments received in this proceeding.

INTRODUCTION

3. This Notice begins the second stage of the Commission's program for improved management of the land mobile spectrum. The first stage was initiated formally in 1971 with the issuance of a proposed rulemaking in Docket 19150. (Notice of Proposed Rule Making, Docket (No. 19150, 27 FCC2D 400 (1971)). First Report and Order, Docket No. 19150, 32 FCC2D 347 (1971). Second Report and Order, Docket No. 19150, 38 FCC2D 625 (1972). There were numerous antecedents to that proceeding, particularly the work of the Advisory Committee for the Land Mobile Radio Services (ACLMRS) and the Joint Technical Advisory Committee (JTAC). (See Report of the ACLMRS, Vol. I, Vol. II, Parts 1 and 2, July, 1968. See Spectrum Engineering, The Key to Progress, New York, 1968.) Under contract to the FCC, Stanford Research Institute designed the basic elements of a spectrum management pilot program in the late 1960's. In 1972 the Commission established an office in Chicago to test the spectrum management techniques that had been proposed. The elements of the experiment were a computerized data base of all land mobile equipment operating in the Chicago region; a staff of experts located regionally to handle frequency selection and licensing of new systems; a mobile monitoring program to collect channel utilization statistics; and proposed changes to the block allocation system to increase the sharing of frequencies between radio services. The Chicago experience has been detailed extensively in published reports. (See Report on Restructuring The Spectrum Management Task Force, (1975), W. Sutter. Analysis and Recommendations Concerning Regional Spectrum Management, D. Hatfield, FCC Report No. 76-606. Chronology of the National Spectrum Management Program (1976), FCC Report No. SMTF 76-01.)

4. Major revisions to the program of regionalization envisioned in Docket 19150 were approved by the Commission in June of 1976. (See Analysis and Recommendations Concerning Regional Spectrum Management, D. Hatfield.) The Commission based these changes not only on the experience in Chicago, but also on a reconsideration of the nationwide requirements of the land mobile services. A vital element of this reconsideration was the finding that the total cost of a fully regionalized system, as originally proposed in Docket 19150, does not appear to be justified by the benefits to be anticipated. All FCC programs are being subjected to this scrutiny in light of the current budget situation. This finding, of course, cannot overshadow the fact that congestion in the land mobile services, aggravated by manual systems for frequency selection and licensing, continues to plague the users of these frequencies and continues to require innovative responses from the Commission.

5. The Commission therefore has decided to develop a revised program of spectrum management, based on those elements of the Chicago experiment that have demonstrated their utility. This is to be a program that maintains a favorable balance between the costs incurred and the beneficial effects that can reasonably be expected. Immediate steps have been taken to reduce the costs involved in the program, including a significant reduction in staffing level and relocation of the Chicago computer to Washington where it will be shared ultimately by other Commission offices. Substantial reductions in the scope of the monitoring program have been made and further changes in the Chicago monitoring program are contemplated, as described more fully in Section III.

6. All plans for additional regional facilities have been deferred. The costs now being incurred have been reduced to those covering personnel sufficient to design a nationwide system and a small staff remaining in Chicago to continue monitoring operations and public interface. In the design of the new system each cost element of the proposed program will be analyzed and alternatives will be considered based on the ratio of cost to benefits. The major components in this regard are the nationwide data base and the monitoring program. A cost analysis of the alternatives developed after consideration of the comments filed in this proceeding will be made a part of the record of this proceeding.

7. The text of the Notice conforms to the objectives stated in paragraph one. Section I deals with the elements we propose to include in the Nationwide data base raises questions that must be considered in the design of the computerized system. Section II covers the issue of frequency recommendations by the private frequency coordinators; it lists the engineering models developed in Chicago that will be available for analysis of congestion problems and for auditing the performance of the coordinators. Section III reports briefly on the current plans for monitoring in Chicago. It also serves as an introduction to Appendix B which reports the current status of analysis of monitoring data. Section IV summarizes the Commission's findings with regard to the possibility of wider sharing of frequencies and proposes several definitions that will lay the groundwork for later sharing proposals.

I. THE LICENSE DATA BASE

8. On a centralized, nationwide basis, the Commission's present manual processing system and the current method of computer input, storage and retrieval of land mobile information is seriously information is seriously inadequate for effective frequency managing, rulemaking, research, reporting and providing public assistance. These inadequacies are due primarily to the inability to readily access the information. The ability to retrieve information from the data base and a means for the staff to easily make changes in the records of the data base are two of the key features of the automated licensing system which has been in operation in Chicago for the past three years.

9. There are a number of ways to access information in a data base. We have experimented with many methods (software and hardware) to access the Chicago data base. The types of information and its retrieval required by parties outside the Commission is important in the final design of an automated national data base system. There are questions which need to be answered as soon as possible, such as, how will the data be furnished to these outside parties, and what information will be required? Before asking for specific comments, we would like to apprise the public of the various possibilities.

10. Much of our presentation and many of the solicited comments will be directed to the information contained in Appendix A. This Appendix lists the proposed elements of the new national data base and examples of the computer checks and verifications of application information in the Chicago processing system as well as examples of the different ways to retrieve information from the data base. It consists of the following sections:

a. List of Proposed Data Elements for a New Land Mobile Application Form.
b. Examples of computerized Application Processing Checks.
c. Notice of Expired License; and Notice of Impending Expiration and Renewal Application.
d. Data Base Queries.
e. Example of Data Base Extract.

ACCURACY OF THE DATA BASE

11. Two of the most important concerns in the design of a license data base for the land mobile radio services are completeness and accuracy. These concerns follow from the functional role of the data base in the frequency selection process. To make the best frequency recommendation for an applicant, the coordinator must have a reasonably complete, accurate, and current knowledge of the radio environment with which the proposed system will interact. This can be provided most reliably by the Commission's data base. In the next several paragraphs, a number of factors which degrade the quality of a license data base are examined together with steps that the Commission has taken in Chicago to overcome them.

12. It must first be recognized that the elements of each license record in the data base are only as accurate as the data submitted to the Commission by an applicant on his application form. Because of the numerous verification checks designed into the Chicago automated system (See Appendix A, Section 2), the information in the data base is identical to that of the application (or corrected application) and the authorized license parameters. The accuracy of the data base thus depends largely on the extent to which each application contains data which accurately describes the actual system to be placed in operation. Major discrepancies between licensed and actual system parameters pose serious potential problems inasmuch as the quality of frequency assignments and efficiency of spectrum utilization can be affected. Our experience in Chicago over the past three years has led us to believe that, for the most part, such discrepancies are not so substantial as to require major attention. However, there is one notable exception.

13. We have compelling evidence to conclude that discrepancies exist between the actual number of mobile units in a fully operating system and the number specified on the application. This is a particularly serious problem above 470 MHz where, unlike the lower bands, the licensed number of mobile units on a channel is the criterion for determining when that channel can no longer be assigned in a particular area. A study of the 470-512 MHz band presented in Appendix B, Part 2, indicates that no correlation exists between the licensed number of mobiles on a channel and the measured level of channel utilization. Similar studies in other bands have also shown that there is no correlation between measured utilization and the "actual" number of units specified on Section III of Form 425. An underlying reason, we suspect, is that many applications overstate the number of mobile units in an attempt to reduce channel sharing.

14. Other factors affecting the accuracy of the land mobile data base are licenses that have expired and unlicensed radio station operation. Since June, 1976, the Chicago Office has been conducting programs which identify expired licenses and those which are about to expire. A computer program identifies those licenses which have expired 90 days or more and creates a mailing list. A license examiner reviews the list for errors and compares it with the application status listing to determine if an application is pending for an expired license. Notice of Expired License, copy of which is included in Appendix A, is then mailed. The licensee has 30 days in which to file a new application or send in a copy of any valid license he may have for the particular station. If there is no response, or if we are advised that the station is no longer in use, the license record is then deleted from the data base.

15. Likewise, the computer generates a notice of expiration/renewal form 45 days prior to the expiration of a license in the data base. This notice and instructions (See Appendix A) are mailed to the licensee listing some of the key license parameters. The licensee desiring renewal and indicating no change in the terms of his existing license, confirms the information, signs and returns the form and subsequently a renewal license is issued. These programs ensure that the data base is kept up-to-date; licensees will be notified of impending expiration; and the need for Notice of Expired License will gradually be eliminated.

16. At this point, we would ask for comments on:

a. The extent and seriousness of discrepancies between licensed and actual system parameters, and what measures the Commission should take to verify the information on application forms.

b. Methods to reduce the impact of the above factors on the data base to be constructed nationwide.

c. Methods by which coordinators, equipment vendors and individuals can supply feedback to the Commission on unlicensed operation, stations never constructed, and those which cease to operate.

ACCESSIBILITY OF DATA BASE INFORMATION

17. The Commission is considering two different techniques for access to the data base. One is direct "on-line" access where the user interfaces directly with the computer to obtain the desired information. Using the other method, "indirect" access, the user makes a request to the Commission's staff who then interface with the computer and supply the information or printout to the requestor.

18. In the past, we have made the Chicago data base available on a direct on-line basis to parties outside the Commission (See Appendix A, Section 4 for examples of this access). Because of the cost and time considerations of such access to the nationwide data base, it may not be feasible to make this type of access available on a routine basis. We invite comments on the need for such access particularly by frequency coordinators and equipment venders. Comments are also directed to a "third party" option, where a contractor supplies information to all users on a cost-reimbursable basis; under such an arrangement, access could be provided in ways that vary depending on the user's requirements.

19. In addition to the previously covered options, the data base could be furnished, in its entirety or sorted by certain

parameters, such as service, frequency or geographic area. It could be made available periodically via microfiche or printout. This type of access could be employed by someone not requiring totally up-to-date data. The immediate access could be used to supplement the periodically supplied information. This combination would reduce the volume of immediate access with the intent to reduce cost and maintain practicability.

20. The information that the Commission stores in its data base has many potential applications. Some of these are:

a. Resolution of Interference cases.

b. Computation of growth statistics for market projections and, along with monitoring data, support for new spectrum allocations.

c. Day-to-day use by coordinators for frequency recommendations and by the users where there is no provision for coordination.

d. Resolution of a difficult frequency selection situation where no adequate frequencies appear to be available for a given need.

REQUEST FOR COMMENTS

As the Commission proceeds to design its national land mobile data base, it would like to have comments on these specific questions:

a. Appendix A includes a list of proposed data elements. Are these adequate, or are there items which should be added to this list? Are there items which can be dropped with little or no impact on the data base viability?

b. The Commission is concerned about the possible discrepancies between licensed and actual system parameters with particular emphasis on the number of mobile units. What is the extent and seriousness of this and what measures should be taken to verify the information and reduce the impact on the national data base?

c. In making the data base information available, what is the most desirable or beneficial method with which to provide it? The Commission is looking for the differing requirements; i.e., a coordinator may have different needs than a vender or the general public. What are the minimum data elements needed in the frequency selection process?

d. Is it practicable to develop methods by which coordinators, equipment venders and individuals can supply feedback to the Commission on unlicensed operation, stations that were never constructed and those which cease to operate? If so, what form should this feedback process take?

II. FREQUENCY SELECTION

21. The Commission designed, developed and implemented a computerized frequency selection program (hereinafter AFAM) that has been operating in Chicago for the last several years. A brief description of the component elements of the program has been set out below, and an extensive report has been published. (Tremper, P., Automatic Frequency Assignment Model (AFAM)); FCC Report No. SMTF–75–01 (1975). The Chicago experience has persuaded us that it is not presently feasible or desirable for the Commission to undertake the function of frequency selection nationwide, as was originally proposed in Docket 19150. The rationale for this conclusion is complex, but essentially it derives from the unwieldy number of variables involved in making good frequency selections. We have determined that a system of private frequency coordinators, representing the various service groups, offers a more realistic way of coping with these variables in a nationwide setting than does a set of computer programs, even programs as ambitious as AFAM. Consequently, AFAM will not continue as a production program. It will be revised and simplified and be made available as a tool for use in situations where the coordinator is not able to suggest a frequency that is acceptable for an applicant's use. The Commission will use component elements of AFAM in performing its audit function.

22. The Commission will initiate a separate proceeding dealing solely with the frequency coordination function. The purpose will be to develop rules and standards by which the coordinator will operate. Presently there is very little standardization in the coordination function. Even within some radio services, there are variations in the way in which frequencies are recommended. The frequency coordinators are not at fault in this regard because the Commission has not provided them with standard procedures or with general rules for operating. While a number of land mobile associations have developed guidelines for use by coordinators, no standardized program has been undertaken by the Commission. This deficiency must be corrected. Comments are invited on how the Commission can most effectively set about the task of developing proposals for these rules and standards.

23. The Commission recognizes that the various coordinating committees are structured differently and employ methods that vary widely in their degree of sophistication. For instance, some coordinators base their recommendations only on co-channel station separation and are guided by minimum separation standards. Others perform more detailed interference analysis, take into account the number of mobile units on a channel, and may even be concerned with limiting antenna heights and effective radiated powers of proposed stations. We realize that the different methods are influenced to a certain extent by transmitter density and the operational needs of the given radio services. However, we also believe that certain "rules of thumb" such as minimum geographic station separation for a given service afford that service a luxury not attainable to other services with equal or perhaps even higher priority needs.

24. We plan to provide coordinators with channel occupancy data in the form of "low", "medium" and "heavily used" channels. This will be limited to major urbanized areas and areas where a compelling need is manifested and will become available gradually over the next several years. In our audit procedures, the license data base and monitoring data will be used to insure that all channels are loaded in an equitable manner. This information will also guide the Commission in evaluating or initiating recommendations for geographical interservice sharing and/or frequency re-allocation. The Commission will apply its automated frequency selection model on selected applications as a check on the frequency recommendation of the coordinator and/or vender. The frequency selection model will also aid the Commission in resolving coordinator/applicant disputes and in other difficult frequency selection cases. The Commission also will retain the provision for an "engineering field survey" as an alternative to frequency coordination. We anticipate that the license data base and monitoring data (where available) will substantially assist those applicants pursuing this option.

25. In view of our intended use of the automated frequency selection model (AFAM) and its potential usefulness to the coordinators and/or venders, we will give a brief description of its operation here. We would point out that AFAM is an integrated assembly of engineering models and routines which can be used independently as needed. Furthermore, each of these models could be adapted to a form that would not require channel monitoring data as an input. Present inputs to AFAM, in addition to the monitoring data, are the license data base and the technical parameters of a proposed system. (The license data base and monitoring data are described in section I and III and the Appendices.) The engineering routines sequentially: (1) recommend a combination of antenna height and effective radiated power appropriate for the service area specified in the application, (2) determine a listing of frequencies available for the instant application, and (3) rank the frequencies on the combined basis of estimated level of usage to the applicant and adverse impact on existing co-channel and adjacent-channel stations. Since the routines are modular, we would ask the coordinator/vender to comment on those most useful to their purposes.

26. The automated frequency assignment model is comprised, in part, of the following routines:

a. *Frequency Eligibility:* This routine generates a list of eligible frequencies for the applicant's proposed radio service, frequency band, and mode of operation (for example, the Business Radio Service, 150 MHz band, and one-way paging). Next, frequencies with limitation not in conformance with system parameters are eliminated (for example, the proposed antenna height exceeds the maximum allowable).

b. *Occupancy Retrieval:* For each eligible frequency, occupancy and waiting time parameters are retrieved from data taken at the nearest monitoring site to the proposed base station location (See Appendix C). The frequencies are then ranked according to calculated waiting time.

c. *Co-Channel Interference Model:* A group of the frequencies having the lowest waiting times is analyzed with respect to intereference potentials to and from existing stations. The current model considers all stations within 100 miles of the proposed station. For each station in this environment, a propagation analysis is made to determine the extent of interference to and from the proposed station. This depends on the distance to the stations, antenna heights and effective radiated power, the frequency band and other factors.

In the co-channel and other engineering models to follow, the projected interference levels are weighted by the probability that an interfering station will be transmitting. This probability is derived from channel occupancy data taken at the monitoring site nearest the interfering station. The weighted interference levels are thus a measure of channel degradation to and from existing stations.

d. *Adjacent Channel Model:* A smaller group of those frequencies having the lowest co-channel interference potentials are further analyzed to determine the effects of interference to and from nearby stations operating on frequencies close to, but different, from that of the proposed station. This analysis is somewhat similar to that described above, with the exception that an adjacent channel correction figure, representing the level of transmitter noise at the given frequency separation, is applied. These correction figures are based on information supplied by radio equipment manufacturers.

e. *Intermodulation Model:* A further reduced number of frequencies which have passed the co-channel and adjacent channel models is analyzed with respect to intermodulation interference; i.e., interference caused by the mixing of two or three off-channel signals to produce a composite signal falling on the proposed frequency. Transmitter and receiver intermodulation interference, both to and from existing stations, are calculated.

f. The combined effects of the three interference models are calculated separately for interference to and from the environment. The final figures are weighted so that interference to the environment is given twice the importance as that from the environment. The net frequency ranking parameter is the "level of service"; expressed as a percentage on a scale from 0–100 percent; 100 percent being the best possible level.

27. The output of the automated frequency selection model consists of computer generated "frequency recommendation" printouts containing the following information for each recommended frequency: level of service, occupancy, waiting time, suggested antenna height and effective radiated power, and a listing of all co-channel licensees operating within a 20 mile radius of the proposed base station location. A copy of the frequency recommendation printout is included in Appendix C.

FREQUENCY COORDINATION IN THE CHICAGO REGION

28. While the Commission is developing procedures for the coordinators, it intends to return to frequency coordination in the Chicago Region by deleting those portions of the Rules that permit the filing of applications without evidence of frequency coordination. Effective September 1, 1977, the Commission will no longer accept applications that are not accompanied either by evidence of frequency coordination or by a field survey as now permitted in areas outside Chicago. A brief order will be issued within the next ninety (90) days making this Rule change, effective September 1, 1977. To prepare for this return of responsibility, each coordinating group should address itself to the need for information from the Chicago data base. The staff will assign a high priority to providing the information requested. Each coordinating group is invited to comment on any aspect of the burden that a return to coordination will entail.

REQUEST FOR COMMENTS

The Commission has requested comments on the makeup and use of the nationwide data base in preceding paragraphs. Response to those questions should similarly be directed, where applicable, to the frequency selection process:

a. The Commission has decided to return to the frequency coordinating committees in the Chicago Region where the Regional Office has performed this function since October, 1974. With respect to this decision, what information (license data base, monitoring information, etc.) and assistance from the Commission will the coordinating committees need to effectively resume their role in providing frequency recommendations?

(1) Does the proposed date of the resumption of the frequency coordination in Chicago (September 1, 1977) allow adequate lead time to prepare for the takeover.

(2) The Commission will be refining its review and evaluation of the coordinator's recommendations in the Chicago Region as it prepares the design of the nationwide system. We invite suggestions, especially from coordinators in that area, as to what are the best methods of interface between the Commission and the coordinators so that each may be aware of the other party's actions.

b. The Commission seeks the viewpoints of the land mobile community on which types of applications should require frequency coordination (or an engineering field survey) and how this coordination can best be accomplished.

(1) Should, for example, coordination be required in all frequency bands; including the 800 MHz band? Should other than initial users of shared mobile relay systems be required to obtain coordination? Should participants of "approved" frequency assignment plans be exempted from frequency coordination requirements? Should the Commission develop standards and criteria from which to evaluate and approve statewide or area-wide plans or should these plans be administered through the applicable coordinating committee?

(2) Can radio services having similar spectrum requirements better be served by a single coordination committee? Could this facilitate implementation of any future interservice or geographical sharing between these services?

c. The Commission intends to develop rules and standards to govern the frequency coordination process. We will also develop methods by which the performance of the coordinators and adherence to our standards can be evaluated. In this regard, we raise the following possibilities:

(1) Should the coordinating committees be given the authority to suggest standards relating to system coverage; i.e., insuring minimum necessary antenna height and/or effective radiated power? Should a frequency recommendation be contingent upon meeting such standards?

(2) In those areas where the Commission has conducted channel monitoring, should occupancy levels be established for determining when a channel could no longer be assigned in that area?

(3) In the interests of spectrum conservation should standards be developed to insure that licensees of a shared transmitter facility have similar coverage area requirements?

(4) What procedural interface with the Commission should be established to handle disputes between the coordinators and applicants? Should the Commission then recommend a frequency to the applicant directly or work through the coordinator?

III. SPECTRUM MONITORING

29. The Commission has conducted an extensive spectrum monitoring program in Chicago over the last four years. The program is described briefly in a report contained in Appendix B to this Notice entitled "Interim Progress Report on Spectrum Monitoring". The Report presents some significant results of a number of analyses completed to date and illustrates the various types of channel utilization data that can be made available. As a result of experience with the Chicago monitoring program, the Commission has substantially reduced the scope of spectrum monitoring in Chicago; but it intends to develop plans for monitoring in other congested areas in the country.

FUTURE PLANS FOR SPECTRUM MONITORING

30. Two decisions affect the course of spectrum monitoring in the future—the Commission's decision to transfer the Chicago licensing functions to Washington and centralize the spectrum management efforts there, and the return of the frequency coordinating committees to the frequency selection process for Chicago Region applicants.

31. Once coordinators re-enter the frequency selection process, we will further reduce the amount of spectrum monitoring in the Chicago Region. Production monitoring to support the automated frequency selection program (AFAM) will be discontinued. Until the coordinating committees resume the coordination role in July, the Chicago monitoring operations must continue to collect data to support current licensing functions. The number of production monitoring sites has been reduced from the original 56 to 30 sites. We are currently looking to concentrate monitoring activities in or near the larger urbanized areas close to Chicago. Eleven sites are now contemplated to cover the metropolitan areas of Chicago and Milwaukee by employing a receiving antenna height of 50 feet.

32. Future spectrum monitoring will be concentrated in the larger urban areas and in locations identified or suspected as being congested areas. Such monitoring will include areas other than the Chicago Region but will not be as intensive as the monitoring previously conducted in Chicago. Our plans are to collect data for the purpose of providing spectrum utilization statistics and analyses to (1) aid in frequency selection by users and coordinators, (2) serve as a tool for the Commission to review and evaluate the coordinator's performance, and (3) as input to our spectrum management program and allocation/reallocation proceedings. We plan to develop usage characteristics peculiar to each radio service or group of users that will supplement other methods of frequency selection. These characteristics will enable us to accurately monitor the growth and dynamics of land mobile usage. As these plans develop, we expect to provide spectrum monitoring capabilities in other urban areas of the country outside the Chicago Region as the need is defined by the Commission's staff and the land mobile community.

33. Appendix B to this Notice contains an "Interim Progress Report on Spectrum Monitoring." Part 1 of this Report defines the occupancy parameters we use to describe channel utilization and illustrates the various types of information retrievable from the special Long-Term Monitoring Project data and from the production monitoring data base. Part 2 examines the relationship between mobile loading standards of the Rules and actual on-the-air usage measured by our monitoring equipment.

34. With respect to the future plans for monitoring set forth above and the information presented in Appendix B, we are requesting specific comments on the following issues:

a. In what congested areas and in what parts of the spectrum should the Commission concentrate its monitoring efforts?

b. How should monitoring data be made available? On a periodic basis? By Public Notice? Commission Reports? Upon specific request? On a regular basis only to those involved in frequency selection/coordination?

c. What monitoring information would be useful? In what format is it most useful?

d. How should frequency coordinating committees use spectrum usage information in their process of recommending frequencies to individuals? What formats would be of interest to the general public, venders, coordinators, etc?

e. In areas where monitoring information has been gathered, can the channel usage data be used as a method of determining channel loading in lieu of the mobile loading standards now in the Rules? Should the cutoff level be made a hard and fast Rule or should it be a tool to use as a guideline?

f. Given accurate channel usage data, what parameter(s) (occupancy, waiting time, etc.) are of value in determining whether individual channels have high or saturated use, medium or low use? Should it be usage in a peak period or an average over a day, week, month or year?

g. How should the monitoring program and procedures for making available the usage data be structured to be of maximum benefit to land mobile users?

h. What standards should be developed to insure that, when additional users are added to low and medium use channels, saturation does not result, thereby reducing the level of service for all?

IV. Frequency Sharing

35. As indicated, the Commission has reduced the level of its financial commitment to the spectrum management program. There is no lessening of the Commission's commitment to improving the utilization of frequencies in areas of significant congestion. For the present, we have determined that it is neither technically nor financially feasible to implement channel sharing as extensive as that proposed in Docket 19150. There is sufficient capability in Chicago, however, to extend the sharing of channels without damaging the systems now operating and without incurring heavy administrative costs. The staff will develop proposals for increasing the sharing of frequencies in the Chicago Region, and these proposals will be issued within the next several months in further reports in this proceeding. Active involvement of land mobile users, coordinators and vendors in the development, consideration and implementation of these proposals is vital. Comments are invited on the best means of accomplishing this involvement.

36. The Commission has sufficient data base information in the Chicago Region to make possible the wider sharing of frequencies between services. No specific sharing proposal is being made at this time, but the staff is currently developing the definitions that will be essential to any workable sharing proposal. These definitions have been set out below for comment.

Saturation and Loading

37. The pressing need for more spectrum, expressed so often by the various associations of land mobile users, has forced the Commission to deal with congestion and channel loading in terms that have accepted meaning and with procedures that are relatively simple, straightforward and readily available without relating these criteria to any quantum measurements. Definitions of saturation and channel loading criteria are not easily derived. In order to provide a more objective evaluation of congestion, an improved measure of channel capacity and overall radio system performance is needed. We must develop a comprehensive, accepted method of measuring spectrum need of land mobile users. To this end, we would direct comments to the following discussions relative to saturation and loading.

38. When speaking of congestion in urban environments, both the Commission and the radio users have used the term "saturated channel". The Commission should be asking, "Saturated, in what respect? What is saturation, and how is it measured?" and attempting to answer these questions. Before developing the criteria of measurement, the Commission and the land mobile community should agree on some generic definitions. Other criteria may be developed within the context of these definitions:

A. *Saturation Level.*—In an absolute sense, the level of channel usage on a heavily used channel at which the addition of one or more users would seriously disrupt the use of that channel.

B. *Optimum Loading Level.*—The preferred level of channel usage at which the Commission would recommend not authorizing additional licensees to use a given channel on a time-sharing basis in the same geographic area.

39. Such definitions would be our basic starting point, and other criteria for measurement of usage, channel capacity and spectrum needs would follow. From use of the monitoring and license data base from Chicago, we hope to quantify these definitions or, at least, have a much better feel for them than we now have. There are, of course, other factors such as whether waiting time or response time is of primary consideration. Further discussion of these matters is contained in Appendix B.

Channel Utilization Information

40. For the purpose of supplying channel utilization information to those persons in the frequency selection process for the Chicago Region, the Commission proposes grouping frequencies into four broad categories of level of usage. These levels are based on measurements conducted over normal business working days and are further explained in Appendix B.

A. *Low Occupancy Channels.*—Those frequencies having either daily average occupancies of 0–10% or peak hour occupancies of 0–15%.

B. *Medium Occupancy Channels.*—Those frequencies having either daily average occupancies of 10–25% or peak hour occupancies of 15–40%.

C. *Medium High Occupancy Channels.*—Those frequencies having either daily average occupancies of 25–40% or peak hour occupancies of 40–60%.

D. *Very High Occupancy Channels.*—Those frequencies having either daily average occupancies greater than 40% or peak hour occupancies greater than 60%.

41. The above categorization is based on measured transmission occupancy as observed by the Commission's Regional Staff over the past few years. Measured transmission occupancy is the percentage of the montioring period in which a carrier frequency is detected as present on the channel being sampled by the monitor receiver. Those persons unfamiliar with the nature of mobile radio might think the above figures too low to indicate a high level of usage. Thus, we must distinguish transmission occupancy from message occupancy. The latter value will generally be greater since pauses, or gaps, exist between the series of transmissions in a message. Studies also show that "message throughput" on a channel may actually decline when transmission occupancy exceeds sixty percent (60%). This is because each user must compete with other users to complete a message that requires more than one transmission.

42. The Commission has established a limited objective for sharing in the Chicago Region. That is to determine the feasibility of working with the coordinators and venders to implement sharing in the Chicago Region, where the license data base provides a means of detecting possible channel availability. At this time, the Commission is interested in studying the feasibility of voluntary sharing arrangements, based on the Chicago data. No sharing will be authorized without the advance notice and consent of the frequency coordinating committees involved. Interested parties are encouraged to comment on the best way of effecting voluntary arrangements. If our experience over the next several months is positive, further proposals of a more specific nature will be forthcoming in this proceeding.

Conclusion

43. The essential distinction between the spectrum management program now being developed and the earlier program contemplated in Docket No. 19150 is the substantial reliance we are placing on the private sector. Initial selection of frequencies will be the responsibility of the applicant on the recommendation of the frequency coordinator. Decisions regarding system engineering will be left to the user and his equipment supplier. The Commission cannot perform either function under present restraints of money and personnel. We are convinced, in fact, that it is better not to have Commission involvement in these details. This is not an abrogation of our responsibility to license systems in the public interest. We intend to propose standards and establish rules; to enforce their fair application; and to assist the users, coordinators, and venders to achieve maximum utilization of the spectrum. The establishment of an effective working relationship between these interests and the Commission is a principal goal of this proceeding.

44. This action is taken pursuant to Sections 4(i), 303 and 403 of the Communications Act of 1934, as amended. Interested parties responding to this Inquiry shall furnish comments on or before July 15, 1977, and reply comments on or before August 15, 1977. All relevant and timely comments and reply comments will be considered by the Commission before reaching its decision in this proceeding; other relevant information, in addition to the specific comments invited by this Notice, may also be taken into account by the Commission. Because of the complex nature of this Inquiry, answers to the more detailed issues, if received after the specific date, will be considered. The Commission will issue a "Further Notice of Inquiry" subsequently, if it determines a need to delete, substantially modify, or clarify any of the announced objectives.

45. In accordance with provisions of § 1.419 of the Commission's rules, an original and six (6) copies of all comments, suggestions, pleadings, briefs, or other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Information and Docket Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission,
Vincent J. Mullins,
Secretary.

Appendix A

The License Database

1. Questions on new form

Item Number and Element Title or Description

1. Applicant's Legal Name and Mailing address:
   A. Name
   B. Address
2. Name of Radio Service
3. Purpose of Application:
   A. License for new station
   B. License renewal
   C. License modification (complete Item 5)
   D. Add station to system
   E. Assignment of license (see instructions)
   F. Other (specify below)
4. If station is presently licensed, give: Call sign
5. Nature of Proposed Modifications:
   A. Increase power
   B. Relocate station/antenna site
   C. Change Area of operation
   D. Change Radio frequency
   E. Increase Antenna Height
   F. Other (specify below)
6. Class of Station:

I. *Fixed location*

   A. Base
   B. Control (for mobile relay)
   C. Mobile relay
   D. Other (specify below)

II. *Mobile* (Enter actual No. of Units)

   A. Land Vehicle
   B. Aircraft
   C. Watercraft
   D. Hand-held Portable
   E. Paging receivers
   F. Other (specify below)

7. Details of Station at Fixed Location:
   A. Transmitter Site No. (if more than one)
   B. Total Height of antenna structure (AG)
   C. Height to tip of your antenna element (AG)
   D. AAT, if required
   E. Ground elevation (AMSL)
   F. Latitude
   G. Longitude
   H. Location of transmitter
   I. City
   J. County
   K. State
   L. If antenna will be mounted on an existing antenna structure, give name of a licensee using this structure, his call sign, and radio service.
8. Technical data: The following elements would be in matrix form for each of pair of transmit/receive frequencies:
   A. Frequency (Transmit and receive)
   B. Type of Unit Codes (from Item 6)
   C. Number of Units
   D. Frequency Usage Codes (Particulars of Operation)
   E. Output Power
   F. Power Losses between transmitter (or receiver) and antenna
   G. Antenna Gain
   H. ERP
   I. Antenna Height
   J. Emission Designators
9. Written description of mobile operating area.
10. Area of operation/coverage area:
   A. Latitude of center
   B. Longitude of center
   C. Radius
11. Other stations in system: Call Signs
12. Control points:
   A. Indicate control point locations by street address (or other narrative description if street address is not appropriate)
   B. Telephone No. of principal control point.
13. Eligibility
14. will any of the radio facilities (equipment) proposed or covered by this application be utilized in a shared mobile relay system? If yes, give name of owner:
15. Air Hazard Information:
   A. 20 feet above ground question
   B. 20 feet above supporting structure question
   C. Height of supporting structure
   D. Type of supporting structure
   E. Has notice of construction been filed with the FAA? (On FAA Form 7460–1) If yes, give: a. Date filed b. FAA office where filed
16. EPA Question
17. Government Land Question
18. Communication Service Question
19. The applicant hereby authorize the Commission to contact the below listed person with regard to clarifying technical information submitted on this application:
   A. Typed name
   B. Address
   C. Telephone Number
20. Certification (Privacy Act Notification to be included)

Remote Receiver Data

It is envisioned that remote received data would be filed on a separate form. A question would be added to the above elements which would indicate the filing of this separate form.

Supply the following information for all receiver sites not located at the transmitting site(s) specified in Item 7 of Form ——— and associated with a particular station:

A. Call sign
B. Remote receiver data
1. Site number
2. Receive frequency
3. Latitude
4. Longitude
5. Ground elevation
6. Antenna height
7. Antenna gain

It would be possible to enter many combinations of location and frequency on one page.

2. EXAMPLES OF APPLICATION PROCESSING CHECKS BY THE COMPUTER IN THE CURRENT CHICAGO SYSTEM

The following are examples of approximately 70 checks performed by the computer on each application filed with the Chicago Regional Office:

(6) "CALL SIGN INVALID"
Not a valid Call Sign.

(12) "NOT IN SPECIFIED STATE/COUNTY"
Latitude and Longitude are not in the specified state/county.

(17) "SITES NOT COLLOCATED"
Applicant indicated collocation with another site, but they are more than one second apart.

(20) "MOBILE UNITS IN SECTION III MORE THAN SECTION II"
Number of actual mobile units exceeds number applied for.

(27) "CANADIAN COORDINATION REQUIRED"
For the specified location, Canadian coordination is required.

(31) "INVALID COMBINATION OF LETTERS"
The entry for Paticulars of Radio Operations is invalid.

(40) "EQUIPMENT TYPE NOT RECOGNIZED"
Equipment type entered is not on file. Spelling may be incorrect. Correct entry or enter new type via DBM.

(52) "COULD NOT CHECK TX FREQUENCY VS. SERVICE"
One or more of the following items is invalid: frequency, or output power.

(64) "SLOPE FROM TOWER TO RUNWAY EXCEEDS LIMIT"
FAA coordination is required.

(65) "IRAC COORDINATION REQUIRED"
Frequency is in a government band.

(68) "POWER EXCEEDS LIMIT"
Effective Radiated Power exceeds the calculated limit.
Check input and output power and antenna gain for validity.
Check with engineering section.

FCC FORM 1040-C DATE OF THIS NOTICE

NOTICE NOV 4 76

ACCORDING TO OUR RECORDS, THE LICENSES FOR THE REFERENCED CALL SIGN HAVE EXPIRED. APPLICATIONS FOR LICENSE RENEWALS SHOULD BE RECEIVED BY THE COMMISSION WITHIN 90 DAYS, BUT NOT LESS THAN 30 DAYS PRIOR TO EXPIRATION. AS OF THE DATE OF THIS NOTICE, WE HAVE NOT RECEIVED ANY APPLICATIONS AT THIS OFFICE RELATING TO THE LISTED FACILITIES AND THIS NOTICE SERVES TO INFORM YOU THAT ALL PERTINENT RECORDS WILL BE REMOVED FROM OUR FILES. IF OUR RECORDS ARE INCORRECT BECAUSE YOU INADVERTENTLY FILED FOR RENEWAL OR MODIFICATION THROUGH OUR WASHINGTON OFFICE, PLEASE SEND US A REPRODUCED COPY OF YOUR CURRENT LICENSE SO THAT WE CAN UPDATE THE RECORDS PERTAINING TO THIS STATION.

OPERATION OF RADIO FACILITIES WITHOUT A VALID RADIO STATION LICENSE IS IN VIOLATION OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED. IF YOU HAVE A NEED TO OPERATE RADIO FACILITIES IN THE LAND MOBILE SERVICES, COMPLETE THE NECESSARY APPLICATIONS, REQUESTING A NEW LICENSE, AND FORWARD TO THIS OFFICE WITH THE CORRECT FILING FEE FOR EACH APPLICATION (SEE RULES SUBPART G, PART 1 FOR REQUIRED FILING FEES). BLANK APPLICATION FORMS ARE AVAILABLE AT THIS OFFICE, THE FIELD OPERATIONS OFFICES AT CHICAGO, DETROIT, OR ST. PAUL, OR FROM YOUR EQUIPMENT VENDOR, UPON REQUEST.

A COPY OF THIS NOTICE INFORMATION IS BEING PROVIDED TO THE FIELD OPERATIONS OFFICE IN YOUR DISTRICT.

FEDERAL COMMUNICATIONS COMMISSION
CHICAGO REGIONAL OFFICE
PARK RIDGE, ILLINOIS 60068

LEGAL NAME:
CITY OF BIG RAPIDS, MICH

EXP. DATE: JUL 30 76

CALL SIGN: KIE555

CITY OF BIG RAPIDS
POLICE DEPARTMENT
226 NORTH MICHIGAN AVENUE
BIG RAPIDS, MICHIGAN 48307

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

FCC FORM 405-C(Test) DATE OF NOTICE:

EXPIRATION NOTICE & RENEWAL APPLICATION
(SEE CORRESPONDING INSTRUCTIONS - ENCLOSED)

CALL SIGN:	EXPIRATION DATE:	CLASS OF STATION:	TRANSMITTER COORDINATES (OR MOBILE OPERATING AREA):
KZY 999	DECEMBER 20,75	MOBILE RELAY	42 -32 - 01W 90 - 25 - 36W

LICENSEE LEGAL NAME & IDENTIFICATION NUMBER
HAZEL GREEN RESCUE SQUAD, INC. 0003308401

FREQUENCIES (MHZ):

152.0075	150.775
155.160	155.235
155.175	155.265
155.205	155.280
155.220	155.295

APPLICANT CERTIFIES THAT THERE ARE NO CHANGES TO THE DATA OR AUTHORIZED PARAMETERS SHOWN ON THE STATION LICENSE BEING RENEWED OR IN THE INFORMATION CONTAINED IN THE APPLICANT'S MOST RECENT FULL APPLICATION OTHER THAN THOSE PERMITTED BY THE INSTRUCTIONS FOR THIS FORM. APPLICANT WAIVES ANY CLAIM TO THE USE OF ANY PARTICULAR FREQUENCY AS AGAINST THE REGULATORY POWER OF THE UNITED STATES BECAUSE OF THE PREVIOUS USE OF THE SAME, WHETHER BY LICENSE OR OTHERWISE. THE STATEMENTS IN THIS APPLICATION ARE TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND ARE MADE IN GOOD FAITH.

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U.S. CODE TITLE 18, SECTION 1001.

SIGNATURE OF INDIVIDUAL, PARTNER, OR AUTHORIZED PERSON ON BEHALF OF A GOVERNMENTAL ENTITY, OR AN OFFICER OF A CORPORATION OR ASSOCIATION.

SIGNATURE _____ DATE SIGNED: _____

FEDERAL COMMUNICATIONS COMMISSION
CHICAGO REGIONAL OFFICE
PARK RIDGE, ILLINOIS 60068

HAZEL GREEN RESCUE SQUAD, INC.
P O BOX 373
HAZEL GREEN WI 53811

INSTRUCTIONS FOR FCC FORM 405-C (TEST)

NOTICE TO INDIVIDUALS REQUIRED BY PRIVACY ACT OF 1974

Sections 301, 303, and 308 of the Communications Act of 1934, as amended, (license powers) authorize the FCC to request the information on this application. The purpose of the information is to determine your eligibility for a license. The information will be used by FCC staff to evaluate the application, to determine station location, to provide information for enforcement and rule-making proceedings, and to maintain a current inventory of licensees. No license can be granted unless all information requested is provided.

1. The FCC Form 405-C (Test) may be used in applying only for the renewal of licenses for the station listed on the face of it.

2. The form may not be used if there has been any change in the information contained in the most recent full application on file with the Commission, except the following changes:

Mailing name and address.

Licensee legal name (if no change in ownership, control, or corporate structure).

Equipment data (if technical parameters do not exceed those stated on the most recent full application).[1]

Reduction in the number of mobiles, antenna height, antenna gain, or effective radiated power (ERP).[1]

Tone squelch (PL) frequencies.[1]

3. A separate Form 425 application for modification must be filed for any of the following station changes (a modified license must be obtained from the Commission prior to making such changes):

Relocation of station (including antenna location).

Area of operation.

Increase number of mobiles (including hand-held units), antenna height, antenna gain, or power.

Add or change frequencies.

Add or change Control Points.

Change emission.

Note.—Frequency coordination must accompany application as applicable.

4. If a license contains an "overpowered" Special Condition, submit one of the following with this form:

Explanatory information as required under Item 2 to reduce the power to the minimum level necessary for satisfactory operation.

Engineering justification to substantiate the requested power (this justification will be determined prior to granting renewal).

5. If a renewal is not desired, line through the call sign and return the form with the license for cancellation. (Merely line through the frequencies to be deleted, if any of the frequencies are no longer required.)

6. The expiration dates for all licenses granted under one Call Sign will be conformed under this renewal process.

7. Enclose correct fee with this application (see Rules Subpart G, Part 1). Do not send cash. Make check or money order payable to the Federal Communications Commission. This is a filing fee and will not be refunded even though the application is not granted.

8. Mail to Federal Communications Commission, Chicago Regional Office, Park Ridge, Illinois 60068. Phone: (312) 298-0290.

9. The form should reach the Commission's Chicago Office prior to the license expiration date so that the licensee may continue to operate until notified by the Commission of action on the application. If the application is not returned by the licensee within the prescribed time, the station will be considered no longer in operation, and all associated license records will be removed from the Commission's files.

[1] Please note and explain on an attachment to this application any changes in the last three items (this is necessary to update license records). If the licensee's legal name has been changed, a letter of explanation must be submitted with this application.

4. Data Base Queries

License records in the data base are retrievable by input of the following primary search key parameters, among others:

1. Call Sign
2. Licensee ID Number
3. Licensee Name
4. Frequency
5. Service
6. Rectangular Geographic area
7. County and/or State
8. Expiration Date
9. License Number

The following pages contain examples of various types of retrievals available for obtaining information from the license data base:

1. Pages 4.2 through 4.5—Data Base Queries from a remote terminal.

2. Pages 4.6 through 4.8—Geographic/Frequency Search run by the Chicago Regional Office on request.

3. Pages 4.9 and 4.10—Geographic/Frequency Search accomplished by the Environment Data Retrieval (EDR) program (used internally by the Regional Office staff and an integral part of AFAM). Page 4.10 is a plot of the data exemplified by the printout on page 4.9.

4. Page 4.11—Special retrieval program similar to the geographic/frequency searches but which selects only co-channel and adjacent channel stations in the environment producing a calculated signal above threshold at a given location.

Sample Printout: Remote Teletype Terminal

(Underlined elements are User inputs)

The following is an example of correct terminal connection procedure:

```
UNIV01

UNIVAC 1108 TIME/SHARING EXEC  VERS 225/3A1/G

@RUN QUERY,ACSI01,REMOTE

DUP ID, NEW ID IS QUERYA
DATE: 072073      TIME: 153841

@XQT FCC*QUERY.1

FCC CHICAGO REGION. DATABASE QUERY
ENTER USER NAME

XXXXXXX

GO

LOGGED IN. DATE: 072073 TIME: 153953
```

(The following is an example of retrieval of license records by call sign)

```
LIST/1/WWW73

    1 LICENSES FOR CALL SIGN WWW73
CIS731560034
 TX FX1  456.9250M WWW73    40-27-44N  89-56-18W ILO57 123.0H 80DB
 RX      451.9250M          40-27-44N  89-56-18W       123.0H
 TIME LEFT 00:16:05
```


To retrieve detailed license records, the User now enters:

```
LIC/CIS731560034

LICENSE CIS731560034 (L) FX1  SUMMARY DISPLAY          WWW73    FREQ   456.925 MH
LSCEE 00010396  FAC-NO 01  SYS-NO 01   SUPSYSNO 0       APPN CIS731224071
DATES EXP 78 6 5  GRANT 730605  LAST-TR 060573   APPLCNT CORPORATION   SICC

NAME CANTON CONCRETE PRODUCTS CO.
ADDR CANTON CONCRETE PRODUCTS CO.
     P. O. BOX 539
     CANTON, ILLINOIS 61520
 TIME LEFT 00:12:38

NEXT

LICENSE CIS731560034 (L) FX1  TRANSMITTER DISPLAY     WWW73    FREQ   456.925 MH

LA  40/27/44N   WEST EDGE OF DUCK ISLAND WHICH IS          TSF 123.0H        16F3
LO  89/56/18W   LOCATED 5 MILES SOUTH OF BANNER,           SYS-D YES
PI   50.00W     ON ILL                BANNER               IL   57
PO   18.00W   HRS 600 --2000 PKS 800 , 1700              OPNS B G R
ERP 120.00W   MFG 6335  TAC CC4027C              MOD
ANTENNA   9 DB       320      DEG-AZ      NONE
    EL 453   ANTHT 59      STRHT 60   OAHT 60      STRUCTURE TWR    POLAR VERT
OPSAREA-CNTR    -SIDES    -ANGLE -AREA    ANT-MFG 6335  MOD TDE6030
LA  40/29/29N     1.MI 50 DEG
LO  89/58/30W     8.MI
 TIME LEFT 00: 08:43

END

THE DATABASE HAS BEEN CLOSED

@FIN
```

A search by geographic area or county can be made by entering either:

AREA/40-30-00/ 90-01-00/10.0
FREQ/450/460
SERV/IS////I

or:

COUNTY/IL/057
FREQ/450/460
SERV/IS////I

```
CIS731560034
 TX FX1  456.9250M WWW73   40-27-44N  89-56-18W IL057 123.0H 90DB
CIS731560035
 TX FB2  451.9250M KSE940  40-30-49N  90-01-42W IL057 123.0H 87DB
CIS731560034
 RX      451.9250M         40-27-44N  89-56-18W       123.0H
CIS731560035
 RX      456.9250M         40-30-49N  90-01-42W       123.0H
CIS731560036
 MO MO   456.9250M KZ9048  40-30-39N  90-01-42W IL057 123.0H

 TIME LEFT 00:09:24
```

Detailed license information is retrieved as before by entering:

LIC/CIS731560034

Summary Display, as shown on previous page, will be printed

NEXT

Transmitter Display for WWW73 will be printed

NEXT

Receiver Display for WWW73 will be printed

TIME LEFT 00:05:48

LIC/CIS731560035

Summary Display for KSE940 will be printed

NEXT

Transmitter Display for KSE940 will be printed

NEXT

Receiver Display for KSE940 will be printed

TIME LEFT 00:03:40

LIC/CIS731560036

Summary Display for KZ9048 will be printed

NEXT

Mobile Display for KZ9048 will be printed

TIME LEFT 00:00:42

END

THE DATABASE HAS BEEN CLOSED

@FIN

THIS IS THE GEOGRAPHIC-FREQUENCY SEARCH RUN FOR YOU BY THIS OFFICE OF THE F.C.C.

THE FOLLOWING INPUT PARAMETERS WERE USED:
CENTER POINT OF THE SEARCH WAS AT
LATITUDE 41/42/56
LONGITUDE 88/21/ 8
THE RANGE WAS 50 MILES
THE FREQUENCY BAND SEARCHED WAS 158805000 TO 158805000 HZ

THE TRANSMITTER RECORDS LIST THE FOLLOWING INFORMATION:
(1)OPERATING FREQUENCY
(2)NAME SORT FIELD WHICH IS THE COMPUTER NAME FOR THE LICENSEE
(3)CALL SIGN
(4)LATITUDE AND LONGITUDE OF THE TRANSMITTER
(5)TSF OR TONE SQUELCH FREQUENCY (IF USED)
(6)THE HEIGHT OF THE ANTENNA ABOVE GROUND
(7)THE ERP OR EFFECTIVE RADIATED POWER OF THE TRANSMITTER
(8)THE SERVICE THE LICENSE WAS ISSUED FOR
(9)AND THE LEGAL NAME, ADDRESS, AND TELEPHONE OF THE LICENSEE

THE RECEIVER RECORDS LIST THE FOLLOWING INFORMATION:
(1)OPERATING FREQUENCY
(2)LATITUDE AND LONGITUDE OF THE RECEIVER
(3)THE TONE SQUELCH FREQUENCY USED (IF ANY)

THE MOBILE RECORDS LIST THE FOLLOWING INFORMATION:
(1)CALL SIGN
(2)NUMBER OF UNITS AUTHORIZED
(3)THE OUTPUT POWER OF THE MOBILES
(4)OPERATING FREQUENCY

IN SOME CASES A CALL SIGN WILL BE LISTED AS "KNEW". THIS INDICATES THERE IS AN APPLICATION PENDING WHICH MAY BE ISSUED ON THAT FREQUENCY. WHEN THE CALL SIGN IS KNEW SOME OF THE INFORMATION MAY NOT BE AVAILABLE SO THAT THE RECORDS WILL BE FILLED WITH @@@@@.

TONE SQUELCH FREQUENCY IS NOT LICENSED BY THE COMMISSION THEREFORE THE TONE SQUELCH RECORDS IN THIS SEARCH SHOULD NOT BE CONSIDERED AS COMPLETELY ACCURATE. THEY ARE ONLY WHAT THE LICENSE APPLICANTS HAVE FURNISHED TO THIS OFFICE.

IF THIS OFFICE CAN BE OF ANY FURTHER ASSISTANCE TO YOU DO NOT HESITATE TO CALL ON US.
YOURS TRULY

THE FOLLOWING TRANSMITTER RECORDS WERE FOUND IN THE SEARCH AREA

FREQUENCY	NAME SORT FIELD	CALL SIGN	LATITUDE	LONGITUDE	TSF	ANTENNA HEIGHT	ERP	SERVICE
158805000	PERUPLILL	KJY703	41/19/41	89/ 7/35	151.4	68	84	PL

LEGAL NAME OF LICENSEE

CITY OF PERU, ILLINOIS

MAILING ADDRESS OF LICENSEE TELEPHONE NUMBER

CITY OF PERU, ILL.
1503 FOURTH ST.
PERU, ILL. 61354

FREQUENCY	NAME SORT FIELD	CALL SIGN	LATITUDE	LONGITUDE	TSF	ANTENNA HEIGHT	ERP	SERVICE
158805000	ALSIPPLILL	KRT727	41/40/ 9	87/43/45		62	21	PL

LEGAL NAME OF LICENSEE

VILLAGE OF ALSIP, ILLINOIS

MAILING ADDRESS OF LICENSEE TELEPHONE NUMBER

VILLAGE OF ALSIP, ILL.
45TH AVENUE & 123RD STREET
ALSIP, ILLINOIS 60658
3123891694

(For illustrative purposes, only two transmitter records are shown. The program retrieved 9 transmitter records.)

THESE ARE THE RECEIVER RECORDS WHICH WERE FOUND IN THE SEARCH AREA

FREQUENCY	LATITUDE	LONGITUDE	TONE SQUELCH
158805000	41/58/40	87/53/30	127.3
158805000	41/58/38	87/54/10	127.3
158805000	41/58/38	87/54/15	127.3

THE FOLLOWING MOBILE RECORDS WERE PULLED

CALL SIGN	NUMBER OF UNITS HAND HELD	NUMBER OF UNITS LAND	OUTPUT POWER	FREQUENCY
KJY703	0	25	35	158805000
KZ9706	0	29	7	158805000
KK9808	31	65	45	158805000
KXE603	4	25	8	158805000

THE DATABASE HAS BEEN CLOSED

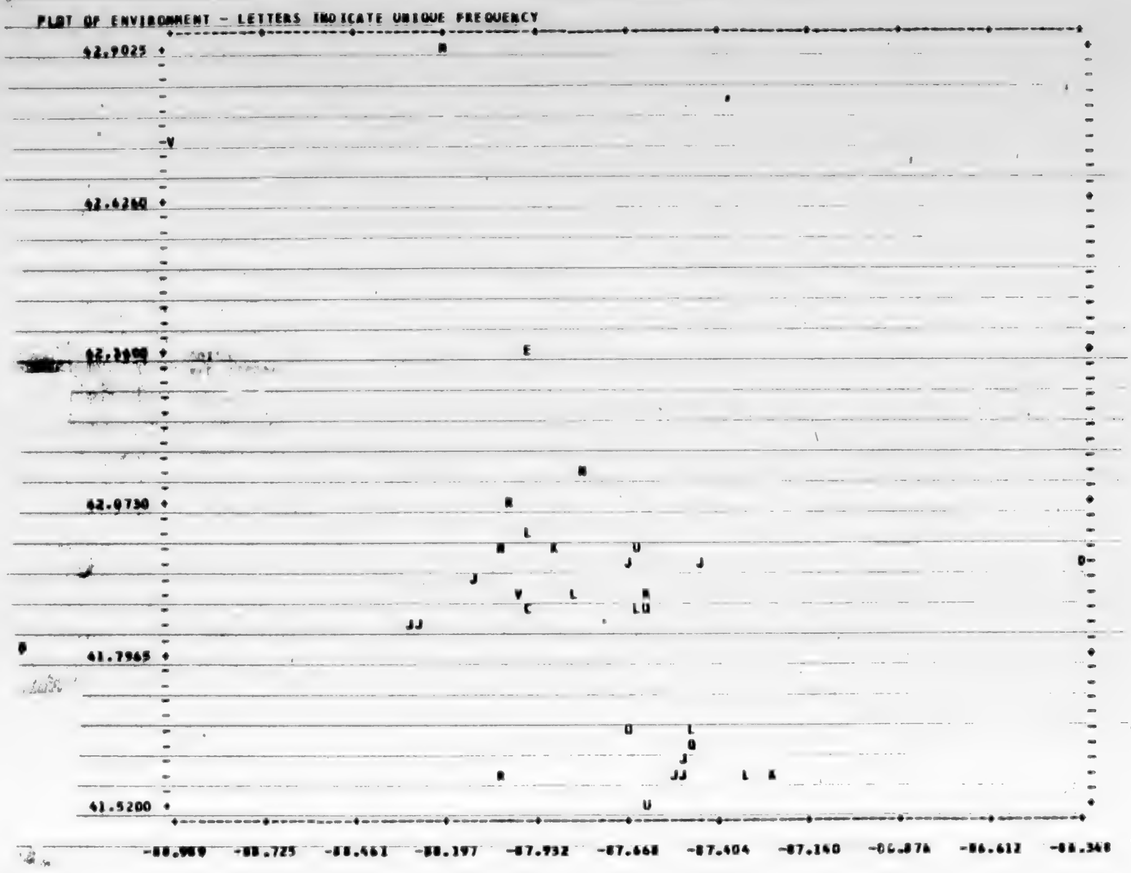

```
INPUT PARAMETERS
FREQUENCY = 461.91250 MHZ
DELTA FREQUENCY =    .27500 MHZ
LATITUDE =   41.880 DEGREES
LONGITUDE =  87.600 DEGREES
DELTA DISTANCE =   100.0 MILES
TX  TYPE RECORDS RETRIEVED
TIME USED SINCE LAST CALL TO CLOCK:    7.111 SECONDS CPU TIME -58508.248 SECONDS WALL CLOCK TIME

    FOR DELTAF =    .2750 MHZ,  FREQ =  461.9125 MHZ,  LT =  41.880 DEG,  LN =  87.600 DEG, AND DELTAD = 100.0 MI
     THERE WERE 126 TX    0 RX    61 TSC, AND    0 NOISE TYPE RECORDS STORED
    957 ACCESS(ES) TO DATA BASE

    107 RECORDS GATHERED
```

FREQUENCY (MHZ)	TYPE	LONGITUDE (DEGS)	LATITUDE (DEGS)	POWER (WATTS)	CLASS	LICENSE NO	LICENSEE ID	CALL SIGN	ANT HT (FT)	GRD ELEV (FT)	EST SIGNAL LEVEL (DB)	OCCUP LEVEL (DB)	NUM REQ	TONE SQUELCH FREQ (HZ)	ANT GAIN (DB)	AZIM (DEGS)
461.6500	TX	87.613	41.892	150.0	FB2	CIB731380029	9090	KUA696	665	592	-138.0	885.0	0	141.3	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							
461.6500	TS	87.613	41.892	150.0	FB2	CIB732390886	14388	KTF321	665	592	-138.0	*****	0	.0	6.0	360
	AOP:	87.613	41.892		S1/S2:	80.0/ 80.0		ORIEN:	90.0							
461.6500		87.613	41.892	150.0		CIB732390971	13996	KUJ254	665	592	-138.0	.0	0	.0	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							
461.6500		87.613	41.892	150.0		CIB732391509	10993	KTG260	665	592	-138.0	.0	0	136.5	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							
461.6500		87.613	41.892	150.0		CIB732391625	9515	KGN397	665	592	-138.0	.0	0	186.2	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							
461.6500		87.613	41.892	150.0		CIB732391723	9548	KSP526	665	592	-138.0	.0	0	103.5	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							
461.6500		87.613	41.892	150.0		CIB732392454	11150	KFN691	665	592	-138.0	.0	0	91.5	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							
461.6500		87.613	41.892	150.0		CIB732392492	11029	KUA696	665	592	-138.0	.0	0	141.3	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							
461.6500		87.613	41.892	150.0		CIB732392540	11212	KSR350	665	592	-138.0	.0	0	127.3	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							
461.6500		87.613	41.892	150.0		CIB742900017	25472	KNY334	665	592	-138.0	.0	0	.0	6.0	360
	AOP:	87.846	41.908		S1/S2:	40.0/ 80.0		ORIEN:	50.0							

EDR Plot



SPECIAL RETRIEVAL/CORRELATION PROGRAM OUTPUT

***** ANALYSIS ON FREQUENCY: 471.0625 MHZ

WITH 6 CO-CHANNEL TRANSMITTERS AND 131 ADJACENT CHANNEL TRANSMITTERS

THRESHOLD LEVELS	CO-CHANNEL SIGNALS ABOVE THRESHOLD	ADJACENT CHANNEL SIGNALS ABOVE THRESHOLD	CO-CHANNEL ON-CHANNEL MOBILES	CO-CHANNEL ASSOCIATED MOBILES	ADJACENT CHANNEL ON-CHANNEL MOBILES	ADJACENT CHANNEL ASSOCIATED MOBILES
-140.0	6	1	0	0	0	0

CO-CHANNEL CALL SIGN/LICENSE :
KUV927 /CIB731500127 KQM450 /CIB731500133 KVK305 /CIB732140008 KUN256 /CIB7533200 03 KZZ201 /CIB7416980026
KWS471 /CIB7416900087

ADJACENT CHANNEL CALL SIGN/LICENSE :
KEY622 /CIB731580006

***** ANALYSIS ON FREQUENCY: 471.0875 MHZ

WITH 6 CO-CHANNEL TRANSMITTERS AND 131 ADJACENT CHANNEL TRANSMITTERS

THRESHOLD LEVELS	CO-CHANNEL SIGNALS ABOVE THRESHOLD	ADJACENT CHANNEL SIGNALS ABOVE THRESHOLD	CO-CHANNEL ON-CHANNEL MOBILES	CO-CHANNEL ASSOCIATED MOBILES	ADJACENT CHANNEL ON-CHANNEL MOBILES	ADJACENT CHANNEL ASSOCIATED MOBILES
-140.0	4	3	0	0	0	0

CO-CHANNEL CALL SIGN/LICENSE :
KWU508 /CIB723680082 KWH935 /CIB740520004 KWE721 /CIB740740042 KWH774 /CIB7416010009 KSI908 /CIB7412100 37
KWG769 /CIB7416840028

ADJACENT CHANNEL CALL SIGN/LICENSE :
KUV927 /CIB731500127 KQM450 /CIB731500133 KEY622 /CIB731580006

***** ANALYSIS ON FREQUENCY: 471.9125 MHZ

WITH 3 CO-CHANNEL TRANSMITTERS AND 134 ADJACENT CHANNEL TRANSMITTERS

THRESHOLD LEVELS	CO-CHANNEL SIGNALS ABOVE THRESHOLD	ADJACENT CHANNEL SIGNALS ABOVE THRESHOLD	CO-CHANNEL ON-CHANNEL MOBILES	CO-CHANNEL ASSOCIATED MOBILES	ADJACENT CHANNEL ON-CHANNEL MOBILES	ADJACENT CHANNEL ASSOCIATED MOBILES
-140.0	3	1	0	0	0	0

CO-CHANNEL CALL SIGN/LICENSE :
KZZ760 /CIB731900131 KCL991 /CIB750520018 KDV611 /CIB750520021

DATE 040477

DATABASE LISTING IN NAME SORT FIELD SEQUENCE

LICENSE NUMBER	NAME SORT FIELD	FREQUENCY	CALL SIGN	EXPIRA DATE	LA	LATITUDE	LONGITUDE	T	MOBILES AUTH	LICENSEE ID	TONE SQ	PURP APPN
CIB762160099	AAAALOCKSMITH	463.6000	KBA222	810804	41	41/04/14	85/07/10	MO	8	3460601		B
CIB762160101	AAAALOCKSMITH	468.6000	KBA222	810804	41	41/04/14	85/07/10	MO	8	3460601		B
CIB762160100	AAAALOCKSMITH	463.6000	KBA222	810804	41	41/04/14	85/07/10	TX	0	3460601		B
CIB762390059	AAAAMBSVC	154.5400	KTFB26	810827	40	40/28/40	88/59/30	MO	10	3503601	94.8	D
CIB762390060	AAAAMBSVC	154.5400	KTFB26	810827	40	40/28/40	88/59/30	TX	0	3503601	94.8	D
CIB762390029	AAAAMBSVCOFCOOKCNTYI	475.9875	KY7459	810827	41	41/52/36	87/52/30	MO	2	3489601	131.8	B
CIB762390027	AAAAMBSVCOFCOOKCNTYI	472.9875	KBU365	810827	41	41/52/44	87/38/10	TX	0	3489601	131.8	B
CIB762390028	AAAAMBSVCOFCOOKCNTYI	475.9875	WBY374	810827	41	41/52/51	87/45/18	TX	0	3489601	131.8	B
CIB731500180	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	MO	4	1214601	146.2	B
CIB731500181	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	TX	0	1214601	146.2	
CLX732360159	AAACABCOOFALSIPILL	152.3300	KJK644	770824	41	41/40/48	87/43/11	TX	0	2901801	110.9	D
CIB732500062	AAACHEMICALTOILETSIN	468.3500	KQ6074	780116	41	41/59/30	87/48/45	MO	10	1392201		B
CIB732330203	AAACHEMICALTOILETSIN	468.3500	WPT97	780116	41	41/51/24	87/38/25	TX	0	1392201		B
CIB732330202	AAACHEMICALTOILETSIN	463.3500	KUR809	780116	41	41/53/55	87/37/23	TX	0	1392201		B
CIB762390028	AAADISPOSALSYSTEMSIN	43.4800	KVW915	791015	42	42/26/36	89/00/57	MO	7	2020202		D
CIB731500181	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	TX	0	1214601	146.2	
CLX732360159	AAACABCOOFALSIPILL	152.3300	KJK644	770824	41	41/40/48	87/43/11	TX	0	2901801	110.9	D
CIB732500062	AAACHEMICALTOILETSIN	468.3500	KQ6074	780116	41	41/59/30	87/48/45	MO	10	1392201		B
CIB732330203	AAACHEMICALTOILETSIN	468.3500	WPT97	780116	41	41/51/24	87/38/25	TX	0	1392201		B
CIB732330202	AAACHEMICALTOILETSIN	463.3500	KUR809	780116	41	41/53/55	87/37/23	TX	0	1392201		B
CIB762390028	AAADISPOSALSYSTEMSIN	43.4800	KVW915	791015	42	42/26/36	89/00/57	MO	7	2020202		D
CIB731500180	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	MO	4	1214601	146.2	B
CIB731500181	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	TX	0	1214601	146.2	
CLX732360159	AAACABCOOFALSIPILL	152.3300	KJK644	770824	41	41/40/48	87/43/11	TX	0	2901801	110.9	D
CIB732500062	AAACHEMICALTOILETSIN	468.3500	KQ6074	780116	41	41/59/30	87/48/45	MO	10	1392201		B
CIB732330203	AAACHEMICALTOILETSIN	468.3500	WPT97	780116	41	41/51/24	87/38/25	TX	0	1392201		B
CIB732330202	AAACHEMICALTOILETSIN	463.3500	KUR809	780116	41	41/53/55	87/37/23	TX	0	1392201		B
CIB762390028	AAADISPOSALSYSTEMSIN	43.4800	KVW915	791015	42	42/26/36	89/00/57	MO	7	2020202		D
CIB731500180	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	MO	4	1214601	146.2	B
CIB731500181	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	TX	0	1214601	146.2	
CLX732360159	AAACABCOOFALSIPILL	152.3300	KJK644	770824	41	41/40/48	87/43/11	TX	0	2901801	110.9	D
CIB732500062	AAACHEMICALTOILETSIN	468.3500	KQ6074	780116	41	41/59/30	87/48/45	MO	10	1392201		B
CIB732330203	AAACHEMICALTOILETSIN	468.3500	WPT97	780116	41	41/51/24	87/38/25	TX	0	1392201		B
CIB732330202	AAACHEMICALTOILETSIN	463.3500	KUR809	780116	41	41/53/55	87/37/23	TX	0	1392201		B
CIB762390028	AAADISPOSALSYSTEMSIN	43.4800	KVW915	791015	42	42/26/36	89/00/57	MO	7	2020202		D
CIB731500180	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	MO	4	1214601	146.2	B
CIB731500181	AAABUSSVCINC	35.1200	KZZ732	780530	40	40/07/04	85/36/51	TX	0	1214601	146.2	
CLX732360159	AAACABCOOFALSIPILL	152.3300	KJK644	770824	41	41/40/48	87/43/11	TX	0	2901801	110.9	D
CIB732500062	AAACHEMICALTOILETSIN	468.3500	KQ6074	780116	41	41/59/30	87/48/45	MO	10	1392201		B
CIB732330203	AAACHEMICALTOILETSIN	468.3500	WPT97	780116	41	41/51/24	87/38/25	TX	0	1392201		B
CIB732330202	AAACHEMICALTOILETSIN	463.3500	KUR809	780116	41	41/53/55	87/37/23	TX	0	1392201		B
CIB762390028	AAADISPOSALSYSTEMSIN	43.4800	KVW915	791015	42	42/26/36	89/00/57	MO	7	2020202		D
CCA741560003	AAADRIVESHAFTCO	467.5500	KAA9718	790913	41	41/53/08	87/48/33	TX	0	2470801		B
CCA741560001	AAADRIVESHAFTCO	462.5500	KAA9720	790913	41	41/59/21	87/37/15	MO	3	2470801		B
CCA741560002	AAADRIVESHAFTCO	467.5500	KAA9719	790913	41	41/57/26	87/41/20	TX	0	2470801		B
CIB770200038	AAAHEATINGSVCINC	464.8500	KQX291	820120	39	39/51/24	85/59/01	MO	8	3675101	162.2	B
CIB770200039	AAAHEATINGSVCINC	464.8500	KQX291	820120	39	39/51/24	85/59/01	TX	0	3675101	162.2	B
CIB762650038	AAAHEATINGSHEETMETA	151.7150	KBX292	810922	40	40/17/20	86/30/00	MO	10	3537901		B
CIB762650039	AAAHEATINGSHEETMETA	151.7150	KBX292	810922	40	40/17/20	86/30/00	TX	0	3537901		B
CIB770380036	AAALOCK&KEY	43.0000	KUH501	820207	42	42/14/15	87/46/11	MO	8	1395501	136.5	D
CIB770380037	AAALOCK&KEY	43.0000	KUH501	820207	42	42/14/15	87/46/11	TX	0	1395501	136.5	
CPS760630023	AAAMBCO	468.1750	KWB916	810304	40	40/34/32	89/36/57	MO	2	3228501		B
CPS760630016	AAAMBCO	468.0000	KWB916	810304	40	40/34/32	89/36/57	MO	10	3228501		B
CPS760630015	AAAMBCO	155.3400	KWB916	810304	40	40/34/32	89/36/57	MO	10	3228501		B
CPS760630020	AAAMBCO	468.1000	KWB916	810304	40	40/34/32	89/36/57	MO	2	3228501		B
CPS760630022	AAAMBCO	468.1500	KWB916	810304	40	40/34/32	89/36/57	MO	2	3228501		B
CPS760630017	AAAMBCO	468.0250	KWB916	810304	40	40/34/32	89/36/57	MO	2	3228501		B
CPS760630018	AAAMBCO	468.0500	KWB916	810304	40	40/34/32	89/36/57	MO	2	3228501		B
CPS760630019	AAAMBCO	468.0750	KWB916	810304	40	40/34/32	89/36/57	MO	2	3228501		B
CPS760630021	AAAMBCO	468.1250	KWB916	810304	40	40/34/32	89/36/57	MO	2	3228501		B
CPS741340085	AAAMBINC	155.2200	KZ9765	790514	40	40/34/31	89/38/42	MO	6	2271501	103.5	B
CPS741340086	AAAMBINC	155.2200	KWK500	790514	40	40/34/31	89/38/42	TX	0	2271502		B
CIB733020026	AAAMITTMAN&SON	27.4500	KVM601	781029	41	41/53/20	88/07/39	MO	5	1610701		B
CIB733020027	AAAMITTMAN&SON	27.4500	KVM601	781029	41	41/53/20	88/07/39	TX	0	1610701		B
CIB770310032	AAAMOSEMERGENCYROAD&	468.7000	KL2076	820131	41	41/52/36	87/52/30	MO	3	3686401	94.8	B
CIB770310030	AAAMOSEMERGENCYROAD&	463.7000	KRP638	820131	41	41/52/44	87/38/10	TX	0	3686401	94.8	B
CIB770310031	AAAMOSEMERGENCYROAD&	468.7000	WCG374	820131	41	42/00/24	87/37/46	MO	0	3686401	94.8	B
CLA770040071	AAAMOTORCLUBOFIOWA	150.9050	KJR384	820104	41	41/32/16	90/35/12	MO	12	3677601		D
CLA770040072	AAAMOTORCLUBOFIOWA	150.9050	KJR384	820104	41	41/32/16	90/35/12	TX	0	3677601		D
CIB752900032	AAAOVERHEADDOOR&SUPP	468.7500	KW9606	801017	41	43/02/56	88/03/48	MO	5	1772502	136.5	B
CIB752900030	AAAOVERHEADDOOR&SUPP	463.7500	KRG492	801017	41	42/57/50	88/04/30	TX	0	1772502	136.5	D
CIB752900031	AAAOVERHEADDOOR&SUPP	468.7500	WBE59	801017	41	42/54/19	87/51/34	TX	0	1772502	136.5	D
CIB740710026	AAAPOWERINC	31.2000	KJK451	790312	41	41/55/05	87/59/22	MO	8	2087001		C
CIB740710027	AAAPOWERINC	31.2000	KJK451	790312	41	41/55/05	87/59/22	TX	0	2087001		C
CIB770210009	AAASECURITYCOINC	468.8250	KJ8575	820121	41	42/21/24	88/14/11	MO	5	2411802	192.8	B
CIB770210008	AAASECURITYCOINC	468.8250	WCG365	820121	41	42/14/46	88/19/42	TX	0	2411802	192.8	B

5. DATA BASE EXTRACT

APPENDIX B

INTERIM PROGRESS REPORT ON SPECTRUM MONITORING

PART 1

The Commission has found that good information on channel utilization is essential to prudent management of the spectrum. The complex nature of this utilization in the land mobile services, and its magnitude, require extensive analysis of the raw data that the monitoring program collects. While the Commission continues its analysis, however, there are many useful things about channel utilization that we now know. It is the purpose of this appendix to illustrate a very small part of this useful information. Our reason for doing this to begin a process of familiarization with monitoring data and its many useful aspects. We anticipate that interested parties will address their comments to the utility of monitoring data as an important adjunct to traditional methods of frequency engineering.

The Chicago Office has conducted two principal monitoring programs. First has been the "production" monitoring program. This program results in spectrum occupancy data which is used by the automatic frequency assignment program (APAM). Second, and perhaps more important, the Chicago staff has been monitoring for the past year a group of selected channels in a special "Long-Term Monitoring Project".

Production Monitoring

Production monitoring to support the frequency selection program has been conducted at 56 sites (urban and rural) within a 100 mile radius of Chicago. Monitoring sites were selected to fit a grid pattern designed to provide comprehensive data over areas where monitoring was to be conducted. A site spacing of five miles enables the monitoring system to record any use of a channel by typical base stations and their associated mobiles. This five mile grid size was adopted for use in urban areas where it was thought desirable to have the most detailed information. Outside of these urban areas, where there is less density of users, the grid size was set at 25 miles. Actual site selection was affected by availability of parking space for the monitoring vans. Much use has been made of governmental lands and buildings such as state parks and post offices.

Each of the 56 monitoring sites is revisited periodically to update utilization information. The Regional staff believed it was necessary to have more timely information in areas heavily populated by existing users and potential users. Accordingly, visits to urban sites were scheduled for at least four times per year while sites in non-urban areas were visited on a yearly basis. The production data collection was performed at antenna heights of 12 to 25 feet.

The scanning procedure used in the production sampling scheme has been to divide the land mobile spectrum into blocks of contiguous channels and to scan each for five minutes. The entire land mobile spectrum is examined by sequencing through the scan blocks then repeating the process. The Commission has used two similar monitoring vans to collect the usage data. One van, fabricated by Fairchild Electrometrics Corporation of Amsterdam, New York, is able to sample the entire land mobile spectrum in 126 minutes utilising 21 scan blocks with a maximum of 146 frequencies in a given block. The other two vans, put together by Standford Research Institute (SRI) of Palo Alto, California, have a greater sampling speed than the Fairchild van so that they can sample the same spectrum in about 78 minutes with a maximum of 250 frequencies in the scan blocks.

The output of the monitoring equipment is a computer tape containing administrative information (such as location, date and times of day) and, for each frequency, a recording of the signal level each time the frequency is sampled during the scan (normally more than 600 times per five-minute scan period). This raw data tape is then processed by the computer at the Regional office. The tape reduction process is accomplished in several steps. First, the raw tape is run through a pre-reduction analysis to determine the validity of the raw data, the amount of monitoring accomplished, and to obtain information about the monitor site characteristics such as the ambient noise level. The raw data tape is then read, the tape reduction program applied, channel utilization information is derived and then stored on a disc medium for more convenient access. The tape reduction produces an unsorted utilization data file which is then sorted into a file ordered by frequency. Each frequency record in this file contains the following information for each five-minute scan period:

1. Frequency
2. Year
3. Month
4. Day
5. Hour
6. Minute
7. Site ID
8. Ground Elevation
9. Antenna Support TYPE
10. Antenna Height
11. Structure Height
12. Noise Level
13. Equipment Status
14. No. of Impulse Noise Samples
15. No. of Intermodulation Samples
16. No. of Adjacent Channel Samples
17. No. of Valid Samples
18. Maximum Signal Level
19. Minimum Signal Level
20. Average Signal Level
21. Occupancy due to samples greater than −140 DBW
22. Greater than −134 DBW
23. Greater than −128 DBW
24. Greater than −122 DBW
25. Greater than −116 DBW
26. Greater than −110 DBW
27. Greater than −104 DBW
28. Average Message Length
29. Standard Deviation of Message Length
30. Average Message Gap Length
31. Standard Deviation of Gap Length
32. Number of Messages
33. Number of Transmissions
34. Standard Deviation of Transmissions, per Message
35. Number of Intra-Message Gaps
36. Average Transmission Length
37. Standard Deviation of Transmission Length
38. Average Intra-Message Gap Length
39. Standard Deviation of Intra-Message Gap Length

The frequency ordered utilization data is then run through a program to produce a summary file which is used as the on-line production monitoring data base file consisting of the following information for each frequency (See Appendix C for printouts of this information.):

1. Latitude
2. Longitude
3. Receiver Antenna Height Designator
4. Frequency
5. Quarter (of the year)
6. 90th Percentile Occupancy
7. 50th Percentile Occupancy
8. 10th Percentile Occupancy
9. Mean Occupancy
10. Peak Five-Minute Occupancy
11. Waiting Time (Using 90th Percentile Occupancy)
12. Waiting Time (Using 50th Percentile Occupancy)
13. Number of Five-Minute Samples taken in Quarter
14. Waiting Time (Using Mean Occupancy)
15. Waiting Time (Using Peak Five-Minute Occupancy)
16. Average Occupancy due to each station in the environment assigned this frequency
17. Year

Long-Term Monitoring Project

A special "Long-Term Monitoring Project" was initiated for the purpose of establishing confidence bounds on the production sampling scheme. Statistical knowledge gained on hourly, daily and monthly variations in channel utilization obtained from the project will be useful in determining the number of days needed to spend at a monitoring site and the frequency of visits.

For this special project, equipment was removed from one of the SRI vans and installed in the Regional Office connected to a roof-top antenna with a height of 56 feet. A group of 246 channels from each of the three major land mobile bands was selected as channels to be monitored. Special usage channels, low-power and mobile only frequencies were eliminated so that for each radio service the normal two-way channels would be scanned. Each block of 246 frequencies was scanned almost continuously over each day for one week. The equipment recorded 10 to 11 five-minute samples in each hour of the monitoring day compared to one five-minute sample per hour for production monitoring. This special monitoring was conducted from late May, 1975, through August, 1976, alternating weekly between the 28, 150, and 450 MHz bands. A voluminous amount of data has been recorded in this project. We have initiated a number of analysis projects. These analyses will yield considerable knowledge about spectrum usage by licensees in the Chicago area. We will publish periodic reports on the results of these analyses as they are concluded. Some significant preliminary results and examples of the types of data available are presented hereafter.

All of the data included in the Figures of this Report have been calculated from raw data tapes recorded in the "Long-Term Monitoring Project". In essence, the project consisted of special monitoring of 246 channels from each of the bands 25–50 MHz, 150–160 MHz and 450–470 MHz. The selected frequencies in each band were monitored continuously each day for one week alternating the bands monitored from week to week. In this project, each frequency was monitored continuously yielding 50–55 minutes out of each hour whereas in the production monitoring scheme, each channel is normally monitored for five minutes out of each hour. Although data was obtained for all three of the major land mobile bands, we have included, for illustrative purposes, only data from the 150 MHz band.

TABLE 1.—*Summaries of 150–160 MHz Frequencies Monitored*

Service:	Number of Frequencies Monitored
Business	13
Special industrial	20
Telephone maintenance	1
Power	33
Auto emergency	15
Taxicab	4
Fire	19
Highway maintenance	25
Local government	35
Forestry-conservation	40
Police	34
Special emergency	7

Care should be taken when interpreting the following graphs. The data was taken from only one monitoring site; it is presented for illustrative purposes only; the comparisons made are relative not absolute; and questions remain as to the statistical variations of the measured parameters. In addition, the following should be taken into consideration:

(1) Unless indicated otherwise, all data shown was taken from tapes recorded during the week of May 24–28, 1976.

(2) The data was collected at the Park Ridge, Illinois, site of the Chicago Regional Office, in the northwest suburbs 15 miles from the center of downtown Chicago.

(3) At a receiving antenna height of 56 feet, the practical radius of coverage ranges from 10 to 50 miles depending on the antenna heights of transmitting stations—10 miles for low-power mobiles and 50 miles for base stations having antennas 1,000 feet above ground. The median radius of coverage is about 22 miles for typical base stations. This means we could receive stations in most of the Chicago metropolitan area plus the northern and western suburbs.

For the purpose of this paper, the following definitions apply:

(1) *Five-Minute Occupancy.*—Percentage of time is a five minute period a signal is found on a channel by the monitor receiver.

(2) *Peak Five-Minute Occupancy.*—The maximum five-minute occupancy for any given day (or other monitoring period).

(3) *Hourly Occupancy.*—The average of all five-minute occupancies measured in a given hour.

(4) *Peak Hour Occupancy.*—The maximum hourly occupancy for a particular day.

(5) *Daily Average Occupancy.*—The average of all five-minute occupancies measured over the monitoring day.

THE FIGURES

Figure 1.—This figure shows the relationship between five-minute occupancies and the hourly occupancy and indicates that the maximum (or peak) five-minute occupancy does not have to occur in the peak hour.

Figure 2.—This figure compares the weekly mean value of Peak Hour Occupancy and Average five-minute occupancy for the week with the maximum five-minute occupancy occurring in the week for 13 Business frequencies.

Figure 3.—For three frequencies in the Power Radio Service, this figure indicates the manner in which the weekly mean of the Peak Hour Occupancy varies over the year.

The dates of the relative weeks are:

1—June 30–July 3, 1975
3—July 14–18, 1975
6—August 4–8, 1975
15—October 8–10, 1975
36—February 23–27, 1976
37—March 10–12, 1976
39—March 23–26, 1976
45—May 3–5, 1976
48—May 24–28, 1976
52—June 24–25, 1976

Figure 4.—This figure is a graphical representation of the relationship between measured occupancy and calculated waiting time. Waiting time is the time a user has to wait on a channel before he can transmit a message. It is calculated as an average waiting time in the peak period of channel usage. The curve is plotted for average message lengths of 30, 20 and 10 seconds. At the 40% occupancy point, the waiting time to use the channel would be 54 seconds, 36 seconds and 18 seconds for channels having average message lengths of 30, 20 and 10 seconds, respectively.

Figures 5 through 15.—These graphs show the weekly mean value of Peak Hour Occupancy for each of the 150 MHz frequencies monitored in this project. The graphs may be used to make a relative comparison between frequencies available to a particular radio service and between frequencies available to different services. Only data for the week of May 24–28, 1976, is presented.

Figures 16 through 19.—These figures are copies of actual printouts obtained from the DAYTAB (Daily Tabulation) computer routine that calculates the occupancy parameters we have plotted in the preceding figures. Two frequencies from the Business Radio Service are used as examples. For each frequency, the first page of the two-page printout contains the following information.

(1) First column—The month/day/year of the monitoring day.

(2) Next 24 columns—The heading of each column is the hour of day using 24-hour clock. For each day, the first row in these columns contains the hourly occupancy for the hour beginning with the time heading for the column. The second row contains the number of five-minute scan blocks monitored within the particular hours. The last two rows under these columns are (1) the average hourly occupancy for the week and (2) the total number of five-minute samples used to calculate the average hourly occupancy. (Only those hours with six or more five-minute samples were included in the calculation.)

(3) 26th column—The first figure in this column, labelled PK, is the maximum hourly occupancy or "peak hour occupancy" (for each day). The second figure is the maximum five-minute occupancy or "peak five-minute occupancy" for the day.

(4) 27th column—The first figure in this column labelled MP, is the hour of the day in which the peak hour occupancy occurs. The second figure is the hour of the day in which the peak five-minute occupancy occurs.

(5) 28th column—The first figure in this column, labelled AV, is the average of all the hourly occupancies for the day. The second figure is the average of all the five-minute occupancies measured in the day. Either figure can be referred to as the "daily average occupancy".

(6) 29th column—The column, labelled 90, contains the 90th percentile occupancy for the day. 90th percentile occupancy means that 10% of the five-minute occupancies recorded in the day are greater than the specified value while 90% of the five-minute occupancies are equal to or less than the specified value.

(7) 30th column—The first figure in this column, labelled A/P, is the ratio of daily average occupancy to the peak hour occupancy. The second figure is the ratio of daily average occupancy to the peak five-minute occupancy.

(8) Weekly Summary—This summary, printed underneath the foregoing, should be self explanatory. It lists the minimum, maximum and average values of the specified parameters.

The second page of the two-page printout is a plot of the hourly occupancies listed in columns headed 00 to 23 on the first page. The symbol "1" represents the hourly occupancy levels for the first day of the monitoring week. The symbol "2" represents the hourly occupancy levels for the second day, and so forth. The asterisk represents the average hourly occupancy levels for the week. If data points for two or more days coincide, the symbol for the latest day is shown.

Results of Analyses to Date

The following are the results and conclusions of analyses of spectrum usage data derived from the long-term and production monitoring programs. They summarize a number of different staff studies which have yet to be publicly released.

With respect to the monitoring system and measurement methods, we find that:

1. In measuring Average Occupancy from production data, the maximum measurement error is within ±8 Percent Occupancy and slightly higher for 90th Percentile Occupancy (within ±14 Percent Occupancy).

2. The relative measurement error is larger for low occupancy channels than for high occupancy channels.

3. Measurement error decreases with increased sampling during a given time period.

4. The optimum scanning/sampling method is a compromise between the production sampling scheme and the long-term type of continuous monitoring:

a. Allowing an increased number of channels to be scanned in a given period.

b. Maintaining the confidence level at 95% ±3 Percent Occupancy.

5. To accurately describe the usage on a channel within a given hour, at least three five-minute samples per hour are required.

From the analyses conducted to date on the utilization of frequencies in the Chicago area, we have found that:

1. There is no reasonable correlation between spectrum utilization data and the number of base stations, mobiles and licensees authorized in the area. (See Part 2 for details of a specific study.)

2. Below 450 MHz, there is an increase in measured utilization with an increase in monitor receiver antenna height.

3. Most frequencies exhibit a standard deviation within ±10 Percent Occupancy in Peak and Average usage from day-to-day.

4. 90th Percentile Occupancy and Average Occupancy tend to be normally distributed.

5. For low occupancy channels, the distribution of five-minute occupancy samples taken consecutively on a land mobile channel for a 12 hour period (about 144 samples) usually is not similar to any common statistical distributions. For high occupancy channels, the distribution of these samples tend toward a normal distribution.

6. The distribution of 90% occupancy samples taken by the monitor is usually asymmetric with respect to the 90% occupancy value determined by use of all of the five-minute samples for a day. Usually about ⅔ of the 90% occupancy distribution falls below the full day value giving a like probability that the 90% occupancy value determined by the monitor will be lower than the true 90% occupancy value.

7. The monitor average sampling distribution is usually symmetric about the average value determined from all of the days samples. There is an equal probability that the measured average monitor occupancy will be either high or low.

Optimum Loading Level

The Commission is faced with the question of how to determine whether a channel is loaded to saturation, to an optimum level, or to a level which permits additional users. One apporach taken by the Commission has been to adopt mobile loading standards in the 470–512 MHz band and 800 MHz band. Part 2 of this report deals with the relationship between mobile loading standards and actual on-the-air usage measured by our monitoring equipment.

After further analysis, we expect to be able to determine the optimum loading level and the level of usage at which saturation occurs. For the purpose of discussion, the saturation level is defined as the level of channel usage at which the addition of another user cannot be tolerated by existing users on a channel; and the optimum loading level is defined as the preferred level of channel usage at which additional licensees should not be authorized to use a given channel on a time-sharing basis in the same geographic area.

From the plot of Waiting Time vs. Transmission Occupancy (Figure 4) and the graphs showing channel usage by the Business and Taxicab Radio Services (Figures 13 and 15–19), it appears that an occupancy figure in the 40%–60% range could be considered as an optimum loading level for those two services. The further development of this concept will depend on a variety of factors involving the ways in which channels are used by various kinds of users. Obviously there are different levels of acceptability for different priorities of use. These are subjects for comment in the current proceeding, but will be considered extensively in the future proceedings before loading levels are established.

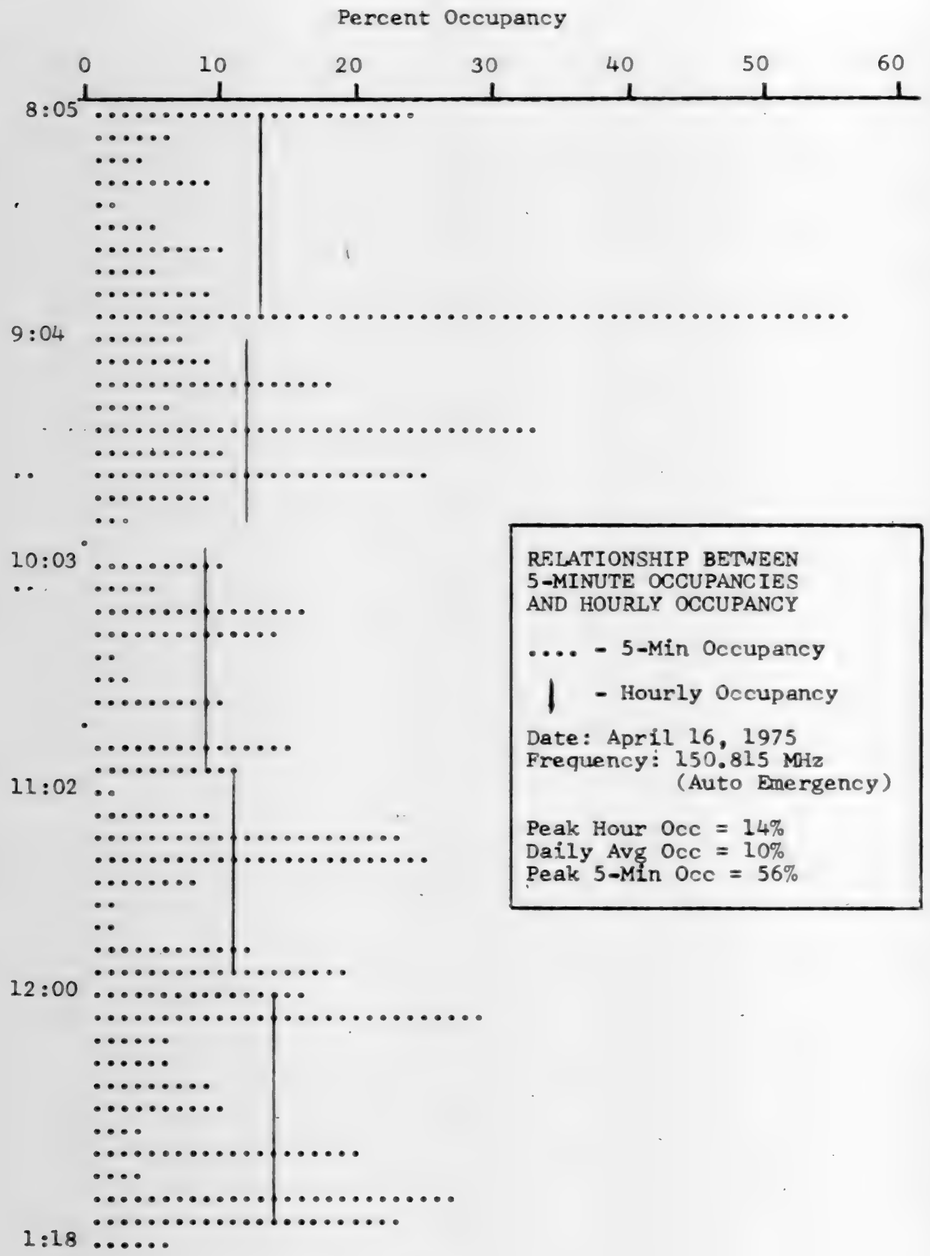
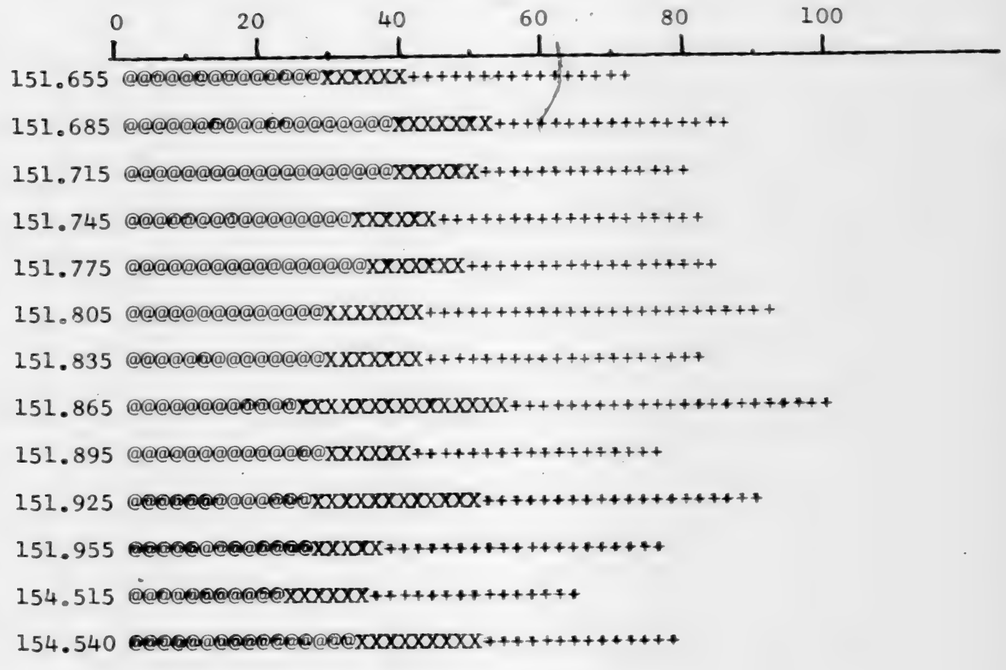


FIGURE 1

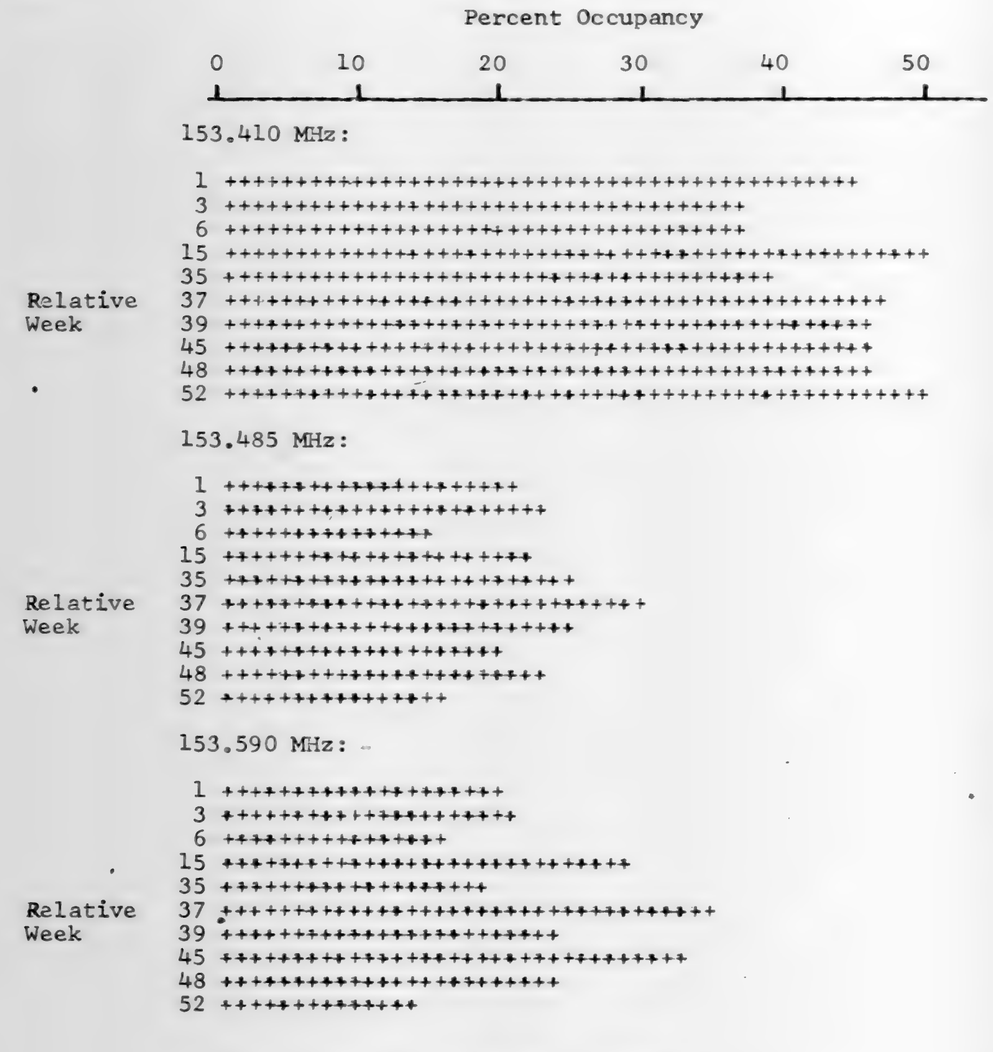


@ = Average 5-Minute Occupancy for the week (or Mean Daily Average)

X = Weekly Mean of the Peak Hour Occupancy

\+ = Maximum 5-Minute Occupancy for the week

FIGURE 2



Weekly Mean of Peak Hour Occupancy over a 52-week period from June 30, 1975 to June 24, 1976

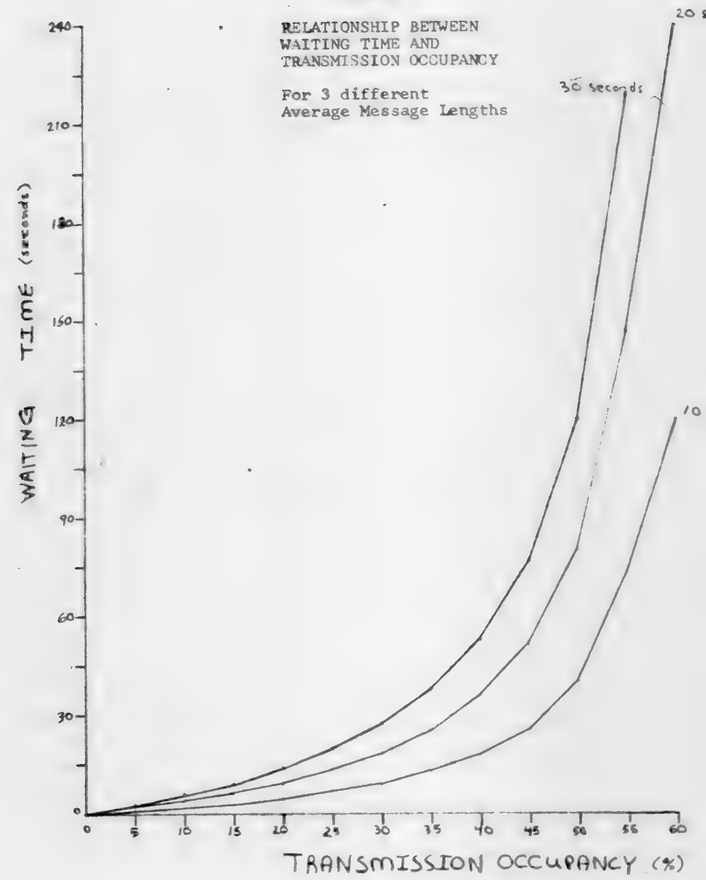
(Power Radio Service)

FIGURE 3

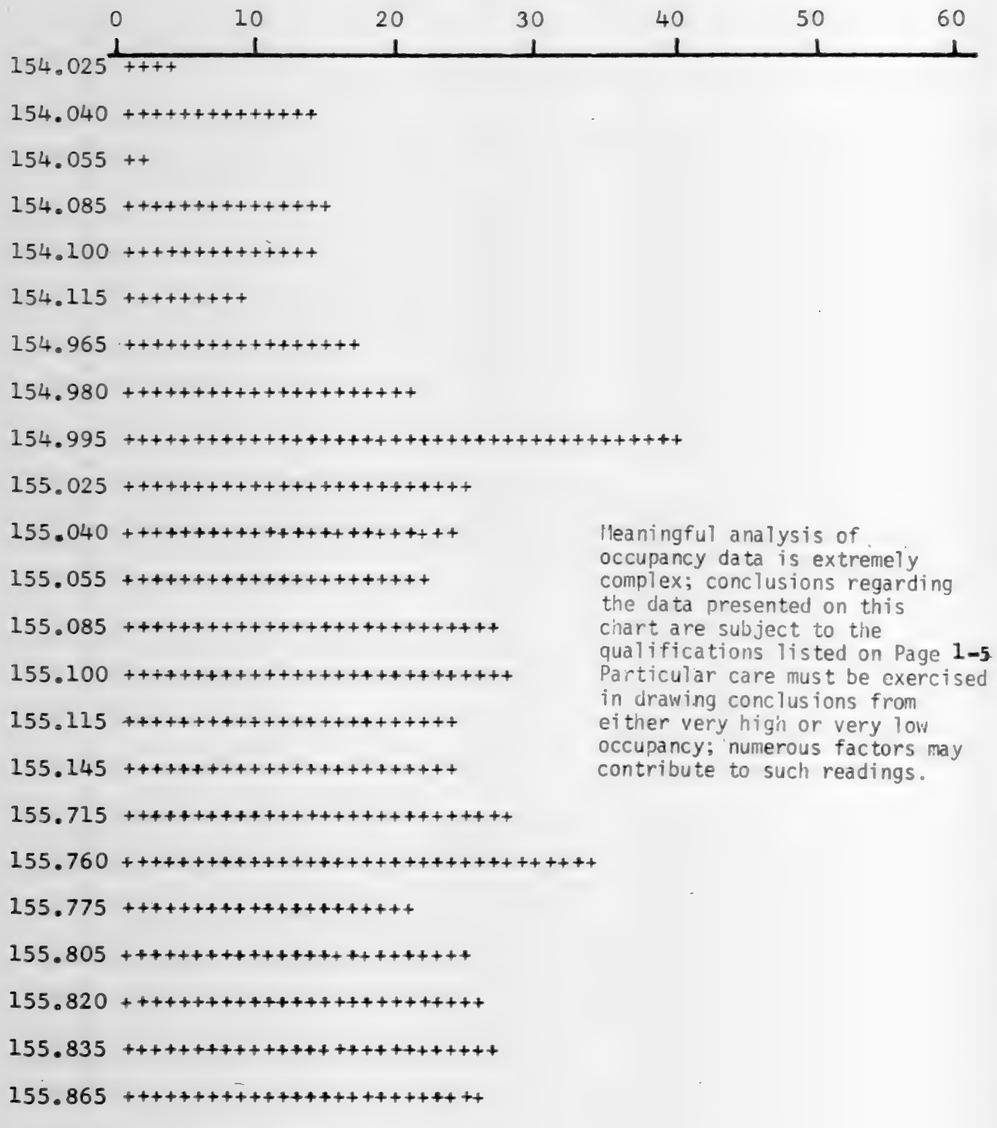
FIGURE 4

RELATIONSHIP BETWEEN WAITING TIME AND TRANSMISSION OCCUPANCY

For 3 different Average Message Lengths



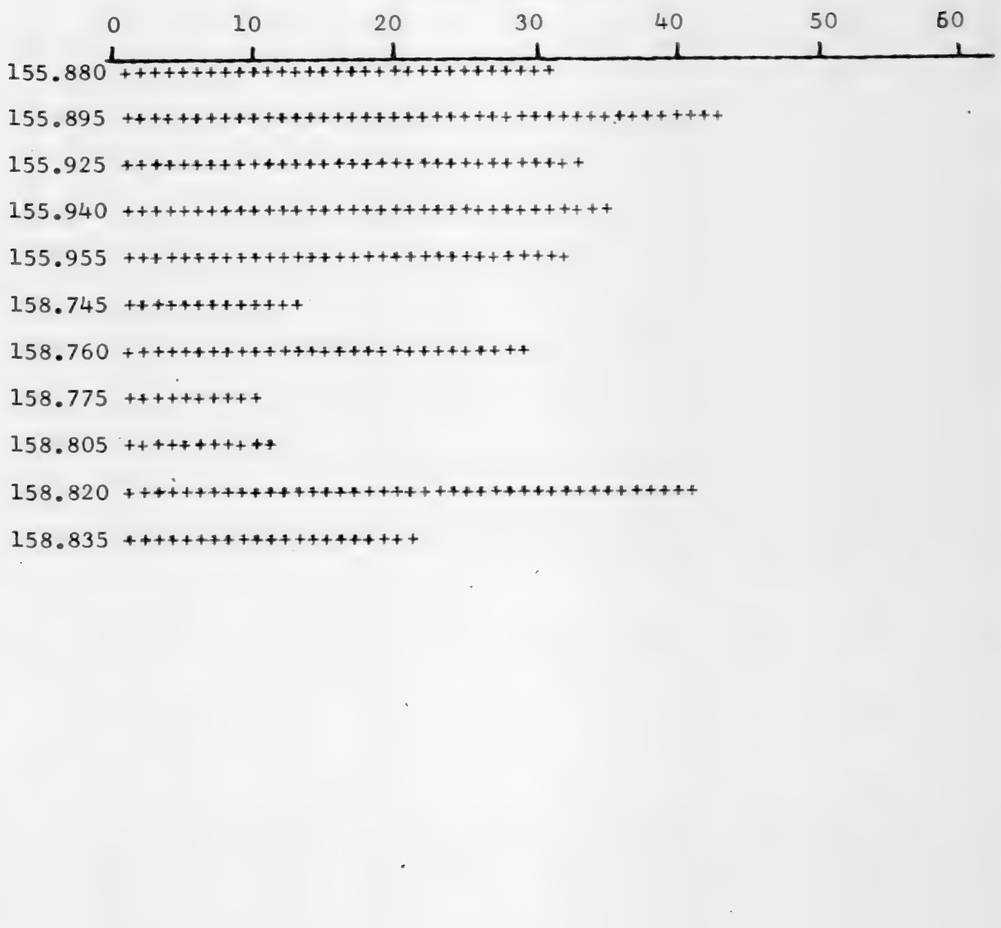
LOCAL GOVERNMENT RADIO SERVICE



Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 5

Local Government (continued)



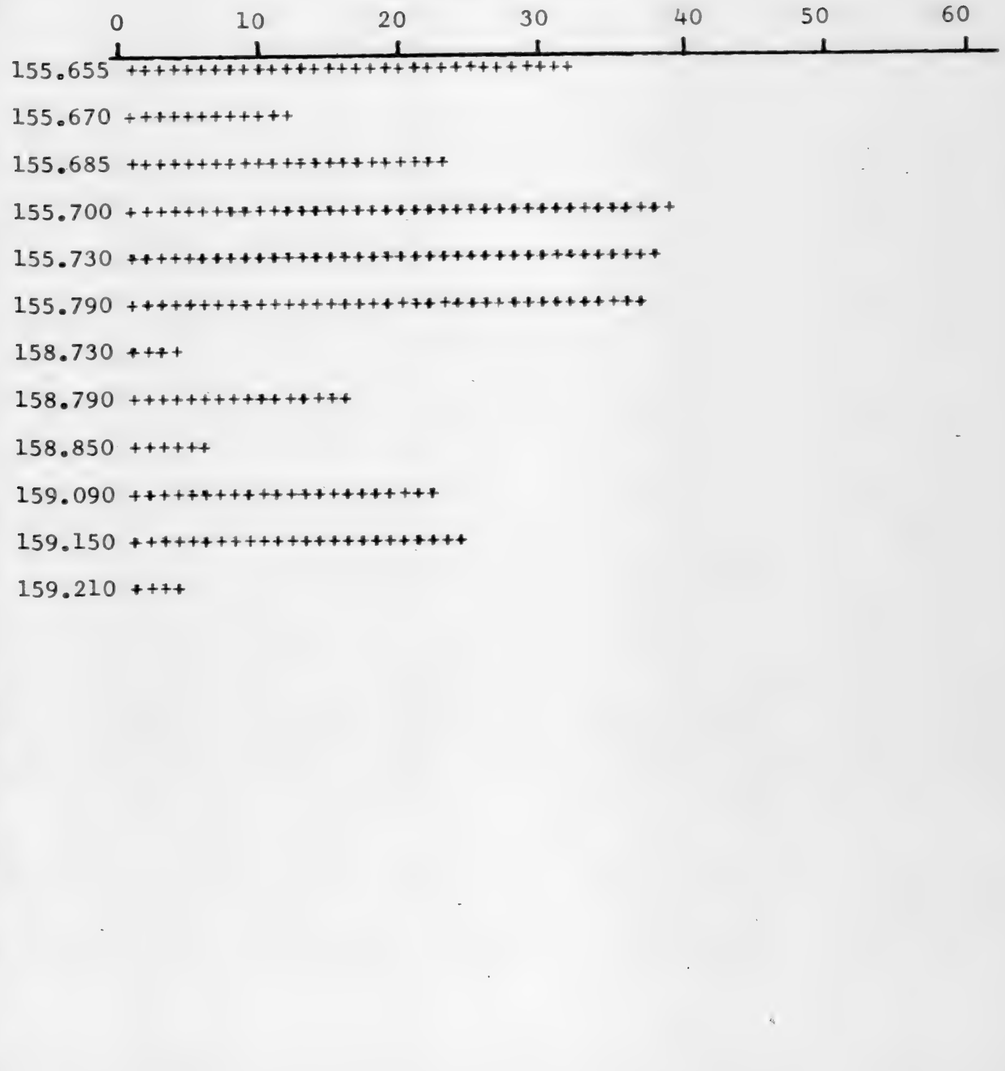
POLICE RADIO SERVICE



Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

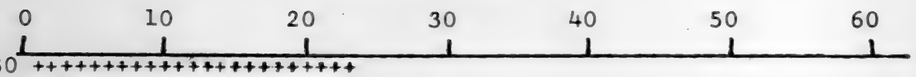
FIGURE 6

Police (continued)



FIRE RADIO SERVICE

Percent Occupancy



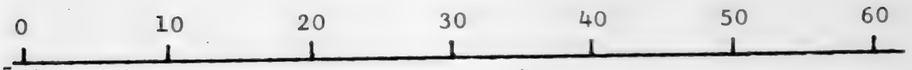
154.130 ++++++++++++++++++++++++
154.145 +++
154.160 +++++++
154.175 +++
154.190 ++++++++
154.205 ++++++++++
154.220 ++++++++++++
154.235 ++++++
154.250 ++++++++++
154.310 ++++++++++
154.325 ++
154.340 ++++++++++++++
154.355 +++
154.370 ++++++++++++
154.385 +++
154.400 ++++++++++++++
154.415 ++++++++++++
154.430 ++++++++++
154.445 +++++++

Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 7

FORESTRY-CONSERVATION RADIO SERVICE

Percent Occupancy

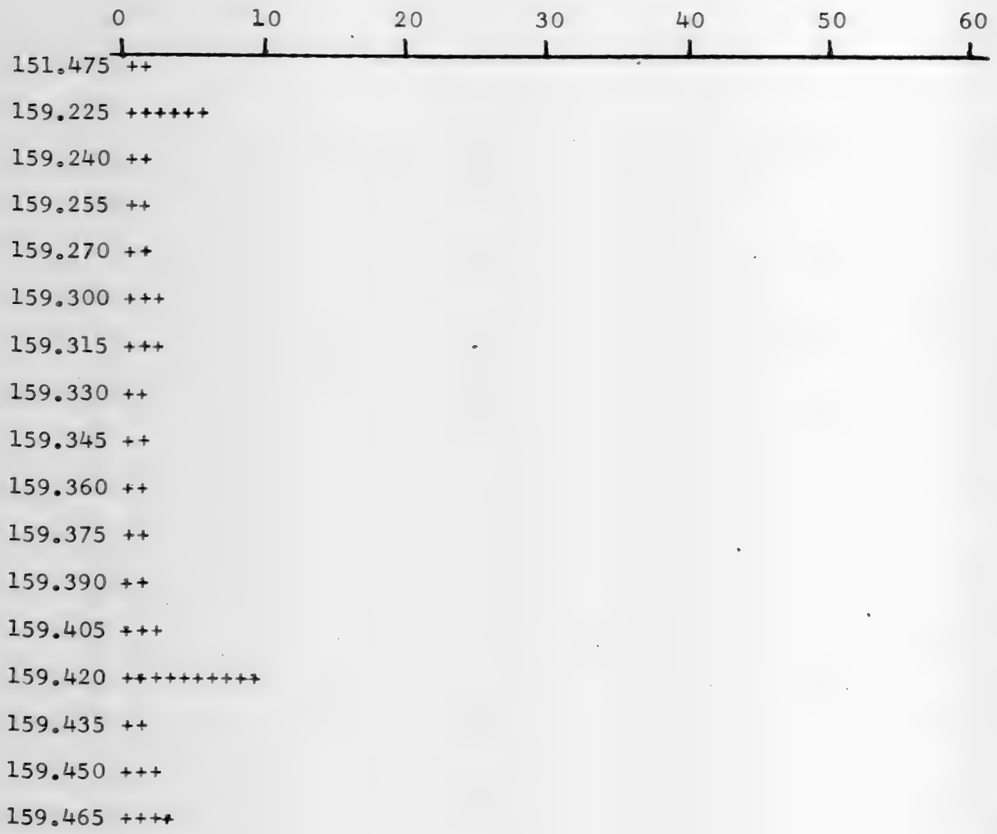


151.145 +
151.160 +
151.175 ++++
151.190 +
151.205 ++++
151.220 +++
151.235 ++++
151.250 ++++
151.265 +
151.280 +
151.295 ++++
151.310 +++
151.325 +++++
151.340 +
151.355 +
151.370 ++
151.385 ++
151.400 +++
151.415 +++
151.430 +
151.445 +
151.460 ++

Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 8

Forestry-Conservation (continued)



HIGHWAY MAINTENANCE RADIO SERVICE

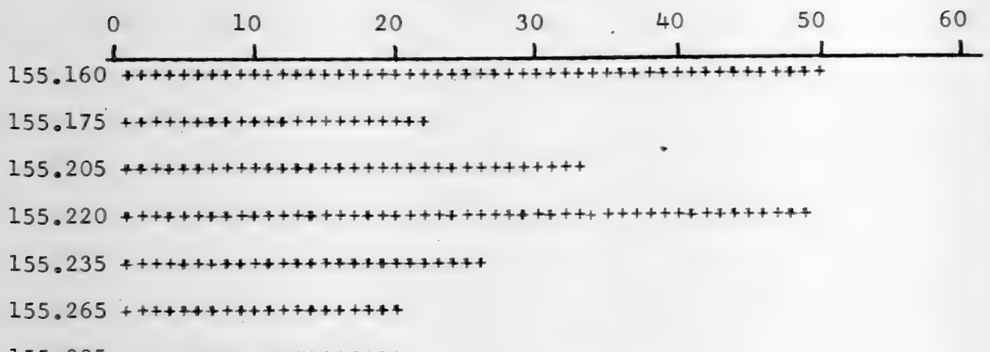
Percent Occupancy



Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 9

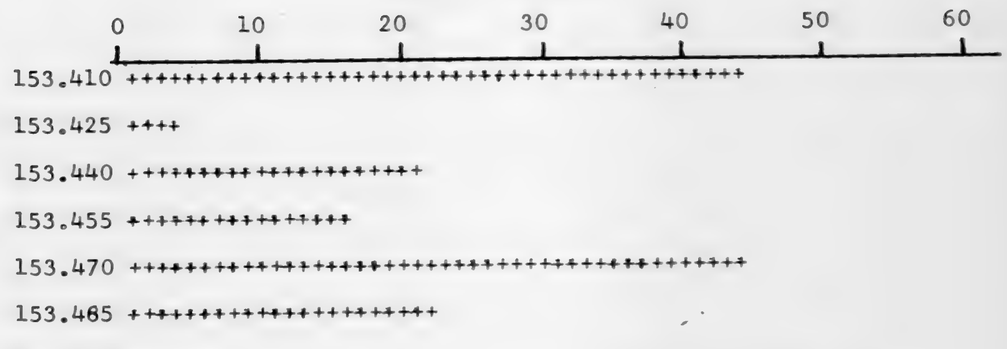
SPECIAL EMERGENCY RADIO SERVICE



Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 10

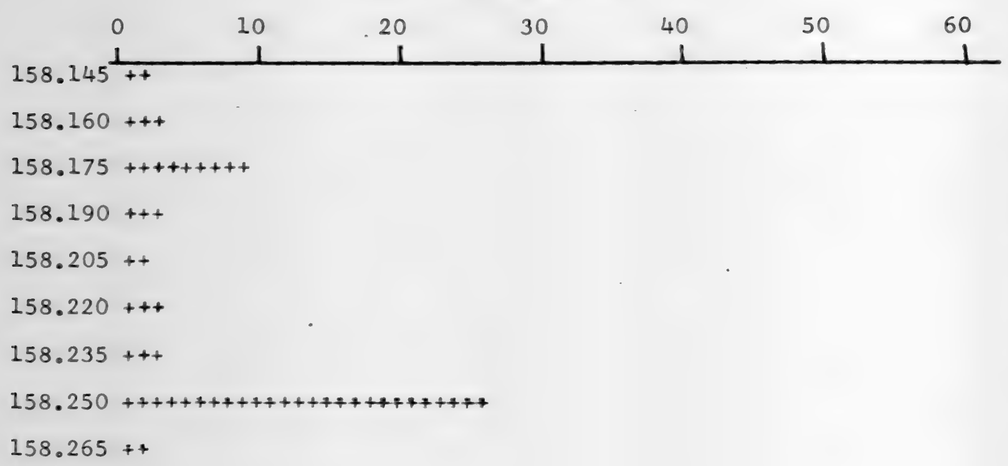
POWER RADIO SERVICE



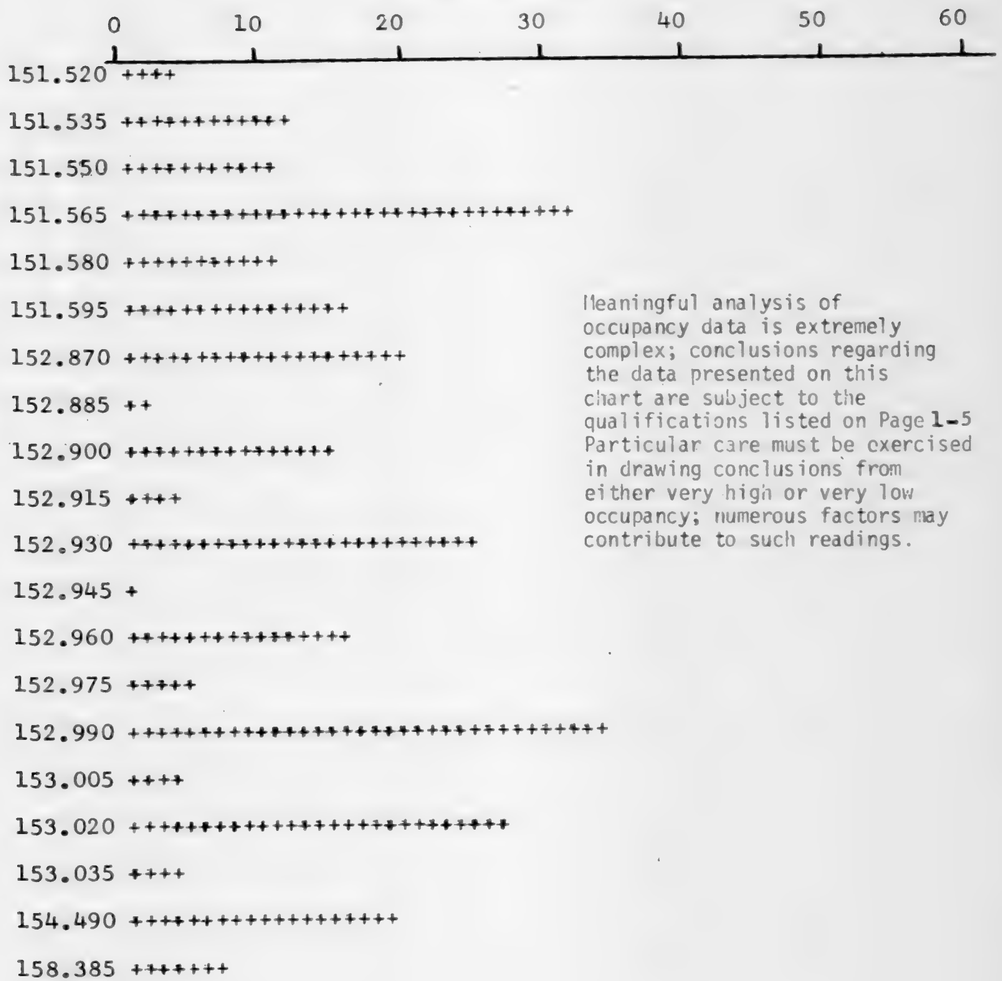
Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 11

Power (continued)



SPECIAL INDUSTRIAL RADIO SERVICE

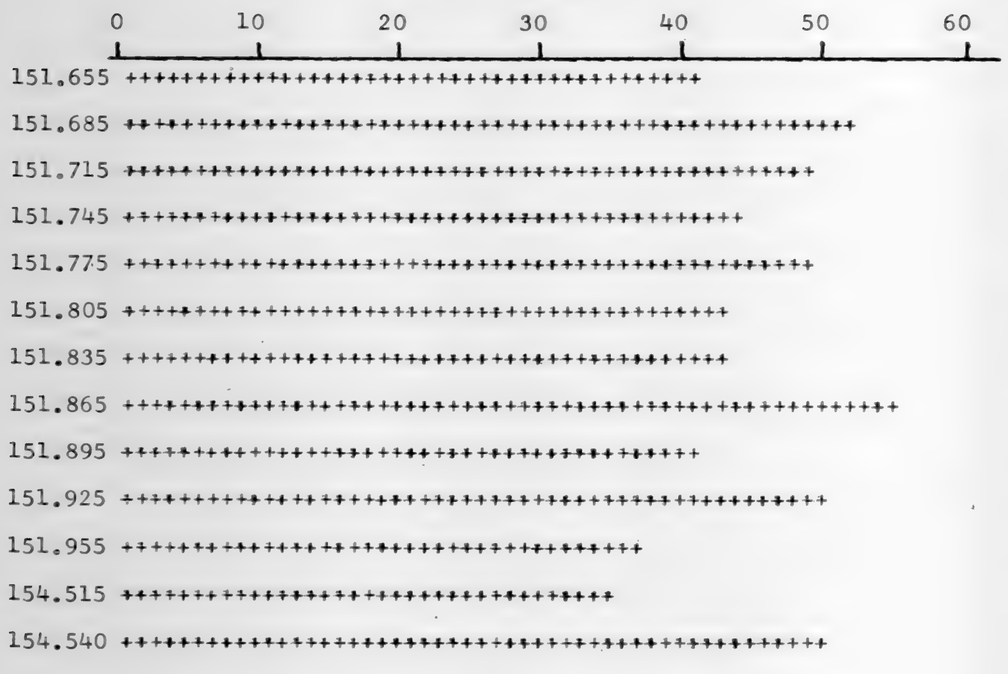


Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 12

BUSINESS RADIO SERVICE

Percent Occupancy

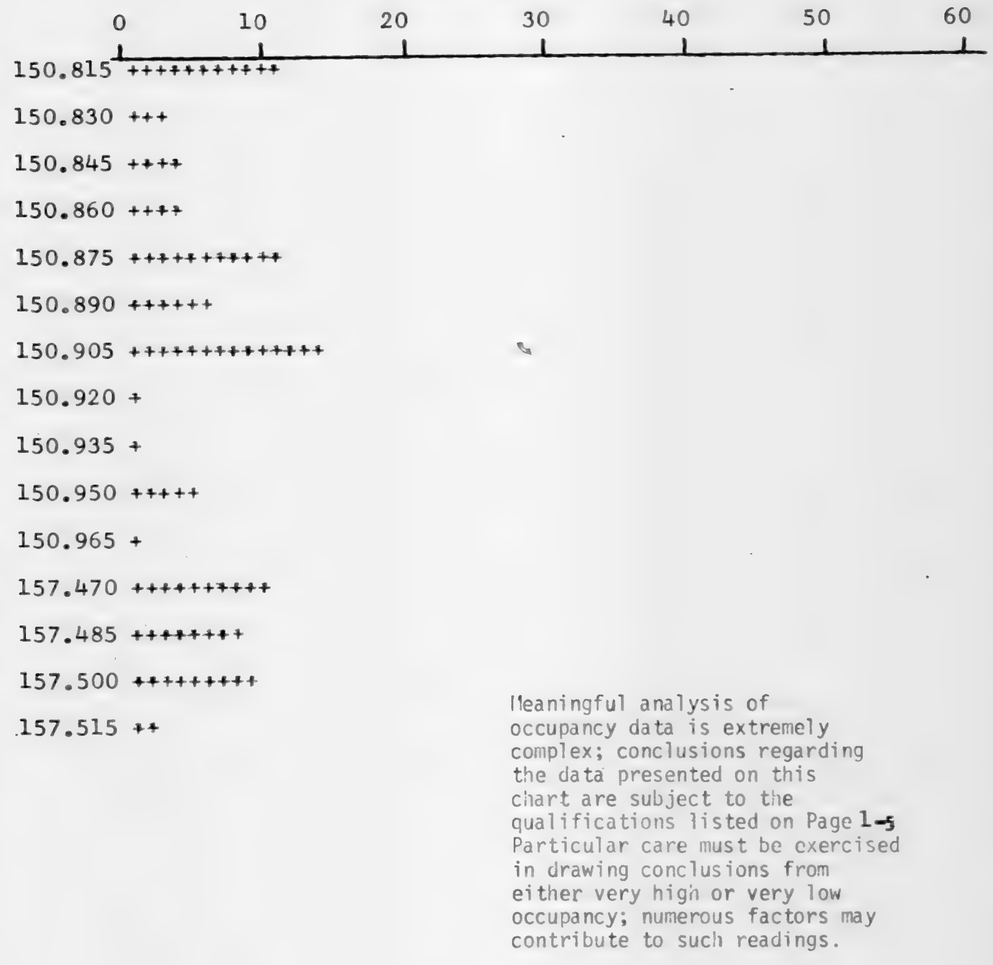


Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5. Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 13

AUTOMOBILE EMERGENCY RADIO SERVICE

Percent Occupancy

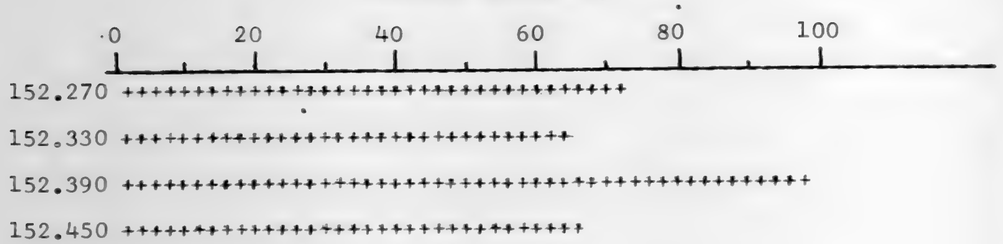


Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5. Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 14

TAXICAB RADIO SERVICE

Percent Occupancy



Meaningful analysis of occupancy data is extremely complex; conclusions regarding the data presented on this chart are subject to the qualifications listed on Page 1-5 Particular care must be exercised in drawing conclusions from either very high or very low occupancy; numerous factors may contribute to such readings.

FIGURE 15

DAILY OCCUPANCY TABULATION FOR FREQUENCY: 151.*650

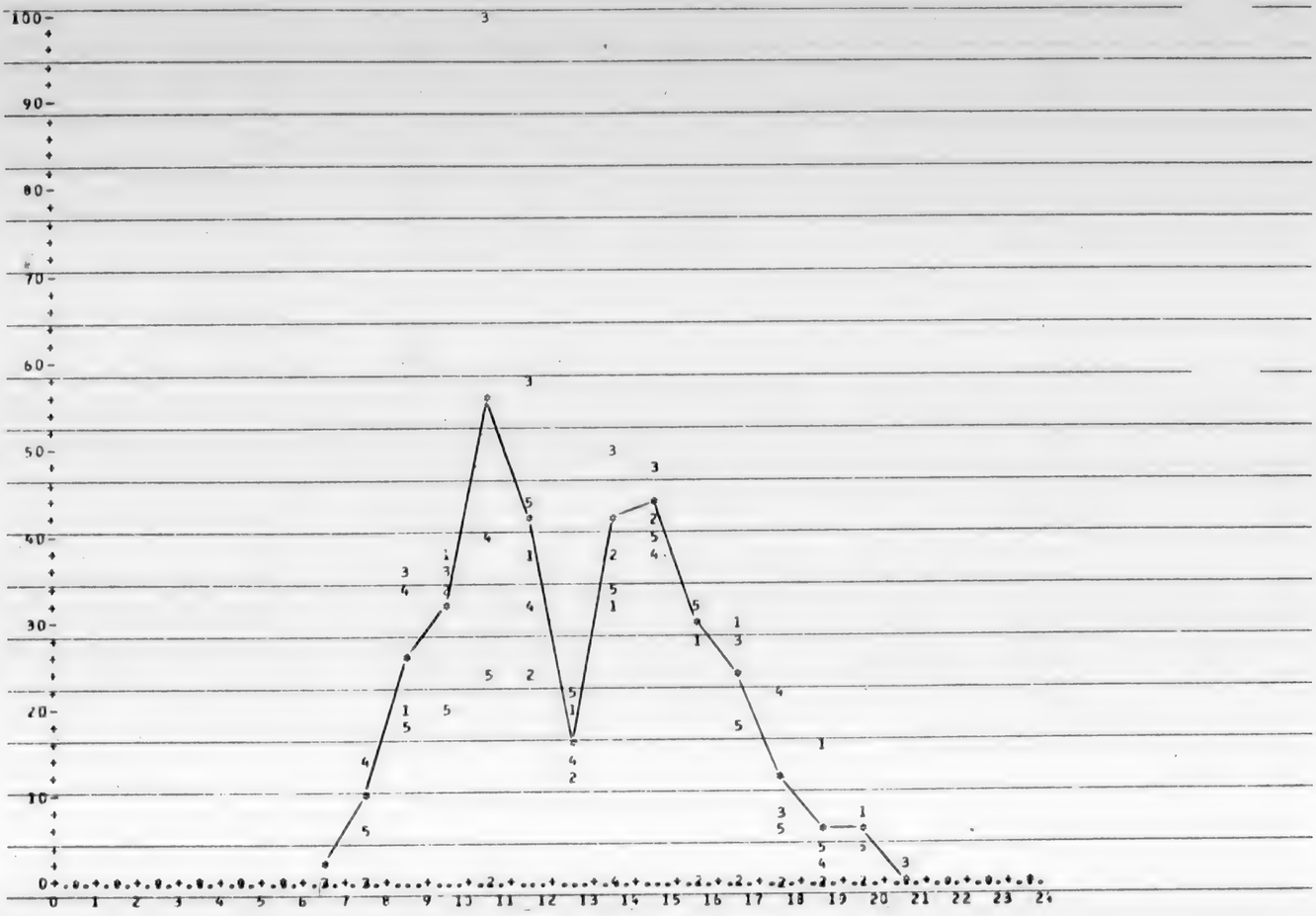
DATE	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	PK MP	AV 90	A/P
05/24/76	00	00	00	00	00	00	02	03	26	37	55	37	19	31	48	28	30	12	15	07	00	00	00	00	55 10	25	.45
	0	0	0	0	0	0	10	11	10	11	10	11	10	5	11	10	11	11	10	9	0	0	0	0	86 11	25 63	.29
05/25/76	00	00	00	00	00	00	01	04	25	33	00	25	11	11	38	41	00	00	00	00	00	00	00	00	33 13	20	.53
	0	0	0	0	0	2	11	10	11	11	0	1	10	11	3	0	0	0	0	0	0	0	0	0	91 13	20 48	.25
05/26/76	00	00	00	00	00	00	00	00	36	35	**	58	15	49	47	30	27	08	33	03	01	00	00	00	** 10	34	-.34
	0	0	0	0	0	0	9	0	9	10	11	10	11	11	10	10	10	11	11	10	1	0	0	0	** 11	34 **	.34
05/27/76	00	00	00	00	00	00	01	13	34	31	45	32	13	00	00	37	29	23	21	22	06	00	00	00	43 10	22	-.55
	0	0	0	0	0	0	10	11	10	11	10	11	10	0	9	10	11	10	10	11	1	0	0	0	91 14	21 46	.23
05/28/76	00	00	00	00	00	00	02	05	18	19	23	43	22	34	39	32	18	05	03	03	00	00	00	00	43 11	19	-.44
	0	0	0	0	0	2	10	11	10	11	11	7	9	10	8	10	11	10	11	11	0	0	0	0	84 13	18 43	.21
	00	00	00	00	00	00	01	09	26	31	55	42	16	41	43	30	24	11	06	05	00	00	00	00			
	0	0	0	0	0	0	41	42	51	53	42	39	50	32	38	40	43	42	43	40	0	0	0	0			

WEEKLY SUMMARY

AVERAGE HOUR		PEAK HOUR		AVG 5 MINUTES		PEAK 5 MINUTES		90 PERCENTILE	
MIN	MAX	AVG	MIN	MAX	AVG	AVG	MIN	MAX	AVG
15	34	24	30	**	55	18	34	24	43 ** 60

FIGURE 16

FIGURE 17 - OCCUPANCY vs TIME



DAILY OCCUPANCY TABULATION FOR FREQUENCY: 151.9550

DATE	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	PK	MP	AV	90	A/P
05/24/76	00	00	00	00	00	00	05	32	35	34	30	27	25	23	33	32	25	15	13	14	00	00	00	00	35	08	25		.71
	0	0	0	0	0	0	10	11	10	11	10	11	10	5	11	10	11	11	10	9	0	0	0	0	73	9	25	44	.34
05/25/76	00	00	00	00	00	06	05	22	37	25	00	20	19	34	24	00	00	00	00	00	00	00	00	00	37	08	24		.65
	0	0	0	0	0	2	11	10	11	11	0	1	10	11	3	0	0	0	0	0	0	0	0	0	60	13	23	42	.38
05/26/76	00	00	00	00	00	00	00	00	34	30	35	21	32	34	37	35	31	18	09	07	18	00	00	00	37	14	27		.73
	0	0	0	0	0	0	0	0	9	10	11	10	11	11	10	10	10	11	11	10	1	0	0	0	65	14	27	50	.42
05/27/76	00	00	00	00	00	00	12	25	27	26	34	33	35	00	32	35	28	26	06	12	01	00	00	00	35	15	25		.71
	0	0	0	0	0	0	10	11	10	11	10	11	10	0	9	10	11	10	11	10	1	0	0	0	68	10	25	45	.37
05/28/76	00	00	00	00	00	07	10	37	30	32	34	38	27	35	39	32	41	25	28	23	00	00	00	00	41	16	31		.76
	0	0	0	0	0	2	10	10	11	10	11	7	9	10	8	10	11	10	11	11	0	0	0	0	76	14	30	51	.39
	00	00	00	00	00	00	03	29	33	29	33	29	28	34	35	34	31	21	14	14	00	00	00	00					
	0	0	0	0	0	0	41	42	51	53	42	39	50	32	38	40	43	42	43	40	0	0	0	0					

WEEKLY SUMMARY:

AVERAGE HOUR			PEAK HOUR			AVRG 5 MINUTES			90 PERCENTILE			PEAK 5 MINUTES		
MIN	MAX	AVG	MIN	MAX	AV	MIN	MAX	AVG	MIN	MAX	AVG	MIN	MAX	AVG
24	31	26	35	41	37	23	30	26	42	51	46	60	76	68

FIGURE 18

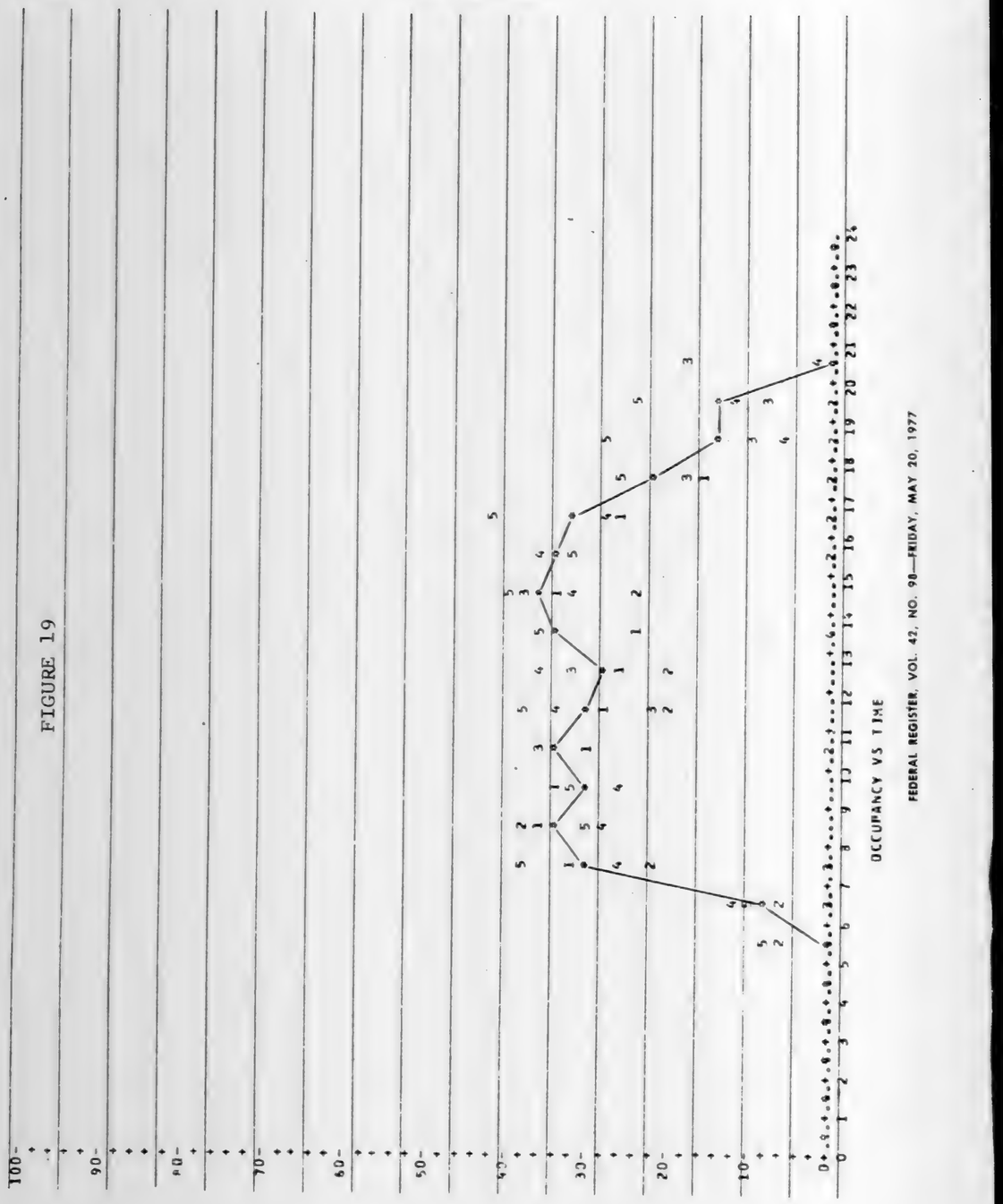


FIGURE 19

PART 2.—STUDY OF THE RELATIONSHIP BETWEEN SPECTRUM UTILIZATION AND MOBILE LOADING FOR THE 470 MHz BUSINESS SERVICE IN CHICAGO

Abstract

A group of 470 MHz Business Radio Service frequencies in Chicago has been studied to determine the degree of statistical correlation between the number of mobile units licensed to a channel and the level of channel utilization. Linear correlation-regression analysis has been applied to spectrum occupancy and mobile loading data gathered at the Commission's Chicago Regional Office. Extremely low coefficients of dependence, on the order of 2%, indicate the occupancy and the number of licensed mobile units are not linearly related. Moreover, no mathematical relationship could be found from which to predict channel occupancy levels from the Commission's mobile loading records. Independent investigations conducted by the Office of Chief Engineer have corroborated the findings of this study.

Introduction and Background

In Dockets 18261 and 18262, the Federal Communications Commission adopted mobile loading standards as the basis for determining channel loading for land mobile operations in the 470–512 MHz and 800 MHz bands. For each radio service or group of services governed by Parts 89, 91, and 93 of the Commission's Rules, specific standards for the number of mobile units on a channel were established to determine when that channel could no longer be assigned in a given area. These standards were viewed with considerable uncertainty by the land mobile community. In the Docket 18261 proceeding, a number of parties commented that these standards, as the sole means of determining channel loading, would prove overly rigid. They felt that the operational and technical requirements of land mobile users should also have a role in determining when a channel was fully loaded or when more channels were needed in a communication system.

The loading standards were intended to foster efficient use of the spectrum by preventing the intolerable congestion that had been reported in other land mobile frequency bands. A major concern, however, was the degree to which the number of authorized mobile units would accurately reflect the amount of channel utilization. The Commission's mobile loading records are based upon the information supplied by an applicant in his license application. The loading standards, by nature, might serve to encourage applicants to overstate the number of units in their systems in order to justify additional channels or to minimize channel sharing with other users. (The extent to which this practice has undermined the accuracy of the Commission's records is unknown, but believed sizeable.) Moreover, it is unlikely that all mobile units in a system would be in an operational status at any given time.

These concerns led some parties in the Docket 18261 proceedings to suggest spectrum monitoring as a more objective basis for determining channel loading. At that time, however, the Commission's spectrum monitoring program was in an early stage of development, and mobile loading was the only manageable loading technique available. Moreover, in the absence of documentation to the contrary, a direct relationship between channel utilization and the number of contributing mobile units could logically be assumed.

When the Spectrum Management Task Force initiated the "long-term monitoring project", adequate data for a study of this relationship became available. This type of monitoring provided the best possible depiction of channel utilization for much of the Chicago Metropolitan area. A complete description of the "long-term monitoring project" is given on page 1–3 of Appendix B.

Study Formulation

A group of 22 Business Radio Service channels in Chicago were selected for the study for the following reasons:

(1) The channels are governed by mobile loading standards.

(2) Of all 470 MHz pools, only the Business Service pool provided a sufficient number of "on-the-air" channels to permit statistical analysis. In the Public Safety pools, for example, only five of the 26 assignd channels registered occupancy at the Chicago Regional Office during the week of special monitoring for this study.

(3) All users of these business channels operated through mobile relay stations located on downtown Chicago skyscrapers. Since these stations are within "line-of-sight" of the regional office (at Park Ridge, Illinois, 15 miles northwest of the Chicago loop), reception of practically all base and mobile messages could be achieved.

(4) The mobile units on these channels had been licensed at least eight months prior to the week of the monitoring period (January 26–31, 1976). This is significant since the Commission's Rules allow a licensee a period of eight months following the issuance of his license in which to place his system in complete operation.

The 22 channels were monitored at the Chicago Regional Office throughout the week of January 26–30, 1976. This monitoring was done on a nearly continuous basis over the following time periods:

January 26 and 27—6 a.m. to 8 p.m.
January 28 and 29—6 a.m. to 6 p.m.
January 30—1 p.m. to 6 p.m.

Analysis of Occupancy and Mobile Loading Data

Table 1, on page 2–7, contains the channel occupancy and mobile loading data analyzed in the study. The occupancy parameters of interest are weekly averages of "daily peak hour", "daily average hour", and "daily 90th percentile" occupancies. These parameters are defined in Appendix B, page 1–5. As an illustration, the weekly "peak hour" occupancy is the arithmetic mean of the daily "peak hour" occupancies for the five days of monitoring.

The mobile loading data in Table 1 consists of the "Total" and "Effective" numbers of mobile units licensed on a channel, the number of licensees sharing the channel, and the number of transmitter sites in operation. The "Total" number of units is the combined number of vehicular and portable radios stated by an applicant on his application form. This is converted to an "Effective" number (for loading determination) by counting each handheld portable as a fraction of a loading unit (one-third of a unit for the Business Service) and then dividing by the number of channels serving the mobile units. Table 1 shows that for the selected frequencies, the "Total" and "Effective" numbers of mobile units were essentially the same.

Presented below is a statistical summary of the data given in Table 1.

Appendix B

Parameter	Mean	Standard deviation	Coefficient of variation [1]	Minimum	Maximum
Peak hour occupancy	[2] 36	11.4	.317	[2] 15	[2] 61
Average hour occupancy	[2] 21	7.6	.362	[2] 8	[2] 37
90th percentile	[2] 46	12.6	.274	[2] 21	[2] 66
Total number of mobile units	80	17.9	.224	43	115
Effective number of mobiles	79	17.6	.223	42	112
Number of users	8	3.5	.583	1	15

[1] The coefficient of variation is defined as the standard deviation divided by the mean value. It is used to compare the relative variability of parameters having different means.
[2] In percent.

Several observations can be made from the above summary. First, it can be seen that the occupancy levels of the 22 frequencies were not uniformally distributed (see also Figure 1 on page 2–8). The coefficients of the variations (27%–36%) indicate a fairly wide range of variation among the channels. The number of mobile units also varied from channel to channel, but was relatively more stable than the occupancy parameters.

As shown below, more than half of the channels were either above or close to the 90 unit loading limit of the Business Service.

Effective number of mobiles:	*Number of channels*
More than 85	11
75–84	4
65–74	3
Less than 65	4

Although the mobile loading of these channels is generally high, there appears to be space available for prospective users with relatively few mobile units. In terms of channel utilization, however, the loading situation is somewhat different. For instance, the least loaded channel, 472.6625/475.6625 MHz, was licensed 42 mobile units (Table 1). Another 48 units could be licensed before this channel would be at the loading limit. However, the 90th percentile occupancy for this channel was 56%; making it one of the most heavily utilized during the week of the monitoring. In contrast, 472.3375/475.3375 MHz had the lowest 90th percentile occupancy for the week (21%). Yet, this channel was loaded to 89 mobile units, and thus was not assignable. Inspection of Table 1 will reveal similar disparities between utilization and mobile loading.

The line chart in Figure 1 (page 2–8) shows that channel occupancy and the number of mobile units per channel do not generally move in the same direction. This indicates a lack of correlation between these parameters.

Results of Correlation-Regression Analysis

"Simple linear correlation-regression analysis" was applied to the occupancy and mobile loading data to determine the degree of linear correspondence between them. The analysis entailed the calculation of correlation and dependence coefficients and the preparation of graphs to aid in visualising mathematical trends.

Independent analyses were made for six combinations of occupancy and mobile loading parameters. The number of mobile units per channel was taken to be the known variable (independent variable), while the measured level of channel utilization served as

the variable to be predicted (dependent variable). The hypothesis to be tested was that the occupancy and loading variables were matematically related by a linear equation; i.e., a straight line relationship. A high coefficient of correlation would indicate a strong linear relationship, where as a correlation coefficient of zero would suggest that the variables are statistically independent.

The results of the analysis are given below.

Predicted variable	Known variable	Correlation coefficient	Dependence [1] coefficient (in percent)
Peak hour occupancy	Total number mobiles	+.144	2.1
	Effective number mobiles	+.106	1.1
Average hour occupancy	Total number mobiles	+.132	1.7
	Effective number mobiles	+.098	1.0
90th percentile occupancy	Total number mobiles	+.076	.6
	Effective number mobiles	+.038	.1

[1] The coefficient of linear dependence is a statistical measure of the extent to which variations in the predicted variable can be attributed to corresponding variations in the known variable. It is found by squaring the value of the coefficient of correlation and multiplying by 100 to express as a percentage.

The extremely low values of these coefficients indicate that a linear equation cannot be used to relate the occupancy and mobile loading variables. This point is further illustrated for the case of the "Peak Hour Occupancy" versus the "Total Number of Mobile Units". Here, a dependence coefficient of 2% implies that 98% of the variations in occupancy cannot be explained by corresponding variations in the number of mobile units.

The relationship between variables is shown graphically in Figure 2 on page 2-9. Each point on the graph represents one of the 22 Business Service channels. The channel points are located by peak hour occupancy on the vertical axis and the total number of licensed mobile units on the horizontal axis. The points are widely scattered and do not appear to cluster around any known mathematical relationship. Linear regression analysis has been used to fit a straight line through the points in such a manner that differences between the observed and predicted values of occupancy will be minimized. If there had been a high coefficient of correlation in a linear sense, the points on the graph would have clustered closely around this line.

The amount of dispersion of the points about the line of best fit is measured by the "standard error of estimate". Expressed in units of the predicted variable (occupancy), the standard error of estimate for the points in Figure 2 is 11.6%. Fifteen of the twenty-two channels had measured occupancy values falling within 11.6% of the predicted values. This dispersion is quite large and again illustrates the lack of a definitive linear relationship between occupancy and mobile loading data.

Multiple Correlation Analysis

A "multiple" correlation coefficient was calculated to determine whether improved occupancy predictions could be made when the number of licensees per channel was added as a second independent variable. The calculated value of +.122 indicated no improvement would result.

Conclusions

In a strict statistical sense, the following conclusions are applicable only to the 22 Business channels investigated in the study. They cannot be used to make nationwide projections but may provide a clue to the relationship between mobile loading and spectrum utilization in other cities.

(1) The extent of channel utilization cannot be predicted from the Commission's mobile loading records; i.e., from the number of licensed mobile units and/or users. This is not to say that channel occupancy and the actual number of mobiles in operation at a given time are unrelated. The lack of a definitive relationship may more likely be attributed to disparities between the Commission's loading records (as supplied by applicants) and the number of mobile units in actual operation. A second factor which may work contrary to a definitive relation is the highly diverse nature of communications within the Business Radio Service. Further studies need to be made for other radio services and geographic areas before any general conclusions can be stated.

(2) In the metropolitan Chicago area, it appears that additional users could be accommodated on channels which are "fully loaded" according to the present loading standards. Conversely, relatively lightly loaded channels are among the most heavily utilized. The study thus suggests that a frequency assignment system based solely on mobile loading can yield misleading recommendations.

TABLE 1

Channel 14 Business Service Frequencies, by Occupancy, Number of Mobile Units, Number of Users and Number of Transmitter Sites, Chicago, Illinois, January 1976

No.	Frequency	Occupancy Avg. Hr	Peak Hr	90th %	No. Mobile Units* Actual	Effective	No. Users	No. Xmitter Sites**
	Mean	21	36	46	80	79	6	---
1.	471.8125	15	29	39	85	85	1	1
2.	471.8375	30	50	61	95	85	8	1
3.	471.8625	22	40	47	93	90	7	2
4.	471.8875	25	41	51	65	65	6	1
5.	471.9125	8	16	24	89	89	2	2
6.	471.9375	26	44	56	67	65	7	2
7.	472.0125	24	40	53	90	90	11	1
8.	472.0375	16	28	38	86	86	7	1
9.	472.0625	22	35	49	76	76	9	2
10.	472.0875	19	36	46	79	79	9	1
11.	472.1125	23	33	43	93	93	8	2
12.	472.1375	37	61	66	112	112	1	1
13.	472.1625	25	44	56	79	79	8	1
14.	472.1875	15	29	40	86	86	15	2
15.	472.2125	23	40	48	54	54	4	1
16.	472.2375	32	51	66	66	66	7	1
17.	472.2875	15	28	38	60	57	8	1
18.	472.3375	9	15	21	89	89	2	2
19.	472.6375	11	25	30	59	59	5	2
20.	472.7625	11	22	30	73	73	8	1
21.	472.9625	24	44	55	115	112	1	1
22.	472.6625	26	42	56	43	42	5	2

* The Actual number of units (Vehicular + Portable) treats a portable as one unit. The Effective number of units counts each handheld portable as one-third unit.

** Actually, all except one user reflected above operates through a mobile relay station located on one of five skyscrapers in the Chicago loop; thus guaranteeing complete reception at the Chicago Regional Office.

Source: Chicago Regional Office Licensing Section records; Monitoring tape no. 0094

FIGURE 1--Line Chart: Peak Hour Occupancy and Total No. Mobile Units Per Frequency Pair, Business Radio Service, Chicago, January 1976 *

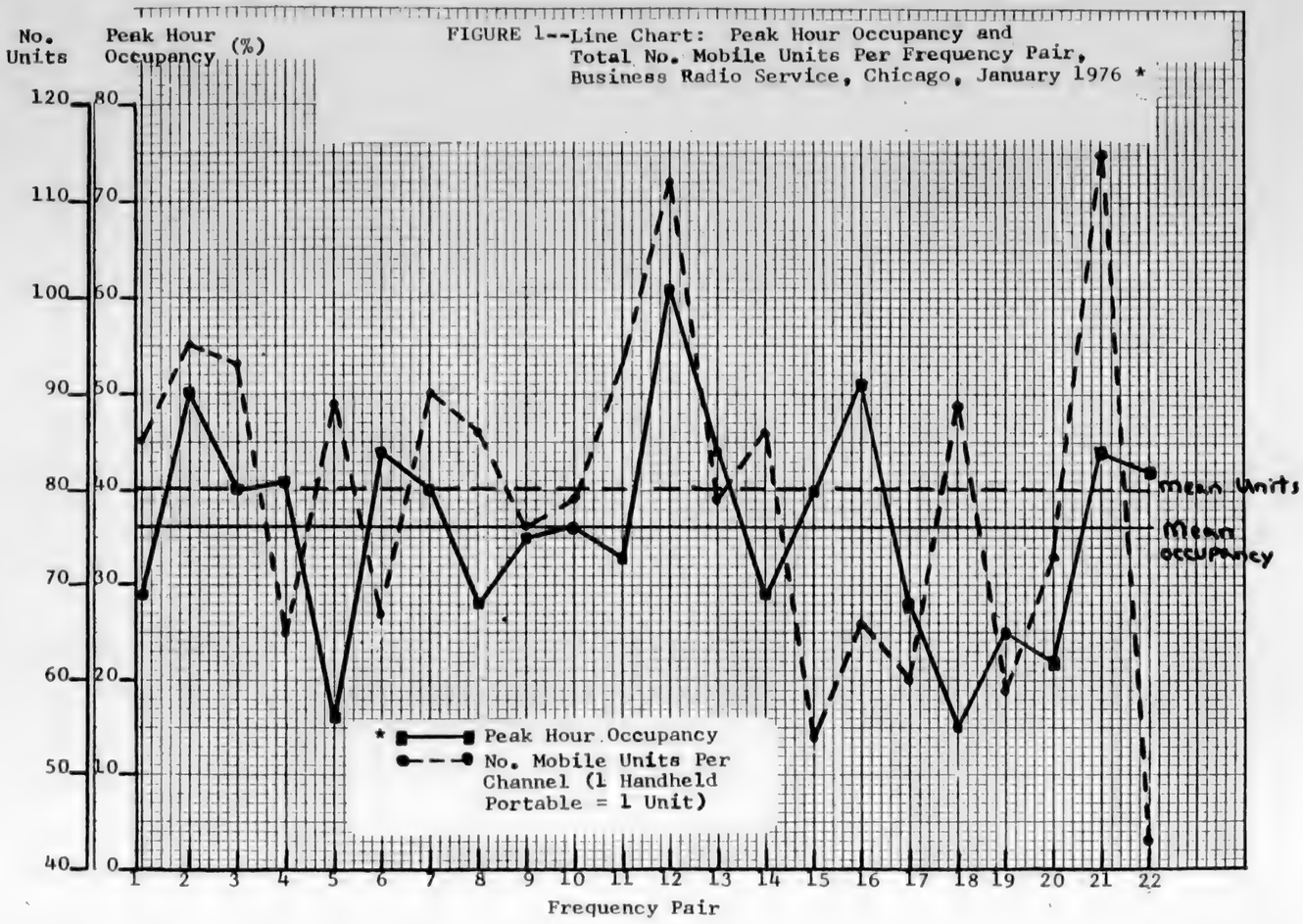
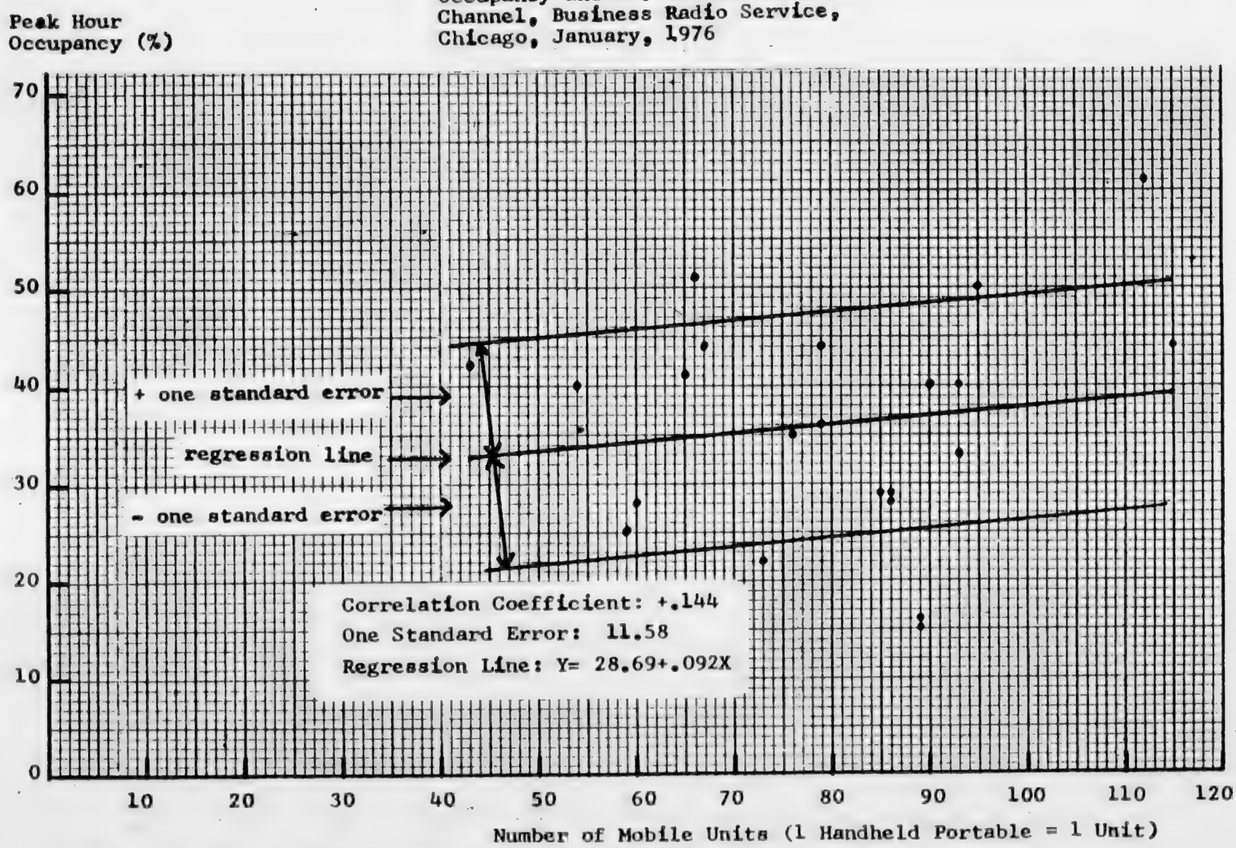


FIGURE 2--Scattergram: Peak Hour Occupancy and No. Mobile Units Per Channel, Business Radio Service, Chicago, January, 1976



Source: Chicago Regional Office, January 26-30, 1976
Tape No. 0094

FREQUENCY RANGE: 470.0000 TO 476.0000 MHZ
FREQUENCIES FOUND WITHIN RANGE: 215
MONITORING DATA SELECTED AROUND: 41.87N DEGREES LATITUDE AND 87.63W DEGREES LONGITUDE
THE MONITORING SITE IS: 22STPO DISTANCE TO MONITORING SITE IS: 1.5 MI
THE SEASONAL PERIODS WERE FROM MONTHS 1 TO 12

FREQUENCY (MHZ)	OCCUPANCY ABOVE THRESHOLD	WAITING TIME (SECONDS)	AVERAGE > OCCUPANCY ABOVE THRESHOLD	NUMBER OF SAMPLES	DATES MONITORED
471.0625	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.0875	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.1125	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.1375	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.3125	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.3375	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.3625	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.3875	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.4125	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.4375	.13	3.5	.04	9	1 73 2 75 3 75 4 74
471.4625	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.4875	.16	1.5	.09	10	1 73 2 75 3 75 4 74
471.5125	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.5375	.00	.0	.00	9	1 73 2 75 3 75 4 74
471.5625	.13	3.0	.07	9	1 73 2 75 3 75 4 74
471.5875	.42	19.5	.15	9	1 73 2 75 3 75 4 74
471.6125	.47	45.5	.10	12	1 73 2 75 3 75 4 74
471.6375	.47	85.5	.14	12	1 73 2 75 3 75 4 74
471.8125	.43	27.0	.06	12	1 73 2 75 3 75 4 74
471.8375	.70	500.0	.19	12	1 73 2 75 3 75 4 74
471.8625	.65	500.0	.16	10	1 73 2 75 3 75 4 74
471.8875	.44	35.5	.11	12	1 73 2 75 3 75 4 74
471.9125	.23	2.0	.05	10	1 73 2 75 3 75 4 74
471.9375	.71	500.0	.18	12	1 73 2 75 3 75 4 74
471.9625	.44	29.0	.13	10	1 73 2 75 3 75 4 74
471.9875	.44	49.0	.10	10	1 73 2 75 3 75 4 74
472.0125	.58	132.5	.17	9	1 73 2 75 3 75 4 74
472.0375	.44	29.5	.12	9	1 73 2 75 3 75 4 74
472.0625	.35	2.5	.09	10	1 73 2 75 3 75 4 74
472.0875	.51	87.0	.14	9	1 73 2 75 3 75 4 74
472.1125	.73	500.0	.21	10	1 73 2 75 3 75 4 74
472.1375	.79	500.0	.30	10	1 73 2 75 3 75 4 74
472.1625	.56	188.5	.13	12	1 73 2 75 3 75 4 74

FREQUENCY LIST WILL BE SEARCHED FOR
0 CATEGORIES
0 GROUPINGS WITHIN CATEGORY
1 SERVICES
0 CLASSES OF STATIONS
1 BANDS
SERVICES SEARCHED IB
BANDS SEARCHED C14
BOTH (B) EXCLUSIVE OR NON-EXCLUSIVE FREQUENCIES SELECTED
PARTICULARS OF OPERATION:

44 FREQUENCIES SELECTED - THEY ARE:

471.8125	471.8375	471.8625	471.8875	471.9125	471.9375	471.9625
471.9875	472.0125	472.0375	472.0625	472.0875	472.1125	472.1375
472.1625	472.1875	472.2125	472.2375	472.2625	472.2875	472.3125
472.3375	474.8125	474.8375	474.8625	474.8875	474.9125	474.9375
474.9625	474.9875	475.0125	475.0375	475.0625	475.0875	475.1125
475.1375	475.1625	475.1875	475.2125	475.2375	475.2625	475.2875
475.3125	475.3375					

MONITORING DATA
41.855= LAT 87.627= LONG 10= MI 12 N2
THE NEAREST MONITORING SITE 22STPO IS .0 MILES FROM THE ABOVE LOCATION.

FREQUENCY	OCCUPANCY	AVE OCC WAIT TIME	SAMPLES	DATES MONITORED
474.8125	.00	.0	10	4 74
474.9375	.00	.0	10	4 74
475.0375	.00	.0	10	4 74
475.0625	.00	.0	10	4 74
475.0875	.00	.0	10	4 74
475.1625	.00	.0	10	4 74
475.2625	.00	.0	10	4 74
475.3375	.00	.0	10	4 74
474.9125	.01	.0	10	4 74
474.9875	.01	.0	10	4 74
475.1875	.01	.0	10	4 74
475.2875	.01	.0	10	4 74
475.3125	.01	.0	10	4 74
475.1125	.02	.0	10	4 74
475.0125	.04	.0	10	4 74
475.2375	.04	.0	10	4 74
474.8375	.05	.1	10	4 74
474.8625	.07	.1	10	4 74
474.9625	.09	.1	10	4 74
472.0625	.12	.3	11	4 74
474.8875	.13	.2	10	4 74
472.2625	.19	.7	11	4 74
472.3375	.19	.4	11	4 74
475.1375	.19	.5	10	4 74
475.2125	.21	.3	10	4 74
472.2875	.40	.7	11	4 74
472.1125	.41	.8	11	4 74
472.3125	.42	.8	11	4 74
472.1875	.43	.11	11	4 74
472.1625	.45	.7	11	4 74
471.8125	.47	.7	11	4 74
472.0875	.49	.6	11	4 74
472.2125	.49	.8	11	4 74
471.9125	.50	.8	11	4 74
471.8875	.53	.7	11	4 74
472.0375	.59	.7	11	4 74
471.9625	.62	.13	11	4 74
471.9875	.62	.8	11	4 74
471.8375	.64	.14	11	4 74
471.8625	.72	.16	11	4 74
471.9375	.72	.12	11	4 74
472.1375	.79	.21	11	4 74
472.2375	.88	.14	11	4 74
472.0125	.89	.19	11	4 74

OCCUPANCY 44 CHANNELS / SERVICES 18



FCC FREQUENCY RECOMMENDATION
CHICAGO REIGONAL OFFICE

****

NOT A LICENSE TO OPERATE. SELECT ONE RECOMMENDATION
SIGN AND RETURN PRIOR TO EXPIRATION DAT.

****

APPLICATION NO: CIS750135064 ISSUE DATE: JAN. 15, 1975
TYPE OF SYSTEM: BASE AND MOBILE EXPIRATION DATE: FEB. 15, 1975

RECOMMENDATION NO: 1 BASE: 151.3250 MHZ MOBILE: 151.9250 MHZ

BASE STATION: 41-58-23 N
87-40-16 N
MOBILE OPERATING AREA:
4 5Y 4 MILES

RECOMMENDED SYSTEM:
ANTENNA HEIGHT AS: 10 FT
EFFECTIVE RADIATED POWER: 18.0 WATTS
TONE-CONTROLLED SQUELCH FREQUENCY: 203.5 HZ

SELECTION CRITERIA:
LEVEL OF SERVICE: 36%
LEVEL OF OCCUPANCY: 63%
WAITING TIME: 161.5 SECONDS

JAMES P. PETERSON AGENCY
3414 N. AVERS
CHICAGO, ILLINOIS 60618

SIGNATURE _____ TITLE _____ DATE _____

THERE ARE 13 CO-CHANNEL USERS WITHIN 20.0 MILES OF THE TRANSMITTER
1 MARLIS CONSTRUCTION COMPANY

2 HAROLD J. NEVILLS D/B/A
J-P TOWING
3 INLAND STEEL COMPANY

4 CONNEY's PHARMACY

5 VAN RYN SCAVENGER, INC.

6 LOEW'S CHICAGO HOTEL CORP.

7 SIEVERT ELECTRIC CO.

ENVIRONMENTAL DATA RETRIEVAL (EDR)

INPUT PARAMETERS
FREQUENCY = 461.91250 MHZ
DELTA FREQUENCY = .27500 MHZ
LATITUDE = 41.880 DEGREES
LONGITUDE = 87.600 DEGREES
DELTA DISTANCE = 100.0 MILES
TX TYPE RECORDS RETRIEVED
TIME USED SINCE LAST CALL TO CLOCK: 7.111 SECONDS CPU TIME -58508.248 SECONDS WALL CLOCK TIME

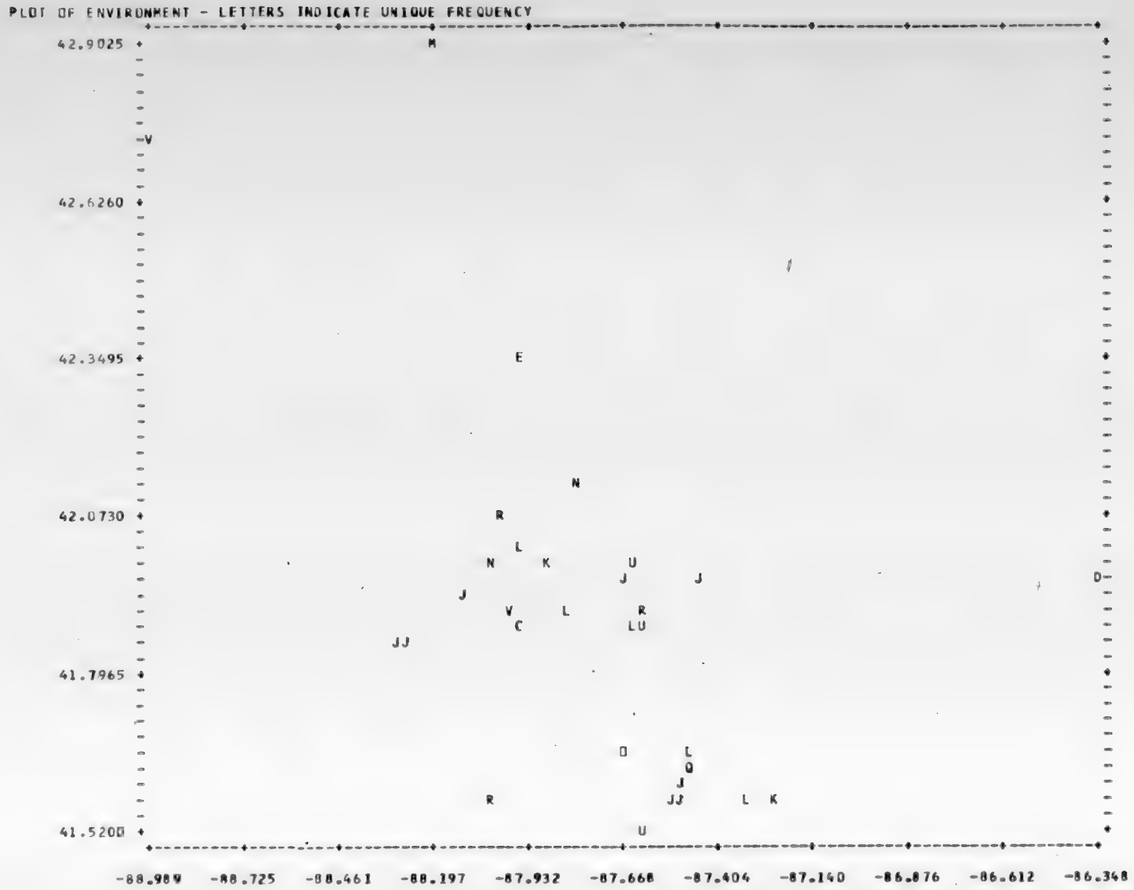
FOR DELTAF = .2750 MHZ, FREQ = 461.9125 MHZ, LT = 41.880 DEG, LN = 87.600 DEG, AND DELTAD = 100.0 MI
THERE WERE 126 TX 0 RX 61 TSC, AND 0 MD TYPE RECORDS STORED
957 ACCESSIES) TO DATA BASE

187 RECORDS GATHERED

FREQUENCY (MHZ)	TYPE	LONGITUDE (DEGS)	LATITUDE (DEGS)	POWER CLASS (WATTS)	LICENSEE ID	CALL SIGN	ANT HT (FT)	GRD ELEV (FT)	EST SIGNAL LEVEL (DB)	OCCUP LEVEL (%)	NUM RDB	TONE SQULCH FREQ (HZ)	ANT GAIN (DB)	AZIM (DEGS)
461.6500	TX	87.613	41.892	150.0	FB2	CIB731380029								
	ADP:	87.846	41.908		S1/S2:	40.0/ 80.0	665	592	-138.0	885.0	0	141.3	6.0	360
461.6500	TX	87.613	41.892	150.0	FB2	CIB732390886								
	ADP:	87.613	41.892		S1/S2:	80.0/ 80.0	665	592	-138.0	*****	0	.0	6.0	360
461.6500	TX	87.613	41.892	150.0		CIB732393971								
	ADP:	87.846	41.908		S1/S2:	40.0/ 80.0	665	592	-138.0	.0	0	.0	6.0	360
461.6500	TX	87.613	41.892	150.0		CIB732391509								
	ADP:	87.846	41.908		S1/S2:	40.0/ 80.0	665	592	-138.0	.0	0	136.5	6.0	360
461.6500	TX	87.613	41.892	150.0		CIB732391625								
	ADP:	87.846	41.908		S1/S2:	40.0/ 80.0	665	592	-138.0	.0	0	186.2	6.0	360
461.6500	TX	87.613	41.892	150.0		CIB732391723								
	ADP:	87.846	41.908		S1/S2:	40.0/ 80.0	665	592	-138.0	.0	0	103.5	6.0	360
461.6500	TX	87.613	41.892	150.0		CIB732392454								
	ADP:	87.846	41.908		S1/S2:	40.0/ 80.0	665	592	-138.0	.0	0	91.5	6.0	360
461.6500	TX	87.613	41.892	150.0		CIB732392492								
	ADP:	87.846	41.908		S1/S2:	40.0/ 80.0	665	592	-138.0	.0	0	141.3	6.0	360
461.6500	TX	87.613	41.892	150.0		CIB732392540								
	ADP:	87.846	41.908		S1/S2:	60.0/ 80.0	665	592	-138.0	.0	0	127.3	6.0	360
461.6500	TX	87.613	41.892	150.0		CIB742900017								
	ADP:	87.846	41.908		S1/S2:	40.0/ 80.0	665	592	-138.0	.0	0	.0	6.0	360

EDR Plot

PLOT OF ENVIRONMENT - LETTERS INDICATE UNIQUE FREQUENCY



SPECIAL RETRIEVAL/CORRELATION PROGRAM OUTPUT

***** ANALYSIS ON FREQUENCY: 471.8625 MHZ

WITH 6 CO-CHANNEL TRANSMITTERS AND 131 ADJACENT CHANNEL TRANSMITTERS

THRESHOLD LEVELS	CO-CHANNEL SIGNALS ABOVE THRESHOLD	ADJACENT CHANNEL SIGNALS ABOVE THRESHOLD	CO-CHANNEL ON-CHANNEL MOBILES	CO-CHANNEL ASSOCIATED MOBILES	ADJACENT CHANNEL ON-CHANNEL MOBILES	ADJACENT CHANNEL ASSOCIATED MOBILES
-140.0	6	1	0	0	0	0

CO-CHANNEL CALL SIGN/LICENSE :
KUV927 /CIB731500127 KQM450 /CIB731500133 KVK305 /CIB732140008 KUN256 /CIB733320003 KZZ201 /CIB741690026
KWS471 /CIB741890007

ADJACENT CHANNEL CALL SIGN/LICENSE :
KEY622 /CIB731580006

***** ANALYSIS ON FREQUENCY: 471.8875 MHZ

WITH 6 CO-CHANNEL TRANSMITTERS AND 131 ADJACENT CHANNEL TRANSMITTERS

THRESHOLD LEVELS	CO-CHANNEL SIGNALS ABOVE THRESHOLD	ADJACENT CHANNEL SIGNALS ABOVE THRESHOLD	CO-CHANNEL ON-CHANNEL MOBILES	CO-CHANNEL ASSOCIATED MOBILES	ADJACENT CHANNEL ON-CHANNEL MOBILES	ADJACENT CHANNEL ASSOCIATED MOBILES
-140.0	6	3	0	0	0	0

CO-CHANNEL CALL SIGN/LICENSE :
KVU508 /CIB733600002 KVW935 /CIB740320004 KWE721 /CIB740740042 KWH774 /CIB741010009 KSI908 /CIB741210037
KWO769 /CIB741540023

ADJACENT CHANNEL CALL SIGN/LICENSE :
KUV927 /CIB731500127 KQM450 /CIB731500133 KEY622 /CIB731580006

***** ANALYSIS ON FREQUENCY: 471.9125 MHZ

WITH 3 CO-CHANNEL TRANSMITTERS AND 134 ADJACENT CHANNEL TRANSMITTERS

THRESHOLD LEVELS	CO-CHANNEL SIGNALS ABOVE THRESHOLD	ADJACENT CHANNEL SIGNALS ABOVE THRESHOLD	CO-CHANNEL ON-CHANNEL MOBILES	CO-CHANNEL ASSOCIATED MOBILES	ADJACENT CHANNEL ON-CHANNEL MOBILES	ADJACENT CHANNEL ASSOCIATED MOBILES
-140.0	3	1	0	0	0	0

CO-CHANNEL CALL SIGN/LICENSE :
KZZ760 /CIB731500131 KCL391 /CIB750520018 KDV611 /CIB750520021

[FR Doc.77-14296 Filed 5-19-77;8:45 am]

federal register

FRIDAY, MAY 20, 1977

PART VIII



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Florida	FL77–1060, FL77–1061
Mississippi	MS77–1062, MS77–1069
Ohio	OH77–2086, OH77–2087, OH77–2088, OH77–2089, OH77–2090, OH77–2091

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR77–4061	Mar. 11, 1977.
AR77–4078; AR77–4083	Apr. 8, 1977.
Colorado:	
CO77–5048; CO77–5049; CO 77–5050; CO77–5051.	May 6, 1977.
Iowa:	
IA77–4089; IA77–4096	Do.
Kansas:	
KS77–4019	Feb. 4, 1977.
MO77–4075	Apr. 8, 1977.
KS77–4084; KS77–4085	Apr. 15, 1977.
Minnesota:	
MN77–2044	May 6, 1977.
Missouri:	
MO77–4033	Feb. 18, 1977.
MO77–4051	Mar. 4, 1977.
Montana:	
MT76–5100	Oct. 29, 1976.
MT77–5021	Mar. 4, 1977.
MT77–5034	Mar. 11, 1977.
Nebraska:	
NE77–4017	Feb. 4, 1977.
New Mexico:	
NM77–4074	Apr. 8, 1977.
Oklahoma:	
OK77–4056	Mar. 4, 1977.
OK77–4062	Mar. 11, 1977.
OK77–4065; OK77–4066	Mar. 18, 1977.
OK77–4087	Apr. 29, 1977.
Pennsylvania:	
PA77–3043	Apr. 8, 1977.
South Carolina:	
SC75–1041	Mar. 26, 1975.
South Dakota:	
SD77–5027; SD77–5028	Mar. 4, 1977.
Texas:	
TX77–4007	Jan. 21, 1977.
TX77–4044	Feb. 25, 1977.
TX77–4053	Mar. 4, 1977.
Virginia:	
VA77–3047	May 6, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded.

Alaska:	
AK77–5009 (AK77–5052)	Jan. 21, 1977.
California:	
CA76–5116; (CA77–5043) CA76–5117 (CA77–5044).	Dec. 10, 1976.
Georgia:	
GA75–1025 (GA77–1068)	Feb. 28, 1977.
Louisiana:	
LA77–4052 (LA77–4104)	Mar. 4, 1977.
Minnesota:	
MN76–2058 (MN77–2048)	May 15, 1976.
New Mexico:	
NM77–4077 (NM77–4103)	Apr. 8, 1977.
New York:	
NY76–3259 (NY77–3008)	Oct. 29, 1976.
Pennsylvania:	
PA76–3163 (PA77–3060)	May 7, 1976.
PA76–3271 (PA77–3059)	Nov. 5, 1976.
South Carolina:	
SC75–1026 (SC77–1070)	Feb. 28, 1975.
Texas:	
TX76–4126 (TX77–4105)	July 23, 1976.
Wyoming:	
WY76–5029 (WY77–5052)	Apr. 2, 1976.
WY76–5070 (WY77–5054)	Aug. 6, 1976.

Signed at Washington, D.C., this 13th day of May 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Florida
DECISION NO.: FL77-1061
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).
COUNTY: Suwannee
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	6.55				
Block masons	6.00				
Carpenters	5.25				
Electricians	8.45	.35	1%		1%
Glaziers	4.00				
Ironworkers	4.50				
Laborers:					
Unskilled	3.00				
Mason tenders	4.00				
Painters	5.10				
Plumbers & Pipefitters	5.50				
Roofers	4.50				
Sheet metal workers	8.83				
Terrazzo workers	5.50				
Tile setters	5.50				
Welders - rate for craft.					

NEW DECISION

STATE: Florida
DECISION NO.: FL77-1060
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).
COUNTY: Polk
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	7.55				
Carpenters	8.315	.325	.25		.04
Cement masons	7.20				
Electricians	10.20	4.5%	1%+3%	4%	.10
Ironworkers	9.61	.55	.40	.24	.35
Laborers, unskilled	4.69				
Lathers	5.50				
Painters	6.25				
Plasterers	6.00				
Plumbers	8.91				
Roofers	5.55	.35	.25	.40	.15
Sheet metal workers	7.46				
Soft floor layers	6.46				
Stone masons	7.00				
Truck drivers	3.00				
Welders - rate for craft.					

NEW DECISION

STATE: Mississippi COUNTY: Lafayette
DECISION NO.: MS77-1062 DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	8.00	.35	.50		
Bricklayers	6.75				
Carpenters	5.00				
Cement masons	5.00				
Dry wall hangers	3.25				
Electricians	4.00				
Elevator constructors	7.83	.545	.35	4%+a&b	.02
Ironworkers, structural & ornamental	5.00				
Laborers:					
Laborers	3.00				
Mason tenders	3.42				
Lathers	3.85				
Painters, brush	3.00				
Plasterers	3.35				
Plumbers & pipefitters	8.15	.30	.30		.05
Roofers	6.50	.27	.30		.03
Kettlemen	3.70				
Sheet metal workers	4.00				
Tile setters	4.25				
Truck drivers	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.75				
Bulldozer	4.50				
Dragline	5.38				
Front end loader	4.00				

FOOTNOTES:

a. Paid holidays; New Year's; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee with more than 5 years service; 2% for employees with less than 5 years service.

NEW DECISION

STATE: Mississippi COUNTY: Bolivar
DECISION No: MS77-1069 DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	5.27				
Bricklayers	6.00				
Carpenters	5.00				
Cement masons	4.57				
Electricians	5.34				
Glaziers	4.00				
Ironworkers, structural and ornamental	5.44				
Ironworkers, reinforcing	2.50				
Laborers:					
Laborers	2.42				
Mason tenders	3.00				
Mortar mixers	2.50				
Plasterers' tenders	2.50				
Lathers	4.35				
Painters, brush	4.50				
Plasterers	4.08				
Plumbers and pipefitters	5.50				
Roofers	5.00				
Sheet metal workers	4.43				
Soft floor layers	4.00				
Tile setters	5.65				
Truck drivers	2.50				
POWER EQUIPMENT OPERATORS:					
Air compressor	4.00				
Finishing machine	4.50				
Tractor	4.00				

NEW DECISION

STATE: OHIO COUNTIES: BELMONT, MONROE, & NOBLE
DECISION NO.: OH77-2086 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	$4.75				
Bricklayers	7.73				
Carpenters:					
Belmont & Monroe Cos.	7.13	.50	.50		.02
Noble Co.	5.45	.50	.70		.02
Cement masons	6.05				
Drywall finishers/hangers	5.50				
Electricians	4.63				
Laborers:					
Laborers	3.72				
Asphalt rakers	4.62				
Plumbers	6.71				
Roofers	5.00				
Sheet metal workers	5.04				
Soft floor layers	4.25				
Truck drivers	4.40				
Power equipment operators:					
Backhoe	5.16				
Bulldozer	5.00				
Front end loader	5.46				
Grader	4.95				
Paver	4.95				
Roller	4.95				

NEW DECISION

STATE: OHIO COUNTIES: KNOX & MORROW
DECISION NO.: OH77-2087 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$6.90				
CARPENTERS	5.72				
CEMENT MASONS	4.25				
DRYWALL HANGERS/FINISHERS	5.50				
ELECTRICIANS	5.87				
LABORERS	5.07				
PAINTERS	4.28				
PLUMBERS	6.69				
ROOFERS	5.37				
SHEET METAL WORKERS	4.25				
SOFT FLOOR LAYERS	4.00				

NEW DECISION

STATE: OHIO
DECISION NO.: OH77-2088
COUNTIES: ASHLAND & RICHLAND
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$8.04				
CARPENTERS	6.21				
CEMENT MASONS	8.50				
DRYWALL FINISHERS	8.02				
DRYWALL HANGERS	7.11				
ELECTRICIANS	4.50				
LABORERS	3.71				
PAINTERS	3.50				
PLUMBERS	10.00				
ROOFERS	5.00				
SHEET METAL WORKERS	5.00				
POWER EQUIPMENT OPERATORS:					
Backhoes	6.00				
Bulldozers	5.00				

NEW DECISION

STATE: OHIO
DECISION NO.: OH77-2089
COUNTIES: FAYETTE & ROSS
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.00				
CARPENTERS	4.92				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	5.00				
ELECTRICIANS	4.00				
LABORERS	3.00				
PAINTERS	5.00				
PLUMBERS	5.95				
ROOFERS	4.74				
SHEET METAL WORKERS	4.00				
SOFT FLOOR LAYERS	4.50				
TILE SETTERS	4.50				
TRUCK DRIVERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoes	4.60				

NEW DECISION

STATE: OHIO
DECISION NO.: OH77-2090
COUNTIES: CARROLL & HARRISON
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.00				
CARPENTERS	6.32				
CEMENT MASONS	5.25				
ELECTRICIANS	5.75				
LABORERS	4.25				
PLUMBERS	6.00				
POWER EQUIPMENT OPERATORS:					
Bulldozers	7.00				

NEW DECISION

STATE: OHIO
DECISION NO.: OH77-2091
COUNTY: WAYNE
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.60				
CARPENTERS	5.00				
DRYWALL HANGERS	5.50				
ELECTRICIANS	5.25				
LABORERS	4.00				
PAINTERS	5.95				
PLUMBERS	5.00				

MODIFICATIONS P. 1

DECISION NO. AR77-4061 - Mod. #3 (42 FR 13723 - March 11, 1977) Conway, Cleburne, Faulkner, Van Buren and Perry Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	$7.80		.35		.02
Spray gun operators and sand blasterers	8.40		.35		.02
All skelton steel and all work on stages, structural steel over 30 feet high	8.05		.35		.02

DECISION NO. AR77-4078 - Mod. #1 (42 FR 18796 - April 8, 1977) Pulaski County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	$7.80		.35		.02
Spray gun operators and sand blasterers	8.40		.35		.02
All skelton steel and all work on stages, structural steel over 30 feet high	8.05		.35		.02

MODIFICATIONS P. 2

DECISION NO. AR77-4083 - Mod. #2 (42 FR 18800 - April 8, 1977) Garland, Hot Springs and Clark Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
PLUMBERS-Steamfitters	$8.75	.50	.30		.10
ADD:					
PLUMBERS-PIPEFITTERS:					
ZONE A - 0 to 9 miles from Garland County courthouse	$9.15	.50	.30		.10
ZONE B - 9 to 45 miles from Garland County Courthouse	9.70	.50	.30		.10
ZONE C - 45 miles and over from Garland County Courthouse	10.25	.50	.30		.10

MODIFICATIONS P. 3

DECISION NO. CO77-5048 - Mod. #1 (42 FR 23322 - May 6, 1977) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons:					
Eagle County	$9.60	.85	.95	.50	.05
Boulder and Grand Counties	9.10	.85	.95		.05
Larimer County	10.05	.85	.95		.05
Remaining Counties	9.60	.85	.95	.50	.05
Millwrights	9.93	.78	.85		.07
Plumbers; Steamfitters:					
Boulder County	10.60	.75	.95	.65	.10
Remaining Counties (including Northern portions of Douglas, Elbert and Park Counties)	10.67	.75	.95	.60	.05
Roofers:					
Remaining Counties including Northern portions of Lake, Park, Jefferson, Douglas, and Elbert Counties	9.81	.80	.50		.08

DECISION NO. CO77-5049 - Mod. #1 (42 FR 23329 - May 6, 1977) El Paso County, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons	$ 10.60	.50	.60		.04
Millwrights	9.93	.78	.85		.07

MODIFICATIONS P. 4

DECISION NO. CO77-5050 - Mod. #1 (42 FR 23334 - May 6, 1977) Las Animas, Otero and Pueblo Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers	$10.27	.85	.70		.04
Millwrights	9.93	.78	.85		.07

DECISION NO. CO77-5051 - Mod. #1 (42 FR 23339 - May 6, 1977) Delta, Garfield, Gunnison, Montrose and Pitkin Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons:					
Remaining Counties	$10.05	.85	.70		.05
Millwrights	9.93	.78	.85		.07

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IA77-4089 - Mod. #1 (42 FR 23345 - May 6, 1977) Black Hawk County (City of Waterloo & abutting municipalities), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction: Carpenters:					
Carpenters; Piledrivermen	$ 8.68	.45	1.00		
Millwrights	9.18	.45	1.00		
Soft floor layers	8.68	.45	1.00		
DECISION #IA77-4096 - Mod. #1 (42 FR 23366 - May 6, 1977) Webster County (City of Fort Dodge), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction: Carpenters:					
Carpenters; Piledrivermen	9.01				
Millwrights	9.26				

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS77-4019 - Mod. #1 (42 FR 7056 - February 4, 1977) Geary and Riley Counties, Kansas					
Add:					
Bricklayers	$6.75	.45	.25		
Tile setters	7.39				
DECISION #MO77-4075 - Mod. #1 (42 FR 18815 - April 8, 1977) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas.					
Change: Line Construction Zone 1					
Lineman	$11.39	.45	1%+.15		½%
Lineman operator	10.06	.45	1%+.15		½%
Groundman powderman	7.90	.45	1%+.15		½%
Groundman	7.50	.45	1%+.15		½%
Groundman 1st 6 mos.	6.43	.45	1%+.15		½%
DECISION #KS77-4084 - Mod. #1 (42 FR 20059 - April 15, 1977) Douglas, Jefferson, Leavenworth, Miami and Shawnee Counties, Kansas					
Change: Line Construction: Zone 1					
Linemen	$11.39	.45	1%+.15		½%
Lineman operator	10.06	.45	1%+.15		½%
Groundman powderman	7.90	.45	1%+.15		½%
Groundman	7.50	.45	1%+.15		½%
Groundman 1st 6 mos.	6.43	.45	1%+.15		½%

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS-77-4085 - Mod. #1 (42 FR 20063 - April 15, 1977) Leavenworth County, Kansas					
Change: Line Construction Zone 2					
Linemen	$11.39	.45	1%+.15		½%
Lineman operator	10.06	.45	1%+.15		½%
Groundman powderman	7.90	.45	1%+.15		½%
Groundman	7.50	.45	1%+.15		½%
Groundman 1st 6 mos.	6.43	.45	1%+.15		½%
DECISION #MN77-2044 - Mod. #1 (42 FR 23395 - May 6, 1977) Blue Earth, Fairbault, Freeborn & Mower Counties, Minnesota					
CHANGE: Glaziers:					
Blue Earth County	$7.70				

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO77-4033 - Mod. #2 (42 FR 10240 - February 18, 1977) Jasper, McDonald and Newton Counties, Missouri					
Change: Line Construction:					
Lineman	$10.88	.45	1%+.15		½%
Lineman operator	10.37	.45	1%+.15		½%
Groundman powderman	7.54	.45	1%+.15		½%
Groundman	6.96	.45	1%+.15		½%
Groundman 1st 6 mos.	5.28	.45	1%+.15		½%
DECISION #MO77-4051 - Mod. #3 (42 FR 12618 - March 4, 1977) Description of Work and Locations: Heavy and Highway Construction, Missouri					
Change: Line Construction Zone 1					
Lineman	$11.39	.45	1%+.15		½%
Lineman operator	10.06	.45	1%+.15		½%
Groundman powderman	7.90	.45	1%+.15		½%
Groundman	7.50	.45	1%+.15		½%
Groundman 1st 6 mos.	6.43	.45	1%+.15		½%
Zone 2					
Lineman	10.88	.45	1%+.15		½%
Lineman operator	10.37	.45	1%+.15		½%
Groundman powderman	7.54	.45	1%+.15		½%
Groundman	6.96	.45	1%+.15		½%
Groundman 1st 6 mos.	5.28	.45	1%+.15		½%

MODIFICATIONS P. 9

DECISION NO. MT76-5100 - Mod. #6
(41 FR 47798 - October 29, 1976)
Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow and Valley Counties, Montana

Change:
Power Equipment Operators - See attached schedules

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

MODIFICATIONS P. 10

DECISION NO. MT76-5100 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$ 9.85	.55	.55	.35	.05
Air Compressor, single	9.54	.55	.55	.35	.05
Air Compressor, two or more	9.71	.55	.55	.35	.05
Air Doctor	10.01	.55	.55	.35	.05
Asphalt Paving Machine	10.01	.55	.55	.35	.05
Asphalt Paving Machine Screed	10.01	.55	.55	.35	.05
Automatic Finegrade, Gurries and other similar types	10.14	.55	.55	.35	.05
Belt Finish Machine	9.71	.55	.55	.35	.05
Bit Grinder	10.01	.55	.55	.35	.05
Bituminous Mixer Paving, Travel Plant	10.01	.55	.55	.35	.05
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	9.60	.55	.55	.35	.05
Boring Machine (large)	10.01	.55	.55	.35	.05
Broom, Self-propelled	9.68	.55	.55	.35	.05
Cableway Highline	10.52	.55	.55	.35	.05
Cement Silo	9.80	.55	.55	.35	.05
Central Mixing Plants, Concrete dam and stationary	10.26	.55	.55	.35	.05
Chain Bucket Loader	9.73	.55	.55	.35	.05
Chip or Gravel Spreader, self-propelled	9.73	.55	.55	.35	.05
Concrete Batch Plant, one and two Mixers	10.01	.55	.55	.35	.05
Concrete Batch Plant, three and four Mixers	10.21	.55	.55	.35	.05
Concrete Batch Plant, five Mixers and over	10.41	.55	.55	.35	.05
Concrete Batch Plant Oiler, up to and including two Mixers	9.53	.55	.55	.35	.05
Concrete Batch Plant Oiler, three Mixers and over	9.84	.55	.55	.35	.05
Concrete Bucket Dispatcher	10.01	.55	.55	.35	.05
Concrete Curing Machine	10.01	.55	.55	.35	.05
Concrete Finish Machine Paving	10.01	.55	.55	.35	.05
Concrete Float-Spreader	10.01	.55	.55	.35	.05
Concrete Mixer, three bags and under	9.60	.55	.55	.35	.05
Concrete Mixer, four bags and over	9.77	.55	.55	.35	.05

MODIFICATIONS P. 11

DECISION NO. MT76-5100 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Power Saw, Self-propelled	$10.01	.55	.55	.35	.05
Concrete Travel Batcher	10.01	.55	.55	.35	.05
Concrete Conveyor under 40 feet	9.59	.55	.55	.35	.05
Concrete Conveyor over 40 feet	10.34	.55	.55	.35	.05
Concrete Pump	10.34	.55	.55	.35	.05
Crane, to and including 80' boom	10.17	.55	.55	.35	.05
Crane, 81' to 130' boom	10.32	.55	.55	.35	.05
Crane, 131' to 150' boom	10.37	.55	.55	.35	.05
Crane, 151' boom and over	10.42	.55	.55	.35	.05
Crane Oiler	9.58	.55	.55	.35	.05
Crusher	10.01	.55	.55	.35	.05
Crusher Oiler and Helpers	9.50	.55	.55	.35	.05
Crusher Conveyor, when required	9.47	.55	.55	.35	.05
Distributor	10.01	.55	.55	.35	.05
DW 10, 15 or 20 Tractor pulling Roller	9.73	.55	.55	.35	.05
Electric Overhead Cranes	10.19	.55	.55	.35	.05
Elevating Grader	10.01	.55	.55	.35	.05
Farm Type Tractor, up to and including 50 HP Engine	9.47	.55	.55	.35	.05
Farm Type Tractor, over 50 HP Engine	9.55	.55	.55	.35	.05
Field Equipment Serviceman	9.93	.55	.55	.35	.05
Field Equipment Serviceman Helper	9.50	.55	.55	.35	.05
Fireman	9.60	.55	.55	.35	.05
Forklift, on construction job site	9.82	.55	.55	.35	.05
Form Grader	9.78	.55	.55	.35	.05
Gradall	10.01	.55	.55	.35	.05
Grade Setter	9.47	.55	.55	.35	.05
Heavy Duty Drill, all types	10.01	.55	.55	.35	.05
Heavy Duty Driller Helper	9.60	.55	.55	.35	.05
Herman-Nelson Heaters and similar type	9.55	.55	.55	.35	.05
Hoist, single drum	9.78	.55	.55	.35	.05
Hoist, two or more drums	10.01	.55	.55	.35	.05
Helicopter Hoist	10.51	.55	.55	.35	.05
Hot Plant	10.01	.55	.55	.35	.05
Hot Plant Fireman, when in operation	10.01	.55	.55	.35	.05
Hot Plant Oiler, 100 ton per hour or over	9.50	.55	.55	.35	.05

MODIFICATIONS P. 12

DECISION NO. MT76-5100 (Cont'd)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hydra Lift and similar types	$ 9.91	.55	.55	.35	.05
Industrial Locomotive all classes	10.01	.55	.55	.35	.05
Mechanic and/or Welder on job	10.11	.55	.55	.35	.05
Mechanic and/or Welder Helper on job	9.50	.55	.55	.35	.05
Mixermobile	10.09	.55	.55	.35	.05
Motor Patrol	10.14	.55	.55	.35	.05
Mountain Logger or similar type	10.01	.55	.55	.35	.05
Mucking Machine	10.01	.55	.55	.35	.05
Oiler-Driver, Rubber-tired Cranes	9.58	.55	.55	.35	.05
Oilers, other than Shovels and Cranes	9.50	.55	.55	.35	.05
Oiler, Hoist House, Booms	9.91	.55	.55	.35	.05
Pavement Breaker, Emaco and similar	10.01	.55	.55	.35	.05
Paving and Mixing Machine	10.14	.55	.55	.35	.05
Power Auger, Large Truck or Tractor mounted	10.01	.55	.55	.35	.05
Power Mixer, single or double drum	10.01	.55	.55	.35	.05
Power Saw, multiple cut, self-propelled	10.01	.55	.55	.35	.05
Pumpcrete or Grout Machine	10.01	.55	.55	.35	.05
Pumpman	9.45	.55	.55	.35	.05
Push Tractor	10.01	.55	.55	.35	.05
Quad Cat	10.31	.55	.55	.35	.05
Quad Lander and similar type	10.59	.55	.55	.35	.05
Rayco Giant	10.59	.55	.55	.35	.05
Refrigeration Plant	10.01	.55	.55	.35	.05
Retort	9.60	.55	.55	.35	.05
Roller, on blade or hot mix oil paving	10.01	.55	.55	.35	.05
Roller, on other blade or hot mix paving	9.71	.55	.55	.35	.05
Roller, 25 ton or over	10.01	.55	.55	.35	.05
Rous and similar type carriers, on construction site	10.01	.55	.55	.35	.05
Rubber-tired Dumper	10.01	.55	.55	.35	.05
Rubber-tired Front End Loader, 1 yard and under	9.72	.55	.55	.35	.05

MODIFICATIONS P. 13

DECISION NO. MT76-5100 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$10.01	.55	.55	.35	.05
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	10.13	.55	.55	.35	.05
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	10.23	.55	.55	.35	.05
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	10.33	.55	.55	.35	.05
Rubber-tired Front End Loader, over 15 yards	10.43	.55	.55	.35	.05
Scraper, DW 15, 20, 21 and similar type if power unit is not used	10.01	.55	.55	.35	.05
Scraper, single or twin engine pulling belly dump trailer	10.39	.55	.55	.35	.05
Scraper, single engine	10.14	.55	.55	.35	.05
Scraper, twin engine	10.24	.55	.55	.35	.05
Scraper, tandem engine or 3 engine	10.50	.55	.55	.35	.05
Self-propelled Sheepfoot and similar type	10.01	.55	.55	.35	.05
Shovels, including all attachments, under 1 cu. yd.	10.01	.55	.55	.35	.05
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	10.19	.55	.55	.35	.05
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	10.46	.55	.55	.35	.05
Shovels, including all attachments, over 5 cu. yds.	10.59	.55	.55	.35	.05
Shovel Oiler, 3 yards and under	9.50	.55	.55	.35	.05
Shovel Oiler, over 3 cu. yds.	9.91	.55	.55	.35	.05
Slip Form Paver	10.14	.55	.55	.35	.05
Stiff Leg Derrick and Guy Derrick	10.46	.55	.55	.35	.05
Track-type Front End Loaders; up to and including 5 cu. yds.	10.01	.55	.55	.35	.05
Track-type Front End Loaders; over 5 cu. yds. to and including 10 cu. yds.	10.24	.55	.55	.35	.05

MODIFICATIONS P. 14

DECISION NO. MT76-5100 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	$10.34	.55	.55	.35	.05
Track-type Front End Loaders, over 15 cu. yds.	10.44	.55	.55	.35	.05
Track-type Tractor w/wo attachments	10.01	.55	.55	.35	.05
Track-type Tractor, on Euclid Loader	10.19	.55	.55	.35	.05
Trenching Machine	10.01	.55	.55	.35	.05
Turnhead Conveyor, or Head Tower on Batch Plant	10.01	.55	.55	.35	.05
Wagner Roller and similar type	10.01	.55	.55	.35	.05
Whirley Crane	10.54	.55	.55	.35	.05
Whirley Crane Oiler	9.91	.55	.55	.35	.05
Water Pull when used for compaction	10.01	.55	.55	.35	.05
Washing and Screening Plant	10.01	.55	.55	.35	.05
Washing and Screening Plant Oiler	9.50	.55	.55	.35	.05

MODIFICATIONS P. 15

DECISION #MT77-5021 - Mod. #4
(42 FR 12631 - March 4, 1977)
Statewide, Montana

Change:
Power Equipment Operators - See attached schedules

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.

MODIFICATIONS P. 16

DECISION NO. MT77-5021 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$ 9.85	.55	.55	.35	.05
Air Compressor, single	9.54	.55	.55	.35	.05
Air Compressor, two or more	9.71	.55	.55	.35	.05
Air Doctor	10.01	.55	.55	.35	05
Asphalt Paving Machine	10.01	.55	.55	.35	.05
Asphalt Paving Machine Screed	10.01	.55	.55	.35	.05
Automatic Finegrade, Gurries and other similar types	10.14	.55	.55	.35	.05
Belt Finish Machine	9.71	.55	.55	.35	.05
Bit Grinder	10.01	.55	.55	.35	.05
Bituminous Mixer Paving, Travel Plant	10.01	.55	.55	.35	.05
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	9.60	.55	.55	.35	.05
Boring Machine (large)	10.01	.55	.55	.35	.05
Broom, Self-propelled	9.68	.55	.55	.35	.05
Cableway Highline	10.52	.55	.55	.35	.05
Cement Silo	9.80	.55	.55	.35	.05
Central Mixing Plants, Concrete dam and stationary	10.26	.55	.55	.35	.05
Chain Bucket Loader	9.73	.55	.55	.35	.05
Chip or Gravel Spreader, self-propelled	9.73	.55	.55	.35	.05
Concrete Batch Plant, one and two Mixers	10.01	.55	.55	.35	.05
Concrete Batch Plant, three and four Mixers	10.21	.55	.55	.35	.05
Concrete Batch Plant, five Mixers and over	10.41	.55	.55	.35	.05
Concrete Batch Plant Oiler, up to and including two Mixers	9.53	.55	.55	.35	.05
Concrete Batch Plant Oiler, three Mixers and over	9.84	.55	.55	.35	.05
Concrete Bucket Dispatcher	10.01	.55	.55	.35	.05
Concrete Curing Machine	10.01	.55	.55	.35	.05
Concrete Finish Machine Paving	10.01	.55	.55	.35	.05
Concrete Float-Spreader	10.01	.55	.55	.35	.05
Concrete Mixer, three bags and under	9.60	.55	.55	.35	.05
Concrete Mixer, four bags and over	9.77	.55	.55	.35	.05

MODIFICATIONS P. 17

DECISION NO. MT77-5021 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Power Saw, Self-propelled	$10.01	.55	.55	.35	.05
Concrete Travel Batcher	10.01	.55	.55	.35	.05
Concrete Conveyor under 40 feet	9.59	.55	.55	.35	.05
Concrete Conveyor over 40 feet	10.34	.55	.55	.35	.05
Concrete Pump	10.34	.55	.55	.35	.05
Crane, to and including 80' boom	10.17	.55	.55	.35	.05
Crane, 81' to 130' boom	10.32	.55	.55	.35	.05
Crane, 131' to 150' boom	10.37	.55	.55	.35	.05
Crane, 151' boom and over	10.42	.55	.55	.35	.05
Crane Oiler	9.58	.55	.55	.35	.05
Crusher	10.01	.55	.55	.35	.05
Crusher Oiler and Helpers	9.50	.55	.55	.35	.05
Crusher Conveyor, when required	9.47	.55	.55	.35	.05
Distributor	10.01	.55	.55	.35	.05
DW 10, 15 or 20 Tractor pulling Roller	9.73	.55	.55	.35	.05
Electric Overhead Cranes	10.19	.55	.55	.35	.05
Elevating Grader	10.01	.55	.55	.35	.05
Farm Type Tractor, up to and including 50 HP Engine	8.47	.55	.55	.35	.05
Farm Type Tractor, over 50 HP Engine	9.55	.55	.55	.35	.05
Field Equipment Serviceman	9.93	.55	.55	.35	.05
Field Equipment Serviceman Helper	9.50	.55	.55	.35	.05
Fireman	9.60	.55	.55	.35	.05
Forklift, on construction job site	9.82	.55	.55	.35	.05
Form Grader	9.78	.55	.55	.35	.05
Gradall	10.01	.55	.55	.35	.05
Grade Setter	9.47	.55	.55	.35	.05
Heavy Duty Drill, all types	10.01	.55	.55	.35	.05
Heavy Duty Driller Helper	9.60	.55	.55	.35	.05
Herman-Nelson Heaters and similar type	9.55	.55	.55	.35	.05
Hoist, single drum	9.78	.55	.55	.35	.05
Hoist, two or more drums	10.01	.55	.55	.35	.05
Helicopter Hoist	10.51	.55	.55	.35	.05
Hot Plant	10.01	.55	.55	.35	.05
Hot Plant Fireman, when in operation	10.01	.55	.55	.35	.05
Hot Plant Oiler, 100 ton per hour or over	9.58	.55	.55	.35	.05

MODIFICATIONS P.18

DECISION NO. MT77-5021 (Cont'd)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hydra Lift and similar types	$ 9.91	.55	.55	.35	.05
Industrial Locomotive all classes	10.01	.55	.55	.35	.05
Mechanic and/or Welder on job	10.11	.55	.55	.35	.05
Mechanic and/or Welder Helper on job	9.50	.55	.55	.35	.05
Mixermobile	10.09	.55	.55	.35	.05
Motor Patrol	10.14	.55	.55	.35	.05
Mountain Logger or similar type	10.01	.55	.55	.35	.05
Mucking Machine	10.01	.55	.55	.35	.05
Oiler-Driver, Rubber-tired Cranes	9.58	.55	.55	.35	.05
Oilers, other than Shovels and Cranes	9.50	.55	.55	.35	.05
Oiler, Hoist House, Dams	9.91	.55	.55	.35	.05
Pavement Breaker, Emsco and similar	10.01	.55	.55	.35	.05
Paving and Mixing Machine	10.14	.55	.55	.35	.05
Power Auger, Large Truck or Tractor mounted	10.01	.55	.55	.35	.05
Power Mixer, single or double drum	10.01	.55	.55	.35	.05
Power Saw, multiple cut, self-propelled	10.01	.55	.55	.35	.05
Pumpcrete or Grout Machine	10.01	.55	.55	.35	.05
Pumpman	9.45	.55	.55	.35	.05
Push Tractor	10.01	.55	.55	.35	.05
Quad Cat	10.31	.55	.55	.35	.05
Quad Loader and similar type	10.59	.55	.55	.35	.05
Ruyga Giant	10.59	.55	.55	.35	.05
Refrigeration Plant	10.01	.55	.55	.35	.05
Retort	9.60	.55	.55	.35	.05
Roller, on blade or hot mix oil paving	10.01	.55	.55	.35	.05
Roller, on other blade or hot mix paving	9.71	.55	.55	.35	.05
Roller, 25 ton or over	10.01	.55	.55	.35	.05
Russ and similar type carriers, on construction site	10.01	.55	.55	.35	.05
Rubber-tired Dumer	10.01	.55	.55	.35	.05
Rubber-tired Front End Loader, 1 yard and under	9.72	.55	.55	.35	.05

MODIFICATIONS P. 19

DECISION NO. MT77-5021 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$10.01	.55	.55	.35	.05
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	10.11	.55	.55	.35	.05
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	10.23	.55	.55	.35	.05
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	10.33	.55	.55	.35	.05
Rubber-tired Front End Loader, over 15 yards	10.43	.55	.55	.35	.05
Scraper, DW 15, 20, 21 and similar type if power unit is not used	10.01	.55	.55	.35	.05
Scraper, single or twin engine pulling belly dump trailer	10.39	.55	.55	.35	.05
Scraper, single engine	10.14	.55	.55	.35	.05
Scraper, twin engine	10.24	.55	.55	.35	.05
Scraper, tandem engine or 3 engined	10.50	.55	.55	.35	.05
Self-propelled Sheepfoot and similar type	10.01	.55	.55	.35	.05
Shovels, including all attachments, under 1 cu. yd.	10.01	.55	.55	.35	.05
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	10.19	.55	.55	.35	.05
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	10.46	.55	.55	.35	.05
Shovels, including all attachments, over 5 cu. yds.	10.59	.55	.55	.35	.05
Shovel Oiler, 3 yards and under	9.50	.55	.55	.35	.05
Shovel Oiler, over 3 cu. yds.	9.91	.55	.55	.35	.05
Slip Form Paver	10.14	.55	.55	.35	.05
Stiff Leg Derrick and Guy Derrick	10.46	.55	.55	.35	.05
Track-type Front End Loaders; up to and including 5 cu. yds.	10.01	.55	.55	.35	.05
Track-type Front End Loaders; over 5 cu. yds. to and including 10 cu. yds.	10.24	.55	.55	.35	.05

MODIFICATIONS P. 20

DECISION NO. MT77-5021 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	$10.34	.55	.55	.35	.05
Track-type Front End Loaders, over 15 cu. yds.	10.44	.55	.55	.35	.05
Track-type Tractor w/wo attachments	10.01	.55	.55	.35	.05
Track-type Tractor, on Euclid Loader	10.19	.55	.55	.35	.05
Trenching Machine	10.01	.55	.55	.35	.05
Turnhead Conveyor, or Head Tower on Batch Plant	10.01	.55	.55	.35	.05
Wagner Roller and similar type	10.01	.55	.55	.35	.05
Whirley Crane	10.54	.55	.55	.35	.05
Whirley Crane Oiler	9.91	.55	.55	.35	.05
Water Pull when used for compaction	10.01	.55	.55	.35	.05
Washing and Screening Plant	10.01	.55	.55	.35	.05
Washing and Screening Plant Oiler	9.50	.55	.55	.35	.05

MODIFICATIONS P. 21

DECISION #MT77-5034 - Mod. #3
(42 FR 13765 - March 11, 1977)
Statewide, Montana

Change:
Power Equipment Operators - See attached schedules

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

MODIFICATIONS P. 22

DECISION NO. MT77-5034 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$ 9.85	.55	.55	.35	.05
Air Compressor, single	9.54	.55	.55	.35	.05
Air Compressor, two or more	9.71	.55	.55	.35	.05
Air Dactor	10.01	.55	.55	.35	05
Asphalt Paving Machine	10.01	.55	.55	.35	.05
Asphalt Paving Machine Screed	10.01	.55	.55	.35	.05
Automatic Finegrade, Gurries and other similar types	10.14	.55	.55	.35	.05
Belt Finish Machine	9.71	.55	.55	.35	.05
Bit Grinder	10.01	.55	.55	.35	.05
Bituminous Mixer Paving, Travel Plant	10.01	.55	.55	.35	.05
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	9.60	.55	.55	.35	.05
Boring Machine (large)	10.01	.55	.55	.35	.05
Broom, Self-propelled	9.68	.55	.55	.35	.05
Cableway Highline	10.52	.55	.55	.35	.05
Cement Silo	9.80	.55	.55	.35	.05
Central Mixing Plants, Concrete dam and stationary	10.26	.55	.55	.35	.05
Chain Bucket Loader	9.73	.55	.55	.35	.05
Chip or Gravel Spreader, self-propelled	9.73	.55	.55	.35	.05
Concrete Batch Plant, one and two Mixers	10.01	.55	.55	.35	.05
Concrete Batch Plant, three and four Mixers	10.21	.55	.55	.35	.05
Concrete Batch Plant, five Mixers and over	10.41	.55	.55	.35	.05
Concrete Batch Plant Oiler, up to and including two Mixers	9.53	.55	.55	.35	.05
Concrete Batch Plant Oiler, three Mixers and over	9.84	.55	.55	.35	.05
Concrete Bucket Dispatcher	10.01	.55	.55	.35	.05
Concrete Curing Machine	10.01	.55	.55	.35	.05
Concrete Finish Machine Paving	10.01	.55	.55	.35	.05
Concrete Float-Spreader	10.01	.55	.55	.35	.05
Concrete Mixer, three bags and under	9.60	.55	.55	.35	.05
Concrete Mixer, four bags and over	9.77	.55	.55	.35	.05

MODIFICATIONS P. 23

DECISION NO. MT77-5034 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Power Saw, Self-propelled	$10.01	.55	.55	.35	.05
Concrete Travel Batcher	10.01	.55	.55	.35	.05
Concrete Conveyor under 40 feet	9.59	.55	.55	.35	.05
Concrete Conveyor over 40 feet	10.34	.55	.55	.35	.05
Concrete Pump	10.34	.55	.55	.35	.05
Crane, to and including 80' boom	10.17	.55	.55	.35	.05
Crane, 81' to 130' boom	10.32	.55	.55	.35	.05
Crane, 131' to 150' boom	10.37	.55	.55	.35	.05
Crane, 151' boom and over	10.42	.55	.55	.35	.05
Crane Oiler	9.58	.55	.55	.35	.05
Crusher	10.01	.55	.55	.35	.05
Crusher Oiler and Helpers	9.50	.55	.55	.35	.05
Crusher Conveyor, when required	9.47	.55	.55	.35	.05
Distributor	10.01	.55	.55	.35	.05
DW 10, 15 or 20 Tractor pulling Roller	9.73	.55	.55	.35	.05
Electric Overhead Cranes	10.19	.55	.55	.35	.05
Elevating Grader	10.01	.55	.55	.35	.05
Farm Type Tractor, up to and including 50 HP Engine	9.47	.55	.55	.35	.05
Farm Type Tractor, over 50 HP Engine	9.55	.55	.55	.35	.05
Field Equipment Serviceman	9.93	.55	.55	.35	.05
Field Equipment Servicemen Helper	9.50	.55	.55	.35	.05
Fireman	9.60	.55	.55	.35	.05
Forklift, on construction job site	9.82	.55	.55	.35	.05
Form Grader	9.78	.55	.55	.35	.05
Gradall	10.01	.55	.55	.35	.05
Grade Setter	9.47	.55	.55	.35	.05
Heavy Duty Drill, all types	10.01	.55	.55	.35	.05
Heavy Duty Driller Helper	9.60	.55	.55	.35	.05
Herman-Nelson Heaters and similar type	9.58	.55	.55	.35	.05
Hoist, single drum	9.78	.55	.55	.35	.05
Hoist, two or more drums	10.01	.55	.55	.35	.05
Helicopter Hoist	10.51	.55	.55	.35	.05
Hot Plant	10.01	.55	.55	.35	.05
Hot Plant Fireman, when in operation	10.01	.55	.55	.35	.05
Hot Plant Oiler, 100 ton per hour or over	9.58	.55	.55	.35	.05

MODIFICATIONS P. 24

DECISION NO. MT77-5034 (Cont'd)

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hydra Lift and similar types	$ 9.91	.55	.55	.35	.05
Industrial Locomotive all classes	10.01	.55	.55	.35	.05
Mechanic and/or Welder on job	10.11	.55	.55	.35	.05
Mechanic and/or Welder Helper on job	9.50	.55	.55	.35	.05
Mixermobile	10.09	.55	.55	.35	.05
Motor Patrol	10.14	.55	.55	.35	.05
Mountain Logger or similar type	10.01	.55	.55	.35	.05
Mucking Machine	10.01	.55	.55	.35	.05
Oiler-Driver, Rubber-tired Cranes	9.58	.55	.55	.35	.05
Oilers, other than Shovels and Cranes	9.50	.55	.55	.35	.05
Oiler, Hoist House, Dams	9.91	.55	.55	.35	.05
Pavement Breaker, Emsco and similar	10.01	.55	.55	.35	.05
Paving and Mixing Machine	10.14	.55	.55	.35	.05
Power Auger, Large Truck or Tractor mounted	10.01	.55	.55	.35	.05
Power Mixer, single or double drum	10.01	.55	.55	.35	.05
Power Saw, multiple cut, self-propelled	10.01	.55	.55	.35	.05
Pumpcrete or Grout Machine	10.01	.55	.55	.35	.05
Pumpman	9.45	.55	.55	.35	.05
Push Tractor	10.01	.55	.55	.35	.05
Quad Cat	10.31	.55	.55	.35	.05
Quad Loader and similar type	10.59	.55	.55	.35	.05
Raygo Giant	10.59	.55	.55	.35	.05
Refrigeration Plant	10.01	.55	.55	.35	.05
Retart	9.60	.55	.55	.35	.05
Roller, on blade or hot mix oil paving	10.01	.55	.55	.35	.05
Roller, on other blade or hot mix paving	9.71	.55	.55	.35	.05
Roller, 25 ton or over	10.01	.55	.55	.35	.05
Ross and similar type carriers, on construction site	10.01	.55	.55	.35	.05
Rubber-tired Dozer	10.01	.55	.55	.35	.05
Rubber-tired Front End Loader, 1 yard and under	9.72	.55	.55	.35	.05

MODIFICATIONS P. 25

DECISION NO. MT77-5034 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$10.01	.55	.55	.35	.05
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	10.13	.55	.55	.35	.05
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	10.23	.55	.55	.35	.05
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	10.33	.55	.55	.35	.05
Rubber-tired Front End Loader, over 15 yards	10.43	.55	.55	.35	.05
Scraper, DW 15, 20, 21 and similar type if power unit is not used	10.01	.55	.55	.35	.05
Scraper, single or twin engine pulling belly dump trailer	10.39	.55	.55	.35	.05
Scraper, single engine	10.14	.55	.55	.35	.05
Scraper, twin engine	10.24	.55	.55	.35	.05
Scraper, tandem engine or 3 engined	10.50	.55	.55	.35	.05
Self-propelled Sheepfoot and similar type	10.01	.55	.55	.35	.05
Shovels, including all attachments, under 1 cu. yd.	10.01	.55	.55	.35	.05
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	10.19	.55	.55	.35	.05
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	10.46	.55	.55	.35	.05
Shovels, including all attachments, over 5 cu. yds.	10.59	.55	.55	.35	.05
Shovel Oiler, 3 yards and under	9.50	.55	.55	.35	.05
Shovel Oiler, over 3 cu. yds.	9.91	.55	.55	.35	.05
Slip Form Paver	10.14	.55	.55	.35	.05
Stiff Leg Derrick and Guy Derrick	10.46	.55	.55	.35	.05
Track-type Front End Loaders; up to and including 5 cu. yds.	10.01	.55	.55	.35	.05
Track-type Front End Loaders; over 5 cu. yds. to and including 10 cu. yds.	10.24	.55	.55	.35	.05

MODIFICATIONS P. 26

DECISION NO. MT77-5034 (Cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	$10.34	.55	.55	.35	.05
Track-type Front End Loaders, over 15 cu. yds.	10.44	.55	.55	.35	.05
Track-type Tractor w/ws attachments	10.01	.55	.55	.35	.05
Track-type Tractor, on Euclid Loader	10.19	.55	.55	.35	.05
Trenching Machine	10.01	.55	.55	.35	.05
Turnhead Conveyor, or Head Tower on Batch Plant	10.01	.55	.55	.35	.05
Wagner Roller and similar type	10.01	.55	.55	.35	.05
Whirley Crane	10.54	.55	.55	.35	.05
Whirley Crane Oiler	9.91	.55	.55	.35	.05
Water Pull when used for compaction	10.01	.55	.55	.35	.05
Washing and Screening Plant	10.01	.55	.55	.35	.05
Washing and Screening Plant Oiler	9.50	.55	.55	.35	.05

MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NE77-4017 - Mod. #1 (42 FR 7050 - February 4, 1977) Lancaster County, Nebraska					
Change:					
Electricians:					
Electricians:					
Zone A 0 - 15 miles	$11.21	.42	1%+.30		.04
Zone B 15 - 30 miles	11.51	.42	1%+.30		.04
Zone C 30 - 75 miles	11.81	.42	1%+.30		.04
Zone D 75 miles & over	12.21	.42	1%+.30		.04
Cable splicers:					
Zone A 0 - 15 miles	11.46	.42	1%+.30		.04
Zone B 15 - 30 miles	11.76	.42	1%+.30		.04
Zone C 30 - 75 miles	12.06	.42	1%+.30		.04
Zone D 75 miles & over	12.46	.42	1%+.30		.04
DECISION NO. NM77-4074 - Mod.#3 (42 FR 18825 - April 8, 1977) Statewide, New Mexico					
CHANGE:					
CEMENT MASONS:					
Composition & Machine Operator Area I	$8.62	.57	.50		
PAINTERS(ZONE II)					
Zone 2-A	7.95	.35	.20		.05
Zone 2-B	9.17	.35	.20		.05
Zone 2-C	8.60	.35	.20		.05
Zone 2-D	8.05	.35	.20		.05
Zone 2-E	8.70	.35	.20		.05
Zone 2-F	7.95	.35	.20		.05
Zone 2-G	8.45	.35	.20		.05
ADD:					
RESIDENTIAL CONSTRUCTION (RIO ARRIBA, TAOS, SANDOVAL AND SANTA FE COUNTIES					
PAINTERS:					
Brush and roller	7.12	.35	.20		.05
Spray	7.62	.35	.20		.05
Paperhangers	7.37	.35	.20		.05
DRY FINISHER:					
Ames tool operator, machine texture	7.70	.35	.20		.05
Hand finishers	7.45	.35	.20		.05

MODIFICATIONS P. 28

DECISION NO. OK77-4056 - Mod. #2 (42 FR 12663 - March 4, 1977) Comanche County, Oklahoma	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
MARBLE SETTERS	$9.40				
DECISION NO. OK77-4062 - Mod. #3 (42 FR 13787 - March 11, 1977) Muskogee, Adair and Cherokee Counties, Oklahoma					
CHANGE:					
GLAZIERS	$9.16	.50	.30		.01
DECISION NO. OK77-4065 - Mod. #3 (42 FR 15287 - March 18, 1977) McIntosh County, Oklahoma					
CHANGE:					
GLAZIERS	$9.16	.50	.30		.01
DECISION NO. OK77-4066 - Mod. #2 (42 FR 15289 - March 18, 1977) Pittsburg County, Oklahoma					
CHANGE:					
GLAZIERS	$9.16	.50	.30		.01

MODIFICATIONS P. 29

DECISION NO. OK77-4087 - Mod. #1
(42 FR 22107 - April 29, 1977)
Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
GLAZIERS	$9.16	.50	.30		.01

MODIFICATIONS P. 30

DECISION #PA77-3043 - Mod. # 1
(42 FR 18783 - April 8, 1977)
Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & Stone masons:					
Zone 2	$10.85	.50	.50		
Carpenters:					
Zone 1	10.20	.44	.72		
Zone 3	9.73	.44	.72		.02
Electricians					
Zone 1	10.90	.35	1.10		.02
AREA COVERED BY ELECTRICIANS ZONE #1 TO READ, CARBON COUNTY: TOWAMENSING, LOWER TOWAMENSING; E. PENN; TWPS; THE BOROUGH OF PARRYVILLE IN THEIR ENTIRETY					
Millwrights:					
Zone 2	10.13	.44	.72		.01
Zone 3	11.29	.40	.50		.03
Painters:					
Zone 1					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Power Equipment Operators (See Schedule Below)					
Sprinkler Fitters	11.86	.65	.95		.08
Soft floor layers:					
Zone 3	9.73	.44	.72		.02
Sheet metal workers	11.12	.73	.40		.02

DECISION #PA77-3043;(Mod. # 1, Cont'd.)

MODIFICATIONS P. 31

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

MODIFICATIONS P. 32

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # SC75-1041 - Mod. # 1 (40 FR-14194 - March 28, 1975) Darlington County, South Carolina					
Add:					
Millwrights	5.50				
DECISION #SD77-5027 - Mod. #2 (42 FR 12665 - March 4, 1977) Minnehaha County, South Dakota					
Change:					
Painters:					
Brush	$7.29				
Spray	8.29				
Tapers	8.04				
DECISION #SD77-5028 - Mod. #2 (42 FR 12666 - March 4, 1977) Meade and Pennington Counties, South Dakota					
Change:					
Painters:					
Brush	7.29				
Spray	8.29				
Tapers	8.04				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4007 - Mod. #4 (42 FR 4107 - January 21, 1977) Wichita County, Texas					
Change:					
Laborers:					
Group 1	$ 5.025	.275	.20		
Group 2	5.15	.275	.20		
Group 3	5.275	.275	.20		
Group 4	5.525	.275	.20		
DECISION #TX77-4044 - Mod. #4 (42 FR 11226 - February 25, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Ironworkers	9.00	.55	1.00		.10
DECISION #TX77-4053 - Mod. #2 (42 FR 12668 - March 4, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Counties, Texas					
Change:					
Building Construction:					
Plumbers & pipefitters:					
Zone 1	8.70	.30	.33		.03
Zone 2	9.10	.30	.33		.03
Incidental Paving & Utilities (Bell & Coryell Counties):					
Plumbers:					
Zone 1	8.70	.30	.33		.03
Zone 2	9.10	.30	.33		.03

DECISION NO. VA77-2047 Mod. #1 (42 FR 23430 May 6, 1977) The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Piledrivermen and Dock Builders	$7.60	.30	.30		
Terrazzo Workers and Tile setters	7.00	.60	.20		

SUPERSEDEAS DECISION

STATE: Alaska COUNTIES: Statewide

DECISION NUMBER: AK77-5052 DATE: Date of Publication

Supersedes Decision No. AK77-5009 dated January 21, 1977, in 42 FR 4074

DESCRIPTION OF WORK: Building Construction (including residential construction consisting of single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction and Dredging.

AREA I (North of the 63rd Parallel) AREA II (South of the 63rd Parallel and West of the 141st Meridian) AREA III (East of the 141st Meridian)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 17.61	.44	.97		.10
BOILERMAKERS	17.035	.775	1.00	.50	.02
BRICKLAYERS; Blocklayers; Stonemasons	15.68	.90	2.25		.09
CARPENTERS:					
Area I					
Carpenters	16.28	.65	1.50		.10
Powder actuated tool operator	16.50	.65	1.50		.10
DeWalt or similar type saw operator; Marlite and Acoustical; Fire or Floor Repair work applicators; Nailing Machine Operator; Saw Filer	16.56	.65	1.50		.10
Millwrights	16.67	.65	1.50		.10
Piledrivermen	15.67	.65	1.50		.10
Areas and II and III					
Journeyman Carpenters	15.66	.65	1.50		.15
Acoustical and Marlite Applicators; Floor Workers; Badial air saw operators; Fire and Flood Workers	16.04	.65	1.50		.15
Millwrights	16.19	.65	1.50		.15
Piledrivermen	15.67	.65	1.50		.15
CEMENT MASONS:					
Cement Masons, paving (concrete), Curb, Gutter and Sidewalks	14.38	.60	2.35		.15
Operating Screeding and Rodding Machines, Application of all Composition, Mastic, Epoxy, and Plaster Materials	14.91	.60	2.35		.15
Hand powered Grinder	14.91	.60	2.35		.15
Form Setters	14.53	.60	2.35		.15

DECISION NO. AK77-5052 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CULINARY WORKERS:					
Baker of combination Cook-Baker, Head Cook; Working Camp Manager	$13.21	.50	$ 2.00		.04
Cook	12.85	.50	2.00		.04
Butcher	11.96	.50	2.00		.04
Head Waiter or Head Waitress	11.47	.50	2.00		.04
Head Bullcook	11.37	.50	2.00		.04
Camp Worker (waiter, waitress, Bullcook, General Helper, miscellaneous worker); Bartender	11.21	.50	2.00		.04
ELECTRICIANS:					
Electricians; Equipment Operators; Technicians	16.95	.70	1%+2.00		.15
Cable Splicers	18.70	.70	1%+2.00		.15
ELEVATOR CONSTRUCTORS	15.715	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Area I	14.35	.65	1.00		
Areas II and III	14.57	.65	1.00		.10
IRONWORKERS:					
Bender Opeator; Bridge; Fence Erector; Machinery Mover; Ornamental; Reinforcing; sheeter; Structural	16.05	.80	2.25		.18
LATHERS	16.66	.60		1.08	.04
LINE CONSTRUCTION:					
Groundmen	14.95	.70	1%+2.00		.15
Equipment Operators; Linemen; Technicians	16.95	.70	1%+2.00		.15
Cable Splicers	18.70	.70	1%+2.00		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS; Terrazzo Workers	$ 15.68	.90	2.25		.09
PAINTERS:					
Area I					
Zone 1 (Within a 10 mile radius of the Fairbanks Post Office imsluding Ft. Wainwright)					
Zone 2 (Beyond 10 miles and up to 40 miles radius of the Fairbanks Post Office including Eielson Air Force Base and all the Sites within this territory)					
Zone 3 (Beyond 40 miles radius of the Fairbanks Post Office)					
Zone 1 and 3:					
Brush; Paperhangers	16.85	.65	1.60		.05
Carpet and Tile	16.87	.65	1.60		.05
Swing Stage; Sign Painters; Utilidors	17.10	.65	1.60		.05
Hand Tapers	17.12	.65	1.60		.05
Structural Steel; Sand Blasters; Spray Painters; Towers, stacks, bridges, and flagpoles up to and including 40 feet	17.35	.65	1.60		.05
Buffer Operator	17.38	.65	1.60		.05
Machine Tapers	17.52	.65	1.60		.05
Hardwood Floor Finishers	17.60	.65	1.60		.05
Epoxy applicators and spray steel	17.85	.65	1.60		.05
Swing and boom spray	18.10	.65	1.60		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Zone 2:					
Brush; Paperhangers	$17.70	.65	$ 1.60		.05
Swing Stage; Sign Painters; Utilidors	17.95	.65	1.60		.05
Tapers, hand	17.97	.65	1.60		.05
Structural steel, Sand blasters; Spray painters; Towers, stacks, bridge and flagpoles up to and including 40 feet	18.20	.65	1.60		.05
Hardwood Floor Finishers	18.45	.65	1.60		.05
Tapers, machine	18.47	.65	1.60		.05
Spray Steel; Epoxy Applicator	18.70	.65	1.60		.05
Swing and boom spray	18.45	.65	1.60		.05
Buffer Operator	18.23	.65	1.60		.05
Zones 1, 2, and 3:					
Height Pay: All work on any form of scaffolding or staging over 40 ft. will be paid $.25 more per hour will be paid to the employee. The height of work shall be determined from the ground to the point of hook-up.					
AREAS II and III					
Hardwood Floor Sander or Finisher; Brush, Roller and Sign Painter	16.65	.65	1.50		.20
Paper and Vinyl Hanger	17.05	.65	1.50		.20
Swing Stage	17.05	.65	1.50		.20
Structural steel; Tapers and Drywall sander	17.05	.65	1.50		.20
Pot Tenders; Sandblasters; Spray	17.25	.65	1.50		.20
Epoxy and tar applicator	17.65	.65	1.50		.20
Steeplejack; Tower painters	18.45	.65	1.50		.20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Height Pay: All classifications, with the exception of steeple jacks and tower painters, a $.25 hourly premium shall be paid for swing stage work on a structure with height in excess of 40 ft. an additional $.25 per hourly height pay shall be paid for each additional 50 ft. thereafter. Height pay on all towers and steeplejack work shall start at the 150 ft. level. $.50 per hour above the scale shall be paid for each additional 100 ft.	$15.50	.60	$ 2.35		.15
PLASTERERS	13.48	.73	1.40		.15
PLUMBERS, RESIDENTIAL:					
Area II					
PLUMBERS; Steamfitters:	17.42	.85	1.30		.45
Area I	16.85	.73	1.40		.15
Area II	15.60	1.00	1.70		.10
Area III					
ROOFERS:	15.60	.90	2.00		.10
Area I	15.30	.90	2.00		.10
Areas II and III					
SHEET METAL WORKERS:	17.49	.57	1.00		.17
Area I	17.61	.61	.75		.15
Areas II and III					
SOFT FLOOR LAYERS:	16.11	.65	1.50		.10
Area I	15.59	.65	.50	4%	.20
Areas II and III	14.82	.65	.90		.08
SPRINKLER FITTERS					
TERRAZZO WORKERS' AND TILE SETTERS' HELPERS	12.83	.90	2.25		.09
TILE SETTERS	15.01	.90	2.25		.09
RIGGERS: Welder: Receive rates for craft performing operation to which rigging or welding is incidental.					

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.
Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F. Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Group 1	$13.10	.60	$ 2.25		.09
Group 2	13.27	.60	2.25		.09
Group 3	13.31	.60	2.25		.09
Group 4	13.34	.60	2.25		.09
Group 5	13.38	.60	2.25		.09
Group 6	13.39	.60	2.25		.09
Group 7	13.44	.60	2.25		.09
Group 8	13.52	.60	2.25		.09
Group 9	13.77	.60	2.25		.09
Group 10	13.80	.60	2.25		.09
Group 11	13.88	.60	2.25		.09
Group 12	13.90	.60	2.25		.09
Group 13	13.91	.60	2.25		.09
Group 14	14.02	.60	2.25		.09
Group 15	14.14	.60	2.25		.09
Group 16	14.27	.60	2.25		.09
Group 17:					
Class A	13.10	.60	2.25		.09
Class B	13.29	.60	2.25		.09
Class C	13.60	.60	2.25		.09
Class D	14.16	.60	2.25		.09
Class E	14.31	.60	2.25		.09
Class F	14.55	.60	2.25		.09

LABORERS

Group 1: Building Laborers; Carpenters Tenders; Material Handlers and Hook Tenders; Form Strippers; Signalmen; Riggers; Sandblast Pot Tender; Saw Tenders; General Labor; Dump Man; Pit Man; Brush Cutters, Ditch Diggers; ; Monolithic Workers; Dryer Man; Window Cleaner; Utiliwalk and Utilidor

Group 2: Base and Floor Machine Man

Group 3: Choke Setters

Group 4: Concrete Labor including Vibratorman; Power Butty and Concrete Power Saw; Curb and Gutterman; General Crew (including Plant Crew) Asphalt

Group 5: Pneumatic or Power Tools

Group 6: Stake Hopper; Grademan; Steampoint or Water Jet Operator

Group 7: Tank Cleaner

Group 8: Jackhammer Operator and Pavement Breaker; Chuck Tender (Wagon and Air Track Drills)

Group 9: Mason Tender and Mud Mixers

Group 10: Gunnite Operator; Pipelayers; Culvert and Multiplate; High Scaler; Sloper (over 20 feet); Chain and Power Saws; Sack or bulk; Sewer Pipelayer; Sewer Caulkers; Timberman; All Monolithic Crews; Pipe Builders; Sandblasters

Group 11: Asphalt Rakers

Group 12: Tenders; Plasterers; Bricklayers; Cement Finisher; Burning and Cutting Torch (except intermittent torch work)

Group 13: Wagon Driller

Group 14: Timber Faller; Air Track Wagon Driller

Group 15: Chain Saw Filer

Group 16: High Riggers and Tree Topper, Powderman

Group 17: TUNNEL OR SHAFT
Class A: Topman and Bull Gang; Brakeman
Class B: Muckers, Laborers; Nippers
Class C: Chuck Tender
Class D: Retimberman
Class E: Miners, Shafts and Raises
Class F: Powderman

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 13.83	.90	$ 2.50		.15
Group 2	14.72	.90	2.50		.15
Group 3	13.76	.90	2.50		.15
Group 4	13.89	.90	2.50		.15
Group 5	14.78	.90	2.50		.15
Group 6	15.56	.90	2.50		.15
Group 7	14.15	.90	2.50		.15
Group 8	13.32	.90	2.50		.15
Group 9	14.21	.90	2.50		.15
Group 10	14.48	.90	2.50		.15
Group 11	13.97	.90	2.50		.15
Group 12	16.31	.90	2.50		.15
Group 13	13.84	.90	2.50		.15
Group 14	14.24	.90	2.50		.15
Group 15	13.74	.90	2.50		.15
Group 16	14.27	.90	2.50		.15
Group 17	14.57	.90	2.50		.15
Group 18	12.71	.90	2.50		.15
Group 19	13.21	.90	2.50		.15
Group 20	14.16	.90	2.50		.15
Group 21	13.48	.90	2.50		.15
Group 22	12.81	.90	2.50		.15
Group 23	13.25	.90	2.50		.15
Group 24	13.42	.90	2.50		.15
Group 25	17.08	.90	2.50		.15
Group 26	17.75	.90	2.50		.15
Group 27	14.41	.90	2.50		.15
DREDGING					
Group 1	12.28	.75	2.00		
Group 2	12.41	.75	2.00		
Group 3	13.34	.75	2.00		
Group 4	13.40	.75	2.00		
Group 5	13.46	.75	2.00		
Group 6	13.97	.75	2.00		
Group 7					
(a)	14.75	.75	2.00		
(b)	15.50	.75	2.00		

POWER EQUIPMENT OPERATORS

Group 1: Batch Plant Operator; Batch and Mixer, 200 yards per hour and under; Loaders; Elevating - Athey, Barber Greene and similar types; Overhead and front-end, under 2½ yards; Mixers; Concrete Mixers and Batch, 200 yards per hour and under; Pumps; Fuller Kenyon, Pumpcrete and Concrete, Rollers, Tampers and Vibrators: on Plant or Road Mix materials; Tractor, Farmall types, 50 h.p. and over; Trenching Machines, under 16 inches

Group 2: Batch Plant Operator: Batch and Mixers, over 200 yards; Derricks, all; Drilling Machines, Core, Cable Rotary and Exploration; Mixers: Mobile type with hoist combination; Mucking Machines, Mole, Tunnel Drill and/or Shield

Group 3: Brooms, Power Wayne, Saginaw and similar types; Bulldozers, under D6 or similar; Post Hole Diggers, mechanical; Saws, Concrete; Scrapers; Carryall type, single; Nodwell Sno-cat

Group 4: Bulldozers: D6 through D9 or similar; Bump Cutter (Concut Christenson or similar types); Conveyors

Group 5: Bulldozers: TC 12, Quad 9, Pay Dozers, Linked Pusher, H.D. 41 and/or similar; Bulldozers engaged in Yo Yo Operation; Cableways and Highlines, 3 yards and under; Cranes: "A" Frame Trucks, Deck Winches, single power drum; "A" Frame Trucks; Helicopter; Deck Winches (double power drum); Crawler, truck type, Floating Locomotive, Whirley, either 3 yards and under or 150 boom including jibs and under 45 tons and under; Hydralifts or Transporter, Hyster Cat Cranes and attachments, Sidebooms 45 tons and under; Fork Lifts with power broom and swing attachment; Loaders: Overhead and Front-end, 2½ yards and under 4 yards; Motor Patrol Graders: Over Model 14 or similar types; Piledriver Engineers, L. B. Foster Puller or similar paving breaker; Power Plant Turbine Operators; 300 K.W. on highway or airfield construction projects or Quarry operators); Bauerman-Bagley; Shovels: Crawler and truck type, all attachments, 3 yards and under; Sub Grader (Gurries, C.M.I. and similar types); Tractors, Farmall type, used as Backhoes, Rubber-tired (Ford, Ferguson, Case and similar types); Tournapulls; Caterpillar, Euclid Scrapers and similar type equipment, over 25 yards through 40 yards; Hover Crafts, Flex Craft, Helicopter; Transporter; Cableways; Rollagon, Dredge Barge Cable; Highline or Cable Car, Boat Coxswain

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Cableways and Highways, over 3 yards; Cranes: Crawler, truck type, Floating, Locomotive, Whirley, either over 3 yards and under 6 yards, over 150' boom, including jibs or over 45 tons; Tower Cranes, Pecco, Lorraine, Bucyrus and similar types; Hyster Cat Cranes and attachments, Sidebooms over 45 tons through 100 tons; Loaders: Overhead and Front-end, 4 yards up to and including 10 yards; Shovels: Crawler and truck type, all attachments, 3 yards and under 6 yards; Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment over 40 yards through 55 yards; Slip Form Paver, C.M.I. and similar types

Group 7: Cement Hogs; Locomotives: Roll and Geared Engines

Group 8: Compressors: Excavating; Locomotives: Dinkey (air, steam, gas, and electric) Speeders

Group 9: Compressors: Steel Erection including Sandblasting, Painting or same, Pile Driving, Hoists on Steel Erection (Towermobiles and Air Tuggers); Loaders: Fork Lifts with tower; Scrapers: Carryall, Tandem

Group 10: Conveyors, Meltcrete with power pack and similar; Loader: Elevating Belt type, Euclid and similar types

Group 11: Cranes: "A" Frame Trucks, Deck Winches, single power drum; Crushers, rock, washing and screening plants; Hoist Air Tuggers, Elevators; Motor Patrol Graders: Model 14 or similar types and under; Power Plant Turbine Operators: under 300 K.W.; Shovels; Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment 25 yards and under

Group 12: Cranes: Crawler, truck type, Floating, Locomotive, Whirley, either 6 yards or over, or over 200' of boom including jibs or over 150 tons; Hyster Cat Cranes and attachments, Sidebooms over 100 tons; Loaders: Overhead and Front-end, over 10 yards; Shovels: Crawler and truck type, all attachments, 6 yards and over; Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment over 55 yards through 70 yards

Group 13: Finishing Machine Operator, Concrete Paving, Sidewalk Curb and Gutter Machine; Screen Man or Slurry Operator; Spreaders - Blaw Knox, Cedarapids, Barber Greene, Railroad Wing Spreader or similar types

Group 14: Loaders: Elevating Grader type, Hymac and similar types

Group 15: Loaders: Fork Lifts or Lumber Carrier (on construction job site)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 16: Mechanics, Welders, Machinists, heavy duty

Group 17: Mechanic; Leadman

Group 18: Mechanics' Helpers, heavy duty (shop)

Group 19: Mechanic, light duty; Rollers, Tampers and Vibrators: Other than plants or road mix (where towed, to pay rate of equipment used to pull); Tractors, Farmall type less than 50 h.p.

Group 20: Mixers, Asphalt Mixer

Group 21: Oil, Blower Distributors

Group 22: Grade Checkers - Oiler combination); Safety Observer or Oiler Rigger

Group 23: Journeyman Equipment Service Oilers and Fireman; Oiler, either over 3 yards to over 150' boom or over 45 tons

Group 24: Pumps: Waters

Group 25: Tournapulls, Caterpillar, Euclid Scrapers and similar types equipment over 70 yards through 85 yards

Group 26: Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment, over 85 yards through 100 yards

Group 27: Trenching Machines: 16 inches and over or Remote controlled underwater Trenching

POWER EQUIPMENT OPERATORS - DREDGING

Group 1: Assistant Mate (Deckhand)

Group 2: Fireman; Oiler

Group 3: Assistant Engineer (electric, diesel, steam of booster pumps); Mates and Boatmen

Group 4: Engineer Welder; Craneman

Group 5: Assistant Engineer (electric generator operator for primary pump, power barge, or dredge)

Group 6: Leverman, Hydraulic

Group 7: Leverman, Dipper

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$13.22	.88	$ 3.00		.10
Group 2	13.28	.88	3.00		.10
Group 3	12.75	.88	3.00		.10
Group 4	13.60	.88	3.00		.10
Group 5	14.00	.88	3.00		.10
Group 6	14.31	.88	3.00		.10
Group 7	14.60	.88	3.00		.10
Group 8	14.91	.88	3.00		.10
Group 9	15.22	.88	3.00		.10
Group 10	15.53	.88	3.00		.10
Group 11	15.84	.88	3.00		.10
Group 12	16.15	.88	3.00		.10
Group 13	16.45	.88	3.00		.10
Group 14	13.74	.88	3.00		.10
Group 15	12.47	.88	3.00		.10
Group 16	12.90	.88	3.00		.10
Group 17	13.58	.88	3.00		.10
Group 18	13.84	.88	3.00		.10
Group 19	14.11	.88	3.00		.10
Group 20	14.38	.88	3.00		.10
Group 21	14.55	.88	3.00		.10
Group 22	13.52	.88	3.00		.10
Group 23	12.64	.88	3.00		.10

TRUCK DRIVERS

Group 1: Buggymobile; Hyster Operators (handling aggregate), Lumber Carrier

Group 2: Semi or truck and trailer; Dumpsters; Batch Trucks over 5 yards; Dump Trucks, over 5 yards up to and including 10 yards; Fuel Truck; Greasers of Grease Trucks; Flat Beds, dual rear axle; Ready Mix: Over 3 yards up to and including 5 yards; Water Wagon, semi; Water Wagon, dual axle; Winch Trucks; Flat Bed including "A" Frame manufactures rating over 5 tons; Bull Lifts and Fork Lifts over 5 tons; Front End Loader with Forks; Partsman and Outside Expeditor; Bus Operator, over 30 passengers, Track Truck Equipment; (All Terrain Vehicles, Form Distributor Truck, double axle; Loadmaster (air and water operations); Air cushion or similar type vehicle; Fire Trucks - double axle

Group 3: Batch Truck up to and including 5 yards; Dump Trucks (including Rockbuggy and Trucks with pumps) up to and including 5 yards; Flat Beds, single rear axle; Water Wagon, single axle; Winch Truck, Flat Bed including "A" Frame manufactured rating 5 tons and under; Bull Lifts and Fork Lifts up to and including 5 tons; Bus Operator, up to 30 passengers; Form Distributor Truck, single axle, Hydro Seeder, single axle, Team Drivers (horses, mules and similar equipment); Vacuum Trucks and Truck Sweepers - single axle; Fire Trucks - single axle; Ambulance

Group 4: Dump Trucks over 10 yards up to and including 20 yards; Tire Servicman Man; Lowbed heavy-duty Trailer; Oiler Distributor Drivers; Ready Mix: Compactor (when pulled by rubber-tired equipment)

Group 5: Dump Trucks over 20 yards up to and including 30 yards

Group 6: Dump Trucks over 30 yards up to and including 40 yards

Group 7: Dump Trucks over 40 yards up to and including 50 yards

Group 8: Dump Trucks over 50 yards up to and including 60 yards

Group 9: Dump Trucks over 60 yards up to and including 70 yards

Group 10: Dump Trucks over 70 yards up to and including 80 yards

Group 11: Dump Trucks over 80 yards up to and including 90 yards

TRUCK DRIVERS (Cont'd)

Group 12: Dump Trucks over 90 yards up to and including 100 yards

Group 13: Dump Trucks over 100 yards (above scales to be paid on actual water level measurements)

Group 14: Turn-O-Wagoner DW-10 when not self-loading

Group 15: Gravel Spreader Box Operator on Truck; Pickup (pilot Cats all light-duty vehicles); Warehouseman Class 2: Farm Type rubber-tired tractor (material hauling); Swampers and Riggers

Group 16: Ready Mix: Up to and including 3 yards

Group 17: Ready Mix: Over 5 yards up to and including 7 yards

Group 18: Ready Mix: Over 7 yards up to and including 9 yards

Group 19: Ready Mix: Over 9 yards up to and including 12 yards

Group 20: Ready Mix: 13 yards and over

Group 21: Ready Mix, semi with double bowl mixer

Group 22: Water Wagon, when pulled by Euclid or similar type equipment

Group 23: Warehouseman - Class 1

SUPERSEDEAS DECISION

STATE: California
COUNTY: San Diego
DECISION NUMBER: CA77-5043
DATE : Date of Publication
Supersedes Decision No. CA76-5116 dated December 10, 1976, in 41 FR 54115.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.10	.80	$ 1.17		.06
BOILERMAKERS	13.175	.775	1.00	.50	.02
BRICKLAYERS; Stonemasons	10.57	.83	1.06		.06
BRICK, BLOCK and STONEMASONS' TENDERS	8.89	.60	1.75	.50	
CARPENTERS:					
Carpenters	10.76	.56	1.05	.70	.07
Piledrivermen	10.89	.56	1.05	.70	.07
Millwrights; Pneumatic Nailer; Hardwood Floorlayers	11.01	.56	1.05	.78	.87
CEMENT MASONS:					
Cement Masons	8.70	.88	1.46	1.36	.87
Color Work; Composition, Mastic or Epoxy; Finishing Machine; Curb Machine	9.00	.88	1.46	1.26	.07
DRYWALL INSTALLERS	12.60	.56	1.05	.70	.07
ELECTRICIANS:					
Electricians	12.33	.70	1%+1.33		.02
Cable Splicers	12.63	.70	1%+1.33		.02
ELEVATOR CONSTRUCTORS	12.95	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.90	.67	.90		
IRONWORKERS:					
Fence Erectors	10.41	1.14	1.86	1.20	.04
Reinforcing	11.30	1.14	1.86	1.20	.04
Ornamental; Structural	11.30	1.14	1.86	1.20	.04
IRRIGATION And LAWN SPRINKLERS	9.40	10%	16%	13%	3/4%
LATHERS:					
Northern portion of San Diego County from center of City of Del Mar	10.90	.55	.90	.50	.05
Remainder of County	11.86	.60	.70	.70	.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Groundman	$ 9.51	.70	1%+1.33		.02
Linemen	12.35	.70	1%+1.33		.02
Cable Splicers	12.65	.70	1%+1.33		.02
MARBLE SETTERS	11.12	.70	1.17		.04
MARBLE SETTERS' HELPERS	8.39	.55	.85		
PAINTERS:					
Brush; Painter Burner	10.99	.99	1.18	.75	.07
Swing Stage; Brush; Spray; Iron, steel and bridge painter (ground work)	11.24	.99	1.18	.75	.07
Paperhanger; Spray, swing stage; Sandblaster; Iron, steel and bridge, swing stage; Iron, steel and bridge, spray (ground); Riggers, climbing steel; Brush, climbing steel and bridge	11.49	.99	1.18	.75	.07
Sandblaster, swing stage; Iron, steel and bridge, spray swing stage; Spray, climbing steel and bridge	11.74	.99	1.18	.75	.07
Steeplejack	12.39	.99	1.18	.75	.07
PARKING LOT WORK And/Or HIGHWAY MARKERS:					
Traffic Delineating Device applicator	8.87	.50	.35	b	
Wheel stop installer; Traffic surface sandblaster; Striper	8.48	.50	.35	b	
Helper (Traffic surface sandblaster; Wheel stop installer; Striper)	6.83	.50	.35	b	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SLURRY SEAL OPERATION:					
Mixer Operator	$ 8.48	.50	.35	b	
Squeegee Man	7.48	.50	.35	b	
Applicator Operator	6.83	.50	.35	b	
Shuttleman	6.65	.50	.35	b	
Top Man	5.83	.50	.35	b	
PLASTERERS	10.96	.65	1.50	1.00	
PLASTERERS' TENDERS	10.03	.65	1.75	.50	
PLUMBERS; Steamfitters	11.66	10%	16%	13%	3/4%
ROOFERS	9.99	.50	.75	1.00	
SHEET METAL WORKERS	11.96	1.04	2.24		
SOFT FLOOR LAYERS	9.55	.60	1.05		.07
SPRINKLER FITTERS	15.07	.65	.95		.08
TERRAZZO WORKERS	11.12	.70	1.17		.04
TILE SETTERS	11.12	.70	1.17		.04
TERRAZZO And TILE HELPERS	8.39	.55	.85		
RIGGERS; WELDERS - Receive rate prescribed for craft performing operating to which rigging or welding is incidental.					

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Employer contributes $.22 per hour to Holiday Fund plus $.13 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years $.33 per hour to Vacation Fund, 5 years but less than 10 years $.43 per hour to Vacation Fund, over 10 years $.53, per hour to Vacation Fund.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
LABORERS, General Construction; Gas and oil Pipeline; Jetman; Tool Shed Checker; Using dry pack; Flagman	$ 7.21	.70	$ 1.83	.50	.13
CUTTING TORCH OPERATOR (demolition); Scaler	7.26	.70	1.83	.50	.13
GUINEA CHASER	7.29	.70	1.83	.50	.13
FINE GRADER ON HIGHWAYS, STREETS AND AIRPORTS PAVING (sewer and drainage lines); Landscape Gardener and Nursery Man	7.31	.70	1.83	.50	.13
LABORER (panking rod steel and pans); Tank Scaler and Cleaner	7.335	.70	1.83	.50	.13
DRILLER'S HELPER (Caisson) including Bellowers; Boring Machine Helper	7.34	.70	1.83	.50	.13
WINDOW CLEANER; Chuck Tender (except tunnels); Septic tank digger and installer (leadman)	7.36	.70	1.83	.50	.13
CESSPOOL DIGGER AND INSTALLER	7.39	.70	1.83	.50	.13

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CONCRETE CURER; Impervious Membrane; Riprap Stonepaver; Sandblaster (pot tender); Pipelayer Backup Man, Coating, Grouting, Making of Joints, Sealing, Caulking, Diapering, and including Rubber Gasket Joints; Pointing and any and all other services	$ 7.40	.70	$ 1.83	.50	.13
ASPHALT RAKER, IRONER, SPREADER; Buggymobile man; Cement dumper (on 1 yard or larger mixers and handling bulk cement); Concrete saw man (excluding tractor type); Roto-scraper, chipping hammer; Concrete core cutter and form blower; Gas and oil pipeline wrapper-pot tenders and form man; Operators and tenders of pneumatic and electric tools, concrete pump, vibrating machines and similar mechanical tools not separately classified herein; Tree climber using mechanical tools	7.42	.70	1.83	.50	.13
ROCK SLINGER; Scaler (using bos'n chair or safety belt or power tools)	7.47	.70	1.83	.50	.13

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRILLERS, all others where drilling is for use of explosives	$ 7.50	.70	1.83	.50	.13
PIPELAYER, METALLIC OR NON-METALLIC (including water sewage, solid, gas, air); Welding in connection with laborer's work	7.52	.70	1.83	.50	.13
GAS AND OIL PIPELINE WRAPPER (6" pipe and over)	7.55	.70	1.83	.50	.13
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACING; Hand-guided lagging hammer	7.57	.70	1.83	.50	.13
STEEL HEADERBOARD MAN	7.635	.70	1.83	.50	.13
DRILLERS - (all power drills, including jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills; Sandblaster (nozzleman)	7.66	.70	1.83	.50	.13
POWDERMAN, BLASTERS	7.685	.70	1.83	.50	.13
HEAD ROCK SLINGER	7.73	.70	1.83	.50	.13
FENCE ERECTORS:					
Class 1	7.71	.70	1.83	.50	.13
Class 2	7.46	.70	1.83	.50	.13
Class 3	7.21	.70	1.83	.50	.13
HOUSEMOVERS	7.285	.70	1.83	.50	.13

LABORERS (Tunnel and Shaft Work)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
BULL GANG; Concrete Crew (includes rodders and spreaders); Dumpmen; Grout Crew; Muckers, (laborers) in short dry tunnels under streets, highways and similar places; Trackmen; Swamper (brakeman and switchmen to tunnel work)	$ 7.50	.70	$ 1.83	.50	.13
CHUCK TENDER; Cable Tender; Nipper; Steel Form Raiser and Setters' Helper; Vibrator-man; Jackhammer; Pneumatic tools (except driller)	7.60	.70	1.83	.50	.13
GROUT GUNMEN	7.70	.70	1.83	.50	.13
BLASTERERS; Drillers; Cherry Pickermen; Kemper and other pneumatic concrete placer operators; Miners, in short dry tunnels under streets, highways and similar places; Miners, tunnel (hand or machine); Powdermen; Primer-house; Timbermen; Retimbermen; (wood or steel); Steel Form Raisers and Setters	7.75	.70	1.83	.50	.13
SHAFT AND RAISE MINER	8.00	.70	1.83	.50	.13
GUNITE WORKERS:					
Nozzlemen and Rodmen	7.94	.70	1.83	.50	.13
Gunmen	7.62	.70	1.83	.50	.13
Reboundman	7.205	.70	1.83	.50	.13

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.75	.95	$ 2.00	.50	.04
Group 2	10.03	.95	2.00	.50	.04
Group 3	10.32	.95	2.00	.50	.04
Group 4	10.46	.95	2.00	.50	.04
Group 5	10.68	.95	2.00	.50	.04
Group 6	10.79	.95	2.00	.50	.04
Group 7	10.91	.95	2.00	.50	.04
Group 8	11.08	.95	2.00	.50	.04
Group 9	11.21	.95	2.00	.50	.04

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer Oiler; Generator; Heavy Duty Repairman Helper; Pump; Signalman; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, skip type; Conveyor; Fireman; Hydrostatic Pump; Oiler Crusher (asphalt or concrete plant); Plant Operator, generator, pump or compressor; Rotary Drill Helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Fork Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power Driven Jumbo Form Setter; Ross Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine; Chainman

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge type Unloader and turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (greaser truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.); Rodman

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yd.); Batch Plant; Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrickman (oil-field type); Drilling Machine Operator (including water wells); Forklift (under 5-ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Instrumentman; Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanical Berm, Curb or Gutter (concrete or asphalt); Mechanical Finisher (concrete-Clary, Johnso, Bidwell or similar); Pavement Breaker (truck mounted); Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine; Slip form Pump (power - driven hydraulic lifting device for concrete forms); Skiploader (crawler and wheel type over 3/4 yard and up to and including 1¼ yards); Stinger Crane (Austin-Western or similar type); Tractor-bulldozer, tamper scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist 1 drum; Tunnel Locomotive (over 10 and up to including 30 tons); Welder-general

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor (gunite work); Compactor, self-propelled; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator (up to and including 25 ton capacity)(Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagtbord and similar types); Loader (Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (¼ yard, rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Material Hoist; Mucking Machine (¼ yard, rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel), Pumpcrete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment (single engine-Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yards and up to and including 50 cu. yds. struck); Rubber-tired Scraper (self-loading-paddle wheel type - John Deere, 1040 and similar single unit); Skiploader (crawler and wheel type - over 1¼ yards, up to and including 6¼ yards); Surface Heaters and Planer; Trenching Machine (over 6 feet depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar) Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 tons); Shovel Backhoe, Dragline, Clamshell (over 3/4 yard and up to 5 cu. yds. m.r.c.)(Long boom pay applicable); Self-propelled Curb and Gutter Machine

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Crane, over 25 ton up to and including 100 tons m.r.c. (Long boom pay applicable); Derrick Barge (long boom pay applicable); Dual Drum Mixer; Heavy Duty Repairman-welder Combination; Hoist, Stiff-legs, Guy Derrick or similar type, up to and including 100 tons (long boom pay applicable); Monorail Locomotive (diesel, gas or electric); Motor Patrol-blade Operator (single engine); Multiple Engine Tractor (Euclid and similar type, except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yards, struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpiller and similar) (over 25 yards and up to 50 cu. yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. m.r.c.) (Long boom pay applicable); Tower Crane Repairman; Mixer and similar pugmill equipment; Party Chief

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (Long boom pay applicable); Hoist - Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more) (Long boom pay applicable); Mass Excavator - less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (multi-engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpiller and similar type over 50 cu. yds. struck); Rubber-tired self-loading Scraper (paddle wheel - auger type self-loading - 2 or more units); Rubber-tired Scraper - pushing one another w/o push cat. Push-pull (50¢ per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote controlled Earth Moving Equipment ($1.00 per hour additional to base rate); Wheel Excavator (over 750 cu. yds.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
PICKUPS (3/4 ton and under), Swampers and helpers; Traffic control pilot car (exmluding moving heavy equipment)	$ 7.87	.90	.85	$ 1.00	.10
TRUCK REPAIRMAN OR WELDER HELPER	8.07	.90	.85	1.00	.10
WAREHOUSEMAN	8.12	.90	.85	1.00	.10
INDUSTRIAL LIFT	8.20	.90	.85	1.00	.10
DUMP (less than 8 yds.); Dump or flatbed (2 axle); Concrete pumping; Forklift (under 15,000 lbs.)	8.23	.90	.85	1.00	.10
DUMP (8 yds. and under 12); Dump or flatbed (3 axles); Bunkerman	8.28	.90	.85	1.00	.10
FORKLIFT (15,000 lbs amd over); Ross Carrier	8.35	.90	.85	1.00	.10
DUMP (12 yds. and under 16); Dump or flatbed (3 axles, with semi)	8.36	.90	.85	1.00	.10
WATER TRUCKS (2 axles); Erosion control nozzlemen; Pipeline drivers (including winch and all sizes); Road oil spreader, cement distributor or slurry; Road oil or slurry bootman; Prell truck	8.38	.90	.85	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (Cont'd)					
DUMPCRETE (less than 6½ yards)	$ 8.41	.90	.85	$ 1.00	.10
EROSION CONTROL DRIVER; Water truck (3 axles)	8.50	.90	.85	1.00	.10
FUEL OR DYNAMITE AND EXPLOSIVES	8.51	.90	.85	1.00	.10
DUMP (16 yards and under 25); Dump or flatbed (4 axle or more); Lowbed and trailer; Trainsit mix (under 8 yards); Grout Mixer; Dumpcrete (6½ yards and over); Dumpster	8.58	.90	.85	1.00	.10
DUMP (25 yards and under 35)	8.63	.90	.85	1.00	.10
DW 10's or DW 20's or Euclid type equipment; LeTourneau Pulls, Terra Cobras or similar type of equipment regardless of type of attachments when performing work in the teamsters' jurisdiction or PB or similar type of dump truck with loading attachments	8.65	.90	.85	1.00	.10
TRUCK GREASER	8.66	.90	.85	1.00	.10
7 AXLES OR DOUBLE GOOSENECK LOWBED or combination of vehicles when under permit load	8.70	.90	.85	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (Cont'd)					
TRANSIT-MIX (8 yards and over)	$ 8.72	.90	.85	$ 1.00	.10
TIREMAN	8.76	.90	.85	1.00	.10
DUMP (35 yards and under 50)	8.78	.90	.85	1.00	.10
WATER PULL TANKERS; Welder; A-Frame or Swedish Crane	8.85	.90	.85	1.00	.10
DUMP (50 yards and under 65)	8.93	.90	.85	1.00	.10
DUMP (65 yards and over)	9.08	.90	.85	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS DREDGING					
(Hydraulic Suction Dredges)					
LEVERMAN	$11.60	.95	$ 2.00	.50	.04
WATCH ENGINEER; Welder	11.02	.95	2.00	.50	.04
DECKMATE	10.54	.95	2.00	.50	.04
WINCHMAN (Stern winch or dredge)	10.47	.95	2.00	.50	.04
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	9.93	.95	2.00	.50	.04
(Clamshell Dredges)					
LEVERMAN	11.60	.95	2.00	.50	.04
WATCH ENGINEER	11.02	.95	2.00	.50	.04
DECK MATE	10.54	.95	2.00	.50	.04
BARGE MATE	10.47	.95	2.00	.50	.04
BARGEMAN; Deckhand; Fireman; Oiler	9.93	.95	2.00	.50	.04

SUPERSEDEAS DECISION

STATE: California — COUNTY: San Diego
DECISION NUMBER: CA77-5044 — DATE : Date of Publication
Supersedes Decision No. CA76-5117 dated December 10, 1976, in 41 FR 54122
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.10	.80	$ 1.17		.06
BOILERMAKERS	13.175	.775	1.00	.50	.02
BRICKLAYERS; Stonemasons	10.57	.83	1.06		.06
BRICK, BLOCK and STONEMASONS' TENDERS	8.89	.60	1.75	.50	
CARPENTERS:					
Carpenters	10.76	.56	1.05	.70	.07
Piledrivermen	10.89	.56	1.05	.70	.07
Millwrights; Pneumatic Nailer; Hardwood Floorlayers	11.01	.56	1.05	.70	.07
CEMENT MASONS:					
Cement Masons	8.70	.80	1.46	1.26	.07
Color Work; Composition, Mastic or Epoxy, Finishing Machine; Curb Machine	9.00	.88	1.46	1.26	.07
DRYWALL INSTALLERS	12.60	.56	1.05	.70	.07
ELECTRICIANS:					
Electricians	12.33	.70	1%+1.33		.02
Cable Splicers	12.63	.70	1%+1.33		.02
ELEVATOR CONSTRUCTORS	12.95	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTOTRS' HELPERS	70%JR	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELEPRS (PROB.)	50%JR				
GLAZIERS	10.90	.67	.90		
IRONWORKERS:					
Fence Erectors	10.41	1.14	1.86	1.20	.04
Reinforcing	11.30	1.14	1.86	1.20	.04
Ornamental; Structural	11.30	1.14	1.86	1.20	.04
IRRIGATION and LAWN SPRINKLERS	9.40	10%	16%	13%	3/4%
LATHERS:					
Northern portion of San Diego County from center of City of Del Mar	10.90	.55	.90	.50	.05
Remainder of County	11.86	.60	.70	.70	.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$ 10.04	.55	$ 1.17	.75	.04
MARBLE SETTERS' HELPERS	8.39	.55	.85		
PAINTERS:					
Brush	10.99	.99	1.18	.75	.07
Spray; Swing Stage, Brush Paperhangers; Spray, Swing Stage; Sandblaster	11.24	.99	1.18	.75	.07
PLASTERERS	10.96	.65	1.50	1.00	.07
PLASTERERS' TENDERS	10.03	.65	1.75	.50	
PLUMBERS; Steamfitters	10.95	10%	16%	13%	3/4%
ROOFERS	9.99	.50	.75	1.00	
SHEET METAL WORKERS	11.96	1.04	2.24		
SOFT FLOOR LAYERS	9.55	.60	1.05		.07
SPRINKLER FITTERS	15.07	.65	.95		.08
TERRAZZO WORKERS	11.12	.70	1.17		.04
TILE SETTERS	11.12	.70	1.17		.04
TERRAZZO & TILE SETTERS HELPERS	8.39	.55	.85		
RIGGERS; WELDERS - Receive rate prescribed for craft performing operation to which rigging or welding is incidental					

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
LABORERS, General Construction; Gas and oil Pipeline; Jetman; Tool Shed Checker; Using dry pack; Flagman	$ 7.21	.70	$ 1.83	.50	.13
CUTTING TORCH OPERATOR (demolition); Scaler	7.26	.70	1.83	.50	.13
GUINEA CHASER	7.29	.70	1.83	.50	.13
FINE GRADER ON HIGHWAYS, STREETS AND AIRPORTS PAVING (sewer and drainage lines); Landscape Gardener and Nursery Man	7.31	.70	1.83	.50	.13
LABORER (packing rod steel and pans); Tank Scaler and Cleaner	7.335	.70	1.83	.50	.13
DRILLER'S HELPER (Caisson) including Bellowers; Boring Machine Helper	7.34	.70	1.83	.50	.13
WINDOW CLEANER; Chuck Tender (except tunnels); Septic tank digger and installer (leadman)	7.36	.70	1.83	.50	.13
CESSPOOL DIGGER AND INSTALLER	7.39	.70	1.83	.50	.13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
CONCRETE CURER; Impervious Membrane; Riprap Stonepaver; Sandblaster (pot tender); Pipelayer Backup Man, Coating, Grouting, Making of Jmints, Sealing, Caulking, Diapering, and including Rubber Gasket Joints; Pointing and any and all other services	$ 7.40	.70	$ 1.83	.50	.13
ASPHALT RAKER, IRONER, SPREADER; Buggymobile man; Cement dumper (on 1 yard or larger mixers and handling bulk cement); Concrete saw man (excluding tractor type); Roto-scraper, chipping hammer; Concrete core cutter and form blower; Gas and oil pipeline wrapper-pot tenders and form man; Operators and tenders of pneumatic and electric tools, concrete pump, vibrating machines and similar mechanical tools not separately classified herein; Tree climber using mechanical tools	7.42	.70	1.83	.50	.13
ROCK SLINGER; Scaler (using bos'n chair or safety belt or power tools)	7.47	.70	1.83	.50	.13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
DRILLERS, all others where drilling is for use of explosives	$ 7.50	.70	1.83	.50	.13
PIPELAYER, METALLIC OR NON-METALLIC (including water sewage, solid, gas, air); Welding in connection with laborer's work	7.58	.70	1.83	.50	.13
GAS AND OIL PIPELINE WRAPPER (6" pipe and over)	7.58	.70	1.83	.50	.13
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACING; Hand-guided lagging hammer	7.57	.70	1.83	.50	.13
STEEL HEADERBOARD MAN	7.635	.70	1.83	.50	.13
DRILLERS - (all power drills, including jackhammer, whether sure, diamond, wagon, track, multiple unit, and any and all types of mechanical drills; Sandblaster (nozzleman)	7.66	.70	1.83	.50	.13
POWDERMAN, BLASTERS	7.695	.70	1.83	.50	.13
HEAD ROCK SLINGER	7.73	.70	1.83	.50	.13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group 1	$ 9.75	.95	$ 2.00	.50	.04
Group 2	10.03	.95	2.00	.50	.04
Group 3	10.32	.95	2.00	.50	.04
Group 4	10.46	.95	2.00	.50	.04
Group 5	10.68	.95	2.00	.50	.04
Group 6	10.79	.95	2.00	.50	.04
Group 7	10.91	.95	2.00	.50	.04
Group 8	11.08	.95	2.00	.50	.04
Group 9	11.21	.95	2.00	.50	.04

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer Oiler; Generator; Heavy Duty Repairman Helper; Pump; Signalman; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, skip type; Conveyor; Fireman; Hydrostatic Pump; Oiler Crusher (asphalt or concrete plant); Plant Operator, generator, pump or compressor; Rotary Drill Helper (oilfield); Skiploader - Wheel type up to 3/4 yd. w/o attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Fork Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power Driven Jumbo Form Setter; Ross Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine; Chainman

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge type Unloader and turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (greaser truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.); Rodman

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yd.); Batch Plant; Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrickman (oil-field type); Drilling Machine Operator (including water wells); Forklift (under 5-ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Instrumentman; Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanical Berm, Curb or Gutter (concrete or asphalt); Mechanical Finisher (concrete-Clary, Johnso, Bidwell or similar); Pavement Breaker (truck mounted); Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine; Slip form Pump (power - driven hydraulic lifting device for concrete forms); Skiploader (crawler and wheel type over 3/4 yard and up to and including 1½ yards); Stinger Crane (Austin-Western or similar type); Tractor-bulldozer, tamper scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist 1 drum; Tunnel Locomotive (over 10 and up to including 30 tons); Welder-general

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor (gunite work); Compactor, self-propelled; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator (up to and including 25 ton capacity)(Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagtbord and similar types); Loader (Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (¼ yard, rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Material Hoist; Mucking Machine (¼ yard, rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel), Pumprete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment (single engine-Caterpiller, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yards and up to and including 50 cu. yds. struck); Rubber-tired Scraper (self-loading-paddle wheel type - John Deere, 1040 and similar single unit); Skiploader (crawler and wheel type - over 1½ yards, up to and including 6½ yards); Surface Heaters and Planer; Trenching Machine (over 6 feet depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar) Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 tons); Shovel Backhoe, Dragline, Clamshell (over 3/4 yard and up to 5 cu. yds. m.r.c.)(Long boom pay applicable); Self-propelled Curb and Gutter Machine

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Crane, over 25 ton up to and including 100 tons m.r.c. (Long boom pay applicable); Derrick Barge (long boom pay applicable); Dual Drum Mixer; Heavy Duty Repairman-welder Combination; Hoist, Stiff-legs, Guy Derrick or similar type, up to and including 100 tons (long boom pay applicable); Monorail Locomotive (diesel, gas or electric); Motor Patrol-blade Operator (single engine); Multiple Engine Tractor (Euclid and similar type, except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yards, struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpiller and similar) (over 25 yards and up to 50 cu. yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. m.r.c.) (Long boom pay applicable); Tower Crane Repairman; Mixer and similar pugmill equipment; Party Chief

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (long boom pay applicable); Hoist - Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more) (Long boom pay applicable); Mass Excavator - less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (multi-engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpiller and similar type over 50 cu. yds. struck); Rubber-tired self-loading Scraper (paddle wheel - auger type self-loading - 2 or more units); Rubber-tired Scraper - pushing one another w/o push cat. Push-pull (50¢ per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote controlled Earth Moving Equipment ($1.00 per hour additional to base rate); Wheel Excavator (over 750 cu. yds.)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PICKUPS (3/4 ton and under), Swampers and helpers; Traffic control pilot car (excluding moving heavy equipment)	$ 7.87	.90	.85	$ 1.00	.10
TRUCK REPAIRMAN OR WELDER HELPER	8.07	.90	.85	1.00	.10
WAREHOUSEMAN	8.12	.90	.85	1.00	.10
INDUSTRIAL LIFT	8.20	.90	.85	1.00	.10
DUMP (less than 8 yds.); Dump or flatbed (2 axle); Concrete pumping; Forklift (under 15,000 lbs.)	8.23	.90	.85	1.00	.10
DUMP (8 yds. and under 12); Dump or flatbed (3 axles); Bunkerman	8.28	.90	.85	1.00	.10
FORKLIFT (15,000 lbs and over); Ross Carrier	8.35	.90	.85	1.00	.10
DUMP (12 yds. and under 16); Dump or flatbed (3 axles, with semi)	8.36	.90	.85	1.00	.10
WATER TRUCKS (2 axles); Erosion control nozzlemen; Pipeline drivers (including winch and all sizes); Road oil spreader, cement distributor or slurry; Road oil or slurry bootman; Prull truck	8.38	.90	.85	1.00	.10

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMPCRETE (less than 6½ yards)	$ 8.44	.90	.85	$ 1.00	.10
EROSION CONTROL DRIVER; Water truck (3 axles)	8.50	.90	.85	1.00	.10
FUEL OR DYNAMITE AND EXPLOSIVES	8.53	.90	.85	1.00	.10
DUMP (16 yards and under 25); Dump or flatbed (4 axle or more); Lowbed and trailer; Trainsit mix, (under 8 yards); Grout Mixer; Dumpcrete (6½ yards and over); Dumpster	8.58	.90	.85	1.00	.10
DUMP (25 yards and under 35)	8.63	.90	.85	1.00	.10
DW 10's or DW 20's or Euclid type equipment; LeTourneau Pulls, Terra Cobras or similar type of equipment regardless of type of attachments when performing work in the teamsters' jurisdiction or PB or similar type of dump truck with loading attachments	8.65	.90	.85	1.00	.10
TRUCK GREASER	8.66	.90	.85	1.00	.10
7 AXLES OR DOUBLE GOOSENECK LOWBED or combination of vehicles when under permit load	8.705	.90	.85	1.00	.10

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRANSIT-MIX (8 yards and over)	$ 8.72	.90	.85	$ 1.00	.10
TIREMAN	8.76	.90	.85	1.00	.10
DUMP (35 yards and under 50)	8.78	.90	.85	1.00	.10
WATER PULL TANKERS; Welder; A-Frame or Swedish Crane	8.85	.90	.85	1.00	.10
DUMP (50 yards and under 65)	8.95	.90	.85	1.00	.10
DUMP (65 yards and over)	9.08	.90	.85	1.00	.10

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTY: HALL
DECISION NO.: GA77-1068 DATE: Date of Publication
Supersedes Decision No. GA75-1025, dated February 28, 1975, in 40 FR 8691.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4-stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanics	$ 4.95				
Bricklayers	6.00				
Carpenters	5.49				
Cement Masons	4.00				
Electricians	6.36				
Glaziers	3.94				
Ironworkers - Structural & Ornamental	5.00				
Laborers:					
Air tool operators (jackhammers & vibrators)	4.50				
Laborers, unskilled	3.16				
Mason tenders	3.25				
Mortar mixers	4.15				
Painters - Brush	4.00				
Plasterers	6.50				
Plumbers & Steamfitters	5.45				
Roofers	3.16				
Sheet Metal Workers	4.50				
Terrazzo Workers	4.50				
Tile Setters	4.50				
Truck Drivers	3.16				
Welders - rate for craft					
Power Equipment Operators:					
Air compressor	4.63				
Bulldozer	4.00				
Finishing machine	5.00				
Front end loader	5.83				
Tractor	4.90				

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA77-4104 DATE: Date of Publication
Supersedes Decision No. LA77-4052, dated March 4, 1977, in 42 FR 12593.
DESCRIPTION OF WORK: Building Construction in all Parishes, Residential Construction in Bossier, Caddo & Calcasieu Parishes and Construction of Highways, Roads, Streets (does not include building structures in rest area projects) and Parking Areas in all Parishes (except those let with a building contract)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$10.345	.475	.90		.04
ZONE 2	10.03	.40	.76		.025
ZONE 3	9.45	.50	1.10		.05
ZONE 4	9.13	.45	.50		

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERMAKERS	$10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	9.82	.80	.25		.06
ZONE 2	8.15	.53			
ZONE 3	10.45	.48	.30		.02
ZONE 4	10.12	.35	.20		.005
ZONE 5	8.25				
ZONE 6	8.15	.53			
ZONE 7	9.20	.40	.45		
ZONE 8	8.25		.30		
ZONE 9	9.05		.25		
ZONE 10	9.50				

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AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Evangeline, Pointe Coupee & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish Line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58, through the lower limits of Abita Springs & Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Highway 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Natchitoches & Sabine Parishes
ZONE 9 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
ZONE 1	$ 8.44	.30			
ZONE 2	9.345	.40	.33		.05
ZONE 3	8.85	.35	.30		
ZONE 4	9.98	.35	.45		.04
ZONE 5	9.72	.35	.30		.04
ZONE 6	9.555	.35	.30		.04
ZONE 7	8.30				
ZONE 8	8.65	.35	.30		.04
ZONE 9	8.30				
ZONE 10	8.40	.35	.30		.05

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

AREA COVERED BY CARPENTERS ZONES (CONT'D)

ZONE 4 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 5 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes
ZONE 6 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 3) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (BUILDING CONSTRUCTION)					
ZONE 1	$ 8.91				
ZONE 2	9.15				
ZONE 3	8.20	.30	.50		.05
ZONE 4	9.445	.35	.30		.04
ZONE 5	7.35				
ZONE 6	6.50				
ZONE 7	8.35	.35			
ZONE 8	7.77		.25		
ZONE 9	6.50		.30		

AREA COVERED BY CEMENT MASONS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (the lower half) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION)					
ZONE 1	$ 7.25				
On concrete lined ditches	8.195				
ZONE 2	6.45				
ZONE 3	7.10	.30			
ZONE 4	8.50				
ZONE 5	7.60				
On concrete lined ditches	8.20	.30	.50		.05
ZONE 6	6.30				
ZONE 7	5.72				

AREA COVERED BY CEMENT MASONS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, U.S. Highway 61 in East Feliciana & West Feliciana Parishes
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu & Cameron Parishes
ZONE 5 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 6 - Allen, Assumption, Avoyelles, Beauregard, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Highway 61), Evangeline, Iberville, Jefferson Davis, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
ZONE 7 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
Electricians					
ZONE 1	$11.10	5%	6%		3/10%
ZONE 2	10.00		1%		
ZONE 3	12.30	.35	1%+.20		1/10%
ZONE 4	11.15	.35	1%		
ZONE 5	10.60	.30	1%+.30		.03
ZONE 6	10.05	.45	1%		1/2%
ZONE 7	10.35	.85	1%		1%
ZONE 8	10.25		1%	.30	1/2%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cable splicers					
ZONE 1	$11.35	5%	6%		3/10%
ZONE 2	10.50		1%		
ZONE 3	12.55	.35	1%+.20		1/10%
ZONE 4	11.40	.35	1%		
ZONE 5	10.60	.30	1%+.30		.03
ZONE 6	10.55	.45	1%		1/2%
ZONE 7	10.85	.85	1%		1%
ZONE 8	10.50		1%	.30	1/2%

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1					
Elevator constructors	$ 9.285	.495	.32	4%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
ZONE 2					
Elevator constructors	8.795	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				

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FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

AREA COVERED BY ELEVATOR CONSTRUCTORS ZONES

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE 1	$ 8.55				.01
ZONE 2	7.45				.01
ZONE 3	9.625	.17	.30		
ZONE 4	7.50		.30		
ZONE 5	6.40				
ZONE 6	7.75				

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north & west of Highway 22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north & west of Highway 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Highway 51), Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (east & south of Highway 22), Assumption (south of Grand Bayou), Jefferson, Lafourche, Livingston (east & south of Highway 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to the city of Natchitoches), Red River & Webster Parishes
ZONE 5 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes
ZONE 6 - St. Tammany (northern portion), Tangipahoa (east of Highway 51) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	$ 9.86	.63	.35		.04
ZONE 2	10.14	.45	.50		.04
ZONE 3	10.20	.45	.50		.04
ZONE 4	9.70	.45	.50		.04
ZONE 5	8.15	.30	.35		.04
ZONE 6	10.00	.35	.50		.025

AREA COVERED BY IRONWORKERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes (west of a straight line drawn from the Louisiana-Mississippi border, east of the city limits of Warrenton, Louisiana, southwest through Hammond, Louisiana to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Parishes (east of a line drawn from the meeting point of the boundaries of the Parishes of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville, Louisiana, to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes (west of a straight line drawn from the Louisiana-Mississippi border, west of the city limits of Warrenton, Louisiana, southwest through Hammond, Louisiana to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Parishes (south of a line drawn from Natchez, Mississippi thru the city of Carter Point to the Rapides Parish Line, then west along the southern border of Rapides Parish)
ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes (west of a line drawn directly south from the Arkansas-Louisiana border through the cities of Arcadia & Cloutierville); Part of Sabine Parish (north of a line drawn from the Natchitoches Parish boundary west through the city of Peason to the Texas-Louisiana border)
ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes (east of a line drawn directly south from the Arkansas-Louisiana border through the cities of Arcadia & Cloutierville); Part of Madison Parish (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Parishes (north of a line drawn from Natchez, Mississippi thru the city of Carter Point to the Rapides Parish line)
ZONE 5 - That part of Madison Parish (including the cities of Mound, Delta & adjacent areas)

AREA COVERED BY IRONWORKERS (BUILDING CONSTRUCTION) ZONES (CONT'D)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Parishes (southwest of Rapides Parish & west of a line south of the western most border between Rapides & Evangeline Parishes)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	$ 8.72				
ZONE 2	8.48				
ZONE 3	8.70				
ZONE 4	8.30				
ZONE 5	9.76				
ZONE 6	6.99				
ZONE 7	6.45				
ZONE 8	5.84				

AREA COVERED BY IRONWORKERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson & Orleans Parishes
ZONE 2 - Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - East Baton Rouge Parish
ZONE 4 - Calcasieu Parish
ZONE 5 - Bossier & Caddo Parishes
ZONE 6 - Lafayette, Ouachita & Rapides Parishes
ZONE 7 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 8 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONSTRUCTION)					
ZONE 1					
GROUP 1	$ 3.90	.10			
GROUP 2	4.05	.10			
GROUP 3	4.15	.10			
ZONE 2					
GROUP 1	5.52	.15	.10		.05
GROUP 2	5.72	.15	.10		.05
ZONE 3					
GROUP 1	7.30	.15	.10		.05
GROUP 2	7.40	.15	.10		.05
GROUP 3	7.45	.15	.10		.05
GROUP 4	8.26	.15	.10		.05
GROUP 5	7.82	.15	.10		.05
GROUP 6	7.56	.15	.10		.05
GROUP 7	7.35	.15	.10		.05
ZONE 4					
GROUP 1	6.58	.15	.20		.05
GROUP 2	6.68	.15	.20		.05
GROUP 3	6.73	.15	.20		.05
ZONE 5					
GROUP 1	6.18	.15	.20		.05
GROUP 2	6.28	.15	.20		.05
GROUP 3	6.33	.15	.20		.05
ZONE 6					
GROUP 1	7.07	.15	.20		.05
GROUP 2	7.17	.15	.20		.05
GROUP 3	7.32	.15	.20		.05
GROUP 4	7.23	.15	.20		.05
GROUP 5	7.33	.15	.20		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7					
GROUP 1	$ 6.745	.15	.20		.05
GROUP 2	6.895	.15	.20		.05
GROUP 3	6.945	.15	.20		.05
ZONE 8					
GROUP 1	5.16	.15	.10		.05
GROUP 2	5.36	.15	.10		.05
GROUP 3	5.41	.15	.10		.05
GROUP 4	5.46	.15	.10		.05
GROUP 5	5.81	.15	.10		.05
ZONE 9					
GROUP 1	5.70	.15	.10		.05
GROUP 2	5.80	.15	.10		.05
GROUP 3	5.85	.15	.10		.05
GROUP 4	5.90	.15	.10		.05
ZONE 10					
GROUP 1	5.45	.15	.10		.05
GROUP 2	5.55	.15	.10		.05
GROUP 3	5.70	.15	.10		.05

CLASSIFICATION DEFINITIONS

LABORERS - ZONE 1

GROUP 1 - Building and labor construction
GROUP 2 - Stone mason helpers; mechanical tool operators; sewerman (bottom man, caulkers, tenders, joint wipers, hot pot, grade carriers, layers and men

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LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewmen
GROUP 2 - Mason mixer; plaster mixer; mechanical tool operator; sandblaster; laying concrete pipe, clay pipe, plastic pipe, asbestos cement pipe, casing pipe and corrugated metal pipe, as sewer pipe, drain pipe, and underground tile (caulkers, joint wrappers, hot pot and pipe layers); gas and oil pipeline laborers, wrappers and dopers

LABORERS - ZONE 3

GROUP 1 - Building and general laborer; tenders (carpenter, plaster, cement finisher, mason); tank and vessel cleaners
GROUP 2 - Air tool operator (except jackhammer); interior of closed tanks and vessels power equipment
GROUP 3 - Mortar mixers and jackhammer operators
GROUP 4 - Blasterers
GROUP 5 - Blaster helpers; concrete cutters behind paving machine and puddlers; form setters and lines asphalt worker
GROUP 6 - Wiping joints, laying pipe and tile from pumpcrete
GROUP 7 - Interior of closed tanks and vessels manually

LABORERS - ZONES 4 & 5

GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool operators (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw operators, etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 6

GROUP 1 - Building laborers
GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool operators, sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers and ditchers 4 feet and over), sand blaster (nozzlemen and pot tender); laying non-metallic pipe over 4 feet deep, septic diggers and installers over 4 feet deep, gas and oil pipeline laborers and wrappers
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayers tenders and mason tenders
GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers

LABORERS - ZONE 7

GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helpers, vibratormen
GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); Plasterers' tenders; stone mason helpers; concrete workers; scaffold builders
GROUP 2 - Air tool operators (jackhammer, vibrator, and tamper), sewer pipe joiners and setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (Wet or dry); motorized buggy operator; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoothar and shovelers; sewer pipe layers; blaster helpers
GROUP 5 - Powderman

LABORERS - ZONE 9

GROUP 1 - Building laborers
GROUP 2 - Mason tenders, plasterer tenders; Asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 - Air jack operators, vibrator operators; Sewer pipe layers, sewer pipe wipers

LABORERS - ZONE 10

GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers); Stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool operator (air, electric, motor, engine, etc.); Sewer pipe layers; mortar mixers (hand or machine); gunite operator; tile, terrazzo & marble setters helpers
GROUP 3 - Pipe dopers & burners

AREA COVERED BY LABORERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - St. Tammany (as far south as Bayou Lacombe and east to the Mississippi State Line at Pearlington), Tangipahoa (except that portion south of a line running due east from the western boundary of Tangipahoa Parish which follows the northern city limits of Independence, Louisiana to 20 miles east of U.S. Highway 51, than running south paralleling Highway 51 at a 20 mile distance to Lake Pontchartrain) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermillion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Parishes; Parts of Assumption, St. James, St. John the Baptist Parishes (north of a line drawn from the southern limits of the town of St. James in St. James Parish to the northern limits of the town of Napoleonville, in Assumption Parish & then directly west to the Parish line, all of St. James Parish except that part which is east of a line drawn from Lutcher, Louisiana to U.S. Highway 61 (Airline Highway) then west on U.S. 61 to Blind River and on a direct line to Manchac, Louisiana)
ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western parish line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Mississippi River and the portion of St. John the Baptist on the east bank of the Mississippi River as far as the Sycamore Inn at Lutcher and north to Blind River and Manchac) & St. Tammany (north as far as Bayou Laconbe, east to the Mississippi State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank and including the town of Vacherie) & Terrebonne Parishes
ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 5.10	.15	.10		.05
ZONE 2	4.80	.15	.10		.05
ZONE 3	4.35	.15	.10		.05
ZONE 4	5.85	.15	.10		.05
ZONE 5	4.10	.15	.10		.05
ZONE 6	3.85	.15	.10		.05
ZONE 7	3.75	.15	.10		.05
GROUP 2					
ZONE 1	5.20	.15	.10		.05
ZONE 2	4.90	.15	.10		.05
ZONE 3	4.25	.15	.10		.05
ZONE 4	5.95	.15	.10		.05
ZONE 5	4.20	.15	.10		.05
ZONE 6	3.95	.15	.10		.05
ZONE 7	3.85	.15	.10		.05
GROUP 3					
ZONE 1	5.65	.15	.10		.05
ZONE 2	5.35	.15	.10		.05
ZONE 3	4.70	.15	.10		.05
ZONE 4	6.40	.15	.10		.05
ZONE 5	4.65	.15	.10		.05
ZONE 6	4.40	.15	.10		.05
ZONE 7	4.30	.15	.10		.05
GROUP 4					
ZONE 1	5.90	.15	.10		.05
ZONE 2	5.60	.15	.10		.05
ZONE 3	4.95	.15	.10		.05
ZONE 4	6.65	.15	.10		.05
ZONE 5	4.85	.15	.10		.05
ZONE 6	4.60	.15	.10		.05
ZONE 7	4.50	.15	.10		.05

CLASSIFICATION DEFINITIONS

GROUP 1 - Laborers, including but not limited to signalman, foundation driller, and demolishing and dismantling man
GROUP 2 - Raker, concrete spreader, carpenters helpers, distributor man, finishers helpers, formsetters helpers, jackhammer operator, jetting laborer, painters helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree pruner, stone masons helper, stoker, asphalt raker, concrete shovelers, power tool operator and motorized buggy operator
GROUP 3 - Formsetter, head or master-high type pavement
GROUP 4 - Powderman

AREA COVERED BY LABORERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$ 8.90				.01
ZONE 2	9.08	.20	.30		.05
ZONE 3	9.985	.30			.01
ZONE 4	10.05				
ZONE 5	7.90				.01

AREA COVERED BY LATHERS ZONES

ZONE 1 - All of Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, Vermilion, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes (up to a 40 mile radius of Baton Rouge); Parts of Evangeline & St. Mary Parishes (up to a 40 mile radius of Lafayette)
ZONE 2 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes; Parts of Assumption & St. James Parishes (beyond a 40 mile radius of Baton Rouge); Part of St. Mary Parish (beyond a 40 mile radius of Lafayette)
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (that portion beyond a 40 mile radius of Lafayette), Jefferson Davis & Vernon Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Parishes
ZONE 5 - Rapides Parish

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LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Linemen	$10.60	.30	1%+.30		.03
Operator hole digging equipment; operator, tractor with winch & derrick; operator line truck with winch & derrick working hot lines	75%JR	.30	1%+.30		.03
Operator using hole truck & trailer, or pole hauling & setting truck (not in energized lines)	65%JR	.30	1%+.30		.03
Operator using truck without winch; Groundmen (starting rate to 1½ years service)	45%JR	.30	1%+.30		.03
Groundmen (1½ years service or over)	50%JR	.30	1%+.30		.03
ZONE 2					
Linemen, line equipment & line truck operators	11.10	5%	6%		3/10%
Cable splicers	11.35	5%	6%		3/10%
ZONE 3					
Linemen, equipment operators	12.30	.35	1%+.20		1/10%
Cable splicers	12.55	.35	1%+.20		1/10%
Groundmen	10.30	.35	1%+.20		1/10%
ZONE 4					
Linemen & equipment operators	11.15	.35	1%		
Cable splicers	11.40	.35	1%		
Groundmen	50%JR	.35	1%		
ZONE 5					
Linemen & equipment operators	10.85		1%	.30	1/2%
Cable splicers	10.50		1%	.30	1/2%
Groundmen	60%JR		1%	.30	1/2%
ZONE 6					
Linemen & equipment operators	10.05	.45	1%		1/2%
Cable splicers	10.55	.45	1%		1/2%
Groundmen, 1st 6 months	2.85	.45	1%		1/2%
Groundmen, 2nd 6 months	3.44	.45	1%		1/2%
Groundmen, after 1 year	3.73	.45	1%		1/2%

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7					
Linemen; Operators	$10.35	.85	1%		1%
Cable splicers	10.85	.85	1%		1%
Groundmen	8.35	.85	1%		1%

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

MARBLE SETTERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	$10.12	.35	.20		.035
ZONE 2	10.45	.48	.30		.02
ZONE 3	9.50				
ZONE 4	8.02		.25		
ZONE 5	8.20	.30			
ZONE 6	9.10				

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58 through the lower limits of Abita Springs and Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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MARBLE SETTERS' FINISHERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line), Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes	$ 6.75	.25			
MILLWRIGHTS					
ZONE 1	$10.845				.05
ZONE 2	10.09	.35	.30		.04
ZONE 3	11.345				.06
ZONE 4	9.165	.30			
ZONE 5	9.05				
ZONE 6	9.35	.35	.30		.04
ZONE 7	9.05				
ZONE 8	9.30	.35	.30		.05
ZONE 9	10.50	.35	.30		

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AREA COVERED BY MILLWRIGHTS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (south of the Mississippi River), Assumption, Iberia (northeast of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 9) & Terrebonne Parishes
ZONE 3 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 4 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

PAINTERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
GROUP 1 - Brush, wood or wall, rollers	$ 9.41				
GROUP 2 - Brush on steel, buffer on wood or wall	9.535				
GROUP 3 - Paperhanging, taping & floating	9.61				
GROUP 4 - Spray, wood & wall	9.755				
GROUP 5 - Steeplejack, sandblasting, spider operator, rubberizing & pyroflexing, steam jennies, spray on steel	9.895				
ZONE 2					
GROUP 1 - Brush; Taping; floating & texture	8.40		.10		.05
GROUP 2 - Sandblasting, industrial & steel	9.27		.10		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters	$ 8.575	.275	.30		.05
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 feet; tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter	8.95	.275	.30		.05
GROUP 3 - Industrial	9.825	.275	.30		.05
ZONE 4					
GROUP 1 - Brush	7.75				
GROUP 2 - Brush swing stage	8.05				
GROUP 3 - Brush industrial	7.80				
GROUP 4 - Spray; Spray steel; sandblasting	8.75				
GROUP 5 - Spray swing stage	9.00				
GROUP 6 - Paperhanger	8.40				
GROUP 7 - Sheet rock finishers	8.10				
ZONE 5					
GROUP 1 - Painters, paperhangers, taners, floaters; Commercial steel, such as churches or any commercial building with closed roof deck or walls	7.50				
GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work	8.00				
GROUP 3 - All industrial work including sandblasting or power tools of any kind	8.50				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6					
GROUP 1 - Painters, tape & float & paperhangers; stage, window jacks & structural steel	$ 8.55		.30		.025
GROUP 2 - Stage, window jacks & structural steel over 30 ft.	8.80		.30		.025
GROUP 3 - Stage, window jacks & structural steel over 75 ft.	9.05		.30		.025
GROUP 4 - Sandblasting, spray	9.15		.30		.025
ZONE 7					
GROUP 1 - Painters, paperhangers, tapers, floaters	7.05				
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack work	8.05				
GROUP 3 - Structural steel, brush	7.55				

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north & west of Highway 22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north & west of Highway 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Highway 51), Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (east & south of Highway 22), Assumption (south of Grand Bayou), Lafourche, Livingston (east & south of Highway 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - St. Tammany (northern portion), Tangipahoa (east of Highway 51) & Washington Parishes
ZONE 5 - Allen (northeast corner), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (south half), Rapides, Sabine, St. Landry (north half) & Winn (south half) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River & Webster Parishes
ZONE 7 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN					
ZONE 1	$ 9.15	.35	.30		
ZONE 2	9.98	.35	.45		.04
ZONE 3	9.82	.35	.30		.04
ZONE 4	9.345	.40	.33		.05
ZONE 5	8.80				
ZONE 6	8.90	.35	.30		.04
ZONE 7	8.80				
ZONE 8	8.90	.35	.30		.05
ZONE 9	9.495	.30			

AREA COVERED BY PILEDRIVERMEN ZONES

ZONE 1 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes
ZONE 2 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of the Mississippi River), Assumption, Iberia (northeast of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 1) & Terrebonne Parishes
ZONE 4 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), St. Landry, St. Martin (west of the Atchafalaya River) & Vermilion Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS					
ZONE 1	$ 7.70				
ZONE 2	7.75				.01
ZONE 3	9.72				
ZONE 4	8.41				.01
ZONE 5	7.05	.30	.20		.03
ZONE 6	6.50				.01
ZONE 7	9.05			1.00	
ZONE 8	9.05		.25		
ZONE 9	8.25		.30		

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (parish line on the west along U.S. Highway 190 through the lower limits of Covington and Abita Springs along State Highway 435 to Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS					
ZONE 1	$10.30	.45	.75		.06
ZONE 2	10.10	.54	.775		.06
ZONE 3	9.95	.45	.55		.10
ZONE 4	9.14	.40	.50	.95	.09
ZONE 5	10.38	.67	.72		.08

AREA COVERED BY PLUMBERS & PIPEFITTERS ZONES

ZONE 1 - Jefferson, Lafourche (except small portion of western part of Parish), Livingston (northeast corner), Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Parish), St. John the Baptist, St. Tammany, Tangipahoa (southern 1/2 of Parish), Terrebonne (eastern 1/3 of Parish) & Washington Parishes

ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Parish), Iberville, Lafourche (small portion of western part of Parish), Livingston (except northeast corner), Pointe Coupee (except northwest corner), St. Helena, St. James (western 1/3 of Parish), St. Landry (eastern 2/3 of Parish), St. Martin (southern part of eastern 1/2 of Parish), St. Mary (except western tip), Tangipahoa (northern 1/2 of Parish), Terrebonne (western 2/3 of Parish), West Baton Rouge & West Feliciana Parishes

ZONE 3 - Allen (northeast corner), Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline (except southwest corner), Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Highway 84 & 80 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Highway 10), West Carroll & Winn (east of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson) Parishes

ZONE 4 - All of Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes; Parts of Natchitoches & Vernon Parishes (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Highway 111 between Anacoco & Haddens); Part of Winn Parish (west of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson)

ZONE 5 - Acadia, Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Evangeline (southwest corner), Iberia (western 1/2 of Parish), Jefferson Davis, Lafayette, Pointe Coupee (northwest corner), St. Landry (western 1/3 of Parish), St. Martin (west of Highway 31), St. Mary (western tip), Vermilion & Vernon (south of Highway 111 & southwest of Highway 10) Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)					
ZONE 1 (does not include residential Construction in Caddo & Bossier Parishes					
GROUP 1	$ 6.81	.65	.48		.05
GROUP 2	7.15	.65	.48		.05
GROUP 3	7.47	.65	.48		.05
GROUP 4	7.55	.65	.48		.05
GROUP 5	7.86	.65	.48		.05
GROUP 6	9.27	.65	.48		.05
ZONE 2, 3 & 4					
GROUP 1	6.82	.65	.48		.05
GROUP 2	7.15	.65	.48		.05
GROUP 3	7.48	.65	.48		.05
GROUP 4	7.54	.65	.48		.05
GROUP 5	7.87	.65	.48		.05
GROUP 6	9.27	.65	.48		.05
ZONE 5					
GROUP 1	7.13	.65	.48		.05
GROUP 2	6.82	.65	.48		.05
GROUP 3	6.62	.65	.48		.05
GROUP 4	7.40	.65	.48		.05
GROUP 5	9.695	.65	.48		.05
GROUP 6	7.80	.65	.48		.05
GROUP 7	8.45	.65	.48		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6					
GROUP 1	$ 7.54	.65	.48		.05
GROUP 2	6.97	.65	.48		.05
GROUP 3	6.77	.65	.48		.05
GROUP 4	7.25	.65	.48		.05
GROUP 5	7.95	.65	.48		.05
GROUP 6	9.06	.65	.48		.05
GROUP 7	10.11	.65	.48		.05
GROUP 8	10.36	.65	.48		.05
GROUP 9	10.61	.65	.48		.05
GROUP 10	10.86	.65	.48		.05
ZONE 7					
GROUP 1	9.80	.45	.48		.05
GROUP 2	10.05	.45	.48		.05
GROUP 3	7.12	.45	.48		.05
GROUP 4	7.51	.45	.48		.05
GROUP 5	8.12	.45	.48		.05
GROUP 6	9.55	.45	.48		.05

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4

GROUP 1 - Oiler

GROUP 2 - Mechanic helper

GROUP 3 - Oiler-Driver

GROUP 4 - Hostleman

GROUP 5 - Air compressor; Asphalt Plant Operator; Bulldozers, D-4 and equivalent & under; Bullfloats; Concrete Spreader; Finishing Machines; Concrete Mixer (16-s or less); Concrete Saw; Distributors (Bitum Surface); Dowell Bar Machine; Farm-Type Tractor (with all attachments except backhoe); Fireman; Fork Lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum Buff Machine; Pull Cats; Pump (3" and over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle Buggies; Sweepers on streets & roads (Motorized); Winch Truck, A-Frame (other than handling steel or pipe)

GROUP 6 - Asphalt Spreader; Backhoe; Bulldozer, over D-4 and equivalent; Cableways; Concrete Mixer, over 16-s; Cranes; Derricks; Ditching or Trenching Machines; Draglines; Fork Lifts (setting steel, machinery or pipe); Front-End Loaders (except Farm-type tractors); Grease Serviceman; Hoist, 1 drum, 4 stories or more or 40 feet (on structures other than buildings); Hoist, 2 drums and over; Hydrolifts; Heavy Duty Mechanic; Motor Patrols; Piledrivers; Pump, concrete (6" & over); Road Pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom Cats; Shovels; Tractorvators; Welder, journeyman; Well Point System; Winch Cats (hoisting); Winch Truck, A-Frame (handling steel or pipe)

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POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator

GROUP 2 - Pumps under 3 inch suction; Mechanic Helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoe (all types); Bulldozers; Cableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 feet on structures other than buildings Hoist (2 drum or over); Locomotives (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Piledrivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sidebooms; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 and over); Winch Truck with A-Frame (5 ton and over); Work Boats-requiring licensed operator

GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (when used to pull discs, grass-cutters, etc.); Hoist-1 drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolum Buff Machines; Mixers (1 sack and under); Motorized street sweepers self-propelled; Pump (3" and over); Test Pump-Internal combustion engine powered; Water Blast Pumps

GROUP 7 - Asphalt Plant Operator; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Roadway, riding type); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch Cat; Pumps, 3 inch suction or more

GROUP 2 - Pumps, under 3 inch suction; Mechanic Helper

GROUP 3 - Oiler

GROUP 4 - Batch Plant Operator

GROUP 5 - Air Compressor; Asphalt Plant Engineer; Blade Grader; Distributor (Bitum Surface); Finishing Machine (Concrete, Paving); Hoist - 1 drum, less than 4 stories; Concrete Mixer under 16S; Oiler Driver; Pump Crete; Street & Road Sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operated Bush Hog and similar grass or bush cutting equipment

GROUP 6 - A-Frame Truck; Crew Boat Operator; Fireman; Fork Lift; Straddle Buggy; Traxcavator, Scoopmobile and similar front-end loading equipment with Scoop or Bucket under 1 cubic yard capacity; Locomotive; Well Point System; Unit Operator; Hoist - 1 drum, 4 stories or over

GROUP 7 - Backhoe; Cable Way; Concrete Mixer, 16S and up; Derrick; Crane; Dragline Dredge; Equipment Maintenance Mechanic; Hoist - 2 drum; Locomotive Crane; Paving Mixer; Piledriver; Road Paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom Cat; Bulldozer; Motor Patrol; Scraper; Hydrolift Crane, Hydro-lift Truck, Yard Crane, Cherry Picker, etc.; Foundation, Boring and Reaming Machine; Cement Stabilizer; Trenching Machine; Asphalt Spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cubic yard or more capacity; Tug Boat Operator; Turnapull, Euclid, DW-10 & other similar self-loading earth moving equipment; Concrete Pump (not Pump Crete)

POWER EQUIPMENT OPERATORS - ZONE 6 (CONT'D)

GROUP 8 - Crane Operator, 60 tons & over; Crane Operator, Boom 100 feet & over; Piledriver Operator, Leads 100 feet & over

GROUP 9 - Crane Operator, 100 tons & over; Crane Operator, Boom 150 feet & over; Piledriver Operator, Leads 150 feet & over

GROUP 10 - Crane Operator, Boom 250 feet & over; Piledriver Operator, Leads over 250 feet

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant Master Mechanic

GROUP 2 - Master Mechanic

GROUP 3 - Oilers

GROUP 4 - Batch Plant Operators; Mechanic Helpers; Oilers (Drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; Air Compressor; Asphalt Plant Engineers; Asphalt Finisher, Screed Men; Blade Graders; Boat Operator; Bullfloats; Concrete Joining Machines; Concrete Mixers, 16s and under; Concrete Spreader; Crusher Operator; Deck Winch Operator (1); Distributors, asphalt "Ditch Witch" and similar equipment; Electric Elevators (inside); Finishing Machine; Fireman; Form Graders; Fork Lifts; Hoist, 1 drum, under 4 stories; Power Subgrader; Pug Mill Operators; Pull Tractors; Pump, Pump Crete; Rollers, except on brick and asphalt; Rubber tired Front End Loader (with or without blade attachments) less than 1 cu. yd. capacity; Scale Operator; Scoopmobile; Snatch Cats; Spray Machines; Stabilizers, less than 3 drums; Straddle-Buggy; Track Machines and equivalent Machines; Tractors or Bulldozers smaller than D-6

GROUP 6 - A-Frame Truck, when working with ironworkers and pipefitters; Bull-dozers D-6 and larger; Cable Ways; Concrete Mixers, over 16-s paving machines; Cranes, Derricks; Draplines and Clam Shells; Deck Winches (2); Gradealls; Hi-Ho and similar type equipment; Hoist, 1 drum, 4 stories and over; Hoist, 2 drums or more; Hydro cranes; Mechanic; Motor Patrols; Piledrivers; Rollers on brick and asphalt; Rubber Tired Front End Loader, with or without attach-ments, 1 cu. yd. capacity or more; Scrapers; Shovels; Backhoes (all types); Sideboom Cats; Stabilizers, 3 drums or more; Traxcavators; Trenching Machines; Unit Operator; Welder, journeymen; Well Point Systems (gas, diesel, electric, etc.); Concrete Pump/Boom Combinations

AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the city of Berwick to the junction of the Iberville-St. Landry Parishes border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Parishes (east and west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Parishes (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the Louisiana-Mississippi border)

AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES (CONT'D)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Parishes; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Parishes (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi and the Mississippi Sound, on the south by the Gulf of Mexico and on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Parish, Louisiana, due north of the town of Hackley, Louisiana, thence southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay and in a line due south to the Gulf of Mexico)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 8.45	.25	.39		.05
ZONE 2	8.31	.25	.39		.05
ZONE 3	9.10	.25	.48		.05
ZONE 4	9.08	.45	.48		.05
ZONE 5	6.69	.25	.30		.05
ZONE 6	6.14	.25	.30		.05
ZONE 7	5.53	.25	.30		.05
GROUP 2					
ZONE 1	8.70	.25	.39		.05
ZONE 2	8.56	.25	.39		.05
ZONE 3	9.35	.25	.48		.05
ZONE 4	9.33	.45	.48		.05
ZONE 5	6.94	.25	.30		.05
ZONE 6	6.39	.25	.30		.05
ZONE 7	5.78	.25	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 3					
ZONE 1	$ 8.20	.25	.39		.05
ZONE 2	8.06	.25	.39		.05
ZONE 3	8.85	.25	.48		.05
ZONE 4	8.83	.45	.48		.05
ZONE 5	6.44	.25	.30		.05
ZONE 6	5.89	.25	.30		.05
ZONE 7	5.28	.25	.30		.05
GROUP 4					
ZONE 1	7.20	.25	.39		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.80	.25	.48		.05
ZONE 4	7.61	.45	.48		.05
ZONE 5	5.58	.25	.30		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 5					
ZONE 1	6.88	.25	.39		.05
ZONE 2	6.39	.25	.39		.05
ZONE 3	7.21	.25	.48		.05
ZONE 4	7.00	.45	.48		.05
ZONE 5	5.02	.25	.30		.05
ZONE 6	4.48	.25	.30		.05
ZONE 7	3.97	.25	.30		.05
GROUP 6					
ZONE 1	6.27	.25	.39		.05
ZONE 2	5.75	.25	.39		.05
ZONE 3	6.50	.25	.48		.05
ZONE 4	6.30	.45	.48		.05
ZONE 5	4.86	.25	.30		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 7					
ZONE 1	$ 5.99	.25	.39		.05
ZONE 2	5.46	.25	.39		.05
ZONE 3	6.16	.25	.48		.05
ZONE 4	5.96	.45	.48		.05
ZONE 5	4.86	.25	.30		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05
GROUP 8					
ZONE 1	7.20	.25	.39		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.80	.25	.48		.05
ZONE 4	7.61	.45	.48		.05
ZONE 5	5.58	.25	.30		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 9					
ZONE 1	7.45	.25	.39		.05
ZONE 2	7.38	.25	.39		.05
ZONE 3	8.05	.25	.48		.05
ZONE 4	7.86	.45	.48		.05
ZONE 5	5.83	.25	.30		.05
ZONE 6	5.27	.25	.30		.05
ZONE 7	4.71	.25	.30		.05
GROUP 10					
ZONE 1	6.24	.25	.39		.05
ZONE 2	5.71	.25	.39		.05
ZONE 3	6.41	.25	.48		.05
ZONE 4	6.21	.45	.48		.05
ZONE 5	5.11	.25	.30		.05
ZONE 6	4.56	.25	.30		.05
ZONE 7	4.06	.25	.30		.05

CLASSIFICATION DEFINITIONS

GROUP 1 - 60 ton crane & over; Crane with 125' boom

GROUP 2 - Crane with 175' boom

GROUP 3 - Heavy Duty Operators-Crane all types; deck winches (2); Hi-Ho and similar type equipment; three drum (or more) stabilizers; pulls all types; concrete mixer one yard and over; all pavers; ditching or trenching machines (track type); mechanics and equipment welders; well-point systems; hoist, two drums or more; hoist, one drum, forty vertical feet or more; scrapers; bull-dozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, one cubic yard or over; shovels and backhoes, all types, and equivalent equipment; piledriver operator; sidehoom cats; A-Frame trucks when handling steel or pipe; work boats requiring licensed operators; tugboats; fork lifts over ten ton capacity; and foundation drilling machines

GROUP 4 - Medium Duty Operators-Two drums stabilizers; front end loaders under 1 cubic yard; A-Frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); one drum hoist under 40 vertical feet; fireman; concrete spreader; pugmill operator; bituminous distributor on surface treatment and equivalent; bull floats and equivalent; job grease man on "Highway Construction"; unit operator (all Highway Zones); work boats not requiring licensed operators; inboard motored crew boats

GROUP 5 - Light Duty Operators-Single drum stabilizers; concrete mixer under one yard; spray curing machines; rollers on subgrade; one air compressor over 125 cubic feet; form graders; asphalt finisher screed man; pump over 4 inches; scale operators; crusher operators; concrete jointing machines; concrete saw; tack machines and equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type, rubber-tired tractor, with attachments, except back-hoes; Kolum buff and similar equipment; fork lifts, ten ton capacity and under; outboard motored crew boats

GROUP 6 - Mechanic Helper; Batch Plant Operator

GROUP 7 - Oiler

GROUP 8 - Fireman

GROUP 9 - Fireman Operating Steam Valve

GROUP 10 - Oiler on Crane Using Air to Drive Piles

AREA COVERED BY POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes

ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes

ZONE 3 - Bossier, Caddo & Red River Parishes

ZONE 4 - Calcasieu, Cameron & Jefferson Davis Parishes

ZONE 5 - Lafayette, Ouachita & Rapides Parishes

ZONE 6 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes

ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vermon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1					
Roofers	$ 9.43		.10		
ZONE 2					
Roofers	7.96	.65	.65	.20	.25
ZONE 3					
Roofers	8.16	.35	.50		.04
ZONE 4					
Roofers, steep	7.35				
Roofers, flat	7.10				
Roofers, kettlemen	6.85				
ZONE 5					
Roofers	8.10		.20		.02
Kettlemen	5.62		.20		.02

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes

ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1	$ 9.97	.40	.27		.10
ZONE 2	10.16	3%+.45	.70		.14
ZONE 3	10.05	.40	.50		.12
ZONE 4	9.65	3%+.40	.25		.07

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Calcasieu Parish

ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tarmany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS					
ZONE 1	$ 9.345	.40	.33		.05
ZONE 2	9.72	.35	.30		.04
ZONE 3	9.555	.35	.30		.04
ZONE 4	8.85	.35	.30		
ZONE 5	8.30				
ZONE 6	8.65	.35	.30		.04
ZONE 7	8.30				
ZONE 8	8.40	.35	.30		.05

AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 2 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes

ZONE 3 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion) & Terrebonne Parishes

ZONE 4 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes

ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 7 - Natchitoches & Sabine Parishes

ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$10.35	.65	.95		.08
TERRAZZO WORKERS					
ZONE 1	9.10	.25			
ZONE 2	10.45	.48	.30		.02
ZONE 3	7.25				
ZONE 4	8.02		.25		
ZONE 5	8.20	.30			
ZONE 6	9.10				

AREA COVERED BY TERRAZZO WORKERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes

ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS' FINISHERS					
Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, West St. Tammany, Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes	$ 6.75	.25			
TILE SETTERS					
ZONE 1	9.10	.25			
ZONE 2	7.65	.48	.30		.02
ZONE 3	8.25				
ZONE 4	8.02		.25		
ZONE 5	8.20	.30			
ZONE 6	9.10				

AREA COVERED BY TILE SETTERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - St. Tammany (northern half including Covington north of Highway 190)
ZONE 4 - Washington Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS' FINISHERS					
Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes	$ 6.75	.25			
TRUCK DRIVERS (BUILDING CONSTRUCTION)					
ZONE 1					
GROUP 1	4.91				
GROUP 2	5.34				
GROUP 3	5.55				
GROUP 4	5.35				
GROUP 5	5.45				
GROUP 6	5.37				
GROUP 7	5.76				
ZONE 2					
GROUP 1	5.20				
GROUP 2	5.46				
GROUP 3	6.00				
GROUP 4	5.86				
GROUP 5	6.31				
GROUP 6	6.39				
GROUP 7	6.68				
GROUP 8	6.86				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
GROUP 1	$ 5.47				
GROUP 2	5.55				
GROUP 3	5.80				
GROUP 4	5.95				
GROUP 5	6.10				
GROUP 6	6.30				
GROUP 7	6.65				

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - ZONE 1

GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.; Mixers on trucks over 3 yds.; Mississippi wagons & Koehring dumpsters & similar dirt moving equipment (up to and including 8 yds.)
GROUP 4 - Mixers on trucks up to and including 3 yds.
GROUP 5 - Winch trucks
GROUP 6 - Trucks - dump
GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.

TRUCK DRIVERS - ZONE 2

GROUP 1 - Teamster, pick-up drivers
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trunk & trailer; Dump
GROUP 4 - Mixers on trunks, up to and including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Mississippi wagons & Koehring dumpsters, tandem and similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Mississippi wagons, Koehring dumpsters, tandem and similar dirt moving equipment, over 8 yds.

TRUCK DRIVERS - ZONE 3

GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch and water trucks over 3 tons, pickups with trailer
GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors and wobble wheels
GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring-dumps, five axle trucks, transit mix over 3 yds., fuel truck
GROUP 7 - Fork lift

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AREA COVERED BY TRUCK DRIVERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 5.49				
ZONE 2	5.49				
ZONE 3	5.26				
ZONE 4	6.49				
ZONE 5	4.45				
ZONE 6	4.35				
ZONE 7	4.25				
GROUP 2					
ZONE 1	5.61				
ZONE 2	5.61				
ZONE 3	5.35				
ZONE 4	6.62				
ZONE 5	4.56				
ZONE 6	4.46				
ZONE 7	4.36				
GROUP 3					
ZONE 1	5.66				
ZONE 2	5.66				
ZONE 3	5.55				
ZONE 4	6.68				
ZONE 5	4.61				
ZONE 6	4.51				
ZONE 7	4.41				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 4					
ZONE 1	$ 5.73				
ZONE 2	5.73				
ZONE 3	5.73				
ZONE 4	6.75				
ZONE 5	4.67				
ZONE 6	4.57				
ZONE 7	4.47				
GROUP 5					
ZONE 1	5.89				
ZONE 2	5.89				
ZONE 3	6.09				
ZONE 4	6.96				
ZONE 5	4.83				
ZONE 6	4.73				
ZONE 7	4.63				

CLASSIFICATION DEFINITIONS

GROUP 1 - One ton and under; Warehouseman, material checker, receiving clerk, spotter and dumper

GROUP 2 - One and one-half (1½) tons to and including two (2) tons (exclusive of dump trucks), truck mechanic helper

GROUP 3 - Single axle dump trucks, single axle water trucks

GROUP 4 - Heavy equipment, tandem axle dump and tandem axle water trucks, winch lift, transit mix, floats, pole trailers, four axle trailers and truck mechanic

GROUP 5 - Special equipment, euclids and five axle moving equipment

AREA COVERED BY TRUCK DRIVERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performin operation to which welding is incidental

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN77-2048
Supersedes Decision No. MN76-2058, dated May 15, 1976 in 41 FR 20131
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: See Below
DATE: Date of Publication

COUNTIES

Aitken	Dakota	Houston	Martin	Olmsted	Stearns
Anoka	Dodge	Isanti	Meeker	Pine	Steel
Benton	Fairbault	Itaska	McLeod	Ramsey	St. Louis
Blue Earth	Fillmore	Jackson	Mille Lacs	Rice	Wabasha
Carlton	Freeburn	Kanabec	Morrison	Rock	Waseca
Carver	Goodhue	Koochiching	Mower	Scott	Washington
Chisago	Hennegin	Lake	Nicollet	Sherburne	Winona
Cook		LeSueur	Nobles	Sibley	Wright

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
Counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott & Washinton, Sherburne County (North of the Northern Boundry of T-34 or West of the western Boundry of R-27), & Wright County east of & including Minnesota Highway #25	$ 8.21	.40	.30	.50	.02
Counties of Aitkin, Cook, Itaska, Kanabec, Lake, Mille Lacs, ST. Louis & Pine County south of Hinkley, Barry, Arlone & Clover Townships/	8.28	.30		.30	
Carlton County & the Remainder of Pine County	8.58	.30			
Benton County, The Remainder of Sherburne & Wright Counties, Stearns County east of a north-south line drawn from the Intersection of Stearns, Todd and Morrison Counties	7.47			.75	
Blue Earth Country (entire Co. except N.W. corner including cities of Butternut, Judson & Cambria), LeSueur County (West 2/3 of county including Cities of New Sweden, Nicollet, Norseland, North Mankato & St. Peter), Waseca County (N.W. Corner including City of Smithmill), & Sibley County (S.E. Corner incl. Cities of Henderson & Rush River	7.32	.30			

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DECISION NO. MN77-2048

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (CONT'D)					
Rice County, Dodge County (NW portion including Cities of Clermont & West Concord), Goodhue County (Along west border including Cities of Geyon, Dennison, Skyburg, Sogn, Stanton & Wangs), steele County (Entire County except along south border including Cities of Blooming prairie & Ellendale), Waseca County (Entire County except Smithmill in NW corner & along the South border including the cities of Matawan & New Richland) & the Remainder of LeSueur Co.	8.08	.40			
Olmsted County, Fillmore County The vicinity of the Cities of Borne, Concord, Dodge Center, Kasson, Dansville, Eden, Mateville & Wasioja), Mower County (N.W. Corner including the city of Racine & Wabasha County (in the vicinity of the Cities of Elgin, Hammond, Millville, Plainview, Conseption, dunfries, Jarret, South Troy & Theilman	7.88	.40	.20		
Counties of Fairbault, Freeborn, Houston & Winona & the remainder of Dodge, Fillmore Goodhue, Mower, Steele, Wabasha & Waseca Counties	8.48				
Koochiching County	7.32	.30			
Meeker County & McLeod County NW Corner including the cities of Biscay, Heatwole & Hutchinson)	7.32	.30			
Counties of Jackson, Martin, Morrison, Nobles & Rock, Remainder of McLeod, Sibley & Stearns Counties	7.62				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Counties of Anoka, Carver, Chisago, Dakota, Hennepin Isanti, Kanabec, McLeod, Mills Lacs, Ramsey, Scott, Sherburne, Sibley, Washington, Wright & Pine County south of T-43-N	10.33	.50	.50		
Counties of Aitkin, Carlton, Cook, Lake & Pine Co. North of T-42-N & St. Louis Co. South of T-58-N	10.73	.30			
Itaska County & St. Louis Co. north of T-54-N	10.05	.30			
Koochiching County	10.05	.40	.15		
Morrison County	10.10		.15		
Counties of Benton & Stearns	9.90		.25		
Meeker County	9.45		.25	.35	
Counties of Blue Earth & Nicollet, LeSueur Co. (East ½ including the Cities of Cleveland, Elysian, Kasato, LeCenter, LeSueur, Lexington, Ottawa, & St. Thomas), Waseca County (East ½ including the Cities of Alma City, Janesville, Smithmill & Waldorf	10.10				
Counties of Jackson, Martin Nobles & Rock	9.80		.25		
Fairbault County & Freeborn Counties (West of a line running north & south from Genevia to Gordansville	9.43	.42	.25		
Counties of Rice & Steele, the Remainder of LeSueur & Waseca Counties & Dodge County West of Highway 56	10.10				
Olmsted County, Dodge County (east of Highway 56), & Fillmore Co. east of a line drawn north & south established east of the City of Dodge Center	10.35				
Counties of Houston & Winona & the Remainder of Fillmore Co.	10.10				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (CONT'D)					
Counties of Goodhue & Wabasha Mower County & the Remainder of Freeborn	$ 10.33	.42	.25		
	9.50	.35	.25		
IRONWORKERS:					
Counties of Anoka, Benton, Blue Earth, Carver, Chisago, Dakota Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin Houston, Isanti, LeSueur, McLeod, Martin, Meeker, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Stearns, Steele, Wabasha, Waseca, Washington, Winona & Wright;					
Kanabec Co., (excluding north 1/3 of County including cities of Warman, Kruschel & Woodland), Mille Lacs County (excluding NE cor. including cites of Bayview, Opstead, Isle, Wahkun Cove & Vineland), & Pine County (the SW corner including the cities of Pine City, Henriette, Greely, Rock Creek & West Rock)	11.10	.55	.55		.02
Counties of Aitkin, Carlton, Cook, Itaska, Koochiching, Lake, St.Louis, Kanabec, Mill Lacs & Pine counties	11.35	.30	.55		.02
Jackson, Nobles & Rock Counties	9.31	.50	.30		.045

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN:					
Counties of Aitkin, Carlton, Cook, Lake, Morrison, Itaska County that portion South of T-55 R-27, Bass Rock, Grand Rapids, Trout Lake, T-55 R-23 & that portion of Good & Township South of a Line west from the S.W. of T-55-R-23; St. Louis Co; that portion south of Ault, Ellsburg, Lavell, T-55 R-14, T-55 R-15, T-55 R-18 & T-55 R-21 Townships, Kanabec Co. north of Ann Lake, Knife Lake & White Townships; Mille Lacs county north of baily and Mudgett Townships & Pine County North of Brook Park, Crosby, Mission Creek & Munch Townships	9.54	4%	6%	11%	1½%
Koochiching County & the Remainder of Itaska & St. Louis Cos.	10.00	4%	4%	11%	1½%
Counties of Chisago, Dakota, Isanti, Ramsey, Rice & Washington; Remainder of Kanabec, Mille Lacs & Pine Counties; Anoka County (Entire County except Anoka, Fridely, Grow & Ramsey Twps.), Goodhue Co. (Entire County except Pine Island, Minneola, Roscoe & Zumbrota Twps.), LeSueur County (that portion east of Cleveland, Sharon, Tyrone & Washington Twps.); Sherburne Co. (that portion east of Becker & Santiago Twps; & Wabasha County (Entire Co. except Elgin & Plainview Twps.)	10.05	5 3/4%	4%	11½%	1%
Houston & Winona Counties	9.37	.35	1%		.5%
Noble & Rock Counties	9.05	.35	1%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN (CONT'D)					
Counties of Benton, Blue Earth, Carver, Fairbault, Hennepin, Jackson, McLeod, Martin, Meeker, Nicollet, Scott, Sibley, Stearns, Waseca, Wright & the Remainder of Anoka, LeSueur & Sherburne Counties	10.03	7%	4%	10%	1½%
Counties of Dodge, Fillmore, Freeborn, Mower, Olmsted, Steele & the Rem. of Goodhue & Wabasha	8.31	.35	1%		.04
PAINTERS:					
Counties of Carlton, Cook, Lake, Koochiching, St. Louis & Itasca, Pine Co. to Town of Hinckley					
Brush	9.43	.30	.40		.08
Structural Steel	9.93	.30	.40		.08
Counties of Chisago, Dakota, Ramsey, Washington & Pine County					
Brush	9.55	.45	.25		.07
Structural Steel	10.05	.45	.25		.07
Counties of Anoka, Carver, Hennepin, Isanti, Kanabec, McLeod, Scott & the eastern 2/3 of Sherburne & Wright Counties:					
Brush	9.53	.45	.25		.09
Structural Steel	10.03	.45	.25		.09
Counties of Benton, Mille Lacs, Meeker, & Stearns (the western 1/3 of Sherburne & Wright Counties) & the southern ½ of Morrison County:					
Brush	5.90				.02
Structural Steel	6.40				.02
Spray	6.90				.02
Aitkin & the Southern ½ of Morrison County:					
Brush	9.10				
Structural Steel	9.60				

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Counties of Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Wabasha & Winona:					
Brush	9.50	.37	.25		.08
Spray	10.00	.37	.25		.08
Counties of Blue Earth, Jackson Maritn, Nicollet, Nobles, Rock & Sibley, Rice, LeSueur, Steel & Waseca					
Brush	8.80	.40	.10		.07
Spray & Structural Steel	9.30	.40	.10		.07
WELL DRILLING: (Construction or Repair of water wells and aprurtenances)					
Metropolitan Area					
Hennepin, Ramsey, Washington, Anoka, Carver, Scott & Dakota Counties; That part of Wright County east of T.H. 25, Sherburne County South of T-34N & East of R-27W & that Part of Chisago Co. South of T-35N					
Field Work					
Driller - Pumpman	7.75				
General - Helper	6.25				
Mechanic - Welder	7.15				
Driver or Service Man	6.25				
Rural Area					
Remainder of Counties					
Field Work					
Driller - Pumpman	7.25				
General Helper	5.20				
Mechanic - Welder	6.65				
Driver or Service Man	5.80				

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MINN-9-LAB

LABORERS: Counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Pine, Ramsey, Scott, Sherburne, Washington & Wright	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.25	.45	.45	.40	
CLASS 2	8.35	.45	.45	.40	
CLASS 3	8.40	.45	.45	.40	
CLASS 4	8.50	.45	.45	.40	
CLASS 5	8.55	.45	.45	.40	
CLASS 6	8.60	.45	.45	.40	
CLASS 7	8.65	.45	.45	.40	
CLASS 8	8.68	.45	.45	.40	
CLASS 9	8.70	.45	.45	.40	
CLASS 10	8.88	.45	.45	.40	
CLASS 11	8.93	.45	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler
CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Surb Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)
CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Dwerickman (Triped, manual)
CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Other work more than 8' below level of manual work Open ditch Work

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LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - BITUminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

MINN-10-LAB

LABORERS: Counties of Itanka and St. Louis Counties North of T-55	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.63	.20	.15	.25	
CLASS II	8.73	.20	.15	.25	
CLASS III	8.88	.20	.15	.25	
CLASS IV	8.93	.20	.15	.25	
CLASS V	8.98	.20	.15	.25	
CLASS VI	9.03	.20	.15	.25	
CLASS VII	9.13	.20	.15	.25	
CLASS VIII	9.23	.20	.15	.25	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tneder; Stonemasons tender
CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)
CLASS III - Bituminous Tamper, Cofferdam work, Caisson work
CLASS IV - Drill Runner (Heavy, including churn drill)
CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)
CLASS IV - Nozzleman
CLASS VII - Powderman
CLASS VIII - Tunnel Miner

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MINN-11-LAB

LABORERS: COUNTIES OF BENTON, KANABEC, MILLE LACS & STEARNS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	7.75	.40	.35	.40	
CLASS 2	7.80	.40	.35	.40	
CLASS 3	7.85	.40	.35	.40	
CLASS 4	7.90	.40	.35	.40	
CLASS 5	8.10	.40	.35	.40	
CLASS 6	8.15	.40	.35	.40	
CLASS 7	8.20	.40	.35	.40	
CLASS 8	8.25	.40	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers-Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemason Tenders; Unskilled Laborers
CLASS 2 - Form Setter (Municipal Type Curb & Sidewald, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, Truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)
CLASS 4 - Bituminous Raker, Floater & Utility Man;, Caisson work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunnite
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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MINN-12-LAB

LABORERS: Counties of Blue Earth, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Mower, Nicholett, Olmsted, Rice, Steele, Wabasha, Waseca & Winona	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	8.55	.20	.15		
CLASS 2	8.65	.20	.15		
CLASS 3	8.70	.20	.15		
CLASS 4	8.80	.20	.15		
CLASS 5	8.90	.20	.15		
CLASS 6	8.95	.20	.15		
CLASS 7	9.00	.20	.15		
CLASS 8	9.05	.20	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & blower Tender; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Coffordam
CLASS 5 - Leadman
CLASS 6 -Nozzle (Gunnitm)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman

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MINN-13-LAB

LABORERS Counties of Aitkin, Jackson, Koochiching, McLeod, Martin, Meeker, Morrison, Nobles, Rock & Sibley	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	7.35	.20	.15		
CLASS 2	7.45	.20	.15		
CLASS 3	7.60	.20	.15		
CLASS 4	7.70	.20	.15		
CLASS 5	7.75	.20	.15		
CLASS 6	7.80	.20	.15		
CLASS 7	7.85	.20	.15		
CLASS 8	7.50	.20	.15		

CLASS 1 - Skilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas, Cast Iron), Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemasnn tender
CLASS 2- Bituminous Shoveler, Bottom Man (Sewer, Water or gas trench), Cement Coverman (Batch Trucks); cement handler (Bulk or bag); Chain Saw Man, Compaction equipment (hand operated), Concrete mixer (1 bag); Concrete Shoveler, Tamper & Puddler (paving), Concrete vibrator, Conduit layers (w/o wiring); Drill runner (heavy, incl. Churn Driver Dumper (wagon truck, mtc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous Or Lead), Mortar Mixer Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)
CLASS 3 - Form setters (Municipal type curb & Sidewalk) form setter (pavement)
CLASS 4 - Bituminous Tamper, caisson work & cofferdam
CLASS 5 - Bituminous raker, floater & utility man; Leadman
CLASS 6 - Nozzleman (Gunnite)
CLASS 7 - Pipelayer, (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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MINN-14-LAB

LABORERS: Counties of Carlton, Cook, Lake, & St. Louis - South at T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.18	.30	.35	.40	
CLASS II	8.28	.30	.35	.40	
CLASS III	8.43	.30	.35	.40	
CLASS IV	8.48	.30	.35	.40	
CLASS V	8.53	.30	.35	.40	
CLASS VI	8.58	.30	.35	.40	
CLASS VII	8.68	.30	.35	.40	
CLASS VIII	8.78	.30	.35	.40	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayes tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Smlamander heater & blower tender; Carpenter tneder; Stonemasons tender
CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Form-setter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmos-pheric pressure)
CLASS III - Bituminous Tamper, Cofferdam work, Caisson work
CLASS IV - Drill Runner (Heavy, including churn drill)
CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)
CLASS IV - Horselman
CLASS VII - Powderman
CLASS VIII - Tunnel Miner

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MINN-7M-PE

POWER EQUIPMENT OPERATORS: Counties of Anoka, Carver, Cook Dakota, Hennepin, Lake, Ramsey, St. Louis, Scott & Washington, Sherburne County south of the northern boundary of T-33-N and east of the western boundaryof R-27-W, Wright County east of and including Highway #25, Chisago County south of the northern boundary of T-34-N and that part consisting substantially of the cities of Thompson, Colquet, Scanlon & Carlton	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 14.20	.45	.40		
GROUP 2	10.91	.45	.40		
GROUP 3	10.65	.45	.40		
GROUP 4	10.52	.45	.40		
GROUP 5	10.43	.45	.40		
GROUP 6	9.75	.45	.40		
GROUP 7	9.45	.45	.40		

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 4 (Cont'd)

Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air-compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractur op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-7-PEO

POWER EQUIPMENT OPERATORS: Counties of Jackson, Nobles & Rock & the Remainder of Benton, Itaska, Koochiching, McLeod, Martin, Meeker, Morrison, Nicollet, Sibley & Stearns	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 14.20	.45	.40		
GROUP 2	10.91	.45	.40		
GROUP 3	10.65	.45	.40		
GROUP 4	10.52	.45	.40		
GROUP 5	10.43	.45	.40		
GROUP 6	9.75	.45	.40		
GROUP 7	9.45	.45	.40		

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

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POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2048

MINN-6-PEO

POWER EQUIPMENT OPERATORS: Counties of Aitkin, Blue Warth, Carlton, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, Isanti, Kanabec, Lesueur, Mille Lacs, Mower, Olmsted, Pine, Steele, Wabasha, Waseca, Winona & Washington; The remainder of Chisago, Sherburne, & wright Counties; Koochiching County East of a North-South Line From the Canadian Boarder toPelland-The Western Right-of-Way of U.S. Hwy. 71 from Pelland to Big Falls & Minn. Hwy. #6; Itaska County East of the western-Right-of-Way of Minn. Hwy. #6; Morrison County east of the Western Right-of-Way of U.S. Hwy. #371 & U. S. Hwy #10 from Little Falls to the Morrison Benton County lines; Benton Co. East of the Western-Right-of-Way of U. S. Hwy #10; and in McLeod, Martin, Meeker, Nicollet, Sibley & Stearns Counties, East of the Western Right-of-Way of Minn. Hwy #15. In every case the entire corporation limits of cities, towns & villages located on the boundaried described as highways shall be included in this area	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	13.90	.45	.40		
GROUP 2	10.61	.45	.40		
GROUP 3	10.35	.45	.40		
GROUP 4	10.23	.45	.40		
GROUP 5	10.13	.45	.40		
GROUP 6	9.45	.45	.40		
GROUP 7	9.15	.45	.40		

DECISION NO. MN77-2048

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismantling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN77-2048

MINN 62 TD

TRUCK DRIVERS: Areas 1 and 2 Twin City & Duluth Metro Area Counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington, Wright, Chisago South of T-34-N, Carlton, Cook, Lake, St. Louis & Itaska Co., East of T-H-6	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN77-2048

MINN-E5-TD

TRUCK DRIVERS Area 3 Southeastern Area Counties of Dodge, Fillmore, Freeborn, Good Hue, Mower, Olmsted, Rice, Steele, Wabasha & Winona Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN77-2048

MINN-7-TD

TRUCK DRIVERS: Area 4 Mankato Area Counties of Blue Earth, Lesueur, Nicollet, Waseca	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	8.62	.40	.50		
GROUP 2	8.32	.40	.50		
GROUP 3	8.22	.40	.50		
GROUP 4	8.02	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN77-2048 MINN-5-TD

TRUCK DRIVERS - Area 5 Western ARea	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Counties of Aitkin, Benton, Fairbault, Isanti, Jackson, Kanabec, Koochiching, LeSueur, McLeod, Martin, Meeker, Mille Lacs, Morrison, Nobles, Pine, Rock, Sibley, Stearns, Remainder of Chisago & Itaska Counties					
GROUP 1	8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Trunk train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: New Mexico COUNTY: Statewide
DECISION NO.: NM77-4103 DATE: Date of Publication
Supersedeas decision No. NM77-4077 dated April 8, 1977 in 42 FR 20984
DESCRIPTION OF WORK: Highway, streets, roads, utilities, and light engineering construction consisting of construction of roads, highways, streets, alleys, sidewalks, guard rails, fences, parkways, parking areas, birdle paths, athletic fields, (except structures), highways bridges, grade separation involving highways, earth dams under one million cubic yards, sewer and water lines and other utilities and work incidental thereto but (does not include airport runways and taxiways; bridges over navigable waters; tunnels; building structures on highway rest areas; and railroad construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters	$5.11	.10	.20	.10	.04
Power saw operator-saw filer	5.26	.10	.20	.10	.04
Millwrights & Piledriver	5.36	.10	.20	.10	.04
CEMENT MASONS	4.94	.26			
IRONWORKERS:					
Reinforcing	4.58	.25	.25		
Structural	7.99	.50	.75		.04
PAINTERS:					
Brush	4.57				
Spray	5.20				
LABORERS:					
Common laborer; carpenter tender concrete buggy operator (hand); concrete workers	2.56	.20	.15		
Wagon, air track, drill & diamond drillers' tender (outside)	2.71	.20	.15		
Air & power tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasters); chain sawman; concrete touchup-man; concrete saw man; curbing machine; asphalt or cement; cutting torchman; metal form setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman or blaster helper; scaler; sandblaster helper; vibrator compactor (hand type); vibrator-man (hand-type); concrete power buggyman, wagon; air track drill and diamond drillers (outside)	2.86	.20	.15		
Gunite pumpcreteman & nozzleman; multiplate setter; pipelayer	3.16	.20	.15		
Manhole builder	3.36	.20	.15		
Powderman-blaster--ake up	3.31	.20	.15		

DECISION NO. NM77-4103 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group I	$4.88	.15	.10		.01
Group II	5.08	.15	.10		.01
Group III	5.66	.15	.10		.01
Group IV	5.68	.15	.10		.01
Group V	5.68	.15	.10		.01
Group VI	5.83	.15	.10		.01
Group VII	5.88	.15	.10		.01
Group VIII	6.03	.15	.10		.01
Group IX	6.53	.15	.10		.01
Group X	7.33	.15	.10		.01

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

GROUP I
Concrete paving curing machine

GROUP II
Belt type conveyors (material & concrete); broom (self propelled); fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); Industrial locomotive brakeman; front end loader (2 cy or less); fireman; oiler; screedman; roller (pull type); mulching machine; roller (self-propelled)

GROUP III
Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub grader; tractor with backhoe attachment; subgrade or base finisher; power plant (electric general or welding machine)

GROUP IV
Bulldozer (including self-propelled roller with dozer attachment); batch or continuous mix plant (concrete soil-cement, or asphalt); roller (steel wheel); front end loader (2 cy thru 10 cy); scraper operator; motor grader

GROUP V
Asphalt distributor; asphalt paving or laydown machine; asphalt retort heater; mixer, heavy duty, asphalt or soil cement; trenching machine; clam type shaftmucker; backhoe, clamshell, dragline, gradall, shovel(under 3/4 cy); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM & over); crushing screening and washing plants; drilling machine (cable core or rotary); mixer, concrete (1 cy and less); pump (6" intake or over); winch truck; hoist (1 drum); industrial locomotive motorman; lumber stacker; tractor (50 drawbar HP or over)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION (CONT'D)

GROUP VI

Concrete paver mixer; hoist (2 drum and over); sideboom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 cy to 3 cy); cranes (crawler or mobile) 20 ton to 40 ton; front end loader (over 10 cy); mixer, concrete (over 1 cy); mechanic and/or welder)

GROUP VII

Concrete slip-form paving machine; concrete paving finishing machine; concrete paving longitudinal float; gunite machine, refrigerator; jumbo form or drilling stage; slusher; concrete paving spreader; pumpcrete machine; grout pump operator

GROUP VIII

Mine hoist; bulldozer (multiple units); scraper (multiple units); mucking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 CY); cranes (crawler or mobile) over 40 tons

GROUP IX

Belt loader (CMI types) operator; derrick, cableway

GROUP X

Pipemobile operator; mole operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Distributor (asphalt)	$4.57	.26			
Dumpster or dumptor	4.65	.26			
Dump or batch truck:					
Under 8 cy	4.36	.26			
8 cy and under 16 cy	4.46	.26			
16 cy and under 20 cy	4.60	.26			
20 cy and over	4.65	.26			
Diesel-powered transport (non-self-loading) 10 yds & over	4.88	.26			
Flatbed:					
1-1/2 ton	4.36	.26			
Over 1-1/2 ton	4.51	.26			
Lumber carrier	4.39	.26			
Lowboy, heavy equipment	4.98	.26			
Lowboy, light equipment	4.60	.26			
Off-highway hauler	4.63	.26			
Pick-up truck 3/4 ton or under	4.21	.26			
Service station attendant	4.25	.26			
Spreader box	4.30	.26			
Spreader box (self-propelled)	4.54	.26			
Swamper or rider helper	4.17	.26			
Tank Truck:					
3,000 gal. or under	4.44	.26			
3,001 gal. to 6,000 gal.	4.54	.26			
6,001 gal. and over	4.64	.26			
Teamster, 2 or 4 or more	4.17	.26			
Trailer or semi-trailer dump	4.73	.26			
Transit mix	4.60	.26			
Warehousemen	4.35	.26			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (STATEWIDE EXCEPT BERNALILLO COUNTY):					
Cable splicers	$10.51	.60	1%+.60		1/2%
Linemen-Technicians	9.82	.60	1%+.60		1/2%
Equipment operators	9.35	.60	1%+.60		1/2%
Equipment mechanics	9.58	.60	1%+.60		1/2%
Powderman	9.58	.60	1%+.60		1/2%
Groundman & Jackhammer operators:					
1st 6 months	5.31	.60	1%+.60		1/2%
2nd 6 months	5.99	.60	1%+.60		1/2%
Experienced	6.96	.60	1%+.60		1/2%
LINE CONSTRUCTION (BERNALILLO CO.)					
Cable splicers	9.65	.60	1%+.60		1/2%
Linemen-Technicians	9.00	.60	1%+.60		1/2%
Equipment operators	8.58	.60	1%+.60		1/2%
Equipment mechanics-Powderman	7.88	.60	1%+.60		1/2%
Groundmen & jackhammer operators					
1st 6 months	4.88	.60	1%+.60		1/2%
2nd 6 months	5.51	.60	1%+.60		1/2%
Experienced	6.36	.60	1%+.60		1/2%

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: CHAUTAUQUA

DECISION NO.: NY77-3008 DATE: DATE OF PUBLICATION

Supersedes Decision No. NY76-3259 dated October 29, 1976 in 41 FR 47840

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$10.81	1.02	.55		.04
Boilermakers	10.60	.70	1.00		.02
Bricklayers, cement masons, plasterers, stone masons, marble, tile and terrazzo workers	9.85	.50	.80		
Cement masons, hvy. and hwy.	8.90	.50	.80		
Carpenters and soft floor layers, bldg.	8.97	.50	.95	a	.05
Carpenters, hvy. and hwy.	8.87	.50	.95	d	.025
Electricians:					
Twps. of Busti, Clymer, Mina, Chautauqua, Ellery, Ellicott, Harmony, North Harmony, Gerry, French Creek, Poland, Sherman, Kiantone, Ellington and Carroll	11.07	.50	1%+.50		½%
Remainder of County	11.20	.60	1%		.15
Glaziers	9.74	1.40	.55		.10
Ironworkers, structural, reinforcing and ornamental:					
Twps. of Cherry Creek, Ellington, Sheridan, Pomfret, Arkwright, Charlotte, Hanover, Villanova and Stockton	10.88	.98	1.23		
Remainder of County	10.74	1.86	1.01		.15
Laborers, building:					
Laborers and flagmen	7.45	.50	.65	a	
Blasters, curb setters, form setters, pipelayers	7.70	.50	.65	a	
Work 40 feet and up	7.60	.50	.65	a	
Lathers	9.61	.50	.20		.01
Leadburners	10.75	.40	.25	b	.01
Line Construction:					
Linemen	11.10	.65	1%+.60	c	½%
Cable Splicer	12.21	.65	1%+.60	c	½%
Groundman digging machine op.	9.99	.65	1%+.60	c	½%
Groundman mobile equipment op.	8.88	.65	1%+.60	c	½%
Groundmen truck driver	8.325	.65	1%+.60	c	½%
Groundmen dynamite man and mechanic	8.88	.65	1%+.60	c	½%
Marble, tile and terrazzo workers helpers	8.91	1.55	.40		
Millwrights and piledrivermen	9.22	.50	.95	a	.05

DECISION NO. NY77-3008

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING, HEAVY & HIGHWAY CONSTRUCTION					
Painters:					
Twps. of Dunkirk, Portland, Pomfret, Sheridan, Arkwright, Hanover and Villanova:					
Brush	$10.255	.975	.30		.10
Steel tanks, towers, stacks, flag poles, radio-tv towers	10.755	.975	.30		.10
Sandblasting, swing stage, spray, bosun chair, epoxy	10.505	.975	.30		.10
Bridges 35 feet or above	11.92	.975	.30		.10
Remainder of County:					
Painters	6.16	.52	.30		.01
Structural steel, bridges and stacks	6.46	.52	.30		.01
Spray and sandblasting	6.81	.52	.30		.01
Roller	6.36	.52	.30		.01
Plumbers:					
Twps. of Hanover, Sheridan, Dunkirk, Pomfret, Arkwright, Villanova, Portland, Stockton, Charlotte, Ripley, Westfield, Cheery Creek and Predonia:					
Plumbers	11.53	.74	.85		.06
Steamfitters	11.92	.50	1.55		.08
Remainder of County:					
Plumbers and Steamfitters	10.22	.50	.45	2%	.01
Roofers	9.75	.50	.50		.02
Sheet metal workers	9.75	3%+.50	.50		.02
Sprinkler Fitters	11.86	.65	.95		.08
Truck Drivers, Building	7.35	.55	.60	e + f	

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BUILDING, HEAVY, AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a. Two hours paid time off on Election Day.

b. Holidays: A through F, Washington's Birthday, Good Friday, Christmas Eve, providing the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceding and following the holidays.

c. Holidays: A through F, Washington's Birthday, Good Friday, Election Day for the President of the U.S. and Election of Governor of New York State, providing the employee works the day before and the day after the holiday.

d. Holiday: Independence Day and Labor Day.

e. Holidays: A through F.

f. One weeks vacation after one year's work; two weeks vacation after two years work.

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LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Appr. Tr
CLASS A	$8.24	.55	.65	a	
CLASS B	8.44	.55	.65	a	
CLASS C	8.64	.55	.65	a	1
CLASS D	8.84	.55	.65	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helper, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sand blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drilling machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setters, stone or granite curb setters.

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BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Educatio and/or Appr. Tr
GROUP I	$12.27	1.00	.75	a	.15
GROUP II	11.185	1.00	.75	a	.15
GROUP III	11.03	1.00	.75	a	.15
GROUP IV	10.99	1.00	.75	a	.15
GROUP V	10.905	1.00	.75	a	.15
GROUP VI	9.15	1.00	.75	a	.15
GROUP VII	10.99	1.00	.75	a	.15
GROUP VIII	8.835	1.00	.75	a	.15
GROUP IX	8.68	1.00	.75	a	.15
GROUP X	10.135	1.00	.75	a	.15
GROUP XI	10.75	1.00	.75	a	.15
GROUP XII	9.305	1.00	.75	a	.15
GROUP XIII	10.595	1.00	.75	a	.15
GROUP XIV	8.535	1.00	.75	a	.15
GROUP XV	11.685	1.00	.75	a	.15
GROUP XVI	12.185	1.00	.75	a	.15
GROUP XVII	12.685	1.00	.75	a	.15

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DECISION NO. NY77-3008

BUILDING --POWER EQUIPMENT OPERATORS:

GROUP I: Master Mechanic

GROUP II: all boom type equipment (100 ft or less), all pan and carry-all operators, Archer hoist, back and pull hoe operator, blast or rotary drill, track or cat mounted, boiler (when used for power), boom trucks, cableway operator, concrete paver machine, crane operator, derrick operator, dragline operator, elevating grader (self-propelled), head tower operator, hot roller (finisher course), hydraulic booms, hydro crane, maintenance engineer, mucking machine operator, multiple drum hoist, (more than 1 drum in use), Paine crane, pile driving machine operator, power grader machine operator, scoopmobile, shovel operator, skimmer operator, test core drill machine, tractor shovel operator, vertical caisson auger drill, well drilling machine

GROUP III: Back filling machine operator, Kolman loader, roller machine operator, snatch and pusher cats, stone crusher, towed or self-propelled rollers, trenching machine operator

GROUP IV: Air hoist operator, cage hoist operator, conveyor operator, conveyor system, (belt-crete or similar), hoisting engine op., house elevator, (when used for hoisting), industrial tractor, locomotive op., (irrespective of power), push button hoist op., Strato tower, tractors (when using winch power)

GROUP V: Concrete mixer op., (½ c.y. or over), gasoline driven boring machine hydraulic system pumps, hydro hammer, finishing machine op., (asphalt spreader), finishing machine op.

GROUP VI: Air compressor operator, (under 160 CFM), air compressor op., (over 160 CFM), generator mechanical heater, (when 3 are in a battery), power plant (in excess of 10KW), welding machine operator, (to and including 3 machines)

GROUP VII: Bulldozer & tractor, (50 h.p., drawbar or under), monorail

GROUP VIII: Firemen

GROUP IX: Truck crane driver

GROUP X: Aggregate bin op., cement bin op., concrete mixer op., (under ½ c.y.), tractor machines

GROUP XI: Grout Machine Operator, Heating Boiler Operator (used for temporary heat), lubrucatuib unit on truck, pneumatic mixer operator

GROUP XII: Pump Operator (4" or over); Pump Operator 2-3 in a battery)

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BUILDING--POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP XIII: Bulldozer 6 tractor (50 H.P. drawbar and under), jeep trench, mulchers, power brooms 7 rakes, seeders

GROUP XIV: Apprenctice Engineer or Oiler, Mechanical Heaters (when 1 or 2 are used), Pump Operators (one inch), Pump Operators (2 inches), Pump Operators (3 inches)

GROUP XV: Crane with boom over 100 feet

GROUP XVI: Crane with boom over 200 feet

GROUP XVII: Crane with boom over 300 feet

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A thrmugh F, provided employee works the working day before and the working dat after the holiday.

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apprn
CLASS I	$11.22	1.00	1.15	a	.15
CLASS II	10.99	1.00	1.15	a	.15
CLASS III	10.61	1.00	1.15	a	.15
CLASS IV	9.88	1.00	1.15	a	.15
CLASS V	8.94	1.00	1.15	a	.15
CLASS VI	8.16	1.00	1.15	a	.15
CLASS VII	7.43	1.00	1.15	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays, A through F, provided employee works the working day before and working day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS I: Asphalt roller (except rubber tire), automatic fine grade machine, backhoe (except tractor mounted, rubber tired), belt placer, black top plant (automated) blast or rotary drill, (truck or cat mounted), cableway, caisson auger, central mix plant (automated), cherry picker - over 5 tons capacity, crane, derrick, dragline, dredge, dual drum paver, elevating grader (self-propelled or towed), excavator (all purpose - hydraulically operated), front end loader (4 c.y. and over), gradall, grader, head tower, hoist, 2 or 3 drum, locomotive (irrespective of size or power), maintenance engineer, mine hoist, mucking machine, overhead crane, pedns crane or similar type, pile driver, quarry master or equivalent, shovel, skimmer, slip form paver, tractor drawn belt-type loader, truck crane, tunnel shovel

CLASS II: Asphalt roller (rubber tired), asphalt spreader, automatic fine grade machine, backhoe (tractor mounted, rubber tired), back filling machine bending machine (pipe), bituminous spreader and mixer, blacktop plant (non-automated), boom truck, boring machine, cage hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker 5 tons and under, compressors (4 or less) exceeding 2,000 c.f.m. combined capacity, concrete paver over 16S, concrete pump, crusher, dozer or push cat, drill rigs, tractor mounted, elevator, front end loader (under 4 c.y.) hi-pressure boiler, (15 lbs. and over), hoist, one drum, hydraulic pipe jack machine or similar type machine, jersey spreader, kolman plant loader and similar type loaders (if employer requires another man to clean the screen or to maintain the equipment, he shall be an oiler), maintenance grease man, mixer for stabilized base self-propelled, monorail machine, plant engineer, pump crete ready mix concrete plant, road widener, rock bit sharpener (all types), roller (all above subgrade, scraper, side boom, slip form paver, snorkel, stone shredding machine, trencher, tube finisher, winch, winch truck with

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POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D.

CLASS III: Asphalt curb and gutter machines, blower for burning brush, chipping machine and chip spreader, compressors: 4 not exceed 2,000 c.f.m. combined capacity, 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m. compressor, (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type or combination) concrete pavement spreaders and finishers, concrete curb and gutter machine, concrete curing machines, conveyor drill cone, drill well, electric pump used in conjunction with well point systems, farm tractor with accessories fine grade machine, hammers-hydraulic-self-propelled, hydraulic rock expander or similar type machine, hydraulic pump, motorized hydraulic pin puller and seeders, post hole digger and post driver, roller (grade and fill), tractor with towed accessories, vibratory compactor, vibro tamp, well point

CLASS IV: Aggregate plant, boiler, (used in conjunction with production), C.M. and similar type concrete spreaders, cement bin operator, compressors: 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors: (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16S and under), concrete saw self-propelled, fireman, form tamper, mulching machine, oiler, power broom, power heaterman, revintus widener, steam cleaner, tractor

CLASS V: Compressors (4 or less) exceeding 2000 C.F.M. Combined capacity.

CLASS VI: Compressors: 4 not to exceed 2000 C.F.M. combined capacity, or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M., Compressors (any size but subject to other provisions for compressors), Dust collectors, Generators, Pumps, Welding Machines (4 of any type or combination).

CLASS VII: Compressors 3 or less not to exceed 1200 C.F.M. combined capacity: Compressors: (any size, but subject to other provisions for compressors), Dust Collectors, Generators, Pumps, Welding Machines (3 or less of any type or combination).

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TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apprn
CLASS 1	$8.14	.55	.70	a	
CLASS 2	8.19	.55	.70	a	
CLASS 3	8.24	.55	.70	a	
CLASS 4	8.39	.55	.70	a	
CLASS 5	8.59	.55	.70	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1
Warehouseman, yardmen, truck helpers, pickups, panel trucks, flatboy material trucks (straight jobs), single axel dump trucks, dumpsters, material checkers and receivers, greasers, truck firemen, mechanic helpers and parts chaser.

CLASS 2
Tandems, batch trucks, mechanics and dispatchers.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back-dump, twin engine equipment and double-hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Luzerne
DECISION NO.: PA77-3059 DATE: Date of Publication
Supersedeas Decision No. PA76-3271, dated November 5, 1976, in 41 FR 48993.
DESCRIPTION OF WORK: Building Construction, including single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$9.95	.65	.60		.01
Boilermakers	12.05	.75	1.00		.02
Bricklayers and Stonemasons:					
Hazleton, Berwick & Freeland:					
Commercial	8.70	.35	.50		
Nescopeek, Hollenback & Salem Twps.	9.35	.40	.50		
Remainder of County	10.85	.50	.50		
Carpenters:					
Hazleton, Freeland, Black Creek, Butler, Dennison, Foster, Hazle, Hollenback, Nescopeck, Sugarloaf and lower part of Salem Twps.	10.14	.40	.50		.03
Reminder of County	10.61	.40	.50		.03
Cement Masons:					
Pittston, Yatesville, Laflin, Exeter Wyoming, Duryea & Avoca	9.15	.40	.40		
Hazleton and Freeland	8.075				
Reminder of County	11.05				
Electricians:					
Hazleton:					
Commercial	10.37	.55	1%+.25	a	b
Reminder of County	10.74	.50	1%+.75		
Elevator Constructors	10.595	.545	.35	4%+c+d	.02
Elevator Constructors' Helpers	7.42	.545	.35	4%+c+d	.02
Elevator Constructors' Helpers (Prob.)	5.30				
Glaziers	9.20	.40	.60		
Ironworkers:					
Structural and Ornamental	11.25	e			.10
Reinforcing	11.15	e			.10
Laborers					
Hazleton:	7.11	.25	.55		
Maman Tenders including Scaffold Builders	7.51	.25	.55		
Pneumatic, electrical & mechanical tool operators, 2" pumps-non metallic pipelaying and making joint clay, terra cotta, ironstone vitrified					

DECISION NO. PA77-3059

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: (Cont'd)					
concrete, handling of burning torches asphalt or other hot materials, cement finishers and blisters helpers, power buggies, walk along hoist	$7.21	.25	.55		
Plasterers tenderd, blasters, and wagon drill operators	7.36	.25	.25		
Remainder of County:					
Unskilled laborers	8.77	.30	.70		
Semi skilled laborers, pneumatic and other mechanical tool ops; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason, Non-metallic pipelayer and making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches asphalt or other hot material, cement finishers and blasters helpers	8.97	.30	.70		
Blasterers tenders, blaster, wagon drill ops.	9.09	.30	.70		
Mason tenders & scaffold builders	9.17	.30	.70		
Lathers:					
Pittston, Avoca, Dupont & Duryea	10.04		.10		.01
Remainder of County	10.58		.25		.01
Loadburners	10.75	.40	.25	f	.01
Line Construction:					
Linemen, Dynamiteman, Heavy equipment operator	10.30	.35	3%		3/8 of 1%
Groundman	6.97	.35	3%		3/8 of 1%
Winch truck driver	7.28	.35	3%		3/8 of 1%
Marble Setters:					
Pittston	10.85	.50	.50		
Hazleton	9.20	.35	.50		
Remainder of County	10.00		.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Millwrights	$11.25	.40	.50		.03
Painters:					
Pittston:					
Brush & Roller	8.10		1.00		
Structural Steel	9.10		1.00		
Remainder of County:					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Piledrivermen	10.42	1.88	1.30	g	.12
Plasterers:					
Hazleton	9.40				
Pittston, Yatesville, Laflin, Exeter, Wyoming, Duryea and Avoca	10.85	.50	.50		
Remainder of County	9.83				
Plumbers & Steamfitters:					
Pittston	10.75	.39	.75		.04
Hazleton	9.35	.30	.25		
Wilkes Barre	10.74	.40	.75		.04
Power Equipment Operators					
GROUP 1	12.29	5.5%	9.5%	k	1.2%
GROUP 2	12.00	5.5%	9.5%	k	1.2%
GROUP 3	11.13	5.5%	9.5%	k	1.2%
GROUP 4	10.36	5.5%	9.5%	k	1.2%
GROUP 5	9.89	5.5%	9.5%	k	1.2%
GROUP 6	8.98	5.5%	9.5%	k	1.2%
GROUP 7	12.54	5.5%	9.5%	k	1.2%
GROUP 7-A	12.79	5.5%	9.5%	k	1.2%
GROUP 7-B	13.03	5.5%	9.5%	k	1.2%

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POWER EQUIPMENT OPERATORS DEFINITIONS CLASSIFICATIONS

GROUP 1 - Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes; building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3 - Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operators forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4 - Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5 - Fireman, grease truck

GROUP 6 - Oilers and deck Hands (personnel boats), core frill helper

GROUP 7 - All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A - 150 ft. and over

GROUP 7-B - 200 ft. and over

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers, composition & kettlemen	$9.20	.75	.70		
Sheet Metal Workers	11.12	.73	.40		.02
Soft Floor Layers	8.63	.35	.40		.03
Sprinkler Fitters	11.86	.65	.95		.08
Truck Drivers:					
Pittston:					
Truck Drivers:					
Class I					
Helper, stake body truck (single axle dumpster)	7.92				
Class II					
Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, ready mix and dumpcrete type vehicles asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)	7.99				
Class III					
Euclids type, Off-Highway Equipment - back or belly dump trucks and double-hitched equipment, straddle (Ross) carrier, low-bed trailers	8.48				
Remainder of County:					
Pickups service dump and flat incl. z license	8.07	h	j		
All trucks over z license	8.12	h	j		
Fork lifts, tow motors, front and pneumatic tired loaders	8.08	h	j		
Welder receive rate for craft.					

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: C and D.

b. Employer shall contributes .12 per day per employee.

c. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

d. Paid Holidays: A through F.

e. Employer contributes $2.85 per hour to health and welfare and pension fund.

f. Paid holidays, E through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

g. Paid holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

h. $41.00 per month for employees who have worked 60 hours or more during the month.

j. $25.00 per month to employees employed for over 13 weeks.

k. Paid Holidays: A thru F provided the employee works the day before and the day after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York

DECISION NO. PA77-3060 DATE: Date of Publication

Supersedes Decision No. PA76-3163, dated May 7, 1976, in 41 FR 19020.

DESCRIPTION OF WORK: Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY					
Carpenters/Piledrivermen	$9.12	.40	.50		
Ironworkers:					
Structural, Ornamental & Reinforcing:					
Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union & York Counties	10.63	.84	1.21		.03
Laborers:					
Asphalt tampers, concrete pitmen, puddlers & rubbers, Highway guard rail, right of way and property line fence, Highway slab reinforcing placers, laborers, landscape, planters, seeders and arborists, magazine tenders, railroad trackmen & signalmen, leaser beam men (pipe laying, paving machine)	7.61	.30	.20		
Pneumatic and electric tool op, jackhammers, paving breakers, concrete saws, whacker vibrators, sheet hammers, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers	7.81	.30	.20		
Caisson-open air-below 8 feet, coffordam open air-below 8 feet where excavations for circular caissons and coffordams 8 feet and below level of natural grade adjacent to starting point, form setters (road) wagon drill, diamond point drill, gunite nozzle operators	8.16	.30	.20		
Blasters	8.39	.30	.20		
Reinforcing steel placers, bonding, aligning and securing and burning and welding in conjunction with reinforcing steel	8.45	.30	.20		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Concrete surfaces	$8.83	.30	.20		
Free Air Tunnels and Rock Shafts					
Outside laborers in conjunction tunnels & rock shafts	8.25	.30	.20		
Chuck tenders, muckers, nippers, miners' & drillers helpers, inside laborers	8.54	.30	.20		
Miners, drillers, blasters, pneumatic schield operators, lining, spotting & timers workmen, reinforcing steel placers, bonding, aligning and securing and concrete surfacers	9.02	.30	.20		
TRUCK DRIVERS:					
Class I					
Helper, stake body truck (single axle), dumpster	8.47				
Class II					
Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, ready mix and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation stake body truck (tandem)	8.54				
CLASS III					
Euclid type, off-highway equipment back or belly dump truck and double hitched equipment, straddle (ross) carrier, low-bed trailers	9.03				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linn Construction: Adams, Cumberland, Dauphin, Franklin, Juniata, Mifflin, Perry & York Counties, Pennsylvania					
Journeyman Lineman	$10.28	.30	.102		.051
Experienced Winch Truck	7.20	.30	.072		.036
2nd 1000 Hrs.	7.02	.30	.070		.035
1st 1000 Hrs.	6.85	.30	.068		.034
Experienced Truck Driver	6.68	.30	.066		.033
2nd 1000 Hrs.	6.51	.30	.065		.032
1st 1000 Hrs.	6.34	.30	.063		.031
Experienced Groundman	6.17	.30	.061		.030
2nd 1000 Hrs.	6.00	.30	.060		.030
1st 1000 Hrs.	5.82	.30	.058		.028
Easton, Northampton County, Line Construction:					
Journeyman Lineman	11.64	.30	.116		.058
Winch Truck Experienced	8.15	.30	.081		.040
2nd 1000 Hours	7.95	.30	.079		.039
1st 1000 Hours	7.76	.30	.077		.038
Truck Driver Experienced	7.57	.30	.075		.037
2nd 1000 Hours	7.37	.30	.073		.036
1st 1000 Hours	7.18	.30	.071		.035
Groundman Experienced	6.98	.30	.069		.034
2nd 1000 Hrs.	6.79	.30	.067		.033
1st 1000 Hrs.	6.60	.30	.066		.033
Berks, Lancaster, Lebanon, Lehigh Counties					
Journeyman Lineman	$10.93	.30	.109		.054
Experienced Winch Truck	7.65	.30	.076		.038
2nd 1000 Hrs.	7.47	.30	.074		.037
1st 1000 Hrs.	7.29	.30	.072		.036
Experienced Truck Driver	7.10	.30	.071		.035
2nd 1000 Hrs.	6.92	.30	.069		.034
1st 1000 Hrs.	6.74	.30	.067		.033
Experienced Groundman	6.56	.30	.065		.032
2nd 1000 Hrs.	6.38	.30	.063		.031
1st 1000 Hrs.	6.19	.30	.061		.030

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POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr Tr
GROUP 1	$10.69	5.5%	9.5%		1.2%
GROUP 2	9.85	5.5%	9.5%		1.2%
GROUP 3	9.34	5.5%	9.5%		1.2%
GROUP 4	8.90	5.5%	9.5%		1.2%
GROUP 5	8.35	5.5%	9.5%		1.2%
GROUP 6	10.94	5.5%	9.5%		1.2%
GROUP 6-A	11.19	5.5%	9.5%		1.2%
GROUP 6-B	11.44	5.5%	9.5%		1.2%

GROUP 1: Pile drivers or engineers working with dock builders and pile drivers, All types of cranes, All types of backhoes, Draglines, Keystones, All types of shovels, Derricks, Trench shovels, Trenching machines, Pavers 21E and over, Gradalls, All front end loaders, 4 cu. yds. and over, Tandem scrapers, Pippin type backhoes, Boat Captains, Batch plant with mixer, Drill, self contained (Drillmaster Type), CMI Autograde, Machines similar to above

GROUP 2: Conveyor Loader (EUC Type), Scrapers and Tournapulls, Spreaders, High or low pressure boilers, Concrete pumps, Bulldozers and Tractors, Asphalt plant engineers, Rollers (High grade finishing), All loaders under 4 cu. yds, Mechanic -welders, Motor Patrols, Machines similar to above,

GROUP 3: Welding Machines, Well Points, Compressors, Pumps, Heaters, Farm Tractors, Form Line Graders, Fine Grade Machines, Ditch Witch Type Trencher, Road Finishing Machines, Concrete Breaking Machines, Rollers, Seaman Pulverizing Mixer, Power Boom, Seeding Spreader, Tireman - (For power equipment), Conveyor Loaders other than EUC Type, Conveyors, Machines similar to above

GROUP 4: Fireman

GROUP 5: Oilers and Deck Hands

GROUP 6: On all machines with booms (including jibs, masts, leads, etc.) 100 ft. and over

GROUP 6-A: 150 ft. and over

GROUP 6-B: 200 ft. and over

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POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

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GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captain batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: South Carolina COUNTY: Beaufort
DECISION NO.: SC77-1070 DATE: Date of Publication
Supersedeas Decision No.: SC75-1026 dated February 28, 1975 in 40 FR-8692
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning Mechanic	8.20	.35	.40	.45	.02
Asbestos workers	8.24	.35	.40		
Bricklayers	6.00				
Carpenters	4.75				
Cement masons	4.45				
Electricians	5.00				
Ironworkers	5.25				
Laborers	2.50				
Painters, brush	5.00				
Plasterers	6.00				
Plumbers	4.03				
Roofers	4.60				
Sheet metal workers	6.85	.30	.15		.02
Sprinkler fitters	8.52	.50	.80		.08
Tile setters	4.75				
Truck drivers	2.50				
Welders - receive rate for craft.					
POWER EQUIPMENT OPERATORS:					
Cranes	3.25				
Distributors	3.50				
Oilers	2.30				
Pumps	3.70				
Roller operator	3.20				
Screed operator	3.20				
Spreader	3.30				

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Cameron, Hidalgo, Starr & Willacy
DECISION NO.: TX77-4105 DATE: Date of Publication
Supersedes Decision No. TX76-4126, dated July 23, 1976, in 41 FR 30565.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden typeapartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.29	.50	.50		
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	6.00				
CARPENTERS	5.11				
CEMENT MASONS	3.50				
ELECTRICIANS	5.50				
GLAZIERS	3.55				
IRONWORKERS:					
Structural & ornamental	3.50				
Reinforcing	4.02				
LABORERS:					
Common laborers	2.30				
Air tool operators	2.30				
Mason tenders	2.30				
Mortar mixers	2.30				
Plasterers' tenders	2.30				
PAINTERS	4.19				
PLASTERERS	7.00				
PLUMBERS & PIPEFITTERS	8.08	.32	.15		.05
ROOFERS:					
Roofers	4.06				
Kettlemen	4.40				
SHEET METAL WORKERS	4.23				
SPRINKLER FITTERS	11.15	.65	.95		.08
TILE SETTERS	3.75				
TRUCK DRIVERS	2.30				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Wyoming COUNTY: Statewide
DECISION NUMBER: WY77-5052 DATE: Date of Publication
Supersedes Decision No. WY76-5029 dated April 2, 1976 in 41 FR 14307
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$ 7.09	.50	.50		.15
CEMENT MASONS	6.65	.50			.05
IRONWORKERS:					
Structural	5.93				
Reinforcing	4.75				
PAINTERS:					
Brush and Spray	6.63				
LINE CONSTRUCTION:					
All work over 34.5 KV all work on steel towers and/or multiple wood structures, all cross country underground communications work, and all motor traffic controlling, streets and highway lighting:					
Cable Splicer	10.42	.45	1%		3/4%
Linemen	9.47	.45	1%		3/4%
Equipment Operators	8.55	.45	1%		3/4%
Groundman	7.03	.45	1%		3/4%
All work 34.5 KV and under:					
Lineman	9.47	.45	1%		3/4%
Line Equipment Operator	8.19	.45	1%		3/4%
Groundman	7.03	.45	1%		3/4%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:					
Axeman and hand faller; Bin Wall Installer Helpers; Concrete Worker (wet or dry); Concrete Workers (curing and drying); Dumpman; Erector and Installer (including the installation and erection of fences, snow fences, guard rails, median rails, median posts, signs and right-of-way marker); Form Stripper; Form Setter Helper (paving); General Labor; Gunite Helper; Heater Tender; Landscaper Helper; Material Handler (lumber, rods, cement, concrete) Nozzleman, air and water; Pipe Setters' Helpers (non-metallic); Pipe Setters' Helpers (corrugated); Pre-watering, pre-watting and pre-irrigation (all work); Rip Rap Man; Sandblaster Pot Tender; Signal Man; Grade Concrete, etc. Scissor Man or Hopper Man; Stake Jumber for equipment; Tar and asphalt pot tender; Wrecking and demolition crews	$ 4.77				

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 2:					
Asphalt Raker and Tamper; Bin Wall Installer; Bituminous Curb Builder; Cement Mason or Finisher; Helper and Tender; Chuck Tender; Form Setter (paving); Hand operated Vibratory Roller; Landscaper; Mortar Man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated culvert pipe sectional, multiplate and similar type); Pipe Setter; Pipelayer (non-metallic); Pipewrapper; Powderman Helper; Power type Concrete Buggy (push or ride); Power Saw Operator (clearing); Vibrator, concrete	$ 4.87				
Group 3:					
Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from bos'n chair, swing stage lift belt, or block and tackle shall receive $.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic), clay, concrete, etc. (Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker)	5.02				

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 4:					
Powderman and Blaster; Wagon Drill, Air-trac, Diamond and other drills for blasting powder or grouting	$ 5.27				
Group 5:					
Tunnel and Underground Work:					
Brakeman; Swamper; Vibrator Man	5.25				
Bull Gang; Dumpman; Mucker; Trackman	5.00				
Miners (drillers) Machine Men; Timbermen; Steelmen; Drill Doctor; Form Setter and Mover; Spader; Tuggers spilling and/or Caisson Workers; Powdermen; Jackhammermen; Finishers	5.52				
Nipper; Chucktender; Topman; Toplander	5.36				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group 1	$ 6.55	.25	.35		.02
Group 2	6.60	.25	.35		.02
Group 3	6.65	.25	.35		.02
Group 4	6.69	.25	.35		.02
Group 5	6.72	.25	.35		.02
Group 6	6.77	.25	.35		.02
Group 7	6.81	.25	.35		.02
Group 8	6.83	.25	.35		.02
Group 9	6.94	.25	.35		.02
Group 10	7.00	.25	.35		.02
Group 11	7.02	.25	.35		.02
Group 12	7.20	.25	.35		.02
Group 13	7.24	.25	.35		.02
Group 14	7.31	.25	.35		.02
Group 15	7.37	.25	.35		.02
Group 16	7.54	.25	.35		.02
Group 17	7.88	.25	.35		.02

POWER EQUIPMENT OPERATORS

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman, Scissorman or Hopperman; Beginner Operator; Brakeman and Helper; Crusher Oiler; Oiler; Utility; Screed Operator; Tractor Operators (farm, crawler or wheel type, 60 HSP (drawbar) or less with or without use of power attachments, except for use of back hoe or bucket)

Group 2: Broom Operators, self-propelled; Cableway Signalman (bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor over 315 cu. ft. capacity; Chip Spreader Operator; Farm Grader Operator; Joint Machine Operator; Longitudinal Float Operator; Mixer Operator Concrete (under one yard); Helper (welder or heavy duty); Roller Operators, self-propelled (pneumatic, rubber tired, sheep foot, vibratory or combination type); Tire Repairman

Group 4: Pump Operator (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Stacker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (farm, crawler or wheel type, over 60 HSP (drawbar) without use of power attachments

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1½ cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, well points

Group 10: Hoist Operator (one drum)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 11: Haulage Motorman and Industrial type Motormen; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises of plant Operator; Asphalt Plant Operator; Bituminous Lay-down Machine Operator; CMI Machine and similar; Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Multi Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Curbser Operator; Drilling Machine, integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1½ cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over one yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator, (tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes, (manufacturers' rating) up to 3½ yards, all attachments; Hydro type Cranes, (15 ton and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Pushcat, Dozer, Tournadozer, etc. (The use power attachment shall not include disking, pulling or rollers, and similar unskilled actions); Trenching Machine Operator; Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums of shafts or raises); Repairman; Mechanics; Machine Doctors, Welders and Helper; Heavy Duty Mechanic, Machine Doctor

Group 15: Cableway Operators; Mixer Dual Drum; Cranes, (Whirley, Gantry, Stiffleg, Overhead traveling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes (manufacturer's rating) 3½ yards to 7 cu. yds., all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes, (manufacturer's rating) 7 cu. yds. and over, all attachments

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pick-up Truck Drivers (when used for hauling)	$ 5.[illegible]	.25	.35		
Dump Truck Drivers (water level capacity box):					
7 cu. yds. and less	5.50	.25	.35		
Over 7 cu. yds. to and including 10 cu. yds.	5.[illegible]5	.25	.35		
Over 10 cu. yds. to and including 13 cu. yds.	5.57	.25	.35		
Over 13 cu. yds. to and including 20 cu. yds.	6.25	.25	.35		
Over 20 cu. yds. to and including 25 cu. yds.	6.[illegible]5	.25	.35		
Over 25 cu. yds. to and including 30 cu. yds.	[illegible].35	.25	.35		
Over 30 cu. yds. to and including 35 cu. yds.	6.40	.25	.35		
Over 35 cu. yds. to and including 40 cu. yds.	6.45	.25	.35		
Over 40 cu. yds. to and including 45 cu. yds.	6.50	.25	.35		
Over 45 cu. yds. (to be negotiated prior to use)					
Snow Plow Truck Drivers (the cu. yd. rate of the truck driver classification):					
Pilot Car Drivers	5.45	.25	.35		
Gravel Spreader	5.50	.25	.35		
Flat Rack Material Truck Drivers:					
Less than 2 tons	5.50	.25	.35		
2 tons to 5 tons	5.65	.25	.35		
Over 5 tons	5.75	.25	.35		
Low Boy and Tandem Axle Float Drivers	[illegible].85	.25	.35		
Gang Truck Drivers	5.50	.25	.35		

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stringing Truck Drivers:					
Single axle type truck	$ 5.50	.25	.35		
Multiple axle type truck; semi	6.25	.25	.35		
Winch Trailer Truck Drivers (cable and hoist)	5.75	.25	.35		
Utility Winch Truck Drivers	5.75	.25	.35		
"A" Frame Truck Drivers	5.75	.25	.35		
Warehousemen, Partsmen and Helpers	5.50	.25	.35		
Material Checkers	5.65	.25	.35		
Transit Mix or wet mix Truck Drivers:					
Less than 5 cu. yds.; Single axle	5.75	.25	.35		
Over 5 cu. yds. to and including 10 cu. yds.; Tandem axle	5.85	.25	.35		
Over 10 cu. yds.	5.95	.25	.35		
Power Broom Drivers and/or Operators	5.65	.25	.35		
Water Truck Drivers:					
2000 gal. or less (straight truck)	5.50	.25	.35		
2500 gal. or less (semi truck)	5.65	.25	.35		
Over 2500 gal. to and including 3600 gal.	5.75	.25	.35		
Over 3600 gal. (straight truck)	5.85	.25	.35		
Over 3600 gal. (semi truck)	5.95	.25	.35		

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Heavy Duty (Euclids, electric or similar type)	$ 6.25	.25	.35		
Fuel Service Truck Drivers	5.50	.25	.35		
Greasemen, Tiremen, Service Men and Helpers	5.50	.25	.35		
Truck Mechanics and Helpers (shop and field):					
Field Mechanics	6.45	.25	.35		
Helpers - field (welders, mechanics, etc.)	6.01	.25	.35		

SUPERSEDEAS DECISION

STATE: Wyoming

COUNTIES: Converse, Goshen, Laramie, Natrona, Niobrara and Platte

DECISION NUMBER: WY77-5054

DATE: Date of Publication

Supersedes Decision No. WY76-5070 dated August 6, 1976, in 41 FR 33187

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories) and heavy construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION					
ASBESTOS WORKERS	$10.76	.38	$ 1.17		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Goshen, Laramie and Platte Counties	9.70		.30		
Converse, Natrona and Niobrara Counties	10.00				
CARPENTERS:					
Carpenters	8.85	.50	.50	.35	.15
Piledrivermen	9.10	.50	.50	.35	.15
CEMENT MASONS:					
Cement Masons	9.45	.50			.05
Working with composition material; Scaffold, swing stage or temporary platform over 8' high; Operator of power machines	9.70	.50			.05
ELECTRICIANS:					
Goshen, Laramie, Niobrara and Platte Counties					
Electricians	10.85	.42	1%+.25		3/4of1%
Cable Splicers	11.10	.42	1%+.25		3/4of1%
Converse and Natrona Counties					
Contracts $150,000 and under: Electricians	9.15	.42	1%+.25		3/4of1%
Contracts over $150,000: Electricians	9.90	.42	1%+.25		3/4of1%
ELEVATOR CONSTRUCTORS	10.64	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	50%JW	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JW				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	9.15	.50	.85		.2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS:					
Converse, Natrona and Niobrara Counties	$10.00				
MILLWRIGHTS	9.93	.7%	.85	6%	.07
PAINTERS:					
Converse, Natrona and Niobrara Counties					
Painters, Brush and roll; Hardwood Finishers; Sandblast; Pot Tenders	9.00	.65	.30		
Painters; Spray; Swing Stage and Chair	9.00	.65	.30		
Paperhanging; Drywall Finishers (hand)	9.25	.65	.30		
Sandblast (interior); Steeplejack	10.44	.65	.30		
Sandblast (exterior)	10.00	.65	.30		
Hazardous Work	9.75	.65	.30		
Goshen, Laramie and Platte Counties					
Painters, brush	8.45				
PLUMBERS; Steamfitters:					
Goshen, Laramie and Platte Counties					
Zone 1 (15 miles radius from Cheyenne Post Office)	8.72	.60	.50	1.00	.18
Zone 2 (10 miles radius beyond Zone 1)	9.47	.80	.50	1.00	.18
Zone 3 (15 miles radius beyond Zone 2)	10.24	.80	.50	1.00	.18
Zone 4 (Jurisdiction beyond Zone 3)	11.31	.80	.50	1.00	.18
Zone 5 (Footnote "b")					
General Contracts $700,000.00 or less	8.72	.80	.50	1.00	.18
General Contracts over $700,000.00	9.22	.80	.50	1.00	.18

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Converse, Natrona and Niobrara Counties					
Zone 1 (18 miles radius from Post Office in Casper)	$ 9.16	.60	$ 1.00	$1.75	.10
Zone 2 (10 miles radius beyond Zone 1)	9.66	.60	1.00	1.75	
Zone 3 (20 miles radius beyond Zone 2)	10.16	.60		1.75	
Zone 4 (40 miles beyond Zone 3)	11.01	.60	1.00	1.75	.10
Zone 5 (Jurisdiction beyond Zone 4)	11.51	.60	1.00	1.75	.10
ROOFERS	9.75				
SHEET METAL WORKERS:					
Converse, Natrona and Niobrara Counties	9.91	.37	.71		.05
Goshen, Laramie and Platte Counties	10.30	.60	.90		.08
SPRINKLER FITTERS	10.30	.50	.80		.08
WELDER: RIGGER: Receive rate prescribed for craft performing operation to which welding or rigging is incidental					

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Use only in the Cities of Laramie, Torrington, Wheatland, Evanston, Green River and Rock Spring within a 5 mile radius from the Post Office

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction)					
Group 1	$ 6.25	.33	.20		.05
Group 2	6.47	.33	.20		.05
Group 3	6.53	.33	.20		.05
Group 4	6.75	.33	.20		.05
Group 5	6.75	.33	.20		.05
Group 6	7.00	.33	.20		.05
Group 7	6.84	.33	.20		.05
Group 8	6.73	.33	.20		.05
Group 9	6.57	.33	.20		.05
HEAVY CONSTRUCTION					
Carpenters	7.09	.50	.50		.15
Cement Masons	6.65	.50			.05
Ironworkers, structural	5.93				
Ironworkers, reinforcing	4.75				
Painters, brush and spray	6.63				

LABORERS
(Building Construction)

Group 1: Axeman and hand faller; Concrete worker (wet or dry)(curing and drying); Car and truck loader; Dumpman; Erector and installer (includes the installation and erection of all fences, right-of-way, median fence, snow fence, etc., guard rails, section rails, reference posts, guide posts, signs and right-of-way markers); Form stripper; Form setter helper (paving); General laborer; Gunite helper; Landscaper helper; Material handler (lumber, rods, cement, concrete); Nozzleman (air and water); Pipe setter helpers, non-metallic; Pipe setters helpers, corrugated; All work pertaining to pre-watering, pre-irrigation and pre-wetting; Rodman; Riprap Man; Sandblaster pot tender; Signalman, grade, concrete, etc.; Scissorman or hopper man; Stake jumper for equipment; Tar and asphalt pot tender; Wrecking and demolition crews; Unloading and packing of steel rods and mesh (reinforcing); Heater tender and pilot car operator

Group 2: Asphalt raker and tamper; Bin wall installer; Bituminous curb builder; Carpenter tender; Cement mason tender; Chuck tender; Form setter (paving); Hand operator vibrator roller; Landscaper; Mechanical form cleaner; Mortar man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Powderman helper; Pipe setter, corrugated; Culvert pipe, multi-plate, sectional plate and similar type; Pipe wrapper; Power-type concrete buggy (push); Power saw operator (clearing); Vibrator (concrete); Creosote material handler (corrosive enamel or its equal); Burner (cutting torch)

Group 3: Concrete saw; Gunite nozzleman; High scaler (using air tools from bos'n chair, swing stage lift belt, or block and tackle, shall receive $.20 per hour more than the classified rate); Jackhammer and pavement breaker; Sandblaster nozzleman; Sewer pipe installer, non-metallic; Caulker; Collarman; Jointer; Mortarman; Rigger; Jacker; Power-type concrete buggy (ride); Shoring and lagging of open ditch

Group 4: Powderman and blaster; Wagon drill, air grack, diamond and other drills for blasting powder or grouting

Group 5: Hod carriers; Mason tender; Plasterers tenders; Terrazzo tenders; Tile setter tenders, and scaffold builders

Group 6: Tunnel and underground work: Miners (drills) Machine man; Timberman; Steelman; Drill doctor; Form setter and movers; Spaders; Tuggers; Spilling and/or caisson workers; Jackhammer men; Finishers; Re-bar man; Powderman

Group 7: Nipper; Chuck tender; Top man or toplander

Group 8: Brakeman and vibrator man

Group 9: Mucker and Bull gang laborer

HEAVY CONSTRUCTION LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:					
Axeman and hand faller; Bin Wall Installer Helpers; Concrete Worker (wet or dry); Concrete Workers (curing and drying); Dumpman; Erector and installer (including the installation and erection of fences, snow fences, guard rails, median rails, median posts, signs and right-of-way marker); Form Stripper; Form Setter Helper (paving); General Labor; Gunite Helper; Heater Tender; Landscaper Helper; Material Handler (lumber, rods, cement, concrete); Nozzleman, air and water; Pipe Setters' Helpers (non-metallic); Pipe Setters' Helpers (corrugated); Pre-watering, pre-irrigation (all work); Rip Rap Man; Sandblaster Pot Tender; Signal Men; Grade Concrete, etc.; Scissor Man or Hopper Man; Stake Jumber for equipment; Tar and asphalt pot tender; Wrecking and demolition crews	$ 4.77				

HEAVY CONSTRUCTION LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 2:					
Asphalt Raker and Tamper; Bin Wall Installer; Bituminous Curb Builder; Cement Mason or Finisher; Helper and Tender; Chuck Tender; Form Setter (paving); Hand operated Vibratory Roller; Landscaper; Mortar Man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated culvert pipe sectional, multiplate and similar type); Pipe Setter; Pipelayer (non-metallic); Pipewrapper; Powderman Helper; Power type Concrete Buggy (push or ride); Power Saw Operator (clearing); Vibrator, concrete	$ 4.87				
Group 3:					
Concrete Saw; Gunite Nozzleman; High Scaler (using air tools from bos'n chair, swing stage lift belt, or block and tackle shall receive $.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic), clay, concrete, etc. (Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker)	5.02				

HEAVY CONSTRUCTION LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 4:					
Powderman and Blaster; Wagon Drill, Air-trac, Diamond and other drills for blasting powder or grouting	$ 5.27				
Group 5: Tunnel and Underground Work:					
Brakeman; Swamper; Vibrator Man	5.25				
Bull Gang; Dumpman; Mucker; Trackman	5.09				
Miners (drillers) Machine Men; Timbermen; Steelmen; Drill Doctor; Form Setter and Mover; Spader; Tuggers spilling and/or Caisson Workers; Powdermen; Jackhammermen; Finishers	5.52				
Nipper; Chucktender; Topman; Toplander	5.36				

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HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.55	.25	.35		.02
Group 2	6.60	.25	.35		.02
Group 3	6.65	.25	.35		.02
Group 4	6.69	.25	.35		.02
Group 5	6.72	.25	.35		.02
Group 6	6.77	.25	.35		.02
Group 7	6.81	.25	.35		.02
Group 8	6.83	.25	.35		.02
Group 9	6.94	.25	.35		.02
Group 10	7.00	.25	.35		.02
Group 11	7.02	.25	.35		.02
Group 12	7.20	.25	.35		.02
Group 13	7.24	.25	.35		.02
Group 14	7.31	.25	.35		.02
Group 15	7.37	.25	.35		.02
Group 16	7.54	.25	.35		.02
Group 17	7.88	.25	.35		.02

HEAVY CONSTRUCTION
POWER EQUIPMENT OPERATORS

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman, Scissorman or Hopperman; Beginner Operator; Brakeman and Helper; Crusher Oiler; Oiler; Utility; Screed Operator; Tractor Operators (farm, crawler or wheel type, 60 HSP (drawbar) or less with or without use of power attachments, except for use of back hoe or bucket)

Group 2: Broom Operators, self-propelled; Cableway Signalman (bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor over 315 cu. ft. capacity; Chip Spreader Operator; Form Grader Operator; Joint Machine Operator; Longitudinal Float Operator; Mixer Operator Concrete (under one yard); Helper (welder or heavy duty); Roller Operators, self-propelled (pneumatic, rubber tired, sheep foot, vibratory or combination type); Tire Repairman

Group 4: Pump Operator (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Stacker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (farm, crawler or wheel type, over 60 HSP (drawbar) without use of power attachments

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1½ cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, well points

Group 10: Hoist Operator (one drum)

HEAVY CONSTRUCTION
POWER EQUIPMENT OPERATORS (Cont'd)

Group 11: Haulage Motorman and Industrial type Motormen; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises of plant Operator; Asphalt Plant Operator; Bituminous Lay-down Machine Operator; CMI Machine and similar; Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Multi Blade Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Curbser Operator; Drilling Machine, integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1½ cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over one yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator, (tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes, (manufacturers' rating) up to 3½ yards, all attachments; Hydro type Cranes, (15 ton and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Pushcat, Dozer, Tournadozer, etc. (The use power attachment shall not include disking, pulling or rollers, and similar unskilled actions); Trenching Machine Operator; Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums of shafts or raises); Repairman; Mechanics; Machine Doctors, Welders and Helper; Heavy Duty Mechanic, Machine Doctor

Group 15: Cableway Operators; Mixer Dual Drum; Cranes, (Whirley, Gantry, Stiffleg, Overhead traveling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes (manufacturer's rating) 3½ yards to 7 cu. yds., all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes, (manufacturer's rating) 7 cu. yds. and over, all attachments

HEAVY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pick-up Truck Drivers (when used for hauling)	$ 5.45	.25	.35		
Dump Truck Drivers (water level capacity box):					
7 cu. yds. and less	5.50	.25	.35		
Over 7 cu. yds. to and including 10 cu. yds.	5.65	.25	.35		
Over 10 cu. yds. to and including 13 cu. yds.	5.57	.25	.35		
Over 13 cu. yds. to and including 20 cu. yds.	6.25	.25	.35		
Over 20 cu. yds. to and including 25 cu. yds.	6.25	.25	.35		
Over 25 cu. yds. to and including 30 cu. yds.	6.35	.25	.35		
Over 30 cu. yds. to and including 35 cu. yds.	6.40	.25	.35		
Over 35 cu. yds. to and including 40 cu. yds.	6.45	.25	.35		
Over 40 cu. yds. to and including 45 cu. yds.	6.50	.25	.35		
Over 45 cu. yds. (to be negotiated prior to use)					
Snow Plow Truck Drivers (the cu. yd. rate of the truck driver classification):					
Pilot Car Drivers	5.45	.25	.35		
Gravel Spreader	5.50	.25	.35		
Flat Rack Material Truck Drivers:					
Less than 2 tons	5.50	.25	.35		
2 tons to 5 tons	5.65	.25	.35		
Over 5 tons	5.75	.25	.35		
Low Boy and Tandem Axle Float Drivers	6.25	.25	.35		
Gang Truck Drivers	5.50	.25	.35		

HEAVY CONSTRUCTION TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stringing Truck Drivers:					
Single axle type truck	$ 5.50	.25	.35		
Multiple axle type truck; semi	6.20	.25	.35		
Winch Trailer Truck Drivers (cable and hoist)	5.70	.25	.35		
Utility Winch Truck Drivers	5.70	.25	.35		
"A" Frame Truck Drivers	5.75	.25	.35		
Warehousemen, Partsmen and Helpers	5.50	.25	.35		
Material Checkers	5.60	.25	.35		
Transit Mix or wet mix Truck Drivers:					
Less than 5 cu. yds.; Single axle	5.75	.25	.35		
Over 5 cu. yds. to and including 10 cu. yds.; Tandem axle	5.85	.25	.35		
Over 10 cu. yds.	5.95	.25	.35		
Power Broom Drivers and/or Operators	5.85	.25	.35		
Water Truck Drivers:					
2500 gal. or less (straight truck)	5.50	.25	.35		
2500 gal. or less (semi truck)	5.65	.25	.35		
Over 2500 gal. to and including 3600 gal.	5.70	.25	.35		
Over 3600 gal. (straight truck)	5.85	.25	.35		
Over 3600 gal. (semi truck)	5.95	.25	.35		

HEAVY CONSTRUCTION TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Heavy Duty (Euclids, electric or similar type)	$ 6.25	.25	.35		
Fuel Service Truck Drivers	5.50	.25	.35		
Greasemen, Tiremen, Service Men and Helpers	5.50	.25	.35		
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[FR Doc.77-14153 Filed 5-19-77;8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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Title 3—The President

Memorandum of May 19, 1977

Import Relief Determination Under Section 202(b) of the Trade Act of 1974: Television Receivers

[Decision Memorandum on Television Receivers]

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, May 19, 1977.

Pursuant to Section 202(b)(1) of the Trade Act of 1974 (P.L. 93–618), I have determined the actions I will take with respect to the report of the United States International Trade Commission (USITC) dated March 22, 1977, concerning television receivers, color and monochrome, assembled or not assembled, finished or not finished, and subassemblies thereof. In that report the Commission determined that color television receivers, assembled or not assembled, finished or not finished, provided for in item 685.20 of the TSUS are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. Three Commissioners found injury in both the color and monochrome television industries.

Pursuant to Section 330(d) of the Tariff Act of 1930, as amended, the President may accept, in the case of an evenly divided USITC vote on an injury determination, the determination of either set of Commissioners on the question of injury. I have decided to accept the determination of those three Commissioners who voted that the domestic monochrome television industry has not been seriously injured or threatened with serious injury by increased imports. Import relief is therefore not authorized for this industry under section 203 of the Trade Act of 1974. I have, however, decided to accept the determination of those three Commissioners who voted that the domestic industry producing subassemblies of color television receivers has been seriously injured by increased imports.

Pursuant to section 202(b)(1) of the Trade Act, I have determined to provide import relief to the television industry producing color television receivers, assembled or not assembled, finished or not finished and subassemblies thereof provided for in item 685.20 of the TSUS.

I am, therefore, directing you to negotiate and conclude an orderly marketing agreement with the Government of Japan, the major supplying country, to resolve the immediate problems of our domestic color television industry for a three-year period which will provide the domestic industry time to remedy the injury found to exist.

This determination is to be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77–14799 Filed 5–20–77;10:24 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Regulations for the 1969 and Succeeding Crop Years; Extension of Final Dates for Filing Applications

AGENCY: Federal Crop Insurance Corporation.

ACTION: Extension of sales closing dates.

SUMMARY: This is an extension of the final dates for the filing of applications for crop insurance for the 1977 crop year on barley, combined crop, flax, peas, oats, wheat, and sugar beets in all those counties remaining open for the filing of such applications which have a closing date from March 31 to April 15. Such extension shall be until the close of business on April 22, 1977.

EFFECTIVE DATE: April 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3325).

SUPPLEMENTARY INFORMATION: In view of changed crop conditions, a number of counties which had been closed for certain commodities have been reopened. Extension of application closing dates in all counties will ease administrative burdens on both the farmer and the Corporation. Increased participation in the program in counties which had not previously been closed will strengthen the risk structure of the Corporation. Accordingly, as previously announced, the Corporation has determined that it would be desirable to extend the time for filing applications for crop insurance on such commodities, in accordance with the provision for such extensions found in 7 CFR § 401.103. Since these extensions are to the benefit of producers, and since producers need to be informed of these extensions immediately, it is found and determined that compliance with the notice of proposed rule making procedure would be impracticable and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

Accordingly, 7 CFR § 401.103 is amended by adding at the end of paragraph (b) thereof the following sentence:

§ 401.103 Application for Insurance.

* * * * * * *

(b) * * * The time for filing applications for crop insurance for the 1977 crop on barley, combined crop, flax, peas, oats, wheat, and sugar beets in all counties and states remaining open and having a March 31 to April 15 closing date, is hereby extended until the close of business on April 22, 1977. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

* * * * * * *

(Sec. 506, 516; 52 Stat. 78 as amended, 77 as amended (7 U.S.C. 1506, 1516).)

* * * * * * *

Dated: April 22, 1977.

W. OTTO JOHNSON,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.77–14503 Filed 5–20–77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 555, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 13–19, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period May 13–19, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a large quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.855 Valencia Orange Regulation 555 (42 FR 24061) are hereby amended to read as follows:

§ 908.855 Valencia Orange Regulation 555.

* * * * * * *

(b) * * * (1) * * *

(i) District 1: Unlimited.

(ii) District 2: Unlimited.

* * * * * * *

(Secs. 1–19, 48 Stat. 31, as amended: (7 U.S.C. 601–674).)

Dated: May 18, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–14553 Filed 5–20–77;8:45 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 702—RESERVES

Regular Reserves

Correction

In FR Doc. 77–13688, appearing at page 24252 in the FEDERAL REGISTER of

Friday, May 13, 1977, in the middle column, in the first sentence of the "Summary", the word "rule" should be changed to read "rules".

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 306—BUSINESS DEVELOPMENT PROGRAM

Refinancing Assistance

AGENCY: Economic Development Administration, Commerce.

ACTION: Final rule.

SUMMARY: These regulations implement the refinancing authority contained in section 202(a)(3)(D) of the Public Works and Economic Development Act of 1965, as amended by Pub. L. 94-487. These regulations establish the policies and procedures through which qualified applicants may obtain refinancing assistance.

DATES: Effective date: May 23, 1977. Comments by: June 22, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Glenn S. Waldron, Director, Office of Business Development, U.S. Department of Commerce, Room 7866, Washington, D.C. 20230, Telephone 202-377-5236.

SUPPLEMENTARY INFORMATION: 13 CFR 306.1(a) is amended by the addition of language which describes the existence and intended use of the refinancing authority. The refinancing authority is conceived of as an operative instruction which provides a new direction in the use of existing business development tools. As a result, all the forms of business development assistance, with the exception of lease guarantees, are available for use with the refinancing authority. The refinancing authority may only be used in conjunction with one of the appropriate forms of business development assistance.

13 CFR 306.3 is amended by adding a new subsection (h) which contains the statutory and administrative requirements and limitations on the use of the refinancing authority. Subsection (h) incorporates the statutory qualifications surrounding refinancing assistance. The refinancing authority can only be used for debts which create a legally obtained lien against an applicant's property. Also, before the refinancing authority can be used, the Assistant Secretary must determine that such action is necessary to save or create jobs in a designated area.

Paragraph (1) of subsection (h) describes the types of property with which the refinancing authority may be used.

Paragraph (2) incorporates by reference the limitation on the use of the refinancing authority which is contained at § 306.1(a).

Paragraph (3) describes EDA's basic concept for the use of the refinancing authority. It will be used primarily in situations in which it will produce a clearly visible economic impact on threatened enterprises and jobs. The refinancing authority is not intended to substitute less expensive Federal financing for existing debt because it would be more convenient to the applicant. A true need for refinancing must exist.

Paragraph (4) sets forth EDA's policy with regard to the use of the refinancing authority for "strong" applicants who will be expanding profitable businesses. Frequently, it is to the advantage of EDA to consolidate all liens in one package rather than have a more confused collateral position. Refinancing in these situations is primarily at the behest of, and for the convenience of, EDA.

Paragraph (5) establishes EDA's policy with regard to the use of the refinancing authority in situations involving existing long term debt. It is EDA's policy that existing lenders of long term money remain with the companies that they are financing, and that pressures to have Federal money "take out" substantial portions of such debt structure be discouraged. However, where simplification of debt structure is necessary to enable a company to continue in operation or to expand facilities, use of the refinancing authority is appropriate. The twenty-five percent limitation is a guideline to indicate firmly to lending institutions that they must work with EDA on refinancing projects and not expect a eral government "take out".

Paragraph (6) announces EDA's policy of not using its limited financial assistance resources to refinance loans which have already utilized Federal appropriations.

Because this rule relates to the EDA grant and loan program, it is exempted from the procedures described in § 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding these regulations to the above address.

NOTE.—EDA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Accordingly, 13 CFR Part 306 is amended as follows:

1. By revising § 306.1(a) to read as follows:

§ 306.1 Purpose.

(a) The purpose of this subpart is to set forth policies and procedures through which qualified applicants may obtain financial assistance under section 202 of the Act. The following types of financial assistance are available to business development projects for the financing and, with the exception of assistance described in paragraph (a)(5) of this section, the refinancing of debts which create legally obtained liens against property:

* * * * *

2. By revising § 306.3 by adding a new paragraph (h) to read as follows:

§ 306.3 Types of financial assistance.

* * * * *

(h) Provide for the refinancing of debts which create legally obtained liens against the applicant's property if the Assistant Secretary has made one of the following determinations: such action is necessary to save employment in a designated area; such action is necessary to avoid a significant rise in unemployment in a designated area; or such action is necessary to create new or increased employment in a designated area.

(1) Those debts which can be refinanced may be secured by legally obtained liens on either real, personal or intangible property of the applicant.

(2) The refinancing authority may only be used in conjunction with forms of business development assistance which are appropriate and allowable under § 306.1(a).

(3) EDA will entertain proposals for refinancing primarily as such proposals pertain to workouts involving high interest costs on short term notes and accelerated loans that are affecting the financial stability of a company to a greater degree than it could possibly sustain, thereby not only jeopardizing existing jobs but the existence of the applicant itself.

(4) In the context of viable applicants intending to expand and create new jobs, EDA will consider some refinancing as part of a larger project in order to simplify lien positions or debt structure.

(5) EDA will not ordinarily consider substituting its exposure, either directly or on a guarantee basis, on existing long-term debt unless such substitution is a minor part of a more comprehensive project. Generally, the amount of such substitution must be less than twenty-five (25) percent of the total project cost. The substitution of lenders must be necessary to either simplify debt structure or free up collateral for the non-refinancing portion of the EDA assistance.

(6) The refinancing authority will not be used to refinance SBA or other (non-EDA) Federal direct or guaranteed loans.

(Pub. L. 94-487, 90 Stat. 2331 (42 U.S.C. 3121 et seq.); Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, 40 FR 56702.)

ROBERT T. HALL,
Assistant Secretary for Economic Development.

MAY 9, 1977.

[FR Doc.77-14501 Filed 5-20-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-EA-89, Amdt. 39-2908]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires an inspection and alteration of fasteners located in the wheel wells of Canadair CL-215 type airplanes. These airplanes operate on the water and the absence or looseness of the fasteners will permit water to seep into the wheel wells.

DATES: Effective date: May 26, 1977. Compliance is required prior to U.S. airworthiness certification since there are no CL-215 airplanes registered within the U.S.

ADDRESSES: Canadair Circular 136-CL-215 may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

I. Mankuta, Airframe Section, Engineering and Manufacturing Branch, AEA-212, Federal Building, J. F. K. International Airport, Jamaica, New York 11430, Telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of structural damage and missing or loose fasteners of the attachment fittings of the main landing gear. These fasteners are in the wheel well and will permit water to enter the hull of the airplane when it is operating on water. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued to require an inspection and alteration of the fasteners. However, this airplane is of Canadian manufacture and there are none registered in the U.S to which the AD presently applies.

Since this rule does not burden any person in view of the fact that there are presently no U.S. registered CL-215 type airplanes, notice or public procedure hereon are unnecessary.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are I. Mankuta, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

CANADAIR: Applies to Canadair CL-215-1A10 Airplanes, Serial Numbers 1001 through 1040 and 1046 certificated in all categories that have not been altered in accordance with Canadair Service Information Circular No. 136-CL-215.

Compliance required prior to U.S. Airworthiness certification.

Inspect and alter main landing gear actuator attachment fitting P/N 215-34014 -1 and -2 in accordance with Canadair Service Information Circular No. 136-CL-215, page 2 of 3 dated June 11, 1976, or an approved equivalent.

Equivalent inspections and parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment becomes effective on May 26, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 313(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on May 12, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-14477 Filed 5-20-77;8:45 am]

[Docket No. 77-GL-11, Amdt. 39-2904]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison, Model 250-C20/C20B/C20C and 250-B17/B17B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive (AD) requires that certain engines equipped with P/N 6887113 or 6888633 third stage turbine wheels be operated with a power turbine (N_3) operating speed restriction. This engine operating limitation prohibits sustained operation in the 90 to 98 percent N_3 range. It thereby reduces the risk of third stage turbine blade failure due to vibrational stress which results from operating certain unidentifiable wheels at these N_3 speeds.

NOTE.—All operators are cautioned that it has not been conclusively determined that compliance as herein prescribed will eliminate all of the risk factor which attaches to this condition.

EFFECTIVE DATE: June 24, 1977.

COMPLIANCE

Compliance required within the next 10 hours time in service after the effective date of this AD.

ADDRESSES: Copies of Detroit Diesel Allison Commercial Engine Bulletins and Commercial Service Letters referenced herein may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT:

William Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: There recently have been several instances of third stage turbine blade failure on 250-C20 series engines equipped with P/N 6887113 third stage power turbine wheels. As a result, in the case of single engine rotocraft, a power reduction was experienced below that necessary to sustain flight.

Investigations revealed that, in each instance, the most probable cause of these failures is high vibratory stresses developed in the blades when the wheel is operated at a speed that excites the disc at a resonant frequency.

The 10 hour time in service compliance time for the operating restriction has been established by the agency on the basis of safety considerations. This compliance time provides the lead time for operators to schedule and plan compliance with the AD with a minimum burden. To prescribe the operating restriction required by this AD under the usual notice and public procedures followed by the agency within the time the agency has determined is required in the interest of safety, would necessarily result in a reduction of the compliance time required by this AD. This could possibly leave the operators insufficient time to schedule airplanes for compliance with the AD. Therefore, compliance with the operating restriction required by this AD within the time the agency has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and this amendment becomes effective 30 days after publication in the FEDERAL REGISTER. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, 2300 E. Devon Avenue, Des Plaines, Illinois 60018. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested persons. Operators are urged to submit their comments as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

Since this condition is likely to exist or develop in other engines of this type design including the 250-B17 series engines, an airworthiness directive is

being issued to prohibit operation in the 90 to 98 percent N_2 speed range.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final rule is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are W. Ashworth, Flight Standards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

DETROIT DIESEL ALLISON: Applies to 250–C20, C20B, and C20C engines, as installed in rotorcraft certificated in all categories, equipped with P/N 6887113 or 6888633 third stage turbine wheels that do not incorporate Detroit Diesel Allison Commercial Engine Bulletin 1119 and Commercial Service Letter 1065 or later FAA approved revisions. Applies also to 250–B17 and B17B engines as installed in aircraft certificated in all categories, equipped with P/N 6887113 or 6888633 third stage turbine wheels that do not incorporate Detroit Diesel Allison Commercial Engine Bulletin 1087 or later FAA approved revisions.

Compliance required within the next 10 hours time in service after the effective date of this AD, unless already accomplished.

To reduce the risk of engine power loss resulting from third stage turbine blade failure, provide placards, markings, flight manual changes or other appropriate information prohibiting operation of the engine between 90 and 98 percent N_2 except during transients while maintaining safe flight practices. This restriction also applies to autorotation practice and engine idle during engine out simulation on multi-engine aircraft. (Detroit Diesel Allison Commercial Service Letters No. 1062 Rev. 1 and 1066 for the 250–C20 series engines and No. 1081 Rev. 1 and 1084 for the 250–B17 series engines also pertain to this subject.)

This amendment becomes effective June 24, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Des Plaines, Ill., on May 11, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

[FR Doc.77–14358 Filed 5–20–77;8:45 am]

[Docket No. 77–WE–12–AD, Amdt. 39–2905]

PART 39—AIRWORTHINESS DIRECTIVES

General Dynamics Models 240, 340/440 Airplanes Including Those Modified for Turbopropeller Power per STC's SA1054WE, SA1096WE and SA4–1100

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires repetitive inspections and/or replacement of the nose landing gear uplock quadrant to preclude possible failure of the quadrant due to stress corrosion of the aluminum uplock quadrant lug that could prevent lowering the nose landing gear.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Telephone 213–536–6351; or Richard G. Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone 213–536–6274.

SUPPLEMENTARY INFORMATION: There has been a recent report that a Model 340 operator was unable to lower the nose landing gear thereby incurring moderate to extensive damage to the airplane. This has been attributed by the manufacturer to a failed aluminum uplock quadrant lug caused by stress corrosion. The only known previous failure was in 1969 on a military model 240 (T–29B). At that time service bulletins were issued recommending a one time inspection and/or replacement of the part with either an identical uncracked part (aluminum) or a steel alternate part. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require repetitive inspections until the part is replaced with a steel alternate part. New aluminum parts may be installed subject to continued repetitive inspection being accomplished and limited to 1,200 hours total time in service.

The principal authors of this Airworthiness Directive are Fred R. Patschke, Project Engineer, Airframe Branch, Aircraft Engineering Division, FAA Western Region; and Richard G. Wittry, Attorney, Office of the Regional Counsel, FAA Western Region.

Accordingly, and pursuant to the authority delegated to me by the Administrator (11 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR Part 39) is amended by adding the following new airworthiness directive:

GENERAL DYNAMICS: Applies to Models 240, 340/440 airplanes, including those modified for turbopropeller power per STC's SA1054WE, SA1096WE, and SA4–1100, certificated in all categories.

Compliance required as indicated.

To detect stress corrosion to the aluminum uplock quadrant lug in the nose landing gear and prevent possible failure of the lug, accomplish the following:

(a) Within the next 60 hours time in service after the effective date of this AD, and at intervals not to exceed 60 hours time in service thereafter, until (c), below, is performed:

(1) Remove the AN 3–21 bolt attaching the nose landing gear uplatch release cable clevis and the emergency release cylinder to the uplock assembly.

(2) Inspect P/N 240–5250109–6 nose landing gear uplock quadrant for cracks in the AN3 bolt attach lug using a 2X or stronger magnifier, or dye penetrant method.

(3) If cracks are found, prior to further flight, replace the quadrant with either a new aluminum quadrant, P/N 240–5250109–6, or a steel quadrant, P/N 240–5250109–9. If a new aluminum quadrant is installed, perform steps (1) through (4) at intervals not to exceed 600 hours time in service.

(4) Reinstall the AN3 bolt attaching release cable and emergency release cylinder and check rigging of the nose landing gear uplock installation per the applicable maintenance manual.

(b) After the effective date of this AD, all aluminum quadrants, P/N 240–5250109–6, must be replaced before accumulating 1,200 hours time in service.

(c) Installation of a steel quadrant, P/N 240–5250109–9, constitutes terminating action for this AD, and normal maintenance practices may be observed.

(d) Special flight permits may be issued in accordance with FAR 21.197 to authorize operation of the aircraft to a base for the accomplishment of the inspections required by this AD.

(e) Equivalent inspections and replacement parts may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

NOTE.—General Dynamics Service Bulletins 600 (240D) Service Bulletin No. 32–3 and 640 (340D) Service Bulletin No. 32–2 pertain to this same subject.

This amendment becomes effective May 26, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif., on May 9, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77–14475 Filed 5–20–77;8:45 am]

[Docket No. 77–WE–14–AD; Amdt. 39–2906]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive which requires a visual inspection of the elevator gear tab crank arm assemblies and the gust lock assembly for failure and/or cracks. Failure of the elevator gear tab crank arm could cause loss of longitudinal control on takeoff or in flight.

EFFECTIVE DATE: May 26, 1977. Compliance required within the next 300 hours time in service or 30 days after the effective date of this AD, whichever occurs first.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone 213–536–6351; or Richard G. Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, Telephone 213–536–6274.

SUPPLEMENTARY INFORMATION: The FAA has received a report that an airplane landed in strong gusty winds (30 knots steady with gusts to 50 knots). While taxiing crosswise to the wind the crew activated the elevator gust lock handle, with the handle forces encountered being normal. The gust lock is designed to immobilize the elevator in the neutral or faired position while on the ground to prevent elevator movement and possible damage due to gusts. The airplane was then parked with the tail directly into the wind. At this point, the control columns were agitating fore and aft to such a degree as to cause concern for injury to the crew by being struck by the control column. The airplane remained parked tail to the wind for some time. When the next crew boarded for the return flight, the control columns were stationary, although the wind was still blowing strongly.

During taxi for takeoff, the crew performed the normal elevator control throw check, with no problems being detected. During the takeoff roll, at approximately 80 to 90 knots, the nose of the airplane became light. The crew checked to assure the gust lock had been removed. The airplane then lifted off despite pilot action to lower the nose of the airplane. The pilot raised the gear, applied forward control pressure, the left wing dropped, and the airplane landed gear up. All four engines were knocked off the airplane before it stopped.

Investigation revealed that the gust lock crank arm was broken and that the elevator geared tab drive arms on the left elevator were failed. It appeared the elevators had been driven beyond normal limits, which caused damage to the elevator leading edge and control linkages. This damage possibly caused jamming of the elevator in the airplane nose up position, which caused the airplane to rotate prematurely.

The manufacturer has issued Alert Service Bulletin A27–262 specifying visual inspection of the elevator geared tab crank arm assemblies and gust lock assembly for failure and/or cracks. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days to require inspection of the McDonnell Douglas Model DC–8 Series elevator geared tab crank arm assemblies and gust lock assembly.

The principal authors of this Airworthiness Directive are Everett W. Pittman, Aerospace Engineer, AWE–122, Aircraft Engineering Division, FAA Western Region; and Richard G. Wittry, Attorney, Office of the Regional Counsel, AWE–7.2, FAA Western Region.

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

MCDONNELL DOUGLAS: Applies to Model DC–8 Series airplanes, certificated in all categories.

Compliance required within the next 300 hours time in service or 30 days after the effective date of this AD, whichever comes first, unless already accomplished within the past 30 days.

To detect cracks and prevent tab failure or jamming of the elevator geared tab crank arm and gust lock assemblies, comply with the following:

(a) Visually inspect both the left and right side inboard and outboard elevator geared tab crank arm assemblies, P/N's 4710541 and 4710542 for failure and/or cracks.

(b) Visually inspect the P/N 5644178 gust lock assembly, and specifically, the torque tube section of the P/N 4644181 crank assembly, for failure and/or cracks.

(c) Failed or cracked parts must be replaced with like serviceable parts before further flight.

(d) Verify that clearance exists between the crank assemblies, P/N 4710541 and 4710542, and the box section for all positions along elevator travel.

NOTE.—McDonnell Douglas DC–8 Alert Service Bulletin A27–262, dated April 28, 1977, covers the same subject.

(e) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base to perform the inspections required by this AD.

This amendment becomes effective May 26, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif., on May 9, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77–14476 Filed 5–20–77;8:45 am]

[Docket No. 76–NE–28; Amdt. 39–2910]

PART 39—AIR WORTHINESS DIRECTIVES

Pratt & Whitney JT8D–1, –1A, –1B, –7, –7A, –9, –9A, and –11 Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will amend Airworthiness Directive 76–24–01, Amendment 39–2775 by revising the compliance time of the present AD to require earlier removal of the eighth stage compressor disk, P/N 496908. The amendment will also incorporate an eddy current inspection procedure as an alternative to disk removal prior to December 31, 1977.

Subsequent to the issuance of AD 76–24–01, Amendment 39–2775, an operator experienced an eighth stage compressor disk failure which resulted in serious aircraft damage. After review of this failure and the preceding failure history, the FAA has determined it necessary, in the interest of safety, to revise the compliance time of AD 76–24–01.

DATES: Effective date, June 22, 1977.

Compliance schedule.—As prescribed in the body of the AD.

ADDRESSES: Persons, affected by this directive, desiring copies of Pratt & Whitney Aircraft Special Instruction No. SI–10F–77, titled "Eddy Current Inspection of Eighth Stage Disk," may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

Jay J. Pardee, Propulsion Section, ANE–214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone 617–273–7337.

SUPPLEMENTARY INFORMATION: AD 76–24–01, Amendment 39–2775 (41 FR 52047), appeared in the FEDERAL REGISTER on November 26, 1976. The AD was issued to require removal of the eighth stage compressor disk, P/N 496908, due to fatigue cracking of the disk which resulted in uncontained failure of the disk.

A Notice of Proposed Rule Making appeared in the FEDERAL REGISTER on April

4, 1977 (41 FR 52017). This NPRM proposed to modify the compliance time in the present AD by requiring eight stage disk removal by June 30, 1977, for those disks above 8,000 cycles, in lieu of the present requirement to remove disks by December 31, 1977, for those disks above 6,000 cycles. In addition, the NPRM proposed to create another compliance category which would allow disks between 6,000 and 8,000 cycles to continue in service until September 30, 1977, after which they must be removed. The NPRM also proposed a new retirement life of 6,000 cycles for P/N 496908 compressor disks after September 30, 1977.

This amendment, as adopted, will incorporate the accelerated removal schedule and additional compliance category as proposed in the NPRM. It will also provide an eddy current inspection as an alternative to disk removal for those disks in both the June 30, 1977, and September 30, 1977, compliance categories. Disks in both categories will be permitted to continue in service, under the provisions of the inspection procedure, until December 31, 1977. After December 31, 1977, the retirement life for the P/N 496908 compressor disk will be 6,000 cycles since new.

After the issuance of AD 76-24-01, a U.S. certificated air carrier experienced a severe eighth stage compressor disk failure while climbing through 14,000 feet. The disk sustained a 360° rim separation which exited through a 12-inch by 20-inch hole in the engine case, resulting in separation of the engine starter, start bleed valve, and portions of the upper and lower cowling. A review of the preceding failure history indicated six similiar uncontained disk failures, two of which resulted in fires and five of which caused secondary aircraft damage. Based on the degree of serious secondary aircraft damage sustained during these failures, the FAA has determined that the eighth stage compressor disk failure mode does have potentially hazardous effects due to the release of high energy projectiles. The original AD compliance was based upon a low energy type failure. Therefore, the FAA has determined it necessary, in the interest of safety, to revise the compliance time of AD 76-24-01 to require earlier removal of eighth stage compressor disks.

The final rule differs from the proposed rule in that it incorporates an eddy current inspection as an alternative to disk removal prior to December 31, 1977. Therefore, operators may elect to continue disks in service beyond the June 30, 1977, and September 30, 1977, removal dates providing they inspect these disks in accordance with the approved inspection procedures. The final rule allows disks, operated under the provisions of the inspection procedure, to continue in service until December 31, 1977, after which they must be retired. The final rule also establishes a retirement life of 6,000 cycles for the P/N 496908 compressor disk after December 31, 1977, in lieu of the September 30, 1977, date in the proposed rule. In addition, minor editorial changes were made to clarify the compliance requirements of the AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Several commentators stated that the disk removal compliance dates in the NPRM would generate overhaul shop workloads significantly beyond their capacity causing increased aircraft out-of-service days due to maintenance delays. In addition, these commentators stated that the overhaul shop and aircraft days out-of-service situation would be further aggravated by a shortage of replacement eighth stage disks and associated engine hardware needed to rebuild engines after disk replacement. Shortages of other engine parts would require engines to be rebuilt, after disk replacement, with uneconomically short times before next scheduled shop maintenance visit.

A comment was received from the manufacturer which suggested the use of an eddy current inspection procedure as an alternative to disk removal. The inspection procedure utilizes an eddy current probe, inserted through holes drilled in the seventh and eighth stage stator outer shrouds, to detect cracks in the eighth stage disk. The crack detection capability of the inspection method combined with a 120-cycle repetitive inspection requirement is designed to ensure continued safe operation of the P/N 496908 compressor disk until its removal. Other commentators also suggested the use of the eddy current inspection as an alternative to disk removal which will alleviate aircraft grounding, premature engine removals, and provide flexibility in maintenance scheduling.

Another commentator suggested that eddy current inspection procedure be used as an alternative to disk removal but suggested that all disks with over 6,000 cycles continue in service until September 30, 1977. After September 30, 1977, these disks must be removed or subjected to eddy current inspection. Disks operating under the provisions of the eddy current procedure may continue in service until December 31, 1977. The commentator stated that the September 30, 1977, compliance date would provide adequate time for operators to prepare for the eddy current inspection program, by procuring probes, training personnel, and drilling inspection holes, without disruption of public service during the busy summer season. In addition, the commentator stated that statistical probability analysis predicted only a small improvement in expected failure rate for the June 30, 1977, NPRM compliance date as opposed to the suggested September 30, 1977, date.

The FAA concurs with the use of an eddy current inspection procedure as an alternative to disk removal. The final rule will therefore incorporate provisions to continue disks in service beyond the removal dates proposed in the NPRM with a December 31, 1977, limiting date providing they are inspected in accordance with Pratt & Whitney Aircraft Special Instruction No. SI-10F-77, titled "Eddy Current Inspection of Eighth Stage Disk."

The FAA believes that incorporation of the eddy current inspection in the final rule, as an alternative to disk removal, will provide sufficient relief in the areas of overhaul shop capacity, engine replacement parts, and economical build standards.

The FAA has also determined that the eddy current inspection probes will be available in a time frame compatible with the requirements of the final rule.

However, the FAA does not agree with the commentator's suggestion that all disks over 6,000 cycles should be allowed to operate until September 30, 1977, before they must be removed or subjected to the eddy current inspection. The June 30, 1977, compliance date for disks over 8,000 cycles was selected only after careful consideration of all pertinent safety factors including failure modes and preceding failure history. After additional review of this entire matter of compliance time, the FAA still considers that the June 30, 1977, and September 30, 1977, compliance dates, as proposed in the NPRM, represent the most appropriate compliance period for this AD in terms of safety.

This AD will affect U.S. domestic carriers and foreign carriers by requiring increased maintenance effort to meet the disk removal or optional disk inspection requirements. It is expected that the optional eddy current inspection provisions of the final rule will significantly reduce the economic impact anticipated under the fixed time disk removal requirements of the NPRM.

DRAFTING INFORMATION

The principal authors of this document are Jay J. Pardee, Engineering and Manufacturing Branch, and George L. Thompson, Regional Counsel Office.

ADOPTION OF THE AMENDMENT

Accordingly, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2775 (41 FR 52047), AD 76-24-01 is amended as follows:

1. By deleting the words in Paragraph 1 beginning with "prior to reaching" and ending with "not to be exceeded."

2. By inserting in Paragraph 1 after "P/N 496908" the words "in accordance with the following schedule:."

3. By adding the following new paragraphs:

"A. After June 30, 1977, remove disks prior to accumulating 8,000 cycles since new. In lieu of removal, disks may be continued in service until December 31, 1977, if inspected in accordance with Pratt & Whitney Aircraft Special Instruction No. SI-10F-77 by June 30, 1977, and every 120 cycles thereafter. Cracked disks shall be replaced prior to further flight. The established life limit of 11,000 cycles shall not be exceeded.

B. After September 30, 1977, remove disks prior to accumulating 6,000 cycles since new. In lieu of removal, disks may be continued in service until December 31, 1977, if inspected in accordance with Pratt & Whitney Aircraft Special Instruction No. SI-10F-77 by September 30, 1977, and every 120 cycles thereafter. Cracked disks shall be replaced prior to further flight. The established life limit of 11,000 cycles shall not be exceeded.

After December 31, 1977, P/N 496908 compressor disk retirement life is 6,000 cycles since new.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's Special Instruction No. SI-10F-77 identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at New England Region.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

This amendment becomes effective on June 22, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Massachusetts, on May 18, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 15, 1967.

[FR Doc.77-14655 Filed 5-20-77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 16773, Amdt. No. 1073]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautic materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective June 30, 1977:

Delano, CA—Delano Muni., VOR Rwy 32, Amdt. 1.
West Palm Beach, FL—Palm Beach International, VOR Rwy 9L, Amdt. 9.
Marion, IL—Williamson County, VOR-A, Amdt. 2.
Marion, IL—Williamson County, VOR Rwy 2, Amdt. 7.
Marion, IL—Williamson County, VOR Rwy 20, Amdt. 9.
Alpena, MI—Phelps-Collins, VOR Rwy 12 (TAC), Amdt. 6.
Alpena, MI—Phelps-Collins, VOR Rwy 18 (TAC), Amdt. 7.
Alpena, MI—Phelps-Collins, VOR Rwy 36 (TAC), Amdt. 8.

Lebanon, NH—Lebanon Regional, VOR-A, Amdt. 12.
Truth or Consequences, NM—Truth or Consequences Municipal, VOR-A, Amdt. 8.
Midland, VA—Warrenton-Fauquier, VOR Rwy 14, Amdt. 1.

• • • Effective May 12, 1977:

Nantucket, MA—Nantucket Memorial, VOR Rwy 24, Amdt. 8.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • Effective June 30, 1977:

West Palm Beach, FL—Palm Beach International, LOC(BC) Rwy 27R, Amdt. 7.
Moline, IL—Quad-City, LOC BC Rwy 27, Amdt. 17.
Joplin, MO—Joplin Muni., LOC BC Rwy 31, Amdt. 15.
Lebanon, NH—Lebanon Regional, LOC Rwy 7, Original.

• • • Effective June 2, 1977:

Pine Bluff, AR—Grider Field, LOC Rwy 17, Original.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • Effective June 30, 1977:

West Palm Beach, FL—Palm Beach International, NDB Rwy 9L, Amdt. 14.
Marion, IL—Williamson County, NDB Rwy 20, Amdt. 3.
Moline, IL—Quad-City, NDB Rwy 9, Amdt. 22.
Alpena, MI—Phelps-Collins, NDB Rwy 18, Amdt. 10, cancelled.
Joplin, MO—Joplin Muni., NDB Rwy 13, Amdt. 19.
Lebanon, NH—Lebanon Regional, NDB-B, Amdt. 1.

• • • Effective June 16, 1977:

Miami, FL—Dade-Collier Training and Transition, NDB Rwy 9, Admt. 9.
Naples, FL—Naples Muni., NDB Rwy 4, Amdt. 1.
Naples, FL—Naples Muni., NDB Rwy 22, Amdt. 1

The FAA published an amendment in docket No. 16741, Amdt No. 1070 to part 97 of the Federal Aviation Regulations (42 FR 21609; April 28, 1977) under § 97.27 effective June 16, 1977, which is hereby amended as follows: Marathon, FL—Marathon Flight Strip, NDB Rwy 7 Original is rescinded.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • Effective June 30, 1977:

West Palm Beach, FL—Palm Beach International, ILS Rwy 9L, Amdt. 16.
Marion, IL—Williamson County, ILS Rwy 20, Amdt. 3.
Moline, IL—Quad City, ILS Rwy 9, Amdt. 22.
Columbus West Point Starkville, MS—Golden Triangle Regional, ILS Rwy 18, Amdt. 1.
Joplin, MO—Joplin Muni., ILS Rwy 13, Amdt. 17.
Lebanon, NH—Lebanon Regional, ILS Rwy 7, Amdt. 4.

• • • Effective June 16, 1977:

Miami, FL—Dade-Collier Training and Transition, ILS Rwy 9, Amdt. 9.

The FAA published an amendment in Docket No. 16659, Amdt No. 1068 to Part 97 of the Federal Aviation Regulations (42 FR 20118; April 18, 1977) under § 97.29 effective May 26, 1977, which is hereby amended as follows: Richmond, VA—Richard Evelyn Byrd Int'l Arpt., ILS Rwy 15, Amdt. 1 is rescinded.

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • Effective June 30, 1977:

West Palm Beach, FL—Palm Beach International, RADAR-1, Amdt. 6.
Moline, IL—Quad-City, RADAR-1, Amdt. 1.
Erie, PA—Erie Int'l, RADAR-1, Amdt. 3.

• • • Effective May 5, 1977:

Great Falls, MT—Great Falls Int'l, RADAR-1, Amdt. 7.

6. By amending § 93:33 RNAV SIAPs identified as follows:

• • • Effective June 30, 1977:

Joplin, MO—Joplin Muni., RNAV Rwy 31, Amdt. 2.

• • • Effective May 5, 1977:

Spartanburg, SC—Spartanburg-Downtown Memorial, RNAV Rwy 4, Amdt. 4.

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 1354(a), 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 24 FR 5662 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 13, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-14357 Filed 5-20-77;8:45 am]

Title 17—Commodities and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-20002]

PART 259—FORMS PRESCRIBED UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Annual Report Form U5S; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction.

SUMMARY: This document corrects FR Doc. 77-13718, 42 FR 24253, May 13, 1977. The signature and date which appear at the end of the document on page 24254 should be George A. Fitzsimmons, Secretary, April 27, 1977.

EFFECTIVE DATE: No change from original document.

FOR FURTHER INFORMATION CONTACT:

Andrew F. MacDonald, Division of Corporate Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-523-5683).

GEORGE A. FITZSIMMONS,
Secretary.

MAY 17, 1977.

[FR Doc.77-14564 Filed 5-20-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Income Tax Deduction for Removing Certain Barriers to Handicapped and Elderly; Public Hearing on Interim Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on interim regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations concerning income tax deductions for removing certain barriers to the handicapped and elderly.

DATES: The public hearing will be held on June 21, 1977, beginning at 10 a.m. Outlines of oral comments are due by June 13, 1977.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George H. Bradley of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Room 4317, Washington, D.C. 20224 (202-566-3935).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is interim regulations under section 190 of the Internal Revenue Code of 1954 which appear in the FEDERAL REGISTER for April 4, 1977 (42 FR 17870). This statutory provision relates to income tax deductions for certain expenditures to remove architectural and transportation barriers to the handicapped and elderly.

A correction notice was published in the FEDERAL REGISTER for April 14, 1977 (42 FR 19479).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rule making and who desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by June 13, 1977. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers, and copies of the agenda will be available free of charge at the hearing.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc.77-14622 Filed 5-20-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 725-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Conduct of Legal Proceedings

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Under 28 U.S.C. 515(a), Department of Justice attorneys, when specifically directed by the Attorney General, are authorized to conduct any kind of legal proceeding, including grand jury proceedings, which United States Attorneys are authorized by law to conduct, whether or not the attorney is a resident of the district where the proceeding is brought. Present regulations delegate certain of the Attorney General's authority under this statute to certain Department officials. This order broadens the authority delegated by the Attorney General expressly to include the designation of attorneys to conduct legal proceedings, and extends the delegation to all Divisions.

EFFECTIVE DATE: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530 (202-739-2041).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. A new § 0.13 is added at the end of Subpart B, to read as follows:

§ 0.13 Legal proceedings.

(a) Each Assistant Attorney General and Deputy Assistant Attorney General is authorized to exercise the authority of the Attorney General under 28 U.S.C. 515(a), in cases assigned to, conducted, handled, or supervised by such official, to designate Department attorneys to conduct any legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, which United States attorneys are authorized by law to conduct, whether or not the designated attorney is a resident of the district in which the proceedings is brought.

(b) Each Assistant Attorney General is authorized to redelegate to Section Chiefs the authority delegated by paragraph (a) of this section, except that such redelegation shall not apply to the designation of attorneys to conduct grand jury proceedings.

§ 0.40 [Amended]

2. Paragraph (a) of § 0.40 of Subpart H is amended by deleting "designation of attorneys to present evidence to grand juries."

§ 0.43 [Revoked]

3. Section 0.43 of Subpart H is revoked.

§ 0.50 [Amended]

4. Paragraph (a) of § 0.50 of Subpart J. is amended by deleting "and designation of attorneys to present evidence to grand juries."

§ 0.60 [Revoked]

5. Section 0.60 of Subpart K is revoked.

(28 U.S.C. 509, 510 and 5 U.S.C. 301.)

Dated: May 12, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-14545 Filed 5-20-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Subpart B—Burial Benefits

HEARSE CHARGES FOR TRANSPORTING BODIES

AGENCY: Veterans Administration.

ACTION: Final Regulation.

SUMMARY: The VA has amended its regulation relating to hearse charges for transporting a body to place of burial.

EFFECTIVE DATE: May 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. T. H. Spindle, Chief, Regulations Staff, Compensation and Pension Service Veterans Administration, Washing, D.C. 20420 (202-389-3005).

SUPPLEMENTARY INFORMATION: On page 16839 of the FEDERAL REGISTER of March 30, 1977, there was published a notice of proposed regulatory development to amend § 3.1606(b) relating to hearse charges. When a person dies in a Veterans Administration facility to which he or she was properly admitted for hospital, nursing home or domiciliary care under 38 U.S.C. 610 or 611(a), the Veterans Administration is usually required to pay the cost of transporting the body to the place of burial. (38 U.S.C. 903) The Veterans Administration is also directed to pay the cost of transporting the body of certain veterans who die outside of a Veterans Administration facility when burial will be made in a National Cemetery. (38 U.S.C. 908)

Claims have been received for payment of charges for transporting a body by hearse over quite long distances when common carrier service was readily available. In these claims the hearse charges greatly exceeded the common carrier rate. Therefore, § 3.1606 is amended to provide that payment of hearse charges for transporting a body over long distances will be limited to prevailing common carrier rates where it is reasonable and customary for shipment to be made by common carrier. This limitation will not be for application where common carrier service is unavailable or where use of a common carrier would clearly be impractical. When a common carrier is used to transport a body, charges for use of a hearse to deliver the body to and from the carrier will be paid.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulation. No written comments have been received and the proposed regulation is hereby adopted without change and is set forth below.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Approved: May 11, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 3.1606, paragraph (b)(3) is added to read as follows:

§ 3.1606 Transportation items.

The transportation costs of those persons who come within the provisions of §§ 3.1600(g) and 3.1605 (a), (b), (c) and (d) may include the following:

• • • • • •

(b) *Transported by hearse.* • • •

(3) Payment of hearse charges for transporting the remains over long distances are limited to prevailing common carrier rates when common carrier service is available and can be easily and effectively utilized.

[FR Doc.77-14558 Filed 5-20-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 715-8]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Compliance With Standards and Maintenance Requirements

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action amends the general provisions of the standards of performance to allow methods other than Reference Method 9 to be used as a means of measuring plume opacity. The Environmental Protection Agency (EPA) is investigating a remote sensing laser radar system of measuring plume opacity and believes it could be considered as an alternative method to Reference Method

9. This amendment would allow EPA to propose such systems as alternative methods in the future.

EFFECTIVE DATE: June 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone no. 919–688–8146, ext. 271.

SUPPLEMENTARY INFORMATION: As originally expressed, 40 CFR 60.11(b) permitted the use of Reference Method 9 exclusively for determining whether a source complied with an applicable opacity standard. By this action, EPA amends § 60.11(b) so that alternative methods approved by the Administrator may be used to determine opacity.

When § 60.11(b) was originally promulgated, the visible emissions (Method 9) technique of determining plume opacity with trained visible emission observers was the only expedient and accurate method available to enforcement personnel. Recently, EPA funded the development of a remote sensing laser radar system (LIDAR) that appears to produce results adequate for determination of compliance with opacity standards. EPA is currently evaluating the equipment and is considering proposing its use as an alternative technique of measuring plume opacity.

This amendment will allow EPA to consider use of the LIDAR method of determining plume opacity and, if appropriate, to approve this method for enforcement of opacity regulations. If this method appears to be a suitable alternative to Method 9, it will be proposed in the FEDERAL REGISTER for public comment. After considering comments, EPA will determine if the new method will be an acceptable means of determining opacity compliance.

(Secs. 111, 114, 301(a), Clean Air Act, sec. 4(a) of Pub. L. 91–604, 84 Stat. 1683; sec. 4(a) of Pub. L. 91–604, 84 Stat. 1687; sec. 2 of Pub. L. No. 90–148, 81 Stat. 504 (42 U.S.C. 1857c–6, 1857c–9 and 1857g(a)).)

NOTE.—Economic Impact Analysis: The Environmental Protection Agency has determined that this action does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A–107.

Dated: May 10, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 60.11 is amended by revising paragraph (b) as follows:

§ 60.11 Compliance with standards and maintenance requirements.

* * * * *

(b) Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9 in Appendix A of this part or any alternative method that is approved by the Administrator. Opacity readings of portions of plumes which contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards. The results of continuous monitoring by transmissometer which indicate that the opacity at the time visual observations were made was not in excess of the standard are probative but not conclusive evidence of the actual opacity of an emission, provided that the source shall meet the burden of proving that the instrument used meets (at the time of the alleged violation) Performance Specification 1 in Appendix B of this part, has been properly maintained and (at the time of the alleged violation) calibrated, and that the resulting data have not been tampered with in any way.

* * * * *

(Secs. 111, 114, 301(a), Clean Air Act, Sec. 4 (a) of Pub. L. 91–604, 84 Stat. 1683; sec. 4(a) of Pub. L. 91–604, 84 Stat. 1687; sec. 2 of Pub. L. No. 90–148 81 Stat. 504 (42 U.S.C. 1857c–6, 1857c–9, 1857g(a)).)

[FR Doc.77–14562 Filed 5–20–77;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 146—MODERN FOREIGN LANGUAGE AND AREA STUDIES

Awards of Grants and Contracts

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: These proposed regulations set forth rules and criteria governing the award of grants and contracts to institutions of higher education, qualified organizations and individuals for the purpose of providing Federal financial assistance to establish and operate Language and Area Studies Centers, Graduate and Undergraduate International Studies Programs, for the award of fellowships to individuals undergoing training in any center or under any program receiving Federal financial assistance under the NDEA Act, and for research and studies.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

DATES: None.

ADDRESSES: None.

FOR FURTHER INFORMATION CONTACT:

Edward L. Meador, Division of International Education, 7th and D Streets, SW., Room 3907, Regional Office Building #3, Washington, D.C. 20202 (202/245–9691)

SUPPLEMENTARY INFORMATION: The National Defense Education Act of 1958 in its statement of findings and declaration of policy says, "The Congress finds and declares that the security of the Nation requires the fullest development of the mental resources and technical skills of its young men and women. The present emergency demands that additional and more adequate educational opportunities be made available. The defense of this Nation depends upon the mastery of modern techniques developed from complex scientific principles. It depends as well upon the discovery and development of new principles, new techniques, and new knowledge."

(20 U.S.C. 401.)

The importance of a knowledge of foreign languages and area studies to the attainment of this policy was recognized by the inclusion in the Act of Title VI—Modern Foreign Language and Area Studies. This Title authorizes: Federal financial assistance to institutions of higher education for the establishment and operation of International Studies Centers and for Graduate and Undergraduate International Studies Programs, fellowships for graduate students in foreign language and area studies, and Federal financial assistance to public and private agencies, organizations and institutions as well as individuals for research in the area of foreign language and area studies.

"The International Studies Centers Program" provides grants to higher education institutions or consortia of such institutions to establish and operate centers focusing on one world region. These centers offer instruction in two or more of the area's principal languages and in other disciplines in order to provide training in understanding that particular world area. Other centers that feature instruction in comparative approaches to topics of concern to more than one nation, international relations, or interregional studies are also eligible for support. Awards are available in each category to centers having a combination of graduate and undergraduate instruction (unless undergraduate instruction is not offered) as well as to those offering only undergraduate training.

"The Graduate and Undergraduate International Studies Programs" may provide grants of up to two years, or in certain instances 3 years, to higher education institutions or consortia of such institutions to establish instructional programs in international studies at the graduate or undergraduate levels. Programs must be global or multi-area in instructional coverage. "Graduate International Studies Programs" are designed to strengthen linkages among disciplines and between various international specialties and professional schools to bring an interdisciplinary and/or comparative focus to issues or topics of concern to more than one nation. "Undergraduate International Studies Programs" are designed to develop an international dimension in the general education program of institutions, particularly in the first 2 years of postsecondary study.

The "Foreign Language and Area Studies Fellowships Program" offers academic-year awards for graduate students in foreign language and area studies. Quotas of fellowships are made to selected U.S. higher education institutions, and individuals apply to these institutions for fellowships. Institutions selected for quotas of fellowships have programs in the field of language and area studies that may be interdisciplinary or multidisciplinary, and may include such fields as anthropology, economics, geography, history, linguistics, literature, philosophy, political science, sociology, or other professional studies, and must include study of the language(s) of the geographic area of specialization.

One commenter addressing this area (§ 146.33(a)), requested an explanation as to the source and rationale for the priority discipline, language and world area designation.

In view of general Federal budget priorities and funding constraints, the current employment realities regarding supply and demand for international studies specialists, and the basic justification for the available fellowships appropriation—a sharper focus and higher priority on the disciplines, languages, and world area where there are critical shortages of highly trained personnel—the Commissioner necessarily emphasizes increasing preference for those quality programs which reflect the national interest disciplinary priorities. However, the increasing emphasis on the priority disciplines is made within the context of the total resources of language and area studies centers/programs, i.e., it is only one criterion albeit an important one, on which the quality of the centers/programs will be evaluated.

The specific priorities were determined by periodic conferences and studies, the latest of which was the "Language and Area Studies Review" by Richard D. Lambert sponsored by the Social Science Research Council and funded by the U.S. Office of Education.

Although no formally structured mechanism for the assessment of priorities exists, the Commissioner with the assistance of scholars experienced in the world area will periodically review the priorities.

The "Research and Studies Program" supports surveys and studies to determine the need for increased or improved instruction in modern foreign language, area, and international studies or to develop more effective methods or specialized materials for such training.

Public and private agencies, organizations and institutions as well as individuals may apply to the Commissioner of Education for support under the research program.

Notice of proposed rulemaking was published in the FEDERAL REGISTER of August 12, 1976 (41 FR 34052–34060) setting forth regulations for Modern Foreign Language and Area Studies, authorized by Title VI of the National Defense Education Act of 1958 as amended (20 U.S.C. 511–513). Pursuant to section 503 of the Education Amendments of 1972 (Pub. L. 92–318), hearings were held in Washington on September 28, 1976 and comments were received on the proposed regulation. In addition, written comments were received and considered.

The following is a discussion of comments received, with each comment followed by the response of the Office of Education.

SUMMARY OF COMMENTS AND RESPONSES

1. 146.2 DEFINITIONS

Comment. A commenter suggested that the examples of disciplines provided in the definition of a center should include geography, language and literature, and sociology and that the examples should be the same wherever provided (§ 146.2(c) and § 146.12(c)).

Response. This suggestion reflects current program policy and the suggested addition of examples has been made in § 146.2(c) and § 146.12(c).

2. 146.11(b) SCOPE

Comment. A commenter suggested that Bangladesh be added to the list of countries included in South Asia.

Response. The Commissioner agrees and the suggestion is adopted. Further, Nepal was also added to the list of countries in South Asia.

3. 146.12 CORE INSTRUCTIONAL ACTIVITIES

Comment. A commenter suggested that "Centers offering instruction in international studies with other than a single area studies focus" should be able to draw on existing language instruction facilities and ought not to become involved in developing language instruction unless inadequate facilities make it necessary.

Response. This suggestion reflects current program policy and § 146.12(b) has been amended to reflect the change.

Comment. One commenter objected to what he assumed was the requirement in § 146.12(c) for the inclusion of professional training in center's core instructional offerings. The comment expresses a preference for use of recommendation and persuasion by centers to influence professional schools.

Response. The suggestion was not adopted. The language of the section specifies examples of the types of linkages that may be arranged between centers and professional training programs to satisfy this section of the regulations. The examples do not indicate that a center must force its courses on professional schools, but rather that persuasion be used to influence those schools to participate in the activities of the Center.

4. 146.13 EDUCATIONAL OUTREACH ACTIVITIES

Comment. A commenter suggested that the wording in § 146.13(b)(2) be modified to emphasize that outreach activities be directed to schools and teachers.

Response. This suggestion was accepted and the regulation was modified accordingly.

Comment. Obligating centers to spend 15 percent of their funds for outreach activities is either superfluous or wrong. If the Office of Education puts emphasis on outreach, it is wrong because 15 percent is a small proportion. It is superfluous if an institution agrees that outreach activities are important.

Response. The regulation was not changed in § 146.13(c). The stipulation that the equivalent of 15 percent of the grant funds be used for outreach activities was intended to stimulate all centers to engage in activities that would use the resources developed in the core program to strengthen international education in other institutions or agencies. Each center will plan its outreach activities in relation to its resources and the needs of its area. An amount which represents at least 15 percent of the grant was thought to be sufficient as a minimum for outreach activities but not so large that it would weaken the core program.

5. 146.14 CRITERIA FOR SELECTION OF CENTERS

Comment. A commenter suggested that the word "center" be replaced by the word "program" in § 146.14(a) (5) and (7) because "program" implies a broader concept of institutional support and because institutional assistance to professional associations should be a positive factor in the evaluation process.

Response. The regulation was not changed. The definition of "center" and the criteria for selection make clear that the center's basic purpose is to make available to students a wide range of educational resources. Because the general purpose of the NDEA centers' program is to assure the availability of instructional resources, the suggested award of Federal funds on the basis of criteria not directly related to the institution's instructional program would be inappropriate.

Comment. Several suggestions were made to eliminate § 146.14(b) because it was assumed that geographical location as a consideration for a grant award would result in awarding grants to centers having lower substantive qualifications.

Response. These suggestions have not been adopted. The legislative history is clear that Title VI was passed to address nationwide needs for instruction in modern foreign languages and related fields. These needs are not unique to any particular areas of the country. Consequently since the money available is limited, it is appropriate, in selecting grantees to take into account the proximity of a proposed center to any other

center focusing on the same world area or specialized field of study. To fail to do so could result in a duplication of available center programs and dilute the potential national impact of the program. As expressly indicated in the regulation provision, the subject criterion does not supplant considerations of program excellence; it is merely another factor to be taken into consideration.

6. 146.16 ALLOWABLE COSTS

Comment. Objection is raised to specific exclusion of research from allowable costs. Two alternative suggestions are made for inclusion of research:

1. Allot a certain percentage of center funding to language and area research to be administered by a committee at the center institution.

2. Broaden the scope of subpart E to include the type of basic research in African (and possibly other non-Western) studies without which effective instructional material cannot be prepared.

Response. These suggestions are not adopted.

1. There is a faculty research program under Fulbright-Hays.

2. Considerable support is now given to research in centers through salaries of faculty who normally do research, foreign travel of staff engaged in research and library acquisitions to further research.

3. NDEA center grants have been relatively immune from sensitivity in the foreign policy arena. This immunity could easily be lost if NDEA funds were used for even a limited amount of individual faculty overseas research on subjects that were sensitive in the foreign country.

4. Subpart E, concerning Section 602 Research, does not exclude support of the type of basic research which is prerequisite for the development of effective instructional materials for non-Western languages and areas.

7. 146.31 FELLOWSHIP AUTHORIZATION

Comment. One commenter stated that § 146.31(a) appears to mean that no quotas of Foreign Language and Area Studies fellowships will be allocated to an institution that has neither an international studies center nor a graduate or undergraduate international studies program receiving Federal financial assistance under the Act.

Response. Section 601(b) of Title VI of the National Defense Education Act authorizes the payment of stipends to individuals undergoing advanced training in any center or under any program receiving financial assistance under the title. While this provision is ambiguous, the ambiguity stems from whether the phrase, "receiving financial assistance under this title" qualifies centers as well as programs. We have been advised by the Office of General Counsel that the phrase, "receiving federal funds under this title" may be viewed as modifying only programs and this approach was adopted in these regulations. Thus, a student who does not enroll in either a center or a Title VI funded program is ineligible to receive a fellowship.

Comment. A commenter inquired whether graduate professional students would be eligible to receive a fellowship under the program.

Response. Graduate professional students are eligible and the regulation has been amended to clarify that point.

8. 146.33 CRITERIA FOR DETERMINATION OF INSTRUCTIONAL FELLOWSHIP QUOTAS

Comment. A commenter suggested that § 146.33(a)(1) should not exclude fellowship support for Swahili; that the inclusion of the broad term humanities among specific disciplines in § 146.33(a)(2) was ambiguous; and that professional education in engineering be included in § 146.33(g).

Response. The regulation was not changed. Swahili is not excluded. An institutional application for quotas of fellowships in African studies is evaluated on the basis of criteria found in the Office of Education General Provisions at 45 CFR 100a.26(b) and the appropriate criteria in § 146.33. Consequently, the language component of an African language and area studies program and/or center is only one factor, albeit an important one, in the determination whether an institution will receive a quota of fellowships in African studies. Moreover, it is not the intent of § 146.33(a)(1) to exclude Swahili but rather to indicate priorities in the support of African language training.

The specific priority disciplines encompassed by the term humanities are listed in § 146.33(a)(1) and were meant to apply to the other world areas, excluding Western European studies. Language clarifying this intent is incorporated in § 146.33(a)(2) through § 146.33(a)(7).

The language in § 146.33(g) does not exclude professional education in engineering provided the institutional application can demonstrate that its center or program offerings in engineering are consistent with the broad fellowship authorization, as stated in § 146.31.

9. 146.35 STUDENT ELIGIBILITY

Comment. A commenter suggested that if an institution cannot utilize all the fellowships that were assigned to a particular language these fellowships be returned to the Office of Education so that they can be used by another institution for the same area languages.

Response. This suggestion has not been adopted. The administrative procedures in the grant process make this suggestion impracticable. The implementation of this suggestion would require an amendment to the grants of two institutions each time an individual fellowship was concerned. Some grant funds could also be lost if the necessary amendments were required after the period for making amendments had expired.

10. 146.36 APPLICATION AND SELECTION OF FELLOWS

Comment. A commenter suggested that the wording "two years of college instruction" in § 146.36(b)(6) and "three years of college instruction" in § 146.36(b)(7) is ambiguous and should be replaced by a specified number of semester or credit hours.

Response. This suggestion is accepted and appropriate changes have been made in § 146.36(b)(6) and (7).

Comment. One commenter suggested that great care be taken to assure that the wording in § 146.36(b)(6) about "documented competency" does not eliminate highly qualified candidates in very rarely taught languages; e.g., Twi, Haitian, Creole, Nepali.

Response. The regulation was not changed. Documented competency does not eliminate the application of beginning students in rarely taught languages. It serves as an indicator of the level of proficiency of the applicant.

11. 146.37 DURATION, AMOUNT, AND PAYMENT OF FELLOWSHIPS

Comment. A commenter suggested that the exclusion of overseas doctoral dissertation research, as specified in § 146.37(a), was both ambiguous, in that it did not prevent a pre-dissertation stage student from working overseas while enrolled for university credit at home, and unfortunate, in that it would eliminate a student's chance to study language in the context of an overseas experience.

Response. The regulation was not changed. The Fellowship authorization and the raison d'etre for the allocation of fellowships among institutions is to enable students who are selected for awards to receive their education at a selected institution. Students are to benefit from the resources available at these institutions' centers and programs of excellence and not necessarily from the resources available overseas. This is not meant to imply that the study of language in the context of culture is not considered important. Section 143.37(c) enables students to do so in established advanced language programs overseas, set up by eligible institutions. What is suggested is that the purpose of this program is not to provide an overseas experience either at the pre-dissertation stage or at the dissertation stage but to provide training at U.S. institutions of higher education. The stipend is totally inadequate to enable a student overseas to conduct meaningful research for his dissertation since this was not the basic intention.

Comment. A commenter suggested that stipends remain unrealistically low, reflecting no adjustment for inflation that has occurred since the inception of the three-year incremental rate, and, more importantly, no meaningful change since the $2,250 stipends were established.

Response. Section 146.37(b) is amended to give each Fellow the cost of tuition and fees and a maintenance allowance in the amount of $2,925 per academic year. Concurrently, the dependency allowance of $500 for each dependent was discontinued. The increase in the stipend is expected to compensate adequately for the elimination of the separate dependency allowance in those grants in which a dependent was concerned. This change will also simplify the administration of the program.

Comment. One commenter suggested that Ph. D. degree in § 146.37(b)(3) be replaced by "approved doctoral program".

Response. Reference to the Ph. D. degree has been eliminated.

12. SUBPART D RESEARCH AND STUDIES

Section 302(d) of Pub. L. 94-482. The Education Amendments of 1976, amended section 602 to give the Commissioner grant authority. Accordingly, §§ 146.51 through 146.55 were modified where appropriate to take that change into account.

13. GUIDELINES, CHAPTER II, PART I-1.2 EDUCATIONAL OUTREACH ACTIVITIES

Comment. A commenter suggested that the Guidelines, Chapter II, Part I, § 1.2(b) be amended to permit reimbursement for travel for elementary and secondary school teachers participating in center-sponsored workshops.

Response. This suggestion has been adopted in part. The specific exclusion of participant travel from the list of activities for which Federal funds may be used has been deleted. Thus, participant travel will be subject to negotiation for each individual grant.

14. GENERAL COMMENT

Comment. A commenter suggests that the regulations include provisions for (1) rapid and easy access by the centers to their review committees' reports, and (2) establishing a meaningful grievance procedure for those applicants whose proposals are turned down.

Response. This suggestion is being adopted without making a change in the regulations. Modifications are being made in the procedures for notifying institutions that a proposal cannot be funded. This notification will include information on the evaluation of the proposal and the subsequent staff action.

Comment. A commenter suggested that the centers need assurances of committed funds by the January previous to the year in which they will be used. Perhaps "forward funding" is the only solution.

Response. No change in the wording of the regulations is being made as the result of this suggestion since "forward funding" is presently being used. Grants are made for the following academic year as early in the previous academic year as the appropriation and grant review processes allow.

Furthermore, the three year cycle minimizes this problem for the second and third year of the grant.

Comment. A commenter suggested that consideration be given to an institutional administrative supplement.

Response. No change is deemed desirable. It is the policy of the Foreign Language and Area Studies program to pay actual tuition and fees rather than fixed institutional allowances. To pay both cannot be justified in that it essentially means paying twice for the same service.

After consideration of all comments, the Commissioner hereby adopts the proposed regulation which was published in the FEDERAL REGISTER on August 12, 1976, with the changes noted above. This regulation is set forth below.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular 107.

(Catalog of Federal Domestic Assistance Programs: 13.434 Foreign Language and Area Studies—Fellowships; 13.435 Foreign Language and Area Studies—Centers—International Studies Program; 13.436 Foreign Language and Area Studies—Research.)

Dated: April 7, 1977.

WILLIAM F. PIERCE,
Acting United States Commissioner of Education.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 146 is revised to read as follows:

Subpart A—General Provisions

Sec.
146.1 Scope and purpose.
146.2 Definitions.
146.3 General provisions regulations.

Subpart B—International Studies Centers

146.11 Scope.
146.12 Core instructional activities.
146.13 Educational outreach activities.
146.14 Criteria for selection of centers.
146.15 Applications.
146.16 Allowable costs.
146.17 Multiyear projects.

Subpart C—Graduate and Undergraduate International Studies Programs

146.21 Scope.
146.22 Graduate international studies programs: activities.
146.23 Undergraduate international studies programs: activities.
146.24 Criteria for selection of graduate and undergraduate international studies programs.
146.25 Applications.
146.26 Allowable costs.
146.27 Multiyear projects.

Subpart D—Foreign Language and Area Studies Fellowships

146.31 Fellowship authorization.
146.32 Allocation of fellowships among institutions.
146.33 Criteria for determination of institutional fellowship quotas.
146.34 Institutional applications.
146.35 Student eligibility.
146.36 Application and selection of fellows.
146.37 Duration, amount, and payment of fellowships.
146.38 Employment.
146.39 Oath and criminal information.
146.40 Student responsibilities.
146.41 Responsibilities of institutions receiving quotas of fellowships.

Subpart E—Research and Studies

146.51 Scope.
146.52 Eligible applicants.
146.53 Applications.
146.54 Research activities.
146.55 Criteria for selection of research projects.

AUTHORITY: Title VI, National Defense Education Act of 1958 as amended (20 U.S.C. 511-513).

Subpart A—General Provisions

§ 146.1 Scope and purpose.

It is the purpose of this part to provide Federal financial assistance to institutions of higher education (a) for the establishment and operation of centers for the teaching of modern foreign languages and such other related fields needed to provide a full understanding of the areas in which such languages are commonly used and international studies with other than a modern foreign language and area studies focus, (b) for the establishment and operation of programs at the undergraduate and graduate level in international studies and the international aspects of professional and other fields of study, (c) for the award of fellowships to individuals undergoing advanced training in any center, or under any program receiving Federal financial assistance under the Act, and (d) for research, including (1) the conduct of studies and surveys to determine the need for increased or improved instruction in modern foreign languages and other related fields; (2) research on more effective teaching methods; and (3) development of specialized materials for training in foreign languages or related fields.

(20 U.S.C. 511, 512)

§ 146.2 Definitions.

(a) "Act" means Title VI of the National Defense Education Act of 1958 as amended.

(20 U.S.C. 511-513)

(b) "Academic year" means a period of time, generally not less than 8 months, in which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, or three quarters.

(c) "Center" means an officially designated academic unit of an institution of higher education (or a combination of institutions), with its own administrative structure, encompassing various academic disciplines, such as anthropology, art, business, economics, education, history, law, music, political science, geography, language and literature, and sociology through which a concentration of educational resources is made available for training in modern foreign languages, for instruction in related fields needed to provide a full understanding of the areas, regions, or countries in which such languages are commonly used, or for training and research in international studies and the international aspects of professional and other fields of study.

(20 U.S.C. 511-512)

(d) "Institution of higher education" means an institution of higher education as defined in section 103(b) of the National Defense Education Act of 1958.

(20 U.S.C. 403)

(20 U.S.C. 511-512 unless otherwise noted)

§ 146.3 General provisions regulations.

Assistance under this part is subject to the applicable provisions of Subchapter

A of this chapter relating to fiscal, administrative property management, and other matters (General Provisions for Office of Education Programs—45 CFR Part 100a).

(20 U.S.C. 511–512)

Subpart B—International Studies Centers

§ 146.11 Scope.

(a) The Commissioner is authorized to award grants to and contracts with institutions of higher education or consortia of such institutions to pay part of the costs of operating international studies centers. A center may be one of the following two types:

(1) One type of center will provide instruction primarily during the academic year on both the graduate level and the undergraduate level (unless undergraduate instruction is not offered at the institution) in modern foreign languages and area studies or in international studies with other than a modern foreign language and area studies focus.

(2) The other type of center will offer instruction during the academic year on the undergraduate level in modern foreign language and area studies or international studies with other than a modern foreign language and area focus. This undergraduate center shall provide training for students planning to continue their study at the graduate or professional level and shall also help to prepare students for direct entrance into a profession, such as education or business, in which specialized training in international studies plays a significant role.

(b) Centers may focus upon one world region and offer instruction in its principal languages and in related disciplines necessary to provide a full knowledge of that area or they may focus upon international or comparative multidisciplinary studies. The majority of the centers funded, either at the undergraduate, graduate, or combined graduate and undergraduate levels, will focus on single world areas. Such world areas include East Asia (including Japan, China, and Korea), South Asia (India, Sri Lanka, Bangladesh, Nepal, and Pakistan), the Middle East (including North Africa), the Soviet Union and Eastern Europe, Africa, Latin America, Southeast Asia (including Indonesia and the Philippines as well as Vietnam, Cambodia, Laos, Thailand, Malaysia, and Burma), contemporary Western Europe, Canada, and Inner Asia. Of the total number of centers assisted, it is anticipated that not more than 20 percent will be undergraduate centers and not more than 20 percent will be centers with other than a primary focus on foreign language and area studies, such as comparative area studies or international affairs.

(c) Center activities shall be carried out primarily within the United States and principally on the campus (or campuses) of the institution(s) involved.

(20 U.S.C. 511(a))

§ 146.12 Core instructional activities.

(a) Centers offering instruction in modern foreign language and area studies must concentrate on one world region (such as East Asia or Africa) and offer instruction in two or more of that region's principal languages. They must also offer instruction in other fields which are needed to provide a full understanding of the areas, regions, or countries in which the languages are commonly used.

(b) Centers offering instruction in international studies with other than a single area studies focus may offer instruction in international relations (such as diplomacy, law, economics, and politics), in comparative approaches to topics of transnational concern (such as food and hunger, international trade and business, energy and environment), or on studies with an interregional focus. This type of center must also provide multidisciplinary instruction and must assure that foreign language training is available.

(c) All centers must include in their core offerings both interdisciplinary approaches to the world area or topic of the center and a wide range of disciplines, such as anthropology, economics, fine arts, geography, history, language and literature, music, philosophy and religion, political science, and sociology, which may be needed for improved understanding of that world area or topic. Centers shall also incorporate in their core instructional offerings, where relevant, professional training in such fields as education, business, journalism, architecture and urban planning, law, public administration, library science, and the health professions, if such training is available at their institutions. Linkages with such professional training programs may be accomplished in a variety of ways, such as cross-listing of courses and cross-registration, offering of courses on the area or topic of the center's focus in the professional school, preparation of special center courses designed for students in professional training, and formulation of joint degree programs.

(20 U.S.C. 511(a))

§ 146.13 Educational outreach activities.

(a) In addition to the instruction described in § 146.12, centers must provide two or more of the services listed in paragraph (b) of this section (educational outreach activities) to agencies, organizations, and individuals interested in the resources of the center but not a part of the institution(s) operating the center. However, at least one of the services shall be a service listed in paragraphs (b) (1) or (2) of this section.

(b) Educational outreach activities include—

(1) Assistance, such as sharing of library resources, faculty workshops, and cross-registration of students, to other institutions of higher education, particularly those with teacher education programs and two-year colleges;

(2) Assistance, such as in-service teacher training, bibliographic assistance, textbook evaluation, curriculum development, and direct instructional services, to state and local elementary and secondary educational agencies and schools;

(3) Assistance, such as workshops and special courses, to the business community; and

(4) Sharing of resources, such as general lectures, films, and book and art exhibits, with the community at large.

(c) Centers shall expend an amount for outreach activities which represents at least 15 percent of the grant funds awarded under the subpart.

(20 U.S.C. 511(a))

§ 146.14 Criteria for selection of centers.

(a) In addition to evaluation on the basis of criteria found in the Office of Education General Provisions 45 CFR 100a.26(b), the Commissioner will further evaluate applications for Federal support to operate international studies centers in accordance with the following criteria:

(1) The quality of the institution's existing instruction for the world area or topic for which Federal assistance is requested, as evidenced by existing course offerings, faculty qualifications, and the nature and extent of relevant library holdings;

(2) The extent to which the proposed instructional activities of the center will strengthen existing international studies of the institution both in range and in depth;

(3) The extent to which cooperative arrangements have been worked out with other departments, schools, and special and professional programs of the grantee institution and the extent to which the center includes appropriate multi-and inter-disciplinary instruction;

(4) The reasonableness of the allocation of Federal funds among center activities;

(5) The amount and percentage of financial support to be provided to the center by the institution during the grant period. Such support may be measured in terms of the number of tenured faculty in the center, the percent of their time spent on the center's program and the extent to which the core program is built into the regular budget of the institution, including the estimated support for the second and third years of the proposed project;

(6) The regular coursework, language training, courses in area or international studies, and provisions for overseas experience which will be provided students participating in center programs;

(7) The nature and extent of assistance to be provided by the center for educational outreach activities; and

(8) The extent to which provision is made by the institution for overseas experience for faculty and students, and for cooperation with foreign scholars, institutions, and governments.

(b) The Commissioner will weigh each criterion listed in paragraph (a) of this section, including those listed in § 100a.26(b), equally in evaluating an application. An applicant may receive as much as five points or as low as zero points under each criterion.

(c) In order to help achieve a reasonable geographic distribution of Title VI international studies centers throughout

the United States the Commissioner will, consistent with desired program excellence, take into account the proximity of any proposed center to any other center focusing on the same world area or specialized field of study in awarding grants under this program.

(20 U.S.C. 511(a))

§ 146.15 Applications.

(a) Applicants for funds under this subpart shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such applications shall describe the activities to be undertaken and shall contain sufficient information to enable the Commissioner to evaluate the application on the basis of the criteria established in § 146.14.

(b) Applications from a consortium of institutions of higher education shall designate one of the member institutions as the grantee institution.

(20 U.S.C. 511(a))

§ 146.16 Allowable costs.

(a) Funds awarded under this subpart may be used to pay for those costs reasonably related to the operation of a center.

(b) Funds awarded under this subpart may not be used for financial assistance for students or for center research.

(20 U.S.C. 511(a))

§ 146.17 Multiyear projects.

(a) The Commissioner may require that institutions applying for assistance under this subpart project their goals and activities over a three-year period. Multiyear approval is intended to offer projects a reasonable degree of stability over time and to facilitate additional long range planning.

(b) Approval of multiyear projects shall not commit the Federal government to provide financial assistance from appropriations not currently available and the funding of these projects after the initial year of support is subject to annual evidence of satisfactory performance and the availability of funds.

(20 U.S.C. 511(a)).

Subpart C—Graduate and Undergraduate International Studies Programs

§ 146.21 Scope.

The Commissioner is authorized to award grants to and contracts with institutions of higher education or consortia of such institutions to pay part of the costs of establishing and operating graduate and undergraduate international studies programs. Such programs will focus on the development of international components in course offerings and new methods for teaching international studies.

(20 U.S.C. 511(a))

§ 146.22 Graduate international studies programs: activities.

(a) The Commissioner may award grants to and contracts with institutions of higher education conferring postbaccalaureate degrees or to consortia of such institutions to assist in the initiation and development of (1) international components for existing problem- or topic-oriented courses of study or (2) instruction on a problem or topic of contemporary concern to an existing international studies program. The resulting program must provide instruction related to more than one of the world regions listed in § 146.11(b) and shall provide course offerings of a comparative or interdisciplinary nature that will strengthen linkages among disciplines and among various international studies programs and professional schools. Such programs will bring an interdisciplinary and comparative focus to problems, issues, or topics of mutual concern among nations.

(b) Institutions must make foreign language training available to students enrolled in programs developed under this subpart.

(c) In order to receive funds, the institution must assure that the activities initiated under this subpart will be continued after Federal support has been terminated.

(d) Program activities must be carried out within the United States and principally on the campus (or campuses) of the institution(s) involved. Program activities may take place throughout the calendar year during both the summer and the academic year; however, such activities may not be carried out exclusively in the summer.

(20 U.S.C. 511(a))

§ 146.23 Undergraduate international studies programs: activities.

(a) The Commissioner may award grants to and contracts with institutions of higher education or to consortia of such institutions, to assist them in providing an effective international perspective to the undergraduate general education program, particularly in the first two years of postsecondary study. Such programs shall provide instruction in more than one of the world areas listed in § 146.11(b).

(b) Institutions shall make foreign language training available to students enrolled in programs developed under this subpart.

(c) In order to receive funds, the institution must assure that the activities initiated under this subpart will be continued after Federal support has been terminated.

(d) Program activities must be carried out within the United States and principally on the campus (or campuses) of the institution(s) involved. Program activities may take place throughout the calendar year during both the summer and the academic year; however, such activities may not be carried out exclusively in the summer.

(20 U.S.C. 511(a))

§ 146.24 Criteria for selection of graduate and undergraduate international studies programs.

(a) In addition to evaluation on the basis of criteria found in the Office of Education General Provisions at 45 CFR 100a.26(b), the Commissioner will further evaluate applications for Federal support for graduate and undergraduate international studies programs in accordance with the following criteria:

(1) The international nature, contemporary relevance, and interdisciplinary and comparative dimensions of the program;

(2) The extent to which provision is made for evaluation of the effect of the program on those receiving training;

(3) The institution's capability to provide foreign language study;

(4) The commitment of the institution to the establishment and operation of the program as evidenced by maximum use of available resources (including institutional financial support);

(5) The reasonableness of the allocation of Federal funds among program activities; and

(6) The extent to which a clearly improved educational experience will be available at the institution for students within two years and the caliber of program that will be continued after Federal support is withdrawn.

(b) The Commissioner will weigh each criterion listed in paragraph (a) of this section, including those listed in § 100a.26(b), equally in evaluating an application. An applicant may receive as much as five points or as low as zero points under each criterion.

(20 U.S.C. 511(a))

§ 146.25 Applications.

(a) Applicants for funds under this subpart shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such applications shall describe the activities to be undertaken and shall contain sufficient information to enable the Commissioner to evaluate the application on the basis of the criteria established in § 146.24.

(b) Applications from a consortium of institutions of higher education shall designate one of the member institutions as the grantee institution.

(20 U.S.C. 511(a))

§ 146.26 Allowable costs.

(a) Funds awarded under this subpart may be used to pay for those costs reasonably related to the operation of a program.

(b) Funds awarded under this subpart may not be used to pay for financial assistance for students or for program research and dissemination activities.

(20 U.S.C. 511(a))

§ 146.27 Multiyear projects.

(a) The Commissioner may require that institutions applying for assistance under this subpart project their goals and activities over a two year period except that a consortium of institutions may be required to project their goals and activities over a three year period. Multiyear approval is intended to offer projects a reasonable degree of stability over time and to facilitate additional long range planning.

(b) The Commissioner anticipates that grants and contracts of up to $45,000 per year may be awarded under this subpart. Approval of projects for more than one year does not commit the Federal government to provide financial assistance from appropriations not currently available and the funding of these projects after the initial year of support is subject to annual evidence of satisfactory performance and the availability of funds.

(20 U.S.C. 511(a)).

Subpart D—Foreign Language and Area Studies Fellowships

§ 146.31 Fellowship authorization.

(a) Foreign language and area studies fellowships may be awarded through eligible institutions of higher education to graduate students, including graduate students seeking professional degrees, who are undergoing advanced training in modern foreign languages, in related area studies or in international studies at any center as defined in § 146.2 (c), or in any program funded under Subpart C of this part, if such students provide reasonable assurance that they will, upon completion of their training, be available for teaching service in an institution of higher education, an elementary or secondary school, or for such other service of a public nature as defined in § 146.35(b).

(b) For purposes of this subpart an "eligible institution" means an institution of higher education operating a center or conducting a program authorized under Subpart C of this part.

(20 U.S.C. 511(b)).

§ 146.32 Allocation of fellowships among institutions.

In order to insure that the students who are selected to receive fellowships under this subpart shall receive training in programs and centers of the highest quality, the Commissioner requests applications from eligible institutions for quotas of fellowships. Such applications are reviewed on the basis of the criteria set forth in § 146.33 and quotas of fellowships will be allocated to institutions whose applications are selected in accordance with such criteria.

(20 U.S.C. 511(b)).

§ 146.33 Criteria for determination of institutional fellowship quotas.

In addition to evaluation on the basis of criteria found in the Office of Education General Provisions at 45 CFR 100a.26(b), the Commissioner will evaluate applications for quotas of foreign language and area studies fellowships from institutions of higher education in accordance with the following criteria:

(a) (1) The extent to which an institution which is applying for a quota of fellowships in African studies includes as part of its language and area studies program such disciplines as economics, history, humanities (art, drama, music, philosophy, religion), sociology, and languages other than Swahili;

(2) The extent to which an institution which is applying for a quota of fellowships in East Asian studies includes as part of its language and area studies program such disciplines as anthropology, economics, geography, sociology, and humanities (art, drama, music, philosophy, religion);

(3) The extent to which an institution which is applying for a quota of fellowships in East European Studies includes as a part of its language and area studies program such disciplines as anthropology, geography, humanities (art, drama, music, philosophy, religion); sociology, and languages other than Russian;

(4) The extent to which an institution which is applying for a quota of fellowships in Latin American studies includes as part of its language and area studies program such disciplines as humanities (art, drama, music, philosophy, religion); sociology, Portuguese, and Amerindian languages;

(5) The extent to which an institution which is applying for a quota of fellowships in Middle Eastern studies includes as part of its language and area studies program such disciplines as anthropology, economics, geography, humanities (art, drama, music, philosophy, religion); political science, sociology, and languages other than Hebrew;

(6) The extent to which an institution which is applying for a quota of fellowships in South Asian studies includes as part of its language and area studies program such disciplines as anthropology, humanities (art, drama, music, philosophy, religion), linguistics, literature, sociology, and geography;

(7) The extent to which an institution which is applying for a quota of fellowships in Southeast Asian studies includes as part of its language and area studies program such disciplines as economics, history, humanities (art, drama, music, philosophy, religion), linguistics, literature, and sociology; and

(8) The extent to which an institution which is applying for a quota of fellowships in Western European studies includes as part of its language and area studies program such disciplines as anthropology, economics, geography, philosophy and religion, political economy, sociology, and languages other than French, German, Italian, or Spanish;

(b) The quality of the institution's existing foreign language and area studies program for the area for which a quota of fellowships is being requested as evidenced by course offerings, faculty, and library holdings;

(c) The degree to which the center or the program of the institution has provided for intra-institutional cooperation with other foreign language and area programs and the nature and extent of coordination with the institution's professional schools and other special university programs;

(d) The degree of institutional commitment to the development of its foreign language and area studies program or center as evidenced by faculty appointments, university scholarships and teaching assistantships, funding of library acquisitions, and continuing support from the institution's general funds;

(e) The degree requirements of the institution's foreign language and area studies center or program and whether proficiency in one or more foreign languages is required;

(f) The extent to which the institution's foreign language and area studies center or program provides extracurricular activities which enhance the student's foreign language proficiency and knowledge of the world area he is studying; and

(g) The extent to which the institution's center or program includes in its offerings professional training such as business, law, journalism or education, and the quality of such offerings.

(h) The Commissioner will weigh each criterion listed in paragraph (a) of this section, including those listed in § 100a.26(b), equally in evaluation an application. An applicant may receive as much as five points or as low as zero points under each criterion.

(i) Lowest priority will be given to applications for fellowships from centers or programs focusing on France, Germany, Italy, and Spain.

(20 U.S.C. 511(b)).

§ 146.34 Institutional applications.

Applicants for quotas of fellowships under this subpart shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such applications shall contain sufficient information to enable the Commissioner to evaluate the applications on the basis of the criteria in § 146.33.

(20 U.S.C. 511(b)).

§ 146.35 Student eligibility.

(a) *General.* To be eligible to receive a fellowship under this subpart a person shall:

(1) Be a citizen or national of the United States or in the United States for other than a temporary purpose with the intent to become a permanent resident thereof;

(2) Provide reasonable assurance that on completion of training he will (i) be available for teaching in an institution of higher education or in an elementary or secondary school or (ii) be available for other service of a public nature, as defined in paragraph (b) of this section;

(3) Subscribe to the oath and supply the information required in § 146.39;

(4) Have earned a baccalaureate or comparable degree before the fellowship begins;

(5) Be accepted for graduate level training in foreign languages and appropriately related area studies in a center or program with a quota of fellowships;

(6) Agree to pursue full-time study in accordance with his university's requirement during the entire award period, except as provided in § 146.38.

(b) *Other service of a public nature.* "Other service of a public nature" means employment with Federal, State or local governments, international organizations in which the United States participates, or nonprofit, nonsectarian organizations the activities of which contribute significantly to the conduct of United States foreign relations, or such other employment that will contribute to the Nation's cultural, educational, or scientific understanding of other countries.

(20 U.S.C. 511(b)).

§ 146.36 Application and selection of fellows.

(a) (1) *Application.* Applications for fellowships under this subpart shall be submitted to an institution which has received a quota of fellowships and shall be submitted to that institution before the closing date for such applications established by that institution. Such applications shall contain sufficient information to enable the applicant to be evaluated in accordance with the selection criteria set forth in paragraph (b) of this section, but shall in any event include the applicant's general academic record, career goal, educational background, language background and self evaluation of language competence, employment history, and proposed study program.

(2) In addition to the requirements set forth in paragraph (a) (1) of this section, if an individual applies for a fellowship with the intent of using that fellowship to support Ph.D. dissertation research in the United States, he shall also provide a brief description of his project, including

(i) The title of the project and signature of his graduate advisor;

(ii) The project statement of purpose;

(iii) A description of the precise topic to be investigated;

(iv) A description of methods by which research goals are to be attained;

(v) A statement as to the use of the relevant foreign language as a major research tool; and

(vi) A description of proposed travel within the United States considered to be research-related.

(b) *Selection.* The Commissioner shall select fellows and alternates from nominees submitted by institutions receiving quotas of fellowships for particular world areas. The Commissioner shall select, and the institutions shall nominate, fellows and alternates on the basis of the following criteria:

(1) A high level of academic ability as evidenced by such indices as grade point average, class ranking, or such other measures as the institutions may choose to use;

(2) Whether the applicant will major in an area of the world listed in § 146.33 (a);

(3) Whether the applicant's study program includes those disciplines listed in § 146.33(a) for the language and area to be studied;

(4) The extent to which the applicant's study plan includes appropriate foreign language training through formal study;

(5) For a fellowship in Japanese or Chinese, the extent to which at least 6 semester hours (9 quarter hours) or their equivalent in either of those languages has been successfully completed or equivalent proficiency in either language has been achieved;

(6) For a fellowship in Russian, the extent to which at least 12 semester hours (18 quarter hours) or their equivalent in that language have been successfully completed or equivalent proficiency in that language has been achieved;

(7) For a fellowship in Latin American Spanish, the extent to which at least 18 semester hours (27 quarter hours) or their equivalent in that language have been successfully completed or equivalent proficiency in that language has been achieved; and

(8) For a fellowship in any of the other languages, the extent to which documented competency in the language for which the fellowship is sought has been acquired.

(9) Lowest priority shall be given to a nominee who does not intend to pursue foreign language training or who is a native speaker of the language for which an award is sought.

(20 U.S.C. 511(b))

§ 146.37 Duration, amount, and payment of fellowships.

(a) *Duration.* Fellowships under this subpart will be awarded for one academic year and may not be revoked without the approval of the Commissioner nor may they be postponed to an academic year subsequent to that specified in the award. No applicant may receive more than a cumulative total of 48 months fellowship support (including the time period of the grant applied for) under Title VI of the National Defense Education Act and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act (Pub. L. 87-256—Fulbright-Hays Act). Of the 48 months maximum, support for dissertation research is limited to either (1) 12 months overseas under Fulbright-Hays and 9 months in the United States under Title VI for dissertation completion or (2) a maximum of 18 months in the United States for dissertation research.

(b) *Amount.* Each individual selected by the Commissioner for a fellowship will receive the cost of tuition and fees, and a maintenance allowance in the amount of $2,925.00 per academic year.

(c) If a fellow is enrolled in an established advanced language program overseas, set up by an American institution of higher education and approved by the Commissioner for purposes of this subpart, tuition charges shall reflect the tuition costs of the overseas program only; if required by university policy, a nominal fee for in absentia registration at the home institution may be included in the award.

(d) Payments shall be made in installments to cover a specific period of the academic year, and shall be paid as long as the fellow is enrolled and in good standing. In the event of overpayment or underpayment of award benefits, the student must notify his institution so that appropriate allowance adjustments can be made; however, all award increases are subject to the availability of funds. Overpayments may not be retained by the student.

(20 U.S.C. 511(b)).

§ 146.38 Employment.

A fellow may accept limited employment during the fellowship period, preferably in a job related to his field of study, provided that such employment does not prolong the time normally required to complete the fellow's course of study.

(20 U.S.C. 511(b)).

§ 146.39 Oath and criminal information.

(a) In conformity with 1001(f) of the National Defense Education Act, no funds under a fellowship or stipend may be paid to any individual unless such individual has subscribed to an oath or affirmation in the following form:

I do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic.

(b) No fellowship stipend shall be awarded to any individual unless such individual has provided the Commissioner with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining 16 years of age and minor traffic violations for which a fine of $25 or less was imposed) and regarding any criminal charges punishable by confinement of 30 days or more which may be pending against him at the time of his application for such stipend.

(20 U.S.C. 581(f)).

§ 146.40 Student responsibilities.

(a) The student shall submit to the Commissioner through the grantee institution, a report after each award period giving a full account of his accomplishments under the award and his future study or employment plans. No fellowship funds shall be released to a student who has not met the reporting requirements of a previous award.

(b) The student is responsible for informing the institution of any change in his study program, or academic status.

(20 U.S.C. 511(b)).

§ 146.41 Responsibilities of institutions receiving quotas of fellowships.

(a) Each institution of higher education receiving a quota of fellowships shall:

(1) Publicize its quota(s) of fellowships and its foreign language and area studies programs;

(2) Set a deadline for fellowship applications;

(3) Screen applications and recommend nominees;

(4) Notify applicants that, subject to final approval by the Commissioner, they have been recommended as a fellow or alternate;

(5) Issue to each approved fellow, after the term begins, the amount of funds to cover benefits under this subpart to which the fellow is entitled; and

(6) Notify the Commissioner of any change in the study program, or academic status of a fellow.

(b) If a fellowship is vacated during the academic year, the institution must obtain approval from the Commissioner prior to making a fellowship substitution from the alternates listed in the official grant agreement.

(20 U.S.C. 511(b))

Subpart E—Research and Studies

§ 146.51 Scope.

Under this subpart, the Commissioner is authorized to award grants and contracts for studies and surveys to determine the need for increased or improved instruction in modern foreign languages and other fields needed to provide a full understanding of the areas, regions, or countries in which such languages are commonly used, to conduct research on more effective methods of teaching such languages and such fields, and to develop specialized materials for use in training students and teachers.

(20 U.S.C. 512)

§ 146.52 Eligible applicants.

Public and private agencies, organizations and institutions as well as individuals are eligible to receive grants and contracts under this subpart.

(20 U.S.C. 512)

§ 146.53 Applications.

(a) Applicants for support under this subpart shall file an application with the Commissioner before the closing date established annually by the Commissioner. Such applications shall describe the activities to be undertaken and shall contain sufficient information to enable the Commissioner to evaluate the applications on the basis of the criteria established in § 146.55.

(b) Requests for information shall be sent to the Division of International Education, Bureau of Postsecondary Education, Office of Education, Washington, D.C. 20202.

(20 U.S.C. 512)

§ 146.54 Research activities.

Activities conducted under this subpart may include:

(a) Studies and surveys, including conferences, to assess the state of the art of foreign language and international studies instruction in the United States, to determine new emphases needed, to identify priority needs for specialized materials, and to define and analyze national trends through, for example, surveys of enrollments, degree requirements, and newly developing types of training programs;

(b) Research in teaching methodology (1) which applies linguistic theories and concepts of modern language pedagogy to projects that can thereby be expected to increase the understanding of second language acquisition and to improve language teaching, and (2) which applies modern teaching approaches to international studies;

(c) The preparation of specialized instructional materials, particularly for modern foreign languages which are not widely taught in the United States and for which there is only a limited commercial market; and for international studies concerned with the non-Western world.

(20 U.S.C. 512)

§ 146.55 Criteria for selection of research projects.

In addition to evaluation on the basis of criteria found in the Office of Education General Provisions at 45 CFR 100a.-26(b), the Commissioner will evaluate applications in accordance with the following criteria:

(a) For research, studies, and surveys the criteria are—

(1) The extent to which the proposed activity may be expected to develop new knowledge significant to the purpose of section 602 of the Act.

(2) The extent to which problems, questions, or hypotheses to be dealt with are well formulated, and reflect adequate knowledge of other related research;

(3) The specificity of the statement of procedures to be followed, including sampling techniques, controls, data to be gathered, and statistical and other analyses to be done; and

(4) The adequacy of the proposed teaching, testing, and research methodology.

(b) For the development of instructional materials, the criteria are—

(1) The extent to which the proposed work may contribute significantly to strengthening international studies programs of educational institutions;

(2) The extent to which all existing related materials are cited or accounted for, including a critical commentary on their adequacy, in the justification of the proposal.

(3) The degree of specificity concerning the final form of the projected instructional materials.

(4) The degree to which the proposed contents and final form of the materials reflect an empirical knowledge of the organization for instruction and academic practices of those American institutions in which they will ultimately be used; and

(5) The extent to which provision has been made for pretesting the materials in the classroom and for revision before publication.

(c) The Commissioner will evaluate each criterion listed in paragraphs (a) and (b) of this section, including those listed in § 100a.26(b), equally. An applicant may receive as much as five points or as low as zero points under each criterion.

(20 U.S.C. 512)

APPENDIX—GUIDELINES

National Defense Education Act of 1958 as amended, Title VI Sections 601–603
Grants to Institutions of Higher Education for International Studies
Centers and Programs and Foreign Language and Area Studies Fellowships; Contracts and Grants for Research and Studies

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CHAPTER I—INTRODUCTION

PART 1—GUIDELINES

§ 1.1 Scope of guidelines.

(a) The guidelines contained in this document are recommendations and suggestions for meeting the legal requirements which apply to assistance under the National Defense Education Act, Title VI, Section 601–603. The legal requirements include the Act itself (20 U.S.C. 511–513) and the regulations (45 CFR 146). The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

(20 U.S.C. 1441; 113 Congl Rec. 5936, 5939 (daily ed. May 23, 1967)); *United States v. Jefferson County Board of Education*, 372 F. 2d 836, 867 (1966))

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is Section 601(a) of the Act (20 U.S.C. 511(a)), and the guideline affects Section 146.12(d) of the regulation (45 CFR 146.12(d)), the following citation will be placed on the line immediately following the guideline: (20 U.S.C. 511(a); 45 CFR 146.12(d)). If no particular section of the regulation is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

CHAPTER II—INTERNATIONAL STUDIES CENTERS

PART 1—PROGRAM OUTLINE

§ 1.1 Core instructional activities.

(a) The core instructional offerings of a center should encompass a variety of disciplines and options for professional training at the various degree levels. While center proposals for Federal funding may include summer intensive language programs, symposia, or workshops (inservice teacher training programs, for example), the major effort of a center should be focused on instruction during the regular academic year.

(20 U.S.C. 511(a); 45 CFR 146.12)

(b) Federal funds may be used to assist a wide variety of the center's instructional program: faculty salaries (including teaching assistants and language informants), administrative salaries, library staff salaries, teaching materials (including library acquisitions), and faculty travel. Federal funds may also be used to develop further resources for the center: faculty development, revision of existing courses, development of new courses or seminars, hiring of new personnel, summer intensive langauge programs, and forging of new linkages with professional schools and other programs at the institution.

(20 U.S.C. 511(a); 45 CFR 146.16)

§ 1.2 Educational outreach activities.

(a) The educational outreach activities of a center may take a variety of forms, as appropriate to the center's purposes and resources and to needs and interests of such interested parties as other institutions of higher education, elementary and secondary educational agencies, business, and the community at large. Information about examples of outreach activities which have been undertaken by centers is available from the International Studies Branch, Division of International Education, Bureau of Postsecondary Education, Office of Education, Washington, D.C. 20202. However, no list of past or present examples should be considered complete; centers are encouraged to be imaginative and to create appropriate categories of activities here as well as in their core instructional offerings. Many outreach activities may be part of the institution's normal program; nonetheless, where justified, they should be included in any application for Federal support if they are an integral part of the center's activities. Applicants should keep in mind that one of the criteria used in evaluating applications for centers is the extent to which the applicant is carrying out or will carry out such activities.

(20 U.S.C. 511(a); 45 CFR 146.13)

(b) Federal funds for outreach activities may be used for teaching and administrative salaries, faculty travel (for example, in organizing a workshop for teachers at any level of education), honoraria for visiting lectures, dissemination of information about center activities and resources, and collection of materials for loan or rental to other educational agencies. Further, with regard to such educational outreach activities, in view of the limited Federal funds available for all international studies needs, the use of such funds for meals or lodging of persons attending special workshops is discouraged.

(20 U.S.C. 511(a); 45 CFR 146.16)

CHAPTER III—GRADUATE AND UNDERGRADUATE INTERNATIONAL STUDIES PROGRAMS

PART 1—PROGRAM OUTLINE

§ 1.1 Graduate international studies programs.

(a) Graduate international studies programs should focus on issues or problems of both contemporary and future importance involving more than one geographic region of the world, one of which could be North America.

(b) Examples of subjects on which graduate programs may be based are:
(1) International trade and business;
(2) Comparative environmental studies;
(3) The Atlantic Community; and
(4) Population growth and planning.

(c) While proposed programs for Federal funding may include summer symposia or workshops, the main efforts of the program should be focused on instruction during the regular academic year.

(d) Federal funds may be used to permit the recipient institution to develop or rework curricula, orient faculty, purchase library books and periodicals, or perhaps accelerate plans for the hiring of new people to round out existing staff resources.

(e) Proposed programs which have a mixed graduate/undergraduate character will be considered and should be submitted in the graduate category.

(f) Programs usually have a very limited administrative structure and are generally not officially designated academic units (such as centers).

(20 U.S.C. 511(a); 45 CFR 146.22, 146.24, and 146.26)

§ 1.2 Undergraduate international studies programs.

(a) Proposals for undergraduate international studies programs may focus on any of several approaches for strengthening the international dimensions of the general education portion of the instructional program at eligible institutions. Examples of some approaches are listed below, but are not intended to be all-inclusive, nor are these approaches in any way mutually exclusible:

(1) A broad, integrated approach to the contemporary world. Through this kind of approach, international dimensions might be introduced in an interdisciplinary, or multidisciplinary settings.

(2) The comparative approach to foreign area studies and world problems. Proposals may provide for development of programs which would move curricula from concern solely with American and Western European models to a context in which other cultures would be seriously studied also. Topical studies drawing on different disciplines and examining in different societies such phenomena as urbanization, man and his environment, violence and conflict resolution, and social change and economic development may provide further possibilities for developing a comparative perspective.

(3) The development of a broader view of the world through the arts, music, and drama. A program which focuses on the arts should be concerned as well with the larger cultural context.

(4) Transnational concerns, involving a wide range of topics and issues which transcend the boundaries of nation states. Such common super-state problems as environment, disease, food supply, conflict resolution, and social change may be useful ways to introduce international studies to the undergraduate curriculum.

(5) Intercultural communication. Two categories of special relevance for American education are (i) improvements in foreign language instruction and (ii) intercultural communication broadly speaking—interaction and development of mutual understanding, or "cultures speaking to cultures." A program with special attention to language instruction might encourage fresh approaches to the learning of both language itself and language as a "window" on foreign cultures(s), developing students' understanding of systems of verbal and non-verbal communication. Cross-cultural or inter-cultural training strives to develop in an individual an awareness of the impact of one's own culture and the culture of others on one's own attitudes, habits, behavior and perception in interaction with others, to increase appreciation of other cultures, and to enhance ability to affect behavior in interaction with persons of other cultures.

(b) While proposed programs for Federal funding may include summer symposia or workshops, the main efforts of the program should be focused on instruction during the regular academic year.

(c) Federal funds may be used to permit the recipient institution to develop or rework curricula, orient faculty, purchase library books and periodicals, or perhaps accelerate plans for the hiring of new people to round out existing staff resources.

(d) Programs usually have a very limited administrative structure and are generally not officially designated academic units (such as centers).

(20 U.S.C. 511(a); 45 CFR 146.23, 146.24, and 146.26)

CHAPTER IV—GUIDELINES FOR FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIPS

PART 1—ADMINISTRATIVE PROVISIONS

§ 1.1 Formation of committees.

(a) It is recommended that the initial step for an institution which intends to apply for allocations of fellowships for one or more language and area study center or program should be the appointment by the university administration of a committee responsible to the graduate dean (1) for the preparation of proposals and (2) for the nomination of candidates at institutions receiving an allocation of fellowships.

(b) It is suggested that the chairman of this committee be the dean of the graduate school or his designee and that the other members of the committee be faculty members in the departments and professional schools which participate in the language and area studies center or program.

§ 1.2 Responsibilities of the committee and the committee chairman.

(a) The committee should be responsible for reviewing applications and recommending candidates for fellowships.

(b) The committee chairman should be responsible for:

(1) Forwarding the forms, cards, and instructions to nominees;

(2) Advising applicants (including any who might be temporarily located abroad) of the importance of prompt mailing of all required forms;

(3) Instructing applicants to complete and return to him all forms;

(4) Forwarding to the Office of Education forms completed by the nominees. The committee chairman should retain for the institution's files one copy of the Biographical Data form containing personal background, language background, and educational information on the student.

(5) Forwarding to the Commissioner any requests for supplements;

(6) Completing, signing, and forwarding to the Commissioner (i) the List of Nominees/Alternates which contains the names of recommended fellowship candidates by language and world area; (ii) Institutional Summary of Fellowships which contains the number of nominees by world area; (iii) the List of Awardees and Benefits which contains the names of the actual fellowship holders and the total cost of benefits to be paid to them.

(20 U.S.C. 511(b)); 45 CFR 146.23–26 and 146.28).

§ 1.3 *Declination of award by principal candidate.*

(a) If a fellow declines an award before the beginning of the fall term, the committee may select from its list of approved alternates an eligible alternate to fill the vacancy thus created. The committee chairman should promptly request approval of the Commissioner, giving the name of the candidate who declined the award, the reason (if possible) for his declination, the name of the alternate selected to fill the vacancy, and the estimated cost of the award to the alternate.

(20 U.S.C. 511(b); 45 CFR 146.35).

§ 1.4 *Vacated fellowships.*

(a) If a student vacates a fellowship in the course of the academic year, the institution should seek approval of the Commissioner if it desires to use the balance of the fellowship for an approved alternate, beginning with the term following the one in which the original holder of the fellowship relinquished it.

(20 U.S.C. 511(b); 45 CFR 146.35).

§ 1.5 *Reallocating awards.*

(a) If more than one language and area studies center or program within an institution receives a quota of awards, the appropriate official of the institution may, with prior approval of the Commissioner, reallocate awards among these centers or programs in order to meet priorities set forth in 45 CFR 146.35 and changing program and student needs.

(20 U.S.C. 511(b); 45 CFR 146.35).

CHAPTER V—GUIDELINES FOR RESEARCH

PART 1—APPLICATIONS

§ 1.1 *Application procedures.*

(a) For the information of applicants, proposals and applications under this subpart should conform to the information requirements set forth in HEW procurement regulations (41 CFR 3-4.5202-1(b)).

(b) Additional information about proposals and applications is available from the Division of International Education. It is advisable to provide a brief project outline for preliminary discussion before submitting a formal application.

(20 U.S.C. 512; 45 CFR 146.53 and 41 CFR 3-4.5202(b))

PART 2—RESEARCH ACTIVITIES

§ 2.1 *Studies and surveys.*

Federal funds may be used to assist projects designed to assess the state of the art of foreign language, area, and other international studies in the United States, determine new emphases, identify needs and priorities for specialized materials, and define and analyze national trends, for example, through surveys of enrollments, degree requirements, or newly developing types of training programs. Assistance is available to support conferences only if the conference is primarily concerned with activities authorized by Title VI of the Act. Assistance to professional organizations to hold annual or periodic conventions which serve primarily organizational aims and which have been taking place without Federal Support thus far, cannot be justified.

(20 U.S.C. 512; 45 CFR 146.55)

§ 2.2 *Research in teaching methodology.*

(a) For foreign languages: Studies may be assisted for investigation of certain aspects of the processes of second-language acquisition, which can be expected to increase an understanding of such processes and thereby contribute to the development of more effective teaching approaches; and for experimental projects for applying modern concepts of foreign language teaching pedagogy and for testing their effectiveness in controlled situations. With the growing significance of foreign language competence as an integral part of education in fields other than language teaching, such as international economics, industry, law, tourism, and trade, projects exploring appropriate approaches to language training specifically for the professions will also be considered.

(b) For international studies: Studies and experimental projects may be assisted for development of more effective methods of teaching about foreign areas, intercultural communication, and other aspects of international education. Methodologies which might be explored, for example, could include interdisciplinary or team teaching, or other innovative curriculum approaches to international studies.

(20 U.S.C. 512; 45 CFR 146.55)

§ 2.3 *Preparation of specialized instructional materials.*

(a) For languages which are not widely taught in the United States and which are of little or no interest for commercial publication: Decisions about Federal assistance will be guided by the recommendations on priority needs resulting from national conferences (such as the Conference on the Uncommonly-taught Languages held in Columbia, Maryland, from September 29 to October 2, 1974; the report from this conference, *Material Development Needs in the Uncommonly-taught Language: Priorities for the Seventies*, is available from the Center for Applied Linguistics, 1611 North Kent Street, Arlington, Virginia 22209) and conferences of language specialists representing a geographic or linguistic world area. National languages, languages of major regional or cultural significance, and other languages for which instruction is not widely available in the United States will be given priority. North American Indian languages, Hawaiian, Somoan, Micronesian, and languages native to the United States and its territories, are not considered foreign languages in this context. Since research is supported only in modern foreign languages, languages nearing extinction, although of linguistic interest, will not be considered. Materials for the study of English as a foreign language do not fall within the purview of NDEA Title VI. French, German, Italian, and Spanish are considered commonly-taught languages requiring no Federal assistance for general materials development.

(b) For international studies, primarily concerned with the non-Western world: General reference works, specialized research tools, or basic materials in a given field of study or world area are assigned a higher priority than studies focusing on specific periods, phenomena, and personalities.

(20 U.S.C. 512; 45 CFR 146.55)

[FR Doc.77-14557 Filed 5-20-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-319]

PART 19—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Improvement of the Commission's Overall Financial Disclosure System

AGENCY: Federal Communications Commission.

ACTION: Corrected Order.

SUMMARY: This is an Order adopting an amendment of the criteria of position categories, and requiring incumbents to file statements of employment and financial interests. The action, taken with the agreement of the U.S. Civil Service Commission, increases the number of employees who must file such statements. The amendment was adopted pursuant to the Commission's policy of strengthening the standards of ethical conduct, and improving its overall financial disclosure system.

EFFECTIVE DATE: May 26, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Fred J. Goldsmith, Office of Executive Director (202-632-7143).

SUPPLEMENTARY INFORMATION:

Adopted: February 10, 1977.

Released: May 18, 1977.

Order. In the matter of amendment of Part 19 to improve the Commission's overall financial disclosure system.

1. These amendments to Part 19 of the Commission's Rules and Regulations are made pursuant to the Commission's policy of strengthening the standards of ethical conduct, and improving the Commission's overall financial disclosure system.

2. Because the amendment involves internal Commission personnel and management matters exclusively, compliance with the prior notice and effective date requirements of 5 U.S.C. 553 is unnecessary.

3. *Accordingly, it is ordered,* Effective May 26, 1977, pursuant to the authority contained in sections 4(i), 303(r) and 5(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(b), and 303(r), that § 19.735-403 of Part 19 of the FCC rules is hereby deleted, and the following inserted in lieu thereof:

§ 19.735-403 Employees required to submit statements.

Except as provided in § 19.735-404, statements of employment and financial interests shall be required from the following employees of the Commission:

(a) Employees who are Administrative Law Judges.

(b) Employees who are Members of the Review Board.

(c) All other employees who are in Grade GS-13 or above.

(d) Employees who are in Grade GS-11 or above and who are Heads or Supervisors or Assistant Heads or Supervisors of field offices.

(e) All purchasing agents.

(f) All employees serving as auditors or accountants, with the principal duty of auditing private enterprises.

(g) All employees, professional, administrative, and clerical, in the offices of the Commissioners.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14539 Filed 5-20-77;8:45 am]

[1] Commissioner Lee absent.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132, 1138]

[Docket Nos. AO-231-A45, etc.]

MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS

Extension of Time for Filing Briefs

7 CFR Parts	Marketing area	Docket Nos.
1071	Naesho Valley	AO-227-A34
1073	Wichita, Kans.	AO-173-A35
1097	Memphis, Tenn.	AO-210-A34-RO1
1102	Fort Smith, Ark.	AO-237-A28-RO1
1104	Red River Valley	AO-298-A28
1106	Oklahoma Metropolitan	AO-210-A41
1108	Central Arkansas	AO-243-A32-RO1
1120	Lubbock-Plainview, Tex.	AO-328-A21
1126	Texas	AO-231-A45
1132	Texas Panhandle	AO-262-A30
1138	Rio Grande Valley	AO-335-A26

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing briefs.

SUMMARY: This notice extends the date for filing briefs on the hearing held April 5-8, 1977, at Irving, Texas, concerning a proposed base-excess plan in 11 Southwest markets. Interested parties requested the additional time to complete their analysis of the record.

DATE: Briefs now are due on or before June 1, 1977.

ADDRESS: Briefs (six copies) should be filed with the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricutural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-4824).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notices of Hearing: Issued February 11, 1977, published February 14, 1977 (42 FR 9674); issued March 3, 1977, published March 8, 1977 (42 FR 13024); and issued March 25, 1977, published March 31, 1977 (42 FR 17130).

Notice is hereby given that the time for filing briefs, proposed findings, and conclusions on the record of the public hearing held April 5-8, 1977, at Irving, Texas, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid specified marketing areas pursuant to the above listed notices is hereby extended to June 1, 1977.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C. on May 18, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-14552 Filed 5-20-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-EA-28]

PROPOSED ALTERATION OF CONTROL ZONE & TRANSITION

Aberdeen, Md.

Correction

In FR Doc. 77-13515, appearing at page 24067, in the issue for Thursday, May 12, 1977, make the following corrections:

1. In the fourth full paragraph, of the second column, on page 24067, reverse the quotation marks after the word insert.

2. In the sixth line of the fifth paragraph, in the same column and page, change the initials "OR", to read "VOR".

[14 CFR Part 71]

[Airspace Docket No. 77-SW-17]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Killeen, Texas, transition area to provide controlled airspace for aircraft utilizing the newly installed STARN RBN in the execution of an instrument approach procedure to Gray AAF.

DATES: Comments must be received by June 16, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G, § 71.181 (42 FR 440) of FAR Part 71, the description of the Killeen, Texas, transition area reflects the controlled airspace needed to conduct instrument approach procedures at Gray Army Air Field. The STARN Radio Beacon (RBN) has now been installed on the localizer course of the ILS to runway 15 at the Army Air Field where it serves a dual purpose of providing the compass locator at the ILS outer marker and an NDB approach capability to the runway. Alteration of the transition area is now required to provide controlled airspace for aircraft executing an ILS or NDB instrument approach to runway 15.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received by June 16, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be change in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Air Traffic Division, and Robert L. Nelson, Office of the Regional Counsel, Southwest Region.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed below.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations as hereinafter set forth.

§ 71.181 [Amended]

In Subpart G, § 71.181 (42 FR 440), the Killeen, Texas, transition area is amended to read, in part, by deleting:

Within 3.5 miles each side of the 341° bearing from Gray RBN (Latitude 31°07'18" N., Longitude 97°51'02" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN;" and substituting therefor: "within 3.5 miles each side of the 329°M, 337°T, bearing from STARN RBN (Latitude 31°10'03" N., Longitude 97°52'41" W.) extending from the 7-mile radius area to 11.5 miles north of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on April 29, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-14473 Filed 5-20-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 211]

COAL MINING OPERATING REGULATIONS

Proposed Adoption of Cooperative Agreement With Colorado: Comment Period Scheduled

AGENCY: Geological Survey, Interior.

ACTION: Proposed rule, comment period scheduled.

SUMMARY: This document proposes to adopt a Cooperative Agreement between the Department of the Interior, and the State of Colorado that will govern the procedures that will be used to administer and enforce surface mining reclamation standards in Colorado. Presently, both Colorado and the Department perform overlapping and duplicative functions which impose unnecessary costs on both the respective governments, and the regulated industry. The Agreement eliminates this duplication and overlap wherever possible.

DATES: Comments must be received by June 6, 1977.

ADDRESSES: Comment Address: Director, Geological Survey, National Center, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Robert Uram, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, Telephone No. 202-343-4803.

SUPPPLEMENTAL INFORMATION: On May 17, 1976, the Department of the Interior adopted new regulations to govern the management of federally owned coal resources. 41 FR 20252 (1976). Those regulations authorize the Department to enter into cooperative agreements with states in which Federal coal leases have been or will be issued for the purpose of avoiding duality in the administration and enforcement of surface coal mine reclamation operations. 30 CFR 211.75 (b).

The Secretary and the Governor of Colorado have completed the negotiation of a Cooperative Agreement under this authority. The Agreement provides that the State of Colorado will be principally responsible for the administration and enforcement of surface coal mine reclamation operations on Federal coal leases in Colorado.

The Department of the Interior surface mining regulations require a Federal coal lessee to conduct mining operations in a manner that ensures the effective reclamation of mined lands.

An operator must, in particular, meet all the performance standards in 30 CFR 211.40 (1976). The Department's regulations require this degree of protection to be maintained, and the Department cannot enter into a Cooperative Agreement which compromises the degree of environmental protection established under Federal laws and regulations. The proposed Cooperative Agreement maintains this degree of environmental protection.

The State of Colorado's reclamation regulations do not contain mandatory requirements that afford general protection of environmental quality and values at least as stringent as would occur under the exclusive application of Federal law. However, the State of Colorado has the authority to administer its reclamation laws in a manner that provides the same degree of environmental protection as required by Federal law. The proposed Cooperative Agreement commits the State of Colorado to this degree of environmental protection on Federal coal leases and requires the State of Colorado to ensure that "all mining plans approved under this Agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR 211." The proposed Agreement also requires that the procedures of the State are as effective as the procedures of the Department of the Interior to enforce the requirements of the mining plan. If the State of Colorado is unable to meet these assurances, the Department has the duty, under the proposed Agreement, to notify Colorado that it intends to cancel the Agreement. The Department of the Interior will require reports from the State of Colorado and will conduct inspections to determine whether the State of Colorado is complying with the assurances of the Agreement.

Article III, paragraph H of the Cooperative Agreement requires the State of Colorado to devote adequate funds to administer and enforce reclamation requirements on Federal coal leases in the State. It is the understanding of both the Secretary of the Interior and the Governor of Colorado that the Department of the Interior will provide funds to the State of Colorado under a separate procurement contract on a cost-of-service basis. The Department intends to reimburse the State of Colorado for services, such as certain types of inspections, that the State will be performing for the Federal Government. The language of Article III shall be construed in a manner consistent with this understanding.

In the regulations promulgated on May 17, 1976, the Department also established a procedure by which the Department could adopt the substantive, on-the-ground standards of a State's reclamation law as the Federal standards for operations on Federal coal leases in the State, as long as the State's requirements afforded "general protection of environmental quality and values at least as stringent as would occur under exclusive application of (the Federal standards)." 30 CFR 211.75(a). In an advance notice of proposed rulemaking, the Department explained what steps it would take to determine whether it would adopt the requirements of a State's reclamation law. 41 FR 27993 (1976). This rulemaking takes no action under this section, and does not affect the requirement of 30 CFR 211.40, or the standards the Department of the Interior will use to approve a mining plan.

Four elements are central to a Cooperative Agreement for the administration and enforcement of surface coal mine reclamation standards: mine plans; inspections; enforcement provisions; and bonding requirements. The Department has reviewed Colorado's law, and believes that the State of Colorado is capable of administering and enforcing reclamation operation on Federal coal leases in Colorado in such a way that Federal interests are protected.

Although the proposed Agreement grants the State the principal authority for administering and enforcing reclamation operations, we note the following. First, the Federal Coal Leasing Amendments Act of 1975, Pub. L. 94-377, requires the Secretary to approve the mining plan of a Federal lessee. Article IV, section C states the Secretary's duty to review and approve mining plans independently from State review and approval. The Agreement does avoid the application of conflicting standards by allowing the submission of one mining plan to the State and the Department.

Second, the Department retains its authority to establish the amount of the performance bond to be imposed. Article VII, section A avoids the imposition of double bonds by providing that the Department's bond requirement, if higher than the State's will only be for the amount of the difference between the two amounts.

The proposal contains chiefly the text of the Cooperative Agreement, but it also contains proposed technical changes in 30 CFR 211.10, 211.74, and 211.77 to conform those rules to the fact that the Cooperative Agreement, if adopted, will contain the requirements of a Federal lessee's mining plan in Colorado.

This proposed rulemaking does not explicitly amend 43 CFR Subpart 3041, but the Department wishes to state that the enforcement and administration provisions of that Subpart will be administered consistently with the changes in 30 CFR Part 211 proposed here.

COMMENT PERIOD

Final Cooperative Agreements have also been signed with Wyoming (effective February 1, 1977) and New Mexico, Utah, and North Dakota (all effective May 1, 1977). In these rulemaking proceedings, the Department set a 30-day comment period. The Department has concluded that it is both unnecessary and contrary to the public interest to have a 30-day comment period on this proposal. A shorter comment period is allowed.

This rulemaking proceeding is extremely similar to the one previously completely for Wyoming, Utah, New Mexico, and North Dakota. The public has had the opportunity to comment on the concept of this type of Cooperative Agreement in those proceedings, in addition to the opportunity to comment on 30 CFR 211.75(b) prior to its adoption last May. The previous agreements failed to generate significant comments. This Agreement does not significantly deviate from those prior actions. A full 30-day comment period is unnecessary, because the public has had repeated opportunities to comment on this type of proposal.

In addition, the 30-day comment period is contrary to the public interest because it may extend this rulemaking proceeding past the date of enactment of new federal surface mining legislation. The Department has supported the enactment of strong surface mining legislation, and in particular has offered amendments to that legislation to ensure that Federal-State cooperation in regulating reclamation of Federal lands would be encouraged. On April 29, 1977, the House passed H.R. 2, its version of the surface mining legislation. Senate consideration of similar legislation is also well-advanced, and final legislation could be passed soon. It is important to complete this rulemaking before the legislation is enacted so that Colorado's regulatory program will be able to receive the full benefits of the new legislation. Section 523 of H.R. 2, for example, recognizes the validity of Cooperative Agreements (with appropriate modifications) to regulate coal surface mining on Federal lands "existing on the date of enactment of this Act." H.R. 2 permits these Agreements to remain in effect prior to approval of a state program under the bill. In the absence of a Cooperative Agreement, H.R. 2 would temporarily displace Colorado from regulating Federal lands after the Department adopted a Federal lands program, and prior to the approval of a state program. Since Colorado has an excellent program, the public interest would be enhanced if this temporary displacement could be prevented. Although neither the date of enactment, nor the particular provisions of surface mining legislation is certain, it is possible a bill containing provisions similar to section 523 in H.R. 2 will be enacted in the near future. Consequently, a shortened comment period is needed to help ensure that this rulemaking can be completed before the legislation has been enacted. Comments are requested by June 6, 1977.

The environmental impacts of this proposed action are discussed in the final Environmental Impact Statement, Surface Management of Coal Resources (43 CFR Subpart 3041) and Coal Mining Operating Regulations (30 CFR Part 211) (1976). NEPA does not require, and the Department has not prepared, a separate impact statement for this action.

Dated: May 18, 1977.

CECIL D. ANDRUS,
Secretary.

1. Accordingly, the Department proposes to amend 30 CFR § 211.10 by adding a new paragraph (e) (6) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * * * *

(e) *States with § 211.75(b) agreements.* * * *

(6) *Colorado.* A Federal coal lessee in the State of Colorado who must submit a mining plan or permit under both State and Federal law shall submit in lieu of the mining plan required in this section, a mining plan containing the information required by:

(i) 34-32-112, C.R.S. (1973);

(ii) Colorado Mined Land Reclamation Board Rules and Regulations, Rule 2, section 2.1 (referred to as "Board Rule");

(iii) 30 CFR 211.10(c); and

(iv) A statement certifying that a copy of the plan has been given to the State of Colorado and the Secretary.

2. The Department proposes to amend 30 CFR 211.74 by adding a new paragraph (g) (6) to read as follows:

§ 211.74 Variances.

* * * * * * *

(g) *States with § 211.75(b) agreements.* * * *

(6) *Colorado.* A Federal coal lessee in the State of Colorado shall request and receive variances from the State of Colorado and the Secretary under the provisions of 30 CFR 211.74.

3. The Department proposes to amend 30 CFR 211.77 by adding a new paragraph (f) to read as follows:

§ 211.77 States with cooperative agreements.

* * * * * * *

(f) *Colorado.* The administration and enforcement of reclamation requirements on federal coal leases in Colorado subject to this part shall be done according to the Cooperative Agreement between the State of Colorado and the Department of the Interior. The Cooperative Agreement is published at (date and page of publication of final rule, if adopted, to be inserted), and is available at appropriate offices of the Department of the Interior.

4. The State of Colorado and the Department of the Interior propose to enter into a Cooperative Agreement to designate the State of Colorado as the principal party to administer surface coal mine reclamation operations on Federal coal leases in Colorado to read as follows:

Cooperative agreement between the United States Department of the Interior and the State of Colorado. Under Section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. Section 189, and Section 307 of the Federal Land Policy and Management Act of 1976, and 30 CFR 211.75(b).

This agreement (referred to as the Cooperative Agreement) is made between the State of Colorado acting by and through Governor Richard D. Lamm (referred to as the Governor) and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the Secretary).

ARTICLE I

PURPOSE

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the State of Colorado with respect to the administration and enforcement of coal surface mine reclamation requirements under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements by designating the State of Colorado to the extent possible, as the principal entity to enforce reclamation laws and regulations on Federal coal leases in Colorado.

ARTICLE II

EFFECTIVE DATE

The Cooperative Agreement is effective on the ____ day of _____, 19____, and remains in effect until terminated as provided in Article IX.

ARTICLE III

REQUIREMENTS FOR COOPERATIVE AGREEMENT

The Governor affirms that the State of Colorado will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. Responsible Administrative Agency. The Colorado Department of Natural Resources

and the Colorado Mined Land Reclamation Board (referred to as the State Agency) are, and shall continue to be, the agencies responsible for administering this Cooperative Agreement on behalf of the Governor on Federal coal leases throughout the State.

B. *Authority of State Agency.* The State Agency designated in Paragraph A of this Article has, and shall continue to have, authority to carry out this Cooperative Agreement.

C. *State Reclamation Law.* The State Agency shall ensure that all mining plans approved under this agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR part 211, and that the standards used to approve a mining plan of a Federal lessee will not unreasonably impair coal mining that is in the overriding national interest.

D. *Effectiveness of State Procedures.* The existing procedures of the State of Colorado shall be, in the judgment of the Secretary, substantially as effective for the purpose of enforcing the reclamaiton requirements of 30 CFR part 211 as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The Governor affirms that the State Agency will inspect all mines on Federal coal leases located in the State, in accordance with the minimum schedule in Article V.

F. *Enforcement.* The Governor affirms that the State Agency will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agencies will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State Agency will, subject to appropriations from the Colorado General Assembly, devote adequate funds for the administration and enforcement of reclamation requirements on Federal coal leases in the State.

I. *Reports and Records.* The State Agencies shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agencies shall also make available to the Secretary, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all of the provisions of this Cooperative Agreement.

ARTICLE IV

MINE PLANS

Federal regulations, 30 CFR 211.10(c), and State laws and regulations require that the operator of lands leased, permitted or licensed for coal mining receive approval of a mining plan or permit prior to conducting operations.

A. *Contents of Mining Plans and Permits.* The State Agencies and the Secretary agree that a Federal coal lessee must submit a mining plan or permit application under both State and Federal law, which plan or permit must include, at a minimum, the following information: 1. The information required by:

(a) 34–32–112, C.R.S. (1973);

(b) Colorado Mined Land Reclamation Board Rules and Regulations, Rule 2, Section 2.1 (referred to as "Board Rule"); and

(c) 30 CFR 211.10(c).

2. A Statement certifying that a copy of the mining plan or permit application has been given to both the State Agency and the Secretary.

If either the State Agency or the Secretary requires the operator to submit additional information the operator shall submit the information to both the State Agency and the Secretary. The operator will request variances from the mining plan in accordance with 30 C.F.R. § 211.74, and shall file the request with the State Agency and the Secretary.

B. *Review of Plan.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan, permit, or request for an amendment or a variance from the plan or permit.

C. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan or permit or any request for a variance from a plan as provided in 34–32–108 and 34–32–112. The State Agency shall notify the Secretary of its action pursuant to such provisions. The Secretary shall then independently review and take action on the mining plan or permit as required by 30 C.F.R. 211.10(d), or request for a variance as required by 30 C.F.R. 211.74, or a change to an approved mining plan or permit which was acted upon by the State Agency. The Secretary shall notify the State Agency of his action and the State Agency shall reconsider the action if necessary to comply with this Cooperative Agreement.

ARTICLE V

INSPECTIONS

A. The State Agency shall inspect as authorized by 34–32–121, C.R.S. (1973), and Board Rule 8, Section 8.1, as frequently as necessary but at least quarterly the operations area of all Federal Coal leases, permits and licenses where operations affecting the reclamation of mined lands are conducted or are to be conducted, for the purpose of determining whether the operator is complying with all applicable laws, regulations and orders and all requirements of approved mining plans that affect the reclamation of mined lands. The State Agency shall also perform all inspections required under 30 CFR 211.41. Such inspections performed in accordance with 30 CFR 211.41 shall be considered in meeting the quarterly inspection requirement.

B. The State Agency will, subsequent to conducting any inspection, file with the Secretary a report on (1) the general conditions of the lands under coal lease, permit or license, (2) the manner in which the operations are being conducted and (3) whether the operator is complying with applicable reclamation requirements. A copy of this report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Federal Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines on Federal coal leases within the State. Inspections by the Secretary may be made in association with the regular inspection by the State Agency.

D. The Secretary may conduct inspections on Federal coal leases to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI

ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, it shall take such steps as required by 34–32–124, C.R.S. (1973), and Board Rule 8, Section 8.2.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation and those activities threaten immediate and serious damage to the environment, the State Agency shall take immediate action, as authorized by 34–32–124 (2), C.R.S. (1973).

C. The State Agency shall notify the Secretary of all violations of applicable laws regarding reclamation on Federal coal leases including violations of Federal laws and regulations or lease terms and of all actions taken under 34–32–124, and Board Rule 8, Section 8.2.

D. This section does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal law, but not State law, or from taking appropriate measures to remedy violations of a mining plan or other appropriate requirements.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Cooperative Agreement.

ARTICLE VII

SURETY OR BONDS

A. *Amount and Responsibility.* The State Agency may require Federal coal lessees subject to the provisions of 30 CFR Part 211 to submit surety as provided in 34–32–117, C.R.S. (1973). The Secretary shall reduce the Federal bond required for reclamation purposes under 43 CFR 3041.3 and 30 CFR 211.3, by the amount of the surety required by the State Agency only if the release of all or any portion of the State Agency's surety is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the surety.

B. *Notification.* Prior to releasing the surety provided for in 34–32–117, C.R.S. (1973), for lands the surface on which is owned by the Federal Government, the State Agency shall consult with and seek the advice and consent of the Secretary.

C. *Release of Surety.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by 34–32–117, 34–32–118, C.R.S. (1973).

ARTICLE VIII

OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, at his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State Agency has failed to comply and shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State Agency has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. The time period specified shall not be less than 30 days. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX

TERMINATION OF COOPERATIVE AGREEMENT

The Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the Governor upon written notice to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State Agency and affording the State Agency an opportunity for a hearing:

1. That the State Agency has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State Agency has failed to comply with any assurance given by the State Agency upon which the Cooperative Agreement is based, or any condition or requirement which is specified in Article III; or

3. That action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by Federal laws and regulations or Colorado laws and regulations.

D. *Notice or Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency;

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement;

3. Specify the date upon which and the place where the State Agency will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall not be less than 30 days from the date of such notice, and the place of hearing shall be in the State.

4. The Secretary shall also publish a notice in the Federal Register containing the items in 1–3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State Agency may file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State Agency will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State Agency may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the Governor shall be entitled to obtain a copy of the transcript. The Governor shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, document, records, and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State Agency, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the Governor of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of the intended withdrawal and shall afford the State Agency an opportunity to present evidence satisfactory to the Secretary that the State Agency has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State Agency to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State Agency for a hearing.

ARTICLE X

REINSTATEMENT OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the Governor and upon giving evidence satisfactory to the Secretary that the State Agency can and will comply with all the provisions of the Cooperative Agreement and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI

AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the Governor and the Secretary. And amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection. Upon acceptance by the Governor and the Secretary, the amendment shall be adopted after Federal rulemaking.

ARTICLE XII

CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior or the State of Colorado may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the State Agency shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the changes. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII

QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency shall be adequately staffed with, or have readily available to it an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement. The personnel of the State Agency shall be so qualified that the end result of their efforts is comparable to that which would have resulted from administration by Department of the Interior personnel.

ARTICLE XIV

CONFLICT OF INTEREST

No employee of the State Agency responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decision-making, or enforcement actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates, or has a financial interest in such operation subject to this Cooperative Agreement.

ARTICLE XV

EQUIPMENT AND LABORATORIES

The State Agency shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses which are necessary to carry out the requirements of the Cooperative Agreement can be performed or determined or have access to such facilities.

ARTICLE XVI

EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The Governor and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of departments or divisions, or a change in the function or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addresses, telephone numbers, and the names, location, telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The Governor and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards, pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII

RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the State of Colorado and the Secretary may have under the Mineral Leasing Act, the Constitution of the United States, or the Constitution or laws of the State of Colorado.

RICHARD D. LAMM,
Governor, State of Colorado.

MAY 12, 1977.

CECIL D. ANDRUS,
Secretary,
Department of the Interior.

[FR Doc.77-14522 Filed 5-20-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 718-7]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Proposed Revision of Reference Method 11

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes a revision to Reference Method 11, the method for determining the hydrogen sulfide content of fuel gas streams. EPA has found that interferences resulting from the presence of mercaptans in some petroleum refinery fuel gases can lead to erroneous results when using the current method. This proposed revision would eliminate the problem of mercaptan interferences and insure the accuracy of test methods.

DATES: Comments must be received on or before July 22, 1977.

ADDRESS: Comments should be submitted in triplicate to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin.

All public comments received will be available for inspection and copying during normal business hours at EPA's Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (919-688-8146), extension 271.

SUPPLEMENTARY INFORMATION: On March 8, 1974, the Environmental Protection Agency (EPA) promulgated standards of performance limiting emissions of sulfur dioxide from new, modified, and reconstructed fuel gas combustion devices within petroleum refineries. The standard limits the hydrogen sulfide content of fuel gas fired in combustion devices to 230 mg/dscm. Reference Method 11 was promulgated with the standard as the performance test method for measuring H_2S in the fuel gases. After promulgation, EPA discovered that interference resulting from the presence of mercaptans in some refinery fuel gases can lead to erroneous results. A study found that the cadmium hydroxide/cadmium sulfate absorbing solution specified in Method 11 was an efficient collector of mercaptans as well as hydrogen sulfide, thus causing a serious interference when mercaptans are present in significant concentrations. Studies were also made examining other substances often present in refinery fuel gases. No measurable interference resulted from the presence of carbon oxysulfide, dimethyl sulfoxide, ethylene, or thiophene. Acetaldehyde and acetone were observed to interfere at the 2,400 and 48,000 mg/m³ level, respectively.

As a result of this study, revisions to Method 11 are being proposed. The major change would substitute a new absorbing solution that is essentially free from mercaptan interference. New sections would also be added describing the range and sensitivity, interferences, and precision and accuracy of the revised Method 11. Although mercaptans are seldom present in fuel gases in sufficient quantities to significantly affect the test results, the proposed revision would ensure the accuracy of results in cases where high levels are present.

This revision of Method 11 does not affect the stringency of the standard for fuel gas combustion devices within petroleum refineries. The source test emission data which served as the basis for the standard were gathered at sources with negligible concentration levels of mercaptans in the fuel gas.

(Secs. 111, 114, 301(a), Clean Air Act, as amended, Pub. L. 91-604, 84 Stat. 1678 (42 U.S.C. 1857c-6, 1857c-9, and 1857g(a)).)

ECONOMIC IMPACT ANALYSIS: The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11021 and 11949 and OMB Circular A-107.

Dated: May 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 60 of Chapter I of Title 40 of the Code of Federal Regulations by revising Method 11 of Appendix A—Reference Methods as follows:

APPENDIX A—REFERENCE METHODS

* * * * *

METHOD 11—DETERMINATION OF HYDROGEN SULFIDE CONTENT OF FUEL GAS STREAMS AT STATIONARY SOURCES

1. *Principle and applicability.*—1.1 *Principle.* Hydrogen sulfide (H_2S) is collected from a source in a series of midget impingers and absorbed in ph. 3.0 cadmium sulfate ($CdSO_4$) solution to form cadmium sulfide (CdS). The latter compound is then measured iodometrically. An impinger containing hydrogen peroxide is included to remove SO_2 as an interfering species.

1.2. *Applicability.* This method is applicable for the determination of the hydrogen sulfide content of fuel gas streams at stationary sources.

2. *Range and sensitivity.* The limit of detection is approximately 8 mg/m³ (6 ppm). The maximum of the range is 740 mg/m³ (520 ppm).

3. *Interferences.* Any compound that reduces iodine or oxidizes iodide ion will interfere in this procedure, provided it is collected in the cadmium sulfate impingers. Sulfur dioxide in concentrations of up to 2,600 mg/m³ is eliminated by the hydrogen peroxide solution. Thiols precipitate with hydrogen sulfide. In the absence of H_2S, only co-traces of thiols are collected. When methane- and ethane-thiols at a total level of 300 mg/m³ are present in addition to H_2S, the results vary from 2 percent low at an H_2S concentration of 400 mg/m³ to 14 percent high at an H_2S concentration of 100 mg/m³. Carbon oxysulfide of 20 percent does not interfere. Certain carbonyl-containing compounds react with iodine and produce recurring end points. However, acetaldehyde and acetone at concentrations of 1 and 3 percent, respectively, do not interfere.

Entrained hydrogen peroxide produces a negative interference equivalent to 100 percent of that of an equimolar quantity of hydrogen sulfide. Avoid the ejection of hydrogen peroxide into the cadmium sulfate impingers.

4. *Precision and accuracy.* Collaborative testing has shown the within-laboratory coefficient of variation to be 2.2 percent and the overall coefficient of variation to be 5.0 percent. The method bias was shown to be −4.8 percent when only H_2S was present. In the presence of the interferences cited in Section 3, the bias was positive at low H_2S concentrations and negative at higher concentrations. At 230 mg H_2S/m^3, the level of the compliance standard, the bias was +2.7 percent. Thiols had no effect on the precision.

5.1 *Apparatus.*

5.1.1 Sampling line. Six to 7 mm (¼ in.) Teflon[1] tubing to connect sampling train to sampling valve. Depending on sampling stream pressure, a pressure-reduction regulator may be required just prior to the Teflon sampling line.

If significant amounts of water or amine are present in the sample stream, a corrosion-resistant cold trap should be used immediately after the sample tap. The trap should not be operated below 0°C to avoid condensation of C_3 or C_4 hydrocarbons.

5.1.2 Impingers. Five midget impingers, each with 30 ml capacity. The internal diameter of the impinger tip must be 1.00 mm ±0.05 mm. The impinger tip must be positioned 4 to 6 mm from the bottom of the impinger.

5.1.3 Glass or Teflon connecting tubing for the impingers.

5.1.4 Ice bath container—To maintain absorbing solution at a low temperature.

5.1.5 Silica gel drying tube. To protect pump and dry gas meter.

5.1.6 Sampling valve. Needle valve or equivalent to adjust gas flow rate. Stainless steel or other corrosion-resistant material.

5.1.7 Dry gas meter. Sufficiently accurate to measure sample volume to within 1 percent and calibrated with a wet test meter over the range of flow rates used in sampling. Gas volume for one dial revolution must not be more than 10 liters. The gas meter should have a gas petcock or equivalent on the outlet connector which can be closed during the leak test.

5.1.8 Flow meter. Rotameter or equivalent, to measure 0.5 to 2.0 liters/min (1 to 4 CFH) flow rate.

5.1.9 Graduated cylinder. 25 ml size.

5.1.10 Barometer. To measure atmospheric pressure to within ±2.5 mm (0.1 in.) Hg.

5.1.11 U-Tube manometer. 0-30 cm water column. For leak check procedure.

5.1.12 Rubber squeeze bulb. To pressurize train for leak check.

5.1.13 Tee, pinchclamp, and connecting tubing. For leak check.

5.1.14 Vacuum pump. Required for air purge.

5.1.15 Needle valve or orifice. To set air purge flow to 1 liter/min.

5.1.16 Tube packed with active carbon. To filter air during purge.

5.1.17 Volumetric flask. One 1,000 ml.

5.1.18 Volumetric pipette. One 15 ml.

5.2 Sample Recovery.

[1] Mention of trade names of specific products does not constitute endorsement by the Environmental Protection Agency.

5.2.1 Sample container. Iodine flask, glass-stoppered; 500 ml size.

5.2.2 Pipette. 50 ml volumetric type.

5.2.3 Graduated cylinders. One each 25 and 250 ml.

5.2.4 Flasks. 125 ml, Erlenmeyer.

5.2.5 Wash bottle.

5.2.6 Volumetric flasks. Three 1,000 ml.

5.3 Analysis.

5.3.1 Flask. 500 ml glass-stoppered iodine flask.

5.3.2 Burette. 50 ml.

5.3.3 Flask. 125 ml, Erlenmeyer.

5.3.4 Pipettes, volumetric. One 25 ml; two each 50 and 100 ml.

5.3.5 Volumetric flasks. One 1,000 ml; two 500 ml.

5.3.6 Graduated cylinders. One each 10 and 100 ml.

6. *Reagents.* Unless otherwise indicated, it is intended that all reagents conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available. Otherwise, use best available grade.

6.1 Sampling.

6.1.1 Cadmium sulfate absorbing solution. Dissolve 41.0 g of $3CdSO_4 \cdot 8H_2O$ and 15.0 ml of 0.1 M sulfuric acid in a 1-liter volumetric flask that contains approximately ¾ liter of deionized distilled water. Dilute to volume with deionized water. Mix thoroughly. pH should be 3.0±0.1. Add 10 drops of Dow-Corning Antifoam B[1]. Shake well before use. If Antifoam B is not used, the alternate acidified iodine extraction procedure must be used.

6.1.2 Hydrogen perioxide, 3 percent. Dilute 30 percent hydrogen peroxide to 3 percent as needed. Prepare fresh daily.

6.1.3 Water. Deionized, distilled, to conform to ASTM specifications D1193-72, Type 3.

6.2 Sample recovery.

6.2.1 Tydrochloric acid solution (HCl), 3M. Add 240 ml of concentrated HCl (specific gravity 1.19) to 500 ml of deionized, distilled water in a 1-liter volumetric flask. Dilute to 1 liter with deionized water. Mix thoroughly.

6.2.2 Iodine solution, 0.1 N. Dissolve 24 g of potassium iodide (KI) in 30 ml of deionized, distilled water. Add 12.7 g of resublimed iodoine (I_2) to the potassium iodide solution. Shake the mixture until the iodine is completely dissolved. If possible, let the solution stand overnight in the dark. Slowly dilute the solution to 1 liter with deionized, distilled water, with swirling. Filter the solution if it is cloudy. Store solution in a brown-glass reagent bottle.

6.2.3 Standard iodine solution, 0.01 N. Pipette 100.0 ml of the 0.1 N iodine solution into a 1 liter volumetric flask and dilute to volume with deionized, distilled water. Standardize daily as in Section 8.1. This solution must be protected from light. Reagent bottles and flasks must be kept tightly stoppered.

6.3 Analysis.

6.3.1 Sodium thiosulfate solution, standard 0.1 N. Dissolve 24.8 g of sodium thiosulfate penthahydrate ($Na_2SO_3O_3 5H_2O$) or 15.8 g of anhydrous sodium thiosulfate ($Na_2S_2O_3$), in 1 liter of deionized, distilled water and add 0.01 g of anydr[illegible] sodium carbonate (Na_2CO_3) and 0.4 ml of chloroform ($CHCl_3$) to stabilize. Mix thoroughly by shaking or by aerating with nitrogen for approximately 15 min and store in a glass-stoppered, reagent bottle. Standardize as in Section 8.2.

6.3.2 Sodium thiosulfate solution, standard 0.01 N. Pipette 50.0 ml of the standard 0.1 N thiosulfate solution into a volumetric flask and dilute to 500 ml with distilled water.

6.3.3 Starch indicator solution. Suspend 10 g of soluble starch in 100 ml of deionized, distilled water and add 15 g of potassium hydroxide (KOH) pellets. Stir until dissolved, dilute with 900 ml of deionized distilled water and let stand for 1 hour. Neutralize the alkali with concentrated hydrochloric acid, using an indicator paper similar to Alkacid test ribbon, then add 2 ml of glacial acetic acid as a preservative.

NOTE.—Test starch indicator solution for decomposition by titrating with 0.01 N iodine solution 4 ml of starch solution in 200 ml of distilled water that contains 1 g potassium iodide. If more than 4 drops of the 0.01 N iodine solution are required to obtain the blue color, a fresh solution must be prepared.

7. *Procedure.* 7.1 Sampling.

7.1.1 Assemble the sampling train as shown in Figure 11-1, connecting the five midget impingers in series. Place 15 ml of 3 percent hydrogen peroxide solution in the first impinger. Leave the second impinger empty. Place 15 ml of the cadmium sulfate absorbing solution in the third, fourth, and fifth impingers. Place the impinger assembly in an ice bath container and place crushed ice around the impingers. Add more ice during the run, if needed.

7.1.2 Connect the rubber bulb and manometer to first impinger, as shown in Figure 11-1. Close the petcock on the dry gas meter outlet. Pressurize the train to 30-cm water pressure with the bulb and close off tubing connected to rubber bulb. Train must hold a 30-cm water pressure with not more than a 1 cm drop in pressure in a 1-min interval. Stopcock grease is acceptable for sealing ground glass joints.

7.1.3 Purge the connecting line between the sampling valve and the first impinger. Close valve and connect the sample line to the train. Open the petcock on the dry gas meter outlet. Record the initial reading on the dry gas meter.

7.1.4 Open the sampling valve and then adjust the valve to obtain a rate of approximately 1 liter/min. Maintain a constant flow rate during the test. Record the meter temperature.

7.1.5 Sample for at least 10 min. At the end of the sampling time, close the sampling valve and record the final volume and temperature readings.

7.1.6 Disconnect the impinger train from the sampling line. Connect the charcoal tube and the pump, as shown in Figure 11-1. Purge the train with clean ambient air for 16 min to ensure that all H_2S is removed from the hydrogen peroxide. For sample recovery, cap the open ends and remove to a clean area that is away from sources of heat. The area should be well lighted, but not exposed to direct sunlight.

7.2 Sample recovery.

7.2.1 Discard the contents of the hydrogen peroxide impinger. Carefully rinse the contents of the third, fourth, and fifth impingers into a 500 ml iodine flask.

NOTE 2.—The impingers normally have only a thin film of cadmium sulfide remaining after a water rinse. If Antifoam B was not used or if significant quantities of yellow cadmium sulfide remain in the impingers, the alternate recovery procedure must be used.

7.2.2 Pipette exactly 50 ml of 0.01 N iodine solution into a 125 ml Erlenmeyer flask. Add 10 ml of 3 M HCl to the solution. Quantitatively rinse the acidified iodine into the iodine flask. Stopper the flask immediately and shake briefly.

7.2.2 (Alternate). Extract the remaining cadmium sulfide from the third, fourth, and fifth impingers using the acidified iodine solution. Immediately after pouring the acidified iodine into an impinger, stopper it and

[1] Mention of trade names of specific products does not constitute endorsement by the Environmental Protection Agency.

shake for a few moments, then transfer the liquid to the iodine flask. Do not transfer any rinse portion from one impinger to another; transfer it directly to the iodine flask. Once the acidified iodine solution has been poured into any glassware containing cadmium sulfide, the container must be tightly stoppered at all times except when adding more solution, and this must be done as quickly and carefully as possible. After adding any acidified iodine solution to the iodine flask, allow a few minutes for absorption of the H_2S before adding any further rinses. Repeat the iodine extraction until all cadmium sulfide is removed from the impingers. Extract that part of the connecting glassware that contains visible cadmium sulfide.

Quantitively rinse all of the iodine from the impingers, connectors, and the beaker into the iodine flask using deionized, distilled water. Stopper the flask and shake briefly.

7.2.3 Allow to stand about 30 min. in the dark for absorption of the H_2S into the iodine, then complete the titration analysis as in Section 7.3.

NOTE 3.—Caution! Iodine evaporates from acidified iodine solutions. Samples to which acidified iodnie have been added may not be stored, but must be analyzed in the time schedule stated in Section 7.2.3.

7.2.4. Prepare a blank by adding 45 ml of cadmium sulfate absorbing solution to an iodine flask. Pipette exactly 50 ml of 0.01 iodine solution into a 125-ml Erlenmeyer flask. Add 10 ml of 3 M HCl. Follow the same impinger extracting and quantitative rinsing procedure carried out in sample analysis. Stopper the flask, shake briefly, let stand 30 min in the dark, and titrate with the samples.

NOTE 4.—The blank must be handled by exactly the same procedure as that used for the samples.

7.3 Analysis.

NOTE 5.—Titration analyses should be conducted at the sample-cleanup area in order to prevent loss of iodine from the sample. Titration should never be made in direct sunlight.

7.3.1 Using 0.01 N sodium thiosulfate solution, rapidly titrate samples in iodine flasks using gentle mixing, until solution is light yellow. Add 4 ml of starch indicator solution and continue titrating slowly until the blue color just disappears. Record V_t, the volume of sodium thiosulfate solution used (ml).

7.3.2 Titrate the blanks in the same manner as the samples. Run blanks each day until replicate values agree within 0.05 ml. Average the replicate titration values which agree within 0.05 ml.

8. *Calibration and standards.* 8.1 Standarize the 0.01 N iodine solution daily as follows: Pipette 25 ml of the iodine solution into a 125 ml Erlenmeyer flask. Add 2 ml of 3 M HCl. Titrate rapidly with standard 0.01 N thiosulfate solution until the solution is light yellow, using gentle mixing. Add four drops of starch indicator solution and continue titrating slowly until the blue color just disappears. Record V_t, the volume of thiosulfate solution used (ml). Repeat until replicate values agree within 0.05 ml. Average the replicate titration values which agree within 0.05 ml and calculate the exact normality of the iodine solution using Equation 9.1. Repeat the standardization daily.

8.2 Standardize the 0.1 N thiosulfate solution as follows: Oven-dry potassium dichromate ($K_2Cr_2O_7$) at 180 to 200°C. Weight to the nearest milligram, 2 g of potassium dichromate into a 500 ml volumetric flask, dissolve in deionized, distilled water and dilute to exactly 500 ml. In a 500 ml iodine flash, dissolve approximately 3 g of potassium iodide (KI) in 45 ml of deionized, distilled water, then add 10 ml of 3 M hydrochloric acid solution. Pipette 50 ml of the dichromate solution into this mixture. Gently swirl the solution once and allow it to stand in the dark for 5 min. Dilute the solution with 100 to 200 ml of deionized distilled water, washing down the sides of the flask with part of the water. Titrate with 0.1 N thiosulfate until the solution is light yellow. Add 4 ml of starch indicator and continue titrating slowly to a green end point. Record V_t, the volume of thiosulfate solution used (ml). Repeat until replicate analyses agree within 0.05 ml. Calculate the normality using Equation 9.2. Repeat the standardization each week.

9. *Calculations.* Carry out calculations retaining at least one extra decimal figure beyond that of the acquired data. Round off results only after the final calculation.

9.1 Normality of the Standard Iodine Solution.

$$C_{H_2S}=\frac{K[(V_IN_I-V_TN_T)\ \text{sample}-(V_IN_I-V_TN_T)\ \text{blank}]}{V_{m_{std}}}$$

where (metric units);
C_{H_2S} = concentration of H_2S at standard conditions, mg/dscm;
K = conversion factor = 17.0×10^5

$$=\frac{(34.07\ \text{g/mole}\ H_2S)(1{,}000\ \text{liters/m}^3)(1{,}000\ \text{mg/g})}{(1{,}000\ \text{ml/liter})(2\ H_2S\ \text{eq/mole})}$$

V_I = volume of standard iodine solution, ml;
N_I = normality of standard iodine solution, g-eq/liter;
V_T = volume of standard sodium thiosulfate solution, ml;
N_T = normality of standard sodium thiosulfate solution, g-eq/liter; and
$V_{m_{std}}$ = dry gas volume at standard conditions, liters.

$$N_I=\frac{N_TV_T}{V_I}$$

where
N_I = normality of iodine, g-eq/liter;
V_I = volume of iodine used, ml;
N_T = normality of sodium thiosulfate, g-eq/liter; and
V_T = volume of sodium thiosulfate used, ml.

9.2 Normality of the Standard Thiosulfate Solution.

$$N_T=2.04\ \frac{W}{V_T}$$

where
W = weight of $K_2CR_2O_7$ used, g;
V_T = volume of $Na_2S_2O_3$ used, ml;
N_T = normality of standard thiosulfate solution, g-eq liter; and
2.04 = conversion factor.

$$=\frac{(6\ \text{eq}\ I_2/\text{mole}\ K_2Cr_2O_7)\ (1{,}000\ \text{ml/liter})}{(294.2\ \text{g}\ K_2Cr_2O_7/\text{mole})\ (10\ \text{aliquot factor})}$$

9.3 Dry Gas Volume. Correct the sample volume measured by the dry gas meter to standard conditions (20° C) and 760 mm Hg.

$$V_{m_{std}}=V_m\left(\frac{T_{std}}{T_m}\right)\left(\frac{P_{bar}}{P_{std}}\right)$$

where
$V_{m_{std}}$ = volume at standard conditions of gas sample through the dry gas meter, standard liters;
V_m = volume of gas sample through the dry gas meter (meter conditions), liters;
T_{std} = absolute temperature at standard conditions, 293 K;
T_m = average dry gas meter temperature, °K;
P_{bar} = barometric pressure at the orifice meter, mm Hg; and
P_{std} = absolute pressure at standard conditions, 760 mm Hg.

9.4 Concentration of H_2S. Calculate the concentration of H_2S in the gas stream at standard conditions using equation:

10. *Stability.* The absorbing solution is stable for at least 1 month. Sample recovery and analysis should begin within 1 hour of sampling to minimize oxidation of the acidified cadmium sulfide. Once iodine has been added to the sample, the remainder of the analysis procedure must be completed according to Sections 7.2.2, 7.2, and 7.3.

11. *Bibliography.* 1. "Determination of Hydrogen Sulfide, Ammoniacal Cadmium Chloride Method, API Method 772–54." In: Manual on Disposal of Refinery Wastes, Vol. V: Sampling and Analysis of Waste Gases and Particulate Matter, American Petroleum Institute, Washington, D.C., 1954.

2. Tentative Method of Determination of Hydrogen Sulfide and Mercaptan Sulfur in Natural Gas, Natural Gas Processors Association, Tulsa, Oklahoma, NGPA Publication No. 2265–65, 1965.

3. Knoll, J. E., M. R. Midgett, "Determination of Hydrogen Sulfide in Refinery Fuel Gases," Environmental Monitoring Series, Office of Research and Development, U.S. EPA, Research Triangle Park, North Carolina 27711. EPA 600/4–77–007.

4. Schelll, G. W., and M. C. Sharp, "Standardization of Method 11 at a Petroleum Refinery," Midwest Research Institute Draft Report for U.S. EPA, Office of Research and Development, Research Triangle Park, North Carolina 27711, EPA Contract No. 68–03–1098, August 1976. EPA 600/4–77–068a (Volume 1) and EPA 600/4–77–088b (Volume 2).

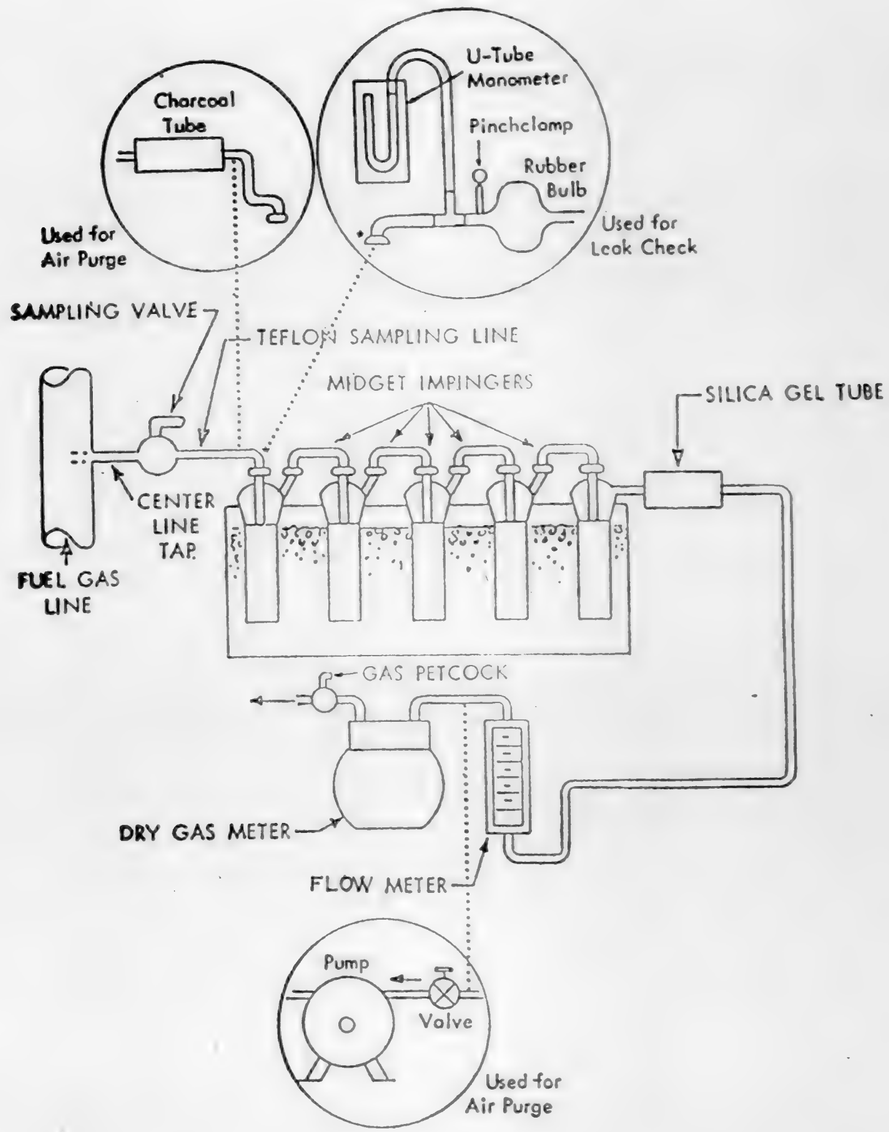


Figure 11-1. H_2S Sampling Train

[FR Doc.77-14563 Filed 5-20-77;8:45 am]

[40 CFR Part 432]

[FRL 736-4]

EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND NEW SOURCE PERFORMANCE STANDARDS

Independent Rendering Industry; Proposed Rules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: This document proposes certain changes in the pollutant discharge limitations for processing plants in the independent rendering industry. The independent renderer recovers salable products such as fats, oils, and proteinaceous meal from discarded animal materials. The effect of the proposed changes would be to make certain pollutant limitations for existing plants (1983 requirements) less stringent and for new plants more stringent than those originally promulgated. EPA has concluded the proposed changes are appropriate after completing a restudy of the industry as directed by the U.S. Court of Appeals for the Eighth Circuit.

DATE: Send comments on rule or economic analysis on or before June 22, 1977.

ADDRESSES: Send comments on rule to the Effluent Guidelines Division, Office of Water and Hazardous Materials, Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460; send comments on economic analysis to the Office of Analysis and Evaluation, WH-586, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; documents relating to this rulemaking proceeding are available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St. SW., Washington, D.C.; the supplemental report is available at the EPA Public Information Reference Unit, EPA regional offices, and state water pollution control offices.

FOR FURTHER INFORMATION CONTACT:

Harold Coughlan, Effluent Guidelines Division, Office of Water and Hazardous Materials, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460 (202-426-2560).

SUPPLEMENTARY INFORMATION:

Summary of Background and Basis of Proposed Amendments

A. Background and Methodology

The new source performance standards for the renderer subcategory of the Meat Products and Rendering Processing Point Source Category, published on January 3, 1975, and codified at 40 CFR 432.105 (Subpart J) was remanded to the Agency for further study on August 30, 1976, by the U.S. Court of Appeals for the Eighth Circuit (*National Renderers Association, et al., v. EPA, et al.*, 541 F. 2d 1281).

Therefore, EPA has reevaluated the technical and economic information on which the original regulation was based, as well as new information in both areas. The Agency finds substantiated the subcategorization, process waste water characteristics, and applicable control technology. However, the new information on cost and performance of the technology led to clarification of the economic impact of such controls on the industry. Consequently, the Agency proposes to amend the standards of performance for new sources and, at the same time, the Agency proposes to amend these portions of the regulations which set forth effluent limitations guidelines representing best available technology economically achievable (§ 432.103).

In summary, the changes proposed rely on the existence of demonstrated technology, and reflect equal requirements for both best available technology economically achievable and standards of performance for new sources. For existing sources the restrictions on BOD, TSS, and ammonia are less stringent than originally promulgated; for new sources the restrictions on these pollutants are more stringent than established in the original new source performance standards. Original limitations for pH and fecal coliform remain unchanged in both cases. The oil and grease requirements are unchanged for BATEA and more stringent for new sources.

In support of the original regulations EPA published a technical report entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Renderer Segment of the Meat Products and Rendering Processing Point Source Category (January 1975)" and a companion economic impact report entitled, "Economic Analysis of Proposed Effluent Guidelines Independent Rendering Industry (July 1974)". Together, these reports presented detailed summaries and rationale for all technical and economic information and conclusions developed therefrom. Subsequent to the remand, the Agency reviewed this data and information and determined that up-to-date data and information on all salient aspects of production, processes, and equipment, waste water sources, effluent control characteristics, and various financial aspects would be necessary to fully respond to questions raised by the Court in its August 30, 1976, opinion. In brief, these questions involved: (1) the waste water treatment technology necessary to meet the new source standards; (2) the cost of such technology; and (3) the probable impact of that cost on decisions to build and operate new rendering plants.

By November 7, 1976, questionnaires were sent pursuant to section 308 of the Act to 380 independent renderers identified by the National Renderers Association. By February 10, 1977, a total of only 250 responses had been received of which 148 contained any substantive information of use in the Agency's study. Only 44 plants provided waste water effluent information necessary to evaluate treatment system effectiveness. In addition to the industry questionnaires sent, earlier sources were revisited, including a resurvey of the technical literature, a second field sampling survey at a rendering plant, additional consultants studies, new submissions from rendering and treatment equipment manufacturers, current NPDES permit data, and information from EPA regional offices and State agencies.

All data and information were reviewed to focus upon both typical and "best" (or "exemplary") practices for in-plant waste control and water usage, raw materials processed, materials recovery, and biological waste treatment methods employed, and any other applicable effluent polishing techniques such as filtration. Analyses of the technical data included quantitative and qualitative reviews, profile, sorting, and statistical assessment where possible and general engineering evaluations. Cost data were compiled from plant submissions, engineering reports, and suppliers; all such data were updated to 1976 base year dollars. Costs of meeting the standards were computed using "model" rendering plants developed to represent a range of both size and type of production process, and incorporated all components of treatment or control systems which the data revealed would achieve the proposed effluent levels. Similarly, economic impact studies utilized both individual plant submissions and the most recent engineering and equipment supplier estimates for financial profiles, capital facilities, cost operating expenses, etc. Current treatment cost data derived in the technical study were used in the actual impact assessment.

B. Findings

After considering all the information available at this time, the Agency finds substantiated its earlier conclusions that the principal sources of waste water are process spills, raw materials drainage, condenser condensate, and plant clean up operations. The Agency also supported its conclusions with respect to characteristics of the waste waters and appropriate effluent control measures.

The data showed that the wastes generated by the independent rendering plants are biodegradable and amenable to treatment and control by in-plant measures, materials recovery using catch basins and biological treatment processes. With proper design and operation of these systems, a stable high quality effluent can be reliably attained with BOD5, TSS, oil and grease, and ammonia mass loadings equal to or better than the proposed new source standards and 1983 limitations.

As discussed in the original Development Document, waste loads are reduced by minimizing the entry of raw materials into the waste water stream. Water use is reduced by careful attention to cleanup procedures (such as frequent dry clean up of spills and drainage prior to plant washdown) and by careful selection of condensing system. In the current study it was found that approximately 50 percent of the plants that supplied condenser system information had condensers that required no water for cooling (air cooled condensers) or allowed no contact between the cooling water and the waste water (shell and tube condensers). Information developed during this reappraisal of new source standards showed that some manufacturers now include air cooled or shell and tube condensers as part of the standard rendering process equipment and that at least 15 plants have replaced high water usage barometric condensers with air cooled or shell and tube condensers. The type of condenser employed significantly affects the volume of polluted waste water generated by rendering plants. The survey data showed an average flow of approximately 3,900 gallons per 1,000 lb raw material (RM) processed for barometric condensers compared with an average of approximately 150 gallons per 1,000 lb (RM) for air or shell and tube condensers. The use of air cooled or shell and tube condensers is prevalent, as noted in the technical supplement. These condensers are used in all rendering subcategories including those rendering poultry materials.

EPA determined that the use of a dissolved air flotation ("DAF") system is not required to meet any of the proposed limitations or standards. The questionnaire data showed that catch basins with skimmers/settlers are, in the rendering industry, an effective alternative to DAF units and are substantially less expensive than the air flotation system. Thus, while DAF is an option industry can consider, it is more costly than a catch basin and its use is not necessary to meet proposed standards.

"End of pipe" waste water treatment processes which are able to reduce this industry's waste to acceptable levels include activated sludge (extended aeration with equalization), combinations of anaerobic, aerobic, and aerated lagoons, disposal on land, ridge and furrow irrigation, evaporation-percolation ponds, disinfection, and sludge disposal. An equalization tank is recommended for use with extended aeration systems because it will alleviate raw waste load surges which otherwise reduce the efficiency of these systems. The Agency does not consider equalization necessary for lagoon systems because the large volumes and long waste detention times of lagoons adequately dampen any surges in raw waste loads.

In more specific terms, four of the existing well designed and operated plants that meet the proposed limits were of the following design:

Plant 180—Extended aeration form of activated sludge.

Plant 185—Anaerobic followed by aerobic lagoons.

Plants 200 and 202—Mechanically aerated followed by aerobic lagoons.

For primary treatment, plants number 180 and 185 utilize catch basins and plant 202 uses an inoperative DAF unit as a catch basin. Plant 200 utilizes a catch basin followed by a DAF unit.

Two of the principal approaches to meeting the new source standards and the 1983 limitations can be demonstrated by reference to the above rendering plants. Plants 200 and 202 are meeting the standards by maintaining discharge flows at low levels (30.5 and 53 gallons per 1000 lb raw material) in concert with lagoon waste treatment systems of average efficiency. By contrast, plant number 180 discharges 20 percent more than the exemplary flow rate cited above but meets the standards by having a high degree of waste treatment efficiency. The effluent from this activated sludge system is also filtered through mixed media filters. (The standards and limitations actually are met prior to filtering). Operating information for the filter showed that at least a 50 percent reduction in BOD5 and TSS can be effected by this process. The Eighth Circuit noted in its opinion of August 30, 1976, that filters are capable of such reductions. Other industries that have successfully tested and installed filters, include steel manufacturing, petroleum refining, brewing, corn wet milling, wine processing, and food processing.

It must be emphasized that the technology to meet the standards does not require filters. However, even when considered as a possible add-on to lagoons, the economic analysis showed impact was not significantly affected.

In summary, the proposed revised 1983 effluent limitations and new source standards are based on well known and demonstrated control technology. The inplant technology demonstrated includes options such as water conservation, which can be obtained through use of accepted air-cooled and shell and tube condensers and good housekeeping. The end-of-pipe technology employed by exemplary plants includes biological treatment as found in the following systems: anaerobic—aerobic lagoons, anaerobic—mechanicaly aerated—aerobic lagoons, mechanically aerated—aerobic lagoons, and activated sludge (extended aeration) plus chlorination.

Economic Impact Analysis

This section summarizes the economic and inflationary impacts of the new source performance standards and the BATEA requirements on the independent rendering segment of the meat products and rendering processing point source category.

An inflationary impact statement is not necessary because this regulatory action would not exceed any of the four (4) criteria established by the Administrator.

The proposed BATEA requirements for BOD5, TSS and ammonia are less stringent than those originally promulgated. The investment and annual costs necessary to meet the amended BATEA requirements in almost all instances are lower than those for the original limitations. For this reason, a new economic impact analysis was not performed for the revised BATEA standards. Before promulgation of the revised standards a review of the economic analysis of BATEA and public comment will be performed to insure that these regulations will not result in undue economic impact.

The proposed NSPS are more stringent than those originally promulgated for BOD5, TSS, oil and grease and ammonia. The impact of the standards is expected to be minimal for the industry. Almost no construction would be impeded by the imposition of pollution control costs. Plants that would be built in the absence of pollution control costs would also be built in the presence of such costs. Required price increases are expected to be minimal as are the effects on employment, growth and international trade.

The Agency has considered the economic impact of the internal costs (investment plus cost of operation, maintenance, capital and depreciation) and external costs (price increases and impeded growth). For each model rendering plant, the following impact indicators were analyzed; required price increases, after tax income, return on sales and invested capital.

Following is a summary of the economic impact analysis for the model plants. It will be noted that some of the plants generate a profit even though their net present value of projected stream of costs and revenue is negative. In these instances the plant was considered "marginally" likely to be built; i.e., viability would depend on the effectiveness of management and/or slight improvement in economic conditions over those originally assumed.

Small batch processing plants. Technology investment costs ranged from $25,300 to $41,200 and annual costs range from $5,900 to $17,400. Analysis showed that the small packinghouse, dead animal and the poultry offal plants would not be built even in the absence of effluent control costs. The analysis also showed that the dead animal plant, when using used processing equipment, was marginally likely to be built provided no pollution control costs were imposed.

Since small plants (less than 75,000 lb./day raw material) are exempted from any effluent regulations the proposed new source performance standards will not affect this model plant.

Medium batch processing plants. Technology costs range from $61,200 to $106,600 and annual cost range from $11,900 to $27,200. Analysis showed that the packinghouse and poultry batch processing plants would be viable both before and after imposition of pollution controls provided the plants were using used processing equipment. The plants using new processing equipment would be marginally viable and viability would depend on the effectiveness of management.

Large batch plants. Technology investment costs range from $126,000 to

$223,600 while annual costs range from $23,700 to $50,600. The analysis showed that the plants would be built and construction would not be impeded by the imposition of effluent control.

Medium continuous process plants. Technology investment costs range from $81,800 to $142,600, while annual costs range from $15,900 to $39,000. The analysis showed the imposition of various treatment alternatives on the packinghouse and poultry offal plants result in them becoming only marginally likely to be built. However, if operating conditions are only slightly more favorable than originally assumed, it is probable the imposition of effluent control requirements, would not impede growth of these plants.

Large continuous process plants. Technology investment costs range from $158,200 to $257,200, and annual costs range from $27,100 to $61,300. All large plants are economically viable with or without the imposition of effluent control costs.

The external cost analysis performed showed that the required price increases to maintain baseline conditions after installation of pollution control equipment are estimated to be minimal. For almost all new plants, required price increases are less than 2 percent, although for small dead animal new source plants the required price increase could be as high as 4.1 percent. For all batch poultry and medium continuous poultry plants, the required price increase would be approximately 2.8 percent.

EPA invites public comment on the economic analysis. Comment should be sent to EPA, Office of Analysis and Evaluation, WH–586, 401 M Street SW., Washington, D.C. 20460.

Summary of Initial Comments and Responses

The National Renderers Association provided comments on the draft economic and technical reports prepared by EPA's contractors. The National Renderers Association principally drew into question the recommended ammonia and oil and grease limitations.

The technical Supplement to the Development Document shows the proposed Agency ammonia values to be achievable. Several plants are currently meeting them by operating at or below recommended waste water flow rates (e.g., 150 gal per 1,000 lb (RM) and by providing adequate biological treatment for the process waste. The basis for the proposed effluent limitations for ammonia as well as BOD5 and total suspended solids are applicable only to independent rendering plants. As indicated in the original development document, rendering operations differ materially from meat processing packinghouses and poultry processers.

Oil and grease is a major pollutant parameter in all plants in the rendering industry and a principal parameter for assessing overall performance of treatment and control systems. Accordingly, the Agency has established a limitation for oil and grease.

The NRA suggested that the quantity of grease in a rendering plant discharge is directly related to the BOD5 value for that discharge. The NRA recommends that since oil and grease is degradable and non-toxic, it should not be limited or, at least, that monitoring requirements be made optional. The Agency encourages comments with respect to the points raised by NRA, including any specific data on the relationship between BOD5 and the grease content of rendering plant discharges.

Summary of Proposed Revisions to the New Source Performance Stanards and the 1983 Limitations

As a result of the data, information and Court remand, comments assembled for this restudy of the industry, the following changes are proposed to be made in the new source preformance standards and in the effluent limitations guidelines based upon the use of best available technology economically achievable.

(1) New source standards will be changed to make them more stringent than the promulgated limitations. The proposed standards are identical to the proposed 1983 limitations. pH and fecal coliform restrictions in the new source standards have remained unchanged.

(2) The BOD5, TSS and ammonia limits for 1983 limitations have been adjusted upward to allow increased discharges reflecting the performance of plants in the industry.

The report entitled "Supplement to Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Renderer Segment of the Meat Products and Rendering Processing Point Source Category" details the analysis undertaken in support of the proposed regulations. This document is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C., at all EPA regional offices, and at State water pollution control offices. The analysis prepared for EPA of the possible economic effects of the regulation, entitled "Economic Analysis of Effluent Guidelines (NSPS) on the Independent Rendering Industry Updated to 1976 Conditions" is also available for inspection at these locations.

A copy of the reports used in developing the proposed regulation and a copy of all public comments are available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library) Waterside Mall, 401 M St., S.W., Washington, D.C. The EPA information regulation, 40 CFR Part 1, provides that a reasonable fee may be charged for copying.

In addition, Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program write to EPA, Office of Analysis and Evaluation, WH–586, 401 M St., S.W., Washington, D.C. 20469.

In consideration of the foregoing, it is proposed to amend 40 CFR Part 432 as follows:

Dated: May 2, 1977.

Douglas M. Costle,
Administrator.

Subpart J—Rendering Subcategory

1. By revising § 432.103(a) to read as follows:

§ 432.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg or raw material)		
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
Ammonia	0.14	0.07
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time mpn/1,000 ml.	
English units (pounds per 1,000 lb of raw material)		
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
Ammonia	0.14	0.07
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time 400 mpn/1,000 ml.	

* * * * *

2. By revising § 432.105 to read as follows:

§ 432.105 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of raw material)		
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
Ammonia	0.14	0.07
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time mpn/1,000 ml.	
English units (pounds per 1,000 lb of raw material)		
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
Ammonia	0.14	0.07
pH	Within the range 6.0 to 9.0.	
Fecal coliforms	Maximum at any time 400 mpn/1,000 ml.	

[FR Doc.77–14320 Filed 5–20–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76–28]

[46 CFR Parts 25, 33, 75, 94, 161, 164, 167, 180, 192]

LIFESAVING EQUIPMENT

Lights and Retro-Reflective Material for Life Preservers and Other Lifesaving Equipment

AGENCY: Coast Guard. Department of Transportation.

ACTION: Proposed Rules.

SUMMARY: The Coast Guard is considering amending the lifesaving equipment regulations to require lights and retro-reflective material on life preservers carried on vessels engaged in ocean, coastwise, and Great Lakes service. Life preservers carried on vessels engaged in lakes, bays, sounds, and river service would be required to have retro-reflective material. Additionally, the proposed amendments also contain new approval specifications for lights used on personal flotation devices and for retro-reflective material.

The proposals are based upon recommendations of four Coast Guard marine boards of investigation of vessel casualties. The boards recommended that life preservers be provided with lights for use in locating survivors of vessel casualties. The most recent board also recommended that life preservers be provided with retro-reflective material.

DATES: All comments received before July 4, 1977 will be considered before further action is taken on this notice.

ADDRESS: (a) *Comments:* Written comments on this notice should be submitted to and will be available for examination at the Coast Guard Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

(b) *Economic Evaluation.* A copy of the economic evaluation from which the economic summary in this document is taken is available for examination at the address listed in paragraph (a) above.

(c) *Other Materials:* Copies of the Marine Boards of Investigation referenced in this notice, the study entitled "Comparative Evaluation of Visual Distress Signals" (Report No. C.G.–D–47–78, dated August 1976) and proposed Federal Specification L–S–300C entitled "Sheeting and Tape, Reflective: Nonexposed Lens" are available for examination at the address listed in paragraph (a) above. Copies of the study may be obtained from the National Technical Information Service, Springfield, Virginia 22151.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G–CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–1477).

SUPPLEMENTARY INFORMATION: The principal project manager and lawyer involved in the drafting of this notice are LCDR Paul K. Anderson, Project Manager, and William R. Register, Project Attorney.

Interested persons are invited to participate in this proposed rule making by submitting written data, views, or arguments. Each person submitting a comment should include his or her name and address, identify this notice (CGD 76–28) and give reasons in support of the comment. The proposal may be changed in light of comments received. No hearing is contemplated but one may be held at a time and place set in a later notice in the Federal Register if requested by an interested person desiring an opportunity to comment orally at a public hearing and raising a genuine issue.

A notice of proposed rule making was published in the Federal Register on March 1, 1972 (37 FR 4293), to require lights on life preservers. The notice was later withdrawn to conduct additional study, and notice of withdrawal was published in the Federal Register of July 7, 1972 (37 FR 13350).

The proposed regulations in this notice are based in part upon the results of the additional study, which is entitled "Comparative Evaluation of Visual Distress Signals" (Report No. C.G.–D–47–78, dated August 1976), and upon the recommendations of the marine boards of investigation involving the casualties to the SS *Panoceanic Faith*, MV *Theresa F.*, F/V *Fenwick Island*, and SS C.V. *Sea Witch—Esso Brussels*. The proposed specifications are also based in part upon proposed Federal Specification L–S–300C entitled "Sheeting and Tape, Reflective: Nonexposed Lens."

Discussion of the Proposed Regulations

The proposed regulations would apply to all inspected vessels. The proposals would also apply to commercial, uninspected vessels, including those carrying six or less passengers for hire. The lifesaving equipment regulations for commercial, uninspected vessels are contained in Part 25 of Title 46, Code of Federal Regulations. Part 25 allows these vessels a choice of carrying different types of life preservers.

The authority to regulate uninspected vessels carrying six or less passengers for hire is contained in Section 5 of the Federal Boat Safety Act of 1971. Section 6 of this Act requires consultation with the National Boating Safety Advisory Council (NBSAC) with respect to proposed regulations issued under the authority of Section 5. Accordingly, the regulations proposed in this notice for commercial uninspected vessels carrying six or less passengers for hire will be presented to NBSAC at its next meeting, which is scheduled for May 1977. Notice of this meeting will be published in the Federal Register.

The proposed regulations would require vessels engaged in ocean, coastwise, or Great Lakes service to have lights and retro-reflective material on life preservers carried on board. The possibility that survivors of a casualty to one of these vessels could drift from the scene of the casualty before the arrival of help is always present because of the response time of search and rescue units for the areas in which these vessels operate. Use of life preserver lights can aid in detection of survivors in these cases.

The proposed regulations would also require use of retro-reflective material on life preservers carried on vessels engaged in lakes, bays, sounds, or rivers service. Survivors of a casualty to one of these vessels would in all probability not drift far from the scene of the casualty before the arrival of help. These vessels operate in areas that generally are within close range of search and rescue units, and retro-reflective material can provide effective assistance in detection of survivors in these cases.

The proposed amendment to Parts 161 and 164 contain approval specifications for lights used on personal flotation devices and for retro-reflective material used on lifesaving equipment. Section 489 of Title 46, U.S. Code, requires that these items be approved by the Coast Guard; and these specifications set out design requirements, approval tests, and procedures for obtaining approval.

The effective date of the regulations proposed in this notice would be one year after their publication in the Federal Register as final regulations. The regulations upon becoming effective would apply both to existing vessels and to vessels built after the effective date of the regulations.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve

Analysis and Review of Regulations" (41 FR 16200). The costs to outfit life preservers on vessels with lights and retro-reflective material in the first year after these regulations became effective would be approximately $12,000,000.

The principal economic benefits resulting from the use of lights and retro-reflective material on life preservers would be those associated with the number of additional lives saved in vessel casualties. Coast Guard data compiled concerning search and rescue incidents in 1975 indicates that approximately 360 incidents involving commercial vessels or its occupants occurred in which a night search was conducted without success in locating the search target. Use of lights and retro-reflective material required by this proposal should significantly increase the probability of detecting survivors at night.

(46 U.S.C. 375, 390b, 391a, 416, 481, 526p, and 1454, 49 U.S.C. 1655(b), and 49 CFR 1.46.)

In consideration of the foregoing, the Coast Guard proposes to amend Title 46, Code of Federal Regulations, as follows:

PART 25—REQUIREMENTS

1. New paragraphs (e) through (i) would be added to § 25.25–5 of Part 25 to read as follows:

§ 25.25–5 Life preservers and other lifesaving equipment required.

* * * * *

(e) Each life preserver, each special purpose water safety buoyant device intended to be worn, and each buoyant vest carried on a vessel that is engaged in ocean, coastwise, or Great Lakes service must have (1) A light that is approved under Subpart 161.012 of this chapter; and (2) Retro-reflective material that is approved under Subpart 164.018 of this chapter.

(f) Each light required by this section for an item of lifesaving equipment must be securely attached to the front shoulder area of the item.

(g) If a light required by this section has a non-replaceable power source, it must not be used for more than three years after the date of manufacture of the power source. If the light has a replaceable power source, the power source must be replaced within three years after its date of manufacture and the light must be replaced when it is no longer serviceable.

(h) Each life preserver, each special purpose water safety buoyant device intended to be worn, and each buoyant vest carried on a vessel that is engaged in lakes, bays, sounds, or river service must have retro-reflective material that is approved under Subpart 164.018 of this chapter.

(i) Each item required by this section to have retro-reflective material must have at least 200 sq. cm. (31 square inches) of the material attached on its front side, at least 200 sq. cm. (31 square inches) on its back side, and, if the item is reversible, at least 200 sq. cm. (31 square inches) of material on each of its reversible sides. The material attached on each side of the item, and on each reversible side, must be divided equally between the upper quadrants of the side and the material in each quadrant must be attached as closely as possible to the shoulder area of the item.

PARTS 33, 75, 94, 167, 180, AND 192

2. The following requirements would be added to the lifesaving equipment regulations applicable to vessels in Parts 33, 75, 94, 167, 180 and 192:

(a) Each life preserver carried on a vessel engaged in ocean, coastwise, or Great Lakes service must have—

(1) A light that is approved under § 161.012 of this chapter; and

(2) Retro-reflective material that is approved under Subpart 164.018 of this chapter.

(b) Each light required by paragraph (a) must be securely attached to the front shoulder area of the life preserver.

(c) If a light required by paragraph (a) has a nonreplaceable power source, it must not be used for more than three years after the date of manufacture of the power source. If the light has a replaceable power source, the power source must be replaced within three years after its date of manufacture and the light must be replaced when it is no longer serviceable.

(d) Each life preserver carried on a vessel engaged in lakes, bays, sounds, or river service must have retro-reflective material that is approved under Subpart 164.018 of this chapter.

(e) Each life preserver required to have retro-reflective material must have at least 200 sq. cm. (31 square inches) of material attached on its front side, at least 200 sq. cm. (31 square inches) on its back side, and if the life preserver is reversible, at least 200 sq. cm. (31 square inches) of material on each of its reversible sides. The material attached on each side of the life preserver, and on each reversible side, must be divided equally between the upper quadrants of the side and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

PART 161—ELECTRICAL EQUIPMENT

3. A new Subpart 161.012 would be added to Part 161 to read as follows:

Subpart 161.012—Personal Flotation Device Lights

Sec.

161.012–1 Scope.
161.012–3 PFD.
161.012–5 Approval procedures.
161.012–7 Construction.
161.012–9 Performance.
161.012–11 Approval tests.
161.012–13 Production tests and inspections.
161.012–15 Markings.

Subpart 161.012—Personal Flotation Device Lights

§ 161.012–1 Scope.

This subpart prescribes construction and performance requirements, approval and production tests, and procedures for approving personal flotation device lights fitted on Coast Guard approved life preservers, buoyant vests, and other personal flotation devices.

§ 161.012–3 PFD.

As used in this subpart, "PFD" means Coast Guard approved personal flotation device.

§ 161.012–5 Approval procedures.

(a) An application for approval of a light under this subpart must be sent to the Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) Each application for approval must contain the name and address of the applicant, a detailed description of the applicant's production testing program, and a laboratory test report containing observations and results of approval testing that show whether the light meets the construction and performance requirements of this subpart.

(c) The Commandant advises the applicant whether the light is approved. If the light is approved, an approval certificate is sent to the applicant.

§ 161.012–7 Construction.

(a) Each light must be designed to be attached to a PFD without damaging the PFD or interfering with its performance.

(b) Each light and its power source must be designed to be removed and replaced without damage to the PFD.

(c) The power source of a light must have at least a 3 year storage life.

(d) Each light must be capable of preventing leakage from its container of any chemicals it contains or produces.

(e) Each component of a light must be designed to remain serviceable in a marine environment for at least as long as the storage life of the light's power source.

(f) No light may have a water pressure switch.

§ 161.012–9 Performance.

(a) If a light is a flashing light, the maximum period between flashes when the light is first activated must be less than one second.

(b) Each light when activated must be capable of being seen from a distance of at least one nautical mile on a dark, clear night.

(c) Each light must be designed to operate continuously for at least 8 hours while completely submerged in water.

(d) Each light must be designed to operate both in sea water and in fresh water.

§ 161.012–11 Approval tests.

(a) The approval tests described in this section must be conducted for each light submitted for Coast Guard approval. The tests must be conducted by a laboratory that has the equipment and procedures necessary to conduct the tests and that is free of influence and control of the applicant and other manufacturers, suppliers, and vendors of PFD lights.

(b) A sample light must be activated at night under clear atmospheric conditions. If the power source is water activated, two lights must be used; and one of the power sources must be immersed in fresh water and the other in salt water having the approximate salinity of sea water. The light, or lights, when activated must be seen from a distance of at least one nautical mile against a dark background.

(c) At least ten sample lights must be selected at random from a group of at least 25. Five samples must be submerged in salt water having the approximate salinity of sea water and the five other samples must be submerged in fresh water. Each light must then be activated and left submerged for eight hours. At least nine of the ten lights must operate continuously over the eight hour period. If the lights are flashing lights, at least nine of the ten must have a maximum period of not more than one second between flashes when first activated.

(d) Individual tests must be conducted on a sample light to determine whether the light meets the requirements of § 161.012–7.

§ 161.012–13 Production tests and inspections.

(a) The manufacturer of approved lights must randomly select a sample of ten lights from each lot of lights produced. Each lot must not exceed 1,000 lights. At least nine of the ten lights, when tested in accordance with the test described in § 161.012–11(c), must meet the test criteria prescribed by that section. If less than nine lights meet the test criteria, another random sample of ten lights must be taken and tested. If less than nine of these lights meet the test criteria, none of the lights in the lot may be marked with the Coast Guard approval number assigned to the lights.

(b) The Coast Guard does not inspect lights approved under this subpart on a regular schedule. However, the Commandant may select samples and conduct tests and examinations whenever necessary to determine whether the lights are being manufactured in compliance with the requirements in this subpart.

§ 161.012–15 Markings.

(a) Each light manufactured under Coast Guard approval must be permanently and legibly marked with—

(1) The manufacturer's name or trade mark that clearly identifies the model designation; and

(2) The Coast Guard approval number assigned to the light.

(b) The power source of each light must be permanently and legibly marked with its date of manufacture.

PART 164—MATERIALS

4. A new Subpart 164.018 would be added to Part 164 to read as follows:

Subpart 164.018—Retro-Reflective Material for Lifesaving Equipment

Sec.

164.018–1 Scope.
164.018–3 Classification.
164.018–5 Federal specification.
164.018–7 Approval procedures.
164.018–9 Design requirements.
164.018–11 Approval tests.
164.018–13 Production inspection procedures.

§ 164.018–1 Scope.

This subpart prescribes design requirements, approval tests, and procedures for approving retro-reflective material used on lifesaving equipment.

§ 164.018–3 Classification.

The following types of retro-reflective material are approved under this specification:

(a) Type I.—Material used on flexible surfaces and rigid surfaces, except rigid surfaces that are continuously exposed.

(b) Type II.—Weather resistant material used on continuously exposed rigid surfaces.

§ 164.018–5 Federal specification.

(a) Federal Specification L–S–300C entitled "Sheeting and Tape, Reflective: Nonexposed Lens" forms a part of this specification. This Federal specification may be purchased from the Business Service Center, General Services Administration, Washington, D.C. 20407.

(b) When changes are made to this Federal specification, the effective date for their use as a part of the regulations in this subpart will be the effective date set by the issuing authority unless otherwise determined by the Coast Guard.

§ 164.018–7 Procedure for approval.

(a) An application for approval of retro-reflective material must be sent to the Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) Each application for approval must contain the name and address of the applicant, a detailed description of the quality control procedures used in manufacturing the material, and a test report containing observations and results of approval testing conducted.

(c) The Commandant advises the applicant whether the retro-reflective material is approved. If the material is approved, an approval certificate is sent to the applicant.

§ 164.018–9 Design requirements.

(a) Type I retro-reflective material must be capable of being attached to lifesaving equipment either by sewing or by an adhesive. Type II material must be capable of being attached to lifesaving equipment either by mechanical fasteners or by an adhesive.

(b) If retro-reflective material is designed for use with an adhesive that is not applied when the material is manufactured, the proper adhesive to be used must be stated on the material or on the package in which the material is supplied to the user.

(c) When retro-reflective material designed for use with an adhesive is tested in accordance with the "adhesion" test method listed in § 164.018–11, the material must not peel for a distance of more than 5 cm. (2 in.).

(d) When dry material is tested in accordance with the "reflective intensity" test method listed in § 164.018–11, the reflective intensity of the material must be equal to or greater than the values for reflective intensity listed in Table 164.018–9.

(e) When wet material is tested in accordance with the "reflective intensity during rainfall" test method listed in § 164.018–11, the reflective intensity of the material must not be reduced by more than ten percent of the values listed in Table 164.018–9.

(f) The reflective intensity of material after testing in accordance with the "resistance to accelerated weathering" test method listed in § 164.018–11 must not be reduced by more than 50 percent of the values listed in Table 164.018–9.

(g) Retro-reflective material must not support fungus growth, and the reflective intensity of the material must not be reduced after testing in accordance with the "fungus resistance" test method listed in § 164.018–11.

(h) After retro-reflective material is tested in accordance with the "resistance to water immersion" test method listed in § 164.018–11, it must continue to have retro-reflective characteristics, except that retro-reflectivity is not required in the area extending 5 mm (0.2 inches) on each side of the cuts made in the material.

(i) Except as provided in paragraphs (c) through (h) of this section, retro-reflective material when tested in accordance with § 164.018–11 must meet the requirements prescribed in the test methods listed in Federal Specification L–S–300 for the materials.

TABLE 164.018–9.—*Reflective intensity.*

	Incidence angle [1] (in degrees)	Reflective intensity [1]
Divergence angle: [1]		
0.2	−4	150.0
0.2	+30	75.0
0.5	−4	57.0
0.5	+30	33.0
2.0	−4	2.5
2.0	+30	2.0

[1] These terms are described in Federal specification L–S–300.

§ 164.018–11 Approval testing.

(a) Retro-reflective material submitted for Coast Guard approval must be tested in accordance with the following test methods described in Federal Specification L–S–300:

(1) Test conditions.

(2) Test panels.

(3) Adhesion test method using a 0.79 kg (1.75 lb.) test weight. (This test method is required only for material that is designed for use with an adhesive).

(4) Flexibility test method and subtest methods "flexibility at standard conditions" and "flexibility at reduced temperatures," except that when testing Type I material a 1.5 mm (1/16 inch) mandrel must be used in place of the mandrel described in these test methods and the material must be unmounted.

(5) Solvent resistance.
(6) Reflective intensity.
(7) Resistance to accelerated weathering test method and subtest methods "reflective intensity after accelerated weathering," "reflective intensity during rainfall," and "adhesion after accelerated weathering." (The "adhesion after accelerated weathering" test method is required only for materials designed for use with an adhesive. The "resistance to accelerated weathering" test method must be performed for 250 hours, if testing Type I material, and for 1000 hours if testing Type II material).
(8) Resistance to heat, cold, and humidity.
(9) Resistance to water immersion test method except that the material must also be examined with a light for retro-reflective characteristics.
(10) Fungus resistance.
(11) Abrasion resistance.
(b) If material is designed for use with an adhesive, the "adhesion" test method required by paragraph (a)(3) of this section must be repeated using a 0.79 kg. (1.75 lb.) test weight and using each of the following materials as a test panel in place of the aluminum test panel required by this test method:
(1) Smooth panel of cured rigid polyester resin (Types I and II material).
(2) Cotton drill or canvas (Type I material only).
(3) Nylon fabric (Type I material only).
(4) Flexible vinyl sheeting (Type I material only).
(5) Natural or synthetic rubber sheeting (Type I material only).
(c) Each material listed in paragraph (b) of this section when used as a test panel must be bonded to a rigid backing.

§ 164.018–13 **Production inspections.**

The Coast Guard does not inspect retro-reflective material approved under this subpart on a regular schedule. However, the Commandant may select samples and conduct tests and examinations whenever necessary to determine whether retro-reflective material is being manufactured in compliance with the requirements of this subpart.

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11021, as amended, and OMB Circular A–107.

Dated: May 11, 1977.

O. W. SILER,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc.77–14555 Filed 5–20–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

(Docket No. 21239; RM–2803)

FM BROADCAST STATIONS IN BONITA SPRINGS, JENSEN BEACH, JUPITER, MIAMI, DELRAY BEACH, AND POMPANO BEACH, FLORIDA

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule Making and Order to Show Cause.

SUMMARY: In response to a petition filed by Gold Coast Broadcasting Corporation, a Notice of Proposed Rule Making is released proposing the substitution of Class C Channel 241 for Channel 240A currently assigned to Bonita Springs, Florida. Because of spacing requirements, channel assignment changes are proposed for five other Florida cities. An Order to Show Cause is directed to two current license holders who would be affected by the proposal.

DATES: Comments must be received on or before June 27, 1977, and reply comments must be received on or before July 18, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Victor D. Ines, Broadcast Bureau, Policy and Rules Division, 202–632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1977.

Released: May 18, 1977.

In the matter of amendment of § 73.202(b), Table of assignments, FM Broadcast Stations. (Bonita Springs, Florida).

1. *Petitioner, Proposed and Comments.*—(a) Notice of Proposed Rule Making is given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the Commission's Rules and Regulations) as concerns Bonita Springs, Florida.

(b) A petition for rule making was filed by Gold Coast Broadcasting Corporation ("petitioner"), through counsel, proposing the substitution of Class C Channel 241 for Channel 240A currently licensed to petitioner in Bonita Springs, Florida. In order for the proposed Channel 241 substitution to meet Commission spacing requirements with present transmitter sites of adjacent and co-channel facilities, petitioner also proposes three additional changes in the Table of Assignments. First, Channel 272A is proposed as a substitution for Channel 296A currently assigned to Jensen Beach, Florida.[1] Second, Channel 296A is proposed as a substitution for Channel 244A licensed to Lighthouse Broadcasting (WRYZ–FM) in Jupiter, Florida. And third, Channel 243 is proposed as a substitution for Channel 242 licensed to Bartell Broadcasting of Florida, Inc. (WMJX–FM) in Miami, Florida.[2] No oppositions have been received.

2. *Community Data.*—(a) *Location:* Bonita Springs is located on the southwest coast of Florida, approximately midway between Fort Myers and Naples, Florida.

(b) *Population:* Bonita Springs, 1,932; Lee County, 105,216 (1970 U.S. Census).

(c) *Local Broadcast Service:* WLEQ–FM (Channel 240A) licensed to petitioner, is the only currently assigned aural service in Bonita Springs.

(d) *Economic Data:* Petitioner indicates that, with an average year-round temperature of 77.4°, Bonita Springs is an ideal vacationing and retirement area which experiences a great influx of tourists in the winter months. Approximately one-third of the community's working force is engaged in agriculture, one-third in construction, and one-third in sales and service related occupations. Petitioner has furnished data predicting rapid growth for the community, and it would initially appear that Bonita Springs and the surrounding area could economically support the requested assignment.

3. *Preclusion Considerations:* A preclusion study was made for all the channels involved in the proposal (Channels 241, 272A, 296A and 243). Additional preclusion occurs on Channels 240A, 244A and 272A. The preclusion on Channel 240A occurs in the southwestern coastal regions of the Everglades. The preclusion on Channel 272A occurs in Lake Okeechobee. Since these preclusions occur over a body of water or marsh or over sparsely populated areas, they appear to be of little significance. However, the preclusion on Channel 244A occurs off the coast of southern Florida in an area of the Florida Keys.[3] Petitioner has indicated that Channels 228A, 272A, 276A or 280A could be assigned to this precluded area. Additionally, if the proposed substitution of Channel 272A is made at Jensen Beach, Florida, spacing considerations will prevent Channel 274 presently used at Pompano Beach, Florida, from ever relocating within Delray Beach, Florida, the city to which that channel is currently assigned.[4] Since the substitution of Jensen Beach can only be accomplished if Channel 274 remains at Pompano Beach, the Table of FM channel assignments should be amended accordingly to reflect this location restriction. Although petitioner does not include this change as part of his current petition, we will propose the change as this would additionally bring the assignment into conformity with the present provisions of Section 73.203(b) which no longer allows a channel assigned to one city to be used at a different city if the distance between the two communities exceed 15 miles as is the case here.

4. *Coverage.* The petitioner shows that a Class C station operating with proposed facilities of 100 kW ERP and a 550 foot antenna would provide a 1mV/m service contour over an area of approximately 7,086 square kilometers (2,736 square miles) to 156,015 persons. In addition, a showing was made of other FM services located within the proposed service area and this data indicated that all portions of the described service area are currently receiving from one to eight FM services.

5. *Comments.* (a) Although petitioner has asserted sufficient need and interest to warrant issuance of this Notice to further pursue the possibility of making the changes proposed, petitioner should indicate the portion of the area and population that would be receiving the proposed second FM service. Petitioner should also indicate whether there are any areas and populations that would receive a second aural service.[5]

(b) Regarding petitioner's request to substitute Class C Channel 241 for its currently assigned Class A channel, the current Commission policy regarding such modification requests is that the public interest is best served where interested parties are given an equal opportunity to apply for any newly assigned channel.[6] Since no other parties have thus far expressed an interest in the proposed Class C Channel 241 in Bonita Springs, we are proposing to make the requested modification. However, should another party oppose the proposed modification and express an appropriate interest in the Channel 241 assignment in comments to this Notice, comparative consideration must be afforded to any competing application for the channel assigned. Additionally, since petitioner's request would require deletion of the Class A assignment, petitioner should indicate whether other Class C channels would be available for assignment.

(c) As indicated above, since Stations WRYZ–FM, Jupiter, Florida, and WMJX–FM, Miami, Florida, would be required to change frequencies if the proposed assignment is made, they must be given the opportunity to indicate whether they consent to or are opposed to the changes proposed and the Order to Show Cause is adopted for this purpose. Their general comments on the appropriateness of the proposal are also invited.

PROPOSED AMENDMENT TO THE FM TABLE OF ASSIGNMENTS

6. In view of the above, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's Rules and Regulations) with regard to the communities below as follows:

City	Channel No. Present	Channel No. Proposed
Bonita Springs, Fla.	240A	241
Jensen Beach, Fla.	296A	272A
Jupiter, Fla.	244A	296A
Miami, Florida	228, 242, 247, 256, 288, 298	228, 243, 247, 256, 288, 298
Delray Beach, Fla.	274	----
Pompano Beach, Fla.	----	274

7. *It is ordered,* That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licensee of Station WRYZ–FM, Jupiter, Florida, shall show cause why its license should not be modified to specify operation on Channel 296A if the Commission determines that the public interest would best be served by adopting the proposed assignment.

8. *It is further ordered,* That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the licensee of Station WMJX–FM, Miami, Florida, shall show cause why its license should not be modified to specify operation on Channel 243 if the Commission determines that the public interest would best be served by adopting the proposed assignment.

9. Pursuant to Section 1.87 of the Commission's Rules and Regulations, the licensees of Stations WRYZ and WMJX may, not later than June 27, 1977, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, WRYZ and WMJX may, not later than June 27, 1977, file a written statement showing with particularity why their licenses should not be modified as proposed in this Order to Show Cause. In this case, the Commission may call on WRYZ and WMJX to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, WRYZ and WMJX will be deemed to consent to modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

10. *Authority:* The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

11. *Comments and Replies:* Interested persons and parties may file comments on or before June 27, 1977, and reply comments on or before July 18, 1977.

12. *It is further ordered,* That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to Station WRYZ–FM, Lighthouse Broadcasting, Radio Park, Jupiter, Florida 33458, and Station WMJX–FM, Bartell Broadcasting of Florida, Inc., 825 41st Street, Miami Beach, Florida 33140, the parties to whom the Order to Show Cause is directed.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who

[1] There are currently four applicants for the Jensen Beach 296A frequency, and petitioner requests that the channel on which the successful Jensen Beach applicant will operate on should be conditioned on the outcome of this rule making.

[2] Petitioner agrees to meet the "reasonable costs" which would be incurred, under applicable Commission precedents, in the event the Jupiter and Miami stations are required to change channels.

[3] Marathon, Florida (pop. 3,097) lies in this area, and is presently assigned fulltime AM Station WFFG and WMUM–FM on Channel 232A.

[4] Under previous Commission Rules, Channel 274 was allowed to be used at Pompano Beach even though the channel was assigned to Delray Beach. The current Rules (§ 73.203(b)) will not allow this situation if the cities involved are more than 15 miles apart.

[5] See Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520 (1974). A showing of second service is important, as ordinary we would not assign a Class C channel to a community as small as Bonita Springs.

[6] See Cheyenne, Wyoming, 62 F.C.C. 2d 63 (1976).

filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-14554 Filed 5-20-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR, EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-103]

MID LOUISIANA GAS CO.

Emergency Order

On May 12, 1977, Mid Louisiana Gas Company (Mid Louisiana) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), a petition to make certain emergency purchases of natural gas from Houston Pipeline Company (Houston). Mid Louisiana also requested permission to have this gas transported. For the reasons set forth below, I authorize the emergency purchases of natural gas and the transportation requested.

By contract dated May 2, 1977, Mid Louisiana agreed to purchase up to 900,000 Mcf of gas at a rate of up to 15,000 Mcfd on a best efforts basis from Houston at a mutually agreeable point of delivery. The contract between Mid Louisiana and Houston is to begin on the date of first delivery of gas and to remain in effect for a period of sixty consecutive days thereafter.

Mid Louisiana will purchase these supplies at a price of $2.20 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2.

Mid Louisiana advises that a series of arrangements have been made for the transportation of the subject gas. Transcontinental Gas Pipeline Corporation (Transco) has agreed to transport the subject gas from a mutually agreeable point of delivery on its existing pipeline facilities located in Fort Bend County, Texas to an existing interconnection between the facilities of Mid Louisiana and Transco in St. James Parish, Louisiana. Mid Louisiana has agreed to pay Transco a transportation charge of 12.25 cents per dekatherm plus three percent of the volume for use as compressor fuel. If additional measuring facilities must be constructed by Transco, Mid Louisiana has agreed to reimburse a portion of this cost. I find no basis for prescribing other charges since the parties have agreed upon the transportation charges.

According to the official files of the Federal Power Commission, Houston is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "(t)he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *." 91 Stat. at 8. In addition § 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provisions of state law.

Midland Louisiana advises and I find that the gas made available by Houston will result in a commingling of interstate natural gas with Houston's normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Houston and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale, transportation and delivery of gas for which Midland Louisiana seeks approval may result in some commingling of interstate natural gas with Houston's normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas.

Under the provisions of section 9 (b), (c) of Pub. L. 95-2 (91 Stat. 4.9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Houston or such other parties or require a redetermination of prices provided in such contracts by reasons of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of Section 9 of Pub. L. 95-2 since Houston is selling, delivering and transporting gas for Midland Louisiana pursuant to Section 6(a) of that Act. Houston and any third person whose gas is commingled with mid Louisiana's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

Midland Louisiana shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act, I hereby authorize Houston to sell to Midland Louisiana up to 15,000 Mcfd of natural gas on the terms and conditions set forth in Midland Louisiana's filing in 6(c)(1) of the Act, I hereby authorize and order Houston to transport gas for Midland Louisiana.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Midland Louisiana and Houston. This order shall be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulation which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 16, 1977.

[FR Doc.77-14749 Filed 5-20-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

PROPOSED RECONSTRUCTION OF THE BIG CREEK DAM EIS—THE SELWAY-BITTERROOT WILDERNESS WITH PROVISIONS FOR THE USE OF MOTORIZED EQUIPMENT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Proposed Reconstruction of the Big Creek Dam EIS—The Selway-Bitterroot Wilderness with Provisions for the Use of Motorized Equipment, Forest Service Report Number USDA-FS-DES(Adm) 77-02.

The environmental statement concerns the proposed reconstruction of the existing Big Creek Dam located at the outlet of Big Creek Lakes in the Selway-Bitterroot Wilderness, Montana.

This draft environmental statement was transmitted to CEQ on May 17, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. SW., Washington, DC 20013.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59807.
USDA, Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

A limited number of single copies are available upon request to:

USDA, Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any

environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Robert S. Morgan, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

Comments must be received by July 17, 1977, in order to be considered in the preparation of the final environmental statement.

EINAR L. ROGET,
Acting Deputy Chief,
Forest Service.

MAY 17, 1977.

[FR Doc.77-14551 Filed 5-20-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

IOWA ADVISORY COMMITTEE

Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Friday, April 1, 1977, (FR Doc. 77-9732 on page 17508 is hereby amended. The meeting will be held at 2101 Fleur Drive, Room 226, Holiday Inn South, Des Moines, Iowa 50315 instead of Estes Residence 944 9th Avenue.

The date and time of the meeting will remain the same.

Dated at Washington, D.C., May 18, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc 77-14518 Filed 5-20-77;8:45 am]

IOWA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Iowa Advisory Committee (SAC) of the Commission will convene at 5 p.m. on June 15, 1977 and will end at 1 p.m. on June 16, 1977, at City Council Chambers, East 1st and Locust Street, Des Moines, Iowa.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106.

The purpose of this Advisory Committee hearing is to receive testimony on the administration and implementation of the Comprehensive Employment and Training Act program in the Greater Des Moines area.

This meeting will be conducter pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 18, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-14521 Filed 5-20-77;8:45 am]

MARYLAND ALVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 4:00 p.m. on July 9, 1977, at 2404 Ken Oak Road, Baltimore, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The Advisory Committee will hear subcommittee reports on education, housing and employment. Current project will be discussed and plans made for new program plans.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C. May 18, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-14519 Filed 5-20-77;8:45 am]

WYOMING ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12 noon on June 4, 1977, 516 W. 17th Street, Job Service Center, Cheyenne, Wyoming 82001.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is an abortion subcommittee will review report on abortion services in public hospitals in Wyoming.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 18, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-14520 Filed 5-20-77;8:45 am]

SAN FRANCISCO, CALIFORNIA

Hearing on Age Discrimination

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, as amended, 42 U.S.C. 1975 et seq. (1976), that the U.S. Commission on Civil Rights will hold a public hearing dealing specifically with the provisions of the Age Discrimination Act of 1975, enacted as part of the Older Americans Amendments of 1975, 42 U.S.C. 6101 et seq. (1976). The hearing will be held on June 27 and June 28, 1977, in San Francisco, California at the Hastings College of the Law, University of California, 198 McAllister Street, Moot Court, 4th Floor, Room 423, San Francisco, California. An Executive Session, if appropriate, will be convened on June 27 at the Hastings College of the Law, University of California, 198 McAllister Street, Moot Court, 4th Floor, Room 423, San Francisco, California.

The purpose of the hearing is to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance and particularly with respect to the reasonableness of distinguishing on the basis of age among potential participants in, or beneficiaries of, specific federally assisted programs.

The hearing will focus particular attention on the following programs and activities: Comprehensive Employment and Training Act Public Service Employment Programs; Community Mental Health Centers; Community Health Centers; Vocational Rehabilitation, Legal Services; Title XX of the Social Security Act; Food Stamps; Medicaid, and selected areas within Education.

Dated at Washington, D.C., May 17, 1977.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.77-14499 Filed 5-20-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

The meeting of the Computer Systems Technical Advisory Committee scheduled for Thursday, June 9, 1977, has been rescheduled for Wednesday, June 8, 1977, at 1:30 p.m., in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The agenda and other information relating to the Committee meeting, as published in the FEDERAL REGISTER (42 FR 23869), on Wednesday, May 11, 1977, remain unchanged.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-14547 Filed 5-20-77;8:45 am]

Economic Development Administration

PETTYJOHN BROTHERS SHOE MANUFACTURING, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Pettyjohn Brothers Shoe Manufacturing, Inc., 601–603 Twelfth Street, Lynchburg, Virginia 24505, a producer of footwear for infants and children, was accepted for filing on May 13, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of June 2, 1977.

JACK W. OSBURN, JR.,
Chief Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-14494 Filed 5-20-77;8:45 am]

MARITIME ADMINISTRATION

[Docket No. S–558]

OVERSEAS BULKTANK CORP. AND INTERCONTINENTAL BULKTANK CORP.

Application

Notice is hereby given that Overseas Bulktank Corporation (Overseas) and Intercontinental Bulktank Corporation (Intercontinental), affiliated companies, 1114 Avenue of the Americas, New York, New York 10036, have filed a letter application dated April 28, 1977, with the Maritime Subsidy Board (the Board), pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), to add one vessel each to their Operating-Differential Subsidy Agreements (OSDA), Contract Nos. MA/MSB–218 and MA/MSB–216, respectively, to expire December 31, 1977, unless extended, in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry or liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Overseas has applied to include the ST *Overseas Valdez*, 37,814 deadweight tons (DWT), in MA/MSB–218 and Intercontinental has applied to include the ST *Overseas Alice*, 37,314 DWT, in MA/MSB–216. Both have been bareboat chartered to Sea Tankers, Inc (Tankers), 1114 Avenue of the Americas, New York, New York 10036, an affiliate of Overseas and Intercontinental, and included in Tankers' ODSA, MA/MSB–233. These bareboat charters are due to expire on May 23, 1977 and June 10, 1977.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approval, the vessels named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before June 2, 1977, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR Part 201). Each such statement of interest and petition for leave to intervene shall state whether a hearing is requested under section 605(c) of the Act and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purposes of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessels to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by the vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No 11.504 Operating-Differential Subsidy (ODS).)

Dated: May 18, 1977.

By order of the maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.77-14556 Filed 5-20-77;8:45 am]

Office of the Secretary

ACTIVITIES OF ADVISORY COMMITTEES

Public Availability of Report on Closed Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I, Supp. V, 1975) and Office of Management and Budget Circular No. A–63 of March 27, 1974, those advisory committees of the Department which held meetings in 1976 that were closed to the public have prepared reports on the activities of these meetings. Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Rare Book Reading Room, Room 256, Main Building, 10 First Street SE., Washington, D.C. 20540.
Department of Commerce, Central Reference and Records Inspection Facility, Room 5316, Main Commerce Building, 14th Street between Constitution Avenue and E Streets NW., Washington, D.C. 20230.

The reports cover the closed and partially closed meetings of thirty-eight committees and twelve subcommittees, the names of which are listed below.

COMMITTEE (SUBCOMMITTEE)

Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee.
Computer Systems Technical Advisory Committee.
Foreign Availability Subcommittee.
Hardware Subcommittee.
Technology Transfer Subcommittee.
Electronics Instrumentation Technical Advisory Committee.
Industry Policy Advisory Committee for Multilateral Trade Negotiations (MTN).
Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for MTN.
ISAC on Automotive Equipment for MTN.
ISAC on Communication Equipment and Non-Consumer Electronic Equipment for MTN.
ISAC on Construction, Mining, Agricultural, and Oil Field Machinery and Equipment for MTN.
ISAC on Consumer Electronic Products and Household Appliances for MTN.
ISAC on Drugs, Soaps, Cleaners, and Toilet Preparations for MTN.
ISAC on Electrical Machinery, Power Boilers, Nuclear Reactors, and Engines and Turbines for MTN.
ISAC on Ferrous Metals and Products for MTN.
ISAC on Food and Kindred Products for MTN.

ISAC on Hand Tools, Cutlery, and Tableware for MTN.
ISAC on Industrial Chemicals and Fertilizers for MTN.
ISAC on Leather and Products for MTN
ISAC on Lumber and Wood Products for MTN.
ISAC on Machine Tools—Other Metalworking Equipment, and Other Nonelectrical Machinery for MTN.
ISAC on Miscellaneous Manufactures, Toys, Musical Instruments, Furniture, Etc., for MTN.
ISAC on Nonferrous Metals and Products for MTN.
ISAC on Office and Computing Equipment for MTN.
ISAC on Other Fabricated Metal Products for MTN.
ISAC on Paint, Gum and Wood Chemicals, and Miscellaneous Chemical Products for MTN.
ISAC on Paper and Products for MTN.
ISAC on Photographic Equipment and Supplies for MTN.
ISAC on Railroad Equipment and Miscellaneous Transportation Equipment for MTN.
ISAC on Retailing for MTN.
ISAC on Rubber and Plastics Materials for MTN.
ISAC on Scientific and Controlling Instruments for MTN.
ISAC on Stone, Clay, and Glass Products for MTN.
ISAC on Textiles and Apparel for MTN.
National Advisory Committee on Oceans and Atmosphere.
North Pacific Fishery Management Council.
Numerically Controlled Machine Tool Technical Advisory Committee.
Definitions Subcommittee.
Foreign Availability Subcommittee.
New Technology Subcommittee.
President's Export Council Subcommittee on Export Administration.
Sea Grant Review Panel.
Semiconductor Manufacturing and Test Equipment Technical Advisory Committee.
Assembly, Packaging and Test Subcommittee.
Materials Preparation Subcommittee.
Pattern Generation and Image Transfer and Inspection Subcommittee.
Wafer Processing Subcommittee.
Semiconductor Technical Advisory Committee.
Telecommunications Equipment Technical Advisory Committee.

Dated: May 3, 1977.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-14493 Filed 5-20-77;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

PROPOSED FUTURES CONTRACTS

Availability

In accordance with its established policy, the Commodity Futures Trading Commission ("Commission") is making available copies of the following proposed futures contracts submitted for contract market designation pursuant to sections 5 and 5a of the Commodity Exchange Act, as amended.

1. Gold submitted by the New York Mercantile Exchange.
2. Crude Coconut Oil submitted by the Chicago Mercantile Exchange.
3. Stud Lumber submitted by the Chicago Mercantile Exchange.

Copies of these proposed contracts will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. Additionally, the Commission will furnish copies of these proposed contracts upon request to the Executive Secretariat.

Any person interested in expressing his views on the terms and conditions of any of the proposed contracts should send his comments by June 22, 1977 to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies of all comments will be available for inspection at the Commission's Washington office.

Issued in Washington on May 17, 1977.

WILLIAM T. BAGLEY,
Chairman.

[FR Doc.77-14498 Filed 5-20-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting: National Advisory Committee for the Flammable Fabrics Act.

SUMMARY: This notice announces a meeting of the National Advisory Committee on Monday, June 6, 1977, from 9:30 a.m. to 5 p.m., and Tuesday, June 7, 1977, from 9:30 a.m. to 1 p.m., in the third floor hearing room, 1111 18th Street NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The National Advisory Committee provides advice and recommendations on Commission proposals and plans to reduce the frequency and severity of burn injuries involving flammable fabrics.

Agenda topics tentatively scheduled include a discussion of wearing apparel, information and education activities in the area of flammability, and a discussion of the Commission's priority-setting mid-year review of its activities.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Advisory Committee should notify the Office of the Secretary (see address below) by May 31, 1977. The notification should list the name of the individual who will make the presentation, the person, company, group, or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dee Wilson, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

Dated: May 19, 1977.

SADYE E. DUNN,
Deputy Secretary.

[FR Doc.77-14666 Filed 5-20-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL ADVISORY COMMITTEE

Meeting

MAY 19, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) in accordance with the purpose of Section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036) and Section 104(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), notice is hereby given that the General Advisory Committee will hold a meeting on June 7 and 8 in Washington, D.C. The following constitutes that portion of the Committee's agenda for the above meeting which will be open to the public. The open sessions will be held in Room 4222C at ERDA Headquarters Building, 20 Massachusetts Avenue, NW., Washington, D.C.:

JUNE 7—20 MASSACHUSETTS AVENUE, NW., WASHINGTON, D.C.

9:00—5:00 p.m.—GAC's Solar Study.
7:00—9:00 p.m.—GAC's Business Session.

JUNE 8— 20 MASSACHUSETTS AVENUE, NW., WASHINGTON, D.C.

9:00—10:00 a.m.—Briefing on Synthetic Fuels Commercialization.
10:00—11:00 a.m.—Briefing on Near- and Long-Term Conservation Technologies.
11:00—12:00 noon—Briefing on International Reaction to the National Energy Policy.
1:00—2:00 p.m.—Briefing on Waste/Storage Current Status of Plans for Disposal.

In addition to the above agenda items, the Committee will meet in closed session with staff in sessions not open to the public under the authority of Section 10 (d) of Pub. L. 92-463 as follows:

JUNE 8

2:00—3:00 p.m.—Briefing by National Academy of Sciences Committee on Nuclear and Alternative Energy Studies (CONAES) (Exemption 4 of 5 U.S.C. 552b(c)).
3:00—5:00 p.m.—Briefing: Alternative Enrichment Technologies and reprocessing (Exemptions 1 and 3 of 5 U.S.C. 552b(c)).

Those sessions will involve information exempt from disclosure under 5 U.S.C. 552b(c), exemptions (1), (3), and (4).

I have determined that it is necessary to close these portions of the meeting to receive and discuss information which falls within exemptions (1), (3), and (4) of 5 U.S.C. 552b(c). Any non-exempt material that may be discussed at these sessions will be inextricably intertwined with the discussion of exempt material and no further separation is practical. It is essential to close such portions of the meeting to protect such classified and privileged information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 13 copies thereof, postmarked no later than May 31, 1977, to the Secretary, General Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call to the Office of the Secretary of the Committee on 202-376-4678 between 8:30 a.m. and 5 p.m., eastern time. Members of the public who are interested in attending are urged to call since the location or schedule may change.

(c) Questions at the meeting may be propounded only by members of the General Advisory Committee.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-14730 Filed 5-20-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 731-8; OPP-50294]

ABBOTT LABORATORIES

Issuance of Experimental Use Permits

The Environmental Potection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 275-EUP-13. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of 266.34 pounds each of the plant growth regulators gibberellic acid and N-[phenylmethyl]-1H-purin-6-amine on apples to evaluate improvement of typiness or shape of the fruit. A total of 8,496 acres is involved; the program is authorized only in the States of Alabama, Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from April 5, 1977, to June 1, 1978. Temporary tolerances for residues of the active ingredients in or on apples have been established.

No. 275-EUP-16. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of 1.25 pounds each of the plant growth regulators gibberellic acid and N-[phenylmethyl]-1H-purin-6-amine in a tank mixture on apples to evaluate improvement of typiness or shape of the fruit. A total of 40 acres is involved; the program is authorized only in the States of California, Colorado, Georgia, Idaho, Illinois, Michigan, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Washington, and West Virginia. The experimental use permit is effective from April 5, 1977, to June 1, 1978. Temporary tolerances for residues of the active ingredients in or on apples have been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 1 6(a) et seq.).)

Dated: May 11, 1977.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc.77-14488 Filed 5-20-77;8:45 am]

[FRL 732-1]

HENRY D. SMITH

Approval of State Application for Nebraska Drinking Water Primary Enforcement Responsibility

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et seq.) and 40 CFR 142 (41 FR 2918, January 20, 1976), Dr. Henry D. Smith, Director of Health, Nebraska State Department of Health, has submitted to the Environmental Protection Agency (EPA) an application to assume primary enforcement responsibility over public water supply systems in the state of Nebraska.

Notice is hereby given that the Regional Administrator, EPA, Region VII, has approved this application for primary enforcement authority, to become effective on June 22, 1977. This action is based on a thorough evaluation of the state's public water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

1. State primary drinking water regulations;
2. An inventory of public water supply systems;
3. A systematic program of sanitary surveys;
4. A state program for certification of laboratories;
5. State laboratory facilities certified by EPA;
6. A public water supply system plan review program;
7. Adequate statutory or regulatory enforcement authority;
8. Record-keeping and reporting procedures;
9. A program for issuing variances and exemptions;
10. A plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the Nebraska program fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination on or before June 22, 1977. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to:

Charles V. Wright, Acting Regional Administrator, U.S. Environmental Protection Agency, 1735 Baltimore, Kansas City, Missouri 64108.

and shall include the following information:

1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.
2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.
3. The signature of the individual making the request; or, if the request is made on be-

half of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of the Nebraska application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in Nebraska:

The Nebraska State Department of Health, Division of Environmental Engineering, 301 Centennial Mall South, Lincoln, Nebraska 68509.

Dated: May 13, 1977.

CHARLES V. WRIGHT,
Acting Regional Administrator, Region VII.

[FR Doc.77-14489 Filed 5-20-77;8:45 am]

[FRL 731-5; OPP-50298]

ARMY ENVIRONMENTAL HYGIENE AGENCY, ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 38349-EUP-2. U.S. Army Environmental Hygiene Agency, Fort George G. Meade, Maryland 20755. This experimental use permit allows the use of 22 pounds of the insecticide temephos in three effluent drainage canals to evaluate control of black fly larvae. The total area involved is 3.6 km.; the program is authorized only in the State of Tennessee. The experimental use permit is effective from April 14, 1977, to April 14, 1978.

No. 6296-EUP-1. Nutrilite Products, Inc., Buena Park, California 90620. This experimental use permit allows the use of 94 ounces of pyrethrin and 56.2 ounces of *Bacillus thuringiensis* Berliner as insecticides on ornamental flowers and various raw agricultural products to evaluate control of various insects. The program is authorized in the contiguous 48 States, Alaska, and Hawaii. The experimental use permit is effective from April 14, 1977, to April 14, 1978. Exemptions from the requirement of a tolerance for residues of the active ingredients in or on raw agricultural commodities have been established (40 CFR 180.1011 and 40 CFR 180.1001 (b) (7)).

No. 10464-EUP-4. Weyerhaeuser Company, Centralia, Washington 98531. This experimental use permit allows the use of 59.5 pounds of the herbicide 3-Cyclohexyl-6-(dimethylamino) - 1 - methyl - 1,3,5 - triazine-2,4 (1H,3H)-dione on Loblolly pine to evaluate control of non-crop vegetation. A total of 5 acres is involved; the program is authorized only in the States of Arkansas and North Carolina. The experimental use permit is effective from April 14, 1977, to April 14, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.)).)

Dated: May 13, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-14484 Filed 5-20-77;8:45 am]

[FRL 731-3; PF70]

BASF WYANDOTTE CORP.

Filing of Pesticide Petition

BASF Wyandotte Corp., 100 Cherry Hill Rd., P.O. Box 181, Parsippany N.J. 07054, has submitted a petition (PP7F1889) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.355 be amended by establishing a tolerance for combined residues of the herbicide bentazon (3 isopropyl-1*H*-2,1,3-benzothiadiazin-4 (3*H*)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodity lima beans (succulent) at 0.05 part per million (ppm). On January 17, 1977, a notice was published (42 FR 3191) in the FEDERAL REGISTER announcing that BASF Wyandotte had filed PP 7F1889 proposing the establishment of tolerances for the subject pesticide on the raw agricultural commodity group seed and pod vegetables (dry) at 0.05 ppm. The tolerance on lima beans (succulent) should have been included in that notice but was inadvertently omitted. The proposed analytical method for determining residues is a gas chromatographic procedure using a flame photometric detector in the sulfur specific mode (394 nanometers). Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the FEDERAL REGISTER Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-2632. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the FEDERAL REGISTER Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 11, 1977.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc.77-14483 Filed 5-20-77;8:45 am]

[FRL 731-7; OPP-50300]

DEPARTMENT OF AGRICULTURE

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 27586-EUP-8. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20013. This experimental use permit allows the use of approximately 32.1 pounds of the insecticide nucleopolyhedrosis virus on forest areas to evaluate control of Gypsy moth larvae. A total of 6,605 acres is involved; the program is authorized only in the States of Pennsylvania, New Jersey, Massachusetts, and New York. The experimental use permit is effective from April 22, 1977, to April 22, 1978.

No. 27586-EUP-13. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20250. This experimental use permit allows the use of 38 pounds of the fungicide Methyl 2-benzimidazolecarbamate hydrochloride in elm trees to evaluate control of Dutch Elm disease. A total of approximately 525 trees is involved; the program is authorized only in the State of Michigan and in Washington, D.C. The experimental use permit is effective from May 27, 1977, to May 27, 1978.

No. 27586-EUP-16. U.S. Department of Agriculture, Forest Service, Washington, D.C. 20250. This experimental use permit allows the use of 130 pounds of the fungicide Methyl 2-benzimidazolecarbamate phosphate in elm trees to evaluate control of Dutch Elm disease. A total of approximately 600 trees is involved; the program is authorized only in the States of Illinois and Ohio. The experimental use permit is effective from May 27, 1977, to May 27, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: May 13, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-14486 Filed 5-20-77;8:45 am]

[FRL 730-7; OPP-42043A]

MINNESOTA

Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan to the U.S. Environmental Protection Agency (EPA) for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On February 25, 1977, notice was published in the FEDERAL REGISTER (42 FR 11038) of the intent of the Regional Administrator, EPA Region V, to approve, on a contingency basis, the Minnesota State Plan for the Certification of Pesticide Applicators (Minnesota State Plan). Contingent approval was requested by the State of Minnesota pending promulgation of implementing regulations. Copies of the Minnesota State Plan were made available for public inspection at the State Office Building, Minnesota Department of Agriculture, St. Paul, Minnesota; the Pesticide Branch, Air and Hazardous Materials Division, EPA, Region V, Chicago; and the Federal Register Section, Technical Services Division, Office of Pesticide Programs, EPA, Washington, D.C.

The Minnesota State Plan will remain available for public inspection at the Minnesota Department of Agriculture, State Office Building, St. Paul, Minnesota.

Comments were received from the National Canners Association and Orkin Exterminating Company, Inc. The National Canners Association commented that, because pesticide applicator training is not mandated by the amended FIFRA, the proposed training budget of the Minnesota Cooperative Extension Service (MN CES) should not be considered by EPA in its assessment of the adequacy of funding to support the pesticide applicator certification program. The State Plan identifies the MN CES as a primary cooperating agency, and as such, includes a training plan with an estimate of funds needed to carry out proposed training activities under the certification program. However, the Agency determined the adequacy of funding needed to conduct the certification program based only upon funding data provided by the lead agency.

The Minnesota State Plan subcategorizes commercial applicators engaged in Agricultural Pest Control-Plant into a) Herbicide and b) Insecticides-Fungicides. The National Canners Association commented that commercial applicators who apply nematocides would not be covered by either of Minnesota's Agricultural Pest Control subcategories. Minnesota proposes to certify such applicators under the Insecticides-Fungicides subcategory, even though the subcategory title does not include the word "Nematocide".

Minnesota proposes to establish a Food Manufacturing and Processing Pest Control subcategory under Category 7, Industrial, Institutional, Structural, and Health Related Pest Control. Orkin commented that this subcategory is based upon type of business which may require use of restricted use pesticides. Therefore, before structural pest control applicators could use restricted use pesticides in food manufacturing and processing pest control, the applicator would be required to pass both Structural Pest Control and Food Manufacturing and Processing Pest Control examinations before becoming certified. The Minnesota State Plan states that structural pest control applicators, defined as persons engaged in structural pest control for hire, will be certified under the Structural Pest Control and/or Fumigation subcategories, and upon successful completion of the certification requirements, will be authorized to use or supervise the use of restricted use pesticides in food manufacturing and processing environments; the Food Manufacturing and Processing examination is not a requirement for certification. State-defined noncommercial applicators (commercial applicators not for hire) seeking certification in either Structural Pest Control, Fumigation, or Food Manufacturing and Processing Pest Control, are required to pass the appropriate subcategory examination before being certified. While EPA is aware that the Food Manufacturing and Processing Pest Control subcategory is limited to noncommercial applicators, the Agency also recognizes the need to certify certain pesticide applicators previously exempt from State licensing requirements. Because a large number of noncommercial applicators are involved in the food manufacturing and processing area, Minnesota desires to establish the new subcategory for certification purposes. This proposal is not inconsistent with the FIFRA or regulations promulgated thereunder.

The National Canners Association and Orkin commented on recertification procedures proposed in the Minnesota State Plan. National Canners commented that in addition to MN CES training programs, private applicators should have the option to become recertified by taking a written examination. Each time the private applicator purchases a restricted use pesticide, he/she must sign an attestation form, affirming that one of the certification options has been completed within the last three years. The attestation form identifies a written or oral examination. Therefore, a written examination is one of the recertification options available to the private applicator. Accordingly, the statement found in the second column (42 FR 11039) stating that private applicators will be required to participate in an approved training session every three years, should now read as follows: "For recertification, private applicators will be required to complete one of the certification options, except single purchase/single use, every three years." Orkin commented that Minnesota's procedures for recertifying structural pest control applicators are too stringent. Pursuant to implementing regulations under Section 4 of FIFRA, states must establish procedures to assure that certified applicators continue to meet the requirements of changing technology and in addition, assure a continuing level of competency and ability to use pesticides safely and properly. Further, under Section 24 of FIFRA, the states are given a great deal of flexibility in developing their individual programs provided those programs meet the prescribed Federal standards. This comment pertains to regulatory requirements established under State Law and addresses an issue which is not germane to the acceptability of the Plan under Federal regulations. The Agency has forwarded the comment to the Minnesota Department of Agriculture for consideration.

The MN CES has notified the Agency regarding a statement which appeared in the notice of intent to approve the State Plan. In the third column (42 FR 11038) the Agency states that private applicators must present their Private Applicator Training Card to the licensed dealer each time a restricted use pesticide is purchased. The MN CES pointed out that presentation of the training card it not required since the private applicator must sign the attestation form upon purchase. The Agency concurs with this comment. Accordingly, the word "must" is hereby replaced by the word "may".

It has been determined that the Minnesota State Plan will satisfy the requirements of the amended FIFRA and of 40 CFR Part 171, if the regulations described in the State Plan, which are necessary for its implementation, are promulgated by the Minnesota Department of Agriculture. This contingent approval shall expire October 21, 1977, if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingent approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Minnesota State Plan as a result thereof.

EFFECTIVE DATE

Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553 (d), the Agency finds that there is good cause for providing that the contingent approval granted herein to the Minnesota State Plan shall be effective upon publication. Neither the Minnesota State Plan itself nor this Agency's contingent approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Minnesota. Delays in starting the work necessary to implement the Plan such as may be occasioned by providing some later effective date for this contingent approval are inconsistent with the public interest. Accordingly, this con-

tingent approval shall become effective immediately.

Dated: May 4, 1977.

GEORGE R. ALEXANDER, JR.,
Regional Administrator,
Region V.

[FR Doc.77-14490 Filed 5-20-77;8:45 am]

[FRL 731-6; OPP-50299]

ZOECON CORP. AND MOBAY CHEMICAL CORP.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 20954-EUP-8. Zoecon Corporation, Palo Alto, California 94304. This experimental use permit allows the use of 975 pounds of the insecticide hexadecyl cyclopropanecarboxylate on cotton to evaluate control of spider mites. A total of 150 acres is involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from April 19, 1977, to April 19, 1978. This permit is being issued for use on cotton grown for seed purposes only.

No. 3125-EUP-136. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 381 pounds of the nematicide Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate on apples, cherries, and peaches to evaluate control of nematodes. The experimental use permit is effective from April 11, 1977, to April 11, 1978.

No. 3125-EUP-137. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 381 pounds of the nematicide Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate on apples, cherries, and peaches to evaluate control of nematodes. A total of 152 acres is involved for both this permit and the one above; the programs are authorized only in the States of California, Connecticut, New Hampshire, New Jersey, New York, Maine, Michigan, Pennsylvania, Rhode Island, and Vermont. This experimental use permit is also effective from April 11, 1977, to April 11, 1978. The permits will use the same active ingredients, but different formulations. A temporary tolerance for residues of the active ingredients in or on apples, cherries, and peaches has been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq.)).)

Dated: May 13, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-14485 Filed 5-20-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. I-347]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

MAY 16, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d) (1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES:

The following Teleprompter Corporation applications are requesting modification of licenses to permit the reception of signals from stations: WTCG-TV, Channel 17, Atlanta, Georgia, WYAH-TV, Channel 27, Portsmouth, Virginia, and the programming of the Spanish International Communications Corporation, Miami, Florida.

350-DSE-ML-77 KB50, Eugene, Oregon.
351-DSE-ML-77 KB51, Tacoma, Washington.
352-DSE-ML-77 KB55, Dubuque, Iowa.
353-DSE-ML-77 KB56, Rochester, Minnesota.
354-DST-ML-77 KB54, Great Falls, Montana.
355-DSE-ML-77 KB63, Santa Cruz, California.
356-DSE-ML-77 KSB69, Missoula, Montana.
357-DSE-ML-77 KB72, El Paso, Texas.
358-DSE-ML-77 KB79, Pocatello, Idaho.
359-DSE-ML-77 KB80, Lewiston, Idaho.
360-DSE-ML-77 KB81, Reno, Nevada.
361-DSE-ML-77 KB84, Santa Maria, California.
362-DSE-ML-77 KD39, Muscoy, California.
363-DSE-ML-77 KD77, Kalispell, Montana.
364-DSE-ML-77 WB47, Fairmont, West Virginia.
365-DSE-ML-77 WB49, Tuscaloosa, Alabama.
366-DSE-ML-77 WB52, Gadsden, Alabama.
367-DSE-ML-77 WB54, Rock Island, Nebraska.
368-DSE-ML-77 WB62, South Shore, Kentucky.
369-DSE-ML-77 WB63, Florence, Alabama.
370-DSE-ML-77 WB73, Huntsville, Alabama.
371-DSE-ML-77 WB93, Danbury, Connecticut.
374-DSE-77 Telecable of Overland Park, Inc. (KB75), Overland Park Kansas. Modification of license to permit the reception of signals from station: WYAH-TV, Channel 27, Portsmouth, Virginia.
375-DSE-ML-77 Teleprompter Corporation (WB57), West Palm Beach, Florida. Modification of license to: (1) delete paragraph 6.D, of the stations pending license which prohibits the use of this station facility on a shared cost-sharing basis and (2) to permit the reception of signals from stations: WTCG-TV, Channel 17, Atlanta, Georgia, WYAH-TV, Channel 27, Portsmouth, Virginia, and the programming of the Spanish International Communications Corporation in Miami, Florida.
376-DSE-P/L-77 International Telemeter Corp. and Columbia Cablevision d.b.a. Atco Missouri Earth Station, a joint enterprise, Columbia, Missouri. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°57'-48", Long. 92°16'27". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.
377-DSE-P/L-77 Teleservice Corp. of America, De Ridder, Louisiana. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°52'-09", Long. 93°17'20". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.
378-DSE-P/L-77 Teleprompter Corporation, Greenwood, South Carolina. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°11'-52", Long. 82°05'27". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
380-DSE-P/L-77 Teleprompter Corporation, Dothan, Alabama. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°14'30", Long. 85°21'10". Rec. freq: 3700-4200 MHz Emission 36000F9. With a 4.5 meter antenna.
381-DSE-P/L-77 Teleprompter Corporation, Wenatchee, Washington. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 47°25'-08", Long. 120°18'28". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
382-DSE-P/L-77 Teleprompter Corporation, Ironwood, Michigan. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°28'-45", Long. 90°08'51". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
383-DSE-P/L-77 Teleprompter Corporation, Palestine, Texas. For authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°46'-55", Long. 95°38'26". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
384-DSE-ML-77 Houma Cablevision (KD81), Houma, Louisiana. Modification of license to permit the reception of signals from station WYAH-TV, Channel 27, Portsmouth, Virginia.
385-DSE-ML-77 Al-Pine Cablevision, Inc. (KD43), Alexandria, Louisiana. Modification of license to permit the reception of signals from station WYAH-TV, Channel 27, Portsmouth, Virginia.

386-DSE-P-77 University of Georgia, Athens, Georgia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°56'41", Long. 83°22'39". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.
387-DSE-P-77 Washburn University of Topeka, Topeka, Kansas. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°03'50", Long. 95°45'58". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.
388-DSE-P-77 West Virginia Board of Regents, Morgantown, West Virginia. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°38'49", Long. 79°58'30". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.
389-DSE-ML-77 Nilcom, Inc. (WB67), Belvidere, Illinois. Modification of license to permit the shared use of this station's facilities with a non-affiliated cable system.
SSA-8-77 Western Union Telegraph Company, Glenwood, New Jersey/McLean, Virginia. Special temporary authority to continue an ongoing developmental program consisting of radio transmission tests and demonstrations to document the feasibility of utilizing small aperture receive-only terminals as an integral segment of domestic communications satellite system operations.

[FR Doc.77-14538 Filed 5-20-77;8:45 am]

PURAC TASK ON PERSONAL USE RADIO COMMUNICATIONS NEEDS

Meeting

In preparation for the next meeting of the Personal Use Radio Advisory Committee (PURAC), the PURAC task investigating personal use radio communications needs will meet June 9, 1977, at 10 a.m. in Room 7317 of the offices of the Federal Communications Commission at 2025 M Street NW., Washington, D.C. 20554. The agenda for this meeting will be to review the progress of the task to date, and to begin formalizing the findings of the group for presentation to the full PURAC.

This meeting is open to the public, however, facilities are limited and priority seating will be given to members of PURAC. For more information, contact Mr. Ted Andros, Hy-Gain de Puerto Rico, Inc., 1320 South Dixie Highway, Suite 950, Coral Gables, Florida 33146 (305-661-6161).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14537 Filed 5-20-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Prohibition Orders to Certain Major Fuel Burning Installations; Change in Schedule for Public Hearing in Boston, Mass.

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Friday, May 13, 1977, that FEA has issued a "Notice of Intention to Issue Prohibition Orders to Certain Major Fuel Burning Installations" and would hold a hearing on the notice of intention on May 24, 1977, in Boston, Massachusetts.

This notice is to inform persons interested in that notice of intention that the hearing will be held instead on June 3, 1977, in Augusta, Maine, Washington-York Room, Augusta Civic Center, Community Drive, beginning at 9 a.m.

Consequently the revised schedule for public hearings on the above-mentioned notice of intention is as follows:

June 3—Augusta, Maine, Washington-York Room, Augusta Civic Center, Community Drive, at 9 a.m.

Issued in Washington, D.C., on May 18, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-14510 Filed 5-20-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Intention To Issue Construction Orders to Certain Major Fuel Burning Installations; Change in Schedule for Public Hearing in Boston, Mass.

The Federal Energy Administration (FEA) gave notice in the FEDERAL REGISTER on Friday, May 13, 1977, that FEA has issued a "Notice of Intention to Issue Construction Orders to Certain Major Fuel Burning Installations" and would hold a hearing on the notice of intention on May 24, 1977, in Boston, Massachusetts.

This notice is to inform persons interested in that notice of intention that the hearing will be held instead on June 3, 1977, in Augusta, Maine, Washington-York Room, Augusta Civic Center, Community Drive, beginning at 9 a.m.

Consequently the revised schedule for public hearings on the above-mentioned notice of intention is as follows:

June 3—Augusta, Maine, Washington-York Room, Augusta Civic Center, Community Drive, at 9 a.m.

Issued in Washington, D.C., on May 18, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-14512 Filed 5-20-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Negative Determination of Environmental Impact Re Nebraska Public Power District Sheldon Generating Station, Powerplants 1 and 2

Pursuant to 10 CFR 208.4 and 305.9, the FEA hereby gives notice that it has performed an analysis and review of the environmental impact of the proposed issuance of a Notice of Effectiveness for the prohibition order to Nebraska Public Power District's Sheldon Generating Station, powerplants 1 and 2.

On June 30, 1975, the FEA issued a prohibition order to the above-listed powerplants which prohibited the powerplants from burning natural gas or petroleum products as their primary energy source. The prohibition order provided, however, that in accordance with the requirements of 10 CFR Part 303 and 305, the order would not become effective until either, (1) the Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that the particular powerplants will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (2) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act is the earliest date that the particular powerplants will be able to comply with all applicable air pollution requirements under section 119 of that Act; and until FEA has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 305.9, and has served the powerplants the Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b), and 305.7.

The FEA has analyzed and reviewed the effect on the human environment of issuance of the Notice of Effectiveness, and has determined it is clear that issuance of a Notice of Effectiveness for the prohibition order to the above listed powerplants is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c) FEA has determined that an environmental impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessment upon which it is based are available upon request from the National Energy Information Center, Room 1404, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

Interested persons are invited to submit data, views, or arguments with respect to the negative determination and the associated environmental assessment to Executive Communications, Box MR, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination—Proposed NOE to Nebraska Public Power District's Sheldon Generating Station, Powerplants 1 and 2." Fifteen copies should be submitted on or before June 13, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data

and to treat it according to that determination.

Issued in Washington, D.C. on May 17, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-14513 Filed 5-20-77;8:45 am]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT INTERNATIONAL ENERGY PROGRAM

Approval by the Administrator of the Federal Energy Administration and the Attorney General of the Industry Supply Advisory Group (ISAG)

Pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, the membership of certain U.S. companies in the Industry Supply Advisory Group (ISAG) has been approved by the Administrator of the Federal Energy Administration and the Attorney General. The text of the letter from the Attorney General to the Administrator, FEA, dated April 6, 1977, is set out as Appendix A, and the text of the letter from the Administrator, FEA, to the relevant member companies dated May 2, 1977, is set out as Appendix B.

Issued in Washington, D.C., May 17, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A

LETTER OF THE ATTORNEY GENERAL TO THE ADMINISTRATOR OF FEA DATED APRIL 6, 1977

This is in response to your letter, dated February 18, 1977, which requests my approval for certain U.S. oil companies to become members of a new industry group created by the International Energy Agency (IEA), which is to be called the Industry Supply Advisory Group (ISAG). My approval is requested pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program.

The IEA has established an emergency management organization to administer its international oil sharing program in the event of an emergency. An integral part of the organiaztion is an Industry Supply Advisory Group (ISAG) which would work at IEA headquarters with the IEA Allocation Coordinator and his staff in implementing the allocation procedures in the IEA Emergency Management Manual. In general, under the guidance and supervision of the Allocation Coordinator, the ISAG would make industry supply expertise available to the IEA. From among the voluntary allocation actions proposed by the 31 IEA-desigbest balance each of the 19 IEA member Finally, it would assist the Allocation Coordi-tor's approval those actions which would best balance each of the 19 IEA member countries' allocation rights and obligations. Finally, it would assist the Allocation Coordinator in evaluating allocation actions and the possible need for further actions.

To do its work most effectively the group has been organized into three subgroups under an ISAG Manager. A Supply Coordination Group, consisting of a head and eight assistants, would be responsible for the evaluation and selection of Reporting Company voluntary offers. A Country Supply Group comprising a head and five assistants would advise on the effect of proposed reallocation actions on individual IEA member countries. Finally, a four-member Supply Analysis Group would conduct supporting studies relating to the reallocation effort.

The ISAG would not be a continuously active group. As its functions indicate, it would be convened only during an actual emergency or for further tests of the IEA's emergency allocation system. Apart from this it would meet only for organizational or preliminary planning sessions.

The IEA has now formally requested 19 of the 31 Reporting Companies to make available individuals from their staffs to serve on ISAG. Gulf Oil Corp. has been invited to serve as ISAG Manager, responsible for the overall supervision and guidance of the ISAG staff in its emergency allocation work. The British Petroleum Co., Ltd. has been asked to head the Supply Coordination Group, with a membership of Ashland Oil, Inc., Continental Oil Co., Ente Nazionale Idrocarburi (ENI), Exxon Corp., Mobil Oil Corp., Phillips Petroleum Co., Shell International Petroleum Co., Ltd., and Standard Oil Co. (Indiana). VEBA, AG has been designated as head of the Country Supply Group, which would include Axel Johnson & Co. AB, OeMV Aktiengesellschaft, Texaco, Inc., Standard Oil Company of Ohio, and a representative of the Petroleum Company of Ohio, and a representative of the Petroleum Association of Japan. Finally, Standard Oil Company of California has been invited to head the Supply Analysis Group, with Occidental Petroleum Corp. and Shell Oil Co. as members. One company for this subgroup has not yet been designated. Since twelve of these firms are U.S. oil company participants in the Voluntary Agreement, you have requested my approval of their acceptance of membership in ISAG.

The Department of Justice has consistently favored as broad a representation as practicable on industry groups serving the IEA. We note that nineteen separate companies are to serve on ISAG and that the twenty presently-slated positions are to include at least twelve of the twenty-one U.S. company participants. Moreover, every company which had earlier expressed an interest in serving on ISAG was invited to do so by the IEA. None was denied the opportunity to participate. Accordingly, pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, I hereby give my approval to acceptance of membership on the IEA's Industry Supply Advisory Group by Gulf Oil Corp., Ashland Oil, Inc., Continental Oil Co., Exxon Corp., Mobil Oil Corp., Phillips Petroleum Co., Standard Oil Co. (Indiana), Texaco, Inc., Standard Oil Company of Ohio, Standard Oil Company of California, Occidental Petroleum Corp. and Shell Oil Co. This approval also covers each firm's membership on the appropriate ISAG subgroup as set forth above.

APPENDIX B

LETTER OF THE ADMINISTRATOR OF FEA TO MEMBER COMPANIES DATED MAY 2, 1977

The International Energy Agency (IEA) has requested that your company accept membership in the Industry Supply Advisory Group (ISAG) created by the IEA as an integral part of its emergency management organization. Pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, in your letter of January 14, 1977, you requested my approval of your accepting the IEA invitation.

It is anticipated that the ISAG will be activated by the IEA as soon as possible after a finding has been made that an international energy supply emergency in fact exists. Prior to an actual emergency, the ISAG may convene to assist the IEA in certain planning functions including further testing of the IEA's emergency allocation system.

Composed of oil industry supply experts chosen from among the 31 IEA designated Reporting Companies, the ISAG will work under the guidance and supervision of the IEA Allocation Coordinator and will:

1. Make industry supply expertise available to the IEA;

2. Evaluate and select from among voluntary allocation actions proposed by the Reporting Companies those actions which will best balance each of the 19 IEA member countries' allocation rights and obligations; and

3. Assist the IEA Allocation Coordinator in evaluating allocation actions and the possible need for further actions.

To perform these functions as effectively as possible, the ISAG has been organized into three subgroups so that its members may concentrate attention on particular emergency allocation activities:

A Supply Coordination Group, responsible for the evaluation and selection of Reporting Company voluntary offers;

A Country Supply Group, responsible for advising the IEA on the effect of proposed reallocation actions on individual IEA member countries; and

A Supply Analysis Group, responsible for the conduct of supporting studies relating to the reallocation effort.

These three subgroups will carry out their responsibilities under an ISAG manager who will have responsibility for providing the overall supervision of and guidance to the ISAG and its three subgroups. The establishment of the ISAG is a critical step in the development of an effective system for dealing with possible future supply emergencies.

Pursuant to Section 5(a) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, I hereby approve your membership on the Industry Supply Advisory Group of the IEA and your membership in the [Supply Coordination Group, Country Supply Group, Supply Analysis Group].

A copy of the letter from the Attorney General reflecting his approval, as required by the Voluntary Agreement, is enclosed.

[FR Doc.77-14500 Filed 5-20-77;8:45 am]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

CLOSED COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, June 2, 1977.
Thursday, June 9, 1977.
Thursday, June 16, 1977.
Thursday, June 23, 1977.
Thursday, June 30, 1977.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in section 5347 of the Prevailing Rate Act of 1972 (Pub. L. 92-392).

The Committee's primary responsibility is to review the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the Committee will consider proposed plans for implementation of the Prevailing Rate Act of 1972 (Pub. L. 92-392), which Law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552b(c)(9)(B), that the closing is necessary in order to provide this labor-management Committee with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

Summary minutes of these meetings will be made available to the public, upon written request to the Committee Secretary, after the pay policy issues discussed at these meetings have been finalized by Civil Service Commission action. Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committeee, Room 1338, 1900 E Street NW., Washington, D.C. 20415 (202-632-9710).

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.

MAY 17, 1977.

[FR Doc.77-14495 Filed 5-20-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 18]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending April 30, 1977

ACTIONS OF THE BOARD

Regulation B, interpretations that (1) clarify when notices to borrowers required by State law should be considered inconsistent with the requirements of the Equal Credit Opportunity Act, and (2) state that translation of notices and procedures under ECOA into Spanish (or other foreign language) does not discriminate against borrowers who use another language (Docket No. R-0097).

Regulation Y, proposed rulemaking relating to providing management consulting advice (Docket No. R-0061).

Regulation T amendment, to permit a minor easing of the Board's rules for calculating the margin required on a "straddle" transaction—where both a put and a call in the same stock are held in the customer's account (Docket No. R-0004).

Regulation T, proposed amendment to the rule governing credit to exchange specialists, comments must be received on or before May 31, 1977 (Docket No. R-0054).

Issuance of subordinated capital notes by The Friendship State Bank, Friendship, Indiana.

Deposit Guaranty National Bank, Jackson, Mississippi, proposed merger with Southern National Bank of Hattiesburg, Hattiesburg, Mississippi, report to the Comptroller of the Currency on competitive factors.

First National Boston Corporation, Boston, Massachusetts, extension of time to August 10, 1977, within which to acquire 100 percent of the voting shares of The First National Bank of Yarmouth, Massachusetts.[1]

Westland Banks, Inc., Lakewood, Colorado, extension of time from May 11, 1977 to August 11, 1977, within which to consummate the acquisition of Westland Bank of Lakewood, Lakewood, Colorado.[1]

Westland Banks, Inc., Lakewood, Colorado, extension of time from May 11, 1977 to August 11, 1977, within which to consummate the acquisition of Westland National Bank South, Longmont, Colorado.[1]

Crowell State Bank, Crowell, Texas, to make an investment in bank premises.[1]

Chemical Bank and Trust Company, Midland, Michigan, extension of time to December 6, 1977, within which to establish a branch at 3400 East Isabella Road, Midland, Michigan.[1]

United California Bank, Los Angeles, California, extension of time to December 8, 1977, within which to establish an office in the vicinity of the intersection of First Street and Herndon Avenue, City of Fresno, California.[1]

Commerce Bank of Lebanon, Lebanon, Missouri, application for a six-month extension of time until October 29, 1977, to complete the sale of subordinated capital notes to the public.[1]

Commerce Bank of Moberly, Moberly, Missouri, application for a six-month extension of time until October 29, 1977, to complete the sale of subordinated capital notes to the public.[1]

Commerce Bank of St. Charles, St. Charles, Missouri, application for a six-month extension of time until October 29, 1977, to complete the sale of subordinated capital notes to the public.[1]

Comerce Bank of Tipton, Tipton, Missouri, application for a six-month extension of time until October 29, 1977, to complete the sale of subordinated capital notes to the public.[1]

New City National Bank, Austin, Texas, proposed merger with City National Bank of Austin, Austin, Texas, report to the Comptroller of the Currency on competitive factors.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

Southeast Bank of Naples, N.A., Naples, Florida, proposed merger with Southeast National Bank of Naples, Naples, Florida, report to the Comptroller of the Currency on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Cleveland Trust Company, Cleveland, Ohio. Branch to be established at Superior Avenue and East 105th Street, Cleveland, Cuyahoga County.[1]

Citizens Commercial Bank of Tallahassee, Tallahassee, Florida. Branch to be established at the corner of Madison Street on the North, Gaines Street on the South, Boulevard Street on the East and Macomb on the West, Tallahassee.[1]

* * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

APPROVED

First National Bank of Boston: Branch—Three Branches in Montevideo, Uruguay.

* * * * *

Thirty-Day Notice of Intention to Establish an Additional Branch of a Member Bank in a Foreign Country.

APPROVED

The First National Bank of Chicago: Branch—Additional in Munich, Germany.
Continental Illinois National Bank & Trust Company of Chicago, Chicago: Branch—Additional in Dusseldorf, Federal Republic of Germany. (Correction for H. 2, No. 14 p. 3.)

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Bankers International Corporation: Investment—to acquire indirectly 100 percent of the shares of B.T. Foreign Investment Corporation, a Delaware Corporation.
First Dallas International Banking Corporation: To amend Articles of Association by changing its name to "First International Banking Corporation" and move its home office from Dallas to Houston.
Citibank, National Association, New York: Continue to hold shares of National and Grindlays Bank, London, after the latter establishes an agency in New York City. (Correction for H. 2, No. 12, p. 3.)

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

Bendena Bancshares, Inc., Bendena, Kansas, for approval to acquire 92 percent of the voting shares of The Bendena State Bank, Bendena, Kansas.[2]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

APPROVED

American Bankcorp, Inc., Lansing, Michigan, for approval to acquire 80 percent or more of the voting shares of The Muskegon Bank & Trust Company, Muskegon, Michigan.

Western Michigan Corporation, Niles, Michigan, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Cassopolis, Cassopolis, Michigan.

Banker Agency, Inc., Mohall, North Dakota, for approval to acquire an additional 56 per cent of the voting shares of The Citizens State Bank at Mohall, Mohall, North Dakota.

DENIED

Country Bank Shares Corporation, Janesville, Wisconsin, for approval to acquire 72.8 percent of the voting shares of State Bank of Argyle, Argyle, Wisconsin.

Texas Commerce Bancshares, Inc., Houston, Texas, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bexar County National Bank of San Antonio, San Antonio, Texas.

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To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

Worcester Bancorp, Inc., Worcester, Massachusetts, for approval to engage in providing management consulting advice to nonaffiliated savings banks through Empire Group, Inc., Worcester, Massachusetts.

DELAYED

Sun Banks of Florida, Inc., Orlando, Florida, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit and servicing loans and other extensions of credit for any person) at 120 South Ridgewood Avenue, Daytona Beach, Florida, through a subsidiary, Sunbank Mortgage Company (April 29, 1977).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property and casualty insurance) at 2025 Gateway Place, San Jose, California, through its subsidiary, Security Pacific Finance Corp. (April 26, 1977).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property and casualty insurance) at Upland Office Center, 600 N. Mountain Avenue, Upland, California, through its subsidiary, Security Pacific Finance Corp. (April 26, 1977).[3]

PERMITTED

Citibanc Group, Inc., Alexander City, Alabama, notification of intent to engage in de novo activities (the business of acting as agent or broker for the sale of credit life/accident and health insurance directly related to extensions of credit by the bank holding company and for its bank and non-banking subsidiaries) at Covington County Bank, Andalusia; City Bank of Goodwater, Goodwater; City Bank of Lineville, Lineville; City Bank of Tuskegee, Tuskegee; City Bank of Roanoke, Roanoke; Peoples Bank, Anniston; and Citibanc Group, Inc., Alexander City, all located in Alabama (April 27, 1977).[3]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

The Fulton National Corporation, Atlanta, Georgia, notification of intent to engage in de novo activities (making or acquiring, for its own account loans secured by real estate and other loans and extensions of credit; and the sale of credit life insurance) at 6540 Powers Ferry Road, Atlanta, Georgia, through a subsidiary, FNC Financial Corporation (April 30, 1977).[3]

U.S. Bancorp, Portland, Oregon, notification of intent to engage in de novo activities (making, acquiring, and servicing of loans and other extensions of credit either secured or unsecured for its own account or for the account of others including the making of consumer installment loans, purchasing consumer installment and real estate sales finance contracts and evidences of debt, making consumer home equity loans secured by real estate, making industrial loans; and acting as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by U.S. Creditcorp) at 32 Oakway Mall, Eugene, Oregon, through its subsidiary, U.S. Creditcorp April 24, 1977.[3]

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To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

Arkansas Best Corporation, Fort Smith, Arkansas, through its wholly-owned subsidiary, Arkansas-Best Freight Systems, Inc., Fort Smith, Arkansas, to acquire certain operating rights from Western Gillette, Inc., a California Corporation based in Los Angeles April 29, 1977.[3]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Manufacturers Hanover Trust Company/Central N.Y., Ontario, N.Y. Branch to be established in the Wegmans Store, 1750 East Avenue, City of Rochester, Monroe County.

Iron and Glass Bank, Pittsburgh, Pennsylvania. Branch to be established near the Century III Shopping Mall, Lebanon Church Road and Pa. Route 885, West Mifflin Borough, Allegheny County.

The Andover Bank, Andover, Ohio. Branch to be established at 316 Broad Street, Conneaut, Ashtabula County.

Union Trust Company of Maryland, Baltimore, Maryland. Branch to be established at the intersection of Fairmont Avenue and York Road, Towson, Baltimore County.

Peoples State Bank of East Tawas, Michigan. Branch to be established at 1700 East Huron Road (U.S. 23), unincorporated village of Baldwin Center, Baldwin Township, Iosco County.

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To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

First International Bank in Houston, NA: Branch—George Town, Grand Cayman, Cayman Islands.

Bank of California NA: Branch—Manila, Philippines.

Citibank, National Association, New York: Branch—Tunis, Tunisia. (Originally omitted from H.2., No. 8.)

Citibank, National Association, New York: Branch—Victoria, Seychelles. (Correction for H.2, No. 10 p. 8.)

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Piedmont Bankgroup Incorporated, Martinsville, Virginia, for approval to acquire 100 percent of the voting shares of the successors by merger to Piedmont Trust Bank, Collinsville, Virginia and Bank of Carroll, Hillsville, Virginia.

Southern Bank Holding Company, Savannah, Georgia, for approval to acquire 60 percent or more of the voting shares of Southern Bank and Trust Company, Savannah, Georgia.

KSB Ltd., Keokuk, Iowa, for approval to acquire 80 percent or more of the voting shares of Keokuk Savings Bank and Trust Company, Keokuk, Iowa.

Packwood Financial, Inc., Packwood, Iowa, for approval to acquire 73.7 percent or more of the voting shares of Farmers Savings Bank, Packwood, Iowa.

2nd Charter Financial Corporation, Albion, Indiana, for approval to retain 87.6 percent of the voting shares of The Albion National Bank, Albion, Indiana.

First Northern Bancorporation, Anchorage, Alaska, for approval to acquire 81 percent of the voting shares of The First National Bank of Fairbanks, Fairbanks, Alaska.

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To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Northeast United Bancorp, Inc. of Texas, Fort Worth, Texas, for approval to acquire 51 percent or more of the voting shares of First State Bank, Bedford, Texas.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Winters National Corporation, Dayton, Ohio, for approval to acquire all of the outstanding shares of Mead Financial Services, Inc., Dayton, Ohio (engaged in leasing real and personal property, or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonable anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property).

Sun Banks of Florida, Inc., Orlando, Florida, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit and servicing loans and other extensions of credit for any person) at 1501 N.E. 26th Street, Wilton Manors (Fort Lauderdale), Florida, through a subsidiary, Sunbank Mortgage Company (April 28, 1977).[3]

National Detroit Corporation, Detroit, Michigan, for approval to acquire certain assets of Grand Traverse Mortgage Company, Inc., Traverse City, Michigan (engaged in making, acquiring and servicing, for its own account and for the account of others, mortgage loans and other extensions of credit in connection with the purchase, development and/or improvement of real property).

Guaranty Loan and Investment Corporation of Tulsa, Inc., Tulsa, Oklahoma, notification of intent to engage in de novo activities (industrial banking, including the issuance of thrift certificates and the extension of credit secured by first and second real estate mortgages and durable consumer goods) at 7021 South Memorial Drive, Tulsa, Oklahoma, through a subsidiary, Western Trust & Savings Company (April 27, 1977).[3]

Old National Bancorporation, Spokane, Washington, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans or other extensions of credit secured by real estate mortgages or deeds of trust and the servicing of such loans and such other activities as are incidental to the operations of a mortgage company including, but not limited to; acting as agent or broker for the sale of mortgage redemption life and disability insurance to be issued in connection with making or acquiring such loans) at 611 Sherman Avenue, Coeur d'Alene, Idaho, 302 Thain Road, Lewiston, Idaho, and 1452 Hudson Street, Longview, Washington, through its subsidary, Bancshares Mortgage Company (April 28, 1977.)[3]

Old National Bancorporation, Spokane, Washington, notification of intent to engage in de novo activities (serving as an escrow or closing agent in connection with closing of real estate loans financed by credit extending subsidiaries of Old National Bancorporation) at 611 Sherman Avenue, Coeur d'Alene, Idaho, 302 Thain Road, Lewiston, Idaho, and 1452 Hudson Street, Longview, Washington, through its subsidiary, Cascade Escrow Company (April 25, 1977.)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small business and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at 2025 Gateway Place, San Jose, California, through its subsidiary, Security Pacific Finance Corp. (April 20, 1977.)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small business and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at Upland Office Center, 600 N. Mountain Avenue, Upland, California, through its subsidiary, Security Pacific Finance Corp. (April 20, 1977.)[3]

U.S. Bancorp, Portland, Oregon, notification of intent to engage in de novo activities (making, acquiring, and servicing of loans and other forms of credit and financing either secured or unsecured for its own account or for the account of others, including commercial, industrial, agricultural, and personal loans of all types, financial leases, sales contracts, accounts receivable, and equity loans secured by real estate, leasing of personal property and equipment, and acting as agent, broker, or adviser in the leasing of such property or the making of such loans; and acting as insurance agent or broker with regard to credit life and disability insurance relating only to said extensions of such credit as made by this corporation) at 309 S.W. Sixth Avenue, Portland, Oregon, through its subsidiary, U.S. Commercial Corp. (April 25, 1977).[3]

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To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

Warner Communications Inc., New York, New York, notification of intent to merge with or acquire 27 percent of common stock of Knickerbocker Toy Co. Inc., Middlesex, New Jersey (April 28, 1977).[3]

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REPORTS RECEIVED

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

The Chardon Savings Bank Company, Chardon, Ohio.

Commonwealth Bank & Trust Company of Virginia, Sterling, Virginia.

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, May 16, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14481 Filed 5-20-77;8:45 am]

CENTRAL BANCORPORATION, INC.

Acquisition of Bank

The Central Bancorporation, Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to First National Bank of Mercer County, Celina, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 17. 1977.

Board of Governors of the Federal Reserve System, May 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14478 Filed 5-20-77;8:45 am]

MIDLAND CAPITAL CO.

Formation of Bank Holding Company

Midland Capital Co., Oklahoma City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares, less directors' qualifying shares, of Northwest Bank, Oklahoma City, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Midland Capital Co., Oklahoma City, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Midland Mortgage Co., Oklahoma City, Oklahoma, and its subsidiary, Johnston Records Co., Oklahoma City, Oklahoma. Notice of the application was published on April 20, 1977, in the San Antonio Light, San Antonio, Texas, and on April 21, 1977, in the following newspapers: Arizona Daily Star, Tucson, Arizona; Broken Arrow Ledger, Broken Arrow, Oklahoma; the Canon City Daily Record, Canon City, Colorado; Colorado Springs Gazette Telegraph, Colorado Spring, Colorado; the Colorado Springs Sun, Colorado Springs, Colorado; Daily Oklahoman, Oklahoma County, Oklahoma; the Houston Post, Houston, Texas; Lawton Constitution, Lawton, Oklahoma; the Pueblo Chieftain, Pueblo, Colorado; the Rocky Mountain News, Denver, Colorado; Tulsa World, Tulsa, Oklahoma; the Tustin News, Tustin, California; West Prescott Courier, Prescott, Arizona. On April 22, 1977, notice was published in the Arizona Republic, Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activities of mortgage banking including originating and servicing all types of residential and commercial mortgage loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and re-

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

ceived by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 14, 1977.

Board of Governors of the Federal Reserve System, May 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14479 Filed 5-20-77;8:45 am]

UNITED BANKS CORP.

Formation of Bank Holding Company

United Banks Corporation, Hanover, New Hampshire, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to Hanover Bank & Trust Company, Hanover, New Hampshire, and 100 percent of the voting shares, less directors' qualifying shares, of Lebanon Bank & Trust Company, Lebanon, New Hampshire. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 14, 1977.

Board of Governors of the Federal Reserve System, May 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14480 Filed 5-20-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 17, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 10, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

FEA requests an extension on change clearance of Form FEA-P328-Q-0, Foreign Crude Oil Cost Report. This is an existing quarterly report to collect detailed information on crude oil acquisition costs for the foreign trading affiliates of United States companies. The FEA-P328-Q-0 is a mandatory report under the Federal Energy Administration Act of 1974 (Pub. L. 93-275) and the Energy Policy and Coordination Act of 1975 (Pub. L. 94-163). FEA estimates respondents to number approximately 16 firms which acquire 100,000 barrels of crude oil per day from non-IEA countries and reporting burden to be 10 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-14530 Filed 5-20-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 6, from 11 a.m. June 8 through June 10, 1977, Room 181, Federal Building, 1500 East Bannister Road, Kansas City, Missouri. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the following proposed projects: (1) Alterations, Federal Building, 1500 E. Bannister Road, Kansas City, Missouri; and (2) three supplemental one-year term contracts, two in the state of Missouri and one in the state of Iowa. The meeting will be open to the public.

H. D. HARVELL,
Regional Administrator.

[FR Doc.77-14528 Filed 5-20-77;8:45 am]

[Intervention Notice No. 31; Application No. 57032]

SOUTHERN CALIFORNIA GAS CO. AND CALIFORNIA PUBLIC UTILITIES COMMISSION

Proposed Intervention in Utility Rate Application

The General Services Administration seeks to intervene in a proceeding before the California Public Utilities Commission concerning an application (Application No. 57032) of the Southern California Gas Company for authority to engage in a solar demonstration project and to include in its rates the amount necessary to fund a solar energy program. GSA represents the interests of the executive agencies of the United States Government, as users of gas utility services.

The Southern California Gas Company estimates the venture capital for the program to be more than $10 million which it proposes to raise through a 0.033-cent per therm surcharge on all retail gas sales. There remain many questions about the safeguards and possible rewards this program will bring to the ratepayer.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before June 22, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: May 10, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc.77-14511 Filed 5-20-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of June 1977:

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

DATE: June 22-24, 9 a.m.

PLACE: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

OPEN: June 22, 9-9:30 a.m.

CLOSED: Otherwise.

CONTACT:

Helen Pohlenz, Room 9C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301-443-3855).

PURPOSE: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to biological sciences research training and makes recommendations to the National Advisory Mental Health Council for final review.

AGENDA: From 9-9:30 a.m., June 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301-443-3600).

Dated: May 17, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-14491 Filed 5-20-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Schedule and Proposed Agenda

AGENCY: Office of Education National Advisory Council on Women's Educational Programs.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy and Practices, Legislation, Program and Public Information Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATES: June 8, 7:00 to 10:00 p.m. and June 9, 10, 11, 1977, 8:30 a.m. to 5:30 p.m.

ADDRESS: June 8, Copley Plaza Hotel, Back Bay Room, June 9, 10, 11, Massachusetts State Department of Education, 31 Saint James Avenue, Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Kathy Maurer, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W. No. 821, Washington, D.C. 20036, 202-382-3862.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380, section 408(f)(1). The Council is mandated to (a) Advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) Advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) Make recommendations to the Commissioner with respect to the allocation of any funds pursuant to section 408 of Pub. L. 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) Make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) Develop criteria for the establishment of program priorities; and (f) Disseminate information concerning its activities under section 408 of Pub. L. 93-380.

Under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), and clauses (2) and (6) of subsection (c) of section 552b of Title 5 of the United States Code, the 8:30 a.m. to 12:30 p.m. session of the Council on June 9, 1977 will be closed to the public. Closure of this section of the Council meeting is to allow a free and frank discussion of internal personnel matters. To discuss such matters in open meeting would constitute a "clearly unwarranted invasion of personal privacy," which is exempt from disclosure under 5 U.S.C. (c)(6). The remainder of the Council meeting, from 8:30 a.m. to 5:30 p.m. on June 10, and from 8:30 a.m. to 1:00 p.m. on June 11, will be open to the public. The agenda will include (1) Election of officers, (2) Executive Director's Report, (3) Committee reports and action recommendations; and (4) Presentations from a local project funded by the Women's Educational Equity Act and from others.

The meetings of the committees will take place from 1:30 p.m. to 5:30 p.m. on June 9, 1977, except the Public Information Committee which will meet from 12:00 to 1:30 p.m. on June 10, 1977. All committee meetings will be open to the public. The agenda for the Executive Committee will include preparation for the Council meeting. The agenda for the Federal Policy and Practices Committee will include discussion of the Council's review of the Education Division of HEW. The agenda for the Legislation Committee will include discussion of current legislation affecting women. The agenda for the Program Committee will include the Council's evaluation of the Women's Educational Equity Act Program. The agenda for the Public Information Committee will include development of criteria for selection of topics and participants in the Council's public sessions.

Records will be kept of all Council proceedings and will be available for public inspection at the Council offices at Suite 821, 1832 M Street, N.W., Washington, D.C.

Signed at Washington, D.C. on May 18, 1977.

JOY R. SIMONSON,
Executive Director.

[FR Doc.77-14548 Filed 5-20-77;8:45 am]

Health Resources Administration

HEALTH PROFESSIONS EDUCATIONAL ASSISTANCE ACT, 1976

U.S. Citizen Foreign Medical Student Transfer Under Capitation Requirements

Effective October 1, 1977, section 502 of Public Law 94-484 (Health Professions Educational Assistance Act of 1976, October 12, 1976) amends the authority for making annual grants (called capitation grants) to health professions schools for the support of their educational programs. Under this authority, health professions schools must meet certain requirements in order to receive capitation grants. Among other things, a medical school applying for a grant must, in its application, provide assurances satisfactory to the Secretary that it will reserve positions for eligible United States foreign medical students in the school year beginning immediately before the fiscal year for which the grant is applied for, i.e., academic year 1978-79. Assurances must also be given for academic years 1979-80 and 1980-81 if the medical school is to be eligible for grants from fiscal year 1979 and fiscal year 1980 funds, respectively.

Since the passage of Public Law 94-484, there has been much public interest concerning the Department's plans to administer this provision. This Notice sets forth the general manner in which the Department intends to do so.

1. United States citizens who wish to be considered for transfer under this program in academic year 1978-79, should send their names and addresses to:

International Programs Staff, Division of Medicine, BHM/HRA/DHEW, Federal Center Building No. 2, 4th Floor, 3700 East-West Highway, Hyattsville, Maryland 20782.

The procedures for making application will be described in application materials and will require completed applications to be received by the Division of Medicine, postmarked no later than August 1, 1977.

2. Citizens of the United States are eligible for consideration for transfer under this program if they:

(a) Were students in a foreign medical school before October 12, 1976,

(b) Have, by August 15, 1977, successfully completed at least two years in a foreign medical school, and

(c) Have, by August 15, 1977, successfully completed Part I of the National Board of Medical Examiners' examina-

tion (or any successor to this examination).

3. All United States citizens who meet these requirements are encouraged to:

(a) Apply for identification as being eligible for consideration, and

(b) Apply directly for transfer to a United States medical school (schools).

4. Not later than August 15, 1977, the Department will identify citizens of the United States who have applied for identification and who meet the eligibility requirements.

5. United States medical schools which have applied for capitation grants will be apportioned a number of positions to be reserved for the enrollment of eligible United States citizens. The Department intends, in making its apportionment of positions for the school year 1978–79, to take into consideration whether a school has already enrolled in the school year 1977–78 students eligible for the transfer program.

Questions and comments concerning this Notice should be directed to:

Director, Division of Medicine, Bureau of Health Manpower, HRA/DHEW, Federal Center Building No. 2, 4th Floor, 3700 East-West Highway, Hyattsville, Maryland 20782.

The Department will issue regulations necessary for implementation of this provision and will afford the public the opportunity to participate in this process.

Dated: May 13, 1977.

HAROLD MARGULIES, M.D.,
Deputy Administrator,
Health Resources Administration.

[FR Doc.77-14543 Filed 5-20-77;8:45 am]

National Institutes of Health

PHENFORMIN

Report on Carcinogenesis Bioassay; Availability

Phenformin has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of the carcinogenicity of phenformin hydrochloride was conducted using Fischer 344 rats and B6C3F1 mice. The compound was administered in the diet for 78 weeks to groups of 35 animals of each species and sex, using concentrations of 15,000 and 30,000 ppm for rats and cencentrations of 1,200 ppm and 2,500 ppm for mice. Treatment was followed by a period of observation of 26 weeks. Control groups consisted of 15 untreated animals of each species and sex.

Average weights attained by treated groups of rats and mice were consistently lower than those of control groups in all tests except that for male rats, in which case the weights shown by treated and control animals were indistinguishable. Survival was apparently unaffected in both species by treatment with phenformin, but was poor in mice due to intercurrent disease.

Tumors appearing in treated rats and mice were similar in type and number to those in controls, and no pathologic or statistical evidence of induction of tumors in these species by phenformin was found.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention.)

Dated: May 9, 1977.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.77-14120 Filed 5-20-77;8:45 am]

Office of the Secretary

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

In FR Doc. 77-9096, appearing at page 16517, in the FEDERAL REGISTER of Monday, March 28, 1977, the following changes should be made:

1. On page 16517, in the third column, the first centered heading which now reads "Sec. CP.00 Office of Program Operations—(Mission)" should be changed to read "Sec. SP.00 Office of Program Operations—(Mission)";

2. On page 16518, in the third column, six lines from the bottom of the page, "(SPE)" should read "(SPS)";

3. On page 16519, in the first column, in the centered heading, the section number should be changed to read "SP.20";

4. On page 16522, in the first column, the thirtieth line from the top should be deleted;

5. On page 16522, in the third column, under the heading *"b. The Integrated Systems Redesign Staff (SPP29)"*, in the fourth line, the word "and" should be changed to "of";

6. On page 16523, in column one, in the sixteenth line from the top of the page, "SAA" should be changed to read "SSA";

7. On page 16526, in the first column, in the fifth line from the top of the page, "BLI's" should be changed to read "BDI's";

8. On page 16528, in the third column, in the twenty-sixth line from the bottom of the page, "SSI's" should be changed to read "SSA's";

9. On page 16530, in the first column, in the fourteenth line from the bottom of the page, what now reads "an deffective" should be changed to read "and effective";

10. On page 16530, in the third column, in the third line from the top of the page, "regard-" should read "regarding".

SOCIAL SECURITY BENEFIT INCREASES

Cost-of-Living Increase in Benefits Under Titles II and XVI of the Social Security Act and in Income Limitations for Beneficiaries Under the Supplemental Security Income Program

Correction

In FR Doc. 77-13419 appearing at page 24209 in the issue for Thursday, May 12, 1977, make the following corrections:

(1) In the table on page 24211, the duplicate line for "31.37" should be deleted.

(2) In the table on page 24213, in the right hand column, the 10th entry now reading "452.40" should have read "852.40".

(3) Also in the table on page 24213, right hand column, the 36th entry now reading "514.00" should have read "914.00".

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

CONTRACTING AUTHORITY

Redelegations of Authority

In accordance with 200 Departmental Manual 1.10, the following sections of the BPA Manual concerning redelegations of contracting authority will no longer be published in the FEDERAL REGISTER:

SECTION 10.10—CONTRACTS MANAGER
SECTION 10.11—CONSTRUCTION AND CLEARING CONTRACTS
SECTION 10.12—MATERIALS, EQUIPMENT, AND OTHER CONTRACTS

These redelegations will now be located in Chapter 11 of the BPA Manual. The Manual can be viewed by contacting the Public Information Office, 1002 NE. Holladay Street, Portland, Oregon 97208; telephone 503–234–3361, extension 5131.

Dated: May 5, 1977.

STANLEY E. EFFERDING,
Acting Administrator.

[FR Doc.77-14541 Filed 5-20-77;8:45 am]

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA & TEXAS

Oil and Gas Lease Sale No. 47 June 23, 1977

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343) and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of bids.* Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c.s.t., June 22, 1977; or by personal delivery to Ballrooms No. 1 and No. 2, Delta Towers, 1732 Canal Street, New Orleans, Louisiana 70112, between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., June 23, 1977. Bids received by the Manager later than the times and date specfied above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., June 23, 1977. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 42 FR 18905, April 11, 1977.

3. *Rent, royalty and bonus.* Bids submitted on all tracts to be offered at this sale must be on a cash bonus bid basis. The royalty for all tracts is fixed at 16⅔ percent. Leases which may be issued will provide for a yearly rental or minimum royalty of $3 per acre or fraction thereof.

4. *Method of bidding.* A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., c.s.t., June 23, 1977," must be submitted for each tract. A suggested bid format appears in paragraph 16. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash, or by cashier's check, bank draft, certified check or money order, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Part 3302. The suggested form for this statement to be used in joint bids appears in paragraph 16. Other documents may be required of bidders under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

5. *Equal opportunity.* Each bidder must have submitted by 9.30 a.m., c.s.t., June 23, 1977, the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140–8 (November 1973), and the Affirmative Representation Form, Form 1140–7 (December 1971).

6. *Bid opening.* Bids will be opened on June 23, 1977, beginning at 10 a.m., c.s.t., in Ballrooms No. 1 and No. 2, Delta Towers at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, June 23, 1977, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. *Deposit of payments.* Any cash, checks, drafts, or money order submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. *Withdrawal of tracts.* The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. *Acceptance or rejection of bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) His bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the United States.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof.

10. *Successful bidders.* Each person who has submitted a bid accepted by the United States will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

11. *Protraction diagrams/leasing maps.* Tracts offered for lease may be located on the following official leasing maps/protraction diagrams which are available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2.

(a) Outer Continental Shelf Official Leasing Maps—Texas No. 1 through No. 7C. These maps are arranged in two sets, Nos. 1 through 4 (7 maps) and Nos. 5 through 7C (8 maps), which sell for $5 per set.

(b) Outer Continental Shelf Official Leasing Maps—Louisiana Nos. 1 through 11A. This is a set of 26 maps which sells for $15.

(c) Single copies of Official OCS Protraction Diagrams are available at $2 each, as follows:

(1) NG 15–1, East Breaks;
(2) NG 15–2, Garden Banks;
(3) NH 15–12, Ewing Bank;
(4) NG 15–3, Green Canyon;
(5) NH 16–10, Mississippi Canyon.

12. *Tract descriptions.* NOTE.—There are gaps in the sequence of numbers of tracts.

The tracts offered for bid are as follows:

OCS official leasing map, North Padre Island Area, Texas map No. 2—Approved July 16, 1954

Tract	Block	Description	Acreage
47-1	884	All	5,760
47-2	896	All	5,760

OCS official leasing map, North Padre Island area, east addition, Texas map No. 2A—Approved May 6, 1965

Tract	Block	Description	Acreage
47-3	913	All	5,760
47-4	890	All	5,760

OCS official leasing map, Matagorda Island area, Texas map No. 4—Approved July 16, 1954

Tract	Block	Description	Acreage
47-5	664	Federal portion [1]	5,384.09
47-6	665	All	5,760
47-7	686	All	5,760
47-8	707	All	5,760
47-9	713	All	5,760
47-10	A-2	All	5,760
47-11	A-7	All	5,760
47-12	A-8	All	5,760

OCS official leasing map, Brazos area, Texas map No. 5—Approved July 16, 1954

Tract	Block	Description	Acreage
47-13	504	All	5,760
47-14	577	All	5,760
47-15	A-2	All	5,760
47-16	A-3	All	5,760
47-17	A-20	All	5,760
47-18	A-21	All	5,760

OCS Official leasing map, Brazos area, south addition, Texas map No. 5B—Approved Sept. 24, 1959

Tract	Block	Description	Acreage
47-19	A-101	All	5,760

OCS official leasing map, galveston area, Texas map No. 6—Approved July 16, 1954

Tract	Block	Description	Acreage
47-20	389	All	5,760

OCS official leasing map, Galveston area, south addition, Texas map No. 6A—Approved Sept. 24, 1959

Tract	Block	Description	Acreage
47-21	A-159	All	5,760
47-22	A-188	All	5,760

OCS official leasing map, High Island area, south addition, Texas map No. 7B—Approved Sept. 24, 1959

Tract	Block	Description	Acreage
47-23	A-462	All	5,760
47-24	A-491	All	5,760
47-25	A-498	All	5,760
47-26	A-516	All	5,760
47-27	A-517	All	5,760
47-28	A-534	All	5,760
47-29	A-536	All	5,760
47-30	A-557	All	5,760
47-31	A-584	All	5,760

OCS official leasing map High Island area, east addition, south extension, Texas map No. 7C—Approved Sept. 24, 1959

Tract	Block	Description	Acreage
47-32	A-285	All	5,760
47-33	A-286	All	5,760
47-34	A-307	All	5,760
47-35	A-379	All	5,760

OCS official leasing map, West Cameron area, Louisiana map No. 1—Approved June 8, 1954; revised July 22, 1954

Tract	Block	Description	Acreage
47-36	27	Federal Portion [2]	3,719.34
47-37	47	NE¼SE¼	3,750
47-38	106	All	5,000
47-39	107	All	5,000
47-40	108	All	5,000
47-41	142	All	5,000
47-42	174	Portion [3]	3,840.15
47-43	187	All	5,000
47-44	206	All	5,000
47-45	227	All	5,000
47-46	232	All	5,000
47-47	240	All	5,000
47-48	253	All	5,000
47-49	261	All	5,000
47-50	281	All	5,000

Block	Description	Acreage

OCS official leasing map, West Cameron area, west addition, Louisiana map No. 1A—Approved Nov. 15, 1955; revised Jan. 30, 1957

Tract:			
47-51	316	All	5,000
47-52	318	All	5,000
47-53	326	All	5,000
47-54	329	All	5,000
47-55	330	All	3,130.34
47-56	342	All	5,000
47-57	356	All	2,226.34
47-58	358	All	5,000
47-59	423	All	5,000
47-60	424	All	5,000
47-61	425	All	5,000
47-62	441	All	5,000
47-63	442	All	5,000
47-64	443	All	5,000

OCS official leasing map, West Cameron area, south addition, Louisiana map No. 1B—Approved Sept. 8, 1959

Tract			
47-65	446	All	5,000
47-66	447	All	5,000
47-67	454	All	5,000
47-68	458	All	5,000
47-69	467	All	5,000
47-70	468	All	5,000
47-71	472	All	5,000
47-72	473	All	5,000
47-73	483	All	5,000
47-74	493	All	5,000
47-75	494	All	5,000
47-76	495	All	5,000
47-77	498	All	5,000
47-78	499	All	5,000
47-79	508	All	5,000
47-80	509	All	5,000
47-81	573	All	5,000
47-82	574	All	5,000

OCS official leasing map, East Cameron area, Louisiana map No. 2—Approved June 8, 1954; revised Aug. 1, 1973

Tract:			
47-85	8	Federal portion [2]	270.86
47-86	15	do	4,649.98
47-87	26	All	5,000
47-88	27	All	5,000
47-89	52	All	5,000
47-90	58	All	2,450.60
47-91	58	All	5,000
47-92	59	All	5,000
47-93	70	All	5,000
47-94	94	All	5,000
47-95	95	All	5,000
47-96	128	All	2,001.79
47-97	129	All	5,000
47-98	131	All	5,000
47-99	142	All	5,000
47-100	232	All	5,000
47-101	235	All	1,384.67

OCS official leasing map, East Cameron area, south addition, Louisiana map No. 2A—Approved Sept. 8, 1959

Tract			
47-102	262	All	5,000
47-103	279	All	5,000
47-104	330	All	5,000
47-105	365	All	5,000
47-106	366	All	5,000

OCS official leasing map, Vermilion area, Louisiana map No. 3—Approved June 8, 1954; revised June 25, 1954; July 22, 1954

Tract:			
47-107	16	Federal portion [2]	805.82
47-108	24	All	5,000
47-109	29	Federal portion [2]	4,415.97
47-110	36	W½NE¼; S½, NW¼	4,375
47-111	41	All	4,251.09
47-112	43	All	5,000
47-113	51	All	4,577.34
47-114	58	All	5,000
47-115	61	All	4,307.19
47-116	73	All	5,000
47-117	74	All	5,000
47-118	122	All	4,699.91
47-119	175	All	5,000

Block	Description	Acreage

OCS official leasing map, Vermilion area, South addition, Louisiana map No. 3B—Approved Sept. 8, 1959

Tract:			
47-120	260	All	5,000
47-121	347	All	5,000
47-123	404	All	5,000
47-124	405	All	5,000
47-125	411	All	5,000
47-126	412	All	5,000

OCS official leasing map, South Marsh Island area, Louisiana map No. 3A—Approved Aug. 7, 1959

Tract			
47-127	70	All	5,468.44

OCS official leasing map, South Marsh Island Area South addition, Louisiana map No. 3C—Approved Sept. 8, 1959

Tract:			
47-128	71	All	3,004.52
47-129	114	All	5,000
47-130	124	All	5,000
47-131	181	All	2,500
47-132	182	All	3,473.79
47-133	194	All	5,000
47-134	195	All	5,000
47-135	201	All	5,000
47-136	202	All	5,000
47-137	203	All	5,000

OCS official leasing map, South Marsh Island Area, north addition, Louisiana map No. 3D—Approved Apr. 16, 1971; revised Jan. 18, 1972

Tract			
47-138	282	All	3191.80

OCS official leasing map, Eugene Island area, Louisiana map No. 4—Approved June 8, 1954; revised July 22, 1954

Tract:			
47-139	33	Federal Portion [3]	4,890.83
47-140	43	All	5,000
47-141	80	All	5,000
47-142	87	All	5,000
47-143	107	All	5,000
47-144	108	All	5,000
47-145	156	All	5,000
47-146	186	All	5,000
47-147	224	All	5,000

OCS official leasing map, Eugene Island area, south addition, Louisiana, map No. 4A—Approved Sept. 8, 1959

Tract:			
47-148	279	All	5,000
47-149	283	All	5,000
47-150	294	All	5,000
47-151	299	All	5,000
47-152	300	All	5,000
47-153	350	All	5,000
47-154	354	All	5,000
47-155	355	All	5,000
47-156	356	All	5,000
47-157	374	All	5,000
47-158	383	All	5,000
47-159	307	All	5,000

OCS official leasing map, ship shoal area, Louisiana map No. 5—Approved June 8, 1954

Tract:			
47-160	69	All	5,000
47-161	70	All	5,000
47-162	73	All	5,000
47-163	86	All	5,000
47-164	120	W½	2,500
47-165	146	All	5,000
47-166	163	All	4,958.90
47-167	164	All	4,981.68
47-168	166	All	5,000
47-169	170	All	5,000
47-170	175	All	5,000
47-171	184	All	5,000
47-172	191	All	5,000
47-173	192	All	5,000

Block	Description	Acreage

OCS official leasing map, ship shoal area, south addition, Louisiana map No. 5A—Approved Sept. 8, 1959

Tract:			
47-174	322	All	5,000
47-175	364	All	5,000
47-176	366	All	5,000

OCS official leasing map, South Pelto Area, Louisiana map No. 6—Approved June 8, 1954; revised July 22, 1954; Dec. 9, 1954

Tract:			
47-177	8	All	5,000
47-178	12	E½	2,500
47-179	18	All	5,000
47-180	21	All	5,000

OCS official leasing map, South Timbalier area, Louisiana map No. 6—Approved June 8, 1954; revised July 22, 1954; Dec. 9, 1954

Tract:			
47-181	39	All	5,000
47-182	64	All	5,000
47-183	73	All	5,000
47-184	74	All	4,867.78
47-185	85	All	5,000
47-186	87	All	5,000
47-187	99	All	4,799.44
47-188	142	All	4,776.66
47-189	125	All	5,000
47-190	160	NW¼	1,250
47-191	195	All	5,000

OCS official leasing map, South Timbalier area, South addition, Louisiana map No. 6A—Approved Sept. 8, 1959; Revised July 22, 1968

Tract:			
47-192	301	All	5,000
47-193	302	All	5,000

OCS official leasing map, Grand Isle area, Louisiana map No. 7—Approved June 8, 1954

Tract:			
47-194	20	All	5,000
47-195	21	Portion [4]	1,794
47-196	30	do [1]	4,234
47-197	54	All	5,000
47-198	55	All	5,000

OCS official leasing map, West Delta area, Louisiana map No. 8—Approved June 8, 1954

Tract:			
47-199	20	Federal portion [2]	1,958.87
47-200	38	All	1,796.21
47-201	62	All	5,000
47-202	68	N½	1,832.535
47-203	78	All	5,000
47-204	106	All	5,000

OCS official leasing map, West Delta area, south addition, Louisiana map No. 8A—Approved Sept. 8, 1959; revised Nov. 24, 1961

Tract:			
47-206	114	All	5,000
47-207	115	All	5,000
47-208	116	All	5,000
47-209	121	All	5,000

OCS official leasing map, main pass area, south and east addition, Louisiana map No. 10A—Approved Sept. 8, 1959

Tract			
47-215	302	All	4,999.96

OCS official protraction diagram, east breaks NG 15-1—Approved June 8, 1973; revised Jan. 27, 1976

Tract			
47-216	124	All	1,228.55

Block	Description	Acreage

OCS official protraction diagram, garden banks NG 15-2—Approved Feb. 15, 1973; revised Jan. 27, 1976; Dec. 2, 1976

Tract:			
47-217	123	All	5,760
47-218	124	All	5,760
47-219	80	All	3,472.91

OCS official protraction diagram, Ewing bank NH 15-12—Approved Feb. 15, 1973; revised Mar. 26, 1976; Dec. 2, 1976

Tract:			
47-220	743	All	1,473.26
47-221	744	All	3,678.91
47-222	658	All	1,586.20

OCS official protection diagram, Green Canyon NG 15-3—approved Feb. 15, 1973; revised Jan. 15, 1976; Dec. 2, 1976

Tract			
47-223	5	All	5,744.12

OCS official protraction diagram, Mississippi Canyon NH 16-10—Approved Feb. 15, 1973; revised Jan. 15, 1976; Dec. 2, 1976

Tract:			
47-224	360	All	5,760
47-225	321	All	4,042.09
47-226	322	All	5,760
47-227	324	All	5,760
47-228	325	All	5,760
47-229	326	All	5,760
47-230	380	All	5,760
47-231	282	All	5,760
47-232	156	All	5,760
47-233	157	All	5,760
47-234	69	All	5,760

[1] That portion seaward of the Three Marine League Line.

[2] That portion of the lease block which is located more than 3 geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (*United States* vs. *Louisiana*, 422 U.S. 13).

[3] That portion landward of the zone 4 line.

[4] E½E½; N½NW¼NE¼; that portion of the SW¼ SE¼ seaward of the Three Marine League Line; N½ N½NW¼.

13. *Lease terms and stipulations.* Leases issued as a result of this sale will be on Form 3300–1 (December 1976), available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale:

STIPULATION No. 1

A. (To be included only in the leases resulting from this sale for tracts 47–123, 47–124, 47–125, 47–126, 47–133, 47–134, 47–135, 47–136, 47–137, 47–158, 47–192, 47–216, 47–223):

Operations in a zone extending 3 miles from any 85 meter isobath shall be restricted as follows: All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance but no more than 10 meters from the bottom.

This deep shunting requirement does not apply to mobile drilling units in the zone beyond 1 miles from any 85 meter isobath, provided that a monitoring program is implemented for disposals which are not shunted beyond 1 and within 3 miles from any 85 meter isobath. A monitoring team consisting of qualified independent personnel will submit its findings to the Regional Director, U.S. Fish & Wildlife Service, Manager, New Orleans OCS Office, Bureau of Land Management and Supervisor, United States Geological Survey (hereinafter referred to as Supervisor). This report will be made annually, or immediately in case of imminent danger to the biological community resulting from drilling operations. If it is decided that the methods of disposing of the drill cuttings and fluids are not adequate, the Supervisor will require shunting within 3 miles of any 85 meter isobath. If it is decided by the Regional Director, U.S. Fish & Wildlife Service, the Manager, New Orleans OCS Office, Bureau of Land Management, and the Supervisor that the methods of disposal are adequate, no further monitoring will be required.

B. (To be included only in the leases resulting from this sale for tracts 47–123, 47–124, 47–125, 47–126, 47–133, 47–134, 47–136, and 47–137):

No structures, drilling rigs, or pipelines will be allowed in portions of the aforementioned tracts where the depth of water is 85 meters or less, unless it is determined by procedures prescribed in Secretarial Order 2974 that no significant environmental damage will result from the proposal.

C. (To be included only in the lease resulting from this sale for tract 47–34):

Exploration and development operations are permitted within the circle with a radius of 6,115 meters around point P; located by X=3,742,875, Y=71,280 (Texas Lambert System), with the following restrictions:

All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom; however, if the shunting method is not adequate, as determined by the monitoring program proceedings outlined in this stipulation, to protect the unique character of the subject area, then the material must be transported a minimum of ten miles from any 50 meter isobath surrounding live reef-building coral before disposal. Disposal sites must be approved by the Supervisor.

No garbage, untreated sewage, or other solid waste shall be disposed of from vessels (work-boats, crew-boats, supply-boats, pipelaying vessels) during exploration and development operations.

No drilling permits will be issued by the Supervisor until he has found that the lessee's exploration and development plan filed under 30 CFR 250.34 is adequate to insure that exploration and production operations in the leased area will have no significant adverse effect on the biotic communities associated with the high value reef sites on the Flower Garden Banks. As a part of the development plan, a reef monitoring program must be included.

The monitoring program will be designed to assess the effects of oil and gas exploration and development operations on the viability of the coral reefs and associated communities. The development plan should indicate that the monitoring program will be conducted by qualified independent scientific personnel and that program personnel and equipment will be available at the time of operations. The monitoring team will submit its findings to the Regional Director, U.S. Fish & Wildlife Service, Manager, New Orleans OCS Office, Bureau of Land Management and Supervisor on a regular schedule established by the Supervisor, or immediately in case of imminent danger to the reefs resulting directly from drilling or other operations.

STIPULATION No. 2

If the Supervisor, having reason to believe that a site, structure or object of historical or archeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine archeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archeologist shall be submitted by the lessee to the Supervisor and to the Manager, Bureau of Land Management (BLM) Outer Continental Shelf (OCS) office for review.

If such cultural resource indicators are present the lessee shall: (1) Locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archeological investigation conducted by a qualified marine survey archeologist or underwater archeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this identification investigation prepared by the marine survey archeologist or underwater archeologist shall be submitted to the Supervisor and the Manager, BLM OCS office for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

14. *Restriction on leases.* Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Department of the Army permits are required for construction of any structures in or over any navigable waters of the United States pursuant to Section 10 of the River Harbor Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and for artificial islands and fixed structures located on the Outer Continental Shelf in accordance with Section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333 (f)).

Permit applications and inquiries should be directed to the appropriate

District Engineer, New Orleans District or Galveston District, U.S. Army Corps of Engineers.

15. *OCS Orders.* Operations of all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico Area OCS Orders, issued effective January 1977, and any other applicable OCS order as it becomes effective.

16. *Suggested bid form.* It is suggested that bidders submit their bids to the Manager, New Orleans Outer Continental Shelf office, in the following form:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total amount bid	Amount per acre	Amount of cash bonus submitted with bid

PROPORTIONATE INTEREST OF COMPANY(S) SUBMITTING BID

N.O. misc. No._____ %

Company

Address

Signature
(Please type signer's name under signature)

JOINT BIDDER'S STATEMENT

I hereby certify that _____ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Signature

Sworn to and subscribed before me this _____ day of ____ 19_____

_____, State of ____, (County) of _____

Notary Public

CURT BERKLUND,
Director, Bureau of Land Management.

Approved: May 17, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-14474 Filed 5-20-77;8:45 am]

Geological Survey

[Phosphate Land Classification Order Utah No. 7]

UTAH

Phosphate Land Classification

Correction

In FR Doc. 77-11876 appearing at page 21330 in the issue for Tuesday, April 26, 1977, in the 11th line from the top of the first column of page 21331, "lots 7 to 8" should have read "lots 1 to 8".

REGULATION OF MOBILE OFFSHORE DRILLING UNITS ON THE OUTER CONTINENTAL SHELF OF THE UNITED STATES

Memorandum of Understanding Between the United States Coast Guard of the Department of Transportation and the United States Geological Survey of the Department of the Interior

Correction

In FR Doc. 10931, appearing at page 20198, in the FEDERAL REGISTER of Monday, April 18, 1977, the following changes should be made:

1. The heading should read as set forth above;

2. On page 20198, in the third column, in the tenth line from the bottom of the page, the word "of" should be changed to read "or".

National Park Service

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, American Borate Corporation has filed a plan of operations in support of proposed mining activities on lands embraced by mining claim locations within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: April 8, 1977.

DONALD M. SPALDING,
Superintendent,
Death Valley National Monument.

Dated: May 25, 1977.

HOWARD H. CHAPMAN,
Regional Director,
Western Region.

[FR Doc.77-14529 Filed 5-20-77;8:45 am]

Office of the Secretary

[Int. DES 77-18]

PROPOSED OPERATING CRITERIA FOR LOWER TRUCKEE-LOWER CARSON RIVER BASINS, NEV.

Availability of Draft Environmental Impact Statement

Pursuan. to section 102(2)(C) of the National Environmental Policy Act of 1969 the Department of the Interior has prepared a Draft Environmental Statement on the Proposed Operating Criteria for the Lower Truckee-Lower Carson River Basins. Those basins are located principally in Washoe and Churchill Counties, State of Nevada.

The environmental statement contains human, economic and physical environmental effects associated with the proposal to set and enforce the operating criteria for the Newlands Reclamation Project which diverts water from the Truckee River for use in the Truckee Division and in the North and South Carson Divisions of that project in the Carson River watershed. The proposed action would change the operating criteria of the Newlands Project and restrict the amount of water diverted from the Truckee River. That water would be kept in the Lower Truckee River Basin to preserve Pyramid Lake and assist in the reestablishment of the fishery in that lake. Certain improvements will be made in the operation and management of the Newlands Project. Copies of the statement are available for inspection at the following locations:

1. Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245. Telephone: (202) 343-8248.
2. Bureau of Indian Affairs, Phoenix Area Office, 3030 N. Central, P.O. Box 7007, Phoenix, Arizona 85011. Telephone: (602) 261-4195.
3. Bureau of Indian Affairs, Western Nevada Agency, Stewart, Nevada 89437. Telephone: (702) 882-3411.
4. Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503. Telephone: (702) 322-4042.
5. Stillwater Wildlife Management Area Office, 1510 Rio Vista (at the Fallon Municipal Airport), Fallon, Nevada 89406; P.O. Box 592, Fallon, Nevada. Telephone: (702) 423-4128.
6. Pyramid Lake Indian Tribal Office, Nixon, Nevada 89424. Telephone: Nixon #3 (through the Reno, Nevada telephone exchange).
7. Washoe County Library, Reno Central Branch, 301 S. Center Street, Reno, Nevada 89502. Telephone: (702) 785-4190.
8. Carson City Library, 900 N. Roop Street, Carson City, Nevada 89701. Telephone: (702) 882-5665.
9. Churchill County Library, 522 South Main Street, Fallon, Nevada 89406. Telephone: (702) 423-4623.
10. Auburn-Placer County Library, 350 Nevada Street, Auburn, California 95603. Telephone: (916) 823-4391.
11. Alpine County Library, Montgomery Street, P.O. Box 396, Markleeville, California 96120. Telephone: (916) 694-2120.
12. El Dorado County Library, 549 Main Street, Placerville, California 95667. Telephone: (916) 626-2340.
13. Nevada County Library, North Pine Street, Nevada City, California 95959. Telephone: (916) 265-4606.
14. Sierra County Library (Plumas County), 445 West Jackson, P.O. Box 270, Quincy, California 95971. Telephone: 283-0780.
15. Nevada State Planning Coordinator, State Capitol Building, Carson City, Nevada 89701. Telephone: (702) 885-4865.
16. California State Clearinghouse, 1400 10th Street, Sacramento, California 95814. Telephone: (916) 445-0613.

Single copies of the draft environmental statement may be obtained without cost from:

1. Western Nevada Agency, Bureau of Indian Affairs, Stewart, Nevada 89437.
2. Stillwater Wildlife Management Area Office, 1510 Rio Vista (at the Fallon Municipal Airport) Fallon, Nevada 89406.
3. Pyramid Lake Indian Tribal Council, Nixon, Nevada 89424.
4. Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503.

Any written comments you may wish to submit will be accepted for a period of 45 days after this notice. All such comments will be considered during the preparation of the final environmental statement. Written comments should be addressed to: Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503.

Dated: May 18, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant
Secretary of the Interior.

[FR Doc.77-14779 Filed 5-20-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes.

Pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on April 21, 1977, Regis Chemical Company, 8210 N. Austin Ave., Morton Grove, Illinois 60053, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of mescaline, a basic class of controlled substance in schedule I.

Pursuant to section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above person has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of mescaline, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than June 17, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: May 13, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-14514 Filed 5-20-77;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated March 23, 1977, and published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16877), Gane's Chemicals, Inc., Lessee of Siegfried Chemical, Inc., Industrial Park Rd., Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Pentobarbital	II
Amobarbital	II
Secobarbital	II
Methaqualone	II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: May 16, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-14515 Filed 5-20-77;8:45 am]

LEGAL SERVICES CORPORATION

AD HOC COMMITTEE ON CORPORATION'S FACILITIES OF BOARD OF DIRECTORS

Meeting

JUNE 2, 1977.

A meeting of the Ad Hoc Committee on the Corporation's Facilities will be held on Thursday, June 2, 1977, at the offices of the Corporation, 733 Fifteenth Street, N.W., Washington, D.C.

The meeting will begin at 2:00 p.m. and will be for the purpose of considering options available to the Corporation for housing its headquarters offices.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.77-14793 Filed 5-20-77;9:56 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DANCE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Dance Advisory Panel to the National Council on the Arts will be held on June 12-15, 1977; from 9:30 a.m. to 5 p.m. on June 12, 9 a.m. to 7 p.m. on June 13, 9 a.m. to 6 p.m. on June 14 in Room 1422 Columbia Plaza Building and from 9 a.m. to 5:30 p.m. on June 15, in Room 1115 Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

A portion of this meeting will be open to the public on June 12, from 3 p.m. to 5 p.m., June 14, from 4 p.m. to 6 p.m. and June 15, from 9 a.m. to 2:30 p.m. on a space available basis. The agenda for these sessions will include open workshop and guidelines.

The remaining sessions of this meeting on June 12, from 9:30 a.m. to 3 p.m.; June 13, from 9 a.m. to 7 p.m.; June 14, from 9 a.m. to 4 p.m. and June 15, from 2:30 to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National En-

dowment for the Arts, Washington, D.C. 20506, or call 202–634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 17, 1977.

[FR Doc.77–14526 Filed 5–20–77;8:45 am]

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on June 8–10, 1977; from 9:15 a.m. to 5:30 p.m. on June 8–9, and 9:15 a.m. to 1 p.m. on June 10, in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

A portion of this meeting will be open to the public on June 8, from 9:15 a.m. to 12 noon; June 10, from 9:15 a.m. to 11:30 a.m. on a space available basis. The agenda for these sessions will include panel update and guidelines.

The remaining sessions of this meeting on June 8, from 1:30 p.m. to 5:30 p.m., June 9, from 9:15 to 5:30 and June 10, from 11:30 a.m. to 1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202–634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

May 17, 1977.

[FR Doc.77–14523 Filed 5–20–77;8:45 am]

SPECIAL PROJECTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)2 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Special Projects (Folk Arts) Advisory Panel to the National Council on the Arts will be held on June 10–11, 1977, from 9:30 a.m. to 5:30 p.m., in Room 1329, Columbia Plaza Building, 2401 E Street N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 11, from 9:30 a.m. to 1:30 p.m. on a space available basis. The agenda for this session will include guidelines.

The remaining sessions of this meeting on June 10, from 9:30 a.m. to 5:30 p.m. and June 11, from 1:30 p.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202–634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 17, 1977.

[FR Doc.77–14525 Filed 5–20–77;8:45 am]

THEATRE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Theatre Advisory Panel to the National Council on the Arts will be held on June 11–13, 1977, from 9:30 a.m. to 5:30 p.m. on June 11–12 and 9:30 a.m. to 5 p.m. on June 13 in the Essex House, New York, New York.

A portion of this meeting will be open to the public on June 13, from 9:30 a.m. to 5 p.m. on a space available basis. The agenda for these sessions will include guidelines.

The remaining sessions of this meeting on June 11–12, from 9:30 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 17, 1977.

[FR Doc.77–14524 Filed 5–20–77;8:45 am]

THEATRE RESEARCH PROJECT MEETING

Meeting

The National Endowment for the Arts has contracted with Mathtech, Inc. to conduct a research study on the condition and needs of American theatre. Consultants representing the theatre community will assist the contractor in this study.

A meeting of these consultants is scheduled from June 9 (2 p.m.) to June 10 (12 noon) and will be held in the Board Room, League of New York Theatres and Producers, 226 West 47th Street, New York, New York 10036.

The agenda will concern plans for the project being initiated. The contractor wishes to receive written statements from interested parties concerning their perceptions of the condition and the needs of American theatre. Such comments should be addressed to the Project Manager, Dr. Robert J. Anderson, Jr., Vice President and Director of Economics, Mathtech, Inc., P.O. Box 2392, Princeton, New Jersey, 08540.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

MAY 17, 1977.

[FR Doc.77–14527 Filed 5–20–77;8:45 am]

NATIONAL SCIENCE FOUNDATION

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Proposal Review Panel for the Office for the International Decade of Ocean Exploration, Ad Hoc Subpanel for the SEAREX Project.

DATE AND TIME: June 9, 1977, 9 a.m. to 5 p.m.

PLACE: National Science Foundation, 1800 G Street NW., Room 643, Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Mr. Feenan D. Jennings, Head, Office for the International Decade of Ocean Exploration, Room 605, National Science Foundation, Washington, D.C. 20550, telephone 202–632–7356.

PURPOSE OF PANEL: To provide the IDOE Proposal Review Panel members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to Sea-Air Exchange (SEAREX).

AGENDA: Detailed review and evaluation of proposals for support of the SEAREX Project.

REASON FOR CLOSING: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77–14517 Filed 5–20–77;8:45 am]

USES COMMITTEE OF NSF SCIENCE INFORMATION ACTIVITIES TASK FORCE

Open Meeting

In accordance with the Federal Advisory Act, P.L. 92–463, the National Science Foundation announces the following meeting:

NAME: Uses Committee of the Science Information Activities Task Force.

DATE: June 9, 1977.

TIME: 7 p.m. to 10 p.m.

TYPE OF MEETING: Open.

PLACE: National Science Foundation (Conference Room 540), 1800 G Street NW., Washington, D.C. 20550.

CONTACT:

Mr. Robert S. Cutler, Executive Officer, Room 1201, National Science Foundation, Washington, D.C. 20550. Telephone 202–632–5826.

Persons planning to attend should notify Mr. Cutler prior to this meeting.

Summary Minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of the Task Force: To provide advice and recommendations concerning the appropriate roles and responsibilities of the National Science Foundation regarding the communication and use of scientific and technical information. This committee, one of four established by the Task Force, will explore the user needs aspects pertinent to the Task Force's charge.

AGENDA

7 p.m.—Welcome and Introductory Remarks, Chairman.

7:15 p.m.—Discussion of User Requirements Program: User studies aspects.

8 p.m.—Open Public Participation.

8:30 p.m.—Discussion of User Requirements Program: Education and training aspects.

10 p.m.—Adjourn.

M. REBECCA WINKLER,
Acting Committee, Management Officer.

MAY 17, 1977.

[FR Doc.77–14516 Filed 5–20–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

REACTOR SAFEGUARDS ADVISORY COMMITTEE, REGULATORY ACTIVITIES SUBCOMMITTEE

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Regulatory Activities will hold an open meeting on June 8, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555.

The agenda for subject meeting shall be as follows:

WEDNESDAY, JUNE 8, 1977

8:45 A.M. UNTIL ABOUT 12 NOON

A. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Regulatory Guide 1.122, Revision 1, "Development of Floor Design Response Spectra for Seismic Design of Floor Supported Equipment or Components."

(2) A Working Paper, Regulatory Guide, 1.XX, "Normal Water Level and Discharge at Nuclear Power Plants."

(3) A Working Paper, Regulatory Guide 1.XX, "Reporting of Significant Design and Construction Deficiencies."

1 P.M. UNTIL THE CLOSE OF BUSINESS.

B. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to activities which affect the current licensing process or reactor operations, including those relating to the following:

(1) Procedures and bases for the possible implementation of new regulatory requirements and improved safety features when scheduled initial plant operation is much more than the normal time period beyond a construction permit.

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed during this session.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(A) Persons wishing to submit written statements regarding Regulatory Guide 1.122 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than June 1, 1977 to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(B) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(C) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on June 7, 1977 to the Office of the Executive Director of the Committee (telephone 202/634–1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., EDT.

(D) Questions may be propounded only by members of the Subcommittee and its consultants.

(E) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(F) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection at the NRC Public Document Room, 1717 H St., NW, Washington, DC 20555 on or after June 15, 1977, and September 8, 1977, respectively.

Copies may be obtained upon payment of appropriate charges.

Dated: May 19, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-14659 Filed 5-20-77;8:45 am]

[Docket Nos. 50-338 OL and 50-339 OL]

VIRGINIA ELECTRIC & POWER CO. (NORTH ANNA POWER STATION, UNITS 1 AND 2)

Order

It is ordered, That the evidentiary hearing will resume at 9:30 a.m. on May 31, 1977, in the City Council Chambers on the Second Floor of City Hall, 7th and Main Streets, Charlottesville, Virginia.

Dated at Bethesda, Maryland, this 17th day of May, 1977.

THE ATOMIC SAFETY AND LICENSING BOARD.

FREDERICK J. COUFAL,
Chairman.

[FR Doc.77-14658 Filed 5-20-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on June 9-11, 1977, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, JUNE 9, 1977

8:30 a.m. to 9:15 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to activities.

The Committee will also hear and discuss the report of the ACRS Subcommittee and consultants who may be present related to review of the Zion Station, Units 1 and 2. Portions of this session will be closed if necessary to discuss Proprietary Information related to the design and/or operation of this facility. Closed portions will also be held if required to discuss security provisions at this station.

9:15 a.m. to 12:15 p.m.: Zion Station, Units 1 and 2 (Open)—The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the applicant related to the review of outstanding technical issues identified in the ACRS report of June 6, 1976 on proposed full power operation of the Zion plant. Portions of this session will be closed if necessary to discuss Proprietary Information related to the design and/or operation of this facility. Closed portions will also be held if required to discuss security provisions at this station.

1:15 p.m. to 1:45 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Subcommittee Chairman regarding a number of issues related to the design and operation of the Shippingport Atomic Power Station. Portions of this session will be closed if required to discuss security provisions at this facility.

1:45 p.m. to 3:15 p.m. Shippingport Atomic Power Station (Open)—The Committee will hear presentations and hold discussions with representatives of the NRC Staff and the Division of Naval Reactors, ERDA, and its contractors regarding issues related to the design and operation of this station. Portions of this session will be closed if necessary to discuss security provisions for this facility.

3:15 p.m. to 5:30 p.m.: Executive Session (Open)—The Committee will hear and discuss reports of ACRS Subcommittees, Working Groups and members on a number of regulatory matters including standardized nuclear plants and General Design Criterion No. 19. The Committee will also discuss items related to a periodic ACRS report on matters needing the attention of the NRC Commissioners and clarification of ACRS reports at the request of the Commission.

5:30 p.m. to 6:30 p.m.: Executive Session (Open/Closed)—The Committee will meet in open session to prepare a report to the Nuclear Regulatory Commission on the Zion Station, Units 1 and 2 and in closed session to prepare a letter to the Commonwealth of Pennsylvania on the Shippingport Atomic Power Plant. In the event a report to NRC is required regarding the Shippingport Plant, it will be prepared in open session. .

FRIDAY, JUNE 10, 1977

8:30 a.m. to 11:30 a.m.: Meeting with NRC Staff (Open)—The Committee will hear presentations and hold discussions with members of the NRC Staff regarding recent operating experience at nuclear facilities, licensing actions, generic matters related to reactor licensing, and the future schedule for ACRS activities. This discussion will include the:

Status of construction at the North Anna Nuclear Power Station, Units 1 and 2;

Equipment performance at the Rancho Seco and Beaver Valley nuclear plants;

Reclassification of the turbine trip without bypass transient.

11:30 a.m. to 12:30 p.m.: Executive Session (Closed)—The Committee will hear and discuss comments by ACRS members regarding reactor safety and safeguards information provided in confidence by a foreign government.

1:30 p.m. to 2:30 p.m.: Meeting with NRC Commissioners (Open)—The Committee will discuss with the Commissioners a periodic report by the ACRS regarding regulatory matters which should be brought to the attention of the Commissioners.

2:30 p.m. to 3:30 p.m.: Executive Session (Open)—The Committee members will discuss proposed ACRS action regarding General Design Criterion No. 19.

The Committee will hear and discuss the reports of ACRS Subcommittees and Working Groups regarding various generic matters including:

Fluid-hydraulic dynamic forces primary and secondary systems;

Reactor fuel performance and surveillance;

Fire protection at nuclear facilities;

Review of reactor safety research programs.

3:30 to 6:30 p.m. Executive Session (Open/Closed)—The Committee will meet in open session to prepare a report to the Nuclear Regulatory Commission on the Zion Station, Units 1 and 2, and in closed session to prepare a letter to the Commonwealth of Pennsylvania on the Shippingport Atomic Power Station. In the event a report to the NRC is required regarding the Shippingport Plant it will be prepared in open session.

SATURDAY, JUNE 11, 1977

8:30 a.m. to 10:30 a.m.: Executive Session (Open/Closed)—The Committee will meet in open session to complete its report to the NRC on the Zion Station, Units 1 and 2 and in closed session to complete its letter to the Commonwealth of Pennsylvania on the Shippingport Plant.

10:30 a.m. to 12:30 p.m.: Executive Session (Open)—The Committee will meet in open session to prepare/complete its report to the NRC on the Shippingport Plant and its reports/comments on other matters discussed during this meeting as required.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close portions of the meeting as noted above to protect proprietary data (5 U.S.C. 552b. (c)(4)), to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 552b.(c)(1)(4), and material, including classified and proprietary information, provided in confidence by a foreign government [Executive Order 11652, Section 4c. and 5 U.S.C. 552b.(c)(1)(4) and (9)(B)]. That portion of the meeting during which the Committee's letter to the Commonwealth of Pennsylvania is drafted will be closed pursuant to exemption (9)(B) of 5 U.S.C. 552b.(c) since it involves information the premature disclosure of which would significantly frustrate implementation of proposed Committee action. Separation of factual information and information considered exempt from disclosure under exemptions (1), (4), (9)(B), of 5 U.S.C. 552b. during these portions of the meeting is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally deal with matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety-related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than June 1, 1977, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the following Public Document Rooms:

ZION GENERATING STATION, UNITS 1 AND 2

Waukegan Public Library, 128 North County Street, Waukegan, IL 60085.

SHIPPINGPORT ATOMIC POWER STATION

B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety-related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on June 8, 1977, to the Office of the Executive Director of the Committee (Telephone: 202-634-1371) between 8:15 am and 5:00 pm, Eastern Time. It should be noted that the above schedule is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on June 8, 1977.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings of the proceedings will be permitted only during those open sessions when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information other than safeguards information may attend portions of ACRS meetings where this materials is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., on or after September 9, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: May 19, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-14785 Filed 5-20-77;9:41 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 13, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

TENNESSEE VALLEY AUTHORITY

Comparability Study of Power Plant Operators, single time, companies in vicinity engaged in comparable work, Strasser, A., 395-5867.

VETERANS ADMINISTRATION

Transfer of Ownership Data—Portfolio Loan, 26-8792, on occasion, assumers of VA portfolio mortgages, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Forest Service, Indiana Woodland Owner Timber Sale Survey, single time, Indiana woodland owners, Gaylord Worden, 395-4730.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration:

Coastal Energy Impact Program (Pub. L. 94-370) (Grants, Loans, Guarantees), 36-20, 21, 22, 23, on occasion, State and local governments, Eliott, C. A., 395-5867.

Seafood Industry Survey on the Comparison of Edible Aquatic Species, single time, seafood industry specialist, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Basic Educational opportunity Grant Application Questionnaire, OE-556, single time, high school counselors and financial aid officers, Warren Topelius, 395-5872.

National Institute of Education, California Beginning Teacher Evaluation Study (Teacher Attitude Questionnaire) (Demographic Data Form), NIE-182 A-B, single time, elementary school teachers San Francisco Bay area, Kathy Wallman, 395-6140.

National Center for Education Statistics Libgts A, B, C, D, E, 2394- 1 and 2, 2395, 2391-1, 2396- 1 and 2, 23, single time, librarians and library agencies, Kathy Wallman, 395-6140.

National Institute of Education:
Cross Project Evaluation of the R. & D. Utilization Program, (Evaluation Instruments T1 and T2), (NIE–181 T1 and T2, single-time, school practitioners administrators housing, veterans and labor division, Raynsford, R., 395–3532.
Survey of Secondary School Principals, NIE–175 A and B, single time, public and private secondary school principals, Kathy Wallman, 395–6140.

Alcohol, Drug Abuse and Mental Health Administration, Impact of Family Therapy Treatment of Client Outcome and Program Functioning, single-time, clients and staff of Federally funded drug abuse treatment program, Richard Eisinger, 395–6140.

Center for Disease Control, Directory on Smoking and Health Research, CDC–65.5, other (see SF–83), scientists engaged in smoking and health research, Richard Eisinger, 395–6140.

REVISIONS

VETERANS ADMINISTRATION

Evaluation of Treatment of Drug and Alcohol Dependent Patients, 10–798, single-time, VA patients in alcohol and drug dependence treatment, housing veterans and labor division, Reese, B. F., 395–3532.

SMALL BUSINESS ADMINISTRATION

Title VI, Compliance Report, SBA 707, annually, small business, Lowry, R. L., 395–3772.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Instruction for the Preparation of an Application for a Pilot Grant, on occasion, colleges, universities and schools, Warren Topelius, 395–5872.

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Instructions for the Preparation of an Application for an Education Project Grant, on occasion, colleges, universities and schools, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration:
Jewel Bearings and Related Components in 19____, DIB–941, annually, producers, consumers, and importers of jewel bearings, Warren Topelius, 395–5872.

Defense Materials System-Application for Allotment or Class A Products, DMS–4A, on occasion, manufacturers and contractors who use controlled materials, Warren Topelius, 395–5872.

Defense Materials System—Application for Allotment or Construction, DMS–4C, on occasion, manufacturers and contractors who use controlled materials, Warren Topelius, 395–5872.

Defense Materials System — Detailed Breakdown of Controlled Materials, DMS–4S, on occasion, manufacturers and contractors who use controlled materials, Warren Topelius, 395–5872.

National Bureau of Standards, Survey of Radioactivity Standards Needs, NBS–951, on occasion, purchasers of standard, Warren Topelius, 395–5782.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), Title I Claim for Loss (Property Improvement), FH–7, on occasion, banks, savings and loans, credit unions, etc., housing, veterans and labor division, 395–3532.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration, Material Safety Data Sheet, OSHA–20, on occasion, shipbuilders, Ellett, C. A., 395–5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–14531 Filed 5–20–77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 16, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Travel Grant Study (questionnaires study) single time, scholars in the humanities disciplines, energy and science division, Raynsford, R., 395–3810.

REVISIONS

VETERANS ADMINISTRATION

Notice of Action Taken on Payroll Deduction for Government Life Insurance, 29–800, on occasion, employers, Warren Topelius, 395–5872.

Application for Home Loan Guaranty, 26–1802A, on occasion, lenders and veterans, Warren Topelius, 395–5872.

Application for Veterans Group Life Insurance (veterans separated 120 days or less), 29–8714, on occasion, veterans separated 120 days or less, Warren Topelius, 395–5872.

UNITED STATES INFORMATION AGENCY

Application for Certificate of International Educational Character—Slides/Transparencies, IAP–4, on occasion, business firms, Warren Topelius, 395–5872.

UNITED STATES INFORMATION AGENCY

Application for Certificate of International Educational Character—Filmstrip, IAP–3, on occasion, business firms, Warren Topelius, 395–5872.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:
Mercury (supply and disposition), 6–1091–QA, quarterly, mercury consumers, Warren Topelius, 395–5872.
Aluminum Scrap and Ingot (smelters of secondary aluminum), 6–1114–MA, monthly, consumers of aluminum scrap, Warren Topelius, 395–5872.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census, report of stocks—canned and bottled vegetables, fruits, juices and fish and central office report, B–1310–A, B–1310–B, B–1310–C, B–1310–D, B–1310–E, B1310–E supp., other (see SF–833, wholesale distributors and retail warehouses, Warren Topelius, 395–5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Guarantee Agency Monthly Report, OE–1130, monthly, state and private guarantee agencies, Warren Topelius, 395–5872.
A Handbook for Validation of Educational Practices, (Title III, ESEA), OE4552, on occasion, state and local education agencies, Housing, Veterans and Labor Division, Raynsford, R., 395–3532.
Financial Status Report and Performance Report Educational Opportunity Centers, OE 366, quarterly, project directors at approved higher education institutions, Marsha Traynham, Budget Review Division. 395–4529.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:
Magnesium, 6–1081–A, annually, consumers of magnesium metal, Warren Topelius, 395–5872.
Rare Earths and Thorium (production), 6–1272–A, annually, producers of rare earth and thorium, Warren Topelius, 395–5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–14532 Filed 5–20–77;8:45 am]

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period May 2, 1977 through May 13, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF LABOR

System Names:

(1) Investigatory Files—PWBP, Division of Enforcement.

(2) Impact of Disqualification Provisions of State Unemployment Insurance Laws.

(3) Analysis of Delayed and Never Filers for Unemployment Insurance.

Report Date:

April 27, 1977.

Point-of-Contact:

Sofia P. Petters, Counsel for Administrative Legal Services, Department of Labor, Washington, D.C. 20210.

Summary:

The report proposes two new systems, to be operated by contractors pursuant to subsection (m) of the Privacy Act, "to determine the extent of and the reasons for delayed filing or never filing for unemployment insurance benefits." The third proposed system was created out of an existing system by a reorganization.

DEPARTMENT OF JUSTICE

System Names:

(1) Civil Division Case File System.
(2) Civil Division Case File System—Customs Section.
(3) Office of Alien Property File System.

Report Date:

April 28, 1977.

Point-of-Contact:

Mr. Harry Gastley, Department of Justice, Washington, D.C. 20530.

Summary:

This is a proposed modification of the Civil Division Case File System, which separates the system into "three distinct systems which more accurately reflect the categories of records, purposes and functions of the systems."

DEPARTMENT OF COMMERCE

System Names:

Nuclear Reactor Operator Licensees File.

Report Date:

May 8, 1977.

Point-of-Contact:

Mr. Joseph O. Smiroldo, Director, Office of Organization, and Management Systems, Department of Commerce, Washington, D.C. 20230.

Summary:

The proposed system "provides a record documenting that operators of the National Bureau of Standards reactor are trained, tested, and qualified to operate the facility, and forms the basis for subsequent renewal of their operators' licenses by the Nuclear Regulatory Commission."

CONSUMER PRODUCT SAFETY COMMISSION

System Name:

Commissioned Officers Personal Data File.

Report Date:

May 6, 1977.

Point-of-Contact:

Mr. Melnick, Office of the General Counsel, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

Summary:

This proposed system will support the CPSC's program for commissioning State and local government officials to conduct examinations, investigations, and inspections.

DEPARTMENT OF DEFENSE

System Name:

DOD Discharge Review Program (Special).

Report Date:

May 10, 1977.

Point-of-Contact:

Mr. William Cavaney, Executive Secretary, Defense, Privacy Board (Room 5H–023), Washington, D.C. 20301.

Summary:

This proposed system will support the President's program to review Vietnam-Era less than honorable discharges and requests of "certain service members presently in a deserter status whose absence commenced during the Vietnam-Era."

DEPARTMENT OF DEFENSE

System Names:

(1) Department of Defense Superior Service Medal.
(2) Standard of Conduct Inquiry File.
(3) Statements of Affiliations and Financial Interests File.
(4) Privacy Act Request for Access File.

Report Date:

May 10, 1977.

Point-of-Contact:

Mr. William Cavaney, Executive Secretary, Defense, Privacy Board (Room 5H–023), Washington, D.C. 20301.

Summary:

1. Superior Service Medal system is intended to keep a record of "names and relevant background information" on individuals who have been awarded this medal. 2. Standard of Conduct Inquiry File will be used "to process cases involving individuals alleged to have violated DOD standards of conduct regulations or the conflict of interest statutes." 3. Statements of affiliations and Financial Interests File is intended to implement the transfer of the function and requirement to review statements of affiliations and financial interests." 4. Privacy Act Request for Files will keep records of requests for access to records received by the Office of the Secretary of Defense and the Office of the Joint Chiefs of Staff.

AGENCY FOR INTERNATIONAL DEVELOPMENT

System Name:

Travel and Transportation Records.

Report Date:

May 13, 1977.

Point-of-Contact:

Mr. Rhea Johnson, Privacy Officer, Agency for International Development, Washington, D.C. 20523.

Summary:

This report proposes changes to the sytem of records to reflect additional categories of records and storage of records on magnetic tapes and discs.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77–14533 Filed 5–20–77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Acceptance of Petition for Review of Product Eligibility Under the Generalized System of Preferences; Correction

FR Doc. 77–13750 appears on page 24133 in the issue for Thursday, May 12, 1977. In the second line of item 2 of the description of the petition, the Tariff Schedules of the United States Item No. "147.55" should read "547.55."

WILLIAM B. KELLEY, JR.,
Chairman,
Trade Policy Staff Committee.

[FR Doc.77–14507 Filed 5–20–77;8:45 am]

PRESIDENT'S COMMISSION ON MENTAL HEALTH

PUBLIC HEARINGS

In accordance with Section 10(A)(2) of the Federal Advisory Committee Act (5 USC Appendix I), announcement is made of the following Presidential Commission public hearings during the month of June, 1977.

THE PRESIDENT'S COMMISSION ON MENTAL HEALTH

(1) June 20, 1977; 9:30 a.m. to 5 p.m., Doubletree Inn, 445 S. Alvernon, Tucson, Arizona 85711.
(2) June 21, 1977; 9:30 a.m. to 5 p.m., Sheraton Palace Hotel, 639 Market Street, San Francisco, California 94119.

Open public hearings.

Contact:

Mary Ann Orlando, Special Assistant to the Chairperson, President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500—Tel: 202/456–7100.

Anyone wishing to testify at either of the above Public Hearings should notify the Commission in writing no later than June 10, 1977, indicating the name of organization or organizations, if any, being represented and the subject and particular point of view within the mental health area to be discussed. Requests to testify should be addressed to:

The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

Requests to testify will be accepted on a time available basis. Those who are scheduled to testify will be notified by the Commission.

Oral testimony will be limited to 8 minutes, followed by 4 minutes of questioning by the Commission. Additional written data in support of the testimony will also be made a part of the record and must be submitted at the time of testimony.

If time does not permit all to testify, presentations will be accepted in written form and made a part of the record of the proceedings, but must be submitted to the Commission at its offices within one (1) week of the hearing.

In addition, time will be alloted to permit individuals from the audience to testify for a maximum of 3 minutes. Requests to testify from the floor will be accepted at the time of the hearing and will be honored on the basis of time available and relevance of subject matter.

Purpose of Commission: The President's Commission on Mental Health is a policy recommendation commission composed of 20 members representing a broad spectrum of interested and informed private citizens. The Commission was created by the President by Executive Order No. 11973 and was directed to identify the mental health needs of the nation. In particular, the Commission shall seek to identify: How the mentally ill, emotionally disturbed and mentally retarded are being served or underserved and who is affected by such underservice; projected needs for dealing with emotional stress during the next twenty-five years; ways the President, Congress and the Federal Government may efficiently support the treatment of the underserved mentally ill, emotionally disturbed and mentally retarded; methods for coordinating a unified approach to all mental health services; types of research the Federal Government should support to further prevention and treatment of mental illness and mental retardation; roles various educational systems, volunteer agencies and other people-helping institutions can perform to minimize emotional disturbance; and what programs will cost, when the money should be spent and how the financing should be divided among Federal, State and local governments, and the private sector. The Commission shall conduct such public hearing, inquiries and studies as may be necessary, and shall submit a preliminary report to the President by September 1, 1977. A final report with recommendations and priorities shall be submitted to the President by April 1, 1978.

Purpose of Public Hearings: Public hearings are designed to give Commissioners an opportunity to hear first hand the concerns of the American public directly related to the field of mental health.

Further information may be obtained from the above named person.

Attendance by the public will be limited to space available.

The Commission will furnish upon request transcripts of the public hearings at printing cost. Requests for such transcripts should be directed to: The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

BENEDICT J. LATTERI,
Administrative Officer, President's Commission on Mental Health.

MAY 16, 1977.

[FR Doc.77-14656 Filed 5-20-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18542; File No. SR-Amex-77-3]

AMERICAN STOCK EXCHANGE, INC.

Order Instituting Proceedings To Determine Whether Proposed Amendments to Part 1, "Original Listing Requirements," and Part 10, "Suspension and Delisting," of the American Stock Exchange's Company Guide Should Be Disapproved

The American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, New York 10006, has filed, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b-4, copies of a proposed rule change which would add section 117 to Part 1 and section 1003A to Part 10 of the Amex "Company Guide". Section 117 sets forth alternate criteria for the original listing of common stock, and section 1003A provides for the prospective application of certain delisting criteria with respect to issues which may be listed pursuant to the alternate criteria. Notice of the proposed changes together with the Amex's statement of the basis and purpose thereof was published in the FEDERAL REGISTER on March 24, 1977 (42 FR 15994).

PROCEEDINGS TO DETERMINE WHETHER TO DISAPPROVE PROPOSED AMENDMENTS TO PART 1 AND PART 10 OF THE AMEX COMPANY GUIDE (SR-AMEX-77-3)

The Commission is instituting proceedings pursuant to section 19(b)(2) of the Act to determine whether proposed additions to Parts 1 and 10 of the Exchange's "Company Guide" should be disapproved. Institution of proceedings appears appropriate at this time in view of the substantial legal and policy issues summarized below and does not necessarily indicate that the Commission has formulated any conclusions with respect to any of the issues involved.

GROUNDS FOR DISAPPROVAL UNDER CONSIDERATION

The stated purpose of the Amex proposal is to expand the universe of issuers who may qualify to list shares on the Exchange. This would result from the implementation of the alternate criteria because the latter do not contain any earnings criterion, in contrast to the Amex's present listing requirements for common stock. Nevertheless, we note that the proposed alternate criteria do provide substantially higher standards in certain categories than present numerical standards governing the original listing of such stock. Hence, the proposed amendments do not necessarily constitute an overall lowering of listing standards.

Of the issues which would qualify for listing under the alternate standards, some are currently traded solely in the over-the-counter ("OTC") market. To the extent that OTC issues become eligible and indeed are listed on the Amex, trading in these securities will be governed by the Amex's restrictions respecting off-board principal transactions. Under Amex Rule 5, which outlines the situations where a member may execute a transaction in a listed issue in the OTC market, there is no provision which permits a member, member organization, or affiliated person to act as an OTC market-maker in a listed issue.

In view of the foregoing, the Commission has decided to give notice at this time, pursuant to section 19(b)(2)(B) of the Act of the following grounds under consideration for disapproval of SR-Amex-77-3.

A. Section 6(b)(5) of the Act requires that the rules of national securities exchanges be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed modification of the Amex's listing standards would expand the potential universe of issues which would be subject to the Exchange's off-board principal trading restrictions. Accordingly, whether the Amex proposal would establish impediments in conflict with section 6(b)(5) is a ground under consideration for disapproval.[1]

[1] On December 19, 1975, the Commission issued an order (Release No. 11942) (41 FR 4567 (January 30, 1976)) adopting Rule 19c-1 under the Securities Exchange Act of 1934. This Rule provided for the elimination by January 3, 1977 of all exchange rules, policies, or practices which restricted the ability of members to effect agency transactions in listed equity securities (or those traded pursuant to unlisted trading privileges) OTC with a third market-maker or nonmember block positioner. In the release which announced the adoption of Rule 19c-1, the Commission acknowledged the anti-competitive effects of exchange restrictions on the ability of members to effect principal transactions off-board and stated that the viability of such restrictions would be reconsidered during the first quarter of 1977. At an open meeting held in Washington, D.C. on May 13, 1977, the Commission determined to require securities exchanges to eliminate restrictions such as those currently imposed by New York Stock Exchange Rule 390 respecting the ability of members to effect off-board principal transactions in listed issues. Further, January 1, 1978 was set as a deadline for such action.

B. Section 6(b)(8) of the Act requires that the rules of a national securities exchange not impose any undue burden on competition. As a consequence of the listing of a security previously ineligible for Amex listing, no Amex member would be able to act (or continue to act) as an OTC market-maker in such a security. The restrictions of Amex Rule 5 as applied to such newly-listed securities could thus diminish competition which currently exists among OTC market-makers in a particular security as well as potential competition between the OTC and Amex markets. Accordingly, the extent to which the Amex proposal may broaden the sweep of existing anti-competitive restrictions on off-board trading by its members and thereby proscribe the activities of members who may wish to do business as OTC market-makers is a ground under consideration for disapproval.

PROCEDURE

The Commission has determined to provide an opportunity for the presentation of data, views and arguments in conjunction with these proceedings. Interested persons are invited to submit written data, views and arguments within 30 days from the date hereof as to the Amex's rule proposals. Parties wishing to respond to any other person's submission should file a written response within 45 days hereof. Copies of SR-Amex 77-3 and of the submissions will be available for inspection at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the Amex's submissions are also available at the principal office of the Amex. Persons desiring to make written statements should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14565 Filed 5-20-77;8:45 am]

[Release No. 20029; 70-6007]

ARKANSAS POWER & LIGHT CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

MAY 17, 1977.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas"), First National Building, Little Rock, Arkansas 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder regarding the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Arkansas proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $11,000,000 principal amount of its First Mortgage Bonds, percent Series due June 1, 2007. The interest rate on the bonds (which will be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to paid to Arkansas (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under Arkansas' Mortgage and Deet of Trust dated as of October 1, 1944, to Morgan Guaranty Trust Company of New York, Trustee, as heretofor supplemented and as to be further supplemented by a Twenty-ninth Supplemental Indenture to be dated as of June 1, 1977, which includes a prohibition until June 1, 1982, against refunding the bonds with the proceeds of funds borrowed at a lower effective interest cost.

Prior to the effective date of Arkansas' Twenty-eighth Supplemental Indenture dated as of July 1, 1975, Arkansas' Mortgage and Deed of Trust as amended provided that in the computation of the "two times interest" coverage test for the issuance of additional bonds, the amount of the company's nonoperating income (as defined) that may be taken into account would not exceed 15 percent of the sum of net operating income plus nonoperating income. This provision differs from the analogous provision of the Commission's Statement of Policy in respect of first mortgage bonds ("Policy Statement") adopted February 16, 1956 (HCAR No. 13105), which restricts the inclusion of nonoperating income to an amount not exceeding 10 percent of operating income. In recent years, the Indenture provision has resulted in higher computed interest coverages than would have resulted from the provision prescribed by the Policy Statement.

As a first step toward conforming the Indenture provision with that of the Policy Statement, Arkansas' Twenty-eighth Supplement Indenture dated as of July 1, 1975, amended the Indenture provision so as to provide that, effective with the first series of bonds to be issued after December 31, 1975, the amount of includable nonoperating income would not exceed 14 percent of the sum of net operating income plus nonoperating income. It is proposed in the instant filing that Arkansas' Twenty-ninth Supplemental Indenture to be dated as of June 1, 1977, provide that, effective with the first series of bonds to be issued after December 31, 1977, the amount of includable nonoperating income shall not exceed 13 percent of the sum of net operating income plus nonoperating income. It is contemplated that said percentage will be successively reduced further in future supplemental indentures so that the Indenture provision (including, ultimately, the base to which the percentage shall apply) will finally conform in substance with the analogous provision of the Policy Statement.

Arkansas proposes to utilize the net proceeds from the issuance and sale of the proposed bonds and preferred stock to pay $11,000,000 principal amount of its First Mortgage Bonds, 2⅞ percent Series due 1977, which mature on July 1, 1977. Fees and expenses incident to the proposed transaction are estimated at $140,000, including counsel fees of $38,500 and accountants' fees of $18,500. The fee of counsel for the successful bidders is estimated at $14,000 and is to be paid by the successful bidders.

The Arkansas Public Service Commission and the Tennessee Public Service Commission have jurisdiction over the proposed issuance and sale of the bonds. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 13, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14566 Filed 5-20-77;8:45 am]

[Release No. 34-13532; File No. 4-191]

BOSTON STOCK EXCHANGE, INC., AND MIDWEST STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Filing of BSE/MSE Plan

The Boston Stock Exchange, Inc. (the "BSE"), and the Midwest Stock Exchange, Inc. (the "MSE"), filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d-2 (17 CFR 240.17d-2) ("§ 240.17d-2") on March 14, 1977.

The proposed plan provides that the self-regulatory organization designated to examine for compliance with applicable financial responsibility rules (the "designated examining authority" or

"DEA") pursuant to Rule 17d–1 (17 CFR 240.17d–1) ("section 240.17d–1") will be responsible for processing and acting on certain applications submitted by dual members. The exchange that is not the DEA ("other exchange") will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d–2, for applications to become regular equity or options members. MSE will be responsible for applications for options principal members, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving options transactions.

In addition, under the proposed plan, the DEA will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television, and writing and speaking activities of dual members. MSE will conduct such review in relation to MSE listed options. The DEA will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The DEA will be responsible for conducting examinations for compliance with financial, operational, and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations, except that both the DEA and the other exchange reserve the right to participate in any special examination. The DEA will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. It will also be responsible for review, approval, and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements, and related agreements and amendments including clearing agreements.

Further, the DEA will be responsible for disciplinary investigations and proceedings involving dual members except insofar that the other exchange may assume jurisdiction in investigations relating to a transaction on the other exchange affecting a security listed on the other exchange or any other activity having a unique reference to the other exchange.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views, and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4–191.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14580 Filed 5–20–77;8:45 am]

[Release No. 34–13536; File No. 4–195]

BOSTON STOCK EXCHANGE, INC., AND NEW YORK STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Filing of BSE/NYSE Plan

The Boston Stock Exchange, Inc. (the "BSE"), and the New York Stock Exchange, Inc. (the "NYSE"), filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d–2 (17 CFR 240.17d–2) ("§ 240.17d–2") on March 28, 1977.

The proposed plan provides that the NYSE will be responsible for processing and acting on certain applications submitted by dual members. The BSE will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d–2, for applications for BSE regular floor members, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving options transactions.

In addition, under the proposed plan, the NYSE will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television, and writing and speaking activities of dual members except in relation to listed options. The NYSE will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The NYSE will be responsible for conducting examinations for compliance with financial, operational, and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations, except that both BSE and NYSE reserve the right to participate in any special examination. It will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. The NYSE will submit to the BSE a computer run summarizing certain pre-defined key data from the monthly FOCUS Reports received by the NYSE from all NYSE members who are participants of Boston Stock Exchange Clearing Corporation ("BSECC"). BSE and NYSE agree to assist each other in examinations if requested due to geographical or other considerations. NYSE will also be responsible for review, approval, and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements, and related agreements and amendments including clearing agreements.

Further, the NYSE will be responsible for disciplinary investigations and proceedings involving dual members except insofar that BSE may assume jurisdiction in investigations relating to a transaction on BSE affecting BSE listed security or any other activity having a unique reference to BSE.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4–195.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14584 Filed 5–20–77;8:45 am]

[Release No. 34–13534; File No. 4–193]

BOSTON STOCK EXCHANGE, AND PACIFIC STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Filing of BSE/PSE Plan

The Boston Stock Exchange (the "BSE"), and the Pacific Stock Exchange, Inc. (the "PSE"), filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d–2 (17 CFR 240.17d–2) ("§ 240.17d–2") on March 18, 1977.

The proposed plan provides that the self-regulatory organization designated to examine for compliance with applicable financial responsibility rules (the "designated examining authority" or "DEA") pursuant to Rule 17d–1 (17 CFR 240.17d–1) ("§ 240.17d–1") will be responsible for processing and acting on certain applications submitted by dual members. The exchange that is not the DEA (the "other exchange") will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d–2, for applications to become regular equity or, if applicable, options members of the other exchange. The PSE will be responsible for applications for registered options principals and notification of registered representatives certified as qualified to handle accounts involving options transactions.

In addition, under the proposed plan, the DEA will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television, and writing and speaking activities of dual members except in relation to PSE listed options. The DEA will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The DEA will be responsible for conducting examinations for compliance with financial, operational, and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations, except that both BSE and PSE reserve the right to participate in any special examination. The DEA will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. It will also be responsible for review, approval, and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements, and related agreements and amendments including clearing agreements. The DEA may request assistance of the other exchange in the conduct of any examination, because of geographical or other considerations.

Further, the DEA will be responsible for disciplinary investigations and proceedings involving dual members except insofar that the other exchange may assume jurisdiction in investigations relating to a transaction on the other exchange affecting a security listed on the other exchange or any other activity having a unique reference to the other exchange.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4–193.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14582 Filed 5–20–77;8:45 am]

[Release No. 20024; 70–6005]

CONSOLIDATED NATURAL GAS CO. ET AL.

Proposed Intrasystem Financing, Issuance and Sale of Commercial Paper and Short-Term Notes to Banks by Holding Company, and Exemption From Competitive Bidding

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020, CNG Coal Company; CNG Development Company Ltd.; CNG Producing Company; CNG Research Company; Consolidated Gas Supply Corporation; Consolidated Natural Gas Service Company, Inc.; Consolidated System LNG Company; The East Ohio Gas Company; The Peoples Natural Gas Company; The River Gas Company; West Ohio Gas Company (70–6005).

MAY 10, 1977.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and certain of its subsidiary companies, CNG Coal Company ("Coal Company"), CNG Development Company Ltd., CNG Producing Company ("Producing Company"), CNG Research Company ("Research Company"), Consolidated Gas Supply Corporation ("Gas Supply"), Consolidated Natural Gas Service Company, Inc. ("Service Company"), Consolidated System LNG Company ("LNG Company"), The East Ohio Gas Company ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), The River Gas Company ("River"), and West Ohio Gas Company ("West Ohio") have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43, 45, and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes, from time to time during 1977, to make loans aggregating up to $79,000,000 to five subsidiary companies in the amounts set forth in the table below, primarily for the purpose of partially financing their 1977 capital expenditures. Capital expenditures for all of Consolidated's subsidiaries are estimated at $236,400,000 in 1977. The loans will be evidenced by nonnegotiable, long-term notes proposed to be issued by the respective subsidiary companies and proposed to be acquired by Consolidated. The notes will bear interest at a rate substantially equal to the effective cost of money to Consolidated in respect of its issuance and sale of $75,000,000 principal amount of debentures scheduled for June 1977 (File No. 70–6004) and will be payable from 1982 through 1997 in approximately equal annual principal amounts.

Prior to completion of said debenture financing in 1977 by Consolidated, the foregoing loans to said subsidiary companies for 1977 capital expenditures ($74,500,000) will be in the form of open account advances, payable on or before December 31, 1977, with interest at the prime commercial rate (presently 6.25 percent) in effect from time to time at The Chase Manhattan Bank, N.A. ("Chase Manhattan"), with a retroactive adjustment of the interest rate on the advances to conform with the effective cost of money to Consolidated through the sale of its debentures. Following the debenture financing by Consolidated, the interim open account advances to subsidiary companies, to the extent made at that time, will be converted into long-term notes of such subsidiary companies, and, thereafter, loans to subsidiary companies in 1977 for capital expenditures will be evidenced by the aforesaid long-term notes of such subsidiary companies.

Consolidated also proposes to issue and sell up to $100,000,000 of short-term notes to a group of banks during 1977. Such notes will bear interest at the prime commercial rate in effect from time to time at Chase Manhattan. Prepayments may be made in whole or in part, from time to time, upon five days' notice without penalty or premium. There will be no closing or related charges or commitment fee, and the notes will mature not more than twelve months from the date of the first borrowing. No compensating balance requirements will be imposed. The average of deposits regularly maintained by the Consolidated companies in the participating banks for normal operating purposes amounted to approximately $25,500,000 for 1976. It is stated that based on a requirement of 10 percent of the proposed credit line and 10 percent of average borrowings thereunder, the average compensating balances would have amounted to approximately $14,900,000 for the year 1976.

Consolidated proposes to use the proceeds from said bank borrowings to make open account advances to its subsidiary companies aggregating up to $100,000,000 for gas storage inventories, payable as gas is withdrawn and sold during the 1977–78 heating season. The advances to subsidiary companies will bear interest at the same rate as the related bank borrowings by Consolidated and will be made in amounts as set forth in the table below. Also shown on the following table are $37,000,000 of open account advances which Consolidated proposes to make from time to time up to May 31, 1978, to subsidiary companies for working capital requirements from part of the proceeds of Consolidated's proposed issuance and sale (described hereinafter) of up to $50,000,000 of commercial paper and/or notes to a bank. These advances will be repaid not more than one year from the date of the first advance to each subsidiary with interest at substantially the same effective rate as incurred by Consolidated on the related commercial paper sale and/or bank borrowings.

Subsidiary company	Long-term notes	Advances for seasonal increase in gas storage inventories	Advances for working capital requirements
Producing Company	$34,000,000		$5,600,000
Gas Supply	6,000,000	$67,000,000	11,500,000
LNG Company	34,000,000		
East Ohio		21,000,000	9,000,000
Peoples	4,300,000	12,000,000	7,900,000
River	700,000		600,000
West Ohio			1,600,000
Coal Company			300,000
Research Company			300,000
Service Company			500,000
	79,000,000	100,000,000	37,000,000

Consolidated further proposes to acquire, and the subsidiary companies set forth below propose to issue and sell to Consolidated from time to time during 1977, capital stock up to the following amounts at the par value thereof:

	Number of shares ($100 par)	Aggregate par value
Coal Company	30,000	$3,000,000
Producing Company	44,000	4,400,000
Research Company	17,000	1,700,000
Gas Supply	115,000	11,500,000
LNG Company	210,000	21,000,000
River	4,000	400,000
Total		42,000,000

The proceeds derived from the proposed sale of stock will be used to finance, in part, the subsidiaries' 1977 capital expenditures. The purchase of said capital stock by Consolidated will be made principally with funds from internal cash generation, and from the sale of common stock pursuant to its stockholder and employee stock plans. The authorized capital stock of Gas Supply, LNG Company, and River is not sufficient to cover the additional shares they propose to issue. Therefore, in order to accommodate the proposed transactions and to provide for future issues, Gas Supply proposes to amend its certificate of incorporation and increase the number of its authorized shares from 1,700,000 to 2,000,000, LNG Company from 750,000 to 1,000,000, and River from 20,000 to 24,000.

As indicated above, Consolidated proposes to issue and sell commercial paper, in the form of short-term promissory notes payable to bearer, in the aggregate face amount not to exceed $50,000,000 outstanding at any one time to a dealer in commercial paper from time to time up to May 31, 1978. The commercial paper will have varying maturities of not more than 270 days after the date of issue and will be issued and sold in varying denominations of not less than $50,000 and not more than $5,000,000 directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturities. Consolidated proposes to sell commercial paper only so long as the effective interest cost for such commercial paper does not exceed the equivalent cost of borrowings from a commercial bank on the date of sale.

No commission or fee will be payable by Consolidated in connection with the issue and sale of such commercial paper notes. The dealer, as principal, will reoffer such notes at a discount not to exceed one-eighth of one percent per annum less than the prevailing discount rate to Consolidated. Such notes will be reoffered to not more than 200 identified and designated customers on a list (nonpublic) prepared in advance by the dealer and furnished to the Commission. It is anticipated that the commercial paper will be held by customers to maturity; however, if any commercial paper is repurchased by the dealer pursuant to a repurchase agreement, such paper will be reoffered only to others in the group of 200 customers. The issuance and sale of commercial paper is to provide $37,000,000 for working capital advances to subsidiary companies, and the balance of $13,000,000 is for working capital and contingent requirements of Consolidated during the year.

Consolicated proposes, to the extent that it becomes impracticable to issue such commercial paper, to borrow, repay, and reborrow from Chase Manhattan, from time to time up to May 31, 1978, an aggregate principal amount not to exceed $50,000,000 outstanding at any one time, at the prime commercial rate of interest in effect on the date of each borrowing, upon the promissory note or notes of Consolidated having a maturity date not more than 90 days from the date of each borrowing, and with the right of prepayment, in whole or in part at any time or from time to time, without prior notice and without premium. The amount of commercial paper notes and said notes, if any, payabe to Chase Manhattan will not collectively exceed $50,000,000 outstanding at any one time. There will be no closing or related charges and no commitment fee with respect to such bank loans, nor will there be any compensating-balance requirements.

Consolidated requests that, for the period commencing upon the date of the granting of this application-declaration and ending May 31, 1978, an exemption be allowed from the provisions of section 6(a) of the Act pursuant to the first sentence of section 6(b), relating to the issuance and sale of short-term notes, by increasing the 5 percent limitation on such notes to a maximum of 6 percent in order to permit Consolidated to have outstanding at any one time up to $50,000,000 principal amount of short-term notes during such period as proposed herein.

Consolidated requests exception from the competitive bidding requirements of Rule 50 with respect to the sale of commercial paper on the grounds that such commercial paper will have maturities of nine months or less, that current rates for commercial paper for prime borrowers, such as Consolidated, are published daily in financial publications, and that it is not practical to invite competitive bids for commercial paper. Consolidated also proposes that the Rule 24 certificates of notification regarding the issuance and sale of the commercial paper and all subsidiary company financings be filed on a quarterly basis.

It is stated that CNG Development Company Ltd. had no new financing requirements for 1977 at the time of filing and that if such requirements should arise, an amendment to that effect will be filed as part of this proceeding.

The application-declaration states that the Public Service Commission of West Virginia has jurisdication over the proposed long-term and short-term borrowings and stock issuances of Gas Supply; that the Public Utilities Commission of Ohio has jurisdiction over the long-term borrowings and stock issuance proposed by River; and that the Pennsylvania Public Utility Commission has jurisdiction over the long-term borrowings proposed by Peoples. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $10,500, including $8,000 for the system service company charges, at cost. All of such fees and expenses are to be paid by Consolidated.

Notice is further given that any interested preson may, not later than June 3, 1977, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is

ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14567 Filed 5-20-77;8:45 am]

[Release No. 20025; 70-6011]

GENERAL PUBLIC UTILITIES CORP.

Proposed Issue and Sale of Common Stock by Holding Company Pursuant to an Underwritten Rights Offering

MAY 12, 1977.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 260 Cherry Hill Road, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

GPU proposes to offer up to 3,770,000 authorized but unissued shares of its common stock for subscription by the holders of its outstanding shares of common stock on the basis of 1 share for each 15 shares of common stock held on the record date. The record date will be June 30, 1977, or such later date as GPU's registration statement under the Securities Act of 1933 may become effective. The subscription price, to be determined by GPU at about 4:15 p.m. on the day preceding the anticipated record date, will not be more than 100 percent and not less than 85 percent, of the closing price of GPU common stock on the Consolidated Tape on the day prior to the record date. The subscription offer will expire July 22, 1977, unless the record date should be later than June 30, 1977, in which event the expiration date will be specified by amendment.

In connection with the subscription rights offering, GPU anticipates that it may effect stabilizing transactions in order to maintain the market price of its common stock at a level above that which might otherwise prevail in the open market. GPU states that it acquire no more than 300,000 shares of its common stock pursuant to these stabilizing activities. The aggregate of the shares of common stock offered pursuant to the subscription offer, including the shares, if any, purchased by GPU in connection with such stabilizing activities, are hereinafter referred to as "additional common stock."

Rights to subscribe to the additional common stock wil be evidenced by transferable subscription warrants which will be issued to all record holders of GPU common stock as promptly as practicable after the record date. No fractional shares wil be issued; however, any holder with more than 15 shares, but not an exact multiple thereof, may purchase, at the subscription price one extra share of additional common stock. A stockholder with less than 15 shares of common stock will be entitled to purchase, at the subscription price, one full share of additional common stock.

In addition, each holder of a warrant or warrants who exercises such warrant or warrants in full will be given the privilege of subscribing, subject to allotment, at the same subscription price, for unsubscribed shares of additional common stock ("over-subscription privilege"). GPU proposes to take such action as is appropriate to effect the admission for trading of the subscription rights on the New York Stock Exchange.

GPU does not propose to mail warrants to stockholders whose registered addresses are outside the United States, Bermuda, Canada and Mexico. To the extent that GPU does not receive instructions from such stockholders to exercise their warrants, the rights evidenced by such warrants may be sold by Hartford National Bank and Trust Company, the subscription agent, for the account of such stockholders.

GPU further proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, such of the shares of the additional common stock as are not purchased pursuant to the subscription offer. The subscription price, which will also be the price to be paid by the successful bidder or bidders, will be set by GPU at least 45 minutes before the time of submitting bids. GPU will pay the underwriters for their commitments and obligations a fixed sum, to be supplied by amendment, plus an amount per share to be specified in the bid for each unsubscribed share purchased and for each share purchased by underwriters upon the exercise of rights purchased (but excluding any additional common stock purchased pursuant to the over-subscription privilege).

It is stated that the net proceeds of the sale of additional common stock will be applied by GPU to repay at or before maturity all or a portion of GPU's short-term indebtedness incurred to make additional investments in subsidiaries, to make additional investments in subsidiaries, and/or to reimburse its treasury for prior investments in its subsidiaries.

Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 7, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-14568 Filed 5-20-77;8:45 am]

[Release No. 9763; 812-4079]

INVESTORS MUTUAL, INC., ET AL.

Application for an Order of Act To Permit Offers of Exchange and for Exemption From Provisions

MAY 11, 1977.

In the matter of Investors Mutual, Inc.; Investors Stock Fund, Inc.; Investors Variable Payment Fund, Inc.; Investors Selective Fund, Inc.; IDS New Dimensions Fund, Inc.; IDS Progressive Fund, Inc.; IDS Bond Fund, Inc.; IDS Cash Management Fund, Inc.; IDS Tax-Exempt Bond Fund, Inc., 1000 Roanoke Building, Minneapolis, Minnesota 55402, and Investors Diversified Services, Inc., IDS Tower, Minneapolis, Minnesota 55402.

Notice is hereby given that Investors Mutual, Inc. ("Mutual"), Investors Stock Fund, Inc. ("Stock"), Investors Variable Payment Fund, Inc. ("Variable"), Investors Selective Fund, Inc. ("Selective"), IDS New Dimensions Fund, Inc. ("Dimensions"), IDS Progressive Fund, Inc. ("Progressive"), IDS Bond Fund, Inc. ("Bond"), IDS Cash Management Fund, Inc. ("Cash Management"), and IDS Tax-Exempt Bond Fund, Inc. ("Tax-Exempt") (collectively referred to as "the Funds"), open-end investment companies registered under the Investment Company Act of 1940 ("Act"), and Investors Diversified Services, Inc. ("IDS"), each Fund's investment adviser and principal underwriter (collectively referred to with the Funds as "Applicants"), filed an application on January 21, 1977, for an order of the Commission, pursuant to section 11(a) of the Act, permitting certain transfers among the Funds on a basis other than their net asset value per share at the time of

transfer and, pursuant to section 6(c) of the Act, exempting such transfers from the provisions of section 22(d) of the Act and Rule 22d–1 thereunder. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below.

IDS, as principal underwriter for the Funds, maintains a continuous public offering of shares of each of the Funds at their respective net asset value plus a sales charge. On purchases of less than $15,000, the sales charge is 3½ percent Bond, 4¾ percent for Tax-Exempt, 7 percent for Selective and 8 percent for each of the other Funds except Cash Management, which does not have a sales charge. For each of the Funds, the sales charge is reduced on larger purchases, except for Bond which has a level 3½ percent sales charge.

Mutual, Stock, Variable, Progressive, and Dimensions propose to offer their shares to shareholders of Selective, Bond, or Tax-Exempt who have held their shares for less than eight months and who redeem their shares and immediately reinvest in its shares, on payment of the difference between the sales charge paid upon the purchase of shares of Selective, Bond, or Tax-Exempt and the sales charge that would have been paid had the offering Fund's shares been purchased originally. Shareholders of Selective, Bond, or Tax-Exempt who have held their shares for eight months or more will be allowed to transfer to the other Funds at net asset value without paying a sales charge. No transfers will be allowed into Cash Management from Selective, Bond, or Tax-Exempt earlier than eight months. Shareholders of the other Funds do not have the privilege of transferring into Bond Fund.

Selective proposes to offer its shares to shareholders of Tax-Exempt or Bond who have held their shares for less than eight months and who redeem their shares and immediately reinvest in shares of Selective, on payment of the difference between the sales charge paid upon the purchase of shares of Tax-Exempt or Bond and the sales charge that would have been paid had the investment been in Selective originally. Shareholders of Tax-Exempt or Bond who have held their shares for eight months or more will be allowed to transfer into Selective at net asset value without paying a sales charge.

Tax-Exempt proposes to offer its shares to the shareholders of the other Funds, except Cash Management, who have held their shares for less than eight months and who redeem their shares and immediately reinvest in shares of Tax-Exempt, on payment of the difference between the sales charge paid on the shares of the other funds from which the transfer is being made and the sales charge that would have been paid had the investment been in Tax-Exempt originally. Shareholders of the other Funds, except Cash Management, who have held their shares for more than eight months, will be permitted to transfer into Tax-Exempt at net asset value without paying a sales charge.

In each case, the reason for the eight month "waiting period" is to discourage attempts at circumventing the higher sales charge which would have been applicable on the shares of the Fund into which the transfer is being made had these shares been purchased initially. For purposes of calculating the eight month period, the length of time the investment has been in the complex of the Funds will be included. In addition, no sales charge will be imposed upon a transfer of shares which were acquired originally at net asset value, except shares of Cash Management acquired by direct purchase, and such shares will be transferred first.

Each of the Funds, except Bond, proposes to offer its shares to the shareholders of Cash Management who redeem their shares and immediately reinvest in its shares on the basis of the net asset value at the time of the transfer, plus the sales charge described in the prospectus of each of the Funds. The additional sales charge would be imposed only upon the transfer of shares of Cash Management originally acquired by direct purchase. Shares of Cash Management that were acquired as the result of a transfer from one of the other Funds will be transferred at net asset value without a sales charge, and such shares will always be transferred first.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such company to make, or cause to be made, an offer to the shareholder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus. The sales charge described in the prospectus of each of the Funds is normally greater than the sales charge which would be applicable to a proposed transfer. Rule 22d–1 permits certain variations in sales load, none of which it is alleged are applicable to the proposed transfer privileges.

Applicants state that the purpose of the proposed transfer privileges and the eight month restriction, where applicable, is to discourage attempts to circumvent the higher sales charges that could occur were an investor to purchase a Fund with a lower sales charge and, subsequently, transfer the investment at net asset value for an investment in one of the other Funds which imposes a higher sales charge than the Fund originally purchased. Applicants further state that under certain circumstances it might be found that IDS, as underwriter for all the Funds, would be violating section 22(d) of the Act, since an investor would be able to purchase shares of one of the other Funds at a sales charge other than that described in the prospectus merely by purchasing shares of Selective, Bond or Tax-Exempt and subsequently transferring those shares after eight months at net asset value into shares of one of the other Funds. Appropriate disclosure of the terms of the proposed transfer privileges will be made in the prospectuses of each of the Funds.

Section 6(c) provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 6, 1977, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14571 Filed 5–20–77;8:45 am]

[Release No. 9765; 811–1832]

LINCOLN NATIONAL INCOME FUND, INC.

Filing of Application of the Act for an Order Declaring That Company Has Ceased To Be an Investment Company

MAY 12, 1977.

Notice is hereby given that Lincoln National Income Fund, Inc. ("Applicant"), 1301 South Harrison Street, Fort Wayne, Indiana 46801, an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

The Applicant was incorporated under the laws of the State of Delaware on January 22, 1969, and registered with the Commission under the Act on August 11, 1969. Applicant states that on October 27, 1976, its shareholders approved an Agreement and Plan of Reorganization ("the Agreement") which provided for the sale by Applicant of substantially all of its assets to Selected American Shares, Inc. ("American"). On November 17, 1976, pursuant to the Agreement, 466,943,935 shares of American were delivered to the Applicant, representing an exchange ratio of 1.2461 shares of American for each share of Applicant outstanding. Applicant states further that such shares were delivered to or credited to the accounts of shareholders of Applicant according to their respective interests in liquidation of the Applicant.

Applicant states that on December 16, 1976, it filed a certificate of dissolution with the Secretary of State of Delaware. Applicant represents that it now has no stockholders, no assets or liabilities, and engages in no business activity.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 6, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc.77–14569 Filed 5–20–77;8:45 am]

[Release No. 9766; 811–1831]

LINCOLN NATIONAL CAPITAL FUND, INC.

Filing of Application of the Act for an Order Declaring That Company Has Ceased To Be an Investment Company

MAY 12, 1977.

Notice is hereby given that Lincoln National Capital Fund, Inc. ("Applicant"), 1301 South Harrison Street, Fort Wayne, Indiana 46801, an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

The Applicant was incorporated under the laws of the State of Delaware on January 22, 1969, and registered with the Commission under the Act on August 11, 1969. Applicant states that on October 27, 1976, its shareholders approved an Agreement and Plan of Reorganization ("the Agreement") which provided for the sale by Applicant of substantially all of its assets to Selected Special Shares, Inc. ("Special"). On November 17, 1976, pursuant to the Agreement, 434,615,444 shares of Special were delivered to the Applicant, representing an exchange ratio of 0.4492 shares of Special for each share of Applicant outstanding. Applicant states further that such shares were delivered to or credited to the accounts of shareholders of Applicant according to their respective interests in liquidation of the Applicant.

Applicant states that on December 16, 1976, it filed a certificate of dissolution with the Secretary of State of Delaware. Applicant represents that it now has no stockholders, no assets or liabilities, and engages in no business activity.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 6, 1977, at 5:30 p.m., submit to the Commisison in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commisison, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14570 Filed 5–20–77;8:45 am]

[Release No. 34–13535 File No. 4–189]

MIDWEST STOCK EXCHANGE, INC. AND NEW YORK STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Filing of MSE/NYSE Plan

The Midwest Stock Exchange, Inc. (the "MSE") and the New York Stock Exchange, Inc. (the "NYSE") filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d–2 (17 CFR 240.17d–2) ("§ 240.17d–2") on March 7, 1977.

The proposed plan provides that the NYSE will be responsible for processing and acting on certain applications submitted by dual members. The MSE will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d–2, for applications for MSE equity or options members, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving options transactions. The NYSE will advise the MSE monthly of certain changes

in membership information for dual members.

In addition, under the proposed plan, the NYSE will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television and writing and speaking activities of dual members except in relation to MSE listed options. The NYSE will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The NYSE will be responsible for conducting examinations for compliance with financial, operational and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations, except that both MSE and NYSE reserve the right to participate in any special examination. It will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. The NYSE will submit to the MSE a computer run summarizing certain pre-defined key data from the monthly FOCUS Reports received by the NYSE from all NYSE members who are participants of Midwest Clearing Corporation (MCC). MSE and NYSE agree to assist each other in examinations if requested due to geographical or other considerations.

NYSE will also be responsible for review, approval and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements and related agreements and amendments including clearing agreements.

Further, the NYSE will be responsbile for disciplinary investigations and proceedings involving dual members except insofar that MSE may assume jurisdiction in investigations relating to a transaction on MSE, affecting an MSE-listed security or any other activity having a unique reference to MSE.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Wahington, D.C. 20549. Reference should be made to File No. 4–189.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14583 Filed 5–20–77;8:45 am]

[Release No. 34–13533 File No. 4–192]

MIDWEST STOCK EXCHANGE, INC. AND PACIFIC STOCK EXCHANGE, INC.

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Filing of MSE/PSE Plans

The Midwest Stock Exchange, Inc. (the "MSE"), and the Pacific Stock Exchange, Inc. (the "PSE") filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d–2 (17 CFR 240.17d–2) ("§ 240.17d–2") on March 15, 1977.

The proposed plan provides that the self-regulatory organization designated to examine for compliance with applicable financial responsibility rules (the "designated examining authority" or "DEA") pursuant to Rule 17d–1 (17 CFR 240.17d–1) ("§ 240.17d–1") will be responsible for processing and acting on certain applications submitted by dual members. The exchange that is not the DEA ("the other exchange") will, however, continue to be responsible, subject to further allocation pursuant to § 240.-17d–2, for applications to become equity or options members.

In addition, under the proposed plan, the DEA will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television and writing and speaking activities of dual members. The DEA will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The DEA will be responsible for conducting examinations for compliance with financial, operational and sales supervision by dual members, as well as all special examinations except that both MSE and PSE reserve the right to participate in any special examination. The DEA will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. The DEA will submit to MSE, for all PSE members who are participants of Midwest Clearing Corporation ("MCC"), for which PSE is the DEA, and the MSE will submit to the PSE, for all MSE members who are participants of Pacific Clearing Corporation ("PCC") for which MSE is the DEA, a summary of certain pre-defined key data from the monthly FOCUS Reports or a copy of such FOCUS Reports. It will also be responsible for review, approval and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements and related agreements and amendments including clearing agreements. MSE and PSE have agreed to assist each other in the conduct of examinations where requested to do so for geographical or other considerations.

Further, the DEA will be responsible for disciplinary investigations and proceedings involving dual members except insofar that the other exchange may assume jurisdiction in investigations relating to a transaction on the other exchange affecting security listed on the other exchange or any other activity having a unique reference to the other exchange.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4–192.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14581 Filed 5–20–77;8:45 am]

[Release 34–13528 File No. SR–NASD–77–5]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations

Pursuant to Section 19(B)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975) notice is hereby given on February 10, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF PROPOSED RULE CHANGE

The following is the full text of the proposed amendment to Appendix A of Section 30, Article III of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

Amendments to Appendix A of Section 30 were previously filed with the Commission by the Association in File No. SR–NASD–75–2. Subsequent discussions with Commission staff have led to amendments to the proposal and consequently File No. SR–NASD–75–2 is hereby withdrawn and in its place is substituted the filing below. New language is italicized and deleted language is bracketed.

1. (a) *Text of Proposed Rule Change*

The following is the full text of the proposed amendment to Appendix A of Section 30, Article III of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

SECTION 1—UNCHANGED
SECTION 2—UNCHANGED
SECTION 3—UNCHANGED
SECTION 4 (a)(1),(2), (3)—UNCHANGED

MINIMUM MARGIN

4(a) [(4) Minimum maintenance requirements for put and call options shall be:

(i) 50 percent of the exercise price of any put option or 50 percent of the market value of the security subject to such put options, whichever is lower;

(ii) 50 percent of the exercise price of any call option or 50 percent of the market value of the security subject to such call option, whichever is higher; sold by such customer to or through the member if the customer's account does not contain the corresponding long or short positions in the securities upon which the options are written and.]

(4) Minimum maintenance requirements for any put or call issued, guaranteed or carried "short" in a customer's account shall be:

(i) in the case of puts and calls traded in the over-the-counter market, which are not displayed in the NASDAQ System, 50 percent of the market value of the equivalent number of shares of the underlying securities, plus any unrealized loss or less any unrealized profit;

(ii) in the case of puts and calls listed or traded on a registered national securities exchange, or displayed in the NASDAQ System, 30 percent of the market value of the equivalent number of shares of the underlying security, plus any unrealized loss or less any unrealized profit;

(iii) notwithstanding the foregoing, the minimum margin on each put or call issued, guaranteed or carried "short" in a customer's account shall be not less than $250; and,

SECTION 5, 6—UNCHANGED

SECTION 7

PUT AND CALL OPTIONS

[(a) No put or call option carried for a customer shall be considered of any value for the purpose of computing the margin required in the account of such customer;

(b) A put or call sold or written by a customer shall be considered as a security transaction subject to Section 2 hereof;

(c) For the purpose of Section 4 hereof, puts and calls shall be considered as if they were exercised. Each put or call shall be margined separately and any difference between the market price of the underlying securities and the exercise price of a put or call shall be considered to be of value only in providing the amount of margin required on that particular put or call.]

(a) Each put or call shall be margined separately. Any difference between the market price of the underlying security and the exercise price of a put or call will be of value only in providing margin on that particular put or call. Substantial additional margin must be required on options issued, guaranteed or carried "short" with an unusually long period of time to expiration (generally, more than six months and ten days), or written on securities subject to unusually rapid or abrupt changes in value, or which do not have an active market, or when the securities subject to the option cannot be liquidated promptly.

(b) If both a put and a call for the same number of shares of the same security are issued, guaranteed or carried "short" for a customer, the margin shall be the greater of that required on either the put or the call, except that:

(i) The $250 minimum margin requirement shall apply to only one of the options, and

(ii) If there is unrealized loss on the other option, the amount of margin required shall include that unrealized loss.

(c) When a call that is listed or traded on a registered national securities exchange or displayed in the NASDAQ System, is carried "long" for a customer's account and the account is also "short" a call listed or traded on a registered national securities exchange or displayed in the NASDAQ System, expiring on or before the date of expiration of the "long" listed call and written on the same number of shares of the same security, the margin required on the "short" call shall be the lower of

(i) The margin required pursuant to Section 4(a)(4)(ii) above, or

(ii) The amount by which the exercise price of the "long" call exceeds the exercise price of the short call.

(d) When a put that is listed or traded on a registered national securities exchange or displayed in the NASDAQ System is carried "long" for a customer's account and the account is also "short" a put listed or traded on a registered national securities exchange or displayed in the NASDAQ System expiring on or before the date of expiration of the "long" listed put and written on the same number of shares of the same security, the margin required on the "short" put shall be the lower of:

(i) The margin required pursuant to Section 4(a)(4)(ii) above, or

(ii) The amount by which the exercise price of the "short" put exceeds the exercise price of the "long" put.

(e) When a call is issued guaranteed or carried "short" against an existing net "long" position in the security under option or in any security exchangeable or convertible into the security under option within a reasonable time without restriction other than the payment of money, no margin needs be required on the call provided:

(i) Such net "long" position is adequately margined in accordance with this Rule, and

(i) The right to exchange or convert the net "long" position does not expire on or before the date of expiration of the "short" call, and

(iii) The conversion price of the exchangeable or convertible security does not exceed the exercise price of the call.

(f) When a call is issued, guaranteed or carried short against a net "long" position in an exchangeable or convertible security, as outlined above, margin shall be required on the call equal to any amount by which the conversion price of the "long" security exceeds the exercise price of the call.

(g) When a put is issued, guaranteed or carried "short" against an existing net "short" position in the security under option, no margin need be required on the put, provided such net "short" position is adequately margined in accordance with this Rule.

(h) When determining net "long" and net "short" positions, offsetting "long" and "short" positions in exchangeable or convertible securities or in the same security shall be deducted. When computing margin on such an existing net stock position carried against a put or call, the current market price used shall not be greater than the call price in the case of a call or less than the put price in the case of a put. If a payment of money is required to exchange or convert the net "long" security, such security shall have no value for the purposes of this Rule.

(i) When a member issues or guarantees an option to receive or deliver securities for a customer, such option shall be margined as if it were a put or call.

(j) An exchangeable or convertible security shall cease to have margin purposes as of its expiration date and cannot be used thereafter for purposes of this Rule.

SECTIONS 8–14—UNCHANGED

SECTION 15

ACCRUED INTEREST

(a) Accrued interest may not be credited to an account except as provided in paragraph (b).

(b) A member may credit to a customer's account accrued interest in obligations issued or unconditionally guaranteed by the U.S. Government or any agency thereof provided that such securities are registered in the member's name or that of its nominee or, in the case of bearer bonds, are in the possession of the member and, provided further, that on a concurrent basis accrued interest on the outstanding debit balance in that account is entered as of the same date.

PURPOSE OF PROPOSED RULE CHANGE

The amendment to Appendix A of Section 30, Article III of the Rules of Fair Practice will cause the NASD margin requirement on options contracts to conform to a uniform standard proposed by the Securities and Exchange Commission and adopted by all the principle stock exchanges.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 7(c) of the Securities Exchange Act of 1934 provides that it shall be unlawful for any broker or dealer, directly or indirectly, to extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer on any security (other than

an exempted security) in contravention of the rules and regulations which the Board of Governors of the Federal Reserve System shall prescribe. On July 8, 1969 the Federal Reserve Board adopted amendments to their regulations designed principally to broaden its control of credit on over-the-counter securities. Under these amendments those OTC stocks meeting certain criteria and debt securities convertible into such stocks became subject to margin requirements. Section 15A(b)(6) provides that a national securities association shall not be registered with the Commission unless it is determined that the rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interest. Section 30 of the Rules of Fair Practice provides that a member shall not effect a securities transaction in a margin account in a manner contrary to the requirements adopted by the Board of Governors and is intended to prevent manipulative acts, promote just and equitable principles of trade and in general protect investors and the public interest.

COMMENTS RECEIVED FROM THE MEMBERS, PARTICIPANTS, OR OTHERS ON THE PROPOSED RULE CHANGE

Because Section 30 of Article III of the Rules of Fair Practice authorizes the Board of Governors alone to establish the minimum amounts of initial and maintenance margin required to be obtained by members from customers, comments of the membership on the proposed amendment to Appendix A were not solicited or received.

BURDEN ON COMPETITION

It is felt that the proposed rule change imposes no burden on competition not necessary in the furtherance of the purposes of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities associations, and in particular, the requirements of Section 15A and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Such action is necessary to achieve uniformity among the options margin rules of the several self-regulatory organizations, and to lessen the burden of compliance imposed upon members of more than one such organization.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 13, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 11, 1977.

[FR Doc.77-14578 Filed 5-20-77;8:45 am]

[Release No. 20026; 70-5643]

NEW ENGLAND ELECTRIC SYSTEM AND NEW ENGLAND ENERGY INC.

Proposed Agreement for Sale of Fuel Between Affiliates

MAY 13, 1977.

Notice is hereby given that New England Electric System ("NEES"), a registered holding company, and New England Energy Incorporated ("NEEI"), 20 Turnpike Road, Westborough, Massachusetts 01581, its subsidiary energy company, have filed post-effective amendments to their application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 43 and 45(a) promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, as amended by said post-effective amendments, for a complete statement of the proposed transactions.

By order dated October 30, 1974 (HCAR No. 18635) issued in this proceeding, NEES was authorized to organize NEEI and to acquire its capital stock. NEEI was authorized to enter into a partnership arrangement with an unaffiliated company to explore for and develop oil and gas deposits. Jurisdiction was reserved over any transactions between NEEI and its associate companies which are subject to sections 12(f) or 13 of the Act and Rules 80–85 thereunder By order dated June 17, 1976 (HCAR No. 19580), NEES was granted an extension of time to invest an additional amount of cash in NEEI to finance fuel exploration and development activities through 1979, subject to the prior reservation of jurisdiction.

By post-effective amendment filed in this proceeding, it is stated that as a result of the initial production of small amounts of oil and gas from a fuel exploration and development program involving NEEI, NEEI is now ready to enter into fuel transactions with its affiliate, New England Power Company ("NEPCO"). NEPCO is the primary source of generation of electricity in the NEES system. NEEI and NEPCO would enter into a fuel purchase contract ("contract") covering the sale of fuel on terms described below.

NEEI proposes to exercise any or all of the following three methods of sale of fuel to NEPCO. It is stated that the choice of method or methods will depend on NEPCO's fuel needs, conditions in the spot market for various fuels, operational constraints of the producing wells and other factors. These options open to NEEI are described as follows:

(1) Arrange to refine the fuel produced through nonaffiliated refineries and sell the product directly or indirectly to NEPCO and the byproducts to nonaffiliates, unless usable to NEPCO.

(2) Exchange with non-affiliates the fuel produced, for fuel meeting the requirements of NEPCO.

(3) Sell the fuel produced to nonaffiliates and use the proceeds to purchase fuel meeting the requirements of NEPCO.

Sale of the fuel under the contract will be made to NEPCO at prices determined as follows:

(a) In the case of (1) above, the price will be NEEI's cost for fuel produced, as defined below; and the subsequent production, refining, transportation, and any other costs of the fuel less the net proceeds from the sale of byproducts.

(b) In the case of (2) above, the price will be NEEI's cost as defined below, for the quantity of fuel produced and exchanged to obtain fuel meeting the requirements of NEPCO, plus any transportation.

(c) In the case of (3) above, the price charged to NEPCO will be the cost of the fuel purchased to meet NEPCO's needs minus or plus, as the case may be, the difference between the revenues from and costs of production associated with the sale of the fuel produced by NEEI and sold to nonaffiliates, minus in the event that revenues exceed costs and plus in the event that cost exceed revenues, plus any transportation or other costs associated with the transaction.

NEEI's "cost" for fuel produced will be all exploration, development, general and administrative, capital and other costs as capitalized into a "full cost pool". The costs in the full cost pool will be charged to income quarterly on the unit of production basis over the total estimated equivalent barrels of reserves. Costs, including capital costs, incurred by NEEI during the period from inception to the approval by this Commission of a fuel pricing policy for NEEI will also be placed in the full cost pool.

It is proposed to determine capital costs for NEEI in the following manner: For the purpose of determining capital costs for NEES investments in NEEI, it will be assumed that NEEI's total capitalization (excluding accumulated deferred federal income taxes) has a structure equal to the permanent capitalization of NEPCO (excluding short-term debt and accumulated deferred federal income taxes). Tax savings arising from NEEI's activities, as exempted by this Commission from the consolidated tax allocation provisions of Rule 45(B)(6) under the Act (HCAR No. 18635), are being reinvested in NEEI at zero capital cost.

Capital costs, including the effect of Federal income taxes, are proposed to be computed quarterly and will be included in the full cost pool. The cost of debt or other forms of financing of NEEI from nonaffiliated sources will be placed into the full cost pool at actual cost. Such financing from outside sources will be included in NEEI's imputed capital structure for the purpose of determining the character of subsequent NEES investments in NEEI. NEES investments after outside financings will be allocated first to common equity until equal to the common equity percentage component of the total imputed capital structure, then to preferred, and then to debt until the total NEEI imputed capital structure equals the capital structure of NEPCO. Thereafter, NEES investments will be spread based on the imputed capital structure of NEPCO. Each investment in NEEI by NEES will seek to maintain the capital structure determined above and will have a cost determined as follows:

(i) The cost of debt and preferred stock applied to the imputed capital structure for NEES investments in NEEI shall be equal to the actual cost of NEPCO's debt and preferred stock issue most recently preceding the respective dates of the NEES investments in NEEI: *Provided, however,* If the most recent NEPCO debt and preferred stock issue occurred more than twelve (12) months prior to the date of investment then the cost of debt and preferred stock shall be the actual cost of the most recent NEPCO debt and preferred stock issues until the date of the next subsequent NEPCO debt and preferred stock issue from which date the cost previously determined as aforesaid shall be recomputed from that time forward to equal the cost of the subsequent issue.

(ii) The cost of common equity applied to the imputed NEPCO capital structure for NEES investments in NEEI shall be equal in each case to the rate of return on common equity provided under the terms of the unit power sales contract of NEPCO permitted to become effective without provision for refund, by the Federal Power Commission most recently preceding the respective dates of NEES investments in NEEI.

By prior order issued in this proceeding, NEEI was also authorized to assume various fuel procurement and inventory activities previously pursued by affiliates. To the extent that NEEI becomes involved in such activities, it is proposed that fuel purchased for storage purposes will be priced at the actual incurred cost and will be segregated from the full cost pool. NEEI's cost for such fuel purchased and sold to affiliates will include invoice cost plus all transportation, operation, storage, inventory, shrinkage, capital, general, administrative and other costs directly attributable to the fuel in storage.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction. Any fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than June 8, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said posteffective amendments, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendments, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14572 Filed 5-20-77;8:45 am]

[Release No. 13530; SR-NESDTCO-77-5]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Order Approving Rule Change Relating To Participation in Depository Trust Company

MAY 11, 1977.

On March 24, 1977, the New England Securities Depository Trust Company ("NESDTC"), 53 State Street, Boston, Massachusetts 02109, submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change which would establish NESDTC as a participant in The Depository Trust Company.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 17929, April 4, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13408, March 28, 1977. No letters of comment were received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-NESDTCO-77-5 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-14573 Filed 5-20-77;8:45 am]

[Release No. 34-13531; File No. 4-194]

NEW YORK STOCK EXCHANGE, INC., AND PACIFIC STOCK EXCHANGE

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Filing of NYSE/PSE Plan

The New York Stock Exchange, Inc. (the "NYSE"), and the Pacific Stock Exchange (the "PSE"), filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d-2 (17 CFR 240.17d-2) ("§ 240.17d-2") on March 21, 1977.

The proposed plan provides that the NYSE will be responsible for processing and acting on certain applications submitted by dual members. The PSE will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d-2, for applications for PSE floor members or options principal members, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving transactions.

In addition, under the proposed plan, the NYSE will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television, and writing and speaking activities of dual members, except in relation to PSE listed options. The NYSE will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The NYSE will be responsible for conducting examinations for compliance with financial, operational, and sales supervision by dual members, except in the area of options sales practices, as well as all special examinations except that both PSE and NYSE reserve the right to participate in any special examination. NYSE will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FO

CUS) Report and any generally applicable financial reporting requirements. It will also be responsible for review, approval and retention of all partnership agreements, corporate certificates, bylaws, subordinated loan agreements and related agreements and amendments including clearing agreements.

Further, the NYSE will be responsible for disciplinary investigations and proceedings involving dual members except insofar that PSE may assume jurisdiction in investigations relating to a transaction on PSE affecting a PSE-listed security or any other activity having a unique reference to PSE.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before June 22, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4–194.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14579 Filed 5–20–77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 12, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

American Airlines, Inc., File No. 7–4942, warrants (expiring April 1, 1984).

Upon receipt of a request, on or before May 28, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such requests should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14574 Filed 5–20–77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MAY 12, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Gerber Products Company, File No. 7–4944, common stock, $2.50 par value.

Upon receipt of a request, on or before May 28, 1977, from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14575 Filed 5–20–77;8:45 am]

[Release No. 13529]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MAY 11, 1977.

In the matter of the Philadelphia Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia Pennsylvania 19103 (SR–PHLX–77–4).

On March 29, 1977, the Philadelphia Stock Exchange, Inc. ("PHLX"), filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change. The proposed rule change would amend the PHLX fidelity bonding requirements for members and member organizations by adjusting the minimum required bonding coverage for members operating pursuant to the provisions of subparagraph (b)(2) of the Commission's Uniform Net Capital Rule and by clarifying the minimum required bonding coverage for those members operating under the alternative net capital provisions set forth in paragraph (f) of the Commission's Uniform Net Capital Rule, among other things.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13421 (April 1, 1977)) and by publication in the FEDERAL REGISTER (42 FR 19204 (April 12, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on March 29, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14576 Filed 5–20–77;8:45 am]

[Release No. 34–13537; File No. 4–187]

SELF-REGULATORY ORGANIZATIONS

Program for Allocation of Regulatory Responsibilities Pursuant to § 240.17d–2; Extension of Filing Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for filing plans.

SUMMARY: Rule 17d–2 and the adopting release specify that self-regulatory organizations may file with the Commission initial plans for allocation of regulatory responsibilities for members or participants which they have in common on or before March 15, 1977, or at such later date as the Commission may determine subsequent to the hearings on the implementation of the Rule. The Commission has extended the time for filing such initial plans until May 15, 1977, or such later date as the Commission may specify.

DATES: Plans on or before May 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549 (202–755–1390).

On October 28, 1976, in Securities Exchange Act Release No. 34–12935, 41 FR 49091 (November 8, 1976), the Commission adopted 17 CFR § 240.17d–2 (hereinafter § 240.17d–2) under Section 17(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94–29 (June 4, 1975)). It calls upon self-regulatory organizations to propose to the Commission a plan or series of plans for allocating regulatory responsibilities with respect to members or participants which they have in common.

BACKGROUND

Section 240.17d–2 and the adopting release provide that self-regulatory organizations may file such plans within ninety (90) days of the effective date of the section or at such later date as the Commission may otherwise determine subsequent to the hearings conducted with respect to the implementation of the section. Thereafter, plans may be filed as changes in designation are necessary or appropriate.

Section 240.17d–2 became effective on December 15, 1976. Initial plans were to be filed with the Commission on or before March 15, 1977.

EXTENSION OF TIME FOR FILING PLANS

A large number of the self-regulatory organizations have requested that the Commission extend the time for filing initial plans beyond March 15, 1977 (File No. 4–187). Each of the requests indicates that substantial progress has been made in reaching agreement for the allocation of responsibilities. To date, self-regulators have filed six (6) plans for allocation with the Commission.[1] In addition, a number of self-regulators have reached conceptual agreement on the terms of plans and final drafts are in preparation. They have stated, however, that formal approval of plans by their governing bodies and execution of approved plans will be delayed beyond March 15, 1977.

[1] The joint plan between the New York Stock Exchange, Inc., (the "NYSE") and the American Stock Exchange, Inc., was noted in Securities Exchange Act Release No. 13326 (March 3, 1977), 42 FR 13878 (March 14, 1977) (File No. 4–188). Notices of proposed plans between the NYSE and the Midwest Stock Exchange, Inc., ("MSE") (File No. 4–189), between the MSE and the Pacific Stock Exchange, Inc. ("PSE") (File No. 4–192), between the MSE and the Boston Stock Exchange Inc. ("BSE") (File No. 4–191), between the BSE and the PSE (File No. 4–193) and between the NYSE and the PSE (File No. 4–194) are published herein.

Self-regulators have also suggested that an extension of the filing date will permit them to explore the possibility of agreement in additional areas where duplication currently or potentially exists. In particular, they assert that an extension would facilitate discussion of formal allocations of responsibilities between the exchanges or the NASD and their subsidiaries which are deemed to be self-regulatory organizations by virtue of Section 3(a)(26) of the Securities Exchange Act of 1934, as amended. They indicate that significant progress may also be made in the allocation of responsibility for the collection, processing, and maintenance of registration information and in the coordination of joint examinations for any broker or dealer which is a member of or participant in more than one self-regulatory organization and is subject to multiple examinations.

In light of the progress to date in the formulation of plans for allocation of responsibilities and the continuing efforts of self-regulators to increase the scope of these plans, the Commission has determined to extend the time for filing initial plans until May 15, 1977.

By the Commission.

GEORGE A. FITZSIMMON,
Secretary.

MAY 12, 1977.

[FR Doc.77–14585 Filed 5–20–77;8:45 am]

[File No. 500–1]

TWENTIETH CENTURY FOX FILM CORP.

Notice of Suspension of Trading

MAY 13, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Twentieth Century Fox Film Corp., being traded on a national securities exchange or otherwise, is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (EDT) on May 13, 1977 through May 22, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–14577 Filed 5–19–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77–095]

ALABAMA STATE DOCKS TERMINAL RAILROAD BRIDGE, THREE MILE CREEK, MILE 0.7, MOBILE, ALA.

Public Hearing

Notice is hereby given that a public hearing regarding the Alabama State Docks Terminal Railroad bridge across Three Mile Creek, mile 0.7, at Mobile, Alabama, will be held on Thursday morning, June 30, 1977, at 11 a.m., in the Killian Room, International Trade Center, 250 North Water Street, Mobile, Alabama. This hearing is being held under the authority of Section 2 of the Act of June 21, 1940 (Truman-Hobbs Act).

The existing bridge, which has a swing span, provides approximately 53 feet of horizontal clearance in the draw when measured normal to the channel axis. A number of complaints have been received alleging that the bridge is unreasonably obstructive to navigation. The purpose of the hearing is to determine whether alteration is needed and if so, what alteration is required having due regard for the necessity of free, easy and unobstructed navigation upon the waterway. The needs of rail traffic will also be considered.

Public comments, views, and data are required for ascertaining whether the bridge unreasonably obstructs navigation, whether vessels have unreasonable difficulty and delay in passing through the bridge, the extent of costs associated with collisions and delays to navigation, the character and amount of commerce affected, whether the commerce affected is sufficient to justify alteration of the bridge, the changes necessary to render navigation through or under the bridge reasonably free and unobstructed, and the impact of the alteration, if made, upon the quality of the human environment.

Any person who wishes to appear and be heard at this public hearing may do so. Persons planning to appear and be heard are requested to notify the Commander, Eighth Coast Guard District, Hale Boggs Building, 500 Camp Street, Room 1140, New Orleans, Louisiana 70130, any time prior to the hearing indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Limitations of time allocated, if required, will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of, or in addition to oral statements, and will be made a part of the record of the hearing. Such written statements and exhibits may be delivered at the hearing or mailed in advance to the Commander, Eighth Coast Guard District.

(54 Stat. 498, 33 U.S.C. 513; Section 4(f), 80 Stat. 934, as amended, 49 U.S.C. 1653(f); Section 6(g)(3), 80 Stat. 937, 49 U.S.C. 1655(g)(3); 33 CFR 116.20 and 49 CFR 1.46(c)(6).)

Dated: May 13, 1977.

A. F. FUGARO,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.77–14550 Filed 5–20–77;8:45 am]

[CCGD5-77-01R]

PRESIDENT'S CUP REGATTA, WASHINGTON, D.C.

Special Local Regulations

Under the authority of the Act of April 28, 1908 (35 Stat. 69) as amended, and 33 CFR 100.35, as amended this notice promulgates special local regulations for the President's Cup Regatta. These special local regulations are established to insure the safety of life on the Potomac River at Washington, D.C., immediately before, during, and immediately after this regatta.

(a) *Location.* The area subject to these regulations is those waters enclosed by a line drawn from the southern tip of Haines Point northwards along the eastern seawall to a point 1,000 feet from the southern tip of Haines Point; thence easterly to a point 400 feet from the seawall; thence in a southerly direction to a point 1,400 feet distant, thence along a line of bearing 240° T. to the Virginia shore, upstream thence along the Virginia shoreline to the Penn Central Railroad bridge between Washington, D.C., and Arlington, Va.; thence 034° T. to the Potomac Park-Potomac River shoreline; thence along the Potomac Park-Potomac River shoreline to the southern tip of Haines Point.

(b) *Regulations.* (1) Except for participants in the President's Cup Regatta or persons or vessels authorized by the Coast Guard patrol officer, no person or vessel may enter or remain in the area specified in paragraph (a) of these regulations.

(2) The operator of any vessel in the immediate vicinity of the area specified in paragraph (a) above of these regulations shall:

(i) Stop his vessel immediately upon hearing five or more short blasts of a horn or whistle from any vessel displaying a Coast Guard emblem; and

(ii) Proceed as directed by any Coast Guard officer or petty officer.

(3) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations.

(4) The Coast Guard patrol officer is a commissioned officer of the Coast Guard, who has been designated by the Commander, Fifth Coast Guard District.

(5) These regulations and other applicable laws and regulations are enforced by Coast Guard officers and petty officers on board Coast Guard, public, and private vessels displaying the Coast Guard emblem.

(Sec. 1, 35 Stat. 69 as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C., sec. 454, 49 U.S.C., sec. 1655(b)(1); 33 CFR 100.35, 49 CFR 1.46(b).)

Effective dates: These regulations are effective from 10:00 a.m. E.D.S.T. until 6 p.m. E.D.S.T. on June 9, 10, 11, and 12, 1977.

Dated: April 28, 1977.

R. H. WOOD,
U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc.77-14549 Filed 5-20-77;8:45 am]

Federal Aviation Administration

SOUTHERN REGION AIR TRAFFIC CONTROL ADVISORY COMMITTEE

Meeting

AGENCY HOLDING MEETING: Federal Aviation Administration; Southern Region Air Traffic Control Advisory Committee.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FEDERAL REGISTER, Vol. 42, No. 89, Page 23572, Monday, May 9, 1977.

PREVIOUSLY ANNOUNCED MEETING TIME AND DATE: 9 a.m., June 7, 1977.

CHANGE MEETING DATE TO: 9 a.m., e.d.s.t, June 20, 1977.

Issued in East Point, Georgia, on May 11, 1977.

LONNIE D. PARRISH,
Chairman, Southern Region Air Traffic Control Advisory Committee.

[FR Doc.77-14355 Filed 5-20-77;8:45 am]

Federal Highway Administration

[FHWA Docket No. 77-8]

IN THE MATTER OF BRIDGES OWNED BY THE DELAWARE RIVER PORT AUTHORITY

Notice of Proposed Order

AGENCY: Federal Highway Administration. DOT.

ACTION: Proposed order.

SUMMARY: The proposed order would amend the Administrator's toll order of May 19, 1975, by establishing a time period during which that order will be in effect. This means that the order would terminate November 30, 1977.

DATES: All comments must be received on or before June 22, 1977. Failure to comment within the prescribed time period shall be a waiver of any right to object or to appeal the order when it is entered as a final order.

ADDRESS: Comments should be submitted to FHWA Docket Number 77-8, Room 4232, HCC-20, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Gerald M. Tierney, Office of the Chief Counsel (202-426-0346), Federal Highway Administration. Office hours are 7:45 a.m. to 4:15 p.m. EDT, Monday-Friday.

The following is the form of the proposed order which will become final upon the entry of an order by the United States Court of Appeals for the Third Circuit dismissing the appeal of the Delaware River Port Authority in case number 77-1047, "Delaware River Port Authority v. Tiemann."

PROPOSED ORDER

The Administrator's toll order of May 19, 1975, is amended to establish a time period during which the order shall be in effect. The order shall be in effect for 2 years to be measured from the date the order setting the tolls originally went into effect, December 1, 1975.

(33 U.S.C. 526, 49 CFR Part 310.)

Issued this 12th day of May 1977, in Washington, D.C.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-14218 Filed 5-20-77;8:45 am]

Materials Transportation Bureau

HAZARDOUS MATERIALS REGULATIONS

Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted April 1977. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Renewals

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
970-X	DOT-E 970	Callery Chemical Co., Callery, Pa.; Department of Defense, Washington, D.C.	49 CFR 173.21(b), 173.300, 173.301.	To ship diborane in DOT specification 3AA2015 or 3AA2400 cylinders. (Modes 1 and 2.)
2582-P	DOT-E 2582	Matheson Gas Products, Lyndhurst, N.J.	49 CFR 173.304(a)(2).....	To become a party to exemption 2582. (See application No. 2582-X.) (Modes 1 and 2.)
3128-P	DOT-E 3128	Department of Defense, Washington, D.C.	49 CFR 173.304, 175.3.....	To become a party to exemption 3128. (See Application No. 3128-X.) (Modes 1, 2, 3, and 4.)
3187-X	DOT-E 3187	PPG Industries, Pittsburgh, Pa.....	49 CFR 173.21(b), 173.119 (m), 173.218, 173.221(a) (3).	To ship flammable liquid or organic peroxide in DOT specification 2U polyethylene bottles in a DOT specification 12P fiberboard box or in accordance with 49 CFR 173.221(a)(3). (Mode 1.)
3330-X	DOT-E 3330	Babcock and Wilcox Co., Lynchburg, Va.; Teledyne Wah Chang Corp., Albany, Oreg.	49 CFR 173.214(d).....	To ship zirconium alloy metal powder in a 32-oz or 16-oz non-DOT container overpacked in a DOT specification 17C, 17H, or 37A metal drum. (Modes 1 and 2.)
3648-X	DOT-E 3648	Airco Industrial Gases, Murray Hill, N.J.	49 CFR 172.101, 173.315(a)..	To ship liquid helium, liquefied hydrogen in a non-DOT specification vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
3667-X	DOT-E 3667	Groendyke Transport, Inc., Enid, Okla; Phillips Petroleum Co., Bartlesville, Okla.	49 CFR 173.315(a).....	To ship compressed gas, n.o.s. in non-Dot aluminum cargo tanks complying with DOT specification MC-330. (Mode 1.)
3768-P	DOT-E 3768	PPG Industries, Inc., Pittsburgh, Pa.	49 CFR 173.119, 173.245, 173.288.	To become a party to exemption 3768. (See application No. 3768-X.) (Mode 1.)
3897-P	DOT-E 3897	.....do.....	49 CFR 173.139(a)(6); 46 CFR 146.21-100	To become a party to exemption 3897. (See application No. 76-22.) (Modes 1 and 3.)
4248-P	DOT-E 4248	Sargent-Welch Scientific Co., Skokie, Ill.; J. T. Baker Chemical Co., Phillipsburg, N.J.	49 CFR 173.245(a)(27), 173.268(d).	To become a party to exemption 4248. (See application No. 4248-X.) (Modes 1, 2, and 3.)
4291-X	DOT-E 4291	Pacific Engineering and Production Co. of Nevada, Henderson, Nev., United Technologies, Sunnyvale, Calif.; Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.239a(a)(2).....	To ship ammonium perchlorate in a non-DOT aluminum portable tank. (Modes 1 and 2.)
4393-X	DOT-E 4393	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314.....	To ship hydrogen chloride in DOT specification 105A500W and 105A600W tank car tanks. (Mode 2.)
4790-X	DOT-E 4790	Smith Wesson/General Ordnance Equipment Co., Rock Creek, Ohio.	49 CFR 173.305(d), 173.385 (a)(1).	To ship tear gas device in DOT specifcation 2P containers overpacked in DOT specification 12B fiberboard boxes. (Modes 1 and 2.)
4932-X	DOT-E 4932	Federal Laboratories, Saltsburg, Pa.	49 CFR 172.101, 173.385(a), 175.3.	To ship tear gas devices in a non-DOT telescopic type, cylindrical, woundkraft container, overpacked in a DOT specification 12B fiberboard box. (Modes 1, 2, and 4.)
5022-P	DOT-E 5022	United Technologies Corp., Sunnyvale, Calif.; National Aeronautics and Space Administration, Washington, D.C.		To become a party to exemption 5022. (See application No. 75 141 and 5022-X.) (Modes 1 and 2.)
5186-X	DOT-E 5186	Liquid Carbonic Corp., Chicago, Ill..	49 CFR 172.101, 173.315(a).	To ship liquefied carbon monoxide in a non-DOT specification perlite-vacuum insulated cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
5196-P	DOT-E 5196	Ethyl Corp., Baton Rouge, La.....	49 CFR 172.101, 173.315(a) (1).	To become a party to exemption 5196. (See application No. 5196-X.) (Mode 1.)
5248-X	DOT-E 5248	The 3M Co., St. Paul, Minn.; The Boeing Co., Seattle, Wash.; Monsanto Co., St. Louis, Mo.	49 CFR 173.389(g), 175.3....	To ship radioactive materials, n.o.s. in any approved outer type A packaging prescribed in secs. 173.389(j) and 173.394(a). (Modes 1, 2, and 4.)
5372-P	DOE-E 5372	Air Products and Chemicals, Inc., Allentown, Pa.; Airco Industrial Gases, Murray Hill, N.J.	49 CFR 173.301(d)(1), 173.302(a)(3), 173.304(a)(2).	To become a party to exemption 5372. (See application No. 5372-X.) (Modes 1 and 3.)
5456-P	DOT-E 5456	Allied Chemical Corp., Morristown, N.J.	49 CFR pt. 173.....	To become a party to exemption 5456. (See application No. 5456 X.) (Modes 1, 2, and 3.)
5704-X	DOT-E 5704	IMC Chemical Group, Inc., Allentown, Pa.; U.S. Department of Defense, Washington, D.C.	49 CFR 173.93(e), 173.62...	To ship certain class A and B explosives in non-DOT 22 gage steel drums. (Modes 1, 2, and 3.)
5849-P	DOT-E 5849	Lehigh Valley Chemical Co., Easton, Pa.; Olin Chemical Group, Stamford, Conn.	49 CFR 173.217(a)(5), 175.3	To become a party to exemption 5849. (See application No. 5849-X.) (Modes 1, 2, 3, and 4.)
5852-P	DOT-E 5852	Brooklyn Union Gas, Brooklyn, N.Y.	49 CFR 172.101, 173.315(a)...	To become a party to exemption 5852. (See application No. 5852-X.) (Mode 1.)
5944-X	DOT-E 5944	Dow Chemical Co., Midland, Mich....	49 CFR 172.101, 173.315(a) (1).	To ship liquefied ethylene in a non-DOT specification cargo tank designed and constructed in accordance with sec. VIII of ASME code. (Mode 1.)
6045-X	DOT-E 6405	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.121.....	To ship carbon disulfide in DOT specification MC-312 cargo tanks. (Modes 1 and 3.)
6083-X	DOT-E 6083	Stauffer Chemical Co., Westport, Conn.	49 CFR 172.101, 173.273, 175.3.	To ship certain corrosive materials in any DOT specification cylinders with certain exceptions. (Modes 1, 2, and 4.)
6121-X	DOT-E 6121	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 179.220-19(c).....	To ship certain flammable liquids in DOT specification 115A60W1 and 115A60W6 tank car tanks. (Mode 2.)
6145-P	DOT-E 6145	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.154(a).....	To become a party to exemption 6145. (See application No. 75-55.) (Mode 1.)
6154-X	DOT-E 6154	Uniroyal Chemical, Naugatuck, Conn.	49 CFR 173.154(a)(12), 178.205-16.	To ship certain flammable solids in a non-DOT corrugated fiberboard box complying with DOT specification 12B with certain exceptions. (Modes 1, 2, and 3.)
6225-P	DOT-E 6225	Michigan Chemical Corp., Chicago, Ill.	49 CFR 173.252(g).....	To become a party to exemption 6225. (See application No. 6225-X.) (Modes 1 and 3.)
6253-P	DOT-E 6253	Interpool Ltd., New York, N.Y.; Johnson Scan Star, San Francisco, Calif.; Akzo Zout Chemie Nederland, Amsterdam, Holland.	49 CFR 173.119, 173.125, 173.245.	To become a party to exemption 6253. (See application No. 75-202.) (Modes 1, 2, and 3.)
6392-X	DOT-E 6392	Stauffer Chemical Co., Westport, Conn.; Northern Petrochemical Co., Des Plaines, Ill.; El Paso Products Co., Odessa, Tex.	49 CFR 172.101, 173.314(c)..	To ship liquefied ethylene in a non-DOT specification, vacuum insulated tank car tank designed and constructed to comply with AAR proposed specification 113C120W. (Mode 2.)
6418-X	DOT-E 6418	Dow Chemical Co., Midland, Mich.; Great Lakes Chemical Corp., Irvine, Calif.	49 CFR 173.357(b).....	To ship chloropicrin mixture in DOT specification MC-304 or MC-307 cargo tanks constructed of steel. (Mode 1.)
6496-X	DOT-E 6496	Inland Steel Container Co., Chicago, Ill.	49 CFR 173.119(b)(10), 173.359 (a), (b).	To ship class B poisonous liquids and flammable liquids in a DOT specification 37D steel drum. (Mode 1.)
6530-P	DOT-E 6530	Mass Oxygen Equipment Co., Westboro, Mass.	49 CFR 173.302(c).....	To become a party to exemption 6530. (See application No. 6530-X.) (Modes 1 and 2.)
6536-P	DOT-E 6536	Allied Chemical Corp., Morristown, N.J.	49 CFR 172.101, 173.315(a)...	To become a party exemption 6536. (See application No. 6536-X.) (Mode 1.)
6554-P	DOT-E 6554	Utility Chemical Co., Paterson, N.J. Coastal Industries, Inc., Carlstadt, N.J.; Tesco Chemicals, Inc., Marietta, Ga.	49 CFR 173.154, 173.217.....	To become a party to exemption 6554. (See application No. 6554.) (Modes 1, 2, and 3.)
6556-X	DOT-E 6556	Castle and Cooke Inc., San Francisco, Calif.	49 CFR 173.132.....	To ship a flammable liquid in a non-DOT specification single compartment portable tank. (Modes 1 and 3.)
6607-X	DOT-E 6607	Bio-Lab, Inc., Decatur, Ga.....	49 CFR 173.218(a).....	To ship a certain oxidising material in a non-DOT fiberboard box. (Mode 1.)
6610-X	DOT-E 6610	Oxirane Chemical Co., Pasadena, Calif.	49 CFR 173.221.....	To ship an organic peroxide in DOT specification 111A100W6 tank cars and MC-307 cargo tanks. (Modes 1 and 2.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6605-X	DOT-E 6605	Usine Kuhlmann of America, New York, N.Y.	49 CFR 173.315	To ship certain nonflammable compressed gases in non-DOT specification portable tanks. (Modes 1 and 3.)
6704-X	DOT-E 6704	Dow Chemical Co., Midland, Mich.	49 CFR 173.245a, 173.249, 173.253, 173.294, 173.340, 178.343.	To ship certain corrosive liquids in a non-DOT cargo tank complying with specification MC-312 with certain exceptions. (Mode 1.)
6754-X	DOT-E 6754	Eaton Corp., Southfield, Mich.	49 CFR 173.302(a)(4), 178.65, 175.3.	To ship a nonflammable compressed gas in a non-DOT nonrefillable welded steel pressure vessel. (Modes 1, 2, 3, and 4.)
6800-X	DOT-E 6800	Plasti-Drum Corp., Lockport, Ill.	49 CFR pt. 173; 178.19	To ship certain oxidizers, corrosive liquids, class B poison, flammable liquids in non-DOT specification reusable molded polyethylene containers. (Modes 1, 2, and 3.)
6806-X	DOT-E 6806	Dow Chemical Co., Midland, Mich.	49 CFR 173.302(a), 175.3.	To ship hydrogen in a DOT specification 3E-1800 cylinder. (Mode 5.)
6811-X	DOT-E 6811	Eaton Corp., Southfield, Mich.	49 CFR 173.302(a)(4), 178.65, 175.3.	To ship nonflammable compressed gases in a non-DOT nonrefillable welded steel cylinder in compliance with DOT specification 39, with certain exceptions. (Modes 1, 2, 3, and 4.)
6814-X	DOT-E 6814	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.272(d), (i)(27).	To ship sulfuric acid in a DOT specification MC-310, MC-311 or MC-312 tank motor vehicle. (Mode 1.)
6825-X	DOT-E 6825	Lox Equipment Co., Livermore, Calif.	49 CFR 172.101, 173.314(c).	To ship liquefied ethylene in a non-DOT specification vacuum-insulated tank car, tank designed and constructed to comply with AAR proposed specification 113C120W. (Mode 2.)
6847-X	DOT-E 6847	United Foam Corp., Compton, Calif.	49 CFR 173.346(a).	To ship certain class B poisons in a non-DOT specification steel portable tank. (Modes 1 and 3.)
6880-X	DOT-E 6880	Anchem Products, Inc., Amber, Pa.	49 CFR 173.249(a).	To ship certain corrosive liquids in DOT specification 57 steel portable tanks. (Modes 1 and 2.)
6902-X	DOT-E 6902	Halocarbon Products Corp., Hackensack, N.J.; Michigan Chemical Corp., Chicago, Ill.	49 CFR 173.314(c), 179.300-15.	To ship anhydrous hydrogen bromide in DOT specification 110A800W multiunit tank car tanks. (Modes 1 and 2.)
6932-X	DOT-E 6932	Usine Kuhlmann, Paris, France.	49 CFR 173.264(b)(4).	To ship anhydrous hydrofluoric acid in a non-DOT specification portable tank. (Modes 1 and 3.)
6944-X	DOT-E 6944	U.S. Department of Defense, Washington, D.C.	49 CFR 173.62(a), 177.834 (L)(1).	To ship certain class A explosives in a specially designed non-DOT stainless steel desiccator. (Mode 1.)
6949-X	DOT-E 6949	Monsanto Co., St. Louis, Mo.; FMC Corp., Philadelphia, Pa.	49 CFR 173.190(b)(4).	To ship certain flammable solids in a non-DOT marine portable tank. (Modes 1, 2, and 3.)
6950-X	DOT-E 6950	Ozark-Mahoning Co., Tulsa, Okla.	49 CFR 173.275	To ship hexafluorophosphoric acid in DOT specification 6D cylindrical steel overpack inside DOT specification 2S or 2SL polyethylene container. (Modes 1 and 3.)
6992-X	DOT-E 6992	Grumman Aerospace Corp., Bethpage, N.Y.	49 CFR 173.302(a)(1), 173.304(a), 173.305(a).	To ship certain nonflammable and flammable compressed gases in a reservoir-condenser unit forming an integral part of a radiator panel. (Modes 1 and 4.)
7031-X	DOT-E 7031	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; Austin Powder Co., Cleveland, Ohio.	49 CFR 173.63, 173.64(a)(2), 173.65.	To ship certain class A and B explosives in a non-DOT specification fiberboard box. (Modes 1, 2, and 3.)
7038-X	DOT-E 7038	Farm Chemicals, Inc., Aberdeen, N.C.	49 CFR 173.358, 173.359.	To ship class B poisonous liquids in a non-DOT specification cargo tank. (Mode 1.)
7046-X	DOT-E 7046	J. T. Baker Chemical Co., Phillipsburg, N.J.	49 CFR 178.340-5(c).	To ship certain corrosive liquid in non-DOT glass lined cargo tanks. (Modes 1 and 3.)
7051-X	DOT-E 7051	Ozark-Mahoning Co., Tulsa, Okla.	49 CFR 173.246(a), 175.3.	To ship antimony pentafluoride in DOT specification 12A and 12B fiberboard boxes. (Modes 1 and 4.)
7066-X	DOT-E 7066	Proctor & Gamble Manufacturing Co., Cincinnati, Ohio; Campagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119(m).	To ship flammable liquid, n.o.s. in a non-DOT portable tank. (Modes 1 and 3.)
7073-X	DOT-E 7073	Ethyl Corp., Baton Rouge, La.	49 CFR 173.354(a)(6).	To ship antiknock compound in a non-DOT specification IOS type 1C portable tank. (Modes 1 and 3.)
7081-X	DOT-E 7081	Electrochemical Corp., Mountain View, Calif.	49 CFR 173.206(e)(1), 175.3.	To ship lithoum batteries in exemption 7052 packagings. (Modes 1, 2, 3, and 4.)
7211-X	DOT-E 7211	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.251(b)(1).	To ship boron tribromide in DOT specification 37A 8 gal and DOT 37A 30 gal steel drums. (Modes 1, 2, 3, and 4.)
7231-X	DOT-E 7231	American Cyanamid Co., Wayne, N.J.	49 CFR 173.215(a).	To ship certain corrosive liquids in a non-DOT collapsible rubber container named "Scaldtank." (Mode 1.)
7239-X	DOT-E 7239	Atlas Powder Co., Dallas, Tex.	49 CFR 173.182(c).	To ship nitro cargo nitrate in a non-DOT collapsible rubber container called "Scaldtank". (Mode 1.)
7259-X	DOT-E 7259	Stauffer Chemical Co., Westport, Conn.	49 CFR 176.76(g)(5).	To ship phosphorus pentasulfide in DOT specification 56 aluminum portable tanks. (Mode 3.)
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Azusa, Calif.	49 CFR 173.302(a)(1), 175.3.	To ship compressed air in a non-DOT specification filament-wound reinforced plastic aluminum lined cylinder. (Modes 1, 2, 3, 4, and 5.)
7470-P	DOT-E-7470	Hooker Chemicals and plastics Corp., Niagara Falls, N.Y.; U.S. Industrial Chemicals Co., New York, N.Y.	49 CFR 173.241(a)(3), 173.272(i)(22), (27), 173.247(a)(4), 173.275(a)(9), 173.263(a)(6), 179.300-18(b)(1), 179.201-1(a), 179.201-7.	To become a party to exemption 7470. (See application No. 7470-N.) (Mode 2.)
7476-N	DOT-E 7476	Thompson Tank and Manufacturing Co., Long Beach, Calif.	49 CFR 173.119(a)(17), 173.245(a)(30), (31), 178.340-7, 178.342-5.	To ship flammable liquids and corrosive liquids in a non-DOT specification cargo tank designed and constructed in accordance with sec. VIII of the ASME code. (Mode 1.)
7542-N	DOT-E 7542	U.S. Cylinders, Inc., Citronelle, Ala.	49 CFR 173.303(a).	To ship acetylene in non-DOT specification steel cylinders complying with DOT specification 4BW with certain exceptions. (Modes 1 and 2.)
7546-N	DOT-E 7546	Grumman Aerospace Corp., Bethpage, N.Y.	49 CFR 173.302(a)(1), 173.304(a), 173.305(a).	To ship certain nonflammable and flammable compressed gases in non-DOT heat pipe radiator assemblies built to comply with the ASME code. (Modes 1, 2, and 3.)
7584-N	DOT-E 7584	Orval-Manutention, Paris, France; L'Air Liquide, Paris, France; Laporte Industruals Ltd., Paris, France; Degussa, Frankfurt/Main Germany.	49 CFR 173.306	To ship hydrogen peroxide solution in a non-DOT specification stainless steel portable tank. (Modes 1, 2, and 3.)
7605-N	DOT-E 7605	General Dynamics, Fort Worth, Tex.	49 CFR 173.87, 173.92, 173.101, 173.102, 173.113, 175.3, 176.83, 177.848.	To ship partially disassembled aircraft containing various explosives under specified conditions. (Modes 1, 2, 3, and 4.)
7626-N	DOT-E 7626	Commercial Metals Co., Dallas, Tex.; Johnson Scan Star (North America), San Francisco, Calif.	49 CFR 173.1025	To ship certain ORM-C in non-DOT plastic lined freight containers. (Mode 3.)
7633-N	DOT-E 7633	Seat Containers, Inc., Hamilton, Bermuda.	49 CFR 173.119(b), 173.125.	To ship certain hazardous materials in a non-DOT specification stainless steel portable tank. (Modes 1, 2, and 3.)
7709-N	DOT-E 7709	National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.21, 173.304, 173.395.	To ship flammable compressed gases in a solid cryogen cooler overpacked in a non-DOT stainless steel tank or installed in a spacecraft. (Mode 1.)
7719-N	DOT-E 7719	Turner Co., Sycamore, Ill.	49 CFR 173.304, 178.65.	To ship certain flammable compressed gases in DOT specification 39 nonrefillable steel cylinders. (Modes 1 and 2.)

EMERGENCY EXEMPTION—APPLICATIONS RECEIVED AND GRANTED

EE7722-N	DOT-E 7722	Skagway Air Service, Skagway, Alaska.	49 CFR 172.101(6)(b), 175.3.	To ship chlorine gas in DOT specification 3A cylinders. (Mode 4.)
EE7723-N	DOT-E 7723	Farm and Industrial Chemical Co., Dalton, Ga.	49 CFR 173.245(a)(31).	To ship acetic acid in a DOT specification MC-306 tank motor vehicle. (Mode 1.)
EE7724-N	DOT-E 7724	Weather Modification, Inc., Bowman, N. Dak.; Plains Weather Improvement Association, Plainview, Tex.; North American Weather Consultants, Goleta, Calif.; Atomspherics Inc., Fresno, Calif.	49 CFR Chapter 1, Subch. C.	To transport certain hazardous materials which are loaded and carried in hoppers, tanks, racks, or devices of aircraft certificated for use in aerial cloud seeding, avalanche control, or fire fighting to be dispensed during such operation. (Mode 4.)

DENIALS

76-383 Request by Intsel Corp., New York, N.Y.—To ship phosphorus oxychloride in drums identified as 117L, denied April 13, 1977. (Docket HM-139 obviates the need).

3460-X Request by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.—To transport inhibited vinyl fluoride via common carrier in DOT MC-330 and MC-331 cargo tanks, denied April 11, 1977. (Docket HM-139 obviates the need).

5680-P Request by Mobil Chemical Co., Richmond, Va.—To become a party to E 5680 authorizing shipment of organic phosphate materials in DOT Specification 105A300W tank cars, denied April 28, 1977. (Docket HM-139 obviates the need).

6249-X Request by Monsanto Co., St. Louis, Mo.—To ship trichloropropene in DOT Specification 51 portable tanks, denied April 8, 1977. (Docket HM-139 obviates the need).

6260-P Request by Baker Manufacturing Co., Evansville, Wis.—To become a party to E 6260 authorizing shipment of compressed air or nitrogen in non-DOT specification, single-trip welded steel tanks, denied April 21, 1977 as being unnecessary.

6434-P Request by Riverside Chemical Co., Memphis, Tenn.—To become a party to E 6434 authorizing shipment of "Mocap Plus" in 30-pound multiwall paper bags, denied April 19, 1977 as being unnecessary.

6453-X Request by General Motors Corp., Warren, Mich.—To ship Air Cushion Restraint System, denied April 21, 1977 as being unnecessary.

6471-X Request by Magnolia Welding Supply Co., Inc., Pascagoula, Miss.—To extend the retest period for certain DOT Specification 3A and 3AA cylinders to ten years, denied April 11, 1977 as being unnecessary.

6496-P Request by Stevens Industries, Inc., Dawson, Ga.—To become a party to E 6496 authorizing shipment of certain hazardous materials in DOT Specification 37D steel drums (non-reusable container) having a 21-gauge body and 20-gauge heads, denied April 14, 1977 as being unnecessary.

6637-P Request by Troy Chemical Corp., Newark, N.J.—To become a party to E 6637 authorizing shipment of a certain hazardous material in a non-DOT Specification polyethylene (PE) drum of 55-gallon capacity, denied April 21, 1977 as being unnecessary.

6687-X Request by American Cyanamid Co., Teterboro, N.J.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Mellon Bank Hanger, West Mifflin, Pa.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Asplundh Aviation, Inc., Willow Grove, Pa.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Northern Air, Grand Rapids, Mich.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Western Jet Corp., Dallas, Tex.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Aerojet-General Corp., Ontario, Calif.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Airkaman Inc., Windsor Locks, Conn.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Midwest Air Charter Inc., Elyria, Ohio—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-X Request by Texas Instruments, Dallas, Tex.—To transport Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Bud Antle, Inc., Salinas, Calif.—To become a party to E 6687-X authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Beaver County Airport, Beaver Falls, Pa.—To become a party to E 6687, authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by McGraw Edison Co., West Chicago, Ill.—To become a party to E 6687, authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Safelite Industries, Wichita, Kan.—To become a party to E 6687, authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Reserve Oil and Gas Co., Denver, Colo.—To become a party to E 6687 authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6687-P Request by Federated Department Stores, Inc. Cincinnati, Ohio—To become a party to E 6687, authorizing transportation of Hi-Flow Prist, a flammable gas, aboard passenger carrying aircraft, denied April 14, 1977 as being unnecessary.

6725-X Request by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.—To ship insecticide liquid, classified as a flammable liquid, in a DOT Specification 12P fiberboard box having an inside Specification 2U polyethylene container of five-gallon capacity and minimum thickness of 15 mils, denied April 8, 1977 as being unnecessary.

6775-X Request by Riverside Chemical Co., Memphis, Tenn.—To ship organic phosphate mixtures in MC-330 cargo tanks, denied April 28, 1977. (Docket HM-139 obviates the need.

6800-P Request by FMC Corp., Philadelphia, Pa.—To ship hydrogen peroxide in a non-DOT Specification polyethylene drum of 55-gallon capacity, denied April 5, 1977 as being unnecessary.

6912-X Request by Dow Chemical Co., Plaquemine, La.—To ship hydrogen in a non-DOT Specification sphere aboard passenger-carrying aircraft, denied April 14, 1977.

7026-P Request by Douglas Aircraft Co., Long Beach, Calif.—To become a party to E 7026, authorizing shipment of bromotrifluoromethane pressurized with nitrogen in non-DOT specification spherical steel pressure vessels, denied April 14, 1977 as being unnecessary.

7212-X Request by Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y.—To transport phosphoric anhydride imported in a steel drum of foreign manufacture that meets or exceeds DOT Specification 37A, denied April 8, 1977 as being unnecessary.

7214-X Request by Mobay Chemical Corp., Pittsburgh, Pa.—To ship additional commodities in non-DOT Specification 55-gallon steel drums, denied April 14, 1977. (Docket HM-103/112 obviates the need).

7481-N Petition for reconsideration by Billings Energy Corp., Provo, Utah—To allow relaxation of the retest requirements prescribed in DOT-E 6498, denied April 4 1977.

7491-P Request by Northern Petrochemical Co., Des Plaines, Ill.—To become a party to E 7491 authorizing shipment of certain hazardous materials in an Association of American Railroads proposed Specification 113C120W tank car, denied April 19, 1977 as being unnecessary.

7512-X Request by Puerto Rico Marine Management, Inc., Elizabeth, N.J.—To allow shipment of aqua ammonia under the provisions of DOT-E 5854, denied April 14. 1977.

7579-N Request by Staple Cotton Services Assoc., Greenwood, Miss.—To ship certain organic phosphate mixtures in DOT Specification MC-331 cargo tanks, denied April 28, 1977. (Docket HM-139 obviates the need).

7583-N Request by Diagnostic Isotopes Inc., Upper Saddle River, N.J.—For an exemption from the requirements in Section 173.390(b) of Title 49, Code of Federal Regulations for shipment of certain radioactive materials, denied April 8, 1977.

7643-N Request by Department of Health, Education, and Welfare, Baltimore, Md.—To ship aerosol containers aboard passenger carrying aircraft, denied April 19, 1977

EE7725-N Request by Economics Laboratory Inc., St. Paul, Minn.—To allow the shipping description on shipping papers to contain coded information, denied April 29, 1977.

WITHDRAWALS

76-12 Request by Dow Chemical International, Midland, Mich.—To allow shipments of sodium persulfate, packed in non-DOT specification sealed, polyethylene bags and containerized for "House to House" shipments, withdrawn April 12. 1977.

EE7689 Request by Martin Marietta Corp., Denver, Colo—Requesting relief from the provisions of 49 CFR 173.68, withdrawn April 12, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-14391 Filed 5-20-77;8:45 am]

National Highway Traffic Safety Administration

MOTOR VEHICLE SAFETY SYSTEMS, MEANING OF "KNOWINGLY RENDER INOPERATIVE"

Replacement of Brake Components on Regulated Air-Braked Vehicles

Interested persons have asked whether section 108(a)(2)(A) of the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. 1397(a)(2)(A)) permits commercial facilities to replace brake components used in satisfaction of

the early performance levels of Standard No. 121. Air Brake Systems, with brake components that are used in satisfaction of the existing reduced performance levels of the standard. Section 108(a)(2)(A) states in relevant part:

(2)(A) No manufacturer, distributor, dealer, or motor vehicle repair business shall knowlingly render inoperative, in whole or in part, any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable Federal motor vehicle safety standard (except during repair).

This question arises because the level of service brake stopping performance required by Standard No. 121 was reduced on March 1, 1976 (40 FR 8783). In some cases, manufacturers reduced the brake performance of their new vehicles by substituting smaller or otherwise less powerful components (such as brake chambers, slack adjusters, and linings) for comparable larger components that were used prior to March 1, 1976. Owners of the older vehicles are now asking whether section 108(a)(2)(A) prohibits commercial facilities from substituting the newer, less powerful components for those that originally equipped the older vehicles. Recently the Truck and Bus Safety Subcommittees of two Department of Transportation advisory committees requested wide public dissemination of the agency's position on this question.

It is the opinion of the NHTSA that a manufacturer, distributor, dealer, or repair business does not "knowingly render inoperative" a device or element of design by replacing components installed in satisfaction of a safety standard with other components that are used in newer vehicles of the same type in satisfaction of the same standard, even if the standard for the newer vehicles imposes a less stringent level of performance. The current performance level of any safety standard represents the agency's view of the appropriate level of protection that should be provided, subject to future planned changes of those levels. Thus, a commercial facility or private party would not, in the agency's view, violate section 108(a)(2)(A) by substituting components that provide the existing performance level mandated by a standard, whether or not they provide the formerly required level of performance.

This opinion of the meaning of section 108(a)(2)(A) addresses only the factual situation described. Other questions about the meaning of this provision of the Act should be directed to: Chief Counsel, National Highway Traffic Safety Administration, Washington, D.C. 20590.

Issued on May 10, 1977.

JOAN CLAYBROOK,
Administrator.

[FR Doc.77-14432 Filed 5-20-77;8:45 am]

DEPARTMENT OF THE TREASURY

[Public Debt Series—No. 13-77]

TREASURY NOTES OF JUNE 30, 1981

Series J-1981

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,000,000,000 of United States securities, designated Treasury Notes of June 30, 1981, Series J-1981 (CUSIP No. 912827 GT 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated June 3, 1977, and will bear interest from that date, payable on a semiannual basis on December 31, 1977, and each subsequent 6 months on June 30 and December 31 until the principal becomes payable. They will mature June 30, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 24, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 23, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a comercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Friday, June 3, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, May 31, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, May 27, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscription or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-14640 Filed 5-19-77;11:41 am]

INTERSTATE COMMERCE COMMISSION

Office of Hearings

[Notice No. 395]

ASSIGNMENT OF HEARINGS

MAY 18, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141804 (Sub-No. 43), Western Express, Division of Interstate Rental, Inc., now assigned July 19, 1977, at San Francisco, Calif., is postponed indefinitely.

MC-FC-75721, General Movers, Inc., Fargo Motor Express, Inc., Modern Truck Lines, Inc., MC 120897 (Sub-No. 3), General Movers, Inc. and MC 120897 (Sub-No. 2), General Movers, Inc., now assigned June 6, 1977, at Chicago, Ill. is postponed indefinitely.

MC 115793 (Sub-No. 22), Caldwell Freight Lines, Inc., now assigned July 14, 1977, at Kansas City, Mo. is canceled and application dismissed.

MC 113658 Sub-No. 11, 13 & 15, Scott Truck Line, Inc., MC 53965 Sub No. 122, Graves Truck Lines, Inc., MC 25869 Sub No. 129, Nolte Bros. Truck Line, Inc., MC 114273 Sub No. 269, CRST, Inc., MC 138018 Subs 31 and 34, Refrigerated Foods, Inc., MC 124679 Sub 71, C. R. England & Sons, Inc., MC 115826 Sub 264, W. J. Digby, Inc., MC 127042 Subs 186 and 197, Hagen, Inc., MC 139973 Subs 22 and 18, J. H. Ware Trucking, Inc., MC 48221 Subs 6 and 8, W. N. Morehouse Truck Line, Inc.,

MC 107515, Refrigerated Transport Co., Inc., MC 25869, Nolte Bros. Truck Line, Inc., MC 118159 Sub 201, National Refrigerated Transit, Inc., MC 113362 Sub 308, Ellsworth Freight Lines, MC 114632 Subs 104 and 110, Apple Lines, Inc., MC 115841 Sub 529, Colonial Refrigerated Transport, Inc., MC 140829 Sub 48, Cargo Contract Carriers Inc.,

MC 124211 Sub 288, Hilt Truck Line, Inc., MC 142964 Sub 2, Ronar Trucking, Inc., MC 142574 Sub 2, Circle C Transportation Co.,

MC 135874 Sub 85, LTL Perishables, Inc., MC 134477 Subs 152 and 161, Schanno Transportation, Inc., MC 138227, Ogallala Transfer, Inc.,

MC 127602 Sub 15, Denver-Midwest Motor Freight, Inc., MC 2860 Sub 155, National Freight, Inc., MC 140033 Sub 24, Cox Refrigerated Express, Inc., MC 143199, COP's, Inc., MC 135684 Sub 24, Bass Transportation Co., Inc., MC 138274 Sub 44, Shippers Best Express, Inc., MC 138274, Shippers

Best Express, Inc., MC 140389 Sub 16, Osborn Transportation, Inc. and MC 133566 Sub 78, Gangloss & Downham Transportation Co., Inc. being assigned June 21, 1977 (9 days) at Denver, Colorado and will be held in the Court of Appeals, Division Two, US Courthouse, 1961 Stout Street and on July 19, 1977 (9 days) at Denver, Colorado and will be held in the Tax Court, Room 587, US Federal Building & Courthouse, 1961 Stout Street.

MC 120477 Sub 2, International Transport, Inc. Common Carrier Application now assigned June 13, 1977 at New York, New York is postponed until July 11, 1977 (1 week) at New York, New York in a hearing room to be later designated.

MC 340 Sub 41, Querner Truck Lines, Inc. previously assigned June 12, 1977 at Dallas, Texas, application hereby dismissed.

MC 120325 (Sub-4), Frames, Morrison & Ryan, Inc., now assigned June 6, 1977 at Philadelphia, Pennsylvania, is canceled and the application is dismissed.

MC 139381 (Sub-No. 4), Spirit of '76 Overland Express, Inc., now being assigned for June 22, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I&S M-29478, Class Rate Restructuring, C&SMPA, May 1977, now being assigned June 28, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115826 Sub 263, W. J. Digby, Inc. now assigned June 7, 1977 at Seattle, Washington is postponed to August 1, 1977 (1 week) at Denver, Colorado and will be held at the Tax Court, Room 587, U.S. Federal Building & Courthouse, 1961 Stout Street and August 8, 1977 (1 week) at Seattle, Washington and will be held in Room 3086, Federal Building, 915 Second Avenue.

MC 135797 (Sub-No. 61), J. B. Hunt Transport, Inc., now being assigned for continued Hearing on the 6th day of July 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14587 Filed 5-20-77;8:45 am]

[Notice No. 168]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77103, filed April 29, 1977. Transferee: PREMIER HOMES, INC., 2400 North Seventh Ave., Bozeman, Mont. 59715. Transferor: Junior W. Tschache, doing business as O-Bar-J Trailers, 2000 N. 7th, P.O. Box 716, Bozeman, Mont. 59715. Applicant's representative: James J. Screnar, Attorney at Law, 215 West Mendenhall, P.O. Box 1122, Bozeman, Mont. 59715. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 124790, issued April 7, 1970, as follows: *Mobile homes* and *house trailers*, over regular routes, between Bozeman, Mont., and West Yellowstone, Mont., serving no intermediate points; from Bozeman over U.S. Highway 191, to West Yellowstone, and return over the same route. *Mobile homes* and *house trailers*, over irregular routes, between points in Gallatin and Park Counties, Mont., on the one hand, and, on the other, points in Yellowstone National Park, located in Idaho, Montana, and Wyoming. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77119, filed May 10, 1977. Transferee: PAQUETTE AUTOBUS, INC., 295 Grande Cote, St. Eustache, Quebec, Canada. Transferor: George D. Paquette Bus Lines, Ltd., a corporation, 222 William St., Rosemere, Quebec J7A 2R4, Canada. Applicants' representative: W. Norman Charles, attorney at law, 80 Bay St. Glen Falls, N.Y. 12801. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC 134715 and MC 134715 (Sub-No. 2), issued June 21, 1971, and December 17, 1975, respectively as follows: *Passengers and their baggage* in the same vehicle with passengers, in charter operations, beginning and ending at ports of entry on the United States-Canada Boundary line located at or near Rouses Point, N.Y., and Derby Line and Norton, Vt., and extending to points in New York and Vermont; and beginning and ending at ports of entry on the United States-Canada boundary line located in Maine, Michigan, New Hampshire, New York, and Vermont, and extending to points in the United States (except points in Alaska, Hawaii, New York, and Vermont). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77120, filed May 10, 1977. Transferee: DAIRY LEASING SERVICE, INC., 803 Herring Ave., Wilson, N.C. 27893. Transferor: Lonnie P. Stancil, Roy A. Stancil, and Walter T. Stancil, a partnership, doing business as Dairy Leasing Service, 803 Herring Ave., Wilson, N.C. 27893. Applicants' representative: Thomas N. Willess, attorney at law, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC 140653, issued December 27, 1976, as follows: *Dairy products and ice cream*, from Winston-Salem and Wilson, N.C., to Miami, Fla.; cottage cheese, from Chambersburg, Pa., to Miami, Fla., and Winston-Salem, N.C.; and orange juice, from Lakeland and Bradenton, Fla., to Wilson, Winston-Salem, and Raleigh, N.C., limited to a transportation service to be performed under a continuing contract, or contracts with Sealtest Foods Division, Kraftco Corporation. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14586 Filed 5-20-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409, 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: U.S. Commission on Civil Rights.

DATE AND TIME: May 26, 1977, 11 am.

PLACE: The Washington Room, Los Angeles Hilton Hotel, 931 Wilshire Boulevard, Los Angeles, California.

STATUS: A portion of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED IN OPEN SESSION:

Discussions of agency comments on Criminal Code Reform Act of 1977–S1437.

Consideration of recommendations in report of Indiana State Advisory Committee on Equal Opportunity in Public School System of Fort Wayne, Indiana.

Discussion of Commission's jurisdiction in the area of the administration of justice.

MATTERS TO BE CONSIDERED IN CLOSED SESSION:

Continuation of discussion of the National Media Study Report.

CONTACT PERSON FOR MORE INFORMATION:

Mimi Hartley; in Washington, D.C. office (202–254–6697). In Los Angeles, May 25–26 (213–688–3437).

[S-471-77 Filed 5-19-77;1:21 pm]

2

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m. May 24, 1977.

PLACE: 2033 K Street, Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public.

1. Proposed Regulations Governing Commission Review of Exchange Action Under Section 8c of the Commodity Exchange Act.

2. International Trading Group, Ltd. Request for Exemption from Segregation Requirement of the Option Rules.

Portions closed to the public:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, The Secretariat (254–6314).

[S-457-77 Filed 5-18-77;2:07 pm]

3

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 23935, May 11, 1977, as amended by notice published in issue of May 19, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE: 2 p.m., May 19, 1977.

CHANGES IN THE MEETING:

The Commission has added one item to be considered as the first item on the agenda: Election of a Vice-Chairman for the coming year. The remaining items on the agenda are unchanged. In adding this item, the Commission has determined that Agency business requires consideration of the matter without seven days advance notice.

[S-462-77 Filed 5-18-77;3:48 pm]

4

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Approximately 9:30 a.m., Friday, May 20, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Meeting.

MATTER TO BE CONSIDERED:

The Federal-State Joint Board convened pursuant to Section 410 of the Communications Act of 1934, as amended, will hold an open meeting on the "Impact of Customer Provision of Terminal Equipment on Jurisdictional Separations", Docket No. 20981.

The prompt and orderly conduct of Commission business requires that less than seven days notice be given of this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202–632–7260.

Issued: May 18, 1977.

[S-460-77 Filed 5-18-77;3:48 pm]

5

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Not yet published.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:45 a.m., May 23, 1977.

CHANGES IN THE METING:

An application for Federal deposit insurance for the Bank of Hattiesburg, a proposed new bank to be located at 1300 Hardy Street, Hattiesburg, Mississippi, and a proposal for settling litigation arising in connection with the liquidation of the International City Bank and Trust Company, New Orleans, Louisiana, have been added to the agenda.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, (202–389–4446).

[S-458-77 Filed 5-18-77;2:22 pm]

6

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: 2 p.m., May 25, 1977.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda).

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary. Telephone 202–275–4166.

(This notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 8552B.)

This is a list of the matters to be considered by the Commission. It does not include a listing of all persons relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA—7619TH MEETING—
MAY 25, 1977

REGULAR MEETING—PART I

P-1.—Docket Nos. E-7795, E-7789, Philadelphia Electric Company, N.Y.

P-2.—Docket Nos. E-8586, et al., Public Service Company, Indiana, Inc.

P-3.—Docket Nos. ER77-5, ER77-6, ER77-7, E-9544 and E-8152, Otter Tail Power Company.

P-4.—Docket No. ER77-175. Florida Power & Light Company.

P-5.—Docket No. ER77-131, Portland General Electric Company.

P-6.—Docket No. ER77-211, Mount Carmel Public Utility Company.

P-7.—Docket No. ER77-336, Oklahoma Gas & Electric Company.

P-8.—Docket No. E-9587, Upper Peninsula Power Company.

P-9.—(A) Docket No. ER77-339, West Texas Utilities Company.

(B) Docket Nos. ER76-747, ER76-753, West Texas Utilities Company (West Texas).

P-10.—Docket No. ER77-131, Portland General Electric Company.

P-11.—Docket No. E-9563, U.S. Department of the Interior, Bonneville Power Administration.

P-12.—Docket No. E-7671, Blandin Paper Company, et al.

P-13.—Project No. 2758, Brown Company.

GAS AGENDA—7619TH MEETING—
MAY 25, 1977

REGULAR MEETING—PART I

G-1—Docket No. RP76-10, Arkansas Louisiana Gas Company.

G-2—Docket No. RP76-93, Kentucky West Virginia Gas Company.

G-3—Docket No. RP74-82, Columbia Gas Transmission Company.

G-4—Docket No. RP76-59, El Paso Natural Gas Company (rate design).

G-5—Docket No. RP76-59, El Paso Natural Gas Company.

G-6—Docket No. RP76-144, Fort Pierce Utility Authority, et al., complainants v. Florida Gas Transmission Company, respondent.

G-7—FPC Gas Rate Schedule Nos. 7 and 10, the Louisiana Land and Exploration Company.

G-8—FPC Gas Rate Schedule No. 1, Alfred J. Smith.

G-9—Docket No. R-389-B, file No. 339-668, Placid Oil Company, et al.

G-10—Docket No. CP77-130, Northern Natural Gas Company.

G-11—Docket No. CP74-33, Transcontinental Gas Pipe Line Corporation.

G-12—Docket No. CP77-327, Natural Gas Pipeline Company of America, Columbia Gulf Transmission Company and Tennesee Gas Pipeline Company, a division of Tenneco Inc.

G-13—Docket Nos. CP73-283 and CP73-284, Consolidated System LNG Company.

POWER AGENDA—7619TH MEETING—
MAY 25, 1977

REGULAR MEETING—PART II

CP-1.—Docket No. ER77-323, Indiana & Michigan Electric Company.

CP-2.—Docket No. ER77-355, Southern California Edison Company.

CP-3.—Docket No. ER77-332, Indiana & Michigan Electric Company.

CP-4.—Docket No. ER77-309, Monongahela Power Company, West Penn Power Company.

CP-5.—Docket No. ES77-17, Kentucky Utilities Company.

CP-6.—Project No. 1746, E. L. Cord.

CP-7.—Project No 1927, Pacific Power & Light Company.

CP-8.—Project No. 2206 Central Vermont Public Service Corporation.

GAS AGENDA—7619TH MEETING—MAY 25, 1977

REGULAR MEETING—PART II

CG-1—Docket No. RP77-61, McCulloch Interstate Gas Corporation.

CG-2—Docket No. RP77-56, Northern Natural Gas Company.

CG-3—Docket Nos. RP77-54 and RP77-55, Arkansas Louisiana Gas Company.

CG-4—Docket No. RP77-59, South Texas Natural Gas Gathering Company.

CG-5—Docket No. RP77-60, Michigan Wisconsin Pipe Line Company.

CG-6—Docket No. RP77-64, Valley Gas Transmission, Inc.

CG-7—Docket No. RP77-5, Kansas-Nebraska Natural Gas Company, Inc.

CG-8—Docket No. C176-770, Amoco Production Company.

CG-9—Docket No. C176-731, Wise Oil Company.

GG-10—Docket Nos. C177-147, et al., Kerr-McGee Corporation, et al.

CG-11—Docket No. CP76-267, Texas Gas Transmission Corporation. Docket No. CP77-154, Tennessee Gas Pipeline Company, a division of Tenneco Inc. East Tennessee Natural Gas Company.

CG-12—Docket No. CP77-296, Texas Gas Transmission Corporation. Docket No. CP77-310, Tennessee Gas Pipeline Company, a division of Tenneco Inc. East Tennessee Natural Gas Company.

CG-13—Docket Nos. CP74-82 and CP74-83, Utah Gas Service Company. Docket No. CP74-158, Northwest Pipeline Corporation.

CG-14—Docket No. G-10012, et al., Coastal States Gas Producing Company, et al.

CG-15—Docket Nos. CP77-56 and CP77-117, Baca Gas Gathering System, Inc. Docket No. CP77-91, Panhandle Eastern Pipe Line Company.

CG-16—Docket No. CP77-284, Locust Ridge Gas Processing Company.

CG-17—Docket No. CP72-181, Panhandle Eastern Pipe Line Company.

CG-18—Docket No. CP76-497, United Gas Pipe Line Company.

CG-19—Docket No. CP77-134. Trunkline Gas Company.

CG-20—Docket No. CP77-71, Natural Gas Pipeline Company of America. Docket No. CP77-118, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation. Docket No. CP77-125, Texas Gas Transmission Corporation.

CG-21—Docket No. CP76-90, Kansas-Nebraska Natural Gas Company, Inc.

MISCELLANEOUS AGENDA—7619TH MEETING—
MAY 25, 1977

REGULAR MEETING—PART II

CM-1—The Inland Gas Company, Inc.

CM-2—Commission minutes.

CM-3—RM74-16, Natural Gas Companies Annual Report of Proved Domestic Natural Gas Reserves, FPC Form No. 40.

KENNETH F. PLUMB,
Secretary.

[S-464-77 Filed 5-18-77;3:52 pm]

7

AGENCY HOLDING THE MEETING: United States International Trade Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24174 May 12, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., May 18, 1977.

CHANGES IN THE MEETING:

The discussion under agenda item No. 4, (Approval of report in investigation No. 332-80—Watches), previously announced as being held in open session, was closed to the public by a vote of a majority of the entire membership of the Commission. The closed session did not begin until public notice thereof had been posted.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason (202-523-0161).

By order of the Commission:

KENNETH R. MASON,
Secretary.

MARCH 18, 1977.

[S-456-77 Filed 5-19-77;8:57 am]

8

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: 2 p.m., May 19, 1977.

PLACE: Hearing Room, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Approval of staff report in Investigation 332-80 (Watches).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161).

[S-467-77 Filed 5-19-77;9:48 am]

9

AGENCY HOLDING THE MEETING: Interstate Commerce Commission, Division 3.

TIME AND DATE: 10 a.m., May 19, 1977.

PLACE: Room 5124, Commission's Offices, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Supplemental Short Notice of Closed Meeting. A majority of Division 3, Comissioners Brown and Christian, have voted to add the following item to the agenda of the above closed meeting for the reason previously set forth in the prior notice.

ADDITIONAL MATTERS TO BE CONSIDERED:

Docket No. AB-36 (Sub-No. 2), Oregon Short Line Railroad Company and the Union Pacific Railroad Company-abandonment Portion Goshen Branch between Firth and Ammon, in Bingham and Bonneville Counties, Idaho.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin. Telephone 202-275-7252.

[S-466-77 Filed 5-19-77;8:57 am]

10

AGENCY HOLDING THE MEETING: The Renegotiation Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24801, May 16, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, May 31, 1977, 10 a.m.

CHANGES IN MEETING:

Item 9 of the announced agenda is amended to read as follows:

9. Recommended Finding or Determination of Excessive Profits:

a. American Manufacturing Company of Texas Fiscal Years Ended December 31, 1966-1970.

b. General Industrial Corporation Fiscal Years Ended February 29, 1968, February 28, 1969 and March 31, 1969-1972

c. Industrial Park Supply Company Fiscal Years Ended June 30, 1968-1972

Dated: May 18, 1977.

GOODWIN CHASE,
Chairman.

[S-461-77 Filed 5-18-77;3:48 pm]

11

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 24801, May 16, 1977.

CHANGES IN THE MEETINGS:

1. May 18.—Delete Item 3 relating to proposed Amendments to Rules 15b10-6 and 17a-4 and Item 4 relating to proposed Rule 15b7-1.

2. May 19.—Delete Item 5—Proposal for Public Comment on revisions to Rule 19b-4. Additional staff consideration of these matters is required.

Chairman Williams, Commissioners Loomis, Evans and Pollack, have determined that Commission business requires the above changes and that no earlier announcement of the changes was possible.

Dated: May 17, 1977.

[S-459-77 Filed 5-18-77;2:46 pm]

12

AGENCY HOLDING THE MEETINGS: Securities and Exchange Commission.

DATES AND TIMES: Wednesday, May 25, 1977 and Thursday, May 26, 1977 at 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Open to Public Observation.

SUBJECT MATTER OF THE MAY 25 MEETING

(1) Proposed opinion respecting co-application of New England Power Company and New England Electric System for approval of sale of utility assets to Fitchberg Gas and Electric Light Company.

(2) Consideration of extension of time period for Commission action on applications for registration by clearing agencies.

(3) Consideration of publication for comment of proposed new or revised registration and annual report forms for management investment companies.

(4) (a) Valuation of debt securities by Money Market Funds and certain other open-end investment companies.

(b) Prospectus disclosure by Money Market Funds with respect to portfolio securities, average portfolio maturity and historical rates of return.

(5) Application of One Liberty Municipal Bond Fund, Inc. for exemption, subject to conditions, of the Fund's purchases of municipal bonds in public offerings in which an affiliate of the Fund's investment adviser participates as a principal underwriter.

(6) Proposed amendments to Exchange Act Rule 10b-4 to prohibit certain practices in connection with partial tender and exchange offers which have the effect of discriminating against shareholders by distorting the calculation of the prorata acceptance formula.

(7) (a) Suggested publication for comment of proposed Exchange Act Rule 15b7-1 establishing minimum qaulification standards for brokers and dealers and associated persons; proposed rescission of present Rule 15b8-1 setting forth qualification standards for SECO brokers and dealers and associated persons; proposed amendments to present Rule 15b10-4 relating to supervision; and proposed adoption of Form U-5 (the Uniform Form for Notice of Termination) for SECO broker-dealers; and

(b) Authorization for the staff to communicate to the NASD preliminary reactions on the NASD's proposed amendments to Schedule C relating to qualification requirements for members and persons associated.

The subject matter of the meeting scheduled for Thursday, May 26, 1977 will be:

(1) Meeting with representatives of the National Association of Securities Dealers, Inc. to discuss the "recapture" of underwriting discounts by investment companies.

Dated: May 18, 1977.

[S-468-77 Filed 5-19-77;11:36 am]

13

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

TIME AND DATE: 10:30 a.m., May 25, 1977.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Discussion of matters involved in *Distributors Opposing Objectionable Rates, Inc., et al.* v. *Tennessee Valley Authority and Distributors Intervening For Fair and Equitable Rates*, No. CA 76-P-1734-NE (N.D. Ala., Apr. 5, 1977).

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202-343-4537).

Dated: May 18, 1977.

[S-463-77 Filed 5-18-77;3:52 pm]

federal register

MONDAY, MAY 23, 1977
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

INDIAN HEALTH CARE IMPROVEMENT ACT

Health Professions Recruitment and Scholarship Grant Programs, Etc., and Preferential Purchasing

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 36]

INDIAN HEALTH CARE IMPROVEMENT ACT PROGRAMS

Proposed Rulemaking

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed Rules.

SUMMARY: These proposed rules prescribe requirements for Indian health professions recruitment and scholarship grant programs, continuing education allowances for employees of the Indian Health Service, contracts with urban Indian organizations, and leasing with Indian tribes authorized by the Indian Health Care Improvement Act. These programs are intended to encourage Indians to enter the health professions and to ensure the availability of Indian health professionals to serve Indians.

DATE: Comments on these proposed rules must be received by July 7, 1977.

ADDRESS: Written comments on these proposed rules may be sent to the Director, Indian Health Service, Room 5A-55 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT:

Robert C. Birch, Indian Health Service, (301-443-1044).

SUPPLEMENTARY INFORMATION: These proposed rules prescribe requirements for Indian health professions recruitment and scholarship grant programs, continuing education allowances for employees of the Indian Health Service, contracts with urban Indian organizations, and leasing with Indian tribes authorized by sections 102, 103, 104, 106, 502 and 704 of the Indian Health Care Improvement Act, Pub. L. 94-437 (25 U.S.C. 1601 et seq.). Appropriations are authorized by the Indian Health Care Improvement Act for the grant and contract programs covered by these proposed rules beginning in fiscal year 1978 (October 1, 1977 through September 30, 1978) and section 702 of that Act requires final publication of implementing regulations by July 31, 1977.

The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to add a new Subpart J to 42 CFR Part 36.

The proposed subpart J is divided into seven subdivisions as follows:

J-1.—Provisions of General and Special Applicability.

J-2.—Health Professions Recruitment Program for Indians.

J-3.—Health Professions Preparatory Scholarship Program for Indians.

J-4.—Indian Health Scholarship Program.

J-5.—Continuing Education Allowances.

J-6.—Contracts With Urban Indian Organizations.

J-7.—Leases With Indian Tribes.

Recruitment Program

Health professions recruitment grants under subdivision J-2 are intended to assist grantees to: (1) Identify and recruit Indians with a potential for education or training in the health professions and (2) provide technical assistance and counseling to help those Indians enroll in health professions schools or undertake the post-secondary education or training necessary to qualify them to enroll. Health professions schools are defined in the proposed regulations and include schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing and the allied health professions.

Section 102 of the Indian Health Care Improvement Act, which authorizes the recruitment grant program, requires a preference for Indian tribes and tribal organizations in the award of grants. To contribute to Indian self-determination, the proposed regulations also give a preference to Urban Indian organizations and other Indian health organizations, although any public or nonprofit private health or educational entity is eligible.

Scholarships

Preparatory scholarships under subdivision J-3 may be awarded to Indians who have completed their high school education and demonstrated the capability to successfully complete courses of study in health professions schools. The scholarships, authorized by section 103 of the Indian Health Care Improvement Act, are for "compensatory preprofessional education", which is defined to mean preprofessional education necessary to compensate for deficiencies in an individual's prior education in order for that individual to qualify for enrollment in a health professions school. The preparatory scholarships may be awarded for the period (not to exceed two academic years) necessary to complete a recipient's compensatory preprofessional education. The proposed regulations at § 36.320 specify three examples where the scholarships would apply:

(1) Where an individual has a high school education but needs compensatory education to qualify for enrollment in a health professions school;

(2) Where an individual has a baccalaureate degree but needs compensatory preprofessional education to qualify for enrollment in a health professions school; or

(3) Where an individual has been enrolled in a health professions school but is no longer enrolled and needs compensatory preprofessional education to qualify for readmission.

Section 104 of the Indian Health Care Improvement Act amends section 225 of the Public Health Service Act to authorize the award of Indian Health Scholarships to students in health professions schools under section 225. Regulations implementing section 225, which authorizes the Public Health and National Health Service Corps Scholarship Training Program, are set out at 42 CFR Part 62. The proposed regulations at subdivision J-4 add certain requirements for purposes of Indian Health Scholarships consistent with the amendments to section 225 added by section 104 of the Indian Health Care Improvement Act, such as a preference for Indians and an obligation to serve Indians upon completion of academic training.

It is noted that the Indian Health Scholarship Program is part of section 225 of the Public Health Service Act which was repealed effective October 1, 1977 by section 408(b) of the Health Professions Educational Assistance Act of 1976, Pub. L. 94-484. However, regulations for the Indian Health Scholarship Program are proposed at this time on the expectation that Congress may take corrective action before the repeal becomes effective.

Section 36.303 of the proposed regulations requires Indians applying for scholarships under subdivisions J-3 or J-4 to submit evidence of tribal membership as specified in that section. Members of State recognized tribes or tribes terminated since 1940 are also required to submit evidence that their tribes are State recognized or terminated since 1940 unless their tribe appears on a list of such tribes to be published from time to time by the Secretary in the Federal Register.

Urban Program

Contracts with urban Indian organizations under subdivision J-6 will assist those organizations to carry out programs in urban centers to make health services more accessible to the urban Indian population. An urban center is defined in § 36.302(s) as "any city, with a population of 50,000 or more as determined by the United States Census Bureau, which the Secretary determines has a sufficient urban Indian population with unmet health needs to warrant assistance under Title V of the Indian Health Care Improvement Act."

Attention is also called to the definition of "urban Indian organization" in § 36.302(u). Among other things, effective October 1, 1977 an urban Indian organization must: (1) Have the provision of health programs as its principal function and (2) be governed by a board of directors elected by the members of the organization. Any organization administering an urban Indian health project under a contract entered into prior to October 1, 1977 will have until the conclusion of the contract period to meet these two requirements. The delay in imposing these requirements is proposed in the interest of program continuity as certain organizations currently administering urban health projects have other major purposes besides provision of health programs.

Leases With Indian Tribes

Under subdivision J-7, the Indian Health Service may lease from Indian tribes any land or facilities which the Service would otherwise be authorized to acquire or build. This authority is provided in section 704 of the Indian Health Care Improvement Act which authorizes leases with Indian tribes for not to exceed 20 years. Under this new long term

leasing authority, the Service may lease directly from Indian tribes without going through the General Services Administration.

2. There have been, since Pub. L. 94-437 was enacted, over 110 meetings in 47 communities involving IHS staff working with national and regional Indian organizations, Indian leaders, other Indian and Alaska Native people, and other interested parties. This consultation process and active participation has been instrumental in the development of the rules and regulations necessary to implement the Act, and has satisfied both the spirit and intent of the NOI.

Section 702(a) (1) of the Act states:

> Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

The Indian Health Service (IHS) on October 1, 1976, the day after the Act was signed by the President, initiated a national "joint-effort" involving the American Indian and Alaska Native people and IHS staff working together to plan the implementation of Pub. L. 94-437.

Since the Act specifies strict time frames for certain activities to be accomplished, including publication of proposed rules and regulations in the Federal Register within eight months from enactment, and promulgation of implementing rules and regulations within ten months from enactment, the IHS designed a plan to meet the time requirements stated in the law while preserving the opportunity for public input into the process of regulations development inherent in the Secretary's new regulations policies.

Major activities involved in encouraging and achieving maximum public participation of American Indian and Alaska Native people and other interested parties in the Pub. L. 94-437 Process, including regulations development, are described as follows:

October

1. The Project Manager for Pub. L. 94-437 was selected and seven key IHS Headquarters personnel were designated as Title Managers, one for each of the Act's titles. This group was identified as the IHS Core Team whose objective was:

To assist the Director, Indian Health Service, in preparing for the Indian Health Service to implement the provisions of this Act in an orderly, timely and complete manner.

One of the Core Team's first activities was to analyze the experiences IHS gained in plainning and implementing the Indian Self-Determination and Education Assistance Act—Pub. L. 93-638.

2. The Director of each of the twelve IHS Area or Program Offices selected a key staff member as Pub. L. 94-437 Coordinator. Although the IHS Area Director was administratively responsible for all Pub. L. 94-437 activities in the geographic Area of his or her responsibility, the Coordinator was responsible for coordinating all such activities, and communicating to and from the Indian people and other interested parties throughout the Area and to and from the Project Manager for Pub. L. 94-437 and the IHS Core Team.

3. Since IHS plans national health activities with representatives of national Indian organizations, four major national Indian organizations were invited to select a representative to serve on the Pub. L. 94-437 Policy Council. The purposes of the Policy Council were:

a. To recommend to the Director, Indian Health Service, policy and program actions involved in the Pub. L. 94-437 process;

b. To review progress of IHS Core Team activities; and

c. To participate with the IHS Core Team in Pub. L. 94-437 activities.

The Policy Council consists of six persons, four representing National Indian Organizations. Members are representatives selected by the National Indian Health Board, National Congress of American Indians, National Tribal Chairmen's Association, American Indian Health Care Association, IHS Council of Area Directors, and IHS Core Team. The Policy Council, a majority (67 percent) of the members of which are Indian people, considers the needs and problems of all American Indian and Alaska Native people. The Council meets at least monthly. Results of Policy Council actions are distributed routinely to national Indian organizations and IHS Headquarters staff by the IHS Core Team; and to regional Indian organizations, tribal governments and tribal organizations, urban Indian groups, IHS Area and Service Unit Health Boards, CHR tribal coordinators, IHS staff, and other interested parties by IHS Area Pub. L. 94-437 Coordinators.

4. The IHS developed a direct method of communication for securing public input (questions, comments, ideas, suggestions, recommendations) using Communication Cards (COMMCARDS) which are duly considered in the preparation of the proposed regulations with appropriate responses provided to the originator of the input.

5. *October 14.* Presentation made to the National Tribal Chairmen's Association Board of Directors regarding Pub. L. 94-437 opportunities, plans and activities.

6. *October 15.* About 2,000 sets of Pub. L. 94-437 briefing materials were sent in the first massive mailing to National Indian Organizations and, through the twelve IHS Area Pub. L. 94-437 Coordinators, to Regional Indian organizations, tribal governments, tribal organizations, urban Indian groups, IHS Area and Service Unit Health Boards, CHR tribal coordinators, IHS staff, and other interested parties. The briefing materials included the Act, an analysis of the Act, a copy of the signature document, a statement of differences between authorization and appropriation legislation, and a progress report.

7. *October 18–22.* The IHS Core Team participated in the annual meeting of the National Congress of American Indians in Salt Lake City, Utah, as an invited resource to the Health and Social Welfare Concerns Committee and presented a briefing on Pub. L. 94-437 that was actively attended by about 100 persons. The meeting involved representatives of the National Tribal Chairmen's Association, National Indian Health Board, American Indian Health Care Association, and other national and regional Indian organizations.

8. *October 25–30.* IHS Core Team members, with the respective Area Pub. L. 94-437 Coordinators, presented briefings for IHS staff and Indian and Alaska Native leaders in various locations in the IHS Areas to inform the Indian people about Pub. L. 94-437 and secure their comments, questions and suggestions on COMMCARDS for study and consideration throughout the Pub. L. 94-437 Process—including development of regulations.

9. *October 27.* Presentation made to National Indian Health Board Executive Council regarding Pub. L. 94-437 opportunities, plans and activities.

November

1. *Various dates.* Area Pub. L. 94-437 Coordinators (continued to conduct briefings in their Areas. Examples of locations where those briefings were held included: Alaska—Anchorage; Arizona—Phoenix, San Xavier, Tempe, Tucson, Window Rock; California—Sacramento; Colorado—Denver; District of Columbia—Washington; Massachusetts—Boston; Maryland—Bethesda, Rockville; Minnesota—Bemidji, Cass Lake, Duluth; Montana—Billings, Lame Deer, Poplar; North Carolina—Pembroke; North Dakota—Bismarck; New Mexico—Albuquerque, Santa Fe; Nevada—Schurz; New York—New York City; Oklahoma—Oklahoma City, Shawnee, Tulsa; Oregon—Portland; Pennsylvania—Philadelphia; South Dakota—Aberdeen, Pierre, Rosebud, Sisseton; Tennessee—Nashville; Utah—Salt Lake City; Washington—Yakima.

2. *November 12.* Second massive mailing of informational materials including summary of November 4–5 meeting of Policy Council; strategy to encourage maximum participation of American Indian and Alaska Native people in the Pub. L. 94-437 process, responsibilities of Area Pub. L. 94-437 Coordinators; names, addresses, and phone numbers of Policy Council members; names and phone numbers of Area Pub. L. 94-437 Coordinators.

3. *November 26.* Third massive mailing of Pub. L. 94-437 materials including House and Senate reports for study and use by Indian and Alaska Native people throughout the United States in understanding Congressional Intent in enacting Pub. L. 94-437.

4. *November 29–December 1.* The IHS Core Team and Policy Council conducted a three-day Training Workshop in Albuquerque, New Mexico to prepare persons from each of twelve IHS Areas and Programs to be able to conduct workshops in December and later in their own Area or Program. Priority attendees were five

Tribal (non-IHS) Title Representatives (Titles I, II, III, IV, VI of the Act) and one Urban (non-IHS) Title Representative (title V) and the Area Pub. L. 94–437 Coordinator. Other attendees were six additional IHS Title Representatives for Titles I, II, III, IV, V, VI. Results—over 200 participants at the Workshop of whom about 63 percent were Indian or Alaska Native people representing about 60 different Indian tribes or Alaska Native groups. An excellent example of the "joint effort" was the Indian and Alaska Native (non-IHS) Title Representatives working together with IHS Title Representatives to plan and organize their Area Workshops in December and later.

DECEMBER

1. *Various Dates.* Pub. L. 94–437 Workshops conducted in each of twelve IHS Areas and Programs to better inform Indian and Alaska Native people about Pub. L. 94–437 and to secure their input on COMMCARDS for study and consideration throughout the Pub. L. 94—437 Process—including development of regulations. All COMMCARDS were forwarded to IHS Headquarters to the IHS Core Team for review, response, and inclusion in Title MASTER LISTS of questions, responses, recommendations, and other; and return of copy of completed COMMCARD to the Area Pub. L. 94–437 Coordinator to return a copy to the person who originated the input. Examples of locations where these Workshops were held include:

Alaska—Anchorage; Arizona—Flagstaff, Phoenix, Tucson; Minnesota—Duluth; Montana—Billings; New Mexico—Albuquerque; Nevada — Reno-Sparks; Oklahoma—Oklahoma City; South Dakota — Pierre; Tennessee — Nashville; Washington—Seattle.

2. *December 20.* Fourth massive mailing of Pub. L. 94–437 materials including progress report through December 15; summary of December 6–7 meeting of Policy Council; and minutes of IHS–NIAAA meeting of November 22–23, 1976.

JANUARY

1. *January 3–7.* Pub. L. 94–437 Writing Workshop conducted at IHS Headquarters in Rockville, Maryland. The workshop was publicized and participation was open to the public. Purpose—to develop recommended guidelines and draft specifications for regulations. Participants—six Tribal (non-IHS) Core Representatives—one for each title—selected at the Training Workshop in Albuquerque, New Mexico, November 29–December 1 to participate in this Workshop; IHS Core Team, twelve IHS Area Pub. L. 94–437 Coordinators and other Indian people who participated because of their own interest. Each participant considered the needs and concerns of all Indian and Alaska Native people. The first day or more was spent with the participants studying and considering all input from Indian and Alaska Native people and other interested parties that had been received by the IHS Core Team through the Area Pub. L. 94–437 Coordinators during October–November–December and early January. Thus, public input was utilized, and will continue to be utilized throughout the Pub. L. 94–437 Process.

To verify that the IHS has the organizational structure, experience, and ability to communicate directly and effectively with Indian leadership on the local, regional, and national levels, the following summarized data are presented for the period October 1, 1976–February 15, 1977:

Number of Pub. L. 94–437 meetings held throughout United States	110
Number of different communities in which meetings were held	47
Number of people at meetings	4,308
Indian/Alaska Native people represented at meetings	[1] 800,000
Number of COMMCARDS processed by IHS Core Team	2,151

2. *January 8–17.* IHS Core Team continued work on specifications for proposed regulations, studying and considering all input on COMMCARDS to date from Indian and Alaska Native people and other interested parties.

3. *January 18–19.* IHS Core Team reviewed specifications for proposed regulations with Policy Council. Recommendations made by Policy Council to Director, Indian Health Service.

Written comments concerning the proposed regulations set out below are invited. Written data, views, or arguments relating to the proposed regulations may be presented in writing to the Director, Indian Health Service, Room 5A55, 5600 Fishers Lane, Rockville, Maryland 20857. Commentors are encouraged to reference their comments by section of the proposed regulations although this is not required. All material received will be available for public inspection and copying at the above address on weekdays (Federal holidays excepted) between the hours of 9 a.m. and 5 p.m. and all material received on or before July 7, 1977 will be considered in the preparation of the final regulation.

The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring prepartion of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 22, 1977.

JAMES F. DICKSON,
Assistant Secretary for Health.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Part 36 of Title 42 is amended by adding the following subpart:

Subpart J—Indian Health Care Improvement Act Programs

SUBDIVISION J–1—PROVISIONS OF GENERAL AND SPECIAL APPLICABILITY

Sec:
36.301 Policy and Applicability.
36.302 Definitions.
36.303 Indians applying for scholarships.
36.304 Additional Conditions.

[1] Estimated.

SUBDIVISION J–2—HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

Sec.
36.310 Health professions recruitment grants.
36.311 Eligibility.
36.312 Application.
36.313 Evaluation and grant awards.
36.314 Payment and use of funds.
36.315 Publication of list of grantees and projects.
36.316 Alteration or renovation.
36.317 Grantee accountability.
36.318 Publication and copyright.
36.319 Applicability of 45 CFR Part 74.

SUBDIVISION J–3—HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

36.320 Preparatory scholarship grants.
36.321 Eligibility.
36.322 Application and selection.
36.323 Scholarship and tuition.
36.324 Publication of a list of recipients.

SUBDIVISION J–4—INDIAN HEALTH SCHOLARSHIP PROGRAM

36.330 Indian Health Scholarships.
36.331 Eligibility.
36.332 Selection.
36.333 Service obligation.
36.334 Distribution of scholarships.

SUBDIVISION J–5—CONTINUING EDUCATION ALLOWANCES

36.340 Provision of continuing education allowances.

SUBDIVISION J–6 CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

36.350 Contracts with urban Indian organizations.
36.351 Application and selection.
36.352 Fair and uniform provision of services.
36.353 Reports and records.

SUBDIVISION J–7—LEASES WITH INDIAN TRIBES

36.360 Leases with Indian tribes.

Subpart J—Indian Health Care Improvement Act Programs

AUTHORITY: Sec. 102, 103, 104, 106, 502, and 704 of P.L. 94–437 (25 U.S.C. 1612 and 1613, 42 U.S.C. 234(1), 25 U.S.C. 1615, 1652, and 1674; sec. 702 of P.L. 94–437 (25 U.S.C. 1672).

SUBDIVISION J–1 PROVISIONS OF GENERAL AND SPECIAL APPLICABILITY

§ 36.301 Policy and applicability.

(a) *Policy.* (1) It is the policy of the Secretary to encourage Indians to enter the health professions and to ensure the availability of Indian health professionals to serve Indians. The recruitment and scholarship programs under this subpart will contribute to this objective.

(2) The regulations of this subpart are intended to be consistent with principles of Indian self-determination and to supplement the responsibilities of the Indian Health Service for Indian health manpower planning and for assisting Indian tribes and tribal organizations in the development of Indian manpower programs.

(b) *Applicability.* The regulations of this subpart are applicable to the following activities authorized by the Indian Health Care Improvement Act:

(1) The award of health professions recruitment grants under section 102 of the Act to recruit Indians into the health professions (Subdivision J–2);

(2) The award of preparatory scholarship grants under section 103 of the Act to Indians undertaking compensatory preprofessional education (Subdivision J–3);

(3) The award of Indian Health Scholarship grants pursuant to section 225(i)(2) of the Public Health Service Act, as added by section 104 of the Act, to Indian or other students in health professions schools (Subdivision J–4);

(4) The provision of continuing education allowances to health professionals employed by the Service under section 106 of the Act (Subdivision J–5);

(5) Contracts with urban Indian organizations under section 502 of the Act to establish programs in urban areas to make health services more accessible to the urban Indian population (Subdivision J–6); and

(6) Leases with Indian tribes under section 704 of the Act (Subdivision J–7).

§ 36.302 Definitions.

As used in this subpart: (a) "Act" means the Indian Health Care Improvement Act, Pub. L. 94–437 (25 U.S.C. 1601 et seq.).

(b) "Academic year" means the traditional approximately 9 month September to June annual session, except for students who attend summer session in addition to the traditional academic year during a 12 month period, for whom the academic year will be considered to be of approximately 12 months duration.

(c) "Budget period" means the interval of time into which the approved activity is divided for budgetary purposes, as specified in the grant award document.

(d) "Compensatory preprofessional education" means any preprofessional education necessary to compensate for deficiencies in an individual's prior education in order to enable that individual to qualify for enrollment in a health professions school.

(e) "Health or educational entity" means an organization, agency, or combination thereof, which has the provision of health or educational programs as one of its major functions.

(f) "Health professions school" means any of the schools defined in paragraphs (l), (m) or (n) of this section.

(g) "Indian" or "Indians" means, for purposes of Subdivisions J–2 and J–3 of this subpart, any person who is a member of an Indian tribe, as defined in paragraph (i) of this section or any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band or other organized group terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is the natural child or grandchild of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(h) "Indian health organization" means a nonprofit corporate body composed of Indians which provides for the maximum participation of all interested Indian groups and individuals and which has the provision of health programs as its principal function.

(i) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(j) "Nonprofit" as applied to any private entity means that no part of the net earnings of such entity inures or may lawfully inure to the benefit of any private shareholder or individual.

(k) "Project period" means the total time for which support for a project has been approved, as specified in the grant award document.

(l) "School of allied health professions" means a junior college, college, or university—

(1) Which provides, or can provide, programs or education leading to a baccalaureate or associate degree (or to the equivalent of either) or to a higher degree in medical technology, optometric technology, dental hygiene, or in any of such other of the allied health professions curricula as are specified by regulation of the Secretary;

(2) Which is affiliated with a teaching hospital; and

(3) Which is accredited or assured accreditation by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(m) "School of medicine," "school of dentistry," "school of osteopathy," "school of pharmacy," "school of optometry," "school of podiatry," "school of veterinary medicine," and "school of public health" means a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dental surgery or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of podiatry or an equivalent degree, and a graduate degree in public health, and including advanced training related to such training provided by any such school, and is accredited or assured accreditation by a recognized body or bodies approved for such purpose by the Commissioner of Education.

(n) "School of nursing" means a collegiate, associate degree, or diploma school of nursing, as those terms are defined in this paragraph below, which is accredited or assured accreditation by a recognized body or bodies approved for such purpose by the Commissioner of Education:

(1) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school;

(2) The term "associated degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree;

(3) The term "diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed.

(o) "Secretary" means the Secretary of Health, Education, and Welfare and any other Officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(p) "Service means the Indian Health Service.

(q) "State or local government" means any public health or educational entity which is included within the definition of State or local government in 45 CFR 74.3 and Indian tribes or tribal organizations.

(r) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(s) "Urban center" means any city, with a population of 50,000 or more as determined by the United States Census Bureau, which the Secretary determines has a sufficient urban Indian population with unmet health needs to warrant assistance under Title V of the Act.

(t) "Urban Indian" means any individual who resides in an urban center, as defined in paragraph(s) of this section, and who meets one or more of the four criteria in paragraph (g) (1) through (4) of this section.

(u) "Urban Indian organization" means a nonprofit corporate body situated in an urban center which:

(1) Is composed of urban Indians;

(2) Has the provision of health programs as its principal function;

(3) Is governed by a board of directors elected by the members of the organization;

(4) Provides for the maximum participation of all interested Indian groups and individuals; and

(5) Is capable of legally cooperating with other public and private entities

for the purpose of performing the activities described in § 36.350(a) of Subdivision J–6 of this subpart. Except, that criteria (2) and (3) of this subsection shall not apply to an organization administering an urban Indian health project under a contract with the Secretary prior to October 1, 1977, for the period of such contract.

§ 36.303 Indians applying for scholarships.

(a) For purposes of scholarship grants under Subdivisions J–3 and J–4 of this subpart, Indian applicants must submit evidence of their tribal membership (or other evidence that the applicant is an Indian as defined in paragraph (g) of § 36.302 of this subdivision) satisfactory to the Secretary.

(b) Where an applicant is a member of a tribe recognized by the Secretary of the Interior, the applicant must submit evidence of his or her tribal membership, such as:

(1) Certification of tribal enrollment by the Secretary of the Interior acting through the Bureau of Indian Affairs (BIA); or

(2) In the absence of such BIA certification, documentation that the applicant meets the requirements of tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the tribe and has been officially designated a tribal member by an authorized tribal official; or

(3) Other evidence of tribal membership satisfactory to the Secretary.

(c) Where the applicant is a member of a tribe terminated since 1940 or a State recognized tribe, the applicant must submit documentation that the applicant meets the requirements of tribal membership as prescribed by the charter, articles of incorporation or other legal instrument of the tribe and has been officially designated a tribal member by an authorized tribal official; or other evidence, satisfactory to the Secretary, that the applicant is a member of the tribe. In addition, if the terminated or State recognized tribe of which the applicant is a member is not on a list of such tribes published by the Secretary in the FEDERAL REGISTER, the applicant must submit documentation as may be required by the Secretary that the tribe is a tribe terminated since 1940 or is recognized by the State in which the tribe is located in accordance with the law of that State.

(d) An applicant who is not a tribal member, but who is a natural child or grandchild of a tribal member as defined in paragraph (g) of § 36.302 of this subdivision must submit evidence of such fact which is satisfactory to the Secretary, in addition to evidence of his or her parent's or grandparent's tribal membership in accordance with paragraphs (b) and (c) of this section.

§ 36.304 Additional conditions.

The Secretary may, with respect to any grant award under this subpart, impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health, or the conservation of grant funds.

NOTE.—*Nondiscrimination.* (a) Grants and contracts under this subpart are exempted from the requirements of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d), prohibiting discrimination on the basis of race, color or national origin, by regulation at 45 CFR 80.3(d) which provides, with respect to Indian Health Services, that "An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his."

(b) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

(c) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SUBDIVISION J–2—HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

§ 36.310 Health professions recruitment grants.

Grants awarded under this subdivision, in accordance with section 102 of the Act, are for the purpose of assisting in meeting the costs of projects to:

(a) Identify Indians with a potential for education or training in the health professions and encouraging and assisting them (1) To enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (2), if they are not qualified to enroll in any such school, to undertake such post-secondary education or training as may be required to qualify them for enrollment;

(b) Publicize existing sources of financial aid available to Indians enrolled in any school referred to in paragraph (a)(1) of this section or who are undertaking training necessary to qualify them to enroll in any such school; or

(c) Establish other programs which the Secretary determines will enhance and facilitate the enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in paragraph (a)(1) of this section.

§ 36.311 Eligibility.

Any Indian tribe, tribal organization, urban Indian organization, Indian health organization or any public or other nonprofit private health or educational entity is eligible to apply for a health professions recruitment grant under this subdivision.

§ 36.312 Application.

(a) An application for a health professions recruitment grant under this subdivision shall be submitted to the Secretary at such time and in such form and manner as the Secretary acting through the Service may prescribe.[1]

(b) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subdivision.

(c) In addition to such other pertinent information as the Secretary may require, the application for a health professions recruitment grant shall contain the following:

(1) A description of the legal status and organization of the applicant;

(2) A description of the current and proposed participation of Indians in the activities of the applicant (if any);

(3) A description of the target Indian population to be served by the proposed project and the relationship of the applicant to that population;

(4) A narrative description of the nature, duration, purpose, need for and scope of the proposed project and of the manner in which the applicant intends to conduct the project including:

(i) Specific measurable objectives for the proposed project;

(ii) How the described objectives are consistent with the purposes of section 102 of the Act;

(iii) The work and time schedules which will be used to accomplish each of the objectives;

(iv) A description of the administrative, managerial, and organizational arrangements and the facilities and resources to be utilized to conduct the proposed project;

(v) The name and qualifications of the project director or other individual responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the applicant's staff is or will be organized and supervised to carry out the proposed project;

(5) An itemized budget for the entire project period for which support is sought and justification of the amount of grant funds requested;

(6) The intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions;

(7) When the target population of a proposed project includes a particular Indian tribe or tribes, an official document from the tribal governing body indicating that the tribe or tribes will cooperate with the applicant.

(d) In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, applications must include a method for assessing the potential of interested Indians for undertaking necessary education or training in the health professions. Proposed projects may include, but are not limited to, the following activities:

(1) Identifying Indian elementary and secondary school students through observations, aptitude or other testing, academic performance, performance in special projects and activities, and other methods as may be designed or developed;

(2) Identifying Indians in college or university programs, related employment, upward mobility programs or other areas of activity indicative of interest and potential;

(3) Review of the upward mobility plans, skills banks etc. of organizations employing Indians to identify individuals with appropriate career orientations, expression of interest, or recognized potential;

(4) Conducting workshops, health career days, orientation projects or other activities to identify interested Indians at any age level;

(5) Performing liaison activities with Indian professional organizations, Indian education programs (including adult education), Indian school boards, Indian parent, youth recreation or community groups, or other Indian special interest or activity groups;

(6) Identifying those Indians with an interest and potential who cannot undertake compensatory education or training in the health professions because of financial need.

(e) Proposed projects designed to encourage and assist Indians to enroll in health professions schools; or, if not qualified to enroll, to undertake post-secondary education or training required to qualify them for enrollment may include, but are not limited to, the following activities:

(1) Providing technical assistance and counseling to encourage and assist Indians identified as having a potential for education or training in the health professions—

(i) To enroll in health professions schools,

(ii) To undertake any post-secondary education and training required to qualify them to enroll in health professions schools, and

(iii) To obtain financial aid to enable them to enroll in health professions schools or undertake post-secondary education or training required to qualify them to enroll in such schools;

(2) Conducting programs to (i) identify factors such as deficiencies in basic communication, research, academic subject matter (such as science, mathematics, etc.), or other skills which may prevent or discourage Indians from enrolling in health professions schools or undertaking the post-secondary education or training required to qualify them to enroll, and (ii) provide counseling and technical assistance to Indians to assist them in undertaking the necessary education, training or other activities to overcome such factors.

(f) Proposed projects to publicize existing kinds of financial aid available to Indians enrolled in health professions schools or to Indians undertaking training necessary to qualify them to enroll in such schools may include, but are not limited to, the following activities:

(1) Collecting information on available sources of financial aid and disseminating such information to Indian students, Indians, recruited under programs assisted by grants under this subdivision and to Indian tribes, tribal organizations, urban Indian organizations, Indian health organizations and other interested groups and communities throughout the United States;

(2) Providing information on available sources of financial aid which can be utilized by programs and counselors assisting Indians to obtain financial aid.

(g) Proposed projects for establishment of other programs which will enhance or facilitate enrollment of Indians in health professions schools and the subsequent pursuit and completion by them of courses of study in such schools may include, but are not limited to, the following activities:

(1) Compilation and dissemination of information on—(i) Health professions education or training programs and the requirements for enrollment in such programs; and

(ii) Post-secondary education or training curricula and programs designed to qualify persons for enrollment in health professions schools;

(2) Developing and coordinating career orientation programs in local schools (including high schools) and colleges and universities;

(3) Developing programs to enable Indians to gain exposure to the health professions such as arranging for (i) visits to health care facilities and programs and meetings or seminars with health professionals, (ii) part-time summer or rotating employment in health care facilities, programs, or offices of health professionals, (iii) volunteer programs, or (iv) other means of providing such exposure;

(4) Developing programs which relate tribal culture and tradition, including native medicine, to careers in the health professions; and

(5) Developing programs to make Indians aware of projected health manpower needs, expected employment opportunities in the health professions, and other factors in order to orient and motivate Indians to pursue careers in the health professions.

§ 36.313 Evaluation and grant awards.

(a) Within the limits of funds available for such purpose, the Secretary, acting through the Service, may award health professions recruitment grants to those eligible applicants whose proposed projects will in his judgment best promote the purposes of section 102 of the Act, taking into consideration:

(1) The potential effectiveness of the proposed project in carrying out such purposes;

(2) The capability of the applicant to successfully conduct the project;

(3) The accessibility of the applicant to target Indian communities or tribes, including evidence of past or potential cooperation between the applicant and such communities or tribes;

(4) The relationship of project objectives to known or anticipated Indian health manpower deficiencies;

(5) The soundness of the fiscal plan for assuring effective utilization of grant funds;

(6) The completeness of the application.

(b) Preference shall be given to applicants in the following order of priority (1) Indian tribes and tribal organizations, (2) urban Indian organizations and other Indian health organizations, and (3) public and other nonprofit private health or educational entities.

(c) The amount of any award under this subdivision will be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either: (1) On the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(d) All grant awards shall be in writing, and shall set forth the amount of funds granted and the period for which support is provided.

(e) Neither the approval of any project nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application at such times and in such form as the Secretary may dictate.

§ 36.314 Payment and use of funds.

(a) The Secretary acting through the Service will make payments to a grantee either by way of reimbursement for expenses incurred in the project period, or in advance for expenses to be incurred, to the extent he determines such payments are necessary to promptly initiate and conduct the approved project.

(b) Any funds granted under this subdivision shall be used solely for carrying out the approved project in accordance with section 102 of the Act, the regulations of this subdivision, and the terms and conditions of the grant award.

[1] Applications and instructions may be obtained from the appropriate Indian Health Service Area or Program Office.

§ 36.315 Publication of list of grantees and projects.

The Secretary acting through the Service shall publish annually in the FEDERAL REGISTER a list of organizations receiving grants under this subdivision including for each grantee:

(a) The organization's name and address

(b) The amount of the grant

(c) A summary of the project's purposes and its geographic location.

§ 36.316 Alteration or renovation.

Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 24, 1965) as amended, and with applicable rules, regulations, and procedures prescribed under that Order.

§ 36.317 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart except that when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under such grant shall be accounted for as follows:

(1) *State and local governments.* Where the grantee is a State or local government royalties shall be accounted for as provided in 45 CFR 74.44.

(2) *Grantees other than State and local governments.* Where the grantee is not a State or local government as so defined, royalties shall be accounted for as follows:

(i) Patent royalties, whether received during or after the grant period, shall be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee, pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

(ii) Copyright royalties, whether received during or after the grant period, shall first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials, and any royalties in excess of the costs of publishing or producing the materials shall be distributed in accordance with Chapter 1-420, Department of Health, Education, and Welfare Grants Administration Manual.[1]

(c) *Grant closeout.*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successor or assigns by set-off or other action as provided by law.

§ 36.318 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable materials developed or resulting from a project supported by a grant under this subpart.

(b) *Grantees other than State and local governments.* Where the grantee is not a State or local government, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

§ 36.319 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles shall apply to all grants under this subpart to State and local governments. The relevant provisions of the following subparts of Part 74 shall also apply to all other grantee organizations under this subpart:

SUBPART

A—General.
B—Cash Depositories.
C—Bonding and Insurance.
D—Retention and Custodial Requirements for Records.
F—Grant-Related Income.
K—Grant Payment Requirements.
L—Budget Revision Procedures.
M—Grant Closeout, Suspension, and Termination.
O—Property.
Q—Cost Principles.

[1] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

SUBDIVISION J-3.—HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

§ 36.320 Preparatory scholarship grants.

Scholarship grants may be awarded under this subdivision and section 103 of the Act for the period (not to exceed two academic years) necessary to complete a recipient's compensatory preprofessional education to enable the recipient to qualify for enrollment or re-enrollment in a health professions school. Examples of individuals eligible for such grants are the individual who:

(a) Has completed high school equivalency and needs compensatory preprofessional education to enroll in a health professions school;

(b) Has a baccalaureate degree and needs compensatory preprofessional education to qualify for enrollment in a health professions school; or

(c) Has been enrolled in a health professions school but is no longer so enrolled and needs preprofessional education to qualify for readmission to a health professions school.

§ 36.321 Eligibility.

To be eligible for a preparatory scholarship grant under this subdivision an applicant must:

(a) Be an Indian;

(b) Have successfully completed high school education or high school equivalency;

(c) Have demonstrated to the satisfaction of the Secretary the desire and capability to successfully complete courses of study in a health professions school;

(d) Be accepted for enrollment in or be enrolled in any compensatory preprofessional education course or curriculum meeting the criteria in § 36.320 of this subdivision;

(e) Be a citizen of the United States.

§ 36.322 Application and selection.

(a) An application for a preparatory scholarship grant under this subdivision shall be submitted in such form and at such time as the Secretary acting through the Service may prescribe.[2] However, an application must indicate: (1) The health profession which the applicant wishes to enter and (2) whether the applicant intends to provide health services to Indians upon completion of health professions eduction or training by serving as described in section 36.333 or otherwise as indicated on the application.

(b) Within the limits of funds available for the purpose, the Secretary, acting through the Service, shall make scholarship grant awards for a period not to exceed two academic years of an individual's compensatory preprofessional education to eligible applicants taking into consideration:

(1) Academic performance;

(2) Work experience;

(3) Faculty recommendations;

(4) Stated reasons for asking for the scholarship; and

(5) The relative needs of the Service and Indian health organizations for persons in specific health professions.

[2] Applications and instructions may be obtained from the appropriate Indian Health Service Area or Program Office.

§ 36.323 Scholarship and tuition.

(a) Scholarship grant awards under this subdivision shall consist of:

(1) A stipend in an amount not in excess of one half the basic pay and allowances of a commissioned officer in the Public Health Service, without dependents, on active duty in pay grade 0-1 with less than two years of service; and

(2) An amount determined by the Secretary for transportation, tuition, fees, books, laboratory expenses and other necessary educational expenses.

(b) The portion of the scholarship for the costs of tuition and fees as indicated in the grant award will be paid directly to the school upon receipt of an invoice from the school. The stipend and remainder of the scholarship grant award will be paid monthly to the grantee under the conditions specified in the grant award.

§ 36.324 Publication of a list of recipients.

The Secretary, acting through the Service, will publish annually in the FEDERAL REGISTER a list of recipients of scholarship grants under this subdivision, including the name of each recipient, tribal affiliation and school.

SUBDIVISION J-4—INDIAN HEALTH SCHOLARSHIP PROGRAM

§ 36.330 Indian health scholarships.

Indian Health Scholarships will be awarded by the Secretary pursuant to section 225(1)(2) of the Public Health Service Act in accordance with regulations set out in 42 CFR Part 62 except as set out in this subdivision for the purpose of providing scholarships to Indian and other students at health professions schools in order to obtain health professionals to serve Indians.

§ 36.331 Eligibility.

In lieu of an agreement to serve under § 62.3(d) of 42 CFR, an applicant must agree to serve as provided in § 36.333 of this subdivision.

§ 36.332 Selection.

(a) The Secretary, acting through the Service, shall determine the individuals who receive Indian Health Scholarships.

(b) Priority shall be given to applicants who are Indians.

§ 36.333 Service obligation.

The service obligation provided in § 62.7 of 42 CFR shall be met by the receipient of an Indian Health Scholarship by service in:

(a) The Indian Health Service,

(b) An urban Indian organization assisted under Subdivision J-6.

(c) In private practice of his or her profession if, the practice (1) Is situated in a physician or other health professional shortage area as determined under 42 CFR 62.7 and (2) addresses the health care needs of a substantial number of Indians as determined by the Secretary in accordance with guidelines of the Service.

§ 36.334 Distribution of scholarships.

The Secretary, acting through the Service, shall determine the distribution of Indian Health Scholarships among the health professions based upon the relative needs of Indians for additional service in specific health professions. In making that determination the needs of the Service will be given priority consideration. The following factors will also be considered:

(a) The professional goals of recipients of scholarships under section 103 of the Indian Health Care Improvement Act;

(b) The professional areas of study of Indian applicants.

SUBDIVISION J-5.—CONTINUING EDUCATION ALLOWANCES

§ 36.340 Provision of continuing education allowances.

In order to encourage physicians, dentists and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people reside the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service in order to enable them to leave their duty stations for not to exceed 480 hours of professional consultation and refresher training courses in any one year.

SUBDIVISION J-6.—CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

§ 36.350 Contracts with Urban Indian organizations.

(a) The Secretary, acting through the Service, to the extent that funds are available for the purpose, shall contract with urban Indian organizations selected under section 36.351 of this subdivision to carry out the following activities in the urban centers where such organizations are situated:

(1) Determine the population of urban Indians which are or could be recipients of health referral or care services;

(2) Identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;

(3) Assist such resources in providing service to such urban Indians;

(4) Assist such urban Indians in becoming familiar with and utilizing such resources;

(5) Provide basic health education to such urban Indians;

(6) Establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;

(7) Identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(8) Make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(9) Provide or contract for health care services to urban Indians where local health delivery resources are not available, not accessible, or not acceptable to the urban Indians to be served.

(b) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 as amended (The Miller Act, 40 U.S.C. 270a et seq. which is concerned with bonding requirements).

(c) Payments under contracts may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of Title V of the Act.

(d) Nowithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this subdivision as necessary to carry out the purposes of Title V of this Act; Provided, however, that whenever an urban Indian organization requests retrocession of the Secretary for any such contract, retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

(e) In connection with any contract made pursuant to this subdivision, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities by the Federal Government with his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

§ 36.351 Application and selection.

(a) Proposals for contracts under this subdivision shall be submitted in such form and manner and at such time as the Secretary acting through the Service may prescribe.

(b) The Secretary, acting through the Service shall select urban Indian organizations with which to contract this subdivision after consideration of the following factors:

(1) The extent of the unmet health care needs of the urban Indians in the urban center involved in terms of disease incidence and prevalence, life expectancy, infant mortality, dental needs, housing conditions, family income, unemployment statistics etc.

(2) The urban Indian population which is to receive assistance in the following order of priority:

(i) 9,000 or more;
(ii) 4,500 to 9,000;
(iii) 3,000 to 4,500;
(iv) 1,000 to 3,000.

(3) The relative accessibility which the urban Indian population to be served has to health care services in the urban center. Factors to be considered in determining relative accessibility include:

(i) Cultural barriers;
(ii) Discrimination against Indians;
(iii) Inability to pay for health care;
(iv) Lack of facilities which provide free care to indigent persons;
(v) Lack of state or local health programs;
(vi) Technical barriers created by State and local health agencies;
(vii) Availability of transportation to health care services;
(viii) Distance between Indian residences and the nearest health care facility.

(4) The extent to which required activities under section 36.350(a) of this subdivision would duplicate any previous or current public or private health services projects in the urban center funded by another source. Factors to be considered in determining duplication include:

(i) Urban Indian utilization of existing health services funded by other sources;
(ii) Urban Indian utilization of existing health services delivered by an urban Indian organization funded by other sources;
(iii) How near other sources of health services are to facilities of the applicant urban Indian organization.

(5) The appropriateness and likely effectiveness of the activities required in § 36.350(a) of this subdivision in the urban center involved.

(6) The capability of the applicant urban Indian organization to perform satisfactorily the activities required in § 36.350(a) of this subdivision and to contract with the Secretary.

(7) The extent of existing or likely future participation in the activities required in § 36.350(a) of this subdivision by appropriate health and health related Federal, State, local, and other resource agencies.

(8) Whether the city is identified as a Bureau of Indian Affairs relocation site.

(9) Whether the city has an existing urban Indian health clinic.

(10) The applicant organization's record of performance, if any, in regard to any of the activities required in § 36.350 (a) of this subpart.

(11) Letters demonstrating local support for the applicant organization from both the Indian and non-Indian communities in the urban center involved.

§ 36.352 Fair and uniform provision of services.

Contracts with urban Indian organizations under this subdivision shall incorporate the following clause:

The Contractor agrees, consistent with medical need, to make no discriminatory distinctions among Indian patients or beneficiaries of this contract. For the purpose of this contract discriminatory distinctions include but are not limited to the following actions not based upon medical need:

(a) Denying a patient any service or benefit or availability of a facility;

(b) Providing any service or benefit to a patient which is different, or is provided in a different manner or at a different time from that provided to other patients under this contract; subjecting a patient to segregation or separate treatment in any manner related to the receipt of any service; restricting a patient in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service benefit; discriminating against a patient in determining whether the patient satisfies any admission, enrollment, quota, eligibility, membership, or other requirements or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of discriminatory distinctions not based on medical needs.

§ 36.353 Reports and records.

For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to § 36.350(a) (7) and (8) of this subdivision, information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.

SUBDIVISION J–7.—LEASES WITH INDIAN TRIBES

§ 36.360 Leases with Indian tribes.

(a) Any land or facilities otherwise authorized to be acquired, constructed, or leased to carry out the purposes of the Act may be leased or subleased from Indian tribes for periods not in excess of twenty years.

(b) Leases entered into pursuant to paragraph (a) shall be subject to the requirements of section 322 of the Economy Act (40 U.S.C. 278a), which limits expenditures for rent and alterations, improvements and repairs on leased buildings.

[FR Doc.77–14647 Filed 5–20–77;8:45 am]

[41 CFR Part 3–4]

NEGOTIATED PROCUREMENT UNDER THE BUY INDIAN ACT

Proposed Rulemaking

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed Rules.

SUMMARY: These proposed rules prescribe Department policy on preferential purchasing from Indians and Indian firms under section 303 of the Indian Health Care Improvement Act, and the negotiating authority of the Buy Indian Act.

DATES: Comments on these proposed rules must be received by July 7, 1977.

ADDRESS: Written comments on these proposed rules may be sent to the Director, Indian Health Service, Room 5A–55 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT:

Robert C. Birch, Indian Health Service, (301–443–1044).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend subpart 3–4.57 of 41 CFR to accord with section 303 of the Indian Health Care Improvement Act, P.L. 94–437 (25 U.S.C. 1633), and for other purposes described below.

PREFERENCE TO INDIANS AND INDIAN FIRMS

Under section 303(a) of the Indian Health Care Improvement Act, the Secretary may use the negotiating authority of the Buy Indian Act (25 U.S.C. 47) to give preference to Indians and Indian firms: (1) In the construction and renovation of Indian Health Service facilities and (2) in the construction of sanitation facilities for Indian homes and communities. The Secretary may give a preference unless he finds, in accordance with regulations and certain criteria specified in section 303(a), that the project to be contracted for will not be satisfactory or cannot be properly completed or maintained under the proposed contract. The proposed regulations would amend 41 CFR Subpart 3–4.57, which governs negotiated procurement under the Buy Indian Act, to accord with section 303 of the Indian Health Care Improvement Act, by:

(1) Adding a new § 3–4.5705 specifying evaluation criteria to be considered in making the above findings, and

(2) Revising the definition of Indian firm in § 3–4.5702–2.

In addition the proposed regulations would include nonprofit firms organized for the benefit of Indians and controlled by Indians in the definition of Indian firm in § 3–4.5702–2. A change is also proposed regarding the degree of Indian ownership of a firm. The present regulation at § 3–4.5703 provides that the degree of Indian ownership or control be 100 percent during the period of a Buy Indian contract unless a deviation from the 100-percent requirement is approved on an individual basis by the appropriate Are Director of the Indian Health Service. However, there is no limitation on the extent of the deviation from the 100-percent requirement that may be approved. The proposed amendment to § 3–4.5703 would restrict approved deviations to not less than 51 percent Indian ownership.

PUBLIC PARTICIPATION

The regulations policies of the Department published August 17, 1976 (41 FR 34811) require that this notice of proposed rulemaking (NPRM) have a regulations development plan (RDP) prepared prior to its issuance. In compliance with these requirements, a plan was forwarded to the Secretary who authorized the issuance of this NPRM without the use of a Notice of Intent (NOI) which would otherwise be required by such policies because:

1. The Indian Health Care Improvement Act (Pub. L. 94–437), contains a stringent schedule for the publication of these regulations; and

2. There have been, since Pub. L. 94–437 was enacted, over 110 meetings in 47 communities involving IHS staff working with national and regional Indian organizations, Indian leaders, other Indian and Alaska Native people, and other interested parties. This consultation process and active participation has been instrumental in the development of the rules and regulations necessary to implement the Act, and has satisfied both the spirit and intent of the NOI.

A description of the consultation process initiated by the Indian Health Service and applicable to these proposed rules is contained in the preamble to the proposed rules for Indian Health Care Improvement Act Programs published concurrently with these proposed rules.

Written comments concerning the proposed regulations set out below are invited. Written data, views, or arguments relating to the proposed regulations may be presented in writing to the Director, Indian Health Service, Room 5A55, 5600 Fishers Lane, Rockville, Maryland 20857. Commentors are encouraged to reference their comments by section of the proposed regulations although this is not required. All material received will be available for public inspection and copying at the above address on weekdays (Federal holidays excepted) between the hours of 9 a.m. and 5 p.m. and all material received on or before July 7, 1977, will be considered in the preparation of the final regulation.

The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 22, 1977.

JAMES F. DICKSON III, M.D.,
Assistant Secretary for Health.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

Part 3–4 of Title 41 is amended by amending subpart 3–4.57 as follows:

Subpart 3–4.57—Negotiated Procurement Under the Buy Indian Act

AUTHORITY: Sec. 303 of Pub. L. 94–437 (25 U.S.C. 1633); 25 U.S.C. 47; sec. 702 of Pub. L. 94–437 (25 U.S.C 1672)

1. Section 3–4.5700 is amended to read as follows:

§ 3–4.5700 Scope of subpart.

This subpart sets forth policy on preferential purchasing from Indians under the negotiating authority of the Buy Indian Act. Applicability of this subpart is limited to procurements made by or on behalf of the Indian Health Service, U.S. Public Health Service.

2. At the end of § 3–4.5701 add the following:

§ 3–4.5701 Policy.

• • • Section 303 of the Indian Health Care Improvement Act (P.L. 94–437) calls for the use of the Buy Indian Act in the construction and renovation of facilities pursuant to section 301 of that Act and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302 of that Act.

3. Section 3–4.5702–2 is amended to read as follows:

§ 3–4.5702–2 Indian Firm.

An Indian firm means a sole enterprise, partnership, corporation, or other type of business organization owned and controlled by one or more Indians (including, for the purpose of sections 301 and 302 of Pub. L. 94–437, former or currently federally recognized Indian tribes in the State of New York) or by an Indian firm; or a non-profit firm organized for the benefit of Indians and controlled by Indians.

4. Paragraph (a) of § 3–4.5703 is amended to read as follows:

§ 3–4.5703 Requirements.

(a) *Indian ownership.* The degree of ownership that is called for by § 3–4.5702–2 shall be 100 percent during the period covered by a Buy Indian contract unless a deviation from that 100 percent requirement is approved on an individual basis by the Area or Program Office Director of the Indian Health Service responsible for the area or program with respect to which the Buy Indian contract is to be entered into. Such a deviation, which may be to not less than 51 percent, must be accompanied by an appropriate justification for such a deviation.

• • • • •

5. The following § 3–4.5705 as added to read as follows:

§ 3–4.5705 Evaluation criteria.

(a) A contract may be negotiated with, and preference given to, Indians under the Buy Indian Act only if it is first determined that the project or function to be contracted for is likely to be satisfactorily performed under such a contract and that the project or function is likely to be properly completed or maintained under such a contract.

(b) The determination called for by paragraph (a) to be made prior to the award of a negotiated contract under the Buy Indian Act will be made by the official specified in § 3–4.5704(b). Such determinations are to reflect a consideration of the following criteria:

(1) Whether there is ownership of a business organization, and control of such a business organization or of a nonprofit firm, as is called for by § 3–4.5702–2.

(2) Whether the Indian firm has the equipment, buildings and facilities necessary to assure the efficient and orderly performance of the contract or whether it has reasonable access thereto for that purpose.

(3) Whether the Indian firm has established bookkeeping and accounting procedures, adequate to assure the efficient and orderly performance of the contract, including a compliance with labor requirements and a timely compliance with reporting requirements.

(4) Whether the Indian firm has substantive knowledge of the project or function to be contracted for, based either upon satisfactory performance of a similar project under a prior contract or upon demonstrated experience in managing, or being otherwise intimately involved in, a similar project.

(5) Whether the Indian firm has an adequate number of employees, or has reasonably available to it sufficient personnel, who are or will be under a reasonable on-the-job training program adequately trained to satisfactorily perform the contract.

(6) Whether the Indian firm has the experience and financial ability to adequately perform a contract of the proposed scope and magnitude, considering its present and potential commitments to other projects.

6. At the end of § 3–4.5704 add the following new paragraph (c):

§ 3–4.5704 Competition.

• • • • • •

(c) Contracts proposed to be entered into by the Indian Health Service should by synopsized and publicized in the Commerce Business Daily (See § 1–1.1003–1) and copies thereof sent to the tribal office of the Indian tribal government directly concerned with the proposed procurement as well as to Indian firms and others having a legitimate interest therein. Such synopses should state that to the extent provided for pursuant to the Buy Indian Act qualified Indian firms will be given preference in the award of such contracts.

[FR Doc.77–14648 Filed 5–20–77; 8:45 am]

federal register

MONDAY, MAY 23, 1977

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

PROTECTION OF HUMAN SUBJECTS

Use of Psychosurgery in Practice and Research: Report and Recommendations for Public Comment

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PROTECTION OF HUMAN SUBJECTS

Use of Psychosurgery in Practice and Research: Report and Recommendations of National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of report and recommendations for public comment.

SUMMARY: This report recommends the psychosurgery be used only to meet the health needs of individual patients, and then only under strict limitations and controls, with added safeguards where the patient is a prisoner, minor, or in a mental institution.

DATES: Written comments on the Commission's recommendations are requested and should be received on or before July 22, 1977, if they are to receive full consideration.

ADDRESSES: Send comments to: Office for Protection from Research Risks, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. Additional copies of this Report and Recommendations may be obtained from the same address. All comments received will be available for inspection at Room 303, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland, weekdays (Federal holidays excepted) between the hours of 9 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT:

D. T. Chalkley, Ph. D., Director, Office for Protection from Research Risks, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014 (301–496–7005).

SUPPLEMENTARY INFORMATION: On July 12, 1974, the National Research Act (Pub. L. 93–348) was signed into law, thereby creating the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. One of the charges to the Commission was to conduct an investigation and study of the use of psychosurgery in the United States, to determine the appropriateness of such use, and to recommend to the Secretary of Health, Education, and Welfare policies defining any circumstances under which its continued used might be appropriate. The Secretary is required to publish any such recommendation of the Commission in the FEDERAL REGISTER, which he does herewith, and to provide an opportunity for interested persons to submit written comments, views, arguments, and data with respect to these recommendations. Comments should be identified by the number of the recommendation (1–8) and, to the extent feasible, distinguish between application of the recommendations to (a) medical practice and (b) medical research.

The Secretary is further required to consider the Commission's recommendations and any relevant comments or other matter submitted to him and, on or before November 21, 1977, to (1) determine whether the administrative action proposed by such recommendation is appropriate to assure the protection of human subjects of biomedical and behavorial research conducted or sponsored under programs administered by him, and (2) if he determines that such action is not so appropriate, publish in the FEDERAL REGISTER such determination together with an adequate statement of the reasons for his determination. Since the Department has not yet completed its own review of this report, the views set forth in it are not necessarily those of the Department of Health, Education, and Welfare. The Department will be evaluating the report during the comment period.

Dated: May 2, 1977.

JAMES F. DICKSON,
Acting Assistant
Secretary for Health.

Approved: May 13, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

THE NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

PSYCHOSURGERY REPORT AND RECOMMENDATIONS

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MARCH 14, 1977.

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INTRODUCTION

In response to widespread public concern, the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research was directed to investigate and to recommend policies that should govern the use of psychosurgery. Specifically the Commission's mandate under section 202(c) of the National Research Act (Pub. L. 93–348) requires that:

> The Commission shall conduct an investigation and study of the use of psychosurgery in the United States during the five-year period ending December 31, 1972. The Commission shall determine the appropriateness of its use, evaluate the need for it, and recommend to the Secretary policies defining the circumstances (if any) under which its use may be appropriate. For purposes of this paragraph; the term "psychosurgery" means brain surgery on (1) normal brain tissue of an individual who does not suffer from any physical disease, for the purpose of changing or controlling the behavior or emotions of such individual, or (2) diseased brain tissue of an individual, if the sole object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual. Such term does not include brain surgery designed to cure or ameliorate the effects of epilepsy and [sic] electric shock treatments.

To discharge its duties under this section of the mandate, the Commission: (1) Convened a group of scientific consultants; (2) on the basis of the consultants' recommendations, contracted for studies to survey the recent literature on psychosurgerey and to evaluate patients who had undergone psychosurgical operations; (3) held public hearings; (4) supported the National Minority Conference on Human Experimentation, which provided recommendations on the use of psychosurgery; (5) deliberated the issues surrounding the use of psychosurgery, in the light of the views presented to the Commission and the results of the studies performed under contract; and (6) adopted the recommendations that are set forth at the end of this report.

The Commission expanded the statutory definition of psychosurgery by replacing the word "sole" with "primary," so that the definition would read: "Psychosurgery means brain surgery on (1) normal brain tissue * * * or (2) diseased brain tissue of an individual, if the primary object of the performance of such surgery is to control, change, or affect any behavioral or emotional disturbance of such individual." Under this wording, surgery with a dual purpose (e.g., relief of seizures as well as relief of emotional disorders) falls within the definition of psychosurgery if the predominant reason for performing the operation is to affect the behavioral or emotional disturbance.

The Commission also specified, for clarification, that psychosurgery includes the implantation of electrodes, destruction or direct stimulation of brain tissue by any means (e.g., ultra-sound, laser beams), and the direct application of substances to the brain, when the primary purpose of such intervention is to change of control behavior or emotions. Further, the Commission made clear that surgery for the relief of various movement disorders, such as epilepsy and parkinsonism, are not included within the definition of psychosurgery. (The legislative mandate mentioned only epilepsy. In addition, the Commission followed the Congressional exclusion of "electric shock treatments" from the definition of psychosurgery and, thus, from its investigation and report. Finally, with respect to pain, the legislative definition was silent and there is no agreement in the medical or scientific community as to whether brain surgery for relief of pain should or should not be considered psychosurgery. The Commission, on the advice of its scientific and medical consultants, specified that surgery or other invasions of the brain which interrupt the transmission of pain along sensory pathways should not be considered psychosurgery; however, when such procedures are applied to relieve the emotional response to persistent pain, without affecting the transmission of pain, they would fall within the definition of psychosurgery.

The period studied by the Commission was extended from five to ten years (1965–1975), in order to obtain a larger patient population and to permit the evaluation of patients over a longer post-operative period.

Chapters 1, 2, and 3 of this report provide a short history of the use of psychosurgery and the focus of public concern in this area, a description of the issues that have been raised in the literature, and a discussion of various legal approaches that have been taken. The results of the studies performed under contract for the Commission are summarized in Chapter 4. Proceedings and recommendations of the National Minority Conference on Human Experimentation and views presented at the Commission's public hearings on psychosurgery are summarized in Chapter 5. The Commission's recommendations defining the appropriate circumstances for the use of psychosurgical procedures are set forth in Chapter 6. The dissenting opinion of one member of the Commission is set forth in the final chapter. The full text of the survey of current literature on psychosurgery and of the reports of the two teams that evaluated psychosurgical patients under Commission contracts appear in the Appendix to this report.

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CHAPTER 1—BACKGROUND

BRIEF HISTORY OF PSYCHOSURGERY

The earliest account of psychosurgery was published in 1891 by Burckhardt, who had tried to calm very excitable patients by destroying a strip of cerebral cortex. In spite of his belief that some patients improved, the operations were discontinued due to vigorous opposition. The widespread adoption of psychosurgery is generally attributed to the Portuguese neuropsychiatrist, Egas Moniz. In 1935, after hearing a report of the calming effect of frontal lobe ablation on monkeys and chimpanzees, Moniz and a surgical colleague, Almeida Lima, operated on the frontal lobes of psychiatic patients. Moniz' monograph describing the generally favorable results obtained on his first twenty patients encouraged neuropsychiatrists and neurosurgeons around the world to adopt similar procedures. In 1936, Freeman, a neurologist, and Watts, a neurosurgeon, introduced psychosurgery into the United States, and by 1950 they had operated on over 1,000 patients. Freeman later indicated that up to the time of his retirement he had performed or supervised psychosurgical procedures on more than 3,500 patients.

The urgent need for efficient treatment of many psychiatrically disturbed veterans of World War II and optimistic reports of the results of psychosurgery resulted in its wide-scale adoption following the war. It is estimated that 40,000 prefrontal lobotomies were performed in the United States, the majority of them in the decade following 1945. By the late 1950's, reports of undesirable side effects from the operations and the introduction of psychoactive drugs produced a sharp decline in lobotomies, although a few such operations have been performed up to the present. In the 1960's, however, the accumulation of knowledge of the neuroanatomical regions that regulate emotionality and the refinement of surgical techniques encouraged the belief that crippling psychiatric symptoms could be alleviated with a minimum of risk by making small and very localized lesions. The numerous attempts over the last decade to focus psychosurgery on precise targets have generated public concern and legislative responses.

RISE OF PUBLIC CONCERN

Coinciding with the development of refined techniques for psychosurgery, the climate of political unrest in the late 1960's, general fear of behavior control and concern about abuse of minorities provided the background against which Dr. Peter Breggin (a Washington, D.C., psychiatrist) began to publish articles warning about the "new wave of psychosurgery" and the "return of the lobotomy." These appeared in popular as well as scientific publications; two lengthy articles were entered in the "Congressional Record" in February and March 1972.[1] Breggin expressed alarm about the increased incidence of psychosurgery (which, he said, was undertaken without scientific justification or proper evaluation) and about the political implications of suggestions by Mark, Sweet and Ervin that urban riots and other acts of "senseless violence" might be prevented (at least in part) by appropriate diagnostic techniques and surgical intervention. Mark et al. had made such a suggestion in a letter to the "Journal of the American Medical Association" in September 1967, and again in their book, "Violence and the Brain," which appeared in 1970.[2] The movie "Clockwork Orange" and Crichton's novel The Terminal Man (1972) added fuel to the fire, as did reports that three prisoners in California had received psychosurgery,[3] and that the Justice Department was supporting research that might involve further operations on prisoners in California facilities.[4] In February 1973, these issues received wide circulation in an article by B. J. Mason in "Ebony" magazine.

Beginning in the fall of 1972 and throughout 1973, Senator Sam Ervin, Chairman of the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, conducted a lengthy correspondence with officials of the Department of Health, Education, and Welfare and the Law Enforcement Assistance Administration (LEAA) in the Department of Justice, regarding the nature and extent of federal involvement in behavior modification in general and psychosurgery in particular.[5] In February 1974, LEAA terminated its support of research involving the performance of psychosurgery.[6]

In January 1973, Gabe Kaimowitz of Michigan Legal Services intervened on behalf of a mental patient who was to become the first subject in a research project designed to compare the effects of psychosurgery with the effects of hormone treatments in reducing aggression. The research had been funded by the Michigan state legislature, and both a scientific and a human rights review committee at the clinic where the operation would be performed had approved the procedure. In July 1973, a three-judge Michigan court held that an involuntarily confined mental patient cannot give valid consent to participate in an experiment of such a hazardous and irreversible nature.[7]

In September 1973, during the Senate floor debate on the bill which became the National Research Act, Senator Beall offered an amendment which provided for a two-year moratorium on the performance of psychosurgery in facilities that receive federal funds, until the Commission completed a study of the use of psychosurgery during the recent past, as well as a case-by-case study "of a sufficient number of cases (together with followup information thereon) to provide the basis for an objective scientific evaluation" of the results of such operations. During the debate, the moratorium provision was deleted on the grounds that Congress had insufficient information to justify such a measure. The

amendment was further modified in conference to require simply that the Commission study the use of psychosurgery in the United States and recommend to the Secretary, DHEW, the circumstances "if any" under which its use may be appropriate.

The scientific community also became concerned about psychosurgery. In 1973, the National Institute of Mental Health undertook to study the issues surrounding the use of psychosurgery, and the National Institute of Neurological Diseases and Stroke empaneled a multidisciplinary committee to report on biomedical research aspects of brain and aggressive behavior. In August 1973, the American Psychological Association's Division of Physiological and Comparative Psychology held a symposium on the legal, ethical and scientific aspects of psychosurgery. A multidisciplinary conference on the same subject was held in December 1973 by the Boston University Center for Law and Health Sciences. The American Psychiatric Association appointed a task force to determine the extent of psychosurgery in the United States and to study the issues; and the Society for Neurosciences polled its members as a preliminary to drafting a position paper on the subject.

By the time the Commission was created, therefore, much had been written on the scientific, legal and ethical issues surrounding the use of psychosurgery; but relatively little was known about the nature and extent of its use, the kinds of patients receiving operations, or the safety and efficacy of the various procedures.

FOOTNOTES

NOTE.—The following publications contain many of the papers listed below:

"B.U. Symposium": Boston University Center for Law and Health Sciences, Psychosurgery—A Multidisciplinary Symposium," Boston University Law Review, Lexington Books, 1974.

"Individual Rights Report": U.S. Senate, Judiciary Committee, Subcommittee on Constitutional Rights, "Individual Rights and the Federal Role in Behavior Modification," U.S. Government Printing Office, November 1974.

"Health Care Hearings": U.S. Senate Committee on Labor and Public Welfare, Subcommittee on Health, "Quality of Health Care—Human Experimentation," Part 2, February 23, 1973.

[1] Peter Breggin, "Congressional Record," February 24, 1972, p. 5567 and March 30, 1973, p. 11396, reprinted in Health Care Hearings, pp. 437 and 455.

[2] Vernon Mark, William Sweet and Frank Ervin, The Role of Brain Disease in Riots and Urban Violence, "J.A.M.A., Vol 201, No. 11, Sept. 11, 1967; Mark and Ervin, "Violence and the Brain," Harper and Row, New York, 1970 (Chs. 11 and 12 reprinted in Individual Rights Report, p. 596 ff.)

[3] Leroy Aarons, Brain Surgery is Tested on 3 California Convicts, "The Washington Post", February 25, 1972.

[4] See Individual Rights Report, p. 299 ff.

[5] *Ibid.*, pp. 49–70, 299–313.

[6] *Ibid.*, p. 308.

[7] *Kaimowitz v. Department of Mental Health*, Civil No. 73–19434–AW Circuit Court for the County of Wayne, State of Michigan, July 10, 1973; reprinted in Individual Rights Report, p. 501 ff.

CHAPTER 2—ISSUES SURROUNDING THE USE OF PSYCHOSURGERY

A central issue surrounding psychosurgery has been the underlying scientific justification. Breggin [1] and Chorover [2] have argued, for example, that the risks of psychosurgery are high, especially because the procedures are irreversible, and that the data regarding the effects of surgical intrusion on the brain are inconclusive and contradictory. They have observed, further, that for the most part the safety and efficacy of psychosurgery have been evaluated and reported by surgeons who lack either the expertise or objectivity to conduct reliable assessments of changes in psychiatric status or of cognitive function. These critics have cited the imprecision of psychiatric diagnosis and assessment as a further handicap in evaluating the effects of psychosurgery. Thus, they have argued, reliable categorization of patients with respect to their illnesses and precise assessment of behavioral changes are not possible. In addition, as Valenstein has observed,[8] most psychosurgery is performed in the context of practice (i.e., without a research protocol or review), and there have been few systematic attempts to measure preoperative status against postoperative gains or losses, or even to have evauations performed by persons who have no vested interest in the outcome. Another criticism voiced by Chorover, Valenstein and others is that surgeons are applying techniques to humans on the basis of selective attention to the results of animal research, i.e., without full knowledge or appreciation of the complexity and implications of the animal data.[9] They have referred, for example, to reports that lesions in the limbic system in animals produce unreliable and unpredictable results, often either increasing aggression or producing marked abnormalities in behavior.[10]

Concerns of a different nature center around the problem of obtaining informed consent. A question that has been raised in this context is whether an individual who is an appropriate candidate for psychosurgery is able to give valid consent to the surgery; and if not, whether potential conflicts of interest should bar third parties from consenting on behalf of another, for it may be the caretaker or society, rather than the patient, who stands to benefit from performance of the surgery.[11] This concern has led to suggestions that psychosurgery not be performed on children, prisoners and patients who are involuntarily confined in institutions.[12]

A related concern is that it may not be acceptable for an individual to consent to permanent alteration of the bodily organ which is generally thought to be the locus of that which we call the "self" or the "mind." Whether or not psychosurgery differs significantly in this regard from other therapies for behavior disorders, however, is an article of debate. Chorover has described psychosurgery as brain surgery performed upon specific cerebral structures in such a way as to effect changes in thought processes, personality characteristics, behavior patterns, and other aspects of subjective experience.[13] Breggin has gone even further, suggesting that such intrusion constitutes "mutilation" of the sort which is generally prohibited in the common law.[14] On the other hand, Neville (a philosopher) has observed that:

> Psychosurgery does not affect the brain as much as do many procedures for treating tumors or aneurysms. It does not affect nearly so many people as does the prescription of psychoactive drugs. It does not affect people as profoundly, at the heart of their character, as does psychoanalysis. Furthermore, in comparison with these other methods of altering behavior, psychosurgery is practiced in no greater ignorance of how and why it works. Yet, it seems far more drastic in its directness, more variable in its possible outcomes, and surely irreversible in the sense that it destroys brain tissue.[15]

In this regard, it has been observed that prolonged drug therapy and electroshock treatments both may have irreversible effects with respect to brain pathology as well as with respect to behavior and cognitive function.[16]

Breggin and Chorover, among others, have voiced deep concerns that psychosurgery will be used (or misused) as a social or poltical tool, applying socially determined definitions of "abnormal" behavior to justify controlling dissidents or subduing individuals whose behavior is disruptive or otherwise bothersome. They charge that psychosurgery has been, or will be, used selectively against blacks, women, other minorities, and person who are institutionalized.[17] On the other hand, Frank Ervin has argued that for purposes of manipulating the behavior of large groups of people, or of individuals over a prolonged period of time, the best technique is clearly biochemical. Drugs, he has said, can be applied surreptitiously and on a broad scale with dependable effects and with relative ease, whereas surgery is difficult to apply either in secret or on a wide scale because it involves elaborate procedures, equipment and personnel.[18] Willard Gaylin, President of the Hastings Institute, testified in the same vein before Senator Kennedy's subcommittee:

> It seems unlikely, if there were some plot to take over the country by a totalitarian, • • • that psychosurgery would be the method of choice. I doubt that they would find the most efficient technique for mass control would be planting electrodes on a population of 200 million, or psychosurgery, when they have access to a limited (sic) national television, and to schools with compulsory education, to psychological inputs and to drugs, all of which afford a more convenient, cheaper, economic mass method of manipulation.
>
> • • • [W]hile I think the problem of psychosurgery is less pressing than other aspects of behavior control, • • • it is a lightning rod issue and it does deserve great attention because it focuses on some problems that transcent itself.[19]

A final issue is the status of psychosurgery as a therapeutic device. While some surgeons, notably Andy, have argued that psychosurgery is accepted therapy for certain behavioral disorders,[20] others, including Heath,[21] have agreed with Brown and the NIMH [22] that psychosurgery should be considered experimental and should be conducted only within the context of research, subject to all the review provisions and procedures for the protection of human subjects which that implies. Judicial and legislative approaches to the resolution of these issues are discussed in the following chapter.

FOOTNOTES

[8] Peter Breggin, Testimony in Health Care Hearings, also in articles reprinted therein.

[9] Stephen Chorover, Psychosurgery: A Neuropsychological Perspective, in B.U. Symposium, p. 15.

[10] Elliot Valenstein, "Brain Control," John Wiley & Sons, New York, 1973, p. 296; see also Valenstein, "The Practice of Psychosurgery: A Survey of the Literature (1971–1976)," submitted to the Commission in June 1976 (included in the Appendix to this report).

[11] See especially Valenstein, "Brain Control," pp. 326–355.

[12] Chorover, in B.U. Symposium, p. 22; National Institute of Neurological Diseases and Stroke, "Report on the Biomedical Research Aspects of Brain and Aggressive Behavior" (hereinafter "NINDS Report"), October 23, 1973, Part I–C: Behavioral Studies, pp. 110–122; Valenstein, "Brain Control," p. 137 ff.

[13] George Annas and Leonard Glantz., Psychosurgery—The Law's Response, in B.U. Symposium, p. 33.

[14] Chorover, in B.U. Symposium, p. 31; Alan A. Stone, M.D., et al., "Task Force Report—Psychosurgery in Massachusetts" (majority report) and proposed regulations, June 1975.

[15] Chorover, in B.U. Symposium, p. 21.

[16] Breggin, in Health Care Hearings, pp. 358–359.

[17] Robert Neville, Pots and Black Kettles: A Philosopher's Perspective on Psychosurgery, in B.U. Symposium, p. 128.

[18] Vernon Mark, Psychosurgery Versus Anti-Psychiatry, in B.U. Symposium, especially pp. 9–10, citing American College of Neuropsychopharmacology—FDA Task Force, Neurological Syndromes Associated with Antipsychotic Drug Use: A Special Report, "Arch. Gen. Psychiatry," Vol. 28, 1973, p. 463. See also report to the Commission by Teuber, *et al.*, "The Effects of Cingulotomy in Man," June 1976, pp. 8, 10–11, 75–76 (included in the Appendix to this report).

[19] See especially Breggin, in Health Care Hearings, p. 438; Chorover, in B.U. Symposium, p. 29; and Neville, in B.U. Symposium, p. 135. See also, "Report and Recommendations of the Minority Conference on Human Experimentation," pp. 21–22.

[20] Frank Ervin, Biological Intervention Technologies and Social Control, "American Behavioral Scientist," Vol. 18, No. 5, May/June 1975, p. 627.

[21] Willard Gaylin, in Health Care Hearings, p. 374.

[22] Orlando J. Andy, in Health Care Hearings, p. 350.

[23] Robert G. Heath, in Health Care Hearings, p. 365.

[24] Bertram S. Brown, in Health Care Hearings, p. 342; National Institute of Mental Health, "Psychosurgery—Perspective on a Current Issue," 1973, p. 8.

CHAPTER 3—LEGAL CONSIDERATIONS

Oregon and California have enacted legislation providing for the regulation of psychosurgery, and courts in Michigan and California have explored a number of informed consent and constitutional issues raised by certain regulatory requirements and by the performance of psychosurgery under certain conditions. Chief among these issues are the constitutionality of mandatory review boards and the validity of consent given by the involuntarily confined or their proxies.

LEGISLATION

In 1973 Oregon enacted the first comprehensive legislation for the regulation of psychosurgery.[25] The Oregon statute provides that psychosurgery may be performed only if a Psychosurgery Review Board ("Review Board") has approved the performance of the operation on the individual patient. The Review Board is composed of nine members appointed by the governor from specified medical, psychological, neuroscientific and lay backgrounds.[26]

A physician seeking to perform psychosuregery must first file a petition with the Review Board stating that the patient or legal guardian, if any, has consented and that the proposed treatment has "legitimate clinical value" and is "needed" by the patient. The Review Board is composed of nine members hearing," giving notice to the concerned parties, to determine whether the patient or legal guardian has given and continues to give a "voluntary and informed" consent. If the patient is believed to lack the capacity for voluntary and informed consent, and there is no legal guardian, the Review Board must request that one be appointed. The patient and guardian must be notified of their respective right to legal representation at the consent hearing. Indigent persons are entitled to appointed counsel upon request.

If the Review Board finds that adequate consent has been given, it must then determine whether the proposed operation has clinical merit and is an "appropriate" therapy for the specific patient. Several requirements must be met before an operation may be deemed appropriate:

(1) All conventional therapies must have been attempted;

(2) Criteria for selection of the patient must have been met;

(3) The operation must offer hope of saving life, reestablishing health or alleviating suffering; and

(4) All other viable alternative methods of treatment must have been tried and have failed to produce satisfactory results.

The Review Board may conduct site visits or consultations with experts in the field during the course of its deliberations. The Review Board itself may undertake a specific diagnostic evaluation to aid in its determination. If the operation is permitted, a written report of the outcome must be transmitted to the Review Board.

In 1974 California enacted two somewhat differing approaches to the regulation of psychosurgery. The first is legislation covering the availability of therapies to have involuntarily confined pursuant to the penal code, wherever institutionalized," and the second legislation regulates the performance of psychosurgery upon all other persons, whether institutionalized or not.[27] The latter legislation has been replaced by a substantially similar 1976 act (to become effective in 1977) [28] in response to a court decision discussed below.

The preambles to the penal legislation and the 1976 act state their intent to protect the constitutional rights of privacy and freedom from enforced interference with thought processes and states of mind through the use of "organic" therapies.[29] The principal distinction between the California and Oregon legislation is that California does not recognize proxy or guardian consent to psychosurgery; rather, the performance of psychosurgery upon individuals who lack the capacity for informed consent as defined in the California statutes is prohibted.[30] This prohibition extends to minors under the age of 18 years.[31]

Both California acts recognize that a person under guardianship, having been adjudicated legally incompetent as a general matter, may nevertheless retain the specific capacity for informed consent to psychosurgery. Conversely, an otherwise legally competent patient may lack such capacity and would therefore be ineligible for psychosurgery. The two acts also explicitly reject the notion that a person lacks the capacity for informed consent solely as a consequence of being diagnosed as "mentally ill, disordered, abnormal or mentally defective."

The distinctive feature of the California penal legislation is a provision for mandatory judicial review. The warden or superintendent of the confining institution must petition a court for an order authorizing psychosurgery, specifying what "mental illness, disorder, abnormality, or defect justifies" the psychosurgery. The court must appoint both an independent medical expert and a public defender for the indigent. The court must first determine whether the person has the capacity for informed consent and has manifested that capacity in the process of consenting to psychosurgery. If the court so finds, it then must review the merits of the proposed operation. To authorize psychosurgery, the court must find that the operation would be "beneficial"; that there is a "compelling interest justifying" the operation; that there are "no less onerous alternatives"; and that the operation "is in accordance with sound medical-psychiatric practice."

The 1976 California act does not require judicial review of proposed psychosurgery on persons outside of the criminal justice system. It relies instead upon a committee's review of both the patient's consent and the merits of the operation. The California legislation differs from the Oregon approach in that the review committee is decentralized and composed only of physicians. A committee of three physicians, one appointed by the facility where the operation is to take place and two appointed by the local mental health director, must include two psychiatrists or neurosurgeons who are board-certified or eligible. Because the committee is composed only of physicians, its proceedings are clearly covered

by the physician/patient privilege. After personally examining the patient and agreeing that the patient has the capacity for informed consent, the committee must also agree with the attending physician that "all other appropriate treatment modalities have been exhausted," and that the operation "is definitely indicated and is the least drastic alternative available" for treatment at the time. There is also a "cooling-off" period; no psychosurgery may be performed for at least 72 hours after the patients written consent.

CASE LAW

Shortly after the enactment of the Oregon legislation, a well -publiciz case involving psychosurgery was decided by a Michigan state court in "Kaimowitz v. Department of Mental Health."[1] "Kaimowitz" involved an involuntarily detained adult mental patient who was confined as a criminal sexual psychopath. The patient and his parents had all signed consent forms for his participation in a study of the effects of amygdalotomy on aggression; but the court held that there could be no legally adequate consent to the operation.

The court first reasoned that the combined effects of institutionalization and the hazardous and unknown effects of the proposed amygdalotomy precluded the finding of a factually adequate consent by the patient. The "inherently coercive environment" was said to prevent consent to such an experimental procedure from being "competent" and "voluntary," while the lack of a scientific basis for predicting the outcome was stated to render the consent "unknowledgeable."

Some commentators have construed the opinion to find the factors of institutionalization and unfavorable risk/benefit ratio to be separate and independent reasons for invalidating the consent.[2] However, the court noted that its holding did not prevent involuntarily confined patients from giving adequate consent to neurological procedures or even to amygdalotomy should it become an accepted, nonexperimental procedure. The court stated that its conclusion was based upon the expert opinion presented during the 1973 trial on the probable effects of amygdalotomy, that it would flatten emotional responses, lead to impairment of memory, learning and abstract reasoning ability, and cause general apathy, leaving open the possibility of reaching a different result in the future if presented with different evidence on the effects of amygdalotomy.

The "Kaimowitz" court also stated alternative, constitutional reasons for not recognizing the patient's consent. The court reasoned that the First Amendment freedom of speech necessarily protects the freedom to generate ideas.[3] Thus, if the psychosurgery would interfere with memory or affect, it would impair the right "to be free from interference with * * * mental processes." Similarly, the court argued that the constitutional right of privacy protects the privacy of the mind as much as it does the well-established privacy of the marital bed.[4] The court then concluded that these constitutional protections prevented the state from accepting the patient's consent to the proposed psychosurgery.

With respect to the consent of the parents, "Kaimowitz" refused to acknowledge third-party consent on the unelaborated ground that a guardian may not consent to psychosurgery to which the patient may not consent.

The informed consent and constitutional rulings of "Kaimowitz" have not been universally accepted. "Kaimowitz'" argument that in voluntarily detained persons do not have the capacity for informed consent to psychosurgery has been criticized by commentators.[5] Moreover, the California penal legislation, enacted after the "Kaimowitz" decision, rejected the theory that involuntary confinement by itself precluded capacity for consent to risky experimental therapy. The constitutional barriers to valid consent set up by "Kaimowitz" have been greeted even more skeptically. It is not clear whether the court was concluding that (1) an involuntarily confined patient's free speech and privacy rights prevented the patient, regardless of his or her capacity for informed consent, from giving a valid consent, or (2) the constitutional protections required a conclusive presumption that all such patients be considered incompetent to consent. The first interpretation is severely questioned when applied to patients who would otherwise have the capacity for informed consent. Commentators have argued that the Constitution can no more preclude consent to psychosurgery than it can forbid consent to standard psychotherapy. In both cases, the Constitution protects the competent individual's right to choose whether or not to permit interference with his or her mental activity.[6] The second interpretation has also been criticized harshly. A "conclusive or irrebuttable presumption" of incompetency would appear to conflict with First Amendment and privacy cases which require that individuated rulings must be made on claims which involve infringement of fundamental rights.[7]

A recent California appellate case, *Aden v. Younger*,[8] has implicitly rejected the "Kaimowitz" constitutional arguments. The court was reviewing the 1974 legislation regulating psychosurgery on individuals outside the criminal justice system (see above); the legislation also had provisions concerning electroconvulsive therapy (ECT). The legislation was challenged as an unconstitutional infringement of First Amendment and privacy rights of access to such therapies. The most difficult issues faced by the court were raised by the provision for mandatory approval by a review committee.

The "Aden" court accepted the premise that patients' freedom of thought "intimately touched upon by any regulation of procedures affecting thought and feelings", is protected by the First Amendment and the constitutional right of privacy.[9] Because a requirement for review committee approval may result in the denial of treatment to some patients who both need and desire it, their freedom of thought would remain impaired. Thus the provision for committee review must be justified by a "compelling state interest," as do all state regulations which impair fundamental constitutional rights. It should be noted that the First Amendment and privacy issues are not dependent upon finding psychosurgery (or ECT) to have a direct effect upon high order cognitive processes;[10] rather, psychosurgery is likely to implicate these constitutional protections because the primary purpose of the surgery, by definition, is to control or affect the motions of an individual.

In determining whether there are compelling state interests to uphold the mandatory review committee provisions, the court distinguished between review of the consent and review of the substantive merits of the therapy, and also between treatment of involuntary detained patients and of all others.

With respect to committee review of consent, the state interest in protecting the right to refuse treatment was found clearly to justify a review procedure for ensuring the competency and voluntariness of a patient's consent. Committee review of a mental patient's competence was reasoned to be constitutional because there is reason to suspect incompetence, whether or not the patient is involuntarily detained.

In analyzing the requirement of substantive review of psychosurgery, the court recognized that the legislation was designed to protect individual autonomy.[11] Substantive committee review was then upheld as a means of ensuring the wisdom of the involuntarily detained patient's consent. Thus, the state's compelling interest in preventing involuntary administration of psychosurgery could be implemented by adding a protective layer of administrative review, rather than by categorically rejecting the consent of all involuntarily detained patients, as did "Kaimowitz".

With respect to substantive committee review for patients who are not involuntarily detained and are found competent to consent, the "Aden" court distinguished between psychosurgery and ECT. The court found psychosurgery to be experimental, and more hazardous and intrusive than ECT. The more intrusive a treatment, the stronger the state's interest in its regulation becomes. Thus, the court concluded that the compelling state interest in preventing unnecessary administration of experimental and intrusive treatment justified regulating psychosurgery as a "treatment of last resort," which must be approved by a committee even when the adequacy of the patient's consent has been confirmed.

By contrast, ECT was described as nonexperimental and relatively less intrusive. The court therefore concluded that mandatory committee review of the merits of proposed ECT upon competent patients was an unconstitutional in-

fringement of their right of privacy. Thus, "Aden" apparently left open, as did "Kaimowitz," the possibility that validation of phychosurgical techniques would warrant a different approach to its regulation.

Aside from "Kaimowitz," which refused to recognize proxy consent to amygdalotomy, there have been no cases that have decided the difficult issues raised by third-party consent to psychosurgery.[12] A complete prohibition of psychosurgery upon patients lacking the capacity for consent, however, may not be a permissible approach. "Aden," for example, found a constitutional issue in legislation which may deny patients access to psychosurgery.[13] Although that court found a compelling interest in support of a ban on proxy consent in order to protect the incompetent patient, a flat prohibition may become less compelling if psychosurgical procedures become validated as safe and effective.

CONCLUSION

The "Kaimowitz" approach might not prevail today. With new data indicating that certain physcosurgical procedures are less hazardous than previously thought and potentially of significant therapeutic value, the Oregon model (requiring committee review of both consent and the merits of the therapy, as well as a reporting system recognizing proxy consent, and permitting psychosurgery on involuntarily detained patients) should be secure from constitutional or informed consent doctrine challenges.

FOOTNOTES

[1] 35 Ore. Rev. Stat. § 426.700 et seq.
[2] 35 Ore. Rev. Stat. § 426.750–755.
[3] Cal. Penal Code § 2670 et seq. (West Supp. 1976).
[4] Cal. Welfare & Institutions Code § 5325 et seq. (West Supp. 1976).
[5] A.B. No. 1032, amending ibid., and adding § 5326.6.
[6] See *Stanley v. Georgia*, 394 U.S. 557 (1968); see generally Michael H. Shapiro, Legislating the Control of Behavior Control: Autonomy and the Coercive Use of Organic Therapies, "S. Cal. L. Rev.," Vol. 47, 1974, p. 237. Cf. *Mackey v. Procunier*, 477 F. 2d 877 (9th Cir. 1973).
[7] See also Ohio Rev. Code §§ 5122.271 (A) (7), (B). (Psychosurgery may not be performed upon patients of a hospital for the mentally ill who lack the capacity for informed consent.)
[8] Tennessee has also enacted a statute prohibiting all psychosurgical procedures upon minors. Ch. 489, §§ 1f, 2 (1976) Tenn. Pub. Acts.
[9] *Kaimowitz v. Department of Mental Health*, Civil No. 73–19434–AW, Circuit Court for the County of Wayne, State of Michigan, July 10, 1973; reprinted in Individual Rights Report, p. 510 ff.
[10] George Annas and Leonard Glantz, Psychosurgery—The Law's Response, in B.U. Symposium, pp. 46–47.
[11] See note 6 supra.
[12] See generally Roy G. Spece, Jr., Conditioning and Other Technologies Use to "Treat?" "Rehabilitate," "Demolish?" Prisoners and Mental Patients, "S. Cal. L. Rev.," Vol. 45, 1972, p. 616.
[13] E.g., Jeffrie Murphy, Total Institutions and the Possibility of Consent to Organic Therapies, "Human Rights," Vol. 5, 1975, p. 25.
[14] See, e.g., John B. Mason, *Kaimowitz v. Department of Mental Health:* A Right to Be Free from Experimental Psychosurgery?, in B.U. Symposium, pp. 113–117.
[15] Michael H. Shapiro, Therapeutic Justifications for Interventions into Mentation and Behavior, "Duquesne L. Rev.", Vol. 13, 1975, pp. 673, 738–45.
[16] 57 Cal. App. 3d 662 (1976).
[17] Ibid. at 678–85.
[18] It is an open question whether, for example, psychosurgery to ameliorate severe depression has an effect upon abstract thinking. Compare David L. Braff & Aaron T. Beck, Thinking Disorder in Depression, "Arch. Gen. Psychiatry", Vol. 31, 1974, p. 456, with Nancy C. Andreasen, Do Depressed Patients Show Thought Disorder?, "J. Nervous & Mental Disease", Vol. 163, 1976, p. 186.
[19] Contrast with the severe anti-autonomy approach of Alan A. Stone, M.D., et al., "Task Force Report—Psychosurgery in Massachusetts" (Majority report), and proposed regulations, June 1975, §§ 220.15(D), 220.16 (d) (flat ban on psychosurgery on prisoners; guardian consent recognized where nonprisoner patient has been adjudicated legally incompetent, regardless of capacity for informed consent to psychosurgery).
[20] Citing *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973) (abortion decisions).
[21] Two cases currently in litigation are challenging the validity of proxy consent to psychosurgery; one involves a First Amendment challenge to a prefrontal lobotomy performed with the consent of the patient's uncle. "Three Court Tests for Psychosurgery," "Medical World News", Vol. 17, Oct. 18, 1976, p. 27. Cf. Steve Knowles, Beyond the "Cuckoo's Nest": A Proposal for Federal Regulation of Psychosurgery, "Harv. J. Legis.", Vol. 12, 1975, pp. 610, 630–32.
[22] See Shapiro, supra note 6, "S. Cal. L. Rev.", Vol. 47, 1974, pp. 256–57, 324–34.
[23] A centralized reporting system which provided for confidential processing of patients' identities was upheld against constitutional challenge in *Aden v. Younger*, 57 Cal. App. 3d at 681.

CHAPTER 4—STUDIES PERFORMED FOR THE COMMISSION

The Commission recognized that the existence of a large body of literature relevant to the scientific, legal and ethical issues surrounding the use of psychosurgery obviated the necessity of preparing further papers on these topics. Rather, the need clearly was to obtain data on which to base a response to the issues presented. Information was required regarding the nature and extent of psychosurgery performed in recent years in this country, the characteristics of patients receiving the operations, and the effects of the procedures. In fact, the legislative history of the charge to the Commission regarding psychosurgery indicated that the specific intent was to conduct a systematic examination of patients who had undergone psychosurgery in order to obtain a scientifically valid assessment of outcome.

On June 9, 1975, a group of consultants and Dr. Eliot Stellar, a member of the Commission, met with Commission staff to determine the best way to meet the Commission's need for data.[24] The consultants recommended that the Commission support two studies: First, a literature search (supplemented by personal contacts with surgeons) to attempt to determine the nature and extent of psychosurgery performed in this country in recent years,[25] and second, an objective evaluation of operated patients by a team consisting of a psychologist, a neurologist, a psychiatrist, a neurosurgeon, and a social worker. The examination of patients was proposed notwithstanding the acknowledged limitations of a retrospective study: that there would be no preoperative evaluation of the patients, performed by the same team, against which to measure gains or losses of function clearly attributable to the surgical intervention. Such preoperative data as would exist might be uneven both in quantity and in quality, since the data would be obtainable only through medical records provided by psychiatrists and surgeons directly responsible for the patients' care. Nevertheless, the consultants believed that a retrospective study could provide preliminary answers to some of the most pressing questions regarding the outcome of psychosurgery.

PRACTICE OF PSYCHOSURGERY: SUMMARY OF THE LITERATURE

The Commission contracted with Elliot Valenstein, Professor of Psychology at the University of Michigan, to perform a literature survey to ascertain the nature of psychosurgery performed in recent years in the United States and the purposes for which it was undertaken. This survey was designed to supplement data previously reported in Valenstein's book "Brain Control," which was published in 1973. A library computer search of the English language literature from 1970 to the present yielded approximately 700 articles about psychosurgery or related scientific or ethical issues. Of these articles, 152 were written by individuals having direct contact with either the patients or their medical records and contained information on the results of psychosurgery; 56 additional articles reported on surgery purely for relief of pain or on electrical stimulation of the brain. Of the 152 articles reporting on psychosurgery, 26

[24] Consultants included: David Allen, M.D., Department of Mental Health, Boston; Jesse Barber, M.D., Chief, Department of Neurosurgery, Howard University; Lyle Bivens, Ph. D., Chief, Neuropsychology Section, Behavioral Sciences Research Branch, National Institute of Mental Health; John Donnelly, M.D., Psychiatrist in Chief, Institute of Living, Hartford; Irwin Feinberg, M.D., Chief, Psychiatry Service, Veterans' Administration Hospital, San Francisco; Murray Goldstein, D.O., Chief, Extramural Programs, National Institute of Neurological and Communicative Disorders and Stroke (NINCDS); Warren Huber, M.D., Director, Neurology Service, Veterans Administration; Paul Leaverton, Ph. D., Associate Director for Research, National Center for Health Statistics; Allan Mirsky, Ph. D., Department of Psychiatry, Boston University School of Medicine; Mortimer Mishkin, Ph. D., Laboratory of Neuropsychology, National Institute of Mental Health; Ayub Ommaya, M.D., Acting Chief, Surgical Neurology Branch, NINCDS; Janice Stevens, M.D., Professor of Neuology and Psychiatry, University of Oregon.

[25] It was understood that a survey conducted for the American Psychiatric Association would be completed in time to provide basic data in this area.

referred to operations performed in the United States and 39 referred to operations performed in the United Kingdom.

Valenstein contacted scientists and professional organizations in other countries in order to determine, as best possible, the nature and extent of psychosurgery performed throughout the world. In addition, he incorporated and analyzed the results of two questionnaire surveys conducted by others in an effort to determine with some reliability the incidence and nature of psychosurgical operations performed in this country. One of those surveys had been conducted by Dr. John Donnelly, M.D., for the American Psychiatric Association.

Dr. Donnelly had sent questionnaires to the 1,901 active members of the American Association of Neurological Surgeons and the American Congress of Neurological Surgeons, and had received responses from 1,428 (78 percent). The data indicate that relatively few members had performed psychosurgery in the years under survey, and that these surgeons had, on the average, performed few operations. Specifically, 75 surgeons reported having performed psychosurgery in 1971, while the figures for 1972 and 1973 were 71 and 59, respectively. The total number of reported psychosurgical operations in an average year in this period was 324. By extrapolating from these figures to take account of the neurosurgeons who did not return the questionnaire, one can estimate the number of operations performed annually in the United States to be 414. By comparison, approximately 200–250 such operations are performed annually in the United Kingdom, and approximately 83 in Australia. Based upon population, psychosurgery is performed in the United Kingdom at twice the rate it is in the United States, and in Australia at three times the rate in the United States.

An important aspect of the data compiled by Donnelly and analyzed by Valenstein is that approximately 25 percent of the total number of operations performed in the United States are performed by surgeons doing no more than three operations per year, and many surgeons who perform psychosurgery average only one per year. Valenstein suggests that this raises serious questions about the ability of the surgeons to maintain adequate skill or competence. By contrast, four surgeons were responsible for 48 percent of the procedures reportedly performed in this country in 1973. Further, at most only about 27 percent of the neurosurgeons performing psychosurgery in this country publish their results; thus, a considerable amount of experience with psychosurgery does not become part of the scientific literature.

The published reports on the effects of psychosurgery are generally of limited usefulness. Valenstein evaluated each report and found, for example, that 54 percent of the articles published worldwide contained no information obtained from objective tests. Of the 70 articles (out of 152) which reported the results of any objective tests, 16 referred only to an IQ test. In the United States, 56 percent of the published articles mentioned no objective tests, 11 percent report on only one, 8 percent report on two, and approximately 25 percent report results from three or more. Further, when the reports were analyzed with respect to (1) the independence of the personnel performing the postoperative evaluations from those performing the treatment, (2) the use of standardized tests, (3) the statistical treatment of data, and (4) the duration of postoperative follow-ups, the results are equally disappointing. Using a rating scale[60] from 1 to 6 (in which a rating of 1 represents the best scientific design and use of data, and a rating of 6 represents a report presenting only descriptive information and lacking comparison groups) almost 90 percent of the United States articles received a rating of 4 or higher, and 41 percent received a rating of 6.

Valenstein found apparent general agreement in the literature that the patients most likely to improve following psychosurgery are those with severe disturbances of mood and emotion (e.g., the severely depressed, anxious, and the obsessive-compulsive neurotic). Patients with serious impairments of thought processes are reported to be less likely to improve. Many psychiatrists and surgeons have concluded that psychosurgery is ineffective for schizophrenic patients, although others have reported significant improvement in these patients following surgery. Valenstein suggests that some of the disagreement may be due to a lack of clarity in psychiatric diagnosis, especially with respect to schizophrenia, which has become a catch-all diagnostic category in this country. There is also disagreement in the literature as to whether criminals, psychopaths, sexual offenders, and aggressive individuals lacking clear evidence of brain damage benefit from psychosurgery.

Valenstein reports that with the exception of operations for intractable pain, the majority of psychosurgical operations perfromed in the United States are on patients suffering from fear and anxiety, obsessive-compulsive disorders, and neurotic depression (despite the relative overuse of schizophrenia as a diagnosis).

Valenstein also reports that most patients are referred to neurosurgeons by psychiatrists in private practice whose patients are primarily middle class. Women, he found, comprised 56 percent of the operated patients, a proportion that does not differ significantly from the sex ratio distribution in the diagnostic categories for which psychosurgery is performed. (Valenstein explicitly refrains from discussing possible sex discrimination in the diagnosis of mental illness or as a precipitating factor.) Minorities account for very few of the psychosurgical patients. In fact, based upon correspondence with some of the most active psychosurgeons in the country, Valenstein reports that in a combined total of 600 patients, one was black, two were Oriental Americans, and six were Hispanic Americans. Valenstein was able to identify only 7 operations performed on children since 1970, and he found no specific reports of psychosurgery performed on prisoners except for the three in Vacaville in 1972 (referred to on page 3 of this report). No data are available that would yield reliable information on the proportion of psychosurgical patients who are institutionalized.

[60] Developed by Man and Van Putten.

INDEPENDENT EVALUATIONS OF THE EFFECTS OF PSYCHOSURGERY

The Commission contracted for an evaluation of psychosurgical patients to be conducted by a team of psychologists, psychiatrists, neurologists and social workers. This team, headed by Allan F. Mirsky, Ph. D., and Maressa H. Orzack, Ph. D., neuropsychologists at Boston University, undertook to enlist the cooperation of surgeons with sufficiently large patient populations who would be willing to write their patients to inquire first, whether they would consent to having their medical records examined by the team, and second, whether they would consent to be examined themselves. Cooperating surgeons signed consent forms indicating their understanding that their names would not be revealed by the evaluating team but that because of the kinds of surgery they performed, their identities might nevertheless be clear to persons familiar with the scientific literature. Care was taken to ensure that patients were identified to the team only if they had signed and mailed in the consent forms indicating their willingness to have their records examined and/or to be examined themselves. Each patient who was examined was also asked for permission to interview a family member or close friend; such permission was indicated on a separate consent form. All aspects of the study and all consent forms were reviewed and approved by two Institutional Review Boards, a contract review committee and Commission staff.

The Commission also provided for the acceleration and expansion of a study already under way at the Massachusetts Institute of Technology under the direction of Professor Hans-Lukas Teuber, Ph. D., and Suzanne Corkin, Ph. D., two neuropsychologists, with Thomas Twitchell, M.D., a neurologist. They were examining patients who had undergone cingulotomies for various psychiatric disorders as well as for persistent pain. These cases were all drawn from one surgeon, and because of contacts that had previously been made, Teuber had been able to see a number of patients preoperatively as well as postoperatively while remaining scrupulously independent from the surgeon and from involvement in any decisions that were made regarding the surgery.[61]

In total, therefore, the Commission was able to obtain independent evaluations

[61] Teuber's study was funded in part by the National Institute of Mental Health and had been reviewed and approved by the Institutional Review Board at M.I.T. as well as by various committees at NIMH.

of patients operated upon by four different surgeons. Some of the patients in Teuber's sample were seen both pre- and postoperatively; in Mirsky's study, which was by necessity a retrospective one, controls (matched for age, sex, nature and duration of illness) were compared with the operated patients for performance on various behavioral and cognitive tasks: Teuber tested normal controls on some of his tasks, as well. The results of the two evaluation studies are remarkably compatible both with each other and with the claims regarding safety and efficacy which appear in the scientific literature.

Subjects. Teuber examined 34 adult patients who had undergone bilateral, stereotactic lesions in the anterior cingulate region; 18 were seen both pre- and postoperatively, and 16 were examined only postoperatively. This group included 12 males and 22 females; 4 additional males had undergone the operation but declined to be tested. Of the patients examined, 11 had suffered from persistent pain and depression and 23 had other psychiatric disorders. (Patients referred for surgery because of pain frequently presented a mixed picture of pain and depression or of pain and conversion reactions.) In Mirsky's study, there were 27 adult patients; eight had undergone orbital undercutting, seven had received bilateral cingulate lesions (sometimes in conjunction with lesions in the amygdala, and/or the substantia innominata), ten had received prefrontal sonic lesions, and two had undergone anterior prefrontal leucotomies. There were 11 males and 16 females in the operated group, with a preponderance of preoperative diagnoses of depressive or affective illness or of obsessive-compulsive disorders. Mirsky's control group consisted of eight patients (three males, five females). It should be noted that the patients in both studies were all white, predominantly middle-aged, and with illnesses of long standing.

A number of patients in both groups had undergone more than one psychosurgical operation. Of the 34 patients in Teuber's study, five had two cingulotomies, four had three cingulotomies, and one had a cingulotomy in addition to a multitarget operation (performed by another surgeon). Of the 27 patients in Mirsky's study, ten had more than one operation including one patient who underwent three surgical procedures. With one exception (a patient who had a cingulotomy followed by an orbital undercutting), however, patients whose first lesion was in the limbic system received subsequent lesions in the limbic system, and patients with frontal lobe lesions received subsequent lesions in the frontal lobe.

Outcome: Effectiveness of psychosurgery. The effectiveness of psychosurgery in alleviating symptoms or in restoring normal functioning was assessed in both studies by standard psychiatric tests, examination of patients, and interviews with close friends or family members. In Mirsky's study, 14 of the 27 patients had very favorable outcomes, were enthusiastic about the surgery, and would undergo the operation again under similar circumstances. The remainder of the patients had results which ranged from only moderate improvement to worsening of their condition, and their feelings about the surgery were mixed. If the number of those who experienced moderate improvement is added to those who were very much improved, however, the success rate in Mirsky's study would be 21 out of 27 (78 percent), which is compatible with many reports in the literature. In Teuber's group, nine out of the 11 patients whose presenting symptom was persistent pain experienced complete or nearly complete relief, and five out of the seven whose primary symptom was depression experienced full or partial relief. All but two of these patients would recommend the surgery to others, and all expressed great preference for the surgery over electroshock treatments. In the remaining 16 cases (patients diagnosed as obsessive-compulsive or with other psychiatric disorders), the outcome was mixed, but patients' attitudes toward the surgeon were supportive, nonetheless.

There were no significant changes in marital or employment status in Mirsky's group following surgery. In Teuber's group, a total of 18 patients were employed postoperatively compared to 15 preoperatively, but women gained more than men. Seven women were employed preoperatively; 11 were employed postoperatively. (One male, employed preoperatively was unemployed postoperatively.) Teuber reports no significant changes in marital status following surgery.

Outcome: Safety of psychosurgery. The patients in both studies underwent a series of psychological, neurological, and electroencephalographic (EEG) examinations designed to measure functional capacities in a number of areas including intelligence, attention, memory (verbal and nonverbal), visual-spatial abilities, verbal and nonverbal fluency, ability to shift sets in categorization, and motor function. In the battery of tests administered to Mirsky's patients (examined two to nine years postoperatively) the majority of scores yielded no significant differences between operated groups and controls. The exception was in tasks considered to be sensitive to frontal lobe dysfunction.[62] In the Wisconsin Card Sorting Task, the operated patients had more difficulty shifting from one category to another (i.e., they made more perseverative errors) than did unoperated controls. In a vigilence task, the operated group with less favorable outcomes responded to uncritical stimuli more frequently than did either the operated group with more favorable outcomes or the control subjects; but the psychosurgical patients with more favorable outcomes made fewer errors of this sort than did the control patients.

In the group of patients that Teuber examined (four to 18 months postoperatively) there were no losses following surgery as compared with preoperative scores or control subjects, except for an impairment in learning the tactual stylus maze. This deficit, however, generally diminishes with time; thus, additional examinations will be necessary in order to assess the implications of this finding. On I.Q. tests and the Hidden Figures Test, patients tested more than four months after surgery improved over preoperative scores. In general, where significant differences were found, they were related to the electroshock treatments (ECT) which the patients had undergone prior to surgery. Patients who had undergone ECT were inferior both to normal subjects and to patients who had not undergone ECT on the following tasks: Verbal and nonverbal fluency, delayed alternation, tactual maze learning, continuous recognition of verbal and nonverbal material, delayed recall of a complex drawing, recognition of faces and houses, and identification of famous public figures. On some tasks, notably recent memory (both verbal and nonverbal) and remote memory, patients who had undergone more than 50 ECT treatments were severely impaired as compared both to normal subjects and to patients who had undergone fewer than 50 ECT. Teuber emphasizes, however, that these findings do not demonstrate that such deficits are necessarily the result of shock treatments. Since the patients' ages, as well as the considerable severity and duration of their illnesses, may well have been contributing factors.

Neither Mirsky nor Teuber found neurological deficits following surgery other than those associated with the patients' underlying illnesses and chemotherapy. Mirsky reports one case and Teuber, two, in which patients with no history of brain injury or convulsive disorder prior to surgery suffered seizures postoperatively. Of these, one had only one seizure, another had three over a period of months following surgery; the third patient requires anticonvulsant medication on a continuing basis to control his seizures. Mirsky also reports some changes in electrophysiological activity (as recorded on EEG's) related to attention and reaction time, which may be attributable to the surgical interventions.[63]

Overall, Mirsky and Teuber report finding no significant psychological or cognitive deficits attributable to psychosurgery in the patients they examined, with the exception of an impairment (in Mirsky's patients) on the Wisconsin Card Sorting task and (in Teuber's patients) in the tactical stylus maze. As Teuber notes, however, the same operations performed by different surgeons, or on other patients, or on a healthy brain might produce different results. Indeed, it is not clear which of several factors contribute principally to the successful outcome; for example, the noteworthy and continuing concern and attentiveness of the surgeons for their patients, and the recipro-

[62] This finding may or may not reflect the circumstance that removal of frontal tissue in many of these patients was more extensive than in the patients studied by Teuber.

[63] It should be noted that the sample on which this finding is based consisted of 15 patients with prefrontal lesions and 5 who had lesions in the limbic system.

cal devotion of the patients to their surgeons, may play a central role in determining the success of the therapy. In the hands of a disinterested surgeon, the result could be less favorable. To the extent that the mechanisms underlying the effects remain unclear, the benefit directly attributable to the surgical intervention will remain conjectural. An additional aspect in evaluating the effects of psychosurgery is clearly to determine the level of functioning in patients who have sustained years of illness and who have undergone extensive trials of electroshock treatment and various chemical therapies. As Teuber emphasizes:

> • • • the operation added its effects not only to those of a persistent illness that preceded it, but to the cumulative impact of the massive earlier treatment efforts, which by themselves seemed to be interfering with certain higher functions, and often to an extent where it appeared futile to expect that the effect of (the surgery) as such might have become discernible, within the welter of other handicaps that already weighed upon the patients as they entered upon this surgical course. (p. 15 of Teuber's report.)

Chapter 5—Minority Conference and Public Hearings

Minority Conference

In order to assure that minority viewpoints would be heard, the Commission contracted with the National Urban Coalition to organize a conference on human experimentation. The conference was held on January 6–8, 1976, at the Sheration Conference Center, Reston, Virginia. Attended by over 200 representatives, it provided a format for presentations of papers and workshop discussions from which a set of recommendations emerged. One section of the Minority Conference on Human Experimentation was devoted to the issues surrounding the use of psychosurgery. Two black neurosurgeons presented papers to a work group which, following further discussion, developed recommendations to be forwarded to the Commission.

Dr. Jesse Barber of Howard University emphasized that psychosurgery does seem to be effective in relieving certain symptoms without serious side effects, and that to the extent that it is a useful therapy, it should be available to blacks and other minorities. In his view, the current opposition to psychosurgery has prevented minorities from receiving such operations from which they might benefit. He suggested that minorities should participate at every level of decision making in order to ensure both that blacks are not inappropriately subjected to psychosurgery and that blacks who might properly be treated are not deprived of its benefits. Dr. Ernest Bates, of the University of California at San Francisco, agreed with Dr. Barber that there is no evidence that blacks or other minorities predominate in any of the groups receiving psychosurgery. He emphasized, also, that care must be taken to assure that such operations do not become the tools of social or political institutions. Both surgeons recommended that psychosurgery be performed as part of a research protocol designed to provide valid information regarding its effects on brain function as well as on the behavioral disorders it is designed to ameliorate. In addition, they recommended that the protocols undergo stringent review for scientific design as well as to assure appropriate selection of subjects and adequate procedures for informed consent. Both recommended against the use of psychosurgery on prisoners.

The recommendations of the Minority Conference reflected the prevalent concern that psychosurgery might be used for social or political ends, and they included provisions to protect minority individuals from such abuse. They called for psychosurgery to be considered experimental, to be performed only under careful scrutiny of scientific design as well as of selection of subjects, and to be performed in accordance with procedures for ensuring informed consent. They also recommend that accumulated data regarding outcome should go to a central repository. The Conference recommended, in addition, that the committees reviewing and monitoring the research be multidisciplinary and composed of members who are "economically, professionally and emotionally independent from all individuals involved in the patient's care." Minorities should be represented among both the scientific and lay members of such committees, which should have authority to prevent the performance of psychosurgery when they believe that it is not advisable in particular cases. (Patients, however, should be able to appeal their decision to a national commission.) Finally, the Conference recommended that psychosurgery should not be performed on prisoners, persons involuntarily confined in institutions, sexual deviants, political deviants, or social deviants, and that funds for research involving psychosurgery should not be accepted from law enforcement agencies, pharmaceutical companies or other institutions "that do not hold paramount the patient's personal care."

Public Hearing

On June 11, 1976, the Commission held a public hearing on the use of psychosurgery. Announcements were sent to several hundred professional organizations, public interest groups and individuals. All persons who requested to appear were heard; a few preferred to submit written testimony in lieu of an oral presentation. Summaries of both oral and written testimony follow.

John Donnelly, M.D. (representing the Task Force on Psychosurgery of the American Psychiatric Association) reported on a survey conducted for the Task Force which revealed that in the United States, approximately 500 psychosurgical procedures were performed in each of the years 1971, 1972 and 1973. The appropriate population of such surgery, he suggested, is a small number of psychiatric patients who are refractory to nonsurgical interventions and who may be further incapacitated by the administration of psychotropic drugs over a long period of time. Since there is evidence that modern psychosurgical techniques do not produce the personality changes which would outweigh the benefits of the procedure itself, psychiatric patients who are unresponsive to other available treatments have a right to request psychosurgery as a last resort provided adequate safeguards are established. In such cases, even modest improvement represents a substantial benefit. Special mechanisms should be established to ensure that all the rights of involuntarily confined mental patients are protected, including the right to adequate treatment. Dr. Donnelly emphasized that there is no evidence of intentional misuse of psychosurgery for social or political purposes or of disproportionate involvement of minority groups or women. The extent to which violent behavior is a sign of psychiatric illness rather than a manifestation of political or social action remains unknown, but it is a proper subject for further investigation, he said. Since psychosurgery is undertaken as a treatment of last resort, even a modest improvement represents a substantial benefit when compared to the alternative. Dr. Donnelly testified that the position of the American Psychiatric Association is that:

1. Phychosurgery is a treatment of last resort and should be performed only in facilities having a highly qualified team of specialists to conduct pre- and postoperative evaluations. Their data should be available to other professionals.
2. A federally supported national registry of psychosurgical patients should be established under the auspices of a national medical organization.
3. Peer Review Committees should screen potential candidates for psychosurgery, and interdisciplinary consent committees should review the adequacy of patients' consent.
4. For the present, psychosurgery should not be performed on minors or prisoners if, in the case of the latter, the purpose is to alter their criminal behavior.
5. Psychosurgery should be performed on involuntarily confined psychiatric patients only with the approval of a consent committee which is independent of the psychiatric hospital.
6. Patients with recognized psychiatric disorders and a propensity for violent behavior should be evaluated as surgical candidates only in the context of their illness.

Mr. Abdullah Ahmad Bey (representing the North Central Unity Non-Profit Community Corporation, Inc.) expressed his concern about the potential dangers of psychosurgery and the inequities of the health care delivery system in general. He recommended that the Commission scrutinize any medical procedure or research proposal that threatens people's life or dignity, particularly procedures with the potential to control people's lives. The rights of patients to adequate health care should be protected, and informed consent should be given by all participants in medical research. Health care policy should not be controlled by the health care providers; rather, consumers should constitute at least 60 percent of the governing boards of health agencies or delivery systems. The Department of Health, Education, and Welfare should adopt the World Health Organization's definition of health for the "total human being." Federal funding should not be used by health care agencies for unspecified purposes. Candidates for psychosurgery should not be forced to waive their legal right to redress, and legislation should be enacted to protect people from potential abuses of psychosurgery, such as the control and exploitation of racial, ethnic, religious, political, economic or sexual minority groups.

Ayub K. Ommaya, M.D., F.R.C.S. (Acting Chief, Surgical Neurology Branch, National Institute of Neurological and Communicative Diseases and Stroke, National Institutes of Health). Speaking for himself, Dr. Ommaya gave a brief history of the use of psychosurgery emphasizing that it continues today because psychiatry has been unsuccessful in treating certain types of mental patients. He suggested that the surgeon's interest in this procedure is twofold: to relieve suffering and to discover the truth about a theory which forms the basis for the therapy. Dr. Ommaya said of the "Kaimowitz" case that the scientific hypothesis underlying the research was very weak, and that many people have misinterpreted what was really at stake by overlooking the fact that the subject involved was being held as a sexual psychopath. He emphasized that for effective patient management, both a compassionate regard for the patient's problems and continuous communication between the parties involved are crucial. Dr. Ommaya proposed that after all nonsurgical therapies have been given a fair trial, the decision regard psychosurgery should be made by the patient and his or her physicians, without any interference by the state; and he stressed the importance of preserving the flexibility of medical decision-making. Further, he believes it is difficult, if not impossible, to conduct clinical trials on psychosurgery; however, he recommends that pre- and postoperative evaluations be performed by psychologists, and that physicians be vigilantly critical in evaluating both the decision to operate and the value of a given procedure for relief of a particular patient's problem. Dr. Ommaya added that patients' freedom of choice must be preserved.

Congressman Louis Stokes (Member, House of Representative) explained his bill to prohibit psychosurgery in federally supported health care facilities. The legislation is based upon the following three premises:

1. Psychosurgery has no therapeutic value because the indications for it do not depend upon the presence of identifiable brain pathology; further, he said, there have been no successful psychosurgical operations and many failures. Congressman Stokes cited three instances in which persons reportedly had undergone psychosurgery with poor results.
2. It is impossible to give informed consent to psychosurgery because of the experimental nature of the procedure, as stated in the "Kaimowitz" decision. Further, he said that institutionalization erodes the ability of an involuntarily confined person to render informed consent. Congressman Stokes would carry the constitutional argument in "Kaimowitz" one step further by adding that psychosurgery prevents the patient from obtaining proper redress of grievances and violates his or her First Amendment rights. As a result, the victims of psychosurgery are relegated to the status of subcitizens.
3. Psychosurgery has the potential of becoming a tool for the social and political repression of minority groups, political dissenters and the poor. Congressman Stokes cited a few instances where this allegedly had occurred.

He concluded that in the present context of racial and social mistrust, the practice of psychosurgery is not amenable to effective regulation by either the public or private sector, and therefore must be prohibited.

Richard F. Thompson, Ph.D. and John P. Flynn, M.D. (testifying for the Division of Comparative and Physiological Psychology of the American Psychological Association) stated that:

1. The animal research literature does not provide compelling data or rationale to support the conduct of psychosurgery.
2. The human clinical literature does not provide compelling evidence for the use of psychosurgery as an accepted medical procedure.
3. Psychosurgery should be labled an experimental procedure.

They recommended that psychosurgery should be permitted, but regulated by stringent safeguards and by the supervision of experts in all relevant fields. In addition, a comprehensive evaluation of the effects of psychosurgical procedures should be undertaken, since studies in the existing literature generally lack sufficient data to permit critical assessment of the efficacy of procedures. Thus, although it is possible that patients suffering from specific illnesses benefit from psychosurgery, the evidence provided thus far is not convincing.

Kenneth Heilman, M.D. (representing the International Neuropsychological Society, Inc.) posed the following questions:

1. What is the clinician's role in altering behavior? Dr. Heilman suggests that physicians are violating the Hippocratic oath if they use their art for political or social purposes. Psychosurgery should not be performed on prisoners, and criminality should not be considered a sickness. Psychosurgery for the relief of intractable seizures or pain, however, is within the purview of sound medical practice. Dr. Heilman stated that psychosurgey should not be performed on children because they should be given every opportunity to improve by nonsurgical means, and that includes the process of maturation.
2. Can focal brain lesions alter behavior? Dr. Heilman noted that there is evidence that localized brain lesions produce specific cognitive and emotional defects and that to his knowledge there has never been a spontaneous lesion (e.g., stroke, tumor, trauma) that has improved cognitive function. He said that ablative neurosurgery (which removes brain tissue) always produces a defect of behavior; however, proponents of psychosurgery suggest that it may help to reestablish homeostasis at a lower level of organization, in persons with behavioral disorders.
3. Does psychosurgery work? There have been few controlled studies of psychosurgery to date; but with respect to the standard lobotomies, indications are that the physiological, intellectual and emotional complications argue against its therapeutic utility.
4. What should be done in the future? Members of the Society are almost evenly split as to whether or not brain surgery which diminishes the intensity of emotion would be acceptable in some psychiatric cases. Most agree that further research, including basic animal research, is needed and should be supported under the auspices of NIH. Clinicians should participate in the animal research and the animal investigators should collaborate in the human research. This might be achieved by the establishment of interdisciplinary research centers. In any case, psychosurgery should be considered an experimental procedure, and protocols should be reviewed by a human experimentation committee or similar review board.

Charles A. Fager, M.D. (representing the American Association of Neurological Surgeons and the Congress of Neurological Surgeons) indicated that there is an international consensus that psychosurgery should be restricted to small, intracerebral structures for the purpose of ameliorating disabling emotional and neurotic conditions rather than as a treatment for major psychoses. Dr. Fager reviewed recent studies of the safety and efficacy of psychosurgery and stated that based upon the current literature, neurosurgeons and other concerned neuroscientists no longer regard stereotactic psychosurgical procedures as experimental, having concluded that the benefits of these procedures far outweigh the risks. Because the procedures are still controversial, however, the neurosurgical community would cooperate with a national registry for the purpose of accumulating data regarding outcome in order to resolve some of the remaining questions. Surgery for psychiatric disorders should be conducted only at institutions providing adequate committee review of protocols and interdisciplinary study of efficacy. However, the decision to undertake psychosurgery should remain with the physician and the patient, in accordance with the following guidelines endorsed by the International Society of Psychiatric Surgery:

1. Neurological intervention for psychiatric disease should be considered only after all other generally accepted methods of treatment have failed.
2. Such surgery should be performed only for the relief of suffering and in an attempt

to restore a disabled individual to effective functioning in society—never for social or political purposes.

3. There should be a prior history of being able to function effectively and of subsequent continuous disability which has proved refractory to nonsurgical treatment.

4. The decision to employ neurosurgery for a patient with psychiatric disease should be made by the psychiatrist and neurosurgeon after consultation and acceptance by a small group of persons with the appropriate experience, insight and humane concerns.

5. Both the patient and next of kin must agree to the surgery after they have been fully informed of the risks and possible benefits.

Robert W. Doty, Ph.D. (representing the Society for Neuroscience) discussed the results of a recent survey of the Society's membership regarding psychosurgery, in which about a third of the membership responded to the following statements, as follows:

1. Psychosurgery should be made available to certain psychiatric patients if accompanied by proper safeguards and an adequate informed consent mechanism. (Seventy-three percent of the respondents agreed.)

2. Psychosurgery should never be used to solve social problems except when certain recognized incapacitating mental disorders are present. (Eighty-nine percent of the respondents agreed.)

3. More research is required to understand, improve or eliminate the need for psychosurgical procedures in conjunction with appropriate safeguards. Research should be conducted only in settings which permit careful evaluation of the results by multidisciplinary teams of specialists both pre- and postoperatively. (Eighty-two percent of the respondents agreed.)

4. An interdisciplinary commission should be established to promulgate guidelines for selecting and evaluating patients, for certifying that there is a recognized incapacitating functional disorder, for determining that psychosurgery is an appropriate last resort, for obtaining informed consent, and for following up and keeping records on the patients. (Seventy-six percent of the respondents agreed.)

In general, the Society for Neuroscience urges that psychosurgery be made available as a procedure of last resort for the desparately afflicted patient, but only in a context where careful evaluation is possible over a long period of time. Dr. Doty noted that while animal research in this area is helpful, the therapeutic outcome of psychosurgery can be assessed only with human patients. Requirements for informed consent for psychosurgery should not be so stringent as to be obstructive, but all of the potential risks and benefits must be carefully weighed. If some prisoners, particularly violent offenders, have a recognized mental disorder which may be properly treated by psychosurgery, they should not be denied access to this treatment. The belief of some groups that psychosurgery will be used to suppress political dissent, said Dr. Doty, is unfounded. He concluded that there is no substitute for the compassionate regard physicians feel for the welfare of their patients.

Gabe Kaimowitz, Esq. (Michigan Legal Services) stated that in his opinion the Commission has insufficient data on which to base any valid conclusions regarding the acceptability of psychosurgery to control, modify or alter human behavior. He feared that surgeons would not reveal their experiments with psychosurgery until they were successful; alternatively, they would hide them under the guise of treatment. Further, if psychosurgery is permitted for the amelioration of pain or relief of epilepsy, these labels will be distorted to apply to studies on the experimental application of psychosurgery for the treatment of behavioral problems. Mr. Kaimowitz urged the Commission not to make any recommendations regarding psychosurgery on the grounds that it was in no position to do so.

WRITTEN TESTIMONY SUBMITTED IN LIEU OF PERSONAL PRESENTATION

Robert J. Grimm, M.D. (Assistant Director of Neurology, Good Samaritan Hospital and Medical Center, Portland, Oregon) believes that the new stereotactic techniques together with improved knowledge of brain function, better pre- and post-operative evaluations, and procedural reviews for protecting patient's rights now make it scientifically and legally possible to conduct psychosurgical programs for properly selected, otherwise hopeless cases. He suggested that composite experience, if assembled, would support the proposition that technical improvements have resulted in safe psychosurgery. There are only a few institutions in the United States with the facilities and expertise, however, to demonstrate the validity of such an assertion, and problems may arise in demonstrating clinical improvement independent of placebo effects, or in measuring subtle changes in personality and intellect. Nevertheless, he supported the use of psychosurgery in cases where the only alternative is hopeless consignment to institutional life, where there is good reason to believe psychosurgery would improve the patient's condition, and where problems surrounding informed consent have been overcome.

Dr. Grimm rejected the argument that interference with the decision of a psychiatrist or neurosurgeon regarding psychosurgery jeopardizes the physician-patient relationship. Rather, he believes that as in other complex medical situations where uncertainty prevails, input from many sources acts to clarify the benefits and risks of the procedure and serves as a source of strength for the responsible physician. Thus, interdisciplinary review of proposed psychosurgery should be welcomed, especially because psychosurgery involves the more general, social concern of behavior control.

Dr. Grimm recommended that psychosurgical practice be limited to those institutions in which competent clinical research evaluations and followup management can be conducted, and that a small number of special research centers be established where complex neurosurgical procedures may be studied with multidisciplinary techniques. In addition, he suggested establishment of a federal insurance program to protect participating physicians from malpractice suits. Dr. Grimm does not personally favor psychosurgery but believes his recommendations provide a rational approach to resolving the issues under debate.

M. Hunter Brown, M.D. (Santa Monica, California) agreed with the working definition of the Commission that manipulations of the central nervous system for intractable pain which alter feeling and mood constitute "psychosurgery." He reported that in 1974, he and Dr. Ballentine reviewed 600 cases of psychosurgery and identified among those only six Hispanic patients and one black patient. The fact that so few patients from minority groups have undergone psychosurgery, he said, is due not to discrimination on the part of surgeons but to the economic realities and public policy. He is particularly concerned that involuntarily confined mental patients are being deprived of possible benefits from psychosurgery due to semantic issues regarding informed consent which could be solved by a neutral ombudsman. In his opinion, stereotactic single target and multitarget treatments have the the highest benefit to risk ratio of any procedure in neurological surgery. In competent hands, these procedures are not experimental but are subject, as in all branches of surgery, to continual refinement and progress.

Ernest A. Bates, M.D. (San Francisco, California) stated that although the theoretical aspects of psychosurgery are poorly understood, such surgery often seems to succeed in alleviating certain mental disorders. Therefore, he does not advocate its prohibition, but rather suggests that all aspects of its use, from patient selection through extensive follow-up studies, be subject to rigid controls. Dr. Bates questioned the use of psychosurgery for the purpose of modifying or controlling violence, since no cerebral focus for agression has been identified. He urged extreme caution about its use in children because their behavior disorders (1) are poorly defined, (2) may result from environmental factors, and (3) may be outgrown. He also expressed concern about accepting consent from patients who may be incapable of anticipating the psychological consequences of the operation. Finally, he stressed that nuerosurgeons should always bear in mind that the brain is unique to every individual, and that their work is irreversible. In Dr. Bates' opinion, it is unethical to perform any psychosurgery without adequate procedures to provide scientific information about its effects on brain function; although tests for psychological deficits in humans need further development. Neurosurgeons alone, he said, are never qualified to select patients for psychosurgery; they need input from other professions. Each case should be reviewed by various review committees to ensure that all alternatives have been exhausted and to define the complex issue of informed consent. In addition, carefully documented behavorial analyses of the results of all operations should be conducted and

made available through the literature. Dr. Bates urged that psychosurgery not be performed on prisoners, and that it be permitted for children, the mentally ill and the retarded only when absolutely necessary, as a last resort and under careful scrutiny. Although there is no evidence that blacks, or other minorities, predominate in any of the studies made thus far on patients receiving psychosurgery, he said, neurosurgeons must always guard against becoming the tools of social and political oppression or of those who seek easy medical solutions to social and political problems.

The National Association for Mental Health, Inc. suggested that until more research has been conducted concerning the cause of various mental and emotional disorders, and until there has been more animal research on brain function, psychosurgery should be performed only:

1. As a treatment of last resort, when the potential benefits outweigh the risks;
2. If the proposed procedure has been reviewed and approved by at least two other neurosurgeons not associated with the surgeon selected to perform the surgery; and
3. If the patient is represented by legal counsel when any final decision is to be made regarding the operation.

The Association defines psychosurgery as a surgical procedure on the structurally intact brain to produce behavioral change, not to correct or eradicate known or definite organic pathology, and suggests that it should still be classified as experimental. The Association believes that only a small number of physicians treating mental disorders engage in psychosurgery, and that most of them take a conservative approach to these procedures. The Association urges sensitivity to the difficult dilemmas posed by psychosurgery with respect to obtaining informed consent, particularly from individuals who are involuntarily confined.

CHAPTER 6—RECOMMENDATIONS

The term "psychosurgery," as used in this report, means (except as stated below): brain surgery, implantation of electrodes, destruction or direct stimulation of brain tissue by any means (e.g., ultra-sound, laser beams), or the direct application of substances to the brain when any of these procedures is performed either (1) on normal brain tissue of a person, for the purpose of changing or controlling the behavior or emotions of such person, or (2) on diseased brain tissue of a person, if the primary purpose of performing the procedure is to control, change, or affect any behavioral or emotional disturbance of such person. Such term does not include (a) electric shock treatments, (b) surgery or other invasions of the brain designed to cure or ameliorate the effects of movement disorders (e.g., epilepsy, parkinsonism), and (c) excision of brain tumors. With respect to relief of pain, surgical or other invasions of the brain which interrupt the transmission of pain along sensory pathways are not within the definition of psychosurgery; however, when such procedures are designed to relieve the emotional response to pain (without affecting the sensation of pain) they fall within the definition of psychosurgery. [A fuller explanation of this definition appears in the preface to this report.]

Recommendation (1) Until the safety and efficacy of any psychosurgical procedure have been demonstrated, such procedure should be performed only at an institution with an institutional review board (IRB) approved by DHEW specifically for reviewing proposed psychosurgery, and only after such IRB has determined that: (A) The surgeon has the competence to perform the procedure; (B) It is appropriate, based upon sufficient assessment of the patient, to perform the procedure on that patient; (C) Adequate pre- and postoperative evaluations will be performed; and (D) The patient has given informed consent. If the IRB has good reason to believe that the patient is incapable of giving informed consent, recommendation (3) shall apply in lieu of recommendation (1) (D). (Adopted unanimously.)

Comment. Some individuals and groups have urged the Commission to recommend a band on psychosurgery—either on grounds that psychosurgery will be used as a political or social tool, or on grounds that psychosurgical procedures are unsafe and ineffective.

The Commission affirms that the use of psychosurgery for any purpose other than to provide treatment to individual patients would be inappropriate and should be prohibited. Accordingly, the Commission is recommending safeguards that should prevent the performance of psychosurgery for purposes of social or institutional control or other such misuse.

With respect to questions of safety and efficacy, two independent teams of scientists and clinicians have conducted pilot studies for the Commission to evaluate the outcomes of four different psychosurgical procedures (cingulotomy, orbital undercutting, multitarget limbic lesions, and prefrontal ultrasonic lesions). Sixty-one adult patients who received operations during the period 1965 to 1975 were examined. Both studies, drawing upon interviews and objective tests, provided evidence that (1) more than half of the patients improved significantly following psychosurgery, although a few were worse and some unchanged, and (2) none of the patients experienced significant neurological or psychological impairment attributable to the surgery. The investigators in one study suggested that the risks of the psychosurgical procedures that were performed may be less than the risks of continuing electroconvulsive treatments over long periods of time.

These studies appear to rebut any presumption that all forms of psychosurgery are unsafe and ineffective. The Commission finds that there is at least tentative evidence that some forms of psychosurgery can be of significant therapeutic value in the treatment of certain disorders or in the relief of certain symptoms. Because of this finding and the belief that the misuse of psychosurgery can be prevented by appropriate safeguards, the Commission has not recommended a ban on psychosurgery.

The safety and efficacy of specific psychosurgical procedures for the treatment of particular disorders, however, have not been demonstrated to the degree that would permit such procedures to be considered "accepted practice." For this reason, and because of the possibility that psychosurgery might be misused, the Commission recommends for the present that psychosurgical procedures be performed only after review (such as generally precedes the conduct of research) by an IRB whose composition and procedures for review of psychosurgery have been approved by the Department of Health, Education, and Welfare. This review should assure a high degree of competence on the part of the surgeon performing the operation, appropriate scientific evaluation, diagnosis and reasons for recommending each patient, and protection of the patient's rights.

Determinations regarding the safety and efficacy of psychosurgical operations in the treatment of specific symptoms and disorders may be made by the national Psychosurgery Advisory Board required under the following recommendations.

IRB Review Procedures. A subcommittee of IRB members or consultants, approved by DHEW and including a neurosurgeon, a psychiatrist, a neurologist and a psychologist, should review technical aspects of the proposed psychosurgery, such as the competence of the operating surgeon to perform the proposed procedure and the plans for pre- and postoperative evaluation of patients. These elements may apply to more than one proposed operation; as such, they may be given a continuing approval by the subcommittee if it is satisfied that the surgeon is competent and the proposed examinations will provide a valid assessment of the outcome of each operation performed.

The subcommittee should also review the diagnostic evaluation of each surgical candidate to assure that the patient is a proper subject for the procedure in question. If the subcommittee finds the evaluation inadequate, it should request further information or examination of the patient. Here it must be emphasized again that the purpose for the performance of a psychosurgical procedure must be to provide appropriate treatment for a patient with a specific psychiatric symptom or disorder. The subcommittee should also be satisfied that appropriate nonsurgical treatments have been given sufficient trials, but this should not be construed to require trials of any therapy beyond the point at which potential benefits become unlikely or are outweighed by the risks of continuing that course of treatment.

The consent of each patient should be reviewed by the IRB as a whole to assure that the patient's rights are protected. This review should focus on procedures or forms employed in the consent process, as well as the circumstances of the actual consent given by each patient. The IRB may require that a third person, unaffiliated with the surgical team or the patient's referring physician, observe or participate in the consent process. The IRB may also require that an examination by approriate consultants or a hearing before the IRB be conducted to determine the patient's ability to give informed consent to psychosurgery. If the IRB believes that the patient is incapable

of giving informed consent, the provisions of Recommendation (3) should apply.

The patient's privacy should be protected in the review proceedings. To this end, the identity of the patient should not be made known to the IRB as a whole or to the subcommittee unless (1) the IRB or subcommittee requests that the patient be present at a hearing or examination, or (2) the patient requests a hearing with the subcommittee or IRB. If such a hearing or examination is held, it should be closed and the members of the subcommittee or IRB should maintain confidentiality, unless the patient waives this privilege. It is the responsibility of the IRB to inform the patient that he or she has the right to a hearing and may demand or waive confidentiality.

Psychosurgery review procedures that have been adopted by statute in certain states should be deemed to satisfy the requirements of this recommendation, provided that such statutory review is comparable to or more stringent than the IRB review required herein.

Recommendation (2) *A psychosurgical procedure may be performed on an adult patient who is voluntarily residing in a mental institution, Provided that: (A) A national psychosurgery advisory board has determined that the specific psychosurgical procedure has demonstrable benefit for the treatment of an individual with the psychiatric symptom or disorder of the patient; (B) If the operation is to be performed as part of a research project, the conditions set forth in the Commission's report on research involving the institutionalized mentally infirm are fulfilled; and (C) The conditions of recommendation (1) are fulfilled at the institution where the operation is to be performed. If the IRB has good reason to believe that the patient is incapable of giving informed consent, recommendation (3) shall apply in lieu of recommendation (1)(D). (One Commission member dissented.)*

Comment. In Recommendations (2), (3) and (4), the Commission incorporates the requirements of Recommendation (1) and imposes further conditions for the performance of psychosurgery on specific populations of patients whose capacity for self-determination may be limited by institutionalization, mental disability, involuntary confinement or immaturity. The Commission recommends that a psychosurgical procedure may be performed on a patient voluntarily residing in a mental institution and believed to be capable of giving informed consent: *Provided*, The determinations by the IRB required under Recommendation (1) have been made and, in addition, a national Psychosurgery Advisory Board has determined that such procedure has demonstrable benefit in the treatment of the patient's disorder (Recommendation (2)). This condition and some additional requirements are recommended with respect to adult patients who are incapable of giving informed consent or involuntarily confined (Recommendation (3)) and patients who are minors (Recommendation (4)). The Commission also recommends that the conditions set forth in its various reports on research involving specific populations be imposed (where applicable) on the performance of psychosurgery as part of a research project.

It is the Commission's intent that, to the extent possible, a psychosurgical procedure not be used to treat a patient who is institutionalized until the potential benefit of the procedure has been demonstrated in the treatment of patients with the same disorder who are not so situated. The required determination of demonstrable benefit should be made by the Psychosurgery Advisory Board on the basis of (1) treatment of the same disorder in patients who are not institutionalized, (2) treatment of institutionalized patients who underwent the procedure for the same disorder prior to 1977 or outside the United States, or (3) when neither of the above approaches is feasible, persuasive scientific evidence or rationale to support a belief that the procedure is likely to alleviate the same disorder. A determination of demonstrable benefit should require less certainty than would be necessary to support a determination of safety and efficacy.

Because institutionalized persons may be vulnerable as a consequence of their disability or the dependence and depersonalization which often result from confinement, the IRB should scrutinize with care the consent of such persons to determine whether it is adequate. If the IRB has good reason to believe a patient is unable to give informed consent to psychosurgery, the provisions of Recommendation (3) will apply.

Recommendation (3). *A psychosurgical procedure should not be performed on an adult patient who: (i) Is a prisoner, (ii) is involuntarily committed to a mental institution, (iii) has a legal guardian of the person, or (iv) is believed by the Institutional Review Board (IRB) to be incapable of giving informed consent to such procedure, unless all of the following conditions are satisfied: (A) A national psychosurgery advisory board has determined that the specific psychosurgical procedure has demonstrable benefit for the treatment of an individual with the psychiatric symptom or disorder of the patient; (B) If the operation is to be performed as part of a research project, the conditions set forth in the Commission's report on research involving prisoners or report on research involving the institutionalized mentally infirm, as applicable, are fulfilled; (C) the conditions of recommendation (1) are fulfilled at the institution where the operation is to be performed, and such institution is separate from any prison or institution where the patient is regularly confined; (D) the patient has given informed consent or, if the patient is believed by the IRB to be incapable of giving informed consent, the patient's guardian of the person has given informed consent and the patient does not object; and (E) a court in which the patient had legal representation has approved the performance of the operation. (One Commission member dissented.)*

Comment. Fairness requires that individuals should not be denied access to potentially beneficial therapy simply because they are involuntarily confined or unable to give informed consent. The Commission recognizes, however, that such individuals are vulnerable to coercion and that psychosurgery may be proposed in attempts to modify behavior for social or institutional purposes not coinciding with the patients' own interests or desires. Accordingly, the Commission recommends court review and, in some instances, appointment of a legal guardian in addition to the required determinations by an IRB and the national Psychosurgery Advisory Board. The Commission also recommends that the IRB review and the surgery itself be performed at a facility that is administratively independent of any facility in which the patient is regularly confined.

The process of national review should be initiated at the request of the surgeon wishing to perform the psychosurgery. Following approval by the Psychosurgery Advisory Board, the surgeon may initiate review by the appropriate IRB. Following IRB approval, court review should be initiated by a representative of the patient for whom surgery is proposed.

As indicated in the preceding comment, the determination of demonstrable benefit by the Psychosurgery Advisory Board should be made on the basis of (1) the use of the specific psychosurgical procedure to treat the particular disorder in patients who are not prisoners, institutionalized, under guardianship, or believed incapable of giving informed consent, (2) treatment of such persons who underwent the procedure prior to 1977 or outside the United States, or (3) when neither of the above approaches is feasible, persuasive scientific evidence or rationale to support a belief that the procedure is likely to alleviate the specific disorder.

The IRB and court should ascertain that a prisoner or other person involuntarily confined is never compelled to undergo psychosurgery or unduly influenced to consent to psychosurgery by the promise of probation, parole, reduction of sentence, release or otherwise.

Consent given on behalf of mental patients who are unable to give legally valid consent themselves should be reviewed with an awareness of the potential for conflict of interest inherent in such third-party consent. The consenting guardian should not be affiliated with the institution where the patient is confined or where the psychosurgery is to be performed. Consent given by the legal guardian of a patient who is not institutionalized should also be scrutinized to take into account the potential conflicts of interest that may be associated with the responsibility of providing care for such persons.

If the IRB has good reason to believe that a patient, lacking a legal guardian, is incapable of giving informed consent for psychosurgery, the IRB should withhold approval of the operation pending authorization by a court and consent of a legal guardian, if one is appointed. If no court accepts jurisdiction, however, the operation should not be performed on such a patient. Similarly, in states that do not accept third-party consent for psychosurgery, a psychosurgical procedure should not be performed on a patient believed by the IRB to be unable to give informed consent for such an operation. In no case should a psychosurgical procedure be performed over the objection of an adult patient, even following adjudication of incompetence and with the consent of a legal guardian.

The Commission recognizes that portions of this recommendation are at variance with the opinion of the Michigan court in *Kaimowitz* v. *Department of Mental Health* (1973). The Commission agrees with the "Kaimowitz" opinion that institutionalization may diminish the ability of prisoners and mental patients to make free choices by removing opportunities for asserting or exercising self-determination. On the other hand, it seems unfair to exclude prisoners or involuntarily confined patients from the opportunity to seek benefit from new therapies on the basis of an unrebuttable presumption of diminished capacity or by prohibiting third-party consent. Therefore, the Commission recommends that such persons be permitted to obtain psychosurgery, subject to the extensive review requirements described above, and the expressed willingness of the patient to undergo the surgery.

With respect to the questions of safety and efficacy, it is clear that the information presented to the Michigan court in 1973 regarding amygdalotomy differs significantly from that which has been presented to the Commission regarding four other psychosurgical procedures. The Commission believes that the information presented on its record justifies its recommendation, for at least some psychosurgical procedures have been shown to present a potential for significant benefit, and the risks of such surgery do not appear to be nearly as great as previously supposed.

Recommendation (4). *A psychosurgical procedure should not be performed on a patient under the legal age of consent to medical care unless and until: (A) a national psychosurgery advisory board has determined that there is good reason to believe that the specific psychosurgical procedure will benefit children with the psychiatric symptom or disorder of the patient; (B) the informed consent of both parents (if available) or a guardian has been given and, if the patient is a mature minor, the patient has not objected; (C) the conditions of recommendation (1) are fulfilled; (D) if the operation is to be performed as part of a research project, the conditions stipulated in the Commission's report on research involving children are fulfilled; and (E) a court in which the patient had legal representation has approved the performance of the operation. (Adopted unanimously.)*

Comment. The pilot studies conducted for the Commission did not examine the effects of psychosurgery on children, and the Commission has not reviewed data that would support the performance of any such operation on children at this time. However, the Commission does not wish categorically to deny children the possible advantages of a new therapy that might be safer and more effective than long-term use of other therapies. Therefore, as in the previous recommendation, the Commission incorporates the requirements of Recommendation (1) and, in addition, requires that the approval of both a national Psychosurgery Advisory Board and a court of competent jurisdiction be necessary conditions for the performance of psychosurgery on children.

The process of national review should be initiated at the request of the surgeon wishing to perform the psychosurgery. Following approval by the Psychosurgery Advisory Board, the surgeon may initiate review by the appropriate IRB. Following IRB approval, court review should be initiated by a representative of the patient for whom surgery is proposed.

An important prerequisite is a determination by the Psychosurgery Advisory Board that there is sufficient evidence from animal and adult human studies to support a belief that the specific psychosurgical procedure will benefit children with the psychiatric symptom or disorder of the patient, based upon a consideration of the risk of alternative therapies or not conducting any therapy at all.

The Commission intends that the IRB take into consideration the reported feelings that a child may have expressed with respect to psychosurgery, and that such feelings of a "mature minor," i.e., child with a certain capacity for rational judgment, should be controlling. Implementation of this recommendation will require appointment of a third person to participate in the consent process.

Recognizing the limited capacity of children to consent to psychosurgery, the Commission also recommends court review to protect the rights of individual patients. The child should be represented in court by legal counsel.

The Commission emphasizes that the purpose for the performance of psychosurgery must always be to provide appropriate treatment for the specific psychiatric symptom or disorder of the individual patient. The required reviews should assure that social, institutional, or basic research purposes are not accepted as justification for psychosurgery on children.

Recommendation (5). *The Secretary, DHEW, should establish a mechanism to compile and assess information regarding the nature, extent and outcomes of psychosurgical procedures performed in this country, the indications for the procedures, and the population on which they are performed. This ongoing mechanism should include stringent provisions to safeguard the privacy of individual patients. (Adopted unanimously.)*

Comment. The Commission recognizes that the pilot studies performed for it are not sufficient in themselves to establish the safety and efficacy of specific psychosurgical procedures. Evidence from the extant literature is also insufficient to establish the safety and efficacy of particular procedures in response to particular symptoms or disorders. It is important, therefore, to clarify further the effects of specific surgical interventions in the brain with respect to gains or losses in function and with respect to alleviation of specific symptoms or disorders. In Recommendation (1) the Commission has suggested that wherever psychosurgery is performed, it should be conducted in such a manner that good data will be collected to further the evaluative process. In this Recommendation (5), the Commission further proposes that a mechanism be set up on the national level to collect data on psychosurgery. Such data will assist the national Psychosurgery Advisory Board in making its evaluations regarding the safety and efficacy of specific psychosurgical procedures.

To the extent that it is compatible with the protection of privacy, the Secretary should include in this mechanism a provision for collecting data regarding the presenting symptoms and preoperative diagnosis, past medical and social history of the patients, and outcome. In effect, psychosurgery should become a "reportable operation" in the sense that the Secretary should require that every case be reported, as is now required by states for certain communicable diseases. In addition, when the patients are children, prisoners, or institutionalized individuals, that fact should be reported. The data compiled by the Secretary should be analyzed, and summary reports should be issued and sent to Congress, on a yearly basis. The Commission is concerned, however, that the Secretary give serious attention to two considerations in designing such a mechanism: The desirability of public access to census information, and the preeminent need to safeguard the privacy of individual patients.

Recommendation (6). *The Secretary, DHEW, is encouraged to conduct and support studies to evaluate the safety of specific psychosurgical procedures and the efficacy of such procedures in relieving specific psychiatric symptoms and disorders, provided that the psychosurgery is performed in accordance with these recommendations. (One Commission member abstained.)*

Comment. The pilot studies performed for the Commission, while very informative, should be supplemented by more extensive studies in order to determine, with a higher degree of certitude, the safety and efficacy of the procedures under evaluation. Additional studies should be undertaken to evaluate other psychosurgical procedures. The importance of such research is sufficient to warrent the support of DHEW. Therefore, not only should the Secretary establish a mechanism for the collection of data, as de-

scribed in Recommendation (5), but the Secretary should support research that would utilize and extend those data to determine whether specific psychosurgical procedures are safe and effective.

Recommendation (7). The Secretary, DHEW, should impose strict sanctions, up to and including the withholding of Federal funds, to assure compliance with regulations implementing these recommendations. (*Adopted unanimously.*)

Recommendation (8). Congress should take such action as it deems appropriate to assure that (A) psychosurgery is performed under conditions that are in compliance with DHEW regulations implementing these recommendations, and (B) psychosurgery is not conducted or supported by Federal agencies or components thereof unless such agencies or components are primarily concerned with health care or the conduct of biomedical and behavioral research. (*Adopted unanimously.*)

CHAPTER 7.—DISSENTING STATEMENT OF COMMISSIONER PATRICIA A. KING

It is with much regret that I find it necessary to abstain from Recommendation (6), and dissent from Recommendations (2) and (3) of the Commission's Report on Psychosurgery. The Commission struggled long and hard to reach conclusions with respect to an extremely difficult and perplexing problem. It had to decide wether to recommend a ban on all psychosurgical procedures; and, should a ban be unjustified, to further decide on whom and under what circumstances such procedures could be performed. The result of these lengthy deliberations is, I believe, a basically thoughtful and responsible report.

I agree with the Commission's conclusion that a ban on the performance of all psychosurgical procedures is not an appropriate response to the perplexing problem. As long as there is reasonable promise that some patients will be benefited (and I believe our data, although limited, supports such promise), then some limited psychosurgical procedures should be permitted. The report recognizes that the performance of psychosurgical procedures must be subject to rigid limitations in view of the risks of harm and abuse; I strongly concur with this sentiment. I accept, however, the criticism of some that the Commission's report might be viewed as a more enthusiastic endorsement of psychosurgery than we intended. It was with this criticism in mind that I abstained on Recommendation (6) which states that "The Secretary, DHEW, is *encouraged* to conduct and support studies to evaluate the safety of specific psychosurgical procedures and the efficacy of such procedures in relieving specific psychiatric symptoms and disorders, provided that the psychosurgery is performed in accordance with these recommendations." (Emphasis added.) Perhaps, it would have been wiser to have omitted the Recommendation altogether. Since it is basically hortatory it adds little to the report and is subject to misinterpretation.

My basic disagreement with the Commission's Report however is with its conclusions about what protections should be afforded voluntarily committed patients residing in institutions. In my view, such patients should be accorded the same protections as all institutionalized persons and be required to undergo court review of their cases prior to the performance of psychosurgical procedures. I, therefore, dissented from Recommendation (2) because it omits any requirement of court review, and from Recommendation (3) because it does not include all voluntarily committed persons.

The Commission did not have before it either data which indicated who comprised the group referred to as the voluntarily committed, or data which indicated whether the voluntarily committed differed from the involuntarily committed in any significant manner that would warrant separate consideration. The Commission assumed that involuntarily committed persons were institutionalized through some judicial process and that voluntarily committed persons were institutionalized through "voluntary" admissions processes. It assumed that the distinction referred to above was significant, although it did not have any data to support such an assumption or any data about how the commitment process might differ from state to state. It is conceivable, for example, that as a part of the "plea bargaining" process in our criminal justice system that some persons "agree" to voluntarily commit themselves to mental institutions in exchange for reduced or dropped charges. I do not mean to suggest that this happens, or, if it does, that it occurs in any significant degree. My point is that the Commission did not have before it sufficient data on which to justify distinctions between the two groups of patients.

Some would argue that the method of admission is a significant consideration, because the Commission's restrictions are too burdensome and are an undue infringement on the rights of patients to have access to therapeutic procedures. There is undoubtedly some medit to the suggestion. However, in view of (1) general public concern about psychosurgery (noted in the Report itself), (2) concern about whether an appropriate candidate for psychosurgery is ever able to give valid consent, (3) the limited available data about the safety and efficacy of specific psychosurgical procedures, and (4) the paucity of data before the Commission on commitment procedures, I believe caution was warranted.

The Commission did recognize that some of the voluntarily committed would be incapable of giving valid consent, but it chose to deal with that concern by making the IRB responsible for making the determination about whether a particular patient was so capable. It is questionable in view of the current concerns about psychosurgical procedures whether we should have ever saddled IRBs with such responsibilities. It is outrageous in my opinion to ask them to make that determination with respect to those residing in institutions. The impact of institutionalization alone, as discussed for example in "Kaimowitz," is significant enough to warrant treating those inside institutions different from those outside. Were I a member of an IRB operating under the Commission's recommendations, I would always vote for court review of the IRB determination at least until such time as we know more about the safety and efficacy of specific psychosurgical procedures, and the law regarding informed consent is more settled.

[FR Doc.77-14384 Filed 5-20-77;8:45 am]

Federal Register

MONDAY, MAY 23, 1977

PART IV



DEPARTMENT OF JUSTICE

Bureau of Prisons

■

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comment

DEPARTMENT OF JUSTICE

Bureau of Prisons

[28 CFR Chapter V]

CONTROL, CUSTODY, CARE, TREATMENT, AND INSTRUCTION OF INMATES

Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rules.

SUMMARY: This document contains proposed rules relating to the control, custody, care, treatment, and instruction of Federal prison inmates. This document represents the Bureau of Prisons' initial publication of these rules in the FEDERAL REGISTER and is intended to give the public notice and opportunity to comment on all rules in this area, not just on changes from prior policy.

COMMENT DATES: Comments must be received on or before June 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Curtis Sitterson, Phone Number 202–724–3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 18 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the FEDERAL REGISTER, as proposed rules, those regulations which generally govern the control, custody, care, treatment, and instruction of inmates in federal correctional institutions administered by the Bureau of Prisons.

The regulations according to which the Bureau of Prisons manages inmates in Federal correctional institutions are presently contained in Policy Statements and Operations Memoranda which have been made available to inmates in each institution's inmate law library and to members of the general public upon request. Most of these regulations have not been published in the Code of Federal Regulations.

While the Bureau of Prisons has frequently received and considered comments from the public relating to Bureau regulations, there has not been a systematic process whereby these comments are solicited and considered before regulations take effect. This publication process will afford interested persons additional notice of Bureau regulations and proposed regulations and will create a formal process for solicitation and consideration of comments.

The Bureau of Prisons does not, however, intend to publish regulations which relate exclusively to the following:

(1) Employment or personnel policies with respect to Bureau of Prisons employees; and

(2) Internal management policies and nonsubstantive interpretations, such as administrative staff manuals, procurement and budget procedures, record keeping and reporting requirements, and instructions issued to implement those regulations which are published.

In this issue of the FEDERAL REGISTER, the Bureau of Prisons has published proposed regulations which relate most directly to the following:

(1) Inmate discipline and special housing units;

(2) Inmate access to legal counsel and reference materials and inmate preparation of legal documents;

(3) Inmate visiting, and correspondence through the mail;

(4) News media contact with inmates and federal penal institutions generally;

(5) Awards, withholdings, and forfeitures of inmates' good time credits; and

(6) Scope of all Bureau of Prisons rules in institutional emergencies.

In future issues of the FEDERAL REGISTER, the Bureau of Prisons will publish (other) regulations which relate to the control, custody, care, treatment, and instruction of inmates. These regulations will include, for example, Administrative Remedy Procedures (Part 542) and Religious Programs (Part 548).

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 665, 320 1st Street NW., Washington, D.C. 20534. Comments received before June 20, 1977, will be considered before final action is taken on these proposals. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 665, 320 1st Street NW., Washington, D.C. 20534. The proposals may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed to add a new 28 CFR, Chapter V as follows: Chapter V, Bureau of Prisons, to Title 28 of the Code of Federal Regulations. Chapter V would consist at this time of Parts 500, 501, 523, 540, 541, and 543 as set forth below:

CHAPTER V—BUREAU OF PRISONS, DEPARTMENT OF JUSTICE

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

Part
500 General definitions.
501 Scope of rules.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

523 Computation of sentence.

SUBHAPTER C—INSTITUTIONAL MANAGEMENT

540 Contact with persons in the community.
541 Inmate discipline and special housing units.
543 Legal matter.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 500—GENERAL DEFINITIONS

§ 500.1 Definitions.

(a) The "Warden" means the chief executive officer of a U.S. Penitentiary, Federal Correctional Institution, Medical Center for Federal Prisoners, Federal Prison Camp, Community Treatment Center, Federal Detention Center, Metropolitan Correctional Center, or any federal penal or correctional institution or facility. "Warden" also includes any staff member with authority explicitly delegated by any chief executive officer.

(b) "Staff" means any employee of the Bureau of Prisons.

(c) "Inmate" means any person who is committed to or in the custody of the U.S. Attorney General. "Inmate" also includes any person who is serving a civil contempt sentence in an institution of the BOP or in the custody of the Attorney General.

(d) "Institution" means a U.S. Penitentiary, Federal Correctional Institution, Medical Center for Federal Prisoners, Federal Prison Camp, Community Treatment Center, Federal Detention Center, or Metropolitan Correctional Center.

(e) "Shall" means an obligation is imposed.

(f) "May" means a discretionary right, privilege, or power is conferred.

(g) "May not" means a prohibition is imposed.

(h) "Contraband" means anything that an inmate is not authorized to possess in an institution.

(5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.)

PART 501—SCOPE OF RULES

§ 501.1 Institutional emergencies.

When there is an institutional emergency which the Warden considers a threat to human life or safety, the Warden may suspend the operation of the rules contained in this chaper to the extent he deems necessary to handle the emergency.

(18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.)

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 523—COMPUTATION OF SENTENCE

Subpart A—Good Time

Sec.
523.1 Definitions.
523.2–523.9 [Reserved]

Subpart B—Extra Good Time

523.10 Purpose and scope.
523.11 Procedure.
523.12 Rate of allowance.

Subpart A—Good Time

§ 523.1 Definitions.

(a) Extra good time means a credit to an inmate's sentence as authorized by 18 U.S.C. § 4162, for performing exceptionally meritorious service or performing duties of outstanding importance or employment in a federal prison industry or camp.

§§ 523.2–523.9 [Reserved]

Subpart B—Extra Good Time

§ 523.10 Purpose and scope.

(a) The Bureau of Prisons awards extra good time credit for performing exceptionally meritorious service, or for performing duties of outstanding importance, or for employment in an industry or camp. An inmate is eligible for only one type of extra good time award at a time; e.g., an inmate earning industrial or camp good time is not eligible for meritorious good time or ongoing meritorious awards under § 523.11 (b); except that a lump sum award as provided in § 523.11(c) may be given in addition to another extra good time award. The Warden and the Institution Discipline Committee may not forfeit or withhold extra good time. The Warden may, however, disapprove or terminate the awarding of extra good time as provided in § 523.11(b)(5).

§ 523.11 Procedure.

(a) The Warden shall award extra good time to an inmate who is employed in a Federal Prison Industry or confined in a camp except as provided in § 523.11 (b)(5). The award begins on the first day of such employment or confinement.

(b) The Warden may award extra good time to an inmate for the performance of exceptionally meritorious service or duties of outstanding importance, subject to the following conditions:

(1) An inmate is not eligible for this award during the first three months following his commitment to an institution.

(2) The Warden may make such an award only upon recommendation by a staff member.

(3) The Warden may approve a retroactive award for activity by an inmate during a period of up to three months. This retroactive award may not be given for any month for which it has been disapproved or terminated.

(4) Once approved, an award continues without the need for formal monthly approval unless the Warden disapproves or terminates the award.

(5) The Warden may disapprove an award for a single month or may terminate the award at any time upon recommendation of a staff member, based upon inadequate work performance or commission of a prohibited act, or other good cause. Such disapproval or termination is effective from the first day of the month in which the action is taken, and no partial monthly allowance is given.

(6) The Warden may not discontinue an extra good time award when an inmate is hospitalized or on furlough unless the inmate's behavior justifies a termination. The Warden may discontinue an extra good time award of an inmate who is on writ or similar court action after one month's absence from the institution; upon return to the institution, the previous award shall be resumed.

(c) The Warden may make, in addition to any ongoing extra good time award, a lump sum meritorious extra good time award to an inmate who performs one of the following:

(1) An act of heroism;

(2) Voluntary acceptance and satisfactory performance of an unusually hazardous assignment;

(3) An act which protects the life of a staff member, inmate, or other person, or the property of the United States,

(4) A suggestion which results in substantial improvement of a program or operation, or which results in a significant saving; or

(5) Other exceptional or outstanding service.

The Warden shall make an award under this subsection for a definite number of days. The Warden may award a lump sum credit of up to thirty days. A recommendation for award in excess of thirty days is referred to the Regional Director for approval. An award under this subsection does not preclude other types of awards such as meritorious pay for the same activity.

§ 523.12 Rate of allowance.

(a) An inmate, who is awarded extra good time, receives a credit of three days extra good time per month for the first 12 months of the award, and five days per month for any subsequent months. The Warden may award extra good time for a fraction of a month except as provided in § 523.11(b)(5); when this results in an award of a fraction of a day, the award is adjusted to the next full day. When there is an interruption of an extra good time award, the earning rate is not affected by the interruption.

(b) For a lump sum award under § 523.11(c), the number of days of the award may not exceed the number arrived at by the following calculation.

The number of months served at the time of the activity which is the basis for the award is multiplied by 3 days a month for the first year of service of the sentence, including jail time, and 5 days a month for any subsequent service of sentence; from this total, the extra good time awards already made are subtracted.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

Subpart A—General

Sec.
540.2 Definition

Subpart B—Correspondence

540.10 Purpose and scope.
540.11 Control and procedures.
540.12 General correspondence.
540.13 Restricted general correspondence.
540.14 Inmate correspondence while in admission and orientation, segregation; and holdover status.
540.15 Correspondence between confined inmates.
540.16 Prisoner's mail box (PMB).
540.17 Incoming special mail.
540.18 Legal correspondence.
540.19 Inmate correspondence with representatives of the news media.
540.20 Exception to notification procedures.

Subpart C—[Reserved]

Subpart D—Inmate Visiting

540.40 Purpose and scope.
540.41 Supervision of visits.
540.42 Visiting facilities.
540.43 Visiting times, numbers of visitors, and frequency of visits.
540.44 Persons who may be authorized to visit an inmate regularly and procedure for approval.
540.45 Special visitors.
540.46 Visits by attorneys.
540.47 Consular visits.
540.48 Visits for inmates in special housing status.
540.49 Penalty for violating visiting regulations.

Subpart E—Contact With News Media

540.60 Purpose and scope.
540.61 Authorizations.
540.62 Institutional visits.
540.63 Personal interviews.
540.64 Press pools.
540.65 Release of information.

AUTHORITY: 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart A—General

§ 540.2 Definitions.

(a) "General correspondence" means incoming or outgoing correspondence other than special mail or mail sent through the prisoner's mail box.

(b) "Restricted general correspondence" means general correspondence which is limited to a list of authorized correspondents.

(c) "Open general correspondence" means general correspondence which is not limited to a list of authorized correspondents, except as provided in § 540.15.

(d) "Prisoner's Mail Box" (hereinafter "PMB") is a procedure through which an inmate may mail letters to certain addressees unopened and uninspected.

(e) "PMB mail" means correspondence sent through the PMB to the following: President and Vice President, Attorney General, Solicitor General, Director's Office, Bureau of Prisons, Office of General Counsel and Review, Regional Directors of the Bureau of Prisons, Members of the U.S. Parole Commission, the Pardon Attorney, U.S. Attorneys' Offices, Surgeon General, U.S. Public Health Service, Secretary of the Army, Navy or Air Force, U.S. Courts including U.S. Probation Officers, members of the U.S. Senate and House of Representatives, embassies and consulates, governors, state attorneys general, prosecuting attorneys, directors of state departments of corrections, state parole commissioners, state legislators, state courts, state probation officers, and representatives of the news media.

(f) "Representatives of the news media" means persons whose principal employment is to gather or report news for:

(1) A newspaper which qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of "general circulation" if it circulates among the general public and if it publishes news of a general character of general interest. A key test to determine whether a newspaper qualifies as a "general circulation" newspaper is to determine whether the paper

qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes. It is generally held that for a newspaper to be considered by law a newspaper of general circulation, and so be qualified to publish legal notices, it must contain items of general interest to the public such as news of political, religious, commercial or social affairs;

(2) A news magazine which has a national circulation and is sold by newsstands and by mail subscription to the general public;

(3) A national or international news service; or

(4) A radio or television news program of a station holding a Federal Communications Commission license.

(g) "Special mail" means correspondence sent to an inmate from the following: attorneys, members of Congress, embassies and consulates, U.S. Department of Justice, state attorneys general, prosecuting attorneys, governors, U.S. courts, or state courts.

Subpart B—Correspondence

§ 540.10 Purpose and scope.

The Bureau of Prisons encourages correspondence that is directed to socially useful and rehabilitative goals. The Warden shall establish correspondence procedures for inmates in each institution.

§ 540.11 Control and procedures.

(a) The Warden shall establish and exercise controls to protect inmates, the security, discipline and good order of the institution. The size and complexity of the institution, the degree of sophistication of the inmates confined, and other variables require flexibility in correspondence procedures. All Wardens are authorized to establish open general correspondence regulations. However, if the Warden determines that an entire institution should be placed on restricted general correspondence, he may do so without following the procedures enumerated in § 540.13(c). The Warden shall, however, submit this determination to the Director for review and final approval.

(b) Staff shall inform each inmate in writing upon arrival at an institution of that institution's rules for the handling of inmate mail. This notice includes the following statement:

The staff of each institution of the Bureau of Prisons has the authority to open all mail addressed to you before it is delivered to you. 'Special Mail' (mail from attorneys, U.S. Courts, members of Congress, embassies or consulates, the U.S. Department of Justice, governors, State attorneys general, prosecuting attorneys, state courts) may only be opened in your presence and checked for contraband if the sender adequately identifies himself on the envelope and the envelope is marked 'Special Mail—open only in the presence of the inmate.' Other mail (general correspondence) may be opened and read by the staff.

However, if you do not want your general correspondence opened and read, the Bureau will return it to the sender. *This means that you will not receive such mail.* You may choose whether you want your general correspondence opened, read, and delivered to you, or returned to the sender unopened. Whatever your choice, special mail will be delivered to you, after it is opened in your presence and checked for contraband. You can make your choice by signing Part I *or* Part II.

PART I—GENERAL CORRESPONDENCE TO BE RETURNED TO SENDER

I have read the Notice Regarding Mail. I do not want my general correspondence opened and read. I understand that this means that my general correspondence will be returned to the sender. I also understand that special mail will be delivered to me, after it is opened in my presence and checked for contraband.

(Name) (Reg. No.)

PART II—GENERAL CORRESPONDENCE TO BE OPENED, READ, AND DELIVERED

I have read the Notice Regarding Mail. I wish to have my general correspondence delivered to me. I understand that this means the Bureau staff may open and read my general correspondence. I also understand that special mail will be delivered to me after it is opened in my presence and checked for contraband.

(Name) (Reg. No.)

(c) Staff shall inform an inmate that letters placed in the U.S. Mail are placed there at the request of the inmate and that he must assume responsibility for the contents of each letter. Correspondence containing threats, extortion, etc. may result in prosecution for violation of the U.S. Postal Regulations. When such material is discovered the inmate may be subject to disciplinary action, the written material may be copied, and all material may be referred to the appropriate law enforcement agency for prosecution.

§ 540.12 General correspondence.

(a) The Bureau of Prisons pays the postage on a reasonable number of letters sent by an inmate. Certified or registered mail is available, but the inmate must pay the cost. (See § 540.13)

(b) The Warden shall establish the number of letter per week sent by an inmate to overseas correspondents for which the institution pays the extra international postage.

(c) The Warden may not limit the number of incoming letters an inmate may receive unless the number received places an unreasonable burden on the institution.

(d) Institution staff shall inspect and read incoming and outgoing general correspondence as frequently as they deem necessary to maintain security, monitor a particular problem confronting an inmate or alert the staff to any matter that may help in evaluating the inmate's progress.

(e) The Warden may reject correspondence sent by or to an inmate if it contains any of the following:

(1) Violation of postal regulations;

(2) Information of escape plots, plans to commit illegal activities or to violate institutional rules; and

(3) Direction of an inmate's business. An inmate, unless he is a pretrial detainee, may not direct a business while confined.

This does not, however prohibit correspondence necessary to enable an inmate to protect property and funds that were legitimately his at the time of commitment. Thus, for example, an inmate may correspond about refinancing a mortgage on his home or sign insurance papers, but he may not operate a mortgage or insurance business while in the institution.

(f) Each inmate shall write correspondence in English, but the Warden shall try to accommodate an inmate who is unable to write in English or whose correspondent is unable to understand English. The criminal sophistication of the inmate and the relationship of the inmate and the correspondent are factors to be considered in deciding if correspondence in a foreign language is permitted.

§ 540.13 Restricted general correspondence.

(a) The Warden may limit to a reasonable number, persons on the approved restricted general correspondence list of an inmate.

(b) The Warden may place an inmate on restricted general correspondence based on misconduct or as a matter of classification. Determining factors include the inmate's:

(1) Involvement in any of the activities listed in § 540.12(e);

(2) Mailing of an excessive number of letters;

(3) Attempting regularly to correspond with persons or businesses where the addressee is known by the inmate only through such sources as advertisements in newspapers, magazines, telephone directories, etc.

(4) Being a security risk;

(5) Threatening a government official;

(6) Having committed an offense involving the mail;

(7) Having participated in major criminal activity of a sophisticated nature; or

(8) Notoriety or being highly publicized.

(c) The Warden shall utilize one of the following procedures before placing an inmate on restricted general correspondence unless the inmate is in admission and orientation or holdover status (see § 540.14) or unless the whole institution is placed on restricted general correspondence:

(1) Where the restriction will be based upon a misconduct report, procedures must be followed in accordance with inmate disciplinary regulations (Part 541 of this chapter).

(2) Where there is no misconduct report, the Warden:

(i) Shall advise the inmate in writing of the reasons he is to be placed on restricted general correspondence;

(ii) Shall give the inmate the opportunity to respond to the classification or change in classification; the inmate has the option to respond orally or to submit written information or both; and

(iii) Shall notify the inmate of his decision and his reasons and shall advise the inmate of the administrative remedy procedure (Part 542 of this chapter).

(d) When an inmate is placed on restricted general correspondence, the inmate may, except as provided in §§ 540.14 and 540.15—

(1) Correspond with his spouse, mother, father, and children;

(2) Request that other persons also be placed on the approved correspondence list subject to investigation, evaluation and approval by the Warden; the inmate may write to a proposed correspondent to obtain a release authorizing an investigation; such investigation may then be conducted to obtain information necessary to evaluate the status and relationship of the correspondent;

(3) Correspond with friends and former business associates when it appears to the Warden that it will not be detrimental to the inmate or his correspondent; correspondence with business associates is limited to social matters; social correspondence generally is limited to those persons known by the inmate prior to confinement; and

(4) Correspond with a person having a criminal record if the Warden considers the correspondence to be constructive and directed to socially useful and rehabilitative goals.

(e) The Warden may allow an inmate additional correspondence with persons other than those on his approved mailing list when the correspondence is shown to be necessary and does not require an addition to the mailing list because it is not of an ongoing nature.

§ 540.14 Inmate correspondence while in admission and orientation, segregation and holdover status.

(a) The Warden shall permit an inmate in Admission and Orientation status to send mail to and receive mail from at least two close relatives during the orientation period.

(b) The Warden shall permit inmates in holdover status to have correspondence privileges similar to those of other inmates in so far as practical.

(c) The Warden shall permit an inmate in segregation to have full correspondence privileges unless placed on restricted general correspondence under § 540.13.

§ 540.15 Correspondence between confined inmates.

(a) An inmate may request to correspond with an inmate confined in another penal institution.

(b) The Warden may permit an inmate to correspond with inmates confined in other penal institutions only if the correspondence:

(1) Is between close relatives;

(2) Involves legal matters where the inmates are parties or witnesses in the same civil or criminal court action; or

(3) Involves a relationship between the confined inmates which existed prior to commitment and both institutions agree that the correspondence is beneficial to both inmates.

§ 540.16 Prisoner's mail box (PMB).

(a) The Warden shall establish one or more PMBs, centrally located, to ensure ready accessibility to the inmate population.

(b) Institution staff shall notify each inmate that he is responsible for his correspondence placed in the PMB as stated in § 540.11(c).

(c) An inmate shall address all correspondence as legibly as possible but may not be required by staff to place his name or identifying mark on the envelope, except as provided in paragraph (f) of this section.

(d) Staff shall provide a current Congressional Directory for use by inmates.

(e) Staff shall allow an inmate to send letters through the PMB as registered, certified or special delivery if he so desires at his own expense. In order to do so, the inmate shall identify himself and his registration number on the envelope so that the proper procedures for handling mail of this type can be followed.

(f) In order to send mail through the PMB to an attorney's assistant or to a legal aid student or assistant, an inmate shall address the mail to the attorney or legal aid supervisor, to the attention of the student or assistant.

§ 540.17 Incoming special mail.

(a) The Warden shall open special mail only in the presence of the inmate for inspection for physical contraband. The correspondence may not be read or copied if the sender has adequately identified himself on the envelope and has stated on the envelope that his mail is "Special mail—open only in the presence of the inmate."

(b) In the absence of this claim of privilege appearing on the envelope, staff may treat the mail as general correspondence and may open, inspect, and read the mail.

§ 540.18 Legal correspondence.

(a) Staff may examine in the presence of the inmate enclosures in correspondence sent by an attorney to an inmate to make certain they are within the scope of the attorney/client relationship.

(b) Staff shall mark each envelope to show the date and time of receipt, the date and time that the letter is delivered to an inmate and opened in his presence, and the same of the staff member who delivered the letter.

(c) Staff shall attach a statement to correspondence sent by an inmate to an attorney, cautioning against (1) Use of the mail for purposes other than those within the purview of the attorney/client relationship, (2) transmittal of contraband, or (3) forwarding of any matter from other correspondents. Staff shall advise the attorney that, provided the envelope is marked "Special mail—open only in the presence of the inmate" and is marked with the attorney's name and an indication that he is an attorney, the mail will be opened only in the presence of the inmate and solely for the purpose of inspection for physical enclosures outside the attorney/client relationship or constituting contraband, and the attorney's letter will not be read or copied. Contraband need not be returned to the sender but may be referred to the appropriate investigating agency.

(d) Grounds for the limitation or denial of an attorney's correspondence rights or privileges is stated in § 543.4. If such action is taken the Warden shall give notice to the attorney and the inmate affected.

(e) Mail to an inmate from an attorney's assistant or legal aid student or assistant, in order to be identified and treated by staff as special mail, must be properly identified on the envelope as required in paragraph (c) of this section and as special mail from the attorney or from the legal aid supervisor.

§ 540.19 Inmate correspondence with representatives of the news media.

(a) An inmate may write through the PMB to representatives of the news media specified by name or title. (See § 540.2.)

(b) The inmate may not receive compensation or anything of value for correspondence with the news media. The inmate may not act as reporter or publish under a byline.

(c) Representatives of the news media may initiate correspondence with an inmate. Staff shall inspect incoming correspondence from representatives of the news media for contraband and for content which is likely to promote illegal activity, or conduct contrary to Bureau regulations. Staff shall return a rejected letter to the sender, with a brief explanation for the rejection. Contraband need not be returned to the sender but may be referred to the appropriate investigating agency. Staff shall notify the sender that he may protest the rejection. The protest is referred for review to a staff member other than the staff member who originally disapproved the correspondence.

§ 540.20 Exception to notification procedures.

(a) When correspondence, which includes plans or evidence of a crime, is rejected, there is no need to return the correspondence or to give an explanation to the sender, and there is no need for staff to notify the inmate affected.

(b) The return and notification procedures do not apply in those exceptional cases where there is sound reason to believe that the return or notification could pose a threat to the security or good order of the institution or the safety of any individual.

Subpart C—[Reserved]

Subpart D—Inmate Visiting

§ 540.40 Purpose and scope.

The Bureau of Prisons encourages visiting to develop and maintain family and community relationships and inmate morale. The Warden shall develop procedures consistent with this subpart to permit inmate visiting. The Warden may re-

strict inmate visiting when necessary to insure the security, good order, and discipline of the institution.

§ 540.41 Supervision of visits.

(a) Staff shall supervise each inmate visit to prevent the passage of contraband and to insure the security, good order, and discipline of the institution.

(b) Staff shall permit limited physcial contact, such as handshaking, embracing and kissing, between an inmate and a visitor at the beginning and end of a visit. The staff may limit physical contact to minimize opportunity for introduction of contraband.

(c) Staff may at any time require an inmate or his visitor or both to submit to a personal search, including any items of personal property, as a condition of allowing or continuing the visit.

(d) Staff may not accept an article or gift for an inmate unless it has been previously approved by the Warden except that a visitor may leave money for deposit into an inmate's commissary account in compliance with procedures established by the Warden.

§ 540.42 Visiting facilities.

The Warden shall insure that the visiting area is as comfortable and pleasant as practical. The Warden may permit an inmate with appropriate custody classification (Part 524 of this chapter) to visit in an area other than the principal visiting room, but all visiting areas must be under staff supervision.

§ 540.43 Visiting times, numbers of visitors and frequency of visits.

(a) The Warden shall establish a schedule that permits, at a minimum, visiting on weekends and holidays and, when feasible, during weekdays and evenings.

(b) The Warden may limit the length or frequency of visits or the number of visitors per visit for the reasons specified in Section 540.40.

§ 540.44 Persons who may be authorized to visit an inmate regulatory and procedure for approval.

(a) The Warden shall place members of an inmate's immediate family (parents, step parents, foster parents, siblings, spouses, and children) on the inmate's regular visiting list and shall permit them to visit, subject to the limitations and conditions of this subpart.

(b) The Warden shall place a person other than an immediate family member of an inmate on the inmate's regular visiting list and shall permit him to visit subject to the limitations and conditions of this subpart, if the inmate establishes, and the Warden determines that the relationship is beneficial for the inmate.

(c) An inmate desiring to have regular visitors must submit a list of proposed visitors to the Warden. The Warden may, as a prerequisite of allowing visits, require the proposed visitor to provide the following personal information:

(1) Name, address, age;

(2) Relationship to the inmate;

(3) Prior criminal record and present probation or parole status;

(4) Reason for visiting;

(5) Length of time the potential visitor has known the inmate; and

(6) Whether the potential visitor is writing or visiting other inmates, and if so, whom.

(d) The Warden may, as a prerequisite of allowing a visit, request information from law enforcement agencies regarding a potential visitor and require a potential visitor to provide an authorization for the law enforcement agency to release information in response to the request.

§ 540.45 Special visitors.

(a) The Warden may authorize a special visit for a person not on the regular visiting list for purposes such as release planning, counseling or discussion of acute family problems.

(b) Unless the Warden authorizes an exception, children under the age of 16 years may not be permitted to visit an inmate unless accompanied by a responsible adult.

(c) The Warden may approve a person with a record of criminal conviction to visit an inmate only if the Warden determines that the value of the visit to the inmate is greater than the potential risk to institution security of allowing the visit.

(d) The Bureau of Prisons does not permit an inmate to engage actively in a business or profession while confined. At the Warden's discretion, however, an inmate may be permitted to have a visit for protecting his resources or financial interests.

§ 540.46 Visits by attorneys.

(a) The Warden shall, under the conditions of this section, permit visits by the retained, appointed, or prospective attorney of an inmate or by an attorney who wishes to interview an inmate as a witness.

(b) The Warden generally may not limit the frequency of attorney visits since the number of visits necessary is dependent upon the nature and urgency of the legal problems involved. The Warden shall set the time and place for visits, which ordinarily take place during regular visiting hours. Attorney visits shall take place in a private conference room, if available, or in a regular visiting room in an area and at a time designed to allow a sufficient degree of privacy. The Warden may make exceptions according to local conditions or for an emergency situation demonstrated by the inmate or visiting attorney.

(c) The attorney shall make an advance appointment for the visit through the Warden prior to each visit; however, the Warden shall make every effort to arrange for a visit when prior notification is not practical.

(d) The Warden may require an attorney to indicate where he is licensed as an attorney and how that fact may be verified. Prior to each appointment or visit, the Warden shall require each attorney to identify himself and to confirm that he wishes to visit an inmate who has requested his visit or whom he represents or whom he wishes to interview as a witness. The Warden may not ask the attorney to state the subject matter of the law suit or interview. If there is any question about the identity of the visitor or his qualification as an attorney in good standing, the Warden shall refer the matter to the Regional Counsel.

(e) Staff may not subject visits between an attorney and an inmate to auditory supervision. The Warden may permit tape recordings to be used by an attorney during the course of a visit only if the attorney states in writing in advance of the interview that the sole purpose of the recording is to facilitate the attorney-client or attorney-witness relationship.

(f) The Warden may, at any time, subject an attorney to a search of his person and belongings as a condition of visiting an inmate.

(g) As to limitation or denial of attorney visits, see Part 543, of this chapter.

§ 540.47 Consular visits.

The Warden shall permit a Consular representative of a foreign country to visit an inmate who is a citizen of that country subject to the limitations and conditions of this subpart.

§ 540.48 Visits for inmates in special housing status.

(a) The Warden may limit visits to an inmate in Admission and Orientation Status to immediate family members until the staff has had reasonable time to prepare the list of authorized visitors.

(b) The Warden may limit, for medical reasons, visits to an inmate who is hospitalized in the institution.

(c) A visit to an inmate who is hospitalized in a local community hospital may be limited to immediate family members and is subject to the general visiting policy of that hospital.

(d) The Warden may limit visits to an inmate in Administrative Detention or Disciplinary Segregation (Part 541 of this chapter) if the inmate has violated the visiting regulations or if the visit would jeopardize the security, good order, or discipline of the institution. Otherwise, the Warden shall permit regular visiting.

§ 540.49 Penalty for violating visiting regulations.

Any efforts to violate visiting regulations may result in denial of future visits, inmate disciplinary action, or criminal prosecution.

Subpart E—Contact With News Media

§ 540.60 Purpose and scope.

The Bureau of Prisons recognizes the desirability of establishing a policy that affords the public greater information about its operations via the news media. Representatives of the news and other media may visit institutions for the purpose of preparing reports about the institution, programs, and activities. It is not the intent of this rule to provide publicity to an inmate or special privileges for the news media, but rather to insure a better informed public. The Bureau of Prisons has a responsibility to protect the rights of all inmates and members of the staff. Therefore, an interview in an institution must be regulated to insure the orderly and safe operation of the institution.

§ 540.61 Authorizations.

(a) A news media representative who desires to make a visit or conduct an interview at an institution must make application in writing to the Warden, indicating that he is familiar with the rules and regulations of the institution and agrees to comply with them.

(b) As a condition of authorizing interviews and making facilities available to conduct an interview, the news media representative shall recognize a professional responsibility to make reasonable attempts to verify any allegations regarding an inmate, staff member or institution.

(c) A representative of the news media is requested to provide the Bureau of Prisons an opportunity to respond to any allegation, which might be published or broadcast prior to distribution.

(d) A representative of the news media shall collect information only from the primary source. A representative of the news media may not obtain and use personal information from one inmate about another inmate who refuses to be interviewed.

(e) The Warden may be contacted concerning discussions or comments regarding applicability of any rule or order.

(f) Failure to adhere to the standards of conduct set forth by this rule for the news media representative constitutes grounds for denying that news media representative, or the news organization which he represents, permission to conduct an interview.

(g) Any questions as to the meaning or application of this subpart are resolved by the Director of the Bureau of Prisons.

§ 540.62 Institutional visits.

(a) A media representative shall make advance appointments for visits.

(b) When media representatives visit the institution, photographs of programs and activities may be taken, and media representatives may meet with groups of inmates engaged in authorized programs and activities. An inmate has the right not to be photographed and not to have his voice recorded by the media. A visiting representative of the media is required to obtain written permission from an inmate before photographing or recording the voice of an inmate participating in authorized programs and activities. Use of the inmate's name, identifiable photographs or voice recordings are not encouraged.

(c) The Warden may suspend all media visits during an institutional emergency and for a reasonable time after the emergency.

(d) An inmate currently confined in an institution may not be employed or act as a reporter or publish under a byline.

(e) Interviews by reporters and others not included in § 540.2 may be permitted only by special arrangement and with approval of the Warden.

§ 540.63 Personal interviews.

(a) An inmate may not receive compensation or anything of value for interviews with the news media.

(b) Either an inmate or a representative of the news media may initiate a request for a personal interview at an institution.

(c) Visits by the news media to conduct personal interviews are subject to the same conditions stated in § 540.62. A media representative shall make request for personal interview within a reasonable time prior to the personal interview.

(d) Staff shall notify an inmate of each interview request, and shall, as a prerequisite, obtain from the inmate written consent for the interview prior to the interview taking place. The written consent or denial becomes part of the inmate's central file.

(e) As a prerequisite to granting the interview, an inmate must authorize the institutional staff to respond to comments made in the interview and to release information to the news media relative to the inmate's comments.

(f) The Warden shall normally approve or disapprove an interview request within 24 to 48 hours of the request.

(g) The Warden shall document any disapproval. A request for interview may be denied for any of the following reasons:

(1) The news media representative, or the news organization which he represents, does not agree to the conditions established by this subpart or has, in the past, failed to abide by the required conditions.

(2) The inmate is physically or mentally unable to participate. This must be supported by a medical officer's statement (a psychologist may be used to verify mental incapacity) to be placed in the inmate's record, substantiating the reason for disapproval.

(3) The inmate is a juvenile (under age 18) and written consent has not been obtained from his parent or guardian. If the juvenile inmate's parents or guardians are not known or their addresses are not known, the Warden of the institution shall notify the representative of the news media of the inmate's status as a juvenile, and shall then consider the request.

(4) The interview, in the opinion of the Warden, would endanger the health or safety of the interviewer, or would probably cause serious unrest or disturb the good order of the institution.

(5) The inmate is involved in a pending court action and the court having jurisdiction has issued an order forbidding such interviews.

(6) In the case of unconvicted persons (including competency commitments under 18 U.S.C. 4244 and 4246) held in Federal institutions, interviews are not authorized until there is clearance with the court having jurisdiction, ordinarily through the U.S. Attorney's Office.

(7) The inmate is a "protection" case and revelation of his whereabouts would endanger his safety.

(h) Interviews are normally held in the institution visiting room during normal weekday business hours. The Warden shall limit interviews to two one-hour sessions per inmate per month. The Warden may:

(1) Determine that another location is more suitable for conducting the interview;

(2) Further limit interview time for the entire institution if he determines that the interviews are imposing a serious drain on staff or use of the facilities;

(3) Limit to one one-hour interview per month for an inmate in segregation, restricted, holdover, control unit, or hospital status if required by special security, custodial, or supervisory needs; and

(4) Limit the amount of audio, video, and film equipment or number of media personnel entering the institution if he determines that the requested equipment or personnel would create a disruption within the institution.

(i) In conjunction with the personal interview, if the member of the media wishes to tour the institution, he must comply with the provisions of § 540.61.

(j) Interviews are not subject to auditory supervision.

§ 540.64 Press pools.

(a) The Warden may establish a press pool whenever he determines that the frequency of requests for interviews and visits reaches a volume that warrants limitations.

(b) Whenever the Warden establishes a press pool, he shall notify all news media representatives who have requested interviews or visits that have not been conducted. Selected representatives are admitted to the institution to conduct the interviews under the specific guidelines established by the Warden.

(c) All members of the press pool are selected by their peers and consist of not more than one representative from each of the following groups:

(1) The national and international news services;

(2) The television and radio networks and outlets;

(3) The news magazines and newspapers; and

(4) All media in the local community where the institution is located. If no interest has been expressed by one or more of these groups, no representative from such group need be selected.

(d) All news material generated by such a press pool is made available to all media without right of first publication or broadcast.

§ 540.65 Release of information.

(a) The Warden shall promptly make announcements stating the facts of unusual incidents to local news media.

(b) The Warden shall provide information about an inmate that is a matter of public record to the representatives of the media upon request.

The information is limited to the inmate's:

(1) Name;

(2) Register number;
(3) Place of incarceration;
(4) Age;
(5) Race;
(6) Offense for which convicted;
(7) Court where sentenced;
(8) Length of sentence;
(9) Date of sentencing;
(10) Date of arrival at the institution;
(11) Past movement via transfers or writs;
(12) General institutional assignments;
(13) Parole eligibility date; and
(14) Date of expiration of sentence.

(c) Information in paragraphs (b) (1) through (14) of this section may not be released if confidential for protection cases.

(d) A request for additional information concerning an inmate by a representative of the news media is referred to the Public Information Officer, Central Office, Washington, D.C.

(e) The Public Information Officer, Central Office, Washington, D.C. shall release all announcements related to:
(1) Bureau of Prisons policy;
(2) Changes in an institutional mission;
(3) Type of inmate population; or
(4) Changes in executive personnel.

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

Subpart A—[Reserved]

Subpart B—Inmate Discipline

Sec.

541.10 Purpose and scope.
541.11 Notice to inmate of institution rules.
541.12 Incident report and investigation.
541.13 Initial hearing.
541.14 Establishment and functioning of institution discipline committee.
541.15 Procedures in institution discipline committee hearings.
541.16 Dispositions of the institution discipline committee.
541.17 Appeals from institution discipline committee actions.
541.18 Justifications for placement in disciplinary segregation and review of inmates in disciplinary segregation.
541.19 Disciplinary procedures for Federal Community Treatment Centers.
541.20 Conditions of disciplinary segregation.
541.21 Administrative detention.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0–99.

Subpart A—[Reserved]

Subpart B—Inmate Discipline

§ 541.10 Purpose and scope.

(a) So that inmates may live in a safe and orderly environment, it is necessary for institution authorities to impose discipline on those inmates whose behavior is not in compliance with institution rules.

(b) The following general principles apply in every disciplinary action taken:

(1) Only institution staff may take disciplinary action.

(2) Staff shall take disciplinary action at such times and to the degree necessary to regulate an inmate's behavior within institution rules.

(3) Staff shall control inmate behavior in a completely impartial and consistent manner.

(4) Disciplinary action may not be capricious or retaliatory.

(5) Staff may not impose or allow imposition of corporal punishment of any kind.

§ 541.11 Notice to inmate of institution rules.

Staff shall advise each inmate in writing at the time of arrival at an institution of:

(a) The types of disciplinary action which may be taken by institution staff;

(b) The disciplinary system within the institution (See Table 1);

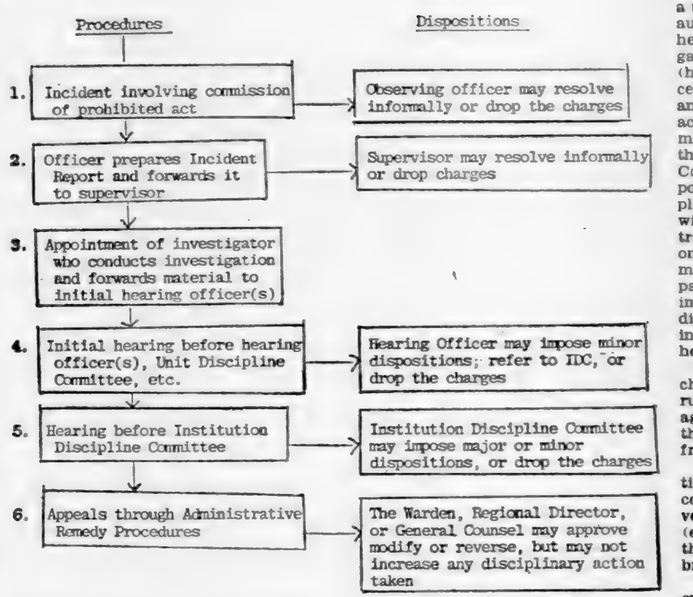
(c) The inmate's rights and responsibilities; and

(d) Prohibited acts by inmates and code numbers, which are:

001 Killing.
002 Assaulting any person.
003 Fighting with another person.
004 Threatening another with bodily harm, or with any offense against his person or property.
005 Extortion, blackmail, protection: demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.
051 Engaging in sexual acts with others.
052 Making sexual proposals or threats to another.
053 Indecent exposure.
101 Escape.
102 Attempting or planning escape.
103 Wearing a disguise or mask.
151 Setting a fire.
152 Destroying, altering, or damaging government property, or the property of another person.
153 Stealing (theft).
154 Tampering with or blocking any locking device.
155 Adulteration of any food or drink.
201 Possession or introduction of an explosive or any ammunition.
202 Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, or unauthorized tool.
203 Possession, introduction, or use of any narcotics, narcotic paraphernalia, drugs, or intoxicants not prescribed for the individual by the medical staff.
204 Misuse of authorized medication.
205 Possession of money or currency, unless specifically authorized.
206 Possession of property belonging to another person.
207 Loaning of property or anything of value for profit or increased.
208 Possession of anything not authorized for retention or receipt by the inmate, and not issued to him through regular institutional channels.
209 Possessing any officer's or staff clothing.
210 Possessing unauthorized clothing.
211 Mutilating or altering clothing issued by the government.
251 Rioting.
252 Encouraging others to riot.
253 Engaging in, or encouraging, a group demonstration.
254 Refusing to work, or to accept a program assignment.
255 Encouraging others to refuse to work or participate in work stoppage.
256 Refusing to obey an order of any staff member.
257 Violating a condition of furlough.
258 Violating a condition of work or study release.
301 Unexcused absence from work, or any assignment.
302 Malingering, feigning an illness.
303 Failing to perform work as instructed by a supervisor.
304 Insolence towards a staff member.
305 Lying or providing a false statement to a staff member.
306 Conduct which disrupts or interferes with the security or orderly running of the institution.
307 Refusing to disclose to staff information concerning the commission of a prohibited act.
351 Counterfeiting, forging, or unauthorized reproduction of any document, article of identification, money, security, or official paper.
401 Participating in an unauthorized meeting or gathering.
402 Being in an unauthorized area.
451 Failure to follow safety or sanitation regulations.
452 Using any equipment or machinery which is not specifically authorized.
453 Using any equipment or machinery contrary to instructions or posted safety standards.
501 Failing to stand count.
502 Interfering with the taking of count.
551 Making intoxicants.
552 Being intoxicated.
553 Smoking where prohibited.
554 Using abusive or obscene language.
601 Gambling.
602 Preparing or conducting a gambling pool.
603 Possession of gambling paraphernalia.
651 Being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards.
652 Tattooing or self-mutilation.
701 Unauthorized use of mail or telephone.
702 Unauthorized contacts with the public.
703 Correspondence or conduct with a visitor in violation of posted regulations.
751 Giving or offering any official or staff member a bribe, or anything of value.
752 Giving money or anything of value to, or accepting money or anything of value from another inmate, a member of his family, or his friend.
801 Attempting to commit any of the above offenses, aiding another person to commit any of the above offenses, and making plans to commit any of the above offenses shall be considered the same as a commission of the offense itself.

SUMMARY OF DISCIPLINARY SYSTEM

TABLE 1



§ 541.12 Incident report and investigation.

(a) *Incident Report:* The Bureau of Prisons encourages informal resolution of incidents involving violations of institution regulations. However, when staff witnesses or has a reasonable belief that a violation of institution regulations has been committed by an inmate, and when staff consider informal resolution of the incident inappropriate, staff shall prepare an incident report and promptly forward it to the appropriate correctional supervisor. This supervisor may informally dispose of the incident report or forward the incident report for investigation consistent with this section. The correctional supervisor shall expunge the inmate's file of the incident report if informal resolution is accomplished.

(b) *Investigation:* Staff shall conduct the investigation within 24 hours of appointment of the investigator, unless circumstances beyond the control of the investigator intervene. The investigating officer should be an employee of supervisory level and may not be the employee reporting the incident in question. When it appears likely that the incident may be the subject of a criminal prosecution, the investigating officer shall suspend the investigation, and staff may not question the inmate until the FBI interviews have been completed or until the FBI advises that staff questioning may occur. Ordinarily, the investigating officer shall give the inmate a copy of the incident report at the beginning of the investigation. This delivery must be done within eight hours from the time the investigator receives the assignment, unless there are exceptional circumstances which prevent it. If the investigation is delayed for any reason, any employee may deliver the charges to the inmate. The staff member shall note the date and time the inmate received a copy of the incident report. The investigator shall also read the charges to the inmate and obtain his statement concerning the incident, unless it appears likely that the incident may be the subject of criminal prosecution. The investigator shall then thoroughly investigate the incident. He shall record all steps and actions taken on the incident report and forward all relevant material to the staff holding the initial hearing. The inmate does not receive a copy of the investigation. However, if the case is ultimately forwarded to the Institution Discipline Committee, the Committee shall give a copy of the investigation to the inmate's staff representative for use in his presentation on the inmate's behalf.

(c) The investigating officer may extend time limits imposed in this section for good cause shown by the inmate or staff.

§ 541.13 Initial hearing.

The Warden shall delegate to one or more institution staff members (usually a unit or team discipline committee) the authority and duty to hold an initial hearing upon completion of the investigation. If the appointed staff member(s) (hereinafter referred to as hearing officers(s)) find at the initial hearing that an inmate has committed a prohibited act, the hearing officer(s) may impose minor dispositions and sanctions or refer the charges to the Institution Discipline Committee for a rehearing. Minor dispositions and sanctions include all disciplinary actions other than segregation, withholding or forfeiture of good time, transfer for disciplinary reasons, or recommendations to the U.S. Parole Commission for rescission or retardation of parole grants. The process by which staff imposes minor dispositions is left to the discretion of the Warden, but the following minimum standards apply to initial hearings in all institutions:

(a) Staff shall give each inmate charged with violating an institution rule a written copy of the charges against the inmate within 24 hours of the time staff became aware of the infraction.

(b) Each inmate so charged is entitled to an initial hearing before an officer(s), other than the reporting or investigating officer, held within 48 hours (excluding weekends and holidays) of the incident to consider the charge brought against the inmate.

(c) The inmate is entitled to be present at the initial hearing except during deliberations of the decision maker or when institutional security would be jeopardized by his presence. The hearing officer(s) shall clearly document in the record of the hearing reasons for excluding an inmate from the hearing.

(d) The inmate is entitled to make a statement and to present documentary evidence in his own behalf.

(e) The hearing officer(s) shall give the inmate a written copy of the decision and disposition. Any action taken as a minor disposition is reviewable under the Administrative Remedy Procedure. (Part 542 of this chapter).

(f) When an alleged violation of institution rules is serious and warrants consideration for other than minor sanctions, the hearing officer(s) shall refer the charge to the Institution Discipline Committee for hearing and disposition. The hearing officer(s) shall forward copies of all relevant documents to the Chairman of the Institution Discipline Committee with a brief statement of reasons for the referral along with any recommendations for appropriate disposition if the Committee finds the inmate has committed the act charged or a similar prohibited act. The inmate whose charge is being referred to the Institution Discipline Committee may be retained in Administrative Detention or other restricted status, but the hearing officer(s) may not impose a final disposition if the matter is being referred to the Institution Discipline Committee.

(g) When the hearing officer(s) holds a full hearing and determines that the inmate did not commit a prohibited act, the hearing officer(s) shall expunge the inmate's file of the incident report and related documents lodged against him.

(h) The hearing officer(s) may extend time limits imposed in this section for good cause shown by the inmate or staff.

§ 541.14 Establishment and functioning of institution discipline committee.

(a) The Warden shall establish a single Institution Discipline Committee. In the event of a serious disturbance or other emergency, or if an inmate commits an offense in the presence of the Committee, the Warden may establish more than one Institution Discipline Committee with approval of the appropriate Regional Director.

(b) The Warden may appoint as many members to the Institution Discipline Committee as are appropriate. At least three members, including the Chairman, shall be present at any hearing to constitute a quorum. The Chairman and at least one member present at the hearing must be of the department head level or higher. The third member and additional members of the Committee need not be of department head level. For the purpose of this section, "department head" includes acting department head. In order to insure impartiality, no member of the Committee may be the reporting, investigating or initial hearing officer or a witness to the incident or play any significant part in having the charge referred to the Committee. However, a staff member witnessing an incident may sit as a member of the Committee where virtually every staff member in the institution witnessed it in whole or in part.

(c) The Institution Discipline Committee shall conduct hearings, make findings, and impose appropriate sanctions for incidents of inmate misconduct referred to it for disposition following the hearing required by § 541.13 before the initial hearing officer(s). The Institution Discipline Committee may not hear any case or impose any sanctions (except as provided in § 541.16(d), continuing offenses) in a case not heard and referred by the initial hearing officer(s). While this Committee may impose any lesser sanctions available, only this Committee has the authority to order:

(1) An inmate placed or retained in disciplinary segregation;

(2) An inmate's statutory good time withheld or forfeited;

(3) An inmate transferred to another institution for disciplinary reasons; or

(4) A recommendation to the U.S. Parole Commission that the Commission retard or rescind an inmate's parole grant. The Commission, however, may request the Institution Discipline Committee to hold a fact finding hearing in any case where the Commission considers it necessary to determine whether to rescind or retard a parole grant. In study cases (18 USC 4205(c), 4252, 5010 (e), 5037(c)), any report of disciplinary action to the sentencing judge must be preceded by a hearing in accordance with § 541.15.

This Committee shall conduct reviews of inmates placed in disciplinary segregation in accordance with the requirements of § 541.18.

§ 541.15 Procedures in institution discipline committee hearings.

The Institution Discipline Committee shall proceed as follows:

(a) The Warden shall give an inmate advance written notice of the charge against the inmate no less than 24 hours before his appearance before the Institution Discipline Committee, unless he is to be released from custody within that time. An inmate may waive in writing the 24 hour notice requirement.

(b) The Warden shall provide an inmate the service of a full time staff member to represent the inmate at the hearing before the Institution Discipline Committee should the inmate so desire. The staff representative shall be available to assist the inmate if the inmate desires by speaking to witnesses and by presenting favorable evidence to the Committee on the merits of the charges or in extenuation or mitigation of the charges. The chairman shall arrange for the presence of the staff representative selected by the inmate. If the staff member selected declines or is unavailable because of absence from the institution, the inmate has the option of selecting another representative, or in the case of an absent staff member of waiting a reasonable period for the staff member's return, or of proceeding without a staff representative. When an inmate who is illiterate requests a staff representative or when an inmate facing complex charges requests a staff representative, but staff members decline this role, the Warden shall appoint a staff representative to assist the inmate. The Committee shall afford a staff representative adequate time to speak with the inmate and interview requested witnesses where appropriate. While it is expected that a staff member will have had ample time to prepare prior to the hearing, delays in the hearing to allow for adequate preparation may be ordered by the Chairman of the Institution Discipline Committee.

(c) An inmate has the right to submit names of requested witnesses and have them called to present documents in his behalf, provided the calling of witnesses or the disclosure of documentary evidence does not jeopardize or threaten institutional or an individual's security. The chairman shall call those witnesses who are reasonably available and are necessary for an appreciation of the circumstances surrounding the charge. The Chairman need not call repetitive witnesses and may ask unavailable witnesses to submit written statements. The Chairman shall document reasons for declining to call requested witnesses in the Committee's report. The inmate's staff representative or, when the inmate waives staff representative, members of the Committee, shall question witnesses requested by the inmate who are called before the Committee.

(d) An inmate has the right to be present through the Institution Discipline Committee hearing except during deliberations of the Committee or when institutional security would be jeopardized. The Chairman must document the reasons for excluding an inmate from the hearing in the record. The Committee may conduct a hearing in the absence of an inmate when the inmate refuses to appear and cannot be brought to the hearing without the use of force. When an inmate escapes or is otherwise absent from custody, the Institution Discipline Committee shall conduct a hearing in the inmate's absence at the institution in which the inmate was last confined. When an inmate who has had any sanctions imposed by the Committee while absent from custody returns to custody, the Warden shall advise the inmate of his right to have the escape charge reheard before the Institution Discipline Committee at the institution to which the inmate was returned to custody. All the procedural requirements of Institution Discipline Committee hearings practicable apply to this rehearing, except that written statements of witnesses not readily available may be liberally used instead of live witnesses. The Institution Discipline Committee upon rehearing may dismiss the charge, or may modify but may not increase the sanctions previously imposed in the inmate's absence.

(e) The Committee, at any time prior to making a final judgment as to whether or not a prohibited act was committed, may continue the hearing until a later date whenever further investigation or more evidence is needed.

(f) The Committee shall consider all evidence presented at the hearing and shall make a final judgment in accordance with the greater weight of the evidence. The Committee shall find that the inmate either—

(1) Committed the prohibited act charged or a similar prohibited act, or

(2) Did not commit the prohibited act charged or a similar prohibited act.

(g) The Institution Discipline Committee shall prepare a record of its proceedings which need not be verbatim. This record must be sufficient to document the advisement of inmate rights, the Committee's findings, the Committee's decision and the specific evidence relied on by the Committee, and must include a brief statement of the reasons for the sanctions imposed. The evidence relied upon the decision and the reasons for the actions taken must be set out in specific terms unless doing so would jeopardize institutional security.

(h) The Institution Discipline Committee shall expunge an inmate's file of the incident report whenever the Committee finds the inmate did not commit a prohibited act. The requirement for expunging the inmate's file does not preclude maintaining copies of disciplinary actions resulting in "not guilty" findings in a master file separate from the inmate's institution file for research

purposes. However, institution staff may not use or allow the usage of the contents of this master file in any manner which would adversely affect the inmate. Likewise, the expungement requirement does not require the destruction of medical reports or Special Housing Report Forms relating to a particular inmate which must be maintained to document medical or other treatment given in a Special Housing Unit. If an inmate's conduct during one continuous incident may constitute more than one prohibited act, and if the incident is reported in a single Incident Report, and if the Committee finds the inmate has not committed every prohibited act charged, then the Committee shall record it's findings clearly and shall mark out on the Incident Report the incident and code references to charges which were not proved. Institution staff may not use the existence of charge but unproved misconduct against the inmate.

§ 541.16 Dispositions of the institution discipline committee.

The Institution Discipline Committee has available a broad range of sanctions and dispositions when it has completed a hearing. The Institution Discipline Committee may do any of the following:

(a) Dismiss any charge before it upon a finding that the inmate did not commit the prohibited act. The Committee shall order the record of charges expunged upon such finding.

(b) Impose sanctions and dispositions available to the initial hearing officer(s).

(c) Direct that an inmate be placed or retained in disciplinary segregation pursuant to guidelines contained in this Part.

(d) Withhold an inmate's statutory good time. Extra good time may not be withheld by the Committee. This withholding may not be applied as a universal punishment to all persons in disciplinary segregation status. Withholding is limited to the statutory good time creditable for the single month during which the violation occurs. Each withholding must be related to a separate offense. Some offenses, such as refusal to work at an assignment, may be recurring and thus may permit consecutive withholding actions. The Committee shall consider withheld good time for restoration on or about six months from the date of the offense which formed the basis of the withholding. The Committee may consider withheld good time for restoration earlier than the six month date if circumstances warrant.

(e) Forfeit an inmate's statutory good time. The good time available for forfeiture is limited to an amount computed by multiplying the number of months served at the time of the offense for which forfeiture action is taken, by the applicable monthly rate specified in 18 USC 4161 (less any previous forfeiture or withholding outstanding). Extra good time may not be forfeited. All or part of an inmate's accumulated statutory good time may be forfeited. The Institution Discipline Committee has the authority to restore all types of forfeited and withheld good time. The Committee shall consider forfeited good time for restoration on or about one year from the date of the offense which formed the basis of the forfeiture. The Committee may consider forfeited good time for restoration earlier than the one year date if circumstances warrant.

(f) Direct that an inmate be transferred to another institution for disciplinary reasons. Where a present or impending emergency requires immediate action, the Warden may transfer an inmate prior to an Institution Discipline Committee hearing only with the approval of the receiving Regional Director. However, a hearing before the Institution Discipline Committee at the receiving institution must be conducted as soon as practicable under the circumstances to consider the factual basis of the charge of misconduct and the reasons for the emergency transfer. All procedural requirements applicable to Institution Discipline Committee hearings contained in § 541.15 must be utilized, except that written statements of unavailable witnesses may be liberally accepted instead of live testimony.

(g) Make recommendations to the Parole Commission for retardation or rescission of parole grants and hold fact-finding hearings upon request of the Commission as set forth in § 541.14.

(h) Suspend the execution of any sanction it imposes.

§ 541.17 Appeals from institution discipline committee actions.

At the time the Institution Discipline Committee gives an inmate notice of its decision, the Committee shall also advise the inmate that the inmate may appeal the Committee's decision under Administrative Remedy Procedures (see Part 541 of this chapter). On appeals, the Warden, Regional Director, or General Counsel may approve, modify, or reverse any disciplinary action of the Institution Discipline Committee but may not increase the sanctions imposed by the Committee. On appeals, the Warden, Regional Director, or General Counsel shall consider—

(a) Whether the Institution Discipline Committee substantially complied with the regulations on Inmate Discipline;

(b) Whether the Institution Discipline Committee based its decision on substantial evidence; and

(c) Whether under the circumstances, the Institution Discipline Committee imposed a sanction proportionate to the offense.

§ 541.18 Justifications for placement in disciplinary segregation and review of inmates in disciplinary segregation.

(a) Except as provided in paragraph (b) of this section, an inmate may be placed in Disciplinary Segregation only by order of the Institution Discipline Committee following a hearing in which the inmate has been found to have committed a serious act of misconduct which warrants this sanction. The Institution Discipline Committee may order placement in Disciplinary Segregation only when other available dispositions are inadequate to regulate an inmate's behavior within acceptable limits and when his presence in the general population poses a serious threat to life, property, himself, staff or other inmates or to the security or orderly running of the institution.

(b) The Warden may temporarily (not exceeding three days) move to disciplinary segregation an inmate who is causing a serious disruption (threatening life or property) in Administrative Detention, who cannot be controlled within the physical confines of Administrative Detention, and who cannot be safely housed in the institution hospital pending a hearing before the Institution Disciplinary Committee. The Warden may delegate this authority no further than to the official in charge of the institution at the time the move is necessary.

(c) The Institution Discipline Committee shall conduct a hearing and formally review the status of each inmate who spends seven continuous days in disciplinary segregation and thereafter shall review these cases on the record in the inmate's absence each week and shall conduct a hearing and formally review these cases at least once every 30 days. The inmate appears before the Institution Discipline Committee at the hearings, unless force would be required to secure his appearance. Staff shall conduct a psychiatric or psychological interview when Disciplinary Segregation continues beyond 30 days. In the interview and report, staff shall address the inmate's adjustment to surroundings and the threat the inmate poses to himself, staff and other inmates. Staff shall conduct a similar psychiatric or psychological interview and report at subsequent two-month intervals if segregation continues for this extended period.

(d) The Institution Discipline Committee shall release an inmate from Disciplinary Segregation when the Committee finds that the inmate no longer poses a threat to himself or others or to institutional security and when continuation in Disciplinary Segregation is no longer necessary to regulate the inmate's behavior within acceptable limits. The time an inmate spends in Disciplinary Segregation must be proportionate to the offense committed, taking into consideration the inmate's prior conduct, specific program needs, and other relevant factors.

§ 541.19 Disciplinary procedures for Federal Community Treatment Centers.

The following exceptions to the general disciplinary procedures enumerated in §§ 541.10–541.19 for Bureau of Prisons' institutions apply solely to Federal Community Treatment Centers. All other procedures of this part not affected by this section apply to Community Treatment Centers.

(a) *Institution Discipline Committee.* Each Federal Community Treatment Center must have a single Institution

Discipline Committee composed of at least one staff member appointed by the Director of the Center. No member need be of department head level. Federal Community Treatment Centers need not hold initial hearings or establish unit or team disciplinary committees with initial hearing authority but may have only one discipline committee, the Institution Discipline Committee.

(b) *Witnesses.* The Institution Discipline Committee shall permit an inmate appearing before the Committee to request the Committee to call witnesses from outside the Center who are willing to appear before the Committee at their own expense and whose presence at the hearing would not pose a serious threat to the security of the Center. When the Committee refuses a request for an outside witness, the Committee shall clearly document the reasons for refusing this requested witness. The Committee shall liberally accept written statements from requested witnesses who do not appear.

(c) *Offenders programmed in the center pursuant to Pub. L. 91-492 (probationers, parolees, or mandatory releasees).* Center staff shall forward reports of misconduct by an offender programmed in the Center pursuant to Pub. L. 91-492 to the appropriate agency (Probation Office or Parole Commission) for disposition which that agency considers appropriate. This offender may not be the subject of disciplinary action within the Center until the appropriate agency has been contacted. Center staff shall promptly forward this report when the misconduct is serious and arrangements for removal from the Center may be necessary for the protection of life or property.

(d) *Escapes or disappearances from CTCs.* When an inmate is not where he is scheduled to be, and when the Center staff has made reasonable efforts to contact the inmate, Center staff shall declare the inmate to be in escape status. Staff shall take further action following the guidelines under § 541.12. Staff shall effect total resolution of the incident, to the point of holding the hearing in the inmates absence.

(e) *Use of part time employees or other Federal employees in the disciplinary process.* With the exception of sitting as a member of the Institution Discipline Committee, part time employees or other Federal employees (U.S. Probation Officer, U.S. Marshal, etc.) may be used in any stage of the disciplinary process where there is an insufficient number of full time staff available.

§ 541.20 Conditions of disciplinary segregation.

(a) Disciplinary segregation is the status of confinement of an inmate housed in a special housing unit in an individual cell either alone or with other inmates, separated from the general population. Inmates housed in disciplinary segregation have significantly fewer privileges than those housed in Administrative Detention.

(b) The Warden shall maintain for each segregated inmate basic living levels of decency and humane treatment, regardless of the purpose for which the inmate has been segregated. The Warden may add privileges, for the purpose of reinforcing acceptable behavior, to the living conditions of those whose status is purely involuntary or whose confinement is long-term. These privileges should not result in excessively time consuming procedures, or neutralize security.

(c) The basic living standards for segregation are as follows:

(1) *Segregation conditions.* The quarters used for segregation must be well ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all time. All cells must be equipped with beds. Strip cells may not be a part of the segregation unit. Any strip cells which are utilized must be a part of the medical facility and under the supervision and control of the medical staff.

(2) *Cell occupancy.* Except in emergencies, the number of inmates confined to each cell or room may not exceed the number for which the space was designed. The Warden may approve temporary excess occupancy if he finds there is an emergency requiring this action.

(3) *Clothing and bedding.* An inmate in segregation may wear normal institution clothing but may not have a belt. Staff shall furnish a mattress and bedding. Cloth or paper slippers may be substituted for shoes at the discretion of the Warden. An inmate may not be segregated without clothing, mattress, blankets and pillow, except when prescribed by the Medical Officer for medical or psychiatric reasons.

(4) *Food.* Staff shall ordinarily give a segregated inmate the normal meals on the standard ration and menu of the day for the institution. Staff may dispense disposable utensils when necessary.

(5) *Personal hygiene.* Segregated inmates have the opportunity to maintain an acceptable level of personal hygiene. Staff shall provide toilet tissue, wash basin, tooth brush, eye glasses, etc., as needed. Staff may issue a retrievable kit of toilet articles. Each segregated inmate has the right and responsibility to shave and shower at least two times a week, unless these procedures would present an undue security hazard.

(6) *Exercise.* Staff shall permit each segregated inmate no less than two hours exercise each week. Exercise should be provided in two one-hour periods, but if circumstances require, one-half hour periods are acceptable if the two hour minimum is maintained. This provision must be carried out unless compelling security or safety reasons dictate otherwise. Institution staff shall document these reasons.

(7) *Personal property.* Institution staff shall ordinarily impound personal property.

(8) *Reading material.* Staff may provide a reasonable amount of reading material on a circulating basis.

(9) *Supervision.* In addition to the direct supervision afforded by the unit officer, but subject to staff availability, a member of the Medical Department and one or more responsible officer(s) designated by the Warden shall see each segregated inmate daily, including weekends and holidays.

(10) *Correspondence and visits.* Social correspondence privileges continue in segregation unless compelling reasons to the contrary exist. Staff shall make reasonable effort to notify approved social visitors of any necessary restriction on ordinary visting procedures so that they may be spared disappointment and unnecessary inconvenience. If ample time for correspondence exists, staff may place the burden of this notification to visitors on the inmate. In respect to legal, religious, and PMB matters, the relevant regulations must be followed by institution staff (See Parts 540, 543, and 548 of this chapter).

§ 541.21 Administrative detention.

Administrative Detention is the status of confinement in a special housing unit in an individual cell either by himself or with other inmates which serves to remove the inmate from the general population.

(a) *Placement in administrative detention.* The Warden may delegate authority to place an inmate in Administrative Detention to correctional supervisors, shift supervisors, or members of an inmate's unit or team. The Warden may place an inmate in Administrative Detention when the inmate is in holdover status during transfer or is a new commitment pending classification. The Warden may also place an inmate in Administrative Detention when his continued presence in the general population poses a serious threat to life, property, himself, staff, other inmates, or to the security or orderly running of the institution and when the inmate—

(1) Is pending a hearing for a violation of institution regulations;

(2) Is pending an investigation of a violation of institution regulations;

(3) Is pending investigation or trial for a criminal act;

(4) Is pending transfer; or

(5) Requests admission to Administrative Dention for his own protection, or staff determines that admission to or continuation in Administrative Detention is necessary for the inmates own protection.

(b) The Warden shall prepare a memorandum detailing the reason for placing an inmate in Administrative Detention and give a copy of this memorandum to the inmate, provided institutional security is not compromised thereby.

(c) *Review of inmates housed in administrative detention.* The Warden shall designate appropriate staff to review the status of inmates housed in Administrative Detention. The reviewing authority shall hold a hearing and formally review the status of each inmate who spends seven continuous days in Administrative Detention, and thereafter shall review these cases on the record in the inmate's absence each week and shall hold a hearing and review these cases formally at least every 30 days. The inmate appears before the reviewing authority at the hearings unless the inmate refuses to appear without the use of force. Administratice Detention is to be used only for short periods of time, except where an inmate needs long-term protection. An inmate may be kept in Administrative Detention for longer term protection only if the need for such protection is documented by the reviewing authority. The reviewing authority shall release an inmate from Administrative Detention when reasons for placement cease to exist.

(d) *Conditions of administratice detention.* The basic level of conditions as described in § 541.20 for Disciplinary Segregation also apply to Administrative Detention. If consistent with available resources and the security needs of the unit, the Warden shall give an inmate housed in Administrative Detention the same general privileges given to inmates in the general population. Unless there are compelling reasons to the contrary, institutions shall provide commissary privileges, reasonable amounts of personal property, and exercise periods exceeding those provided for inmates housed in Disciplinary Segregation. The Warden shall give an inmate in Administrative Detention visiting and correspondence privileges in accordance with Part 540 of this chapter.

PART 543—LEGAL MATTERS

Subpart A—[Reserved]

Subpart B—Inmate Legal Activities

Sec.

543.11 Purpose and scope.
543.12 Legal research and preparation of legal documents.
543.13 Retention of attorneys.
543.14 Limitation or denial of attorney visits and correspondence.
543.15 Legal aid program.
543.16 Other paralegals, clerks, and legal assistants.

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Subpart A—[Reserved]

Subpart B—Inmate Legal Activities

§ 543.11 Purpose and scope.

The Bureau of Prisons affords an inmate reasonable access to legal materials and counsel and reasonable opportunity to prepare legal documents. The Warden shall establish an inmate law library, and procedures for access to legal reference materials and to legal counsel and for preparation of legal documents.

§ 543.12 Legal research and preparation of legal documents.

(a) The Warden shal make materials in the inmate law library available whenever practical, including evening and weekend hours. The Warden shall allow an inmate a reasonable amount of time, ordinarily during the inmate's leisure time, to do legal research and to prepare legal documents. Where practical, the Warden shall allow preparation of documents in living quarters during an inmate's leisure time.

(b) Staff shall advise an inmate of rules governing use of the inmate law library. Unauthorized possession of library materials by an inmate constitutes a prohibited act, generally warranting disciplinary action (See Part 541 of this chapter).

(c) An inmate may receive or purchase law materials from outside the institution, but the Warden may reject material if there is a compelling reason in the interest of institution security, good order, or discipline. The Warden may limit for housekeeping reasons the amount of legal materials an inmate may accumulate. An inmate may receive legal materials only from primary sources: publishers of law books and court clerks or judges who supply court documents. (See 540.70.)

(d) An inmate is responsible for submitting his documents to court. Institution staff who are authorized to administer oaths shall be available to witness these documents, as requested by inmates and at times scheduled by staff.

(e) Unless the institution has an active, ongoing legal aid program, the Warden shall allow an inmate the assistance of another inmate during their leisure time for purposes of legal research and preparation of legal documents. The Warden may impose limitations on this assistance in the interest of institution security, good order, and discipline.

(f) The institution staff shall, upon an inmate's request and at times scheduled by staff, duplicate legal documents if the inmate demonstrates that more than one copy must be submitted to court. The inmate shall bear the cost, and the duplication shall be done so as not to interfere with regular institution operations. Staff may waive the cost if material to be duplicated is minimal, and the inmate's requests for duplication are not large or excessive.

(g) Unless clearly impractical, the Warden shall allow an inmate preparing legal documents to use a typewriter, or, if the inmate cannot type, to have another inmate type his documents. The Warden may allow the inmate to hire a public stenographer to type documents outside the institution, but the institution may not assume the expense of hiring the public stenographer. Staff shall advise the inmate of any delay in the typing of which they have received notice.

(h) The Warden shall give special time allowance for research and preparation of documents to an inmate who demonstrates a requirement to meet an immiment deadline in a lawsuit. Otherwise, each inmate shall continue his regular institutional activities without undue disruption by legal activities.

(i) As far as practical, with consideration of the needs of other inmates and the availability of staff and other resources, the Warden shall provide an inmate in disciplinary segregation or administrative detention means of access to legal materials and opportunity to prepare legal documents equal to inmates in general population.

§ 543.13 Retention of attorneys.

(a) The Warden shall allow an inmate to contact and retain attorneys. Institution staff may counsel the inmate on legal matters. With the written consent of the inmate, staff may advise an attorney of the inmate's available funds. Staff may not interfere with selection and retention of attorneys if the inmate has attained majority and is mentally competent. If the inmate is a mental incompetent or a minor, the Warden shall refer to the inmate's guardian or the appropriate court all matters concerning the retention and payment of attorneys.

(b) The Bureau of Prisons may not act as guarantor or collector of fees. As to visits by attorneys, correspondence with attorneys and telephone calls to attorneys, see part 540 of this chapter.

§ 543.14 Limitation or denial of attorney visits and correspondence.

(a) An act by an attorney which violates institution regulations (See Part 540 of this chapter) and which threatens the security, good order, or discipline of the institution is grounds for limitation or denial by the Warden of the attorney's privileged visitation and correspondence rights. Acts by an attorney which may warrant such limitation or denial include, for example, the following:

(1) A false statement as to the attorney's identity or qualifications;

(2) A plan, attempt, or act to introduce contraband into the institution;

(3) A conspiracy, attempt to commit, or the actual commission of an act of violence within an institution; and

(4) The encouragement of an inmate to violate institutional regulations.

(b) Unless the breach of regulations is extreme or repeated, limitation rather than a denial of visitation or correspondence rights is proper, especially where the inmate is represented by the attorney and is confronted with a court deadline. For example, the Warden may subject an attorney to a search of his person and belongings or may permit the attorney only non-privileged correspondence. The Warden shall also consider referral of the matter to the state agency regulating the attorney's professional conduct.

(c) An act by an inmate in violation of institution regulations warrants a limitation by the Warden of the inmate's correspondence or visiting rights with attorneys only if necessary to protect institution security, good order, or discipline. The Warden may not deny correspondence or visiting rights with attorneys generally.

(d) The attorney may appeal any limitation or denial by the Warden of attorney visits or correspondence rights to the Regional Director. The inmate affected may appeal through the Administrative Remedy Procedures (see Part 542 of this chapter).

§ 543.15 Legal aid program.

(a) A Legal Aid Program which is funded or approved by the Bureau is expected to provide a broad range of legal assistance to inmates. Staff shall allow these programs generally to operate with the same independence as privately retained attorneys. The Warden shall refer a request or decision to terminate or re-

strict a program to the Regional Counsel.

(b) In order to promote the inmate program relationship the Warden shall give those students or legal assistants working in legal aid programs the same status as attorneys with respect to visiting and correspondence except where specific exceptions are made in this section and in Part 540 of this chapter.

(c) An attorney or law school professor shall supervise students and legal assistants participating in the program. The supervisor shall provide the Warden with a signed statement accepting professional responsibility for acts of each student or legal assistant affecting the institution. The Warden may require each student or legal assistant to complete and sign a personal history statement and a pledge to abide by institution regulations. If necessary to maintain security and good order in the institution, the Warden may prohibit a student or legal assistant from visiting or corresponding with an inmate.

§ 543.6 Other paralegals, clerks and legal assistants.

(a) The Bureau of Prisons recognizes the use of assistants by attorneys to perform legal tasks and, with proper controls and exceptions enumerated in this section and in Part 540 of this chapter, accords such assistants the same status as attorneys with respect to visiting and correspondence.

(b) The attorney who employs an assistant and who wishes the assistant to visit or correspond with an inmate on legal matters shall provide the Warden with a signed statement including:

(1) Certification of the assistant's ability to perform in this role and awareness of the responsibility of this position;

(2) A pledge to supervise the assistant's activities; and

(3) Acceptance of personal and professional responsibility for all acts of the assistant which may affect the institution, its inmates, and staff. Each assistant shall fill out and sign a personal history statement and a pledge to abide by institution regulations. If necessary to maintain security and good order in the institution, the Warden may prohibit a legal assistant from visiting or corresponding with an inmate.

NORMAN A. CARLSON,
Director,
Federal Bureau of Prisons.

MAY 13, 1977.

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PART V



FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1977-30, AOR 1977-22]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-22 has been made public at the Commission. Copies of AOR 1977-22 were made available on May 17, 1977. These copies of the advisory opinion Request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-22: Is a proposed contract between the Democratic Congressional Campaign Committee and Universal City Studios, Inc., in connection with a concert fundraiser consistent with the Federal Election Campaign Act of 1971, as amended? Requested by Representative James C. Corman, Chairman, Democratic Congressional Campaign Committee, Washington, D.C.

Dated: May 17, 1977.

THOMAS E. HARRIS,
Vice Chairman of
the Federal Election Commission.

[FR Doc.77-14447 Filed 5-20-77;8:45 am]

register

MONDAY, MAY 23, 1977

PART VI



FEDERAL ENERGY ADMINISTRATION

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DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for March 1977

federal

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for March 1977

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for March 1977 submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), application of the entitlement adjustment for imports of No. 1 heating oil and No. 2 heating oil into PAD Districts I through IV provided in Special Rule No. 8, and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for March 1977 is calculated to be .273452.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of March 1977, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .326570 of a barrel of deemed old oil.

The issuance of entitlements for the month of March 1977 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of March 1977 at $8.71, which is the exact differential as reported for the month of March between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of March 1977 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of March 1977 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of March 1977 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through February 1977 pursuant to 10 CFR 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals. Also set forth in this column are the adjustments for relief granted by the Office of Exceptions and Appeals for 1975, which adjustments are being reflected in monthly installments commencing with the September 1976 entitlement notice. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, "see Beacon Oil Company, et al," 4 FEA par. 87,024 (November 5, 1976).

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 18,315,749 barrels for March 1977. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 38,661,213 barrels.

The number of barrels of Nos. 1 and 2 heating oil and kerosene imported into PAD Districts I through IV eligible for entitlement issuances pursuant to Special Rule No. 8 for Subpart C (42 FR 9379, February 16, 1977) was 12,668,804. The entitlement value required to be awarded for each barrel of imported product under Special Rule No. 8 is $2.10, which for March is equal to .241102 of an entitlement. Accordingly, the total number of entitlements issued pursuant to Special Rule No. 8 is 3,054,474.

The total number of entitlements required to be purchased and sold under this notice is 23,496,788.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for March 1977 must be made by May 31, 1977.

On or prior to June 10, 1977, each firm which is required to purchase or sell entitlements for the month of March 1977 shall file with FEA the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of March. FEA has mailed the monthly transaction report forms for the month of March to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by May 31, 1977 contact FEA at 202-254-6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to May 31, 1977, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before June 22, 1977.

Issued in Washington, D.C. on May 17, 1977.

ERIC J. FYGI,
Acting General Counsel.

APPENDIX
ENTITLEMENTS FOR DOMESTIC CRUDE OIL

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	141,731	0	4,765	0	0	141,731
AGRAY	0	27,576	0	27,576	0	0	27,576
ALLIED	106,501	153,043	0	0	0	0	46,542
AMER-PETROFINA	1,826,113	1,375,259	0	0	0	452,854	0
AMERADA-HESS	2,130,719	4,245,824	0	139,120	0	0	2,095,105
AMOCO	12,734,014	8,741,792	0	72,949	0	4,032,224	0
APCO	407,783	444,999	0	0	0	0	37,216
ARCO	6,642,321	6,103,849	0	0	0	0	81,528
ARIZONA	71,903	70,191	14,234	0	0	1,712	0
ASAMERA	156,957	184,411	0	0	0	0	25,454
ASHLAND	1,867,885	2,987,005	0	6,023	0	0	1,319,120
ASIATIC	0	29	0	29	0	0	29
BABIN	7,754	25,626	0	0	0	0	17,872
BAYOU	43,644	50,985	0	0	0	0	7,341
BEACON	242,919	153,836	0.007**	0	0	89,081	0
BELCHER	0	199,175	0	199,175	0	0	199,175
BI-PETRO	12,234	155,230	0	0	0	0	142,996
C&M	0	636	0	0	0	0	636
CALUMET	118,193	155,288	0	0	0	0	37,095
CANAL	83,989	72,101	0	0	0	11,888	0
CARIBOU	106,816	108,495	0	0	0	0	1,679
CASTLE	0	27,127	0	27,127	0	0	27,127
CENTRAL	0	7,207	0	7,207	0	0	7,207
CHAMPLIN	2,135,204	1,357,533	0	0	0	777,671	0
CHARTER	899,632	885,904	138,679	0	0	8,728	0
CHEVRON	8,519,375	9,865,417	0	319,545	0	0	1,336,042
CIRILLO	0	228,010	0	228,010	0	0	228,010
CITGO	3,910,063	2,599,717	0	141,986	0	1,310,346	0
CLAIBORNE	55,234	49,390	0	0	0	5,849	0
CLARK	270,885	926,283	0	0	0	0	655,398
COASTAL	485,947	1,444,747	0	0	0	0	958,800
COLONIAL	0	14,960	0	14,960	0	0	14,960
CONOCO	3,338,545	3,071,892	0	95,972	0	286,653	0
CONCO	0	1,459,604	181,969	129,630	0	0	1,459,604

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	REQUIRED TO SELL
CRA-FARMLAND	432,036	432,839	0	0	0	0	803
CROSS	116,255	155,607	0	0	0	0	39,352
CROWN	385,304	735,486	0	0	0	0	350,182
CRYSTAL-OIL	185,643	177,750	0	0	0	7,893	0
CRYSTAL-REF	1,167	45,906	0	0	0	0	44,739
DELTA	383,418	348,814	-26,802**	0	0	18,604	0
DEMENNO	0,946	88,589	0	0	0	0	83,543
DIAMOND	680,699	502,766	0	0	0	177,773	0
DILLMAN	44,530	2,409	2,409	0	0	0	0,939
DORCHESTER	11,032	14,686	0	0	0	0	3,654
DOR	83,097	168,563	0	0	0	0	85,466
E-SEABOARD	0	127,765	0	127,765	0	0	127,765
ECO	9,096	32,412	0	0	0	0	23,316
EDDY	47,251	153,279	0	0	0	0	106,028
EDGINGTON-OIL	0	-9,848	-9,848**	0	0	9,848	0
ELK	0	14,962	0	14,962	0	0	14,962
ENERGY-COOP	41,957	1,181,896	0	0	0	0	1,099,939
EVANGELINE	-1,288	-29,228	0	0	0	27,940	0
EXXON	14,892,485	10,192,771	0	776,639	0	5,699,694	0
EZ-SERVE	109,167	159,001	0	0	0	0	49,834
FAMARISS	266,479	360,353	0	0	0	0	93,874
FARMERS-UN	205,113	366,894	0	0	0	0	161,781
FLETCHER	15,166	167,290	0	0	0	0	152,124
FLINT	10,519	12,917	0	0	0	0	2,398
GARY	48,546	67,659	0	0	0	0	19,111
GETTY	1,581,481	1,453,960	0	0	0	127,521	0
GIANT	34,739	149,068	0	0	0	0	114,329
GIBBS	0	109,150	0	109,150	0	0	109,150
GIBSON	1,015	4,673	0	0	0	0	3,658
GLACIER-PARK	110,603	60,989	0	0	0	49,614	0
GLADIEUX	68,995	161,082	0	0	0	0	92,087
GLENROCK	716	149,169	0	0	0	0	148,453
GOLDEN-EAGLE	27,473	173,794	0	0	0	0	146,321
GOLDRING	64,745	159,316	0	0	0	0	94,571

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	E N T I T L E M E N T P O S I T I O N EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
GOOD=HOPE	119,515	345,010	0	0	0	[illegible]	225,495
GUAM	0	146,334	0	0	0	[illegible]	146,334
GULF	9,220,808	7,838,198	[illegible]	265,365	0	1,382,610	[illegible]
GULF=STS	69,965	152,802	0	[illegible]	0	[illegible]	82,837
MIMI	[illegible]	517,850	0	[illegible]	[illegible]	[illegible]	517,850
HOWARD	0	228,681	[illegible]	228,681	0	0	228,681
HOWELL	506,716	351,588	0	0	0	155,128	0
HUDSON=OIL	79,031	253,628	0	0	0	0	174,597
HUNT	203,433	322,889	0	0	0	0	119,456
HUSKY	655,715	655,715	275,815	0	0	0	[illegible]
INDEPENDENT=REF	155,698	173,821	0	0	0	0	18,123
INDIANA=FARM	65,404	248,046	0	0	0	0	182,642
INGER=OIL	1,894	127,655	0	0	0	0	125,761
IRVING	0	46,115	0	46,115	0	0	46,115
J&W	36,433	41,085	0	[illegible]	0	0	2,652
KENCO	28,538	150,528	0	0	0	0	121,990
KENTUCKY	3,534	6,939	0	0	0	0	3,405
KERN	404,452	216,386	0	0	0	248,066	[illegible]
KERR=MCGEE	1,507,486	1,456,011	0	[illegible]	0	51,475	[illegible]
KOCH	362,166	856,630	0	41,071	0	0	494,464
LAGLORIA	459,518	355,910	0	0	0	103,608	0
LAKESIDE	69,095	58,791	0	0	0	10,304	0
LAKETON	167,521	167,521	34,589	0	0	0	0
LITTLE=AMER	1,406,290	1,169,481	590,241	0	0	236,809	0
LOUISIANA=LAND	353,218	390,019	0	0	0	0	36,801
MACMILLAN	37,851	182,056	0	0	0	[illegible]	144,205
MARATHON	4,753,376	4,143,966	0	0	0	609,410	0
MARION	167,227	224,319	0	0	0	0	57,092
MID=AMER	18,677	99,976	0	0	[illegible]	[illegible]	81,299
MID=TEX	11,495	46,437	0	0	0	0	34,942
MIDLAND	0	=10,121	=10,121**	[illegible]	0	10,121	[illegible]
MOBIL	7,846,089	6,696,567	[illegible]	141,813	0	1,149,522	0
MOHAWK	421,752	421,752	121,624	[illegible]	[illegible]	[illegible]	0
MONOCO	0	11,025	0	11,025	[illegible]	0	11,025

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	E N T I T L E M E N T P O S I T I O N EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
MONSANTO	423,279	303,456	0	0	0	119,823	[illegible]
MORRISON	27,002	60,148	0	0	0	0	33,146
MOUNTAINEER	8,101	7,064	0	0	0	1,037	[illegible]
MURPHY	463,477	885,509	0	0	0	77,968	[illegible]
N=AMER=PETRO	59,877	169,916	[illegible]	0	0	0	110,039
NATL=COOP	348,268	534,449	0	0	0	0	186,181
NAVAJO	389,534	392,486	72,432	0	0	0	2,952
NER=EDGINGTON	602,457	520,449	255,668	0	0	82,008	[illegible]
NER=ENGL=PETRO	0	682,755	0	682,755	0	0	682,755
NEVALL	159,040	136,516	=6,016**	0	0	22,524	0
NEWMAN	0	12,088	0	12,088	0	0	12,088
NORTHEAST=PETRO	[illegible]	428,225	0	428,225	0	0	428,225
NORTHLAND	55,758	154,777	[illegible]	0	0	0	99,019
NORTHVILLE	[illegible]	82,303	0	82,303	0	0	82,303
OKC	197,909	264,285	0	0	0	0	66,376
OXNARD	34,933	=27,106	=52,635*	0	0	62,039	[illegible]
PASCO	[illegible]	=39,021	=39,021**	0	0	39,021	[illegible]
PATCHOGUE	[illegible]	54,146	0	54,146	0	0	54,146
PENNZOIL	777,576	516,026	0	0	0	261,550	[illegible]
PESTER	75,406	253,802	0	0	0	0	178,396
PETRO=HEAT=CT	0	19,548	0	19,548	0	0	19,548
PETRO=HEAT=PA	0	15,646	0	15,646	0	0	15,646
PHILLIPS	2,793,249	2,586,120	0	0	0	207,129	0
PHILLIPS=PR	0	173,506	17,403*	156,103	0	0	173,506
PIONEER	21,125	155,038	0	0	0	0	133,913
PITTSTON	0	370,804	0	370,804	0	0	370,804
PLACID	318,083	316,660	0	0	0	1,423	[illegible]
PLATEAU	166,006	186,698	0	0	0	0	20,692
POWERINE	35,679	374,143	0	0	0	0	338,464
PRIDE	181,948	279,917	0	0	0	0	97,969
PRINCETON	4,562	163,716	0	0	0	0	159,154
QUAKER=ST	42,248	235,836	0	0	0	0	193,588
RICHARDS	767	136,225	0	0	0	0	135,458
ROAD=OIL	0	21,627	0	0	0	0	21,627

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	E N T I T L E M E N T P O S I T I O N EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
ROCK=ISLAND	436,843	394,533	=25,270**	0	0	82,310	0
SABEN=TEX	24,842	169,356	0	0	0	[illegible]	144,514
SABRE=CAL	215,413	215,413	121,564	0	0	0	0
SAGE=CREEK	3,525	4,852	0	0	0	[illegible]	1,327
SAN=JUAN=IN	326,030	375,965	208,467*	0	0	0	49,935
SEMINOLE	15,129	148,863	0	0	0	[illegible]	133,754
SHELL	11,781,918	8,349,338	0	0	0	3,372,580	0
SIGMOR	3,158	101,091	0	0	0	0	97,933
SIMON=OIL	0	6,028	0	6,028	0	0	0
SO=HAMPTON	83,862	197,475	0	0	0	0	133,613
SOHIO	1,721,829	3,219,028	0	0	0	0	1,497,199
SOMERSET	35,265	64,202	0	0	0	0	28,937
SOUND	103,650	118,913	0	0	0	0	15,257
SOUTHLAND	373,277	306,048	85,770**	0	0	67,229	[illegible]
SOUTHWESTERN	97,625	85,610	0	0	0	12,015	0
SPRAGUE	0	190,439	0	190,439	0	0	190,439
STEUART	0	144,322	0	144,322	0	[illegible]	144,322
SUNLAND	=60,734	8,967	=91,639	0	0	0	69,641
SUNOCO	6,280,645	4,757,470	0	115,415	0	1,502,675	[illegible]
SWANN	0	2,891	0	2,891	0	0	2,891
TENNECO	989,188	681,134	0	0	0	308,052	[illegible]
TESORO	1,006,554	671,775	0	0	0	334,779	0
TEXACO	8,472,337	8,269,696	0	674,234	0	182,441	0
TEXAS=AMERICAN	21,563	129,857	0	0	0	[illegible]	108,294
TEXAS=ASPH	24,246	84,832	0	0	0	0	60,586***
TEXAS=CITY	537,422	669,149	[illegible]	0	0	0	131,727
THAGARD	661,017	661,017	383,575	0	0	[illegible]	0
THRIFTWAY	34,215	34,726	[illegible]	0	0	[illegible]	5,511
THUNDERBIRD	124,155	155,442	0	0	0	0	31,287
TONKAWA	24,654	90,667	0	0	0	[illegible]	66,013
TUSCO	1,855,601	2,028,676	502,081	0	0	0	173,075
TOTAL=PETROLEUM	259,328	386,852	0	0	0	0	127,524
TRANS=OCEAN	0	127,580	0	0	0	0	127,580
UCC=CARIBE	0	80,264	0	80,264	0	[illegible]	80,264

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	E N T I T L E M E N T P O S I T I O N EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
UNION=OIL	5,285,551	3,542,211	0	72,669	[illegible]	1,743,340	0
UNION=PETRO	[illegible]	154,676	0	154,676	0	0	154,676
UNTO=IND	3,390	52,810	0	0	0	[illegible]	49,420
UNTO=REF	170,687	412,543	0	0	0	0	241,856
US=OIL	19,797	195,101	0	0	0	0	175,304
USA=PETROCHEM	31,742	178,431	0	0	0	0	146,689
VICKERS	328,486	574,356	0	0	0	[illegible]	245,870
VULCAN	57,855	209,332	0	0	0	[illegible]	151,477
WALLACE	0	11,110	0	11,110	0	[illegible]	11,110
WALLER	[illegible]	19,771	0	19,771	0	[illegible]	19,771
WARRIOR	46,168	42,269	11,800	0	0	3,899	0
WELLEN	[illegible]	60,470	0	60,470	0	0	60,470
WEST=COAST	40,904	57,496	0	0	0	[illegible]	16,592
WESTERN	104,847	150,097	0	0	0	0	45,250
WHALECO	0	9,700	0	9,700	0	0	9,700
WINSTON	136,421	206,562	0	0	0	0	70,141
WIREBACK	[illegible]	830	0	0	0	[illegible]	830
WITCO	82,891	202,984	0	0	0	[illegible]	120,093
WYATT	[illegible]	51,613	0	51,613	0	0	51,613
YETTER	[illegible]	1,392	[illegible]	[illegible]	0	[illegible]	1,392
YOUNG	120,756	120,756	41,917	0	0	[illegible]	[illegible]
TOTAL	142,453,667	142,453,667	2,840,236	6,591,466	[illegible]	23,496,788	23,496,788

* Reflects a correction to a prior month's report.

** Reflects adjustments for 1975 exceptions relief as provisionally modified by FEA pending agency review consistent with court order. For discussion, see December entitlement notice, 42 F.R. 12133 (March 2, 1977).

*** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[FR Doc.77-14403 Filed 5-18-77;8:45 am]

federal register

MONDAY, MAY 23, 1977

PART VII



DEPARTMENT OF AGRICULTURE

Farmers Home Administration

■

GUARANTEED LOAN PROGRAMS

Emergency Livestock Loan

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Parts 1845 and 1980]

[FmHA Instruction 449.1]

GUARANTEED LOAN PROGRAMS

Emergency Livestock Loan

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Emergency Livestock regulations to allow portions of guaranteed Emergency Livestock loans to be sold in the secondary market. This amendment is intended to enable lenders to make more guaranteed loans from the funds received from secondary market sales.

DATES: Comments must be received by June 22, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

James E. Lee (202–447–6257).

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) of the Department of Agriculture proposes the addition of new Subpart C of Part 1980, Chapter XVIII of Title 7, Subchapter N, "Other Loan Programs," in the Code of Federal Regulations. The proposed addition of Subpart C, "Emergency Livestock Loans," (§§ 1980.201–1980.300) of this Part 1980 redesignates, consolidates and revises those regulations concerning Emergency Livestock Loans under the guaranteed loan program. Much of new Supart C was taken from various sections of Subchapter D, Guaranteed Loans: Part 1845, "FmHA Emergency Livestock Line of Credit Guarantees," published at 40 FR 30623, and amended at 41 FR 7494, 41 FR 39005. The major changes will:

1. Transfer and revise those provisions of Part 1845 pertaining to the line of credit guarantees for farmers and ranchers primarily engaged in substantial livestock operations and update the regulations to implement the provisions of Pub. Law 94–517 enacted October 15, 1976.

2. Incorporate secondary marketing procedures and agreements contained in Subpart A of Part 1980 and published at 41 FR 47462.

As proposed, Subpart C of Part 1980 as revised, transferred and redesignated is set forth below:

PART 1980—GUARANTEED LOAN PROGRAM

SUBPART C—EMERGENCY LIVESTOCK LOANS

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AUTHORITY: Sec. 10 of Pub. Law 93–357, 88 Stat. 392; delegation of authority Secretary of Agriculture (7 CFR 2.23); delegation of authority by Assistant Secretary for Rural Development (7 CFR 2.70).

Subpart C—Emergency Livestock Loans

§ 1980.201 Introduction.

(a) *Policy.* This Subpart contains regulations for making and servicing Emergency Livestock (EL) loans and applies to lenders, holders, borrowers, Farmers Home Administration (FmHA) personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans. In addition, Subpart A applies to EL loans only to the extent that sections of Subpart A are specifically referred to in this Subpart C.

(b) *Program administration.* This program like other FmHA programs is administered by the FmHA Administrator through the State Director serving each State through the District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for guarantee processing and servicing activities even though this Subpart refers in various places to the duties and responsibilities of other FmHA employees.

(c) *Administrative provisions.* Throughout this regulation there appear administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities and procedures to carry out the requirements of the program and are identified as "Administrative" and follow the appropriate sections of this Subpart.

§ 1980.202–1980.206 [Reserved]

§ 1980.207 Definitions.

The following general definitions are applicable to the terms used in this Subpart. Additional definitions may be found in § 1980.6 of Subpart A, except that those contained in § 1980.6(a) (2), (4), (7), (9), (13), and (14) are not applicable to cases in which a lender requests a Contract of Guarantee.

(a) *Act.* The Emergency Livestock Credit Act of 1974 (Pub. L. 93–357); as amended by Pub. Law 94–35, and Pub. Law 94–517.

(b) *Applicant.* The person or entity carrying on the farming or ranching operation and desiring EL loan assistance from a lender.

(c) *Approval officials.* These are field officials who have been delegated loan and grant approval authorities within applicable loan programs, subject to the dollar limitations contained in Tables available in any FmHA State or County Office, or from the National Office, 14th Street and Independence Avenue SW., Washington, D.C. 20250. Field officials having loan and grant approval authorities are State Directors, District Directors, County Supervisors and Assistant County Supervisors. Refer to Subpart A of Part 1901 of this Chapter for authorities and responsibilities delegated to field officials for all programs of FmHA.

(d) *Guaranteed line of credit.* EL loan advances made and serviced by a lender subject to a maximum amount agreed to by the lender and FmHA which is specified in a Form FmHA 449–27, "Contract of Guarantee (Emergency Livestock Loan)."

(e) *Livestock.* The term "livestock" means beef cattle, dairy cattle, including dairy cattle raised and maintained for the primary purpose of marketing dairy products, swine, sheep, goats, chickens, and turkeys.

(f) *Loan.* This term includes both a fixed amount loan to which a Loan Note Guarantee will be attached and an advance(s) made pursuant to a line of credit guaranteed by a Contract of Guarantee.

(g) *Loan servicing.* All actions that are necessary after loan closing to collect the indebtedness and to protect the security and security rights. The term "servicing" also includes transfer and assumption and liquidation.

(h) *Mortgage.* The term "mortgage" includes any form of instrument used to obtain a security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to the instrument granting any security interest in chattel property.

(i) *Protective advances.* Payments made by the lender to third parties to protect or preserve security property.

(j) *Security.* The term "security" (sometimes referred to as collateral or security property) includes any rights or interests in property of any kind subject to a real or personnel property lien.

(1) *Basic security.* All real estate and fixtures and personal property such as foundation herds, flocks, machinery and equipment serving as security and crops when crops are the only security.

(2) *Normal income security.* All normal income security property planned to be marketed in the regular course of business unless, liquidation is approved. If liquidation is approved, such security becomes basic security.

(k) *State.* Any of the fifty States, Puerto Rico, or the Virgin Islands.

(l) *United States.* The term "United States" means the United States itself, any of the 50 States, Puerto Rico, and the Virgin Islands, as appropriate in the context in which the term is used.

§ 1980.208 Program objective.

The basic objective is to make more credit available during the period authorized by Pub. Law 93–357 as amended (authority expires September 30, 1978), in the form of loans guaranteed by FmHA for bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who have substantial livestock operations, so that they may continue their normal farming or ranching operations.

§ 1980.209 Eligible lenders.

See § 1980.13 of Subpart A except that in Contract of Guarantee cases, the form that will apply in §§ 1980.13 (g) and (h) will be Form FmHA 449–38.

§ 1980.210 Case and identification (ID) numbers.

Refer to § 1980.12 of Subpart A.

§ 1980.211—1980.214 [Reserved]

§ 1980.215 Types of guarantees.

(a) *Loan note guarantee.* Lenders desiring to sell the guaranteed portion of fixed amount loans may use the method contained in Subpart A. In accordance with that method, loans may be made by a lender and guaranteed by issuance of Form FmHA 449–34, "Loan Note Guarantee," or

(b) *Contract of guarantee.* Lenders desiring a guarantee on a "line of credit" may use the method contained in this Subpart C. Line of credit loans are guaranteed by Form FmHA 449–27, "Contract of Guarantee." The amount of loan advances outstanding at any one time under a Contract of Guarantee may not exceed the line of credit ceiling set forth in the contract.

(c) Neither a Loan Note Guarantee nor a Contract of Guarantee will be executed after September 30, 1978.

§ 1980.216 Full faith and credit.

The Loan Note Guarantee and Contract of Guarantee constitute obligations supported by the full faith and credit of the United States and are incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. The guarantee and right to require purchase in Loan Note Guarantee cases will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the Loan Note Guarantee by lender. The Loan Note Guarantee and Contract of Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

§ 1980.217 Guarantee limits.

The maximum loss covered under the Form FmHA 449–34, "Loan Note Guarantee," or Form FmHA 449–27, "Contract of Guarantee", will not exceed ninety percent of the principal and accrued interest on the indebtedness represented by the borrower's guaranteed loan promissory note(s) or assumed under an assumption agreement. Lenders and applicant will propose the percentage of guarantee. The lender and applicant will be informed in writing on Form FmHA 449–14 or Form FmHA 449–15 by FmHA of any percentage of guarantee less than proposed by the lender and applicant, and the reason therefor. FmHA will determine the percentage of guarantee after considering all credit factors involved, including but not limited to those provisions contained in paragraphs (a), (b), (c), (d), and (e) of § 1980.20 of Subpart A.

§§ 1980.218–1980.219 [Reserved]

§ 1980.220 Eligibility.

To be eligible for an EL loan, an applicant must:

(a) *Citizen.* Be a citizen of the United States or a person who has been legally admitted for permanent residence in the United States. If a partnership, the principal partners must be citizens or such permanent residents of the United States. If a corporation, it must be incorporated under the laws of the United States, its principal stockholders must be citizens or such permanent residents of the United States, and the corporation must be authorized to carry on farming or ranching operations in the State in which the EL operation is being conducted. See § 1980.207 for definition of "State" and "United States." Any partner or stockholder owning or controlling as much as 20 percent interest in a partnership or corporation will be considered a principal partner or stockholder. If no person owns or controls as much as 20 percent, all partners and stockholders will be considered principal partners or stockholders.

(b) *Bona fide farmer or rancher.* Be a bona fide farmer or rancher (owner-operator, or tenant). (1) doing business in the United States either as an individual, corporation, or partnership, which is recognized in the community as one whose chief occupation is farming or ranching, (2) primarily and directly engaged in agricultural production, and (3) having substantial operations in breeding, raising, fattening, or marketing livestock, including dairy cattle raised and maintained for the primary purpose of marketing dairy products (hereinafter referred to as a livestock operation). In the case of an individual loan applicant the term "primarily and directly engaged in agricultural production" means that he derives more than 50 percent of his gross income from his own agricultural production or devotes more than 50 percent of his time to such production. The term "substantial operations in livestock" means that he derives not less than 25 percent of his gross farm income from his own livestock operation, or devotes not less than 25 percent of his time to such operation, or has not less than 25 percent of his total capital investment in such operation. In the case of a corporation or partnership loan applicant, the term "primarily and directly engaged in agricultural production" means that the corporation or partnership derives more than 50 percent of its gross income from agricultural production, and the shareholders or partners owning or controlling a majority interest in such corporation or partnership derive more than 50 percent of their gross income from their own or the corporation's or partnership's agricultural production, and devote more than 50 percent of their time to such production. The term "substantial operations in livestock" means that the corporation or partnership derives not less than 25 percent of its gross farm income from its own livestock operation, or devotes not less than 25 percent of its time to such operation, or has not less than 25 percent of its total capital investment in such operation.

(1) Bona fide farmers and ranchers must be actually engaged in the livestock operations to be financed by the EL loan. If the applicant is an individual, he must manage such livestock operation. If the applicant is a partnership or corporation,

it must be managed by one or more of the partners or stockholders. An applicant who does not devote full time to the livestock operation may be considered the manager provided he (or the managing partners or stockholders) visits the farm at sufficiently frequent intervals to exercise control and see that the livestock operation is being carried on properly. Any livestock operation that involves a full-time hired manager or management service does not qualify irrespective of the number of visits made by the partners or stockholders. In addition, bona fide farmers or ranchers do not include those commencing livestock operations or reentering such operations after July 25, 1974, or those engaged in farming ranching, or livestock operations as a hobby or for tax shelter purposes; or those chiefly engaged in other business or employment.

(2) An applicant conducting livestock operations as an individual in different counties or locations may be considered for more than one EL guarantee when more than one lender is involved, if each lender is financing a separate enterprise, provided (a) identifiable separate security is given to each lender and (b) the combined total principal balance outstanding at any one time on guaranteed loans for all lenders involved does not exceed $350,000.

(3) Individual members of a partnership, or individuals doing business jointly or as partners, will not receive individual loans to finance their interest in the joint or partnership livestock operation. The partnership or joint operation will be considered for one loan to cover the livestock operation being conducted jointly or as a partnership.

(4) An estate or trust: a corporation owned primarily by an estate, trust, other corporations, or other partnerships; a partnership composed primarily of an estate, trust, corporation or other partnership; or an applicant operating under an order of a bankruptcy court, is not considered to be a bona fide farmer or rancher for EL loan purposes.

(c) *Legal capacity.* Possess legal capacity to contract for the loan.

(d) *Ability and experience.* Possess the ability, industry, and experience necessary to carry out the proposed livestock operations to assure a reasonable prospect of success with the assistance of the loan, and honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(e) *Credit elsewhere.* Certify that he is unable to obtain financing without the guarantee. Furthermore, no loan shall be guaranteed unless the lender certifies that the lender is unwilling to provide the needed credit to the applicant without the guarantee.

(f) *Change in the form of an applicant.* Have conducted its livestock operations before July 25, 1974. A change in the form of an applicant from an individual, partnership, or corporation in existence before July 25, 1974, to another form of legal entity will not disqualify the new entity if it is conducting basically the same operation as was conducted before July 25, 1974, and is primarily owned by substantially the same people that owned the operation before July 25, 1974. If the change in the legal entity has been accompanied by a substantial change in the type(s) of livestock, it will not be financed.

(1) When an individual that was engaged in a livestock operation before July 25, 1974, later forms a partnership or corporation which continues to carry on basically the same livestock operation, the operation's application may still receive consideration provided such individual owns at least 50 percent of the new partnership assets or corporation's voting stock and continues to manage or control the livestock operation.

(2) When a partnership that was engaged in a livestock operation before July 25, 1974, later dissolves but basically the same livestock operation is continued an application from the new legal entity may receive consideration provided:

(i) The assets of the prior partnership are now owned by an individual applicant who as a partner in the prior partnership had owned at least 50 percent of the partnership assets; or

(ii) The assets of the prior partnership are now owned by a new partnership applicant and the partners who had owned at least 50 percent of the assets of the prior partnership are now partners owing at least 50 percent of the assets of the new partnership applicant; or

(iii) The assets of the prior partnership are now owned by a new corporation applicant, and the partners of the prior partnership who had owned at least 50 percent of those assets now own at least 50 percent of the voting stock of the new corporation applicant.

(iv) One or more of the partners who managed the livestock operation for the prior partnership must now manage the operation for the applicant.

(3) When a corporation that was engaged in a livestock operation before July 25, 1974, dissolves but basically the same livestock operation is continued, the application from the new legal entity may receive consideration provided:

(i) The assets of the dissolved corporation are now owned by an individual who had owned at least 50 percent of the voting stock of the former corporation;

(ii) The assets of the former corporation are now owned by a new partnership applicant and the stockholders who had owned at least 50 percent of that corporation are now partners owning at least 50 percent of the assets of the new partnership applicant;

(iii) The assets of the former corporation are now owned by a new corporation applicant and the stockholders who had owned at least 50 percent of the voting stock of the former corporation are now stockholders owning at least 50 percent of the voting stock of the new corporation applicant.

(iv) One or more of the stockholders who managed the livestock operation for the prior corporation must now manage the operation for the new applicant.

§ 1980.221 Loan purposes.

EL loans may be guaranteed for purposes which are essential to carrying on livestock operations related to breeding, raising, fattening, or marketing livestock. These purposes are:

(a) Purchase of livestock for replacement or restocking purposes, but not to permit expansion of livestock operations beyond a level (represented by numbers of livestock) equal to the highest level reached during the eighteen months immediately preceding July 25, 1974. When operations have been expanded beyond that level, the cost of financing the total operation will be determined and a percentage of this amount equal to the current number of livestock in the applicant's operation divided into the highest 18 month livestock number level will be used in arriving at the amount of EL loan.

(b) Purchase or production of livestock feed.

(c) Payment of customary and equitable charges for grazing permits and for the use of farm or ranch buildings, pasture land, and land for the production of feed crops.

(d) Hire, repair, or replace fixtures, farm machinery, and equipment necessary for livestock production and marketing.

(e) Transportation of livestock, normally incurred in the livestock operation.

(f) Building or repair of fences and holding pens.

(g) Refinancing of secured and unsecured debts incurred for the livestock operation, when:

(1) Such refinancing is essential for the applicant to remain in business.

(2) The lending agency would not refinance the loan in the absence of a guarantee, and

(3) The lending agency is not currently refinancing similar loans to others without such a guarantee.

(h) Payment of real estate or personal property taxes and water or drainage taxes or assessments that must be paid to permit continuation of the livestock operation.

(i) Payment of premiums on insurance necessary to obtain or secure the loan.

(j) Repair or essential improvement of livestock water supplies, and providing any pollution abatement facilities which are necessary to comply with requirements of § 1980.40 of Subpart A.

(k) Repair of existing irrigation systems necessary for livestock production.

(l) Payment of veterinary fees and charges for livestock medicines.

(m) Cost of hired labor used in livestock production.

(n) Cost of construction or repair and normal maintenance of farm and ranch buildings essential to continuance of the authorized level of operation including silos and other feed storage facilities necessary for livestock production.

(o) Purchase of fuel, seed, fertilizer, insecticides, farm supplies, and payment of other operating expenses that are essential to continuation of the livestock operations.

(p) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(q) Payment of a loan fee and costs incident to consummation of the loan as authorized in § 1980.228.

(r) Payment of essential family living expenses.

(s) Payment of not more than 1 year's installment(s) (principal and interest) on debts secured by liens on chattels or real estate related to the livestock operation when a deferment on such obligations cannot be obtained.

§ 1980.222 Prohibited loan purposes.

No EL loan may be guaranteed which will:

(a) Establish or reestablish an applicant in livestock operations or to permit an expansion of such operations beyond the level set forth in § 1980.221(a).

(b) Be used to finance livestock or poultry feeding operations when the applicant does not maintain ownership of the feeders through the normal feeding period or is only performing a service for others.

(c) Be used to finance or refinance any thing not essential to the continuation of livestock enterprise.

(d) Be used by a landlord to furnish credit, equipment, or supplies to his tenant operators, whether share, cash, or standing rent is paid by the tenant.

(e) Enable an applicant to make major changes or adjustments in his livestock operation.

(f) Be used to pay Federal or State income taxes or to pay Social Security taxes payable by the borrower in his own behalf.

(g) Be used to pay for labor performed by the borrower or members of his immediate family.

(h) Be used to purchase passenger automobiles or any other vehicles, machinery, or equipment that is not essential to the livestock operation.

(i) Be used to purchase machinery or equipment, or for supplies or labor, which will be used in the handling, processing, or marketing of livestock products such as milk, eggs, wool, and mohair. However, this does not prohibit refinancing debts which have already been created for these purposes when they are part of an "overall" livestock operation indebtedness being refinanced with an EL loan under the conditions set forth in § 1980.221(g).

§ 1980.223 Limitations and special provisions.

(a) Total loans to applicants. The total principal balance outstanding at any one time on an EL loan(s) made to assist a livestock operation shall not exceed $350,000. If an individual owns or controls 20 percent or more of a corporation or partnership and they are engaged in the same or different livestock operations, or if an individual owns or controls less than 20 percent of a corporation or partnership and they are engaged in the same livestock operations, the individual and the corporation or partnership will be considered as one entity for application of the $350,000 ceiling. If an individual owns or controls less than 20 percent of a corporation or partnership and the individual and corporation or partnership are engaged in separate livestock operations, the individual and the corporation or partnership will be considered as separate entities for application of the $350,000 ceiling.

(b) *County Committee certification.* A County Committee certification is required for an eligibility certification and approval of an EL loan for a fixed amount or a line of credit ceiling. See Section 1980.248.

§ 1980.224 Loan and terms.

(a) *Interest rate to borrower.* The interest rate to be paid by the borrower to the lender will be any legal rate agreed upon between the lender and the borrower. It may be a variable or fixed rate.

(b) *Variable interest rate.*

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed upon by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more often than quarterly. There will no floor or ceiling on variable interest rates.

(2) Any change in the interest rate between the date of issuance of the Form FmHA 449–14 or Form FmHA 449–15 and before the issuance of the Loan Note Guarantee or Contract of Guarantee must be approved by the State Director. Approval of such change will be shown on an amendment to Form FmHA 449–14, or Form FmHA 449–15.

(3) It is permissible to have one interest rate on the guaranteed portion of the loan nad another interest rate on the unguaranteed portion of the loan, provided the lender and borrower agree and:

(i) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purpose for borrowers under similar circumstances.

(ii) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion. Fixed and variable interest rates cannot be used on the same loan.

(4) When multi-rates are used the lender will provide FmHA with the overall effective interest rate for the entire loan.

(c) *Loan terms for Loan Note Guarantee, and Contract of Guarantee.* Each loan will be scheduled for repayment over a period not to exceed 7 years from the date of the guarantee or such shorter period as may be necessary to assure that the loan will be adequately secured. The borrower's needs, repayment ability and type of security he has to offer will be taken into consideration when scheduling loans for repayment. Generally, amounts advanced for annual recurring operating expenses should be scheduled for repayment from that year's income. Use of a note with a "payment on demand" feature is not permissible.

(d) *Repayment schedules.* In order for notes to be acceptable to holders in Loan Note Guarantee cases, the principal and interest repayment schedules will have to be clearly shown in the note(s).

(e) *Advances under a Contract of Guarantee—line of credit.* Prior to September 30, 1978, a lender may pay off an outstanding guaranteed advance before the end of its term with funds from a new guaranteed advance, provided the line of credit ceiling is not exceeded. However, no advance may be made for a term which exceeds the period remaining in the original line of credit term. The original line of credit term may be up to seven years, but it is limited to the term established in the "Line of Credit Agreement." After September 30, 1978, no new advances may be made, but advances outstanding at that time may be renewed with FmHA consent at the end of the original term for a period not exceeding three additional years as set forth in § 1980.224 (f) below.

(f) *Renewal authority.* When a lender determines that a renewal will assist in orderly collection of an EL loan which has reached the final maturity date, it may renew notes covering such loan one time only and not for more than 3 additional years, *provided* the lender and FmHA agree That: (1) The borrower meets the eligibility and security requirements for an initial loan as contained in §§ 1980.220 and 1980.225, and (2) the renewal will not be used in lieu of liquidation. Such renewal may not exceed 3 years from the date of the renewal. Renewal will be accomplished by obtaining a replacement note setting forth the new repayment schedule. Any renewal must be approved in writing by FmHA and when a Loan Note Guarantee is renewed, by any holder(s).

§ 1980.225 Collateral requirements.

(a) *Collateral.* (1) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Collateral must be of such a nature that repayment of the loan is reasonably assured considering the integrity and ability of the applicant's management, soundness of the operation, and the applicant's prospective earnings. Collateral may include, but is not limited to, the following: land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The lender may not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compen-

sating balances or certificates of deposit as used in the ordinary course of business may be used.

(b) *Personal and corporate guarantees.* (1) Personal guarantees from principal stockholders in a corporation and all partners of partnerships usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(2) The requirements for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(4) *Guarantors of applicants will:*

(i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(iii) Provide written evidence through the lender to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) *Security.* (1) The security property must be adequate in the opinion of the lender and FmHA to assure repayment of each loan. If the present market value of the security is not in an amount at least equal to the amount of the loan and the lender and FmHA agree, the applicant's repayment ability may be considered as security, provided:

(i) Such security property has depreciated in value due to temporary economic conditions;

(ii) The applicant's first full year's operating plans indicate ability to pay the loan in full in a period not exceeding 7 years, and;

(iii) The applicant will give a lien on all available security property.

(2) Any extension of credit by the lender on or after October 1, 1978, will be outside the guarantee and, if it is to be secured, the lien position must be junior to any liens taken for the guaranteed EL advances or by a lien on other collateral.

(3) *Separate loans.* When the same lender is involved in an EL guaranteed loan and a separate loan and there will be like security for each, the EL guaranteed loan must be adequately secured by (1) a lien on separate security property that is clearly identifiable, or (2) a lien of a higher priority if the same property is used to secure both loans. In the latter case when the same security secures both loans the lender must agree in writing that the scheduled installments on the EL guaranteed loan will be paid first.

(4) *Escrow accounts.* The use of escrow accounts by lenders to maintain ongoing livestock operations after the September 30, 1978, cutoff may continue provided any funds placed in such an account are assigned as collateral for the guaranteed loan made by the lender and provided further that the security and lien position of such loan is maintained.

(d) *Other requirements.* (1) The lender must ascertain that there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against the collateral of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(3) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the borrower and will be assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(4) Workmen's compensation insurance is required in accordance with State law.

Administrative: The County Supervisor will review and determine whether the Lender has required the necessary security to be taken. If necessary, he will seek the advice and assistance of the District Director.

§ 1980.226 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender may use its forms or promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this regulation or Subpart A.

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions:

(1) Covering the "proceeds and products" of the collateral described, and

(2) That "disposition of the collateral is not authorized hereby."

§ 1980.227 Relationship with other FmHA insured or guaranteed loans.

If an applicant for FmHA assistance will qualify for another type or types of FmHA insured or guaranteed loans and an EL guarantee for the same purpose, it will be the policy to process an EL guarantee for that purpose if the repayment and security requirements for the EL guarantee will not preclude furnishing the credit necessary to enable the applicant to carry on sound farming or ranching operations. However, if the applicant qualifies for an Emergency (EM) loan in a designated disaster area, he should be first considered for an EM loan. An EL guarantee may be processed to continue his livestock operation(s) even though the applicant receive an EM loan.

§ 1980.228 Charges and fees by lender.

For both Loan Note Guarantee and Contract of Guarantee cases, see § 1980.22 of Subpart A for these requirements.

§ 1980.229—1980.245 [Reserved]

§ 1980.246 Receiving and processing applications.

Applicant and/or lenders may file either a preliminary application or complete application. A preliminary application may be used when applicant or lender wants a determination from FmHA on eligibility, feasibility or availability of guaranteed authority before proceeding with a completed application. The County Supervisor will cooperate with the lender and applicant and provide appropriate assistance in connection with loan application processes. The degree of this assistance will be guided by the lenders experience with FmHA gauranteed loan processing, the lender's farm lending experience, and the complexity of the proposal. The lender and applicant should contact the local FmHA office serving the area where the livestock operation is conducted for guidance and assistance in preparing the request and for obtaining the guarantee. The County Supervisor will provide copies of all applicable FmHA forms and regulations. See "Appendix A" for list of these FmHA forms.

(a) *Preliminary application.* This will consist of:

(1) Form FmHA 449-6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Verification of off-farm employment, if any.

(3) Credit report.

(4) Form FmHA 440-32, "Request for Statement of Debts and Collaterals."

(5) Form FmHA 449-26, "Certificates of Lender and Loan Applicant."

(6) Form FmHA 449-25, "Request for Guarantee (Emergency Livestock Loan)".

(7) A record of livestock production for each calender year beginning with 1973 through the most recent completed calender year.

(8) Proposed "Line of Credit Agreement" for Contract of Guarantee cases. See § 1980.246 (c) (4).

(b) *Preliminary determination by FmHA.* If the preliminary application indicates the proposal will not meet FmHA's minimum credit standards for a sound loan, or the applicant appears to be inelegible, or funds or guarantee authority are not available the County Supervisor will so inform the lender using Form FmHA 449-13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is economically feasible, the applicant is eligible, and loan guarantee authority is available, the County Supervisor will inform the lender in writing and request the formal application be prepared.

(c) *Completed application.* This will consist of:

(1) Those items listed in § 1980.246 (a).

(2) Applicable items required by §§ 1980.40; 1980.41; 1980.42; 1980.43; 1980.44 and 1980.45 of Subpart A of this Part.

(3) A copy of the lease agreement between tenant applicants and their landlords. When a lease is not obtainable a statement will be included in the loan docket.

(4) Proposed loan agreements(or line of credit agreement when a Contract of Guarantee is requested) between the borrower and lender. (See paragraph VIII of Form FmHA 449-35, "Lender's Agreement", in Loan Notice Guarantee cases or Form FmHA 449-38, "Lender's Agreement (Emergency Livestock Loan—Contract of Guarantee)", in Contract of Guarantee cases. Ordinarily, agreements will include information such as the following:

(i) Improved management practices to be implemented, if any.

(ii) Requirements for accounting and recordkeeping and periodic financial reporting.

(iii) A list of security property for the loan and periodic accounting of security property (at least annually).

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividened payments if a corporate entity.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limitations on compensation of officers and/or owners if applicant is a corporation or partnership.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances of a corporate entity.

(xi) Repayment schedule for the loan, including for line of credit agreements, the ceiling and duration of the line of credit.

(xii) Purposes for which loan funds can be used.

(xiii) Interest rate.

(5) Appraisal report. (i) Real estate or chattel property that will serve as collateral for loans will be appraised by a qualified appraiser selected by the lender. A real estate appraisal report will be based on at least two comparable sales. Appraisal reports may be on forms approved by the lender and/or Form FmHA 422-1, "Appraisal Report (Farm Tract)" and Form FmHA 440-21, "Appraisal of Chattel Property." However, for real estate security, an acceptable appraisal not over 3 years old may be used in lieu of a new appraisal providing the appraisal was completed by FmHA or another similarly qualified appraiser.

(ii) A current chattel appraisal will be required when chattels are taken as security.

(iii) The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(6) Notices of compliance with the Privacy Act of 1974. (i) If the applicant is acting in a personal capacity and not as a representative of a partnership, or corporation, and FmHA solicits personal information from him, the individual will be provided Form FmHA 410-9, "Privacy Act Statement to References."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410-10, "Privacy Act Statement to References."

§ 1980.247 FmHA evaluation of applications.

When the County Supervisor receives a completed application, he will make the proper independent investigations, inspections, and appraisal reviews necessary to determine whether the applicant is eligible, the proposed loan is for an eligible purpose, there is reasonable assurance of repayment ability, and there is sufficient collateral and equity. The County Supervisor's determinations will be recorded on Form FmHA 449-23, "Guaranteed Loan Evaluation."

(a) *Indication of unacceptability.* If the evaluation indicates that the guarantee cannot be approved (for reasons that would not be affected by the County Committee certification), the County Supervisor will inform the lender on Form FmHA 449-13 of the reasons and will discuss with the lender the items necessary to overcome any objections and will record such discussion in the County Office file.

(b) *Indication of acceptability.* If the evaluation indicates that the guarantee may be approved, the County Supervisor will present the application to the County Committee for certification or rejection.

ADMINISTRATIVE

The County Supervisor will: (1) Determine if the material and information submitted is complete. If he determines that the lenders appraisal(s) of security property is inadequate or questionable, he will make a formal appraisal of the required security property. (2) Determine that the supporting items and forms listed in §§ 1980.40 through 1980.45 of Subpart A of this Part are a part of the application and the conditions of each section are being complied with when applicable. (3) Review Form FmHA 449-10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and follow the requirements of 1901-G.

§ 1980.248 County Committee review.

The County Committee will review the application and determine whether the applicant meets the FmHA eligibility requirements.

(a) *Rejection.* If the County Committee rejects the application, the County Supervisor will inform the lender of the reasons for the rejection using Form FmHA 449-13, "Denial Letter."

(b) *Certification.* If the County Committee finds the applicant eligible, it will prepare Form FmHA 440-2, "County Committee Certification or Recommendation". This form will be retained in the County Office file.

ADMINISTRATIVE:

(A) *After County Committee certification is obtained, the County Supervisor will:* (1) Prepare Form FmHA 449-14, "Conditional Committment for Guarantee," for Loan Note Guarantee cases; or Form FmHA 449-15, "Conditional Committment for Emergency Livestock Loan Guarantee," for Contract of Guarantee cases. If it is within his approval authority, he will list any special conditions of approval in the space provided on the form, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender. The County Supervisor is authorized to execute Form FmHA 449-14 and Form FmHA 449-15. (2) Prepare and distribute Form FmHA 440-1, "Request for Obligation of Funds," in accordance with the Forms Manual Insert (FMI). The Finance Office will obligate funds and so notify the County Supervisor by forwarding the original and one copy of Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request." When the County Supervisor receives notice that funds have been obligated, he will notify the lender by providing him a copy of Form FmHA 449-14 or Form FmHA 449-15 as appropriate. The County Supervisor will record the actual date of lender notification on the remaining copy of Form FmHA 440-1 and make such copy a permanent part of the County Office loan file. (3) Determine if the operation is located in a special flood or mudslide hazard area. (Refer to Subpart B of Part 1806 of this Chapter, FmHA Instruction 426.2.) (4) Assure that equal opportunity and nondiscrimination requirements are met. (Refer to § 1980.41 of Subpart A). (5) Contact the District Director if he needs any assistance. (6) Forward the loan docket to the appropriate approval official if above his approval authority.

(B) *The appropriate approval official within his authority whether County Supervisor, District Director or State Director will:* (1) Set forth any special conditions of approval, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender in the space provided in Form FmHA 449-14 or Form FmHA 449-15 and return the form to the County Supervisor for execution and proper distri-

bution. (2) Sign original and one copy of Form FmHA 440–1 distributing copies in accordance with the Forms Manual Insert being sure the lender receives a signed copy. (3) Forward the loan docket to the National Office when assistance in handling any complaints of noncompliance is needed.

§ 1980.219 Review of requirements.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in Form FmHA 449–14 or Form FmHA 449–15 should complete and execute the "Acceptance or Rejection of Conditions" and return a copy to the County Supervisor. If the conditions cannot be met, the lender and applicant may propose alternate conditions to the County Supervisor. These alternatives will be considered by the County Supervisor and the lender will be advised of his decision. If altered conditions are acceptable, Form FmHA 449–14 or Form FmHA 449–15 will be revised.

§ 1980.250 Conditions precedent to issuance of the guarantee.

Refer to § 1980.60 of Subpart A for condition precedent to the issuance of either a Loan Note Guarantee or a Contract of Guarantee except:

(a) The provisions of § 1980.60(a)(2) are not applicable to Loan Note Guarantee cases;

(b) The provisions of §§ 1980.60 (a)(2), and (d), are not applicable to Contract of Guarantee cases, and

(c) To meet the requirements of § 1980.60(c) in Contract of Guarantee cases, the lender will execute and deliver to FmHA Form FmHA 449–38.

ADMINISTRATIVE

The County Supervisor will: (1) Negotiate with the lender and applicant any changes made to the initially issued or proposed Form FmHA 449–14 or Form FmHA 449–15. Any change in interest rate from the date of issuance of Form FmHA 449–14 or Form FmHA 449–15 must be approved by the State Director. A copy of the completed form and any amendments thereto will be included in the loan file. (2) Review the loan agreement or line of credit agreement between the borrower and lender. It should provide for the frequency of submission of financial statements to the County Supervisor. Quarterly financial statements should be required on new loans needing close monitoring. However, an annual analysis report will always be required. (3) Review plans for inspection made on any construction projects. (4) Review cost overruns, if any, and how they will be met. (5) Review basic credit requirements of all loans.

§ 1980.251 Issuance of guarantee instruments.

Events from issuance of a conditional commitment through issuance of the guarantee instruments may all occur at loan closing in their proper sequence.

(a) *Loan note guarantee cases.* Refer to § 1980.61 of Subpart A, except that paragraphs § 1980.61(b)(2) and § 1980.61 (f) as well as the "guarantee fee" in paragraph § 1980.61(a) shall not apply.

(b) *Contract of Guarantee cases.* (1) If FmHA finds that all requirements have been met, FmHA will execute Form FmHA 449–38. The original will be delivered to FmHA and a signed duplicate original retained by the lender. There will be a Form FmHA 449–38 executed for all lines of credit guaranteed by FmHA. The Lender's Agreement will be executed not later than the time the Contract of Guarantee is signed.

(2) Upon receipt of the form FmHA 449–38 and after all requirements have been met, FmHA will execute Form FmHA 449–27. An original will be provided to the lender. A conformed copy will be retained by FmHA.

(3) *Refusal to execute contract.* If FmHA determines that it cannot execute the Contract of Guarantee because all requirements have not been met, it will promptly inform the lender on Form FmHA 449–13, "Denial Letter" of the reasons, and give the lender a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(4) *Cancellation of obligations.* If the conditions for the loan are rejected or cannot be met after completion of any appeal, FmHA will prepare and submit to the Finance Office, Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation."

(c) *Authorized FmHA representatives to execute forms:* State Directors, District Directors, and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee, Contract of Guarantee, and Assignment Guarantee Agreement.

ADMINISTRATIVE

(A) The original Form FmHA 449–35 or Form FmHA 449–38 will be kept in the County Office. A copy may be retained in the State Office. (B) Copies of Form FmHA 449–34, and Formal FmHA 449–27 will be kept in the County Office. Additional copies may be retained by the State Office. Copies of issued guarantees will be kept in each borrower's loan file. (C) For reporting purposes where multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued. (D) The County Supervisor completes Form FmHA 449–31, "Emergency Livestock Loan Analysis," executes the original and conforms the copies. This will be done on the same date the guarantee instrument is executed. The original will be sent to the Finance Office and a copy transmitted to the State Office. (E) *Time limitation.* The guarantee processing actions required for an EL loan will be completed within fifteen days if possible, but in no case more than thirty days after FmHA receives a lender's formal written request for an EL guarantee, unless unusual circumstances are involved. (F) *State office and finance office actions.* (1) *State office.* The State Director will maintain a daily record of all Forms FmHA 449–31 received. The record will provide the name of the borrower, his county code number, amount of loan or line of credit ceiling, and State subtotals. (2) *Finance office.* Upon receipt of Form FmHA 449–31, the Finance Office will charge the loan amount or line of credit ceiling (as appropriate for the type of guarantee) against any allocation for the particular state. At the end of each month, the Finance Office will report to each State Director a record of those forms received during the month by borrower name, case number, and amount of loan so the State Director can reconcile his records. The Finance Office will submit a State summary report on loan obligations to the National Office weekly.

§§ 1980.252–1980.259 [Reserved]

§ 1980.260 Substitution of lenders.

With prior FmHA written approval, a new lender may be substituted for the original lender in either Loan Note Guarantee cases or Contract of Guarantee cases provided the new lender agrees to assume all servicing responsibilities and acquires the unguaranteed portion of the loan. In Loan Note Guarantee cases, such substitution may be made without holders consent but not without notice to the holders by the substituted lender. The new lender will executive Form FmHA 449–35 for Loan Note Guarantee cases or Form FmHA 449–38 for Contract of Guarantee cases contemporaneously with the substitution. After FmHA approval of the new lender, Form FmHA 471–7, "Notice and Acknowledgment of Sale of Insured or Guaranteed Loan" will be completed by the old lender and mailed to the FmHA Finance Office.

§§ 1980.261–1980.268 [Reserved]

§ 1980.269 Extension of guarantees issued before December 20, 1976.

New loan advances to be made after December 31, 1976, will not be automatically covered by "line of credit" guarantees issued before December 20, 1976 under terms of the Emergency Livestock Credit Act of 1974, as amended by Pub. L. 94–35. Any advance(s) under these guarantees after December 31, 1976, requires an extension of the guarantee.

(a) When lenders desire to continue making new advances to borrowers indebted under a guarantee issued prior to December 20, 1976, it will not be necessary to issue a new contract of guarantee, provided the lender will certify in writing that:

(1) The borrower meets eligibility requirements including a statement that he (the lender) is unable to extend the additional credit without a guarantee,

(2) The outstanding balance is current,

(3) Collateral for the new advance(s) will be sufficient to meet EL security requirements,

(4) The borrower has reasonable repayment ability for the overall guaranteed indebtedness, and

(5) The advance(s) will be within the terms of the existing line of credit ceiling previously approved by FmHA.

(b) For cases meeting the criteria stated in § 1980.269(a) the County Supervisor will change the date "December 31, 1976," in the second line of item "a" of the existing Contract of Guarantee to "September 30, 1978," and initial the change. If the County Supervisor questions the proposal and needs supporting information in addition to that previously furnished by the lender, he will

obtain it before initialing the change in the Contract of Guarantee.

(c) When a lender desires to make advance(s) above the previously approved line of credit ceiling, or when the advance(s) will not be within the limits of the "Line of Credit Agreement," or the line of credit loan advances are not paid current, the above method will not be used. In such cases it will be necessary for the lender to prepare a completely new guarantee request with all the supporting forms and information required by this Subpart C for a Contract of Guarantee on a new line of credit. If the loan approval official determines that all the requirements for a new guarantee are met, the existing line of credit will be refinanced by the new line of credit, and a new Contract of Guarantee will be issued. To complete the transaction, the lender must surrender the previous Contract of Guarantee to the County Supervisor who will mail it to the Finance Office with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the previous contract is being replaced and that the Finance Office records should be adjusted to reflect only the new line of credit guarantee.

§ 1980.270 Changeover of loans covered by 80 percent loss guarantees to line of credit guarantees without sale to holder(s).

(a) When a lender desires to change from an 80 percent loss guarantee (one issued by FmHA prior to July 14, 1975) to a guarantee not exceeding 90 percent of unpaid principal and interest on a line of credit for a borrower who qualifies for this and other provisions of the Emergency Livestock Credit Act of 1974 as amended, the lender must prepare and present to FmHA a request for a new Contract of Guarantee. The unpaid balance on the existing loan will be refinanced by the new line of credit loan. The request must contain all the FmHA forms required for a new Contract of Guarantee on a line of credit. If the request is approved by the FmHA County Committee and loan approval official, a new Contract of Guarantee will be issued Form FmHA 449–27. The previous Contract of Guarantee (old Form FmHA 449–27) must be surrendered by the lender and mailed to the Finance Office by the County Supervisor with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the old contract is being replaced and that the Finance Office records should be adjusted to reflect only the new line of credit contract.

(b) The provisions of §§ 1980.246 through 1980.251 will be complied with.

§ 1980.271 Conversion of existing EL loans so the guaranteed portions can be sold as permitted by Subpart A of Part 1980.

(a) Conversion does not constitute a new guarantee. Rather, the process is a substitution of documents which confer additional rights to lenders but does not change what is being guaranteed.

(b) Existing EL loans covered by 80 percent loss guarantees issued by FmHA before July 14, 1976 and existing advances constituting an EL guaranteed line of credit may be converted to Loan Note Guarantee loans and structured and sold according to Subparts A and C of this Part. The percentage guaranteed must be the same as the percentage guaranteed in the old guarantee.

(c) Before the Loan Note Guarantee system can be used, the Lender must notify FmHA of the option it has elected to use for sale of the guaranteed portion(s). Where necessary, existing notes must be constituted so that all regulations pertaining to the options found in Paragraph III of Form FmHA 449–35 will be complied with.

(d) For conversion of existing 80 percent guaranteed EL loans of a fixed amount, if a new note(s) has to be issued in order to meet the requirements of Subparts A and C of this Part, the provisions of this new note(s) must be identical to the terms and conditions of the note(s) being retired.

(e) A conversion fee of 1 percent of the principal and interest owed on the loan at the time of the conversion must be paid by the Lender to FmHA before a Loan Note Guarantee will be issued.

(f) The Lender must certify in writing and FmHA must agree that the loan is in good standing and adequately secured.

(g) The lender's request for conversion will be transmitted to the County Supervisor with the following items:

(1) A narrative of the proposal.

(2) Original Contract of Guarantee.

(i) *Alternative procedure.* If the lender does not want to deliver his original Contract of Guarantee with his request for a conversion to a Loan Note Guarantee, the County Supervisor will accept a copy of the Contract of Guarantee and proceed as set forth above. However, the Loan Note Guarantee will be delivered only upon receipt of the Contract of Guarantee.

(3) Copies of note(s) with lender's identification number(s).

(4) Certification that the loan is current and in good standing.

(5) Certification of outstanding principal and interest owed on the loan account.

(6) Executed Lender's Agreement.

(7) Current market value appraisals of loan collateral.

ADMINISTRATIVE

(A) The County Supervisor may approve all conversions to Loan Note Guarantee. (B) The original loan must be paid current at the time the Loan Note Guarantee is issued. (C) The County Supervisor will: (1) Check to see that the note or notes presented by the Lender for sale in the Loan Note Guarantee system are structured to meet all requirements in the regulations. (i) If the Lender has selected the multinote system, the note representing the unguaranteed portion must not mature before the other notes. If the Lender is converting a line of credit represented by separate notes for each advance, these existing, partially amortized notes may be used provided that: If the notes have different maturities, the note with the latest matturity date must represent the unguaranteed portion. The amount represented by this note must be exactly the unguaranteed portion of the face amount of all notes composing the loan which is to be converted to the Loan Note Guarantee system. If both these requirements cannot be met, the Lender must get the borrower to execute new notes which do not exceed the limitations of the existing guaranteed line of credit. (ii) If the Lender has elected to sell the guaranteed portions through the assignment route, and is converting a line of credit, only one note may be presented for attachment to a Loan Note Guarantee. The face amount of the note must be equal to the entire amount of the loan. (2) Review all requirements of § 1980.27. (3) Arrange to inspect the livestock operation with the lender and the borrower. The inspection will include an observation of the farming or ranching facilities, any growing crops, and livestock and chattel security. (4) Reach a mutual understanding concerning the operating plans for the farming and ranching enterprises, plans for loan repayment, and the appraised value of the loan collateral. (5) Verify the submitted request and if in order complete the Loan Note Guarantee, and date and sign the instrument. Before the form is signed the following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of the Contract of Guarantee dated ....." The County Supervisor will transfer from the outstanding Contract of Guarantee all pertinent information pertaining to the substitute Loan Note Guarantee. (6) Execute the Lender's Agreement either before or contemporaneously with execution of the Loan Note Guarantee. (7) Cancel the Contract of Guarantee being replaced. (8) Transmit to the lender the original of the Loan Note Guarantee, and a copy of the executed Lender's Agreement, and retain in the County Office file copies of the Loan Note Guarantee and attached cancelled forms. (9) Notify the Finance Office of the substitution and cancellation by letter enclosing the conversion fee collected from the lender. The notification will indicate the date and amount of the Loan Note Guarantee and that it is not to be considered as a new loan for record keeping purposes.

§ 1980.272 Refinancing existing EL loans so that the guaranteed portion can be sold through the loan Note Guarantee system.

(a) Lenders with existing EL loans covered by 80 percent loss guarantees issued by FmHA before July 14, 1975, or with existing guaranteed EL lines of credit, who desire to obtain a Loan Note Guarantee without payment of the fee provided in Section 1980.271 may apply for a new Loan Note Guarantee under the regular procedure of Subpart C of this Part. All provisions including §§ 1980.246 through 1980.251 will be complied with. If all of the requirements of Subpart A and C of this Part are met, a new Loan Note Guarantee will be issued. The unpaid balance on the existing loan will be refinanced by the new loan guaranteed by the Loan Note Guarantee.

(b) The previous Contract of Guarantee must be surrendered by the lender and mailed to the Finance Office by the County Supervisor with a new Form FmHA 449–31. The County Supervisor will indicate in his transmittal letter to the Finance Office that the old guarantee

is being replaced and that the Finance Office records should be adjusted to reflect only the new Loan Note Guarantee.

§§ 1980.273–1980.276 [Reserved]

§ 1980.277 Change from livestock to farming operation after guarantee is issued.

(a) When a borrower ceases to carry on a livestock operation, but will continue farming, he is not eligible to receive any more loan advances under the guarantee. In such cases the lender may continue with the loan(s) and reamortize it within the original term provided FmHA and the lender determine that:

(1) There is a reasonable chance for the guaranteed loan advance(s) to be paid in full.

(2) The remaining collateral plus any to be obtained will be sufficient to meet EL security requirements.

(3) Proceeds from livestock sales properly have been paid on the guaranteed loan advance(s) or release for authorized EL purposes, and

(4) Any holders consent to the reamorization and that the reamortization documents are attached to all documents evidencing the guarantee.

§ 1980.278 Transfer and assumption of loans.

(a) If the borrower can no longer continue with the loan, consideration may be given to transfering the loan to an eligible transferee with the concurrence of FmHA. If the transferor has any equity in the loan the transferee will pay to the transferor this equity either in the form of cash, or by obtaining a loan with or without a guarantee or a combination of cash and a loan. The total security will be transferred unless unusual circumstances prevail in which case National Office approval will be required. Assumption and transfer of security property agreements, notes, or assumption forms provided by the lender will be executed by the transferee. An "eligible transferee" is one that, after the assumption, meets the eligibility requirements specified in §1980.220. No applicant shall be deemed "eligible" after September 30, 1978. The transferee's application will be processed by the lender as prescribed in §1980.246 and the following:

(1) A County Committee certification will not be required.

(2) The priorities of the existing lien(s) securing the guarantee will not be adversely affected.

(3) Any cash down payment (other than an equity payment) or proceeds from the sale of any security property will be credited on the transferor's guaranteed loan before the transfer and assumption transaction is closed.

(4) The transferor may be released from personal liability provided the total outstanding indebtedness is assumed and providing the collateral being transferred is at least equal to the amount of the loan being assumed.

(5) *The existing guarantee will continue.* The existing guarantee will continue in effect, so a new guarantee instrument will not be issued However, as soon as the transfer and assumption have been completed, the lender will so indicate on the original Loan Note Guarantee or Contract of Guarantee by inserting a check in the assumption agreement box and inserting the name of the assuming party for those purposes on the Loan Note Guarantee or Contract of Guarantee.

(b) *Change in loan terms.* All changes in loan terms must be approved in writing by the loan approval official, the borrower, and lender, and all holders if any, and a copy of the changed terms attached to each portion (both guaranteed and unguaranteed) of the loan.

ADMINISTRATIVE

(A) *Loan approval officials, consistent with their authority to approve guarantees, may consent:* (1) To all transfer and assumption cases. (2) To the releases of the transferor and guarantor(s) from liability on the loan and will notify the lender and the transferor and guarantors of the decision in writing. (3) To any changes in the loan terms provided the holder(s), if any and lender agree. (B) The Loan Note Guarantee or Contract of Guarantee will be endorsed in the space provided on the form. (C) A copy of the Assumption Agreement will be retained in the County office file. The County Supervisor will notify the Finance Office of all approved Transfer and Assumption cases so that Finance Office records may be adjusted accordingly. (D) When all the security is not transferred the State Director will submit to the National Office the full facts and justification for his recommendation and the County Office files.

§ 1980.279 Loan servicing.

The lender is responsible for loan servicing. Refer to paragraph X of Form FmHA 449–35 for Loan Note Guarantee cases, and to paragraph IX of Form FmHA 449–38 for Contract of Guarantee cases.

ADMINISTRATIVE

(A) While the lender has the primary responsibility for loan servicing and protecting the collateral, the County Supervisor is responsible for seeing that required servicing is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt followup on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

(B) *The County Supervisor will:* (1) Make timely investigations during acquisition or development and at least annually thereafter to determine whether any security property that was to be acquired or constructed after issuance of the Contract of Guarantee or Loan Note Guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops the County Supervisor will promptly contact the lender to resolve it. (2) Review all EL borrowers' financial statements furnished by the lender with the District Director, and will take appropriate servicing action reminding the lender of his servicing responsibilities. Refer to paragraph X of Form FmHA 449–35, or paragraph IX of Form FmHA 449–38. (3) Immediately contact the District Director when notified by the lender of borrower's failure to fulfill any conditions of the loan approval conditions to determine the action to be taken. (4) Notify the District Director in writing upon receipt of notice from the Lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. Refer to paragraph XI of Form FmHA 449–35, or paragraph X of Form FmHA 449–38. (5) Establish an office management system for guaranteed loans in accordance with FmHA Instruction 405.1 to insure timely followup on all required financial statements, and any special requirements for loan servicing conditions. (6) Notify the Finance Office when the lender makes any approved protective advances. (7) Submit to the Finance Office semiannually the lender's statement required in paragraph X B 10 of Form FmHA 449–35, or paragraph IX of Form FmHA 449–38, reflecting the unpaid principal balances on the loan.

(C) *District Director will:* (1) Assure that the County Supervisor carries out his responsibilities. (2) Accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the lender. (3) Provide guidance and assistance to the County Supervisor if a loan develops into a problem case. (4) Review all Field Visit Reports and make recommendations or comments and transmit them to the State Director, if necessary.

(D) *FmHA servicing authorizations.* For loans in amounts not in excess of their loan approval authority, FmHA officials are authorized to approve or concur in: (1) Alterations in the loan approval conditions which will not prejudice the Governments interest. (2) Any replacement of collateral for the loan. (3) All lien coverage and lien priorities on the collateral established by the lender before issuance of the Contract of Guarantee or Loan Note Guarantee. (4) Any renewal of loan notes in concurrence with the lender. (5) Use of proceeds from disposition of collateral meeting the provisions of paragraph X of Form FmHA 449–35, or paragraph IX of Form FmHA 449–38 "Lender's Agreement".

(E) *National Office assistance.* State Directors may consult with the National Office on any servicing problem, and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

§ 1980.280 Protective advances.

Refer to paragraph XIII of Form 449–35, or paragraph XII of Form FmHA 449–38 as appropriate.

ADMINISTRATIVE

(A) It is not intended that protective advances be made in lieu of additional loans. (B) The County Supervisor is authorized to approve protective advances and will consider the following when approving such advances: (1) The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current, and, if not, the extent of the delinquencies. (2) The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§ 1980.281 Termination of guarantee.

Refer to paragraph XII of Form FmHA 449–34 for termination of Loan Note Guarantees, and to Form FmHA 449–27 for termination of Contracts of Guarantee.

ADMINISTRATIVE

The County Supervisor will advise Finance Office when a Loan Note Guarantee, or Contract of Guarantee is terminated.

§ 1980.282 Defaults by borrower.

(a) Refer to paragraph XI of Form FmHA 449–35 for Loan Note Guarantee cases and to paragraph X of Form FmHA 449–38 for Contract of Guarantee cases.

(b) The lender will arrange a meeting with the County Supervisor and the borrower to resolve the problems.

(c) The lender will summarize the meeting in a memorandum listing the individuals who attended, and describing the problems, and the proposed solutions. The original will be retained in the lender's loan file and a copy will be submitted to the County Supervisor.

ADMINISTRATIVE

(A) The County Supervisor monitoring the loan will coordinate and process any request for FmHA to purchase when the holder(s) are located in close proximity of the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor. (B) The County Supervisor will review the material submitted, verify the amounts due the holder(s) and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due to the holder(s). (C) The County Supervisor will verify the amounts payable to the holder and assure that all necessary material has been obtained. The County Supervisor will request a check to pay the holder(s) on the appropriate date entry form. The Finance Office will forward the check to the County Supervisor within 10 days after receipt of the request. (D) Any evidence of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.283 Liquidation.

Refer to paragraph XII of Form FmHA 449–35 for Loan Note Guarantee cases, and to paragraph XI of Form FmHA 499–38 for Contract of Guarantee cases.

ADMINISTRATIVE

(A) The District Director determines which FmHA personnel will attend meetings with the Lender. (B) *Form FmHA 449–35, or Form FmHA 449–38, paragraphs XII B or XI B respectively.* FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan will likely not result in maximum recovery. District Directors are authorized to approve lender liquidation plans or exercise the FmHA option to liquidate. (C) *Form FmHA 449–35, or Form FmHA 449–38, paragraphs XII D or XI D respectively.* County Supervisors are responsible for seeing that the lender complies with the requirements of paragraph XII D or paragraph XI D as appropriate. The concurrence of the District Director will be necessary before the County Supervisor may accept the accounting reports as submitted by the lender and before submission of such reports to lenders when FmHA is conducting liquidation. (D) *Form FmHA 449–35, or Form FmHA 449–38 paragraphs XII E 2 or XI E 2 respectively.* County Supervisors are authorized to accept Report of Loss determinations for both Loan Note Guarantee and Contract of Guarantee cases on Form FmHA 449–30 "Loan Note Guarantee Report of Loss," in those cases where loss will not exceed $35,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit to the Finance Office for payment any losses claimed on Form FmHA 449–30. The Finance Office will forward loss payment checks within 10 days of receipt of the claim to the County Supervisor for delivery to the lender. (E) *Form FmHA 449–35 or Form FmHA 449–38 paragraphs XII E 3 or XI E 3 respectively.* Final loss payments will be made within the 60 days required but only after a review has been made to accurately determine FmHA liability. State Directors are responsible to see that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. County Supervisors may conduct such reviews when the *loss* does not exceed $35,000; District Directors when the *loss* does not exceed $100,000; and State Directors for amounts not to exceed their loan approval authority. If the State Director wishes National Office assistance in the conduct of the review, he may request it.

§§ 1980.284–1980.289 [Reserved]

§ 1980.290 Graduation.

There is no "graduation" requirement for EL loans. Therefore, these loans will not be reviewed by FmHA to determine whether lenders should be in position to carry them without a guarantee.

§ 1980.291 Appeal procedure.

See § 1980.80 of Subpart A for the method of having adverse decisions of County Supervisors, District Directors, and State Directors reviewed in both Loan Note Guarantee and Contract of Guarantee cases.

§ 1980.292 Access to records of lenders.

See § 1980.81 of Subpart A for this requirement in both Loan Note Guarantee and Contract of Guarantee cases.

§ 1980.293 County and State Office files.

(a) *County office files.* County offices having charge of loan guarantees are not expected to maintain complete case files. However, the County Office case file for each loan guarantee should contain originals or copies of forms and other material which is needed to monitor the lender's loan servicing actions.

(b) *State office files.* State Directors may maintain files on cases which require special servicing attention.

§ 1980.294 FmHA forms.

(a) See Appendix A for list of applicable FmHA forms, number to be prepared, signatures required, and manner of distribution.

(b) Forms FmHA 449–27, "Contract of Guarantee (Emergency Livestock Loan)"; FmHA 449–38, "Lender's Agreement (Emergency Livestock Loan—Contract of Guarantee)"; Form FmHA 449–15, "Conditional Commitment for Emergency Livestock Loan Contract of Guarantee"; Form FmHA 449–25, "Request for Guarantee (Emergency Livestock Loan)"; Form FmHA 449–26, "Certificates of Lender and Loan Applicant (Emergency Livestock Loan)"; are incorporated in this Subpart C, made a part hereof, and appear as appendixes B, C, D, E, and F in the FEDERAL REGISTER.

§§ 1980.295—1980.299 [Reserved]

GENERAL ADMINISTRATIVE

(A) *Office of the General Counsel (OGC).* In performing the FmHA functions with respect to EL loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters it should consult with OGC. (B) *Delegation of authority.* The State Director may delegate to his staff those administrative duties and responsibilities stipulated in the Administrative sections of this Subpart C.

APPENDIX A—FMHA FORMS

(a) The following chart lists applicable FmHA forms, number to be prepared, signatures required, and manner of distribution. Any of these FmHA forms and others needed by lenders or applicants may be obtained from FmHA.

FmHA form number	Name of form	Total number	Signed by [1]	Distribution
	Forms needed by a lender for use in preparing the EL guarantee request			
400–1	Equal opportunity agreement	3	B–O	O–L, C–B, C–FmHA.
400–3	Notice to contractors and applicants	4	L–O	O–Con, C–B, C–L, C–FmHA.
400–6	Compliance statement	4	L and Con 3–O	O–L, C–Con, C–B, C–FmHA.
449–6	Application for guaranteed loan (farmer programs).	2	B–O	O–L, C–FmHA.
449–25	Request for guarantee (emergency livestock loan).	2	L–O	O–FmHA, C–L.
449–26	Certificates of lender and loan applicant (emergency livestock loan).	3	L and B–O	O–FmHA, C–L, C–B.
449–35	Lender's agreement	2	L and FmHA	O–FmHA, C–L.
449–36	Assignment guarantee agreement	3	L, H and FmHA	O–H, C–L, C–FmHA.
449–38	Lender's agreement (emergency livestock loan—contract of guarantee).	2	L and FmHA, (O and C)	O–FmHA, C–L.

FmHA form number	Name of form	Total number	Signed by [1]	Distribution
	Forms used by FmHA in processing and handling the guarantee request			
440-2	County committee certification or recommendation.	1	[2]	FmHA.
440-1	Request for obligation of funds	4	FmHA-O	OLC-FC, C-county office, C-State director.
449-13	Denial letter	2	FmHA-O	O-L, C-FmHA.
449-14	Conditional commitment for guarantee	2	FmHA-O	O-L, C-FmHA.
449-15	Conditional commitment for emergency livestock loan guarantee.	2	FmHA-O	O-L, C-FmHA.
449-27	Contract of guarantee (emergency livestock loan).	2	FmHA-O	O-L, C-FmHA.
449-31	Emergency livestock loan analysis	3	FmHA-O	O-FC, C-FmHA, C-state director.
449-34	Loan note guarantee	2	FmHA-O	O-L, C-FmHA.
	Forms used jointly by lender and FmHA			
449-30	Loan note guarantee report of loss	3	L-O	O-FmHA, C-L, C-FmHA.

[1] Signature and distribution "L"—lender; "H"—holder; "B"—borrower or assumptor; "FC"—finance office; "FmHA"—authorized FmHA official; "Con"—contractor; "O"—original; "C"—copy.
[2] County committee.

(b) *Other forms and information.* Any needed forms not furnished by FmHA will be provided by the lender. The lender may obtain information from FmHA and copies of other FmHA forms that may be helpful in various aspects of loan making, construction and development, and loan servicing.

(c) *Racial code.* Some FmHA forms contain space for coding the race of the applicant for the loan or assumption. In the code, "W" means "White," "N/B" means "Negro (Black)," "S" means "Spanish-American," "AI" means "American Indian," and "O" means any other race. The lender is responsible for completing this code on all forms on which it appears, in accordance with his best judgment as to the race involved.

(d) *Revision of existing forms.* Until the present supply is exhausted, the forms described below will be revised on an individual case basis as follows:

(1) *Form FmHA 400–1, "Equal Opportunity Agreement."* In the second paragraph after the word "Recipient, "insert" or to Recipients lender." In subparagraph 1(e), change the word "or" to "issued."

(2) *Form FmHA 400–6, "Compliance Statement."* In the first paragraph between "with" and "assistance," insert "loan guarantee."

(3) *Form FmHA 440–2, "County Committee Certification or Recommendation."* (i) *Loan note guarantee cases.* In the upper right hand corner insert "Guaranteed Loan." Check the "Other" box in Type of Assistance and insert "EL" in the blank opposite "Other (Specify)." Add "11. ☐ for an EL loan, we certify an amount not exceeding $_____."

(ii) *Contract of guarantee cases.* In the upper right hand corner insert "Guaranteed Line of Credit." Check the "Other" box in Type of Assistance and insert "EL" in the blank opposite "Other (Specify)." Add "11. ☐ For an EL line of credit, we certify an amount not exceeding $_____."

(4) *Form FmHA 449–6, "Application for Guaranteed Loan (Farmer Programs)."* The crop and livestock production tables on the face of the form may be omitted.

Appendix B
Page 2

Acceptance or Rejection of Conditions

To: Farmers Home Administration (FmHA) 4/

The condition of Form FmHA 449-15 on the other side of this page:

1. ☐ are acceptable and the undersigned Lender intends to proceed with the loan transaction and to request issuance of a Contract of Guarantee at the appropriate time.
2. ☐ are acceptable, but for other reasons the undersigned Lender does not desire a Contract of Guarantee.
3. ☐ are not acceptable and for that reason the undersigned Lender does not desire a Contract of Guarantee.
4. ☐ are not acceptable, but would be acceptable if the following changes were made:

If block number "1" above is checked

(a) It is understood that the following information may be released upon request: Name and address of Applicant, name and address of Lender, amount of loan, and general purpose of the loan.

(b) It is anticipated that the Contract of Guarantee will be requested in approximately _____ days.

_____ (Name of Lender)

By _____ (Signature of Lender)

_____ (Date)

1/ Insert fixed interest rate or, as authorized by regulations, variable interest rate followed by "i".

2/ Insert any additional conditions or requirements in this space or on an attachment referred to in this space, otherwise insert "NONE".

3/ Insert expiration date. (Allow sufficient time for processing and issuance of the Contract of Guarantee.)

4/ Return completed and signed copy of this form to FmHA office from which it was received

NOTE TO LENDER: Complete and execute the Acceptance or Rejection of Conditions as indicated above on the copy of this form and return it to FmHA

Appendix II

USDA-FmHA (Rev. 1) FmHA 449-15 (3-29-77)	CONDITIONAL COMMITMENT FOR EMERGENCY LIVESTOCK LOAN CONTRACT OF GUARANTEE	CASE NO.
		State
TO: Lender		County
Lender's Address		Line of Credit Ceiling $
Borrower		Principal Amount of Initial Loan $

From an examination of information supplied by the Lender on the above proposed loan, the county committee certification or recommendation, if required, and other relevant information deemed necessary, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the Farmers Home Administration (FmHA) hereby agrees that, in accordance with applicable provisions of the FmHA regulations published in the Federal Register and related forms, it will execute Form FmHA 449-27, "Contract of Guarantee (Emergency Livestock Loan)," subject to the conditions and requirements specified in said regulations and below.

The interest rate for the loan is _____% 1/. If a variable rate is used, it must be tied to a base rate which cannot change more often than quarterly, and must be published periodically in a financial publication specifically agreed to by the Lender and Borrower. Any change in interest rates from date of issuance of this form must be approved by the FmHA State Director. Such related information may be ascertained from any FmHA office or by consulting the Federal Register.

A Contract of Guarantee will not be issued until the Lender certifies that it has no knowledge of any adverse change, financial or otherwise, in the Borrower, his business, or any parent, subsidiaries, or affiliates since it requested a Contract of Guarantee.

Additional Conditions and Requirements 2/

This conditional commitment will expire on _____ 3/ unless the time is extended in writing by FmHA, or upon the Lender's earlier notification to FmHA that it does not desire to obtain an FmHA guarantee.

UNITED STATES OF AMERICA

By _____

Date: _____ FmHA _____ (Title)

Division 2

Appendix C
Form Approved
OMB No. 40-R3931

USDA-FmHA
Form FmHA 449-25
(Rev. 3-21-77)

REQUEST FOR GUARANTEE
(Emergency Livestock Loan)

CASE NO.

TO: Farmers Home Administration (FmHA) | State | County

Applicant's Name	Applicant's Address
Lender Requests a Loan Note Guarantee	Lender Requests a Contract of Guarantee
Principal Amount of Loan $	Line of Credit Ceiling $ Principal Amount of Initial Loan $

The undersigned Lender hereby requests issuance of a guarantee in the subject case.

THE FOLLOWING INFORMATION AND DOCUMENTS ARE SUBMITTED FOR YOUR CONSIDERATION

1. Copy of Application for Loan with enclosures
2. Cash flow sheet, if used by Lender
3. Any drawings and specifications for ☐ construction ☐ major repairs ☐ major land development
4. Appraisal report on any real estate security.
5. Certificates of Lender and Loan Applicant (Emergency Livestock Loan)
6. Purposes for which guarantee loan funds for the first full operating year will be used and the amounts to be used for such purposes are:

Purposes	Amounts
	$

7. Interest rate to borrower is _____% per annum.
8. Loan fee payable by loan applicant is _____% of principal amount of loan or $ _____. a/
9. Repayment period for the initial loan is _____ year(s).
10. Proposed loan guarantee is _____% of the principal and interest.
11. Escrow account is required for ☐ Taxes ☐ Insurance premiums ☐ Other (Specify) _____
12. The undersigned Lender is subject to examination and supervision by

_____
(Insert name of agency of United States or State, or "None")

a/ Insert "None," or if Lender charges a loan fee, insert percentage of dollars

13. Loan(s) will be ☐ made, and/or ☐ serviced, by the undersigned:
☐ Main office address: _____
☐ Branch office _____ *(Name of office)*
Branch office address: _____
☐ Agent _____ *(Name of Agent)*
Agent's address: _____
14. Initial loan is scheduled for repayment _____ *(Dates of monthly, annual, or other installments)*
15. Late payment charges, if any, are made on the following basis pursuant to a written agreement between the applicant and the undersigned Lender as required by 7 CFR 1980.22: _____
16. Types and amounts of insurance required are:

Types	Amounts
	$
	$

17. List of Required Security Property
(Including That on Hand and to be Acquired)

DESCRIPTION OF PROPERTY

A. ON HAND*	APPRAISED VALUE	AMT. ANY PRIOR LIENS	FL LOAN EQUITY
	$	$	$
	$	$	$

Appraiser's Certificate on Personal Property

Personal property listed above, if any, was appraised by me at the values set forth opposite the description thereof.

_____ *(Date)* _____ *(Appraiser)*

B. TO BE ACQUIRED*	ESTIMATED VALUE
	$
TOTAL	$

* Quantity and brief description. For example: "Smith farm 160 acres," (based on separate appraisal report) "1 - 1972 John Deere 2520 Tractor," "25 Hereford range cows, 3-6 years."

18. Plan of Operation agreed upon by Lender and loan applicant for first full operating year.

a. PLANNED CROPS, PASTURE, ETC., PRODUCTION AND SALES

CROPS, PASTURE, ETC	ACRES	YIELD PER ACRE	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
					$
				TOTAL	$

b. PLANNED LIVESTOCK AND PRODUCTS PRODUCTION AND SALES

KIND	PRODUCTION PER ANIMAL	NUMBER	OPERATOR'S SHARE	OPERATOR'S SHARE FOR SALE AMOUNT	OPERATOR'S SHARE FOR SALE VALUE
					$
				TOTAL	$

19. CASH OPERATING EXPENSES

	TOTAL CREDIT NEEDED	TOTAL PLANNED EXPENSES
Hired Labor	$	$
Machinery Repair	$	$
Interest	$	$
Cash Rent	$	$
Feed	$	$
Seed	$	$
Fertilizer	$	$
Pesticides & Spray Materials	$	$
Livestock Expense	$	$
Machinery Hire	$	$
Fuel and Oil	$	$
Personal Prop. Tax	$	$
Real Estate Taxes	$	$
Water Charges	$	$
Property Insurance	$	$
Auto & Truck Expense (Farm)	$	$
Utilities	$	$
Feeder Livestock (Bought & sold during year)	$	$
Family Living Expenses	$	$
Other	$	$
TOTAL	$	$

20. Financial Summary of First Full Years Operation

A. Livestock Income	$
B. Crop Income	$
C. Other Farm Income	$
D. Off-Farm Income (net)	$
E. Total Gross Income (A+B+C+D)	$
F. Total Cash Expenses (Table 19)	$
G. Net Cash Income (E minus F)	$
H. Loans and Other Credit	$
I. Interest	$
J. Balance Available for Debt Payment (G+H+I)	$

21. DEBT REPAYMENT

TO WHOM OWED	AMOUNT DUE FIRST YEAR (PRIN. & INT.)	PRIN. & INT. TO BE PAID	PLAN DATE	SOURCE OF FUNDS
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
	$	$		
Income and Social Security Taxes	$	$		
TOTAL	$	$		

22. The loan will be properly closed and the required security will be obtained.
23. The borrower has title marketable in fact to security property now owned (and will obtain such title to any additional property to be acquired with loan funds), subject only to the instruments securing the loan to be guaranteed and any other exceptions set forth below.
24. Security property now owned (any to be acquired) is considered adequate security for the loan to be guaranteed, or if inadequate state in item 29 of this form, why you believe the borrower's farm or ranch operating plans will permit him to pay the guaranteed EL loan in full within a period not exceeding 7 years. The security instruments will be properly filed or recorded prior to the issuance of the guarantee, except that if security property is yet to be acquired in a jurisdiction in which an after acquired property clause is not valid, a security instrument covering such property will be obtained as soon as appropriate and legally permissible.
25. Truth in Lending requirements will be met.
26. All Equal Opportunity and Nondiscrimination requirements will be met (or any that cannot yet be met will be met at the appropriate time).

27. The undersigned (a) considers the proposed loan to be sound and within the borrower's repayment ability, and (b) believes that all applicable requirements in Subparts A and C of Part 1980, 7 CFR have been or will be met.

28. Lender's Planned Loan Servicing

29. Other Relevant Information

_____ (Name of Lender)

_____ (Date) BY _____

TITLE _____

_____ (Lender's IRS ID Tax No.)

USDA-FmHA
Form FmHA 449-26
(Rev. 3-23-77)

CERTIFICATES OF LENDER AND LOAN APPLICANT
(Emergency Livestock Loan)

Lender / Lender's IRS Tax No.	CASE NO.
Lender's Address	State
Loan Applicant's Name & Address	County
	Principal Amount of Loan $ _____ OR
	Line of Credit Ceiling $

To induce the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture (hereinafter called "FmHA") to insure or make a loan (Note, Guarantee or Conditional Guarantee with respect to Emergency Livestock (EL) loans), pursuant to the Emergency Livestock Credit Act of 1974 as amended, and the regulations in 7 CFR Part 1980, Subparts A and C

A. LENDER'S CERTIFICATE. The above named lender hereby certifies that:

1. Lender has received an application from the above named applicant for an EL loan or line of credit in the amount stated above for use for the purposes and in the amounts set forth in Form FmHA 449-25 to which this certificate is attached.
2. Lender is unwilling to make such loan or line of credit advances without an FmHA guarantee.
3. Loan applicant was engaged in particular livestock operations) on July 25, 1974, the effective date of said Act, and was engaged in said operations continuously for a period of _____ (month or year) immediately prior to July 25, 1974.
4. Loan applicant is a bona fide farmer or rancher whose business (the United States citizen, an individual, corporation, or partnership which is engaged in the commercial, as one whose chief occupation is farming or ranching, (b) primarily and directly engaged in agricultural production and cultivating substantial operations in breeding, raising, fattening or marketing livestock including dairy cattle owned and maintained for the primary purpose of marketing dairy products hereinafter referred to as a "livestock operations. (The term of an individual loan applicant the term "primarily and directly engaged in agricultural production" means that he derives more than 50 percent of his gross income from his own agricultural production or devotes more than 50 percent of his time to such production. The term "substantial operations in livestock" means that he derives not less than 25 percent of his gross farm income from his own livestock operation, or devotes not less than 25 percent of his time to such operation, or has not less than 25 percent of his total capital investment in such operation. In the case of a corporation or partnership loan applicant, the term "primarily and directly engaged in agricultural production" means that the corporation or partnership derives more than 50 percent of its gross income from agricultural production, and that the shareholders or partners owning or controlling, directly or indirectly, interests in such corporation or partnership derive more than 50 percent of their gross income from their shares of the corporation's or partnership's agricultural production, and devote more than 50 percent of their time to such production. The term "substantial operations in livestock" means that the corporation or partnership derives not less than 25 percent of its gross farm income from its own livestock operation, or devotes not less than 25 percent of its time to such operation, or has not less than 25 percent of its total capital investment in such operation.
5. The loan or line of credit requested by the loan applicant is to be used for purposes which are essential to carrying on live stock operations related to breeding, raising, fattening or marketing livestock of the following type(s):
   ☐ Beef Cattle ☐ Dairy Cattle ☐ Swine ☐ Sheep ☐ Goats ☐ Chickens ☐ Turkeys
6. The requested loan or line of credit is for the purpose of maintaining said livestock operation(s), and will not exceed the amount necessary to permit the loan applicant to continue said livestock operation(s) on a herd equal to the highest number at which the loan applicant conducted said livestock operation(s) during the 18 months immediately preceding July 25, 1974.
7. If any loan advance is to be used to refinance indebtedness incurred in conducting said livestock operation(s),
   (a) That part for refinancing is essential in order for the applicant to continue said livestock operation(s).
   (b) Lender will not refinance the existing loan without an FmHA guarantee, and
   (c) Lender is not currently refinancing similar loans to others without such guarantees.

_____ (Name of Lender)

_____ (Date) BY _____ (Authorized Official)

TITLE _____

B. LOAN APPLICANT'S CERTIFICATE. The above named loan applicant hereby certifies that:

1. Loan applicant, if an individual (or its officials who execute this certificate on its behalf, if it is a legal entity) state(s) that (he has) (they have) read the within and foregoing Lender's Certificate and that the contents thereof are all true and correct to the best of his or their knowledge and belief.
2. Loan applicant will be unable to obtain the financing requested without an FmHA guarantee under said Act and regulations.
3. Loan applicant, if an individual, does not own or control as much as 20% interest in any corporation or partnership that is applying for or has received an Emergency Livestock loan or, if he has or does, the total of the loans applied for and/or received by all of them does not exceed $150,000. If the loan applicant is a corporation or a partnership, no person who owns or controls as much as 20% interest in it has applied for or received an Emergency Livestock loan or, if he has or does, the total of the loans applied for and/or received by all of them does not exceed $350,000. Ownership or control of less than 20% interest in a corporation or partnership does not affect the individual stockholder's, partner's, corporation's, or partnership's qualifications for an Emergency Livestock loan.
4. Loan applicant, if an individual, is a citizen of the United States or a person who has been legally admitted for permanent residence in the United States. If a corporation or partnership, the principal stockholders or partners are citizens or such permanent residents of the United States, and the corporation or partnership is authorized to carry on livestock operations in the State involved. For the purpose of meeting citizenship requirements, any partner or stockholder owning or controlling as much as 20 percent interest in a partnership or corporation will be considered a principal partner or stockholder. If no person owns or controls as much as 20 percent, all partners and stockholders will be considered principal partners or stockholders.
5. The loan may be accelerated if I cease to be a farmer or rancher.
6. Loan applicant has no FmHA guaranteed EL loan(s) except in the amount of $ _____

_____ (Individual) _____ (Individual)

_____ (Name of Corporation)

_____ (Secretary) BY _____ (President)

_____ (Date)

(Corp. Seal)

_____ (Partner) _____ (Date) _____ (Name of Partnership)

_____ (Partner) _____ (Date) BY _____ (Partner)

_____ (Partner) _____ (Date) _____ (Date)

USDA-FmHA
Form FmHA 449-27
(Rev. 3-22-77)

CONTRACT OF GUARANTEE
(Emergency Livestock Loan)

Lender / Lender's IRS Tax No.	CASE NO.
Lender's Address	State
Borrower's Name and Address	County
	Date of Line of Credit Agreement
	Line of Credit Ceiling $

The guaranteed portion of this loan is _____% of the principal balance owed at any one time on advances made within an approved line of credit before September 30, 1978 by the above named Lender to the above named Borrower.

In consideration of making loan advance(s) by the Lender within the line of credit ceiling pursuant to the Line of Credit Agreement, the United States of America acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Emergency Livestock Credit Act of 1974 (P. L. 93-357), as amended, does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to the Lender who holds note(s) for said advance(s) (or assumption agreement) covered by this contract the lesser of 1 or 2, below:

1. Any loss sustained by such Lender on the guaranteed portion including:
   a. Principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), and
   b. Principal and interest indebtedness on protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to: advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral; or
2. The guaranteed principal advanced to or assumed by the Borrower under said note(s) or assumption agreement(s) and any interest due thereon.

If FmHA conducts the liquidation of the loan, loss sustained by a Lender by accruing interest after the date FmHA accepts responsibility for liquidation will not be covered by this Contract of Guarantee. If Lender conducts the liquidation of the loan, accruing interest shall be covered by this Contract of Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

CONDITIONS OF GUARANTEE

1. Loan Servicing

Lender will be responsible for servicing the entire loan, and Lender will remain mortgagee and/or secured party of record.

2. Priorities

The entire loan will be secured by the same security, with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

3. Full Faith and Credit

This Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender has actual knowledge at the time it became such Lender or which Lender participates in or conducts. In addition, the Contract of Guarantee will be unenforceable by Lender to the extent any loss is occasioned by the substantial usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

4. Protective Advances

Protective advances made by Lender pursuant to the regulations will be guaranteed against a percentage of loss to the same extent as provided in this Contract of Guarantee.

5. When Guarantee terminates

This Contract of Guarantee will terminate automatically (a) upon full payment of the guaranteed loan, or (b) upon full payment of any loss obligation hereunder, or (c) upon written notice from the Lender to FmHA that the guarantee will terminate 30 days after the date of notice.

6. Settlement

The amount due under this instrument will be determined and paid as provided in the applicable Subpart of Part 1980 of Title 7 CFR in effect on the date of this instrument.

7. Notices

All notices and actions will be initiated through the FmHA County Supervisor for _____ (County)

_____ (State) with mailing address at the date of this instrument _____

_____

_____

UNITED STATES OF AMERICA

FARMERS HOME ADMINISTRATION

By _____

_____ Title _____
Date

Assumption Agreement by _____ dated _____, 19__

Assumption Agreement by _____ dated _____, 19__

USDA-FmHA
Form FmHA 449-35
(Rev. 7-77)

FmHA Loan Identification No.

LENDER'S AGREEMENT
(Emergency Livestock Loan Contract of Guarantee)

Applicable 7 CFR Part 1980, Subpart C

_____ (Lender) of _____

has established a line of credit in _____ (Borrower) for the fiscal period ending _____, 19__, for the purpose of _____

in the maximum sum of $_____ as evidenced by a "Line of Credit Agreement" dated _____, 19__.

The United States of America, acting through Farmers Home Administration (FmHA), has agreed to enter into a "Contract of Guarantee" (Form FmHA 449-27) or has issued a "Conditional Commitment for Guarantee" (Form FmHA 449-18) to enter into a Contract of Guarantee with the Lender applicable to such line of credit to cover _____ percent of any loss on the loan advances not to exceed _____ % of the amount of the principal and any accrued interest. The terms of the Contract of Guarantee are controlling. As a condition for obtaining a guarantee of the loan advances the Lender enters into this agreement.

THE PARTIES AGREE:

I. The maximum limit covered under the Contract of Guarantee will not exceed _____ percent of the principal and accrued interest owed on any Emergency Livestock loan advances made within the line of credit ceiling and the terms and conditions of the Contract of Guarantee.

II. Full Faith and Credit.

The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or conceals. The Contract of Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

III. Lender's Sale of Guaranteed Loan by Participation.

A. The Lender may obtain participation in its loan under its normal operating procedures. Participation means a sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

B. The Lender may retain or sell any amount of the unguaranteed portion of the loan as provided in this section only through participation. However, the Lender will retain the responsibility for loan servicing and liquidation.

IV. The Lender agrees loan funds will be used for the purposes authorized in Subpart C of Title 7 CFR Part 1980 in accordance with the terms of Form FmHA 449-35.

V. The Lender certifies that it is a citizen of the United States of America or if an organization, that the ownership of at least 51 percent of any outstanding interests of the Lender is owned by citizens of the United States. Further, such Lender certifies that any guarantees received shall be only on loans made by it, operating for itself and not on behalf of foreign citizens or organizations.

VI. The Lender certifies that none of its officers or directors, stockholders or other owners has a substantial financial interest in the borrower. The Lender certifies that neither the borrower nor its officers or directors, stockholders or other owners has a substantial financial interest in the Lender.

VII. The Lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the Borrower, his business or any parent, subsidiaries, or affiliates since it requested a Contract of Guarantee.

VIII. Lender certifies that the Line of Credit Agreement and/or loan instruments concurred in by FmHA has been or will be signed with the Borrower.

IX. Servicing.

A. The Lender will service the entire loan and will remain mortgagee and/or secured party of record. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of a loan will not be paid first nor given any preference or priority over the guaranteed portion of the loan.

B. It is the Lender's responsibility to see that all construction is properly planned before any work proceeds; that any required permits, licenses or authorizations are obtained from the appropriate regulatory agencies; that the Borrower has obtained contracts through acceptable procurement procedures; that periodic inspections during construction are made; and that FmHA's concurrence on the overall development schedule is obtained.

C. Lender's servicing responsibilities include, but are not limited to:

1. Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements. None of the aforesaid instruments will be altered without FmHA's prior written concurrence.

2. Receiving all payments on principal and interest on the loan advances as they fall due.

3. Inspecting the collateral as often as necessary to properly service the loan.

4. Assuring that adequate insurance is maintained. This includes hazard insurance obtained and maintained with a loss payable clause in favor of the Lender as the mortgagee or secured party.

5. Assuring that taxes, assessment or ground rents against or affecting collateral are paid; the loan and collateral are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigation; insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA; proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based, except that proceeds from the disposition of collateral, such as machinery, equipment, furniture or fixtures, may be used to acquire property of similar nature in value up to $_____ without written concurrence of FmHA; the Borrower complies with all laws and ordinances applicable to the loan, the collateral and or operation of the farm or ranch.

6. Assuring that if personal or corporate guarantees are part of the collateral, current financial statements from such loan guarantors will be obtained and copies provided to FmHA at such time and frequency as required by the loan agreement or Conditional Commitment for Guarantee. In the case of guarantees secured by collateral, assuring the security is properly maintained.

7. Obtaining the lien coverage and lien priorities specified by the Lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

8. Assuring that the borrower obtains title marketable in fact to the collateral.

9. Assuring that the Borrower (any party liable) is not released from liability for all or any part of the loan, except in accordance with FmHA regulations.

10. Providing FmHA a statement certified by an officer of the Lender of the unpaid principal balance of the guaranteed loan semiannually as of June 30 and December 31.

11. Obtaining from the Borrower periodic financial statements under the following schedule: _____

_____

Lender is responsible for analyzing the financial statements, taking any servicing actions needed, and providing copies of statements and record of actions to the County Supervisor.

X. Defaults by Borrower.

A. The Lender will notify FmHA when a Borrower is thirty (30) days past due on a payment and is unlikely to bring its account current within sixty (60) days, or if the Borrower has not met its responsibilities of providing the required financial statements to the Lender or is otherwise in default. A meeting will be arranged by the Lender with the Borrower and FmHA to resolve the problem. Actions taken by the Lender with concurrence of FmHA may include but are not limited to any curative actions contained in Subpart C of Part 1980, or liquidation.

B. The Lender will negotiate in good faith in an attempt to resolve any problem and to permit the Borrower to cure a default, where reasonable.

XI. Liquidation.

If the Lender concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. When FmHA concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the Lender and the matter will be handled as follows:

The Lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

A. Lender's proposed method of liquidation. Within 30 days after the decision to liquidate is made, the Lender will advise FmHA of its proposed method of liquidation and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed loan promissory note(s) and related security instruments.

2. Information lists concerning the Borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, personal and corporate guarantees, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed loan.

3. A proposed method of making the maximum collection possible on the indebtedness.

4. If the outstanding principal balance including accrued interest is less than $200,000, the Lender will obtain an estimate of the market and potential liquidated value of the collateral. On principal balances in excess of $200,000, and all other loans, the Lender will obtain an independent appraisal report on all collateral securing the loan, which will reflect the current market value and potential liquidation value. The appraisal report is for the purpose of permitting the Lender and FmHA to determine the appropriate liquidation actions. Any independent appraiser's fee will be shared equally by FmHA and the Lender.

B. FmHA's response to Lender's liquidation proposal. FmHA will inform the Lender whether it concurs in the Lender's proposed method of liquidation within 30 days after receipt of such notification from the Lender. If FmHA needs additional time to respond to the liquidation plan, it will advise the Lender of a definite time for such response. Should FmHA and the Lender not agree on the Lender's liquidation proposal, FmHA will proceed with the liquidation as follows:

1. The Lender will transfer to FmHA all its rights and interests necessary to allow FmHA to liquidate the loan. In this event, the Lender will not be paid for any loss until after the collateral is liquidated and the final loss is determined by FmHA.

2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.

3. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. Acceleration. The Lender or FmHA, if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the Lender, as the case may be.

D. Liquidation Accounting and Reports. When the Lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs, and additional procedures necessary for successful completion of liquidation. When FmHA liquidates, the Lender will be provided with similar reports on request.

E. Determination of Loss and Payment. In all liquidation cases, a final settlement will be made with the Lender after the collateral is liquidated. FmHA will have the right to recover losses paid under the guarantee from any party liable.

1. Form FmHA 449-30, "Loan Note Guarantee Report of Loss," will be used for calculations of all estimated and final determinations.

2. When the Lender is conducting the liquidation, he may request a tentative loss estimate by submitting to FmHA an estimate of the loss that will occur in connection with liquidation of the loan. Such estimate will be prepared on Form FmHA 449-30, using the basic formula as provided on the report except that the appraisal value will be used in lieu of the amount received from the sale of collateral.

After the Report of Loss Estimate has been approved by FmHA, and within 30 days, thereafter, FmHA will send the original Report of Loss Estimate to FmHA Finance Office for issuance of a Treasury check in payment of the estimated amount due the Lender.

After liquidation has been completed, a final loss report will be submitted on Form FmHA 449-30 by the Lender to FmHA.

3. After the Lender has completed liquidation FmHA, upon receipt of the final accounting and report of loss, may audit and will determine the actual loss. If FmHA has any questions regarding the amounts set forth in the Final Report of Loss, it will investigate the matter. The Lender will make its records available to and otherwise assist FmHA in making the investigation. If FmHA finds any discrepancies, it will contact the Lender and arrange for the necessary corrections to be made as soon as possible. When FmHA finds the Final Report of Loss to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.

4. When the Lender has conducted liquidation and after the Final Report of Loss has been tentatively approved

a. If the loss is greater than the estimated loss payment, FmHA will send the original of the Final Report Loss to the Finance Office for issuance of a Treasury check in payment of the additional amount owed by FmHA to the Lender.

b. If the loss is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from date of payment.

5 If FmHA has conducted liquidation, it will provide an accounting and report of loss to the Lender and will pay the Lender in accordance with the Contract of Guarantee.

6. In those instances where the Lender has made authorized protective advances, it may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances and interest resulting from such protective advances as provided above, and such payment will be made by FmHA when the final Report of Loss is approved.

F. Maximum amount of interest loss payment. Notwithstanding any other provisions of this agreement, the amount payable by FmHA to the Lender cannot exceed the limits set forth in the Contract of Guarantee. If FmHA conducts the liquidation, loss occasioned by accruing interest will be covered by the guarantee only to the date FmHA accepts this responsibility. Loss occasioned by accruing interest will be covered to the extent of the guarantee to the date of final settlement when the liquidation is conducted by the Lender provided it proceeds expeditiously with the liquidation plan approved by FmHA. The balance of accrued interest payable to the Lender, if any, will be calculated on the final Report of Loss form.

G. Application of FmHA loss payment. The total amount of the loss payment remitted by FmHA will be applied by the Lender on the guaranteed loan debt. At time of final loss settlement the Lender will notify the Borrower that the loss payment has been so applied.

H. Income from collateral. Any net rental or other income that has been received by the Lender from the collateral will be applied on the guaranteed loan debt.

I. Liquidation costs. Certain liquidation costs will be allowed during the liquidation process. Such costs will be deducted from gross proceeds from the disposition of collateral. The amount allowed will be the amount agreed upon by FmHA and the Lender as being reasonable under the circumstances and should be determined prior to liquidation.

J. Foreclosure. The parties owning the guaranteed portion and unguaranteed portions of the loan will join to institute foreclosure action or, in lieu of foreclosure, to take a deed of conveyance to such parties. When the conveyance is received and liquidated, net proceeds will be applied to the guaranteed loan debt.

K. Payment. Such loss will be paid by FmHA within 60 days after the Lender has submitted the final Report of Loss form.

XII. Protective advances.

Protective advances must constitute an indebtedness of the Borrower to the Lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances in excess of $500. Protective advances include, but are not limited to, advances for taxes, annual assessments, ground rent, hazard or flood insurance premiums effecting the collateral, and other expenses necessary to preserve or protect the security.

XIII. Additional Loans or Advances.

The Lender will not make additional expenditures or new loans without first obtaining the written approval of FmHA even though such expenditures or loans will not be guaranteed.

XIV. Future Recovery.

After a loan has been liquidated and a final loss has been paid by FmHA, any future funds which may be recovered by the Lender, will be pro-rated between FmHA and the Lender. FmHA will be paid such amount recovered in proportion to the percentage it guaranteed for the loan and the Lender will retain such amounts in proportion to the percentage of the unguaranteed portion of the loan.

Dated: May 12, 1977.

DENTON E. SPRAGUE,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-14383 Filed 5-20-77;8:45 am]

XV Transfer and Assumption Cases

Refer to Subpart C of Title 7 of CFR Part 1980

XVI Other Requirements

This agreement is subject to all the requirements of Subpart C of Title 7 CFR Part 1980, and any future amendments of these regulations not inconsistent with this agreement. Interested parties may agree to abide by future FmHA regulations not in consistent with this agreement.

XVII. Execution of Agreements

If this agreement is executed prior to the execution of the Contract of Guarantee, this agreement does not impose any obligation upon FmHA with respect to execution of such contract. FmHA in no way warrants that such a contract has been or will be executed.

XVIII Notices.

All notices and actions will be initiated through the FmHA County Supervisor for _____ (County) _____ (State) with mailing address at the date of this instrument _____

Dated this _____ day of _____, 19__

LENDER

ATTEST _____ SEAL By _____

Title _____

UNITED STATES OF AMERICA

Department of Agriculture

Farmers Home Administration

By _____

Title _____

federal register

MONDAY, MAY 23, 1977
PART VIII

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

May 1977

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

May 1977

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (P.L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of May 1, 1977, of the 13 rescissions and 57 deferrals contained in the first eleven special messages transmitted to the Congress for fiscal year 1977. These messages were transmitted to the Congress on July 29, September 22, October 1, November 5, December 3, 1976, January 7, and 17, March 9, and 24, and April 4, and 28, 1977.

RESCISSIONS (TABLE A AND ATTACHMENT A)

There are no rescissions of budget authority pending before the Congress at the present time. Table A summarizes the status of rescissions proposed as of May 1, 1977. Attachment A shows the history and status of each rescission proposed for fiscal year 1977.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of May 1, 1977, $4,539.1 million in 1977 budget authority was being deferred from obligation and another $43.9 million in 1977 obligations was being deferred from expenditure. Table B summarizes the status of existing deferrals. Attachment B shows the history and status of each deferral proposed during fiscal year 1977.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Tuesday, August 3, 1976 (Vol. 41, No. 150, Part VI).
Monday, September 27, 1976 (Vol. 41, No. 188, Part III).
Thursday, October 7, 1976 (Vol. 41, No. 196, Part IV).
Wednesday, November 10, 1976 (Vol. 41, No. 218, Part VII).
Wednesday, December 8, 1976 (Vol. 41, No. 237, Part II).
Thursday, January 13, 1977 (Vol. 42, No. 9, Part X).
Monday, January 24, 1977 (Vol. 42, No. 15, Part VIII).
Wednesday, March 16, 1977 (Vol. 42, No. 51, Part IV).
Wednesday, March 30, 1977 (Vol. 42, No. 61, Part VI).
Friday, April 18, 1977 (Vol. 42, No. 68, Part VI).
Wednesday, May 4, 1977 (Vol. 42, No. 86, Part VI).

JAMES T. MCINTYRE,
Deputy Director.

TABLE A

STATUS OF 1977 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Proposed rescissions	1,135.4
Withdrawn (R77-4A, Special Message No. 4, R77-13A, Special Message No. 8)	-95.0
Accepted by the Congress (R77-3, R77-5, R77-8, R77-9, R77-10, R77-11)	-711.6
Rejected by the Congress	-60.4
Adjustments	-268.4 1/
Pending before the Congress	---

* *

TABLE B

STATUS OF 1977 DEFERRALS

	Amount (In millions of dollars)
Proposed deferrals	7,220.4
Routine Executive releases (-2,130.7M) and adjustments (-481.2M) 2/ through May 1, 1977	-2,611.8
Overturned by the Congress	-25.6
Currently before the Congress	4,583.0 3/

1/ This amount is the difference between $721.0 million in Navy shipbuilding and conversion funds originally proposed for rescission and $452.6 million rescinded. When the rescission was proposed, these funds were already obligated for supply contracts. In testimony before the House Appropriations Committee, the Secretary of Defense concurred in the opinion that these contracts should not be terminated.

2/ An amount equal to $1,639.5 million included in the "Adjustments" column of Attachment B to this report represents superseded deferrals. This amount is not included in the "adjustments" entry above because superseded deferrals are netted out in calculating the amount shown on the line "Deferrals proposed by the President" to avoid double counting.

3/ Includes $43.9 million of outlays in two Treasury deferrals--D77-26 and D77-27A.

ATTACHMENT A

A-1

STATUS OF RESCISSIONS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

As of May 1, 1977

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Funds Appropriated to the President							
International Security Assistance:							
Foreign military credit sales.....	R77-5	[41,500] 1/	01-17-77	41,500 2/	03-25-77		
Department of Commerce							
U.S. Travel Service							
Salaries and expenses.	R77-6	[525]	01-17-77			525	03-15-77
National Oceanic and Atmospheric Administration:							
Operations, research, and facilities.....	R77-7	[1,500]	01-17-77			1,500	03-15-77
Department of Defense-Military							
Retired pay, Defense....	R77-8	[143,600]	01-17-77	143,600 2/	03-25-77		
Shipbuilding and conversion, Navy.....	R77-9	[721,000] 3/	01-17-77	452,600 2/	03-25-77		
Other procurement, Air Force.....	R77-10	[14,350]	01-17-77	14,350 2/	03-25-77		
Department of Defense-Civil							
Corps of Engineers-Civil:							
Revolving fund.....	R77-2	[6,600]	09-22-76			6,600	03-02-77
Department of the Interior							
Bureau of Mines:							
Helium fund.....	R77-3	[47,500]	09-22-76	47,500 4/	03-10-77		
Department of State							
Contributions for international peace-keeping activities.....	R77-11	[12,000]	01-17-77	12,000 2/	03-25-77		

Agency/Bureau/Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Transportation							
Federal Highway Administration:							
Highway crossing Federal projects.....	R77-4	[35,000]	09-22-76				
	R77-4A	0	11-05-76			35,000 5/	10-01-76
Coast Guard:							
Retired pay.....	R77-12	[6,803]	01-17-77			6,803	03-15-77
Other Independent Agencies							
Legal Services Corporation:							
Payment to the Legal Services Corporation.	R77-1	[45,000] 6/	07-29-76			45,000 6/	10-01-76
Small Business Administration:							
Business loan and investment fund.....	R77-13	[60,000]	01-17-77				
	R77-13A	0	03-09-77			60,000 7/	10-01-76 7/
TOTAL:		0		711,550		155,428	

1/ This amount was included in a deferral (D77-3a) that was transmitted to the Congress on 12-03-76.
2/ P.L. 95-15.
3/ Of the $721,000,000 proposed for rescission, $452,600,000 was rescinded because the difference, totaling $268,400,000, was previously obligated. The $452,600,000 was assumed to be included in a deferral (D77-34) transmitted to the Congress on 11-05-76.
4/ P.L. 95-10.
5/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on November 5, 1976. These funds were not withheld during the 45-day Congressional consideration period.
6/ These funds were not withheld during the 45-day Congressional consideration period.
7/ A supplementary report withdrawing the proposed rescission was transmitted to the Congress on March 9, 1977. These funds were not withheld during the 45-day Congressional consideration period.

ATTACHMENT B

B-1

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Emergency Refugee and Migration Assistance Fund.....	D77-1		8,640	10-01-76					
				10-28-76	-1,000				
				11-12-76	-1,200				
				12-29-76	-2,000				
				01-10-77	-1,000				
				01-31-77	-2,100				1,340
International Security Assistance									
Military assistance, 1977.....	D77-37		73,000	12-03-76					73,000
Foreign military credit sales.....	D77-38		740,000	12-03-76					
				01-10-77	-23,627				
				01-25-77	-585,533				89,340
TOTAL:			821,640		-616,460			-41,500	163,680

1/ This amount was proposed for rescission (R77-5). The proposal was accepted by the Congress in P.L. 95-15.

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Foreign Agricultural Service									
Salaries and expenses: (Special foreign currency program).....	D77-2	[1,610]		10-01-76					
				01-17-77				-1,610 1/	
	D77-2A		1,743	01-17-77					1,743
Agricultural Stabilization and Conservation Service									
Commodity credit corporation administrative expenses.....	D77-3		2,919	10-01-76					
				12-30-76	-2,629				
				03-25-77	-84				206
Forest Service									
Expenses, Brush disposal.	D77-4		22,321	10-01-76					22,321
Licensee programs.....	D77-5	[146]		10-01-76					
				01-17-77				-146 1/	
	D77-5A		239	01-17-77					239
TOTAL:		1,756	27,222		-2,713			-1,756	24,509

1/ Subsequently incorporated in a supplementary report.

B-3

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
General Administration									
Special foreign currency program.....	D77-45		654	01-17-77					654
National Oceanic and Atmospheric Administration									
Operations, research, and facilities.....	D77-46	[7,500]		01-17-77 03-28-77 04-28-77	-1,200			-6,300 1/	
	D77-46A		6,300	04-28-77					6,300
Promote and develop fishery products and research pertaining to American fisheries.....	D77-6	[1,771]		10-01-76 01-07-77				-1,771 1/	
	D77-6A		1,772	01-07-77 03-08-77	-600				1,172
Fisheries loan fund.....	D77-7		5,799	10-01-76					5,799
Offshore shrimp fisheries fund.....	D77-8		59	10-01-76					59
Fisherman's guaranty fund.....	D77-9	[356]		10-01-76 01-07-77				-356 1/	
	D77-9A		544	01-07-77					544
Maritime Administration									
Ship construction.....	D77-47	[200,900]		01-17-77 04-04-77				-200,900 1/	
	D77-47A		200,900	04-04-77					200,900
TOTAL:		216,527	216,028		-1,800			-209,327	215,428

1/ Subsequently incorporated in a supplementary report.

B-4

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Shipbuilding and conversion, Navy.....	D77-34		929,250	11-05-76 01-17-77				-452,600 1/	476,650
Military construction, all services.....	D77-10	[76,483]		10-01-76 12-03-76				-76,483 2/	
	D77-10A	[335,883]		12-03-76 01-17-77				-335,883 2/	
	D77-10B	[387,652]		01-17-77 03-09-77				-387,652 2/	
	D77-10C		424,240	03-09-77 03-25-77 03-28-77 03-30-77 04-12-77 04-14-77	-12,960 -18,527 -34,011 -8,210 -5,425				345,107
TOTAL:		800,018	1,353,490		-79,133			-1,252,618	821,757

1/ This amount was included in a rescission proposal (R77-9). The proposal was accepted by the Congress in P.L. 95-15.
2/ Subsequently incorporated in a supplementary report.

B-5

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Corps of Engineers-Civil									
Construction, general...	D77-53		7,760	03-24-77 03-14-77	-5,095				2,665
Panama Canal									
Canal Zone Government: Capital outlay.....	D77-11		146	10-01-76					146
Miscellaneous Accounts									
Wildlife conservation, etc., military reservations.....	D77-12	[363]		10-01-76 03-09-77				-363 1/	
	D77-12A		515	03-09-77					515
TOTAL:		363	8,421		-5,095			-363	3,326

1/ Subsequently incorporated in a supplementary report.

B-6

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Office of the Assistant Secretary for Health									
Scientific activities overseas (Special foreign currency program).....	D77-13	[1,113]		10-01-76 01-07-77				-1,113 1/	
	D77-13A		2,113	01-07-77					2,113
Office of Education									
Higher education.....	D77-14	[31,702]		10-01-76 11-05-76				-31,702 1/	
	D77-14A		303,862	11-05-76 02-28-77	-23,082				280,780
Social Security Administration									
Limitation on construction.....	D77-15	[17,272]		10-01-76 11-05-76				-17,272 1/	
	D77-15A		18,673	11-05-76					18,673
Special Institutions									
Howard University.....	D77-35		500	11-05-76					500
TOTAL:		50,087	325,148		-23,082			-50,087	302,066

1/ Subsequently incorporated in a supplementary report.

B-7

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Bureau of Land Management									
Oregon and California grant lands	D77-16		5,426	10-01-76					5,426
Bureau of Reclamation									
Colorado River Basin Project	D77-54		4,790	03-24-77 03-15-77	-4,790				0
Bureau of Outdoor Reclamation									
Land and water conservation fund	D77-17		30,000	10-01-76					30,000
National Park Service									
Road construction	D77-18		3,245	10-01-76 10-01-76	-3,245				0
Geological Survey									
Payment from proceeds, sale of water	D77-19		30	10-01-76					30
Bureau of Mines									
Drainage of anthracite mines	D77-20		3,525	10-01-76					3,525
TOTAL:			47,016		-8,035				38,981

B-8

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Federal Prison System									
Buildings and facilities	D77-21		1,900	10-01-76				-1,900 1/	0
TOTAL:			1,900					-1,900	0

1/ This deferral resulted from anticipated savings attributable to a plan for leasing a New York State correctional facility. The lease proposal on which the deferral was based was not accepted by New York and the funds are needed to construct the facility as originally planned. Funds related to this deferral were not withheld.

B-9

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Employment and Training Administration									
Advances to the unemployment trust fund and other funds	D77-39		2,919,000	12-03-76 12-28-76	-1,119,000				1,800,000
TOTAL:			2,919,000		-1,119,000				1,800,000

B-10

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 05-01-77
Administration of Foreign Affairs									
Acquisition, operation, and maintenance of buildings abroad	D77-22		14,225	10-01-76					14,225
TOTAL:			14,225						14,225

B-11

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-77
Coast Guard									
Acquisition, construction and improvements..	D77-23		22,581	10-01-76					22,581
Federal Aviation Administration									
Civil supersonic aircraft development termination.	D77-24	[464]		10-01-76					
				01-17-77				-464 1/	
	D77-24A		8,080	01-17-77					8,080
Facilities and equipment (Airport and airway trust fund).....	D77-25	[276,101]		10-01-76					
				01-17-77				-276,101 1/	
	D77-25A	[287,095]		01-17-77					
				03-09-77				-287,095 1/	
	D77-25B		278,095	03-09-77					278,095
Federal Highway Administration									
Trust fund share of other highway programs.....	D77-48		31,250	01-17-77					31,250
TOTAL:		563,660	340,006					-563,660	340,006

1/ Subsequently incorporated in a supplementary report.

B-12

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-77
Office of the Secretary									
Antirecession financial assistance fund.....	D77-57		6,030	04-28-77					
				05-01-77	-938				5,092
State and local government fiscal assistance trust fund.....	D77-26		113,732 1/	10-01-76					
				11-01-76	-28,433 1/				
				01-31-77	-28,433 1/				
				05-01-77	-28,433 1/				28,433 1/
State and local government fiscal assistance trust fund.....	D77-27	[10,000] 1/		10-01-76					
				12-03-76				-10,000 1/2/	
	D77-27A		21,075 1/	12-03-76					
				12-31-76	-10,893 1/				
				01-31-77	-1,590 1/				
				05-01-77				+12,860 1/	15,452 1/
State and local government fiscal assistance trust fund.....	D77-28		81,800	10-01-76					
				11-01-76	-226				
				12-01-76	-186				
				12-31-76	-7,688				
				03-01-77	-317				
				04-01-77	-4				
				05-01-77				+8,260	81,147
Loans to the District of Columbia for capital outlay.....	D77-36		31,662	11-03-76					31,662
TOTAL:		10,000	134,807		-43,780			+8,260	43,060

1/ Outlays only.
2/ Subsequently incorporated in a supplementary report.

B-13

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Energy, Research and Development Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-77
Operating expenses (Energy extension service).....	D77-49		7,500	01-17-77					
				02-22-77				-7,500 1/	0
Operating expenses (Magnetic fusion energy).....	D77-50		12,000	01-17-77		-12,000 2/			0
Operating expenses (Program support-community operations).....	D77-51		5,400	01-17-77		-5,400 3/			0
Operating expenses (Biomedical and environmental research).....	D77-52		8,200	01-17-77		-8,200 4/			0
Operating expenses.....	D77-55		80,500	04-04-77					80,500
Plant and capital equipment.....	D77-56		46,660	04-04-77					46,660
TOTAL:			160,260			-25,600		-7,500	127,160

1/ This adjustment reflects the impact of P.L. 95-3 which makes the source of ERDA's funding their regular 1977 appropriations, rather than the continuing resolution (P.L. 94-473), without need for enactment of authorizing legislation.
2/ Impoundment resolution H. Res. 305 passed the House on March 3, 1977, rejecting this deferral.
3/ Impoundment resolution H. Res. 306 passed the House on March 3, 1977, rejecting this deferral.
4/ Impoundment resolution H. Res. 307 passed the House on March 3, 1977, rejecting this deferral.

B-14

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 05-01-77
Rare Silver Dollar Program.....	D77-29	[1,709]		10-01-76					
				01-07-77				-1,709 1/	
	D77-29A		1,797	01-07-77					1,797
TOTAL:		1,709	1,797					-1,709	1,797

1/ Subsequently incorporated in a supplementary report.

B-15

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	Releases Resulting From Subsequent Actions Taken by: House	Releases Resulting From Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 05-01-77
Action									
Operating expenses, international and domestic programs.....	D77-40		550	12-03-76 12-31-76	-15				535
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims.	D77-30		10,833	10-01-76					10,833
American Revolution Bicentennial Administration									
Commemorative activities fund.....	D77-31	[1,346]		10-01-76 01-07-77				-1,346 1/	
	D77-31A		198	01-07-77					198
Interstate Commerce Commission									
Payment for directed rail service.....	D77-32		13,700	10-01-76					13,700
National Commission on the Observance of International Women's Year									
Salaries and expenses....	D77-33		680	10-01-76					680
U.S. Information Agency									
Salaries and expenses (special foreign currency program).....	D77-41		2,437	01-07-77					2,437
Special international exhibitions.....	D77-42		1,716	01-07-77					1,716
Special international exhibitions (special foreign currency program).....	D77-43		112	01-07-77					112

B-16

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies (continued)

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	Releases Resulting From Subsequent Actions Taken by: House	Releases Resulting From Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 05-01-77
U.S. Railway Association									
Payments for the purchase of Conrail securities.....	D77-44		680,700	01-07-77 01-27-77	-162,000				518,700
TOTAL:		1,346	710,926		-162,015			-1,346	548,911
TOTAL, ALL DEFERRALS:		1,629,466BA 10,000O	7,085,611BA 134,807O		-2,026,892BA -103,782	-25,600BA	-2,123,498BA +2,860O	4,539,087BA 43,885O

1/ Subsequently incoporated in a supplementary report.

[FR Doc.77-13843 Filed 5-11-77;10:55 am]

federal register

MONDAY, MAY 23, 1977

PART IX



OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Report to Congress

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Report to Congress

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $126.2 million appropriated for the Patrol Hydrofoil Missile program of the Department of Defense. In addition, I am reporting a deferral of $31.8 million for the Energy Research and Development Administration, Clinch River Breeder Reactor project, and revisions to two deferrals previously transmitted.

The details of the proposed rescission and the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, May 18, 1977.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Transmittal No. R77-14

Agency: Department of Defense	New budget authority (P.L.) $
Bureau	Other budgetary resources 2,546,067,701
Appropriation title & symbol	Total budgetary resources 2,546,067,701
Shipbuilding and Conversion, Navy 17X1611 17/76/1611	Amount proposed for rescission $ 126,212,000
Budget identification code: 17-1611-0-1-051	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other: --
Type of account or fund: ☐ Annual ☒ Multiple-year Sept. 30, 1979 / Sept. 30, 1980 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

The funds proposed for rescission were appropriated specifically for the Patrol Hydrofoil Missile (PHM) program. As the result of an in-depth review of the program, it has been decided not to continue with procurement of follow-on Patrol Hydrofoil Missile ships. The Navy presently possesses one Patrol Hydrofoil Missile vessel, which is sufficient to conduct needed research in hydrofoil technology. The operational effectiveness of a second Patrol Hydrofoil Missile ship relative to other assets was judged to be insufficient to justify the cost involved. The accounts affected are as follows:

Shipbuilding and conversion, Navy	17/1611	$87,212,000
Shipbuilding and conversion, Navy	17/1611	39,000,000
Total		$126,212,000

Estimated Effects

The Department of the Navy's ability to satisfactorily accomplish its mission may not be affected by this rescission proposal.

COMMENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Defense - Military:	
R77-14	Shipbuilding and conversion, Navy	126,212
Deferral #		
	Defense - Civil:	
	Corps of Engineers	
D77-53A	Construction, general	2,665
	Interior:	
	Bureau of Land Management	
D77-16A	Oregon and California grant lands	7,611
	Energy Research and Development Administration:	
D77-5B	Operating expenses	31,800
	Subtotal, deferrals	42,080
	Total, rescissions and deferrals	168,292

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

	Rescissions	Deferrals
Twelfth special message:		
New items	126,212	31,800
Changes to amounts previously submitted	----	-2,906
Effect of the twelfth special message	126,212	28,894
Previous special messages	1,040,378	7,220,418
Total amount proposed in special messages	1,166,590 (in 14 rescission proposals)	7,249,312 (in 38 deferrals)

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.

Outlay Effects (estimated in millions of dollars)

Comparison with the President's 1978 budget:

1. Budget outlay estimate for FY 1977	$2,983.0
2. Outlay savings, if any, included in the budget outlay estimate	0
Current outlay estimate for FY 1977:	
3. Without rescission	2,983.0
4. With rescission	2,978.0
5. Current outlay savings (line 3 - line 4)	5.0
Outlay savings for FY 1978	24.0
Outlay savings for FY 1979	26.0
Outlay savings for FY 1980	26.0

DEPARTMENT OF DEFENSE - MILITARY

TITLE IV

PROCUREMENT

Shipbuilding and Conversion, Navy
(Including Transfer of Funds)

Of the amount appropriated under this head in the Department of Defense Appropriation Act, 1975, for the patrol hydrofoil missile program, $87,212,000 are rescinded.

DEPARTMENT OF DEFENSE - MILITARY

TITLE IV

PROCUREMENT

Shipbuilding and Conversion, Navy

Of the amount appropriated under this head in the Department of Defense Appropriation Act, 1976, for completion of the second PHM patrol hydrofoil missile ship, $39,000,000 are rescinded.

(Note: Two language proposals are required since the funds were appropriated in two separate acts.)

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D77-53 transmitted to the Congress on March 24, 1977, and printed as House Document No. 94-511.

This revision for the construction, general account of the Corps of Engineers updates the basis for and estimated effects of the deferral. The review of water resources projects called for by the President has been completed. All funds for water resources projects previously deferred have been released except for $2,665,000 for the Meramec Park Lake project that will remain deferred pending a determination of close-out costs.

Deferral No: D77-53A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Army	New budget authority (P.L. 94-355 -/) $1,436,945,000
Bureau Corps of Engineers, Civil	Other budgetary resources 141,989,000
Appropriation title & symbol	Total budgetary resources 1,578,934,000
Construction, General COE Civil 96X3122	Amount to be deferred: Part of year — Entire year —
OMB identification code: 96-31-2-0-1-301	Legal authority (in addition to sec. 1013) ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

*Justification
The review called for by the President of all Federal water resources projects which may be environmentally damaging, economically marginal, or which pose safety hazards has been completed. As a result of the review, no 1978 funding is being requested by the President for the Meramec Park Lake, Missouri project. This deferral of 1977 funds for Meramec Park Lake will be maintained pending a determination of close-out costs associated with the project.

*Estimated Effects
The deferral of funds for Meramec Park Lake will delay the start of abutment preparation and some land acquisition. One contract for Meramec Park Lake is being delayed by this deferral action.

*Outlay Effect (Estimated in millions of dollars)

Comparison with President's FY 1978 budget:

1. Budget outlay estimate for FY 1977	$1,490.0
2. Outlay savings, if any, included in the budget outlay estimate	---

* Revised from previous report.

Current Outlay Estimates for 1977: 2

3. Without deferral	$1,398.8
4. With deferral	1,397.3
5. Current outlay savings (line 3 minus line 4)	1.5
Outlay savings for 1978	---
Outlay savings for 1979	-1.5

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D77-16, transmitted to the Congress on October 1, 1976, and printed as House Document No. 94-650.

Deferral No. D77-16, previously reported for the Oregon and California Grant Lands, was based on an estimate of the unobligated balance available at the end of the transition quarter. This supplementary report reflects the actual unobligated balance carried into fiscal 1977.

The revised deferral increases the amount withheld by $2.1 million from $5.4 million to $7.6 million. The deferral is planned to be in effect for all of fiscal 1977.

Deferral No: D77-16A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority 1/ $41,250,000
Bureau: Land Management	(P.L. 94-373)
Appropriation title & symbol: 14x5136 Oregon and California Grant Lands	Other budgetary resources 11,221,153*
	Total budgetary resources 52,471,153*
	Amount to be deferred: Part of year $ ____
	Entire year 7,615,053*
OMB identification code: 14-5136-0-2-302	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other ~~Appropriated~~ receipts

*Justification: The Interior and Related Agencies Appropriation Act for 1977 includes an indefinite no-year appropriation equivalent to 25 percent of timber sale receipts from revested Oregon and California Railroad grant lands. The appropriated receipts provide for management, development, and protection of Federal Oregon and California grant lands including the construction and maintenance of roads. Because the appropriation is based on the receipts collected in the same period and the receipts are based on the timber harvested, the total amount which will be available for obligation can only be estimated. Not only may actual receipts vary from estimates, but receipts for the last two months of the fiscal period are not known in time to make programmatic adjustments to offset a possible shortfall between estimated and actual amounts. Deferral is planned to cushion fluctuating receipt levels. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

This deferral is consistent with 1977 program plans as described in the President's 1978 Budget. Receipts for FY 1977 are now estimated at $165 million, thus making $41,250,000 (25 percent) in new budget authority available under terms of the appropriation. The actual unobligated balance carried into FY 1977 is $11,221,153. Total resources for this program are $52,471,153. The current obligation program of $44,856,100 results in a deferral of $7,615,053. These funds are proposed for deferral through September 30, 1977.

1/Estimated. The appropriation is for "an amount equivalent to 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands."

*Estimated Effects: There will be no programmatic impact in FY 1977.

*Outlay Effect: There is no outlay effect of this deferral.

*Revised from previous report.

D77-59

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section [illegible] of P.L. 93-344

Agency Energy Research & Development Administration	New budget authority (P.L. [illegible]) $4,000,000,000
Bureau	Other budgetary resources 1,802,626,059
Appropriation title & symbol: Operating Expenses 89X0100; Clinch River Breeder Reactor Plant Project	Total budgetary resources 5,802,626,059
	Amount to be deferred: Part of year $1,000,000
	Entire year
OMB identification code: 89-0100-0-1-999	Legal authority (in addition to sec. 1013): ☐ Anti-deficiency Act; ☐ Other
Grant program ☐ Yes ☐ No	
Type of account or fund: ☐ Annual; ☐ Multiple-year _____ (expiration date); ☒ No-year	Type of budget authority: ☒ Appropriation; ☐ Contract authority; ☐ Other

Justification

The Administration has determined as part of its overall energy policy that the Clinch River Breeder Reactor Plant project (CRBRP) is not required at this time. The Administration proposes to send to the Congress a change to the project objectives, as required by section 106(b) of Public Law 91-273. The revised objective of the project is to complete systems design. This deferral is submitted for the 45-day period during which Congressional action is pending on the proposed revision in order to preclude obligation of funds for new contracts that would not be necessary under the proposed new project objective. If the new project objective is not disapproved by the Congress while the proposed amendment is pending, necessary funds will be made available following the 45-day period to meet the revised project objective.

Estimate Effects

This deferral, pending Congressional action on the proposed modification of the project objectives, will have no effect on current contracts but will preclude obligation of funds for new contracts.

1/ None of these funds are included in another Energy Research and Development Administration deferral, D77-55.

D77-59

Outlay effect (estimated in millions of dollars)

Comparison with President's 1978 budget:
1. Budget outlay estimate for 1977 ..... $4,295.2
2. Outlay savings, if any, included in the budget 0

Current outlay estimates for 1977:
3. Without deferral 4,000.0
4. With deferral ..... [illegible]
5. Current outlay savings (line 3 - line 4) ..... [illegible] 1/

Outlay savings for FY 1978 0

Outlay savings for FY 1979 0

1/ [illegible] would be offset in future years beyond FY 1979.

[FR Doc.77-14703 Filed 5-19-77;3:22 pm]

federal register

MONDAY, MAY 23, 1977
PART X

FEDERAL TRADE COMMISSION

MOBILE HOME SALES AND SERVICE

Proposed Trade Regulation Rule

FEDERAL TRADE COMMISSION

[16 CFR Part 441]

MOBILE HOME SALES AND SERVICE

Final Notice Concerning Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Final Notice of Proposed Rulemaking.

SUMMARY: Based on an investigation of the advertising, sales and service practices of the mobile home industry, the Federal Trade Commission on May 29, 1975 proposed a trade regulation rule covering mobile home sales and service. This notice sets out the scheduled oral hearing dates, invites continued written comments, and designates disputed issues. It also instructs prospective witnesses and other interested persons concerning filing and other procedural requirements and lists certain questions for the purpose of eliciting comment relative to the Commission's Proposed Rule.

DATES: Hearings commence: Washington, September 12, 1977; San Francisco, December 5, 1977. Word-for-word statements, outlines and exhibits (see Section C) due for hearings at Washington by August 22, 1977; and San Francisco by November 14, 1977; Notification of Interest (see Section F) due by June 13, 1977; written comments (see Section A) and available exhibits due by July 28, 1977.

ADDRESSES: Send comments to: Raymond L. Rhine, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Charles A. Taylor III, 202–523–3660, Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C. 20580; or Fred C. Austin, 415–556–1270, Room 12470, Federal Trade Commission, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.

SUPPLEMENTARY INFORMATION: On May 29, 1975, the Commission published in the FEDERAL REGISTER (40 FR 23334) an Initial Notice of a Proposed Trade Regulation Rule entitled "Mobile Home Sales and Service" (hereinafter the "Proposed Rule"), pursuant to the Federal Trade Commission Act, as ameded, 15 U.S.C. 41, et seq., the provisions of Part I, Subpart B of the Commission's Procedures and Rules of Practice (hereinafter "Rules of Practice"), 16 CFR 1.7–1.20, and section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure).

Now, pursuant to the same authority and more specifically to the authority of § 1.12 of the Rules of Practice, the undersigned duly appointed Presiding Officer for this proceeding hereby gives Final Notice of proposed rulemaking, incorporating by reference the contents of the Initial Notice described above.

SECTION A. WRITTEN COMMENTS

All interested persons are hereby notified that they may continue to submit written data, views, or arguments on any issue of fact, law, policy, or discretion which may have some bearing upon the Proposed Rule. Such written comments should be submitted to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, on or before July 28, 1977. Any comments relating to issues designated herein under § 1.13(d)(1) of the Rules of Practice (see Section E) should indicate the number of the issue being discussed. These issues have been "designated" only to indicate the issues with respect to which participants shall have the right to engage in cross-examination and rebuttal of witnesses pursuant to § 1.13(d)(5) and (6); they are not intended to limit the scope of written comments. To assure prompt consideration, comments should be identified as "Mobile Home Comments" and submitted, if at all possible and where not burdensome, in three copies. Comments previously submitted in response to the Initial Notice have been placed on the public record and need not be resubmitted.

SECTION B. PUBLIC HEARINGS: DATES AND PLACES

Notice is also given that public hearings on the proposed Rule will be held at the locations set forth below, commencing on the dates and times specified for each location:

1. Public hearing will be held commencing on September 12, 1977, at 9:30 a.m. in Washington, D.C., Room 532, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW.

2. Public hearing will be held commencing on December 5, 1977, at 9:30 a.m. in San Francisco, California, in Room 12470 of the Federal Building, 450 Golden Gate Avenue.

Consideration is being given to the possibility of a third public hearing at a location in the Southeastern United States. Interested parties who might prefer to participate in such hearings and who cannot appear in either Washington or San Francisco should write to Charles A. Taylor III, Federal Trade Commission, Washington, D.C. 20580 and give a brief indication of the general nature of their expected testimony. The date and location of any additional hearing would be announced in the FEDERAL REGISTER.

SECTION C. INSTRUCTIONS FOR WITNESSES

1. *Advance notice.* If you want to testify at a hearing, contact the Commission representative for that hearing immediately. This will enable us to assist you in complying with the requirements set forth below. You may testify at only one hearing.

2. *Notification and filing requirements.*

a. If you want to testify at the Washington hearing, contact Charles A. Taylor III, 202–523–3660, Federal Trade Commission, Washington, D.C. 20580. You must notify Mr. Taylor of your desire to testify and file with him your word-for-word statement of testimony no later than August 22, 1977.

b. If you want to testify at the San Francisco hearing, contact Fred C. Austin 415–556–1270, Federal Trade Commission, Room 12470 Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102. You must notify Mr. Austin of your desire to testify and file with him your word-for-word statement of testimony no later than November 14, 1977.

3. *Exceptions.* If you are unable to deliver a prepared word-for-word statement, you must file with the Commission representative at the location you desire to testify, a comprehensive written outline summarizing what you expect to say. Your comprehensive, written outline must list each fact, observation, opinion, and conclusion you are going to discuss and recite the basis for each such observation, opinion and conclusion. The outline must be filed prior to the applicable deadline specified in Section C2. If the outline you file is not sufficiently detailed or factual, the Presiding Office may require you to file a complete word-for-word statement before you testify.

4. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they clarify technical or complex matters.

a. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period (on or before July 28, 1977) so they can be studied by interested persons.

b. If such documents are unavailable during this period, file them as soon as you can but not later than the deadlines for filings statements or outlines (see Section C2).

c. Mark each document with your name, and number it in sequence, e.g., Jones Exhibit 1. The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits which are not furnished by the deadlines.

5. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement or outline a curriculum vitae, biographical sketch, resume or summary of your professional background and a bibliography of your publications. In addition it would be helpful if you would include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with one or two major scientific works, copies should be furnished. The remaining citations from other works can be accomplished in the form of footnotes referring to those works in your statement.

6. *Results of surveys and other research studies.* If you present in your testimony the results of a survey or other research study, you must also present as an exhibit or exhibits in compliance with paragraph 4 above the following:

a. A complete report of the survey or other research study and the information and documents listed in (b) through

(e) if they are not included in that report.

b. A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

c. Copies of all questionnaires or interview reports that were filled in as a part of the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

d. A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents and a sample questionnaire or other data collection instrument.

e. A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested parties may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon the request of the Presiding Officer who will then be in a position to permit their use by other interested parties or their counsel.

7. *General.* Copies of all materials filed by witnesses will be made available for examination at each hearing location specified above for the submission of such material. Any person who desires to obtain copies of the above materials for his own use must make arrangements in advance with the Commission representative specified above. To assure prompt consideration, materials required under this Section should be identified as "Mobile Home Statement" ("and Exhibits", if appropriate), and submitted when feasible and not burdensome in five copies.

8. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearance as well as that of other witnesses in an orderly fashion. Other interested parties must have your expected testimony or outline and supporting documents available for study before the hearing so they can decide whether to examine or cross-examine you or to file contradictory statements (rebuttals). If you do not comply with all the requirements, the Presiding Officer has the power to refuse to let you testify.

9. *Content of testimony.* In your testimony you can discuss any questions of fact, law or policy concerning the Proposed Rule. You do not have to limit your testimony to the issues designated in Section E; but if it does bear on those issues, you may be examined and cross-examined by the Presiding Officer or other persons and there may be rebuttals. Also, the Presiding Officer may question you directly or let others cross-examine you about other issues.

10. *Procedures and time limits.* These hearings will be informal and courtroom rules of evidence will not apply. You will not be put under oath unless the Presiding Officer so requires. Ordinarily you will have about twenty minutes for your testimony. If you need more than twenty minutes, submit your request for extra time when you file your word-for-word statement or outline. The Presiding Officer may set other reasonable time limits and may also allow extra time for questioning and further reserves the right to limit the number of witnesses to be heard, if the orderly conduct of the proceeding so requires. If you want to discuss more than can be presented in the time allotted to you, include all of the material in your word-for-word statement. Then you may summarize the statement in your testimony, and the entire written statement will be introduced into the record as an exhibit.

SECTION D. DESIGNATED ISSUES—PROCEDURES

1. The Presiding Officer has considered all proposed disputed issues of fact submitted by interested persons. Set forth under Section E are the issues which the Presiding Officer has determined to designate in his discretion pursuant to § 1.13(d)(1) of the Rules of Practice as issues to be considered in the proceeding in accordance with § 1.13(d) (5) and (6) of the Rules of Practice. Pursuant to statute and the Rules of Practice, any testimony with respect to these issues may entitle selected representatives of interested parties to conduct, or to have conducted, such examination, including cross-examination, of the person giving such testimony as the Presiding Officer may determine to be appropriate and to be required for a full and true disclosure with respect to any such designated issue. In the alternative, the Presiding Officer may determine that full and true disclosure as to any issue may be achieved through rebuttal submissions or the presentation of additional oral or written statements.

2. The Presiding Officer may on his own motion or pursuant to a written petition by interested parties, add to or modify the designated issues listed below at any time. Such a petition shall not be considered unless good cause is shown why the issue or modification was not proposed during the time specified in the Initial Notice.

SECTION E. ISSUES DESIGNATED UNDER § 1.13(d)(1) OF THE RULES OF PRACTICE [1]

WARRANTY PERFORMANCE SYSTEMS—GENERAL

1. Have mobile home manufacturer/warrantors engaged in acts and practices which have resulted in the failure to maintain regular and effective systems which assure that every "consumer" [§ 441.1(a)] of such manufacturer/warrantor's mobile homes in fact receive full performance of warranty repairs in accordance with the terms of any applicable warranty within a reasonable time?

DISCLOSURE OF THE NATURE OF WARRANTY RIGHTS

2. Have manufacturer/warrantors disseminated written warranties which fail to disclose the true nature and extent of consumers' warranty rights as well as the manner in which such manufacturer/warrantors perform warranty repairs in the "nomal course of business" [§ 441.1(m)]?

a. Have manufacturer/warrantors failed to disclose to prospective purchasers the fact that those manufacturer/warrantors regard their "authorized dealer[s]" [§ 441.1(l)] as having exclusive responsibility, at least in the first instance, to perform repairs and service for certain classes of defects covered by each manufacturer/warrantor's warranty without compensation or reimbursement by such manufacturer/warrantors and without regular and effective action by such manufacturer/warrantors to determine whether such repairs and service are in fact fully performed within a reasonable time?

b. Have manufacturer/warrantors represented that their written warranties are the sole legal warranties, that they legally exclude and disclaim all implied-in-law warranties, and that their written warranties set forth the sole legal remedy available to the consumer and disseminated such written warranties to consumers in States where the applicable law renders such exclusions, disclaimers, or limitations unenforceable?

c. Have manufacturer/warrantors represented that as a condition precedent to obtaining full performance by manufacturer/warrantors of warranty obligations, every consumer must properly complete and mail to such manufacturer/warrantors an owner's registration card, or a similar card when in fact the manufacturer/warrantor's practice has been to provide warranty performance regardless of whether the card has been returned?

d. Have manufacturer/warrantors represented that as a condition precedent to obtaining full performance by manufacturer/warrantors of warranty obligations every consumer must transport the defective part or, if necessary, the entire home to the manufacturer/warrantor's manufacturing plant, when in fact it is the manufacturer/warrantor's practice to provide such performance at the homesite?

SELECTION AND MONITORING OF DEALERS

3. Have such manufacturer/warrantors failed to scrutinize, adequately evaluate and assure that all prospective dealers, prior to their authorization, are capable of willing to perform warranty service or that such dealers have made

[1] In this Section bracketed citations refer to the Proposed Rule in the Initial Notice and indicate that the preceding word or phrase enclosed in quotation marks is used in this Section as it is used or defined in the Proposed Rule.

adequate arrangements for performing warranty service through independent contractors?

4. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer[s]" [§ 441.1(i)], either directly or by action through independent contractors, notify the manufacturer/warrantor of the existence of claims initiated by consumers for warranty service or for repair of defects covered by the warranty?

5. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer[s]" [§ 441.1(i)], either directly or by action through independent contractors, in fact fully perform and complete within a reasonable time all warranty service and repairs to be performed on behalf of the manufacturer/warrantor?

6. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all prospective dealers, prior to their authorization, either directly or by action through independent contractors, are capable and willing to perform an "inspect[ion]" [§ 441.2(e)] of a mobile home prior to its "tender of possession" [§ 441.1(j)] to assure the detection of readily ascertainable defects and to assure that the home is being delivered to the consumer free of all defects which affect the safety of the mobile home or render it substantially uninhabitable and to assure that it is properly "set up" [§ 441.1(l)]?

7. Have manufacturers/warrantors failed to scrutinize adequately evaluate, and assure that all "authorized dealer[s]" [§ 441.1(i)], either directly or by action through independent contractors, actually perform or assure the performance of, an "inspect[ion]" [§ 441.2(e)] of each mobile home prior to its "tender of possession" [§ 441.1(j)] to assure the detection of readily ascertainable defects and to assure that the home is being delivered to the consumer free of all defects which affect the safety of the mobile home and render it substantially uninhabitable and to assure that it is properly "set up" [§ 441.1(l)]?

8. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all prospective dealers, prior to their authorization, either directly or by action through independent contractors, are capable and willing to competently "set up" [§ 441.1(l)] the manufacturer/warrantors' mobile homes at the homesite selected by the consumer?

9. Have manufacturer/warrantors failed to scrutinize, adequately evaluate, and assure that all "authorized dealer[s]" [§ 441.1(i)], either directly or by action through independent contractors, actually and competently perform the "set up" [§ 441.1(l)] of all of the manufacturer/warrantors' mobile homes?

CONSUMER COMPLAINTS AND REQUESTS FOR SERVICE

10. Have manufacturer/warrantors failed to establish and maintain an effective and regular program to ensure prompt action on and fair disposition of mobile home consumer complaints and requests for warranty service and repairs?

DISPUTES BETWEEN MANUFACTURER/WARRANTORS AND DEALERS

11. Have manufactur/warrantors unreasonably delayed needed warranty service or repairs until after the settlement of disputes between themselves and their "authorized dealer[s]" [§ 441.1(i)] or other third parties as to which party is responsible for the service or repairs in question?

FACTORY SERVICE CAPABILITIES

12. Have manufacturer/warrantors failed to maintain an adequate factory service capability, or to make other provisions adequate to assure the full performance within a reasonable time of the repair of defects which are covered by a warranty and which the manufacturer/warrantor's "authorized dealer[s]" [§ 441.1(i)] are unwilling or unable to perform?

WARRANTY PERFORMANCE—CONCLUSIONS

13. Through the acts and practices described in designated issues 2 through 12, have such manufacturer/warrantors been, and are they now engaging in:

a. The dissemination of warranties which fail to fully and completely inform actual or potential "consumer[s]" [§ 441.1(a)] as to the actual warranty protection offered by manufacturer/warrantors?

b. Acts and practices which have the tendency and capacity to result in and have resulted in the failure to establish or maintain regular and effective systems which assure that manufacturer/warrantors will fully correct or repair all defects covered by their warranties within a reasonable time?

ACTUAL PERFORMANCE

14. Have the warranty performance systems maintained by such manufacturer/warrantors impeded or delayed warranty performance beyond a reasonable time in a significant number of instances?

15. Have the warranty performance systems maintained by the manufacturer/warrantors prevented the performance of the manufacturer/warrantors' warranty obligations in a significant number of instances?

REASONABLE BASIS FOR WARRANTY CLAIMS

16. Do the acts and practices, as described in designated issues 2 through 12 above, if shown to exist, establish a lack of reasonable basis for those manufacturer/warrantors to believe that they can perform their warranty obligations within a reasonable time?

17. Does the dissemination of a warranty to consumers by a manufacturer/warrantor have the capacity or tendency to lead consumers to believe that the manufacturer/warrantor has a reasonable basis to believe that its warranty obligations can be fully performed within a reasonable time?

REPRESENTATIONS OF DIMENSIONS OF MOBILE HOMES

18. Have mobile home manufactures represented in promotional materials the length of their mobile homes as a certain distance which includes the length of the tow hitch? Do such representations have the capacity or tendency to mislead consumers by inducing them to believe that the represented length dimension is the total distance between the front and rear walls of the mobile home rather than the overall length of the mobile home including the tow hitch?

ECONOMIC EFFECTS

19. With respect to the Proposed Rule, what would be the probable economic effect on the mobile home industry, on small businesses, and on consumers of the promulgation of such provisions in a Final Rule?

SECTION F. NOTIFICATION OF INTEREST AND REQUESTS FOR CROSS-EXAMINATION

1. Interested persons who desire to avail themselves of the procedures of § 1.13(d) (5) and (6) of the Rules of Practice (described in Section D) must notify the Presiding Officer in writing no later than June 13, 1977, of their particular interest with respect to each designated issue, including a general, brief statement of their position with respect to such issue. Requests to examine, witnesses, including cross-examination, or requests to present rebuttal submissions shall be accompanied by a specific justification therefor. Such notifications shall be sent to the Presiding Officer and should be entitled "Mobile Home—Notification of Interest." The Presiding Officer retains the authority to refuse parties the opportunity to avail themselves of the procedures described in Section D if they fail to comply with the notification requirements of this Section. If new issues are designated, interested persons must, on or before a date specified by the Presiding Officer notify the Presiding Officer of their particular interest with respect to each such new issue in the same manner.

2. Before the public hearings begin, the Presiding Officer will identify groups of persons with the same or similar interests in the proceeding. Groups with the same or similar interests will then be required to select a single group representative for the purpose of examination, including cross-examination and, if any group is unable to agree, the Presiding Officer may select a representative for that group. Any member of a group who is unable to agree upon group representation after a good faith effort to do so and who seeks to present substantial and relevant issues which would not be otherwise presented adequately by a group representative, may be allowed to conduct, or have conducted, any examination, including cross-examination or to present rebuttal submissions, on issues as determined by the Presiding Officer. Examination and cross-examination which is of an unduly cumulative or repetitive nature will not be permitted. Group representatives and Commission Counsel should be prepared to advise the Presiding Officer or the Commission representative listed in Section C of the approximate time needed to cross-examine or examine each witness who is to testify and who furnishes a statement or outline under Section C.

SECTION G. ADDITIONAL COMMENTS REQUESTED

The Presiding Officer, in an earlier ruling[2] requested that Commission Counsel furnish information concerning possible conflicts between the Proposed Rule and the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq. ("Mobile Home Act"), and the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act ("Magnuson-Moss Act") and the regulations promulgated thereunder. The questions furnished below in response to the ruling are intended to elicit written comment and oral testimony from interested parties. These questions are not to be considered as designated issues, except to the extent that such matters have been generally incorporated into the designated issues in Section E. A staff statement which more fully discusses the subject matter highlighted in the following questions will be placed on the public record and will be available for inspection in Room 130 of the Public Reference Branch of the Federal Trade Commission, Washington, D.C. 20580. A copy will be sent upon request.

The staff is interested in encouraging the submission of written comments and oral testimony concerning possible alternatives to the present Proposed Rule and in response to questions raised in the Statement of Reason for the Proposed Rule, 40 FR 23338–40. For example would an alternative Rule which has a general requirement for warrantors to achieve a high level of warranty performance and to implement procedures which are "reasonably designed" to ensure such performance be preferable to a more structured Rule (such as the Proposed Rule) which would require the implementation by manufacturers of specific procedures which are fully set forth in the Rule? Are certain procedures so absolutely essential to have an effective warranty performance system that such procedures should be required by a Final Rule? If so, what are they?

Interested parties are invited to comment on the above and the following questions by the dates specified in Sections A and C of this Notice for written comments and oral statements:

1. *HUD Regulations.*

In light of the program established by the Mobile Home Act and the regulations promulgated thereunder ("HUD regulations"), should the Proposed Rule be revised? If so, what revisions are necessary or appropriate to avoid any potential overlap or inconsistency between the HUD regulations and any Final Rule? Among the items to be considered under this question are:

a. Would the "normal course of business" limitations on the time allowed for completion of repair of warranty defects set forth in §§ 441.2(b) and and 441.3(a) (2) and (3) of the Proposed Rule effectively take care of situations in which abnormal demands have been placed upon the service capability of manufacturers and their dealers and other third parties as a result of participation in a HUD notification and correction program pursuant to 24 CFR 3282.404, 3282.407, and 3282.409?

b. Should a Final Rule address a situation where HUD determines that a repair previously performed pursuant to a warranty should have been done differently or that additional repairs are necessary to correct a warranty problem on which a repair has already been performed? If so, how?

c. What should constitute "notice" of the need to perform warranty repairs and should the term be defined in a Final Rule?

d. Should § 441.8 of the Proposed Rule be eliminated from a Final Rule in light of the requirements for certification seals in the HUD regulations [24 CFR 3282.362(c)(2)(i)(C)]?

e. Should the reinspection requirement contained in §§ 441.2(f) and 441.3(a)(5) of the Proposed Rule be modified so as to eliminate the reinspection requirement for mobile homes which are not likely to experience settling? If so, how should it be modified?

2. *Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 15 U.S.C. §§ 2309 and 2310.*

The Commission has promulgated rules under the Magnuson Moss Act concerning Disclosure of Written Consumer Product Warranty Terms and Presale Availability of Written Terms ("warranty rules") (16 CFR Parts 701 and 702). The Proposed Rule addresses some of the same disclosure issues which are treated by the Magnuson-Moss Act and warranty rules. In view of this, are there particular circumstances in the mobile home industry which suggest that different or additional requirements (such as those in the Proposed Rule) should be applicable to the mobile home industry rather than those suggested by Magnuson-Moss Act warranty rules? Among the items to be considered under this question are:

a. Should the language contained in the warranty rules, 16 CFR 701.3 (which addresses the issue of full disclosure of warranty terms) be included in a Final Rule rather than the language in § 441.4 of the Proposed Rule?

b. Are there circumstances in the sale of mobile homes which indicate that the use of disclaimers, limitations, or exclusions should be more restricted in the Final Rule as suggested by § 441.5 of the Proposed Rule than the requirements set forth in Magnuson-Moss (15 U.S.C. 2304 (a)(2) and 2308) and the warranty rule set forth in 16 CFR 701.3(a)(7)?

c. Should § 441.6 (a) and (b) of the Proposed Rule which prohibits certain conditions to warranty performance be retained in a Final Rule in light of past practices in the industry, the nature of the product, and the warranty rules set forth in 16 CFR 701.3(a)(5) and 701.4, which deal with the same subjects?

SECTION H. ADDITIONS TO PUBLIC RECORD

All interested persons are hereby notified that the Commission has authorized its staff, through the Presiding Officer, to add certain materials to the public record of this proceeding. These materials were obtained during the course of prior Commission investigatory and consent order proceedings involving mobile home manufacturer/warrantors, other members of that industry and persons associated therewith. In order to facilitate public access to this material, staff through the Presiding Officer, has placed on the public record explanatory memoranda to assist those persons interested in examining these materials. A copy of the environmental impact assessment with respect to the Proposed Rule also has been placed on the public record. This material is available for examination by interested persons in Room 130 of the Public Reference Branch of the Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

Issued: May 20, 1977.

RAYMOND L. RHINE,
Presiding Officer.

The proposal as it appeared in the FEDERAL REGISTER of May 29, 1975 (40 FR 23334) is reprinted below:.

Sec.
441.1 Definitions.
441.2 Warranty performance systems.
441.3 Warrantor reliance on third parties.
441.4 Written warranties and other related documents.
441.5 Disclaimers, limitations, and exclusions.
441.6 Prohibited conditions precedent.
441.7 Dimensions of mobile homes.
441.8 Labels, seals, or certifications.

AUTHORITY: 38 Stat. 717, as amended (15 U.S.C. 41, et seq.).

§ 441.1 Definitions.

For the purpose of this part, the following terms and definitions shall apply:

(a) "Consumer" shall refer to a buyer (other than for purposes of resale) of a mobile home which is used or bought for use primarily as a place of residence, any person to whom such mobile home is transferred during the duration of an implied or written warranty applicable to the mobile home, and any other person who is entitled under the terms of such warranty or under applicable Federal or State law to enforce against the warrantor the obligations of the warranty.

(b) "Mobile home" refers to a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to

[2] Presiding Officer's Ruling Denying Motions of Guerdon Industries, Inc., Liberty Homes, Inc., and Moduline International, Inc., to Defer Proceedings and to Reconsider Previous Ruling, January 28, 1977, pp. 5 and 13.

the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(c) "Defect" refers to any non-conformity in the performance, construction, components, or material of a mobile home that renders the home or any part thereof not in accordance with the obligations under the contract of sale or not fit for the ordinary use for which it was intended.

(d) "Written warranty" refers to:

(1) Any written affirmation of fact or written promise made in connection with the retail sale of a mobile home by a warrantor to a consumer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet, a specified level of performance over a specified period of time, or

(2) Any undertaking in writing in connection with the sale by a warrantor of a mobile home to refund, repair, replace or take other remedial action with respect to such mobile home in the event that such mobile home fails to meet the specifications set forth in the undertaking, which written affirmation, promise or undertaking becomes part of the basis for the bargain between a warrantor and a consumer of such mobile home.

(e) "Implied warranty" refers to an implied warranty arising under State law as modified, if at all, under Federal law.

(f) "Warrantor" refers to a corporation, a partnership, or other person engaged in the manufacture, wholesale or retail sale, offering for wholesale or retail sale, distribution, financing, or servicing of mobile homes produced or sold primarily for use by consumers, who gives or offers a written warranty or who is or may be obligated under an implied warranty.

(g) "Manufacturer" refers to any corporation, partnership, or person engaged in the manufacture, assembly, and wholesale sale of mobile homes, including any corporation, partnership, or person engaged in importing mobile homes for resale.

(h) "Corporate headquarters" refers to the location where the offices of the most senior officers in the hierarchy of a manufacturer's enterprise are located and/or where responsibility for management of the enterprise on a company-wide basis is generally exercised.

(i) "Authorized dealer" refers to a business enterprise, including but not necessarily limited to a corporation, a partnership, and an individual proprietor, neither owned nor controlled by a manufacturer, formed for the purpose of selling and servicing products, including but not limited to new mobile homes, from one or more established and recognizable locations, and which is authorized and approved by one or more manufacturers to buy and sell to consumers new mobile homes produced by said manufacturers.

(j) "Tender of possession" refers to the time when the mobile home has been properly set up at the consumer's home site and all necessary documents and keys are transferred to the consumer or the consumer's representative to enable the consumer to exercise the right to take possession and to complete delivery. *Provided, however,* That in cases where the initial set up of the home was arranged by the consumer and not by or through the manufacturer or authorized dealer, "tender of possession" refers to the time when all necessary documents and keys are transferred to the consumer or the consumer's representative to enable the consumer to exercise the right to take possession and to complete delivery.

(k) "Home site" refers to a plot of land designated by the consumer as the location where the mobile home is to be set up or the location where the mobile home has in fact been set up.

(l) "Set up" refers to the operation whereby a mobile home is installed, leveled, and tied down on a permanent foundation of cinder blocks, cement piers, steel horses, or the like which properly distribute and support its weight. In the case of double-wide and triple-wide homes, "set up" includes the assembly of the two or more units of the mobile home and the sealing of the seams. "Set up" may also include the connection of certain utilities in accordance with local law.

(m) "Normal course of business" refers to the usual or regular manner of operation of the business enterprise in question under ordinary conditions. "Normal course of business" does not include:

(1) Conditions under which abnormal demands are made upon service capabilities as the result of natural disasters, or other acts of God or the government, or any other event beyond the control of the warrantor and, where applicable, its authorized dealers or other third parties which places an unusually large demand upon service facilities; and

(2) Events such as disasters, strikes, acts of the government, instances of force majeure or other occurrences which are beyond the control of the warrantor and, where applicable, its authorized dealers and other third parties which prevent the warrantor and, where applicable, its authorized dealers or other third parties from responding to service requests within the time periods stated herein; and

(3) Slight omissions or deviations from the provisions of this part which are inadvertent, unintentional, and are not due to bad faith.

§ 441.2 Warranty performance systems.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a corporation, partnership, person, or other business entity to offer or otherwise provide, any written or implied warranty unless the warrantor establishes and maintains a regular and effective warranty performance system which is designed to assure that each consumer of mobile homes so warranted will receive full performance of all such warranty obligations either directly or by action through its authorized dealers or other third parties within the time period requirements set forth hereinbelow and unless the warrantor performs all of its obligations under such warranty within such time period requirements. An effective warranty performance system which is designed to assure that each consumer of a mobile home receives full performance of the warrantor's obligations under the warranty shall incorporate but not necessarily be limited to the following:

(a) The warrantor shall perform warranty service and repair obligations arising subsequent to the tender of possession of the home to the consumer by the warrantor, either directly or through an authorized dealer or other third parties at the site of the mobile home.

(b) The warrantor shall, directly or through an authorized dealer or other third parties, in the normal course of business, commence all warranty service or repair of defects giving rise to a condition which affects the safety of a mobile home or renders it substantially uninhabitable as soon as possible but in no event later than three business days following receipt of notice of such a defect by the warrantor from the retail purchaser or two business days following notice of the determination by the warrantor's authorized dealer or other third parties to rely upon the warrantor to perform or to complete service or repairs requested by consumers with respect to such defects. Such repairs are to be completed expeditiously.

(c) The warrantor shall, directly or through an authorized dealer or other third parties, in the normal course of business, respond to notice of the need for service and repairs of warranty defects other than those set forth in paragraph (b) of this section, within a reasonable time not to exceed seven business days of receipt of notice of such defects by the warrantor, its authorized dealer or other third parties, and complete such service or repairs within a reasonable time not to exceed thirty days following said receipt of notice.

(d) The warrantor shall assure that in the event of a bona fide dispute between the warrantor or its dealers and a consumer pursuant to § 441.3(f) of this part, as to whether the defect(s) complained of by the consumer are or are not covered by an applicable warranty, then: In the event it is determined that warranty service or repair is required, which determination shall be made promptly, the warrantor shall be allowed, notwithstanding the provisions of paragraphs (b) and (c) of this section with respect to the time allowances for repairs, in the normal course of business, from the date of notification of the dispute as set forth in this paragraph (d) of this section, no more than three business days in the case of defects referred to in paragraph (b) of this section to commence service or repair (such repairs to be completed expeditiously) and no more than thirty days in the case of defects referred to in paragraph (c) of this section to complete service or repair.

(e) The warrantor shall, either directly or through its authorized dealers or other third parties, in the normal course of business, inspect each mobile home at the home site prior to or at the time of tender of possession to the consumer to assure that the home is being delivered to such consumer free of all defects which affect the safety of the mobile home or render it substantially uninhabitable and that it is properly set up.

(f) The warrantor shall, either directly or through its authorized dealers or other third parties, in the normal course of business, reinspect each mobile home within a reasonable time not to exceed 90 days after tender of possession of the home to the consumer to determine the existence of defects in the mobile home or problems relating to its setup, and to correct or arrange for the correction of defects within the scope of any applicable warranty, or improper setup and problems arising therefrom.

(g) Results of the inspections required pursuant to paragraphs (e) and (f) of this section shall be set forth in a report or reports which, if performed by an authorized dealer or other third party, shall be signed by said authorized dealer or other third party and shall be signed by the consumer or said consumer's representative indicating agreement with the information set forth therein. If no signature of the consumer or said consumer's representative appears on such a report, the authorized dealer or other third party shall certify that the necessary inspections and repairs were in fact accomplished and state in writing the reason for the absence of the signature of the consumer or said consumer's representative to the best of the authorized dealer's or other third party's knowledge and belief. Notwithstanding the provisions of paragraphs (e) and (f) of this section, in the event that the initial setup of the mobile home is not provided by or arranged through the warrantor or the warrantor's authorized dealer but is arranged independently by the consumer of such mobile home, there shall be no obligation to make those portions of the inspections described in paragraphs (e) and (f) of this section which cannot be accomplished prior to the initial setup.

(h) The warrantor shall, in the normal course of business, obtain information as to the date of purchase and the name and address of the consumer of each of its mobile homes and shall maintain adequate records of the information so ascertained.

(i) Where the warrantor chooses to delegate, assign, contract, or otherwise rely on a continuing basis upon any authorized dealers or any third parties not employees of the warrantor to satisfy the obligations assumed by the warrantor under any warranty, whether written or implied by law, then the warrantor shall assure that if a dispute or disagreement should arise between the warrantor and one or more of its authorized dealers or other third parties as to which of them is to incur any such obligation, burden, or responsibility or is to correct a malfunction related or alleged to relate to the set up of the warrantor's mobile homes, any and all necessary repairs or other corrective action will be expeditiously accomplished, regardless of whether the dispute or disagreement has been resolved. Nothing in this section shall be construed to preclude a warrantor from replacing a mobile home, refunding the purchase price or taking any other remedial action with respect to the mobile home which is within the scope of the terms of the written or implied warranty applicable to such mobile home; *Provided, however,* That such a refund, replacement or other remedial action with respect to a mobile home shall be delivered to the consumer within a reasonable time, taking into account the individual circumstances of each case, but in no event later than thirty days following the receipt of notice of the defect for which the remedy is provided.

§ 441.3 Warrantor reliance on third parties.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a mobile home manufacturer who is a warrantor to delegate, assign, contract with, or otherwise rely on a continuing basis upon any authorized dealers or any other third parties who are not employees of said manufacturer to: First, determine whether any mobile home constructed by the manufacturer contains any defects which are within the scope of any written or implied warranty or whether any such mobile home otherwise requires remedial action pursuant to any such warranty; second, notify the manufacturer of the existence of any such defects or need for remedial action pursuant to the aforesaid warranties; or third, perform any repairs or otherwise provide services in satisfaction of any warranty obligations incurred by the manufacturer, if the manufacturer shall fail to:

(a) Enter into a written service agreement with each such person desiring to be authorized to assume the responsibility of satisfying the manufacturer's mobile home warranty obligations on a continuing basis which sets forth the respective warranty service obligations to be discharged by the manufacturer and by the authorized dealer or other third party. Mobile home manufacturers who extend a warranty, express or implied, and rely upon authorized dealers or other persons not employees of said manufacturers to perform their warranty obligations shall require all such dealers and other persons to execute such agreements described herein within 180 days of the effective date of this part as a condition precedent to the manufacturer continuing the aforesaid delegation, assignment, contractual relationship or reliance subsequent to the 180th day following the effective date of this part. Dealers or the other third parties upon whom the manufacturer commences to rely, delegate, assign, or contract with as aforesaid after the effective date of the part shall execute such agreements prior to or at the time of said delegation, assignment, contracting, or reliance. Such agreements shall include but not necessarily be limited to:

(1) A clear and accurate description of the scope of those duties, burdens and responsibilities to be borne by the manufacturer and those to be borne by authorized dealers or other third parties as aforesaid and a statement as to the allocation of responsibility for the proper set up of mobile homes constructed by the manufacturer;

(2) The requirement that the authorized dealer or other third party as aforesaid shall, in the normal course of business, commence all warranty service or repair of defects which become necessary as a result of a condition which affects the safety of the mobile home or renders it substantially uninhabitable, as soon as possible but not later than three business days following receipt of notice of such defects or condition by the authorized dealer or other third party, and shall complete such service or repairs expeditiously. In those cases in which the authorized dealer or other party determines to rely upon the manufacturer to perform or to complete service or repairs requested by consumers on such defects, such determination shall be made and communicated to the manufacturer immediately upon such determination but no later than two business days following receipt of notice of such defect from the consumer;

(3) The requirement that except as set forth in paragraph (a)(2) of this section the authorized dealer or other third party as aforesaid must respond to a request for warranty repairs or service within seven business days of the receipt of notice and must complete all such warranty service or repairs within a reasonable time, not to exceed thirty days in the normal course of business, following receipt of notice of such condition by such authorized dealer or other third party. In those cases in which the authorized dealer or other third party determines to rely upon the manufacturer to perform or to complete such service or repairs requested by the consumer, such determination shall be made and communicated to the manufacturer as soon as possible but no later than five business days following receipt of notice from the consumer;

(4) The requirement that the authorized dealer or other third party as aforesaid must, in the normal course of business, inspect each mobile home at the home site prior to or at the time of tender of possession to the consumer to assure that the home is being delivered to such consumer free of all defects which affect the safety of the home or render it substantially uninhabitable and that it is properly set up. Such an inspection shall be reported in written

form to the manufacturer as described in paragraph (a)(6) of this section;

(5) The requirement that the authorized dealer or other third party as aforesaid must, in the normal course of business, reinspect each of the mobile homes constructed by the manufacturer at a reasonable time not to exceed 90 days following tender of possession of the home to the consumer to determine the existence of any defects in the mobile home or an improper set up or problems arising therefrom, and to correct or arrange for the correction of any such conditions. Such a reinspection shall be reported in written form to the manufacturer as described in paragraph (a)(6) of this section;

(6) The requirement that the authorized dealer or other third party as aforesaid in the normal course of business provide the manufacturer with written reports which document the results of the inspections set forth in paragraphs (a)(4) and (5) of this section. The signature of the consumer or the consumer's representative thereon shall be required as certification that the inspections and repairs alleged therein to have been completed were in fact accomplished to the best of his or her knowledge and belief. *Provided, however,* That if the signature of the consumer or the consumer's representative cannot be obtained, the authorized dealer or other third party shall so state in writing in the report and shall also state the reasons for the absence of the required signature to the best of his or her knowledge and belief. Notwithstanding the provisions of paragraphs (a)(4) and (5) of this section, in cases where the initial set up of the mobile home was not provided by or arranged through the warrantor or the warrantor's authorized dealer but was arranged independently by the consumer of such mobile home, there shall be no obligation to make those portions of the inspections described in paragraphs (a)(4) and (5) of this section which cannot be accomplished prior to the initial set up of the mobile home;

(7) The requirement that the authorized dealer or other third party as aforesaid establish and maintain, or contract for the services of personnel and facilities which are capable of providing all necessary warranty repairs and service within the time period requirements set forth in paragraphs (a)(2) and (3) of this section in the normal course of business.

(8) A statement that the manufacturer shall have the right to withdraw authorization from authorized dealers and other third parties as aforesaid who fail to meet their responsibilities under the written service agreement as set forth herein;

(9) A provision providing for the disposition of the manufacturer's continuing obligation, subsequent to the time that authorization has been withdrawn, to perform warranty service on mobile homes sold by the dealer until such time as the terms of all warranties outstanding on such homes have expired.

(b) Fully scrutinize and evaluate the number of personnel, level of expertise, and adequacy of facilities and equipment of such parties desiring to be authorized to perform warranty obligations incurred by the manufacturer on a continuing basis with respect to their ability to capably perform all necessary warranty service, repairs, and set up of said manufacturer's mobile homes within the standards to be set forth in the agreement prior to the authorization of a dealer or reliance upon any other third party as aforesaid. A check of credit references and other evidence of the financial standing of the dealer is not by itself sufficient to comply with the requirements of this paragraph. If a prospective authorized dealer chooses to rely on an outside service agency with respect to set ups, warranty repairs and service, the manufacturer shall satisfy itself as to the capability of said agency to perform adequate set ups and service through a regular procedure capable of providing a true and objective assessment of such agency's set up, repair, and service capability.

(c) Establish a regular procedure for the effective ongoing evaluation of the manner in which authorized dealers or other third parties as aforesaid maintain their service and set up capability and the manner in which they perform such warranty and set up responsibilities. Such a procedure shall include but not necessarily be limited to the dissemination of a questionnaire to all consumers who purchase the manufacturer's mobile homes at retail within 60 to 120 days subsequent to the date of tender of possession of the home to the consumer but in no event prior to ten days following reinspection of the home which inquiries as to the following:

(1) The existence of any defects in said mobile homes within the scope of the manufacturer's written warranty and any warranties implied by law or of an improper set up or any problems arising therefrom;

(2) The name of the person, if any, whom the mobile home consumer notified as to the existence of said defects or set up problems;

(3) The identity of any person who sought to service or repair any such defects or set up problems;

(4) Whether such defects or set up problems were fully repaired, the period of time required to effect such repairs, and the identity of the parties who accomplished such repairs;

(5) Whether the consumer is satisfied with the promptness and quality of the repairs made on his or her home to date. Such questionnaire shall be sent in the form of a pre-paid self-addressed postcard or a letter containing a pre-paid self-addressed envelope. Such a procedure shall also include regular periodic visits by one or more employees of the manufacturer to review the service facilities and personnel maintained by the authorized dealer or other third party. Such a visit and review shall be immediately initiated by the manufacturer upon the receipt of an unreasonable number of meritorious complaints or unsatisfactory reports, questionnaires or other similar communications from consumers. The manufacturer shall forthwith terminate its authorization of and reliance on authorized dealers or other third parties who fail to meet the responsibilities and standards set by the manufacturer pursuant to the written service agreement and this part.

(d) Assure that the person or persons to whom responsibility for supervising and assuring the implementation of the manufacturer's warranty service program is delegated shall make periodic reports at least on a monthly basis to the manufacturer's responsible officers. Such reports shall include but not necessarily be limited to current information concerning:

(1) The current cost to the manufacturer of warranty service;

(2) The incidence and nature of frequently recurring defects and of defects which have been determined to deleteriously affect the health and safety of the occupants of mobile homes containing such defects;

(3) Those measures undertaken in response to reports of defects described in paragraph (d)(2) of this section including but not necessarily limited to modification in production and design of the manufacturer's mobile homes;

(4) Analysis of the manner in which the manufacturer's employees, authorized dealers and other third parties are performing their warranty and set up responsibilities.

(e) With respect to manufacturers who produce in excess of 5,000 mobile homes annually, vest the direct administration of such manufacturer's warranty service program at the corporate headquarters level and the responsibility for supervising and assuring the implementation of the warranty service program in only those corporate officials who have no direct responsibilities on a day-to-day basis for the sale of the manufacturer's mobile homes.

(f) Establish a uniform procedure for the systematic receipt and analysis and fair disposition of all complaints or disputes which may arise between the aforesaid consumers of mobile homes constructed by the manufacturer and the manufacturer, its agents, assigns, successors, or other third parties including but not necessarily limited to the manufacturer's authorized dealers, with respect to any alleged warranty obligations of the manufacturer. Such a procedure shall incorporate but not necessarily be limited to:

(1) The prompt evaluation of and response by the manufacturer, directly or by action through a third party, in the normal course of business, to all complaints within a reasonable time not to exceed five business days after receipt of such complaints;

(2) With respect to manufacturers which produce in excess of 5,000 mobile homes annually, the designation of a single focal point within the corporation for the receipt of consumer complaints regarding warranty repairs or set up programs;

(3) An effective mechanism for the fair and impartial resolution of disputes

with respect to alleged warranty obligations. With respect to manufacturers which produce in excess of 5,000 mobile homes annually, the responsibility for resolving disputes through the above-described mechanism shall be vested in only those personnel who are not responsible for sales on a day-to-day basis;

(4) An accurate and complete record keeping system regarding the nature and disposition of all such disputes and complaints received by the manufacturer;

(5) Periodic review and evaluation by the manufacturer as to the effectiveness of such procedures and correction of such procedures where necessary;

(g) Maintain full and accurate records and to periodically review such records which shall disclose:

(1) The date of receipt, the disposition, and the date of disposition of each request for warranty service (including any refusal of a request for service or repairs and the reasons for such refusal) received by the manufacturer; and

(2) The results of the evaluations of service capacity provided for in paragraph (c) of this section and the results of any action taken with respect thereto.

§ 441.4 Written warranties and other related documents.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a warrantor who chooses to disseminate a written warranty not to provide consumers with a written warranty and other related documents which clearly and fully describe and effectively communicate to the consumer, in simple and readily understood language the manner in which the warrantor intends to provide for the performance of warranty obligations, including disclosure of any delegation of warranty responsibility to third parties; *Provided, however,* That disclosure of said delegation must be accompanied by additional disclosure that such delegation in no way relieves the warrantor of the ultimate responsibility to fulfill all warranty obligations.

§ 441.5 Disclaimers, limitations, and exclusions.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act to suffer or permit mobile homes to be sold either directly or by action through a third party, without any written or implied warranties or limitations or exclusions of liability under any warranty or to disseminate or cause the dissemination of any statement or representation which represents directly or by implication that any written or implied warranty has been limited or excluded unless the person or persons so representing have a reasonable basis, in the form of an opinion by legal counsel, that said disclaimer, limitations and exclusions are enforceable under governing Federal and State law, and clear and conspicuous notice of such "as is" sale or other disclaimer, limitation or exclusion is given to prospective consumers of their mobile homes prior to the execution of the contract of retail purchase. *Provided, however,* That with respect to the "as is" sale of damaged, salvaged, demonstrator or repossessed mobile homes, the aforesaid opinion by legal counsel shall not be required. A clear and conspicuous notice of an "as is" sale shall contain the following language:

NOTICE

The manufacturer of this mobile home sells it "as is" and refuses to assume any responsibility for defects. The purchaser of this mobile home must accept it with all defects and take the entire risk, under contract law, as to its condition.

§ 441.6 Prohibited conditions precedent.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act, notwithstanding the provisions of § 441.4(g) for any warrantor of a mobile home to:

(a) Disseminate a written warranty or any documents associated therewith which require or purport to require the return of the home or any defective part thereof to the location of its manufacture as a condition precedent to obtaining warranty repairs or service;

(b) Disseminate a written warranty or any documents associated therewith which require or purport to require the return of a warranty card, owner's registration card, or any similar document bearing certain information about the consumer or the retail purchase transaction as a condition precedent to the validation of the warranty or as a condition precedent to the manufacturer's obligation to perform warranty repairs and service on said consumer's mobile home.

§ 441.7 Dimensions of mobile homes.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of the Act for any manufacturer of mobile homes to disseminate or cause the dissemination of any representation or statement which represents, directly or by implication, the dimensions of mobile homes unless the actual dimensions of the mobile homes, from exterior wall to exterior wall, and the dimensions of any tow hitch or other appendage, not part of said living space are clearly and conspicuously disclosed.

§ 441.8 Labels, seals, or certifications.

In connection with the manufacture, sale, offering for sale, distribution, and service of mobile homes produced or sold primarily for use by consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act to use or disseminate any label, seal or certification which makes any representation, directly or by implication, as to the compliance of the mobile homes with any standard, code or the like regarding construction or performance characteristics without disclosing clearly, conspicuously and in close conjunction therewith exactly what said label, seal or certification means and what remedy, if any, is available to a consumer in the event that his or her mobile home is not in compliance with said code or standard. For example, a clear and conspicuous disclosure in close conjunction with a label, seal or certification attached to a mobile home which represents directly or by implication that the particular home is in full compliance with ANSI Standard A119.1 shall consist of the following:

There is no assurance by the manufacturer that this mobile home complies with every requirement of ANSI Standard A119.1. If you believe that this mobile home is not in compliance with ANSI Standard A119.1, the manufacturer suggests that you consult your warranty for instructions on obtaining necessary corrective action.

[FR Doc.77-14798 Filed 5-20-77;10:19 am]

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Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Title 3—The President

Executive Order 11986 • May 20, 1977

Relating to Certain Positions in Levels IV and V of the Executive Schedule

By virtue of the authority vested in me by Section 5317 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11861, as amended, placing certain positions in level IV of the Executive Schedule, is further amended by deleting "(6) Director of Telecommunications and Command Control Systems, Department of Defense." and "(7) Principal Deputy Director of Defense Research and Engineering, Department of Defense.".

SEC. 2. Section 2 of Executive Order No. 11861, as amended, placing certain positions in level V of the Executive Schedule, is further amended by adding thereto "(1) Principal Deputy Assistant Secretary for Communications, Command, Control and Intelligence, Department of Defense." and "(9) Director of Policy Review, Department of Defense.".

Jimmy Carter

THE WHITE HOUSE,
May 20, 1977.

[FR Doc.77-14944 Filed 5-20-77;5:08 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule B authority for seven positions of Regional Director because it is practicable to competitively examine for these positions.

EFFECTIVE DATE: May 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3273(a) is amended to read as follows:

§ 213.3273 Community Services Administration.

(a) [Revoked]

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14633 Filed 5–23–77;8:45 am]

PART 213—EXCEPTED SERVICE

Civil Service Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that the following positions are excepted under Schedule C because they are confidential in nature: two Special Assistants and one Administrative Assistant to the Chairman; one Policy Advisor and one Administrative Assistant to the Vice Chairman; and one Policy Advisor and one Administrative Assistant to the Commissioner.

EFFECTIVE DATE: May 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3370 is added as set out below:

§ 213.3370 Civil Service Commission.

(a) Two Special Assistants and one Administrative Assistant to the Chairman.

(b) One Policy Advisor and one Administrative Assistant to the Vice Chairman.

(c) One Policy Advisor and one Administrative Assistant to the Commissioner.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14887 Filed 5–23–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Staff Assistant to the Ambassador at Large and Special Representative of the President for the Law of the Sea Conference because of the confidential nature of the postion.

EFFECTIVE DATE: May 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3304(a)(27) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(27) One Staff Assistant to the Ambassador at Large and Special Representative of the President for the Law of the Sea Conference.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–14886 Filed 5–23–77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 111]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

AGENCY: Food and Nutrition Service.

ACTION: Final rulemaking.

SUMMARY: This rule deletes the requirement that State agencies submit monthly reports of the number of households whose benefits were reduced or terminated because they either accepted or refused to accept suitable employment. These reports duplicate information that is already available, for the most part, through the Department of Labor's ESARS system.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Alberta Frost, Chief, State Agency Operations Branch, Food Stamp Division, 500 12th Street SW., Washington, D.C. 20250 (202–447–8360).

SUPPLEMENTARY INFORMATION: Section 271.3(d)(8) of the Food Stamp Program Regulations requires that State agencies submit monthly reports of the number of households whose benefits were reduced or terminated because they either accepted employment or refused to accept suitable employment. The purpose of the reports is to measure the effectiveness of the work registration requirements. These reports, however, duplicate information that is already available, for the most part, through the Department of Labor's ESARS system. To avoid this duplication, States will no longer be required to submit Form FNS–285, Report of Reduction/Termination of Food Stamp Benefits, to FNS each month.

Since elimination of this reporting burden will benefit State agencies and will have no adverse effect on food stamp applicants, the Department has decided that it is unnecessary and contrary to the public interest to give notice of proposed rulemaking. Accordingly, in § 271.3, paragraph (d)(8) is deleted as follows:

§ 271.3 Household eligibility.

* * * * * *

(d) *Work registration requirement.* * * *

(8) [Deleted]

* * * * * *

(78 Stat. 703, as amended (7 U.S.C. 2011–2026).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: May 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-14687 Filed 5-23-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 92, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 15–21, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period May 15–21, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 25,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedures, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.392 Lemon Regulation 92 (42 FR 24716) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period May 15, 1977, through May 21, 1977, is established at 320,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: May 18, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14660 Filed 5-23-77;8:45 am]

PART 953—IRISH POTATOES GROWN IN THE SOUTHEASTERN STATES

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in designated counties of Virginia and North Carolina to be inspected and meet minimum quality and size requirements. The regulation should promote orderly marketing of such potatoes by keeping less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: June 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953), regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the April 25, 1977, FEDERAL REGISTER (42 FR 21111). The notice afforded interested persons through May 13, 1977, to file written data, views or arguments pertaining to that proposal. None was filed.

This regulation is based upon recommendations made by the committee at its public meeting in Norfolk, Virginia, on April 7, 1977.

The grade and size requirements recommended herein are the same as those which have been issued during past seasons. They are necessary to prevent potatoes of poor quality or undesirable sizes from being distributed to fresh market outlets. The specific proposals, hereinafter set forth, will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments may be made to certain special purpose outlets without regard to the grade, size, and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Shipments for use as livestock feed are so exempted because requirements for this outlet differ greatly from those for fresh market. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments also are exempt. Also, potatoes for most processing uses are exempt under the legislative authority for this part.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, it is hereby found and determined that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act by setting the minimum standards of quality and the grading and inspection requirements which the Secretary has found should be maintained for orderly marketing.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by June 5, 1977.

The regulation is as follows:

§ 953.317 Handling regulation.

During the period June 5 through July 31, 1977, no person shall ship any lot of potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d) of this section.

(a) *Minimum grade and size requirements.* All varieties U.S. No. 2, or better grade, 1½ inches minimum diameter.

(b) *Inspection.* Except as provided in paragraphs (c) and (e) of this section, no handler shall ship any potatoes unless an appropriate inspection certificate has been issued covering them by the Federal-State Inspection Service and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, "other processing" as hereinafter defined, livestock feed or charity, except that the handler thereof shall comply with the safeguard requirements of paragraph (d) of this section. Shipments of potatoes for canning, freezing, and "other processing" shall be exempt from assessment requirements specified in § 953.34.

(d) *Safeguards.* Each handler making shipments of potatoes for canning, freezing, "other processing," livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of his intent to ship potatoes pursuant to paragraph (c) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on forms furnished by the committee a special purpose shipment report for each such individual shipment; and

(4) Forward copies of such special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such special purpose shipments.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed, 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds 5 hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes (§§ 51.1540–51.1566 of this title), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act as amended February 15, 1972 (Pub. L. 92–233), and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C 601–674).)

Dated: May 19, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14781 Filed 5-23-77;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 214—NONIMMIGRANT CLASSES

Nonimmigrant Students; Authorization of Employment for Practical Training; Petitions for Approval of Schools; Supporting Documents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service to provide that the maximum period of time which may be granted a nonimmigrant alien student to engage in practical training under the immigration regulations will be one year. The amendment also provides that language schools seeking approval for attendance by nonimmigrant students shall meet the same requirements respecting submission of documents and evidence as must be met by other educational institutions seeking similar approval by the Service. The circumstances which led to the Service determination to reduce the maximum period of practical training is that the Service has determined that a maximum period of one year of practical training is sufficient to enable graduates to prepare themselves for entrance level positions in their chosen fields. Also, the Service has been advised by the Department of Labor that employment of nonresident alien students presents unfair competition to U.S. resident workers because some applicants worked for less than prevailing wages during their training period. Also, certain applicants utilized their practical training experience to apply for immigrant status contrary to the intent of the Service's practical training regulations. The regulations respecting documents and evidence to be submitted in applications for approval by language schools are being made to require language schools to meet the same standards as other educational institutions seeking approval by the Service. The intended effect of this action is to amend the Service's regulations to reduce the period of practical training for the reasons set forth above in order to insure that the intent of the Service's practical training regulations is observed and also to provide that language schools meet the same documentary and evidentiary requirements for approval as other educational institutions.

EFFECTIVE DATE: September 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone 202–376–8373.

SUPPLEMENTARY INFORMATION: On July 15, 1976, the Immigration and Naturalization Service published a notice of proposed rulemaking at 41 FR 29149 containing proposed amendments to 8 CFR 214.2(f)(6) pertaining to employment of nonimmigrant students for practical training and 8 CFR 214.3 pertaining to the supporting documents which must be submitted by language schools applying for approval for attendance by nonimmigrant students. Over one hundred representations were received from educational associations, universities and other institutions of learning, the Departments of State and Labor, and members of the general public, and they have all been carefully considered. Only one writer completely supported the proposed rule change. Those opposing one or more of the amendments offered the following representations which are summarized below, followed by the Service's response.

1. *Representation.* The Service failed to cite the authority under which the notice of proposed rule change was published.

Service Response. There is no statute under which employment of nonimmigrant students for practical training is authorized. However, at 41 FR 29151, the Service did cite section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), which provides the Attorney General and the Commissioner of the Immigration and Naturalization Service certain powers and duties, including the establishment of regulations.

2. *Representation.* Publication of the proposed amendments was untimely since the academic community most concerned is generally inactive during July.

Service Response. The Service granted an extension of time in which to submit representations.

3. *Representation.* The rationale for proposed change is unclear.

Service Response. The proposed amendment was based in part upon information which had been reported to the Service by field offices indicating that a maximum practical training period of one year is sufficient to prepare graduates to begin at the entrance level of their occupations. In addition, the Department of Labor had reported several times that employed nonresident alien students present unfair competition to U.S. resident workers; some data indicate that students work for less than prevailing wages during their training period. The Department of Labor also expressed concern about aliens who en-

ter as students, are permitted to work for up to 18 months to gain practical experience, and who then use this acquired experience to apply for immigrant status.

4. *Representation.* The proposed twelve-month limit on practical training would make it impossible for many foreign students to obtain employment here since employers would not find such a short period productive to their business. This would result in employers hiring only those whom they would be willing to assist in obtaining permanent residence. Reduction of employment opportunity for foreign students would be the cause of fewer of them seeking to study in the U.S. to the detriment of U.S. educational institutions, and would have an adverse effect upon the attitude toward the U.S. of those who did come.

Service Response. It may be that foreign students will be less likely to find employment, and perhaps fewer aliens would enter the U.S. to obtain their education here. There must be considered, however, the loss of employment to each U.S. resident student or unemployed worker who is unable to find a job because it is filled by a nonimmigrant student. Rather than eliminate the provisions for training altogether, however, the Service will merely reduce the practical training period available to the alien student.

5. *Representation.* Actually F–1 nonimmigrant students should be permitted to engage in employment for practical training for as long as two years and then, like J–1 exchange visitors, should be made subject to a two year foreign residence requirement before becoming eligible for immigrant status in the U.S. This would eliminate concern that F–1 students would seek permanent positions in the U.S., and would prevent an increased demand for J–1 visas. Practical training for two years is necessary in some kinds of work in order to enable the graduate effectively to transfer his experience to his professional career abroad.

Service Response. Not all J–1 exchange visitors are subject to the two-year foreign residence requirement; and to impose such a requirement at all upon F–1 students would not be possible without the enactment of new legislation. The law now specifies that the nonimmigrant student be coming temporarily and solely for the purpose of pursuing a full course of study. There is no indication that the Congress intended that he remain and work in the U.S. for an extended period after completion of his course of study and until he becomes fully experienced in his occupational skill.

6. *Representation.* Concern was expressed about the restriction of the proposed formula of granting a period of only three months of practical training for every nine months of study at a college, university, or seminary, and a period of only three months for each twelve months of a full course of study at a school which devotes itself exclusively or primarily, to vocational, business, or language instruction. It was asserted that permissible practical training for less than one year would then be the rule for students who come to the U.S. in masters' programs, for doctoral degrees, or for vocational training, which usually are for only one to two years. It was also suggested that candidates for doctorates should be permitted to begin employment for practical training after completion of their academic requirements and while completing their dissertations.

Service Response. These views as to the periods of practical training have merit and the proposed formula has been changed. However, since courses in vocational, business, and language schools are themselves to a great extent in the nature of practical training, the proposed formula will be retained as to such schools. It has long been the policy of the Service to grant permission to accept employment for practical training only after completion of the courses of study. Such an application may be made prior to completion of studies only if the applicant is attending a college, university, or seminary which certifies that it requires practical training for all degree candidates in a specified professional field and that the student applicant is a candidate for a degree in that field. Thus, candidates for Ph. D. degrees may not be granted permission to begin employment for practical training until they have completed all the requirements for the degrees sought.

7. *Representation.* Many letters opposed the requirement that the foreign student submit his initial application for employment along with a letter outlining the nature of the proposed employment no later than thirty days after completion of the course of study. It was asserted that many students are unable to find employment without first being granted permission by the Service and even then it often takes from two to six months to locate employers having appropriate positions.

Service Response. Some of these views have merit and appropriate changes will be made to permit the student to apply for the first six-month period of practical training without first securing a letter from a prospective employer. However, school officials will be asked to state on applications for permission to continue previously authorized employment more specifically whether such employment is related to each student's field of study. Where application for the initial period of employment is approved, the period shall be deemed to commence either on the date the student enters upon such employment or sixty days after completion of his course of study, whichever is earlier.

8. *Representation.* Several writers alleged that the employment opportunities for nonimmigrant students who are already undergraduates in the United States should not be reduced since many came here in the belief they would be entitled to 18 months of employment after the completion of their studies.

Service Response. A nonimmigrant student at the time he entered the United States had no assurance of being able to work here and should not have assumed he would be granted such permission after admission. However, the Service will make the amended regulations effective as of September 1, 1977 and applicable only to those students completing their courses of study on or after that date.

9. *Representation.* The proposed amendments might have an unfavorable impact on work/study programs and those master's degree programs which require internships prior to graduation. In this connection it was pointed out that on-campus work experience under present regulations does not require Service permission, and the time so spent should not be subtracted from the post-graduation period of practical training. Similarly, the applicant who voluntarily discloses his previous off-campus work which was part of a work/study course should not be disadvantaged in relation to other less conscientious applicants by having his postgraduation practical training reduced.

Service Response. The regulation will be amended to provide that on-campus employment will not be considered as practical training. However, the requirement will be continued that off-campus work which is part of a work/study course be counted as a period or periods of practical training.

Based on our study of the proposed rules and in the light of the representations submitted, it has been determined that the proposed rules should be adopted with minor editorial and clarifying amendments, and with the following substantive amendments as described below:

1. The proposed formula for determining the period of time for which practical training may be granted to an alien graduate of a college, university or seminary engaging in a course of study of less than 12 months duration, has been changed to provide that such an individual may qualify for a period of training for an aggregate number of months not exceeding the length of that course of study, unless the district director and recommending school agree that the maximum 12 month period is warranted.

2. The proposed requirement that the practical training period is deemed to run immediately upon approval of the application or on the day after the student completes his course of study (whichever is later) has been changed and the adopted rule will provide that the initial authorized period of practical training shall be deemed to commence either on the date the student enters upon such employment, or 60 days after the student completes his course of study, whichever is earlier.

3. The proposed requirement that the application for the first period of practical training be accompanied by a letter from the prospective employer describing the employment has been deleted. However, the proposed rule will be amended to provide that an application to continue employment for practical training must contain the recommendation of the school in sufficient detail to enable the Service to determine whether the position is related to the applicant's major field of study.

4. The proposed regulations will be amended to provide that on-campus employment will not be considered as practical training but the requirement will be continued that off-campus work which is part of a work/study course will be counted as a period or periods of practical training.

In the light of the foregoing, the following amendments are hereby prescribed to Title 8 of Chapter I of the Code of Federal Regulations.

In § 214.2, paragraph (f)(6) is revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) *Students.* * * *

(6) *Employment.* A nonimmigrant student is not permitted to engage in off-campus employment in the United States, either for an employer or independently, unless his application to do so has first been approved by the Service. An application by a student for permission to accept or continue employment shall be filed on Form I–538. If a student requests permission to accept part-time employment because of economic necessity, he must establish that the necessity is due to unforeseen circumstances arising subsequent to entry, or subsequent to change to student classification; if his request is for permission to continue previously authorized part-time employment, his application may be adjudicated without regard to any short absence from the United States intervening since the original grant of permission. In either case, an authorized school official must certify that part-time employment will not interfere with the student's ability to carry successfully a full course of study. Permission to accept or continue employment because of economic necessity may be granted in increments of not more than 12 months each, and while school is in session such employment may not exceed 20 hours per week. If a student requests permission to accept or continue employment in order to obtain practical training, an authorized school official must certify that the employment is recommended for that purpose and will provide the student with practical training in his field of study and, upon information and belief, would not be available to the student in the country of his foreign residence. Permission to accept or continue temporary employment to obtain practical training may be granted in increments of not more than 6 months for a maximum of not more than 12 months in the aggregate. However, when the course of study was of less than 12 months' duration, the alien graduate of a college, university, or seminary as defined by subparagraph (1a) of this paragraph, may be granted permission to engage in employment for practical training for an aggregate number of months not exceeding the length of that course of study, unless the district director and the recommending school agree that the maximum 12 months is warranted. After completion of a course or courses of study at a school which devotes itself exclusively or primarily to vocational, business, or language instruction, an alien graduate of such school may be granted permission to engage in employment for practical training for a period or periods of time equal to 3 months for each 12 months during which such an alien carried a full course of study at such school in the United States. Permission to accept employment for practical training may not be granted if the training applied for cannot be completed within the maximum period of time for which the applicant is eligible. In such case, the alien graduate may apply for change to another nonimmigrant classification that would permit his accepting employment. If application is granted for permission to engage in employment to obtain practical training, the initial authorized period shall be deemed to commence either on the date the student enters upon such employment or 60 days after the student's completion of his course of study whichever is earlier. An application for permission to accept or continue employment to obtain practical training must be submitted prior to the expiration of an alien student's authorized stay and, in the case of an initial application, not more than 60 days before graduation or completion of a course or courses of study nor more than 30 days after graduation or completion of such study. Such application may be made earlier only if the alien is attending a college, university, or seminary which certified that practical training is required of all degree candidates in a specified professional field, and that the alien student is a candidate for a degree in that field. The application for the first period of practical training shall be submitted to the office of the Service having jurisdiction over the school recommending practical training. An application to continue employment for practical training must contain the recommendation of the school in sufficient detail to enable the Service to determine whether the position is related to the applicant's major field of study. It shall be submitted to the office of the Service having jurisdiction over the actual place of employment, and shall be supported by a letter from the applicant's employer stating the occupation in which the applicant is employed and describing the duties he is performing. A student enrolled in a college, university, or seminary having alternate work/study courses as a part of its regular prescribed curriculum may participate in such courses without obtaining a change of status and without filing an application for permission to accept employment; however, such periods of actual employment if off-campus shall be considered as periods of practical training. An applicant for practical training who has previously participated in an alternate work/study program must submit with his application a letter from his school stating the number of hours the applicant has participated in off-campus employment under the work/study program, a description of the applicant's duties while employed and the name and address of the employer. A student who has been granted permission to accept employment for practical training and who temporarily departs from the United States, may be readmitted for the remainder of the authorized period if he presents Form I–20 endorsed by his school to indicate the date to which such training was authorized by the district director. On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study, if related thereto. A student who is offered this kind of on-campus employment, or any other on-campus employment which will not displace a United States resident, does not require Service permission to be engaged in such employment. Permission which is granted to a student to engage in any employment shall not exceed the date of expiration of his authorized stay and is automatically suspended while a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place where the student is employed.

* * * * *

In § 214.3 the eighth sentence of paragraph (b) is amended to read as follows:

§ 214.3 Petitions for approval of schools.

* * * * *

(b) *Supporting documents.* * * * If the petitioner is a vocational, business, or language school, or American institution of research recognized as such by the Attorney General, it must submit evidence that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character. * * *

* * * * *

(Sec. 103, 66 Stat. 173; (8 U.S.C. 1103).)

Effective date: The regulations contained in this order become effective as of September 1, 1977, and will apply only to those students completing their courses on or after that date.

Dated: May 19, 1977.

CARL J. WACK, JR.,
Acting Commissioner of Immigration and Naturalization.

[FR Doc.77–14731 Filed 5–23–77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 420—STATE ENERGY CONSERVATION PLANS

Supplemental State Energy Conservation Plan Guidelines

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: With this notice of final rulemaking, the Federal Energy Administration (FEA) establishes the procedures and guidelines for a voluntary grant program for States to implement supplemental State energy conservation plans (supplemental plans). Under this program, FEA will promote the conservation of energy and the reduction of the rate of growth of energy demand by granting financial and technical assistance to a State for the implementation of specific State energy conservation programs contained in a supplemental plan. This notice of final rulemaking amends Part 420 by revising § 420.1; adding definitions to § 420.11; revising § 420.36; and establishing a new Subpart E, §§ 420.100 to 420.109. Subpart E prescribes guidelines for measures required to be included in, and guidelines for the development, modification and funding of, supplemental plans.

Comments on the proposed regulations were invited from interested persons by April 22, 1977, and 11 public hearings were held from April 19, 1977 through April 22, 1977. In response to the notice, 22 persons presented testimony and 17 written comments were received by FEA. These final guidelines contain revisions to the proposed guidelines which reflect FEA's consideration of the comments as well as other information available to FEA.

DATES: Effective date: May 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Vannoy, John Rivera and Craig Othmer, Office of State Financial Assistance, Office of Energy Conservation and Environment, Federal Energy Administration, Washington, D.C. 20461 (202–566–7566).

SUPPLEMENTARY INFORMATION:

1. Introduction.
2. Payment of Auditors to Perform Class A Energy Audits.
3. Definitions.
4. Disapproval of Original and Supplemental Plans.
5. Submission of Supplemental Plans.
6. Environmental Residuals.
7. Description of Program Measures.
8. Minimum Criteria for Required Program Measures.
9. Financial Assistance.
10. Model Supplemental Plan.

1. Introduction

On March 21, 1977, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking, 42 FR 16150 et seq., March 25, 1977, to amend Part 420, Chapter II of Title 10, Code of Federal Regulations, to prescribe guidelines for supplemental State energy conservation plans. This proposal was issued pursuant to Part B of Title IV (Part B), 42 U.S.C. 6326, of the Energy Conservation and Production Act (ECPA), Pub. L. 94–385, 90 Stat. 1158 et seq., which establishes a program for supplemental plans. Part B amends Part C of Title III of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6321–6326, which established a program for State energy conservation plans (original plans).

Comments were received by FEA on specific sections of the amendments and guidelines in the proposed rulemaking. Most comments dealt with specific items relating to the supplemental program. However, many comments were non-specific. They stressed the importance of the supplemental program and the role of the State in energy conservation and emphasized the need for timely technical assistance from FEA. Some reflected a general lack of understanding of the nature of the guidelines. To correct these misunderstandings, FEA has revised certain sections of the guidelines and provided explanations in this preamble. Six comments advocated the inclusion of specific measures in the National Energy Plan. These comments, while well-taken, are outside the scope of the guidelines and are not considered in today's rulemaking.

Several comments dealt with issues concerning the original program. One commenter would have FEA reconsider its position on the purchase of equipment, other than office equipment, with Federal grant funds. Another commented on an additional program measure relating to restrictions on the use of decorative or non-essential lighting. Still another would have FEA amend § 420.35 (a) and (d) to require that States, in promulgating mandatory lighting and thermal efficiency standards, adopt standards no less stringent than a revised edition of ASHRAE 90–75 that includes a new section 12. A fourth commenter would have FEA require an economic impact analysis for each original and supplemental plan. Because these comments do not deal with the proposed amendments to Part 420, they are not considered in today's rulemaking. However, these comments will be retained for consideration in any relevant future rulemaking.

Part B allows FEA to require one or more of the following:

(1) The formation of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee which has continuing authority to advise and assist a State and its political subdivisions with respect to matters relating to energy conservation in the State, including the carrying out of the State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures pertaining to required program measures;

(2) An adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures;

(3) Procedures whereby qualified officials designated by a State can periodically verify (by use of sampling or other techniques), at reasonable times and under reasonable conditions, the purchase, installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970, or section 451 of the Energy Conservation and Production Act; and

(4) Assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures.

One commenter requested FEA to make all four measures mandatory. Another expressed concern that to require all seven measures would place an undue burden on small States. FEA has considered these comments and has decided not to require, at this time, implementation of these four measures. A State may include one or more of the optional measures in its supplemental plan. FEA encourages inclusion of the measure which would develop a State energy conservation advisory council.

2. Payment of Auditors To Perform Class A Energy Audits

FEA received fourteen comments opposing a statement in the preamble to the proposed regulations prohibiting the use of federal financial assistance under this part to pay auditors to perform Class A energy audits. Most commenters felt that such a restriction would unnecessarily inhibit States from proposing cost effective energy audit program measures. Although § 420.106(c) provides that grant funds may not be used to pay an auditor to perform a Class A energy audit of a commercial building or industrial plant FEA expects that most States will charge fees to perform Class A energy audits of commercial buildings and industrial plants. Such fees may be used to compensate persons who perform Class A energy audits. This provision, moreover, does not prohibit a State from using grant funds to employ a person to develop one or more types of Class A energy audits or to plan or supervise the implementation of a program measure to carry out Class A energy audits. The restriction merely prohibits the use of grant funds to compensate an auditor for the performance of a Class A energy audit. Each State will still be required to provide Class B or Class C energy audits to all interested occupants of residential buildings.

3. Definitions

FEA received nine comments on the definition of energy audits. One commenter considered the definition so narrow as to inhibit State creativity and innovation. FEA will use the statutory definition as given in Part B of ECPA. FEA has published proposed Energy Audit procedures, 42 FR 20012, April 15, 1977, which contain provisions for information audits to be used in conjunction with this program. These proposed procedures require that specific energy and cost savings likely to be realized from specific measures be identified for the building occupant. One commenter expressed the view that the definition is too restrictive because it does not require analysis of operational activities such as lowering thermostats, cleaning exhaust filters, and lubricating motors and bearings. The proposed energy audit procedures for information audits do not require analysis of operational activities. However, any State may include analysis of changes in operational activities as an element of its information audits, and States are encouraged to do so. In the final Energy Audit procedures, FEA does not intend to require an analysis of operational activities because it may make the information energy audit process too complex, burdensome and time consuming, thereby limiting State initiatives.

One commenter requested clarification of the stipulation in the definition that only reasonable costs, as determined by FEA, be assessed for energy audits. Section 450.14 of the proposed rulemaking for energy audits proposes restricting reasonable costs of energy audits to seven percent of the total cost of all energy used in the building or industrial plant during the 12 months preceding the audit. Subject to FEA approval a State may establish procedures to permit information audit costs to exceed this limitation in those cases where the State finds that the buildings or industrial plants exhibit unique or unusually complex characteristics relating to energy use.

One commenter addressed the prohibition against making direct charges for energy audits to occupants of dwelling units and expressed concern that FEA would not approve State plans permitting residential energy audits to be conducted by utility companies because the cost of the audits would be passed on to the residential customer. Part B expressly prohibits the imposition of direct costs on occupants of dwelling units. Accordingly, no charge can be made for such services, and the utility company, if it chooses to participate, will have to provide such services without any additional charge.

FEA received nine comments concerning the definitions of energy conservation measures and renewable-resource energy measures. Both of these terms are used in § 420.104 in connection with minimum criteria for required supplemental program measures but are beyond the scope of this rulemaking. FEA is developing a proposed energy measures list which will be published by June 3, 1977, containing energy conservation measures and renewable-resource energy measures. Furthermore, the proposed energy audit procedures published in the Federal Register contain an informative discussion of FEA's interpretation of "energy conservation measure" and "renewable-resource energy measure" and also discuss the relationship between energy audits and energy measures.

Three comments dealt with the provision in the definitions restricting both types of energy measures to modifications of any building or industrial plant whose construction was completed prior to August 14, 1976. The commenters advocated substitution of a date determined in accordance with a State's needs. Another commenter suggested that FEA should not stress the 15 and 25 year payback periods for the two types of energy measures as they are unrealistic and economically infeasible. A third commenter suggested that the word "resources" be inserted after the word "energy" in each definition. These comments fail to take account of the fact that because both types of energy measures are defined in Part B and are therefore prescribed by the program's enabling legislation FEA cannot amend these definitions.

Three commenters requested clarification of the modifications which could be designated as renewable-resource energy measures for purposes of the supplemental program. Two other commenters suggested that FEA ensure the quality of energy measures by developing standards to protect the consumer. FEA will consider these comments prior to publication of a list of energy measures.

4. Sections 420.36 and 420.105 Disapproval of Original and Supplemental Plans

FEA received comments concerning provisions in §§ 420.36 and 420.105 whereby a State is afforded the opportunity to present its views prior to FEA disapproval of an original or supplemental plan. One commenter suggested that a time period should be specified for FEA review of State plans and that there should be a minimum time period of 15 working days during which the State would have the opportunity to amend and resubmit its plan for consideration by FEA. FEA intends to review submissions within 45 days. This period would enable FEA to return the plan to a State with suggested changes and provide a State the opportunity to amend its plan to conform to FEA recommendations. FEA believes the 45-day period is adequate for this plan review process. It also believes that adopting a minimum time period of 15 working days for State amendments and resubmittal is not conducive to timely approval of State plans. FEA anticipates substantial variations in the substance and magnitude of the changes which may be recommended. A period of 15 working days may either be too long or too short depending upon the specific facts and circumstances which are expected to be unique to each plan. For this reason, FEA has decided to exercise its discretion on how much time a State needs to revise its submissions.

One commenter would have § 420.136 (e) amended to specify whether deletion of unacceptable portions of a plan will also require a State to reduce its budget so that it will receive less than its initial allocation. FEA believes that this question cannot be adequately resolved in the rulemaking but should instead be handled on an individual basis by the appropriate Regional Administrator who can decide on the basis of specific facts the appropriate level of funding for eligible program measures.

One commenter requested clarification of the term "State action" as used in § 420.36(e)(1)(iii). For the purpose of that paragraph, State action refers to the request which a State may make for a review of its plan prior to disapproval in accordance with § 420.36(e)(2). FEA has extended from 15 to 20 days the period for final disapproval of a plan where a State does not request a review. This extension corresponds to extensions in the time in which a State can request a review and the time in which the Regional Administrator is required to issue a statement of approval or disapproval.

One commenter would amend § 420.36 (e)(2) to allow the State ten working days after receiving the notice of intent to disapprove the proposed plan in which to submit a request for review, including its views with supporting data and arguments. FEA has considered this comment and has modified the proposed language to provide ten instead of six working days.

Section 420.36(e)(3) requires that the panel named to review a State plan prior to disapproval shall be selected at the discretion of the Regional Administrator. Two commenters suggest that at least one member of the panel should be selected at the discretion of the Governor of the State whose plan is under review. FEA believes that this might create an adversary situation with respect to the review process and that selection of a third party by the Regional Administrator will provide a greater measure of objectivity. Another commenter requested clarification of § 420.36(e)(4) concerning the form of the review panel's recommendation to the Regional Administrator. FEA agrees with the comment that the recommendation should be in writing and has so modified the guidelines. A related comment suggested that the one day time period allotted the Regional Administrator to review a panel's recommendation and issue a written statement of approval or disapproval was inadequate. FEA agrees and has modified the proposed language to provide two days instead of one.

A final comment suggested that a State be allowed at least an additional final five working days following a Regional Administrator's disapproval of a plan within which to resubmit the plan. FEA believes that a State is already allowed sufficient time prior to any final disapproval in which to make necessary amendments to its plan. Therefore, the decision of the Regional Administrator subsequent to the review process outlined in § 420.36 will be binding.

5. Section 420.101(b) Submission of Supplemental Plans

FEA received thirteen comments concerning the advisability of shortening from three months to 45 days the time period specified in § 420.101 within which

a State must submit a proposed supplemental plan in order for it to be eligible for financial assistance. Three commenters considered some reduction appropriate. Ten opposed a reduction to 45 days. No State said it would not submit a plan if a reduction were made. FEA has decided that some reduction is necessary. Therefore § 420.101(b) requires a State to submit a proposed supplemental plan within 60 days in order to be eligible to receive financial assistance. While extensions may be granted in extreme cases, FEA does not anticipate granting any extension in excess of 15 days.

6. SECTION 420.102(f) ENVIRONMENTAL RESIDUALS

Proposed 420.102(f) provided that a supplemental plan shall include:

A detailed description of the increase or decrease in environmental residuals expected from the implementation of the supplemental plan, defined insofar as possible through the use of information to be provided by FEA, and an indication of how these environmental factors were considered in the selection of program measures.

One commenter questioned the need for environmental information with respect to either the public education or the intergovernmental coordination program measures required by the Act. FEA has reviewed these program measures and has determined that they are of a nature that funding of their implementation could not constitute a "major Federal action significantly affecting the quality of the human environment" and that such funding would not require review under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq. in the context of approving a particular State's supplementary plan. Section 420.102(f) has accordingly been modified not to require environmental information with respect to proposed public education and intergovernmental coordination program measures.

Another commenter requested clarification concerning information to be provided by FEA with respect to environmental residuals. In assisting the States to develop their proposals under the original program, FEA supplied certain information on the calculation of environmental residuals. It is primarily this information which FEA expects to be used insofar as it is applicable. As with the original program, States are expected to develop the required environmental data from other sources where the existing FEA materials do not apply, although FEA will attempt to provide further technical assistance on this matter if needed and as resources allow. While the nature of most program measures to be proposed in supplemental plans may not allow for precise quantification of their environmental residuals, FEA expects each State to describe, as far as practicable, the positive, as well as any negative, environmental impacts expected from the implementation of its supplemental plan. This information—and an indication of how it was considered by the State in the selection of proposed program measures—is necessary to enable FEA to make determinations consistent with NEPA.

7. SECTION 420.103 DESCRIPTION OF PROGRAM MEASURES

On the basis of the contents of plans received under the original State energy conservation program, FEA has determined that the detailed description of each program measure shall include a management plan that identifies the organizations and the strategies that will be used to implement the program measure. Therefore § 420.103(a)(1) has been clarified to ensure that the narrative statement detailing the nature of the program measure includes a management plan.

FEA received eleven comments regarding the description of estimated energy savings required in § 420.103(b)(1). Two commenters addressed the burden of estimating energy savings and expressed concern that the estimates could be unreliable or misleading in certain cases. Four comments were general in scope, advocating the need for uniformity and the desirability of State and Federal cooperation in making estimates. Four commenters singled out energy savings estimates for activities relating to public education and intergovernmental coordination as particularly unreliable. FEA agrees with this conclusion and has changed § 420.103(b)(1) to provide that, in the case of program measures relating to public education and intergovernmental coordination, an explanation of the manner in which program measures contribute to energy savings in the State may be substituted for an estimate of energy savings in Btu's.

FEA received one comment suggesting that metric joules, rather than Btu's, be used to estimate energy savings in § 240.103. There are roughly one thousand joules in each Btu (1 Btu=1.055×10³ joules). However, a change in § 420.103 would result in a combination of Btu's and joules in Part 420 since § 420.34 requires energy savings estimates in Btu's. Estimated saving expressed in Btu's may be calculated on a metric basis expressed in joules by the simple application of a conversion factor. FEA intends to consider a metric basis for data in subsequent rulemakings.

8. 420.104 MINIMUM CRITERIA FOR REQUIRED SUPPLEMENTAL PROGRAM MEASURES

FEA received many comments regarding minimum criteria for required supplemental program measures. Three commenters addressed the reasonableness of implementing the required program measures within six months. Two supported the six month deadline. One suggested allowing for an extension but did not identify the conditions or circumstances in which an extension would be appropriate. FEA has decided to adhere to a six month time frame without provision for extension. FEA considers six months to be more than sufficient to implement all of the required program measures in the supplemental plan and believes that provision for an extension would cause unnecessary delays in the administration of the program.

Several commenters emphasized the importance of public education and intergovernmental coordination in the development and implementation of State plans. FEA supports this position and expects that the two measures will play a very important role in the eventual success, in terms of energy savings, of both the original and supplemental programs.

FEA received fourteen comments addressing the minimum requirements for an energy audit program measure. Many comments were generally favorable. Some commenters indicated that it would be necessary for FEA to provide technical assistance to carry out the mandatory program measures. Other commenters noted the need to develop techniques to assure that persons receiving types B and C information audits put them to use and act upon the information obtained to conserve energy. Three comments were generally negative, indicating that either the requirements were confusing or unduly burdensome or that energy audits were an inappropriate activity for governmental bodies.

With respect to § 420.104(c)(2), several commenters urged that apartment buildings be classified as a separate category, while another commenter urged the separate classification of sewage treatment plants and cold storage facilities for quick-freeze processing. FEA has added apartment buildings as a separate category because such structures present unique energy conservation problems. FEA considers that sewage treatment plants are adequately covered under the industrial plant category and that cold storage facilities are already included in the warehouse and storage facility category. One commenter suggested eliminating the category for transportation terminals and the category for warehouses and storage facilities. FEA did not follow this suggestion because certain uses of such buildings may be energy intensive. For example, climate controlled or refrigerated storage facilities may consume significant quantities of energy which could be conserved. It would therefore be premature to eliminate these categories before FEA or a State can assess their importance as users of energy.

9. SECTION 420.106 FINANCIAL ASSISTANCE

FEA received five comments regarding the percentage distribution of available funds for 1977, 1978, and 1979. Four commenters agreed with the allocation formula, with one commenter recommending that the formula be reevaluated annually. Other commenters suggested changing the allocation formula. One suggested alternative would benefit States with a small population but large land mass and small per capita energy consumption. This alternative formula would make funds available on the basis of 25 percent for population, 25 percent for State energy consumption, 25 percent for population density, and 25 percent distributed equally.

A second alternative suggested a formula based on 25 percent for equal distribution, 55 percent for population, 10 percent for annual heating degree days, and 10 percent based on cost of living per State. A third suggested that the proposed distribution formula is unfair to the less populous States and recommended a distribution of 60 percent for population and 40 percent divided equally.

FEA has considered each of the comments and continues to believe that an allocation formula for available funds for 1977, 1978, and 1979 based on 75 percent for population and 25 percent divided equally is equitable. Therefore, the formula has not been amended in the final guidelines.

10. MODEL SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN

Three commenters addressed the suggested requirements for energy auditors contained in the model plan. This may reflect a misunderstanding because, under the published proposed Energy Audit procedures, the State prescribes the qualifications for auditors performing a Class A information audit. One commenter suggested substituting a requirement that energy auditors be plant operating engineers rather than architects or general engineers. Another recommended that the provision requiring four years experience in the design or operation of buildings was too broad and that four years experience in energy systems for buildings be required instead. The third commenter stated that the most effective energy audits are conducted by "salesmen" with minimal technical expertise. FEA notes that these provisions could be acceptable as State qualifications depending on the nature of the State's proposed energy audit program measure, but FEA sees no purpose that would be served by changing the requirements in the model plan.

The proposed regulation was reviewed in accordance with Executive Order 11821 and OMB Circular A-107 issued November 7, 1974, by Executive Order 11949 and has been determined not to be a major proposal requiring an evaluation of its inflationary impact.

(Part B of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 (42 U.S.C. 6326); also issued under Part C, Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871 (42 U.S.C. 6321); Federal Energy Administration Act of 1974, as amended, Pub. L. 93-275, 15 U.S.C. 761; Executive Order 11790, 39 FR 23185.)

In consideration of the foregoing, Part 420 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective May 24, 1977.

Issued in Washington, D.C., May 13, 1977.

ERIC FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 420.1 is revised to read as follows:

§ 420.1 Purpose and scope.

* * * * *

This part establishes the procedures and guidelines of FEA for the implementation of Part C, 42 U.S.C. 6321–6326, of Title III of the Energy Policy and Conservation Act, Pub. L. 94–163, 42 U.S.C. 6201 et seq., as amended by Part B of Title IV of the Energy Conservation and Production Act, Pub. L. 94–385, 42 U.S.C. 6801, which establish a program for State energy conservation plans and supplemental State energy conservation plans respectively.

2. Section 420.11 is amended to add, in appropriate alphabetical sequence, definitions of appliance, building, energy audit, energy conservation measure, industrial plant, original plan, renewable-resource energy measure, and supplemental plan.

§ 420.11 Definitions.

* * * * *

"Act" means the Energy Policy and Conservation Act, Pub. L. 94–163, 89 Stat. 871 42 U.S.C. 6201.

"Appliance" means any energy consuming article or device designed for household use, the primary purpose of which is labor saving or personal convenience and which, although connected to public utilities servicing a building, is not attached to the building in such a way that it would be considered part of the building or building system; for example, room air-conditioners, room heat pumps, room heaters, refrigerators, refrigerator-freezers, clothes washers and dyers, dishwashers, kitchen ranges and ovens, and television sets. Energy consuming articles or devices not classified as an appliance and considered part of a building or building system include but are not limited to: water heaters, central heat pumps, central air-conditioners, and central heating units.

* * * * *

"Building" means any structure which includes provisions for a heating or cooling system, or both, or for a hot water system.

* * * * *

"Energy audit" means a process defined in § 450.3 of this chapter and carried out in accordance with the rules of FEA prescribed in Part 450 of this chapter for energy audits.

"Energy measure" means an energy conservation measure or renewable-resource energy measure.

"Energy conservation measure" means a measure which modifies any building or industrial plant, the construction of which was completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by FEA by rule, to be likely to improve the efficiency of energy use and to reduce energy costs in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure, without regard to any tax benefit or Federal financial assistance applicable thereto, within the period of—

(a) The useful life of the modification involved, or

(b) 15 years after the purchase and installation of such measure, whichever is less.

Such term does not include the purchase or installation of any appliance; any conversion from one fuel or source of energy to another which FEA by rule determines is ineligible on the basis that such type is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels; or any measure, or type of measure, which does not have as its primary purpose an improvement in efficiency of energy use.

"ECPA" means the Energy Conservation and Production Act, Pub. L. 94–385, 90 Stat. 1125, 42 U.S.C. 6801.

* * * * *

"Industrial plant" means any fixed equipment or facility which is used in connection with, or as part of, any process system for industrial production or output and which was constructed prior to August 14, 1976.

* * * * *

"Original plan" means a State energy conservation plan under Subpart D of this part.

* * * * *

"Renewable-resource energy measure" means a measure which modifies any building or industrial plant, the construction of which was completed prior to August 14, 1976, if such measure has been determined by means of any energy audit or by FEA by rule to—

(a) Involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

(b) Be likely to reduce energy costs in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure without regard to any tax benefit or Federal financial assistance applicable thereto within the period of—

(1) The useful life of the modification involved, or

(2) Twenty-five years after the purchase and installation of such measure, whichever is less. Such term does not include the purchase or installation of any appliance.

"Supplemental plan" means a supplemental State energy conservation plan under Subpart E of this part.

3. Section 420.36 is revised to read as follows:

§ 420.36 Approval of State energy conservation plans and opportunity to present views before disapproval.

(a) FEA will review the proposed State energy conservation plan report, including the methodologies and data used to estimate energy savings. FEA

may waive all or part of a required program measure upon verification by the State that local economic, climatic, geographic, or other unique conditions and requirements would cause that measure or portion thereof to be inapplicable.

(b) On the basis of this review, FEA will determine the estimated energy savings which would result in 1980 from implementation of the State's proposed plan.

(c) FEA will compare the figure determined in paragraph (b) of this section with the State's tentative energy conservation goal for 1980, set pursuant to § 420.37. If the proposed State energy conservation plan report otherwise complies with applicable provisions of this part and if this figure is greater than, or equal to, such goal, FEA will approve the proposed State energy conservation plan. If this figure is less than the tentative energy conservation goal, FEA will return the plan report to the submitting State together with a statement of the assumptions and reasons upon which the determination referred to in paragraph (b) of this section was based.

(d) The State will have the opportunity to amend its State energy conservation plan report, including the proposed State energy conservation plan, and to resubmit it by a date specified by FEA for reconsideration under paragraphs (a) through (c) of this section.

(e)(1) In the event that the FEA Regional Administrator determines that any proposed State energy conservation plan resubmitted in accordance with paragraph (d) of this section, any proposal to develop a supplemental plan submitted in accordance with paragraph (c) of § 420.101, or any proposed supplemental plan resubmitted in accordance with paragraph (b) of § 420.105 fails to comply with applicable requirements, the Regional Administrator shall issue a notice of intent to disapprove the proposed plan to the Governor, by registered mail with return receipt requested, which notice shall include—

(i) A statement indicating those portions of the proposed plan which are unacceptable under the regulations;

(ii) A statement indicating the necessary amendments which would make the proposed plan acceptable under the regulations;

(iii) The date on which the proposed plan will be disapproved without State action, which shall in no event be later than twenty working days after receipt by the State of the notice; and

(iv) The time and place where a State may present its views.

(2) Any State which has received a notice of intent to disapprove under paragraph (e)(1) of this section and wishes to present its views may submit a request, including a statement of its views with supporting data and arguments, to the Regional Administrator to appoint and convene a review panel. Such request must be made by registered mail, return receipt requested, not later than ten working days after receipt of the notice of intent to disapprove the proposed plan.

(3) The review panel shall be appointed and convened by the Regional Administrator not later than six working days after receipt of the State request submitted under paragraph (e)(2) of this section. The review panel shall consist of one person representing the State Government, selected at the discretion of the Regional Administrator from outside the State whose plan is being considered; one person representing the Federal Government, selected at the discretion of the Regional Administrator from outside the Federal region where the review panel is convened; and a third person as determined by the Regional Administrator.

(4) The review panel shall consider the views presented by the State in a manner prescribed by the Regional Administrator and shall recommend, in writing, approval or disapproval of the proposed plan to the Regional Administrator within two working days from the date on which the review panel has been convened under paragraph (e)(3) of this section.

(5) The Regional Administrator shall consider the recommendations of the review panel and issue a written statement of approval or disapproval accompanied by supporting reasons for such action not later than two working days after receipt of the recommendation from the review panel under paragraph (c)(4) of this section.

4. Part 420 is amended by establishing Subpart E as follows:

Subpart E—Supplemental State Energy Conservation Plan Guidelines

Sec.

420.100 Purpose and scope.
420.101 Development and submission of supplemental plans.
420.102 Contents of supplemental plans.
420.103 Description of program measures in proposed supplemental plans.
420.104 Minimum criteria for required supplemental program measures.
420.105 Approval of supplemental plans and opportunity to present views before disapproval.
420.106 Financial assistance.
420.107 Technical assistance.
420.108 Amendment of supplemental plans.
420.109 Modification of supplemental plans.
Appendix A—Model supplemental State energy conservation plan.

AUTHORITY: Part B of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 (42 U.S.C. 6326); also issued under Part C, Title III, of the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871 (42 U.S.C. 6321); Federal Energy Administration Act of 1974, as amended, Pub. L. 93-275 (15 U.S.C. 761); E.O. 11790, 39 FR 23185.

Subpart E—Supplemental State Energy Conservation Plan Guidelines

§ 420.100 Purpose and scope.

(a) This subpart prescribes guidelines with respect to program measures required to be included in a supplemental State energy conservation plan and guidelines for the development, implementation, modification and funding of a supplemental plan.

(b) It is the purpose of this subpart to encourage and facilitate, through supplemental plans, energy conservation by the public and private sectors. FEA intends that the responsibility for the development and implementation of supplemental plans be lodged with the governments of the States. The diversity of conditions among the various States and regions of the Nation indicate that a wholly Federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities.

§ 420.101 Development and submission of supplemental plans.

(a) FEA will invite the Governor of each State to submit a proposed supplemental plan to the appropriate FEA Regional Administrator.

(b) In order for a State to be eligible to receive financial assistance pursuant to this subpart for the development, implementation, or modification of a supplemental plan, its Governor shall submit a proposed supplemental plan, which may take the form of an amendment to the original plan, to the appropriate FEA Regional Administrator within 60 days after the effective date of this subpart.

(c) An extension of time for submission of a proposed supplemental plan or a proposed amendment to the original plan for the incorporation of a supplemental plan may be granted to a State if FEA determines that participation by the State islikely to result in significant progress toward achieving the purposes of ECPA. In order to be eligible to receive an extension, the State must submit a written request for an extension with accompanying justification and presenting the views of the State, to the appropriate FEA Regional Administrator within 60 days after the effective date of this subpart.

§ 420.102 Contents of supplemental plans.

A supplemental plan shall include—

(a) A brief overview statement outlining the philosophy and approach taken by a State in the development and implementation of the supplemental plan;

(b) A detailed description, in accordance with § 420.103, of the manner in which a State will meet the minimum criteria for required program measures under § 420.104;

(c) A detailed description, in accordance with § 420.103, of any additional program measures the State is proposing for Federal funding;

(d) A detailed description, in accordance with § 420.103(c), of the estimated cost of implementation associated with each program measure included in the proposed supplemental plan;

(e) A detailed description of the estimated energy savings, in accordance with § 420.103(b), for each program measure; and

(f) Except for the program measures required by § 420.104 (a) and (b), a detailed description of the increase or decrease in environmental residuals expected from the implementation of the supplemental plan, defined insofar as possible through the use of information

provided by FEA, and an indication of how these environmental factors were considered in the selection of program measures.

§ 420.103 Description of program measures in proposed supplemental plans.

(a) The detailed descriptions required by paragraphs (b) and (c) of § 420.102 shall include—

(1) A narrative statement detailing the nature of the program measure including a management plan that defines how the program measure will be implemented; and

(2) A listing of milestones, by calendar quarter from the first complete quarter subsequent to submission of the supplemental plan through December 31, 1978 and by calendar year for 1979 and 1980, consisting of those specific activities scheduled to be initiated and those scheduled to be completed, in that quarter or year.

(b) The detailed description required by § 420.102(e) of the estimated energy savings of each program measure shall include—

(1) The estimated energy savings in Btu's expected as a result of the implementation of the program measures for calendar year 1980, calculated according to subparagraphs (2) and (3) of this paragraph, except that an explanation of the manner in which the program measure will contribute to energy savings in the State may be substituted for the requirement with respect to program measures to be implemented for public education and intergovernmental coordination;

(2) The sources of numerical data, any assumptions and the actual calculations used by the State to estimate the energy savings for calendar year 1980;

(3) Except for program measures to be implemented for public education and intergovernmental coordination, in the case of program measures for which FEA has not made available a methodology for estimating the energy savings, the methodology used to estimate the energy savings; and

(4) The manner in which the State will assess actual energy savings under the program measure.

(c) The detailed description required by § 420.102(d) of the estimated cost of implementation of each program measure shall include for each of calendar years 1977, 1978, 1979 and 1980 an estimate of annual costs to be incurred for implementation of each program measure.

§ 420.104 Minimum criteria for required supplemental program measures.

(a) Each proposed supplemental plan to be eligible for Federal assistance under this part shall include procedures for carrying out a continuing public education effort—

(1) To increase significantly public awareness of the energy and cost savings which are likely to result from the implementation, including implementation through group efforts, of energy measures and which meet the following minimum criteria—

(i) Be in place and ready for implementation within six months after grant award; and

(ii) Provide a public awareness program regarding energy audits with respect to buildings and industrial plants which at least includes a campaign publicizing the availability of energy audits in at least one urbanized area with a population greater than 50,000 or in the largest urbanized area within a State if the State does not have an urbanized area with a population of 50,000 or more. The campaign must make clear reference to the range of technical assistance available to the owner or occupant of the building or industrial plant and provide a point of contact with the organization administering the energy audits, including a telephone number;

(2) To increase significantly public awareness of information and other assistance, including information as to available technical assistance, which is or may be available with respect to the planning, financing, installing, and monitoring the effectiveness of measures likely to conserve, or to improve efficiency in the use of, energy, including energy measures, and which meet at least the following minimum criteria—

(i) Be in place and ready for implementation within six months after grant award; and

(ii) Contain the elements considered appropriate by a State.

(b) Each proposed supplemental plan to be eligible for Federal assistance under this subpart shall include procedures for ensuring that effective coordination exists among various local, State and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration and which procedures meet at least the following minimum criteria—

(1) Be in place and ready for implementation within six months after grant award; and

(2) Contain provisions for activities considered appropriate by a State such as coordinating local and State agencies to prevent duplication of energy conservation activities or conducting public hearings to ensure that individuals and groups concerned with program measures to be incorporated in an original plan or supplemental plan and all other energy conservation programs in the State, shall be afforded the opportunity to participate in their development, implementation, and modification.

(c) Each proposed supplemental plan to be eligible for Federal assistance under this subpart shall include procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants and which procedures meet at least the following minimum criteria—

(1) Be in place and ready for implementation throughout all political subdivisions of the State within six months after grant award;

(2) Provide and make available, to the extent feasible, Class A energy audits, as prescribed by FEA, in at least one political subdivision for the buildings or industrial plants in at least one of the following categories and as many Class C energy audits, as prescribed by FEA, as is practicable within the State in the remaining categories—

(i) Apartment buildings;
(ii) Educational institutions;
(iii) Hospitals;
(iv) Hotels and motels;
(v) Industrial plants;
(vi) Office buildings;
(vii) Restaurants;
(viii) Retail stores;
(ix) Transportation terminals; and
(x) Warehouses and storage facilities;

(3) Make available Class B or C audits to all individuals, as requested by such individuals, who are occupants of residential dwelling units in a State at no direct cost to those persons.

§ 420.105 Approval of supplemental plans and opportunity to present views before disapproval.

(a) The proposed supplemental plan including the methodologies and data pertaining to estimated energy savings, will be reviewed by the appropriate FEA Regional Administrator who will approve it if it complies with applicable provisions of this part. All or part of a required program measure may be waived by FEA upon verification by a State that local, economic, climatic, geographic or other unique conditions or requirements would cause that program measure or portion thereof to be inapplicable.

(b) If a proposed supplemental plan is determined by the Regional Administrator not to comply with the applicable provisions of this part, FEA will return the plan to the submitting State together with a statement of the reasons for FEA's determination of non-compliance. The State will have the opportunity to amend its proposed plan and to resubmit it by a specified date for reconsideration.

(c) No supplemental plan will be disapproved without notice and an opportunity to present views in accordance with § 420.36.

§ 420.106 Financial assistance.

(a) Subject to the appropriation of funds authorized for fiscal years 1977, 1978, and 1979, grant funds may be made available to assist the States in the development, implementation, and modification of approved supplemental State energy conservation plans in accordance with the following formula—

(1) 75 percent of available funds will be divided on the basis of the resident population of the participating States as of July 1, 1976, as reported by the Department of Commerce, Bureau of Census, in "Current Population Reports," Series P-25, number 642 for each of the United States and the District of Columbia; and as of July 1, 1973, as reported by the Department of Commerce, Bureau of Census, in "Current Population Reports," Series P-25, number 603, for

the territories and possessions of the United States; and

(2) 25 percent of available funds will be divided among the participating States equally.

(b) For each calendar year 1977, 1978 and 1979, FEA will review an approved supplemental plan and, if such plan otherwise complies with applicable provisions of this part, determine a budget for the development, implementation, or modification of the plan in an amount determined pursuant to paragraph (a) of this section. Upon receipt by FEA of a State's certification of its acceptance of the terms and conditions related to the grant award, financial assistance will be granted to that State in the amount of the final budget.

(c) Grant funds may not be used to pay auditors to perform Class A energy audits.

§ 420.107 Technical assistance.

At the request of the Governor of a State to the appropriate FEA Regional Administrator, and subject to the availability of personnel and funds, FEA will provide information and technical assistance in the development, implementation, and modification of supplemental plans.

§ 420.108 Amendment of supplemental plans.

A State may amend its supplemental plan upon determination by FEA that the amendment meets the requirements of this subpart, would be likely to result in significant progress toward achieving the purposes of the Act, and would not unduly hinder the administration of the program.

§ 420.109 Modification of supplemental plan reports.

In order for a State to be eligible to receive financial assistance pursuant to this subpart for available funds appropriated for fiscal years 1978 and 1979, its Governor shall submit any desired modification of its supplemental plan to the appropriate FEA Regional Administrator by a date specified, and in the manner prescribed, by FEA.

APPENDIX A—MODEL SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN

The following model outlines some illustrative provisions for a supplemental State energy conservation plan. It is not intended to have the force and effect of a rule, nor should it be used to construe or interpret any provisions contained in Part 420 of Chapter II of Title 10, Code of Federal Regulations or any other rule, regulation or policy of FEA. Other provisions may be equally acceptable.

A. A BRIEF OVERVIEW STATEMENT OUTLINING PHILOSOPHY AND APPROACH

The State proposes a supplemental State energy conservation plan to expand the scope of its original State energy conservation plan. The supplemental plan will allow a citizen to take maximum advantage of the technical expertise available from both the Federal and State governments. To provide this expertise, the State will, in addition to other activities, establish and conduct a public education program measure, an intergovernmental coordination program measure, and an energy audit program measure. A primary objective of the supplemental plan will be to provide each homeowner in the State with the opportunity to receive a Class B or Class C information energy audit.

B. NARRATIVE STATEMENTS DETAILING THE NATURE OF EACH PROGRAM MEASURE

1. *Public education program measure.* The public education program measure will consist of two primary efforts, one directed at promoting the energy audit program measure, the other designed to increase public awareness of the original State energy conservation plan.

a. The public education campaign promoting the energy audit program measure will commence six months after the grant is awarded. The promotion will consist of publication of a series of notices in a major newspaper in the largest urbanized area selected by the State for encouraging and carrying out energy audits of office buildings. Each public notice will cite the availability of technical information about energy audits and will provide a point of contact with the local organization administering the energy audits, including a local telephone number.

b. The public awareness campaign will also begin six months after the grant is awarded. The campaign will be designed and implemented for each of the five program measures contained in the original State energy conservation plan. The State will determine the most appropriate audience and approach for the campaign and will then proceed to develop and implement a full public awareness effort. A preliminary discussion of particular topics in the campaign follows—

(i) The audience for public awareness of lighting and thermal energy efficiency standards will be the owners and managers of commercial, industrial, and institutional buildings; architectural organizations; building code officials; building trade union members; and financial institutions. Some general material on energy-efficient building codes will also be prepared. In addition, material will be developed on conserving energy associated with lighting.

In particular, building managers and maintenance personnel will be advised of the State's new lighting standards for public buildings and the new thermal standards for new and existing buildings. They will be informed of how much money and energy they should be able to save by applying these standards and will receive technical advice on how to implement the measures. In addition, they will receive information relating to the financing of these measures. Building managers will be given materials and advice on how to inform affected employees of the new standards. It is intended that building managers will be responsible for informing employees of the importance of the new standards.

(ii) In conjunction with the various organizations sponsoring the carpool, vanpool or public transportation activities, the State will engage in a publicity campaign to advertise the new programs to the work force in six cities with populations over 30,000. The State will also provide computer reference lists for the carpool and vanpool program to the extent that such lists have not already been made available.

In particular, the energy office in cooperation with the State Department of Transportation and, where applicable, the mass transit commissions, will launch a publicity campaign to advertise new carpooling, vanpooling, and mass transit programs for the work force. Pamphlets will be prepared for public distribution detailing the energy and cost savings from participation in ride-sharing programs and the availability of computer matching and various ride-sharing programs. New programs will be advertised by public service announcements in the local media.

(iii) To encourage the private sector to adopt energy-efficient procurement practices, the State will publicize its policies with respect to the purchase of energy-efficient goods. In particular, the State will develop and make widely available materials on life-cycle costing which will explain the advantages that the general public can derive from this method. An information campaign will be developed to publicize the availability of these materials. In addition, there will be a series of seminars for private purchasing agents in companies with large purchasing requirements for energy consuming materials and equipment.

(iv) The public awareness effort associated with the right-turn-on-red program measure will be limited to the preparation of a pamphlet explaining the meaning of the new State law, and mentioning both the safety aspects and the intended energy conservation benefits. The pamphlet will be distributed to drivers when they receive or renew their licenses. In addition, a press release will be sent to all newspapers, radio, and television stations describing the energy and cost savings available to drivers who take advantage of the new law.

2. *Intergovernmental coordination program measure.* The intergovernmental coordination program measure involves the formation of an energy coordination committee whose function is to insure effective coordination between various local, State and Federal Energy Conservation Programs. The Energy Coordination Committee will be established and operating six months after the grant is awarded. To insure that the broadest possible range of views is represented, the committee will be appointed by the Governor. Its membership will include the State Energy Office Director, State Directors of the Associations of Cities and Counties, Energy Coordinators of cities over 50,000 population and State Agency Energy Coordinators from State Departments of Housing, Planning, Transportation, Education, Agriculture, Community Affairs, Utilities and Commerce. The State coordination committee will appoint subcommittees to conduct studies and present recommendations in the following areas: Buildings, transportation, education, agriculture, and legislation. These subcommittees will prepare recommendations for consideration by the full committee. The coordination committee will prepare for the Governor an annual report outlining the course of action that a State should follow in developing an energy conservation program. The Governor will appoint a staff director to coordinate the activities of the full committee and its subcommittees. The implementation schedule of energy programs determined by the Governor to have a major impact on the State will be reviewed and commented on by the coordination committee prior to their implementation. Public hearings will be held throughout the State prior to the implementation of energy conservation programs determined by the Governor to have a major impact on the State.

3. *Energy audit program measure.* The energy audit program measure will consist of a program to encourage and perform Class A energy audits of office buildings in the State's largest political subdivision. Class C energy audits of all other office buildings, all other categories of buildings and industrial plants as specified in the guidelines, and all residential buildings will be provided throughout the State. Special attention will be given to residential Class C energy audits and the program measure will encourage homeowners to

carry out Class C energy audits. It will also provide Class C energy audits free of charge to individuals requesting them. The program will be in place and ready for implementation throughout all political subdivisions of the State six months after receipt of Federal financial assistance.

a. Procedures for Class A energy audits will be developed and implemented for office buildings in the State's largest political subdivision. The State will develop rules to ensure that Class A energy audits are performed in accordance with FEA guidelines. These rules will include a cost scale designed to keep charges for Class A energy audits reasonable. The following is a brief discussion of certain procedures relating to Class A energy audits—

(i) Persons performing Class A energy audits must be State-licensed professional engineers or architects or must have an engineering or architectural degree from an accredited college or university and four years subsequent experience in the design and/or operation of buildings. The State will develop and implement a rule requiring an auditor to make certain financial disclosures to the person requesting an energy audit. The State will offer three day training sessions for prospective energy auditors. Auditors will be provided with a form to be completed and returned to the State on which they will report the number of energy audits performed.

(ii) A workbook containing findings based on State heating and cooling degree days, fuel costs and the cost of implementation of particular measures will be provided to an auditor with instructions for calculating energy and cost savings for energy conservation and renewable-resource energy measures. The workbook will be provided along with the auditor's general recommendations concerning energy conservation measures for the building envelope which includes, but is not limited to, windows and doors, weatherstripping and caulking, and wall, ceiling and floor insulation; renewable-resource energy measures; and energy conservation measures for a building's heating, ventilating and air conditioning systems; water heating systems; and lighting and electrical systems.

(b) Class C energy audits will be developed by the State in accordance with FEA guidelines for educational institutions, hospitals, hotels and motels, industrial plants, office buildings, restaurants, retail stores, transportation terminals, warehouse and storage facilities, and residential buildings.

(i) Class C energy audits will be provided at reasonable costs for owners, managers, operators and occupants of industrial plants and all buildings except residential buildings. These audits will consist of workbooks showing how to calculate the energy and cost savings to be realized from several energy conservation measures and supplemented by an addendum describing a procedure whereby the local heating and cooling degree days and local fuel costs can be incorporated into the calculations.

(ii) Class C energy audits will be provided at no direct cost to individuals who are occupants or owners of residential dwellings within the State. The owner or occupant of residential buildings will be given a questionnaire and workbook which contains instructions for calculating the energy and cost savings adjusted for local heating and cooling degree days and local fuel costs for energy conservation measures for the building envelope.

C. A LISTING OF MILESTONES FOR EACH PROGRAM MEASURE

1 Upon receipt of Federal financial assistance, the State will implement a public education program measure consisting of a public education campaign to promote energy audits and an awareness campaign to direct the public's attention to the original State energy conservation plan in accordance with the following schedule of milestones—

a. Milestones for a public education campaign to promote energy audits for each quarter for the first year of financial assistance and for each year for next two years of financial assistance—

(1) First quarter, first year:

(a) Identify the local organization conducting the energy audits;

(b) Identify and locate available technical assistance pertaining to energy audits;

(2) Second quarter, first year:

(a) Select target newspaper;

(b) Write and distribute public notices;

(3) Third quarter:

(a) Publish first series of public notices on a biweekly schedule beginning first day of third quarter so that the campaign is implemented within six months after the grant is awarded;

(4) Fourth quarter, first year:

(a) Evaluate effectiveness of notices and revise as necessary;

(b) Publish second series of public notices;

(5) Second year:

(a) Evaluate and restructure public campaign and continue to publish notices;

(b) Revise and update references to technical assistance available for energy audits;

(6) Third year:

(a) Evaluate effectiveness of notices by determining the degree of participation in the audit program publicized by the notices;

(b) Terminate audit program as appropriate or locate additional source of funds.

b. Milestones for an awareness campaign to direct the public's attention to the original State energy conservation plan for each quarter for the first year of financial assistance and for each year for the next two years of financial assistance—

(1) First quarter, first year:

(a) Select audience for each program measure in the original State agency conservation plan;

(b) Identify strategies for each program measure appropriate to each audience;

(c) Identify organizations to implement the campaign as it pertains to each program measure;

(2) Second quarter, first year:

(a) Develop materials in coordination with appropriate organizations;

(b) Establish campaign schedule:

(3) Third quarter, first year:

(a) Initiate public awareness campaign on first day of third quarter;

(b) Print and distribute materials in accordance with applicable strategies;

(4) Fourth quarter, first year:

(a) Reprint materials as necessary;

(b) Conduct initial evaluation and revise campaign as necessary;

(5) Second year:

(a) Evaluate effectiveness of materials and current strategies;

(b) Revise and update campaign as necessary;

(c) Conduct campaign in accordance with the needs of each program measure;

(6) Third year:

(a) Conduct comprehensive evaluation of public education campaign;

(b) Continue or terminate campaign depending on results of the evaluation.

2. Upon receipt of Federal financial assistance, the State will implement an intergovernmental coordination program measure according to the following schedule of milestones for each quarter for the first year of financial assistance and for each year for the next two years of financial assistance—

a. First quarter, first year:

(1) Appoint staff director;

(2) Compile a list of eligible members;

b. Second quarter, first year:

(1) Appoint members to State Energy Coordination Committee;

(2) Convene initial meeting of committee and select chairman;

c. Third quarter, first year:

(1) Appoint members to subcommittees;

(2) Convene meeting of each subcommittee to select chairmen and develop agenda;

(3) Convene meeting of full committee;

d. Fourth quarter, first year:

(1) Convene meeting of each subcommittee;

(2) Prepare reports and recommendations on State Conservation Program for submission to full committee;

(3) Convene meeting of full committee;

(4) Conduct 5 public hearings in State to receive suggestions for 1978 State energy conservation plan;

e. Second year:

(1) Convene 4 meetings of full committee;

(2) Convene bi-monthly meetings of subcommittees.

(3) Prepare annual report for Governor;

(4) Publish draft annual report and conduct 5 hearings in State to revise report;

(5) Publish final annual report and submit recommendation to Governor;

(6) Conduct study on impacts of State energy conservation plan.

f. Second and third year:

(1) Convene 4 meetings of full committee;

(2) Convene bi-monthly meetings of subcommittees;

(3) Prepare annual report for Governor;

(4) Publish draft annual report and conduct 5 hearings in State to revise report;

(5) Publish final annual report and submit recommendations to Governor;

(6) Conduct study on impact of State energy conservation plan;

(7) Conduct comprehensive evaluation of governmental coordination program measure.

(8) Continue or terminate activities depending on results of the evaluation.

3. Upon receipt of Federal financial assistance, the State will implement an energy audit program measure according to the following schedule of milestones for each quarter for the first year of financial assistance and for each year for the next two years of financial assistance—

a. First quarter, first year:

(1) Survey office buildings in political subdivision where program will be implemented;

(2) Begin developing audit procedures;

(3) Begin developing workbook for calculating energy and cost savings based on local data;

(4) Begin developing training materials for Class A energy auditors.

b. Second quarter, first year:

(1) Complete audit procedures;

(2) Complete workbook for calculating energy and cost savings based on local data;

(3) Complete development of training materials for Class A energy auditors;

(4) Distribute program description audit procedures for Class A energy audits and workbooks to utilities, licensed engineers and architects;

(5) Establish target number of energy audits to be conducted during first year;

(6) Establish monitoring system;

(7) Hold four training sessions on voluntary basis for prospective Class A energy auditors.

c. Third quarter, first year:

(1) Conduct Class A and C audits;

(2) Hold four training sessions for auditors.

d. Fourth quarter, first year:

(1) Conduct Class A and C audits;

(2) Hold two training sessions for auditors.

e. Second year:

(1) Evaluate and modify energy audit program measure as necessary;

(2) Establish target number of energy audits to be conducted during second year;

(3) Conduct Class A and C audits;

(4) Hold six training sessions for auditors.

f. Third year:

(1) Establish target number of energy audits to be conducted during third year;

(2) Conduct Class A and C audits;

(3) Training sessions for auditors;

(4) Evaluate and modify or terminate the energy audit program measure as necessary.

[FR Doc.77-14639 Filed 5-23-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Docket No. 27769; Reg. ER-999, Amdt. 2]

PART 221a—FARE SUMMARIES

Postponement of Effective Date

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This is an amendment of the new fare summaries rule to postpone the effective date from June 1, 1977, until July 1, 1977. This action results from a motion filed by Delta Air Lines and earlier granted by the Board.

DATES:

Adopted: May 18, 1977.

Effective: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Ellenberg, Rules Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

SUPPLEMENTARY INFORMATION: By motion filed April 29, 1977, Delta Air Lines (Delta) requested a one month postponement in the effective date of the new fare summaries rule,[1] which requires certificated air carriers to make available to the public simplified summaries of their various fares at all ticket-selling locations.

On May 4, 1977, the Board granted Delta's motion, by Order 77-5-15. The Board is now amending the fare summaries rule to implement Order 77-5-15, by formally changing the effective date of Part 221a from June 1, 1977, to July 1, 1977.

Since this amendment is of a technical nature, and merely implements a previously announced action, it is found that further notice and public procedure are unnecessary and that the amendment may become effective immediately.

[1] ER-979, adopted December 2, 1976, 41 FR 55865, December 23, 1976.

Accordingly, the Civil Aeronautics Board hereby amends Part 221a of its Economic Regulations (14 CFR Part 221a) so that the effective date is July 1, 1977.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14704 Filed 5-20-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

PART 191—THE DEPARTMENT OF DEFENSE EQUAL OPPORTUNITY PROGRAM

Reissuance of the Department of Defense Equal Opportunity Program

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule outlines the Department of Defense Equal Opportunity Program, expanding on the previous issuance and assigning additional responsibilities to meet equal employment opportunity goals (35 FR 1976).

EFFECTIVE DATE: June 3, 1976.

FOR FURTHER INFORMATION CONTACT:

Mr. Ben Isom, Director for Equal Employment Opportunity (Civilian), Office of the Assistant Secretary of Defense (MRA&L), 202-695-0105.

Accordingly, 32 CFR Part 191 is amended as follows:

Sec.

191.1 Purpose.
191.2 Applicability and scope.
191.3 Definition of terms.
191.4 Policy.
191.5 Responsibility.
191.6 Reporting requirements.

AUTHORITY: Sec. 301, 80 Stat. 379; 5 U.S.C. 301, 10 U.S.C. 133.

§ 191.1 Purpose.

This part (a) outlines the Department of Defense Equal Opportunity Program; (b) expands and updates the Civilian Equal Employment Opportunity policies which implements Executive Order 11246 and Civil Service Commission Federal Personnel Manual Chapter 713; (c) assigns additional responsibilities to comply with Pub. L. 92-261, Equal Employment Opportunity Act of 1972, and (d) assigns responsibility for assuring DoD-wide compliance with equal employment opportunity goals.

§ 191.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Defense Agencies, and the Unified Commands (referred to collectively as "DoD Components").

(b) This part applies to military personnel, civilian emloyees, nonappropriated fund employees, applicants for DoD employment and personnel of firms under contract to or seeking contracts with the Department of Defense (DoD Directive 1100.11).[1]

(c) This part does not apply the provisions of either the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 630-634) or Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-2000e-17) to military personnel.

§ 191.3 Definition of terms.

For the purposes of this part, "Equal Opportunity" means equal consideration and treatment based upon merit, fitness, and capability. "Department of Defense Equal Opportunity Program (DoD-EOP)" means the DoD wide program of equal opportunity that is accomplished through the military equal opportunity and civilian equal opportunity efforts by DoD Components.

"Military Equal Opportunity Program" means efforts by each uniformed member is assured an equal opportunity in the pursuit of the military profession.

"Civilian Equal Opportunity Program" means activities to promote Equal Employment Opportunity for DoD civilian employees, as well as those employed by applicable Federal contractors.

"Affirmative Action Plans" means comprehensive public documents which require qualified good faith goals and timetables of all DoD Components in order to achieve equal opportunity for DoD personnel.

§ 191.4 Policy.

It is the policy of the Department of Defense to:

(a) Actively oppose arbitrary discrimination based on race, color, religion, sex, or national origin.

(b) Require DoD Components to enforce the equal opportunity provisions of this Part in the development of their operating policies and programs.

(c) Require each Department of Defense contractor to comply with the policy of equal employment opportunity in accordance with parts 2-4 of Executive Order 11246, as amended by Executive Order 11375, DoD Directive 1100.11 (§ 191.2(b)) and the Armed Services Procurement Regulation.

(d) Ensure that all on-base activities, and any off-base activities made available to any Department of Defense personnel and their dependents are open, as appropriate, to any DoD personnel or their dependents regardless of race, color, religion, sex, age, or national origin.

[1] Filed as part of original. Single copies may be obtained, if needed, from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120 Attention: Code 300.

(1) Any organization or activity which does not meet this requirement shall be denied the use of military facilities and resources in accordance with 32 FR 237. This policy applies equally to those organization with any arbitrarily discriminate by the nature of their organizational constitutions, bylaws, rules, and regulations as well as to those which in the judgement of the cognizant commanders are engaged in de facto discrimination irrespective of the content of their organizational constitutions, bylaws, rules and regulations.

(2) Organizations which use on-base facilities must satisfy the commander concerned that they do not discriminate against DoD personnel through their actual membership practices or in any of their activities.

(e) Oppose discrimination in off-base housing, directed against all Department of Defense personnel or their dependents. Each commander shall take the initiative to overcome such discrimination and to impose appropriate sanctions in housing cases as required by DoD Instruction 1100.16.

(f) Impose the off-limits sanction in accordance with the Armed Forces Disciplinary Control Board procedures in cases of discrimination involving places of public accommodation outside military installations.

(g) Use the chain of command to promote, support and enforce the DoD Equal Opportunity Program. The chain of command is the primary channel to correct discriminatory practices and for communication of race relations and equal opportunity matters.

§ 191.5 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower and Reserve Affairs) (ASD(M&RA)) shall:

(1) Represent the Secretary of Defense in equal opportunity as it impacts on all DoD activities, policies, and programs in accordance with DoD Directive 5120.27[1]

(2) Give direction to DoD-wide programs to ensure equal opportunity for uniformed members and civilian employees, including issuance and implementation of written instructions as necessary.

(3) Use the established Office of the Deputy Assistant Secretary of Defense (Equal Opportunity) to discharge the equal opportunity responsibilities.

(4) Ensure that DoD Components fulfill the requirements of this Part.

(5) Provide policy direction in accordance with DoD Directive 1322.11 to the Defense Race Relations Institute, and serve as Chairman of the Race Relations Education Board.

(6) Establish and monitor, as appropriate, specific goals to be included in the Affirmative Action Plan(s) of each DoD Component.

(7) Provide policy direction and guidance to the Defense Contract Compliance Program in accordance with the provisions of DoD Directive 1100.11.[1]

(8) Review and take action on, as appropriate, investigations by the Military Departments and Defense Components of Equal Opportunity or discrimination complaints received by the DoD.

(b) The head of each DoD Component shall be responsible for equal opportunity within his or her respective jurisdiction and shall:

(1) Assure that all equal opportunity policies and programs are understood and executed at all levels of organization.

(2) Establish means to identify Military Equal Opportunity and Civilian Equal Employment Opportunity problems.

(3) Formulate, maintain, and carry out Affirmative Action Plans which establish quantified good faith goals, timetables, and accountability in personnel management.

(4) Submit their Affirmative Action Plan(s) covering the Military Equal Opportunity Programs and Civilian Equal Employment Opportunity Programs to the Assistant Secretary of Defense (Manpower and Reserve Affairs) for review and approval.

(5) Develop management information, personnel accounting and reporting systems, and devise measurements to determine progress for each quantified Affirmative Action Plan goal.

(6) Forward to the ASD(M&RA) and annual report outlining the progress being made in achieving the established Equal Opportunity goals of Affirmative Action Plan(s).

(7) Consider demonstrated compliance with equal opportunity objectives, including efforts in achieving the goals of the Affirmative Action Plans, as an important criterion in evaluation for promotion of military and civilian personnel at the supervisory and management levels.

(8) Take appropriate disciplinary action against any official, who has committed an act of arbitrary discrimination based on race, color, religion, sex, age or national origin. See DoD Directive 1100.-11 for regulations concerning noncompliance by business firms.

(9) Provide information and data to ASD(M&RA) as required for program development purposes.

(10) Amend regulations or practices to eliminate arbitrary discrimination based upon race, religion, color, sex, age, or national origin that impede equal opportunity for all military personnel and civilian employees. This requirement does not apply to those service regulations which implement statutes requiring differing treatment of military personnel based on age or sex.

(11) Implement a continuing educational program for General Flag Officers, commanders and key staff personnel, as appropriate, and designated civilian managers which will assist them in managing Military Equal Opportunity and/or Civilian Equal Employment Opportunity Program within their respective Military Departments.

(12) Ensure that all military personnel receive race/human relations education in compliance with DoD Directive 1322.11.[1] Civilian personnel shall receive race/human relations education based on specific needs as determined by the Heads of DoD Components.

(13) Establish sufficient full-time staff positions and devote sufficient resources to adequately carry out all equal opportunity programs.

(14) Ensure that Military Equal Opportunity and discrimination investigations are coordinated with appropriate Equal Opportunity/Race Relations or comparable officers.

(15) Ensure that Civilian Equal Employment Opportunity investigations are to be conducted in concert with the procedures prescribed by the Civil Service Commission in accordance with the provisions of the Civil Service Commission Federal Personnel Manual, Chapter 713.

§ 191.6 Reporting requirements.

(a) The first report was due September 30, 1976 and is due on that date.

(b) Interagency Report Control Number 1046-CSC-SA has been assigned this report requirement.[2]

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MAY 16, 1977.

[FR Doc.77-14667 Filed 5-23-77;8:45 am]

CHAPTER V—DEPARTMENT OF THE ARMY

PART 518—RELEASE OF INFORMATION AND RECORDS FROM ARMY FILES AND PUBLICATION OF RULES AFFECTING THE PUBLIC

Subpart B—Publication of Rules Affecting the Public

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This regulation defines Army procedures and responsibilities relating to public participation in the Department of the Army rulemaking affecting the public. The Secretary of Defense voluntarily agreed to public participation in Defense-wide decision-making in December 1974 and the Army implemented the Department of Defense directive in May 1975. The Army regulation is published in the FEDERAL REGISTER so the public will be aware of the Army procedural regulation on rulemaking.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Miss Marian Spittle (202-693-0631).

SUPPLEMENTARY INFORMATION: On March 24, 1977, the Department of the Army published for public comment (42 FR 15924) proposed regulations to amend 32 CFR Part 518 by adding a new subpart relating to publication of rules affecting the public. The proposal provided for the filing of comments by April 25, 1977. No comments have been received; however, § 518.58 has been amended by inserting the words "The Administrative Procedures Act, as

[2] 1046-CSC-SA (Note: Defense Department makes report annually, SA (semi-annual) frequency does not apply.)

amended by the" before "the Freedom of Information Act" as suggested by an Army staff agency. Accordingly, the amendment is hereby established as set forth below:

Dated: May 18, 1977.

By authority of the Secretary of the Army:

ROME D. SMYTH,
Colonel U.S. Army,
Director, Administrative Management.

32 CFR Part 518 is proposed to be amended as follows:

1. Present §§ 518.1—518.50 are designated Subpart A, and the table of contents is revised as follows:

Subpart A—Release of Information and Records From Army Files

GENERAL

Sec.
518.1 Purpose.
518.2 Explanation of term "records".

PROCEDURES

Sec.
518.3 General policies.
518.4 Scope.
518.5 Requests for Army records.
518.6 Examination and reproduction of records.
518.7 Use of expeditious communications.
518.8 Responsibilities of officials receiving initial requests.
518.9 Initial denial authorities (IDA).
518.10 Responsibilities of IDA.
518.11 Release of records to specified members of the public.
518.12 Release to Congress.
518.13 Litigation, tort claims and contract disputes.
518.14 Exemptions.
518.15 Annual reporting requirements.
518.16 Information published in the FEDERAL REGISTER or made available for public inspection and copying.
518.17 Officials to whom requests for information may be directed.
518.18 Preservation of personal privacy of members of Army.
518.19 Schedule of fees for search and duplication under The Freedom of Information Act Amendments, Pub. L. 93–502.
518.20–518.50 [Reserved]

Subpart B—Publication of Rules Affecting the Public

GENERAL

518.51 Purpose.
518.52 Explanation of terms.
518.53 Responsibilities.
518.54 Designation of rulemaking coordinators.
518.55 Statement of compliance.
518.56 Submission of publications for printing.
518.57 Incorporation by reference.

INFORMATION TO BE PUBLISHED IN THE FEDERAL REGISTER

518.58 General.
518.59 Information to be published.
518.60 Exceptions.
518.61 Procedures.
518.62 Effect of not publishing.

INVITING PUBLIC COMMENT AND SUBMISSION OF PETITIONS

518.63 General.
518.64 Applicability.
518.65 Procedure when proposing rules.
518.66 Consideration of public comment.
518.67 Procedure when publishing adopted rules.
518.68 Submission of petitions.
518.69 Cases in which public comment is impractical.

AUTHORITY: Sec. 3012, 70A Stat. 157 (10 U.S.C. 3012); sec. 3, 60 Stat. 238 (5 U.S.C. 552), unless otherwise noted.

2. A new Subpart B is added as follows:

Subpart B—Publication of Rules Affecting the Public

GENERAL

§ 518.51 Purpose.

This regulation prescribes procedures and responsibilities for publishing certain Department of the Army policies, practices and procedures in the FEDERAL REGISTER as required by statute, and for inviting public comment thereon, as appropriate. This regulation implements a portion of the Freedom of Information Act, 5 U.S.C. 552(a)(1), and DoD Directive 5400.9, December 23, 1974 (32 CFR Part 296, 40 FR 4911).

§ 518.52 Explanation of terms.

(a) *Rule.* The whole or a part of any Department of the Army Statement (regulation, circular, directive, or other media) of general or particular applicability and future effect, which is designed to implement, interpret, or prescribe law or policy or which describes the organization, procedure, or practice of the Army. See 5 U.S.C. 551(4).

(b) *Federal Register.* A document published daily, Monday through Friday (except holidays), by the Office of the Federal Register, National Archives and Records Service, General Service Administration (GSA) to inform the public about the regulations of the executive branch and independent administrative agencies of the U.S. Government. The FEDERAL REGISTER includes Presidential proclamations, Executive orders, Federal agency documents having general applicability and legal effect or affecting the public, and documents required to be published by Act of Congress.

(c) *Code of Federal Regulations.* A document published by GSA which contains a codification of the general and permanent rules published in the FEDERAL REGISTER by the executive departments and executive agencies of the Federal Government. It consists of 120 volumes, divided into 50 titles. Each title represents a broad area that is subject to Federal regulation. Army documents are published in Title 32, National Defense, and in Title 33, Navigation and Navigable Waters. (The FEDERAL REGISTER and the Code of Federal Regulations must be used together to determine the latest version of any given rule.)

§ 518.53 Responsibilities.

(a) The Adjutant General (TAG) is responsible for policies concerning Army announcements, rules, and proposed rules published in the FEDERAL REGISTER, and for ensuring Army compliance with this regulation. TAG will assist the officials listed in Table 1 in the performance of their responsibilities. TAG will represent the Army in submitting to the Office of the Federal Register any matter published in accordance with this regulation.

(b) The officials listed in Table 1 (hereinafter referred to as proponents) are responsible for determining whether any rule originated in their areas of jurisdiction falls within the purview of § 518.64, and for taking all actions specified in §§ 518.65 through 518.69. They are also responsible for determining which matters within their areas of jurisdiction must be published in accordance with § 518.59 and for submission actions specified in § 518.61.

(c) Legal officers and staff judge advocates supporting the proponents will provide legal advice and assistance in connection with proponent responsibilities contained herein.

TABLE 1.—*Rulemaking proponents*

Official	*Area of jurisdiction*
Administrative Assistant to the Secretary of the Army.	Office of the Secretary of the Army.
Director of the Army staff.	Elements, Office of the Chief of Staff, U.S. Army.
Head of each Army staff agency.	Headquarters of the agency and its field operating and staff support agencies.
Commander, MACOM.	Headquarters of MACOM and all subordinate installations, activities and units.
The Adjutant General.	All other Army elements.

§ 518.54 Designation of Rulemaking Coordinators.

The officials listed in Table 1 will designate Rulemaking Coordinators to perform the duties listed in paragraphs (a) through (d) of this section for their areas of functional responsibility. At the time of designation. The Adjutant General (DAAG–AMR–R) will be informed of the name and telephone number of the designated individual. The designee will perform the following duties:

(a) Editorial review of all rules, notices, and highlight statements required to be published in the FEDERAL REGISTER.

(b) Transmitting material to TAG and providing TAG with the name, office symbol, and telephone number of the action officer for each rule or general notice for inclusion in the FEDERAL REGISTER.

(c) Coordinating with Publication Control Officers to ensure submission of Statements of Compliance required by § 518.55.

(d) Notifying HQDA (DAAG–AMR–R), WASH DC 20314, when a regulation published in the FEDERAL REGISTER becomes obsolete or is superseded by another regulation.

§ 518.55 Statement of compliance.

In order to ensure compliance with the regulation, no rule will be issued unless there is on file with The Adjutant General (DAAG–AMR–R) a statement to the effect that it has been evaluated in terms of this regulation. If the proponent determines that the provisions of this regulation are inapplicable, such determination shall be explained in the statement.

§ 518.56 Submission of publications for printing.

When Army-wide publications or directives are transmitted to The Adjutant General (DAAG–PAP) for publication, the DA Form 260 (Request for Printing of Publication) or other transmittal paper will contain a statement that the directive has been processed for publication in the FEDERAL REGISTER or that it falls within the exempted category. DAAG–PAP will not publish any rule unless this statement is on DA Form 260. A copy of DA Form 260 may be submitted to DAAG–AMR–R in lieu of the statement required by § 518.55.

§ 518.57 Incorporation by reference.

(a) With the approval of the Director of the Federal Register, the requirements for publication in the FEDERAL REGISTER may be satisfied by reference in it to other publications, provided they are reasonably available to the class of persons affected and contain the information which must otherwise be published. For example, it can be purchased from the Superintendent of Documents, Government Printing Office or GPO bookstores at a reasonable cost, or its available for review at Army installations, or depository libraries. Therefore, before a document can be incorporated by reference, the proponent must determine that it is available to the public. See 5 U.S.C. 552(a)(1); 1 CFR Part 51; 37 23614 (4 Nov 1972).

(b) Incorporation by reference is not acceptable as a complete substitute for promulgating in full the material required to be published. It may, however, be utilized to avoid unnecessary repetition of published information already reasonably available to the class of persons affected. Examples include:

(1) Construction standards issued by a professional association of architects, engineers, or builders,

(2) Codes of ethics issued by professional organizations, and,

(3) Forms and formats publicly or privately published and readily available to the persons required to use them.

(c) Proposals for incorporation by reference will be submitted to HQDA (DAAG–AMR–R), WASH DC 20314 by letter giving an identification and subject description of the document, statement of availability, indicating document will be reasonably available to the class of persons affected, where and how copies may be purchased or examined, and justification for the requirement to incorporate by reference. The request will be submitted to TAG at least 20 working days before the proposed date for submission of the incorporation by reference notice for the FEDERAL REGISTER.

(d) TAG will consult with the Director, Office of the Federal Register (OFR) concerning each specific request and will notify the proponent of the outcome of the consultation.

(e) If the Director, OFR agrees to the proposal for incorporation by reference, a general notice will be submitted to HQDA (DAAG–AMR–R), WASH DC 20314.

INFORMATION TO BE PUBLISHED IN THE FEDERAL REGISTER

§ 518.58 General.

The Administrative Procedures Act, as amended by the Freedom of Information Act, 5 U.S.C. 552(a), requires that certain policies, practices, procedures, and other information concerning the Department of the Army be published in the FEDERAL REGISTER for the guidance of the public. In general, this information explains where, how, and by what authority the Army performs any of its functions that affect the public. The following sections describe that information and the effect of failing to publish it.

§ 518.59 Information to be published.

In deciding which information to publish, consideration shall be given to the fundamental objective of informing all interested persons of how to deal effectively with the Department of the Army. Information to be currently published will include:

(a) Descriptions of the Army's central and field organization and the established places at which, the officers from whom, and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions;

(b) The procedures by which the Army conducts its business with the public, both formally and informally;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(d) Substantive rules of applicability to the public adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Army; and

(e) Each amendment, revision, or repeal of the foregoing.

§ 518.60 Exceptions.

It is not necessary to publish in the FEDERAL REGISTER any information which comes within one or more of the exemptions to the Freedom of Information Act, 5 U.S.C. 552(b), as implemented by paragraph 2–12, AR 340–17.

§ 518.61 Procedures.

All matters to be published in accordance with § 518.59 will be submitted to The Adjutant General (DAAG–AMR–R), WASH DC 20314, in the proper format prescribed in § 518.65.

§ 518.62 Effect of not publishing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, comply with, or be adversely affected by, a matter required to be published in the FEDERAL REGISTER and not so published.

INVITING PUBLIC COMMENT ON CERTAIN PROPOSED RULES AND SUBMISSION OF PETITIONS

§ 518.63 General.

Public comment must be sought on certain of those proposed rules which are required to be published in accordance with § 518.59. The following sections set forth the criteria and procedures for inviting public comment before publication.

§ 518.64 Applicability.

(a) These provisions apply only to those Department of the Army rules or portions thereof which:

(1) Are promulgated after the effective date of this regulation; and

(2) Must be published in the FEDERAL REGISTER in accordance with § 518.59; and

(3) Have a substantial and direct impact on the public or any significant portion of the public; and

(4) Do not merely implement a rule already adopted by a higher element within the Department of the Army or by the Department of Defense.

(b) Subject to the policy in paragraph (a) of this section and unless otherwise required by law, the requirement to invite advance public comment on proposed rules does not apply to those rules or portions thereof which:

(1) Do not come within the purview of paragraph (a) of this section; or

(2) Involve any matter pertaining to a military or foreign affairs function of the United States which has been determined under the criteria of an Executive Order or statute to require a security classification in the interests of national defense or foreign policy; or

(3) Involve any matter relating to Department of the Army management, personnel, or public contrasts, e.g., Armed Services Procurement Regulation, including nonappropriated fund contracts; or

(4) Constitute interpretative rules, general statements of policy or rules of organization, procedure or practice; or

(5) The proponent of the rule determines for good cause that inviting public comment would be impracticable, unnecessary, or contrary to the public interest. This provision will not be utilized as a convenience to avoid the delays inherent in obtaining and evaluating prior public comment. See also § 518.69.

§ 518.65 Procedure when proposing rules.

(a) A proposed rule to which this section applies will be published along with a preamble, in the Proposed Rules Section of the FEDERAL REGISTER. Public comment will be invited within a designated time, at least 30 days prior to the intended adoption of the proposed rule.

(b) The proposed rule and preamble will be prepared for publication by the proponent of the rule. Preparation will be in accordance with guidance contained in Federal Register Handbook on Document Drafting.

(c) Rulemaking proponents will submit the original and three copies of the proposed rules and preamble, in the proper format, to HQDA (DAAG–AMR–R), WASH DC 20314. The Adjutant General will prepare the required certification and submit the documents to the Office of the Federal Register for publication as a notice of proposed rulemaking.

§ 518.66 Consideration of public comment.

(a) Following publication of a notice of proposed rulemaking, all interested persons will be given an opportunity to participate in the rulemaking through the submission of written data, views and arguments to the proponent of the proposed rulemaking concerned.

(b) If the proponent of the rule determines that it is in the public interest, a hearing or other opportunity for oral presentation of view may be allowed as a means of facilitating public comment. Informal consultation by telephone or otherwise may also be utilized to facilitate presentation of oral comments by interested persons. All hearings or other oral presentations will be conducted by the proponent of the rule in a manner prescribed by him. A hearing file shall be established for each hearing. The hearing file shall include any public notices issued, the request for the hearing, any data or material submitted in justification thereof, materials submitted in opposition to the proposed action, the hearing transcript, and any other material as may be relevant or pertinent to the subject matter of the hearing.

(c) There is no requirement to respond either orally or in writing, individually to any person who submits comments with respect to a proposed rule. The proponent of the rule, however, may do so as a matter within his discretion.

§ 518.67 Procedure when publishing adopted rules.

(a) After careful consideration of all relevant material submitted, the proponent of the rule will make such revisions in the proposed rule as appear necessary in light of the comments received.

(b) The proponent will also prepare a preamble for publication with the adopted rule. The proponent shall discuss in the preamble the comments received in response to the proposed rule and the decision to accept or reject the comments in revisions to the proposed rule. Preparation will be in accordance with guidance contained in the FEDERAL REGISTER Handbook on Document Drafting.

(c) The original and three copies of the preamble and revised rule will be forwarded to HQDA (DAAG–AMR–R), WASH DC 20314 in the proper format. The Adjutant General will then prepare the required certification and submit the documents to the Office of the Federal Register for publication in the form of an adopted rule.

§ 518.68 Submission of petitions.

Each proponent of a rule will grant to any interested person the right to submit a written petition calling for the issuance, amendment, or repeal of any rule to which §§ 518.64 through 518.67 applies or would apply if issued, as specified in § 518.64. Any such petition will be given full and prompt consideration by the proponent. If compatible with the orderly conduct of public business, the appropriate official may, at his descretion, allow the petitioner to appear in person for the purpose of supporting this petition. After consideration of all relevant matters by the proponent, the petitioner will be advised in writing by the proponent of the disposition of any petition, together with the reasons supporting that disposition. This provision does not apply to comments submitted on proposed rules in § 518.66.

§ 518.69 Cases in which public comment is impractical.

(a) Whenever a rulemaking proponent determines for good cause that inviting public comment regarding a proposed rule would be impractical, unnecessary, or contrary to the public interest, he will prepare a brief statement of the reasons supporting this determination for incorporation in the preamble to the adopted rule. The preamble and adopted rule will then be published in the form outlined in § 518.67 (b) and (c).

(b) Alternatively, the proponent may request The Adjutant General (DAAG–AMR–R) (by letter or disposition form, as appropriate) to adopt and publish in the FEDERAL REGISTER a separate rule exempting from the prepublication notice provisions of this regulation those specific categories of rules which the rulemaking proponent has determined that public comment would be unnecessary, impractical, or contrary to the public interest. The request to The Adjutant General will contain an explanation of the reasons why the proponent believes that a particular category of rule or rules should not be published in proposed form for public comment. If The Adjutant General agrees that public comment should not be invited with respect to the cited category, he will adopt and publish a separate rule in the FEDERAL REGISTER exempting such rule or rules from the requirements of this regulation. This separate rule will include an explanation of the basis for exempting each particular category from the provisions of this regulation.

[FR Doc.77–14628 Filed 5–23–77;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE, (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Disregard of Judgment Payments to Ottawa Indians; Housing Payments to Public Assistance Recipients

AGENCY: Social Security Administration, HEW.

ACTION: Final regulations.

SUMMARY: These amendments deal with requirements for disregard of certain judgment payments to Indians and certain rent subsidies in determining need and the amount of financial assistance.

DATES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT:

Alice Stewart 202–245–3194.

SUPPLEMENTARY INFORMATION:

1. Section 233.20(a)(2)(vii) is revoked. The basis for the revocation is the repeal of section 2(1) of the U.S. Housing Act (Sec. 9 of Pub. L. 92–213, the Brooke Amendment) by Pub. L. 93–383, the Housing and Community Development Act of 1974. The purpose is to conform the regulations with that statutory change.

2. Section 233.20(a)(4)(ii)(e) is amended by adding a reference to Pub. L. 94–540. Section 6 of that law requires the disregard of judgment payments to the Grand River Band of the Ottawa Indians.

The basis for the requirement is section 6 of Pub. L. 94–540; the purpose is to bring our regulations into compliance with Pub. L. 94–540, by extending current disregard requirements to encompass judgment payments to the Grand River Band.

The effective date of section 6 of Pub. L. 94–540 was October 18, 1976.

The Department finds that there is good cause to dispense with proposed rulemaking with respect to the disregard of judgment payments to the Ottawa Indians because:

a. The amendment is based on a very specific statutory provision which leaves no room for alternative interpretations;

b. Prompt implementation is to the advantage of the members of the Grand River Band; and

c. Only three States are affected. Members of the Grand River Band reside primarily in Michigan, with a few scattered family groups in Wisconsin and Minnesota.

3. Section 233.20(a)(4)(ii) is amended by adding a new subdivision (*l*) which requires the disregard of Experimental Housing Allowance Program (EHAP) payments.

EHAP is a long-range program established in 12 States to test the effect of the payment in helping poor families to secure adequate housing. EHAP payments in 10 States were previously subject to disregard under section 1115 waivers. In the other two States the basis for the disregard was section 9 of Pub. L. 92–213, now repealed. The new basis is the fact that the Department of Housing and Urban Development has determined that EHAP payments made under annual contributions contracts entered into prior to January 1, 1975, continue to be subject to the same rules as were applicable at the time the contracts were executed.

The purpose of the new disregard provision is to enable all States which have such EHAP programs to disregard EHAP payments without the need to grant or extend section 1115 waivers.

The statutory provisions implemented by this amendment were effective September 26, 1975.

Notice of proposed rulemaking regarding housing payments to public assistance recipients was published in the FEDERAL REGISTER on September 22, 1976 (41 FR 41437).

Three comments were received. Two legal aid organizations asked regarding the relationship to other rent subsidy programs. There is no relationship. One State agency supported the proposal.

4. A technical amendment to § 233.20(a)(4)(ii)(*h*) deletes "(VISTA)". The purpose is to make clear that there may be payments to other volunteers under Title I of Pub. L. 93–113, the Domestic Volunteer Services Act of 1973, and that, under section 404(g) of that Act, all such payments are to be disregarded in determining need and the amount of the assistance payment. Although "(VISTA)" was merely intended to identify Title I (by a term familiar to the general public), inquiries received from State agencies indicate that it is being taken to mean that only payments to volunteers in that particular program are subject to the disregard provision.

Part 233, Chapter II, Title 45 of the Code of Federal Regulations is amended by revoking § 233.20(a)(2)(vii); revising § 233.20(a)(4)(ii)(*e*) and (*h*) and adding a new subdivision (*l*). As revised, § 233.20(a) reads as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State Plans.* A State Plan for OAA, AFDC, AB, APTD or AABD must, as specified below:

* * * * *

(2) *Standards of assistance.* * * *

(vii) [Revoked]

* * * * *

(4) *Disregard of income and resources common to OAA, AFDC, AB, APTD, or AABD.* (i) * * *

(ii) Provide that, in determining eligibility for public assistance and the amount of the assistance payment, the following will be disregarded as income and resources:

(*a*) The value of the coupon allotment under the Food Stamp Act of 1964 in excess of the amount paid for the coupons;

(*b*) The value of the U.S. Department of Agriculture donated foods (surplus commodities);

(*c*) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(*d*) Any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the Commissioner of Education;

(*e*) Any funds distributed per capita to or held in trust for members of any Indian tribe under Pub. L. 92–254, Pub. L. 93–134 or Pub. L. 94–540;

(*f*) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

(*g*) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under titles II and III, pursuant to section 418 of Pub. L. 93–113;

(*h*) Payments to volunteers under Title I of Pub. L. 93–113, pursuant to section 404(g) of Pub. L. 93–113;

(*i*) The value of supplemental food assistance received under the Child Nutrition Act of 1966 as amended, and the special food service program for children under the National School Lunch Act, as amended (Pub. L. 92–433 and Pub. L. 93–150).

(*j*) The Weekly incentive allowance made under sec. 111 of Pub. L. 93–203, the Comprehensive Employment and Training Act of 1973.

(*k*) Tax-exempt portions of payments made pursuant to Pub. L. 92–203, the Alaska Native Claims Settlement Act.

(*l*) Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under section 23 of the U.S. Housing Act of 1937, as amended.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid).)

NOTE.—The Department has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A–107.

Approved: May 16, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77–14664 Filed 5–23–77;8:45 am]

CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 304—FEDERAL FINANCIAL PARTICIPATION

Deadline for Submission of Claims for Federal Financial Participation

AGENCY: Office of Child Support Enforcement (OCSE), HEW.

ACTION: Final regulation.

SUMMARY: The amendment revokes the requirement for the Child Support Enforcement Program that a State must submit all claims for Federal financial participation for a fiscal year by the due date of the expenditure report for the second quarter following the close of the fiscal year. The States have had difficulty in meeting this deadline for claims under this new program. The effect of this amendment is to permit States to submit claims for Federal funds at any time after the close of a fiscal year.

EFFECTIVE DATE: August 1, 1975.

FOR FURTHER INFORMATION CONTACT:

John M. Sacchetti, area code 202, 472–4510.

SUPPLEMENTARY INFORMATION: The Department has determined that this regulation should be revoked for the reasons set forth below:

1. Since the IV–D program is a new program, States have had some difficulty developing adequate fiscal reporting procedures that enable them to accumulate all IV–D program costs and submit these amounts as claims for Federal financial participation within the time period required by this regulation. Revocation of this regulation will provide the States the time needed to develop and submit all allowable claims for costs incurred as part of the IV–D program.

2. The change in the Federal fiscal year which was made in calendar year 1976 caused confusion as to the precise meaning of this section. In some instances, January 30, 1977 was viewed to be the deadline; in others, April 30, 1977 was assumed to be the final date for submission of claims. Revocation of this regulation will eliminate this confusion.

3. Congress, in Pub. L. 94–88, specified a grant issuance process not included in the original legislation, which would take into consideration adjustments made to expenditures for any prior quarter without placing any time limit on the submission of these adjustments. This addition to the statute raises some questions concerning the legality of this regulation as currently in effect. Revocation of this regulation will eliminate any possible conflict with the statute.

In order to avoid any confusion concerning the impact of the revocation of this regulation, it is effective as of August 1, 1975, the original effective date of the regulation.

The Department finds that there is good cause to dispense with proposed rulemaking because States will be unable to receive Federal financial participation in additional claims for costs incurred for fiscal year 1976 until such time as 45 CFR 304.25(c) is revoked. A substantial delay in processing these claims could impede State program operations and development in the effected States.

45 CFR 304.25(c) is revoked. Section 304.25 reads as follows:

§ 304.25 Treatment of expenditures; due date.

(a) *Treatment of expenditures.* Expenditures are considered to be made on the date on which the cash disbursements occur or the date to which allocated in accordance with Part 74 of this title. In the case of local administration, the date of disbursements by the local agency governs. In the case of purchase of services from another public agency,

the date of disbursements by such other public agency governs. Different rules may be applied with respect to a State, either generally or for particular classes of expenditures only upon justification by the State to the Office of Child Support Enforcement and approval by the Office.

(b) *Due date for expenditure statements.* The due date for the submission of the quarterly statement of expenditures under § 301.15 of this chapter is 30 days after the end of the quarter.

(c) [Revoked]

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program.)

NOTE.—The Department has determined that this document does not require preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 29, 1977.

J. B. CARDWELL,
Director, Office of Child Support Enforcement.

Approved: May 11, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc.77-14752 Filed 5-23-77;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL REGULATIONS

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Docket No. 76-12; Amdt. No. 76-3]

MOTOR CARRIER SAFETY SETTLEMENT AND HEARING PROCEDURES

Extension of Comment Period; Correction

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of extension of time to file comments and corrections to final rule.

SUMMARY: This notice extends the date from May 1, 1977, to August 1, 1977, for commenting on the Federal Motor Carrier Safety Settlement and Hearing Procedures published at 42 FR 18076 (April 5, 1977), FR Doc. 77-10003. Also, this document corrects certain typographical errors and adds a citation to clarify the authority under which the rules were issued.

DATES: These changes become effective May 24, 1977. The time for submitting comments on the Motor Carrier Safety Settlement and Hearing Procedures is changed so that all comments must be received by August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald M. Tierney, Office of the Chief Counsel, 202-426-0346, Room 4217, HCC-20, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. EDT, Monday-Friday.

New settlement and hearing procedures for motor carrier safety and hazardous materials cases were published in the FEDERAL REGISTER on April 5, 1977. That publication established May 1, 1977, as the final date for receiving comments on the rules. In response to that notice the Private Truck Council of America, Inc., requested a 60-day extension of time to file comments. The request is reasonable and has been granted by establishing August 1, 1977, as the new final date for receipt of comments.

The preamble to the April 5, 1977, publication contained a typographical error that altered the order of a sentence. This error is corrected by this change.

The citation of authority after the index of 49 CFR Part 386 did not cite the Interstate Commerce Act as authority for those rules. Although the Interstate Commerce Act (ICA) was cited as authority at the conclusion of publication and therefore was, in fact, used as authority for issuance of Part 386, the citation immediatly following the index to Part 386 is being changed to include a reference to the ICA to avoid any confusion.

Accordingly, FR Doc. 77-10003 appearing at 42 FR page 18076 is corrected as follows:

1. By correcting the second sentence of the fifth paragraph of the preamble which appears on page 18076 to read as follows:

The following subjects are covered in the new sections: Computation of time, interrogatories and depositions, motions, official notices, extensions of time, form of evidence, medical records, burden of proof, appearances, amendments to pleadings, interlocutory appeals, subpoenas and witness fees, and motions to dismiss or make more definite.

2. On FR page 18077 the final date for submitting comments is changed from May 1, 1977, to August 1, 1977.

3. On 42 FR page 18077 the citation of authority following the index of Part 386 is revised to read as follows:

AUTHORITY: 18 U.S.C. 831-35; Pub. L. 93-633, 88 Stat. 2156 (49 U.S.C. 1801 et seq.); 49 U.S.C. 304, 322; delegations of authority 49 CFR 1.45, 1.48, Part 301.

(49 U.S.C. 304, 322; 18 U.S.C. 831-35; Pub. L. 93-633; 88 Stat. 8156 (49 U.S.C. 1801 et seq.); 49 CFR 1.48, 301.60.)

Issued on: May 17, 1977.

DR. ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation.

[FR Doc.77-14679 Filed 5-23-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of J. Clark Salyer National Wildlife Refuge, North Dakota, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of J. Clark Salyer National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: May 7, 1977, through March 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Jon M. Malcolm, J. Clark Salyer National Wildlife Refuge, Upham, N. Dak. 58789, Telephone No. 701-768-3223.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the J. Clark Salyer National Wildlife Refuge, North Dakota, only on areas designated by signs as being open to fishing from May 7, 1977, through December 14, 1977. These areas are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Winter ice fishing is open on all refuge waters from December 15, 1977, through March 26, 1978. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Boat fishing is allowed only on areas designated as such from May 7, 1977, through September 30, 1977.

2. Fishing hours will be from dawn to 10 p.m. daily.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 16, 1977.

JON M. MALCOLM,
Refuge Manager.

[FR Doc.77-14680 Filed 5-23-77;8:45 am]

PART 33—SPORT FISHING

Opening of Necedah National Wildlife Refuge, Wisconsin, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Necedah National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resources, and will provide additional recreational opportunity to the public.

DATES: June 1, 1977 thru September 30, 1977, only on the Sprague-Mather Pool, and December 15, 1977 thru December 31, 1977 on the entire refuge except Rynearson No. 1 Pool.

FOR FURTHER INFORMATION CONTACT:

James M. Carroll, Jr., Refuge Manager, Necedah, Wisconsin, Telephone No. AC 608/565-2551.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Necedah National Wildlife Refuge, Wisconsin, only on the areas designated by signs as being open to fishing. These areas comprising 39,549 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. The use of boats without motors is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JAMES M. CARROLL, Jr.,
Refuge Manager.

MAY 13, 1977.

[FR Doc.77-14681 Filed 5-23-77;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Temporary Standard for Occupational Exposure to Benzene; Amendment

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Amendment to Emergency Temporary Standard (ETS).

SUMMARY: This notice announces an amendment to the emergency temporary standard for occupational exposure to benzene. The amendment exempts from the ETS the storage, transportation, distribution, dispensing or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals.

EFFECTIVE DATE: May 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, OSHA, Third Street and Constitution Avenue NW., Room N-3641, Washington, D.C. 20210, 202-523-8151.

SUPPLEMENTARY INFORMATION: On May 3, 1977, an emergency temporary standard for occupational exposure to benzene was published in the FEDERAL REGISTER (42 FR 22516) as 29 CFR 1910.-1028. It was issued under sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 1599, 29 U.S.C. 655, 657), and is effective May 21, 1977.

The ETS explicitly excluded from coverage retail automotive service stations and operations where the only exposure to benzene is from liquid mixtures containing one percent or less of benzene by volume. As indicated in the preamble to the ETS, gasoline stations were excluded, in part, because of the large number of employers and workplaces involved and the difficulty in achieving any significant compliance during the brief effective period of the ETS. Thus, whereas the evidence indicated that the equipment necessary for compliance with the ETS was available or would very soon be available for the industries and employees covered and that the standard was feasible, the evidence indicated that retail automotive service stations could not obtain the necessary equipment for compliance with the emergency standard. In our consideration of the availability of equipment and our conclusion that compliance with the standard was feasible, with the exceptions noted, we did not fully evaluate the compliance capabilities of other employers involved in the distribution of gasoline after it leaves the bulk terminal facilities. A large portion of this group of employers are geographically scattered, small businesses, with few employees and intermittent operations. They include many independent wholesalers who purchase and resell gasoline in relatively small quantities on a local basis. There are more than 21,000 such establishments employing over 30,000 employees. The demand for respirators, sampling pumps and other compliance equipment and personnel resulting from inclusion of this separate industry segment would severely strain the total resources available for compliance with the ETS. This potential demand for necessary equipment, whose extent is uncertain as a matter of firm evidence but appears significant, was not taken into account in evaluating the feasibility of the ETS. Accordingly, it has been determined that for purposes of the ETS, the storage, transfer, distribution, dispensing or sale of gasoline as a fuel subsequent to discharge from bulk terminals will not be covered. This will permit a full development of the evidence in the section 6(b) proceeding concerning the feasibility of a standard for these operations and whether there should be unique requirements applicable to this industry. As with other exempt groups, these employers continue to be covered by the standard for benzene in 29 CFR 1910.-1000.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, for the reasons set out above and in the ETS of May 3, 1977 and pursuant to section 6(c) of the Act, Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911, paragraph (a)(2)(i) of § 1910.1028 (FR Doc. 77-12726, 42 FR 22516, 22525, 3rd column) is amended and a definition of "bulk terminal" is added to paragraph (b) of § 1910.1028, to read as follows:

§ 1910.1028 Benzene.

(a) * * *

(2) * * *

(i) To the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals; or

* * * * *

(b) *Definitions.* * * *

"Bulk terminal" means a facility which is primarily used for the marketing of gasoline and which receives its petroleum products by tanker, barge, or pipeline.

* * * * *

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059).)

Signed at Washington, D.C., this 20th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-14958 Filed 5-23-77;9:48 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 916]

NECTARINES GROWN IN CALIFORNIA

Proposed Handling Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposal would amend the current container and pack regulation applicable to California nectarines. The principal change would require each No. 12B box containing place-packed nectarines to bear the appropriate size designation of the fruit therein. The proposed action is designed to assure informative labeling of such boxes used to ship fresh nectarines. In addition, the proposal would delete references to "loose-packed" nectarines and make minor revisions in the current language of the regulation for purposes of simplification and clarity.

DATE: Comments must be received on or before June 6, 1977.

ADDRESS: Send comments to: Hearing Clerk, Room 1077, South Building, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: The proposed amendment was submitted by the Nectarine Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916) which regulate the handling of nectarines grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The committee reports that a small quantity of nectarines are place-packed and shipped in No. 12B boxes. The proposal would make these boxes subject to the same size marking requirements applicable to other specified packages and containers used for shipping place-packed nectarines. The regulation presently contains the terms "loose-filled" and "loose-packed" nectarines to describe the same style of packing such fruit. This proposal is designed to permit easier understanding of the regulation by deleting the nonessential term "loose-packed" nectarines. The proposal would make additional minor revisions of the current language for clarity.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment published herein, shall file the same, in duplicate, with the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, not later than June 6, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Under the proposal, the provisions of Nectarine Regulation 8 (§ 916.350; 41 FR 24699, 31179) are revised to read as follows.

§ 916.350 Nectarine Regulation 8.

Order. (a) On and after June 15, 1977, no handler shall handle any package or container of any variety of nectarines except in accordance with the following terms and conditions:

(1) Such nectarines, when packed in any closed container, shall conform to the requirements of standard pack: *Provided*, That nectarines loose-filled in any open container shall be fairly uniform in size.

(2) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the name "nectarines" and the name of the variety, if known or, when the variety is not known, the words "unknown variety."

(3) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the following count or size description of the nectarines as applicable:

(i) The size of nectarines packed in molded forms (tray packs) in No. 22D standard lug boxes, cartons, flats, or No. 12B standard fruit boxes and the size of wrapped nectarines packed in rows in No. 12B standard fruit boxes shall be indicated in accordance with the number of nectarines in each container, such as "80 count," "88 count," etc.

(ii) The size of nectarines loose-filled or tight-filled in any container shall be indicated in terms of the count size of such nectarines when packed in molded forms in the No. 22D standard lug box in accordance with the requirements of standard pack, such as "80 size," "88 size," etc.

(4) Each No. 22D standard lug box of loose-filled nectarines shall bear on one end, in plain slight and in plain letters, the words "25 pounds net weight."

(5) Each No. 22E standard lug box of loose-filled nectarines shall bear on one outside end, in plain sight and in plain letters, the words "35 pounds net weight."

(6) Each bulk bin container of loose-filled nectarines shall contain not less than 400 pounds, net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

(i) The name and address (including zip code) of the shipper.

(ii) The net weight.

(b) As used herein, "standard pack" and "fairly uniform in size" shall have the same meanings as set forth in the U.S. Standards for Grades of Nectarines (§ 51.3145-51.3160 of this title); the terms "No. 22D standard lug box," "No. 22E standard lug box," and "No. 12B standard fruit box" shall have the same meaning as set forth in § 1387.11 of the "Regulations of the California Department of Food and Agriculture"; and all other terms shall have the same meaning as when used in the marketing agreement and order.

Dated: May 19, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14782 Filed 5-23-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking Regarding Test Procedures for Television Receivers; Corrections

AGENCY: Federal Energy Administration (FEA).

ACTION: Proposed rulemaking; correction.

SUMMARY: This document corrects errors made in the proposed rulemaking regarding test procedures for television receivers which appeared at pages 21580 and following of the April 27, 1977, FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, Room 307, Old Post Office Building, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461 (202-566-4635).

SUPPLEMENTARY INFORMATION: The number of hours of standby or off-time of a television receiver, incorrectly stated in the third column of page 21581 of the April 27, 1977 FEDERAL REGISTER as 6500 hours, is corrected to read 6560 hours.

A number of provisions of Appendix H contained in the proposed regulation, pages 21583 and following, were also incorrectly stated and are corrected below. In all other respects the proposed rulemaking remains as published on April 27, 1977.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E. O. 11790, 39 F.R. 23185.)

In consideration of the foregoing, the proposed regulation for test procedures for television receivers published in 41 FR 21580 et seq. (April 27, 1977) is corrected as set forth below.

Issued in Washington, D.C., May 18, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

Section 2.1.2.3 and 3.3 of Appendix H are corrected to read as follows:

APPENDIX H—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF TELEVISION RECEIVERS

* * * * *

2.1.2.3 The test signals in 2.1.2.1 and 2.1.2.2, supplied by a source whose impedance equals the design antenna impedance of the television receiver under test, shall be adjusted to a level of 70 decibels (dB) ±3dB, referred to a zero dB level of one femtowatt (1×10^{-15} watt) available power. (For a 300 ohm source, 70 dB referred to one femtowatt corresponds to an open-circuit voltage of 3.5 millivolts. For the calculation of "available power" use American National Standard C16.13-1961, Method of Testing Monochrome Television Broadcast Receivers.)

* * * * *

3.3 Annual Remote Control Energy Consumption (E_{rc}).

$E_{rc}=(P_{rc}/1000)\ t_s=6.56\ P_{rc}$

E_{rc}=annual remote control energy consumption, kWh/yr.

$P_{rc}/1000$=remote control power consumption, expressed in kilowatts

t_s=standby time, 6560 hr/yr.

* * * * *

[FR Doc.77-14662 Filed 5-23-77;8:45 am]

[10 CFR Part 871]

AIR TRANSPORTATION OF PLUTONIUM

AGENCY: Energy Research and Development Administration.

ACTION: Proposed rule.

SUMMARY: The Energy Research and Development Administration proposes to revise Part 871 (1) to establish, with greater specificity, circumstances under which air shipments of plutonium for purposes of national security, within the meaning of section 502(2) of Pub. L. 94-187, may be authorized; (2) to specify that determinations pursuant to § 871.1 National Security Exemption shall be made, as appropriate, by Managers of ERDA's Albuquerque, San Francisco, Oak Ridge, Savannah River, and Nevada Operations Offices; and (3) to implement section 502(2) of 94-187 by promulgating rules with regard to air transportation of plutonium for purposes of public health and safety.

DATES: Comments must be received on or before June 23, 1977.

ADDRESS: Send comments to Major General J. K. Bratton, USA, Director of Military Application, U.S. Energy Research and Development Administration, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Colonel Roy E. Lounsbury, USA, 301-353-5277.

SUPPLEMENTARY INFORMATION: Pub. L. 94-187, which was approved on December 31, 1975, restricts air transportation of plutonium by the Energy Research and Development Administration as follows:

SEC. 501. The Energy Research and Development Administration shall not ship plutonium in any form by aircraft whether exports, imports, or domestic shipments: *Provided*, That any exempt shipments of plutonium, as defined by section 502, are not subject to this restriction. This restriction shall be in force until the Energy Research and Development Administration has certified to the Joint Committee on Atomic Energy of the Congress that a safe container has been developed and tested which will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

SEC. 502. For the purposes of this title, the term "exempt shipments of plutonium" shall include the following:

* * * * *

(2) Plutonium shipments which pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration are determined to be made for purposes of national security, public health and safety, or emergency maintenance operations.

* * * * *

On February 12, 1976, ERDA published in the FEDERAL REGISTER (41 FR 6259) rules implementing section 502(2) of Pub. L. 94-187 with regard to air shipments of plutonium for purposes of national security. Notice is given that ERDA proposes to revise Part 871 to revise such rules and to further implement section 502(2) by promulgation of rules with regard to air transportation of plutonium for purposes of public health and safety.

Section 871.1 would be revised (1) to establish, with greater specificity, circumstances under which air shipments of plutonium for "purposes of national security" within the meaning of section 502(2) may be authorized, and (2) to specify that determinations pursuant to § 871.1 shall be made, as appropriate, by the Managers of ERDA's Albuquerque, San Francisco, Oak Ridge, Savannah River, and Nevada Operations Offices. A new section, § 871.2 Public Health and Safety Exemption, would be added to set forth rules with regard to air transportation of plutonium for purposes of public health and safety. Managers of ERDA's Albuquerque, San Francisco, Oak Ridge, Savannah River, Nevada, Chicago, Idaho, and Richland Operations Offices would be authorized to make determinations pursuant to § 871.2. Two other new sections, § 871.3 Records and § 871.4 Limitation on Redelegation of Authority, would also be added.

It is proposed to make the proposed rules effective on the date of republication in the FEDERAL REGISTER. Interested parties wishing to comment on these proposed rules should submit their comments in writing to Major General J. K. Bratton, USA, Director of Military Application, U.S. Energy Research and Development Administration, Washington, D.C. 20545, on or before June 23, 1977.

Dated at Washington, D.C., this 17th day of May 1977.

ROBERT W. FRI,
Acting Administrator.

PART 871—AIR TRANSPORTATION OF PLUTONIUM

Part 871 would be revised to read as follows:

Sec.

871.1 National security exemption.
871.2 Public health and safety exemption.
871.3 Records.
871.4 Limitation on redelegation of authority.

AUTHORITY: Pub. L. 94-187, P.L. 93-438, §§ 2, 3, 91, 123, and 161 of the Atomic Energy Act of 1954, as amended.

§ 871.1 National Security Exemption.

(a) The following ERDA air shipments of plutonium are considered as being made for the purposes of national security within the meaning of section 502(2) of Pub. L. 94-187:

(1) Shipments made in support of the development, production, testing, sampling, maintenance, repair, modification, or retirement of atomic weapons or devices;

(2) Shipments made pursuant to international agreements for cooperation for mutual defense purposes;

(3) Shipments necessary to respond to an emergency situation involving a possible threat to the national security.

(b) The Managers of ERDA's Albuquerque, San Francisco, Oak Ridge, Savannah River, and Nevada Operations Offices may authorize air shipments falling within paragraph (a)(1) of this section, on a case-by-case basis: *Provided*, That matter falls within their respective scopes of responsibility and that they determine such shipment is required to be made by aircraft either because:

(1) The delay resulting from using ground transportation methods would have serious adverse impact upon a national security requirement;

(2) Safeguards or safety considerations dictate the use of air transportation;

(3) The nature of the item to be shipped necessitates the use of air transportation in order to avoid possible damage which may be expected from other available transportation environments; or

(4) The nature of the item being shipped necessitates rapid shipment by air in order to preserve the chemical, physical, or isotopic properties of the item.

They may also authorize air shipments falling within paragraph (a)(2) of this section in all cases since the inherent time delays of surface transportation for such shipments are considered unacceptable. They may also authorize air shipments falling within paragraph (a)(3) of this section in cases where failure to make shipments by air could jeopardize the national security of the United States.

§ 871.2 Public health and safety exemption.

The Managers of ERDA's Albuquerque, San Francisco, Oak Ridge, Savannah River, Nevada, Chicago, Idaho, and Richland Operations Offices may authorize, on a case-by-case basis, ERDA air shipments of plutonium where they determine that rapid shipment by air is required to respond to an emergency situation involving possible loss of life, serious personal injuries, considerable property damage, or other significant threat to the public health and safety.

§ 871.3 Records.

Determinations made by the authorizing officials pursuant to these rules shall be matters of record. Such authorizations shall be reported to the Assistant Administrator for National Security within twenty-four hours after authorization is granted.

§ 871.4 Limitation on redelegation of authority.

The authority delegated in this part may not be redelegated without the prior approval of the Assistant Administrator for National Security.

[FR Doc.77-14732 Filed 5-23-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 443]

HEALTH SPAS

Final Notice Concerning Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Final Notice of Proposed Rulemaking.

SUMMARY: The Commission, on the basis of information compiled by the staff and materials and data contained in previous staff investigations, issued on August 18, 1975 a proposed Trade Regulation Rule relating to the practices of the health spa industry. This notice sets out the scheduled oral hearing dates, invites continued written comments, and designates disputed issues. It also instructs prospective witnesses and other interested persons concerning filing and other procedural requirements and lists certain questions for the purpose of eliciting comment relative to the Commission's proposed Trade Regulation Rule.

DATES: Hearings commence: Atlanta, Georgia, September 12, 1977; San Francisco, California, October 17, 1977; New York, New York, November 28, 1977. Statements of testimony or comprehensive written outlines and exhibits (see Section C) due for hearings at Atlanta by August 22, 1977; San Francisco by September 26, 1977; New York by November 7, 1977. Notifications of Interest (see Section E) due by June 13, 1977; written comments (see Section A) and available exhibits due by July 25, 1977.

ADDRESSES: Written comments required by Section A should be submitted to Roger J. Fitzpatrick, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Cothran 404-881-4836, Federal Trade Commission Atlanta Regional Office, 1718 Peachtree Street NW., Room 1000, Atlanta, Georgia 30309; Mr. Jerome Steiner 415-556-1270, Federal Trade Commission San Francisco Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102; Mr. John A. Crowley or Mr. Alan F. Rubenstein 212-264-7150 or 212-264-7174, Federal Trade Commission New York Regional Office, 26 Federal Plaza, New York, New York 10007.

SUPPLEMENTARY INFORMATION: On August 18, 1975, the Commission published in the FEDERAL REGISTER (40 FR 34615) an Initial Notice proposing a trade regulation rule relating to health spas pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41 et seq., the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice (hereinafter rules of practice) 16 CFR 1.7, et seq., and section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure). The Presiding Officer extended the time for proposing disputed issues of fact from October 20, 1975 to December 19, 1975, then to March 18, 1976 and later to August 2, 1976 by notices in the FEDERAL REGISTER dated October 24, 1975 (40 FR 49801), December 19, 1975 (40 FR 58867) and April 8, 1976 (41 FR 14903). A Commission staff report in support of the proposed rule was placed in the public record of this proceeding and is available for examination by interested persons in Room 130, Public Reference Branch, Federal Trade Commission, Washington, D.C.

Pursuant to the authority above and more specifically to the authority of § 1.12 of the rules of practice the undersigned duly appointed Presiding Officer gives Final Notice of proposed rulemaking. The contents of the Initial Notice, which includes the proposed rule, are incorporated by reference.

NOTICE TO INTERESTED PERSONS

SECTION A—WRITTEN COMMENTS

All interested persons are hereby notified that they may continue to submit writte data, views and arguments on any issue of fact, law and policy having some bearing upon the proposed rule. The scope of these written comments is not restricted to the designated issues set forth below in Section D. Parties may comment on any aspect of the proposed rule. Such comments should be submitted to Roger J. Fitzpatrick, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580 no later than July 25, 1977. To assure prompt consideration comments should be identified as "Health Spa Comments" and submitted when feasible and not burdensome, in five copies. Comments previously submitted in response to the Initial Notice have been placed in the public record and need not be resubmitted.

SECTION B—PUBLIC HEARINGS
DATES AND PLACES

1. Public hearings will begin on September 12, 1977 at 9:30 a.m. in Room 1010 at the Federal Trade Commission Atlanta Regional Office, 1718 Peachtree Street NW., Atlanta, Georgia 30309.

2. Public hearings will begin on October 17, 1977 at 9:30 a.m. in Room 12138 at the Federal Trade Commission San Francisco Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102.

3. Public hearings will begin on November 28, 1977 at 9:30 a.m. in Rooms C and D, 2204, 2206, at the Federal Trade Commission New York Regional Office, Federal Building, 26 Federal Plaza, New York, New York 10007.

SECTION C—INSTRUCTIONS FOR WITNESSES

1. *Advance notice.* Persons wishing to testify at a hearing should contact the Commission representative for that hearing location immediately. This will enable us to assist you in complying with the requirements set forth below. You may testify at only one hearing.

2. *Notification and filing requirements.* (a) If you wish to testify at the Atlanta hearings, contact Mr. Jack Cothran, Federal Trade Commission, Atlanta Regional Office, 1718 Peachtree Street NW., Room 1000, Atlanta, Georgia 30309; telephone 404-881-4836. You must notify Mr. Cothran of your desire to testify and file with him the full text of your statement of testimony no later than August 22, 1977.

(b) If you wish to testify at the San Francisco hearings contact Mr. Jerome Steiner, Federal Trade Commission San Francisco Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102; telephone 415-556-1270. You must notify Mr. Steiner of your desire to testify and file with him the full text of your statement of testimony no later than September 26, 1977.

(c) If you wish to testify at the New York hearings contact Mr. John A. Crowley or Mr. Alan F. Rubenstein, Federal Trade Commission New York Regional Office, 26 Federal Plaza, New York, New York 10007; telephone 212-264-7150 or 212-264-7174. You must notify Messrs. Crowley or Rubenstein of your desire to testify and file with them the full text of your statement of testimony no later than November 7, 1977.

(d) *Exceptions.* If you are unable to submit the full text of your statement of testimony you must file a comprehensive written outline summarizing what you expect to say with the Commission representative at the location you wish to testify. The written outline must be filed prior to the applicable deadlines specified in this paragraph 2(a)-(c).

3. *Completeness.* Your statements of testimony or your comprehensive written outline summarizing what you expect to say must list each fact, observation, opinion and conclusion that you are going to discuss and recite the basis for each such observation, opinion and conclusion. If you choose to file a comprehensive written outline and the outline is not sufficiently detailed or factual, the Presiding Officer may require you to file the full text of your statement before you testify.

All statements and outlines filed will be made available for inspection by the Commission representatives designated in paragraph 2 of this Section C at the location where the witness intends to appear and copies thereof will also be placed on the public record in Room 130, Public Reference Branch, Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

If at all possible, witnesses should furnish five copies of their statements or outlines.

4. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period (Section A) so they can be studied by other interested persons. If such documents are unavailable during this period, file them as soon as you can but not later than the deadlines in paragraph 2 of this Section C for filing statements or outlines. Mark the documents with your name, and number it in sequence, e.g., Jones Exhibit 1. The Presiding Officer has the authority to refuse to accept for the public record any hearing exhibits which are not furnished by the deadlines.

5. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement or outline a curriculum vitate, biographical sketch, resume or summary of your professional background and a bibliography of your publications. In addition it would be helpful if you would include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with one or two major scientific works, copies should be furnished. The remaining citations can be accomplished in the form of footnotes.

6. *Results of surveys and other research studies.* If you present in your testimony the results of a survey or other research study, you must also submit as an exhibit or exhibits in compliance with paragraph 4 above the following:

(a) A complete report of the survey or other research study and the information and documents listed in (b) through (e) below if they are not included in that report.

(b) A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

(c) Copies of all questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

(d) A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents and a sample questionnaire or other data collection instrument.

(e) A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

In addition, other interested parties may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punched cards or computer tapes used to conduct analyses should be made available (with appropriate documentation) to the Presiding Officer if requested by him. He will then be in a position to permit its use by counsel for the other interested parties.

7. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule your appearance and that of other witnesses in an orderly fashion. In addition other interested parties must have your testimony and supporting documents available for study before the hearings so they can decide whether to examine or cross-examine you or file contradictory statements (rebuttals). If you do not comply with the requirements, the Presiding officer has the authority to refuse to let you testify.

8. *Testimony.* All witnesses will be subject to direct examination by the Presiding Officer and, subject to his control, to examination by such interested parties as he may within his discretion permit. In your testimony you can discuss any questions of fact, law or policy concerning the proposed rule. You do not have to limit your testimony to the issues designated in Section D; but if it does bear on those issues, you may be examined and cross-examined by the Presiding Officer or other persons he designates and there may be rebuttals. Also, the Presiding Officer may question you directly or let others cross-examine you about other relevant matters and to offer rebuttals to your comments.

9. *Procedures and time limits.* The hearings will be informal and as a general rule courtroom rules of evidence and procedures will not apply. You will not be put under oath unless the Presiding Officer so requires. Ordinarily you will have about twenty minutes for your testimony. If you need more than twenty minutes, send your request for extra time when you file your statement of testimony or outline. The Presiding Officer may set other reasonable time limits and may also allow extra time for questioning, and reserves the right to limit the number of witnesses to be heard if the orderly conduct of the hearing so requires. If you want to discuss more than can be presented in the time allotted to you, include all of the material in your prepared statement of testimony. Then you may summarize the statement in your testimony, and the entire written statement of testimony will be introduced into the record as an exhibit.

SECTION D—ISSUES DESIGNATED UNDER § 1.13(d)(1)

Set forth below are the issues which the Presiding Officer has determined to designate under § 1.13(d)(1) of the rules of practice as issues to be considered in accordance with § 1.13(d)(5) and (6) of the rules of practice. Oral statements with respect to these issues may entitle designated representatives or other interested parties to conduct or have conducted such examinations including cross-examinations, as the Presiding Officer may determine to be appropriate and required for a full and true disclosure with respect to any issue so designated. In the alternative, the Presiding Officer may determine that full and true disclosure as to any issue may be achieved through rebuttal submissions or the presentation of additional oral and written statements.

The Presiding Officer may at any time on his own motion or pursuant to a written petition by an interested party, add designated issues or modify any issue listed. No such petition shall be considered unless good cause is shown why such issue was not proposed during the time specified in the Initial Notice.

The issues designated by the Presiding Officer are:

1. Do the practices described in (a)-(f) of the Commission's Statement of Reason for the Proposed Rule exist; if so, are these practices widespread?

2. Do the interests of consumers or industry members warrant modification of the definition of "health spa" (§ 443.1(a))?

3. What will be the impact upon consumers of § 443.2 (c) and (d) requiring the inclusion of provisions in contracts reserving to the customer the unilateral right of cancellation and pro-rata refunds?

4. What will be the impact upon industry members of § 443.2(c) and (d) requiring the inclusion of provisions in contracts reserving to the customer the unilateral right of cancellation and pro-rata refund?

5. As they relate to the computation of refund and cancellation fees, what expenditures do health spas make in selling and servicing their membership contracts and at what point in the life of the typical contract do they make such expenditures?

SECTION E.—NOTIFICATION OF INTEREST AND REQUESTS FOR RIGHTS OF CROSS-EXAMINATION

Interested persons who desire to avail themselves of the procedures described in Section D with respect to designated issues, e.g., examination, cross-examination, must notify the Presiding Officer no later than June 13, 1977, in writing of their particular interest with respect to each issue designated, including a general statement of their position with respect to each such issue. Those having no interest or position as to a particular issue, should merely indicate "No interest". Such interested persons must specifically request to participate in examination and cross-examination of witnesses. Request to examine, including cross-examination of witnesses or to present rebuttal submissions shall be accompanied by a specific justification therefor. Notifications should be labeled "Health Spa Notifications" so that they may be considered promptly. In the event new issues are added, interested persons must promptly notify the Presiding Officer of their particular interest with respect to each issue in the same manner. The Presiding Officer retains the authority to refuse parties the opportunity to avail themselves of the procedure described in Section D if they fail to comply with the notification requirements of this Section E.

Before the public hearings begin, the Presiding Officer will identify groups of persons with the same or similar interests in the proceeding. Such groups will be required to select a single representative for the purpose of examination, including cross-examination and if unable to agree, the Presiding Officer may select a representative of each such group. Any member of a group who is unable to agree upon group representation after good faith effort to do so, and who seeks to present substantial and relevant issues which will not be adequately presented by the group representative, may be allowed to conduct or have conducted any examination, including cross-examination or present rebuttal submissions, to which he is entitled on issues designated in Section D.

SECTION F—ADDITIONAL COMMENTS INVITED

The questions set out in this Section F are not designated issues and are posed in order to facilitate the development of views and comments from all interested parties.

1. Should a final rule contain an option permitting a health spa to maintain an informal dispute settlement mechanism such as that contemplated under Section 110 of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act and the rules thereunder (see 16 CFR Part 703) for determining the amount of refunds and indebtedness? Should such mechanism be required to meet the same standards as those which would be applicable to such warranty dispute mechanism? What modifications if any should be made?

2. Should a final rule contain a requirement that all funds obtained from buyers during preopening sales or prior to a health spa becoming fully operational be segregated in an escrow account until the spa is fully operational? In the event of a spa not becoming fully operational, what form of mechanism should be utilized to return the escrowed amounts to buyers?

3. Should a final rule contain prohibitions against various specific misrepresentations and unfair practices such as, for example:

(a) Bait advertising; (b) Fictitious bargains; (c) Deceptive pricing; (d) The length of enrollment periods available; (e) The facilities available and the qualifications of spa employees; and, (f) The results to be obtained through participation in spa programs?

4. Should a final rule contain a requirement that a health spa provide a short-rate cancellation table to buyers so that in the event of cancellation prior to the expiration of the contract term, a buyer will have exact knowledge of his or her monetary obligation to the health spa or the amount of refund due the buyer from the health spa?

5. Should a final rule require a health spa to disclose, prior to the signing of a contract, the proportion of the contract price which represents costs incurred by the spa for advertising and selling expense?

6. Should a final rule require that a customer be considered as having elected to cancel the contract if the customer fails to visit or use the facilities of a health spa for a given number of consecutive sessions or some calendar period, as for example, 10 sessions or 1 calendar month, at times when the services or facilities of the health spa are available for the customer's use?

7. Should a final rule provide alternative procedures other than a specific cancellation and refund policy in situations where a buyer cancels or withdraws from the contract prior to completion of the contract term? What are the elements to be considered and included in such alternative procedures?

Issued: May 24, 1977.

ROGER J. FITZPATRICK,
Presiding Officer.

The proposal as it appeared in the FEDERAL REGISTER of August 18, 1975 (40 FR 34615) is reprinted below:

Sec
443.1 Definitions.
443.2 Business and sales practices.
443.3 Exemptions.

AUTHORITY: 38 Stat. 717, as amended; 15 U.S.C. 41, *et seq.*

§ 443.1 Definitions.

For the purpose of this part the following definitions shall apply:

(a) *Health spa.* An establishment which provides as one of its primary purposes services or facilities which are purported to assist patrons to improve their physical condition or appearance through change in weight, weight control, treatment, dieting or exercise. The term includes an establishment designated as "reducing salon", "health spa", "spa", "exercise gym", "health studio", "health club", or by other terms of similar import.

(b) *Primary establishment.* The health spa at a specific location, whether or not it has actually been constructed or is in operation, at which the buyer desires or expects to obtain the services or to use the facilities offered on a regular and continuing basis throughout the life of the contract, even though he may also have the right to visit and use the services and facilities of other establishments owned, controlled or operated by the seller.

(c) *Operating day.* Any calendar day on which the buyer may inspect the facilities of the health spa during a period of at least eight hours.

(d) *Total contract price.* The total price paid or to be paid by the buyer for the right to use the health spa facilities, or the services which are the subject of the contract, including any finance charges determined in accordance with § 226.4 of Federal Reserve Regulation Z (12 CFR 226.4).

(e) *Cancellation of the contract.* The contract or sale shall be deemed to have been cancelled upon the mailing of a written notice, or the delivery of a written notice, by the buyer to the seller at the place designated in the contract pursuant to paragraph (a) of § 443.2 and the detachable "NOTICE OF CANCELLATION" set forth in paragraph (f)(4) of § 443.2.

§ 443.2 Business and sales practices.

In connection with the sale or offering for sale in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, by any person, corporation, partnership, association or group engaged in the operation of a health spa, of any service, or the right to use the facilities or receipt of its services, it constitutes an unfair or deceptive act or practice, in violation of the Federal Trade Commission Act to:

(a) Fail to employ a written contract which shall constitute the entire agreement between the seller and the buyer, a fully completed copy of which shall be furnished to the buyer at the time of its execution which shows the date of the transaction, the name and address of the seller, the identity and location of the primary establishment, and in immediate proximity to the space reserved in the contract for the signature of the buyer and in bold face uppercase type of a minimum size of ten points, the following statement:

NOTICE TO BUYER: DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ THE PROVISIONS UNDER THE HEADING 'CANCELLATION AND REFUNDS'. ALSO, DO NOT SIGN THIS CONTRACT IF IT CONTAINS ANY BLANK SPACES

(b) Fail, prior to the time the contract is executed by the buyer, to furnish the buyer with a current copy of any rules and regulations of the seller which are applicable to the buyer's use of the facilities or receipt of its services and which are not set forth in the contract.

(c) Fail, unless the provisions of paragraph (d) of this section are applicable, to include in the contract pertaining to the sale, under the caption "CANCELLATION AND REFUNDS" which caption shall be printed in bold face uppercase type of a minimum size of 10 points, the following cancellation and refund provision:

(1) *Right to Cancel within Three Operating Days.*

You are permitted to inspect the facilities of [the seller] within three operating days after the date of this contract. If, within those three days, and whether or not you make an inspection, you decide that you want to cancel this contract, you may do so by notifying [the seller] on the attached form which has been provided to you, or by any other writing mailed or delivered before midnight of the third operating day after the date of this contract to [the seller] at the address shown on the contract. If you so cancel, any payments made by you under the contract will be refunded; and any evidence of indebtedness executed by you will be cancelled by [the seller], and arrangements will be made to relieve you of any further obligation to pay the same. If during the first three operating days after the date of this contract [the seller] allows you to use its facilities or performs any services, it must do so without charge.

For the purposes of this provision, the following days are "operating days" [insert days]. On these days, the spa will be open [insert a statement of the hours during which the spa will be open].

(2) *Additional Right to Cancel after Three Operating Days.*

You may also cancel this contract for any reason at any time, following the expiration of the three-day period described in [(1)], by notifying [the seller] on the attached form provided to you, or by any other writing, mailed or delivered to [the seller] at the address shown on the contract". If you cancel this contract after three operating days, [the seller] is entitled to keep or to receive a cancellation fee of [insert specified sum not in excess of five percent of the total contract price] plus a pro rata portion of the total contract price determined in the manner specified in [(3)] below. All money you have paid in excess of that amount will be refunded, and any financial obligation you may have undertaken or assumed as a part of this transaction will be terminated by [the seller] to the extent that it provides for payment of a sum in excess of the amount [the seller] is entitled to keep or to receive pursuant to this provision. *Provided*, That if at the time of cancellation, the facilities and services offered by [the seller] are not fully operational and available, [the seller] may not retain or receive a cancellation fee.

(3) *Pro Rata Computation.*

The pro rata portion to which the seller is entitled shall be determined by taking the number of complete weeks [if the extent of the buyer's right to use the facilities is calculated on the basis of a measure other than time such as 'sessions', 'visits', 'lessons' or the like, that term should be substituted for the phrase 'complete weeks' in this provision] for which the services or facilities were made available to you following the first three operating days after the date of this contract and prior to cancellation of the contract and *dividing* that number by the total number of weeks specified in this contract ([insert total number of weeks] weeks) and *multiplying* the result of that division by the total contract price ($[insert total contract price]).

(d) Fail, if at the time of the execution of the contract the primary establishment is not completed or its facilities are not fully operational and available for the buyer's use, to include in the contract pertaining to the sale, under the caption "CANCELLATION AND REFUNDS" which caption shall be printed in bold face uppercase type of a minimum size of 10 points, the following cancellation and refund provisions:

(1) *Right to Cancel Prior to Opening and Availability of All Facilities.*

You may cancel this contract at any time prior to the receipt of written notice from [the seller] that the facilities are fully operational and available for your use. If you decide that you want to cancel this contract, you may do so by notifying the seller on the attached form which has been provided to you or by any other writing mailed or delivered to [the seller] at the address shown on the contract before your receipt of such written notice. If you so cancel, any payments made by you under the contract will be refunded and any evidence of indebtedness executed by you will be cancelled by [the seller] and arrangements will be made to relieve you of any further obligation to pay the same.

(2) *Right to Cancel within Ten Operating Days after Receipt of Notice that All Spa Facilities are Fully Operational.*

You are permitted to inspect the facilities of [the seller] within ten operating days after the date of your receipt of written notice from [the seller] that the facilities are fully operational and available for your use, and which states what days are operating days and during what hours on those days the spa will be open. If, within those ten days, and whether or not you make an inspection, you decide that you want to cancel this contract, you may do so by notifying [the seller]on the form provided you, or by any other writing mailed or delivered to [the seller] at the address shown on the contract by midnight of the 10th operating day after the receipt of such written notice. If you so cancel, any payments made by you under the contract will be refunded, and any evidence of indebtedness executed by you will be cancelled by [the seller] and arrangements will be made to relieve you of any further obligation to pay the same. If during the first ten operating days after you receive notice that all spa facilities are fully operational, the seller allows you to use its facilities or performs any services, it must do so without charge.

(3) *Additional Right to Cancel at Any Time.*

If you elect to cancel this contract, for any reason, following the expiration of your right to cancel under the provisions of [(1)] or [(2)], you may do so by notifying [the seller] on the attached form which has been provided to you, or by any other writing, mailed or delivered to [the seller] at the address shown on the contract.

If you cancel this contract in accordance with this paragraph, [the seller] is entitled to keep or to receive a cancellation fee of $ [insert a specified sum not in excess of five percent of the total contract price] plus a pro rata portion of the total contract price determined in the manner specified in [(4)] below. All money you have paid in excess of that amount will be refunded, and any financial obligation you may have undertaken or assumed as a part of this transaction will be terminated by [the seller], to the extent that it provides for payment of a sum in excess of the amount [the seller] is entitled to keep or to receive pursuant to this provision. *Provided*, That if at the time of cancellation, the facilities and services offered by [the seller] are not fully operational and available, [the seller] may not retain or receive a cancellation fee.

(4) *Pro Rata Computation.*

The pro rata portion shall be determined by taking the number of complete weeks [if the extent of the buyer's right to use the facilities is calculated on the basis of a measure other than time such as "sessions", "visits", "lessons" or the like, that term should be substituted for the phrase "complete weeks" in this provision] following the first ten operating days after the date of this contract for which the services or facilities were made available to you prior to cancellation of the contract and *dividing* that number by the total number of weeks specified in this contract ([insert total number of weeks] weeks) and *multiplying* the result of that division by the total contract price ($[insert total contract price]).

(e) Fail to inform each buyer orally, immediately prior to the time he signs the contract, of his cancellation rights as set forth in paragraph (c) or (d) of this section, whichever is applicable, using the following language:

(1) If paragraph (c) of this section is applicable:

You may cancel this contract within three operating days and receive a full refund. You may also cancel this contract at any time and receive a pro rata refund, less a cancellation fee, for the unused portion of the contract. Before signing the contract read the provisions under the heading "CANCELLATION AND REFUNDS".

(2) If paragraph (d) of this section is applicable:

You may cancel this contract before you receive written notice that the spa is open, and at any time within 10 operating days after you receive such notice and receive a full refund. You may also cancel this contract at any time after receiving notice that the spa is open and receive a pro rata refund, less a cancellation fee, for the unused portion of the contract. Before signing the contract read the provisions under the heading "CANCELLATION AND REFUNDS".

(f) Fail to furnish each buyer, at the time he signs the contract, a completed form in duplicate, which is attached to the contract but easily detachable therefrom and which is captioned in fifteen point bold face uppercase type "NOTICE OF CANCELLATION". This detachable form shall contain in ten point bold face uppercase type the following information and statements:

(1) For an explanation of your rights to cancel the attached contract and the amount of any refund due, or payment owing, see that section of the contract headed "CANCELLATION AND REFUNDS".

(2) To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice to [name of seller], at [insert seller's address].

I hereby cancel this transaction.

_____
(Date)

_____
(Buyer's signature)

(g) Include in any contract any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this part, including specifically the buyer's right to cancel the transaction in accordance with any provision of this part.

(h) Misrepresent in any manner a buyer's obligations or his right to cancel his obligations arising from his use of the seller's services or facilities, or from his contracting, orally or in writing, for the use of the seller's facilities or services, or arising from any evidence of indebtedness or like document executed in connection with the sale of the seller's services or of the use of the seller's facilities.

(i) Fail or refuse to honor any notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to (1) refund any payments due the buyer, and (2) cancel that portion of the buyer's indebtedness that exceeds the amount due the seller under the applicable refund provisions of this section and (3) take any other action necessary or appropriate to terminate the buyer's obligation to pay any sum in excess of that due under the applicable cancellation and refund provision in paragraph (c) or (d) of this section.

(j) Fail to maintain at all times complete records relative to the manner and form of compliance with this part. Such records shall include for at least the preceding three years, copies of all advertising and shall indicate with respect to each sale the type of program or service sold, the price charged therefore, the name and address of the purchaser thereof, and, if the sale was cancelled, the date thereof, the amounts of money retained by the seller and billed or refunded to the buyer, and a description of the action taken, such as cancellation of the buyer's obligation to pay any sum in excess of that due under the applicable cancellation and refund provisions in paragraph (c) or (d) of this section.

(k) Receive payment of, or enter into one or more contracts or written agreements obligating payment of, a sum in excess of five percent of the total contract price from or on behalf of the buyer prior to the time the primary establishment is completed and its facilities are fully operational and available for use by the buyer.

(l) Enter into one or more contracts or written agreements for membership in a health spa, or the right to use the facilities of a health spa, or any other service to be provided by the seller whereby the buyer is obligated for a period in excess of two years or whereby the seller is obligated to provide facilities or services to the buyer for a period in excess of two years from the date of the original contract or agreement, *Provided*, That upon the expiration of the full term stated in an original contract or agreement the buyer and the seller may enter into a new contract or agreement which shall also be subject to the same limitations set forth herein.

(m) Fail, if any substantial portion of any sales presentation or sales transaction is conducted, either orally or in writing, in a language other than English (e.g., Spanish), to:

(1) Furnish the buyer with complete sets of all documents required to be furnished to the buyer by the provisions of this part, one of which is in English and one of which is in the other language used in the sales presentation or transaction; and

(2) Make all oral disclosures required by the provisions of this part in both English and in the other language used in the sales presentation or transaction.

(n) Fail to inform the buyer both orally and in writing that persons over the age of 35 and all persons with known or suspected heart disease are advised to consult their physician before enrolling.

§ 443.3 Exemptions.

The provisions of this part shall not apply to transactions in which the buyer purchases the right to use the facilities or obtain the services of a seller on a per visit basis, on a daily basis, or on a weekly basis; *Provided, however*, This exemption shall not apply if the buyer is obligated to purchase or to pay for the right to use the facilities or to obtain the services of the seller for a period in excess of one week, or if the seller is obligated to provide the use of facilities or services to the buyer for a period in excess of one week.

[FR Doc.77-14894 Filed 5-23-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34—13539; File No. S7-613]

TRANSACTIONS BY MEMBERS OF NATIONAL SECURITIES EXCHANGES

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The time for comment on rule proposals governing transactions effected by members of national securities exchanges has been extended. The comment period currently expires on May 15, 1977.

DATES: Comments must be received on or before July 15, 1977.

ADDRESSES: Interested persons should submit six copies of their written views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 and should refer to File No. S7-613. All submissions will be made available for public inspection in the Commission's Public Reference Section, Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Richard A. Steinwurtzel, Esq., Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-8749.

SUPPLEMENTARY INFORMATION: On March 18, 1977, the Commission published Securities Exchange Act Release No. 13388,[1] in which it undertook an extensive analysis of section 11(a) of the Securities Exchange Act of 1934 in light of recent developments in the securities markets, e.g., the unfixing of commission rates and the liberalization of the access to exchange membership and services, and proposed for comment Securities Exchange Act Rules 11a2-1, 11a1-3, and 11a2-2.[2] Interested persons were invited to submit written views and comments on the proposed rules on or before May 15, 1977.

The Commission has received four written requests that the comment period with respect to those rule proposals and issues relating to section 11(a) in general be extended. The course of action ultimately adopted under section 11(a) is expected to have far-reaching consequences for the securities markets and the participants therein. The issues raised in the Commission's recent release, moreover, are complex and deserve a thorough study by interested persons. The Commission has thus determined to extend the comment period until July 15, 1977. In granting that extension, the Commission nevertheless recognizes that its regulatory program under section 11(a) should be in place well before May 1, 1978.[3] Accordingly, the Commission plans to prepare for final action on its rule proposals under section 1(a) promptly after July 15, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 13, 1977.

[FR Doc.77-14617 Filed 5-23-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 101, 104, 141, 260]

[Docket No. RM77-17]

UNIFORM SYSTEM OF ACCOUNTS; PUBLIC UTILITIES PRESCRIBING

Amendments and Changes in Certain Report Forms; Extension of Time

AGENCY: Federal Power Commission.

ACTION: Extension of time for data, views and comments.

SUMMARY: The Commission is extending the time for filing data, views and comments in the proposed rulemaking proceeding docketed as RM77-17.

DATES: Data, views and comments must be received on or before June 1, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary Federal Power Commission, 825 North Capital Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary (202) 275-4166.

SUPPLEMENTARY INFORMATION: On May 12, 1977, the Oglethorpe Electric Membership Corporation and North Carolina Electric Membership Corporation filed a motion requesting an extension of time to June 13, 1977, for filing data, views and comments in the rulemaking proceeding noticed April 8, 1977, and published April 19, 1977 (42 FR 20303), in the above-designated docket.

On May 12, 1977, the Oglethrope Electric Membership Corporation and North Carolina Electric Membership Corporation filed a motion requesting an extension of time to June 13, 1977, filing data, views and comments in the rulemaking proceeding noticed April 8, 1977, and published April 19, 1977 (42 FR 20303), in the above-designated docket.

Upon consideration, notice is hereby given that the data for filing data, views and comments is extended to and including June 1, 1977.

LOIS D. CASHELL,
Acting Secretary.

MAY 13, 1977.

[FR Doc.77-14770 Filed 5-23-77;8:45 am]

[1] 42 FR 16745 (Mar. 29, 1977).

[2] Proposed 17 CFR 240.11a2-1, 11a1-3, and 11a2-2.

[3] Section 11(a) becomes fully effective on May 1, 1978. See section 11(a)(3) of the Act, 15 U.S.C. 78k(a)(3).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

OIL AND GAS WELLS

Limitations on Percentage Depletion

Correction

In FR Doc. 77-13707 appearing at page 24279 in the issue for Friday, May 13, 1977 on page 24282 make the following corrections to material appearing in § 1.613A-3(d):

(1) In paragraph (3), in the line which appears at the bottom of column 1, "section 513A" should have read "section 613A", and the third line from the top of column two should be deleted and in its place inserted "year, then purposes of section 613A * * *".

(2) In paragraph (4), in Example 4, in the 8th line "allowable" should have read "allocable", and in the 11th line "allocable" should have read "allowable".

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[33 CFR Part 204]

SAN PABLO BAY, CALIFORNIA

Danger Zone Regulations

AGENCY: Corps of Engineers, DOD.

ACTION: Proposed rules.

SUMMARY: This proposed amendment redesignates the agency using the danger zone in San Pablo Bay, California, and extends the period of use of the danger zone until September 30, 1982. The Navy Coastal River Division 11 has asked to use this danger area. The proposed rule would allow that use.

DATES: Comments must be received on or before June 15, 1977.

ADDRESS: Send comments to: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314. ATTN: DAEN-CWO-N.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph Eppard, Phone 202-693-5070.

SUPPLEMENTARY INFORMATION: The danger zone (gunnery range) in San Pablo Bay, California, was established in 33 CFR 204.216 for the use of the Naval Inshore Operations Training Center, Mare Island, California. That agency was decommissioned in June 1972 and the Coastal River Division Eleven was subsequently commissioned to take over their facilities and training responsibilities. That agency has also requested usage of the danger area. In addition, the Coastal River Division Eleven has limited their usage of the danger zone to the period of April 1 through September 30 annually in order to minimize harassment of waterfowl and other migratory birds that winter in the area.

Accordingly, we propose to amend 33 CFR 204.216 as set forth in tentative form below:

§ 204.216 San Pablo Bay, California; gunnery range, Department of the Navy, Coastal River Division Eleven, Mare Island, Vallejo.

(a) *The Danger Zone.* * * *

NOTE.—The danger zone will be used until September 30, 1982, after which it shall be subject to review to determine the further need thereof.

(b) *The Regulations.* The Commanding Officer, Coastal River Division Eleven, Department of the Navy, Mare Island, Vallejo, California, will conduct gunnery practice in the area during the period April 1 through September 30, between the hours of 10 a.m. and 3 p.m. on the first Wednesday of each month and the third full week end (Saturday and Sunday) of June. No vessels shall enter or remain in the danger zone during the above stated periods except those vessels connected with the gunnery practice operations. All firing will be from the southerly portion of the danger zone in a northerly direction, and only during good visibility. The public will be notified prior to each firing by a Notice to Mariners issued by the U.S. Coast Guard and the area will be patrolled by boat and searched by radar to insure a clear range. A safety officer will always be aboard the firing boat to guarantee that all safety precautions are observed. The regulations in this section will be enforced by the Commandant, 12th Naval District and such agencies as he may designate.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266; (33 U.S.C. 1).)

Dated: May 9, 1977.

THOMAS R. HICKLIN,
Lieutenant Commander, Corps of Engineers, Executive Director of Civil Works.

[FR Doc.77-14612 Filed 5-23-77;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 1]

FREEDOM OF INFORMATION

Authority To Withhold Information Modified

AGENCY: Veterans Administration.

ACTION: Proposed Rule.

SUMMARY: The Veterans Administration is proposing to amend its regulations regarding the scope of information that must be disclosed to the public by the agency. The amendment is intended to make the VA regulations conform to The Government in the Sunshine Act.

DATES: Comments must be received on or before June 23, 1977. It is proposed to make this amendment effective March 12, 1977, the effective date of section 5(b), Pub. L. 94-409.

ADDRESS: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the

purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

FOR FURTHER INFORMATION CONTACT:

Otto M. Ireland, Assistant Director (075A), Management Services Staff, Office of Planning and Evaluation, Veterans Administration, Washington, D.C. 20420 (202–389–3616).

SUPPLEMENTARY INFORMATION: Section 5(b) of Pub. L. 94–409 (90 Stat. 1241), September 13, 1976, amended section 552(b)(3) of Title 5, United States Code, effective March 12, 1977. It eliminates certain discretionary determinations to withhold information, by authorizing withholding only: (1) If the statutory authority specifically prohibits disclosure, leaving no discretion in the matter; or (2) establishes particular criteria for withholding; or (3) refers to particular types of matters to be withheld. The amendment will not significantly affect the VA, as the most frequently used section of Title 38, U.S.C., section 3301, is a mandatory confidentiality statute and refers to particular types of matters to be withheld. In addition Veterans Administration policy, set forth in § 1.550, has been to disclose information from agency records to the extent permitted by law, including under certain conditions information that would otherwise be permitted by statute to be withheld.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Approved: May 17, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 1.554, paragraph (a)(3) is revised to read as follows:

§ 1.554 Exemptions from public access to agency records.

(a) The exemptions in this paragraph constitute authority to withhold from disclosure certain categories of information in Veterans Administration records except that any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this paragraph.

* * * * *

(3) Specifically exempted from disclosure by statute other than 5 U.S.C. 552b, provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

* * * * *

[FR Doc.77–14686 Filed 5–23–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 732–5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Yolo-Solano Air Pollution Control District Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Yolo-Solano Air Pollution Control District Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on July 25, 1973, July 19, 1974, January 10, 1975 and April 21, 1976. Regulations concerning New Source Review, Emergency Episodes and Vapor Recovery are not being considered in this notice, and will be the topic of a separate FEDERAL REGISTER notice. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 23, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch (A–4), EPA Region IX, 100 California Street, San Francisco, Calif. 94111.

Availability of Documents: Copies of the proposed revision are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Yolo-Solano Air Pollution Control District, 323 1st Street, Woodland, Calif. 95695.

California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section (415–556–7288).

SUPPLEMENTARY INFORMATION: The July 25, 1973, July 19, 1974, January 10, 1975, and April 21, 1976 submittals contained revisions to the following rules and regulations:

Rule 1.2, Definitions
Rule 1.3, Confidential Information
Rule 1.4, Enforcement
Rule 2.4, Exceptions
Rule 2.8, Open Burning
Rule 2.9, Open Burning, Certain Materials
Rule 2.11, Particulate Matter
Rule 2.12, Specific Contaminants
Rule 2.13, Organic Solvents
Rule 2.14, Architectural Coatings
Rule 2.15, Disposal and Evaporation of Solvents
Rule 2.16, Fuel Burning Heat or Power Generators
Rule 2.19, Particulate Matter Process Emission Rate
Regulation IV, FEES
Rules 4.1 through 4.5
Regulation V, Procedure Before the Hearing Board
Rules 5.1 through 5.18
Regulation VI, Agricultural Burning
Rules 6.1 through 6.8
Regulation VIII, Designated Sources
Rules 8.1 through 8.9
Addendum: Exhibit A

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c–5).)

Dated: May 3, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77–14614 Filed 5–23–77;8:45 am]

[40 CFR Part 52]

[FRL 732–4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California: Proposed Approval of Compliance Schedules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In order to satify the requirements of the Clean Air Act, the State of California has submitted to the Environmental Protection Agency (EPA) a State Implementation Plan (SIP) for the control of air pollution. Portions of the Plan have been approved by EPA and are now enforceable by EPA as Federal regulations. On March 18, 1977, the designated representative of the Governor of California submitted to EPA compliance schedules for sources found to be in violation of the approved SIP. This publication proposes to approve these compliance schedules as revisions to the California State Implementation Plan, thereby making the schedules federally enforceable.

DATES: (1) Final compliance dates: see Table below. (2) Comments must be postmarked on or before June 23, 1977.

ADDRESSES: (1) Schedules are available for inspection at the following addresses: State of California Air Resources Board, 1709 11th Street, Sacramento CA 95814; Environmental Protection Agency, Region IX, 100 California Street, San Francisco CA 94111. (2) Comments should be addressed to: Environmental Protection Agency, Region IX, Director, Enforcement Division, 100 California Street, San Francisco CA 94111.

FOR FURTHER INFORMATION CONTACT:

William Rhea, Envrionmental Protection Agency, Region IX, Enforcement Division, 100 California Street, San Francisco CA 94111 (415–556–0970).

SUPPLEMENTARY INFORMATION: On May 21, 1972 (37 FR 10842), September 22, 1972 (37 FR 19812), and May 14, 1973 (39 FR 12702), pursuant to section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c–5) and 40 CFR Part 51, the Administrator approved and promulgated portions of the California plan for the implementation of national ambient air quality standards. On March 18, 1977, after notice and public hearings, the Governor of California through his designee submitted to the Environmental Protection Agency (EPA) three compliance schedules, all of which have been found to satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51. This publication proposes that these three schedules be approved as revisions to the state compliance schedule portion of the approved plan pursuant to 40 CFR 51.8 and section 110 of the Clean Air Act.

Each proposed compliance schedule revision establishes a new date by which the individual air pollution source must comply with an emission limitation specified by the implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date". In some cases, the schedule includes incremental steps toward compliance with the specified regulations.

While the table below does not include these interim dates, the actual compliance schedule does. The increments of progress, as well as the final compliance date, are legally enforceable by the Administrator pursuant to section 113 of the Clean Air Act as amended.

An evaluation report setting forth EPA's position on each of the schedules is available at the office of EPA, Region IX. Interested persons are encouraged to submit written comments on any proposed compliance schedule. All comments will be available for public inspection during business hours.

This proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended (42 U.S.C. 1857c–5(a)).

Dated: May 11, 1977.

PAUL DE FALCO, JR.,
Regional Administrator,
Region IX.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

SUBPART F—CALIFORNIA

1. In § 52.220, paragraph (c) is amended as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(38) Supplemental information (compliance schedules) was submitted by the California Air Resources Board on March 18, 1977.

2. In § 52.240, paragraph (f) is amended by adding the following schedules to the table in subparagraph (1):

§ 52.240 Compliance schedules.

* * * * *

(f) * * *

(1) * * *

Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
*	*	*	*	*	*
Texaco, Inc., No. 76–5	Merced	411, 411.1	Sept. 29, 1976	Immediately	May 31, 1977.
W. & L. Auto Parts No. 76–6	do	411, 411.1	do	do	Do.
Frontier Service No. 76–38–R1	San Joaquin	411.1	Sept. 16, 1976	do	Do.

[FR Doc.77–14613 Filed 5–23–77;8:45 am]

[40 CFR Part 52]

[CFRL 729–8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Rulemaking; Oklahoma Regulation 4.2

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: It is proposed to approve revisions to Oklahoma State Implementation Plan (SIP) Regulation 4.2 which provides for public disclosure of emission data and to rescind regulations by which EPA implemented public disclosure. The Oklahoma SIP was disapproved on September 26, 1974, since it could, in some circumstances, prohibit the disclosure of emission data to the public. The availability of data to the public would be unchanged inasmuch as this revision to the Oklahoma SIP corrects a deficiency which has been provided for by EPA regulations.

DATES: Interested persons may participate in this proposed rulemaking by submitting written comments to the Environmental Protection Agency, Region VI, complete address below. All comments received on or before June 23, 1977, will be considered.

ADDRESS: Send comments to: Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT:

George I. Kennedy, Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Texas 75270 (214–749–3837).

SUPPLEMENTARY INFORMATION: On September 26, 1974, Regulation 4.2 of the Oklahoma State Implementation Plan (SIP) was disapproved since it could, in some circumstances, prohibit the disclosure of emission data to the public. On November 28, 1975, EPA promulgated Regulations for public availability of emission data. On October 7, 1975, the Governor of Oklahoma submitted a revision to the SIP specifically making emission data subject to public disclosure as a revision to Regulation 4. The public hearing for this revision was held by the State Air Quality Council on January 14, 1975. The revision to the Regulation was recommended by the State Air Quality Council on March 11, 1975, for adoption by the Oklahoma State Board of Health. The revision was adopted by the State Board of Health on June 29, 1975, and after filing with the Secretary of State was effective on July 9, 1975. In this revision to Regulation 4.2 emission data must be made available at all times to the public during normal working hours. It is proposed to accept paragraph 4.2 of Regulation 4 as revised and to rescind 40 CFR 52.1926.

A copy of the State's proposed SIP Revision is available for public inspection at the EPA Region VI Office in Dallas, Texas (complete address above). A copy of this material is also available at the Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 M Street, Washington, D.C. 20460.

This action is taken under authority of section 110(a) of the Clean Air Act as amended, 42 U.S.C. 1857c–5(a).

Dated, May 6, 1977.

JOHN C. WHITE,
Regional Administrator.

It it proposed to amend Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations as follows:

Subpart LL—Oklahoma

1. In § 52.1920, paragraph (c) is amended by adding paragraph (8) as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(8) Revision concerning Regulation 4.2 (public availability of emission data)

was submitted by the Governor on October 7, 1975.

§ 52.1926 [Revoked]

2. Section 52.1926 is revoked.

[FR Doc.77-14671 Filed 5-23-77;8:45 am]

[40 CFR Part 180]

[FRL 731-4; OPP—300012]

TOLERANCES AND EXCEPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemptions from Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that 40 CFR 180.1001 be amended by exempting certain inert (or occasionally active) ingredients in pesticide formulations from the requirement of a tolerance and by adding the new § 180.1035, 180.1036, and 180.1037.

DATE: Comments must be received on or before June 23, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 N St. SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Ritter, Toxicology Branch, Registration Division (WH–567), Office of Pesticide Programs, EPA (202)/426–2680).

SUPPLEMENTARY INFORMATION: At the request of several interested persons, the Administrator is proposing to amend 40 CFR 180 by exempting certain pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and includes, but is not limited to, the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water, baits such as sugar, starches, and meat scraps, dust carriers such as talc and clay, fillers, wetting and spreading agents, propellants in aerosol dispensers, emulsifiers. The term inert is not intended to imply toxicological inertness or lack of toxicity; the ingredient may or may not be chemically or toxicologically active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name under consideration, the name and address of the person making the request for exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert ingredient	Firm	Bases for approval
3,6-Dimethyl-4-octyn-3,6-diol	Air Products & Chemicals Co., 2 Possumtown Rd., Piscataway, N.J. 08854.	No reasonable expectation of residues in human food.
Hydrogenated castor oil	Conrel, An Albany International Co., 735 Providence Highway, Norwood, Mass. 02062.	Do.
Maleic acid-butadiene copolymer.	Lindau Chemicals, Inc., P.O. Box 641, Columbia, S.C. 29202.	Adequate toxicity studies in rats and dogs for 2 very close, structurally related products previously cleared.
Polybutenes in gossyplure formulations.	Conrel, An Albany International Co., 735 Providence Highway, Norwood, Mass. 02062.	No reasonable expectation of residue in human food.
Polyoxymethylene copolymer.	do	Do.
Propane	Ciba-Geigy Corp., P.O. Box 11422, Greensboro, N.C. 27409.	No reasonable expectation of residues in human food. Cleared under the Food and Drug Administration's generally recognized as safe (GRAS) list.
2,4,7,9-Tetramethyl-5-decyne-4,7-diol.	Air Products & Chemicals Co., 1 Possumtown Rd., Piscataway, N.J. 08854.	No reasonable expectation of residues in human food.

The amendment to 40 CFR Part 180 which is adding §§ 180.1035, 180.1036, and 180.1037 pertains to specific inert ingredients for which there are prescribed use patterns. These inerts cannot be used in any other manner except as specified in the regulation and as determined in a specific product registered by the Agency in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq.).

Based on the above information, other available information on the chemistry of these substances, and a review of their use, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard to the environment. It is concluded, therefore, that the proposed amendments to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 23, 1977, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject matter and the OPP document control number "OPP–300012." All written comments filed in response to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 11, 1977.

MARTIN H. ROGOFF, PH. D.,
Acting Director,
Registration Division.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

It is proposed that Part 180, Subpart D, § 180.1001, be amended by alphabetically inserting new items in paragraph (d) and by adding the new §§ 180.1035, 180.1036, and 180.1037 to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
3,6-Dimethyl-4-octyn-3,6-diol	In herbicide formulations: In soil applications only, piror to planting or at planting. In pesticide formulations other than herbicides: Before the edible parts form.	Surfactants, related adjuvants of surfactants.
* * *	* * *	* * *
Maleic acid-butadiene copolymer.	3 pct of pesticide formulation	Do.
* * *	* * *	* * *
Propane		Propellant.
* * *	* * *	* * *
2,4,7,9-Tetramethyl-5-decyne-4,7-diol.	In herbicide formulations: In soil appications only, prior to planting or at planting. In pesticide formulations other than herbicides: Before the edible parts form.	Surfactants, related adjuvants of surfactants.
* * *	* * *	* * *

§ 180.1035 Hydrogenated castor oil; exemption from the requirement of a tolerance.

The adhesive hydrogenated castor oil is exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity cotton seed when used as an inert adhesive for formulations of the attractant gossyplure (1:1 mixture of (*Z,Z*)- and (*Z,E*)-7,11-hexadecadien-1-ol acetate) to disrupt the mating of the pink bollworm.

§ 180.1036 Polybutenes; exemption from the requirement of a tolerance.

Polybutenes are exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity cotton seed when used as a sticker agent for formulations of the attractant gossyplure (1:1 mixture of (*Z,Z*)- and (*Z,E*)-7,11-hexadecadien-1-ol acetate) to disrupt the mating of the pink bollworm.

§ 180.1037 Polyoxymethylene copolymer; exemption from the requirement of a tolerance.

Polyoxymethylene copolymer, conforming to 21 CFR 121.2637, is exempt from the requirement of a tolerance for residues in or on the raw agricultural commodity cotton seed when used as an inert controlled-release dispenser for formulations of the attractant gossyplure (1:1 mixture of (*Z,Z*)- and (*Z,E*)-7-11-hexadecadien-1-ol acetate) to disrupt the mating of the pink bollworm.

[FR Doc.77-14482 Filed 5-23-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 29]

TRANS-ALASKA PIPELINE LIABILITY FUND

Establishment of Non-Profit Corporation

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Proposed rulemaking.

SUMMARY: The United States Department of the Interior, in order to implement section 204(c) of the Trans-Alaska Pipeline Authorization Act,, 43 U.S.C. 1653(c) (the Trans-Alaska Pipeline Liability Fund), proposes to adopt regulations pursuant to the Act for the purpose of establishing a nonprofit corporate entity to be strictly liable without regard to fault for all damages sustained by any person or entity as a result of discharges of oil from vessels engaged in the coastwise transportation of oil from the terminal facilities of the Trans-Alaska Pipeline to a port under the jurisdiction of the United States. Specifically, the contents of these proposed regulations include directives for establishing, supervising, and administering the Trans-Alaska Pipeline Liability Fund within the requirements of section 204(c) of the Act.

DATES: Comments must be received on or before June 14, 1977.

ADDRESSES: Comments should be submitted to the Office of the Secretary, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

W. Pierce Elliott, Office of the Solicitor, Department of the Interior, Division of Energy and Resources, Branch of International Law, 18th and C Streets NW., Washington, D.C. 20240 (202–343–4506).

SUPPLEMENTARY INFORMATION: Proposed regulations for the Trans-Alaska Pipeline Liability Fund were originally published in the FEDERAL REGISTER on January 19, 1977 (42 FR 3660). Twelve comments were received in response to the original publication. After review of these comments, significant changes have been made in the proposed regulations. Therefore, the Department of the Interior has determined that a reissuance of proposed regulations, to provide an opportunity for comment on the modifications, is warranted. At this time the Department of the Interior would like to express its gratitude to each government agency, organization, and individual that submitted comments on the original publication.

Because of the necessity of publishing final regulations in this matter prior to the date upon which oil is first loaded onto seagoing vessels at the terminal facilities of the pipeline, which the owners of the pipeline right-of-way project to be sometime between June 20th and August 15th of this year, the period for comment on these regulations has been shortened.

CECIL D. ANDRUS,
Secretary.

MAY 20, 1977.

It is proposed to amend Title 43 by adding a new Part 29, to read as set forth below:

PART 29—TRANS-ALASKA PIPELINE LIABILITY FUND

Sec.
29.1 Definitions.
29.2 Creation of the fund.
29.3 Fund administration.
29.4 General powers.
29.5 Officers and employees.
29.6 Financing, accounting and audit.
29.7 Imposition of strict liability.
29.8 Notification and advertisement.
29.9 Claims, settlement and adjudication.
29.10 Subrogation.
29.11 Investment.
29.12 Borrowing.
29.13 Termination.

AUTHORITY: Sec. 204(c), Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c).)

§ 29.1 Definitions.

As used in this part: (a) "United States" includes the various States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) "Secretary" means the Secretary of the Interior or his authorized representatives.

(c) "Act" means the Trans-Alaska Pipeline Authorization Act, Title II of Pub. L. 93–153.

(d) "Trans-Alaska Pipeline System" or "System" means any pipeline or terminal facilities constructed by the Permittees under the authority of the Act.

(e) "Fund" means the Trans-Alaska Pipeline Liability Fund established as a non-profit corporate entity by Section 204(c)(4) of the Trans-Alaska Pipeline Authorization Act.

(f) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or a Government entity.

(g) "Oil" means petroleum in any form including crude oil, refined products, and other liquid hydrocarbons.

(h) "Vessel" means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or propelled by another vessel, constructed or adapted to carry crude oil or petroleum products in bulk in its cargo spaces, and includes combination carriers such as ore-bulk-oil and ore-oil carriers engaged in transportation of oil between the terminal facilities of the Trans-Alaska Pipeline System and ports under the jurisdiction of the United States.

(i) "Pipeline" means any pipeline in the Trans-Alaska Pipeline System.

(j) "Terminal facilities" means those facilities of the Trans-Alaska Pipeline System at which oil is taken from the pipeline and loaded on vessels or placed in storage for future loading onto vessels for transportation to ports under the jurisdiction of the United States.

(k) "Permittees" means the holders of the Pipeline right-of-way for the Trans-Alaska Pipeline System and includes the Amerada Hess Pipeline Company, ARCO Pipe Line Company, BP Pipelines Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Petroleum Company, Sohio Pipe Line Company, Union Alaska Pipeline Company, and successors in interest to any one or more of the aforenamed companies.

(l) "Owner" means, in the case of oil, the owner of the oil at the time that such oil is loaded on a vessel at terminal facilities in the State of Alaska for transportation to a port under the jurisdiction of the United States.

(m) "Operator of the Pipeline" means the person or persons to whom payments are made for the costs of transportation of oil through the Trans-Alaska Pipeline System.

(n) "Owner or Operator" means, in the case of a vessel, any person owning, operating, or chartering by demise such vessel.

(o) "Incident" means any occurrence, or series of occurrences, which causes a discharge of oil from a vessel which is being or has been loaded at the pipeline terminal facilities with oil destined for a port under the jurisdiction of the United States.

(p) "Damage" or "damages" means any economic loss, arising out of or directly resulting from an incident, including but not limited to:

(1) Removal costs.

(2) Injury to, or destruction of, real or personal property.

(3) Loss of use of real or personal property.

(4) Injury to, or destruction of, natural resources.

(5) Loss of use of natural resources.

(6) Loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources, including loss of subsistence hunting, fishing and gathering opportunities.

(7) Loss of tax revenue for a period of one year due to injury to real or personal property.

(q) "Preventive measures" means any reasonable measures taken by any person after an incident has occurred, to prevent, minimize or mitigate damage stemming from the incident.

(r) "Claim" means a demand in writing for damages recoverable under this Part.

(s) "Affiliate" means:

(1) Any person owned or effectively controlled by the vessel or operators; or

(2) Any person that effectively controls or has the power to effectively control the vessel owner or operator by—

(i) Stock interest, or (ii) Representation of a board of directors or similar body, or (iii) Contract or other agreement with other stockholders, or (iv) Otherwise, or

(3) Any person which is under common ownership or control with the vessel owner or operator.

(t) "Guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator.

(u) "Person in Charge" means the individual immediately responsible for the operations of a vessel.

§ 29.2 Creation of the fund.

(a) The Trans-Alaska Pipeline Liability Fund was created as a non-profit corporation to be administered by the holders of the Trans-Alaska Pipeline right-of-way under regulations prescribed by the Secretary.

(b) The Fund shall take all steps necessary to carry out its responsibilities under the Act, including registering or otherwise qualifying to do business in all states and territories of the United States that it may reasonably be expected to do business in.

(c) The Fund shall be subject to the provisions of the Act, these implementing regulations, and to the extent consistent with this Act and regulations, to the laws and regulations of the states in which it is registered to do business.

(d) The right to repeal, alter, or amend these regulations is expressly reserved.

§ 29.3 Fund administration.

(a) The Fund shall be administered by a Board of Trustees designated by the permittees and the Secretary as provided in paragraph (b) of this section herein.

(b) (1) The Board of Trustees shall be comprised of one member designated by each Permittee and three members designated by the Secretary. At least one member designated by the Secretary shall be chosen from persons nominated by the Governor of the State of Alaska. Each member shall serve for a period of three years. Each member shall have the right to one vote. If additional persons become holders of rights-of-way, each such additional permitee shall have the right to designate a trustee, and if any holder of right-of-way sells his interest in such right-of-way, such holder's designated trustee shall resign from the Board. The Board shall elect by a majority vote a Chairman and a Secretary annually.

(b) (2) Where any activity of the Fund creates a conflict of interest, or the appearance of a conflict of interest, on the part of any member of the Board of Trustees, the member involved shall excuse himself or herself from any consideration of such activity by the Board of Trustees.

(c) The Board of Trustees by a majority vote shall select an Administrator to direct the day-to-day operations of the Fund.

(d) The Board of Trustees shall hold meetings every six months, or more frequently when necessary to consider pressing matters, including pending claims under § 29.9.

§ 29.4 General powers.

(a) The Fund shall have such powers as may be necessary and appropriate for the exercise of the powers herein specifically and impliedly conferred upon the Fund and all such incidental powers as are customary in non-profit corporations generally, including but not limited to the following:

(1) By resolution of the Board of Trustees, the Fund shall adopt a corporate seal.

(2) The Fund may sue and be sued in its corporate name and may employ counsel to represent it.

(3) The Fund shall be a resident of the State of Alaska with its principal place of business in Alaska, and the Board of Trustees shall establish a business office or offices as deemed necessary for the operation of the Fund.

(4) The Fund shall designate an agent to receive claims in each state where there is a likelihood of damages resulting from the discharge of oil from a vessel transporting oil between the terminal facilities of the Pipeline and a port under the jurisdiction of the United States.

(5) The Board of Trustees of the Fund, by a majority of those present and voting and subject to the approval of the Secretary, shall adopt and may amend and repeal by-laws governing the performance of its statutory duties.

(6) The Fund shall do all things necessary and proper in conducting its activities as Trustee including (i) receipt of collections pursuant to Section 204(c)(6) of the Act; (ii) payment of costs and expenses reasonably necessary to the administration of the Fund as well as costs required to satisfy claims against the Fund; (iii) investment of all sums not needed for administration and the satisfaction of claims in income producing securities as hereinafter provided; and (iv) seeking recovery of any monies to which it is entitled as subrogee under circumstances set forth in Section 204(c)(8) of the Act.

(7) The Fund shall determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid. The Board of Trustees shall establish an annual budget, subject to the approval of the Secretary.

(8) All costs and expenses reasonably necessary to the administration of the Fund, including costs and expenses incident to the termination, settlement, or payment of claims, are properly chargeable as expenses and payable out of fees or other income of the Fund.

(b) If at any time there is a tie vote in the consideration of any matter by the Board of Trustees, the member designated by the Secretary with longest service on the Board shall break the tie by voting twice.

§ 29.5 Officers and employees.

(a) Administrator. The Administrator is the Chief Executive Officer of the Fund and is responsible for carrying out all executive and administration functions as authorized by the Board of Trustees, in accordance with the Act, including the receipt of funds collected from Owners of oil pursuant to § 29.6(a), the investment of such funds in securities according to guidelines approved by the Board of Trustees and the Secretary, and the disbursement of such funds in payment of expenses and approved claims.

(b) The Fund shall employ such other persons as may be necessary to carry out its functions.

§ 29.6 Financing, accounting, and audit.

(a) (1) The operator of the pipeline shall collect a fee of five cents per barrel from the owner of the oil at the time it is loaded on a vessel transporting such oil to a part under the jurisdiction of the United States. Such collection shall be transferred forthwith to the Fund. Collection of fees shall cease at the end of the month following the month in which $100,000,000 has been accumulated in the Fund from any source. Collection of fees shall be resumed when the accumulation falls below $100,000,000. The Fund Administrator shall notify the pipeline carriers by the fifteenth of the month whether fees are to be collected during the following month.

(2) The value of the Fund shall be the current market value of the Fund on the day at the end of each month, or other agreed upon accounting period, when the value is to be determined.

(b) Costs of administration shall be paid from the money paid to the Fund, and all sums not needed for administration and the satisfaction of claims shall be invested in accordance with § 29.11. The interest on and the proceeds from the sale of any obligations held in the Fund shall be credited to and form a part of the Fund. Income from such securities shall be added to the principal of the Fund if not used for costs of administration or settlement of claims.

(c) At the end of each month, or other agreed upon accounting period, the operator of the pipeline shall provide the Fund with a statement of the respective volumes of crude oil transported by the operator of the pipeline and delivered to vessels, the amount of fees charged and collected, and the Owners from whom such fees were collected. The Administrator shall provide a copy of the statement to the Owners, and to the State of Alaska.

(d) The Fund shall undertake an annual accounting.

(e) The Fund shall be audited annually by the Comptroller General, in coordination with the Administrator and the Secretary. Authorized representatives of the Comptroller General and the Secretary shall have complete access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Fund and necessary to facilitate the audit, and they shall be afforded full facilities for verifying, among other things, transactions with the balances on securities held by depositories, fiscal agents, and custodians. A report of each audit made by the Comptroller General shall be submitted to the Congress.

§ 29.7 Imposition of Strict Liability.

(a) Notwithstanding the provisions of any other law, if oil that has been transported through the Trans-Alaska Pipeline System is loaded on a vessel at the terminal facilities of the pipeline for transportation to a port under the jurisdiction of the United States, the owner and operator of the vessel (jointly and severally) and the Trans-Alaska Pipeline Liability Fund established by Section 204(c) of the Act, shall be strictly liable without regard to fault in accordance with that section for all damages including clean-up costs sustained by any person or entity, public or private, including residents of Canada, as the result of discharge(s) of oil from such vessel. The provisions of this part shall apply only to vessels engaged in transportation between the terminal facilities of the pipeline and ports under the jurisdiction of the United States. Strict liability under this part shall cease when the oil has first been brought ashore at a port under the jurisdiction of the United States.

(b) Strict liability shall not be imposed under this part if the owner or operator of the vessel, or the Fund, can prove that the damages were caused by an act of war or by the negligence of the United States or other governmental agency. Strict liability shall not be imposed under the Act with respect to the claim of a damaged party if the owner or operator of the vessel, or the Fund, can prove that the damage was caused by the negligence of such damaged party.

(c) Strict liability for all claims arising out of any one incident shall not exceed $100,000,000. The owner and operator of the vessel shall be jointly and severally liable for the first $14,000,000 of such claims that are allowed. The Fund shall be liable for the balance of the claims that are allowed up to $100,000,000. If the total claims allowed exceed $100,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or State law.

(d)(1) Each owner or operator of a vessel shall obtain from the Federal Maritime Commission a "Certificate of Financial Responsibility (Alaska Pipeline)" demonstrating compliance with the provisions of Section 311(p) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 132(p)), and regulations promulgated pursuant to such act (46 CFR Part 542). Notwithstanding inconsistent language in such act, financial responsibility in the amount of $14,000,000 for all such vessels must be established.

(2) The certificate obtained in accordance with this subsection shall be carried on board the vessel, and a copy shall be filed with the Fund. No oil may be loaded on any vessel not carrying a valid certificate.

§ 29.8 Notification and advertisement.

(a) The person in charge of a vessel, as soon as he has knowledge of an incident in which the vessel is involved, shall immediately notify the Fund of the incident using the fastest available method of communication.

(b) (1) When the Fund receives information, pursuant to paragraph (a) of this section or otherwise, of an incident, the Fund shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner, operator, and guarantor of such source of the designation. In making the designation, the Fund may ask the assistance and cooperation of the U.S. Coast Guard.

(2) The owner, operator, or guarantor of a vessel designated under paragraph (b) (1) of this section may, within five days after receiving notice of the designation, inform the Fund of his denial of such designation.

(c) (1) In all cases the Fund shall advertise the designation, if such designation has been made, the procedures by which claims may be presented, and the information which must be included in such claims.

(2) The Fund shall establish, subject to the approval of the Secretary, uniform procedures and forms for advertisement under this section.

(d) Advertisement under this section shall commence no later than fifteen days from the date of the designation under paragraph (b) of this section, and in any event no later than twenty days from the date the Fund learns of the incident. The advertisement shall continue for a period of not less than thirty days.

(e) Advertisement under this section is in addition to any notification required of the owner, operator, or guarantor of the vessel under Section 311(b)(5) of the Federal Water Pollution Control Act Amendments of 1972 and the regulations of the U.S. Coast Guard (33 CFR 153.203).

§ 29.9 Claims, settlement and adjudication.

(a) (1) Claims in accordance with this section may be submited by any damaged party, his duly authorized agent, or his successor in interest.

(2) Claims submitted in accordance with this section must contain the following information:

(i) A detailed statement of the circumstances, if known, by which the claimed loss occurred.

(ii) A detailed listing of damages incurred, categorized according to the type of damage involved (§ 29.1(p)), and including a monetary claim for each type of damage listed.

(iii) Where damage to real or personal property is claimed, proof of ownership of such property.

(iv) Written documentation, where available, of all monetary claims asserted.

(b) (1) All claims arising out of an incident as defined in this part shall be initially presented to the Fund.

(2) Where designation under § 29.8 (b)(1) has been accomplished and where the owner, operator or guarantor does not deny the designation, the Fund shall transmit all related claims to the owner, operator, or guarantor. The Fund shall transmit such claims within 5 days after their receipt by the Fund.

(3) Where the Fund is unable to designate the source or sources of a discharge under § 29.8(b)(1), or where the owner, operator, and guarantor all deny a designation in accordance with § 29.8(b)(2), all related claims shall be processed and adjudicated by the Fund.

(c) In the case of a claim transmitted under paragraph (b)(2) of this section, and in which:

(1) The owner, operator or guarantor to whom the claim is presented denies all liability for the claim, for any reason, or (2) The claim is not settled by any person by payment to the claimant within ninety days of the date upon which the claim was presented to the owner, operator or guarantor, or upon which advertising was commenced, whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the Fund, that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with paragraph (b)(2) of this section, any person intending to pay or settle any such claim shall notify the Fund of such intention, and of all terms of the intended settlement, at least twenty days before such payment or settlement is made final. Whenever the Fund objects, for any reason, to the intended payment or settlement, it may request modification of such payment or settlement, or it may seek appropriate relief in Federal District Court in order to halt or modify such payment or settlement.

(e) In the case of a claim presented in accordance with paragraph (b)(2) of this section, where full and adequate compensation is unavailable, either because the claim exceeds the $14,000,000 limit of liability, or because the owner, operator, or guarantor is financially incapable of meeting his obligations in full, a claim for the amount not compensated my be presented to the Fund.

(f) Where any part of the first $14,000,000 of claims arising from an incident is paid by the Fund, for any reason, the owner and operator of the vessel involved shall be liable to the Fund for such amount paid. The Fund shall commence an action in court or pursue any other reasonable means to recover such

amount from the owner, operator, and guarantor.

(g) The Fund may settle or compromise any claim presented to it in accordance with this section, provided that all claims not submitted to arbitration under paragraph (g) of this section shall be settled and paid within 120 days of the date upon which the claim was presented to the Fund, or upon which advertising was commenced, whichever is later.

(h) A claim may be submitted to binding arbitration by, and in accordance with the rules of, the American Arbitration Association, if the owner, operator, or guarantor of the vessel and the claimant so agree. The Fund shall be a party to any such arbitration and shall be bound by its results.

(i) No claim may be presented, nor any action be commenced for damages recoverable under this Part, unless that claim is presented to, or that action is commenced against, the owner, operator, or guarantor, or against the Fund, as to their respective liabilities, within three years from the date of discovery of the damages caused by an incident, or within six years of the date of the incident causing the damages, whichever is earlier.

(j)(1) The Board of Trustees, by a majority vote, shall decide to allow or deny claims or settlements presented to the Fund in accordance with this section. In its discretion the Board may delegate the authority to settle classes of claims to the Administrator.

(2)(i) Where a claim is presented to the Fund by or on behalf of any person having a close business, personal or governmental association with any member of the Board of Trustees, such as to create a conflict of interest or the appearance of such conflict of interest on the part of such member of the Board of Trustees, the member involved shall excuse himself or herself from any consideration of such claim.

(ii) Where a claim presented to the Fund has previously been presented to an owner, operator or guarantor pursuant to paragraph (b)(2) of this section, and such owner, operator or guarantor has a close business, personal or governmental association with any member of the Board of Trustees, such as to create a conflict of interest or the appearance of a conflict of interest on the part of such member of the Board of Trustees, the member involved shall excuse himself or herself from any consideration of such claim.

(k) The Fund, subject to the approval of the Secretary, shall establish uniform procedures and standards for the appraisal and settlement of claims against the Fund.

(l) The Fund may use the facilities and services of private insurance and claims adjusting organizations in administering this Part and may contract to pay compensation for those facilities and services.

(m) Any claimant aggrieved by the Fund's decision on a claim under this Section may appeal the decision in the appropriate Federal District Court.

§ 29.10 Subrogation.

If the Fund pays compensation to any claimant, the Fund shall be subrogated to all rights, claims, and causes of action which that claimant has to the extent permitted by law.

§ 29.11 Investment.

(a) The monies accumulated in the Fund shall be prudently invested in the following types of income-producing obligations having a high degree of reliability and security, or in such other obligations as the Secretary may approve:

(1) Fixed income securities issued by the United States or any of its agencies, at the same interest rates and terms available to private investors; and

(2) Fixed income securities or obligations issued by a corporation or issued or guaranteed by a State or local government of any political subdivision, agency or instrumentality thereof; *Provided*, Such obligations have a rating by Standard and Poors, Moody, or Fitch of "AA" or better, or an equivalent rating; *or provided further*, That the security or obligation is of the same priority as another security or obligation of the same issuer which has been rated "AA" or better. *Provided, however*, That no securities or obligations of the Permittees or their affiliates or of any investment advisor and/or custodian to the Fund, or their affiliates, may be purchased or held by the Fund.

(b) No more than two percent of the total principal amount outstanding of fixed income obligations of a single issuer may be held by the Fund at any one time; *Provided, however*, That this restriction shall not apply to obligations of the United States or any of its agencies.

§ 29.12 Borrowing.

In the event the Fund is unable to satisfy a claim determined to be justified, the Fund may borrow money needed to satisfy the claim from any commercial credit source at the lowest available rate of interest. If the amount to be borrowed is $500,000 or less, the Administrator may arrange to pledge the credit of the Fund pursuant to a resolution of the Board of Trustees. If the proposed borrowing exceeds $500,000, the Administrator shall, prior to issuance of a note or other security pledging the credit of the Fund, secure the approval of the Secretary. No money may be borrowed from any of the Permittees or their affiliates.

§ 29.13 Termination.

Upon termination of operations of the pipeline, the full disposition of all claims, and the expiration of time for the filing of claims against the Fund, all monies remaining in the Fund shall be placed in a temporary trust fund account within the State of Alaska. The terms of the trust arrangement shall be determined by the Secretary. During the next succeeding session of Congress, the Secretary shall request that Congress provide for final disposition of the Fund. If Congress at any time establishes a comprehensive oil pollution liability fund which supersedes or repeals the Fund, the Fund monies and any pending claims shall be disposed of as Congress or the Secretary shall direct.

[FR Doc.77-14900 Filed 5-23-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 31]

[Docket No. 21244; FCC 77-325]

AFFILIATED COMPANIES

Rate Base Treatment of Claimed Amounts for Investment

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: A recent FCC decision, released March 1, 1977, considered, among other questions, the reasonableness of the claimed rate base and expenses, for interstate operations, of the American Telephone and Telegraph Company (AT&T). Among the areas considered was AT&T's claim that its investment in certain affiliated companies, namely Bell Telephone Laboratories (Bell Labs) and the 195 Broadway Corporation, should be allowed in the rate base and a return earned on such investment. The Commission questioned the allowance of both investments and made a preliminary finding that the Bell Labs investment should be disallowed. Since no party to the case had raised an issue of the investment in these affiliates, the FCC said it would give AT&T and other interested persons an opportunity to comment on the reasonableness of allowance of the investment. If both are disallowed, AT&T's rate base would be decreased by $48.4 million in the 1972 base year.

DATES: Comments must be received on or before June 27, 1977, and reply comments must be received on or before July 7, 1977.

ADDRESSES: Send comments to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John F. Copes, Common Carrier Bureau (632-6917).

SUPPLEMENTARY INFORMATION:

Adopted: May 12, 1977.

Released: May 16, 1977.

In the matter of American Telephone and Telegraph Company and Associated Bell System Companies, rate base treatment of claimed amounts for investment in affiliated companies, 47 CFR 31.101:1, Docket No. 21244.

1. In paragraph 183-185 of our Phase II Final Decision and Order in Docket No. 19129, FCC 77-150, released March 1, 1977 (Decision), we discussed the claimed rate base treatment of Account 101.1, 47 CFR 31.101:1 (1976), Investment in Affiliates, of the American Telephone and Telegraph Company (AT&T). This account consists of the interstate portion of AT&T's equity investment in Bell Telephone Laboratories (Bell Labs) and the 195 Broadway Corporation (195). Bell Labs is AT&T's research and development affiliate. 195 owns the buildings in which AT&T's General Department is housed.

2. While no party to Docket No. 19129 challenged the claimed rate-base treatment of this account, we found on our own motion, "no justification for AT&T's including the investment in Bell Labs in its rate base." Decision, paragraph 184. While we took no position on the reasonableness of including the investment in 195, we said we could examine the question of both Bell Labs and 195 in a separate proceeding in order to afford AT&T an opportunity to justify this account and to elicit the views of other interested persons.

3. Accordingly, we are establishing the present rulemaking to determine the reasonableness of allowing Account 101.1 in AT&T's rate base. Comments by AT&T and other interested parties must be filed no later than June 23, 1977, with replies due July 5, 1977.

4. *Accordingly, it is ordered*, Pursuant to section 4(i), 4(j), 201-205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201-205, 403 and § 1.411 et seq. of the Commission's rules and regulations, 47 CFR 1.411 et seq., That a rulemaking is commenced into the reasonableness of the inclusion in the rate base for AT&T of amounts reported in Account 101.1, 47 CFR 31.101:1, Investment in Affiliates.

5. *It is further ordered*, That comments in this inquiry are due no later than June 27, 1977, and reply comments no later than July 7, 1977.

10. In accordance with the provisions of § 1.419 of the rules, an original and 5 copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room as its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14665 Filed 5-23-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-103]

MID LOUISIANA GAS CO.

Supplemental Emergency Order; Correction

Please change the word "Houston" to "Transco", Line 13 in the second complete paragraph of Page 3 of the order issued on May 16, 1977, in Docket No. E77-103, "Mid Louisiana Gas Company." That sentence should read: "Pursuant to section 6(c)(1) of the Act, I hereby authorize and order Transco to transport gas for Mid Louisiana."

On page 2 and Page 3 of the order issued May 16, 1977, in Docket No. E77-103, "Mid Louisiana" was incorrectly referred to as "Midland Louisiana". In those instances in which this occurred, please change the words "Midland Louisiana" to "Mid Louisiana".

Please add the word "Transco" to Line 18 in the third complete paragraph of Page 3 of the order issued May 16, 1977, in Docket No. E77-103. That sentence should read as follows: "This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Mid Louisiana, Houston and Transco."

Dated: May 17, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-14748 Filed 5-23-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

FUTURE DEVELOPMENT OF MT. HOOD MEADOWS SKI AREA

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Draft Environmental Statement for the Future Development for Mount Hood Meadows Ski Area, USDA-FS-R6-DES(Adm)-77-11.

The environmental statement concerns a proposed expansion of an existing ski area. Six master plan alternatives are examined. Alternatives for the master plan range from limited expansion for day use to a year-round resort development. No preferred alternative is indicated in this draft.

This draft environmental statement was transmitted to CEQ on May 16, 1977.

Copies are available for inspection during regular working hours at the following locations:

Mount Hood National Forest, Supervisors Office, 2440 SE. 195th, Portland, Oregon 97233.
Mount Hood National Forest, Hood River Ranger District, Mount Hood-Parkdale, Oregon 97041.
Mount Hood National Forest, Zigzag Ranger District, Zigzag, Oregon 97073.
USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. S.W., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 SW. Pine Street, Portland, Oregon 97204.

A limited number of single copies are available upon request to F. Dale Robertson, Forest Supervisor, Mount Hood National Forest, 2440 SE. 195th, Portland, Oregon 97233. Copies have also been placed in local libraries.

Copies of the environmental statement have been sent to various federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addresed to: F. Dale Robertson, Forest Supervisor, Mount Hood National Forest, 2440 S.E. 195th, Portland, Oregon 97233. Comments must be received by July 18, 1977, in order to be considered in the preparation of the final environmental statement.

Dated: May 16, 1977.

F. DALE ROBERTSON,
Forest Supervisor.

[FR Doc.77-14682 Filed 5-23-77;8:45 am]

Soil Conservation Service

CHRISTINA CREEK PARK RESOURCE CONSERVATION AND DEVELOPMENT (RC&D) MEASURE PLAN, NEWARK, DELAWARE

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Christina Creek Park RC&D Measure to be installed in Newark, Delaware.

The environmental assessment of this Federal action indicates that this measure will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this measure. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this measure.

The measure consists of a plan to provide streambank stabilization along an urban stream in the City of Newark, Delaware.

The negative declaration is available for single copy requests, and the environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 2-4 Treadway Towers, 9 E. Loocherman Street, Dover, Delaware 19901.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Service.)

Dated: May 17, 1977.

VICTOR H. BARRY, JR.,
Deputy Administrator for Programs, Soil Conservation Service.

[FR Doc.77-14626 Filed 5-20-77;8:45 am]

ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Public Availability of Report of Closed Meetings

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. II, 1972) and OMB Circular A-63 (Rev'd March 27, 1974), a report of closed meetings of the General Advisory Committee has been prepared and is available for public inspection at the following depositories:

Library of Congress, Microfilm Reading Room, Room MB-140B, Main Building, 10 First Street, SE., Washington, D.C.

Library of the U.S. Arms Control and Disarmament Agency, Room 304, Department of State Annex 6, 1700 North Lynn Street, Rosslyn, Va.

SIDNEY D. ANDERSON,
ACDA Advisory Committee Management Officer.

[FR Doc.77-14627 Filed 5-23-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-5-95; Docket No. 30899]

AIR MIDWEST, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1977.

By tariff revisions[1] filed April 20 and marked to become effective May 20, 1977, Air Midwest, Inc. (Air Midwest) proposes to accept live fish shipments for transportation and to refuse declarations of excess value on such shipments.

Air Midwest contends inter alia, that it presently does not accept live fish shipments for carriage and, because of the impact on pet shops which have a need for the service the carrier provides, it has agreed to begin carrying such shipments with the stipulation that there would be no provision for excess valuation.

Upon consideration of all relevant factors, the Board finds that the rule proposed by the carrier refusing declaration of excess value on live fish shipments may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that this proposal should be suspended pending investigation.

By barring declarations of excess valuation on live fish shipments, Air Midwest would limit its liability to 50 cents a pound and a minimum of $50 per shipment, without offering the shipper a choice of higher liability at additional charges. This would be contrary to the common-law concept of common carrier responsibility, as pointed out by the Board in previous orders. For example, in Order 72-8-55, the Board suspended a proposal to limit liability by CF Air Freight, Inc., an air freight forwarder, stating inter alia, "This is contrary to the common law concept that the validity of a limitation on liability (or a released rate) is dependent upon the shipper having an option for greater liability at greater rates." See also Orders 70-1-34, 71-2-36, and 74-4-156.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the provisions in Rule No. 19(B)(37) on 21st Revised Page 10-D of Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 96 are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations and practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions in Rule No. 19(B)(37) on 21st Revised Page 10-D of Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 96 are suspended and their use deferred to and including August 17, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 30899, be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Air Midwest, Inc., which is hereby made a party to Docket 30899.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14709 Filed 5-23-77;8:45 am]

[Docket No. 29632]

FRONTIER AIRLINES, INC.

Hearing Regarding Subpart M Application (Albuquerque-Phoenix Nonstop Service)

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on June 21, 1977, at 10 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

Dated at Washington, D.C., May 17, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-14710 Filed 5-23-77;8:45 am]

[Order 77-5-92; Docket 29123; Agreement C.A.B. 26355]

JOINT TRAFFIC CONFERENCES OF THE IATA

Agreements Adopted Relating to North and Mid-Atlantic Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of May, 1977.

By Order 77-3-54, March 9, 1977, the Board disapproved an agreement adopted by the International Air Transport Association (IATA) which would, among other things, have permitted, by individual tariff filings, carrier members to reduce add-on fares from interior points to the U.S. gateways in response to changes in non-IATA-agreed fare levels in Canadian transatlantic markets.[1] In disapproving this agreement, the Board recognized the competitive inter-relationship between the Canadian and U.S. markets, and the possibility that certain fares in U.S. markets may require some future adjustment. However, the Board was not convinced that such adjustments should be left wholly to the discretion of the carriers. The Board noted that Canada-Europe APEX fares, for example, though different in level from those applicable from the United States, can be conditioned so as to limit diversion of traffic-flow through Canada.

In a petition filed March 29, 1977, Trans World Airlines, Inc. (TWA) requests that the Board reconsider its disapproval of Resolution 001vv, and permit its effectiveness subject to a condition requiring Board approval before any adjustment in fares can be implemented. The particular condition proposed, however, differs from that which the Board customarily imposes. In support of its petiton, TWA alleges that, by routing over Canada, a U.S.-Europe passenger can realize a considerable saving in air fares, especially when a low promotional fare is available on the U.S.-Canada leg. For example, using the present IATA add-on fare (equivalent to the normal round-trip fare),[2] and the Super-APEX fare from Canada, the through Cleveland-London fare is $30 less than a combination of the IATA add-on fare from Cleveland and the APEX transatlantic fare from New York. TWA alleges that, in July, the savings will amount to $66 to London, based upon use of Air Canada's 30-day excursion fare between Cleveland and Toronto. It is alleged that availability of low Canadian transatlantic fares, without a mechanism for appropriate adjustment in U.S. transatlantic fares, will continue to result in substantial potential diversion of transatlantic traffic from U.S. carriers. TWA estimates that up to one-third of APEX-fare travel would be subject to diversion to the lower Canadian fares, which could involve six percent of its total transatlantic traffic. Finally, TWA cites a number of Board orders which approved IATA resolutions subject to the condition that any change made pursuant thereto be filed with the Board under the provisions of section 412 of the Act, and approved by it prior to implementation.[3] No answers have been filed to TWA's petition.

The Board has decided to deny TWA's petition. In our opinion, the carrier's allegations are both unpersuasive and at times confusing, and raise no issues not previously considered by the Board in its disposition of Agreement C.A.B. 26355.

TWA, as a member of IATA, has the ability to initiate a proposal to the IATA membership to alter agreed-upon fares and rates for any number of reasons. We would expect that other international carriers, both U.S. and foreign, would

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 96.

[1] The Super-APEX fare from Canada was originally negotiated between that country and the United Kingdom for service to/from London. Subsequently, other European countries have expressed interest in negotiating similar fares.

[2] Approved by the Board in Order 77-3-153, March 28, 1977.

[3] TWA cites orders as far back as March 31, 1958, E-12304 and 76-4-135 dated April 26, 1976.

likewise be subject to an adverse economic impact from diversion of traffic over Canada (albeit perhaps not as severely as would TWA). Consequently, to the extent that these carriers would also sustain a loss in traffic, any add-on fare adjustment proposed by TWA should receive substantial support. Further, to the extent that international air fares to/from Canada are established outside the IATA framework, TWA has the ability to respond through existing IATA mechanisms. In the event that the Canadian fares are established within the framework of IATA, TWA is, of course, free to exercise its voting prerogative.

As indicated, TWA's proposed condition differs from the requirement heretofore imposed by the Board which requires that any proposed changes be filed with the Board pursuant to section 412 of the Act, and approved prior to tariff implementation. Here, TWA suggests a condition that any changes be filed with the Board apparently in the form of a tariff, and that the Board specifically approve such changes within the tariff-filing context prior to their being placed in effect. The Board's regulations require the filing of tariffs 30 days in advance of their intended effectiveness, and there are no provisions with respect to tariff filings which require specific affirmative action by the Board to permit a tariff to become effective.

Regardless of whether reduced Canada-Europe fares are established through the IATA mechanism or independently of it, Resolution 001vv apparently envisions that the consequent changes in fares from U.S. points will be automatically incorporated into the agreed U.S.-Europe fare structure. Thus, in the event Canada-Europe fares are reduced within the IATA framework we believe TWA's proposal might be tantamount to an evasion of section 412 of the Act. The carriers, as participants in an agreement on Canada-Europe fares, could use such an agreement, which is outside the Board's jurisdiction, as a predicate for altering fares from U.S. points. If such consequential changes in the U.S.-Europe IATA fares were permitted to become effective through simple tariff filings, the carriers could through this device evade the statutory requirement that changes to the IATA fare structure be filed as an agreement and approved by the Board prior to implementation. We are, therefore, conditioning Resolution 001vv in concurrent Order 77-5-91 to require that such changes in U.S. fares be filed with the Board under section 412 and approved prior to implementation in tariffs. The alternative would be for the Board to assert jurisdiction over any IATA-agreed changes in Canada-Europe fares, a step we would be extremely reluctant to take even assuming we had the legal authority to exercise jurisdiction over noncombinable fares outside of air transportation as defined by the Act.

Accordingly, *It is ordered that:*

The petition of Trans World Airlines, Inc. for reconsideration of Order 77-3-54 be and hereby is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14706 Filed 5-23-77;8:45 am]

[Order 77-5-73; Docket 27573; Agreement C.A.B. 26614]

JOINT TRAFFIC CONFERENCES OF THE IATA

Agreement Adopted Relating to Specific Commodity Rates

Issued under delegated authority May 16, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names one additional specific commodity rate under an existing commodity description as set forth below, reflecting a reduction from general cargo rates; and was adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated April 7, 1977.

Specific commodity item No.	*Description and rate* [1]
0066----	Foodstuffs, spices and beverages: 60¢ per kilogram,[2] minimum weight 500 kg. from Rarotonga to Honolulu.

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] Expires June 30, 1978.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *It is Ordered that:*

Agreement C.A.B. 26614 is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such a period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14708 Filed 5-23-77;8:45 am]

CIVIL SERVICE COMMISSION

GRANT OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Department of Agriculture

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Marketing Services, Immediate Office, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14636 Filed 5-23-77;8:45 am]

REVOCATION OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Department of Agriculture

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Marketing and Consumer Services, Office of the Secretary, Immediate Office.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14637 Filed 5-23-77;8:45 am]

GRANT OF AUTHORITY TO MAKE A NONCAREER EXECUTIVE ASSIGNMENT

Community Services Administration

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Community Services Administration to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Special Assistant to the Director for Management, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14635 Filed 5-23-77;8:45 am]

GRANT OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

United States Information Agency

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the United States Information Agency to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Director, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-14638 Filed 5-23-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, June 8, 1977, at 9 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Discuss new work program

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the Delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearance.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittee thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: May 20, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-14880 Filed 5-23-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

New System of Records

The Department of the Air Force systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows:

FR Doc. 75-21075 (40 FR 35403) August 18, 1975.
FR Doc. 75-22752 (40 FR 39677) August 28, 1975.
FR Doc. 75-22754 (40 FR 39711) August 28, 1975.
FR Doc. 76-26296 (41 FR 2954) January 20, 1976.
FR Doc. 76-21185 (41 FR 30979) July 26, 1976.
FR Doc. 77-6500 (42 FR 12459) March 4, 1977.
FR Doc. 77-6614 (42 FR 12899) March 7, 1977.
FR Doc. 77-7831 (42 FR 14766) March 16, 1977.
FR Doc. 77-6614 (42 FR 17159) March 31, 1977.
FR Doc. 77-11072 (42 FR 20170) April 18, 1977.

Notice is hereby given that the Department of the Air Force submitted a proposed new system of records on March 31, 1977 pursuant to the provisions of Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The Department of the Air Force invites public comments concerning the proposed new record system. Interested persons are invited to submit written data, views and arguments to the Air Force Privacy Act Office, Directorate of Administration, Headquarters, United States Air Force (HQ USAF/DADMP), Bolling Air Force Base, Washington, D.C. 20332 on or before June 22, 1977. The system will become effective, within 30 days (June 22, 1977), as proposed without further notice unless comments

are received which result in a contrary determination.

F21208XOBXQPCE

System name:

Library Authorized Patron File

System location:

USAF Academy Library (DPSLB), USAF Academy, CO 80840.

Categories of individuals covered by the system:

All Academy military and civilian personnel and cadets, specially authorized non-base library patrons.

Categories of records in the system:

Social security number, name, base or home address, type of patron code, expiration date for special borrower privileges.

Authority for maintenance of the system:

10 United States Code Chapter 903, United States Air Force Academy; and Executive Order 9397, 22 November 1943, Numbering System for Federal Accounts Relating to Individual Persons.

Purpose:

Resource Management.

Routine use of records maintained in the system, including categories of users and the purposes of such uses:

Used by Library personnel to fully identify patron to whom library material is charged in operation of the Library's automated circulation control system. Will be used by Library staff to identify person to whom material is charged, to follow up on delinquent borrowers by generation of overdue notices, and to clear departing patrons and delete their names from the authorized borrower file. Issue library cards.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in computer. Microfiche printout twice annually for use at Library circulation desk.

Retrievability:

Filed by Social Security Number.

Safeguards:

Records are accessed by person(s) responsible for library circulation control operation in the performance of their office duties. Micofiche printout is stored in locked room when not in use by circulation desk staff during hours when the Library is open.

Retention and disposal:

Patron data is deleted from master files maintained on computer when outgoing clearance is accomplished. Microfiche lists of patrons are destroyed by tearing into pieces, shredding, pulping, macerating, burning or burial, when update is received.

System manager(s) and Address:

Director of Academy Libraries, USAF Academy, CO 80840.

Notification procedures:

Request from individuals should be addressed to the System Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the System Manager.

Contesting record procedures:

The Air Force's rules for access to records and contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

Record source categories:

Individual input on library circulation authorization form.

Systems exempted from certain provisions of the act:

None.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MAY 18, 1977.

[FR Doc.77-14540 Filed 5-23-77;8:45 am]

Department of the Navy

VAIL APPLIED RESEARCH COMPANY, INC.

Intent To Grant Limited Exclusive Patent License

Pursuant to the provisions of Part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976) the Department of the Navy announces its intention to grant to Vail Applied Research Company, Inc., a corporation of the State of Florida, a revocable, nonassignable, limited exclusive license for a period of ten years under United States Patent Number 3,896,792, entitled "Real-time Cyclic Pulmonary Function Test System" issued July 29, 1975, to inventors, Edwin G. Vail, Maxwell W. Lippitt, Jr., and Phillip D. Seymour.

This license will be granted unless within 60 days from the publication of this notice an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, VA 22217 and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of Naval Research or his designee determines that a third party has presented to the Office of Naval Research (Code 302) evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, VA 22217 within 60 days from the publication of this notice. Also, copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, DC 20231.

For further information concerning this notice, contact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. 202–692–4005.

Dated: May 17, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-14684 Filed 5-23-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

AMERICIUM–241

Price Increase

The U.S. Energy Research and Development Administration hereby announces an increase in the sales price for americium–241 from $210 per gram to $600 per gram.

Notice entitled, "Americium–241 Notice of Price Increase", published in the FEDERAL REGISTER, December 9, 1974, (39 FR 42937) is hereby superceded.

The foregoing action has been determined to be consistent with the requirements of section 81 of the Atomic Energy Act, as amended.

This price increase is effective May 1977.

Dated at Germantown, Md., this 10th day of May 1977.

(Sec. 81, 68 Stat. 935; (42 U.S.C. 2211); sec. 161, 68 Stat. 948; (42 U.S.C. 2201).)

For the U.S. Energy Research and Development Administration.

JAMES S. KANE,
Deputy Assistant Administrator for Physical Research.

[FR Doc.77-14816 Filed 5-23-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 17, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 13, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

FEDERAL ENERGY ADMINISTRATION

FEA requests an extension no change clearance of SG Series forms (SG–1 and SG-1 Birth, SG–2, SG–4 and SG–4 Birth). These forms are used by the FEA to survey gallonage sales of gasoline; with the Department of Commerce, Bureau of Census, being the collection agent for the FEA. FEA estimates reporting burden on each of the SG Series forms to average ¼-hour each response and respondents to number approximately 2,112 in total.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-14661 Filed 5-23-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1046]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

MAY 17, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20561	Pt. 76....	Amendment of pt. 76 of the Commission's rules and regulations with respect to the definition of a cable television system and the creation of classes of cable systems. Filed by Stuart F. Feldstein, Frederick W. Finn and Arthur H. Harding, attorneys for National Cable Television Association, Inc.	May 6, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed on or before June 8, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14536 Filed 5-23-77;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before June 13, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Agreement No. 10159–5 has been entered into by the member lines of the American West African Freight Conference, for the purpose of formally adding the conference as a party to the underlying agreement, amending Article 10 by the addition of the following sentence at the end thereof:

All payments by and assessments against a Member Line shall be paid to the American West African Freight Conference and return of expense deposit funds to a Member Line shall be made by the American West African Freight Conference.

and by adding a new Article 15 which allows the American West African Freight Conference and its member lines to enter into an agreement with the Union Maritime et Commerciale and Alraine (Nigerian corporations), permitting said corporations to act as pier operators or employ another firm to act as stevedores to exclusively arrange for and supervise all stevedoring and cargo handling required by the conference lines at the pier assigned to the Conference at Apapa, Nigeria.

Dated: May 18, 1977.

By order of the Federal Maritime Commission.

JOSEPH C POLKING,
Acting Secretary.

[FR Doc.77-14777 Filed 5-23-77;8:45 am]

[No. 77–13]

FIRST INTERNATIONAL DEVELOPMENT CORP. V. SHIPS OVERSEAS SERVICES, INC.

Filing of Complaint

Notice is hereby given that a complaint filed by First International Development Corp. against Ships Overseas Services, Inc. was served May 17, 1977. The complaint alleges violations of section 14(4), 16, 17, and 18 of the Shipping Act, 1916 as a result of respondent subjecting complainant to payment of rates for transportation and services which were when exacted and are still unfiled, unduly or unreasonably prejudicial and disadvantageous, unjustly prejudicial, and unreasonable.

Hearing in this matter shall commence on or before November 17, 1977. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14775 Filed 5-23-77;8:45 am]

[No. 77–15]

MATSON NAVIGATION CO. V. PORT AUTHORITY OF GUAM

Filing of Complaint and Petition for Declaratory Order

MAY 18, 1977.

Notice is hereby given that a complaint and petition for declaratory order filed by Matson Navigation Company against Port Authority of Guam was served May 18, 1977. The complaint alleges violations by respondent of sections 16 First, 17 and 17(b) of the Shipping Act, 1916 in connection with respondent's assessment of special extra electric power charges and threatening to cut off electric services at Apra Harbor, Guam.

Hearing in this matter, if any is held, shall commence on or before November 18, 1977. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or

other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14774 Filed 5-23-77;8:45 am]

ROYAL CRUISE LINE SPECIAL SHIPPING CO., INC. AND ROYAL CRUISE LINE (U.S.A.), INC.

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have bene issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540), which Certificate expires February 20, 1978.

Royal Cruise Line Special Shipping Co., Inc., and Royal Cruise Line (U.S.A.), Inc., c/o Royal Cruise Line, One Maritime Plaza, San Francisco, California 94111

Dated: May 19, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14776 Filed 5-23-77;8:45 am]

[Docket No. 77-17]

SEA-LAND SERVICE, INC.

Amendment to Freight, all Kinds in the U.S. Atlantic/Puerto Rico Trade; Order of Investigation and Suspension

Effective May 22, 1977, Sea-Land Service, Inc., (Sea-Land) proposes to amend its tariff application on the commodity Freight, All Kinds (FAK) applicable from U.S. Atlantic Coast Ports to Puerto Rico from one which requires shipper loading to one which is applicable only when carrier loads. Similar provisions were effected on April 18, 1977, for northbound FAK shipments from Puerto Rico.

The currently effective southbound FAK tariff provisions permit the tender to Sea-Land of shipper-loaded consolidated trailer-loads. The proposed FAK rate applications will be the only ones in Sea-Land's tariff which require carrier loading.

Numerous protests and inquiries have been received concerning the lawfulness of the Sea-Land proposal.

Upon consideration of the protests and of the tariff matter, and in view of the action taken by the Commission in Docket No. 73-17, "Sea-Land Service, Inc., and Gulf Puerto Rico Lines, Inc., Proposed Rules on Containers", and Docket No. 74-40, "Puerto Rico Maritime Shipping Authority Proposed ILA Rules on Containers", the Commission is of the opinion that the tariff matter should be suspended and made the subject of a public investigation and hearing to determine whether it is unjust, unreasonable or otherwise unlawful under sections 14 Fourth, 16 First and/or 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing:

Therefore, it is ordered, That pursuant to sections 18(a) and 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into 2nd Revised Pages Nos. 242 and 243 and 1st Revised Page No. 285 of Sea-Land's Tariff FMC-F No. 34, to determine whether the matters set forth therein are unjust, unreasonable or otherwise unlawful within the meaning of those sections. If the matter hereby placed under investigation is further changed, amended, or reissued, such changes are hereby ordered to be made a part of this investigation;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, 2nd Revised Pages Nos. 242 and 243 of Sea-Land's Tariff FMC-F No. 34 are hereby suspended and the use thereof deferred to and including September 21, 1977, unless otherwise ordered by the Commission, and that during this period of suspension Sea-Land shall take no action, either directly or indirectly to effectuate these tariff matters;

It is further ordered, That Sea-Land shall immediately file with this Commission a consecutively numbered supplement to its aforementioned tariff, which supplement shall bear no effective date, shall fully reproduce this Order, and shall state the subject tariff matter is suspended and may not be used until September 22, 1977, and that the suspended matter may not be changed until this proceeding has been disposed of or until the period of suspension has expired;

It is further ordered, That a copy of this Order shall be filed with the appropriate tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That pursuant to section 14 Fourth of the Shipping Act, 1916, a determination shall be made as to whether Sea-Land's FAK rate applications would permit the carrier to unfairly treat or unjustly discriminate against a class of shippers in the matter of cargo space accommodations or other facilities within the meaning of that section;

It is further ordered, That pursuant to section 16 First of the Shipping Act, 1916, a determination shall be made as to whether Sea-Land either alone, or in conjunction with any other person, directly or indirectly, is proposing to subject any particular person, locality, or description of traffic to undue or unreasonable prejudice or disadvantage within the meaning of that section;

It is further ordered, That Sea-Land Service, Inc., be made respondent in this proceeding and that the matter be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, and commenced no later than September 22, 1977. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue is such that oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That (1) a copy of this Order be forthwith served upon the respondents and upon the Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER; and (2) the respondents and Hearing Counsel be duly served with notice of time and place of the hearing;

The provisions of Rule 41 (46 CFR 502.41) naming protestants as "complainants" and automatically making them parties to the proceeding without requiring formal intervention is hereby waived to insure that protestants meet the same standards for intervention as other parties. All persons (including protestants, individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties of this proceeding.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14772 Filed 5-23-77;8:45 am]

[No. 77-16]

UNITED STATES LINES, INC. v. PORT AUTHORITY OF GUAM

Filing of Complaint and Petition for Declaratory Order

MAY 18, 1977.

Notice is hereby given that a complaint and petition for declaratory order filed by United States Lines, Inc. against Port Authority of Guam was served May 18, 1977. The complaint alleges violations by respondent of sections 16 First, 17 and 17(b) of the Shipping Act, 1916 in connection with respondent's assessment of special extra electric power charges and threatening to cut off electric services at Apra Harbor, Guam.

Hearing in this matter, if any is held, shall commence on or before November 18, 1977. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions,

or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14773 Filed 5-23-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-363]

ALABAMA POWER CO.

Filing of Initial Rate Schedule

MAY 16, 1977.

Take notice that Alabama Power Company (Alabama) on May 2, 1977 tendered for filing an Initial Rate Schedule between Alabama and Coosa Valley Electric Cooperative, Inc. (Coosa). Alabama indicates that this Schedule is part of a Service Agreement which pertains to the proposed Stewarts Crossroad delivery point and that Alabama will serve the electrical requirements of this delivery point pursuant to the Schedule submitted and the applicable revision of Rate Schedule REA-1 contained therein as allowed to become effective, subject to refund, by the Commission in Docket Nos. E-8851 and ER76-659.

Alabama requests a waiver of the Commission's notice requirements so that the Initial Rate Schedule contained within the aforementioned Service Agreement may become effective as of January 31, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14694 Filed 5-20-77;8:45 am]

[Docket No. ER77-360]

BOSTON EDISON CO.

Tariff Change

MAY 17, 1977.

Take notice that Boston Edison Company ("Edison") on May 5, 1977, tendered for filing proposed changes in its Rate Schedule FPC No. 28. According to Edison the proposed change would increase revenues from transmission service furnished by Edison to Cambridge Electric Light Company ("Cambridge") by $14,868.00 for the twelve month period ended June 30, 1977. Edison states that this rate change, which was negotiated between Edison and Cambridge, is intended to become effective as of July 1, 1976.

Edison indicates that copies of this filing were served upon Cambridge and upon the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14717 Filed 5-20-77;8:45 am]

[Docket No. ER77-370]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Filing of Initial Rate Schedule

MAY 16, 1977.

Take notice that on May 9, 1977, Columbus and Southern Ohio Electric Company (Columbus) tendered for filing an initial rate schedule setting forth all rates and charges that Columbus and The Cincinnati Gas & Electric Company (Cincinnati) have agreed to under an Interconnection Agreement between Columbus and Cincinnati providing for interconnection of electric facilities, emergency service, interchange power, coordination of scheduled maintenance of generating facilities, short term power and energy transfer.

Columbus indicates that copies of the filing and Columbus' letter of transmittal were served upon Cincinnati.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14692 Filed 5-20-77;8:45 am]

[Docket No. ER77-342]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

MAY 16, 1977.

Take notice that on May 2, 1977, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to the Transmission Agreement dated March 15, 1977 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Boston Edison Company (EDISON).

CL&P states that the Transmission Agreement provides for a transmission service to EDISON during the period from March 31, 1977 to October 31, 1977.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the NU system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which EDISON is entitled to receive.

CL&P requests waiver of the Commission's notice requirements to allow an effective date of March 31, 1977 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and EDISON, Boston, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14725 Filed 5-20-77;8:45 am]

[Docket No. RP77-39]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

MAY 17, 1977.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on

May 4, 1977, tendered for filing First Revised Sheet No. 9–A superseding Original Sheet No. 9–A to its FPC Gas Tariff, Second Revised Volume No. 1. Consolidated requests a waiver of Section 4(d) of the Natural Gas Act and the Commission's Rules and Regulations to permit the proposed tariff sheet to become effective on May 1, 1977, subject to refund, in accordance with the provisions of Section 4 of the Natural Gas Act.

The proposed tariff sheet sets forth increased rates under Rate Schedule T, which rate schedule by letter order dated April 22, 1977 in Docket No. RP77–39 was permitted to become effective February 12, 1977, subject to refund based on final determination of the proceedings in Docket No. RP75–91. Rate Schedule T provides for the transportation of gas by Consolidated for industrial and commercial customers who are purchasers of natural gas from Consolidated's jurisdictional customers.

The proposed rates are based on the unit zone transmission costs and average storage costs reflected in Consolidated's general rate increase filing in Docket No. RP77–7. Consolidated states that it inadvertently failed to request waiver to permit an increase in the rates under Rate Schedule T on March 31, 1977 when it filed to make effective on May 1, 1977 its general rate increase in Docket No. RP77–7.

Consolidated requests a waiver of any of the Commission's Rules and Regulations as may be required to permit the proposed rates to become effective.

Copies of the filing were served upon Consolidated's jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14698 Filed 5–20–77;8:45 am]

[Docket No. ER77–356]

FLORIDA POWER AND LIGHT CO.

Filing of Contract

MAY 16, 1977.

Take notice that Florida Power and Light Company (FP&L) on May 3, 1977 tendered for filing a Contract for Interchange Service between FP&L and the City of Homestead, Florida (Homestead), dated May 1, 1974 and the Supplemental Agreement Number One to such contract, dated April 19, 1977.

FP&L indicates that the May 1, 1974 Contract was originally filed with the Commission on July 8, 1974 in Docket No. E–8008. FP&L further indicates that due to the fact that service was not then scheduled to commence under the Contract for over one year, the Commission, by Order issued July 3, 1975, in Docket No. E–8769, et al., rejected the Contract without prejudice to FP&L to resubmit it in accordance with the time requirements of Section 35.3(b) of the Commission's Regulations. According to FP&L the Contract, as supplemented, represents the results of negotiations between FP&L and Homestead, including such items as the points of delivery, delivery voltage, quantity of power to be delivered and the duration of the Contract.

FP&L states that the Contract is scheduled to become effective upon the completion by Homestead of the Homestead-owned substation at the point of interchange. FP&L further states that it anticipates that the substation will be completed in approximately mid-June of 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 25 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14695 Filed 5–20–77;8:45 am]

[Project No. 1971]

IDAHO POWER CO.

Granting Intervention

MAY 17, 1977.

On April 21, 1977, Wally Beamer, Floyd Held, Norman Riddle and Ernie Duckworth filed a petition to intervene in the above-entitled proceeding respecting the temporary waiver granted to Idaho Power Company to reduce minimum flows on the Snake River below the Hells Canyon Dam. The petitioners, a group of commercial boaters, state that they are dependent upon the maintenance of safe navigation conditions on the Snake River from Lewiston, Idaho to the Hells Canyon Dam, a distance of approximately 107.7 miles. No response to the petition was received.

By Commission order issued April 8, 1977, in Project No. 1971, the Commission stated in Ordering Paragraph (D) that all individuals and groups that had filed comments as of April 8, 1977, were permitted to participate as parties in the hearing set by the order. That hearing dealt with the temporary waiver to reduce the minimum flows on the Snake River. Messrs. Held, Riddle, and Duckworth had previously filed comments and were, thus, deemed parties by the Commission order. Mr. Beamer is permitted to intervene by this notice.

Pursuant to Section 3.5(a)(30) of the Commission's General Rules, as promulgated by Order No. 557 (issued December 10, 1976), the above petitioner is hereby permitted to intervene in the above-referenced proceeding subject to the Rules and Regulations of the Commission: Provided, however, That participation of the intervenor shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene: And provided further, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14719 Filed 5–20–77;8:45 am]

[Docket No. ER77–346]

INDIANA AND MICHIGAN ELECTRIC CO.

Changes in Rates and Charges

MAY 16, 1977.

Take notice that American Electric Power Service Corporation (AEP) on May 2, 1977, tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company (Indiana Company), Modification No. 10, dated May 1, 1977 to the Interconnection Agreement dated July 20, 1956 with Commonwealth Edison Company (Edison), designated Indiana Company Rate Schedule FPC No. 21.

AEP indicates that Section 3 of Modification No. 10 brings Service Schedule G—Supplemental Power to Edison into conformance with the fuel adjustment provisions implemented by FPC Order No. 517 and set forth in Sec. 35.14 of the Commission's Regulations. AEP also indicates that the proposed fuel clause changes the present Fossil Fuel Adjustment clause to include nuclear fuel costs. AEP states that the nuclear energy costs are lower than the fossil costs. AEP also states that since this creates a burden on Indiana Company, the parties have negotiated an adjustment in the Demand Charge set forth in Section 1 of Modification No. 10, in recognition of the lesser revenue to be received by Indiana Company as a result of the imposition of the new fuel clause.

AEP indicates that copies of the filing were served upon Edison, the Public Service Commission of Indiana, the Michigan Public Service Commission and Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10

of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14722 Filed 5–20–77;8:45 am]

[Docket No. RP76–87]

INTER-CITY MINNESOTA PIPELINES, LTD.

Settlement Agreement

MAY 17, 1977.

Take notice that on May 5, 1977, the Presiding Administrative Law Judge certified to the Commission a proposed settlement agreement and the record in the above-captioned proceeding. The agreement would resolve all issues in this proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 8, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14699 Filed 5–20–77;8:45 am]

[Docket No. RI77–70]

INTERSTATE DRILLING, INC.

Petition for Special Relief

MAY 17, 1977.

Take notice that on May 5, 1977, Interstate Drilling, Inc., 500 Commerce Square, Charleston, West Virginia 25301 filed a petition for special relief in the captioned docket, pursuant to Section 2.76 of the Regulations (18 CFR § 2.76).

Petitioner seeks authorization to charge the buyer $1.70/Mcf for the sale of gas from 8 wells located in Troy District of Gilmer County, West Virginia, which Columbia Gas Transmission Corporation (buyer) now pays base rate of $1.22 per Mcf. The petition is based on the estimated costs of the work necessary to remove the siphoning lines from the 8 wells installed originally to keep the wells free of fluids. Petitioner estimates the work will cost $12,000.00, and states that there are 100,000 Mcf of economically recoverable reserves left in the wells.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14718 Filed 5–20–77;8:45 am]

[Docket No. ER77–362]

LOUISVILLE GAS AND ELECTRIC CO.

Tariff Change

MAY 16, 1977.

Take notice that Louisville Gas and Electric Company (Louisville) on May 5, 1977, tendered for filing proposed changes in its Interconnection Agreement between Louisville and Cincinnati Gas and Electric Company (Cincinnati) designated Louisville Gas and Electric Company FPC Rate Schedule No. 24. Louisville indicates that the proposed changes would increase revenues from jurisdictional sales and service by $117,500 based on the 12-month period ending February 28, 1977.

Louisville states that the purpose of this filing is to increase the demand charge for Short Term Power as set forth on Service Schedule D from 45¢ per kilowatt-week to 60¢ per kilowatt-week. Louisville also states that this proposed revision reflects a desire on the part of both parties to obtain the optimum benefit from the interconnection of their systems.

According to Louisville copies of the filing were served upon Cincinnati Gas and Electric Company and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14690 Filed 5–23–77;8:45 am]

[Docket No. E–9573]

MARY C. HEATHER

Declaration of Intention

MAY 16, 1977.

Public notice is hereby given that a declaration of intention was filed on November 22, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Mary C. Heather (Applicant) and signed by Joseph A. Guerrieri, (representing the Applicant (Correspondence to: Mrs. Mary C. Heather, Stockbridge, Massachusetts 01262) for the proposed restoration of the Monument Mills (later Hovarth Mills) Complex located on the Housatonic River in Great Barrington and Stockbridge, Berkshire County, Massachusetts.

Applicant proposes to restore three of the four power sites in the complex by rebuilding available equipment typical of the period when first installed which was around 1900. Applicant plans to restore the power sites with sufficient authenticity to provide historical interest as well as economic and energy savings capability. The initial restoration would involve units with a total capacity of approximately 400 kW.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1977, file with the Federal Power Commission, 825 N. Capitol Street, N.W., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or §1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14723 Filed 5–20–77;8:45 am]

[Docket No. RP77–60]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed Changes in F.P.C. Gas Tariff

MAY 16, 1977.

Take notice that on April 29, 1977 Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing proposed changes in its F.P.C. Gas Tariff, Second Revised Volume No. 1 and First Revised Volume No. 2 to become effective June 1, 1977. Michigan Wisconsin states that the proposed changes result in an increase in revenues of $66 million annually, excluding changes in cost of gas.

Michigan Wisconsin further states that the principal reasons for the proposed rate increase are: (1) increases in costs related to the connection and

transportation of new gas supplies, (2) increased costs of capital, and (3) increased cost of labor, supplies and other operating expenses.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14689 Filed 5-20-77;8:45 am]

[Docket No. ER77-348]

MISSOURI UTILITIES CO.

Tariff and Rate Schedule Changes

MAY 12, 1977.

Take notice that Missouri Utilities Company of Cape Girardeau, Missouri (MUCo), on May 2, 1977, tendered for filing a proposed new Agreement for Wholesale Electric Service applicable to the City of California, Missouri. MUCo states that the proposed new agreement specifies all terms and conditions applicable to the service to be rendered thereunder; it replaces in its entirety the previously effective agreement dated September 7, 1954, which was cancelled by MUCo effective December 20, 1976. MUCo also states that the proposed agreement would increase revenues from jurisdictional sales and service by $89,994 based on the 12 month period ending October 31, 1976. This change in rates is proposed to become effective as of June 1, 1977.

MUCo indicates that the proposed change in rates is to compensate MUCo for increases in its cost of supplying wholesale electric service to the City of California, Missouri.

MUCo further indicates that copies of the filing were served upon the City of California, Missouri, and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14726 Filed 5-20-77;8:45 am]

[Docket Nos. RP71-107 (Phase II) and RP72-127]

NORTHERN NATURAL GAS CO.

Petition for Continued Rate Base Treatment of Advance Payment

MAY 12, 1977.

Take notice that on April 28, 1977, Northern Natural Gas Company (Northern) 2223 Dodge Street, Omaha, Nebraska, 68102, filed a Petition for Continued Rate Base Treatment of Advance Payment. More specifically, Northern petitions that the Commission issue an order allowing a continuation of rate base treatment for an advance payment of $823,672 to BP Alaska, Inc. (BPA), initially permitted in rate base on December 3, 1972 in the above-entitled proceedings. Northern also requests rate base treatment for all additional advances which Northern is obligated to make under its agreements with BPA, dated as of January 1, 1972, beyond the five-year period subsequent to the initial inclusion of each advance in rate base until such time as all advances are recouped fully. The Petition states that under its agreements with BPA, Northern is obligated to make advance payments for dedication of BPA's interest in proven Prudhoe Bay, Alaska, gas reserves, and advances to BPA, as operator, to fund a joint exploration program in an agreed-upon Area of Interest, which is entirely within the territorial limits of the United States, and from which any reserves developed by BPA will be made available to consumers in Northern market areas. The Petition also states that Northern's total obligation to BPA is $50,000,000. Northern projects that for the period through October, 1977, it will have advanced $25,792,208 to BPA.

Any person desiring to be heard and to make any protest with reference to said filing should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules, provided however, that those parties who are already intervenors in the above-entitled proceedings are deemed to be existing parties for purposes of Northern's Petition and need not again file petitions to intervene. Northern's Petition is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14688 Filed 5-20-77;8:45 am]

[Docket No. ER77-338]

PENNSYLVANIA ELECTRIC CO. ET AL.

Filing of Revised Schedule to Power Pooling Agreement

MAY 16, 1977.

Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company.

Take notice that on May 2, 1977, the GPU Service Corporation tendered for filing, on behalf of the above listed utilities, proposed Schedule 4.01, Revision No. 4 dated April 25, 1977 to the existing agreement between them, as heretofore amended and supplemented, dated July 21, 1969.

The GPU Service Corporation states that the proposed schedule sets forth "Installed Capacity Obligations Within GPU and Related Charges" under the GPU Power Pooling Agreement for two successive 12-month Planning Periods beginning June 1, 1977.

The GPU Service Corporation further states that no new facilities will be installed nor will existing facilities be modified in connection with the proposed schedule. It is requested that the Commission's notice requirements be waived so that the proposed schedule become effective on June 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14724 Filed 5-20-77;8:45 am]

[Docket No. ER77-301]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Supplement to Interconnection Agreement

MAY 16, 1977.

Take notice that on May 3, 1977 the parties to the Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement tendered for filing proposed Schedule 4.01, Revision No. 1 dated April 11, 1977 to the original agreement among them as heretofore amended and supplemented, which is filed with the Comsion under the following Rate Schedule designations:

	Rate schedule FPC No
Public Service Electric and Gas Co	23
Philadelphia Electric Co	21
Pennsylvania Power & Light Co	21
Baltimore Gas and Electric Co	9
Jersey Central Power & Light Co	7
Metropolitan Edison Co	7
Pennsylvania Electric Co	24
Potomac Electric Power Co	19

The PJM parties state that the proposed schedule sets forth rates for capacity deficiency transactions under the PJM Agreement for two successive 12-month Planning Periods beginning June 1, 1977.

The PJM parties further state that no new facilities will be installed nor will existing facilities be modified in connection with the proposed schedule. A waiver of the Commission's notice requirement is requested to allow the proposed schedule to become effective on June 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14693 Filed 5-20-77;8:45 am]

[Docket No. ER77-361]

PUBLIC SERVICE CO., NEW HAMPSHIRE

Filing of Agreement

MAY 17, 1977.

Take notice that Public Service Company of New Hampshire (PSNH) on May 5, 1977, tendered for filing as an initial rate schedule a Transmission Contract with Central Maine Power Company (the Buyer).

PSNH indicates that under the Contract, PSNH transmitted through its system an entitlement of power which the Buyer purchased from The Connecticut Light and Power Company and Hartford Electric Light Company.

PSNH requests that the Commission waive the normal 30-day notice requirement and permit the rate schedule to be effective as of February 1, 1977.

According to PSNH, a copy of the filing was served upon the Buyer.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14716 Filed 5-20-77;8:45 am]

[Docket No. ER77-368]

PUBLIC SERVICE CO., OKLAHOMA

Cancellation

MAY 16, 1977.

Take notice that Public Service Company of Oklahoma (Oklahoma) on May 9, 1977 tendered for filing the cancellation of the Letter Agreement dated January 19, 1977 between Oklahoma and the United States of America. Oklahoma indicates that effective at midnight on June 30, 1977 this Letter Agreement, which includes Rate Schedule FPC No. 191, will expire on its own terms and should be considered as cancelled. Oklahoma further indicates that notice of the proposed Cancellation has been served upon the Southwestern Power Administration.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14691 Filed 5-20-77;8:45 am]

[Docket No. RI77-42]

RELIABLE ENERGY, INC.

Amended Petition for Special Relief

MAY 13, 1977.

Take notice that on April 27, 1977, Reliable Energy, Inc., Securities Building, Billings, Montana 59102, filed an amended petition for special relief pursuant to Section 2.76 of the Commission's Regulations (18 CFR § 2.76).

Petitioner, instead of the $2.339 per Mcf it requested in its March 16, 1977 petition (noticed March 29, 1977), now seeks to collect $1.8605 per Mcf for the sale of gas from the Martin No. 1 Well, Pleasant Ridge Field, Morgan County, Colorado. Petitioner now intends to sell this gas to Kansas-Nebraska Natural Gas Company instead of Colorado Interstate Gas Company, the potential purchaser mentioned in its March 16, 1977 Petition for Special Relief. Petitioner estimates a cost of $176,000 to connect this well to the Kansas-Nebraska system, some 7 miles in distance. No gas presently flows from the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 2, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with

the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14727 Filed 5-20-77;8:45 am]

[Docket No. CP63-177]

TEXAS EASTERN TRANSMISSION CORP. TENNESSEE GAS PIPELINE CO.

Petition To Amend

MAY 17, 1977.

Take notice that on May 11, 1977, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001 (Petitioners), filed in Docket No. CP63-177 a petition to amend the Commission's order of March 18, 1963 (29 FPC 534), as amended, issued in the instant docket pursuant to Section 7 of the Natural Gas Act so as to authorize Petitioners to exchange natural gas at an additional exchange point in Colorado County, Texas, and to construct and operate certain facilities required for the exchange at the additional point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the Commission's order issued March 18, 1963, as amended, Petitions were authorized to exchange natural gas on an Mcf for Mcf basis at various onshore points pursuant to an exchange agreement dated July 30, 1974 as amended, between the parties.

Petitioners propose to exchange natural gas at an additional point of exchange pursuant to an amendment dated April 12, 1977, to the subject agreement at a mutually agreeable point on Tennessee's 12-inch pipeline crossing the James Alexander Survey, A778, Colorado County, Texas.

It is stated that Tennessee would furnish, install, and own the tap required; the cost of which would be borne by Texas Eastern, and Texas Eastern would construct and operate the meter facilities and connecting piping under the budget-type gas supply authorization previously granted Texas Eastern.

Gas supplies from a well dedicated to Texas Eastern under Shell Oil Company, Rate Schedule No. 10 would be delivered to Tennessee for Texas Eastern's account through producer facilities, and redelivered to Texas Eastern at a mutually agreeable point under the existing exchange agreement, it is said.

Petitioners assert that implementation of the proposed exchange would enable Texas Eastern to receive additional gas supplies into its system from dedicated supply sources in proximity to Tennessee's system which could not otherwise be feasibly connected directly to its system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 7, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14701 Filed 5-20-77;8:45 am]

[Docket No. CP77-369]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

MAY 17, 1977.

Take notice that on May 5, 1977, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-369 an application pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 1,350 Mcf of natural gas per day on an interruptible basis for Laurens Glass Company (LGC), an existing industrial customer of the Commission of Public Works of the City of Laurens, South Carolina (Laurens) and of Public Service Company of North Carolina, Inc. (PSNC), two of Applicant's Rate Schedule CD-2 customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 1,350 Mcf of natural gas per day (at 14.65 psia) for 2 years pursuant to a transportation agreement dated February 15, 1977, among Applicant, LGC, Laurens and PSNC. Applicant states that LGC has purchased the subject gas from Mitchell Energy Corporation (Mitchell), and that the gas is to be produced from the La Sal Vieja Field, Willacy County, Texas. It is stated that LGC would arrange to have such quantities delivered to a mutually agreeable point on Applicant's system in Willacy County, Texas, and Applicant would redeliver the transportation quantities to existing points of delivery to Laurens and PSNC for the account of LGC. It is further stated that Laurens and PSNC would transport such quantities of natural gas delivered to them to LGC's Laurens South Carolina and Henderson, North Carolina plants.

Applicant indicates that all gas to be transported under the proposed agreement would be consumed for priority 2 end-uses: that the specific end-use of the natural gas is for process use in the manufacture of glass containers, 99 percent of which is for food and beverage use, and 1 percent is for chemical use. There is no other available source of natural gas for Laurens' South Carolina plant, it is said.

Applicant states that it would charge LGC, initially 45.8 cents per Dekatherm (dt) for all quantities delivered, and that this rate is to be applicable to similar transportation services providing for deliveries in its Rate Zone 2. Applicant further states that it would retain, initially, 3.8 percent of the quantities received for transportation as make-up for compressor fuel and line loss. This percentage is based on Applicant's "company use" factor for pipeline throughput to and within its Rate Zone 2 in which the transportation deliveries proposed will be made, it is said.

It is indicated that LGC would purchase the daily minimum quantity of gas on a take-or-pay basis. It is stated that LGC would pay Mitchell for gas received and purchased, or if available and not taken by LGC, a price as follows:

(i) From the date of first delivery through the first contract year, $1.85 per Mcf at the point of delivery.

(ii) Effective on the first day of the second contract year and continuing thereafter, the price shall be $1.95 per Mcf at the point of delivery.

It is indicated that only minimal connecting facilities are required by Applicant at the location where the gas would be delivered to Applicant for the account of LGC for transportation, and LGC woud reimburse Applicant for its pro rata part of the actual cost of such facilities, estimated at $5,000.

It is stated that Mitchell resolved that if the contract with LGC was not consummated, the gas would be sold to an intrastate market primarily because of the uncertainty of price and the cumbersome administration required.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14697 Filed 5-20-77;8:45 am]

[Docket No. CP77-370]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

MAY 17, 1977.

Take notice that on May 5, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-370 an application pursuant to Section 7 of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 400 Mcf of natural gas per day at 14.65 psia on an interruptible basis for Minnesota Mining and Manufacturing Company (3M), an existing industrial customer of the Commission of Public Works of the City of Laurens, South Carolina (Laurens), a Rate Schedule CD-2 customer of applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport the proposed volumes of gas for 2 years for 3M pursuant to a transportation agreement dated February 15, 1977 among Applicant, 3M, and Laurens. It is stated that 3M has purchased from Mitchell Energy Corporation (Mitchell) up to 400 Mcf of Natural gas per day (at 14.65 psia) to be produced from the La Sal Vieja Field, Willacy County, Texas, and that 3M would arrange to have such quantities delivered to Applicant at a mutually agreeable point on Applicant's system in Willacy County, Texas. It is further stated that Applicant would redeliver the transportation volumes to existing points of delivery to Laurens for the account of 3M, and Laurens would transport such quantities of natural gas to 3M's Laurens, South Carolina Plant.

Applicant indicates that all natural gas to be transported under the proposed agreement would be consumed for priority 2 end-uses; the specific end-use of the natural gas is in the manufacture of technical ceramic products which are used in the electronic products field as electrical insulating materials. The 3M company equipment is not designed for use with alternate fuels, it is said.

Applicant states that it would charge 3M, initially, 45.8 cents per Dekatherm (dt) for all quantities delivered, and that this rate is applicable to similar transportation services providing for deliveries in its Rate Zone 2. Applicant further states that it would retain, initially, 3.8 percent of the quantities received for transportation as make-up for compressor fuel and line loss, and that this percentage is based on Applicant's "company use" factor for pipeline throughput to and within its Rate Zone 2 in which the transportation deliveries are proposed.

Applicant states that minimal connecting facilities would be required by Applicant at the location where the gas would be delivered to it for the account of 3M for transportation, and that 3M would reimburse Applicant for its pro rata part of the actual cost of such facilities, estimated at $5.000.

It is indicated that 3M would purchase the daily minimum quantity of gas on a take-or pay basis. It is stated that 3M would pay Mitchell for gas received and purchased, or if available and not taken by 3M, a price as follows:

(i) From the date of first delivery through the first contract year, $1.85 per Mcf at the point of delivery.

(ii) Effective on the first day of the second contract year and continuing thereafter, the price shall be $1.95 per Mcf at the point of delivery.

It is stated that Mitchell resolved that if the contract with 3M was not consummated, the gas would be sold to an intrastate market primarily because of the uncertainty of price and the cumbersome administration required.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14720 Filed 5-20-77;8:45 am]

[Docket No. ER77-350]

TUSCON GAS AND ELECTRIC CO.

Cancellation

MAY 16, 1977.

Take notice that Tuscon Gas & Electric Company (TG&E) on May 2, 1977 tendered for filing a Cancellation of the Los Angeles-TGE 1977 Energy Agreement. TG&E indicates that this Agreement was originally tendered to the Federal Power Commission on January 24, 1977 for filing as an initial rate schedule between the Department of Water & Power of the City of Los Angeles and TG&E. TG&E further indicates that the Agreement is dated January 13, 1977 and the date of Cancellation as set forth in the Agreement is May 31, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-14696 Filed 5-20-77;8:45 am]

[Docket No. ES77-38]

UNION ELECTRIC CO.

Application for Order Authorizing the Issuance of Short Term, Unsecured Promissory Notes

MAY 17, 1977.

Take notice that on May 11, 1977, Union Electric Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act seeking an

order authorizing the issuance of short term, unsecured promissory notes in the amount of $200,000,000, of which up to $100,000,000 may be in the form of commercial paper that will reach final maturity not later than December 31, 1980.

According to the Applicant, the prime rate in effect during the period of the issuance will be the applicable interest rate for demand notes issued to commercial banks with appropriate compensating balances. In the case of notes issued to commercial paper dealers, the Applicant states that the applicable interest rate will be the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity sold to commercial paper dealers. The Applicant further states that the applicable interest rate for commercial paper placed directly with purchasers of such commercial paper for their own accounts will be the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity. The Applicant contemplates that the issuance of promissory notes, including the "roll-over" of commercial paper promissory notes, can be obtained without further application to the Commission at any time and from time to time on or before December 31, 1980.

The Applicant states that the proceeds will be used to finance in part the Applicant's construction program (which will approximately total $978,785,000) ending December 31, 1980.

Any person desiring to be heard or to make any protest with reference to the application should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14715 Filed 5-20-77;8:45 am]

[Project No. 1864]

UPPER PENINSULA POWER CO.

Application for Approval of Easement Over Project Lands

MAY 13, 1977.

Public notice is hereby given that an application was filed on July 23, 1976, and supplemented on March 28, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Upper Peninsula Power Company (Correspondence to: Mr. Elio Argentati, Vice President—Operations, Upper Peninsula Power Company, 616 Shelden Avenue, Houghton, Michigan 49931) for Commission approval of the grant of an easement over certain lands of the Bond Falls Project, FPC No. 1864, to Wisconsin Michigan Power Company (Grantee), for the construction, operation, and maintenance thereon of a power transmission line. Project No. 1864 is located on the Middle Branch of the Ontonagon River in Ontonagon County, Michigan, and affects lands of the United States within Ottawa National Forest.

Applicant proposes to transfer ownership of approximately 3.5 miles of single-phase, 2.4 kV distribution line to Grantee. The line, which is located along the county road between the Town of Paulding and the Bond Falls Reservoir, is not part of Project No. 1864, but passes over portions of the project lands. The line was constructed in 1938 and is currently in need of replacement. On the basis of estimates of comparative initial construction and maintenance costs, Applicant and Grantee have agreed that the new line should be installed underground, except for a short segment which would be suspended over the fuse plug spillway of the project. Applicant requests authorization to grant a right-of-way and easement 20 feet wide across the affected project lands for the construction, operation, and maintenance of the replacement line. United States lands in Ottawa National Forest would not be affected by the easement.

Applicant has requested the shortened procedure provided for under Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32 (b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 27, 1977, file with the Federal Power Commission, 825 N. Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. § 825g and § 825h, and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b), a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14728 Filed 5-20-77;8:45 am]

[Docket No. ER77-357]

VERMONT ELECTRIC POWER CO., INC.

Rate Schedule Filing

MAY 16, 1977.

Take notice that on April 30, 1977, Vermont Electric Power Company, Inc. (Velco) tendered for filing a Rate Schedule for the sale of 3,000, 70,000, 28,000, and 54,000 kilowatts of capacity and related energy from the Vermont Yankee Nuclear Electric Generating Unit in Vernon, Vermont, dated as of April 30, 1976, by Velco to the Long Island Lighting Company (Long Island) for the following periods of time: May 1, 1976, to October 31, 1976, November 1, 1976, to November 30, 1976, December 1, 1976, to March 31, 1977, and April 1, 1977, to October 31, 1977, respectively.

Velco states that the service to be rendered under this Rate Schedule consists of the sale of a total 155,000 kilowatt capacity and related energy from the Vermont Yankee Unit to Long Island for a 17 month period commencing May 1, 1976, and ending on October 31, 1977, at the following estimated monthly charges for each of the above four periods: $28,000, $651,000, $293,000, and $530,000. Velco states that the Vermont Yankee power being sold to Long Island will be at its cost to Velco, except for the period December 1, 1976, to March 31, 1977, during which an extra charge of $32,300/month will be paid by Long Island and credited to the accounts of those Vermont utilities which released capacity and energy for resale by Velco to Long Island. Velco alleges that there will be no change in the overall rate of return of Velco.

Velco requests a waiver of the requirements of Section 35.3 of the Commission's Rules and Regulations to allow an effective date of May 1, 1976, citing difficulties by Long Island in resolving certain problems for transmission arrangements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14721 Filed 5-20-77;8:45 am]

[Docket No. ER77-358]

VERMONT ELECTRIC POWER CO., INC.

Rate Schedule Filing

MAY 17, 1977.

Take notice that on May 4, 1977, Vermont Electric Power Company, Inc. (Velco), tendered for filing a Rate Schedule for the sale of two thousand kilowatts (2,000 kW) and related energy from the Vermont Yankee Nuclear Electric Generating Unit in Vernon, Vermont, dated as of March 21, 1977, to the City of Holyoke, Massachusetts, Gas & Electric Department.

Velco states that the service to be rendered under this Rate Schedule consists of 2,000 kW capacity and related energy from the Vermont Yankee Unit to the City of Holyoke, Massachusetts, Gas & Electric Department for a 19 month period commencing March 31, 1977, and ending on October 31, 1978, at an estimated $15,000/month charge to Holyoke. Velco states that the Vermont Yankee power sold to Holyoke will be at its cost to Velco, and there will be no change in the overall rate of return of Velco.

Velco requests a waiver of Section 35.3 of the Commission's Rules and Regulations to allow an effective date of April 1, 1977, citing delays in the execution of the Contract, and no effect upon purchasers of Velco power under other Rate Schedules, if the waiver is granted.

Velco indicates that copies of the filing were served upon the Vermont Public Service Board, the Department of Public Utilities of the Commonwealth of Massachusetts, and the parties to the Rate Schedule.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14702 Filed 5-20-77;8:45 am]

[Docket No. ER77-325]

APPALACHIAN POWER CO.

Joint Motion

MAY 16, 1977.

Take notice that Appalachian Power Company (APCO) on the one hand, and the City of Danville, Virginia; the City of Martinsville, Virginia; the Town of Richlands, Virginia; the City of Salem, Virginia; Virginia Polytechnic Institute and State University (VPI), the City of Radford, Virginia; and the City of Bedford, Virginia (hereinafter collectively referred to as the "Cities and VPI") on the other hand, on April 28, 1977 tendered for filing a Joint Motion urging the Commission to cause the settlement rates, charges, terms and conditions, as set forth in concurrently filed Supplements to twenty Rate Schedules already on file with the Commission, to become effective for service rendered on and after July 1, 1977.

APCO indicates that the charges reflected in these Supplements primarily involve increased demand and energy charges and a revised fuel adjustment clause. APCO further indicates that the proposed rate increase is occasioned by increases in the cost of providing electric service, however, no facilities will be installed or modified in order to supply the service to be furnished under the proposed rate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14739 Filed 5-23-77;8:45 am]

[Project No. 2534]

BANGOR HYDRO-ELECTRIC CO.

Application for Approval of Exhibit R

MAY 17, 1977.

Public notice is hereby given that an application for Commission approval of an Exhibit R (Recreational Use Plan) was filed on September 30, 1974, and supplemented on June 24, 1976, and February 24, 1977, under the Federal Power Act (16 U.S.C. 791a–825r) by the Bangor Hydro-Electric Company (Applicant) (Correspondence to: Mr. Earle R. Webster, Executive Vice President, Bangor Hydro-Electric Company, 33 State Street, Bangor, Maine 04401) for the Milford Project, FPC No. 2534, located on the Penobscot River, a navigable waterway of the United States, and in the City of Old Town and the Town of Milford, Penobscot County, Maine.

According to the supplemented Exhibit R filed by Applicant, the Parks and Recreation Department of the City of Old Town (City) proposes to use a previously reserved 2.2-acre parcel of land near Gillman Falls Dam as a small picnic area, portage path, and canoe and small boat launching area. The City has agreed to provide such picnic furniture, trash containers, and supervision as may be required, while Applicant has agreed to furnish a safety boom and a warning and directional sign.

In addition, the Exhibit R describes a non-project public park with boat launching facility currently being constructed by the City, and notes that the launch will extend 50 feet within the project boundary.

Applicant requests the use of the shortened procedures pursuant to § 1.32 (b) of the Commission's rules and regulations.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's rules of practice and procedure, specifically § 132(b) (18 CFR 1.32(b)), (1976), a hearing may be held without further notice before the Commission on its application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for applicant to

appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14735 Filed 5-23-77;8:45 am]

[Docket Nos. G-2712, etc.]

CITIES SERVICE CO.

Application

MAY 16, 1977.

Take notice that on April 27, 1977, Cities Service Company, P.O. Box 300, Tulsa, Oklahoma, 74102 filed an application in Docket Nos. G-2712, et al. for a certificate of public convenience and necessity to render service previously authorized by the Commission in certificates of public convenience and necessity issued to Cities Service Oil Company and for substitution of Cities Service Company for Cities Service Oil Company in certain pending proceedings. Cities Service also filed for a Certificate of Adoption and Request for Redesignation of Cities Oil Rate Schedules. The application is the result of the transfer of oil and gas properties by Cities Service Oil Company to Cities Service Company, effective April 1, 1977.[1]

Any person desiring to be heard or to make any protest with reference to said application, on or before June 1, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or of the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] See Exhibit A for a list of the rate schedules and certificates involved.

EXHIBIT "A"

CITIES SERVICE OIL CO.

Rate Schedule	Purchaser and certificate docket No.
106	United Gas Pipe Line Co., G-14232.
176	Columbia Gas Transmission Corp., G-2721.
178	Tennessee Gas Pipeline Co., G-10139.
180	Tennessee Gas Pipeline Co., G-11046.
181 [1]	Transcontinental Gas Pipe Line Corp., G-16854.
185 [1]	Southern Natural Gas Co., CI60-20.
186	Tennessee Gas Pipeline Co., G-19707.
187	Tennessee Gas Pipeline Co., CI62-135.
188	Transcontinental Gas Pipe Line Corp., G-14355.
193	Tennessee Gas Pipeline Co., CI64-1110.
206 [1]	Gas Gathering Corp., CI66-350.
215 [1]	United Gas Pipe Line Co., CI67-522.
220	Texas Eastern Transmission Corp., CI68-311.
224	Tennessee Gas Pipeline Co., CI67-864.
227	United Gas Pipe Line Co., CI68-1443.
228	Tennessee Gas Pipeline Co., CI69-57.
276 [1]	Columbia Gas Transmission Corp., G-12618.
283	Texas Gas Transmission Corp., CI62-1068.
286	Texas Gas Transmission Corp., CI63-1317.
295	Michigan Wisconsin Pipe Line Co., CI67-1159.
302	Michigan Wisconsin Pipe Line Co., CI68-1322.
310	Michigan Wisconsin Pipe Line Co., CI69-443.
311	Michigan Wisconsin Pipe Line Co., CI69-1096.
312	Trunkline Gas Co., CI69-806.
314	Texas Eastern Transmission Corp., CI69-1235.
315	Tennessee Gas Pipeline Co., CI69-1117.
322	Tennessee Gas Pipeline Co., CI70-598.
323	Tennessee Gas Pipeline Co., CI70-660.
329	Michigan Wisconsin Pipe Line Co., CI70-1080.
330	Texas Eastern Transmission Corp., CI71-237.
331	Tennessee Gas Pipeline Co., CI70-1008.
332	Transcontinental Gas Pipe Line Corp., CI71-207.
348	Texas Eastern Transmission Corp., CI72-20.
348	Texas Eastern Transmission Corp., CI72-19.
351 [1]	Southern Natural Gas. Co., G-2712.
354	United Gas Pipe Line Co., G-2712.
363 [1]	United Gas Pipe Line Co., G-8712.
366 [1]	Texas Eastern Transmission Corp., G-9272.
369	United Gas Pipe Line Co. G-12852.
380	Trunkline Gas Co., CI72-231.
383	Arkansas Louisiana Gas Co., CI72-600.
385	United Gas Pipe Line Co., CI72-588.
392	Michigan Wisconsin Pipe Line Co., CI73-38.
395	Tennessee Gas Pipeline Co., CI73-136.
396	Tennessee Gas Pipeline Co., CI73-328.
397	Tennessee Gas Pipeline Co., CI73-457.
398	Tennessee Gas Pipeline Co., CI73-468.
400	Tennessee Gas Pipeline Co., CI73-728.
403	Southern Natural Gas Co., CI73-845.
410	Trunkline Gas Co., CI75-181.
412	Michigan Wisconsin Pipe Line Co., CI75-226.
414	United Gas Pipe Line Co., CI75-327.
415	Tennessee Gas Pipeline Co., CI75-489.
418	Texas Gas Transmission Corp., CI75-558.
425	Trunkline Gas Co., CI76-18.
426	Tennessee Gas Pipeline Co., CI76-58.
429	Tennessee Gas Pipeline Co., CI76-220.
430	Tennessee Gas Pipeline Co., CI76-805.
436	Tennessee Gas Pipeline Co., CI76-620.
439	Tennessee Gas Pipeline Co., CI77-19.

[1] (Operator) et al.

[FR Doc.77-14733 Filed 5-23-77;8:45 am]

[Project No. 733]

COLORADO-UTE ELECTRIC ASSOCIATION, INC.

Application for New License (Minor)

MAY 17, 1977.

Public notice is hereby given that an application was filed under the Federal Power Act, 16 U.S.C. §§ 791a–825r, for a new minor license for Project No. 733 by Colorado-Ute Electric Association, Inc. (Applicant) (Correspondence to: Mr. John J. Bugas, President, Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401). Project No. 733, known as the Ouray Project, is located on the Uncompahgre River in Ouray County, Colorado and affects lands of the United States within the Uncompahgre National Forest.

The original license for the project expired on April 21, 1970. By order issued April 25, 1975, the Commission approved the transfer of the project from the Western Colorado Power Company to the Applicant.

The Ouray Project consists of: (1) A 71-foot high, 70-foot long rubble masonry, diversion dam with an overflow spillway and a flow line intake; (2) a three-acre reservoir; (3) a 6,131-foot long flow line, part of which is inoperative; (4) a pole line signal circuit; (5) a powerhouse containing an inoperative 432-kW generating unit; and (6) appurtenant facilities. Applicant proposes to repair the flow line and repair or replace the generating equipment during 1977.

The project would produce power and energy for public utility purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 25, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's rules of practice and procedure, specifically § 1.32(b), as amended by Order No. 518, a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14736 Filed 5-23-77;8:45 am]

[Docket No. ER77-175]

FLORIDA POWER AND LIGHT CO.

Extension of Time

MAY 16, 1977.

On May 10, 1977, Florida Power and Light Company filed a motion to extend the time for filing its case-in-chief as required by corrected order issued April 12, 1977, in Docket No. ER77-175.

Upon consideration, notice is hereby given that the time for filing the case-in-chief in the above indicated proceeding is extended to and including June 20, 1977. Accordingly, the pre-hearing conference previously scheduled for June 9, 1977, is changed to June 30, 1977, at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14737 Filed 5-23-77;8:45 am]

[Docket No. E-9594]

GEORGIA POWER CO.

Filing of Application To Sell Facilities

MAY 16, 1977.

Take notice that on May 10, 1977, Georgia Power Company tendered for filing an application for an Order authorizing the sale of approximately 408 miles of transmission lines, 18 distribution substation tap lines, 49 delivery point substations, and 12 transmission substations to the Municipal Electric Authority of Georgia ("MEAG").

The Company states that the parties have entered into an Integrated Transmission System Agreement (the "Transmission Agreement") providing for the establishment of an integrated transmission system to be operated by the Company and MEAG to carry the loads of both the Company and MEAG free of charge (subject to the conditions of the Transmission Agreement) and requiring an aggregate investment by each party in transmission facilities comprising the integrated transmission system in the proportion the load of each (as defined in the Transmission Agreement) bears to the aggregate load on such system. The Company further states that MEAG desires to purchase certain transmission facilities presently owned by the Company which after such sale shall become MEAG Transmission Facilities under the provisions of the Transmission Agreement.

Any person desiring to be heard or to protest said application should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14744 Filed 5-23-77;8:45 am]

[Docket No. ER77-305]

IOWA ELECTRIC LIGHT AND POWER CO.

Tariff Change

MAY 16, 1977.

Take notice that Iowa Electric Light and Power Company (Iowa Electric) on May 10, 1977, tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. I. Iowa Electric indicates that the revised Tariff Sheets update the current Table of Contents, System Map, Resale Electric Service Agreement and the Index of Purchaserrs. In addition, Iowa Electric tendered for filing a Standard Resale Agreement with the City of Ellsworth, Iowa, governing electric service for the City of Ellsworth and in conjunction with the submission of the Resale Service Agreement, Iowa Electric also tendered for filing Original Sheets Nos. 8.6–8.8. Iowa Electric also indicates that said filing is being made pursuant to the Commission's Order issued on December 15, 1976, in Docket No. ER76-206.

Iowa Electric further states that copies of the above filings have been served upon Iowa Electric's jurisdictional customers and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14738 Filed 5-23-77;8:45 am]

[Docket No. ER77-363]

IOWA POWER AND LIGHT CO.

Establishment of Additional Point of Delivery and Interconnection

MAY 16,1977

Take notice that Iowa Power and Light Company (Iowa Power) on May 6, 1977, tendered for filing a revised Schedule A to the Electric Interchange Agreement between Iowa Power and Light Company and Northeast Iowa Power Cooperative dated September 28, 1976. Iowa Power indicates that the revised Schedule A is intended to replace the previous Schedule A dated March 30, 1976 and designated as Supplement No. 3 to Iowa Power and Light Company Rate Schedule FPC No. 41.

According to Iowa Power the revised Schedule A provides for the establishment of an additional point of delivery and interconnection between the two companies, and specifies the nature of the facilities to be furnished by the companies at that point.

According to Iowa Power Schedule A was revised in order to further increase the interchange and displacement capabilities between the systems of the two companies and to facilitate coordinated development of adequate transmission capacity for service to customers of the companies at minimum cost.

Iowa Power requests that the Commission waive the prior notice requirements and accept the filing with a retroactive effective date of September 28, 1976. Iowa Power states that copies of the filing have been served upon Northwest Iowa Power Cooperative and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10

of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 26, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14743 Filed 5-23-77;8:45 am]

[Docket No. ES77-31]

IOWA SOUTHERN UTILITIES CO.

Application

MAY 17, 1977.

Take notice that on April 28, 1977, Iowa Southern Utilities Company (Applicant) filed an application for an order pursuant to Section 204 of the Federal Power Act for authorization to issue and sell 50,000 additional shares of its Common Stock, par value $10 per share.

Applicant is incorporated under the laws of the State of Delaware and qualified to do business as a foreign corporation in the State of Iowa, with its principal place of business being located in Centerville, Iowa.

Applicant proposes to issue and sell to its employees up to but not exceeding 50,000 additional shares of its Common Stock, par value $10 per share, in accordance with the terms and conditions of its Employee Stock Purchase Plan, a copy of which is filed as an exhibit to its application. The sales will be made through payroll deductions, and request is made for exemption from the competitive bidding requirements of § 34.1a (b) and (c) of the Regulations under the Federal Power Act. Applicant states that the net proceeds realized from the sale of the 50,000 additional shares of its Common Stock dedicated to the Employee Stock Purchase Plan is estimated at approximately $1,109,000.

Any persons desiring to be heard or to make any protests with reference to said application should on or before June 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14734 Filed 5-23-77;8:45 am]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Petition To Amend

MAY 17, 1977.

Take notice that on May 11, 1977, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74-162 a petition to amend the Commission's order of April 2, 1975 (53 FPC—), issued in the instant docket pursuant to section 7 of the Natural Gas Act so as to authorize an additional point for the exchange of natural gas with El Paso Natural Gas Company (El Paso) in Lea County, New Mexico (Lea No. 3 Exchange Point), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to the Commission's order issued April 2, 1975, as amended, Petitioner was granted authorization to exchange natural gas with El Paso, and to construct and operate certain facilities to implement such exchange. It is stated that by a long-term gas exchange agreement dated September 24, 1973, as amended, Petitioner and El Paso agreed to exchange quantities of gas available and tendered from time to time by one to the other subject to quantity limits set forth.

It is indicated that on April 28, 1977, Petitioner and El Paso further amended the subject gas exchange agreement to provide for an additional exchange point in Lea County, New Mexico (Lea No. 3 Exchange Point), whereby Petitioner proposes to deliver gas it has available for purchase under a gas purchase agreement dated March 25, 1977, with Napeco Inc., an affiliate of Petitioner, from the Mark Production Federal "E" Well No. 1 located in Lea County, New Mexico. Petitioner states that El Paso also has contracted to purchase a portion of the gas from this well and has or would construct facilities to connect the well to its gathering system. Petitioner further states that it would reimburse El Paso for one half of the cost of such facilities, and that it would use its currently effective gas purchase facilities budget-type authorization to meet its share of the construction costs. El Paso would redeliver equivalent volumes to Petitioner at existing exchange points, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 6, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14740 Filed 5-23-77;8:45 am]

[Docket No. ER77-306]

OKLAHOMA GAS AND ELECTRIC CO.

Order Accepting for Filing and Suspending Proposed Rate Schedules, Granting Request for Waiver, and Consolidating Proceedings

MAY 12, 1977

On April 12, 1977, Oklahoma Gas and Electric Company (OG&E) submitted for filing proposed electric service agreements[1] for each of the 19 points of delivery to Arkansas Valley Electric Cooperative (AVEC). These service agreements are intended to supersede AVEC's existing rate schedule and become effective on May 13, 1977,[2] consistent with the expiration date of the present rate schedule.

The proposed rates were previously filed in tariff format[3] in Docket No. ER77-127 on December 27, 1976. By order issued January 26, 1977, in that docket, the Commission accepted the tariff for filing and suspended its effectivness for two months until April 1, 1977. In its December 27, 1976 submittal, OG&E indicated that it would file service agreements as each of the existing cooperative contracts expired. OG&E's present contract with AVEC is the first of such cooperative contracts to expire.

Notice of the filing was issued April 22, 1977 with protests or petitions to intervene due on or before May 4, 1977. No such petitions were filed.

Review of OG&E's proposed rates indicates that they have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission will therefore accept for filing and suspend OG&E's service agreements with AVEC for one day to become effective May 14, 1977, subject to refund. The Commission will also consolidate this docket with Docket No. ER77-127. The issues in both dockets are substantially the same and such consolidation will avoid needless duplication of effort and permit a more prompt resolution of these issues.

OG&E requests waiver of the cost support requirements of Section 35.13 because its cost-of-service study filed in Docket No. ER77-127 includes data for service to AVEC. In order to avoid unnecessary duplication, the Commission will grant OG&E's request for waiver.

The Commission finds: (1) Good cause exists to accept for filing OG&E's proposed rates tendered for filing on April 12, 1977, and suspend those rates for one day, to become effective on May 14, 1977, subject to refund.

[1] Designated as: Oklahoma Gas & Electric Company Service Agreements under FPC Electric Tariff Original Volume No. 1 (Cooperatives).

[2] The service agreement for the Milton delivery point is an exception and becomes effective on July 1, 1977, as a new delivery point.

[3] Two separate Tariff Volumes were filed covering service to municipal and cooperative customers.

(2) Good cause exists to consolidate Docket Nos. ER77-127 and ER77-306 for the purposes of a hearing and decision thereon.

(3) Good cause exists to grant OG&E's request for waiver of the cost support requirements of § 35.13 of the Commission's regulations.

The Commission orders: (A) Pending a hearing and decision thereon, OG&E's proposed rates are hereby accepted for filing and suspended for one day, to become effective on May 14, 1977, subject to refund.

(B) Pursuant to the Federal Power Act, especially sections 205 and 206 thereof, the Commission's rules of practice and procedure, and the Commission's Regulations, a hearing shall be held concerning the justness and reasonableness of OG&E's proposed rates.

(C) Docket No. ER77-306 is hereby consolidated with Docket No. ER77-127 for purposes of a hearing and decision.

(D) OG&E's request for waiver of the cost support requirements of § 35.13 is hereby granted.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14741 Filed 5-23-77;8:45 am]

[Docket No. RI77-58]

OUTLINE OIL CORP.

Petition for Special Relief

MAY 16, 1977.

Take notice that on April 11, 1977, Outline Oil Corporation (Outline), One Energy Square, Suite 1354, 4925 Greenville Avenue, Dallas, Texas 75206, filed a petition for special relief in Docket No. RI77-58 pursuant to § 2.56B(h) of the Commission's General Policy and Interpretations (18 CFR 2.566B(h)) and Opinion No. 742-A issued July 27, 1976.

Outline seeks authorization to charge $1.36 per Mcf for the sale of gas to Transcontinental Gas Pipeline Corporation (Transco) from Mission Valley Field, Victoria County, Texas, under a gas purchase contract dated November 12, 1971. Outline, a small producer, is filing on behalf of itself and other small producer working interest owners in the properties involved. It states that Transwestern has agreed to pay the increased rate if approved by the Commission.

Outline states that it is impossible for it to continue to produce this gas for the 35 cents per Mcf, plus adjustments, allowed by the Commission's Order No. 553, issued July 27, 1976. It attached to its petition studies which purported to show that its costs far exceed this amount.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14742 Filed 5-23-77;8:45 am]

[Docket No. RP75-102]

PANHANDLE EASTERN PIPE LINE CO.

Compliance Tariff Filing

MAY 16, 1977.

Take notice that on May 9, 1977 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets:

	Proposed effective date
FPC gas tariff, original vol. No. 1:	
Substitute 19th revised sheet No. 3-A	Apr. 1, 1977.
Substitute 3rd revised sheet No. 42-2	Dec. 1, 1975.
4th revised sheet No. 43-3	Do.
2nd substitute 4th revised sheet No. 43-A	Do.
FPC gas tariff, original vol. No. 2:	
Substitute 1st revised sheet No. 93	Do.
Substitute 1st revised sheet No. 135	Do
Substitute 1st revised sheet No. 211	Do.

Panhandle states such sheets are being filed in accordance with Paragraph (B) of the Commission's order issued April 25, 1977 in Docket No. RP76-102 adopting Panhandle's proposed Settlement Agreement in this proceeding as amended to exclude certain expenses applicable to the Gas Arctic Northwest Project and the Northern Border Pipeline Project from the cost of service.

Panhandle submits that Substitute Nineteenth Revised Sheet No. 3-A reflects rate levels to be effective April 1, 1977. The rate adjustments reflected are as follows:

1. Revision in the current PGA rates to reflect changes in Panhandle's PGA as approved by the April 25, 1977 order.
2. Adjustment to exclude amounts applicable to Gas Arctic Northwest Project and Northern Border Pipeline Project.
3. Changes in Advance Payments.
4. Reduction of the DCA Surcharge Adjustment to reflect lower demand rates.

Panhandle states that copies of its filing have been served on all affected customers and applicable State regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or portests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14747 Filed 5-23-77;8:45 am]

[Docket No. FR77-343]

ROCHESTER GAS AND ELECTRIC CORP.

Filing of Firm Power Contract

MAY 16, 1977.

Take notice that Rochester Gas and Electric Corporation (Rochester), on May 2, 1977 tendered for filing a rate schedule providing for the sale by Rochester to Consolidated Edison Company of New York, Inc. (Con Edison) of 100 MW of firm capability and associated energy. Rochester requests that the Commission waive its notice requirements to permit the rate schedule to be effective as of May 31, 1977. The proposed term of the rate schedule will be from May 31, 1977 through October 29, 1977.

According to Rochester, a copy of the filing was served upon Con Edison and the New York Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or portests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14745 Filed 5-23-77;8:45 am]

[Docket No. RI77-50]

VENUS OIL CO.

Petition for Special Relief

MAY 13, 1977.

Take notice that on March 25, 1977, Venus Oil Company (Venus), 2100 National Bank of Commerce Building, San Antonio, Texas 78205, filed a petition for special relief in Docket No. RI77-50 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Venus, a small producer, seeks authorization to charge 99.76 cents per Mcf at 14.65 psia for gas presently being sold to Transwestern Pipeline Company (Transwestern) from the Archer No. 1 Well in the Hansford (Lower Morrow) Field, Hutchinson County, Texas, at a rate of 40.4547 cents per Mcf. Venus, operator of the property, is filing on behalf of all interested owners. The petition gives as its basis remedial work performed in September of 1975 and May of 1976 involving repair of a casing failure and added compression.

Venus also requests that the Commission recognize entitlement by it to funds escrowed pursuant to an agreement between it and Transwestern whereby Transwestern was to be protected in connection with contract rates charged by Venture prior to Order No. 553, issued July 27, 1976, which provided for direct rate regulation of small producers.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-14746 Filed 5-23-77;8:45 am]

[Docket Nos. CP77-387]

TENNESSEE GAS PIPELINE CO. TENNECO CO.

Application

MAY 19, 1977.

Take notice that on May 16, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant) P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP77-387 an application pursuant to section 7(c) of the Natural Gas Act, as amended, and the rules and regulations of the Federal Power Commission thereunder, for a certificate of public convenience and necessity authorizing the rendition of a natural gas transportation service for Northern Natural Gas Company (Northern). Tennessee also requests temporary authorization to render this service.

Applicant requests authorization to receive from Columbia Gulf Transmission Company (Columbia Gulf), for the account of Northern, daily volumes of natural gas, up to a maximum of 50,000 Mcf, near Egan, Louisiana, and to transport and deliver such volumes to Trunkline Gas Company (Trunkline) at an existing point of interconnection between the facilities of Tennessee and Trunkline near Kinder, Louisiana, for the account of Northern. Trunkline will transport the gas to Panhandle Eastern Pipe Line Company (Panhandle) for redelivery to Northern.

Applicant states that applications for effect this transportation have been filed by Columbia Gulf at Docket No. CP77-8 and by Panhandle and Trunkline at Docket No. CP77-17. Temporary certificates were issued in said dockets on February 10, 1977, and January 12, 1977, respectively.

Applicant's ability to render presently authorized service to its customers will not be affected by its proposal.

Tennessee requests that this application be considered under the shortened procedure provided for in § 1.32(b) of the Commission's rules of practice and procedure.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14883 Filed 5-20-77;3:44 pm]

FEDERAL RESERVE SYSTEM

DETROITBANK CORP.

Acquisition of Bank

Detroitbank Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(5)) to merge its non-operating subsidiary, DBT Co., with Lake Shore Financial Corporation, Muskegon, Michigan, and thereby acquire Hackley Union National Bank and Trust Company of Muskegon, Muskegon, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 14, 1977.

Board of Governors of the Federal Reserve System, May 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14651 Filed 5-23-77;8:45 am]

NORRIS BANCOR LTD.

Formation of Bank Holding Company

Norris Bancor Ltd., Cantril, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of State Savings Bank, Cantril, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 15, 1977.

Board of Governors of the Federal Reserve System, May 18, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14652 Filed 5-23-77;8:45 am]

UNITED KENTUCKY, INC.

Order Approving Acquisition of Kesselring-Netherton & Associates, Inc.

United Kentucky, Inc., Louisville, Kentucky, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843 (c)(8)) and § 225.4 (b)(2) of the Board's Regulation Y (12 CFR 225.4 (b)(2)), to acquire shares of Kesselring-Netherton & Associates, Inc., Louisville, Kentucky ("Company"), through a non-operating subsidiary corporation, United Kentucky Mortgage, Inc. which was chartered expressly to absorb Company but to do business as "Kesselring-Netherton & Associates, Inc." Company engages in the activities of originating, for its own account and the accounts of others, conventional and guaranteed residential mortgage loans and commercial mortgage loans, and the servicing of such loans for permanent investors. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a) (1) and (3)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 14921) (1977). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the sixth largest banking organization in Kentucky, controls one bank, Lousville Trust Bank, Inc., Louisville, Kentucky ("Bank"), with total deposits of $180.3 million, representing approximately 1.9 per cent of deposits in commercial banks in the State.[1] Company, which commenced operations in 1972, has total assets of approximately $335,900. Its sole office is located in Louisville. Company is one of the smaller mortgage firms in the relevant market and, in 1976, was ranked eleventh largest of twelve mortgage companies in Jefferson County, Kentucky.[2]

During 1976, Bank originated approximately 1.4 percent of the 1–4 family residential mortgage loans secured by real estate located in the Louisville mortgage market,[3] amounting to $2.4 million. During 1976, Bank also originated mortgage loans for multi-family and nonresidential mortgage loans amounting to $4.3 million.[4]

Company does not originate single family mortgages. It does, however, originate mortgages on two-to-four family dwellings. During 1976, these loans amounting to $0.7 million, accounted for less than 1 per cent of the 1–4 family residential loans in the Louisville mortgage market. Company also originated $14 million in multi-family and nonresidential mortgage loans and serviced $22.3 million in all mortgage loans.

Bank and Company are direct competitors to some extent in the local market for the origination of 1–4 family residential mortgage loans and in the regional or national markets for originating and servicing multi-family residential and commercial mortgage loans. The effect of the elimination of competition is mitigated, however, by the presence in the Louisville mortgage market of at least 35 other mortgage banking firms and in the regional or national markets, of numerous other such firms. Thus, the elimination of competition that would result from consummation of the proposed transaction would be slight.

Upon consummation of the proposed transaction, Applicant will expand Company's originations and servicing into single family mortgage financing, thus making it a stronger competitor in the Louisville market. In addition, considering Company's small size, Company would also benefit from access to the additional financial and managerial resources and expertise of Applicant that may not otherwise have been available. Furthermore, there is no evidence in the record to indicate that Applicant's acquisition of Company would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest. Based upon these considerations, the Board concludes that the public benefits that would result from consummation of the proposal outweigh the slightly adverse competitive effects that would occur in the Louisville mortgage market.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under § 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis, pursuant to authority hereby delegated.

By order of the Board of Governors,[5] effective May 18, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14653 Filed 5-23-77;8:45 am]

[1] As of June 30, 1976.

[2] Based upon a ranking by Chicago Title Insurance Company of dollar amounts of mortgage loans recorded in Jefferson County during the first quarter of 1976.

[3] The Louisville mortgage market for 1–4 family residential loans is approximated by the Louisville Standard Metropolitan Statistical Area, which includes Jefferson, Bullitt, and Oldham Counties, Kentucky, and Clark and Floyd Counties, Indiana.

[4] Characteristically, the relevant geographic market for the origination of multi-family and nonresidential mortgage loans is regional or national in scope, and thus data regarding market shares for such loans are not readily available.

[5] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76G-0412]

MIRACLE FRUIT BERRIES, CONCENTRATES, AND EXTRACTS

Denial of GRAS Affirmation and Determination of Food Additive Status

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (1) denies a petition for affirmation that miracle fruit (*Synsepalum dulcificum*) berries, concentrates, and extracts are generally recognized as safe (GRAS), and (2) determines that the substances are unapproved food additives.

DATES: The order is effective May 24, 1977. Persons adversely affected by this order may file objections and request a public hearing on or before June 23, 1977.

ADDRESSES: Written objections to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In accordance with procedures established in § 170.35 (21 CFR 170.35, formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the Miralin Co., 8 Kane Industrial Drive, Hudson, MA 01749, submitted a petition (GRASP No. 4G0034) proposing affirmation that miracle fruit (*Synsepalum dulcificum*) and extracts and concentrates made therefrom are generally recognized as safe (GRAS) as sweetening agents or flavor enhancers. A notice of filing of this petition was published in the FEDERAL REGISTER of September 25, 1974 (39 FR 34468). The notice stated that the preliminary evaluation by FDA indicated that these substances are not eligible for affirmation as GRAS because the information submitted does not reveal the existence of acceptable scientific studies that would support a determination that conditions of safe use have been established. The notice also stated that the data did not reveal a substantial history of consumption of the substances by a significant number of consumers in the United States nor information to demonstrate that no known hazards exist. This evaluation also determined that the data submitted are of insufficient quantity and

quality to support issuance of a food additive regulation under Subchapter B (21 CFR Subchapter B).

Having determined that insufficient safety data exist upon which to make a judgment of safe use of miracle fruit products, FDA issued a regulatory letter on September 19, 1974. The letter requested the Miralin Co. to take prompt action to cease interstate shipments of these products. It also advised that failure to do so would result in regulatory action by the agency.

On September 26, 1974, the Miralin Co. asked FDA to withdraw the regulatory letter. The company stated its belief that the FDA regulatory letter represented an unreasonable exercise of agency authority, and in addition, that the petition should have been considered for interim food additive status. The Food and Drug Administration declined to withdraw the letter.

The petitioner noted, in a letter dated December 17, 1974, that no comments were received in response to the notice of filing and strongly urged withdrawal of the FDA regulatory letter and asked permission to market miracle fruit products under an interim food additive order. The Commissioner, in his response of February 3, 1975, made it clear that the Federal Food, Drug, and Cosmetic Act requires an affirmative showing of the safe conditions of use for a food additive before any food additive regulation or interim order may be issued, and that no such showing had been made.

Based upon the careful evaluation of all available data, the Commissioner concludes that:

1. The petitioner has provided no evidence of pertinent published toxicological data that is available to scientists generally.

2. No adequate explanation of the physiological effects of these substances has been offered.

3. The substances have not been widely consumed for nutritive purposes in the United States before January 1, 1958.

4. The substances are not extracts or concentrates of a substance presently considered as GRAS.

Accordingly, the Commissioner concludes, in accordance with §§ 170.30 and 170.35(c)(5) (21 CFR 170.30 and 170.35(c)(5), formerly §§ 121.3 and 121.40(c)(5), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), that there is a lack of convincing evidence that these substances are GRAS, and that they therefore should be considered as food additives, subject to section 409 of the act (21 U.S.C. 348).

The Commissioner further advises that the petition submitted for GRAS affirmation has been evaluated also as a food additive petition, in accordance with §§ 170.38 and 171.1 (21 CFR 170.38 and 171.1, formerly §§ 121.41 and 121.51, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), and he concludes that the data provided are incomplete and inadequate to establish the conditions of safe use of the additive. The substances cannot, therefore, be approved as food additives.

The Commissioner has carefully considered the environmental effects of this denial and, because the action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as mended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1): *It is ordered*, That the petition for GRAS affirmation be denied, and that no food additive regulation be issued.

Any person who will be adversely affected by the foregoing order may at any time on or before June 23, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objection shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Four copies of all documents shall be filed and identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the above-mentioned office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This order shall be effective May 24, 1977.

Dated: May 18, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-14623 Filed 5-23-77;8:45 am]

[Docket No. 76N-0503]

HALOCARBONS IN HUMAN FOOD, DRUGS, BIOLOGICAL PRODUCTS, COSMETICS, ANIMAL FEED, ANIMAL DRUGS, MEDICAL DEVICES, AND PACKAGING FOR THESE PRODUCTS

Requests for Information

Correction

In FR Doc. 77-12230, appearing at page 21843 in the issue for Friday, April 29, 1977, in the 4th line of the second paragraph under "Supplementary Information", in third word should be "of" in lieu of "to".

[Docket No. 76N-0154]

ORAL RESERPINE DOSAGE FORMS OF GREATER THAN 1 MILLIGRAM STRENGTH

Withdrawal of Approval of Pertinent Parts of New Drug Applications

Correction

In FR Doc. 77-12301 appearing at page 21844 in the issue of Friday, April 29, 1977, on page 21845 in the second column, the third full paragraph, the date in the last line should read "May 9, 1977".

Office of Education

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION; FEDERAL PROGRAMS REVIEW COMMITTEE

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Federal Programs Review Committee of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATE: Meeting: June 13, 1977, from 4:15–6:15 p.m.

ADDRESS: Davison Conference Center, University of Southern California, University Park, Los Angeles, California 90007.

FOR FURTHER INFORMATION CONTACT:

James A. Turman, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004, Telephone: 202–376–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89–329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA), including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all federally supported extension and continuing education programs.

The meeting of the Federal Programs Review Committee will be open to the public beginning at 4:15 on June 13, 1977, and ending at 6:15 p.m. This meeting will held at the Davison Conference Center, University of Southern California, University Park, Los Angeles, California.

The purpose of the meeting is to draft committee recommendations to the full Council (NACECE) for its FY 1978 review of all Federal programs in support of extension, continuing education, and community service.

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, N.W., Washington, D.C.

Dated: May 18, 1977.

JAMES A. TURMAN,
Executive Director.

[FR Doc.77-14629 Filed 5-23-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION; TITLE I COMMITTEE

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Title I Committee of the National Advisory Council on Extension and Countinuing Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2). This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: June 13, 1977, from 2–4 p.m.

ADDRESS: Davison Conference Center, University of Southern California, University Park, Los Angeles, California 90007.

FOR FURTHER INFORMATION CONTACT:

James A. Turman, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004, Telephone 202–376–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89–329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA), including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all federally supported extension and continuing education programs.

The meeting of the Title I Committee will be open to the public beginning at 2 p.m. on June 13, 1977, and ending at 4 p.m. This meeting will be held at the Davison Conference Center, University of Southern California, University Park, Los Angeles, California.

The purpose of the meeting is to draft Committee recommendations to the full Council (NACECE) for its FY 1978 review of the effectiveness of the Community Service and Continuing Education Program (Title I, HEA as amended).

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, N.W., Washington, D.C.

Dated: May 18, 1977.

JAMES A. TURMAN,
Executive Director.

[FR Doc.77-14630 Filed 5-23-77;8:45 am]

STATE PLANNING COMMISSIONS PROGRAM—INTRASTATE PLANNING

Closing Date for Fiscal Year 1977 for Receipt of Applications From State Postsecondary Education Commissions for Statewide Comprehensive Planning Grants

Notice is hereby given that pursuant to the authority contained in section 1203(a) of Title XII of the Higher Education Act of 1965, as amended (20 U.S.C. 1142b), applications from State Postsecondary Education Commissions for grants under the State Planning Commissions Program—Intrastate Planning are being accepted. Such Commissions must be established pursuant to section 1202(a) of the Act and information of the establishment must have been submitted as required by the Notice of Closing Date for Receipt of Information Concerning Establishment published in the FEDERAL REGISTER on March 26, 1974, or as required by the similar notices published in the FEDERAL REGISTER on January 29, 1975, December 17, 1975, and March 18, 1977. A Notice of Allocation Formula and Program Guidelines for this program was published in the FEDERAL REGISTER on May 18, 1977.

Applications for such grants are available from the State Planning Commissions Program Office, Bureau of Higher and Continuing Education, U.S. Office of Education, Room 4052, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202. Such applications must be completed and received at the above office on or before June 24, 1977.

The applications may be returned by mail or hand delivered.

(a) *Applications returned by mail.* Applications returned by mail should be addressed to the State Planning Commissions Program Office, Bureau of Higher and Continuing Education, U.S. Office of Education, Room 4052, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202. Such applications will be considered to be received on time if:

(1) The application was sent by registered or certified mail not later than June 20, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

(b) *Applications delivered by hand.* Applications to be delivered by hand must be taken to Room 4052, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily, between the hours of 8 a.m. and 4 p.m. Washington, D.C. time, except Saturdays, Sundays, and Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date.

(20 U.S.C. 1142b.)

Dated: May 19, 1977.

(Catalog of Federal Domestic Assistance Number 13.550; State Planning Commissions Program—Intrastate Planning.)

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77-14817 Filed 5-23-77;8:45 am]

Office of the Secretary

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on June 10 and 11, 1977, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting will convene at 9:00 a.m. each day and will be open to the public, subject to the limitations of available space. Topics included in the mandate to the Commission under the National Research Act (Pub. L. 93–348), as amended, including research involving children, research involving the institutionalized mentally infirm, compensation of injured research subjects, the performance of Institutional Review Boards, and the application of research guidelines to the delivery of health services by DHEW, will be the agenda for this meeting.

Written materials of any length may be submitted to the Commission at any time. Requests for information should be directed to Ms. Betsy Singer, Information Officer (301–496–7776), Room 125,

Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016.

Dated: May 16, 1977.

MICHAEL S. YESLEY,
Staff Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

[FR Doc.77-14645 Filed 5-23-77;8:45 am]

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (38 FR 3685-92, February 25, 1970, as amended by 39 FR 5813, February 15, 1974) is amended to reflect the complete reorganization of the Bureau of Medical Devices and Diagnostic Products, Food and Drug Administration, as initiated by the Medical Device Amendments of 1976 (Pub. L. 94-295, May 28, 1976). All statements and titles of the existing Bureau have been modified. Two divisions have been abolished. Seven new divisions have been established in the medical device evaluation area and three in the medical device compliance area. Additionally, an Office of Small Manufacturers Assistance has been established.

Section HF-B, *Organization*, is amended as follows:

Under *Food and Drug Administration (HF)*, delete all functional statements for the (p) *Bureau of Medical Devices and Diagnostic Products (HFM)* and substitute the following:

(p) *Bureau of Medical Devices (HFM)*. Develops policy and priorities regarding FDA programs relating to the safety, efficacy, and labeling of medical devices for human use.

Develops and recommends regulations and changes to FDA legislative authority necessary to protect the public health.

Reviews and evaluates medical device premarket approval applications (PMAA), product development protocols (PDP), and exemption requests for investigational devices (IDE).

Evaluates the safety, efficacy, and labeling of medical devices and recommends their classification into regulatory categories.

Develops and/or coordinates the development, promulgation, and enforcement of safety and efficacy standards for appropriate categories of medical devices and Good Manufacturing Practice (GMP) regulations for manufacturers.

Develops, plans, and evaluates FDA surveillance and compliance programs for medical devices.

Provides assistance to the field in handling legal actions on medical device matters, as requested.

Provides technical and other nonfinancial assistance to small manufacturers of medical devices.

Provides assistance to and coordinates activities of all FDA advisory panels and committees mandated by the Medical Device Amendments of 1976.

Plans, conducts, and coordinates research and testing activities relating to medical devices.

Collects and evaluates data on significant hazards to the public health which may be caused by the use of medical devices.

Develops and disseminates medical device educational materials in conjunction with the Office of Public Affairs and the Office of Professional and Consumer Programs.

(p-1) *Office of the Director (HFM1)*. Provides leadership, direction, evaluation, and coordination of the total activities of the Bureau.

Provides advice to the Commissioner and other FDA officials on policy matters concerning medical device activities.

Recommends changes in legislative authority to the Office of the Commissioner.

(p-1-i) *Office of Small Manufacturers Assistance (HFM14)*. Plans, develops, coordinates, and directs a program to provide technical and other nonfinancial assistance to small manufacturers of medical devices and to promote understanding of and compliance with medical device laws and regulations.

Serves as a central coordinating point to assist small manufacturers of medical devices in contacting appropriate Agency and Bureau components, as well as other Federal and State agencies.

Identifies program information needs of small manufacturers of medical devices; develops and conducts communication and education programs for small manufacturers of medical devices, in conjunction with other Agency components.

(p-2) [Reserved]

(p-2-i) *Division of Compliance Programs (HFME)*. Identifies compliance program needs, develops and issues surveillance and compliance programs relating to the device industry, and coordinates the establishment of priorities for compliance activities pertinent to these programs.

Plans and develops appraisal systems for each compliance program and evaluates the effectiveness of overall compliance programs. Revises existing programs as necessary to maintain their effectiveness.

Develops, reviews, coordinates, and/or conducts studies to measure compliance by the medical device industry with medical device laws and regulations.

Develops, implements, and monitors the medical device field work plan in coordination with the Executive Director of Regional Operations (EDRO).

Identifies and recommends research projects relative to monitoring and compliance techniques.

Develops, implements, and evaluates information programs directed at the medical device industry, trade associations, and other groups for the purpose of promoting voluntary compliance (in coordination with the Office of Small Manufacturers Assistance).

Prepares responses to general inquiries from the medical device industry and consumers.

Develops, coordinates, reviews, and revises medical device industry GMP regulations. Develops and implements programs to assure uniform interpretation and application of GMP's.

Provides executive secretarial services to the medical device GMP advisory committee.

Develops, coordinates, and/or conducts medical device training programs for field personnel in coordination with EDRO.

Provides assistance and guidance to State and local agencies in coordination with the Division of Federal-State Relations, EDRO, for the development and implementation of training, educational, and regulatory programs for State and local personnel.

In conjunction with the Bio-research Monitoring Staff, coordinates Bureau bio-research monitoring activities with respect to field programs and assignments.

(p-2-ii) *Division of Compliance Operations (HFMG)*. Provides support and guidance to the field in the handling of legal actions relating to medical devices, as requested.

Provides headquarters support for case development and coordination and contested case assistance.

Reviews and recommends legal actions in cases requiring headquarters coordination.

Provides headquarters support for activities associated with recalls and notifications.

Manages and coordinates activities associated with regulatory actions (i.e., information and regulatory letters; seizures; repair, replace, and refund requirements; banning actions; and domestic or import detentions).

Establishes and maintains a precedent correspondence and regulatory policy file and assures agencywide dissemination of policy decisions through existing mechanisms; i.e., administrative guidelines, compliance policy guides, etc., as appropriate.

Coordinates Bureau responsibilities for the Federal Government Medical Device Quality Assurance Program, with the Office of Compliance (OC), EDRO, and the field.

Develops advisory opinions and guidance resulting from specific requests from the medical device industry, trade associations, and other Federal agencies.

Monitors and evaluates restricted medical device promotional material and advertisements.

(p-2-iii) *Division of Product Surveillance (HFMH)*. Develops and operates a medical device registration and product listing system.

Maintains liaison with FDA components, other agencies, and industry regarding use of medical device listing and establishment data and for coordination on actions and issues of mutual concern.

Establishes and maintains procedures for the processing of mandatory defect reports by the medical device industry.

Develops and monitors contracts/interagency agreements to acquire medical device experience data.

Receives, controls, tracks, and provides for automated storage of all medical device experience and related product problem information.

Plans, develops, and operates a medical device experience monitoring network utilizing FDA field offices and other information sources within and outside FDA. Provides data to Agency and nonagency components.

(p-3) [Reserved]

(p-3-i) *Division of General Medical Device Standards (HFMB)*. Initiates, directs, coordinates, and/or performs the standards development process for general medical devices.

Receives, reviews, and recommends selection or rejection of general medical device standards proposed for adoption and offers to develop general medical device standards.

Develops and implements programs to encourage the participation of outside organizations and other Federal agencies in the development and adoption of general medical device standards and other related activities.

Develops general medical device standards, as necessary.

Develops, reviews and/or evaluates general medical device standards test methods in collaboration with the Associate Director for Device Research and Testing, as necessary.

Plans, designs, evaluates, and monitors extramural contract activities dealing with the development of general medical device standards.

Initiates the approval and publication of general medical device standards.

Provides executive secretarial services and other technical support to the Medical Device Standards Advisory Panels.

Identifies the need to or reviews proposals to amend or revoke promulgated general medical device standards.

Plans, designs, monitors, and evaluates general medical device research contracts, interagency agreements, and grants in collaboration with the Associate Director for Device Research and Testing.

Plans, develops, and implements, in conjunction with the Associate Director for Compliance, audit policy and field inspection programs to ensure compliance with promulgated standards.

Evaluates Class II medical device reclassification requests in conjunction with the Associate Director for Device Evaluation and the appropriate device classification panel.

Recommends priorities for general medical device standards development activities based on the findings of the classification panels and other pertinent factors.

Plans, designs, and develops general medical device labeling criteria, in conjunction with other Bureau components.

(p-3-ii) *Division of In Vitro Diagnostic Device Standards (HFMA)*. Initiates, directs, coordinates, and/or performs the standards development process for in vitro diagnostic products.

Receives, reviews and recommends selection or rejection of in vitro diagnostic device standards proposed for adoption and offers to develop in vitro diagnostic device standards.

Develops and implements programs to encourage the participation of outside organizations and other Federal agencies in the development and adoption of in vitro diagnostic device standards and other related activities.

Develops in vitro diagnostic device standards, as necessary.

Develops, reviews, and/or evaluates in vitro diagnostic device standards test methods in collaboration with the Associate Director for Device Research and Testing, as necessary.

Plans, designs, evaluates, and monitors extramural contract activities dealing with the development of in vitro diagnostic device standards.

Initiates the approval and publication of in vitro diagnostic device standards.

Provides executive secretarial services and other technical support to the Medical Device Standards Advisory Panels.

Identifies the need to or reviews proposals to amend or revoke promulgated in vitro diagnostic device standards.

Plans, designs, monitors, and evaluates in vitro diagnostic device research contracts, interagency agreements, and grants in collaboration with the Associate Director for Device Research and Testing.

Plans, develops, and implements, in conjunction with the Associate Director for Compliance, audit policy and field inspection programs to ensure compliance with promulgated standards.

Evaluates Class II in vitro diagnostic device reclassification requests in conjunction with the Associate Director for Device Evaluation and the appropriate device classification panel.

Recommends priorities for in vitro diagnostic device standards development activities based on the findings of the classification panels and other pertinent factors.

Plans, designs, and develops in vitro diagnostic device labeling criteria, in conjunction with other Bureau components.

(p-4) [Reserved]

(p-4-i) *Division of Cardiovascular Devices (HFMJ)*. Performs and coordinates the evaluation of premarket approval applications (PMAA's) and product development protocols (PDP's) with regard to cardiovascular medical devices and recommends approval or disapproval.

Evaluates summaries and recommendations submitted by medical device classification panels and recommends concurrence or nonconcurrence.

Provides executive secretarial and other technical services to medical device classification panels.

Reviews requests for exemptions for devices for investigational use (IDE's) with respect to conformance with established regulations.

Establishes classification panels, prepares FEDERAL REGISTER calls for nomination of panel members, selects panel members, and organizes panel meetings.

Advises the classification panels in the establishment and review of guidelines for PDP's.

Conducts a continuing review, surveillance, and medical evaluation of the labeling, clinical experience, and required reports submitted by holders of approved PMAA's and notices of completion.

Evaluates adequacy of directions for use and warnings in proposed labeling related to PDP's, PMAA's, and IDE's.

Coordinates, with the Associate Director for Device Research and Testing, laboratory review, testing, and demonstration of safety and/or efficacy aspects of PMAA's, PDP's, and IDE's.

Makes recommendations to the Associate Director for Device Evaluation concerning withdrawal of approval of approved PMAA's, notices of completion, and IDE's.

Reviews exemption requests for custom devices and recommends approval or disapproval.

Reviews and prepares responses to premarket notifications, reclassification petitions, and classification status requests.

Monitors extramural contracts in support of safety and/or efficacy studies with medical devices.

In conjunction with the Division of Compliance Programs, evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new devices relative to PMAA's, PDP's, IDE's, and other special cases.

Develops and establishes policies and regulations with regard to PMAA's, PDP's, and IDE's.

Provides advice and serves as the primary source of information within FDA on cardiovascular devices with regard to the status of device applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(p-4-ii) *Division of Gastroenterology/Urology and General Use Devices (HFMK)*. Performs and coordinates the evaluation of premarket approval applications (PMAA's) and product development protocols (PDP's) with regard to gastroenterology/urology and general use devices and recommends approval or disapproval.

Evaluates summaries and recommendations submitted by medical device classification panels and recommends concurrence or nonconcurrence.

Provides executive secretarial and other technical services to medical device classification panels.

Reviews requests for exemptions for devices for investigational use (IDE's) with respect to conformance with established regulations.

Establishes classification panels, prepares FEDERAL REGISTER calls for nomination of panel members, selects panel members, and organizes panel meetings.

Advises the classification panels in the establishment and review of guidelines for PDP's.

Conducts a continuing review, surveillance, and medical evaluation of the labeling, clinical experience, and required reports submitted by holders of approved PMAA's and notices of completion.

Evaluates adequacy of directions for use and warnings in proposed labeling related to PDP's, PMAA's, and IDE's.

Coordinates, with the Associate Director for Device Research and Testing, laboratory review, testing, and demonstration of safety and/or efficacy aspects of PMAA's, PDP's, and IDE's.

Makes recommendations to the Associate Director for Device Evaluation concerning withdrawal of approval of approved PMAA's, notices of completion, and IDE's.

Reviews exemption requests for custom devices and recommends approval or disapproval.

Reviews and prepares responses to premarket notifications, reclassification petitions, and classification status requests.

Monitors extramural contracts in support of safety and/or efficacy studies with medical devices.

In conjunction with the Division of Compliance Programs, evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new devices relative to PMAA's, PDP's, IDE's, and other special cases.

Develops and establishes policies and regulations with regard to PMAA's, PDP's, and IDE's.

Provides advice and serves as the primary source of information within FDA on gastroenterology/urology and general use devices with regard to the status of device applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(p-4-iii) *Division of Anesthesiology and Neurology Devices (HFML).* Performs and coordinates the evaluation of premarket approval applications (PMAA's) and product development protocols (PDP's) with regard to anesthesiology and neurology devices and recommends approval or disapproval.

Evaluates summaries and recommendations submitted by medical device classification panels and recommends concurrence or nonconcurrence.

Provides executive secretarial and other other technical services to medical device classification panels.

Reviews requests for exemptions for devices for investigational use (IDE's) with respect to conformance with established regulations.

Establishes classification panels, prepares FEDERAL REGISTER calls for nomination of panel members, selects panel members, and organizes panel meetings.

Advises the classification panels in the establishment and review of guidelines for PDP's.

Conducts a continuing review, surveillance, and medical evaluation of the labeling, clinical experience, and required reports submitted by holders of approved PMAA's and notices of completion.

Evaluates adequacy of directions for use and warnings in proposed labeling related to PDP's, PMAA's, and IDE's.

Coordinates, with the Associate Director for Device Research and Testing, laboratory review, testing, and demonstration of safety and/or efficacy aspects of PMAA's, PDP's, and IDE's.

Makes recommendations to the Associate Director for Device Evaluation concerning withdrawal of approval of approved PMAA's, notices of completion, and IDE's.

Reviews exemption requests for custom devices and recommends approval or disapproval.

Reviews and prepares responses to premarket notifications, reclassification petitions, and classification status requests.

Monitors extramural contracts in support of safety and/or efficacy studies with medical devices.

In conjunction with the Division of Compliance Programs, evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new devices relative to PMAA's, PDP's, IDE's, and other special cases.

Develops and establishes policies and regulations with regard to PMAA's, PDP's, and IDE's.

Provides advice and serves as the primary source of information within FDA on anesthesiology and neurology devices with regard to the status of device applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(p-4-iv) *DIVISION OF OBSTETRICS/GYNECOLOGY AND RADIOLOGY DEVICES (HFMM).* Performs and coordinates the evaluation of premarket approval applications (PMAA's) and product development protocols (PDP's) with regard to obstetrics/gynecology and radiology devices and recommends approval or disapproval.

Evaluates summaries and recommendations submitted by medical device classification panels and recommends concurrence or nonconcurrence.

Provides executive secretarial and other technical services to medical device classification panels.

Reviews requests for exemptions for devices for investigational use (IDE's) with respect to conformance with established regulations.

Establishes classification panels, prepares FEDERAL REGISTER calls for nomination of panel members, selects panel members, and organizes panel meetings.

Advises the classification panels in the establishment and review of guidelines for PDP's.

Conducts a continuing review, surveillance, and medical evaluation of the labeling, clinical experience, and required reports submitted by holders of approved PMAA's and notices of completion.

Evaluates adequacy of directions for use and warnings in proposed labeling related to PDP's, PMAA's, and IDE's.

Coordinates, with the Associate Director for Device Research and Testing, laboratory review, testing, and demonstration of safety and/or efficacy aspects of PMAA's, PDP's, and IDE's.

Makes recommendations to the Associate Director for Device Evaluation concerning withdrawal of approval of approved PMAA's, notices of completion, and IDE's.

Reviews exemption requests for custom devices and recommends approval or disapproval.

Reviews and prepares responses to premarket notifications, reclassification petitions, and classification status requests.

Monitors extramural contracts in support of safety and/or efficacy studies with medical devices.

In conjunction with the Division of Compliance Programs, evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new devices relative to PMAA's, PDP's, IDE's, and other special cases.

Develops and establishes policies and regulations with regard to PMAA's, PDP's, and IDE's.

Provides advice and serves as the primary source of information within FDA on surgical and rehabilitation devices with regard to the status of device applications, existing policy decisions, proposed regulatory actions, and the state of product development.

(p-4-v) *DIVISION OF SURGICAL AND REHABILITATION DEVICES (HFMN).* Performs and coordinates the evaluation of premarket approval applications (PMAA's) and product development protocols (PDP's) with regard to surgical and rehabilitation devices and recommends approval or disapproval.

Evaluates summaries and recommendations submitted by medical device classification panels and recommends concurrence or nonconcurrence.

Provides executive secretarial and other technical services to medical device classification panels.

Reviews requests for exemptions for devices for investigational use (IDE's) with respect to conformance with established regulations.

Establishes classification panels, prepares FEDERAL REGISTER calls for nomination of panel members, selects panel members, and organizes panel meetings.

Advises the classification panels in the establishment and review of guidelines for PDP's.

Conducts a continuing review, surveillance, and medical evaluation of the labeling, clinical experience, and required reports submitted by holders of approved PMAA's and notices of completion.

Evaluates adequacy of directions for use and warnings in proposed labeling related to PDP's, PMAA's, and IDE's.

Coordinates, with the Associate Director for Device Research and Testing, laboratory review, testing, and demonstration of safety and/or efficacy aspects of PMAA's, PDP's, and IDE's.

Makes recommendations to the Associate Director for Device Evaluation concerning withdrawal of approval of approved PMAA's, notices of completion, and IDE's.

Reviews exemption requests for custom devices and recommends approval or disapproval.

Reviews and prepares responses to premarket notifications, reclassification petitions, and classification status requests.

Monitors extramural contracts in support of safety and/or efficacy studies with medical devices.

In conjunction with the Division of Compliance Programs, evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new devices relative to PMAA's, PDP's, IDE's, and other special cases.

Develops and establishes policies and regulations with regard to PMAA's, PDP's, and IDE's.

Provides advice and serves as the primary source of information within FDA on clinical laboratory devices with regard to the status of device applications, existing policy decision, proposed regulatory actions, and the state of product development.

(p-4-vii) *DIVISION OF OPHTHALMIC, EAR, NOSE, THROAT, AND DENTAL DEVICES (HFMQ).* Performs and coordinates the evaluation of premarket approval applications (PMAA's) and product development protocols (PDP's) with regard to ophthalmic, ear, nose, throat, and dental devices and recommends approval or disapproval.

Evaluates summaries and recommendations submitted by medical device classification panels and recommends concurrence or noncurrence.

Provides executive secretarial and other technical services to medical device classification panels.

Reviews requests for exemptions for devices for investigational use (IDE's) with respect to conformance with established regulations.

Establishes classification panels, prepares FEDERAL REGISTER calls for nomination of panel members, selects panel members, and organizes panel meetings.

Advises the classification panels in the establishment and review of guidelines for PDP's.

Conducts a continuing review, surveillance, and medical evaluation of the labeling, clinical experience, and required reports submitted by holders of approved PMAA's and notices of completion.

Evaluates adequacy of directions for use and warnings in proposed labeling related to PDP's, PMAA's, and IDE's.

Coordinates, with the Associate Director for Device Research and Testing, laboratory review, testing, and demonstration of safety and/or efficacy aspects of PMAA's, PDPs, and IDE's.

Makes recommendations to the Associate Director for Device Evaluation concerning withdrawal of approval of approved PMAA's, notices of completion, and IDE's.

Reviews exemption requests for custom devices and recommends approval or disapproval.

Reviews and prepares responses to premarket notifications, reclassification petitions, and classification status requests.

Monitors extramural contracts in support of safety and/or efficacy studies with medical devices.

In conjunction with the Division of Compliance Programs, evaluates manufacturing and laboratory methods, facilities, and controls exercised in firms producing new devices relative to PMAA's, PDP's, IDE's, and other special cases.

Develops and establishes policies and regulations with regard to PMAA's, PDP's, and IDE's.

Provides advice and serves as the primary source of information within FDA on ophthalmic, ear, nose throat and dental devices with regard to the status of device applications, existing policy decisions, proposed regulatory actions, and the state of product development.

Dated: May 17, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-14646 Filed 5-23-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-06620]

IDAHO

Termination of Proposed Withdrawal and Reservation of Lands

MAY 17, 1977.

Notice of an application of the Fish and Wildlife Service, Serial No. I-06620, for withdrawal and reservation of lands, was published as FEDERAL REGISTER Document No. 55-10240 in the issue for December 22, 1955. The applicant agency has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR subpart 2091, such lands will be at 10:00 a.m. on June 23, 1977, relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

BOISE MERIDIAN, IDAHO

T. 12 N., R. 12 E.,
Sec. 22, W½E½, E½W½.
Sec. 27, NE¼NW¼.
The area described aggregates 360 acres in Custer County.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.77-14625 Filed 5-23-77;8:45 am]

[AA-8485-A]

ALASKA

Alaska Native Claims Selection

On December 17, 1974, Knikatnu, Inc. (the Native village of Knik) filed selection application AA-8485-A pursuant to section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688; 43 U.S.C. 1601).

The application described lands withdrawn for selection by the village of Knik by sections 11(a)(1) and 11(a)(2) of the Alaska Native Claims Settlement Act (hereinafter ANCSA).

Section 11(a)(2) of the ANCSA specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by section 11(a)(1) of the ANCSA that have been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339–343). Section 26 of the ANCSA further provides that, to the extent that there is a conflict between any provision of the Act and any other Federal laws applicable to Alaska, the provisions of the ANCSA shall govern.

Village selection application AA–8485–A has been found to be properly filed for the lands described herein, including those lands withdrawn by section 11(a)(2) of the ANCSA which have previously been selected by, or tentatively approved to the State under the Alaska Statehood Act.

Therefore, in view of the above, tentative approvals granted to the State for the selections listed under paragraph A, below, must be and are hereby vacated as to the lands described therein, and State selection applications listed under paragraph B, below, must be and are hereby rejected as to the lands described therein:

"A"

Serial No.	Date of filing	Tentative approval granted	Legal description, Seward Meridian, Alaska
AA–3089	Aug. 5, 1968, as amended	Apr. 29, 1969	T. 16 N., R. 3 W., Sec. 2, S½NE¼, N½NE¼SE¼NW¼, NW¼SE¼NW¼, and S½SE¼NW¼; Sec. 31, lots 1, 3, 7, and 8, NW¼NE¼.
A–051885	Apr. 29, 1960, as amended	May 6, 1974, as modified May 14, 1974.	T. 16 N., R. 4 W., Sec. 36, SW¼NE¼.

"B"

erial No.	Date of filing	Legal description, Seward Meridian, Alaska
A–051117	Feb. 8, 1960, as amended	T. 15 N., R. 4 W., Sec. 1, lot 5, SW¼NE¼, NE¼SW¼, and NW¼SE¼; Sec. 12, W½, NW¼NW¼SW¼; Sec. 23, E½NE¼; Sec. 24, lot 1.
A–051864	Apr. 29, 1960, as amended	Do.
AA–2732	Mar. 29, 1968, as amended	T. 16 N., R. 2 W., Sec. 6, lots 3 and 4, and E½SW¼.
AA–3089	Aug. 5, 1968, as amended	T. 16 N., R. 3W., Sec. 2, S½NE¼, N½NE¼SE¼NW¼, NW¼SE¼NW¼, and S½SE¼NW¼; Sec. 31, lots 1, 3, 7, and 8, and NW¼NE¼.
A–051864	Apr. 29, 1960, as amended	Do.
A–051865	Apr. 29, 1960, as amended	T. 16 N., R. 4 W., Sec. 36, SW¼NE¼.
A–060527	Nov. 29, 1963, as amended	Do.
A–051117	Feb. 8, 1960, as amended	Do.
AA–2732	Mar. 29, 1968, as amended	T. 17 N., R. 1 W., Sec. 20, W½SW¼; Sec. 29, N½NW¼.
AA–2036	Aug. 17, 1967, as amended	T. 17 N., R. 2 W., Sec. 3, SE¼SW¼; Sec. 30, lot 6.
A–060527	Nov. 29, 1963, as amended	T. 17 N., R. 3 W., Sec. 10, NE¼NW¼, N½NW¼NW¼, N½SW¼NW¼NW¼, SE¼NW¼NW¼, and S½NW¼; Sec. 13, SE¼NE¼, NE¼SE¼, and S½SE¼.
A–061469	June 3, 1964, as amended	Do.
AA–2036	Aug. 17, 1967, as amended	Do.
AA–2036	Aug. 17, 1967, as amended	T. 18 N., R. 1 W., Sec. 18, NW¼NE¼, and SW¼SE¼.

In view of the foregoing, the surface estate of the following described lands are considered proper for acquisition by Knikatnu, Inc., subject to valid existing rights, and are hereby approved for patent pursuant to section 14(a) of the ANCSA. The lands are unoccupied and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

SEWARD MERIDIAN, ALASKA

T. 15 N., R. 3 W.
Sec. 2, lot 1;
Sec 18, E½NE¼, NW¼NE¼, S½NE¼NE¼NW¼, W½NE¼NW¼, and SE¼NE¼NW¼;
Sec. 19, lots 2 and 3.

T. 15 N., R. 4 W.
Sec. 1, lot 5, SW¼NE¼, NE¼SW¼, and NW¼SE¼;
Sec. 12, W½NW¼NW¼SW¼;
Sec. 23, E½NE¼;
Sec. 24, lot 1.

T. 16 N., R. 2 W.,
Sec. 6, lots 3 and 4, and E½SW¼.

T. 16 N., R. 3 W.,
Sec. 2, S½NE¼, N½NE¼SE¼NW¼, NW¼SE¼NW¼, and S½SE¼NW¼;
Sec. 6, lot 3, SE¼NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 12 NE¼SW¼, SW¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼, and W½SE¼SE¼SW¼;
Sec. 14, E½SW¼ and W½SE¼;
Sec. 31, lots 1, 3, 7, and 8, and NW¼NE¼.

T. 16 N., R. 4 W.,
Sec. 36, SW¼NE¼.

T. 17 N., R. 1 W.,
Sec. 20, W½SW¼;
Sec. 29, N½NW¼.

T. 17 N., R. 2 W.,
Sec. 3, SE¼SW¼;
Sec. 30, lot 6.

T. 17 N., R. 3 W.,
Sec. 10, NE¼NW¼, N½NW¼NW¼, N½SW¼NW¼NW¼, SE¼NW¼NW¼, and S½NW¼;
Sec. 13, SE¼NE¼, NE¼SE¼, and S½SE¼.

T. 18 N., R. 1 W.,
Sec. 18, NW¼NE¼, and SW¼SE¼.
Aggregating 1,958.45 acres.

The patent issued to Knikatnu, Inc. for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the act of March 12, 1914 (38 Stat. 395; 43 U.S.C. 975(d)).

3. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688; 43 U.S.C. 1601).

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 708; 43 U.S.C. 1616) the following public easements referenced by easement identification number (EIN) on the easement map in case file AA–8485–EE are reserved to the United States and subject to further regulation thereby:

a. (EIN) 1 D1, C4) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 3 D9, L) A river easement twenty-five (25) feet in width along both banks of the Little Susitna River, for recreational use, as it traverses selected lands in the SW¼SE¼ of section 18, T. 18 N., R. 1 W., Seward Meridian. This easement includes the streambed.

c. (EIN 6 C5) A sixty-six (66) foot road easement on an existing road, to provide access across selected lands in lot 6 of section 30, T. 17 N., R. 2 W., Seward Meridian. Its use is to be controlled by applicable State or Federal law or regulation.

d. (EIN 7 C5) A sixty (60) foot road easement on an existing road, to provide access across selected lands in section 10 of T. 17 N., R. 3 W., Seward Meridian. Its use is to be controlled by applicable State or Federal law or regulation.

e. (EIN 8 D9, D1, L) A trail easement twenty-five (25) feet in width to provide access along the existing historic Iditarod Trail as it traverses selected lands in the SW¼ of section 12, T. 16 N., R. 3 W., Seward Meridian. Its use is to be controlled by applicable State or Federal law or regulation.

f. (EIN 9 C5) A one hundred (100) foot road easement to provide access on an existing road as it traverses selected lands in section 18 of T. 18 N., R. 1 W., Seward Meridian. Its use is to be controlled by applicable State or Federal law or regulation.

g. (EIN 10 C) The right of the United States to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes, is reserved together with the right to do all things necessary in connection therewith.

h. (EIN 11 C) An easement for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. This easement also includes the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of this easement shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easement will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of this easement that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

The grant of lands by the patent shall be subject to: 1. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339–341)), contract, permit, right-of-way, or easement and the right of the lessee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him.

2. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 703; 43 U.S.C. 1613(c)) that the grantee hereunder convey those portions of land hereinafter granted, as are prescribed in said section.

3. A reservation for a right-of-way, AA–8781, fifty (50) feet each side of the centerline for a 138KV transmission and electric distribution line for the Chugach Electric Association, Inc., under the act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961).

4. The terms and conditions of the agreement dated January 18, 1977 between the Secretary of the Interior, Cook Inlet Region, Inc., Knikatnu, Inc., and other Cook Inlet Region villages. A copy of the agreement will be attached to and become a part of the conveyance document and will be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement casefile for Knikatnu, Inc., serialized AA–8485–EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Patent to the subsurface estate of the lands described above will be issued to Cook Inlet, Inc., pursuant to section 14(f) of the act, at the time that patent is issued to Knikatnu, Inc. for the surface estate. Conveyance of the remaining entitlement of Knikatnu, Inc., will be made at a later date.

All of the lands contained in the following oil and gas lease are herein approved for patent; therefore, in accordance with the provisions of section 14(g) of the Alaska Native Claims Settlement Act, the United States will waive administration of the lease and transfer it to Cook Inlet, Inc. when patent to the subsurface estate of lands is issued.

Serial number:	*Legal description, Seward Meridian, Alaska*
A–064282	T. 15 N., R. 4 W. sec. 23, E½NE¼.

All of the lands contained in the following oil and gas lease are not herein approved for patent; therefore, in accordance with the provisions of section 14(g) of the Alaska Native Claims Settlement Act, administration of this lease will continue to be by the United States.

Serial number:	*Land description, Seward Meridian, Alaska*
AA–1069–	T. 17 N., R. 3 W. sec. 10, N½; sec. 11, SE¼NW¼; sec. 13, SE¼NE¼, NE¼SE¼, S½SE¼.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week for four (4) consecutive weeks, in the Anchorage Daily Times. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510. A copy must also be served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of the decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until June 23, 1977, to file an appeal.

3. Any party known or unknown, who may claim a property interest which is adversely affected by this decision shall be deemed to have waived his rights which are adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Knikatnu, Inc. or Cook Inlet Region, Inc. objects to any easement identified herein for reservation in the conveyance, they must file a petition for reconsideration with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, or waive the right to contest it. A copy of the petition shall be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408; Anchorage, Alaska 99501.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of, and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14649 Filed 5–20–77;8:45 am]

[F–14880–A]

ALASKA

Alaska Native Claims Selection

On January 3, 1974, Kikiktugruk Inupiat Corporation, village of Kotzebue, filed selection application F–14880–A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601), for the surface estate of certain lands in the Kotzebue area.

The application, as amended, is properly filed and meets the requirements of the act and of the regulations isued pursuant to the act. The selected lands described below do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, aggregating approximately 4.10 acres, is considered proper for acquisition by the Kikiktugruk Inupiat Corporation and is hereby approved for interim conveyance pursuant to section 14(a) of the act:

KATEEL RIVER MERIDIAN, ALASKA
(UNSURVEYED)

Beginning at corner No. 2 of Tract 4 of U.S. Survey 2645 which is the true point of beginning; thence N. 44°5' E. along the 12–13 line of Tract 4 a distance of 3.95 chains to corner No. 2 which is common to corner No. 13 of Tract 4; thence N. 45°55' W. along the 13–1 line of Tract 4 a distance of 9.535 chains to corner No. 3 which is common to corner No. 1 of Tract 4 of U.S. Survey 2645, corner No. 1 of U.S. Survey 2082 and corner No. 1 of U.S. Survey 2082; thence S. 44°5' W. along the 1–2 line of U.S. Survey 2082 for a distance of 4 chains to corner No. 4 which is common to corner No. 2 of U.S. Survey 2082; thence S. 45°55' E. along the 2–3 line of U.S. Survey 2082 for a distance of approximately 9.46 chains to corner No. 1 and the true point of beginning.

The interim conveyance issued for the surface estate of the lands described

above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the U.S. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975(d).

3. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601–1624.

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, the following easements referenced by easement identification number (EIN) on the easement map in case file F–14880–EE are reserved to the United States and subject to further regulation thereby:

a. (EIN 1–C4) the general right to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes, together with the right to do all things necessary in connection therewith.

b. (EIN 2–C4) an easement for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. This easement also includes the right to build any related facilities necessary for the exercise of the right to transport energy, fuel and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of this easement shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easement will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of this easement that are actually in use or that are expressly authorized on March 3, 1966, shall continue to be in force.

There are no water bodies known to be navigable by reason of travel, trade and commerce.

The grant of lands by the interim conveyance shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339, 341)), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him.

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 703; 43 U.S.C. 1613(c), that the grantee hereunder convey those portions of land hereinafter granted, as are prescribed in said section.

4. The terms and conditions of the agreement of January 18, 1977 between the Secretary of the Interior and Kikiktugruk Inupiat Corporation. A copy of the agreement will be attached to and become a part of the conveyance document and will be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Kikiktugruk Inupiat Corporation serialized F–14880–EE. Any person wishing to examine this easement agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Interim conveyance to the subsurface estate of the land described above will be granted to NANA Regional Corporation, pursuant to section 14(f) of the act, when conveyance is granted Kikiktugruk Inupiat Corporation for the surface estate.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, four (4) consecutive weeks, in the Fairbanks Daily News Miner. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 and with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 1016 West Sixth Avenue, Suite 201, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until 6/23/77, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived his rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Kikiktugruk Inupiat Corporation objects to any easement identified herein for reservation in the conveyance, it must file a petition for reconsideration with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501 or waive the right to contest it. A copy of the petition shall be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14650 Filed 5–20–77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 13, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by June 3, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

ALASKA

Aleutians Island Division

Navy Town and vicinity, *Attu Battlefield Site*, Attu Island.

Seward Division

Seward vicinity, *Tunnel #1*, N of Seward.

Skagway–Yakutat Division

Hoonah vicinity, *Ground Hog Bay Archeologocial District*, NE of Hoonah.

Wrangell–Petersburg Division

Wrengell vicinity, *Lincoln Rock Lighthouse, Site*, SW of Wrengell off Etolin Island.

ARKANSAS

Cowley County

Arkansas City vicinity, *Arkansas City Country Club Site*, E of Arkansas City.

DELAWARE

New Castle County

Newark vicinity, *Aiken's Tavern Historic District*, jct. U.S. 40 and DE 896.

Sussex County

Rehoboth Beach vicinity, *Marsh, Peter, House*, 10 Dodd's Lane.

IOWA

Des Moines County

Burlington, *German Methodist Episcopal Church*, 7th and Washington Sts.

Howard County

Cresco, *Kellow House*, 324 4th Ave., W.

Jasper County

Newton, *St. Stephen's Episcopal Church*, 223 E. 4th St. N.

Johnson County

Iowa City vicinity, *First Johnson County Asylum*, W of Iowa City.

Lee County

Denmark, *Denmark Congregational Church*, Academy Ave. and 4th St.

Linn County

Cedar Rapids, *Security Building*, 2nd Ave. and 2nd St., SE.

Mahaska County

Oskaloosa, *Smith–Johnson House*, 713 High Ave. E.

Mitchell County

Osage, *Cedar Valley Seminary*, N. 6th St. and Mechanic St.

Polk County

Des Moines, *Burns United Methodist Church*, 811 Crocker St.

Scott County

Davenport, *Gilruth Schoolhouse*, 53rd and Marquette Sts.

Taylor County

Bedford, *Bedford House*, 306 Main St.

Washington County

Washington, *Kurtz House*, 305 S. Ave. C.

Wright County

Eagle Grove, *Eagle Grove Public Library*, 401 W. Broadway.

KANSAS

Geary County

Junction City vicinity, *Elliott Village Site*, E of Junction City.

Leavenworth County

Leavenworth, *North Esplanade Historic District*, 203–515 N. Esplanade.

MAINE

Cumberland County

Brunswick, *St. Paul's Episcopal Church*, 27 Pleasant St.

Portland, *Clapp, Charles Q., Block*, Congress Square.

Portland, *First Baptist Church*, 353 Congress St.

Kennebec County

Augusta, *All Souls Church*, 70 State St.

Augusta, *Hill, Gov. John F., Mansion*, 136 State St.

Knox County

Tenant's Harbor, *Sail Loft*, off ME 131.

Penobscot County

Medway, *Congregational Church of Medway*, off ME 11.

Sagadahoc County

Phippsburg, *McCobb–Hill–Minott House*, Parker Head Rd.

Somerset County

Madison vicinity, *Weston Homestead*, N of Madison on Weston Ave.

Waldo County

Unity, *Chase, Hezekiah, House*, U.S. 202.

Washington County

Machiasport, *Liberty Hall*, ME 92.

MARYLAND

Howard County

Dorsey vicinity, *Troy*, N of Dorsey off MD 176.

Prince Georges County

Oxon Hill, *Oxon Hill Manor*, 6701 Oxon Hill Rd.

Queen Annes County

Chestertown vicinity, *Chester Hall*, 1 mi. SE of Chestertown on MD 213.

Washington County

Keedysville vicinity, *Hitt's Mill and Houses*, W of Keedysville off MD 34.

NEBRASKA

Lancaster County

Lincoln, *Tyler, William H., House*, 808 D Street.

NEW HAMPSHIRE

Rockingham County

Portsmouth, *Old North Cemetery*, Maplewood Ave.

NORTH CAROLINA

Alleghany County

Amelia vicinity, *Hash, Bays, Site*, N of Amelia.

New Haven vicinity, *Gambill, J. C., Site*, N of New Haven.

Piney Creek vicinity, *Oliver Site*, W of Piney Creek.

Ashe County

Crumpler vicinity, *Alexander, Shubal V. Archeological Sites*, E of Crumpler.

Crumpler vicinity, *Brinegar Site*, N of Crumpler.

Jefferson vicinity, *Poe Fish Weir*, E of Jefferson.

OHIO

Mahoning County

Youngstown vicinity, *Austintown Log House*, W of Youngstown on Raccoon Rd. (boundary change).

PUERTO RICO

Arecibo, *Casco Antiguo de Arecibo.*

San German, *Casco Antiguo de San German*, irregular pattern around the two central plazas.

RHODE ISLAND

Kent County

Warwick, *Pawtuxet Village Historic District*, (also in Providence County) (boundary change).

Newport County

Jamestown vicinity, *Beavertail Light*, S of Jamestown on Beavertail Rd.

Providence County

Cranston, *Oak Lawn Village Historic District*, Wilbur Ave.

Providence, *Merchants Bank Building*, 23 Westminster St.

TENNESSEE

Maury County

Columbia vicinity, *Skipworth Hall*, W of Columbia on TN 50.

UTAH

Grand County

Moab, *Warner, Orlando W., House*, Mill Creek Rd.

Utah County

Pleasant Grove, *Olpin, Joseph, House*, 510 Locust Ave.

VERMONT

Washington County

South Northfield, *Old Red Mill*, VT 12.

WISCONSIN

Walworth County

Delavan vicinity, *Mile Long Site*, E of Delavan.

[FR Doc.77–14287 Filed 5–23–77;8:45 am]

MOUNT VERNON BIKE TRAIL, GEORGE WASHINGTON MEMORIAL PARKWAY, VIRGINIA

Negative Declaration

In compliance with the National Environmental Policy Act of 1969, the National Park Service has prepared an environmental assessment of the alternatives for the proposed relocation of the Mount Vernon Bike Trail, George Washington Memorial Parkway, Virginia. After making an environmental review of the assessment, the National Park Service has concluded that an environmental impact statement is not needed.

The environmental assessment and review are on file and available for inspection upon request at the National Capital Regional Office, National Park Service, Room 202, 1100 Ohio Drive SW., Washington, D.C., and at the Superintendent's Office, Turkey Run Park, George Washington Memorial Parkway, McLean, Virginia 22101, for 30 days from the date of this notice. The assessment considers the nature of the resources available alternatives, their impacts, mitigating values, adverse effects, a brief description of the alternative selected as the proposed action, and additional considerations that provide a basis for the conclusion that an environmental statement is not needed. Anyone desiring to comment on the proposed action, the environmental assessment, or the environmental review should put the comments in writing and send them to the Regional Director at the above address during the 30-day review period.

The National Park Service intends to proceed with the project at the end of the 30-day review period.

Dated: May 16, 1977.

MANUS J. FISH, Jr.,
Regional Director, National Capital Region.

[FR Doc.77–14901 Filed 5–23–77;10:35 am]

Office of the Secretary

[INT DES 77–17]

VEKOL HILLS PROJECT

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement for the Vekol Hills Project, a proposed open pit cooper and molybdenum mine on the Papago Indian Reservation, Pinal County, Arizona. Mining and related activities will be conducted under the terms of mineral and surface leases granted by the Papago Tribe if approved by the Secretary of the Interior.

The environmental statement examines the proposed mining project in terms of its effects on the physical, biological, cultural, economic, and other aspects of the human environment. The project will include 1600 acres of desert and foothill terrain, some of which have already been affected by past mining activities.

Copies of the statement are available for inspection at the following locations:

Branch of Environmental Quality Services, Bureau of Indian Affairs, room 4554, Interior Building, Washington, D.C. 20245, telephone 202/343–8248.

Phoenix Area Office, Bureau of Indian Affairs, 3030 North Central Avenue, suite 502, Phoenix, Arizona 85011, telephone 602/261–4195.

Papago Agency, Bureau of Indian Affairs, Sells, Arizona 85634, telephone 602/383-5338.

Single copies of the Draft Environmental Statement may be obtained from the Phoenix Area Office, Bureau of Indian Affairs, 3030 North Central Avenue, Suite 502, Phoenix, Arizona 85011.

Written comments will be accepted within forty-five (45) days of this notice, and such comments will be considered during the preparation of the final environmental statement. The comments should be addressed to: John Artichoker, Jr., Area Director, Phoenix Area Office, Bureau of Indian Affairs, P.O. Box 7007, Phoenix, Arizona 85011.

Dated: May 18 1977.

HEATHER L. ROSS,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc 77-14750 Filed 5-23-77;8:45 am]

VEKOL HILLS PROJECT, ARIZONA

Draft Environmental Statement; Public Hearings

Public hearings on the Vekol Hills open pit copper mining project will be held at 9:00 a.m. on June 22, 1977, in the Conference Room of the Papago Agency, Bureau of Indian Affairs, Sells, Arizona, and at 9:00 a.m. on June 23, 1977, in Patio Rooms A and B of the Francisco Grande Hotel, Casa Grande, Arizona. These hearings are being held to enable members of the public to present comments concerning the Department of Interior's Draft Environmental Impact Statement of the Vekol Hills Project, which will be located on the Papago Indian Reservation, in Pinal County, Arizona, approximately 30 miles southwest of Casa Grande.

Oral and written comments by interested parties are invited. The number of persons desiring to present oral statements may make it necessary to limit the time allowed for any single statement. Written comments supplementary to, or in lieu of, oral statements will be accepted at the hearings. Copies of the Draft Environmental Impact Statement may be obtained from the Phoenix Area Office, Bureau of Indian Affairs, 3030 North Central Avenue, Suite 502, Phoenix, Arizona 85011, telephone 602/261-4195.

Those desiring to make an oral presentation at the hearings should make that fact known by advising the Phoenix Area Office in advance of the hearing or by registering on the date and at the place of hearing prior to the scheduled hour. An interpreter will be present at the hearing to translate comments from the Papago language into English.

Dated: May 18, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.77-14751 Filed 5-23-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-26]

CERTAIN SOLDER REMOVAL WICKS

Notice and Order Concerning Procedure for Commission Action

Notice is hereby given that—

1. The Commission will hold a hearing beginning at 10 a.m., e.d.t., June 10, 1977, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C., for the purposes of (1) hearing oral argument on both the recommended determination of the presiding officer, concerning whether there is a violation of section 337 of the Tariff Act of 1930; and (2) receiving information and hearing oral argument, as provided for in § 210.14(a) of the Commission's rules of practice and procedure (41 FR 17710), concerning relief, bonding, and the public interest factors set forth in section 337(d) and (f) of the Tariff Act of 1930, as amended, which the Commission is to consider in the event it determines that there is a violation of section 337 and determines that there should be relief.

Parties and agencies wishing to make oral argument with respect to the recommended determination shall be limited to no more than 30 minutes per party, 10 minutes of which may be reserved by complainants for rebuttal; parties wishing to make oral argument with respect to relief shall be limited to no more than 15 minutes per party.

For the purpose of the part of the hearing on relief, bonding, and the public interest factors, each party, interested person, and agency will be limited to no more than 30 minutes for making its presentation; each participant will be permitted an additional 5 minutes for closing arguments after all the presentations have been concluded.

For the duration of this proceeding, complainants will jointly share the time limits allocable to one party, as will respondents.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than noon, Monday, June 6, 1977. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination; relief; or relief, bonding, and the public interest factors) in which the requesting person desires to participate.

2. Briefs concerning the recommended determination may be filed by any party or agency. Complainants' brief shall be filed no later than the close of business, Wednesday, May 25, 1977; respondents' brief, the brief of the Commission investigative staff, and any other briefs (if any intervenors are later admitted) shall be filed not later than the close of business, Wednesday, June 1, 1977; and complainants' reply brief shall be filed not later than Tuesday, June 7, 1977. Briefs shall be served on all parties of record on the date they are filed.

3. Written comments and information are encouraged by any party, interested person, Government agency, or Government concerning relief, bonding, and the public interest factors set forth in section 337(d) and (f) of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which the Commission is to consider in the event it determines that there should be relief. A proposed order granting relief, including a determination of bonding, if appropriate, shall be filed and served by complainants upon all parties at the same time as complainants' brief is filed; respondents and all other interested persons, Government agencies, and Governments shall file and serve upon all parties their comments and information on remedy, bonding, and the aforesaid public interest factors not later than the date set out above on which respondents' brief is due; and complainants shall file and serve upon all parties their comments and information on these matters not later than the date on which their reply briefs are due.

The Commission's investigating staff shall file and serve upon all parties a formal report reflecting its investigation of public interest factors to be considered by the Commission with the staff's recommendations and conclusions not later than Wednesday, June 1, 1977.

Notice of the Commission's institution of the investigation was published in the FEDERAL REGISTER on July 1, 1976.

Issued: May 19, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-14778 Filed 5-23-77;8:45 am]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 724-77]

PRIVACY ACT OF 1974

Systems of Records; Correction

In F.R. Doc. 77-12097 appearing at page 21668 in the issue of Thursday, April 28, 1977, the following paragraph was omitted from the description of the categories of records for JUSTICE/FBI-002, titled "FBI Central Records System."

The FBI Central Records System—the FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

Pursuant to the authority vested in me by 5 U.S.C. 552a, the description of categories of records printed below replaces the existing one and is hereby adopted.

Dated: May 11, 1977.

GRIFFIN B. BELL,
Attorney General.

JUSTICE/FBI-002

System name:

FBI Central Records System.

Categories of records in the system:

The FBI Central Records System—the FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

The FBI has 191 classifications used in its basic filing system. They pertain primarily to Federal violations over which the FBI has investigative jurisdiction. However, included in the 191 classifications are personnel, applicant, and administrative matters to facilitate the overall filing scheme. These classifications are as follows (the word "obsolete" following the name of the classification indicates that documents are no longer being filed under this heading):

CLASSIFICATIONS

1. Training Schools: National Academy Matters; FBI National Academy Applicants
2. Neutrality Matters.
3. Overthrow or Destruction of the Government
4. National Firearms Act; Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms
5. Income Tax.
6. Interstate Transportation of Strikebreakers
7. Kidnaping
8. Migratory Bird Act
9. Extortion
10. Red Cross Act
11. Tax (Other than Income)
12. Narcotics
13. Miscellaneous National Defense Act; Prostitution; Selling Whiskey Within Army Camps (obsolete)
14. Sedition
15. Theft from Interstate Shipment
16. Violation Federal Injunction (obsolete)
17. Veterans Administration Matters
18. May Act
19. Censorship Matters (obsolete)
20. Federal Grain Standards Act (obsolete)
21. Food and Drugs
22. National Motor Vehicle Traffic Act (obsolete)
23. Prohibition
24. Profiteering (obsolete)
25. Selective Service Act; Selective Training and Service Act
26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft
27. Patent Matter
28. Copyright Matter
29. Bank Fraud and Embezzlement
30. Interstate Quarantine Laws (obsolete)
31. White Slave Traffic Act
32. Identification (Fingerprint Matters)
33. Uniform Crime Reporting
34. Violation of Lacy Act (obsolete)
35. Civil Service
36. Mail Fraud
37. False Claims Against the Government (obsolete)
38. Application for Pardon to Restore Civil Rights (obsolete)
39. Falsely Claiming Citizenship
40. Passport and Visa Matter
41. Explosives (obsolete)
42. Deserter; Deserter, Harboring
43. Illegal Wearing of Uniform: False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacture, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture, Possession, or Wearing of Civil Defense Insignia; Miscellaneous, Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous, Falsely Making or Forging Naval, Military, or Official Pass; Miscellaneous, Forging or Counterfeiting Seal of Department or Agency of the United States; Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of "Johnny Horizon" Symbol; Unauthorized Use of "Smokey Bear" Symbol
44. Civil Rights; Civil Rights, Election Laws, Civil Rights, Election Laws, Voting Rights Act, 1965
45. Crime on the High Seas (Includes stowaways on boats and aircraft)
46. Fraud Against the Government; Anti-Kickback Statute; Dependent Assistance Act of 1950; False Claims, Civil; Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic Development Act of 1965; Renegotiation Act, Criminal; Renegotiation Act, Civil; Trade Expansion Act of 1962; Unemployment Compensation Statutes; Economic Opportunity Act
47. Impersonation
48. Postal Violation (Except Mail Fraud)
49. National Bankruptcy Act
50. Involuntary Servitude and Slavery
51. Jury Panel Investigations
52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property
53. Excess Profits on Wool (obsolete)
54. Customs Laws and Smuggling
55. Counterfeiting
56. Election Laws
57. War Labor Disputes Act (obsolete)
58. Bribery; Conflict of Interest
59. World War Adjusted Compensation Act (obsolete)
60. Anti-Trust
61. Treason or Misprison of Treason
62. Miscellaneous—Including Administrative Inquiry (formerly Misconduct in Office)
63. Miscellaneous, Non-Subversive, including: Black Market in Railroad Tickets (obsolete); Civil Aeronautics Act (obsolete); Eight-Hour-Day Law; Federal Judiciary Investigations; Federal Juvenile Delinquency Act; Kickback Racket Act; Lands Division Matter (Condemnation Proceedings); Miscellaneous—Civil Suit; Miscellaneous, O.P.A. Violation (Civil) (obsolete); Miscellaneous—Wage and Hour Law (Fair Labor Standards Act of 1938); Soldiers and Sailors Civil Relief Act of 1940; Tariff Act of 1930; Top Hoodlum Coverage; Unreported Interstate Shipment of Cigarettes; Federal Cigarette Labeling and Advertising Act
64. Foreign Miscellaneous
65. Espionage
66. Administrative Matters
67. Personnel Matters
68. Alaskan Matters (obsolete)
69. Contempt of Court
70. Crime on Indian Reservation; Inducing Conveyance of Indian Trust Land; Crime on Government Reservation; Embezzlement or Theft of Indian Property
71. Bills of Lading Act
72. Obstruction of Criminal Investigations
73. Application for Pardon After Completion of Sentence and Application for Executive Clemency
74. Perjury
75. Bondsmen and Sureties
76. Escaped Federal Prisoner; Escape and Rescue; Probation Violator; Parole Violator; Mandatory Release Violator
77. Applicants (Special Inquiry, Departmental and Other Government Agencies, except those having special classifications)
78. Illegal Use of Government Transportation Requests
79. Missing Persons
80. Laboratory Research Matters
81. Gold Hoarding (obsolete)
82. War Risk Insurance (National Service Life Insurance) (obsolete)
83. Court of Claims
84. Reconstruction Finance Corporation Act (obsolete)
85. Home Owner Loan Corporation (obsolete)
86. Federal Lending and Insurance Agencies
87. Interstate Transportation of Stolen Property (Fraud by Wire, Radio, or Television)
88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony
89. Assaulting or Killing a Federal Officer; Congressional Assassination Statue
90. Irregularities in Federal Penal Institutions
91. Bank Burglary; Bank Larceny; Bank Robbery
92. Anti-Racketeering; A.R., Lea Act; A.R., Interference with Government Communications System; A.R., Hobbs Act
93. Ascertaining Financial Ability
94. Research Matters
95. Laboratory Cases (Examinaiton of Evidence in Other than Bureau Cases)
96. Alien Applicant (obsolete)
97. Registration Act
98. Sabotage
99. Plant Survey (obsolete)
100. Subversive Matter (Individuals); Internal Security (Organization)
101. Hatch Act (obsolete)
102. Voorhis Act
103. Interstate Transportation of Stolen Cattle
104. Servicemen's Dependents Allowance Act of 1942 (obsolete)
105. Internal Security (Nationalistic Tendency, Foreign Intelligence) (Individuals and Organizations, by country)
106. Alien Enemy Control; Escaped Prisoners of War and Internees (obsolete)
107. Denaturalization Proceedings (obsolete)
108. Foreign Travel Control (obsolete)
109. Foreign Political Matters
110. Foreign Economic Matters
111. Foreign Social Conditions
112. Foreign Funds
113. Foreign Military and Naval Matters
114. Alien Property Custodian Matter (obsolete)
115. Bond Default; Bail Jumper
116. Atomic Energy Act, Applicant; Atomic Energy Act, Employee
117. Atomic Energy Act, Criminal
118. Applicant, Central Intelligence Agency (obsolete)
119. Federal Regulations of Lobbying Act
120. Federal Tort Claims Act
121. Loyalty of Government Employees (obsolete)
122. Labor Management Relations Act, 1947
123. Special Inquiry, State Department, Voice of America (U.S. Information Center) (Public Law 402, 80th Congress)

124. European Recovery Program (International Cooperation Administration), formerly Foreign Operations Administration, Economic Cooperation Administration or E.R.P., European Recovery Program; A.I.D., Agency for International Development (obsolete)
125. Railway Labor Act; Railway Labor Act, Employer's Liability Act
126. National Security Resources Board, Special Inquiry (obsolete)
127. Sensitive Positions in the United States Government, Public Law 266 (obsolete)
128. International Development Program (Foreign Operations Administration)
129. Evacuation Claims (obsolete)
130. Special Inquiry, Armed Forces Security Act (obsolete)
131. Admiralty Matter
132. Special Inquiry, Office of Defense Mobilization (obsolete)
133. National Science Foundation Act, Applicant (obsolete)
134. Security Informants
135. PROSAB (Protection of Strategic Air Command Bases of U.S.A. Air Force)
136. American Legion Contact (obsolete)
137. Criminal Informants
138. Loyalty of Employees of the United Nations and Other Public International Organizations
139. Interception of Communications (Formerly, Unauthorized Publication or Use of Communications)
140. Security of Government Employees; S.G.E., Fraud Against the Government
141. False Entries in Records of Interstate Carriers
142. Illegal Use of Railroad Pass
143. Interstate Transportation of Gambling Devices
144. Interstate Transportation of Lottery Tickets
145. Interstate Transportation of Obscene Matter; Broadcasting Obscene Language
146. Interstate Transportation of Prison-Made Goods
147. Federal Housing Administration Matters
148. Interstate Transportation of Fireworks
149. Destruction of Aircraft or Motor Vehicles
150. Harboring of Federal Fugitives, Statistics
151. (Referral cases received from CSC under P.L. 298) Agency for International Development; Atomic Energy Commission (Civil Service Commission); National Aeronautics and Space Administration; National Science Foundation; Peace Corps; Action; U.S. Arms Control and Disarmament Agency; World Health Organization; International Labor Organization; U.S. Information Agency
152. Switchblade Knife Act
153. Automobile Information Disclosure Act
154. Interstate Transportation of Unsafe Refrigerators
155. National Aeronautics and Space Act of 1958
156. Welfare and Pension Plans Disclosure Act
157. Extremist Matters; Civil Unrest
158. Labor-Management Reporting and Disclosure Act of 1959 (Security Matter) (obsolete)
159. Labor-Management Reporting and Disclosure Act of 1959 (Investigative Matter)
160. Federal Train Wreck Statute
161. Special Inquiries for White House, Congressional Committee and Other Government Agencies
162. Interstate Gambling Activities
163. Foreign Police Cooperation
164. Crime Aboard Aircraft
165. Interstate Transmission of Wagering Information
166. Interstate Transportation in Aid of Racketeering
167. Destruction of Interstate Property
168. Interstate Transportation of Wagering Paraphernalia
169. Hydraulic Brake Fluid Act (obsolete)
170. Extremist Informants
171. Motor Vehicles Seat Belt Act (obsolete)
172. Sports Bribery
173. Public Accommodations, Civil Rights Act of 1964
Public Facilities, Civil Rights Act of 1964
Public Education, Civil Rights Act of 1964
Employment, Civil Rights Act of 1964
174. Explosives and Incendiary Devices; Bomb Threats (Formerly, Bombing Matters; Bombing Matters, Threats)
175. Assaulting the President (or Vice President) of the United States
176. Anti-riot Laws
177. Discrimination in Housing
178. Interstate Obscene or Harassing Telephone Calls
179. Extortionate Credit Transactions
180. Desecration of the Flag
181. Consumer Credit Protection Act
182. Illegal Gambling Business; Illegal Gambling Business, Obstruction; Illegal Gambling Business, Forfeiture
183. Racketeer, Influenced and Corrupt Organizations
184. Police Killings
185. Protection of Foreign Officials and Official Guests of the United States
186. Real Estate Settlement Procedures Act of 1974
187. Privacy Act of 1974, Criminal
188. Crime Resistance
189. Equal Credit Opportunity Act
190. Freedom of Information/Privacy Acts
191. False Identity Matter

Files kept in FBI Field Offices, Field offices maintain certain records that are not contained at FBI Headquarters that include files, index cards, and related material pertaining to cases in which there was no prosecutive action undertaken; perpetrators of violations not developed during investigation; or investigation revealed allegations were unsubstantiated or not within the investigative jurisdiction of the Bureau. These investigations were closed in field offices and correspondence not forwarded to FBIHQ.

Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. These records are lists of individuals which contain certain biographic data, including physical description and photograph. They may also contain information concerning activities of the individual as reported to FBIHQ by the various field offices. The establishment of these lists is necessitated by the needs of the Divisions to have immediate access to pertinent information duplicative of data found in the Central Records without the delay caused by a time-consuming manual search of central indices. The manner of segregating these individuals varies depending on the particular needs of the FBI Division. The information pertaining to individuals who are a part of the list is derivative of information contained in the Central Records System. These duplicative records fall into the following categories:

(1) Listings of individuals used to assist in the location and apprehension of individuals for whom legal process is outstanding (fugitives):

(2) Listings of individuals used in the identification of particular offenders in cases where the FBI has jurisdiction. These listings include various photograph albums and background data concerning persons who have been formerly charged with a particular crime and who may be suspect in similar criminal activities; and photographs of individuals who are unknown but suspected of involvement in a particular criminal activity, for example, bank surveillance photographs;

(3) Listings of individuals as part of an overall criminal intelligence effort by the FBI. This would include photograph albums, lists of individuals known to be involved in criminal activity, including theft from interstate shipment, interstate transportation of stolen property, and individuals in the upper echelon of organized crime;

(4) Listings of individuals in connection with the FBI's mandate to carry out Presidential directives on January 8, 1943, July 24, 1950, December 15, 1953, and February 18, 1976, which designated the FBI to carry out investigative work in matters relating to espionage, sabotage, and foreign counterintelligence. These listings may include photograph albums and other listings containing biographic data regarding individuals. This would include lists of identified and suspected foreign intelligence agents and informants;

(5) Special indices duplicative of the central indices used to access the Central Records System have been created from time to time in conjunction with the administration and investigation of major cases. This duplication and segregation facilitates access to documents prepared in connection with major cases.

Some of the information contained in the main files has also been extracted and placed on computer to enable various divisions to retrieve information more rapidly by avoiding the need for a manual search for information maintained in the main files. For example, since investigation of major frauds requires the Agent to collect and organize massive volumes of evidence and other investigative information, the FBI is using computers to do this in a more accurate and expeditious manner. Additionally, Agents occasionally seize evidence in computerized form and FBI computers are used to organize and sort the information in preparation for trial.

Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

[FR Doc.77-14544 Filed 5-23-77;8:45 am]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, TENTH CIRCUIT PANEL

Meeting

The schedule of meetings of the nominating panel for the Tenth Circuit of the United States Circuit Judge Nominating Commission is as follows:

(1) The first meeting will be held on Thursday, June 2, 1977, at 1 p.m., in the Federal Court Building, Circuit Court Rooms, Denver, Colorado.

The purpose of the first part of this meeting is to formally constitute the Panel and to discuss procedures and this part of the meeting will be open to the public. The remaining portion of the meeting will be devoted to a discussion of potential candidates and will not be open to the public pursuant to Pub. L. 92–463, section 10(D) as amended. (Cf. U.S.C. 552b(c)(6).)

(2) The second meeting will be held on Saturday, July 16, 1977, at 10 a.m. in the Circuit Court Room, Wichita, Kansas. The purpose of this meeting will be to interview candidates and will not be open to the public pursuant to Pub. L. 92–463, Section 10(D) as amended. (Cf. 5 U.S.C. 552b(c)(6).)

(3) The third meeting will be held on Wednesday, July 20, 1977, at 10 a.m. in the Circuit Court Rooms, Salt Lake City, Utah. The purpose of this meeting will be to interview candidates and will not be open to the public pursuant to Pub. L. 92–463, Section 10(D) as amended. (Cf. 5 U.S.C. 552b(c)(6).)

Dated: May 19, 1977.

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

[FR Doc.77-14711 Filed 5-23-77;8:45 am]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, WESTERN FIFTH CIRCUIT PANEL

Meeting

The Western Fifth Circuit Panel of the United States Circuit Judge Nominating Commission will hold its next meeting in New Orleans, Louisiana, at the United States Court of Appeals for the Fifth Circuit, 600 Camp Street, on June 13, 1977, at 10 a.m., in lieu of the previously announced meetings of the panel of June 3, and June 22, 1977, at the same location. This meeting is to interview and consider candidates for nomination to the judicial vacancy in the Western Fifth Circuit, and it will be closed to the public in accord with Pub. L. 92–463, section 10 (D) as amended.

Dated: May 19, 1977.

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

[FR Doc.77-14712 Filed 5-23-77;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

ALLIED LEATHER CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Allied Leather Co. (ILGWU).	Waterboro, Maine.	May 10, 1977	May 6, 1977	TA-W-2,060	Patent leather for shoes
Ballets, Inc. (workers)	Lynn, Mass.	do	do	TA-W-2,061	Ballet, gym, and ta dancing shoes.
Walter Dyer Leather (workers).	do	May 11, 1977	May 9, 1977	TA-W-2,062	Maccasins, hand-sewn loafers and other leather wearing apparel.
Kensigton Dress Co. (ILGWU).	Philadelphia, Pa	do	May 6, 1977	TA-W-2,063	Ladies' dresses.
Kiddy Kraft Manufacturing Inc. (ILGWU).	do	do	do	TA-W-2,064	Children's coats.
Lori Coat Co. (ILGWU)	do	do	do	TA-W-2,065	Do.
Superba Mills, Inc. (ILGWU).	do	do	do	TA-W-2,066	Ladies' lingerie.
Irving Wenger, Inc. (ILGWU).	do	do	do	TA-W-2,067	Ladies' dresses.

[FR Doc.77-14559 Filed 5-23-77;8:45 am]

ARCO AUTO CARRIERS, INC., ET AL.

Investigations Regarding Certifications of Eligibility to Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations

will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Wahington, D.C. this 16th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Arco Auto Carriers, Inc. (company).	Kenosha, Wis...	May 12, 1977	May 10, 1977	TA-W-2,071	Transportation of AMC cars from the assembly plants to the dealerships.
Emhart Industries, Inc., Hartford division (UAW).	Windsor, Conn	May 16, 1977	May 6, 1977	TA-W-2,072	Complete assemblies of 18 machines, component parts for 28 machines and conveyers.
Federal Steel & Wire Corp. (Industrial & Miscellaneous Workers of America).	Cleveland, Ohio.	do	May 11, 1977	TA-W-2,073	Heavy square nuts and bolts for the railroad and other industries.
Uxbridge Knitting Mills (workers).	Uxbridge, Mass...	do	do	TA-W-2,074	Double knit fabrics.
Wakefield Industries, Inc. (workers).	Norwich, Conn...	do	May 9, 1977	TA-W-2,075	Wood cabinets for hi-fi, radios, and stereos.

[FR Doc.77-14560 Filed 5-23-77;8:45 am]

HALCO INDUSTRIES, INC., ET AL.

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 12th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Halco Industries, Inc. (company).	Burbank, Calif...	May 12, 1977	May 3, 1977	TA-W-2,068	Eyeglass frames and parts.
Quaker Trouser Co., Inc. (company).	Philadelphia, Pa.	do	May 9, 1977	TA-W-2,069	Men's trousers.
Wheeling Machine Products (USWA).	Cambridge, Ohio	do	Apr. 15, 1977	TA-W-2,070	Warehousing.

[FR Doc. 77-14561 Filed 5-23-77;8:45 am]

[TA-W-1482]

CALUMET STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1482: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of the workers and former workers producing steel products at the Calumet Steel Company, Chicago Heights, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1532). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Calumet Steel Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that criteria (3) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Calumet Steel Company declined 4.9 percent in 1975 compared to 1974 and 9.5 percent in 1976 compared to 1975. Employment reductions have been achieved through normal attrition.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by Calumet Steel Company declined 27.9 percent in value in 1975 compared to 1974 and increased 23.0 percent in value in 1976 compared to 1975. After declining in four consecutive quarters compared to the same quarters of the previous year, sales increased 61 percent, 51 percent and 2 percent in the second, third and fourth quarters of 1976 compared to the respective quarters of 1975.

Tons of steel produced at Calumet Steel declined 25.8 percent in 1975 from 1974 and increased 12.2 percent in 1976 from 1975.

Production by Calumet Steel declined 26 percent in value in 1975 from 1974 and increased 12 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of carbon steel bar—hot rolled—declined absolutely and relative to domestic shipments and consumption in 1974, 1975, and 1976. Imports declined from 804.1 thousand tons in 1972 to 723.0 thousand tons in 1973, to 691.3 thousand tons in 1974, to 423.1 thousand tons in 1975 and to 384.2 thousand tons in 1976. The ratio of imports to domestic shipments declined from 12.8 percent in 1972 to 10.2 percent in 1973, to 9.6 percent in 1974, to 8.2 percent in 1975 and to 7.0 percent in 1976.

Imports of carbon steel bars—size light shapes—declined absolutely and relative to domestic shipments in 1975 and 1976. Imports declined from 521.5 thousand tons in 1974 to 167.2 thousand tons in 1975 and to 164.3 thousand tons in 1976. Imports relative to domestic production declined from 53.1 percent in 1974 to 22.7 percent in 1975 and to 19.5 percent in 1976.

Imports of fence gates, posts and fittings were 4.7 thousand tons in 1974, 0.8 thousand tons in 1975 and 2.1 thousand tons during January through September in 1976. Imports relative to domestic shipments increased from 0.3 percent in 1975 and 1.1 percent during January through September in 1976. Imports did not exceed two percent of domestic production during the 1973–1976 period.

CONTRIBUTED IMPORTANTLY

Carbon steel bars—hot rolled and size light shapes constitute 80 percent of the production at Calumet Steel Company. Fence gates, posts and fittings constitute 10 percent of production.

Imports of carbon steel bars—hot rolled and size light shapes declined absolutely and relatively to domestic shipments from 1975 to 1976. Imported fence gates, posts and fittings constituted only 1.1 percent of domestic production in the first nine months of 1976 and did not exceed two percent of domestic production since prior to 1973.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with steel produced at the Calumet Steel Company, Chicago Heights, Illinois, did not contribute importantly to the total or partial separations of the workers at that firm.

Signed at Washington, D.C., this 13th day of May, 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14754 Filed 5-23-77;8:45 am]

[TA-W-1591]

INDIAN HEAD MILLWORK CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1591: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 24, 1977 in response to a worker petition received on December 6, 1976 which was filed by the Upholsterers' International Union of North America on behalf of former workers producing millwork products at the Indian Head Millwork Corporation, Nashua, New Hampshire.

The Notice of Investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8021). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Indian Head Millwork Corporation, the National Woodwork Manufacturers' Association, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of

eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The Indian Head Millwork Corporation was established at Nashua, New Hampshire in 1946 to service the residential housing market in the New England area. The corporation consisted of a millwork plant and a distribution center in Nashua, New Hampshire and distribution centers in South Yarmouth, Massachusetts and Berlin, Connecticut. On September 30, 1976 the Indian Head Millwork Corporation was suddenly closed because its creditors decided to foreclose on their loans and to take possession of the corporation's assets.

The Nashua millwork plant of the Indian Head Millwork Corporation produced millwork products for residential housing, including pre-hung doors, window units, and custom-built woodwork. Indian Head also marketed and installed kitchen cabinets and counter tops. All of the kitchen cabinets were purchased as finished unit by Indian Head from other domestic and foreign manufacturers. Some of the counter tops for the kitchen cabinets were produced at the Nashua mill; however, finished kitchen cabinets were not made at the Nashua plant.

Imports of millwork products are negligible in the domestic market. Imports declined annually from $48.7 million in 1973 to $37.7 million in 1976. The ratio of millwork imports to domestic millwork production decreased steadily from 1.0 percent in 1973 to 0.3 percent in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with the millwork products produced by the Indian Head Millwork Corporation, Nashua, New Hampshire have not increased as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14755 Filed 5-23-77;8:45 am]

[TA-W-1552]

INTERNATIONAL HARVESTER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1552: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 5, 1977 in response to a worker petition received on January .5, 1977 which was filed on behalf of workers and former workers producting sisal and synthetic agricultural twine at the New Orleans, Louisiana plant of International Harvester Company, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5451). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Harvester, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the New Orleans plant declined 2 percent from 1974 to 1975 and declined 42 percent from 1975 to 1976.

SALES, PRODUCTION, OR BOTH DECREASED ABSOLUTELY

The quantity of sisal twine sales declined 53 percent from 1974 to 1975 and then increased 4 percent from 1975 to 1976.

The quantity of sisal twine produced at the New Orleans plant declined 30 percent from 1974 to 1975 and declined 42 percent from 1975 to 1976.

The quantity of plastic twine sales declined 11 percent from 1974 to 1975 and declined 42 percent from 1975 to 1976.

The quantity of plastic twine produced at the New Orleans plant increased 77 percent from 1974 to 1975 and then declined 58 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of hard fiber (sisal) agricultural twine declined absolutely and relative to domestic production from 1972 to 1973. Imports increased absolutely and relatively from 1973 to 1974 and increased relatively from 1974 to 1975. Imports increased absolutely and relatively from 1975 to 1976. The ratio of imports to domestic production increased from 972.4 percent in 1975 to 1610.4 percent in 1976.

Imports of synthetic twine increased absolutely and relative to domestic production in each year from 1972 through 1975. Imports then declined absolutely and relatively from 1975 to 1976. The ratio of imports to domestic production increased from 5.1 percent in 1974 to 20.4 percent in 1975 and then declined to 3.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of International Harvester, who were contacted, did not purchase imported synthetic twine in 1976.

International Harvester is the only domestic manufacturer of sisal twine. Customers of International Harvester were contacted regarding their purchases of sisal twine. All of the customers purchase imported sisal twine. All of the customers reduced purchases from International Harvester from 1974 to 1975. Thirty percent of these customers purchased only imported sisal twine in 1975.

Although some of the customers then increased purchases of sisal twine from International Harvester in 1976 compared to 1975, in each case the quantity of purchases in 1976 showed a decline when compared to 1974. For every customer contacted, the proportion of total sisal twine purchases represented by imports was greater in 1976 than in 1974.

International Harvester's sales of sisal twine declined 53 percent from 1974 to 1975. The impact of this decline on employment at the New Orleans plant was not immediate. Production at the plant declined in 1975, but to a lesser degree than sales. The result was an increase in sisal twine inventory of 4366 percent from 1974 to 1975. Therefore, a significant proportion of 1976 sales were made from accumulated inventory. The 4 percent increase in sisal twine sales from 1975 to 1976 was insufficient to absorb both inventory and current production. The company was forced to make further production cutbacks which in turn led to employment declines.

Workers at the New Orleans plant are not identifiable by product line. Plant wide bumping is permitted. Therefore all workers who produce sisal agricultural twine and/or synthetic agricultural twine are considered to be one appropriate subdivision.

Sisal twine represented 83 percent of total production at the plant in 1974, 65 percent in 1975, and 73 percent in 1976. According to company officials, production of sisal twine is more labor intensive than production of synthetic twine.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with sisal agricultural twine produced at the New Orleans, Louisiana plant of International Harvester Company, Chicago, Illinois contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provision of the Act, I make the following certification:

All workers at the New Orleans, Louisiana plant of International Harvester Company, Chicago, Illinois who became totally or partially separated from employment on or after December 14, 1975 are eligible to apply for adjustment assistance under title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14756 Filed 5-23-77;8:45 am]

[TA-W-1266]

KAISER STEEL CORP.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1266: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 10, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel products at the Fontana, California Steel Mill of Kaiser Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53091). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kaiser Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that for the pipe, structural shapes, plate, galvanized sheet, cold rolled sheet, steel making, and services subdivisions, all of the above criteria have been met.

PIPE

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of pipe at the mill declined 32 percent in 1975 from 1974 and 11 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of pipe at the Fontana, California Mill of Kaiser Steel Corporation declined 48 percent in 1975 from 1974 and 35 percent in 1976 from 1975.

Shipments of pipe from the mill declined 53 percent in 1975 from 1974 and 30 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of carbon steel pipe and tubing into the U.S. decreased absolutely in 1972 and 1973 from the previous year, increased from 1973 to 1974 and decreased from 1974 to 1975. Imports in the first 9 months of 1976 were 1348.6 thousand tons, an increase of 12 percent from the 1209.2 thousand tons in the first 9 months of 1975. Relative to domestic shipments, imports increased in 1972 from 1971 and decreased in 1973 from 1972. Relative imports increased from 1973 to 1974 from 1974 to 1975 and from 20.5 percent in the first 9 months of 1975 to 34.0 percent in the first 9 months of 1976.

CONTRIBUTED IMPORTANTLY

Customers indicated that they have decreased purchases of pipe from Kaiser Steel and increased purchases of imported pipe.

STRUCTURAL SHAPE

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of structural shapes (which includes employment related to the production of bars) at the mill decreased 61 percent from 1974 to 1975 and 9 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Production of structural shapes at the mill decreased 52 percent in 1975 from 1974 and 10 percent in 1976 from 1975.

Shipments of structural shapes from the mill declined 52 percent in 1975 from 1974 and 22 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of carbon steel structural shapes, both absolutely and relative to domestic production, increased in 1972 from 1971 and decreased in 1973, 1974 and 1975 from the previous year. Imports in the first 9 months of 1976 were 909.8 thousand tons, an increase of 45 percent over the 629.1 thousand tons in the first 9 months of 1975. Relatively, imports were 34.3 percent of domestic shipments in the first 9 months of 1976 compared to 18.7 percent in the same period of 1975.

CONTRIBUTED IMPORTANTLY

Customers indicated that they have decreased purchases of structural shapes from Kaiser Steel and have increased purchases of imports.

PLATE

Thirty-five to forty percent of the plate produced at the Fontana Mill is not sold directly to customers, but is shipped to Kaiser's fabricating plant in Napa, California where it is made into large diameter pipe (over 16'').

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of plate at the mill remained virtually the same in 1975 as 1974. Employment declined 10 percent in the fourth quarter of 1975 from the fourth quarter of 1974 and 24 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production of plate at the mill, including that for shipment to Napa, decreased 15 percent in 1975 from 1974 and 36 percent in 1976 from 1975.

Production of plate at the mill to be shipped to Napa to be made into pipe decreased 20 percent in 1975 from 1974 and 43 percent in 1976 from 1975.

Production of plate at the mill for sale to customers declined 11 percent in 1975 from 1974 and 30 percent in 1976 from 1975.

Shipments of plate from the mill to customers decreased 16 percent in 1975 from 1974 and 26 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of carbon steel plate into the U.S. increased absolutely in 1972 from 1971, decreased from 1972 to 1973, increased from 1973 to 1974 and decreased from 1974 to 1975. Imports increased from 1064.7 thousand tons in the first 9 months of 1975 to 1083.2 thousand tons in the first 9 months of 1976. Relative to domestic shipments, imports increased in 1972 from 1971, decreased in 1973 from 1972, and increased in 1974 from 1973 and in 1975 from 1974. Imports increased from 18.7 percent of domestic shipments in the first 9 months of 1975 to 24.8 percent in the first 9 months of 1976.

Imports of carbon steel pipe and tubing (the end product of 35 to 40 percent of plate production) also increased. Specific information on imports of pipe and tubing is included in the earlier section on pipe.

CONTRIBUTED IMPORTANTLY

Customers indicated that they have decreased purchases of plate from Kaiser and have increased purchases of imported plate.

GALVANIZED SHEET

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of galvanized sheet at the mill decreased 5 percent in 1975 from 1974 and increased 1 percent in 1976 from 1975. Employment declined 27 percent in the fourth quarter of 1976 from the third quarter of 1976 and 20 percent in the fourth quarter of 1976 from the fourth quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of galvanized sheet at the mill decreased 23 percent in 1975 from 1974 and increased 50 percent in 1976 from 1975. Production decreased 46 percent in the fourth quarter of 1976 from the third quarter of 1976 and 19 percent in the fourth quarter of 1976 from the fourth quarter of 1975.

INCREASED IMPORTS

Imports of galvanized steel sheet and strip decreased absolutely and relative to domestic shipments in 1972 from 1971 and in 1973 from 1972, increased in 1974 from 1973 and decreased in 1975 from 1974. In the first 9 months of 1976 imports were 1076.5 thousand tons, an increase of 97 percent from the 547.4 thousand tons imported in the first 9 months of 1975. Relatively, imports in the first 9 months of 1976 were 26.6 percent of domestic shipments compared to 19.7 percent in the first 9 months of 1975.

CONTRIBUTED IMPORTANTLY

Customers indicated that they have decreased purchases of galvanized sheet from Kaiser and have increased purchases of imports.

COLD ROLLED SHEET

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of rolled sheet at the mill declined 12 percent in 1975 from 1976 and increased 13 percent in 1976 from 1975. Employment decreased 13 percent in the fourth quarter of 1976 from the third quarter of 1976 and nine percent in the fourth quarter of 1976 from the fourth quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of cold rolled sheet at the mill decreased 42 percent in 1975 from 1974 and increased 68 percent in 1976 from 1975. Production decreased 25 percent in the fourth quarter of 1976 from the third quarter of 1976 and 6 percent in the fourth quarter of 1976 from the fourth quarter of 1975.

INCREASED IMPORTS

Imports of carbon steel sheets—cold rolled—decreased absolutely in 1972 from 1971, in 1973 and 1972, in 1974 from 1973 and in 1975 from 1974. Imports in the first 9 months of 1976 were 1627.1 thousand tons, 16 percent higher than the 1398.8 thousand tons imported in the first 9 months of 1975. Relative to domestic shipments, imports decreased in 1972, 1973 and 1974 from the previous year and increased in 1975 from 1974. Relatively imports were 11.8 percent of domestic shipments in the first 9 months of 1976 compared to 15.1 percent in the first 9 months of 1975.

CONTRIBUTED IMPORTANTLY

Customers indicated that they have decreased purchases of cold rolled sheet from Kaiser and increased purchases of imports.

STEEL MAKING AND SERVICES

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of basic steel at the mill declined 12 percent in 1975 from 1974 and 5 percent in 1976 from 1975.

Average employment related to the maintenance of, and services to the entire plant, or two or more subdivisions of the plant, declined 3 percent in 1975 from 1974 and 3 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production at the mill decreased 18 percent in 1975 from 1974 and 1 percent in 1976 from 1975.

Total shipments from the mill decreased 23 percent in 1975 from 1974 and increased 2 percent in 1976 from 1975.

INCREASED IMPORTS

Imports, either absolutely or relative to domestic shipments, of products like or directly competitively with products produced at some of the subdivisions of the mill, which are a further stage of production of basic steel or are served by the maintenance and service personnel increased in 1975 from 1976 and in the first 9 months of 1976 from the same period of 1975.

CONTRIBUTED IMPORTANTLY

Customers who purchase those same products indicated that they have decreased purchases from Kaiser and have increased purchases of imported products.

The investigation has further revealed that for the hot rolled sheet subdivision, although criteria (1) and (3) have been met, criterion (2) has not been met.

HOT ROLLED SHEET

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of hot rolled sheet at the mill decreased 13 percent in 1975 from 1974 and increased 6 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of hot rolled sheet at the mill decreased 26 percent in 1975 from 1974. Production increased 16 percent in the fourth quarter of 1975 from the third quarter of 1975, 5 percent in the fourth quarter of 1975 from the fourth quarter of 1974 and 40 percent in 1976 from 1975. Production in each quarter of 1976 was higher than in the corresponding quarter of 1975.

Shipments of sheets and strip from the mill, of which hot rolled sheet makes up 65–70 percent, decreased 29 percent in 1975 from 1974. Shipments increased 17 percent in the fourth quarter of 1975 from the third quarter of 1975, 3 percent in the fourth quarter of 1975 from the fourth quarter of 1974 and 43 percent in 1976 from 1975. Shipments in each quarter of 1976 were higher than the corresponding quarter of 1975.

INCREASED IMPORTS

Imports of hot rolled sheet decreased absolutely in 1972, 1973, 1974 and 1975 from the previous year. Imports in the first 9 months of 1976 were 1071.6 thousand tons, an increase of 6 percent from the 1010.2 thousand tons imported in the first 9 months of 1975. Relative to domestic shipments, imports decreased in 1972 and 1973 from the previous year and increased in 1974 and 1975. Relatively, imports were 9.5 percent of domestic shipments in the first 9 months of 1976 compared to 12.3 percent in the first 9 months of 1975.

The investigation has further revealed that for the bars subdivision, although criteria (1) and (2) have been met, criterion (3) has not been met.

BARS

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of bars (which includes employment related to the production of structural shapes) at the mill decreased 61 percent in 1975 from 1974 and 9 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of bars at the mill declined 72 percent in 1975 from 1974 and increased 54 percent in 1976 from 1975.

Shipments of bars from the mill decreased 67 percent in 1975 from 1974 and increased 21 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of carbon steel bar-size light shapes increased absolutely from 1971 to 1972, decreased from 1972 to 1973, increased from 1973 to 1974 and decreased from 1974 to 1975. Imports were 99.1 thousand tons in the first 9 months of 1976, a decrease of 37 percent from the 157.0 thousand tons imported in the first 9 months of 1975. Relative to domestic shipments, imports decreased from 1971 to 1972 and from 1972 to 1973, increased from 1973 to 1974 and decreased from 1974 to 1975. Imports were 15.2 percent of domestic shipments in the first 9 months of 1976 compared to 27.3 percent in the first 9 months of 1975.

CONTRIBUTED IMPORTANTLY

Customers indicated they have decreased purchases of bars from Kaiser Steel and have increased purchases of imports.

The investigation has further revealed that for the tin mill products subdivision, criteria (2) and (4) have not been met.

TIN MILL PRODUCTS

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment related to the production of tin mill products at the mill increased 8 percent in 1975 from 1974 and 9 percent in 1976 from 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of tin mill products at the mill increased 13 percent in 1975 from 1974 and 10 percent in 1976 from 1975.

Shipments of tin mill products from the mill decreased 4 percent in 1975 from 1974 and increased 18 percent in 1976 from 1975.

INCREASED IMPORTS

Imports of tin plate into the U.S. increased absolutely and relative to domestic production in 1972 from 1971, decreased in 1973 from 1972 and in 1974 from 1973, and increased in 1975 from 1974. Absolutely, imports were 230.1 thousand tons in the first 9 months of 1976, a decrease of 53 percent from the 352.6 thousand tons imported in the first 9 months of 1975. Relatively, imports were 6.2 percent of domestic shipments in the first 9 months of 1976 compared to 11.1 percent in the first 9 months of 1975 compared to 11.1 percent in the first 9 months of 1975.

CONTRIBUTED IMPORTANTLY

Customers indicated that they have decreased purchases of imported tin plate.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with pipe, structural shapes, plate galvanized sheet, and cold rolled sheet produced at the Fontana, California Mill of Kaiser Steel Corporation, contributed importantly to the total or partial separations of those subdivisions of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of pipe in the C. W. Pipe Mill Department and the E. W. Pipe Mill Department of the Fontana, California Mill of Kaiser Steel Corporation who became totally or partially separated from employment on or after October 10, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of structural shapes in the Structural Mill Department of the Fontana, California Mill of Kaiser Steel Corporation who became totally or partially separated from employment on or after October 10, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of plate in the Plate Mill Department of the Fontana, California Mill of Kaiser Steel Corporation who became totally or partially separated from employment on or after October 10, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of basic steel in the Coke Oven Department, the Blast Furnace Department, the Open Hearth Department, the BOSP Department, the Foundry Department, the Maintenance, Iron and Steel Department, the Soaking Pits, Blooming Mill and Slabbing Mill Department, and the Conditioning Yards Department of the Fontana, California Mill of Kaiser Steel Corporation who became totally or partially separated from employment on or after October 10, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to maintenance and services in the Mill Warehouse Department, the Maintenance Rolling Mills Department, the Roll Shops Department, the Maintenance, Cold Rolled and Coated Products Department, the Shops and Services Department, the Industrial Relations Department, the Quality Control Department, the Controllers Department and other employees engaged in employment related to maintenance and services at the Fontana, California Mill of Kaiser Steel Corporation who became totally or partially separated from employment on or after October 10, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of galvanized sheet in the Sheet Galvanizing Mill Department of the Fontana, California Mill of Kaiser Steel Corporation who became totally or partially separated from employment on or after August 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of Cold Rolled Sheet in the Cold Sheet Mill Department of the Fontana, California Mill of Kaiser Steel Corporation who became totally or partially separated from employment on or after August 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that sales and production of hot rolled sheet and tin mill products have not declined and imports of carbon steel bar size light shapes and tin mill products have not increased as required for certification under Section 222 of the Trade Act of 1974. Therefore, workers engaged in employment related to the production of hot rolled sheet in the Hot Strip Mill Department, tin mill products in the Tin Mill Department, and bars in the Merchant Mill Department and those workers exclusively engaged in employment related to the maintenance of and service to those departments of the Fontana, California Mill of Kaiser Steel Corporation are denied eligibility to apply for trade adjustment assistance.

Signed at Washington, D.C., this 12th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14757 Filed 5-23-77;8:45 am]

[TA-W-1339]

KEROTEST MANUFACTURING CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the result of TA-W-1339: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing valves at the Pittsburgh, Pennsylvania plant of Kerotest Manufacturing Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55607). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kerotest Manufacturing Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first two criteria have been met, criteria (3) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly production workers at the Pittsburgh plant declined 14 percent in the first eleven months of 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales of valves produced by Kerotest Manufacturing Corporation decreased 31 percent in quantity in the first eleven months of 1976 compared to the same period in 1975.

INCREASED IMPORTS

The Pittsburgh plant of Kerotest produces primarily nuclear valves.

There are no separately identifiable import data for nuclear valves in the Tariff Schedules of the United States. The nuclear valve industry consists of those firms that produce valves that meet the standards of the American Society of Mechanical Engineers and the Nuclear Regulatory Commission for use in nuclear power plants. Representatives of the American Valve Manufacturers Association, and the American Society of Mechanical Engineers indicated that any imports of nuclear valves are minimal.

CONTRIBUTED IMPORTANTLY

Customers of Kerotest indicated that they do not purchase imported valves.

Customers also indicated that they do not purchase imported natural gas valves. Kerotest's imports of natural gas valves decreased 93 percent in quantity and 92 percent in value from 1975 to 1976. Kerotest decreased imports of natural gas valves as it increased its production of these valves.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the valves produced at the Pittsburgh, Pennsylvania plant of Kerotest Corporation did not contribute importantly to the total or partial separation of workers at the plant as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14758 Filed 5-23-77;8:45 am]

[TA-W-1573]

L. B. EVANS AND SON CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1573: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 17, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producting slippers and casual shoes for men at L. B. Evans and Son Company, Wakefield, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5452). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of L. B. Evans and Son Company, its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 27 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975. Employment in January 1977 was 54 percent below employment in January 1976. All production workers were laid off for one month in December 1976 due to a lack of work.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of shoes and slippers by L. B. Evans declined 40 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975. Production operations were shut down for one month in December 1976 due to a lack of orders.

INCREASED IMPORTS

Imports of slippers for men, women, and children increased absolutely and relative to domestic production in each year from 1971 through 1975. Imports rose from 25.2 million pairs in 1974 to 29.0 million pairs in 1975 and increased from 22.2 million pairs in January–September 1975 to 34.5 million pairs in the like period of 1976. The ratio of imported slippers to domestic slippers production rose from 29.5 percent in 1974 to 41.1 percent in 1975 and increased to 63.4 percent in January–September 1976.

Imports of men's dress and casual footwear with leather and non-leather uppers increased from 1971 through 1973, declined in 1974, and rose in 1975. Imports rose from 44.3 million pairs in 1974 to 47.5 million pairs in 1975 and increased from 35.3 million pairs in January–September 1975 to 44.7 million pairs in the corresponding period of 1976. The ratio of imports to domestic production decreased from 53.5 percent in 1974 to 44.9 percent in 1975 and then increased to 52.1 percent in January–September 1976.

CONTRIBUTED IMPORTANTLY

Customers of L. B. Evans and Son Company indicated that they increased purchases of imports relative to purchases from L. B. Evans. Reduced orders due to increased import competition resulted in production cutbacks and separations of workers in the second half of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's casual shoes and slippers produced at L.B. Evans and Son Company contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at L. B. Evans and Son Company, Wakefield, Massachusetts who became totally or partially separated from employment on or after August 14, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14759 Filed 5-23-77;8:45 am]

[TA-W-1504]

MESTA MACHINE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1504: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 22, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in employment related to the production of rolling mill machinery and related equipment at the Mesta Machine Company, Pittsburgh, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mesta Machine Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workekrs' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Mesta Machine Company decreased by 2 percent in 1975 as compared to 1974 and decreased in 1976 by 18 percent from the 1975 levels. The average number of salary workers increased from 1974 to 1975 by 7 percent but decreased by 11 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales increased in value 3 percent from 1974 to 1975 and 42 percent from 1975 to 1976.

Production in terms of value at the Mesta Machine Company increased by 30 percent from 1974 to 1975 and decreased by 23 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of rolling mill machinery increased in value from 6.5 million dollars in 1971 to 10.2 million dollars in 1972 and decreased to 9.3 million dollars in 1973. Imports increased from 9.3 million dollars in 1973 to 13.6 million dollars in 1974, an increase of 46.2 percent. In 1975, imports reached 21 million dollars, an increase of 54.4 percent as compared to 1974. For the first three quarters of 1976, imports reached 24.2 million dollars, an increase of 53.2 percent above the 15.8 million dollars imported in the first three quarters of 1975. The ratios of imports to domestic production increased from 4.4 percent in the first nine months of 1975 to 5.9 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

The investigation revealed that customers of the Mesta Machine Company did not buy imported rolling mill machinery or related equipment. Customers reduced purchases of this equipment because of general adverse economic conditions which has not been conducive to capital goods expenditures.

CONCLUSION

After careful review of the fact obtained in the investigation, I conclude that increased imports of products like or directly competitive with the rolling mill machinery and related equipment produced by the Mesta Machine Company, Pittsburgh, Pennsylvania, did not contribute importantly to the total or partial separations of the workers of that company.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14760 Filed 5-23-77;8:45 am]

[TA-W-1502]

NATIONAL STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1502: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing hot rolled, cold rolled, and galvanized carbon steel products at National Steel Corporation's Granite City Steel Division, Granite City, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3376). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Granite City Steel Division, the United Steelworkers of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that the first and second criteria have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers employed at the Granite City Steel Division increased 2.7 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales and production in net tons at the Granite City Steel Division in 1976 increased 75.5 percent and 50.5 percent, respectively, compared to 1975.

Net ton sales of hot rolled carbon steel products, the major product group manufactured at Granite City Steel, increased 103.2 percent in 1976 compared to 1975. Sales of these products increased significantly in each quarter of 1976 compared to the same quarters of 1975.

Net ton sales of cold rolled and galvanized steel products increased 13.3 percent and 26.8 percent, respectively, in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at National Steel Corporation's Granite City Steel Division in Granite City, Illinois, have not become totally or partially separated and that sales or production at the firm have not decreased absolutely as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14761 Filed 5-23-77;8:45 am]

[TA-W-1542]

PRESTIGE SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1542: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 4, 1977 in response to a worker petition received on that date which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing women's shoes at the Prestige Shoe Company, Wilkes-Barre, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3378). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of Prestige Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Prestige Shoe Company declined for three consecutive quarters from the second quarter to the fourth quarter of 1976. Employment declined 16 percent in the fourth quarter of 1976 compared to the third quarter of the same year and declined one percent compared to the fourth quarter of 1975. Employment in January 1977 was 20 percent less than employment in January 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at the Prestige Shoe Company declined for four consecutive quarters from the second quarter of 1976 to the first quarter of 1977. In the first quarter of 1977, sales declined 9 percent in quantity compared to the fourth quarter of 1976 and declined 66 percent compared to the first quarter of 1976.

Production approximates sales data since production is based on orders received.

INCREASED IMPORTS

Imports of women's nonrubber footwear increased relative to domestic production and consumption from 107.6 percent and 51.8 percent, respectively, in 1974 to 119.1 percent and 54.4 percent, respectively, in 1975. In 1976, imports as a percentage of production and consumption declined respectively to 108.8 percent and 42.1 percent.

Imports of women's nonrubber footwear increased from 192.9 million pairs in 1972 to 206.2 million pairs in 1973. Imports declined to 183.5 million pairs in 1975 but increased to 183.8 million pairs in 1976.

CONTRIBUTED IMPORTANTLY

Customers of the Prestige Shoe Company indicated they increased purchases of imported women's shoes relative to purchases from the Prestige Shoe Company in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's shoes produced by Prestige Shoe Company contributed importantly to the total or partial separations of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of the Prestige Shoe Company, Wilkes-Barre, Pennsylvania, who became totally or partially separated from employment on or after August 21, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14762 Filed 5-23-77;8:45 am]

[TA-W-1540]

REYNOLDSVILLE INDUSTRIES, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trader Act of 1974 the Department of Labor herein presents the results of TA-W-1540: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 3, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing boys' knit shirts at the Reynoldsville, Pennsylvania plant of Reynoldsville Industries, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3379). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Reynoldsville Industries, Incorporated, its customers, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Reynoldsville plant decreased 72.7 percent in 1975 compared to 1974 and increased 8.3 percent in 1976 compared to 1975. Comparing the fourth quarter of 1976 with the same quarter of 1975, employment decreased 85.7 percent and average weekly hours worked decreased 21.6 percent. The plant closed down and most employees were laid off from October 1976 to January 1977.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales decreased 60.9 percent in quantity and 58.4 percent in value in 1975 compared to 1974. Comparing 1976 to 1975, sales increased 7.4 percent in quantity and 26.7 percent in value. Sales decreased 46.0 percent in the fourth quarter of 1976 compared to the same quarter of 1975. Sales equal production.

INCREASED IMPORTS

Imports of men's and boys' knit sport and dress shirt were 41,700,000 units in 1971, 67,200,000 units in 1972, 78,800,000 units in 1973, 54,900,000 units in 1974, and 66,200,000 units in 1975. Imports for the first nine months of 1976 compared to the same period of 1975 increased 13.2 percent, from 48,500,000 units in the first nine months of 1975 to 54,900,000 units in the same period of 1976. The percentage of imports to domestic production has been increasing from 17.8 percent in 1974 to 20.9 percent in 1975.

CONTRIBUTED IMPORTANTLY

Customers of Reynoldsville Industries, Incorporated decreased their purchases of boys' knit shirts from the subject firm and increased their imports of boys' knit shirts.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with boys' knit shirts produced at the Reynoldsville, Pennsylvania plant of Reynoldsville Industries, Incorporated contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Reynoldsville Industries, Incorporated of Reynoldsville, Pennsylvania who became totally or partially separated from employment on or after September 11, 1967 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14763 Filed 5-23-77;8:45 am]

[TA-W-1571]

ROCKWELL INTERNATIONAL

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1571: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 4, 1977 in response to a worker petition received on December 6, 1976 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers and former workers producing monochrome and color televisions at the Harvard, Illinois plant of Rockwell International. The investigation was expanded to include workers and former workers of the Chicago, Illinois Engineering Department of Rockwell International.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5454). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International, the Electronic Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Harvard, Illinois plant declined 32 percent in 1974 compared to 1973, declined 30 percent in 1975 compared to 1974, declined 19 percent in 1976 compared to 1975, and declined 6 percent in the January–February period of 1977 compared to the like period in 1976.

Employment in the engineering department of Chicago, Illinois decreased 12 percent in 1975 compared to 1974, and decreased 16 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of color televisions declined 29 percent in quantity in 1974 compared to 1973, increased 4 percent in 1975 compared to 1974, decreased 21 percent in 1976 compared to 1975, and decreased 41 percent in the January-February period of 1977 compared to the like period in 1976.

Company sales of monochrome televisions decreased 34 percent in quantity in 1974 compared to 1973, increased 56 percent in 1975 compared to 1974, decreased 28 percent in 1976 compared to 1975, and decreased 14 percent in the January-February period of 1977 compared to the like period in 1976.

Production of color televisions at the Harvard, Illinois plant decreased 38 percent in quantity in 1974 compared to 1973, decreased 19 percent in 1976 compared to 1975, and decreased 73 percent in the January–December period of 1977 compared to the like period in 1976.

Production of monochrome televisions at the Harvard, Illinois plant decreased 59 percent in 1974 compared to 1973, increased 32 percent in 1975 compared to 1974, increased 18 percent in 1976 compared to 1975, and decreased 27 percent in the January–February period of 1977 compared to the like period in 1976.

INCREASED IMPORTS

Imports of monochrome televisions decreased absolutely but increased relative to domestic production in 1973 compared to 1972, decreased absolutely but increased relatively in 1974 compared to 1973, and decreased both absolutely and relatively in 1975 compared to 1974. These imports increased 45 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 193.8 percent in 1975 to 311.3 percent in 1976.

Imports of color televisions, including combinations, increased both absolutely and relative to domestic production in 1973 compared to 1972, decreased absolutely but increased relatively in 1974 compared to 1973, and decreased absolutely but increased relatively in 1975 compared to 1974.

These imports increased 180 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 23.4 percent in 1975 to 55.0 percent in 1976.

CONTRIBUTED IMPORTANTLY

Company imports of color televisions increased 45 percent and Rockwell's domestic production decreased 19 percent in quantity in 1976 compared to 1975. Color televisions accounted for 41 percent of Rockwell International's total sales of televisions in 1976. The proportion of Rockwell International's total company sales in quantity of color televisions which were completed in Taiwan increased from 15 percent in 1975 to 28 percent in 1976.

Company imports of monochrome televisions decreased 29 percent and domestic production increased 18 percent in quantity in 1976 compared to 1975. However, company inventory of monochrome televisions increased 96 percent and company sales decreased 28 percent in quantity in 1976 compared to 1975. Production workers at the Harvard, Illinois plant are used interchangeably in the production of color and monochrome televisions.

The work of the Engineering Department is related to the work of the production facility and must be near that facility. As Rockwell has increased the percentage of total company production produced in Taiwan, it has also shifted engineering functions associated with the production of televisions to Taiwan.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that increases of imports of articles like or directly competitive with color and monochrome televisions produced at the Harvard, Illinois plant of Rockwell International contributed importantly to the total or partial separations of the workers of that plant and the Chicago, Illinois engineering department. In accordance with the provisions of the Act, I make the following certification:

All workers at the Harvard, Illinois plant and at the Chicago, Illinois Engineering Department of Rockwell International who became totally or partially separated from employment on or after November 29, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14764 Filed 5-23-77;8:45 am]

[TA-W-1527]

WELLINGTON LEATHER, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1527: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's leather jackets at Wellington Leather Incorporated, Peabody, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3381). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wellington Leather, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Annual employment at Wellington Leather increased 17 percent in 1975 from 1974 and decreased 12 percent in 1976 from 1975. All employees were laid-off by December 31, 1976.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Production figures prior to January 1975 were not available. Production by Wellington Leather declined 2 percent during January–September 1976 compared to January–September 1975. Production in the cutting department discontinued in September 1976. All production was terminated in December 1976.

INCREASED IMPORTS

Imports of leather coats and jackets increased 25 percent in value from 1974 to 1975—from $123.1 million to $154.3 million. Imports increased 6 percent during January–September 1976 compared to January–September 1975.

CONTRIBUTED IMPORTANTLY

Imports of leather garments have risen in the first nine months of 1976 and can be expected to rise faster because of special tariff concessions implemented on January 1, 1976. These tariff concessions allow 98 developing countries and 39 dependent territories of other nations in low wage areas to export a wide range of products including leather wearing apparel to the U.S. duty free.

Because of the leather apparel imports from these low wage areas Wellington could not operate at profitable levels and was forced to close.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with men's leather jackets produced by Wellington Leather, Incorporated contributed importantly to the separation of workers at that firm. In accordance with the provisions of the Act, I hereby make the following certification:

All workers of Wellington Leather, Incorporated, Peabody, Massachusetts who became totally or partially separated from employment on or after August 21, 1976 and before January 16, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14765 Filed 5-23-77;8:45 am]

[TA-W-1579]

WILLIAM ATKIN CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1579: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 18, 1977 in response to a worker petition received on January 18, 1977 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's shirts at William Atkin Company, Inc., Allentown, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5457). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of William Atkin Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 7 percent in 1976 compared to 1975. Employment declined 13.9 and 29.4 percent in the third and fourth quarters of 1976 compared to the same quarters in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales decreased 29.4 percent in quantity and 26.4 percent in value in 1976 compared to 1975. Sales increased 29 percent in the first quarter and decreased 23.8 percent, 40.8 percent, and 56.1 percent in the second, third, and fourth quarters of 1976, respectively, compared to the same quarters in 1975.

Production of men's shirts decreased 22.4 percent in quantity in 1976 compared to 1975. Production declined 2.5, 44.3, and 58.4 percent in the second, third, and fourth quarters of 1976, respectively, compared to the same quarters in 1975.

INCREASED IMPORTS

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased from 41.7 million units in 1971 to 78.8 million units in 1973 before declining to 54.9 million units in 1974. Imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased to 66.2 million units in 1975, an increase of 20.6 percent over 1974 and further increased to 74 million units in 1976, an increase of 11.8 percent over 1975.

U.S. imports of men's and boys' woven dress and business shirts declined in each year from 86.8 million units in 1971 to 30.8 million units in 1975. Imports of men's and boys' woven dress and business shirts increased to 64.3 million units in 1976, an increase of 108.7 percent over 1975.

U.S. imports of men's and boys' woven sport shirts decreased from 63.3 million units in 1971 to 41.6 million units in 1973 before increasing to 49.4 million units in 1974 and to 61 million units in 1975. Imports of men's and boys woven sport shirts increased to 79.8 million units in 1976, an increase of 30.8 percent in 1976 compared to 1975.

CONTRIBUTED IMPORTANTLY

A representative sample of customers from the William Atkin Company revealed that several increased their imports of men's shirts in 1976 compared to 1975 while decreasing their purchases from the William Atkin Company, Inc., of Allentown, Pennsylvania.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's shirts produced at the Allentown, Pennsylvania plant of the William Atkin Company, Inc., contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Allentown, Pennsylvania, plant of the William Atkin Company, Inc., who became totally or partially separated from employment on or after April 16, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14766 Filed 5-23-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

SCIENCE INFORMATION ACTIVITIES TASK FORCE

Part Open Meeting

In accordance with the Federal Advisory Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Science Information Activities Task Force.
Date: June 9 and 10, 1977.
Time: 9:00 a.m. thru 4:00 p.m., both days.
Place: Room 543/540 National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.
Type of meeting: Open—9 a.m. to 2 p.m. June 9; Closed—2 p.m. to 4 p.m., June 9; Open—9 a.m. to 4 p.m. June 10.
Contact: Mr. Robert S. Cutler, Executive Officer, Room 1201, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632–5826. Persons planning to attend should notify Mr. Cutler prior to the meeting.
Summary Minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of the Task Force: To provide advice and recommendations concerning the appropriate roles and responsibilities of the National Science Foundation regarding the communication and use of scientific and technical information.

AGENDA: THURSDAY, JUNE 9, 1977, ROOM 543

9 a.m.	Welcome and Introductory Remarks, Acting Assistant Director, Scientific, Technological and International Affairs.
9:15 a.m.	Introductory Remarks, Chairman.
9:30 a.m.	Invited Presentations, Chairman.
10:15 a.m.	Coffee Break.
11:30 a.m.	Outline of Material for Final Report, Staff Consultant.
12 m.	Recess.
1 p.m.	Open Public Participation, Chairman.
2 p.m.	Closed Session, Room 517, Chairman.
4 p.m.	Adjourn.

AGENDA: FRIDAY, JUNE 10, 1977, ROOM 540

9 a.m.	Introductory Remarks, Chairman.
9:15 a.m.	Task Force Discussion, Chairman.
10:30 a.m.	Coffee Break.
10:45 a.m.	Committee Meetings: A. Science/Technology Committee, Room 540; B. Markets Committee, Room 543; C. Leg & Reg Committee, Room 540, Rear; D. Uses Committee, Room 517.
12 m.	Recess.
1 p.m.	Discussion on Final Report and Task Force recommendations.
4 p.m.	Adjourn.

Reason for closing: The Task Force will be conducting deliberations on and formulation of proposed confidential advice and recommendations for presentation to the Director, NSF. The premature disclosure of the intended content would be likely to affect significantly the proposed Task Force action. These matters are within exemption 9(B) of the Government in the Sunshine Act, section 552b(c) 5 U.S.C.

Authority to close meeting: This determination was made by the Director NSF, on May 18, 1977, pursuant to provisions of section 10(d) of Pub. L. 92–463.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 18, 1977.

[FR Doc.77-14780 Filed 5-23-77;8:45 am]

ADVISORY PANEL FOR GENETIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Genetic Biology.

DATE AND TIME: June 9–11, 1977, 9 a.m.–6 p.m. each day.

PLACE: National Science Foundation, 1800 G Street NW., Washington, D.C. Room 517.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Dr. J. Christopher Cordaro, Program Director, Genetic Biology, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202–632–5985.

PURPOSE OF PANEL: To povide advice and recommendations concerning support for research in Genetic Biology.

AGENDA: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: May 19, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-14713 Filed 5-23-77;8:45 am]

ADVISORY PANEL FOR REGULATORY AND DEVELOPMENTAL BIOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub.

L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Panels for Regulatory and Developmental Biology (joint meeting).

DATE AND TIME: June 9–11, 1977, 9 a.m. to 6 p.m. each day.

PLACE: Room 321, National Science Foundation, 1800 G Street NW., Wasington, D.C.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Dr. Laurence Berlowitz, Special Assistant to the Division Director, Room 506, National Science Foundation, Washington, D.C. 20550, telephone 202–632–7867.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in cell biology.

AGENDA: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: May 19, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77–14714 Filed 5–23–77;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

INTERAGENCY COMMITTEE ON RURAL TELECOMMUNICATIONS

Meeting

Notice is hereby given that the Interagency Committee on Rural Telecommunications will hold its first meeting on May 26, 1977, at 9:30 a.m., at the Office of Telecommunications Policy, 1800 G Street NW., Room 712, Washington, D.C.

The purpose of the Committee is to identify regulatory and institutional barriers to the use of telecommunication technology for improvement of social services in rural areas. The Committee includes representatives from the following federal agencies: Department of Commerce; Department of Health, Education, and Welfare; Department of Labor; National Science Foundation; and the Office of Telecommunications Policy.

The first agenda item will be presentations by representatives of the Departments of HEW and Labor concerning discrepancies between urban and rural health care and employment opportunities. The second agenda item will be the organizational structure and distribution of responsibilities among subcommittees.

The meeting will be open to the public; any member of the public will be permitted to file a written statement with the Committee before or after the meeting.

Further information pertaining to the meeting may be obtained from Dr. Vincent Sardella, Office of Telecommunications Policy, Washington, D.C. 20504 (telephone: 202–395–3122).

Dated: May 20, 1977.

VINCENT SARDELLA,
Chairman.

[FR Doc.77–14895 Filed 5–23–77;8:45 am]

OHIO RIVER BASIN COMMISSION

BIG SANDY/GUYANDOTTE RIVER BASIN COMPREHENSIVE COORDINATED JOINT PLAN

Availability of Adopted Plan

Pursuant to Section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89–80), the Ohio River Basin Commission has adopted the Big Sandy/Guyandotte River Basin Comprehensive Coordinated Joint Plan for transmittal to the President and the Congress through the Water Resources Council.

Copies are available on request to the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc.77–14683 Filed 5–23–77;8:45 am]

PENSION BENEFIT GUARANTY CORPORATION

PRIVACY ACT OF 1974

Adoption of Routine Use

On November 17, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") gave notice (41 FR 50739) that it proposed to add a new routine use for an existing system of records, "Plan participant and beneficiary data—PBGC."

Interested persons were invited to submit written data, views, or arguments on or before December 17, 1976. No comments were received. The wording of the notice has been changed to clarify its meaning. Accordingly, the routine use is hereby adopted, with such changes, as set forth below.

STATEMENT OF ROUTINE USE

The following routine use applies to and is incorporated by reference into the "Plan participant and beneficiary data—PBGC" system of records maintained by the Pension Benefit Guaranty Corporation as published in the FEDERAL REGISTER on September 2, 1975 (40 FR 40498).

1. Routine Use—Employer Disclosures. Disclosure, in furtherance of proceedings under Title IV of the Employee Retirement Income Security Act of 1974, of plan participant and beneficiary data of a plan covered by Title IV to an employer maintaining the plan.

Issued in Washington, D.C., this 18th day of May, 1977.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc.77–14644 Filed 5–23–77;8:45 am]

PRESIDENT'S COMMISSION ON MENTAL HEALTH

MEETING

In accordance with section 10(A)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following Presidential Commission meeting scheduled to assemble during the months of June, 1977.

THE PRESIDENT'S COMMISSION ON MENTAL HEALTH

June 22, 1977; 10:00 a.m. to 4:00 p.m., Ceremonial Courtroom, Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102.

Open meeting.

Contact: Mary Ann Orlando, Special Assistant to the Chairperson, President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500, Tel. 202–456–7100.

Purpose: The President's Commission on Mental Health is a policy recommendation commission composed of 20 members representing a broad spectrum of interested and informed private citizens. The Commission was created by the President by Executive Order No. 11973 and was directed to identify the mental health needs of the nation. In particular, the Commission shall seek to identify: how the mentally ill, emotionally disturbed and mentally retarded are being served or underserved and who is affected by such underservice; projected needs for dealing with emotional stress during the next twenty-five years; ways the President, the Congress and the Federal Government may efficiently support the treatment of the underserved mentally ill, emotionally disturbed and mentally retarded; methods for coordinating a unified approach to all mental health services; types of research the Federal Government should support to further prevention and treatment of mental illness and mental retardation; roles of various educational systems, volunteer agencies and other people-helping institutions can perform to minimize emotional disturbance; and what programs will cost, when the money should be spent and how the financing should be divided among Federal, State and local governments, and the private sector. The

Commission shall conduct such public hearings, inquiries and studies as may be necessary, and shall submit a preliminary report to the President by September 1, 1977. A final report with recommendations and priorities shall be subsubmitted to the President by April 1, 1978.

Agenda: This meeting will be open to the public. Agenda items include discussion of recent public hearings and progress of task panels and staff work of the Commission.

Substantive program information may be obtained from: Mary Ann Orlando, Special Assistant to the Chairperson, The President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500, Tel. 202–456–7100.

Attendance by the public will be limited to space available.

Mary Ann Orlando will furnish upon request summaries of the meeting and a roster of the Commission. President's Commission on Mental Health, Room 121, Old Executive Office Building, Washington, D.C. 20500.

THOMAS E. BRYANT, M.D.
Chairperson and Executive Director, President's Commission on Mental Health.

JUNE 1, 1977.

[FR Doc.77–14657 Filed 5–23–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–13538]

LOST AND STOLEN SECURITIES PROGRAM

Designation of Entity To Receive Reports and Inquiries

AGENCY: Securities and Exchange Commission.

ACTION: Designation of Entity to Receive Reports and Inquiries.

SUMMARY: This action designates AutEx, Inc. to receive reports and inquiries required to be made with the Commission for a one year pilot period pursuant to section 240.17f–1, of the Lost and Stolen Securities Program.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549—202–755–1390.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the designation of AutEx, Inc. as the Commission's designee to receive reports and inquiries for which the Commission is the appropriate instrumentality under 17 CFR § 240.17f–1 pursuant to section 17(f) of the Securities Exchange Act of 1934, ("the Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94–29 (June 4, 1975)).

BACKGROUND

The Securities Acts Amendments of 1975 amended the Securities Exchange Act of 1934 by adding Section 17(f)(1). This Section mandates the Commission to promulgate rules to require certain institutions to report instances of missing, lost, stolen or counterfeit securities and to make inquiry with respect to securities coming into the possession or control of such institutions to ascertain whether the securities had been reported as missing, lost, stolen or counterfeit. Section 17(f)(1)(A) of the Act stated that reports and inquiries shall be made to the "Commission or other person designated by the Commission" and authorized the Commission to charge a reasonable fee for the operation of the program.

On December 10, 1976 the Commission adopted 17 CFR § 240.17f–1 establishing reporting and inquiry requirements with respect to missing, lost, stolen or counterfeit securities.[1]

In that release, the Commission solicited submissions of proposed systems from persons interested in serving as the Commission's designee. The Commission also published "Criteria for a Lost and Stolen Securities Reporting and Inquiry System" to aid in the development of proposed systems.[2] In response to the Commission's solicitation, several plans were submitted.[3]

DESIGNATION OF AUTEX, INC.

After analysis of the plans which were received, the Commission has determined that the submission by AutEx, Inc. ("AutEx") is the lowest cost, responsive and responsible bid. AutEx has proposed a system to receive reports and inquiries in a manner responsive to the Commission's solicitation in Securities Exchange Act Release No. 13053. AutEx has also addressed the Commission's "Criteria for a System to Implement a Lost and Stolen Securities Program" and has proposed a system flexible enough to react to future developments in the area.

Accordingly, the Commission has designated AutEx to receive reports and inquiries for which the Commission is the appropriate instrumentality under section 240. 17f–1 for the one year pilot period.

DESIGN AND OPERATION OF SYSTEM

Although detailed operating procedures will be disseminated prior to the effective date of section 240.17f–1, the following is a summary of the AutEx proposal:

The AutEx system would accept reports and inquiries by four means: telephone, teletype, mail or remote terminal. The user's right to access the system would be validated by means of special security procedures. All reports would be logged into a computerized record, and hardcopy confirmations would be periodically conveyed to the reporting institutions and the transfer agent for the security.

In the early months, when the data base is small compared to its eventual size, inquiry would entail manual lookups. During the same period, AutEx would evaluate the need and desirability of an on-line system in light of the early experience with the actual system operation. If an on-line system seems more desirable for the later stages of the pilot program, AutEx would develop such a system.

Any on-line system which AutEx would develop would provide access through telephone, telex, the mails and other means. Participants would normally gain access through their existing telephone equipment by dialing a toll-free number. An operator having on-line access to the computer by means of CRT/keyboard terminals would respond to the inquiry and generate hardcopy confirmation of the inquiry.

Participants who would require heavy use of the system would be provided direct access through their own computer terminals. The remote terminals provided would be similar to the system operators' CRT/keyboard terminals.

The proposed system would also allow reporting and inquiry by means of computer tape either remotely entered or hand delivered to a central data collection point.

PRINCIPLES OF DESIGNATION

AutEx has been chosen as the Commission's designee subject to its undertaking to comply with the following "Principles of Designation." These principles are the major responsibilities which AutEx is expected to undertake.[4]

The principles for designation are:

1. The designee shall implement Rule 17f–1 (17 CFR 240.17f–1), in accordance with the terms of its submission and at the rates specified therein, for a one year pilot program as set forth in its submission and the Commission's release.

2. The designee shall:

a. Receive report and answer inquiries for which the Commission is the appropriate instrumentality;

b. Maintain records of such reports and inquiries and furnish such records to institutions in accordance with the provisions of Rule 17f–1;

c. Convey receipt of reports to the transfer agents concerned where such transfer agents are not the reporting institutions; and

d. Collect fees, as approved by the Commission, from reporting institutions to defray the cost of the system:

[1] Securities Exchange Act Release No. 13053; 41 FR 54928 (December 16, 1976).

[2] *Id.*

[3] All plans which were submitted may be found in the Commission's public files under File No. S7–611.

[4] If AutEx is unwilling or unable to comply with the Principles of Designation, the Commission may designate another entity or take such other action as it may deem appropriate.

3. The designee shall maintain the capacity to:

a. Receive reports or inquiries by telephone, the mails, telex and other means;

b. Generate hard copy confirmation to the reporting institution with respect to any report or inquiry made by such institution; and

c. Retrieve records of inquiry by the name of the reporting institution as well as the particular security.

4. The designee warrants that all work shall be performed in a businesslike manner and in accordance with the highest standards.

5. The designee shall have the capacity to include in its data base all reports of missing, lost or stolen securities made prior to the effective date of Rule 17f–1 and shall include such reports as the Commission may direct.

6. The designee shall keep a current and true record, available for inspection by the Commission, with respect to each report, inquiry, confirmation, correction or other information received pursuant to this designation; the time of and means by which such report, inquiry or other information was received, the time of response, the means by which a response was given and the nature of the response. The designee shall make available for the Commission's inspection all records and accounts of amounts billed to reporting institutions, the basis for the bills, amounts received from reporting institutions and accounts on expenses incurred by the designee. Such records for any calendar year shall be kept for three years after the end of the calendar year. The designee shall make periodic reports to the Commission as the Commission deems appropriate and necessary.

7. All reports and inquiries received pursuant to Rule 17f–1, and all confirmations of such reports and inquiries, billing information and any other records maintained pursuant to this designation are the property of the Commission. The designee shall furnish to the Commission upon demand true, correct, complete and current copies of any or all, or any part of such records maintained pursuant to this designation.

8. The designee shall report to the Commission quarterly during the pilot program:

a. The number of reports and inquiries received during the quarter;

b. The number of inquiries regarding securities reported as missing, lost, stolen or counterfeit;

c. The dollar value of securities reported as missing, lost, stolen or counterfeit;

d. The number of reporting institutions which are direct subscribers;

e. Expenses incurred by the designee;

f. The amounts billed to reporting institutions; and

g. Any other information which the Commission may direct.

9. The Commission may direct that the designee shall carry out different or additional functions during the pilot program as it deems appropriate upon written notice to the designee.

10. The designee shall agree to any other reasonable conditions as the Commission may direct.

IMPLEMENTATION DATE

At the present time § 240.17f–1 is scheduled to become effective on July 1, 1977. However, if the Commission determines that its designee for the pilot program requires additional time to implement the system in an efficient manner, it may delay the start-up date further.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The Commission designates AutEx, Inc. to receive reports and inquiries required to be made to the Commission under § 240.17f–1, subject to the conditions contained herein, pursuant to the Securities Exchange Act of 1934 as amended, including sections 2, 10, 15, 17 and 23 thereof. The Commission finds that any burden upon competition imposed by this designation is necessary and appropriate in the public interest and for the protection of investors in order to implement a lost and stolen securities program pursuant to section 17(f) of the Act.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1977.

[FR Doc.77–14618 Filed 5–23–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1329]

ALABAMA

Declaration of Disaster Loan Area

Mobile County and adjacent counties within the State of Alabama constitute a disaster area because of physical damage resulting from flooding on April 22, 1977 through April 24, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 11, 1977, and for economic injury until the close of business on February 13, 1978, at:

Small Business Administration, Disaster Office, 908 South 20th Street, Birmingham, Alabama 35205.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 12, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–14643 Filed 5–23–77;8:45 am]

[Declaration of Disaster Loan Area No. 1327]

NORTH CAROLINA

Declaration of Disaster Loan Area

Buncombe County and adjacent Counties within the State of North Carolina constitute a disaster area because of physical damage resulting from heavy rainfall, and flash flooding which occurred on April 4, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 11, 1977, and for economic injury until the close of business on February 13, 1978, at:

Small Business Administration, Disaster Office, 230 South Tryon Street—Suite 700, Charlotte, North Carolina 28202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 12, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–14642 Filed 5–23–77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 122]

ASSISTANT ADMINISTRATOR FOR PROGRAM AND MANAGEMENT SERVICES

Authority To Amend A.I.D. Regulation 1

Pursuant to the authority delegated to me by Delegation of Authority No. 104 of November 3, 1961, as amended, from the Secretary of State (26 FR 10608), I hereby delegate to the Assistant Administrator for Program and Management Services the authority to waive, withdraw, and amend the provisions of A.I.D. Regulation 1.

This authority may be redelegated as the Assistant Administrator for Program and Management Services shall specify, and may be exercised by persons performing the functions of those officers in an "Acting" capacity.

Actions within the scope of this delegation heretofore taken by the official designated herein are hereby ratified and confirmed.

This delegation of authority is effective immediately.

Dated: May 11, 1977.

ROBERT H. NOOTER,
Acting Administrator.

[FR Doc.77–14624 Filed 5–23–77;8:45 am]

DEPARTMENT OF THE TREASURY

[Treasury Department Order No. 190; Revision 13]

SUPERVISION OF BUREAUS AND OFFICES, DELEGATION OF CERTAIN AUTHORITY, AND ORDER OF SUCCESSION IN THE TREASURY DEPARTMENT

1. The Deputy Secretary shall be under the direct supervision of the Secretary.

2. The following officials shall be under the supervision of the Secretary, and shall report to him through the Deputy Secretary:

- Under Secretary for Monetary Affairs
- Under Secretary
- General Counsel
- Assistant Secretary (Tax Policy)
- Commissioner, Internal Revenue Service
- Comptroller of the Currency
- Assistant Secretary (Legislative Affairs)
- Assistant Secretary (Economic Policy)
- Assistant Secretary (Domestic Finance)
- Assistant Secretary (Public Affairs)
- Executive Secretary

3. The following officials shall be under the supervision of the Under Secretary for Monetary Affairs, and shall exercise supervision over those officers and organizational entities indicated thereunder:

- Assistant Secretary (International Affairs)
  - Deputy Assistant Secretary for Trade and Investment Policy
  - Deputy Assistant Secretary for Commodities and Raw Materials
  - Deputy Assistant Secretary for International Monetary Affairs
  - Deputy Assistant Secretary for Developing Nations
  - Deputy to the Assistant Secretary for Saudi Arabian Affairs
  - Deputy to the Assistant Secretary and Secretary of International Monetary Group
  - Inspector General for International Finance
- (The Assistant Secretary (Domestic Finance) reports through the Under Secretary for Monetary Affairs for debt management purposes.)
  - Fiscal Assistant Secretary

4. The following officials shall be under the supervision of the Under Secretary, and shall exercise supervision over those officers and organizational entities indicated thereunder:

- Assistant Secretary (Administration)
  - Deputy Assistant Secretary
  - Office of Administrative Programs
  - Office of Audit
  - Office of Budget and Program Analysis
  - Office of Computer Science
  - Office of Equal Opportunity Program
  - Office of Management and Organization
  - Office of Personnel
- Chief Deputy to the Under Secretary (Enforcement and Operations)
  - United States Secret Service
  - Bureau of Alcohol, Tobacco and Firearms
  - Federal Law Enforcement Training Center
  - United States Customs Service
  - Bureau of Engraving and Printing
  - Office of Foreign Assets Control
- Treasurer of the United States
  - United States Savings Bond Division
  - Bureau of the Mint

5. The following officials shall exercise supervision over those officers and organizational entities indicated thereunder:

- General Counsel
  - Deputy General Counsel
  - Legal Division
  - Office of Director of Practice
  - Office of Tariff Affairs
- Assistant Secretary (Tax Policy)
  - Deputy Assistant Secretary for Tax Legislation
  - Deputy Assistant Secretary for Tax Policy Economics Office of Tax Analysis
  - Office of Tax Legislative Counsel (also part of Legal Division)
  - Office of International Tax Counsel (also part of Legal Division)
  - Office of Industrial Economics
- Assistant Secretary (Legislative Affairs)
  - Deputy Assistant Secretary (Legislative Affairs)
  - Office of Legislative Affairs
- Assistant Secretary (Economic Policy)
  - Deputy Assistant Secretary for Domestic Economic Analysis, Office of Financial Analysis
  - Deputy Assistant Secretary for International Economic Analysis
- Assistant Secretary (Domestic Finance) (also reports to Under Secretary for Monetary Affairs for management purposes.)
  - Deputy Assistant Secretary for Capital Markets Policy
    - Office of Securities Market Policies
    - Office of Capital Markets Legislation
  - Deputy Assistant Secretary for Urban Finance
    - Office of Municipal Finance
    - Office of New York City Finance
    - Office of Urban Economics
  - Deputy Assistant Secretary for Debt Financing
    - Senior Advisor (Debt Research)
    - Office of Government Financing
    - Office of Agency Finance and Market Policies
  - Office of Revenue Sharing
- Assistant Secretary (Public Affairs)
  - Deputy Assistant Secretary (Public Affairs)
  - Office of Public Affairs
- Fiscal Assistant Secretary
  - Deputy Fiscal Assistant Secretary
  - Bureau of Government Financial Operations
  - Bureau of the Public Debt
- Commissioner of Internal Revenue
  - Deputy Commissioner
  - Internal Revenue Service
- Comptroller of the Currency
  - First Deputy Comptroller
  - Office of the Comptroller of the Currency

6. The Deputy Secretary, the Under Secretary for Monetary Affairs, the Under Secretary, the General Counsel, and the Assistant Secretaries are authorized to perform any functions the Secretary is authorized to perform. Each of these officials shall perform functions under this authority in his own capacity and under his own title and shall be responsible for referring to the Secretary any matter on which actions should appropriately be taken by the Secretary. Each of these officials will ordinarily perform under this authority only functions which arise out of, relate to, or concern the activities or functions of or the laws administered by or relating to the bureaus, offices, or other organizational units over which he has supervision. Any action heretofore taken by any of these officials in his own capacity and under his own title is hereby affirmed and ratified as the action of the Secretary.

7. The following officers shall, in the order of succession indicated, act as Secretary of the Treasury in case of the death, resignation, absence, or sickness of the Secretary and other officers succeeding him, until a successor is appointed, or until the absence or sickness shall cease:

A. Deputy Secretary.

B. Under Secretary for Monetary Affairs.

C. Under Secretary.

D. General Counsel.

E. Assistant Secretaries, or Deputy Under Secretaries, appointed by the President with Senate confirmation, in the order in which they took the oath of office as Assistant Secretary, or Deputy Under Secretary.

8. Treasury Department Order No. 190 (Revision 12) is rescinded, effective this date.

Dated: May 17, 1977.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77–14641 Filed 5–23–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Order No. 36571]

IDAHO INTRASTATE FREIGHT RATES AND CHARGES, 1977

MAY 18, 1977.

In the matter of petition for investigation of intrastate freight rates and charges within the state of Idaho.

Present: Dale W. Hardin, Commissioner, to whom this matter has been assigned for action.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed April 27, 1977, petitioners, six common carriers by railroad [1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Idaho, request that this Commission institute an investigation of their Idaho intrastate freight rates and charges, under sections 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amount approved for interstate application by this Commission in Ex Parte No. 330.

[1] Burlington Northern Inc., The Camas Prairie Railroad Company; The Chicago, Milwaukee, St. Paul and Pacific Railroad Company; The Spokane International Railroad Company; Union Pacific Railroad Company, and Washington, Idaho and Montana Railway.

By application filed with the Idaho Public Utilities Commission, petitioners sought to make the increase granted in Ex Parte No. 330 applicable on Idaho intrastate traffic. Said Commission denied the application.

Petitioners contend that present interstate freight rates from, to, and within Idaho are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Idaho are not more favorable than for interstate traffic; that traffic moving under present Idaho intrastate rail freight rates and charges fails to provide its fair share of earnings; and, that the present Idaho intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Idaho and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of sections 3, 13, and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 330.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation into the lawfulness of intrastate rail freight rates and charges for the purpose of adjusting such rates and charges to those charged on similar traffic moving in interstate or foreign commerce. This Commission may act notwithstanding the laws or constitution of any State.

Wherefore, and good cause appearing therefore;

It is ordered, That the petition be, and it is hereby granted; and that an investigation under sections 13 and 15a of the Interstate Commerce Act be, and it is hereby, instituted to determine whether the Idaho intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 330; and to determine if any rates or charges or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, That all common carriers by railroad operating in the State of Idaho, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order be served upon each of the petitioners and respondents herein; that the State of Idaho be notified of the proceeding by sending copies of this order and of the instant petition by certified mail to the Governor of the State of Idaho and the Idaho Public Utilities Commission; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 13th day of May 1977.

By the Commission, Commissioner Hardin.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14615 Filed 5-20-77;8:45 am]

[Ex Parte MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Order

MAY 18, 1977.

At a Session of the Interstate Commerce Commission, Motor Carrier Leasing Board, held at its offices in Washington, D.C., on the 11th day of May 1977.

It appearing, That a petition has been filed by B & L Motor Freight, Inc. (MC-123255 and numerous subs) and Prunty Motor Express, Inc. (MC-29833 and Sub-No. 2), under common control, for waiver of paragraphs (a)(3) and (c) of Section 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057), concerning equipment leased between petitioners;

It further appearing, That petitioners maintain a jointly supervised program applying the same standards of inspection maintenance to equipment in accordance with the motor carrier safety regulations of the Department of Transportation;

It further appearing, That the Department offers no objection to granting the petition;

It further appearing, That no proceeding is pending involving the fitness of petitioners;

It is ordered, That waiver of paragraphs (a)(3) and (c) of Section 1057.4 be, and, it is hereby granted provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the motor carrier safety regulations of the Department of Transportation and that the petitioners remain in satisfactory compliance with these regulations and under common control.

By the Commission, Motor Carrier Leasing Board, Board Members Burns, Turkington, and Sibbald. (Member Joel E. Burns not participating.)

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14616 Filed 5-20-77;8:45 am]

[Notice No. 396]

Assignment of Hearings

MAY 19, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponement or hearings in which they are interested.

MC-C-7623, New England-New York Transport, Inc.—Investigation and Revocation of Certificates, now being assigned July 12, 1977 (1 day), at Boston, Massachusetts, in a hearing room to be later designated.

MC 142040 (Sub-1), Amber Delivery Service, Inc., now being assigned July 13, 1977 (3 days), at Boston, Massachusetts, in a hearing room to be later designated.

MC 140097 (Sub-1), C. V. Transportation, Inc., now being assigned July 18, 1977 (2 days), at Boston, Massachusetts, in a hearing room to be later designated.

MC 142263, Meteghan Trucking, Ltd., now assigned continued hearing July 20, 1977 (3 days), at Boston, Massachusetts, in a hearing room to be later designated.

MC 139999 (Sub-No. 15), Redfeather Fast Freight, Inc., now assigned July 7, 1977, at Omaha, Nebr., is canceled and application dismissed.

MC 106398 (Sub-766), National Trailer Convoy, Inc., application dismissed.

MC 116475 (Sub-No. 19), General Transportation, Inc., now assigned July 20, 1977, at Phoenix, Ariz., is canceled and transfered to Modified Procedure.

MC 100666 (Sub-394), Melton Truck Lines, Inc., now assigned June 1, 1977 at Albuquerque, New Mexico, hearing canceled.

MC 142785 Sub 1, Brotherly Love Express, Inc., now assigned June 7, 1977, at Philadelphia, Pa., will be held in the U.S. Customs House, Courtroom 300, 2nd and Chestnut Street.

MC 2229 Sub 11, Creger Freight Lines, Inc., now assigned June 8, 1977, at Philadelphia, Pa., will be held in the U.S. Customs House Courtroom 300, 2nd and Chestnut Street.

MC 95876 Sub 192, Anderson Trucking Service, Inc., now assigned June 1, 1977, at Birmingham, Ala., will be held in the Dept. of Labor Conference Room 1931 9th Avenue South.

MC 126305 Sub 81, Boyd Brothers Transportation Co., Inc., now assigned June 2, 1977, at Birmingham, Ala., will be held in the Dept. of Labor Conference Room 1931 9th Avenue South.

MC 116110 Sub 13, P. C. White Truck Line, Inc., now assigned June 3, 1977, at Birmingham, Ala., will be held in the Dept. of Labor Conference Room 1913 9th Ave., South.

MC 141991 Sub 2, James R. Blackmon, dba Blackmon Haulers, now assigned June 6, 1977, at Birmingham, Ala., will be held in the Dept. of Labor Conference Room 1931, 9th Avenue South.

MC 104123 Sub 79, Hohn Schutt, Jr., Inc., MC 108119 Sub 54, E. L. Murphy Trucking Co., Inc., and MC 108341 Sub 54, Moss Trucking Co., Inc., now assigned June 6, 1977, at Birmingham, Ala., will be held in the Dept. of Labor Conference Room 1931 9th Avenue South.

MC 142512 Ocean Breeze Transit Co., now assigned June 6, 1977, at Atlantic City, N.J., will be held in Westside Complex, Bet. Ill. and Marmora Avenues.

MC 22179 Sub 19, Freeman Truck Line, now assigned June 6, 1977, at Jackson Miss., will be held at the Jackson Hilton, 750 N. State Street, on June 7, 1977 will be held in the Chamber of Commerce Bldg., Board of Supervisors Meeting Room, Yazoo City, Mississippi; and on June 9, 1977 will be held in the Chamber of Commerce Meeting Room, Kosciusko, Mississippi.

MC 134922 Sub 226, B. J. McAdams, Inc., now assigned June 7, 1977, at San Francisco, Calif., will be held in the U.S. Court of Appeals, Courtroom 14, U.S. Courthouse and P.O. Bldg., 7th Street and Mission.

MC 135078 Sub 11, American Transport, Inc., now assigned June 9, 1977, at San Francisco, Calif., will be held in the Tax Court, Room 2021, Federal Bldg. and Courthouse, 450 Golden Gate Avenue.

MC 113906 (Sub-241), Erickson Transport Corp., now assigned continued hearing May 23, 1977 at Washington, D.C., has been postponed to July 12, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14768 Filed 5-23-77;8:45 am]

[Notice No. 169]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 24, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC-FC-77128. By application filed May 16, 1977, 2-G TRANSPORTATION, INC., 10 E. Minnesota Street, Savage, MN 55378, seeks temporary authority to lease the operating rights of H. B. NELSON & SONS, INC., P.O. Box 241, Alexandria, MN 56308, under section 210a(b). The transfer to 2-G Transportation, Inc., of the operating rights of H. B. Nelson & Sons, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14769 Filed 5-23-77;8:45 am]

[Notice No. 64]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 17, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 200 (Sub-No. 285TA), filed December 3, 1976. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, Mo. 64142. Applicant's representative: Rodger J. Walsh, Suite 1200, Temple Bldg., 903 Grand Ave., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities utilized by Ore-Ida Foods, Inc., at or near Greenville, Mich., to points in Colorado, Connecticut, Delaware, the District of Columbia, Kansas, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Oklahoma, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, and West Virginia, for 180 days. Supporting shipper: Ore-Ida Foods, Inc., Boise, Idaho 83707. The above-described request for authority was published in the FEDERAL REGISTER December 13, 1976, but such notice inadvertently omitted the destination State of New York. This authority, including New York, was granted by the Commission, Motor Carrier Board, by order entered February 7, 1977. Insofar as the authority to serve points in New York is concerned, any interested party may file a petition for reconsideration within 20 days from the date this notice is published. Send petitions for reconsideration to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 409 (Sub-No. 62TA), filed April 25, 1977. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, Nebr. 68979. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and liquid feed supplements*, in bulk, in tank vehicles, from the facilities of Rural America Products, at or near Omaha, Nebr., to points in Colorado, Wyoming, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert Everett, Traffic Manager, Rural America Products, 8990 West Dodge Street, Omaha, Nebr. 68114. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 720 (Sub-No. 33TA), filed April 22, 1977. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, Wis. 53963. Applicant's representative: Wayne W. Wilson, 329 W. Wilson St., P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen packaged potatoes and potato products* (except in bulk), from the facilities of Wiscold, Inc., at or near Beaver Dam, Wis., to points in Kentucky, Georgia, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wiscold, Inc., 11400 W. Burleigh St., Wauwatosa, Wis. 53222. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 1288 (Sub-No. 14TA), filed April 20, 1977. Applicant: LORAIN TRANSFER CO., INC., P.O. Box 173, Shreveport, La. 71101. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap and waste paper*, in bales, for recycling from points in Arkansas south and west of U.S. Highway

63, and points in Texas on and East of U.S. Highway 83, on the one hand, and, on the other, the plantside and facilities of Bird & Son, at or near Shreveport, La., for 180 days. Supporting shipper(s): Bird & Son, Inc., Washington St., East Walpole, Mass. 02032. Send protests to: District Supervisor Ray C. Armstrong, Jr., 9038 U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 2900 (Sub-No. 300TA), filed April 22, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32209. Applicant's representative: R. E. Allish (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk and those requiring special equipment), serving Newport, Tenn., as an off-route point in connection with applicants presently authorized regular routes, for 180 days. Supporting shipper(s): There are approximately thirteen (13) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 25562 (Sub-No. 30TA), filed April 25, 1977. Applicant: A. R. GUNDRY, INC., 85 Stanton St., Rochester, N.Y. 14611. Applicant's representative: William P. Fromm, 445 Earlwood Ave., Oregon, Ohio 43616. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubricating grease*, in bulk, in tank vehicles, from Buffalo, N.Y., to Sparrows Point, Md., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Battenfeld American, Inc., 1575 Clinton Street, Buffalo, N.Y. 14206. Send protests to: Mr. Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 1259, Syracuse, N.Y. 13202.

No. MC 72495 (Sub-No. 15TA), filed April 21, 1977. Applicant: DON SWART TRUCKING, INC., Box 49, Route 2, Wellsburg, W. Va. 26070. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granulated slag*, in bags, from the plantsite of H. B. Reed & Co., Inc., located at or near Cresap, W. Va., to points in that part of Ohio on and east of U.S. Highway 21 and points in Allegheny, Fayette, Greene, Washington, and Westmoreland Counties, Pa., for 180 days. Supporting shipper(s): H. B. Reed & Co., Inc., 8149 Kennedy Ave., Highland, Ind. 46322. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 103051 (Sub-No. 395TA), filed April 25, 1977. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue N., P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard*, in bulk, in tank vehicles, from Thomasville and Quitman, Ga., and Dothan, Ala., to St. Louis, Mo.; Bradley and Chicago, Ill.; Oklahoma City, Okla.; and Eagle Pass, Tex., for 180 days. Supporting shipper(s): Sunnland Foods, Inc., P.O. Box 1138, Thomasville, Ga. 31792. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 109689 (Sub-No. 310TA), filed April 20, 1977. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid adhesives and emulsified petroleum sizing*, in bulk, From: La Grande, Oreg., to Navajo, N. Mex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Borden Chemical, Division of Borden, Inc., 180 E. Broad St., Columbus, Ohio 43215. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 110525 (Sub-No. 1190TA), filed April 22, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maple sugar*, in bulk, in tank vehicles, from Newport, Vt., to Baltimore, Md., for 180 days. Supporting shipper(s): Doxsee Food Corporation, 8323 Pulaski Highway, Baltimore, Md. 21237. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111274 (Sub-No. 22TA), filed April 22, 1977. Applicant: ELMER C. SCHMIDGALL and BENJAMIN G. SCHMIDGALL, d.b.a. SCHMIDGALL TRANSFER, Box 249, Tremont, Ill. 61568. Applicant's representative: Frederick C. Schmidgall, Box 350, Morton, Ill. 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fencing and fencing materials, farm buildings, materials, and components of farm buildings*, between Morton, Ill., on the one hand, and all points in Arkansas on the other, under a continuing contract, or contracts, with Morton Buildings, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morton Buildings, Inc., Lyle Malinowski, Plant Manager, 252 W. Adams Street, Morton, Ill. 61550. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 112617 (Sub-No. 364TA), filed April 25, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Rd., Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except petrochemicals), in bulk, in tank vehicles, from the plant site of W. R. Grace & Company, at or near Owensboro, Ky., to Omaha, Nebr., for 180 days. Supporting shipper(s): Mr. B. G. Tucker, Traffic Coordinator, W. R. Grace & Company, Route No. 1, Highway 60 East, Owensboro, Ky. 42301. Send protests to: District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 112801 (Sub-No. 192TA), filed April 22, 1977. Applicant: TRANSPORT SERVICE CO., 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Gene Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Products of corn*, except feed and feed ingredients and oil, in bulk, in tank vehicles, from the plantsites and storage facilities of C.P.C. International at Argo, Ill., to points and places in the states of Connecticut, Delaware, Kentucky (except Louisville, Covington, and Bellevue), Michigan (except Grand Rapids, Benton Harbor, Buchanan, Detroit, Niles, St. Joseph, Sturgis, and Three Rivers), Tennessee, South Carolina, Alabama, North Carolina, and Georgia; (2) *Products of corn*, except feed and feed ingredients and oil, inedible, in bulk, in tank vehicles, from the plant site and storage facilities of C.P.C. International at Argo, Ill., to points and places in the states of Indiana, New York, Iowa, Ohio, New Jersey, Wisconsin, Pennsylvania, and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): C.P.C. International, Inc., Roger V. Haugen, Assistant Transportation Manager, International Plaza, Englewood Cliffs, N.J. 07632. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 112963 (Sub-No. 65TA), filed April 22, 1977. Applicant: ROY BROS., INC., 764 Boston Post Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sugar*, in bulk, in specially designed dump vehicles, from ports of entry on the International Boundary Line between the United States and Canada in New York, Vermont, and New Hampshire, to Cambridge and Fall River, Mass., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northeastern Brokerage, Inc., 308 Boylston Street, Boston, Mass. 02116. Send protests to: District Supervisor, John B. Thomas, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, Mass. 02114.

No. MC 113362 (Sub-No. 309TA), filed April 19, 1977. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, P.O. Box 429, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products* (except in bulk), in vehicles equipped with mechanical refrigeration, from the storage facilities utilized by M & M Mars, located at or near Hampden Township, Cumberland County, Pa., to Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. Restricted to the transportation of shipments originating at the above-named storage facilities utilized by M & M Mars and destined to the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M & M Mars, a division of MARS, Incorporated, High Street, Hackettstown, N.J. 07840. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 113528 (Sub-No. 29TA), filed April 26, 1977. Applicant: MERCURY FREIGHT LINES, INC., 67 Midtown Park East, P.O. Box 1247, Mobile, Ala. 36601. Applicant's representative: Dick Coats, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magazines, periodicals, and parts thereof*, from Dallas, Tex., to Hollywood, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Triangle Publications, TV Guide Division, Box 8228, Philadelphia, Pa. 19104. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 113751 (Sub-No. 19TA), filed April 22, 1977. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia St., P.O. Box 47, Waupaca, Wis. 54961. Applicant's representative: Edward Solie, Suite 100, Executive Bldg., 4513 Vernon Blvd., Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen packaged potatoes and potato products* (except in bulk), from the facilities of Wiscold, Inc., at or near Beaver Dam, Wis., to points in Georgia, Kentucky, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wiscold, Inc., 11400 W. Burleigh St., Wauwatosa, Wis. 53222. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 113908 (Sub-No. 398TA), filed April 21, 1977. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180 G.S.S., 2105 E Dale St., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Condensed citrus molasses distillers soluble*, in bulk, from: Roberta, Ga., to Tampa, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Monarch Wine Company of Georgia, P.O. Box 6847LS, Atlanta, Ga. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115322 (Sub-No. 132TA), filed April 25, 1977. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Rich Products Corp., at Buffalo, N.Y., to points in Maryland, Delaware, and the District of Columbia, for 180 days. Supporting shipper(s): Rich Products Corp., P.O. Box 245, 1145 Niagara St., Buffalo, N.Y. 14240. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 115904 (Sub-No. 73TA), filed April 20, 1977. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Neil Grover (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and masonry supplies*, from Pueblo, Colo., to Wyodock, Wyo., and Sutherland, Nebr., for 180 days. Supporting shipper(s): The Summit Pressed Brick & Tile Co., P.O. Box 533, Pueblo, Colo. 81002. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 115322 (Sub-No. 133TA), filed April 25, 1977. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen*, except in bulk, from Westbury, Long Island N.Y., to points in Maine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allied Bakers Co., Inc., 437 Railroad Avenue, Wesbury, N.Y. 11590. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 116073 (Sub-No. 354TA), filed April 21, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Travel trailers and 5th wheel travel trailers, trailers designed to be drawn by passenger automobiles*, from Wilderness Industries at or near Frankfort, Ind., and Prowler Industries at or near Crawfordsville, Ind., to all points in North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Ohio, Kentucky, Tennessee, Arkansas, Louisiana, and Mississippi, for 180 days. Supporting shipper(s): Fleetwood Enterprises, Inc., 3125 Myers Street, Riverside, Calif. 92503. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 118159 (Sub-No. 206TA), (Correction), filed March 30, 1977, published in the FEDERAL REGISTER issue of April 20, 1977, republished as corrected this issue. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 15366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Denver, Colo., to points in Illinois, Wisconsin, Indiana, Ohio, Michigan, Kentucky, Virginia, West Virginia, Pennsylvania, Delaware, New Jersey, New York, the District of Columbia, Rhode Island, Vermont, New Hampshire, Connecticut, Maine, Massachusetts, Tennes-

see, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Florida, and Maryland, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Colorado Beef Processors, 5590 High St., Denver, Colo. 80216. Send protests to: Joe Green, District Supervisor, Rm. 240 Old Post Office Bldg., 215 NW. Third St., Oklahoma City, Okla. 73102. The purpose of this republication is to include Connecticut in the territorial description.

No. MC 118159 (Sub-No. 209TA), filed April 25, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum containers*, from Tampa, Fla., to Birmingham, Ala.; Charlotte, N.C.; and Kenner, La.; and from Houston, Tex., to Kenner, La., for 180 days. Supporting shipper(s): Reynolds Metal Company, P.O. Box 27003, Richmond, Va. 23261. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 118318 (Sub-No. 29TA), filed April 26, 1977. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, Idaho 83651. Applicant's representative: Kenneth G. Berquist, P.O. Box 1775, 910 Main St., Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer and wine*, from Alameda, Los Angeles, Madera, Marin, Napa, Orange, Solano, Sonoma, and Stanislaus Counties, Calif., to points in Idaho south of the southern boundaries of Adams, Valley, and Lemhi Counties, Idaho, for 180 days. Supporting shipper(s): Boise Sales Co., 110 West 33d Street, Boise, Idaho 83704. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort St., Box 07, Boise, Idaho 83724.

No. MC 119160 (Sub-No. 9TA), filed April 25, 1977. Applicant: H. E. SPANN AND COMPANY, INC., P.O. Box 1111, Highway 49 East, Mt. Pleasant, Tex. 75455. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aggregates* from points in Morris County, Tex., to points in Louisiana (except points in Bossier, Caddo, De Soto, and Webster Parishes), for 180 days. Supporting shipper(s): Gifford-Hill & Company, Inc., P.O. Box 47127, Dallas, Tex. 75247. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 119560 (Sub-No. 13TA), filed April 25, 1977. Applicant: SOUTHERN BULK HAULERS, INC., P.O. Box 278, Harleyville, S.C. 29448. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Deerfield, S.C., to Atlanta, Augusta, Brunswick, Jesup, St. Mary's, and Savannah, Ga.; and Portsmouth and Richmond, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Coastal Abrasives and Filter Sand Co., P.O. Box 158, Hardeeville, S.C. 29927. Send protests to: District Supervisor Strotheid, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 119880 (Sub-No. 96TA), filed April 26, 1977. Applicant: DRUM TRANSPORT, INC., P.O. Box 2056, 617 Chicago St., East Peoria, Ill. 61611. Applicant's representative: B. N. Drum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol or alcoholic liquors, grain neutral spirits*, in bulk, in tank vehicles, from Delavan and Peoria, Ill., to Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hiram Walker & Sons, Inc., D. J. Anderson, General Traffic Manager, Foot of Edmund Street, Peoria, Ill. 61601. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 119555 (Sub-No. 13TA), filed April 25, 1977. Applicant: OIL AND INDUSTRY SUPPLIERS, LTD., P.O. Box 3500, 640 12th Ave., S.W. Calgary, Alberta, Canada T2P 2P9. Applicant's representative: R. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, in tank vehicles, from Green River, Wyo., to the port of entry on the United States-Canada International Boundary line at International Falls, Minn., for furtherance in foreign commerce to Shebandowan, Ontario, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roger Cohen, Resident Manager, Van Waters & Rogers Limited, 2030 Notre Dame Ave., Winnipeg, Manitoba, Canada. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 119741 (Sub-No. 70TA), filed April 27, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, RFD 2, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from a point at or near Darr, Nebr., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Ohio and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dugdale Packing Company, P.O. Box 166, Cozad, Nebr. 69130. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 119792 (Sub-No. 63TA), filed April 22, 1977. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, 3600 S. Western Avenue, Chicago, Ill. 60609. Applicant's representative: Carl L. Steiner, 39 S. La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen packaged potatoes and potato products*, (except in bulk), from the facilities of Wiscold, Inc., at or near Beaver Dam, Wis., to points in Georgia, North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wiscold, Inc., James H. Kuehn, President, 11400 W. Burleigh Street, Wauwatosa, Wis. 53222. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 123255 (Sub-No. 99TA) (Correction), filed April 14, 1977, published in the FEDERAL REGISTER issue of May 4, 1977, and republished this issue. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, *Fiberglas materials and fiberglas products, fibrous glass textile materials, fibrous glass textile products, plastic materials, and plastic products, fibrous glass mineral wool products*, from the plantsite and warehouse facilities of Owens-Corning Fiberglas Corporation at or near Newark, Ohio to points in the States of Arkansas, Louisiana, Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority Supporting shipper(s): Owen Corning Fiberglas Corporation, Case Avenue, Newark, Ohio 43055. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. and United States Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43125.

No. MC 123993 (Sub-No. 39TA), filed April 12, 1977. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, 1724 W. Mill Street, Crowley, La. 70526. Applicant's representative: Byron Fogleman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anyhydrous Ammonia* in bulk, in tank vehicles, from the plantsite of Farmland Industries, Inc., of Farmland, La., located near Pollock, La., to points and places in Texas located east of U.S. Highway 281, for 180 days. Supporting shipper(s): Farmland Industries, Inc., 3315 North Oak Trafficway, Kansas City, Mo. 64116. Send protests to: District Supervisor Ray C. Armstrong, Jr., 701 Loyola Avenue, 9038 U.S. Federal Bldg., New Orleans, La. 70113.

No. MC 126736 (Sub-No. 93TA), filed April 22, 1977. Applicant: FLORIDA ROCK AND TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* in bulk in shipper or water carrier tank vehicles. From Harris County, Tex., to Jacksonville, Fla., for subsequent export movement, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hess Oil Virgin Islands, Corp., 1 Hess Plaza, Woodbridge, N.J. 07095. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 128031 (Sub-No. 4TA), filed April 26, 1977. Applicant: GEORGE A. McFARLAND, D/B/A McFARLAND TRUCKING, P.O. Box 643, Austin, Minn. 55912. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Plastic pipe, fittings and accessories*, from Austin, Minn., to points in North Dakota, South Dakota, Montana, Iowa, Wyoming, Wisconsin, Illinois, Indiana, Michigan, Missouri, Ohio and Nebraska, for 180 days. Supporting shipper(s): Cretex Plastics division of the Cretex Companies, Inc., 8421 Wayzata Blvd., Minneapolis, Minn. 55426. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134387 (Sub-No. 47TA), filed April 27, 1977. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, Calif. 90280. Applicant's representative: Lucy Kennard Bell, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to separate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans and can ends*, from points in Alameda and San Bernardino Counties, Calif., to points in Pinal County, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Can Corporation, 8101 W. Higgins Road, Chicago, Ill. 60631. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 126736 (Sub-No. 94TA), filed April 22, 1977. Applicant: FLORIDA ROCK AND TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable cooking oil*, in bulk, in shipper or water carrier tank vehicles, from Marks, Miss., to Jacksonville, Fla., for subsequent export movement, for 180 days. Supporting shipper(s): Frito-Lay, Inc., P.O. Box 35034, Dallas, Tex. 75235. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 128220 (Sub-No. 16TA), filed April 25, 1977. Applicant: RALPH LATHAM, d/b/a LATHAM TRUCKING CO., P.O. Box 508, Burnside, Ky. 42519. Applicant's representative: Robert M. Pearce, P.O. Box 1111, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquets, and related items* from the plant site of Husky Industries, Inc., at or near Cookville, Tenn., to points in Maryland and Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, Ga. 30346. Send protests to: Elaine Newman, Interstate Commerce Commission, Suite 216 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 134959 (Sub-No. 8TA), filed April 25, 1977. Applicant: BEN-K TRUCKING, INC., North 6th Avenue and County Rd. 64, Greeley, Colo. 80631. Applicant's representative: Charles M. Williams, Suite 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Inedible meat scraps, meat meal, tankage, blood meal, and bone meal* in bulk, except in bulk, in tank vehicles, from the plantsite and storage facilities of Monfort Packing Co., a Division of Monfort of Colorado, Inc., located at or near Greeley, Colo., to points in Arkansas, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, Texas, restricted to transportation services performed under a continuing contract or contracts with American Commodity Corporation of Marshall, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Commodity Corporation, Box 699, Marshall, Mo. 65340. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 138512 (Sub-No. 17TA), filed April 27, 1977. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., dba WISCONSIN PROVISIONS EXPRESS, 3383 E. Layton Avenue, Cudahy, Wis. 53110. Applicant's representative: Allan J. Morrison (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products, imitation or synthetic cheese, and equipment, materials and supplies* used in the manufacture and display of cheese and cheese products (except commodities in bulk), (1) Between Logan Utah and Carthage and Monett, Mo., and (2) between Logan, Utah and points in Iowa and Wisconsin, under a continuing contract or contracts with L. D. Schreiber Cheese Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. D. Schreiber Cheese Co., Inc., P.O. Box 610, 425 Pine St., Green Bay, Wis., 54301. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 139584 (Sub-No. 8TA), filed April 20, 1977. Applicant: JOHN BUSCH, P.O. Box 211, Conyngham, Pa. 12819. Applicant's representative: Joseph F. Hoary, 121 S. Main Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal caps for glass containers, and raw materials* for the manufacture of metal caps for glass containers, from Hazleton, Pa., to points in the states of New York, New Jersey, Massachusetts, Connecticut, Maine, Maryland, Delaware, Virginia, North Carolina, Florida, Illinois, and California, for 108 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Continental Diversified Industries, White Cap Davision, Valmont Industrial Park, Hazelton, Pa. 18201. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 140855 (Sub-No. 3 TA) (Correction), filed February 9, 1977, published in the FEDERAL REGISTER issue of February 25, 1977, republished as corrected this issue. Applicant: TAB TRUCKING, INC., E. 3628 Syndicate Blvd., Spokane, Wash., 99202. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting:

Recycled garnet, magnesium and zinc oxide, in sacks and in bins, from Spokane County, Wash., on the one hand, to points in Idaho, North Dakota, South Dakota, Colorado, Missouri, Montana, Wisconsin, Kansas, Nebraska, Illinois, Minnesota, Iowa, Utah, California and Oregon, and Indiana on the other, under a continuing contract with Inland Zinc Company, for 180 days. Supporting shipper: Inland Zinc Company, Spokane Industrial Park, P.O. Box 3572 Ta, Spokane, Wash., 99220. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174. The purpose of this republication is to include additional destinations points which were previously omitted.

No. MC 141027 (Sub-No. 2TA), filed April 13, 1977. Applicant: ARMOND L. HART d/b/a PETE HART TRUCKING, 3328 North Grantland Avenue, Fresno, Calif. 93705. Applicant's representative: Edward L. Fanucchi, 2409 Merced Street, Suite 3, Fresno, Calif. 93721. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Onion and garlic planting and harvesting machines* transported on lowbed trailers specially built to accommodate shipper's equipment, between points in California and points in Nevada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gilroy Foods, Inc., P.O. Box 1088, Gilroy, Calif. 95020. Send protests to: District Supervisor Claud W. Reeves, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 142359 (Sub-No. 1TA), filed April 14, 1977. Applicant: PORT EAST TRANSFER, INC., 1800 S. Newkirk Street, Baltimore, Md. 21214. Applicant's representative: Harold G. Hernly, Jr., 118 N. St. Asaph St., Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Trailers*, (other than those designed to be drawn by passenger automobiles) containers and *chassis for containers*, between Baltimore, Md., and Norfolk, Va., and points in their commercial zones, on the one hand, and, on the other, Washington, D.C.; Wilmington, Charlotte, Greenville, N.C., and points in their commercial zones; points in Connecticut; Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia and West Virginia. (B) *Trailers*, designed to be drawn by passenger automobiles (except recreational vehicles), and *buildings*, in sections, (except prefabricated buildings), in initial movements, in truckaway service. From Baltimore, Md., and its commercial zones to Washington, D.C. and points in its commercial zone; points in Florida, Virginia, Pennsylvania, North Carolina, Michigan, Ohio, Georgia, Kentucky, New Jersey, Connecticut, Massachusetts, Indiana, New York, Vermont, West Virginia, Delaware, South Carolina, Tennessee and Rhode Island. (C) *Office and special purpose trailers*, in truckaway service, between Baltimore, Md., and its commercial zone, on the one hand, and, on the other, Washington, D.C., and points in its commercial zone; points in Delaware, Maryland, Massachusetts, New York, New York, New Jersey, Pennsylvania, West Virginia and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 30 days of operating authority. Supporting shipper(s): There are approximately fifteen (15) statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 142749 (Sub-No. 1TA) (correction), filed January 4, 1977, published in the FEDERAL REGISTER issue of January 27, 1977, republished as corrected this issue. Applicant: BUDDY L. INC., 804 N. Robers St., Irving, Tex. 75061. Applicant's representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lead*, from the plantsites of Dixie Metals Co., at Dallas, Tex., and Heflin, La., to the plantsites of General Battery Corp., at Selma, Ala., City of Industry, Calif.; Opa-Locka, Fla.; Frankfort, Ind.; Salina, Kans.; and Greer, S.C.; and (2) *Lead scrap and junk batteries*, from the plantsites of General Battery Corp., at Selma, Ala.; City of Industry, Calif., Opa-Locka, Fla., Frankfort, Ind.; Salina, Kans., and Freer, S.C.; to the plantsites of Dixie Metals Co., at Dallas, Tex., and Heflin, La., under a continuing contract with Dixie Metals Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dixie Metals Co., 3030 McGowan St., Dallas, Tex. 75202. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Rm 13C12, Dallas, Tex. 75242. The purpose of this republication is to correct the territorial description in part (2) of the above proceeding.

No. MC 143154 (Sub-No. 1TA), filed April 19, 1977. Applicant: ARTHUR E. PAMIN, JR. and STEVEN V. BIDLAKE d/b/a MOLITOR TRUCKING, 6450 Highway 10 West, Missoula, Mont. 59801. Applicant's representative: Charles A. Murray, Jr., 207A Behner Bldg., 3822 Third Avenue North, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, (1) from Azusa, Fairfield and Los Angeles, Calif., and points in its Commercial Zone, to points in Idaho; and (2) from Fairfield, Calif., to points in Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately five (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 143163 (Sub-No. 1TA), filed April 18, 1977. Applicant: RICHARDSON TRUCKING, INC., 330 East 8th Street, P.O. Box 967, Greeley, Colo. 80631. Applicant's representative: Winston A. Hollard, 5900 West Colfax, Suite 20, P.O. Box 967, Denver, Colo. 80214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, inedible meat, and meat by-products* (except hides and commodities in bulk, in tank vehicles), used as, or in the manufacture of animal feed and feed ingredients, from Denver, Fort Collins, Fort Morgan, Greeley, Grand Junction, Lamar, Rocky Ford, and Sterling, Colo.; and Scottsbluff, Nebr., and their commercial zones to Los Angeles, Calif.; Fort Dodge and Des Moines, Iowa; Crete, Fremont, Hastings, Lincoln, Milford, Omaha, and York, Nebr.; Independence, Kansas City, and St. Joseph, Mo.; Forest Grove, Hillsboro and Portland, Oreg.; and Jefferson, Wis. and their commercial zones. From Cherokee, Estherville, and Storm Lake, Iowa; Austin and Worthington, Minn.; and Sioux Falls, S. Dak., and their commercial zones to Denver, Colo., and its commercial zone, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Valley Feed and Provision Company, 923 D Street, Greeley, Colo. 80631. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 143165 (Sub-No. 1TA), filed April 25, 1977. Applicant: CHARLES W. McCLELLAND, d/b/a, McCLELLAND LUMBER TRANSPORTS, Route 3, Park Road Court, Union, Mo. 63084. Applicant's representative: Charles W. McClelland (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and blocking material*, from the lumber mill and yard of Merritt Lumber Company, Inc., near Steelville (Crawford County), Mo., to Portage, Burns Harbor, Gary, Valparaiso and Hammond, Ind.; to Chicago Heights, Ill., and points in the Chicago Commercial Zone, under a continuing contract or contracts with Merritt Lumber Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Merritt Lumber Company, Inc., Highway 8, 6 miles east of Steelville, Mo. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 143174 (Sub-No. 1TA), filed April 20, 1977. Applicant: KAPRI TRANSPORTATION CO., P.O. Box "G", Valley, Nebr. 68064. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, (1) From Davenport, Iowa to points in Missouri and Illinois; (2) From LaCrosse, Wis., to points in Minnesota and Iowa; and (3) From Winona, Minn., to points in Wisconsin and North Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert B. Pediur II, Operations Manager, Energy Engineering, Inc., 4777 West Lake Street, River Forest, Ill. 60305. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 143175TA, filed April 20, 1977. Applicant: JERRY BAUMFELD d/b/a, CONTINENTAL VAN LINE, 7332 Ethel Avenue, North Hollywood, Calif. 91605. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., Suite 106, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated, and lamps and shades*, from points in Los Angeles County, Calif., to points in Clark County, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately four (4) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143181TA, filed April 19, 1977. Applicant: ROMEO T. NADEAU, Baker Lake, New Brunswick, Canada. Applicant's representative: Robert L. Jalbert, P.O. Box 126, Fort Kent, Me. 04743. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Skidders* between ports of entry on the International Boundary Line between the United States and Canada in Maine and points in Aroostook County, Me., for 180 days. Supporting shipper(s): Jean M. Dube, St. Benoit, Packington, P.Q., Canada, Conrad Caouette, Baker Lake New Brunswick, Canada. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl St., Portland, Me. 04111.

No. MC 143182TA, filed April 22, 1977. Applicant: ED WHITE d/b/a WHITE TRUCKING, Route 1, Box 95, Atmore, Ala. 36502. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, from Columbus, Ga., to points in Baldwin, Escambia and Mobile Counties, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Atmore Truckers Association, P.O. Box 367, Atmore, Ala. 36502. Farmers Exchange, Inc., St. Nicholas Avenue, Brewton, Ala. 36426. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616—2121 Building, Birmingham, Ala. 35203.

No. MC 143196TA, filed April 25, 1977. Applicant: BOB RAINS HAULING, 14121 Randall Drive, Woodbridge, Va. 22193. Applicant's representative: John E. Gullette, 3960 N. Forestdale Avenue, Woodbridge, Va. 22193. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickup and delivery* in requested area of railroad piggy-back general commodities, excluding household goods and bulk petroleums; between Alexandria, Va., and the state of Virginia, North of Richmond, between Alexandria, Va. and the state of Maryland and the District of Columbia, for 180 days. Supporting shipper(s): Metro Shippers, Inc., 745 Slater Lane, Alexandria, Va. 22314. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue, N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 143205TA, filed April 26, 1977. Applicant: DAVE HAAS, INC., 203 E. Birch St., Thorp, Wis. 54771. Applicant's representative: David Haas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, ties, poles, posts and timber*, from: Marathon, Stanley, and Chippewa Falls, Wis., to: St. Cloud, Aitkin, Osseo, Duluth, Thief River Falls, Foreston, LaCrescent, Minneapolis, St. Paul, Mankato, Fairbault, Rochester, Winona and Moorhead, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Delmar Saw & Lumber Company, Inc., Rt. 1, Stanley, Wis. 54768, John C. Neely, 264 E. Marie Ave., West St. Paul, Minn. 55118. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 1515 (Sub-No. 225TA), filed April 25, 1977. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Suite 1602, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, beginning and ending at Youngstown, Ohio, and extending to Commodore Downs Race Course at Fairview, Pa., in round-trip special operations, over irregular routes, during the racing season of each year, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately five (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

WC 1317TA, filed April 26, 1977. Applicant: A. WALLACE LANE & BELVA D. KERBY DBA, IDAHO-PACIFIC NAVIGATION, 831 Riverview Blvd., Clarkston, Wash. 99403. Applicant's representative: A. Wallace Lane, P.O. Drawer 1185, Lewiston, Idaho 83501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Logs*, from ports and points along the Snake River and its tributaries below Asotin, Wash., to ports and points along the Columbia and its tributaries below Pasco, Wash., contract carriage by water using non-self propelled barges pushed by separate towing vessels, for 180 days. Supporting shipper(s): Timberjacks, Inc., Clarkston Industrial Park, Port of Clarkston, Clarkston, Wash. 99403. Triad Mining Company, Clarkston Industrial Park, Port of Clarkston, Clarkston, Wash. 99403. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14767 Filed 5-23-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Civil Aeronautics Board.

[MA–6 amending M–20]

CANCELLATION OF MEETING

MAY 19, 1977.

The May 24, 1977, meeting regarding Docket 29439, EDR–296, Reexamination of the Board's Policies Concerning Deliberate Overbooking and Oversales, announced on May 16, 1977, will not take place.

At the scheduled meeting time, the press of other commitments would permit the attendance of only two Board Members. Because the purpose of the meeting was to conduct agency business, which requires the presence of a quorum, it was decided to cancel the announced meeting and re-schedule it in the near future at a time which permits the attendance of a quorum number of Board Members.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: The following Members have voted that agency business requires that this meeting be cancelled and that no earlier announcement of the change was possible:

Acting Chairman Lee R. West
Vice Chairman Richard J. O'Melia
Member R. Tenney Johnson

Member G. Joseph Minetti was not present and did not vote.

[S–474–77 Filed 5–19–77;4:04 pm]

2

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 25826, May 19, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., May 26, 1977.

CHANGES IN THE MEETING:

Agenda items 1, 2, and 3 in the previous announcement are open to the public, and items 4 and 5 are closed to the public.

[S–476–77 Filed 5–20–77;9:25 am]

3

AGENCY HOLDING THE MEETING: Federal Election Commission.

DATE AND TIME: Wednesday, June 1, 1977, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. 20463.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, Telephone: 202–523–4065.

[S–472–77 Filed 5–20–77;9:26 am]

4

AGENCY HOLDING THE MEETING: Federal Election Commission.

DATE AND TIME: Thursday, May 26, 1977, at 10 am.

PLACE: 1325 K Street NW., Washington, D.C. 20463.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion of meeting open to the public:
I. Future meetings.
II. Correction and approval of minutes.
III. Advisory opinions:
A. AO 1977–17.
B. AO 1977–22.
C. AO 1977–31.
IV. Agency job classification actions.
V. Request for copies of campaign contribution reports in public records.

Portion of meeting closed to the public:
VI. Executive Session:
A. Personnel.
B. Presidential Primary Audit Report No. 5.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone: 202–523–4065.

[S–476–77 Filed 5–20–77;9:25 am]

5

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., June 1, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202–376–3012).

MATTERS TO BE CONSIDERED:

Consideration of Association Request for Board Consent to Retain an Employee Pursuant to the Provisions of section 5(d)(12)(B) of the Home Owners' Loan Act of 1933, as amended. No. 28, May 20, 1977.

[S–482–77 Filed 5–20–77;10:40 am]

6

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: 9:30 a.m., June 1, 1977.

PLACE: 320 First Street NW., Room 630.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202–376–3012).

MATTERS TO BE CONSIDERED:

Application for Permission to Change Office Location—Sunshine State Federal Savings and Loan Association, Plant City, Florida.
Reconsideration of Limited Facility Application—First Federal Savings and Loan Association of Chicago, Chicago, Illinois.
Consideration of Amendment of Holding Company Proposal (Amendment of § 584.-3(a)).
Consideration of Amendment of Charter—Change of Name—First Federal Savings and Loan Association of Hammonton, Hammonton, New Jersey.
Consideration of Amendments Relating to Service Corporations.
Consideration of Proposed Amendment Regarding Change in Corporate Title by Federally-Chartered Associations.
Limited Facility Application—Franklin Society Federal Savings and Loan Association, New York, New York.
Branch Office Application—Victoria Federal Savings and Loan Association, Victoria, Texas.
Branch Office Application—West Side Federal Savings and Loan Association of New York City, New York, New York.
Limited Facility Application—Coast Federal Savings and Loan Association, Los Angeles, California.
Limited Facility Application—Westchester Federal Savings and Loan Association, New Rochelle, New York.
Inner City Branch Office Application—Glendale Federal Savings and Loan Association, Glendale, California.
Branch Office Application—Glendale Federal Savings and Loan Association, Glendale, California.
Application for Extension of Time for Bank Membership and Insurance of Accounts—Blue Ridge Savings and Loan Association, Floyd, Virginia. No. 27, May 20, 1977.
Limited Facility Application—Great American Federal Savings and Loan Association, Oak Park, Illinois.

[S–481–77 Filed 5–20–77;10:40 am]

7

AGENCY HOLDING THE MEETING: Federal Power Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 23, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 25, 1977, 2 p.m.

CHANGE IN THE MEETING:

The following items have been added to the agenda upon the affirmative vote of Acting Chairman Watt, Commissioners Smith and Holloman:

P–14. Docket No. E–9578, Texas Power & Light Company.
P–15. Docket No. ER76–739, Kentucky-Indiana Power Pool Agreement.
M–1. Docket No. RM77–11, Corrections, Minor Revisions, and Clarifications to Certain Sections of Title 18 of the Code of Federal Regulations.

The following items have been added to the agenda upon the affirmative vote of Chairman Dunham, Commissioners Smith, Holloman and Watt:

G–14. Docket No. RP76–38, Arizona Electric Power Cooperative, Inc. and The City of Willcox, Arizona v. El Paso Natural Gas Company.
G–15. Docket No. RP72–6, El Paso Natural Gas Company.
G–16. Docket Nos. CP–75–131 and CP76–129, Mountain Fuel Supply Corporation; Docket No. CP76–94, Phillips Petroleum Company.
G–17. Docket No. CP77–38, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. and National Fuel Gas Supply Corporation.
G–18. FPC Gas Rate Schedule Nos. 554, 555, 556, 557, 559 and 560, Phillips Petroleum Company; FPC Gas Rate Schedule Nos. 537, 538, 539, 561, 562, 567, 569, 572, 576, and 577, Sun Oil Company.
G–19. Docket No. CI74–319, James M. Forgotson, Operator for Gulf Coast Venture.
G–20. Docket No. CI76–743, Ladd Petroleum Corporation.
G–21. Docket No. CS71–631, Eason Oil Company; Docket No. CS76–842, Devon Corporation.

[S–479–77 Filed 5–20–77;10:10 am]

8

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Friday, May 27, 1977, at 10 a.m., a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. Proposed purchase of computer peripherals by the Federal Reserve Bank of New York.
2. Request from the House Committee on Banking, Finance and Urban Affairs for the Board's comments on H.R. 1675, the "Regional Capital Development Banks Act".
3. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, May 19, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–480–77 Filed 5–20–77;10:40 am]

9

AGENCY HOLDING THE MEETING: Indian Claims Commission.

TIME AND DATE: 10:15 a.m., June 2, 1977.

PLACE: Room 660, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Dockets 64, 335, and 336, *Shawnee.*
Docket 272, *Creek.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006. Telephone (202–653–6184).

[S–475–77 Filed 5–20–77;8:45 am]

10

[USITC SE–77–34A]

AGENCY HOLDING THE MEETING: United States International Trade Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 25405, May 17, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., May 31, 1977.

CHANGES IN THE MEETING:

Additional agenda item (in closed session):

7. Selection of a Deputy General Counsel.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202–523–0161.

[S–470–77 Filed 5–19–77;1:21 pm]

11

AGENCY HOLDING THE MEETING: U.S. Railroad Retirement Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Page 25827, Thursday, May 19, 1977.

CHANGES IN THE MEETING TO BE HELD:

Additional item to be considered at the portion of the meeting open to the public:

(10) Release of information by the Board to Social Security for Supplemental Security Income purposes.

Additional items to be considered at the portion of the meeting closed to the public:

(11) Appeal to the Board of denial of waiver of recovery of overpayment, Millage and Sadie Martin.
(12) Appeal to the Board of denial of annuity application, Louis W. Jones.

[S–469–77 Filed 5–19–77;12:22 pm]

12

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

TIME AND DATE: 10:30 a.m., Thursday, May 26, 1977.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A—Personnel actions—None.
B—Consulting and personal service contracts—None.
C—Purchase awards:

1. Req. No. 822016—Reactor building stainless steel liners for Hartsville and proposed Phipps Bend Nuclear Plants.
2. Req. No. 546346—Rear-end dump trucks for Construction Services Branch warehouse, Muscle Shoals, Alabama.
3. Req. No. 143497—Indefinite quantity term contract for metallizing services for various steam plants.
4. Req. No. 821906—250-ton overhead traveling cranes for Hartsville and proposed Phipps Bend Nuclear Plant.
5. Req. No. 543367—Indefinite quantity term contract for ASTM A–53, A–106, and A–120 steel pipe, warehouse quantities.
6. Amendment to contract with Westinghouse Electric Corporation, for purchase of additional rotors for Gallatin, Shawnee, Kingston, and Johnsonville Steam Plants.
7. Req. No. 820181—480-volt unit substations for Hartsville and proposed Phipps Bend Nuclear Plants.
8. Resolution relating to ratification of award of contract for turbine blading for Colbert Steam Plant.
9. Req. No. 822237—Indefinite quantity term contract for reinforcing bar splicing materials for Hartsville Nuclear Plant.
10. Req. No. 820882 (Reissue)—Metal cable trays and fittings for Hartsville and the proposed Phipps Bend Nuclear Plants.
11. Req. No. 820350—480-volt motor control centers and lighting board for Hartsville and the proposed Phipps Bend Nuclear Plants.

12. Amendment to contract with General Electric Company for services of turbine and generator service engineers, mechanics, etc., for various projects.

13. Amendment to contract with Westinghouse Electric Corporation for services of turbine and generator service engineers, mechanics, etc., for various projects.

14. Amendment to contract with Brown Boveri Corporation, North Brunswick, New Jersey, for turbogenerators for Hartsville and proposed Phipps Ben Nuclear Plants.

15. Req. No. 820006 (Reissue)—Diesel engine-driven emergency power packages for Hartsville and proposed Phipps Bend Nuclear Plants.

D—Project authorizations:

1. No. 3229—Ammonia from coal demonstration.

2. No. 3225—Rebuild the Sturgis District-Eupora 46-kV Line for future 161-kV operation, increase the capacity of the Eupora, Mississippi, 46-kV Substation and convert to 60-kV operation.

E—Fertilizer items—None.

F—Power items:

1. Amendment to Option Agreement with Ewing-Northern Coal Association—option to purchase certain lands in Franklin, Hamilton, and Jefferson Counties, Illinois.

2. Lease and amendatory agreement with the City of Winchester, Tennessee—Winchester District Substation.

3. Lease and amendatory agreement with Gibson County Electric Membership Corporation—Rutherford Substation.

4. Letter agreement with Electric Plant Board of the City of Fulton, Kentucky—replacement of a 69-kV delivery point at TVA's Fulton Substation; and bill of sale and quitclaim deed conveying an 0.8-mile section of TVA's old Clinton-Fulton 69-kV Line to the distributor.

5. Deed conveying to East Mississippi Electric Power Association TVA's Scooba Substation site—Kemper County, Mississippi.

G—Real property transactions—None.

E—Unclassified:

1. Resolution relating to extension of employment at Colbert Steam Plant—Jake N. Berry.

2. Resolution relating to changes in designation of officers to certify vouchers.

3. Agreement among TVA, Tennessee Department of Education, and local school systems in the Phipps Bend Nuclear Plant Project area.

4. Adoption of supplemental resolution authorizing 1977 series B bonds.

5. Resolution authorizing the Chairman and certain executive officers to take further action relating to issuance and sale of 1977 series B bonds.

The Board will complete its quarterly review of current and anticipated conditions and costs affecting TVA's power operations and the adequacy of revenues to meet the requirements of the TVA Act and the tests and provisions of its bond resolutions; and to determine whether an adjustment of the rates and charges for the sale of electric power will be necessary during the quarter beginning July 1, 1977.

DATED: May 19, 1977.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-343-4537.

[S-477-77 Filed 5-20-77;9:25 am]

AGENCY HOLDING THE MEETING: United States Parole Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 17, 1977 42 FR 25405-6.

CHANGES IN THE MEETING:

At the Open Business Meeting scheduled for May 25, 1977 and continued on May 27, 1977 at 501 Primrose Road, Burlingame, Calif., as announced above, in addition to the matters listed on that announcement the following matter will be considered:

Item 35: Consideration of the submission of a recent report to the Attorney General entitled "Two-year Program for the Department of Justice—Parole Commission" and certain subject matter thereof.

AUTHORITY FOR THE CHANGE:

Resolution of a majority of United States Parole Commissioners adopted at a meeting held on May 20, 1977, at 320 First Street, Washington, D.C., and over a conference telephone circuit to the effect that agency business requires this addition and no earlier announcement of the change was possible.

CONTACT PERSONS FOR MORE INFORMATION:

M. E. Malin Foehrokolb (Washington, D.C.) 202-724-3117; Helen Monks Burlingame, California) 415-347-4737.

[S-487-77 Filed 5-20-77;3:46 pm]

federal register

TUESDAY, MAY 24, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

UPWARD BOUND PROGRAM; SPECIAL SERVICES FOR DISADVANTAGED STUDENTS PROGRAM; TALENT SEARCH PROGRAM

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 155—UPWARD BOUND PROGRAM

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This regulation governs the administration of the Upward Bound Program. Changes were made in the existing interim regulation to accommodate legislative changes made by the Education Amendments of 1976, Pub. L. 94-482.

EFFECTIVE DATE: Pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. Section 431(d) provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

DATES: Not Applicable.

ADDRESSES: Not Applicable.

FOR FURTHER INFORMATION CONTACT:

Barbara W. Freeman, Bureau of Postsecondary Education, 7th and D Streets, S.W., Regional Office Building 3, Room 3614, Washington, D.C. 20202, Telephone: 202-245-2511.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER of February 1, 1977 (42 FR 6078-6083) which amended the interim Upward Bound regulation to accommodate changes made in the program by the Education Amendments of 1976 and to clarify existing provisions. Interested persons were given thirty days in which to submit written comments, suggestions, or objections. The public was also invited to comment at the time the interim Upward Bound regulation was published in the FEDERAL REGISTER of May 14, 1976 (41 FR 20076-20086). The following is a summary of the comments received on the interim Upward Bound regulation and on the Notice of Proposed Rulemaking and the Office of Education's response to the comments.

1. § 155.4 ELIGIBLE PROJECT PARTICIPANTS

Comment. One commenter suggested that "and" be changed to "or" in paragraph (e) which stated that an individual is eligible to participate in a project if that individual "is from the target area and is attending a target school," since veterans who are dropouts do not reenter secondary school the fall semester which immediately follows participation in the summer residential component and veterans must satisfy all requirements of this section. The commenter felt not to make such a modification would eliminate the veterans' components.

Response. Paragraph (e) has been modified accordingly.

Comment. Numerous comments suggested that exemptions from the age limitation and the eligibility requirements be provided for veterans.

Response. No change has been made. The Upward Bound Program is designed to serve youths from low-income families. Veterans must meet the same eligibility requirements as other project participants.

Comment. Numerous comments suggested that the income eligibility requirement of § 155.4(c) was too restrictive in high cost areas.

Response. The Office of Education has adopted the standards for low-income family level set forth in the "Current Population Reports," Series P. Bureau of the Census, U.S. Department of Commerce. These standards are more liberal than those which were previously employed.

2. § 155.5 SUMMER RESIDENTIAL, ACADEMIC YEAR, AND VETERANS' COMPONENTS

Comment. One commenter, on behalf of 11 members of an advisory council to an Upward Bound project, objected to requiring nonresidential summer components to provide three meals a day. The commenter suggested that the provision of three meals a day should be required only when judged by the project director to be in the best interest of the enrollees and their families.

Response. No modification was made. Participants in nonresidential summer components are entitled to the same benefits and services as participants in summer residential components.

Comment. Several comments objected to the residential requirement of the summer residential component.

Response. The requirement has been modified to permit up to 10 percent of the projects funded in any fiscal year to include applicants who have residential facilities but prefer nonresidential projects. No change has been made in the requirement that institutions without residential facilities available to them are othewise eligible. A requirement that all nonresidential projects must provide three meals a day has been added.

3. § 155.8 FUNDING CRITERIA

Comment. Several commenters raised questions regarding the type of assessment instruments which can be employed to determine growth in project participants' academic skills. They objected to the requirement of § 155.8(c) (2) (i) and (ii) that standardized tests be employed.

Response. No change has been made. The purpose of the Upward Bound Program is the development of skills and motivation for success in education beyond high school. Certain standardized tests are universally recognized as requirements for admission to postsecondary schools. The Office of Education believes that these tests are necessary indicators of the success which a project participant will have in gaining admission to postsecondary schools.

Comment. One comment suggested that in evaluating proposals under § 155.8(d), weights should be assigned to each question on the application, rather than to the category under which a group of questions falls.

Response. No change has been made. The Office of Education believes that the total concept, such as project design, should be evaluated rather than the individual parts of which it is composed.

4. § 155.9 PROGRAM REQUIREMENTS

Comment. Several commenters objected to the requirement that a project make every effort to recruit a student body which reflects within a ten percent variance the ethnic/racial composition of the eligible students who are enrolled in target schools. In the view of these commenters, the requirement would prevent a project from focusing on the needs of a specific community.

Response. No change has been made. The purpose of this requirement is to ensure that projects are not designed to serve an exclusive racial or ethnic group and that recruitment efforts are not restricted in this regard.

5. § 155.11 ALLOWABLE COSTS—STIPENDS

Comment. Several comments suggested that the section on allowable costs be expanded to include such terms as medical expenses and gym clothes.

Response. The section has been amended to include insurance to cover the costs of an injury to an enrollee while he or she is participating in a project activity and medical insurance for the enrollee during full-time participation in the summer residential component. Clothing is not an allowable cost of an Upward Bound project.

In order to clarify the existing provisions, the following changes were also made.

6. § 155.6 ELIGIBLE APPLICANTS

Paragraph (b) of this section has been modified to require that an agency must be established or designated prior to the submission of the application. The investiture of responsibility for administering the project in one of the participating institutions or the agency established or designated by the institutions shall also occur prior to the filing of an application for funds.

Modifications have been made throughout the regulation to specify income to be the family taxable income. Other technical and typographical changes have also been made in the regulation.

After consideration of all comments, Part 155 of Title 45 of the Code of Federal Regulations is amended to read as set forth below.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 13.492, Upward Bound.)

Dated: May 4, 1977.

ERNEST L. BOYER,
Commissioner of Education.

Approved: May 16, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 155 of Title 45 of the Code of Federal Regulations is amended to read as follows:

Sec.

155.1 Scope and purpose—general provisions.
155.2 Definitions.
155.3 Project size.
155.4 Eligible project participants.
155.5 Summer residential, academic year and veterans components.
155.6 Eligible applicants.
155.7 Applications.
155.8 Funding criteria.
155.9 Program requirements.
155.10 National demonstration projects.
155.11 Allowable costs—stipends.
155.12 Salary and wage rates.
155.13 Student records.
155.14 Travel.
155.15 Coordination of administration with other programs authorized by Title IV-A-4 of the Act.

AUTHORITY: Sec. 417A-417B, Title IV of the Higher Education Act of 1965 as amended by sec. 131(b), Title I, Pub. L. 92-318, 86 Stat. 258-259 (20 U.S.C. 1070d-1070d-1), Sec. 124 (b), Title I, Pub. L. 94-482, unless otherwise noted.

§ 155.1 Scope and purpose—general provisions.

(a) The regulations in this part govern the administration of the Upward Bound Program. Services provided under this program are designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, who may be physically handicapped, or who may be disadvantaged because of severe rural isolation, to enter, continue, or resume programs of postsecondary education. Projects under this program shall generate skills and motivation necessary for success in education beyond high school. Upward Bound projects provide a summer residential program during which participants receive (1) intensive instruction in basic academic skills, such as reading, public speaking and writing, mathematics and science, (2) guidance and counseling with regard to educational and career opportunities, and (3) a comprehensive counseling and enrichment program for the purpose of developing creative thinking, effective expression and positive attitudes toward learning. Such projects also provide, during the school year, tutoring and counseling services. The goal of the program and projects funded under this part is to increase the academic performance and motivational levels of eligible enrollees so that such persons may complete secondary school and successfully pursue postsecondary educational programs.

(b) Assistance provided under this part is subject to applicable provisions contained in subchapter A of this chapter relating to fiscal, administrative, and other matters (General Provisions for Office of Education Programs—45 CFR 100a).

(20 U.S.C. 1070d—1070d-1.)

§ 155.2 Definitions.

For the purpose of this part:

(a) "Act" means the Higher Education Act of 1965, as amended.

(20 U.S.C. 1001 *et seq.*)

(b) "Academic potential" means a capacity for success in post-secondary education which is documented by standardized measurement instruments or other verifiable indicators such as written recommendations from professional educators, counselors or employers.

(20 U.S.C. 1070d-1.)

(c) "Combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(20 U.S.C. 1141(j).)

(d) "Institution of higher education" means an educational institution as defined in section 1201(a) of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1141(a), 20 U.S.C. 1088(b)(1).)

(e) "Proprietary institution of higher education" means an educational institution as defined in section 491(b) of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1088(b)(3).)

(f) "State" means, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1141(b); 1088(a).)

(g) "Target area" means an area, having a high concentration of youths from low-income families, which will be served by an Upward Bound project.

(20 U.S.C. 1070d—1070d—1.)

(h) "Target school" means a secondary school which serves students residing in a target area.

(38 U.S.C. 101(2).)

(i) "Veteran" means a person who served in the active military, naval or air service of the United States.

(38 U.S.C. 101(2).)

(j) "Youth" means a person aged 14 through 27.

(20 U.S.C. 1070d—1070d-1, unless otherwise noted.)

§ 155.3 Project size.

(a) Except for National Demonstration projects, each project funded under this part shall serve between fifty and one hundred fifty participants. Participants may include students enrolled in target schools situated not more than 50 miles from the institution administering the project, dropouts from such secondary schools and veterans residing within the fifty mile radius. Upward Bound projects serving veterans shall be composed exclusively of veterans.

(b) The Commisioner may authorize exceptions to any limitations set forth in paragraph (a) of this section if it can be shown that such exceptions will not hinder the effectiveness of the project nor prevent the Upward Bound program from achieving its stated goals and objectives.

(20 U.S.C. 1070d-1.)

§ 155.4 Eligible project participants.

An individual is eligible to participate in a project funded under this part if such individual:

(a) Is a youth as defined in § 155.2(j);

(b) Is a citizen or national of the United States, or is in the United States for other than a temporary purpose and is, or intends to become, a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands;

(c) At the time of initial selection comes from a family whose taxable income does not exceed the low-income family level set forth in the "Current Population Reports," Series P-60, Bureau of the Census, U.S. Department of Commerce;

(d) Has academic potential but is unlikely to apply for admission to, or be accepted for enrollment in, an institution of postsecondary education because of a lack of preparation, or underachievement, or both, in secondary school;

(e) Is from the target area or is attending a target school, or is a dropout from a target school who has committed himself to re-entering secondary school in the fall semester which immediately follows participation in the summer component; and

(f) At the time of initial selection has completed the first year of secondary school and, except for veterans, has not entered the twelfth grade. For purposes of this part, "secondary school" means a school which provides secondary education as determined under State law except that it does not include any education provided beyond grade 12.

(g) A veteran is eligible to be served under this part if the veteran meets the eligibility requirements set forth in § 155.4 (a) through (f).

(20 U.S.C. 1070d-1.)

§ 155.5 Summer residential, academic year and veterans components.

(a) Except as provided in paragraphs (c) and (e) of this section, each project funded under this part shall consist of a summer residential component and an academic year component.

(b) A summer residential component shall be of at least six weeks duration. During the summer residential component, the project shall:

(1) Provide residential facilities, including room and board, in order that the activities listed in subparagraphs (b)(2) through (b)(7) can be effectively carried out;

(2) Provide to participants who have not completed secondary school, intensive basic skills development in those academic subjects required for secondary school graduation and postsecondary school admission;

(3) Provide intensive postsecondary orientation and preparatory instruction to participants who have graduated from secondary school and who intend to enroll at a postsecondary institution in the academic term following the summer residential component;

(4) Provide motivational activities through (i) individualized guidance and counseling, and (ii) such activities as field trips to museums, educational institutions, theaters, and movies that have as their purpose the intellectual, social and cultural development of such students;

(5) Provide a staff composed of (i) teachers from the target schools the participants are attending, (ii) postsecondary instructors from the host institution including graduate assistants, and (iii) other individuals with areas of specialization that will enhance the learning potential of participants;

(6) Provide tutor-counselors, that is, postsecondary school students who have demonstrated success in postsecondary education and who, preferably, have backgrounds similar to those of the participants; and

(7) Provide such other services that have as their purpose the educational preparation of participants for postsecondary admissions, including assisting participants in the preparation of admissions and financial aid forms and where necessary ensuring that participants take national standardized tests required for postsecondary admission.

(c) (1) A recipient need not meet the residential requirement of a summer residential component if:

(i) The recipient provides services and activities equivalent to those services and activities participants would receive from a summer residential component;

(ii) The recipient demonstrates a compelling need for the services under this part in the area to be served; and

(iii) Residential facilities are not available to the project in that area.

(2) Notwithstanding subparagraph (1) of this paragraph, in the case of not more than 10 percent of the projects funded, as determined by the Commissioner, a recipient need not meet the residential requirement of a summer residential component if it satisfies the conditions of clauses (i) and (ii) but not clause (iii) of that subparagraph.

(3) Projects that need not provide a residential component must provide their enrollees with three meals a day.

(d) During the academic year component a project shall:

(1) Provide to participants on a weekly basis individualized guidance, counseling and orientation in career opportunities and requirements for postsecondary education including preparation of admission and financial aid applications and preparation for national standardized tests required for postsecondary admission, and either (i) academic instruction and tutoring within the context of courses being studied by the student at the secondary school or (ii) activities such as field trips to museums, educational institutions, theaters, and movies that have as their purpose the intellectual, social and cultural development of such students.

The Commissioner may waive this requirement for a project serving students who are not accessible to the project location or staff because of distance. In such a case, however, the project shall provide the services enumerated in this subparagraph on a bi-weekly basis;

(2) Provide an on-going evaluation of each participant's progress toward achieving adequate academic skills and motivation necessary for success in postsecondary education, including an assessment of each participant's realistic postsecondary educational opportunities;

(3) Provide such other activities that have as their purpose the educational preparation of participants for postsecondary admissions which have the specific approval of the Commissioner; and

(4) Provide for a staff that is adequate to perform such activities.

(e) *Veterans' projects.*

The Commissioner may fund Upward Bound projects for veterans. Such projects shall:

(1) Provide intensive basic skills development in those academic subjects required for the successful completion of a high school equivalency certification program and for admission to postsecondary institutions or short-term remedial-refresher courses for those veterans who are high school graduates but who have delayed pursuing postsecondary education;

(2) Provide (i) individualized guidance and counseling, (ii) liaison with personnel of the Veterans Administration and State veterans agencies with regard to educational benefits for participants, and (iii) assistance in gaining admission to postsecondary educational programs and in obtaining financial aid where necessary;

(3) Engage (i) a full-time project director with demonstrated administrative skills and professional qualifications to conduct a special educational program for veterans and (ii) a staff, including tutoring personnel, that has adequate professional qualifications to teach veterans' equivalency programs and to carry out proposed activities and services;

(4) Provide the project director with sufficient latitude to conduct the project effectively and expend project funds as required;

(5) Provide no residential component and shall not pay stipends to participants; and

(6) Secure certification for the payment of veterans educational benefits by appropriate State and Federal agencies prior to the beginning of educational activities.

(20 U.S.C. 1070d–1.)

§ 155.6 Eligible applicants.

(a) The Commissioner is authorized to make grants to and contracts with institutions of higher education, combinations of such institutions, public and private agencies and, in exceptional cases, secondary schools and secondary vocational schools.

(b) A combination of institutions receiving a grant or contract under this part shall vest responsibility for the administration of that grant or contract in one of its participating institutions or in a public or private agency established or designated by the combination for that purpose. A combination of institutions or an applicant institution that wishes to designate an agency to carry out the project on its behalf must designate or establish that agency prior to the submission of its application. The combination of institutions must also vest responsibility for administering the project in one of the participating institutions or in the agency prior to such submission.

(c) A secondary school or secondary vocational school may receive funds under this part in the event no other applicant capable of providing such facilities is available in the geographic area to be served by the project and provided that the school has facilities for providing a summer residential component.

(20 U.S.C. 1070d–1.)

§ 155.7 Applications.

(a) Applicants for grants or contracts under this part shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such applications shall contain the following information and such other information as the Commissioner may from time to time prescribe:

(1) *Need.* (i) A geographic description of the target area; and

(ii) A documented description of the target schools in terms of the number of students enrolled in such schools from low-income families, the number and percentage of those students who subsequently enroll in postsecondary education, their ratio of students to counselors, their dropout rate, and an estimate of the number of enrolled students eligible to participate in an Upward Bound project.

(2) *Design.* (i) The number of participants and their grade levels to be served by the project;

(ii) A description of the applicant's plan for identifying and selecting eligible participants, assessing participants in terms of their academic potential for postsecondary education and their academic and motivational needs at the time of entry into the project, providing career and academic counseling and guidance, providing academic, cultural, social, and recreational services and activities, and evaluating each participant's progress toward achieving the academic skills and motivation needed for success in postsecondary education;

(iii) A description of the summer residential and academic year components which will show how the applicant will generate skills and motivation that will enable the participants to gain admission to postsecondary institutions. For applicants not proposing to include residential facilities in their summer residential component, the reasons for not including residential facilities, the compelling need for the project in the area to be served, and an explanation of how equivalent services will be provided; and

(iv) A description of the applicant's plan for evaluating the effectiveness of the project in terms of increasing participants' performance levels, motivating participants to enroll in postsecondary educational programs, and assisting them to obtain adequate financial aid; and

(3) *Resources and organization.* (i) A description of the applicant's plan to orient the target schools and postsecondary schools in the geographic area to be served to the goals of the Upward Bound project and utilize community and other resources to supplement authorized activities;

(ii) If the applicant previously carried out an Upward Bound project or a project that was comparable to an Upward Bound project, the applicant shall provide a description of that project, including the number of students served, the method used to select participants, the services offered, the number of such participants attaining a minimum of one year's growth in reading, communication skills, and mathematics, the number of participants who gained admission to postsecondary institutions, and any evaluation reports made on that project;

(iii) Evidence that an applicant has the resources, organization, and personnel to successfully carry out an Upward Bound project; and

(iv) A description of the project's staffing pattern, the required professional qualifications and experience, duties and salary range for each professional category, and the plan for staff selections and in-service training; and

(4) *Budget.* A detailed budget.

(b) Where the applicant is a combination of institutions of higher education, the applicant shall describe the role and function that each member of the combination will play in the operation of the project, and shall include written commitments from each institution that it will perform the activities ascribed to it.

(c) Applicants for veterans projects shall provide a description of the educational services and activities already available for veterans residing in the target area who do not possess a high school equivalency certificate in addition to the requirements set forth in subparagraphs (1), (2) (i), (ii), (iv), (3) (ii), (iv), and (4) (i) of paragraph (a), and paragraph (b), of this section.

(d) Applications for national demonstration projects shall, in addition to the requirements set forth in paragraphs (a) and (b) of this section, detail the innovative and experimental approaches to be taken in the provision of project services and shall otherwise provide the information needed to determine whether the project satifies the requirements of § 155.10.

(20 U.S.C. 1070d–1.)

§ 155.8 Funding criteria.

(a) *Continuation awards.* Priority will be given to a request for funds for the continuation of a project that (1) was begun in a prior fiscal year and (2) was approved for a multi-year work period that has not expired. (continuation award)

(b) *Conditions for approval.* Requests for continuation awards will be approved if:

(1) The need continues to exist for the services provided by the project;

(2) Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives, as indicated by site visits, progress reports and other relevant data;

(3) The project continues to offer promise of success in enabling youths to enter postsecondary education with an adequate academic background;

(4) All required reports have been received and accepted by the Commissioner; and

(5) Funds are available to continue the project.

(c) *New awards.* Except as provided in paragraphs (a) and (b) of this section, the Commissioner will select applicants to be funded for new awards under this part on the basis of the criteria set forth in 45 CFR 100a.26(b), as well as the following additional criteria:

(1) *Need.* (i) The number of youths who would be eligible to participate under this part who will be enrolled in the target schools or reside in the area to be served during the project period;

(2) *Design.* (i) The comprehensiveness of the applicant's plan for identifying and selecting eligible participants, assessing and documenting their educational need and potential for postsecondary education through the use of standardized measurement instruments, and such other evaluative methods the applicant may choose to use, providing career and academic guidance and counseling, preparing and motivating project participants for admission to postsecondary institutions, and assisting participants in applying for admission to postsecondary institutions which are appropriate for such participants' abilities and ambitions;

(ii) The extent to which the project will generate academic skills and motivation that will enable the participants to gain admission to postsecondary institutions and assist participants to attain a minimum of one year's growth, as measured by standardized measurement instruments stipulated in the application, in those academic skills such as reading, writing, mathematics and science which are essential for postsecondary education and in which participants are deficient; and

(iii) The quality of the applicant's plan to evaluate project services in terms of increasing participants' performance levels, motivating participants to enroll in postsecondary educational programs and assisting them to obtain adequate financial aid;

(3) *Resources and organization.* (i) The extent to which the applicant has provided for the orientation of target school and applicant staff to the goals and objectives of the Upward Bound Program and has provided for the utilization of community and other resources to supplement authorized activities;

(ii) The extent to which the applicant has the resources, organization, and personnel to successfully carry out an Upward Bound project; and

(iii) The quality of the applicant's plan to staff the project with personnel with appropriate qualifications and experiences to carry out proposed activities, and the plan for providing in-service training;

(4) *Budget.* (i) The reasonableness of the allocation of resources among project activities; and

(ii) The extent to which the proposed budget reflects the activities to be undertaken.

(d) In evaluating an application, the Commissioner will use the following weights:

(1) *Need:* 35 percent,

(2) *Design:* 30 percent,

(3) *Resources and Organization:* 30 percent, and

(4) *Budget:* 5 percent.

(e) In selecting applications for funding, the Commissioner will consider the need for a project in the area that the applicant proposes to serve as compared to the need of the total target population to be served.

(f) Except for veterans projects, preference will be given to those applicants for new awards that proposed to carry out a summer residential component.

(g) Special consideration will be given to those applicants for new awards that propose to serve veterans if the applicant will serve an area in which the needs of eligible veterans for the services provided under this part cannot adequately be met without the project.

(h) *National demonstration awards.* The Commissioner will select a limited number of applications to be funded as Upward Bound national demonstration projects on the basis of the criteria set forth in paragraph (c) and the following additional criteria:

(1) Whether the proposed project is national or inter-regional in scope, or presents a clearly new or experimental technique or design for the provision of Upward Bound services to eligible participants;

(2) Whether the proposed project duplicates or competes with existing re-

gional or national programs, or consolidates existing regional or inter-regional educational activities under the aegis of a single agency or institution;

(3) Whether, with regard to proposed projects presenting a new or experimental technique or design, the proposed activities and results can be readily replicated and utilized by other educational programs concerned with the provision of services for similar youths;

(4) Whether the proposed project will provide services not readily available on a local or regional basis for such youths; and

(5) Whether the proposed project will provide disadvantaged students a variety of educational opportunities and options for postsecondary education.

(20 U.S.C. 1070d–1.)

§ 155.9 Program requirements.

(a) Each project funded under this part shall be designed to assist in enabling youths with academic potential from low-income families with inadequate secondary school preparation, or who may be physically handicapped, or who may be disadvantaged because of severe rural isolation to complete secondary education and be prepared to successfully pursue postsecondary education; and shall:

(1) Develop and utilize objective procedures to identify participants from a variety of sources and select eligible participants on the basis of a comprehensive needs assessment. A comprehensive needs assessment shall include standardized and other instruments which will diagnose specific areas of academic strengths and weaknesses;

(2) Set specific objectives, stated in measurable terms, that each participant needs to attain in order to secure admission as a regular student at an institution appropriate to the individual's abilities and career ambitions;

(3) Engage a project director with demonstrated professional qualifications, administrative skills and a clear commitment to the goals of the program to serve in a full-time capacity. This full-time requirement may be waived: (i) if the individual chosen is selected to coordinate two or more programs as required under 155. 15(a), or (ii) if the individual must teach a minimum number of hours at the host institution to retain faculty status;

(4) Provide the project director with sufficient authority to conduct the project effectively and expend project funds as required;

(5) Design and implement an evaluation mechanism to test the effectiveness of (i) the project's progress in meeting approved goals and objectives, (ii) the project's efforts in remedying academic deficiencies diagnosed when students initially entered the project, and (iii) the project's activities which are designed to effect other changes in the academic and personal skills of project participants which are necessary for successes in post-secondary education;

(6) Assure that all the facilities of the host institution, both academic and non-academic, will be made available to all project participants;

(7) Utilize institutional and community resources to provide diagnostic health services to identify physical impediments to learning and to remedy those impediments;

(8) Implement a plan for following participants through their postsecondary educational program;

(9) Coordinate the project with other Talent Search, Upward Bound, Special Services and Educational Opportunity Centers projects operating in close geographic proximity, including, where feasible, the sharing of facilities, staff, services and activities;

(20 U.S.C. 1232c(b)(1).)

(10) Make every effort with regard to successful graduates from the project, to secure admissions, with adequate financial aid, to an institution of postsecondary education which is appropriate to such students' abilities and ambitions, if such graduates are unable to secure regular admissions at postsecondary institutions and if the project is administered by an institution of higher education, the project shall make every effort to secure special review from the admissions and financial aid personnel of the host institution for the purpose of reconsidering the students' admission at that institution; and

(11) Make every effort to provide that the ethnic/racial composition of the students served will reflect within a maximum ten percent variance the ethnic/racial composition of students eligible to be served by an Upward Bound project who are enrolled in target schools.

[Reserved]

(20 U.S.C. 1070d–1.)

§ 155.10 National demonstration projects.

(a) The Commissioner may reserve funds to conduct innovative and experimental Upward Bound projects.

(b) National demonstration projects shall:

(1) Be national or inter-regional in scope, or present a clearly new, or experimental technique or design for the provision of Upward Bound services to eligible participants;

(2) Neither duplicate nor compete with existing regional or national programs, nor consolidate existing regional or inter-regional educational activities under the aegis of a single agency or institution;

(3) Be readily replicated and utilized by other educational programs concerned with the provision of services and activities for similar youths;

(4) Provide services not readily available on a local or regional basis for such youth; and

(5) Provide disadvantaged youth a variety of educational opportunities and options for postsecondary education.

(20 U.S.C. 1070d–1.)

§ 155.11 Allowable costs—stipends.

(a) The Commissioner will pay those costs that are reasonably related to carrying out the project. Such costs may include:

(1) In-service training of project staff;

(2) The rental of space if space is not available at the sponsoring institution and if the space rented is not owned by the sponsoring institutions;

(3) Room and board expenses for Upward Bound participants computed on a weekly basis if the expenses are not more than the rates charged regularly enrolled students at the sponsoring institution during the summer session. In the event the host institution does not have a summer school operating at the same time as the Upward Bound project, room and board fees may be no higher than those fees charged regularly enrolled students during the academic year computed on a weekly basis;

(4) Student activity fees;

(5) Admission fees to educational activities, theaters, movies and other cultural events which have as their purpose the intellectual, social and cultural development of participants;

(6) Entertainment costs for project sponsored banquets, social activities and ceremonies;

(7) Meals and overnight accommodations for staff when required to accompany the project on field trips of more than one day;

(8) Tuition costs for not more than two credit bearing courses totaling 6 or less credit hours at the grantee institution for participants who have graduated from secondary school and who intend to enroll in postsecondary education in the fall semester following the summer in which the credit is earned;

(9) Insurance to cover the costs of an injury to an enrollee if the injury occurs while the enrollee is participating in a project activity and medical insurance for the enrollee while the enrollee is participating full time in the summer residential component; and

(10) Room and board for those persons responsible for dormitory supervision of project participants during summer residential phase.

(b) Costs that may not be supported by funds under this part shall include:

(1) The construction, modification, or major repairs of buildings or the purchase of land or buildings;

(2) The duplication of services specifically available to students at the institution or through such local facilities as vocational rehabilitation centers, medical clinics, and social service organizations;

(3) Research;

(4) Purchase of any equipment unless it is demonstrated that purchase is less expensive than renting;

(5) Meals for staff except as provided in subparagraphs (a)(3) and (a)(7) of this section;

(6) Clothing; and

(7) Room and board for administrative and instructional staff personnel who do not have responsibility for dormitory supervision of project participants during summer residential phase, unless approved by the Commissioner.

(c) Grantees under this part will be allowed indirect costs as authorized in accordance with item 4c, of Appendix A, of parts 100 thru 100d of this title.

(d) Projects shall provide stipends to all participants who are enrolled on an essentially full-time basis. Such payments shall not exceed a rate of $30 per month for the summer component or $20 per month for the academic year component except in exceptional cases, as determined by the Commissioner.

(20 U.S.C. 1070d–1.)

§ 155.12 Salary and wage rates.

(a) The salaries paid to project staff under this part shall be comparable to the salaries paid to persons with similar positions within the sponsoring institution.

(b) The minimum rate of compensation that may be paid to project employees, including students, shall be the minimum wage required under any applicable Federal, State, or local laws.

(20 U.S.C. 1070d–1.)

§ 155.13 Student records.

(a) Projects shall develop and utilize a data collection system which allows for accurate and accessible records.

(b) To document the progress of each student participating in the project, student files shall include, but are not limited to, the following:

(1) Rationale used to select individual participants, including records of interviews;

(2) High school transcripts and all available test scores;

(3) Documents pertaining to student eligibility as defined in § 155.4;

(4) Diagnostic analysis of the student's academic strengths and weaknesses at the time of entry into the project, and the program support developed to improve the student's skills;

(5) Documentation of counseling activity, such as records, family contacts, career explorations, college visits, and referrals;

(6) Documentation of the services provided, the measurements of progress, and other reports that relate to the academic and other types of assistance provided the student;

(7) A medical consent form signed by the student's parent(s) or guardian;

(8) Project efforts in assisting students in gaining admission to and financial assistance for attendance at postsecondary institutions;

(9) Project follow-up on students with particular emphasis on postsecondary enrollment and status;

(10) The recommendations made to the student upon the student's completion of the project regarding his educational and career potentials; and

(11) The reasons for a student's leaving the project if he left prior to enrollment in a postsecondary educational institution.

(c) Files for projects serving veterans shall include but are not limited to those records indicated in subparagraphs (1), (2), (3), (4), (6), (8), (9), (10) and (11).

(20 U.S.C. 1070d–1.)

§ 155.14 Travel.

In accordance with the cost principles set forth in Appendix C to parts 100 through 100d of this title, the following travel is authorized:

(a) Field trips for educational purposes which are in reasonable proximity to the project's regular location;

(b) Student travel to and from regularly scheduled project activities;

(c) Project staff travel to professional and educational conferences specifically related to project development and to Office of Education-sponsored meetings when approved in writing by the Commissioner;

(d) Transportation costs for formal visits to the campus of the sponsoring institution for parents, foster parents, or legal guardians of Upward Bound students, and overnight accommodation costs for such persons when necessary because of distance; and

(e) Other travel specifically approved by the Commissioner in writing and in advance of such travel.

(20 U.S.C. 1070d–1.)

§ 155.15 Coordination of administration with other programs authorized by Title IV–A–4 of the Act.

In addition to the requirements set forth in 45 CFR 100a.275 and § 155.9, if an applicant also requests funds to carry out one or more of the programs authorized by Title IV–A–4 of the Act, the application must reflect the following:

(a) Provide for a single, unified administrative program operation. In the event a Project Director of one of the projects subject to this provision is selected to serve as coordinator for two or more projects authorized by Title IV–A–4 of the Act, the salary of that individual must be prorated among the projects;

(b) Provision for separate program identities, activities and budget; and

(c) Consolidation of personnel and program functions to the fullest extent possible while still maintaining separate program identities.

(20 U.S.C. 1070d–1.)

[FR Doc.77–14504 Filed 5–23–77;8:45 am]

PART 157—SPECIAL SERVICES FOR DISADVANTAGED STUDENTS PROGRAM

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This regulation governs the administration of the Special Services for Disadvantaged Students Program. Changes were made in the existing Special Services for Disadvantaged Students regulation to accommodate legislative changes made by the Education Amendments of 1976, Pub. L. 94–482.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

DATES: Not applicable.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT:

Barbara W. Freeman, Bureau of Postsecondary Education, 7th and D Streets SW., GSA Regional Office Building 3, Room 3514, Washington, D.C. 20202, telephone 202–245–2511.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER of February 1, 1977 (42 FR 6083–6088), which amended the existing Special Services for Disadvantaged Students regulation to accommodate changes made in the program by the Education Amendments of 1976 and to clarify existing provisions. Interested persons were given thirty days in which to submit written comments, suggestions, or objections. The following is a summary of the comments received and the Office of Education's response to the comments.

1. § 157.2 DEFINITIONS

Comment. One commenter felt that the definition of "deprived economic background" in paragraph (2)(f) of this section was confusing and misleading. This commenter suggested that a required income level be defined and set forth in the regulation and that this definition should include such items as veterans' benefits and unemployment compensation.

Response. No modification has been made to the definition of "deprived economic background" since this is a definition of a condition rather than a definition of low-income. The only reference to income in the Special Services Program regulation is found in § 157.13 Student records. Appropriate modification has been made to paragraph (b)(3), which requires documentation supporting a student's eligibility to participate in the project. Only those students who are being served by reason of their deprived economic background are required to meet the income criteria prescribed by the Commissioner. New language has been added to state that, in making determinations as to the eligibility of such students, the family's taxable income shall be considered. Neither veteran's educational benefits nor unemployment compensation are considered as taxable income.

3. § 157.7 PROGRAM REQUIREMENTS

Comment. Several commenters indicated that the proposed regulation did

not clearly identify the individuals for whom projects must be designed.

Response. Paragraph (a) has been modified to make it clear that projects may be designed for any one of three groups: (1) Youths from low-income families who have academic potential but who lack adequate secondary preparation, (2) youths from low-income families who have academic potential but who are physically handicapped, and (3) youths from low-income families who have academic potential but who are disadvantaged because of severe rural isolation. This section identifies the groups for whom projects must be designed. Section 157.3 (Eligible Project Participants) sets forth the eligibility criteria for students who receive project services.

4. § 157.13 STUDENT RECORDS

Comment. One commenter suggested that paragraph (b)(2) of this section should be deleted since outdated high school records and test scores are often misleading.

Response. No modification has been made. The regulation requires that the students' academic and other needs be assessed at the time of selection for the project. The high school records, only one indicator of the students' performance, should be compared with, and evaluated in light of, the results of the needs assessment. All of these documents provide a baseline for measuring the students' progress while being served by the project. We recognize that high school records of persons recently graduated from high school are of greater use than those of students who have been out of high school for several years.

In order to clarify existing provisions the following changes were also made.

4. § 157.4 ELIGIBLE APPLICANTS

Paragraph (b) of this section has been modified to require that an agency which is established or designated by a combination of institutions to carry out a Special Services project must be so established or designated prior to the submission of the application. The investiture of responsibility for administering the project in one of the participating institutions or agencies established or designated by the institution shall also occur prior to the filing of an application for funds. Paragraph (c) of this section has been modified to require agencies which have written agreements with a combination of institutions to submit such agreements with the application for funds.

5. § 157.8 BILINGUAL EDUCATIONAL COMPONENTS

This section was formerly entitled Bilingual educational projects. Paragraph (a) has been modified to highlight the requirement that students served in projects with bilingual educational components must be students who satisfy the definition in the regulation (§ 157.2(l)) for "limited English-speaking ability."

Other technical and typographical changes have been made in the regulation.

After consideration of all comments, Part 157 of Title 45 of the Code of Federal Regulations is amended to read as set forth below.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.482, Special Services for Disadvantaged Students.)

Dated: May 4, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 16, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 157 of Title 45 of the Code of Federal Regulations is amended to read as follows:

Sec.

157.1 Scope, and purpose—general provisions regulations.
157.2 Definitions.
157.3 Eligible project participants.
157.4 Eligible applicants.
157.5 Applications.
157.6 Funding criteria.
157.7 Program requirements.
157.8 Bilingual educational components.
157.9 [Reserved]
157.10 National demonstration projects.
157.11 Allowable costs.
157.12 Salary and wage rates.
157.13 Student records.
157.14 Travel.
157.15 Coordination of administration with other programs authorized by Title IV-A-4 of the Act.

AUTHORITY: Sec. 417A-417B, Title IV of the Higher Education Act of 1965 as amended by sec. 131(b) of Title I, Pub. L. 92-318, 86 Stat. 258-259 and 88 Stat. 603-604. Sec. 124 (b), Title I, Pub. L. 94-482. (20 U.S.C. 1070d-1070d-1), unless otherwise noted.

§ 157.1 Scope and purpose—general provisions regulations.

(a) The regulations in this part govern the administration of the Special Services for Disadvantaged Students (Special Services) Program. Services under this program are designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, who may be physically handicapped, or who may be disadvantaged because of severe rural isolation, to enter, continue, or resume programs of postsecondary education. Projects under this program shall provide remedial and other special services for students with academic potential who (1) are enrolled or accepted for enrollment at an institution of higher education which is a beneficiary of a grant or contract made under this part and (2) by reason of deprived educational, cultural, or economic background, or physical handicap, or limited English-speaking ability, are in need of such services to assist them to initiate, continue, or resume their postsecondary education. The goal of the program and projects funded under this part shall be to increase the retention and graduation rates of such students.

(b) Assistance provided under this part is subject to applicable provisions contained in subchapter A of this chapter relating to fiscal, administrative, and other matters (General Provisions for Office of Education Programs—45 CFR 100a).

(20 U.S.C. 1070d-1070d-1.)

§ 157.2 Definitions.

For the purpose of this part:

(a) "Academic potential" means having abilities to complete a postsecondary educational program, with supportive services, at the institution which is the beneficiary of the grant, as documented by the written recommendations of counselors, teachers, or personal interviews, or standardized measurement instruments.

(20 U.S.C. 1070d-1.)

(b) "Act" means the Higher Education Act of 1965, as amended.

(20 U.S.C. 1001 et seq.)

(c) "Bilingual educational teaching, guidance, and counseling" means teaching, guidance, and counseling in two languages, one of which is English.

(20 U.S.C. 1070d-1.)

(d) "Combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(20 U.S.C. 1141(j).)

(e) "Deprived cultural background," with regard to a student, means an environment that has not provided those educational and other necessary skills, exposures, and experiences that equip a student to succeed in postsecondary education.

(f) "Deprived economic background," with regard to a student, means an environment in which the family income, at most, only provided for basic necessities, such as food, housing, and clothing, or where such necessities were provided wholly or in part by public assistance.

(g) "Deprived educational background," with regard to a student, means an educational environment that did not provide those skills, knowledge, and understandings that would enable a student to complete a course of study at the host institution without supportive services.

(20 U.S.C. 1070d-1.)

(h) "Institution of higher education" means an educational institution as defined in section 1201(a) of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1141(a); 1088(b)(1).)

(i) "Limited English-speaking ability," when used with reference to an individual, means (i) individuals who were not born in the United States or whose native language is a language other than English, or (ii) individuals who come from environments where a language other than English is dominant and, for reasons indicated in (i) or (ii) of this paragraph, have difficulty speaking and understanding instruction in the English language.

(20 U.S.C. 880b-1(a)(1).)

(j) "Other special services" means special classes, tutoring, counseling and guidance, cultural enrichment, and referrals to health, employment, housing, and legal agencies and resources to resolve noneducational problems related to academic success.

(k) "Physically handicapped students" means those students who, because of their physical disabilities, need specifically designed instructional materials or programs, modified physical facilities, or related services to participate fully in the experience and opportunities offered by postsecondary institutions. Physical disabilities include but are not limited to:

(1) Legal blindness,
(2) Deafness,
(3) Cerebral palsy,
(4) Epilepsy,
(5) Mobility difficulties due to use of appliances or prosthetics,
(6) Quadriplegia, paraplegia, or hemiplegia,
(7) Severe heart condition, and
(8) Multiple disabilities or any combination of the above conditions.

(20 U.S.C. 1070d-1.)

(l) "Proprietary institution of higher education" means an educational institution as defined in section 491(b) of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1088(b)(3).)

(m) "State" means, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1141(b); 1088(a).)

(n) "Youth" means a person aged 14 through 27.

(20 U.S.C. 1141(b); 1088(a).)

(20 U.S.C. 1070d-1070d-1, unless otherwise noted.)

§ 157.3 Eligible project participants.

A student is eligible to participate in a program or project authorized under this part if such student:

(a) Is enrolled or accepted for enrollment at an institution which is the beneficiary of a grant or contract made under this part;

(b) Is a citizen or national of the U.S., or is in the U.S. for other than a temporary purpose and is or intends to become a permanent resident thereof, or is a permanant resident of the Trust Territory of the Pacific Islands; and

(c)(1) Is an individual with academic potential who demonstrates a need for the remedial and special services authorized under this part as a result of a deprived educational, cultural or economic background, or a physical handicap, or (ii) is an individual with academic potential with a limited English-speaking ability who is in need of bilingual education, teaching, guidance, and counseling in order to successfully pursue postsecondary education.

(20 U.S.C. 1070d-1.)

§ 157.4 Eligible applicants.

(a) The Commissioner is authorized to make grants to and contracts with institutions of higher education and combinations of such institutions.

(b) A combination of institutions receiving a grant or contract under this part shall vest responsibility for administering the project in one of the participating institutions or in an agency established or designated by the institutions for carrying out the project on their behalf. A combination of institutions or an applicant institution that wishes to designate an agency to carry out the project on its behalf must designate or establish that agency prior to the submission of its application. The combination of institutions must also vest responsibility for administering the project in one of the participating institutions or in the agency prior to such submission.

(c) An agency which has been established or designated by a combination of institutions must have a written agreement setting forth the duties and responsibilities of each participating institution prior to the submission of its application, and include a copy of such agreement in the application for funds.

(20 U.S.C. 1070d-1.)

§ 157.5 Applications.

(a) Applicants for grants or contracts under this part shall file an application with the Commissioner before the closing date for such applications established annually by the Commissioner. Such applications shall contain the following information and such other information as the Commissioner may from time to time prescribe:

(1) *Need.* (i) The number and percentage of students from low-income families, physically handicapped students, students who are disadvantaged because of severe rural isolation, and students of limited English-speaking ability enrolled or accepted for enrollment at the institution who are or will be eligible for program services and a description of the ethnic/racial background of the students to be served by the project; and

(ii) A description of the academic and other problems these students encounter at the time of entry into the institution and continue to encounter while pursuing their education at the institution; and

(2) *Design.* (i) A description of the methods by which project participants will be selected and their needs assessed;

(ii) A description of the manner in which the comprehensive services will be provided to meet the students' needs;

(iii) A description of the applicant's plan for evaluating the effectiveness of the project; and

(3) *Resources and organization.* (i) A description of the project's staffing pattern, the required professional qualifications and experience, duties and salary range for each professional category, and the plan for staff selection and in-service training;

(ii) The amount and type of student financial aid available at the applicant institution that will be awarded to participants;

(iii) A description of the institution's administrative and academic policies, such as grading systems, retention policies, and probation procedures that bear on the project participant's progress toward graduation;

(iv) An organizational chart describing where the project will be placed in the institution's structure to assure that project director will be consulted on those administrative and academic policies that affect the participant's chances of completing an educational program at the institution;

(v) A description of the manner in which the applicant will orient the faculty and staff of the institution to the goals and objectives of the Special Services Program and a description of the institutional resources available to the project and the manner in which those resources will be used;

(vi) If the applicant has carried out a Special Services project or a project comparable to a Special Services project, a description of that project, including the number of students served, the methods used to select students, the services offered, the number of such students who graduated from the institution, and any evaluation reports made on that project; and

(vii) Evidence that an applicant has the resources, organization and personnel to successfully carry out a Special Services project; and

(4) *Budget.* The proposed budget.

(b) Where the applicant is a combination of institutions of higher education, the applicant shall describe the role and function that each member of the combination will play in the operation of the project and shall include written commitments from each institution that it will perform the activities ascribed to it.

(c) Applications for projects with bilingual educational components shall provide the information necessary to determine whether the proposed project satisfies the requirements of § 157.8.

(d) Applications for national demonstration projects shall provide the information needed to determine whether the proposed project satisfies the requirements of § 157.10.

(20 U.S.C. 1070d-1.)

§ 157.6 Funding criteria.

(a) *Continuation awards.* Priority will be given to a request for funds for the

continuation of a project that (1) was begun in a prior fiscal year and (2) was approved for a multi-year work period that has not expired (continuation award)

(b) *Conditions for approval.* Requests for continuation awards will be approved only if (1) the need continues to exist for the services provided by the project;

(2) Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives, as indicated by site visits, progress reports, and other relevant data;

(3) The project continues to offer promise of success in enabling students to complete their postsecondary education;

(4) All required reports have been received and accepted by the Commissioner; and

(5) Funds are available to continue the project.

(c) *New awards.* Except as provided in paragraphs (a) and (b) of this section, the Commissioner will select applicants to be funded under this part on the basis of the criteria set forth in 45 CFR 100a.26(b), as well as the following additional criteria:

(1) *Need.* (i) The extent to which the institution has made available educational opportunities to students of deprived educational, cultural, or economic backgrounds, and to students of limited English-speaking ability, or with physical handicaps, or who are disadvantaged because of severe rural isolation; and

(2) *Design.* (i) The comprehensiveness of the applicant's plan for selecting students to be served by the project, conducting an assessment of supportive services needed by the students, and providing the services;

(ii) The quality of the applicant's plan to evaluate the project in terms of the effects of project services on the progress made by students participating in the project and the extent to which project participants graduate from the institution; and

(3) *Resources and organization.* (i) The quality of the applicant's plan to staff the project with personnel with appropriate qualifications and experiences to carry out proposed activities, and the plan for providing in-service training;

(ii) The degree to which student financial assistance at the applicant institution will be used to meet the needs of students who will be participating in the project;

(iii) The degree to which administrative and academic policies have as their purpose the maximization of a student's chances for graduating from the host institution;

(iv) The extent to which the project director will be consulted on those administrative and academic policies that affect the participant's chances of completing an educational program at the institution;

(v) The extent to which the applicant proposes to orient the faculty and staff of the institution to the goals and objectives of the Special Services Program and to utilize institutional resources available to the project; and

(vi) The extent to which the applicant has the resources, organization, and personnel to successfully carry out a Special Services project; and

(4) *Budget.* (i) The extent to which the proposed budget reflects the activities to be undertaken; and

(ii) The reasonableness of the allocation of resources among the project activities.

(d) In evaluating an application for a new award, the Commissioner will use the following weights:

(1) *Need.* 35 percent,

(2) *Design.* 30 percent,

(3) *Resources and organization.* 30 percent, and

(4) *Budget.* 5 percent.

(e) In selecting applications for funding, the Commissioner will consider the need for the project in the area the applicant proposes to serve as compared to the need of the total target population to be served.

(f) *National demonstration awards.* The Commissioner will select a limited number of applications to be funded as Special Services national demonstration projects on the basis of the criteria set forth in paragraph (c) of this section and the following additional criteria:

(1) Whether the proposed project is national or inter-regional in scope, or presents a clearly new or experimental technique or design for the provision of special services for students from deprived educational, cultural, or economic backgrounds, or for students with physical handicaps, or for students of limited English-speaking ability enrolled at the institution which is the beneficiary of the award;

(2) Whether the proposed project duplicates or competes with existing regional or national programs or consolidates existing regional or inter-regional educational activities under the aegis of a single agency or institution;

(3) Whether, with regard to proposed projects presenting a new or experimental technique or design, the applicant's proposed activities and expected results can be readily replicated and utilized by other educational programs concerned with the provision of special supportive services for similar students.

(4) Whether the proposed project will provide services not readily available on a local or regional basis for participants; and

(5) Whether the proposed project will provide disadvantaged students a variety of educational opportunities and career options.

(20 U.S.C. 1070d–1.)

§ 157.7 Program requirements.

(a) Each project funded under this part shall be designed to assist in enabling youths from low-income families with academic potential who may lack adequate secondary preparation, who may be physically handicapped or who may be disadvantaged because of severe rural isolation to be graduated from postsecondary institutions and shall:

(1) Develop and utilize procedures to identify and select eligible students. Such procedures shall include a comprehensive needs assessment of the individual student to determine those academic and other educational deficiencies which need to be corrected to enable that student to graduate;

(2) Provide personal, career and academic counseling and guidance in those areas that affect the student's academic performance;

(3) Provide remedial and other special services, such as special classes, tutoring, and educational and cultural activities that will enable project participants to compete with sufficient academic and personal skills at the institution, without creating a long-range dependency on the project;

(4) Develop and utilize special curricular and instructional methods which will enable students to complete required and prerequisite courses in a reasonable period of time;

(5) Document the effects of project activities on students' performance and progress while they are participating in the project;

(6) Make every effort to provide that the ethnic/racial composition of the students served will reflect within a maximum ten percent variance the ethnic/racial composition of the students eligible to be served by the Special Services project who are enrolled in the institution which is the beneficiary of the grant; and

(7) If practicable, share facilities, staff, services, and activities of other Special Services, Talent Search, Upward Bound projects, and Educational Opportunity Centers in close geographic proximity.

(b) Each institution receiving funds under this part shall:

(1) Obtain and provide adequate financial aid for students enrolled in the project to enable them to continue their academic program;

(2) Retain project participants at the institution for a period of time sufficient to enable them to adjust to and participate meaningfully in the academic program at the institution (a minimum of two years for a 4-year program, one year for a 2-year program);

(3) Make all resources and facilities which are available to regular students of the institution available to project participants;

(4) Place the project within a department of the institution's structure so that the project has academic credibility;

(5) Locate the project in an area that is accessible to the students to be served;

(6) Engage (i) a full-time project director with demonstrated professional qualifications, administrative skills and a clear commitment to the goals of the program, who will be authorized to conduct the project effectively and expend project funds, and who will be consulted with regard to the development of institutional practices and procedures that relate to the retention and graduation of project participants. This full-time requirement may be waived in the event the individual is selected under § 157.15 (a) to coordinate two or more programs, or if the individual must teach a minimum number of hours at the host institution to retain faculty status;

(7) Engage a staff that has professional qualifications and commitment to carry out the proposed activities and services;

(8) Utilize institutional facilities and, when possible, staff, to provide pre-service and in-service training for the project staff; and

(9) Develop an administrative and faculty commitment to the goals of the Special Services Program.

(20 U.S.C. 1070d–1)

§ 157.8 Bilingual educational components.

(a) Projects with components serving students of limited English-speaking ability, as defined in § 157.2(i), shall provide special instruction in the use of the English language to such students, either through the project or the institution's regular program of instruction.

(b) Projects with a component serving such students shall provide bilingual personal, career, and academic counseling and guidance; bilingual remedial and special classes that enable students to complete required and prerequisite courses; bilingual tutorial services; and other bilingual supportive services necessary to meet the educational needs of the participants.

(c) Projects serving students with limited English-speaking ability shall select students for participation in the project who have the greatest difficulty in speaking and understanding instruction in the English language, if the project cannot serve all such students who are enrolled or accepted for enrollment at the institution.

(20 U.S.C. 1070d–1)

§ 157.9 [Reserved]

§ 157.10 National demonstration projects.

(a) The Commissioner may reserve funds to conduct national demonstration projects which will involve innovative and experimental approaches to the provision of remedial and other special services to project participants.

(b) National demonstration projects shall:

(1) Be national or inter-regional in scope, or present a clearly new or experimental technique or design for the provision of special services for students from deprived educational, cultural, or economic backgrounds, or for students with physical handicaps, or for students of limited English-speaking ability enrolled at the institution which is the beneficiary of the award;

(2) Neither duplicate nor compete with existing regional or national programs nor consolidate existing regional or inter-regional educational activities under the aegis of a single agency or institution;

(3) Be readily replicated and utilized by other educational programs concerned with the provision of special supportive services for similar students;

(4) Provide services not readily available on a local or regional basis for participants; and

(5) Provide disadvantaged students a variety of educational opportunities and career options.

(20 U.S.C. 1070d–1)

§ 157.11 Allowable costs.

(a) The Commissioner will pay for those costs that are reasonably related to the operation of a project. Such costs may include the following:

(1) Remedial and special classes if such classes are limited to project participants and the grantee institution does not provide identical instruction as part of its program of instruction;

(2) Courses in English language instruction for students of limited English-speaking ability if the institutions does not provide identical instruction as part of its program of instruction and such instruction is limited to project participants;

(3) In-service training of project staff; and

(4) Activities of an academic or cultural nature that have as their purpose the improvement of the participant's progress and personal development at the institution.

(b) Costs that may not be charged against the grant include the following:

(1) The costs involved in the recruitment of students for enrollment at the grantee institution;

(2) The construction or purchase of new buildings and the extensive modification or major repair of existing buildings;

(3) The purchase of major equipment unless specifically authorized by the Commissioner;

(4) The payment of tuition, stipends, or any other form of student financial support; and

(5) Research.

(c) Grantees under this part will be allowed indirect costs as authorized in accordance with item 4c, Appendix A, parts 100 thru 100d of the General Provisions for Office of Education Programs.

(20 U.S.C. 1070d–1)

§ 157.12 Salary and wage rates.

(a) The salaries paid to project staff under this part shall be comparable to the salaries paid to persons with similar positions within the grantee institution.

(b) The minimum rate of compensation that may be paid to project employees, including students, shall be the minimum wage required to be paid by the institution under applicable Federal, State, or local law.

(20 U.S.C. 1070d–1)

§ 157.13 Student records.

(a) Projects shall develop and utilize a data collection system which allows for accurate student accountability.

(b) To document the progress of each student participating in the project, student files shall include, but are not limited to, the following:

(1) Reasons for selecting the individual participants;

(2) High school transcripts and all available test scores;

(3) Documents supporting the student's eligibility as defined in § 157.3. In the case of students accepted on the basis of income, such income means the family taxable income, as documented by a copy of Form 1040 or 1040A. If a student is from a family without an income for taxable purposes, a notarized statement to this fact shall be on file;

(4) Assessment of the student's academic strengths and weaknesses, and the program support developed to improve the student's skills;

(5) Documentation of counseling activity, such as family contacts, career explorations, referrals;

(6) Documentation of the contacts with the student, the services provided, the measurements of progress, and other reports that relate to the academic and other types of assistance provided the student;

(7) A summary at the end of each academic term of credit-hours attempted and earned, grade point average, credit hours earned toward graduation, and courses dropped and the reason for dropping them as well as remedial or noncredit courses taken;

(8) Documentation of an exit interview which shall include, but not be limited to (i) the reason for the student's leaving the project, (ii) the student's permanent mailing address, and (iii) the recommendations made to the student upon the student's leaving the project regarding the student's educational and career potentials.

(20 U.S.C. 1070d–1)

§ 157.14 Travel.

In accordance with the cost principles set forth in Appendix C to parts 100 through 100d of this title, the following travel is authorized:

(a) Transportation of students to and from educational and cultural activities sponsored by the project and approved in writing by the Commissioner;

(b) Project staff travel to professional and educational conferences specifically related to project development and to Office of Education sponsored meetings, when approved by the Commissioner;

(c) Other travel specifically approved by the Commissioner in writing and in advance of such travel.

(20 U.S.C. 1070d–1)

§ 157.15 Coordination of administration with other programs authorized by Title IV–A–4 of the Act.

In addition to the requirements set forth in 45 CFR 100a.275 and § 157.7 when an applicant under this part also requests funds to carry out one or more of the programs authorized by Title IV–A–4 of the Act, the application must reflect the following:

(a) Provision for a single, unified administrative program operation. In the event a Project Director of one of the projects subject to this provision is selected to serve as coordinator for two or

more projects authorized by Title IV–A–4 of the Act, the salary of that individual must be prorated among the projects;

(b) Provision for separate program identities, activities, and budget; and

(c) Consolidation of personnel and program functions to the fullest extent possible while still maintaining separate program identities.

(20 U.S.C. 1070d–1; 1232c(b)(1).)

[FR Doc.77–14505 Filed 5–23–77;8:45 am]

PART 159—TALENT SEARCH PROGRAM

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This regulation governs the administration of the Talent Search Program. Changes were made in the existing Talent Search regulation to accommodate legislative changes made by the Education Amendments of 1976, Pub. L. 94–482.

EFFECTIVE DATE: Pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. Section 431(d) provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

DATES: Not applicable.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT:

Barbara W. Freeman, Bureau of Postsecondary Education, 7th and D Streets SW., Regional Office Building 3, Room 3514, Washington, D.C. 20202, Telephone 202–245–2511.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER of February 1, 1977 (42 FR 6088–6092) which amended the existing Talent Search regulation to accommodate changes made in the program by the Education Amendments of 1976 and to clarify existing provisions. Interested persons were given thirty days in which to submit written comments, suggestions, or objections. No comments were received. A summary of the changes to the existing regulations are as follows:

1. § 159.1 SCOPE AND PURPOSE—GENERAL PROVISIONS REGULATION

This section was modified to include, within the category of youths for whom the Talent Search Program is designed, qualified youths who reside in areas of severe rural isolation and youths who have delayed pursuing postsecondary education.

2. § 159.2 DEFINITIONS

The definition for financial need has been modified to make it consistent with the existing definition of low-income in the other Special Programs authorized by Section 417A–417B, Title IV of the Higher Education Act of 1965. New language has been added to specifiy that the family income will be the family taxable income.

3. § 159.3 PROJECT SETTING—TARGET AREA

The requirement that Talent Search projects be located in target areas in which 25 percent of the youths residing therein come from low-income families was revised to provide that 25 percent of the families residing in the area must meet a low-income requirement. Also, projects serving sparsely populated or geographically isolated areas may be located in target areas in which 15 percent of the families meet the low-income requirement.

4. § 159.6 APPLICATIONS

The format of this section was changed so that the order of the list of information items required in the application conforms to the arrangement of those same items found on the application technical review form.

5. § 159.7 FUNDING CRITERIA

This section was modified. Numerical weights were assigned to designated categories (Need, Design, Resources and Organization, and Budget) for the purpose of evaluating applications. Modification has been made to paragraph (c)(1) to allow those applications proposing to serve sparsely populated areas to be evaluated on the extent to which the target area is characterized by having in excess of 15 percent of youths residing or attending school in the area who are from low-income families.

6. § 159.8 PROJECT SIZE

This section was added to include the provision that up to one-third of the project participants need not meet the low-income requirement but must satisfy the other eligibility requirements.

7. § 159.9 PROJECT ACTIVITIES AND SERVICES—PROJECT REQUIREMENTS

The requirement that a project director serve on a full-time basis was amended to provide for an exemption for those individuals who are selected to coordinate two or more projects and for those individuals who must teach a minimum number of hours to retain faculty status.

8. § 159.11 ALLOWABLE COSTS

This section was amended to include transportation costs for students and staff under certain circumstances and to permit the purchase of testing materials and college catalogs and to permit in-service training of project staff.

Throughout the regulation modifications have been made to specify income to be the family taxable income and other technical and typographical changes have been made in the regulation.

As a result of the above, Part 159 of Title 45 of the Code of Federal Regulations is amended to read as set forth below.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Program No. 13.488, Talent Search Program.)

Dated: May 4, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: May 16, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 159 of Title 45 of the Code of Federal Regulations is amended to read as follows:

Sec.
159.1 Scope and purpose—general provisions regulations.
159.2 Definitions.
159.3 Project setting—target area.
159.4 Eligible project participants.
159.5 Eligible applicants.
159.6 Applications.
159.7 Funding criteria.
159.8 Project size.
159.9 Project activities and services—project requirements.
159.10 National demonstration projects.
159.11 Allowable costs.
159.12 Salary and wage rates.
159.13 Participant records.
159.14 Travel.
159.15 Coordination of administration with other programs authorized by Title IV–A–4 of the Act.

AUTHORITY: Secs. 417A–417B, Title IV of the Higher Education Act of 1965 as amended by sec. 131(b), Title I, Pub. L. 92–318, 86 Stat. 258–260, sec. 134(b), Title I, Pub. L. 94–482 (20 U.S.C. 1070d–1070d–1), unless otherwise noted.

§ 159.1 Scope and purpose—general provisions regulations.

(a) The regulations in this part govern the administration of the Talent Search Program. Services provided under this program are designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, who may be physically handicapped, or who may be disadvantaged because of severe rural isolation, to enter, continue, or resume programs of postsecondary education. Projects under this program shall (1) identify qualified youths of financial or cultural need with an exceptional potential for postsecondary educational training and especially such youths who have delayed pursuing postsecondary educational training and encourage them to complete secondary school and undertake postsecondary educational training, (2) publicize existing forms of student financial aid, and (3) encourage qualified secondary school or college dropouts of demonstrated aptitude to reenter educational programs, including postsecondary school programs. The goal of the program and projects funded under this part shall be to (i) increase the rate at which youths of financial or cultural need complete secondary school and enroll with adequate financial aid, in postsecondary educational programs, (ii) decrease the rate of secondary and postsecondary school dropouts, (iii) increase the number of secondary and postsecondary school dropouts who reenter educational programs, and (iv) increase the postsecondary enrollment rate of youths who have delayed pursuing postsecondary educational training.

(b) Assistance provided under this part is subject to applicable provisions contained in subchapter A of this chapter relating to fiscal, administrative, and other matters (General Provisions for Office of Education Programs—45 CFR 100a).

(20 U.S.C. 1070d—1070d–1.)

§ 159.2 Definitions.

For the purpose of this part:

(a) "Act" means the Higher Education Act of 1965, as amended.

(20 U.S.C. 1001 et seq.)

(b) "Combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or nonprofit private agency, organization or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(20 U.S.C. 1141(j).)

(c) "Cultural need" means a condition generally exhibited by a youth who comes from an environment that has not provided those educational and other necessary skills, exposures and experiences that will equip him to succeed in postsecondary education.

(20 U.S.C. 1070d–1.)

(d) "Demonstrated aptitude" means with regard to a secondary or postsecondary school dropout the ability to acquire those skills (1) necessary to complete a secondary educational program, or its equivalent, or (2) to enter, or reenter and complete a postsecondary educational program.

(20 U.S.C. 1070d–1.)

(e) "Exceptional potential" means a capacity for success in postsecondary education which is documented either by standardized measurement instruments or other verifiable indicators such as written recommendations from professional educators, counselors or employers.

(20 U.S.C. 1070d–1.)

(f) "Financial need" means a condition (1) where the family taxable income does not exceed the low-income family level set forth in the "Current Population Reports," Series P–60, Bureau of the Census, United States Department of Commerce, and (2) where such income at most provides for the basic necessities such as food, housing and clothing.

(20 U.S.C. 1070d–1.)

(g) "Institution of higher education" means an educational institution as defined in section 1201(a) of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1141(a); 20 U.S.C. 1088(b)(1).)

(h) "Proprietary institution of higher education" means an educational institution as defined in section 491(b) of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1088(b)(3).)

(i) "Secondary school" means a school which provides secondary education as determined under State law, except that it does not include any education provided beyond grade 12.

(20 U.S.C. 1141(d).)

(j) "State" means, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1141(b); 1088(a).)

(k) "Youth" means a person aged 14 through 27.

(20 U.S.C. 1070d–1070d–1, unless otherwise noted.)

§ 159.3 Project setting-target area.

(a) Talent Search projects, except national demonstration projects, shall provide their services to eligible youths residing or attending school in a discrete geographic area (target area). Except as provided in paragraph (b) of this section, in order to qualify as a target area, at least 25 percent of the families residing in the area must have a family taxable income which does not exceed the low-income family level set forth in "Current Population Reports," Series P, Bureau of the Census, Department of Commerce.

(b) Projects serving sparsely populated or geographically isolated areas may serve a target area in which at least 15 percent of the families residing therein have a family taxable income which does not exceed the low-income family level set forth in "Current Population Reports," Series P–60, Bureau of the Census, Department of Commerce.

(20 U.S.C. 1070d–1)

§ 159.4 Eligible project participants.

A youth is eligible to receive services under this part if he:

(a) Is a citizen or national of the United States, or is in the United States for other than a temporary purpose, and is, or intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands;

(b) Has in the case of a youth enrolled in or graduated from secondary school "exceptional potential", for success in postsecondary education or, in the case of a secondary or postsecondary school dropout, a "demonstrated aptitude" for reentry into and success in secondary or postsecondary educational programs;

(c) Is of financial or cultural need; and

(d) Is in need of (i) guidance and counseling to complete or return to secondary school, (ii) information and counseling on postsecondary educational opportunities, (iii) assistance in gaining admission or readmission to postsecondary educational institutions, or (iv) assistance in applying for financial aid to attend such institutions.

(e) Veterans if they are otherwise eligible may receive services under this program.

(20 U.S.C. 1070d–1.)

§ 159.5 Eligible applicants.

(a) The Commissioner may make grants to and contracts with the following agencies, institutions, and organizations to carry out Talent Search projects: (1) Institutions of higher education, including institutions with vocational and career education programs;

(2) Combinations of institutions of higher education;

(3) Public and private agencies and organizations (including professional and scholarly organizations); and

(4) In exceptional cases, secondary schools and secondary vocational schools, if there are no institutions of higher education or public or private agencies within a reasonable geographic distance of such secondary or vocational school providing educational services similar to the services authorized under this part.

(b) A combination of institutions receiving a grant or contract under this part shall vest responsibility for the administration of that grant or contract in one of its participating institutions or in a public or private nonprofit agency established or designated by the combination for that purpose.

(20 U.S.C. 1070d–1.)

§ 159.6 Applications.

(a) Applicants for grants or contracts under this part shall file an application with the Commissioner before the closing date established annually by the Commissioner, and shall provide the following information and such other information as the Commissioner may from time to time prescribe:

(1) *Need.* (i) The geographic area to be served (target area);

(ii) A description, citing data sources, of the target area in terms of the number and percentage of youths in the area from families whose family taxable income is not more than the low-income level prescribed annually by the Commissioner, and the number and percentage of eligible youths residing or attending school in the area;

(iii) A description, citing data sources, of the individual secondary schools in the target area including, for the three years preceding the year for which the application is being submitted, an estimate of the dropout rate for each school, and an estimate of the number and percentage of students from each school who subsequently enroll in postsecondary institutions, an estimate of the number of students in the school from low-income families, and the ratio of counselors to students;

(iv) An estimate, citing data sources, of the ethnic/racial composition of youths from low-income families residing in, or attending school in, the target area and the ethnic/racial composition of the youths to be served by the project;

(2) *Design.*

(i) A projection of the effect of the project in the target area on the secondary school completion and dropout rate, the rate of postsecondary school admissions and the number of secondary and postsecondary dropouts who reenter educational programs;

(ii) A description of the applicant's plan for identifying and selecting eligible participants; assessing and documenting their potential for postsecondary education; providing career and academic counseling and guidance; disseminating information on student financial aid in the target area; providing assistance to project participants in gaining admission to secondary schools, and a variety of postsecondary institutions, which have adequate supportive services, if needed by such participants; assisting youths enrolling in postsecondary institutions in obtaining student financial aid; and determining whether the participants actually enrolled in secondary schools or postsecondary institutions and whether participants enrolled in postsecondary institutions received adequate financial aid;

(iii) A description of the applicant's plan for evaluating the effectiveness of the project in terms of enrolling participants in postsecondary educational programs, with adequate financial aid, and returning participants to secondary or postsecondary educational programs;

(3) *Resources and organization.* (i) A description of the applicant's plan to orient the secondary and postsecondary schools in the target area to the goals of the Talent Search project and to utilize community and other resources to supplement authorized activities including written commitments by such community and other relevant organizations;

(ii) If the applicant has carried out a project that was funded under the Talent Search Program or was comparable to one authorized under this part, a description of that project including the number of youths served, the methods used to select participants, the services offered, the rate of increase of postsecondary admissions in the area served, the rate of decrease in secondary and postsecondary school dropouts, the rate of increase of secondary and postsecondary school dropouts who reenter educational programs, and any evaluation reports made on that project;

(iii) Evidence that an applicant has the resources, organization, and personnel to successfully carry out a Talent Search project.

(iv) A description of the project's staffing pattern, the required professional qualifications and experience, duties and salary range for each professional category, and the plan for staff selection and in-service training; and

(4) *Budget.* (i) A detailed budget.

(b) Where the applicant is a combination of institutions of higher education, the applicant shall describe the role and function that each member of the combination will play in the operation of the project, and shall include written commitments from each institution that it will perform the activities ascribed to it.

(c) Applications for national demonstration projects shall provide the information needed to determine whether the project satisfies the requirements of § 159.10.

(20 U.S.C. 1070d–1.)

§ 159.7 Funding criteria.

(a) *Continuation awards.* Priority will be given to a request for funds for the continuation of a project that (1) was begun in a prior fiscal year and (2) was approved for a multi-year work period that has not expired.

(b) *Conditions for approval.* Requests for continuation awards will be approved only if:

(1) The need continues to exist for the services provided by the project;

(2) Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives, as indicated by site visits, progress reports, and other relevant data;

(3) The project continues to offer promise of success in enabling youths to resume or continue their secondary education or to enter, resume, or continue their post secondary education with adequate financial aid;

(4) All required reports, have been received and accepted by the Commissioner; and

(5) Funds are available to continue the project.

(c) *New awards.* Except as provided in paragraphs (a) and (b) of this section, the Commissioner will select applicants to be funded under this part on the basis of the criteria set forth in 45 CFR 100a.26 (b), as well as the following additional criteria:

(1) *Need.* (i) The extent to which the target area of the project is characterized by having a percent of youths from low-income families, residing or attending school in the area, that exceeds the minimally acceptable 25 percent, or exceeds 15 percent for those proposing to serve sparsely populated or geographically isolated areas;

(ii) The number of youths who are eligible to be served by a project who reside or attend schools in the target area;

(2) *Design.* (i) The extent to which the project will, in the target area, increase the rate of secondary school completion and postsecondary admissions, decrease the rate of secondary school dropouts, and increase the number of secondary and postsecondary dropouts who reenter secondary and postsecondary educational programs;

(ii) The comprehensiveness of the applicant's plan for identifying and selecting eligible participants and assessing and documenting their potential for postsecondary education, providing career and academic guidance and counseling, disseminating information on student financial aid to the target population, assisting youths in gaining admission or readmission to secondary schools and a variety of postsecondary institutions which have adequate supportive services, if needed by the participants, assisting youths enrolling in postsecondary institutions in obtaining student financial aid, and determining whether the participants actually enrolled in secondary programs or postsecondary institutions and whether participants enrolled in postsecondary institutions received adequate financial aid;

(iii) The quality of the applicant's plan to evaluate the effects of project services on the enrollment of participants in postsecondary educational programs with adequate financial aid and on the return of participants to secondary and postsecondary educational programs;

(3) *Resources and organization.* (i) The extent to which the applicant has provided for the orientation of secondary and postsecondary schools in the target area to the goals and objectives of the Talent Search Program and has received written commitments by community and other relevant organizations for the utilization of community and other resources to supplement authorized activities;

(ii) The extent to which the applicant has the resources, organization, and personnel to successfully carry out a Talent Search project;

(iii) The adequacy of the project's staffing pattern, the required professional qualifications and experience, the duties and the salary range for each professional category and the plan for staff selection and in-service training; and

(4) *Budget.* (i) The extent to which the proposed budget reflects the activities to be undertaken; and

(ii) The reasonableness of the allocation of resources among the proposed project activities.

(d) In evaluating an application for a new award, the Commissioner will use the following weights:

(1) *Need.* 35 percent,

(2) *Design.* 25 percent,

(3) *Resources and organization.* 35 percent, and

(4) *Budget.* 5 percent.

(e) In selecting applications for funding, the Commissioner will consider the need for the project in the area the applicant proposes to serve as compared to the need of the total target population to be served.

(f) *National demonstration projects.* The Commissioner will select a limited number of applications to be funded as Talent Search national demonstration projects on the basis of the criteria set forth in paragraph (c) of this section and the following additional criteria:

(1) Whether the proposed project is national or inter-regional in scope, or presents a clearly new or experimental technique or design for the provision of Talent Search services to eligible participants;

(2) Whether the proposed project duplicates or competes with existing regional or national programs, or consolidates existing regional or inter-regional educational activities under the aegis of a single agency or institution;

(3) Whether, with regard to proposed projects presenting a new or experimental technique or design, the proposed activities and results can be readily replicated and utilized by other educational programs concerned with the provision of services to similar youths;

(4) Whether the proposed project will provide services not readily available on a local or regional basis to such youths; and

(5) Whether the proposed project will provide disadvantaged students a variety of educational opportunities and options for postsecondary education.

(20 U.S.C. 1070d–1.)

§ 159.8 Project size.

(a) Each project shall identify and serve at least 1,000 youths except that projects serving sparsely populated or geographically isolated target areas need not serve 1,000 youths but must serve at least 500 youths.

(b) Projects may serve youths from other than low-income families who are otherwise eligible under § 159.4. The number of such participants shall not exceed one-third of the total number of participants served.

(20 U.S.C. 1070d–1.)

§ 159.9 Project activities and services—project requirements.

(a) Projects funded under this part shall be designed to assist qualified youths, including those youths who reside in areas of severe rural isolation or who are physically handicapped, with academic potential from low-income families to complete secondary school and enroll with adequate financial aid in postsecondary institutions and shall:

(1) Collect and disseminate information regarding the variety of postsecondary educational opportunities, student financial aid, academic assistance and career options available to project participants;

(2) Provide counseling and guidance to each project participant with regard to the appropriate postsecondary institution for that person;

(3) Provide counseling with regard to career options available to project participants; and

(4) Provide assistance to project participants in applying for (i) admission to postsecondary institutions, (ii) readmission to secondary schools, or postsecondary institutions with adequate supportive services if needed by project participants, and (iii) student financial aid.

(b) Each project shall: (1) Develop and utilize an assessment process, which includes the results of standardized measurement instruments or other verifiable indicators to determine, if needed, each participant's interests, career goals, and academic potential;

(2) In the target area, develop and implement a strategy to (i) increase significantly the secondary school completion rate, the postsecondary school admissions rate and, with regard to dropouts, the secondary and postsecondary readmission rates and (ii) decrease significantly the secondary school dropout rates;

(3) Not duplicate services offered by an Educational Opportunity Center, another Talent Search project or other similar programs in the target area and, if practicable, shall share facilities, staff, services and activities;

(4) Establish cooperative relationships with service agencies in the target area which have resources needed by the project participants;

(5) Establish a direct relationship with educational institutions to determine admission requirements, filing and deadline dates for the submission of admission and financial aid applications, course requirements, and appropriate supportive services available for project participants;

(6) Engage a project director with demonstrated professional qualifications, administrative skills and a clear commitment to serve in a full-time capacity. This full-time requirement may be waived: (i) in the event the individual is selected under § 159.15(a) to coordinate two or more programs, or (ii) if the individual must teach a minimum number of hours at the host institution to retain faculty status;

(7) Engage a staff that has adequate professional qualifications and commitment to carry out the proposed activities and services;

(8) Provide necessary in-service training to the project staff;

(9) Determine (i) whether each participant admitted to a secondary or postsecondary institution actually enrolled in that institution and (ii) whether participants enrolled in postsecondary institutions received adequate financial assistance;

(10) Evaluate the effects of project services on (i) increasing the rates of secondary school completion, postsecondary admissions and secondary and postsecondary dropouts' readmission to secondary and postsecondary educational programs and (ii) decreasing the rates of secondary and postsecondary school dropouts; and

(11) Ensure that the project is not used as an exclusive recruitment mechanism by the grantee.

(20 U.S.C. 1070d–1.)

§ 159.10 National demonstration projects.

(a) The Commissioner may reserve funds to conduct national demonstration projects.

(b) National demonstration projects shall:

(1) Be national or inter-regional in scope, or present a clearly new or experimental technique or design for the provision of Talent Search services to eligible participants;

(2) Neither duplicate nor compete with existing regional or national programs, nor consolidate existing regional or inter-regional educational activities under the aegis of a single agency or institution;

(3) Be readily replicable and utilized by other educational programs concerned with the provision of services for similar youth;

(4) Provide services not readily available on a local or regional basis for such youth; and

(5) Provide disadvantaged youth a variety of educational opportunities and options for postsecondary education.

(20 U.S.C. 1070d–1.)

§ 159.11 Allowable costs.

(a) The Commissioner will pay those costs that are reasonably related to carrying out the project. Such costs may include:

(1) Transportation costs for students and staff to postsecondary educational institutions in the area;

(2) Transportation costs for student participation in "College Days" activities;

(3) Transportation costs for career development field trips;

(4) Purchase of testing materials;

(5) Purchase of college catalogs; and

(6) In-service training of project staff.

(b) Costs that may not be charged against the project include:

(1) Tutoring or any instructional costs;

(2) Tuition, fees, stipends or other forms of direct financial support for youths participating in project activities;

(3) Application fees for enrollment or financial aid;

(4) Duplication of services that are otherwise provided by the institution or agency sponsoring the project or by such local agencies as vocational rehabilitation centers and social service organizations;

(5) Construction, major remodeling or major repair; and

(6) Meals and lodging for project participants.

(c) Grantees under this part will be allowed indirect costs as authorized in accordance with item 4c, Appendix A, parts 100 thru 100d of this title (General Provisions for Office of Education Programs).

(20 U.S.C. 1070d–1.)

§ 159.12 Salary and wage rates.

(a) The salaries paid to project staff under this part shall be comparable to the salaries paid to persons with similar positions within the sponsoring institution or agency.

(b) The minimum rate of compensation that may be paid to project employees, including students, shall be the minimum wage required under any applicable Federal, State, or local law.

(20 U.S.C. 1070d–1.)

§ 159.13 Participant records.

(a) Projects shall develop and utilize a data collection system which allows the project to establish accurate participant records for all clients served. A client is a youth who has received project services through personal contact on two or more occasions. Such records shall include, but are not limited to, the following:

(1) The method used to select the participant;

(2) The participant's high school transcripts and all available aptitude and achievement test scores;

(3) Documentation of the participant's eligibility to receive services under the project;

(4) Documentation of counseling services received by the student;

(5) Documentation of visits made to postsecondary institutions;

(6) Documentation of assistance provided the patricipant in applying for admission to postsecondary institutions and for student financial aid;

(7) The postsecondary institutions which accepted the participant for admission and the one in which he or she enrolled;

(8) The amount and type of student financial aid received by the participant; and

(9) The participant's age, sex, race, family income, grade level and permanent address.

(b) Projects shall maintain records which document services to persons served on a one- or two-time basis (contact). Such records shall include, but are not limited to, the individual's name, address, age, and service received.

(20 U.S.C. 1070d–1.)

§ 159.14 Travel.

In accordance with the cost principles set forth in Appendix C to parts 100 through 100d of this title, the following travel is authorized:

(a) Travel to enable youths (i) to visit campuses of postsecondary institutions which are in reasonable proximity to the project's target area, (ii) to participate in "College Days" or their equivalent or (iii) to observe and meet with persons who are employed in various career fields and who work within reasonable proximity to the target area;

(b) Project staff travel to professional and educational conferences specifically related to project development and to Office of Education sponsored meetings, when approved in writing by the Commissioner; and

(c) Other travel specifically approved by the Commissioner in writing and in advance of such travel.

(20 U.S.C. 1070d–1.)

§ 159.15 Coordination of administration with other programs authorized by Title IV–A–4 of the Act.

In addition to the requirements set forth in CFR 100a.275 and § 159.9, when an applicant under this part requests funds to carry out one or more of the programs authorized by Title IV–A–4 of the Act, the application must reflect the following:

(a) Provision for a single, unified administrative program operation. In the event a Project Director of one of the projects subject to this provision is selected to coordinate two or more projects authorized by Title IV–A–4 of the Act, the salary of that individual must be prorated among the projects;

(b) Provision for separate program identities, activities, and budget; and

(c) Consolidation of personnel and program functions to the fullest extent possible while still maintaining separate program identity.

(20 U.S.C. 1070d–1; 1232c(b)(1).)

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federal register

TUESDAY, MAY 24, 1977

PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of
Assistant Secretary for
Housing—Federal Housing
Commissioner

■

FIRE SAFETY EQUIPMENT IN HEALTH CARE FACILITIES

Loans to Finance Purchase and Installation

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–77–416]

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart C—Fire Safety Equipment in Health Care Facilities

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This regulation provides for the insurance of financial institutions which make loans for the purchase and installation of fire safety equipment in health care facilities. Loans may be made to eligible borrowers for a maximum term of 25 years and in a maximum amount of $50,000.

EFFECTIVE DATE: June 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Christopher LaMartina, Department of Housing and Urban Development, 451 Seventh Street SW., Room 6133, Washington, D.C. 20410 (202) 755–8686.

SUPPLEMENTARY INFORMATION: The Department of Housing and Urban Development gave notice on September 29, 1976 at 41 FR 43098 that it was proposing to amend Title 24 of the Code of Federal Regulations, Chapter II, Subchapter B, Part 201, "Property Improvement and Mobile Home Loans", by adding a new Subpart C, "Fire Safety Equipment in Health Care Facilities."

The Department received twelve comments in response to the September 29, 1976 publication. The comment period closed on October 29, 1976.

A number of commenters objected to the limitation of $50,000 as a maximum loan limit pointing out that the National Housing Act does not place a dollar limit on loans allowable under this program. In this regard it is necessary to refer to the Act's legislative history. The Senate bill (S. 3066) authorized HUD to determine the maximum amount and term of loans financing fire safety equipment in health care facilities. The House amendment (H.R. 15361) provided for a maximum loan amount of $50,000 and a maximum term of 25 years. The Conference Report adopted the Senate provision. However, the conferees stated that it was their intention that HUD administratively establish the maximum loan and term at the figures contained in the House amendment, except in exceptional cases (see compilation of the Housing and Community Development Act of 1974—Pub. L. 93–383—Subcommittee on Housing of the Committee on Banking and Currency, House of Representatives, 93 Congress, Second Session—October 1974 at page 321). In view of the direction of the Conference Report it was determined to adopt the limitations in the House amendment.

Several commenters questioned the definition of fire safety equipment contained in the regulations. Section 2 of Title I of the National Housing Act as amended, defines fire safety equipment as follows:

> The term "fire safety equipment" means any device or facility which is designed to reduce the risk of personal injury or property damage resulting from fire and is in conformity with such criteria and standards as shall be prescribed by the Secretary.

In view of the comments received it has been determined to revise the definition to provide that fire safety equipment means any device or construction feature which is recognized in the latest edition of the Department of Housing and Urban Development's Minimum Property Standards for Care Type Housing (4920.1) or the Fire Safety Code of the National Fire Protection Association (NFPA).

Section 201.1220 has been revised to provide insurance premiums of .50 of one percent per annum of the net proceeds of the loan. The proposed regulations provided for .90 of one percent computed on the declining loan balances. This change was made so as to maintain compatability with the Title I property improvement program.

Several commenters suggested that the proceeds of a loan should include architectural and engineering services and the cost of obtaining building permits where such services are directly connected with eligible alterations, repairs, or improvements financed in accordance with regulations in this part. This suggestion has been adopted. See § 201.1195 (d).

A commenter questioned whether a health care facility would be ineligible if it was encumbered with secondary financing. The regulations do not impose such a restriction but do require that all such secondary liens be approved by the Secretary. See § 201.1140(b).

A question was also raised as to the meaning of "vested." The term "vested" is used in its common meaning in that the borrower must hold legal title to the health care facility. See § 201.1145.

Several commenters indicated some confusion as to items, devices or facilities which would be eligible. As amended the regulations would permit any device or construction feature recognized in the Department of Housing and Urban Development's Minimum Property Standards for Care Type Housing (4920.1). This would include changes to improve egress (widening of doors, construction or improvement of ramps, etc.) as well as warning detection systems recognized by such Standards. See § 201.1110(g).

Several commenters questioned the economic feasibility of the loans and the ability of borrowers to bear the cost of the loan. Loans in this program are subject to co-insurance and a share of the potential loss is borne by the lending institution. The insurance obligation of the Secretary with respect to any lender cannot exceed: (1) 10 percent of the total amount of the loans made by the lender, or (2) 90 percent of the loss on any individual loan. It is necessary, therefore, that the interest rate be set at a level to meet the loan market in order to obtain the participation of lending institutions.

Several commenters suggested that loans be permitted to finance, on a retroactive basis, fire safety equipment that has been previously purchased or financed by a borrower. The Act authorizes loans on a prospective basis only and previously-financed purchases are not eligible for participation.

A commenter suggested undue emphasis was placed upon the installation of sprinkler systems as a fire safety device. Sprinkler systems in combination with smoke detectors in each patient room are among the most effective fire safety equipment devices in nursing homes. The regulations, however, provide for the installation of all or any of the fire safety equipment recognized under the latest edition of the Minimum Property Standards for Care Type Housing, including sprinkler systems, or under the Life Safety Code of the National Fire Protection Association (NFPA).

A commenter suggested that a comparison between this program and the fire safety equipment program authorized under Section 232 of the National Housing Act be made. This program is a co-insurance program with primary responsibility for loan processing placed upon the insured lending institution and is intended for the small health care facility which might not qualify under the Section 232 Program.

A suggestion was made that the grace period be lengthened. This suggestion has been adopted and the grace period has been extended from 10 to 15 days. See § 201.1165.

A Finding of Inapplicability pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 has been made with respect to these proposed regulations contained in 38 FR 19182 as amended. A copy of the Finding of Inapplicability is available for public inspection at the office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C.

Accordingly, in consideration of the foregoing, 24 CFR Part 201 is amended as follows:

1. In § 201.12, paragraph (b) is amended to read as follows:

§ 201.12 Insurance reserve.

* * * * *

(b) There shall be maintained for each insured a general insurance reserve which shall equal 10 percent of the aggregate amount advanced on all eligible loans originated by such insured pursuant to the provisions of the regulations in Subparts A, B, and C of this part on and after March 1, 1950, and prior to the expiration of the Secretary's authority to insure under the provisions of this Act, less the amount of all claims approved for payment by the Secretary in connection with such loans and less the amount of any adjustments made pursuant to paragraph (c) of this section.

* * * * *

2. In Part 201 a new Subpart C is added to read as follows:

Subpart C—Fire Safety Equipment in Health Care Facilities

Sec.
201.1105 Purpose of subpart.
201.1110 Definitions.

MAXIMUM LOAN, FEES AND CHARGES

201.1115 Maximum and minimum loan amount.
201.1120 Method of loan payment and amortization period.
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PROPERTY REQUIREMENTS

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201.1145 Eligibility of title.

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201.1150 Note and security form.
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201.1180 Lien on real estate.
201.1185 Prepayment privilege and prepayment charge.
201.1190 Refinancing.

FORM OF CONTRACT

201.1195 Contract requirements.

SPECIAL REQUIREMENTS

201.1200 Discrimination prohibited.

RIGHTS AND DUTIES OF LENDER

201.1205 Servicing and collection.
201.1210 Administrative reports and examinations.
201.1215 Election by lender.

INSURANCE CHARGE REQUIREMENTS

201.1220 Rate of insurance charge.
201.1225 Insurance charge adjustments on transfers.
201.1230 Refund or abatement of insurance charge.
201.1235 Insurance charge to borrower.
201.1240 Insurance reserve.

LOAN REPORTING

201.1245 Report of loans.

CLAIMS

201.1250 Claims.
201.1255 Maximum claim period.
201.1260 Date of default.
201.1265 Amount of claim.

FLOOD INSURANCE

201.1270 Flood insurance.

INCONTESTABILITY

201.1275 Incontestability of claim payments.

AMENDMENTS

201.1280 Amendment and effect.

AUTHORITY: Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 2, 48 Stat. 1246 (12 U.S.C. 1703) as amended by Pub. L. 93–383.

201.1215 Election by lender.

Subpart C—Fire Safety Equipment in Health Care Facilities

§ 201.1105 Purpose of subpart.

The provisions of this subpart contain the requirements under which an insured financial institution may obtain insurance of loans made for the purchase and installation of fire safety equipment for nursing homes, intermediate health care facilities and other comparable health care facilities.

§ 201.1110 Definitions.

As used in the regulations in this subpart the following terms shall have the meanings indicated.

(a) "Secretary" means the Secretary of Housing and Urban Development or a HUD official delegated the Secretary's authority with respect to the Act.

(b) "Contract of Insurance" includes all of the provisions of the regulations in this subpart, § 201.12 and the applicable provisions of the Act.

(c) "Form" means a document which is approved by or satisfactory to the Secretary.

(d) "Insured" means an approved financial institution holding a contract of insurance under Title I of the Act.

(e) "Loan" means an advance of funds or credit or the purchase of an obligation.

(f) "Note" means a note, bond, or other obligation that is evidence of indebtedness.

(f–1) "Default" means a failure by the borrower(s) to make any payment due under or provided to be paid by the terms of the note or security instrument.

(g) "Fire safety equipment" means any device or construction feature which is designed to reduce the risk of death, personal injury, or property damage resulting from a fire in nursing homes, extended health care facilities and intermediate care facilities, or other comparable health care facilities, which is recognized in the latest edition of the Department of Housing and Urban Development's Minimum Property Standards for Care Type Housing (4920.1) or the Fire Safety Code of the National Fire Protection Association (NFPA).

(h) "Nursing home" means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or if there is no State law providing for licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and related medical services are prescribed by, or are performed under the general direction of the persons licensed to provide such care or services in accordance with the laws of the State where the facility is located.

(i) "Intermediate care facility" means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or the political subdivision in which the facility is located), for the accommodation of the persons who, because of incapacitating infirmities, require minimum but continuous care but are not in need of continuous medical care or nursing services.

(j) "Extended health care facility" means a health care facility providing community service for inpatient care for convalescents or chronic disease patients who require skilled nursing care and related medical services.

(k) "State" means any State of the United States, Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(l) "Fire safety loan" means any form of secured obligation as may be determined by the Secretary to be eligible for insurance under this subpart.

(m) "Equipment cost" means the reasonable cost of "fire safety equipment", fully installed, as evidenced by a legally binding contract between the borrower and the contractor.

(n) "Insured loan maturity" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for in the loan instrument or instruments.

(o) "Borrower" means an owner of a health care facility who applies for and receives a loan in reliance upon the provisions of the Act.

(p) "Health care facility" means a "nursing home," "intermediate care facility," "extended health care facility," or other comparable facility.

(q) "Actuarial method" means the method of allocating payments made on an obligation between the amount financed and the amount of the finance charge, pursuant to which a payment is applied first to the accumulated finance charge and the balance is applied to the unpaid amount financed.

(r) "Act" means the National Housing Act, as amended, 12 U.S.C. 1703.

MAXIMUM LOANS, FEES AND CHARGES

§ 201.1115 Maximum and minimum loan amounts.

The principal amount of the loan shall not exceed the actual cost of the fire safety equipment, including the cost of installation, or $50,000, whichever sum is the lesser. The minimum principal amount shall be $10,000.

§ 201.1120 Method of loan payment and amortization period.

(a) *Monthly payments.* The loan shall provide for equal monthly payments in accordance with amortization tables provided by the Secretary.

(b) *Amortization period.* The term of the loan shall not exceed 25 years and 32 days.

§ 201.1125 Application.

(a) *Prior approval.* An application for insurance of a fire safety loan under this part shall be considered only in connection with a proposal which has been approved by the Fire Safety Marshal or other state or local official or agency, or other authority having primary responsibility or jurisdiction for the fire safety requirements of the health care facility.

(b) *Filing of application.* An application for insurance of a fire safety loan for a nursing home or intermediate care facility, extended health care facility, or other comparable health care facility shall be submitted to the local HUD office on an approved form, by a HUD-approved lender and the facility owner(s), for prior credit approval. It shall be accompanied by a proposal meeting the requirements of paragraph (a) of this section, and a copy of the contract between the borrower(s) and the contractor. Upon approval of the application, a letter shall be issued by the Secretary setting forth the terms and conditions upon which the fire safety loan will be deemed eligible for loan insurance.

§ 201.1130 Maximum charges.

(a) The loan shall bear interest at the rate agreed upon by the borrower and lender, which rate shall not exceed eleven (11) percent per annum.

(b) The loan shall be payable in equal monthly installments which shall include:

(1) Insurance charges payable to the Secretary by the lender.

(2) Interest on the loan.

(3) Amortization of the principal amount of the loan.

(c) The lender may collec' from the borrower an amount representing the fees provided for in this subpart. The lender may also collect from the borrower an initial service charge in an amount not to exceed one and one-half percent of the original principal amount of the loan to reimburse the lender for the cost of originating and closing the transaction. Any additional charges shall be subject to the prior approval of the Secretary.

ELIGIBLE BORROWERS

§ 201.1135 Eligible borrowers.

In order to be eligible as a borrower under this subpart the applicant shall be an owner of a nursi. g home, intermediate care facility, extended health care facility, or other comparable health care facility.

§ 201.1136 [Reserved]

PROPERTY REQUIREMENTS

§ 201.1140 Eligibility of property.

(a) A health care facility to be eligible under this subpart shall be real estate held:

(1) In fee simple; or

(2) [Reserved];

(3) [Reserved].

(b) The health care facility must be owned by an eligible borrower as herein defined and must, at the time the loan is insured, be free and clear of all liens other than those specifically approved by the Secretary.

TITLE

§ 201.1145 Eligibility of title.

The lender shall determine that the title to the real property to be improved is vested in the borrower as of the date of the loan application.

LOAN REQUIREMENTS

§ 201.1149 Reliance on credit application.

An insured acting in good faith may, in the absence of information to the contrary, rely upon all statements of facts made by the borrower, which are called for by the borrower's credit application, in determining the eligibility of the loan.

§ 201.1150 Note and security form.

The lender shall present for insurance a note and security instrument or instruments, on forms approved by the Secretary for use in the jurisdiction in which the property to be improved is located.

§ 201.1155 Costs of recording security.

The insured may collect from the borrower the following expenses actually incurred by the insured in connection with the transaction: Recording fees, fees necessary to maintain the validity of the lien, documentary stamp taxes, title examination charge, and hazard insurance premiums, provided that such costs or expenses are not paid from the proceeds of the loan or included in the face amount of the note. Such costs or expenses shall not be included by the insured as a portion of a claim under the contract of insurance and, if such costs or expenses are assessed against the borrower, proper evidence thereof shall be maintained in the file.

§ 201.1160 Default provision.

The obligation shall contain a provision for acceleration of maturity, at the option of the holder, upon default in the payment of any installment.

§ 201.1165 Late charges.

The obligation may provide for a late charge not to exceed 5% per $1 of each installment more than 15 days in arrears. No late charge in excess of $50 may be made on any past due installment.

§ 201.1170 Security.

(a) *All States except Louisiana.* The loan shall be secured by a properly recorded and perfected financing statement and security agreement covering the fire safety equipment, which shall be perfected in the manner specified by the Uniform Commercial Code as adopted in each state. If prior liens on the underlying realty by operation of law attach to the fire safety equipment, the Secretary or the lender may require that the borrower obtain a subordination agreement or a disclaimer from the holder of the prior lien.

(b) *Louisiana.* The loan shall be secured by a chattel mortgage covering the fire safety equipment, which shall be filed or recorded as required by state law. If prior liens on the underlying realty attach to the collateral, the Secretary or the lender may require that a severance agreement be obtained from each person, other than the borrower, having any interest in the real estate on which the fire safety equipment is installed.

§ 201.1175 Validity and enforceability of loan.

(a) The obligation shall bear the genuine signature of the borrower as maker, shall be valid and enforceable against the borrower or borrowers and shall be complete and regular on its face. The signatures of all parties to the obligation must be genuine. If the obligation is executed for and on behalf of a corporation or trust, the note must create a binding obligation of the principal.

(b) The obligation shall be secured by a properly recorded and perfected financing statement and security agreement or chattel mortgage which creates a first lien against the fire safety equipment.

§ 201.1180 Lien on real estate.

As additional security, a recorded lien on the improved real estate shall be required for any loan of $25,000 or more. The lien shall be in the form of a real estate mortgage, deed of trust or other form of security instrument approved by the Secretary.

§ 201.1185 Prepayment privilege and prepayment charge.

The security instrument shall contain a provision permitting prepayment of the loan in whole or in part upon any date a payment is due, after giving the lender 30 days' advance written notice, and it may contain a provision, with the approval of the Secretary, for a reasonable charge in the event of prepayment.

§ 201.1190 Refinancing.

A new obligation entered into for the purpose of liquidating a loan previously reported for insurance may be insured, if such new loan meets the requirements of this subpart and if the term of the new loan does not exceed 25 years and 32 days from the date of the original loan. The full amount of any unearned financing charge on the original obligation shall be refunded to the borrower. The earned charge shall be calculated by the actuarial method. The borrower may be assessed a handling charge of not more than $500 in connection with the refinancing.

FORM OF CONTRACT

§ 201.1195 Contract requirements.

(a) The contract between the borrower and the contractor shall be a lump sum contract for a specified amount. The contract shall include only the cost of fire safety equipment, and its installation.

(b) [Reserved].

(c) *Completion certificate.* The insured shall obtain a completion certificate on a form approved by the Secretary, signed by the borrower and by the contractor.

(d) *Use of loan proceeds.* The proceeds of a loan shall be used only to finance the purchase and installation of fire

safety equipment in existing health care facilities, fees for architectural and engineering services, and the costs of obtaining building permits in connection therewith, in accordance with the requirements of this subpart. The purchase and installation of the equipment must be commenced in reliance upon the credit facilities afforded by Title I of the Act.

§ 201.1200 Discrimination prohibited.

Any contract or subcontract executed for the installation of equipment, or construction of improvements to the projects shall provide that there shall be no discrimination against any employee or applicant for employment because of sex, religion, race, color, or national origin.

RIGHTS AND DUTIES OF LENDER UNDER THE CONTRACT OF INSURANCE

§ 201.1205 Servicing and collection.

The insured shall service loans in accordance with the accepted practices of prudent lending institutions. The insured shall have adequate facilities for contacting the borrower in the event of default and shall otherwise exercise diligence in collecting the amount due. The insured shall remain responsible to the Secretary for proper collection efforts, even though the actual servicing and collection may be performed by an agent of such insured.

§ 201.1210 Administrative reports and examinations.

The Secretary may at any time call upon an insured for such reports as the Secretary may deem to be necessary in connection with the regulations in this subpart. The Secretary may inspect the books or accounts of the insured as they pertain to the loans reported for insurance.

§ 201.1215 Election by lender.

Upon default, the lender may either elect to assign the loan to the Secretary in exchange for the payment of insurance benefits or may exercise its rights under the note and security instrument or instruments in lieu of making a claim for insurance benefits. If the lender elects the latter course, the Secretary shall be so notified, and insurance coverage shall be deemed terminated, at the discretion of the Secretary.

INSURANCE CHARGE REQUIREMENTS

§ 201.1220 Rate of insurance charge.

(a) *First premium.* The insured shall pay to the Secretary by check or draft an insurance premium equal to fifty one-hundredths (0.50) of one percent of the net proceeds of any eligible loan reported and acknowledged for insurance. Payments shall be due within twenty-five (25) days of the Secretary's acknowledgment of the loan report.

(b) *Annual insurance premium.* The second and succeeding installments, at a rate and in an amount equal to the first premium, shall be paid by check or draft within twenty-five (25) days after billing by the Secretary on an annual basis.

(c) *Calculation of premiums.* In computing the insurance charge, no charge shall be made for the fractional period of a month of 14 days or less, and a charge for a full month shall be made for the fractional period of a month or more than 14 days.

§ 201.1225 Insurance charge adjustments on transfers.

Where there is a transfer of obligation between insured lenders and the insurance charge on such obligation has already been paid, any adjustment of such charge shall be made by the lenders involved, except that any unpaid installments of the insurance charge shall be paid by the purchasing lender.

§ 201.1230 Refund or abatement of insurance charge.

An insured shall be entitled to a refund or abatement of insurance charges only in the following instances:

(a) Where the obligation has been refinanced, the unearned portion of the charge on the original obligation shall be credited to the charge on the refinanced loan.

(b) Where the obligation is prepaid in full or an insurance claim is filed, charges falling due after such prepayment or claim shall be abated.

(c) When a loan (or portion thereof) is found to be ineligible for insurance, charges paid on the ineligible portion shall be refunded. Such refund shall be made, however, only if a claim is denied by the Secretary or the ineligibility is reported by the insured promptly upon discovery. In no event shall a charge be refunded on the basis of a loan ineligibility where the application for refund is made after the loan is paid in full.

§ 201.1235 Insurance charge to borrower.

The insurance charge paid by the insured may be passed on to the borrower provided such charge is fully disclosed to the borrower.

§ 201.1240 Insurance reserve.

All of the provisions of § 201.12 with respect to maintenance for each insured lender of a general reserve shall apply with respect to loans reported for insurance under this subpart. The aggregate amount of loans advanced by an insured lender, for the purpose of determining its general insurance reserve, shall include loans reported for insurance under Subparts A, B, and C of this part.

LOAN REPORTS

§ 201.1245 Report of loans.

(a) *Date of reports.* A loan report on the prescribed form shall be transmitted to the Secretary at Washington, D.C., within 31 days from the following dates:

(1) In the case of an original loan, the date of the loan or the date upon which it was purchased by the insured.

(2) In the case of a refinancing, the date of the refinancing loan.

(3) In the case of a transfer of the loan to another insured lender, the date of the transfer.

(b) *Late reports.* If the loan is current, the Secretary may in her discretion, accept a late report on a loan where the insured certifies that the obligation is not in default.

(c) *Transfer of loan between insured lenders.* All of the provisions of § 201.12 (d) governing the transfer of loans between insured lenders shall apply to loans insured under this subpart.

CLAIMS

§ 201.1250 Claims.

(a) *Claim application.* Claim for reimbursement for loss on an eligible loan shall be made on a form approved by the Secretary and executed by a duly qualified officer of the insured. The claim shall be accompanied by the insured's complete credit and collection file pertaining to the transaction. Claim shall not be filed by the insured until after default.

§ 201.1255 Maximum claim period.

Claim shall be filed no later than 9 months and 31 days after the due date of the earliest fully unpaid installment provided for in the obligation unless an extension is requested and approved by the Secretary.

§ 201.1260 Date of default.

For the purpose of determining the date of default, any payments received on an account, including payment of judgments predicated thereon, shall be applied to the earliest unpaid installment.

§ 201.1265 Amount of claim.

(a) An insured may be reimbursed for its losses on loans made in accordance with the regulations under this subpart, up to the amount of its general insurance reserve. The amount of the reimbursement is determined by following the computation steps in subparagraphs (1), (2), (3), and (4) of this paragraph as follows:

(1) 90 percent of the net unpaid amount of the loan actually made or 90 percent of the actual purchase price of the note, whichever is the lesser.

(2) 90 percent of the uncollected interest earned up to the date of default calculated according to the actuarial method, plus 90 percent of the interest computed at 7 percent per annum on the outstanding balance, computed from the date of default:

(i) To either the date of the claim application or for a period of 9 months and 31 days following such default date, whichever period of time is the lesser, or

(ii) To the date of certification of the claim for payment in a case where an otherwise eligible claim has been held in suspense by the Secretary pending a determination of the eligibility for insurance of other claims or loans, or by an investigation of the insured's loan or claim activities.

(3) Uncollected court costs, if any, including fees paid for issuing, servicing, and filing summons.

(4) Attorney's fees, if any, actually paid, not exceeding $250.

(i) Actual costs and expenses in recording of assignments of security to the United States of America.

(b) *Assignment of documents.* The note and any security held or judgment taken must be assigned in its entirety; if a claim has been filed in bankruptcy, insolvency, or probate proceedings, such claims shall likewise be assigned to the United States of America.

(c) *Form of assignment.* The following form of assignment properly dated shall be used in assigning a note, financing statement, security agreement, judgment, real estate mortgage, deed of trust, conditional sales contract, chattel mortgage, mechanic's lien, or any other security device in event of claim:

All right, title, and interest of the undersigned is hereby assigned (without warranty, except that the note qualifies for insurance) to the United States of America.

_____
Financial Institution
By_____
Date_____
Title_____

Provided, That if this form is not valid or generally acceptable in the jurisdiction involved, a form which is valid and generally acceptable shall be used.

FLOOD INSURANCE

§ 201.1270 Flood insurance.

(a) Flood insurance coverage on the fire safety equipment is required as a condition of obtaining or refinancing a loan for the acquisition of fire safety equipment when the building to be improved is in an area that has been identified by the Secretary as an area having special flood hazards and flood insurance for such area has been made available under the Flood Disaster Protection Act of 1973, as amended (Pub. L. 93-234) and implementing regulations, 24 CFR Chapter X, Subchapter B. Flood insurance on the building, as well as on the fire safety equipment, is required in such cases where, as additional security, a recorded lien on the improved real estate is effectuated. The amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

(b) In cases where the applicant for a loan has previously received Federal financial assistance, regardless of the time interval involved or whether a security interest was retained, flood insurance both on the real estate and on the assisted personal property shall be required, when the conditions specified in the first sentence of paragraph (a) of this section are met.

(c) On or after July 1, 1975, or after one year following the date of official notification to the chief executive officer of the community of identification of special flood hazards, whichever is later, no loan shall be made or refinanced if the building is located in an area that has been identified by the Secretary as an area having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program, and such insurance is obtained by the borrower. The amount of flood insurance required need not exceed the principal balance of the loan and need not be required beyond the term of the loan.

INCONTESTABILITY

§ 201.1275 Incontestability of claim payments.

Any payment for loss made to an approved financial institution shall be final and incontestable after two years from the date the claim was certified for payment in the absence of fraud or misrepresentation on the part of such institution, unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period.

AMENDMENTS

§ 201.1280 Amendment and effect.

The regulation in this part may be amended by the Secretary at any time, but such amendment shall not adversely affect the insurance privileges of an insured with respect to any loan previously made or in the process of being made. Unless otherwise provided, an amendment shall be applicable to any loan or the refinancing of any loan, when the loan is made pursuant to an application dated on or after the effective date of such amendment.

NOTE: It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Effective date. These regulations shall be effective June 20, 1977.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing,
Federal Housing Commissioner.

[FR Doc.77-14509 Filed 5-23-77;8:45 am]

federal register

TUESDAY, MAY 24, 1977

PART IV



CIVIL AERONAUTICS BOARD

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CERTIFICATION OF COMMUTER AIR CARRIERS

CIVIL AERONAUTICS BOARD

[14 CFR Chapter II]

[Docket 30310; EDR-325]

CERTIFICATION OF COMMUTER AIR CARRIERS

MAY 18, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: At the present time, commuter air carriers are not subject to the certification requirements of section 401 of the Federal Aviation Act, as are trunk and local service carriers. They are instead exempt from most economic regulatory requirements. In a petition to the Board, four commuter air carriers contend that larger commuter airlines have outgrown their exempt classification and that lack of certification deters growth and inhibits their ability to meet present and future demand for air travel. In addition to the establishment of a simplified certification procedure, the carriers request that they be authorized to participate in certain industry-wide arrangements, such as joint fares, and that a separate simplified procedure be established for commuter air carrier subsidy applications. In light of the growing importance of commuter air carriers in the national air transportation system, the Board has decided to solicit public views on the need for certification of these currently exempt commuter air carriers.

DATES: Comments by June 30, 1977; reply comments by July 15, 1977.

ADDRESSES: Comments should be sent to Docket 30310, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FURTHER INFORMATION CONTACT:

Gary J. Edles, Routes Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5205).

SUPPLEMENTARY INFORMATION: On January 6, 1977, four commuter airlines—Air Illinois, Cascade Airways, Golden West Airlines, and Swift Aire—filed a petition urging the Board to initiate a rulemaking proceeding to establish a simplified certification procedure for certain of the larger commuter airlines. These carriers are currently exempted by Part 298 of the Board's Economic Regulations from the certification requirements of section 401(a) of the Federal Aviation Act.[1] The Petitioners, which all provide scheduled air tranportation, contend that as a direct consequence of being classified as noncertificated air taxis they are perceived as being lesser participants in the air transportation system, and that this perception deters growth and inhibits their ability to continue to provide good service. In support of their position, the petitioners list certain problems which they contend are a direct result of their noncertificated, or exempt status. Among these problems are: (1) The inability to participate as a local service carrier in the joint fare prorate under Phase 4 of the DPFI;[2] (2) The inability to secure financing of new equipment because of ineligibility for government loan guarantees;[3] (3) Ineligibility for Federal subsidy; (4) Poor ticket counter and gate locations at airports; and (5) Payment of higher prices for fuel because suppliers consider them to be general aviation.

To resolve these problems, the petitioners propose to set up a new class of certificated commuter carriers, limited to aircraft of 10 to 56 seats with certification accomplished by means of simplified, inexpensive show cause procedures. The petitioners propose that such carriers be subject to minimal reporting requirements unless subsidized, have the ability to abandon markets without the necessity of formal hearings and be able to participate in federally guaranteed aircraft loans, joint fares, interline ticket and baggage agreements and other industry-wide arrangements. The petitioners also seek a separate simplified procedure for establishing subsidy eligibility of commuter carriers when, in the petitioners' words, "economic realities indicate that service in some areas cannot be provided without subsidy." They always seek route protection against other non-certificated carriers—a protection not now generally available to certificated carriers.

Fundamentally, the petitioners request that the Board promulgate a new regulation which would set forth criteria under which a commuter operator could qualify to become a certificated carrier. The proposal envisions that the Board would make public convenience and necessity findings applicable to the class of commuter carriers by rule. Thereafter, carriers which meet the criteria would, upon application, be awarded a certificate if they could establish, through simplified show-cause procedures, that they were fit, willing, and able. By narrowing the issues in this way, the petitioners believe that the cost of individual certification would be substantially reduced and the decisional process would be expedited. Additional adjudicatory procedures would be required for carriers seeking subsidy in a specific market. No responses to the rulemaking petition have been filed.

The Board is sensitive to the specific problems which may impinge upon a fuller participation in the air transportation system by commuter carriers. Nonetheless, several important issues are raised by the manner in which the petitioners propose to resolve these problems. The Board would like to receive comment on these issues from interested members of the public and consumer representatives, as well as from affected carriers including other commuter carriers.

An initial question is whether the problems described by the four petitioners are widespread in the commuter industry and, if so, whether certification would be an appropriate regulatory response. In formulating responses to this general question we would request that all respondents consider to what extent, if any, the perceived need for certification may be alleviated by enactment of the Board's Small Community Service Program[4] or other subsidy reform proposals now being considered by the Congress.[5] Pursuant to such program, the Board would directly subsidize noncertificated or certificated air carriers for providing a specified level of service in particular city-pair markets. During a phase-in-period, eligible communities would be limited to currently certificated points. However, after a three year period applications for subsidized service would be accepted from other small communities. Applications would be processed without formal evidentiary hearings. Carriers providing subsidized service under this program would be eligible for inclusion under the joint fare provision of the DPFI on their subsidized routes.

If it is decided that some form of simplified certification for commuter air carriers is required by the public convenience and necessity, a variety of other issues must be addressed. We expect interested persons to indicate, in detail, what specific rights should be bestowed and what specific responsibilities should be imposed on these carriers by the issuance of a certificate. In this regard,

[1] A "Commuter air carrier" is defined in § 298.2(f) of the Board's Economic Regulations, 14 CFR 298.2(f), as an air taxi operator which (1) performs at least five round trips per week between two or more points and publish flight schedules which specify the times, days of the week and places between which such flights are performed or (2) transports mail by air pursuant to contract with the United States Postal Service.

[2] Only commuter carriers which serve as replacement carriers at small communities participate in joint fares.

[3] Under the Government Guarantee of Equipment Loans Act, 49 U.S.C. § 1324, the Secretary of Transportation may guarantee payment of principle or interest to financial institutions who issue loans to certificated carriers conducting local of feeder air service.

[4] In its testimony before the Senate Subcommittee on Aviation on March 21, 1977, the Board stated that "[W]hile there may be proper cases in which formal certifications could be appropriate to the need of particular communities, the program we propose will offer many of the service guarantees inherent in certification without so many of the administration and other burdens which may be associated with certification." A copy of the Board's testimony and draft legislation presented before the Aviation Subcommittee of the Senate Committee on Commerce on March 21, 1977, are attached as Appendices A and B.

[5] Besides the proposal submitted by the Board, the Senate Committee on Commerce, Subcommittee on Aviation, is currently considering other measures which could significantly modify the regulatory scheme and create new opportunities for commuter air carriers. Indeed, one of the bills would create a limited certification process, similar to, but not as wide-ranging as, the petitioners' proposal, for providing service to small communities. See S. 292, introduced by Senators Pearson and Baker.

the petitioners have proposed a number of elements of certification which in general terms can serve as focal points of this inquiry. The petitioners contend that certification must at a minimum accord commuter air carriers the four basic prerogatives currently conferred upon local service carriers. These, as we have discussed, are: (1) Subsidy eligibility; (2) participation in joint fares at the same division of rates as received by local service carriers; (3) qualification for government loan guarantees; and (4) participation in interline arrangements and practices relating to baggage handling, ticketing and reservations.

In addition to these traditional elements, the petitioners propose five elements which would be both novel and, presumably, unique to the simplified certification of commuter air carriers. These elements can be summarized as follows:

(1) Findings of public convenience and necessity for certification would be made through a simplified show cause procedure based upon entry standards defined by rule and apparently unrelated to particular points or markets. The petitioners suggest that the minimal entry standards for an applicant include (a) continuous operation between the two points for which certification is sought for at least two years, (b) operations conducted with aircraft of no less than 10 passengers and no greater than 56 passengers (and a payload capacity not exceeding 16,000 pounds), (c) provision of at least ten scheduled round trips per week over each of a minimum of three routes for a period of six months or more, (d) total weekly available seat miles of at least 200,000 and gross annual transportation revenues of no less than one million dollars.

(2) Mandatory certification for all carriers meeting the standards described above upon a finding by the Board that the carrier is fit, willing, and able to perform the proposed service. (The petitioners prefer that commuter certification be strictly voluntary, but "yield to various legal and economic arguments" to the contrary.)

(3) The right to expand off-line operations pursuant to Part 298 of the Board's economic regulations or its equivalent.

(4) Abandonment of points or markets upon a ninety-day notice filed by the carrier that the operation is no longer economical or in the public interest subject to the right of communities involved to file a protest.

(5) Route protection from noncertificated commuter air carriers in markets where commuters have been issued certificates.

Interested respondents should address in general terms the merits of including any or all of these elements.[6] Specifically we are interested in comments from both proponents and opponents relating to the practical need, if any, for such provisions, and in any potential legal impediments to their implementation which may exist under the Federal Aviation Act. Since our overriding concern is the provision of improved service to the traveling and shipping public, we expect that proponents of a change in current Board policy will discuss the specific service benefits which would result from certification. In this connection the petition does not specifically address the fare implications of the proposal, although reduced reporting requirements would appear to be antithetical to increased rate regulation. We would expect all interested persons to set forth their views on the pros and cons of including any new class of certificated carrier within the DPFI. Similarly, all respondents should also consider the extent to which commuter air carriers should be subject to Board requirements designed to protect the public and which are now applicable only to certificated carriers. These include, for example, denied boarding compensation under Part 250, baggage liability limits, etc. In addition, we would welcome comments which address both alternative solutions to the problems raised by the petitioners and other perceived problems within the commuter air industry amenable to Board solution.

Finally, in preparing their comments, the proponents of a certification program should bear in mind that the Board has historically pursued a policy which allows commuter air carriers to freely enter and exit from any market in response to consumer demand at fares set at the discretion of management. Indeed, the Board's 1976 and 1977 legislative proposals included a general increase in the unregulated, commuter air carrier and air taxi zone. As the Board recently pointed out in its testimony before the Subcommittees on Aviation of both the Senate and House, the commuter carrier industry operating in an essentially unregulated environment and using equipment better suited to small community service, has grown impressively in recent years.[7]

The petitioners contend that the commuter air carriers have now reached the stage where certification is necessary to insure the ability of these carriers to continue to grow and provide improved services to the public. We wish to examine that contention. The Board is concerned that there be no regulatory barriers to improving service at smaller communities where traffic demand warrants such improvements. The purpose of this advanced notice is to provide the Board with sufficient information to consider the genuine needs of the commuter carriers, and possible solutions to particular problems, in greater depth. Nonetheless, we believe it useful to state at the outset that the Board does not look with favor upon the petitioners' proposal that they be assured route protection from non-certificated carriers in markets for which they have been certificated. Therefore, proponents of route protection should understand that the burden is upon them to demonstrate that the benefits to the public from such Board sanctioned monopolies will in the long run outweigh the benefits of competition which have already been made manifest by the success of the petitioners.

[6] The matter of joint fares for commuter air carriers is currently the subject of another rulemaking proceeding in Docket 29707. Therefore respondents need not address this proposed element in detail in their comments.

[7] In this regard, the petitioners also note that the industry has made rapid strides in recent years. As the petitioners point out, in the last ten years the number of commuter air carriers has grown from less than 30 to more than 200. They also note that over the last five years, passenger boardings have increased at the rate of about ten percent a year and the industry now boards more than seven million passengers a year. Petition at 2.

COMMENTS REQUESTED

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rule.

Those persons planning to file comments or responsive comments who wish to be served with such comments filed by others, shall file with the Docket Section at the above address by May 30, 1977, a request to be placed on the Service List in Docket 30310. The Service List will be prepared by the Docket Section and sent to the persons named on it. Those persons are to serve each other with comments or responsive comments at the time of filing.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the above address, without the necessity of filing additional copies.

(Secs. 204, 408, 404, and 1002, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 760, and 788 as amended; 490 U.S.C. 1324, 1378, 1374, and 1482 and 5 U.S.C. 552.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

THE BOARD'S SMALL COMMUNITY SERVICE AND SUBSIDY REVISION PROPOSAL

An essential and integral part of the Board's regulatory reform program is the revision of the present subsidy provisions of the Federal Aviation Act and the establishment of an improved mechanism for assuring good service to the small communities of America. Last year we had not completed our analysis of this subject and did not submit specific recommendations and legislation on these matters. Since then we have considered a number of alternative approaches, sought and received the comment and suggestions of many interested parties, and at this time offer Congress our recommendations.

The details of the program and its implementing legislation are set forth in Appendix A to this statement. Before I discuss the specifics of the Board's proposal, I would like to review the historical background and the objectives we seek to achieve.

Section 406 of the Federal Aviation Act was part of the original legislation enacted

in 1938. It authorizes the Board to pay subsidy to certificated air carriers.

By 1969 none of the trunk carriers, except Northeast Airlines, required subsidy to sustain their /operations. This self-sufficiency was greatly assisted through the transfer of nearly 200 marginal trunkline points—small communities, if you will—to the local service airlines.

But changes have occurred in the air transportation industry which have required both the locals and the Board to reassess the costs of the present subsidized system against its benefits. The mail pay statute of the late 1930's is simply out of date in the mid-1970's.

First, the statute limits the payment of certificated airlines. This presents two principal drawbacks. First, the smaller certificated airlines—the local service carriers—have now turned their attention to larger planes and larger markets. While some turboprop equipment remains in the fleets of the local service airlines, this equipment is, by and large, being replaced by jet aircraft. Service to smaller points has diminished—and is likely to continue to diminish—simply because it is not economically possible to justify high-frequency service with large jet aircraft at points enplaning only 10 or 20 or 30 passengers a day.

Second, the commuter carrier segment of the industry has grown immensely in recent years. These carriers, operating in an essentially unregulated environment, and using equipment better suited to small community service, are the best hope for good service in the future. But the law says that we cannot subsidize these carriers directly unless each one goes through an expensive and time-consuming certification process. Thus, the necessity for certification limits the Board to the local service carriers as the primary source of supply for Federally assisted small community service and cuts out scores of successful, qualified, non-certificated carriers which could and would undertake to provide such service.

Furthermore, the current statute requires the Board to consider a certificated carrier's overall system need when determining the amount of subsidy. This means that if a carrier loses money on its small community service but makes money on the rest of its services, we must off-set the losses from non-profitable operations with revenues from the profitable operations. There is, therefore, a very limited incentive for a carrier to provide good service to small, unprofitable points.

Finally, the Act expressly prevents the Board from restricting an air carrier's right to adjust its equipment or schedules in any market. Such a provision is useful in encouraging carrier management to innovate where there is a competitive incentive for such innovation. And it correctly keeps the Board out of the day-to-day business of running an airline. But it is a serious drawback to the Board's ability to insure, in the interests of the taxpayer and those dependent on small community air service, that the right equipment and the right schedules are provided for service which the government subsidizes. Thus, neither the affected small community nor the Federal government has the tools to insure that presently subsidized service is economical and tailored to the needs of the community.

With these considerations in mind, we took a hard look at two questions under the presently authorized program. First, are we getting air service really suited to the special needs of small communities? Second, are the taxpayers receiving their money's worth for local air service? We believe the answer to both questions is "no."

It seemed to us that the best method for obtaining better small community service at lower subsidy was, first of all, to fold the non-certificated commuter carriers into the system. They operate the appropriate equipment and their costs are far lower than those of the certificated carriers. There are a number of communities now served on a subsidized basis by locals that can be served by commuters without any subsidy. There are many other communities which can be served by commuters at far lower Federal cost per passenger. We also concluded that Federal funds could be utilized more effectively if subsidy were based on the cost of providing a given level of service in particular city-pair markets with a specified aircraft type, rather than considerations of overall system need of the subsidized carrier as is now required. Finally, we concluded that the communities themselves should be brought more directly into the process of deciding where they want to go and what type of service they need.

We carefully considered the alternatives of certificating commuter carriers. Indeed, the Board has recently certificated a carrier for small community service and is considering hearings on other applications. We fully appreciate that communities want reliable service and that many believe certification is the only way to obtain it. While there may be proper cases in which formal certification could be appropriate to the needs of particular communities, the program we propose will offer many of the service guarantees inherent in certification without so many of the administrative and other burdens which may be associated with certification. Moreover, out proposal does not preclude formal certification in those cases where it may be appropriate.

Under our proposal, each carrier and the affected communities will know that the Board has the ability and responsibility to monitor and review the service provided on a periodic basis to insure that it remains good. Each carrier will have reasonable stability in its markets. Joint fares are contemplated by our proposal and loan guarantees, if desired, could be authorized when Congress considers extension of the current loan guarantee law. In addition, those commuter airlines not participating in the Board's small communities program could be granted joint fare privileges and also, by legislative action, loan guarantees. (We note that the Board has a pending proceeding to consider extending joint fare privileges to commuter carriers.) In short, we should be able to achieve the benefits of certification without the possible drawbacks.

We also considered variations of a contract bid approach but did not adopt it.

First, we had less confidence in a contract-bid system assuring reliable service. While such a procedure offers the prospects of the lowest cost to the government, we foresaw that prospective small community service contractors might offer unrealistically low bids because of their lack of experience in the markets. They could later be in a position of having to sustain losses or terminate their services with a consequent detrimental impact on the community and a significant administrative headache for the Board. We think our proposal will avoid these pitfalls and assure more reliable service.

Second, the Board solicited public comments on the major alternatives and the reaction was almost unanimously adverse to a contract or low-bid program. We weighed these comments heavily because any small community program will depend a great deal for its success upon support by local governments, civic groups, and the traveling public.

Having evaluated a large volume of data and opinion, the Board, with the help of its staff, formulated the Small Community Service Program. The legislation we are submitting is intentionally broad so that the details can be developed through a rulemaking process in which the views of the small communities and other interested parties will be actively sought. The key points are as follows:

(1) Eligible small communities will, at the outset, include all those which enplane 40 or fewer passengers per day and which are currently contained in the certificates of carriers, even if service is now suspended. After a three-year phase-in period, new points will be eligible to be added to the program. A place on the list of eligible communities amounts to a Federal franchise that will not be revoked except after notice and hearing. The 40-enplanement standard was chosen because our data indicate that it is the threshold at which unsubsidized service can be provided with large turboprop aircraft. This does not mean that all communities on the list will need to be subsidized. Rather, it means that each of the communities is guaranteed a reasonable level of service, although many communities will actually be served by commuter or certificated carriers without subsidy.

(2) The Board will determine the level of service, the markets, and the type of equipment for which subsidy will be paid. We will actively solicit each community's advice and assistance in this process. The community will have a lot more to say about service under our new program than it has now, but we think it desirable nevertheless to leave to the Board the judgment as to what can be justified in the light of the traffic and the cost to the Federal government.

(3) Costing methodology will utilize costs representative of the commuter industry for the aircraft type in question. Subsidy will be based on these costs and estimates of passenger revenues for the first year. For subsequent periods, we will work with actual traffic experience. This should encourage the small community operator to keep its costs in line.

(4) Carefully defined carrier qualifications will be adopted to assure that the operators are experienced, safe, and financially responsible. Selection among qualified applicants will be based upon objective criteria, but will weigh in favor of local operators.

Let me, for just a moment, try to make these ideas more concrete. Listed on the guaranteed service list are Enid and Stillwater, Oklahoma. Enid is a fairly small point, generating fewer than 12 daily passengers for its present local service carrier. Stillwater is suspended and gets no air service.

Let us assume that both communities ask for service to Oklahoma City. After consulting with the communities, the Board would then develop good service patterns for each community linking them with Oklahoma City. More than likely, the service pattern would include early morning, mid-day and evening arrivals and departures five days per week and perhaps two daily round trips on the weekend. The Board might also find that a 15-seat aircraft is the minimum size necessary to provide the required service.

The Board would then estimate the likely revenues from passenger fares, cargo and mail, the likely cost, and forecast a first year subsidy requirement of, for example, $120,000. The Board would then issue a notice that subsidy is available for the prescribed service.

Suppose five firms submit applications.

Two applicants might not be qualified because one has a poor safety record and the other has no experience in scheduled passenger transportation. Of the remaining three applicants one is based in Oklahoma City and the other two are from out of state. The Oklahoma City candidate would get the route.

We would carefully watch that first year of service. Let us assume that traffic responds well, the communities are pleased, and the carrier earns a 20 percent return on its investment after subsidy. If the record is that good, some reduction in subsidy will seem warranted. Of course, if the carrier's earnings are not as high, it may be that the subsidy level will remain stable. It could even increase. At the end of the first year, the staff would study all the data and reopen the route for applications for three years at a new subsidy rate. The Board might switch the service pattern around a little to provide timing which the communities would now prefer. Let us assume that the incumbent carrier, which has kept its costs in line, reapplies for the route at the new rate. That carrier would get it and be subsidized to operate the air service for the next three years.

This new Program is designed to replace the existing method of subsidization over a seven-year period. Our legislation includes provisions to make subsidy under the current section 406 no longer available for domestic trunkline operations upon the date of enactment. We would also replace other currently subsidized operations with our Program over a seven-year period. There is one exception. In our judgment, the Board should retain the flexibility to authorize subsidy for the provision of specifically identified foreign or overseas air transportation where there are special foreign relations or defense considerations present.

Our proposed changes in the subsidy provisions of the Act will, of course, affect the way in which the subsidized segment of the industry currently operates. At present, Federal subsidy comprises only 4.2 percent of the revenues of the local service and Alaskan carriers. The local service and Alaskan carriers will, of course, be fully eligible to receive subsidy under the Board's Program. Indeed, we anticipate that some of these carriers will be applicants for subsidy. Moreover, the elimination of the obligation for serving small, unprofitable points should have a salutary effect on their overall economic prospects.

Given the seven year lead time, a growing economy, and skilled management, we believe that the road to essentially non-subsidized status can be successfully negotiated by the local service carriers.

In summary, the Board's proposed Program will allow the maintenance and expansion of service to small communities by paying Federal funds to air carriers, including non-certificated commuter air carriers, according to the actual cost of providing specified levels of service at eligible communities. The level of service, and the hub points to be served, will be established by the Board with the active cooperation of the affected small communities. The amount of subsidy will be predicated on costs representative of the commuter industry. All currently certificated points enplaning 40 or fewer passengers a day will be eligible under our proposed Program. The Program will be introduced gradually over a seven year period. As part of the revision of the statutes present subsidy provisions we also recommend that the subsidy eligibility of trunk carriers for domestic operations be terminated immediately and that local service carriers be phased out of their existing subsidy eligibility by the end of the seven-year phase-in of the new Program. It is our firm belief that the new Program will, when fully implemented, bring about great improvements in service at lower cost than the present system.

Let me emphasize, in conclusion, that the Board is committed to the principle that the Nation's smaller communities deserve reliable access to the air transportation system. We believe that the future needs of these communities can best be met by enacting the legislation we are presenting to you today.

CONCLUSION

Mr. Chairman, this concludes our prepared statement. We shall be happy to respond to any questions the Committee may have.

DRAFT LEGISLATION

1. Amend section 101(10) as follows:

"Air Transportation" means interstate, overseas or foreign air transportation, transportation conducted pursuant to Section 418 of this Act, or the transportation of mail by aircraft.

Amend section 101 by inserting the following new paragraph:

"Small Community" means a village, town, city or other locality in the United States, which is eligible for service pursuant to Section 418 of this Act.

2. Amend Section 406(b) by adding the following:

Provided however, That the Board may, when required by the needs of foreign commerce or the national defense, pay compensation for the transportation of mail in overseas or foreign air transportation between specific points without regard to the carrier's system need and revenues as otherwise required by clause (3) of this subsection: *Provided further*, That notwithstanding the provisions of section 401(e)(4) of this title, the Board may designate the schedules and equipment for which compensation shall be paid.

Amend Section 406(c) by adding the following:

Provided, That an air carrier is not eligible to receive payments pursuant to subsection (b) of this section for interstate air transportation unless that carrier was actually receiving payments pursuant to that subsection on the date of enactment. *Provided, further*, That no air carrier shall receive any payment pursuant to subsection (b) of this section after December 31, 1984.

3. Amend Section 401(a) to read as follows:

"(a) No air carrier shall engage in any air transportation unless there is in force either a certificate or license issued by the Board authorizing the air transportation: Except, That the requirements of this section shall not apply to scheduled air transportation performed pursuant to Board authorization under Section 418 of this title.

A new section 418 is added to read as follows: (a) (1) The Board is empowered and directed to fix and determine the fair and reasonable rates of compensation to be paid to air carriers for the transportation of persons, property and mail to ensure continued access of small communities to the Nation's air transportation network if it finds that this access cannot be maintained without compensation from the Federal Government. The designation of air carriers to provide the transportation and the rates of compensation may be determined with or without hearings and shall be subject to such terms and conditions as the Board may prescribe.

(2) Within 180 days of the date of enactment of this section, the Board shall publish a list of the small communities eligible for assistance under this section: *Provided*, That for three years from the date of enactment of this section, eligible small communities shall be only those points contained in certificates of public convenience and necessity as of January 1, 1977.

(3) Commencing three years from the date of enactment of this section, the Board may, by regulation or otherwise, establish criteria for including additional communities to the list of eligible communities. In determining whether a community should be added to the list, the Board shall consider, among other things, the level of traffic generated by the community and its future traffic generating potential, the cost to the Government of providing service, and the degree to which access by the community to the Nation's transportation system is otherwise available.

(4) The Board shall by regulation or otherwise establish an orderly procedure for implementing the authority granted in this section including, as necessary, the amendment of certificates of public convenience and necessity so as to delete or suspend a carrier's authority to serve eligible communities under section 401. The procedure shall be based upon the relative needs of the eligible communities for service, the relative cost of service to the Government and such other criteria as the Board may deem appropriate; *Provided*, That the authority granted in this section shall be implemented with respect to all eligible communities no later than December 31, 1984. Except, That the authority shall not be implemented with respect to any eligible community where, and for so long as, both the community and the certificated carrier request continuation of the existing certificated service without eligibility for mail payments under section 406(b)(3) of this title.

(b)(1) Compensation shall be limited to an amount required to operate a specific level of service between the small community and a point or points designated by the Board. In determining the pattern of service for which an air carrier may receive compensation, the Board shall consult with the community and in addition shall consider such other data as it deems relevant.

(2) The Board shall, by regulation or otherwise, establish the revenue and expense elements to be considered in determining rates of compensation: *Provided*, That such expense elements shall be based upon representative costs of air carriers providing comparable service with comparable equipment.

(3) The rate of compensation under this section shall be established initially for a one-year period and shall be reestablished at least every three years thereafter. The applicant selected initially shall be offered the rate of compensation established for the successive period, if any. If the applicant declines to continue to provide service at the specified rate of compensation, the Board shall select a different applicant under the provisions of this section.

(c)(1) The Board shall, by public notice, solicit applications from air carriers and other persons to perform the air transportation specified, and shall, by regulation or otherwise, establish criteria for selection of one of the qualified applicants.

(2) The Board's notice shall set forth in detail: (A) the minimum service to be performed; (B) the minimum size and any special characteristics of the aircraft to be utilized; (C) the maximum permissible fares; (D) the dollar amount of the subsidy; (E) the minimum safety, financial, and operational qualifications the Board deems necessary to assure that the applicant is qualified to perform the service; (F) such other terms and conditions as the Board deems relevant to the application process.

(d) The Board may, after notice and hearing, remove any point from the list of eligible small communities. In determining whether a community should be removed from the list, the Board shall consider, among other things, the level of traffic generated by the community and its future traffic generating potential, the cost to the Government of providing service, and the degree to which access by the community to the Nation's transportation system is otherwise available.

(e) No certificate of public convenience and necessity issued pursuant to section 401 of this title, shall be required as a condition to the provision of service and receipt of compensation pursuant to this section; and no air transportation compensated under this section shall be eligible for compensation pursuant to section 406(b)(3) of this title.

[FR Doc.77-14534 Filed 5-23-77;8:45 am]

federal register

TUESDAY, MAY 24, 1977

PART V



ENVIRONMENTAL PROTECTION AGENCY

■

POLYCHLORINATED BIPHENYLS (PCBS)

Toxic Substances Control

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 761]

[FRL 722-3; OTS-068005]

POLYCHLORINATED BIPHENYLS (PCBS)

Toxic Substances Control

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule pursuant to the authority of section 6(e)(1), The Toxic Substances Control Act (Pub. L. 94-469; 90 Stat. 2003; 15 U.S.C. 2601, et. seq., hereinafter referred to as TSCA). Provide an opportunity for Informal Hearing pursuant to the Authority of section 6(c)(2) and 6(e)(4), TSCA.

SUMMARY: These proposed regulations prescribe disposal and marking requirements for polychlorinated biphenyls (PCBs) and articles and equipment which contain PCBs. Newly manufactured PCBs, PCB articles, and PCB equipment, as well as PCBs, PCB articles, and BCB equipment presently in use, are covered by these requirements. Section 6(e) of TSCA requires the promulgation of rules prescribing marking and disposal of PCBs by July 1, 1977. The intent of these regulations is to protect the environment from further contamination by PCBs resulting from improper handling and use and from release of PCBs to the environment following disposal.

HEARING PROCEDURE AND DATES: In order to promulgate this rule as close as possible to the deadline set by TSCA, the following compressed schedule for comments and informal hearing is necessary. To the extent specific changes are not set forth below, the proposed procedures for rulemaking under section 6 of TSCA, (40 CFR Part 750) 42 FR 20640 (April 21, 1977), will govern.

Comments on these proposed regulations must be received by EPA prior to the close of business on June 22, 1977. The informal hearing on these proposed regulations will begin at 10:00 a.m. on June 24, 1977, in room 3906, EPA Headquarters, 401 M Street, SW., Washington, D.C. 20460. Requests for participation in the informal hearing must be received by EPA prior to the close of business on June 14, 1977.

All requests for cross-examination must be received by the Hearing Clerk within two days after the completion of the legislative part of the informal hearing. Requests for cross-examination will be acted on by EPA as soon as possible and not later than the deadline in the proposed regulations of one week after receipt. The cross-examinations granted by EPA will begin as soon as possible thereafter. All reply comments must be received by EPA prior to the close of business on the fifth working day after the last day of cross-examination.

Rules on funding public participation in the hearings related to this rulemaking will be published in the FEDERAL REGISTER shortly. These rules will be based on section 6(a)(4) of TSCA.

INFORMATION CONTACT:

David E. Wagner, Office of Toxic Substances (WH-557), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-426-9000. Joni T. Repasch is the Record and Hearing Clerk for this rulemaking. The official record of rulemaking is located in Room 725 WSME, EPA Headquarters, 401 M Street, SW., Washington, D.C. 20460, 202-426-9000. able for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday excluding holidays. Hearing transcripts and other hearing material shall be added to the record as soon as feasible after they become available.

SUPPLEMENTARY INFORMATION: A support document titled, "PCB Marking and Disposal Regulations—Support Document," is available. Mrs. Joni T. Repasch, Room 713 WSME, 401 M Street, S.W., Washington, D.C. 20460, Telephone 202-426-9000, can provide information on obtaining copies of the document. This document contains PCB background information, PCB effects information, economic analyses of regulatory action, regulatory support information, and the list of documents contained in the official record of rulemaking.

Comments on these proposed regulations must be received by EPA prior to the close of business on June 22, 1977, and should be sent to the Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street, SW., Washington, D.C. 20460, Attn: Joni T. Repasch.

LEGAL AUTHORITY

Section 6(e) of TSCA states, "Polychlorinated Biphenyls

"(1) Within six months after the effective date of this Act the Administrator shall promulgate rules to

(A) Prescribe methods for the disposal of polychlorinated biphenyls, and

(B) require polychlorinated biphenyls to be marked with clear and adequate warnings and instructions with respect to their processing, distribution in commerce, use, or disposal or with respect to any combination of such activities.

Requirements prescribed by rules under this paragraph shall be consistent with the requirements of paragraphs (2) and (3).

Paragraphs (2) and (3) apply to bans on manufacturing, processing, and distributing in commerce and will be addressed at a later date. The definitions of polychlorinated biphenyls contained herein are consistent with definitions that EPA intends to use for rulemaking under paragraphs (2) and (3).

The legal authority contained in the Resource Conservation and Recovery Act (RCRA), Pub. L. 94-580, has not been used in the regulation. However, RCRA requires that by April 21, 1978, EPA identify hazardous wastes; establish a permit system for treatment, storage, and disposal of hazardous waste; and establish a manifest system for the disposition of wastes, as well as monitoring and recordkeeping requirements for hazardous waste management facilities. Thus, PCB-containing solid wastes that meet the criteria for "hazardous waste" may also be subject to broader regulations being developed under RCRA. If conflicts arise between the RCRA and TSCA approaches, the TSCA regulation could be amended or an exception to RCRA requirements could be granted.

DISCUSSION OF THE RULE:

BACKGROUND

Polychlorinated biphenyls (PCBs) are mixtures of the chemical compounds formed by the chemical bond of two benzene molecules into a biphenyl molecule with varying numbers of chlorine atoms attached to the biphenyl molecule. PCBs are among the most stable organic compounds known and exhibit other properties that render them useful as dielectric and heat transfer fluids. PCBs are currently used primarily in capacitors and transformers. They are also used in investment casting waxes and in the cooling systems of mining machinery.

Of the roughly 1.25 billion pounds of PCBs introduced into commerce in the United States since 1929, only 55 million pounds have been destroyed by incineration or by degradation in the environment. 290 million pounds are under varying degrees of control in landfills and dumps, and 150 million pounds are free in the environment. 758 million pounds are currently in service.

Of the approximately 758 million pounds currently in service, 750 million pounds are in electrical transformers and capacitors as follows:

Transformers—140,000 items totalling 300,000,000 pounds of PCBs

Large high voltage capacitors—8,000,000 items totalling 200,000,000 pounds of PCBs

Large low voltage capacitors—20,000,000 items totalling 200,000,000 pounds of PCBs

Small capacitors for highway lighting—25,000,000 items totalling 50,000,000 pounds of PCBs

Small capacitors in small appliances—50,000,000 items totalling 50,000,000 pounds of PCBs

Small capacitors in fluorescent light ballasts—800,000,000 items totalling 80,000,000 pounds of PCBs.

The transformers have a 40-year average life, and the other items have a 15- to 20-year average life. The relatively long life of these items will result in an equally long time period during which disposal of PCBs will be required.

Although PCBs have long been known to be extremely toxic, only in recent years have they been acknowledged to be a general threat to the environment. They have been found in significant concentrations in waterways and sediments throughout the world. They are a widely spread contaminant of fish and wildlife resources. Recently, they have been identified in the milk of nursing mothers throughout the United States.

PUBLIC PARTICIPATION IN THE DEVELOPMENT OF THE REGULATIONS

On December 20, 1976, a public panel meeting was held and representatives of key public and private organizations were invited to participate in a discussion on the primary issues involved in these regulations. A notice of this meeting was published in the FEDERAL REGISTER prior to the meeting. (See 41 FR 536921, December 8, 1976). On January 24, 1977, a public meeting was held on the development of these regulations and any interested person could request time to speak on any matter related to the regulations. A FEDERAL REGISTER notice (FR 3701 January 19, 1977) was published prior to the public meeting which contains a discussion of key issues and requested public comment on those issues.

GENERAL DEFINITION

The definitions of "Administrator", "Agency", "chemical substance", "distribute in commerce", "manufacture", and "process" are identical to the definitions of these terms in TSCA. The definitions of "mixture" and "person" are taken from the definitions in the proposed regulation 40 CFR Part 700, Toxic Substances Control, General Provisions.

CHEMICAL STRUCTURES INCLUDED IN DEFINITION OF PCBS

"PCB chemical substances" are defined as chemical substances which are limited to the biphenyl molecule that has been chlorinated to varying degrees. This definition is the basic building block for defining other forms of PCBs. Any modification other than chlorination to the molecule is sufficient to remove the resultant molecule from classification as a PCB.

One option considered was to broaden the definition of PCB chemical substances by altering the definition to read "* * * any chemical substance which includes the biphenyl molecule which has been chlorinated to varying degrees * * *" Such a broadening would include substances that have been altered by chemical reactions such as bromination, ammoniation, or hydroxylation. This would include a number of chemicals widely used in industry such as dichlorobenzidine, chloroterphenyls, and chlorinated solvents. This option is not proposed at this time because additional investigation is needed to determine the complete scope of chemical substances that would be included. Additionally, a more complete understanding of health, environmental, and economic effects of an expanded definition is necessary.

PCB MIXTURES, WASTE MATERIALS, AND SLUDGES

"PCB mixture" are defined to mean mixtures, except sludges from municipal sewage treatment facilities, that contain 0.05 percent or greater of PCB chemical substances (on a dry weight basis). The definition for PCB mixtures covers mixtures that will be found in commercial applications and as waste materials. Transformer coolants and liquid dielectrics such as Askarels may be a blend of several PCB chemical substances and may contain solvents such as trichlorobenzene. The resulting mixture is then the chemical to which these regulations apply. These commercial fluids always contain a concentration of PCB chemical substances well above the 0.05 percent level. Dielectric liquids in capacitors usually contain 99 percent PCB chemical substances, and the PCB coolant fluids in transformers range from 60 to 99 percent PCB chemical substances. Other commercial chemicals such as chlorinated solvents and polychlorinated terphenyls also contain PCB chemical substances as byproducts of the manufacture of these chemicals. Polychlorinated terphenyls are reported to contain from 0.5 to 5 percent PCB chemical substances,[1] and hexachlorobenzene may have a PCB chemical substance concentration of 0.4 percent or higher. As a consequence, the disposal of these chemicals would have to meet the conditions of this regulation. Another group of PCB mixtures are waste materials. This group includes chemical substances and mixtures that become contaminated with PCB chemical substances as a result of commercial uses of PCB chemical substances and PCB mixtures, incidental exposure to PCB chemical substances and PCB mixtures during commercial activities, and environmental exposure to PCB chemical substances and PCB mixtures as a result of accidents and spills. Examples of such waste material include contaminated solvents used in cleaning operations, contaminated dielectric liquids used as substitutes in PCB electrical articles previously containing PCB mixtures, contaminated machinery and equipment used in PCB activities, contaminated rags and clothing, and contaminated soils, gravel, or paving materials.

The level of 0.05 percent or 500 parts per million was selected because it draws a line between those commercial products which are generally called PCBs and used as such and other widely used commercial products which may contain PCBs produced as a side effect of the manufacturing process. Though these latter chemicals may eventually require regulation, their commercial uses and essentiality have not been adequately reviewed at this time. Accordingly they have been omitted from this regulation without prejudice to their possible regulation at some later date. Some parties believe that wastes with very low levels of PCBs may present risks and should be regulated as PCBs. However, present knowledge of the dimensions of the waste problem is fragmented. Many of the wastes of concern are not recognized primarily as PCB wastes, but rather as waste oils (contaminated with PCBs) or industrial sludges containing PCBs. Accordingly, at the present, wastes are being regulated on the same basis as commercial products. Comments on this approach are particularly invited.

Later this year, when additional regulations are proposed limiting the manufacturing, processing, and use of PCBs, it may be possible to distinguish more clearly when an item or material becomes a waste. Additionally, regulations being developed under the Resource Conservation and Recovery Act (RCRA), Pub. L. 94-580, will also refine waste materials. A possible consequence of these later regulations may be to lower the concentration of PCBs in the definition of waste materials. In the interim care must continue to be exercised in disposal of waste materials with lowed levels of PCB concentrations to avoid violating any water or air standards. Current water discharge standards for PCBs are very stringent ranging from zero discharge for capacitor and transformer manufacturing to one part per billion for other discharges.

Some mixtures that may contain more than 500 parts per million PCB chemical substances will not be affected by these regulations until their use is altered. For example, this regulation would not require that bottom sediments in rivers and harbors be removed from the watercourses. If they are removed for any reason such as dredging or excavation, the disposal of these sediments would have to meet the disposal provisions of this regulation. Similar considerations apply to contaminated soils.

In general, municipal sewage sludges seldom have contamination levels over 500 parts per million and, therefore, will not be affected by this regulation. Environmental management of these sludges is possible under a variety of Federal and State regulatory programs, and the effective integration of these programs is considered to be the most desirable approach to control this problem.

With regard to spills, more stringent requirements may be stipulated during a spill by spill-control personnel using other legislative and regulatory authority such as the Federal Water Pollution Control Act (Pub. L. 92-500) and the Safe Drinking Water Act (Pub. L. 93-523). Later regulations under TSCA or RCRA could also lower the concentrations limits that would be applicable to spills.

PERSONS AFFECTED BY THE REGULATION

The regulation applies to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs. Since persons include local, state, and Federal governments, the applicability is very broad.

Some of the most common commercial enterprises and activities that will be subject to the regulations are electric power utilities which operate PCB transformers and large capacitors, owners of buildings and industrial facilities that use PCB transformers and large capacitors, highway departments and industrial facilities that use special high intensity lighting systems, service shops that repair small appliances with PCB capacitors, service shops that repair and refill PCB transformers. Other categories of affected commercial enterprises include manufacturers that produce new electrical items containing PCBs and owners and

[1] USEP-OTS. "PCBs in the United States: Industrial Use and Environmental Distribution." Feb. 25, 1976, Versar, Inc.

operators of facilities used to store or dispose of waste PCBs.

USING THE REGULATION

PCBs have been widely used, and, as a consequence, are present in a wide variety of commercial products and waste materials. This regulation has developed a set of definitions to carefully define and categorize the most significant forms of PCBs. Since PCBs are a complex chemical and many of the articles and equipment in which they are used are also complex, the resulting definitions and regulatory requirements should be carefully examined. In addition, the disposal methods for PCBs, notably incineration and chemical waste landfills, are sophisticated processes that must be designed and operated in accordance with precise specifications to insure adequate environmental protection. For these reasons, the language used is somewhat complex. However, suggestions for improvements would be especially welcome.

The regulation contains three primary parts: Definitions, requirements for disposal and marking, and annexes which provide detailed specifications concerning required actions. Later sections of the preamble discuss some of the key provisions of the regulation.

Since electrical items use the majority of PCBs, all owners or operators of buildings or industrial facilities should examine their electrical systems. If transformers are present, manufacturer's literature, old markings, or other information may be available to assist in determining whether they contain PCBs. PCB transformers are often used in indoor applications or other situations where fire is a concern. A sample of the contents might be analyzed to determine the presence of PCBs. If there is a question about the contents, it would seem prudent to assume PCBs are present and to handle the transformer accordingly. Large high voltage capacitors are used mostly by electric utilities which will probably be aware of the presence of PCBs. However, large low voltage capacitors are often used in buildings and industrial operations for power factor corrections to conserve energy by providing more efficient use of power. Many commercial building owners or operators may not be aware of the presence of these capacitors unless they consult their electricians or electric utilities.

Outdoor area lighting systems such as those maintained by highway departments, public utilities, and industrial complexes may contain PCB capacitors. Public transit systems using electrically powered rolling stock often have PCB transformers and capacitors in use at fixed facilities as well as on the rolling stock.

Electrical service operations such as appliance repair will encounter small PCB capacitors in electrical equipment such as microwave ovens, air conditioners, and certain brands of television sets. Other service operations such as transformer repair shops will have transformers and containers of liquid PCBs. Containers of liquid PCBs may also be present at public utility or public transit facilities. Waste oil handlers may have oils contaminated with PCBs, and only a competent analytical procedure will verify the concentration of PCBs present.

If PCBs are present, the definitions of PCBs in the regulation should be examined to determine the appropriate PCB category. If the PCBs are in transformers or capacitors, then they are PCB articles. If they are in containers of PCB liquids they are probably defined as PCB mixtures. Pure PCB chemical substances are rarely found in commercial applications. Therefore, PCB mixtures usually become the working definition. If the PCBs are present in air conditioners, microwave ovens, or television sets, then these items will be categorized as PCB equipment.

Having determined the appropriate categorization, the disposal and marking requirements in Subpart B and C should be consulted to determine appropriate disposal or marking action. For example, the contents of a container of liquid PCB mixture must be incinerated as stated in § 761.10(b)(1) of Disposal Requirements; the container must be marked with a warning mark as stated in § 671.20(a)(3) of Marking Requirements; and the empty container must be disposed of as stated in § 761.10(e) of Disposal Requirements. Since a PCB transformer or capacitor is defined as a "PCB article," a person disposing of them would refer to § 761.10(c) "PCB Articles" of Disposal Requirements for appropriate instructions. Likewise, if a spill of PCB's occurs, § 761.10(f) Spills would be examined for instructions. When incineration is required under the Disposal Requirements, the incinerator will have to meet the technical requirements of Annex I, § 761.40. The owner or operator of an incinerator must be familiar with Annex I in detail and obtain all of the necessary approvals. To meet the marking requirements, the person responsible for the container would have to review Annex V, § 761.44 to determine the form and size of the marking. When he obtained the proper markings, he would apply them as directed under § 761.20, Marking Requirements, and not have to refer to Annex V until he needed to procure more markings. If storage is required during the disposal phase or if chemical waste landfills are used for disposal, then Annex III, § 761.42, and Annex II, § 761.41, respectively, would have to be examined for specific information on performing those actions. Annex IV, § 761.43, must be consulted if decontamination procedures are to be performed.

Annex VI, § 761.45, Records and Monitoring, is quite broad in its application, as it affects some persons with PCBs in service and all persons who own or operate storage or disposal facilities.

SPECIAL PRECAUTIONS FOR WORKERS

This regulation requires many handling and processing steps in the marking and disposal of PCBs which may result in exposure of workers to PCBs, particularly when leaking containers, electrical articles, or spills are encountered. Special precautions should be taken to avoid skin contact and ingestion of the PCB chemicals. Proper protective clothing and protective breathing devices are essential. Personal decontamination by actions such as hand washing and removal of contaminated clothing is necessary before eating or smoking.

ARTICLES, CONTAINERS, AND EQUIPMENT

Because of the wide commercial distribution of PCBs, it is necessary to include within these regulations other articles which may have come into contact with PCB chemicals and been contaminated by them. It is also necessary to include other articles of commerce that may not be contaminated but are in integral part of commercial activity involving PCBs.

"PCB article" includes any manufactured item other than PCB containers whose surfaces have been in direct contact with PCB chemical substances or PCB mixtures. The definition includes commercial products such as electrical capacitors and transformers that have liquid PCB chemical substances and PCB mixtures contained within the internal mechanisms as a functioning part of the electrical device. Other examples of PCB articles are piping, pumps, radiators, and other components of heat transfer systems and electric motors that use PCB chemical substances and PCB mixtures as an internal coolant.

"PCB container" means any package, can, bottle, bag, barrel, drum, tank, box, or other device used to contain PCB chemical substances, PCB mixtures, or leaking PCB articles. The definition includes devices that have PCB chemical substances or PCB mixtures in direct contact with the internal or external surfaces of the device but where the PCB chemical substances or mixtures are not performing any function by being in the device. The device simply contains PCB chemical substances or mixtures. This differs from a PCB article where the PCB chemical substances or PCB mixtures are essential to the proper functioning of the article. A separate definition for containers is necessary to facilitate the incorporation of specifications for container integrity, decontamination, and marking.

"PCB article container" means any package, can, bottle, bag, barrel, drum, tank, box or other device used to contain PCB articles. This includes containers used to package or protect PCB articles that are intact and not releasing PCB chemical substances or mixtures from the internal enclosure of the article. Thus, PCB article containers do not have PCB chemical substances or PCB mixtures on the surfaces of the container and, when the PCB article is removed from the PCB article container, the container no longer requires special marking, handling, or disposal. Buildings are not considered to be article containers.

"PCB equipment" means manufactured items, other than a PCB container or a PCB article container, that contain PCB articles. PCB equipment would contain PCB articles only because the articles were performing a function in the equipment. Examples of PCB equipment are television sets, microwave ovens, high intensity lights, and fluorescent light fixtures that use a PCB article such as a capacitor containing PCBs. The distinction between PCB equipment and PCB articles is necessary to adjust the marking and disposal requirements for PCB equipment and PCB articles in a manner that provides adequate control in the least burdensome manner.

The phrases "PCB" and "PCBs" mean one or more of the following: "PCB chemical substance", "PCB mixture", "PCB article", "PCB container," and "PCB equipment." This definition is included only to provide an abbreviated reference to the different forms of PCBs.

ELECTRICAL ARTICLES AND EQUIPMENT

Several categories of electrical capacitors are defined to facilitate the application of different requirements for different categories of capacitors for marking and disposal. Large capacitors contain three pounds or more of dielectric, and small capacitors contain less than three pounds. This breakpoint was selected because freestanding capacitors used in electrical distribution systems always contain three pounds or more, and capacitors with less than three pounds are usually found as a component within some other item of electrical equipment. The State of Michigan uses the same breakpoint in its definitions. The large capacitors are further broken down between low voltage (less than 2000 volts a.c.) and high voltage (2000 volts a.c. or greater). The high voltage capacitors are used almost exclusively within the electric utility industry as a power factor correcting device in electrical distribution systems. Therefore, any regulatory control for large high voltage capacitors involves principally the electric utility industry.

Large low voltage capacitors are used as power factor correcting capacitors within many large buildings and are often owned by the building owners. The only categorization of small capacitors is for HID capacitors, which are capacitors used in a high intensity discharge lighting fixture, such as along highways and in industrial lighting systems.

Fluorescent light ballasts which contain small capacitors are specialized items of electrical equipment used in fluorescent light fixtures. Almost all of these capacitors contain PCB chemical substances or PCB mixtures as a dielectric. Approximately ninety-five percent of the 800 million fluorescent light ballasts currently in service are used in commercial and industrial buildings including apartment buildings. The remaining five percent are in private residential units.

DEFINITION OF DISPOSAL

Disposal is defined very broadly to include any action that may be related to the ultimate disposition of a substance, article, or mixture. An accidental or intentional release of PCB chemical substances or mixtures to the environment, including spills, is considered to be an act of disposal. In almost all cases, this type of disposal action would not be in compliance with the methods proposed in the regulation. As noted above, a spill would be classified as improper disposal under this regulation. This does not preclude any actions that could be taken under the provisions of the Federal Water Pollution Control Act (Pub. L. 92-500) for spills.

DEFINITION OF TRANSPORT VEHICLE

Transport vehicles are considered to be motor vehicles or railcars used to transport cargo. If this cargo contains PCBs as defined in these regulations, then special marking requirements apply. However, the marking or labeling requirements apply only when PCBs are being carried on the transport vehicle as cargo. A PCB transformer used on an electric locomotive, for example, would not result in the locomotive being considered as a transport vehicle. The application of warning placards to trucks and railcars and the operation of self-powered vessels, barges, and aircraft carrying toxic materials is under the jurisdiction of the Department of Transportation (DOT). DOT is presently considering regulations covering the transport of various environmentally hazardous materials including PCBs. Therefore, the Agency does not believe that this regulation is the appropriate instrument to initiate a totally new kind of marking requirement within the transportation industry.

METHODS OF DISPOSAL

High temperature incineration is the primary disposal method for PCBs. This disposal method is the only technique that will result in the destruction of PCBs and prevent the eventual escape of the chemical to the environment. Properly operated chemical waste landfills may provide an element of security for the containment of PCBs for long periods of time, but the ultimate fate of PCBs using this disposal method is unknown.

EPA recognizes that in some cases accidental spills and other losses to the environment from incineration operations might release more PCBs than careful chemical waste landfill operations. The proposed approach also relies on improving the incineration of PCB articles, particularly capacitors. Nevertheless, EPA proposes to rely primarily on incineration for PCB disposal. The Agency especially invites comments on this issue.

Existing disposal practices are a combination of the two methods, with some liquid PCBs being destroyed by high temperature incineration and some PCB articles and PCB mixtures being disposed of in chemical waste landfills.[1] In addition, some liquid PCBs are also being sent to chemical waste landfills, particularly in California.[2] The remaining PCBs are either being sent to municipal solid waste disposal systems or are being disposed of in industry operated facilities that are analogous to municipal solid waste systems.[2]

All PCB chemical substances, PCB mixtures, PCB articles, and PCB containers are to be disposed of by high temperature incineration with the following exceptions:

(A) PCB transformers that have had the liquid PCB chemical substances and mixtures drained from them, in such a manner that no more than two percent of the original volume of dielectric liquid measured to the manufacturers recommended fill line remains in the transformer, may be disposed of in a chemical waste landfill. This exception is necessary because of the large size of electrical transformers that makes it impossible to fit the transformer into an incinerator unless a major demolition of the transformer is first undertaken. If the transformers are carefully drained, hazards related to this disposal method should be minimal. If the transformer is not drained sufficiently to meet the criterion, then the transformer must be either incinerated or stored under the provisions of the regulation until the transformer can be successfully drained.

(B) Until July 1, 1979, approved chemical waste landfills may be used for the disposal of non-liquid PCB mixtures in the form of contaminated soil, incineration residues, sludges, dredge spoil, rags, and other contaminated debris. Approved chemical waste landfills may also be used for the disposal of PCB articles such as PCB capacitors and other PCB articles (e.g., special electric motors and hydraulic systems). This period of use for chemical waste landfills should help provide an orderly transition of disposal practices as well as allowing time for the design and the construction of adequate incineration facilities. All of the chemical waste landfills used for PCB disposal will be required to meet the landfill requirements in this regulation and any applicable RCRA regulations when they are promulgated.

(C) Small PCB capacitors that are used in private housing units and are discarded by the occupants of these housing units are exempted from the regulation in view of the practical difficulties in attempting to channel these items to incineration facilities or chemical landfills. This means that the article can be placed into the normal trash collection system used by the occupants. Usually the refuse will then be deposited in either sanitary landfills or municipal incinerators. Minimal environmental risk should result from the small quantity of PCBs that would result from the random discarding of such items by private householders.

[2] USEPA–OTS. "Microeconomic Impacts of the Proposed Marking and Disposal Regulations for PCBs," April 1977, Versar, Inc.

SPECIAL DISPOSAL PROBLEMS FOR WIDELY DISTRIBUTED ARTICLES

An extremely difficult regulatory problem is created by the fact that one-third of the PCBs in service (250 million pounds) are distributed widely across the country in large low voltage capacitors in buildings and large electrical equipment, in small capacitors for highway lighting, in small capacitors in appliances, and in small capacitors in fluorescent light ballasts. These PCBs are in 895 million individual capacitor units, of which 800 million units alone are in the fluorescent light ballast category.

An additional 290 million pounds of PCBs are in landfills and dumps, including 110 million pounds in capacitor and transformer production wastes, 100 million pounds in miscellaneous waste papers and plastics, and 80 million pounds in discarded electrical articles.

The current problems associated with PCBs arise from the 150 million pounds now present in the environment. Some proportion of the 290 million pounds in landfills and dumps could eventually be released to the environment. Similarly, if no controls are placed on the future disposal of large low voltage and small capacitors, some amount up to an additional 250 million pounds of PCBs could be added. Thus, up to 540 million pounds of PCB could potentially be released to the environment. The rate of release of these PCBs is unknown.

With respect to 250 million pounds of PCBs in service in capacitors, EPA faces a dilemma. On the one hand, the Agency believes that there would be an environmental risk if no control is exercised on these sources, in particular the disposal of large low voltage and small capacitors. On the other hand, the control problems are extremely difficult given the wide distribution of these PCB-containing articles in our society. Additionally, controls applied through a regulatory program would be difficult to enforce. Imaginative approaches are needed to channel these capacitors, when their useful life is finished, toward proper disposal facilities. A variety of options seem possible, ranging across a spectrum of regulatory and nonregulatory approaches.

For those capacitors handled by repair shops and commercial building maintenance service firms, environmentally sound disposal might be induced by an effective education and information program. Backed by some incentive stimulus, the education and information program could be jointly developed by trade organizations and the Agency.

One innovative example of Federal stimulus could be the establishment of a "bounty" program whereby a payment could be provided for capacitors brought to special collection points. Such a program would probably require legislative authority as well as a careful study to determine potential effectiveness.

For capacitors within private homes, a strong education and information program is also a necessity. However, for these capacitors, as well as for the other small units, an effective system of collection and transfer points must be set up to assure completion of the trip from the original location of the capacitor to an approved disposal site.

If strong regulation is required, several regulatory options can be considered. By way of example, four options applicable to fluorescent light ballasts were reviewed.

One option was to require high temperature incineration for ballasts from "large" buildings defined by the square footage of the building. The option was not selected because a clear breakpoint between large and small buildings was not apparent. A series of small buildings under the control of a single management organization could establish a collection and disposal program as readily as one could be established based on building size, but a clear rationale on the appropriate size of a management organization was not apparent.

Building demolition contractors are another source of ballasts, and a second option to place controls on these contractors was also considered. This option was not adopted because of the need to categorize large and small contractors and the expected difficulty in successfully removing fixtures prior to demolition.

A third option was to require all ballasts to go to high temperature incineration except for those used in private residences. This option would reduce any confusion on applicability and would account for a substantial quantity of PCBs. However, effective enforcement would be difficult since approximately 1,000,000 persons would be affected by the requirement.

A fourth option is to exempt ballasts from any special disposal requirements, but include in the regulation a note which encourages persons to collect and dispose of ballasts in chemical waste landfills or high temperature incinerators. This option was adopted for the proposed regulation.

In summary, the proposed regulation proposes to regulate most capacitors other than fluorescent light ballasts. However, the Agency has some reservations about the practicality and enforceability of its regulatory proposals for large low voltage and small capacitors. The Agency therefore especially solicits comments on these proposals and on alternatives that could help to deal effectively with the problem of wide distribution of PCB-containing capacitors and lead toward effective control of the risks associated with capacitor disposal.

STANDARDS FOR INCINERATION OF PCB'S

Proper incineration of PSBs involves a suitable balance among combustion temperatures in the incinerator, dwell time of the waste materials and combustion products in the firing chamber, and oxygen exposure. Investigations into incineration requirements by industry and government representatives under the auspices of the American National Standards Institute (ANSI) [1] resulted in ANSI recommendations for the incineration of liquid PCB chemical substances and mixtures. These recommendations have been adopted in this regulation.

Since hydrochloric acid mist is formed in the combustion process, suitable measures must be taken to adequately remove the acid from the exhaust gases. If a water scrubber is used, its effluent may contain low levels of PCBs and can be treated using available carbon adsorption technology.

Since June 1971, the Monsanto Company has operated a liquid injection incinerator to dispose of liquid waste and contaminated PCBs. This experience tends to reinforce the soundness of the approach proposed in this regulation.

The incineration of solid forms of PCBs is currently being undertaken by EPA programs and includes the incineration of PCB capacitors and PCB equipment using both a crushing operation prior to incineration and incineration of intact articles. Early results clearly indicate the feasibility of the technique, including effective destruction. The technologies involved are well demonstrated, and the principal task is adapting them to a new use. In addition, the Agency believes that, in response to this regulation, industry will continue to push technical progress in the direction necessary for proper environmental protection. Solid residues from the incineration of PCB solids may contain residual quantities of PCBs that can range from very low levels up to several hundred parts per million. However, the EPA has not determined what disposal requirements (if any) for these residues should be established in order to provide adequate environmental protection. Public comment is especially invited on this matter.

To provide an approval process for liquid and solid waste PCB incinerators, the EPA Regional Administrator will be required to authorize an initial monitoring and review of a trial burn at the incinerator to include the sampling and analyses of at least eight basic air emission parameters. Other parameters may be required by the Regional Administrator if, in his judgment, they are needed to adequately evaluate any incinerator proposed for the incineration of PCBs.

Also, in the review and approval process for PCB incinerators, requirements may be issued by the Regional Administrator for the periodic monitoring of any parameters on a frequency that he believes appropriate. A waste feed system will have to be employed that is capable of automatically terminating the flow of waste into the combustion system in the event that the combustion temperature or excess oxygen levels are reduced below the minimum level specified in the requirements or in the EPA facility approval. Shut down will also be required whenever malfunctions occur in continuous monitoring equipment for measuring CO_2, CO and waste feed rate.

Guidance on sampling and analytical procedures will be available at the EPA Regional Offices and at EPA Headquarters in Washington, D.C. The availability and locations of guidance documents will be announced in the FEDERAL REGISTER. The technology for incinerator emission monitoring is highly complex and in a continuing state of development. However, since the number of facilities potentially eligible to qualify as incinerators for PCBs is small, the Agency will be able to render technical advice on sampling and analytical procedures to the owners or operators of these facilities on an individual basis.

[1] ANSI. "American National Standard Guidelines for Handling and Disposal of Capacitor- and Transformer-Grade Askarels Containing Biphenyls," ANSI–C107.1–1974.

STANDARDS FOR CHEMICAL WASTE LANDFILLS

The requirements proposed in this regulation for the design and operation of a chemical waste landfill are derived chiefly from the guidelines set forth by the Texas Water Quality Board (TWQB). Considering the successful performance and the degree of specificity in the TWQB guidelines, the guidelines were considered to be an acceptable basis on which to build the requirements in this regulation. The requirements will facilitate site approvals by EPA Regional Administrators and also provide a specific basis for insuring compliance.

The Agency considered the alternative of referencing the regulations that are to be developed under RCRA. However, the time period between the promulgation of this regulation and the later date when the promulgation of the RCRA regulations are expected would allow an unacceptable gap in adequate PCB disposal and lead to considerable uncertainty concerning action for which preparations must be initiated now.

In determining the integrity of chemical waste landfills from the history of those in operation, compliance with strict design criteria and the implementation of a comprehensive leachate monitoring program have been found to be the key items. In California, Illinois, New York, and Texas, facilities approved by the States are located in such secure geologic areas that they do not overlie any usable groundwater, thus guaranteeing maximum environmental protection of groundwater. The leachate collection systems which have been designed as part of these facilities provide a means for capturing any harmful constituents that may eventually migrate to the bottom of the chemical waste landfill. The leachate is pumped back to the surface for treatment in order to provide maximum environmental protection.

Testing of water samples collected from monitoring wells and leachate collection systems is necessary to determine any failures in landfills. The presence of PCBs and chlorinated organics is to be determined; such presence would represent the most acute type of failure that could occur. Specific conductance and pH are indicator parameters than can provide early warning about the migration of polluted or contaminated waters from the landfill site. These tests must be conducted by the owner or operator.

STORING PCBS PRIOR TO DISPOSAL

Most waste PCBs are expected to be stored prior to disposal. The storage may take place at the site where the waste PCBs are generated, a remote site operated by the waste PCB generator, a remote site operated by a transporter or a waste handler, or at a site operated by an incinerator or chemical waste landfill owner or operator. The storage facilities may be used as an accumulation or distribution point for transportation or as a longer term storage facility. Recognizing the need for adequate time to construct or approve new disposal facilities, an initial period of five years will be allowed for storage before disposal must be carried out. Thereafter, any item must be disposed of within one year from the time it is designated for disposal.

Long-term storage raises concerns about deterioration of PCB articles and PCB containers as a result of weather as well as age. Therefore, requirements for storing PCBs are designed to prevent rainwater from reaching the stored items. Container specifications incorporated appropriate Department of Transportation (DOT) specifications. In addition, containers and articles are to be checked at least monthly for leaks, and leaking containers or articles are to be transferred immediately to nonleaking containers meeting the required specifications. Incoming PCB articles and containers are to be dated when they arrive at the storage facility to help insure prompt disposal.

Continuous curbing is required to provide secondary containment of any spilled liquids. The secondary containment approach draws on experience with the Oil Spill Prevention regulations developed by EPA (40 CFR Part 112), but the requirement for PCBs is more rigorous because of the potential environmental impact of PCBs. Additional requirements are provided to insure that no drains, valves, or other devices exist that could circumvent the effectiveness of the containment curbing. The floor and curbing is to be constructed of smooth and impervious Portland cement to minimize the penetration of PCBs into the floor. Insufficient information is available on other floor surfaces that would provide comparable protection to concrete.

Some PCB waste generators will accumulate only small capacitors. If the volume of waste capacitors can be contained within two 55 gallon drums, then minimum storage requiremetns are considered to be adequate. These minimum requirements consist of using sound, non-leaking drums and storing the drums inside a building. There is little likelihood that the small capacitors will represent a spill threat, and the inside storage will minimize any deterioration from the weather.

If PCBs are spilled in the storage area, it may be possible to contaminate areas outside the storage area by tracking PCBs from the tires of movable equipment such as forklift trucks, unless the surfaces contacted with PCBs are decontaminated. Cleanup methods are not specified in the regulation. However, in general, wiping the affected surfaces with rags or swabs containing a solvent such as kerosene and then disposing of the contaminated rags or swabs as PCB mixtures should be adequate.

DECONTAMINATION PROCEDURES

Decontamination of selected PCB articles and containers may be desirable in order to reuse valuable containers or to reclaim recoverable metals from scrapped articles. The containers specified in the storage requirements are high quality containers that may have a useful life either for containing additional PCB waste or other commodities. Another type of high value container would be railroad tank cars or highway tank trucks used for transporting liquid PCB chemical substances or mixtures. The decontamination procedures described in the regulation for these items are based on techniques successfully used for decontaminating pesticide containers.

PCB transformers appear to be the only PCB articles with a potential salvage value. The internal electrical windings of some transformers, being copper, might be reclaimed if the internal surfaces of the transformer are adequately decontaminated to prevent secondary pollution problems from the PCBs. However, due to limited information on successful decontamination techniques for transformers, no decontamination procedure is specified in the regulation.

REQUIRED MARKINGS

The required markings are designed to contain enough information to alert someone to the presence of PCBs, provide a reference concerning disposal of the PCBs, and provide a reporting point in the event of an accident or spill. Markings must be durable enough to remain easily readable throughout the life of the article or container to which they are affixed. This requirement will probably require that some markings be made of metal and be painted. If technology does not exist for a marking which will survive for thirty or forty years, which is the useful life of many transformers, then the responsible person will be required to replace the markings from time to time.

Items which are newly manufactured or in the manufacturer's inventory and not yet distributed in commerce are required to be marked within six months. PCB containers already in use must be marked within a six-month period in view of the special risks associated with liquid PCBs.

Electric motors using PCBs as a coolant (found primarily in electrically operated mining machinery), pump fittings and lines used in hydraulic systems using PCBs as hydraulic fluids, and pumps, fittings, pipes, and other appurtenances in heat transfer systems using PCBs as a coolant, discharge some PCBs through rotating shaft seals, pump seals, and pipe fittings. These items must also

be marked within six months to provide a timely warning of possible hazards.

Because of the large number of potential transporters and the need to adequately inform them of the regulation, a nine-month period is provided for placing the large markings on transport vehicles, such as trucks and railcars.

Marking of large low voltage capacitors and high intensity discharge capacitors containing PCBs must be initiated within nine months, but the marking is required only when a servicing operation is taking place which would enable the servicing person to have ready access to the capacitor. Ready access occurs during a servicing operation, independent of the placement of the marking, and as a consequence, the servicing person can perform the marking operation without removing other accessories or articles.

Because of the large number of transformers (140,000) and large high voltage capacitors (6 million) in existence, and their geographical dispersion, the Agency is providing a twelve-month time period for marking these items. The large, high voltage capacitors have special marking requirements because of their locations. When these capacitors are located in electric substations or power generating stations, large banks of capacitors are often used. Placing a marking directly on the capacitor would require shutting off the electrical service in order to avoid hazards to workers. In normal operation, these capacitors are not deenergized for several years unless some emergency occurs. Thus, a marking approach has been proposed which would provide for the placement of a marking on the structure holding the capacitors. For each structure, a record of the location of the capacitors with PCBs would be kept with that particular structure. The vast majority of these capacitors currently use PCBs as a dielectric, but the recordkeeping function will become more important as non-PCB high voltage capacitors are put into service in the future. In order to reduce this special recordkeeping requirement, the option of placing the markings on all of the capacitors on the structure is available. A similar choice is also applicable to power poles containing PCB capacitors so that servicing personnel could place the mark on the pole at eye level, rather than climb the pole to place it or determine which capacitors contain PCBs. Thus, the marking could be read without unnecessary hazard to servicing personnel.

The requirement for marking within six months all unmarked items as they are removed from service or having the item placed immediately into a proper container that is marked should have a minimum impact on industry. Each item will be handled individually during the servicing or removal operation and the placing of a marking on the item should require little additional effort.

REQUIRED RECORDKEEPING AND REPORTS

The regulation contains requirements for recordkeeping for selected PCBs that are projected for eventual disposal. Recordkeeping is also required for owners and operators of facilities used for the disposal and storage of waste PCBs. These reporting and recordkeeping requirements will assist the Agency in determining compliance with the regulation and should also assist owners and operators in maintaining effective inventory control and insuring timely disposal. Public comment on both the impact and usefulness of these recordkeeping requirements are especially invited.

The owners or operators are required to prepare annually documents that summarize key operations in sufficient detail to indicate when specific containers were received, transferred, or disposed of. The weight of containers and transformer contents are required to be recorded in order to assist in performing a mass balance of facility operations.

Operating and monitoring data for incinerators are required to be maintained to facilitate a later review of the adequacy of the destruction process. Chemical waste landfills will retain operating data on burial coordinates and analytical results from test wells and leachate collection systems.

Documents are also to be retained on the various facility approval actions required by the regulation as well as any State or local approval actions. While the document retention requirements are fairly broad in order to insure adequate information is retained, it is not the intent of the regulation to require the retention of obviously trivial information.

Mandatory submission of the annual summaries or other reports is not considered appropriate at this time but it could be required in any approvals granted by Regional Administrators.

SUMMARY OF ECONOMIC CONSEQUENCES

The major economic impact of the proposed regulations will apply to the owners and users of currently operating PCB capacitors and transformers. These persons will be affected by increased costs due to the special marking, disposal, and recordkeeping that will be required. The capital costs associated with compliance are expected to total $9.1 million ($5 million for new incineration capacity, $0.1 million for marking, and $4 million for storage facilities). Annual operating costs are expected to total $58.3 million in 1978 ($5 million for chemical waste landfill charges, $8 million for disposal transportation, $8 million for recordkeeping, $33.3 million for marking, and $4 million for maintaining storage facilities). Total annual operating costs are likely to be approximately $61 million. However, the mix of costs will change after 1978 to $1 million for chemical waste landfill charges, $39 million for incineration charges, $8 million for disposal transportation, $4 million for recordkeeping, $5 million for marking, and $4 million for storage.

The regulations should result in an increase in small business opportunities and employment due to the development of collection and storage services to reduce storage and transportation charges from numerous small generators of PCB wastes.

This notice of proposed Rulemaking is issued under authority of section 6(e) of the Toxic Substances Control Act, 15 U.S.C. section 2605(e).

Dated: May 17, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to establish a new 40 CFR Part 761 to read as follows:

PART 761—POLYCHLORINATED BIPHENYLS (PCBs)

Subpart A—General

Sec.
761.1 Applicability.
761.2 Definitions.

Subpart B—Disposal of PCBs

761.10 Disposal requirements.

Subpart C—Marking of PCBs

761.20 Marking requirements.

Subpart D—[Reserved]

Subpart E—List of Annexes

ANNEX No. I

761.40 Incineration.

ANNEX No. II

761.41 Chemical waste landfills.

ANNEX No. III

761.42 Storage for disposal.

ANNEX No. IV

761.43 Decontamination.

ANNEX No. V

761.44 Marking formats.

ANNEX No. VI

761.45 Records and monitoring.

AUTHORITY: Sec. 6(e), Toxic Substances Control Act, 15 U.S.C. 2605(e).

Subpart A—General

§ 761.1 Applicability.

(a) This subpart establishes procedures, methods, and other requirements for the disposal, storage, and marking of polychlorinated biphenyls (PCBs).

(b) This subpart applies to all persons who manufacture, process, distribute in commerce, use, or dispose of PCBs, including mixtures and manufactured items which contain PCBs.

(c) The basic requirements of these regulations are set forth in Subpart B—Disposal of PCBs and Subpart C—Marking of PCBs. Subpart E elaborates the requirements which are referred to in the disposal and marking sections. Definitions of words used in all of these sections are found in Subpart A. In particular, § 761.2(p)–(v) of Subpart A define "PCBs" covered by these regulations.

(d) Section 15 of the Toxic Substances Control Act (TSCA) states that failure to comply with these regulations is unlawful. Section 16 imposes liability for civil penalties upon any person who violates these regulations. Section 16 also subjects a person to criminal prosecution for a violation which is knowing or willful.

§ 761.2 Definitions.

For the purpose of this part:

(a) "Administrator" means the Administrator of the Environmental Protection Agency, or any employee of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any person who shall by operation of law be authorized to carry out such functions.

(b) "Agency" means the United States Environmental Protection Agency.

(c) "Capacitor" means a device for accumulating and holding a charge of electricity, consisting of conducting surfaces separated by a dielectric. Types of capacitors are as follows:

(1) "Small Capacitor" means a capacitor which contains less than 1.36 kg (3 lbs.) of dielectric, except for a capacitor which is defined as an "HID Capacitor."

(2) "HID Capacitor" means a capacitor which contains less than 1.36 kg (3 lbs.) of dielectric and which is used as part of the ballast of a high intensity discharge lighting fixture (e.g., sodium vapor and mercury vapor arc lights).

(3) "Large High Voltage Capacitor" means a capacitor which contains 1.36 kg (3 lbs.) or more of dielectric and which operates at 2000 volts a.c. or above.

(4) "Large Low Voltage Capacitor" means a capacitor which contains 1.36 kg (3 lbs.) or more of dielectric and which operates below 2000 volts a.c.

(d) (1) Except as provided in subparagraph (2) of this paragraph, the term "Chemical Substance" means any organic or inorganic substance of a particular molecular identity, including:

(i) Any combination of such substances occurring in whole or part as a result of a chemical reaction or occurring in nature, and

(ii) Any element or uncombined radical.

(2) Such term does not include:

(i) Any mixture,

(ii) Any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) Tobacco or any tobacco product,

(iv) Any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

(v) Any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provisions of such Code), and

(vi) Any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

(e) "Chemical Waste Landfill" means a landfill at which protection is provided from PCBs deposited therein against risk of injury to health or the environment by locating, engineering, and operating such landfill so as to prevent migration of PCBs to land, water, or the atmosphere.

(f) "Commerce" means trade, traffic, transportation, or other commerce

(1) Between a place in a State and any place outside of such State, or

(2) Which affects trade, traffic, transportation, or commerce described in subparagraph (1) of this paragraph.

(g) "Disposal" means to intentionally or accidentally discard, throw away, or otherwise complete or terminate the useful life of an object or substance. Disposal includes actions related to containing, transporting, destroying, degrading, decontaminating, or confining those substances, mixtures, or articles that are being disposed.

(h) "Distribute in Commerce" and "Distribution in Commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture means to sell or to transfer the ownership of the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(i) "Fluorescent Light Ballast" means a device which electrically controls fluorescent light fixtures and which includes a capacitor containing 0.1 kg or less of dielectric.

(j) "Incinerator" means any installation operated for the incineration of chemical substances, mixtures, or articles.

(k) "Manufacture" means to produce, manufacture, or import into the customs territory of the United States.

(l) "Mark" means the descriptive name, instructions, cautions, or other information applied to chemical substances, mixtures, articles, containers, equipment, or other objects or activities described in these regulations.

(m) "Marked" means the permanent application of a legible mark by painting, fixation of an adhesive label, or other method.

(n) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction. Such term does include

(1) Any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

(2) Any combination of chemical substances which is the result of solution or hydration; and

(3) Any combination which occurs as a consequence of a reaction which may take place if a chemical substance which functions as a stabilizer, colorant, antioxidant, filler, solvent, carrier, surfactant, or plasticizer is added to another chemical substance and performs as intended.

(o) "Municipal Solid Wastes" means garbage, refuse, sludges, wastes, and other discarded materials resulting from residential and non-industrial operations and activities.

(p) "PCB" and "PCBs" mean one or more of the following: "PCB Chemical Substance", "PCB Mixture", "PCB Article", "PCB Equipment", and "PCB Container."

(q) "PCB Article" means any manufactured item, other than a PCB container, whose surface(s) has been in direct contact with a PCB chemical substance or a PCB mixture, and includes capacitors, transformers, electric motors, pumps, and pipes.

(r) "PCB Article Container" means any package, can, bottle, bag, barrel, drum, tank or other device used to contain PCB articles or PCB equipment, and whose surface(s) has not been in direct contact with a PCB chemical substance or PCB mixture.

(s) "PCB Chemical Substance" means any chemical substance which is limited to the biphenyl molecule which has been chlorinated to varying degrees, and includes substances such as Arochlors.

(t) "PCB Container" means any package, can, bottle, bag, barrel, drum, tank, or other device used to contain a PCB chemical substance, PCB mixture, or PCB article, and whose surface(s) has been in direct contact with a PCB chemical substance or PCB mixture.

(u) "PCB Equipment" means any manufactured item, other than a PCB container or a PCB article container, which contains a PCB article or other PCB equipment, and includes microwave ovens, television sets, and fluorescent light ballasts and fixtures.

(v) "PCB Mixture" means any mixture, except municipal sewage treatment sludge, which contains 0.05 percent (on a dry weight basis) or greater of a PCB chemical substance, and includes dielectrics, contaminated solvents and oils, rags, soil, paints, and debris.

(w) "Person" means any natural or juridical person including any individual, corporation, partnership, or association, any State or political subdivision thereof, any interstate body and any department, agency, or instrumentality of the Federal government.

(x) "Process" means the preparation or use of a chemical substance or mixture, after its manufacture, for distribution in commence:

(1) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(2) As part of an article containing the chemical substance or mixture.

(y) "Municipal Sewage Treatment Sludge" means the solid residue result-

ing from the treatment of municipal sewage.

(z) "Storage for Disposal" means temporary storage of PCBs that have been designated for disposal.

(aa) "Transport Vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (e.g., trailer, railroad freight car) is a separate transport vehicle.

Subpart B—Disposal of PCBs

§ 761.10 Disposal requirements.

NOTE.—These regulations do not require removal of PCBs from service and disposal earlier than would normally be the case. However, when PCBs are removed from service and disposed of, disposal must be undertaken in accordance with these regulations. Future regulations will be directed to the manufacture, processing, distribution in commerce, and use of PCBs and may result in some cases in disposal at an earlier date than would otherwise occur.

(a) *PCB chemical substances.* (1) A PCB chemical substance shall be disposed of in an incinerator which complies with Annex I.

(2) When storage is desired prior to disposal, a PCB chemical substance shall be stored in a facility which complies with Annex III.

(b) *PCB mixtures.* (1) Except as provided in subparagraphs (2) and (3) of this paragraph, a PCB mixture shall be disposed of in an incinerator which complies with Annex I.

(2) A non-liquid PCB mixture in the form of contaminated soil, sludge, dredge spoil, rags, or other debris shall be disposed of

(i) In an incinerator which complies with Annex I, or

(ii) Until July 1, 1979, in a chemical waste landfill which complies with Annex II.

(3) When storage is desired prior to disposal, a PCB mixture shall be stored in a facility which complies with Annex III.

(c) *PCB Articles*—(1) *PCB Transformers.* A PCB transformer shall be disposed of in accordance with either of the following:

(i) In an incinerator which complies with Annex I, or

(ii) In a chemical waste landfill which complies with Annex II: *Provided,* The transformer is first drained, and flushed internally if necessary, so that no more than two percent of the dielectric liquid volume measured to the fill line remains. PCB chemical substances and PCB mixtures which are removed shall be disposed of in accordance with paragraphs (a) and (b) of this section.

(2) *PCB Capacitors.* (i) The disposal of any capacitor normally used in alternating current circuits shall comply with all requirements of this subpart unless it is known from label information, manufacturer's literature, or chemical analysis that the capacitor does not contain PCB chemical substances of PCB mixtures.

(ii) Any occupant of a private housing unit may dispose of any small PCB capacitors used in the housing unit as municipal solid waste.

(iii) Any other PCB capacitor which is separate from any PCB equipment shall be disposed of in accordance with either of the following:

(*a*) Disposal in an incinerator which complies with Annex I.

(*b*) Until July 1, 1979, disposal in a chemical waste landfill which complies with Annex II.

(3) *Other PCB Articles.* Any other PCB articles shall be disposed of in an incinerator which complies with Annex I.

(4) Storage of PCB articles—except for a PCB article described in subparagraph (2)(i) of this paragraph, prior to disposal any PCB article shall be stored in a facility which complies with Annex III.

(d) *PCB Equipment.* (1) Except as provided in subparagraph (2) of this paragraph, PCB equipment shall be disposed of

(i) in an incinerator which complies with Annex I.

(ii) in a chemical waste landfill which complies with Annex II, or

(iii) as municipal solid waste.

(2) Whenever PCB equipment is serviced in a manner which provides direct access to a PCB article such as a capacitor and a decision is made to dispose of the PCB equipment, the PCB article shall be removed from the equipment and disposed of in accordance with paragraph (c) of this section.

NOTE.—Fluorescent light ballasts contain approximately ten (10) percent of all PCBs currently in use and are widely used in commercial and residential buildings. Building owners and operators are urged to establish collection systems for these PCB items and direct the items to incineration facilities or chemical waste landfills that meet the requirements of these regulations.

(e) *PCB Containers.* (1) Unless decontaminated in accordance with Annex IV, a PCB container shall be disposed of

(i) In an incinerator which complies with Annex I, or

(ii) In a chemical waste landfill which complies with Annex II: *Provided,* That the PCB container shall first be drained, and flushed internally if necessary, so that remaining PCB chemical substances and PCB mixtures constitute no more than 0.5 percent of the total volume of the container.

(2) Prior to disposal, a PCB container shall be stored in a facility which complies with Annex III.

(f) *Spills.* (1) Spills and other uncontrolled discharges of PCB chemical substances or PCB mixtures constitute the disposal of PCB chemical substances or PCB mixtures and must comply with this section.

(2) PCB chemical substances and PCB mixtures resulting from spill incidents shall be stored and disposed of in accordance with paragraphs (a) and (b), respectively of this section.

(3) This subsection does not exempt owners or operators responsible for a spill from any actions or liability under other statutory authorities, including section 311 of the Federal Water Pollution Control Act (Pub. L. 92-500) and the Resource Conservation and Recovery Act (94-580).

(g) Municipal solid wastes containing PCBs shall be disposed of as provided in applicable Federal, State, or local laws, regulations, and policies.

(h) A municipal sewage treatment sludge which contains 0.05 percent (on a dry weight basis) or greater PCB chemical substances shall be disposed of:

(1) In an incinerator which complies with Annex I, or

(2) Until July 1, 1979, in a chemical waste landfill which complies with Annex II.

Subpart C—Marking of PCBs

§ 761.20 Marking requirements.

(a) The following marking requirements shall apply:

(1) Each PCB article manufactured after January 1, 1978, shall be marked at the time of manufacture with mark M_L as described in Annex V—Sec. 761.44(a).

(2) Each item of PCB equipment manufactured after January 1, 1978, shall be marked at the time of manufacture with mark M_L.

(3) Each PCB container, whether new or existing, shall be marked by January 1, 1978, with mark M_L.

(4) Each PCB article, except small PCB capacitors, contained in PCB equipment in inventory after January 1, 1978, shall be marked before it is distributed in commerce with mark M_L.

(5) Each PCB article container used to contain a PCB article that shall be marked under the provisions of (1) or (4) above shall be marked by January 1, 1978, with mark M_L.

(6) Each storage area used to store PCBs for disposal shall be marked by January 1, 1978, with mark M_L.

(7) Each PCB article when removed from use after January 1, 1978, shall at the time of removal either be marked with mark M_L or be placed in a PCB container marked with mark M_L, except for PCBs disposed of as municipal solid waste as provided in Sections 716.10(c)(2), 761.10(d)(1)(c), and 761.10(g).

8. Each of the following PCB articles using PCB chemical substances or PCB mixtures as internal fluids shall be marked by January 1, 1978, with mark M_L:

(A) Electric motors using PCB coolants.

(B) Hydraulic machinery using PCB hydraulic fluid.

(C) Heat transfer systems (other than transformers) using PCB fluids.

(b) In additional to the requirements of paragraph (a) of this section, the following marking requirements shall apply:

(1) Effective March 31, 1978, each transport vehicle loaded with PCB containers with more than 45 kg of PCB chemical substances or PCB mixtures in the liquid phase or with one or more PCB transformers shall be marked with mark M_L.

(2) Each PCB large low voltage capacitor and each PCB HID capacitor that is in use after March 31, 1978, shall be marked with mark M_L as soon after the date as the capacitor is available for marking because of other servicing of the equipment. A capacitor is available for marking when other servicing operations provide the servicing person direct access to the capacitor.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, the following marketing requirements shall apply:

(1) Each PCB transformer shall be marketed by July 1, 1978, with mark M_L.

(2) Each PCB large high voltage capacitor shall be identified by July 1, 1978, by at least one of the following methods:

(A) Each individual capacitor is to be marked with mark M_L, or

(B) If one or more PCB large high voltage capacitors are installed in a protected location as on a power pole or structure or behind a fence, the pole, structure, or fence is to be marked with mark M_L and a record or procedure identifying the PCB capacitors is to be maintained by the owner or operator at the protected location.

(d) Where mark M_L is specified but the PCB article or PCB equipment is too small to accommodate the smallest permissible size of mark M_L, mark M_S, as described in Annex V—Sec. 761.44(b), may be used instead of Mark M_L.

Subpart D—[Reserved]

Subpart E—List of Annexes

ANNEX I

§ 761.40 Incineration.

(a) *Liquid PCBs.* An incinerator used for incinerating PCB chemical substances or liquid PCB mixtures shall be approved by the Agency Regional Administrator pursuant to paragraph (d) of this section. Such incinerator shall meet all of the requirements specified in subparagraph (1) through (9) of this paragraph, unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements which may be prescribed pursuant to paragraph (d)(4) of this section.

(1) Combustion criteria shall be either of the following:

(i) Maintenance of the introduced liquids for a 2-second dwell time at 1200°C (±100°C) and 3 percent excess oxygen in the stack gas, or

(ii) Maintenance of the introduced liquids for a 1½ dwell time at 1600°C (±100°C) and 2 percent excess oxygen in the stack gas.

(2) Combustion efficiency shall be at least 99 percent computed as follows:

$$\text{Combustion efficiency} = \frac{Cco_2 - Cco}{Cco_2} \times 100,$$

where

Cco_2 = concentration of carbon dioxide.
Cco = concentration of carbon monoxide.

(3) The rate and quantity of PCBs which are fed to the combustion system shall be measured and recorded at regular intervals of no longer than 15 minutes.

(4) The temperatures of the incineration process shall be continuously measured and recorded. The combustion temperature of the incineration process shall be based on either direct (pyrometer) or indirect (wall thermocouple-pyrometer correlation) temperature readings.

(5) The flow of PCBs to the incinerator shall stop automatically whenever the combustion temperature drops below the temperatures specified in subparagraph (1) of this paragraph.

(6) Monitoring of stack emission products shall be conducted:

(i) When an incinerator is first used for the disposal of PCBs under the provisions of this regulation, and

(ii) When an incinerator is first used for the disposal of PCBs after the incinerator has been modified in a manner which may affect the characteristics of the stack emission products.

(iii) At a minimum such monitoring shall be conducted for the following parameters: (*a*) O_2; (*b*) CO; (*c*) CO_2; (*d*) Oxides of Nitrogen (NO_x); (*e*) Hydrochloric Acid (HCl); (*f*) Total Chlorinated Organic Content (RCl); (*g*) PCB Chemical Substances; (*h*) Total Particulate Matter.

(7) At a minimum, continuous monitoring and recording of combustion products and incineration operations shall be conducted for the following parameters whenever the incinerator is incinerating PCBs: (i) O_2; (ii) CO_2; (iii) CO_2.

(8) Incinerator operations shall be immediately suspended when any one or more of the following conditions occur:

(i) Failure of monitoring operations specified in subparagraph (7) of this paragraph.

(ii) Failure of the PCB rate and quantity measuring and recording equipment specified in subparagraph (3) of this paragraph, or

(iii) Combustion temperature, dwell time, or excess oxygen fall below those specified in subparagraph (1) of this paragraph.

(9) Water scrubbers shall be used for HCl control during PCB incineration and shall meet any performance requirements specified by the Regional Administrator. Scrubber effluent shall comply with applicable water quality standards, EPA Water Quality Criteria, and any other State and Federal laws and regulations. An alternate method of HCl control may be used if the alternate method has been approved by the Regional Administrator.

(b) *Non-liquid PCBs.* An incinerator used for incinerating non-liquid PCB mixtures, PCB articles, PCB equipment, or PCB containers shall be approved by the Agency Regional Administrator pursuant to paragraph (d) of this section. Such incinerator shall meet all of the requirements specified in subparagraphs (1) through (3) of this paragraph, unless a waiver from these requirements is obtained pursuant to paragraph (d)(5) of this section. In addition, the incinerator shall meet any other requirements which may be prescribed pursuant to paragraph (d)(4) of this section.

(1) The mass air emissions from the incinerator shall be no greater than 0.001g PCB chemical substances/Kg of PCB chemical substance introduced into the incinerator.

(2) Such incinerator shall comply with the provisions of §§ 761.40(a)(2), (3), (4), (6), (7), (8) (i) and (ii) and (9).

(3) The flow of PCBs to the incinerator shall stop automatically whenever the combustion temperature falls below the temperatures specified in any approvals issued by the Regional Administrator pursuant to paragraph (d) of this section. Incinerator operations shall stop immediately whenever the excess oxygen measurements fall below those specified in any approvals issued by the Regional Administrator pursuant to paragraph (d) of this section.

(c) *Maintenance of data and records.* All data and records required by this section shall be maintained in accordance with Annex VI—§ 761.45, Records and Monitoring.

(d) *Approval of incinerators.* Prior to the incineration of PCBs, the owner or operator of an incinerator shall receive the written approval of the Agency Regional Administrator of the Region in which the incinerator is located. Such approval shall be obtained in the following manner:

(1) *Initial report.* The owner or operator shall submit to the Regional Administrator an initial report which contains:

(i) The location of the incinerator.

(ii) A detailed description of the incinerator including general site plans and design drawings of the incinerator.

(iii) Engineering reports or other information on the anticipated performance of the incinerator.

(iv) Sampling and monitoring equipment and facilities available.

(v) Waste volumes expected to be incinerated.

(vi) Any local, State, or Federal permits or approvals.

(vii) Schedules and plans for complying with the approved requirements of this regulation.

(2) *Trial burn.* (i) Following receipt of the report described in subparagraph (1) of this paragraph, the Regional Administrator shall notify the person who submitted the report whether a trial burn of PCBs must be conducted. The Regional Administrator may require the person who submitted the report described in subparagraph (1) of this paragraph to submit such other information as the Regional Administrator finds to be reasonably necessary to determine the need for a trial burn.

(ii) If the Regional Administrator determines that a trial burn must be held,

the person who submitted the report described in subparagraph (1) of this paragraph shall submit to the Regional Administrator a detailed plan for conducting and monitoring the trial burn. At a minimum, the plan must include:

(*a*) Date trial burn is to be conducted.

(*b*) Quantity and type of PCBs to be incinerated.

(*c*) Parameters to be monitored and location of sampling points.

(*d*) Sampling frequency and methods and schedules for sample analyses.

(*e*) Name, address, and qualifications of persons who will review analytical results and other pertinent data and who will perform a technical evaluation of the effectiveness of the trial burn.

(iii) Following receipt of the plan described in subdivision (ii) of this subparagraph, the Regional Administrator will approve the plan, require additions or modifications to the plan, or disapprove the plan. If the plan is disapproved, the Regional Administrator will notify the person who submitted the plan of such disapproval, together with the reasons why it was disapproved. That person may thereafter submit a new plan in accordance with subdivision (ii) of this subparagraph. If the plan is approved (with any additions or modifications which the Regional Administrator may prescribe), the Regional Administrator will notify the person who submitted the plan of such approval. Thereafter the trial burn shall take place at a date and time to be agreed upon between the Regional Administrator and the person who submitted the plan.

(3) *Other information.* In addition to the information contained in the report and plan described in subparagraphs (1) and (2) of this paragraph, the Regional Administrator may require the owner or operator to submit such other information as the Regional Administrator finds to be reasonably necessary to determine whether an incinerator shall be approved.

NOTE.—The Regional Administrator will have available for review and inspection an Agency manual containing information or sampling methods and analytical procedures for the parameters required in § 761.40(a)(3), (4), (6), and (7) plus any other parameters he may determine to be appropriate. Owners or operators are encouraged to review this manual prior to submitting any report required in this Annex.

(4) *Contents of Approval.* (i) Except as provided in subparagraph (5) of this paragraph, the Regional Administrator may not approve an incinerator for the disposal of PCBs unless he finds that the incinerator meets all of the requirements of paragraphs (a) and/or (b) of this section, whichever is applicable.

(ii) In addition to the requirements of paragraphs (a) and/or (b) of this section, the Regional Administrator may include in an approval such other requirements as the Regional Administrator finds are necessary to ensure that operation of the incinerator does not present an unreasonable risk of injury to health or the environment from PCBs. Such requirements may include a fixed period of time for which the approval is valid.

(5) *Waivers.* An owner or operator of the incinerator may submit evidence to the Regional Administrator that operation of the incinerator will not present an unreasonable risk of injury to health or the environment from PCBs, when one or more of the requirements of paragraphs (a) and/or (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator may in his discretion find that any such requirements are not necessary to protect against such risk and may waive such requirements in any approval for that incinerator. Any such finding and waiver must be stated in writing and included as part of the approval.

(6) *Persons Approved.* An approval will designate the persons who own and who are authorized to operate the incinerator, and will apply only to such persons.

(7) *Final Approval.* Approval of an incinerator will be in writing and signed by the Regional Administrator. The approval will state all requirements applicable to that incinerator.

ANNEX II

§ 761.41 Chemical waste landfills.

(a) *General.* A chemical waste landfill used for the disposal of PCBs shall be approved by the Agency Regional Administrator pursuant to paragraph (c) of this section. Such landfill shall meet all of the requirements specified in paragraph (b) of this section, unless a waiver from these requirements is obtained pursuant to paragraph (c) (4) of this section. In addition, the landfill shall meet any other requirements which may be prescribed pursuant to paragraph (c) (3) of this section.

(b) *Technical requirements.* Requirements for chemical waste landfills used for the disposal of PCBs are as follows:

(1) *Soils.* The landfill site shall be located in thick, relatively impermeable formations such as large-area clay pans. Where this is not possible, the soil shall have a high clay and silt content with the following parameters:

(i) In-place soil thickness, 4', or compacted soil liner thickness, 3'.
(ii) Permeability (cm/sec), $\leq 1 \times 10^{-7}$.
(iii) Percent soil passing No. 200 Sieve, ≥30.
(iv) Liquid Limit, ≥30.
(v) Plasticity Index, ≥15.
(vi) Artificial Liner Thickness, ≥30 mil.

NOTE.—In the event that an artificial liner is used at a landfill site, special precautions shall be taken to insure that its integrity is maintained and that it is chemically compatible with PCBs. Soil underlining shall be provided as well as a soil cover.

(2) *Hydrology.* The bottom of the landfill shall be substantially above the historical high groundwater table. Floodplains, shorelands, and groundwater recharge areas shall be avoided. There shall be no hydraulic connection between the site and standing or flowing surface water. The site shall have monitoring wells and leachate collection and shall be at least fifty feet from the nearest groundwater.

(3) *Flood protection.* (i) If the landfill site is below the 100-year floodwater elevation, the operator shall provide surface water diversion dikes around the perimeter of the landfill site with a minimum height equal to two feet above the 100-year floodwater elevation.

(ii) If the landfill site is above the 100-year floodwater elevation, the operators shall provide diversion structures capable of diverting all of the surface water runoff from a 24-hour, 25-year storm.

(4) *Topography.* The landfill site shall be located in an area of low to moderate relief to minimize erosion and to help prevent landslides or slumping.

(5) *Monitoring Systems*—(i) *Water Sampling.* (a) The ground and surface water from the disposal site area shall be sampled for use as baseline operations.

(*b*) Defined water sources shall be sampled at least monthly when the landfill is being used for disposal operations.

(*c*) Defined water sources shall be sampled indefinitely on a frequency of no less than once every six months after final closure of the disposal area.

(ii) *Groundwater Monitor Wells.* (*a*) If underlying earth materials are homogeneous, impermeable, and uniformly sloping in one direction, only three sampling points shall be necessary. These three points shall be equally spaced on a line through the center of the disposal area and extending from the area of highest water table elevation to the area of the lowest water table elevation on the property.

(*b*) All monitor wells shall be cased and the annular space between the monitor zone (zone of saturation) and the surface shall be completely backfilled or plugged with Portland cement to effectively prevent percolation of surface water into the well bore. The well opening at the surface shall have a removable cap to provide access and to prevent entrance of rainfall or stormwater runoff. The well shall be pumped to remove the volume of liquid initially contained in the well before obtaining a sample for analysis. The discharge shall be treated to meet applicable State or Federal discharge standards or recycled to the chemical waste landfill.

(iii) *Water analysis.* As a minimum, all samples shall be analyzed for the following parameters, and all data and records of the sampling and analysis shall be maintained as required in Annex VI. Sampling methods and analytical procedures for these parameters shall be as specified in 40 CFR Part 136 as amended in 41 FR 52779 of December 1, 1976.

(*a*) PCBs.
(*b*) pH.
(*c*) Specific Conductance.
(*d*) Chlorinated Organics.

(6) *Leachate Collection.* A leachate collection monitoring system shall be installed beneath the chemical waste landfill. Leachate collection systems shall be monitored monthly for quantity and quality of leachate produced. The leachate should be either treated to acceptable limits for discharge in accordance with a State or Federal permit or disposed of by another State or Federal approved method. Water analysis shall be as provided in subparagraph (5) (iii) of this paragraph. Acceptable leachate collection monitoring/collection systems shall be one of the following designs unless a waiver is obtained pursuant to paragraph (c) (4) of this section.

(i) *Simple Leachate Collection.* This system consists of a gravity flow drainfield installed under the waste disposal facility liner. This design is recommended for use when semi-solid or leachable solid wastes are placed in a lined pit excavated into a relatively thick, unsaturated, homogeneous layer of low permeability soil.

(ii) *Compound Leachate Collection.* This system consists of a gravity flow drainfield installed under the waste disposal facility liner and above a secondary installed liner. This design is recommended for use when semiliquid or leachable solid wastes are placed in a lined pit excavated into relatively permeable soil.

(iii) *Suction Manometers.* This system consists of a network of porous "stones" connected by hoses/tubing to a vacuum pump. The porous "stones" or suction manometers are installed along the sides and under the bottom of the waste disposal facility liner. This type of system works best when installed in relatively permeable unsaturated soil immediately adjacent to the disposal facility's bottom and/or sides.

(7) *Chemical Waste Landfill Operations.* (i) PCBs shall be placed in the landfill in a manner that will prevent damage to containers or articles. Other wastes placed in the landfill that are not chemically compatible with PCBs or PCB containers shall be segregated from the PCBs throughout the waste handling and disposal process.

(ii) An operations plan shall be developed and submitted to the Regional Administrator for approval as required in paragraph (c) of this section. This plan shall include detailed explanations of the procedures to be used for recordkeeping, excavation and backfilling, waste segregation, burial coordinates, vehicle and equipment movement, use of roadways, leachate collection systems, sampling and monitoring procedures, monitoring wells, and security measures to protect against vandalism and unauthorized waste placements. EPA guidelines entitled "Thermal Processing and Land Disposal of Solid Waste" (39 FR 29337 of August 14, 1974) are a useful reference in preparation of this plan.

(iii) Records shall be maintained for all PCB disposal operations and shall include the three dimensional burial coordinates for PCBs. Additional records shall be developed and maintained as provided in Annex VI.

(8) *Supporting Facilities.* (i) A six foot woven mesh fence, wall, or similar device shall be provided around the site to prevent unauthorized persons and animals from entering.

(ii) Roads shall be maintained to and on the site which are adequate to operate and maintain the site without causing safety or nuisance problems or hazardous conditions.

(iii) The site shall be operated and maintained in a manner to prevent safety problems or hazardous conditions resulting from spilled liquids and windblown materials.

(c) *Approval of chemical waste landfills.* Prior to the disposal of any PCBs in a chemical waste landfill, the owner or operator of the landfill shall receive written approval of the Agency Regional Administrator of the Region in which the landfill is located. Such approval shall be obtained in the following manner:

(1) *Initial Report.* The owner or operator shall submit to the Regional Administrator an initial report which contains:

(i) The location of the landfill.

(ii) A detailed description of the landfill including general site plans and design drawings.

(iii) An engineering report describing the manner in which the landfill complies with the requirements for chemical waste landfills in paragraph (b) of this section.

(iv) Sampling and monitoring equipment and facilities available.

(v) Expected waste volumes of PCBs.

(vi) General description of waste materials other than PCBs that are expected to be disposed of in the landfill.

(vii) Landfill operations plan as required in paragraph (b) of this section.

(viii) Any local, State, or Federal permits or approvals.

(ix) Any schedules or plans for complying with the approval requirements of these regulations.

(2) *Other Information.* In addition to the information contained in the report described in subparagraph (1) of this section, the Regional Administrator may require the owner or operator to submit such other information as the Regional Administrator finds to be reasonably necessary to determine whether a chemical waste landfill should be approved.

(3) *Contents of approval.* (i) Except as provided in subparagraph (4) of this paragraph, the Regional Administrator may not approve a chemical waste landfill for the disposal of PCBs unless he finds that the landfill meets all of the requirements of subparagraph (6) of this paragraph.

(ii) In addition to the requirements of paragraph (b) of this section, the Regional Administrator may include in an approval such other requirements as the Regional Administrator finds are necessary to ensure that operation of the chemical waste landfill does not present an unreasonable risk of injury to health or the environment from PCBs. Such requirements may include a fixed period of time for which the approval is valid.

(4) *Waivers.* An owner or operator of a chemical waste landfill may submit evidence to the Regional Administrator that operation of the landfill will not present an unreasonable risk of injury to health or the environment from PCBs, when one or more of the requirements of paragraph (b) of this section are not met. On the basis of such evidence and any other available information, the Regional Administrator may in his discretion find that any such requirements are not necessary to protect against such risk and may waive such requirements in any approval for that landfill. Such finding and waiver will be stated in writing and included as part of the approval.

(5) *Persons Approved.* Any approval will designate the persons who own and who are authorized to operate the chemical waste landfill, and will apply only to such persons.

(6) *Final Approval.* Approval of a chemical waste landfill will be in writing and will be signed by the Regional Administrator. The approval will state all requirements applicable to that landfill.

ANNEX III

§ 761.42 Storage for disposal.

(a) Any PCB article or PCB container stored for disposal before July 1, 1981, shall be removed from storage and disposed of before July 1, 1982. Any PCB article or PCB container stored for disposal after July 1, 1981, shall be removed from storage and disposed of within one year from the date when it was first placed into storage.

(b) Except as provided in paragraph (c) of this section, after October 1, 1977, owners or operators of any facilities used for the storage of PCBs designated for disposal shall comply with the following requirements:

(1) Such facilities shall have:

(i) An adequate roof to prevent rainwater from reaching the stored PCBs.

(ii) An adequate floor which has continuous curbing with a minimum six inch high curb. Such floor and curbing must provide a containment volume equal to at least two times the internal volume of the largest PCB equipment or PCB container stored therein or twenty-five percent of the total internal volume of all PCB equipment or containers stored therein, whichever is greater.

(iii) No drain valves, floor drains, sewer lines, or other openings that would permit liquids to flow from the curbed area.

(iv) Continuous, smooth, and impervious construction for floors and curbing such as Portland cement concrete.

(c) (1) After October 1, 1977, if the only PCBs stored at a particular facility are small capacitors which have an aggregate storage volume of not greater than two 55-gallon drums, the only storage requirement is to store such capacitors in sound, non-leaking containers within a building.

(2) The storage area shall be marked as required in Subpart C—§761.20(a)(6).

(3) No items of movable equipment used for handling PCBs in the storage facilities shall be removed from the areas unless decontaminated.

(4) All PCB containers shall be checked for leaks at least once every 30 days. All leaking containers and their contents shall be transferred immediately to properly marked nonleaking containers. Any spilled or leaked mate-

rials shall be immediately cleaned up using sorbents or other adequate means, and the cleaned materials and residues shall be disposed of in accordance with Subpart B—§ 761.10(b).

(5) Any PCB container used for the storage of liquid PCB chemical substances or liquid PCB mixtures shall comply with the specifications of the Department of Transportation Materials Transportation Bureau Hazardous Materials Regulations, 49 CFR 173.346 (41 FR 42544, September 27, 1976). Any PCB container used for the storage of non-liquid PCB mixtures, PCB articles, or PCB equipment may vary from 49 CFR 173.346 by meeting DOT Spec. 5, Spec. 5B, or Spec. 17C with removable heads.

(6) PCB articles and PCB containers shall be dated when they are placed in storage. The storage shall be managed so that the PCB articles and PCB containers can be located by the date they entered storage.

(7) Owners or operators of storage facilities shall establish and maintain records as provided in Annex VI.

ANNEX IV

§ 761.43 Decontamination.

(a) Any PCB container to be decontaminated shall be decontaminated by flushing of the internal surfaces of the container three times with a solvent containing less than 0.05 percent PCB chemical substance in which the solubility of PCBs is five percent or more by weight. Each rinse shall use a volume of the normal diluent equal to approximately ten percent of the PCB container's capacity. The solvent may be reused for decontamination until it contains 0.5 percent PCB chemical substance. The solvent shall then be disposed of as a PCB mixture, in accordance with § 761.10(b).

(b) Movable equipment used in storage areas shall be decontaminated by swabbing surfaces that have contacted PCB chemical substances or PCB mixtures with a solvent meeting the criteria of paragraph (a) of this section.

ANNEX V

§ 761.44 Marking formats.

The following formats shall be used for marking:

(a) Large PCB Mark—ML—Mark ML shall be as shown in Figure 1, with black letters and striping on a white background and shall be sufficiently durable to equal or exceed the life (including storage for disposal) of the equipment or container. The size of the mark shall be at least 15.25 cm (6 inches) on each side. If the PCB equipment is too small to accommodate this size, the mark may be reduced in size proportionately down to a minimum of 5 cm (2 inches) on each side.

(b) Small PCB Mark—Ms—Mark Ms shall be as shown in Figure 2, with black letters and striping on a white background, and shall be sufficiently durable to equal or exceed the life (including storage for disposal) of the equipment or container. The mark shall be a rectangle 2.5 by 5 cm (1 inch by 2 inches). If the PCB equipment is too small to accommodate this size, the mark may be reduced in size proportionately down to a minimum of 1 by 2 cm (.4 by .8 inches).

CAUTION

CONTAINS

PCBs

(Polychlorinated Biphenyls)

A toxic environmental contaminant requiring special handling and disposal in accordance with U.S.Environmental Protection Agency Regulations 40 CFR 761 for Disposal Information contact the nearest U.S. E.P.A. Office.

In case of accident or spill, call toll free the U.S.Coast Guard National Response Center: 800:424-8802

CAUTION–CONTAINS
PCBs
FOR PROPER DISPOSAL INFORMATION CONTACT U.S. ENVIRONMENTAL PROTECTION AGENCY

ANNEX VI

§ 761.45 Records and monitoring.

(a) *PCBs in service or projected for disposal.* By January 1, 1978, each owner or operator of a facility containing forty-five kilograms of PCB chemical substances or PCB mixtures in the liquid phase or fifty or more PCB large high voltage capacitors shall develop and maintain records on the location and disposition of the PCBs. These records shall form the basis of an annual document prepared for each facility by March 1 covering the previous calendar year. Owners or operators with more than one facility which contain PCBs may maintain the records and documents at a single location, provided the identity of this location is available at each facility containing PCBs that is normally manned for eight hours a day. The records and documents shall be maintained for at least five years after the facility ceases containing PCBs at the prescribed quantities. The following information for each facility shall be included in the annual document:

(1) The dates when PCBs are removed from service, are placed into storage for disposal, and are placed into transport for disposal. The quantities of such PCBs shall be indicated using the following breakdown:

(i) Total weight in kilograms of any PCB chemical substances or PCB mixtures in PCB containers, including the identification of container contents, such as liquids, and capacitors.

(ii) Total number of PCB transformers and total weight in kilograms of any PCB chemical substances and PCB mixtures contained in the transformers.

(iii) Total number of PCB large high voltage capacitors.

(2) For PCBs removed from service, the location of the initial disposal or storage facility and the name of the owner or operator of the facility.

(3) Total quantities of PCBs remaining in service at the end of the calendar year using the following breakdown:

(i) Total weight in kilograms of any PCB chemical substances and PCB mixtures in PCB containers, including the identification of container contents such as liquids and capacitors.

(ii) Total number of PCB transformers and total weight in kilograms of any PCB chemical substances and PCB mixtures contained in the transformers;

(ii) Total number of PCB large high voltage capacitors.

(b) *Disposal and storage facilities.* Beginning in 1979, each owner or operator of a facility used for the storage or disposal of PCBs shall by March 1 of each year prepare and maintain a document which specifies the manner in which PCBs were handled at the facility during the previous calendar year. Such document shall be retained at each facility for at least five years after the facility is no longer used for the storage or disposal of PCBs, except that in the case of chemical waste landfills such documents shall be maintained at least twenty years after the chemical waste landfill is no longer used for the disposal of PCBs. Such documents shall be available at the facility for inspection by authorized representatives of the Environmental Protection Agency. If the facility ceases to be used for PCB storage or disposal, the owner or operator of such facility shall promptly notify the Agency Regional Administrator of the region in which the facility is located that the facility has ceased storage or disposal operations and shall specify where the documents required to be maintained by this paragraph shall be located. The following information shall be included in each document:

(1) The date when any PCBs are received by the facility during the previous calendar year for storage or disposal, and the identification of the person and facility from whom such PCBs were received.

(2) The date when any PCBs are disposed of at the disposal facility or transferred to another disposal or storage facility, including the identification of the specific types of PCB chemical substances, PCB mixtures, or PCB articles in containers; PCB transformers; and PCB equipment or PCB articles not in containers which were stored or disposed of.

(3) Total weight in kilograms of any PCB containers and the total weight in kilograms of any PCB chemical substances or PCB mixtures contained in any PCB transformers, received during the calendar year, transferred to other storage or disposal facilities during the calendar year, and remaining on the disposal or storage facility site at the end of the calendar year, respectively, including, where applicable, the identification of PCB container contents such as liquids, capacitors, etc. When PCB containers or PCB chemical substances or PCB mixtures contained in a transformer are transferred to other storage or disposal facilities, the identification of the facility to which such PCBs were transferred shall be included.

(4) Total number of any PCB articles or PCB equipment, not in PCB containers, received during the calendar year, transferred to other storage or disposal facilities during the calendar year, and remaining on the facility site at the end of the calendar year, respectively, including the identification of the specific types of PCB articles and PCB equipment received, transferred, or remaining on the facility site. When PCB articles and PCB equipment are transferred to other storage or disposal facilities, the identification of the facility to which such PCB articles and PCB equipment were transferred must be included.

NOTE: Any requirements for weights in kilograms of PCBs may be calculated values if the internal volume of containers and transformers is known and included in the reports, together with any assumptions on the density of the PCB chemical substances or PCB mixtures contained in the containers or transformers.

(c) *Incineration facilities.* For each owner or operator of a PCB incinerator facility, the following information is required in addition to the information required in paragraph (b) of this section:

(1) When PCBs are being incinerated, the following continuous and short-interval data shall be collected and maintained for a period of five years from the date of collection:

(A) Rate and quantity of PCBs fed to the combustion system, as provided in Annex I—§ 761.40(a)(3).

(B) Temperature of the combustion process, as provided in Annex I—§ 761.40(a)(4).

(C) Stack emission products to include O_2, CO, and CO_2, as provided in Annex I—§ 761.40(a)(7).

(2) When PCBs are being incinerated, data and records resulting from the monitoring of stack emissions as required in Annex I—§ 761.40(d)(2), shall be collected and maintained for five years.

(3) Total weight in kilograms of any solid residues generated by the incineration of PCBs during the calendar year, the total weight in kilograms of any solid residues disposed of by such facility in chemical waste landfills, and the total weight in kilograms of any solid residues remaining on the facility site shall be retained for five years.

(4) When PCBs are being incinerated, additional periodic data shall be collected and maintained as specified by the Regional Administrator pursuant to Annex I—§ 761.40(d)(4).

(5) A document shall be prepared on any suspension of the operation of any incinerator by the owner or operator thereof, as required in Annex I–§ 761.40(a)(8). The document shall, at a minimum, include the date and time of the suspension and an explanation of the circumstances causing the suspension of operation.

(d) Retention of Special Records by Storage and Disposal Facilities. In addition to the information required to be maintained by pragraphs (b) and (c) of this section, each owner or operator of a PCB storage or disposal facility shall collect and maintain for the time period required in paragraph (c) of this section the following data:

(1) All documents, correspondence, and data provided to the owner or operator by any State or local government agency that pertain to the storage or disposal of PCBs at such facility.

(2) All documents, correspondence, and data provided by the owner or operator of such facility to any State or local government agency that pertain to the storage or disposal of PCBs at such facility.

(3) Any applications and related correspondence sent by the owner or operator of such facility to any local, State, or Federal authorities in regard to wastewater discharge permits, solid waste permits, building permits, or other permits or authorizations, such as those required by Annex I–§ 761.40(d) and Annex II–§ 61.41(c).

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federal register

TUESDAY, MAY 24, 1977
PART VI



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 661—SALMON FISHERY

Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendments to emergency regulations.

SUMMARY: This document amends the current emergency regulations by providing for changes in the opening and closing dates in designated fishing areas, changes in minimum length of chinook salmon, and adds new sections concerning Treaty Indian Rights and Test Fisheries. These amendments will conform the emergency regulations to recent changes in the fishery management plan.

DATES: Effective dates: 0001 a.m., on May 25, 1977 and shall remain in effect for 45 days; comments on or before July 8, 1977.

ADDRESS: Send comments to: Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Wash. 98109, phone 206–442–7575.

SUPPLEMENTARY INFORMATION: On April 20, 1977, the Secretary of Commerce approved the fishery management plan prepared by the Pacific Fishery Management Council for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California and determined that an emergency exists involving some of the salmon resources covered by the plan. The Secretary recognized that the plan met the basic needs to conserve and manage this important resource but also was concerned over the impact the plan and proposed emergency regulations had on certain segments of the industry and the treaty rights of the Makah Indian Tribe.

In response to the concerns and requests of the Secretary of Commerce, the Pacific Fishery Management Council at its meeting on May 3, 1977, reconsidered certain aspects of its plan and submitted amendments to the plan and proposed amendments to the existing emergency regulations. These amendments provide for changes in the opening and closing dates in Management Areas A through E, changes in minimum length of chinook salmon from 26 to 28 inches and to recognize the rights of the Makah Indian Tribe.

In view of the many changes in § 661.8 Commercial fishing, we feel that it would be most helpful to commercial fishermen to fully understand these changes if the section was republished in its entirety.

Therefore, under section 305(e)(2) of the Fishery Conservation and Management Act of 1976, the Secretary is authorized to amend the emergency regulations which implement the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California fishery management plan.

Dated: May 20, 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

1. In the Table of Contents the § 661.2 should read "Relation to State Law", the term "[reserved]" is deleted in § 661.10, and a new § 661.11 is added as follows:

Sec.

* * * * *

661.11 Test fisheries.

2. Section 661.8 is revised as follows:

§ 661.8 Commercial fishing.

(a) *Open seasons and areas.* All open seasons shall begin at 0001 hours and terminate at 2400 hours on the dates specified herein. Unless otherwise specified, Pacific Daylight Time will apply. The Pacific Council Management Area is closed to commercial salmon fishing except for the following open seasons and areas.

(1) In Management Area A, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1977, and terminate on September 15, 1977.

(2) In Management Area B, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1977 and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(3) In Management Area C, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on June 15, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(4) In Management Area D and E, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on April 15, 1977, and terminate on May 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on May 15, 1977, and terminate on September 30, 1977.

(b) *Gear restrictions.* (1) Only troll gear shall be used for commercial salmon fishing while in the Pacific Council Management Area. However, in Management Areas D and E, troll gear need not be fixed to the vessel as specified in § 661.3(m).

(2) Only single/barbless hooks shall be used for commercial salmon fishing before July 1977, while in Management Areas A and B.

(c) *Size restrictions.* (1) No person shall take and retain any chinook salmon (*Oncorhynchus tshawytscha*) while aboard a vessel used for commercial fishing less than:

(i) Twenty-eight inches in length in Management Areas A and B; or

(ii) Twenty-six inches in length in Management Areas C, D and E.

(d) *Vessel inspection and certification.* (1) Any vessel subject to State hold inspection, fishing in Management Areas A and B between July 1 and July 10, 1977, must have on board documentation of such inspection as may be issued by the State adjacent to such Management Area.

(2) Any vessel 26 feet or longer with coho salmon on board in Management Areas D and E between May 15 and May 25, 1977, shall have on board documentation of hold inspection issued by the State adjacent to such Management Areas.

(e) No person shall take and retain any steelhead (*Salmo gairdneri*) within the Pacific Council Management Area.

3. Section 661.9(a) subparagraphs (2) and (4), and subparagraph (1) of paragraph (b) are amended as follows:

§ 661.9 Recreational fishing.

(a) * * *

(2) In Management Area C, the season shall open on April 30, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

* * * * *

(4) In Management Area E, the season shall open on February 12, 1977, at 0001 hours Pacific Standard Time and terminate on November 13, 1977, at 2400 hours Pacific Standard Time.

(b) * * *

(1) No gear other than angling gear may be used for recreational salmon fishing, except that in Management Areas D and E, during the commercial salmon season (§ 661.8(a)(4), closely attended rods and/or lines may be used.

* * * * *

4. New § 661.10 is added as follows:

§ 661.10 Treaty Indian rights.

(a) Persons entitled to exercise rights under the Treaty with the Makah may fish for all salmon species in that portion of Management Area A north of 48° 07'36" north latitude from May 1, 1977, to October 31, 1977. Such persons are otherwise subject to the provisions of this Part 661, the Act and any other regulation issued under the Act.

(b) The Secretary will give due consideration in promulgating emergency regulations under § 661.7 to the treaty rights of Indian tribes with usual and accustomed fishing grounds in the area affected by such regulations.

5. New § 661.11 is added as follows:

§ 661.11 Test fisheries.

The Secretary may, upon recommendation of the Pacific Council, allow in the Pacific Council Management Area such limited test fisheries for scientific purposes as may be proposed by the Pacific Council, the Federal Government, State Governments and Treaty Indian Tribes having usual and accustomed fishing grounds in the Pacific Council Management Area.

[FR Doc.77–14845 Filed 5–23–77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Approval of Amendment to the Fishery Management Plan and Requests for Comments

Pursuant to section 304 of the Fishery Conservation and Management Act of 1976, (Pub. L. 94-265, 16 U.S.C. 1801 et seq.) (the Act), the Secretary of Commerce (the Secretary) is authorized to receive, review and approve a fishery management plan (FMP) or amendment to such plan prepared by a Regional Fishery Management Council, concerning fisheries within the 200-mile fishery conservation zone (FCZ).

Pursuant to Title III of the Act, the Pacific Fishery Management Council, has prepared and submitted to the Secretary an amendment to a FMP for "Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California" (the "Plan"). In addition, it has been determined that this amendment is among the options considered in the Final Environmental Impact Statement prepared concerning the FMP.

The Secretary of Commerce, by authority of section 305 of the Act, wishes to advise the public of the approval of the above mentioned amendment to the salmon FMP and of the promulgation of amended regulations implementing the Plan as amended.

The amendment, published in its entirety below, as required by section 305(a) of the Act, is intended to improve the basis for the conservation and management of the offshore salmon fishery for the States of Washington, Oregon, and California in the FCZ created by section 101 of the Act. This amendment has the effect of promoting the conservation and management of the chinook salmon stocks by increasing of the minimum size from 26 inches to 28 inches north of Tillamook Head, Oregon. Anticipated hardship in the original Plan upon commercial fishermen engaged in this fishery is reduced by amending the original 30-day closure in June to two weeks in June. Special fishery rights accruing to certain coastal treaty Indian tribes are specifically recognized in this amendment.

This amended FMP is being implemented by amended emergency regulations (also published today in the FEDERAL REGISTER), as authorized by section 305(e) of the Act. Emergency regulations as amended were promulgated after the Secretary found and determined that an emergency exists in the coastal commercial and recreational salmon fisheries of Washington, Oregon, and California.

Publication of this amendment also constitutes the notice of publication for the approved FMP as amended and its proposed permanent regulations as required by section 305(a) of the FCMA.

Written data, views and comments concerning the Plan may be submitted to: Director, National Marine Fisheries Service, Washington, D.C. 20235. The Secretary of Commerce will consider all such data, views, and comments submitted on or prior to July 8, 1977, before final action is taken with respect to the FMP and implementing regulations pursuant to section 305(c) of the FCMA.

I am publishing this document on behalf of and at the request of the Secretary.

Dated this May 20, 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

AN AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR "COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA"

The Pacific Fishery Management Council, in response to a request from the Secretary of Commerce to reconsider certain aspects of its plan adopted during public meetings on March 17-18, 1977, in Seattle, Washington, adopted certain amendments during public meetings on May 2-3, 1977, in Portland, Oregon.

The amendments pertain to the treaty rights of the Makah Indian Tribe and select Option 2 in place of the option which in the plan is referred to as Option CA (Council Adopted). In addition, changes in wording of regulations were adopted to conform as closely as possible to state regulations in adjacent waters.

The amendments to the plan are as follows:

I. Page 28: Amend Section 2.8.2, paragraph 1, last sentence, by adding after the word "plan," "provided, however, that in promulgating any emergency regulations, due consideration shall be given to the treaty rights of Indian tribes with usual and accustomed fishing grounds in the area affected by such regulations."

II. Page 28: Amend Section 2.8.2, paragraph 3, first sentence, by adding after the word "jurisdiction," "except for such limited test fishing by Indian treaty right tribes as may be authorized by the Council and the Secretary for purposes of scientific study of the advisability of allowing a limited ocean net fishery."

III. Pages 39-42: Section 2.9: An updated technical analysis of expected changes from the average situation prevailing during the 5-year period, 1971-1975, resulted in changes in the percentages for Options 2 and CA. Option CA is the option adopted by the Council on March 18 and Option 2 is the option adopted on May 3, 1977. The updated percentages are presented in Table 1. Accordingly, percentage figures in the text relating to Options 2 and CA are amended to reflect the updated figures.

In addition, an "Updated Technical Analysis of Predicted Effects of Option Two" is added to the bottom of page 41 to more fully describe the effects of Option 2, which the Council adopted on May 3, 1977.

TABLE 1

AN UPDATED SUMMARY OF EXPECTED CHANGES FROM THE AVERAGE SITUATION PREVAILING DURING THE 5-YEAR PERIOD, 1971-1975, REGULATORY OPTIONS 2 AND COUNCIL ADOPTED (CA)

Element	Option 2	Option CA
Chinook		
Returns to terminal areas		
Harvestable numbers of fall chinook returning to the Columbia River system	+28%	+23%
Total fall chinook run size to the Columbia River system	+17%	+14%
Commercial impact		
Early season commercial troll fishing time north of Tillamook Head prior to July 1	-40%	-60%
Numbers of chinook for troll fishery north of Tillamook Head	-36%	-23%
Pounds of chinook for troll fishery north of Tillamook Head	-25%	-19%
Catch value of chinook for troll fishery north of Tillamook Head	-21%	-18%
Average size of individual chinook for troll fishery north of Tillamook Head	+22%	+ 5%
Chinook hooking mortality losses for troll fishery north of Tillamook Head	- 5%	-21%
Sport impact		
Number of chinook for sport fishery north of Tillamook Head	-24%	-25%
Chinook hooking mortality losses for sport fishery north of Tillamook Head	+13%	+13%
Coho		
Returns to terminal areas		
Harvestable numbers of coho returning to Puget Sound	+ 6%	+ 6%
Harvestable numbers of coho returning to Washington coastal streams	+15%	+15%
Harvestable numbers of coho returning to the Columbia River system	+ 4%	+ 4%
Harvestable numbers of coho returning to Oregon coastal streams	+ 2%	+ 2%
Commercial impact		
Numbers of coho for troll fishery north of Tillamook Head	-18%	-18%
Pounds of coho for troll fishery north of Tillamook Head	-15%	-15%
Catch value of coho troll fishery north of Tillamook Head	-12%	-12%
Sport impact		
Numbers of coho for sport fishery north of Tillamook Head	+ 9%	+ 9%

UPDATED TECHNICAL ANALYSIS OF PREDICTED EFFECTS-OPTION TWO

A detailed technical analysis of specific regulatory proposals for 1977 indicates the following expected changes from the average situation prevailing during the 5-year period, 1971-1975.

1. Harvestable numbers of adult fall chinook returning to the Columbia River system would increase by 28%. Total run size (catch plus escapement) would increase by 17%. This would permit fulfillment of treaty Indian fishing rights and also permit the Columbia River Compact to provide a viable August non-Indian gill net fishery below Bonneville Dam on upper river chinook stocks (see management objectives in Appendix B). In-river poundage yields from lower and upper river fall runs combined would be expected to increase from the past level of 4.9 million pounds annually to a new level of 6.3 million pounds per year.

2. Run size increases of similar magnitude would also be expected for Washington coastal fall chinook runs, with treaty Indian and non-treaty commercial catches in terminal areas increasing by over 200,000 pounds annually to a new average level of nearly 1.1 million pounds per year. The ban on April fishing would protect Columbia River spring chinook in their final year and the reduction in early season commercial fishing time prior to July 1 (when most Columbia River summer chinook have entered the river) would amount to 40% less fishing time than the 2½ month troll season for 1975 and prior years (see management objectives for these runs in Appendix B). The significant reductions in early season fishing time, plus increased minimum size limits, would also benefit several currently depressed Washington coastal early-run chinook stocks. In some of the stocks noted above, the additional fish are needed to bolster spawning escapements, at least for a temporary period while they are rebuilding to harvestable levels.

3. Small reductions in ocean fishing rates on Canadian, Puget Sound, Oregon coastal and California chinook stocks would occur but these would have only a minimal effect on overall management of these resources. Any reduction in fishing rates off Washington for the latter two stocks would be counterbalanced to some extent by an expected increase in ocean fishing off Oregon and possibly California.

4. The commercial troll fishery off the Washington Coast and Columbia River mouth could sustain a reduction of up to one-quarter in the recent average for pounds of chinook landed if there is no increase in effort during remaining open fishing periods. An increase is expected but this factor is impossible to quantify in advance for a fishery lacking an "active" management history profile. In any case, the potential dollar loss would be substantially less than the poundage reduction. Progressively higher prices are traditionally paid for the larger grades of troll-caught chinook and prices within poundage grade normally increase during the season. The new regulations would largely eliminate the landing of immatures or "smalls" (less than 8 pounds dressed weight), which are the least valuable grade, and would shift the overall catch later in the season and to the larger, more valuable size categories of maturing chinook. For example, three 7-pound chinook totaling 21 pounds (dressed, heads off) would bring $42.00 at the recent New York wholesale price of $2.00 per pound. A single 14-pound chinook would bring $46.90 at their wholesale price of $3.25 per pound, or nearly $5.00 more than three small fish totaling 50% more in poundage. The average size of individual fish landed would increase by 22% and hooking mortality losses would decline by 5%. The poundage reduction could be as high as 900,000 pounds annually for the Washington coastal troll fishery (a decline from 3.4 to 2.5 million pounds), but this would amount to only about a 5% decline for the combined U.S. commercial troll landings for the States of Washington, Oregon, California, and Alaska (a decline from 16.9 to 16.0 million pounds).

5. The sport fisheries north of Tillamook Head would sustain a 24% reduction in numbers of chinook caught, but the poundage loss (estimated at 300,000 pounds annually) would be less than that percentage due to a 1½-pound increase in average size of sport chinook landed. Hooking mortality losses would increase, however, by an estimated 13%.

NOTE: These and other projections are based on continuance of the 20-inch total length minimum size limit for chinook presently in effect for U.S. marine sport fisheries in Puget Sound and Juan de Fuca Strait. Prior to 1976, there was no minimum size limit and about 50% of the fish taken were less than 20 inches in length.

6. Major coho salmon stocks contributing to ocean fishery catches in the Washington coast-Columbia River mouth area would show varying results from the 1977 regulatory controls. Harvestable numbers of Puget Sound coho reaching U.S. "inside" waters would increase by 6% with an emphasis toward later, natural spawning stocks due to

the troll closure after mid-September off northern Washington. During low-run cycles, State management would be directed toward utilizing these additional fish for spawning escapement requirements. Southern British Columbia coho runs would increase in a similar manner with some of the ocean fishery "savings" being transferred to U.S. northern Puget Sound commercial net fisheries. Washington coastal coho runs would show the largest percentage increase in returning harvestable numbers, averaging 15%, but varying by area and run timing. Late-running native stocks from Grays Harbor tributaries and Olympic Peninsula rivers would receive the most protection. Again, some potential savings would be transferred to needed spawning escapements during low-run cycles. Harvestable coho runs to the Columbia River system and Oregon coastal streams would increase by 4% and 2%, respectively. Annually coho poundage yields for treaty and non-treaty "inside" fisheries are predicted to increase by 400,000 pounds (to a 6.5 million pound total) for Puget Sound, by 200,000 pounds (to a 1.2 million pound total) for Washington coastal areas, and by 100,000 pounds (to a 2.0 million pound total) in the Columbia River system.

7. The commercial troll fishery off the Washington coast and Columbia River mouth could sustain a reduction of up to 15% from the recent average for coho poundage if effort did not increase after July 1 over past years' levels. The potential economic loss would be significantly less since coho prices traditionally increase as the season progresses and larger, better quality fish approaching maturity are landed. For example, in 1975 a major fish buyer at LaPush on the Washington coast began paying trollers $0.73 per pound for coho on June 15 and increased prices by incremental steps during the season to reach a high of $1.05 per pound on September 30. In terms of Washington State troll landings, a reduction of up to 800,000 pounds per year could be anticipated by a decline from 5.5 to 4.7 million pounds annually. In the context of U.S. coastwide troll coho catches, as reflected in total landings for the States of Washington, Oregon, California, and Alaska, this decline would be 4% or less (a decline from 19.2 to 18.4 million pounds annually).

8. The sport fisheries catch of coho salmon north of Tillamook Head would increase by 9% with the new regulations. This change would result from the combination of larger chinook minimum size limits and the greater abundance of coho available due to a delay in the troll season opening date. The coho size limit reduction would be of secondary importance. For the combined ocean sport catch of chinook and coho, little or no change in numbers of fish would be expected since the loss of small chinook would be largely counterbalanced by increased coho catches. It is expected that the overall U.S. sport catch of coho would realize an additional 500,000 pounds under the new regulations.

9. For all U.S. and Canadian fisheries harvesting salmon stocks that are present at some time off the Washington coast, the proposed ocean fishing regulatory changes north of Tillamook Head would result in a total poundage yield increase of about 1.1 million pounds annually from existing levels of chinook and coho salmon resources. This occurs primarily because chinook and coho would be caught at a larger average size. Three types of catch shifts are involved: (a) From early to later in the ocean fishing season for maturing chinook and coho; (b) from immature chinook to mature fish taken one season later in the ocean; and (c) from ocean fisheries to "inside" fisheries. Additional benefits would be derived by increasing spawning escapements to begin rebuilding currently depressed native salmon stocks. Minimum annual yield increases to U.S. fisheries would approximate net results for "gains" and "losses" predicted in No.'s 1 through 8 or about 400,000 pounds in the case of chinook and 400,000 pounds for coho.

10. The aggregate of Canadian salmon fisheries participating in the harvest of these stocks will also benefit from these increased yields to the extent of about 300,000 additional pounds annually (mainly chinook), even though one specific element, the troll fishery off the U.S. coast, will have to fish under somewhat more restrictive regulations than prevailed in the past.

IV. Page 44: A new Section, 2.11, is added to read:

2.11 *Pacific Fishery Management Council Action on Regulatory Option taken on May 3, 1977.* The Pacific Fishery Management Council reconsidered certain aspects of its plan and during public meeting on May 2-3, 1977, in Portland, Oregon, took action to amend certain portions of the plan. The major amendments adopted on May 3, 1977, decreases the mid-season closed season for commercial troll fishing north of Tillamook Head, from one month (all of June) to two weeks (June 15-30), increases the minimum size limit for chinook from 26 inches to 28 inches north of Tillamook Head, and provides for recognition of Makah Indian tribe treaty rights.

A summary of the regulatory provisions in the plan, including modifications made by the Council on May 3, 1977 is as follows:

REGULATIONS NORTH OF TILLAMOOK HEAD

COMMERCIAL TROLL

(a) An all-species commercial troll season, from July 1 through September 15.

(b) Required use of barbless, single hooks on all terminal troll gear during any early season salmon fishing prior to July 1.

(c) A 28-inch total length minimum size limit for chinook salmon, 16-inch total length minimum size limit for coho, and no minimum size limit for other salmon species.

(d) Require that any vessel subject to State hold inspection, fishing north of Tillamook Head, between July 1 and July 10 or fishing off California between May 15 and May 25, must have on board documentation of such inspection as may be issued by the State adjacent to the above stated areas.

(e) An early season for all salmon species other than coho from May 1 through June 14.

(f) A late season all-species troll fishery from September 16 through October 31, south of Point Grenville in Washington State.

(g) Unlawful to possess steelhead.

OCEAN SPORT

(a) A general all-species season from the Saturday closest to May 1 (April 30 in 1977) through October 31.

(b) A 24-inch total length minimum size limit for chinook salmon, a 16-inch total length minimum for coho, and no minimum size limit for other salmon species.

(c) A gear limitation of one rod per fisherman.

(d) Adoption of current possession limits, annual limits, and gear restrictions of the States of Oregon and Washington, respectively.

(e) A three-fish daily sport bag limit.

INDIAN TREATY FISHING

Specific troll regulations north of Sand Point, Washington, for 1977 for the Makah Indian tribe are necessary to fulfill treaty obligations to that tribe and to comply with applicable federal law involving Indian treaty fishing rights. Specific regulations should allow for an all-species Makah troll season from May 1 to October 31, 1977. All other regulations issued pursuant to this plan shall apply to Makah fishing.

The regulations promulgated for the Makahs in this plan do not constitute a waiver by either the Makah tribe or the council to determination of such treaty rights in the future.

REGULATIONS SOUTH OF TILLAMOOK HEAD

Commercial troll

	Waters off Oregon	Waters off California
Minimum size limits	26 in for chinook, 16 in for coho, none for other salmon.	26 in for chinook, 22 in for coho, none for other salmon.
All salmon except coho season	May 1 to Oct. 31	Apr. 15 to Sept. 30.
Coho season	June 15 to Oct. 31	May 15 to Sept. 30.
Vessel certification. NOTE.—See No. d of troll regulation proposals for north of Tillamook Head.	None south of Tillamook Head	Beginning May 13.
Steelhead	Unlawful to possess steelhead.	

OCEAN SPORT

Season

Oregon: April 30 through October 31.

California: North of Tomales Point—all year.

South of Tomales Point—February 12, 1977 through November 13, 1977.

Size Limits (All Species)

Oregon: No size limit.

California: 22 inches (exception, see daily limit).

Gear

Oregon: One rod.

California: In accordance with existing State regulations (including no limit on number of rods or gear during the commercial fishing season).

Daily Limit

Oregon: Three fish.

California: Three fish (two must be greater than 22 inches; one may be between 20 and 22 inches).

V. Page 44: Section 2.11, *Data on Ocean Commercial and Recreational Salmon Fisheries to be Supplied to the Secretary* is renumbered to 2.12.

VI. Page 46: Section 5.0, *Unavoidable Adverse Effects.* The updated technical analysis, mentioned previously, has resulted in some changes in the percentage effects relating to Options 2 and CA. The corrected figures are contained in Table I.

[FR Doc.77-14846 Filed 5-23-77;8:45 am]

federal register

TUESDAY, MAY 24, 1977

PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

FEDERAL COMMUNICATIONS COMMISSION

CANADIAN TELEVISION

List of Stations and Allocations Within 250 Miles of Canada–U.S. Border

FEDERAL COMMUNICATIONS COMMISSION

CANADIAN TELEVISION

List of Stations and Allocations Within 250 Miles of the Canada-U.S.A. Border Issued by FCC

MAY 11, 1977.

The FCC has issued a list of Canadian television station assignments and channel allocations that is recapitulative and contains information supplied by the Department of Communications of Canada. It reflects all the additions, changes and deletions notified to the Commission by the above date and supersedes previous lists issued by the Commission.

Further additions, changes and deletions, as coordinated between the Commission and the Canadian Department of Communications will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the list may be obtained from Downtown Copy Center, 1730 K Street NW., Washington, D.C. 20006, telephone 202-452-1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission.

CANADIAN-U.S.A. TELEVISION AGREEMENT

LIST OF ASSIGNMENTS AND ALLOCATIONS FOR VHF AND UHF TELEVISION

(Listed by Province)

CANADA

OFFSET CARRIER DESIGNATORS

Z	Zero offset frequency
+	Plus 10 kHz
-	Minus 10 kHz
L-	Limited allocation

PROVINCE ABBREVIATIONS

Alberta	AB	Ontario	ON
British Columbia	BC	Prince Edward Island	PE
Manitoba	MB	Quebec	QU
New Brunswick	NB	Saskatchewan	SA
Northwest Territories	NT	Yukon Territory	YU
Nova Scotia	NS		

PARAMETER ABBREVIATIONS

Directional Antenna	DA	Limited	LTD
Horizontal Polarization	HOR	License	LIC
Feet	FT	Commercial	CO
Kilowatt	KW		

Revised to April 12, 1977.

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,CHAN APR 12, 1977 PAGE 1
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

	CO	BANFF ZONE 2	AB **USA BORDER**	51-10-00.0 115-34-00.0	51 +					751217
	CO	BLAIRMORE ZONE 2	AB **USA BORDER**	49-36-00.0 114-26-00.0	57 +					751217
	CO	BROOKS ZONE 2	AB **USA BORDER**	50-35-00.0 111-53-00.0	66 -					780513
	CO	BROOKS ZONE 2	AB **USA BORDER**	50-35-00.0 111-53-00.0	72 Z					780513
CJOCTV03	CO LIC	BURNIS ZONE 2	AB **USA BORDER**	49-31-54.0 114-11-37.0	03 Z DA	.409(KW) HOR	0420(FT)	LETHBRIDGE TV LTD		751217
CFCNTV04	CO LIC	BURNIS ZONE 2	AB **USA BORDER**	49-31-54.0 114-11-37.0	05 -	.23(KW) HOR	0439(FT)	CFCN TV LDT		730401
CBRTMB	CO LIC	BURNIS ZONE 2	AB **USA BORDER**	49-33-14.0 114-10-37.0	47 Z DA	1.7(KW) HOR	543(FT)			770302
CFACTV	CO LIC	CALGARY ZONE 2	AB **USA BORDER**	51-04-24.0 114-15-34.0	02 +	100(KW) HOR	0000(FT)	CALGARY TV LTD		730401
CFCNTV	CO LIC	CALGARY ZONE 2	AB **USA BORDER**	51-03-37.0 114-10-13.0	04 Z DA	100(KW) HOR	0669(FT)	CFCN TV LTD		751217
	CO	CALGARY ZONE 2	AB **USA BORDER**	51-02-42.0 114-03-35.0	09 +					700115
	CO	CALGARY ZONE 2	AB **USA BORDER**	51-03-00.0 114-05-00.0	10 Z					751217
	CO	CALGARY ZONE 2	AB **USA BORDER**	51-03-00.0 114-05-00.0	22 Z					751217
	CO	CALGARY ZONE 2	AB **USA BORDER**	51-03-00.0 114-05-00.0	36 Z					751217
	CO	CALGARY ZONE 2	AB **USA BORDER**	51-03-00.0 114-05-00.0	44 Z					751217
	CO	CALGARY ZONE 2	AB **USA BORDER**	51-03-00.0 114-05-00.0	50 Z					751217
	CO	CALGARY ZONE 2	AB **USA BORDER**	51-03-00.0 114-05-00.0	73 +					751217
	CO	CALGARY ZONE 2	AB **USA BORDER**	51-03-00.0 114-05-00.0	79 Z					751217
	CO	CAMROSE ZONE 2	AB	53-01-30.0 112-49-30.0	07 Z					760527

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE,CITY,CHAN APR 12, 1977 PAGE 2
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU
NOTICE UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***

	CO	CARDSTON ZONE 2	AB **USA BORDER**	49-12-00.0 113-18-00.0	19 +					751217
	CO	CLARESHOLM ZONE 2	AB **USA BORDER**	50-02-00.0 113-35-00.0	52 Z					780513
CHCBTV01	CO LIC	CORONATION ZONE 2	AB **USA BORDER**	52-09-15.0 111-09-30.0	10 Z DA	17.6(KW) HOR	0687(FT)	CHCA TV LTD		751217
CFCNTV01	CO LIC	DRUMHELLER ZONE 2	AB **USA BORDER**	51-34-00.0 112-10-48.0	12 Z DA	28.2(KW) HOR	0916(FT)	CFCN TV LTD		751217
	CO	DRUMHELLER ZONE 2	AB **USA BORDER**	51-28-00.0 112-42-00.0	30 Z					751217
	CO	ETZIKOM ZONE 2	AB **USA BORDER**	49-33-59.0 111-07-52.0	12 +					770324
	CO	FORT MACLEOD ZONE 2	AB **USA BORDER**	49-43-00.0 113-25-00.0	74 -					751217
	CO	HANNA ZONE 2	AB **USA BORDER**	51-38-00.0 111-54-00.0	78 -					780513
	CO	HIGH RIVER ZONE 2	AB **USA BORDER**	50-35-00.0 113-52-00.0	58 Z					751217
	CO	INNISFAIL ZONE 2	AB **USA BORDER**	52-02-00.0 113-57-00.0	71 Z					780513
	CO	LACOMBE ZONE 2	AB **USA BORDER**	52-28-00.0 113-44-00.0	15 -					751217
CJOCTV	CO LIC	LETHBRIDGE ZONE 2	AB **USA BORDER**	49-42-55.0 112-47-56.0	07 Z DA	171(KW) HOR	0662(FT)	LETHBRIDGE TV LTD		751217
CBRT06	CO LIC	LETHBRIDGE ZONE 2	AB **USA BORDER**	49-44-28.0 112-48-06.0	10 - DA	222(KW) HOR	678(FT)			770310
CFCNTV06	CO LIC	LETHBRIDGE ZONE 2	AB **USA BORDER**	49-42-55.0 112-47-56.0	13 + DA	87.5(KW) HOR	0593(FT)	CFCN TV LTD		751217
	CO	LETHBRIDGE ZONE 2	AB **USA BORDER**	49-42-00.0 112-50-00.0	23 +					751217
	CO	LETHBRIDGE ZONE 2	AB **USA BORDER**	49-42-00.0 112-50-00.0	58 -					751217
	CO	LETHBRIDGE ZONE 2	AB **USA BORDER**	49-42-00.0 112-50-00.0	64 +					751217
	CO	LETHBRIDGE ZONE 2	AB **USA BORDER**	49-42-00.0 112-50-00.0	80 Z					751217

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	CD	LLOYDMINSTER ZONE 2	AB	53-17-00.0 110-00-00.0	04 -						760722
	CD	LLOYDMINSTER ZONE 2	AB	53-17-00.0 110-00-00.0	08 Z						760722
CHATTV	CD LIC	MEDICINE HAT ZONE 2 **USA BORDER**	AB	50-04-36.0 110-47-40.0	08 -	5.7(KW) HOR	0315(FT)	MONARCH BCTING CO			730401
	CD	MEDICINE HAT ZONE 2 **USA BORDER**	AB	50-02-15.0 110-40-30.0	08 Z						760115
	CD	MEDICINE HAT ZONE 2 **USA BORDER**	AB	50-03-00.0 110-40-00.0	49 Z						760512
	CD	MEDICINE HAT ZONE 2 **USA BORDER**	AB	50-03-00.0 110-40-00.0	65 +						760512
	CD	MEDICINE HAT ZONE 2 **USA BORDER**	AB	50-03-00.0 110-40-00.0	71 +						760512
	CD	OLDS ZONE 2 **USA BORDER**	AB	51-47-00.0 114-06-00.0	81 Z						760512
CFOMTV01	CD LIC	OYEN ZONE 2 **USA BORDER**	AB	51-21-10.0 110-24-30.0	02 -	.71(KW) HOR	0345(FT)	OYEN DISTRICT TV ASSOC			751217
	CD	PINCHER CREEK ZONE 2 **USA BORDER**	AB	49-29-00.0 113-57-00.0	70 Z						760512
CHATTV01	CD LIC	PIVOT ZONE 2 **USA BORDER**	AB	50-24-14.0 110-03-07.0	04 + DA	4.0(KW) HOR	0623(FT)	MONARCH BCTING CO LTD			751217
	CD	PROVOST ZONE 2 **USA BORDER**	AB	52-21-00.0 110-16-00.0	24 -						751217
	CD	RAYMOND ZONE 2 **USA BORDER**	AB	49-27-00.0 112-39-00.0	36 +						760512
CKRDTV	CD LIC	RED DEER ZONE 2 **USA BORDER**	AB	52-16-15.0 113-41-30.0	08 + DA	26(KW) HOR	0714(FT)	CHCA TV LTD			760525
CFRNTV08	CD LIC	RED DEER ZONE 2 **USA BORDER**	AB	52-17-57.0 113-41-47.0	08 + DA	58(KW) HOR	0882(FT)				760525
	CD	RED DEER ZONE 2 **USA BORDER**	AB	52-16-00.0 113-48-00.0	31 -						760512
	CD	RED DEER ZONE 2 **USA BORDER**	AB	52-16-00.0 113-48-00.0	58 Z						760512
	CD	RED DEER ZONE 2 **USA BORDER**	AB	52-16-00.0 113-48-00.0	65 Z						760512

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	CD	ROCKY MTN HOUSE ZONE 2 **USA BORDER**	AB	52-22-00.0 114-55-00.0	37 Z						760512
CBUT0S	CD LIC	ROSEMARY ZONE 2 **USA BORDER**	AB	50-41-11.0 112-27-09.0	11 Z DA	227(KW) HOR	619(FT)				770324
	CD	STETTLER ZONE 2 **USA BORDER**	AB	52-19-00.0 112-43-00.0	07 Z						760512
	CD	TABER ZONE 2 **USA BORDER**	AB	49-47-00.0 112-08-00.0	42 +						760512
	CD	VULCAN ZONE 2 **USA BORDER**	AB	50-24-00.0 113-15-00.0	25 Z						760512
CBUBT0S	CD LIC	BONNINGTON ZONE 2 **USA BORDER**	BC	49-28-33.0 117-29-18.0	13 + DA	.159(KW) HOR	-1287(FT)	CANADIAN BCTING CORP.			760824
	CD	BURNS LAKE ZONE 2 **USA BORDER**	BC	54-15-25.0 125-40-30.0	04 +						770324
	CD	CAMPBELL RIVER ZONE 2 **USA BORDER**	BC	50-01-30.0 125-14-40.0	07 -						751217
	CD	CAMPBELL RIVER ZONE 2 **USA BORDER**	BC	50-01-00.0 125-15-00.0	49 +						760512
CBUBT01	CD LIC	CANAL FLATS ZONE 2 **USA BORDER**	BC	50-11-41.0 115-49-25.0	12 Z DA	95.5(KW) HOR	-805(FT)	CANADIAN BCTING CORP			751217
	CD	CASSIAR ZONE 2 **USA BORDER**	BC	59-17-12.0 129-51-00.0	07 Z						751217
	CD	CASTLEGAR ZONE 2 **USA BORDER**	BC	49-19-00.0 117-40-00.0	81 +						760512
CBUT02	CD LIC	CHILLIWACK ZONE 2 **USA BORDER**	BC	49-08-38.0 121-58-47.0	03 Z DA	1.51(KW) HOR	0703(FT)	CANADIAN BCTING CORP			751217
	CD	CHILLIWACK ZONE 2 **USA BORDER**	BC	49-10-00.0 121-57-00.0	14 +						761007
	CD	CHILLIWACK ZONE 2 **USA BORDER**	BC	49-10-00.0 121-57-00.0	36 +						751217
CFJCTV04	CD LIC	CLINTON ZONE 2 **USA BORDER**	BC	51-05-10.0 121-48-30.0	08 +	.204(KW) HOR	1808(FT)	INLAND BCTRS LTD			730401
CBUT01	CD LIC	COURTENAY ZONE 2 **USA BORDER**	BC	49-35-44.0 125-08-36.0	09 - DA	1.25(KW) HOR	0483(FT)	CANADIAN BCTING CORP			751217
CHANTV04	CD LIC	COURTENAY ZONE 2 **USA BORDER**	BC	49-44-55.0 125-14-53.0	13 Z DA	1.88(KW) HOR	1321(FT)	BC TV BCTING SYS			751217

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	CD	COURTENAY ZONE 2 **USA BORDER**	BC	49-41-00.0 125-08-00.0	79 Z						751217
CBUBT2T	CD LIC	CRANBROOK ZONE 2 **USA BORDER**	BC	49-27-30.0 115-37-45.0	10 Z DA	2.20(KW) HOR	3443(FT)				751217
CBUBT	CD LIC	CRANBROOK ZONE 2 **USA BORDER**	BC	49-32-45.0 115-47-52.0	58 + DA	.30(KW) HOR	0681(FT)	CANADIAN BCTING CORP			751217
CBUCT01	CD LIC	CRAWFORD BAY ZONE 2 **USA BORDER**	BC	49-38-54.0 116-50-53.0	05 Z DA	.935(KW) HOR	-448(FT)	CANADIAN BCTING CORP			751217
CBUCT02	CD LIC	CRESTON ZONE 2 **USA BORDER**	BC	49-09-58.0 116-40-39.0	23 Z DA	.790(KW) HOR	2011(FT)				770310
	CD	CRESTON ZONE 2 **USA BORDER**	BC	49-06-00.0 116-31-00.0	42 Z						760512
	CD	DUNCAN ZONE 2 **USA BORDER**	BC	48-47-00.0 123-42-00.0	51 Z						751217
CHBCTV08	CD LIC	ENDERBY ZONE 2 **USA BORDER**	BC	50-33-48.0 119-06-18.0	72 Z DA	.070(KW) HOR	-626(FT)	OKANAGAN VALLEY TV CO			751217
	CD	ENDERBY ZONE 2 **USA BORDER**	BC	50-33-00.0 119-08-00.0	78 Z						760512
CBUBT6S	CD LIC	FERNIE ZONE 2 **USA BORDER**	BC	49-29-18.0 115-03-47.0	08 Z DA	1(KW) HOR	-1804(FT)				760525
CBUBT6I	CD LIC	GOLDEN ZONE 2 **USA BORDER**	BC	51-16-25.0 116-58-17.0	13 Z DA	.157(KW) HOR	0-87(FT)	CANADIAN BCTING CORP			751217
	CD	GOLDEN ZONE 2 **USA BORDER**	BC	51-18-00.0 116-58-00.0	54 Z						760512
	CD	GRAND FORKS ZONE 2 **USA BORDER**	BC	49-02-00.0 118-27-00.0	57 Z						760512
	CD	HOPE ZONE 2 **USA BORDER**	BC	49-23-00.0 121-26-00.0	57 Z						760512
	CD	HOPE ZONE 2 **USA BORDER**	BC	49-23-00.0 121-26-00.0	65 Z						751217
	CD	HOUSTON ZONE 2 **USA BORDER**	BC	54-26-33.0 126-39-30.0	02 +						770324
CFJCTV	CD LIC	KAMLOOPS ZONE 2 **USA BORDER**	BC	50-40-15.0 120-23-50.0	04 +	3.7(KW) HOR	0501(FT)	INLAND BCTRS LTD			730401
CHKRTV08	CD LIC	KAMLOOPS ZONE 2 **USA BORDER**	BC	50-40-15.0 120-23-50.0	06 +	4(KW) HOR	0501(FT)	BRITISH COLUMBIA TV			730401

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	CD	KAMLOOPS ZONE 2 **USA BORDER**	BC	50-40-00.0 120-20-00.0	50 +						760512
	CD	KAMLOOPS ZONE 2 **USA BORDER**	BC	50-40-00.0 120-20-00.0	74 +						760513
	CD	KAMLOOPS ZONE 2 **USA BORDER**	BC	50-40-00.0 120-20-00.0	80 Z						760512
CHBCTV	CD LIC	KELOWNA ZONE 2 **USA BORDER**	BC	49-58-00.0 119-31-40.0	02 Z	3.7(KW) HOR	2704(FT)	OKANAGAN VALLEY TV CO			730401
CHKLTV08	CD LIC	KELOWNA ZONE 2 **USA BORDER**	BC	49-58-00.0 119-31-40.0	05 - DA	.7(KW) HOR	1672(FT)	BC TV BCTING SYS LTD			751217
	CD	KELOWNA ZONE 2 **USA BORDER**	BC	49-53-00.0 119-29-00.0	21 Z						760512
	CD	KELOWNA ZONE 2 **USA BORDER**	BC	49-53-00.0 119-29-00.0	43 +						760512
	CD	KIMBERLEY ZONE 2 **USA BORDER**	BC	49-41-00.0 115-59-00.0	71 -						751217
	CD	KINNAIRD ZONE 2 **USA BORDER**	BC	49-17-00.0 117-38-00.0	63 +						760512
	CD	KITIMAT ZONE 2 **USA BORDER**	BC	54-02-00.0 128-39-00.0	21 Z						760512
	CD	LAKE COWICHAN ZONE 2 **USA BORDER**	BC	48-50-00.0 124-03-00.0	29 Z						760512
	CD	MERRITT ZONE 2 **USA BORDER**	BC	50-07-00.0 120-47-00.0	20 +						751217
	CD	MISSION CITY ZONE 2 **USA BORDER**	BC	49-08-00.0 132-18-00.0	81 Z						760512
CBUBT0S	CD LIC	MORRISSEY RIDGE ZONE 2 **USA BORDER**	BC	49-26-44.0 114-59-20.0	21 + DA	.32(KW) HOR	1804(FT)	ALLOC TO FERNIE,BC			751217
	CD	MT KOBAU ZONE 2 **USA BORDER**	BC	49-08-15.0 119-40-10.0	03 +	ALLOCATION USED OLIVER-OSOYOOS, BC.					770302
CITNTV	CD LIC	MT TIMOTHY ZONE 2 **USA BORDER**	BC	51-54-10.0 121-15-37.0	03 Z DA	1.3(KW) HOR	1917(FT)	BC TV BCTING SYS LTD			751217
CFJCTV06	CD LIC	MT TIMOTHY ZONE 2 **USA BORDER**	BC	51-54-00.0 121-15-30.0	05 -	.98(KW) HOR	1871(FT)	INLAND BCTRS LTD			730401
	CD	NANAIMO ZONE 2 **USA BORDER**	BC	49-10-00.0 123-56-00.0	23 -						751217

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	CO		NANAIMO	BC	49-10-00.0	63 Z					751217
			ZONE 2	**USA BORDER**	123-56-00.0						
CBUBT10	CO	LIC	NATAL	BC	49-43-28.0	11 Z	1.11(KW)	-598(FT)			751217
			ZONE 2	**USA BORDER**	114-51-48.0	DA	HOR				
CKTHTV03	CO	LIC	NELSON	BC	49-29-35.0	03 +	.330(KW)	-1870(FT)			770310
			ZONE 2	**USA BORDER**	117-16-15.0	DA	HOR				
CBUCT00	CO	LIC	NELSON	BC	49-31-50.0	09 Z	1.85(KW)	1377(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	**USA BORDER**	117-17-58.0	DA	HOR				
	CO		NELSON	BC	49-29-00.0	14 Z					751217
			ZONE 2	**USA BORDER**	117-17-00.0						
	CO		NELSON	BC	49-29-00.0	23 Z					751217
			ZONE 2	**USA BORDER**	117-17-00.0						
CKNETV	CO	LIC	OLIVER-OSOYOOS	BC	49-08-15.0	03 +	930(KW)	3164(FT)			770302
			ZONE 2	**USA BORDER**	119-40-10.0		HOR	ALLOCATED TO MT. KOBAU, BC.			
CHBCTV03	CO	LIC	OLIVER	BC	49-06-00.0	08 Z	.22(KW)	1346(FT)	OKANAGAN VALLY TV CO		751217
			ZONE 2	**USA BORDER**	119-34-45.0	DA	HOR				
	CO		OLIVER	BC	49-11-00.0	41 Z					751217
			ZONE 2	**USA BORDER**	119-33-00.0						
CHKLTV01	CO	LIC	PENTICTON	BC	49-39-34.0	10 Z	1.08(KW)	1173(FT)	BC TV BCTING SYS		751217
			ZONE 2	**USA BORDER**	119-34-18.0	DA	HOR				
CHBCTV01	CO	LIC	PENTICTON	BC	49-39-34.0	13 Z	.54(KW)	2717(FT)	OKANAGAN VALLEY TV CO		751217
			ZONE 2	**USA BORDER**	119-34-18.0	DA	HOR				
	CO		PENTICTON	BC	49-30-00.0	73 Z					760512
			ZONE 2	**USA BORDER**	119-35-00.0						
	CO		PENTICTON	BC	49-30-00.0	79 +					760512
			ZONE 2	**USA BORDER**	119-35-00.0						
	CO		PORT ALBERNI	BC	49-14-15.0	03 +					751217
			ZONE 2	**USA BORDER**	124-48-15.0						
	CO		PORT ALBERNI	BC	49-14-00.0	27 +					751217
			ZONE 2	**USA BORDER**	124-48-00.0						
	CO		PORT ALBERNI	BC	49-14-00.0	71 +					751217
			ZONE 2	**USA BORDER**	124-48-00.0						
	CO		PORT HARDY	BC	50-43-30.0	06 Z					[illegible]
			ZONE 2	**USA BORDER**	127-29-30.0						
	CO		PORT HARDY	BC	50-43-30.0	08 Z					751217
			ZONE 2	**USA BORDER**	127-29-30.0						

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	CO		POWELL RIVER	BC	49-52-00.0	15 -					751217
			ZONE 2	**USA BORDER**	124-33-00.0						
	CO		POWELL RIVER	BC	49-52-00.0	43 Z					751217
			ZONE 2	**USA BORDER**	124-33-00.0						
CFTKTV01	CO	LIC	PRINCE RUPERT	BC	54-17-05.0	06 +	.48(KW)	1980(FT)	SKEENA BCTRS LTD		730401
			ZONE 2	**USA BORDER**	130-18-48.0		HOR				
	CO		PRINCE RUPERT	BC	54-18-48.0	07 Z					751217
			ZONE 2	**USA BORDER**	130-19-38.0						
	CO		PRINCE RUPERT	BC	54-19-00.0	14 Z					760512
			ZONE 2	**USA BORDER**	130-19-00.0						
	CO		PRINCE RUPERT	BC	54-19-00.0	30 Z					760512
			ZONE 2	**USA BORDER**	130-19-00.0						
	CO		PRINCETON	BC	49-27-00.0	71 Z					751217
			ZONE 2	**USA BORDER**	120-30-00.0						
CBUBT06	CO	LIC	RADIUM	BC	50-37-08.0	77 Z	1.56(KW)	-1488(FT)	CANADIAN BCTING CORP.		760624
			ZONE 2	**USA BORDER**	116-04-47.0	DA	HOR				
	CO		REVELSTOKE	BC	51-00-00.0	68 +					751217
			ZONE 2	**USA BORDER**	118-12-00.0						
	CO		ROSSLAND	BC	49-05-00.0	19 Z					751217
			ZONE 2	**USA BORDER**	117-48-00.0						
CHBCTV04	CO	LIC	SALMON ARM	BC	50-45-20.0	08 -	.486(KW)	-155(FT)	OKANAGAN VALLEY TV CO		751217
			ZONE 2	**USA BORDER**	119-19-45.0	DA	HOR				
	CO		SALMON ARM	BC	50-42-00.0	56 +					760512
			ZONE 2	**USA BORDER**	119-16-00.0						
	CO		SALT SPRINGS ISLAND	BC	48-45-06.0	21 -					781210
			ZONE 2	**USA BORDER**	123-29-26.0			ALLOCATION USED VANCOUVER, BC.			
	CO		SMITHERS	BC	54-44-28.0	09 +					770324
			ZONE 2	**USA BORDER**	126-58-50.0						
	CO		SMITHERS	BC	54-47-00.0	28 Z					760512
			ZONE 2	**USA BORDER**	127-10-00.0						
	CO		SOOKE	BC	48-23-00.0	33 Z					760512
			ZONE 2	**USA BORDER**	123-43-00.0						
CBUBT06	CO	LIC	SPILLIMACHEN	BC	50-53-59.0	69 Z	1.84(KW)	-1377(FT)	CANADIAN BCSTG CORP		760624
			ZONE 2	**USA BORDER**	116-20-35.0	DA	HOR				
	CO		SQUAMISH	BC	49-42-00.0	35 +					760512
			ZONE 2	**USA BORDER**	123-09-00.0						

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	CO		SUMMERLAND	BC	49-36-00.0	49 Z					760512
			ZONE 2	**USA BORDER**	119-41-00.0						
CFTKTV	CO	LIC	TERRACE	BC	54-31-05.0	03 Z	4.1(KW)	1783(FT)	SKEENA BCTRS LTD		730401
			ZONE 2	**USA BORDER**	128-28-15.0		HOR				
	CO		TERRACE	BC	54-31-00.0	19 Z					760512
			ZONE 2	**USA BORDER**	128-35-00.0						
CKTNTV	CO	LIC	TRAIL	BC	49-05-30.0	08 +	10(KW)	1544(FT)			770310
			ZONE 2	**USA BORDER**	117-49-10.0	DA	HOR				
CBUAT	CO	LIC	TRAIL	BC	49-05-27.0	11 Z	5.85(KW)	0762(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	**USA BORDER**	117-47-55.0	DA	HOR				
	CO		TRAIL	BC	49-06-00.0	36 Z					751217
			ZONE 2	**USA BORDER**	117-42-00.0						
	CO		TRAIL	BC	49-06-00.0	52 +					760414
			ZONE 2	**USA BORDER**	117-42-00.0						
CBUT	CO	LIC	VANCOUVER	BC	49-21-12.0	02 +	89.4(KW)	2400(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	**USA BORDER**	122-57-18.0	DA	HOR				
CHANTV	CO	LIC	VANCOUVER	BC	49-16-31.0	08 +	164(KW)	1171(FT)	BC BCTING SYS LTD		770302
			ZONE 2	**USA BORDER**	122-54-49.0	DA	HOR				
CKVUTV	CO	CP	VANCOUVER	BC	49-45-06.0	21 -	2440(KW)	2187(FT)			781210
			ZONE 2	**USA BORDER**	123-29-26.0	DA	BT HOR	ALLOCATED TO SALT SPRINGS ISLAND, BC.			
CBUFT	CO	LIC	VANCOUVER-NEW W	BC	49-21-12.0	26 Z	257(KW)	2011(FT)			760821
			ZONE 2	**USA BORDER**	122-57-18.0	DA	BT HOR				
	CO		VANCOUVER-NEW W	BC	49-16-00.0	32 Z					760512
			ZONE 2	**USA BORDER**	123-07-00.0						
	CO		VANCOUVER-NEW W	BC	49-16-00.0	45 Z					760512
			ZONE 2	**USA BORDER**	123-07-00.0						
	CO		VANCOUVER-NEW W	BC	49-16-00.0	55 Z					760512
			ZONE 2	**USA BORDER**	123-07-00.0						
	CO		VANCOUVER-NEW W	BC	49-16-00.0	61 Z					760512
			ZONE 2	**USA BORDER**	123-07-00.0						
	CO		VANCOUVER-NEW W	BC	49-16-00.0	72 +					760512
			ZONE 2	**USA BORDER**	123-07-00.0						
	CO		VANCOUVER-NEW W	BC	49-16-00.0	83 Z					760512
			ZONE 2	**USA BORDER**	123-07-00.0						
CHBCTV02	CO	LIC	VERNON	BC	50-16-58.0	07 -	.62(KW)	0868(FT)	OKANAGAN VALLEY TV CO		751217
			ZONE 2	**USA BORDER**	119-19-09.0	DA	HOR				

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CHKLTV02	CO	LIC	VERNON	BC	50-16-58.0	12 Z	.54a(KW)	0578(FT)	BC TV BCTING SYS LTD		780414
			ZONE 2	**USA BORDER**	119-19-09.0	DA	HOR				
	CO		VERNON	BC	50-16-00.0	18 Z					751217
			ZONE 2	**USA BORDER**	119-16-00.0						
	CO		VERNON	BC	50-16-00.0	27 Z					751217
			ZONE 2	**USA BORDER**	119-16-00.0						
CHEKTV	CO	LIC	VICTORIA	BC	48-46-28.0	06 Z	100(KW)	1555(FT)	CHEK TV LTD		730401
			ZONE 2	**USA BORDER**	123-10-10.0		HOR				
	CO		VICTORIA	BC	48-26-05.0	10 +					781217
			ZONE 2	**USA BORDER**	123-21-00.0						
	CO		VICTORIA	BC	48-25-00.0	42 Z					751217
			ZONE 2	**USA BORDER**	123-22-00.0						
	CO		VICTORIA	BC	48-25-00.0	53 Z					760512
			ZONE 2	**USA BORDER**	123-22-00.0						
	CO		VICTORIA	BC	48-25-00.0	74 Z					760512
			ZONE 2	**USA BORDER**	123-22-00.0						
	CO		VICTORIA	BC	48-25-00.0	80 +					760512
			ZONE 2	**USA BORDER**	123-22-00.0						
	CO		WARFIELD	BC	49-06-00.0	39 +					760512
			ZONE 2	**USA BORDER**	117-45-00.0						
	CO		WOSS CAMP	BC	50-10-10.0	12 Z					760808
			ZONE 2	**USA BORDER**	126-34-00.0						
	CO		WILLIAMS LAKE	BC	52-08-00.0	21 +					780722
			ZONE 2	**USA BORDER**	122-09-00.0						
	CO		ALONSA	MB	50-48-00.0	11 -					760512
			ZONE 2	**USA BORDER**	98-58-00.0						
	CO		ALONSA	MB	50-48-00.0	27 Z					760512
			ZONE 2	**USA BORDER**	98-58-00.0						
	CO		ALONSA	MB	50-48-00.0	38 Z					760512
			ZONE 2	**USA BORDER**	98-58-00.0						
	CO		ALONSA	MB	50-48-00.0	49 Z					760512
			ZONE 2	**USA BORDER**	98-58-00.0						
	CO		ALONSA	MB	50-48-00.0	55 Z					760513
			ZONE 2	**USA BORDER**	98-58-00.0						
	CO		ALTONA	MB	49-06-00.0	58 Z					760512
			ZONE 2	**USA BORDER**	97-33-00.0						

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	CO	BALDY MOUNTAIN ZONE 2	MB ••USA BORDER••	51-28-14.0 100-43-10.0	47 +						761111
	CO	BEAUSEJOUR ZONE 2	MB ••USA BORDER••	50-04-00.0 96-33-00.0	44 Z						760512
	CO	BIRCH RIVER ZONE 2	MB ••USA BORDER••	52-22-15.0 101-59-30.0	02 Z						751217
	CO	BIRCH RIVER ZONE 2	MB ••USA BORDER••	52-22-15.0 101-59-30.0	04 -						751217
	CO	BOISSEVAIN ZONE 2	MB ••USA BORDER••	49-14-00.0 100-03-00.0	53 -						751217
	CO	BRANDON ZONE 2	MB ••USA BORDER••	49-53-00.0 99-59-00.0	02 -						751217
CJAYTV	CO LIC	BRANDON ZONE 2	MB ••USA BORDER••	49-40-05.0 100-00-40.0	04 + DA	100(KW) HOR	1200(FT)	RELAY COMM LTD			751217
CKXTV	CO LIC	BRANDON ZONE 2	MB ••USA BORDER••	49-40-05.0 100-00-40.0	05 + DA	83(KW) HOR	1363(FT)	WESTERN MA BCTRS LTD			751217
	CO	BRANDON ZONE 2	MB ••USA BORDER••	49-50-00.0 99-57-00.0	21 +						760512
	CO	BRANDON ZONE 2	MB ••USA BORDER••	49-50-00.0 99-57-00.0	37 +						760512
	CO	BRANDON ZONE 2	MB ••USA BORDER••	49-50-00.0 99-57-00.0	63 Z						760512
	CO	CARBERRY ZONE 2	MB ••USA BORDER••	49-52-00.0 99-20-00.0	61 Z						760512
	CO	CARMAN ZONE 2	MB ••USA BORDER••	49-32-00.0 98-00-00.0	60 Z						760512
	CO	CHURCHILL ZONE 2	MB	58-46-49.0 94-11-16.0	04 Z						760722
	CO	CHURCHILL ZONE 2	MB	58-46-49.0 94-11-16.0	08 Z						760722
	CO	DAUPHIN ZONE 2	MB ••USA BORDER••	51-28-15.0 100-43-00.0	06 -						751217
CBWST	CO LIC	DAUPHIN ZONE 2	MB ••USA BORDER••	51-28-14.0 100-43-10.0	08 Z DA	300(KW) HOR	1147(FT)	YORKTON TV CO LTD			751217
	CO	DAUPHIN ZONE 2	MB ••USA BORDER••	51-09-00.0 100-03-00.0	12 +						751217

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	CO	DAUPHIN ZONE 2	MB ••USA BORDER••	51-09-00.0 100-03-00.0	18 -						751217
	CO	DAUPHIN ZONE 2	MB ••USA BORDER••	51-09-00.0 100-03-00.0	57 Z						751217
	CO	DAWSON BAY ZONE 2	MB	52-54-00.0 101-01-00.0	35 Z						760722
	CO	DAWSON BAY ZONE 2	MB	52-54-00.0 101-01-00.0	41 +						751217
	CO	DAWSON BAY ZONE 2	MB	52-54-00.0 101-01-00.0	53 +						751217
	CO	DAWSON BAY ZONE 2	MB	52-54-00.0 101-01-00.0	62 +						751217
	CO	FAIRFORD ZONE 2	MB ••USA BORDER••	51-36-00.0 98-41-00.0	07 -						[illegible]
	CO	FISHER BRANCH ZONE 2	MB ••USA BORDER••	51-05-00.0 97-39-00.0	08 -						760319
CBWQT00	CO LIC	FISHER BRANCH ZONE 2	MB ••USA BORDER••	51-04-50.0 97-38-55.0	10 + DA	50.6(KW) HOR	0559(FT)	CANADIAN BCTING CORP			751217
	CO	FISHER BRANCH ZONE 2	MB ••USA BORDER••	51-05-00.0 97-39-00.0	33 -						760527
	CO	FISHER BRANCH ZONE 2	MB ••USA BORDER••	51-05-00.0 97-39-00.0	45 +						751217
	CO	FLIN FLON ZONE 2	MB	54-46-00.0 101-52-00.0	03 -						760722
	CO	FLIN FLON ZONE 2	MB	54-47-30.0 101-52-00.0	05 +						760722
	CO	FLIN FLON ZONE 2	MB	54-47-30.0 101-52-00.0	13 -						760722
	CO	FOXWARREN ZONE 2	MB ••USA BORDER••	50-31-14.0 101-04-23.0	09 Z						751217
CKXTV01	CO LIC	FOXWARREN ZONE 2	MB ••USA BORDER••	50-31-14.0 101-04-23.0	11 Z DA	13.2(KW) HOR	0270(FT)	WESTERN MA BCTRS LTD			751217
	CO	FOXWARREN ZONE 2	MB ••USA BORDER••	50-31-14.0 101-04-23.0	28 +						751217
	CO	FOXWARREN ZONE 2	MB ••USA BORDER••	50-31-14.0 101-04-23.0	34 -						751217

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	CO	FOXWARREN ZONE 2	MB ••USA BORDER••	50-31-14.0 101-04-23.0	58 +						751217
	CO	GIMLI ZONE 2	MB ••USA BORDER••	50-39-00.0 97-00-00.0	66 Z						760512
	CO	GODS LAKE ZONE 2	MB	54-40-00.0 94-09-00.0	12 Z						760722
	CO	ISLAND LAKE ZONE 2	MB	53-52-00.0 94-40-00.0	07 Z						760722
	CO	ISLAND LAKE ZONE 2	MB	53-52-00.0 94-40-00.0	09 Z						760722
	CO	ISLAND LAKE ZONE 2	MB	53-52-00.0 94-40-00.0	11 +						760722
	CO	ISLAND LAKE ZONE 2	MB	53-22-00.0 94-40-00.0	13 -						760722
	CO	JACK HEAD ZONE 2	MB ••USA BORDER••	51-53-27.0 97-18-50.0	05 Z						760730
	CO	KILLARNEY ZONE 2	MB ••USA BORDER••	49-12-00.0 99-42-00.0	43 Z						760512
CBWT63	CO LIC	LAC DU BONNET ZONE 2	MB ••USA BORDER••	50-15-30.0 95-57-20.0	04 Z DA	19.2(KW) HOR	0442(FT)	CANADIAN BCTING CORP			751217
	CO	LAC DU BONNET ZONE 2	MB ••USA BORDER••	50-18-00.0 96-04-00.0	15 +						760512
	CO	LAC DU BONNET ZONE 2	MB ••USA BORDER••	50-18-00.0 96-04-00.0	24 -						760513
	CO	LAC DU BONNET ZONE 2	MB ••USA BORDER••	50-18-00.0 96-04-00.0	46 Z						760513
	CO	LAC DU BONNET ZONE 2	MB ••USA BORDER••	50-18-00.0 96-04-00.0	52 Z						760513
	CO	LEAF RAPIDS ZONE 2	MB	56-30-00.0 99-59-00.0	03 Z						760722
	CO	LEAF RAPIDS ZONE 2	MB	56-30-00.0 99-59-00.0	06 -						760722
	CO	LEAF RAPIDS ZONE 2	MB	56-30-00.0 99-59-00.0	11 Z						760722
	CO	MATHESON ISLAND ZONE 2	MB ••USA BORDER••	51-44-00.0 96-56-00.0	35 Z						760513

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	CO	MATHESON ISLAND ZONE 2	MB ••USA BORDER••	51-44-00.0 96-56-00.0	41 Z						760512
	CO	MATHESON ISLAND ZONE 2	MB ••USA BORDER••	51-44-00.0 96-56-00.0	53 Z						760513
	CO	MATHESON ISLAND ZONE 2	MB ••USA BORDER••	51-44-00.0 96-56-00.0	62 -						760513
	CO	MCCUSKER LAKE ZONE 2	MB	56-05-00.0 95-45-00.0	02 Z						760722
	CO	MCCUSKER LAKE ZONE 2	MB	56-05-00.0 95-45-00.0	08 Z						760722
	CO	MCCUSKER LAKE ZONE 2	MB	56-05-00.0 95-45-00.0	13 +						760722
CKXTV02	CO LIC	MELITA ZONE 2	MB ••USA BORDER••	49-16-50.0 100-59-12.0	09 +	.18W(KW)	0212(FT)	W MANITOBA BCTRS LTD			730401
	CO	MELITA ZONE 2	MB ••USA BORDER••	49-16-00.0 100-00-00.0	45 Z						751217
	CO	MINNEDOSA ZONE 2	MB ••USA BORDER••	50-14-00.0 99-51-00.0	50 Z						760512
	CO	MORDEN-WINKLER ZONE 2	MB ••USA BORDER••	49-11-00.0 98-05-00.0	25 Z						760809
	CO	NEEPAWA ZONE 2	MB ••USA BORDER••	50-13-00.0 99-29-00.0	29 Z						760512
	CO	OXFORD HOUSE ZONE 2	MB	54-56-00.0 95-16-00.0	08 Z						760722
	CO	PEMBINA VALLEY ZONE 2	MB ••USA BORDER••	49-08-00.0 98-37-00.0	19 +						760512
	CO	PEMBINA VALLEY ZONE 2	MB ••USA BORDER••	49-08-00.0 98-37-00.0	35 -						760512
	CO	PEMBINA VALLEY ZONE 2	MB ••USA BORDER••	49-08-00.0 98-37-00.0	41 -						760512
	CO	PEMBINA VALLEY ZONE 2	MB ••USA BORDER••	49-08-00.0 98-37-00.0	64 Z						760512
	CO	PORTAGE PRAIRIE ZONE 2	MB ••USA BORDER••	49-57-00.0 98-25-00.0	17 Z						760512
	CO	PORTAGE PRAIRIE ZONE 2	MB ••USA BORDER••	49-57-00.0 98-25-00.0	38 Z						760512

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	CO		ROBLIN	MB	51-17-00.0	52 +					760512
			ZONE 2	**USA BORDER**	101-28-00.0						
	CO		RUSSEL	MB	50-47-00.0	22 Z					760512
			ZONE 2	**USA BORDER**	101-15-00.0						
	CO		SELKIRK	MB	50-09-00.0	54 Z					751217
			ZONE 2	**USA BORDER**	96-52-00.0						
	CO		SHERRIDON	MB	55-08-00.0	07 -					760722
			ZONE 2		101-05-00.0						
	CO		SHERRIDON	MB	55-08-00.0	21 Z					751217
			ZONE 2		101-05-00.0						
	CO		SHERRIDON	MB	55-08-00.0	27 Z					751217
			ZONE 2		101-05-00.0						
	CO		SHERRIDON	MB	55-08-00.0	33 Z					751217
			ZONE 2		101-05-00.0						
CBWFT04	CO	LIC	STE ROSE DU LAC	MB	51-04-15.0	03 +	.392(KW)	120(FT)			770310
			ZONE 2	**USA BORDER**	99-31-16.0	DA	HOR				
	CO		STEINBACH	MB	49-32-00.0	18 Z					751217
			ZONE 2	**USA BORDER**	96-41-00.0						
	CO		SWAN RIVER	MB	52-06-00.0	14 Z					760512
			ZONE 2	**USA BORDER**	101-16-00.0						
	CO		THE PASS	MB	53-50-00.0	02 -					760722
			ZONE 2		101-15-30.0						
	CO		THE PASS	MB	53-50-00.0	06 +					760722
			ZONE 2		101-15-20.0						
	CO		THE PASS	MB	53-50-00.0	12 Z					760722
			ZONE 2		101-15-30.0						
	CO		THOMPSON	MB	55-43-45.0	04 Z					760730
			ZONE 2		97-52-00.0						
	CO		THOMPSON	MB	55-43-45.0	05 Z					760722
			ZONE 2		97-52-00.0						
	CO		THOMPSON	MB	55-43-45.0	09 +					760722
			ZONE 2		97-52-00.0						
	CO		VASSAR	MB	49-06-00.0	16 Z					760512
			ZONE 2	**USA BORDER**	95-50-00.0						
	CO		VASSAR	MB	49-06-00.0	28 Z					760512
			ZONE 2	**USA BORDER**	95-50-00.0						

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	CO		VASSAR	MB	49-06-00.0	37 Z					760512
			ZONE 2	**USA BORDER**	95-50-00.0						
	CO		VASSAR	MB	49-06-00.0	53 +					760512
			ZONE 2	**USA BORDER**	95-50-00.0						
	CO		VASSAR	MB	49-06-00.0	62 Z					760512
			ZONE 2	**USA BORDER**	95-50-00.0						
	CO		VIRDEN	MB	49-51-00.0	32 Z					760512
			ZONE 2	**USA BORDER**	100-55-00.0						
	CO		WEST HAWK	MB	49-44-00.0	34 Z					751217
			ZONE 2	**USA BORDER**	95-14-00.0						
	CO		WEST HAWK	MB	49-44-00.0	40 +					751217
			ZONE 2	**USA BORDER**	95-14-00.0						
	CO		WEST HAWK	MB	49-44-00.0	50 Z					770324
			ZONE 2	**USA BORDER**	95-14-00.0						
	CO		WEST HAWK	MB	49-44-00.0	56 Z					770324
			ZONE 2	**USA BORDER**	95-14-00.0						
CBWFT	CO	LIC	WINNIPEG	MB	49-46-15.0	03 -	59(KW)	930(FT)	CANADIAN BCTING CORP		760624
			ZONE 2	**USA BORDER**	97-30-35.0		HOR				
CBWT	CO	LIC	WINNIPEG	MB	49-46-15.0	08 -	100(KW)	1010(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	**USA BORDER**	97-30-35.0		HOR				
CKYTV	CO	LIC	WINNIPEG	MB	49-24-48.0	07 +	325(KW)	0933(FT)	CHANNEL 7 TV LTD		740828
			ZONE 2	**USA BORDER**	97-10-04.0		HOR				
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	09 +					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	13 +					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	20 +					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	28 Z					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	36 Z					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	42 Z					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	48 Z					781111
			ZONE 2	**USA BORDER**	97-09-30.0						

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	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	71 Z					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	77 +					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		WINNIPEG-ST BONIFACE	MB	49-53-00.0	83 Z					781111
			ZONE 2	**USA BORDER**	97-09-30.0						
	CO		BATHURST	NB	47-36-00.0	54 +					751217
			ZONE 2	**USA BORDER**	65-38-00.0						
	CO		BATHURST	NB	47-36-00.0	82 Z					751217
			ZONE 2	**USA BORDER**	65-39-00.0						
CHSJTV01	CO	LIC	BON ACCORD	NB	46-38-57.0	06 -	100(KW)	1008(FT)	NEW BRUNSWICK BCTING CO		751217
			ZONE 2	**USA BORDER**	67-35-35.0	DA	HOR				
	CO		BUCTOUCHE	NB	46-28-00.0	27 Z					760512
			ZONE 2	**USA BORDER**	64-43-00.0						
CHCBTV06	CO	LIC	CAMPBELLTON	NB	48-04-57.0	HT -	2(KW)	0640(FT)	MONCTON BCTING LTD		751217
			ZONE 2	**USA BORDER**	66-34-54.0	DA	HOR				
	CO		CAMPBELLTON	NB	48-00-00.0	36 Z					760512
			ZONE 2	**USA BORDER**	66-40-00.0						
	CO		CAMPBELLTON	NB	48-00-00.0	78 +					760512
			ZONE 2	**USA BORDER**	66-40-00.0						
	CO		CARAQUET	NB	47-48-00.0	64 Z					760512
			ZONE 2	**USA BORDER**	64-57-00.0						
	CO		CHATHAM	NB	47-02-00.0	08 Z					770408
			ZONE 2	**USA BORDER**	65-28-00.0			ALLOCATION USED NEWCASTLE-CHATHAM, NB.			
	CO		CHATHAM	NB	47-02-00.0	62 +					751217
			ZONE 2	**USA BORDER**	65-28-00.0						
	CO		CHIPMAN	NB	46-11-00.0	67 +					760512
			ZONE 2	**USA BORDER**	65-53-00.0						
	CO		DALHOUSIE	NB	48-04-00.0	00 Z					751217
			ZONE 2	**USA BORDER**	66-23-00.0						
	CO		DORCHESTER	NB	45-54-00.0	18 +					760512
			ZONE 2	**USA BORDER**	64-31-00.0						
CJBRTV01	CO	LIC	EDMUNDSTON	NB	47-23-25.0	13 Z	2.6(KW)	0856(FT)			751217
			ZONE 2	**USA BORDER**	68-18-59.0	DA	HOR				
	CO		EDMUNDSTON	NB	47-22-00.0	18 Z					760512
			ZONE 2	**USA BORDER**	68-20-00.0						

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	CO		EDMUNDSTON	NB	47-22-00.0	68 Z					760512
			ZONE 2	**USA BORDER**	68-20-00.0						
CKLTTV01	CO	LIC	FLORENCVLE-WOODSTOCK	NB	46-25-12.0	03 Z	35(KW)	439(FT)			770324
			ZONE 2	**USA BORDER**	67-33-34.0	DA	HOR	ALLOCATED TO WOODSTOCK, NB.			
CBAFT01	CO	LIC	FREDERICTON-ST JOHN	NB	45-34-57.0	05 -	60(KW)	0840(FT)			781111
			ZONE 2	**USA BORDER**	65-47-41.0	DA	HOR				
	CO		FREDERICTON-ST JOHN	NB	45-58-00.0	15 Z					781111
			ZONE 2	**USA BORDER**	66-39-00.0						
	CO		FREDERICTON-ST JOHN	NB	45-58-00.0	45 +					781111
			ZONE 2	**USA BORDER**	66-39-00.0						
	CO		FREDERICTON-ST JOHN	NB	45-58-00.0	61 Z					781111
			ZONE 2	**USA BORDER**	66-39-00.0						
	CO		GRAND FALLS	NB	47-02-45.0	04 Z					751217
			ZONE 2	**USA BORDER**	67-44-42.0						
	CO		GRAND FALLS	NB	47-03-00.0	20 Z					760512
			ZONE 2	**USA BORDER**	67-44-00.0						
	CO		MEADAN	NB	45-36-00.0	71 -					760512
			ZONE 2	**USA BORDER**	67-20-00.0						
	CO		MEADAN	NB	45-36-00.0	77 -					760512
			ZONE 2	**USA BORDER**	67-20-00.0						
	CO		MILLTOWN	NB	45-10-00.0	33 Z					760512
			ZONE 2	**USA BORDER**	67-18-00.0						
CKCWTV	CO	LIC	MONCTON	NB	45-51-08.0	02 Z	25(KW)	0990(FT)	MONCTON BCTING LTD		751217
			ZONE 2	**USA BORDER**	64-48-47.0		HOR				
CHMTTV	CO	LIC	MONCTON	NB	45-48-32.0	07 Z	325(KW)	1128(FT)	NB BCTING CO LTD		751217
			ZONE 2	**USA BORDER**	64-45-11.0	DA	HOR				
CBAFT	CO	LIC	MONCTON	NB	46-08-41.0	11 Z	325(KW)	0781(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	**USA BORDER**	64-54-14.0	DA	HOR				
	CO		MONCTON	NB	46-06-00.0	24 +					760512
			ZONE 2	**USA BORDER**	64-47-00.0						
	CO		MONCTON	NB	46-06-00.0	30 Z					760512
			ZONE 2	**USA BORDER**	64-47-00.0						
	CO		MONCTON	NB	46-06-00.0	70 Z					760512
			ZONE 2	**USA BORDER**	64-47-00.0						
	CO		MONCTON	NB	46-06-00.0	83 Z					760512
			ZONE 2	**USA BORDER**	64-47-00.0						

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CBAFT03	CO	LIC	NEGUAC	NB	47-15-40.0	03 Z	1(KW)	0557(FT)			751217
			ZONE 2	••USA BORDER••	65-06-24.0	DA	HOR				
CHOMTV	CO	LIC	NEWCASTLE-CHATHAM	NB	47-03-32.0	06 Z	12 8(KW)	348(FT)			770408
			ZONE 2	••USA BORDER••	65-34-38.0	DA	HOR	ALLOCATED TO CHATHAM, NB.			
	CO		NEWCASTLE	NB	47-00-00.0	35 Z					751217
			ZONE 2	••USA BORDER••	65-34-00.0						
	CO		OROMOCTO	NB	45-51-00.0	21 -					760512
			ZONE 2	••USA BORDER••	66-29-00.0						
	CO		OROMOCTO	NB	45-51-00.0	51 -					761111
			ZONE 2	••USA BORDER••	66-29-00.0						
	CO		PERTH	NB	46-44-00.0	37 +					760512
			ZONE 2	••USA BORDER••	67-42-00.0						
	CO		RICHIBUCTO	NB	46-41-00.0	40 -					760512
			ZONE 2	••USA BORDER••	64-52-00.0						
	CO		SACKVILLE	NB	45-54-00.0	53 Z					751217
			ZONE 2	••USA BORDER••	64-22-00.0						
	CO		SAINT ANDREWS	NB	45-05-00.0	82 +					761111
			ZONE 2	••USA BORDER••	67-03-00.0						
CHSJTV	CO	LIC	SAINT JOHN	NB	45-28-39.0	08 +	100(KW)	1263(FT)	NEW BRUNSWICK BCTING CO		761111
			ZONE 2	••USA BORDER••	66-14-02.0	DA	HOR				
CKLTTV	CO	LIC	SAINT JOHN	NB	45-28-39.0	09 +	325(KW)	1361(FT)	MONCTON BCTING LTD		761111
			ZONE 2	••USA BORDER••	66-14-02.0	DA	HOR				
	CO		SAINT JOHN	NB	45-16-00.0	17 Z					751217
			ZONE 2	••USA BORDER••	66-03-00.0						
	CO		SAINT JOHN	NB	45-16-00.0	23 Z					751217
			ZONE 2	••USA BORDER••	66-03-00.0						
	CO		SAINT JOHN	NB	45-16-00.0	39 Z					751217
			ZONE 2	••USA BORDER••	66-03-00.0						
	CO		SAINT JOHN	NB	45-16-00.0	55 Z					751217
			ZONE 2	••USA BORDER••	66-03-00.0						
	CO		SAINT JOHN	NB	45-16-00.0	78 Z					751217
			ZONE 2	••USA BORDER••	66-03-00.0						
	CO		SAINT LEONARD	NB	47-10-00.0	50 +					761111
			ZONE 2	••USA BORDER••	67-56-00.0						
	CO		SAINT QUENTIN	NB	47-30-00.0	42 -					761111
			ZONE 2	••USA BORDER••	67-23-00.0						

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	CO		SAINT STEPHENS	NB	45-12-00.0	49 -					761111
			ZONE 2	••USA BORDER••	67-17-00.0						
	CO		SALISBURY	NB	46-02-00.0	14 Z					760512
			ZONE 2	••USA BORDER••	65-03-00.0						
	CO		SHEDIAC	NB	46-13-00.0	36 Z					760512
			ZONE 2	••USA BORDER••	64-32-00.0						
	CO		SHIPPEGAN	NB	47-45-00.0	48 Z					760512
			ZONE 2	••USA BORDER••	64-42-00.0						
	CO		SUSSEX	NB	45-43-00.0	48 Z					751217
			ZONE 2	••USA BORDER••	65-31-00.0						
	CO		TRACADIE	NB	47-31-00.0	53 Z					760512
			ZONE 2	••USA BORDER••	64-54-00.0						
CHAMTV	CO	LIC	UPSALQUITCH LAKE	NB	47-27-18.0	12 Z	280(KW)	1331(FT)	MONCTON BCTING LTD		761111
			ZONE 2	••USA BORDER••	66-25-07.0	DA	HOR				
	CO		WOODSTOCK	NB	46-08-59.0	03 +		ALLOCATION USED FLORENCEVILLE-WOODSTOCK, NB.			770302
			ZONE 2	••USA BORDER••	67-34-45.0						
	CO		WOODSTOCK	NB	46-09-00.0	19 +					760512
			ZONE 2	••USA BORDER••	67-34-00.0						
	CO		BAKER LAKE	NT	64-19-00.0	08 +					760722
			ZONE 2		96-02-00.0						
	CO		ESKIMO POINT	NT	61-06-00.0	09 Z					760722
			ZONE 2		94-04-00.0						
	CO		FORT MCPHERSON	NT	67-25-42.0	13 Z					751217
			ZONE 2	••USA BORDER••	134-51-45.0						
	CO		FORT SIMPSON	NT	61-52-18.0	09 Z					760722
			ZONE 2		121-22-45.0						
	CO		FORT SMITH	NT	60-00-19.0	08 -					760722
			ZONE 2		111-92-32.0						
	CO		IGLOOLIK	NT	69-23-00.0	09 Z					760722
			ZONE 2		81-48-00.0						
CHAKTV	CO	LIC	INUVIK	NT	68-21-46.0	05 Z	5.8(KW)	0394(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	••USA BORDER••	133-41-43.0	DA	HOR				
	CO		NORMAN WELLS	NT	65-16-40.0	09 Z					760722
			ZONE 2		126-47-00.0						
	CO		RANKIN INLET	NT	62-48-26.0	09 Z					760722
			ZONE 2		92-04-35.0						

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	CO		RESOLUTE	NT	74-41-00.0	08 Z					761007
			ZONE 2		94-54-00.0						
	CO		AMHERST	NS	45-50-00.0	47 Z					751217
			ZONE 2	••USA BORDER••	64-12-00.0						
	CO		AMHERST	NS	45-50-00.0	79 Z					751217
			ZONE 2	••USA BORDER••	64-12-00.0						
	CO		ANNAPOLIS ROYAL	NS	44-45-00.0	42 Z					760512
			ZONE 2	••USA BORDER••	65-31-00.0						
CJCBTV02	CO	LIC	ANTIGONISH	NS	45-32-45.0	09 Z	260(KW)	0902(FT)	CAPE BRETON BCTRS LTD		751217
			ZONE 2	••USA BORDER••	62-15-39.0	DA	HOR				
	CO		ANTIGONISH	NS	45-37-00.0	28 -					760512
			ZONE 2	••USA BORDER••	61-58-00.0						
	CO		BRIDGETOWN	NS	44-50-00.0	29 Z					760512
			ZONE 2	••USA BORDER••	65-18-00.0						
	CO		BRIDGEWATER	NS	44-22-42.0	26 -					751217
			ZONE 2	••USA BORDER••	64-31-12.0						
	CO		BRIDGEWATER	NS	44-23-00.0	54 Z					751217
			ZONE 2	••USA BORDER••	64-31-00.0						
CJCHTV08	CO	LIC	CALEDONIA	NS	44-20-26.0	08 +	100(KW)	0633(FT)	CJCH LTD		751217
			ZONE 2	••USA BORDER••	65-06-34.0	DA	HOR				
CJCHTV01	CO	LIC	CANNING	NS	45-12-12.0	10 Z	18.1(KW)	0806(FT)	CJCH LTD		751217
			ZONE 2	••USA BORDER••	64-24-06.0	DA	HOR				
	CO		DIGBY	NS	44-37-00.0	52 -					760512
			ZONE 2	••USA BORDER••	65-46-00.0						
CBHT	CO	LIC	HALIFAX	NS	44-39-03.0	03 Z	100(KW)	0866(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	••USA BORDER••	63-39-28.0	DA	HOR				
CJCHTV	CO	LIC	HALIFAX	NS	44-39-03.0	05 Z	100(KW)	0822(FT)	CJCH LTD		751217
			ZONE 2	••USA BORDER••	63-39-28.0	DA	HOR				
CBHFT06	CO	LIC	HALIFAX	NS	44-39-03.0	13 Z	.410(KW)	0771(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	••USA BORDER••	63-39-28.0	DA	HOR				
	CO		HALIFAX	NS	44-39-00.0	22 Z					751217
			ZONE 2	••USA BORDER••	63-36-00.0						
	CO		HALIFAX	NS	44-39-00.0	32 Z					751217
			ZONE 2	••USA BORDER••	63-36-00.0						
	CO		HALIFAX	NS	44-39-00.0	38 +					751217
			ZONE 2	••USA BORDER••	63-36-00.0						

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	CO		HALIFAX	NS	44-39-00.0	44 +					751217
			ZONE 2	••USA BORDER••	63-36-00.0						
	CO		HALIFAX	NS	44-39-00.0	53 Z					751217
			ZONE 2	••USA BORDER••	63-36-00.0						
	CO		HALIFAX	NS	44-39-00.0	74 Z					751217
			ZONE 2	••USA BORDER••	63-36-00.0						
	CO		KENTVILLE	NS	45-05-00.0	78 Z					760512
			ZONE 2	••USA BORDER••	64-30-00.0						
CBHT01	CO	LIC	LIVERPOOL	NS	44-03-59.0	12 Z	1.87(KW)	0647(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	••USA BORDER••	64-43-00.0	DA	HOR				
	CO		LIVERPOOL	NS	44-02-00.0	62 Z					751217
			ZONE 2	••USA BORDER••	64-43-00.0						
	CO		LUNENBURG	NS	44-23-00.0	41 Z					751217
			ZONE 2	••USA BORDER••	64-19-00.0						
	CO		MIDDLETON	NS	44-57-00.0	66 +					760512
			ZONE 2	••USA BORDER••	65-04-00.0						
CBHT05	CO	LIC	NEW GLASGOW	NS	45-32-00.0	04 -	1.10(KW)	0422(FT)	CANADIAN BCTING CORP		761111
			ZONE 2	••USA BORDER••	62-38-14.0	DA	HOR				
	CO		NEW GLASGOW	NS	45-35-00.0	15 -					761111
			ZONE 2	••USA BORDER••	62-39-00.0						
	CO		NEW GLASGOW	NS	45-35-00.0	43 Z					761111
			ZONE 2	••USA BORDER••	62-39-00.0						
	CO		NEW GLASGOW	NS	45-35-00.0	65 Z					761111
			ZONE 2	••USA BORDER••	62-39-00.0						
	CO		PARRSBORO	NS	45-24-00.0	20 +					760512
			ZONE 2	••USA BORDER••	64-19-00.0						
	CO		PICTOU	NS	45-41-00.0	26 Z					760512
			ZONE 2	••USA BORDER••	62-43-00.0						
CBHT04	CO	LIC	SHEET HARBOR	NS	44-55-29.0	11 +	17.8(KW)	0368(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	••USA BORDER••	62-29-55.0	DA	HOR				
	CO		SHEET HARBOUR	NS	44-55-00.0	35 +					760512
			ZONE 2	••USA BORDER••	62-32-00.0						
CBHT02	CO	LIC	SHELBURNE	NS	43-46-35.0	08 Z	.752(KW)	0448(FT)	CANADIAN BCTING CORP		751217
			ZONE 2	••USA BORDER••	65-18-28.0	DA	HOR				
	CO		SHELBURNE	NS	43-46-00.0	75 Z					760512
			ZONE 2	••USA BORDER••	66-26-00.0						

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	CO		SPRINGHILL	NS	45-39-00.0	20 Z				751217
			ZONE 2	**USA BORDER**	64-03-00.0					
	CO		TATAMAGOUCHE	NS	45-43-00 0	48 Z				760512
			ZONE 2	**USA BORDER**	63-18-00.0					
	CO		TATAMAGOUCHE	NS	45-43-00.0	77 Z				760512
			ZONE 2	**USA BORDER**	63-18-00.0					
	CO		TRURO	NS	45-22-00.0	55 Z				760512
			ZONE 2	**USA BORDER**	63-18-00.0					
	CO		TRURO	NS	45-22-00.0	71 Z				760512
			ZONE 2	**USA BORDER**	63-16-00.0					
	CO		WINDSOR	NS	44-59-00.0	16 +				760512
			ZONE 2	**USA BORDER**	64-08-00.0					
	CO		WOLFVILLE	NS	45-05-00.0	50 Z				751217
			ZONE 2	**USA BORDER**	64-22-00.0					
CBMFT01	CO	LIC	YARMOUTH	NS	43-55-55.0	03 -	5.8(KW)	0558(FT)	CANADIAN BCTING CORP	751217
			ZONE 2	**USA BORDER**	66-06-10.0	DA	HOR			
CBMT03	CO	LIC	YARMOUTH	NS	43-55-55.0	11 -	38.4(KW)	0620(FT)	CANADIAN BCTING CORP	751217
			ZONE 2	**USA BORDER**	66-06-10.0	DA	HOR			
	CO		YARMOUTH	NS	43-50-00.0	40 Z				751217
			ZONE 2	**USA BORDER**	66-07-00.0					
	CO		ARMSTRONG	ON	50-17-40.0	10 Z				760525
			ZONE 2	**USA BORDER**	89-02-00.0					
	CO		ARNPRIOR	ON	45-26-00.0	20 Z				760512
			ZONE 1	**USA BORDER**	76-21-00.0					
CBMCT01	CO	LIC	ATIKOKAN	ON	48-46-18.0	07 -	1.08(KW)	0385(FT)	CANADIAN BCTING CO	751217
			ZONE 2	**USA BORDER**	91-36-50.0	DA	HOR			
	CO		ATIKOKAN	ON	48-45-00.0	39 Z				760512
			ZONE 2	**USA BORDER**	91-37-00.0					
	CO		AYR	ON	43-15-35.0	08 Z				781210
			ZONE 1	**USA BORDER**	80-26-39.0		ALLOCATION USED PARIS-KITCHENER, ON.			
CKGNTV02	CO	LIC	BANCROFT	ON	45-03-34.0	02 +	100(KW)	0949(FT)		751217
			ZONE 1	**USA BORDER**	77-12-00.0	DA	HOR			
CKVRTV	CO	LIC	BARRIE	ON	44-21-05.0	11 +	100(KW)	1118(FT)	RALGH SMELGROVE TV LTD	740828
			ZONE 1	**USA BORDER**	79-41-55.0		HOR			
CBLFT07	CO	LIC	BARRIE	ON	44-21-05.0	55 +	14.7(KW)	620(FT)		770310
			ZONE 1	**USA BORDER**	79-41-55.0	DA	BT HOR			

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	CO		BARRIE	ON	44-24-00.0	74 Z				760512
			ZONE 1	**USA BORDER**	79-40-00.0					
	CO		BARRIE	ON	44-24-00.0	83 +				760512
			ZONE 1	**USA BORDER**	79-40-00.0					
	CO		BELLEVILLE	ON	44-10-00.0	15 -				760512
			ZONE 1	**USA BORDER**	77-22-00.0					
	CO		BELLEVILLE	ON	44-10-00.0	28 Z				760722
			ZONE 1	**USA BORDER**	77-22-00.0					
	CO		BLIND RIVER	ON	46-11-00.0	40 +				751217
			ZONE 2	**USA BORDER**	82-57-00.0					
	CO		BRANTFORD	ON	43-08-00.0	63 Z				760512
			ZONE 1	**USA BORDER**	80-16-00.0					
	CO		BROCKVILLE	ON	44-36-00.0	27 +				751217
			ZONE 1	**USA BORDER**	75-41-00.0					
	CO		BROCKVILLE	ON	44-36-00.0	75 Z				751217
			ZONE 1	**USA BORDER**	75-41-00.0					
CFCLTV08	CO	LIC	CHAPLEAU	ON	47-51-15.0	07 +	.322(KW)	0420(FT)	J CONRAD LAVIGNE	751217
			ZONE 2	**USA BORDER**	83-25-08.0	DA	HOR			
	CO		CHAPLEAU	ON	47-50-00.0	33 +				760512
			ZONE 2	**USA BORDER**	83-24-00.0					
CBLFT3	CO	LIC	CHATHAM	ON	42-27-00.0	48 Z	40.6(KW)	634(FT)		781129
			ZONE 1	**USA BORDER**	82-05-00.0	DA	BT HOR			
CICOTV08	CO	LIC	CHATHAM	ON	42-27-00.0	59 Z	20.6(KW)	715(FT)		781129
			ZONE 1	**USA BORDER**	82-05-00.0		BT HOR			
	CO		CHATHAM	ON	42-24-00.0	81 -				751217
			ZONE 1	**USA BORDER**	82-11-00.0					
	CO		COBOURG-PORT HOPE	ON	43-58-00.0	57 +				781118
			ZONE 1	**USA BORDER**	78-10-00.0					
	CO		COBOURG-PORT HOPE	ON	43-58-00.0	88 Z				781118
			ZONE 1	**USA BORDER**	78-10-00.0					
	CO		COLLINGWOOD	ON	44-29-00.0	78 +				760512
			ZONE 1	**USA BORDER**	80-13-00.0					
CJOHTV08	CO	LIC	CORNWALL	ON	45-10-35.0	08 +	260(KW)	0815(FT)	CORNWALL BCTING LTD	751217
			ZONE 1	**USA BORDER**	74-31-38.0	DA	HOR			
	CO		CORNWALL	ON	45-02-00.0	38 +				760512
			ZONE 1	**USA BORDER**	74-44-00.0					

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	CO		CORNWALL	ON	45-02-00.0	77 Z				760512
			ZONE 1	**USA BORDER**	74-44-00.0					
	CO		CORNWALL	ON	45-02-00.0	83 Z				760512
			ZONE 1	**USA BORDER**	74-44-00.0					
CKGNTV01	CO	LIC	COTTAM-WINDSOR	ON	42-08-00 0	22 -	215(KW)	0386(FT)		780115
			ZONE 1	**USA BORDER**	82-45-42.0		HOR			
	CO		DEEP RIVER	ON	46-06-00.0	25 -				760512
			ZONE 2	**USA BORDER**	77-29-00.0					
CJOHTV01	CO	LIC	DESERONTO	ON	44-08-30.0	08 -	100(KW)	0671(FT)	OTTAWA-CORNWALL BCTING	780115
			ZONE 1	**USA BORDER**	77-04-34.0	DA	HOR			
	CO		DRIFTWOOD	ON	48-55-30.0	74 -				760512
			ZONE 2	**USA BORDER**	81-48-00.0					
	CO		DRYDEN	ON	49-47-00 0	04 +				751217
			ZONE 2	**USA BORDER**	92-49-30.0					
	CO		DRYDEN	ON	49-45-49.0	06 Z				781185
			ZONE 2	**USA BORDER**	92-40-52.0					
CBMGT86	CO	LIC	DRYDEN	ON	49-45-52.0	08 -	16(KW)	0869(FT)	CANADIAN BCTING CORP	751217
			ZONE 2	**USA BORDER**	92-41-01.0	DA	HOR			
	CO		DRYDEN	ON	49-47-00.0	20 Z				760512
			ZONE 2	**USA BORDER**	92-49-00.0					
CKSOTV01	CO	LIC	ELLIOT LAKE	ON	46-25-50.0	03 Z	19(KW)	0532(FT)	CANADIAN BCTING LTD	751217
			ZONE 2	**USA BORDER**	82-40-21.0		HOR			
CKMCTV01	CO	LIC	ELLIOT LAKE	ON	46-23-21.0	07 -	24.8(KW)	0577(FT)		751217
			ZONE 2	**USA BORDER**	82-37-06.0	DA	HOR			
CBFBT02	CO	LIC	ELLIOT LAKE	ON	46-23-21.0	12 +	37(KW)	0532(FT)	CANADIAN BCTING CORP	751217
			ZONE 2	**USA BORDER**	82-37-06.0	DA	HOR			
	CO		ELLIOT LAKE	ON	46-23-00.0	18 -				751217
			ZONE 2	**USA BORDER**	82-39-00.0					
	CO		ESPANOLA	ON	46-15-00.0	77 Z				760512
			ZONE 2	**USA BORDER**	81-46-00.0					
	CO		EXETER	ON	43-21-00.0	52 -				760512
			ZONE 1	**USA BORDER**	81-28-48.0					
	CO		FOREST	ON	43-06-00.0	21 +				760512
			ZONE 1	**USA BORDER**	82-00-00.0					
CBMCT	CO	LIC	FORT FRANCES	ON	48-48-18.0	05 Z	38.3(KW)	0680(FT)	CANADIAN BCTING CORP	751217
			ZONE 2	**USA BORDER**	93-53-24.0	DA	HOR			

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	CO		FORT FRANCES	ON	48-37-00.0	25 Z				751217
			ZONE 2	**USA BORDER**	93-24-00.0					
	CO		FT WILLIAM-PT ARTHUR	ON	48-23-00.0	20 -				781118
			ZONE 2	**USA BORDER**	89-15-00.0					
	CO		FT WILLIAM-PT ARTHUR	ON	48-23-00.0	28 Z				781118
			ZONE 2	**USA BORDER**	89-15-00.0					
	CO		FT WILLIAM-PT ARTHUR	ON	48-23-00.0	32 Z				781118
			ZONE 2	**USA BORDER**	89-15-00.0					
	CO		FT WILLIAM-PT ARTHUR	ON	48-23-00.0	38 Z				781118
			ZONE 2	**USA BORDER**	89-15-00.0					
	CO		FT WILLIAM-PT ARTHUR	ON	48-23-00.0	44 Z				781118
			ZONE 2	**USA BORDER**	89-15-00.0					
	CO		GANANOQUE	ON	44-20-00.0	19 +				760512
			ZONE 1	**USA BORDER**	76-10-00.0					
CBLAT	CO	LIC	GERALDTON	ON	49-43-50.0	13 +	43(KW)	0598(FT)	CANADIAN BCTING CORP	751217
			ZONE 2	**USA BORDER**	86-43-21.0	DA	HOR			
	CO		GODERICH	ON	43-45-00.0	38 Z				760512
			ZONE 1	**USA BORDER**	81-43-00.0					
	CO		GUELPH	ON	43-33-00.0	20 Z				751217
			ZONE 1	**USA BORDER**	80-15-00.0					
CKVRTV03	CO	LIC	HALIBURTON	ON	45-02-35.0	05 Z	.31(KW)	0149(FT)	RALPH SMELDROVE TV	751217
			ZONE 1	**USA BORDER**	78-29-56.0	DA	HOR			
CHCHTV08	CO	LIC	HAMILTON	ON	43-12-27.0	11 +	325(KW)	1173(FT)	NIAGARA TV LTD	751217
			ZONE 1	**USA BORDER**	79-46-28.0	DA	HOR			
	CO		HAMILTON	ON	43-15-00.0	41 -				760512
			ZONE 1	**USA BORDER**	78-51-00.0					
	CO		HAMILTON	ON	43-15-00.0	49 -				760512
			ZONE 1	**USA BORDER**	78-51-00.0					
	CO		HAMILTON	ON	43-15-00.0	53 Z				760512
			ZONE 1	**USA BORDER**	79-51-00.0					
	CO		HANOVER	ON	44-09-00.0	38 Z				760512
			ZONE 1	**USA BORDER**	81-02-00.0					
CFCLTV04	CO	LIC	HEARST	ON	49-42-56.0	04 -	.402(KW)	0200(FT)	J CONRAD LAVIGNE LTD	751217
			ZONE 2	**USA BORDER**	83-38-49.0	DA	HOR			
CBFOT02	CO	LIC	HEARST	ON	49-38-50.0	07 Z	16.8(KW)	0611(FT)	CANADIAN BCTING CORP	751217
			ZONE 2	**USA BORDER**	83-30-50.0	DA	HOR			

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CKVRTV03	CO	LIC	HUNTSVILLE	ON	45-24-30.0	08 +	.115(KW)	0481(FT)	RALPH SMELGROVE LTD		730401
			ZONE 2 **USA BORDER**		79-15-22.0		HOR				
	CO		HUNTSVILLE	ON	45-19-30.0	11 -					751217
			ZONE 2 **USA BORDER**		79-13-30.0						
CFCLTV02	CO	LIC	KAPUSKASING	ON	49-23-32.0	02 +	.42(KW)	0363(FT)	J CONRAD LAVIGNE LTD		751217
			ZONE 2 **USA BORDER**		82-21-35.0	DA	HOR				
CKQSTV04	CO	LIC	KAPUSKASING	ON	49-24-51.0	10 Z	2.2(KW)	0155(FT)			751217
			ZONE 2 **USA BORDER**		82-25-26.0	DA	HOR				
CBFOT01	CO	LIC	KAPUSKASING	ON	49-17-48.0	12 Z	30(KW)	0438(FT)	CANADIAN BCTING CORP		751217
			ZONE 2 **USA BORDER**		82-11-19.0	DA	HOR				
	CO		KAPUSKASING	ON	49-25-00.0	77 -					751217
			ZONE 2 **USA BORDER**		82-26-00.0						
	CO		KAPUSKASING	ON	49-25-00.0	83 Z					751217
			ZONE 2 **USA BORDER**		82-26-00.0						
CKSOTV03	CO	LIC	KEARNS	ON	48-08-12.0	11 Z	325(KW)	0734(FT)	ALLOC TO KIRKLAND LK		781217
			ZONE 2 **USA BORDER**		79-33-12.0	DA	HOR				
	CO		KENORA	ON	49-46-13.0	02 +					761105
			ZONE 2 **USA BORDER**		94-30-13.0						
CBWAT	CO	LIC	KENORA	ON	49-46-13.0	08 Z	16.4(KW)	0240(FT)	CANADIAN BCTING CORP		751217
			ZONE 2 **USA BORDER**		94-30-13.0	DA	HOR				
	CO		KENORA	ON	49-46-00.0	21 Z					751217
			ZONE 2 **USA BORDER**		94-29-00.0						
	CO		KENORA	ON	49-46-00.0	32 +					751217
			ZONE 2 **USA BORDER**		94-29-00.0						
CKWSTV	CO	LIC	KINGSTON	ON	44-10-02.0	11 -	325(KW)	0842(FT)	FRONTENAC BCTING LTD		751217
			ZONE 1 **USA BORDER**		76-25-40.0	DA	HOR				
	CO		KINGSTON	ON	44-14-00.0	38 -					751217
			ZONE 1 **USA BORDER**		76-30-00.0						
	CO		KINGSTON	ON	44-14-00.0	38 -					751217
			ZONE 1 **USA BORDER**		76-30-00.0						
	CO		KINGSTON	ON	44-14-00.0	73 Z					751217
			ZONE 1 **USA BORDER**		76-30-00.0						
CFCLTV03	CO	LIC	KIRKLAND LAKE	ON	48-08-12.0	02 Z	26.5(KW)	0722(FT)	J CONRAD LAVIGNE LTD		781118
			ZONE 2 **USA BORDER**		79-33-12.0	DA	HOR				
CKCOTV	CO	LIC	KITCHENER	ON	43-24-15.0	13 +	325(KW)	0954(FT)	CENTRAL ONTARIO TV		730401
			ZONE 1 **USA BORDER**		80-38-05.0		HOR				

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CBLFT1	CO	LIC	KITCHENER-WATERLOO	ON	43-27-00.0	76 Z	299(KW)	750(FT)			781129
			ZONE 1 **USA BORDER**		80-36-08.0	DA BT	HOR				
	CO		KITCHENER-WATERLOO	ON	43-27-00.0	82 Z					781118
			ZONE 1 **USA BORDER**		80-29-00.0						
	CO		LEAMINGTON	ON	42-03-00.0	72 Z					760512
			ZONE 1 **USA BORDER**		82-36-00.0						
CFPLTV	CO	LIC	LONDON	ON	42-57-15.0	10 Z	325(KW)	1000(FT)	CFPL BCTING LTD		730401
			ZONE 1 **USA BORDER**		81-15-58.0		HOR				
	CO		LONDON	ON	42-57-20.0	18 Z					760512
			ZONE 1 **USA BORDER**		81-21-20.0						
CBLFT2	CO	LIC	LONDON	ON	42-57-20.0	40 Z	70.6(KW)	953(FT)			781118
			ZONE 1 **USA BORDER**		81-21-20.0	DA BT	HOR				
CBLAT01	CO	LIC	MANITOUWADGE	ON	49-08-21.0	08 +	40(KW)	0599(FT)	CANADIAN BCTING CORP		751217
			ZONE 2 **USA BORDER**		85-49-24.0	DA	HOR				
CBLAT04	CO	LIC	MARATHON	ON	48-44-50.0	11 -	18.7(KW)	0932(FT)	CANADIAN BCTING CORP		751217
			ZONE 2 **USA BORDER**		86-34-00.0	DA	HOR				
	CO		MIDLAND	ON	44-45-00.0	58 +					760512
			ZONE 1 **USA BORDER**		79-53-00.0						
	CO		MOOSONEE	ON	51-17-00.0	09 Z					760722
			ZONE 2		80-39-00.0						
	CO		NIAGRA FALLS	ON	43-06-00.0	81 Z					760512
			ZONE 1 **USA BORDER**		79-04-00.0						
CHKBTV08	CO	LIC	NORTH BAY	ON	46-03-46.0	04 -	100(KW)	0730(FT)	J CONRAD LAVIGNE LTD		751217
			ZONE 2 **USA BORDER**		79-26-05.0	DA	HOR				
			NORTH BAY	ON	46-19-00.0	08 +					760210
			ZONE 2 **USA BORDER**		79-28-00.0						
CHNYTV	CO	LIC	NORTH BAY	ON	46-12-15.0	10 -	214(KW)	0420(FT)	TEL-AD CO LTD		751217
			ZONE 2 **USA BORDER**		79-21-05.0	DA	HOR				
	CO		NORTH BAY	ON	46-19-00.0	48 +					751217
			ZONE 2 **USA BORDER**		79-28-00.0						
	CO		NORTH BAY	ON	46-19-00.0	70 Z					751217
			ZONE 2 **USA BORDER**		79-28-00.0						
	CO		NORTH BAY	ON	46-19-00.0	76 +					751217
			ZONE 2 **USA BORDER**		79-28-00.0						
	CO		OAKVILLE	ON	43-27-00.0	73 +					751217
			ZONE 1 **USA BORDER**		79-41-00.0						

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	CO		OIL SPRINGS		42-43-21.0	42 -					760512
			ZONE 1 **USA BORDER**		82-10-00.0						
			OPASATIKA	ON	49-32-00.0	71 Z					760512
			ZONE 2 **USA BORDER**		82-52-00.0						
			ORILLIA	ON	44-37-00.0	24 -					760512
			ZONE 1 **USA BORDER**		79-25-00.0						
	CO		ORILLIA	ON	44-37-00.0	48 -					760512
			ZONE 1 **USA BORDER**		79-25-00.0						
	CO		OSHAWA	ON	43-54-00.0	16 +					760512
			ZONE 1 **USA BORDER**		78-51-00.0						
	CO		OSHAWA	ON	43-54-00.0	77 -					760512
			ZONE 1 **USA BORDER**		78-51-00.0						
CBOT	CO	LIC	OTTAWA	ON	45-30-11.0	04 +	100(KW)	1304(FT)	CANADIAN BCTING CORP		751217
			ZONE 1 **USA BORDER**		75-51-02.0		HOR				
CHGMTV08	CO	LIC	OTTAWA	ON	45-31-05.0	08 Z	12.6(KW)	0149(FT)			751217
			ZONE 1 **USA BORDER**		75-44-48.0	DA	HOR				
CBOFT	CO	LIC	OTTAWA	ON	45-30-11.0	09 +	252(KW)	1304(FT)	CANADIAN BCTING CORP		751217
			ZONE 1 **USA BORDER**		75-51-02.0	DA	HOR				
CJOHTV08	CO	LIC	OTTAWA	ON	45-30-11.0	13 =	325(KW)	1225(FT)	BUSHNELL COMM LTD		780525
			ZONE 1 **USA BORDER**		75-51-02.0	DA	HOR				
	CO		OTTAWA-HULL	ON	45-25-00.0	14 Z					780119
			ZONE 1 **USA BORDER**		75-42-00.0						
	CO		OTTAWA-HULL	ON	45-25-00.0	28 Z					760512
			ZONE 1 **USA BORDER**		75-42-00.0						
	CO		OTTAWA-HULL	ON	45-25-00.0	40 Z					760512
			ZONE 1 **USA BORDER**		75-42-00.0						
	CO		OTTAWA-HULL	ON	45-25-00.0	48 Z					760512
			ZONE 1 **USA BORDER**		75-42-00.0						
	CO		OTTAWA-HULL	ON	45-25-00.0	52 -					760512
			ZONE 1 **USA BORDER**		75-42-00.0						
	CO		OTTAWA-HULL	ON	45-25-00.0	58 Z					760512
			ZONE 1 **USA BORDER**		75-42-00.0						
	CO		OWEN SOUND	ON	44-34-00.0	28 Z					760512
			ZONE 1 **USA BORDER**		80-56-00.0						
	CO		OWEN SOUND	ON	44-34-00.0	32 Z					760512
			ZONE 1 **USA BORDER**		80-56-00.0						

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CHGMTV	CO	LIC	PARIS	ON	43-15-39.0	08 =	100(KW)	1037(FT)			740322
			ZONE 1 **USA BORDER**		80-26-39.0		HOR				
CICOTV28	CP		PARIS-KITCHENER	ON	43-15-35.0	28 Z	210(KW)	972(FT)			781210
			ZONE 1 **USA BORDER**		80-26-39.0	DA BT	HOR	ALLOCATED TO AYR, ON.			
	CO		PARRY SOUND	ON	45-21-00.0	62 -					751217
			ZONE 2 **USA BORDER**		80-02-00.0						
CHGNTV	CO	LIC	PEMBROKE	ON	45-50-02.0	05 +	36.8(KW)	0496(FT)	OTTAWA VALLEY TV CO		751217
			ZONE 1 **USA BORDER**		77-09-58.0	DA	HOR				
	CO		PEMBROKE	ON	45-49-00.0	41 Z					751217
			ZONE 1 **USA BORDER**		77-07-00.0						
	CO		PEMBROKE	ON	45-49-00.0	47 Z					751217
			ZONE 1 **USA BORDER**		77-07-00.0						
	CO		PEMBROKE	ON	45-49-16.0	53 -					760512
			ZONE 1 **USA BORDER**		77-07-01.0						
			PEMETUNGUISHENE	ON	44-46-00.0	34 -					760512
			ZONE 1 **USA BORDER**		79-56-00.0						
CHEXTV	CO	LIC	PETERBOROUGH	ON	44-19-45.0	12 +	325(KW)	771(FT)	KAWARTHA BCTING CO		780825
			ZONE 1 **USA BORDER**		78-18-03.0	DA	HOR				
	CO		PETERBOROUGH	ON	44-18-00.0	33 +					760512
			ZONE 1 **USA BORDER**		78-19-00.0						
	CO		PETERBOROUGH	ON	44-18-00.0	44 Z					760512
			ZONE 1 **USA BORDER**		78-19-00.0						
	CO		PETERBOROUGH	ON	44-18-00.0	54 Z					760512
			ZONE 1 **USA BORDER**		78-19-00.0						
	CO		PICKLE LAKE	ON	51-30-00.0	08 Z					760525
			ZONE 2 **USA BORDER**		90-03-20.0						
	CO		PICTON	ON	44-00-00.0	58 Z					760512
			ZONE 1 **USA BORDER**		77-08-00.0						
			PRESCOTT	ON	44-43-00.0	48 Z					760512
			ZONE 1 **USA BORDER**		75-31-00.0						
CBHET	CO	LIC	RED LAKE	ON	51-01-35.0	10 -	1.14(KW)	0286(FT)	CANADIAN BCTING CORP		751217
			ZONE 2 **USA BORDER**		93-49-44.0	DA	HOR				
	CO		RENFREW	ON	45-28-00.0	59 Z					760512
			ZONE 1 **USA BORDER**		76-41-00.0						
	CO		ST CATHERINES		43-10-00.0	69 +					760512
			ZONE 1 **USA BORDER**		79-15-00.0						

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	CO	ST THOMAS	ON	42-47-00.0	65 Z					760512
		ZONE 1	••USA BORDER••	81-12-00.0						
CKGNTV12	CO LIC	SARINA	ON	42-43-21.0	29 +	370(KW)	0685(FT)	ALLOC TO OIL SPRINGS ON.		751217
		ZONE 1	••USA BORDER••	82-10-00.0	DA	HOR				
	CO	SARINA	ON	42-58-00.0	68 Z					760512
		ZONE 1	••USA BORDER••	82-23-00.0						
	CO	SARNIA	ON	42-58-00.0	79 -					760512
		ZONE 1	••USA BORDER••	82-23-00.0						
CJICTV	CO LIC	SAULT STE MARIE	ON	46-30-32.0	02 -	45(KW)	0-19(FT)	MYLAND RADIO-TV LTD		751217
		ZONE 2	••USA BORDER••	84-19-36.0	DA	HOR				
	CO	SAULT STE MARIE	ON	46-30-30.0	05 Z					751217
		ZONE 2	••USA BORDER••	84-19-40.0						
	CO	SAULT STE MARIE	ON	46-31-00.0	20 Z					760512
		ZONE 2	••USA BORDER••	84-20-00.0						
	CO	SAULT STE MARIE	ON	46-31-00.0	26 -					760512
		ZONE 2	••USA BORDER••	84-20-00.0						
	CO	SAULT STE MARIE	ON	46-31-00.0	48 Z					760512
		ZONE 2	••USA BORDER••	84-20-00.0						
	CO	SAULT STE MARIE	ON	46-31-00.0	54 Z					760512
		ZONE 2	••USA BORDER••	84-20-00.0						
	CO	SAULT STE MARIE	ON	46-31-00.0	83 +					760512
		ZONE 2	••USA BORDER••	84-20-00.0						
	CO	SIOUX LOOKOUT	ON	50-04-31.0	12 +					770302
		ZONE 2	••USA BORDER••	92-01-40.0						
	CO	SMITHS FALLS	ON	44-54-00.0	71 Z					760512
		ZONE 1	••USA BORDER••	76-01-00.0						
	CO	SMITHS FALLS	ON	44-54-00.0	81 +					760512
		ZONE 1	••USA BORDER••	76-01-00.0						
	CO	STRATFORD	ON	43-22-00.0	30 -					760512
		ZONE 1	••USA BORDER••	80-57-00.0						
CBFST	CO LIC	STURGEON FALLS	ON	46-25-10.0	07 Z	17.5(KW)	0617(FT)	CANADIAN BCTING CORP		751217
		ZONE 2	••USA BORDER••	79-56-04.0	DA	HOR				
	CO	STURGEON FALLS	ON	46-22-00.0	82 +					751217
		ZONE 2	••USA BORDER••	79-56-00.0						
CKSOTV	CO LIC	SUDBURY	ON	46-30-02.0	05 Z	100(KW)	1049(FT)	CAMBRIAN BCTING LTD		730401
		ZONE 2	••USA BORDER••	81-01-18.0		HOR				

CKNCTV00	CO LIC	SUDBURY	ON	46-30-44.0	09 +	2(13(KW)	0627(FT)	J CONRAD LAVIGNE LTD		751217
		ZONE 2	••USA BORDER••	81-00-19.0	DA	HOR				
CBFST01	[illegible] LIC	SUDBURY	ON	46-30-14.0	13 -	17.1(KW)	0478(FT)	CANADIAN BCTING CORP		751217
		ZONE 2	••USA BORDER••	80-58-04.0	DA	[illegible]				
	CO	SUDBURY	ON	46-30-00.0	19 Z					760512
		ZONE 2	••USA BORDER••	81-00-00.0						
	CO	SUDBURY	ON	46-30-00.0	25 +					760512
		ZONE 2	••USA BORDER••	81-00-00.0						
	CO	SUDBURY	ON	46-30-00.0	41 +					760512
		ZONE 2	••USA BORDER••	81-00-00.0						
	CO	SUDBURY	ON	46-30-00.0	47 +					760512
		ZONE 2	••USA BORDER••	81-00-00.0						
	CO	SUDBURY	ON	46-30-00.0	69 -					760512
		ZONE 2	••USA BORDER••	81-00-00.0						
	CO	THESSALON	ON	46-15-00.0	70 +					760512
		ZONE 2	••USA BORDER••	83-33-00.0						
CKPRTV00	[illegible] LIC	THUNDER BAY	ON	48-31-30.0	02 Z	56(KW)	1202(FT)	THUNDER BAY ELECTRONICS		750708
		ZONE 2	••USA BORDER••	89-06-50.0		HOR				
CHFDTV00	CO LIC	THUNDER BAY	ON	48-31-30.0	04 -	56(KW)	1202(FT)			740322
		ZONE 2	••USA BORDER••	89-06-50.0		[illegible]				
	CO	THUNDER BAY	ON	48-22-52.0	08 Z					760525
		ZONE 2	••USA BORDER••	89-15-07.0						
	CO	THUNDER BAY	ON	48-22-52.0	12 Z					760525
		ZONE 2	••USA BORDER••	89-15-07.0						
CKSOTV03	[illegible] LIC	TIMMINS	ON	48-29-30.0	03 -	100(KW)	0544(FT)	CAMBRIAN BCTING LTD		751217
		ZONE 2	••USA BORDER••	81-19-45.0	DA	HOR				
CFCLTV	[illegible] LIC	TIMMINS	ON	48-29-30.0	05 Z	100(KW)	0562(FT)	J CONRAD LAVIGNE		730401
		ZONE 2	••USA BORDER••	81-19-45.0		HOR				
	[illegible]	TIMMINS	ON	48-28-34.0	07 -					751217
		ZONE 2	••USA BORDER••	81-20-00.0						
CBFOT	[illegible] LIC	TIMMINS	ON	48-28-00.0	09 -	30(KW)	0706(FT)	CANADIAN BCTING CORP		751217
		ZONE 2	••USA BORDER••	81-17-50.0	DA	HOR				
	CO	TIMMINS	ON	48-28-00.0	62 Z					751217
		ZONE 2	••USA BORDER••	81-20-00.0						
	CO	TIMMINS	ON	48-28-00.0	68 +					751217
		ZONE 2	••USA BORDER••	81-20-00.0						

	CO.	TIMMINS	ON	48-28-00.0	78 Z					751217
		ZONE 2	••USA BORDER••	81-20-00.0						
CBLT	CO LIC	TORONTO	ON	43-38-33.0	05 Z	100(KW)	1520(FT)	CANADIAN BCTING CORP		770302
		ZONE 1	••USA BORDER••	79-23-15.0	DA	HOR				
CFTOTV	CO LIC	TORONTO	ON	43-38-33.0	09 Z	325(KW)	1532(FT)	BATON BCTING LTD		770302
		ZONE 1	••USA BORDER••	79-23-15.0	DA	BT HOR				
CICATV	CO LIC	TORONTO	ON	43-38-33.0	19 -	1080(KW)	1640(FT)	CANADIAN BCTING CORP		770302
		ZONE 1	••USA BORDER••	79-23-15.0		HOR				
CBLFT	CO LIC	TORONTO	ON	43-38-33.0	25 Z	2140(KW)	1640(FT)	CANADIAN BCTING CORP		770302
		ZONE 1	••USA BORDER••	79-23-15.0		HOR				
	CO	TORONTO	ON	43-39-00.0	45 Z					760512
		ZONE 1	••USA BORDER••	79-23-00.0						
	CO	TORONTO	ON	43-39-00.0	51 Z					760512
		ZONE 1	••USA BORDER••	79-23-00.0						
	CO	TORONTO	ON	43-39-00.0	57 Z					760512
		ZONE 1	••USA BORDER••	79-23-00.0						
CITYTV	CO LIC	TORONTO	ON	43-38-33.0	79 Z	323(KW)	1690(FT)	CHANNEL SEVENTY NINE		770302
		ZONE 1	••USA BORDER••	79-23-15.0	DA	BT HOR				
CKQMTV22	CO LIC	UXBRIDGE	ON	44-01-54.0	22 +	5000(KW)	0598(FT)	ALLOC TO OSHAWA ON		751217
		ZONE 1	••USA BORDER••	79-08-13.0	DA	HOR				
CBLAT03	CO LIC	WAWA	ON	48-01-13.0	09 +	32(KW)	0581(FT)	CANADIAN BCTING CORP		751217
		ZONE 2	••USA BORDER••	84-44-08.0	DA	[illegible]				
	CO	WELLAND	ON	42-59-00.0	75 +					751217
		ZONE 1	••USA BORDER••	79-15-00.0						
CBLAT02	CO LIC	WHITE RIVER	ON	48-37-45.0	12 -	94(KW)	0761(FT)	CANADIAN BCTING CORP		751217
		ZONE 2	••USA BORDER••	85-11-24.0	DA	HOR				
CKCOTV02	CO LIC	WIARTON	ON	44-56-41.0	02 -	100(KW)	0943(FT)	CARL A POLLOCK ESQ		730401
		ZONE 2	••USA BORDER••	81-07-55.0		HOR				
CBET	CO LIC	WINDSOR	ON	42-18-59.0	09 -	316(KW)	0631(FT)	W ONTARIO BCTING CO		751217
		ZONE 1	••USA BORDER••	83-02-58.0	DA	[illegible]				
	CO	WINDSOR	ON	42-17-42.0	26 -					760512
		ZONE 1	••USA BORDER••	83-05-00.0						
CICOTV32	CO LIC	WINDSOR	ON	42-09-09.0	32 +	217(KW)	703(FT)			781129
		ZONE 1	••USA BORDER••	82-57-05.0		BT HOR				
CBEFT	CO LIC	WINDSOR	ON	42-09-09.0	78 Z	147(KW)	635(FT)			781129
		ZONE 1	••USA BORDER••	82-57-05.0	DA	BT HOR				

CKNXTV	CO LIC	WINGHAM	ON	44-05-26.0	08 -	160(KW)	0802(FT)	RADIO STA CKNX LTD		751217
		ZONE 1	••USA BORDER••	81-12-26.0	DA	HOR				
	[illegible]	WINGHAM	ON	43-53-00.0	60 Z					751217
		ZONE 1	••USA BORDER••	81-19-00.0						
	[illegible]	WOODSTOCK	ON	43-08-00.0	71 Z					751217
		ZONE 1	••USA BORDER••	80-45-00.0						
CKCWTV01	CO LIC	CHARLOTTETOWN	PE	46-16-05.0	08 +	29(KW)	0469(FT)			751217
		ZONE 2	••USA BORDER••	63-20-30.0	DA	HOR				
CBCT	CO LIC	CHARLOTTETOWN	PE	46-12-44.0	13 +	113(KW)	0918(FT)	CANADIAN BCTING CORP		751217
		ZONE 2	••USA BORDER••	63-20-32.0	DA	HOR				
	[illegible]	CHARLOTTETOWN	PE	46-14-00.0	31 Z					751217
		ZONE 2	••USA BORDER••	63-08-00.0						
	[illegible]	CHARLOTTETOWN	PE	46-14-00.0	37 Z					751217
		ZONE 2	••USA BORDER••	63-08-00.0						
	CO	CHARLOTTETOWN	PE	46-14-00.0	81 Z					751217
		ZONE 2	••USA BORDER••	63-08-00.0						
	[illegible]	SUMMERSIDE	PE	46-24-00.0	57 Z					751217
		ZONE 2	••USA BORDER••	63-47-00.0						
	CO	SUMMERSIDE	PE	46-24-00.0	75 +					751217
		ZONE 2	••USA BORDER••	63-47-00.0						
	CO	ALMA	QU	48-33-00.0	48 +					751217
		ZONE 2	••USA BORDER••	71-39-00.0						
	CO	ALMA	QU	48-33-00.0	74 +					751217
		ZONE 2	••USA BORDER••	71-39-00.0						
	[illegible]	ALMA	QU	48-33-00.0	80 -					751217
		ZONE 2	••USA BORDER••	71-39-00.0						
	CO	ASBESTOS	QU	45-46-00.0	53 Z					751217
		ZONE 1	••USA BORDER••	71-57-00.0						
	[illegible]	BAIE COMEAU-HAUTERIV	QU	49-13-00.0	05 +					761118
		ZONE 2	••USA BORDER••	68-10-00.0						
	CO	BAIE COMEAU-HAUTERIV	QU	49-13-00.0	28 Z					761118
		ZONE 2	••USA BORDER••	68-10-00.0						
	CO	BAIE COMEAU-HAUTERIV	QU	49-13-00.0	57 +					761118
		ZONE 2	••USA BORDER••	68-10-00.0						
	CO	BAIE COMEAU-HAUTERIV	QU	49-13-00.0	79 +					761118
		ZONE 2	••USA BORDER••	68-10-00.0						

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	CO		BAIE ST PAUL ZONE 2	QU **USA BORDER**	47-27-00.0 70-30-00.0	75 Z				751217
	CO		BEARN FABRE ZONE 2	QU **USA BORDER**	47-15-16.0 79-22-38.0	03 Z				760525
	CO		BUCKINGHAM ZONE 1	QU **USA BORDER**	45-35-00.0 75-25-00.0	80 +				760512
	CO		CABANO ZONE 2	QU **USA BORDER**	47-41-00.0 68-54-00.0	63 +				760512
	CO		CARLETON ZONE 2	QU **USA BORDER**	48-07-00.0 66-08-00.0	04 -				760525
CHAUTV08	CO	LIC	CARLETON ZONE 2	QU **USA BORDER**	48-08-07.0 66-07-00.0	05 Z DA	100(KW) 1543(FT) HOR		TV D LA BAIE D CHALEURS	751217
	CO		CHAPAIS ZONE 2	QU	49-47-00.0 74-52-00.0	02 Z				760722
CBOFT01	CO	LIC	CHAPEAU ZONE 1	QU **USA BORDER**	45-55-15.0 77-04-10.0	11 + DA	4.75(KW) 0374(FT) HOR			751217
CHRSTV02	CO	LIC	CHICOUTIMI ZONE 2	QU **USA BORDER**	48-26-09.0 71-02-34.0	02 +	.04(KW) 60(FT) HOR		RADIO SAGUENAY LTD	760624
CJPMTV	CO	LIC	CHICOUTIMI ZONE 2	QU **USA BORDER**	48-24-27.0 71-05-08.0	06 Z DA	100(KW) 0440(FT) HOR		CJPMTV INC	751217
	CO		CHICOUTIMI-ARVIDA ZONE 2	QU **USA BORDER**	48-26-00.0 71-04-00.0	36 Z				761118
CBJET	CO	LIC	CHICOUTIMI-ARVIDA ZONE 2	QU **USA BORDER**	48-25-29.0 71-06-32.0	58 Z DA	12(KW) 525(FT) HOR			770324
	CO		CHICOUTIMI-ARVIDA ZONE 2	QU **USA BORDER**	48-26-00.0 71-04-00.0	70 Z				761118
	CO		CHICOUTIMI-ARVIDA ZONE 2	QU **USA BORDER**	48-26-00.0 71-04-00.0	78 -				761118
	CO		CHICOUTIMI-ARVIDA ZONE 2	QU **USA BORDER**	48-26-00.0 71-04-00.0	82 -				761118
	CO		CLERMONT CITY ZONE 2	QU **USA BORDER**	47-42-00.0 70-14-00.0	31 Z				[illegible]
	CO		COATICOOK ZONE 1	QU **USA BORDER**	45-08-00.0 71-48-00.0	75 -				760512
	CO		COWANVILLE ZONE 1	QU **USA BORDER**	45-12-00.0 72-45-00.0	79 Z				760512

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	CO		DOLBEAU ZONE 2	QU **USA BORDER**	48-53-00.0 72-14-00.0	78 -				760512
	CO		DONNACONA ZONE 1	QU **USA BORDER**	46-40-00.0 71-44-00.0	24 +				751217
	CO		DORCHESTER COUNTY ZONE 1	QU **USA BORDER**	46-15-58.0 70-15-11.0	08 Z				761118
	CO		DRUMMONDVILLE ZONE 1	QU **USA BORDER**	45-53-00.0 72-30-00.0	19 -				760512
	CO		DRUMMONDVILLE ZONE 1	QU **USA BORDER**	45-53-00.0 72-30-00.0	41 +				760512
	CO		ESTCOURT ZONE 2	QU **USA BORDER**	47-30-14.0 69-17-56.0	43 -				751217
	CO		FORESTVILLE ZONE 2	QU **USA BORDER**	48-45-00.0 69-06-00.0	77 Z				760512
	CO		FORT CHIMO ZONE 2	QU	58-06-31.0 68-24-33.0	02 Z				760722
	CO		FORT GEORGE ZONE 2	QU	53-49-41.0 79-00-13.0	09 +				760722
	CO		FORT RUPERT ZONE 2	QU	51-29-14.0 78-44-50.0	09 -				760722
CHAUTV06	CO	LIC	GASPE ZONE 2	QU **USA BORDER**	48-50-15.0 64-29-35.0	13 -	157(KW) 242(FT) HOR			751129
	CO		GRANBY ZONE 1	QU **USA BORDER**	45-24-00.0 72-43-00.0	73 -				760512
CFVQTV	CO	LIC	HULL ZONE 1	QU **USA BORDER**	45-30-11.0 75-51-02.0	30 + DA	2654(KW) 1184(FT) HOR		ALLOC TO OTTAWA-HULL	751217
	CO		INOUCDJOUAC ZONE 2	QU	58-27-00.0 78-10-00.0	08 +				760722
	CO		JOLLIETTE ZONE 1	QU **USA BORDER**	46-01-26.0 73-28-20.0	86 +				760512
CKRSTV	CO	LIC	JONQUIERE ZONE 2	QU **USA BORDER**	48-24-29.0 71-14-52.0	12 + DA	41(KW) 0312(FT) HOR		RADIO SAGUENAY LTD	751217
	CO		JONQUIERE-KENOGAMI ZONE 2	QU **USA BORDER**	48-25-00.0 71-15-00.0	14 Z				761118
	CO		JONQUIERE-KENOGAMI ZONE 2	QU **USA BORDER**	48-25-00.0 71-15-00.0	20 -				761118

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	CO		JONQUIERE-KENOGAMI ZONE 2	QU **USA BORDER**	48-25-00.0 71-15-00.0	38 -				761118
	CO		JONQUIERE-KENOGAMI ZONE 2	QU **USA BORDER**	48-25-00.0 71-15-00.0	42 Z				761118
	CO		JOUTEL ZONE 2	QU	49-27-20.0 78-19-52.0	13 +				760722
	CO		LA POCATIERE ZONE 2	QU **USA BORDER**	47-22-00.0 70-02-00.0	65 Z				[illegible]
	CO		LA SARRE ZONE 2	QU	48-48-00.0 79-12-00.0	13 +				760722
CBVT03	CO	LIC	LA TUQUE ZONE 2	QU **USA BORDER**	47-25-25.0 72-45-49.0	03 - DA	28(KW) 0407(FT) HOR		CANADIAN BCTING CORP	751217
	CO		LA TUQUE ZONE 2	QU **USA BORDER**	47-27-00.0 72-47-00.0	09 -				760216
	CO		LA TUQUE ZONE 2	QU **USA BORDER**	47-27-00.0 72-47-00.0	34 Z				751217
	CO		LA TUQUE ZONE 2	QU **USA BORDER**	47-27-00.0 72-47-00.0	86 Z				751217
CBVT04	CO	LIC	LAC ETCHEMIN ZONE 2	QU **USA BORDER**	46-24-42.0 70-35-37.0	55 + DA	2.47(KW) 0800(FT) HOR			751217
	CO		LAC MEGANTIC ZONE 2	QU **USA BORDER**	45-35-00.0 70-53-00.0	42 +				760512
	CO		MAGOG ZONE 2	QU **USA BORDER**	45-16-00.0 72-09-00.0	81 Z				760512
CHMQTV01	CO	LIC	MANICOUAGAN ZONE 2	QU **USA BORDER**	50-38-45.0 68-44-22.0	10 Z DA	.092(KW) 71(FT) HOR		ME SOCIAL CLUB	760624
CBGAT06	CO	LIC	MATANE ZONE 2	QU **USA BORDER**	48-49-34.0 67-32-34.0	06 +	.422(KW) 0134(FT) HOR		RADIO DIFFUSION D MATANE	730401
CBGAT	CO	LIC	MATANE ZONE 2	QU **USA BORDER**	48-53-25.0 66-38-25.0	06 - DA	303(KW) 2336(FT) HOR		RADIO DIFFUSION D MATANE	751217
	CO		MATANE ZONE 2	QU **USA BORDER**	48-51-00.0 67-32-00.0	24 Z				760512
	CO		MATANE ZONE 2	QU **USA BORDER**	48-51-00.0 67-32-00.0	49 +				760512
CBGAT01	CO	LIC	MONT CLIMONT ZONE 2	QU **USA BORDER**	48-23-50.0 67-19-27.0	11 Z DA	1.33(KW) 0732(FT) HOR		RADIO DIFFUSION D MATANE	751217

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	CO		MONT JOLI ZONE 2	QU **USA BORDER**	48-35-00.0 68-11-00.0	22 Z				751217
CBFT02	CO	LIC	MONT LAURIER ZONE 2	QU **USA BORDER**	46-33-37.0 75-42-20.0	03 + DA	11.3(KW) 0613(FT) HOR		CANADIAN BCTING CORP	751217
	CO		MONT LAURIER ZONE 2	QU **USA BORDER**	46-33-00.0 75-30-00.0	68 Z				760512
CBFT01	CO	LIC	MONT TREMBLANT ZONE 2	QU **USA BORDER**	46-13-10.0 74-33-11.0	11 Z DA	1.20(KW) 1779(FT) HOR		CANADIAN BCTING CORP	751217
	CO		MONTMAGNY ZONE 2	QU **USA BORDER**	46-59-00.0 70-33-00.0	49 Z				760512
	CO		MONTMAGNY ZONE 2	QU **USA BORDER**	46-59-00.0 70-33-00.0	67 Z				760512
CBFT	CO	LIC	MONTREAL ZONE 1	QU **USA BORDER**	45-30-20.0 73-35-32.0	02 Z	100(KW) 0912(FT) HOR		CANADIAN BCTING CORP	751217
CBMT	CO	LIC	MONTREAL ZONE 1	QU **USA BORDER**	45-30-20.0 73-35-32.0	06 +	100(KW) 0828(FT) HOR		CANADIAN BCTING CORP	751217
CFTMTV	CO	LIC	MONTREAL ZONE 1	QU **USA BORDER**	45-30-20.0 73-35-32.0	10 Z	325(KW) 0872(FT) HOR		TELEMETROPOLE CORP	730401
CFCFTV	CO	LIC	MONTREAL ZONE 1	QU **USA BORDER**	45-30-20.0 73-35-32.0	13 Z	325(KW) 0870(FT) HOR		CANADIAN MARCONI CO	730401
CIVMTV	CO	LIC	MONTREAL ZONE 1	QU **USA BORDER**	45-30-20.0 73-35-32.0	17 Z	1350(KW) 0628(FT) HOR			751217
	CO		MONTREAL-VERDUN ZONE 1	QU **USA BORDER**	45-31-00.0 73-34-00.0	23 Z				760512
	CO		MONTREAL-VERDUN ZONE 1	QU **USA BORDER**	45-31-00.0 73-34-00.0	29 Z				761118
	CO		MONTREAL-VERDUN ZONE 1	QU **USA BORDER**	45-31-00.0 73-34-00.0	35 +				760512
	CO		MONTREAL-VERDUN ZONE 1	QU **USA BORDER**	45-31-00.0 73-34-00.0	86 Z				760512
	CO		MONTREAL-VERDUN ZONE 1	QU **USA BORDER**	45-31-00.0 73-34-00.0	76 Z				[illegible]
	CO		MONTREAL-VERDUN ZONE 1	QU **USA BORDER**	45-31-00.0 73-34-00.0	82 Z				760512
	CO		ST LOUIS EN HAUT ZONE 2	QU **USA BORDER**	49-13-20.0 65-45-36.0	18 Z				770324

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	CO	NEW CARLISLE ZONE 2 **USA BORDER**	QU	48-01-00.0 65-20-00.0	17 +					760512
CHAUTV06	CO LIC	PERCE ZONE 2 **USA BORDER**	QU	48-31-38.0 64-14-40.0	02 + DA	.845(KW) HOR	1215(FT)	TV D LA BAIE D CHALEURS		751217
	CO	PERCE ZONE 2 **USA BORDER**	QU	48-31-00.0 64-13-00.0	15 +					760512
	CO	PLESSISVILLE ZONE 1 **USA BORDER**	QU	46-13-00.0 71-47-00.0	[illegible] +					760512
CKRSTV01	CO LIC	PORT ALFRED ZONE 2 **USA BORDER**	QU	48-19-20.0 70-49-48.0	[illegible] + DA	.038(KW) HOR	0061(FT)	RADIO SAGUENAY LTD		751217
	CO	PT ALFRED-BAGOTVILLE ZONE 2 **USA BORDER**	QU	48-20-00.0 70-53-00.0	53 +					781118
	CO	PT ALFRED-BAGOTVILLE ZONE 2 **USA BORDER**	QU	48-20-00.0 70-53-00.0	84 +					781118
CFCMTV	CO LIC	QUEBEC ZONE 1 **USA BORDER**	QU	46-47-04.0 71-15-54.0	04 Z	100(KW) HOR	0460(FT)	TV DE QUEBEC LTD		730401
CKMJTV	CO LIC	QUEBEC ZONE 1 **USA BORDER**	QU	46-47-04.0 71-15-54.0	[illegible] - [illegible]	13.9(KW) HOR	0460(FT)	TV DE QUEBEC		730401
CBVT	CO LIC	QUEBEC ZONE 1 **USA BORDER**	QU	46-51-40.4 71-04-46.2	11 + DA	316(KW) HOR	0641(FT)	CANADIAN ACTING CORP		751217
CIVQTV	CO LIC	QUEBEC ZONE 1 **USA BORDER**	QU	46-48-27.0 71-13-02.0	15 - [illegible]	1455(KW) HOR	0828(FT)			751217
	CO	QUEBEC-LEVIS ZONE 1 **USA BORDER**	QU	46-49-00.0 71-13-00.0	02 +					760512
	CO	QUEBEC-LEVIS ZONE 1 **USA BORDER**	QU	46-49-00.0 71-13-00.0	21 Z					760512
	CO	QUEBEC-LEVIS ZONE 1 **USA BORDER**	QU	46-49-00.0 71-13-00.0	27 Z					760512
	CO	QUEBEC-LEVIS ZONE 1 **USA BORDER**	QU	46-49-00.0 71-13-00.0	45 Z					760512
	CO	QUEBEC-LEVIS ZONE 1 **USA BORDER**	QU	46-49-00.0 71-13-00.0	51 +					760512
	CO	QUEBEC-LEVIS ZONE 1 **USA BORDER**	QU	46-49-00.0 71-13-00.0	77 +					760512
	CO	QUEBEC-LEVIS ZONE 1 **USA BORDER**	QU	46-49-00.0 71-13-00.0	[illegible] +					760512

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	CO	RAPIDES DES JOUCHIMS ZONE 2 **USA BORDER**	QU	46-11-58.0 77-42-40.0	08 -					781118
CJBRTV	CO LIC	RIMOUSKI ZONE 2 **USA BORDER**	QU	48-19-40.0 68-50-09.0	03 - DA	100(KW) HOR	0986(FT)	LOWER ST LAWRENCE RADIO		751217
	CO	RIMOUSKI ZONE 2 **USA BORDER**	QU	48-27-00.0 68-32-00.0	16 Z					760512
	CO	RIMOUSKI ZONE 2 **USA BORDER**	QU	48-27-00.0 68-32-00.0	51 Z					760512
CKRTTV	CO LIC	RIVIERE DU LOUP ZONE 2 **USA BORDER**	QU	47-35-03.0 69-22-10.0	07 + [illegible]	49(KW) HOR	1158(FT)	CKRTTV LTEE		730401
	CO	RIVIERE DU LOUP ZONE 2 **USA BORDER**	QU	47-50-00.0 69-32-00.0	35 -					751217
	CO	RIVIERE DU LOUP ZONE 2 **USA BORDER**	QU	47-50-00.0 69-32-00.0	71 Z					751217
CHAUTV07	CO LIC	RIVIERE-RENARD ZONE 2 **USA BORDER**	QU	48-59-52.0 64-25-55.0	07 Z	.098(KW) HOR	0708(FT)	TV D LA BAIE D CHALEURS		751217
CKRSTV03	CO LIC	ROBERVAL ZONE 2 **USA BORDER**	QU	48-24-05.0 72-05-23.0	08 + DA	4.12(KW) HOR	0532(FT)	RADIO SAGUENAY LTD		751217
	CO	ROBERVAL ZONE 2 **USA BORDER**	QU	48-31-00.0 72-13-00.0	10 Z					760921
	CO	ROBERVAL ZONE 2 **USA BORDER**	QU	48-31-00.0 72-13-00.0	28 +					751217
	CO	STE ADELE ZONE 1 **USA BORDER**	QU	45-56-38.0 74-08-10.0	56 +					751217
	CO	ST FABIEN DE PANET ZONE 2 **USA BORDER**	QU	46-39-33.0 70-08-51.0	13 Z					781118
	CO	ST FILICIEN ZONE 2 **USA BORDER**	QU	48-39-00.0 72-27-00.0	72 +					760512
	CO	ST GEORGES DE BEAUCE ZONE 1 **USA BORDER**	QU	46-07-00.0 70-40-00.0	72 Z					781118
	[illegible]	ST HYACINTHE ZONE 1 **USA BORDER**	QU	45-38-00.0 72-57-00.0	47 +					760512
	CO	ST JEAN-IBERVILLE ZONE 1 **USA BORDER**	QU	45-19-00.0 73-14-00.0	70 -					781118
	CO	ST JEROME ZONE 1 **USA BORDER**	QU	45-46-41.0 74-00-11.0	04 Z					751217

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	CO	ST JEROME ZONE 1 **USA BORDER**	QU	45-47-00.0 74-00-00.0	78 Z					751217
CHAUTV01	CO LIC	STE MARGUERITE-MARIE ZONE 2 **USA BORDER**	QU	48-18-40.0 67-05-06.0	02 - [illegible]	8.15(KW) HOR	0700(FT)	TV D LA BAIE D CHALEURS		781118
CBVAT	CO LIC	ST PAMPHILE ZONE 2 **USA BORDER**	QU	46-55-53.0 69-49-20.0	03 + DA	.370(KW) HOR	389(FT)			760825
	CO	ST PROSPER ZONE 2 **USA BORDER**	QU	46-13-00.0 70-29-00.0	23 +					780809
	CO	SEPT ILES ZONE 2 **USA BORDER**	QU	50-12-00.0 66-23-00.0	03 +					751217
	[illegible]	SEPT ILES ZONE 2 **USA BORDER**	QU	50-12-00.0 66-23-00.0	11 -					751217
CBST	CO LIC	SEPT ILES ZONE 2 **USA BORDER**	QU	50-08-56.0 66-26-12.0	13 + DA	20(KW) HOR	0903(FT)			751217
	CO	SEPT ILES ZONE 2 **USA BORDER**	QU	50-12-00.0 66-23-00.0	14 Z					751217
	CO	SEPT ILES ZONE 2 **USA BORDER**	QU	50-12-00.0 66-23-00.0	20 +					751217
	CO	SHAWINIGAN FALL ZONE 1 **USA BORDER**	QU	46-33-00.0 72-45-00.0	18 +					760512
	[illegible]	SHAWINIGAN FALL ZONE 1 **USA BORDER**	QU	46-33-00.0 72-45-00.0	63 Z					760512
CHLTTV	CO LIC	SHERBROOKE ZONE 1 **USA BORDER**	QU	45-18-43.0 72-14-32.0	07 Z DA	300(KW) HOR	1920(FT)	RADIO TV SHERBROOKE INC		751217
CKSHTV08	CO LIC	SHERBROOKE ZONE 1 **USA BORDER**	QU	45-18-43.0 72-14-32.0	09 Z DA	325(KW) HOR	2026(FT)			751217
	CO	SHERBROOKE ZONE 1 **USA BORDER**	QU	45-24-00.0 71-54-00.0	14 -					751217
	CO	SHERBROOKE ZONE 1 **USA BORDER**	QU	45-24-00.0 71-54-00.0	36 [illegible]					751217
	CO	SHERBROOKE ZONE 1 **USA BORDER**	QU	45-24-00.0 71-54-00.0	58 Z					751217
	CO	SOREL-TRACY ZONE 1 **USA BORDER**	QU	46-03-00.0 73-07-00.0	25 Z					760512
	CO	THETFORD MINES ZONE 1 **USA BORDER**	QU	46-05-00.0 71-18-00.0	32 Z					780512

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	CO	THETFORD MINES ZONE 1 **USA BORDER**	QU	46-05-00.0 71-18-00.0	74 Z					760512
	CO	THETFORD MINES ZONE 1 **USA BORDER**	QU	46-05-00.0 71-18-00.0	80 Z					760512
CBFST02	CO LIC	TIMISKAMING ZONE 2 **USA BORDER**	QU	46-38-28.0 79-04-24.0	12 - DA	14.2(KW) HOR	0860(FT)	CANADIAN ACTING CORP		780115
	CO	TROIS PISTOLES ZONE 2 **USA BORDER**	QU	48-07-00.0 69-11-00.0	73 Z					780512
CHENTV	CO LIC	TROIS RIVIERES ZONE 2 **USA BORDER**	QU	46-30-10.0 72-38-15.0	[illegible] I DA	12.5(KW) HOR	626(FT)			770310
CKTMTV	CO LIC	TROIS RIVIERES ZONE 1 **USA BORDER**	QU	46-29-27.0 72-39-00.0	13 - DA	325(KW) HOR	1323(FT)	TV ST MAURICE INC		751217
	CO	TROIS RIVIERES ZONE 1 **USA BORDER**	QU	46-21-00.0 72-33-00.0	28 [illegible]					770324
	CO	TROIS RIVIERES ZONE 1 **USA BORDER**	QU	46-21-00.0 72-33-00.0	37 Z					751217
	CO	TROIS RIVIERES ZONE 1 **USA BORDER**	QU	46-21-00.0 72-33-00.0	[illegible] +					751217
	CO	VALLEYFIELD ZONE 1 **USA BORDER**	QU	45-15-00.0 74-08-00.0	30 Z					760512
	CO	VALLEYFIELD ZONE 1 **USA BORDER**	QU	45-15-00.0 74-08-00.0	86 +					760512
	CO	VICTORIAVILLE ZONE 1 **USA BORDER**	QU	46-03-00.0 71-58-00.0	71 +					760512
	CO	ASSINIBOIA ZONE 2 **USA BORDER**	SA	49-38-00.0 105-59-00.0	81 Z					780512
	CO	BEAUVAL ZONE 3	SA	55-09-00.0 107-36-00.0	07 +					760722
	CO	BIGGAR ZONE 2 **USA BORDER**	SA	52-04-00.0 108-00-00.0	41 -					760512
	CO	BROADVIEW ZONE 2 **USA BORDER**	SA	50-20-00.0 102-30-00.0	62 Z					780512
	CO	BUFFALO NARROWS ZONE 2	SA	55-51-00.0 108-30-00.0	11 Z					760722
	CO	CANORA ZONE 2 **USA BORDER**	SA	51-37-00.0 102-26-00.0	64 -					760512

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CFSSTV08	CO LIC	CARLYLE LAKE ZONE 2 **USA BORDER**	SA	49-44-22.0 102-16-38.0	07 +	100(KW) DA	0886(FT) HOR	YORKTOWN TV CO LTD			751217
CKCKTV01	CO LIC	COLGATE ZONE 2 **USA BORDER**	SA	49-26-16.0 103-47-53.0	12 Z	27.5(KW) DA	0532(FT) HOR	TRANSCANADA COMM LTD			751217
	CO	ESTEVAZY ZONE 2 **USA BORDER**	SA	50-40-00.0 102-08-00.0	[illegible] +						760512
	CO	ESTEVAN ZONE 2 **USA BORDER**	SA	49-08-00.0 102-59-00.0	40 Z						760512
	CO	ESTON ZONE 2 **USA BORDER**	SA	51-10-00.0 108-46-00.0	32 Z						760512
	CO	FT QU'APPELLE ZONE 2 **USA BORDER**	SA	50-46-00.0 103-48-00.0	41 Z						781118
	CO	GRAVELBOURG ZONE 2 **USA BORDER**	SA	49-53-00.0 106-34-00.0	39 -						760512
CHBITV03	CO LIC	GREENWATER LAKE ZONE 2 **USA BORDER**	SA	52-28-03.0 103-30-15.0	04 Z	.3(KW) HOR	0718(FT)	CENTRAL BCTING CO			730401
	CO	HUMBOLT ZONE 2 **USA BORDER**	SA	52-12-00.0 105-07-00.0	25 Z						760512
	CO	ILE A LA CROSSE ZONE 2	SA	55-27-00.0 107-53-00.0	[illegible] +						760722
	CO	INDIAN HEAD ZONE 2 **USA BORDER**	SA	50-31-00.0 103-40-00.0	75 +						751217
	CO	KAMSACK ZONE 2 **USA BORDER**	SA	51-34-00.0 101-54-00.0	42 +						760512
	CO	KINDERSLEY ZONE 2 **USA BORDER**	SA	51-27-00.0 109-10-00.0	38 +						760512
	CO	LA LOCHE ZONE 2	SA	56-29-00.0 109-38-00.0	13 -						760722
	CO	LA RONGE ZONE 2	SA	55-06-30.0 105-19-00.0	12 Z						760722
	CO	LEOVILLE ZONE 2	SA	53-37-00.0 107-35-00.0	12 +						760722
	CO	MAPLE CREEK ZONE 2 **USA BORDER**	SA	49-55-00.0 109-27-00.0	53 +						760512
	CO	MELVILLE ZONE 2 **USA BORDER**	SA	50-55-00.0 102-48-00.0	48 +						760512

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	[illegible]	MICHEL ZONE 2	SA	55-59-00.0 109-05-00.0	[illegible] +						760722
CBAMT	CO LIC	MOOSE JAW ZONE 2 **USA BORDER**	SA	50-23-25.0 105-55-38.0	04 - DA	100(KW) HOR	0783(FT)	CANADIAN BCTING CORP			751217
CKMJTV	CO LIC	MOOSE JAW ZONE 2 **USA BORDER**	SA	50-38-43.0 105-46-06.0	07 - DA	98(KW) HOR	0768(FT)	TRANSCANADA COMM LTD			751217
	CO	MOOSE JAW ZONE 2 **USA BORDER**	SA	50-23-00.0 105-32-00.0	16 Z						760512
	CO	MOOSE JAW ZONE 2 **USA BORDER**	SA	50-23-00.0 105-32-00.0	26 Z						760512
	CO	MOOSE JAW ZONE 2 **USA BORDER**	SA	50-23-00.0 105-32-00.0	58 Z						760512
	CO	MOOSOMIN ZONE 2 **USA BORDER**	SA	50-07-00.0 101-40-00.0	54 +						760512
CICCTV2	CO LIC	NORQUAY ZONE 2 **USA BORDER**	SA	52-03-00.0 102-03-18.0	07 - DA	.13(KW) HOR	353(FT)				761129
CKQSTV1	CO LIC	NORQUAY ZONE 2 **USA BORDER**	SA	52-03-00.0 102-03-18.0	13 Z DA	.25(KW) HOR	374(FT)				761129
	CO	OXBOW ZONE 2 **USA BORDER**	SA	49-14-00.0 102-11-00.0	[illegible] +						760512
	CO	PRINCE ALBERT ZONE 2	SA	53-12-06.0 105-45-12.0	03 +						760722
	CO	PRINCE ALBERT ZONE 2	SA	53-12-06.0 105-45-12.0	[illegible] +						751217
CKCKTV	CO LIC	REGINA ZONE 2 **USA BORDER**	SA	50-36-52.0 104-30-00.0	[illegible] Z	100(KW) HOR	0588(FT)	TRANSCANADA COMM LTD			730401
CBAAT	CO LIC	REGINA ZONE 2 **USA BORDER**	SA	50-28-58.0 104-30-20.0	09 - DA	250(KW) HOR	0680(FT)	CANADIAN BCTING CORP			751217
	CO	REGINA ZONE 2 **USA BORDER**	SA	50-27-00.0 104-36-36.0	13 -						760525
	CO	REGINA ZONE 2 **USA BORDER**	SA	50-25-00.0 104-39-00.0	18 +						760512
	CO	REGINA ZONE 2 **USA BORDER**	SA	50-25-00.0 104-39-00.0	24 +						760512
	CO	REGINA ZONE 2 **USA BORDER**	SA	50-25-00.0 104-39-00.0	47 Z						760512

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	CO	REGINA ZONE 2 **USA BORDER**	SA	50-25-00.0 104-39-00.0	53 Z						760512
	CO	REGINA ZONE 2 **USA BORDER**	SA	50-25-00.0 104-39-00.0	71 Z						760512
	CO	REGINA ZONE 2 **USA BORDER**	SA	50-25-00.0 104-39-00.0	77 -						760512
CJFBTV03	CO LIC	RIVERHURST ZONE 2 **USA BORDER**	SA	50-44-25.0 106-54-34.0	10 - [illegible]	.71(KW) HOR	0776(FT)	SWIFT CURRENT BCTING			751217
	CO	ROSETOWN ZONE 2 **USA BORDER**	SA	51-33-00.0 108-00-00.0	63 Z						751217
CFQCTV	CO LIC	SASKATOON ZONE 2 **USA BORDER**	SA	52-11-30.0 106-23-01.0	08 + DA	325(KW) HOR	0866(FT)	A A MURPHY & SONS			780414
CBKST	CO LIC	SASKATOON ZONE 2 **USA BORDER**	SA	52-10-25.0 106-25-42.0	11 Z	325(KW) HOR	0786(FT)	CANADIAN BCTING CORP			730401
	CO	SASKATOON ZONE 2 **USA BORDER**	SA	52-11-00.0 106-26-00.0	13 Z						751217
	CO	SASKATOON ZONE 2 **USA BORDER**	SA	52-07-00.0 106-38-00.0	17 Z						760512
	CO	SASKATOON ZONE 2 **USA BORDER**	SA	52-07-00.0 106-38-00.0	23 Z						760512
	CO	SASKATOON ZONE 2 **USA BORDER**	SA	52-07-00.0 106-38-00.0	33 Z						760512
	CO	SASKATOON ZONE 2 **USA BORDER**	SA	52-07-00.0 106-36-00.0	54 Z						760512
	CO	SASKATOON ZONE 2 **USA BORDER**	SA	52-07-00.0 106-38-00.0	70 Z						760512
	CO	SASKATOON ZONE 2 **USA BORDER**	SA	52-07-00.0 106-38-00.0	78 Z						760512
CBCPTV01	CO LIC	SHAUNAVON ZONE 2 **USA BORDER**	SA	49-28-05.0 108-26-04.0	01 + DA	2.65(KW) HOR	0580(FT)	CANADIAN BCTING CORP			751217
	CO	SHAUNAVON ZONE 2 **USA BORDER**	SA	49-40-00.0 108-25-00.0	78 Z						760513
CFQCTV01	CO LIC	STRANRAER ZONE 2 **USA BORDER**	SA	51-40-55.0 108-30-15.0	03 - DA	10.3(KW) HOR	0930(FT)	A.A. MURPHY & SONS LTD			751217
CBKSTG1	CO LIC	STRANRAER ZONE 2 **USA BORDER**	SA	51-40-25.0 108-28-54.0	09 Z [illegible]	55(KW) HOR	0765(FT)	CANADIAN BCTING CORP			751217

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CJFBTV	CO LIC	SWIFT CURRENT ZONE 2 **USA BORDER**	SA	50-20-20.0 107-47-17.0	05 -	13.3(KW) HOR	0511(FT)	SWIFT CURRENT BCTING CO			730401
CKMCTV	[illegible] LIC	SWIFT CURRENT ZONE 2 **USA BORDER**	SA	50-18-31.0 107-52-35.0	12 - DA	.25(KW) HOR	549(FT)				770310
	CO	SWIFT CURRENT ZONE 2 **USA BORDER**	SA	52-17-00.0 107-50-00.0	40 +						751217
	CO	SWIFT CURRENT ZONE 2 **USA BORDER**	SA	50-17-00.0 107-50-00.0	56 Z						760512
	CO	UNITY ZONE 2 **USA BORDER**	SA	52-27-00.0 109-10-00.0	80 -						760512
	CO	WATROUS ZONE 2 **USA BORDER**	SA	51-40-00.0 105-28-00.0	78 +						751217
	CO	WEYBURN ZONE 2 **USA BORDER**	SA	49-41-00.0 103-52-00.0	48 +						760512
	CO	WILKIE ZONE 2 **USA BORDER**	SA	52-25-00.0 108-43-00.0	31 Z						751217
CKCKTV02	CO LIC	WILLOW BUNCH ZONE 2 **USA BORDER**	SA	49-20-58.0 105-36-08.0	06 - DA	17.5(KW) HOR	0864(FT)	TRANSCANADA COMM LTD			751217
CBKMT01	CO LIC	WILLOW BUNCH ZONE 2 **USA BORDER**	SA	49-23-10.0 106-40-17.0	10 + [illegible]	65.8(KW) HOR	0839(FT)	CANADIAN BCTING CORP			751217
CHSSTV	CO LIC	WYNYARD ZONE 2 **USA BORDER**	SA	51-42-30.0 104-17-55.0	08 Z	.11(KW) HOR	0614(FT)	YORKTOWN TV CO LTD			761129
CICCTV01	CO LIC	WYNYARD ZONE 2 **USA BORDER**	SA	51-42-30.0 104-17-55.0	12 + DA	.61(KW) HOR	0560(FT)				761129
	CO	WYNYARD ZONE 2 **USA BORDER**	SA	51-47-00.0 104-10-00.0	31 +						761129
CKQSTV	CO LIC	YORKTON ZONE 2 **USA BORDER**	SA	51-12-33.0 102-43-59.0	03 Z	.15(KW) HOR	0534(FT)	YORKTOWN TV CO LTD			751217
CICCTV	CO LIC	YORKTON ZONE 2 **USA BORDER**	SA	51-12-33.0 102-43-59.0	10 Z	39.2(KW) HOR	0444(FT)				750708
	CO	YORKTON ZONE 2 **USA BORDER**	SA	51-13-00.0 102-28-00.0	30 Z						751217
	CO	YORKTON ZONE 2 **USA BORDER**	SA	51-13-00.0 102-28-00.0	33 +						751217
	CO	CLINTON CREEK ZONE 2 **USA BORDER**	YU	64-24-07.0 140-36-50.0	08 Z						751217

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	CO	DAWSON	YU	64-04-00.0	03 Z				751217
		ZONE 2	**USA BORDER**	139-25-30.0					
	CO	DAWSON	YU	64-35-00.0	10 Z				751217
		ZONE 2	**USA BORDER**	139-25-36.0					
	CO	DAWSON	YU	64-03-00.0	14 Z				751217
		ZONE 2	**USA BORDER**	139-25-00.0					
	CO	DAWSON	YU	64-03-00.0	20 Z				751217
		ZONE 2	**USA BORDER**	139-28-00.0					
	CO	ELSA	YU	63-53-48.0	DE Z				751217
		ZONE 2	**USA BORDER**	135-34-00.0					
	CO	FARO	YU	62-13-47.0	DB Z				751217
		ZONE 2	**USA BORDER**	133-20-00.0					
CBKM7	CO LIC	KENO HILL	YU	63-54-55.0	13 Z	2.52(KW)	1590(FT)		780414
		ZONE 2	**USA BORDER**	135-23-50.0	DA	HOR			
	CO	MAYO	YU	63-40-00.0	07 Z				751217
		ZONE 2	**USA BORDER**	135-51-36.0					
CBOAT	CO LIC	WATSON LAKE	YU	60-03-52.0	28 +	.19(KW)	0-29(FT)	CANADIAN BCTING CORP	780414
		ZONE 2	**USA BORDER**	128-42-52.0	DA	HOR			
	CO	WHITEHORSE	YU	60-42-00.0	02 +				751217
		ZONE 2	**USA BORDER**	135-05-30.0					
CFWHTV	CO LIC	WHITEHORSE	YU	60-39-35.0	VE Z	.3(KW)	1240(FT)	CANADIAN BCTING CORP	730401
		ZONE 2	**USA BORDER**	134-52-56.0		HOR			
	CO	WHITEHORSE	YU	60-44-00.0	14 Z				751217
		ZONE 2	**USA BORDER**	135-05-30.0					
	CO	WHITEHORSE	YU	60-44-00.0	VE Z				751217
		ZONE 2	**USA BORDER**	135-05-30.0					

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federal register

TUESDAY, MAY 24, 1977

PART VIII



CIVIL AERONAUTICS BOARD

■

DISCOUNT FARE POLICY

Statements of General Policy

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[PSDR-47; Docket 30891; Dated May 16, 1977]

STATEMENTS OF GENERAL POLICY

Discount Fare Policy

MAY 16, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: At the present time, the Board evaluates discount fares proposed by the airlines for trips within the 48 contiguous States on the basis of a profit-impact test. If the airline convinces the Board that the net revenues from the fare offset the added costs of carrying the new passengers generated by the fare, the Board permits the fare to become effective without investigation. It is often difficult, however, to determine in advance whether a particular fare will meet this test. Accordingly, the Board has decided to solicit public views on whether it should change the test for evaluating discount fares, and, if so, what standards should be used instead.

DATES: Comments by July 25, 1977.

ADDRESSES: Comments should be sent to Docket 30891, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202–673–5436.

SUPPLEMENTARY INFORMATION: In Phase 5 of the *Domestic Passenger-Fare Investigation*, Docket 21866–5,[1] the Board concluded that, in the long run, discount fares which are not based on cost savings are uneconomic. However, the Board also found that, in the short run, such discount fares may be useful in periods of excess capacity, in developing new routes and markets, and in stimulating traffic in thin markets served at low load factors with a minimum service pattern. The Board therefore determined for purposes of passenger fares in the 48 States, to allow the carriers to offer discount fares subject to polices designed to protect normal-fare traffic from the revenue dilution from discount fares, and to assure that the discount fares produce favorable results in the short run. In the latter regard, the Board adopted a profit-impact test to measure the short term economics of a discount fare, and a policy that discount-fare tariffs should be marked to expire after an eighteen-month period to assure that the fares continue to be warranted. These policies were codified in § 399.33(f) of our Statements of General Policy (14 CFR 399.33(f)),[2] as follows:

(f) With respect to discount fares not based on cost savings:

(1) Carriers should be free to utilize discount fares within their managerial discretion, subject to the conditions that such fares are not unjustly discriminatory and meet the profit-impact test (i.e., that they generate sufficient traffic to more than offset the diversion of full-fare traffic and the added noncapacity costs associated with the generated traffic less any savings in cost attributable to the nature of the service provided to the discount traffic); and

(2) Promotional-fare tariffs should contain expiration dates not to exceed 18 months from the effective date;

As these policies are applied, carriers proposing to initiate new discount fares must include a showing of profit impact in their justification. This requires estimates of the amount of traffic that will be newly generated by the fare, how much traffic will instead be diverted from other fares, and the net added costs attributable to carrying the newly generated traffic. If carriers wish to renew the fares after their initial expiry date, they must include an analysis of profit impact based on the actual results of the fare.

While there has been no general opposition to the concept of the profit-impact test, as a practical matter the test has been difficult to administer. This is due both to the nature of the test and to the procedural framework in which it most often comes into play. With respect to newly proposed discount fares, the analysis of traffic generation and diversion is a prediction of future behavior which cannot be reduced to mathematical certainty. Furthermore, estimating the added costs attributable to the newly generated traffic necessarily involves some degree of judgment. Even in the context of the renewal of a discount fare, an evaluation of the actual results achieved with the fare still presents the problem of ascertaining how many passengers who used the fares were passengers who would have flown in any event, and leaves room for dispute as to the added costs attributable to the generated traffic. Moreover, the profit-impact analysis is most frequently utilized in connection with carrier tariff filings—i.e., the decision whether or not to institute a formal investigation. In this procedural framework, the Board must reach its determination in a very short period of time on the basis of written pleadings of the interested parties with no opportunity for an in-depth examination of the assumptions and judgments underlying the parties' analyses.[3]

While the profit-impact test was adopted in Phase 5 more than four years ago, the experience gained by the Board and the carriers with the use of this test has not narrowed the areas of dispute. Thus the Board is frequently called upon to referee disputes among competing carriers as to whether particular discount fares should be permitted to take effect. The Board recognizes the undesirable consequences which can flow from imprudent use of discount fares. At the same time, however, the suspension of a discount fare can be viewed as a determination of the Board that a carrier needs to be protected from its own managerial decision; suspension further means that the public will be deprived of the potential benefits of the discount fare. The Board is troubled by having to use such an imprecise test as the profit-impact analysis for the basis of such determinations.

For these reasons, the Board has decided to explore whether the profit-impact test and 18-month expiry period should be reevaluated. The Board has not concluded that there necessarily should be a change in the way in which it evaluates discount fares; it may well be that with all its imperfections, the profit-impact test does perform a useful function in a reasonably reliable manner overall. Nonetheless, the issue is of sufficient concern to the Board that the Board believes it is desirable to explore the merits of the present standards and possible alternatives to those standards. Thus the Board is interested in receiving comments whether a change in the present policies regarding the evaluation of discount fares is warranted, and if so, what policies or procedures should be used instead. To stimulate response on these issues, we have listed below a number of possible alternatives. However, this list should not be regarded as exhaustive. On the contrary, the Board is receptive to other suggestions and would be particularly interested in any forms of analysis that the carriers may use for their own evaluation of discount fares.

ALTERNATIVES TO PRESENT PHASE 5 POLICIES

A. Eliminate the profit-impact test as a standard for determining the reasonableness of discount fares, and allow the carriers to offer any type of discount fare unless it is predatory or unjustly discriminatory. The requirement that discount tariffs be marked to expire within 18 months would also be eliminated. This is essentially the approach we adopted for the mainland-Hawaii markets in our recent decision in the *Hawaii Fares Investigation*, Order 76–10–37, October 8, 1976.[4] This approach would give carrier management significant flexibility in pricing discount fares, as well as the responsibility for the consequences which may flow from the exercise of that flexibility. Since the Board would continue to remove the impact of discount fares from computations of the normal-fare level, carrier management would be discouraged from introducing discount fares which were uneconomic. Presumably carrier management would monitor the profitability of discount fares and discontinue those which were unprofitable and/or ceased to meet the goals for which they were designed.

B. Eliminate the profit-impact test, but require the carriers to show that the discount fare would not result in a material deterioration in service for normal-fare passengers. With this as a standard, the carrier would need to demonstrate that the discount fare is not likely to impinge on the availability of seats for normal-fare traffic. This could result in more reliance on standby fares, capacity-control restrictions, or peak-period blackouts than is now the case. This standard could also be accompanied by an expiry requirement to allow periodic reevaluation of the fare.

C. Allow any new promotional fare to go into effect for a limited period of time, such as twelve months, regardless of profit impact. Upon application for renewal of a discount fare, a carrier would be required to demonstrate that the fare met the profit-impact test. This approach recognizes the difficulties inherent in deriving reliable generation/diversion ratios without the benefit of actual experience. The carriers would be expected to accumulate a body of data sufficient to provide a realistic basis for assessing the profit impact of the experimental fare. In order to avoid subjecting discount-fare filings to the profit-impact test required for renewal, however, carriers could try to turn an existing discount fare into a "new" proposal by making only minor changes to an existing discount.

D. Limit C above to promotional fares accompanying an award of new route authority. This approach would provide the wide pricing latitude needed to encourage rapid development of a traffic base for a new service. It also recognizes that meaningful generation/diversion ratios for particularly difficult to estimate when there is no prior experience in the market.

E. Retain the profit-impact test, and require discount tariffs to contain an expiration date, but shift the burden of proof in an initial filing to the complainant. The proponent carrier would have the burden of satisfying the profit-impact test if it wished to renew the fare. In administering the profit-impact test the Board would still be faced with the task of evaluating the reliability of the generation/diversion ratios and cost analyses submitted by the complainant.

F. Allow certain types of discount fares to be maintained without a showing that they meet the profit-impact test. The various discount fares would need to be categorized within a comprehensive consistent framework, and the Board would need to conduct a broad study of previous discounts to determine which ones were economic. While the establishment of a clearly defined discount-fare structure would alleviate public confusion and assure carrier management that tariffs matching the Board-approved design would not be suspended or investigated, the existence of a rigid structure might discourage innovative pricing. Also, discount fares which were profitable in one time period might not be profitable in a later period characterized by different economic conditions.

G. Retain the profit-impact test, but standardize the type of market research necessary to prove the generation/diversion ratio and provide guidelines on cost analyses. Specific comments on the types of analysis which prompt management to introduce or extend discount fares will be very useful to the Board in evaluating this alternative. Clear guidelines as to what constitutes adequate justification in support of discount tariff filings can minimize carrier burden, as well as simplify the Board's task of administering the profit-impact test. However, since discount fares are designed to meet a variety of market conditions it could be very difficult to determine a set of standards and guidelines which would be appropriate in all cases. Clearly defined standards could be adopted in conjunction with the approach outlined in C above. In this case only renewal filings would have to make a showing of favorable profit impact. The supporting data and the analytical effort required could be tailored to particular discount-fare proposals. A carrier would have been on notice since the fare went into effect that certain data would be required upon application for renewal.

H. Eliminate all noncost-based discount fares, and move instead toward greater use of peak and off-peak pricing. A basic problem with any standard for evaluating the effects of the discount fares offered at the present time is that those discount fares are uneconomic in the long run; the problem is one of differentiating between "good" below-cost fares and "bad" below-cost fares. The replacement of that kind of fare structure by greater use of peak and off-peak pricing, including seasonal and day-of-week pricing differentials, would tend to encourage more efficient operations in the long run and would direct price reductions at specific periods of excess capacity much more effectively than in alternative B. However, it may be difficult for a carrier to move in this direction so long as the noncost-based discounts, such as excurison, tour-basing, and group fares continue to be permitted. In connection with this alternative, the Bureau of Economics has recently completed a staff study into the relationship between peak and off-peak pricing and load factors. We are attaching this study as an appendix and invite comments on the study as well.

The Board wishes to reiterate that the foregoing list of alternatives is not intended to be exhaustive. Moreover, it is recognized that there are a number of possible variations in the alternatives depending on such factors as whether or not there should be an expiry requirement and how long such a requirement should be. The Board, after receiving comments from interested persons, will decide whether further proceedings in this matter are necessary and, if so, what further procedures should be utilized.

Interested persons may take part in this rulemaking by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sec. 204, 403, 404, and 1002, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, and 788, as amended; 49 U.S.C. 1324, 1373, 1374, and 1482; and 5 U.S.C. 552.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

DEMAND-PEAKING PROBLEM

A STAFF STUDY BY THE BUREAU OF ECONOMICS

I. *Background.* In Phase 6B of the DPFI, the Board determined that a standard load factor of 55 percent would be applicable for ratemaking purposes to the 48-State operations of the domestic trunk carriers.[1] Since the Board's adoption of this standard, the structure of the industry has changed markedly. The greatest changes have occurred on the supply side where fuel costs have skyrocketed and the efficient use of our finite fossil fuel resources has gained new prominence among our national priorities.

In recognition of these changes, the Board, on August 19, 1975, set down for reexamination the question of whether the current 55-percent standard remains reasonable. Specifically, the Board stated:

> We intend to reexamine the existing standards in terms of their relationship to both the level and structure of fares. Thus, the issues will include the overall load factor standard, the extent to which load factor standards should vary for different classes of service, and how the load factor standards should apply at varying distances. (PSDR–43, p. 2)

Pursuant to this investigation, a prehearing conference was held which resulted in the production of detailed daily service segment data for the mid month of each quarter during calendar year 1975 and the first half of 1976.

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[1] Order 72–12–18; see, also, the opinion and order on reconsideration, Order 73–5–2.

[2] PS–63, February 7, 1975.

[3] Even in formal investigations of discount fares, the reliability of evidence on generation, diversion, and added costs has been highly disputed.

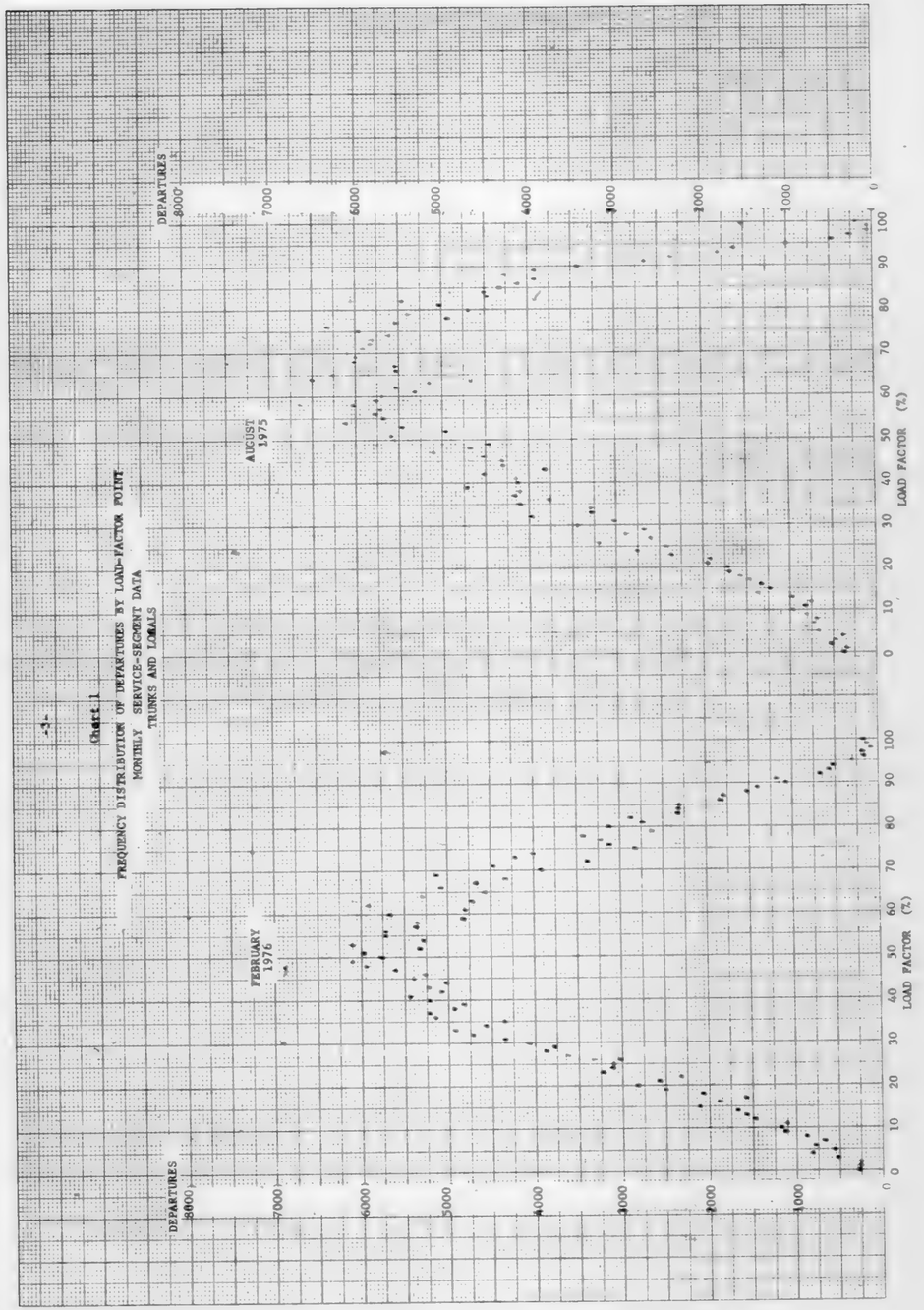
[4] Petitions for reconsideration of that decision are pending before the Board.

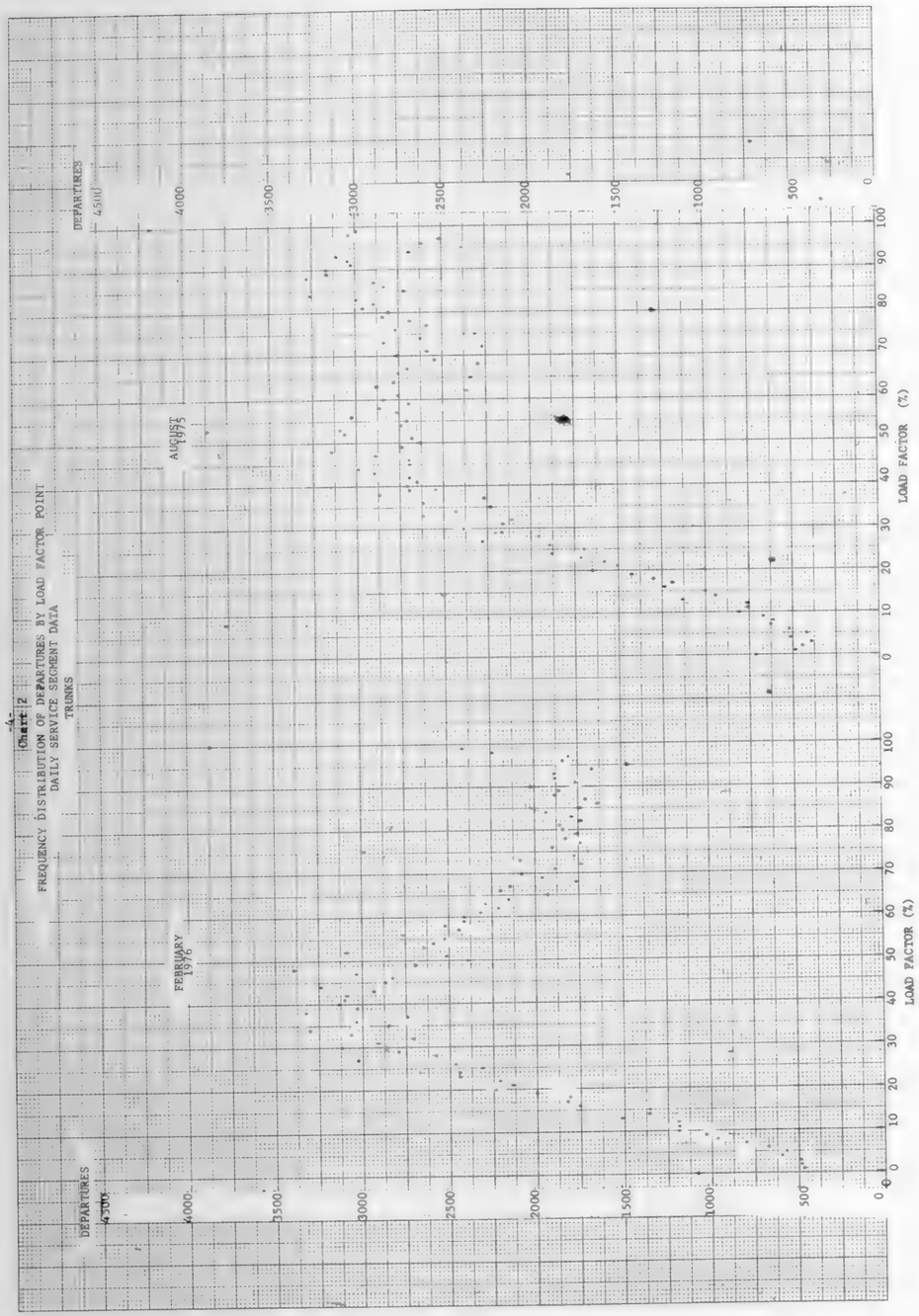
[1] See Orders 71–4–54 and 74–3–81.

This wealth of heretofore unavailable data both contradicts assumptions based on the best information previously available and provides fuel for a deeper analysis of the problem than would otherwise have been possible; indeed, the implications of the data go well beyond the limited load-factor issues and bear strongly on the overall industry pricing structure—including the discount fare structure.

To be more specific, the monthly service-segment data, which were available prior to this investigation, show that when individual flights are arranged according to their average load factors, a normal distribution is obtained. In other words, a bell-shaped curve emerges, indicating that most flights have load factors which are near the overall average and only a relatively few flights have very high or very low load factors. It had been assumed from this that were individual daily departures to be similarly arrayed, a normal distribution would also result. As may be seen from comparing Charts 1 and 2 on the following pages, this assumption proved to be false. There is a larger than expected number of full or nearly full departures. The data show further that this phenomenon is particularly pronounced during periods of peak demand. What this implies is that given the existing demand patterns, a significant increase in load factor would risk a sizeable increase in passenger rejection during peak periods. This will be developed more fully below.

A fresh look at the load-factor problem was undertaken with this newer, more detailed data in hand. Because demand peaking was found to be an important limiting factor on the degree to which load factors could be increased without greatly increasing the difficulty of obtaining a seat, some attention was directed toward determining:





(a) Whether or not particular aspects of the current pricing structure tend to aggravate the peaking patterns, and

(b) Whether alterations in the current pricing structures could be designed to effectively reduce demand peaking.

This paper is an outgrowth of the analysis directed toward the load-factor problem but focuses primarily on the pricing implications which result therefrom.

II. *Demand peaking.* The demand for air transportation is characterized by intense peaking by month of year, by day of week, and by hour of day. This peaking is graphically illustrated in Charts 3 and 4. Revenue passenger-miles for August 1975 exceeded the level achieved during February 1976 by 29 percent overall and by 31 percent and 10 percent when coach and first-class service are considered separately. Peaking by day of week was also severe with revenue passenger-miles for Fridays (the peak day) exceeding those for Tuesdays by 27 percent. While coach traffic was seen to peak more strongly than first-class traffic on a monthly basis, the opposite is true by day of week where a 51 percent differential exists between first-class demand for the peak and valley days. The steepest traffic peaking of all occurs by hour of day. For example, during August and November 1975, and February and May 1976, revenue passenger-miles for departures between 1 p.m. and 7 p.m. were 24 times the level reported between 1 a.m. and 7 a.m.

Chart 3

DEMAND PEAKING BY DAY OF WEEK

MONTHS OF FEBRUARY 1976 & AUGUST 1975

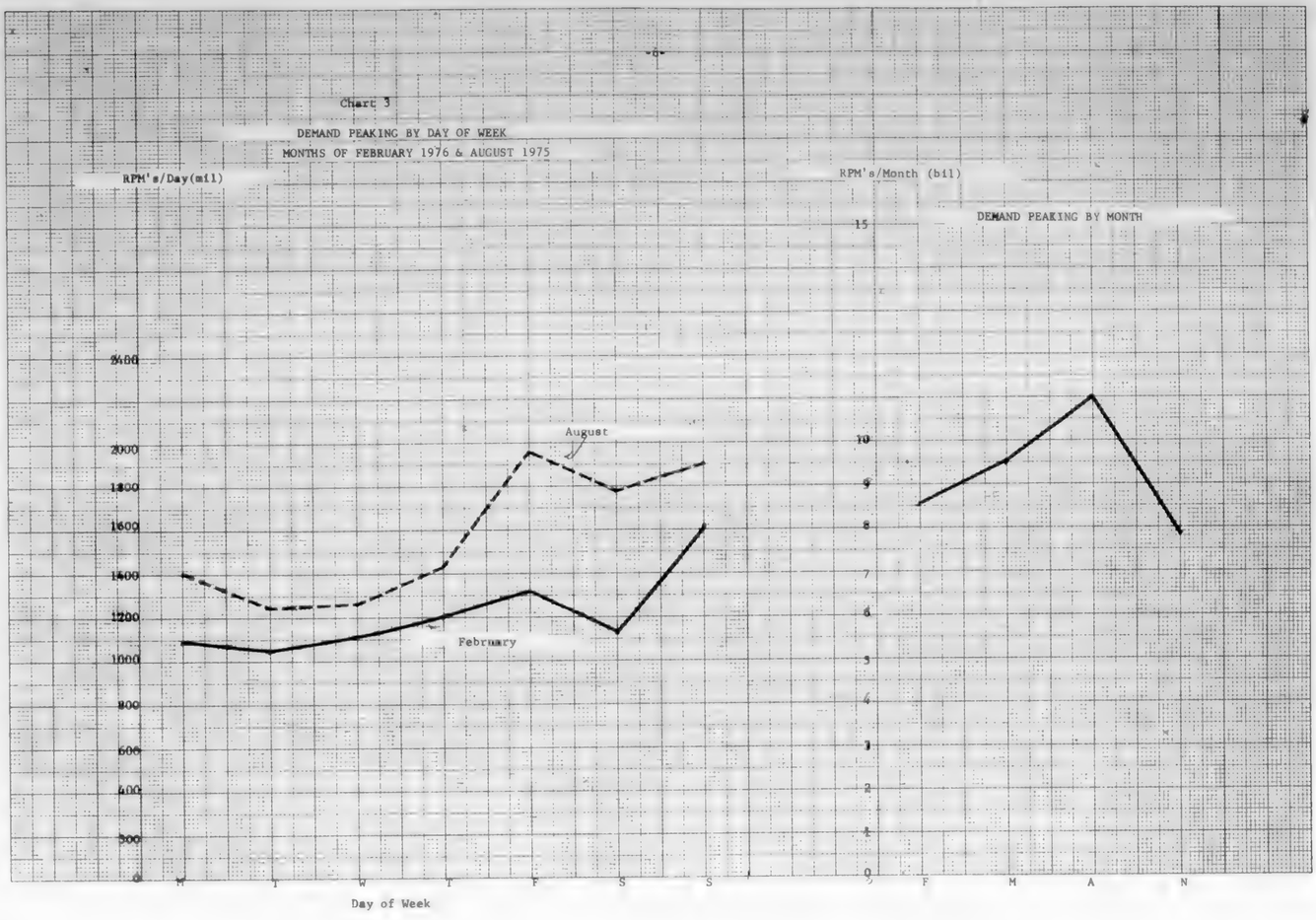
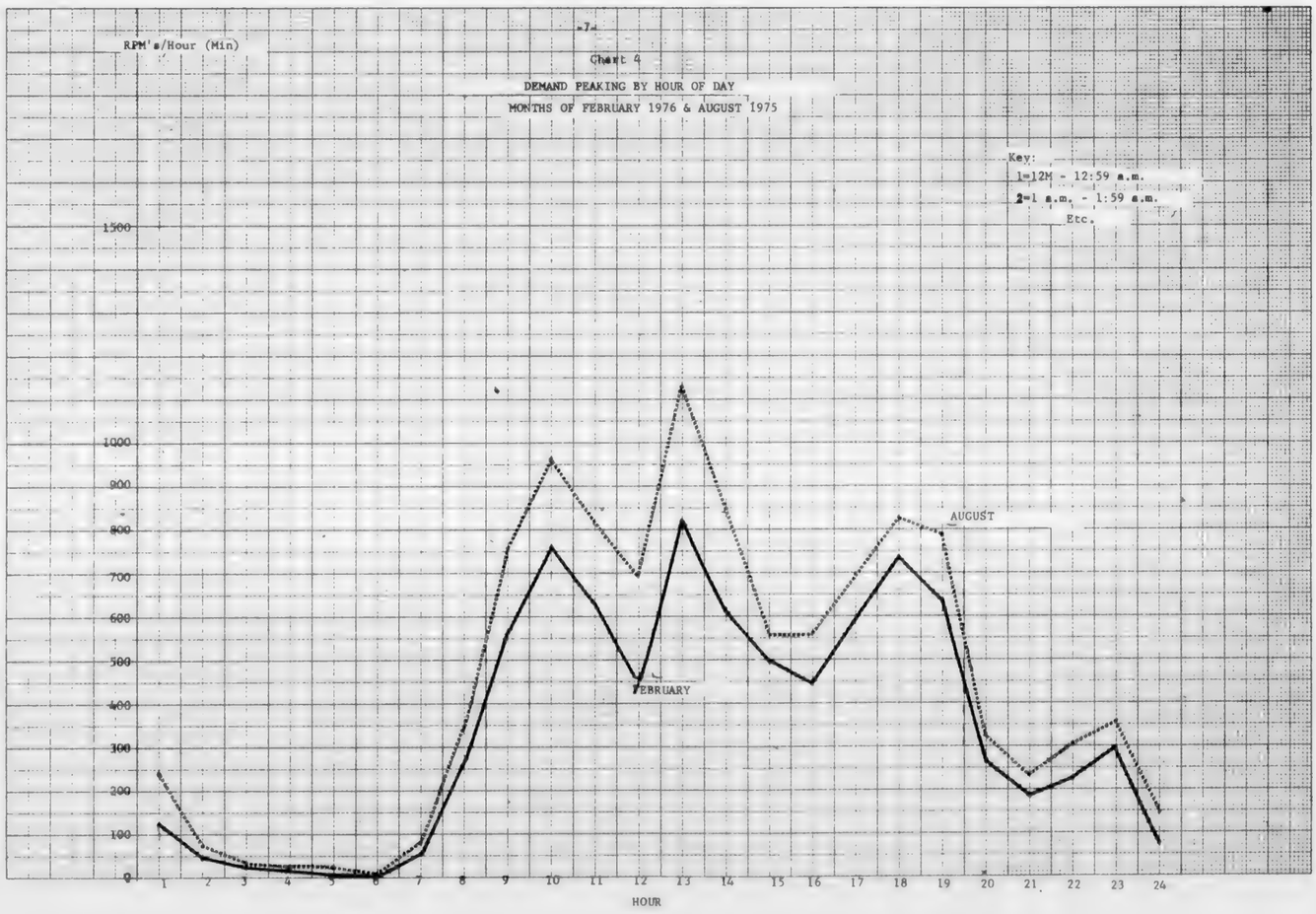


Chart 4

DEMAND PEAKING BY HOUR OF DAY

MONTHS OF FEBRUARY 1976 & AUGUST 1975



These monthly, daily, and hourly peaking patterns are remarkably consistent when broken out by carrier, by length of haul, by market density, and by number of competitors. While some differences do exist they are primarily differences in intensity rather than differences in the timing of the peaks and valleys.[2] (Appendix A consists of several Charts which illustrate this point.) For example, during August and November 1975, and February and May 1976, revenue passenger-miles for Fridays were 32.8 percent, 33.3 percent, and 47.6 percent greater than those for Tuesdays in the 300, 700, and 2,500 mileage blocks respectively.

The intense peaking of demand, as it currently exists has a substantial effect on load factors. High load factors occur during demand peaks and low load factors occur during demand valleys. For example, the average load factor for August 1975 (62.3 percent) was 18 percent higher than that for February 1976. Further, average load factor achieved on Fridays during August and November 1975, and February and May 1976, was 27 percent higher than that achieved on Tuesdays during the same period.

III. *The demand-smoothing approach.* As noted above, prior to receiving the detailed daily service segment data made available in the load factor investigation, it seemed reasonable to assume that since monthly flight load factors were normally distributed by load factor point, the same would hold true for daily load factors. (As Charts 1 and 2 above, graphically show, this assumption was proved to be false.) Thus, it was thought that a relatively small share of the daily departures were full or nearly full and that a moderate increase in the mean would result in only a minor increase in passenger rejection. The greater-than-expected dispersion of daily flight load factors from the mean causes some concern as to service levels which may result—particularly during peak periods—if the average load factor were to be increased substantially by a tightening of supply. During August 1975, for example 17.5 percent of all departures had coach load factors of 95 percent or more.[3] During Friday and Sunday (the peak days) this percentage increased to 23.2 and 23.8, respectively. Chart 5 illustrates this daily dispersion of load factors.

[2] This consistency, of course, would not hold true for each individual market.

[3] Another 13.2 percent of August departures had coach load factors in the 85–94 percent range.

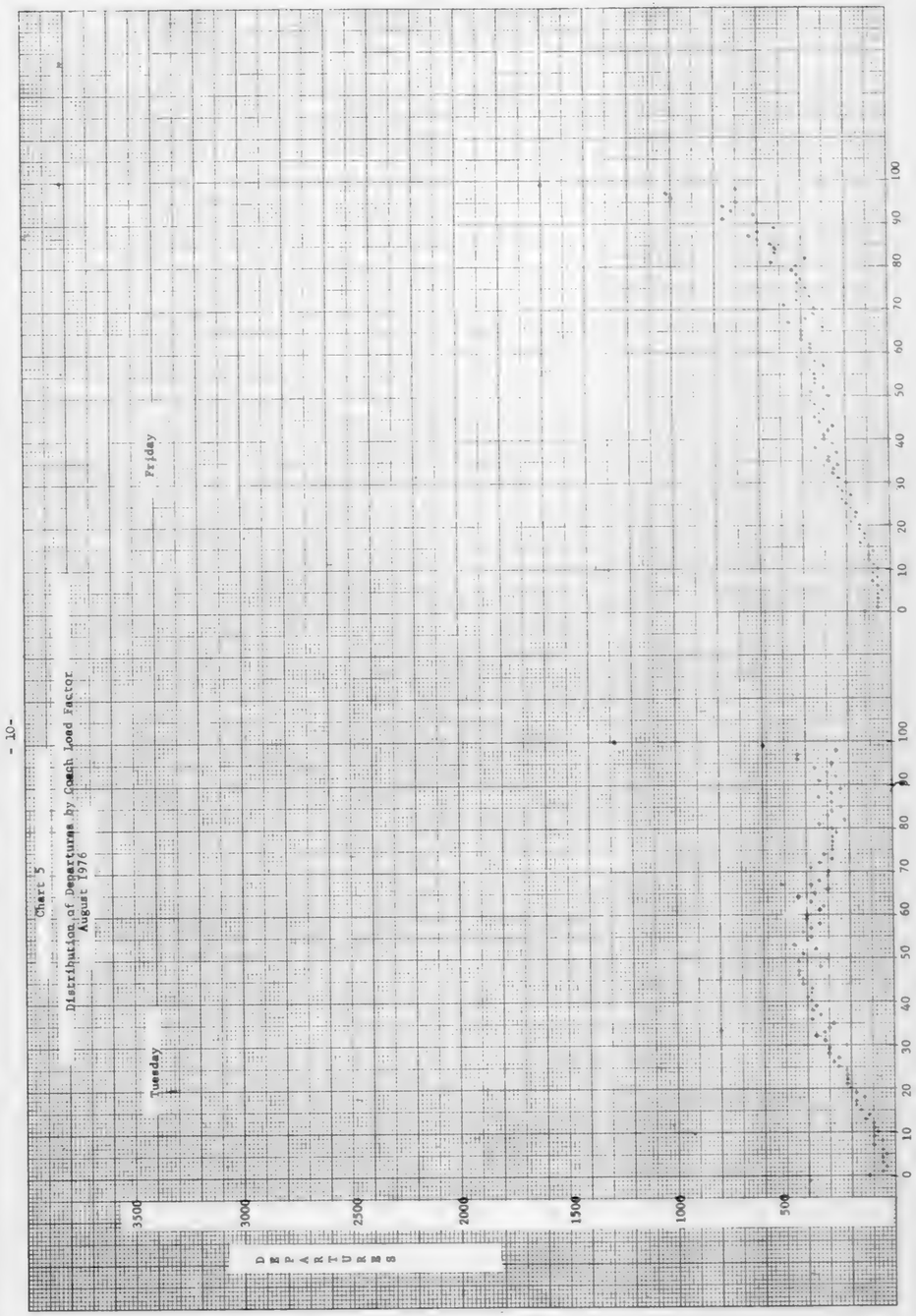


Chart 5
Distribution of Departures by Coach Load Factor
August 1976

The steepness or intensity of the monthly, daily, and hourly traffic peaking pattern, as it currently exists, provides an important limiting factor in the attainment of higher load factors. Capacity is geared, in large part, so that traffic rejection during peak periods will be minimized. Low load factors occur during demand valleys when capacity does not fall off as sharply as demand. It is clear that carriers have the ability to, and in actual practice, do vary the supply of air transportation in response to systematic variations in traffic. It is also clear, however, that the degree to which carriers fluctuate their supply falls far short of the degree to which passengers fluctuate their demand. For example, in February 1975 passengers limited their demand (RPM's) to only 66.1 percent of the August level, while carriers reduced their supply (ASM's) to 85.4 percent. Air Carrier Traffic Statistics data indicate that the failure of carriers to cut back February supply to the degree passengers cut back demand caused February load factors to be significantly below the yearly average in each of the last 5 years with the exception of 1974 when the fuel crises forced carriers to limit their supply.

Table 1

	February RPM's as percent of year ended February	February ASM's as percent of year ended February	Load factors (percent)	
			February	Year ended February
Year:				
1972	7.6	8.0	46.4	48.8
1973	7.4	8.1	47.7	52.3
1974	7.4	6.9	57.7	53.1
1975	7.0	7.8	48.6	54.4
1976	7.8	8.2	53.2	55.5

A similar situation exists by day of week. The difference between Friday (peak day) and Tuesday demand is much larger than the difference in supply.

Table 2

	Demand [1]		Supply [1]	
	Friday	Tuesday	Friday	Tuesday
Total: RPM's and ASM's (000)	5,447,056	3,900,907	9,756,196	8,638,488
Per departure (pax and seats)	71	58	121	121

[1] Data for the midmonth of each quarter 1975 as submitted by trunk carriers in this proceeding.

While some degree of capacity variation is clearly feasible, there are a number of factors which do limit carriers' scheduling flexibility. Perhaps the most obvious factor is the indivisibility of the aircraft unit. It is simply not possible to fly half an airplane during periods of slack demand, and, while aircraft vary in the number of seats they contain, substitution of aircraft is restricted by availability, union contracts, etc. Thus, the largest portion of supply variation stems from fluctuations in frequencies or number of departures. While, some load-factor improvement through greater scheduling fluctuations would be feasible, and would cause savings in certain elements of costs (e.g. fuel), aircraft utilization would suffer.

There is, however, a way of improving load factors and lowering costs without increasing peak-period passenger rejection and without requiring greater scheduling flexibility from the carriers. Although the systematic peaking of demand has exhibited a substantial limiting effect on load factors, this peaking pattern is not itself immutable. The rigorous application of rational peak and off-peak pricing could result in a more even flow of traffic, higher overall load factors, and lower overall fares. If demand fluctuations were reduced sufficiently to match supply fluctuations, the peak and valley load factors would be identical.

The question then arises: If the demand fluctuations which limit the control of load factor are themselves controllable, should not the load factor standard be based on the assumption that they will be controlled? I believe the answer to this is yes. The advantages of such an approach to the load-factor problem are essentially as follows:

(a) Since capacity is geared to peak demand, those consumers who cause the creation of peak capacity would, as a matter of equity, be asked to pay the cost associated with it.

(b) Consumers would be permitted to make the economic decision of whether or not the convenience of a peak-period flight is worth the added cost associated with the creation of peak capacity.

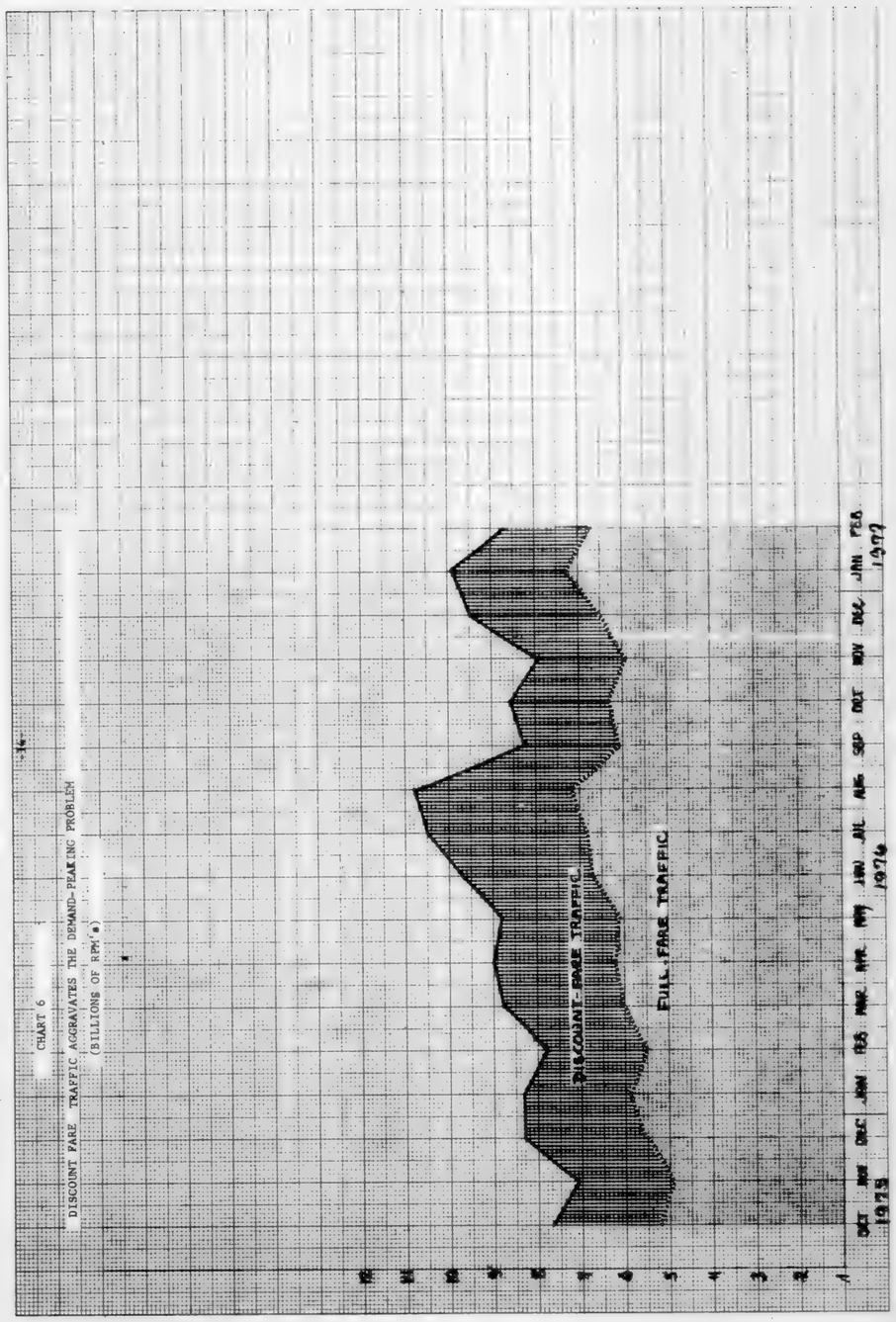
(c) The difference between peak and valley demand would be reduced to the extent the consumers opt for lower price over higher convenience.

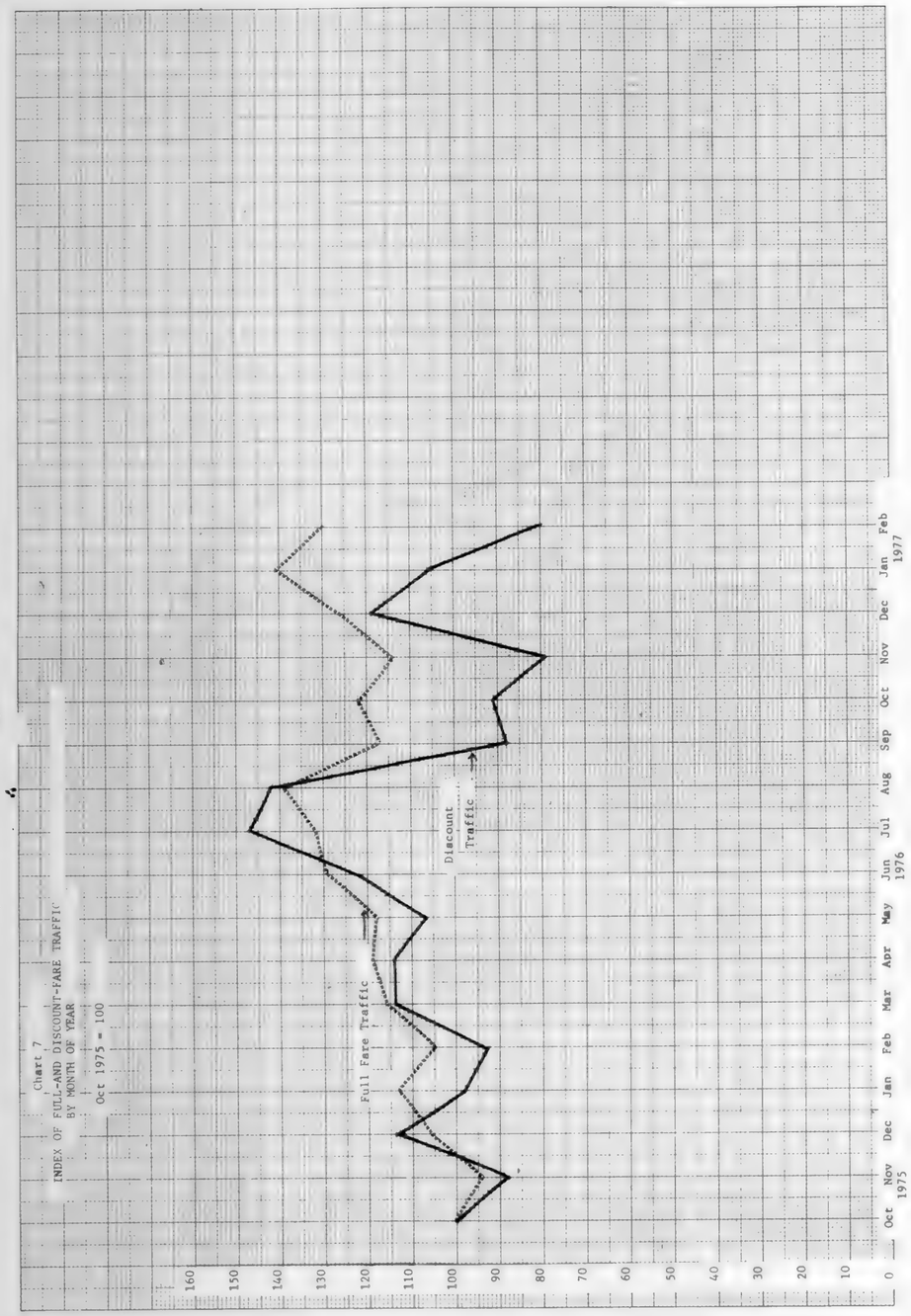
(d) The reduction in the peak- and valley-demand differential would allow load factor to rise without increasing either the current degree of supply fluctuation or the level of peak-period passenger rejection.

(e) Average costs and fares would fall.

Peak and off-peak pricing is not entirely new to the airline industry. Perhaps the most notable experiment with demand-differential pricing is the night-coach fare. As Appendix B clearly shows, this form of off-peak pricing has substantially improved the demand and supply relationships where it is used.

The availability of some other forms of discount fares during peak periods, however, has served to aggravate the peaking problem. For example, Charts 6 and 7 illustrate the sharper peaking of discount traffic during the summer months when additional capacity is flown to accommodate the seasonal traffic surge. Further, while the availability of data with respect to discount-fare traffic by day of week is more limited, carrier filings made in Docket 21866-5 with respect to capacity-controlled excursion fares show that this discount-fare usage also tends to worsen the demand peaking problem by day of week—particularly in the long haul where usage of such fares represents a relatively important share of the traffic mix. (See Charts 8-12). While there is some tendency for these fares to alleviate the deep demand valley which occurs on Saturday in the short haul markets, the general peak-heightening effect of these fares is clearly shown.





Because, as discussed above, much of the peak-caused capacity remains during valley demand periods, any peak-period traffic generated by discount fares is costly traffic indeed. Thus, a fully systematized program of peak and off peak pricing would, of necessity replace the current system of peak-causing discounts. While such a system of demand-differenced full fares would vary substantially with time of travel, it would be both cost justified and relatively simple to administer when compared with the current plethora of discounts which include cumbersome requirements as to duration of trip, ground purchases, etc.

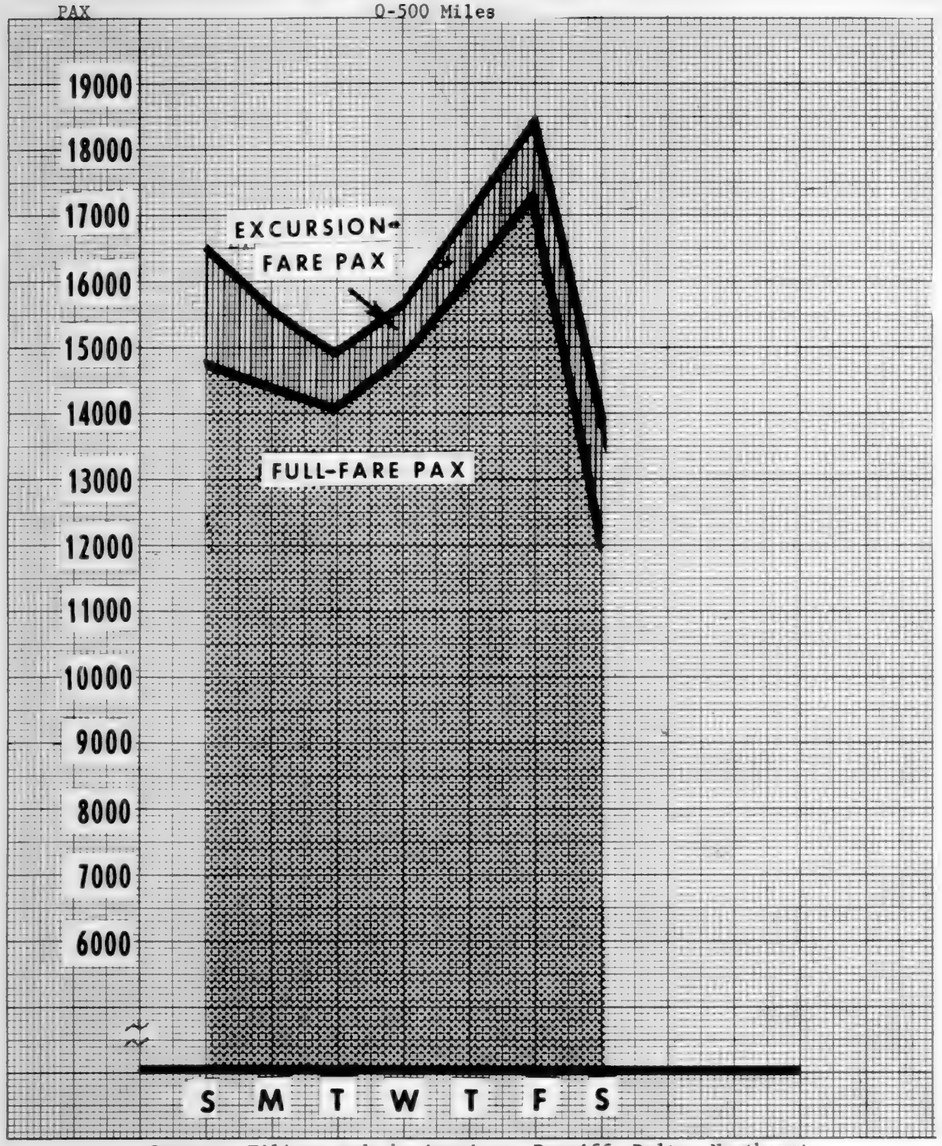
How much then, can load factors be improved by the smoothing of demand? While the precise answer is unknown, it is clearly quite a bit. For example, if monthly traffic volume could be smoothed perfectly and service quality levels maintained at the level offered in August 1975, annual load factors would average 62.3 percent—7.3 points or 13 percent higher than the current standard. Further, if daily peaks were also smoothed perfectly, it would be possible to increase the average to about 68 percent.[1] Peaking by time of day yields opportunity for further improvement.

Of course, it is unreasonable to expect any pricing technique to smooth peaks perfectly. The degree of demand smoothing which would result from such a pricing system is a function of the amount of the fare differentials put into effect and the price and service elasticities of passengers.

[1] Daily service-segment data supplied by the carriers shows that average load factors for Friday and Sunday in August 1975 were 67.6 and 67.9, respectively.

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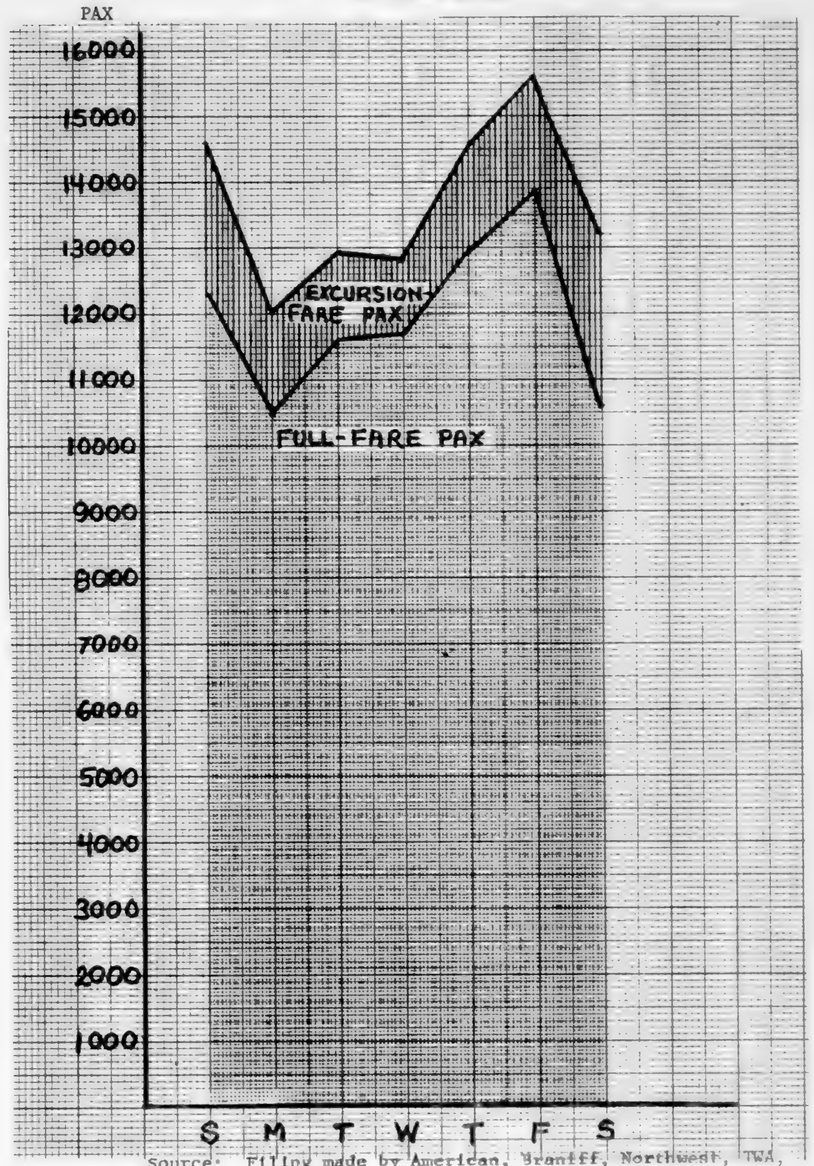
Chart 8
COMPARISON OF FULL FARE AND EXCURSION FARE PASSENGERS BY DAY OF WEEK
(WEEK ENDED August 14, 1976)
0-500 Miles



Source: Filings made by American, Braniff, Delta, Northwest, TWA, United and Western in Docket 21866-5

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Chart 9
COMPARISON OF FULL-FARE AND EXCURSION-FARE PASSENGERS BY DAY OF WEEK

(WEEK ENDED August 14, 1976)
501-1000 Miles

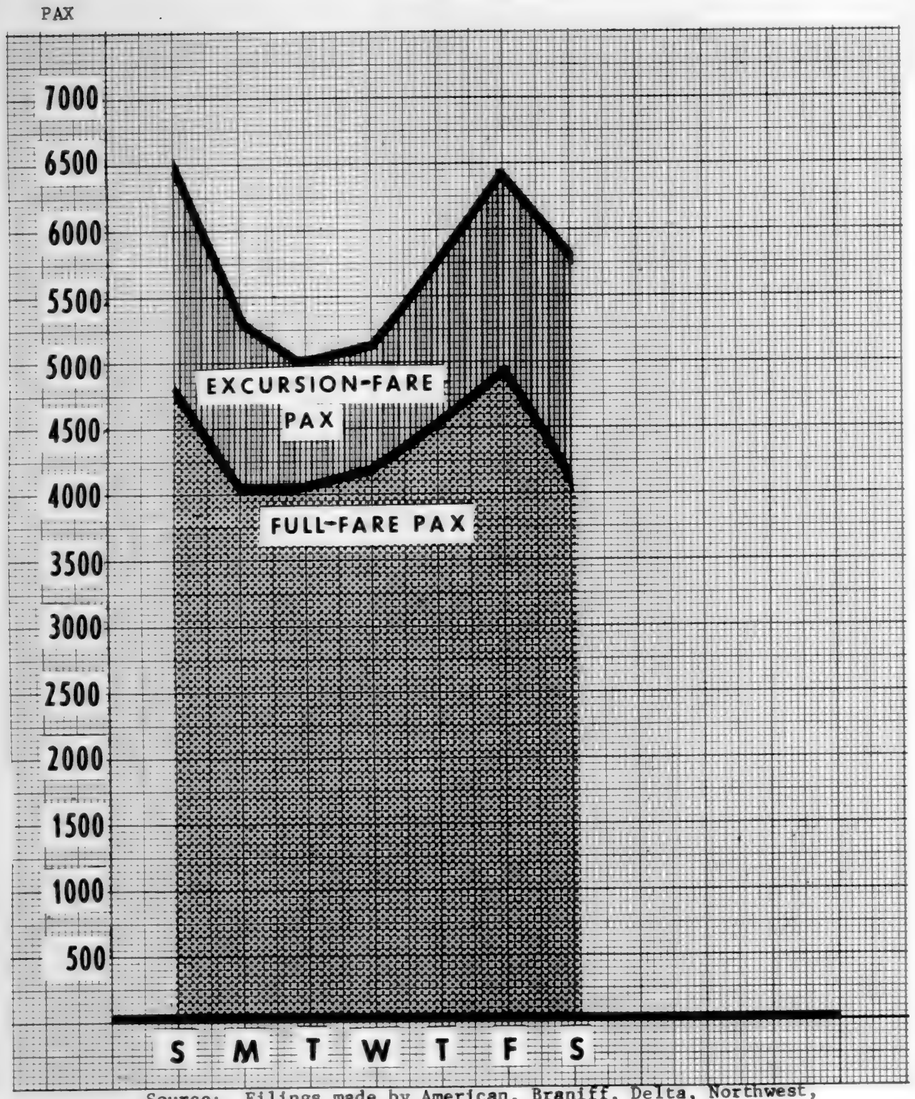


Source: Filing made by American, Braniff, Northwest, TWA, United, and Western in Docket 21866-5

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Chart 10
COMPARISON OF FULL FARE AND EXCURSION FARE PASSENGERS BY DAY OF WEEK

(WEEK ENDED August 14, 1976)
1001-1500 Miles

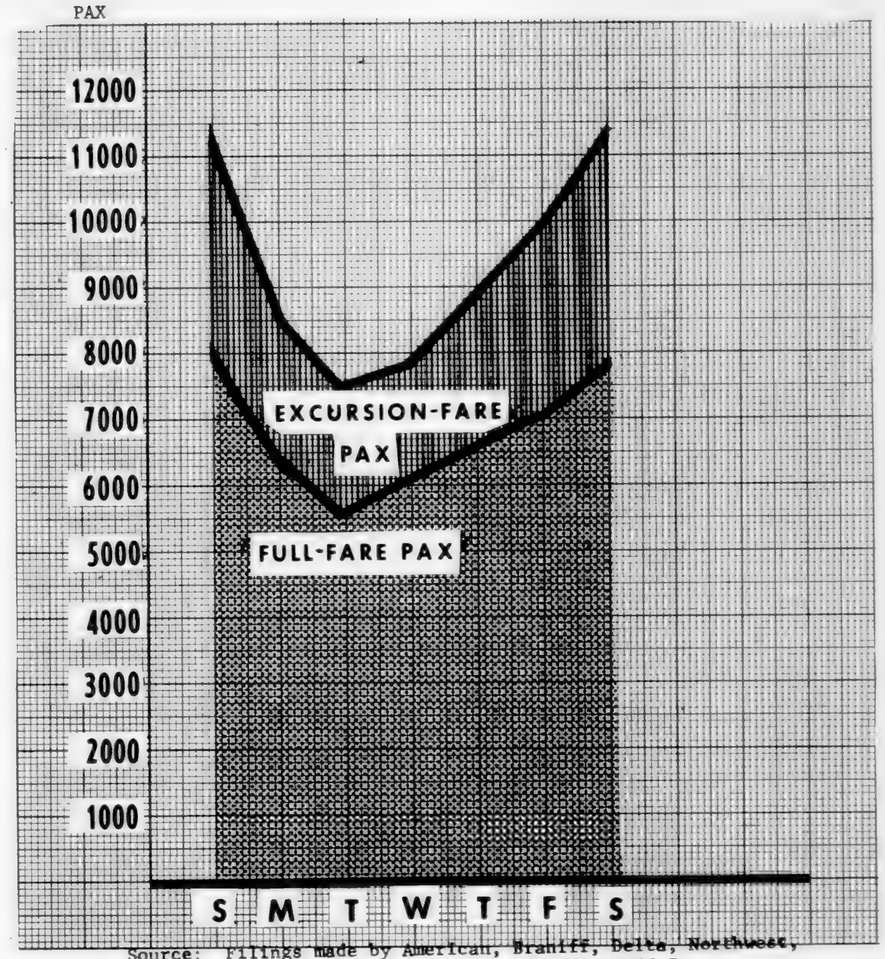


Source: Filings made by American, Braniff, Delta, Northwest, TWA, United and Western in Docket 21866-5

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Chart 11

COMPARISON OF FULL FARE AND EXCURSION FARE PASSENGERS BY DAY OF WEEK

(WEEK ENDED August 14, 1976)
1501-2000 Miles

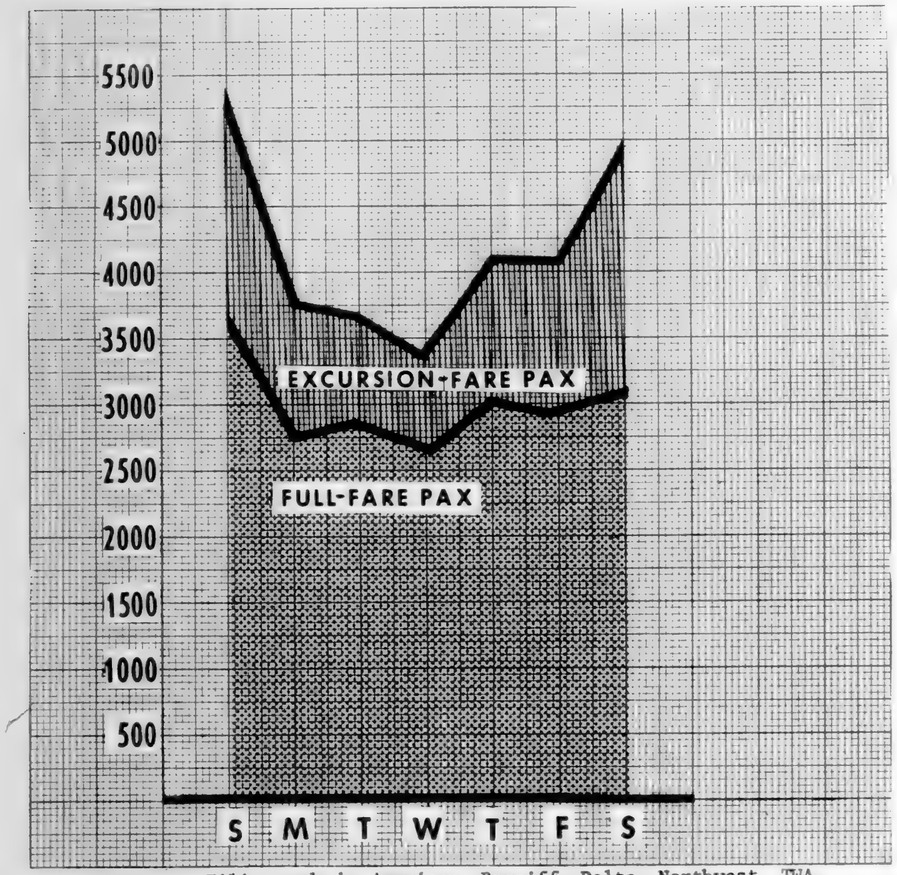


Source: Filings made by American, Braniff, Delta, Northwest, TWA, United and Western in Docket 21866-5

Chart 12

COMPARISON OF FULL FARE AND EXCURSION FARE PASSENGERS BY DAY OF WEEK
(WEEK ENDED August 14, 1976)

2001 Miles and Up



Source: Filing made by American, Braniff, Delta, Northwest, TWA, United and Western in Docket 21866-5

How then can prices be structured to reduce the demand variations? The monthly, daily, and hourly traffic peaks suggest a three-tier pricing structure. The following formula has been designed to develop demand-differential fares with the aim of smoothing daily peaks.[5]

OFF-PEAK FARE

$$OPF = VC + (CC + PLF)$$

PEAK FARE

$$PF = VC + \frac{CC(AS_{f,\,wi} + [AS_{m,\,t,\,w,\,f,\,wi} - (AD_{m,\,t,\,w,\,f,\,wi} \div PLF)])}{AD_{f,\,wi}}$$

Where:
VC=variable cost per passenger
CC=capacity cost per seat
AD=actual demand (passengers per day)
AS=actual capacity (seats per day)
PLF=peak load factor, and subscripts m, t, w, f, r, and wi=day of week

This formula is based on the premise that were demand flat rather than peaked, carriers could maintain throughout the week the load factor which they now achieve during the two peak days. Each passenger then is charged a fare sufficient to cover costs at this peak load factor. In addition, since it is assumed that the remaining capacity would not exist but for the peaking of demand, peak-period customers are asked to pay the cost associated with this capacity. In other words, peak-period customers would pay both the cost of capacity at the peak and the cost of that off peak capacity which is above the amount required to produce the peak period load factor.

Thus, the greater the excess capacity during off-peak periods, the greater the difference between peak and off-peak fares; and the greater the fare differential, the more incentive there will be for consumers to shift demand patterns and smooth the peaks. The process should be viewed as iterative. In other words, the peak and off-peak differentials may have to be adjusted from time to time in order to achieve the desired smoothing of demand, while avoiding the creation of new peaking problems. Imposition of fares based on the above formula should be expected to alter demand patterns substantially. However, the chance that peak and off-peak fares developed at first will be in precisely the right proportion for optimal demand smoothing is miniscule indeed.

To give an idea of how such a pricing system could work, illustrative fares have been worked out for 700-mile trip length. See Appendix C. The resulting seasonal and daily peak and off peak fares are shown on Table 3 below.[6]

[5] The same formula with different subscripts, of course, would be used to develop monthly and hourly fare differentials.

[6] Hourly fare differentials were also computed, but, as stated in Appendix C, the data base appears inadequate for determination of relevant hourly fare differentials.

Table 3

	Average costs fare/pax	Percent of average for trip length
700-Mi trip	$62.52	100.0
Peak season	72.84	116.5
Peak days	80.20	128.3
Offpeak days	66.80	110.0
Offpeak season	58.14	93.0
Peak days	66.84	106.9
Offpeak days	52.73	85.9

While the changes in traffic patterns which would result from such differentials cannot be measured with precision, if we assume an elasticity of −0.7 and and if we assume further that the peak-period load factor will be maintained we can estimate an 11-point load-factor improvement which could be obtained from such a pricing estimate. See Appendix D. This estimate of changing traffic patterns may be viewed as conservative for the following reasons:

1. While, some discounts are currently blacked out during peak periods, those that are available logically (and as demonstrated by Charts 6–12 supra) receive their heaviest usage at the peak. The impact on customers using peak-period discounts would presumably be greater than the calculations indicate.

2. A simple elasticity calculation does not adequately reflect the passenger shifting between available departures when these departures are differentially priced. Pleasure travelers will be more likely to shift their travel time than will business travelers. While, there is currently no adequate measure of the amount of demand shifting which will occur under peak and off-peak pricing; the likelihood and substantial peak smoothing from such pricing techniques is heightened, since, pleasure travelers are found in relatively large concentrations on peak days of the week.

3. Since, as will be discussed below, there is some indication that the elasticity for price decreases is greater than for price increases, the traffic smoothing effect of simultaneous price increases and decreases when calculated on the basis of an undifferentiated elasticity coefficient is probably understated.

4. No allowance has been made for the peak smoothing effect which could be obtained from peak and off peak pricing by time of day.

On the other hand, the calculations do not take into account the degree of traffic variation within peak or off-peak periods and the degree which may exist after implementation of peak and off-peak pricing. Nor do they take into account possible differences in elasticity by day of week and month of year due to differences in traffic mix.

On balance, we believe that a load-factor improvement of between 5 and 10 percent would be reasonably attainable from the demand-smoothing techniques discussed herein with no significant increase in peak-period passenger rejection. Implementation of these pricing techniques with no change, or a smaller change in the current load-factor standard may be expected to result in substantially improved peak-period service quality. In other words, while the average annual load factor would remain about the same, there would be fewer empty seats in valley demand periods, but greater seat availability during the peaks. Further, whatever the load-factor standard, its achievement could be attainable with less scheduling fluctuations than under the current pricing patterns, thus easing the attainment of higher utilization of resources.

It should be emphasized, however, that peak smoothing through demand differential pricing should not be expected to occur overnight. Given the profusion of fares now available to the traveling public and given the diversity of the traffic mix, it will not be possible to calculate a truly optimum schedule of peak and off-peak fares without some testing in the market place. Thus, provision must be made for adjustment to any such pricing scheme when its almost inevitable flaws become visible. Further, should a revised load-factor standard be adopted based on such pricing changes, that standard should be phased in over a period of time sufficient to allow the demand smoothing to be realized. Assuming an increase in the current 55-percent load-factor standard of 5 points, sizeable effects should be anticipated over and above the smoothing of traffic flows.

Of course, implementation of a systematic schedule of peak and off-peak fares such as that discussed above would represent a drastic change in the current overall pricing structure of the industry. The obvious question arises: Can the benefits of demand smoothing be achieved by a less sweeping overhaul of the fare structure? The answer is yes, but to a far more limited extent. While, the current system of discount fares has been shown to worsen demand peaking, conditions or requirements which would eliminate the application of such fares during peak demand periods would tend to ease the intensity of the peaking. Unless or until a systematized program of peak and off-peak pricing is implemented the effect which particular discount fares will have on traffic flows during peak and valley periods should be an important factor in determining the reasonableness of such fares. This would at least limit the degree to which such fares are allowed to lower service quality to full-fare passengers during peak periods, and lower overall load factors and/or utilization rates.

IV. *Effect of higher load factor.* Since an important benefit attainable through the demand-smoothing effects of peak and off-peak pricing is increased load factor, the effects of such a load-factor increase are relevant in the consideration of the pricing policies discussed in this paper. An increase in the current

55-percent standard from 55 percent to 60 percent[7] would have a marked effect on fare level, traffic volume and fuel consumption.

V. *Effect on traffic.* A 5-point increase in the overall ratemaking load-factor standard would result in an 8.24-percent reduction in capacity costs. In other words, instead of paying for 1.82 seats as is now the case, the passenger on average would be asked to pay for only 1.67 seats. At the current level of operations, this would result in an average fare decrease of about 5.5 percent. If we assume the Board's −0.7 elasticity, therefore, a 4-percent overall traffic increase would be estimated.

Serious question exists, however, as to the adequacy of this estimate in this instance. Whether or not the −0.7 elasticity reasonably approximates the traffic effect of across-the-board fare increases question remains as to whether the elasticity for price increases is the same as that for price decreases.

This question is particularly pertinent when it is recommended that the load-factor improvement proposed be attained through peak and off-peak pricing techniques. Under demand-differential pricing there would be no across-the-board fare change, but rather simultaneous fare increases at peak periods and fare decreases during off-peak periods.

In view of the above, elasticity regressions were run in an attempt to answer the question: Is the elasticity for fare increases the same as that for fare decreases? In other words, will all traffic attracted by price decreases dry up when fares are raised. Logic dictates that some traffic attracted by low fares will remain even if fares are increased. The results of the regressions support this logic. (See Table 4). They indicate an overall average elasticity of −0.8, but elasticities of −1 for price decreases and −0.5 for price increases. It is likely, therefore, that a traffic change estimate based on a −0.7 elasticity will be understated. The impact on traffic of a 5.5-percent fare increase assuming elasticities of −0.7, −1.0, and −1.3 is shown below.[8]

TABLE 4.—*Summary of elasticity regressions*

Observations (n)[1]	80	80	80
R^2	0.693	0.692	0.692
Standard error of estimate	0.026	0.026	0.026
F—ratio	18.746	15.120	15.120
Durbin-Watson	1.402	1.406	1.406
Coefficients and (standard errors): Yield	−0.8073 (0.1431)	−0.9779 (0.2378)	−0.5459 (0.3241)
Dummy (price increases)		0.4321 (0.4807)	
Do			−0.4321 (0.4807)
GNP	0.4070 (0.4460)	0.3221 (0.4565)	0.3221 (0.4565)
GNP (lag)	0.8078 (0.4427)	0.9859 (0.4540)	0.9859 (0.4540)
Trend	−0.0115 (0.0073)	−0.0121 (0.0073)	−0.0121 (0.0073)
Y—intercept	0.0327	0.0301	0.0301

[1] Quarterly differences for calendar years 1955–75.

Fare decrease	Assumed elasticity	Traffic increase
Percent		
5.5	−0.7	4.0
5.5	−1.0	5.8
5.5	−1.3	7.7

Of course, under a system of peak and off-peak pricing an additional impact on traffic flows may be expected. That is, some passengers who would continue to fly at a higher fare if no other option were available to them may choose to alter their trip plans, if to do so will save them money. While this effect will not change the overall level of traffic it will change traffic flows.

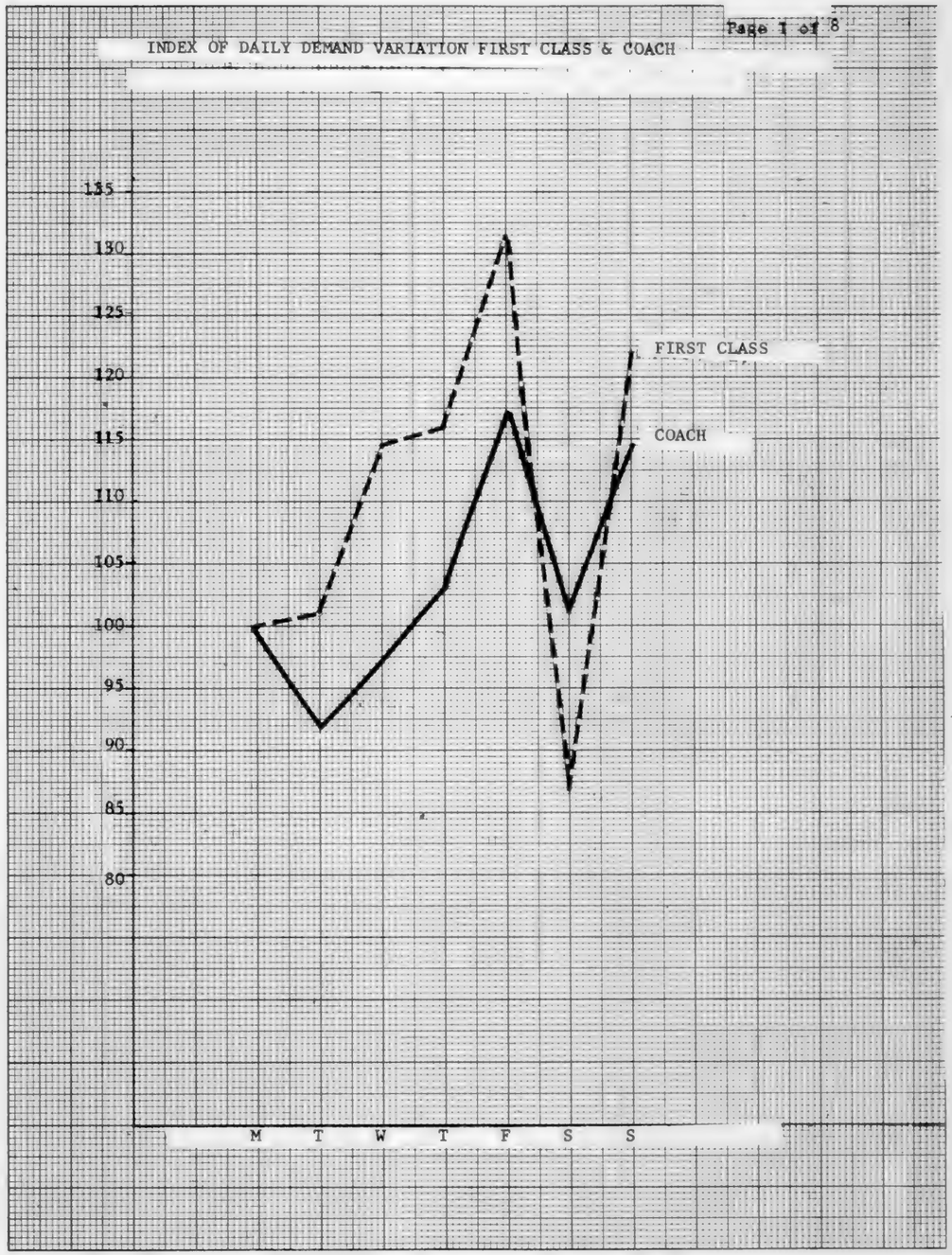
VI. *Effect on service.* The impact of the recommended increase in load-factor standards on service levels will, of course, depend upon the ultimate impact on traffic. The 5-percent increase in load factor implies an 8.3-percent decrease in available seat-miles when no allowance is made for traffic increases. With traffic increases at the above levels of elasticity of 4 percent, 5.8 percent, and 7.7 percent, reductions in capacity of 4.7 percent, 3 percent, and 1.3 percent are implied. Again, no provision has been made for normal traffic growth. During the year ended December 31, 1976, total domestic trunk RPM's increased 10 percent. Growth of this magnitude would eliminate the need for capacity reductions. The true effect on service would then be a limiting of the amount of increased capacity to a level significantly below what would otherwise occur.

VII. *Effect on fuel consumption.* The effect of a 60 percent standard on fuel consumption would depend both on traffic changes and on the schedule and service changes made by carriers. During 1975, fuel consumption averaged 29.76 gallons per thousand ASM's. (See Appendix E). If we assume that this figure would remain after any adjustments in schedules, fuel consumption per thousand RPM's would be reduced from 54.12 gallons to 49.61 gallons, or by 8.3 percent. Unless we assume no traffic effect from the increased load factor standard and a zero-growth rate, the total reduction in fuel usage will, of course, be less than 8.3 percent. However, there can be little doubt that the fuel which is consumed will be used more efficiently in that more transportation value will be supplied per unit of fuel. Further, it may be assumed that some portion of the additional passengers who may be attracted to air travel by lower fares otherwise would have traveled by different means. Therefore, to the extent existing capacity is filled by diverted traffic, fuel savings will be realized.

[7] As stated above, a load-factor increase of between 5 and 10 percent appears attainable, therefore, the effects discussed here may be deemed conservative.

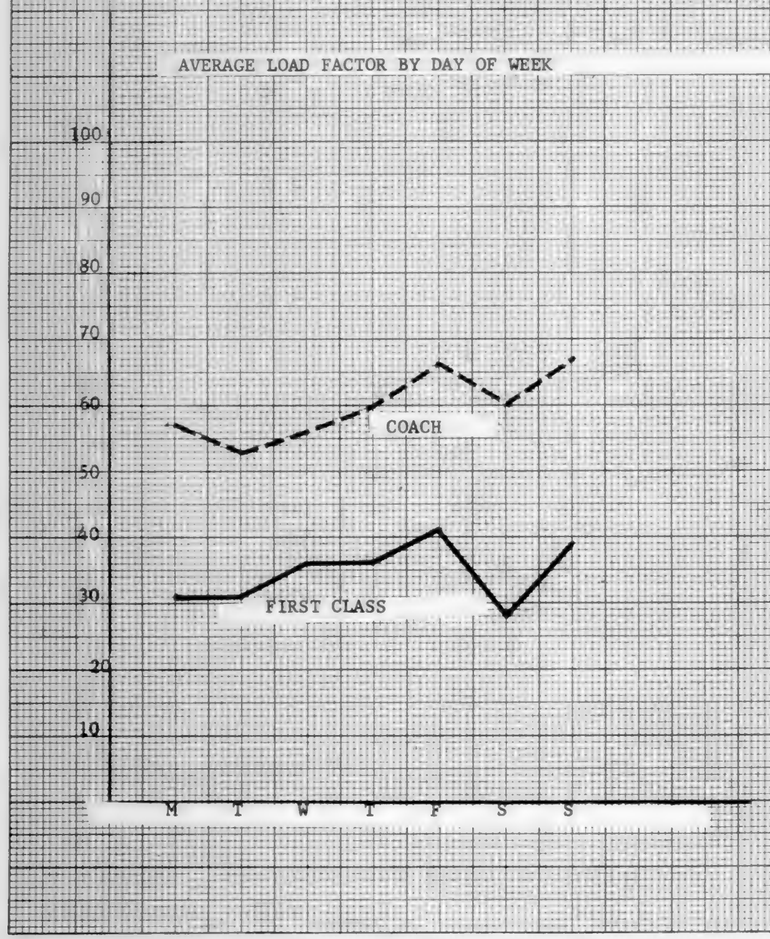
[8] The −0.7 elasticity is the Board's determination of the appropriate elasticity for ratemaking purposes. The −1.0 elasticity is the result of the elasticity regression discussed above and the −1.3 elasticity is representative of the Bureau's position in Phase 7 of the DPFT.

APPENDIX A—DEMAND PEAKING BY DAY OF WEEK



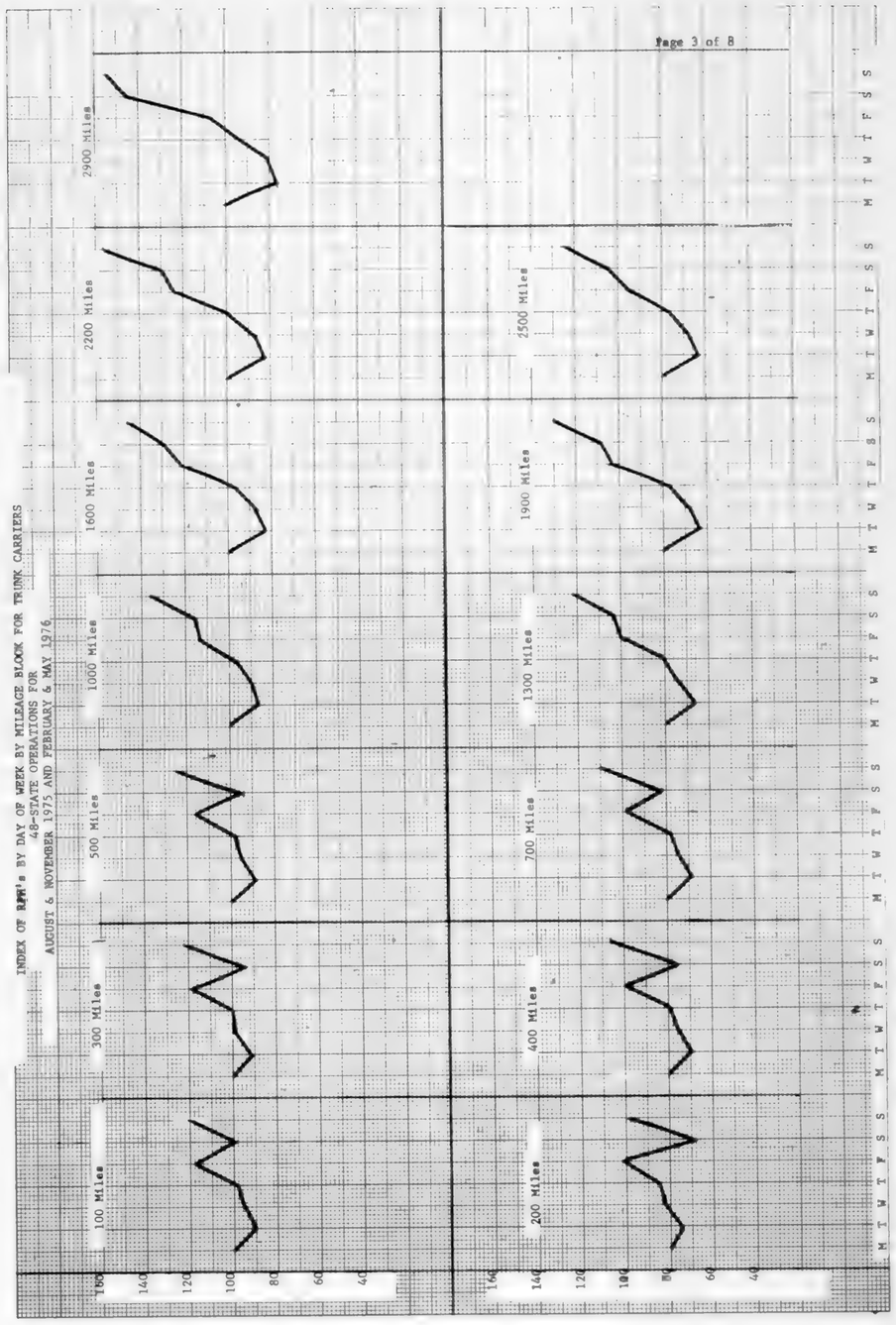
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AVERAGE LOAD FACTOR BY DAY OF WEEK



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INDEX OF RPM's BY DAY OF WEEK BY MILEAGE BLOCK FOR TRUNK CARRIERS
48-STATE OPERATIONS FOR
AUGUST & NOVEMBER 1975 AND FEBRUARY & MAY 1976

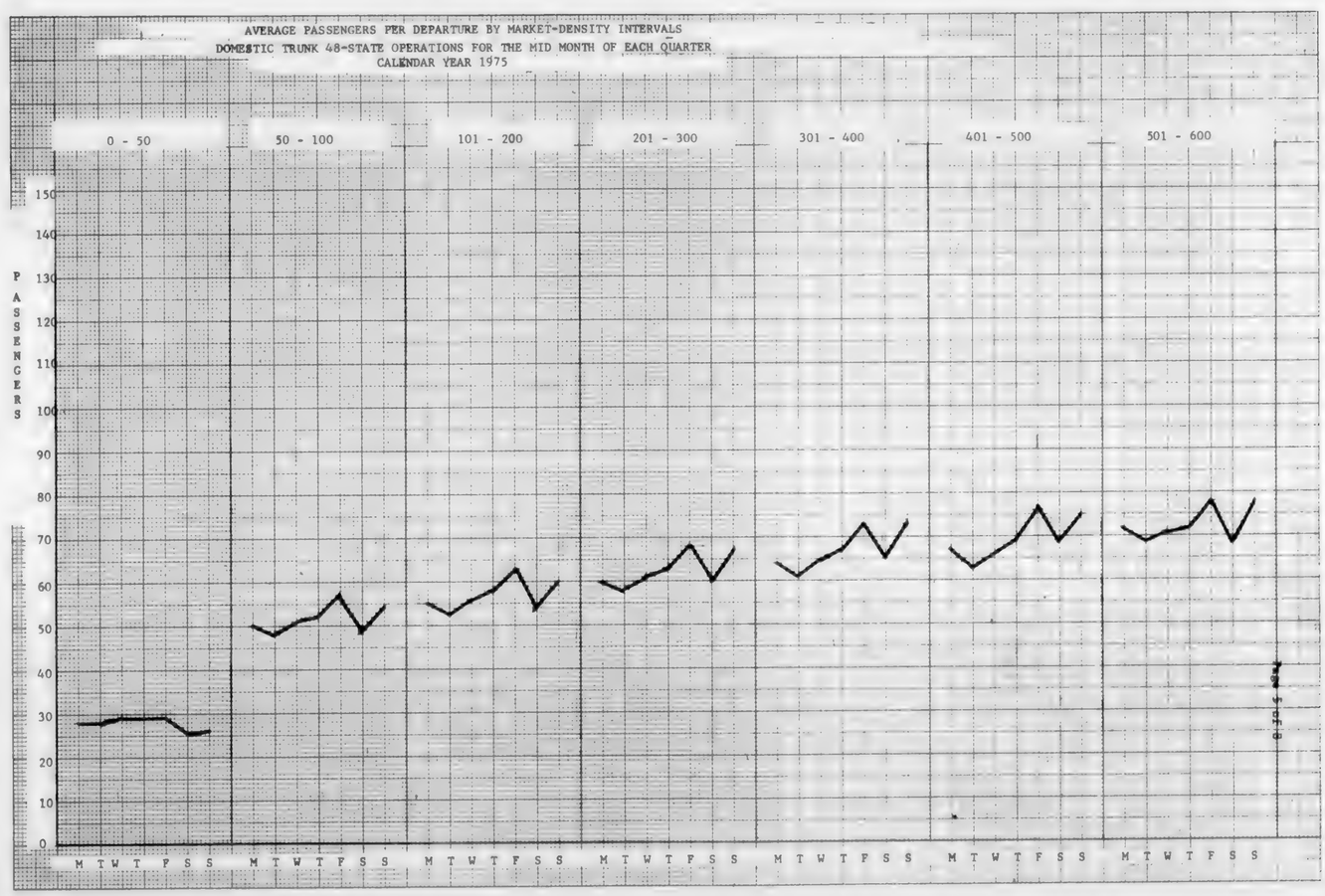


AVERAGE PASSENGERS PER DEPARTURE BY NUMBER OF COMPETITOR
DOMESTIC TRUNK 48-STATE OPERATIONS FOR THE MID MONTH OF EACH QUARTER
CALENDAR YEAR 1975

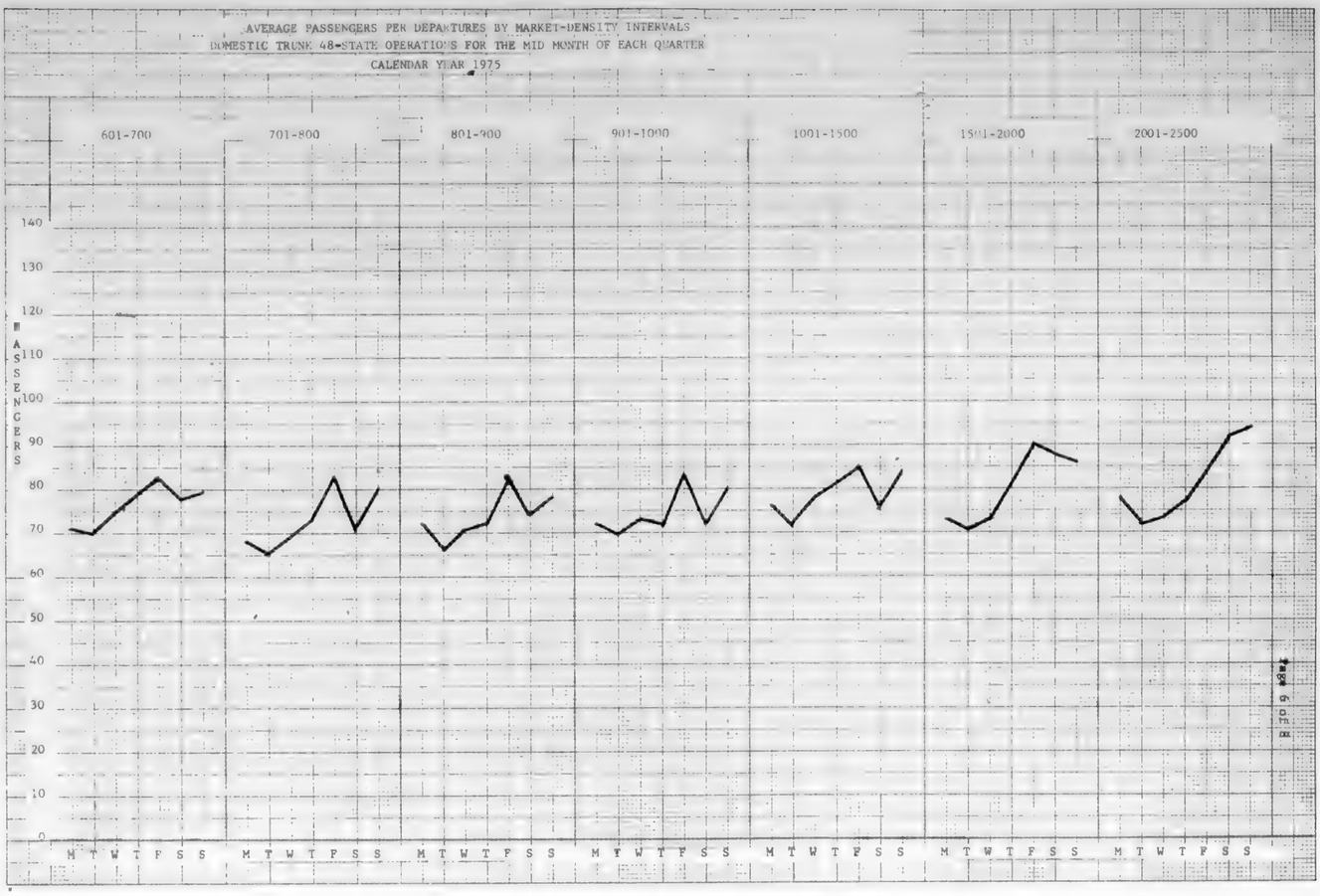


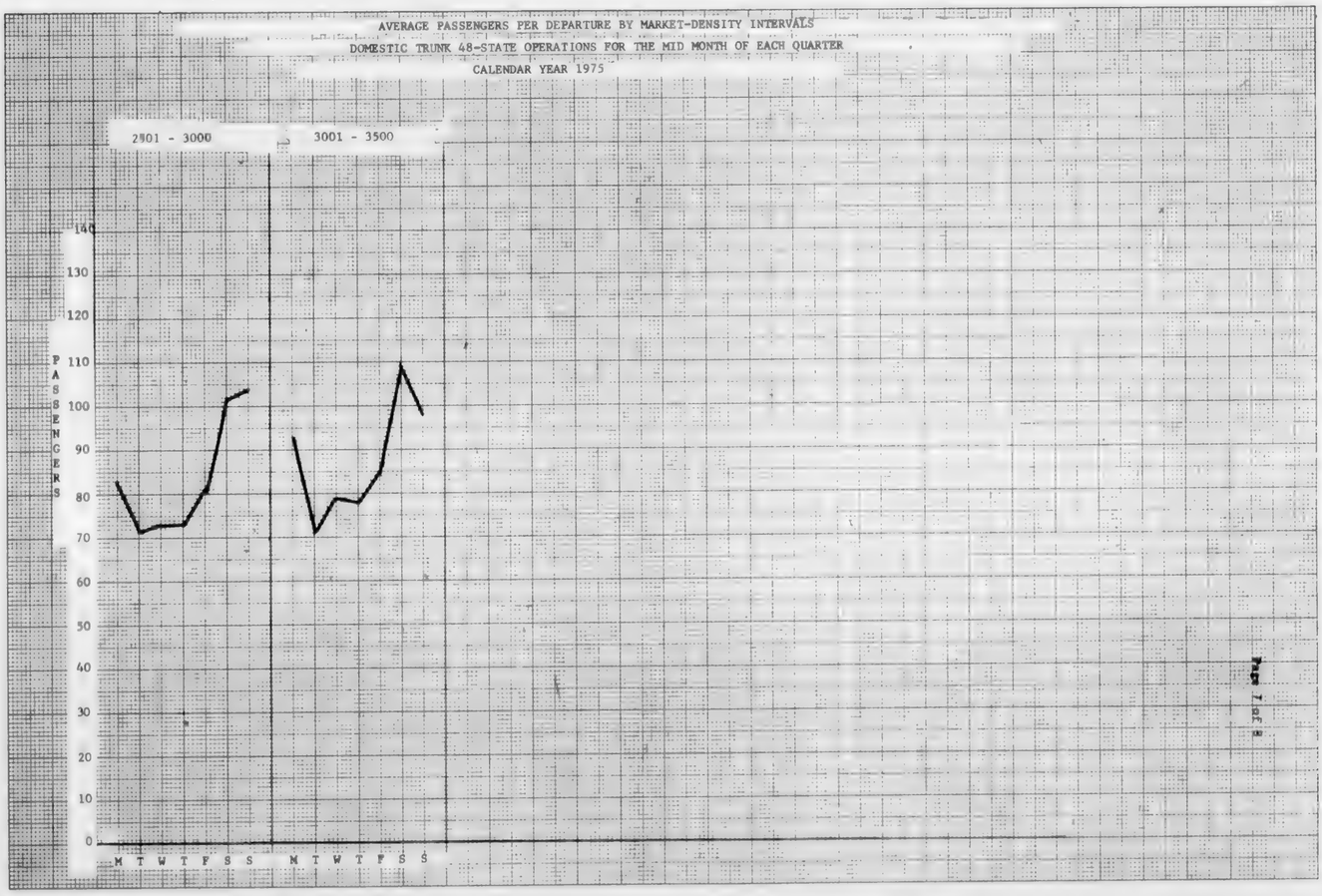
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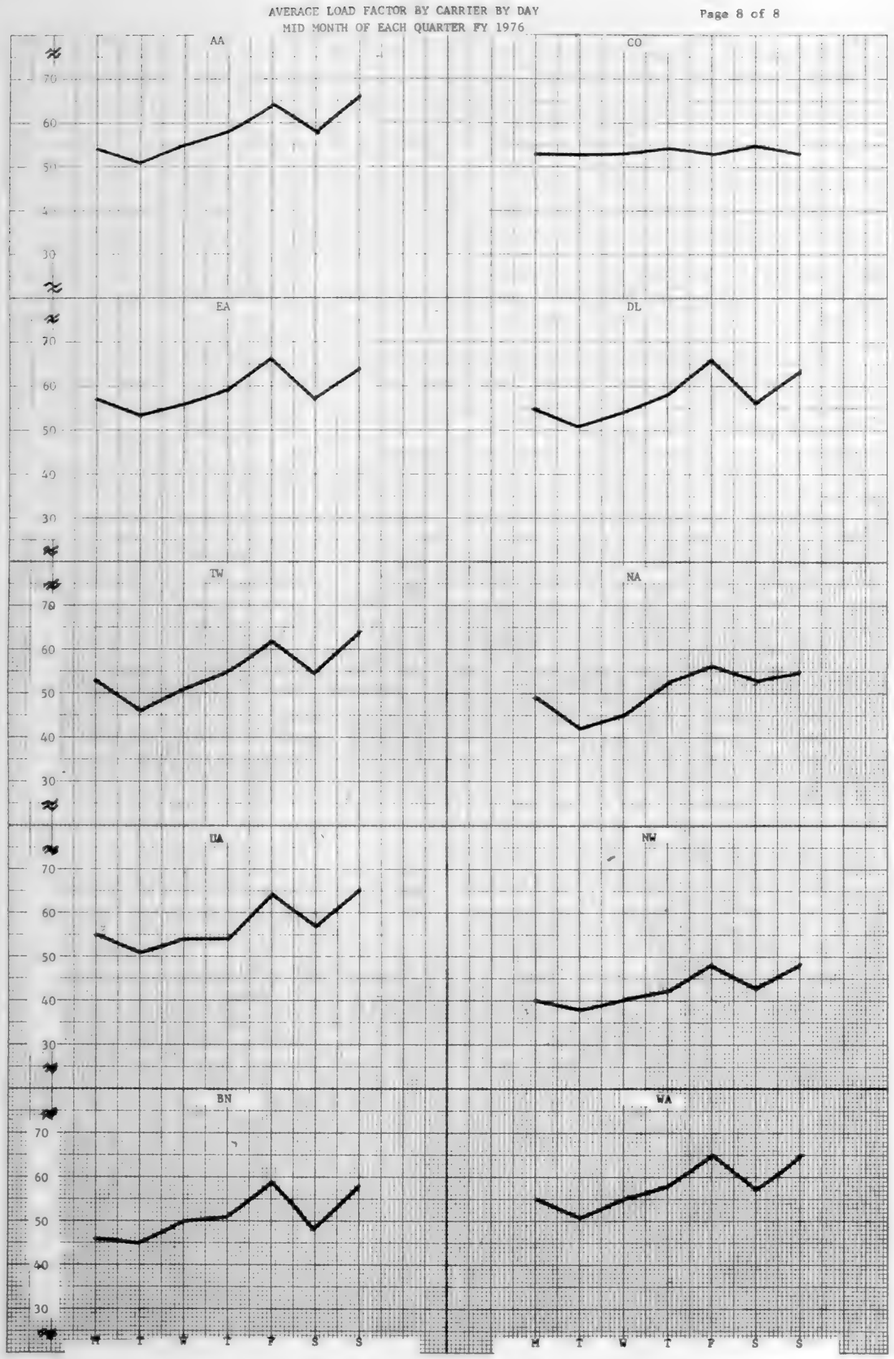
AVERAGE PASSENGERS PER DEPARTURE BY MARKET-DENSITY INTERVALS
DOMESTIC TRUNK 48-STATE OPERATIONS FOR THE MID MONTH OF EACH QUARTER
CALENDAR YEAR 1975



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AVERAGE PASSENGERS PER DEPARTURES BY MARKET-DENSITY INTERVALS
DOMESTIC TRUNK 48-STATE OPERATIONS FOR THE MID MONTH OF EACH QUARTER
CALENDAR YEAR 1975
601-700
701-800
801-900
901-1000
1001-1500
1501-2000
2001-2500
PASSENGERS
140
130
120
110
100
90
80
70
60
50
40
30
20
10
0
M T W T F S S


AVERAGE PASSENGERS PER DEPARTURE BY MARKET-DENSITY INTERVALS
DOMESTIC TRUNK 48-STATE OPERATIONS FOR THE MID MONTH OF EACH QUARTER
CALENDAR YEAR 1975
2501 - 3000
3001 - 3500
PASSENGERS
140
130
120
110
100
90
80
70
60
50
40
30
20
10
0
M T W T F S S



APPENDIX B.—*Comparison of ASM's, RPM's, and load factors for night-coach and nonnight-coach flights of the domestic trunks and local service carriers in the continental United States and Alaska for 1974*[1]

Time of day	ASM's			RPM's			Load factor		
	Night coach	Nonnight coach	Total	Night coach	Nonnight coach	Total	Night coach	Nonnight coach	Total
0001 to 0059	166,426,492	18,501,358	184,927,850	104,388,952	6,231,713	110,620,665	62.7	33.7	59.8
0100 to 0159	63,738,078	24,092,304	87,830,382	42,921,044	8,288,067	51,209,111	67.3	34.4	58.3
0200 to 0259	6,513,390	6,602,704	13,116,094	3,932,240	2,541,106	6,446,346	60.4	38.1	49.2
0300 to 0359	15,763,795	6,951,984	22,715,779	6,318,780	2,670,538	8,989,318	40.1	38.4	39.6
0400 to 0459	0	0	0	0	0	0			
0500 to 0559	0	1,119,800	1,119,800	0	158,808	158,808		14.2	14.2
0600 to 0659	13,912,668	7,911,956	21,824,624	11,564,518	2,032,516	13,397,034	83.1	25.7	62.3
0700 to 0759	0	189,313,943	189,313,943	0	88,629,984	88,629,984		46.8	46.8
0800 to 0859	0	664,396,124	664,396,124	0	335,864,748	335,864,748		50.6	50.6
0900 to 0959	0	792,694,025	792,694,025	0	393,437,487	393,437,487		49.6	49.6
1000 to 1059	0	646,279,240	646,279,240	0	324,892,800	324,892,800		50.3	50.3
1100 to 1159	0	534,772,338	534,772,338	0	277,055,400	277,055,400		51.8	51.8
1200 to 1259	0	818,128,881	818,128,881	0	441,305,348	441,305,348		53.9	53.9
1300 to 1359	0	663,006,624	663,006,624	0	367,692,555	367,692,555		55.5	55.5
1400 to 1459	0	316,316,542	316,316,542	0	183,531,078	183,531,078		58.0	58.0
1500 to 1559	0	322,445,547	322,445,547	0	193,120,805	193,120,805		59.9	59.9
1600 to 1659	0	470,194,153	470,194,153	0	279,813,481	279,813,481		59.5	59.5
1700 to 1759	0	701,528,708	701,528,708	0	392,444,396	392,444,396		55.9	55.9
1800 to 1859	0	474,521,958	474,521,958	0	279,455,019	279,455,019		58.9	58.9
1900 to 1959	0	183,074,294	183,074,294	0	113,798,294	113,798,294		62.2	62.2
2000 to 2059	0	178,479,181	178,479,181	0	92,744,569	92,744,569		52.0	52.0
2100 to 2159	421,851,428	36,222,488	458,073,916	279,194,796	20,937,042	300,131,838	66.2	57.8	65.5
2200 to 2259	414,592,474	30,174,608	444,767,082	256,686,197	15,385,945	272,072,142	61.9	51.0	61.2
2300 to 2400	13,676,398	150,689,175	164,365,573	7,335,484	73,585,116	80,920,600	53.6	48.8	49.2
Total	1,116,474,723	7,237,417,935	8,353,892,658	712,342,011	3,895,589,815	4,607,931,826	53.8	53.8	55.2

[1] Source: Docket 26510, exhibit BE-R-1011.

APPENDIX C—PEAK AND OFF-PEAK PRICING

PEAK AND OFF-PEAK PRICING

As has been indicated, the ability to adjust load factors by manipulation of supply is hampered by the potential for significant passenger rejection. This potential will remain a real threat as long as the intensity of the monthly, daily, and hourly demand peaks remains unabated.

The obvious answer to the question of how best to modify the intensity of demand peaks is a system of peak and off-peak pricing. In the past, discount fares have been used to this end with little success. Thus, a new scheme of peak and off-peak pricing is needed—one that rigorously defines peak and off-peak periods and the fares applicable thereto.

As described in the text, three types of demand peaking are readily apparent in the airline industry—seasonal or monthly, day of the week, and hour of the day. These peaking patterns suggest a pricing structure that reflects differences in hourly peaking for peak and off-peak days and months. An example of such a structure has been developed using cost data for a trip length of 700 miles developed under Costing Methodology, Version 6, and traffic-capacity and load-factor data supplied by trunk carriers in this investigation. The results are as follows:

Peak and offpeak pricing schedule; average costs or fares at 700 mi

	Total	Season	Day of week	Hour of day
Total	$62.52			
Peak month	$72.64			
Peak day			$80.20	
Peak hour				$80.72
Offpeak hour				78.54
Offpeak day			68.80	
Peak hour				69.18
Offpeak hour				67.26
Offpeak month	58.14			
Peak day			66.84	
Peak hour				67.19
Offpeak hour				65.31
Offpeak day			53.78	
Peak hour				54.01
Offpeak hour				52.50

This structure was computed according to the methodology described on page 22 of the text. The results indicate a spread between average fares for peak and off-peak seasons of 25 percent. This spread is increased to 52 percent when both daily and monthly peaks are considered and increased to 54 percent when hourly, daily, and monthly differences are all considered. The modest increase in the percentage when hourly demand variations are taken into account reflects the fact that a large percentage of the total RPM's (about 80 percent) occur during the peak hours, and, thus, the cost of excess off-peak capacity can be spread over a large base. Further, and perhaps more importantly, it also reflects the degree of demand smoothing already accomplished by the implementation of night-coach fares.

Indeed, the night-coach experience offers an historical example of the demand smoothing effect obtainable through peak and off-peak pricing techniques. Data filed in the Domestic Night Coach Fare Investigation, Docket 26510, indicate that in 1974, load factors in night-fare segments averaged 63.8 percent or 8.1 points higher than day-fare segments in the night-fare markets. During that same period, non-night-fare segments between 9 p.m. and 6:59 a.m. exhibited load factors averaging only 46.7 percent. It can be concluded, that the overall load-factor improvement in the night-coach markets which may be reasonably attributed to the night-coach form of peak and off-peak pricing is somewhat greater than the 2.5-point spread between the average day-fare load factor (55.7 percent) and the overall load factor (58.2 percent).

In view of the foregoing, the existing, already partially smoothed demand patterns may be seen to provide an inadequate base for establishing appropriate fare differentials between peak and off-peak hours of the day. A possible, alternative could be developed by examining the demand fluctuations during peak and off-peak hours in those markets with late night flights but without night-coach fares.

Further, it should be made abundantly clear that the process of developing peak and off-peak prices will be iterative. It is simply too much to expect that the optimum price differentials can be developed at first shot. After such pricing is placed into effect, a period will exist during which adjustments will be found necessary. Perfection is a goal to be worked toward, but not one that can be instantly attained.

For purposes of the illustrative peak and off-peak fares computed herein, peak and off-peak periods are defined as follows:

Period	Peak	Offpeak
Month	August	February, May, November.
Day	Friday and Sunday	Monday, Tuesday, Wednesday, Thursday, and Saturday.
Hour	8 a.m. to 6:59 p.m.	7 p.m. to 7:59 a.m.

For the domestic system in general, these definitions would be expanded to include June and July as peak months and all other months as off peak. The day and hour peak definitions would stand, with the possible exceptions of holiday periods.

Undoubtedly, optimum peak and off-peak definitions would differ in some areas. For example, monthly definitions in North/South markets could differ from those in East/West markets. Also Saturday may be included among the peak days in some markets. The number of differences, however, should be small enough to allow the process to work.

Computation of peak and off-peak fares at 700-mile trip-length costs

Peak and offpeak fares—seasonal		Peak and offpeak fares—seasonal and daily		Offpeak months (February, May, November)	
		Peak month (August)			
Cost/RPM	8.031¢	Total cost=10.405¢×11,001,022=	1,144,656	Total cost=8.305¢×25,897,321=	2,150,773
VC at 30 pct	2.679¢	VC at 30 pct	343,397	VC at 30 pct	645,232
FC at 70 pct	6.252¢	FC at 70 pct	801,259	FC at 70 pct	1,505,541
at 55.9 pct	3.495¢/ASM	RPM's	11,001,022	RPM's	25,897,321
4 mo RPM's	36,898,343	ASM's	17,648,975	ASM's	48,167,551
Total cost	3,295,391	LF	62.3	LF	53.8
VC at 30 pct	998,617	Cost per:		Cost per:	
FC at 70 pct	2,306,774	VC/RPM's	3.122	VC/RPM	2.492¢
4 mo ASM's	65,816,526	FC/ASM	4.540	FC/ASM	3.126¢
VC/RPM	2.679¢	Peak day:		Peak day:	
FC/ASM	3.605¢	RPM's	3,873,163	RPM's	8,713,750
		ASM's	5,717,639	ASM's	14,460,732
(1) OPF=2.679¢+(3.505÷0.623)		LF	67.7	LF	60.3
2.679¢+5.626¢=8.305¢		Off peak:		Off peak:	
$58.14/PAX at 700 mi		RPM's	7,127,859	RPM's	17,183,571
(2) PF=2.679¢+ 3.505¢[17,648,975+(48,167,551−41,568,734)] / 11,001,022		ASM's	11,931,336	ASM's	33,706,819
=2.679¢+7.726¢=10.405¢		(1) OPF=3.122¢+(4.540¢÷0.677)=9.828¢ or $68.80/PAX at 700 mi		(1) OPF=2.492¢+(3.126¢÷0.603)=7.676¢ or $53.73/PAX	
$72.84/PAX at 700 mi		(2) PF=3.122¢+ 4.540¢[5,717,639+(11,931,336−10,528,595)] / 3,873,163		(2) PF=2.492¢+ 3.126¢[14,460,732+(33,706,819−28,496,801)] / 8,713,750	
Proof:		=3.122¢+8.346¢=11.468¢ or $80.20/PAX		=2.492¢+7.057¢=9.549¢ or $66.84	
11,001,022×10.405¢=1,144,656		Proof:		Proof:	
25,897,321× 8.305¢=2,150,773		3,873,163×0.11468= $444,174		8,713,750×0.09549= $832,076	
3,295,429		7,127,859×0.09828= 700,526		17,183,571×0.07676=1,319,011	
		1,144,700		2,151,087	

Peak and offpeak fares—Seasonal, daily, and hourly

Peak month and days		Peak month and offpeak days		Offpeak month and peak days		Offpeak month and offpeak days	
Total cost	0.11468×3873163=444,174		0.09828×7,127,859=700,526		0.09549×8,713,750=832,076		0.07676×1,718,357=1,319,011
VC at 30 pct	133,252		210,158		249,623		395,703
FC at 70 pct	310,922		490,368		582,453		923,308
RPM's	3,873,163		7,127,859		8,713,750		17,183,571
ASM's	5,717,639		11,931,336		14,460,732		33,706,819
L.F	67.7		59.7		60.3		51.0
Cost per:							
VC/RPM	3.440		2.948		2.865		2.303
FC/ASM	5.438		4.110		4.028		2.739
Peak hour:							
RPM's	3,090,784		5,688,031		7,101,706		14,004,610
ASM's	4,419,735		9,222,923		11,395,057		26,560,973
L.F	69.9		61.7		62.3		52.7
Offpeak hour:							
RPM's	782,379		1,439,828		1,612,044		3,178,961
ASM's	1,297,904		2,708,413		3,065,675		7,145,846
(1) OPF=3.440+(5.438÷0.699)		OPF=2.948+(4.110÷.617)		OPF=2.865+(4.028÷0.623)		OPF=2.303+(2.739÷.0.527)	
3.440+7.780=11.220¢ or $78.54/PAX		2.948+6.661=9.609¢ or $67.26/PAX		2.865+6.465=9.330 or $65.31/PAX		2.303+5.197=7.500¢ or $52.50/PAX	
(2) PF= 3.440+ 5.438[4,419,735(1,297,904 −1,119,283)] / 3,090,784		PF=2.948+ 4.110[9,222,923(2,708,413 −2,333,595)] / 5,688,031		PF=2.865+ 4.028[11,395,057(3,065,675 −2,587,551)] / 7,101,706		PF=2.303+ 2.739[26,560,973(7,145,846 −6,082,184)] / 14,004,610	
3.440+8.091=11.531¢ or $80.72/PAX		2.948+6.035=9.883 or $69.18/PAX		2.865+6.734=9.599 or $67.19/PAX		2.303+5.413=7.716¢ or $54.01/PAX	
Proof:		Proof:		Proof:		Proof:	
782,379×0.11220= 87,783		1,439,828×0.09609=138,353		1,612,044×0.09330=150,404		3,178,961×0.07500= 238,422	
3,090,784×0.11531=356,398		5,688,031×0.09883=562,148		7,101,706×0.09599=681,693		14,004,610×0.07716=1,080,596	
444,181		700,501		832,097		1,319,018	

Distribution of supply and demand by day of the week; August and November 1975, and February and May 1976

Period	RPM's (000)	ASM's (000)	Load factor
4-month total	36,898,343	65,816,526	56.1
Peak month (August)	11,001,022	17,648,975	62.3
Peak days:			
Friday	1,968,364	2,913,308	67.6
Sunday	1,904,799	2,804,331	67.9
Total	3,873,163	5,717,639	67.7
Offpeak days:			
Monday	1,396,700	2,283,303	61.2
Tuesday	1,246,957	2,264,341	55.1
Wednesday	1,269,086	2,273,587	55.8
Thursday	1,430,406	2,312,745	61.8
Saturday	1,874,710	2,797,360	63.8
Total	7,127,859	11,931,336	59.7
Offpeak months	25,897,321	48,167,551	53.8
Peak days:			
Friday	3,893,686	6,486,853	60.0
Sunday	4,820,064	7,973,879	60.4
Total	8,713,750	14,460,732	60.3
Offpeak days:			
Monday	3,563,200	7,042,739	50.6
Tuesday	3,083,515	6,533,248	47.2
Wednesday	3,333,404	6,481,642	51.4
Thursday	3,438,517	6,429,262	53.5
Saturday	3,764,935	7,219,928	52.1
Total	17,183,571	33,706,819	51.0

Distribution of supply and demand by hour of day[1] August and November 1975 and February and May 1976

Hour of day	Peak month (August)			Offpeak months (February, May, and November)							
	RPM's	ASM's	Load factor	RPM's				ASM's				Factor
				February	May	November	Total	February	May	November	Total	
Peak hours:												
8 a.m. to 8:59 a.m	758,638	1,344,313		562,852	632,633	514,629		1,205,726	1,234,978	1,084,331		
9 a.m. to 9:59 a.m	961,156	1,660,228		760,353	771,460	689,800		1,433,660	1,484,117	1,347,613		
10 a.m. to 10:59 a.m	817,890	1,250,063		629,056	655,308	587,866		1,170,392	1,199,516	1,125,425		
11 a.m. to 11:59 a.m	694,863	1,053,359		446,934	540,814	459,367		886,729	986,996	914,735		
12 noon to 12:59 p.m	1,129,041	1,618,611		816,600	839,697	739,253		1,476,807	1,480,982	1,379,387		
1 p.m. to 1:59 p.m	841,423	1,210,441		611,305	667,792	564,574		1,086,565	1,173,236	998,013		
2 p.m. to 2:59 p.m	559,185	813,999		494,006	477,868	416,261		815,299	778,707	679,814		
3 p.m. to 3:59 p.m	560,547	836,002		444,591	475,098	411,919		749,014	784,185	696,739		
4 p.m. to 4:59 p.m	697,990	1,046,728		593,899	606,825	564,765		1,001,950	985,971	952,813		
5 p.m. to 5:59 p.m	825,725	1,294,900		737,452	788,011	682,571		1,296,208	1,305,470	1,136,826		
6 p.m. to 6:59 p.m	790,433	1,291,258		630,829	684,937	593,154		1,104,572	1,195,188	1,056,758		
Total	8,636,891	13,419,902	64.4	6,727,879	7,142,443	6,204,159	20,074,481	12,226,922	12,609,316	10,372,454	35,208,692	57.0
Offpeak hours:												
7 p.m. to 7:59 p.m	329,817	561,515		269,410	286,044	259,857		541,397	534,312	476,766		
8 p.m. to 8:59 p.m	231,454	446,842		181,619	174,877	174,719		394,542	551,149	364,036		
9 p.m. to 9:59 p.m	309,841	576,879		223,475	227,155	189,044		468,244	449,302	404,375		
10 p.m. to 10:59 p.m	351,143	650,307		295,899	277,268	235,813		605,235	551,729	495,166		
11 p.m. to 11:59 p.m	147,425	240,090		72,371	106,006	57,774		157,005	178,525	125,487		
12 Midn to 12:59 a.m	240,366	369,416		122,896	91,618	114,575		306,547	204,795	254,123		
1 a.m. to 1:59 a.m	73,577	11,414		49,066	28,060	20,655		111,120	70,207	52,178		
2 a.m. to 2:59 a.m	30,735	53,677		24,468	12,362	13,729		54,788	27,587	29,119		
3 a.m. to 3:59 a.m	14,378	27,016		14,648	12,759	15,723		36,871	37,352	36,587		
4 a.m. to 4:59 a.m	28,158	51,530		6,559	6,981	5,606		21,415	21,895	18,786		
5 a.m. to 5:59 a.m	5,067	14,184		3,276	2,036	3,773		16,215	6,685	15,346		
6 a.m. to 6:59 a.m	81,082	157,118		54,053	57,545	46,377		135,916	128,466	106,252		
7 a.m. to 7:59 a.m	347,145	674,878		263,297	294,336	264,295		592,346	602,278	601,776		
Total	2,190,208	3,934,866	55.7	1,581,037	1,577,083	1,401,950	4,560,070	3,343,641	3,164,282	2,980,007	9,487,930	48.1
Grand total	10,827,099	17,354,768	62.3	8,308,916	8,719,536	7,606,109	24,634,551	15,570,563	15,773,598	13,352,461	44,696,622	55.1
Peak as percent of total	79.8	77.3		81.0	81.9	81.6	81.5	78.5	79.9	77.7	78.8	

[1] Total RPM's and ASM's do not equal monthly totals because some flights could not be matched by hour.

APPENDIX D.—*Computation of load factor obtainable through peak and off-peak pricing on a daily and monthly basis*

	RPM's [1]	ASM's [1]	Load factor [1]	Percent change in fare [2]	Traffic adjustment [3]	Adjusted RPM's	ASM's adjusted for monthly traffic change [4]	Load factor	AMS's adjusted for daily change [5]	Load factor	Load factor increase
4-mo total	36,898,343	65,816,526	56.1			37,129,500	59,173,441	62.7	55,313,221	67.1	11.0
Peak month	11,001,022	17,648,975	62.3	+16.5	0.8986	9,885,518	15,867,605	62.3	14,832,463	66.7	
Peak days	3,873,163	5,717,639	67.7	+28.3	.8399	3,253,070			4,805,126	67.7	
Off-peak days	7,127,859	11,931,336	59.7	+10.0	.9355	6,668,112			10,027,339	66.5	
Off-peak month	25,897,321	48,167,551	53.8	−7.0	1.0520	27,243,982	43,305,836	62.9	40,480,758	67.3	
Peak days	8,713,750	14,460,732	60.3	+6.9	.9544	8,316,408			12,153,133	68.4	
Off-peak days	17,183,571	33,706,819	51.0	−14.1	1.1020	18,936,295			28,327,625	66.8	

[1] Source: Daily service-segment data supplied by trunk carriers for August and November 1975, and February and May 1976.
[2] Fare differentials computed in app. C.
[3] Assumes an elasticity of −.7.
[4] ASM's are adjusted to maintain peak month load factor while maintaining the existing ratios with offpeak periods and within the month.
[5] ASM's are adjusted to maintain August peak-day load factor while maintaining the existing ratios of ASM's between peak and offpeak within the month and while maintaining the existing ratios of ASM's between months.

APPENDIX E.—*Fuel consumption and potential savings midmonth of each quarter 1975*

Domestic trunks	February	May	August	November	Total
Scheduled operations revenue aircraft-miles (thousands):					
Mixed services	115,506	124,791	132,512	116,990	489,799
All-cargo	3,672	4,093	3,777	3,227	14,769
Total	119,178	128,884	136,289	120,217	504,568
Percent of mixed to total	96.9189	96.8243	97.2287	97.3157	97.0729
48-State scheduled services:					
Gallons of fuel used	470,462,171	500,392,388	535,642,279	470,281,506	1,976,778,244
Percent allocation to mixed services	96.9189	96.8243	97.2287	97.3157	97.0729
Gallons used in mixed services	455,966,761	484,501,427	570,708,025	457,657,740	1,918,916,065
Scheduled ASM's (thousands)	15,131,039	16,366,431	17,706,921	15,264,819	64,471,210
Gallon per ASM	.030135	.029603	.029409	.029981	.029764
Gallon per RPM at 55 percent LF	.054791	.053824	.053471	.053968	.054116
Gallon per RPM at 60 percent LF	.050225	.049338	.049015	.049468	.049607
Savings per RPM					.004509

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federal register

WEDNESDAY, MAY 25, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for July are being accepted for the free Wednesday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409, from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Dean Smith, 202–523–5282.

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ENVIRONMENTAL PROTECTION
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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"Tax Reduction and Simplification Act of 1977". (May 23, 1977; 91 Stat. 126). Price: $.55.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Amendment of Authority Reservations

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the reservations of authority to the Assistant Secretary for Conservation, Research, and Education. This amendment is necessitated by section 17 of the National Forest Management Act amending the Weeks Law of March 1, 1911, by transferring the functions of the National Forest Reservation Commission to the Secretary of Agriculture.

This amendment (1) deletes the reservation of authority for the Assistant Secretary to serve as a matter of the National Forest Reservation Commission, (2) reserves to the Assistant Secretary the authority to establish purchase units as previously had been done by the Commission and (3) reserves to the Assistant Secretary the authority to transmit to the Congress reports on land purchases and exchanges as required by section 17(b) of the National Forest Management Act.

EFFECTIVE DATE: May 25, 1977.

FOR FURTHER INFORMATION CONTACT:

G. W. Van Gilst, Director, Lands Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 703–235–8212.

SUPPLEMENTARY INFORMATION: A specific delegation of authority from the Secretary to the Assistant Secretary to establish purchase units under the provisions of Weeks Law, as amended, is deemed unnecessary in light of the authority presently delegated under 7 CFR 2.19(d)(2) to "protect, manage, and administer the national forests, national forest purchase units, * * * including the acquisition and disposition of lands."

In accordance with exceptions to rulemaking procedures in 5 U.S.C. 553 and Department of Agriculture policy (36 FR 13804), it has been determined that advance notice and request for comments are unnecessary.

Accordingly, paragraph (b) of 7 CFR 2.60 is amended by revising subparagraph (2) to read as follows:

§ 2.60 Chief, Forest Service.

* * * * *

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary of Agriculture for Conservation, Research, and Education.

* * * * *

(2) The authority as successor to the National Forest Reservation Commission to perform all functions previously performed by the Commission, including the establishment of purchase units, and to transmit purchase and exchange cases to Congress as required by section 17(b) of the National Forest Management Act of 1976 (16 U.S.C. 521b).

* * * * *

(80 Stat. 379 (5 U.S.C. 301))

Signed at Washington, D.C. on May 18, 1977.

M. RUPERT CUTLER,
Assistant Secretary.

[FR Doc.77–14794 Filed 5–24–77;8:45 am]

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—WAREHOUSE REGULATIONS, U.S. WAREHOUSE ACT

PART 107—NUT WAREHOUSES

Licensing of Nut Inspectors

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changes the definiton of licensed inspectors under the U.S. Warehouse Act to include inspectors licensed under the Agricultural Marketing Act of 1946. The change will result in an avoidance of a duplication in licensing certain nut inspectors. The action will authorize one license to serve the licensing requirements of two laws where there is a common need.

EFFECTIVE DATE: May 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Arthur R. Willis, Transportation and Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, DC 20250, 202–447–3616.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative provisions in 5 U.S.C. 553, that the Agricultural Marketing Service (AMS), pursuant to the authority conferred by section 28 of the U.S. Warehouse Act, as amended, (7 U.S.C. 241 et seq.), is amending warehouse regulations appearing in Part 107 of Subchapter E of Chapter I in Title 7 of the Code of Federal Regulations to recognize inspectors licensed to inspect and grade nuts under the Agricultural Marketing Act of 1946 as a "licensed" inspector for purposes of the U.S. Warehouse Act.

Regulations under the U.S. Warehouse Act for nut warehouses require, with certain exceptions, that nuts received into and delivered out of a licensed warehouse be inspected and graded by an inspector licensed under the Act. Presently all the inspecting and grading at licensed nut warehouses is done by persons who are licensed as inspectors under the Agricultural Marketing Act of 1946. The U.S. Warehouse Act regulations have recognized such inspectors by providing that they be licensed under the U.S. Warehouse Act without further show of evidence that they can correctly grade nuts in accordance with official or approved standards and have provided that they will not be charged the usual licensing fees. Based upon such recognition, a license document under the U.S. Warehouse Act was issued to those persons holding valid licenses under the Agricultural Marketing Act of 1946. It has now been determined that the issuance of a license document under the U.S. Warehouse Act is an unnecessary duplication of effort inasmuch as the same safeguards of licensing are being met under another Federal authority.

Recognizing Agricultural Marketing Act of 1946 licensed inspectors as licensed inspectors under the U.S. Warehouse Act will serve to streamline the Federal licensing procedures where more than one statutory authority is involved in the licensing process. This will be accomplished by changing the definition of licensed inspector to include a person licensed under the Agricultural Marketing Act of 1946 as well as Federal employees authorized to inspect under that Act. The current provisions for licensing applicants who hold an effective license under the Agricultural Marketing Act of 1946, will no longer have any application and will be deleted from the regulations.

Editorial changes are being made in the definition for a licensed weigher to make it conform with the language format of the definition of a licensed inspector.

An editorial change is being made in the section that prohibits any unlicensed person from representing that he is licensed, by making reference to the definition of inspectors and weighers.

The amendments now being made to the regulations will not, in any way, relieve any inspector, weigher, sampler, or any other person regardless of whether they are licensed under the Warehouse Act, or the Agricultural Marketing Act of 1946, from the provisions of section

30 of the U.S. Warehouse Act which specifies criminal penalties for certain violations of the Act.

Said regulations therefore are amended to read:

1. Section 107.2 (m) and (n) are amended to read:

§ 107.2 Terms defined.

* * * * *

(m) *Licensed inspector.* (1) A person licensed under provisions of Section 11 of the United States Warehouse Act (7 U.S.C. 241 et. seq.), or, (2) A Federal employee authorized under provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et. seq.), or (3) a person licensed under the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et. seq.) to inspect, grade, and certificate the grade or other class and/or condition of nuts stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "persons duly licensed to inspect" or "licensed inspector" shall be defined accordingly.)

(n) *Licensed weigher.* A person licensed under the provisions of Section 11 of the United States Warehouse Act (7 U.S.C. 241 et. seq.), to weigh and certificate the weight of nuts stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "persons duly licensed to weigh" or "licensed weigher" shall be defined accordingly.)

* * * * *

§ 107.60 [Amended]

2. Section 107.60 is amended as follows:

Paragraph (c) is deleted in its entirety.

Paragraph (d) is redesignated as paragraph (c).

Paragraph (e) is redesignated as paragraph (d).

Paragraph (f) is redesignated as paragraph (e).

3. Section 107.74 is amended to read:

§ 107.74 Unlicensed inspectors and weighers.

No person shall in any way represent himself to be an inspector or weigher licensed under the Act unless he is a licensed inspector or licensed weigher as defined in accordance with the provisions of paragraphs (m) and (n) of § 107.2.

It is hereby found impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking procedure and postpone the effective date of these amendments until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in view of the fact that these changes do not add additional restrictions to warehouses licensed under the United States Warehouse Act or impose any additional requirements upon users of warehouse services.

Done at Washington, DC, May 19, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-14907 Filed 5-24-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Plum Reg. 13]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Minimum Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipments of California plums during the period June 1 through July 16, 1977. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.*—1. Pursuant to the amended marketing agreement and Order No. 917 (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Plum Commodity Committee established under the amended marketing agreement and order and upon other information, it is found that this regulation will tend to effectuate the declared policy of the act.

2. This regulation is based upon an appraisal of the current and prospective market conditions for California plums. The committee estimates that 9,132,000 packages of plums will be available for fresh shipment during the 1977 season compared to actual shipment of 7,911,000 packages last season. The 1977 California plum crop is reported to be of good quality at this time with uniform sizing. Industry reports indicate that 1977 shipments of fresh California peaches will be larger than last season and nectarine shipments will be down slightly from last year's record high. These fruits will provide strong market competition for fresh California plums. The grade and size requirements are necessary to prevent the shipment of California plums of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality plums in the interest of producers and consumers pursuant to the declared policy of the act.

3. It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting on May 5, 1977, after giving due notice, to consider supply and market conditions for plums and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of plums. Shipments of some early maturing varieties of 1977 season California plums are expected to begin about May 19, 1977, with most shipments beginning after June 1, 1977. Any shipments occurring prior to June 1, 1977, are regulated under Plum Regulation 12 (41 FR 21174, 30013) which is effective through May 31, 1977. This regulation should apply to all shipments after June 1, 1977, in order to effectuate the declared policy of the act. The provisions of this regulation are identical with the recommendation of the committee and compliance with the provisions of this regulation will not require of handlers any preparation which cannot be completed by the effective date. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified.

§ 917.444 Plum Regulation 13.

Order. (a) During the period June 1, 1977, through July 16, 1977, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period June 1, 1977, through July 16, 1977, no handler shall ship:

1. Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

2. Any lot of packages or containers of Angeleno, Andys Pride, Bee Gee, Casselman, Empress, Fresno Rosa, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW-1, and Swall Rosa plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade; or

3. Any lot of packages or other containers of Late Tragedy plums unless such plums grade U.S. No. 1, except that gum spots which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period June 1, 1977, through July 16, 1977, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

TABLE I

Column A Variety:	Column B Plums-per-sample
Ace	55
Amazon	64
Andys Pride	69
Angeleno	67
Autumn Rosa	72
Beauty	91
Bee Gee	65
Burmosa	60
Casselman	63
Duarte	62
El Dorado	68
Elephant Heart	53
Empress	57
Friar	56
Frontier	61
Gar-Rosa	71
Grand Rosa	54
July Santa Rosa	69
Kelsey	47
Laroda	58
Late Duarte	60
Late Santa Rosa (including Improved Late Santa Rosa and Swall Rosa)	64
Late Tragedy	93
Linda Rosa	63
Mariposa	61
Midsummer	63
Nubiana	56
President	57
Queen Ann	50
Queen Rosa	53
Red Beaut	91
Red Rosa	64
Redroy	58
Rosa Grande	63
Roysum	80
Santa Rosa	69
Simka, Arrosa, New Yorker	48
Standard	83
Tragedy	114
Wickson	51

(d) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520-1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended: (7 U.S.C. 601-674).)

Dated, May 20, 1977, to become effective June 1, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-14908 Filed 5-24-77;8:45 am]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 16—PROCEDURES FOR A VOLUNTARY CONSUMER PRODUCT INFORMATION LABELING PROGRAM

AGENCY: Assistant Secretary of Commerce for Science and Technology, Commerce.

ACTION: Final rule.

SUMMARY: This new part to Title 15 CFR establishes procedures under which a voluntary consumer product information labeling program administered by the Department of Commerce will function. Consumers today are unable in many cases to make rational and accurate marketplace decisions because of lack of comparative, easily comprehensible information at the point of sale on important product performance characteristics. Accordingly, the goal of this program is to make available to consumers, at the point of sale, information on consumer product performance in an understandable and useful form. The program is also intended to educate consumers, distributors, and retailers in the use of the product performance information displayed and provide manufacturers and other participants in the program with an opportunity to convey to the public the particular advantages of their products.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

SUPPLEMENTARY INFORMATION: On May 25, 1976, the Department announced in the FEDERAL REGISTER (41 FR 21389) proposed procedures under which a voluntary consumer product information labeling program would be carried out provided substantial need and support for such a program could be demonstrated. The notice invited interested persons to participate in the proposed rulemaking by submitting written comments or suggestions to the Department. In addition, the notice advised that three informal hearings would be held on the proposed procedures.

Following the publication of the above mentioned May 25 notice, written statements and oral testimony were received by the Department from 97 respondents. The comments and testimony represented input from private citizens, consumer organizations, retailers, manufacturers, trade associations, testing laboratories, consulting organizations, educators, and government agencies. The written comments and transcripts of the hearings are part of the public record which is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5316, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230.

The comments and testimony on the proposed procedures have been carefully considered and evaluated. A summary and analysis of the public's comments and testimony has been prepared by the Department. This document also is available for inspection and copying at the Department's Central Reference and Records Inspection Facility mentioned above.

With regard to the question of whether substantial need and support for the program were demonstrated in the comments received, sixty-four respondents favored initiation of the program. Those favoring the program included a majority of the private citizens, consumer organizations, educators, government agencies, and manufacturers of products other than mechanical, electrical and electronic products who commented. Twenty-three respondents opposed initiation of the program, and this group included a majority of the trade associations and manufacturers of mechanical, electrical and electronic products who commented. Seven respondents from various groups stated that they would support initiation of a mandatory program; however, such a course would be beyond the scope of the Department's proposal.

As noted, the comments received indicated that a number of private citizens, consumer organizations, educators, government agencies and manufacturers feel that there is a need for a consumer product information labeling program. Other comments indicated a lack of support by some manufacturers and trade associations comprising a significant segment of the consumer product industry. Upon balancing the respective views, the Department has determined that the public interest will be served best by instituting the program on a limited pilot project basis, and at the end of one year of its operation, the Department will evaluate its results to decide whether the program merits continuance and, if so, whether to enlarge or reduce the size and scope of its operation.

A number of substantive changes in the proposed procedures were made as a result of the public's comments. The most significant changes involve simplification of the "finding of need" process and the addition of provisions under which portions of the program can be administered by designated agents who would make it unnecessary for program participants to report sensitive sales data directly to the Department of Commerce. Other changes in the procedures involve clarification of the language used and the addition of several terms to the section on definitions. These various changes are discussed in greater detail below.

The proposed procedures called for the use of a "finding of need" process that would have required two separate publications of notices in the FEDERAL REGISTER before work could be started on any Performance Information Labeling Specification. Though this procedure was designed to insure ample opportunity for public input into the product selection

process, it also would have resulted in what some respondents believed to be unnecessary preliminary work and delay. Two respondents suggested that the selection process be simplified and shortened. Accordingly, upon further consideration it was deemed appropriate to eliminate the preliminary finding of need. Under § 16.4(c) the Secretary, upon receiving a request for a finding of need to establish a specification for labeling a consumer product may, if she deems it to be in the public interest, develop whatever additional information she feels is necessary. This could include consultation on a one-time basis with consumers, consumer organizations, and others. Accordingly, it is unnecessary to have a preliminary finding of need. Rather, the Secretary will make only one finding of need which will be a final agency action.

The proposed procedures also called for the establishment of fees and charges for participation in the program. According to most respondents who commented on this topic, the most equitable basis for establishing such fees would be to relate the total fee paid by any one participant to the number of units of the product on which labels were placed. The administration of such a fee schedule, however, would require participants to report to the Department the number of units produced and labeled. Such information is considered by many producers to be confidential. Hence, in order to avoid the necessity for the disclosure of such confidential data or other valuable proprietary trade information to the Secretary and thus permit the association of such data and information with a particular participant, and in accordance with other suggestions made that the program be at least partly administered by industry, provisions were added to the final procedures under which individuals or organizations such as trade associations could, when authorized by the Secretary of Commerce, serve as designated agents who would collect fees and statistical information from consenting participants, consolidate such fees and information from a number of participants, and transmit to the Secretary the consolidated fees and information (§ 16.9). In addition, the proposed procedures were revised to recognize the validity of cost to participants as an item to be considered in the program (§ 16.4(b)(8)).

Finally, the proposed procedures were revised to clarify and improve the language in some areas. For example, the term "participant" is now used to indicate any manufacturer, assembler, private brand labeler, or importer of consumer products who participates in the program, in place of the term "manufacturer" that was used previously. The definition of the term "consumer product" was revised specifically to exclude products customarily intended primarily for business, commercial, or industrial use. Definitions for the terms "Specification" and "designated agent" were added to the final procedures, and several other minor changes were made.

The procedures appended to this notice have been carefully reviewed pursuant to the provisions of Executive Order No. 11821 dated November 27, 1976 (39 FR 41501 dated November 29, 1974), Office of Management and Budget Circular No. A-107 dated January 28, 1975, and Department of Commerce Administrative Order 218-6 dated September 12, 1975, and it has been determined that the promulgation of these procedures will have no major inflationary impact. Each project to develop a Performance Information Labeling Specification initiated under these procedures to effect the labeling of a specific class of consumer product will be carefully examined and evaluated to ascertain whether such project would have a major inflationary impact under the criteria described in the above referenced Executive Order, Office of Management and Budget Circular, and Department of Commerce Administrative Order.

Issued: May 19, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

Part 16 is added to Title 15 CFR to read as follows:

Sec.
16.1 Purpose.
16.2 Description and goal of program.
16.3 Definitions.
16.4 Finding of need to establish a specification for labeling a consumer product.
16.5 Development of performance information labeling specifications.
16.6 Establishment of fees and charges.
16.7 Participation in program.
16.8 Termination of participation.
16.9 Rules governing designated agents.
16.10 The Department of Commerce mark.
16.11 Amendment or revision of a performance information labeling specification.
16.12 Consumer education.
16.13 Coordination with State and local programs.
16.14. Annual report.

AUTHORITY: Sec. 2, 31 Stat. 1449, as amended; sec. 1, 64 Stat. 371; (15 U.S.C. 272); Reorganization Plan No. 3 of 1946, Part VI.

§ 16.1 Purpose.

The purpose of this part is to establish procedures under which a voluntary consumer product information labeling program administered by the Department of Commerce will function.

§ 16.2 Description and goal of program.

(a) The Department's Voluntary Consumer Product Information Labeling Program makes available to consumers, at the point of sale, information on consumer product performance in an understandable and useful form so as to facilitate accurate consumer purchasing decisions and enhance consumer satisfaction. It also educates consumers, distributors and retailers in the use of the product performance information displayed and provides manufacturers and other persons who participate in the program with an opportunity to convey to the public the particular advantages of their products. These objectives are accomplished by:

1. Selecting or developing standardized test methods by which selected product performance characteristics can be measured;

2. Developing labeling methods by which information concerning product performance can be transmitted in useful form to consumers at the point of sale;

3. Encouraging manufacturers and other participants in the program voluntarily to test and label their products according to the selected or developed methods; and

4. Encouraging consumers through various informational and educational programs to utilize the product performance information provided.

(b) The program involves voluntary labeling by enrolled participants of selected categories of consumer products with information concerning selected performance characteristics of those products. The performance characteristics selected are those that are of demonstrable importance to consumers, that consumers cannot evaluate through mere inspection of the product, and that can be measured objectively and reported understandably to consumers. The consumer products covered include those for which incorrect purchase decision can result in financial loss, dissatisfaction, or inconvenience. The program seeks to avoid the duplication of other Federal programs under which performance characteristics are labeled by exempting those performance characteristics from this program.

(c) For selected categories of consumer products, the program includes advertising guidelines covering situations where quantitative performance values are stated in advertising or where qualitative comparisons are made of the performance of different products.

§ 16.3 Definitions.

(a) The term "Secretary" means the Secretary of Commerce or her designee.

(b) The term "consumer" means the first person who purchases a consumer product for purposes other than resale.

(c) The term "participant" means a manufacturer, assembler or private brand labeler of consumer products or an importer of such products for resale and who participates in the program.

(d) The term "consumer product" means any article produced or distributed for sale to a consumer for the use, consumption, or enjoyment of such consumer. The term does not include products customarily intended primarily for business, commercial, or industrial use.

(e) The term "person" means an individual; a manufacturer; distributor; retailer; importer; private brand labeler; government agency at the Federal (including any agency of the Department of Commerce), State and local level; consumer organization; trade association; standards writing body; professional society; testing laboratory; or educational institution.

(f) The term "performance characteristic" means a performance characteristic of a consumer product that can be measured in an objective manner with respect to a given consumer product.

(g) The term "Specification" means a Performance Information Labeling Specification developed under § 16.5.

(h) The term "label" means printed matter affixed to or otherwise provided with a consumer product and containing all of the performance characteristics as prescribed by the Specification applicable to that product.

(i) The term "designated agent" means a person as defined in paragraph (e) of this section, who has been designated by the Secretary to carry out appropriate operational procedures on behalf of more than one participant in this program in accordance with rules set out under § 16.9.

§ 16.4 Finding of need to establish a specification for labeling a consumer product.

(a) Any person may request the Secretary to find that there is a need to label a particular consumer product with information concerning one or more specific performance characteristics of that product.

(b) Such a request shall be in writing and will, to the extent practicable, include the following information:

1. Identification of the consumer product;

2. Extent that the product identified in subparagraph (1) of this paragraph is used by the public and, if known, what the production or sales volume is of such product;

3. Nature and extent of difficulty experienced by consumers in making informed purchase decisions because of a lack of knowledge regarding the performance characteristics of the identified consumer product;

4. Potential or actual loss to consumers as a result of an incorrect decision based on an inadequate understanding of the performance characteristics of the identified consumer product;

5. Extent of incidence of consumer complaints arising from or reasonably traceable to lack of knowledge regarding the performance characteristics of the identified consumer product;

6. If known, whether there currently exist test methods which could be used to test the performance characteristics of the identified consumer product and an identification of those test methods;

(7) Reasons why it is felt, in cases where existing test methods are identified in responding to subparagraph (6) of this paragraph, that such test methods are suitable for making objective measurements of the performance characteristics of the identified consumer product; and

(8) Estimated cost to participants to test and label the product.

(c) The Secretary may ask for more information to support a request made under paragraph (a) of this section if she feels it is necessary to do so, or, if she deems it to be in the public interest, may develop such information herself as by consultation on a one-time basis with consumers, consumer organizations, and others. The Secretary shall act expeditiously on all requests and shall notify the requester of her decision in writing. If the Secretary determines that there is no need to establish a Specification for labeling the requested consumer product performance characteristics, or because of a lack of resources, she will decline to act further on the request. In those instances where the Secretary declines a request, she shall state the reasons for so declining.

(d) If the Secretary finds that a need exists to establish a Specification for labeling a consumer product under this program, she shall publish a notice in the FEDERAL REGISTER setting out such finding and its basis and stating that she is developing a proposed Specification in accordance with § 16.5.

§ 16.5 Development of performance information labeling Specifications.

(a) If the Secretary makes a finding of need pursuant to § 16.4, she will publish a proposed Performance Information Labeling Specification in the FEDERAL REGISTER with a notice giving the complete text of the proposed Specification and any other pertinent information. The notice will invite any interested person to submit written comments on the proposed Specification within 45 days after its publication in the FEDERAL REGISTER, unless another time limit is provided by the Secretary. Interested persons wanting to express their views in an informal hearing may do so, if within 15 days after the proposed Specification is published in the FEDERAL REGISTER, they request the Secretary to hold a hearing. Such informal hearings shall be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments in addition to the opportunity to make written submissions. Notice of such hearings shall be published in the FEDERAL REGISTER. A transcript shall be kept of any oral presentations.

(b) Each Specification shall as a minimum include:

(1) A description of the performance characteristics of the consumer product covered;

(2) An identification by reference of the test methods to be used in measuring the performance characteristics. The test methods, where they exist and are deemed appropriate for inclusion in the particular Specification involved, shall be those which are described in nationally-recognized voluntary standards. Where appropriate test methods do not exist, they will be developed by the Department of Commerce in cooperation with interested parties and set out in full in the Specification;

(3) A prototype label and directions for displaying the label on or with the consumer product concerned. Such directions will not prohibit the display of additional information by the participant on space adjacent to the marked boundaries of the label; and

(4) Conditions of participation.

(c) The Secretary, after consideration of all written and oral comments and other materials received in accordance with paragraph (a) of this section, shall publish in the FEDERAL REGISTER within 30 days after the final date for receipt of comments, or as soon as practicable thereafter, a notice either:

(1) Giving the complete text of a final Specification, including conditions of use, and stating that any prospective participant in the program desiring voluntarily to use the Department of Commerce Mark developed under § 16.10 must advise the Department of Commerce; or

(2) Stating that the proposed Specification will be further developed before final publication; or

(3) Withdrawing the proposed Specification from further consideration.

§ 16.6 Establishment of fees and charges.

(a) The Secretary in conjunction with the use of the Working Capital Fund of the National Bureau of Standards, as authorized under section 12 of the Act of March 3, 1901, as amended (15 U.S.C. 278b), for this program, shall establish fees and charges for use of the Department of Commerce Label and Mark on each product. Such fees and charges shall be related to the number of units of products labeled, where appropriate. The fees and charges established by the Secretary, which may be revised by her when she deems it appropriate to do so, shall be in amounts calculated to make the operation of this program as self-sufficient as reasonable. A separate notice will be published in the FEDERAL REGISTER simultaneously with the notice of each proposed Specification referred to in § 16.5(a). Such notice will set out a schedule of estimated fees and charges the Secretary proposes to establish. The notice would be furnished for informational and guidance purposes only in order that the public may evaluate the proposed Specification in light of the expected fees to be charged.

(b) At such time as the Secretary publishes the notice announcing the final Specification referred to in § 16.5(c)(1), she shall simultaneously publish a separate notice in the FEDERAL REGISTER setting forth the final schedule of fees that will be charged participants in the program. The effective date of such final schedule of fees shall be the same as the date on which the final Specification takes effect.

(c) Revisions, if any, to the fees and charges established by the Secretary under paragraph (b) of this section shall be published in subsequent FEDERAL REGISTER notices and shall take effect not less than thirty (30) days after the date of publication of such notice.

§ 16.7 Participation in Program.

(a) Any manufacturer, assembler, or private brand labeler of consumer products, or importer of such products for resale, desiring to participate in this program will so notify the Secretary. The notification will identify the particular

Specification to be used and the prospective participant's identification and model numbers for the products to be labeled. The notification must include a statement that if accepted as a participant in the program by the Secretary, the prospective participant will:

(1) Abide by all conditions imposed by these procedures:

(2) Abide by the conditions contained in the Specification, as prescribed in paragraph (d) of this section;

(3) Pay the fees and charges established by the Secretary; and

(4) Desist from using the Department of Commerce Label and Mark if his participation is terminated under § 16.8.

(b) The Secretary shall act expeditiously on all requests to participate in the program and shall notify each prospective participant of her decision in writing. In those instances where the Secretary declines a request, she shall state the reasons for so declining.

(c) If a prospective participant seeking to participate in the program is notified by the Secretary that she proposes to deny that prospective participant the right to participate, that prospective participant shall have thirty (30) days from the receipt of such notification to request a hearing under the provisions of 5 U.S.C. 556. The Secretary's proposed denial shall become final through the issuance of a written decision to such prospective participant in the event that he does not appeal such notification by the end of the thirty (30) day period. If however, such prospective participant requests a hearing within that thirty (30) day period, the Secretary's proposed denial shall be stayed pending the outcome of the hearing held pursuant to 5 U.S.C. 556.

(d) The conditions set out in each Specification will include, but not be limited to, the following:

(1) Prior to the use of a Label, the participant will make or have made the measurements to obtain the information required for inclusion on the Label and, if requested, will forward within 30 days such measurement data to the Secretary. Such measurement data will be kept on file by the participant or his agent for two years after that product is no longer manufactured unless otherwise provided in the Specification.

(2) The participant will describe the test results on the Label as prescribed in the Specification.

(3) The participant will display or arrange to display, in accordance with the appropriate Specification, the Label on or with each individual product of the type covered except for units exported from the U.S. Participants who utilize more than one brand name may participate by labeling some or all of the brand names. All models with the same brand name must be included in the program unless they are for export only.

(4) The participant agrees at his expense to comply with any reasonable request of the Secretary to have consumer products manufactured, assembled, imported, or privately brand labeled by him tested to determine that testing has been done according to the relevant Specification.

(5) Participants may reproduce the Department of Commerce Label and Mark in advertising: *Provided*, That the entire Label, complete with all information required to be displayed at the point of retail sale, is shown legibly and is not combined or associated directly with any other mark or logo.

§ 16.8 Termination of participation.

(a) The Secretary upon finding that a participant is not complying with the conditions set out in these procedures or in a Specification may terminate upon 30 days notice the participant's right to continue his participation in the program: *Provided*, That the participant shall first be given an opportunity to show cause why the participation should not be terminated.

(b) Upon receipt of a notice from the Secretary of the proposed termination, which notice shall set forth the reasons for such proposed termination, the participant shall have thirty (30) days from the date of receipt of such notification to request a hearing under the provisions of 5 U.S.C. 556. The Secretary's proposed termination shall become final through the issuance of a written decision to the participant in the event such participant does not appeal the proposed termination within the thirty (30) day period. If, however, the participant requests a hearing within the thirty (30) day period, the Secretary's proposed termination shall be stayed pending the outcome of the hearing held pursuant to 5 U.S.C. 556.

(c) A participant may at any time terminate his participation and responsibilities under this program with regard to a specific type of product by giving written notice to the Secretary that he has discontinued use of the Department of Commerce Label and Mark for all consumer products of the type involved.

§ 16.9 Rules Governing Designated Agents.

(a) The following rules, requirements and tasks shall be applicable with respect to the seeking of designated agent status and the performance of that role after such status has been obtained. Each person desiring to be designated as a designated agent under this program shall:

(1) Make written application to the Secretary;

(2) Provide appropriate information showing his qualifications to represent members within a given product area and that more than one prospective participant in that product area is agreeable to such representation; and

(3) Agree to service any participant in this program in the agent's cognizant product area whether or not such participant is a member of the organization or body which that agent represents.

(b) The Secretary may require a person seeking designated agent status to supply further information before granting such status to that person. The Secretary will notify each person seeking designated agent status, in writing, as expeditiously as possible after evaluating such person's application.

(c) Each person granted designated agent status shall:

(1) Provide the Secretary with a list of the participants that the designated agent services under the program. The Secretary shall also be provided an updated list as soon thereafter as may be practicable whenever there are any changes in the list;

(2) Collect fees and charges from the participants serviced under this program, consolidate such sums, and transmit those fees and charges required under § 16.6 to the Secretary;

(3) Distribute Department of Commerce Marks developed under § 16.10 or instructions for the printing of such Marks to the participants that the designated agent services under this program;

(4) Gather and consolidate such statistical information as may be required by the Secretary from individual participants serviced;

(5) Provide the Secretary with reports, including the consolidated statistical information referred to in subparagraph (4) of this paragraph, as may be called for by her, relative to the activities of the participants the designated agent is servicing; and

(6) Perform any additional tasks mutually agreed upon by the designated agent and the Secretary.

(d) If a person seeking designated agent status is notified by the Secretary that she proposes to deny that person such status, that person shall have thirty (30) days from the date of receipt of such notification to request a hearing under the provisions of 5 U.S.C. 556. The Secretary's proposed denial shall become final through the issuance of a written decision to such person in the event that he does not appeal such notification by the end of that thirty (30) day period. If, however, such person requests a hearing within that thirty (30) day period, the Secretary proposed denial shall be stayed pending the outcome of the hearing held pursuant to 5 U.S.C. 556.

(e) If the Secretary finds that a designated agent has violated the terms of paragraph (c) of this section, she may, after consultation with such designated agent, notify such person that she proposes to revoke his status as a designated agent.

(f) Upon receipt of a notice from the Secretary of the proposed revocation, which notice shall set forth the reasons for such proposed revocation, the designated agent shall have thirty (30) days from the date of receipt of such notification to request a hearing under the provisions of U.S.C. 556. The Secretary's proposed revocation shall become final through the issuance of a written decision to the designated agent in the event such designated agent does not appeal the proposed revocation within that thirty (30) day period. If, however, the designated agent requests a hearing within that thirty (30) day period, the Secretary's proposed revocation shall be stayed pending the outcome of the hearing held pursuant to 5 U.S.C. 556.

§ 16.10 The Department of Commerce Mark.

The Department of Commerce shall develop a Mark which shall be registered in the U.S. Patent and Trademark Office under 15 U.S.C. 1054 for use on each Label described in a Specification.

§ 16.11 Amendment or Revision of a Performance Information Labeling Specification.

The Secretary may by order amend or revise any Specification published under § 16.5. The procedure applicable to the establishment of a Specification under § 16.5 shall be followed in amending or revising such Specification. Such amendment or revision shall not apply to consumer products manufactured prior to the effective date of the amendment or revision.

§ 16.12 Consumer Education.

The Secretary, in close cooperation and coordination with interested Government agencies, appropriate trade associations and industry members, consumer organizations, an other interested persons shall carry out a program to educate consumers relative to the significance of the labeling program. Some elements of this program shall also be directed toward informing retailers and other interested groups about the program.

§ 16.13 Coordination with State and Local Programs.

The Secretary will establish and maintain an active program of communication with appropriate State and local government offices and agencies and will furnish and make available information and assistance that will promote uniformity in State and local programs for the labeling of performance characteristics of consumer products.

§ 16.14 Annual Report.

The Secretary will prepare an annual report of activities under the program, including an evaluation of the program and a list of participants, designated agents, and types of consumer products covered.

[FR Doc.77-14851 Filed 5-20-77;3:00 pm]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 712—THE ACQUISITION FUNCTION

PART 790—PUBLIC HEARINGS AND LOCATION/DESIGN APPROVAL

Right-of-Way Parcels

AGENCY: Federal Highway Administration, Department of Transportation.

ACTION: Amendments to final rules.

SUMMARY: These amendments revise current procedures for the advance acquisition of right-of-way parcels to conform with a recent order of the United States District Court for the District of Columbia. These revisions are intended to make it clear that Federal funds may be expended to finance advance acquisition of right-of-way parcels only in extraordinary cases or emergency situations and only after (a) the State highway department has given official notice to the public that it has selected a particular location to be the preferred or recommended alignment for a proposed highway, or (b) a public hearing has been held or an opportunity for a public hearing has been afforded.

EFFECTIVE DATE: May 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. William B. Bynum, Real Property Acquisition Division, Office of Right-of-Way (202–426–0142), or Mr. Stanley H. Abramson, Office of Chief Counsel (202–426–0791), Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Hours are from 7:45 a.m. to 4:15 p.m. EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: Under current Federal Highway Administration (FHWA) procedures, acquisition of right-of-way for a Federal-aid highway project normally occurs after (1) a final environmental impact statement has been processed or a negative declaration adopted pursuant to 23 CFR Part 771, (2) the FHWA has approved a route location under 23 CFR 790.9(e)(1), or accepted the general location of a highway section under 23 CFR 771.5, and (3) the public hearing requirements of 23 U.S.C. 128 have been satisfied. In certain cases the normal project development process is delayed by funding problems, changing legal requirements, lawsuits or similar problems. Public awareness that a particular route is under serious consideration develops as a result of public meetings and hearings, announcements made by the State highway department, prior approval actions taken by FHWA, publicity surrounding court cases and controversial projects, or various combinations of these factors.

Project delays, which run anywhere from a period of several months to ten years or more, coupled with public awareness of the project proposal often result in property owners being unable to sell their properties on the open market due to uncertainty over the proposed highway project, and a corresponding reluctance to improve or maintain these properties. In certain cases the inability to sell and lack of maintenance may present truly unique situatons involving extreme financial hardship and/or endangering the health and welfare of the property owner or a member of the owner's household.

In other cases project delays may prompt some property owners to invest substantial sums of money to develop their properties (e.g. construction of a housing subdivision or shopping center). If a decision is finally made to construct a transportation facility, the new development may unduly restrict the choice of alternative transportation modes or corridors, preclude selection of safe design configurations or result in undue community disruption.

For the foregoing reasons, the acquisition of particular parcels within the limits of a proposed Federal-aid highway corridor prior to normal right-of-way acquisition activities has been permitted in individual cases of demonstrated need under § 790.9(f) and the criteria in § 712.204(d) of Title 23, Code of Federal Regulations (23 CFR). In addition to normal Federal-aid project funds, the Federal share of the cost of advance acquisitions may also be drawn from a special fund established by Congress in 1956 for the specific purpose of advance acquisition of highway right-of-way (23 U.S.C. 108).

Certain aspects of the FHWA's advance acquisition procedure were criticized in an opinion by the United States Court of Appeals for the District of Columbia Circuit in "National Wildlife Federation v. Tiemann," Civil Action No. 75–1214 (D.C. Cir. October 28, 1976). Following the Circuit Court opinion the FHWA instituted an interim procedure for processing advance acquisition applications (42 FR 5774, January 31, 1977).

The case was remanded to the United States District Court for the District of Columbia for entry of a decree in accordance with the October 26 opinion. That decree, issued by the District Court on February 18, 1977 (Civil Action No. 1270–73, filed February 22, 1977), enjoins the Federal Highway Administration from ordinarily expending Federal funds to finance advance acquisition of right-of-way prior to (1) the holding of a final valid location hearing, (2) final consideration of the economic, social, environmental and other effects of the location and its alternatives as required by 23 U.S.C. 128(a), and (3) firm commitment to location pursuant to that statute and 23 CFR 790.9(e)(1). The decree also renders null and void the current provisions of 23 CFR 790.9(f) which were construed to ordinarily permit authorization of the acquisition of right-of-way prior to a location hearing.

The procedures formerly required under 23 CFR 790.9(f) have been revised in light of the judicial rulings and updated to conform with current program terminology. In order to give maximum effect to the court decisions, § 790.9(f) is being deleted and the new provisions added to the advance acquisition section of 23 CFR Part 712. The new provisions clarify the circumstances under which particular acquisitions proposed by a State prior to normal right-of-way acquisition activities will be considered eligible for Federal-aid funding.

A State's request for Federal participation will be approved only in extraordinary cases or emergency situations and then only upon submission of proper documentation demonstrating that the acquisition is in the public interest and is necessary to alleviate particular hardship to a property owner, on his request, in contrast to others because of an inability to sell his property or to prevent imminent development and increased costs of a parcel which would

tend to limit the choice of highway alternatives. The documentation requirements are part of the previous regulation. The "extraordinary" and "emergency" standards are new and are intended to emphasize that only truly unique situations will be considered for Federal-aid funding.

Another new provision permits Federal approval only after a public hearing has been held or the opportunity for such a hearing has been afforded in conformance with 23 U.S.C. 128, or after the State highway department has given official notice to the public that it has selected a particular location to be the preferred or recommended alignment for the proposed highway. Federal participation in the acquisition of right-of-way prior to one of these two occurrences will not be possible under any circumstances. Existing safeguards regarding parklands, historic sites and environmental assessments will remain in effect (23 CFR 712.204(d)(2), (3)).

States remain free to finance advance acquisitions out of their own funds and seek Federal funds for subsequent project costs. Current guidelines for preserving eligibility for Federal-aid highway funds under such circumstances will remain in effect (23 CFR 712.204(d)(5)).

NOTE.—The FHWA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

1. Accordingly, 23 CFR Part 712, Subpart B, is amended by revising § 712.204 (d)(1) to read as follows:

§ 712.204 Project procedures.

* * * * * *

(d) * * *

(1) In extraordinary cases or emergency situations the State highway department may request and the Federal Highway Administrator may approve Federal participation in the acquisition of a particular parcel or a limited number of particular parcels within the limits of a proposed highway corridor prior to completion of processing of the final environmental impact statement or adoption of the negative declaration, but only after (i) the State highway department has given official notice to the public that it has selected a particular location to be the preferred or recommended alignment for a proposed highway, or (ii) a public hearing has been held or an opportunity for such a hearing has been afforded. Proper documentation shall be submitted to show that the acquisition is in the public interest and is necessary to:

(A) Alleviate particular hardship to a property owner, on his request, in contrast to others because of an inability to sell his property;

(B) Prevent imminent development and increased costs of a parcel which would tend to limit the choice of highway alternatives.

§ 790.9 [Amended]

2. 23 CFR 790.9(f) is deleted.

Issued on: May 18, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-14869 Filed 5-24-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER F—ENROLLMENT

PART 43n—PREPARATION OF A ROLL OF PERSONS OF GRAND RIVER OTTAWA INDIAN BLOOD TO BE USED AS THE BASIS TO DISTRIBUTE JUDGMENT FUNDS

MAY 18, 1977.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this new Part 43n is to establish procedures to govern preparation of a roll, as provided in the Act of October 18, 1976, of persons of Grand River Ottawa Indian blood to be used as the basis to distribute the judgment funds.

EFFECTIVE DATES: These regulations shall become effective on: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Miss Janet Parks, Division of Tribal Government Services, telephone: 202-343-2985.

SUPPLEMENTARY INFORMATION: Beginning on page 13123 of the March 9, 1977, FEDERAL REGISTER (42 FR 13123), there was published a notice of proposed rulemaking. All interested persons were given until April 8 to submit their written comments, suggestions or objections regarding the proposed rule.

After consideration of all such relevant matter presented by interested persons, the revision as so proposed is hereby adopted with the following changes:

1. In line six of § 43n.3(f) add "s" to "paragraph", and after (b) in line seven add "and (g)".

2. After § 43n.3(f), new paragraph (g) is added as set forth below.

The authority for the Commissioner to issue these regulations is contained in 5 U.S.C. 301, and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 230 DM 1 and 2.

Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by adding a new Part 43n to read as follows:

Sec.
43n.1 Definitions.
43n.2 Purpose.
43n.3 Qualifications for enrollment.
43n.4 Filing of applications and deadline for filing.
43n.5 Burden of proof.
43n.6 Action by the Superintendent.
43n.7 Appeals.
43n.8 Preparation of the roll.
43n.9 Certification and approval of the roll.
43n.10 Special instructions.

AUTHORITY: 90 Stat. 2503.

§ 43n.1 Definitions.

(a) "Act" means the Act of October 18, 1976 (90 Stat. 2503), which directs the Secretary of the Interior to prepare the roll of the Grand River Band of Ottawa Indians.

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(d) "Area Director" means the Area Director, Minneapolis Area Office or his authorized representative.

(e) "Superintendent" means the Superintendent of the Michigan Agency.

§ 43n.2 Purpose.

The regulations in this part govern the preparation of a roll of persons who possess Grand River Ottawa Indian blood to be used to distribute the judgment funds awarded the Grand River Band of Ottawa Indians in Indian Claims Commission docket 40-K.

§ 43n.3 Qualifications for enrollment.

The roll shall contain the names of persons who meet the following requirements:

(a) They were born on or prior to and living on October 18, 1976;

(b) Their name or the name of a lineal ancestor through whom they claim eligibility appears as a Grand River Ottawa on the roll of the Ottawa and Chippewa Tribe of Michigan, Durant Roll of 1908, containing the Commissioner's recommendation that it be approved except for those persons listed opposite numbers 747, 1331, 2437, 3957, 4462, 4684, 6151, 6273, 6275, 6496, 6525, 7028, 7035 and 7168, and those persons whose names are checked in red pencil, indicating descendants of half-breeds or mixed bloods, and in blue pencil, indicating persons who affiliated with, received rights or were enrolled members of other tribes, approved by the Secretary on February 18, 1910, with the Commissioner's recommendation, or on any available census rolls or other records acceptable to the Secretary;

(c) They possess one-fourth degree or more Grand River Ottawa Indian blood;

(d) They are citizens of the United States; and,

(e) They file or have filed in their behalf applications for enrollment within the time specified in § 43n.4.

(f) In the absence of proof to the contrary, for the purposes of determining degree of Grand River Ottawa blood, all persons named as Grand River Ottawas on the Durant Roll of 1908 with the exceptions specified in paragraphs (b) and (g) of this section shall be considered as possessing 4/4 degree Grand River Ottawa Indian blood.

(g) Children named on the Durant Roll with an indication that one parent is non-Indian will be considered to possess ½ degree Grand River Ottawa Indian blood and children named on the roll with an Indian parent whose spouse is shown as non-Indian will be considered to possess ½ degree Grand River Ottawa Indian blood, provided, it can be established the non-Indian spouse is the other parent of the child.

§ 43n.4 Filing of applications and deadline for filing.

(a) Application forms may be obtained from the Superintendent, Michigan Agency, Bureau of Indian Affairs, Sault Ste. Marie, Michigan 47983. Completed applications must be received by the Superintendent by close of business on September 2, 1977.

(b) Applications received after that date will be denied for failure to file in time regardless of whether the applicants otherwise meet the requirements for enrollment.

§ 43n.5 Burden of proof.

The burden of proof rests upon the applicant to establish his eligibility for enrollment. Documentary evidence such as birth certificates, baptismal records, copies of probate findings or affidavits may be used to support claims for enrollment. Records of the Bureau of Indian Affairs may also be used to establish eligibility.

§ 43n.6 Action by the Superintendent.

The Superintendent must notify rejected applicants by certified mail, addressee only, return receipt requested, explaining the reason for the adverse action and advising them of their right to appeal to the Secretary.

§ 43n.7 Appeals.

Appeals from rejected applicants must be in writing and filed pursuant to Part 42 of this subchapter, a copy of which will be furnished with each notice of rejection.

§ 43n.8 Preparation of the roll.

The roll shall contain for each person a roll number, name, address, sex, date of birth, and, when applicable, the roll number and name and relationship of applicant to ancestor through whom eligibility is established.

§ 43n.9 Certification and approval of the roll.

The Superintendent shall attach a statement to the roll certifying that to the best of his knowledge and belief the roll contains only the names of those persons who meet the requirements for enrollment. The roll shall be submitted to the Area Director for approval.

§ 43n.10 Special instructions.

To facilitate the work of the Superintendent the Commissioner may issue special instructions not inconsistent with the regualtions in this part.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-14800 Filed 5-24-77;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 530—RHODESIAN SANCTIONS REGULATIONS

Steel Mill Products in Transit

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rules.

SUMMARY: The amendment permits importation after May 18, 1977 of ferrochromium and specialty steel products for which an ocean bill of lading had been issued before March 18, 1977. The amendment is needed because the current authorization would have expired at the close of business on May 18, 1977.

EFFECTIVE DATE: May 19, 1977.

FOR FURTHER INFORMATION CONTACT:

George F. Hazard, Chief of Licensing, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202-376-0428.

SUPPLEMENTARY INFORMATION: Section 530.520(a) of the Regulations authorizes the importation of ferrochromium and steel mill products provided that the pertinent ocean bill of lading was issued before March 18, 1977. Under paragraph (c) of § 530.520, this authorization would have expired at the close of business on May 18, 1977. The current amendment deletes paragraph (c) and thus permits the unrestricted importation of ferrochromium and specialty steel products after May 18, 1977 if the ocean bill of lading was issued before March 18, 1977. The effect of the amendment is to permit products which were in bonded warehouse on March 18 to be withdrawn from warehouse and entered after June 14, 1977, when a new quota period for specialty steel products opens.

The primary author of this amendment is Stanley Sommerfield.

Since this amendment relaxes existing restrictions and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date are inapplicable.

§ 530.520 [Amended]

31 CFR, Part 530, is amended by the deletion of paragraph (c) of § 530.520.

(22 U.S.C. 287(c); Pub. L. 95-12, March 18, 1977, 91 Stat. 22; Executive Order 11322; Executive Order 11419; Executive Order 11978.)

STANLEY L. SOMMERFIELD,
Acting Director.

Approved: May 18, 1977.

BETTE M. ANDERSON,
Under Secretary.

[FR Doc.77-14899 Filed 5-24-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER D—RANGE MANAGEMENT (4000)

[Circular No. 2422]

PART 4700—WILD FREE-ROAMING HORSE AND BURRO PROTECTION, MANAGEMENT, AND CONTROL

Use of Helicopters in Management of Wild Free-Roaming Horses and Burros

AGENCY: Land Management Bureau, Interior.

ACTION: Final rulemaking.

SUMMARY: This rule prescribes conditions under which helicopters may be used in the gathering and capturing of wild free-roaming horses and burros. This rule implements part of the Federal Land Policy and Management Act of 1976 (16 U.S.C. 1338a) and is intended to provide the most humane method of removing excess horses and burros.

EFFECTIVE DATE: May 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Springer, 202-343-4328.

SUPPLEMENTARY INFORMATION: On January 25, 1977, the Land Management Bureau: Interior published proposed rulemaking (43 FR 4500) regarding the use of helicopters in the management of wild free-roaming horses and burros. Public comments were invited through April 22, 1977 and public meetings were held in 10 western States to discuss the proposal with interested persons. Written comments were received from 30 sources and verbal comments were recorded from 82 persons. Comments from all sources are summarized as follows:

Forty-two persons and interest groups expressed general concurrence with the rulemaking and nine persons and interest groups expressed general opposition to the rulemaking. Comments of persons and groups who made specific suggestions are grouped as comments leading to changes in the rulemaking, comments not leading to changes in the rulemaking, and suggested changes not possible under the existing authorities.

COMMENTS LEADING TO CHANGES IN THE RULEMAKING

1. It was suggested that the definition of "malicious harassment" be clarified to include deliberate disregard for the welfare of the animals.

2. It was suggested that the definition of "humane procedure" be changed by eliminating the clause beginning with the words, "in all actions involving roundups," to eliminate redundant and limiting words.

3. Thirty persons and groups suggested that the use of helicopters to gather claimed animals should be permitted. The rulemaking is amended to provide that the authorized officer may use helicopters in areas where all animals are claimed, if forage, habitat, or watershed resources are being adversely affected by horses and burros and the use of helicopters is the only feasible method

available to capture and remove the animals. Captured animals determined to be privately owned may be secured by the appropriate claimant upon payment of trespass charges under 43 CFR 4720.3 and a per head share of the helicopter rental and associated costs of the roundup and capture of the animals.

4. Three comments on § 4730.7–1 regarding the use of fixed-wing aircraft suggested (a) use no fixed-wing aircraft, (b) use no fixed-wing aircraft below 1,000 feet in altitude, and (c) ensure that wording in the rulemaking will permit utilization of fixed-wing aircraft to carry personnel and supplies to gather sites if needed.

The concerns were safety of people, unnecessary harassment of animals, and flexibility in the choice of support vehicles to conduct an efficient operation. The action is clarified to satisfy all three concerns.

5. It was suggested that § 4740.4(a)(4) be changed to provide that animals be moved in such a way as to prevent unnecessary stress or injury during capture operations. The words "or injury" are added.

6. Comments addressed to the issue of sorting animals for transportation suggested criteria for sorting and provision for efficiency of operations. Section 4740.4(b)(4) is changed to respond to both concerns.

7. Other minor editorial changes were made as identified.

COMMENTS NOT LEADING TO CHANGES IN THE RULEMAKING

1. It was suggested that the definition of "malicious harassment" be reworded to remove the exclusion of the agencies and to use only the dictionary definitions of the terms. This is not practical because the objective is to include any unlawful gathering of animals as malicious harassment regardless of methods used. Therefore, to avoid confusion, lawful gathering of animals by the agencies under humane, controlled conditions must be excluded from the meaning of the terms.

2. It was suggested that "undue stress" be defined. The term used in § 4700.0–5 (m) is "unnecessary stress." The comments indicated a desire to set criteria for measuring stress. No criteria have been set which could be applied in the field. It is understood that the animals will be under stress during the operation. The intent of this rulemaking is to keep the stress to a minimum.

3. Several comments suggested elimination of trespass charges on claimed animals. Trespass was not a substantive issue in the proposed rulemaking.

4. Several comments suggested allowing State brand and estray laws to apply in ownership determinations. No change is needed since these are the standards currently used by the authorized officer and the appropriate State official to determine ownership of claimed animals.

5. It was suggested that saddle horses used simultaneously with helicopters would add efficiency. No change is needed; both can be used on the same operation.

6. It was suggested that helicopters only be allowed to fly under 1,000 feet at the immediate capture site. This change is not made because a capable pilot and the authorized officer must have flexibility to determine a safe and efficient altitude in accordance with field conditions and terrain encountered on each operation.

7. Suggestions were received to provide for more than one helicopter on a gather and to provide for ground to air communications. Both are permissible under the rules as written.

8. It was suggested that § 4730.7–3 be reworded to allow the utilization of wheeled vehicles in the actual driving and capture of animals. The change would violate existing law.

9. Suggestions were made that the rules provide that a representative of a humane organization be in any helicopter engaged in a gather of horses and burros, that a public representative be present, and that the authorized officer always be in the helicopter. These changes are not made because, for safety and liability reasons, no one except the pilot and authorized officers should be in the helicopter and in certain situations the pilot may determine that no other person should be in the helicopter for safety reasons.

10. It was suggested that the rules be written to provide for gathering only one band at a time. Such a provision is impractical because there may be natural mixing of bands at water holes or accidental mixing of bands by the disturbance of a roundup. Additionally, the efficiency of operations and related expense of gathering in an area where several bands range would be significantly affected by a piecemeal effort directed to single bands of horses and burros.

11. It was suggested that no contract be issued on a per head basis. To make the suggested provision would restrict contracting to a time of operation basis and could be expected to lead to much higher costs per animal captured.

12. A comment suggested that in gathering and driving animals, weaker animals such as colts and mares in foal should be considered in setting the speed of movement. This is provided for in § 4740.4(a)(2).

13. Several comments suggested that the regulations provide for notification of humane groups, special interest groups, and the general public and that hearings be conducted prior to each roundup. It is not necessary to include such provisions in these regulations; the provisions of the Act relating to public hearings can be more efficiently complied with on an area, State, or regional basis at the discretion of the authorized officer.

14. It was suggested that these rules include a provision for medical examination of horses to ensure that disease is not transmitted to already domesticated animals. No change is needed. The precaution is already being taken.

SUGGESTED CHANGES EXCEEDING EXISTING AUTHORITY

The following suggested changes in the proposed rulemaking cannot be made because they violate existing authorities:

1. Allow roundup of wild free-roaming horses and burros by any method and free of charge by an individual.

2. Provide for the sale and passage of free title on animals.

3. Pass all responsibility for wild free-roaming horses and burros to the State government.

4. Do not allow Federal government to gather animals because of competition with free enterprise.

Additionally, these comments and suggestions do not belong in the regulations but will be considered in the preparation of manual directives for the program or in the specific plans for each roundup and capture operation:

1. Operate in a manner that will keep bands together.

2. If more than one band is handled at one time, transport the animals immediately after capture to minimize fighting and the chance of injury.

3. Consider issuing contracts to reliable individuals using saddle mounts to gather animals.

4. Provide for a reconnaissance flight to locate and map potential hazards such as cliffs and fences before a gather-and-drive is underway.

5. For the vehicles to be used to transport captured animals provide specific standards as to the construction of the inside of the vehicle, its condition as related to possible injury inflicting hazards, and the number of animals to be transported per vehicle.

6. In transporting of animals, provide for adequate rest periods and feeding and watering at appropriate intervals.

The proposed rulemaking amending Part 4700, Subchapter D, Chapter II, Title 43 of the Code of Federal Regulations is adopted with changes as set forth below.

GUY R. MARTIN,
Assistant Secretary of the Interior.

MAY 20, 1977.

1. Section 4700.0–3 is revised to read as follows:

§ 4700.0–3 Authority.

The Act of December 15, 1971 (16 U.S.C. 1331–1340), as amended, and the Act of June 28, 1934 (43 U.S.C. 314–315r).

2. Section 4700.0–5 is amended by revising paragraph (i) and by adding new paragraphs (k), (l), and (m) to read as follows:

§ 4700.0–5 Definitions.

* * * * *

(i) "Act" means the Act of December 15, 1971 (16 U.S.C. 1331–1340), as amended.

* * * * *

(k) "Malicious harassment" means any intentional act which demonstrates a deliberate disregard for the well-being of wild free-roaming horses and burros and which creates the likelihood of injury, or is detrimental to normal behavior patterns of wild free-roaming horses and burros including feeding, watering, resting, and breeding. Such acts include, but are not limited to, unauthorized chasing, pursuing, herding, roping, or attempting to gather or catch wild free-roaming horses and burros. It does not apply to lawfully conducted activities by or on behalf of the Bureau of Land Management or the Forest Service in implementation or performance of duties and responsibilities under this Act.

(l) "Captured animal" means a wild free-roaming horse or burro taken and held in the custody of the authorized officer. This term does not apply to an animal placed in private custody through a cooperative agreement under § 4740.2(b) or § 4750.2.

(m) "Humane procedure" means kind and merciful treatment, without causing unnecessary stress or suffering to the animal.

3. Section 4720.2 is amended by revising paragraph (a) to read as follows:

§ 4720.2 Claimed animals.

(a) Any person claiming ownership under State branding and estray laws of unbranded or branded horses or burros on public land where such animals are not authorized must present evidence of ownership to justify a roundup before permission will be granted to gather such animals. Claims of ownership with supporting evidence were required to be filed during a 90-day claiming period which expired November 15, 1973. Unauthorized privately owned horses or burros entering onto the public lands after November 15, 1973, may be claimed by filing an application with the District Manager. All written authorizations to gather claimed animals shall be on a form approved by the Director and shall provide for compliance with appropriate provisions of Subpart 4720. After such public notice as the authorized officer deems appropriate to inform interested parties, he may authorize the gathering or roundup. The authorized officer shall provide in the authorization that the gathering or roundup shall be consistent with these regulations; shall establish in the authorization a reasonable period of time to allow the gathering of the claimed animals; and shall provide such other conditions in the authorization which he deems necessary to minimize stress on any associated wild free-roaming horses or burros and to protect other resources.

(b) Animals captured in Bureau of Land Management conducted roundups and determined to be privately owned may be secured by the appropriate claimant upon payment of trespass charges in accordance with § 4720.3, and a per head share of helicopter rental and other associated costs determined appropriate by the authorized officer.

* * * * *

4. Subpart 4730 is amended by adding §§ 4730.7, 4730.7–1, 4730.7–2 and 4730.7–3 to read as follows:

§ 4730.7 Aircraft and motor vehicles.

§ 4730.7–1 Fixed-wing aircraft.

Fixed-wing aircraft may be used for inventory, observation, and surveillance purposes required for the administration of the Act. Such aircraft use shall be consistent with the Act of September 8, 1959, as amended (18 U.S.C. 41 et seq.). Fixed-wing aircraft shall not be used in connection with capture operations except as support vehicles.

§ 4730.7–2 Helicopters.

Only the authorized officer may use or contract for the use of helicopters in the administration of the Act. Helicopters may be used in all phases of the administration of the Act including, but not limited to, inventory, observation, surveillance, and capture operations (see § 4740.4). Helicopters may be used in areas where all animals are claimed, only if forage, habitat, or watershed resources are being adversely affected by horses and burros and helicopters are the only feasible method available to capture and remove the animals. The authorized officer shall supervise all helicopter use as follows:

(a) The authorized officer shall have the means to communicate with the pilot and be able to direct the use of the helicopter.

(b) The authorized officer shall be able to observe the effects of the use of the helicopter on the well-being of the animals.

§ 4730.7–3 Motor vehicles.

Motor vehicles may be used in the administration of the Act except that such vehicles shall not be used in connection with capture operations for driving or chasing the animals. The use of motor vehicles for the purpose of transporting captured animals is subject to the provisions of § 4740.4(b).

5. Subpart 4740 is amended by adding § 4740.4 to read as follows:

§ 4740.4 Humane use of helicopters and motor vehicles.

(a) The use of helicopters is authorized to locate the animals involved and for related purposes such as to transport personnel and equipment. The condition of the animals shall be continuously observed by the authorized officer and should signs of unnecessary stress be noted, the source of stress shall be removed so as to allow for recovery. Helicopters may be used in roundups or other capture operations subject to the following humane procedures:

(1) Helicopters shall be used in such a manner that bands or herds will tend to remain together.

(2) The rate of movement shall not exceed limitations set by the authorized officer who shall consider terrain, weather, distance to be traveled, and condition of animals.

(3) The helicopter shall be used to enable the authorized officer to look for the presence of dangerous areas and move the animals away from hazards during the capture operation.

(4) During capture operations, animals shall be moved in such a way as to prevent unnecessary stress or injury.

(b) Motor vehicles may be used for the purposes of transporting captured animals, subject to the following humane procedures:

(1) All such transportation shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of horses and burros.

(2) Vehicles shall be in good repair, of adequate rated capacity, and carefully operated so as to insure that captured animals are transported without undue risk of injury.

(3) Vehicles shall be inspected and approved by an authorized officer prior to use.

(4) Where necessary and practical, animals shall be sorted as to age, size, temperament, sex, and condition when transporting them so as to minimize, to the extent possible, injury due to fighting and trampling.

(5) The authorized officer shall consider the condition of the animals, weather conditions, type of vehicles, and distance to be transported when planning for the movement of captured animals.

[FR Doc.77–14929 Filed 5–24–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 73—RADIO BROADCAST SERVICES

Type Approved Antenna Monitors by AM Broadcast Stations Operating Directional Antenna Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: In an Order adopted on April 28, 1977, Mimeo No. 69455, concerning use of type approved antenna monitors by AM broadcast stations operating directional antenna systems, paragraph (a)(8)(iv) of § 73.114 was omitted. This Erratum includes the omitted subparagraph.

EFFECTIVE DATE: June 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau, 202–632–9660.

SUPPLEMENTARY INFORMATION:

Released: May 20, 1977.

In the matter of amendment of part 73 of the Commission's rules and regulations in reference to the use of type approved antenna monitors by AM broadcast stations operating directional antenna systems.

In the Order in the above-entitled proceeding, Mimeo No. 69455, adopted April 28, 1977, subparagraph (iv) was inadvertently omitted from the amendment

of paragraph (a) (8) of § 73.114 as shown on page 24056, May 12, 1977, the omitted subparagraph should be added to read as follows:

§ 73.114 Maintenance log.

(a) * * *
(8) * * *

(iv) Antenna monitor phase indications and the deviation of those indications, in degrees, from values specified in the station authorization.

* * * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14889 Filed 5-24-77;8:45 am]

[Docket No. 20603]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Conforming to Extent Practicable With International Radio Regulations Pertaining to Maritime Mobile-Satellite Service, Geneva 1971 and Maritime WARC, Geneva, 1974; Correction

AGENCY: Federal Communications Commission.

ACTION: Second correction.

SUMMARY: Deletion of reference to a non-existent section in the Commission's rules.

EFFECTIVE DATE: July 23, 1976.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Gilsenan, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Released: May 19, 1977.

In the matter of amendment of Part 83 of the Commission's rules to conform to the extent practicable with the International Radio Regulations pertaining to the Maritime Mobile-Satellite Service, Geneva 1971 and Maritime WARC, Geneva, 1974, Docket No. 20603.

In the Report and Order in the above-entitled matter[1], FCC 76-530, adopted June 9, 1976, released June 18, 1976, and published in the FEDERAL REGISTER at 41 FR 25009, on page 25012, § 83.139(g) is corrected by the deletion of the reference to a non-existent § 83.51. As corrected § 83.139(g) reads as follows:

§ 83.139 Acceptability of transmitters for licensing.

* * * * * *

(g) Pending the establishment of additional technical standards, type acceptance is not required for transmitters operating in the MARISAT system in the band 1636.5-1644 MHz, *Provided*, That, such equipment shall comply with all the technical standards contained in this subpart.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-14901 Filed 5-24-77;8:45 am]

[1] See also 41 FR 27365, July 2, 1976.

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. NO. 1267]

PART 1033—CAR SERVICE

LOUISIANA & ARKANSAS RAILWAY CO.

Authorized To Operate Over Tracks of the Atchison, Topeka and Santa Fe Railway Company and Over Tracks of Chicago, Rock Island and Pacific Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1267).

SUMMARY: This order authorizes the Louisiana & Arkansas Railway to use a portion of the Cadiz Yard of the Chicago, Rock Island and Pacific Railroad in Dallas, Texas, and to operate over approximately 2.6 miles of tracks of The Atchison, Topeka and Santa Fe Railway in order to gain access to the Cadiz Yard. The present yard facilities used by the Louisiana & Arkansas and by The Atchison, Topeka and Santa Fe in Dallas are no longer adequate because of increased traffic. Transfer of Louisiana & Arkansas operations to the Cadiz Yard will eliminate congestion on and will expedite car movements on both railroads, thereby increasing freight car utilization and improving overall rail service to the public.

DATES: Effective 12:01 a.m., May 19, 1977. Expires 11:59 p.m., August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

C.C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone 202-275-7840.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of May, 1977.

It appearing, That because of increased traffic on the lines of the Louisiana & Arkansas Railway Company (L&A) and The Atchison, Topeka and Santa Fe Railway Company (ATSF), the ATSF yard at Dallas, Texas, used jointly by the ATSF and the L&A has become badly congested; that such congestion is resulting in excessive delays to shipments in transit and is causing the loss of utilization of badly needed freight cars; that the operating agreement between the ATSF and the L&A has expired; that use of the ATSF yard by the L&A is being continued under a compromise agreement reached in an action before the Federal District Court in Dallas, Texas, which agreement requires the L&A to seek an alternative to its continued use of the aforementioned ATSF yard; that the Chicago, Rock Island and Pacific Railway Company (RI) Cadiz yard in Dallas has sufficient capacity to absorb the traffic of the L&A presently being handled in the ATSF yard; that the RI has consented to joint use with the L&A of the RI's Cadiz yard; that the ATSF has consented to use of certain of its tracks in Dallas by the L&A to provide that line with access to the Cadiz yard of the RI; that transfer of L&A operations from the ATSF yard at Dallas to the Cadiz yard of the RI at Dallas will substantially relieve congestion on both the L&A and the ATSF thereby expediting the movement of traffic via these lines through the Dallas terminal and contributing to more effective utilization of freight cars; that operation by the L&A over the aforementioned tracks of the ATSF and the RI is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1267 Louisiana & Arkansas Railway Company authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Company and over tracks of Chicago, Rock Island and Pacific Railroad Company.

(a) The Louisiana & Arkansas Railway Company (L&A) be, and it is hereby, authorized to operate over tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of the Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19; and

(b) *It is further ordered*, That the L&A be, and it is hereby, authorized to operate over the ATSF between ATSF milepost 53 plus 1802.2 feet and ATSF milepost 50 plus 4100 feet, together with necessary connecting trackage between the ATSF and the RI in the southwest quadrant of the crossing of the ATSF and the MKT at interlocking station No. 19 in Dallas, Texas.

(c) Nothing herein shall be considered as a prejudgment by the Commission of the application of the L&A seeking permanent authority to operate over the aforementioned tracks of the RI and the ATSF.

(d) *Application*. The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(e) *Rates applicable*. Inasmuch as this operation by the L&A over tracks of the RI and of the ATSF is deemed to be due to carrier's disability, the rates applicable to traffic moved by the L&A over the tracks of the RI and of the ATSF shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(f) Effective date: This order shall become effective at 12:01 a.m., May 19, 1977.

(g) Expiration date: The provisions of this order shall expire at 11:59 p.m., August 15, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.[1]

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14786 Filed 5-24-77;8:45 am]

[1] Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member John R. Michael not participating.

[S.O. No. 1268]

PART 1033—CAR SERVICE

TRAILERS

Regulations for Return

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1268).

SUMMARY: Service Order No. 1268 directs the return to Seaboard Coast Line (SCL), Louisville and Nashville (L&N), and Richmond, Fredericksburg and Potomac (RFP) of insulated trailer-on-flat-car (TOFC) trailers owned or leased by Seaboard Coast Line and affiliated lines. Named railroads prohibited from furnishing insulated TOFC trailers except for transportation of freight requiring protection from heat. L&N and RFP directed to deliver surplus insulated trailers to SCL. There is a shortage of insulated TOFC trailers on SCL in Florida for transporting shipments of watermelons, potatoes, and other perishable commodities.

DATES: *Effective 12:01 a.m., May 23, 1977. Expires 11:59 p.m., June 15, 1977.*

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone 202-275-7840. TLX 89-2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of May, 1977.

It appearing, That an acute shortage of insulated trailers equipped with ventilating devices exists on certain railroads in the southeast for transporting melons, potatoes, and other perishable products requiring protection from heat; that shippers are being deprived of the insulated and ventilated trailers required to transport such perishable freight, thus creating spoilage of produce and great economic loss; that insulated, ventilated trailers, after being unloaded are being retained and appropriated for other services which do not result in their return to the major origin areas for perishable freight; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of insulated, ventilated trailers are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1268 Regulations for return of trailers.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Remove from general distribution and deliver by rail, on flat cars insulated trailers described in paragraph (i) herein to any of the following railroads:

Louisville and Nashville Railroad Company (L&N)
Richmond, Fredericksburg and Potomac Railroad Company (RFP)
Seaboard Coast Line Railroad Company (SCL)

(i) Insulated trailers subject to this order are identified as follows:

Reporting Marks: RCLZ, RCRZ, RGRZ, RSCZ—Series 700000-709999 SBD, Series 30230, 30899, SBDZ 703043, 703076 and and 703105.

(2) Trailers described in part (1) of this section, located on railroads other than the L&N, RFP or SCL, may be loaded with freight requiring protection from heat to any destination to which loading is authorized by Rule 2 of the Code of Trailer Service Rules, published on page 185 of the Official Intermodal Equipment Register, ICC-OLER No. 29, issued by R. G. Hilts, or reissues thereof; or, such trailers may be loaded with any type of freight to any station on the lines of the L&N, RFP or SCL.

(3) Trailers described in part (1) of this section located on the L&N or RFP for which no suitable loading, as defined in part (4) of this section is available, shall be delivered empty, on cars, to the SCL.

(4) Trailers described in part (1) of this section, located on the L&N, RFP or SCL, may be used only for transporting traffic requiring protection from heat.

(b) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423.

(c) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded trailer, described in this order contrary to the provisions of the order.

(d) Application. The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(e) Effective date. This order shall become effective at 12:01 a.m., May 23, 1977.

(f) Expiration date. The provisions of this order shall expire at 11:59 p.m., June 15, 1977, unless otherwise modified, changed or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4) and 17(2), 40 Stat. 101, as amended, 54 Stat 911 (49 U.S.C. 1(10-17) 15(4), and 17(2)).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S Turkington, and John R. Michael.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14787 Filed 5-24-77;8:45 am]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293 (Sub-No. 2)]

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICE CONTINUATION SUBSIDIES

Northeast-Midwest Region of the United States

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The provision in the standards governing the determination of costs under Accounts 269 and 271 has been modified. This action has been taken in response to the petition of the New York State Department of Transportation for reconsideration of the original rule governing the computation of these costs, which became effective December 16, 1976 (See 41 FR 55686).

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Wells, 202–254–7553.

SUPPLEMENTARY INFORMATION: On December 16, 1976, the Rail Services Planning Office (the Office) of the Interstate Commerce Commission issued a number of clarifications and amendments to the Standards for Determining Rail Service Continuation Subsidies in the Northeast-Midwest Region of the United States (49 CFR Part 1125). The amendments and a discussion of the issues involved were published in the FEDERAL REGISTER of December 21, 1976 (41 FR 55686). One of the amendments added two accounts, *Account 269—Roadway machines* and *Account 271—Small tools and supplies*, to the accounts includable in the determination under § 1125.5 of the avoidable costs of providing the subsidized service. Account 269 includes the cost of repairing roadway machine which are used for repairs of roadway and structures. Account 271 includes the cost of obtaining and repairing roadway tools; the cost of supplies consumed in the operation of roadway machines; and the cost of supplies used by trackwalkers, track watchmen and roadway and track repairmen.

The Office first discussed the possibility of adding Accounts 269 and 271 to § 1125.5 in a notice and order, dated August 24, 1976 (41 FR 35730). In that notice, the Office stated that Consolidated Rail Corporation (ConRail) had requested that the two accounts be included in the standards and that they be apportioned to the individual branch on the ratio of maintenance costs performed on the branch in the subsidy year to the total ConRail system maintenance costs in the subsidy year (41 FR 35731).

The Office stated its belief that the costs covered by Accounts 269 and 271, if incurred solely as a result of work done on the branch, should be included as a direct cost, not as an apportioned cost, and it requested the parties to state their views as to how these costs should be determined and how they could be included without cross-subsidizing the upkeep of the carrier's maintenance of way equipment.

After consideration of the responses to its invitation, the Office concluded that it would not be practical to include all of the costs involved on an actual basis and that the fairest approach would be to assign costs under Accounts 269 and 271 in the same proportion that roadway maintenance costs (Accounts 202–220) for the branch bear to roadway maintenance costs for the operating carrier's system. The Office concluded that "* * * this approach should fairly apportion costs while minimizing recordkeeping and clerical time." (41 FR 55688).

The New York State Department of Transportation (NYDOT) has filed a petition seeking reconsideration of this amendment. NYDOT estimates that the apportionment formula adopted by the Office will result in a cost per year for Accounts 269 and 271 for the total subsidized mileage in New York State of approximately $300,000. This figure is based on the $3,000 per mile which NYDOT has budgeted for track maintenance costs. Using Penn Central system costs, NYDOT estimates that the branch costs for Accounts 269 and 271 would be 17.2 percent of the amount charged to the branch for Accounts 202–220, a percentage which NYDOT contends is unjustifiably high.

In further support of its petition, NYDOT notes that planning for branch line maintenance on New York State branch lines for the calendar year 1977 includes almost no major machine use. Thus, any apportionment for repair charges to major machines would result in cross-subsidization of the repairs to equipment used on non-subsidized lines. NYDOT also cites the massive tie renewal, surfacing and rail renewal programs undertaken by ConRail this year and asserts that it is obvious that the roadway machines involved in these programs have been used almost exclusively on main lines and will continue to be so used through 1977, at the least, as rehabilitation of main line track is the top priority of ConRail's program.

Although NYDOT agrees with the Office that it would be desirable to charge costs for Accounts 269 and 271 on a ratio basis, it submits that the Office should devise an equitable ratio that gives due consideration to the limited use of roadway machines on branch lines or else the Office should adopt the method proposed by NYDOT, wherein the repair cost element of machine rental costs would be assigned to the branch based on the number of days a machine is actually used on a subsidized line.

After giving full consideration to NYDOT's petition, the Office has concluded that the methods for determining the cost of repairing roadway machines, under Account 269, and the cost of supplies consumed in the operation of roadway machines, under account 271, should be modified. The method for determining the remaining costs under Account 271 will not be modified. This will result in two different methods being used for calculation of Account 271 costs.

First, with regard to roadway machines, Account 269, the Office has concluded that it would be more equitable to determine the amount that should be included in the subsidy calculation for this account on the basis of the average repair costs, for each type of machine, included in the daily rental fees charged by the operating railroad to other railroads or as published by the General Managers' Association of Chicago (GMA), based on the actual number of days each type of machine is used on the branch.

Second, with regard to supplies consumed in the operation of roadway machines, part of Account 271, the Office has concluded that the standard should be modified to provide that the costs for these supplies shall be the average cost of supplies per day, included in the daily rental fees charged by the operating railroad to other railroads or as published by the GMA, multiplied by the actual number of days that the machine is used on the branch.

Third, with regard to the remaining costs under Account 271 (costs of small tools and of supplies used by trackwalkers, track watchmen and roadway and track repairmen), the Office has concluded that, until it is demonstrated either that the present ratio formula is inequitable or that an alternative formula would be more equitable, the ratio contained in the present standards should not be changed. The Office believes that it would be impractical to require carriers to report these costs on an actual basis, since such a requirement would place a difficult and costly recordkeeping burden on the carriers.

The Office attempted to devise an apportionment formula which would be based on actual practices and requested permission from the General Managers' Association of Chicago to audit its records to determine what percentage of Account 271 represents the costs of small tools and what percentage represents the costs of supplies. However, permission was denied.

ORDER

In light of the foregoing:

It is ordered, That Part 1125 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations be amended by making the changes set forth below to the standards adopted on January 8, 1975, and amended on March 28, 1975, January 22, 1976, March 26, 1976, December 16, 1976, and February 4, 1977.

And it is further ordered, That this order shall become effective May 20, 1977.

NOTE.—This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued May 20, 1977 by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

ROBERT L. OSWALD,
Secretary.

1. Section 1125.5 is amended by revising paragraph (a)(5) to read as follows:

§ 1125.5 Avoidable costs of providing service.

* * * * * *

(a) * * *

(5) *Account 269—Roadway machines;* and *Account 271—Small tools and supplies.* The costs under Account 269 shall be assigned to the branch on the basis of the average repair costs, for each type of machine, included in the daily rental fees charged by the operating railroad to other railroads or as published by the General Managers' Association of Chicago (GMA), based on the actual number of days each type of machine is used on the branch. The costs of supplies under Account 271, consumed in the operation of roadway machines, shall be assigned to the branch on the basis of the average costs of supplies per day, included in the daily rental fees charged by the operating railroad to other railroads or as published by the GMA, multiplied by the actual number of days that the machine is used in the branch. The remaining costs under Account 271 (costs of small tools and of supplies used by trackwalkers, track watchmen and roadway and track repairmen) shall be assigned to the branch on the basis of the ratio that the branch amounts in Accounts 202–220 bear to the carrier's system total for the same accounts.

* * * * *

[FR Doc.77-14937 Filed 5-24-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 23—ENDANGERED SPECIES CONVENTION

International Trade in Endangered Species of Wild Fauna and Flora—Implementation of Convention; Correction

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Correction.

SUMMARY: The Director, U.S. Fish and Wildlife Service, hereby issues a correction to § 23.23 concerning species listed in Appendices I, II, and III. This correction remedies typographical or clerical errors and is not a substantive change in the rule.

EFECTIVE DATE: May 25, 1977.

ADDRESSES: Comment concerning this correction should be sent to the Director (FWS/WPO), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard M. Parsons, Chief, Federal Wildlife Permit Office, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, Telephone 202–634–1496.

In FR Doc. 77–5006 appearing at pages 10462–10488 in the FEDERAL REGISTER of February 22, 1977, the following changes should be made:

1. On page 10468, lines 3–8 of § 23.23 (a) are corrected to read "* * * Appendix I, II, or III. The regulations in this Part do not apply to parts or derivatives of wildlife listed in Appendix III or of plants listed in Appendix II or III, unless such parts or derivatives are specified herein."

2. On page 10469, the Appendix listing of "Antelope, sassaby" is corrected to "III (Ghana)."

3. On page 10470, the scientific name of "Colobus, Zanzibar red" is corrected to read "*Colobus badius kirkii*."

4. On page 10471, the common name of "Langur, common capped" is corrected to read "Langur, capped."

5. On page 10482, correct the list of reptiles by adding after "Turtle, green:"

Common name	Scientific name	Appendix
* * * * *		
Turtle, hawksbill	*Eretmochelys imbricata*	I*
* * * * *		

6. On page 10482, the common name of "Turtle, olive" is corrected to read "Turtle, olive ridley."

Dated: May 6, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.77-14823 Filed 5-24-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1804]

[FmHA Instruction 424.1]

PLANNING AND PERFORMING DEVELOPMENT WORK

Extension of Comment Period

AGENCY: Farmers Home Administration, USDA.

ACTION: Extension of Comment Period of Proposed Rule.

SUMMARY: The Farmers Home Administration is extending the comment period of the proposed rule on thermal performance standards published at page 15317 of the FR on March 21, 1977, FR Doc. 77–8323, because of the unprecedented number of comments by the general public and an internal administrative decision. This extension is necessary because of the obvious interest expressed by the general public and the need to thoroughly consider all of the comments received.

DATE: Comments must be received on or before July 19, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Daniel Ball, 202–447–3394.

SUPPLEMENTARY INFORMATION: The comment period for the proposed rule on thermal performance standards published at page 15317 of the FR on March 21, 1977, FR Doc. 77–8323, was initially extended for 30 days in a document published at page 20825 of the FR for Friday, April 22, 1977, FR document 77–11740. This additional 60 day extension is promulgated so as to allow the public sufficient time to submit all relevant comments.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: May 19, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–14824 Filed 5–24–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Establishment of Farm Size Standards for Purpose of Financial Assistance

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration proposes to define a small farm, for the purpose of Small Business Administration loans, as one with average annual receipts for the farm's preceding 3 fiscal years not exceeding $1 million. This proposal is being made after evaluating responses to an earlier proposal which appeared in the FEDERAL REGISTER on December 17, 1976 (41 FR 55202), and which is hereby rescinded. If adopted, this action will increase the number of farms eligible for SBA financial assistance.

COMMENT DATE: Comments must be received on or before June 16, 1977.

ADDRESS ALL COMMENTS TO: William L. Pellington, Director, Size Standards Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Harvey D. Bronstein, 202–653–6373.

SUPPLEMENTARY INFORMATION: The Size Standards Division has received no comments to lower the $275,000 farm size standard proposed on December 17, 1976. Rather all comments have indicated that the proposed standard is too low.

Reason for a new proposal: Initially, the Size Standards Division approached this problem in the usual manner of examining the size distribution by annual receipts of all farms. Based on data from the Internal Revenue Service for 1973 (the most recent year for such information), the current size standard enables about 99 percent of all farms to qualify for SBA assistance. A size standard which covers all but one percent of farms seemed appropriate.

The uniqueness of agriculture, however, is such that the usual statistical analysis is inadequate. After extensive comments from agricultural experts, farmers, bankers, economists, SBA personnel, association representatives, and others, the following picture emerges:

Farms not typical business ventures: First, most farms are not commercial operations in the sense of being reasonably efficient, economically viable ventures. Most farmers are carrying on a traditional way of life, not a for-profit business. The majority of farms, unlike any other industry, are part-time operations too small to be efficient. The average annual gross receipts for a farm in 1974 were only $28,000; hardly an economically viable size. Farmers earn most of their income from off-farm sources, and experience a low rate of return on their investment. About one-half earn a negative rate of return.

Problem of financial access: Second, while a farm grossing less than several hundred thousand dollars may be efficient and financially able, many observers indicate that often farms with up to $1 million in gross annual receipts experience difficulty in obtaining bank credit, especially of an intermediate nature. Short-term crop loans are usually available, and long-term loans for land purchases can be financed through the Federal Land Banks. However, as farming becomes more mechanized, there is a need for loans to finance equipment purchases, and these often are most easily handled on an intermediate, i.e., 3- to 6-year basis. Smaller commercial farmers, i.e., under $1 million have difficulty obtaining this kind of financing, in part due to their size.

Farm size compared to other industries: Third, while the top one percent of farms (which produce 38 percent of farm receipts) are large in comparison to all other farms, they are small when compared to other businesses in the economy. Pub. L. 94–305 instructs the SBA to aid and assist small businesses engaged in agricultural production, not small farms. A farm of, for example, $1 million in annual receipts is a large farm, but a small business, in a general sense; probably worked by only two or three persons.

Economic viability and loan repayability: Fourth, when a bank or the SBA examines a loan applicant, it is concerned about repayability. In farming, the economically viable size helps determine repayability, and for many types of farms in certain parts of the country, the current size standard is below the viable farm size. Thus, even though a farm passes the size standard test, it may fail the repayability test. Commenters felt that the SBA should be able to assist farms of an economically viable size, provided that it stops short of aiding the very large corporate farms.

Crop rotation: Fifth, it has been brought to our attention that many farmers typically rotate crops from season to season, and thus a farm size standard by type of crop would be difficult to administer. A uniform size standard for all farms, it was felt, would simplify matters.

Rationale: A farm size standard of $1 million annual gross receipts would speak to the financial difficulty of these size farms and also cover the minimum sizes necessary for economically viable farms. The standard would be based not on the usual criterion of size distribution of farms, but on commercial viability and access to bank financing.

The $1 million size standard should be a 3-year average to account for the cyclical nature of farming, much as the procurement size standard for services is now.

Proposal: Specifically, the proposal to adopt a $275,000 annual receipts size standard for the various farm industries is rescinded and it is proposed instead to amend Part 121, Chapter I, Title 13, of the Code of Federal Regulations by deleting § 121.3–10(k) and revising § 121.3–10(j) to read as follows:

§ 121.3–10 Definition of small business for SBA loans.

* * * * *

(j) *Farms.* Any concern primarily engaged in the operation of a farm is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $1 million.

Dated: May 18, 1977.

RICHARD HERNANDEZ,
Acting Administrator.

[FR Doc.77–14827 Filed 5–24–77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 742 3256]

WALGREEN CO.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order requiring a Deerfield, Ill., retail drug store chain, among other things, to cease disseminating advertisements that offer any item for sale, unless such item is available for sale at or below advertised price, in reasonably sufficient quantities to meet anticipated demands. Further, respondent is required to conspicuously post advertisements and disclosure statements at designated locations; maintain specified business records; and institute a surveillance program designed to ensure that its stores comply with the terms of the order.

DATE: Comments must be received on or before July 22, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Stephanie W. Kanwit, Regional Director, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. 312–353–4423.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

BEFORE FEDERAL TRADE COMMISSION

[File No. 742 3256]

WALGREEN CO.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Walgreen Co., a corporation, and it now appearing that Walgreen Co., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Walgreen Co., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Walgreen Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 200 Wilmot Road, Deerfield, Illinois 60015.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within thirty (30) days after the sixty (60) day period, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I. *It is ordered,* That respondent Walgreen Co., a corporation, its successors or assigns, its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of general merchandise, drug or cosmetic products, hereafter sometimes referred to as items, offered or sold in its retail drug stores, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly

A. Disseminating, or causing the dissemination of any advertisement by any means which offers any item for sale at a stated price, unless during the effective period of the advertised offer at each retail store covered by the advertisement:

1. Each advertised item is readily available for sale to customers in the public area of the store, or if not readily available there, a clear and conspicuous notice is posted where the item is regularly displayed which states that the item is in stock and may be obtained upon request, and said item is furnished on request;

2. There is a sign or other conspicuous marking at the place where an item advertised below regular shelf price is displayed for sale, clearly disclosing that the item is "as advertised" or "on sale" or words of similar import as appropriate, and disclosing on such sign or marking, the advertised price;

3. Each advertised item which is usually and customarily individually marked with a price, is individually, clearly, and conspicuously marked with the advertised price;

4. Each advertised item is sold to customers at or below the advertised price.

The Commission recognizes that technical per se violations of Section I of this order are inevitable despite the honest best efforts of respondent to ensure availability and proper pricing of advertised items. Therefore,

in determining compliance with Section I of this order, the Commission will consider (a) all circumstances surrounding nondelivery of advertised products which were actually ordered in quantities sufficient to meet reasonably anticipated demands but were not delivered due to circumstances beyond respondent's control, and (b) all circumstances surrounding failure to make advertised items conspicuous and readily available for sale at or below the advertised prices due to circumstances beyond respondent's control.

Provided, It shall constitute a defense to a charge of unavailability under subparagraph I.A.1. if respondent maintains and furnishes or makes available for inspection and copying upon the request of the Federal Trade Commission, such records and affidavits as will show that (a) the advertised items were delivered to its stores in quantities sufficient to meet reasonably anticipated demand, or (b) the advertised items were ordered but not delivered due to circumstances beyond respondent's control, and that respondent, upon notice or knowledge of such nondelivery acted immediately to contact the media to correct the advertisement or proposed advertisement to reflect the limited availability or unavailability of each advertised item, and (c) respondent immediately offered to customers on inquiry a "rain check" for each unavailable item which entitled the holder to purchase the item in the near future at or below the advertised price or a similar product of equal or better quality at or below the advertised price of the unavailable product.

Provided, further, That it shall not be deemed a violation of subparagraphs I.A.I., I.A.2., I.A.3., or I.A.4., if respondent is complying with a specific exemption, limitation or restriction with respect to store, item or price which is clearly and conspicuously disclosed in all advertisements for the product in question.

Provided, further, That an advertised item which is usually and customarily individually marked with a price, need not be marked with the advertised price but may remain marked at its regular price if both (i) a conspicuous sign at the site of the display of such item clearly states that the cashiers know the sale price; and (ii) the cashiers do in fact have a written list containing such sale price, have been instructed to charge the sale price for said item, and do in fact charge the customer the sale price.

II. *It is further ordered*, That throughout each advertised sale period in each of its retail stores covered by an advertisement, respondent shall post conspicuously (1) at or near each doorway affording entrance to the public, and (2) at or near the place where customers pay for merchandise, notices which contain the following information:

A A copy of the advertisement.

B A statement that: "All items listed in the advertisement are required to be available for sale at or below the advertised price."

C A clear and conspicuous statement of respondent's rain check program which will inform customers that:

1. A rain check will be promptly issued by any store employee when an advertised item is unavailable.

2. A rain check will enable customers to purchase an unavailable item at the advertised price when stocks are replenished or, if such replenishment is impossible, a similar item of equal or better quality will be substituted.

3. A rain check will be valid for a period of thirty (30) days.

III. *It is further ordered*, That respondent shall cause the following statement to be clearly and conspicuously set forth in each advertisement which represents that items are available for sale at a stated price at any of its stores: "Each of these advertised items is required to be readily available for sale at or below the advertised price in each Walgreen store, except as specifically noted in this ad".

IV. *It is further ordered*, That:

A. Respondent shall forthwith deliver a copy of this order to each of its operating divisions and to each of its present and future officers and other personnel in its organization down to the level of and including assistant store directors who, directly or indirectly, have any supervisory responsibilities as to individual retail stores of respondent, or who are engaged in any aspect of preparation, creation, or placing of advertising, and that respondent shall secure a signed statement acknowledging receipt of said order from each such person;

B. Respondent shall institute and maintain a program of continuing surveillance adequate to reveal whether the business practices of each of its retail stores conform to this order, and shall confer with any duly authorized representative of the Commission;

C. Respondent shall, for a period of three (3) years subsequent to the date of this order:

1. Maintain business records which show the efforts taken to insure continuing compliance with the terms and provisions of this order;

2. Grant any duly authorized representative of the Federal Trade Commission access to all such business records;

3. Furnish to the Federal Trade Commission copies of such records which are requested by any of its duly authorized representatives.

D. Respondent shall, all other provisions of this order notwithstanding, on or before each of the first three (3) anniversary dates of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order in the preceding year.

It is further ordered, That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by, the Federal Trade Commission.

It is further ordered, That respondent shall notify the Commission at least thirty days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respondent which may affect compliance obligations arising out of this order.

It is further ordered, That respondent shall, within sixty days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form of its compliance with this order.

[File No. 742-3256]

WALGREEN CO.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Walgreen Co.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Walgreen Co. is an Illinois corporation engaged in the operation of a large chain of retail drug stores throughout the United States. Its national distribution of products is broadened by the franchising of over 1800 independently owned "Walgreen Agency Stores". Its newspaper advertisements regularly list and depict general merchandise, drug and cosmetic products and state the prices at which such items will be offered for sale during a specific time period.

The complaint alleges that in a number of Walgreen retail drug stores a substantial number of items listed in its advertisements were not available, or were not conspicuously available for sale at or below the advertised prices, or were sold to customers at prices higher than the advertised prices during the effective period of the advertisement.

The consent order requires Walgreen to make advertised items readily available, to use shelf signs to indicate the location of items advertised below regular shelf price, to mark customarily price-marked items with their advertised prices, and to sell advertised items at the advertised price. Exceptions make provision for unanticipated demand, circumstances beyond Walgreen's control, and limitations clearly set forth in the advertising.

The order requires Walgreen to post in its stores: copies of advertisements, notices that all advertised items are required to be available at the advertised prices, and the availability of rain checks for them. Other provisions of the order are designed to ensure Walgreen's compliance with it.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc. 77-14822 Filed 5-24-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Parts 231, 261, 291, 293]

PROHIBITIONS

Miscellaneous Changes

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Forest Service, Department of Agriculture is considering amending regulations in 36 CFR Parts 231, 261, 291, and 293. The previous such amendment appearing at page 2956 FEDERAL REGISTER dated Friday, January 14, 1977, is hereby being supplemented to make Part 261—Prohibitions the only part containing prohibitions as was the original intent.

DATES: Comments must be received on or before June 24, 1977.

ADDRESS: Submit comments to: William L. Rice, Director, Fiscal and Accounting Management, U.S. Department of Agriculture, Forest Service, P.O. Box 2417, Washington, D.C. 20013. All written submissions made pursuant to this notice will be available for public inspection in room 4017, South Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Evans, Fiscal and Accounting Management, 202-447-7850.

SUPPLEMENTARY INFORMATION: It is proposed to amend 36 CFR, Chapter II as follows:

PART 231—GRAZING

1. By revising § 231.11 (p) and (q) to read as follows:

§ 231.11 Wild free-roaming horses and burros.

* * * * *

(p) *Arrest.* Any employee designated by the Chief, Forest Service, shall have the power to arrest without warrant, any person committing in the presence of the employee a violation of the Act or of § 261.21 of this chapter and to take such person immediately for examination or trial before an officer or court of competent jurisdiction. Any employee so designated shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of the Act and the regulations in § 261.21 of this chapter.

(q) *Penalties.* In accordance with Section 8 of the Act, any person who willfully violates a regulation issued pursuant to the Act shall be subject to a fine of not more than $2,000 or imprisonment for not more than 1 year, or both. Any person so charged with such violation by the authorized officer may be tried and sentenced by a United States commissioner or magistrate, designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in section 3401, Title 18, U.S.C.

(85 Stat. 649, as amended, (16 U.S.C. 1331-1340); sec. 1, 30 Stat. 35, as amended, (16 U.S.C. 551); sec. 32, 50 Stat. 525, as amended, (7 U.S.C. 1011); 74 Stat. 215 (16 U.S.C. 528-531).)

PART 261—PROHIBITIONS

AUTHORITY: 30 Stat. 35, as amended, (16 U.S.C. 551); sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended, (7 U.S.C. 1011(f)); 82 Stat. 916 (16 U.S.C. 1281(d)); 82 Stat. 922 (16 U.S.C. 1246(i)), unless otherwise noted.

§ 261.7 [Amended]

2. By revising § 261.7(a) by deleting the period following the word "System" and adding the words "or other lands under Forest Service control."

3. By revising § 261.7(b), by deleting the period following the "System" and adding the words "or other lands under Forest Service control."

4. By deleting paragraph (e) of § 261.7.

5. By amending § 261.10, adding paragraph (k) as follows:

§ 261.10 Occupancy and use.

* * * * *

(k) Violating the terms or conditions of a permit issued under § 261.50(f).

6. By amending § 261.13 to add the following new paragraphs (h) and (i):

§ 261.13 Use of vehicles off roads.

* * * * *

(h) In a manner which damages or disturbs the land, wildlife, or vegetative resources.

(i) In violation of applicable State or county laws and regulations established for vehicles used off roads.

8. By amending § 261.16 (c) and (d) to read as follows:

§ 261.16 National Forest wilderness.

* * * * *

The following are prohibited in a National Forest wilderness:

* * * * *

(c) Landing of aircraft, or the dropping or picking up of any material, supplies, or person by means of aircraft, including helicopter.

(d) Motels, summer homes, stores, resorts, organization camps, hunting and fishing lodges, and similar facilities and uses.

8. By amending § 261.19 to read as follows:

§ 261.19 National Forest Primitive Areas.

Except as may be authorized as necessary for prospecting, locating, and developing of mineral resources or for a statutory right of ingress or egress, the following are prohibited in any area classified as a National Forest Primitive Area on September 3, 1964:

(a) Roads or other provisions for motorized transportation.

(b) Commercial timber cutting.

(c) Motels, summer homes, stores, resorts, organization camps, hunting and fishing lodges, and similar facilities and uses.

(d) Landing of aircraft or the use of motor boats, unless such use had become well established.

(e) Possessing or using a motor vehicle.

(f) Possessing or using a motor or motorized equipment, except small battery powered, hand-held devices, such as cameras, shavers, flashlights, and geiger-counters.

9. By adding a new § 261.21, consisting of provisions presently in § 261.7(e) and § 231.11(q), to read as follows:

§ 261.21 Wild free-roaming horses and burros.

(a) The following are prohibited:

(1) Willfully removing of, or attempting to remove, a wild free-roaming horse or burro from the National Forest System.

(2) Converting a wild free-roaming horse or burro to private use, without authority from the Chief, Forest Service.

(3) Maliciously causing the death or harassment of any wild free-roaming horse or burro.

(4) Processing or permitting to be processed into commercial products, the remains of a wild free-roaming horse or burro.

(5) Selling, directly or indirectly, a wild horse or burro allowed on private or leased land pursuant to section 4 of the Wild Free-Roaming Horses and Burros Act.

(85 Stat. 649, as amended, 16 U.S.C. 1331-1340.)

10. By amending § 261.50(e)(1) and (f) to read as follows:

§ 261.50 Orders.

* * * * *

(e) * * *

(1) Persons with a permit specifically authorizing the otherwise prohibited act or omission.

* * * * *

(f) The Chief, each Regional Forester, each Forest Supervisor, and each District Ranger or equivalent officer may issue permits to persons authorizing the occupancy or use of a road, trail, area, or other part of the National Forest System in accordance with authority which is delegated elsewhere in this chapter or in the Forest Service Manual. The issuing officer may authorize in the permit an act or omission which would otherwise be a violation of a Subpart A or C regulation or a Subpart B order. The issuing officer may include in any permit such conditions as he considers necessary for the protection and administration of the National Forest System, or for the promotion of public health, safety, or welfare.

11. By revising § 261.52, paragraphs (d), (h), and (j) to read as follows:

§ 261.52 Fire.

* * * * *

(d) Smoking, except within enclosed vehicles or buildings, developed recreation sites, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials.

* * * * *

(h) Operating an internal combustion engine.

* * * * *

(j) Operating or using any internal or external combustion engine on any timber, brush, or grass covered land, including trails traversing such land, without a spark arrester, maintained in effective working order, meeting either (1) Department of Agriculture, Forest Service Standard 5100-1a; or (2) appropriate Society of Automotive Engineers (SAE) recommended practices J335 and J350.

12. By adding paragraph (e) to § 261.55 as follows:

§ 261.55 Forest development trails.

* * * * *

(e) Operating any vehicle in violation of any applicable noise emission standard established by any Federal or State agency.

13. By adding paragraphs (w), (x), and (y) to § 261.58 as follows:

§ 261.58 Occupancy and use.

When provided by an order, the following are prohibited:

* * * * *

(w) Transporting, across National Forest System land, motors capable of propelling a water craft.

(x) Using wheels, rollers, or other mechanical devices for the overland transportation of any water craft.

(y) The land or water landing of aircraft, or the dropping or picking up of materials, supplies, or persons by means of an aircraft, including a helicopter.

PART 291—OCCUPANCY AND USE OF DEVELOPED SITES AND AREAS OF CONCENTRATED PUBLIC USE

§ 291.9 [Amended]

14. By deleting the last sentence each of paragraphs (a), (b), and (c) of § 291.9.

PART 293—WILDERNESS—PRIMITIVE AREAS

15. By adding alpha numeration to the existing paragraph (designate) and a new paragraph (b) to § 293.3 to read as follows:

§ 293.3 Control of uses.

(a) * * *

(b) For all prohibitions in National Forest wilderness, see Part 261 of this chapter.

§ 293.8 [Amended]

16. By deleting the first sentence of § 293.8, Permanent structures and commercial services. This subject is covered in Part 261.

§ 293.9 [Reserved]

17. By revoking and reserving § 293.9, *Poisons and herbicides*. This item is covered in Part 261.

§ 293.15 [Amended]

18. By revoking and reserving paragraph (b) of § 293.15, *Gathering information about resources other than minerals*.

19. By amending § 293.16(b) to read as follows:

§ 293.16 Special provisions governing the Boundary Waters Canoe Area, Superior National Forest.

* * * * *

(b) Except as provided in the Wilderness Act, in this section, and in § 294.2 (b), (c), and (e) of this chapter and subject to existing private rights, there shall be no prohibitions except as provided for in Part 261 of this chapter. For all prohibitions in the Boundary Waters Canoe Area, see Part 261 of this Chapter.

(1) The Chief, Forest Service, may permit temporary structures and commercial services within the Boundary Waters Canoe Area to the extent necessary for realizing the recreational and other wilderness purposes, which may include the public services generally offered by outfitters and guides.

(2) In the Portal Zone, temporary roads and the use of motorized equipment and mechanical transport for the authorized travel and removal of forest products will be permitted in accordance with special conditions established by the Chief, Forest Service. Such use of the roads for other purposes is not permitted.

(3) The overland transportation of any watercraft by mechanical transport and necessary attendant facilities may be permitted, in accordance with special conditions established by the Chief, Forest Service, over portages along the International Boundary, including the Loon River Portage, when acquired; Beatty Portage and Prairie Portage; the other major portages into Basswood Lake; namely, Four Mile and Fall-Newton-Pipestone Bay Portages; and the Vermilion-Trout Lake Portage. Mechanical transport over Four Mile and Fall-Newton-Pipestone Bay Portages may be suspended, modified, or revoked upon acquisition by the United States of all lands on Basswood Lake, and the expiration of rights reserved in connection with the acquisition of such lands.

(4) The Chief, Forest Service may designate special routes, for the transporting of motors or other mechanical device capable of propelling a water craft, across National Forest land. The Chief, Forest Service, shall cause a list and map of all routes so designated, and any special conditions governing their use, to be maintained for public reference in the offices of the Regional Forester, the Forest Supervisor, and the District Ranger having jurisdiction.

(5) The Chief, Forest Service, may permit the use of motor-driven ice and snow craft on routes over which motors may be transported, as authorized in subparagraph (4) of this paragraph; and over the Crane Lake-Little Vermilion Lake Winter Portage; and over the Saganaga Lake Winter Portage, in sections 18–19, T. 66N., R.4 W. The Chief shall cause a list and a map of routes over which use of ice and snow craft is permitted and any special conditions governing their use, to be maintained for public reference in the offices of the Regional Forester, the Forest Supervisor, and the District Ranger having jurisdiction.

(6) In order to permit customary use of the Boundary Waters Canoe Area to continue pending a permanent solution to the change of water levels resulting from the failure of Prairie Portage Dam and notwithstanding the provision of subparagraph (3) of this paragraph until December 31, 1969, use of portage wheels to transport boats across the temporary portage between Moose Lake and Newfound Lake may be permitted, and permits may be issued for the storage of boats and related equipment in the vicinity of this temporary portage to the extent consistent with the operating practices ofthe permittees prior to the failure of Prairie Portage Dam as determined by the Forest Supervisor; and notwithstanding the provisions of subparagraph (1) of this paragraph, a structure to maintain normal water levels in Moose Lake is authorized.

* * * * *

(78 Stat. 890, (16 U.S.C. 1131–1136); 74 Stat. 215, (16 U.S.C. 528–531); 46 Stat. 1020, (16 U.S.C. 577–577c).)

20. By revising § 293.17 as follows:

§ 293.1 National Forest Primitive Areas.

(a) All prohibitions for those areas of National Forest classified as "Primitive" on the effective date of the Wilderness Act, September 3, 1964, are established in or pursuant to Part 261 of this chapter.

(b) Existing roads over National Forest lands reserved from the public domain and roads necessary for the exercise of a statutory right of ingress and egress may be allowed under appropriate conditions determined by the Chief, Forest Service.

(c) The grazing of domestic livestock, development of water storage projects which do not involve road construction, and improvements necessary for the protection of the National Forests may be permitted, subject to such restrictions as the Chief, Forest Service, deems desirable.

(d) Within Primitive Areas the Chief, Forest Service, may authorize the landing of aircraft, the use of motor boats, motor vehicle, or motorized equipment for the administrative needs of the Forest Service, use by other Federal agencies, in emergencies, or where necessary for the exercise of a statutory right.

(78 Stat. 890 (16 U.S.C. 1131–1136); 74 Stat. 215 (16 U.S.C. 528–531).)

M. RUPERT CUTLER,
Assistant Secretary.

MAY 20, 1977.

[FR Doc.77–14853 Filed 5–24–77;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502]

[Docket No. 77–14]

APPEARANCES AND PRACTICE BEFORE THE COMMISSION

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to amend its Rules of Practice and Procedure governing the appearance and practice before the Commission of former employees to prohibit any former Commission member, officer or employee from practicing, appearing, or representing anyone before the Commission within one year of the termination of their service with the Commission unless it is shown that the particular matter under consideration by the Commission was not under the official responsibility of such former member, officer or employee at any time within a period of one year prior to the termination of such responsibility. These changes are being made to conform this Commission's rule with 18 U.S.C. 207(b).

DATES: Comments on or before: June 23, 1977.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking, Acting Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573 (202–523–5725).

SUPPLEMENTARY INFORMATION: It has come to the attention of the Commission that Rule 32(b) of the Rules of Practice and Procedure (46 CFR 502.32 (b)), governing the practice before the Commission of former employees within one year of the termination of such employee's service with the Commission is inconsistent with the relevant criminal statute (18 U.S.C. § 207(b)) governing the same conduct for former government officers or employees. Rule 32(b) of the Commission's Rules of Practice and Procedure provides:

(b) *Matters pending; waiver.* (1) No former member, officer, or employee of the Commission shall practice, appear, or represent anyone before the Commission, within one year after the termination of his service with the Commission, in connection with any particular Commission matter involving a specific party or parties which was pending before the Commission at any time during the period of his service with the Commission, unless he shall first apply for and obtain written consent of the Commission. This consent will not be granted unless it appears that the applicant did not, as member, officer, or employee of the Commission *participate personally and substantially in the matter* through decision, approval, disapproval, recommendation, the rendering of service, investigation, or otherwise gain knowledge of the facts of the matter. (Emphasis added.)

However, 18 U.S.C. 207(b) is somewhat more strict. It provides that:

(b) Whoever, having been so employed, within one year after his employment has ceased, appears personally before any court or department or agency of the government as agent, or attorney for, anyone other than the United States in connection with any proceeding, application, requesting for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, *and which was under his official responsibility as an officer or employee of the Government* at any time within a period of one year prior to the termination of such responsibility—

Shall be fined not more than $10,000 or imprisoned for not more than two years, or both: * * * (Emphasis added.)

A comparison of Rule 32(b) and 18 U.S.C. 207(b) shows that a former employee of the Commission could unwittingly violate the criminal provision even though he was in compliance with the Commission rule. Therefore, the Commission proposes to amend paragraph (b), § 502.32, Title 46 CFR as follows:

§ 502.32 Former employees.

* * * * *

(b) *Matters pending; waiver.* (1) No former member, officer, or employee of the Commission shall practice, appear, or represent anyone before the Commission, within one year after the termination of his or her service with the Commission, in connection with any particular Commission matter involving a specific party or parties which was pending before the Commission at any time during the period of his or her service with the Commission, unless prior written consent of the Commission is applied for and obtained. This consent will not be granted unless it appears that the particular matter was not under the applicant's official responsibility as a member, officer, or employee of the Federal Maritime Commission at any time within a period of one year prior to the termination of such responsibility.

(2) Such applicant shall be required to file an affidavit to the effect that the particular Commission matter was not under the applicant's official responsibility as a member, officer or employee of the Federal Maritime Commission at any time within a period of one year prior to the termination of such responsibility; that the applicant is not associated with, and will not in such matter be associated with, any former member, officer, or employee of the Commission who is either permanently or temporarily precluded from practicing, appearing or representing anyone before the Commission in connection with the particular matter; and that the applicant's employment is not prohibited by any law of the United States or by the regulations of the Commission. The statements contained in such affidavit shall not be sufficient if disproved by an examination of the files and records of the case.

(3) Applications for consent should be directed to the Commission, should state the former connection of the applicant with the Commission, and should identify the matter in which the applicant desires to appear. The applicant shall be promptly advised as to his privilege to appear in the particular matter, and the application, affidavit and consent, or refusal to consent, shall be filed by the Commission in its records relative thereto. Separate consents to appear must be obtained to appear in separate cases.

* * * * *

(18 U.S.C. § 207(b); E.O. 11222 of May 8, 1965 (30 F.R. 6169); section 43, Shipping Act, 1916 (46 U.S.C. 841a); (5 U.S.C. § 553).)

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.14789 Filed 5–24–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21238; RM–2632]

FM BROADCAST STATION IN McRAE, GA.

Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Upon petition filed by John W. Davidson, this Notice proposes the assignment of a first FM channel to McRae, Georgia (1970 pop. 3,061).

DATES: Comments must be received on or before June 24, 1977, and reply comments must be received on or before July 14, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau (202–632–7792).

SUPPLEMENTARY INFORMATION:

Adopted: May 10, 1977.

Released: May 17, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (McRae, Georgia), Docket No. 21238, RM–2632.

1. *Petitioner, proposal, and comments.* (a) Petition for rule making filed December 10, 1975, by John W. Davidson,[1] licensee of daytime-only AM Station WDAX, McRae, Georgia, proposing the assignment of Channel 237A or 232A to McRae, as a first FM assignment to that community. Public Notice of the filing of the petition was given on January 14, 1976.

(b) Channel 237A could be assigned in full conformity with the Commission's minimum distance separation requirements. Channel 232A is short-spaced to a new site granted to Station WTOC–FM (Channel 231) at Savannah, Georgia. Since there is an alternative, Channel 232A will not be proposed.

(c) Opposition was filed by Broadcast Good Music! Committee in connection with its own proposal to add a seventh FM assignment at Atlanta, Georgia, and to change seven other assignments in Georgia. However, this proposal was denied by the Commission in *Atlanta, Georgia*, 49 F.C.C. 2d 1270 (1974), and the denial was upheld by the U.S. Court of Appeals (D.C. Cir.), Case No. 75–1926, 543 F. 2d 416 (1976). Thus, this matter is no longer an obstacle to the McRae proposal.

(d) Davidson states that, if the channel is assigned, he will promptly file an application to construct a station.

2. *Community data.* (a) *Location.* McRae, county seat of Telfair, is located in south central Georgia some 113 kilometers (70 miles) southeast of Macon and 145 kilometers (90 miles) east of Savannah.

(b) *1970 U.S. Census population.* McRae—3,061; Telfair County—11,381.

(c) *Local broadcast service.* The only local broadcast service in McRae and

[1] Davidson is also the principal in Jesup Broadcasting Corporation, licensee of WLOP and WIFO(FM), in Jesup, Georgia; and Davidson Communications, Inc., licensee of WDKD and WDKD–FM, Kingstree, South Carolina.

Telfair County is petitioner's AM station (1 kilowatt, daytime-only).

3. *Economic data.* Davidson states that farming is the major industry of the area, and that pulpwood, corn and cattle are the basic products. Davidson states that manufacturers also employ some of the McRae residents.

4. In view of the apparent need for a first local FM service and first local nighttime aural service for McRae and Telfair County, we find that consideration of the proposed FM assignment in a rulemaking proceeding would be in the public interest.

5. Accordingly, it is proposed to amend the FM Table of Assignments (§ 73.202 (b) of the Commission's rules and regulations) as follows for the city listed below:

City	Channel No.	
	Present	Proposed
McRae, Ga.	237A	

6. Authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated by reference herein.

7. Interested parties may file comments on or before June 24, 1977, and reply comments on or before July 14, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.28(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rule making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-14831 Filed 5-24-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21237; RM-2538]

FM BROADCAST STATION IN WRENS, GA.

Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Upon petition filed by Mayor J. J. Raburn, this notice of proposed rule making proposes the assignment of a first FM channel to Wrens, Georgia.

DATES: Comments must be received on or before June 24, 1977, and reply comments must be received on or before July 14, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau (202-632-7792).

SUPPLEMENTAL INFORMATION:

Adopted: May 10, 1977.

Released: May 17, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Wrens, Georgia), Docket No. 21237, RM-2538.

1. *Petitioner, proposal, and comments.* (a) Petition for rulemaking, filed March 28, 1975, by Mayor J. J. Rabun, proposing Channel 232A or 244A as a first FM assignment to Wrens, Georgia.[1]

(b) Channel 232A would be short-spaced to an assignment at Sandersville and to Station WTOC (Channel 231), Savannah, Georgia (conditionally granted a construction permit for a new transmitter site). Therefore, we shall not propose Channel 232A for Wrens.

(c) Channel 244A would meet the Commission's spacing requirements at Wrens if its transmitter site were located at least 8 kilometers (5 miles) northwest of the community.

(d) Rabun states that an application would be expeditiously filed for construction of a station at Wrens if the channel is made available.

2. *Community data.* (a) *Location.* Wrens is located in eastern Georgia in Jefferson County, some 48 kilometers (30 miles) southwest of Augusta, Georgia.

(b) *1970 Census population.* Wrens—2,204; Jefferson County—17,174.

(c) *Local aural service.* Wrens has no local broadcast stations. Louisville, Georgia (1970 pop. 2,691), is 24 kilometers (15 miles) south of Wrens and has AM Station WPEH (1 kW, daytime) and a Class A FM station, WPEH-FM.

3. *Economic data.* Demographic information shows that Wrens is a manufacturing and industrial community which is increasing in population (35 percent between 1960 and 1970). Petitioner presents a list of industries, raw materials, schools, health facilities, recreation, churches, banks, and public services to support the assertion of Wrens' need for the assignment.

4. Rabun claims that a first FM service and a first nighttime aural service would be provided to 2,364 persons. The assignment would be a first local aural service for Wrens itself.

5. In view of the apparent need for a local broadcast service, and the showing of the new service it would make possible in the area, we find that consideration of the proposed FM assignment in a rulemaking proceeding would be in the public interest.

6. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, for the community listed below:

City	Channel No.	
	Present	Proposed
Wrens, Ga.		244A

7. Proponents should show the availability of a transmitter site at least 8 kilometers (5 miles) northwest of Wrens which would be free of obstruction to the propagation of FM signals to the community. See § 73.208(a)(4) of the Commission's rules.

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained below.

9. Interested parties may file comments on or before June 24, 1977, and reply comments on or before July 14, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this Notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-14832 Filed 5-24-77;8:45 am]

[47 CFR Part 73]

[Docket No. 20413; RM-2505]

FM BROADCAST STATIONS, COPPERAS COVE, TEXAS

Memorandum Opinion and Order Dismissing Further Proposal

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: Action dismissing a proposal to assign a second FM channel to Copperas Cove, Texas, because the proponent (Kove Broadcasting Company) no longer has an interest in applying for the assignment. The proponent has entered into a buy-out agreement with the estate of a competing applicant (B. Rex Samford) for the existing FM assignment at Copperas Cove, Texas.

DATES: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: May 18, 1977.

Released: May 20, 1977.

In the matter of Amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Copperas Cove, Texas), Docket No. 20413, RM-2505.

1. On December 11, 1975, the Commission reopened this proceeding by Further Notice of Proposed Rule Making (41 FR 1088; Jan. 6, 1976), to consider the proposal of Kove Broadcasting Company to add Channel 288A to Copperas Cove, Texas, as a second FM assignment.[1] Since Kove was a competing applicant with B. Rex Samford for the first FM assignment at Copperas Cove (Channel 276A), the Commission asked for a statement of intention by Request for Further Information on July 29, 1976 (41 FR 34078).

2. The executrix of the Samford estate has informed the Commission that Mr. Samford is deceased, and she requests that his application for Channel 276A be withdrawn. Kove has entered into an agreement with the estate and has agreed to pay expenses incurred by the dismissing applicant. Kove intends to prosecute its application for Channel 276A, and requests dismissal of its proposal for a second assignment at Copperas Cove, Texas.

3. As a result and since no other party has expressed an interest in this assignment: *It is ordered*, That the proposed assignment of Channel 288A to Copperas Cove, Texas, is hereby dismissed.

4. *It is further ordered*, That this proceeding is terminated.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-14882 Filed 5-24-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1047, 1082]

[Nos. MC-C-3437, MC-C-4000]

MOTOR TRANSPORTATION OF PROPERTY INCIDENTAL AND PASSENGERS INCIDENTAL TO TRANSPORTATION BY AIRCRAFT

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule.

SUMMARY: The purpose of this document is to institute a proceeding to determine whether the area (the "air terminal area") within which motor transportation of property and passengers incidental to transportation by aircraft is exempt from economic regulation under the Interstate Commerce Act should be redefined and expanded.

DATES: Comments must be received on or before: August 8, 1977.

ADDRESSES: Send comments to: Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C. 20423. All written submissions will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, 202-275-7292.

SUPPLEMENTARY INFORMATION: Section 203(b)(7a) of the Interstate Commerce Act (49 U.S.C. 303(b)(7a)) exempts from economic regulation "the transportation of persons or property by motor vehicle when incidental to transportation by aircraft". The statute fails to specify the circumstances in which a movement by motor vehicle is to be considered "incidental to transportation by aircraft". We have adopted regulations giving meaning to the broad statutory

[1] Conflicts with a proposal to assign Channel 233 to Baxley, Georgia, have been eliminated by our decision to deny that assignment and propose Channel 240A for Baxley instead, as had been suggested by Rabun.

[1] Channel 276A was assigned to Copperas Cove by Report and Order, 40 FR 49335; October 14, 1975. The proposal for a second channel was in the comments of Kove's principals.

language. In "Motor Transp. of Property Incidental to Air", 95 M.C.C. 71 (1964), 112 M.C.C. 1 (1970), we adopted regulations (a) specifying the circumstances in which the transportation of property by motor vehicle is to be considered incidental to transportation by aircraft, and (b) specifying the circumstances in which an air freight forwarder subject to economic regulation under the Federal Aviation Act might receive from or turn over to motor common carriers subject to economic regulation under Part II of the Interstate Commerce Act shipments the transportation of which is not within the scope of the incidental-to-aircraft exemption of Section 203(b)(7a) without being considered as conducting operations as a freight forwarder subject to Part IV of the Interstate Commerce Act. These regulations are codified as 49 CFR 1047.40 and 1082.1, respectively. In "Interpretation of Rights—Designated Airports", 110 M.C.C. 597 (1969), we adopted a regulation specifying the circumstances in which motor carriers holding certificates or permits authorizing service at named airports or at certain facilities at named airports could serve also air-freight terminals located beyond the physical boundaries of the named airports. This regulation is codified as 49 CFR 1041.23. "In Motor Transp. of Passengers Incidental to Air", 95 M.C.C. 526 (1964), we adopted a regulation specifying the circumstances in which the transportation of passengers by motor vehicle is to be considered incidental to transportation by aircraft. This regulation is codified as 49 CFR 1047.45.

We are instituting this rulemaking proceeding because we believe at this time that a redefinition of the term "air terminal area," and an expansion of existing air terminal areas, as defined in the regulations cited above, may be reasonable and in the public interest. Established airports have expanded enormously in the last decade and new airports have come into being. Large capacity aircraft can accommodate more freight than ever before and air freight tonnage has risen accordingly. Each year we receive a large number of applications for motor carrier operating authority to transport property between named airports, on the one hand, and, on the other, points in named counties located near the named airports but beyond the existing air terminal area. The traffic for which authority is thus sought seems to be "incidental" to transportation by aircraft as contemplated by the statute. In recent years we have received several petitions requesting expansion of the "air terminal areas" around named airports, including Philadelphia International Airport, Philadelphia, Pa., Miami International Airport, Miami, Fla., Fort Lauderdale International Airport, Fort Lauderdale, Fla., O'Hare International Airport, Chicago, Ill., and Savannah, Ga., Airport. These petitions have been filed pursuant to 49 CFR 1047.40(c) and 1047.45(c). The filing of these petitions would seem to evidence an increasing belief that the air terminal areas as currently defined ought to be expanded.

The Commission's Blue Ribbon Staff Study Panel recommended in 1975 (a) that the Commission's 25-mile "rule of thumb" standard exempting motor carrier transportation of property from economic regulation under Section 203(b)(7a) of the Interstate Commerce Act be dropped in favor of an exempt zone coextensive with the Civil Aeronautics Board-accepted terminal area of the air carrier, and (b) that the existing 25-mile limitation to the exempt zone covering transportation of passengers moving incidental to air transportation be removed. (See Internal Staff Study Recommendations, Commission release No. 187–75, released July 7, 1975, recommendations 29 and 30.) We believe at this time that the expansion of existing air terminal areas is worthy of further study.

We believe at this time that a redefinition of the term "air terminal area" (so as to define an air terminal area as a zone extending a fixed distance from the boundaries of an airport) and an expansion of air terminal areas (so as to set the fixed distance referred to above at 100 miles, and to include points located within commercial zones any part of which is within 100 miles of the airport) might be warranted. The definition of an air terminal area partly in terms of distances from cities does not seem to be entirely appropriate—air traffic moves to and from airports, not cities. We would note too that a single airport can serve more than one city. We, therefore, believe at this time that air terminal areas ought to be defined as zones surrounding airports. The present extent of air terminal areas (i.e., as generally limited by the so-called 25-mile "rule of thumb" in 49 CFR 1047.40, and the 25-mile standard in 49 CFR 1047.45) would seem to be too limited. Motor movement of air freight consists essentially of pickup and delivery within a broad area served by a particular airport. The fact that a motor movement is 100 miles instead of 25 miles would seem not to be the relevant criterion. The pertinent factor would seem to be that the motor movement is incidental to the air movement. The same observation would seem to be applicable to motor movement of passengers to or from airports. We, therefore, believe at this time that consideration should be given to whether the air terminal area of any particular airport ought to be expanded to embrace all points located within 100 miles of the said airport, and to include also points located within commercial zones any part of which is within 100 miles of the said airport. We would expect that the proposed expansion of air terminal areas would allow direct air carriers and air freight forwarders to operate with greater flexibility, and would thereby improve the climate for intermodalism and containerization. We would note too that adoption of a 100-mile standard would eliminate all the "special" definitions of air terminal areas now codified as 49 CFR 1047.40(d) and 1047.45(d), and would thereby simplify our regulations.

The particular changes in the wording of our regulations would be as follows. Regulation 1041.23, which incorporates by reference the provisions of Regulation 1047.40, would remain as is. Regulations 1047.40 and 1047.45 would be consolidated into a revised Regulation 1047.40, and the present Regulation 1047.45 would be eliminated. The revised Regulation 1047.40 would carry forward all the provisions of the present Regulations 1047.40 and 1047.45 (except subsection (d) of each), with these changes: In subsection (a), the term "air terminal area" would be defined as the area encompassed by a 100-mile radius of the boundary of the airport at which the shipments are received or delivered or the passengers arrive or depart and by the boundaries of the commercial zones (as defined by the Commission) of any municipalities any part of whose commercial zones falls within the 100-mile radius of the pertinent airport; and in subsection (c), the provisions for individual determination of air terminal areas would allow for individual determination of air terminal areas around airports, but not around cities. In regulation 1082.1, the reference to an air freight forwarder's "terminal area" would be changed to "the air terminal area (as described in § 1047.40 of this chapter) of the airport at which the actual air movement begins or ends." In summary, Regulation 1041.23 would remain as is, Regulation 1047.45 would be deleted, and Regulation 1047.40 and 1082.1 would be amended as set forth below.

We anticipate that there will be many questions at issue in this proceeding, including but not limited to the following: (1) Are the existing 25-mile "rule of thumb" standard in 49 CFR 1047.40, and the 25-mile standard in 49 CFR 1047.45, adequate? (2) Should air terminal areas be redefined as zones surrounding airports? (3) Would an expanded 100-mile standard better satisfy Section 203(b)(7a) of the Interstate Commerce Act and the needs of the shipping and travelling public? (4) Would an expanded mileage standard other than 100 miles better satisfy Section 203(b)(7a) and the public interest? (5) What impact will an expanded mileage standard have on regulated motor carriers, nonregulated motor carriers, surface freight fowarders, air freight forwarders, and direct air carriers? (6) How many operating rights applications have been filed within the past 2 calendar years for motor carrier operating authority to transport property between named airports, on the one hand, and, on the other, points in one or more counties located near the named airports? (7) What changes would adoption of an expanded mileage standard create in (a) competitive relations, (b) quality of transportation services, (c) rates, revenues, and financial results, (d) operating efficiency, (e) conservation of scarce resources, (f) impact on the environment, and (g) operating rights application activity? and (8) Would a standard based upon some factor other than mileage better satisfy section 203(b)(7a) and public interest?

Oral hearings do not appear necessary at this time and none is contemplated. Anyone wishing to present views and evidence concerning the matters involved in this notice may do so by the submission of written data, views, or arguments.

Parties will be expected to present economic data supporting their contentions to the extent feasible. An original (and 15 copies whenever possible) of such data, views, or arguments shall be filed with this Commission on or before 75 days after publication in the FEDERAL REGISTER.

This notice of proposed rulemaking is issued under the authority of sections 552, 553, and 559 of the Administrative Procedure Act (5 U.S.C. 552, 553, and 559) and sections 203, 204, 207, 208, 209, 403, 404, and 413 of the Interstate Commerce Act (49 U.S.C. 303, 304, 307, 308, 309, 1003, 1004, and 1013).

By the Commission.

ROBERT L. OSWALD,
Secretary.

Parts 1047 and 1082 of Chapter X of Title 49 of the Code of Federal Regulations would be amended by deleting § 1047.45 and by revising § 1047.40 and § 1082.1 as set forth below:

§ 1047.40 Motor transportation of property and passengers incidental to transportation by aircraft.

(a) *Definition*—(1) *Motor transportation of property incidental to transportation by aircraft.* The transportation of property by motor vehicle to or from points in the zone defined in subparagraph (3) of this paragraph, except as said zone may be individually determined as provided in paragraph (c) of this section, is transportation incidental to transportation by aircraft within the meaning of section 203(b)(7a) of the Interstate Commerce Act: *Provided,* (i) That it is confined to the transportation of shipments in bona fide collection, delivery, or transfer service, and (ii) that it is confined to the transportation of shipments which have been received from or will be delivered to a direct air carrier or air freight forwarder (indirect air carrier) as part of a continuous movement which, if provided by an air carrier subject to economic regulation under the Federal Aviation Act, shall be provided for in tariffs filed with and accepted by the Civil Aeronautics Board, and shall be performed on a through air bill of lading covering, in addition to the line-haul movement by air, the collection, delivery, or transfer service performed by the motor carrier.

(2) *Motor transportation of passengers incidental to transportation by aircraft.* The transportation of passengers by motor vehicle to or from points in the zone defined in subparagraph (3) of this paragraph, except as said zone may be individually determined as provided in paragraph (c) of this section, is transportation incidental to transportation by aircraft within the meaning of section 203(b)(7a) of the Interstate Commerce Act: *Provided,* That it is confined to the transportation of passengers who have had or will have an immediately prior or immediately subsequent movement by air.

(3) *Air terminal area.* The zone within which motor transportation is incidental to transportation by aircraft within the meaning of section 203(b)(7a) of the Interstate Commerce Act, except as it may be individually determined as provided in paragraph (c) of this section, is the area encompassed by a 100-mile radius of the boundary of the airport at which the shipments are received or delivered or the passengers arrive or depart and by the boundaries of the commercial zones (as defined by the Commission) or any municipalities any part of whose commercial zones falls within the 100-mile radius of the pertinent airport.

(b) *Substitution of motor-for-air transportation due to emergency conditions*—(1) *Motor transportation of property.* The transportation of property by motor vehicle is transportation incidental to transportation by aircraft if it constitutes substituted motor-for-air service, performed at the expense of the direct air carrier or air freight forwarder, on a through air bill of lading, in emergency situations arising from the inability of the direct air carrier to perform air transportation due to adverse weather conditions, equipment failure, or other causes beyond the control of the direct air carrier.

(2) *Motor transportation of passengers.* The transportation of passengers by motor vehicle is transportation incidental to transportation by aircraft if it constitutes substituted motor-for-air service, performed at the expense of the air carrier in emergency situations arising from the inability of the air carrier to perform air transportation due to adverse weather conditions, equipment failure, or other causes beyond the control of the air carrier.

(c) *Individual determination of exempt zones*—(1) *Motor transportation of property.* Upon its own motion or upon petition filed by any interested person, the Interstate Commerce Commission may, in an appropriate proceeding, determine whether the area within which the transportation of property by motor vehicle, in bona fide collection, delivery, or transfer service, must be performed, in order to come within the provisions of paragraph (a)(1) of this section, should be individually determined with respect to any particular airport authorized to be served by a direct air carrier of air freight forwarder holding authority from the Civil Aeronautics Board, and whether there should be established therefor appropriate boundaries, differing in extent from those defined in paragraph (a)(3) of this section.

(2) *Motor transportation of passengers.* Upon its own motion or upon petition filed by any interested person, the Interstate Commerce Commission may, in an appropriate proceeding, determine whether the area within which the transportation by motor vehicle of passengers having an immediately prior or immediately subsequent movement by air must be performed, in order to come within the provisions of paragraph (a)(2) of this section, should be individually determined with respect to any particular airport, and whether there should be established therefor appropriate boundaries differing in extent from those defined in paragraph (a)(3) of this section.

§ 1047.45 [Deleted]

§ 1082.1 Use by air freight forwarders of regulated motor common carrier service.

An air freight forwarder (indirect air carrier) subject to economic regulation under the Federal Aviation Act may receive from or turn over to motor common carriers subject to economic regulation under part II of the Interstate Commerce Act shipments the transportation of which is not within the scope of the incidental-to-air exemption of section 203(b)(7a) of the Interstate Commerce Act without being considered as conducting operations as a freight forwarder subject to part IV of the Interstate Commerce Act: *Provided:*

(a) That the air freight forwarder shall not hold out to assume responsibility for, nor make any claim in its advertising, solicitation of freight, or tariff publications that it will assume responsibility for, any shipment prior to its receipt from or after it is turned over to an authorized motor common carrier for movement beyond the air terminal area (as described in §1047.40 of this chapter) of the airport at which the actual air movement begins or ends.

(b) That all shipment documents issued by the air freight forwarder shall state clearly that its responsibility for the shipment does not extend beyond its actual air movement and the territorial extent of the air terminal area (as described in § 1047.40 of this chapter) of the airport at which the actual air movement begins or ends.

(c) That the air freight forwarder shall receive no compensation from any shipper or motor carrier for services rendered in connection with the receipt of shipments from or the delivery of shipments to a motor carrier for movement beyond the air terminal area (as described in § 1047.40 of this chapter) of the airport at which the actual air movement begins or ends.

[FR Doc.77-14852 Filed 5-24-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRD HUNTING

Supplemental Proposed Rulemaking

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rulemaking.

SUMMARY: This document supplements FEDERAL REGISTER Document 77-6969, published on March 10, 1977.

which notified the public that the U.S. Fish and Wildlife Service proposes to establish hunting season regulations for certain migratory game birds during 1977–78, and provided information on certain proposed regulations. Further information, clarification or correction is provided relative to certain regulatory items for which information was not complete when FR Doc. 77–6969 was published. The more important of those relate to zoning in Illinois, Indiana, Maine, Michigan, Missouri, and Ohio for duck seasons; changes in daily bag and possession limits and season lengths for Canada geese in a portion of the Atlantic Flyway; regulatory relaxations for wood ducks in southeastern States in early October; and modifications of lesser sandhill crane seasons in portions of the Central Flyway.

DATES: Initial comments: May 18, 1977; comments on this supplemental proposed rulemaking will be accepted until July 14, 1977.

ADDRESS: Comments to: Director (FWS/MBM), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–343–8827), who is also the originator of this supplemental proposed rulemaking.

SUPPLEMENTARY INFORMATION: On March 10, 1977, the Fish and Wildlife Service published for comment in the FEDERAL REGISTER (42 FR 13311) a proposal to amend 50 CFR Part 20. That document dealt with minor modifications in § 20.11 of Subpart B and the addition of a new § 20.40 in Subpart D of 50 CFR Part 20, and with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K of 50 CFR Part 20. In that document, the Service indicated that a supplemental proposed rulemaking containing proposals and other considerations was scheduled for publication on May 16, 1977. Consequently, this supplemental proposed rulemaking is the second in a series of proposed and final rulemaking documents for migratory bird hunting regulations and deals specifically with a number of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. Included is further information relative to zoning in Illinois, Indiana, Maine, Michigan, Missouri, and Ohio for duck seasons; regulatory relaxation for wood ducks in southeastern States in early October; changes in daily bag and possession limits and season lengths for Canada geese in a portion of the Atlantic Flyway; and modifications of lesser sandhill crane seasons in portions of the Central Flyway.

CLARIFICATIONS AND CORRECTIONS

In the definitions of the four flyways, the biological-ecological units frequently used for references in setting hunting regulations for many migratory birds, the New Mexico portion of the Central Flyway given in FR Doc. 77–6969 appearing on page 13313 in the FEDERAL REGISTER of March 10, 1977, needs further clarification. In New Mexico, the Central Flyway is confined to that portion of the State east of the Continental Divide and outside the Jicarilla Apache Indian Reservation. In the March 10, 1977, FEDERAL REGISTER the Central Flyway portion was described as being "east of the Continental Divide and the Jicarilla Apache Indian Reservation."

In Item 23, Woodcock, there was a typographical omission of the daily bag limit. The second sentence should read, "States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1977, and February 28, 1978, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively: * * *."

ZONING PROPSOALS AND OTHER CONSIDERATIONS

The following zoning proposals and other considerations are numbered to correspond with topics or items published in the FEDERAL REGISTER of March 10, 1977.

2. *Frameworks dates for ducks and geese in the continental United States.* The FEDERAL REGISTER dated March 10, 1977, identified the general hunting season framework for geese in the Mississippi Flyway as being from October 1, 1977, through January 20, 1978; however, it did not note the exception in Louisiana where later framework closing dates have been allowed in recent years in recognition of crop depredations caused by geese. Therefore, the following additional exception to the general Mississippi Flyway goose season framework is proposed:

(f) Louisiana goose season framework: October 1, 1977, through February 14, 1978.

4. *Wood duck.* The FEDERAL REGISTER dated March 10, 1977, noted that the increased population of this species and an analysis of population and banding data suggests that the wood duck population in the southeastern United States could sustain additional harvests, provided that such liberalizations did not increase the harvest of wood ducks from breeding populations in the north. For purposes of this discussion the southeastern United States is defined as Virginia, Kentucky, Tennessee, Arkansas, and Louisiana and all States of the Atlantic and Mississippi Flyways south and east thereof. Various means of providing for additional harvest opportunities on southeastern wood ducks on a trial basis and evaluating its effects were considered and discussed this spring. Accordingly, the Service proposes to consider regulations aimed at additional wood duck harvest in the southeastern States only within the following guidelines:

(a) In 1977 States in the southeastern United States may split their regular duck hunting season in such a way that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15.

(b) During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway in 1977 shall apply to wood ducks, and under the point system, the point value for wood ducks shall be reduced from the high to the mid-point category. For other species of ducks daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations.

(c) In addition, the extra blue-winged teal option available to States in the Atlantic and Mississippi Flyways that select conventional regulations and do not have a September teal season may be applied during this period.

(d) This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

(e) This special provision for wood ducks shall be regarded as experimental, and subject to annual and final evaluations by participating States of population, harvest, banding, and other available information.

(f) The experiment shall be conducted for a specified time period to be agreed upon between the Service and participating States.

13. *Zoning.* Five States in the Mississippi Flyway and one in the Atlantic Flyway have submitted proposals to the Service to establish within-State zones, in each of which the season for hunting waterfowl would be set separately rather than Statewide beginning in the 1977–78 waterfowl hunting season. According to these proposals, season length, daily bag limits and possession limits would conform to the general framework for the respective Flyway. Only the season dates would differ between zones. The purpose is to provide a more equitable distribution of harvest opportunity within the States. The zones proposed by these States are as follows:

ATLANTIC FLYWAY

MAINE

North Zone—Game Management Zones 1, 2, and 3.

South Zone—Game Management Zones 4 through 8.

MISSISSIPPI FLYWAY

ILLINOIS

North Zone—St. Clair, Clinton, Marion, Clay, Richland, and Lawrence Counties and all counties to the north.

South Zone—All counties south of St. Clair, Clinton, Marion, Clay, Richland, and Lawrence Counties.

INDIANA

North Zone—That portion of Indiana north of State Highway 18.

South Zone—That portion of Indiana south of State Highway 18.

MICHIGAN

North Zone—The Upper Peninsula.

South Zone—The Lower Peninsula.

MISSOURI

North Zone (entitled Upper Zone in proposal)—That portion of Missouri lying north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 34, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau.

South Zone—The remainder of Missouri.

OHIO

North Zone—That portion of Ohio north of U.S. Highway 30 North.

South Zone—That portion of Ohio south of U.S. Highway 30 North.

The Service will consider the establishment of the proposed zones based on an evaluation of each of the State proposals according to the following criteria:

1. The establishment of any of these zones shall be considered experimental until the effects of the zoning are more clearly defined and understood.

2. The primary purpose of the zoning shall be to provide more equitable distribution of harvest opportunity for hunters throughout a State.

3. Proposed zones and season dates shall not substantially change the pattern of harvest distribution among States within a flyway.

4. Zoning shall not detrimentally change the harvest distribution pattern among species or populations at either the State or flyway level.

5. Each zoning proposal shall include a detailed evaluation plan describing how changes in harvest will be measured, and what steps will be taken to compensate for any significant changes that might occur.

6. Each zoning proposal shall include an evaluation of anticipated changes due to zoning. If on the basis of this evaluation the Service and the State agree that no significant increase in harvest is likely, the zoning experiment may be conducted without a reduction in season length for each zone, pending further evaluation. If the evaluation indicates that a significant increase in harvest is likely, an appropriate reduction in season length compared to what would be permitted without zoning shall be made for each zone.

7. Where two or more adjoining States in a flyway may be involved simultaneously in zoning experiments, consideration shall be given to the possibility of consolidating zones.

14. *Goose and brant seasons.—Atlantic Flyway.* Notice was given in the FEDERAL REGISTER dated March 10, 1977, that a lengthening of snow goose season from 30 to 50 days would be considered in view of the expanding population of greater snow geese. The greater snow goose population has increased in recent years. Surveys of the main wintering areas in the United States, which do not account for all of the population, indicate an increase in recent years from 63,000 birds in 1971 to 109,000 in 1977. Spring surveys of the St. Lawrence River of Canada indicate a May 1976 population of 185,000 birds. Concurrent with the growth of this population, there is evidence of increasing damage to marsh habitat caused by feeding geese, and increasing crop depredations. After reviewing this situation, the Atlantic Flyway Council recommended at its meeting of March 6, 1977, a snow goose season length of 60 days with a bag limit of 3 birds daily and 6 in possession, regardless of production rates in 1977. The Council further recommended establishing minimum population levels for the conduct of hunting seasons for the greater snow goose. The Service hereby provides notice of the Atlantic Flyway Council recommendation which will be considered along with other recommendations and comments during the regulations process. The March 10, 1977, FEDERAL REGISTER identified the sources of information which will be considered regarding the proposed regulatory changes for snow geese.

In recent years, the Canada goose population in the Atlantic Flyway has increased significantly, now numbering well over one million birds in the fall flight. The upward trend is continuing. In 1975, 819,000 birds were counted in the January surveys, and 924,000 in 1977. When harvest data are considered, the Flyway population objective of one million geese in the fall flight has been exceeded in recent years. The Service is of the view that concentration of these geese in the main portions of their wintering range is now excessive. Excessive winter concentrations of Canada geese pose a risk of disease outbreaks which could result in large-scale mortality. States in the main wintering area have recommended and the Service proposes that the Canada goose season length in this area be extended from 70 to 90 days with increases in the daily bag limit from 3 to 4 birds, and the possession limit from 6 to 8 birds. The area in which the proposed changes would apply comprises Delaware, the Delmarva Peninsula portion of Maryland, and that portion of Pennsylvania lying east and south of a boundary beginning at the Maryland border or Interstate Highway 83 and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border.

The Service is of the view that this regulatory change will not result in excessive harvests of these geese nor adversely affect their status insofar as population management objectives are concerned.

Mississippi Flyway. For Canada geese in portions of the Mississippi Flyway, Statewide harvest quotas are proposed as follows: Illinois, 35,000 birds; Kentucky, 15,000 birds; and Wisconsin, 35,000 birds. These harvest quotas support efforts to manage the segment of Mississippi Valley Population Canada geese that concentrates in excessive numbers near Horicon National Wildlife Refuge in Wisconsin, and concurrent efforts to achieve a more satisfactory distribution of these geese throughout the Mississippi Flyway. The quotas are consistent with recommendations of the Ad Hoc Committee assigned by the Mississippi Flyway Council to develop a management plan for Mississippi Valley Population Canada geese. This is the first harvest quota for Kentucky where a sizable portion of the harvest of this population now occurs. The 1977 winter count of Mississippi Valley Population Canada geese was well above the management objective of 300,000 wintering birds. The distribution and regulation of the harvest quota for Wisconsin will be described by State regulations.

Pacific Flyway. In the March 10, 1977, FEDERAL REGISTER, changes were proposed in closure dates for Canada goose hunting in the Sacramento and San Joaquin areas of California to provide added protection of the endangered Aleution Canada goose. The Service now proposes that Canada goose hunting in the Sacramento area be closed from the beginning of the regular waterfowl hunting season to December 15 instead of December 20 as originally proposed. This modification is based on a re-analysis of band recovery data and field observations of Aleutian Canada geese. The original proposal to extend the beginning of the closed period in the San Joaquin closed area from December 15 to December 1 is reaffirmed. To date, only one Aleutian Canada goose band has been reported from the Sacramento and San Joaquin areas outside the proposed closure periods. No plans are contemplated at this time to change the boundaries or numbers of closed areas.

In the Pacific Flyway, Nevada has requested that it be allowed to select a single Statewide waterfowl season. Presently, the seasons for Clark and Lincoln Counties, along the Colorado River, coincide with seasons selected by California and Arizona. This proposal is made pending further review and evaluation by the Pacific Flyway Council which has not yet had an opportunity to consider it.

17. *Migratory game bird seasons for falconers.* In the March 10, 1977, FEDERAL REGISTER the Service indicated it would consider proposals from States to establish extended seasons for taking migratory game birds by falconry under certain conditions. The Service now proposes to establish a new Section, if the proposals are accepted, for setting hunting seasons, limits, and hours for taking migratory game birds by falconry and the heading of this new section would read as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

18. *Lesser sandhill (little brown) cranes.* The FEDERAL REGISTER dated March 10, 1977, indicated that no changes in sandhill crane hunting regulations were contemplated at that time but that additional data would be examined. Discussions with the Central Flyway Council and a review of additional data indicate that a modification in the crane season framework for North Dakota and South Dakota is warranted. Specifically, the Service now proposes that lesser sandhill crane hunting in designated portions of these States be

permitted during the period of September 1 through 11, 1977, in lieu of the 30-day seasons from November 6 to December 5 offered in 1976. The earlier but shorter seasons would better coincide with the period when huntable numbers of sandhill cranes are present, and reduce the period when endangered whooping cranes might be present during the sandhill crane season. A review of observation records indicates that whooping cranes seldom arrive in the two hunting areas prior to mid-September. No change is proposed in the area where hunting would be allowed in North Dakota. It is proposed that South Dakota be offered the option of defining its hunting area by county boundaries rather than by highways. The Service proposes that the hunting season length in Colorado be increased one day to 37 days, to provide full weekends at the beginning and ending of the season as its generally provided in many Central Flyway areas for other migratory game birds. The impact of these changes is expected to be a small increase in sandhill crane harvests and better protection for whooping cranes.

25. *Mourning doves.* Eastern Management Unit: Four States (Alabama, Georgia, Mississippi, and Louisiana) have been allowed for several years to select differential mourning dove hunting seasons by north and south zones. Two States have asked that minor changes be made in zone boundaries. Alabama requests that its boundary of the South Zone be changed to run from the Mississippi line via U.S. Highway 84 to the Covington County line, and include the counties of Coffee, Covington, Dale, Geneva, Henry, and Houston. This change would shift a relatively small area of southwestern Alabama from the south zone into the north zone. Georgia requests that the zone boundary be changed to run from the Alabama line via U.S. Highway 280 to Abbeville, thence east along the Ocmulgee and Altamaha Rivers to the Atlantic Ocean. This change would shift a relatively small portion of southeastern Georgia from the south zone to the north zone. The proposed boundary changes are expected to result in no significant change in mourning dove harvests.

Central Management Unit: Except for Texas, all States in the Central Management Unit which choose mourning dove hunting seasons permit shooting hours to extend from ½ hour before sunrise to sunset. It is proposed that these shooting hours be allowed in Texas for all days when mourning dove hunting is allowed. This would bring all shooting hours frameworks for mourning doves in the management unit into uniformity. Shooting hour restrictions within this time frame may be set by State regulation. Also, it is proposed that the closing date for mourning dove season framework be changed from January 20 to January 22, 1978. The effect of this change is expected to have an insignificant impact upon the State's mourning dove harvest.

26. *White-winged doves.* It is proposed that shooting hours for white-winged doves be changed from noon until sunset to ½ hour before sunrise to sunset. This would bring the shooting hours in Texas for white-winged doves into conformance with those proposed for Arizona, California, Nevada, and New Mexico. This change is expected to have no significant impact upon the Texas whitewinged dove harvest.

Texas requests that the white-winged dove frameworks in Texas be modified by deleting mention at this time of the specific counties in which hunting would be allowed. The proposed change gives Texas greater flexibility following the completion of breeding population surveys in defining areas where hunting will be allowed. The occurrence and distribution of breeding white-winged doves in south Texas and along the Rio Grande River appear to be expanding northward and it may be desirable to modify the permitted hunting area. Consequently, the last two paragraphs in Item 26 of the March 10, 1977, FEDERAL REGISTER are modified to read as follows:

The number of hunting days allowed in Texas, and areas where hunting will be allowed, will depend upon results of breeding population surveys conducted there. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

These changes have been endorsed by the Central Flyway Council. The areas open to hunting will be described in frameworks scheduled for FEDERAL REGISTER publication on July 22, 1977

The March 10, 1977, FEDERAL REGISTER contained an extensive discussion of shooting hours for migratory game birds, and advised that the Service was examining and will make available additional information on the subject. This plan complies with the U.S. District Court, District of Columbia, ruling of March 11, 1977, that the Service should in the future provide greater information regarding migratory game bird shooting hours.

STEEL SHOT REGULATIONS

On April 28, 1977, the Service published in the FEDERAL REGISTER (42 FR 21614) final regulations regarding areas in the Atlantic and Mississippi Flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1977. The intended effect of establishing these steel shot zones is to reduce the number of deaths of waterfowl caused by ingesting spent lead pellets. The regulations appear under § 20.108 and will also be summarized in the Service's waterfowl regulations leaflets to be published late this summer.

HEARINGS

Two public hearings are scheduled pertaining to migratory bird hunting regulations being considered for the 1977–78 hunting seasons. Both will be conducted in accordance with Part 455 of the Departmental Manual (Hearings). On June 21, 1977, a public hearing will be held at 9 a.m. in the Auditorium of the General Services Building, 18th and F Streets NW., Washington, D.C., to review proposed hunting regulations of species for which early (prior to October 1) seasons are set. This hearing is for the purpose of reviewing the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, and common snipe. Proposed hunting regulations for these species will be discussed, plus regulations governing migratory game birds in Alaska, Puerto Rico, the Virgin Islands; mourning doves in Hawaii; September teal seasons; and special sea duck seasons in the Atlantic Flyway. On August 2, 1977, a public hearing will be held at 9 a.m. in the Auditorium of the General Services Building, 13th and F Streets NW., Washington, D.C., to review the status of other waterfowl and consider proposed regulations for migratory game birds that were not previously set. These deliberations will pertain to seasons commencing October 1 or later. The public is invited to participate in both hearings.

Persons wishing to participate in these hearings should notify the Director (FWS/MBM), United States Fish and Wildlife Service, Washington, D.C. 20240, or call 202–343–8827. Those wishing to have statements included in the record should file them in writing in duplicate with the Director before or at each hearing.

PUBLIC COMMENT INVITED

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the amendments resulting from these supplemental proposals will specify open seasons, shooting hours, and bag and possession limits for doves, pigeons, rails, gallinules, woodcock, common (Wilson's) snipe, coots, cranes, swans, and certain waterfowl in the contiguous United States; coots, cranes, common (Wilson's) snipe and waterfowl in Alaska; sea ducks in coastal waters of certain eastern States; migratory game birds in Puerto Rico and the Virgin Islands; and mourning doves in Hawaii; and would further clarify existing tagging requirements.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

COMMENT PROCEDURE

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in this rulemaking by submitting written comments to the Director (FWS/MBM), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 2243, Department of the Interior, C Street between 18th and 19th Streets NW., Washington, D.C.

All relevant comments received no later than July 14, 1977, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

ENVIRONMENTAL REVIEW

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241).

NOTE.—The U.S. Fish and Wildlife Service, Department of the Interior, has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

AUTHORITY: This notice of proposed rulemaking is issued under the authority of the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711).

Issued in Washington, D.C., May 19, 1977.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc.77–14821 Filed 5–24–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-104]

TENNESSEE GAS PIPELINE CO.

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On May 13, 1977, Tennessee Gas Pipeline Company (Tennessee) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application to make certain emergency purchases of natural gas from the Louisiana Land and Exploration Company and General Crude Oil Company (Seller). For the reasons set forth below, I authorize the purchase of this emergency natural gas.

By agreement dated May 10, 1977, Tennessee agreed to purchase up to 1000 Mcfd of natural gas from Seller's No. 1 C. L. Cruse Well, Tyler County, Texas with the gas to be made available at a mutually agreeable point in Tyler County, Texas. The contract between Tennessee and Seller is to begin on issuance of Administrator's order and terminate on July 31, 1977.

Tennessee will purchase these supplies at a price of $1.5738 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2. In addition, Seller advised that an estimated 17,000 feet of pipeline facilities were installed in order to deliver the gas to Tennessee. Tennessee will install a hot tap and side valve at an estimated cost of $7,700.

The sale of gas for which Tennessee seeks approval may result in a commingling of interstate natural gas with Seller's normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Seller and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale of gas for which Tennessee seeks approval may result in some commingling of interstate natural gas with Seller's normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas.

Under the provisions of section 9 (b), (c) of Pub. L. 95-2 (91 Stat. 4.9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Seller or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts refererd to above are not enforceable by reason of Section 9 of Pub. L. 95-2 since Seller is selling gas to Tennessee pursuant to Section 6(a) of that Act. Seller and any third person whose gas is commingled with Tennessee's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Seller is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "(t)he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *" 91 Stat. at 8. In addition 6(c)(2) provides:

Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provisions of state law.

Tennessee shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act, I hereby authorize Seller to sell Tennessee up to 1000 Mcfd of natural gas from No. 1 C. L. Cruse Well, Tyler County, Texas with the subject gas to be made available at a mutually agreeable point on Tennessee's pipeline in Tyler County, Texas, in accordance with the terms and conditions set forth in Tennessee's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Tennessee and Seller. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 19, 1977.

[FR Doc.77-14850 Filed 5-20-77;3:15 pm]

DEPARTMENT OF AGRICULTURE

Forest Service

APACHE NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting Cancellation

The Apache Grazing Advisory Board meeting, originally scheduled for 1:00 p.m. on June 9, 1977, at the Ramada Inn, Springerville, Arizona has been cancelled.

MILES P. HANRAHAN,
Acting Forest Supervisor.

MAY 16, 1977.

[FR Doc.77-14855 Filed 4-24-77;8:45 am]

SITGREAVES NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting Cancellation

The Sitgreaves Grazing Advisory Board Meeting, originally scheduled for 10:00 a.m. on June 10, 1977, at the Maxwell House, Show Low, Arizona has been cancelled.

MILES P. HANRAHAN,
Acting Forest Supervisor.

MAY 16, 1977.

[FR Doc.77-14854 Filed 5-24-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-5-97; Docket 29123, Agreement C.A.B. 26574]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Adopted Relating to North/Central Pacific Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote at the request of the IATA North/Central Pacific Policy Group, has been assigned the above C.A.B. agreement number.

The agreement would establish an IATA North/Central Pacific fare structure for effect from June 1977 through March 1978, and is consistent with the Board's earlier disposition of an IATA Pacific fare proposal (Order 77-3-163, March 29, 1977). As set forth in the attached appendix, the agreement would establish fares, including those for normal economy service and the 14/21-day excursion fares, at levels which have been approved by the Board on earlier occasions. The agreement would also bring forward unchanged most of the applicable rules and amendments thereto. However, the 30/120-day excursion fare applicable westbound from U.S. points, which was previously disapproved by the Board, has been excluded from the new structure, while the affinity group-100 fares from Alaska to Japan would be reinstated.

We will approve the agreement as proposed, subject to conditions which have been imposed earlier upon individual resolutions, with specific reference to a condition set forth in Order 77-1-60 which precludes individual return-travel on the 14/35-day group inclusive-tour fare. The proposed fare levels have all been approved by the Board on prior occasions,[1] and we anticipate that the formal closing of fares in this area will have a beneficial impact of fostering greater stability in this market.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find that special readopting and amending resolution JT31(Mail 126)002u, incorporated in Agreement C.A.B. 26574, to be adverse to the public interest or in violation of the Act provided that approval of the individual resolutions readopted therein are subject, where applicable, to conditions previously imposed by the Board.

Accordingly, *IT IS ORDERED* That:

1. Agreement C.A.B. 26574 be and hereby is approved, subject, where applicable, to conditions previously imposed by the Board; and

2. Tariffs implementing Agreement C.A.B. 26574 may be filed on not less than one day's notice for effectiveness not earlier than June 1, 1977 and shall be marked to expire March 31, 1978. The short notice authority in this paragraph expires July 1, 1977.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[1] See Order 77-3-163, Mar. 29, 1977, for most fares; Order 77-1-60, Jan. 11, 1977, for 14/21-day excursion fares; Order 76-5-158, May 28, 1976, for normal economy fares except to/from Japan; and Order 74-10-68, Oct. 17, 1974, for normal economy fares to/from Japan.

APPENDIX A.—*Summary of North/Central Pacific Fares*

Fare category	West Coast-Tokyo				Honolulu-Tokyo				Anchorage-Tokyo			
	Present tariff fare	CAB 26064 fare [1]	CAB 26257 fare [2]	Proposed CAB 26574 fare	Present tariff fare	CAB 26064 fare [1]	CAB 26257 fare [2]	Proposed CAB 26574 fare	Present tariff fare	CAB 26064 fare [1]	CAB 26257 fare [2]	Proposed CAB 26574 fare
1st class	$1,624	$1,706	$1,786	$1,786	$1,278	$1,342	$1,402	$1,402	$1,476	$1,530	$1,536	$1,536
Economy	1,004	1,034	1,674	1,004	806	830	860	806	908	908	908	908
21-d excursion	893	938	958	928	694	720	789	729	694	694	734	694
14 to 35 day IIT	853	896			694	729			694	694		
Affinity group (25)	793	833	883	883	647	679	719	719	647	647	687	687
Affinity group (70)	550	578	628	628	459	482	520	520	459	459	500	500
Affinity group (100)	437	481	541	541	377	415	465	465	377	415		455
GIT (basic)	564	642	692	692	372	441	481	481	372	397	437	437
GIT (peak)	684	718	768	768	492	517	557	557	492	492	532	532

[1] Order 77-1-60, Jan. 11, 1977, disapproved proposed normal fare increases and proposed Asia-originating 30 to 120 d excursion fares, but approved all other increases.

[2] Order 77-3-163, Mar. 29, 1977, disapproved proposed normal economy and 14 to 21 d excursion fare increases, but approved all other increases.

Summary of North/Central Pacific fares

Fare category	West Coast-Hong Kong				Honolulu-Hong Kong				Anchorage-Hong Kong			
	Present tariff fare	CAB 26064 fare [1]	CAB 26257 fare [2]	Proposed CAB 26574 fare	Present tariff fare	CAB 26064 fare [1]	CAB 26257 fare [2]	Proposed CAB 26574 fare	Present tariff fare	CAB 26064 fare [1]	CAB 26257 fare [2]	Proposed CAB 26574 fare
1st class	$2,156	$2,242	$2,322	$2,322	$1,784	$1,856	$1,916	$1,916	$1,884	$1,960	$1,960	$1,960
Economy	1,312	1,312	1,352	1,312	1,102	1,102	1,122	1,102	1,192	1,192	1,192	1,192
21-d excursion	1,147	1,147	1,167	1,147	962	962	1,002	962	916	916	956	916
120-d excursion (ex-Asia)		770	820	820		650	690	690				
14 to 35 d IIT	1,094	1,094			962	962			916	916		
Affinity group (25)	1,016	1,016	1,066	1,066	855	855	896	896	814	814	854	854
Affinity group (70)	719	719	794	794	584	584	644	644	556	556	616	616
Affinity group (70)	780	830	880	880	660	719	759	759	637	662	702	702
GIT (basic)	925	925	975	975	814	814	854	854	775	775	815	815

[1] Order 77-1-60, Jan. 11, 1977, disapproved proposed normal fare increases and proposed Asia-originating 30 to 120 d excursion fares, but approved all other increases.
[2] Order 77-3-163, Mar. 29, 1977, disapproved proposed normal economy and 14 to 21 d excursion fare increases, but approved all other increases.

[FR Doc.77-14707 Filed 5-24-77;8:45 am]

[Order 77-5-91; Docket 29123]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North Atlantic Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1977.

Agreements adopted by the Joint Traffic Conferences of the International Air Transport Association relating to North Atlantic passenger fares; Agreement C.A.B. 26555, R-1 through R-19; Agreement C.A.B. 26556, R-1 through R-14; Agreement C.A.B. 26557, R-1 through R-8.

By Order 77-3-54, March 9, 1977, the Board generally approved an agreement among the carrier members of the International Air Transport Association (IATA) to establish North Atlantic passenger fares from April 1, 1977, through March 31, 1978. We did, however, disapprove the proposed increases in normal economy fares as well as all increases proposed in fares between Florida and London; and placed a condition on our approval of amendments to the seasonality pattern on several fares, to provide that such changes not become effective before June 1, 1977.

The IATA carriers have now submitted new agreements to the Board for approval which are intended to satisfy the Board's objections to the previous IATA package. Generally the agreements would retain normal economy fares at status quo levels; reduce the magnitude of increases proposed in Miami-London first-class and promotional fares; and amend the proposed seasonality changes in line with the Board's condition. The agreements would also amend Resolution 001vv, disapproved by the Board in Order 77-3-54. The resolution would, inter alia, permit carriers to reduce fares from the United States, by individual tariff filings, in response to changes in non-IATA-agreed transatlantic fares from Canada. The proposed amendment clarifies the tariff filing requirement as an addition to the provision for cable notice from the carrier to the IATA Secretariat.

Justification in support of the agreement has been submitted by National Airlines, Inc. (National) and Trans World Airlines, Inc. (TWA).

National, whose earnings position was the basis of the Board's disapproval of Florida/London fare increases, states that the new proposal would retain normal economy fares at status quo; and that other fares would be held at present levels during April and May, increased by about half the amount originally proposed for the peak season (June 1-September 14), and increased the full amount originally proposed during the remainder of the basic season (September 15-March 31).[1] In support of the

[1] See app. A.

agreement, National alleges that these revisions have already resulted in Mexico-Europe fares being removed from the overall IATA transatlantic package due to undercuts and would probably cause the negation of the Mid-Atlantic fare package as well if not approved; that even under the revised increases in Miami-London fares substantial undercuts of fares from points such as Atlanta and Washington would occur; and that Miami-originating passengers will experience extremely low fares per mile compared with transatlantic fares from other U.S. cities. The carrier has also submitted a revised forecast of financial results in Miami-London combination service for the year ending March 31, 1978, showing returns on investment (ROI) of 10.45 and 11.44 percent under present and proposed fares, respectively.

National's forecast reflects a 53.78-percent load factor rather than the 51.06 percent it had projected in support of the previous agreement; National states it has accepted the Board's capacity adjustment but has estimated traffic at 15 percent above that for calendar year 1976.[2] National alleges that its revised traffic and load factor projections are reasonable since British Airways will enjoy a 40-percent capacity advantage over National during the forecast period due to different equipment types; [3] and avers that any comparison with previous load factors is invalid since the historical figures for 1975 did not reflect results in the normally "softer" months of September through December when operations were suspended due to a strike.

TWA supports the approval of revised Resolution 001vv and incorporates by reference its petition for reconsideration of the Board's disapproval of the resolution in Order 77–3–54.

The Board has concluded to approve the bulk of the agreement, which is consistent with our actions in Order 77–3–54, with certain exceptions.

First, increases in Miami-London fares have not been shown to be warranted and they will, therefore, be disapproved. National's economic justification reflects a forecast load factor of 53.78 percent which is better than the 51.06 percent previously forecast, but which still falls considerably below the 58.37 percent attained during the historical period. In view of National's contention that the historical results for the years ended September 30, 1976, or December 31, 1975, are invalid because the low traffic months of September–December were excluded by a strike, we have reviewed the carrier's reported results for the year ending December 31, 1976. During that period National's international load factor was 57.34 percent, a modest decline from the earlier periods but hardly the drastic decline National now forecasts. Therefore, we have adjusted National's forecast load factor to reflect its calendar 1976 experience. This increases the carrier's ROI to 12.36 percent under present fares and to 13.39 percent under proposed fares. Thus, it is clear that National's earnings will be adequate under existing fares and that no increase is needed.

We are not unmindful of the alleged fare undercuts, for routings via Miami, of other transatlantic fares to/from U.S., Caribbean and Mexican points. However, National has made no showing that this problem, to the extent it exists, is so serious as to justify approval of otherwise unwarranted increases in transatlantic fares to/from Miami. In the case of U.S. points, National cites only a sampling of fares to London which are lower from Miami than from Atlanta or Washington. We have examined the fares from these points, as well as from New Orleans, and are not convinced that the carriers would suffer unduly from this situation since in but a few cases does combination of the New Orleans, Atlanta, or Washington domestic fares with the present Miami-London fare undercut the constructed IATA fares from New Orleans, Atlanta, or Washington to London. Only in the case of the 22/45-day excursion fares from New Orleans and Atlanta could the passenger achieve a saving by connecting over Miami, and then a saving of only $13–$34. Indeed, since Miami may, in many cases, be a more convenient departure gateway for travelers originating at these cities anyway, and thus the Miami routings reduce congestion at New York, the Board cannot fault such combinations of fares which have been established at reasonable levels on each sector.[4]

As to undercuts of transatlantic fares for Mexico and Caribbean points, National has provided no figures whatsoever.[5] Our review of the fares in the Caribbean area shows a very limited number of potential undercuts, and no evidence has ever been presented concerning the extent to which such undercuts are actually used or whether there has been any discernible diversion of traffic via Miami.[6]

Second, we will condition our approval of the 7/8-day group inclusive tour (GIT) fares to provide for continued application of the spring shoulder period through May 22, 1977. Order 77–3–54 stipulated that proposed seasonality changes not become effective before June 1, which in the case of the 7/8-day GIT would retain last year's seasons this spring. The current application of the shoulder period on this fare extends through May 22, yet the agreement before us still proposes a cutoff date of May 14 In order to prevent an unexpected impact on passengers who have already booked on this fare we will maintain our prior condition.

Finally, we will condition amended Resolution 001vv to require such changes to be filed with the Board as an agreement, and approved prior to filing in tariffs. The amendment merely clarifies the necessity to file tariffs implementing the contemplated changes which is a requirement of section 403 of the Federal Aviation Act in any event. As more fully discussed in concurrent Order 77–5–92, denying TWA's petition for reconsideration, the Board is not prepared to permit such wholesale changes in fares without the benefit of an agreement filed with the Board, justified by the carriers, and approved under section 412 of the Act.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[2] In Order 77–3–54, the Board adjusted National's capacity downward in order to maintain the 58.4-percent load factor experienced during the historical period, stating that there was no reason to anticipate such a precipitous decline in load factor—to 51.06 percent—as that forecast by National.

[3] National operates DC–10–30 aircraft on the Miami-London route while British Airways operates a B–747. During most of 1976, the capacity advantage of the larger B–747 was checked due to the roped-off provision of the capacity agreement then in force.

[4] Consistently with our action in Orders 73–7–55, 73–9–58, and 73–11–30, we will condition our approval of the applicable resolutions to require that all travelers qualifying for these fares on routings over Miami be quoted and charged the lower combination of fares over Miami rather than the IATA through fare constructed over New York, so that this benefit will not be discriminatorily limited to those sophisticated travelers who know how to obtain the combination of local fares, by double-ticketing if necessary. See also Order 72–10–1.

[5] For instance, National states that the revised fares for Miami have already resulted in negation of the Mexico/Europe IATA fares agreement. Yet that agreement, as submitted to the Board, covered only first-class and normal economy fares. The normal economy fares to/from Miami are not proposed to be increased in any event, and moreover our examination of London-Mexico fares discloses no undercuts using a combination of fares via Miami.

[6] We would also point out that combinations of transatlantic promotional fares from London to Miami with Miami-Mexico or Miami-Caribbean fares cannot be through ticketed, and may necessitate an overnight layover in Miami. Potential undercuts of transatlantic fares between Mexico or the Caribbean and Europe are further limited by the required matchings of fare seasonalities and ticket validities.

Agreement CAB	IATA No.	Title	Application
26556:			
R–1	LA9	North Atlantic Limited Agreement U.S.A.-Europe (New)	1/2.
R–5	064a	North Atlantic Economy-Class Fares (Readopting and Amending)	1/2 (North Atlantic-Europe).
26555:			
R–4	064a	....do	1/2 (North Atlantic-Middle East).
26557:			
R–4	064a	....do	1/2 (North Atlantic Africa).

2. It is not found that the following resolutions, set forth in the agreements indicated, are adverse to the public interest or in violation of the Act except insofar as increased New York-London fares would be used to construct through fares to and from points in Florida, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
26556:			
R–3	002ee	Special Readoption Resolution	1/2 North Atlantic-Europe
R–4	015	North Atlantic Proportional Fares North American (Readopting and Amending) Except Note "M".	Do.
R–6	070d	North Atlantic 14/21-Day and 14/45-Day Excursion Fares (Readopting and Amending).	Do.
R–7	071p	North Atlantic Advance-Purchase Excursion Fares (Readopting and Amending).	Do.
R–8	071q	North Atlantic 22/45-Day Excursion Fares (Readopting and Amending).	Do.
R–9	076e	North Atlantic Affinity Group Fares (Readopting and Amending)	Do.
R–10	076p	North Atlantic 14-Day Incentive Group Fares (Readopting and Amending).	Do.
R–11	084a	North Atlantic 21, 28, and 30 Day Group Inclusive-Tour Fares (Readopting and Amending).	Do.
R–14	092ff	North Atlantic Individual Youth Fares (Readopting and Amending)	Do.
R–2	002ff	Special Readoption Resolution	1/2 North Atlantic-Middle East).
R–3	015	North Atlantic Proportional Fares North American (Readopting and Amending) Except Note "M".	Do.
R–5	070d	North Atlantic 14/21-Day and 14/45-Day Excursion Fares (Readopting and Amending).	Do.
R–6	070t	North Atlantic 14/21-Day Excursion Fares—Amman, Bahgdad, Beirut, Cairo, Damascus, Jerusalem, Kuwait, Nicosia, Tehran (Readopting and Amending).	Do.
R–7	070x	....do	Do.
R–8	071q	North Atlantic 22/45-day Excursion Fares (Readopting and Amending).	Do.
R–9	075i	North Atlantic Group Fares—Israel (Readopting and Amending)	Do.
R–10	075r	North Atlantic 8/21-Day Group Fares—Israel (Readopting and Amending).	Do.
R–11	075rr	North Atlantic 8/21-Day Group Fares—Amman, Baghdad, Beirut, Cairo, Damascus, Jerusalem, Nicosia (Readopting and Amending).	Do.
R–12	076e	North Atlantic Affinity Group Fares (Readopting and Amending)	Do.
R–13	076p	North Atlantic 14-Day Incentive Group Fares (Readopting and Amending).	Do.
R–14	084a	North Atlantic 21, 28, and 30 Day Group Inclusive-Tour Fares (Readopting and Amending).	Do.
R–15	084cc	North Atlantic Winter Group Inclusive-Tour Fares to Middle East (Readopting and Amending).	Do.
R–17	092ff	North Atlantic Individual Youth Fares (Readopting and Amending)	Do.
R–19	092gg	North Atlantic Group Youth Fares, U.S.A.-Israel (Readopting and Amending).	Do.
26557:			
R–2	002gg	Special Readoption Resolution	1/2 (North-Atlantic-Africa).
R–3	015	North Atlantic Proportional Fares North American (Readopting and Amending) Except Note "M".	Do.
R–5	070d	North Atlantic 14/21-Day and 14/45-Day Excursion Fares (Readopting and Amending).	Do.
R–6	076e	North Atlantic Affinity Group Fares (Readopting and Amending)	Do.
R–7	076p	North Atlantic 14-Day Incentive Group Fares (Readopting and Amending).	Do.
R–8	084a	North Atlantic 21, 28, and 30 Day Group Inclusive-Tour Fares (Readopting and Amending).	Do.

3. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act insofar as increased New York-London fares would be used to construct fares to and from points in Florida:

Agreement CAB	IATA No.	Title	Application
26556:			
R-3	002ee	Special Readoption Resolution	1/2 (North Atlantic-Europe)
R-6	070d	North Atlantic 14/21-Day and 14/45-Day Excursion Fares (Readopting and Amending).	Do.
R-7	071p	North Atlantic Advance-Purchase Excursion Fares (Readopting and Amending).	Do.
R-8	071q	North Atlantic 22/45 Day Excursion Fares (Readopting and Amending).	Do.
R-9	076e	North Atlantic Affinity Group Fares (Readopting and Amending)	Do.
R-10	076p	North Atlantic 14-Day Incentive Group Fares (Readopting and Amending).	Do.
R-11	084a	North Atlantic 21, 28, and 30-Day Group Inclusive-Tour Fares (Readopting and Amending).	Do.
R-12	084p	North Atlantic 7/8, 7/10, and 7/13-Day Group Inclusive-Tour Fares—Europe (Readopting and Amending).	Do.
R-14	092ff	North Atlantic Individual Youth Fares (Readopting and Amending)	Do.
26555:			
R-2	002ff	Special Readoption Resolution	1/2 (North Atlantic-Middle East.
R-5	070d	North Atlantic 14/21-Day and 14/45-Day Excursion Fares (Readopting and Amending).	Do.
R-6	070f	North Atlantic 14/21-Day Excursion Fares—Amman, Baghdad, Beirut Cairo, Damascus, Jersulem, Kuwait, Nicosia, Tehran (Readopting and Amending).	Do.
R-7	070x	....do	Do.
R-8	071q	North Atlantic 22/45-Day Excursion Fares (Readopting and Amending).	Do.
R-9	075i	North Atlantic Group Fares—Israel (Readopting and Amending)	Do.
R-10	075r	North Atlantic 8/21-Day Group Fares—Israel (Readopting and Amending).	Do.
R-11	075rr	North Atlantic 8/21-Day Group Fares—Amman, Baghdad, Beirut, Cairo, Damascus, Jerusalem, Nicosia (Readopting and Amending).	Do.
R-12	076e	North Atlantic Affinity Group Fares (Readopting and Amending)	Do.
R-13	076p	North Atlantic 14-Day Incentive Group Fares (Readopting and Amending).	Do.
R-14	084a	North Atlantic 21, 28, and 30 Day Group Inclusive-Tour Fares (Readopting and Amending).	Do.
R-15	084cc	North Atlantic Winter Group Inclusive—Tour Fares to Middle East (Readopting and Amending).	Do.
R-17	092ff	North Atlantic Individual Youth Fares (Readopting and Amending)	Do.
R-19	092gg	North Atlantic Group Youth Fares, U.S.A.-Israel (Readopting and Amending).	Do.
26557:			
R-2	002gg	Special Readoption Resolution	1/2 (North Atlantic-Africa).
R-5	070d	North Atlantic 14/21-Day and 14/45-Day Excursion Fares (Readopting and Amending).	Do.
R-6	076e	North Atlantic Affinity Group Fares (Readopting and Amending)	Do.
R-7	076p	North Atlantic 14-Day Incentive Group Fares (Readopting and Amending).	Do.
R-8	084a	North Atlantic 21, 28, and 30 Day Group Inclusive-Tour Fares (Readopting and Amending).	Do.

4. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26556:			
R-4	015	North Atlantic Proportional Fares North American (Readopting and Amending) Note "M".	1/2 (North Atlantic.—Europe).
26555:			
R-3	015	....do	1/2 (North Atlantic.—Middle East).
26557:			
R-3	015	....do	1/2 (North Atlantic.—Africa).

5. It is not found that the following resolution, incorporated in Agreement C.A.B. 26556 as indicated, is adverse to the public interest or in violation of the Act except insofar as increased New York-London fares would be used to construct fares to and from points in Florida, provided that approval is subject to conditions previously imposed by the Board as well as the additional condition hereinafter stated:

Agreement CAB	IATA No.	Title	Application
26556:			
R-12	084p	North Atlantic 7/8, 7/10, and 7/13 Day Group Inclusive-Tour Fares—Europe (Readopting and Amending).	1/2 (North Atlantic-Europe).

NOTE.—Provided that the 1977 shoulder season fares from the United States set forth in subpar. (4)(a)(ii) shall be applicable through May 22, 1977, and from Sept. 15 through Oct. 31, 1977.

6. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act provided that approval is subject to the condition hereinafter stated:

Agreement C.A.B.	IATA No.	Title	Application
26556: R-2	001vv	JT12 (North Atlantic) Special Escape Resolution (Readopting and Amending).	1/2 (North Atlantic-Europe).
26555: R-1	001vv	....do	1/2 (North Atlantic-Middle East).
26557: R-1	001vv	....do	1/2 (North Atlantic Africa).

NOTE.—Provided that: No changes in fares to/from U.S. points pursuant to the resolution shall be filed in tariffs unless previously filed with and approved by the Board as an agreement under sec. 412 of the act.

7. It is not found that the following resolutions, incorporated in the agreements indicated, affect air transportation within the meaning of the Act:

Agreement C.A.B.	IATA No.	Title	Application
26556: R-13	092f	North Atlantic Individual Youth Fares (Readopting and Amending)	1/2 North Atlantic-Europe).
26555: R-10	092f	....do	1/2 (North Atlantic-Middle East).
R-18	092g	North Atlantic Group Youth Fares Canada/Mexico-Israel (Readopting and Amending).	Do.

Accordingly, *It is ordered*, That:

1. Those portions of Agreements C.A.B. 26556, C.A.B. 26555, and C.A.B. 26557 set forth in finding paragraph 1 above be and hereby are approved subject, where applicable, to conditions previously imposed by the Board:

2. Those portions of Agreements C.A.B. 26556, C.A.B. 26555, and C.A.B. 26557 set forth in finding paragraph 2 above be and hereby are approved subject, where applicable, to conditions previously imposed by the Board, provided further that, for transportation between points in the United States and Traffic Conference 2 involving an actual routing via Miami, tariffs shall provide a through fare not in excess of the sum of the local sector fares over Miami;

3. That portion of Agreement C.A.B. 26556 set forth in finding paragraph 5 above be and hereby is approved subject to conditions previously imposed by the Board and, in addition, to the condition stated therein, provided further that, for transportation between points in the United States and Traffic Conference 2 involving an actual routing via Miami, tariffs shall provide a through fare not in excess of the same of the local sector fares over Miami;

4. Those portions of Agreements C.A.B. 26556, C.A.B. 26555, and C.A.B. 26557 set forth in finding paragraph 6 above be and hereby are approved subject to the condition stated herein;

5. Those portions of Agreements C.A.B. 26556, C.A.B. 26555, and C.A.B. 26557 set forth in finding paragraphs 3 and 4 above be and hereby are disapproved;

6. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B. 2656 and C.A.B. 26555 set forth in finding paragraph 7 above; and

7. Tariffs implementing the resolutions approved herein shall be marked to expire March 31, 1978.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR, *Secretary.*

APPENDIX A.—*Miami-London roundtrip air fares*

	Present	Agreement CAB 26382	Agreement CAB 26586	Increase
				Percent
1st class:				
Peak	$1,350	$1,412	$1,380	2.2
Basic	1,350	1,412	1,412	4.6
Normal economy:				
Peak	804	874	804	
Basic	720	748	720	
14/21 excursion:				
Peak	664	696	680	2.4
Basic	579	606	606	4.7
22/45 excursion:				
Peak	566	632	599	5.8
Basic	460	512	542	9.9
APEX:				
Peak	477	495	486	1.9
Basic	392	405	405	3.3
Youth:				
Peak	602	694	693	4.7
Basic	484	635	650	7.8
Group inclusive tour (GIT):				
Peak	558	603	580	3.9
Basic	456	492	492	7.9
7/8 GIT:				
Shoulder	487	494	499	1.0
Winter	426	457	457	7.3
Affinity/incentive group:				
Peak	556	(1)	(2)	(6) 14.5
Basic	447	512	512	

[1] Status quo would be maintained during April and May of the 1977 basic season as well as during April/May 1977, for the winter and shoulder periods of the 7-/8-day GIT.
[2] Discontinued.

APPENDIX B.—*National Airlines, Inc.—Miami-London service forecast year ending Mar. 31, 1978*

[In thousands]

	National justification		Adjusted	
	Present	Proposed	Present	Proposed
Revenue passenger-miles	460,703	486,703	480,703	480,703
Available seat-miles	940,112	940,112	2 948,907	2 948,907
Load factor (percent)	53.78	53.78	1 57.34	1 57.34
Total operating revenue	$80,129	$80,824	$80,129	$80,824
Total operating expense	28,531	28,531	1 22,545	1 22,545
Operating profit (loss)	(1,989)	(1,989)	7,584	8,279
Nonoperating income and expense, net	(1,989)	(1,989)	2 (771)	2 (771)
Net income before tax	5,984	6,499	6,813	7,508
Income tax at 46 pct	2,752	2,989	3,070	3,454
Net income after tax	3,014	3,279	3,743	4,054
Add: Interest expense	899	899	771	771
Return element	3,977	4,198	4,314	4,825
Investment	26,453	26,453	1 34,917	1 34,917
Returns on investment (percent)	10.45	10.45	12.36	13.80

[1] Historical load factor for calendar 1976.
[2] Capacity adjusted to achieve historical load factor. Capacity costs, investment, and interest expense revised downward accordingly.

[FR Doc.77-14705 Filed 6-24-77;8:45 am]

[Docket No. 30880; Order 77-5-62[1]]

DOMESTIC PASSENGER-FARE INCREASE PROPOSED BY VARIOUS CARRIERS

Order of Investigation and Suspension; Errata

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of May, 1977.

1. Paragraph 2 of the ordering paragraphs should be amended by changing "Appendix B" in the fourth line to read "Appendix C".

2. Refer to Appendix B under heading for Tariff C.A.B. No. 142 and change to read as follows:

Rules 85(h) and (J) on 47th, 48th, 49th, 50th and 51st Revised Pages 28.

By the Civil Aeronautics Board.

Dated: May 16, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-14909 Filed 5-24-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

UNIVERSITY OF IDAHO ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00086. Applicant: University of Idaho, Electron Microscopy Center, Department of Veterinary Science, Moscow, Idaho 83843. Article: Electron Miscroscope, Model EM 10a with Goniometer Stage and 70 mm Camera. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study a wide variety of materials or phenomena including (1) cells from diseased and normal animals and plants; (2) microorganisms, mycoplasma, etc.; (3) crystal structures; (4) synthetic fibers and particles; (5) nucleic acid strands extracted from viral agents; (6) morphogenesis of subcellular elements in eukaryotic and prokaryotic cells; (7) ingestion and digestion of infectious agents and inert particles by phagocytic and nonphagocytic cells; and (8) replication or growth and binary division of infectious agents in parasitized host cells. The experiments that will be conducted include the following: (1) Morphologic characterization of infectious agents, (2) Ultrastructural Studies of Abnormal Leukocytes, and (3) Origin of Ascospore—Delimiting Membranes.

In addition, the article will be used in a laboratory course in electron microscopy which is designed to develop proficiency in the use of the transmission electron microscope and selected preparation techniques used for electron microscopy. Application received by Commissioner of Customs: January 10, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977. Article ordered: December 22, 1976.

Docket Number: 77-00095. Applicant: University of Rochester School of Medicine & Dentistry, Department of Anatomy, Box 603, 601 Elmwood Ave., Rochester, New York 14642. Article: Electron Microscope, Model EM 10A and High Goniometer Stage. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the investigation of junctional complexes and cell to cell communication in normal and malignant tissues. DNA-RNA configurations in normal and malignant brain tissues will also be studied. Experiments will involve growing normal and tumor cell lines in vitro. At various time periods of growth, the spheroids will be prepared for electron microscopy to determine the type, development and duration of attachment of cell junctions in an attempt to elucidate the role of cell to cell communication in cancer cells which afford greater resistance to irradiation and/or chemotherapeutic agents. These cell lines will also be grown in laboratory animals to determine the in vivo effects of the drugs and/or irradiation on cell junctions and cell to cell communication. The article will also be used to train graduate students, medical students and post-doctoral fellows in the use of the microscope and ancillary techniques. Application received by Commissioner of Customs: January 10, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 22, 1977. Article ordered: December 21, 1976.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manfactured in the United States at the time the articles were ordered.

Reasons: Each foreign article has a specified resolving capability of 3.5 Angstroms. The Department of Health, Education, and Welfare (HEW) advises in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent features of each article at the time of order. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing application relate, for such purposes as these articles are intended to be used, which was being manfactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-14808 Filed 5-24-77;8:45 am]

UNIVERSITY OF ROCHESTER ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00078. Applicant: University of Rochester, 601 Elmwood Avenue, Rochester, NY 14642. Article: Electron Microscope, Model EM 10-A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of materials and phenomena related directly to the analysis of the mammalian central nervous system and specifically to the ultrastructural correlates of neuroendocrine mechanisms and the fine structural localization of brain hormones. The properties of the material to be investigated for the phenomena relates to the capability of localizing radio-labelled neurohormones releasing factors and neurotransmitters with transmission electron microscopy in the primate central nervous system, that has been embedded in plastic and thin sectioned. Relevant regions of the primate brain including the hypothalamus, brain stem, and other circumventricular organs will be analyzed as to their capacity to sequester various radioactive bioactive peptide molecules. The article will also be used for educational purposes in the courses: Anatomy 595, Ph.D. Research; Anatomy 395, Research in Anatomy; Anatomy 500, Techniques in Neuroendocrine Morphology; and Anatomy 596, Ultrastructural Correlates of Neuroendocrine Mechanisms. The objectives of these courses are to instill in students basic fundamental ultrastructural techniques to determine the fine anatomy of the central nervous system and provide advanced training for senior graduate students, post-doctoral fellows and research associates. Application received by Commissioner of Customs: January 7, 1977. Advice submitted by the Department of Health, Education, and Welfare on: April 23, 1977. Article ordered: November 30, 1976.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles are ordered.

Reasons: Each foreign article provides a wide magnification range of 100 to 200,000X and a guaranteed resolution of 3.5 angstroms point to point. The Department of Health, Education, and Welfare (HEW) advises in its respectively cited memoranda that the capabilities of each article described above are pertinent to each applicant's intended purposes. HEW further advises that it knows of no domestic instrument which provided the pertinent features of the articles at the time each article was ordered.

The Department of Commerce knows of no other insetrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 77-14807 Filed 5-24-77;8:45 am]

SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held on Wedesday, June 22, 1977, at 9:30 a.m. in Room 4833, Main Commerce Building, 14th and Constittuion Avenue, N.W. Washington, D.C. The meeting will continue June 23 in Room 3817, Main Commerce Building, to the conclusion of the agenda.

The Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) (Supp. V, 1975) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

1. Opening remarks by the Chairman, Mr. Larry L. Hansen.

2. Presentation of papers or comments by the public.

3. Review of assignments made at last meeting.

EXECUTIVE SESSION

4. Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestc and Internatonal Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: May 20, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

NOTICE OF DETERMINATION

In response to written requests of representatives of a substantial segment of the semiconductor manufacturing and test equipment industry, the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee was established by the Secretary of Commerce pursuant to Section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (Supp. V, 1975), to advise the Department

[1] Published at 42 FR 25517 5-18-77.

of Commerce with respect to questions involving technical matters, worldwide availability, and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee, which currently has twelve members representing industry and six members representing government agencies, will terminate no later than August 29, 1978, unless extended by the Secretary of Commerce or his designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1), P.L. 94-362, 50 U.S.C. App. 5(b), Executive Order No. 11940, 15 C.F.R. § 390.1, the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the head of the agency (or his delegate) to which the committee reports determines in writing that all, or some portion, of the agenda of the meeting of the Committee is concerned with matters listed in Section 552(b) of Title 5 of the United States Code. Section 5(c) of the Government in the Sunshine Act P.L. 94-409, effective March 12, 1977, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the Advisory Committee reports, determines that such portion of such meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

Section 552(b)(1) of Title 5, United States Code, provides that information may be withheld from the public if it concerns matters specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy, and is in fact properly classified pursuant to such Executive Order.

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Notices of Determination authorizing the closing of meetings, or portions thereof, of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, were approved on March 6, 1973 for the meeting of March 27, 1973; on June 18, 1973 for the meeting of June 29, 1973; on August 21, 1973 for a series of meetings from August 21, 1973 through December 31, 1973; on December 26, 1973 for a series of meetings for the period January 1, 1974 through April 30, 1974; on May 16, 1974, covering a series of meetings from May 1, 1974 through January 3, 1975; on December 16, 1974, covering a series of meetings from January 4, 1975 to January 3, 1976; and on November 25, 1975, covering a series of meetings from January 4, 1976 through January 3, 1977.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 CFR 339 (1974). In order for the Committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the portions of the series of meetings of the Committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, must be closed to the public. The remaining portions of the series of meetings will be open to the public.

Accordingly, I hereby determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that those portions of the series of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to August 29, 1978, from the provisions of Section 10 (a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552(b)(1) and 5 U.S.C. 552b(c)(1). The remaining portions of the meetings will be open to the public.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

JANUARY 29, 1977.

ALFRED MEISNER, JR.,
General Counsel.

JANUARY 27, 1977.

[FR Doc.77-14884 Filed 5-24-77;8:45 am]

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Thursday, June 30, 1977, at 10 a.m., in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, and March 16, 1977, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability, and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to telecommunications equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Nomination and election of a new Chairman.

(4) Discussion on draft sections of Findings—Volume I of the annual report.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 22, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete Notice of Determination to close portions of the meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: May 20, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

NOTICE OF DETERMINATION

In response to written requests of representatives of a substantial segment of the telecommunications industry, the Telecommunications Equipment Technical Advisory Committee was established by the Secretary of Commerce pursuant to Section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (Supp. V, 1975), to advise the Department of Commerce with respect to questions involving technical matters, worldwide availability, and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to telecommunications equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee, which currently has four members representing industry and six members representing government agencies, will terminate no later than August 29, 1978, unless extended by the Secretary of Commerce. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1), Pub. L. 94-362, 50 U.S.C. App. 5(b), Executive Order No. 11940, 15 CFR § 390.1, the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975, and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act as amended by Section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the Advisory Committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Seven Notices of Determination authorizing the closing of meetings, or portions thereof, of the Telecommunications Equipment Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, have been approved in the past.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 CFR 339 (1974). In order for the Committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the series of meetings or portions of meetings of the Committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, must be closed to the public. The remaining portions of the series of meetings will be open to the public.

Accordingly, I hereby determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that the series of meetings or portions of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to August 29, 1978, from the provisions of Section 10 (a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). The remaining meetings or portions thereof will be open to the public.

GUY W. CHAMBERLAIN, JR.,
Acting Assistant Secretary for Administration.

APRIL 22, 1977.

ALFRED MEISNER, JR.,
General Counsel.

APRIL 19, 1977.

[FR Doc.77-14881 Filed 4-24-77;8:45 am]

National Oceanic and Atmospheric Administration

AMERICAN FORESTRY ASSOCIATION CONFERENCE

Public Meeting

AGENCY HOLDING THE MEETING: National Marine Fisheries Service, NOAA, Commerce.

DATE AND TIME: June 8, 1977; 2 p.m.

PLACE: American Forestry Association Conference, Room 1319, 18th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED: Discuss possible regulation of the Alaska native harvest of the bowhead whale (*Balaena mysticetus*).

PERSON TO CONTACT FOR INFORMATION:

Thomas C. Andrews, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, Washington, D.C. 20235, Area Code 202-634-7287.

Dated: May 18, 1977.

WINFRED H. MEIBOHM,
National Marine Fisheries Service.

[FR Doc.77-14925 Filed 5-24-77;8:45 am]

HOKUYO LONGLINE—GILLNET ASSOCIATION, ET AL.

Issuance of General Permits

On May 11, 1977, General Permits were issued to the following associations, to take marine mammals incidental to commercial fishing operations, pursuant to 50 CFR 216.24 (39 FR 32117-32124), as amended:

Hokuyo Longline—Gillnet Association, Zenkeiren Building, 7, Hirakawa-cho 2, Chiyoda-ku, Tokyo, Japan, has been issued a General Permit, Category 5, "Other Gear;"

Japan Deep Sea Trawlers Association, Daito Building, 6/F, Ogawa-che, 3-6, Kanda, Chiyoda-ku, Tokyo, Japan, has been issued a General Permit, Category 1, "Towed or Dragged Gear;"

The National Federation of Medium Trawlers, Showa Kaikan, 3-2, Kasumigaseki 3, Chiyoda-ku, Tokyo, Japan, has been issued a General Permit, Category 1, "Towed or Dragged Gear;"

North Pacific Fisheries Development Association, Seoul, Korea, has been issued a General Permit, Category 1, "Towed and Dragged Gear;"

North Pacific Fisheries Development Association, Seoul, Korea, has been issued a General Permit, Category 4, "Stationary Gear;" and

North Pacific Fisheries Development Association, Seoul, Korea, has been issued a General Permit, Category 5, "Other Gear."

The Permits are available for public inspection in the office of the Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Dated: May 11, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-14926 Filed 5-24-77;8:45 am]

OFFICE OF PARKS AND RECREATION

Issuance of Permit To Take Marine Mammals

On January 12, 1977, notice was published in the FEDERAL REGISTER (42 FR 2520), that an application had been filed with the National Marine Fisheries Service by the Office of Parks and Recreation, Lake Merritt, 1520 Lakeside Drive, Oakland, California 94612, for a Permit to take three (3) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on May 9, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking to the Office of Parks and Recreation subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 9, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.77–14927 Filed 5–24–77;8:45 am]

PACIFIC FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE, AND THE SUBCOMMITTEE ON FOREIGN OWNERSHIP OF U.S. FISHING VESSELS

Public Meetings

Notice is hereby given of meetings of (1) the Pacific Fishery Management Council, established under Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), (2) the Council's Scientific and Statistical Committee, and (3) the Council's Subcommittee on Foreign Ownership of U.S. Fishing Vessels, both established under Section 302(g) of the Act.

The Pacific Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of California, Oregon, and Washington. The Council will, among other things, prepare and submit to the Secretary of Commerce, fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan.

The Subcommittee on Foreign Ownership of U.S. Fishing Vessels was appointed to consider problems associated with foreign ownership of U.S. fishing vessels.

All meetings will be held at the Sheraton-Los Angeles Airport Hotel, 9750 Airport Boulevard, Los Angeles, California 90045.

The Pacific Fishery Management Council will convene in Dickens A and D Room at 1 p.m. and adjourn about 5 p.m. on June 13, 1977, and reconvene at 8 a.m. and adjourn about 5 p.m. on June 14, 1977. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Organization of the Council, including its staff, advisory panels, and committees, and operational and procedural matters.
2. Consideration of development of fishery management plans, including anchovy, ground fish, and comprehensive salmon management plans.
3. Consideration of a report from the Council's Subcommittee on Foreign Ownership of U.S. Fishing Vessels.
4. Development of Council recommendation with regards to Soviet permit application to receive Pacific hake from U.S. fishermen within the 200-mile zone.
5. Consideration of report from Council's Subcommittee on Scheduling of Management Plans and Their Implementation.
6. Review of communications from other agencies and organizations.
7. Budget and administrative matters.
8. Other business.

This meeting is open to the public and there will be seating for approximately 150 public members available on a first-come, first-served basis.

The Scientific and Statistical Committee will meet in the San Diego Room at 10:30 a.m. on June 13, 1977 and adjourn about 5 p.m. The Committee will tentatively reconvene, dependent upon Council developments, at 8 a.m. and adjourn about 5 p.m. on June 14, 1977.

The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Review of permit application for Soviet vessel to receive and process hake from U.S. fishermen within 200-mile zone and implications of approval of such application.
2. Review of the issue of citizenship requirements for captains and crews of U.S. fishing vessels to determine whether loopholes exist which would enable foreign captains and crews to operate U.S. fishing vessels within U.S. fishery zone.
3. Development of recommendations to the Council on items listed above.
4. Other business.

This meeting is open to the public and there will be seating for approximately 50 public members available on a first-some, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are, at times, made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact on or about June 3, 1977:

Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201 (503–229–5769).

At the discretion of the Council and its Committees, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business. Interested members of the public who wish to submit written statements should do so by addressing Lorry Nakatsu at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the meetings.

Dated: May 20, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77–14843 Filed 5–24–77;8:45 am]

ENDANGERED SPECIES AND MARINE MAMMALS

Issuance of Permit

On January 12, 1977, notice was published in the FEDERAL REGISTER (42 FR 2520) that an application had been filed with the National Marine Fisheries Service by Dr. Roger S. Payne, Weston Road, Lincoln, Massachusetts 01773, for a Permit to take, by potential harassment, an unspecified number of humpback whales in various waters for the purpose of scientific research.

Notice is hereby given that on May 11, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit to Dr. Roger S. Payne, for the above taking, subject to certain conditions therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species Permits (39 FR 14357, November 27, 1974).

The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702;

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: May 11, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

[FR Doc.77–14928 Filed 5–24–77;8:45 am]

CARIBBEAN FISHERY MANAGEMENT COUNCIL AND ITS ADVISORY PANEL

Public Meeting

Notice is hereby given of a meeting of the Caribbean Fishery Management Council and its Advisory Panel.

The Council was established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265). The Council has authority over fisheries within the fishery conservation zone adjacent to Puerto Rico and the Virgin Islands. The Councils will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This is one of a series of organizational meetings of the Council. The meeting will be held Monday through Thursday, June 20 to June 23, 1977, at the Caneel Bay Plantation, St. John, Virgin Islands. The meeting will convene at 1 p.m. on June 20 and adjourn at about noon on June 23. Daily sessions will normally start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending upon progress on the agenda.

Proposed Agenda

1. Council Organization and Administrative Procedures.
2. Technical Organization and Procedures.
3. The Advisory Panel may meet in conjunction with the Council.
4. Review of foreign fishing applications, if any.
5. Domestic fishery in foreign zones.
6. Other management business.

Meeting concurrently with the Council will be the Council's Advisory Panel. This is established pursuant to section 302(g) of the Act. The Advisory Panel contains broad representation from interests affected by Council activities in order to assist the Council in carrying out its functions under the Act.

Proposed Agenda

1. Consideration of internal program matters.
2. Review of fishery management plan issues.
3. Appropriate recommendations to the Council.
4. Other management business.

All of these meetings will be open to the public, and there will be seating for a limited number of public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact, on or about June.10, 1977:

Mr. Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco de Ponce Building, Suite 806, Munoz Rivera Avenue, Halo Rey, Puerto Rico 00936.

At the discretion of the Council or the Panel, as appropriate, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: May 20, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77–14841 Filed 5–24–77;8:45 am]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Mid-Atlantic Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

The Mid-Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This meeting of the Council will be held on June 15 and 16, 1977, 9 a.m. to 3 p.m., at the Southampton Inn, Southampton, Long Island, New York, 11968. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda

1. Surf Clam/Ocean Quahog Management Plan.
2. Report of foreign fishing activity.
3. Status of fishery management plans.
4. Other management business.

This meeting is open to the public and there will be seating for approximately 30 public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about June 3, 1977:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, Delaware 19901.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Bryson at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: May 20, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77–14840 Filed 5–24–77;8:45 am]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

Notice is hereby given of a meeting of the Scientific and Statistical Committee of the Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

The Mid-Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings. The Scientific and Statistical Committee assists the Council in the development, collection and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The meeting of the Scientific and Statistical Committee will be held on June 13 and 14, 1977, from 9:30 a.m. to 4:00

p.m., and 9:00 a.m. to 3:00 p.m. respectively, at the Southampton Inn, 91 Hill Street, Southampton, Long Island, New York 11968. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda

1. Mackerel Management Plan.
2. Administrative Matters.
3. Other Business.

This meeting is open to the public and there will be seating for approximately twenty public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about June 3, 1977:

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, Dover, Delaware 19901.

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Committee business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Bryson at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the meeting.

Dated: May 20, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-14842 Filed 5-24-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE CATEGORY SYSTEM

MAY 19, 1977.

The Committee for the Implementation of Textile Agreements is planning to revise the textile category system used in the bilateral textile category agreements negotiated with other countries under the Arrangement Regarding International Trade in Textiles. The new system, published below, is based on the existing system but would streamline and consolidate that system. Such revisions are designed to improve the implementation of bilateral agreements by strengthening category uniformity among fibers and reducing the incidence of category classification problems. The number of categories under the revised system would be reduced from 137 to 106. The new system will be effective on January 1, 1978.

Interested parties are invited to submit their written views and comments concerning the revised textile category system to Mr. Robert E. Shepherd, Chairman of the Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Room 3826, Washington, D.C. 20230. **All submissions should be made in ten copies. Because of pending bilateral negotiations with countries which will involve the use of the revised textile category system, such submissions should be received no later than June 15, 1977.**

Copies of all written comments received will be available for public inspection between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday, in the Office of Textiles, Room 2815, Department of Commerce, Washington, D.C.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
YARN			
Cotton			
Carded	1		Singles
	2		Plied
	Pt 64:	300.6020	Singles (CVC)
		22	Singles (CVC)
		24	Plied (CVC)
Combed	3		Singles
	4		Plied
	Pt 64:	300.6026	Singles (CVC)
		28	Plied (CVC)
Wool			
Tops & Yarn	101		Tops
	102		Angora Rabbit Hair Yarn
	103		Wool Yarn
Man-Made Fiber			
Textured	200		
Cont. cellulosic	201		
Cont. non-cellulosic	202		
Spun cellulosic	203		
Spun non-cellulosic	204		
Other yarns	205		
FABRIC			
Cotton			
Ginghams	5/6		
Velveteens	7		
Corduroy	8		
Sheeting	9/10		
Broadcloth	15/16		
Printcloths	18/19		
	Pt 26:	320.--34	
		321.--34	
		322.--34	
		326.--34	
		327.--34	
		328.--34	
Shirtings	20/21		
Twills & sateens	22/23		
Yarn-dyed	24/25		

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
APPAREL Cont.			
Cotton Cont.			
Other Coats, M & B (cont.)	Pt 49:	376.5410	Designed for rainwear
		380.0080	Other, corduroy
		380.0090	Other, other
		1080	Other, corduroy
		1090	Other, other
		5108	Other, veg. fiber
	Pt 62:	380.0003	Raincoats, woven
		0610	Raincoats, N. orn.
		0606	Other, orn.
		0701	Other, other fiber
	Pt 63:	0015	Other, not orn.
		380.0040	Raincoats, orn.
		0046	Other, orn.
Coats, W G I	Pt 48:	382.0002	Corduroy
		0004	Velveteen
		0006	Other
		0008	Corduroy
		0010	Velveteen
		0012	Corduroy
		1002	Velveteen
		1006	Other
		1008	Corduroy
		1010	Velveteen
		1018	Other
	Pt 49:	382.0014	Corduroy
		0016	Velveteen
		0018	Other
		0020	Corduroy
		0022	Velveteen
		0024	Other
		1014	Corduroy
		1016	Velveteen
		1018	Other
		1020	Corduroy
		1022	Velveteen
		1024	Other
		3313	Imported in sets
		4008	Veg. fiber

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
FABRIC Cont.			
Cotton Cont.			
Duck	Pt 26:	320.01 thru .08	
		321.01 thru .08	
		322.01 thru .08	
		326.01 thru .08	
		327.01 thru .08	
		328.01 thru .08	
		Lawns	
Other fabrics, N.K.	11/12	Voiles	
	13/14	Typewriter ribbon	
	17	Remaining TSUSA Nos.	
	Pt 26:	Other combed fabrics	
	27		
Wool			
Woolens & worsted	104		
Tapestries & Upholstery	108		
Knit	110		Billiard cloth
Other Fabric	105		Pile & tufted
	109		
Man-Made Fiber			
Cont. Cellulosic, N.K.	206		
Spun Cellulosic, N.K.	207		
Cont. Noncellulosic, N.K.	208		
Spun Noncellulosic, N.K.	209		
Other fabrics, N.K.	210		
Knit	211		
Pile & tufted	212		
Specialty	213		
APPAREL			
Cotton			
Handkerchiefs	32		
Gloves	39		
Hosiery	40		
Suit-Type Coats, M & B	Pt 60:	374.1520	Lace
	Pt 49:	380.0040	Corduroy
		0960	Other
		1240	Corduroy
		1260	Other
		5104	Veg. fiber
	Pt 63:	380.0043	Orn.
Other Coats, M & B	Pt 48:	380.0910	Corduroy
		0920	Other
		1210	Corduroy
		1220	Other

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
APPAREL Cont.			
Cotton Cont.			
Coats, W G I (cont.)	Pt 62:	382.0004	Raincoats, orn.
		0006	Raincoats, orn.
		0008	Other, orn.
		C010	Other, orn.
		0615	Raincoats
		0620	Raincoats
		0625	Other
		0630	Other
	Pt 63:	382.0052	Raincoats, orn.
		0054	Other, orn.
		0056	Other, orn.
Dresses	53		
	Pt 62:	382.0012	Knit, orn.
		0014	Knit, orn.
		0635	Knit, N. orn.
		0640	Knit, N. orn.
		3908	Veg. fiber
		6908	Silk
Playsuits	54		
	Pt 62:	380.0015	Knit, orn. M & B
		0630	Knit, N. orn. M & B
		382.0020	Knit, orn. W G I
		0655	Knit, N. orn. W G I
Knit Shirts, M & B	Pt 42:	380.0018	White, orn. T-shirts
		0021	Other, orn. T-shirts
		0640	Other, N. orn. T-shirts
	Pt 43:	380.0650	N. orn., other shirts
	Pt 62:	380.0024	Sweatshirts, orn.
		0027	Shirts, orn.
		0645	Sweatshirts, N. orn.
Knit Shirts & Blouses, WGI	Pt 42	382.0022	Orn. T-shirts
		0660	N. orn. T-shirts
	Pt 43:	382.0670	Shirts, N. orn.
	Pt 62:	382.0002	Orn.
		0024	Sweatshirt
		0026	Orn.
		0605	Orn.
		0610	Orn.
		0665	Sweatshirt
		3904	Veg. fiber
		6904	Silk

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
APPAREL Cont.			
Cotton Cont.			
Shirts, N.K.	45		Dress
	46		Sport
	47		Work
	Pt 63:	380.5112	Veg. fiber
Blouses, N.K.	52		
Skirts	Pt 62:	382.0028	Knit
		0675	Knit
		3912	Veg. fiber, knit
	Pt 63:	382.0080	Woven, orn.
		0082	Woven, orn.
		3334	Corduroy
		3336	Corduroy
		3338	Velveteen
		3340	Velveteen
		3342	Other, woven
		3344	Other, woven
		4216	Vegetable fiber, woven
Suits, M & B	Pt 63:	380.5116	Veg. fiber
	Stat. Annotation by 484-E Committee		
Suits, WGI	Pt 63:	382.4222	Veg. fiber
	Stat. Annotation by 484-E Committee		
Sweaters	44		
	Pt 62:	380.0030	Orn.
		382.0030	Orn.
Trousers, M & B	50		
	Pt 62:	380.0033	Knit orn.
		0660	Knit
	Pt 63:	380.0070	Orn.
Trousers, W G I	51		
	Pt 62:	382.0032	Knit, orn.
		0685	Knit
		0690	Knit
		3922	Veg. fiber
		6916	Silk
Brassieres, etc.	61		Bras, etc.
Dressing Gowns	55		
	Pt 62:	380.0009	Knit, orn., M & B
		0620	Knit, N. orn., M & B
		382.0016	Knit, Orn., W G I
		0645	Knit, N. Orn., W G I
	Pt 63:	382.7212	Silk

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
APPAREL Cont.			
Cotton Cont.			
Nightwear	60		Pajamas, etc.
	Pt 63:	380.0052	Orn.
		0055	Orn.
		382.0072	Orn.
Underwear	41		White T-shirts
	56		Undershirts, knit
	57		Briefs, woven & knit
	58		Other, knit
	59		Other, woven
	Pt 62:	378.1012	Union suits
		1512	Union suits
Other apparel	Pt 62:	Remaining	TSUSA Nos.
	Pt 63:	Remaining	TSUSA Nos.
Wool	112		
Gloves	111		
Hosiery	Pt 117:	374.3000	Orn.
Suit-Type Coats, M & B	Pt 121:	380.0240	Orn.
		5134	Veg. fiber
		6310	
		6610	
Other Coats, M & B	Pt 121:	380.0245	Orn.
		5138	Veg. fiber
		6320	
		6620	
	Pt 116:	380.5710	
	Pt 117:	380.6110	
Coats, W G I	Pt 122:	382.0255	Orn.
		4238	Veg. fiber
		6615	
		6620	
		6810	
		6820	
	Pt 117:	382.5820	
	Pt 116:	382.5420	Knit
Dresses	Pt 117:	382.0210	Knit
		3938	Veg. fiber
		5830	Knit
		6928	Silk, knit

Description	Composition		
APPAREL Cont.			
Wool Cont.			
Dresses (cont.)	Pt 125	382.4242	Woven
		6025	Woven
		6325	Woven
		7228	Woven
Knit Shirts & Blouses	Pt 116:	380.5720	Shirts
		382.5410	Blouses
	Pt 117:	380.0205	Shirts
		6120	Shirts
		382.0205	Blouses
		3934	Veg. fiber
		5810	Blouses
		6924	Silk blouses
Shirts, N.K.	Pt 125:	380.0255	Shirts
		5142	Veg. fiber
		6340	Shirts
		6640	Shirts
		382.0250	Blouses
		4234	Veg. fiber, blouses
		6010	Blouses
		6310	Blouses
		7224	Silk blouses
Skirts	123		
	Pt 116:	382.5425	
	Pt 117:	382.0215	
		5840	
Suits, M & B	120		
Suits, W G I	Pt 122:	382.4252	
		6040	
		6340	
	Pt 117:	382.0235	
		5845	
Sweaters, M & B	Pt 116:	380.5730	
		5740	
		5750	
	Pt 117:	380.0210	
		0215	
		0220	
		5900	
		6130	
		6140	
		6150	

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
APPAREL Cont.			
Wool Cont.			
Sweaters, W G I	Pt 116:	382.5430	
		5435	
		5440	
	Pt 117:	382.0220	
		0225	
		0230	
		3946	Veg. fiber
		6600	
		6850	
		6860	
		6870	
		6932	Silk
Trousers, M & B	Pt 124:	380.0265	Orn.
		5154	Veg. fiber
		6360	
		6660	
Trousers, W G I	Pt 124:	382.3952	Veg. fiber, knit
		4256	Veg. fiber, not knit
		6045	
		6345	
		6936	Silk, knit
		7238	Silk, not knit
Other Wool apparel	113		Underwear
	114		Infants' articles
	115		Knit hats
	118		Hats, not blocked
	119		Hats, blocked
	Pt 116: Remaining		TSUSA Nos.
	Pt 117: Remaining		TSUSA Nos.
	Pt 125: Remaining		TSUSA Nos.
Man-Made Fiber			
Handkerchiefs	226		
Gloves	214		
Hosiery	215		
Suit-Type Coats, M & B	Pt 229:	380.0443	Orn.
		5164	Veg. fiber
		8415	
	Pt 224:	380.0402	Orn.
		8103	

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
APPAREL Cont.			
Man-Made Fiber Cont.			
Other Coats, M & B	Pt 229:	376.5610	Designed for rainwear
		380.0440	Raincoats, orn.
		0446	Other, orn.
		5168	Other, veg. fiber
		8410	Raincoats, N. orn.
		8420	Other, N. orn.
	Pt 224:	380.0401	Raincoats, orn.
		0404	Other, orn.
		8101	Raincoats, N. orn.
		8107	Other, N. orn.
Coats, W G I	Pt 229:	382.0462	Raincoats, orn.
		0464	Other, orn.
		4268	Veg. fiber
		8106	Raincoats, N. orn.
		8108	Other, N. orn.
		8110	Other, N. orn.
	Pt 224:	382.0405	Raincoats, orn.
		0407	Other, orn.
		7807	Raincoats, N. orn.
		7809	Other, N. orn.
Dresses	216		Knit
	230		Woven
Playsuits	233		Woven
	Pt 224:	380.0404	Orn.
		8127	N. orn.
		382.7841	N. orn.
Knit Shirts, M & B	Pt 218:	380.0416	White, T-shirts, orn.
		0417	Other, T-shirts, orn.
		8133	White, T-shirts, N. orn.
		8135	Other, T-shirts, N. orn.
	Pt 219:	380.0419	Shirts, orn.
		8137	Shirts, N. orn.
Knit Shirts & Blouses, W G I	Pt 218:	382.0439	T-shirts, orn.
		7851	T-shirts, N. orn.
	Pt 219:	382.0401	Blouses, orn.
		0443	Other shirts, orn.
		3964	Veg. fiber, orn.
		6944	Silk, orn.
		7801	Blouses, N. orn.
		7859	Other shirts, orn.
	Pt 224:	382.0455	Tops & Vests, orn.
		7879	Tops & Vests, N. orn.
		0403	Body suits
		7805	Body suits

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
APPAREL Cont.			
Man-Made Fiber Cont.			
Shirts	234		Dress
	235		Other
Blouses	228		
Skirts	220		Knit
	236		Woven
	Pt 224:	382.0410	Culottes
		7815	Culottes
Suits, M & B	Pt 224:	380.0420	Orn.
		8143	N. orn.
	Pt 237:	380.0464	Orn.
		5176	Veg. fiber, N. orn.
		8450	N. orn.
Suits, W G I	Pt 224:	382.0451	Orn.
		7867	N. orn.
	Pt 237:	382.0478	Orn.
		4282	Veg. fiber, N. orn.
		8126	N. orn.
Sweaters, M & B	Pt 221:	380.0423	Orn.
		8147	N. orn.
Sweaters, W G I	Pt 221:	382.0427	Infants' orn.
		0430	Other, orn.
		3976	Veg. fiber, N. orn.
		6952	Silk, N. orn.
		7870	Infants' N. orn.
		7873	Other, N. orn.
Trousers, M & B	Pt 222:	380.0428	Orn.
		8165	Not orn.
	Pt 238:	380.0467	Orn.
		5184	Veg. fiber, N. orn.
		8455	N. orn.
Trousers, W G I	Pt 222:	382.0454	Orn.
		3982	Veg. fiber, N. orn.
		6956	Silk, N. orn.
		7888	N. orn.
	Pt 238:	382.0480	Orn.
		4286	Veg. fiber
		7258	Silk
		8128	Man-made fiber
Brassieres, etc.	225		
Dressing Gowns	231		Woven
	Pt 224:	380.0408	Orn.
		8117	N. orn.
		382.0417	Orn.
		7821	N. orn.

CATEGORY CONSOLIDATION FOR NEGOTIATIONS

5/13/77

Description	Composition		
APPAREL Cont.			
Man-Made Fiber Cont.			
Nightwear	217		Knit
	232		Woven
Underwear	223		Knit
	239		Woven
Other apparel	Pt 224:	Remaining	TSUSA Nos.
	227		Mufflers, etc.
	240		Other N. knit apparel
MADE-UPS & MISC.			
Cotton			
Pillowcases	28/29		
	Pt 64:	363.0120	Orn.
Sheets	34/35		
	Pt 64:	363.0140	Orn.
Bedspreads & Quilts	36		
	Pt 64:	363.6025	Quilt covers
Terry & other pile towels	Pt 31:	366.1865	Terry
		1880	Pile or tufted
		2160	Terry
		2180	Pile or tufted
		2460	Terry
		2480	Pile or tufted
		2720	Jacquard-figured
			Dish towels
Other Cotton manufactures	30		
	Pt 31:	Remaining	TSUSA Nos.
	33		Table Damask
	37		Elastic
	38		Fish nets
	64		Other manufactures
Wool			
Blankets	106		Blankets
	107		Auto robes
Floor covering	131		Braided
	132		Other
Other wool manufactures	126		Lace & net articles
	128		Other wool manufactures
Man-Made Fiber			
Floor coverings	241		
Other furnishings	242		
Other man-made manufactures	243		

[FR Doc. 77-14631 Filed 5-24-77;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

PUBLIC MEETING

Notice is hereby given of the eleventh regular meeting of the Commission on Federal Paperwork to be held on June 10, 1977, in Room 2154, Rayburn House Office Building, Washington, D.C.

The meeting will begin at 9:00 a.m. and will continue until approximately 12:30 p.m. The meeting is open to the public. The Commission will review progress on approved projects, staff proposals for future projects, and proposed Commission positions on specific paperwork problems. Among the topics to be considered are welfare reform, Title XX, housing, procurement, public works, and ombudsmen.

Anyone wishing to attend the meeting is invited. For further details, contact the Commission on Federal Paperwork, Room 2000, 1111 20th Street NW., Washington, D.C. 20582, telephone (202) 654–5400.

FRANK HORTON,
Chairman.

[FR Doc. 77–14830 Filed 5–24–77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 16, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Defensive Chemical Systems will hold a meeting on June 15 at the Life Support Program Office, Wright-Patterson Air Force Base, Ohio, from 8 a.m. to 4 p.m.

The purpose of the meeting is to hold classified discussions on the ability of USAF Tactical Air Forces to operate in a chemically hostile environment.

The meeting will be open to the public upon verification of appropriate security clearances.

For those not having clearances the meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board at (202–697–4648).

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77–14857 Filed 5–24–77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 17, 1977.

Members of the USAF Scientific Advisory Board Aerospace Vehicles Panel Committee on B–1 Structures will hold a meeting at Rockwell International, Los Angeles, California, on June 30 and July 1, 1977, from 8 a.m. to 5 p.m.

The members of the Committee will receive classified briefings and hold classified discussions on the structural aspects of the B–1 aircraft development program.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202–697–8845.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc.77–14856 Filed 5–24–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 732–7; (OPP–42013B)]

PUERTO RICO

Extension of Contingent Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136b), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On November 6, 1975, the Honorable Rafael Hernandez-Colon, then Governor of the Commonwealth of Puerto Rico, submitted a Commonwealth of Puerto Rico Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to EPA.

A summary of the Commonwealth of Puerto Rico Plan was published in the FEDERAL REGISTER on March 10, 1976 (41 FR 10255). On April 30, 1976, the Regional Administrator, EPA Region II, approved the plan on a contingent basis for a twelve-month period. Contingent approval was based upon EPA approval of implementing regulations to be promulgated by the Puerto Rico Department of Agriculture (PRDA). Notice of contingent approval was published in the FEDERAL REGISTER June 3, 1976 (41 FR 22410).

The Puerto Rico Pesticide Control Act was passed by the Puerto Rico Legislature on October 30, 1975. Proposed regulations for the enforcement of the Act have been drafted, submitted to concerned agencies for comment and are expected to be published by June 30, 1977. As a result, on April 18, 1977, the Commonwealth of Puerto Rico requested an extension of the Commonwealth of Puerto Rico contingent approval pending final promulgation of regulations.

The Regional Administrator, EPA Region II, finds that there is good cause for approving the request and hereby gives notice that an extension has been granted until September 30, 1977.

Dated: May 13, 1977.

HERBERT BARRACK,
Acting Regional Administrator, U.S. Environmental Protection Agency, Region II.

[FR Doc.77–14788 Filed 5–24–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77–321; RM–2698]

BUSINESS RADIO SERVICE; SPECIAL EMERGENCY RADIO SERVICE

Memorandum Opinion and Order; Denying Petition for Rule Making

Adopted: May 11, 1977.

Released: May 20, 1977.

In the Matter of Amendment of Parts 89 and 91 of the Commission's Rules to transfer central station electrical protection industry licensees and certain frequencies allocated for their use from the Business Radio Service to the Special Emergency Radio Service.

By the Commission.

1. The Central Station Electrical Protection Association has petitioned the Commission to amend Part 89 (Public Safety Radio Services) and Part 91 (Industrial Radio Services) of the Commission's Rules to recognize central station electrical protection companies as a class of eligible in the Commission's Special Emergency Radio Service (Part 89, Subpart P) and to transfer 5 pairs of frequencies[1] in the Business Radio Service designated for use by this industry's members to the Special Emergency Radio Service.

2. Additionally, petitioner requests, upon transfer to the Special Emergency Radio Service, that central station electrical protection industry licensees be permitted to use their presently assigned mobile service frequencies above 25 MHz for fixed point-to-point tone or impulse signalling, subject to the condition that harmful interference not be caused to the primary mobile service operations of other licensees.

3. The International Municipal Signal Association (IMSA) and the associated Public-Safety Communications Officers, Inc. (APCO) have filed comments opposing CSEPA's petition on the grounds that the petition does not demonstrate a need for the proposed change, and because the service CSEPA members provide differs fundamentally from the public safety functions of the entities and personnel now eligible for licensing in the Special Emergency Radio Service.

4. We have carefully considered the petitioner's proposals and the arguments made in support of them, but we have not been able to conclude that it would be in the public interest to grant the petition. Our reasons for this conclusion are stated briefly below.

5. First, we do not believe that the petitioner has made an adequate case for its proposals, and has not shown how its members and, more importantly, how the public would benefit from their adoption. For example, CSEPA has not shown (nor indeed alleged) that the five pairs of frequencies designated for the industry's use in the Business Radio Service are not adequate. In this connection, it is noted that the petition, although not entirely clear on this point, does not propose that central station protection companies be made eligible to use the frequencies allocated in the Special Emergency Radio Services.[2] It would seem, therefore, that continued eligibility in the Business Radio Service would be advantageous for the central station protection industry because it would continue to have access to all Business Radio frequencies, not only in the 460–470 MHz band but also in the lower and in the higher bands as well.

6. Additionally, as we have indicated above, one immediate objective of the petitioner is to qualify its members to use their designated mobile service frequencies for fixed point-to-point operations. This, however, is not allowed in the Special Emergency Radio Service under existing rules, although it is permitted in other public safety radio services, see Section 89.126. Such a fixed use has been previously proposed by the petitioners in the Business Radio Service in an earlier petition, RM–1513, and was considered and denied by the Commission, see *Memorandum Opinion and Order*, RM–1513, 34 FCC 2d 360 (1972). Nothing presented here requires or warrants a different conclusion on that proposal now.

7. Finally, we agree with APCO and IMSA that commercial central station protection companies do not belong in the Special Emergency Radio Service. That service was established principally to accommodate activities oriented towards life protection, such as hospitals, ambulances, rescue and disaster organizations, and physicians, additionally, our extensive regulatory program for authorizing emergency medical service communication systems has been incorporated into the Special Emergency Radio Service. The activities of the petitioner's members, although important, are profoundly different from these types of activities. Thus, while we want to emphasize that we are aware of the importance of the protection services being provided by the central station protection industry[3], we simply do not believe that its radio communications operations should be accommodated in the Special Emergency Radio Service.

8. Accordingly, it is ORDERED, That the petition filed by the Central Station Electrical Protection Association (RM–2698) is denied.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–14888 Filed 5–24–77;8:45 am]

[1] 460.900 MHz/465.900 MHz; 460.925 MHz/465.925 MHz; 460.950 MHz/465.950 MHz; 460.975 MHz/465.975 MHz; and 461.000 MHz/466.000 MHz.

[2] If full eligibility in the Special Emergency Radio Service were proposed, other public interest issues would be raised.

[3] It was in recognition of the important functions performed by the central station protection industry that we designated five pairs of frequencies for its use in Docket 13847 and provide for the use of frequencies in the 952–960 MHz band for operation of central station alarm systems.

PURAC TASK ON THE GENERAL MOBILE RADIO SERVICE

Meeting

In preparation for the next meeting of the Personal Use Radio Advisory Committee (PURAC), the PURAC task investigating the personal uses of the General Mobile Radio Service will meet June 10, 1977 at 9 A.M. in Room 7317 of the offices of the Federal Communications Commission at 2025 "M" Street NW., Washington, D.C. 20554. The agenda for this meeting will be to report on progress made in identifying the uses of the General Mobile Radio Service and to review the work schedule for the task area for 1977.

Members of the public, especially those interested in personal use two-way radio, are invited to attend. For more information, contact Mr. Corwin Moore, Jr., Highway Safety Research Institute, University of Michigan, Huron Parkway and Baxter Road, Ann Arbor, Michigan 48109 (313–763–3232).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–14892 Filed 5–24–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

GUAM OIL AND REFINING CO.

Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR § 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of a Consent Order, which was executed between Guam Oil and Refining Company (GORCO) and the FEA on April 22, 1977. In accordance with that Section, FEA will receive comments with respect to this Consent Order. Although this Consent Order has been signed and tentatively accepted by FEA, the FEA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

Guam Oil and Refining Company, with its executive office located in Dallas, Texas, is a firm engaged in the refining and marketing of petroleum products subject to FEA regulations.

As a result of an audit conducted by FEA of GORCO's costs and recovery of costs reflected in its Forms FEO–96 for the period between January 1974 through March 1975, FEA advised GORCO that GORCO had (1) understated its recoveries of increased crude oil costs in sales of "other covered products" by $2,277,417 by failing to consider certain sales in calculating its cost recoveries and (2) understated its increased costs of crude oil by $101,030 by improperly calculating its "crude oil cost differential." The net result of GORCO's miscalculations is that GORCO overstated on its Forms FEO–96 its "Net Increased Costs Attributable to Other Covered Products" by $2,176,387 between January 1974 through March 1975.

In resolution of the issues raised by the audit results, FEA and GORCO executed a Consent Order on April 22, 1977, the significant terms of which are as follows:

(1) In an effort to resolve its dispute with FEA, GORCO agrees to make adjustments to Line 18, Part V of its March 1975 FEO–96 to reflect adjustments resulting from its understatement of costs and understatment of cost recoveries, and to resubmit Forms FEO–96 filed for the period March 1975 to the present, reflecting all necessary adjustments based on the above-described March 1975 adjustment. (Based on the available information, GORCO had unrecovered increased product costs in each month of measurement, January 1974 through March 1975, after applying the corrected amounts determined in this Consent Order).

(2) In submitting revised Forms FEO–96, GORCO agrees that amounts removed in one month shall be carried forward and deducted from GORCO's Forms FEO–96 for all subsequent months, including the most recently filed Form FEO–96 and FEA–P110–M–1 filed for all future months.

(3) The provisions of 10 CFR 205.197, including the publication of this Notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. D. M. Fowler, Regional Administrator, Region VI, Federal Energy Administration, P.O. Box 35228, Dallas, Texas 75235.

Copies of this Consent Order may be received free of charge by written request to this same address or by calling 214–749–7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on GORCO Consent Order." All comments received on or before ---------, 1977, will be considered by the FEA in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C., May 19, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-14814 Filed 5-20-77;11:15 am]

REFINERS' CRUDE OIL ALLOCATION PROGRAM

Allocation Quarter of June 1 Through August 31, 1977

The notice specified in § 211.65(e) of the refiners' crude oil allocation program is hereby published for the allocation quarter of June 1, 1977, through August 31, 1977.

The buy-sell list for refiners is set forth as an appendix to this notice. The provisions of 10 CFR 211.65 apply to all transactions made under the buy-sell list. Included as part of the list, as required by § 211.65(e), are: The quantity of crude oil each refiner-buyer is eligible to purchase; the total allocation obligation for all refiner-sellers; the fixed percentage share for each refiner-seller; and the quantity of crude oil each that refiner-seller is obligated to offer for sale to refiner-buyers, with a specification as to the portions thereof that constitute the primary and secondary sales obligations for each refiner-seller, in accordance with 10 CFR 211.65(d).

The allocations shown on the buy-sell list for refiner-buyers that own and operate Canadian Crude Oil Allocation Program second priority refineries (as defined in Part 214 of 10 CFR) reflect two types of adjustments resulting from reductions in Canadian crude oil exports to the United States. Adjustments have been made for the June 1977–August 1977 allocation quarter based on FEA's estimate of Canadian crude oil exports during that allocation quarter. In addition, a further adjustment has been made for certain refiner-buyers that operate second priority refineries and that purchased their entire allocation for the March 1977–May 1977 allocation quarter. This adjustment reflects the difference between FEA's estimates of Canadian crude oil available for March 1977 through May 1977, which were used to adjust allocations during the March 1977–May 1977 allocation quarter, and the actual export level subsequently announced by the Canadian government.

Adjustments have also been made pursuant to 10 CFR 211.65(a)(4) for refiner-buyers that have recently experienced losses of Federal royalty oil. Additionally, FEA made corresponding adjustments for refiner-buyers that are gaining Federal royalty oil for this allocation quarter. Similar adjustments have been made in the last three allocation quarters.

The buy-sell list reflects a reduction in the sale obligation of Continental Oil Company (Conoco) to account for domestic crude oil directed away from Conoco to another refiner under FEA's Decision and Order in "Continental Oil Company," 2 FEA ¶80,503 (January 7, 1975). As has been the case for buy-sell lists since the effectiveness of primary and secondary sales obligations for refiner-sellers in the allocation quarter commencing September 1, 1975, Conoco's primary sales obligation is reduced by the amount of the redirected domestic crude oil under "Farmariss Oil and Refining Company and Navajo Refining Company," CCH Fed. Energy Guidelines, ¶20,629 (July 22, 1974). However, with the issuance of the Decision and Order in "Exxon Company," U.S.A., 5 FEA ¶____ (April 25, 1977), the relief under which is reflected for the first time in this notice, it appears that Conoco's adjustment reducing its sales obligation should have been applied proportionately to both its primary and secondary obligations, as is specified for Exxon in this recent decision involving similar facts. Accordingly, FEA hereby gives notice that, for future allocation quarters for which the buy-sell program continues in its present form, the reduction of Conoco's sale obligation will be calculated in the same manner as is Exxon's adjustment under the "Exxon" decision.

The buy-sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to § 211.65(d), each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation quarter a quantity of crude oil equal to that refiner-seller's primary sales obligation plus any portion of that refiner-seller's secondary sales obligation as to which FEA directs a sale pursuant to 10 CFR 211.65(h). No refiner-seller shall be required to offer for sale to refiner-buyers, whether by directed sale or otherwise, any portion of its secondary sales obligation until each other refiner-seller (except refiner-sellers with minimal primary sales obligations) has sold at least 80% of its primary obligation.

The procedures of 10 CFR 211.65(h) provide that if a sale is not agreed upon within 15 days of the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request FEA to direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such a request must not be made earlier than 15 days nor later than 30 days after the publication of this notice. Upon such request, FEA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer. If the refiner-buyer declines to purchase the crude oil specified by FEA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation quarter, providing that the refiner-seller or refiner-sellers in question have fully complied with provisions of 10 CFR 211.65. Refiner-buyers making such requests must provide FEA with the following information:

1. Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy-sell list transactions.

2. Names and locations of the refineries for which crude oil is sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oil that have historically been processed in each refinery.

3. Statement of any restrictions, limitations or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

4. Names and locations of all refiner-sellers from which crude oil has been sought under the buy-sell list and the volume and specifications of the crude oil sought from each.

5. The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

6. Such other pertinent information as FEA may request.

Each refiner-buyer and refiner-seller will report the details of each transaction under the buy-sell list to FEA on Form FEA P-118-Q-1 within 15 days of the completion of arrangements for the transaction. Each refiner-buyer and refiner-seller is requested to report as promptly as practicable every such transaction to which it is a party.

Refiner-buyers wishing to receive an allocation in the allocation quarter commencing September 1, 1977, with respect to future refining capacity (as defined in 10 CFR 211.62) that is not presently taken into account in determining their respective purchase opportunities, must apply to the FEA for certification of that capacity and provide all necessary information required to enable FEA to evaluate the factors set forth in 10 CFR 211.65(b)(1) no later than July 1, 1977.

All reports and applications made under this notice should be addressed to:

Manager, Crude Oil Allocation Programs, Crude Oil Buy-Sell Program, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036.

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before June 27, 1977.

Issued in Washington, D.C. May 19, 1977.

ERIC J. FYGI,
Acting General Counsel.

APPENDIX

The list of refiner-sellers and refiner-buyers for the period June 1, 1977, through August 31, 1977, is as follows. The list sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller and the volumes of crude oil (reflecting all adjustments required under § 211.65) that each such refiner-seller is obligated to offer for sale (with a specification as to primary and secondary sales obligations) or that each such refiner-buyer is eligible to purchase, as the case may be.

FEA crude oil allocation program for the period June through August 1977

	Share	Rules: Primary obligation	Rules: Secondary obligation
		Barrels	*Barrels*
Amoco Oil Co	0.099	2,992,284	3,940,419
Atlantic Richfield	.072	2,138,064	2,893,635
Chevron U.S.A	.096	4,888,179	3,820,914
Cities Service Oil	.023	2,465,783	925,382
Continental Oil Co	.084	0	949,037
Exxon Corp	.112	1,896,172	2,466,386
Getty	.020	465,614	798,109
Gulf Oil Corp	.086	2,409,897	3,427,651
Marathon Oil Co	.022	509,815	859,819
Mobil Oil Corp	.089	2,147,127	3,539,447
Phillips Petroleum	.039	922,910	1,556,517
Shell Oil Co	.107	2,872,985	4,274,329
Sun Oil Co	.052	1,190,676	2,087,817
Texaco Inc	.107	3,422,379	4,277,804
Union Oil Co. of California	.043	1,678,095	1,719,597
Total		30,000,000	37,526,850
Total allocation obligation			67,526,850

FEDERAL ENERGY ADMINISTRATION

CRUDE OIL ALLOCATION PROGRAM FOR THE PERIOD JUNE 1977 THROUGH AUGUST 1977—PURCHASES

	Barrels
Allied Materials Co	164,311
Amerada Hess Corp	10,085,883
American Petrofina	0
Apco Oil Corp	418,113
Arizona Fuels Corp	0
Asamera Oil, Inc	201,606
Ashland Oil, Inc	1,934,524
Axel Johnson	130,486
Bayou State Oil Corp	0
Beacon Oil Co	0
Boswell Oil Co. of Louisiana	0
Calumet Industries	0
Canal Refining Co	0
Caribou Four Corners	0
C&H Refinery	4,130
Champlin Petroleum	1,243,281
Charter Oil Co	0
Claiborne Gas Co	0
Clark Oil & Refining	103,299
Coastal States Gas	1,043,832
Commonwealth Oil Ref	2,731,250
CRA-Farmland Ind. Inc	875,293
Cross Oil & Ref.-Ark	121,093
Crown Central Petro	1,999,000
Crystal Oil Co	0
Crystal Refining Co	186,862
Delta Refining Co	1,417,029
Diamond Shamrock Corp	164,262
Dorchester Gas	0
Dow/Refinery	1,114,327
Eco Petroleum Inc	45,078
Eddy Refining Co	22,116
Edgington Oil Co	603,475
Edgington Oxnard Ref	0
Energy Cooperative, Inc	0
Evangeline Refining	0
Farmers Union Central Exchange	1,219,597
Fletcher Oil and Ref	30,689
Flint Chemical Corp	0
Gary Western Co	195,500
Giant Industries	271,090
Glacier Park	0
Gladieux Refining	389,966
Golden Eagle Ref. Co	467,250
Good Hope Refineries	860,000
Guam Oil & Refining	0
Gulf States	46,760
HIRI	0
Howell Corp	282,250
Hunt Oil Co	420,126
Husky Oil Co	1,164,380
Independent Refinery Corp	0
Indiana Farm Bureau	293,500
J&W Refining Inc	558,119
Kentucky Oil Ref. Co	0
Kern County Ref., Inc	0
Kerr McGee Co	4,115,753
Koch Refining Co	406,492
La Gloria Oil-Gas Co	506,625
Laketon Asphalt Ref	0
Lakeside Refining Co	60,408
Little America Ref	1,467,024
La. Land & Exploration Co	0
MacMillan RF Oil Co	344,750
Marion Corp	289,466
Mid-America Refining	0
Mohawk Petroleum Co	107,625
Mansato Co	1,634,100
Morrison Petroleum	0
Mountaineer Refinery	15,096
Murphy Oil Corp	1,763,078
National Coop. Ref	801,105
Navajo Refining Co	0
Navada Refining Co	25,701
Newhall Refining Co	149,375
North American Petroleum	0
Northland Oil & Ref	155,535
OKC Corp	377,045
Pennzoil Co	338,060
Pester Petroleum Co	0
Pioneer Refining	0
Placid Refining	2,145,000
Plateau Inc	288,244
Powerine Oil Co	1,151,705
Pride Refining Inc	1,086,712
Princeton	0
Quaker State Oil Refining Co	0
Road Oil Sales, Inc	5,750
Rock Island Refining	0
Saber Refining Co	289,997
Sabre Refining Inc. (Dingman)	0
Sage Creek Refining Co	87,045
San Joaquin Refining	0
Seminole Asphalt Ref	48,369
Sigmor Corp	24,500
Somerset Refinery	0
Sound Refining, Inc	0
South Hampton	1,160,599
Southern Union	1,228,976
Southland Oil Co	260,250
Southwestern Refining Co	0
Standard Oil of Ohio	6,604,625
Sunland Refining Co	352,286
Tenneco Oil Co	819,125
Tesoro Petroleum Co	540,027
Texas American Petrochemicals, Inc	278,850
Texas Asphalt & Refining	0
Texas City Refining	3,521,750
Thagard Oil	0
Thriftway Oil Co	0
Thunderbird Resources	0
Tonkawa Refining Co	0
TOSCO	0
Total Petroleum, Inc	907,650
Trans-Ocean Petroleum	0
United Independent Oil Co	10,171
United Refining Co	835,500
U.S. Oil & Refining Co	368,555
USA Petrochem	0
Vickers Petroleum Co	1,135,835
Vulcan Asphalt Ref	0
Warrior Asphalt Corp	0
West Coast Oil	0
Western Refining Co	255,192
Winston Refining Co	82,991
Wireback Oil Co	8,095
Witco Chemical Corp	523,375
Yetter Oil Co	1,000
Young Refining Corp	190,902
Total	67,526,850

[FR Doc.77-14518 Filed 5-20-77;11:15 am]

FEDERAL MARITIME COMMISSION

LYKES BROS. STEAMSHIP CO., INC. AND PANAMERICANA INSURGENTES (BERMUDA) LTD.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 14, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by R. J. Finnan
Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10296, between the above named parties, is an equipment lending arrangement whereby Panamericana Insurgentes will allow Lykes to use its equipment, i.e., dry or reefer containers mounted on chassis, according to the terms, conditions and to the extent set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: May 19, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-14906 Filed 5-24-77;8:45 am]

FEDERAL POWER COMMISSION

ARKANSAS LOUISIANA GAS CO.

[Docket No. RP77-55]

Notice of Revised Tariff Sheet

MAY 17, 1977.

Take notice that on April 29, 1977, Arkansas Louisiana Gas Company (Arkla)

tendered for filing "Revised Sheet No. 4 issued on May 1, 1977" to its Rate Schedule No. G–2 FPC Gas Tariff First Revised Volume No. 1, which Arkla states represents the rates as filed in the captioned docket adjusted to reflect its currently effective purchased gas cost of 52.29¢ per Mcf at 14.73 psia and surcharge rate of 23.27¢ per Mcf at 14.73 psia.

Arkla requests the above described tariff sheet be substituted for the "Revised Sheet No. 4 issued on April 18, 1977" in its Notice of Rate Change filed on April 18, 1977 in Docket No. RP77–55 to be effective June 1, 1977.

Arkla also states that copies of its filing were mailed to the jurisdictional customer affected and other interested parties.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77–14870 Filed 5–24–77;8:45 am]

[Docket No. CP77–372]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Application

MAY 18, 1977.

Take notice that on May 5, 1977, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP77–372 an application pursuant to Section 7 of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the twelve-month period ending June 30, 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $2,000,000 and that the cost of any single project would not exceed $500,000. These costs would be financed from funds on hand and funds to be obtained from its parent corporation, Consolidated Natural Gas Company, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14873 Filed 5–24–77;8:45 am]

[Docket No. G–10122, et al.]

CONTINENTAL OIL CO.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

MAY 13, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

LOIS D. CASHELL,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI77–440 4–26–77 A	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Hayter "A" No. 1 Well, Hayter Field, Harper County, Kans.	[3] [9] $1.46	14.73
CI77–441 4–26–77 A	Anadarko Production Co.	Panhandle Eastern Pipe Line Co., Loco Hills Federal "A" No. 1 Well, Loco Hills Morrow Field, Eddy County, N. Mex.	[3] [9] 1.442[2]¢	14.73
CI77–442 4–27–77 A	Placid Oil Co., 1600 1st National Bank Bldg., Dallas, Tex. 75202.	Transcontinental Gas Pipe Line Corp., Bowie Creek Field, Jefferson Davis County, Miss.	[3] [9] 53.0¢	14.73
CI77–443 4–27–77 A	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	Transwestern Pipeline Co., Loco Hills Federal Unit No. 1 Well, Eddy County, N. Mex.	[6] 176.3052¢	14.73
CI77–444 4–28–77 A	Union Oil Co. of California.	Transcontinental Gas Pipe Line Corp., Block 67 in Block 76 Field, Vermilion area, offshore Louisiana.	[6] 163.00¢	15.025
CI77–445 4–28–77 A	McCulloch Oil & Gas Corp., 10880 Wilshire Blvd., suite 1500, Los Angeles, Calif. 90024.	Michigan Wisconsin Pipe Line Co., Smith "A" No. 1 Well, southeast Aledo area, Custer County, Okla.	[1] $1.45	14.65
CI77–446 5–2–77 A	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Colorado Interstate Gas Co., Coldwater Creek Field, Sherman County, Tex.	[1] $1.45	14.73
G–10122 2–14–77 B	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Tennessee Gas Pipe Line Co., west delta block 58, offshore Louisiana.	[7]	
G–20002 5–2–77 C	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Rocky Mount Field, Bossier Parish, La.	[1] $1.45	14.73
CI76–691 4–25–77 C	Amoco Production Co., 500 Jefferson Bldg., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Carlsbad South et al. fields, Eddy and Lea Counties, N. Mex.	[1] $1.7891	14.73
CI77–327 4–25–77 A	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Elizando Federal "A" No. 3 Well, Morrow Zone and Tracy E. No. 1 Well, Eddy County, N. Mex.	[1] 163.913¢	14.73
CI77–329 4–22–77 C	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., Leonard Brothers No. 2, South Leonard Queen Field, Lea County, N. Mex.	[1] $1.45	14.73
CI77–370 4–22–77 C	Union Oil Co. of California, P.O. Box 7600, Los Angeles, Calif. 90051.	El Paso Natural Gas Co., Burton Flats Field, Eddy County, N. Mex.	[1] $1.45	14.73
CI77–406 4–24–77 A	Sun Oil Co.	Northern Natural Gas Co., Emperor Field, Winkler County, Tex.	[1] [5] $1.59	14.73
CI77–421 4–20–77 C	Cities Service Co.	Sea Robin Pipeline Co., block 586, West Cameron area, offshore Louisiana.	[2] [4] $1.75	15.025
CI77–422 4–20–77 A	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., High Island Block 111 Field, offshore Texas.	[1] $1.45	14.73
CI77–423 4–21–77 A	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Tennessee Gas Pipeline Co., Bayou Blaize Field, Plaquemines Parish, La.	[1] $1.45	14.73
CI77–436 4–25–77 A	Sun Oil Co.	Trunkline Gas Co. Eugene Island Block 380 (south addition) offshore Louisiana.	[1] $1.45	14.73
CI77–437 4–25–77 A	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Exxon-Laguna Grande Unit No. 1 Well, Eddy County, N. Mex.	[9] 165.00¢	14.73
CI77–438 4–25–77 A	Getty Oil Co.	United Gas Pipe Line Co., High Island Block 111 Field, offshore Texas.	[1] $1.45	14.73
CI77–439 (CS73–308) 4–26–77 B	Raymond Friedlander et al., Box 1416, Oklahoma City, Okla.	Panhandle Eastern Pipe Line Co., sec. 20, township 25N, range 11W, Alfalfa County, Okla.	[7]	

[1] Applicant proposes to collect the applicable national rate as prescribed in opinion No. 770–A, subject to adjustments contained therein.
[2] Applicant and purchaser are affiliated.
[3] Subject to upward and downward Btu adjustment.
[4] Includes 100 pct tax reimbursement.
[5] Plus 1.0¢ yearly escalation.
[6] Applicant is willing to accept a permanent certificate in accordance with opinion No. 770, as amended, subject to adjustments contained therein.
[7] Lease has terminated.
[8] Plus 2.0¢ escalation beginning each succeeding 1-yr period.
[9] Well plugged.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.77–14771 Filed 5–24–77;8:45 am]

[Docket No. CP77–367]

FLORIDA GAS TRANSMISSION CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

MAY 18, 1977.

Take notice that on May 4, 1977, Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, (Applicants) filed in Docket No. CP77–367 a joint application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of 3,000,000,000 Btu's of natural gas per day at a new and additional delivery point located in Jones County, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to exchange 3,000,000,000 Btu's of natural gas per day pursuant to a letter agreement dated April 11, 1977 between the two parties. It is stated that Florida Gas has contracted for a supply of natural gas from Florida Gas Exploration Company (Exploration), a producing affiliate, to be produced from the Calhoun Field, Jones County, Mississippi, and that Florida would deliver the gas, or cause the gas to be delivered to Transco for the account of Florida Gas at the existing valve located on Transco's pipeline facilities in Jones County, Mississippi. It is further stated that Transco would redeliver equivalent volumes of natural gas to Florida at any mutually agreeable existing authorized interconnection between Applicants' systems.

Applicants state that it would not be necessary to construct any new facilities to render the instant service; however, if additional facilities are required to ensure the proper measurement of the quantities of natural gas proposed to be exchanged, such facilities would be installed and operated or caused to be installed and operated by Florida Gas at no expense to Transco.

Applicants indicate that the proposed exchange of natural gas could provide additional and immediate volumes to the interstate market and that it would assist Florida Gas in maintaining adequate supplies of gas to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–14876 Filed 5–24–77;8:45 am]

[Docket No. CP75-283]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Amendment to Application

MAY 18, 1977.

Take notice that on May 6, 1977, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP75-283 an amendment to its application filed in said docket pursuant to Section 7 of the Natural Gas Act so as to authorize the construction and operation of a total of approximately 217 miles of 36-inch diameter pipeline loop and related facilities, of which approximately 125 miles of the loop would be constructed for transportation of commingled gas during Phase I, and modification and utilization of existing facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its initial application filed in the instant docket, Applicant proposed (1) to transport for the account of ANG Coal Gasification Company (Gasification Company), commingled synthetic and natural gas (commingled gas) from Thief River Falls, Minnesota to Crystal Falls, Michigan and (2) to construct, modify and operate facilities to enable it to receive and transport such gas. The synthetic gas which would be commingled with natural gas flowing through Applicant's existing facilities would be produced in a coal gasification plant to be built in Mercer County, North Dakota, it is said. Applicant states that at the time it filed its original application, such plant was proposed to be built and owned solely by the Gasification Company and the plant output was anticipated to be 275,000 Mcf of natural gas per day.

Applicant states that the following changes have occurred since the filing of its original application:

(1) In April 1976, the Gasification Company decided to construct the plant in two phases with Phase I to be completed by 1981; the plant output after completion of the first phase is anticipated to be 137,500 Mcf of natural gas per day which is half of the total projected output of 275,000 Mcf of natural gas per day after completion of Phase II; (2) In April, 1977, the Gasification Company advised Great Lakes that an interim agreement had been reached between the Gasification Company and PGC Coal Gasification Company (PGC), wholly-owned subsidiary of The Peoples Gas Company of Chicago, Illinois, which provided for the sharing of front end costs and which outlined the basis of co-ownership of Phase I of the gasification plant. ANR Gasification Properties Company (ANP) a newly formed wholly-owned subsidiary of American Natural Resources Company and PGC would be the co-owners as tenants in common of Phase I; additionally, these two companies would equally share in the output of the proposed plant. Such change of ownership would not change the construction or operation of the facilities to be installed by Applicant, it is said.

Applicant proposes to construct during Phase I 365 miles of 20-inch diameter synthetic natural gas (SNG) pipeline which would be used for transportation of the SNG from the outlet of the gasification plant to the interconnection of SNG line with the existing facilities of Applicant at Thief River Falls, Minnesota (Thief River Falls interconnection).

Applicant states that the transportation of commingled gas from the Thief River Falls interconnection to the interconnection of Applicant's facilities with those of Mchigan Wisconsin Pipe Line Company (Michigan Wisconsin) near Crystal Falls, Michigan (Crystal Falls interconnection) during Phase I would require construction of approximately 125 miles of 36-inch diameter looping in seven segments and utilization of 35.8 miles of Applicant's existing 36-inch diameter loop which is presently being used to render a transportation service for Northern Natural Gas Company.

It is indicated that Applicant has now updated the costs of Phase I facilities to constant mid-1976 dollars, and that the total estimated cost of Applicant's Phase I SNG facilities in mid-1976 constant dollars is $70,567,200 and the total estimated cost of the jurisdictional facilities is $55,680,700. Applicant states that the financing plan for this undated cost is not different in any material respect from the financing plan originally proposed.

It is stated that in the event that PGC does not become a co-owner of Phase I of the gasification plant and output, renegotiation of Applicant's transportation contracts for both the non-jurisdictional SNG transportation service and the jurisdictional commingled gas transportation service would be necessary. It is further stated that both these transportation services are expected to be performed under the terms and conditions similar to those of the contracts which are already on file with the Commission except for the following changes: (1) Applicant would have separate transportation contracts with the coowners; (2) the new contracts would pertain to half of the anticipated gasification plant out-put; and (3) each of these contracts would reflect the two-phase construction of the facilities.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervent in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14877 Filed 5-24-77;8:45 am]

[Docket No. ER77-359]

LOUISVILLE GAS AND ELECTRIC CO.

Notice of Tariff Change

MAY 18, 1977.

Take notice that Louisville Gas and Electric Company (LG&E) on May 4. 1977, tendered for filing proposed changes in its Interconnection Agreement between LG&E and East Kentucky Power Cooperative (East Ky.), formerly East Kentucky Rural Electric Cooperative Corporation, designated Louisville Gas and Electric Company FPC Rate Schedule No. 25.

LG&E indicates that the purpose of this filing is to increase the demand charge as set forth under Article VI of the Interconnection Agreement from $0.075 per kilowatt per weekday (Monday through Saturday) to $0.10 per kilowatt per weekday (Monday through Saturday). LG&E further indicates that this proposed revision reflects a desire on the part of both parties to attain the optimum benefit from the interconnection of their systems.

According to LG&E copies of the filing were served upon East Kentucky Power Cooperative.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14872 Filed 5-24-77;8:45 am]

[Docket No. ES77-39]

IOWA POWER & LIGHT CO.

Notice of Application

MAY 18, 1977.

Take notice that on May 12, 1977, Iowa Power & Light Company (Applicant) of Des Moines, Iowa, filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of not more than 450,000 shares of Common Stock, par value $10 per share.

Applicant proposes to issue and sell for cash the aforesaid 450,000 shares of Common Stock, par value $10 per share, under an Automatic Dividend Reinvestment and Stock Purchase Plan.

The purpose for which the Common Stock is to be issued is to obtain funds to pay a portion of short-term borrowings outstanding from commercial banking institutions and commercial paper from time to time and for general corporate purposes.

Any person desiring to be heard or to make any protest with reference to the application should on or before June 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant a party to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14878 Filed 5-24-77;8:45 am]

[Docket No. CP77-373]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

MAY 18, 1977.

Take notice that on May 9, 1977, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP77-373 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing July 13, 1977, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $12,000,000 with no single offshore project to exceed a cost of $2,500,000 and no single onshore project to exceed a cost of $1,500,000. These costs would be financed with cash on hand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14874 Filed 5-24-77;8:45 am]

[Docket No. CP77-371]

MOUNTAIN FUEL SUPPLY CO.

Notice of Application

MAY 18, 1977.

Take notice that on May 5, 1977, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP77-371 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing on the date of the order granting the requested authorization, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased or received from producers and other similar sellers thereof, or produced by Applicant, from time to time, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $6,000,000, with no single project to exceed a cost of $1,500,000. These costs would be financed out of funds obtained from internal sources and from short-term bank borrowings as may be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14875 Filed 5-24-77;8:45 am]

[Docket No. ES77-36]

PACIFIC POWER & LIGHT CO.

Notice of Application

MAY 18, 1977.

Take notice that on May 5, 1977, the Pacific Power & Light Company (Applicant), a corporation organized under the laws of the state of Maine and quali-

fied to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of not exceeding $160,000,000 in an aggregate principal amount at any one time outstanding of unsecured promissory notes (1) pursuant to Lines of Credit ($85,000,000), and (2) in the form of Commercial Paper ($75,000,000).

(1) Unsecured promissory notes in an aggregate principal amount not exceeding $85,000,000 at any one time outstanding would be issued by Applicant to evidence borrowings from commercial banks under Lines of Credit. Each note so issued would be dated the day of issuance and would have a maturity of up to three months from the date thereof. All notes issued pursuant to the Lines of Credit would mature not later than June 30, 1979.

(2) Unsecured promissory notes in an aggregate principal amount not exceeding $75,000,000 at any one time outstanding would be issued and sold by Applicant to one or more commercial paper dealers. Each note issued as Commercial Paper would be dated the day of issuance, would have a maturity of not more than 270 days from the date thereof, but not later than June 30, 1979, and would be discounted at the rate prevailing at the time of issuance for Commercial Paper of comparable quality and maturity.

Proceeds from the borrowings to be made under the Lines of Credit and in the form of Commercial Paper would be used to temporarily finance current transactions, including Applicant's construction expenditures, which for 1977 and 1978 are presently estimated at $602,141,000. The balance of funds required to meet estimated construction expenditures is expected to come, in part, from funds to be generated internally, from borrowings pursuant to a Letter Agreement dated March 10, 1977, not exceeding $50,000,000 at any one time outstanding, and from permanent financing of types and magnitudes not yet finally determined.

Any person desiring to be heard or to make any protest with reference to this application should, on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14871 Filed 5-24-77;8:45 am]

[Docket No. CP77-374]

UNITED GAS PIPE LINE CO.

Notice of Application

MAY 17, 1977.

Take notice that on May 11, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-374 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 5,000 Mcf of natural gas per day for Mississippi River Transmission Corporation (Mississippi River) and the construction and operation of a tap or taps at the proposed delivery point in order to receive such gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport up to 5,000 Mcf of natural gas per day for Mississippi River for 10 years pursuant to a transportation agreement dated April 6, 1977, between Applicant and Mississippi River. It is stated that Mississippi River would deliver or cause to be delivered to Applicant the proposed volumes of gas at the tap or taps to be installed by Applicant at Mississippi River's expense on Applicant's 24-inch line located in Desoto Parish, Louisiana, and Applicant would redeliver such gas to Mississippi River at the outlet side of its existing measuring and regulating stations located at Mississippi River's Perryville Compressor site located in the Monroe Field, Quachita Parish, Louisiana. Applicant states that it is currently selling gas to Mississippi River under a service agreement dated September 11, 1970, at this point.

It is stated that Mississippi River would pay Applicant for gas transported under the instant agreement an amount per Mcf equal to Applicant's average jurisdictional transmission cost of service in effect from time to time in Applicant's northern rate zone as such may be determined by Applicant based on rate filings made from time to time, less any amount included in such average jurisdictional cost of service which is attributable to gas consumer in the operation of Applicant's pipeline system. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operation, is 20.04 cents per Mcf, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14879 Filed 5-24-77;8:45 am]

FEDERAL RESERVE SYSTEM

CHEMICAL NEW YORK CORP.

Proposed Performance of Industrial Bank Activities

Chemical New York Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to convert the Boulder, Colorado office of its subsidiary, Sun Finance and Loan Company, into an industrial bank to be known as Depositors Industrial Bank. Notice of the application was published on April 19, 1977, in "The Boulder Daily Camera," a newspaper circulated in Boulder, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of an industrial bank, including making direct loans and purchasing sales finance contracts and other extensions of credit as would be made or acquired by an industrial bank; providing group credit life and group credit accident and health insurance directly related to such extensions of credit; receiving time savings deposits. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 16, 1977.

Board of Governors of the Federal Reserve System, May 19, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14809 Filed 5-24-77;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Main Street National Bank of Dallas, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 16, 1977.

Board of Governors of the Federal Reserve System, May 19, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14810 Filed 5-24-77;8:45 am]

THE CENTRAL BANCORPORATION, INC.

Acquisition of Bank

The Central Bancorporation, Inc., Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares, less directors' qualifying shares, of the successor by merger to The Central Security National Bank of Lorain County, Lorain, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 17, 1977.

Board of Governors of the Federal Reserve System, May 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14897 Filed 5-24-77;8:45 am]

OLD KENT FINANCIAL CORP.

Acquisition of Bank

Old Kent Financial Corporation, Grand Rapids, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Old Kent Bank of Norton Shores, Norton Shores, N.A., Norton Shores, Michigan, a proposed de novo bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 14, 1977.

Board of Governors of the Federal Reserve System, May 19, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-14898 Filed 5-24-77;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of April 19, 1977

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on April 19, 1977.[1]

The information reviewed at this meeting suggests that growth in real output of goods and services increased in the first quarter from the reduced pace in the fourth quarter of 1976. In March industrial output, retail sales, and employment expanded substantially further. Although the labor force also increased sharply, the unemployment rate declined from 7.5 to 7.3 percent. The wholesale price index for all commodities again rose substantially; increases were particularly sharp among farm products and foods, and there were sizable advances for many industrial commodities. The index of average wage rates rose in the first quarter of 1977 at a somewhat faster pace than it had on the average during 1976, reflecting largely an increase in the minimum wage.

The average value of the dollar against leading foreign currencies has declined somewhat over the past month, returning to about the level at the beginning of the year. Demand for the Japanese yen and the U.K. pound intensified. The U.S. foreign trade deficit continued large in February.

M-1 grew at a moderate pace in March but increased substantially in early April. At banks and thrift institutions, inflows of time and savings deposits other than large-denomination CD's continued to slacken in March. Market interest rates declined considerably in mid-April, after having changed little since mid-March.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster bank reserve and other financial conditions that will encourage continued economic expansion, while resisting inflationary pressures and contributing to a sustainable pattern of international transactions.

Growth in M-1, M-2, and M-3 within ranges of 4½ to 6½ percent, 7 to 9½ percent, and 8½ to 11 percent, respectively, from the first quarter of 1977 to the first quarter of 1978 appears to be consistent with these objectives. These ranges are subject to reconsideration at any time as conditions warrant.

The Committee seeks to encourage near-term rates of growth in M-1 and M-2 on a path believed to be reasonably consistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, at present, it expects the annual growth rates over the April-May period to be within the ranges of 6 to 10 percent for M-1 and 8 to 12 percent for M-2. In the judgment of the Committee such growth rates are likely to be associated with a weekly average Federal funds rate of about 4¾ percent. If, giving approximately equal weight to M-1 and M-2, it appears that growth rates over the 2-month period will deviate significantly from the midpoints of the indicated ranges, the operational objective for the Federal funds rate shall be modified in an orderly fashion within a range of 4½ to 5¼ percent.

If it appears during the period before the next meeting that the operating constraints specified above are proving to be significantly inconsistent, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

NOTE.—On May 6, 1977, the Committee modified the inter-meeting range for the Federal funds rate specified in the next-to-last paragraph of the domestic policy directive issued on April 19, 1977, by increasing the upper limit for 5¼ to 5½ percent.

By order of the Federal Open Market Committee, May 20, 1977.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.77-14896 Filed 5-24-77;8:45 am]

[1] The Record of Policy Actions of the Committee for the meeting of April 19, 1977, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 1; Friday, June 10, 1977, from 9 a.m. to 4:30 p.m.; Room 927, J. W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts 02109.

The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the following project:

"Building Modernization", J. W. McCormack Post Office and Courthouse, Boston, Massachusetts.

The meeting will be open to the public.

Dated: May 13, 1977.

ALBERT A GAMMAL, JR.,
Regional Administrator.

[FR Doc.77–14858 Filed 5–24–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

CELLULAR AND MOLECULAR BASIS OF DISEASE REVIEW COMMITTEE

Amended Notice of Meeting

Notice is hereby given of a change in the date and location of the next meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences.

As published in the FEDERAL REGISTER on April 4, 1977 (42 FR 17914), this committee was to have met on June 6–10, 1977 at the National Institutes of Health, Building 31, Conference Room 4, Bethesda, Maryland. The meeting dates have been changed to June 20–24, 1977, and the location to the New Jersey Room of the Holiday Inn, Bethesda, Maryland. The meeting will be open to the public on June 20th from 9 a.m. to 11 a.m. and will be closed to the public from 11 a.m., June 20 until adjournment on June 24, 1977.

Dated: May 18, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–14839 Filed 5–24–77;8:45 am]

COMPREHENSIVE SICKLE CELL CENTER AD HOC REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Comprehensive Sickle Cell Center ad hoc Review Committee, National Heart, Lung, and Blood Institute, June 23–24, 1977, Barbizon Plaza Hotel, New York, New York 10019.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 23 from 6:00 p.m. to midnight, and on June 24 from 8:00 a.m. to adjournment at 2:00 p.m. for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20014, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Michael A. Oxman, Executive Secretary, NHLBI, NIH, Room 555, Westwood Building, Bethesda, Maryland 20014, phone (301) 496–7351, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, National Institutes of Health)

Dated: May 16, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–14837 Filed 5–24–77;8:45 am]

HEART, LUNG, AND BLOOD RESEARCH REVIEW COMMITTEE A

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, June 24–25, 1977, Conference Room 9, Building 31, NIH Campus, Bethesda, Maryland.

This meeting will be open to the public on June 24, 1977 from 8:30 am to approximately 9:30 am to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 24, 1977 from 9:30 am until adjournment on June 25, 1977, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20014, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur W. Merrick, Executive Secretary, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Maryland 20014, phone (301) 496–7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837 and 13.838, National Institutes of Health.)

Dated: May 16, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–14836 Filed 5–24–77;8:45 am]

HEART, LUNG, AND BLOOD RESEARCH REVIEW COMMITTEE B

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, June 24–25, 1977, Conference Room 7, Building 31, NIH Campus, Bethesda, Maryland.

This meeting will be open to the public on June 24, 1977 from 8:30 am to approximately 9:30 am to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 24, 1977 from 9:30 AM until the adjournment on June 25, 1977, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20014, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Henry G. Roscoe, Executive Secretary, NHLBI, NIH, Room 554, Westwood Building, Bethesda, Maryland 20014, phone (301) 496–7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.838, National Institutes of Health.)

Dated: May 16, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–14835 Filed 5–24–77;8:45 am]

PRESIDENT'S CANCER PANEL ET AL.

Open Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notices. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the meetings and rosters of committee members, upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

PRESIDENT'S CANCER PANEL

Dates and time: July 12, 1977; 9:30 a.m., adjournment.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Type of meeting: Open for the entire meeting.
Agenda: To hear reports of the Chairman, President's Cancer Panel and the Director, National Cancer Program, NCI.
Executive Secretary: Richard A. Tjalma, Building 31A, Room 11A46, National Institutes of Health, Phone: 301–496–5854.

CARCINOGENESIS SCIENTIFIC ADVISORY COMMITTEE

Date and time: July 18–19, 1977; 8:30 a.m., adjournment.
Place: Building 31C, Conference Room 9, National Institutes of Health.
Type of meeting: Open for the entire meeting.
Agenda: To review the scientific research program of the Carcinogenesis Program, Division of Cancer Cause and Prevention, NCI.
Executive Secretary: Dr. Glo B. Gori, Building 31, Room 11A05, National Institutes of Health, Phone: 301–496–6616.
Name of committee: Data Evaluation and Risk Assessment Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: July 25, 1977; 8:30 a.m., adjournment.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Type of meeting: Open for the entire meeting.
Agenda: To review available bioassay reports and other matters relevant to data evalution and risk assessment.
Executive Secretary:
Dr. James M. Sontag, Building 31A, Room 3A16, National Institutes of Health. Phone: 301–496–5108.

Dated: May 18, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–14834 Filed 5–24–77;8:45 am]

RECOMBINANT DNA MOLECULE PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Molecule Program Advisory Committee at the Linden Hill Hotel, Terrace Room, 5400 Pooks Hill Road, Bethesda, Maryland 20014 on June 22, 1977 from 9 a.m. to 5 p.m., and June 23, 1977 from 9 a.m. to 12 p.m.

The entire meeting will be open to the public for consideration of proposed revisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules, and other matters requiring necessary action by the Committee. Attendance by the public will be limited to space available.

Dr. William J. Gartland, Executive Secretary, Recombinant DNA Molecule Program Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301–496–2323, will provide summaries of the meeting, rosters of committee members and substantive program information.

Dated: May 18, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–14833 Filed 5–24–77;8:45 am]

RESEARCH MANPOWER REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, June 12–14, 1977, Conference Room, Chevy Chase Holiday Inn, Chevy Chase, Maryland.

This meeting will be open to the public on June 12, 1977 from 8:30 p.m. to approximately 10:30 p.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 13 and 14, 1977 from 8 a.m. until adjournment on both days, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20014, phone 301–496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Charles L. Turbyfill, Executive Secretary, NHLBI, NIH, Room 553, Westwood Building, Bethesda, Maryland 20014, phone 301–496–7351, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, 13.839, National Institutes of Health.)

Dated: May 16, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77–14838 Filed 5–24–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA, OUTER CONTINENTAL SHELF IN THE WESTERN GULF

Postponement of Public Hearings Regarding Proposed Oil and Gas Lease Sale

The location and date of the public hearings scheduled for June 1–4, 1977, in Kodiak and Anchorage, Alaska were announced in the FEDERAL REGISTER on May 11, 1977, (42 FR 23885) Volume 42, No. 91. These hearings concerning the proposed oil and gas lease sale in the Western Gulf of Alaska have been postponed. The Secretary of the Interior announced an 18 month planning schedule for Outer Continental Shelf oil and gas leasing on May 17, 1977. This schedule does not include the proposed Kodiak sale, but it will be considered for inclusion in the schedule being developed for 1979–1978).

We are still soliciting comments from the public on the draft environmental impact statement which was made available to the public on April 12, 1977. Comments should be sent to the Manager, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, by June 24, 1977.

Dated: May 19, 1977.

CURT BERKLUND,
Director, Bureau of Land Management.

Approved: May 20, 1977.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc.77–14829 Filed 5–24–77;8:45 am]

[SAC 062886]

CALIFORNIA

Termination of Proposed Withdrawal and Reservation of Land

MAY 17, 1977.

Notice of a Bureau of Reclamation, U.S. Department of the Interior, application Sacramento 062886, for withdrawal and reservation of lands for the planned facilities of the Trinity River Division, Central Valley Project, California, was published as FR Doc. 60–5809 on page 5848 of the issue of June 24, 1960. The applicant agency has cancelled its application.

MOUNT DIABLO MERIDIAN

T. 32 N., R. 6 W.,
Sec. 19, SE¼NE¼.

The area described aggregates 40 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10 a.m. on June 27, 1977, will be relieved of the segregative effect of the above mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc.77–14860 Filed 5–24–77;8:45 am]

[N-16657]

NEVADA

Airport Lease Application Amended

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), Agricultural Aviation Services has amended its lease application to include the following lands:

MOUNT DIABLO MERIDIAN, NEVADA

T. 38 N., R. 36 E.,
Sec. 12, NW¼NE¼NE¼, N½NW¼NE¼, N½N½NW¼.

The purpose of this notice is to inform the public that the filing of this application segregated the described public lands from all other forms of appropriation under the public land laws.

Interested persons desiring to express their views should promptly send their comments together with their name and address to the Winnemucca District Manager, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc.77-14861 Filed 5-24-77;8:45 am]

[U-37233]

UTAH

Application

MAY 17, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 23 E., Sec. 14, NE¼NW¼, SE¼NW¼

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL HOWARD,
State Director.

[FR Doc.77-14862 Filed 5-24-77;8:45 am]

[U-37227]

UTAH

Application

MAY 17, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 17 S., R. 25 E., Secs. 3 and 4.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL HOWARD,
State Director.

[FR Doc.77-14863 Filed 5-24-77;8:45 am]

[U-37226]

UTAH

Application

MAY 17, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 22 E.,
Sec. 31, lot 1, NE¼NW¼.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL HOWARD,
State Director.

[FR Doc.77-14864 Filed 5-24-77;8:45 am]

[Wyoming 59407]

WYOMING

Application

MAY 16, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Pipe Line Company of Kansas City, Missouri filed an application for a right-of-way to construct a 4" natural gas pipeline for the purpose of transporting natural gas across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 44 N., R. 77 W.
Sec. 3, lot 4, SW¼NW¼;
Sec. 4, lot 1.
T. 45 N., R. 77 W.
Sec. 1, SE¼SE¼;
Sec. 11, E½SE¼, SW¼SE¼;
Sec. 12, NW¼NE¼, E½NW¼, SW¼NW¼;
Sec. 14, NE¼NW¼, S½NW¼;
Sec. 15, SE¼SW¼, SE¼NE¼, NE¼SE¼, SW¼SE¼;
Sec. 21, E½SE¼;
Sec. 22, N½NW¼, SW¼NW¼, NW¼SW¼;
Sec. 28, E½E½;
Sec. 33, E½E½.

The pipeline is to transport natural gas from wells located in Johnson County, Wyoming, and will connect the wells with an existing gas transmission line in Johnson County.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Union & Overland Blvd., P.O. Box 2834, Casper, Wyoming 82601.

WILLIAM S. GILMER,
Acting Chief, Branch of Land and Minerals Operations.

[FR Doc.77-14865 Filed 5-24-77;8:45 am]

[Wyoming 59189]

WYOMING

Application

MAY 17, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company of Casper, Wyoming filed an application for the purpose of authorizing existing 3'', 4'', 6'' and 8'' pipelines and related facilities which have been constructed for the transportation of oil and other synthetic liquid fuels across the following described national resource lands:

SIXTH PRINCIPAL MERIDIAN, WASHAKIE COUNTY, WYOMING

T. 47 N., R. 90 W.
Secs. 7, 8, and 18.
T. 45 N., R. 91 W.
Secs. 19 and 30.
T. 46 N., R. 91 W.
Sec 6
T. 47 N., R. 91 W.
Secs. 5, 7, 8, 9, 10, 11, 13, 14, 22, 23, 24, 27, 28, 29, 31, 32, and 33.
T. 48 N., R. 91 W.
Secs. 29 and 32.
T. 45 N., R. 92 W.
Secs 6, 7, 8, 17, 20, 21, 22, 25, 26, and 27.
T. 46 N., R. 92 W.
Sec. 1.
T. 47 N., R. 92 W.
Secs 1, 2, 3, 11, 12, 13, 33, and 34.

The pipeline for which this right-of-way application is made is utilized as a gathering system comprised of five basic components, each an integral part of the whole. Utilization of the component parts of the right-of-way was commenced between 1957 and 1972, and has continued since that time as the only practicable way of gathering and transporting crude oil produced from the wells served.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-14866 Filed 5-24-77;8:45 am]

OUTER CONTINENTAL SHELF OFF LOUISIANA AND TEXAS

Oil and Gas Lease Sale No. 47, June 23, 1977

Correction

In FR Doc. 77-14474 appearing at page 26250 in the issue of Monday, May 23, 1977, make the following changes:

1. In the last three lines of paragraph 5, first column, page 26251, "Affirmative Representation Form" should read "Affirmative Action Representation Form."
2. In the title of the tract listing for Green Canyon, first column, page 26253, "protection" should read "protraction."
3. In the tract listig for Mississippi Canyon, first column, page 26253, the "Block" entry for Tract 47-230, which now reads "380," should read "280."
4. In the form on page 26254, there should be a gap in the dotted line following "N.O. misc No," to indicate that two entries are to be placed there.

Bureau of Reclamation

[INT FES 77-15]

COLORADO RIVER WATER QUALITY IMPROVEMENT PROGRAM

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior and Department of Agriculture have prepared a final environmental statement for the Colorado River Water Quality Improvement Program.

The environmental statement concerns a basinwide salinity control program to reduce the salinity of the Colorado River in order to provide water quality benefits to agricultural and municipal and industrial water users in the basin states.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240, telephone (202) 343-9247

Office of Assistant to the Commission, Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202-343-4991.

Chief, Colorado River Water Quality Office, Office, Bureau of Reclamation, Engineering and Research Center, Denver Federal Center, P.O. Box 25007, Denver, Colorado, telephone 303-234-3828.

Regional Director, Upper Colorado Region, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84111, telephone 801-588-5502.

Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone 702-598-7411.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation, Engineering and Research Center, or the Regional Directors. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151. Please refer to the statement number above.

Dated: May 19, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant Secretary.

[FR Doc.77-14826 Filed 5-24-77;8:45 am]

Fish and Wildlife Service

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Charles Kamm, Route 1, Box 87, Courtland, Minnesota 56021.

OMB NO. 42-R1471

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one) — ☐ IMPORT OR EXPORT LICENSE — [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Propagating certain species of Avian wild life classified as endangered or Threatened Wildlife - and To Sell, or Trade and also buy such birds and wild life for the purpose of enhancing The Survival of these Species.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Charles Kamm
Rt 1 Box 87
Courtland Minn
56021

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
SEX: ☐ MALE ☐ FEMALE ☐ NA — HEIGHT: 5'6" — WEIGHT: 150
DATE OF BIRTH: 12-6-36 — COLOR HAIR: Black — COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 359-2602 (507) — SOCIAL SECURITY NUMBER: 468-42-6956
OCCUPATION: Disabled
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: Propagator of Avian wildlife

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: NOT Applicable
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: N/A
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Rt 1 Box 87
Courtland Minn 56021

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES ☐ NO
(If yes, list license or permit number(s)) PRT 2-1847-TW

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document(s)) NOT Applicable

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: N/A

10. DESIRED EFFECTIVE DATE: Immediately

11. DURATION NEEDED: Cont'Nuing

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b) REQUEST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: 50 CFR 17.33(a)(1)(2)(3)(4)(5)(6)(7)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Full name): Charles Kamm — DATE: 3/16/77

3-200
16-749

COMMON AND SCIENTIFIC NAME

1. Pheasant, Bar-tailed, *Syrmaticus Asminae.*
Pheasant, Brown-eared, *Crossoptilon mantchuricum.*
Pheasant, Edwards, *Lophura edwardsi.*
Pheasant, Mikado, *Syrmaticus mikado.*
Pheasant, Palawan Peacock, *Polyplectron emphanum.*
Pheasant, Swinhoe, *Lophura swinhoii.*
√Pheasant, Western Tragopan, *Tragopan melanocephalus.*
Pheasant, White-eared, *Crossoptilon crossoptilon.*
√Pheasant, Elliot, *Syrmaticus ellioti.*
√Pheasant, Impeyan, *Lophopharus impeyanus.*
√Prairie Chicken, Attwater's Greater. *Tympanuchus cupido attwateri.*

2. These birds were raised in captivity.

3. Any birds can be obtained from captive-reared stock within the U.S. under permits issued by your department.

4. The birds to be covered will be raised in Minnesota at my residence at Route 1, Box 87, Courtland, MN, U.S.A. 56021.

5. The facilities available for maintaining these birds are as follows: The 18 breeding pens are 6 ft. high and 12X12. These pens house 1 pair of birds, then they also have a pen within a winterized building approximately 6X8 floor space. We maintain an outer fence with electric wire around it to protect the birds from predators. The one in poultry netting is used on the sides of pens and tops are covered with either poultry netting or toprite plastic netting. All birds are fed a commercially prepared feed and those needing heat during the winter are provided heat. The young birds are raised in free standing brooders and are started on a good quality commercial starter, switching later to grower, then flyer, etc. According to recommendations of producers and researchers, this is fed throughout their lives. I have large 50 x 50 pens, plus some individual pens for these young birds.

(ii) I have bred and maintained and raised over 30 species of birds, some of them prior to them being placed on the endangered list, and many that are considered to be delicate and difficult to maintain or breed in captivity. I have been raising game birds as a hobby for around 10 years, because we love the birds, and we're proud of the care we give them and the condition they are in. I make every effort to stay up on the latest publications and research related to my interest in captive propagation and feel that I'm well aware of the needs of the endangered birds and meet this need.

(iii) I am always willing to cooperate in the expansion of the populations of these birds and will give any data and knowledge I might have to further the populations of those species.

(iv) Any transporting is done in standard, roomy, well-ventilated cardboard or wood containers with food and water supplied. However, I don't ship any of these birds or plan to have birds shipped to me at this time. I have in the past shipped these birds (before the 1973 Endangered Species law became effective) and these containers were very adequate and no loss resulted.

(v) I have had to destroy 1 male Edwards because of a broken leg. We checked with the veterinarian and it was impossible to set. This was two years ago. Since then I have had no mortalities in birds to be covered by this permit.

7. I have no pending contracts or agreements pertaining to these birds.

8. (i) The activities include keeping and breeding of the endangered species listed in this application. I want to either sell or trade young birds I raise in captivity and to be able to obtain either by buying or trading for new birds from other breeders so that strong blood lines are kept going, and perhaps some day some of these birds can be restored to the wild from captive stock.

(ii) The activity will be carried out through proper routine care and maintenance of the birds involved so that through proper care, they will reproduce and help to increase the numbers of these dwindling species.

(iii) I don't need to restate the plight of these birds that are endangered, but it is my belief that through sound management of the captive strains of these birds they can at least keep extinction at bay in captivity, if not in the wild. I believe that I have the expertise and experience to propagate these birds as I have in the past and plan to indefinitely.

(iv) Any birds that are raised will either be paired up for breeding or distributed to other breeders interested in the captive propagation and preservation of these birds and considered qualified by State and Federal agencies, but I would also like to see these agencies granting permission and permits to the young people with the desire and love of these birds, not only to those with the expertise. Many of these young persons hold the key to the future and they can't learn if we don't let them. I for one will give all the advice needed to successfully breed any of these species—so long as they have the love and desire, that generally makes the difference between success and failure.

(v) Should the Impeyan pheasant (*Lophophorus impeyanus*) be put on the Endangered or Threatened list at a later date, I would like this permit to cover this bird as well even though at present it is not on the list or considered endangered or threatened.

Thank you.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-718-25; please refer to this number when submitting comments. All relevant comments received on or before June 24, 1977.

Dated: May 20, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office U.S. Fish and Wildlife Service.

[FR Doc.77-14819 Filed 5-24-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Woodland Park Zoological Gardens, 5500 Phinney Avenue North, Seattle, Washington 98103. David Hancocks, General Director.

OMB NO. 42-R1435

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate, if other) — ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Wish to send on Breeding Loan one male snow leopard, Panthera uncia, to Marwell Zoological Park, England

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Woodland Park Zoological Gardens
5500 Phinney Avenue North
Seattle, Washington 98103
Phone: 782-1265

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Non-profit public zoological park
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
David Hancocks, General Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)
Not applicable

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document)
Import Permit from Department of The Environment, England

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ ----------

10. DESIRED EFFECTIVE DATE: As soon as possible.

11. DURATION NEEDED: 90 days

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (see 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22 Title 50, questions 1 - 8 answered on attached sheet.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) — DATE: March 16/77

GPO 895-042

17.22 Permit Application for Scientific Purposes.

(1) Snow leopard, *Panthera uncia*, one male, born Woodland Park Zoological Gardens, on May 2, 1975, to be sent to Marwell Zoological Park, England, for breeding purposes.

(2) Snow leopard was born in captivity at Woodland Park Zoological Gardens on May 2, 1975.

(3) Not applicable.

(4) The subject animal was born in captivity at Woodland Park Zoological Gardens, Seattle, Washington, U.S.A.

(5) Marwell Zoological Park is a large reputable zoo which has considerable success in breeding endangered species. The address is: Colden Common, Nr. Winchester, Hampshire, SO211JH, England.

6. (1) A copy of the enclosure plans where the snow leopards will be housed is enclosed. It has the considerable advantage which does not show from the plan, of being placed on a wooded slope with the woodland to the south of the enclosure, so that it is always shaded and secluded and does not become too hot even when it has temperatures as high as it did last year, of 90 degrees F. The inside enclosures are not open to the public and the dens are arranged to give complete seclusion to the inhabitants. The complex was in fact designed for snow leopards, although to date it has been occupied by European lynx who have bred regularly therein.

(ii) Marwell Zoological Park has bred the following felines since 1972: 11 Siberian tigers, 8 jaguars, 7 lynx, 12 leopards and 3 servals. In addition, they are presently involved in a comprehensive program for the breeding of cheetahs. They have a close connection with the Zoological Society of London and conduct many reciprocal breeding agreements with them. They have a qualified animal keeper staff and their curator, before coming there, was for six years a veterinary aide in the Animal Hospital of the Zoological Society of London. They have an extensive program of monitoring the health of all of their animals by routine visits of their own veterinary surgeon, and a complete laboratory monitoring of health by the local Ministry of Agriculture diagnostic laboratories.

(iii) Both Woodland Park Zoological Gardens and Marwell Zoological Park have a reputable history and intensive interest in the breeding and propogation of endangered species.

(iv) The animal will be shipped in a container that will comply with guidelines used by zoological parks and in a manner that is humane.

(v) They have had no mortalities in snow leopards.

7. Copy of breeding loan agreement is attached.

8. The sending of a snow leopard to Marwell Zoological Park will help the zoo to establish a breeding population.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW, Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-49-C07; please refer to this number when submitting comments. All relevant comments received on or before June 24, 1977 will be considered.

Dated: May 20, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-14818 Filed 5-24-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: John S. Nero, 414 S. Military Avenue, Green Bay, Wisconsin 54303.

OMB NO. 42-R1140

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Species only one)

☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. APPLICANT. (If any, complete address and phone number of individual, business, agency, or institution for which permit is requested)

John S. Nero (Summerplace)
414 S. Military Ave.
Green Bay, WI 54303

(414) 499-9013

3. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.

Purchase out of state and transporting interstate 4 birds included on the Endangered Species List. These are live birds and will be used for enhancement and propagation of the species.

Scarlet-chested Parakeet
(Neophema splendida)

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING.

☒ MR. ☐ MRS. ☐ MISS ☐ MS.

HEIGHT	WEIGHT
6' 0"	168

DATE OF BIRTH	COLOR HAIR	COLOR EYES
4 - 4 - 1951	lt. brown	blue

PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER
Same	389-56-3005

OCCUPATION
Owner - Interior Landscaping

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING.

EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

1840 Western Ave.
Green Bay, WI 54303

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO None needed
(If yes, list jurisdictions and type of document(s))

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: As soon as poss.

11. DURATION NEEDED: as long as possible

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

50 CFR Section 17.22 (a)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (See 13.12(a)) DATE: 3-25-77

3-200
10-76

ATTACHMENT I—APPLICATION FOR PERMIT
SECTION 17.22(A)

(1) We seek a permit to cover 4 Scarlet-chested Parakeets (*Neophema splendida*); 1 male, 2½ year of age; 1 female, 2½ years; 2 females, about 4 weeks at this date. The activity sought to be authorized is the purchase of these birds in Ohio and transporting them back to Wisconsin.

(2) All birds were born in captivity.

(3) We have attempted unsuccessfully to locate these birds within our state of Wisconsin. We have since found the birds in question from a breeder in Ohio.

(4) The birds that we wish to be covered by the permit were bred in confinement by Dr. William K. Lindsay, 288 N. Virginia Lee Rd., Columbus, Ohio 43209.

(5) and (6) (i) The birds will be housed during winter months (Sept.–May) in a separate indoor flight measuring 3' x 7' x 8' long. A sufficient number of natural perches are always provided. The concrete floor is covered with cedar shavings which is changed as necessary. Temperature is maintained at 62–65° F. The flights are artificially illuminated by fluorescent lights. All birds are given every opportunity to propagate during this time (nest boxes, nesting material and other pertinent stimulae).

During the summer months (May–Sept.), all birds are housed in outdoor aviaries (see Attachment II) measuring a minimum of 4' wide x 6' high x 8' long. A 6' high chain link fence protects the entire premises from intruders, animal and otherwise. Natural perches are again used. A dry, protective shelter (4' x 4' x 6') adjoins each flight for use at night and during severe weather. All flights are built on natural turf with wire netting buried underground around the perimeter to minimize rodent intrusion. Natural plantings are used where possible. Additionally, for further enhancement of our birds, we put a maximum effort into providing the highest quality and most complete diet at all times.

(ii) We presently maintain a very large group of exotic birds, all housed individually to reduce stress and increase potential for breeding. To further encourage breeding, all birds are put into outside aviaries during the summer, providing as natural of an environment as possible. I have been keeping and raising foreign birds for the past 13 years, breeding primarily Cockatiels and Lovebirds.

We put every conceivable effort into successfully maintaining and propagating all our birds, as can be attested to by our veterinarian, Dr. B. J. Roningen (see Attachment III) and Special Agent Dan Pooler, FWS from Oshkosh, WI, who has inspected our facilities.

(iii) We fully and sincerely intend to carry on a cooperative breeding program with the birds we seek to be covered by the permit. Additionally, we will maintain pertinent written data concerning all activities involving these birds.

(iv) The birds in question will be transported via automobile from Ohio to Wisconsin. While in transit, they will be kept in a small wire cage (approx. 20" x 12" x 12") with suitable perches, food and water. They will be covered and kept from extremes in temperature.

(v) We have had few mortalities that involved related birds—in particular, Lovebirds: one bird as a result of a crop tumor; surgery was attempted unsuccessfully by Dr. Roningen; another died of a ruptured uterus while attempting to breed. Finches have died for undetermined reasons, though senility was perhaps a contributing factor (6 years of age). In the event of any mortalities of our birds, post-mortems are performed by Dr. Roningen to attempt to find the causes of death, thus reducing the chances for further casualties.

(7) There is only a verbal agreement between us and Dr. Lindsay of Columbus, Ohio, from whom we are intending to purchase the 4 Scarlet-chested Parakeets. The purchase and subsequent transportation will take place immediately following the issuance of the necessary permits.

(8) (i) We wish to establish a successful captive breeding colony of the Scarlet-chested Parakeets in Wisconsin. As far as we know, there are no other birds of this species present or propagating in Wisconsin. By expanding their captive territory, we hope to increase the species' total population.

(ii) The birds in question have proven to be free and highly successful breeders in confinement, particularly in California. There seems to be no set season for breeding and, in fact, nest boxes must be removed frequently to avoid over-breeding!

The past, present and future success in captive breeding of these endangered birds may probably be the only means in which they may be saved from extinction. This has been proven not only by their very prolific nature in captivity, but also by the existence of a fair and increasing number of these birds already in confinement.

We have the sincere desire to participate in the enhancement and, indeed, the saving of this extremely lovely species of bird. We are and will continue to endeavor to continue to take any pains, expense and effort to successfully achieve this goal.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–746–07; please refer to this number when submitting comments. All relevant comments received on or before June 24, 1977 will be considered.

Dated: May 20, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77–14820 Filed 5–24–77;8:45 am]

MIGRATORY GAME BIRD REGULATIONS

Public Hearing

Notice is hereby given that a public hearing will be held in accordance with Part 455 of the Departmental Manual (Hearings) to review proposed hunting regulations of migratory birds for which early (prior to October 1) seasons are set, as follows:

PUBLIC HEARING ON EARLY SEASON MIGRATORY BIRD HUNTING REGULATIONS

Date and time: June 21, 1977, at 9 a.m.

Place: Auditorium, General Services Building, 18th and F Streets, NW., Washington, D.C.

Purpose of hearing: This hearing is for the purpose of reviewing the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, and common snipe. Proposed hunting regulations for these species will be discussed plus regulations governing migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; and special sea duck seasons in the Atlantic Flyway.

Persons wishing to participate in this public hearing should notify the Director (FWS/MBM), U.S. Fish and Wildlife Service, Department of the Interior, C Street between 18th and 19th Streets, NW., Washington, D.C. 20240, or call 202/343–8827. Statements from interested persons should be presented in writing in duplicate to the Hearing Officer at the meeting or forwarded to the U.S. Fish and Wildlife Service (FWS/MBM) at the above address prior to the meeting.

Minutes of the hearing will be available for purchase from a public stenographic services company.

Dated: May 18, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.77–14813 Filed 5–24–77;8:45 am]

DEPARTMENT OF JUSTICE

UNITED STATES v. CORNING FIBERS, INC.

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on May 5, 1977, a proposed consent decree in *United States v. Corning Fibers, Inc.*, was lodged with the District Court for the District of Vermont. The proposed decree would require Corning Fibers, Inc., to complete installation of a wastewater treatment facility by May 1, 1978, and to attain operational level with that wastewater treatment facility by June 1, 1978.

The Department of Justice will receive until June 24, 1977, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States v. Corning Fibers, Inc.*, D.J. Ref. 90–5–1–1–699.

The proposed consent decree may be examined at the office of the United States Attorney, P.O. Box 10, Rutland, Vermont, at the Region I Office of the Environmental Protection Agency, Enforcement Division, John F. Kennedy Federal Building, Boston, Massachusetts 02203, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

PETER R. TAFT,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 77–14867 Filed 5–24–77;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

MEETING

Notice is hereby given, pursuant to Pub. L. 92–463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Friday, June 10 and on Saturday, June 11, 1977. Friday will be set aside for site visits in the Appalachian states (Tennessee, Southern Ohio, Kentucky, Georgia, Alabama and Mississippi) and will start at 8:30 a.m. and end at 5:30 p.m. The Saturday meeting will be held in Atlanta, Georgia (meeting room and place to be announced at a later date) from 9 a.m. until 2 p.m.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The main purpose of the two-day activities is to study rural issues in compensatory education in the various Appalachian States and to examine the role of the Appalachian Regional Commission.

Because of limited space, all persons wishing to attend should call for reservations by June 3, 1977, area code 202–382–6945.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 Thirteenth Street NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on May 23, 1977.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.77–15036 Filed 5–24–77;8:45 am]

NATIONAL SCIENCE FOUNDATION

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Proposal Review Panel of the Office for the International Decade of Ocean Exploration, Ad Hoc Subpanel for the BIOTRANS Project.

DATE AND TIME: June 10, 1977; 9 a.m. to 5 p.m.

PLACE: National Science Foundation, 1800 G Street NW., Washington, D.C 20550.

TYPE OF MEETING: Closed

CONTACT PERSON:

Mr. Feenan D. Jennings, Head, Office for the International Decade of Ocean Exploration, Room 605, National Science Foundation, Washington, D.C. 20550, telephone 202–632–7356.

PURPOSE OF PANEL: To provide the IDOE Proposal Review Panel members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to Biological Transport (BIOTRANS).

AGENDA: Detailed review and evaluation of proposals for support of the BIO TRANS Project.

REASON FOR CLOSING: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 20, 1977.

[FR Doc.77–14904 Filed 5–24–77;8:45 am]

SOCIOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Sociology.

DATE AND TIME: June 10 and 11, 1977; 9 a.m. each day.

PLACE: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Mr. Garry Wallace, Assistant Program Director for Sociology, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202–632–4204.

PURPOSE OF PANEL: To provide advice and recommendations concerning support research in sociology.

AGENDA, CLOSED SESSION: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77–14905 Filed 5–24–77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 18, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202–395–4529, or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Importers' questionnaire (malleable cast-iron pipe and tube fittings), single time, importers of malleable cast-iron pipe and tube fittings, Evinger, S. K., 395–3710.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Request for arbitration panel, on occasion, labor and management organizations, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Economic development administration, certification by contractor or subcontractor regarding equal employment opportunity, ed–120, on occasion, contractors and subcontractors, Lowry, R. I., 395–3772.

National Bureau of Standards, Survey of Radiation Calibration Needs in Therapy, NBS–1978, single time, medical physicists and radiotherapists, Richard Eisinger, 395–6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, Survey of Hospital Staff, single time, administrators of short-stay hospitals, Richard Eisinger, 395–6140.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Proposed Appendix C to the Joint FHWA/UMTA Urban Transportation Planning Regulation, Other (See SF–831), Metro planning orgs. in all 279 urbanized areas, Strasser, A., 395–5867.

National Highway Traffic Safety Administration Motorcycle Accident Factors/Exposure Data, on occasion, motorcyclists, Strasser, A., 395–5867.

REVISIONS

DEPARTMENT OF COMMERCE

Domestic and International Business Administration Marketing Data Form, DIB–466P, weekly, manufacturers and exporters, Warren Topelius, 395–5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Statement for Determining Continuing Eligibility for SSI Payments, SSA–8203, single time, aged, blind or disabled recipients of SSI payments, housing, veterans and labor division, 395–3532.

EXTENSIONS

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitrators Personal Data, R–22, on occasion, labor arbitrators, Warren Topelius, 395–5872.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service:

Application for Settlement of Indebtedness (to U.S. Department of Agriculture), ASCS–539, on occasion, individual farmers or ex-farmers, Warren Topelius, 395–5872.

Estimate of production (Tobacco), MQ92, on occasion, farms, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Steel Producers Production (Directive) Report, DIB 943, quarterly, steel producers, Warren Topelius, 395–5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Requirement for Preparation of Financial Reports, HUD92310NH, HUD92408, on occasion, all multifamily housing projects, Housing, Veterans and Labor Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–14893 Filed 5–24–77;8:45 am]

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Public Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Business Advisory Council on Federal Reports to be held in Room 2010, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. on June 16, 1977, at 10:00 a.m.

The purpose of the meeting is to conduct Council business such as the Treasurer's Report, Council budget, and reports of various Committees; to hear remarks from the Deputy Associate Director for Statistical Policy; and to receive reports of recent actions by the Office of Management and Budget which affect the reporting of business firms to Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Deputy Associate Director for Statistical Policy, Room 10202, New Executive Office Building, Washington, D.C., 20503, Telephone (202) 395–3730.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77–14868 Filed 5–24–77;8:45 am]

[Public Notice CM–7/69]

DEPARTMENT OF STATE

ADVISORY COMMITTEE TRANSNATIONAL ENTERPRISES

Meeting

The Department of State Advisory Committee on Transnational Enterprises will hold its eighth meeting on Friday, June 10 at 9:30 a.m. in Room 1105 of the Department of State, 2201 C Street NW., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to discuss the ongoing work in international fora in regard to questionable payments, and codes of conduct relating to transfer of technology and transnational enterprises.

Requests for further information on the meeting should be directed to Stephen Bond, Department of State, 2201 C Street NW., Washington, D.C. 20520. He may be reached by telephone on area code 202–632–0349.

Members of the public wishing to attend the meeting must contact Mr. Bond's office in order to arrange entrance to the State Department building.

The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: May 13, 1977.

STEPHEN R. BOND,
Executive Secretary.

[FR Doc.77–14791 Filed 5–24–77;8:45 am]

[Public Notice CM–7/70]

SHIPPING COORDINATING COMMITTEE

Subcommittee on Safety of Life at Sea

Meeting

The working group on the carriage of dangerous goods of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 on Thursday, June 16, 1977, in Room 8334 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting will be to discuss:

The report to the Maritime Safety Committee of the 27th Session of the Intergovernmental Maritime Consultative Organization (IMCO) Subcommittee on the Carriage of Dangerous Goods.

U.S. positions on matters to be considered at the 28th Session of the IMCO Subcommittee on the Carriage of Dangerous Goods scheduled to be held in London September 19–23, 1977.

The progress of IMCO activities of a continuing nature, such as implementation of the International Maritime Dangerous Goods Code (IMDG).

Requests for further information on the meeting should be directed to Captain C. E. Mathieu, United States Coast Guard. He may be reached by telephone on area code 202–426–2296.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, JR.,
Acting Director, Office of Maritime Affairs.

MAY 16, 1977.

[FR Doc.77–14792 Filed 5–24–77;8:45 am]

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE OF THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. CCITT National Committee will meet on June 9, 1977 at 10 a.m. in Room 511 of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Committee will discuss international telecommunications questions relating to telegraph and telex services, and will consider the development of U.S. positions to be taken at an international CCITT meeting to be held June 20–24, 1977 in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: May 16, 1977.

ARTHUR L. FREEMAN,
Chairman, U.S. CCITT National Committee.

[FR Doc.77–14790 Filed 5–24–77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Agnese, Carlos E., 700C Raleigh Avenue, Norfolk, Virginia, convicted on March 29, 1974, in the United States District Court for the Eastern District of Norfolk, Virginia.

Askenette, Alexander, Jr., Star Route, Keshena, Wisconsin, convicted on March 22, 1967, in the County Court of Shawano, Menominee County, Wisconsin.

Baldwin, Ardeth D., 1007 Okoboji Avenue, Milford, Iowa, convicted on September 7, 1948, in the United States District Court, Northern District, Iowa.

Bathke, Randolph O., RFD, Plankinton, South Dakota, convicted on March 25, 1974, in the Fourth Judicial Circuit, Aurora County, South Dakota.

Belcher, Edward F., 220 Chestnut Street, Suffolk, Virginia, convicted on May 8, 1951, in the Circuit Court of Charlotte County, Virginia.

Boynton, David B., 1719 Oak Drive, Augusta, Georgia, convicted on June 16, 1966, in the Superior Court of Richmond County, Georgia.

Brannen, Robert F., 2210 Country Bend South, Lakeland, Florida, convicted on September 5, 1972, in the United States District Court, Middle District of Florida, Tampa, Florida.

Brewer, Jack H., Route 10, Box 621–Z, Fort Worth, Texas, convicted on April 10, 1975, in the United States District Court, Northern District, Fort Worth, Texas.

Brown, Franklin D., 105 Greenbriar Road, Gadsden, Alabama, convicted on October 28, 1954, in the District Court, Northern District of Illinois, Eastern Division.

Browning, Bobby R., Route 1, Box 186, Franklin, North Carolina, convicted on October 9, 1974, in the Superior Court for Jackson County, North Carolina.

Burt, Jay Dee, 1916 Rancho Road, Lincoln, Nebraska, convicted on February 2, 1973, in the Lancaster County District Court, Nebraska.

Caldero, Santiago L., 2716 West Division Street, Chicago, Illinois, convicted on November 6, 1956, in a General Court Martial, Fort Sill, Oklahoma.

Campbell, Neil J., 3318 Comanche, Flint, Michigan, convicted on October 31, 1963, in the Circuit Court for the County of Huron, Michigan.

Carey, Martin F., 6031 Madison, Groves, Texas, convicted on January 8, 1975, in the Criminal District Court of Jefferson County, Texas.

Carey, Martin J., 200 West Hermosa Drive, I–201, Tempe, Arizona, convicted on May 26, 1972, in the Court of Common Pleas, Philadelphia, Pennsylvania.

Chaffin, Robert M., Route 1, Box 5, Drewryville, Virginia, convicted on January 19, 1965, in the Campbell County Circuit Court, Rustberg, Virginia.

Cook, Phillip D., 1027 South Bell Street, Kokomo, Indiana, convicted on March 4, 1966, in the Russell Circuit Court, Jamestown, Kentucky.

Cook, Victor H., 4472 Daisy Street, Springfield, Oregon, convicted on February 27, 1974, in the Circuit Court for Lane County, Oregon.

Dahlin, Roy G., 612 73rd Avenue North, Minneapolis, Minnesota, convicted on October 10, 1950, in the Fourth Judicial District Court, Hennepin County, Minnesota.

DuBois, Raymond L., Jr., 216 East Third Street, Winona, Minnesota, convicted on December 6, 1963, in the Third Judicial District Court, Winona County, Winona, Minnesota.

Flowers, Richmond M., 209 North Oates Street, Dothan, Alabama, convicted on March 10, 1969, in the United States District Court, Northern District, Alabama.

Foss, Gerard J., 291 Garfield Avenue, Battle Creek, Michigan, convicted on November 16, 1962, in the Barry County Circuit Court, Michigan.

Furr, Jerry Franklin, Route 4, Box 154–5, Albermarle, North Carolina, convicted on November 19, 1973, in the Stanly County Superior Court, North Carolina.

Gallaher, Hubert L., Jr., 1168 Sheffield Drive, Lynchburg, Virginia, convicted on June 10, 1974, in the United States District Court, Western District, Virginia, Lynchburg, Virginia.

Genest, Wilfred P., 551 Indian Head Street, Hanson, Massachusetts, convicted on December 3, 1968, in the Boston Municipal Court, Boston, Massachusetts.

Gilmore, Jackson L., Route 2, Box 62, Wadesboro, North Carolina, convicted on August 16, 1971, in the United States District Court, Western District, Charlotte, North Carolina.

Graves, James H., 3244 Southwest 88th Place, Miami, Florida, convicted on July 9, 1973, in the United States District Court, Southern District of California.

Green, Riza L., 1456 South Seventh Street, Louisville, Kentucky, convicted on April 27, 1972, in the Circuit Court, McCracken County, Paducah, Kentucky.

Hammons, Ellis, Jr., 2560 White River Boulevard #2, Muncie, Indiana, convicted on April 24, 1941, in the Delaware County Circuit Court, Muncie, Indiana.

Harlan, Richard C., 2028 West Fourth, Spokane, Washington, convicted on October 4, 1957, in the District Court of Blackhawk County, Waterloo, Iowa.

Hays, Dennis C., 72 Russell Street, Melrose, Massachusetts, convicted on May 7, 1962, in the Plymouth Superior Court, Plymouth, Massachusetts.

Hemphill, Charles L., Box 324, Deer River, Minnesota, convicted on March 26, 1973, in the Ninth Judicial District Court, County of Ithaca, Minnesota.

Huckabee, Donald J., Route 4, Box 180–B, Gainesville, Florida, convicted on April 13, 1959; April 11, 1961; July 5, 1966; and on July 20, 1967, in the Alachua County Circuit Court, Florida.

Hurlburt, Todd O., 1401 Rand Street, Boise, Idaho, convicted on January 28, 1972, in the Yakima County Superior Court, Yakima, Washington.

Kaminski, Bernard W., 1123 North Second Avenue, Wausau, Wisconsin, convicted on March 19, 1973, in the Marathon County Court, Wausau, Wisconsin.

Kimbro, Frank, Bur Cole Ranch, Route 1, Grovetown, Georgia, convicted in October 1934, in the Superior Court, Green County, Georgia; and on April 9, 1957, in the United States District Court, Southern District, Georgia.

Klamert, Glenn E., 2513 Brown Street, Flint, Michigan, convicted on December 30, 1963, in the Circuit Court for Genesee County, Michigan.

Kraft, Monroe E., Box 219, Timber Lake, South Dakota, convicted on September 18, 1973, in the Jones County Circuit Court, Murdo, South Dakota.

Lape, Lillian R., Bay Crest Estates, P.O. Box 5508, Charleston, Oregon, convicted on April 5, 1960, in the Coffee County District Court, Burlington, Kansas.

Lee, David A., RFD #3, Augusta, Maine, convicted on June 10, 1974, in the Penobscot Superior Court, Maine.

Loignon, Kennard L., Box 380, Pine Ridge, South Dakota, convicted on March 5, 1975, in the United States District Court, Maryland.

Loomis, Arthur C., 414 West 12th Street, Vancouver, Washington, convicted on August 19, 1935, in the Superior Court, State of Washington, Clark County.

Luce, Donald E., 360 East Atherton Road, Flint Michigan, convicted on January 15, 1951, and on December 2, 1964, in the Circuit Court for the County of Genesee, Michigan; and on November 20, 1964, in the Circuit Court for the County of Ingham, Michigan.

Mills, James H., R.D. #2, Mercersburg, Pennsylvania, convicted on July 26, 1957, and on January 29, 1960, in the Franklin County Court, Pennsylvania.

Moore, Luther D., 19 Lake Hills, North, Northport, Alabama, convicted on April 18, 1966, in the United States District Court for the Northern District of Alabama.

Packett, Irving D., Jr., Route 2, Warsaw, Virginia, convicted on January 29, 1973, in the Circuit Court of Franklin County, Virginia.

Payne, Wesley D., 508 Sandy Valley Court, Virginia Beach, Virginia, convicted on May 24, 1974, in the United States District Court, Eastern District, Virginia, Norfolk Division.

Pettigrew, Roosevelt, 1810 North Washington Street, Baltimore, Maryland, convicted on August 2, 1973, in the United States District Court, for the District of Maryland.

Pickler, Edgar L., Jr., 7200 Galveston Boulevard, Norfolk, Virginia, convicted on March 29, 1974, in the United States District Court, Eastern District of Virginia, Norfolk, Virginia.

Pullar, Michael W., 1621 Township Street, Sedro Woolley, Washington, convicted on July 13, 1973, in the Superior Court of Skagot County, Washington; and on July 16, 1973, in the Superior Court of Whatcom County, Washington.

Rowan, Donald R., 29 Allen Avenue, Painesville, Ohio, convicted on or about May 22, 1962, in the Common Pleas Court, Lake County, Ohio.

Sandra, Jerry L., Route 1, Hiawassee Georgia, convicted on May 28, 1970, in the United States District Court, Western District, Bryson City, North Carolina.

Schultz, Raymond S., 839 Victory Drive, Westwego, Louisiana, convicted on October 22, 1974, in the United States District Court, Eastern District of Louisiana.

Selber, Robert H., Route 8, Powell, Tennessee, convicted on January 3, 1944; on January 10, 1966; on August 15, 1968; on December 9, 1970; and on January 9, 1974, in the United States District Court, Eastern District, Tennessee.

Snedegar, Robert S., P.O. Box 54, Columbia, Tennessee, convicted on October 11, 1954, in the United States District Court, Middle District of Tennessee; and on May 10, 1955, in the United States District Court, Middle District of Tennessee.

Swelsford, Raymond C., 1308 North Oregon Street, El Paso, Texas, convicted on October 2, 1969, in the United States District Court, Western District, Texas.

Tharpe, Loton E., Route 1, Box 469, Ronda, North Carolina, convicted on or about May 18, 1953; and on May 23, 1957, in the United States District Court, Wilkesboro, North Carolina.

Tickner, Darrel D., 8616 Airline, Houston, Texas, convicted on February 26, 1973, in the District Court, Harris County, Texas.

Tinnerello, Dominic A., Sr., 241 Buttrick Avenue, Bronx, New York, convicted on June 13, 1938, in the County Court of Putnam County, New York.

Williams, Tommy Ray, Box 341, Pascagoula, Mississippi, convicted on June 27, 1966, in a General Court Martial, Fort Bragg, North Carolina.

Yaughn, Franklin L., 1202 Glendale Avenue, Macon, Georgia, convicted on January 18, 1973, in the United States District Court, Northern District of Georgia.

Signed at Washington, D.C., this 17th day of May 1977.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.77–14812 Filed 5–24–77;8:45 am]

[Supplement to Dept. Circular Public Debt Series—No. 12–77]

Office of the Secretary

TREASURY NOTES OF SERIES Q–1979

Interest Rate

MAY 19, 1977.

The Secretary of the Treasury announced on May 18, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 12–77, dated May 12, 1977, will be 6⅛ percent per annum. Accordingly, the notes are hereby redesignated 6⅛ percent Treasury Notes of Series Q–1979. Interest on the notes will be payable at the rate of 6⅛ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77–14811 Filed 5–24–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 397]

ASSIGNMENT OF HEARINGS

MAY 20, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 141431 Sub 2, Cal-Valley Transportation, Inc., now assigned June 8, 1977, at San Francisco, Calif., will be held in the Tax Court, Room 2021, Federal Bldg. and Courthouse, 450 Golden Gate Ave.

MC 121775 Sub 2, Milton B. Anderson and Melvin K. Anderson, A Partnership d.b.a. Overland Express, now assigned June 13, 1977 at Reno, Nevada, will be held in Courtroom 2, 5th Floor, Federal Bldg., 300 Booth.

MC 117604 Sub 11, Meadors Freight Lines, Inc., now assigned September 12, 1977, at Atlanta, Ga., will be held in Room 305, 1252 W. Peachtree St. NW.

MC 117940 Sub 187, Nationwide Carriers, Inc., now assigned June 16, 1977, at Minneapolis, Minn., will be held in Room 627, Federal Bldg., 316 N. Robert Street.

MC 127187 Sub 16, Floyd Duenow, Inc., now assigned June 20, 1977, at Minneapolis, Minn., will be held in Court Room 2, Federal Bldg., U.S. Courthouse, 316 N Robert Street.

MC 133490 Sub 11, Lees Trucking, Inc., now assigned June 14, 1977 at Minneapolis, Minn., will be held in room 627, Federal Bldg., 316 N. Robert Street.

MC 136786 Sub 103, Robco Transportation, Inc., now assigned June 15, 1977, at Minneapolis, Minn., will be held in Room 627, Federal Bldg., 316 N. Robert Street.

MC 123407 Sub 346, Sawyer Transport, Inc., now assigned June 13, 1977, at Boise, Idaho, will be held in Room 429, Federal Bldg., 550, W. Fort Street.

MC 117940 Sub 202, Nationwide Carriers, Inc., now assigned June 27, 1977, at New York City, N.Y., will be held in Room 2839, Federal Bldg., 26 Federal Plaza.

MC 29613 Sub 8, Jayne's Motor Freight, Inc., now assigned June 29, 1977, at New York, N.Y., will be held in Room 2839 Federal Bldg., 26 Federal Plaza.

MC 140389 Sub 9, Osborn Transportation, Inc., now assigned June 20, 1977, at Atlanta, Ga., will be held in Room 305, 1252 W. Peachtree St. N.W., and on July 18, 1977, at San Francisco, Calif., will be held on the 5th Floor Room 510 211 Main Street.

MC 84687 Sub 4, Veterans Truck Line, Inc., now assigned June 14, 1977, at Chicago, Ill., will be held Room 286, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.

MC 29839 Sub 5 and MC 29839 Sub 6, Evergreen Stage Lines, Inc., now assigned June 20, 1977, at Portland, Oregon, will be held in Room 103, Pioneer Courthouse, 555 SW. Yamhill Street.

MC–F–13044, Consolidated Freightways Corp. of Del.—Purchase (Portion)—Point Express, Inc., now assigned June 8, 1977, at Columbus, Ohio, will be held in room 235, Federal Bldg., 85 Marconi Blvd.

MC 110012 Sub 33, Roy Widener Motor Lines, Inc., now assigned June 1, 1977, at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

MC 139279 Sub 2, Conalco Contract Carriers, Inc., now assigned June 3, 1977, at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

MC 142287 Sub 2, Tom Younkin, Inc., now assigned June 2, 1977, at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

MC 139495 Sub 180, National Carriers, Inc., now assigned June 6, 1977, at Columbus, Ohio, will be held in Room 235, Federal Bldg., 85 Marconi Blvd.

MC–F 12774, O'Nan Transportation Co., Inc.—Investigation of Control — Owenton Express, Inc., MC 136018, Tri-City Express, Inc., MC–F 12598, Cooper-Jarrett, Inc.—Purchase—Tri-City Express, Inc., MC 35334 Sub No. 78, Cooper-Jarrett, Inc., MC 134817 and MC 134817 Sub 1, Owenton Express, Inc. now being assigned July 12, 1977 (4 days) for continued hearing at Lexington, Kentucky in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–14931 Filed 5–24–77;8:45 am]

[Rule 19; Ex Parte No. 241; Exemption No. 139]

BURLINGTON NORTHERN INC.

Exemption Under Mandatory Car Service Rules

It appearing that the railroads named herein own numerous 40-ft., narrow door, plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 403, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6 in. or less, equipped with doors less than 9 ft. wide; and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

BURLINGTON NORTHERN INC.

Reporting Marks: BN–CBQ–GN–NP–SPS

Effective 11:30 a.m., May 13, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 13, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–14936 Filed 5–24–77;8:45 am]

[Notice No. 65]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 20, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 78118 (Sub-No. 33TA), filed April 22, 1977. Applicant: W. H. JONES, INC., 35 Witmer Road, Lancaster, Pa. 17602. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and shipping facilities of Container Corporation of America in Hanover Township, Lehigh County, Pa., to points in that portion of New Jersey on and north of U.S. Highway 40. Restricted to traffic originating at and destined to the above origin and destination territory, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Container Corporation of America, Philadelphia, Pa. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 107460 (Sub-No. 67TA), filed April 26, 1977. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from the plantsite of R. R. Donnelley Corporation located at or near Crawfordsville, Ind., to the plantsite of Random House, Inc., located at or near Westminster, Md., under a continuing contract or contracts with R. R. Donnnelley Corporation, for 180 days. Supporting shipper(s): R. R. Donnelley Corporation, 2223 King Drive, Chicago, Ill. 60616. Send protests to: Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 108393 (Sub-No. 119TA), filed May 2, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: Thomas B. Hill (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances, equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, between Lowell, Mich. and Clyde, Ohio, under continuing contract or contracts with Whirlpool Corporation, for 180 days. Supporting shipper: Whirlpool Corporation, Carl R. Anderson, Director of Corporate Traffic, Administrative Center, Benton Harbor, Mich. 49022. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 110525 (Sub-No. 1191TA), filed April 22, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520

East Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phenols*, in bulk, in tank vehicles, from Rotterdam Junction, N.Y., to points of entry on the International Boundary between the United States and Canada located on the St. Lawrence River at Alexandria Bay, N.Y., and Rooseveltown, N.Y., for furtherance of Belleville, Ontario, Canada, for 180 days. Supporting shipper(s): Schenectady Chemicals, Inc., Congress Street, Schenectady, N.Y. 12301. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111812 (Sub-No. 533TA), filed April 26, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, P.O. Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: David Peterson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, except in bulk, in vehicles equipped with mechanical refrigeration from the storage facilities utilized by M&M/MARS, located at or near Hampden Township, Cumberland County, Pa., to Arizona, California, Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M&M/MARS, High Street, Hackettstown, N.J. 07840, Daniel B. Craver, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 117940 (Sub-No. 219TA), filed April 26, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail and wholesale department and hardware stores (except foodstuffs, articles of unusual value, commodities in bulk, and household goods as defined by the Commission) (1) from the Los Angeles, California Harbor Commercial Zone to Brookings, S. Dak. and Minneapolis, Minn., (2) from the facilities of the Port of Tacoma, Wash. and the Port of Seattle, Wash., to Brookings and Sioux Falls, S. Dak., and to points in the Minneapolis-St. Paul, Minnesota Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately four (4) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119789 (Sub-No. 345TA), filed April 25, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Los Angeles, Calif., to points in New York—Representative destinations New York City, Westbury, Mt. Kisco and Waterford, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ward Foods Company, Inc., Gold Ring Meat Division, 3461 E. Vernon Avenue, Los Angeles, Calif. 90058. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 139520 (Sub-No. 2TA) (Correction), filed March 25, 1977, published in the FEDERAL REGISTER issue of April 13, 1977, and republished this issue. Applicant: DEAN MCCARY, doing business as FLYING "S" FEED EXPRESS, Route 4, Box 84, Clovis, N. Mex. 88101. Applicant's representative: James E. Sneed, P.O. Box 2228, Santa Fe, N. Mex 87501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transportating: (a) *Livestock feed*, between points in California, on the one hand, and, on the other, points in Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas and California, (b) *livestock feed ingredients*, between points in the states of Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas and California, under a continuing contract with Wilbur-Ellis Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wilbur-Ellis Company, P.O. Box 427, Clovis, N. Mex. Send protests to: District Supervisor, John H. Kirkemo, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Bldg., 517 Gold Ave., S.W., Albuquerque, N. Mex. 87101. The purpose of this republication is to include part (b) to the requested authority.

No. MC 139824 (Sub-No. 3TA), filed April 27, 1977. Applicant: BITTER-SWEET ENTERPRISES, INC., Rural Route 1, Manhatten, Kans. 66502. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Complete buildings, except prefabricated* building when transported in wheeled undercarriages equipped with hitchball connectors, between Marshall County, Kans., on the one hand, and points in Nebraska, on the other hand, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Meyer Lumber and Hardware, Inc., Box 8, Summerfield, Kans. 66541. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 S. E. Quincy, Topeka, Kans. 66683.

No. MC 143013 (Sub-No. 1TA), (Partial correction), filed March 21, 1977, published in the FEDERAL REGISTER issue of April 20, 1977, republished as a partial correction this issue. Applicant: ROGER CHILTON, doing business as CHILTON TRUCKING COMPANY P.O. Box 841, Beaumont, Tex. 77704. Applicant's representative: John W. Carlisle, 4100 Greenbriar, Suite 215, Houston, Tex. 77098. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Engine or motor parts and equipment and parts thereof*, used on ships and ocean going vessels for the operation, maintenance and safety of such ships and vessels; (5) between the following airport: Bates Field, Mobile, Ala.; Ferguson Regional Airport, Pensacola, Fla.; Clearwater Airport and Albert Whitted Airport, St. Peterburg, Fla.; Tampa International Airport, Peter O. Knoght Airport and Vandenberg Airport, Tampa, Fla.; Page Field, Ft. Myers, Fla.; Executive Airport and Hollywood International Airport, Ft. Lauderdale, Fla.; Key West International Airport, Key West, Fla.; Miami International Airport, Miami, Fla.; Palm Beach International Airport, West Palm Beach, Fla.; Harry W. Nelson Airport, Ft. Pierce, Fla.; Daytona Beach Regional Airport, Daytona Beach, Fla.; St. Augustine Municipal Airport, St. Augustine Fla.; Golden Isles Municipal Airport and Malcom McKinnon Airport, Brunswich, Ga.; Savannah Municipal Airport.

No. MC 143118 (Sub-No. 1TA) (Correction) filed April 8, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, republished as corrected this issue. Applicant: ALFRED SWINFORD, doing business as SWINFORD TRUCKING, Route 8, Hendron Road, Paducah, Ky. 42001. Applicant's representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, Ky. 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire coat hangers*, from the plantsite of Laidlaw Corporation, Metropolis, Ill., to Miami, Fla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Laidlaw Corporation, 1212 5th St., Metropolis, Ill. 62960. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 N. Main Bldg., 100 B. Main St., Suite 2006, Memphis, Tenn. 38103. The purpose of this republication is to correct the applicant's name.

No. MC 143161 (Sub-No. 1TA), filed April 26, 1977. Applicant: BEVERAGE TRANSPORT, INC., Box 13515, 1210 Bluff Road, Columbia, S.C. 29201. Applicant's representative: Harry S. Dent, Drawer 175, West Columbia, S.C. 29169. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages and soft drinks and materials, supplies, and equipment* used in the manufacture, mixing, distribution, and sale of non-alcoholic beverages and soft drinks, between Cheraw, S.C., on the one hand, and, on the other, North Carolina; Georgia; Virginia; West Virginia; Kentucky; Gainesville and Jacksonville, Fla.; Johnson City and Knoxville, Tenn.; Philadelphia and Allentown, Pa.; Mt. Vernon, N.Y.; Cheverly, Forestville, Salisbury and Silver Spring, Md.; Teterboro, Caldwell, Kearny, and Brunswick, N.J.; and Washington, D.C., under a continuing contract, or contracts, with Carolina Canners, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Carolina Canners, Inc., P.O. Box 965, Cheraw, S.C. 29520. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 143177TA, filed April 22, 1977. Applicant: MICHAEL C. STRICKLAND, d.b.a. STRICKLAND FEED SERVICE, West 6th Street, P.O. Box 10, Luverne, Ala. 36049. Applicant's representative: Michael C. Strickland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds and feedstuff* only in bulk, in tank trailers with auger self unloading devices, from the plantsite and storage facilities of Cargill, Inc., Nutrena Feed Division, in the Montgomery Industrial terminal in Montgomery, Ala., to all points in Georgia and Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc., Nutrena Feed Division, P.O. Box 9407, Montgomery, Ala. 36108. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 143206TA, filed April 25, 1977. Applicant: PRIVATE COURIERS, INC., 4661 N. 2th Avenue, Schiller Park, Ill. 60176. Applicant's representative: Donald S. Mullins, 4704 W. Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medicines, drugs, supplies, and equipment*, and parts thereto, normally used in the operation of a hospital or medical clinic, including, but not limited to, medical isotopes, test kits, and radiopharmaceuticals, between the facilities of Abbott Laboratories at or near North Chicago, Ill., on the one hand, and, on the other facilities of air carriers and/or air freight forwarders located in the commercial zones of Chicago and Wheeling, Ill., and Milwaukee, Wis., restricted to traffic having prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Abbott Laboratories, Robert E. Schayer, Manager–Distribution Planning, Abbott Park, AP–8, North Chicago, Ill. 60064. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

PASSENGER APPLICATIONS

No. MC 143176TA, filed April 19, 1977. Applicant: GOLF HOST WEST, INC., d/b/a. TAMARRON INN AND GOLF CLUB, U.S. Highway 550, 18 miles north of Durango, Post Office Drawer 3131, Durange, Colo. 81301. Applicant's representative: Lester I. Sherman, 124 E. 9th St., P.O. Box 1121, Durange, Colo. 81301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Guests of Tamarron Inn and Golf Club*, having subsequent or prior movement by air, between Farmington, N. Mex., and Tamarron 18 miles north of Durango, Colo., and their baggage in the same vehicle or towed trailer. From Tamarron, 18 miles north of Durango, Colo., to Farmington, N. Mex. Airport via the following routes: U.S. Highway 550 south to Durango, U.S. Highways 550 and 160 south five miles, U.S. Highway 550 south to Farmington, N. Mex., and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tamarron Association of Condominum Owners, Inc., 124 E. 9th St., P.O. Box 1121, Durango, Colo. 81301. Send protests to: Herbert C. Ruoff, District Supervisor, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 143202TA, filed April 27, 1977. Applicant: E & P AUTO LIVERY INC., 43 Easton Avenue, New Brunswick, N.J. 08003. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in nonscheduled door to door service of not more than six passengers in any one vehicle not including driver, over irregular routes, between points in Middlesex County, N.J., on the one hand, and, on the other, John F. Kennedy International Airport and LaGuardia Airport, New York, N.Y., and Philadelphia International Airport, Philadelphia, Pa., for 180 days. Supporting shipper(s): There are approximately four (4) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14933 Filed 5-24-77;8:45 am]

[Notice No. 66]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 20, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmited.

MOTOR CARRIERS OF PROPERTY

No. MC 35807 (Sub-No. 74TA), filed May 13, 1977. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, 210 Baker St. NW., Atlanta, Ga. 30302. Applicant's representative: Steven J. Thatcher (same address as applicant). Authority sought to operate as a *contract carrier*, b. motor vehicle, over irregular routes, transporting:

Coin, currency and securities, between Denver, Colo., and all points and places in Jewell, Mitchell, Lincoln, Ellsworth, Rice, Reno, Kingman, and Harper Counties, Kans., and all points and places in Kansas west thereof, under a continuing contract or contracts with Federal Reserve Bank of Kansas City, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Federal Reserve Bank of Kansas City, 925 Grand, Kansas City, Mo. 64198. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 40494 (Sub-No. 12TA), filed April 18, 1977. Applicant: HILBURN TRUCKING, INC., Sixth and Locust, Wellsville, Kans. 66092. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *New and used combines, knocked down or set up, and parts thereof* between Independence, Missouri on the one hand, and, on the other, points and places in the states of Nebraska, Kansas, Colorado, Illinois, Wisconsin, Indiana, Ohio, and Michigan, for 180 days. Supporting shipper: Allis-Chalmers, P.O. Box 1099, Independence, Mo. 64051. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 48958 (Sub-No. 132TA), filed May 5, 1977. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, Colo. 80216. Applicant's representative: Mr. Lee Lucero (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged meats and meat products*, in mechanically refrigerated equipment, from the plantsite and storage facilities of Land O' Frost, Inc., at Searcy, Ark., to Phoenix, Ariz., and points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Land O' Frost, Inc., 16850 Chicago Avenue, Lansing, Ill. 60438. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 71642 (Sub-No. 25TA) (Correction), filed March 25, 1977, published in the FEDERAL REGISTER issue of April 13, 1977, republished as corrected this issue. Applicant: CONTRACTUAL CARRIERS, INC., Harmony Industrial Park, Allen Drive, Newark, Del. 19711. Applicant's representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemically hardened fibre and insulating materials, articles, sheets, shapes and forms, including plastics and plastic articles, sheets, shapes, forms, rods, tubes, grinding, and pellets*, for the account of Keysor-Century Corporations, between Delaware City Commercial Zone, and Newark, Del., on the one hand, and, the commercial zones of Hialeah and Miami, Fla., and Mt. Vernon, N.Y., and Holtsville and Holbrook, Long Island, N.Y., and return from these points, under a continuing contract with Keysor Century Corp., for 180 days. Supporting shipper: Keysor Century Corp., P.O. Box 311, Delaware City, Del. 19706. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Rm. 3238, Philadelphia, Pa., 19106. The purpose of this republication is to indicate the location as to where protests are to be filed.

No. MC 73165 (Sub-No. 404TA), filed May 5, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from Stephens and East Camden, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Elk Corporation, P.O. Box 37, Stephens, Ark. Send protests to Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 82063 (Sub-No. 79TA), filed May 6, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, St. Louis, Mo. 63127. Applicant's representative: W. E. Klipsch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic resins*, in bulk, in tank vehicles, from Monticello, Ark., to Decatur, Ala., Jeffersonville, Ind., Louisville, Ky., New Orleans, La., and Houston, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Empro Corporation, 5250 West 74th Street, Edina, Minn. 55435. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Rm. 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 96938 (Sub-No. 6TA), filed May 10, 1977. Applicant: ARKANSAS TRANSIT HOMES, INC., 8400 Mabelvale Pike, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except recreational vehicles); and buildings, in sections, mounted on wheeled undercarriages (except prefabricated buildings) in secondary movements, in truckaway service: (1) from points in Mississippi to points in Arkansas; (2) between points in Texas and Louisiana, on the one hand, and, on the other, points in Arkansas; and (3) from points in Arkansas to points in Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately ten (10) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 105566 (Sub-No. 142TA), filed May 5, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, 6901 Old Keene Mill Road, Suite 406, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, and toilet preparations*, from Bristol, Tennessee to Elmhurst, Ill., Dallas, Tex., and Sacramento and San Francisco, Calif. Supporting shipper: Beecham Laboratories (Division of Beecham, Inc.), 501 5th Street, Bristol, Tenn. 37620. Send protests to: District Supervisor J. P. Werthamann, Interstate Commerce Commission, Bureau of Operations, Rm. 1465, 210 N. 12th Street, St. Louis, Mo. 62101.

No. MC 107295 (Sub-No. 850TA), filed May 6, 1977. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, including *returned or refused shipments*, from International Falls, Minn. to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin, for 180 days. Supporting shipper: G. B. Bundy, Asst. General Manager, Transportation Services, Boise Cascade Corporation, P.O. Box 2885, Portland, Oreg. 97208. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 111045 (Sub-No. 141TA), filed May 6, 1977. Applicant: REDWING CARRIERS, INC., P.O. Box 426, 7809 Palm River Road, Tampa, Fla. 33601. Applicant's representative: L. W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from the plantsite and storage facilities of Alpine Laboratories, Inc., at or near Bay Minette, Ala.; to points in the United States, except Alaska and Hawaii, for 180 days. Supporting shipper: Alpine Laboratories, Inc., P.O. Box 147, Bay Minette, Ala. 36507. Send protests to: Dona M. Jones, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 111170 (Sub-No. 236TA), filed May 3, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Ave., El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, Burner FS–2, from Conway, Ark., to Lone Star Ammunition Depot, Texarkana, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Department of Defense, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111302 (Sub-No. 106TA), filed May 4, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Amherst Rd., Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid citric acid*, in bulk, in tank vehicles, from Elkhart, Ind. to New Johnsonville, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, Ind. 46514. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 111397 (Sub-No. 123TA), filed May 6, 1977. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th Street, Paducah, Ky. 42001. Applicant's representative: Mr. H. S. Melton, Jr., P.O. Box 1407, Paducah, Ky 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uranium hexafluoride* in steel cylinders from port of entry on the United States-Canada Boundary Line at Port Huron, Mich., to Energy Research and Development Agency Plant sites, at or near Sargents, Ohio, at Oak Ridge, Tenn., and at points in McCracken County, Ky. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eldorado Nuclear Limited, Port Hope, Ontario, Canada. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, Tenn. 38103.

No. MC 112520 (Sub-No. 339TA), filed May 6, 1977. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, 122 Appleyard Drive, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed clay catalyst*, in bulk, in tank vehicles, from Attapulgus, Ga., to Cyril, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Englehard Minerals & Chemicals, Menlo Park, Edison, N.J. 08817. Send protests to: Dist. Supv. G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 114457 (Sub-No. 305TA), filed May 11, 1977. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composite containers*, from Ponca City, Okla., to St. Paul, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Metalcote Grease & Oil Co., P.O. Box 16435, St. Paul, Minn. 55116. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114457 (Sub-No. 307TA), filed May 12, 1977. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from International Falls, Minn., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan,, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota and Wisconsin, for 180 days. Supporting shipper(s): Boise Cascade Corporation, P.O. Box 2885, Portland, Oreg. 97208. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 116280 (Sub-No. 17TA), filed May 9, 1977. Applicant: W. C. Mc QUAIDE, INC., 153 Macridge Avenue, Johnstown, Pa. 15904. Applicant's representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, Mich. 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* limited to individual articles, not exceeding 100 pounds in weight from one consignor to one consignee in a single day, on bills of lading of surface, interstate freight forwarders, between points in Pennsylvania; Jefferson, Ashtabula, Trumbull, Mahoning, and Cuyahoga Counties, Ohio; Chautauqua, Chemung, Broome, and Orange Counties, New York; Warren, Mercer, and Camden Counties, New Jersey; New Castle County, Delaware; Baltimore, and Washington Counties, Maryland; and Hancock, Brooke, Ohio and Monongalia Counties, W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Delivery Systems, Inc., 300 East Seven Mile Road, Detroit, Mich. 48203. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 116459 (Sub-No. 63TA), filed May 6, 1977. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Pineville Rd., Route 5, Chattanooga, Tenn. 37405. Applicant's representative: Charles T. Williams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material* from Tyner, Tenn., to points in Alabama, Georgia, and Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: CF Industries, Inc., Salem Lake Drive, Long Grove, Ill. 60047. Send protests to: Joe J. Tate, District Supervisor Bureau of Operations, Interstate Commerce Commission, Suite A–422, U.S. Court House, Nashville, Tenn. 37219.

No. MC 118142 (Sub-No. 145TA), filed May 3, 1977. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, (having prior movement by water), from Norfolk, Va., to the states of Ohio, Indiana, Illinois, Missouri, Kansas, Colorado, Oklahoma, Arkansas, Tennessee, Nebraska, Iowa, Michigan and Wisconsin, for 180 days. Supporting shipper(s): Dominion Import Co., Inc., 700 Boundary Avenue, Chesapeake, Va. 23324. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, 110 North Market, Wichita, Kans. 67202.

No. MC 118142 (Sub-No. 148TA), filed May 6, 1977. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and dry processed potatoes*, from the facilities of American Potatoe Co., at or near Plover, Wis., to points and places in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Tennessee and Texas, for 180 days. Supporting shipper(s): American Potatoe Company, 4600 Bank of America Center, San Francisco, Calif. 94104. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin

Building, 110 North Market, Wichita, Kans. 67202.

No. MC 118989 (Sub-No. 158TA), filed May 11, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth St., Milwaukee, Wis. 53221. Applicant's representative: Rolland K. Draves (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty aluminum containers*, from Milwaukee, Wis., to Perry, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Continental Can Company, 10050 Regency Circle, Omaha, Nebr. 68114 (Richard S. Skalla). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 119726 (Sub-No. 89TA), filed May 3, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, Suite 1000, 130 E. Washington St., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures therefore*, from the plantsite of Midland Glass Company located at or near Warner Robins, Ga., to Williamsburg, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 119908 (Sub-No. 41TA) filed May 2, 1977. Applicant: WESTERN LINES, INC., P.O. Box 1145, 3523 N. McCarty, Houston, Texas 77029. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Bldg., Austin, Tex. 78702. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, Lumber from Dudley and Blackshear, Ga., to points in Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gilman Paper Company, P.O. Box 520, St. Marys, Ga. 31558. Send protests to: District Supervisor John Mensing, Interstate Commerce Commission, 515 Rusk, 8610 Federal Bldg., Houston, Tex. 77002.

No. MC 123407 (Sub-No. 370TA), filed May 4, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the facilities of Fry Division of Owens Corning Fiberglass located at or near North Kansas City, Mo., to points in the states of Minnesota, North Dakota, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fry Division of Owens Corning Fiberglass, 5818 Archer Road, Summit (Argo P.O.), Ill. 60501. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 124947 (Sub-No. 58TA), filed May 6, 1977. Applicant: MACHINERY TRANSPORTS, INC., 608 Cass St., Box 2338, East Peoria, Ill. 61611. Applicant's representative: T. M. Brown, 223 Cuidad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, forest products and wood products*, from Idaho, Montana, Oregon and Washington to points in Texas, Oklahoma, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, Minnesota, and Omaha, Nebr. Restricted to the transportation of traffic for the account of the Wickes Corporation and its wholly owned subsidiaries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Wickes Corporation, 515 N. Washington Ave., Saginaw, Mich. 48607. Send protests to: District Supervisor Joe Green, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 125023 (Sub-No. 45TA), filed May 11, 1977. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Avenue, P.O. Box 9117, Erie, Pa. 16504. Applicant's representative: Richard G. McCurdy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from facilities of Pabst Brewing Company, Houston County, Ga., to points in Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately five (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 129994 (Sub-No. 22TA), filed May 5, 1977. Applicant: RAY BETHERS TRUCKING, INC., a Utah corporation, 176 West Central Avenue, Murray, Utah 84107. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, (1) from points in Utah, Arizona, and Nevada to California, and (2) from Nevada and Utah to Arizona, for 180 days. Supporting shipper: R. & D. Enterproses. 1855 South Beverly, Casper, Wyo. 82601 (Daniel E. Indgjer, Partner). Send protests to: District Supervisor Lyle D. Hlefer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 135452 (Sub-No. 3TA), filed May 11, 1977. Applicant: JOHN R. SHEARON & FRED D. SHEARON, individuals, doing business as SHEARON TRUCKING, P.O. Box 387, Ashland City, Tenn. 37015. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Water heaters*, from Ashland City, Tenn., to Alabama, Arizona, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Minnesota, Missouri, Oklahoma, Ohio, Pennsylvania, Texas and West Virginia, under a continuing contract, or contracts, with State Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): State Industries, Inc., Ashland City, Tenn. 37015. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37219.

No. MC 135684 (Sub-No. 38TA), filed May 4, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Rd., Flemington, N.J. 08822. Applicant's representative: Ronald L. Knorowski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products*, from Bohemia, Long Island, N.Y., to Minneapolis, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tenneco Chemicals, Inc., West 100 Century Road, Paramus, N.J. 07652. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 138777 (Sub-No. 1TA), filed May 12, 1977. Applicant: FETZ INCORPORATED, 2784 Woodwin Rd., Doraville, Ga. 30340. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Naphtha*, in bulk, in tank vehicles, from the facilities of Young Refining Company at Douglasville, Ga., to Oxford, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Young Refining Corporation, P.O. Box 775, Douglasville, Ga. 30134. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtreet St., NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 139254 (Sub-No. 10TA), filed May 5, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U. Snavely, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), from the facilities of Champion International Corporation at Asheville, Canton, Fletcher and Waynesville, N.C., to points in New York, New Jersey and Pennsylvania, for 180 days. Supporting shipper(s): Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45020. Send Protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio. 44199.

No. MC 141546 (Sub-No. 17TA), filed May 10, 1977. Applicant: BULK TRANSPORT SERVICE, INC., 1 Dundee Park, Andover, Mass. 01810. Applicant's representative: Kenneth B. Williams, 84 State St., Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* in bulk, in tank trucks, from Hudson and Greenport, in Columbia County, N.Y., to points in Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New Jersey, and Pennsylvania, for 180 days. Supporting shipper(s): Independent Cement Corporation, 65 William St., Wellesley Office Park, Wellesley, Mass. 02181. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

No. MC 141804 (Sub-No. 55TA), filed May 9, 1977. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representativve: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hair and skin products, toilet preparations, and equipment, materials, and supplies* used in the production and distribution thereof (except commodities in bulk) between points in Ventura, Los Angeles, Orange, San Bernardino, and Riverside Counties, Calif., on the one hand, and, on the other, West Memphis, Ark., for 180 days. Supporting shipper(s): Redken Laboratories, Inc., 14721 Califa Street, Van Nuys, Calif. 91411. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141804 (Sub-No. 56TA), filed May 9, 1977. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hair and skin products, toilet preparations, and equipment, materials, and supplies* used in the production and distribution thereof, (except commmodities in bulk), between points in Ventura, Los Angeles, Orange, San Bernardino, and Riverside Counties, Calif., on the one hand, and, on the other, points in Minnesota, Iowa, Wisconsin, Kansas, Missouri, Nebraska, North Dakota, South Dakota, and Kentucky, for 180 days. Supporting shipper(s): Redken Laboratories, Inc., 14721 Califa Street, Van Nuys, Calif. 91411. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141804 (Sub-No. 58TA), filed May 11, 1977. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 422, 847 Springfield Highway, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except commodities in bulk), from Frankfort, Louisville, Owensboro, and Lawrenceburg, Ky.; Cincinnati, Ohio; Lynchburg, Tenn.; Detroit and Allen Park, Mich.; Lawrenceburg, Ind.; St. Louis, Mo.; Dundalk and Relay, Md.; Linfield and Philadelphia, Pa.; Hammondsport, N.Y.; Edison and Lawrenceville, N.J.; Plainfield and Chicago, Ill., to points in California, Arizona, and Nevada, for 180 days. Supporting shipper(s): There are approximately seven (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 142177 (Sub-No. 2TA), filed April 26, 1977. Applicant: B.W.C.S., INC., 14 Park Avenue, Salem, N.H. 03079. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-negotiable checks, drafts, deposit slips, and documents*, from Amherst, N.H., to Brookline and Boston, Mass., and *data processing papers, cancelled checks, and audit and accounting media*, from Brookline and Boston, Mass., to Amherst, N.H., restricted against the transportation of any package or article weighing more than 70 pounds or exceeding 108 inches in length and girth combined and each package or article shall be considered as a separate and distinct shipment, and restricted against transportation of packages or articles weighing in the aggregate more than 150 pounds from one consignor at one location to one consignee at one location on any one day, for 180 days. Supporting shipper: Glenn W. Vorce, Vice President and Treasurer, Amherst Bank & Trust Company, Junction 101A and 122, Amherst, N.H. 03031. Send Protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 415 Federal Building, 55 Pleasant Street, Concord, N.H. 03301.

No. MC 142353 (Sub-No. 2TA), filed May 11, 1977. Applicant: ADAMS SAND CO., INC., Highway 90, General Delivery, Mossy Head, Fla. 32434. Applicant's representative: Edward L. Adams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in side-dump trailers. From Cottondale and Pace, Fla., to points in Alabama and Georgia on and south of U.S. Highway 80 and west of Interstate 75, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, Okla. 73125. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 142550 (Sub 1TA), filed April 11, 1977. Applicant: BERT E. JESSUP TRANSPORTATION, INC., 3387 Wrightwood Drive, Studio City, Calif. 91604. Applicant's representative: Bert E. Jessup (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice Cream*, from Seattle, Wash., to Los Angeles, Calif., under a continuing contract or contracts with Adohr Farms, for 180 days. Supporting shipper: Adohr Farms 4002 W. Westminister Avenue, Santa Ana, Calif. Send protests to: Irene Carolos, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142941 (Sub-No. 4TA), filed May 13, 1977. Applicant: SCARBOROUGH TRUCK LINES, 1313 N. 25th Avenue, Phoenix, Ariz. 85009. Applicant's representative: Lewis P. Ames, 10th Floor, 111 West Monroe, Phoenix, Ariz. 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, prepared and frozen*, NOI, from the plant site and storage facilities of Kitchens of Sara Lee, located at or near Deerfield, Ill., and New Hampton, Iowa, to points in Arizona, California, New Mexico, and Nevada, for 180 days. Applicant has also filed an underlying ETA

seeking up to 90 days of operating authority. Supporting shipper(s): Kitchens of Sara Lee, 500 Waukeegan Road, Deerfield, Ill. 60015. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427, Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 143155TA, filed April 13, 1977. Applicant: RICHARD'S HAULING, 508 Clinton Avenue, Wyckoff, N.J. 07481. Applicant's representative: Mr. Ralph August, 222 Greenridge Road, Franklin Lakes, N.J. 07417. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cut and uncut rolls and cartons of fabrics*, between Fairview, N.J., and Lawrenceville, Ga., under a continuing contract with August Fabrics, Inc., for 180 days. Supporting shipper: August Fabrics, Inc., 37 Industrial Avenue, Fairview, N.J. 07022. Send protests to: District Supervisor, Joel Morrows, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 143179TA, filed April 19, 1977. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, Nebr. 68101. Applicant's representative: Marshall D. Becker, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane foam*, (1) from Middleton, Wis., to points in Iowa (except Council Bluffs), Illinois, Minnesota, Michigan, Missouri, and Indiana; and (2) between Council Bluffs, Iowa, and Middleton, Wis., under a continuing contract, or contracts, with Future Foam, Inc., for 180 days. Supporting shipper(s): Foster L. Kent, Administration Manager/Sales and Marketing, Future Foam, Inc., 400 North 10th Street, Council Bluffs, Iowa 51501. Send protests to: Carrol Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 143180TA, filed April 20, 1977. Applicant: B & F DISTRIBUTING CO., 325 N. Lee Avenue, Idaho Falls, Idaho 83401. Applicant's representative: William D. Faler, P.O. Box 129, Idaho Falls, Idaho 83401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and wine*, from Los Angeles, Fairfield, Oakland, Santa Rosa, Napa, Modesto, San Jose, all in California, to Pocatello, Soda Springs, Idaho Falls, and Salmon, all in Idaho, under a continuing contract or contracts with K & S Distributors, for 180 days. Supporting shipper(s): K & S Distributors, P.O. Box 852, Salmon, Idaho 83467. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., Box 07, Boise, Idaho 83724.

No. MC 143203TA, filed April 27, 1977. Applicant: UNITED TRUCKING CO., P.O. Box 1158, Miles City, Mont. 59301. Applicant's representative, Joe Gerbase, 100 Transwestern Building, 404 North 31st St., Billings, Mont. 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages and empty containers*, between Olympia, Wash., on the one hand, and, on the other, Miles City, Mont., under a continuing contract or contracts with Olympia Brewing Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. H. Rutledge, Traffic Manager, Olympia Brewing Company, P.O. Box 947, Olympia, Wash. 98501. Send protests to: District Supervisor Paul J. Labana, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 143210 (Sub-No. 1TA), filed May 12, 1977. Applicant: W. C. HALL, P.O. Box 102, Callao, Va. 22435. Applicant's representative: Calvin F. Major, 200 Grace Street, Richmond, Va. 23220. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural limestone*, in bulk, from Texas, Md., to Heathsville and Village, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alliance Fertilizer Corp., P.O. Box 56, Heathsville, Va. 22473; Village Seed Service, Village, Va. Send protests to: District Supervisor Paul Collins, Interstate Commerce Commission, Room 10-502, Federal Building, 400 North Eighth Street, Richmond, Va. 23240.

No. MC 143230 (Sub-No. 1TA), filed May 5, 1977. Applicant: LUCK TRUCKING, INC., R.R. 1, Box 190, Wolcott, Ind. 47995. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Anhydrous ammonia*, from Huntington, Ind., to Ohio and Michigan; (2) *Liquid fertilizer*, from Yoder, Ind., to Ohio and Michigan; and from Kentland, Indiana, to Illinois for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Amoco Oil Company, 200 East Randolph Drive, Chicago, Ill. 60601. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

PASSENGER APPLICATIONS

No. MC 1515 (Sub-No. 227TA), filed May 13, 1977. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Suite 1602, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, and newspapers* in regular route service and *passengers and their baggage in charter service*. Operate from, to, or between: (A) Regular route: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, between Chico, Calif., and the junction of California Highway 191 and California Highway 70, serving all intermediate points: from Chicago over Skyway Road to Paradise, thence over California Highway 191 to junction California Highway 70 and return over the same route; (B) Irregular route: *Passengers and their baggage*, in one-way and round-trip charter operations: from points in Butte County, Calif., to all points in the United States (including Alaska but excluding Hawaii). Applicant seeks the requested authority to establish direct service to the City of Paradise, Calif. Passengers and bus express shippers from this community must now travel by other means approximately 20 miles to avail themselves of existing Greyhound service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Passenger Public. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427, Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 143162 (Sub-No. 1TA), filed April 28, 1977. Applicant: KLATT TRAVEL, INC., 651 Main Avenue, P.O. Box 1161, Durango, Colo. 81301. Applicant's representative: William F. Schenkein, Suite 1600, 718 Seventeenth Street, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, originating on or destined to Frontier Airlines flights, and to be transported in vehicles limited in capacity to no more than 12 passengers and baggage; between Durango, Colo., and Farmington, New Mexico Airport over U.S. Highway 550, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Frontier Airlines, 8250 Smith Road, Denver, Colo. 80207; Durango Chamber of Commerce, 2301 North Main, P.O. Box 1311, Durango, Colo. 81301. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14934 Filed 5-24-77;8:45 am]

[Notice No. AB 142]

NEW ORLEANS & LOWER COAST RAILROAD CO.

Abandonment of Line of Railroad Known as "South End" Between Port Sulphur and Empire in Plaquemine Parish, Louisiana

MAY 17, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental

threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq. 2. A notice setting forth this conclusion was served April 20, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14932 Filed 5-24-77;8:45 am]

[Amdt. No. 2 to I.C.C. Order No. 26 Under Service Order No. 1252]

Rerouting of Traffic

GREEN MOUNTAIN RAILROAD CORP.

Upon further consideration of I.C.C. Order No. 26, (Green Mountain Railroad Corporation) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 26 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., July 15, 1977, unless otherwise modified, changed or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., May 15, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 13, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-14936 Filed 5-24-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Thursday, May 26, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Amendment of Part 91 of the Commission's Rules to require type acceptance for transmitters used at radiolocation stations (Docket No. 20547).

General—2—Photographs on Radio Operator Certificates.

Safety and Special Radio Services—1—Application of Western Information Network Association (WIN) for Review of Bureau action denying WIN's petition for waiver of Section 1.932 of the Rules and reinstatement of its lapsed authorizations for private microwave facilities to operate a closed circuit educational television system in the 6575-6875 and 12,200-12,700 MHz frequency bands.

Safety and Special Radio Services—2—Notice of Proposed Rule Making relating to amendment of Part 83 to delete the requirement that voluntarily equipped ship stations be provided with a copy of Part 83 of the rules, and to require manufacturers to supply an instructional sheet with the radio equipment package.

Common Carrier—1—A Motion for Leave to File Comments filed by the Independent Data Communications Manufacturers Association, Inc. to supplement its petition for reconsideration of the Final Decision and Order in Docket No. 20288 (DDS), FCC 77-35 (released January 17, 1977).

Common Carrier—2—RCA Global Communications, Inc. (RCA Globcom) Request for Stay of Commission Final Decision and Order in Docket No. 20452, Interconnection Facilities Provided to the International Record Carriers, FCC 77-176, adopted March 8, 1977, released March 23, 1977.

Cable Television—1—Joint petition requesting issuance of order to show cause (CSC-167) filed by Station WPSD-TV (NBC, Channel 6), Paducah, Kentucky, inter alia, directed against Jackson Cable TV, Jackson, Missouri.

Renewal—1—Application (BRTT-775) of Gilbert Nathanson for renewal of license of TV translator K73AD, Palm Springs and Desert Hot Springs, California.

Special—1—Reconsideration of the July 20, 1976 Rate Integration Order, 61 FCC 2d 380 (1976).

Special—2—Creation of Joint Board for the purpose of determining the Separations methodologies applicable to Alaska and Hawaii.

Special—3—Creation of Joint Board for the purpose of prescribing the separations methodologies applicable to Puerto Rico and Virgin Islands.

Special—4—Carrier Agreement setting forth a proposal to implement MTS rate integration for Puerto Rico and Virgin Islands.

Special—5—Petitions to Reject or Suspend and Investigate tariff changes contained in Graphnet Systems, Inc. Transmittal No. 28.

Special—6—Memorandum Opinion and Notice of Proposed Rule Making concerning uniform settlement rates on parallel international communications routes.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public, Information Officer, telephone number 202-632-7260. .

Issued: May 19, 1977.

[S-484-77 Filed 5-20-77;3:46 pm]

2

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Follows scheduled open meeting Thursday, May 26, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petition to Add Disqualification Issue in the Norfolk, Virginia WTAR-TV comparative renewal proceeding (Docket Nos. 18791-2).

Hearing—2—Request by WNIA for extension of silence authority pendente lite in the Rochester and Cheekowaga, New York, standard broadcast renewal proceedings (Docket Nos. 20791-2).

Complaints and Compliance—1—Field investigation into the operation of Station WAEO-TV, Rhinelander, Wisconsin.

Complaints and Compliance—2—Field investigation into the operation of Station WDRK (FM), Greenville, Ohio.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: May 19, 1977.

[S-485-77 Filed 5-20-77;3:46 pm]

3

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Follows 2 p.m. Oral Argument, Thursday, May 26, 1977.

PLACE: Room 814, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTER TO BE CONSIDERED:

Instructions to the staff following oral argument on the exceptions to the Initial Decision in the WLLE(AM), Raleigh, North Carolina, proceeding (Docket No. 19908).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: May 19, 1977.

[S-486-77 Filed 5-20-77;3:46 pm]

4

AGENCY HOLDING THE MEETING: Federal Trade Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 19, 1977, page 25827.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, May 25, 1977.

CHANGES IN THE MEETING: The meeting is now scheduled for Wednesday, June 1, 1977.

[S-483-77 Filed 5-20-77;2:38 pm]

5

AGENCY HOLDING THE MEETING: National Mediation Board.

TIME AND DATE: 2 p.m.; Wednesday, June 1, 1977.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Amendment to NMB fee schedule for Freedom of Information Act records searches.

(2) Findings Upon Investigation in NMB Case No. R-4582, Frontier Airlines, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel. 202-523-5920.

(Date of Notice: May 23, 1977.)

[S-488-77 Filed 5-23-77;11:17 am]

Federal register

WEDNESDAY, MAY 25, 1977

PART II



ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLES

Emission Control System Performance Warranty Regulations—Short Test Establishment

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 85]

[FRL 689-6]

MOTOR VEHICLES

Emission Control System Performance Warranty Regulations—Short Test Establishment

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: Section 207(b) of the Clean Air Act, 42 U.S.C. 1857f-5a, deals with the periodic inspection of motor vehicles to determine whether they comply in actual use with applicable air pollution emission standards, and with the remedy of any deficiencies identified in such inspections. Two separate rulemakings are required to fully implement Section 207 (b): (a) The establishment by regulation of testing methods and procedures for ascertaining whether a vehicle complies with the emission standard, and (b) the establishment by regulation of a warranty by which the owner of a vehicle that fails to demonstrate in such a test that it complies with emission standards will have his vehicle repaired without cost by its manufacturer if the owner has properly operated and maintained his vehicle.

This Notice of Proposed Rulemaking deals with the first of these matters, i.e., the establishment of testing methods and procedures for ascertaining whether a vehicle complies with emission standards. Regulations dealing with the warranty for cars failing such a test are being proposed today as Subpart V of Part 85 of Title 40 of the Code of Federal Regulations.

DATES: All relevant material received on or before August 23, 1977, will be considered.

Final regulations, modified as the Administrator deems appropriate after consideration of comments, will be promulgated as soon as practicable after such consideration and will be applicable to model year 1979 and later light-duty vehicles and light-duty trucks.

ADDRESS: Interested persons may participate in this rulemaking by submitting written comments to the Administrator, Environmental Protection Agency, Attention: Office of Mobile Source Air Pollution Control (AW-455), 401 M Street SW., Washington, D.C. 20460. Ten copies are requested but not required.

FOR FURTHER INFORMATION CONTACT:

Paul Lapsley, Regulatory Management Staff, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, Washington, D.C. 20460 at 202-755-0596.

SUPPLEMENTARY INFORMATION:

Statutory Requirements and Purpose

The statutory requirement for a "short test" capable of being correlated with the Federal Test Procedure is stated in Section 207(b) of the Clean Air Act:

> If the Administrator determines that (1) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 202(d)), each vehicle and engine to which regulations under section 202 apply complies with the emmission standards of such regulations, (ii) such methods and procedures are in accordance with good engineering practices, and (iii) such methods and procedures are reasonably capable of being correlated with tests conducted under section 206(a)(1), then—
>
> (1) he shall establish such methods and procedures by regulation, * * *

The requirement that the 207(b) test (hereinafter called a short test) reasonably correlate with the Federal Test Procedure (FTP) conducted under section 206(a)(1) has proved to be a difficult and controversial task. A short test must be performed in a short time on a fully warmed up vehicle, is limited at best to a very few vehicle speed/load conditions, and will be performed under a wide range of environmental conditions (i.e., temperature, humidity, human factors and instrument factors which are either uncontrollable or under limited control). Conversely, the FTP is performed with a cold start, includes a very large number of vehicle speed and load conditions simulating a typical stop-and-go urban commutation, and is performed under closely controlled laboratory environmental conditions (temperature and humidity are rigidly controlled and test personnel are under engineering quality control supervision).

The identification of testing methods and procedures and the determination that these methods and procedures are in accordance with good engineering practice and are reasonably capable of being correlated with tests conducted under section 206(a)(1) has involved the agency in an extensive testing program in which the short tests (plus the FTP) were administered to each vehicle in the following fleets:

a. *The Experimental Catalyst Fleet.* This fleet consisted of approximately fifty 1973 model year automobiles which had been fitted with catalysts and secondary air injection.

b. *The 1974 Model Year Fleet.* This fleet consisted of approximately one hundred and fifty privately owned 1974 model year automobiles and represented non-catalyst 1975 technology.

c. *The Defects Test Fleet.* This fleet was comprised of five catalyst-equipped cars. The vehicles were first set to the manufacturers' specifications and then a series of defects were introduced and the subsequent effect on emissions recorded.

d. *300-Car Test Fleet.* Approximately one hundred 1975 model year privately owned production vehicles were selected in each of three cities: Chicago, Houston and Phoenix.

In addition, EPA has another program planned to generate additional data on correlatability:

e. *State/EPA Pilot Project.* Approximately 2400, 1975/76 model year light-duty vehicles will be tested in Portland, Oregon by the FTP and the proposed short tests. Approximately 86 engine-vehicle groups will be represented in the sample.

Finally, EPA is evaluating commercially available test equipment for measuring hydrocarbons (HC), carbon monoxide (CO) and oxides of nitrogen (NOx) in terms of accuracy, repeatability, response time and deficiencies in order to provide reports on which is acceptable.

The Proposed Regulations

On the basis of the data which have been collected from light-duty vehicles in the four test fleets described above, the Agency proposes that all of the following five tests be designated as "short tests" which meet the statutory requirements of availability, correlation and good engineering practice: The idle test, the Federal 3 Mode, the Clayton Key Mode,[1] The Federal Short Cycle, and the N.Y./N.J. composite test. These test procedures are discussed in detail in Subpart W and briefly described below.

(a) *Idle test.* The raw exhaust gas is measured with simple instrumentation to determine HC and CO concentration in the raw exhaust gases with the engine in an idling condition. Procedural variations of the idle test studied included running the test with the automatic transmission in neutral vs. drive, and idle speed at normal RPM vs. high RPM with the transmission in neutral. NO_x concentration cannot be meaningfully measured at idle since NO_x emissions are insignificant under idle conditions—an important limitation of the idle test. The idle test has been the predominant inspection test procedure utilized in currently operational and contemplated state programs.

(b) *Steady State Modal Tests. (Federal 3 Mode and Clayton Key Mode).* The raw exhaust gas is measured with simple instrumentation to determine HC, CO, and NO_x concentrations while the vehicle is driven under prescribed load conditions at two different speeds and at idle. A dynamometer is used in this test to simulate nonvarying speed and load conditions. Procedural variations between the two tests involve the severity of the load simulated. The Clayton Key Mode test is currently being evaluated by the states of Arizona and California.

(c) *Transient tests. (Federal Short Cycle and NY/NJ Composite Test).* A sample of the dilute exhaust gas (a CVS unit is used)[2] is collected in a bag while the vehicle is driven on a dynamometer to simulate a driving cycle that includes acceleration, deceleration, and cruise modes. The sample accumulated in the bag is analyzed for MC, CO, and NO_x concentration. The concentration values

[1] The Clayton Manufacturing Company has applied for patents on the Key Mode emissions test procedure and has stated its intent to charge fees for use of the diagnostic information provided with the test results. The status of the patent and the extent to which it applies to other steady state modal tests is unknown at this time.

[2] Substitution of a less costly procedure for obtaining the sample than a Constant Volume Sampler (CVS) may be possible. A substitute procedure was not evaluated.

measured are converted to a mass (gm/mile) basis. At present there is no field experience data available for these tests and no state is using or contemplating the use of such a test. In theory a large number of different transient tests are possible for simulating different driving cycles; however, in practice only two cycles have been studied: (1) A composite of the N.J. and the N.Y. Short Test and (2) the EPA Short Cycle Test developed by the Office of Mobile Source Air Pollution Control.

Both the idle test and the steady state modal tests have been used in state I/M programs. Because of the differences in equipment, manpower requirements and time required to conduct steady state modal tests over the idle test, the choice between these two tests is dependent upon the incremental improvement in accuracy and correlation derived by the steady state modal tests. The transient tests, requiring greater investment in resources, have not been implemented to date by state or local governments.

The Agency proposes, therefore, to specify these five short tests as being suitable for use, either in total or in part (where so identified), in light-duty vehicles and light-duty truck inspection programs; to identify the methodology which has been used in defining correlation for these tests; to specify the mathematical methodology to be used in the setting of short test cutpoints (that value, as measured by appropriate instruments for each pollutant, above which the vehicle fails the short test); and to specify the methodology which will be used to collect the data from which the short test cutpoints will be developed.

Implementation of Performance Warranty

Implementation of the warranty provisions of section 207(b), after the warranty regulations are promulgated by EPA, will occur when a vehicle which has been properly maintained and operated fails to conform at any time during its useful life (5 years or 50,000 miles, whichever first occurs) to the applicable emissions standards and such nonconformity results in the ultimate purchaser of such vehicle having to bear any penalty or other sanction (including the denial of the right to use such vehicle) under State or Federal law. The determination of whether a vehicle is conforming to applicable emission standards will most likely occur through the adoption of any one of the designated short tests and its associated cutpoints into a State or local government vehicle inspection program.

Currently available evidence indicates that the appropriate short test cutpoints for new model year vehicles will have to be established on a yearly basis. Further testing may reveal that cutpoints need not be set annually or for as many groups of vehicles as anticipated which would result in the development of short test cutpoints on an as needed basis. These cutpoints would remain in effect thrpughout the useful life of each vehicle. (Provisions are included in §85.2306 of Subpart X to enable the EPA or the manufacturers to modify the short test cutpoints over time, given that sufficient data can be provided which indicate that the cutpoints for a given group need to be revised. Provisions are also included for the updating of the cutpoints at the time of significant manufacturer changes to a vehicle covered by certification. There are essentially three options for establishing the cutpoints: states can determine the cutpoints, or they can be provided by EPA, or the manufacturers could provide the data on the basis of which cutpoints would be set either by the states or the EPA.

Although the procedures being proposed herein are aimed at the development of cutpoints by the Agency, it is feasible that the cutpoints can be developed by the states using the methodology being proposed by the agency. Comments on the way in which states would implement these provisions and the desirability for such implementation as part of the states' inspection and maintenance programs are requested. Comments are also requested on the feasibility and desirability of permitting or requiring each individual manufacturer to utilize the methodology for generating the data on the basis of which cutpoints will be set, and providing the resulting data to the EPA or to the several states for the setting of cutpoints; since it is obvious that each individual manufacturer would have a significant incentive to establish the cutpoint for his cars at the highest possible level, so as to minimize potential warranty claims, comments should include a discussion of how the EPA or the States might best supervise and control the process of data generation by manufacturers so as to assure that the resulting data are valid.

In the case that the agency develops the cutpoints, they would be developed through yearly programs wherein new model-year, privately owned, production vehicles and/or vehicles at the assembly line are tested by the FTP and by each short test. Sufficient quantities of vehicles would be obtained so as to furnish statistically meaningful results. The short test cutpoints would be determined on the basis of these data in accordance with the methodology set forth in these regulations and would then be disseminated to each state for use in its vehicle inspection program.

Discussion of Issues

(a) Correlation Methodology

Statistically, three different methodologies are associated with the concept of correlation: Regression analysis, ranking analysis and contingency table analysis.

Regression analysis is a technique by which one parameter of interest is predicted by one or more other variables of interest. Thus, a functional relationship is defined between the variables. For every value or set of values for the predictor variable, there is a value of the predicted variable.

Regression analysis can be performed with one or more predictor variables (independent variables) and with one or more predicted variables (dependent variables). When there is one dependent variable and one independent variable, the technique is usually called simple regression. A regression analysis is based upon the assumption of a relationship between the dependent and independent variables.

Most regression is based upon the "least squares" approach, although other approaches could be used. Thus, the coefficients are selected to minimize the sum of the squares of the actual values minus the predicted values. Least squares is the preferred approach since it provides estimates of the coefficients which have the minimum possible variance.

For the case of 207(b) correlation, the dependent variable is the Federal Test Procedure (FTP) emission for a specified pollutant. The independent variable is the short test emission for the same pollutant. In cases where the short test has more than one mode, there are multiple independent variables.

The disadvantage of using a regression methodology to evaluate correlation is that determination of the exact form of the functional relationship is necessary. Also, it is equally important to predict each and every dependent data point with the same absolute degree of accurarcy. Thus, a given error in the prediction of a gross emitter will affect correlation as much as the same error in a vehicle which just fails the Federal standards.

Ranking analysis is a technique by which two variables are compared without any assumption as to a predictable relationship between the variables. Each variable is compared and ordered within itself with the largest value of each variable assigned the rank of 1. Then the ranks of each pair of variables are subtracted and the differences are summed. The rank correlation coefficient is a function of the number of data points and the sum of the differences: it will be low when the variables are independent and high when they are correlated.

A rank correlation value near 1 indicates that two variables, when normalized, tend to be high or low together. A rank correlation near zero indicates that the relative rank of one variable cannot predict the relative rank of the second variable. A high but nonperfect rank correlation, however, does not allow for an assessment of the magnitude of error which would occur with the prediction process.

Contingency table analysis assumes that there is a discrete number of groups of individual measurements of a given dependent variable. There are also one or more independent variables. The analysis attempts to find one or more independent variables which can be used to discriminate between the different classes of the dependent variable. In other words, the contingency table approach says that a predictive relationship between the dependent and inde-

pendent variables is not important. Rather, the only thing of interest is that the independent variable be able to classify the dependent variable into one of the available group categories. Contingency table analysis is based upon the assumption that cutpoints can be found for one or more independent variables which will discriminate among the groups of the dependent variable. The selection of the cutpoints results in the development of a contingency table.

Contingency tables are considerably simpler to deal with than regression analyses since it is not necessary to determine the exact predictive relationship. Rather, it is sufficient to identify the number of important groups into which the dependent variable needs to be classified. For the purposes of 207(b) implementation, there are only two such groups: Vehicles which pass the FTP and vehicles which fail the FTP. Thus, Figure 1 shows the 207(b) application of a contingency table.

Predicted variable

	(FTP) of—	
	Pass	Fail
Predictor variable (short test):		
Pass	Correctly passed	Incorrectly passed by the short test (error of omission).
Fail	Incorrectly failed by the short test (error of commission).	Correctly failed.

FIGURE 1

The definition of correlation in a contingency table can be addressed in several ways (unlike regression analysis correlation or rank correlation). First, a measure of independence between the two variables can be determined. This indicator will fall between −1 and +1, as did the other measures of correlation. Because of the simple form of the predictive relationship inherent in the table, other more meaningful measurement quantities can be computed, e.g., the ratio of vehicles failing the short test to vehicles failing the FTP, the ratio of cars incorrectly failing the short test to the total number of cars failed by the short test, etc. These quantities express the ability of the short test to correctly identify passing and failing vehicles on the FTP. A selection as to which of these quantities best expresses correlation depends upon the specific application, the relative importance of the types of errors, and the magnitude of the correctly identified vehicles.

It was anticipated that the short tests would not correlate with the FTP in a classical statistical sense, i.e., no short test is capable of a reliable and consistent prediction of the FTP mass emissions. The extensive fleet tests verified that the statistical correlation coefficients arrived at through regression techniques were low (generally less than 0.8), indicating unacceptable correlation.

However, EPA interprets the Clean Air Act requirement of "reasonable correlation" to be met if the short test is capable of reliably and consistently predicting whether the vehicle would pass or fail the FTP even if it cannot give the magnitude of the passing or failing margin. Therefore, the contingency table approach has been adopted as the method for determining correlation between the FTP and selected short tests. The reasonableness of such correlation depends on the ratio of incorrect predictions to correct predictions. In the case of the 207(b) short test the incorrect predictions are of two types, errors of commission and errors of omission, each with significantly different consequences. An error of commission (i.e., the short test incorrectly predicts failure for a vehicle that really passes the FTP) would cause a vehicle which conforms to all Federal emission requirements to be repaired under warranty at some cost to the manufacturer. It is possible, however, that air quality benefit may still be obtained from vehicles which are in conformance with the emission standards at the time of failure; vehicles in a good state of tune can often emit at levels substantially below the emission standards, especially at low mileage. An error of omission (i.e., the short test incorrectly passes a vehicle that would fail the EFP) has no cost impact on the manufacturer but represents a lost opportunity for air quality improvement.

By varying the severity of the short test cutpoint (i.e., the numerical value used to predict passing or failing on the FTP) it is possible to reduce errors of commission to any desired level, but always at the cost of increasing errors of omission.

(b) GOOD ENGINEERING PRACTICE

The criterion of good engineering practice must be resolved in terms of whether the test(s) can: (1) Be conducted with reasonable demands upon test personnel and equipment and (2) yield reasonably accurate and reproducible results when the test is performed as specified. All five of the short tests identified in these proposed regulations meet these criteria. The basis for this conclusion is explained in detail in: Regulatory Support Document—Section 207(b) NPRM. Single copies may be obtained from the Director, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105; a copy is also on file in the EPA Public Information Reference Unit, Room 2922 Waterside Mall, U.S./EPA, 401 M Street SW., Washington, D.C. 20460.

(C) SHORT TEST STANDARDS DEVELOPMENT

On a yearly basis, the Agency proposes to test vehicles of the latest model year which are privately-owned production vehicles and/or vehicles at the assembly line. (Further testing may reveal that cutpoints need not be set annually or for as many groups of vehicles as anticipated, which would result in the Agency providing short test cutpoints on an as-needed basis). The vehicles will be tested by each approved short test and by the FTP. Vehicles will be selected for testing on the basis of those engine/vehicle size/emissions control technology combination(s) (called groups) which are in production and which are significantly different. A sufficient number of vehicles will be tested in each group to satisfy statistical requirements for sample size. The data will be collected during the first nine months of the model year (these data could also serve to supplement Section 207(c), the "recall" provision, of the Clean Air Act if testing is performed with rigorous quality control). The Agency will analyze the data by the prescribed methodology and select the short test cutpoints for each group. Consolidation within groups of the final number of short test cutpoints will be performed in accordance with the methodology prescribed. The effects of real world variables (temperature, humidity, human factors, instrumentation, etc.) on short test cutpoints as determined by the state/EPA pilot project being conducted in Portland, Oregon, will be incorporated in the sets of short test cutpoints which are furnished to each state or local government.

Because errors do occur in the categorization of vehicles in the contingency table and because of the relative difference in importance of the two types of errors (Errors of Commission (Ec) and Errors of Omission (Eo), the Agency is proposing five approaches for the selection of the short test cutpoints. These five approaches are stated below and the one which is judged to best fulfill the requirements of Section 207(b) based on the data which the Agency has available and on the comments received from this notice of proposed rule making will be adopted.

Option 1. Set the short test cutpoints at the level which corresponds to a 5 percent error of commission rate (based on the total number of vehicles tested) within each group.

This method has several advantages. First, it is easy to implement. Second, each vehicle group manufacturer will be incorrectly penalized for the same fraction of his sales of that vehicle as every other vehicle group manufacturer. There are some disadvantages to this method. This occurs when the number of vehicle groups is greater than one. First, the mean FTP emissions of failed vehicles in group 1 may be very different from the mean FTP emissions of failed vehicles in group 2 even though both short test pass/fail cutpoints were set to ensure 5 percent commission errors. Second, vehicle group 1 may contain a greater percentage of error of omissions than vehicle group 2 and thus be required to repair fewer vehicles than vehicle group 2, even though both groups have the same percentage of vehicles exceeding emission standards when measured by the FTP. Third, assume that vehicle group 1 has extremely high short test variability. Then, it is likely that due to short test variability, cars with low FTP emissions will have high short test levels. This situation will result in a higher short test pass/fail cutpoint than for a low test variability class, since high test variability increases commission errors and omission errors. Thus, a manufacturer could be rewarded for high short test variability. The same situation could occur with high FTP variability.

Option 2. Set the short test rejection ratio, $(E_c+FF)/(E_o+FP)$, equal to unity. (Vehicles which are correctly failed by the short test are classified as "FF" vehicles.)

This option is no more difficult to implement than the fixed error of commission approach. It treats all manufacturers equitably and does not give any advantage to manufacturers who produce vehicels with high FTP and/or ST (short test) variability. Rather, it encourages improvements in emissions performance because the manufacturer is never allowed to repair fewer vehicles than he should, i.e., true FTP failing vehicles. This approach does not permit the setting of a single ST cutpoint for all vehicles. This is true for all equitable approaches for setting cutpoints and therefore cannot be treated as a negative characteristic of the method. Air quality benefits will tend to improve from the original approach because the error of omission rate will be lowered. However, mean FTP emissions of failed vehicles in two different groups could still be significantly different. Many manufacturers will have to repair more error of commission vehicles than under the original concept.

Option 3. Set a fixed level of $E_c/(E_c+FF)$ for each group.

This option is more difficult to implement since $E_c/(E_c+FF)$ can be small when FF is large or when E_c is small. Thus, there is more than one way to satisfy the function. This option does, however, have the potential for crediting manufacturers of vehicle classes which have low FTP failure rates. This option does not alter the variability considerations of the first approach.

Option 4. Set the short test cutpoints so that equivalent FTP pass/fail levels are enacted for each vehicle group while maintaining the error of commission rate at five percent or less. This option has the potential for crediting groups with low FTP emissions but at the expense of increasing errors of omission. In fact, under certain circumstances, the group having the highest true failures could experience the greatest increase in errors of omission.

Option 5. Set an error of commission rate or $E_c/(E_c+FF)$ rate as a function of test variability. Allow a five percent error of commission rate when test variability is at the maximum acceptable level.

This option eliminates the variability problem inherent in Options 1 and 3. A functional relationship between errors of commission or $E_c/(FF+E_c)$ and variability could be developed using mathematical simulation techniques. This could be accomplished by taking a set of data and, using probability distribution theory and random numbers, variability could be introduced into the data base at different levels. Then, using fixed short test cutpoints, commission errors can be computed and plotted against variability.

These five approaches for the selection of short test cutpoints are detailed in Subpart X, § 85.2308. While more extensive analysis has been completed on some of these approaches, further efforts are aimed at examining the potential effects of adopting any of the five approaches for selecting short test cutpoints. Comments are particularly requested on each of the above approaches.

(d) REAL WORLD CONSIDERATIONS

All of the data available to EPA on the correlation of short tests to the FTP have been established under laboratory conditions. Inspection of vehicles at state inspection lanes will occur under varying atmospheric conditions and will also be subject to personnel errors as well as problems associated with correct instrument calibration and maintenance. The Portland study is being performed by the Agency to quantify the effects of these variables on short test correlation and to determine the effectiveness of the short test in the real world. Once the magnitudes of these variables have been quantified, they will be factored into the cutpoints for 207(b) to be published by the Agency. Incorporation of these variables will not result in unacceptable error rates or correlation. However, they may reduce the predicted air quality benefits relative to those projected from laboratory data.

(e) EFFECTS ON STATE I/M PROGRAM

Publication of Section 207(b) cutpoints will not require their adoption by a state or local government. However, if the cutpoints used by a state or local government are less stringent than the 207(b) cutpoints, then that locality will not be achieving as great an air quality improvement from its I/M program as possible. The only vehicle owners who would be afforded the warranty protection of section 207(b) are those whose emissions exceed the state I/M cutpoints. The opposite scenario, i.e., where the state cutpoints are more stringent than the section 207(b) cutpoints, could also exist. In this case, only those vehicles whose short test levels exceed the 207(b) cutpoints would be covered by warranty. The owners of vehicles whose short test values were below the 207(b) cutpoints but above the state standards would have to bear the cost of repairing their own vehicles.

Each state will have to evaluate the relative merits of either adopting the 207(b) cutpoints or adopting less stringent or more stringent short test pass/fail values.

(F) NEED FOR NEW SHORT TEST DEVELOPMENT

In light of the rapid changes which are taking place in the technology being used to meet the present and future emissions standards, it is possible that cases will occur where the proposed short tests will not function effectively as predictors of the FTP emissions from those vehicles. Should this possibility occur, the Agency will implement one or more new short tests which will apply to these new technology vehicles.

(G) ANTICIPATED AIR QUALITY BENEFITS

Because of the intimate relationship between I/M and the execution of a 207 (b) program, it is very difficult to separate their respective effectivenesses. The predicted effectiveness is, therefore, presented in two ways. The first case is for a joint 207(b)/Inspection and Maintenance program, where the 207(b) cutpoints (E_c=5 percent) are used and no I/M program previously existed. The second case is where an I/M program existed prior to the implementation of 207(b) and had been failing approximately ⅓ of the vehicles in each model year. In this case the 207(b) cutpoints (E_c=5 percent) are adopted following implementation of section 207(b). The effectiveness is expressed as a percent reduction in total emissions over the useful life of the vehicles.

Effectiveness of sec. 207(b) over the useful life of the vehicle

Case I (no prior I/M) (percent)			Case II (previous I/M programs) (percent)		
HC	CO	NOx	HC	CO	NOx
34.6 to 21.1	42.8 to 34.6	2.0 to 0.33	7.6 to 6.4	8.7 to 7.8	0.22 to 0.00

The technical issues involved in preparing the various short tests and statistical procedures are discussed in detail in: Regulatory Support Document Section 207(b) NPRM.

(H) APPLICABILITY OF 207(B) TO LIGHT-DUTY TRUCKS

At the present time, available vehicle test data on the short tests and the FTP have only been measured on light-duty vehicles. Before final rulemaking, data will be available on light-duty trucks. Because light-duty trucks are similar to light-duty vehicles both in engineering design and in usage, the same tests which are appropriate for light-duty vehicles are expected to be appropriate for light-duty trucks. The specific short test cutpoints for light-duty trucks may differ from the light-duty vehicle cutpoints and will be determined in a separate test program. However, the methodology for determining the cutpoints is expected to apply to both light-duty vehicles and light-duty trucks.

REQUEST FOR COMMENTS

EPA is particularly interested in receiving comments and information on the following topics:

1. Appropriateness in terms of correlatability and good engineering practice of the proposed test procedures for light-duty vehicles and light-duty trucks.

2. Appropriateness of the test procedures proposed with respect to existing technology and "new" technology.

3. Appropriateness of the short test cutpoint selection methodologies proposed for light-duty vehicles and light-duty trucks. What is the most equitable approach, which is the most applicable in practice? Who should establish the cutpoints? In which way would the states establish the cutpoints?

4. Alternative methods for determining short test cutpoint values. Particularly, should some weighting factor be used to balance errors of commission and omission in terms of air quality? Also, what approach should be taken when no car in the test group exceeds the standards or all cars in the test group fail the standards?

5. Should prototype or new assembly line vehicles be used instead of privately owned vehicles in the test group? This might involve inducing typical faults. What are typical faults and what are typical failure rates on the assembly line?

6. Problems anticipated by the manufacturers caused by including the short tests in all tests performed on certification and/or assembly line vehicles—both at the EPA laboratory and at their facilities.

7. Should the short test cutpoints be based on a small number of broad groupings of vehicles (e.g., according to five engine displacement categories) rather than the engine/vehicle/technology groups proposed for use in determination of short test cutpoints?

8. Suggestions for a uniform report format and test card information. Assess the difficulty in ensuring that vehicles are tested under proper conditions, weights and shift points—running changes during year, etc.

9. Suggestions on labeling of vehicles to ensure that they are properly identified by the vehicle's inspection lane operators. Can this be incorporated into the Vehicle Identification Number (VIN) or should it be an under hood label?

10. What is reasonable short test variability and how should it be defined and incorporated?

A copy of all public comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library) 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

Notice is hereby given that Part 85 of Title 40 of the Code of Federal Regulations is proposed to be revised by the addition of new Subparts W and X as set forth below.

This Notice of Proposed Rulemaking is issued under authority of section 207(b) of the Clean Air Act, as amended (42 U.S.C. 1857f–5a).

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: May 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 85 of Chapter I, Title 40 of the Code of Federal Regulations by adding Subpart W and Subpart X as follows:

Subpart W—Section 207(b) Exhaust Emission Test Procedures

Sec.
85.2201 General Applicability.
85.2202 Definitions.
85.2203 Abbreviations.
85.2204 Overview.
85.2205 Transient test specifications, overview.
85.2206 Transient test procedures, general requirements.
85.2207 Federal short cycle test specifications.
85.2208 Federal short cycle test—calculations.
85.2209 New Jersey/New York composite test specifications.
85.2210 New Jersey/New York composite test—calculations.
85.2211 [Reserved]
85.2212 Dynamometer systems.
85.2213 Exhaust gas sampling system.
85.2214 Calibration procedures for transient mode tests.
85.2215 [Reserved]
85.2216 Steady state modal test specifications, overview.
85.2217 Steady state modal test procedures, general requirements.
85.2218 Clayton Key Mode test specifications.
85.2219 Federal Three Mode test specifications.
85.2220 Equipment specifications — steady state modal tests.
85.2221 Dynamometer system.
85.2222 Exhaust gas sampling system.
85.2223 Calibration procedures — steady state modal tests.
85.2224 [Reserved]
85.2225 Idle test specifications.
85.2226 Equipment specifications—Idle test.
85.2227 Dynamometer system.
85.2228 Exhaust gas sampling system.
85.2229 Calibration procedures—Idle test.

Subpart X—Section 207(b) Short Test Cutpoint Methodology

85.2301 General applicability.
85.2302 Definitions.
85.2303 Overview.
85.2304 Vehicle grouping.
85.2305 Data collection.
85.2306 Short test cutpoint selection.
85.2307 Analytical technique.
85.2308 Cutpoint selection methodologies.

AUTHORITY: Sec. 207(b), Clean Air Act, as amended (42 U.S.C. 1857f–5a).

Subpart W—Section 207(b) Exhaust Emission Test Procedures

§ 85.2201 General applicability.

This subpart contains short test exhaust emission test methods to be used in implementing the emissions control system performance warranty regulations. The provisions of this subpart are applicable to 1979 and later model year light-duty vehicles and 1979 and later model year light-duty trucks.

§ 85.2202 Definitions.

The following definitions apply to this subpart beginning with the 1979 model year. Section 86.078–2 remains effective excepting those definitions which are hereby superseded and/or added.

"Car line" means a name denoting class of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis). Car line does not consider any level of decor or opulence and is not generally distinguished by such characteristics as roof line, number of doors, seats or windows except for station wagons. Station wagons are considered to be different car lines than passenger cars.

"Calibration" means the set of specifications, including tolerances, unique to a particular design, version, or application of a component or component assembly capable of functionally describing its operation over its working range.

"Clustering" means the tendency of data points, when plotted on cartesian coordinates, to appear together in distinct, compact groups.

"Discrimination" means the division of a batch of data points into 2 or more distinct groups, e.g. the division of vehicle emission data obtained by the FTP and short test(s) into groups of Ec, Eo, FF, and PP.

"Driver's Aid" means a device which graphically displays the speed-time requirements of a given test schedule and the actual vehicle test speed to assist the test technician in maintaining the proper vehicle speeds throughout the test.

"Group" means a classification of vehicles into classes having the same manufacturer, engine displacement, cylinder block configuration (e.g. V–8, I–6, etc.), number of cylinders, fuel injection or carburetion (number of carburetors, and number of carburetor venturies), emission control systems, inertia weight, and car line.

"Instrument-to-instrument variation" means variations in calibration (zero and span point) settings and/or test readings between two (or more) identical instruments produced by the same manufacturer when measuring samples from the same source (e.g. gas bottles or vehicle exhaust).

"Laboratory conditions" means a testing environment (e.g. test cell) in which as many test variables as possible are controlled (e.g. ambient temperature and humidity, on-the-job human errors) and laboratory grade instrumentation is used (when possible).

"Light-Duty Truck" means any motor vehicle, rated at 8,500 pounds GVW or less which has a vehicle curb weight of 6,000 pounds or under and which has a basic vehicle frontal area of 46 square feet or less, which is: (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle or (2) designed primarily for transportation of persons and having a capacity for more than 12 persons, or (3) available with special features enabling off-street or off-highway operation and use.

"Light-Duty Vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or less.

"Make" means the division or similar name within a manufacturing corporation which appears on the vehicle, e.g., Chevrolet, Mercury, Dodge etc.

"Manufacturer-to-manufacturer instrument variation" means variations in calibration (zero and span point) settings and/or test readings between two (or more) instruments intended for the same use (i.e., HC analyzers) but produced by different manufacturers when measuring samples from the same source (e.g. gas bottles or vehicle exhaust).

"Manufacturer" means the major financial entity whose divisions market vehicles, e.g. General Motors, Ford Motor Company etc.

"Overheating" means engine operating temperature in excess of the temperature for which the engine and engine systems were designed, as evidenced by temperature warning light on, temperature gauge reading in the hot region, stalling or rough idling.

"Owner" means the ultimate purchaser or subsequent purchaser in whose name the vehicle is titled at the time that the short test is performed.

"Precision" means the standard deviation of replicated measurements.

"Production tolerances stack-up" means each component of an assembly is manufactured within specified tolerances, and the system, when assembled, acquires a production tolerance stack-up that is the result of the cumulative effect of the interaction of the individual tolerances of the components.

"Repeatability" means the ability of an instrument to duplicate the same results each time measurement is made under conditions as close to being identical as possible.

"Road Load" means the loading imposed on a test vehicle, expressed as power measured at the point of contact between the vehicle and the road.

"Short test" means a hot exhaust emissions test of less than five minutes duration.

"Short test cutpoint" means the value as measured by appropriate instruments for each pollutant above which the vehicle fails the short test.

"Span" means adjust the gain of an instrument to a given reading while measuring a calibration parameter under conditions designed to yield that reading. Analyzers should be spanned using calibration gases with concentrations equal to 75 to 100 percent of full scale.

"State of tune" means carburetion, ignition, and emission control system parameter settings (e.g., idle CO, idle rpm, timing, and dwell settings).

"Steady state modal test" means a short test during which undiluted, raw exhaust emission levels are collected and measured continuously while the test vehicle is operated in one or more constant speed (or idle) modes.

"Tolerance" means the range of variation permitted in maintaining a specified dimension during the manufacturing of a product.

"Transient test" means an exhaust emissions test during which exhaust samples are collected under constant volume conditions (variable dilution) while the test vehicle is operated on a dynamometer over a driving schedule consisting of a series of constant rate accelerations, constant rate decelerations, and steady state cruises, with test results reported as mass emissions.

"Vehicle registration weight" means the vehicle weight indicated on the state vehicle registration records.

"Zero" means adjust the output signal on an instrument to obtain a reading of zero while measuring a calibration parameter under conditions designed to yield a zero reading.

§ 85.2203 Abbreviations.

The abbreviations used in this subpart have the following meanings, when used in both capital and lower case:

AC=Alternating Current.
Auto.=Automatic.
C=Celsius.
CEV=Catalyst equipped experimental vehicles.
cfh=Cubic feet per hour.
CFV=Critical flow venturi.
CI=Contingency table correlation index.
CID=Cubic inch displacement.
CO_2=Carbon dioxide.
CO=Carbon monoxide.
Conc.=Concentration.
Cu. in.=Cubic inch(es).
CVS=Constant volume sampler.
E_c=Errors of commission.
E_o=Errors of omission.
EFP=Emission factors program.
EGR=Exhaust—gas recirculation.
F=Fahrenheit.
FF=Correctly failed vehicles.
FID=Flame ionization detector.
FS=Full scale.
ft.=Feet.
FTP=Federal Test Procedure.
FY=Fiscal year.
gm=Grams.
g/mi=Grams per mile.
HC=Hydrocarbon(s).
Hg=Mercury.
Hi.=High.
Hp=Horsepower.
Hr=Hour.
I/M=Inspection/maintenance.
in.=Inches.
km=Kilometers.
km/h=Kilometers per hour.
kPa=Kilopascal(s).
lb.=Pounds.
Lo.=Low.
Max.=Maximum.
in^3/hr=Cubic inches per hour.
Min.=Minute(s).
mph=Miles per hour.
MY=Model year.
NBS=National Bureau of Standards.
NDIR=Nondispersive infrared.
NJ/NY=New Jersey/New York.
NOx=Oxides of nitrogen.
No.=Number.
OMSAPC=Office of Mobile Source Air Pollution Control.
PCV=Positive Crankcase Ventilation.
PDP=Positive displacement pump.
P/F=Pass/fail.
PP=Correctly passed vehicles.
ppm=Parts per million by volume.
psi=Pounds per square inch.
r=Conventional (Pearson) correlation coefficient.
rpm=Revolutions per minute.
Sec.=Seconds.
ST=Short test.
Std.=Standard.
Trans.=Transmission.

§ 85.2204 Overview.

This subpart is divided into three categories:

(a) Test procedures, Emission calculation procedures, Equipment and Equipment Calibration procedures for Transient Tests.

(b) Test procedures, Emission calculation procedures, Equipment and Equipment Calibration procedures for Steady State Modal Tests.

(c) Test procedures, Emission calculation procedures, Equipment and Equipment Calibration procedures for the idle test.

§ 85.2205 Transient test specifications, review.

The transient short tests consist of vehicle operation on a chassis dynamometer over one of two specified driving schedules, during which hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions are measured. A proportional part of the diluted exhaust emissions is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler (CVS).

§ 85.2206 Transient test procedures, general requirements.

(a) Vehicles shall be tested in the state of adjustment in which they arrive at the test site, with no vehicle preparation or preconditioning of any sort. Vehicles shall be tested at the ambient conditions encountered at the test site. Vehicles shall be approximately level during all phases of the test sequence to prevent abnormal fuel distribution.

(b) Exhaust samples shall be taken from both tailpipes on vehicles having more than one tailpipe exhaust outlet. The samples shall be merged prior to the CVS unit so that a composite sample can be taken. The pollutant concentration levels shall be measured according to the procedures outlined in this subpart and shall be reported as the official test results.

(c) The transient tests follow closely the Federal Test Procedure used for vehicle certification, Subpart B of Part 86 of this chapter. There are several important differences to be noted, however.

(1) The test begins with the vehicle warmed up and idling.

(2) No evaporative emission measurements are made.

(3) Different driving schedules are used.

(4) Actual distance driven is not measured.

§ 85.2207 Federal short cycle test specifications.

(a) Road load power and inertia weight settings shall be determined in accordance with the procedures used for emission certification vehicles outlined in Part 86, Subpart B of this chapter. A compete listing of all possible vehicle/engine configurations must be available at each test site prior to initiation of testing for use in determining appropriate inertia weight and road load power

requirements for each vehicle to be tested.

(b) Transmissions:

(1) Transmissions, overdrives and free wheeling units shall be operated in accordance with the manufacturers' recommendations to the ultimate purchaser as indicated in the owners manual or as supplied by EPA.

(2) Idle modes shall be run with automatic transmissions in "Drive" with the wheels braked and manual transmissions shall be in gear with the clutch disengaged.

(3) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(4) Accelerations shall be driven smoothly according to the manufacturers' recommendations to the ultimate purchaser. For manual transmissions, the operator shall release the accelerator pedal during each shift and accomplish the shift with minimum time. If the vehicle cannot accelerate at the specified rate, the vehicle shall be operated with the accelerator pedal fully depressed until the vehicle speed reaches the value prescribed for that time in the driving schedule.

(5) The deceleration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed. Manual transmission vehicles shall have the clutch engaged and shall not change gears from the previous mode. For those modes which decelerate to zero, manual transmission clutches shall be depressed when the speed drops below 15 mph (24 km/h), when engine roughness is evident, or when engine stalling is imminent.

(6) Downshifting is allowed at the beginning of or during a power mode in accordance with the manufacturers' recommendations to the ultimate purchaser.

(c) Dynamometer procedure:

(1) The Federal Short Cycle dynamometer sequence consists of a 125 second long driving schedule consisting of a series of constant rate accelerations, constant rate decelerations, and steady speed cruises. The exhaust emissions are diluted with ambient air and a continuously proportional sample is collected for analysis. The composite samples, collected in bags, are analyzed for hydrocarbons carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen.

(2) The vehicle engine compartment hood shall remain open for the duration of the Federal Short Cycle. If vehicle overheating occurs (or is anticipated), a cooling fan(s) meeting the specifications in § 85.2212(e) may be used.

(3) The vehicle speed as measured from the dynamometer rolls shall be used. The speed vs. time characteristics of each test shall be checked against the specification to assure test validity.

(4) Practice runs over the prescribed driving schedule may be performed, provided an emission sample is not taken, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustments.

NOTE.—When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle on the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. This rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(5) The drive wheels shall be at the pressure prescribed for operation of the vehicle on the road by the tire manufacturer. If the tires are at normal operating temperature (not cold) at the time of testing, the pressure may be 2 to 3 psi above the manufacturers' recommended pressure. The vehicle shall not be tested with underinflated tires.

(6) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating at 30 mph (48km/h) using a non-test vehicle or as recommended by the dynamometer manufacturer.

(7) The inertia weight and road load power shall be set to the values determined from § 85.2207(a).

(8) If the engine stalls at any point during the dynamometer run, that test shall be voided. The engine shall then be restarted and run at 2500 rpm ± 200 rpm in neutral for 15 to 30 seconds preceding a retest. This procedure shall be followed until a complete, valid test is run.

(d) Test sequence:

(1) Adjust the dynamometer for the required road load and inertia.

(2) Drive or push test vehicle onto the dynamometer so that wheels are centered on rolls.

(3) Examine vehicle information label to determine group. Record information on test report.

(4) Attach restraining device to vehicle in such a fashion that the vehicle is not damaged. Release dynamometer brake.

(5) With the sample selector valves in the "standby" position connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(6) Start the Constant Volume Sampler (if not already on), the sample pumps and the temperature recorder. The heat exchanger of the constant volume sampler, if used, should be preheated to its operating temperature before the test begins.

(7) Adjust the sample flow rates to the desired flow rate (minimum of 10 cfh, (0.28 m^3/hr)) and set the gas flow measuring devices to zero.

NOTE.—CFV–CVS sample flow rate is fixed by the venturi design.

(8) Attach adaptor(s) and exhaust collection tube(s) to vehicle tailpipe(s).

(9) Attach engine speed pickup.

(10) Idle vehicle in neutral at 2500 ±200 rpm for 15 to 30 seconds within 1 minute of beginning of dynamometer run.

(11) Place transmission in "Drive" or in gear with clutch disengaged.

(12) Turn on driver's aid and begin the initial acceleration of the driving schedule.

(13) Simultaneous with (12), start the gas flow measuring device, position the sample selector valves to direct the sample flow into the exhaust sample bag and dilution air sample bag.

(14) Operate the vehicle according to the following dynamometer driving schedule:

Mode:	*Time in mode (seconds)*
1. 0 to 16 mph (0 to 26 km/h) acceleration	6.0
2. 16 to 29 mph (26 to 47 km/h) acceleration	23.0
3. 29 mph (47 km/h) cruise	10.0
4. 29 to 37 mph (47 to 60 km/h) acceleration	18.0
5. 37 to 42 mph (60 to 68 km/h) acceleration	4.5
6. 42 to 37 mph (68 to 60 km/h) deceleration	2.5
7. 37 to 20 mph (60 to 32 km/h) deceleration	32.0
8. 20 to 0 mph (32 to 0 km/h) deceleration	7.5
9. Idle	21.5
Total	125.0

The speed at any given time on the dynamometer driving schedule must be within the tolerances given in § 86.115–78. The speed tolerance at any given time on the dynamometer driving schedule prescribed above or as printed on a driver's aid chart approved by the Administrator, is defined by upper and lower limits. The upper limit is 2 mph (3.2 km/h) higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 mph (3.2 km/h) lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable: *Provided*, The vehicle is operated at maximum available power during such occurrences.

(15) At the end of the driving schedule simultaneously turn off the gas flow measuring device and position the sample selector valve to the "standby" position. This ends the driving portion of the test.

(16) As soon as possible, transfer the exhaust and dilution air samples to the analytical system and process. A stabilized reading for the exhaust sample must be obtained within 20 minutes of the end of the sample collection phase of the test.

(17) Disconnect the engine speed pickup, adaptor(s), exhaust collection tube(s), and restraining device.

(18) Lock dynamometer rolls and drive vehicle off of dynamometer. This ends the test sequence.

(e) Measurement operations. The following sequence of operations shall be performed in conjunction with each series of measurements:

(1) Zero the analyzers and obtain a stable zero reading. Recheck after tests.

(2) Introduce span gases and set instrument gains. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test sample. Span gases should have concentrations equal to 75 to 100 percent of full scale. If gain has shifted significantly on the analyzers, check the calibrations. Show actual concentrations on chart.

(3) Check zeros; repeat the procedure in paragraphs (1) and (b) of this section if required.

(4) Check flowrates and pressures.

(5) Measure HC, CO, CO_2 and NO_x concentrations of samples.

(6) Check zero and span points. If difference is greater than 2 percent of full scale, repeat the procedure in paragraphs (e) (1) through (5) of this section.

(f) Records required: The following information shall be recorded with respect to each test:

(1) Test number.

(2) Date and time of day for each test.

(3) Instrument operator

(4) Driver or operator.

(5) Vehicle: Make; Model; Vehicle identification Number; Vehicle registration number and year; Vehicle Model year; Transmission type; Odometer reading; Engine displacement; Idle rpm; Fuel system (fuel injection, number of carburetors, number of carburetor barrels); Inertia loading; Vehicle registration weight; Actual road load at 50 mph (80 km/h); drive wheel tire pressures, as applicable; emission control technology.

(6) All pertinent instrument information such as tuning-gain-serial number-detector number-range. As an alternative, a reference to a test lane number may be used, provided test lane calibration records show the pertinent instrument information.

(7) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(8) Test lane barometric pressure, ambient temperature and humidity.

NOTE: A central test site barometer may be used provided that individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(9) Pressure of the mixture of exhaust and dilution air entering the CVS metering device, the pressure increase across the device, and the temperature at the inlet. The temperature may be recorded continuously or digitally to determine temperature variations.

(10) The number or revolutions of the positive displacement pump accumulated during each test phase while exhaust samples are being collected. The number of standard cubic feet metered by a critical flow of venturi during each test phase would be the equivalent record for a CFV–CVS.

(11) The humidity of the dilution air.

NOTE: If conditioning columns are not used (see § 86.122 and 86.144) this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

(g) Test Report. A test report shall be completed in triplicate and shall contain the information given below. One copy shall be given to the vehicle owner or his agent.

(1) Test type and driving schedule

(2) VIN/License No.

(3) Owner's name and address.

(4) Car make, model, MY, engine size.

(5) Date of test.

(6) Odometer reading.

(7) Date of previous test on vehicle, of retest.

(8) Inertia and road load if applicable.

(9) Test site location, lane identification.

(10) Test results (including emission measurement values).

(11) Certification by instrument operator and driver that test was correctly performed.

§ 85.2208 Federal short cycle test-calculations.

(a) For light duty vehicles and light duty trucks, the mass emissions for each pollutant shall be computed by the following formulae:

(1) Hydrocarbon mass emissions:
$HC_{mass} = V_{mix} \times Density_{HC} \times (HC_{conc} \times 10^{-4})/L$

(2) Carbon monoxide mass emissions:
$CO_{mass} = V_{mix} \times Density_{CO} \times (CO_{conc.} \times 10^{-4})/L$

(3) Oxides of Nitrogen mass emissions:
$NO_{x_{mass}} = V_{mix} \times Density_{NO_2} \times K_H \times (NO_{x_{conc.}} \times 10^{-4})/L$

(4) Carbon dioxide mass emissions:
$CO_{2_{mass}} = V_{mix} \times Density_{CO_2} \times (CO_{2_{conc.}} \times 10^{-2})/L$

(b) Meaning of symbols

(1) HC_{mass} = Hydrocarbon emissions, in grams per mile.

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

$H = [(43.478) R_a \times P_d]/[P_B = (P_a \times R_a/100)]$ for SI units, $H = [(6.211) R_a \times P_d 2/P_H = (P_d \times R_a/100)]$.

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.

P_B = Barometric pressure, in mm Hg (kPa).

V_{mix} = Total dilute exhaust volume in cubic feet per test corrected to standard conditions (538 R) (293 K) and 760 mm Hg (101.3 kPa)).

For PDP–CBS, V_{mix} is:

$$V_{mix} = V_o \times \frac{N(P_B - P_1)(528)\ R}{(760\ \text{mm Hg})\ (T_p)}$$

for SI units,

$$V_{mix} = V_o \times \frac{N(P_B - P_1)(293.15\ K)}{(101.325\ \text{kPa})(T_p)}$$

$Density_{HC}$ = Density of hydrocarbon is 16.33 g/ft³ (.5767 kg/m³), assuming an average carbon to hydrogen ratio of 1:1.85, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$HC_{conc.} = HC_e - HC_d\ (1 - 1/DF)$

Where:

HC_e = Hydrocarbon concentration of the dilute exhaust sample in ppm carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

(2) $NO_{x_{mass}}$ = Oxides of nitrogen emissions, in grams per mile.

$Density_{NO_2}$ = Density of oxides of nitrogen is 54.16 g/ft³ (1.913 kg/m³), assuming they are in the form of nitrogen dioxide, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$NO_{conc.}$ = Oxides of nitrogen concentration of the dilution exhaust sample corrected for background, in ppm.

$NO_{x_{conc.}} = NO_{x_e} - NO_{x_d}(1 - 1/DF)$

Where:

NO_{x_e} = Oxides of nitrogen concentration of the dilute exhaust sample, as measured, in ppm.

NO_{x_d} = Oxides of nitrogen concentration of the dilution air as measured, in ppm.

(3) CO_{mass} = Carbon monoxide emissions, in grams per mile.

$Density_{co}$ = Density of carbon monoxide is 32.97 g/ft³, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$CO_{conc.}$ = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$CO_{conc.} = CO_e - CO_d(1 - 1/DF)$.

Where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_e = (1 - 0.01925\ CO_{2e} - 0.000323\ R)\ CO_{em}$

Where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in percent

R = Relative humidity of the dilution air, in percent (see § 86.142(n)).

$CO_d = (1 - 0.000322\ R)\ CO_{dm}$

Where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

NOTE.—If a CO instrument which meets the criteria specified in § 86.111 is used and the conditioning column has been deleted, CO_{em} can be substituted directly for CO_e and CO_{dm} can be substituted directly for CO_d.

(4) $CO_{2_{mass}}$ = Carbon dioxide emissions, in grams per mile.

Density $_{co_2}$ = Density of carbon dioxide is 51.85 g/ft³ (1.843 kg/m³), at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

$CO_{2_{conc.}}$ = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$CO_{2_{mass}} = CO_{2_e} - CO_{2_d}$ (1-1/DF).

Where:

CO_{2_d} = Carbon dioxide concentration of the dilution air as measured, in percent.

(5) L = Cycle length, in mi (km)

L = 0.75 mi (0.21 km)

$DF = 13.4/[CO_{2_e} + (HC_e + CO_e) \ 10^{-4}]$

KH = Humidity correction factor.

$KH = 1/[1 - 0.0047 \ (H - 75)]$

for SI units = $1/[1 - 0.0329 \ (H - 10.71)]$

Where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet (ft³) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure, in mm Hg (kPa).

P_1 = Pressure depression below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

T_o = Average temperature of dilute exhaust entering positive displacement pump during test, R(K).

(c) Example calculation of mass values of exhaust emissions using positive displacement pump:

(1) Assume the following:

$V_o = 0.29344$ ft³/revolution; $N = 1{,}048$; $R = 48.0$ pct.; $R_e = 48.2$ pct.; $P_B = 762$ mm Hg; $P_d = 22.225$ mm Hg; $P_1 = 70$ mm Hg; $T_p = 570$ R; $HC_e = 105.8$ ppm, carbon equivalent; $NOx_e = 11.2$ ppm; $CO_{em} = 306.6$ ppm; $CO_{2_e} = 1.43$ pct.; $HC_d = 12.1$ ppm; $NOx_d = 0.8$ ppm; $CO_{dm} = 15.3$ ppm.

The basic procedures in § 86.144 are used to calculate mass emissions. Since the short test only has one phase the weighting formula in paragraph (a) of § 86.144 is not used. The mass emission values of paragraph (b) of § 86.144 are divided by the distance traveled, which, for the Federal Short Cycle, is 0.75 mi (1.2 km).

(2) The mass emission results for the Federal Short Cycle example are:

$HC_{mass} = [(259)(16.33)(95.03/1{,}000{,}000)]/(0.75)$.

$HC_{mass} = 0.534$ grams per vehicle mile.

$CO_{mass} = [(259)(32.97)(280/1{,}000{,}000]/(0.75)$.

$CO_{mass} = 3.188$ grams per vehicle mile.

$NOx_{mass} = [(259)(54.16)(10.49/1{,}000{,}000)]/(0.75)$.

$NOx_{mass} = 0.196$ grams per vehicle mile.

Then:

$V_{mix} = (0.29344)(1{,}048)(762-70)(528)/(760)(570)$.

$V_{mix} = 259.0$ ft³.

$H = (43.478)(48.2)(22.225)/[762 - (22.225 \times 48.2/100)]$.

$H = 62$ grams/lb.

$K_H = 1/[1 - 0.0047(62-75)] = 0.9424$.

$CO_e = [1 - (0.01925)(1.43) - (0.000323)(48)](306.0)$

$CO_e = 293.4$ ppm.

$CO_d = [1 - (0.000323)(48)]15.3 = 15.1$ ppm.

$DF = 13.4/[1.43 + (105.8 + 293.4) \times 10^{-4})]$

$DF = 9.116$.

$HC_{conc.} = 105.8 - 12(1 - 1/9.116) = 95.03$ ppm.

$CO_{conc.} = 293.4 - 15.1(1 - 1/9.116) = 280.0$ ppm.

$NOx_{conc.} = 11.2 - 0.8(1 - 1/9.116) = 10.49$ ppm.

§ 85.2209 New Jersey/New York Composite test specifications.

(a) *Road load power and inertia weight settings.* All vehicles shall be tested at 3000 lb. inertia weight and 3.5 ± 1 hp @ 30 mph.

(b) *Transmission.* (1) Transmissions, overdrives and free wheeling units shall be operated in accordance with the manufacturers' recommendations to the ultimate purchaser as indicated in the owners manual or as supplied by EPA.

(2) Idle modes shall be run with automatic transmissions in "Drive" with the wheels braked and manual transmissions shall be in gear with the clutch disengaged.

(3) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(4) Accelerations shall be driven smoothly according to the manufacturers' recommendation to the ultimate purchaser. For manual transmissions, the operator shall release the accelerator pedal during each shift and accomplish the shift with minimum time. If the vehicle cannot accelerate at the specified rate, the vehicle shall be operated with the accelerator pedal fully depressed until the vehicle speed reaches the value prescribed for that time in the driving schedule.

(5) The declaration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed. Manual transmission vehicles shall have the clutch engaged and shall not change gears from the previous mode. For those modes which decelerate to zero, manual transmission clutches shall be depressed when the speed drops below 15 mph (24 km/h), when engine roughness is evident, or when engine stalling is imminent.

(6) Downshifting is allowed at the beginning of or during a power mode in accordance with the manufacturers' recommendation to the ultimate purchaser.

(c) *Dynamometer procedure.* (1) The New Jersey/New York Composite test consists of a 75 second driving schedule composed of a series of constant rate accelerations, constant rate decelerations, and steady speed cruises. The exhaust emissions are diluted with ambient air and a continuously proportional sample is collected for analysis. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen.

(2) The vehicle engine compartment hood shall remain open for the duration of the NJ/NY Composite test. If vehicle overheating occurs (or is anticipated), a cooling fan(s) meeting the specifications set forth in § 85.2212(e) may be used.

(3) The vehicle speed as measured from the dynamometer rolls shall be used. The speed vs. time characteristics of each test shall be checked against the specification to assure test validity.

(4) Practice runs over the prescribed driving schedule may be performed at test points: *Provided*, An emission sample is not taken, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustments.

NOTE.—When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. This rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(5) The drive wheels shall be at the pressure prescribed for operation of the vehicle on the road by the tire manufacturer. If the tires are at normal operating temperature (not cold) at the time of testing, the pressure may be 2 to 3 psi above the manufacturers' recommended pressure. The vehicle shall not be tested with underinflated tires.

(6) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating at 30 mph (48 km/h) using a non-test vehicle or as recommended by the dynamometer manufacturer.

(7) The inertia weight and road load power shall be set at 3000 lb. and 3.5±1 hp at 30 mph prior to testing.

(8) If the engine stalls at any point during the dynamometer run, that test shall be voided. The engine shall then be restarted and run at 2500 rpm ± 200 rpm in neutral for 15 to 30 seconds preceding a retest. This procedure shall be followed until a complete, valid test is run.

(d) *Test sequence.* (1) Adjust the dynamometer for the required road load and inertia.

(2) Drive or push test vehicle onto the dynamometer so that wheels are centered on rolls.

(3) Examine emission control information label to determine engine family and displacement. Record information on test report.

(4) Attach restraining device to vehicle in such a fashion that the vehicle is not damaged. Release dyno brake.

(5) With the sample selector valves in the "standby" position connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(6) Start the Constant Volume Sampler (if not already on), the sample pumps, the temperature recorder and the vehicle cooling fan. The heat exchanger of the constant volume sampler, if used, should be preheated to its operating temperature before the test begins.

(7) Adjust the sample flow rates to the desired flow rate (minimum of 10 cfh, 0.28 m³/hr) and set the gas flow measuring devices to zero.

NOTE.—CFV-CVS sampler flow rate is fixed by the venturi design.

(8) Attach adaptor(s) and exhaust collection tube(s) to vehicle tailpipe(s) (engine may be shutoff, if necessary).

(9) Attach engine speed pickup.

(10) Idle vehicle in neutral at 2,500 ±200 rpm for 15 to 30 seconds within 1 minute of beginning of dynamometer run.

(11) Place transmission in "Drive" or in gear with clutch disengaged.

(12) Start the gas flow measuring device, position the sample selector valves to direct the sample flow into the exhaust sample bag and the dilution air sample bag.

(13) Simultaneous with (12), turn on driver's aid and begin the initial acceleration of the driving schedule.

(14) Operate the vehicle according to the following dynamometer driving schedule:

Mode:	Times in mode (seconds)
1. Idle	22
2. 0–30 mph (0–48 km/hr) acceleration	15
3. 30 mph (48 km/hr) cruise	16
4. 30–10 mph (48–16 km/hr) deceleration	12
5. 10 mph (16 km/hr) cruise	7
6. 10–0 mph (16–0 km/hr) deceleration	4
Total	75

The speed at any given time on the dynamometer driving schedule must be within the tolerances given in § 86.115–78.

(15) At the end of the driving schedule, simultaneously turn off the gas flow measuring device and position the sample selector valve to the "standby" position. This ends the driving portion of the test.

(16) As soon as possible, tranfer the exhaust and dilution air samples to the analytical system and process them. A stabilized reading for the exhaust sample must be obtained within 20 minutes of the end of the sample collection phase of the test.

(17) Disconnect the engine speed pickup, adaptor(s), exhaust collection tube(s), and restraining device.

(18) Lock the dynamometer rolls and drive the vehicle off the dynamometer. This ends the test sequence.

(e) *Measurement operations.* The following sequence of operations shall be performed in conjunction with each service measurements:

(1) Zero the analyzers and obtain a stable zero reading. Recheck after tests.

(2) Introduce span gases and set instrument gains. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test sample. Span gases should have concentrations equal to 75 to 100 percent of full scale. If gain has shifted significantly on the analyzers, check the calibrations. Show actual concentrations on chart.

(3) Check zeros; repeat the procedure in paragraphs (e) (1) and (2) of this section if required.

(4) Check flow rates and pressures.

(5) Measure HC, CO, CO_2 and NOx concentrations of samples.

(6) Check zero and span points. If difference is greater than 2 percent of full scale, repeat the procedure in paragraphs (e) (1) through (5) of this section.

(f) *Records required.* The following information shall be recorded with respect to each test:

(1) Test number.

(2) Date and time of day for each test.

(3) Instrument operator.

(4) Driver or operator.

(5) Vehicle: Make; Model; Vehicle identification Number; Vehicle registration number and year; Vehicle Model year; Transmission type; Odometer reading; Engine displacement; Idle rpm; Fuel system (fuel injection, number of carburetors, number of carburetor barrels); Inertia loading; Vehicle registration weight; Actual road load at 50 mph (80 km/h); drive wheel tire pressures, as applicable; emission control technology.

(6) All pertinent instrument information such as tuning-gain-serial number-detector number-range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the EPA, provided test cell calibration records show the pertinent instrument information.

(7) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(8) Test cell barometric pressure, ambient temperature and humidity.

NOTE.—A central laboratory barometer may be used: *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(9) Fuel temperatures, as prescribed.

(10) Pressure of the mixture of exhaust and dilution air entering the CVS metering device, the pressure increase across the device, and the temperature at the inlet. The temperature may be recorded continuously or digitally to determine temperature variations.

(11) The number of revolutions of the positive displacement pump accumulated during each test phase while exhaust samples are being collected. The number of standard cubic feet metered by a critical flow venturi during each test phase would be the equivalent record for a CFV-CVS.

(12) The humidity of the dilution air.

NOTE.—If conditioning columns are not used (see § 86.111-78) this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

(g) *Test report.* A test report shall be completed in triplicate on a form approved by EPA and shall contain the information given below. One copy of this report should be given to the vehicle owner or his agent.

(1) Test type and driving schedule.

(2) VIN/License No.

(3) Owner's name and address.

(4) Car make, model, MY, engine size

(5) Date of test.

(6) Odometer reading.

(7) Date of previous test on vehicle, if retest.

(8) Inertia and road load if applicable.

(9) Test site location, lane identification.

(10) Test results (including emission measurement values).

(11) Certification by instrument operator and driver that test was correctly performed.

§ 85.2210 New Jersey/New York composite test—calculations.

(a) For light duty vehicles and light duty trucks the mass emissions for each pollutant shall be computed by the following formulae:

(1) Hydrocarbon mass emissions:
$HC_{mass} = V_{mix} \times Density_{HC} \times (HC_{conc.} \times 10^{-4})/L$.

(2) Carbon monoxide mass emissions:
$CO_{mass} = V_{mix} \times Density_{CO} \times (CO_{conc.} \times 10^{-4})/L$.

(3) Oxides of Nitrogen mass emissions:
$NOx_{mass} = V_{mix} \times Density_{NO_2} \times K_H \times (NOx_{conc.} \times 10^{-4})/L$.

(4) Carbon dioxide mass emissions:

$CO_{2_{mass}} = V_{mix} \times Density_{CO_2} \times (CO_{2_{conc.}} \times 10^{-2})/L$.

(b) Meaning of symbols

(1) HC_{mass} = Hydrocarbon emissions, in grams per mile.

Density$_{HC}$ = Density of hydrocarbon is 16.33 g/ft³ (.5767 kg/m³), assuming an average carbon to hydrogen ratio of 1:1.85, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$HC_{conc.} = HC_e - HC_d$ (1-1/DF).

Where:

HC_e = Hydrocarbon concentration of the dilute exhaust sample in ppm carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

(2) NOx_{mass} = Oxides of nitrogen emissions, in grams per mile.

Density$_{NO_2}$ = Density of oxides of nitrogen is 54.16 g/ft³ (1.913 kg/m³), assuming they are in the form of nitrogen dioxide, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$NO_{conc.}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

$NOx_{conc.} = NOx_e - NOx_d(1-1/DF)$.

Where:

NOx_e = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in ppm.

NOx_d = Oxides of nitrogen concentration of the dilute air as measured, in ppm.

(3) CO_{mass} = Carbon monoxide emissions, in grams per mile.

Density$_{CO}$ = Density of carbon monoxide is 32.97 g/ft³), at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$CO_{conc.}$ = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$CO_{conc.} = CO_e - CO_d$ (1-1/DF).

Where:

CO_c = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_c = (1-0.01925\ CO_{2c} - 0.000323\ R)\ CO_{cm}$.

Where:

CO_{cm} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO_{2c} = Carbon dioxide concentration of the dilute exhaust sample, in percent.

R = Relative humidity of the dilution air, in percent (see § 86.142(n)).

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$CO_d = (1-0.000322\ R)\ CO_{dm}$.

Where:

CO_{dm} = Carbon monoxide concentration of dilution air sample as measured, in ppm.

NOTE.—If a CO instrument which meets the criteria specified in § 86.111 is used and the conditioning column has been deleted, CO_{cm} can be substituted directly for CO_c and CO_{dm} can be substituted directly for CO_d.

(4) $CO_{2_{mass}}$ = Carbon dioxide emissions, in grams per mile.

Density $_{co_2}$ = Density of carbon dioxide is 51.85 g/ft³ (1.843 kg/m³), at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure

$CO_{2_{conc.}}$ = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$CO_{2_{conc.}} = CO_{2_s} - CO_{2_d}(1-1/DF)$.

Where:

CO_{2_d} = Carbon dioxide concentration of the dilution air as measured, in percent.

(5) L = Cycle length, in mi (km).

L = 0.28 mi (0.45 km).

$DF = 13.4/[CO_{2_s} + (HC_c + CO_c)\ 10^{-4}]$.

KH = Humidity correction factor.

$KH = 1/[1-0.0047(H-75)]$ for *SI* units = $1/[1-0.0329(H-10.71)]$.

Where:

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

$H = [(43.478)\ R_a \times P_d]/[P_B - (P_a \times R_a/100)]$ for *SI* units, $H = (6.211)\ R_a \times P_d 2/P_B - (P_d \times R_a/100)]$.

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.

P_B = Barometric pressure, in mm Hg (kPa).

V_{mix} = Total dilute exhaust volume in cubic feet per test corrected to standard conditions (538 *R*) (293 *K*) and 760 mm Hg (101.3 kPa)).

For PDP-CVS, V_{MIX} is:

$$V_{mix} = V_o \times \frac{N(P_B - P_1)(528R)}{(760\ \text{mm Hg})(T_p)}$$

for *SI* units,

$$V_{mix} = V_o \times \frac{N(P_B - P_1)(293.15K)}{(101.325\ \text{kPa})(T_p)}$$

Where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet (m³) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure, in mm Hg (kPa).

P_1 = Pressure depression below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

T_p = Average temperature of dilute exhaust entering positive displacement pump during test, *R(K)*.

(c) Example calculation of mass values of exhaust emissions using positive displacement pump:

(1) Assume the following:

V_o = 0.29344 ft³/revolution; N = 1,048; R = 48.0 pct.; R_a = 48.2 pct.; P_B = 762 mm Hg; P_d = 22.225 mm Hg; P = 70 mm Hg; T_p = 570 *R*; HC_c = 105.8 ppm, carbon equivalent; NOx_c = 11.2 ppm; CO_{cm} = 306.6 ppm; CO_{2_s} = 1.43 pct. HC_d = 12.1 ppm; NOx_d = 0.8ppm; CO_{dm} = 15.3 ppm.

The basic procedures in § 86.144 are used to calculate mass emissions. Since the short test only has one phase the weighting formula in paragraph (a) of § 86.144 is not used. The mass emission values of paragraph (b) of § 86.144 are divided by the distance traveled, which, for the NJ/NY Composite test, is 0.28 mi (0.45 km).

Then:

$V_{mix} = (0.29344)(1,048)(762-70)(528)/(760)(570)$.

$V_{mix} = 259.0$ ft³.

$H = (43.478)(48.2)(22.225)/[762-(22.225 \times 48.2/100)]$.

$H = 62$ grams/lb.

$K_H = 1/[1-0.0047(62-75)] = 0.9424$.

$CO_c = [1-(0.01925)(1.43)-(0.000323)(48)](306.0)$.

$CO_c = 293.4$ ppm.

$CO_d = [1-(0.000323)(48)]15.3 = 15.1$ ppm.

$DF = 13.4/[1.43 + (105.8+293.4) \times 10^{-4})]$.

$DF = 9.116$.

$HC_{conc.} = 105.8-12(1-1/9.116) = 95.03$ ppm.

$CO_{conc.} = 293.4-15.1(1-1/9.116) = 280.0$ ppm.

$NOx_{conc.} = 11.2-0.8(1-1/9.116) = 10.49$ ppm.

(2) The mass emission results for the NJ/NY Composite test example are:

$HC_{mass} = [(259)(16.33)(95.03/1,000,000)]/(0.28)$.

$HC_{mass} = 1.435$ grams per vehicle mile.

$CO_{mass} = [(259)(32.97)(280/1,000,000)]/(0.28)$.

$CO_{mass} = 8.539$ grams per vehicle mile.

$NOx_{mass} = [(259)(54.16)(10.49/1,000,000)](0.28)$.

$NOx_{mass} = 0.525$ grams per vehicle mile.

§ 85.2211 [Reserved]

§ 85.2212 Dynamometer systems.

(a) *Dynamometer for Federal Short Cycle test.* (1) The dynamometer used for the Federal Short Cycle test shall be equipped with preselectable loads and inertia weights for the vehicles to be tested.

(2) The chassis dynamometer for the Federal Short Cycle test shall be capable of a minimum of 50 horsepower load absorption at 50 MPH repeatable to ±0.25 horsepower without control adjustment. Torque measurement signals shall be accurate to ±0.25 percent of full scale. Instrumentation shall be readable from the vehicle drivers seat and shall have readout accuracies within 1 percent of full scale for vehicle speed, engine RPM, torque and horsepower.

(3) The dynamometer to be used for the Federal Short Cycle test shall require inertia simulation loading from 1750 to 6000 pounds with automatic road load selections (horsepower and inertia) at 12 settings (from 1750 to 6000 pounds) that are in agreement with the specifications of § 86.129. The controls for the road load system should be capable of being interfaced with those for the variable inertia or being separated for individual load and inertia controls. An additional remote control device should be provided for the driver to set the dynamometer load when operating under separate load and inertia controls.

(b) *Dynamometer for NJ/NY Composite test.* The dynamometer used for the composite NJ/NY test shall be capable of setting a 3.5 HP load setting @ 30 mph with a 3000 lb inertia weight.

(c) *Vehicle restrainnig.* A vehicle restraining device is necessary to hold the vehicle on the dynamometer rolls effectively for both rear and front wheel drive vehicles.

(d) *Driver's aid.* A drivers aid device relating vehicle speed in MPH to time of test shall be used for variable speed mode tests as in paragraphs (a) and (b) of this section. While it is preferable to use preprinted or computer-drawn charts approved by the administrator for purposes of record keeping and driver test validity, computer-controlled oscilloscopes or digital readout devices can be employed for directing drivers but should be provided with a test validity check so that the speed-time tolerances are met as specified in § 86.115–78(b).

(e) *Cooling fan.* Cooling fan(s) are not normally needed for the short tests but some vehicles, when the ambient temperature exceeds 95° F, tend to overheat. In these cases it is permissible to use an engine cooling fan normally rated at 5300 CFM. The fan must have been certified for its capacity by the fan manufacturers and positioned as outlined in § 86.135–78(b).

(f) *RPM meter.* The engine rpm meter shall be AC powered and provided with an induction type pickup so that no tools will be needed for attachment to the ignition system.

§ 85.2213 Exhaust gas sampling system.

(a) *General.* The exhaust gas sampling systems used in the Federal Short Cycle Test and the composite New Jersey/New York Test are identical. The Federal Short Cycle Test and the composite New Jersey/New York Test employ Variable Speed Modes. Density of sampling systems to be used in these tests are designed to measure the true mass emissions of vehicles.

(b) *Mass Emission Exhaust Sampling Systems.* The requirements are identical to those described in § 86.109–78(a) and the component descriptions in § 86.109–78 (b) and (c).

§ 85.2214 Calibration procedures for transient mode tests.

(a) *Calibration of dynamometer.* The dynamometer system for transient mode tests shall be calibrated in accordance with the manufacturers basic instructions and then with the procedure outlined in § 86.118–78. The following conditions shall constitute an acceptable calibration of the system components.

(1) Four or more data points shall be measured that adequately span the horsepower range of the vehicles to be tested on the dynamometer.

(2) The minimum range covered by the data points shall be 20 horsepower.

(b) *Calibration of driver's aid.* The drivers aid device shall be calibrated for time and speed accuracy as follows:

(1) The calibration of the unit for time shall be performed using a timer with an accuracy of ±0.1 second in 60 minutes to measure the total time for the travel of the preprinted chart or computer actuated trace and the accuracy at any point shall be within ±0.2 second. The measurement shall be repeated with adjustments as needed until the accuracy is attained.

(2) The speed indication shall be calibrated by measuring the relationship between the RPM of the rolls and the readout in mph of the recorder. The relationship is expressed by the formula,

$$\text{mph} = \frac{\text{RPM} \times \Pi \times \text{D}}{1056}$$

where D equals roll diameter in inches and mph is determined to one significant decimal place.

(3) The calibration shall be performed with the use of a precision tachometer (accuracy = ±1 percent F.S. or better) to determine the RPM of the roll normally connected to the system tachometer. One reading shall be taken at 1800 rpm roll speed and a second reading 900 RPM roll speed in order to establish linearity of the system. Perform any adjustments needed to make MPH indicator of system read accurately at zero and the two points represented above.

(4) After this calibration, the system MPH meter can be used to calibrate the speed (MPH) portion of the Driver's aid recorder.

(c) *Calibration of CVS.* The requirements are identical to those described in § 86.119–78.

(d) *Calibration of HC Analyzer.* The requirements are identical to those described in § 86.121–78.

(e) *Calibration of CO Analyzer.* The requirements are identical to those described in § 86.122–78.

(f) *Calibration of NO_x Analyzer.* The requirements are identical to those described in § 86.123–78.

(g) *Calibration of CO_2 Analyzer.* The requirements are identical to those described in § 86.124–78.

(h) *Calibration of Other Equipment.* The requirements are identical to those described in § 86:126–78.

(i) *Frequency of analyzer calibrations.* The requirements are identical to those described in § 86.116–78(c)(1)(3), (d)(1)(2), (e), (f).

(j) *Frequency of dynamometer calibration.* The frequency of dynamometer calibration and the associated equipment used for testing shall, in general, be performed as often as required by the individual manufacturers of the equipment. In order to insure good standards of performance, however, both vehicle conformance checks and quality control calibrations should be performed as follows:

(1) Cross checks shall be made weekly on dynamometer systems using a vehicle with uniform or repeatable emissions to find the correlation between dynamometers and establish an acceptable degree of uniformity. Of necessity, this final emission test involves individual calibrations of the CVS (§ 85.2214–(c)) and the analytical instruments (§ 85.2214–(d) through (g)) in addition to the chassis dynamometer calibration. A desirable alternative method is to use a vehicle with repeatable emissions that has been equipped with analytical instruments and calibration gases, thereby reducing the unknowns to the CVS and chassis dynamometer.

(2) The dynamometer system shall be calibrated at least monthly according to paragraph (a) of this section unless dynamometer maintenance has been performed which could alter the calibration. In that case, or if performance cross checks show deterioration, the calibration should be made as soon as possible.

(k) *Frequency of calibration of other equipment.* Other test equipment shall be calibrated as often as required by the manufacturer or as necessary according to good engineering practice.

§ 85.2215 [Reserved]

§ 85.2216 Steady state modal test specifications, overview.

The steady state modal exhaust emission short test consists of vehicle operation over 3 steady state modes during which undiluted exhaust samples are analyzed for hydrocarbon, carbon monoxide and oxides of nitrogen.

§ 85.2217 Steady state modal test procedures, general requirements.

(a) Vehicles shall be tested in the configuration in which they arrive at the test site, with no preconditioning or vehicle preparation. Vehicles shall be tested at the ambient temperatures encountered at the test sites. Vehicles shall be approximately level during the test sequence to prevent abnormal fuel distribution.

(b) Exhaust samples shall be taken from both tailpipes on vehicles having more than one tailpipe exhaust outlet. The pollutant concentration level shall be measured for exhaust samples from each tailpipe according to the procedures outlined in this subpart and then the average emission level of the two tailpipe exhaust samples shall be reported as the official test results.

§ 85.2218 Clayton Key Mode test specifications.[1]

(a) Transmission ranges, speed ranges, and road load power settings. Transmission ranges, speed ranges, and road load power settings shall be determined according to the following schedule:

Vehicle weight class (lb)	Transmission, range/gear	Dyno load hp at mph	High-speed cruise	Low-speed cruise	Idle [1]
Up to 2,800 lb....	Drive for auto trans; high gear (3d) for manual trans.	15 at 28...	36 to 38...	22 to 25...	Automatic transmission in drive.
2,801 to 3,800 lb...	Drive for auto trans; high gear for manual trans.	24 at 46...	44 to 46...	29 to 32...	Do.
3,801 lb and up.....	do.....	30 at 50...	48 to 50...	32 to 33...	Do.

[1] Tests in which the idle speed is not within ±100 rpm of manufacturers specification shall be declared invalid.

(b) Test weights. A complete listing of all vehicle/engine displacement combinations and their respective inertia test weights must be available at each test site prior to initiation of testing.

(c) Dynamometer procedure: (1) During the steady state exhaust emission test, the raw exhaust is collected via a sample probe(s) (as described in § 85.2222(m)) inserted directly into the vehicle tailpipe(s). The undiluted exhaust is analyzed continuously while the vehicle is run on the dynamometer in three steady state modes, and the emission levels are monitored and recorded upon stabilization of readings. Pollutant emission levels are read and reported as volumetric concentrations, expressed in parts per million of hydrocarbons and oxide of nitrogen and in percent (by volume) for carbon monoxide.

(2) Under normal test conditions, and normal vehicle operation, no cooling fan shall be in use. The vehicle engine compartment hood shall remain open during the dynamometer run. However, if problems with vehicle overheating are encountered or anticipated, a cooling fan(s) meeting the requirements set forth in § 86.135–78(b) may be used.

(3) The vehicle speed as measured from the dynamometer rolls shall be

[1] Clayton Key Mode is a proprietary procedure for which a patent has been applied for by the Clayton Manufacturing Company, which company has stated that it will charge fees for the use of this test procedure.

used for speed determination during the high speed and low speed modes. The speed of each test shall be checked against the specification to assure test validity.

(4) Rocking of the test-vehicle on a two-roll dynamometer shall be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch restraining device.

(5) The drive wheels shall be at the pressure prescribed for operation of the vehicle on the road by the tire manufacturer. If the tires are at normal operating temperature (not cold) at the time of testing, the pressure may be 2 to 3 psi above the manufacturers' recommended pressure. The vehicle shall not be tested with underinflated tires.

(6) If the dynamometer has not been operated during the 2 hour period immediately preceding the test, it shall be warmed up for 15 minutes at 30 mph using a non-test vehicle or as recommended by the manufacturer.

(7) If the engine stalls at anytime during one of the steady-state tests, the engine shall be restarted and idled at 2,500±200 rpm for 15–30 seconds and the test resumed at the point of the stall.

(d) Test sequence: (1) Drive or push test vehicle onto the dynamometer so that drive wheels are centered on rolls.

(2) Attach restraining device to vehicle in such a fashion that the vehicle is not damaged.

(3) Open engine compartment and attach engine speed pickup.

(4) Insert sample probe(s) into tailpipe(s).

(5) Examine emission control information label to determine engine family and displacement. Record information on test report.

(6) Adjust dynamometer for the required road load.

(7) Calibrate analyzers according to § 85.2223(c) within 1 hour of the beginning of each test.

(8) Idle vehicle in neutral at 2500± 200 rpm for 15 to 30 seconds within 1 minute of start of each test.

(9) Run test vehicle in high speed mode until emission levels stabilize or for a maximum of 2 minutes.

(10) Record concentration of HC, CO, and NOx upon stabilization or record the highest reading obtained during the last 30 seconds of the 2 minute test period.

(11) Run vehicle in low speed mode until emission levels stabilize or for a maximum of 2 minutes.

(12) Record concentrations of HC, CO, and NOx upon stabilization or record the highest reading reached during the final 30 seconds of the 2 minute test period.

(13) Idle vehicle in drive until emission levels stabilize or for a maximum of 2 minutes.

(14) Record concentrations of HC, CO, and NOx upon stabilization or record the highest reading reached during the last 30 seconds of the 2 minute sampling periods.

(15) Remove sample probe(s).

(16) Remove engine speed pickup and close engine compartment.

(17) Release restraining device.

(18) Lock dynamometer rolls.

(19) Drive vehicle off of dynamometer.

(e) Record required: The following information shall be recorded with respect to each test:

(1) Test number.

(2) Date and time of day for each test.

(3) Instrument operator.

(4) Driver or operator.

(5) Vehicle: Make; Model; Vehicle identification number; Model year; vehicle registration number and year; Transmission type; Odometer reading; Engine displacement; Idle rpm; Fuel system (fuel injection, number of carburetors, number of carburetor barrels); Inertia loading; vehicle registration weight; Actual road load at 50 mph (80 km/h); drive wheel tire pressure, and applicable emission control technology.

(6) All pertinent instrument information such as tunning; gain; serial number; detector number; range. As an alternative, a reference to a vehicle test lane number may be used, with the advance approval of the Administrator, provided test lane calibration records show the pertinent instrument information.

(7) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(8) Test cell barometric pressure, ambient temperature and humidity.

NOTE: A central inspection station barometer may be used: *Provided*, That individual test lane barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(9) Readings obtained during each of the three test modes shall be the final reported emission levels, expressed in ppm for HC and NOx with CO expressed in percent by volume.

(f) Test report: A test report shall be completed in triplicate on a form approved by EPA and shall contain the following information. One copy shall be given to the vehicle owner or his agent.

(1) Test type and driving schedule.

(2) VIN/License No.

(3) Owner's name and address.

(4) Car make, model, MY, engine size, group.

(5) Date of test.

(6) Odometer reading.

(7) Date of previous test on vehicle, if retest.

(8) Inertia and road load if applicable.

(9) Test site location, lane identification.

(10) Test results (including emission measurement values).

(11) Certification by instrument operation and driver that test was correctly performed.

§ 85.2219 Federal Three Mode test specifications.

(a) Transmission ranges, speed ranges, and road load power settings. Transmission ranges, speed ranges, and road load power settings shall be determined according to the following schedule:

Vehicle weight class (lb)	Transmission range	High-speed mode		Low-speed mode		Idle mode[1]
		Speed (mph)	Load (hp)	Speed (mph)	Load (hp)	
Up to 2,500 lb	Drive for auto trans; high (3d) gear for manual trans.	50	21	30	9	Automatic transmission in neutral.
2,501 to 3,500 lb	Drive for auto trans; high gear for manual trans.	50	26	30	12	Do.
3,501 to 4,500 lb	do	50	31	30	15	Do.
Above 4,501 lb	do	50	36	30	18	Do.

[1] Test in which the idle speed is not within ±100 rpm of manufacturer's specification shall be declared invalid.

(b) Test weights. A complete listing of all vehicle/engine displacement combinations and their respective inertia test weights shall be provided to each test site prior to initiation of testing.

(c) Dynamometer procedure:

(1) During the steady state exhaust emission test, the raw exhaust is collected via a sample probe(s) (as described in § 85.2222(m)) inserted directly into the vehicle tailpipe(s). The undiluted exhaust is analyzed continuously while the vehicle is run on the dynamometer in three steady state modes, and the emission levels are monitored and recorded upon stabilization of readings. Pollutant emission levels are read and reported as volumetric concentrations, expressed in parts per million of hydrocarbons and oxides of nitrogen and in percent (by volume) for carbon monoxide.

(2) Under normal test conditions, and normal vehicle operation, no cooling fan shall be in-use. The vehicle engine compartment hood shall remain open during the dynamometer run. However, if problems with vehicle overheating are encountered or anticipated, a cooling fan(s) meeting the requirements set forth in § 86.135–78(b) may be used.

(3) The vehicle speed as measured from the dynamometer rolls shall be used for speed determination during the high speed and low speed modes. The speed of each test shall be checked against the specification to assure test validity.

(4) Rocking of the test vehicle on a two-roll dynamometer shall be minimized by restraining the vehicle horizontally (or nearly so) by using cable and winch.

(5) The drive wheels shall be at the pressure prescribed for operation of the vehicle on the road by the tire manufacturer. If the tires are at normal operating temperature (not cold) at the time of testing, the pressure may be 2 to 3 psi

above the manufacturers' recommended pressure. The vehicle shall not be tested with underinflated tires.

(6) If the dynamometer has not been operated during the 2 hour period immediately preceding the test, it shall be warmed up for 15 minutes at 30 mph using a non-test vehicle or as recommended by the manufacturer.

(7) If the engine stalls at anytime during one of the steady state tests, the engine shall be restarted and idled at 2500 ± 200 rpm for 15–30 seconds and the test resumed at the point of the stall.

(d) Test sequence: (1) Drive or push test vehicle onto the dynamometer so that drive wheels are centered on rolls.

(2) Attach restraining device to vehicle in such a fashion that the vehicle is not damaged.

(3) Open engine compartment and attach engine speed pickup.

(4) Insert sample probe(s) into tailpipe(s).

(5) Examine emission control information label to determine engine family and displacement. Record information on test report.

(6) Adjust dynamometer for the required road load.

(7) Calibrate analyzers according to § 85.2223(c) within 1 hour of the beginning of each test.

(8) Idle vehicle in neutral at 2,500± 200 rpm for 15 to 30 seconds within 1 minute of start of each test.

(9) Run test vehicle in high speed mode until emission levels stabilize or for a maximum of 2 minutes.

(10) Record concentration of HC, CO, and NOx upon stabilization or record the highest reading obtained during the last 30 seconds of the 2 minute test period.

(11) Run vehicle in low speed mode until emissions levels stabilize or for a maximum of 2 minutes.

(12) Record concentrations of HC, CO, and NO_x upon stabilization or record the highest reading reached during the final 30 seconds of the 2 minute test period.

(13) Idle vehicle in neutral until emission levels stabilize or for a maximum of 2 minutes.

(14) Record concentrations of HC, CO, and NO_x upon stabilization or record the highest reading reached during the last 30 seconds of the 2 minutes sampling period.

(15) Remove sample probe(s).

(16) Remove engine speed pickup and close engine compartment.

(17) Release restraining device.

(18) Lock dynamometer rolls.

(19) Drive vehicle off of dynamometer.

(e) Records required: The following information shall be recorded with respect to each test:

(1) Test number.

(2) Date and time of day for each test.

(3) Instrument operator.

(4) Driver or operator.

(5) Vehicle: Make; model; vehicle identification number; model year; vehicle registration number and year; transmission type; odometer reading; engine displacement; idle rpm; fuel system (fuel injection, number of carburetors, number of carburetor barrels); inertia loading; vehicle registration weight; actual road load at 50 mph (80 km/h); drive wheel tire pressure, as applicable; emission control technology.

(6) All pertinent instrument information such as tuning; gain; serial number; detector number; range. As an alternative, a reference to a vehicle test lane number may be used, with the advance approval of the Administrator, provided test lane calibration records show the pertinent instrument information.

(7) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(8) Test cell barometric pressure, ambient temperature and humidity.

NOTE.—A central laboratory barometer may be used: *Provided*, That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(9) Readings obtained during each of the three test modes shall be the final reported emission levels, expressed in ppm for HC and NOx with CO expressed in percent by volume.

(f) Test report: A test report shall be completed in triplicate on a form approved by EPA and shall contain the following information. One copy shall be given to the vehicle owner or his agent.

(1) Test type and driving schedule.

(2) VIN/License No.

(3) Owner's name and address.

(4) Car make, model, MY, engine size.

(5) Date of test.

(6) Odometer reading.

(7) Date of previous test on vehicle, if retest.

(8) Inertia and road load if applicable.

(9) Test site location, lane identification.

(10) Test results (including emission measurement values).

(11) Certification by instrument operation and driver that test was correctly performed.

§ 85.2220 Equipment specifications—steady state modal tests.

Equipment which is equivalent in all material respects to that described in §§ 85.2211 to 85.2214 may be used for steady state short tests. However, equipment described in §§ 85.2221 and 85.2222 may also be used.

§ 85.2221 Dynamometer System.

(a) *General requirements.* Steady state tests such as the Federal Three Mode and the Key Mode require a dynamometer with a power absorption unit but no inertia simulation. The same type of dynamometer specified in § 85.2212(a) can be used with the inertia assembly disengaged.

(b) *Road load power settings.* Road load power for the dynamometer shall be set according to the individual test requirements.

(c) *Dynamometer tolerance requirements.* The chassis dynamometer used for steady state tests shall be capable of a minimum of 50 HP load absorption at 50 MPH that is repeatable to ±0.25 HP without control readjustment. Torque measurement signals shall be accurate to ±0.25% of full scale. Instrumentation shall be readable from the vehicle drivers seat and shall have readout accuracies within 1% of full scale for vehicle speed, engine RPM, torque and horsepower.

(d) *Vehicle restraining device.* A vehicle restraining device is necessary to hold the vehicle on the dynamometer rolls effectively for both front and rear-wheel driven vehicles.

(e) *Driver's aid.* A drivers aid device is not required but verification of vehicle speed by recording is necessary.

(f) *Cooling fan.* External cooling fans are not normally needed for the short tests, but some vehicles, when the ambient temperature exceeds 95°F, tend to overheat. In these cases it is permissible to use an engine cooling fan normally rated at 5300 CFM. The fan must have been certified for its capacity by the fan manufacturer and positioned as outlined in § 86.135–78(b).

(g) *RPM meter.* The engine rpm meter shall be AC powered and be provided with an induction type pickup so that no tools will be needed for attachment to the ignition system.

§ 85.2222 Exhaust gas sampling system.

(a) *General.* The existing sampling systems available for use in short tests are designed to sample the raw engine exhaust and determine the concentration of the pollutants by volume. The sample handling system is an integral part of the exhaust gas analyzer package and includes the pumps, valves, filters, moisture separator, lines, detectors, meters and sample probes.

(b) *Analyzer operation, maintenance, and durability.* The analyzer shall be simple to operate and maintain by garage personnel. The analyzer shall have sufficient durability and ruggedness for frequent use and continuous analysis at various vehicle exhaust flow rates for long periods in a garage environment.

(c) *Continuous measurement.* The instruments shall be capable of continuously measuring the concentration of carbon monoxide, hydrocarbons, and/or oxides of nitrogen in vehicle exhaust emissions during a succession of "Idle Mode", "Key Mode" and/or other short inspection tests.

(d) *Instrument readout.* A direct meter readout is required for each pollutant measured and an automatic or semi-automatic digital emission indication is desirable, with a voltage output capable of continuously interfacing with a digital indicator or computer for recording vehicle exhaust emissions.

(e) *Analyzer ranges.* The analyzers shall have either a multiple range or expanded scale presentation that provides the following approximate capabilities:

Maximum Ranges=0–10% CO, 0–2000 ppm HC, 0–2000 ppm NO. Minimum Graduations=0.05% CO, 5 ppm HC, 10 ppm NO.

(f) *Accuracy.* The accuracy of the analyzer shall be closer than ±3% of the full scale reading for all ranges.

(g) *Response time.* The response time for an exhaust gas sample introduced at

the probe shall be less than 10 seconds for 90% of the reading.

(h) *Calibration check.* The system shall contain a convenient calibration check for performance testing. The calibration method may be a gas standard or other mechanical or electrical method. Air may be used for zero checking.

(i) *Warm-up time.* Warm-up time shall be as short as possible, but not greater than 30 minutes from a cold start.

(j) *Electronic circuitry.* All electronics circuitry should be solid state.

(k) *Zero and span procedures.* Zeroing and spanning of the individual instruments of the system shall be performed before and after each emission test using the instrument manufacturers recommended methods, or other method if shown to be more satisfactory.

(l) *Sample line.* The sampling probe and sample line shall be long enough to cool the exhaust gas to a temperature sufficient to condense the water of combustion, so that there is no possibility of moisture condensing in the infrared cell or sampling handling system outside of the moisture separator and water drain, and that the specific humidity of the exhaust sample gas remain relatively constant so as not to cause undue interference. The moisture separator should be of such design that it does not require cooling water.

(m) *Sample probe.* The sample probe shall be of a replaceable type and shall be made from stainless steel tubing (or other inert metal) that is not less than ¼" inner diameter (I.D.) and not greater than ⅜" outer diameter (O.D.). The probe shall be of rugged construction, especially in the area where the probe is connected to the sample line, and be equipped with an insulated handle of proper length for easy use. The insertion end of the probe tubing shall be closed and the exhaust gas sample shall be drawn through four ⅛" holes regularly spaced away from the closed end.

(n) *Repeatability.* Repeatability of the system shall be ±1% of full scale during five successive samples of the same gas source over a one hour period of continuous operation. The zero and drift of a warm-up system shall be less than ±1% of full scale during an 8 hour period of continuous operation.

§ 85.2223 Calibration procedures—steady state modal tests.

(a) *Dynamometer calibration.* The dynamometer system described in § 85.2212(a) shall be calibrated in accordance with the manufacturer's basic instructions and then with the procedure specified in § 86.118-78 except that for use in these steady mode short tests, no inertia simulation is used (Item 3). The following conditions shall constitute an acceptable calibration of the system components:

(1) Four or more data points shall be measured that adequately span the horsepower range of the vehicles to be tested on the dynamometer.

(2) The minimum range covered by the data points shall be 20 horsepower.

(b) *Analyzer calibration.* Instruments shall be calibrated at least once during each testing day (usually just previous to the commencement of testing) in accordance with the manufacturer's instructions. Cross checks shall be made weekly using calibration gases of known accuracy that are related to N.B.S. standards. A desirable alternative method is to use a vehicle with repeatable emissions that has been equipped with analytical instruments and calibration gases, thereby reducing the unknowns.

(c) *Frequency of calibration.* The frequency of dynamometer calibration and the associated equipment used for testing shall, in general, be performed as often as required by the individual manufacturers of the equipment. In order to insure good standards of performance, however, both vehicle conformance checks and quality control calibrations should be performed as follows:

(1) Cross checks shall be made weekly on dynamometer systems using a vehicle with uniform or repeatable emissions to confirm the correlation between dynamometers and establish an acceptable degree of conformance. Of necessity this final emission test involves individual calibrations of the analytical instruments and gas correlation in addition to the chassis dynamometer calibration. A desirable alternative method is to use a vehicle with repeatable emissions that has been equipped with analytical instruments and calibration gases, thereby reducing the unknowns.

(2) The dynamometer system shall be calibrated at least monthly according to paragraph (a) of this section unless dynamometer maintenance has been performed which could alter the calibration. In that case, or if performance cross checks show deterioration, the calibration should be made as soon as possible.

§ 85.2224 [Reserved]

§ 85.2225 Idle test specifications.

(a) *General requirements.* Raw exhaust is collected via a sample probe(s) (as described in § 85.2222(m)) which is inserted into the vehicle tailpipe(s) while the vehicle idles in neutral at normal idle speed. The undiluted exhaust is analyzed continuously for the duration of the idle period, and the pollutant concentrations are read and recorded upon stabilization (or at the end of a 2 minute sample period). Emission concentrations are reported in ppm (by volume) for hydrocarbons and percent (by volume) for carbon monoxide.

(1) Vehicles shall be tested in the configuration in which they arrive at the test site, with no preconditioning or vehicle preparation. Vehicles shall be tested at the ambient temperatures encountered at the test sites. Vehicles shall be approximately level during the test sequence to prevent abnormal fuel distribution.

(2) Exhaust samples shall be taken from both tailpipes on vehicles which have more than one tailpipe exhaust outlet. The pollutant concentration levels shall be measured for exhaust samples from each tailpipe according to the procedures outlined in this subpart and then the average emission level of the two tailpipe exhaust samples shall be reported as the official test results.

(3) Under normal test condition, and normal vehicle operation, no cooling fan shall be used.

(4) If the engine stalls at any time during idle test, the engine shall be restarted and idled at 2500±200 rpm for 15–30 seconds and the test resumed.

(b) *Test sequence.* (1) Drive vehicle into test area.

(2) Attach engine speed pickup.

(3) Insert sample probe(s) into tailpipe(s).

(4) Calibrate analyzers according to § 85.2223(c) within 1 hour of the beginning of each test.

(5) Idle vehicle in neutral at 2500±200 rpm for 15 to 30 seconds within 1 minute of start at each test.

(6) Idle vehicle in neutral until emission levels stabilize or for a maximum of 2 minutes.

(7) Record concentrations of HC and CO upon stabilization or record the highest reading reached during the last 30 seconds of the 2 minute sampling period.

(8) Remove sample probe(s).

(9) Remove engine speed pickup.

(10) Drive vehicle out of test area.

(c) *Records required.* The following information shall be recorded with respect to each test:

(1) Test number.

(2) Date and time of day for each test.

(3) Instrument operator.

(4) Driver or operator.

(5) Vehicle: Make; model; vehicle identification number; model year; vehicle registration number and year; transmission type; odometer reading; engine displacement; idle rpm; fuel system (fuel injection, number of carburetors, number of carburetor barrels); inertia loading; vehicle registration weight; actual road load at 50 mph (80 km/h); drive wheel tire pressure, as applicable; emission control technology.

(6) All pertinent instrument information such as tuning; gain; serial number; detector number; range. As an alternative, a reference to a vehicle test lane number may be used, with the advance approval of EPA, provided test lane calibration records show the pertinent instrument information.

(7) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(8) Test cell barometric pressure, ambient temperature and humidity.

NOTE.—A central laboratory barometer may be used: *Provided*, That individual test lane barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(d) *Test report.* A test report shall be completed in triplicate on a form approved by EPA and shall contain the following information. One copy shall be given to the vehicle owner or his agent.

(1) Test type and driving schedule.

(2) VIN/License No.

(3) Owners name and address.

(4) Car make, model, MY, engine size.

(5) Date of test.

(6) Odometer reading.

(7) Date of previous test on vehicle, if retest.

(8) Inertia and road load if applicable.

(9) Test site location, lane identification.

(10) Test results (including emission measurement values).

(11) Certification by instrument operation and driver that test was correctly performed.

§ 85.2226 Equipment specifications—idle test.

The equipment described in §§ 85.2227 and 85.2228 shall be used in idle mode tests.

§ 85.2227 Dynamometer system.

None required.

§ 85.2528 Exhaust gas sampling system.

(a) *General.* The existing sampling systems available for use in short tests are designed to sample the raw engine exhaust and determine the concentration of the pollutants by volume. The sample handling system is an integral part of the exhaust gas analyzer package and includes the pumps, valves, filters, moisture separator, lines, detectors, meters, and sample probes.

(b) *Analyzer operation, maintenance, and durability.* The analyzer shall be simple to operate and maintain by garage personnel. The analyzer shall have sufficient durability and ruggedness for frequent use and continuous analysis at various vehicle exhaust flow rates for long periods in a garage environment.

(c) *Continuous measurement.* The instruments shall be capable of continuously measuring the concentration of carbon monoxide and hydrocarbons in vehicle exhaust emissions during an "Idle Mode".

(d) *Instrument readout.* A direct meter readout is required for each pollutant measured and an automatic or semi-automatic digital emission indication is desirable, with a voltage output capable of continuously interfacing with a digital indicator or computer for recording vehicle exhaust emissions.

(e) *Analyzer ranges.* The analyzers shall have either a multiple range or expanded scale presentation that provides the following approximate capabilities:

Maximum ranges=0—10 percent CO, 0–3000 ppm HS.
Minimum graduations=0.05 percent CO, 10 ppm HC.

(f) *Accuracy.* The accuracy of the analyzer shall be closer than ±3 percent of the full scale reading for all ranges.

(g) *Response time.* The response time for an exhaust gas sample introduced at the probe shall be less than 10 seconds for 90 percent of the reading.

(h) *Calibration check.* The system shall contain a convenient calibration check for performance testing. The calibration method may be a gas standard or other mechanical or electrical method. Air may be used for zero checking.

(i) *Warm-up time.* Warm-up time shall be short as possible, but not greater than 30 minutes from a cold start.

(j) *Electronic circuitry.* All electronics circuitry should be solid state.

(k) *Zero and span procedures.* Zeroing and spanning of the individual instruments of the system shall be performed before and after each emission test using the instrument manufacturers' recommended methods, or other method if shown to be more satisfactory.

(l) *Sample line.* The sampling probe and sample line shall be long enough to cool the exhaust gas to a temperature sufficient to condense the water of combustion. This is to assure that no moisture condenses in the infrared cell or sample handling system outside of the moisture separator and water drain, and to assure that the specific humidity of the exhaust sample gas remains relatively constant so as not to cause undue interference. The moisture separator should be of such design that it does not require cooling water.

(m) *Sample probe.* The sample probe shall be of a replaceable type and it shall be made from stainless steel tubing (or other inert metal) that is not less than ¼" I.D. and not greater than ⅜" O.D. The probe shall be of rugged construction, especially in the area where the probe is connected to the sample line, and be equipped with an insulated handle of proper length for easy use. The insertion end of the probe tubing shall be closed and the exhaust gas sample shall be drawn through four ⅛" holes regularly spaced away from the closed end.

(n) *Repeatability.* Repeatability of the system shall be ±1 percent of full scale during five successive samples of the same gas source over a one hour period of continuous operation. The zero and drift of a warmed-up system shall be less than ±1 percent of full scale during an 8-hour period of continuous operation.

§ 85.2229 Calibration procedures—idle test.

(a) Instruments shall be calibrated in accordance with the manufacturers' instructions. Cross checks shall be made weekly using calibration gases of known accuracy that are related to N.B.S. standards. A desirable alternative method is to use a vehicle with repeatable emissions that has been equipped with analytical instruments and calibration gases, thereby reducing the unknowns.

Subpart X—Section 207(b) Short Test Cutpoint Methodology

§ 85.2301 General applicability.

The provisions of this subpart are applicable to 1979 and later model year light-duty vehicles and 1979 and later model year light-duty trucks.

§ 85.2302 Definitions.

The following definitions apply to this subpart beginning with the 1979 model year. Section 86.078–2 remains effective excepting those definitions which are hereby superseded and/or added.

"Car line" means a name denoting a class of vehicles within a make or car division which has a degree of commonality in construction (e.g., body, chassis) Car line does not consider any level of decor or opulence and is not generally distinguished by such characteristics as roof line, number of doors, seats or windows except for station wagons. Station wagons are considered to be different car lines than passenger cars.

"Contingency table analysis" is based upon the assumption that cutpoints can be found for one or more independent variables which will discriminate on the groups of the dependent variable. The selection of the cutpoints results in the a contingency table analysis it is sufficient to identify the number of important ent to identify the number of important groups into which the dependent variable needs to be classified. For the purposes of 207(b) implementation, there are only two such groups: vehicles which pass the FTP and vehicles which fail the FTP. Thus, Figure 1 shows the 207(b) application of a contingency table.

Predicted variable	(FTP) of—	
	Pass	Fail
Predicter variable (ST):		
Pass	Correctly passed vehicles. PP	Error of omission vehicles. E_o
Fail	Error of Commission vehicles. E_c	Correctly failed vehicles. FF

FIGURE 1

"E_c"=cars which are incorrectly failed by the ST (commission errors).
"E_o"=cars which are incorrectly passed by the ST (omission errors).
"FF"=cars which are correctly failed by the ST.
"PP"=cars which are correctly passed by the ST.

"Distribution Characteristics" means the curve which best fits the emissions data when plotted as emission levels vs the fraction of vehicles which exhibit each emission level. The curve fit is accomplished using standard statistical distributions such as the normal, log-normal, Weibull, etc.

"Engine size" means the displacement of the engine and is not dependent upon the "engine family" definition used in the vehicle certification process.

"Group" means a classification of vehicles into classes having the same manufacturer, engine displacement, cylinder block configuration (e.g. V–8, I–6, etc.), number of cylinders, fuel injection or carburetion (number of carburetors and number of carburetor venturies), emis-

sion control systems, inertia weight, and car line.

"Light-Duty Truck" means any motor vehicle, rated at 8,500 pounds GVW or less which has a vehicle curb weight of 6,000 pounds or under and which has a basic vehicle frontal area of 46 square feet or less, which is: (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle or (2) designed primarily for transportation of persons and having a capacity for more than 12 persons, or (3) available with special features enabling off-street or off-highway operation and use.

"Light-Duty Vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or less.

"Make" means the division or similar name within a manufacturing corporation which appears on the vehicle, e.g., Chevrolet, Mercury, Dodge etc.

"Manufacturer" means the major financial entity whose divisions market vehicles, e.g. General Motors, Ford Motor Company etc.

"Short Test Rejection Ratio" means the ratio of vehicles failing the short test to vehicles failing the FTP. Expressed as an (E$_c$equation: STRR=(E$_c$+FF)/(E$_c$ +FF).

"Short test variability" means the ratio of the standard deviation to the mean of the short test levels within a narrow range of FTP levels.

"Technology" is used to differentiate between diverse concepts used in meeting the emission standards, e.g. catalyst, "lean burn", thermal reactor, etc.

"Vehicle size and/or weight" uses the manufacturing corporation body coding to identify vehicles in a group, as this body coding is generally understood to differentiate between full size, intermediate size, compact, etc. vehicles.

§ 85.2303 Overview.

Short test cutpoints will be established on a yearly basis by the United States Environmental Protection Agency for the most recent model year light duty vehicles and light duty trucks for each of the approved short tests. These short test cutpoints will remain in effect for the useful life of each vehicle as defined in § 86.077–2.

§ 85.2304 Vehicle grouping.

(a) For the purposes of establishing short test cutpoints, vehicles will be grouped by make, engine size, vehicle size and/or weight, and the technology used to meet the emissions standards. Vehicles so classified will be defined as a "group."

(b) In order to reduce the number of groups, when two vehicles are the same except for make they will be classified into a single group. For example, Ford Granada and Mercury Monarch will be classified into the same group because they are built from the same manufacturer's body. However, more than one group will exist for this example of consolidation by body code because of the different engine options which are offered in this basic body.

(c) In order to facilitate the process of consolidation, manufacturers will be required to provide the Agency with the marketing model identifications which are derived from the same basic body type, the commonality of engines which are used across manufacturer brands, and the differences in technology that can exist within otherwise identical vehicles and can result in the establishment of a new group. This information is to be supplied to the Administrator by September 30 of the calendar year in which the new model year vehicles are introduced.

§ 85.2305 Data collection.

(a) Data which will be used in the establishment of the short test cutpoints will be collected from one or both of the following sources:

(1) Through the testing of consumer-owned production vehicles. The testing will be performed by the EPA or its contractors. Testing will occur at different locations throughout the country so that the data may be collected in a timely fashion. Additionally, the collection of data in several localities will account for the variations in weather which occur throughout the Nation, as these variations may impact the short test/FTP relationship.

(2) Through the extrapolation of assembly line test data acquired during production of representative samples of each vehicle group.

(b) Testing of these vehicles will consist of the FTP and each approved short test. The FTP will be performed as specified in the FEDERAL REGISTER for that model year vehicle, exclusive of evaporative emissions. The short test will be performed as specified under conditions which reflect real world vehicle inspection station conditions (i.e., ambient conditions, fuel used, etc).

(c) Approximately fifty vehicles will be tested in each group. This sample size is selected because it is the smallest size which is judged to be capable of producing statistically viable results on the effects of production variables as these variables impact on the short test and FTP results.

(d) If the Administrator determines that sufficient evidence of commonality exists, groups of vehicles may be combined in order to minimize the amount of testing required and the number of different cutpoints which must be established. Manufacturers of vehicle groups which have been combined may submit test data to the Administrator to support claims that particular groups of vehicles should not (or should no longer) be included in combined groups. Based upon available data the Administrator may combine or separate vehicles groups at any time subsequent to the establishment of the initial cutpoints.

§ 85.2306 Short test cutpoint selection.

(a) Short test cutpoints will be selected for each vehicle group based upon the analytical technique described in § 85.2307 and the cutpoint selection methodologies described in § 85.2308.

(b) Manufacturers will be given two weeks to review the selected cutpoints before they are promulgated. Unless the manufacturers can submit data indicating why the selected cutpoints are not appropriate for one or more of their car groups, the cutpoints will become effective.

(c) Cutpoint information will be on file at the U.S. Environmental Protection Agency, Public Information Reference Unit. Rm. 2922, 401 M Street, SW., Washington, D.C. 20460.

(d) Should the Administrator determine, through testing by EPA or by review of manufacturer submitted data, that the cutpoints for a given group need to be changed, such a change will become effective immediately.

(e) Should a manufacturer request a vehicle running change under § 86.077–33, Part 86, of this Title 40, CFR, which requires him to run further certification tests, the manufacturer will be required to submit to the Administrator, data which would indicate any changes in the short tests (as specified in Subpart W) to FTP relationships which occur because of the running change.

§ 85.2307 Analytical technique.

(a) The cutpoints for each pollutant for each short test will be established by the use of the contingency table analytical technique.

(b) The data used to establish each group's cutpoints will be generated from the sample of test data as follows:

(1) Establish the FTP and short test distribution characteristics per pollutant for each group and for each short test from the test data.

(2) Using these data, a distribution will be developed for a very large (e.g., 50,000 vehicle) fleet of vehicles in the group. This step smooths the data and prevents the distortion of the selected cutpoints by gaps which may exist in the test data.

(3) Using the prescribed methodology for short test cutpoint selection, an iterative procedure will be followed to select the short test cutpoints which meet the criteria for each pollutant, for each short test and for each group.

§ 85.2308 Cutpoint selection methodologies.

(a) Any of the following techniques can be used by the EPA to select cutpoints.

(1) *A fixed error of commission rate* for each pollutant for each group. The short test cutpoints are determined on the basis of the distribution characteristics of the vehicles tested in each group so that the error of commission rate meets a set value.

(2) A fixed *Short Test Rejection Ratio* for each pollutant for each group. The short test cutpoints are determined on the basis of the distribution characteristics of the vehicles' emissions as determined in each group so as to meet the prescribed short test rejection ratio value.

(3) A fixed level for $E_c/(E_c+FF)$; which expresses the percentage of improperly failed vehicles as a function of all vehicles failing the short test in a particular group. The short test cutpoints are determined from the test data as described above but to meet the prescribed value of $E_c/(E_c+FF)$.

(4) Set the short test cutpoints so that equivalent FTP pass/fail levels are enacted for each vehicle group. This option would work in conjunction with a fixed acceptable commission error rate. For all groups of vehicles with acceptable test variability, the fixed error of commission cutpoint would be computed using the contingency table technique. Then, the FTP levels equivalent to the short test cutpoints for each group would be computed using linear regression estimates with the FTP as the independent variable and the short test as the dependent variable. In order to treat each group of vehicles equally from an air quality standpoint, the highest computed FTP levels for each pollutant would be selected as the equivalent FTP levels for the short test cutpoints. Using regression techniques, the short test cutpoints equivalent to these FTP levels would be determined for each vehicle group and would become the 207(b) short test cutpoints.

(5) Set the error of commission rate or $E_c/(E_c+FF)$ rate as a function of short test variability. Allow a five percent error of commission rate when test variability is at the maximum acceptable level.

$$ST_{cutpoint} = ST_{value\ at\ regression\ line\ intercept\ with\ FTP} \times (f)\ \frac{1}{\text{correlation coefficient}}$$

where f is determined from analysis of data from groups including passing and failing vehicles.

(2) Option 2 would fit a statistical probability distribution to the available data. Then, data would be mathematically generated in the region where they do not exist. The chosen method of selecting the cutpoints would then be applied.

(3) A defect test program would be initiated to obtain data in the region where the population of vehicles is scarce. In cases where there is no data on FTP passing cars, the program would consist of tune-ups rather than incorporation of defects. Such a program would require a knowledge of what defects to introduce as well as a large number of vehicles and tests, so as to include vehicle to vehicle variability.

(4) An additional group of vehicles would be tested. If this second group of vehicles included vehicles dissimilar to those originally tested (i.e., not all either FTP passing or failing vehicles), the ST cutpoint would be set from the second group of vehicles. This option possesses the weakness that the second group could behave the same as the first group and nothing would have been accomplished.

(5) Standards from a similar group would be transferred. This option would apply within groups of vehicles produced by the same manufacturer. Provided the same vehicle size/engine size/technology is utilized in meeting emissions standards, it can be argued that the products manufactured by Division A of a corporation are sufficiently similar to the products from Division B for the ST cutpoints to be transferable in this eventuality. An example of this approach is the use of Chevrolet Division intermediate size vehicle short test cutpoints for Pontiac Division intermediate size vehicles: *Provided*, The same displacement engine (but not necessarily the same engine family) and emissions control technology (e.g., catalyst) were used in both groups.

(6) Use the manufacturers' HC and CO idle specifications for the idle test cutpoint. This option only applies to inspection programs where the idle test is utilized.

A functional relationship between errors of commission or $E_c/(E_c+FF)$ and variability will be developed using mathematical simulation techniques. This will be accomplished by taking a set of data and using probability distribution theory and introducing random numbers variability into the data base at different levels. Then, using fixed short test cutpoints, commission errors can be computed and plotted against variability.

(b) The above procedures of setting short test cutpoints are applicable where the vehicles in each group are divided between FTP passing and FTP failing characteristics. Cases can arise, however, when the vehicles in a group either all pass or all fail the FTP. Under these conditions, none of the above options are viable as means of setting the short test cutpoints. There are six options possible for handling this problem. Two are by mathematical means, two require additional testing and two rely on engineering judgment. Any of the following methods can be used to select short test cutpoints.

(1) This option would fit a linear regression equation to the available data and use it to project the short test/FTP relationship beyond the region of available data. The short test cutpoint would be selected to correspond with the FTP standard, allowing a margin of safety to account for correlation. Expressed in equation form, this approach says:

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[40 CFR Part 85]

[FRL-691-4]

EMISSION CONTROL SYSTEM PERFORMANCE

Warranty Regulations

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes regulations to implement section 207(b)(2) of the Clean Air Act—the emissions performance warranty. The warranty would require that a properly maintained and operated vehicle which fails an EPA-approved emissions short test during its useful life (5 years or 50,000 miles, whichever first occurs) will be remedied by the manufacturer should the owner face a penalty or sanction because of that failure. Emissions short tests are being proposed in a separate notice in today's FEDERAL REGISTER.

DATE: Deadline for submission of written comments: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Scibinico, Environmental Protection Agency, Mobile Source Enforcement Division (EN-340), 401 M Street, SW., Washington, D.C. 20460. 202-755-0298.

SUPPLEMENTARY INFORMATION:

I. EXPLANATORY STATEMENT

Section 207(b) of the Clean Air Act provides, in total:

If the Administrator determines that (1) there are available testing methods and procedures to ascertain whether, when in actual use throughout its useful life (as determined under section 202(d)), each vehicle and engine to which regulations under section 202 apply complies with the emission standards of such regulations, (ii) such methods and procedures are in accordance with good engineering practices and (iii) such methods and proceedures are reasonably capable of being correlated with tests conducted under section 206(a)(1), then—

[(b)(1)]

(1) he shall establish such methods and procedures by regulation, and

[(b)(2)]

(2) at such time as he determines that inspection facilities or equipment are available for purposes of carrying out testing methods and procedures established under paragraph (1), *he shall prescribe regulations which shall require manufacturers to warrant* the emission control device or system of each new motor vehicle or new motor vehicle engine to which a regulation under section 202 applies and which is manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph (2). The warranty under such regulations shall run to the ultimate purchaser and each subsequent purchaser and shall provide that if—

(A) the vehicle or engine is maintained and operated in accordance with instructions under subsection (c)(3),

(B) it fails to conform at any time during its useful life (as determined under section 202(d)) to the regulations prescribed under section 202, and

(C) such nonconformity results in the ultimate purchaser (or any subsequent purchaser) of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law,

then such manufacturer shall remedy such nonconformity under such warranty with the cost thereof to be borne by the manufacturer." (Emphasis added.)

Thus, full implementation of this section requires a number of findings by the Administrator leading to regulations under subsection (b)(1), and then a separate

finding leading to regulations under subsection (b)(2). The Agency is today proposing both sets of regulations under separate headings. This notice relates exclusively to subsection (b)(2), although some general background information is given below for the reader's convenience. The subsection (b)(1) proposal is entitled "Emission Control Performance Warranty Regulations—Short Test Establishment" and can be found in this volume of the FEDERAL REGISTER.

Section 207(b) requires a vehicle manufacturer, following implementation of subsection (b)(2), to warrant that a properly maintained and operated vehicle which fails a subsection (b)(1) test (hereinafter called a short test) during its useful life (5 years or 50,000 miles, whichever comes first, for all vehicles covered by this proposal) will be remedied by the manufacturer should the owner face a penalty or sanction because of that failure. This warranty (hereinafter called the Emissions Performance Warranty) is expected to become an important element in state and local emissions inspection programs, and an inducement towards improved maintenance on vehicles. These factors (often considered together as "Inspection/Maintenance" or "I/M") represent the Clean Air Act strategy which ultimately has the greatest potential for ensuring that in-use vehicles perform within emission standards.

The major obstacle which has delayed implementation to date of the Emissions Performance Warranty has been the technical difficulty in identifying short tests which "are reasonably capable of being correlated" (as the Act requires) with the sophisticated test used to define the Federal emission standards. That test, set out at 40 CFR Part 86, Subpart B, for 1977 and later model year light duty vehicles and light duty trucks, is too complex to be of use in a State or local inspection program.

The Agency believes that such short tests are now identifiable, and that the remaining criteria for publication of regulations under subsection (b)(1) are also satisfied. Consequently, those regulations are being proposed today, and form the basis for the proposal set out herein.

Under subsection (b)(2), the Administrator must "determine that inspection facilities or equipment are available for purposes of carrying out (the identified short tests)". This is interpreted to require a finding either that facilities exist which could be use to carry out the short tests, or that equipment needed to establish testing capability is available at a reasonable cost. The Administrator hereby finds that both of these circumstances presently exist. A number of emissions inspection facilities are already in operation in different States across the country. New Jersey has had a statewide program in operation for over four years. Active testing is ongoing in Portland, Oregon; Phoenix, and Tucson, Arizona; Riverside, California; Las Vegas, Nevada; Chicago, Illinois; and Cincinnati, Ohio. In all, millions of vehicles have been inspected to date using tests basically identical to those proposed today under subsection (b)(1), including both "idle" and "key mode" tests. It should be noted that the idle test may be performed without special facilities, and that the analyzers required for it are readily available and presently being sold to many service facilities for use as maintenance equipment. In sum, a State or local government which desires to engage in short test inspections is presently able to establish and equip a site capable of this type of testing.

II. General Description of Regulations.

The provisions of this notice cover all aspects of the Emissions Performance Warranty. They apply to light duty vehicles and light duty trucks; those being the categories covered by today's short test proposal. Further, as specifically required by the Act, the warranty will be applicable only to those vehicles manufactured in a model year beginning after the regulations are promulgated. (It is anticipated that 1979 and later model year vehicles will be covered.) The required warranty itself is taken directly from subsection 207(b)(2) of the Act. Under the proposal, it would have to be printed in the owner's manual for each vehicle.

Much of the proposal is devoted to the proper maintenance and operation condition of subsection 207(b)(2)(A) of the Act. Provisions cover the permissible content of maintenance and operation instructions, limits on brand name specifications, the types of evidence which will establish compliance with such instructions, Agency review and disapproval of them, and communication of these requirements to vehicle owners. Each is disscussed in detail below. The maintenance condition represents the most critical aspect of the Emission Performance Warranty. Given the fact that most vehicles do require periodic service in order to perform within emission standards for 5 years/50,000 miles, and that the owner is responsible for such work, the question becomes how this duty is to be fairly administered.

From the standpoint of the vehicle manufacturers, a simple solution might be to require that all maintenance be performed at dealer service centers or other authorized facilities. This would give the manufacturer control over the product which he must warrant. However, such an approach is unacceptable for a number of reasons. First, it is unlikely that there are enough authorized facilities in existence to handle the workload that could result. Second, this requirement would have a tremendous anticompetitive impact on the vast independent automotive service and parts industry presently in existence, in contradiction to the Agency's general policy to minimize any such impact from its regulations. Third, the right of an owner to personally maintain his own vehicle would be hindered. Lastly, there is no indication that this course of action would, in fact, ensure that vehicles would be significantly better maintained than they are today.

The Agency believes that the Emissions Performance Warranty may be implemented within the context of the traditional relationships among the affected parties, and that this should be a primary goal of the regulations. Consequently, the maintenance provisions are aimed at ensuring owners may continue to care for their vehicles as they presently do, without jeopardizing protection under the warranty.

The remainder of the proposal speaks of the remedy required by a manufacturer under the Emissions Performance Warranty, and the procedure by which a claim may be brought. Since communication to the warranty is crucial to the effectiveness of this or any other warranty, detailed requirements are set out for the inclusion of all provisions in vehicle owner's manuals.

III. Benefits of the Emissions Performance Warranty

By its nature, the Emissions Performance Warranty does not contain a direct, quantifiable air quality benefit. All warranties are in theory only cost-shifting mechanisms. That is, they determine who will pay to correct a problem; they do not attack the probem itself. In this case, the problem is poor emissions performance of in-use vehicles. The key to reducing it lies in State and local "Inspection/Maintenance" programs, as previously mentioned. Since, a local jurisdiction could enforce emissions standards by requiring the owner to bear any repair expense, and thus obtain emissions reductions without warranty coverage, the warranty may not be fairly credited with the major reduction expected from enforcement of "I/M" programs. However, some indirect air quality benefits may arise from the Warranty to the extent that it provides an incentive to establishment of "I/M" programs in areas which would otherwise not have them, causes programs to enforce stricter standards, encourages owners to better maintain their cars, and influences manufacturers to build more durable emissions control systems. The magnitude of these benefits is not quantifiable, and only experience will demonstrate the extent to which they will contribute to the overall benefits expected from "Inspection/Maintenance."

The Agency considers the Emissions Performance Warranty, coupled with the establishment of "I/M" programs, to be a major step in the Clean Air Act approch to reduction of vehicle emissions. Present Agency efforts include certification of vehicles and recall of classes which perform poorly in-use. Regulations for assembly line testing of vehicles (Selective Enforcement Auditing or SEA) where recently promulgated, and testing under them has begun. The establishment of a warranty to all individual owners that their vehicles will, if properly maintained and operated, continue to meet emissions standards is another substantial inducement to manufacturers to produce vehicles capable of meeting standards for their useful life.

IV. Specific Provisions

The major sections of the proposed regulations are discussed below.

A. Section 85.2103 Warranty

The proposed basic statement of the warranty is fashioned directly from section 207(b)(2) of the Clean Air Act. Some changes have been made as follows in an effort to make the provisions more easily understandable to vehicle owners.

First, in subsection (a)(1), the maintenance and operation requirement of section 207(b)(2)(A) of the Act is spelled out rather than referencing section 207(c)(3) as is done in the Act. Since the proposal requires the manufacturer to list all such instructions applicable to the Emissions Performance Warranty in the owner's manual, it is believed that the least confusing approach to informing the owner of his duty in this regard is simply to identify the requirement as consisting of those listed instructions.

Second, the words "applicable emissions standards of the U.S. Environmental Protection Agency" are substituted for the reference in section 207(b)(2)(B) to section 202 of the Act.

Third, the term "EPA-approved emission test" is used to signify a "correlateable short test" as required by section 207(b) for implementation of the Emissions Performance Warranty. This is intended to provide a non-technical label by which those tests which qualify for section 207(b) warranty purposes may be identified. Further, § 85.2103(a)(2) makes clear the fact that it is failure of such a test that initially triggers the possibility of manufacturer liability under the Emissions Performance Warranty.

No substantive effects are intended by any of the above modifications; any comments that such may occur are specifically requested.

An important issue under the Emissions Performance Warranty is the required scope of coverage. Section 207(b) of the Act states that manufacturers shall warrant "the emission control device or system of each new motor vehicle * * * manufactured in a model year beginning after (regulations are promulgated)." The phrase "emission control device or system" raises the question as to exactly what parts or systems of a vehicle are to be covered by the warranty. The proposal takes a broad interpretation here by defining coverage to include "any system, assembly, device, or component thereof which can affect emissions." An alternative approach would be to limit coverage to a specific list of those items constituting the emission control system, perhaps limited only to those components added solely for the purpose of controlling emissions. However, measures adopted for controlling emissions include important alterations to components and operating parameters of engines which are also vital to the non-emissions performance of those engines. To ignore such items would both excuse the manufacturer from responsibility for a substantial number of potential causes of emissions nonconformities within his ability to affect, and would leave the owner unprotected to the same extent. Hence, the Agency believes that the proposed option is most in keeping with the intent behind the Emissions Performance Warranty.

It has been postulated that the "list approach" would have the advantage of reducing the potential anticompetitive effect of the warranty simply because fewer components would be covered. However, given the possibility of warranty protection, it is presumed that any properly maintained and operated vehicle which fails an Agency-approved short-test will initially be taken to a dealer for repairs. Should the cause of the failure be investigated and found to be a part not on a given list, then the manufacturer would escape liability, but, the dealer would most likely still make the repair. Thus, little if any significant reduction in anticompetitive effect could be expected. In any case, a much larger potential for anticompetitive effect lies in the possible tying of preventative maintenance to the warranty, as opposed to actual repair of failed vehicles. This area, discussed in detail below, would not be affected by a restrictive definition of the scope of coverage of the warranty.

Comments on this aspect of the proposal are particularly requested. Those favoring a list approach are asked to give a sample list, if possible, of those parts which they believe should be included, or in the alternative, a list of those parts which are felt to be incorrectly encompassed by the proposal.

Subsection (b) specifies the time from which the 5 year protection of the Emissions Performance Warranty is to begin. In the vast majority of cases, this will coincide with delivery of the vehicle to its ultimate purchaser. However, for those vehicles used as "demonstrators" or "company cars" by a manufacturer or dealer, the period is begun at the point they are placed in this service. Although such a vehicle is not then in the hands of an ultimate purchaser, the Agency believes that it is reasonable to view it as having begun its useful life. There is little chance of consumer deception here since these cars are not sold as new, and thus purchasers generally realize that they have been used and that, consequently, their warranty protection may be less.

With regard to mileage, the warranty period is to be judged simply by a vehicle's odometer reading. That reading is protected today by numerous Federal and State consumer laws, and need not be further considered here. Any odometer which is adjusted in violation of applicable law will no longer be controlling as to the Emissions Performance Warranty.

Manufacturers should bear in mind that section 203(a)(4)(A) of the Act makes it a prohibited act to sell or lease a vehicle without warranting the emission control device or system pursuant to section 207(b). EPA will investigate any pattern of activity of a manufacturer which suggests that such warranty was not made in good faith.

B. Section 85.2104 Instructions for Maintenance and Proper Operation

This section sets out basic criteria for inclusion of instructions under the maintenance and operation condition of § 85.2103(a)(1), section 207(b)(A) of the Clean Air Act. Subsection (a) reiterates the language of section 207(c)(3) of the Act for maintenance instructions, with the clarifying provision that such instructions be likely to be performed on in-use vehicles. The additional language is included to set out what the Agency considers to be a basic element of the Act's requirement that such instructions be "reasonable."

Subsection (b) requires all maintenance instructions to be set out such that a person who regularly engages in the business of servicing automobiles will be able to satisfactorily comply with them. This is a further elaboration of the "reasonable" requirement of section 207(c)(3) of the Act. Recognizing the fact that many vehicles will be serviced at independent, non-dealer facilities, this provision can be viewed as simply part of the standard of "likely to be performed in-use." Further, it supports the prohibition of § 85.2105 against the tying of warranty coverage to dealer service.

Subsection (c) proposes a partial solution to the problem of owner maintenance. Given that many owners maintain their own vehicles, the question becomes how such individuals will be able to prove that the required instructions have been carried out. The proposed § 85.2107, which deals specifically with the issue of proof, expressly reserves the acknowledged right of an owner to perform all of the required maintenance. However, the standard of proof under such circumstances necessarily places a higher burden on the owner than he would have if he had taken his vehicle to a dealer or an independent service facility. This is due to the fact that not all owners will have the instruments and skills necessary to adequately maintain the emission control systems and devices in use today. Thus, an owner who claims the ability to totally maintain his vehicle needs to establish, essentially, that he is capable of doing so.

However, there are a substantial number of maintenance instructions which are capable of being performed by most owners (e.g., oil and filter changes, spark plug replacements, etc.). The Agency believes that these maintenance items should not be removed from the purview of owners out of their concern that they will risk loss of warranty protection by performing the instruction. One way to approach this problem would be for the Agency to define those instructions capable of owner completion, and to specify minimum requirements for proof of such. The different technologies among vehicle manufacturers would greatly complicate the effort, but the sustaining of owner's rights in this area is considered to be a necessary aspect of the regulations.

Subsection (c) proposes an alternative approach. Since a vehicle manufacturer

is in the best position to determine which maintenance instructions for his product are capable of being performed by an owner, the manufacturer is encouraged to specify such items, along with whatever evidence he would be willing to accept as proof of compliance. It is expected that manufacturers who do this will be able to gain from advertising that their vehicles are "owner serviceable", while at the same time reducing the potential for future disagreements with owners regarding proper maintenance. The approach also puts control of the question of proof in the hands of the manufacturer while protecting owners since, once specified, the manufacturer will be bound to accept the evidence called for. The Agency hopes that the owner's burden will be set at a minimal level such as, for example, retention of receipts or old parts. But, the most important factor is that advance notice will be given as to the required evidence, whatever it may be.

The Agency particularly requests comments on this proposed approach to the problem under the Emissions Performance Warranty of maintenance performed by owners. Manufacturers are encouraged to provide examples of what maintenance they would consider designating as "owner maintenance", and the evidence which would be accepted as proof of compliance.

Subsection (d) reiterates the criteria of section 207(c)(3) of the Clean Air Act for inclusion of operation instructions under § 85.2103(a)(1) of the proposal. Additional language is added to provide that all such instructions "be consistent with the normal use for which the vehicle is sold." As discussed above for subsection (a), this is again intended to elaborate on the Agency's view of how the term "reasonable" is to be interpreted in this specific context so as to give adequate notice to manufacturers regarding the standard for operation instructions required under the Emissions Performance Warranty.

C. SECTION 85.2105 PROHIBITION AGAINST BRAND NAME REQUIREMENTS

This section contains the proposal's basic prohibition against tying of the maintenance and operation condition of § 85.2103(a)(1) to the use of only parts and service provided by the vehicle manufacturer. It contains essentially the same restriction as that of section 102(c) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2302(c) (1975).

Section 207(b)(2)(A) of the Clean Air Act explicitly conditions manufacturer liability under the Performance Warranty on a vehicle being "maintained and operated in accordance with instructions issued under (207)(c)(3)." Since the passage of the Clean Air Act Amendments of 1970, this condition has been the focus of much attention from EPA and from Congress itself. No one disputes the basic concept involved; that is, that a car owner is responsible for reasonable and necessary periodic maintenance of his vehicle. However, some segments of the automotive industry have expressed concern that the provision is potentially anticompetitive in that it may shift maintenance work away from independent facilities and towards manufacturer authorized dealerships.

The actual danger of such a shift is difficult to evaluate given the present lack of experience with any similar type warranty. On December 18, 1974, the Subcommittee on Environmental Problems Affecting Small Business of the Permanent Select Committee on Small Business of the House of Representatives filed a report entitled "Monopolistic Tendencies of Auto Emission Warranty Provisions" (House Report No. 93–1628, 93d Congress, 2d Session). That report concluded that the Emissions Performance Warranty could prove to be anticompetitive in that car owners might feel compelled to use only dealer service and original equipment parts in order to ensure continued protection for the full 5 years/50,000 mile period. Accordingly, the Committee recommended, among other things, that EPA pursue all administrative remedies to minimize such an effect.

The proposal contains three sections aimed directly at this potential problem. Section 85.2105, as stated, represents the basic restriction. Sections 85.2106 and 85.2107 deal respectively with the issue as related to parts and service under the Emissions Performance Warranty, and are discussed in detail below.

D. SECTION 85.2106 REPLACEMENT PARTS

With regard to the replacement parts industry, the potential for anticompetitive effects from the Emissions Performance Warranty rests in the concern that owners will use only original equipment parts so as to ensure continued protection for the full 5 year/50,000 mile period, and that service facilities will also react in the same manner. Thus, the provisions of the proposal which address the issue of performance of maintenance at independent facilities do not encompass the parts issue. Section 85.2106 is intended to fill this gap.

The basic position of § 85.2106 is twofold. First, subsection (a) provides that unless a vehicle manufacturer affirmatively indicates otherwise, he must allow use of any part identified by its manufacturer as a replacement part for a specific vehicle in question. Second, subsection (b) provides that a manufacturer who desires to avoid subsection (a) may do so by providing information sufficient to determine whether a given part meets the standards which are required. In essence, a manufacturer may set up any standard of acceptability, consistent with section 85.2105, related to the emissions performance of parts required to be replaced under the warranty. For example, he may require that all replacements be "equivalent" to the original part, as most do under general warranties today. However, if this approach is taken, then the owner's manual must set out whatever specifications are needed to judge that equivalency. In other words, the owner must be provided with the information necessary to be able to distinguish between those parts which are, and those which are not equivalent. Without this information, an "equivalency" requirement becomes virtually identical to a specification of use of only original equipment parts.

In short, the proposal allows inclusion of a "standard" for acceptability of replacement parts only if that standard may actually be applied in practice against the numerous available aftermarket parts. Otherwise, use of any part sold as a replacement will be acceptable. This is not to say that the vehicle manufacturer will be held liable for the failure of a non original equipment part. Subsection (d) specifically reserves the ability of a manufacturer to deny a warranty claim if he can show that the vehicle's failure of a short test was due to such a part.

Subsection (c) is included in anticipation of the possibility of a future EPA program for certification of aftermarket automotive parts. No such program is presently in operation, although the Agency has published an advance notice of a voluntary program (39 FR 40192, Thursday, November 14, 1974), and Congress has debated making such an effort mandatory (Congressional Record, September 30, 1976, p. H11977). The basic thrust of such a certification will be to qualify a part for use in maintenance under the Emissions Performance Warranty. The provisions of subsection (c) will remain inoperative until such a program is established.

Subsection (e) deals with another parts issue; specifically, the question of warranty coverage for parts without a definite replacement interval. Current practice today illustrates that many parts are subjected in maintenance instructions to a check or inspection, with replacement only if the part is found defective. Such an instruction is not necessarily undesirable since it can lead to the discovery and correction of component failures. However, the instruction raises the question as to whether the part is warranted beyond its first check point, or whether protection ends there with any extra life of the part being simply a benefit to the owner. The regulations specify that, for purposes of the Emissions Performance Warranty, such a part is covered for the full 5 year/50,000 mile period. In other words, the manufacturer shall be liable for replacement of any part that does not have a definite replacement interval and which becomes the basis of a claim under the Emissions Performance Warranty.

The Agency realizes that this approach may cause the routine replacement of some parts which might otherwise, depending on the circumstances of the vehicles's usage, render adequate service for a substantially longer period of time. However, this approach might also cause the design of longer lived parts. In any event, to allow such an instruction to insulate a manufacturer from liability for a part failure could render the warranty totally ineffective since a manufacturer could provide such an instruction for every part which could possibly fail. Further, this type of instruction is clearly aimed at correcting a failure after it has occurred, which is a warranty question, and not prevention of the failure, which in the Agency's view is the purpose of required maintenance.

In conjunction with these requirements, the proposal also requires that a manufacturer submit to EPA an estimate of the typical cost of each item to be replaced during maintenance required under the Emissions Performance Warranty, and the labor charge to replace it. EPA intends to make this information available to the public to enable vehicle purchasers to make some minimal comparisons among manufacturers as to the cost of the maintenance required pursuant to the Emissions Performance Warranty.

E. SECTION 85.2107 PROOF OF MAINTENANCE AND PROPER OPERATION

Section 85.2107 proposes detailed requirements as to the amount and types of proof that may be required from an owner to show compliance with the § 85.2103(a)(1) conditions to recovery under the Emissions Performance Warranty. Two major purposes are intended to be served here. First, such provisions are considered necessary to ensure a high degree of consistency with regard to interpretation of the "proper maintenance and operation" phrase. Without them, variations could be expected due to differing interpretations among those dealers and other agents of the manufacturer who are authorized to handle warranty claims, with little recourse for owners due to lack of bargaining power on their part. Some inconsistencies will still be inevitable, but the presence of detailed guidance in the owner's manual should considerably reduce the problem. Second, the provisions are intended to help reduce the anticompetitive potential of the warranty. Section 85.2105, as described, contains the basic prohibition of the proposal against tying of the warranty to "dealer service". However, in operation, problems related to the use of independent service facilities will most likely arise at the point at which proof of maintenance is required. Thus, the Agency believes that specific provisions on this issue are required.

The proposal is aimed, in essence, at preserving a car owner's present ability to have his vehicle maintained at any service facility, or to maintain it himself. This is sought to be balanced, however, against the ability of the manufacturer to avoid liability if the maintenance has not been correctly performed. Resolution of this conflict depends to a large extent on the interpretation given to the maintenance condition of the warranty.

One possible interpretation is that the Act requires the owner to be able to prove that each maintenance instruction was performed at the proper time and done correctly. This would place a large burden on those owners who have their vehicles serviced at independent facilities. The typical owner, in such an instance, is rarely in a position to make such a showing. He simply tenders his car to the shop, and returns when the work is completed. Thus, a question as to compliance with the maintenance condition would in all likelihood be resolved against him. The consequence of this interpretation is therefore to heavily favor protection of the manufacturer against improper maintenance, while discouraging use of independent facilities.

Another interpretation could be that the Act requires only that the owner make good faith efforts to obtain the requisite maintenance, with the manufacturer subsequently being held strictly liable for the emissions performance of the vehicle. In other words, the manufacturer would not be able to defend against a claim on the grounds that maintenance was not correctly performed. The requirement would be satisfied simply by tender of a vehicle to someone who held himself out as capable of following the manufacturer's instructions. The Agency believes that such an interpretation, although stringent, may be correct given the goals of the Act. Under it, manufacturers could be expected to react by reducing the amount and complexity of required maintenance, a procedure which could be expected to result in vehicles with lower emissions throughout their useful life and beyond.

A third alternative, and the one proposed in this notice, is to interpret the maintenance condition to require some initial showing by the owner, after which he will be presumed to have complied with the condition. The showing consists of evidence which the Agency believes will in most cases indicate that the work was correctly performed. However, the presumption is not made conclusive. The manufacturer may, with some exceptions, rebut the presumption by showing that the maintenance instructions have not been properly complied with. The burden of proof in this regard will be on the manufacturer, but, in most instances, he will be the party in the best position to meet such a burden. On the other hand, owners will be able to continue to have their vehicles maintained at competent independent facilities, rather than at dealerships, without risking loss of protection under the Emissions Performance Warranty simply because of that choice. The Agency believes that this approach best satisfies the intent behind the maintenance requirement of the Emission Performance Warranty; however, since this is a critical issue in the warranty, specific comments are requested. The actual provisions of the proposal are discussed below.

The basic element of the proposal is the subsection (a) provision that compliance with the maintenance requirement shall be presumed upon either of two showings, or a combination thereof, by an owner. First, presentation of a properly validated maintenance logbook shall be sufficient to raise the presumption. Second, a showing by the owner that he has submitted the vehicle to one who regularly engages in the business of servicing automobiles, and directed that person to perform the required maintenance in accordance with the manufacturer's published instructions, shall be sufficient to raise the presumption. The Agency hopes that the use of logbooks will eventually become the preferred method for proof of maintenance, and that it will result in a recognized, uniform procedure across the country for establishing compliance with the maintenance condition. However, a business receipt which contains the same information as would appear in the logbook shall be acceptable in lieu of a logbook entry. In either case, subsection (b) allows the manufacturer (with some exceptions discussed below) to rebut by proving that the required maintenance was not, in fact, correctly performed.

Subsection (c) preserves the right of an owner to establish, by means other than those of subsection (a), that his vehicle has been properly maintained; the distinction being the absence of any presumption here. Thus, an owner may have a more difficult task showing proper compliance with the maintenance condition under this subsection. For example, he may have to establish his own expertise to perform maintenance which is not specified as owner's maintenance by the manufacturer. The proposed standard is simply that of reasonable evidence. By its nature, this is something that will have to be determined on a case by case basis. Clearly, fair operation of the provision will require good faith on the part of owners, manufacturers, and dealers.

Subsection (d) proposes that a signed statement be accepted as proof of proper operation under the Emissions Performance Warranty. Due to the nature of the requirement of proper operation, the Agency believes that such a statement is all that can reasonably be demanded. No owner could disprove the negative, i.e., that he had not improperly operated his vehicle. The statement is not made conclusive since, if a vehicle exhibits obvious indications of improper operation, then a claim may be denied on that basis. However, in the absence of such a showing by the manufacturer, it is all that may be required. Subsection (e) establishes four exceptions to the ability of a manufacturer to escape liability on the basis of improper maintenance. The first is in the case of work performed by a dealer or other authorized agent of the manufacturer. Under general principles of Agency, the manufacturer must accept responsibility for such work.

The second exception is in the case of work performed on the vehicle to keep it in a safe operating condition. This is intended to allow for those instances where a vehicle will not function properly without adjustment causing it to exceed emission standards. The agency believes that such an adjustment may not affect protection under the Emissions Performance Warranty.

The third exception is intended to reach those instances where the manufacturer should have foreseen that the vehicle would not be properly main-

tained. This could be due to a number of reasons. For example, equipment necessary to adjust the engine may not be readily available in the field. The design of some emission related component may be such that it is too sensitive to be properly serviced by most mechanics. Instructions in the service manual may be incomplete, or too vague to ensure correct maintenance in most instances. If any of these conditions can be shown, or others which establish that the manufacturer should have foreseen that improper maintenance would result, then such improper maintenance may not be raised in defense of an Emissions Performance Warranty claim.

The fourth exception relates to maintenance and operation instructions not relevant to the particular failure of a vehicle to meet emission standards, and is intended to protect vehicle owners from unduly harsh application of the § 85.2103 (a)(1) conditions. If a vehicle fails due to a clearly defective component in one emission control system, the absence of maintenance to an unrelated component, or the existence of unrelated improper operation of the vehicle, should not relieve the manufacturer from liability.

Subsection (f) explicitly reserves the right of an owner to maintain his own vehicle. With regard to proof, such a person will have to, in general, meet the reasonable evidence criteria of subsection (c). An exception to this exists for those instructions listed as owner's maintenance under § 85.2104(c) of the proposal. For such maintenance, the manufacturer must set out the evidence which is desired as proof of compliance, presentation of which will then enable the owner to obtain the rebuttable presumption of subsection (a). The issue of owner maintenance is discussed in more detail in section IV.B. above.

Subsection (g) specifies requirements for proper validation of the maintenance logbook so as to satisfy subsection (a)(1). In general, this consists of the signature of the same individual who would otherwise sign a receipt sufficient to make the subsection (a)(2) showing. In the case of owner's maintenance, the owner himself shall be authorized to validate the logbook.

F. SECTION 85.2108 WARRANTY CLAIMS

A necessary element of effective operation of the Emissions Performance Warranty will be the existence of expeditious claim procedures. Section 85.2108, to this end, requires each manufacturer to establish such procedures. Given the typical manufacturer organization currently in effect, it is expected that they will involve a determination by a dealer, and perhaps subsequently by a zone representative, of the manufacturer. However, although it is expected that the vast majority of claims will be settled at these levels, the proposal does not contain any requirements related to them, except that the owner obtain an immediate decision at the point of first presentation of his vehicle for repair. The Agency is of the opinion that such details are best left to the discretion of each manufacturer.

The proposal does require that all procedures contain a designated final level of review, and that an owner be provided with a final decision on his claim within ten days of its receipt at that final level. This is deemed necessary to assure that owners whose vehicles do not pass a short test may obtain an expeditious determination as to the validity of their Emissions Performance Warranty. Owners facing sanctions due to a failed vehicle have a need to know, within a short period of time, whether a warranty claim will be honored, or whether they should seek repair at their own expense. In the case of a denied claim, an owner must also determine whether to pursue legal action against the manufacturer, and, for this reason, the proposal requires that a denial be accompanied by a written explanation.

The provision requiring review within ten days is supported by a proposal that the manufacturer be held liable for the cost of any repair work actually performed on a vehicle subsequent to the lapse of the notification period. An owner facing a penalty or sanction will be at an extreme disadvantage with regard to any time delay in the processing of his claim. This proposal, however, will ensure a fixed waiting time after which the owner will either know that his claim has been denied, or that his vehicle may be repaired at the manufacturer's expense. Hopefully, State and local jurisdictions will establish any inspection program deadlines in accordance with the warranty notification period.

A final question with regard to warranty claims is at what point in time a claim may be raised. Section 85.2108(a) specifically deals with this issue. Essentially, a cause of action under the Emissions Performance Warranty will exist upon satisfaction of all of the requirements of § 85.2103(a), subsection (3) of which states that an owner must bear a penalty or sanction as a result of a short test failure. Operation of this provision may be complicated by the fact that jurisdictions are not expected to impose any penalty at the first failure of an emissions test. Rather, the owner of a failed vehicle will probably simply be required to have the vehicle serviced, and then undergo a retest within a specified period of time. Even in the case of repeated failures, penalties or sanctions may not be imposed beyond a requirement that the owner demonstrate that a certain amount of corrective maintenance has been performed on the vehicle. Use of fines or suspensions in some jurisdictions is expected to be limited to those situations where the owner either refuses to undergo a test at all, or refuses to have corrective maintenance or repair performed on his vehicle after it fails a test.

The § 85.2103(a)(3) condition could be held to require an owner to either violate State or local law so as to incur a fine, or at the least be without the use of his vehicle, before an Emissions Performance Warranty claim could be raised. However, such an interpretation could hardly be ascribed to Congress in passing this provision (section 207(b)(2)(C) of the Act). The Agency believes that the purpose of this condition is simply to limit the warranty to those situations in which repair of the vehicle is mandatory. Consequently, the proposal specifically holds that a warranty cause of action arises immediately upon failure of a short test if the owner is required to take any corrective action as a result of that failure. The owner need not ignore a given grace period, and actually incur a penalty or sanction before the warranty becomes operational.

G. SECTION 85.2109 WARRANTY REMEDY

As stated in § 85.2103(a), the manufacturer's obligation under the Emissions Performance Warranty is to "remedy the nonconformity at no cost to the owner." The Agency's interpretation of this requirement is set out in § 85.2109. Subsection (a) deals with the precise remedy involved. It is, in essence, to place the vehicle in a conforming condition. A temporary fix, sufficient only to enable the vehicle to pass an emissions retest is unacceptable. Further, this liability is specifically clarified as being independent of any State or local limitation on the penalty or sanction required to trigger warranty protection under § 85.2103(a)(3). EPA anticipates that many jurisdictions will set a limit on repair expense after which an owner will be required to take no more action despite the fact that his vehicle continues to fail to conform to emission standards. Alternatively, owners may simply be fined if their vehicles fail I/M inspections. However, the Agency believes that such provisions should not act to limit protection under the Emissions Performance Warranty. The "penalty or sanction" paragraph of section 207(b) does restrict the applicability of the warranty to those areas with mandatory inspections, and most likely will further restrict the potential frequency of claims in those areas to annual or semi-annual periods. But, given a mandatory test with some penalty or sanction attached, the Act is clear that the warranty remedy, if obtainable, is for the manufacturer to "remedy the nonconformity". The decision by a State or locality to fix a maximum penalty or sanction for its citizens cannot affect this potential Federal liability of a manufacturer under the warranty.

Subsection (b) speaks to the cost of repair, and emphasizes the requirement that a manufacturer bear the entire cost regardless of a failed vehicle's proximity to its next scheduled maintenance point. Thus, for example, if the required remedy for a failed vehicle is a new set of spark plugs, the manufacturer must provide them without cost even though the vehicle would have been scheduled to receive a new set, at the owner's expense, within a short period of time. In sum, the cost of a repair may not be split pro rata based on the vehicle's position within the required maintenance schedule, or on any other criteria.

Under this provision, an owner may thus obtain a free tune-up when he would not have received one had his vehicle failed a week later at the maintenance interval. The Agency believes that this approach, although strict, is required by the Act. No problem arises if a vehicle fails due to a defect in a non-maintenance item since the time of such a failure is irrelevant to responsibility for repair. However, the Agency anticipates that many failures will be correctable simply by performance of routine maintenance, albeit at an earlier stage than that scheduled. In these cases, the time of failure will be determinative of responsibility, and, under the Emissions Performance Warranty, this can mean only complete responsibility. The purpose of the warranty is to ensure that a properly maintained and operated vehicle will perform within emissions standards at all times during its useful life. Although the need for routine maintenance implies that a vehicle will naturally vary in its emissions as maintenance items deteriorate, at no time should emissions exceed standards. Thus, failure of a short test indicates a problem outside of normal parameters. This, by the very nature of the warranty, must be corrected at the manufacturer's expense regardless of the point in time at which it is discovered.

Subsection (c) deals with a secondary problem related to the performance of routine maintenance as a repair under the Emissions Performance Warranty; that is, the fact that such work will affect the maintenance schedule. Clearly, parts replaced within a short time of their scheduled replacement need not be replaced again at the scheduled point, as it would only result in the needless waste of many parts. The proposal thus requires that a manufacturer adjust the maintenance schedule under these circumstances, and inform the owner of the new periods at the time of the warranty repair.

The issue of the effect of unscheduled maintenance, whether performed under the warranty or at an owner's request, is of general importance to this proposal. Experience shows that few vehicles can be expected to rigidly adhere to any maintenance schedule throughout a 5 year/50,000 mile period. Thus, particularly at later periods in a car's useful life, the question of compliance with the maintenance condition of § 85.2103(a)(1) may involve analysis of a record quite different from that envisioned by the applicable schedule. The Agency is concerned that this variable may confuse the determination of entitlement to protection under the Emissions Performance Warranty, especially in cases where the remedy is strictly maintenance oriented. Comments are particularly desired as to how this problem should be approached in any final regulations.

H. SECTION 85.2110 INCLUSION OF WARRANTY PROVISIONS IN OWNER'S MANUALS

The key to obtaining effective implementation of any warranty lies in full disclosure of its provisions to the warrantee. Accordingly, the proposal contains specific requirements intended to ensure that complete information regarding the Emissions Performance Warranty is supplied to vehicle owners. Section 85.2110 contains all of these requirements. Most are felt to be self explanatory, and are thus not discussed below.

In general, disclosure must be made in the vehicle owner's manual, which is intentionally defined broadly to allow flexibility in the presentation of the warranty information. Many manufacturers have separate warranty and/or maintenance booklets today for their own warranty or the Clean Air Act Section 207(a) warranty. This approach is at least equivalent to if not better than inclusion in the owner's manual proper, and the Agency hopes that similar type presentations will be adopted for the Emissions Performance Warranty.

The owner's manual need only contain a brief listing of the maintenance schedule, as is current practice today; provided that full descriptions of all procedures are set out in the service manual, those manuals are available, and the owner can obtain a copy of those procedures related to the Emissions Performance Warranty by mail, at nominal cost. This compromise to requiring that complete procedures be in all owner's manuals is proposed recognizing that few owners have a need for detailed instructions, and that presentation in the service manual is the established practice today. With regard to any maintenance designated as "owner's maintenance", this rationale may not be applicable, and the regulations thus require complete detailed instructions in the owner's manual for these procedures.

The owner's manual is also required to contain a logbook for the purpose of verifying compliance with the maintenance condition of the warranty. The Agency believes that this is a preferred approach to requiring that owners retain receipts for all maintenance services, although, as previously discussed, business receipts are acceptable under the proposal.

I. REVIEW OF MANUALS AND DISAPPROVAL OF MAINTENANCE AND OPERATION INSTRUCTIONS

Section 85.2111 of the proposal requires that all owner's and service manuals be submitted to the Agency for review pursuant to this subpart. In the case of maintenance and operation instructions which are determined to be out of compliance, either on their face or in actual practice, § 85.2112 provides for disapproval of such with the consequence being that they subsequently cease to be part of § 85.2103(a)(1) condition to recovery under the warranty.

No disapproval may be effected without notice to the manufacturer, an opportunity for him to present his views and evidence at an Agency hearing on the record, and publication in the FEDERAL REGISTER. Once an instruction is disapproved, however, the manufacturer will be required to send notification by mail to all owners, and the disapproval will be included in a compilation by the Agency for distribution to all interested parties.

Specific comments are requested as to the desired scope of any hearing held with regard to disapproval of a maintenance or operation instruction, including limits, if any, to be placed on discovery, intervention, cross-examination, and appeal.

V. COST OF IMPLEMENTATION

The major Agency cost involved in the implementation of the Emissions Performance Warranty will stem from whatever yearly testing is required in order to set cut-points (pass/fail points) for the various short tests identified in the subsection 207(b)(1) proposal being published today. Manufacturer costs will relate to administration of the warranty, and loss of sales due to price increases made to cover expected repair costs. An economic analysis of these factors has been prepared by the Agency and is available for inspection and copying at the U.S. Environmental protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460. Single copies may be obtained by writing to: Environmental Protection Agency, Mobile Source Enforcement Division, Warranty Project (EN-340), 401 "M" Street, S.W., Washington, D.C. 20460.

The Agency is particularly interested in obtaining information related to the potential economic impacts of the Emissions Performance Warranty, and specifically requests comments on this topic with supporting data if available.

VI. ENVIRONMENTAL IMPACT

No adverse environmental impacts are anticipated by these regulations. As previously discussed, the warranty is basically only a cost-shifting mechanism. It will indirectly lead to some air quality benefits to the extent that it encourages implementation of State and local "Inspection/Maintenance" programs in areas which would otherwise not have them, causes more stringent standards to be enforced, induces owners to devote more attention to properly maintaining their vehicles, and influences manufacturers to build more durable emission control systems. However, the warranty itself does not contain any such impact.

No voluntary environmental impact statement has been prepared pursuant to EPA guidelines set forth in 39 FR 37419. The Emissions Performance Warranty is primarily directed at light duty vehicles, whose emission standards are specifiacilly exempted from the EIS requirements.

VII. COMMENTS

Interested persons are encouraged to participate in this rulemaking proceeding by submitting written comments (ten copies are requested) to: Director, Mobile Source Enforcement Division (EN-340), Room 3220 (WSM), Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460.

All comments received before the close of business on the comment closing date

will be considered. All comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

Final regulations, modified as the Administrator deems appropriate after consideration of comments, will be promulgated as soon as practicable after such consideration and will be applicable to model year 1979 and later light duty vehicles and light duty trucks.

This notice of rulemaking is issued under authority of the following sections of the Clean Air Act as amended: 207 (42 U.S.C. 1857f–5(a)), 208 (42 U.S.C. 1857f–6) and 301(a) (42 U.S.C. 1857g). The regulations would implement section 207(b) of the Clean Air Act of 1970.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: May 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

Accordingly, notice is hereby given that Part 85 of Title 40 of the Code of Federal Regulations is proposed to be revised by the addition of a new Subpart V as set forth below.

Subpart V—Emissions Control System Performance Warranty Regulations

Sec.
85.2101 General applicability.
85.2102 Definitions.
85.2103 Warranty.
85.2104 Instructions for maintenance and proper operation.
85.2105 Prohibition against brand name requirements.
85.2106 Replacement parts.
85.2107 Proof of maintenance and proper operation.
85.2108 Warranty claims.
85.2109 Warranty remedy.
85.2110 Inclusion of warranty provisions in owner's manuals.
85.2111 Review of warranty statement, maintenance and operation instructions.
85.2112 Maintenance and operation instruction disapproval.

Subpart V—Emissions Control System Performance Warranty Regulations

§ 85.2101 General applicability.

The provisions of this subpart are applicable to all 1979 and later model year light duty vehicles and light duty trucks.

§ 85.2102 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of Title II of the Clean Air Act, 42 U.S.C. 1857 (f)–1 through (f)–7, as amended by Pub. L. 91–604 and 93–319.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Emission control device or system" means any system, assembly, device, or component thereof which can affect emissions.

(4) "Emissions Performance Warranty" means that warranty given pursuant to this subpart.

(5) "EPA-approved emission tests" means a test prescribed under 40 CFR 85.2201 et seq.

(6) "Light duty truck" means any motor vehicle related at 8,500 pounds GVWR or less with a vehicle curb weight of 6,000 pounds or less, and a basic vehicle frontal area of 46 square feet or less, which is:

(i) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(ii) Designed primarily for transportation of persons, and having a capacity of more than 12 persons, or

(iii) Available with special features enabling off-street or off-highway operation and use.

(7) "Light duty vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or less.

(8) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year; however, if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(9) "Owner" means the ultimate purchaser or any subsequent purchaser of a vehicle.

(10) "Owner's Manual" means the instruction booklet normally provided to the purchased of a vehicle, and any other written information pertaining to the operation, maintenance, specifications, description or warranty of the vehicle provided with that booklet.

(11) "Service Manual" means that book provided by the manufacturer for use by vehicle service personnel in maintaining and repairing vehicles.

(12) "Useful Life" means a period of use of 5 years or 50,000 miles, whichever first occurs.

§ 85.2103 Warranty.

(a) The manufacturer of each vehicle to which this subpart applies shall warrant the emission control device or system of the vehicle such that if:

(1) The vehicle is maintained and operated in accordance with the manufacturer's instructions under the Emissions Performance Warranty, as set out in the owner's manual, and

(2) It fails to conform, for a period of 5 years or 50,000 miles, whichever first occurs, to the applicable emissions standards of the U.S. Environmental Protection Agency, as judged by an EPA-approved emission test, and

(3) Such nonconformity results or will result in the owner of the vehicle having to bear any penalty or other sanction (including the denial of the right to use the vehicle) under State or Federal law, then the manufacturer shall remedy the nonconformity at no cost to the owner.

(b) The warranty period shall begin on the date the vehicle is delivered to its ultimate purchaser, or if the vehicle is first placed in service as a demonstrator or company car prior to such delivery, on the date it is first placed in such service.

§ 85.2104 Instructions for maintenance and proper operation.

(a) Maintenance required under the Emissions Performance Warranty must be reasonable and necessary to assure the proper functioning of the emission control device or system of the vehicle, including that it be likely to be performed on in-use vehicles. Instructions shall be specific as to the exact procedures required, and the intervals at which they are to be performed.

(b) Maintenance instructions shall be set out such that one who regularly engages in the business of servicing automobiles will be able to satisfactorily comply with them.

(c) A manufacturer may specify those maintenance instructions which, in his opinion, are capable of being performed by a vehicle owner. Each instruction shall contain the complete procedure to be followed, and the documentation necessary to establish that it has been performed so as to qualify the owner to validate the maintenance logbook under § 85.2107(g)(2).

(d) Operation instructions applicable to the Emissions Performance Warranty must be reasonable and necessary to assure the proper functioning of the emission control devices or systems of the vehicle, including that they be consistent with the normal use for which the vehicle is sold.

§ 85.2105 Prohibition against brand name requirements.

(a) No maintenance or operation instruction issued pursuant to the Emissions Performance Warranty may include any condition on the use of any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name; or directly or indirectly distinguish between service performed by the franchised dealers of the manufacturer or any other service establishments with which the manufacturer has a commercial relationship, and service performed by independent automotive repair facilities with which the manufacturer has no commercial relationship, except that the prohibition of this section may be waived by the Administration if:

(1) The manufacturer satisfies the Administrator that the vehicle will function properly only if the component or service so identified is used in connection with the vehicle, and

(2) The Administrator finds that such a waiver is in the public interest.

§ 85.2106 Replacement parts.

(a) Unless specified otherwise by the vehicle manufacturer, compliance with instructions to replace parts during maintenance under the Emissions Performance Warranty shall require only the use of parts identified by their manufacturer as replacement parts for the specific vehicle in question.

(b) A vehicle manufacturer may specify that all parts replaced during maintenance under the Emissions Performance Warranty be equivalent, from an emissions standpoint, to the original equipment parts of the vehicle, or set out some other criteria for acceptability (from an emissions standpoint) not in conflict with § 85.2105; *Provided*, that the owner's manual contains complete information necessary to determine whether a given part is so equivalent or meets the acceptability criteria.

(c) In all cases, a part certified, in accordance with criteria and procedures sanctioned by the Administrator, to be an equivalent replacement part for a specific vehicle in question shall be acceptable for use during maintenance under the Emissions Performance Warranty.

(d) Notwithstanding the above, a manufacturer may avoid liability under the Emissions Performance Warranty if he can show that a particular failure of an Agency-approved emission test is caused by a non-original equipment replacement part. For purposes of this section, any part authorized by the vehicle manufacturer to be sold as a replacement part for a vehicle in question shall be considered an original equipment replacement part.

(e) A part not required to be replaced at a definite interval shall be considered as warranted for the full term of the Emissions Performance Warranty. Diagnostic maintenance instructions, that is, instructions to replace a component only if checked and found to be operating below specification, shall have no bearing on warranty coverage. The manufacturer shall be liable for any such part which becomes the basis of a claim under the Emissions Performance Warranty.

§ 85.2107 Proof of maintenance and proper operation.

(a) Upon presentation of a vehicle for repair under the Emissions Performance Warranty, an owner shall be entitled to a rebuttable presumption that the requirement of § 85.2103(a)(1) that a vehicle be maintained in accordance with the manufacturer's instructions has been met upon:

(1) Presentation of a properly validated maintenance logbook for that vehicle, or

(2) A showing that he has submitted the vehicle, at the specified intervals, to someone who regularly engages in the business of servicing automobiles, and directed that person to perform the specified maintenance in accordance with the manufacturer's instructions for that vehicle, or

(3) Any combination of the above, which, taken together, covers all of the required maintenance for the vehicle.

(b) A manufacturer may rebut the presumption of paragraph (a) of this section by showing that the maintenance instructions required under the Emissions Performance Warranty have not been properly complied with.

(c) In the absence of a showing as set out in paragraph (a) of this section, a manufacturer shall nevertheless consider the § 85.2103(a)(1) maintenance condition satisfied upon receipt of reasonable evidence that the required maintenance was performed at the proper intervals and likely to have been done correctly, unless the manufacturer can show that such is not the case.

(d) The requirement of § 85.2103(a)(1) that a vehicle be operated in accordance with the manufacturer's instructions shall be considered satisfied upon receipt of a signed statement by the owner that he has properly operated the vehicle, unless the manufacturer can show that such is not the case.

(e) Despite inability of an owner to meet any of the above requirements, a manufacturer may in no case deny a warranty claim on the basis of:

(1) Work improperly performed by a dealer or other authorized service agent of the manufacturer,

(2) Work performed on the vehicle to rectify an unsafe condition, including a driveability condition that is unsafe, attributable to the manufacturers.

(3) Work improperly performed or not performed due to the design of the vehicle, an impractical maintenance procedure, unavailability of necessary tools or instruments, or other cause which the manufacturer should have foreseen would result in such improper maintenance or lack of maintenance, or

(4) Noncompliance with any maintenance or operation instruction which the owner can show is not relevant to his vehicle's particular failure of an EPA-approved emission test.

(f) Nothing in this subpart shall be construed to prevent an owner from personally performing all of the required maintenance for his vehicle under the Emissions Performance Warranty.

(g) Proper validation of the maintenance logbook, as specified in paragraph (a)(1) of this section, shall consist of completed entries for only those items required by § 85.2110(b)(2), and the signature of either:

(1) Someone who regularly engages in the business of servicing automobiles, or

(2) The owner, in the case of items classified as owner's maintenance pursuant to § 85.2104(c) and for which the owner possesses the required documentation under that paragraph.

§ 85.2108 Warranty claims.

(a) A claim under the Emissions Performance Warranty may be raised immediately upon failure of an EPA-approved emission test if, as a result of that failure, an owner is required to take action of any kind in order to avoid imposition of a penalty or sanction. An owner need not suffer the loss of the right to use his vehicle, be fined, incur repair expenses, or actually bear any such penalty or sanction to satisfy the requirement of § 85.2103(a)(3). That requirement shall be met if a test failure sets a procedure in motion under which the owner will bear such a penalty or sanction if his vehicle is not brought into conformity, or repaired to some specified extent.

(b) Each manufacturer shall establish procedures as to the manner in which a claim under the Emissions Performance Warranty may be raised. The procedures shall require an immediate decision by the dealer, or other person to whom a vehicle is initially presented for repair, as to the validity of the claim, and shall designate a final person or office to which vehicle owners may appeal a refusal by a dealer or other agent of the manufacturer to honor a claim.

(c) Within 10 days of the receipt of an appeal by such person or office, the manufacturer shall either honor the claim or provide the owner, in writing, an explanation of the basis upon which the claim is being denied. Failure to so notify shall result in the manufacturer being liable for the cost of any subsequent work actually performed on the vehicle in order to bring it into compliance with applicable emission standards.

§ 85.2109 Warranty remedy.

(a) The manufacturer's obligation under the Emissions Performance Warranty shall be to make such adjustments or repairs as are necessary to assure that the vehicle complies with applicable emission standards of the U.S. Environmental Protection Agency, that it will continue to comply for the remainder of its useful life (if proper maintenance and operation is continued), and that it will operate in a safe manner. State or local limitations as to the extent of the penalty or sanction imposed upon an owner of a failed vehicle shall have no bearing on this liability.

(b) Under the Emissions Performance Warranty, the manufacturer shall be liable for the total cost of the remedy of any vehicle validly presented for repair, to any authorized service facility of the manufacturer.

(c) If, in the course of remedying a nonconformity under the Emissions Performance Warranty, parts are replaced or work is performed which would otherwise have been scheduled at some future time under the maintenance instructions, then the manufacturer must adjust those instructions to reflect new periods for the particular vehicle in question based on the time of the warranty repair. The owner shall be informed of the new schedule at the time of the repair under the Emissions Performance Warranty.

§ 85.2110 Inclusion of warranty provisions in owner's manuals.

The owner's manual for each vehicle to which the regulations of this subpart are applicable shall contain, at a minimum, the following information:

(a) *Warranty statement.* A basic statement of the coverage of the Emissions Performance Warranty as set out in § 85.2103. This shall be separated from any other warranty given by the manufacturer, and be prefaced by the title "Emissions Performance Warranty" set in bold face type.

(b) *Maintenance and operation instructions.* All maintenance and operation instructions intended by the manufacturer to be included in the § 85.2103

(a)(1) condition to recovery under the Emissions Performance Warranty.

(1) Maintenance instructions shall be separated from any general maintenance requirements or suggestions of the manufacturer, and shall be prefaced by the title "Required Instructions for Maintenance Under the Emissions Performance Warranty" set in bold face type. This requirement may be satisfied by a short statement of services to be performed if:

(i) The service manual for the vehicle contains a full description of all required maintenance,

(ii) Such manuals are readily available to the general public at the beginning of the model year for the vehicle, and

(iii) The ultimate purchaser of the vehicle is provided with an opportunity to obtain a copy of those instructions relevant to the warranty, by mail, at a nominal cost.

(2) In all cases, the owner's manual shall contain a "maintenance logbook" consisting of an abbreviated listing of the required maintenance in a format to facilitate the collection and storage of all information pertaining to the question of compliance with the maintenance condition. This shall include space for recording of the date and vehicle mileage at which point each instruction or group of instructions is performed, and the signature of the individual performing such, certifying that the manufacturer's procedures have been followed. In the case of maintenance pursuant to § 85.2104(c), space shall also be provided for the owner to certify that he can meet all of the documentation requirements of the manufacturer for such maintenance.

(3) Operation instructions shall be set out in full, separated from any general operation requirements or suggestions of the manufacturer, and shall be prefaced by the title "Required Instructions For Operation Under the Emissions Performance Warranty" set in bold face type.

(c) *Owner's maintenance.* Maintenance instructions, if any, provided pursuant to § 85.2104(c). All such instructions, with required documentation, shall be set out, in full, and shall be prefaced by the title "Owner's Maintenance" set in bold face type. Any procedures listed under this heading must also appear in the maintenance listing required under § 85.2110(b)(1).

(d) *Proof of compliance with required maintenance and operation instructions.* The provisions of § 85.2107 shall be set out under the heading "Proof of Compliance With Required Instructions Under the Emissions Performance Warranty" set in bold face type.

(e) *Replacement parts statement.* A statement as to acceptability of replacement parts for use in maintenance under the Emissions Performance Warranty which comports with the requirements of § 85.2106. The statement shall appear under the title "Replacement Parts for Maintenance Under the Emissions Performance Warranty" set in bold face type, and shall contain:

(1) An explanation of the manufacturer's criteria for choice of acceptable replacement parts along with complete specifications sufficient to determine that acceptability for any given part, or

(2) In lieu of paragraph (e)(1) of this section, a statement that use of any part identified by its manufacturer as a replacement part for the specific vehicle in question will be acceptable, and

(3) In all cases, a statement that use of any part certified under the authority of the U.S. Environmental Protection Agency to be an equivalent replacement part for the specific vehicle in question will be acceptable.

(f) *Warranty claims.* Complete instructions as to when and how an owner may bring a claim under the Emissions Performance Warranty, as governed by § 85.2108. Instructions shall appear under the title "Emissions Performance Warranty Claims" set in bold face type, and shall include:

(1) An explanation of the point in time at which a claim may be raised,

(2) Step-by-step procedures as to the manner in which a claim may be raised,

(3) A clear designation and address of the final claim review person or office of the manufacturer, and

(4) The provision regarding failure of the manufacturer to respond within 10 days of an appeal to that person or office.

§ 85.2111 Review of warranty statement, maintenance and operation instructions.

(a) EPA will review owner's manuals and service manuals to ensure that the Emissions Performance Warranty and its accompanying maintenance and operation instructions have been included in accordance with the requirements of this subpart.

(b) For purposes of such review, the manufacturer of each vehicle to which this subpart applies shall submit two copies to EPA of the owner's manual and service manual for each such vehicle, in the final printed format in which they are to be distributed. The manuals should be received by EPA prior to the introduction of the vehicle for sale.

(c) At the same time, the manufacturer shall submit an estimate of the cost of each item to be replaced during maintenance required under the Emissions Performance Warranty, and the labor charge to replace it, for each vehicle to which this subpart applies. Such submission need not be made to the extent that it would duplicate information already being provided to EPA pursuant to existing regulations or guidelines.

(d) All materials should be sent to: Director, Mobile Source Enforcement Division (EN-340), Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460.

§ 85.2112 Maintenance and operation instruction disapproval.

(a) Any maintenance or operation instruction may be disapproved upon a determination by EPA that it does not, in practice, satisfy the criteria set out in § 85.2104 for inclusion of such instructions.

(b) No disapproval shall be effected without affording the manufacturer reasonable notice in writing, and an opportunity to present his views or evidence at an Agency hearing on the record.

(c) A disapproval shall become effective upon publication of such in the FEDERAL REGISTER.

(d) Upon disapproval, an instruction shall cease to be a condition to manufacture liability under § 85.2103(a)(1). No warranty claim may be denied on the basis of non-compliance with such an instruction, or on the basis of emissions degradation due to attempts to comply.

(e) The manufacturer shall be required to mail notification of any disapproval to the owners of all affected vehicles, with an explanation of the implication of such with regard to protection under the Emissions Performance Warranty. Manufacturers shall ascertain the current addresses of owners in a manner to be approved by the Administrator.

(f) EPA may periodically publish a list of all disapproved instructions for distribution to emissions inspection facilities, and any other interested persons. Copies may be obtained by writing to: Public Information Office, Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460.

(g) Failure of EPA to disapprove any intruction shall have no bearing on the propriety of such instruction when considered in light of § 85.2107(e)(3).

[FR Doc.77-14619 Filed 5-24-77;8:45 am]

federal register

WEDNESDAY, MAY 25, 1977

PART III

INTERSTATE COMMERCE COMMISSION

■

VARIOUS RAILROAD COMPANIES

System Diagram Maps

federal register

INTERSTATE COMMERCE COMMISSION

[AB 88 (SDM)]

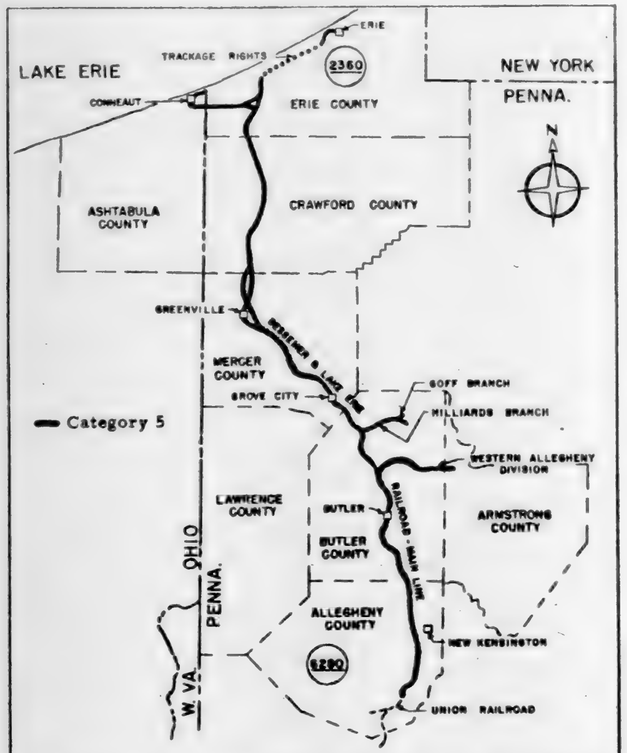
BESSEMER & LAKE ERIE RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Bessemer & Lake Erie Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 88 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 88 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-14611 Filed 5-24-77;8:45 am]

[AB 192 (SDM)]

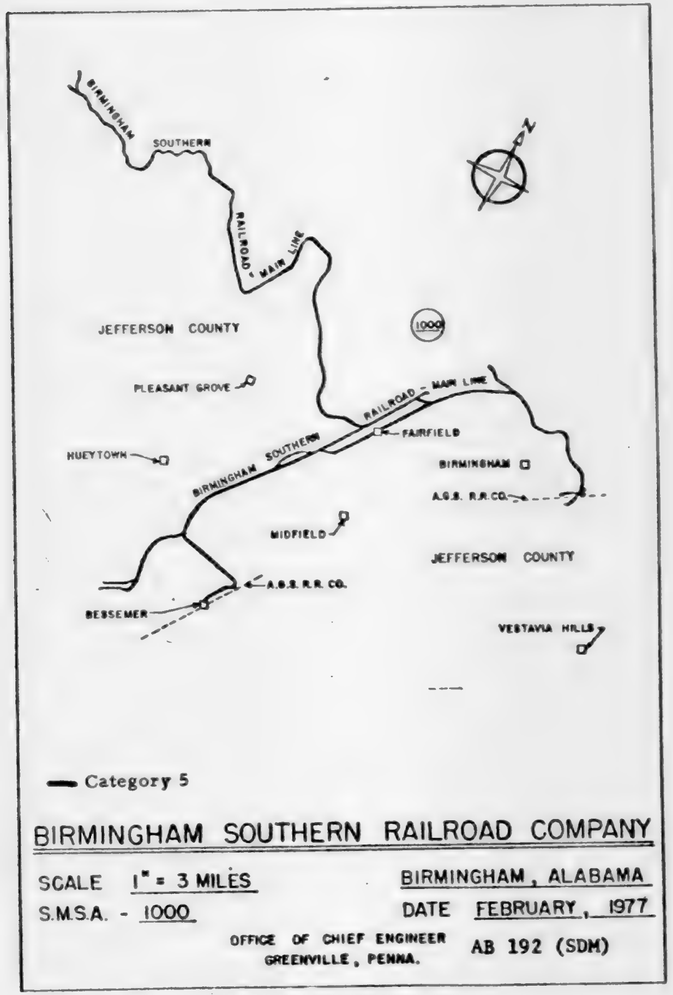
BIRMINGHAM SOUTHERN RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Birmingham Southern Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 192 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 192 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-14599 Filed 5-24-77;8:45 am]

[AB 190 (SDM)]

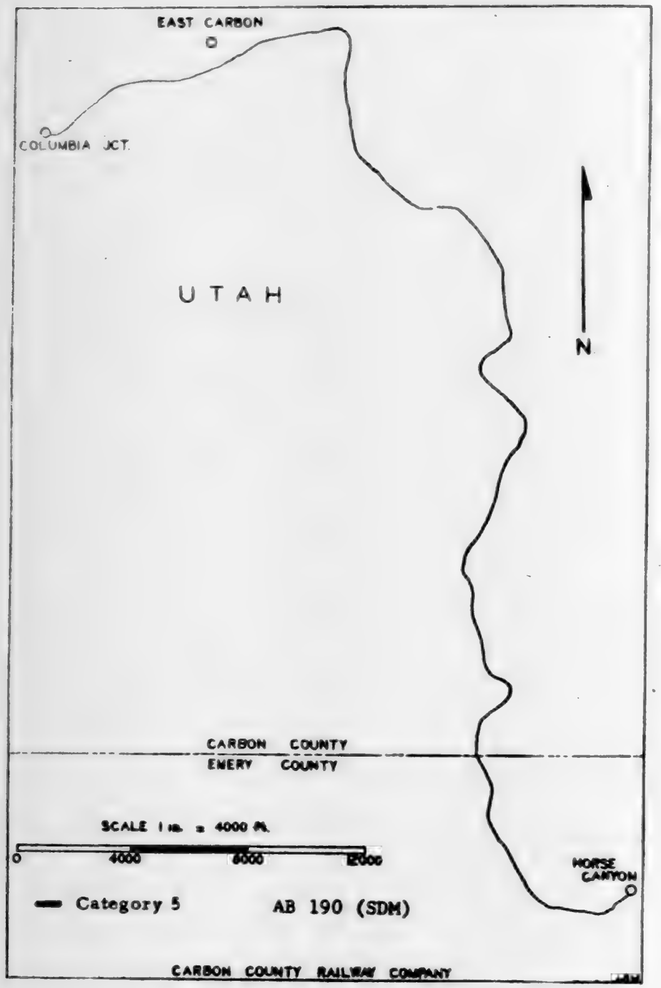
CARBON COUNTY RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Carbon County Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 190 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 190 (SDM).

ROBERT L. OSWALD,
Secretary



[FR Doc.77-14508 Filed 5-24-77;8:45 am]

[AB 1 (SDM) [1]]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Chicago and North Western Transportation Company, has filed with the Commission its color-coded system diagram map in docket No. AB–1 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 22, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB–1 (SDM).

ROBERT L. OSWALD,
Secretary.

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

AB–1

Description of all lines or portions of lines identified on the Chicago and North Western Transportation Company System Diagram Map as falling within Categories 1 thru 3. 49 CFR 1121.21.

CATEGORY

All lines or portions of lines which the Chicago and North Western Transportation Company anticipates will be the subject of an abandonment or discontinuance application to be filed within the 3-year period following the date upon which the diagram, or any amended diagram, is filed with the Interstate Commerce Commission. 49 CFR 1121.20(b)(1).

ILLINOIS

(a) Rockford to Winnebago (Westerly 6.9 miles of Belvidere Subdivision).
(b) Entire segment is located in Illinois.
(c) Entire segment is located in Winnebago County.
(d) M.P. 93.5 to M.P. 100.4.
(e) No agency station located on this segment. Closed station of Winnebago served by central agency at Rockford.
Comment: Proposal does not include any industries located at Rockford.

(a) Sycamore to Byron (Westerly 30.8 miles of Ingalton Subdivision and portion of former C.G.W. Ry. Chicago to Omaha Line).
(b) Entire segment is located in State of Illinois.
(c) Entire segment is located in DeKalb and Ogle Counties.
(d) M.P. 57.5 to M.P. 88.3.
(e) Central agent at Byron responsible for associate station of Esmond and closed stations of Clare, Lindenwood, and Holcomb.
Comment: Proposal does not include industries located at Sycamore.

(a) Ringwood, Illinois to Lake Geneva, Wisconsin (Westerly 17.4 miles of Lake Geneva Subdivision).
(b) Segment is located in the States of Illinois and Wisconsin.
(c) The entire segment is located in McHenry County, Illinois and Walworth County, Wisconsin.
(d) M.P. 69.2 to M.P. 86.6.
(e) Agents located at Lake Geneva and Genoa City. Agent at Lake Geneva served closed station of Pell Lake. Agent at McHenry (unaffected) is responsible for associate station of Richmond.
Comment: Proposal does not include industries located at Ringwood.

(a) Elgin to Dundee (3.0 mile portion of Dundee Subdivision).
(b) Entire segment is located in the State of Illinois.
(c) Entire segment is located in Kane County.
(d) M.P. 43.8 to M.P. 46.8
(e) None.
Comment: Proposal does not include industries located at Elgin and Dundee.

IOWA

(a) Lake View to Holstein (Westerly 41.1 miles of Holstein Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Sac and Ida Counties.
(d) M.P. 4.5 to M.P. 45.6
(e) Central agent at Wall Lake (unaffected) is responsible for associate stations of Sac City, Early, Schaller, Galva, and Holstein.
Comment: Proposal does not include industries located at Lake View.

(a) Minerva Junction to Zearing (Easterly 19.1 miles of Roland Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Marshall and Story Counties.
(d) M.P. 240.0 to M.P. 259.1
(e) Central agent at Clemons Grove is responsible for closed stations of St. Anthony, Zearing, and Minerva. Central agent at Marshalltown (unaffected) is responsible for closed station of Keller.

(a) Ellsworth to Lawn Hill (Easterly 21.0 miles of Ellsworth Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Hamilton and Hardin Counties.
(d) M.P. 65.4 to M.P. 44.4
(e) Central agent at Jewell (unaffected) is responsible for associate stations to Radcliffe and Hubbard. Central agent at Eldora (unaffected) is responsible for associate station of Lawn Hill.
Comment: Proposal does not include industries located at Ellsworth.

(a) Hicks to Buckingham (Southern 9.3 miles of Parkersburg Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Blackhawk and Tama Counties.
(d) M.P. 38.1 to M.P. 28.8
(e) Central agent at Reinbeck (unaffected) is responsible for associate station of Buckingham and closed station of Voorhies.
Comment: Proposal does not include industries located at Hicks.

(a) Garwin to Gladbrook (6.4 mile portion of Alden Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Tama County.
(d) M.P. 12.1 to M.P. 18.5
(e) None.
Comment: Proposal does not include industries located at Garwin or Gladbrook.

(a) Marathon to Alton (50.2 mile portion of Sioux Rapids Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Buena Vista, Clay, O'Brien and Sioux Counties.
(d) M.P. 157.3 to M.P. 216.5
(e) Central agent at Sioux Rapids is responsible for associate stations of Linn Grove and Peterson. Central agent at Alton (unaffected) is responsible for associate stations of Sutherland, Paullins, and Granville.
Comment: Proposal does not include industries located at Marathon or Alton.

(a) Humboldt to LuVerne (13.7 mile portion of Forest City Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Humboldt County.
(d) M.P. 201.5 to M.P. 187.8
(e) Central agent at LuVerne (unaffected) is responsible for associate station of Livermore and closed station of Arnold.
Comment: Proposal does not include industries at Humboldt or LuVerne.

(a) Corwith to Lake Mills (Northerly 38.7 miles of Forest City Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Hancock and Winnebago Counties.
(d) M.P. 178.0 to M.P. 139.3
(e) Central agent at Forest City is responsible for associate station of Leland. Central agent located at Britt.
Comment: Proposal does not include industries located at Corwith and Lake Mills.

(a) Olewein to Dubuque (69.3 mile portion of Dubuque Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Fayette, Buchanan, Delaware and Dubuque Counties.
(d) M.P. 245.0 to M.P. 175.7
(e) Central agent at Dubuque (unaffected) is responsible for associate station of Dyersville and closed stations of Durango, Graf, Farley, Petersburg, and Almoral. Central agent at Oelwein (unaffected) is responsible for associate station of Aurora and closed stations of Thorpe, Dundee, Lamont, and Stanley.
Comment: Proposal is contingent on agreement with C.M.St.P.&P. RR. for trackage rights between Clinton, Iowa and Dubuque. Proposal does not include industries located at Dubuque or Oelwein.

(a) Grand Junction to Minburn (Northerly 21.6 miles of Perry Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Greene, Boone and Dallas Counties.
(d) M.P. 260.8 to M.P. 282.4
(e) Central agency at Grand Junction (unaffected) is responsible for associate stations of Rippey and Perry and closed station of Angus.
Comments: Proposal does not include industries at Grand Junction or Minburn. Proposal is contingent on C.R.I.&P. RR. abandoning operations over this trackage.

(a) Ayrshire to Terril (Northerly 34.0 miles of Tara subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Palo Alto, Clay, and Dickinson Counties.
(d) M.P. 217.3 to M.P. 182.5

[1] AB 1 (SDM) includes Des Moines and Central Iowa Railway Company and Central Iowa Railway Company and Fort Dodge, Des Moines & Southern Railway Company.

(e) Central agent at Spencer is responsible for associate station of Terril and closed stations of Ruthven and Langdon.

Comment: Proposal does not include industries located at Ayrshire.

(a) Gypsum to Flugstad (Westerly 11.9 miles of Flugstad Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Webster and Hamilton Counties.

(d) M.P. 1.8 to M.P. 13.7

(e) Central agent at Ford Dodge (unaffected) is responsible for closed stations of Evanston, Brushy, and Flugstad.

Comment: Proposal does not include industries at Gypsum.

(a) Jewell to Stratford (Easterly 14.6 miles of Dayton Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Hamilton and Webster Counties.

(d) M.P. 69.4 to M.P. 84.0

(e) Central agent at Gowrie (unaffected) is responsible for associate stations of Stanhope and Stratford.

Comment: Proposal does not include industries located at Jewell.

(a) Harcourt to Dayton (Westerly 5.1 miles of Dayton Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Webster County.

(d) M.P. 98.0 to M.P. 92.9

(e) Central agent at Gowrie (unaffected) is responsible for associate station of Dayton.

Comment: Proposal does not include industries at Harcourt.

(a) Trimount, Minnesota to Estherville, Iowa (southerly 26.5 miles of Estherville Subdivision).

(b) Entire segment is located in the States of Minnesota and Iowa.

(c) Entire segment is located in Martin County, Minnesota and Emmet County, Iowa.

(d) M.P. 142.4 to M.P. 168.9

(e) Central agent at Spencer (unaffected) is responsible for associate stations of Dunnell, Estherville and closed station of Huntington. Central Agent at St. James (unaffected) is responsible for associate station of Sherburn.

Comment: Proposal does not include industries located at Trimount.

(a) Camp Dodge to Granger (northerly 7.2 miles of Des Moines and Central Iowa Railway).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Dallas and Polk Counties.

(d) M.P. 11.4 to M.P. 18.6.

(e) Central agent at Des Moines (unaffected) is responsible for associate stations of Granger and Herrold.

Comment: Proposal does not include industries at Camp Dodge.

MICHIGAN

(a) Ishpeming to Martin's Landing (Westerly 15.1 miles of Martin's Landing Spur).

(b) Entire segment is located in the State of Michigan.

(c) Entire segment is located in Marquette County.

(d) M.P. 74.5 (L.S.&I. RR.) to M.P. 196.6.

(e) Central agent at Ishpeming (unaffected) is responsible for closed stations of Clowry, Martin's Landing, and Blueberry Mine.

Comments: Proposal does not include industries located at Ishpeming Proposal is for discontinuance of operations only.

MINNESOTA

(a) Lake Crystal to Winnebago (24.6 miles—entire Winnebago Subdivision).

(b) Entire segment is located in the State of Minnesota.

(c) Entire segment is located in Blue Earth and Faribault Counties.

(d) M.P. 0.0 to M.P. 24.6

(e) Central agent at Mankato (unaffected) is responsible for associate stations of Garden City, Vernon Center, Amboy, and Winnebago.

Comment: Proposal does not include industries located at Lake Crystal.

(a) Heron Lake to Lake Wilson (36.6 miles—entire Slayton Subdivision).

(b) Entire segment is located in the State of Minnesota.

(c) Entire segment is located in Jackson, Nobles, and Murray Counties.

(d) M.P. 0.0 to M.P. 36.6

(e) Central agent at Worthington (unaffected) is responsible for associate stations of Dundee, Lime Creek, Avoca, Slayton, Hadley, and Lake Wilson.

Comment: Proposal does not include industries located at Heron Lake.

(a) Bingham Lake to Currie (38.3 miles—entire Currie Subdivision).

(b) Entire segment located in the State of Minnesota.

(c) Entire segment located in Cottonwood and Murray Counties.

(d) M.P. 0.0 to M.P. 38.3.

(e) Central agent at Windom (unaffected) is responsible for associate stations of Delft, Jeffers, Storden, Westbrook, Dovray, and Currie.

Comment: Proposal does not include industries located at Bingham Lake.

(a) St. James to Hanska (Northerly 13.4 miles of Hanska Spur).

(b) Entire segment is located in the State of Minnesota.

(c) Entire segment is located in Watonwan and Brown Counties.

(d) M.P. 125.2 to M.P. 111.8.

(e) Central agent at St. James (unaffected) is responsible for associate stations of LaSalle and Hanska.

Comment: Proposal does not include industries located at St. James.

(a) Trimount to Ormsby (Northerly 4.7 miles of Estherville Subdivision).

(b) Entire segment is located in the State of Minnesota.

(c) Entire segment is located in Martin and Watonwan Counties.

(d) M.P. 140.7 to M.P. 136.0.

(e) Central agent at St. James (unaffected) is responsible for associate station of Ormsby.

Comment: Proposal does not include industries located at Trimount.

(a) Trimount, Minnesota to Estherville, Iowa. Line description is on Page 11 (Iowa).

(a) Rochester to Stewartville (12.6 mile portion of Rochester Subdivision).

(b) Entire segment is located in the State of Minnesota.

(c) Entire segment is located in Olmsted County.

(d) M.P. 146.0 to M.P. 158.6.

(e) Central agent at Rochester (unaffected) is responsible for associate stations of Simpson and Stewartville.

Comment: Proposal does not include industries located at Rochester.

(a) Hopkins to Norwood (Easterly 31.4 miles of Morton Subdivision).

(b) Entire segment is located in the State of Minnesota.

(c) Entire segment is located in Hennepin and Carver Counties.

(d) M.P. 19.6 to M.P. 51.3.

(e) Central agent at Hopkins (unaffected) is responsible for associate stations of Deephaven, Excelsior, Manitou, Victoria, Waconia, and Young America.

Comments: Proposal does not include industries located at Hopkins or Norwood. Proposal is contingent on agreement with C.M.St.P.&P. RR. for trackage rights between Minneapolis and Norwood.

(a) Northfield to Faribault (12.3 mile portion of Red Wing Subdivision).

(b) Entire segment is located in the State of Minnesota.

(c) Entire segment is located in Rice County.

(d) M.P. 58.1 to M.P. 45.8

(e) Central agent at Randolph (unaffected) is responsible for associate station of Dundas and closed station of Bridgewater.

Comments: Proposal does not include industries located at Northfield or Faribault. Proposal is contingent on agreement with C.M.St.P.&P. RR. for trackage rights between Northfield to Faribault.

NEBRASKA

(a) Blair to Tekamah (Southerly 17.4 miles of Lyons Subdivision).

(b) Entire segment is located in the State of Nebraska.

(c) Entire segment is located in Washington and Burt Counties.

(d) M.P. 98.1 to M.P. 80.7.

(e) Central agent at Blair (unaffected) is responsible for associate stations of Herman and Tekamah, and closed station of Ranch Spur.

Comment: Proposal does not include industries located at Blair.

(a) Fremont to Lincoln (48.3 mile portion of Lincoln Subdivision).

(b) Entire segment is located in the State of Nebraska.

(c) Entire segment is located in Dodge, Saunders, and Lancaster Counties.

(d) M.P. 39.2 (UP RR) to M.P. 48.5

(e) Central agent at Fremont (unaffected) is responsible for associate station of Cedar Bluffs. Central agent at Lincoln (unaffected) is responsible for associate stations of Wahoo and Coresco, and closed stations of Colon and Davey.

Comments: Proposal is contingent on agreements with U.P. RR. and M.P. RR. for trackage rights between Fremont and Lincoln. Proposal does not include industries located at Fremont or Lincoln.

(a) Elkhorn Jct. to Blair (22.4 mile portion of Sioux City Subdivision).

(b) Entire segment is located in the State of Nebraska.

(c) Entire segment is located in Douglas and Washington Counties.

(d) M.P. 121.6 to M.P. 99.2

(e) Central agent at Omoha (unaffected) is responsible for associate station of Florence and closed station of Ft. Calhoun.

Comment: Proposal does not include industries located at Blair or Omaha (Elkhorn Jct. is a junction point in Omaha).

SOUTH DAKOTA

(a) Jolly to Jolly Dump (3.7 miles—entire Jolly Dump Spur).

(b) Entire segment is located in the State of South Dakota.

(c) Entire segment is located in Butte County.

(d) M.P. 0.0 to M.P. 3.7.

(e) Central agent at Belle Fourche (unaffected) is responsible for associate station of Jolly Dump.

(a) Redfield to Frankfort (Easterly 9.7 miles of Frankfort Spur).

(b) Entire segment is located in the State of South Dakota.

(c) Entire segment is located in Spink County.

(d) M.P. 388.9 to M.P. 379.2.

(e) Central agent at Redfield (unaffected) is responsible for associate station of Frankfort.

Comment: Proposal does not include industries located at Redfield.

(a) James Valley Jct. to Redfield (Easterly 33.8 miles of Oakes Subdivision).

(b) Entire segment is located in the State of South Dakota.

(c) Entire segment is located in Beadle and Spink Counties.

(d) M.P. 4.0 to M.P. 37.8

(e) Central agent at Huron (unaffected) is responsible for associate station of Hitchcock.

Comments: Proposal is contingent on agreement with C.M.St.P.&P.RR. for trackage rights between Wolsey, South Dakota and Redfield. Proposal does not include industries located at James Valley Junction or Redfield.

WISCONSIN

(a) Ripon to Bancroft (Westerly 58.9 miles of Marshline Subdivision).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Fond du Lac, Green Lake, Marquette, Waushara and Portage Counties.

(d) M.P. 20.5 to M.P. 124.4

(e) Central agent at Ripon (unaffected) is responsible for associate stations of Green Lake, Chier St. Marie Sand Co. Pit, Princeton, and Neshkoro. Central agent at Almond is responsible for associate stations of Bannerman, Wautoma, Wild Rose and closed station of Bancroft.

Comment: Proposal does not include industries located at Ripon.

(a) Merrillan to Marshfield (Westerly 37.5 miles of Merrillan Subdivision).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Jackson, Clark, and Wood Counties.

(d) M.P. 0.0 to M.P. 37.5

(e) Central agent at Merrillan (unaffected) is responsible for associate stations of Neillsville, Granton, Chili, and closed station of Kurth.

Comment: Proposal does not include industries located at Merrillan or Marshfield.

(a) Edgar to Marshfield (22.0 mile portion of Marshfield Subdivision).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Marathon and Wood Counties.

(d) M.P. 40.8 to M.P. 62.8

(e) Central agent at Wausau (unaffected) is responsible for associate station of Stratford and closed stations of Fenwood and Opal.

Comment: Proposal does not include industries located at Edgar or Marshfield.

(a) Conover to Phelps (9.2 miles entire Phelps Spur).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Villas County.

(d) M.P. 0.0 to M.P. 9.2.

(e) Central agent at Watersmeet (unaffected) is responsibble for associate station of Phelps.

Comment: Proposal does not include industries located at Conover.

(a) Beloit to Evansville (23.0 miles portion of Beloit and Footville Subdivisions).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Rock County.

(d) M.P. 92.5 to M.P. 115.5.

(e) Central agent at Beloit (unaffected) is responsible for closed station of Afton. Central agent at Madison (unaffected) is responsible for associate station of Footville and closed station of Magnolia.

Comment: Proposal does not include industries located at Beloit or Evansville.

(a) Ringwood, Illinois to Lake Geneva, Wisconsin. Line description is on Pages 2 and 3 (Illinois).

(a) Medary Jct. to Galesville (23.2 miles—a portion of the Adams Subdivision and the entire Galesville Spur).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in LaCrosse and Trempealeau Counties.

(d) M.P. 268.3 to M.P. 284.5 and M.P. 284.0 to M.P. 291.0.

(e) Central agent at LaCrosse (unaffected) is responsible for associate stations of Onalaska, Midway, Trempealeau, Galesville and closed station of Lytles.

Comment: Proposal does not include industries located at Medary.

(a) Shawano to Eland (Westerly 29.3 miles of Shawano Subdivision).

(b) Entire segment is located in the State of Wisconsin.

(c) Entire segment is located in Shawano County.

(d) M.P. 38.7 to M.P. 68.0.

(e) Central agent at Shawano (unaffected) is responsible for associate station of Bowler and closed station of Thornton.

Comment: Proposal does not include industries located at Shawano or Eland.

CATEGORY 2

All lines or portions of lines potentially subject to abandonment which the Chicago and North Western Transportation Company has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues. 49 CFR 1121.20 (b) (2).

IOWA

(a) Burt to Bancroft (3.0 mile portion of Burt Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Kossuth County.

(d) M.P. 145.5 to M.P. 148.5.

(e) Central agent at Burt (unaffected) is responsible for associate station of Bancroft.

Comment: Proposal does not include industries located at Burt.

(a) LuVerne to Corwith (8.6 mile portion of Forest City Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Kossuth and Hancock Counties.

(d) M.P. 186.6 to M.P. 178.0

(e) Central agent at Britt (unaffected) is responsible for associate station of Corwith and closed station of Hanna.

Comment: Proposal does not include industries located at LuVerne.

(a) Rolfe to Ayrshire (22.2 mile portion of Tara Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Pocahontas and Palo Alto Counties.

(d) M.P. 239.5 to M.P. 217.3.

(e) Central agent at Rolfe (unaffected) is responsible for associate stations of Curlew and Ayrshire, and closed stations of Plover and Mallard.

Comment: Proposal does not involve industries located at Rolfe.

(a) Carroll to Harlan (Southerly 40.2 miles of Harland Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Carroll, Crawford, and Shelby Counties.

(d) M.P. 421.7 to M.P. 461.9

(e) Agent located at Harlan and central agent located at Carroll (unaffected) is responsible for associate stations of Manning and Irwin, and closed station of Halbur.

Comment: Proposal does not include industries located at Carroll.

(a) Belmond to Alexander (Easterly 7.7 miles of Belmond Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Wright and Franklin Counties.

(d) M.P. 206.3 to M.P. 198.6

(e) Central agent at Belmond (unaffected) is responsible for associate station of Alexander.

Comment: Proposal does not include industries located at Belmond.

(a) Mason City to Kesley (Northerly 34.8 miles of Parkersburg Subdivision).

(b) Entire segment is located in the State of Iowa.

(c) Entire segment is located in Cerro Gordo, Franklin, and Butler Counties.

(d) M.P. 104.3 to M.P. 63.7 excluding M.P. 75.9 to M.P. 75.1 at Dumont.

(e) Central agent at Mason City (unaffected) is responsible for associate stations of Dougherty and Aredale and closed stations of Cartersville and Kesley.

Comment: Proposal does not include industries located at Mason City or Dumont.

(a) Manly, Iowa to Austin, Minnesota (30.5 mile portion of Mason City Subdivision).

(b) Entire segment is located in the States of Iowa and Minnesota.

(c) Entire segment is located in Worth and Mitchell Counties, Iowa and Mower County, Minnesota.

(d) M.P. 48.0 to M.P. 17.5.

(e) Central agent at Austin (unaffected) is responsible for associate station of Lyle and closed stations of Bolan and Meltonville.

Comments: Proposal is contingent on agreement with C.M.St.P.&P. RR. for trackage rights between Mason City, Iowa and Austin, Minnesota. Proposal does not include industries located at Manly or Austin.

MINNESOTA

(a) Tracy, Minnesota to Gary, South Dakota (Northerly 57.5 miles of Marshall Subdivision).

(b) Entire segment is located in the States of Minnesota and South Dakota.

(c) Entire segment is located in Lyon, Lincoln, and Yellow Medicine Counties, Minnesota and Deuel County, South Dakota.

(d) M.P. 227.6 to M.P. 284.9

(e) Central agent at Marshall is responsible for associate stations of Amiret, Ghent, Minnesota, Taunton, Porter, Camby, Burr and Gary.

Comment: Proposal does not include industries located at Tracy.

(a) Cannon Falls to Red Wing (16.8 mile portion of Red Wing Subdivision).

(b) Entire segment is located in the State of Minnesota.

(c) Entire segment is located in Goodhue County.

(d) M.P. 74.3 to M.P. 91.1

(e) Agent at Red Wing (unaffected) is responsible for closed Station of Welch.

Comments: Proposal is contingent on agreements with C.M.St.P.&P. RR. and B.N. for trackage rights between St. Paul, Minnesota and Red Wing, Minnesota. Proposal does not include industries located at Cannon Falls or Red Wing.

(a) Manly, Iowa to Austin, Minnesota. Line description is on Pages 28 and 29 (Iowa).

NEBRASKA

(a) Oakdale to Elgin (10.4 miles entire Elgin Spur).

(b) Entire segment is located in the State of Nebraska.
(c) Entire segment is located in Antelope County.
(d) M.P. 115.0 to M.P. 104.6.
(e) Central agent at Neligh (unaffected) is responsible for associate station of Elgin.
Comment: Proposal does not include industries located at Oakdale.

SOUTH DAKOTA

(a) Ellis to Mitchell (Westerly 65.2 miles of Sioux Falls Subdivision).
(b) Entire segment is located in the State of South Dakota.
(c) Entire segment is located in Minnehaha, McCook, Hanson and Davison Counties.
(d) M.P. 65.5 to M.P. 130.7.
(e) Central agent at Salem is responsible for associate stations of Hartford, Humboldt, Montrose, Spencer, and Farmer. Central agent at Mitchell is responsible for associate station of Fulton and closed station of Riverside.

Comment: Proposal does not include industries located at Ellis.
(a) Tracy, Minnesota to Gary, South Dakota. Line description is on Page 29 (Minnesota).

WISCONSIN

(a) Pulaski to Gillett (Easterly 16.2 miles of Laona Subdivision).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Oconto and Shawano Counties.
(d) M.P. 17.1 to M.P. 33.3.
(e) Central agent at Green Bay (unaffected) is responsible for closed station of Krakow. Central agent at Oconto Falls (unaffected) is responsible for associate stations of Green Valley and Gillett.
Comment: Proposal does not include industries located at Pulaski.

CATEGORY 3

All lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission on the date upon which the diagram, or any amended diagram, is filed with the Interstate Commerce Commission. 49 CFR Section 1121.20(b)(3).

IOWA

(a) Zearing to Roland (Westerly 10.5 miles of Roland Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Story County.
(d) M.P. 259.1 to M.P. 269.6.
(e) Central agent at Clemons Grove (unaffected) is responsible for associate station of Roland and closed station of McCallsburg.
Comment: Docket Number AB–1 (Sub. No. 45). Proposal does not include industries located at Zearing.
(a) Somers to Carroll (30.9 mile portion of Harlem Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Calhoun and Carroll Counties.
(d) M.P. 389.1 to M.P. 420.0
(e) Central agent at Somers (unaffected) is responsible for associate station of Lanesboro and closed stations of Rinard, Lohrville, Wightman and Lidderdale.
Comments: Docket Number AB–1 (Sub. No. 27). Proposal does not include industries located at Somers or Carroll.
(a) Bancroft to Ledyard (Northerly 9.4 miles of Burt Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Kossuth County.
(d) M.P. 148.5 to M.P. 157.9.
(e) Central agent at Burt (unaffected) is responsible for associate station for Ledyard.
Comments: Docket Number AB–1 (Sub. No. 53). Proposal does not include industries located at Bancroft.
(a) Wren, Iowa to Iroquois, South Dakota (155.7 miles of Hawarden Subdivision).
(b) Entire segment is located in the States of Iowa and South Dakota.
(c) Entire segment is located in Plymouth and Sioux Counties, Iowa and Union, Lincoln, Turner, McCook, Miner and Kingsbury Counties, South Dakota.
(d) M.P. 0.0 to M.P. 126.0.
(e) Central agent at Sioux City (unaffected) is responsible for associate station of Craig and closed stations of Merrill and Brunsville. Agent at Hawarden is responsible for closed station of McNally. Central agent at Beresford is responsible for associate stations of Alcester, Centerville, Hurley, Parker, and Monroe. Central agent at Salem (unaffected) is responsible for associate stations of Canistota and Canova, and closed station of Unityville. Central agent at Huron (unaffected) is responsible for associate station of Carthage and closed stations of Vilas, Argonne and Esmond.
Comments: Docket Number AB–1 (Sub. No. 9). Proposal does not include industries located at Wren, Salem or Iroquois.
(a) Stewartville, Minnesota to McIntire, Iowa (33.7 mile portion of Rochester Subdivision).
(b) Entire segment is located in the States of Minnesota and Iowa.
(c) Entire segment is located in Olmsted, Mower and Fillmore Counties, Minnesota and Howard and Mitchell Counties, Iowa.
(d) M.P. 158.6 to M.P. 192.3.
(e) Central agent at Rochester (unaffected) is responsible for associate stations of Racine, Spring Valley, Ostrander, and LeRoy.
Comments: Docket Number AB–1 (Sub. No. 19). Proposal does not include industries located at Stewartville or McIntire.
(a) Stratford to Dayton (8.9 miles of Dayton Subdivision).
(b) Entire segment is located in the State of Iowa.
(c) Entire segment is located in Webster County.
(d) M.P. 84.0 to M.P. 92.9.
(e) None.
Comments: Docket Number AB–1 (Sub. No. 46). Proposal does not include industries located at Stratford or Dayton.

MICHIGAN

(a) Gillett, Wisconsin to Scott Lake, Michigan (Westerly 89.4 miles of Laona Subdivision).
(b) Entire segment is located in the States of Wisconsin and Michigan.
(c) Entire segment is located in Oconto, Forest and Florence Counties, Wisconsin and Iron County, Michigan.
(d) M.P. 33.3 to M.P. 122.7.
(e) Central agent at Oconto Falls (unaffected) is responsible for associate station of Suring. Central agent at Laona is responsible for associate stations of Wabeno and Newald, and closed stations of Breed, Mountain, Lakewood, Townsend, Long Lake, and Tipler.
Comments: Docket Number AB–1 (Sub. No. 40). Proposal does not include industries located at Gillett or Scott Lake.

MINNESOTA

(a) Sanborn to Wanda (Westerly 8.2 miles of Wanda Spur.
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Redwood County.
(d) M.P. 9.6 to M.P. 8.8.
(e) Central agent at Tracy (unaffected) is responsible for closed station of Wanda.
Comments: Docket Number AB–1 (Sub No. 48). Proposal does not include industries located at Sanborn.
(a) Sleepy Eye to Redwood Falls (24.8 miles—entire Redwood Falls Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Brown and Redwood Counties.
(d) M.P. 1.4 to M.P. 26.2.
(e) Central agent at Sleepy Eye (unaffected) is responsible for associate stations of Evan, Morgan, Gilfillan, and Redwood Falls.
Comments: Docket Number AB–1 (Sub No. 50). Proposal does not include industries located at Sleepy Eye.
(a) Marshall Jct. to Wabasso and Wabasso to Vesta (37.3 miles—entire Wabasso Subdivision).
(b) Entire segment is located in the State of Minnesota.
(c) Entire segment is located in Lyon and Redwood Counties.
(d) M.P. 54.2 to M.P. 28.8 and M.P. 14.5 to M.P. 26.4.
(e) Central agent at Marshall (unaffected) is responsible for associate stations of Dudley, Milroy, Lucan, Wabasso, Seaforth, and Vesta.
Comment: Docket Number AB–1 (Sub. No. 56).
(a) Stewartville, Minnesota to McIntire, Iowa. Line description is on Pages 35 and 36 (Iowa).
(a) Tunnel City, Wisconsin to Medary Jct., Wisconsin and Trempealeau, Wisconsin to Winona, Minnesota (41.3 mile portion of Adams Subdivision).
(b) Entire segment is located in the States of Wisconsin and Minnesota.
(c) Entire segment is located in Monroe, LaCrosse and Trempealeau Counties, Wisconsin and Winona County, Minnesota.
(d) M.P. 163.2 to M.P. 267.8 (excluding M.P. 168.0 to 169.5 at Camp McCoy, M.P. 176.0 to M.P. 248.0 at Sparta and M.P. 260.0 to M.P. 261.9 at West Salem) and M.P. 284.5 to M.P. 296.6
(e) Central agent at LaCrosse (unaffected) is responsible for associate station of Bangor and closed stations of Rockland and Pine Creek.
Comments: Docket Number AB–1 (Sub. No. 54). Proposal does not include industries located at Tunnel City, Camp McCoy, Sparta, West Salem, Medary, Trempealeau and Winona.

NEBRASKA

(a) Norfolk, Nebraska to Winner, South Dakota (Westerly 172.4 miles of Winner Subdivision).
(b) Entire segment is located in the States of Nebraska and South Dakota.
(c) Entire segment is located in Madison, Pierce, Antelope, Knox and Boyd Counties, Nebraska and Gregory, Tripp, and Mellette Counties, South Dakota.
(d) M.P. 2.9 to M.P. 175.3.
(e) Central agent at Norfolk (unaffected) is responsible for closed station of Hadar. Central agent at Creighton is responsible for associate stations of Pierce, Foster, Plainview, Winnetoon, Verdigre, Niobrara, Lynch, Bristow, Spencer, Anoka, and closed stations of Verdel and Monowi. Central agent at Winner is responsible for associate stations of Fairfax, Bonesteel, Herrick, Burke, Gregory, Dallas, Colome, and closed station of St. Charles.
Comments: Docket Number AB–1 (Sub. No. 34). Proposal does not include industries located at Norfolk.

(a) Elkhorn Jct. to Irvington (5.3 mile portion of Omaha Subdivision).
(b) Entire segment is located in the State of Nebraska.
(c) Entire segment is located in Douglas County.
(d) M.P. 1.7 to M.P. 7.0.
(e) None.
Comment: Docket Number AB–1 (Sub. No. 49).

SOUTH DAKOTA

(a) Watertown to Stratford (Northerly 71.4 miles of Stratford Subdivision).
(b) Entire segment is located in the State of South Dakota.
(c) Entire segment is located in Codington, Clark, Day, Spink, and Brown Counties.
(d) M.P. 234.9 to M.P. 306.3.
(e) Central agent at Watertown (unaffected) is responsible for associate stations of Florence, Wallace, Bradley, and closed station of Crocker. Central agent at Aberdeen (unaffected) is responsible for associate stations of Conde and Stratford, and closed stations of Crandall and Randolph.
Comments: Docket Number AB–1 (Sub. No. 33). Proposal does not include industries located at Watertown.
(a) Watertown to Doland (Westerly 48.2 miles of Watertown Subdivision).
(b) Entire segment is located in the State of South Dakota.
(c) Entire segment is located in Codington, Clark and Spink Counties.
(d) M.P. 321.5 to M.P. 369.7.
(e) Central agent at Watertown (unaffected) is responsible for associate stations of Henry and Clark, and closed stations of Kampeska and Elrod. Central agent at Redfield (unaffected) is responsible for associate stations of Raymond and Doland.
Comments: Docket Number AB–1 (Sub. No. 32). Proposal does not include industries located at Watertown.
(a) Wren, Iowa to Iroquois, South Dakota. Line description is on Pages 34 and 35 (Iowa).
(a) Norfolk, Nebraska to Winner, South Dakota. Line description is on Pages 40 and 41 (Nebraska).

WISCONSIN

(a) Gillett, Wisconsin to Scott Lake, Michigan. Line description is on page 37 (Michigan).
(a) Tunnel City, Wisconsin to Medary Jct., Wisconsin and Trempealeau, Wisconsin to Winona, Minnesota. Line description is on Pages 39 and 40 (Minnesota).
(a) Hortonville to Larsen (10.1 miles entire Larsen spur).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Outagamie and Winnebago Counties.
(d) M.P. 0.2 to M.P. 10.3
(e) Central agent at New London (unaffected) is responsible for associate station of Larsen and closed station of Medina.
Comments: Docket Number AB–1 (Sub No. 21). Proposal does not include industries located at Hortonville.
(a) Rosemere to Forest Junction (Westerly 26.3 miles of Brillion Subdivision).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Manitowoc and Calumet Counties.
(d) M.P. 78.9 to M.P. 105.2.
(e) Central agent at Manitowoc (unaffected) is responsible for associate stations of Reedsville, Brillion, Forest Junction, and closed stations of Branch, Whitelaw, and Cato.
Comments: Docket Number AB–1 (Sub No. 52). Proposal does not include industries located at Manitowoc (Rosemere is a junction point near the station of Manitowoc).
(a) Kievenville to Fennimore including Lancaster Jct. to Lancaster, Montfort Jct. to Cuba City and Ipswich to Platteville (101.2 miles—Westerly portion of Lancaster Subdivision including the Fennimore Spur and entire Platteville Subdivision including the Platteville Spur).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Dane, Iowa, Grant and Lafayette Counties.
(d) M.P. 101.5 to M.P. 158.4 including M.P. 155.8 to M.P. 167.8, M.P. 145.0 to M.P. 173.5 and M.P. 165.9 to M.P. 169.7.
(e) Central agent at Madison (unaffected) is responsible for associate station of Mt. Horeb and closed station of Blue Mounds. Central agent at Dodgeville is responsible for associate stations of Barneveld, Ridgeway, Cobb, Montfort, Fennimore, Stitzer, Lancaster, Livingston, Platteville, Cuba City and closed stations of Edmund, Preston, Liberty, Rewey, and Ipswich.
Comments: Docket Number AB–1 (Sub. No. 41). Proposal does not include industries located at Kievenville.
(a) Hayward to Bayfield and Ashland Jct. to Ashland (Westerly 77.3 miles of Ashland Subdivision including Westerly portion of Ashland Spur).
(b) Entire segment is located in the State of Wisconsin.
(c) Entire segment is located in Sawyer, Bayfield, and Ashland Counties.
(d) M.P. 104.0 to M.P. 178.3 and M.P. 0.0 to M.P. 3.0.
(e) Central agent at Hayward (unaffected) is responsible for closed station of Seeley. Central agent at Cable is responsible for associate stations of Drummond, Granview, Mason and closed station of Benoit. Agent at Ashland (unaffected) is responsible for closed station of Ashland Jct. Central agent at Washburn is responsible for associate station of Bayfield and closed stations of Barksdale, Sioux, and Pureair.
Comments: Docket Number AB–1 (Sub. No. 29). Proposal does not include industries located at Hayward or Ashland.

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

AB-1
SYSTEM DIAGRAM MAP

49-CFR SEC. 1121.20

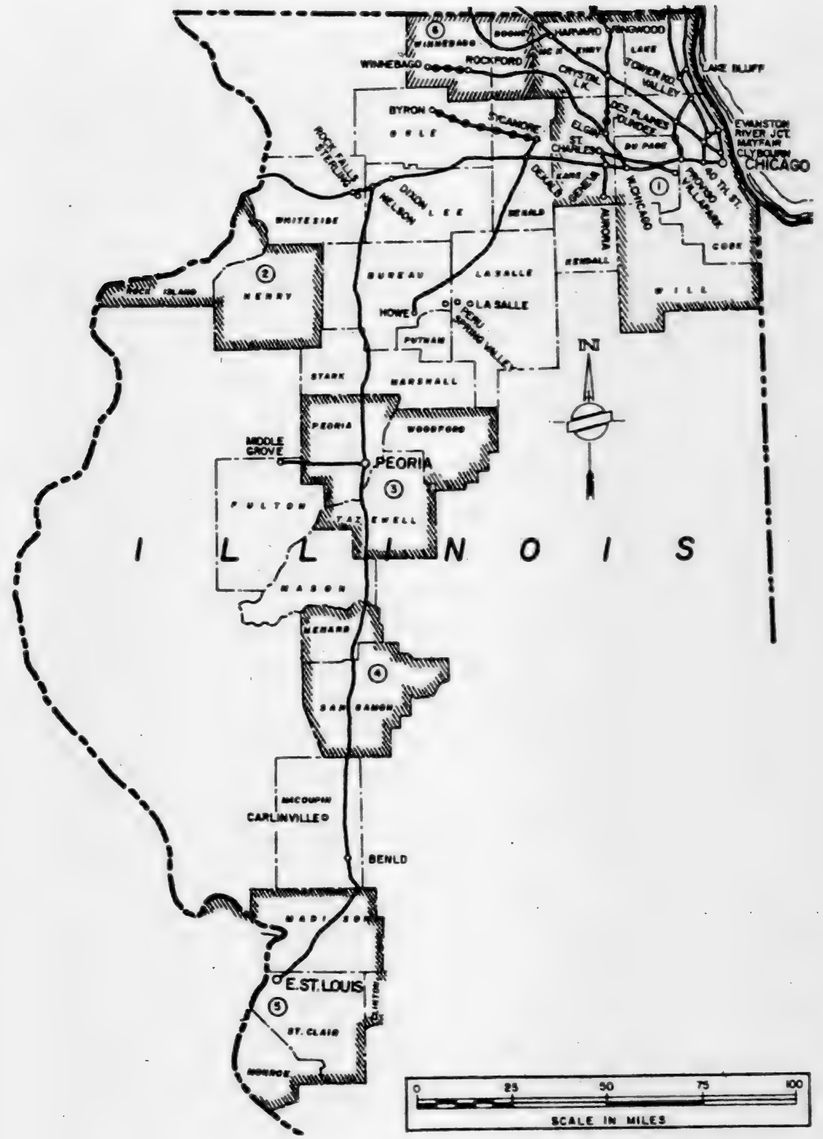
DATE APRIL 6, 1977

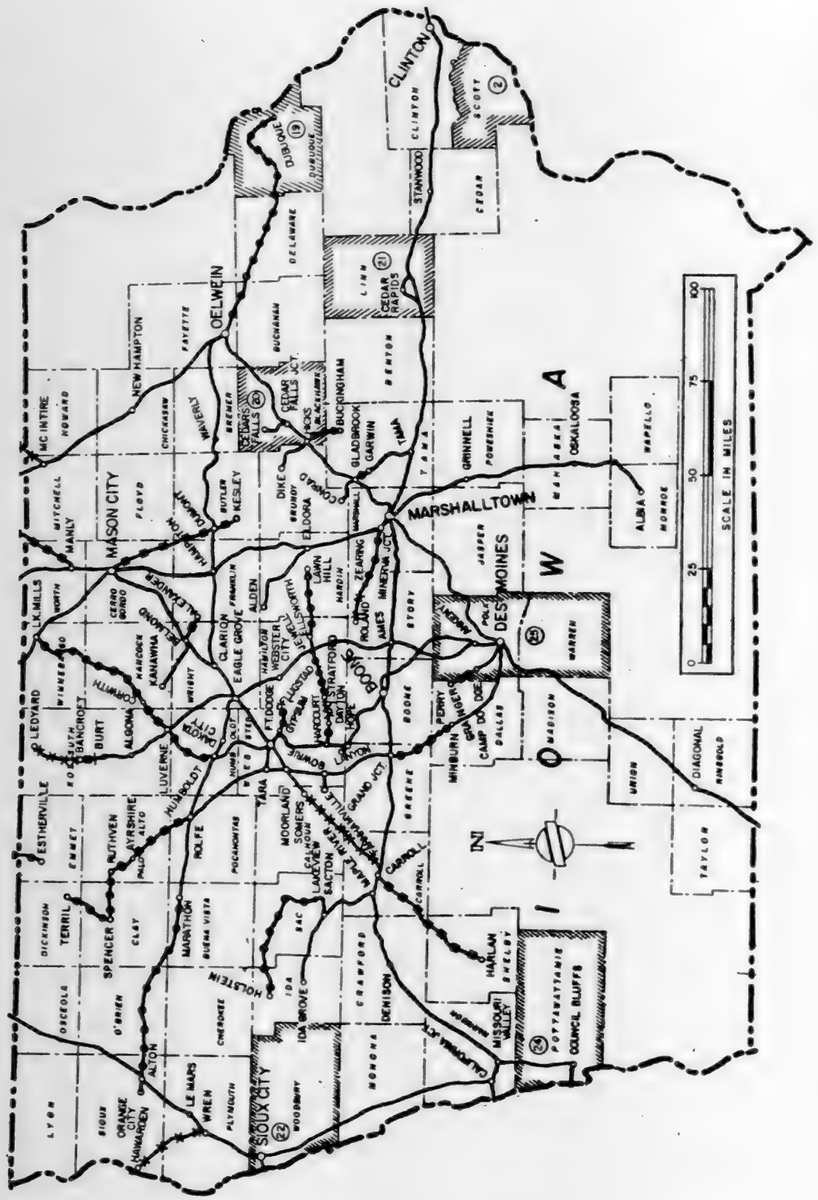
STANDARD METROPOLITAN STATISTICAL AREAS

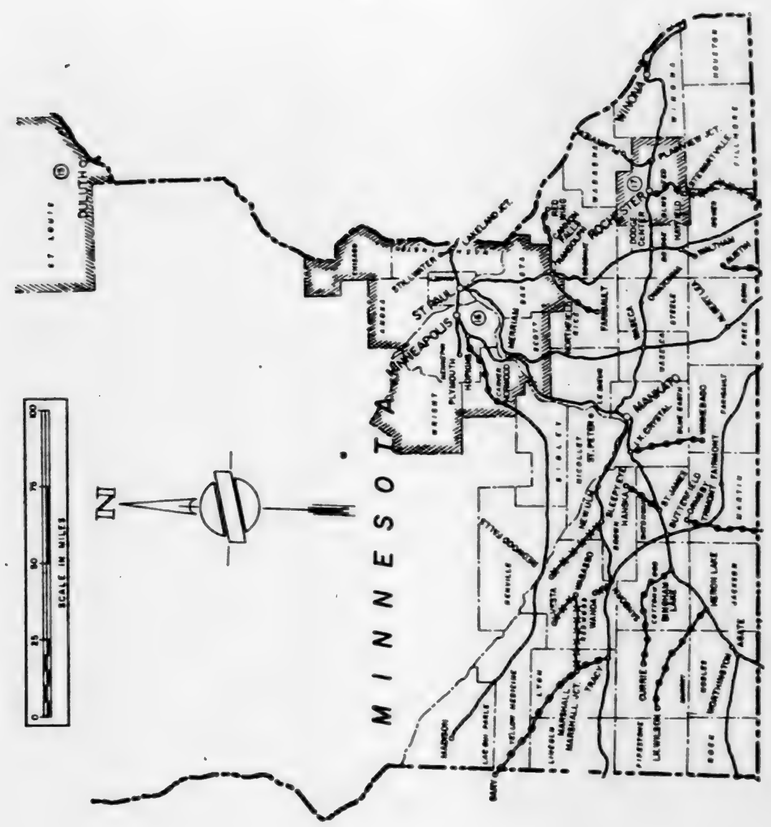
(1) CHICAGO	(15) DULUTH-SUPERIOR
(2) DAVENPORT-ROCK ISLAND	(16) MINNEAPOLIS-ST. PAUL
(3) PEORIA	(17) ROCHESTER
(4) SPRINGFIELD	(18) SIOUX FALLS
(5) ST. LOUIS	(19) DUBUQUE
(6) ROCKFORD	(20) WATERLOO-CEDAR FALLS
(7) KENOSHA	(21) CEDAR RAPIDS
(8) RACINE	(22) SIOUX CITY
(9) MILWAUKEE	(23) LINCOLN
(10) MADISON	(24) OMAHA
(11) LA CROSSE	(25) DES MOINES
(12) GREEN BAY	(26) ST. JOSEPH
(13) APPLETON	(27) KANSAS CITY
(14) EAU CLAIRE	

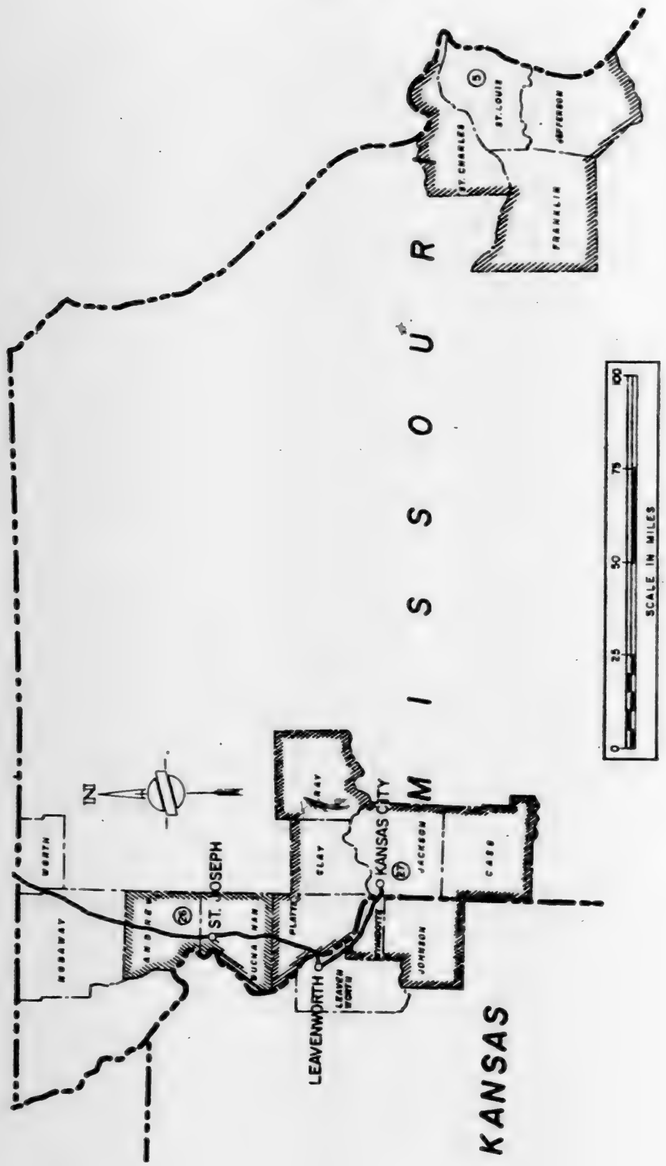
LEGEND

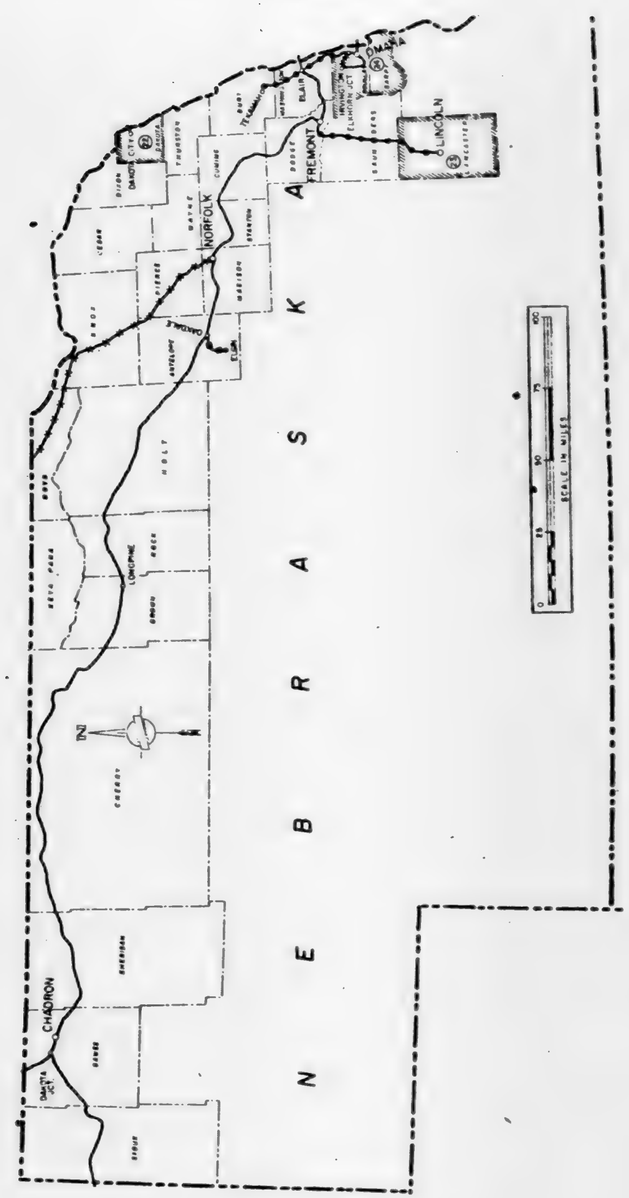
RED	CATEGORY 1.	ANTICIPATED SUBJECT OF ABANDONMENT APPLICATION WITHIN 3 YEARS. 49 CFR SEC. 1121.20 (b)(1)
GREEN	CATEGORY 2.	POTENTIALLY SUBJECT TO ABANDONMENT. 49 CFR SEC. 1121.20 (b)(2)
YELLOW	CATEGORY 3.	APPLICATION PRESENTLY PENDING BEFORE COMMISSION. 49 CFR SEC. 1121.20 (b)(3)
BROWN	CATEGORY 4.	OPERATED UNDER SUBSIDY 49 USC SEC. 1a (6)(a) 49 CFR SEC. 1121.20 (b)(4)
BLACK	CATEGORY 5.	OTHER LINES OWNED OPERATED. 49 CFR SEC. 1121.20 (b)(5)
BLACK		STATE BOUNDARY LINES
BLACK		COUNTY BOUNDARY LINES
BLACK		SMSA BOUNDARY LINES

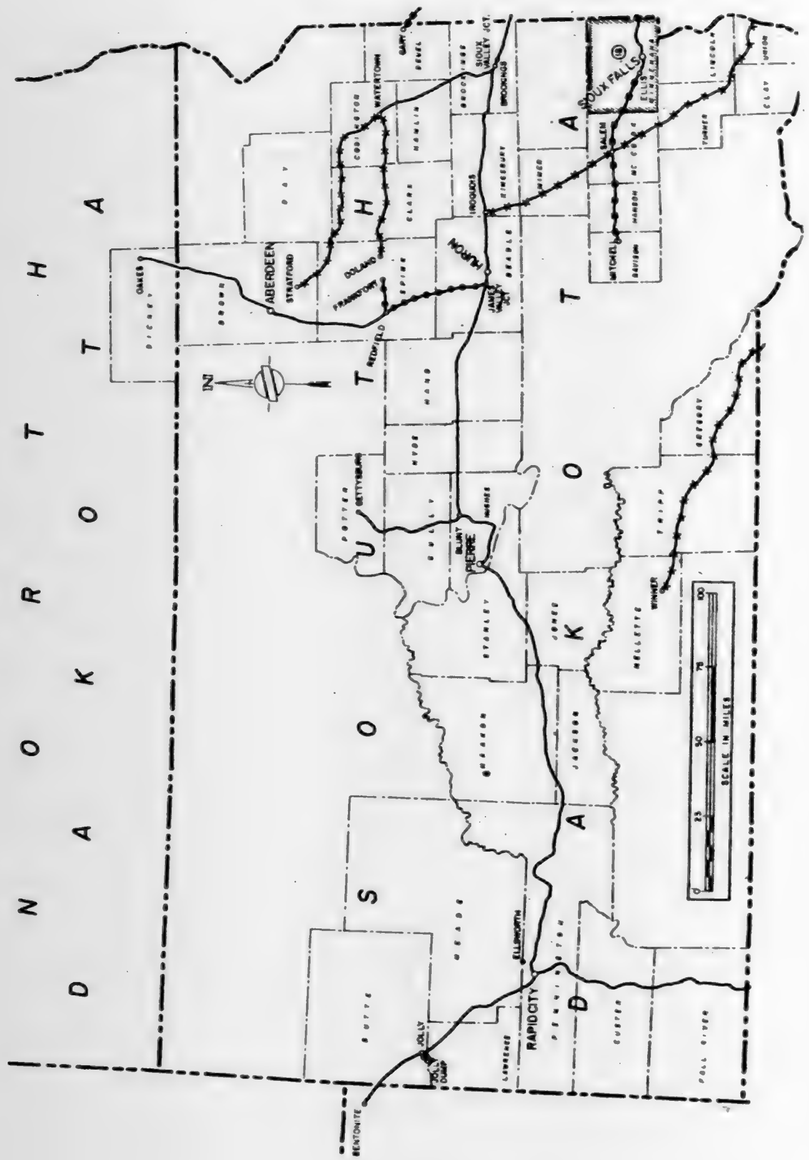



CLINTON
DUBUQUE
CEDAR RAPIDS
OELWEIN
MASON CITY
MARSHALLTOWN
DES MOINES
IOWA
SCALE IN MILES
0
25
50
75
100
N
SIOUX CITY

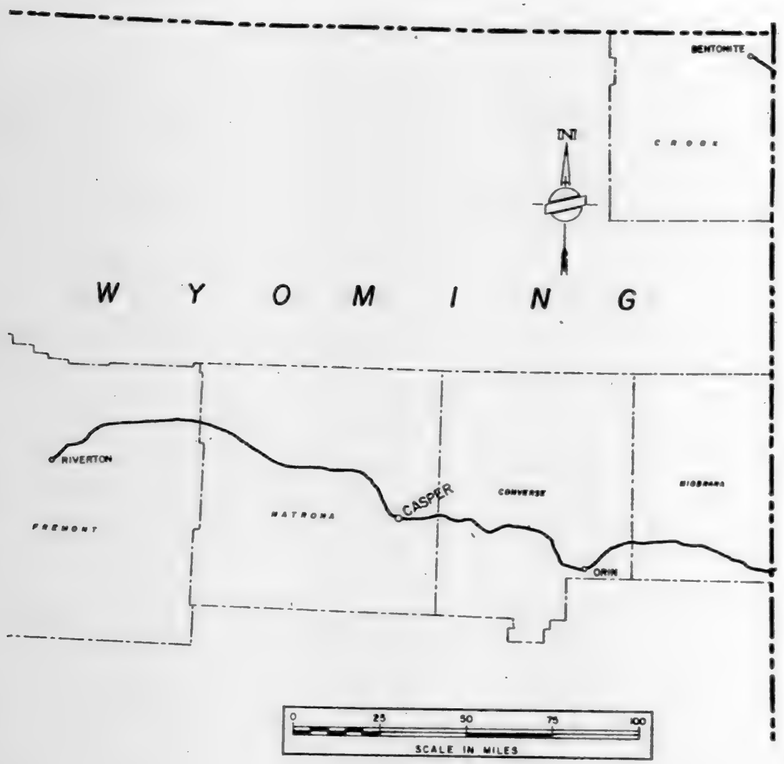

ST. LOUIS
DULUTH
MINNEAPOLIS
ST. PAUL
ROCHESTER
MINNESOTA
SCALE IN MILES
0
25
50
75
100
N


MISSOURI
KANSAS
ST. CHARLES
ST. LOUIS
JEFFERSON
FRANKLIN
ST. JOSEPH
KANSAS CITY
LEAVENWORTH
SCALE IN MILES
0
25
50
75
100
N


NEBRASKA
OMAHA
LINCOLN
FREMONT
NORFOLK
CHADRON
SCALE IN MILES
0
25
50
75
100
N


NORTH DAKOTA
SOUTH DAKOTA
ABERDEEN
WATERTOWN
SIOUX FALLS
HURON
MITCHELL
REDFIELD
BLUNT
PIERRE
WINNER
ELLSWORTH
RAPID CITY
JOLLY
RESERVATION
SCALE IN MILES
0
25
50
75
100


MICHIGAN
WISCONSIN
DULUTH
ASHLAND
ESCANABA
MARINETTE
GREEN BAY
OSHKOSH
FOND DU LAC
LA CROSSE
MADISON
MILWAUKEE
WEST ALLIS
PLATTEVILLE
BELOIT
SCALE IN MILES
0
25
50
75
100



[FR Doc.77-14608 Filed 5-24-77;8:45 am]

[AB 117 (SDM)]

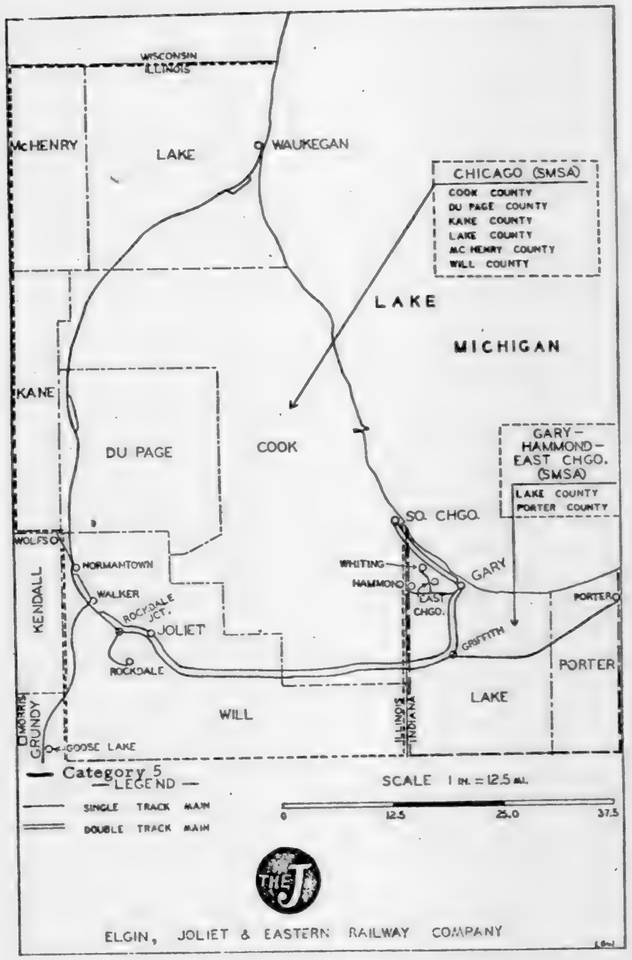
ELGIN, JOLIET AND EASTERN RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Elgin, Joliet and Eastern Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 117 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 117 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-14589 Filed 5-24-77;8:45 am]

[AB 119 (SDM)]

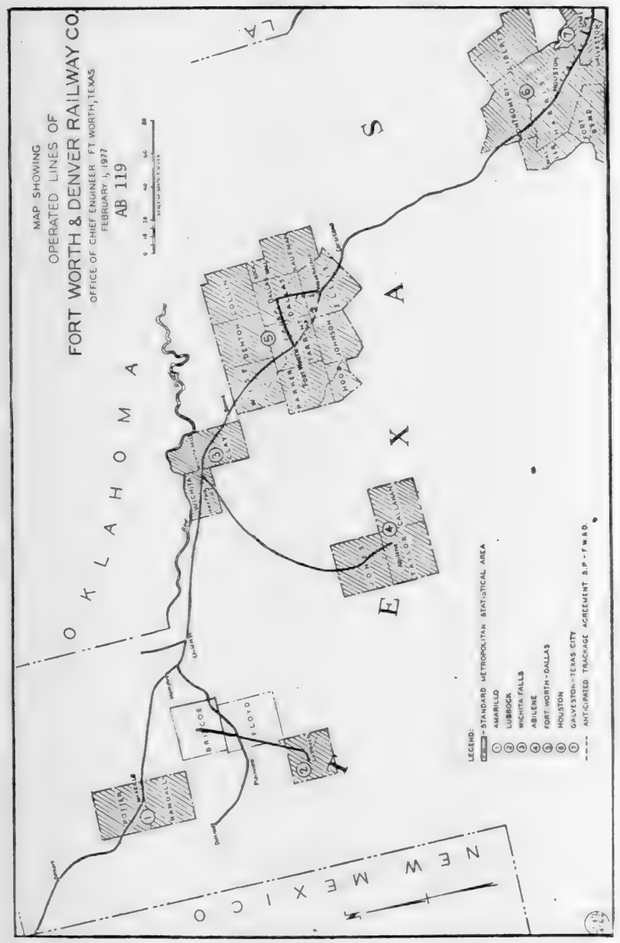
FORT WORTH & DENVER RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Fort Worth & Denver Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 119 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 5, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 119 (SDM).

ROBERT L. OSWALD,
Secretary.



FORT WORTH AND DENVER RAILWAY COMPANY
LINE DESCRIPTION
AB 119

Interstate Commerce Commisssion
Ex Parte 274 (Sub-No. 2)
Section 1121.20 (b) (3)

Silverton Line

A 19.71 mile line in Texas, extending through Floyd and Briscoe Counties from Sterley, Texas, Milepost 306.4, to Silverton, Texas, Milepost 326.11.

[FR Doc.77-14600 Filed 5-24-77;8:45 am]

[AB 188 (SDM)]

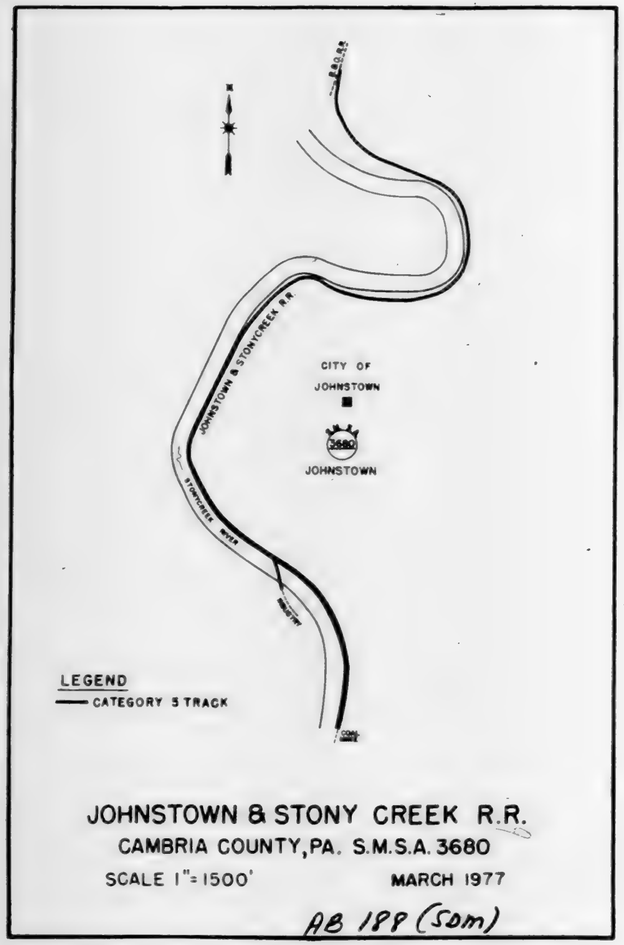
JOHNSTOWN & STONY CREEK RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Johnstown & Stony Creek Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 188 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 188 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-14610 Filed 5-24-77;8:45 am]

[AB 185 (SDM)]

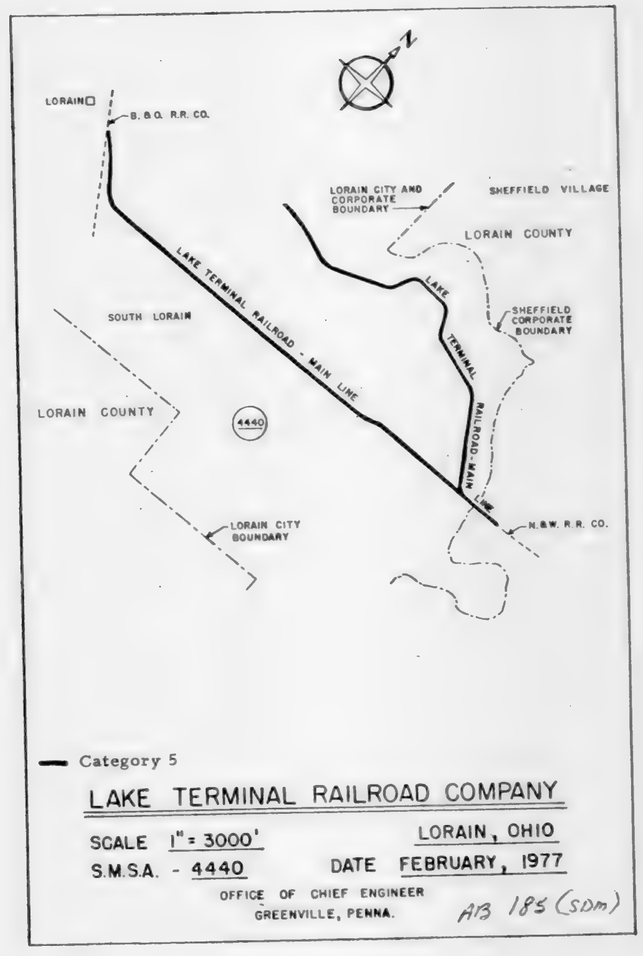
LAKE TERMINAL RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Lake Terminal Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 185 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 185 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-14606 Filed 5-24-77;8:45 am]

[AB 35(SDM)]

LOS ANGELES & SALT LAKE RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Los Angeles & Salt Lake Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 35 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 35 (SDM).

ROBERT L. OSWALD,
Secretary.

SYSTEM DIAGRAM MAP of the LOS ANGELES & SALT LAKE RAILROAD CO. AB No. 35 prepared in conjunction with I.C.C. Order Ex Parte No. 274 (Sub-No. 2) and Title 49 of the code of Federal Regulation 1121.

* L E G E N D *

Lines or portions of lines anticipated to be the subject of an abandonment or discontinuance application within three years shown ---------- (1)

Lines or portions of lines potentially subject to abandonment which are under study and which may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues shown -- (2)

Lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission shown ---------- (3)

Lines or portions of lines which are being operated under rail service continuance provisions shown ---------- (4)

All other Los Angeles and Salt Lake Railroad Co. lines shown --

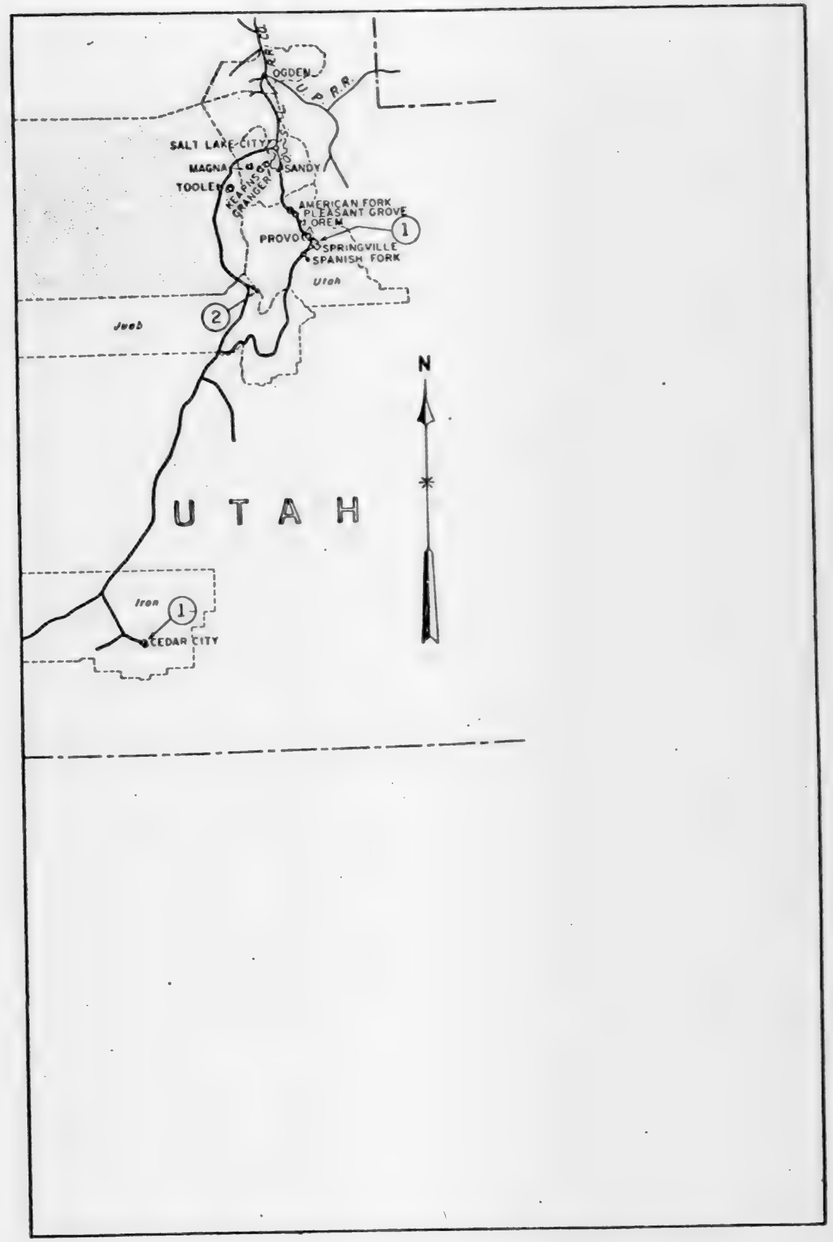
0 50 100
SCALE IN MILES

Standard Metropolitan Statistical Area (SMSA) shown ----

City outside of an (SMSA) with a population of 5,000 or more persons according to 1970 U.S. Census reports shown ----------

State boundaries shown ----------

Boundaries of counties in which proposed abandonments are located shown ---------- County




NEVADA
CALIFORNIA
Lincoln
Clark
LAS VEGAS
BOULDER CITY
San Bernardino
Riverside
GLENDALE
LOS ANGELES
BELL
WHITTIER
FULLERTON
ANAHEIM
RIVERSIDE
PACIFIC OCEAN


GLENDALE
LOS ANGELES
WHITTIER
WALMUT
PARAMOUNT
GARSON
LAKEWOOD
FULLERTON
ANAHEIM
LONG BEACH
PACIFIC OCEAN
R.VERSIDE
Riverside
LOS ANGELES & VICINITY
Scale in Miles
L.A.&S.L. RR.CO.
OTHERS

LOS ANGELES & SALT LAKE
RAILROAD COMPANY
SYSTEM DIAGRAM (AB-35)

Description of Lines

Pursuant to the regulations of the Interstate Commerce Commission (49 C.F.R. 1121.21), following is a description of lines of Los Angeles & Salt Lake Railroad Company as shown on the System Diagram Map.

Category 1 - Lines anticipated to be the subject of abandonment applications within three years.

California

(a) Designation of line: Crestmore Branch
(b) States in which located: California
(c) Counties in which located: Riverside and San Bernadino, Counties
(d) Milepost locations: M.P. 3.00 at Crestmore, to M.P. 4.24.
(e) There are no agency or terminal stations located on this line.

Utah

(a) Designation of line: Cedar City Branch
(b) States in which located: Utah
(c) Counties in which located: Iron
(d) Milepost locations: M.P. 31.83 near Cedar City, to M.P. 33.17 near Cedar City
(e) Cedar City at M.P. 32.52 is an agency station located on this line.

(a) Designation of line: Ironton Branch
(b) States in which located: Utah
(c) Counties in which located: Utah
(d) Milepost locations: M.P. 0.00 at Ironton, to M.P. 1.87.
(e) There are no agency or terminal stations located on this line.

Category 2 - Lines which are potentially subject to abandonment and which the carrier has under study and believes may be the subject of a future abandonment

application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

California

(a) Designation of line: Crestmore Branch
(b) States in which located: California
(c) Counties in which located: Riverside
(d) Milepost locations: M.P. 0.00 near Riverside Junction, to M.P. 0.86.
(e) There are no agency or terminal stations located on this line.

Nevada

(a) Designation of line: Boulder City Branch
(b) States in which located: Nevada
(c) Counties in which located: Clark
(d) Milepost locations: M.P. 9.8 near Henderson, to M.P. 22.67 near Boulder City
(e) Henderson at M.P. 9.87 is an agency station located on this line.

(a) Designation of line: Pioche Branch
(b) States in which located: Nevada
(c) Counties in which located: Lincoln
(d) Milepost locations: M.P. 14.78 near Panaca, to M.P. 32.96 near Pioche
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Prince Branch
(b) States in which located: Nevada
(c) Counties in which located: Lincoln
(d) Milepost locations: M.P. 0.10 near Prince Junction, to M.P. 8.81 near Prince.
(e) There are no agency or terminal stations located on this line.

Utah

(a) Designation of line: Silver City Branch
(b) States in which located: Utah
(c) Counties in which located: Juab
(d) Milepost locations: M.P. 0.48 near Silver City, to M.P. 2.42.
(e) There are no agency or terminal stations located on this line.

[FR Doc.77-14591 Filed 5-24-77;8:45 am]

[AB 186 (SDM)]

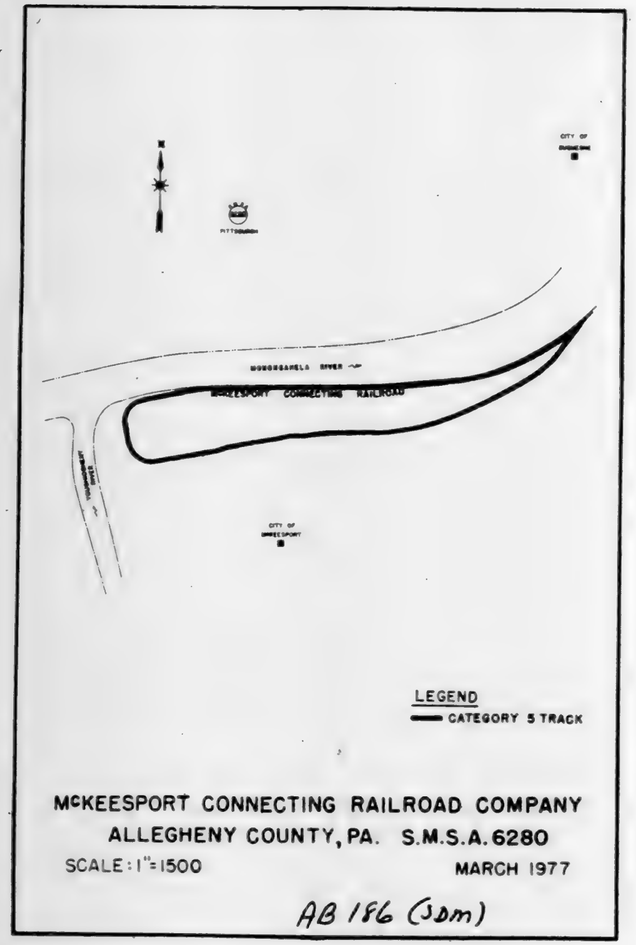
McKEESPORT CONNECTING RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the McKeesport Connecting Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 186 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 186 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-14607 Filed 5-24-77;8:45 am]

[AB 153 (SDM)]

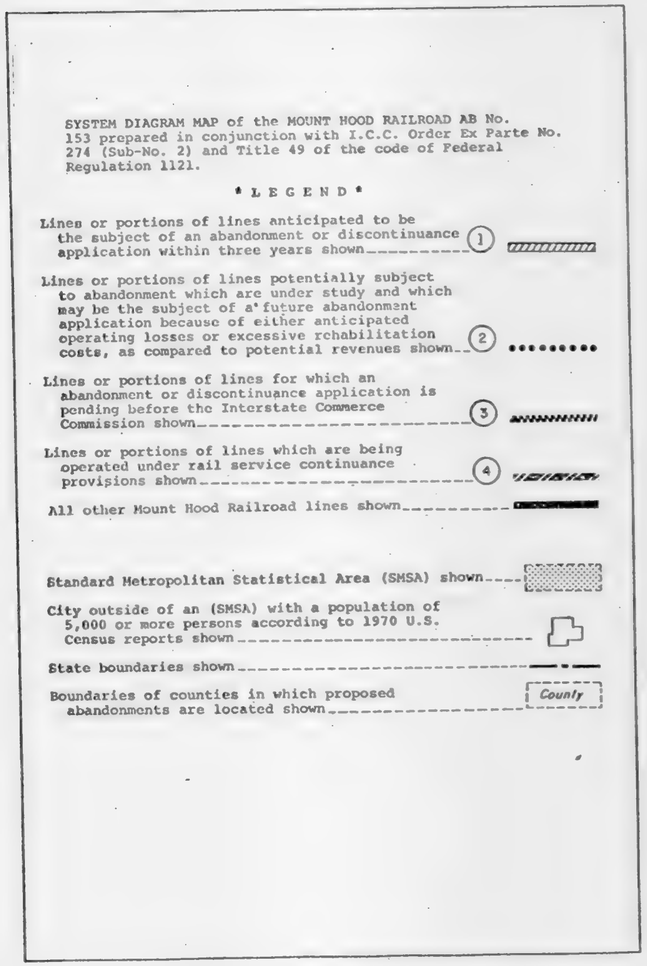
MOUNT HOOD RAILROAD CO.

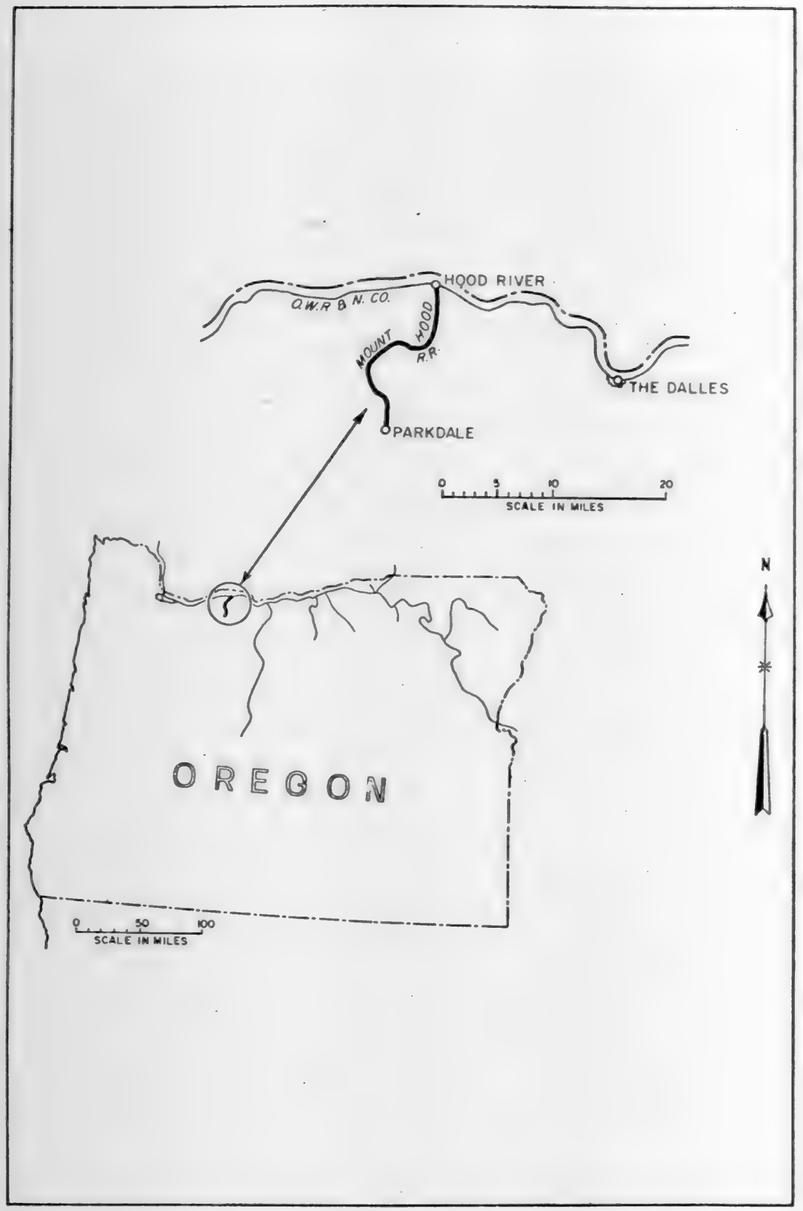
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Mount Hood Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 153 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 153 (SDM).

ROBERT L. OSWALD,
Secretary.





[FR Doc.77-14588 Filed 5-24-77;8:45 am]

[AB 184 (SDM)]

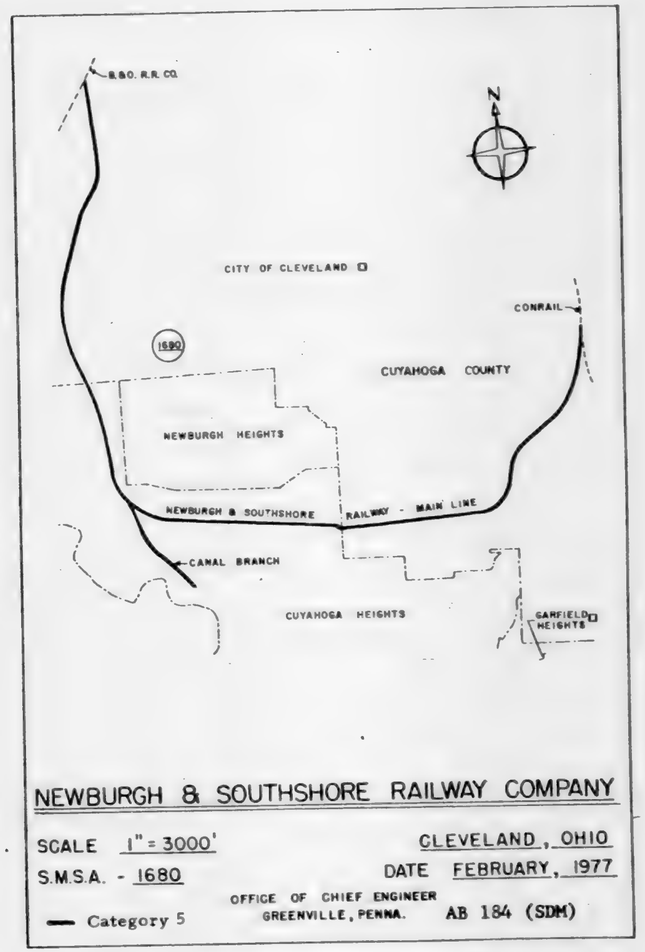
NEWBURGH & SOUTH SHORE RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Newburgh & South Shore Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 184 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 184 (SDM).

ROBERT L. OSWALD,
Secretary.



[FR Doc.77-14605 Filed 5-24-77;8:45 am]

[AB 10 (SDM)]

NORFOLK AND WESTERN RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Norfolk and Western Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 10 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

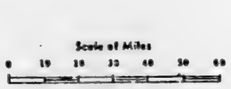
Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 10 (SDM).

ROBERT L. OSWALD,
Secretary.

SYSTEM DIAGRAM MAP
NORFOLK AND WESTERN RAILWAY COMPANY

including the following lines:

Akron, Canton and Youngstown Railroad Company
Chesapeake Western Railway Company
Lake Erie and Fort Wayne Railroad Company
Lorain and West Virginia Railway Company
New Jersey, Indiana and Illinois Railroad Company
Norfolk, Franklin and Danville Railway Company
Pittsburgh and West Virginia Railway Company
Wabash Railroad Company
Wheeling and Lake Erie Railway Company



LEGEND

(1) Lines anticipated will be subject of abandonment application within 3 years.

(2) Lines potentially subject to abandonment.

(3) Abandonment applications pending before Commission.

(4) Lines which are being operated under the Rail Service continuation provisions of Section 1a(6) (a) of the Act or of Section 304(c) (2) of the Regional Rail Reorganization Act of 1973.

(5) All other lines or portions of lines which the carrier owns, and operates, directly or indirectly.

(6) Trackage Rights.

(7) STANDARD METROPOLITAN STATISTICAL AREAS

1 Norfolk, Virginia Beach, Portsmouth, VA-NC
2 Petersburg, Colonial Heights, Hopewell, VA
3 Lynchburg, VA
4 Roanoke, VA
5 Raleigh, Durham, NC
6 Greensboro, Winston-Salem, High Point, NC
7 Kingsport, Bristol, TN-VA
8 Huntington-Ashland, WV-KY-OH
9 Pittsburgh, PA
10 Wheeling, WV-OH
11 Steubenville-Weirton, OH-WV
12 Buffalo, NY
13 Erie, PA
14 Cleveland, OH
15 Canton, OH
16 Akron, OH
17 Lorain-Elyria, OH
18 Columbus, OH
19 Toledo, OH-MI
20 Detroit, MI
21 Lima, OH
22 Cincinnati, OH-KY-IN
23 Hamilton-Middleton, OH
24 Muncie, IN
25 Fort Wayne, IN
26 Indianapolis, IN
27 Anderson, IN
28 Lafayette-West Lafayette, IN
29 South Bend, IN
30 Chicago, IL
31 Gary-Hammond-East Chicago, IN
32 Champaign-Urbana-Rantoul, IL
33 Decatur, IL
34 Bloomington-Normal, IL
35 Peoria, IL
36 Springfield, IL
37 St. Louis, MO-IL
38 Columbia, MO
39 Kansas City, MO-KS
40 Des Moines, IA
41 Omaha, NB-IA

Note 1 Numbers designating SMSA's on maps enclosed in hexagon.

Numerical identification of lines in Categories 1 thru 4 (in accordance with 49 CFR 1121.20(b)) on NW system diagram map, interrelated state maps, and as listed and described on separate statement accompanying the maps and marked for identification as Appendix A.

CATEGORY 1

1-1 Lorain & West Virginia Railway Company
1-2 Connersville Branch
1-3 Rushville Branch
1-4 Easterly Portion of Gary District
1-5 Westerly Portion of Gary District
1-6 Carey to Delphos (AC&Y)
1-7 Kokomo to Frankfort
1-8 Ottumwa Branch
1-9 Pittsfield Branch
1-10 Portion of Champaign Branch
1-11 Portion of Steubenville Branch

CATEGORY 2

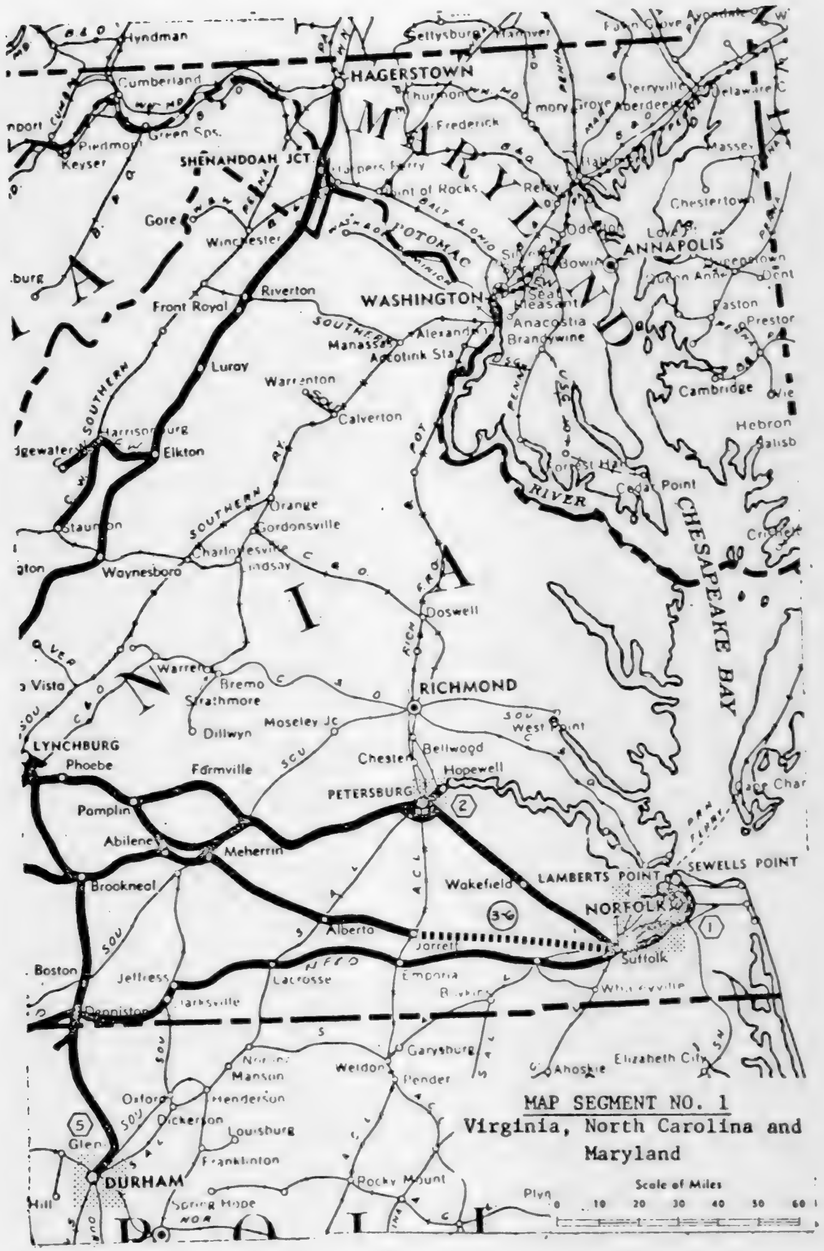
NW has none in this category.

CATEGORY 3

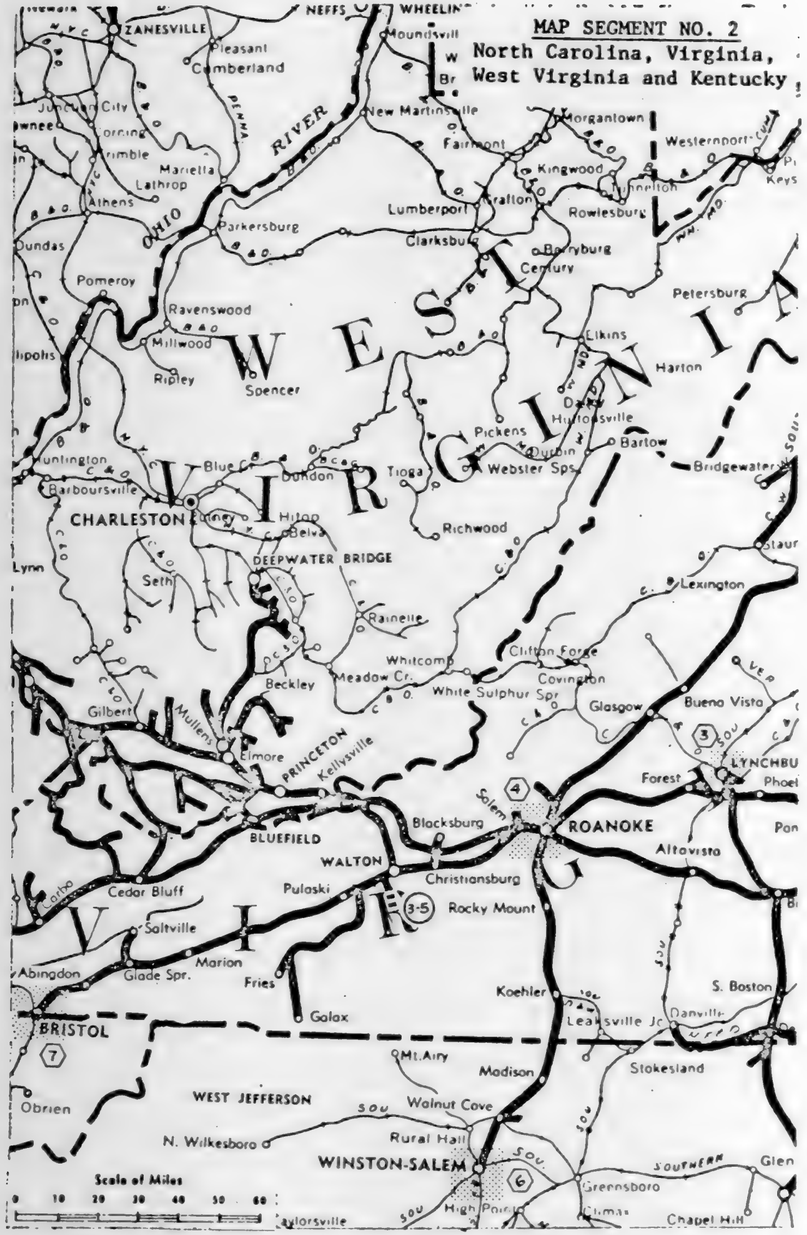
3-2 Sullivan District
3-3 Keokuk Branch
3-4 Streator Branch
3-5 Radford Branch
3-6 Portion of Jarratt District

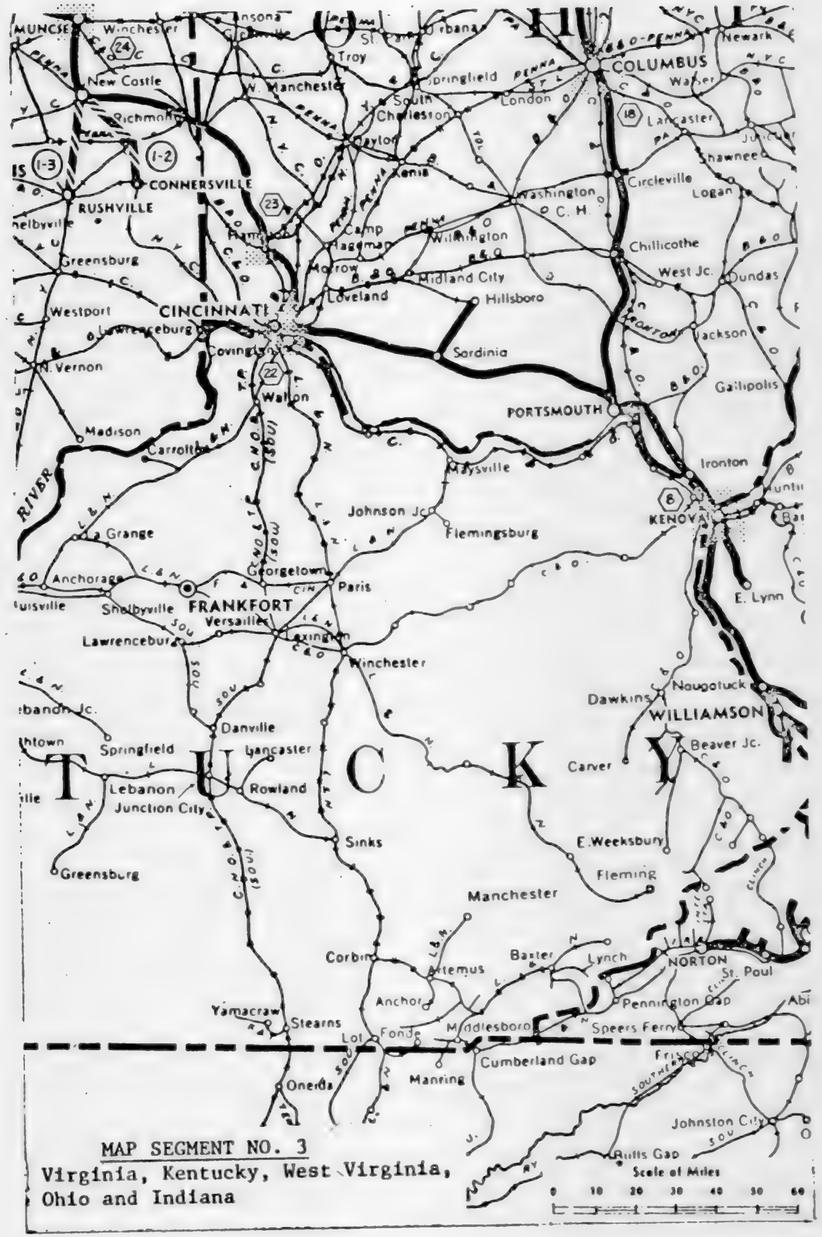
CATEGORY 4

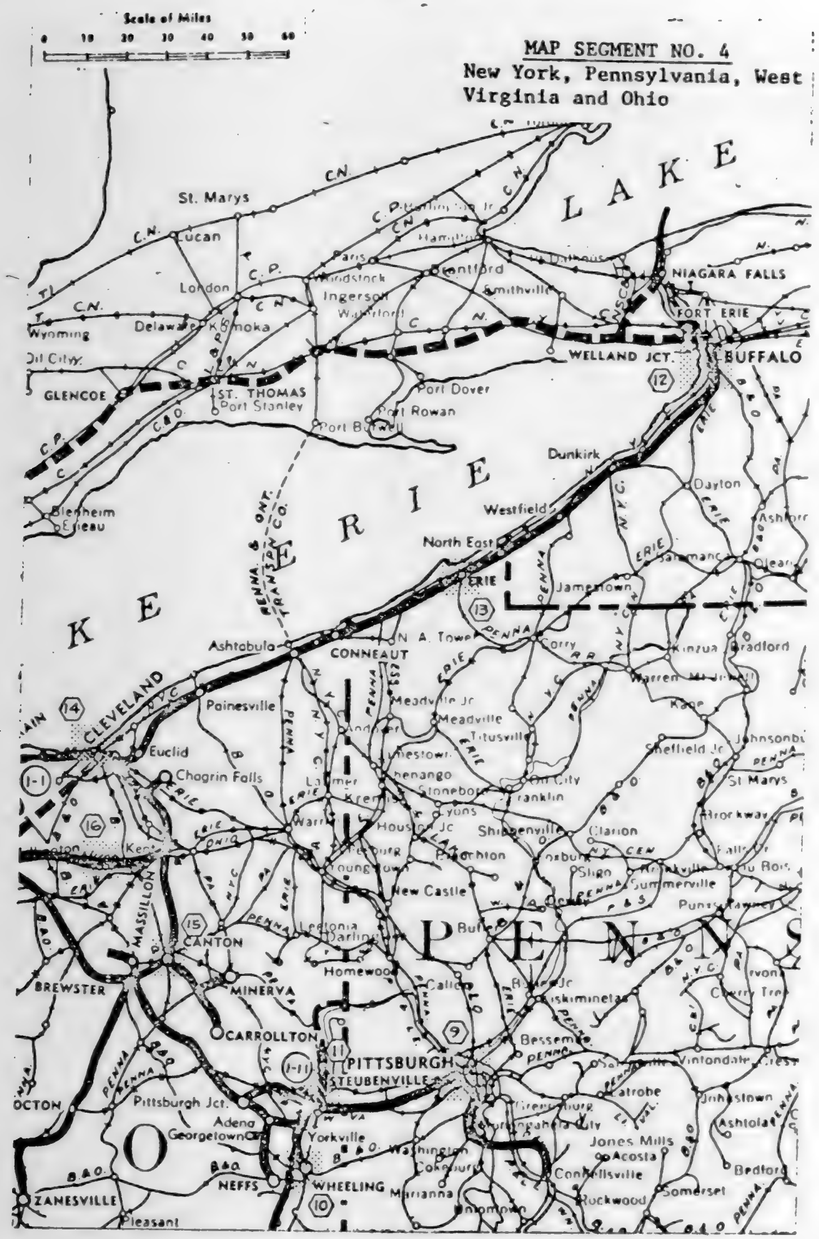
NW has none in this category.

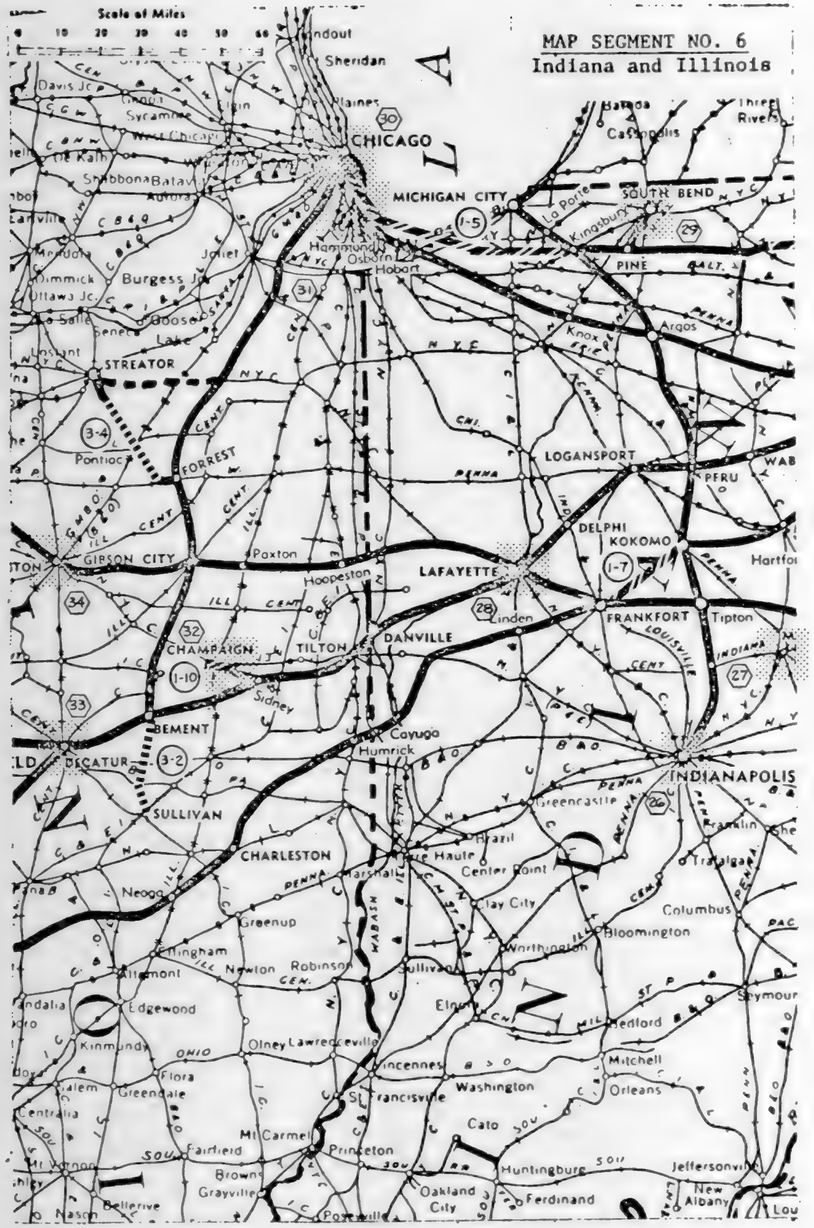


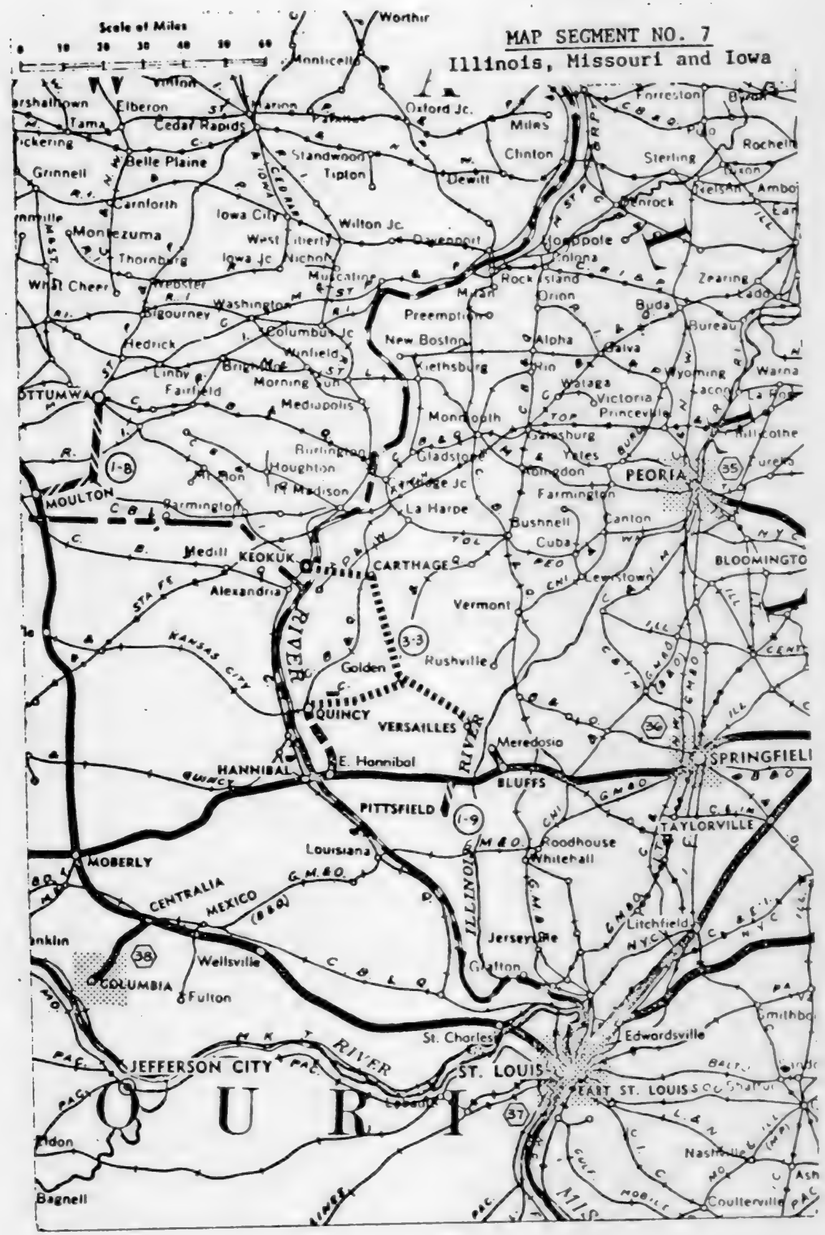
MAP SEGMENT NO. 1
Virginia, North Carolina and Maryland

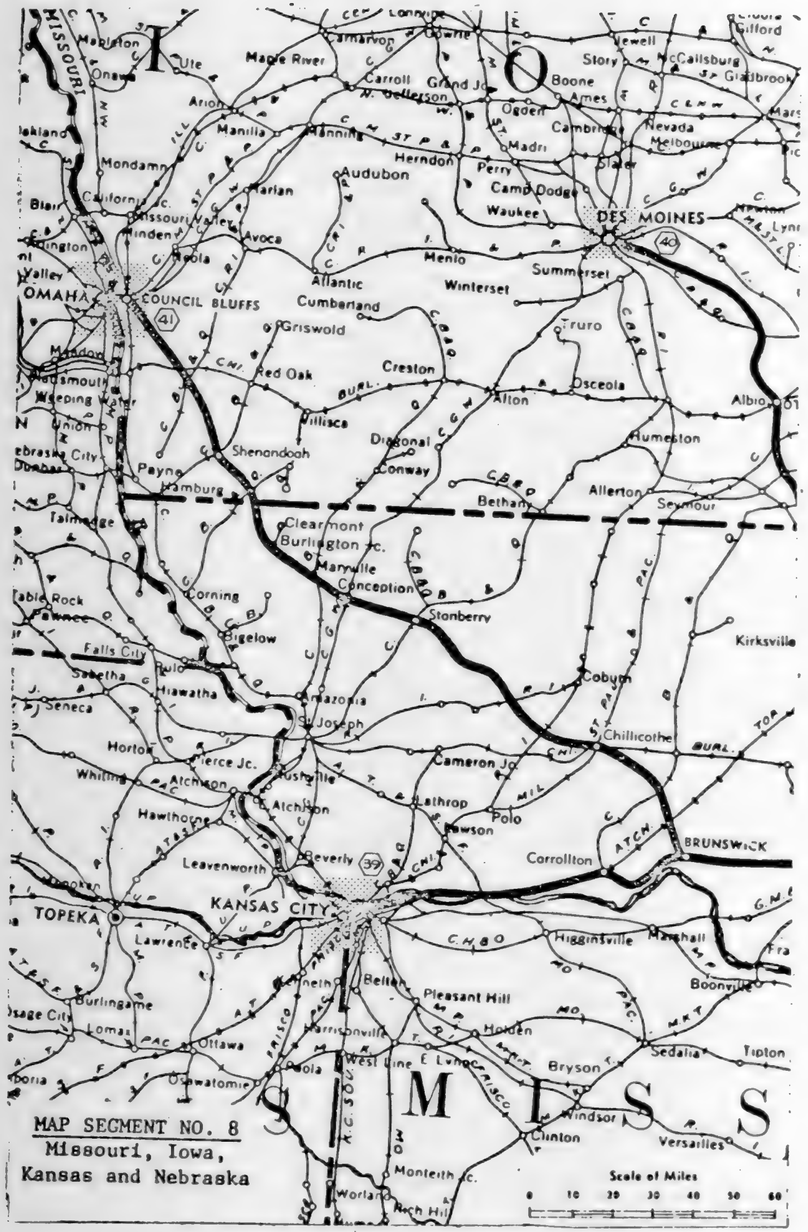

MAP SEGMENT NO. 2
North Carolina, Virginia, West Virginia and Kentucky
ZANESVILLE
Cumberland
Pleasant
NEFFS
WHEELING
Moundsville
New Martinsville
Fairmont
Morgantown
Westernport
Kingwood
Grafton
Rowlesburg
Lumberport
Clarksburg
Bonnyburg
Century
Petersburg
Elkins
Harton
Parkersburg
Marietta
Lathrop
Athens
Pomeroy
Dundas
Ravenswood
Millwood
Ripley
Spencer
OHIO RIVER
WEST VIRGINIA
Pickens
Durbin
Webster Spgs.
Barton
Bridgewater
Huntington
Barboursville
Blue
Dundon
Tioga
CHARLESTON
Kanawha
Hilltop
Belva
DEEPWATER BRIDGE
Seth
Richwood
Lexington
Rainelle
Whitcomb
Meadow Cr.
Clifton Forge
Covington
White Sulphur Spr
Beckley
Gilbert
Mullens
Elmore
PRINCETON
Kellysville
Glasgow
Buena Vista
Forest
LYNCHBU
Phoe
Salem
Blacksburg
ROANOKE
Altavista
BLUEFIELD
WALTON
Christiansburg
Pulaski
Cedar Bluff
Rocky Mount
Saltville
Abingdon
Glade Spr.
Marion
Fries
Galax
Koehler
Leaksville Jc
Danville
S. Boston
BRISTOL
Mt.Airy
Madison
Stokesland
WEST JEFFERSON
Obrien
Walnut Cove
N. Wilkesboro
Rural Hall
WINSTON-SALEM
Greensboro
High Point
Chapel Hill
Taylorsville
Glen
Scale of Miles
0 10 20 30 40 50 60


Winchester
New Castle
Richmond
W. Manchester
Troy
Springfield
South Charleston
London
Xenia
Dayton
COLUMBUS
Newark
Lancaster
CONNERSVILLE
RUSHVILLE
Washington C. H.
Circleville
Logan
Chillicothe
West Jc.
Dundas
Camp Dennison
Wilmington
Midland City
Hillsboro
Loveland
Morrow
Greensburg
Westport
Lawrenceburg
CINCINNATI
Covington
Sardinia
Jackson
Gallipolis
N. Vernon
Madison
Carrollton
PORTSMOUTH
Ironton
Maysville
Johnson Jc.
Flemingsburg
KENOVA
Grange
Anchorage
Georgetown
Paris
E. Lynn
Louisville
Shelbyville
FRANKFORT
Versailles
Lexington
Lawrenceburg
Winchester
Danville
Springfield
Lancaster
Dawkins
Naugatuck
WILLIAMSON
Beaver Jc.
Carver
Lebanon Junction City
Rowland
Sinks
E.Weeksbury
Fleming
Greensburg
Manchester
Corbin
Artemus
Baxter
Lynch
NORTON
St. Paul
Pennington Gap
Yamacraw
Stearns
Anchor
Middlesboro
Speers Ferry
Cumberland Gap
Oneida
Manring
Johnston City
Bulls Gap
MAP SEGMENT NO. 3
Virginia, Kentucky, West Virginia, Ohio and Indiana
Scale of Miles
0 10 20 30 40 50 60


Scale of Miles
0 10 20 30 40 50 60
MAP SEGMENT NO. 4
New York, Pennsylvania, West Virginia and Ohio
LAKE ERIE
PENNSYLVANIA
OHIO
St. Marys
Lucan
London
Ingersoll
Woodstock
Hamilton
Dunnville
Niagara Falls
Fort Erie
Buffalo
Welland Jct.
Wyoming
Delaware
Kenoka
Oil City
Glencoe
St. Thomas
Port Stanley
Port Dover
Port Rowan
Port Burwell
Blenheim
Erieau
Dunkirk
Westfield
North East
Erie
Jamestown
Dayton
Ashtabula
Conneaut
Cleveland
Painesville
Euclid
Chagrin Falls
Meadville
Titusville
Oil City
Franklin
Shippenville
Clarion
Sligo
Summerville
New Castle
Canton
Massillon
Minerva
Carrollton
Homewood
Pittsburgh
Steubenville
Bessemer
Latrobe
Johnstown
Ashtola
Bedford
Somerset
Connellsville
Jones Mills
Acosta
Pittsburgh Jct.
Adena
Georgetown
Yorkville
Washington
Cokeburg
Marianna
Wheeling
Neffs
Zanesville
Pleasant
Brewster
Octon
Warren
Kinzua
Bradford
Sharpsville
Sharon
Youngstown
Ravenna
Cleveland
Akron
Canton
Pittsburgh
Wheeling
Erie
Buffalo
Niagara Falls
Jamestown
Dunkirk
Meadville
Titusville
Oil City
Franklin
Clarion
Johnstown
Somerset
Bedford
Zanesville
Steubenville
Youngstown
Akron
Ravenna
Sharon
Warren
Kinzua
Bradford
Jamestown
Dunkirk
Erie
Buffalo
Niagara Falls
Fort Erie
Welland Jct.
Hamilton
Brantford
Woodstock
Ingersoll
London
St. Marys
Lucan
Wyoming




MAP SEGMENT NO. 7
Illinois, Missouri and Iowa
Scale of Miles
Cedar Rapids
Belle Plaine
Grinnell
Tama
Elberon
Marion
Oxford Jc.
Monticello
Iowa City
Wilton Jc.
Montezuma
Thornburg
Webster City
Washington
Columbus Jc
Winfield
Mediapolis
Fairfield
Burlington
Houghton
Madison
Farmington
La Harpe
Bushnell
Cuba
Canton
Monmouth
Gladstone
Abingdon
Yates City
Galesburg
Victoria
Princeville
Peoria
Bureau
Buda
Orion
Rock Island
Moline
Preemption
New Boston
Alpha
Galva
Kewanee
Wyoming
Atkinson
Geneseo
Cambridge
Kirkwood
Monmouth
Monmouth Jct
Aledo
Keithsburg
Oquawka
Burlington Jct



[AB 57 (SDM)]

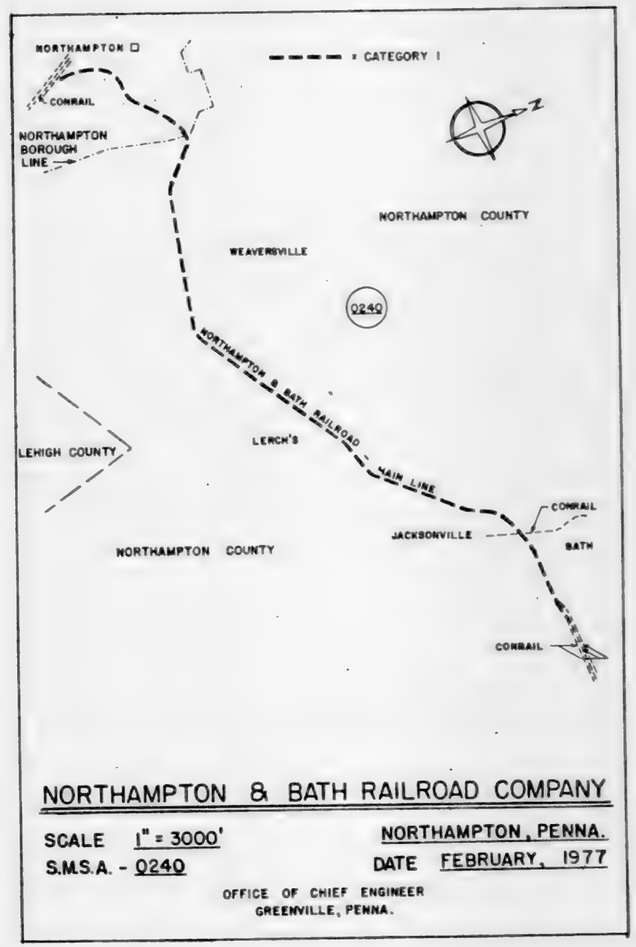
NORTHAMPTON & BATH RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Northampton & Bath Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 187 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 187 (SDM).

ROBERT L. OSWALD,
Secretary.



AB ___ (SDM)

Northampton and Bath Railroad Company

Description of Lines to Accompany the System Diagram Map

Category 1 - All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the three-year period following the date upon which the diagram, or any amended diagram, is filed with the Commission.

(a) Carrier's designation for each line.

Entire line of Northampton and Bath Railroad Company.

(b) State or states in which each line is located.

Pennsylvania.

(c) County or counties in which each line is located.

Northampton County.

(d) Mileposts delineating each line or portion of line.

MP 0.00 to MP 7.28

(e) Agency or terminal stations located on each line or portion of line with milepost designations.

Stations	Milepost Designations
Northampton	0.00
Navarro	0.66
Weaversville	2.68
Lerch's	4.57
Jacksonville	5.20
Bath	6.56
Bath Jct.	7.28

Category 2 - All lines or portions of lines potentially subject to abandonment which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

None.

Category 3 - All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission on the date upon which the diagram, or any amended diagram, is filed with the Commission.

None.

[FR Doc.77-14597 Filed 5-24-77;8:45 am]

[AB 36 (SDM)]

OREGON SHORT LINE RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Oregon Short Line Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 36 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 36 (SDM).

ROBERT L. OSWALD,
Secretary.

SYSTEM DIAGRAM MAP of the OREGON SHORT LINE RAILROAD CO. AB No. 36 prepared in conjunction with I.C.C. Order Ex Parte No. 274 (Sub-No. 2) and Title 49 of the code of Federal Regulation 1121.

* L E G E N D *

Lines or portions of lines anticipated to be the subject of an abandonment or discontinuance application within three years shown ---------- (1)

Lines or portions of lines potentially subject to abandonment which are under study and which may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues shown -- (2)

Lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission shown ---------- (3)

Lines or portions of lines which are being operated under rail service continuance provisions shown ---------- (4)

All other Oregon Short Line Railroad Co. lines shown -

0 50 100
SCALE IN MILES

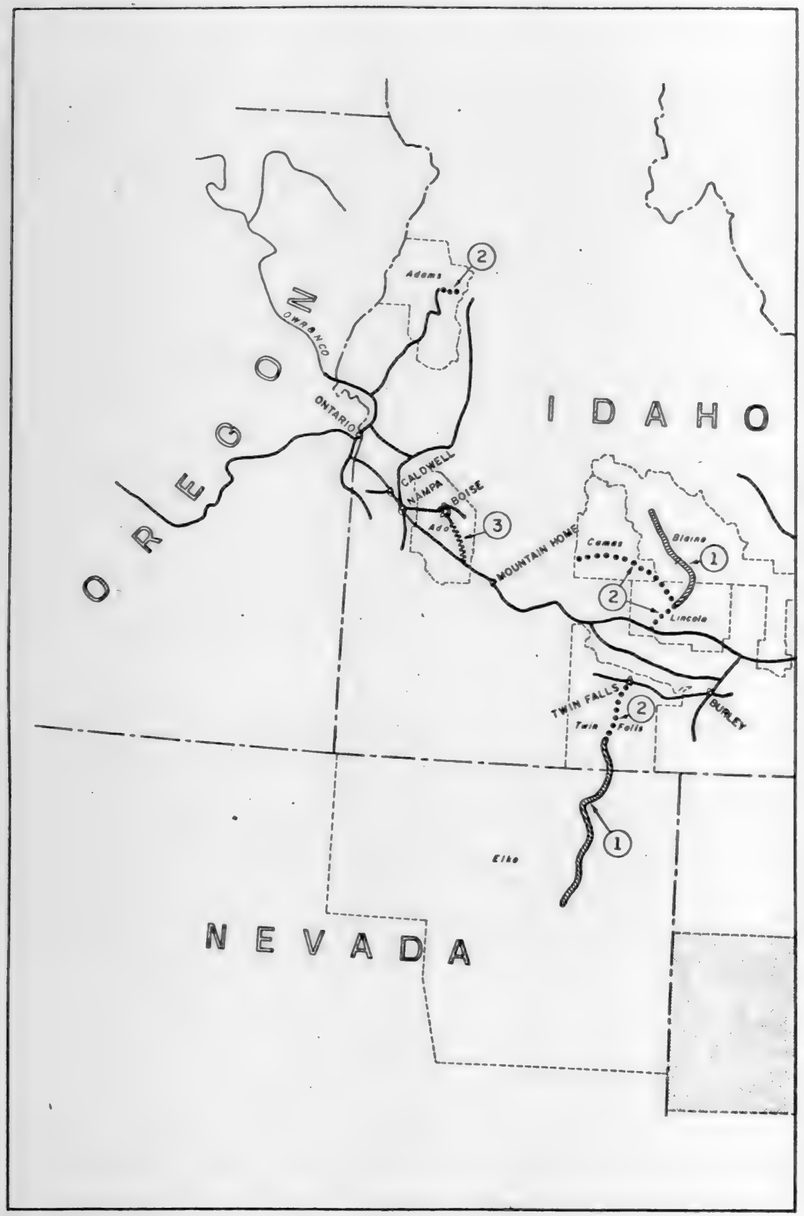
Standard Metropolitan Statistical Area (SMSA) shown ----

City outside of an (SMSA) with a population of 5,000 or more persons according to 1970 U.S. Census reports shown ----------

State boundaries shown ----------

Boundaries of counties in which proposed abandonments are located shown ---------- County





OREGON SHORT LINE RAILROAD COMPANY
SYSTEM DIAGRAM (AB-36)

Description of Lines

Pursuant to the regulations of the Interstate Commerce Commission (49 C.F.R. 1121.21), following is a description of lines of Oregon Short Line Railroad Company as shown on the System Diagram Map.

Category 1 - Lines anticipated to be the subject of abandonment applications within three years.

Idaho

(a) Designation of line: Ketchum Branch
(b) States in which located: Idaho
(c) Counties in which located: Blaine and Lincoln Counties
(d) Milepost locations: M.P. 15.65 near Richfield, to M.P. 69.84 near Ketchum
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: East Belt Branch
(b) States in which located: Idaho
(c) Counties in which located: Fremont County
(d) Milepost locations: M.P. 38.56 near Newdale, to M.P. 44.28 near Belt
(e) Newdale at M.P. 38.08 is an agency station.

(a) Designation of line: Yellowstone Branch
(b) States in which located: Idaho
(c) Counties in which located: Fremont County
(d) Milepost locations: M.P. 51.0 near Ashton, to M.P. 90.7 near Big Springs
(e) Ashton at M.P. 50.99 is an agency station

Idaho and Montana

(a) Designation of line: Yellowstone Branch
(b) States in which located: Idaho and Montana
(c) Counties in which located: Fremont County, Idaho, and Gallatin County, Montana
(d) Milepost locations: M.P. 90.7 near Big Springs, to M.P. 107.2 near West Yellowstone
(e) There are no agency or terminal stations located on this line.

Idaho and Nevada

(a) Designation of line: Wells Branch
(b) States in which located: Idaho and Nevada
(c) Counties in which located: Twin Falls County, Idaho, and Elko County, Nevada
(d) Milepost locations: M.P. 29.35 near Rogerson, to M.P. 123.46 near Wells.
(e) There are no agency or terminal stations located on this line.

Category 2 - Lines which are potentially subject to abandonment and which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

Idaho

(a) Designation of line: Ketchum Branch
(b) States in which located: Idaho
(c) Counties in which located: Lincoln County
(d) Milepost locations: M.P. 0.00 near Shoshone, to M.P. 15.65 near Richfield
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Hill City Branch
(b) States in which located: Idaho
(c) Counties in which located: Camas, Lincoln, and Blaine Counties
(d) Milepost locations: M.P. 0.00 near Richfield, to M.P. 58.34 near Hill City
(e) There are no agency or terminal stations on this line.

(a) Designation of line: New Meadows Branch
(b) States in which located: Idaho
(c) Counties in which located: Adams County
(d) Milepost locations: M.P. 84.52 near Rubicon, to M.P. 90.17 near New Meadows
(e) There are no agency or terminal stations on this line.

(a) Designation of line: Grace Branch
(b) States in which located: Idaho
(c) Counties in which located: Caribou County
(d) Milepost locations: M.P. 0.00 near Alexander, to M.P. 5.58 near Grace
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Wells Branch
(b) States in which located: Idaho
(c) Counties in which located: Twin Falls County
(d) Milepost locations: M.P. 0.00 near Twin Falls, to M.P. 29.35 near Rogerson
(e) Twin Falls at M.P. 0.00 is an agency station.

Category 3 - Applications pending before the Interstate Commerce Commission.

Idaho

(a) Designation of line: West Belt Branch
(b) States in which located: Idaho
(c) Counties in which located: Madison and Jefferson Counties
(d) Milepost locations: M.P. 10.8 near Menan, to M.P. 26.48 near Edmonds
(e) Menan at M.P. 10.41 is an agency station.

(a) Designation of line: Boise Cut-Off
(b) States in which located: Idaho
(c) Counties in which located: Ada County
(d) Milepost locations: M.P. 423.5 near Orchard, to M.P. 442.0 near Boise
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Goshen Branch
(b) States in which located: Idaho
(c) Counties in which located: Bingham and Bonnevile Counties
(d) Milepost locations: M.P. -0.06 near Firth, to M.P. 17.53 near Ammon
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Grace Branch
(b) States in which located: Idaho
(c) Counties in which located: Caribou County
(d) Milepost locations: M.P. 5.58 near Grace, to M.P. 6.91 near Grace.
(e) There are no agency or terminal stations located on this line.

[AB 37 (SDM)]

OREGON-WASHINGTON RAILROAD & NAVIGATION CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Oregon-Washington Railroad & Navigation Co., has filed with the Commission its color-coded system diagram map in docket No. AB 37 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commisison on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 37 (SDM).

ROBERT L. OSWALD,
Secretary.

SYSTEM DIAGRAM MAP of the OREGON-WASHINGTON RAILROAD & NAVIGATION CO. AB No. 37 prepared in conjunction with I.C.C. Order Ex Parte No. 274 (Sub-No. 2) and Title 49 of the code of Federal Regulation 1121.

* L E G E N D *

Lines or portions of lines anticipated to be the subject of an abandonment or discontinuance application within three years shown ..... (1)

Lines or portions of lines potentially subject to abandonment which are under study and which may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues shown .. (2)

Lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission shown ..... (3)

Lines or portions of lines which are being operated under rail service continuance provisions shown ..... (4)

All other Oregon-Washington Railroad & Navigation Co. lines shown ..

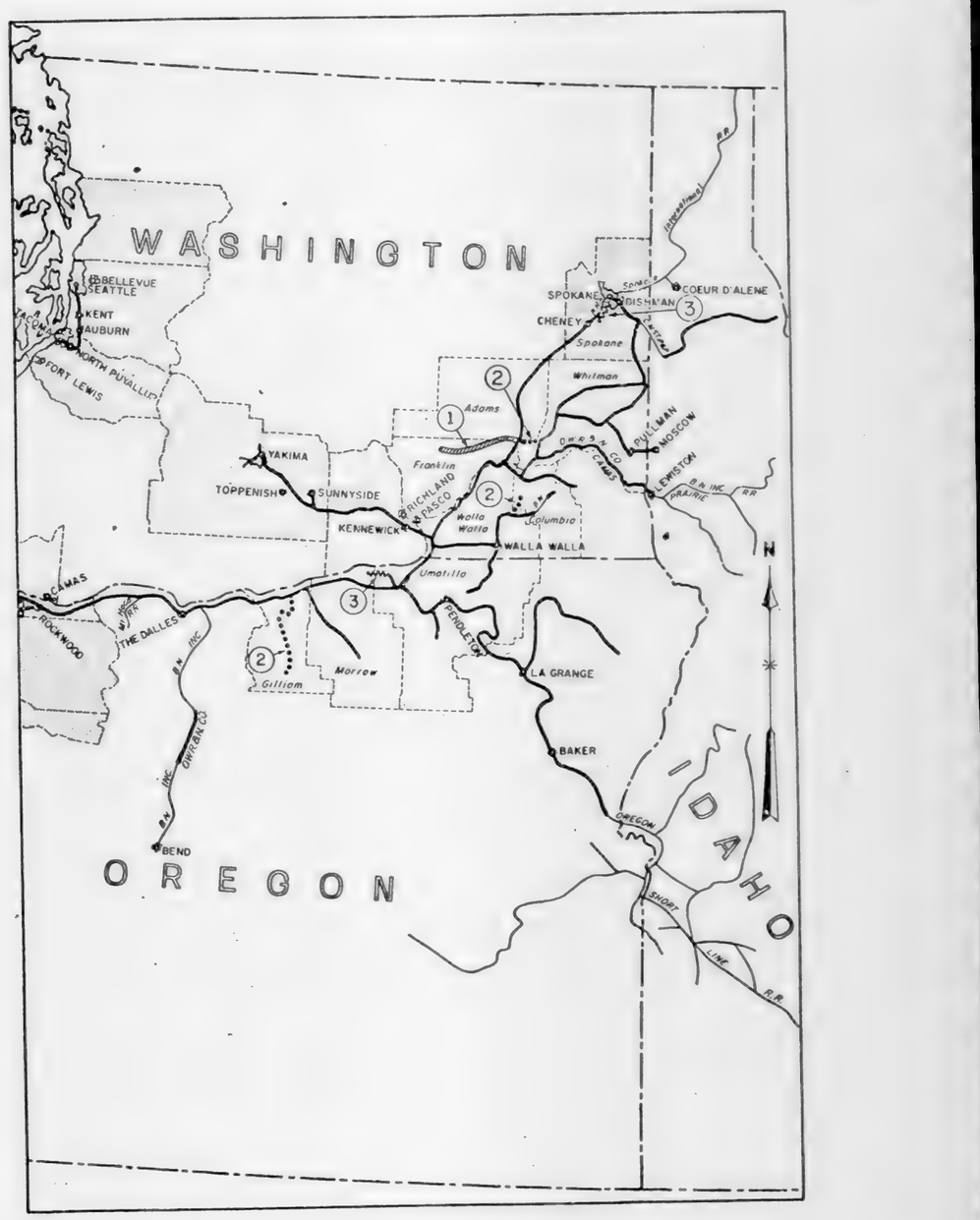
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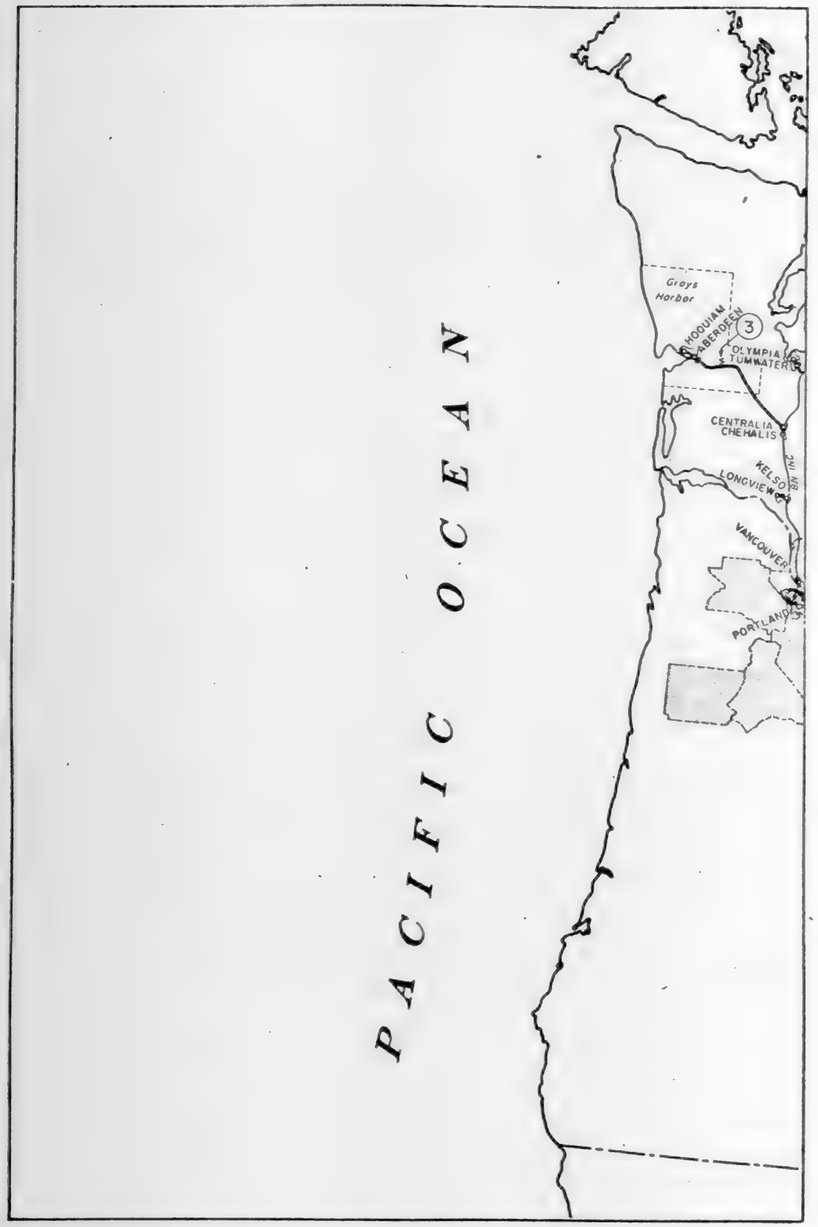
Standard Metropolitan Statistical Area (SMSA) shown ....

City outside of an (SMSA) with a population of 5,000 or more persons according to 1970 U.S. Census reports shown .....

State boundaries shown .....

Boundaries of counties in which proposed abandonments are located shown ..... County





OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY
SYSTEM DIAGRAM (AB-37)

Description of Lines

Pursuant to the regulations of the Interstate Commerce Commission (49 C.F.R. 1121.21), following is a description of lines of Oregon-Washington Railroad & Navigation Company as shown on the System Diagram Map.

Category 1 - Lines anticipated to be the subject of abandonment applications within three years.

Washington State

(a) Designation of line: Connell Branch
(b) States in which located: Washington State
(c) Counties in which located: Adams and Franklin counties
(d) Milepost locations: M.P. 15.81 near Hooper Junction to M.P. 53.06 near Connell
(e) Connell at M.P. 52.9 is an agency station located on this line.

Category 2 - Lines which are potentially subject to abandonment which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

Oregon

(a) Designation of line: Condon Branch
(b) States in which located: Oregon
(c) Counties in which located: Gilliam
(d) Milepost locations: M.P. 0.00 near Arlington, to M.P. 44.5 near Condon
(e) There are no agency or terminal stations located on this line.

Washington State

(a) Designation of line: Pendleton Branch
(b) States in which located: Washington State
(c) Counties in which located: Walla Walla and Columbia Counties.

(d) Milepost locations: M.P. 71.3 near Bolles to M.P. 78.83 near McKay
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Connell Branch
(b) States in which located: Washington State
(c) Counties in which located: Whitman and Adams Counties
(d) Milepost locations: M.P. 0.00 near LaCrosse to M.P. 15.81 near Hooper Junction
(e) LaCrosse at M.P. 0.11 is an agency station located on this line.

Category 3 - Abandonment applications pending before the Interstate Commerce Commission.

Washington State

(a) Designation of line: Hinkle-Spokane Main Line
(b) States in which located: Washington State
(c) Counties in which located: Spokane
(d) Milepost locations: M.P. 354.71 near Fish Lake, to M.P. 367.19 near Spokane
(e) There are no agency or terminal stations located on this line

(a) Designation of line: Montesano Branch
(b) States in which located: Washington State
(c) Counties in which located: Grays Harbor
(d) Milepost locations: M.P. 0.00 near Montesano, to M.P. 1.60 near South Montesano
(e) There are no agency or terminal stations located on this line.

Oregon

(a) Designation of line: Umatilla Branch
(b) States in which located: Oregon
(c) Counties in which located: Umatilla and Morrow Counties
(d) Milepost locations: M.P. 10.1 near Umatilla, to M.P. 18.15 near Irrigon
(e) There are no agency or terminal stations located on this line.

[FR Doc.77-14604 Filed 5-24-77;8:45 am]

[AB 72 (SDM)]

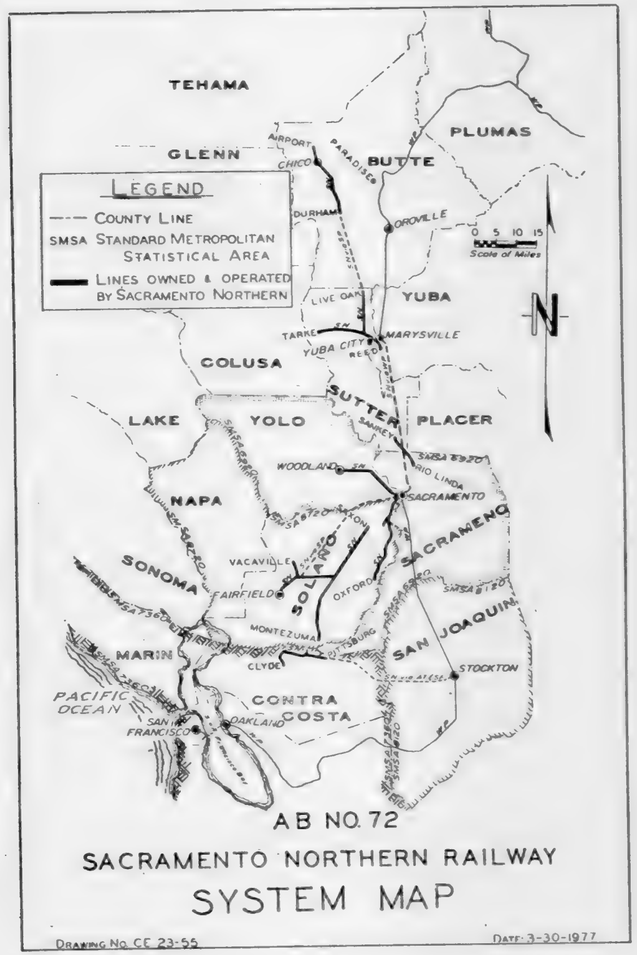
SACRAMENTO NORTHERN RAILWAY

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Sacramento Northern Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 72 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 72 (SDM).

ROBERT L. OSWALD,
Secretary.



AB-72

SACRAMENTO NORTHERN RAILWAY
SYSTEM MAP

DESCRIPTION OF LINES IN CATEGORIES 1-3
49 C.F.R. 1121.21

In compliance with requirements of 49 C.F.R. 1121.21 the Sacramento Northern Railway herein declares that it has no lines on its system which it anticipates abandoning or discontinuing within three years [category 1 lines - 49 C.F.R. 1121.20(b)(1)]; has no lines on its system potentially subject to abandonment or discontinuance which it has under study [category 2 lines - 49 C.F.R. 1121.20(b)(2)]; and has no lines on its system for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission on this date [category 3 lines - 49 C.F.R. 1121.20(b)(3)].

Dated: April 22, 1977.

By Eugene J. Toler
Eugene J. Toler
Attorney for the
Sacramento Northern Railway

[FR Doc.77-14609 Filed 5-24-77;8:45 am]

[AB 57 (SDM)]

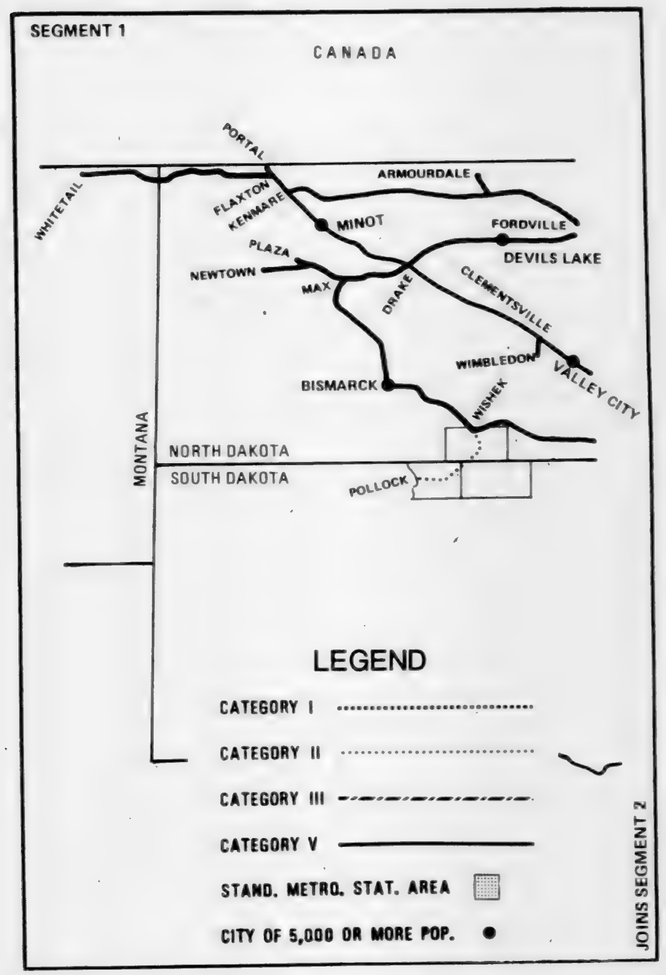
SOO LINE RAILROAD CO.

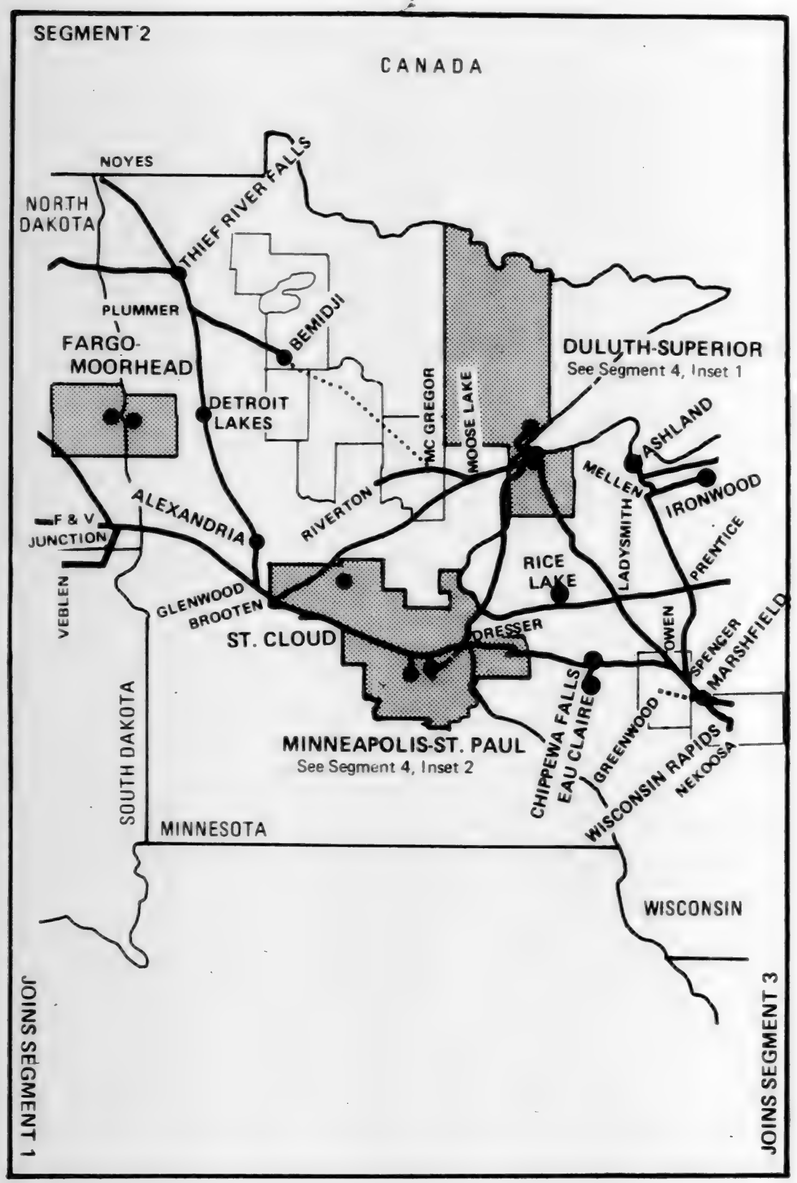
System Diagram Map

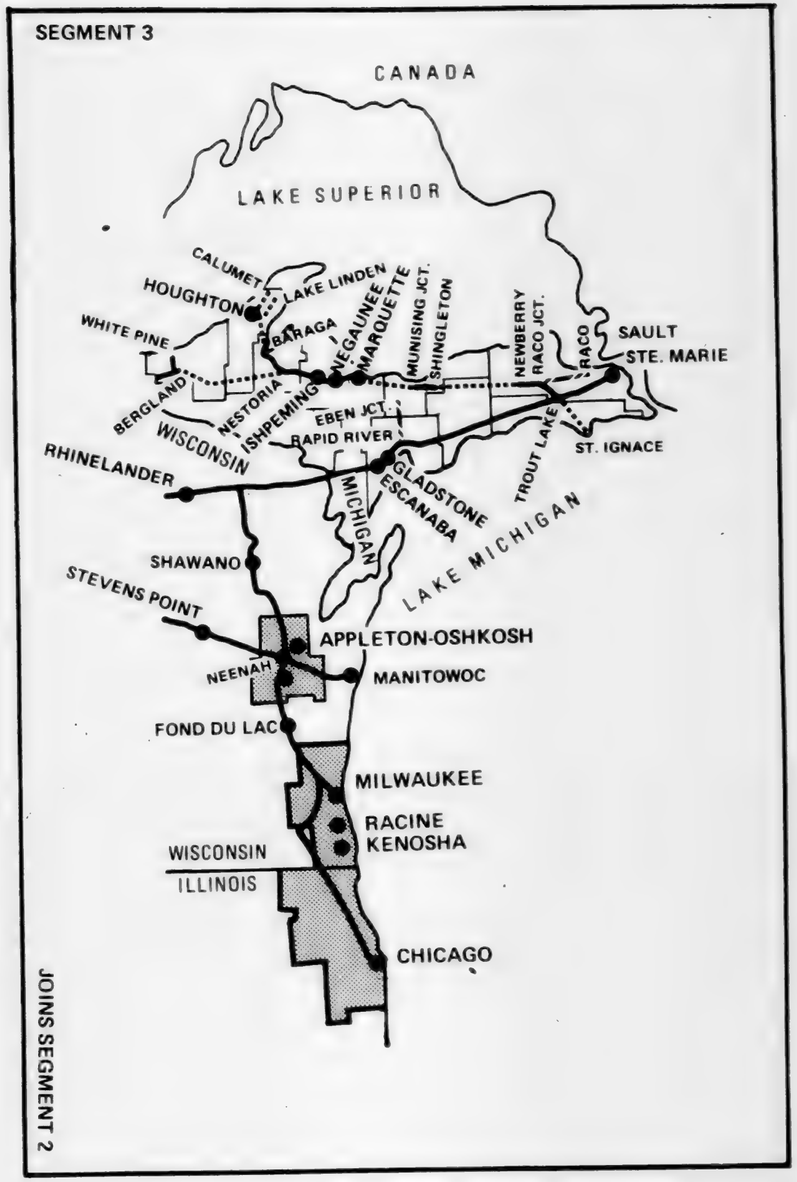
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Soo Line Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 57 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 2, 1977, received a certificate of publications as required by said regulation which is considered the effective date on which the system diagram map was filed.

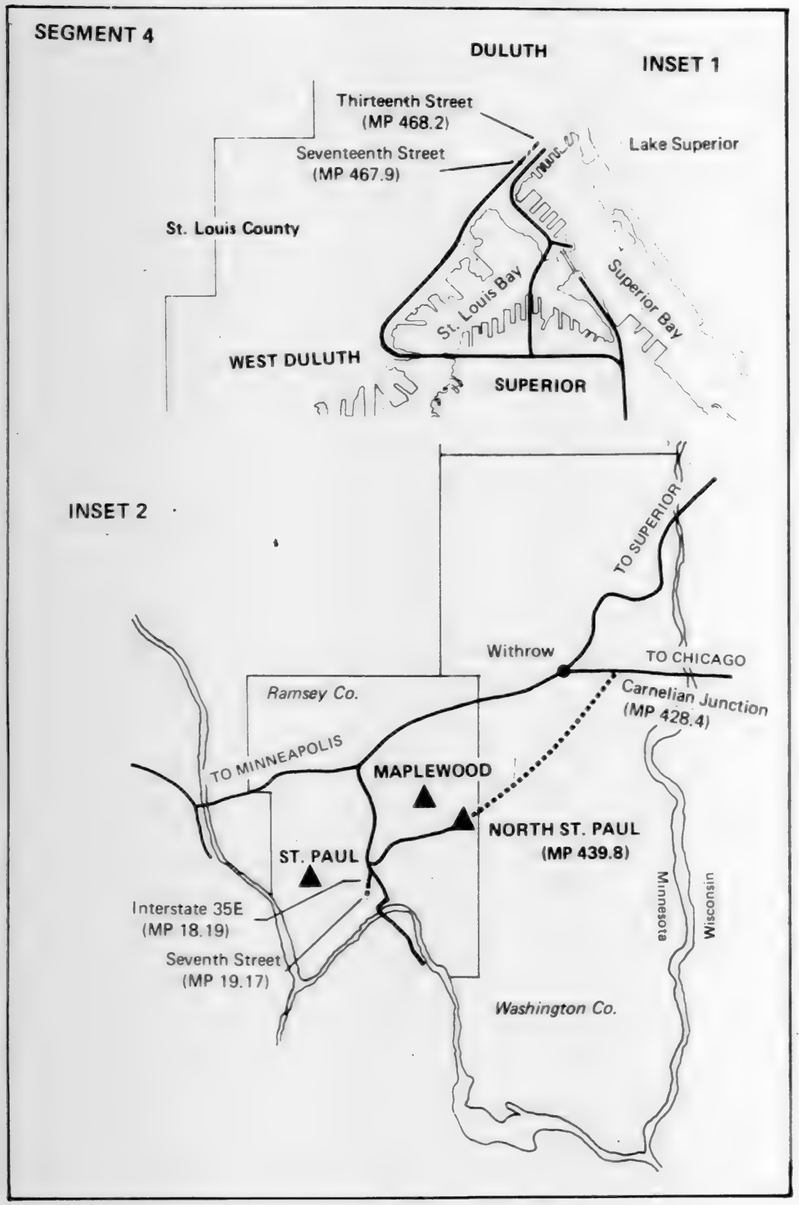
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 57 (SDM).

ROBERT L. OSWALD,
Secretary.




SEGMENT 2
CANADA
NOYES
NORTH DAKOTA
THIEF RIVER FALLS
PLUMMER
FARGO-MOORHEAD
BEMIDJI
DETROIT LAKES
MC GREGOR
MOOSE LAKE
DULUTH-SUPERIOR
See Segment 4, Inset 1
ASHLAND
MELLEN
LADYSMITH
IRONWOOD
PRENTICE
RIVERTON
ALEXANDRIA
F & V JUNCTION
VEBLEN
GLENWOOD
BROOTEN
ST. CLOUD
RICE LAKE
DRESSER
OWEN
SPENCER
MARSHFIELD
MINNEAPOLIS-ST. PAUL
See Segment 4, Inset 2
CHIPPEWA FALLS
EAU CLAIRE
GREENWOOD
WISCONSIN RAPIDS
NEKOOSA
SOUTH DAKOTA
MINNESOTA
WISCONSIN
JOINS SEGMENT 1
JOINS SEGMENT 3


SEGMENT 3
CANADA
LAKE SUPERIOR
CALUMET
HOUGHTON
LAKE LINDEN
BARAGA
NEGAUNEE
MARQUETTE
MUNISING JCT.
SHINGLETON
NEWBERRY
RACO JCT.
RACO
SAULT STE. MARIE
WHITE PINE
BERGLAND
NESTORIA
ISHPEMING
EBEN JCT.
RAPID RIVER
TROUT LAKE
ST. IGNACE
WISCONSIN
RHINELANDER
GLADSTONE
ESCANABA
MICHIGAN
LAKE MICHIGAN
SHAWANO
STEVENS POINT
APPLETON-OSHKOSH
NEENAH
MANITOWOC
FOND DU LAC
MILWAUKEE
RACINE
KENOSHA
WISCONSIN
ILLINOIS
CHICAGO
JOINS SEGMENT 2



Descriptions of Lines to Accompany
Soo Line Railroad Company System Diagram Map

Category I

Lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within three years.

1. (a) Carrier's designation
Greenwood Line

(b) State or states in which line is located
Wisconsin

(c) County or counties in which line is located
Wood and Clark

(d) Mileposts delineating line
281.5 to 304.1

(e) Agency or terminal stations located on line with milepost designation

Spokeville	294.6
Loyal	297.9
Greenwood	303.5

2. (a) Carrier's designation
North St. Paul Line

(b) State or states in which line is located
Minnesota

(c) County or counties in which line is located
Washington and Ramsey

(d) Mileposts delineating line
428.4 to 439.77

(e) Agency or terminal stations located on line with milepost designation

Carnelian Jct.	428.5
Duluth Jct.	433.67

3. (a) Carrier's designation
St. Paul

(b) State or states in which line is located
Minnesota

(c) County or counties in which line is located
Ramsey

(d) Mileposts delineating line
18.19 to 19.17

(e) Agency or terminal stations located on line with milepost designation
None

4. (a) Carrier's designation
Newberry to Shingleton

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Luce, Schoolcraft and Alger

(d) Mileposts delineating line
59.0 to 104.38

(e) Agency or terminal stations located on line with milepost designation

McMillan	67.26
Seney	79.54
Creighton	95.10

(NOTE: Abandonment of this line will be contingent upon coordination of certain operations with other railroads to continue service west of Marquette and between Munising Junction and Shingleton.)

5. (a) Carrier's designation
Munising Jct. to Marquette

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Alger and Marquette

(d) Mileposts delineating line
116.83 to 152.50

(e) Agency or terminal stations located on line with milepost designation

Ridge	119.36
AuTrain	125.03
Deerton	135.71
Siding 145	145.1

(NOTE: Abandonment of this line will be contingent upon coordination of certain operations with other railroads to continue service west of Marquette and between Munising Junction and Shingleton.)

6. (a) Carrier's designation
St. Ignace to Trout Lake

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Mackinac and Chippewa

(d) Mileposts delineating line
0 to 27.12

(e) Agency or terminal stations located on line with milepost designation

St. Ignace	0.13
Moran	11.06

7. (a) Carrier's designation
Nestoria to Bergland

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Baraga, Houghton and Ontonagon

(d) Mileposts delineating line
201.68 to 268.89

(e) Agency or terminal stations located on line with milepost designation

Vermilac	211.40
Covington	215.04
Sidnaw	224.00
Kenton	233.42
Trout Creek	239.12
Bruce Crossing	250.61
Ewen	255.34

(NOTE: Abandonment of this line will be contingent upon coordination of certain operations with other railroads to continue service west of Marquette, Michigan.)

8. (a) Carrier's designation
Calumet Line (AB-57 (Sub. 5))

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Houghton

(d) Mileposts delineating line
0 to 14.28

(e) Agency or terminal stations located on line with milepost designation

Hancock	1.72
Calumet	14.28

9. (a) Carrier's designation
Lake Linden Line (AB-57 (Sub. 5))

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Houghton

(d) Mileposts delineating line
0 to 9.53

(e) Agency or terminal stations located on line with milepost designation

Dollar Bay	3.4
Lake Linden	9.53

10. (a) Carrier's designation
Baraga to Houghton (AB-57 (Sub. 5))

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Baraga and Houghton

(d) Mileposts delineating line
23.0 to 48.21

(e) Agency or terminal stations located on line with milepost designation

Keweenaw Bay	28.2
Chassell	40.5
East Houghton	48.0
Houghton	48.21

Category II

Lines or portions of lines potentially subject to abandonment.

1. (a) Carrier's designation
Plummer Line

(b) State or states in which line is located
Minnesota

(c) County or counties in which line is located
Aitkin and Cass

(d) Mileposts delineating line
270.26 to 369.27

(e) Agency or terminal stations located on line with milepost designation

Palisade	281.3
Swatara	296.7
Remer	312.9
Boy River	325.6
Federal Dam	332.1
Portage Lake	339.1
Schley	344.2
Soo Jct.	345.72

2. (a) Carrier's designation
Pollock Line

(b) State or states in which line is located
North Dakota and South Dakota

(c) County or counties in which line is located
McIntosh, N. D. and McPherson and Campbell, S. D.

(d) Mileposts delineating line
341.87 to 411.11

(e) Agency or terminal stations located on line with milepost designation

Danzig	351.4
Ashley	359.3
Venturia	368.2
Madra	377.8
Artas	383.8
Herreid	397.1
Pollock	409.7

Category III

Lines or portions of lines for which an abandonment or discontinuance application is currently pending before the Interstate Commerce Commission.

1. (a) Carrier's designation
Duluth Trackage (AB-57 (Sub. 4))

(b) State or states in which line is located
Minnesota

(c) County or counties in which line is located
St. Louis

(d) Mileposts delineating line
467.93 to 468.20

(e) Agency or terminal stations located on line with milepost designation
None

2. (a) Carrier's designation
Raco Line (AB-57 (Sub. 2))

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Chippewa and Luce

(d) Mileposts delineating line
19.69 to 46.69

(e) Agency or terminal stations located on line with milepost designation

Raco	20.03
Rexford	25.18
Strongs	31.87
Eckerman	35.25
Hulbert	40.97

3. (a) Carrier's designation
Rapid River Line (AB-57 (Sub. 1))

(b) State or states in which line is located
Michigan

(c) County or counties in which line is located
Delta and Alger

(d) Mileposts delineating line
348.69 to 379.23

(e) Agency or terminal stations located on line with milepost designation

Trenary	368.0
Traunik	372.8
Eben Jct.	379.0

(NOTE: A final order authorizing abandonment of this line was issued by the Commission on October 13, 1976. However, that order has not been implemented.)

[FR Doc.77-14601 Filed 5-24-77;8:45 am]

[AB 121 (SDM)]

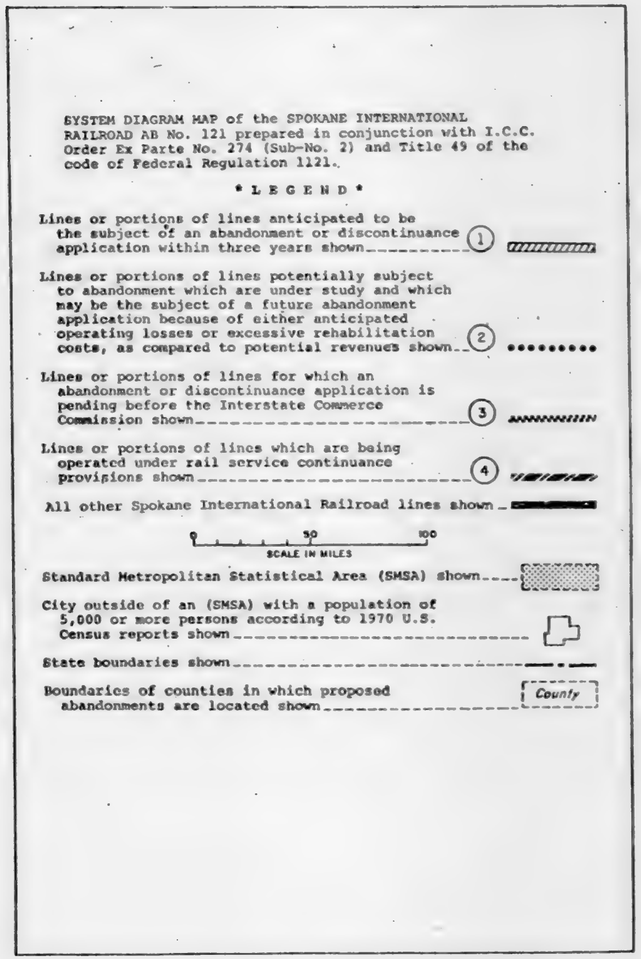
SPOKANE INTERNATIONAL RAILROAD CO.

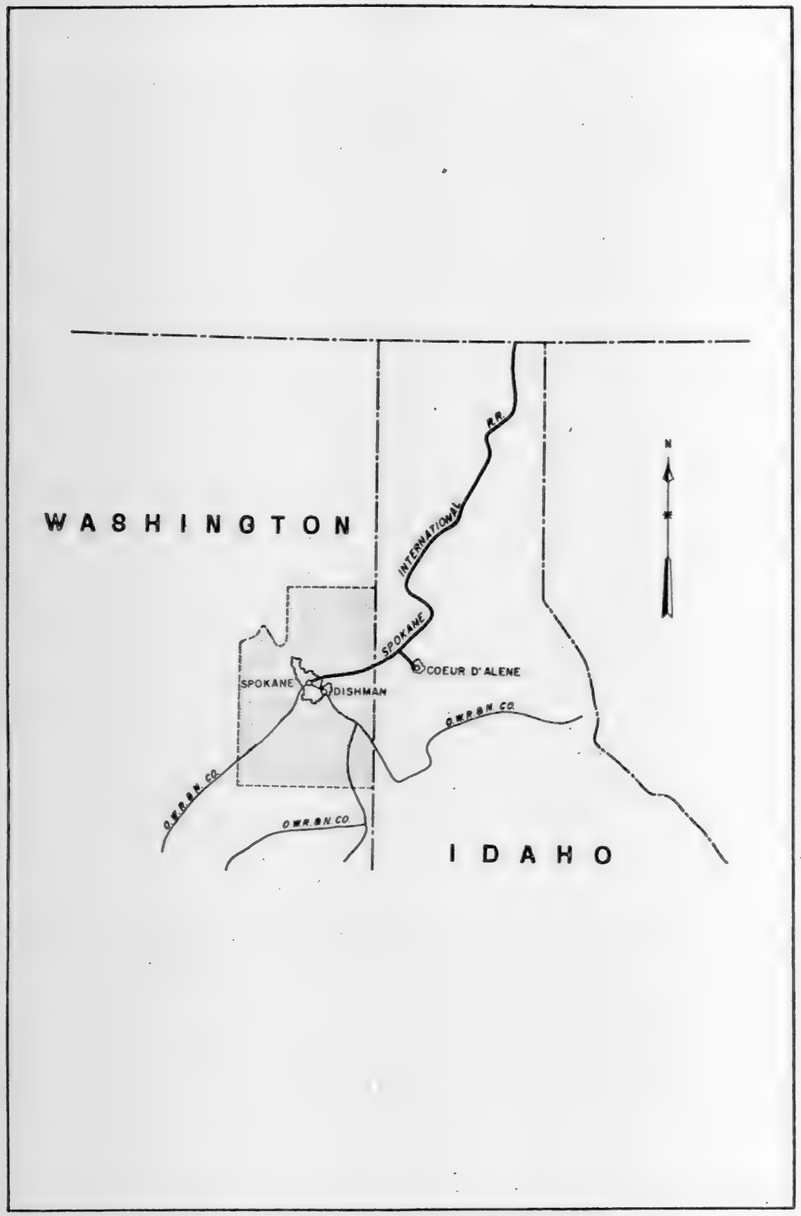
System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Spokane International Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 121 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 121 (SDM).

ROBERT L. OSWALD,
Secretary.





[FR Doc.77-14594 Filed 5-24-77;8:45 am]

[AB 34 (SDM)]

ST. JOSEPH & GRAND ISLAND RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the St. Joseph & Grand Island Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 34 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system d'agram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 34 (SDM).

ROBERT L. OSWALD,
Secretary.

SYSTEM DIAGRAM MAP of the ST. JOSEPH & GRAND ISLAND RAILROAD CO. AB No. 34 prepared in conjunction with I.C.C. Order Ex Parte No. 274 (Sub-No. 2) and Title 49 of the code of Federal Regulation 1121.

* L E G E N D *

Lines or portions of lines anticipated to be the subject of an abandonment or discontinuance application within three years shown ---------- (1)

Lines or portions of lines potentially subject to abandonment which are under study and which may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues shown -- (2)

Lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission shown ---------- (3)

Lines or portions of lines which are being operated under rail service continuance provisions shown ---------- (4)

All other St. Joseph & Grand Island Railroad Co. lines shown --

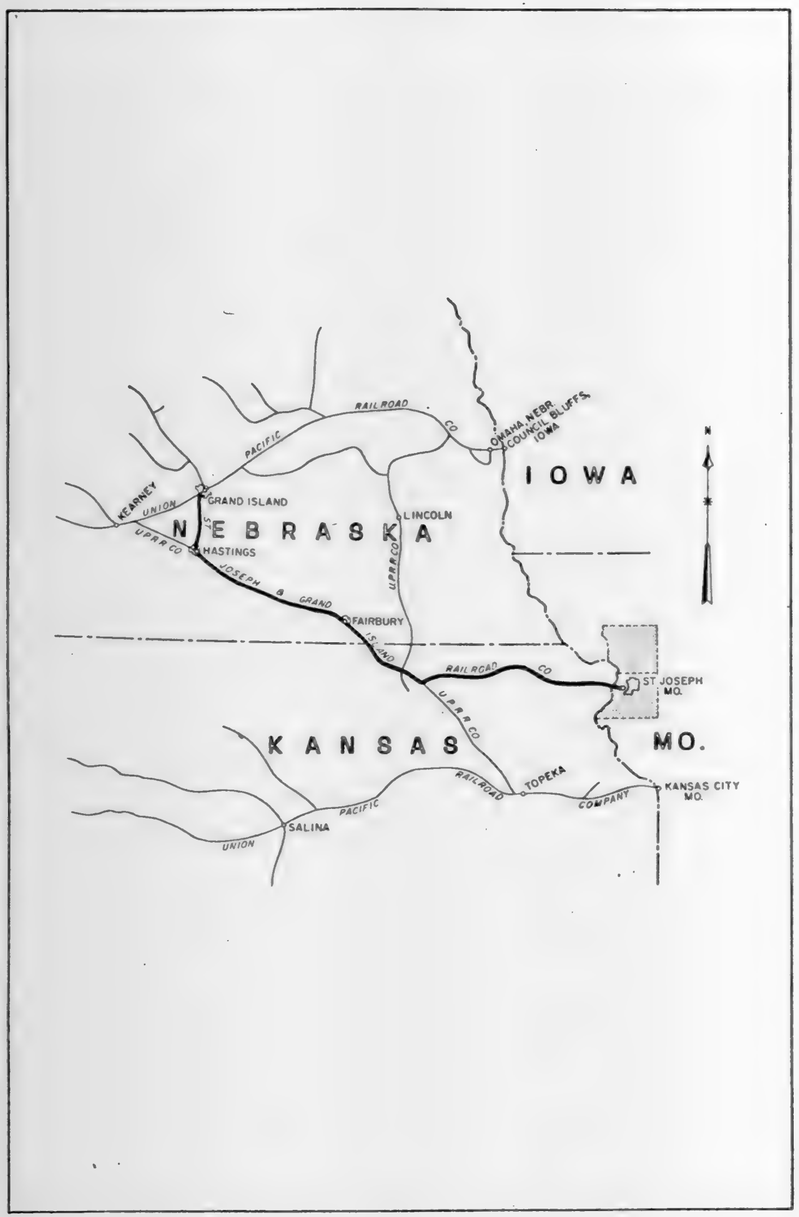
0 50 100
SCALE IN MILES

Standard Metropolitan Statistical Area (SMSA) shown ----

City outside of an (SMSA) with a population of 5,000 or more persons according to 1970 U.S. Census reports shown ----------

State boundaries shown ----------

Boundaries of counties in which proposed abandonments are located shown ---------- County



[FR Doc.77-14593 Filed 5-24-77;8:45 am]

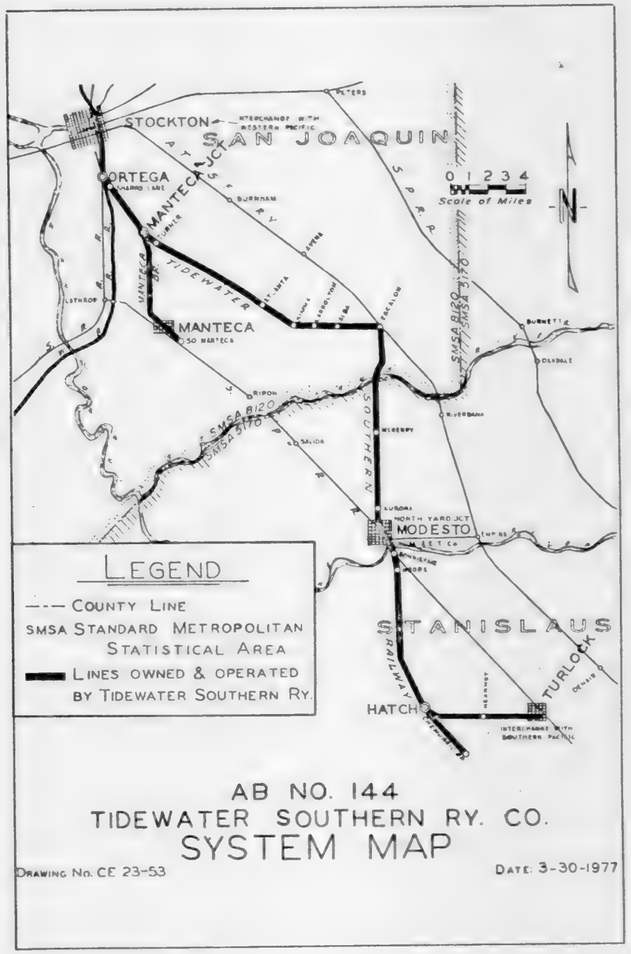
TIDEWATER SOUTHERN RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Tidewater Southern Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 144 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 144 (SDM).

ROBERT L. OSWALD,
Secretary.



AB-144

TIDEWATER SOUTHERN RAILWAY COMPANY
SYSTEM MAP

DESCRIPTION OF LINES IN CATEGORIES 1-3
49 C.F.R. 1121.21

In compliance with requirements of 49 C.F.R. 1121.21 the Tidewater Southern Railway Company herein declares that it has no lines on its system which it anticipates abandoning or discontinuing within three years [category 1 lines - 49 C.F.R. 1121.20(b)(1)]; has no lines on its system potentially subject to abandonment or discontinuance which it has under study [category 2 lines - 49 C.F.R. 1121.20(b)(2)]; and has no lines on its system for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission on this date [category 3 lines - 49 C.F.R. 1121.20(b)(3)].

Dated: April 22, 1977.

By Eugene J. Toler
Eugene J. Toler
Attorney for the
Tidewater Southern Railway Company

[FR Doc.77-14602 Filed 5-24-77;8:45 am]

[AB 169 (SDM)]

TOLEDO, ANGOLA AND WESTERN RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Toledo, Angola and Western Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB-169 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on May 16, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB-169 (SDM).

ROBERT L. OSWALD,
Secretary.

All operations are in:

Lucas County, Ohio

Toledo, Ohio Standard Metropolitan Statistical Area

Legend

Lines anticipated will be subject to abandonment application within 3 years

State Lines

Sidetracks on the line

Description of Lines to Accompany the System Diagram Map

Lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within three years:

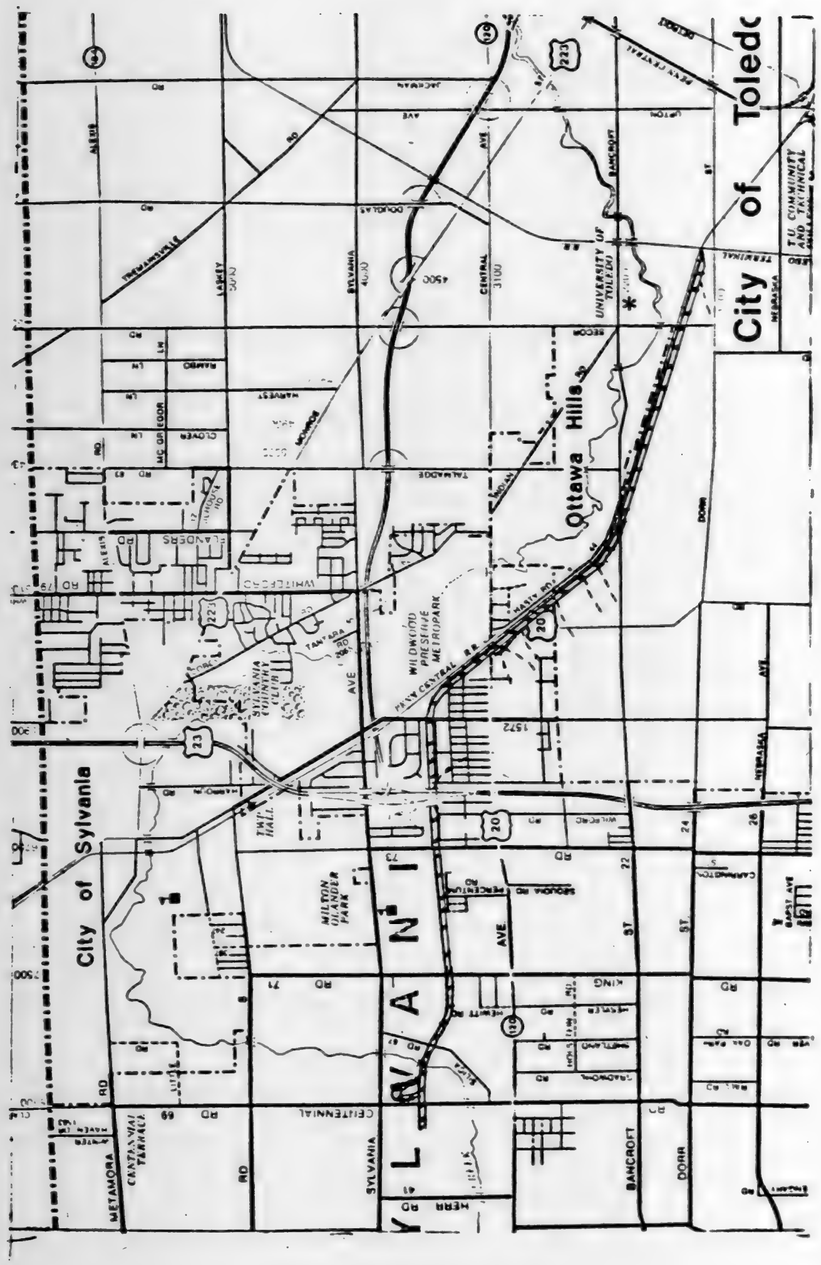
a) Covers entire line of Toledo, Angola and Western Railway Company

b) Located wholly within State of Ohio

c) Located wholly within Lucas County

d) Line is 8.25 miles - no mileposts are located on the line.

e) Terminal Stations at Vulcan (Mile 0.00), at Kuhlman No. 6 (Mile 0.25), at Langenderfer (Mile 2.60), at Entenman (Mile 3.00), at Cashway (Mile 4.00), at Lake Shore Industries (Mile 4.50), at Kuhlman No. 7 (Mile 4.75), at Texaco (Mile 5.75), and at Silica (Mile 8.25).



[FR Doc.77-14595 Filed 5-24-77;8:45 am]

[AB 33 (SDM)]

UNION PACIFIC RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Union Pacific Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 33 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 33 (SDM).

ROBERT L. OSWALD,
Secretary.

AB 33 (Sdm)

SYSTEM DIAGRAM MAP of the UNION PACIFIC RAILROAD AB No. 33 prepared in conjunction with I.C.C. Order Ex Parte No. 274 (Sub-No. 2) and Title 49 of the code of Federal Regulation 1121.

* L E G E N D *

Lines or portions of lines anticipated to be the subject of an abandonment or discontinuance application within three years shown ..... (1)

Lines or portions of lines potentially subject to abandonment which are under study and which may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues shown ..... (2)

Lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission shown ..... (3)

Lines or portions of lines which are being operated under rail service continuance provisions shown ..... (4)

All other Union Pacific Railroad Company lines shown ....

0 50 100
SCALE IN MILES

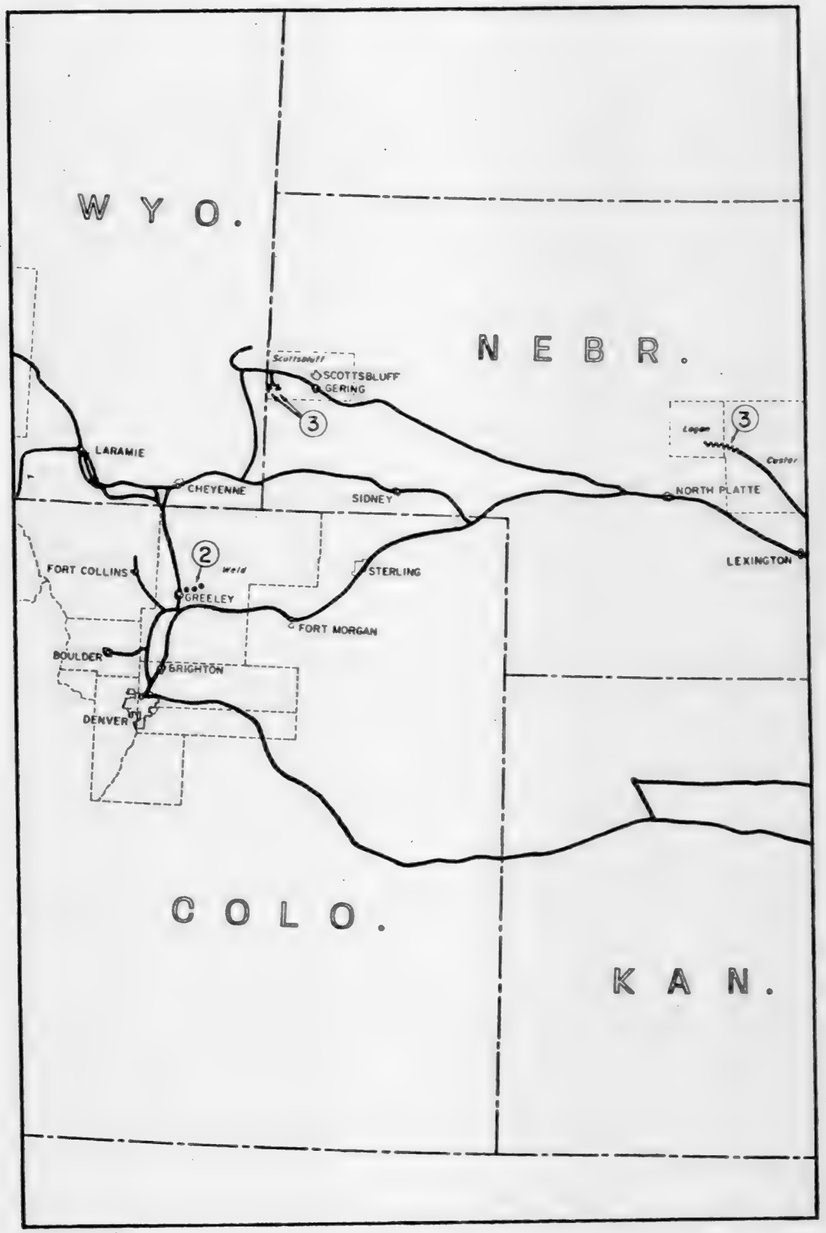
Standard Metropolitan Statistical Area (SMSA) shown ....

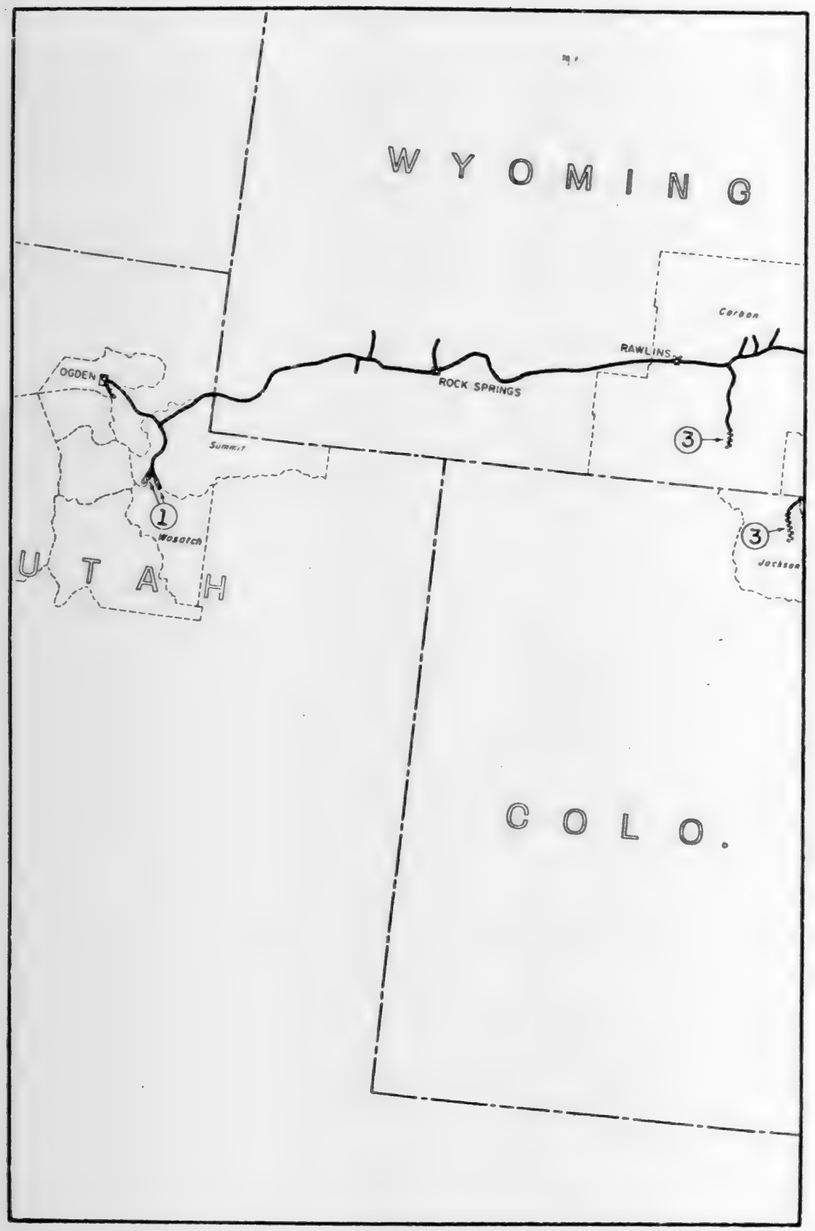
City outside of an (SMSA) with a population of 5,000 or more persons according to 1970 U.S. Census reports shown ....

State boundaries shown ....

Boundaries of counties in which proposed abandonments are located shown .... County


NEBR.
IOWA
MO.
KANSAS
N
NORFOLK
COLUMBUS
FREMONT
OMAHA, NEBR.
COUNCIL BLUFFS, IA.
GRAND ISLAND
LINCOLN
KEARNEY
HASTINGS
BEATRICE
FAIRBURY
ST. JOSEPH MO.
MANHATTAN
FORT RILEY
JUNCTION CITY
ABILENE
SALINA
HAYES
RUSSELL
McPHERSON
TOPEKA
LAWRENCE
KANSAS CITY KAN.
KANSAS CITY MO.
Greeley
Sherman
Howard
Douglas
Johnson
2
3


WYO.
NEBR.
COLO.
KAN.
SCOTTSBLUFF
GERING
LARAMIE
CHEYENNE
SIDNEY
NORTH PLATTE
LEXINGTON
FORT COLLINS
GREELEY
STERLING
FORT MORGAN
BOULDER
BRIGHTON
DENVER
Scottsbluff
Logan
Custer
Weld
2
3



UNION PACIFIC RAILROAD COMPANY SYSTEM DIAGRAM (AB-33)

Description of Lines

Pursuant to the regulations of the Interstate Commerce Commission (49 C.F.R. 1121.21), following is a description of lines of Union Pacific Railroad Company as shown on the System Diagram Map.

Category 1 - Lines anticipated to be the subject of abandonment applications within three years.

Utah

(a) Designation of line: Park City Branch
(b) States in which located: Utah
(c) Counties in which located: Summit County
(d) Milepost locations: M.P. 27.39 near Freight Yard Junction to M.P. 28.43 near Park City
(e) The Park City Agency Station is located on this line at M.P. 28.41.

(a) Designation of line: Ontario Branch
(b) States in which located: Utah
(c) Counties in which located: Wasatch County
(d) Milepost locations: M.P. 2.45 at Keetley, to M.P. 5.43
(e) There are no agency or terminal stations located on this line.

Category 2 - Lines which are potentially subject to abandonment and which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

Colorado

(a) Designation of line: Greeley Branch
(b) States in which located: Colorado
(c) Counties in which located: Weld County
(d) Milepost locations: M.P. 0.00 near Greeley Junction, to M.P. 10.86 near Gill
(e) There are no agency or terminal stations located on this line.

Nebraska

(a) Designation of line: Loup City Branch
(b) States in which located: Nebraska
(c) Counties in which located: Sherman and Howard Counties
(d) Milepost locations: M.P. 0.20 near St. Paul, to M.P. 39.60 near Loup City
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Scotia Branch
(b) States in which located: Nebraska
(c) Counties in which located: Greeley County
(d) Milepost locations: M.P. 44.57 near Scotia Junction, to M.P. 45.94 near Scotia
(e) There are no agency or terminal stations located on this line.

Category 3 - Applications pending before the Interstate Commerce Commission.

Nebraska

(a) Designation of line: Kearney Branch
(b) States in which located: Nebraska
(c) Counties in which located: Custer and Logan Counties
(d) Milepost locations: M.P. 83.11 at Arnold, to M.P. 102.47 at Stapleton
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Lyman Branch
(b) States in which located: Nebraska
(c) Counties in which located: Scotts Bluff County
(d) Milepost locations: M.P. 5.0 near Hartman, to M.P. 6.4 at Stegall
(e) There are no agency or terminal stations located on this line.

(a) Designation of line: Sears Branch
(b) States in which located: Nebraska
(c) Counties in which located: Scotts Bluff County
(d) Milepost locations: M.P. 0.00 near Sears, to M.P. 2.8 near Janise
(e) There are no agency or terminal stations located on this line.

Kansas

(a) Designation of line: Leavenworth Branch
(b) States in which located: Kansas
(c) Counties in which located: Leavenworth and Douglas Counties
(d) Milepost locations: M.P. 20.72 near Tonganoxie, to M.P. 34.49 near Lawrence
(e) Lawrence at M.P. 34.34 is an agency station.

Colorado

(a) Designation of line: Coalmont Branch
(b) States in which located: Colorado
(c) Counties in which located: Jackson County
(d) Milepost locations: M.P. 93.0 near Walden, to M.P. 108.0 near Hebron
(e) Walden at M.P. 92.21 is an agency station.

Wyoming

(a) Designation of line: Encampment Branch
(b) States in which located: Wyoming
(c) Counties in which located: Carbon County
(d) Milepost locations: M.P. 24.29 near Saratoga, to 33.40 near Cow Creek
(e) Saratoga at M.P. 24.02 is an agency station.

[FR Doc.77-14590 Filed 5-24-77;8:45 am]

[AB 131 (SDM)]

YAKIMA VALLEY TRANSPORTATION CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Yakima Valley Transportation Company, has filed with the Commission its color-coded system diagram map in docket No. AB 131 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on April 29, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 131 (SDM).

ROBERT L. OSWALD,
Secretary.

SYSTEM DIAGRAM MAP of the YAKIMA VALLEY TRANSPORTATION CO. AB No. 131 prepared in conjunction with I.C.C. Order Ex Parte No. 274 (Sub-No. 2) and Title 49 of the code of Federal Regulation 1121.

* L E G E N D *

Lines or portions of lines anticipated to be the subject of an abandonment or discontinuance application within three years shown ---------- (1)

Lines or portions of lines potentially subject to abandonment which are under study and which may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues shown -- (2)

Lines or portions of lines for which an abandonment or discontinuance application is pending before the Interstate Commerce Commission shown ---------- (3)

Lines or portions of lines which are being operated under rail service continuance provisions shown ---------- (4)

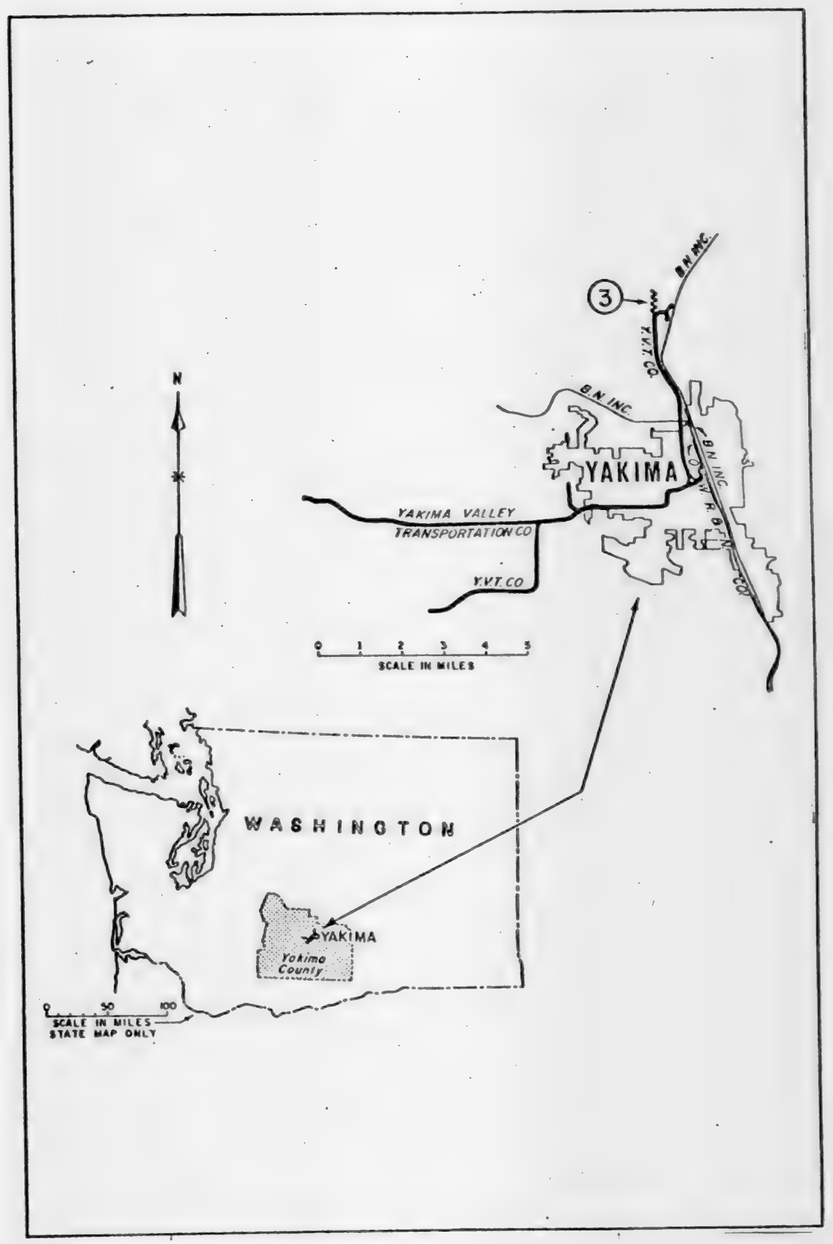
All other Yakima Valley Transportation Company lines shown ----

Standard Metropolitan Statistical Area (SMSA) shown ----

City outside of an (SMSA) with a population of 5,000 or more persons according to 1970 U.S. Census reports shown ----------

State boundaries shown ----------

Boundaries of counties in which proposed abandonments are located shown ---------- County



YAKIMA VALLEY TRANSPORTATION COMPANY
SYSTEM DIAGRAM (AB-131)

Description of Lines

Pursuant to the regulations of the Interstate Commerce Commission (49 C.F.R. 1121.21), following is a description of the line of Yakima Valley Transportation Company as shown on the System Diagram Map.

Category 3 - Abandonment applications pending before the Interstate Commerce Commission.

(a) Designation of line: Yakima Valley Branch Line
(b) States in which located: Washington State
(c) Counties in which located: Yakima County
(d) Milepost locations: M.P. 3.01 near Selah, to M.P. 3.47 near Selah
(e) There are no agency or terminal stations located on this line.

[FR Doc.77-14592 Filed 5-24-77;8:45 am]

federal register

WEDNESDAY, MAY 25, 1977
PART IV



ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE PRODUCTS CONTAINING TOXAPHENE

Rebuttable Presumption Against Registration and Continued Registration

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/13; FRL 731-2]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Toxaphene[1]

The Deputy Assistant Administrator, Office of Pesticide Programs, Environmental Protection Agency (EPA), has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing toxaphene.[1]

I. Regulatory Provisions

A. General

EPA promulgated regulations (40 CFR 162) for the registration, reregistration, and classification of pesticides on July 3, 1975 (40 FR 28242). Section 162.11 of the regulations provides that a rebuttable presumption against registration shall arise if it is determined that a pesticide meets or exceeds any of the criteria for risk set forth in § 162.11(a)(3). If it is determined that such a presumption against continued registration of a pesticide has arisen, the regulations require that the registrant be notified by certified mail and that the registrant be provided with an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determinded that the public should be provided with notice of the presumption in order to solicit comments from interested parties and obtain any additional information relevant to the presumption.

A notice of rebuttable presumption against registration or continued registration of a pesticide is not to be confused with a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of rebuttable presumption is issued when the evidence related to risk meets the Agency's criteria. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

Accordingly, all registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in Part II of this notice and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in a Federal Register notice concerning the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (41 FR 21402). Registrants and other interested parties may submit data on benefits which they believe would justify registration or continued registration in the event that the Agency determines that the risk presumpions have not been completely rebutted. In addition, any registrant may petition the Agency to voluntarily cancel any current registration pursuant to Section 6(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.).

This notice of rebuttable presumption against toxaphene also describes scientific studies which suggest that toxaphene may adversely affect or cause mutagenesis, endocrine effects, enzymatic effects, reproductive effects, and population reductions in avian species including the rare and endangered species, the Brown Pelican. The Agency is soliciting information and comment on these questions, but is not now presuming against toxaphene on the basis of these studies.

B. Rebuttal Criteria

Section 162.11(a)(4) provides that a registrant seeking continued registration may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity criteria of § 162.11(a)(3)(i) or pursuant to the lack of emergency treatment criteria of § 162.11(a)(3)(iii), "that when considered with the formulation, packaging, method of use, and proposed restrictions on the directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects";

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria of § 162.11(a)(3)(ii), "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects"; or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

C. Benefits Information

In addition to submitting evidence to rebut the presumption of risk, § 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence submitted by the registrant[2] and any preliminary EPA staff recommendations may be considered by the Administrator in determining the appropriate regulatory action. Specifically § 162.11(a)(5)(iii) provides that if the "benefits appear to outweigh risks," the Administrator may issue a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA rather than a notice of intent to cancel or deny registration pursuant to section 6(b)(1) of FIFRA. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to section 3(c)(6) or section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator, determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to section 6(c) of the Act.

II. Presumptions

40 CFR 162.11(a)(3) provides that a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s) or degradation product(s) meet or exceed (i) acute toxicity risk criteria relating to hazards to humans, domestic animals, or wildlife, or (ii) chronic toxicity risk criteria relating to oncogenic, mutagenic, and delayed toxic effects in man and/or test animals, or relating to population reductions in nontarget organisms or fatality to members of endangered species.

The preamble to the document which promulgated 40 CFR Part 162 (FR 28262) discussed those pesticide's which meet or exceed the acute toxicity criteria of § 162.11(a)(3)(i)(B) and stated they must be closely scrutinized to determine if the hazard which the pesticide's acute toxicity presents to these life forms necessitates restrictions on use or denial or cancellation of the registrations.

A. Risk Criteria—Hazard to Wildlife: Aquatic Organisms

Section 162.11(a)(3)(i)(B)(3) provides that a rebuttable presumption shall arise against a pesticide use if it "(r)esults in a maximum calculated concentration following direct application to a 6-inch layer of water more than ½ the acute LC_{50} for aquatic organisms representative of the organisms likely to be exposed as measured on test animals specified in the Registration Guidelines."[3] Data reviewed during the assessment of hazards, as a result of the use of toxaphene products, indicate that resulting water concentrations from the use on rice and cranberries do exceed the level, ½ the acute LC_{50} for representative fresh water fish and crustacean species as set forth in this section (Sanders, H. O. 1969. Bur. Sport Fish. Wildl. Tech. Papers #25; Sanders & Cope. 1966. Trans. Am. Fish. Soc. 95 #2; Macek & McAllister 1970: Trans. Am. Fish. Soc. 99#1).

Organisms	Species	LC_{50} value
Water flea or Daphnia.	(*Daphnia pulex*)	15 p/b (48 hr).
Largemouth bass.	(*Micropterus salmoides*).	2 p/b (48 hr).
Rainbow trout	(*Salmo gardneri*)	4 p/b (48 hr).
Scud	(*Gammarus lacustris*)	26 p/b (96 hr).
Channel catfish	(*Ictalurus punctatus*)	13 p/b (96 hr).
Bluegill sunfish	(*Lepomis macrochirus*).	18 p/b (96 hr).

The above LC_{50} values were used as determinative values to confirm whether toxaphene products applied to a fresh water environment met or exceeded the criteria for rebuttable presumption. Calculations based on representative label rates indicate that the lowest recommended dosage for use on either rice or cranberries results in a 6-inch layer of water concentration of 1104 ppb (1.104 ppm).

Since a great deal of rice is grown in coastal areas where it is released into estuarine or marine environments, it was decided to examine LC_{50} values for representative aquatic organisms that would be exposed to effluent from rice field drainages (Schimmel et al. EPA contribution #268. Prepub. Copy).

Organism	Species	LC_{50} (96 hr)
Pink shrimp	(*Penaeus duorarum*)	1.4 p/b.
Grass shrimp	(*Palaemonetes pugio*)	4.4 p/b.
Sheepshead minnow.	(*Cyprinodon variegatus*)	1.1 p/b.
Pinfish	(*Lagodon rhomboides*)	0.5 p/b.

Bearing in mind the calculated values for the resulting water concentration of toxaphene, 1104 ppb (1.104 ppm), when applied to cranberries and/or rice at the lowest recommended dosage of 2 pounds per acre, it is clear that the criteria of § 162.11(a)(3)(i)(B)(3) are exceeded.

B. Chronic Toxicity

(1) *Oncogenic effects in test animals.* 40 CFR 162.11(a)(3)(ii)(A) provides, "A rebuttable presumption shall arise if a pesticide's ingredient(s) * * * (induces) oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *." As a further clarification of the provision, the preamble to the Intereim Guidelinesstates that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals."

A limited number of truly "oncogenic" studies were found in the literature. The most recent, a study by the National Cancer Institute of the National Institutes of Health (1976. Experimental Design Status Report: Carcinogenesis bioassay), reveals that a significant increase in the incidence of cancerous growths did in fact develop in male and female mice fed toxaphene for a period of 1 year, 10 months. An increase in tumors in female rats was also seen. Dr. Melvin Reuber, a specialist in the field of carcinogenesis, also stated that toxaphene "may be tumorigenic in male rats." Several other long-term feeding studies to rats and other test animals suggest that histological changes did occur in various organs of the animals tested, principally the liver.

(2) *Other chronic and/or delayed toxic effects.* To assess the true effects of pesticides to man and the environment, it has been customary to use common yet sensitive organisms as test subjects in various registration testing protocols. In this manner it is possible t learn of hazards or other harmful effects resulting from pesticide exposure. Some of these organisms serve as indicators of possible effects that can and sometimes do occur in higher life forms. In other instances they provide a means of extrapolating noted effects to man.

Regardless of how the noted effects are interpreted or used, they are true indicators of a change from the norm which can be harmful or even fatal to the life forms tested and should be heeded.

40 CFR 162.11(a)(3)(ii)(B) provides that "A rebuttable presumption shall arise if a pesticide's ingredient(s) * * * [p]roduces any other chronic or delayed toxic effect in test-animals * * *."

In three tests by Merhle and Mayer, fathead minnows, brook trout, and channel catfish have been used in various registration testing protocols. These same fish species, when exposed to nanogram levels of toxaphene, gave evidence of serious changes in collagen and calcium levels in their bone structure. These changes were serious enough to cause backbones to fracture with slight electrical stimulation (Undated. Bone development & growth of fish as affected by toxaphene. Prepub. Copy; 1975. J. Fish Res. Brd. Can. 32#5, 2 articles).

Although not followed to the same end result, tests by Chernoff and Carver on rats gave indications of certain ossification centers (sternal and caudal) that failed to develop in the fetal stages (1976. Bull. Environ. Contam. Tox. 15#6). Recent work done on black ducks by Finley and Ludke has indicated significant decreases in collagen levels and increases in calcium levels in the sternal areas of young ducks (1976. USDI Prog Rpt. Study Plan P–D–508–15).

C. Population Reduction in Nontarget Organisms

Many of the above changes, as well as changes in normal animal behavior patterns, result in reduced survivability of the animal species affected; in some instances, the ultimate results were serious kills or "reductions in natural populations." Agency Pesticide Episode Reports (PERS) data show that toxaphene has been the known causative agent in 94 fish kills since 1966. There are indications in the literature that it has played a major part in many others.

III. Other Adverse Effects With Respect to Which the Agency Seeks Additional Information

A review of the scientific literature suggests several other adverse effects that may be caused by toxaphene, which are listed and discussed briefly below. The Agency is not presuming against toxaphene based upon these effects at this time. However, the Agency Working Group will continue to investigate these effects and may issue a supplementary Position Document discussing them in greater detail. If appropriate, the Agency will presume against toxaphene based upon these effects. The Agency requests comments on the information listed below, and requests submission of any additional studies or relevant information on toxaphene related adverse effects, including but not limited to mutagenesis, endocrine effects, reproductive effects, enzymatic effects, population reductions in nontarget organisms, and fatalities in endangered species. The studies referenced below are available for public inspection in the Office of Special Pesticide Reviews (WH–566), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Room 446, 401 M Street SW., Washington, D.C. 20460.

A. Chronic Effects: Mutagenesis

40 CFR 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise, "if a pesticide's ingredient(s) * * * [i]nduces mutagenic effects, as determined by multitest evidence."

A study by Samosh, examined during the course of review, revealed some chromosomal damage to peripheral luekocytes in Russian women workers exposed to polychlorocamphene and two other halogenated chlorocamphene compounds used as insecticides (1974. Cytol. Gen. 8(1):24–27).

B. Other Chronic or Delayed Toxic Effects

(1) *Endocrine effects.* 40 CFR § 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise, "if a pesticide's ingredients(s) * * * [p]roduces any other chronic or delayed toxic effect * * *"

One such "other chronic" effect was noted in bobwhite quail treated with toxaphene. It stimulated thyroid growth and iodine uptake. It also caused adrenal hypertrophy (Hurst et al. 1974. Poultry Sci. 53:125–133).

Another study by Makovskaya et al. related changes that took place in the

[1] A position document prepared by the Agency Working Group on toxaphene is available for public inspection in the Office of Special Pesticide Reviews (WH–566), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Room 447, 401 M Street SW., Washington, D.C. 20460. This position document contains an appendix of references, background information, and other material pertinent to the issuance of this notice of rebuttable presumption. The supporting materials con tained in the position document are referenced in this notice where appropriate.

[2] Registrants or other interested persons who desire to submit benefit information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the minor uses of the pesticide, including estimated quantities used by category such as lawn and garden uses and household uses.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides.
6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

[3] The Guidelines for Registering Pesticides in the United States appeared in the Federal Register June 25, 1975 (40 FR 26802).

endocrine glands of mice, rats, and rabbits after prolonged low-level exposure to toxaphene. It producted changes in the adrenals, in the island cells of the pancreas, and in the seminiferous epithelium of the testes. It also caused hyperfunction in the thyroid and atrophic changes in the hypophysis (1971. Med. Prac. 2:128–131).

Another Russian study also related changes that occurred in workers exposed to polychlorocamphene, the Russian equivalent of toxaphene (Blekherman & Il'ina. Undated. All-Union Sci Res. Inst. of Hyg. & Tox. of Pesticides, Polymers, and Plastics).

(2) *Reproductive effects.* A fish study by Mayer et. al., using extremely low levels (ppt) of toxaphene to treat brook trout, resulted in reduced egg viability. Those that did hatch had reduced survivability (1975. Ecol. Res. Series, EPA 600/3–75–013).

A study by Samosh relates changes in the menstrual cycle and estrogen metabolism in female agricultural workers exposed to several halogenated organchlorines, one of which was polychlorocamphene (1974. Cytl. Gen. 8(1):24–27).

A third study by Welch et al. discusses the effect of toxaphene on rats relative to utilization of esterone and reduced uterotropic activity (1971. Tox. App. Pharm. 19:234–246).

(3) *Enzymatic effects.* A study by Desaiah and Koch, using channel catfish tissues as the test medium and toxaphene as the test chemical, resulted in significant changes in several enzyme systems (1975. Bull. Environ, Contam. Tox. 13#2).

Yet another study on rats by Kuz'minskaya and Alekhina using toxaphene as the test compound resulted in reduction in overall lactate dehydrogenase activity in the liver and serum (1976. Environ. Health Rpt. 13:127–132).

(4) *Population reduction in nontarget organisms.* 40 CFR 162.11(a)(3)(ii)(C) provides that a rebuttable presumption shall arise, "if a pesticide's ingredient(s) * * * can reasonably be anticipated to result in significant local, regional, or national population reductions in nontarget organisms, or fatality to members of endangered species."

Large kills of waterfowl have occurred in California, Arizona, South Dakota, and Texas. Other associated shore birds and fish-eating birds were also found dead in large numbers. In all, significant levels of toxaphene were found in the adipose tissue and in many of the body organs. These kills included white pelicans, cattle egrets, blackcapped night herons, greater blue herons, and various duck species. In a recent episode in Louisiana, dead and dying Brown Pelicans, a rare and endangered species, were found. When chemical analysis was completed significant residues of toxaphene were found (Hunt and Keith. 1963. Univ. of Calif.; Johnson, 1966. S. D. Bird Notes. 18#3; Memo from J. Keith, dated 10–28–76).

Several other studies related reductions in populations of various bird species following the spraying or treating of short-grass ranges with toxaphene for the control of grasshoppers and range caterpillars (McEwen et al. 1972. J. Range Mngmt. 25#3; Memo: Kuntzelman to Files, 1976).

IV. Registration and Products Subject to the Notice

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until July 15, 1977 to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the Federal Register.

V. Duty to Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of toxaphene has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effect in animal species or humans, residues and claimed or verified accidents to humans, domestic animals, or wildlife which have not been previously submitted to EPA, the material must be submitted immediately. At the time each registrant responds to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and summary of all results observed to date.

VI. Public Comments

A Position Document, dated April 19, 1977, prepared by an Agency Working Group on toxaphene and containing background information and copies of references to published studies and Agency reports is available for public inspection. During the time allowed for submission of rebuttal evidence, comments on the presumptions set forth in the notice and on the material contained in the Position Document are also solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed, are requested to be submitted to EPA as soon as possible. Likewise any studies or comments on the benefits from the use of toxaphene are requested to be submitted.

All comments and information should be sent to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments or information should be submitted if possible to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP–30000/13." Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii).

Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments and information filed pursuant to the notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days. The Position Document is available from the Office of Special Pesticide Reviews (OSPR), Office of Pesticide Programs (WH–566), Environmental Protection Agency, Rm. 447, East Tower, during the same time period. Specific questions with regard to this notice should be directed to the OSPR (Acting) Project Manager for Toxaphene, Mr. Frederick Hageman, at the above office address or at 202–755–5755.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the Federal Register, but rather handled by mail with affected parties. Omissions will be corrected by notice in the Federal Register.

Dated: May 12, 1977.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

(00239) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 1

REGISTRANT	*NAME AND ADDRESS*
* 00C239	CHEVRON CHEMICAL COMPANY ORTHO DIVISION 940 HENSLEY WAY RICHMOND CA 94801

********** PRODUCT NAME **********		
04221	ORTHO TORBIDAN 2-8 SPRAY	CA
04222	ORTHO TOXAPHENE 8 EMULSIVE	CA
04237	ORTHO TOXAPHENE-SULFUR 15-25 DUST	CA
04242	ORTHO PARATHION-TOXAPHENE 2-15 DUST	CA
04248	DIBROM-TOXAPHENE 1.5-6 EMULSIVE	CA

REGISTRANT	*NAME AND ADDRESS*
* 000279	FMC CORP. AGRICULTURAL CHEM DIV. 100 NIAGARA ST. MIDDLE PORT NY 14105

********** PRODUCT NAME **********		
03078	TOXAKIL 8.0 MISCIBLE	CA
03258	TOXAKIL 40 WETTABLE POWDER	CA

(00557) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 2

REGISTRANT	*NAME AND ADDRESS*
* 00055T	SWIFT AGRICULTURAL CHEMICAL CORP. 111 WEST JACKSON BOULEVARD CHICAGO, IL 60604

********** PRODUCT NAME **********		
06999	SWIFT'S SUPER GUARD 161 COTTON SPRAY	GA
07001	20% TOXAPHENE DUST (V20D)	GA
07002	SWIFT'S GOLD BEAR TOXAPHENE-40% SULFUR DUST (VS20-40)	GA
07007	SWIFT'S SUPER GUARD 1.5 - 1.5-6 COTTON SPRAY	GA
07008	SWIFT'S SUPER GUARD 1-2-6 COTTON SPRAY	GA
07009	SWIFT'S SUPER GUARD 6-3 COTTON SPRAY	GA
07010	SWIFT'S SUPER GUARD TOXAPHENE 6E	GA

REGISTRANT	*NAME AND ADDRESS*
* 000909	COOKE LABORATORY PRODUCTS 4759 S DURFEE AVE PICO RIVERA CA 90660

********** PRODUCT NAME **********		
04700	COOKE SYSTEMIC-PLUS FLOWER AND ORNAMENTAL INSECT SPRAY	CA
06414	COOKE SOWBUG AND CUTWORM DUAL BAIT CONTROL	CA

(01191) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 3

REGISTRANT	*NAME AND ADDRESS*
* 001191	CAROLINA CHEMICALS INC PO BOX 118 W COLUMBIA SC 29169

**********PRODUCT NAME**********

10372	FLIGHT BRAND TOXAPHENE-METHYL PARATHION 4-4 EC	

REGISTRANT	*NAME AND ADDRESS*
* 001202	PUREGRO COMPANY 1052 W 6TH ST LOS ANGELES CA 90017

**********PRODUCT NAME**********

05006	PUREGRO METHYL PARATHION TOXAPHENE CRYOLITE DUST 2-15-30	AZ
05010	PUREGRO TOXAPHENE SULFUR 20-40 DUST	AZ
05018	PUREGRO TOXAPHENE 60%	CA
05060	PUREGRO MALATHION-TOX 3-9	CA
05099	PUREGRO DIBROM TOXAPHENE 1.5-6 EMULSIVE	CA

(01526) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 4

REGISTRANT	*NAME AND ADDRESS*
* 001526	A G CHEM-CHEM DIST ARIZONA AGROCHEMICAL CO. P.O. BOX 21537 PHOENIX AZ 85036

**********PRODUCT NAME**********

09112	AGRO-CHEM BRAND TORBIDAN 28	AZ
09116	AGRO-CHEM BRAND TOXAPHENE 6-E METHYL PARATHION 3-E	AZ

REGISTRANT	*NAME AND ADDRESS*
* 001812	GRIFFIN CORP. P.O. BOX 1847 VALDOSTA, GA 31601

**********PRODUCT NAME**********

03872	COTTON TOX DUST	SC
05434	COTTON TOX DUST	GA

(01842) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 5

REGISTRANT	*NAME AND ADDRESS*
* 001842	TRIANGLE CHEMICAL COMPANY BOX 4528 MACON GA 31208

**********PRODUCT NAME**********

03322	TRIANGLES MR. 4 X 4	GA

REGISTRANT	*NAME AND ADDRESS*
* 001871	FARMCRAFT, INC 8900 S W COMMERCIAL TIGARD OR 97223

**********PRODUCT NAME**********

08924	FARMCRAFT TOXAPHENE 10 DUST	OR
08929	FARMCRAFT TOXAPHENE 8-E	OR

(02342) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 6

REGISTRANT	*NAME AND ADDRESS*
* 002342	KERR-MCGEE CHEMICAL CORP MGR PKG & LABELING KERR-MCGEE CENTER OKLAHOMA CITY OK 73102

**********PRODUCT NAME**********

06944	FASCO TOXAPHENE BAIT-8	FL

REGISTRANT	*NAME AND ADDRESS*
* 002935	WILBUR ELLIS CO. P. O. BOX 1286 FRESNO, CA 93715

**********PRODUCT NAME**********

06575	RED-TOP METHYL PARATHION 3 TOXAPHENE 6 SPRAY	AZ
06590	RED-TOP TOXAPHENE 8 SPRAY	MT
06647	RED-TOP PARATHION 2 TOXAPHENE 15 CRYOLITE 30 DUST	AZ
06648	RED-TOP PP 62	AZ
06656	RED-TOP NOVE-GUARD 1-8	AZ
06658	RED-TOP METHYL PARATHION 2 TOXAPHENE 15 CRYOLITE 30 DUST	AZ
06674	RED-TOP GT 123	AZ
06683	RED-TOP THIODAN 3 TOXAPHENE 15 SULFUR 40 DUST	CA
06684	RED-TOP THIODAN 3 TOXAPHENE 15 ZINEB 9 DUST	CA
06685	RED-TOP METHYL PARATHION 2 TOXAPHENE 8 SPRAY	

(02935) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 7

**CONTINUE REGISTRANT 002935

06686 RED-TOP METHYL PARATHION 2 TOXAPHENE 8 SPRAY CA

REGISTRANT *NAME AND ADDRESS*

* 003122 SUPERIOR FERTILIZER & CHEM COMPANY ATTEN R BASS
BOX 1021
TAMPA FL 33600

********** PRODUCT NAME **********

07190 SUPERIOR TOXAPHENE 8-E FL

07551 2% PARATHION-10% TOXAPHENE-6.50% ZINEB DUST FL

REGISTRANT *NAME AND ADDRESS*

* 003238 AGRICO CHEMICAL CO.
CROP PROTECTION CHEMICAL DIV.
BOX 3451
TULSA, OK 74101

********** PRODUCT NAME **********

08985 STANDARD DI-TOX CATERPILLAR AND LAWN WORM SPRAY FL

09061 STANDARD BRAND TOXAPHENE 40-W FL

09062 STANDARD BRAND 10% TOXAPHENE 3.4% COPPER 65% SULPHUR DUST FL

09063 STANDARD BRAND 20% TOXAPHENE 3.4 COPPER 40% SULPHUR DUST FL

(03286) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 8

REGISTRANT *NAME AND ADDRESS*

* 003286 FERD STAFFEL CO.
P.O. BOX 2380
SAN ANTONIO TX 78298

********** PRODUCT NAME **********

08037 STAFFEL'S TOXAPHENE 60 TX

08080 STAFFEL'S TOXAPHENE-LINDANE STOCK SPRAY & DIP TX

REGISTRANT *NAME AND ADDRESS*

* 003509 SAFE WAY FARM PRODUCTS COMPANY
2519 E FIFTH ST
AUSTIN TX 78702

********** PRODUCT NAME **********

08432 SILVERTOX TX

(03743) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 9

REGISTRANT *NAME AND ADDRESS*

* 003743 SOUTHERN AGRICULTURAL CHEMICALS INC
PO BOX 527
KINGSTREE SC 29556

********** PRODUCT NAME **********

07019 ROYAL BRAND TOX-MOX LOW VOLUME CONCENTRATE PESTICIDE SC

07022 ROYAL BRAND TRIPLE KILL COTTON SPRAY 4-2-.5 SC

07023 ROYAL BRAND TRIPLE KILL COTTON SPRAY 4-2-1 SC

REGISTRANT *NAME AND ADDRESS*

* 004841 MICRO CHEM COMPANY
BOX 711
WINNSBORO LA 71295

********** PRODUCT NAME **********

06128 MICRO TRIPLE-KILL F 10 DUST LA

06133 MICRO TRIPLE-KILL "3F"MIX LA

06135 MICRO TRIPLE-KILL D DUST LA

06136 MICRO TRIPLE-KILL "F" LA

06138 MICRO TRIPLE-KILL "L" DUST LA

06139 MICRO TRIPLE-KILL F16 DUST LA

06141 MICRO BLEND MICRO-TOX 6-1.5 LA

06162 MICRO TRIPLE-KILL "F" MIX LA

(04841) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 10

**CONTINUE REGISTRANT 004841

06164 MICRO BLEND 20% TOXAPHENE DUST LA

06250 MICRO TRIPLE - KILL M LA

08598 MICRO TRIPLE-KILL "E" LA

REGISTRANT *NAME AND ADDRESS*

* 004977 SOUTHEASTERN INST CORP
ESTILL SC 29918

********** PRODUCT NAME **********

08458 ATOMIC 4-2-1 TOXAPHENE ETHYL METHYL SC

08459 ATOMIC 6-1.50 TOXAPHENE MALATHION ULV SC

08464 ATOMIC 6# TOXAPHENE SC

08465 ATOMIC 8# TOXAPHENE SC

08466 ATOMIC 4-4 TOXAPHENE METHYL SC

08468 ATOMIC 8 - 2 TOXAPHENE MALATHION SC

08469 ATOMIC 6-3 TOXAPHENE METHYL SC

08470 ATOMIC 6-2-1 TOXAPHENE METHYL ETHYL SC

08471 ATOMIC 6-1.50 TOXAPHENE METHYL SC

08472 ATOMIC 6-2 TOXAPHENE METHYL SC

(05905) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 11

REGISTRANT	*NAME AND ADDRESS*
* 005905	HELENA CHEMICAL CO CLARK TOWER, 5100 POPLAR AVE, SUITE 2904 MEMPHIS TN 38137

********** PRODUCT NAME **********		
03108	HELENA BRAND METHYL PARATHION TOXAPHENE 3-6	FL
07574	HELENA BRAND 6 TOX-3 METHYL	TX
07592	TOXAPHENE -MALATHION	SC
07603	HELENA BRAND HEL-TOX M	AL
07900	HELEN BRAND METHYL PARATHION TOXAPHENE 3-6	FL

REGISTRANT	*NAME AND ADDRESS*
* 005967	MOYER CHEMICAL COMPANY BOX 945 SAN JOSE CA 95108

********** PRODUCT NAME **********		
05416	MALATHION TOXAPHENE BHC DUST NO 4-10-2	CA

(06720) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 12

REGISTRANT	*NAME AND ADDRESS*
* 006720	SOUTHERN MILL CREEK PRODUCTS COMPANY INC BOX 1096 TAMPA FL 33601

********** PRODUCT NAME **********		
03356	SMCP TOXAPHENE EM-6	FL

REGISTRANT	*NAME AND ADDRESS*
* 006853	BES TEX INSECTICIDES 713 S. OAKES PO BOX 664 SAN ANGELO TX 76901

********** PRODUCT NAME **********		
08611	BES-TEX LIVESTOCK DUST	TX

REGISTRANT	*NAME AND ADDRESS*
* 006973	SOILSERV INC PO BOX 1817 SALINAS CA 93901

********** PRODUCT NAME **********		
03586	SOILSERV TOXAPHENE 80	CA
03587	SOILSERV WEEVIL BAIT	CA

(07001) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 13

REGISTRANT	*NAME AND ADDRESS*
* 007001	OCCIDENTAL CHEMICAL CO P O BOX 198 LATHROP, CA 95330

********** PRODUCT NAME **********		
04375	PHOS-TOX 6-3	AZ
04382	PARA-TOX 3-6	AZ
04383	TORBIDAN 28	AZ
04384	6 LB. TOXAPHENE	AZ
07666	MP-TOX 2-8 AQUAMUL	CA
07670	TOXAPHENE 8 EC	CA

REGISTRANT	*NAME AND ADDRESS*
* 007421	CALIFORNIA LIQUID FERTILIZER COMPANY # 50 ARROYO ANNEX PASSADENA CA 91105

********** PRODUCT NAME **********		
08680	LAST-BITE NEW FORMULA SOWBUG AND CUTWORM KILLER	CA

(07467) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 14

REGISTRANT	*NAME AND ADDRESS*
* 007467	VALLEY CO-OP OIL MILL BOX 1310 HARLINGEN, TX 78550

********** PRODUCT NAME **********		
03391	TOXAPHENE LIQUID-6	TX
03395	NOK-OUT 637	TX

REGISTRANT	*NAME AND ADDRESS*
* 007478	CHEM PAK COMPANY 10402 S. W. 186TH TERRACE SOUTH MAYMI FL 33157

********** PRODUCT NAME **********		
07989	SPRINGHILL ROSE SPRAY	FL
08000	FLORIDA GARDEN SPRAY	FL
08015	LAWN GUADIAN EMULSIFIABLE CONCENTRATE	FL
08821	ROSE & POINSETTIA SPRAY	FL
08823	GARDENS OF THE SOUTH ROSE SPRAY	FL
08824	ROSE DUST	FL

(09127) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 15

REGISTRANT	*NAME AND ADDRESS*
* 008127	AGGIE CHEMICAL INDUSTRY PO BOX 8335 SAN ANTONIO TX 78208

	********** PRODUCT NAME **********	
05562	TOXAPHENE 6#	TX

REGISTRANT	*NAME AND ADDRESS*
* 008773	AMERICAN FERTILIZER & CHEMICAL COMPANY PO BOX 98 HENDERSON CO 80640

	********** PRODUCT NAME **********	
04625	TOXAPHENE "6"	CO

REGISTRANT	*NAME AND ADDRESS*
* 009169	SEMINOLE STORES INC P O BOX 940 OCALA FL

	********** PRODUCT NAME **********	
05293	MARICO BRAND 10% TOXAPHENE DUST	FL

(09782) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 16

REGISTRANT	*NAME AND ADDRESS*
* 009782	WOODBURY CHEMICAL COMPANY PO BOX 4319 PRINCETON FL 33030

	********** PRODUCT NAME **********	
03261	TOXAPHENE 8-E	FL
03647	PARATHION-TOXAPHENE-SULFUR 2-5-70 DUST	FL
03668	TOXAPHENE-SULFUR 5-75 DUST	FL
03669	TOXAPHENE 10 DUST	FL
10402	5% TOXAPHENE BAIT	

REGISTRANT	*NAME AND ADDRESS*
* 009859	LANDIA CHEMICAL COMPANY 1801 W. OLIVE ST LAKELAND FL 33801

	********** PRODUCT NAME **********	
06214	TOXAPHENE EM8	FL
06996	5% TOXAPHENE BAIT	FL

(10226) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 17

REGISTRANT	*NAME AND ADDRESS*
* 010226	ROCKWOOD CHEM COMPANY BOX 34 BRAWLEY CA 92217

	********** PRODUCT NAME **********	
03781	ROCKWOOD BRAND TOXAPHENE 6 LB E.C.	CA

REGISTRANT	*NAME AND ADDRESS*
* 010290	PROFESSIONAL CHEMICAL COMPANY INC P.O. BOX 94071 4517 YALE ST HOUSTON TX 77018

	********** PRODUCT NAME **********	
04933	SNAKE KILL	TX

REGISTRANT	*NAME AND ADDRESS*
* 010371	CAPE CHEMICAL COMPANY 33 N FREDERICK CAPE GIRARDEAU MO 63701

	********** PRODUCT NAME **********	
07403	CAPE-KIL BEEF SPRAY	MI

(10873) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 18

REGISTRANT	*NAME AND ADDRESS*
* 010873	TIFTON CHEMICAL COMPANY PO BOX 5 TIFTON GA 31794

	********** PRODUCT NAME **********	
07362	TIFCHEM 6-1 .50 COTTON SPRAY	GA
07363	TIFCHEM TOXAPHENE METHYL PARATHION DUST 20-21	GA

REGISTRANT	*NAME AND ADDRESS*
* 010951	BRITZ CHEMICAL COMPANY OO BOX 366 FIVE POINTS CA 93624

	********** PRODUCT NAME **********	
09800	BRITZ BRAND TOXAPHENE 72 (EMULSIFIABLE)	CA
09808	BRITZ BRAND DIBROM-TOXAPHENE 1.5-6 EMULSIVE	
09811	BRITZ BRAND BIDRIN 1-TOXAPHENE 8	CA

(10965) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 19

REGISTRANT	*NAME AND ADDRESS*
* 010965	CALIFORNIA DEPT OF AGRICULTURE WEED & VERTEBRATE PEST CONTROL 1220 N ST SACRAMENTO CA 95814

********** PRODUCT NAME **********		
09894	ANY APPROPRIATE PRODUCT	CA

REGISTRANT	*NAME AND ADDRESS*
* 010972	CASTLE A L INC PO BOX 877 MORGAN HILL CA 95037

********** PRODUCT NAME **********		
05299	CASTLE BRAND TOXAPHENE 8E	CA
06546	CASTLE BRAND DUST TOX-S 10-50	CA
07033	CASTLE BRAND TOXAPHENE 60E	CA

(11017) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 20

REGISTRANT	*NAME AND ADDRESS*
* 011017	FOSTER-GARDNER INC 1577-1ST ST COACHELLA CA 92236

********** PRODUCT NAME **********		
08195	TOXAPHENE 8 E	CA

REGISTRANT	*NAME AND ADDRESS*
* 011093	MASTER NURSERYMEN'S ASSN C/O LEO DUPUICH 3620 1/2 MT DIABLO BLVD LAFAYETTE CA 94549

********** PRODUCT NAME **********		
07364	FORMULA 49 GOLD NUGGET ORGANIC BASE FERTILIZER	CA
07365	49ER GOLD STRIKE BRAND LIGHTWEIGHT LAWN & DICHONDRA FERTILIZER	CA
07370	49ER BRAND ROSE DUST	CA

(11124) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 21

REGISTRANT	*NAME AND ADDRESS*
* 011124	PANOCHE CHEMICAL & SUPPLY COMPANY 40109 W BULLARD FIREBAUGH CA 93622

********** PRODUCT NAME **********		
09005	PANOCHE TOXAPHENE 8 EC	CA
09006	PANOCHE METHYL PARATHION 2 TOXAPHENE 8	CA

REGISTRANT	*NAME AND ADDRESS*
* 011204	STONE E SON E B PO BOX 57 SALINAS CA 93901

********** PRODUCT NAME **********		
04100	GREENALL SOIL INSECTICIDE AND LAWN MOTH CONTROL	CA
04101	GREENALL TURF FERTILIZER WITH INSECTICIDE	CA
06727	GREENALL LAWN & GARDEN FERTILIZER INSECTICIDE ADDED	CA

(11369) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 22

REGISTRANT	*NAME AND ADDRESS*
* 011369	BAKERSFIELD AG CHEM INC PO BOX 5062 OILDALE CA 93308

********** PRODUCT NAME **********		
08778	BAC TOXAPHENE SPRAY 8E	CA

REGISTRANT	*NAME AND ADDRESS*
* 011656	WESTERN FARM SERVICE INC SHELL CHEM COMPANY 1025 CONNECTICUT AVE-STE 200 WASH DC 20036

********** PRODUCT NAME **********		
05714	METHYL PARATHION TOX SULPHUR 2-15-40	AZ
05734	M-PARA-TOX-KRY 2-10-30	AZ
05735	M-P TOX 2-20	AZ
05741	TOXAPHENE 8-E EMULSIFIABLE LIQUID	AZ
05748	TORBIDAN 25	AZ
05750	PARATOX 35	AZ
05772	TOXAPHENE 6-E	CA
05891	TOXAPHENE 8E EMULSIFIABLE LIQUID	CA
05905	DIBROM - TOXAPHENE 1.5-6 E	CA
05906	DIMETHOATE TOXAPHENE .5-3 EC	CA

(12062) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 23

REGISTRANT	*NAME AND ADDRESS*
* 012062	PRO-BOLL CHEMICAL COMPANY PO BOX 54 CROWVILLE LA 71230

********** PRODUCT NAME **********		
10127	PRO-BOLL LA-LO 44	LA
10128	PRO-BOLL 8-2	LA
10129	PRO-BOLL 6-11	LA
10130	PRO-BOLL 6-3	LA

REGISTRANT	*NAME AND ADDRESS*
* 013166	APOLLO ENTERPRISES INC ROUTE 1 ALTHEIMER AR 72004

********** PRODUCT NAME **********		
07513	POWER 6-1.5	AR
07515	8 TOXAPHENE-2 METHYL PARATHION	AR

(14775) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 24

REGISTRANT	*NAME AND ADDRESS*
* 014775	ASGROW FLORIDA COMPANY PO DRAWER D PLANT CITY FL 33566

********** PRODUCT NAME **********		
08726	PARATHION-TOXAPHENE DUST NO.6 (2% PARATHION-10% TOXAPHENE) EI-6	FL
08748	TOXAPHENE 40 WETTABLE (40% TOXAPHENE)	FL
08749	TOXAPHENE-MAGANESE-SULPHUR DUST NO. 1 (TXS-1)	FL
08750	TOXAPHENE BAIT NO. 7 (5% TOXAPHENE) (B-7)	FL
08751	TOXAPHENE DUST NO. 2 (10% TOXAPHENE) (T-2)	FL
10095	TOX-ETHYL 6-2 EMULSIVE	FL
10539	TOXAPHENE-METALDEHYDE BAIT NC.10(B-10)	

REGISTRANT	*NAME AND ADDRESS*
* 015575	SOUTHLAND AGRICULTURAL CHEMICAL COMPANY PO BOX 6207 MONTGOMERY AL 36106

********** PRODUCT NAME **********		
05325	TOXAPHENE 8E	AL
05329	SUPER KILL 4-4	AL
05337	4-3-1 COTTON SPRAY	AL

(15887) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 25

REGISTRANT	*NAME AND ADDRESS*
* 015887	AGRICULTURAL CHEMICALS OF DALLAS 3707 EAST KIEST BLVD. DALLAS, TX. 75203

********** PRODUCT NAME **********		
04929	HI BRAND TOXAPHENE E-5	TX

REGISTRANT	*NAME AND ADDRESS*
* 023442	INDUSTRIAL CHEMICAL SERVICE INC 938 MILAN STREET SHREVEPORT LA

********** PRODUCT NAME **********		
06957	PASCO TERPENE PARATHION 4-1 EC	FL

REGISTRANT	*NAME AND ADDRESS*
* 031143	SMITH COMPANY OF UVALDE P O BOX 1000 UVALDE TX 78801

********** PRODUCT NAME **********		
05453	CROP-LIFE PARATHION-TOXAPHENE 2-20 DUST	TX

(32928) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 26

REGISTRANT	*NAME AND ADDRESS*
* 032928	CHEMSPRAY, INC. 1550 E. SEVENTH STREET PAHOKEE, FL. 33576

********** PRODUCT NAME **********		
05925	PRODUCT NO. 8	FL
05926	PRODUCT NO. 7	FL
05932	8 LB.TOXAPHENE	FL

REGISTRANT	*NAME AND ADDRESS*
* 033352	CONSOLIDATED CHEMICALS INC 1000 NORTH STATE MARKET RD PAHOKEE, FL 33476

********** PRODUCT NAME **********		
07631	TOXAPHENE 8E	FL

(33722) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 27

REGISTRANT	*NAME AND ADDRESS*
* 033722	TEX AG COMPANY INC P O BOX 633 MISSION, TX 78572

********** PRODUCT NAME **********		
03272	TOXAPHENE 6 LB.	TX
03277	POWER-TOX	TX

REGISTRANT	*NAME AND ADDRESS*
* 035133	CRYER PEST CONTROL, INC 215 S. HWY 146 BAYTOWN, TX 77520

********** PRODUCT NAME **********		
09321	C&C PROFESSIONAL MOSQUITO SPRAY	TX

(352221) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 28

REGISTRANT	*NAME AND ADDRESS*
* 035222	SOUTHERN CHEMICALS, INC. 204 N. ELM AVE. BOX 1480 SANFORD, FL 32771

********** PRODUCT NAME **********		
07152	DI-TOX 28	FL
07162	SOUTHERN'S TOXAPHENE - 10	FL
07172	SOUTHERN'S METHYL PARATHION-PARATHION-TOXAPHENE .5-.5-4-E	FL
07174	TOXAPHENE EMULSION CONCENTRATE	FL
07176	SOUTHERN'S TOXAPHENE BAIT	FL

REGISTRANT	*NAME AND ADDRESS*
* 035253	AGRA CHEM SALES COMPANY P. O. BOX 1356 AVON PARK, FL 33825

********** PRODUCT NAME **********		
06038	71% TOXAPHENE EMULSIFIABLE	FL
08629	LINDANE-TOXAPHENE LIVESTOCK SPRAY OR DIP	FL

(352296) **** PRODUCT SEARCH LISTING ****

03/08/77 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING TOXAPHENE PAGE 29

REGISTRANT	*NAME AND ADDRESS*
* 035296	TOXO-SPRAY DUST, INC. 300 MAIN ST. TUSTIN, CA 92680

********** PRODUCT NAME **********		
05807	TOXOPHENE EMULSIFIABLE NO.8	CA
05811	TOXO TOXOPHENE SEVIN-S DUST NO. 10-5-50	CA

REGISTRANT	*NAME AND ADDRESS*
* 037854	AGRICULTURAL SUPPLIES OF BATESVILLE, INC. BOX 6 BATESVILLE, TX 78829

********** PRODUCT NAME **********		
08303	FALL OUT TOXAPHENE 6-E	TX

(000059) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 1

REGISTRANT *NAME AND ADDRESS*

* 000059 BURROUGHS WELLCOME COMPANY
BURROUGHS WELLCOME COMPANY
3030 CORNWALLIS ROAD
RESEARCH TRIANGLE PARK, NC 27709

********** PRODUCT NAME **********

00028 COOPER-TOX LIVESTOCK

00039 AGRICULTURAL COOPER-TOX #6 TOXAPHENE EMULSIFIABLE CONCENT.

00055 COOPER - TOX EXTRA

00089 COOPER BACK RUBBER CONCENTRATE

00096 FENATOX

00127 COOPER HOG MANGE CURE

00139 COOPER TOX EXTRA DUST

00152 COOPER TOX V EMULSIFIABLE LIQUID

00165 COOPER DRY INSECTICIDE CONTAINS TOXAPHENE

REGISTRANT *NAME AND ADDRESS*

* 000070 RIGO COMPANY, INC.
1200 FORT WAYNE NAT'L BANK BLDG.
FORT WAYNE, IN 46802

********** PRODUCT NAME **********

00086 KILL-KO STOCK SPRAY AND DIP

(000092) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 2

REGISTRANT *NAME AND ADDRESS*

* 000092 TENNECO CHEMICAL INC
INTERMEDIATES DIV TURNER PL PO BOX 2
PISCATAWAY NJ 08854

********** PRODUCT NAME **********

00016 STROBANE-T 90% TOXAPHENE SOLUTION INSECTICIDAL TOXICANT

00034 STROBANE-T TOXAPHENE

REGISTRANT *NAME AND ADDRESS*

* 000134 HESS AND CLARK DIV OF RHODIA INC
ASHLAND OH 44805
ASHLAND, OH 44805

********** PRODUCT NAME **********

00050 DRYCIDE FORMULATED WITH TOXAPHENE

(001481) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 3

REGISTRANT *NAME AND ADDRESS*

* 000148 THOMPSON-HAYWARD CHEMICAL COMPANY
BOX 2383
KANSAS CITY KS 66110

********** PRODUCT NAME **********

00158 DE-PESTER TOXAPHENE E-6

00495 DE-PESTER TOXAPHENE-L STOCK SPRAY AND DIP

00731 DE PESTER COTTON SPRAY 3-0-4 METHYL PARATHION TOXAPHENE

00786 DE-PESTER TOXAPHENE 85-15

00820 COTTON SPRAY 6-0-3

00836 DE-PESTER TOXAPHENE E-8

00859 DE-PESTER COTTON DUST 20-0-0 (TOXAPHENE)

00903 DE-PESTER BAGWORM AND SOD WEBWORM SPRAY

00913 DE-PESTER LIVESTOCK DUST

00917 DE-PESTER PROFESSIONAL BAGWORM & SOD WEBWORM SPRAY

00990 COTTON SPRAY 6-0-2

01012 T-H TOXAPHENE 6 LBS. EMULSION CONCENTRATE

01014 T-H 20% TOXAPHENE DUST

01018 T-H 20-40 DUST CONTAINING TOXAPHENE & SULPHUR

01020 T-H TOXAPHENE-PARATHION DUST

01126 COTTON SPRAY 6-0-1.5 TOXAPHENE-METHYL PARATHION

01131 DE-FEND-TOX

(001681) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 4

REGISTRANT *NAME AND ADDRESS*

* 000168 WASATCH CHEMICAL DIVISION ENTRADA IND INC
P O BOX 6219
SALT LAKE CITY UT 84106

********** PRODUCT NAME **********

00162 TOXAPHENE-8 EMULSIBLE LIQUID

00381 WASCO TOXAPHENE 40% WETTABLE POWDER

00421 WASCO BACKRUBBER SOLUTION

REGISTRANT *NAME AND ADDRESS*

* 000226 TOBACCO STATES CHEMICAL COMPANY
BOX 479
LEXINGTON KY 40501

********** PRODUCT NAME **********

00028 TOBACCO STATES BRAND 20% TOXAPHENE DUST

00039 TOBACCO STATES BRAND *** TOXAPHENE 6 LB. EMULSION CONCENTRATE

00149 TOBACCO STATES BRAND TOX 450 DIP-SPRAY CONCENTRATE

00165 TOBACCO STATES BRAND EVERGREEN SPRAY

00201 TOBACCO STATES BRAND IMPROVED BACKRUBBER OIL

(00228) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 5

REGISTRANT *NAME AND ADDRESS*

* 000228 RIVERDALE CHEMICAL COMPANY
220 E 17TH ST
CHICAGO HGTS IL 60411

********** PRODUCT NAME **********

00012 A RIVERDALE TOXAPHENE 6 POUNDS PER GALLON*
00065 RIVERDALE BACK RUBBER SOLUTION
00131 RIVERDALE 10% TOXAPHENE GRANULES

REGISTRANT *NAME AND ADDRESS*

* 000239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94801

********** PRODUCT NAME **********

00211 ORTHO TOXAPHENE 40 WETTABLE
00241 ORTHO TOXAPHENE 10 DUST
00254 ORTHO TOXAPHENE 4.8 EMULSIVE
00371 ORTHO TOXAPHENE 8 EMULSIVE
00432 ORTHO TOXAPHENE 6 EMULSIVE
00518 ORTHO KLEEN STOCK SPRAY
01835 ORTHO DIBROM TOXAPHENE 3-10 DUST
01887 ORTHO TOXAPHENE 6 EMULSIVE X8

(00239) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 6

**CONTINUE REGISTRANT 000239

02264 ORTHO TORBIDAN 2-8 SPRAY
02384 THIOCLAN-METHYL PARATHION-TOXAPHENE 25-2 5-10 DUST

REGISTRANT *NAME AND ADDRESS*

* 000240 DALY HERRING COMPANY
PO BOX 428
KINSTON NC 28501

********** PRODUCT NAME **********

00159 D-H PARATOX CONTAINS 8 LBS. TOXAPHENE & 2 LBS. METHYL PARATHION PER GALL
00192 ROOMER 6-3 EMULSIFIABLE INSECTICIDE CONCENTRATE
00193 D-H 20% TOXAPHENE DUST
00197 D-H 60% TOXAPHENE EMULSIFIABLE CONCENTRATE
00200 D-H 4-4 EMULSIFIABLE LIQ
00201 20% TOXAPHENE-2% PARATHION 3.9% ZINEB DUST

(00241) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 7

REGISTRANT *NAME AND ADDRESS*

* 000241 AMERICAN CYANAMID COMPANY
BOX 400
PRINCETON NJ 08540

********** PRODUCT NAME **********

00096 MALATHION T-X LIVESTOCK SPRAY

REGISTRANT *NAME AND ADDRESS*

* 000270 FARNAM COMPANIES INC
P O BOX 21447
PHOENIX, AZ 85036

********** PRODUCT NAME **********

00018 FARNAM TOXANOX * PLUS

REGISTRANT *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEM DIV.
100 NIAGARA ST.
MIDDLE PORT NY 14105

********** PRODUCT NAME **********

00405 TOXAKIL MISCIBLE
00407 NIAGARA TOXAKIL 20 SULPHUR 40 DUST (CODE 185)

(00279) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 8

**CONTINUE REGISTRANT 000279

01095 NIAGARA MANGASULPHUR 10 TOXAKIL 5 DUST
01225 NIAGARA TOXAKIL 20 PHOS KIL 2 DUST CODE 1300
01367 NIAGARA TOXAKIL 10 PHOS 2 DUST
01390 NIAGARA TOXAKIL 8.0 MISCIBLE CODE 1047
01505 NIAGARA TOXAKIL 40 WETTABLE POWDER
02150 NIAGARA CRYOLITE 30 PARATHION 2 TOXAPHENE 10 DUST
02561 CODE 2727 NIAGARA NYNAMITE 63 INSECTICIDE
02716 FMC NYNAMITE 44 INSECTICIDE
02719 NIAGARA PARATHION 3 TOXAPHENE 5 F.C. CODE 20418
02793 METHYL PARATHION 2 TOXAPHENE 15 DUST
02799 COPPER 3.4 SULFUR 60 TOXAPHENE 15 PEANUT DUST
02802 SULFUR 61 TOXAPHENE 7.5 DUST CODE 20005
02888 TOXAKIL 20 DUST INSECTICIDE
02899 MANEB 3.5 SULFUR 50 TOXAPHENE 5 DUST CODE 20028
02966 METHYL PARATHION 2.5 THIODAN 2.5 TOXAPHENE 10 DUST

(00299) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 9

REGISTRANT	*NAME AND ADDRESS*
* 000299	MARTIN C J COMPANY 606 W MAIN PO BOX 1089 NACOGDOCHES TX 75961

********** PRODUCT NAME **********	
00057	MARTIN'S STOCK-TOX- A WATER MISCIBLE TOXAPHENE CONCENTRATE
00077	MARTIN'S SUPER STOCK TOX
00118	BEEF CATTLE DUST
00175	MARTIN'S STOCK TOX 6112 TOXAPHENE EMULSIFIABLE CONCENTRATE
00176	MARTIN S STOCK TOX 6115 TOXAPHENE EMULSIFIABLE CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000327	TEXAS PHENOTHIAZINE COMPANY BOX 4186 FT WORTH TX 76106

********** PRODUCT NAME **********	
00062	TPC TOX-A-DANE
00073	DR ROGERS' MAL-PHENE
00078	PRO BRAND PRO TOX M
00100	DR. ROGERS' TOX-ENE
00121	TPC TOX-ENE-V EMULSIFIABLE CONCENTRATE CONTAINING TOXAPHENE & VAPONA

(004C7) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 10

REGISTRANT	*NAME AND ADDRESS*
* 004C7	IMPERIAL INC BOX 423 SHENANDOAH IA 51601

********** PRODUCT NAME **********	
00293	IMPERIAL TOMATO DUST FOR DISEASE & INSECT CONTROL
00300	IMPERIAL NO. 6 TOXAPHENE E.C
00301	IMPERIAL 10% TOXAPHENE GRANULAR INSECTICIDE
00309	IMPERIAL STOCK-TOX TWO (LIVESTOCK SPRAY CONCENTRATE)
00322	IMPERIAL LIVESTOCK TOXAPHENE
00323	DRY INSECTICIDE FOR BEEF CATTLE, SWINE, HORSES
00328	IMPERIAL 15% TOXAPHENE GRANULAR INSECTICIDE

REGISTRANT	*NAME AND ADDRESS*
* 000410	FRANKLIN LABORATORIES INC PO BOX 22335-WELLSHIRE STATION DENVER CO 80222

********** PRODUCT NAME **********	
00044	FRANKLIN TOXAPHENE LINDANE SPRAY MIX

(00449) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 12

REGISTRANT	*NAME AND ADDRESS*
* 000449	TECHNE CORPORATION C/O REGULATORY AFFAIRS DEPT. FARMLAND IND., INC. P. O. BOX 7305 KANSAS CITY, MO 64116

********** PRODUCT NAME **********	
00249	TOXALIN
00310	VAPO-TOX
00462	SURE DEATH BRAND PARATHION TOXAPHENE 1-10 DUST
00509	SURE DEATH BRAND TOXAPHENE 40-W
00531	6LB TOXAPHENE EMULSIFIABLE
00532	8 LB. TOXAPHENE EMULSIFIABLE
00535	TECHNE TOXAPHENE 10% GRANULAR INSECTICIDE
00541	TOXAPHENE 15% GRANULAR INSECTICIDE

REGISTRANT	*NAME AND ADDRESS*
* 000450	MILLER CHEMICAL COMPANY INC 1441 CALIFORNIA ST OMAHA NE 68102

********** PRODUCT NAME **********	
00133	MILLER STOX-SPRAY CONCENTRATE

(00413) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 11

REGISTRANT	*NAME AND ADDRESS*
* 000413	BARTELS & SHORES CHEMICAL COMPANY 1400-02 ST LOUIS AVE KANSAS CITY, MO 64101

********** PRODUCT NAME **********	
00038	PIONEER BRAND LIVESTOCK CONCENTRATE B-TOX
00064	PIONEER BRAND TOXAPHENE EMULSIFIABLE CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000436	STANDARD CHEMICAL MFG COMPANY 701 S 42ND ST OMAHA, NB 68103

********** PRODUCT NAME **********	
00017	STANDARD'S LIN-TOX LIVESTOCK SPRAY AND DIP

(00471) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 13

REGISTRANT *NAME AND ADDRESS*

* 000471 FIELD HENRY SEED & NURSERY
407 SYCAMORE ST
SHENANDOAH IA 51601

********** PRODUCT NAME **********

00011 HENRY FIELD'S TOMATO DUST

REGISTRANT *NAME AND ADDRESS*

* 000475 STAUFFER CHEMICAL COMPANY LABELING & REGISTRATION
DEPT 1200 SOUTH 47TH ST
RICHMOND, CA 94804

********** PRODUCT NAME **********

00176 TOXAPHENE-SULPHUR 20-40 DUST
00369 STAUFFER TOXAPHENE 8-E
00486 STAUFFER *** TOXAPHENE EMULSIFIABLE CONCENTRATE NO. 601
00489 TOXAPHENE 8 EC
01142 TOXAPHENE 6-EH
01329 PARATHION-TOXAPHENE 2-10 DUST
01528 TOXAPHENE 6-E STOCK SPRAY & BACK RUBBER CONCENTRATE
01913 LINDANE TOXAPHENE .2-4E LIVESTOCK SPRAY AND OILER CONCENTRATE
02011 TORBIDAN 28
02133 TOXAPHENE 40-WP AGRICULTURAL INSECTICIDE WETTABLE POWDER

(00483) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 14

REGISTRANT *NAME AND ADDRESS*

* 000483 PACIFIC SUPPLY CORP
PO BOX 3588
PORTLAND OR 97208

********** PRODUCT NAME **********

00130 PACIFIC COOPERATIVES TOX OIL

REGISTRANT *NAME AND ADDRESS*

* 000523 ROBERTS LAB DIV HOPKINS AGR CHEM
4905 N MAIN ST
ROCKFORD IL 61101

********** PRODUCT NAME **********

00036 DR. ROBERTS BACKRUBBER OIL

REGISTRANT *NAME AND ADDRESS*

* 000524 MONSANTO COMPANY
AGRICULTURAL PRODUCTS
800 N. LINDBERGH BLVD.
ST. LOUIS, MO 63166

********** PRODUCT NAME **********

00275 NIRAN 44

(00528) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 15

REGISTRANT *NAME AND ADDRESS*

* 000528 AMSCO DIVISION UNION OIL COMPANY OF CALIFORIA
925 SE THORNTON
MINNEAPOLIS MN 55414

********** PRODUCT NAME **********

00041 KRITTER SPRAY CATTLE OILER READY TO USE

REGISTRANT *NAME AND ADDRESS*

* 000548 RILEY BROS INC
950 WASHINGTON
BURLINGTON IA 52601

********** PRODUCT NAME **********

00030 *RILEY BROS. 5% TOXAPHENE BACK RUBBER LIQUID INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 000554 AGSCO INC
BOX 458
GRAND FORKS ND 58201

********** PRODUCT NAME **********

00126 AGSCO TOXAPHENE E-6 AGRICULTURAL INSECTICIDE

(00557) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 16

REGISTRANT *NAME AND ADDRESS*

* 000557 SWIFT AGRICULTURAL CHEMICAL
CORP.
111 WEST JACKSON BOULEVARD
CHICAGO, IL 60604

********** PRODUCT NAME **********

01876 SWIFT TOXAPHENE V5E

REGISTRANT *NAME AND ADDRESS*

* 000602 RALSTON PURINA COMPANY
CHECKERBOARD SQUARE
ST LOUIS MO 63188

********** PRODUCT NAME **********

00037 PURINA LIQUID STOCK SPRAY
00044 PURINA RANGE CATTLE SPRAY
00112 PURINA STOCK SPRAY SPECIAL
00118 PURINA BACK SCRATCH TOXAPHENE LINDANE CONCENTRATE

(00606) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 17

REGISTRANT *NAME AND ADDRESS*

* 000606 CORN KING DIVISION THE
KING CASTLE INC PO BOX 189
MARION IA 52302

********** PRODUCT NAME **********

00095 HUBBARD PREMIUM STOCK SPRAY

REGISTRANT *NAME AND ADDRESS*

* 000635 F-Z FLO CHEM. COMPANY, DIV OF GROWER SERVICE CORP.
P O BOX 808
LANSING, MI 48901

********** PRODUCT NAME **********

00263 E-Z-FLO TOXAPHENE EMULSIFIABLE CONCENTRATE

00554 F Z FLO 2% PARATHION 20% TOXAPHENE DUST

(00642) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 18

REGISTRANT *NAME AND ADDRESS*

* 000642 THOMPSON CHEMICALS CORP
23529 S FIGUEROA ST
WILMINGTON CA 90744

********** PRODUCT NAME **********

00103 THOMPSON'S MULTI-TOX TL LIVESTOCK SPRAY & DIP

00143 THOMPSON'S MULTI - TOX TM NEW & IMPROVED EMULSIFIABLE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 000655 PRENTISS DRUG & CHEMICAL COMPANY INC
363 7TH AVE
NEW YORK NY 10001

********** PRODUCT NAME **********

00074 PRENTOX TOXAPHENE 8 LB. EMULSIFIABLE

(00746) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 19

REGISTRANT *NAME AND ADDRESS*

* 000746 MFA OIL CO
P.O. BOX 519
COLUMBIA MO 65201

********** PRODUCT NAME **********

00026 M.F.A EVERGREEN SPRAY CONCENTRATE

00040 M.F.A. LIVESTOCK TOXAPHENE

00048 M.F.A. TOMATO DUST

00049 M.F.A. DRY DIP

00068 M. F. A. NO. 6 TOXAPHENE F. C. FOR FIELD CROP USE ONLY

REGISTRANT *NAME AND ADDRESS*

* 000769 WOOLFOLK CHEMICAL WORKS INC
PO BOX 938
FT VALLEY GA 31030

********** PRODUCT NAME **********

00060 SECURITY BRAND 20-40 COTTON DUST TOXAPHENE-SULPHUR

00109 20 TOXAPHENE DUST SECURITY BRAND

00136 SECURITY BRAND TOX-SOL-6

00394 SECURITY MOTOX 63 COTTON SPRAY

00436 SECURITY TOX-MP COTTON SPRAY 8-2

00437 SECURITY TOX-SOL-8

(00769) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 20

**CONTINUE REGISTRANT 000769

00447 SECURITY SUPER-TOX COTTON SPRAY 4-3-1

00448 SECURITY TOX-MP COTTON SPRAY 6-1 1/2

00451 SECURITY 10% TOXAPHENE DUST

REGISTRANT *NAME AND ADDRESS*

* 000802 LILLY CHAS & COMPANY MILLER RD DIV
7737 N.E. KILLINGSWORTH
PORTLAND, OR 97218

********** PRODUCT NAME **********

00112 MILLER'S PESTKIL

00456 MILLER'S TOXAPHENE 40W

00486 MILLER'S TOXAPHENE 8E AGRICULTURAL INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 000829 SOUTHERN AGRI INSECT INC
PO BOX 218
PALMETTO FL 33561

********** PRODUCT NAME **********

00048 S A 50 CUT WORM AND MOLE CRICKET BAIT

00056 SA-50 BRAND PRE-HEADING CABBAGE DUST WITH TOXAPHENE

00088 SA-50 BRAND PRE-HEAD DUST 2-20

(00891) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 21

REGISTRANT *NAME AND ADDRESS*

* 000891 HERCULES INC AGRICULTURAL CHEMICAL
SYNTHETIC DEPT
WILMINGTON DE 19899
WILMINGTON DE 19899

********** PRODUCT NAME **********

00001 TOXAPHENE AN INSECTICIDAL TOXICANT

00010 HERCULES TOXAPHENE SOLUTION

00011 HERCULES TOXAPHENE 40% DUST

00020 TOXAPHENE 60% EMULSIFIABLE CONCENTRATE INSECTICIDE

00021 HERCULES TOXAPHENE BACK RUBBER CONCENTRATE TO BE MIXED WITH OIL

00023 HERCULES TOXAPHENE 72% EMULSIFIABLE CONCENTRATE

00029 HERCULES TOXAPHENE 20% DUST INSECTICIDE

00106 HERCULES TORBIDAN 28

00107 HERCULES TORBIDAN 18

00115 HERCULES TOXAPHENE 80% CONCENTRATE

00136 HERCULES TOXAPHENE 10% GRANULAR INSECTICIDE

00138 HERCULES TOXAPHENE 65% EMULSIFIABLE LIVESTOCK CONCENTRATE

00159 HERCULES TECHNICAL MATERIAL MALATHION INSECT TOXICANT FOR M.U.O.

00165 HERCULES TOXAPHENE 15% GRANULAR INSECTICIDE

00173 HERCULES TORBIDAN 6-1.5

(00909) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 22

REGISTRANT *NAME AND ADDRESS*

* 000909 COOKE LABORATORY PRODUCTS
4759 S DURFEE AVE
PICO RIVERA CA 90660

********** PRODUCT NAME **********

00064 COOKE ROSE DUST

00067 COOKE BUG SHOT LAWN SPECIAL SPRAY CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 000912 FARMERS UNION CENTRAL EXCHANGE INC
POST OFFICE BOX "G"
ST PAUL MN 55165

********** PRODUCT NAME **********

00027 CO-OP BACKRUBBER OIL

00056 CO-OP STOCK TOX PLUS LIVESTOCK SPRAY CONCENTRATE

(01007) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 23

REGISTRANT *NAME AND ADDRESS*

* 001007 PFIZER INC.
235 EAST 42ND ST
NEW YORK NY 10017

********** PRODUCT NAME **********

00041 GLO-TOX TOXAPHENE-MALATHION

REGISTRANT *NAME AND ADDRESS*

* 001021 MCLAUGHLIN GORMLEY KING COMPANY
8810 10TH AVE NO
MINNEAPOLIS MN 55427

********** PRODUCT NAME **********

01092 MGK MOTHPROOF MIX 1840

REGISTRANT *NAME AND ADDRESS*

* 001022 CHAPMAN CHEMICAL COMPANY
BOX 9158
MEMPHIS TN 38109

********** PRODUCT NAME **********

00034 CHAPMAN TOXAPHENE-6

(01026) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 24

REGISTRANT *NAME AND ADDRESS*

* 001026 CHAP STICK COMPANY
1000 ROBINS RD
LYNCHBURG VA 24505

********** PRODUCT NAME **********

00007 CEDAR SCENTED MOTH SPRAY

REGISTRANT *NAME AND ADDRESS*

* 001029 AIDEX CORPORATION
P.O. BOX 7348
OMAHA, NB 68107

********** PRODUCT NAME **********

00059 TOX-LIN EMULSIBLE CONCENTRATE

00073 AIDEX TOXAPHENE 10% GRANULAR INSECTICIDE

00075 AIDEX TOXAPHENE 4E EMULS. INSECT/CONT. OF CERTAIN INSECTS

00080 AIDEX TOXAPHENE 15G

00085 TOXAPHENE 90-10

00086 WANGFX FOR HOGS,CATTLE,SHEEP ANDGOATS

00089 WAL-TOX LIVESTOCK INSECTICIDE FOR SPRAY-DIP-OILER

00097 TOXAPHENE-4S FOR MANUFACTURING PURPOSES ONLY

00103 TOXAPHENE 95-15

00109 AIDEX 5R TOXAPHENE BACK RUBBER SOLUTION

(01029) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 25

**CONTINUE REGISTRANT 001029

00130 TOXAPHENE 40% DUST

REGISTRANT *NAME AND ADDRESS*

* 001063 VALLEY CHEMICAL COMPANY
BOX 1317
GREENVILLE MS 38702

********** PRODUCT NAME **********

00004 VALCO BRAND TOXAPHENE 20-0

00105 VALCO BRAND TOXAPHENE EMULSIFIABLE NO. 6

00114 VALCO BRAND TOX-A-ME 63

REGISTRANT *NAME AND ADDRESS*

* 001145 AMOCO OIL CO.
200 E. RANDOLPH DR.
CHICAGO IL 60601

********** PRODUCT NAME **********

00121 BOVINOL T-L44 FOR BEEF CATTLE HOGS-SHEEP-GOATS BUILDINGS

00138 AMOCO TOXAPHENE SPRAY

(01191) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 26

REGISTRANT *NAME AND ADDRESS*

* 001191 CAROLINA CHEMICALS INC
PO BOX 118
W COLUMBIA SC 29169

********** PRODUCT NAME **********

00001 FLIGHT BRAND TOXAPHENE SULPHUR 20-40

00002 TOXAPHENE DUST 20 - 0

00034 TOXAPHENE 6 EMULSIFIABLE

00035 TOXAPHENE 8 EMUL CONC

00294 TOXAPHENE METHYL PARATHION EC 8-2

00298 FLIGHT BRAND 30% TOXAPHENE DUST

00306 FLIGHT BRAND BHC 3-5-0 DUST

00309 FLIGHT BRAND TOXAPHENE METHYL PARATHION EC 6-2

00310 FLIGHT BRAND TOXAPHENE-METHYL PARATHION EC 6-1 1/2

00311 FLIGHT BRAND TOXAPHENE-METHYL PARATHION EC 6-3

00329 FLIGHT BRAND TOXAPHENE-METHYL PARATHION LV 3.96-0.99

00332 FLIGHT BRAND TOXAPHENE MALATHION ULV CONCENTRATE 1 1/2-6

00340 FLIGHT BRAND TOXAPHENE 80S

(01202) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 27

REGISTRANT *NAME AND ADDRESS*

* 001202 PUREGRO COMPANY
1052 W 6TH ST
LOS ANGELES CA 90017

********** PRODUCT NAME **********

00253 TORBIDAN 28

00271 PUREGRO TOXAPHENE 8 LIQUID

00306 PUREGRO TOXAPHENE METHYL PARATHION 6-3F

REGISTRANT *NAME AND ADDRESS*

* 001208 JANSON IND PLAINSMAN AGRICULTURAL
BOX 174
PLAINVIEW, TX 79880

********** PRODUCT NAME **********

00011 PLAINSMAN 60 T EMULSIFIABLE TOXAPHENE

(01258) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 28

REGISTRANT *NAME AND ADDRESS*

* 001258 OLIN CHEMICALS
OLIN CORPORATION
120 LONG RIDGE ROAD
STAMFORD, CT 06904

********** PRODUCT NAME **********

00699 TOXAPHENE 6 LB. EMULSIFIABLE

00794 TOXAPHENE METHYL PARATHION 6LB-3LB

00816 TOXAPHENE-METHYL PARATHION 8LB. 2 LB. EMULSIFIABLE

00828 OLIN TOXAPHENE-METHYL PARATHION 4 LB - 4 LB. EMULSIFIABLE.

00834 TOXAPHENE 6 LB EMULSIFIABLE LIQUID

00835 MAGNUM 44 EMULSIFIABLE

00962 OLIN TOXAPHENE METHYL PARATHION 6 LB 1.5 LB. EMULSIFIABLE

REGISTRANT *NAME AND ADDRESS*

* 001304 FURST MCNESS COMPANY
120 E CLARK ST
FREEPORT IL 61032

********** PRODUCT NAME **********

00053 MCNESS MANGE OIL CONCENTRATE

(01307) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 29

REGISTRANT *NAME AND ADDRESS*

* 001307 MAGNOLIA CHEMICAL CO INC
2646 RODNEY LANE
DALLAS TX 75220

********** PRODUCT NAME **********

00060 MAL-PHENE SUPER LIVESTOCK SPRAY EMULSIFIABLE CONCENTRATE

00099 MAGNA-TOX SUPER #150

REGISTRANT *NAME AND ADDRESS*

* 001339 COTTON STATES CHEM CO INC
P O DRAWER 157
W MONROE LA 71291

********** PRODUCT NAME **********

00006 COTTON STATES TOXAPHENE 20% DUST

00020 TOXAPHENE-6 EMULSIFIABLE CONCENTRATE INSECTICIDE

00051 COTTON STATES TOXANE EMULSIFIABLE

00189 COTTON STATES TORBICAN 28

00191 PARATOX

00195 TOXAPHENE-8 EMULSIFIABLE

00206 COTTON STATES KETOKIL NO. 63

00207 COTTON STATES NO. 42 TOX-MP

00208 COTTON STATES KETOKIL NO. 44

(01339) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 30

**CONTINUE REGISTRANT 001339

00218 KETOKIL NO. 6-1.5

REGISTRANT *NAME AND ADDRESS*

* 001348 SELCO SUPPLY COMPANY
COLLINS AVE & R R
EATON CO 80615

********** PRODUCT NAME **********

00038 SELCO BRAND TOXAPHENE 6E EMULSIFIABLE

00108 SELCO SELCOTOX LIVESTOCK SPRAY TOXAPHENE AND LINDANE

00195 SELCO TOXAPHENE 61 SPECIAL LIVESTOCK SPRAY AND DIP

REGISTRANT *NAME AND ADDRESS*

* 001381 LAND O'LAKES C/O IMPERIAL INC
PO BOX 423
SHENANDOAH IA 51601

********** PRODUCT NAME **********

00052 FELCO TOXAPHENE EMULSIFIABLE CONCENTRATE

00068 FELCO/STATEX STOCK-TOX PLUS (LIVESTOCK SPRAY CONCENTRATE)

(01386) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 31

REGISTRANT *NAME AND ADDRESS*

* 001386 UNIVERSAL COOPERATIVES INC
PO BOX 836
ALLIANCE OH 44601

********** PRODUCT NAME **********

00034 UNICO TOXAPHENE EMULSION CONC

00234 UNICO 5% TOXAPHENE BACK RUBBER SOLUTION

00284 UNICO LIVESTOCK SPRAY CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 001526 A G CHEM-CHEM DIST
ARIZONA AGROCHEMICAL CO.
P.O. BOX 21537
PHOENIX AZ 85036

********** PRODUCT NAME **********

00351 PHOENIX BRAND DYLOX 3 TOXAPHENE 10 WITH 50% SULFUR

00377 TOXAPHENE EC-60 EMULSIFIABLE

00438 PHOENIX BRAND PHOSPHO KIL-5 TOXAPHENE 10

00479 PHOENIX BRAND TORBIDAN 28

00499 AGRO-CHEM BRAND TOXAPHENE 6-E

(01528) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 32

REGISTRANT *NAME AND ADDRESS*

* 001528 SHEPARD LABS
DIV OF NEBRASKA PRODUCING & REFINING
1521 NO 11TH STREET
OMAHA, NB 68110

********** PRODUCT NAME **********

00010 SHEPS TOXAPHENE LINDANE EMULSIFIABLE CONCENTRATE STOCK SPRAY & DIP

REGISTRANT *NAME AND ADDRESS*

* 001598 FCX INC
P O BOX 2419
RALEIGH, NC 27642

********** PRODUCT NAME **********

00086 FCX TOXAPHENE-6 EMULSIFIABLE CONCENTRATE

00154 FCX FARM CHEMICALS 20-0 TOXAPHENE DUST

00168 10% TOXAPHENE DUST

00204 FCX "82" SPRAY

00212 FCX METHYL PARATOX 63

00218 FCX 6-1.5 EC COTTON INSECTICIDE

00231 FCX 6-1.5 BEAN SPRAY

00235 TOXAPHENE 8 EMULSIFIABLE INSECTICIDE

(01737) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 33

REGISTRANT *NAME AND ADDRESS*

* 001737 SOUTHWEST GREASE & OIL CO (OMAHA) INC
20TH & WILLIAMS STS
OMAHA, NB 68108

********** PRODUCT NAME **********

00008 SOS TOXAPHENE BACK RUBBER OIL

00011 KNOK-EM-KOLD CATTLE BACKRUBBER OIL

REGISTRANT *NAME AND ADDRESS*

* 001772 HOLDER CORP THE
1421 FIFTH AVE
HUNTINGTON WV 25702

********** PRODUCT NAME **********

00082 CHEMFORM BRAND EVERGREEN SPRAY CONCENTRATE

(01812) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 34

REGISTRANT *NAME AND ADDRESS*

* 001812 GRIFFIN CORP.
P.O. BOX 1847
VALDOSTA, GA 31601

********** PRODUCT NAME **********

00009 TOXAPHENE EMULSIFIABLE CONCENTRATE

00029 TOXAPHENE EUMLSIFIABLE CONCENTRATE(CONTAINS 8 LBS. TOXAPHENE)

00033 COTTON & PEANUT DUST 20-40 TOXAPHENE SULPHUR

00034 PEAS AND VEGETABLE DUST

00059 SULPHENE

00135 PARAPHENE 8-2 TOXAPHENE-METHYL PARATHION

00148 PEE GEE 8-2 TOXAPHENE-METHYL PARATHION

00168 SUL-CO-TOX

00183 PEE GEE COTTON SPRAY

00193 SULPHENE WITH COPPER

00197 44 SPECIAL

00200 TOXAPHENE 90%

00203 COTTON BLASTER

00206 TOXAPHENE 20-0 COTTON DUST

(01842) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 35

REGISTRANT *NAME AND ADDRESS*

* 001842 TRIANGLE CHEMICAL COMPANY
BOX 4528
MACON GA 31208

********** PRODUCT NAME **********

00001 TRIANGLE 20-40 TOXAPHENE-SULPHUR DUST

00036 TRIANGLE TOXAPHENE-6 EMULSIFIABLE CONCENTRATE

00182 TRIANGLE RANGE SPRAY FOR BEEF CATTLE

00213 TRIANGLE 10-3.4-70 PEANUT DUST TOXAPHENE-COPPER-SULFUR

00244 TRIANGLE SUPER DUPER 6-2-1 CONT 6LB TOX 2LB MET PAR 1 LB ETHYL PAR

00248 TRIANGLE 6-3 TOX - MP

00253 TRIANGLE "63"

00259 MP 4X4

00263 TRIANGLE TOXAPHENE-8 E.C.

00269 20% TOXAPHENE DUST

00273 TRIANGLE MIGHTY 10

00274 TRIANGLE TRI-9

(01871) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 36

REGISTRANT *NAME AND ADDRESS*

* 001871 FARMCRAFT, INC
8900 S W COMMERCIAL
TIGARD OR 97223

********** PRODUCT NAME **********

00082 FARMCRAFT TOXAPHENE-10

REGISTRANT *NAME AND ADDRESS*

* 001948 NORTHERN STATES LABS
P.O. BOX 969
FREMONT NE 63025

********** PRODUCT NAME **********

00030 MAL-TOX LIVESTOCK SPRAY & DIP AN EMULS CONC OF MALATHION & TOXAPHENE

REGISTRANT *NAME AND ADDRESS*

* 001990 FARMLAND IND., INC.
C/O REGULATORY AFFAIRS DEPT.
P. O. BOX 7305
KANSAS CITY, MO 64116

********** PRODUCT NAME **********

00015 TOXAPHENE EMULSIFIABLE CONC

00156 CO OP BEEF CATTLE SPRAY EMULSION CONCENTRATE

(01990) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 37

**CONTINUE REGISTRANT 001990

00346 CO-OP STOCK-TOX PLUS LINDANE

REGISTRANT *NAME AND ADDRESS*

* 002124 GRACE W R & COMPANY AGR CHEM C H TIDWELL
PO BOX 277 100 N MAIN ST
MEMPHIS TN 38101

********** PRODUCT NAME **********

00285 NACO 10% TOXAPHENE + 1 1/2% PARATHION DUST
00521 NACO TOXAPHENE-SULPHUR 20-40 DUST
00578 NACO 20% TOXAPHENE DUST
00630 NACO SUPER TEN
00752 NACO TOXAPHENE 6 EC
00762 NACO TOXAPHENE PARATHION 20-2 DUST
00770 NACO TOXAPHENE 40-W
00775 NACO TOXAPHENE 8-E
00784 NACO TOXAPHENE-METHYL PARATHION 6-3EC

(02136) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 38

REGISTRANT *NAME AND ADDRESS*

* 002136 HOFFMAN COMPANY INC
1413-1415 COURT ST LAB
ALLENTOWN PA 18102

********** PRODUCT NAME **********

00016 HOFFMAN'S LOUSE AND MANGE SPRAY

REGISTRANT *NAME AND ADDRESS*

* 002169 PATTERSON CHEMICAL COMPANY INC
1400 UNION AVE
KANSAS CITY, MO 64101

********** PRODUCT NAME **********

00100 PATTERSON'S BAG WORM SPRAY
00134 PATTERSON'S TURF INSECT KILLER EMULSIFIABLE CONCENTRATE
00158 PATTERSON'S TOXAPHENE-LINDANE
00245 BAGWORM AND SOD WEBWORM SPRAY 60% TOXAPHENE

(02217) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 39

REGISTRANT *NAME AND ADDRESS*

* 002217 PBI-GORDON CORPORATION
300 SO 3RD ST
KANSAS CITY KS 66118

********** PRODUCT NAME **********

00026 TOXAPHENE EMULSIFIABLE CONC
00242 STOCK-TOX PLUS LIVESTOCK SPRAY CONC.)
00288 GORDON'S BAGWORM SPRAY FOR EVERGREENS
00300 TOXAPHENE BACK RUBBER CONCENTRATE
00301 HI-TOX LIVESTOCK SPRAY EMULS. CONC.
00324 GORDON'S SUPERKILL SOD WEBWORM SPRAY
00339 HI-TOX M (LIVESTOCK SPRAY CONCENTRATE)
00350 RUB TOX 68 BACKRUBBER CONCENTRATE
00421 TOXAPHENE LAWN AND ORNAMENTAL SPRAY
00482 NEW IMPROVED "76" SOD WEBWORM KILLER

(02269) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 40

REGISTRANT *NAME AND ADDRESS*

* 002269 GOLD KIST INC
PO BOX 2210
ATLANTA GA 30301

********** PRODUCT NAME **********

00010 20-40 TOXAPHENE COTTON DUST
00013 CO-OP 20% TOXAPHENE COTTON DUST
00120 COTTON SAVER
00130 CPA/GK BUG DRUG
00132 CPA-GK DOUBLE TROUBLE
00147 GK 6-3 SPRAY
00156 TOXAPHENE 8-E
00157 GOLDKIST TOXAPHENE EMULSIFIABLE CONCENTRATE
00159 GK 8-2 SPRAY
00166 TOXAPHENE MALATHON ULV INSECTICIDE FOR COTTON

(02301) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 41

REGISTRANT *NAME AND ADDRESS*

* 002301 TERHUNE C D COMPANY
BOX 333
CEDARTOWN GA 30125

********** PRODUCT NAME **********

00004 SUPER COTTON DUST CONTAINS 20% TOXAPHENE

REGISTRANT *NAME AND ADDRESS*

* 002342 KERR-MCGEE CHEMICAL CORP
MGR PKG & LABELING
KERR-MCGEE CENTER
OKLAHOMA CITY OK 73102

********** PRODUCT NAME **********

00026 FASCO 20-40 COTTON DUST
00598 FASCO MOLE CRICKET BAIT
00707 FASCO TERPENE-METHYL PARATHION 8-2 EC (TOXAPHENE-METHYL PARATHION)
00711 FASCO FAS-KIL COTTON & SOYBEAN INSECTICIDE SPRAY
00717 FASCO TOXAPHENE DUST-10
00741 FASCO TOXAPHENE PARATHION DUST 10-2
00742 FASCO TOXAPHENE LIQUID 8
00743 FASCO TOXAPHENE 40-WP
00773 FASCO TOX-WP 4-4EC COTTON & SOYBEAN INSECTICIDE SPRAY
00781 20% TOXAPHENE DUST

(02342) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 42

**CONTINUE REGISTRANT 002342

00783 TOXAPHENE COTTON DUST
00786 TOXAPHENE EMULSIBLE CONCENTRATE
00895 FASCO TOXAPHENE-SULFUR DUST 20-40
00896 FASCO TOXAPHENE DUST 20
00936 FASCO TERPENE PARATHION 4-1EC

REGISTRANT *NAME AND ADDRESS*

* 002353 HOPKINS AGRI., CHEMICAL CO.
P.O. BOX 7532
MADISON, WI. 53707

********** PRODUCT NAME **********

00227 HOPKINS 10% TOXAPHENE GRANULAR INSECTICIDE
00276 HOPKINS TOXAPHENE 6 E.C.
00332 ALLIED CHEMICAL 90% TOXAPHENE
00334 ARCADIAN TOXAPHENE EM-6 EMULSIFIABLE CONCENTRATE

(02435) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 43

REGISTRANT *NAME AND ADDRESS*

* 002435 HYDE RA OIL COMPANY
PIPESTONE MN 56164

********** PRODUCT NAME **********

00004 HYDE TOXAPHENE BEEF CATTLE OIL RUB

REGISTRANT *NAME AND ADDRESS*

* 002459 STEVENS IND INC
N MAIN ST PO BOX 272
DAWSON GA 31742

********** PRODUCT NAME **********

00004 MASTER BRAND TOXAPHENE
00005 MASTER BRAND 20-40 TOXAPHENE WITH SULPHUR
00030 MASTER EMULSIFIABLE SPRAY FOR COTTON
00113 MASTER BRAND RANGE SPRAY
00117 MASTER BRAND 20% TOXAPHENE DUST FOR LAWNS AND GARDENS
00220 MASTER BRAND TOX. - M. PARATHION
00246 MASTER BRAND 2.5% METHYLPARATHION-20% TOXAPHENE DUST
00250 MASTER BRAND TOXAPHENE DUST FOR LAWNS & GARDENS
00259 MASTER BRAND EMULSIFIABLE SPRAY TOXAPHENE

(02460) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 44

REGISTRANT *NAME AND ADDRESS*

* 002460 HOWERTON GOWEN COMPANY INC
BOX 247 E 11TH ST
ROANOKE RAPIDS NC 27870

********** PRODUCT NAME **********

00005 20% TOXAPHENE COTTON DUST
00007 GOWEN'S 20% CHLORINATED CAMPHENE COTTON DUST WITH 40% SULPHUR
00053 GOWEN S 28 COTTON SPRAY
00054 GOWEN'S 6-3 EMULSIFIABLE INSECTICIDE CONCENTRATE
00055 GOWEN'S 6-1 1/2 EMULSIFIABLE LIQUID

REGISTRANT *NAME AND ADDRESS*

* 002724 ZOECON INDUSTRIES, INC.
12205 DENTON DRIVE
DALLAS, TX 75234

********** PRODUCT NAME **********

00052 LINTOX-X
00054 LINTOX-M LIVESTOCK SPRAY & DIP BACKRUBBER CONC
00157 STARBAR HOG MANGE AND LICE SPRAY
00161 STARBAR VAPOR-TOX LIVESTOCK SPRAY AND DIP BACK RUBBER CONCENTRATE
00164 STARBAR LINTOX-M DUST
00165 STARBAR LINTOX LIVESTOCK DUST

(02917) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 45

REGISTRANT *NAME AND ADDRESS*

* 002917 CARTER INSEC & CHEMICAL COMPANY INC
PO BOX 127
TEACHEY, NC 28464

********** PRODUCT NAME **********

00019 CARTER CAROLINA BRAND 10% TOXAPHENE DUST

00043 CARTER CAROLINA BRAND TOXAPHENE EMULSION CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 002935 WILBUR ELLIS CO.
P. O. BOX 1286
FRESNO, CA 93715

********** PRODUCT NAME **********

00376 RED TOP TOXAPHENE 8 SPRAY

00381 RED-TOP TOXAPHENE 40 WP

(02974) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 46

REGISTRANT *NAME AND ADDRESS*

* 002974 COAHOMA CHEMICAL COMPANY DIV RIVERSIDE CHEMICAL CO
P O BOX 171199
MEMPHIS TN 38117.

********** PRODUCT NAME **********

00002 RED PANTHER TOXAPHENE 6 LB. EMULSIFIABLE CONCENTRATE

00105 RED PANTHER TOXAPHENE MP EMULSIFIABLE CONCENTRATE

00110 RED PANTHER 6-3 TOXAPHENE-MP EMULSIFIABLE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 003122 SUPERIOR FERTILIZER & CHEM COMPANY ATTEN R BASS
BOX 1021
TAMPA FL 33600

********** PRODUCT NAME **********

00016 COTTON DUST, 20% TOXAPHENE - 40% SULPHUR

(03238) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 47

REGISTRANT *NAME AND ADDRESS*

* 003238 AGRICO CHEMICAL CO.
CROP PROTECTION CHEMICAL DIV.
BOX 3451
TULSA, OK 74101

********** PRODUCT NAME **********

00037 STANDARD BRAND TOXAPHENE-SULPHUR 20-40 DUST AN AGRIC. INSECT.FUNG

00058 STANDARD BRAND TOXAPHENE 8-EC INSECTICIDE

00059 STANDARD BRAND TOXAPHENE 6EMULSIFIABLE CONCENTRATE INSECTICIDE

00060 STANDARD BRAND TOXAPHENE-METHYL PARATHION 6-3 EC INSECTICIDE

00062 TOXAPHENE METHYL-ETHYL PARATHION 6-2-1 EMUSIVE COTTON SPRAY INSECT

00067 TOXAPHENE-METHYL PARATION 4-4 EMULSIVE COTTON SPRAY INSECTICIDE

00072 STANDARD BRAND TOXAPHENE METHYL PARATHION 6-1 1/2 EC INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 003342 CAPE FEAR CHEMICALS INC
PO BOX 595
ELIZABETHTOWN NC 28337

********** PRODUCT NAME **********

00067 TIGER BRAND TOXAPHENE

00084 10% TOXAPHENE DUST

(03442) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 48

REGISTRANT *NAME AND ADDRESS*

* 003442 USS AGRI-CHEMICALS DIV US STEEL CORP
PO BOX 1585
ATLANTA GA 30301

********** PRODUCT NAME **********

00682 USS TOXAPHENE 6 EC DELTA

00683 USS TOXAPHENE 6 EC

00684 USS METHYL PARATHION-TOXAPHENE 4-4-EC

00685 USS METHYL PARATHION-TOXAPHENE 4-4 EC DELTA

00686 USS METHYL PARATHION-TOXAPHENE 3-6 EC DELTA

00687 USS METHYL PARATHION TOXAPHENE 3-6 EC

REGISTRANT *NAME AND ADDRESS*

* 003468 SCHALL CHEMICAL INC
BOX 862
MONTEVISTA CO 81144

********** PRODUCT NAME **********

00005 SCHALL LIVESTOCK SPRAY, DIP & OILER CONC.

(03509) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 49

REGISTRANT *NAME AND ADDRESS*

* 003509 SAFE WAY FARM PRODUCTS COMPANY
2519 E FIFTH ST
AUSTIN TX 78702

********** PRODUCT NAME **********

00050 SILVERTOX BEEF ANIMAL - SHEEP AND GOAT LIVESTOCK SPRAY
00100 TOX ANIMAL #43
00101 SAFEWAY LIVESTOCK DUST
00116 TOXAPHENE-6 EMULSIFIABLE

REGISTRANT *NAME AND ADDRESS*

* 003624 NOVA PRODUCTS INC
PO BOX 5086
KANSAS CITY KS 66119

********** PRODUCT NAME **********

00095 NOVA TOXAPHENE - 6 E
00143 NOVA CATTLE BACKRUBBER CONCENTRATE

(03743) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 50

**REGISTRANT* *NAME AND ADDRESS*

* 003743 SOUTHERN AGRICULTURAL CHEMICALS INC
PO BOX 527
KINGSTREE SC 29556

********** PRODUCT NAME **********

00141 ROYAL BRAND LIVESTOCK SPRAY
00193 101 BRAND CABBAGE DUST
00226 20% TOXAPHENE DUST
00233 ROYAL BRAND TOXAPHENE 60 EMULSION CONCENTRATE
00262 COTTON-TOX 62
00292 ROYAL BRAND BEAN TOX 82
00295 2-6-20 CABBAGE DUST
00299 COTTON-TOX 82
00317 ROYAL BRAND CY-TOX ULV
00318 40W TOXAPHENE
00322 COTTON TOX MP 6-1.5
00323 COTTON-TOX-MP 5-3
00326 TOX-GUARD 9
00327 CY-TOX EC
00328 ROYAL BRAND 8-2 CY-TOX E.C.
00330 3.96-0.99 TOXAPHENE-METHYL PARATHION ULV
00332 ROYAL BRAND LIVESTOCK DUST

(03743) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 51

**CONTINUE REGISTRANT 003743

00335 ROYAL BRAND BOLL MAKER

REGISTRANT *NAME AND ADDRESS*

* 003770 ECONOMY PROD COMPANY
BOX 427
SHENANDOAH IA 51601

********** PRODUCT NAME **********

00070 ECONOMY RANGE CATTLE SPRAY
00119 ECONOMY STOCK-TOX PLUS
00168 ECONOMY 5% TOXAPHENE BACKRUBBING SOLUTION
00185 MALATOX LIVESTOCK SPRAY & DIP
00245 STOCK TOX V TOXAPHENE PLUS VAPONA (R)EMULSIFIABLE INSECTICIDE
00246 STOCK TOX EMULS. TOXAPHENE INSECTICIDE LIVESTOCK & UTILITY SPRAY
00251 ECONOMY TOXAPHENE CROP & LIVESTOCK SPRAY CONCENTRATE
00255 10% TOXAPHENE GRANULES CORN BORER CONTROL
00284 DRY TOX

(04030) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 52

REGISTRANT *NAME AND ADDRESS*

* 004030 OLD SCRATCH INC OF AMARILLO
PO BOX 5068
AMARILLO TX 79107

********** PRODUCT NAME **********

00002 OLD SCRATCH CONCENTRATED LINDANE - TOXAPHENE

REGISTRANT *NAME AND ADDRESS*

* 004185 SMITH-DOUGLASS DIV.
BORDEN CHEMICAL, BORDEN INC.
5100 VIRGINIA BEACH BLVD.
NORFOLK, VA 23501

********** PRODUCT NAME **********

00104 SMITH DOUGLASS TOXAPHENE PARATHION DUST (20% TOXAPHENE 2% PARATHION)
00105 SMITH DOUGLASS 6 LBS TOXAPHENE EMULSION CONC
00108 20% TOXAPHENE DUST
00112 SMITH-DOUGLASS TOXAPHENE OILER SOLUTION
00414 TOXAPHENE-METHYL PARATHION 6-3 EMULSION CONCENTRATE
00470 WHOPPER KNOCKER
00480 TOXAPHENE METHYL PARATHION 4-4 E.C.
00482 TOXAPHENE SEVIN METHYL PARATHION COTTON DUST
00484 TOXAPHENE SEVIN 14-7 DUST
00525 TOXAPHEN-METHYL PARATHION

(04185) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 53

**CONTINUE REGISTRANT 004185

00528 TRUMP

REGISTRANT *NAME AND ADDRESS*

* 004581 PENNWALT CORP AGCHEM DIV.
PENNWALT TECHNOLOGICAL CENTER
P.O. BOX C
KING OF PRUSSIA, PA 19406

********** PRODUCT NAME **********

00015 20-0 COTTON DUST (CONTAINS 20% TOXAPHENE)

00105 LIVESTOCK SPRAY M.T.

00265 PENNSALT 8.2 SPRAY

REGISTRANT *NAME AND ADDRESS*

* 004715 COLORADO INTERNATIONAL CORP
5321 DAHLIA ST
COMMERCE CITY CO 80022

********** PRODUCT NAME **********

00145 BEST 4 SERVIS BRAND TOXADANE READY MIXED OILER COMPOUND

00148 BEST 4 SERVIS BRAND TOXAMAL LIVESTOCK CONCENTRATE AND OILER COMPOUND

00149 BEST 4 SERVIS BRAND HIGH STRENGTH PROTEX TOXADANE

00151 BEST 4 SERVIS BRAND TOXAPHENE READY MIXED OILER COMPOUND

00152 BEST 4 SERVIS BRAND TECH CHLORINATED CAMPHENE FOR MANUF PUR, ONLY

(04715) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 54

**CONTINUE REGISTRANT 004715

00153 BEST 4 SERVIS BRAND TECHNICAL TOXAPHENE FOR MFG. PURPOSES ONLY

00176 BEST 4 SERVIS BRAND PROTEX TOXAPHENE

00178 BEST 4 SERVIS BRAND TOXAPHENE 8 LB. EMULSIFIABLE CONCENTRATE

00236 BEST 4 SERVIS BRAND PROTEX TOX LIVESTOCK SPRAY EMULSIFIABLE CONC

00253 BEST 4 SERVIS BRAND TOXAPHENE CROP CONTROL

00285 BEST 4 SERVIS BRAND EVERGREEN SPRAY CONTAINS KELTHANE AND TOXAPHENE

00303 BEST 4 SERVIS BRAND 8 LB TOXAPHENE OIL SOLUTION

00305 BEST 4 SERVIS BRAND TOXAPHENE CROP AND LIVESTOCK SPRAY CONCENTRATE

00314 BEST 4 SERVIS BRAND 6 LB TOXAPHENE OIL SOLUTION

REGISTRANT *NAME AND ADDRESS*

* 004746 CHEMICAL INDUSTRIES INC
P O BOX 991
BORGER TX 79007

********** PRODUCT NAME **********

00040 HEREFORD BRAND METHYL PARATHION TOXAPHENE 3-6 E

(04841) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 55

REGISTRANT *NAME AND ADDRESS*

* 004841 MICRO CHEM COMPANY
BOX 711
WINNSBORO LA 71295

********** PRODUCT NAME **********

00017 MICRO BLEND SIX POUND TOXAPHENE EMULSIFIABLE CONCENTRATE

00055 MICRO BLEND MICRO-TOX 63

00056 MICRO BLEND MICRO-TOX 82

REGISTRANT *NAME AND ADDRESS*

* 004876 AG SUPPLY INC
INDUSTRIAL DRIVE
HOPKINSVILLE KY 42240

********** PRODUCT NAME **********

00021 CABLE-OIL OR LIVESTOCK SPRAY

00022 TOXAPHENE EMULSION

00048 BAGWORM AND TENT CATERPILLAR SPRAY

(04931) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 56

REGISTRANT *NAME AND ADDRESS*

* 004931 GOOD-LIFE CHEMICALS INC
BOX 687
EFFINGHAM IL 62401

********** PRODUCT NAME **********

00056 NEW: GOOD-LIFE BAG WORM SPRAY

00069 GOOD-LIFE BAG WORM LIQUID

REGISTRANT *NAME AND ADDRESS*

* 005481 AMVAC CHEMICAL CORP
4100 EAST WASHINGTON BLVD
LOS ANGELES, CA 90023

********** PRODUCT NAME **********

00071 ALCO L-T STOCK SPRAY

00141 DURHAM DURATHION ZEEMATE TOXAPHENE DUST 2-6-15

00143 DURHAM DURATHION TOXAPHENE SULFUR DUST 2-10-50

00162 ALL PURPOSE ORNAMENTAL SPRAY

00173 TOXAPHENE 8E AGRICULTURAL INSECTICIDE EMULSIFIABLE LIQUID

(05549) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 57

REGISTRANT *NAME AND ADDRESS*

* 005549 COASTAL CHEMICAL CORPORATION
PO BOX 856
GREENVILLE NC 27834

********** PRODUCT NAME **********

00058 COASTAL TMP 8-2

00061 20% TOXAPHENE DUST

00062 TOXAPHENE EMULSION

REGISTRANT *NAME AND ADDRESS*

* 005778 GRO CHEMICAL COMPANY
3530 NW 31ST ST
MIAMI FL 33142

********** PRODUCT NAME **********

00026 GRO TOXAPHENE 60% CONCENTRATED EMULSION

00032 SUPER CHINCH LAWN SPRAY WITH BHC-TOXAHENE-DIAZINON

00034 SUPER CHINCH LAWN SPRAY WITH BHC TOXAPHENE-ETHION

00035 SUPER CHINCH LAWN SPRAY WITH BHC-TOXAPHENE-TRITHION

(05905) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 58

REGISTRANT *NAME AND ADDRESS*

* 005905 HELENA CHEMICAL CO
CLARK TOWER, 5100 POPLAR AVE, SUITE 2904
MEMPHIS TN 38137

********** PRODUCT NAME **********

00056 HELENA BRAND 6 LB. TOXAPHENE EMULSIFIABLE INSECTICIDE CONCENTRATE

00080 HELENA BRAND HELS-MATE 8 TOXAPHENE-2 METHYL PARATHION

00120 HELENA BRAND 4 TOX-4 METHYL

00138 TOXAPHENE MALATHION LIVESTOCK SPRAY

00172 HELENA BRAND TOXAPHENE 10% GRANULAR INSECTICIDE

00183 HELENA BRAND GUNTER 6-3 EMULSIFIABLE INSECTICIDE CONC

00185 HELENA BRAND 20-0 TOXAPHENE DUST

00186 HELENA BRAND 15% TOXAPHENE GRANULAR INSECTICIDE

00191 HELENA 6 TOX-2 EPN

00192 HELENA BRAND 6LB TOXAPHENE(AGRICULTURAL EMULS. LIQ.)

00195 HELENA TRIPLE KILL T

00205 TOXAPHENE 6L LIVESTOCK DIP AND SPRAY

00208 HELENA TOXAPHENE MALATHION LIVESTOCK SPRAY & DIP INSECTICIDE CONCENTRATE

00214 HELENA BRAND 6 TOX-3 ETHYL EMULSIFIABLE INSECTICIDE CONCENTRATE

00215 HELENA BRAND 4 TOX 4 ETHYL EMULSIFIABLE INSECTICIDE CONCENTRATE

00223 HELENA BRAND 6 TOX -1.5 METHYL

00236 HELENA BRAND TOXAPHEN SPRAY 8-E

(05905) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 59

**CONTINUE REGISTRANT 005905

00241 HELENA BRAND 6-2-1 TOX-METHYL-ETHYL EMULSIFIABLE INSECTICIDE CONCENTRATE

00249 HELENA BRAND SLAYER III

00263 HELENA ANIMAL HEALTH TOX-A-CHLOR

00290 HELENA 20% TOXAPHENE-40% SULPHUR DUST

00291 HELENA AG CHEM 20% TOXAPHENE DUST

00325 HELENA SULF-O-TOX

00335 PT-35 EMULSIFIABLE LIQUID

00336 HELENA PARATHION TOXAPHENE 24 AN EMULSIFIABLE LIQUID

00344 HELENA HEL-TOX 32 EMULSIFIABLE LIQUID

00346 HELENA HEL-CHEM4-4

00348 HEL-CHEM 62 EMULSIFIABLE LIQUID

00356 HELENA TOXAPHENE 8-E

00357 HELENA AG CHEM TOXAPHENE 6-E AN EMULSIFIABLE LIQUID

00359 HELENA AG CHEM 10% TOXAPHENE -3.4% COPPER 70% SULPHUR DUST

00366 HELENA BRAND 4-2-5 EMULSIFIABLE INSECTICIDE CONCENTRATE

00367 HELENA 4-2-1 EMULSIFIABLE INSECTICIDE CONCENTRATE

(05967) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 60

REGISTRANT *NAME AND ADDRESS*

* 005967 HOYER CHEMICAL COMPANY
BOX 945
SAN JOSE CA 95108

********** PRODUCT NAME **********

00082 METAPHENE

00095 TOXAPHENE SPRAY 8-E

00096 TOXAPHENE 40-W

REGISTRANT *NAME AND ADDRESS*

* 006079 NORTH LOUISIANA CHEMICALS INC
PO BOX 127
GILLIAM LA 71029

********** PRODUCT NAME **********

00007 TOXAPHENE EMULSIFIABLE CONCENTRATE

00011 EIGHT-TWO

00012 SIX-THREE TOXAPHENE-METHYL PARATHION

(06552) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 61

REGISTRANT *NAME AND ADDRESS*

* 006552 KAY DEE FEED COMPANY
1919 GRAND AVENUE
SIOUX CITY IA 51107

********** PRODUCT NAME **********

00005 KAY DEE TOX II (LIVESTOCK SPRAY CONCENTRATE)

REGISTRANT *NAME AND ADDRESS*

* 006720 SOUTHERN MILL CREEK PRODUCTS COMPANY INC
BOX 1096
TAMPA FL 33601

********** PRODUCT NAME **********

00100 X-CEL CUT WORM BAIT

00218 TOXAPHENE 8E

(06735) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 62

REGISTRANT *NAME AND ADDRESS*

* 006735 TIDE PRODUCTS INC
ATTN MW MARSH BOX 1020
EDINBURG TX 78539

********** PRODUCT NAME **********

00132 TIDE MP-TOX

00133 TIDE METHYL PARATHION-TOXAPHENE-2-4E

00170 TIDE TOXAPHENE-SULFUR 20-40 DUST

00180 TIDE TOXAPHENE 20 DUST

00187 TIDE COPPER-TOXAPHENE SULFUR 3.4-20-40

00190 TIDE TOXAPHENE 6-E EMULSIFIABLE LIQUID

00198 MP-TOX-44

00218 TIDE EXPANDER EMULSIFIABLE LIQUID-AGRICULTURAL INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 007001 OCCIDENTAL CHEMICAL CO
P O BOX 198
LATHROP, CA 95330

********** PRODUCT NAME **********

* 00070 BEST LIVESTOCK SPRAY CONTAINS TOXAPHENE AND LINDANE

00110 TOXAPHENE 8 EC

00153 MP TOX 2-8 AQUAMUL

(07001) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 63

**CONTINUE REGISTRANT 007001

00182 MALATHION TOXAPHENE 2-6EC

00195 METHYL PARATHION TOXAPHENE 3-6

00199 BEST TOXAPHENE 6EC

REGISTRANT *NAME AND ADDRESS*

* 007056 CHEM SPRAY AEROSOLS INC
P.O. BOX 38073 16210 FARM RD 149
HOUSTON TX 77088

********** PRODUCT NAME **********

00072 CHEM-TOX TOXAPHENE MALATHION LIVESTOCK SPRAY & DIP

REGISTRANT *NAME AND ADDRESS*

* 007173 CHEMPAR CHEMICAL COMPANY INC
260 MADISON AVE
NEW YORK NY 10016

********** PRODUCT NAME **********

00034 CHEMPAR TOXAPHENE 60% LIQUID

(07273) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 64

REGISTRANT *NAME AND ADDRESS*

* 007273 CROWN CHEMICAL INCORPORATED
4995 NORTH MAIN STREET
ROCKFORD IL 61101

********** PRODUCT NAME **********

00087 CHECK PEST BAGWORM MITE SPRAY

00092 CHECK-PEST T-6 TOXAPHENE

REGISTRANT *NAME AND ADDRESS*

* 007401 VOLUNTARY PURCHASING GROUP INC
PO BOX 460
RONHAM TX 75418

********** PRODUCT NAME **********

00167 HI-YIELD KILLTZALL 44

00189 HI-YIELD RANGE CATTLE SPRAY CONTAINING MALATHION

00207 HI-YIELD 6LB TOXAPHENE EMULSIFIABLE CONC

00227 HI YIELD 4-2 MIX

00230 HY-YIELD 615

00248 FERTI-LOME BAGWORM KILLER

00269 HI-YIELD 8LB. TOXAPHENE

00272 HI-YIELD LIVESTOCK SPRAY NO 1

00276 HI-YIELD LIVESTOCK SPRAY NO.2

(07401) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 65

**CONTINUE REGISTRANT 007401

00281 HI-YIELD TOXAPHENE 6 E.C.

****

REGISTRANT *NAME AND ADDRESS*

* 007794 RED BARN CHEMICALS INC
520 SOUTH CINN
TULSA OK 74102

********** PRODUCT NAME **********

00053 RED BARN TOXAPHENE-METHYL PARATHION 6-3 EMULSIFIABLE CONCENTRATE

00054 RED BARN METHYL PARATHION TOXAPHENE 505

00055 RED BARN METHYL PARATHION TOXAPHENE 4-4 EMULSIFIABLE CONCENTRATE

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REGISTRANT *NAME AND ADDRESS*

* 008006 EASY CHEMICAL & MFG COMPANY INC
R R 1
SEWARD NB 68434

********** PRODUCT NAME **********

00011 , EASY CATTLE OIL FORMULA NO. 1

****

(08152) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 66

****

REGISTRANT *NAME AND ADDRESS*

* 008152 GALCO COMPANY
BOX A
COUNCIL BLUFFS IA 51501

********** PRODUCT NAME **********

00004 GALCO BEEF CATTLE OIL

****

REGISTRANT *NAME AND ADDRESS*

* 008222 LING FUANG INDUSTRIES, INC.
LING FUANG, IND.
P.O. BOX 1207
GARDNERVILLE, NV. 89410

********** PRODUCT NAME **********

00027 TRIPLE ACTION LAWN WEED & FEED WOTH INSECTICIDE

****

REGISTRANT *NAME AND ADDRESS*

* 008343 GABRIEL CHEMICALS LTD
204 21ST AVE
PATERSON, NJ 07509

********** PRODUCT NAME **********

00062 AGRISECT CUTWORM BAIT

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(08461) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 67

****

REGISTRANT *NAME AND ADDRESS*

* 008461 CYPESS SUPPLY COMPANY
8123 DELMAR BLVD
ST LOUIS, MO 63130

********** PRODUCT NAME **********

00018 CYPRESS BRAND TOXAPHENE 6-E

****

REGISTRANT *NAME AND ADDRESS*

* 008521 GABRIEL CHEMICAL LTD
BOX B
ROBBINSVILLE NJ 08691

********** PRODUCT NAME **********

00073 TOXAPHENE 60% EMULSIFIABLE CONCENTRATE

****

REGISTRANT *NAME AND ADDRESS*

* 008590 AGWAY INC
CHEMICAL DIV BOX 1333
SYRACUSE NY 13201

********** PRODUCT NAME **********

00013 TOXAPHENE 6E

00113 TOXAPHENE PARATHION 10-1 D

****

(08620) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 68

****

REGISTRANT *NAME AND ADDRESS*

* 008620 ESCAMBIA CHEMICAL CORP
PO BOX 467
PENSACOLA FL 32502

********** PRODUCT NAME **********

00035 . BIG BOY COTTON DUST 20% TOXAPHENE 40% SULPHUR

00041 BIG BOY TRIPLE THREAT 6-2-1

****

REGISTRANT *NAME AND ADDRESS*

* 008648 STAPLE COTTON SERVICES ASSOCIATION
210 W MARKET ST
GREENWOOD MS 38930

********** PRODUCT NAME **********

00025 STAPLCOTN BRAND 8-2 TOXAPHENE - METHYL PARATHION

00027 TOXAPHENE 6 E. C. INSECTICIDE

00028 6-1.5 TOXAPHENE METHYL PARATHION

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(09867) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 69

REGISTRANT *NAME AND ADDRESS*

* 008867 CLEVXLAND CHEM CO
BOX 510
CLEVELAND MS 38732

********** PRODUCT NAME **********

00009 CCC BRAND 6 LB. TOXAPHENE EMULSIFIABLE INSECTICIDE CONCENTRATE

00028 INSECT-A-KILL 63

00030 INSECT-A-KILL TOXATHION 82 EMULSIFIABLE INSECTICIDE CONCENTRATE

00031 INSECT A KILL 615

REGISTRANT *NAME AND ADDRESS*

* 008934 RING AROUND PRODUCTS INC
PO BOX 589
MONTGOMERY AL 36101

********** PRODUCT NAME **********

00020 RING AROUND BRAND TOXAPHENE 6#

00070 RING AROUND BRAND SUPER SYTEMP

00071 RING AROUND BRAND SYTEMP 233

00078 RING AROUND PARA TOX 6-4

00079 RING AROUND PARA TOX 6-3

00081 RING AROUND BRAND PARA-TOX 6-2

(09020) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 70

REGISTRANT *NAME AND ADDRESS*

* 009020 WARREN OIL COMPANY
727 S 13TH ST
OMAHA NE 68102

********** PRODUCT NAME **********

00004 GOLD BOND BACK RUBBER OIL (CONT TOXAPHENE)

REGISTRANT *NAME AND ADDRESS*

* 009114 ALLIED MILLS
110 NORTH WACKER DRIVE
CHICAGO, IL 60606

********** PRODUCT NAME **********

00012 WAYNE HOG MANGE CURE

00014 WAYNE SUPER T & L LIVESTOCK SPRAY

(09159) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 71

REGISTRANT *NAME AND ADDRESS*

* 009159 KAISER AGRICULTURAL CHEMICALS
PO BOX 246
SAVANNAH GA 31402

********** PRODUCT NAME **********

00002 KAISER AGRICULTURAL CHEMICALS TOXAPHENE 6E

00091 PEANUT DUST TOXAPHENE, COPPER SULPHUR

00103 KAISER AGRICULTURAL CHEMICAL 20% TOXAPHENE DUST

REGISTRANT *NAME AND ADDRESS*

* 009275 BERRIEN PRODUCTS COMPANY INC
BOX 355
NASHVILLE GA 31639

********** PRODUCT NAME **********

00006 BERRIEN 20-0 TOXAPHENE DUST

00007 BERRIEN 20-40 TOXAPHENE DUST

(09356) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 72

REGISTRANT *NAME AND ADDRESS*

* 009356 KOINZAN SEED & FLYING SERVICE INC
ELGIN, NB 68636

********** PRODUCT NAME **********

00001 TOXAPHENE BACKRUBBER OIL

REGISTRANT *NAME AND ADDRESS*

* 009404 CHASE & COMPANY
BOX 1697
SANFORD FL 32771

********** PRODUCT NAME **********

00023 SUNNILAND WORM SPRAY CUT WORMS AND ARMY WORMS

REGISTRANT *NAME AND ADDRESS*

* 009779 RIVERSIDE CHEM COMPANY
P.O. BOX 171199 855 RIDGE LAKE BLVD
MEMPHIS TN 38117

********** PRODUCT NAME **********

00020 RIVERSIDE TOXAPHENE 6

00043 RIVERSIDE 20-40 DUST.

(09779) **** PRODUCT SEARCH LISTING ****

03/08/77 PAGE 73

**CONTINUE REGISTRANT 009779

00054 RIVERSIDE 20% TOXAPHENE 1% METHYL PARATHION DUST
00070 RIVERSIDE 20% TOXAPHENE DUST
00117 RIVERSIDE MET-A-TOX
00132 RIVERSIDE TOXON 82 METHYLPARATHION MIXTURE
00134 RIVERSIDE 63
00159 KILL A PLENTY TOXAPHENE 6-EC
00184 RIVERSIDE BRAND TOXON 81
00185 RIVERSIDE TORBIDAN 28
00189 RIVERSIDE TOXON 44
00217 RIVERSIDE T-90
00241 DH 20% TOXAPHENE 2% PARATHION DUST

REGISTRANT *NAME AND ADDRESS*

* 009782 WOODBURY CHEMICAL COMPANY
PO BOX 4319
PRINCETON FL 33030

********** PRODUCT NAME **********

00008 WOODBURY TOXAPHENE 8-E

(10004) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 74

REGISTRANT *NAME AND ADDRESS*

* 010004 H & H FARM SERVICE
BOX 435
MILLEDGEVILLE IL 61051

********** PRODUCT NAME **********

00001 FORMULA NO. 1 OLD SCRATCH CATTLE OIL

REGISTRANT *NAME AND ADDRESS*

* 010107 CORN BELT CHEMICAL COMPANY
PO BOX 61
MCCOOK, NE 69001

********** PRODUCT NAME **********

00011 TOXAPHENE E-6

REGISTRANT *NAME AND ADDRESS*

* 010159 VOLUNTARY PURCHASING GROUPS INC
P O BOX 460
BONHAM, TX 75418

********** PRODUCT NAME **********

00001 HI-YIELD KILLZALL 63

(10163) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 75

REGISTRANT *NAME AND ADDRESS*

* 010163 GOWAN COMPANY
P.O. BOX 5696
YUMA, AZ 85364

********** PRODUCT NAME **********

00012 PROKIL TORBIDAN 28

00047 PROKIL TOXPHENE 8 EC

REGISTRANT *NAME AND ADDRESS*

* 010411 PULVAIR CORP
4599 BIG CREEK CHURCH RD
MILLINGTON, TN 38053

********** PRODUCT NAME **********

00002 METHYL TOX 7

(10413) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 76

REGISTRANT *NAME AND ADDRESS*

* 010413 SONFORD CHEMICAL COMPANY
8433 KATY FREEWAY
HOUSTON, TX 77024

********** PRODUCT NAME **********

00005 CLORCHEM T-590

00006 CLORCHEM T-590K

00007 TDATOX

00009 TDATOX-K

REGISTRANT *NAME AND ADDRESS*

* 010536 MIKE INC DIV OF SOUTHERN AGRICULTURAL CHEMICAL
P O DRAWER 527
KINGSTREE SC 29556

********** PRODUCT NAME **********

00002 101 BRAND 2-20 CABBAGE DUST

(110925) **** PRODUCT SEARCH LISTING ****

03/08/77 FEDERALLY REGISTERED PRODUCTS CONTAINING TOXAPHENE PAGE 77

REGISTRANT *NAME AND ADDRESS*

* 010825 WILLIGHT CHEMICAL COMPANY
PO BOX 254
DREW MS 38737

********** PRODUCT NAME **********

00002 TOP DOG 6 LB. TOXAPHENE EMULSIFIABLE INSECTICIDE CONCENTRATE

00006 TOP DOG BRAND 6LB TOXAPHENE 3LB METHYL PAR.

REGISTRANT *NAME AND ADDRESS*

* 010873 TIFTON CHEMICAL COMPANY
PO BOX 5
TIFTON GA 31794

********** PRODUCT NAME **********

00007 TIFCHEM 1-2-6 COTTON SPRAY

00008 TIFCHEM 4-4 COTTON SPRAY

00010 TIFCHEM TOXAPHENE EM-6

00011 TIFCHEM 6-3 COTTON SPRAY

00018 TIFCHEM TOXAPHENE 20-SUL 40 COTTON DUST

00021 TIFCHEM 20% TOXAPHENE DUST

00031 TIFCHEM TOXAPHENE EM-8

00032 6-2 TOXAPHENE-EPN

00033 8-2 COTTON SPRAY

(110973) **** PRODUCT SEARCH LISTING ****

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**CONTINUE REGISTRANT 010873

00036 TIFCHEM 1 1/2-1 1/2-6 COTTON SPRAY

00042 TIFCHEM TOXAPHENE 40% WP

00043 TIFCHEM TOXAPHENE 40% DUST

REGISTRANT *NAME AND ADDRESS*

* 011656 WESTERN FARM SERVICE INC SHELL CHEM COMPANY
1025 CONNECTICUT AVE-STE 200
WASH DC 20036

********** PRODUCT NAME **********

00011 TOXAPHENE 8-E EMULSIFIABLE LIQUID

00039 WESTERN FARM SERVICE PARATOX 36 INSECTICIDE

00040 WESTERN FARM SERVICE PARATOX 28 INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 011670 CALM STOCK CHEMICAL COMPANY
BOX 395
ROCHELLE IL 61068

********** PRODUCT NAME **********

00001 CALM STOCK BIG T CATTLE OIL

(111682) **** PRODUCT SEARCH LISTING ****

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REGISTRANT *NAME AND ADDRESS*

* 011682 SIMPLOT JR COMPANY MINERALS & CHEM DIV
BOX 910
MOUNTAIN HOME ID 83647

********** PRODUCT NAME **********

00016 SIM-CHEM TOXAPHENE 8-E

REGISTRANT *NAME AND ADDRESS*

* 012062 PRO-BOLL CHEMICAL COMPANY
PO BOX 54
CROWVILLE LA 71230

********** PRODUCT NAME **********

00001 PRO-BOLL TOX-6 EMULSIFIABLE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 012130 FARM CHEMICALS INC
PO BOX 455
ABERDEEN NC 28315

********** PRODUCT NAME **********

00003 FARM CHEM TOXAPHENE EC

00004 FARMCHEM 82 TOX-METHYL

(121301) **** PRODUCT SEARCH LISTING ****

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**CONTINUE REGISTRANT 012130

00007 FARMCHEM 6-3 TOX-METHYL

00008 FARMCHEM 4-4 TOX-METHYL

00015 FARM CHEM TOXAPHENE 8E

00035 5-2-1 TOX-ETHYL METHYL

00040 6-2-1 TOX-ETHYL METHYL

REGISTRANT *NAME AND ADDRESS*

* 012434 SPRINGBOK CHEMICAL COMPANY INC
P O BOX 398
PENDLETON, OR 97801

********** PRODUCT NAME **********

00001 SPRING BOK BRAND TOXAPHENE 8 EMULSIVE

REGISTRANT *NAME AND ADDRESS*

* 013166 APOLLO ENTERPRISES INC
ROUTE 1
ALTHEIMER AR 72004

********** PRODUCT NAME **********

00002 PISTOL 6-3 EMULSIFIABLE INSECTICIDE CONCENTRATE

00004 6 LB. TOXAPHENE EMULSIFIABLE INSECTICIDE CONCENTRATE

(14651) **** PRODUCT SEARCH LISTING ****

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REGISTRANT *NAME AND ADDRESS*

* 014651 AGRICULTURAL ENTERPRISES ICC
933 W 6TH ST P O BOX D
FREMONT, NE 68025

********** PRODUCT NAME **********

00003 HOG & CATTLE DUSTING POWDER CONTAINS TOXAPHENE

00005 AGRI-TOX

REGISTRANT *NAME AND ADDRESS*

* 014775 ASGROW FLORIDA COMPANY
PO DRAWER D
PLANT CITY FL 33566

********** PRODUCT NAME **********

00004 TOXAPHENE 6 EMULSIVE

00005 ASGROW TOXAPHENE 8 EMULSIVE

00014 PARATHION-TOX 36

00025 TOX-METHYL 4-4 EMULSIVE TOXAPHENE 4-METHYL PARATHION

(15575) **** PRODUCT SEARCH LISTING ****

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REGISTRANT *NAME AND ADDRESS*

* 015575 SOUTHLAND AGRICULTURAL CHEMICAL COMPANY
PO BOX 6207
MONTGOMERY AL 36106

********** PRODUCT NAME **********

00006 SOUTHLAND SUPER KILL 6-3

00013 SOUTHLAND TOXAPHENE EM-6

00015 SOUTHLAND 6-2-1 COTTON SPRAY

REGISTRANT *NAME AND ADDRESS*

* 027997 ARTEX ALPHA INC
PO BOX 590
TIFTON, GA 31794

********** PRODUCT NAME **********

00001 TOXAPHENE EM-6 EMULSIFIABLE LIQUID

00006 6-3 COTTON SPRAY

(334391) **** PRODUCT SEARCH LISTING ****

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REGISTRANT *NAME AND ADDRESS*

* 033439 DELTA PURCHASING FEDERATION
1606 COMMERCE
GREENWOOD, MS 38930

********** PRODUCT NAME **********

00002 DELTA 6-3

REGISTRANT *NAME AND ADDRESS*

* 033722 TEX AG COMPANY INC
P O BOX 633
MISSION, TX 78572

********** PRODUCT NAME **********

00001 MISSION BRAND FORTY FOUR

00008 TOXAPHENE 6LB

(33555) **** PRODUCT SEARCH LISTING ****

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REGISTRANT *NAME AND ADDRESS*

* 033955 ACME DIVISION
PBI GORDON CORP
300 SOUTH THIRD ST
KANSAS CITY, KS 66118

********** PRODUCT NAME **********

00516 ACME BAGWORM SPRAY

REGISTRANT *NAME AND ADDRESS*

* 034704 PLATTE CHEMICAL COMPANY
150 SOUTH MAIN
GERMONT, NB 06802

********** PRODUCT NAME **********

00015 CLEAN CROP TOXAPHENE 6EC

00027 CLEAN CROP METHYL PARATHION-TOXAPHENE 3-6 EC

(39511) **** PRODUCT SEARCH LISTING ****

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REGISTRANT	*NAME AND ADDRESS*
* 039511	VERTAC, INC. STE. 3200 CLARK TOWER 5100 POPLAR AVE. MEMPHIS, TN 38137

********** PRODUCT NAME **********

00003 HELENA BRAND HELEPHENE AN INSECTICIDAL TOXICANT

00006 WILLOW CREEK TOXAPHENE 90 AN INSECTICIDAL TOXICANT

[FR Doc.77-14496 Filed 5-24-77;8:45 am]

federal register

WEDNESDAY, MAY 25, 1977

PART V



FEDERAL COMMUNICATIONS COMMISSION

■

INTERNATIONAL RADIO REGULATIONS

Preparation for General World Administrative Radio Conference of International Telecommunication Union

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20271; FCC 77-285]

INTERNATIONAL RADIO REGULATIONS

Preparation for General World Administrative Radio Conference of International Telecommunication Union; Fourth Notice of Inquiry

Adopted: April 27, 1977.

Released: May 17, 1977.

In the matter of an inquiry relative to preparation for a General World Administrative Radio Conference of the International Telecommunication Union to consider revision of the international Radio Regulations, Docket No. 20271.

1. On November 24, 1976, the Commission adopted a Third Notice of Inquiry in the above entitled matter (FCC 76-1099, No. 43086). It was released on December 6, 1976, and appeared in the FEDERAL REGISTER on December 13, 1976 (41 FR 54309). The period for comments and reply comments has passed.

2. The purpose of the Third Notice of Inquiry was to solicit comments on a proposed International Frequency Allocations Table (Article 5) see 42 FR 11258, February 28, 1977. The comments and reply comments received on the Third Notice of Inquiry are being considered by the Commission and will be dealt with later. In the Fourth Notice of Inquiry, we shall discuss the topics of the small antenna earth stations, several technical regulations, and the emission designator, thus reducing the number of subjects to be considered in the Fifth Notice of Inquiry. This will expedite our preparation for the General World Administrative Radio Conference (GWARC).

SMALL ANTENNA EARTH STATIONS

3. In the first Notice of Inquiry issued in this docket we solicited "comments or recommendations concerning changes or revisions to the international Radio Regulations which the public believes should be considered by the Commission in developing pertinent U.S. positions". One of the topics which arose in response to that Notice was the use of small diameter earth station antennas.[1] Space systems utilizing these stations can provide communications services which cannot be economically or conveniently provided by terrestrial systems, and already a number of communications systems using the small antennas have been authorized. For example, the Commission has authorized the use of several 4.5 meter antennas for domestic satellite communications to offshore oil drilling platforms, the use of 69 earth stations with 4.5 meter antennas to provide communications to "bush" communities of Alaska, as well as several smaller antennas on a developmental basis. Recently, we issued a Declaratory Ruling[2] dealing with the use of small antennas with domestic satellites, and have authorized several small antennas pursuant to that decision for the reception of program material distributed by domestic satellites.

4. In addition to the use of small antennas in the Fixed-Satellite Service, other space radiocommunications services are also involved which are substantially different and may require totally different criteria than discussed herein. For instance, small antennas are used in the shipboard terminals served by the MARISAT system providing communications services in the Maritime-Mobile Satellite Service, and are intended to be used in the AEROSAT program to conduct experimental communications in the Aeronautical-Mobile Satellite Service. The United States government is also expected to make frequent use of small diameter antennas. A number of small antennas have been used, and are being used, in the Applications Technology Satellite (ATS-6) and the Communications Technology Satellite (CTS) experimental programs. The U.S. Government Communications Satellite System (USG CSS)[3] utilizes small antenna earth stations and the use of small antennas is included in the proposed Disaster Warning Satellite[4] program.

5. It is apparent that there will be a steady growth in potential uses of small antenna earth stations in all of the space services; however, uncontrolled use of these terminals could have a significant adverse impact on the utilization of the limited spectrum and orbit resource of the geostationary satellite orbit. The long term resource requirements imposed by expected use of small earth terminals and the effects of that use should be treated in the U.S. preparation for the 1979 GWARC. Accordingly, in the Second Notice of Inquiry issued in this docket we solicited comments and supporting technical material with respect to the use of small earth terminals on the following points:

(a) Identification of the communication services and operational characteristics which entail use of small diameter earth station antennas;

(b) Estimates of the volume (in terms of voice channels and/or bit rate, and required rf bandwidth) of the communications services to be provided by means of small earth terminals, and the estimated number of small earth terminals to be used in the provision of such services, including the geographic distribution of the small terminals;

(c) Identification of the typical baseline technical characteristics of the satellite network serving small earth terminals; and

(d) Identification of the preferred frequency bands to be utilized to serve small earth terminals.

Various parties submitted comments, and they have all been considered. Because of space limitations they are not summarized herein; however, they will be noted where appropriate in the following discussion.

6. The diameter of an earth station antenna could affect the interference levels between satellite networks, as well as between terrestrial and earth stations in bands shared by both space and terrestrial radio services. The Carrier to thermal Noise (C/N) ratio obtained at an earth station could also be dependent on the earth station antenna diameter, although the imposition of a Power Flux Density (PFD) limit in certain bands tends to set a limit on the minimum usable size of the earth station antenna. When the diameter of an earth station antenna is reduced, the main beam gain is reduced; however, the sidelobe level of most antennas generally remains unaltered, or increases, with this reduction. It follows that the difference between the main beam gain and the sidelobe level, called the discrimination, generally decreases with the diameter of the antenna. When every other parameter of a receive earth station antenna remains unaltered,[5] a reduction of the antenna diameter generally increases the interference introduced into it from adjacent satellites and decreases its Carrier to Interference (C/I) ratio. Similarly, as a transmitting earth station antenna diameter is reduced, the antenna gain is reduced; this generally results in a requirement for more transmit power to satisfy the link budget. Increased transmitter power results in more interference power into adjacent satellite and adjacent terrestrial systems.

7. The comments and reply comments concerning this question raised in the Second Notice of Inquiry have generally focused on the use of small antennas in the Fixed-Satellite Service, with emphasis on the 4 and 6 GHz bands used by domestic satellite systems. A number of technical approaches were suggested, such as restrictions on off-axis EIRP density or the imposition of a minimum Gain to noise Temperature (G/T) ratio. Some parties also suggested that exclusive allocations be made for Small Antenna Earth Stations (SAES). That such questions need be addressed is apparent from the increased use of small antennas which is generally expected in the future. For example, COMSAT General estimates requirements of 1600 MHz, 800 MHz and 950 MHz for use by small antenna earth stations in providing data, video and facsimile, and voice communications (assuming 60 kHz channels), respectively, by the year 2000 in the Fixed-Satellite Service alone. While our Declaratory Ruling and Order referenced above addressed the use of small antennas with our present domestic satellites in a manner that insures reasonably small orbital separations between satellites, consideration is appropriate to the question of how small antennas could be employed on a worldwide basis in a manner that insures efficient orbit and spectrum use. While this question is of importance not only in the Fixed-Satellite Service, but also in the other space services where operational requirements could lead to the use of antennas that are small enough to be carried by hand, specific criteria for them are not addressed in this Inquiry. These issues, except as noted above, and suggested approaches to resolution will be discussed in the following paragraphs.

[1] For convenience, an earth station antenna can be considered to be "small" if its gain is less than or equal to the gain of a parabolic antenna whose diameter is less than ninety times the operating wavelength (4.5 m at 6 GHz).

[2] *Declaratory Ruling and Order* (FCC 76-1169) adopted December 15, 1976 in RM-2614 and RM-2725.

[3] Characteristics of the United States Government Communications Satellite System, Phase II, US CCIR SG 8C/234, 1976.

[4] Disaster Warning Satellite Study update, NASA, TMX-73407, Lewis Research Center, Cleveland, Ohio, May 1976.

[5] In practice, the communications services provided by means of small antenna earth stations tend to differ substantially in quantity and quality from those provided by meansmeans of larger antennas.

8. The frequency bands 2500–2535 and 2655–2690 MHz, according to AT&T, "* * * have already been allocated for support services which are usually considered to be of the small earth terminal variety." AT&T believes that the frequency bands 6625–7125 MHz and 11.7–12.2 GHz are both suitable for accommodating SAES; the latter has no sharing problems with the fixed service in the U.S. It also believes that the frequency band 12.5–12.75 GHz is suitable for SAES use because the smaller number of radio relay systems in this band makes the sharing problem less critical than in the 6 and 4 GHz bands. Collins Radio, in its reply comments, supported the contentions of AT&T. Transcommunications suggested that a clear channel of 40 MHz in the 6/4 GHz bands should be established for SAES operations. EXXON suggested that the SAES could be shifted at a later date from the 6/4 GHz bands to other frequency bands or that they could be required to use more sophisticated equipment. In addition, AT&T stated that the frequency band 14.0–14.5 GHz is currently free of sharing between the space and terrestrial services. American Satellite Corporation also expressed the need for exclusive allocations to SAES below 10 GHz. However, other respondents did not agree to this approach. Both Communications Satellite Corporation (COMSAT) and COMSAT General Corporation (COMSAT General) opposed allocation of exclusive frequency bands to SAES.

9. The frequency bands 2500–2535 and 2655–2690 MHz have a comparatively small 35 MHz bandwidth and as such could be less attractive. In the United States, this band is shared co-equally with the Instructional Television Fixed Service (ITFS). The sharing situation between an ITFS omnidirectional transmitter and an earth station is very critical. To this time, no common carrier has decided to put a transponder in this band. Considering this, these frequency bands may not offer an attractive choice for SAES use in the U.S.

10. Contrary to the assertions of AT&T, the frequency band 6625–7125 MHz is heavily used, although it may be less so than the 3700–4200 MHz band. In the U.S., the 6625–7125 MHz band is allocated to private microwave and television pickup whereas the 3700–4200 MHz band is allocated to common carrier point-to-point microwave. In order to satisfy the requirements stated by the advisory Fixed-Satellite Service Working Group, the frequency band 6625–6925[6] MHz has been proposed for the Fixed-Satellite (Earth-to-space) service. The frequency band 6625–7125 MHz is presently allocated to the Fixed-Satellite Service (Space-to-earth) in Brazil, United States and Canada on a secondary basis by footnote 392AA[6a]. In order to provide protection to SAES, the band 6925–7125 MHz would have to be allocated internationally on a primary basis.

11. In Region 2, the frequency band 11.7–12.2 GHz is allocated on a primary basis to both the Fixed-Satellite and Broadcasting-Satellite Services, as well as to terrestrial services, on a co-equal primary basis. Within the United States, however, this band is allocated on a primary basis only to the two space services. For individual reception, relatively small diameter antenna earth stations are proposed to be used with high EIRP satellites. COMSAT General, in its comments to the Second Notice of Inquiry, stated that "* * * small earth terminals employing SCPC transmissions in a fixed service satellite system would be subject to interference from higher power broadcasting satellite service. Nevertheless, for certain types of small user applications, use of the 12/14 GHz bands at this time is the only feasible alternative * * * However, the relatively large EIRP difference, anticipated between broadcasting and fixed satellites operating in this band may restrict the utility of this band for such SAES applications. Further study is needed to assess the impact of high EIRP television transmissions in the Broadcasting-Satellite Service on the type of SCPC operations contemplated for SAES in this band.

12. If frequency bands are to be allocated exclusively to SAES, as proposed by AT&T, then the frequency band 11.7–12.2 GHz could be one choice, with 6925–7125 MHz (after primary allocation), 2500–2535 MHz and 2565–2690 MHz the other, but perhaps less attractive in terms of the available bandwidth choices. The 2.5 GHz band is reasonably developed and the space attenuation is independent of weather conditions. The 12 GHz band is currently being developed and requires a fade margin for rain/snow attenuation. There is currently no satellite service in the 6925–7125 MHz band; however, it appears there would be little difficulty in borrowing the available technology from the adjacent bands.

TECHNICAL APPROACHES

13. A number of technical approaches were suggested by the parties to specify limitations on technical design or operating parameters of SAES in order to set bounds on the impact of such facilities on spectrum and orbit utilization. While the proposals discussed below are prompted by SAES, they would be presumably applied to all types of earth station facilities.

INTERFERENCE LEVEL

14. Both COMSAT and COMSAT General stated that the single entry 400 pWpO interference level of CCIR Recommendation 466 (Rev. 74) should be the overriding sharing criterion. According to COMSAT General the 400 pWpO level of baseband interference should be met by an immediate adjacent satellite at an orbital separation of 4°. COMSAT has recently proposed that the amount of allowable interference specified by CCIR Recommendation 466 should be subject to a "scaling law" and should be a function of the ratio of the antenna diameter to the operating wavelength of the antenna. Basically, COMSAT proposes that the permissible intersatellite network interference for larger orbital spacings should be less than that for closer orbital spacings.

15. COMSAT General assumed an acceptable level of interference for digital transmission to be a degradation in the carrier to thermal noise (C/N) ratio of 0.2 dB; COMSAT pointed out that interference criteria for digital systems should be developed. COMSAT believes that a permissible change in the operating Bit Error Rate (BER) should be established and adopted by the 1979 GWARC.

16. The interference into an analog signal has been calculated using the convolution method.[7] This method has been extended[8] to calculate the interference caused by Single Channel Per Carrier (SCPC) channels used by a number of small antenna earth stations. These SCPC channels generally have a channel spacing of between 60 and 30 kHz, depending on the type of modulation employed and service application. While studies conducted to date have indicated an apparent feasibility of implementing such types of SCPC operations with 4 degree separations between current domestic satellites in the 4 and 6 GHz bands under certain limited conditions, such use has not yet been demonstrated in the general case.

17. AT&T has also expressed concern that a proliferation of SAES in the 4 and 6 GHz bands might impair the development and expansion of microwave relay systems in these bands, particularly since the present sharing criteria may not accurately reflect the aggregate interference over the entire length of a transcontinental system from a larger number of earth stations than the two or four presently assumed. Other parties take issue with AT&T's position, pointing to

[6] It is noted that 6875–6925 MHz is part of the proposed band which continues to be shared with terrestrial fixed services.

[6a] The Fixed-Satellite Service is a primary service in this band within the United States. However, changes in this allocation are presently under consideration; see Third Notice of Inquiry in this Docket.

[7] B. A. Pontano, J. C. Puensalida and N. K. M. Chitre, "Interference into angle modulated systems carrying multi-channel telephone signals," IEEE Transactions on Communications, Vol. COM-24, No. 6, pp. 715–726, June 1973.

[8] A. Das and George Sharp, "Convolution method of interference Calculation," FCC/OCE RS 75-04, April 1975.

the greater use that small antenna earth stations can make of natural or man-made shielding and the lower probability that such earth stations would be simultaneously transmitting on the same frequency. ASC stated that "* * * interference into a particular frequency slot in a terrestrial radio-relay system is more nearly proportional to the number of satellites being accessed * * *" However, none of these parties advanced specific proposals in this regard for our consideration.

UPLINK POWER LIMITATIONS

18. In order to limit the interference level produced by any SAES to an adjacent satellite, several respondents have proposed a numerical limit on the earth station radiation density. AT&T found "* * * considerable merit * * *" in the Commission suggested e.i.r.p. density criterion:

$36-25 \log \theta$ dBW/4 kHz, $2.5<\theta<48°$.

AT&T suggested that this criterion should be applicable to any three-dimensional angle off the main beam axis. ASC, in its reply comments, agreed to the basic principle of a limit on the off-axis radiation density. EXXON and the Central Committee on the Telecommunications of the American Petroleum Institute endorsed the earth station e.i.r.p. density limit suggested by the Commission. Western Union also supported the concept of "* * * control of uplink power density * * *".

19. COMSAT derived and proposed a maximum PFD limit at the geostationary orbit from an earth station not to exceed

$-115.5-25 \log \theta$ dBW/m² in any 40 kHz band.

It expressed the preference for radiation density expressed per 40 kHz because that is "* * * the narrowest RF carrier unit normally encountered in practice". The currently used bandwidth of 4 kHz was adopted because of the relationship to the "nominal" 4 kHz telephone channel and the convenience in measuring this value with available instrumentation; it has little relation to the bandwidth of the signal. A signal with a large spike may be able to pass the 40 kHz radiation density criterion, but may fail the 4 kHz density criterion. COMSAT recognized that, depending on the type of modulation, "* * * different carriers having the same maximum power flux density may produce substantially different interference levels * * *" COMSAT's proposal provides protection to satellites but not necessarily to terrestrial radio relay systems However, an off-axis three-dimensional e.i.r.p. density criteria could protect both satellites and radio relay systems.

20. COMSAT General calculated the level of the off-axis (4°) e.i.r.p. density that could be transmitted from an earth station without causing more than 400 pWpO of interference to an adjacent FM analog satellite system at an orbital separation of 4 degrees. Results of the calculations indicate a range of 10.4 to 27 dBW/4 kHz of permissible off-axis radiation depending on the transmission systems involved. COMSAT General concluded that it would not be possible to establish a single off-axis e.i.r.p. density limit, although it could be possible to specify a range of off-axis e.i.r.p. density for different transmission parameters. However, COMSAT General believes that the specifications of large sets of e.i.r.p. densities may not be practicable.

G/T RATIO

21. The ratio of the Gain of the antenna to the noise Temperature of the receiving system (G/T) is a figure of merit for an earth station. ASC stated that "The capacity, in number of circuits, of a transponder increases as the earth station G/T increases. This is because, in order to provide adequate transmission quality, satellite downlink power can be traded off against the earth station G/T. Since the downlink power is limited, more must be used to compensate for the lower G/T and lower gain of a small diameter antenna. This higher allocation of power thereby lowers the circuit capacity of a transponder. Thus transponder capacity varies directly with earth station G/T, up to a maximum capacity determined by the transponder bandwidth and earth station modulation techniques." COMSAT, EXXON, Collins Radio Group, Joint Council on Educational Telecommunication (JCET) and the Central Committee on the Telecommunications of the American Petroleum Institute opposed the establishment of any G/T criteria. AT&T suggested that a minimum value of G/T of 20 dB at 4 GHz is insufficient and proposed a minimum value of 30 dB.

ORTHOGONAL POLARIZATION

22. COMSAT believes that the use of polarization discrimination as a means to increase single-satellite capacity is economically and operationally vastly superior to its use in reducing interference between systems. COMSAT believes that the adoption of standards for polarization discrimination would not be desirable. Western Union submitted that, "* * * certain additional advantages accrue to future satellite systems which reuse the frequency spectrum with orthogonal polarization, it is also recognized that the mode of operation increases the cost of small diameter antenna earth stations * * *" Home Box Office (HBO) challenged the "cost penalty" statement of Western Union. HBO stated that Western Union had not offered any data to support the claim that a cost penalty is incurred by the use of small antenna earth stations in conjunction with cross-polarized satellite systems. JCET endorsed the adoption of cross-polarization standards.

SIDELOBE RADIATION

23. A SAES has generally smaller discrimination. ASC, JCET and AT&T suggested sidelobe control of the SAES; and AT&T suggested the following three-dimensional sidelobe envelope in the 4 GHz band for SAES:

$32-25 \log (\theta)$ dBi $\quad 1° \leq \theta \leq 48°$
-10 dBi $\quad 48° \leq \theta \leq 180°$

However, EXXON opposed any regulation of sidelobes, and the Central Committee on Telecommunications of the American Petroleum Institute suggested that the SAESs should have less stringent sidelobe control. The Corporation for Public Broadcasting (CPB) is developing SAESs with smaller sidelobe levels. The paraboloidal reflector, off-set fed with a corrugated conical horn, has been demonstrated to be capable of providing radiation patterns with extraordinarily low radiation levels in the far-out and back-lobe regions. Levels more than 75 dB below the main beam maximum have been attained outside the mainbeam region—and beyond the first few sidelobes—for an antenna having a half-power beamwidth of approximately 1.7°.[9] It is likely that development of low-cost, low sidelobe antennas would reduce the barriers to SAES usage.

DISCUSSION

24. As noted in the Second Notice of Inquiry, the purpose of requesting comments on the use of small antenna earth stations was to seek suggestions from interested parties on how to insure efficient utilization of the orbit on an international basis. Our focus on small antenna reflects the potentially larger impact of such facilities on required satellite separations if no additional steps are taken to control their impact. As noted above, we have recently issued a Declaratory Ruling setting forth our approach to licensing small antenna earth stations with present domestic satellites in the 4 and 6 GHz bands in a manner that preserves orbital separations of 4 degrees required for standard size antennas with diameters of 10 meters or more. However, the approach taken in that decision was more of an administrative one in defining the types of technical showings and analyses required in applications submitted for authority to construct and operate small antenna earth stations, rather than the imposition of specific technical standards on the design and operation of such facilities. While such a flexible approach is feasible on a domestic basis, it is not evident that an analogous type of approach is feasible on an international basis. This is because the current coordination and notification procedures set forth in Article 9A of the international Radio Regulations are directed to avoiding unacceptable levels of interference to existing satellite networks, not to insuring reasonably small satellite separations.

25. With respect to the proposals of several parties that exclusive allocations or sub-allocations be reserved for common carrier SAES operations, we are not convinced that this would be a satisfactory approach. In particular, there is a wide range of communications requirements that can be satisfied with SAES in a manner that would not require large orbital separations between satellites. Specific requirements have not been identified for SAES which cannot be satisfied with careful coordination between satellites to preserve reasonably small satellite separations. Absent such requirements, it appears preferable to avoid distinctions in the international Radio Regulations with respect to the use of certain frequency bands that are based only on antenna size.

[9] H. Paris Coleman, R. M. Brown and B. D. Wright, "Paraboloidal reflector offset fed with a corrugated conical horn", pp. 817–819, IEEE Trans. on Antennas and Propagation, November 1975.

26. Accordingly, parties advocating exclusive allocations or sub-allocations for SAES operations should focus their comments on the following points:

(a) What types of communications requirements require transmissions from SAES that are incompatible, even with careful frequency coordination, with reasonably small (e.g., less than 4 degrees) satellite spacings achievable with larger antennas;

(b) Given such requirements, would the present allocations in the vicinity of 2.5 GHz have sufficient bandwidth to support economically feasible systems, or would a wider bandwidth, e.g., 6625–6925 MHz, be required; in the latter event, where would the corresponding downlink allocation be located; and

(c) In the event such allocations were limited to the types of uses of SAES identified in (a) above, what orbital separations would be possible in such bands.

27. The technical approaches suggested by several of the parties appear to have a greater degree of effectiveness. However, it is still necessary to further examine these suggestions to insure that any such restrictions do not inadvertently preclude types of services that may be provided by SAES after necessary coordination is effected that retains reasonably small satellite separations. Of these suggestions, EIRP density limits and/or antenna sidelobe standards appear to have the greatest support. However, as pointed out by COMSAT General, a wide range of power densities can be expected in actual practice. Any proposed limit would therefore only preclude the worst case type of situations with additional frequency coordination required to accommodate other cases and still maintain small spacings. While a power limit as a function of off-axis angle would be sufficient in the case of transmitting earth stations, some limit on receiving antenna characteristics would appear necessary under such an approach to maintain orbital separations required to protect receiving stations to reasonable values. However, restrictions on minimum G/T ratios were not widely supported and do not in themselves appear to provide sufficient assurance that reasonably small orbital separations will result.

28. Accordingly, it appears desirable to obtain additional comments with respect to proposals to place restrictions on technical characteristics of earth station facilities. Specifically, the following points should be addressed:

(a) Would a power limitation of the magnitude discussed in paragraphs 18 and 19 above preclude types of services that could otherwise be accommodated with reasonably small satellite separations through careful frequency coordination;

(b) What should be the specific numerical value and the reference bandwidth for the specification of e.i.r.p. densities;

(c) Is it technically and economically feasible to achieve, in practice, the following sidelobe level:

Gain, dB $=30-25 \log_{10} \theta$, $2.5<\theta<48°$
-12, $48°<\theta<180°$

where θ = angle off the main beam axis.

(d) What interference criteria should be used for digital systems? What should be permissible bit error rate?

(e) Is the use of cross-polarization more effective in increasing the capacity of an individual satellite by frequency re-use or in reducing separation between satellites? Is the use of orthogonal polarization economically and technically feasible for reducing interference related to SAES systems? What values of cross-polarization, if any, should be specified?

(f) For what bands should such standards be specified, and how would such values change with the frequency band to which they are applicable?

29. While we recognize the importance of interference criteria establishing required satellite spacings, it has not been considered appropriate to specify such values in the international Radio Regulations themselves. Rather, such criteria have more appropriately been set forth in relevant CCIR Reports and Recommendations for the guidance of administrations in effecting coordination under Articles 9 and 9A. However, to the extent that more current criteria are available for the purpose of determining when coordination is required through Appendices 28 and 29, consideration is appropriate to including such revised criteria there. Comments in this regard are requested.

30. Finally, it is noted that the majority of comments have focused only on the 4 and 6 GHz bands used by present fixed satellites. It must be emphasized, however, that the 1979 GWARC will be concerned with all frequency bands and all space radiocommunications services. However, the considerations discussed above are primarily applicable to the Fixed- and the Broadcasting-Satellite Services, whereas the criteria for other services could be substantially different.

TECHNICAL REGULATIONS

31. The Commission is reviewing the technical provisions of the Radio Regulations.

32. The Commission is recommending changes in Article 7 and in Appendices 3 and 4 as discussed in Appendix A. In the regulations 470VC through VE, the station keeping of space stations is proposed to be ±0.1 degree which will provide better orbit-spectrum utilization. In the regulation 470 VF, the spacecraft antenna pointing error is proposed to be 0.1 degree providing reduced inter-satellite system interference and providing reduced unwanted signals in the adjacent territory of another Administration. Similar provisions were adopted in the 1977 Broadcasting-Satellite World Administrative Radio Conference.

33. In the Third Notice of Inquiry we submitted three options for the expression of a frequency tolerance and asked for the public's opinion on which would be most appropriate in the international Radio Regulations. The first option expressed the tolerance as a percentage of carrier frequency (as in the present Radio Regulations); the second option applied an absolute tolerance to each frequency band; and the third applied a percentage tolerance related to the authorized or necessary bandwidth. The American Telephone and Telegraph Company and the COMSAT General Corporation commented on the options.

34. AT&T stated that "The first two options are equally preferable and the third is less desirable." It believes the first method is attractive because "* * * in equipment design the maximum possible frequency tolerance tends to be proportional to the absolute frequency" and also because "* * * the difficulty of maintaining a transmitter within a specified frequency range generally increases in proportion to carrier frequency"; however, AT&T states one drawback is that "* * * it may result in transmitters in higher bands being allowed to drift more than those in lower bands * * *". It believes that the second method "* * * relates directly to the ways in which equipment is operated and maintained * * * maintenance instructions ordinarily specify the requirements in absolute frequency * * *". AT&T opposes the adoption of the third method because "* * * narrowband users in a given bandwidth might be required to maintain a tighter tolerance than a wideband user in the same band" and that would constitute a double standard. AT&T noted that the fundamental problem in specifying tolerances is that prescribed tolerances are applied over too wide a range and recommended that tolerances be specified for each frequency band; in that case it would make little difference if the permissible tolerance were stated as an absolute number or as a percentage.

35. COMSAT General supported the second option because "* * * option (a) will result in either too tight specifications for low frequency bands, or loss of spectrum at high frequency bands, while option (c) on the other hand will result in various frequency tolerance specifications within the same frequency band, based upon the authorized or necessary bandwidth".

36. Paragraph 154 of the Third Notice of Inquiry presented three options for designating frequency tolerances for radio relay systems. The comments received indicated a "preference" for the second option, which would apply an

absolute tolerance to each frequency band in the Radio Regulations, and an opposition to the third option, which would apply a percentage tolerance relater to the authorized or necessary bandwidth. Since one of the two respondents stated the first two options are equally preferable, we have made proposals for modification to Radio Regulation Appendix 3 which uses both methods, dependent upon the specific characteristics of the radio services involved.

37. The revisions to Appendices 3 and 4 of the Radio Regulations are proposed herein for the purpose of obtaining comments. In many cases the frequency tolerances shown for the proposed revision of Appendix 3 are more stringent than are required by the FCC rules, or within the Government. The current tolerances required by the Radio Regulations are much too loose when compared with the current state of the art. Tighter tolerances would lead to improved spectrum utilization. The big question is how much tigther should these tolerances be. Comments, therefore, are sought on the technical rationale to depart from the tolerances shown. To accommodate expected improvements in spectrum utilization by certain services, it was deemed necessary to propose tighter tolerances than are required by the current Radio Regulations.

Emission Designators

38. The designation of emissions is set forth in Article 2 of the Radio Regulations. This designation consists of the necessary bandwidth, the type of modulation of the main carrier, the type of transmission, and supplementary characteristics. Reference is made within the international Radio Regulations to specific emission designations in Articles 5, 7, 28, 28A, 29A, 32, 35, 36 and 39, as well as in numerous Appendices, and Resolutions. The designation of the emission is a very important and useful tool in the management of the radio spectrum, especially with regard to the evaluation of potential for and susceptibility to interference.

39. Recommendation 8 of the Administrative Radio Conference, Geneva, 1959, requested that the CCIR, in conjunction with the IFRB, study various methods of designating and classifying emissions. The method was to be one which would suffice over a long period, and which would enable all of the *essential* information of the emissions to be provided (emphasis added). The CCIR engaged this task and produced Recommendation 432 in earlier Plenary Assemblies. After a period of testing, the U.S. found Recommendation 432 to be unacceptable and made further recommendations which led to the adoption of Opinion 44 at the XIIIth Plenary of the CCIR. Opinion 44 calls for Administrations to conduct trials of the method of classifying and designating their emissions as described in the Annex to Opinion 44 with the ultimate object of enabling the next appropriate Administrative Radio Conference to consider the method for inclusion in the Radio Regulations.

40. Extensive trials of the new emission system were not conducted; however, various government agencies examined the new proposal to determine its impact on their operations. While comments generally indicated that the system described in Opinion 44 could be implemented, there was strong concern evinced over whether there was to be any benefit derived from the new system and what impact the new system would have on day-to-day operations. Opinion 44 was studied further by the U.S. in its CCIR activities and a new proposal to modify Opinion 44 was submitted to the May–June 1976 CCIR Interim Meetings. The U.S. proposal, along with those of several other administrations, resulted in a revised Opinion 44 being adopted by the interim meetings. The U.S. is now attempting to refine this system even further, looking towards its final adoption at the CCIR Final Meetings, thereby providing a sound basis for U.S. proposals in this area to the 1979 World Administrative Radio Conference. This refinement is a continuing process, as is the entire conference preparatory activity. Attached as Appendix B to this Notice of Inquiry is the latest version of the emission designator system being considered by the United States for possible eventual submission to the 1979 WARC. Comments are solicited regarding the merits, advantages and disadvantages of this new system as opposed to the current method, bearing in mind that the United States has been a leader in the revision of the emission designator system and that some modification to the system will be inevitable at the 1979 WARC.

41. All participants should keep in mind the importance of the 1979 WARC results. Based upon past experience, decisions reached at this conference can be expected to provide the basis for international radio regulation policy for most of the remainder of this century. It is of the utmost importance to develop U.S. proposals which effectively promote that combination of telecommunication uses which offers the maximum social and economic contribution to the national welfare and which also contain the flexibility necessary to accommodate important new applications of this dynamic technology as well as the unique requirements of our international partners in the ITU. It must be recognized that the U.S. proposals are for the GWARC and that the national implementation of the results of the GWARC will require extensive U.S. national consideration.

42. Comments on the use of small antenna earth stations relevant to the preparation for the 1979 GWARC are hereby sought from all interested United States individuals, parties, or groups of parties which may exist.

43. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before July 11, 1977, and reply comments on or before July 26, 1977. All relevant and timely comments and reply comments, along with any pertinent information which the Commission may have available, will be considered. When commenting, it should be borne in mind that this effort is directed toward international regulations and not domestic issues. The U.S. wants to achieve maximum flexibility in international regulatory proposals.

44. Although § 1.419 of the Commission's Rules required that an original and five copies of all statements, briefs or comments be filed in response to a Notice, the Commission's conference preparatory organization necessitates the filing of an original and nineteen copies. All responses received will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

45. This Notice is issued pursuant to the authority set forth in section 4(i) of the Communications Act of 1934, as amended 47 U.S.C. 154 (i).

Federal Communications Commission,
Vincent J. Mullins,
Secretary.

2.

Spa2 Pointing Accuracy of Antennae on Geostationary Satellites

MOD 470VF § 27. The pointing direction of maximum radiation of any earth-
Spa2 ward beam of antennae on geostationary satellites shall be capable of being maintained within:

10.2% of the half power beamwidth relative to the nominal pointing direction, or

0.1 degree relative to the nominal pointing direction, whichever is greater. This provision applies only when such a beam is intended for less than global coverage.

In the event that the beam is not rotationally symmetrical about the axis of maximum radiation, the tolerance in any plane containing this axis shall be related to the half power beamwidth in that plane.

This accuracy shall be maintained only if it is required to avoid unacceptable interference[2] to other systems.

470VF.1 [2]The level of unacceptable interference shall be fixed
Spa2 by agreement between the administrations concerned, using the relevant C.C.I.R. Recommendations as a guide.

Reason: These modifications are proposed to minimize the spillover outside the intended coverage area and to take maximum advantage of frequency re-use when pencil beams are used. It is necessary to maintain the highest possible beam pointing accuracy.

Appendix A
(Technical Regulations)

Spa2 Station Keeping of Space Stations[2]

470VB § 26. Space stations on geostationary satellites:
Spa2

MOD 470VC -shall have the capability of maintaining
Spa2 their positions within +/- 0.1 degree of the longitude and latitude of their nominal positions, but efforts should be made to achieve a capability of maintaining their positions at least within +0.1, 0.05 degree of the longitude and latitude of their nominal positions;

MOD 470VD -shall maintain their positions within +/-
Spa2 0.1 degree of longitude and latitude of their nominal positions irrespective of the cause of variation; but

NOC 470VE -need not comply with No. 470VB as long as
Spa2 the satellite network to which the space station belongs does not produce an unacceptable level of interference into any other satellite network whose space station complies with the limits given in No. 470VD.

Spa2 [2]In the case of space stations on geosynchronous satellites with orbits having an angle of inclination greater than 3 degrees the positional tolerance shall relate to the nodal point.

470VE.1 [1]The level of unacceptable interference shall be
Spa2 fixed by agreement between the administrations concerned, using the relevant C.C.I.R. Recommendations as a guide.

Reason: In the interest of more efficient orbit-spectrum utilisation, it is considered necessary to maintain a closer station-keeping tolerance of ±0.1 degree in longitude and latitude. This minimises the loss in receiving antenna gain and aids in reducing the potential for interference.

APPENDIX 3

Mar Mar2

Table of Frequency Tolerances*

(See Article 12)

1. Frequency tolerance is defined in Article 1 and is expressed in parts in 10^6 or, in some cases, in hertz Hz.

2. The power shown for the various categories of stations is the mean power as defined in Article 1.

Frequency Bands (lower limit exclusive, upper limit inclusive) and Categories of Stations	Tolerances applicable until 1st January, ~~1966*~~ 1987 to transmitters in use and to those to be installed before 1st January, ~~1964~~ 1985	Tolerances applicable to new transmitters installed after 1st January, ~~1964~~ 1985 and to all transmitters after 1st January, ~~1966*~~ 1987
Band: 10 to 535 kHz		
1. Fixed Stations:		
- 10 to 50 kHz	1 000	~~1 000~~ 100
- 50 to 535 kHz	200	~~200~~ 50
2. Land Stations:		
a) Coast Stations:		
- power 200 W or less	500 l)	~~500~~ 20 Hz l)
- power above 200 W	200 l)	~~200~~ 20 Hz l)
b) Aeronautical Stations	100*	~~100*~~ 50
3. Mobile Stations:		
a) Ship Stations	1 000 k)	~~1 000~~ 20 Hz k)
b) Ship's Emergency Transmitters	5 000	~~5 000~~ 20 Hz

*~~1st January, 1970 in the case of all tolerances marked with an asterisk.~~

*Certain services may need tighter tolerances for technical and operational reasons.

Frequency Bands (lower limit exclusive, upper limit inclusive) and Categories of Stations	Tolerances applicable until 1st January, ~~1966*~~ 1987 to transmitters in use and to those to be installed before 1st January, ~~1964~~ 1985	Tolerances applicable to new transmitters installed after 1st January, ~~1964~~ 1985 and to all transmitters after 1st January, ~~1966*~~ 1987
c) Survival Craft Stations	5 000	~~5 000~~ 20 Hz
d) Aircraft Stations	500	~~500~~ 50
4. Radiodetermination Stations	100*	100*
5. Broadcasting Stations	10 Hz	10 Hz
Band: 535 to 1 605 kHz		
Broadcasting Stations	10 Hz b)	10 Hz
Band: 1605 to 4 000 kHz		
1. Fixed Stations:		
- power 200 W or less	100	100
- power above 200 W	50	50
2. Land Stations		
- power 200 W or less	100h) l)	~~100~~ 50 h)l)
- power above 200 W	50h) l)	50 h) l)
3. Mobile Stations		
a) Ship Stations	200 i) k)	~~200~~ 20 Hz 4) k)
b) Survival Craft Stations	300	~~300~~ 20 Hz
b A) Emergency Position-Indicating Radiobeacons	300	~~300~~ 20 Hz
c) Aircraft Stations	100 *	100 r)
d) Land Mobile Stations	200	~~200~~ 20 Hz

Frequency Bands (lower limit exclusive, upper limit inclusive) and Categories of Stations	Tolerances applicable until 1st January, ~~1966*~~ 1987 to transmitters in use and to those to be installed before 1st January, ~~1964~~ 1985	Tolerances applicable to new transmitters installed after 1st January, ~~1964~~ 1985 and to all transmitters after 1st January, ~~1966*~~ 1987
4. Radiodetermination Stations:		
- power 200 W or less	100	~~100~~ 20
- power above 200 W	50	~~50~~ 10
5. Broadcasting Stations	20	~~20~~ 10 Hz
Band: 4 to 29.7 MHz		
1. Fixed Stations:		
- power 500 W or less	50	~~50~~ 30
- power above 500 W	15	~~15~~ 10
2. Land Stations:		
a) Coast Stations:		
- power 500 W or less	50 h) l)	~~50~~ 20 Hz h) l)
- power above 500 W and less than or equal to 5 kW	30*h) l)	~~30*~~ 20 Hz h) l)
- power above 5 kW	15 h) l)	~~15~~ 20 Hz h) l)
b) Aeronautical Stations:		
- power 500 W or less	100	100 r)
- power above 500 W	50	50 r)
c) Base Stations:		
- power 500 W or less	100	~~100~~ 30
- power above 500 W	50	~~50~~ 10
3. Mobile Stations:		
a) Ship Stations		
1) Class A1 emissions	50 m) q)	~~50~~ 20 Hz p) q)
2) Emissions other than A1	50 i) k)	~~50~~ 20 Hz i) k)

Frequency Bands (lower limit exclusive, upper limit inclusive) and Categories of Stations	Tolerances applicable until 1st January, ~~1966*~~ 1987 to transmitters in use and to those to be installed before 1st January, ~~1964~~ 1985	Tolerances applicable to new transmitters installed after 1st January, ~~1964~~ 1985 and to all transmitters after 1st January, ~~1966*~~ 1987
- power 50 W or less	50 c) i) k)	~~50~~ c) i) k) 20 Hz
- power above 50 W	50 i) k)	~~50~~ i) k) 20 Hz
b) Survival Craft Stations	200	~~200~~ 20 Hz
c) Aircraft Stations	100*	100* r)
d) Land Mobile Stations	200	~~200~~ 20 Hz
4. Broadcasting Stations	15	~~15~~ 2
Band: 29.7 to 100 MHz		
1. Fixed Stations:		
- power 200 W or less	50*	~~50*~~ 30
- power above 200 W	30	~~20~~ 10
2. Land Stations:		
- power 15 W or less	50	50
- power above 15 W	20	20
3. Mobile Stations:		
- power 5 W or less	100	~~100~~ 50
- power above 5 W	50	~~50~~ 20
4. Radiodetermination Stations	200	~~200~~ 50

*~~1st January, 1970 in the case of all tolerances marked with an asterisk.~~

Frequency Bands (lower limit exclusive, upper limit inclusive) and Categories of Stations	Tolerances applicable until 1st January, ~~1966*~~ 1987 to transmitters in use and to those to be installed before 1st January, ~~1964~~ 1985	Tolerances applicable to new transmitters installed after 1st January, ~~1964~~ 1985 and to all transmitters after 1st January, ~~1966*~~ 1987
	*1st January, 1970 in the case of all tolerances marked with an asterisk.	
5. Broadcasting Stations (other than television):		
- power 50 W or less	50	~~50~~ 1000 Hz
- power above 50 W	20	~~20~~ 1000 Hz
6. Broadcasting Stations (television sound and vision):		
- power 50 W or less	100	~~100~~ 2000 Hz
- power above 50 W	1000 Hz	~~1 000~~ 500 Hz
Band: 100 to 470 MHz		
1. Fixed Stations:		
- power 50 W or less	50*	~~50*~~ 20
- power above 50 W	20*	~~20*~~ 10
2. Land Stations:		
a) Coast Stations	20 n)	~~20~~ n) 10
b) Aeronautical Stations	50	~~50~~ 20
c) Base Stations:		
- power 5 W or less	50	~~50~~ 30
- power above 5 W	20	~~20~~ 10
3. Mobile Stations:		
a) Ship Stations and Survival Craft Stations:		
- in the band 156-174 MHz	20 n)	~~20~~ n) 10
- outside the band 156-174 MHz	50 d) o)	50 ~~d)~~ m)

Frequency Bands (lower limit exclusive, upper limit inclusive) and Categories of Stations	Tolerances applicable until 1st January, ~~1966*~~ 1987 to transmitters in use and to those to be installed before 1st January, 1964 1985	Tolerances applicable to new transmitters installed after 1st January, ~~1964~~ 1985 and to all transmitters after 1st January ~~1966*~~ 1987
	*1st January, 1970 in the case of all tolerances marked with an asterisk.	
b) Aircraft Stations	50	~~50~~ 30
c) Land Mobile Stations:		
- power 5 W or less	50	~~50~~ 30
- power above 5 W	20	~~20~~ 10
4. Radiodetermination Stations	50*d) e)	~~50*~~ 20 d) e)
5. Broadcasting Stations (other than television)	20	~~20~~ 15
6. Broadcasting Stations (television sound and vision):		
- power 100 W or less	100	~~100~~ 50
- power above 100 W	1000 Hz	~~1 000~~ Hz 500 Hz
Band: 470 to 2 450 MHz		
1. Fixed Stations:		
- power 100 W or less	300 f)	~~300~~ 100 f)
- power above 100 W	100 g)	~~100~~ 50 g)
2. Land Stations	300	~~300~~ 100
3. Mobile Stations	300	~~300~~ 100
4. Radiodetermination Stations	500e)	~~500~~ 400 e)
5. Broadcasting Stations (other than television)	100	~~100~~ 50

Frequency Bands (lower limit exclusive, upper limit inclusive) and Categories of Stations	Tolerances applicable until 1st January, ~~1966*~~ 1987 to transmitters in use and to those to be installed before 1st January, ~~1964~~ 1985	Tolerances applicable to new transmitters installed after 1st January, ~~1964~~ 1985 and to all transmitters after 1st January, ~~1966*~~ 1987
	*1st January, 1970 in the case of all tolerances marked with an asterisk.	
6. Broadcasting Stations (television, sound and vision) in the band 470-960 MHz		
- power 100 W or less	100	~~100~~ 50
- power above 100 W	1000 Hz	~~1 000~~ Hz 500 Hz
Band 2 450 to 10 500 MHz		
1. Fixed Stations:		
- power 100 W or less	300 f)	~~300~~ 30 f)
- power above 100 W	100 g)	100 10 g)
2. Land Stations	300	~~300~~ 30
3. Mobile Stations	300	~~300~~ 30
4. Radiodetermination Stations	2000 e)	~~2 000~~ 800 e)
5. Space Stations	5	3
Band: 10·5 to 40 GHz		
1. Fixed Stations	500	~~500~~ 50
2. Radiodetermination Stations	7 500 e)	~~7 500~~ 2500 e)
3. Space Stations	10	7

Notes referring to Table of Frequency Tolerances

a) SUP

b) In the area covered by the North American Regional Broadcasting Agreement (NARBA) the tolerance of 20 Hz may continue to be applied.

c) SUP

d) This tolerance is not applicable to survival craft stations operating on the frequency 243 MHz.

e) Where specific frequencies are not assigned to radar stations, the bandwidth occupied by the emissions of such stations shall be maintained wholly within the band allocated to the service and the indicated tolerance does not apply.

f) For transmitters using time division multiplex the tolerance of 300 may be increased to 500.

g) This tolerance applies only to such emissions for which the necessary bandwidth does not exceed 3 000 kHz; for larger bandwidth emissions a tolerance of 300 applies.

h) For coast station single sideband radiotelephone transmitters the tolerance is 20 Hz.

i) For ship station single sideband radiotelephone transmitters the tolerance is:

1) in the band 1 605—4 000 kHz:
100 Hz for transmitters in use or to be installed before 1 January 1982
50 Hz for transmitters installed after 1 January 1982.

2) in the band 4 000—23 000 kHz:
100 Hz for transmitters in use or to be installed before 1 January 1978
50 Hz for transmitters installed after 1 January 1978.

(See also Appendix 17A).

j) SUP

k) For ship station transmitters used for direct printing telegraphy or for data transmission, the tolerance is 40 Hz. This tolerance is applicable to equipment installed after 1 January 1978 and to all equipment after 1 January 1985. For equipment installed before 2 January 1978 the tolerance is 100 Hz (with a maximum deviation of 40 Hz for short periods of the order of 15 minutes).

l) For coast station transmitters used for direct printing telegraphy and/or data transmission the tolerance is 15 Hz. This tolerance is applicable to equipment installed after 1 January 1978 and to all equipment after 1 January 1985. For equipment installed before 2 January 1978 the tolerance is 40 Hz.

m) SUP

n) For coast and ship station transmitters in the band 156—174 MHz put into service after 1 January 1973 a tolerance of 10 parts in 10^6 shall apply. This tolerance is applicable to all transmitters, including survival craft stations, after 1 January 1983.

o) For transmitters used by on-board communication stations a tolerance of 5 parts in 10^6 shall apply.

p) Applicable from 1 June 1977. However, in the A1 Morse working frequency bands a frequency tolerance of 200 parts in 10^6 may be applicable to existing transmitters after 1 June 1977, provided that the emissions are contained within the band in question.

q) In the A1 Morse calling frequency bands frequency tolerances of 60 parts in 10^6 in the bands between 4 and 23 MHz and of 30 parts in 10^6 in the 25 MHz band are recommended as far as possible.

r) For single sideband transmitters operating in the Aeronautical Mobile (R) Service, the tolerance is:

1) In the band 1605 - 4000 kHz
Aeronautical Stations 10 Hz
Airport Stations 20 Hz

2) In the band 4 - 29.7 MHz
Aeronautical Stations 10 Hz
Aircraft Stations 20 Hz

REASON: See reasons for Appendix 4.

AP4 1

APPENDIX 4

Table of Tolerances for the Levels of Spurious Emissions

(See Article 12)

1. The following table indicates the tolerances which shall apply to the mean power of any spurious emission supplied by a transmitter to the antenna transmission line.

2. Furthermore, spurious Spurious radiation from any part of the installation other than the antenna system, i.e., the antenna and its transmission line, shall not have an effect greater than would occur if this antenna system were supplied with the maximum permissible power at that spurious emission frequency.

3. ~~These tolerances shall not, however, apply to ships emergency transmitters or survival craft stations.~~

4. 3. For technical or operational reasons, specific services may demand tolerances tighter than those specified in the Table.

5. ~~The final date by which all equipment shall meet the tolerances specified in Column B is 1st January, 1970. Nevertheless, all administrations recognize the urgent need to implement Column B tolerances for all equipment at the earliest possible dates and will endeavour to ensure that necessary changes are made to all transmitters under their jurisdiction well before this date and wherever possible by 1st January, 1966.~~

6. ~~No tolerance is specified for transmitters operating on fundamental frequencies above 235 MHz. For these transmitters the levels of spurious emissions shall be as low as practicable.~~

AP4 2

Fundamental Frequency Band	The mean power of any spurious emission supplied to the antenna transmission line shall not exceed the values specified as tolerances in Columns A and B below	
	A Tolerances applicable ~~until 1st January, 1970~~ 1982 to transmitters ~~now~~ in use and to those installed before 1st January, ~~1964~~ 1980	B Tolerances applicable to new transmitters installed after 1st January, ~~1964~~ 1980 and to all transmitters after 1st January, ~~1970~~ 1982
Below 30 MHz	40 decibels below the mean power of the fundamental without exceeding the power of ~~200~~ 50 milliwatts	~~40~~ 60 decibels below the mean power of the fundamental without exceeding the power of 50 ~~milliwatts~~ microwatts [1][2][3]
30 MHz to ~~235 MHz~~ and above for transmitters having mean power:		
— ~~greater than~~ over 25 watts	60 decibels below the mean power of the fundamental without exceeding 1 milliwatt[1]	60 decibels below the mean power of the fundamental without exceeding ~~1 milliwatt~~ 50 microwatts
— 25 watts or less	40 decibels below the mean power of the fundamental without exceeding 25 microwatts and without the necessity for reducing this value below 10 microwatts[4]	~~40~~ 60 decibels below the mean power of the fundamental without exceeding 25 microwatts ~~and with out the necessity for reducing this value below 10 microwatts~~[4]

[1] For transmitters of mean power exceeding 50 kilowatts and which operate below 30 MHz over a frequency range approaching an octave or more, a reduction below 50 ~~milliwatts~~ microwatts is not mandatory, but a minimum attenuation of 60 decibels shall be provided and every effort should be made to keep within the 50 ~~milliwatts~~ microwatts limit.

[2] For hand-portable equipment of mean power less than 5 watts which operates in the frequency band below 30 MHz, the attenuation shall be at least 30 decibels, but every effort should be made to attain ~~40~~ 60 decibels attenuation.

AP4 3

[3] For mobile transmitters which operate below 30 MHz any spurious emission shall be at least ~~40~~ 60 decibels below the fundamental without exceeding the value of ~~200 milliwatts~~, 50 microwatts but every effort should be made to keep within the 50 ~~milliwatts~~ microwatts limit wherever practicable.

[4] For frequency modulated maritime mobile radio-telephone equipment which operates above 30 MHz, the mean power of any spurious emission falling in any other international maritime mobile channel, due to products of modulation, shall not exceed a limit of 10 microwatts and the mean power of any other spurious emission on any discrete frequency within the international maritime mobile band shall not exceed a limit of 2.5 microwatts. Where, exceptionally, transmitters of mean power above 20 watts are employed, these limits may be increased in proportion to the mean power of the transmitter.

REASON: It is believed that these tables should be revised to achieve an improvement in spectrum utilization. A review of both government and non-government tolerances shows that the specific limits appearing in the tables are attainable. Comments, however, are invited as to the desirability of using the specific tolerances shown.

Appendix B

U. S. PROPOSED REVISION OF CCIR DRAFT RECOMMENDATION AB/1

As requested by I.F.R.B. Circular-letter No. 357, 15 July 1976, we have evaluated the provisional method of classifying and designating emissions as proposed by C.C.I.R. Draft Recommendation AB/1 and are submitting the following comments and recommendations.

In general, the method proposed in C.C.I.R. Draft Recommendation AB/1, provides a means to specify all essential information relating to an emission and we endorse the principle of including the essential information in three mandatory symbols. Our recommendations and comments represent changes which, it is felt, should simplify the application of the method without sacrificing essential content and effectiveness. Recommendations are summarized below and are included in the enclosure, which is a proposed revision to Draft Recommendation AB/1:

a. A simplified method of designating necessary bandwidth is proposed;

b. Information dealing with the nature of the multiplexing signal was shifted from the fifth symbol (optional) and inserted as part of the second symbol;

c. The use of optional symbols by administrations may be implemented only as part of the administration's internal data process. Optional symbols should not be listed in Article 2; and,

d. The letter N has been substituted for O in the list of symbols to avoid confusion as to whether it is the number zero or the letter O.

The method designating the necessary bandwidth of emissions proposed in Recommendation AB/1 appeared to be unnecessarily complicated considering the universality of use of emission designators and compelling reasons to keep the designator as simple to understand as possible, while retaining completeness, in order to accommodate those less technically advanced. Moreover, there is a measurable advantage to be able to understand the bandwidth at a glance without performing any conversions. Accordingly, the method proposed, following that used in the United States, employs a letter H,K,M, or G to designate Hz, kHz, MHz or GHz

respectively, and a numerical value, having a maximum of four characters, including a decimal point. It was considered that if there was a computer reason to designate bandwidth in the "scientific method" proposed in Recommendation AB/1, then the conversion from a direct reading bandwidth should be made by those inserting the data into the computer. The method proposed is currently satisfactorily used in computer-based frequency management data systems in the United States. Examples, with comparison to Recommendation AB/1 are given below.

Necessary bandwidth	Proposed herein	Recommendation AB/1
25 Hz	H25	0250
400 Hz	H400	4000
2.4 kHz	K2.4	2401
12.5 kHz	K12.5	1252
36 kHz	K36	3602
180 kHz	K180	1803
1.25 MHz	M1.25	1254
6.25 MHz	M6.25	6254
27 MHz	M27	2705
200 MHz	M200	2006
5.6 GHz	G5.6	5607

A change from Draft Recommendation AB/1 which we are proposing affects the fifth optional symbol. The information contained in that symbol has been inserted into the second symbol because it was felt that the nature of the multiplexing signal was essential and should be included in the 3 mandatory symbols to preserve the use of the minimum number of symbols. This is consistent with judgments expressed previously in Recommendation 432-1 and Opinion 44 of the CCIR. The information was readily accommodated in the second symbol by allowing that symbol to become either alphabetical or numerical. The scheme adopted and outlined in the enclosure designates a modulated single channel emission by a number. Unmodulated and multi-channel emissions are designated by letters. In this manner, it was possible to retain the familiar symbols of Article 2 of F1, F2, F3, A1, A2 and A3 for single channel frequency modulated and double sideband emissions.

It is felt that the fourth symbol (optional) was not clearly defined and created a certain amount of confusion as to its application because it contains more than one character that could apply equally to describe an element of the emission. Further, some of the information, such as that relating to protection ratios or privacy should not be part of an emission symbol, even though its use is considered optional.

U. S. PROPOSED REVISION OF CCIR DRAFT RECOMMENDATION AB/1

ANNEX

PART 1

PROVISIONAL METHOD FOR THE DESIGNATION OF EMISSIONS**

1. Emissions are designated according to their necessary bandwidth and their classification. Whenever the full designation of an emission is required, the classification for that emission shall be preceded by an indication of the necessary bandwidth.

SECTION I

NECESSARY BANDWIDTH

2. The necessary bandwidth shall be expressed by a maximum of five characters as follows:

The first character shall be a letter H, K, M, or G to designate Hz, kHz, MHz or GHz respectively. The letter shall be followed by a number composed of a maximum of three significant digits and a decimal point, if necessary. The number may not be less than 1.

Examples

Necessary Bandwidth		Symbol
25	Hz	H25
400	Hz	H400
2.4	kHz	K2.4
12.5	kHz	K12.5
36	kHz	K36
180	kHz	K180
1.25	MHz	M1.25
6.25	MHz	M6.25
27	MHz	M22
200	MHz	M200
5.6	GHz	G5.6

** For certain terms used in Part 1, see Part 2.

SECTION II

CLASSIFICATION

3. Emissions are classified and symbolized according to the following characteristics. Modulation used only for short periods for incidental purposes such as identification, calling, etc., should be ignored.

SECTION II.1

BASIC CHARACTERISTICS

4.1 First symbol - Nature of emission (see Sec. 5 below).

4.2 Second symbol - Nature of signal modulating the main carrier and nature of multiplexing (See Sec. 6 below).

4.3Third symbol - Type of transmission (see Sec. 7 below).

5. First symbol-Nature of emission

5.1 Emission of an unmodulated carrier ..... N

5.2 Emission in which the main carrier is predominantly amplitude-modulated. It may include cases where sub-carriers are angle-modulated.

5.2.1 Double-sideband ..... A

5.2.2 Single-sideband, full carrier ..... H

5.2.3 Single-sideband, reduced carrier ..... R

5.2.4 Single-sideband, suppressed carrier ..... J

5.2.5 Independent sideband ..... B

5.2.6 Vestigial sideband C

5.3 Emission in which the main carrier is angle modulated

5.3.1 Frequency modulation ..... F

5.3.2 Phase modulation ..... G

5.4 Emission of pulses (the carrier may, in addition, be frequency modulated)*

5.4.1 Unmodulated sequence of pulses ..... P

*Emissions, where the main carrier is directly modulated by a signal which has been coded into quantized form (e.g. pulse code modulation), should be designated under Secs. 5.7 or 5.3.

5.4.2 A sequence of pulses which are modulated:

5.4.2.1 in amplitude ..... K

5.4.2.2 in width/duration L

5.4.2.3 in position/phase ..... M

5.4.2.4 by combinations of the foregoing or other means ..... Q

5.5 Cases not covered above, in which an emission consists of the main carrier modulated, either simultaneously or in a pre-established sequence, in a combination of two or more of the following modes:

- amplitude, - angle, - pulse ..... W

5.6 Cases not otherwise covered X

6. Second symbol - Nature of signal modulating the main carrier and nature of multiplexing

6.1 No modulating signal ..... N

6.2 A single channel containing quantized information without the use of a modulating sub-carrier* 1

6.3 A single channel containing quantized information with the use of a modulating sub-carrier* 2

6.4 A single channel containing analogue information 3

6.5 Two or more channels containing quantized information, operating simultaneously or in a pre-established sequence, all of which modulate the sub-carriers in frequency or phase.

6.5.1 Frequency-division multiplex ..... A

6.5.2 Time-division multiplex ..... B

6.5.3 Frequency-division multiplex with one or more channels using time-division multiplex C

6.5.4 Type of multiplexing other than above ..... D

6.6 Two or more channels containing quantized information operating simultaneously or in a pre-established sequence.

6.6.1 Frequency-division multiplex ..... E

6.6.2 Time-division multiplex ..... F

6.6.3 Frequency-division multiplex with one or more channels using time-division multiplex ..... G

6.6.4 Type of multiplexing other than above ..... H

6.7 Two or more channels containing analogue information operating simultaneously or in a pre-established sequence.

6.7.1 Frequency-division multiplex ..... J

6.7.2 Time-division multiplex ..... K

6.7.3 Frequency-division multiplex with one or more channels using time-division multiplex L

6.7.4 Type of multiplexing other than above ..... M

6.8 Composite system transmitting simultaneously, or in a pre-established sequence, one or more channels containing quantized information, together with one or more channels containing analogue information.

6.8.1 Frequency-division multiplex ..... P

6.8.2 Time-division multiplex ..... Q

6.8.3 Frequency-division multiplex with one or more channels using time-division multiplex ..... R

6.8.4 Type of multiplexing other than above ..... S

6.9 Cases not otherwise covered X

*This excludes time-division multiplex.

9.

7. Third symbol - Type of transmission.

7.1	Unmodulated main carrier or pulses	N
7.2	Telegraphy - manual	A
7.3	Telegraphy - automatic	B
7.4	Facsimile	C
7.5	Data transmission, telemetry, telecommand	D
7.6	Telephony (including sound broadcasting)	E
7.7	Television (video)	F
7.8	Combination of telegraphy (automatic) and facsimile	G
7.9	Combination of telegraphy (automatic) and telephony	H
7.10	Combination of facsimile and telephony	J
7.11	Combination of telephony and television	K
7.12	Combination of the above not otherwise covered	L
7.13	Cases not otherwise covered	X

10.

SECTION II. 2

ADDITIONAL CHARACTERISTICS

8. If Administrations wish to describe for their internal needs further details of an emission, additional symbols fitting the present method of designating emissions may be used.

11.

PART 2

THE MEANING OF CERTAIN TERMS AS USED IN THIS ANNEX

Main carrier The wave that may be combined with a modulating signal in the last modulation stage of a radio transmitter.

Sub-carrier A carrier which is employed in an intermediate modulating process and then applied as part of the signal modulating the main carrier.

Analogue signal A signal that follows the variation of a physical phenomenon continuously with an infinite number of possible values.

Quantized signal A signal that varies over a finite number of discrete values.

12.

PART 3

EXAMPLES

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
I. No modulation			
A. Emission of a radio-frequency carrier with no modulation			
A.1 No quantized or analogue information channels (CW radar)	or (AO / PO	[illegible]	
B. Unmodulated pulse train	PO	PNN	
C. Unmodulated pulse train using frequency-modulated carrier (chirp radar)	PO	PXN	
II. A single channel containing quantized information without the use of a modulating sub-carrier			
A. Emission predominantly amplitude-modulated			
A.1 Double-sideband (on-off keying)			
A.1.1 telegraphy using code with elements of differing numbers and/or durations, aural reception (Morse)	A1	A1A	
A.1.2 telegraphy using code with elements of differing numbers and/or durations, automatic reception (Morse)	A1	A1B	
A.1.3 telemetry using code with elements of the same number and duration, without error-correction	A1	A1D	

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
B. Emission angle-modulated			
B.1 Telegraphy using code with elements of differing numbers and/or durations, automatic reception (frequency-shift keying, Morse)	F1	F1B	
B.2 Telegraphy using code with elements of the same number and duration without error-correction (frequency-shift keying, teleprinter)	F1	F1B	
B.3 Telegraphy using code with elements of the same number and duration with error-correction (frequency-shift keying, teleprinter)	F1	F1B	
B.4 Facsimile, quantized (weather chart)	F4	F1C	
B.5 Data transmission in quantized form	F1	F1D	
C. Emission of pulses			
C.1 A sequence of pulses modulated in code (telemetry signals)	P1C	Q1D	

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
III. A single channel using quantized information with the use of a modulating sub-carrier			
A. Emission predominantly amplitude-modulated			
A.1 Double sideband			
A.1.1 telegraphy using code with elements of differing numbers and/or durations for aural reception (Morse) (on-off keying of modulated carrier)	A2	A2A	
A.1.2 telegraphy using code with elements of differing numbers and/or durations for automatic reception (on-off keying of modulating sub-carrier)	A2	A2B	
A.2 Single-sideband, full carrier			
A.2.1 modulation by a continuous tone (standard frequency emission)	A2H	H2X	
A.2.2 telegraphy using code with elements of the same number and duration without error-correction (sequential single frequency code selective calling signal, Appendix 20C of the Radio Regulations)	A2H	H2B	

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
A.2 Single-sideband, suppressed carrier			
A.2.1 telegraphy using code with elements of differing numbers and/or durations for automatic reception (on-off keying of modulating sub-carrier)	A2J	J2B	
A.2.2 telegraphy using code with elements of the same number and duration with error-correction (narrow-band direct-printing telegraphy)	A2J	J2B	
B. Emission angle-modulated			
B.1 Frequency modulation			
B.1.1 telegraphy using code with elements of the same number and duration with error-correction (narrow-band direct-printing signal, frequency-shift keying of modulating sub-carrier)	F2	F2B	

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
IV. A single channel containing analogue information			
A. Emission predominantly amplitude-modulated			
A.1 Double-sideband			
A.1.1 sound channel of broadcasting quality	A3	A3E	
A.1.2 telephone channel with privacy device	A3	A3E	
A.1.3 telephone channel without privacy device	A3	A3E	
A.1.4 facsimile, analogue	A4	A3C	
A.2 Single-sideband, full carrier			
A.2.1 sound channel of broadcasting quality	A3H	H3E	
A.2.2 telephone channel of good commercial quality with privacy device	A3H	H3F	
A.3 Single-sideband, reduced carrier			
A.3.1 sound channel of broadcasting quality	A3A	R3E	

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
A.4 Single-sideband, suppressed carrier			
A.4.1 telephone channel with separate frequency modulated signals to control the level of demodulated speech signals (Limicompex)	A3J	J3E	
A.4.2 analogue facsimile (frequency modulation of an audio frequency sub-carrier which modulates the main carrier in the single-sideband suppressed-carrier mode)	A4J	J3C	
A.5 Vestigial sideband			
A.5.1 sound channel of broadcasting quality	A3C	C3E	
A.5.2 monochrome television (video)	A5C	C3F	
A.5.3 colour television	A5C	C3F	

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
B. Emission angle-modulated			
B.1 Frequency modulation			
B.1.1 sound channel of broadcasting quality	F3	F3E	
B.1.2 telephone channel with privacy device	F3	F3E	
B.1.3 analogue facsimile	F4	F3C	
B.1.4 Colour television (video)	F5	F3F	
C. Emission of pulses			
C.1 A sequence of pulses, modulated			
C.1.1 in amplitude			
C.1.1.1 telephone channel without privacy device	P3D	K3E	
C.1.2 in phase or position			
C.1.2.1 analogue data transmission	P1F	K3D	
C.1.2.2 analogue telecommand	P1F	K3E	

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
V. Two or more channels containing quantized information operating simultaneously or in a pre-established sequence, all of which modulate the sub-carriers in frequency or phase			
A. Emission predominantly amplitude-modulated			
A.1 Double-sideband			
A.1.1 multichannel voice-frequency telegraphy with error-correction	A7	AAH	
A.2 Single-sideband, reduced carrier			
A.2.1 multichannel voice-frequency telegraphy with error-correction in which some channels are time-division multiplexed	A7A	HAH	
A.3 Independent sidebands			
A.3.1 quantized facsimile in one sideband and multichannel voice-frequency telegraphy with error-correction and time-division multiplex in the other sideband	A9B	BAG	

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
VI. Two or more channels containing quantized information operating simultaneously or in a pre-established sequence			
A. Emission predominantly amplitude-modulated			
A.1 Double-sideband (with two or more audio-frequency sub-carriers)			
A.1.1 standard frequency emission	A2	AHL	
B. Emission angle-modulated			
B.1 Frequency modulation			
B.1.1 Four-frequency diplex	F6	FHH	
B.2 Phase modulation			
B.2.1 Digital radio-relay system, in which the baseband is constituted by pulse-code modulated telephony channels in time-division multiplex and modulates the main carrier in quadrature phase-shift keying	F3	GFE	

21.

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
VII. Two or more channels containing analogue information operating simultaneously or in a pre-established sequence *			
A. Emission predominantly amplitude-modulated			
A.1 Single-sideband, full carrier			
A.1.1 several telephone channels in frequency-division multiplex	A3H	HJE	
A.2 Single-sideband, reduced-carrier			
A.2.1 sound channels of broadcasting quality	A3A	RJE	
A.3 Single-sideband, suppressed-carrier			
A.3.1 telephone channels of good commercial quality with privacy device	A3J	JJE	
A.4 Independent sidebands			
A.4.1 sound channels of broadcasting quality	A3H	BJE	
A.4.2 telephone channels of good commercial quality with privacy device	A3H	BJE	
A.4.3 two analogue facsimile signals using frequency modulation of sub-carriers	A4H	BJC	
A.4.4 telephone channels, each with separate frequency-modulated signals to control the level of demodulated speech signal (Lincompex)	A3B	BJE	

* In the present set of examples, there are no examples of two or more channels containing analogue information in a pre-established sequence.

22.

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
B. Emission, angle-modulated			
B.1 Frequency modulation			
B.1.1 stereophonic sound channel of broadcasting quality	F3	FJE	
B.1.2 telephone channels of good commercial quality	F3	FJE	
B.1.3 FDM-FM radio-relay system, multi-channel telephony in which the base-band is constituted by frequency-division multiplex and modulates the main carrier in frequency	F3	FJE	
B.1.4 colour television with four sound channels of broadcasting quality	F9	FJK	

23.

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
VIII. Composite systems, transmitting simultaneously or in a pre-established sequence one or more channels containing quantized information together with one or more channels containing analogue information			
A. Emission predominantly amplitude-modulated			
A.1. Double-sideband			
A.1.1 telegraphy using code with elements of differing numbers and/or durations for automatic reception (on one sub-carrier) together with one telephone channel (on a second sub-carrier)	A9	APH	
A.1.2 VOR with voice consisting of the main carrier modulated by:			
- a 30 Hz sub-carrier,			
- a carrier resulting from a 9960 Hz tone frequency-modulated by a 30 Hz tone,			
- a telephone channel,			
- a 1020 Hz keyed tone for continual Morse identification	A9	APL	

24.

Description	RR Art. 2 Symbol	Symbols proposed in this method §§ 5, 6, 7	
A.2 Independent sideband			
A.2.1 several telegraph channels using code with elements of the same number and duration with error-correction together with several telephone channels with privacy devices	A9B	BJH	
B. Emission, angle-modulated			
B.1 Frequency modulation			
B.1.1 several telegraph channels using code with elements of the same number and duration without error-correction (frequency-shift keying) together with several telephone channels	F9	FJH	

[FR Doc.77-14468 Filed 5-24-77;8:45 am]

federal register

WEDNESDAY, MAY 25, 1977

PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

THE PRESIDENT

■

ENVIRONMENTAL PROTECTION

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Title 3—The President

Executive Order 11987 • **May 24, 1977**

EXOTIC ORGANISMS

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the purposes and policies of the Lacey Act (18 U.S.C. 42) and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), it is hereby ordered as follows:

Section 1. As used in this Order:

(a) "United States" means all of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(b) "Introduction" means the release, escape, or establishment of an exotic species into a natural ecosystem.

(c) "Exotic species" means all species of plants and animals not naturally occurring, either presently or historically, in any ecosystem of the United States.

(d) "Native species" means all species of plants and animals naturally occurring, either presently or historically, in any ecosystem of the United States.

Sec. 2. (a) Executive agencies shall, to the extent permitted by law, restrict the introduction of exotic species into the natural ecosystems on lands and waters which they own, lease, or hold for purposes of administration; and, shall encourage the States, local governments, and private citizens to prevent the introduction of exotic species into natural ecosystems of the United States.

(b) Executive agencies, to the extent they have been authorized by statute to restrict the importation of exotic species, shall restrict the introduction of exotic species into any natural ecosystem of the United States.

(c) Executive agencies shall, to the extent permitted by law, restrict the use of Federal funds, programs, or authorities used to export native species for the purpose of introducing such species into ecosystems outside the United States where they do not naturally occur.

(d) This Order does not apply to the introduction of any exotic species, or the export of any native species, if the Secretary of Agriculture or the Secretary of the Interior finds that such introduction or exportation will not have an adverse effect on natural ecosystems.

Sec. 3. The Secretary of the Interior, in consultation with the Secretary of Agriculture and the heads of other appropriate agencies, shall develop and implement, by rule or regulation, a system to standardize and simplify the requirements, procedures and other activities appropriate for implementing the provisions of this Order. The Secretary of the Interior shall ensure that such rules or regulations are in accord with the performance by other agencies of those functions vested by law, including this Order, in such agencies.

Jimmy Carter

THE WHITE HOUSE,
May 24, 1977

[FR Doc.77-15120 Filed 5-24-77;1:41 pm]

Executive Order 11988 • May 24, 1977

FLOODPLAIN MANAGEMENT

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (Public Law 93-234, 87 Stat. 975), in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, it is hereby ordered as follows:

Section 1. Each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

Sec. 2. In carrying out the activities described in Section 1 of this Order, each agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and

floodplain management; and to prescribe procedures to implement the policies and requirements of this Order, as follows:

(a)(1) Before taking an action, each agency shall determine whether the proposed action will occur in a floodplain -- for major Federal actions significantly affecting the quality of the human environment, the evaluation required below will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act. This determination shall be made according to a Department of Housing and Urban Development (HUD) floodplain map or a more detailed map of an area, if available. If such maps are not available, the agency shall make a determination of the location of the floodplain based on the best available information. The Water Resources Council shall issue guidance on this information not later than October 1, 1977.

(2) If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains. If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in this Order requires siting in a floodplain, the agency shall, prior to taking action, (i) design or modify its action in order to minimize potential harm to or within the floodplain, consistent with regulations issued in accord with Section 2(d) of this Order, and (ii) prepare and circulate a notice containing an explanation of why the action is proposed to be located in the floodplain.

(3) For programs subject to the Office of Management and Budget Circular A-95, the agency shall send the notice, not to exceed three pages in length including a location map, to the state and areawide A-95 clearinghouses for the geographic areas affected. The notice shall include: (i) the reasons why the action is proposed to be located in a floodplain; (ii) a statement indicating whether the action conforms to applicable state or local floodplain protection standards and (iii) a list of the alternatives considered. Agencies shall endeavor to allow a brief comment period prior to taking any action.

(4) Each agency shall also provide opportunity for early public review of any plans or proposals for actions in floodplains, in accordance with Section 2(b) of Executive Order No. 11514, as amended, including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended.

(b) Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in a floodplain, whether the proposed action is in accord with this Order.

(c) Each agency shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved. Agencies shall include adequate provision for the evaluation and consideration of flood hazards in the regulations and operating procedures for the licenses, permits, loan or grants-in-aid programs that they administer. Agencies

shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposals in floodplains prior to submitting applications for Federal licenses, permits, loans or grants.

(d) As allowed by law, each agency shall issue or amend existing regulations and procedures within one year to comply with this Order. These procedures shall incorporate the Unified National Program for Floodplain Management of the Water Resources Council, and shall explain the means that the agency will employ to pursue the nonhazardous use of riverine, coastal and other floodplains in connection with the activities under its authority. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order. Agencies shall prepare their procedures in consultation with the Water Resources Council, the Federal Insurance Administration, and the Council on Environmental Quality, and shall update such procedures as necessary.

Sec. 3. In addition to the requirements of Section 2, agencies with responsibilities for Federal real property and facilities shall take the following measures:

(a) The regulations and procedures established under Section 2(d) of this Order shall, at a minimum, require the construction of Federal structures and facilities to be in accordance with the standards and criteria and to be consistent with the intent of those promulgated under the National Flood Insurance Program. They shall deviate only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for a given type of structure or facility.

(b) If, after compliance with the requirements of this Order, new construction of structures or

facilities are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied to new construction or rehabilitation. To achieve flood protection, agencies shall, wherever practicable, elevate structures above the base flood level rather than filling in land.

(c) If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible agency shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of and knowledge about flood hazards.

(d) When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the Federal agency shall (1) reference in the conveyance those uses that are restricted under identified Federal, State or local floodplain regulations; and (2) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or (3) withhold such properties from conveyance.

Sec. 4. In addition to any responsibilities under this Order and Sections 202 and 205 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4106 and 4128), agencies which guarantee, approve, regulate, or insure any financial transaction which is related to an area located in a floodplain shall, prior to completing action on such transaction, inform any private parties participating in the transaction of the hazards of locating structures in the floodplain.

Sec. 5. The head of each agency shall submit a report to the Council on Environmental Quality and to the Water Resources Council on June 30, 1978, regarding the status of their procedures and the impact of this Order on the agency's operations. Thereafter, the Water Resources Council shall periodically evaluate agency procedures and their effectiveness.

Sec. 6. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting floodplains.

(b) The term "base flood" shall mean that flood which has a one percent or greater chance of occurrence in any given year.

(c) The term "floodplain" shall mean the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.

Sec. 7. Executive Order No. 11296 of August 10, 1966, is hereby revoked. All actions, procedures, and issuances taken under that Order and still in effect shall remain in effect until modified by appropriate authority under the terms of this Order.

Sec. 8. Nothing in this Order shall apply to assistance provided for emergency work essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

Sec. 9. To the extent the provisions of Section 2(a) of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended.

Jimmy Carter

THE WHITE HOUSE,
May 24, 1977

[FR Doc.77-15121 Filed 5-24-77;1:42 pm]

Executive Order 11989 • May 24, 1977

OFF-ROAD VEHICLES ON PUBLIC LANDS

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in order to clarify agency authority to define zones of use by off-road vehicles on public lands, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), Executive Order No. 11644 of February 8, 1972, is hereby amended as follows:

Section 1. Clause (B) of Section 2(3) of Executive Order No. 11644, setting forth an exclusion from the definition of off-road vehicles, is amended to read "(B) any fire, military, emergency or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and".

Sec. 2. Add the following new Section to Executive Order No. 11644:

"Sec. 9. Special Protection of the Public Lands. (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such time as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

"(b) Each respective agency head is authorized to adopt the policy that portions of the public lands within his jurisdiction shall be closed to use by off-road vehicles except those areas or trails which are suitable and specifically designated as open to such use pursuant to Section 3 of this Order.".

Jimmy Carter

THE WHITE HOUSE,
May 24, 1977

[FR Doc.77-15122 Filed 5-24-77;1:43 pm]

Executive Order 11990 • May 24, 1977

PROTECTION OF WETLANDS

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), in order to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, it is hereby ordered as follows:

Section 1. (a) Each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) This Order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property.

Sec. 2. (a) In furtherance of Section 101(b)(3) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)(3)) to improve and coordinate Federal plans,

functions, programs and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation and risk to health or safety, each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use, In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(b) Each agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands, in accordance with Section 2(b) of Executive Order No. 11514, as amended, including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended.

Sec. 3. Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in wetlands, whether the proposed action is in accord with this Order.

Sec. 4. When Federally-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way or disposal to non-Federal public or private parties, the Federal agency shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach

other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor, except where prohibited by law; or (c) withhold such properties from disposal.

Sec. 5. In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(a) public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;

(b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and

(c) other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

Sec. 6. As allowed by law, agencies shall issue or amend their existing procedures in order to comply with this Order. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order.

Sec. 7. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting wetlands.

(b) The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of this Order.

(c) The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

Sec. 8. This Order does not apply to projects presently under construction, or to projects for which all of the funds have been appropriated through Fiscal Year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977. The provisions of Section 2 of this Order shall be implemented by each agency not later than October 1, 1977.

Sec. 9. Nothing in this Order shall apply to assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

Sec. 10. To the extent the provisions of Sections 2 and 5 of this Order are applicable to projects covered

by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, as amended.

Jimmy Carter

THE WHITE HOUSE,
May 24, 1977

[FR Doc.77-15123 Filed 5-24-77;1:44 pm]

Executive Order 11991 • May 24, 1977

RELATING TO PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the purpose and policy of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4371 et seq.), and Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), it is hereby ordered as follows:

Section 1. Subsection (h) of Section 3 (relating to responsibilities of the Council on Environmental Quality) of Executive Order No. 11514, as amended, is revised to read as follows:

"(h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 U.S.C. 4332(2)). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses. The Council shall include in its regulations procedures (1) for the early preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between

agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended, and Section 309 of the Clean Air Act, as amended, for the Council's recommendation as to their prompt resolution.".

Sec. 2. The following new subsection is added to Section 2 (relating to responsibilities of Federal agencies) of Executive Order No. 11514, as amended:

"(g) In carrying out their responsibilities under the Act and this Order, comply with the regulations issued by the Council except where such compliance would be inconsistent with statutory requirements.".

Jimmy Carter

THE WHITE HOUSE,
May 24, 1977

[FR Doc.77-15124 Filed 5-24-77;1:45 pm]

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 5—SUPPLEMENTAL APPLICATION PROCEDURES FOR CHARTERS, DOMESTIC BRANCHES, MERGERS, RELOCATIONS, CONVERSIONS, DOMESTIC OPERATING SUBSIDIARIES, FIDUCIARY POWERS AND TITLE CHANGES

Scope of Part

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This amendment revises 12 CFR Part 5 establishing supplemental hearing and notice procedures applicable to certain activities of national banks. The purpose of the amendment is to clarify that the establishment of a *de novo* operating subsidiary by a national bank is not an activity which is included within the scope of that Part.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard H. Neiman, Staff Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, 202–447–1884.

SUPPLEMENTARY INFORMATION: On November 1, 1976, the Comptroller of the Currency published in the FEDERAL REGISTER (41 FR 47934) an amendment expanding the scope of 12 CFR Part 5 to include additional activities of national banks within the hearing and notice procedures established by that Part. Inadvertently, the amendment, as published, applied the hearing and notice procedures to the establishment of de novo operating subsidiaries. The Comptroller considers the establishment of a de novo operating subsidiary as analogous to the incorporation of a department of a bank and therefore routinely does not require for such applications the supplemental procedures set forth in Part 5. Accordingly, Part 5 is being amended expressly to delete the establishment of *de novo* operating subsidiaries from the scope of that Part.

Mr. Neiman is the principal drafter of this revision.

In consideration of the above, 12 CFR Part 5 is amended by revising § 5.1 to read:

§ 5.1 Scope of Part.

This part contains procedures by which the Comptroller of the Currency may reach informed decisions with respect to applications to charter national banks, to establish domestic branches of national banks, to merge or consolidate with or purchase the assets of another bank where the resulting bank is a national bank, to relocate offices of national banks, to convert state-chartered institutions to national banks, to acquire domestic operating subsidiaries, to exercise fiduciary powers, to change corporate titles, and in other such cases as the Comptroller in his sole discretion shall deem appropriate. These procedures provide a method by which all persons interested in the subject matter of such applications may present their views. Nothing contained herein shall be construed to prevent interested persons from presenting their views in a more informal manner when deemed appropriate by the Comptroller, his deputy, or by the Regional Administrator of National Banks, or to prevent the Comptroller or the Regional Administrator from conducting such other investigation as may be deemed appropriate. The procedures established by this Part, other than the notice provision of § 5.2a, and written comment provision of § 5.4a, do not apply to applications for permission to establish a CBCT branch, unless the Comptroller shall specifically so direct.

Dated: May 13, 1977.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.77–15052 Filed 5–25–77;8:45 am]

PART 9—FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Applications for a Stay or Review of Actions of Registered Clearing Agencies

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: These sections establish procedures to be followed by national banks which are appealing from an adverse action by a registered clearing agency. The banks have had this right of appeal for over a year. This Part is intended to provide a specific procedure for these appeals.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Dean E. Miller, Deputy Comptroller for Trust Operations, Comptroller of the Currency, Washington, D.C. 20219, 202–447–1731.

SUPPLEMENTARY INFORMATION: On June 25, 1976, there was published in the FEDERAL REGISTER (41 FR 26223) a proposal to add new §§ 9.21 and 9.22. These sections set procedures for appeals by national banks from adverse actions of registered clearing agencies. They require that requests for stays of adverse actions be in writing and include a statement as to why a stay should be granted. They also establish certain formal requirements in connection with a subsequent appeal. Interested persons were given 30 days in which to comment upon the proposed sections.

One written comment letter was received and it found the proposed new sections to be in good form, both from a technical and administrative standpoint.

The principal drafter of this document was Mr. Dean E. Miller, Deputy Comptroller for Trust Operations. The text of the new sections were substantially the result of a joint drafting effort by the Federal banking agencies and the Securities and Exchange Commission.

The proposed new sections are hereby adopted with minor editorial changes and are set forth below.

Dated: May 17, 1977.

ROBERT BLOOM,
Acting Comptroller of the Currency.

§ 9.21 Applications for stays of disciplinary sanctions or summary suspensions imposed by a registered clearing agency.

If any registered clearing agency imposes any final disciplinary sanction pursuant to section 17A(b)(3)(G) of the Securities Exchange Act of 1934, or summarily suspends or limits or prohibits access pursuant to section 17A(b)(5)(C) of the Act, any person aggrieved thereby for which the Comptroller of the Currency is the appropriate regulatory agency may file with the Comptroller of the Currency, by telegram or otherwise, a request for a stay of imposition of such action. Such request shall be in writing and shall include a statement as to why such stay should be granted.

§ 9.22 Applications for review of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by registered clearing agencies.

(a) Proceedings on an application to the Comptroller of the Currency under section 19(d)(2) of the Securities Exchange Act of 1934 for review of any final disciplinary sanction, denial or conditioning of participation, or prohibition or limitation with respect to access to services offered by a registered clearing agency shall be governed by this rule.

(b) An application for review pursuant to section 19(d)(2) of the Act shall be filed with the Comptroller of the

Currency within 30 days after notice thereof was filed pursuant to section 19 (d) (1) of the Act and received by the aggrieved person applying for review, or within such longer period as the Comptroller of the Currency may determine. The Comptroller of the Currency shall serve a copy of the application on the registered clearing agency, which shall, within ten days after receipt of the application, certify and file with the Comptroller of the Currency one copy of the record upon which the action complained of was taken, together with three copies of an index to such record. The Comptroller of the Currency shall serve upon the parties copies of such index and any papers subsequently filed.

(c) Within 20 days after receipt of a copy of the index, the applicant shall file a brief or other statement in support of his application which shall state the specific grounds on which the application is based, the particular findings of the registered clearing agency to which objection is taken, and the relief sought. Any application not perfected by such timely brief or statement may be dismissed as abandoned.

(d) Within 20 days after receipt of the applicant's brief or statement the clearing agency may file an answer thereto, and within 10 days of receipt of any such answer the applicant may file a reply. Any such papers not filed within the time provided by paragraphs (b), (c) or (d) of this section will not be received except upon special permission of the Comptroller of the Currency.

(e) On its own motion, the Comptroller of the Currency may direct that the record under review be supplemented with such additional evidence as it may deem relevant. Nevertheless, the registered clearing agency and persons who may be aggrieved by its action shall be obliged to introduce all evidence that they deem relevant in the proceedings before the registered clearing agency, and no such person shall be entitled to introduce additional evidence unless he shows to the satisfaction of the Comptroller of the Currency that such additional evidence is material and that there were reasonable grounds for his failure to introduce such evidence in such proceedings. Any request for leave to introduce additional evidence shall be filed promptly so as not to delay the disposition of the proceeding.

(f) Oral argument before the Comptroller of the Currency or his designated representative may be requested by the applicant or the registered clearing agency as follows: (1) By the applicant with his brief or statement within 10 days after receipt of the registered clearing agency's answer, or (2) by the clearing agency with its answer. The Comptroller of the Currency, in its discretion, may grant or deny any request for oral argument and, where it deems it appropriate to do so, the Comptroller of the Currency will consider an application on the basis of the papers filed by the parties, without oral argument.

(Secs. 17A, 19 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1, 78s and 78w).)

[FR Doc. 77–15051 Filed 5–25–77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No.76–CE–28–AD; Amdt.39–2909]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models F33A, F33C, V35B, A36, 95–B55, 95–B55A, E55, E55A, 58, 58A, 65–B80, C90, E90, B99, A100, B100 and 200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, amendment to existing Airworthiness Directive.

SUMMARY: AD 76–22–02 requires replacement of defective seat belt roller adjusters used with inverted "Y" type shoulder harnesses installed on various Beech model airplanes to correct an unsafe condition. Some serial numbers of these model airplanes were omitted from the manufacturer's service instructions and thus not included in the applicability statement of the Airworthiness Directive (AD). This revision makes the AD applicable to those omitted airplanes.

EFFECTIVE DATE: June 2, 1977.

ADDRESSES: Beechcraft Service Instructions No. 0850–313, Rev. I, applicable to this AD, may be obtained from Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106. Telephone: 816–374–3446.

SUPPLEMENTARY INFORMATION: AD 76–22–02 (Amendment 39–2755) was issued October 21, 1976 and published in the FEDERAL REGISTER on November 1, 1976 (41 FR 47911, 47912), effective November 4, 1976. This AD requires replacement of defective seat belt roller adjusters used with inverted "Y" type shoulder harnesses installed on certain serial numbers of Beech Models F33A, F33C, V35B, A36, 95–B55, 95–B55A, E55, E55A, 58, 58A, 65–B80, C90, E90, B99, A100, B 100, and 200 airplanes in accordance with Beechcraft Service Instructions No. 0850–313. This action was taken to prevent a seat belt from slowly releasing tension during normal usage, which if unnoticed by the occupant could result in injury to him during those times when he is relying on the seat belt for safety. AD 76–22–02 was made applicable to those serial numbers of Beech model airplanes listed in the manufacturer's service instructions. Subsequent to the issuance of the AD reports were received establishing that the defective seat belt roller adjusters were installed on airplanes other than those included in the manufacturer's service instructions and in the applicability statement of the AD. Accordingly, this revision is necessary to make AD 76–22–02 applicable to those omitted airplanes. In addition, Beechcraft Service Instructions No. 0850–313, Rev. I, has been issued and includes the omitted airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator 14 CFR § 11.89, § 39.13 of the Federal Aviation Regulations (14 CFR § 39.13), Amendment 39–2755 (41 FR 47911, 47912), AD 76–22–02, is further amended as follows:

1. Revise the applicability statement so that it now reads as follows:

BEECH. Applies to the airplane models and serial numbers listed below having inverted "Y" type shoulder harnesses installed, except those airplanes that have previously complied with AD 76–22–02 (Amendment 39–2755):

Models	Serial No.
F33A	CE–490 through CE–633.
F33C	CJ–49 through CJ–130.
V35B	D–9582 through D–9861.
A36	E–515 through E–824.
95–B55 and 95–B55A	TC–1653 through TC–1946.
E55 and E55A	TE–966 through TE–1077.
58 and 58A	TH–425 through TH–732.
65–B80	LD–477 through LD–505.
C90	LJ–626 through LJ–682 and LJ–684.
E90	LW–93 through LW–171, LW–173, LW–174, and LW–178.
B99	U–157 through U–164.
A100	B–199 through B–226.
B100	BE–1 through BE–7.
200	BB–7, BB–8, BB–12, BB–18 through BB–87, BB–89 through BB–128, BB–130 through BB–136.

2. Revise the compliance statement so that it now reads as follows:

Compliance: Required as indicated, unless already accomplished in accordance with AD 76–22–02 (Amendment 39–2755).

To prevent slippage during normal use of the lap belt assembly installed with the inverted "Y" type shoulder harness, within 100 hours' time in service after the effective date of this AD, accomplish the following in accordance with Beechcraft Service Instructions No. 0850–313, Rev. I, or later approved revisions:

This amendment becomes effective June 2, 1977.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655 (c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR § 11.89).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Kansas City, Mo., on May 16, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77–14803 Filed 5–25–77;8:45 am]

[Airspace Docket No. 76–RM–26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Duchesne, Utah, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 1200 foot transition area at Duchesne, Utah, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Duchesne, Utah, Municipal Airport, based on the Myton, Utah, VORTAC.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Clyde A. Powers, Airspace Specialist, Operations, Procedures and Airspace Branch, ARM–538, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone 303–837–3937.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER on Thursday, March 24, 1977, (42 FR 15916) which described the proposed Duchesne, Utah, transition area as follows:

DUCHESNE, UTAH

That airspace extending upward from 1200 feet above the surface within 8 miles north and 6 miles south of the 069°T and 268°T radials extending from 14 miles east to 14 miles west of the Myton VORTAC.

Subsequent to the publication of this NPRM in the FEDERAL REGISTER on March 24, 1977, it was noted that the proposed Duchesne, Utah, transition area description was erroneous and should be corrected as follows:

DUCHESNE, UTAH

That airspace extending upward from 1200 feet above the surface within 8 miles north and 6 miles south of the Myton, Utah, VORTAC 104°T and 283°T radials extending from 14 miles east to 14 miles west of the VORTAC.

No objections were received in response to the proposed Duchesne, Utah, transition area described in the NPRM published in the FEDERAL REGISTER on March 24, 1977. Since the above described corrections to this proposed transition area are minor in nature and places no burden on the public, notice and public procedure thereon is unnecessary. Except for editorial changes and the corrected radials, this amendment is the same as proposed in the notice.

The principal authors of this document are Clyde A. Powers, Air Traffic Service, and Daniel J. Peterson, Regional Counsel.

Accordingly, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is amended, effective August 11, 1977, by adding the following new transition area:

DUCHESNE, UTAH

That airspace extending upward from 1200 feet above the surface within 8 miles north and 6 miles south of the 104°T and 283°T radials extending from 14 miles east to 14 miles west of the Myton VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Aurora, Colo., on May 18, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.77–15034 Filed 5–25–77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 16824, Amdt. No. 1074]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATE: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESS: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS–730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202–426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts

printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Aerospace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective August 11, 1977:

Wenatchee, WA—Pangborn Field, VOR–A, Amdt. 3
Wenatchee, WA—Pangborn Field, VOR–B, Amdt. 3

* * * Effective July 14, 1977:

Santa Monica, CA—Santa Monica Muni, VOR–A, Amdt. 4
Santa Monica, CA—Santa Monica Muni, VOR Rwy 3, Amdt. 7

* * * Effective July 7, 1977:

Bessemer, AL—Bessemer, VOR Rwy 5, Original
Bessemer, AL—Bessemer, VOR/DME Rwy 5, Original, cancelled
Miami, FL—Miami International, VOR Rwy 12, Amdt. 22
Miami, FL—Miami International, VOR Rwy 30, Amdt. 5
Sarasota (Bradenton), FL—Sarasota-Bradenton; VOR Rwy 22, Admt. 5
Hilo, HI—General Lyman Field, VOR Rwy 26, Amdt. 3
Hilo, HI—General Lyman Field, VOR/DME Rwy 26 (TAC) Original
Hilo, HI—General Lyman Field, VOR/DME–A, Original
Hilo, HI—General Lyman Field, VORTAC Rwy 26, Amdt. 3, cancelled
Hilo, HI—General Lyman Field, VORTAC–A, Amdt. 1, cancelled
Ithaca, NY—Tompkins County, VOR Rwy 14, Amdt. 10
North Myrtle Beach, SC—Grand Strand, VOR Rwy 5, Amdt. 13
North Myrtle Beach, SC—Grand Strand, VOR Rwy 23, Amdt. 14
Orangeburg, SC—Orangeburg, VOR Rwy 4, Orig
Culpeper, VA—Culpeper Municipal, VOR–A, Amdt. 2

* * * Effective May 17, 1977:

Annette Island, AK—Annette Island, VOR TAC Rwy 30, Amdt. 7
Annette Island, AK—Annette Island, VOR TAC–A, Amdt. 8

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective August 11, 1977:

San Diego, CA—Gillespie Field, LOC–D Amdt. 5

* * * Effective July 7, 1977:

Sarasota (Bradenton), FL—Sarasota-Bradenton, LOC/DME (BC) Rwy 13, Amdt. 1
Greenville, NC—Pitt-Greenville, SDF Rwy 19, Amdt. 1

* * * Effective June 16, 1977:

Baton Rouge, LA—Ryan, LOC Rwy 22, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective July 7, 1977:

Greenville, NC—Pitt-Greenville, NDB Rwy 19, Amdt. 7
North Myrtle Beach, SC—Grand Strand, NDB Rwy 23, Amdt. 5
Orangeburg, SC—Orangeburg, NDB–A, Amdt. 5

* * * Effective June 30, 1977:

Anahuac, TX—Chambers County, NDB Rwy 30, Original

* * * Effective May 17, 1977:

Annette Island, AK—Annette Island, NDB–B, Amdt. 9
Ketchikan, AK—Ketchikan, NDB/DME Rwy 11, Amdt. 2

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective July 14, 1977:

Dallas-Ft. Worth, TX—Dallas-Ft. Worth Regional, ILS Rwy 17L, Amdt. 6
Dallas-Ft. Worth, TX—Dallas-Ft. Worth Regional, ILS Rwy 17R, Amdt. 6
Dallas-Ft. Worth, TX—Dallas-Ft. Worth Regional, ILS Rwy 31R, Amdt. 2
Dallas-Ft. Worth, TX—Dallas-Ft. Worth Regional, ILS Rwy 35L, Amdt. 6
Dallas-Ft. Worth, TX—Dallas-Ft. Worth Regional, ILS Rwy 35R, Amdt. 6

* * * Effective July 7, 1977:

Hilo, HI—General Lyman Field, ILS Rwy 26, Amdt. 3
Ithaca, NY—Tompkins County, ILS Rwy 32, Amdt. 1
North Myrtle Beach, SC—Grand Strand, ILS Rwy 23, Amdt. 2

* * * Effective May 17, 1977:

Ketchikan, AK—Ketchikan, ILS/DME–1, Rwy 11, Amdt. 1
Raleigh, NC—Raleigh-Durham, ILS Rwy 5, Amdt. 18

* * * Effective May 13, 1977:

Los Angeles, CA—Los Angeles International, ILS Rwy 24R, Amdt. 11

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 24 FR 5662 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on May 20, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77–15033 Filed 5–25–77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C–2882]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Atlantic Richfield Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order requires a Los Angeles, Calif., manufacturer and marketer of petroleum products, among other things to cease failing to furnish credit card customers with periodic statements setting forth credit balances; failing to notify customers of their right to request and receive cash refunds of such credit balances; failing to provide prescribed disclosure statements with credit balance notifications; and failing to make proper refunds as detailed in the order.

DATE: Complaint and order issued April 27, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Lewis H. Goldfarb, (acting) Assistant Director for Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, 6th & Pennsylvania Ave. NW., Washington, D.C. 20580, 202–724–1139.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

SUPPLEMENTARY INFORMATION: On Thursday, February 17, 1977, there was published in the FEDERAL REGISTER (42 FR 9722) a proposed consent agreement with analysis In the Matter of Atlantic Richfield Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections. Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–14978 Filed 5–25–77;8:45 am]

[Docket No. C–2879]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Carte Blanche Corp.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order requires a Los Angeles, Calif., credit card company to cease failing to furnish customers with periodic statements setting forth credit balances; failing to notify customers of their right to request and receive such cash refunds of such credit balances; failing to provide prescribed disclosure statements with credit balance notifications; and failing to make proper refunds as detailed in the order.

DATE: Complaint and order issued April 27, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Lewis H. Goldfarb, (acting) Assistant Director for Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580, 202–724–1139.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

SUPPLEMENTARY INFORMATION: On Thursday, February 17, 1977, there was published in the FEDERAL REGISTER (42 FR 9717) a proposed consent agreement with analysis In the matter of Carte Blanche Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–55 Refunds, rebates, and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–14979 Filed 5–25–77;8:45 am]

[Docket No. C–2881]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

City Stores Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order requires a New York City retailer, among other things, to cease failing to furnish customers with periodic statements setting forth credit balances; failing to notify customers of their right to request and receive cash refunds of such credit balances; failing to provide prescribed disclosure statements with credit balance notifications; and failing to make proper refunds as detailed in the order.

DATES: Complaint and order issued April 27, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Lewis H. Goldfarb, (acting) Assistant Director for Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580, 202–724–1139.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

SUPPLEMENTARY INFORMATION: On Thursday, February 17, 1977, there was published in the FEDERAL REGISTER (42 FR 9720) a proposed consent agreement with analysis In the Matter of City Stores Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–55 Refunds, rebates, and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–14980 Filed 5–25–77;8:45 am]

[Docket C–2878]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

The Diners' Club, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order requires, among other things, a New York City credit card company to cease failing to furnish customers with periodic statements setting forth credit balances; failing to notify customers of their right to request and receive cash refunds of such credit balances; failing to provide prescribed disclosure statements with credit balance notifications; and failing to make proper refunds as detailed in the order.

DATE: Complaint and order issued April 27, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

Lewis H. Goldfarb, (acting) Assistant Director for Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580, 202–724–1139.

SUPPLEMENTARY INFORMATION: On Thursday, February 17, 1977, there was published in the FEDERAL REGISTER (42 FR 9715) a proposed consent agreement with analysis In the Matter of The Diners' Club, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements: § 13.533–20 Disclosures; § 13.533–45 Maintain records; § 13.533–55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–14981 Filed 5–25–77;8:45 am]

[Docket C–2880]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Federated Department Stores, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order requires a Cincinnati, Ohio, retailer, among other things to cease failing to furnish customers with periodic statements setting forth credit balances; failing to notify customers of their right to request and receive cash refunds of such credit balances; failing to provide prescribed disclosure statements with credit balance notifications; and failing to make proper refunds as detailed in the order.

DATE: Complaint and order issued April 27, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Lewis H. Goldfarb, (acting) Assistant Director for Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580, 202–724–1139.

SUPPLEMENTARY INFORMATION: On Thursday, Feb. 17, 1977, there was published in the FEDERAL REGISTER (42 FR 9719) a proposed consent agreement with analysis in the matter of Federated Department Stores, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order. No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–55 Refunds, rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–14982 Filed 5–25–77;8:45 am]

[Docket C–2883]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Globe Newspaper Co., Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order, among other things, requires a Dorchester, Mass., newspaper publisher to cease misrepresenting the role, identity, and purpose of telephone solicitors; failing to disclose the amount of charitable donations it will make in exchange for the purchase of newspaper subscriptions; and placing in the hands of others the means and instrumentalities by which the public may be deceived. Further, the firm is required to donate $70,000 to the St. Jude Research Hospital; maintain files containing inquiries and complaints relating to proscribed practices; and institute a surveillance program designed to insure solicitors' compliance with the terms of the order.

DATE: Complaint and order issued April 29, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Lewis H. Goldfarb, (acting) Assistant Director for Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, D.C. 20580, 202–724–1139.

SUPPLEMENTARY INFORMATION: On Wednesday, February 23, 1977, there was published in the FEDERAL REGISTER (42 FR 10741) a proposed consent agreement with analysis In the Matter of Globe Newspaper Co., Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings, and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; § 13.15–5 Advertising and promotional services; § 13.15–30 Connections or arrangements with others; § 13.15–225 Personnel or staff; § 13.42 Connection of others with goods; § 13.155 Prices; § 13.155–95 Terms and conditions; 13.160 Promotional sales plans; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records; § 13.533–45(c) Complaints; § 13.533–55 Refunds, rebates, and/or credits. Subpart—Failing to Maintain Records: § 13.1051 Failing to maintain records. Subpart—Furnishing Means and Instrumentalities of Misrepresentation or Deception: § 13.1055 Furnishing means and instrumentalities of misrepresentation or deception. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages, or Connections: § 13.1395 Connections and arrangements with others; § 13.1520 Personnel or staff—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, to Make Materjal Disclosure: § 13.1882 Prices; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions. Subpart—Offering Unfair, Improper, and Deceptive Inducements to Purchase or Deal: § 13.2063 Scientific or other relevant facts; § 13.2080 Terms and conditions. Subpart—Securing Orders by Deception: § 13.2170 Securing orders by deception.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–14983 Filed 5–25–77;8:45 am]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

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Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

PART 214—ADVISORY COMMITTEE MANAGEMENT

AGENCY: Agency for International Development.

ACTION: Notice of Amendment to AID Regulation 14, Advisory Committee Management, 22 CFR, Part 214.

SUMMARY: This notice announces certain amendments to AID Regulation 14, Advisory Committee Management, Title 22, Code of Federal Regulations, Chapter II, Part 214, which was last published in its entirety in the FEDERAL REGISTER of August 7, 1975, 40 FR 33205. These changes are required because of a recently effective amendment to the Federal Advisory Committee Act.

EFFECTIVE DATE: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard F. Calhoun, AID Advisory Committee Management Officer, Agency for International Development, Department of State, Washington, D.C. 20523 (202–632–9726).

SUPPLEMENTARY INFORMATION: Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) provides that a meeting of a Federal advisory committee may be closed to the public if the head of the agency to which the advisory committee reports determines that certain circumstances exist which justify closing the meeting. In the past the circumstances justifying the closing of an advisory committee meeting were contained in the Freedom of Information Act. Section 552(b) of Title 5 United States Code. Effective March 12, 1977, Section 10(d) was amended to change the circumstances justifying the closing of a committee meeting from those contained in the Freedom of Information Act to those enumerated in the Government in the Sunshine Act, subsection (c) of section 552b of Title 5, U.S. Code. AID's Regulation 14 has several subsections which refer to section 552(b). The revisions indicated below are conforming amendments which change these statutory references from section 552(b) to subsection (c) of section 552b Title 5, U.S. Code.

Accordingly, 22 CFR Part 214 is amended as follows:

1. By revising § 214.32(b)(1) to read as follows:

§ 214.32 Calling of advisory committee meetings.

. . . . . .

(b) • • •

(1) The agenda lists the matters to be considered at the meeting and indicates whether any portion of the meeting is to be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code.

2. By revising § 214.33(b) to read as follows:

§ 214.33 Notice of meetings.

. . . . . .

(b) Notices include the name of the advisory committee; the time of the meeting; the purposes of the meeting; a statement regarding the extent to which the public will be permitted to attend and, if any portion is closed, why such closure or partial closure is necessary, including citation of the appropriate exemption permitted under subsection (c) of 5 U.S.C. section 552b. Thus, AID Notices of Advisory Committee meetings normally state that the meeting is open to the public and include the place of meeting; and instructions for gaining access to open meetings which are held in a "secured" building.

3. By revising § 214.34(a)(2) and (b) to read as follows:

§ 214.34 Public participation.

(a) • • •

(2) The Administrator, AID, has formally determined that a meeting or portion of a meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code.

(b) Advisory Committee requests to close all or part of a meeting or a series of meetings are to include the reasons for proposed closure, citing specific exemptions involved under subsection (c) of section 552b of title 5, United States Code. Such requests are submitted by the AID Advisory Committee Representative, through the Advisory Committee Management Officer and the General Counsel to the Administrator at least forty (40) days before the scheduled date of the meeting.

Dated: May 10, 1977.

ROBERT H. NOOTER,
Acting Administrator.

[FR Doc.77–14989 Filed 5–25–77;8:45 am]

Title 29—Labor

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2607—DISCLOSURE AND AMENDMENT OF RECORDS UNDER THE PRIVACY ACT

Clarification of Exemption

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") hereby amends its Privacy Act regulations to clarify an exemption invoked by PBGC from certain provisions of the Privacy Act. This action limits the exemption to records in the "Personnel Records—PBGC" record system. The intended effect is to limit the exemption to only those records to which the exemption is pertinent and to state more fully the reasons for exercising this exemption.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard J. Anderson, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–4895.

SUPPLEMENTARY INFORMATION: On November 30, 1976, the Pension Benefit Guaranty Corporation (hereinafter PBGC) published for comment in the FEDERAL REGISTER, 41 FR 52485, a proposed revision of § 2607.10 of its Privacy Act regulation (29 CFR Part 2607). The purpose of the revision is to limit the exemption contained in section 552a(k)(5) of the Privacy Act only to the PBGC's "Personnel Records" system and to state more fully the reasons for exercising this exemption. The PBGC received no comments on the proposal and therefore is hereby promulgating the revision as proposed.

Therefore, in Part 2607 of Title 29, Code of Federal Regulations, § 2607.10 is hereby revised as follows:

§ 2607.10 Specific exemptions.

Under the authority granted by 5 U.S.C. 552a(k)(5), the PBGC hereby exempts the system of records entitled "Personnel Records—PBGC" from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), to the extent that the disclosure of such material would reveal the identity of a source who furnished information to PBGC under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

The reasons for asserting this exemption are to insure the gaining of information essential to determining suitability for employment, to insure that full and candid disclosures are obtained in making such determinations, to prevent subjects of such determinations from thwarting the completion of such determinations, and to avoid revelation of the identities of persons who have furnished or will furnish information to PBGC in confidence.

(Sec. 552a(f), Pub. L. 93–579, 88 Stat. 1900 (5 U.S.C. 552a(f)); Sec. 4002(b)(3), Pub. L. 93–406, 88 Stat. 1004 (29 U.S.C. 1302(b)(3)).)

Issued in Washington, D.C., this 18th day of May 1977.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc.77–14945 Filed 5–25–77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER DD—IMPLEMENTATION AND INTERPRETATION OF THE 72 COLREGS

(CGD 77-075)

APPLICATION OF 72 COLREGS TO TERRITORIES AND POSSESSIONS

Special Note

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment informs the public generally, and mariners in particular, of the localities where the International Regulations for Preventing Collisions at Sea, 1960 (60 COLREGS), and the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) are in force, including the territories to which the 72 COLREGS are extended. This information is needed by the public, and especially by mariners, since the 72 COLREGS will enter into force internationally on July 15, 1977.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Because the 72 COLREGS (done at London, October 20, 1972, as rectified by Proces-Verbal of December 1, 1973) will enter into force internationally on July 15, 1977, this amendment to Subchapter DD contains information that the public, especially mariners, needs to know and be able to obtain in a convenient manner. The Coast Guard has determined that this information must appear in Subchapter DD with the implementation and interpretation of the 72 COLREGS. Since this information does not contain a rule, it is not subject to the rule making requirements of 5 U.S.C. 553. 72 COLREGS provides in Article III that a Contracting Party to the Convention may, by notification in writing to the Secretary-General of the Intergovernmental Maritime Consultative Organization, extend the application of the Convention to territories for which the Party is the administering authority. The United States and the United Kingdom have made such notifications as to certain territories, and other nations may make similar extensions in the future. In addition, because certain nations have accepted the 72 COLREGS, while other nations which have accepted the 60 COLREGS (16 UST 794, TIAS 5813) have not yet accepted 72 COLREGS, there may be some resulting confusion regarding which set of rules must be observed in a particular location.

The purpose of the informational note being added to Subchapter DD is to inform the public generally, and mariners in particular, of the localities where the 72 COLREGS are clearly in force, including the territories to which 72 COLREGS has been extended. As other nations become Parties to 72 COLREGS, or as other extensions of 72 COLREGS are announced by Parties as to territories administered by those Parties, the Coast Guard will update the note.

DRAFTING INFORMATION

The principal persons involved in drafting this document are: Captain Clarence R. Hallberg, Project Manager and Project Attorney, Office of Chief Counsel; assisted by LT Richard A. Legatski and Mr. Stanley M. Colby, Office of Chief Counsel.

In accordance with the preceding, Subchapter DD is amended by inserting a special note immediately after the title of the subchapter. As amended, Subchapter DD reads as follows:

Subchapter DD—Implementation and Interpretation of 72 COLREGS

SPECIAL NOTE: Application of the 72 COLREGS to territories and possessions.

a. Article III of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), done at London, October 20, 1972, as rectified by Proces-Verbal of December 1, 1973, provides that a party may notify the Secretary-General of the Intergovernmental Maritime Consultative Organization that it extends the application of the Convention to territory for which it is responsible for international relations. Since it is the intention of the United States that the 72 COLREGS apply to all U.S. territories and possessions to the same extent that the International Regulations for Preventing Collisions at Sea, 1960 (60 COLREGS) (16 UST 794, TIAS 5813) previously applied, the United States has given notice to the Secretary-General that the provisions of the 1972 COLREGS are applicable on July 15, 1977, to the following territories and possessions for which the United States is responsible for international relations:

Puerto Rico
Guam
The Canal Zone
The Virgin Islands of the United States
American Samoa
The Trust Territory of the Pacific Islands
Midway Island
Wake Island
Johnston Island
Palmyra Island
Kingman Reef
Howland Island
Baker Island
Jarvis Island
Navassa Island

b. In accordance with Article III, other parties to the Convention have notified the Secretary-General that application of 72 COLREGS is extended. These parties with their territorial extensions are listed in Table 1.

TABLE 1. TERRITORIAL EXTENSIONS OF OTHER PARTIES TO 72 COLREGS

Party to Convention	*Territories to which 72 COLREGS are Extended*
United Kingdom	Hong Kong.

Because earlier formulations of the COLREGS were not elaborated as treaties, they came into force by the almost simultaneous enactment of domestic legislation by the majority of maritime nations. The COLREGS were judicially considered as being customary international law, that is to say international law based upon the consensus of maritime nations rather than upon an express instrument. Because 72 COLREGS was elaborated as a treaty, and under usual treaty practice only parties are bound, there may be a period of time after the 72 COLREGS come into force during which the ships of a nation not party to 72 COLREGS might not be considered as being bound to comply with the convention. While it is most likely that the 72 COLREGS will rapidly achieve the status of customary international law, thereby obviating any concern on the part of the mariner as to whether a particular nation is a party, it does not necessarily follow that the courts in all nations will apply 72 COLREGS to the vessels of a non-party nation. In the absence of changes in their domestic law there may be certain nations that will feel compelled to continue 60 COLREGS in force, despite the coming into force of 72 COLREGS.

The following nations are Contracting Parties for which 72 COLREGS will apply upon the Convention's entry into force:

Algeria
Bahamas
Belgium
Brazil
Bulgaria
Canada
Denmark
Finland
France
German Democratic Republic
Germany, Federal Republic
Ghana
Greece
Hungary
Iceland
India
Liberia
Mexico
Monaco
Netherlands
New Zealand
Nigeria
Norway
Papua New Guinea
Poland
Romania
South Africa
Spain
Sweden
Switzerland
Syrian Arab Republic
USSR
United Kingdom
United States
Yugiosavia
Zaire

The following nations have accepted the 60 COLREGS but are not Contracting Parties to 72 COLREGS:

Argentina
Australia
Austria
Barbados
Burma
China
Cuba
Cyprus
Czechoslovakia
Ecuador
Egypt
Fiji
Gambia
Indonesia
Ireland
Israel
Italy
Ivory Coast
Jamaica
Japan
Kuwait
Lebanon
Libyan Arab Republic
Madagascar
Maldives
Morocco
Oman
Pakistan
Paraguay
Peru
Philippines
Portugal
Republic of Korea
Singapore
Surinam
Tonga
Trinidad & Tobago
Tunisia
Turkey
United Republic of Cameroon

(Convention on the International Regulations for Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964 (42 FR 4327); 49 CFR 1.46(b).)

Dated: May 19, 1977.

O. W. SILER,
U.S. Coast Guard Commandant.

[FR Doc.77-15082 Filed 5-25-77;8:45 am]

[CGD 2-77-01-R]

PART 127—SECURITY ZONES

Establishment of Security Zone; Monongahela, Allegheny, and Ohio Rivers, Pittsburgh, Pa.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes the waters of the Monongahela River, the Allegheny River and the Ohio River in the vicinity of Pittsburgh, Pennsylvania as a security zone from 11:00 a.m. EDST, June 12, 1977, to 12:01 a.m. EDST, June 13, 1977. This security zone is created because several United Nations Ambassador's and United States government officials will be aboard passenger vessels within the area. This security zone is intended to be part of the comprehensive system of ensuring the safety of these persons.

EFFECTIVE DATE: This amendment is effective from 11:00 a.m. EDST, June 12, 1977 to 12:01 a.m. EDST, June 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander C. J. Robinson, Marine Safety Office, 312 Stanwix Street, Pittsburgh, Pennsylvania 15222 (412-644-5808).

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rule making, because this security zone involves a foreign affairs function of the United States.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: LCDR C. J. Robinson, Project Manager, Captain of the Port, Pittsburgh, Pennsylvania, and LT S. Delaney, Project Attorney, Legal Officer, Commander, Second Coast Guard District, 1520 Market Street, St. Louis, MO 63103 (314-425-4655).

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.201 to read as follows:

§ 127.201 The Monongahela, Allegheny, and Ohio Rivers, Pittsburgh, Pennsylvania.

The waters and waterfront facilities within the following boundary is a security zone; mile 11.2 Monongahela River, not including Lock and Dam 2, to mile 0.0 Monongahela River at the confluence of the Ohio, Allegheny and Monongahela Rivers; mile 0.8 Allegheny River, located below Seventh Street Bridge, to mile 0.0 Allegheny River, at the confluence of the Ohio, Allegheny and Monongahela Rivers; and mile 0.0 Ohio River to mile 0.7 Ohio River, located below the West End Bridge.

(40 Stat. 220, as amended, (50 U.S.C. 191) sec. 6(b), 80 Stat. 937; (49 U.S.C. 1655(b)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949-1953 Comp. 356, 778, 873, 3 CFR 1964-1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b).)

Dated: May 26, 1977.

CHARLES J. ROBINSON,
Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port, Pittsburgh, Pennsylvania.

[FR Doc.77-15081 Filed 5-25-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 734-7]

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

North Dakota Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves revisions to the North Dakota State Implementation Plan which were submitted by the Governor of North Dakota on May 26, 1976, and proposed for approval by the Environmental Protection Agency (EPA) on October 19, 1976. The North Dakota submittal includes new and revised legislation and regulations which are approved because they are consistent with EPA regulations. EPA approval of the North Dakota regulations allows the State to assume the primary responsibility for carrying out the provisions of the regulations. One of the regulations EPA is approving provides for the prevention of significant air quality deterioration. Approval of this regulation not only allows the State to assume the responsibility for the review of new sources under this regulation, but also allows the State to propose to reclassify areas of the State.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Louis W. Johnson, Chief, Planning and Operations Section, Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. 303-837-3711.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10885), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved and promulgated the North Dakota State Implementation Plan (SIP). On September 26, 1974 (39 FR 34537), the Administrator disapproved a portion of the North Dakota SIP, as well as the SIP's of other states, because of circuit court rulings that confidentiality provisions could prevent the release of emission data to the public. On June 12, 1975 (40 FR 25009), the Administrator disapproved another portion of North Dakota's and other states' SIPs in that there were no procedures for preventing the significant deterioration of air quality as required by section 101(b)(1) of the Clean Air Act. Federal regulations § 52.21 (b), (c), (d), (e) and (f) were incorporated by reference and made a part of the North Dakota SIP.

The North Dakota SIP revisions include amendments to the North Dakota Century Code, revised new source review and permit to operate regulations (Regulation 23-25-14), new source performance standards (Regulation 23-25-12), emission standards for hazardous air pollutants (Regulation 23-25-13), and a prevention of significant air quality deterioration regulation (Regulation 23-25-15).

On October 19, 1976 (40 FR 46010), the Administrator proposed to approve the North Dakota SIP revisions and requested the public to comment on the approvability of the revisions. No comments regarding the revisions were received.

The requirements for public hearings and plan revisions (40 CFR 51.4 and 51.6) have been met by the State's proposed revisions, except that the revisions were not submitted within 60 days of adoption as required by 40 CFR 51.6(d). The intent of the 60-day limit has not been circumvented, however, and this requirement is waived.

The revisions to the North Dakota Century Code clarify the authorities and duties of the Department of Health and the Air Pollution Control Advisory Council. Penalties for violations were increased to be consistent with the Clean Air Act. The revisions also state explicitly that emission data shall not be considered as confidential information. The EPA disapprovals under 40 CFR 52.1825 and 52.1826 are therefore withdrawn.

The new source review revisions, Regulation 23-25-14, meet the requirements of 40 CFR 51.18 with the exception of subparagraph (h)(2)(i), which requires that the entire new source application be available for public inspection. The revision requires only that a summary be available. Supplemental information was submitted by the State Agency on August 23, 1976, which states that the entire application will be available for public inspection. The requirements of 40 CFR 51.18(h)(2)(i) are therefore met.

Regulations 23-25-12 and 23-25-13, for new source performance standards and hazardous air pollutants respectively, are consistent with the Federal regulations published under 40 CFR Parts 60 and 61.

Regulation 23-25-15, for prevention of significant air quality deterioration, is consistent with 40 CFR 52.21. The allowable increments for increases in air quality levels and the effective dates in the North Dakota regulation are identical to the Federal regulation. The North Dakota regulation covers additional source

categories, coal mines and electric arc furnaces, and provides for inclusion in the increment of the emissions expected from growth associated with a facility.

40 CFR 52.1829, promulgating the Federal prevention of significant air quality deterioration regulation for North Dakota, may now be partially revoked. The Federally promulgated prevention of significant deterioration regulation cannot be totally revoked since, consistent with § 52.21 (d) and (f), source reviews for new or modified sources which are owned or operated by the Federal Government or for new or modified sources located on Federal lands or Indian reservations must still be conducted by the EPA Regional Office. The State may conduct new source reviews of sources located on Indian reservations if it has assumed jurisdiction over such land under other laws. In accordance with 40 CFR 52.21(f)(3) the State in some cases may also review new or modified sources to be constructed or operated on Federal lands pursuant to leasing or other Federal agreements. In addition, this SIP revision will not affect the authority of Indian governing bodies to propose redesignation of their lands or of the Federal Land Managers to submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation, provided the procedures contained in 40 CFR 52.21 are followed.

The primary purpose of this SIP revision is to authorize the State to conduct PSD new source reviews; however, the State regulations also address redesignation, although none is being proposed at this time. While the State's redesignation provisions generally correspond to the Federal regulations, some Federal procedural requirements are omitted from the State's regulation, such as consultation with affected Indian governing bodies, Federal Land Managers, local governments and submittal to EPA of the proposed redesignation for approval. The approval of this submittal does not relieve the State from the procedural requirements contained in 40 CFR 52.21(c) applicable to redesignation. Therefore, before any redesignation is effective for new source review purposes, the EPA must approve or disapprove the proposed redesignation and such agency action will be based upon the contained in § 52.21(c) and the Agency's guidelines which have been furnished to the State.

Therefore, EPA is partially revoking and modifying the North Dakota SIP, 40 CFR 52.1829, so as to: (1) Provide for preconstruction review by the Administrator of Federally owned or operated sources and sources located or to be located on Federal or Indian lands; (2) permit the State of North Dakota, Federal Land Managers and Indian governing bodies to propose redesignation in accordance with § 52.21(c); and (3) permit the State to conduct all other new source PSD reviews.

Since any redesignation must be approved by EPA, new source reviews must be at a minimum based on the Federally approved increments. The State may base its review on more stringent increments if a redesignation has been adopted by the State but not approved by EPA; however, such a review would not be Federally enforceable. If the State's redesignation resulted in less stringent increments, EPA would enforce the applicable increments of the approved SIP until the State's redesignation was approved.

The Administrator finds that the North Dakota SIP revisions meet the substantive and procedural requirements of section 110 of the Clean Air Act and 40 CFR Part 51. Therefore, the Administrator approves the North Dakota SIP revisions as set forth in this rulemaking.

This rulemaking will be effective immediately on May 26, 1977. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because the regulations are already in effect under State and Federal law and Federal approval imposes no new burdens.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5); sec. 301 as amended (42 U.S.C. 1857g).)

Dated: May 19, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart JJ—North Dakota

1. In § 52.1820, paragraphs (c)(6) and (c)(7) are added as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(6) Revisions to the North Dakota Century Code making emission data public information and revising penalties, revised new source performance standards, emission standards for hazardous air pollutants, and prevention of significant air quality deterioration regulations submitted on May 26, 1976, by the Governor.

(7) Supplemental information stating that the complete new source application would be available for public review submitted August 23, 1976 by the State Department of Health.

§ 52.1825 [Reserved]

2. Section 52.1825 is revoked.

§ 52.1826 [Reserved]

3. Section 52.1826 is revoked.

4. Section 52.1829 is revised to read as follows:

§ 52.1829 Significant deterioration of air quality.

The provisions of § 52.21 (b), (c), (d), (e), and (f) are hereby incorporated by reference and made a part of the applicable implementation plan for the State of North Dakota, but only for purposes of: (1) Providing for preconstruction review by the Administrator of Federally owned or operated stationary sources and stationary sources located on Federal or Indian lands; and, (2) permitting Federal Land Managers and Indian governing bodies to propose redesignation in accordance with the procedures in § 52.21(c).

[FR Doc.77-15053 Filed 5-25-77;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 734-3; PP6F1828 and PP7F1889/R130]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Bentazon

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide bentazon on a variety of raw agricultural commodities. This amendment was requested by BASF Wyandotte Corp. This rule establishes permissible levels of bentazon residues on certain crops and also provides a definition for the term peanuts.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460, 202-426-2632.

SUPPLEMENTARY INFORMATION: On August 24, 1976, and January 17, 1977, notice was given (41 FR 35758 and 42 FR 3191) that BASF Wyandotte Corp., Agricultural Chemicals Dept., 100 Cherry Hill Rd., Parsippany, NJ 07054, had filed pesticide petitions for pesticide tolerances with the EPA. These petitions proposed that 40 CFR 180.355 be amended by the establishment of tolerances for combined residues of the herbicide bentazon (3-isopropyl-1*H*-2,1,3-benzothiadiazin-4 (3*H*)-one-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodities peanuts (nutmeats after the removal of hulls) at 0.05 part per million (ppm), peanut hay at 3 ppm, peanut hulls at 0.3 ppm, corn grain and fresh corn (including sweet corn, kernels plus cob with husk removed) at 0.05 ppm, corn forage and fodder at 3 ppm, rice at 0.05 ppm, rice straw at 3 ppm, the hay of seed and pod vegetables (except soybeans) at 3 ppm, and soybean hay at 0.3 ppm (PP6F1828) and in or on the raw agricultural commodity group seed and pod vegetables (dry) at 0.05 ppm (PP7F1889). No comments were received in response to these notices of filing.

The data submitted in these petitions and other relevant material have been evaluated, and the pesticide is considered to be useful for the purpose for which the tolerances are sought. However, there are neither proposed uses nor residue studies for the raw agricultural commodities dill and okra, which are members of the commodity group seed and pod vegetables. Thus, for purposes of this rule, the category seed and pod vegetables (dry) is too inclusive and would allow the establishment of tolerances on crops that would not be supportable by the available data. Consequently, the category is changed to dried peas and dried beans (except soybeans). Similarly, the hay of seed and pod vegetables is changed to the vine hays of dried peas and dried beans (except soybeans). Also, since past tolerances on peanuts have been established on the meat of the peanut excluding the shell, the qualified "nutmeats after the removal of hulls" is unnecessary after the term "peanuts." (40 CFR 180.1 is herewith amended to include a definition for peanuts.)

The toxicology studies (both referenced and submitted) and their corresponding no-effect levels (NEL) evaluated in approving the proposed tolerances in both petitions consisted of a rat LD_{50} (lethal dose) study, a 90-day rat-feeding study (NEL 70 ppm), a 90-day dog-feeding study (NEL 300 ppm), a three-generation rat reproduction study (NEL greater than 180 ppm), ratteratogenicity study (NEL 66.7 mg/kg), a dominant lethal rate study (NEL greater than 180 ppm), a 2-year rat-feeding study (NEL 350 ppm), and an 18-month mouse-feeding study (NEL 350). The calculated maximum permissible intake (MPI) for man of bentazon based on long-term rat studies is 10.5 mg/day. The proposed uses in PPs 6F1828 and 7F1889 would result in a theoretical maximum exposure of 0.15% and less than 1% of this MPI, respectively.

An adequate analytical method (gas chromatography using a sulfur-specific flame photometric detector) is available to enforce the proposed tolerances. Tolerances have previously been established for residues of bentazon in or on soybeans; eggs; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm (negligible residue except for soybeans) and in milk at 0.02 ppm (negligible residue). The negligible residue designation has been removed from the existing tolerances because long-term studies are now available. The existing egg, meat, milk, and poultry tolerances are adequate to cover any residues resulting from the proposed uses as delineated in 40 CFR 180.6(a)(2).

It has been determined that these tolerances will protect the public health, and it is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before June 27, 1977, file written objections with the Hearing Clerk, EPA, East Tower, Rm. 1019, 401 M St. SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective May 26, 1977, 40 CFR 180.1 and 40 CFR 180.355 are amended as set forth below.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: May 19, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

1. Part 180, Subpart A, § 180.1 is amended by adding the following new paragraph:

§ 180.1 Definitions and interpretations.

* * * * *

(j) * * *

9. The term peanuts means the peanut meat after removal of the hulls.

2. Part 180, Subpart C, § 180.355 is revised in its entirety by (1) editorially restructuring paragraphs (a) and (b) into alphabetized columnar listings, (2) alphabetically inserting tolerances of 3 ppm on corn fodder and forage, peanut hay, rice straw, and the vine hays of dried peas and dried beans (except soybeans); 0.3 ppm on peanut hulls and soybean hay, and 0.05 ppm on dried beans (except soybeans), corn grain, fresh corn, peanuts, peas (dried), and rice in paragraph (a), and (3) deleting the designation "negligible residue" from both paragraphs as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) Tolerances are established for combined residues of the herbicide bentazon (3-isopropyl-1*H*-2,1,3-benzothiadiazin-4(3*H*)-1-2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on raw agricultural commodities as follows:

Commodity:	Parts per million
Beans (except soybeans), dried	0.05
Beans (exc. soybeans), dried, vine hays	3
Corn, fodder	3
Corn, forage	3
Corn, grain	0.05
Corn, fresh (inc. sweet K+CWHR)	0.05
Peanuts	0.05
Peanuts, hay	3
Peanuts, hulls	0.3
Peas (dried)	0.05
Peas (dried), vine hays	3
Rice	0.05
Rice, straw	3
Soybeans	0.05
Soybeans, hay	0.3

(b) Tolerances are established for combined residues of bentazon (3-isopropyl-1-1*H*-2,1,3-benzothiadiazin-4(3*H*) - one-2,2-dioxide) and its metabolite 2-amino-*N*-isopropyl benzamide in raw agricultural commodities as follows:

Commodity:	Parts per million
Cattle, fat	0.05
Cattle, mbyp	0.05
Cattle, meat	0.05
Eggs	0.05
Goats, fat	0.05
Goats, mbyp	0.05
Goats, meat	0.05
Hogs, fat	0.05
Hogs, mbyp	0.05
Hogs, meat	0.05
Milk	0.02
Poultry, fat	0.05
Poultry, mbyp	0.05
Poultry, meat	0.05
Sheep, fat	0.05
Sheep, mbyp	0.05
Sheep, meat	0.05

[FR Doc.77-14945 Filed 5-25-77;8:45 am]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 735-2]

PART 410—TEXTILE INDUSTRY POINT SOURCE CATEGORY

Pretreatment Standards for Existing Sources; Final Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action sets forth final pretreatment standards for existing sources in the following subcategories of the textile mills point source category: Wool scouring, wool finishing, dry processing, woven fabric finishing, knit fabric finishing, carpet mills and stock and yarn dyeing and finishing. The effect of the rule will be to set four general prohibitions for pollutants which create a fire or explosion hazard, which cause corrosive damage, which obstruct sewer flow or which upset treatment efficiency. After considering new industry data and reviewing the technical basis for specific pollutant limitations as proposed in 1974, EPA has concluded that the four general prohibitions are most appropriate.

EFFECTIVE DATE: June 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, Environmental Protection Agency, Effluent Guidelines Division, 401 M Street, SW., Room 911 WSME—(WH-552), Washington, D.C. 20460, Telephone number 202-426-2560.

SUPPLEMENTARY INFORMATION: On July 5, 1974, EPA promulgated a regulation adding Part 410 to Title 40 of the Code of Federal Regulations (39 FR 24736). That regulation with a subsequent correction established effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources and proposed pretreatment standards for existing sources in the textile mills point source category. Pursuant to section 307(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1317(b)) (the Act), the regulation set forth below will amend 40 CFR Part 410 textile mills point source category by adding § 410.14 of the wool scouring subcategory (Subpart A), § 410.24 of the wool finishing subcategory (Subpart B), § 410.34 of the dry processing subcategory (Subpart C), § 410.44 of the woven fabric finishing subcategory

(Subpart D), § 410.54 of the knit fabric finishing subcategory (Subpart E), § 410.64 of the carpet mills subcategory (Subpart F) and § 410.74 of the stock and yarn dyeing and finishing subcategory (Subpart G).

THE TECHNICAL BASIS OF PRETREATMENT STANDARDS FOR EXISTING SOURCES

The regulation set forth below establishes pretreatment standards for pollutants introduced to publicly owned treatment works (POTW) from existing sources within the subparts set forth above. This regulation is intended to implement the concepts of the general regulation for pretreatment standards for existing sources set forth in 40 CFR Part 128. This general regulation was published in final form on November 8, 1973 (38 FR 30982).

The general pretreatment regulation (40 CFR Part 128) described above and its application to effluent limitations and standards has sometimes caused confusion. In order to correct any lack of clarity, 40 CFR Part 128 is set aside for existing sources within the subparts set forth in paragraph (a) above. In its place, the specific pretreatment standards applicable to each subcategory are set forth in detail below as the pretreatment standard for that subcategory. This mechanism will eliminate any possible confusion as to the materials which are limited or controlled by the pretreatment standard for each subcategory. This decision is also warranted because new general pretreatment regulations have been proposed (42 FR 6476 et seq., Feb. 2, 1977), which will revoke and replace 40 CFR Part 128 upon promulgation. When the general pretreatment regulations are promulgated, these standards will be reviewed for consistency with the general policy stated therein.

A supplemental technical study was made to determine the levels of pretreatment requirements which are appropriate considering the limitations established for direct dischargers under sections 301 and 304 and the requirements of section 307(b). The findings of this study and technical rationale for the establishment of pretreatment standards are summarized in Appendix A to this preamble. Since some municipalities might have a problem with treatment of a textile discharge, Appendix A also contains alternative treatment technology information as a guide to municipalities in exercising their prerogative to control specific substances.

The report entitled "Supplement for Pretreatment to the Development Document for the Textile Mills Point Source Category" details the additional technical analysis undertaken in support of the final regulation set forth herein and is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C. 20460, at all EPA Regional offices and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the regulation is also available for inspection at these locations. An additional limited number of copies of these reports are available. Persons wishing to obtain a copy may write the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH–552. Copies of the technical documentation will also be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document will be available through the National Technical Information Service, Springfield, Va. 22151.

DID THE PUBLIC COMMENT?

Prior to this publication, many agencies and interest groups were consulted and given an opportunity to participate in the development of these standards. Immediately prior to this rulemaking the results of this study were circulated for comment to persons known to be interested. A summary of public participation in this rulemaking, public comments and the Agency's response is contained in Appendix B to this preamble.

WHAT IS THE ECONOMIC AND INFLATIONARY IMPACT?

The economic impact is expected to be minimal for all subcategories in this industry and no price increases are anticipated as a result of the regulations. No plant closures or production curtailments will occur. In the event that all affected municipalities exercise their prerogative to impose the entire complement of optional pretreatment technologies for about 2000 plants in the subcategories, the wool dyeing and finishing subcategory would be heavily impacted. New plants in this category are not financially feasible even without pollution control requirements. The older, medium-sized plants in the woven fabric dyeing and finishing subcategory and existing small plants in the stock and yarn dyeing and finishing subcategory could face closure if they were forced to absorb the pollution control costs of all of the optional pretreatment technologies. However, they could absorb some fraction of the cost. The economic impact is discussed in greater detail in Appendix A.

COMPLIANCE DATE

Compliance with the prohibited discharge standards is required immediately upon the effective date of these regulations since these standards are essentially the same as 40 CFR 128.131 and since the deadline for compliance with 40 CFR 128.131 has passed.

The Agency is subject to an order of the United States District Court for the District of Columbia entered in *Natural Resources Defense Council* v. *Train* (Civ. No. 2153–73, 75–0172, 75–1698 and 75–1267) which required the promulgation of pretreatment standards for this industry category no later than May 15, 1977.

In consideration of the foregoing, 40 CFR Part 410 is hereby amended as set forth below and shall become effective on June 30, 1977.

Dated: May 18, 1977.

DOUGLAS M. COSTLE,
Administrator.

APPENDIX A—TECHNICAL SUMMARY AND BASIS FOR REGULATIONS

This Appendix summarizes the basis of final pretreatment standards for existing sources in the textile mills point source category.

(1) *General methodology.* The pretreatment standards set forth herein were developed in the following manner. The point source, flow and volume of water used in the pose of determining whether separate standards are appropriate for different segments within the category. The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The principal basis used in developing the pretreatment standards for this industry is analogous to the technology based derivations used in developing the regulations for the direct dischargers. In this regard, the treatment technology employed by direct dischargers is the same as that utilized by POTW to achieve secondary treatment requirements, i.e., primary treatment plus secondary biological treatment. Another integral part of the basis for these standards is the identification of pollutants which either upset or pass through POTW.

The control and treatment technologies were established within each segment. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which is existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations, and reliability of each treatment and control technology were also specified. In addition, the nonwater quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise, and radiation were discussed. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

This information was then evaluated to determine what levels of technology reflected the application of appropriate pretreatment technologies. To help select these technologies, various factors were considered. These included the total cost of application of technology, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, nonwater quality environmental impact (including energy requirements) and other factors.

The data base for the above analysis included EPA permit applications, EPA sampling and inspection reports, consultant reports, and industry submissions.

(2) *Summary of conclusions with respect to the textile mill point source category.*—(i) *Categorization.* For the purpose of establishing pretreatment standards, factors such as types of raw materials, manufacturing processes and final products, age, size, and location of plants, waste water volume, pollutant content, and treatability by typical

POTW including secondary treatment technology, were all considered as potential bases for subcategorizing the textile industry. The principal factors which contributed most to subcategorization were raw material type, final product, manufacturing process and waste water character. Subcategorization by these principal factors was substantiated by assessment of other factors such as relative wasteload and hydraulic contributions to POTW, type of secondary treatment at a POTW (e.g.—trickling filter, activated sludge, etc.), and influent pollutant concentrations.

(ii) *Waste characteristics.* For all seven subcategories, the known significant waste water pollutants and pollutant properties include flow, pH, total suspended solids (TSS), BOD5, COD, oil and grease, total chromium, phenol and sulfide.

(iii) *Treatment and control technology.*—(a) *Rationale for Pretreatment Standards.* Waste water treatment and control technologies have been studied for this industry to determine what is the appropriate pretreatment technology.

The following discussions of treatment technologies outline the bases for the pretreatment standards. These discussions do not preclude the selection by individual municipalities with different circumstances of other waste water treatment alternatives which provide equivalent or better levels of treatment.

Performance data for POTW treating textile waste water indicate that where treatment systems are properly designed to handle this specific waste water, pollutants of concern (i.e., BOD5, COD, TSS, and oil and grease) are removed to consistently low concentrations, and therefore do not pass through a POTW inadequately treated. Where POTW are not meeting their NPDES permits, there are contributing problems, such as hydraulic overloading (related to increased residential or commercial development), POTW operational problems, or very stringent water quality constraints. The pollutants proposed (existing sources) and promulgated (new sources) for pretreatment, COD, chromium, phenol, sulfide, wool scouring oil and grease, have not been reported to cause upsets of POTW.

The removal of wool scouring oil and grease was studied at nine locations. Five of these plants which discharge to POTW reported widely varying levels of oil and grease both within and between plants. Nevertheless, there is no indication of a problem either at the POTW or in the collection system. This is probably due to their low percent participation in the POTW. Also, this oil and grease is from animal origin rather than the more resistent petroleum base. Four other plants treat or pretreat wastes in biological systems. One of these plants reported oil and grease concentrations of about 1500 mg/l after centrifugation prior to biological treatment. After approximately 30 hours aeration, the effluent oil and grease was reduced to about 50 mg/l. The available wool scouring data suggest that high raw waste loads are experienced but that properly designed and operated POTW can treat this waste water satisfactorily. Therefore, a wool scouring oil and grease pretreatment standard is not required at this time.

The raw waste concentrations of chromium, phenol and sulfide were also investigated. Total chromium values from 47 plants in the industry indicated an average raw waste concentration of 0.14 mg/l with a minimum of 1 mg/l. A lack of hexavalent chromium data exists and the following summarizes this data: one plant reported 0.15 mg/l hexavalent out of 0.20 mg/l total chromium; two plants report a maximum of 0.06 mg/l hexavalent chromium compared to a total chromium maximum of 0.28 mg/l; and two other mills report no hexavalent chromium out of a maximum of 0.02 mg/l total chromium. In summary, where hexavalent chromium is present it should only occur at very low concentrations. Phenol values from thirty-five plants averaged 0.17 mg/l, 1 mg/l maximum and sulfide values from seventeen plants averaged 0.59/l, 7 mg/l maximum. Therefore, at the low levels of chromium, phenol and sulfide reported in this industry, these pollutants are compatible with POTW biological treatment.

(b) *Suggested guidance for affected municipalities.* The Agency has concluded that pretreatment regulations which include substantive limitations for specific pollutants on a national basis are not required. However, it must be recognized that the waste water from textile dyeing and finishing plants can create or contribute to at least the following POTW problems: coarse suspended solids which clog pumps, foul bearings and aerators or float in basins; excessive fluctuations of hydraulic or organic loadings; and highly alkaline or acidic discharges. Each of these problems can be largely controlled by careful design and diligent operation of a POTW. Mitigating and site specific circumstances can dictate the need for pretreatment.

Screens such as hydrosieves or vibrating screens are available to capture essentially all of the coarse suspended solids. A combination of coarse and fine screening may be necessary to remove rags and yarn along with individual fibers, lint and flock. While POTW can remove individual fibers, clumps of fibers, rags and large coarse solids should be removed to avoid their interference with the operation of the POTW.

Equalization can even out excessive hydraulic or organic loadings. Lack of equalized hydraulic or organic loading can degrade a normally adequate acclimated biological population in biological treatment or cause complete wash out of trickling filters or clarified sludge blankets.

Extreme pH values or widely fluctuating pH can seriously upset the operation and function of POTW. Control of pH can be accomplished by the addition of lime, caustic soda or other alkali; addition of sulfuric acid or carbon dioxide; mixing of high and low pH streams, passage over limestone beds; or injecting waste flue gas.

Recently revised general guidelines have been made available, per FEDERAL REGISTER notice (42 FR 838) dated January 4, 1977, for use by municipalities in the establishment of pretreatment regulations where local circumstances warrant. It is intended that this preamble and the supplementary development document should provide general assistance to municipalities in identifying problems and potential solutions along with associated costs. Specific on-site engineering and cost evaluation should still be made by municipal engineers or their consultants to more fully evaluate all local circumstances which may allow a unique and cost effective solution to problems which are identified.

(iv) *Cost estimates for control of waste water pollutants.* Cost information was obtained directly from industry, engineering firms, equipment suppliers, government sources and available literature. Costs are based on actual industry installations or engineering estimates for projected facilities as supplied by contributing companies. In the absence of such information, cost estimates have been developed from either plant-supplied costs for similar waste treatment installations at plants making similar products or general cost estimates for treatment technology.

(v) *Energy requirements and nonwater quality environmental impacts.* There are no major nonwater quality considerations associated with screening, equalization or neutralization pretreatment technologies. There are solid waste and energy considerations associated with biological treatment and chemical coagulation alternatives.

(vi) *Economic impact analysis.* This section summarizes the economic and inflationary impacts of the pretreatment standards for the textile mills point source category.

(a) *Inflationary Impact.* Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by Agencies of the executive branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated. The Administrator has directed that all regulatory actions which are likely to exceed any of the following four criteria will require certification.

1. Additional national annualized costs of compliance, including capital charges (interest and depreciation), will total $100 million within any calendar year by the attainment date, if applicable, or within five years of implementation.

2. Total additional cost of production of any major product is more than 5 percent of the selling price of the product.

3. Net national energy consumption will be increased by the equivalent of 25,000 barrels of oil a day (equal to 50 trillion BTU per year or 5 billion kilowatt-hours per year).

4. Additional annual demands are created or annual supply is decreased by more than 3 percent for any of the following materials by the attainment date, if applicable, or within five years of implementation: slate steel, tubular steel, stainless steel, scrap steel, aluminum, copper, manganese, magnesium, zinc, ethylene, ethylene glycol, liquified petroleum gases, ammonia, urea, plastics, synthetic rubber, or pulp.

No significant capital cost is anticipated. However, in the unlikely event that all affected municipalities exercise their prerogative to impose all of the optional pretreatment technologies, assuming that none of the plants have any treatment in place, total investment cost for this industry is estimated to be as high as $440 million, while total annual costs are estimated to be $154 million. These costs are in first quarter 1976 dollars. Total annual costs are equal to operation and maintenance cost plus a capital cost based on a fifteen (15) year depreciation and an approximate nine (9) percent interest rate. This is based upon the document entitled "Economic Impact of Pretreatment Standards for the Textile Industry".

As can be seen above, the potential total national annualized costs of compliance for the pretreatment standards could be above $100 million per year. The increase in cost of production is less than 5 percent of the selling price. Energy consumption may be increased by a nominal amount and the projected increase in demand or decrease in supply for any of the above materials is nominal. Because of the potential that total national annualized cost of compliance could be above $100 million, the Agency certifies that the inflationary impact has been considered in formulating these regulations and has prepared an inflationary impact statement contained in the report, "Economic Impact Pretreatment Standards for the Textile Industry".

(b) *Economic Impact Analysis.* The Agency has considered the economic impact of the internal and external costs of the effluent limitations guidelines. Internal costs are defined as investment and annual cost, where annual cost is composed of operating costs, maintenance costs, the cost of capital and

depreciation. External cost deals with the assessment of the economic impact of the internal costs in terms of price increases, production curtailments, plant closures, resultant unemployment, community and regional impacts, international trade, and industry growth.

In order to determine what possible impact could result if municipalities required any of the optional pretreatment technologies, an incremental cost analysis was performed. For each model plant developed, an impact analysis was completed using an incremental capital cost approach with capital costs ranging from $25,000 to $300,000, each increment being $25,000. For each textile model plant, an analysis was completed for each of the following impact indicators: required price increase; after tax income; after tax return on sales; after tax return on invested capital.

A separate report on the economic analysis indicates the range of impacts to be expected for each model developed. Plant closures and production curtailments for each industry subcategory are discussed as follows.

1. *Wool Scouring.* No plant closures are expected in this industry subcategory and the economic impact will be minimal. Existing medium size plants could be impacted if investment costs were to run above $200,000 but not to a point where they still would not be profitable to operate. Pollution control costs do not prevent new plants from entering the market.

2. *Wool Dyeing and Finishing.* According to the impact analysis, any required investment in pollution control will result in a plant closure. The plants that are presently operating are marginal at best, with after tax return on sales in the 1 percent range. New plants in this subcategory are not financially feasible even before pollution control costs are included in the cost.

3. *Woven Fabric Dyeing and Finishing.* With the exception of older, medium-size existing plants, no impact is expected for this subcategory. In the case of the older medium size model, such plants are well established in the industry and have a lower cost of debt capital, and it is not expected that they will cease operation. However, their after-tax returns are not very high and even a moderate investment in pollution control equipment could result in plant closures for the sixteen plants in this subcategory. Much of the uncertainty here rests with the outcome of international trade agreements presently under negotiation.

4. *Knit Fabric Dyeing and Finishing.* No impacts are expected in this subcategory.

5. *Carpet Manufacture Dyeing and Finishing.* No impacts are expected in this subcategory.

6. *Stock and Yarn Dyeing and Finishing.* The only impact that would be felt in this subcategory would be on the existing small plants. Pollution investment costs above $150,000 could impact a plant but not to a point where they would still not be profitable to operate. Market conditions in terms of demand would be the determining factor as to whether or not the plant would close.

The impact of these regulations is expected to be minimal for the textile industry and little or no price increase is projected. No production curtailment from plant closures is projected and there will be a negligible effect on profitability on plants which are indirect dischargers. Based upon this analysis the effects on employment industry growth and international trade are expected to be minimal.

In enforcing optional pretreatment requirements municipalities must be careful to assess the economic impact of any such controls on the wool dyeing and finishing subcategory. In addition careful attention must be given to the older plants in the woven fabric dyeing and finishing subcategory and the small plants in the stock and yarn dyeing and finishing subcategory.

APPENDIX B—SUMMARY OF PUBLIC PARTICIPATION

Prior to this publication, copies of the draft document were sent to the industry trade association, Federal agencies, state, local, and territorial pollution control agencies. In addition, copies were sent to many textile mills which discharge to a POTW. Each of these parties was given an opportunity to participate in the development of pretreatment standards by submitting written comments. In addition, a public meeting was held on February 2, 1977, at EPA headquarters in Washington, D.C. at which interested parties were invited to express their views. Public comments were also solicited when pretreatment standards for these segments were proposed in the FEDERAL REGISTER on July 5, 1974.

The following responded with comments: American Textile Manufacturers Institute; Northern Textile Association; Carpet and Rug Institute; State of South Carolina; State of Georgia; Kleinschmidt and Dutting; and Camp, Dresser and McKee.

The primary issues raised by commenters during the development of the pretreatment regulations for the textile industry are as follows:

1. Several commenters indicated there is no justification for national pretreatment standards. Occurrence of problems associated with the presence of textile waste waters in sewer collection systems and at POTW is neither consistent nor universal. Further, local ordinances include provisions with authority to control these problems.

The Agency has reviewed all available industry and POTW data and information in light of these comments and has concluded that problems attributable to textile waste waters are not consistent or nationwide in scope. One reason for this is that textile wastes are diluted in public collection systems. Another reason is that some POTW are specifically designed and/or operated to receive and treat textile waste waters. Also, certain textile manufacturing processes produce waste waters that are easier to treat than others. There are many combinations of variables which must be considered in comparing POTW. Sometimes it is difficult to explain why some POTW have success while others fail under seemingly similar circumstances. The preamble to the regulation and the development document are intended to provide general assistance to municipalities and their consultants in the identification of problems and potential solutions. In summary, the Agency has determined that specific pollutant national pretreatment standards are not appropriate for the textile industry. The Agency has determined that four general prohibitions which prohibit pollutants which create a fire or explosion hazard, which cause corrosive damage, which obstruct sewer flow or which upset treatment efficiency are most appropriate for POTW and the textile industry.

2. A number of comments address treatment costs. Most indicated that treatment costs in the North should be higher than the South and that costs should be higher for urban locations than for rural ones. The costs for energy were also considered too low.

The Agency has reviewed the treatment design criteria and the capital and annual costs and has found that Agency costs are applicable to the North, the South, urban and local situations. There will obviously be instances where costs are higher or lower than those estimated in the Development Document but the Agency costs are typical pretreatment costs for average textile mills in urban and rural locations. Particular attention has been given to screening, equalization and neutralization and these costs appear to be particularly reasonable. One commenter indicated that the size of equalization was much larger than typically needed. Thus, the Agency's costs for this technology have been overestimated. In summary, the Agency's pretreatment costs are reasonable for estimating economic impacts of treatment technology on the industry.

The Agency has also reviewed the energy cost data submitted with comments. The agency recognizes that some electricity rates are significantly higher than the 1.5 cents per kilowatt-hour used. However, the Agency costs are incremental increased costs due to new pretreatment technology. This added technology will utilize energy at an incremental cost less than the area's average industrial energy cost. These energy costs are near or below the Agency's estimate. Thus, the Agency's energy usage estimate is reasonable.

3. The comment was made that pretreatment standards were needed for hexavalent chromium and wool scouring oil and grease.

The Agency reviewed its data base for chromium and for wool scouring oil and grease. Additional data were collected for hexavalent chromium and for wool scouring oil and grease.

A lack of hexavalent chromium data exists. Data from five plants were located and these data showed low contributions of hexavalent chromium in total chromium analyses. In only one case was a low level of total chromium mostly in the hexavalent form. Because of the lack of information and the low levels of total chromium reported (maximum 1 mg/l), no concentration limit is appropriate at this time. However, the Agency is presently reconsidering 1983 limitations and will specifically investigate hexavalent chromium.

With regard to wool scouring oil and grease, information was available from nine plants. Five of these plants which discharge to POTW reported widely varying levels of oil and grease both within and between plants. Nevertheless, there is no indication of a problem either at the POTW or in the collection system. This is probably due to their low percent participation in the POTW. Also, this oil and grease is from animal origin rather than the more resistent petroleum base. Four other plants treat or pretreat wastes in biological systems. One plant reported oil and grease concentrations of about 1500 mg/l after centrifugation prior to biological treatment. After approximately 30 hours aeration, the effluent oil and grease was reduced to about 50 mg/l. The available wool scouring data suggest that high raw waste loads are experienced but that properly designed and operated POTW can treat this waste water satisfactorily. Therefore, a wool scouring oil and grease pretreatment standard is not required at this time.

§ 410.10 [Amended]

1. Section 410.10 is amended by inserting the phrases "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

2. Subpart A is amended by adding § 410.14 as follows:

§ 410.14 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under Section 307(b) of the Act for a source within the wool scouring subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the wool scouring subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by paragraph (a) of this section are applicable, shall be in compliance with such standards upon the effective date of that subsection.

§ 410.20 [Amended]

3. Section 410.20 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

4. Subpart B is amended by adding § 410.24 as follows:

§ 410.24 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under Section 307 (b) of the Act for a source within the wool finishing subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the wool finishing subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by paragraph (a) of this section are applicable, shall be in compliance with such standards upon the effective date of that subsection.

§ 410.30 [Amended]

5. Section 410.30 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

6. Subpart C is amended by adding § 410.34 as follows:

§ 410.34 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the dry processing subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the dry processing subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by paragraph (a) of this section are applicable, shall be in compliance with such standards upon the effective date of that subsection.

§ 410.40 [Amended]

7. Section 410.40 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

8. Subpart D is amended by adding § 410.44 as follows:

§ 410.44 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307(b) of the Act for a source within the woven fabric finishing subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the woven fabric finishing subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by paragraph (a) of this section are applicable, shall be in compliance with such standards upon the effective date of that subsection.

§ 410.50 [Amended]

9. Section 410.50 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

10. Subpart E is amended by adding § 410.54 as follows:

§ 410.54 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the knit fabric finishing subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the knit fabric finishing subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by paragraph (a) of this section are applicable, shall be in compliance with such standards upon the effective date of that subsection.

§ 410.60 [Amended]

12. Section 410.60 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

13. Subpart F is amended by adding § 410.64 as follows:

§ 410.64 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under section 307 (b) of the Act for a source within the carpet mills subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the carpet mills subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by paragraph (a) of this section are applicable, shall be in compliance with such standards upon the effective date of that subsection.

§ 410.70 [Amended]

14. Section 410.70 is amended by inserting the phrase "and to the introduction of pollutants into treatment works which are publicly owned" after the word "discharges."

15. Subpart G is amended by adding § 410.74 as follows:

§ 410.74 Pretreatment standards for existing sources.

For the purpose of establishing pretreatment standards under Section 307 (b) of the Act for a source within the stock and yarn dyeing and finishing subcategory, the provisions of 40 CFR Part 128 shall not apply. The pretreatment standards for an existing source within the stock and yarn dyeing and finishing subcategory are set forth below.

(a) No pollutant (or pollutant property) introduced into a publicly owned treatment works shall interfere with the operation or performance of the works. Specifically, the following wastes shall not be introduced into the publicly owned treatment works:

(1) Pollutants which create a fire or explosion hazard in the publicly owned treatment works.

(2) Pollutants which will cause corrosive structural damage to treatment works, but in no case pollutants with a pH lower than 5.0, unless the works is designed to accommodate such pollutants.

(3) Solid or viscous pollutants in amounts which would cause obstruction to the flow in sewers, or other interference with the proper operation of the publicly owned treatment works.

(4) Pollutants at either a hydraulic flow rate or pollutant flow rate which is excessive over relatively short time periods so that there is a treatment process upset and subsequent loss of treatment efficiency.

(b) Any owner or operator of any source to which the pretreatment standards required by paragraph (a) of this section are applicable, shall be in compliance with such standards upon the effective date of that subsection.

[FR Doc.77-15054 Filed 5-25-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

PART 8-74—SPECIAL PROCUREMENT CONTROLS

PART 8-75—DELEGATIONS OF AUTHORITY

Miscellaneous Amendments

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: These parts are revised to make technical changes to reflect organizational changes, to revoke obsolete material, and to limit the purchasing authority of cemetery superintendents.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Clyde C. Cook, Director, Supply Service, Veterans Administration, Washington, D.C. 20420 (202-389-3808).

SUPPLEMENTARY INFORMATION: Section 8-74.113 is revised to reflect organizational changes. Section 8-75.201-1 is revised to provide the heads of all departments and staff offices with equivalent standby authority to procure professional services. Section 8-75.201-9 concerning authority to amend contracts for drugs and chemicals is revoked as unnecessary as a separate, specific delegation. Section 8-75.201-11 concerning registration with the Drug Enforcement Administration is revoked as inappropriate to Part 8-75. Sections 8-75.201-12 and 8-75.201-13 are revised to make the technical correction of including hospital-regional office centers. Section 8-75.201-14 is revoked to reflect the transfer to the Food and Drug Administration of the drug quality assurance program formerly conducted by the Marketing Center. Section 8-75.201-16 is revised to limit the purchasing authority of cemetery superintendents to emergency purchases of less than $300.

Since the proposed changes consist of statements of VA organization and practices, compliance with the provisions of 38 CFR 1.12 relating to regulatory development is considered unnecessary.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular No. A-107.

Approved: May 20, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 8-74.113, paragraphs (b) and (c)(1) are revised to read as follows:

§ 8-74.113 Telecommunications equipment.

* * * * *

(b) The descriptive literature to be furnished by the contractor after award, required by the clause in § 8-7.150-18, is to be reviewed and approved by the Telecommunications Service, Department of Data Management, prior to delivery and/or installation by the contractor. Promptly upon receipt of the descriptive literature, contracting officers will forward it together with a copy of the contract, the formal specification, or the detailed purchase description to the Associate Deputy Chief Medical Director for Operations (134).

(c) Solicitations, including those for construction, for telecommunications equipment based on "brand name or equal" purchase description (see FPR 1-1.307-4 to 1-1.307-9 inclusive) are subject to the following:

(1) Prior to award, contracting officers will forward to the Associate Deputy Chief Medical Director for Operations (134) the abstract of bids, one copy of each offer received, including descriptive literature and pertinent letters, and the comments and recommendations of the contracting officer.

* * * * *

2. Section 8-75.201-1 is revised to read as follows:

§ 8-75.201-1 Professional services.

The Chief Benefits Director, Chief Data Management Director, Chief Medical Director, and the Director, National Cemetery System, are delegated authority to execute, award and administer contracts for the acquisition of those professional services, except architect-engineer, that are authorized by FPR 1-3.204. This authority is for use only in those cases where for cogent reasons the use of the servicing supply organization is not appropriate. When the authority is used, care must be taken to ensure that all provisions of FPR (41 CFR Ch. 1) and VAPR (41 CFR Ch. 8) are complied with. In that connection special emphasis is placed on the VAPR provisions regarding legal review.

§ 8-75.201-9 [Revoked]

3. Section 8-75.201-9 is revoked.

§ 8-75.201-11 [Revoked]

4. Section 8-75.201-11 is revoked.

5. In § 8-75.201-12, paragraph (a) is revised to read as follows:

§ 8-75.201-12 Loan guaranty program.

(a) The authority to execute, award, and administer contracts, purchase orders, and other agreements for the expenditure of funds for supplies or services for the maintenance, protection, repair, rehabilitation, enlargement, completion, conversion, or demolition of properties acquired under chapter 37, title 38, United States Code, is delegated to:

(1) Chief Benefits Director.
(2) Director, Loan Guaranty Service.
(3) Director, Regional Office.
(4) Director, VA Center with Department of Veterans Benefits activities.
(5) Loan Guaranty Officer.
(6) Assistant Loan Guaranty Officer.

* * * * *

6. In § 8-75.201-13, paragraph (a) is revised to read as follows:

§ 8-75.201-13 Education and rehabilitation program.

(a) Except as stated in this section, the authority to negotiate, award, and administer contracts, purchase orders, and other agreements for the expenditure of funds for the vocational rehabilitation program is delegated to:

(1) Chief Benefits Director.
(2) Director, Education and Rehabilitation Service.
(3) Director, Regional Office.
(4) Director, VA Center with Department of Veterans Benefits activities.

* * * * *

§ 8-75.201-14 [Revoked]

7. Section 8-75.201-14 is revoked.

8. In § 8-75.201-16, paragraph (c) is revised and paragraph (d) is added so that the revised and added material reads as follows:

§ 8-75.201-16 National Cemetery System.

Authority for the National Cemetery System to procure supplies, equipment and nonpersonal services is delegated as follows:

* * * * *

(c) Authority to procure, in emergency situations when the servicing supply organization cannot be utilized and in accordance with the provisions of FPR 1-3.6, supplies, equipment, and nonpersonal services (including construction) required for the operation of National Cemeteries is delegated to:

(1) Director and Deputy Director, National Cemetery System.

(2) Director and Deputy Director, National Cemetery Supervising Office.

(d) Authority to procure items and nonpersonal services up to $300 per transaction for the operation of National Cemeteries is delegated to Cemetery Superintendents. The authority is to be used only in emergency situations when the servicing supply organization cannot be utilized, and the method of purchase is limited to the use of SF 44 as provided in FPR 1-3.605-1.

[FR Doc.77-15031 Filed 5-25-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-011]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

Military Service Exclusion From Licensing Requirements for Recency of Service

AGENCY: Coast Guard, Department of Transportation.

ACTION: Final Rule.

SUMMARY: This amendment revises experience requirements for an original or raise of grade of licenses for officers of uninspected vessels in order to bring the requirements in line with those for other officer licenses.

EFFECTIVE DATE: This amendment is effective on May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: Since this amendment merely brings the requirements in line with existing requirements for other licenses, it is exempted from notice of proposed rule making and public procedure thereon by 5 U.S.C. 553(b), and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER because 5 U.S.C. 553(d) does not apply. The principal persons involved in drafting this proposal are: Lieutenant Commander James Norman, Project Manager, and Lieutenant Edward J. Gill, Jr., Project Attorney.

DISCUSSION OF AMENDMENT

The existing experience requirement for an original or raise of grade of licenses for officers of uninspected vessels does not provide for service in the armed forces of the United States to be excluded from the recency of service requirement. Existing requirements for all other deck and engineer officers' licenses provide for the exclusion. It is the Coast Guard's policy that military service be excluded from the recency of service requirement for an original or raise in grade of license of all officers.

Accordingly, Part 10 of Title 46 of the Code of Federal Regulations is amended as follows:

1. By revising § 10.15-25(d) to read:

§ 10.15-25 Application and experience required for original or raise of grade.

* * * * *

(d) No original license or raise of grade shall be issued to any applicant unless at least one year of his qualifying service shall have been obtained within the three years next preceding his application for examination. Service in the armed forces of the United States shall not be counted in computing the three years.

* * * * *

(R.S. 4438a, (46 U.S.C. 224a), 49 U.S.C. 1655(b); 49 CFR 1.46(b).)

Dated: May 18, 1977.

O. W. SILER,
U.S. Coast Guard Commandant.

[FR Doc.77-15080 Filed 5-25-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte 252 (Sub-No. 2)]

PART 1036—INCENTIVE PER DIEM CHARGES ON BOXCARS AND GONDOLA CARS

Incentive Per Diem Gondolas

MAY 19, 1977.

AGENCY: Interstate Commerce Commission.

ACTION: Stay of effective date of regulations pending further Commission order.

SUMMARY: This document stays the July 1, 1977 effective date of § 1036.7 as appearing on page 23513 in the FEDERAL REGISTER of Monday, May 9, 1977, (Vol. 40, No. 82), until further order of the Commission.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423.

Dated: May 19, 1977.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15077 Filed 5-25-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 557]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 27–June 2, 1977. This regulation is needed to provide for orderly marketing of fresh Valencia oranges for the regulation period because of the production and marketing situation confronting the orange industry.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of Valencia oranges, as provided in this regulation, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantities of Valencia oranges that may be marketed from District 1, District 2, or District 3 during the specified week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation for the quantities of Valencia oranges that should be marketed during the specified week. The recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors covered in the order. The committee further reports the fresh market demand for Valencia oranges is very good.

Average f.o.b. price was $3.66 per carton on 519 cars for the week ended May 19, as compared with $3.49 per carton on 363 cars the previous week.

Track and rolling supplies at 375 cars were up 238 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantities of Valencia oranges which may be handled should be established as provided in this regulation.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information becomes available upon which this regulation is based and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient. A reasonable time is permitted for preparation for such effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for Valencia oranges and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning such provisions and effective time has been provided to handlers of Valencia oranges. It is necessary, to effectuate the declared policy of the act, to make this regulation effective during the period specified. The committee meeting was held on May 24, 1977.

§ 908.857 Valencia Orange Regulation 557.

* * * * *

(b) Order. (1) The quantities of Valencia oranges grown in Arizona and designated parts of California which may be handled during the period May 27, 1977, through June 2, 1977, are hereby fixed as follows:

(i) District 1: 328,000 cartons;

(ii) District 2: 472,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 25, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-15308 Filed 5-25-77;11:53 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE, OR IMPORT CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

Addition to General License for In Vitro Diagnostic Products

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to add Mock Iodine-125 to the list of radionuclides in the general license for medical laboratory use. This rule change, requested by The Nucleus of Oak Ridge, Tennessee, will benefit the medical patient by improving the data for the diagnosis of disease.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Deborah A. Bozik, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301–443–6911).

SUPPLEMENTARY INFORMATION: On March 24, 1977, the Nuclear Regulatory Commission (NRC) published a proposed rule (42 FR 15913) to amend its regulations: (1) § 31.11 to add Mock Iodine-125 to the list of radionuclides in the general license for in vitro diagnostic use; and (2) § 32.71 to add Mock Iodine-125 to the list of radionuclides manufactured and distributed for use under the in vitro general license. The public was invited to submit written comments on the proposed rule by May 9, 1977, and no comments were received. Therefore, the text of § 31.11 and § 32.71 set out below is identical with the proposed amendment.

The general license in § 31.11 authorizes any physician, clinical laboratory or hospital to receive, acquire, possess, transfer or use iodine-125, iodine-131, carbon-14, hydrogen-3, selenium-75 and iron-59 for in vitro testing of body fluids. In vitro refers to laboratory tests performed outside of the human body.

The Nucleus, Inc., of Oak Ridge, Tennessee, filed a petition for rule making (PRM 31—2) with the NRC (by letter dated June 23, 1976) requesting the inclusion of Mock Iodine-125 in the general license in § 31.11. This notice of rule making responds to the request of the Nucleus, Inc.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 31 and 32 are published as a document subject to codification.

1. Section 31.11 of 10 CFR Part 31 is amended by adding new paragraphs, (a)(7) and (c)(5), and amending paragraphs (d)(1) and (f) to read as follows:

§ 31.11 General License for use of byproduct material for certain in vitro clinical or laboratory testing.

(a) A general license is hereby issued to any physician, clinical laboratory or hospital to receive, acquire, possess, transfer, or use, for any of the following stated tests, in accordance with the provisions of paragraphs (b), (c), (d), (e), and (f) of this section, the following byproduct materials in prepackaged units:

* * * * *

(7) Mock Iodine—125 reference or calibration sources, in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals.

* * * * *

(c) A person who receives, acquires, possesses, or uses byproduct material pursuant to the general license established by paragraph (a) of this section shall comply with the following:

* * * * *

(5) The general licensee shall dispose of the Mock Iodine-125 reference or calibration sources described in paragraph (a) (7) of this section as required by § 20.301 of this chapter.

* * * * *

(d) The general licensee shall not receive, acquire, possess, or use byproduct material pursuant to paragraph (a) of this section:

(1) Except as prepackaged units which are labeled in accordance with the provisions of a specific license issued under the provisions of § 32.71 of this chapter or in accordance with the provisions of a specific license issued by an Agreement State that authorizes manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), selenium-75, iron-59, or Mock Iodine-125 for distribution to persons generally licensed by the Agreement State.

* * * * *

(f) Any person using byproduct material pursuant to the general license of paragraph (a) of this section is exempt from the requirements of Parts 19 and 20 of this chapter with respect to byproduct materials covered by that general license, except that such persons using the Mock Iodine-125 described in paragraph (a) (7) of this section shall comply with the provisions of §§ 20.301, 20.402, and 20.403 of this chapter.

2. Section 32.71 of 10 CFR Part 32 is amended by adding a new paragraph, (b) (7), and amending paragraphs (c) (1) and (e) to read as follows:

§ 32.71 Manufacture and distribution of byproduct material for certain in vitro clinical or laboratory testing under general license.

An application for a specific license to manufacture or distribute byproduct material for use under the general license of § 31.11 of this chapter will be approved if:

* * * * *

(b) The byproduct material is to be prepared for distribution in prepackaged units of:

* * * * *

(7) Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each.

(c) Each prepackaged unit bears a durable, clearly visible label:

(1) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 10 microcuries of iodine-131, iodine-125, selenium-75, or carbon-14; 50 microcuries of hydrogen-3 (tritium); 20 microcuries of iron-59; or Mock Iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each; and

* * * * *

(e) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such byproduct material. In the case of the Mock Iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in § 20.301 of Part 20 of this chapter.

* * * * *

(Secs. 81, 161, Pub. Law 83–703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); Sec. 201, Pub. Law 93–438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Maryland this 19th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Executive Director for Operations.

[FR Doc.77-15117 Filed 5-25-77;8:45 am]

[Docket No. RM 50-3]

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Uranium Fuel Cycle Impacts From Spent Fuel Reprocessing and Radioactive Waste Management; Reopened Hearing

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of reopened hearing on interim rule.

SUMMARY: The notice provides procedures for the conduct of a public hearing on the question whether the Commission's recently adopted interim rule (42 FR 13803; March 14, 1977) specifying environmental impacts from reprocessing and waste management in the nuclear fuel cycle should be made permanent for future use, and if it should be altered, in what respect.

DATE: Written notice of intent to present views at the hearing to be furnished by June 27, 1977.

ADDRESS: Written notice of intent to present views at the hearing, containing name of individual and name of organization represented, should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

FOR FURTHER INFORMATION CONTACT:

Mr. Martin G. Malsch, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301–492–7203.

REOPENED HEARING

In the Matter of Amendment of 10 CFR Part 51—Licensing of Production and Utilization Facilities (Environmental Effects of the Uranium Fuel Cycle).

In November 1972, a document entitled "Environmental Survey of the Nuclear Fuel Cycle" was published by the Directorate of Licensing of the Atomic Energy Commission (AEC). The purpose of that document was to establish a technical basis for informed consideration of environmental effects of the uranium fuel cycle in the environmental impact statements for individual light water power reactors (LWR's). Comments on the Environmental Survey were solicited, and an informal rule making hearing was held on February 1 and 2, 1973. The purpose of the hearing was to consider possible amendments of Appendix D of 10 CFR Part 50 which would, by rule, specify the environmental effects of the uranium fuel cycle to be factored into the assessment of costs and benefits in environmental impact statements for individual LWR's. Written comments were received in response to the FEDERAL REGISTER notice, and recommendations for im-

provement were offered during the hearings. After consideration of the written comments and the hearing record, the AEC promulgated the final fuel cycle rule (so-called Table S–3) on April 22, 1974 (39 FR 14188). The AEC indicated in its decision that the rule and survey would be re-examined from time to time to accommodate new information. The same Table S–3 was thereafter included in 10 CFR Part 51.

On July 21, 1976 the United States Court of Appeals for the District of Columbia decided *Natural Resources Defense Council* v. *NRC*, a case involving a legal challenge to the fuel cycle rule. The court approved the overall approach and methodology of the fuel cycle rule. It found that, regarding most phases of the fuel cycle, the underlying survey represented an adequate description of the processes involved. The court noted that the survey assembled data on consumption of resources, discussed the risks of accidents and other hazards in detail, and provided numerous references to the scholarly literature and technical reports in support of the conclusions as to environmental impact. However, the court found that the rule was inadequately supported by the record insofar as it treated two particular aspects of the fuel cycle—the impacts from reprocessing of spent fuel and the impacts from radioactive waste management. The U.S. Supreme Court has since agreed to review the Court of Appeals decision.

On August 16, 1976, the Commission published a General Statement of Policy (41 FR 34707) in response to the *Natural Resources Defense Council* v. *NRC* decision, and a related decision, *Aeschliman* v. *AEC*, issued on the same date. The Commission announced its intention to reopen the rulemaking proceeding on the environmental effects of the fuel cycle to supplement the existing record and to determine whether or not the rule should be amended. The Commission directed the Staff to prepare a revised and well-documented environmental survey dealing with radioactive waste management and reprocessing impacts. The revised survey was to serve as the basis for an interim rule on radioactive waste management and reprocessing impacts. The Commission also noted that after promulgation of an interim rule, a public hearing would be held to facilitate public participation on the question whether the interim rule should be made permanent for future use, and if it should be altered, in what respect.

The revised survey called for by the Commission's General Statement of Policy—NUREG–0116—was completed in October 1976. On October 18, 1976, notice was published in the FEDERAL REGISTER (41 FR 45849) that the survey, an impact analysis, and a proposed interim rule on waste management and reprocessing impacts were available to the public, and that comment on them was solicited. The revised survey was also forwarded to interested Federal agencies for comment. The comments received, and staff analysis thereof, are set forth in NUREG–0216. A response to the comments on the impact analysis was also prepared. These documents served as the basis for an interim rule published in effective form on March 14, 1977 (42 FR 13803). As indicated in the notice of proposed rulemaking published on October 18, 1976, the Commission is considering adoption of this interim rule in final form.

The Commission indicated in its General Statement of Policy that the rules for the conduct of the hearing in the reopened rulemaking proceeding on the final rule would be specified later, after receipt and analysis of comments on a petition for rulemaking, involving among other things the hearing format for this proceeding, that had been proposed for this purpose by Natural Resources Defense Council, Inc. (NRDC).

NRDC's proposed procedures and the comments received thereon have all been considered by the Commission. Most of the letters of comment (representing some sixty-six organizations) that expressly addressed the procedural aspects of the NRDC petition were opposed to NRDC's suggestion as to the scope of the reopened proceeding. Only the Union of Concerned Scientists and NRDC's own letter of comment supported the suggestion that the scope of the proceeding be the entire S–3 table and not be limited to waste management and reprocessing matters. As stated in the FEDERAL REGISTER notice on the proposed interim rule, referred to above, the Nuclear Regulatory Commission staff is initiating a study designed to examine information that has developed since promulgation of the fuel cycle rule in 1974 for the purpose of updating the rule in areas other than waste management and reprocessing. This study is being initiated as a separate matter and will not be completed for some time. As explained more fully below, the Commission believes that prompt completion of final rulemaking proceedings on waste management and reprocessing impacts is in the public interest and, for this reason, the NRDC's suggestion as to scope has not been adopted.

NRDC's other procedural suggestions were essentially to use a modified version of the procedures prescribed by the Commission for use in the so-called GESMO proceeding. ("Environmental Statement Mixed Oxide Fuel," 41 FR 1133, January 8, 1976). The GESMO procedures contemplate a legislative-type hearing with the possible opportunity for a subsequent adjudicatory hearing. NRDC recommends this procedural approach with several significant modifications. Where the GESMO procedures would not allow subpoenas "except upon a showing of exceptional circumstances," NRDC would make the test merely whether the subpoenas were "reasonably necessary." Similarly, where the GESMO procedures allow discovery only where "exceptional circumstances" and "compelling justification" are shown, NRDC would allow discovery where "reasonably necessary." Finally, while the GESMO procedures leave to the Commission's discretion the question of allowing cross-examination in a follow-on adjudicatory proceeding, NRDC's proposal would appear to remove that discretion if a participant makes a "threshold showing" as to the need for such additional procedures.

The GESMO procedures or the modified GESMO procedures proposed by NRDC were supported by the comment letters of the California Energy Resources Conservation and Development Commission, the Union of Concerned Scientists and the NRDC's own letter of comment. The other ten letters of comment generally supported the use of the existing S–3 procedures, noting that the court had implicitly endorsed them if administered "in a more sensitive, deliberate manner". The commenters also stated that the procedures proposed by NRDC were not reouired by law and were burdensome, complex and time consuming.

The Administrative Procedure Act, which governs rulemaking by the Commission, requires only advance notice and opportunity for written comment. Thus both NRDC's proposal and the original procedures followed in this matter—which called for an informal public hearing with witnesses subject to questioning by the hearing board—establish modes of public participation that go beyond the requirements generally applicable to rulemaking under the Administrative Procedure Act. However, the law is clear that an agency may provide for public participation beyond the statutory requirements. In deciding on the need for such additional procedures in this matter, several factors have been considered. The procedures must be designed to develop and illuminate the important matters of fact, policy and law that underlie the proposed rule. Also, provision for procedures to permit testing of information provided may be appropriate. Finally, the need for prompt and efficient decisionmaking must be considered.

On the first factor, the experience in the original rulemaking proceeding on the fuel cycle rule provides an extremely useful guide for decision. The original procedures proved adequate for development and illumination of a wide range of fuel cycle impact issues, including issues related to uranium mining and milling operations, fuel fabrication, and enrichment. True, the record was held inadequate on the two matters at issue here, but these issues are of the same character as the other issues regarding which the record did prove adequate.

The procedures recommended by NRDC more closely approach the kinds of procedures followed in adjudicatory, as opposed to rulemaking, proceedings, than do the original fuel cycle rule procedures. In many (but not all) respects as stated they resemble the GESMO procedures. To the extent they go further, for example in providing for more extensive discovery, they embody elements

of formality and adversariness the Commission believes are inappropriate for these proceedings. Moreover, the GESMO proceeding has not proceeded to any adjudicatory stage, and therefore the Commission has no directly applicable experience to draw upon regarding how the procedures there adopted will work. The court here indicated that the procedures previously employed could suffice, and indeed did for other issues.

Finally, there is a need for a prompt decision. The final rule will be applied to nuclear power plant licensing proceedings then pending. Construction and operation of nuclear power plants entail commitments of resources measured in terms of billions of dollars and have a significant impact on both national and local needs and programs. The Commission does not expect these hearings to resolve finally the important questions regarding waste management and other activities associated with the back end of the fuel cycle. Their limited role in assisting the development of environmental impact analyses is an appropriate factor to be considered. Indeed prompt completion of this reopened hearing will facilitate prompt identification and consideration of any new information which may be developed. This information can then be brought to bear on these nuclear power plant licensing decisions by application of the final rule.

Accordingly, notice is hereby given that the rules for the conduct of the reopened hearing and the authorities and responsibilities of the Hearing Board will be the same as originally applied in this matter (38 FR 49, January 3, 1973) except that specific provision is hereby made for the Hearing Board to entertain suggestions from participants as to questions which the Board should ask of witnesses for other partilicipants. The Commission is confident that these procedures can and will be applied by the Hearing Board in a sensitive and careful fashion so as to assure the ventilation and consideration of waste management and reprocessing issues called for by the Court in *Natural Resources Defense Council* v. *NRC*. The Commission intends to monitor carefully the course of the proceeding to assure that this goal is achieved. The location of the hearing will be announced in a separate FEDERAL REGISTER notice. The exact time for commencement of the hearing will be established by the Hearing Board. A Hearing Board consisting of Michael L. Glaser, John H. Buck, and R. Beecher Briggs will preside. Michael L. Glaser is an attorney and member of the law firm of Glaser and Fletcher, P. C., in Washington, D.C. He is a member of the District of Columbia and Maryland bars and has been a part-time member of the Atomic Safety and Licensing Board Panel since 1972. Mr. Glaser will serve as chairman of the hearing board. John H. Buck is Vice-Chairman of the Atomic Safety and Licensing Appeal Panel. He has served as a member of this panel since 1969. Dr. Buck was formerly Chief Physicist at the Oak Ridge National Laboratory. He was a member of the hearing board for the Emergency Core Cooling System rulemaking hearings of the United States Atomic Energy Commission that took place in 1973. He is a Fellow of the American Association for the Advancement of Science and a Fellow of the American Physical Society. R. Beecher Briggs has been a part-time member of the Atomic Safety and Licensing Board Panel since 1966.

Previous to his retirement in 1975, Mr. Briggs was Senior Research Engineer at Oak Ridge National Laboratory and had formerly served as Director of the Molten Salt Reactor Program and Director of Homogeneous Reactor Projects and Reactor Experimental Division. He is presently a consultant for Oak Ridge National Laboratory, operated by the Union Carbide Nuclear Division, and for Union Carbide Corporation, with the latter on subjects unrelated to nuclear energy.

Any person who intends to present views at the hearing should furnish in writing his name and the name of the organization he represents to the Secretary of the Commission by June 27, 1977. The subject of the hearing will be confined to the environmental effects of spent fuel reprocessing and radioactive waste management in the light water power reactor uranium fuel cycle, and to the question whether the outcome of the interim rulemaking should be made permanent for future use, or if it should be altered, in what respects. In this regard, the light water power reactor uranium fuel cycle should be taken as including, alternatively (1) no reprocessing of spent fuel and follow-on interim and/or long-term storage or disposal of spent fuel, or (2) reprocessing spent fuel for purposes other than recycle of plutonium, with follow-on interim and/or long-term storage or disposal of plutonium and wastes from reprocessing, with plutonium either separated from or included with the wastes.[1] The matter of possible changes to the impacts from spent fuel reprocessing and radioactive waste management in the light water power reactor fuel cycle arising from the possible reprocessing and subsequent wide-scale use of mixed oxide fuel is being addressed separately in the proceeding on the wide-scale use of mixed oxide fuel (Docket No. RM–50–5). Both NUREG–0116 and NUREG–0216 will be included in the hearing record. The NRC Staff has initiated a study designed to examine information that has developed since promulgation of the fuel cycle rule for the purpose of generally updating the rule in other subject areas. This updating will be the subject of a separate rulemaking proceeding.

For further information on this matter, interested persons should consult NUREG–0116 and NUREG–0216, copies of which are on file in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Documents relied upon in preparing NUREG–0116 and NUREG–0216 will also be made available for public inspection at the same location.

Dated at Washington, D.C. this 20th day of May 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-15141 Filed 5-25-77;8:45 am]

[1] The Commission recognises that its reassessment of GESMO (42 FR 22964, May 5, 1977) may call for a change in scope of this hearing on the final Table S–3 rule. The Commission, rather than the Hearing Board, will make that decision if and when necessary.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 170]

PROPOSED REVISION OF LICENSE FEE SCHEDULES

Extension of the Public Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of period for public comment on proposed rule.

SUMMARY: The Nuclear Regulatory Commission extends until July 1, 1977 the period for public comment on the proposed schedule of fees for facilities and materials licenses that appeared in the FEDERAL REGISTER on May 2, 1977 (42 FR 22149). This extension is in response to a request from the General Atomic Company for additional time to comment.

DATE: Comments must be received on or before July 1, 1977.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Mr. W. O. Miller Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D C. 20555, 301–492–7225.

SUPPLEMENTARY INFORMATION: On May 2, 1977, the Nuclear Regulatory Commission published proposed amendments to Title 10, Chapter I, Code of Federal Regulations, Part 170, revising the Commission's schedule of fees for facilities and materials licenses (42 FR 22149). Interested persons were invited to submit to the Secretary of the Commission by June 1, 1977, written comments for consideration in connection with the proposed amendments.

The Secretary has since received a request from the General Atomic Company, San Diego, California, asking that the comment period be extended to July 1, 1977. General Atomic notes that additional information relevant to the proposed amendments was presented at a public meeting on May 12, 1977, and that additional time is necessary to consider this new information.

In view of the amount and complexity of the material encompassed by the proposed new fee schedule and the introduction of new information at the public meeting, the request for an extended comment period appears justified. Accordingly, and pursuant to 10 CFR 2.808 (b), the period for public comment is extended to July 1, 1977.

Dated at Washington, D.C. this 23rd day of May, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77–15116 Filed 5–25–77;8:45 am]

FEDERAL ELECTION COMMISSION

[11 CFR Ch. II]

[Notice 1977–31]

SOLICITATIONS BY SEPARATE SEGREGATED FUNDS OF LABOR ORGANIZATIONS

ACTION: Proposed Regulation.

SUMMARY: This notice contains a request for comments for a proposed regulation regarding solicitations by the separate segregated funds of labor organizations.

CLOSE OF COMMENT PERIOD: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Swillinger, Assistant General Counsel, 523–4060.

SUPPLEMENTARY INFORMATION: The Commission requests public comment in the form of suggested language for a regulation concerning the scope of a labor organization's right to use a method of solicitation once that method has been used by a corporation, see 11 CFR 114.5(k) (41 FR 35959, August 25, 1976) and 2 U.S.C. 441b(b)(6).

The Commission publishes the following series of questions to describe the issues to be addressed in the comments:

(1) If a corporation with a separate segregated fund makes payroll deduction and/or stock dividends withholding available to its executive and administrative personnel and stockholders only through December 31, 1977, and a labor organization representing members working for the corporation makes a request during that period for payroll deduction for its members, during what period is the corporation required to provide payroll deduction for those labor union members?

(2) If the corporation makes payroll deduction and/or stock dividend withholding available only through December 31, 1977, and no labor organization representing members working for the corporation makes a request for payroll deduction for its members until January 1, 1978, or later, is the corporation required to provide payroll deduction for those labor union members? If so, for what period?

(3) If the corporation makes payroll deduction and/or stock dividend withholding available only during the months of April, May, June and July of 1977, and a labor organization representing members working for the corporation makes a request during that period for payroll deduction for its members, during what period is the corporation required to provide payroll deduction for those labor union members?

(4) If the corporation makes payroll deduction and/or stock dividend withholding available only during the months of April, May, June and July of 1977, and no labor organization representing members working for the corporation makes a request for payroll deduction for its members until August 1, 1977, or later, is the corporation required to provide payroll deduction for those labor union members? If so, for what period?

(5) If the corporation makes payroll deduction and/or stock dividend withholding available during a calendar year and one labor organization representing members working for the corporation makes a valid and timely request for payroll deduction for its members, but another labor organization which represents other members working for the corporation fails to make a request during the calendar year, is the corporation required to provide payroll deduction for those members of the labor organization which failed to make a timely request? If so, for what period?

(6) If the corporation makes payroll deduction and/or stock dividend withholding available to executives and stockholders of a subsidiary corporation which does not have any employees who are members of a labor organization is the corporation required to make payroll deduction withholding available to labor union members employed by another subsidiary corporation of the same parent corporation?

The Commission requests that comments be submitted in the form of a proposed regulation to cover the issues raised by the questions. Comments should be submitted on or before June 27, 1977 to Regulation Section, Office of General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

Dated: May 23, 1977.

JOAN D. AIKENS,
Vice Chairman for the Federal Election Commission.

[FR Doc.77–15075 Filed 5–25–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Chapter I]

[Docket No. 14581; Reference Advance Notice 75–17]

DISTANCE-TO-GO RUNWAY MARKERS

AGENCY: Federal Aviation Administration/DOT (FAA).

ACTION: Withdrawal of advance notice of proposed rule making.

SUMMARY: This notice withdraws Advance Notice No. 75–17 (40 FR 20289; published May 9 1975) in which the Federal Aviation Administration invited public participation in the identication and selection of a course or alternate courses of action with respect to possible rule making: (1) To require that distance-to-go runway markers be installed every 1,000 feet on all runways utilized by turbine-powered airplanes and (2) to provide a pilot with runway length information to assist him in making takeoffs and landings.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, AFS–940, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202–755–8716.

SUPPLEMENTARY INFORMATION: As explained in the advance notice, the Air Line Pilots Association (ALPA) petitioned the Federal Aviation Administration to amend the Federal Aviation Regulations to require distance-to-go marker boards every 1,000 feet on all runways utilized by turbine-powered airplanes. The reasons for the ALPA petition, as set forth in the Advance Notice (No. 75–17), are based on the ALPA belief that distance-to-go marker boards every 1,000 feet on the runway would provide the pilot with his location on the runway and that this information would assist him in determining the safest course of action to follow in the event of an emergency situation.

The ALPA petition did not include a prosposal that the use of the runway markers by pilots of turbine-powered airplanes be mandatory. In its comment to the public docket concerning Notice No. 75–17, the ALPA stated that it encourages the use of runway distance-to-go markers but that they should be used only as an additional piece of information and at the pilot's discretion. The ALPA believes that there should not be a required operational procedure based on the existence of the runway distance-to-go markers.

A narrow majority of the comments to the advance notice, the total of which exceeded one hundred and twenty-five, were opposed to requiring the installation of distance-to-go runway markers. In general, opposition centered around the high cost of installation and maintenance of the markers when compared to what many believe are limited benefits to be derived from their installation.

Some airport operators opposed the installation of runway markers primarily because of the expense of installation and maintenance and because the use of them at some of the larger airports has proved unsatisfactory. One airport operator reported that markers installed and maintained by the military at a large civil airport are difficult to maintain, subject to frequent damage from jet blast, and cannot be adjusted to display the correct information when a runway threshold is temporarily displaced.

In its comment on the advance notice, the Air Transport Association of America (ATA) noted that, in early 1971, as a result of an NTSB recommendation that distance-to-go runway markers be installed, the airlines reviewed the matter in some detail. It was concluded that any attempt to use distance-to-go runway markers or to use the Instrument Navigation System for acceleration rate information to V_1 (critical-engine-failure) speed was not feasible for airline operations. The ATA notes that it was the opinion of the airlines at that time, based on individual investigations and experience, that acceleration checks during takeoff roll could cause more exposure to accidents than the procedure might prevent.

With respect to acceleration time to V_1, another commentator stated that the use of stopwatch information is the most accurate source available. Moreover, other comments asserted that information regarding aircraft location on the runway is available from approach plates and airport diagrams. Another person opposed to mandatory installation of runway markers noted that, during low visibility takeoffs and landings, the occasions when the markers would ostensibly be used, their visibility would be limited due to pilot concentration on the runway centerline. One commentator asserted that outside scan beyond the periphery of the runway is undesirable during low visibility operations.

The FAA agrees that use of the runway markers during takeoff might result in a potentially unsafe situation since the pilot not in control would be required to monitor passage of the markers. This would divert his attention from adequately monitoring engine and flight instruments and would increase the probability of his failing to call out the V_1 speeds at the proper time during a most critical period of the takeoff.

A further objection voiced by the ATA was that it fears that the use of the markers on takeoff might increase exposure to unnecessary high speed aborts and subsequent exposure to abort overruns. The ATA states that the airlines also concluded that the benefits of runway distance-to-go markers on landing roll are minimal.

With respect to emergency situations when an abort may be necessary, airplane flight manuals currently incorporate accelerate/stop distance information which assures adequate runway in the event of an emergency abort. The FAA believes that the procedures used by the airlines for setting and cross-checking takeoff V_1 reference speeds are adequate and that the balanced field length concept is safe and reasonable. An Air Carrier Operations Bulletin (No. 72–6) was issued by the FAA to assure that air carrier training programs and operating procedures emphasize the necessity for flight crews to assure that takeoff V_1 speeds accurately reflect all pertinent considerations prior to takeoff.

Numerous commentators noted that, without cockpit procedures that involve the use of runway markers, the markers would be ignored or relegated to the category of "nice to know" but not necessary information. The lack of procedures has caused some commentators to conclude that other, more widely used airport improvements, including VASI and other visual aids, should be given precedence.

With respect to the costs involved in the installation of distance-to-go runway markers on all runways used by turbine-powered airplanes, FAA study of the matter has led to the conclusion that, to be useful under low visibility conditions and during hours of darkness, distance-to-go markers would require interior-lighted transparent panels visible from both take-off directions, with numerals easily readable at distances beyond 500 feet. Due to obstruction clearance criteria, markers would require lateral offset of 75 feet or more, dependent upon height. If elevated to avoid snow obliteration, markers would require greater offset, and correspondingly greater size for readability.

Cost sampling for commercially available markers indicates that an acceptable marker would cost from $1,000 to $2,000 installed, dependent upon size, construction, offset distance, electrical wiring requirements, and other related factors. A typical 7,000-foot runway requiring approximately 14 distance-to-go markers would, therefore, require an expenditure of $14,000 to $28,000. There are currently 402 airports in the United States that are certificated under Part 139, with a total of 777 runways capable of turbojet operations. If adopted, this proposal would cost from $10.8 to $21.7 million for those airports receiving air carrier service. No attempt has been made to calculate costs for an additional 834 airports with 5,000-foot paved runways that are not certificated under Part 139, but are fully capable of accommodating turbine powered aircraft.

A further consideration with respect to evaluation of the cost of installation of distance-to-go runway markers is the fact that, by virtue of the Metric Conversion Act of 1975, Pub. L. 94–168 (89 Stat. 1007), it is the policy of the United States to coordinate and plan the increasing use of, and eventual voluntary conversion to, the metric system. Accordingly, until that conversion is completed, the adoption of a runway marking system that would later require conversion to the metric system without a proportionally significant benefit to safety in air commerce is not justified.

The FAA determined that use of distance-to-go runway markers would provide an additional means of determining airplane performance during takeoff and landing provided supporting performance data are made available in the airplane Flight Manual. However, based on the analysis of comments received in response to Notice No. 75–17, costs for installation of distance-to-go runway markers, and their possible obsolescence due to metrication, the FAA has determined that their installation at the present time would not be practical, and in the interim period could be counterproductive in safety of operations.

The FAA has determined that rulemaking action on the ALPA proposal is not warranted at the present time. However, withdrawal of the advance notice does not preclude the FAA from issuing similar notices in the future due to a change in circumstances, nor does it commit the FAA to any course of action.

The principal authors of this document are Joe N. Cate, Jr., Air Carrier Regulations Branch, Flight Standards Service, and Margaret C. Sweeney, Office of the Chief Counsel.

In consideration of the foregoing, the Advance Notice of Proposed Rule Making published in the FEDERAL REGISTER (40 FR 20289) on May 9, 1975, and circulated as Notice No. 75–17, entitled "Distance-to-Go Runway Markers", is hereby withdrawn.

(Secs. 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on May 17, 1977.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc. 77–14621 Filed 5–25–77;8:45 am]

[14 CFR Part 71]

[Docket No. 77–SO–13]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: A public use instrument approach procedure is being developed for the Marathon, Florida, Airport, and additional controlled airspace is required for containment of IFR operations. This proposed rule will designate the Marathon, Florida, transition area and will lower the base of controlled airspace in the vicinity of the airport from 1200 to 700 feet to accommodate the anticipated IFR operations.

COMMENT DATE: Comments must be received on or before July 5, 1977.

ADDRESS: Send comments on the proposal to Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320, telephone 404–763–7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before July 5, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202–426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Marathon, Fla., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Marathon Flight Strip Airport.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

MARATHON, FLORIDA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marathon Flight Strip (Lat. 24°43'33" N., Long. 81°03'05" W.); within 3 miles each side of the 251° bearing from the Marathon RBN, extending from the 6.5-mile radius area to 8.5 miles west of the RBN; excluding the portion outside the continental limits of the United States.

DRAFTING INFORMATION

The principal authors of this document are Donald Ross, Airspace and Procedures Branch, Air Traffic Division and Ronald R. Hagadone, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in East Point, Ga., on May 13, 1977.

GEORGE R. LACAILLE,
Acting Director,
Southern Region.

[FR Doc.77–14802 Filed 5–25–77;8:45 am]

[14 CFR Part 71]

[Docket No. 77–SO–16]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: A public use instrument approach procedure is being developed for the Mount Olive Municipal Airport and additional controlled airspace is required for containment of IFR operations. This proposed rule will alter the Goldsboro transition area by lowering the base of controlled airspace in the vicinity of the airport from 1200 to 700 feet.

COMMENT DATE: Comments must be received on or before July 5, 1977.

ADDRESS: Send comments on the proposal to Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

C. Herman Thompson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta Georgia 30320, telephone 404–763–7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before July 5, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW, Washington, D.C. 20591, or by calling 202–426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Goldsboro, North Carolina, 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at the Mount Olive Municipal Airport.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71) by altering the Goldsboro transition area as follows:

"* * * northeast of the RBN * * *" will be deleted and "* * * northeast of the RBN; within a 6.5-mile radius of Mount Olive Municipal Airport (Lat. 35°13'24" N., Long. 78°02'21" W.); * * *" will be substituted therefor.

DRAFTING INFORMATION

The principal authors of this document are C. Herman Thompson, Airspace and Procedures Branch, Air Traffic Division and Richard L. Faber, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in East Point, Ga., on May 13, 1977.

GEORGE R. LACAILLE,
Acting Director,
Southern Region.

[FR Doc.77–14801 Filed 5–25–77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 22]

DRAWBACK CLAIMS

Proposed Amendment to the Customs Regulations Relating to Retention of Records

AGENCY: United States Customs Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed change in the regulations pertaining to the retention of certain specified records relating to drawback claims. This change in the record retention requirement is made necessary by the accelerated payment of drawback claims procedure. The change is intended to prevent the premature destruction of the required records.

DATE: Comments must be received on or before: June 27, 1977.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Richard M. Belanger, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–8237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

"Drawback" denotes a situation in which a duty or tax, lawfully collected, is refunded or remitted, wholly or partially, because of a particular use made of the merchandise on which the duty or tax was collected. One of the more common types of drawback is that allowed upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise (section 313(a), Tariff Act of 1930 (19 U.S.C. 1313(a))). Part 12 of the Customs Regulations (19 CFR Part 22) contains the provisions regarding drawback claims.

Section 22.46 of the Customs Regulations (19 CFR 22.46) currently provides that all records required to be kept by the manufacturer or producer under 19 CFR Part 22 with respect to drawback claims, and records kept by others to complement the records of the manufacturer or producer, shall be retained for at least 3 years after payment of such claims. The purpose of this requirement is to make certain that the required records will be available if it is necessary for the Customs Service to perform an audit to verify the claim. Prior to 1973, payment of a drawback claim was made only after liquidation of the claim, which is the final computation of the amount of drawback due. However, on December 22, 1972 (37 FR 28284), the Customs Regulations were amended by adding a new section 22.20a (19 CFR 22.20a), which, among other things, provided for accelerated payment of drawback claims prior to liquidation. Thus, it is possible that if 3 years have elapsed since the accelerated payment of the drawback claim, the required records might be destroyed even though the claim may not have been liquidated.

Therefore, in order to prevent the premature destruction of the required records, it is proposed to amend section 22.46 of the Customs Regulations by substituting the word "liquidation" for "payment".

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 313 and 624, 46 Stat. 693, as amended, 759 (19 U.S.C. 1313, 1624).

COMMENTS

Before adopting this proposed regulation, consideration will be given to any written comments that are submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this proposed regulation was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENT

It is proposed to amend § 22.46 of the Customs Regulations (19 CFR 22.46) to read as follows:

§ 22.46 Retention of records.

All records required to be kept by the manufacturer or producer under this part of the regulations with respect to drawback claims, and records kept by others to complement the records of the manufacturer or producer, shall be retained for at least 3 years after liquidation of such claims.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: May 13, 1977.

BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77–15074 Filed 5–25–77;8:45 am]

DEPARTMENT OF STATE

[22 CFR Parts 21, 22]

[Docket No. SD-130]

CONSULAR SERVICES

Change in Fees

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to combine the two schedules of fees charged for consular services performed in the United States and its Foreign Service posts into one schedule of fees. As the result of a recent cost study requested by the General Accounting Office, fees for services performed in the United States and its Foreign Service posts have been adjusted to arrive at a uniform cost applicable to both the Department and the Foreign Service.

Except for the passport issuance fee, which is set by statute, the proposed new fee structure is based on the weighing of policy considerations and Fiscal Year 1975 costs. This will enable the Department to carry out consular services and be sure that its fees are consistent with U.S. foreign policy interests and with the user charge principle as prescribed by the Congress and applied by the President. The new Schedule of Fees for Consular Services will be reviewed and revised periodically to insure full cost recovery consistent with national interests.

DATES: Comments must be received on or before June 24, 1977. The proposed effective date is July 25, 1977.

ADDRESS: Send comments to Hugh Adamson, Bureau of Security and Consular Affairs, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Hugh Adamson (202-632-9010).

SUPPLEMENTARY INFORMATION: The Department of State is responsible for providing various consular services to both United States and foreign nationals. These services include: passport and citizenship; visa services for aliens; services relating to vessels and seamen; notarial services and authentications; services relating to taking evidence; and copy and recording services.

The proposed revision of fees charged has been adjusted to insure that they are fair and equitable, taking into consideration direct and indirect cost to the U.S. Government, value to the recipient, public policy or interest served, and other pertinent facts. The separate cost figures for the foreign activity and the United States activity were totaled together to arrive at a uniform unit cost. The overall unit costs so derived was the primary basis for setting a fee for that item of service. The policy and criteria followed in establishing the fees will be published in Volume 7, Foreign Affairs Manual.

Accordingly, Parts 21 and 22 of Title 22 of the Code of Federal Regulations would be revised as set forth below.

PART 21—[RESERVED]

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

Sec.

22.1 Schedule of fees.
22.2 Requests for services in the United States.
22.3 Remittances in the United States.
22.4 Request for services, Foreign Service.
22.5 Remittances to Foreign Service Posts.
22.6 Refund of fees.
22.7 Collection and return of fees.
22.8 Effective date.

AUTHORITY: Secs., 3, 4, 63 Stat. 111, as amended (22 U.S.C. 811a; 2658; 22 U.S.C. 2651; 5 U.S.C. 483a; 22 U.S.C. 1201), E.O. 10718, 22 FR 4632; 3 CFR, 1954-1958 Comp. page 382.

§ 22.1 Schedule of fees.

Item No.	Passport and citizenship services	Fee
1	Execution of application for passports (22 U.S.C. 214)	$3.00
2	Examination of passport application executed before a foreign official	3.00
3	Issuance of passport (22 U.S.C. 214)	10.00
	(Item No. 4 vacant.)	
5	Issuance of card of identity and registration	5.00
6	Execution of application for or issuance of passport:	
	(a) To officers or employees of the United States proceeding abroad or returning to the United States in the discharge of their official duties, or members of their immediate families (22 U.S.C. 214)	(1)
	(b) To American seamen who require a passport in connection with their duties aboard an American flag vessel (22 U.S.C. 214)	(1)
	(c) To widows, children, parents, brothers, or sisters of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214)	(1)
	(d) To employees of the American National Red Cross proceeding abroad as a member of the Armed Forces of the United States (10 U.S.C. 2602(c))	(1)
	(e) To Peace Corps volunteers and volunteer leaders, who are deemed to be employees of the United States for purposes of exemption from passport fees (22 U.S.C. 2504(f))	(1)
7	Amendment of passport:	
	(a) To show current or new information, including changes in members of family	(1)
	(b) To correct administrative error	(1)
	(c) To extend time limitation	(1)
8	Verification of passport	(1)
9	Execution of application for registration	(1)
10	Execution of affidavit in regard to American birth in connection with application for passport or citizenship determination	(1)
11	Administering the oath of allegiance to a native-born American woman who lost her citizenship solely by marriage to an alien	(1)
12	For delivery to the applicant of a certified copy of an executed form:	
	(a) Of repatriation of a native-born American woman whose marital status with an alien terminated prior to Jan. 13, 1941	1.00
	(b) Of repatriation of a native-born American woman under sec. 324 of the Immigration and Nationality Act (8 U.S.C. 1435)	3.00
	(c) Of repatriation under the act of July 20, 1954 (8 U.S.C. 1435 supp.) of a person who while a citizen of the United States lost his citizenship by voting in Japan between Sept. 2, 1945, and Apr. 27, 1952, inclusive	3.00
13	Documents relating to births, marriages or deaths of American citizens abroad where reported to a Foreign Service post:	
	(a) Registration of birth of American citizen, including furnishing 1 Certification of Birth and 1 copy of form FS-240 "Report of Birth Abroad of a Citizen of the United States of America"	6.00
	(b) "Certificate of Witness to Marriage" in quadruplicate	45.00
	(c) Authentication of original documents of marriage, per copy	3.00
	Certified copies of the above documents may be obtained from the Passport Office, Department of State, Washington, D.C. 20524, per copy	3.00
	(d) "Report of Death of an American Citizen" and sending 1 copy each to legal representative and to closest known relative or relatives	(1)
	Additional certified copies may be obtained from the Office of Special Consular Services, Department of State, Washington, D.C. 20520, per copy	1.00
14	Documents from passport files and related records (except as specified in item 13):	
	(a) For file search	6.00
	(b) For duplicating by photocopy or other such means each copy of each page	.15
	(c) For certifying of a true copy for each copy of each page	1.00
	(d) For certifying by letter under official seal a statement or extract from passport files or a statement that no record of a passport file can be located (plus $6 search charge 14a)	1.00
15	Any service described in item 14 when:	
	(a) Required for official use by an agency of the Federal Government or of any of the States or their subdivisions or of the District of Columbia, or of any of the territories and possessions of the United States	(1)
	(b) Performed in response to a subpena or other order of a court. (However, fees are chargeable when the service is for the benefit of a party in interest and a court order or subpena is issued in his behalf.)	(1)
	(c) Performed in providing to a party in interest, a copy of the transcript of a hearing held before a panel, board, or other authority of the Department	(1)
16	Granting an exception under 22 CFR 53.2(h) of travel control regulations	25.00
17	For any passport service furnished in the United States upon request during nonregular duty hours. (This fee is in addition to any statutory fees or communication costs.)	10.00
18	Instant photo service, where offered by a Foreign Service post, for each pair of identical photographs	3.00
	(Item No. 19 vacant.)	
	Visa services for aliens	
20	Furnishing and verification of application for immigrant visa, including duplicate copy	5.00
21	Issuance of each immigrant visa	20.00
22	Furnishing and verification of application and issuance of nonimmigrant visa. (Fees prescribed in appendix C, Visa Handbook of Department of State, as amended from time to time.)	(3)

Item No.	Passport and citizenship services	Fee
23	Furnishing and verification of application and issuance of nonimmigrant visa to:	
	(a) An alien proceeding solely in transit to and from the headquarters district of the United Nations under the provisions of sec. 11 of the agreement between the United Nations and the United States of America regarding the headquarters of the United Nations (61 Stat. 756)	(1)
	(b) An official representative of a foreign government, or an international or regional organization of which the United States is a member	(1)
	(c) An alien participating in a U.S. Government program	(1)
24	Visa or supplemental visa of alien crew list up to 40 crew members	10.00
	41 to 100 crew members	25.00
	101 to 200 crew members	45.00
	Over 200 crew members	80.00
25	Revalidation or transfer of a nonimmigrant visa	(1)
	(Item Nos. 26 through 29 vacant.)	
	Services relating to vessels and seamen	
30	Noting marine protest, when required by a master of a foreign or an undocumented vessel	7.00
31	Extending marine protest, when required by master of a foreign or an undocumented vessel	10.00
32	Protest of master against charterers or freighters, when required by master of a foreign or an undocumented vessel	6.00
33	Shipment or discharge of seaman on undocumented vessel, each seaman	14.00
34	Recording of bill of sale of vessel purchased abroad, taking of application for provisional certificate of registry or certificate of American ownership, and investigation	10.00
35	Issuance of provisional certificate of registry or certificate of American ownership	8.00
36	Services under this tariff (unless designated "no exceptions") when performed for American vessels or for American seamen (22 U.S.C. 1186)	(1)
	(The consular officer should charge under item 93 for time spent away from the consular office or afterduty hours for item No. 30 through 36.)	
	(Item Nos. 37 through 44 vacant).	
	Notarial services and authentication	
45	Administering an oath and certificate thereof	3.00
46	Taking the acknowledgment of the execution of a document, and certificate thereof	3.00
47	Certifying under official seal that a copy or extract made from an official or a private document is a true copy. For certifying each copy of each page	1.00
48	Certifying to official character of a foreign notary or other official (i.e. authenticating a document)	3.00
49	Administering oaths, taking acknowledgments, or supplying authentications, in connection with application for letters patent or registration of trademarks, or with the assignment or transfer of rights thereunder	3.00
50	Administering an oath and certificate thereof for petition for immediate relative, nonimmigrant fiance(e), temporary worker nonimmigrant intracompany transferee, or preference immigrant status	3.00
51	Administering oaths or taking acknowledgments, or authenticating the signatures of officials, in connection with kinsmen's petitions for wages and effects of deceased seamen of the American merchant marine (46 U.S.C. 627)	10.00
52	For affidavit of petitioner or his agent on documents or evidence to be presented to the Federal Government	3.00
53	Authenticating a Federal, State or territorial seal, or certifying to the official status of an officer of the U.S. Department of State, or of a foreign diplomatic or consular officer accredited to or recognized by the U.S. Government, on any document submitted to the Department for that purpose	3.00
	(Item number 54 vacant.)	
55	Noting of a negotiable instrument for want of acceptance or payment, certifying to protest, and giving notice to issuer and endorsers when requested to do so. (In addition to this fee the consular officer should charge under item 93 for time spent away from the consular office or afterduty hours in presentment of the instrument for acceptance or payment.)	3.00
	(Item Nos. 56 and 57 vacant.)	
58	Services under the heading, "Notarial Services and Authentications", when rendered:	
	(a) In connection with the execution of forms or documents required by or to be presented to any department or agency of the Federal Government	(1)
	(b) In connection with the execution of forms or documents required by or to be presented to the States and their subdivisions, the District of Columbia, or any of the territories or possessions of the United States	(1)
	(c) In connection with the assignment and transfer of U.S. bonds or other Federal financial obligations or the execution of powers of attorney therefor to collect interest thereon	(1)
	(d) To claimants and beneficiaries and their witnesses, in connection with Federal, State, and municipal allotment, pension, retirement, insurance, medical compensation, or like benefits	(1)
	(e) In the execution of tax returns for filing with the Federal or State Governments or political subdivisions thereof	(1)
	(f) To American citizens, while outside the United States, in preparation of ballots to be used in any primary, general, or other public elections in the United States or in territories under their jurisdiction	(1)
	(g) For official noncommercial use by a foreign government or by an international agency of which the Government of the United States is a member	(2)
	(h) To an official of a foreign government in circumstances where furnishing the service is an appropriate or reciprocal courtesy	(1)
	(i) To U.S. Government personnel and Peace Corps volunteers or their dependents officially stationed or traveling in a foreign country	(1)
59	Affidavit on preparation and packing of remains	(1)
60	Consular mortuary certificate	(1)
	(Items 61 through 64 vacant.)	
65	In taking depositions or executing commissions to take testimony:	
	(a) For the services of a diplomatic or consular officer. (for each hour or fraction thereof.)	$7.00
	(b) For the services, if required, of a staff member of the Foreign Service as interpreter, stenographer, or typist. (For each hour or fraction thereof.)	11.00
	(c) If services of (a) or (b) above are required to be performed away from office or afterduty hours, the charge shall be as follows for each hour or fraction thereof for:	
	(1) American employee	61.00
	(2) Foreign Service local employee	22.00
	(Transportation and incidental expenses as defined in item 93 shall be collected if applicable to services performed under (a), (b), or (c) above.)	
66	Executing commissions to take testimony in connection with foreign documents for use in criminal cases when the commission is accompanied by an order of Federal court on behalf of an indigent party as contemplated by 18 U.S.C. 3495	(1)
67	Providing seal and certificate for return of letters rogatory executed by foreign officials	12.00
	(Item Nos. 68 and 69 vacant.)	
	Decedents and decedent's estates	
70	Taking into possession under 22 U.S.C. 1175 the personal estate of any citizen who shall die within the limits of a consular district, inventorying, selling, and finally disposing thereof according to law, for each $100 of inventory value or fraction thereof	$5.00
71	Service as described under item 70 above when performed in the case of a deceased officer or employee of the United States	(1)

Item No.	Passport and citizenship services	Fee
72	Placing or removal of official seal on estates of decedents; for disbursing funds supplied by relatives and others; for forwarding to legal representative or other authorized person of securities and other instruments not negotiated (or not negotiable) by the consular officer, or evidence of bank deposits of the decedent; or for releasing on the spot against memorandum receipt and without occasion either for safekeeping on official accountability or for consular inventory and appraisal, to the legal representative or other authorized person in the country, of personal property taken into nominal possession for the explicit purpose of transfer of custody	(1)
73	Arrangements for shipping or other disposition of remains	(1)
	(Item No. 74 vacant.)	
	Copying, recording and proctoring	
75	For typing a copy of document or extract of a document. (For each 200 words or part thereof)	2.00
76	For photocopying or otherise duplicating a document. (For each copy of each page)	.15
	(This fee does not apply to such customary activities as issuance of copies of records; (1) from supplies kept for distribution, such as press releases and information leaflets; (2) as part of normal and generally reciprocal services performed by the posts's library or the library of the Department at the request of similar agencies or institutions; or (3) in lieu of or as enclosures to letters with the purpose of saving costs in preparing mail.)	
	(Item No. 77 vacant.)	
78	Supervising or proctoring an examination at the request of an agency or instrumentality of the Federal or a State Government by a consular or other officer, including completion of a certificate without seal, for each hour or fraction thereof, unless the cost thereof is reimbursable to the Department of State by an agency or instrumentality of the Federal or a State Government	37.00
	(Item Nos. 79 through 81 vacant.)	
	Other Special Consular Services	
82	Preparing and sending interested party messages for the primary benefit of nongovernment individuals, organizations or groups:	
	(a) From Department of State to Foreign Service post	15.00
	(b) From a Foreign Service post to the Department of State	15.00
83	Translating of documents to assist nongovernment individuals, organizations, or groups. (For each quarter hour or fraction thereof of staff employee time.)	3.00
84	U.S. Selective Service Registration in a foreign country	(2)
85	Distribution of U.S. Treasury checks to Federal beneficiaries	(2)
86	Searching for and forwarding a document requested from a Foreign Service post by a nongovernment individual, organization, or group (for each document)	6.00
	(Item Nos. 87 through 90 vacant)	
91	Collection of fees by a Foreign Service post for: Services performed by Department of State offices within the United States under this schedule of fees; services performed under sec. 5.14 of title 22, Code of Federal Regulations (Freedom of Information services)	(3)
	Exemption for Federal agencies and corporations	
92	Any and all services (unless above designated "no exceptions") performed for the official use of the Government of the United States or of any corporation in which the Federal Government or its representative shall own the entire outstanding capital stock	(3)
	Service rendered away-from-office of after-duty-hours in a foreign country	
93	Except for instances of common disaster (i.e. ship wrecks, air crashes, etc.) or evacuations, a surcharge for services when rendered elsewhere than at a Foreign Service post or afterduty hours at the request of the parties, shall be added to the regular fee for each quarter hour or fraction thereof for:	
	(1) American employee	6.00
	(2) Foreign Service local employee	3.00
	(In addition to the surcharge prescribed above, transportation and other incidental costs actually and necessarily incurred by officers or staff employees of the Foreign Service shall be collected from the persons requesting the performance of such services. Such collections shall not be considered as part of the official fees but shall be recorded as deposit funds and accounted for as such.)	

[1] No fee.
[2] Reciprocal.
[3] Per $100 value.

§ 22.2 Requests for services in the United States.

(a) *Requests for records.* Requests by the file subject or his/her authorized agent for services involving U.S. passport applications and related records, including consular birth and marriage records, shall be addressed to the Passport Office, Department of State, Washington, D.C. 20524. Requests for consular birth records should specify if a Consular Report of Birth (long form) or Certification of Birth (short form) is desired. Requests for certified copies of Report of Death of an American citizen shall be addressed to Office of Special Consular Services, Department of State, Washington, D.C. 20520. Advance remittance of the exact fee is required for each service.

(b) *Authentication services.* Requests for authentication services including documents presented to the Department of State for authentication, accompanied by remittance of the exact total fee chargeable, shall be addressed to the Authentication Officer, Department of State, Washington, D.C. 20520.

§ 22.3 Remittances in the United States.

(a) *Remittances in the United States.* Remittances shall be in the form either of (1) check or bank draft drawn on a bank in the United States, (2) money order, postal, international or bank, or (3) U.S. currency. Remittances shall be made payable to the order of the Department of State. The Department will assume no responsibility for cash which is lost in the mail.

(b) *Exact payment of fees.* Fees must be paid in full prior to issuance of requested documents. If uncertainty as to the existence of a record or as to the number of sheets to be copied precludes remitting the exact fee chargeable with the request, the Department of State will inform the interested party of the exact amount required.

§ 22.4 Requests for services, Foreign Service.

Officers of the Foreign Service shall charge for official services performed abroad at the rates prescribed in this schedule, in coin of the United States or at its representative value in exchange (22 U.S.C. 1202). For definition of representative value in exchange, see § 23.4 of this chapter. No fees named in this schedule shall be charged or collected for the official services to American vessels and seamen (22 U.S.C. 1186). The term "American vessels" is defined to exclude, for the purposes of this schedule, undocumented American vessels and the fees prescribed herein shall be charged and collected for such undocumented vessels. However, the fees prescribed herein shall not be charged or collected for American public vessels, which includes any vessel owned or operated by a U.S. Government department or agency and engaged exclusively in official business on a non-commercial basis. This schedule of fees shall be kept posted in a conspicuous place in each Foregin Service office, subject to the examination of all persons interested therein (22 U.S.C. 1197).

§ 22.5 Remittances to Foreign Service posts.

Remittances to Foreign Service posts from persons in the United States in payment of official fees and charges or for the purpose of establishing deposits in advance of rendition of services shall be in a form acceptable to the post, drawn payable to the "American Embassy (name of city)" (or American Legation, American Consulate General, or American Consulate, as the case may be). This will permit encashment of negotiable instruments for deposit in the Treasury, when not negotiated locally, see § 23.2 of this chapter.

(a) *Time at which fees become payable.* Fees are due and payable prior to issuance or delivery to the interested party of a signed document, a copy of a record, or other paper representative of a service performed.

(b) *Receipts for fees; register of services.* Every officer of the Foreign Service responsible for the performance of services as enumerated in the Schedule of Fees for Consular Services-Department of State and Foreign Service (§ 22.1), shall give receipts for fees collected for the official services rendered, specifying the nature of the service and numbered to correspond with entries in a register maintained for the purpose (22 U.S.C. 1192, 1193, and 1194). The register serves as a record of official acts performed by officers of the Foreign Service in a governmental or notarial capacity, corresponding in this regard with the record which notaries are usually expected or required to keep of their official acts, see § 92.2 of this chapter.

(c) *Deposits to guarantee payment of fees or incidental costs.* When the amount of any fee is determinable only after initiation of the performance of a service, or if incidental costs are involved, the total fee and incidental costs shall be carefully estimated and an advance deposit required, subject to refund of any unused balance to the person making the deposit.

§ 22.6 Refund of fees.

Fees which have been collected for deposit in the Treasury are refundable (a) as specifically authorized by law (see 22 U.S.C. 214a concerning passport fees erroneously charged persons excused from payment, 22 U.S.C. 216 concerning passport fees in cases where the appropriate representative in the United States of a foreign government refuses a visa, and 46 U.S.C. 8 concerning fees improperly imposed on vessels or seamen), (b) when the principal officer at the consular post where the fee was collected (or the officer in charge of the consular section at a combined diplomatic consular post) finds upon review of the facts that the collection was erroneous under applicable law and regulation is made by the Department of State with a view to payment of the refund in the United States in cases in which it is impracticable to have the facts reviewed and refund effected at the direction of the responsible consular office. See § 13.1 of this chapter concerning refunds of fees improperly exacted by consular officers who have neglected to return the same to the Treasury.

§ 22.7 Collection and return of fees.

No fees other than those prescribed in the Schedule of fees, § 22.1, or by or pursuant to an act of Congress, shall be charged or collected by officers of the Foreign Service for official services performed abroad (22 U.S.C. 1201). All fees received by any officer of the Foreign Service for services rendered in connection with the duties of his/her office or as a consular officer shall be accounted for and paid into the Treasury of the United States (22 U.S.C. 99, 1942 Edition, as amended by sec. 1131 (26) of the Foreign Service Act of 1946, 60 Stat. 1037, and as modified by 22 U.S.C. 812 of the 1952 Edition). For receipt, registry, and numbering provisions, see § 22.5(c).

§ 22.8 Effective date.

The charges hereby established will become effective on July 25, 1977 with respect to all services rendered pursuant to requests received in the Department of State and the Foreign Service on or after the effective date.

For the Secretary of State.

Dated: May 11, 1977.

JOAN M. CLARK,
Acting Deputy Under Secretary for Management.

[FR Doc.77-14994 Filed 5-25-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 733-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to Fresno County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Fresno County Air Pollution Control District's Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were submitted on November 10, 1976. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up to 30 days following the date of publication of this notice.

ADDRESS: Send comments to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

Availability of Documents: Copies of the proposed revision are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Fresno County Air Pollution Control District, 1246 "L" Street, Fresno, Calif. 93721.

California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section (415-556-7288).

SUPPLEMENTARY INFORMATION: The November 10, 1976 submittal contained revisions to the following rules:

REGULATION IV—PROHIBITIONS

Rule 407—Disposal of Solid and Liquid Wastes.
Rule 408—Fuel Burning Equipment.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX office.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c-5).)

Dated: May 11, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77-14956 Filed 5-25-77;8:45 am]

[40 CFR Part 52]

[FRL 736-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to El Dorado County Air Pollution Control District Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the El Dorado County Air Pollution Control District Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on July 25, 1973, April 10, 1975, and August 2, 1976. Since both the April 10, 1975 and August 2, 1976 submittals represent the most recent set of rules and regulations for this Air Pollution Control District, they will be addressed in this notice. Regulations concerning New Source Review are not being considered in this notice, and will be the topic of a separate FEDERAL REGISTER notice. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 27, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn: David R. Souten, 100 California Street, San Francisco, CA 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: The April 10, 1975 and August 2, 1976

submittals contained revisions to the following Regulations:

Regulation I—Definitions
Regulation II—Prohibitions
Regulation III—Open Burning
Regulation IV—Permit Systems Conditions
Regulation VI—Fees
Regulation VII—Procedure Before The Hearing Board

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 27, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

El Dorado County Air Pollution Control District, 2850 Cold Springs Road, Placerville, CA 95667.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington D.C. 20460.

(Sec. 110, Clean Air Act, as amended. (42 U.S.C. 1857c–5).)

Dated: May 3, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77–15057 Filed 5–25–77;8:45 am]

[40 CFR Part 52]

[FRL 736–3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Monterey Bay Unified Air Pollution Control District's Rules and Regulations for Monterey, Santa Cruz, and San Benito Counties in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Monterey Bay Unified Air Pollution Control District's Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on July 25, 1973, January 22, 1974, October 23, 1974, January 10, 1975, April 10, 1975, July 22, 1975, November 3, 1975, and November 10, 1976. Regulations concerning Emergency Episodes, New Source Review, Vapor Recovery, and In-stack Monitoring are not being considered in this notice, and will be the topic of separate FEDERAL REGISTER notices. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 27, 1977.

ADDRESSES: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco CA 94111.

Availability of documents: Copies of the proposed revision are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Monterey Bay Unified Air Pollution Control District, 1270 Nativided Road, Room 105, Salinas CA 93901.

California Air Resources Board, 1709 11th Street, Sacramento CA 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, 415–556–7288.

SUPPLEMENTARY INFORMATION: On July 25, 1973, January 22, 1974, and July 19, 1974 revisions to the Monterey-Santa Cruz Unified APCD and the San Benito County APCD Rules and Regulations were submitted to EPA. On July 1, 1974, these agencies joined together to form the Monterey Bay Unified APCD. On October 23, 1974, January 10, 1975, April 10, 1975, July 22, 1975, and November 10, 1976 revised Rules and Regulations of the Monterey Bay Unified APCD were submitted to EPA. They include:

REGULATION I

Rule 100, Title
Rule 101, Definitions
Rule 102, Standard Conditions
Rule 103, Effective Date
Rule 104, Arrests and Notices to Appear
Rule 105, Separate Zone
Rule 106, Increments of Progress

REGULATION II

Rule 214, Public Availability of Emission Data

REGULATION III

Rule 300, Permit Fees
Rule 301, Permit Fee Schedules
Rule 302, Analysis Fees
Rule 303, Technical Reports—Charges For

REGULATION IV

Rule 400, Ringelmann Chart
Rule 401, Wet Plumes
Rule 402, Nuisance
Rule 403, Particulate Matter
Rule 404, Sulfur Compounds and Nitrogen Oxides
Rule 405, Exceptions
Rule 406, Additional Exception
Rule 407, Open Outdoor Fires
Rule 408, Incinerator Burning
Rule 409, Burning of Agricultural Wastes
Rule 410, Range Improvement Burning
Rule 411, Forest Management Burning
Rule 412, Sulfur Content of Fuels
Rule 413, Removal of Sulfur Compounds
Rule 414, Reduction of Animal Matter
Rule 415, Circumvention
Rule 416, Organic Solvents
Rule 417, Storage of Petroleum Products
Rule 419, Organic Liquid Loading
Rule 420, Effluent Oil Water Separators
Rule 421, Violation of Other Statutes, etc.
Rule 422, Burning of Wood Wastes
Rule 424, New Source Performance Standards
Rule 425, Emission Standards for Hazardous Air Pollutants

REGULATION V

Rule 500, Definitions
Rule 501, Permits
Rule 502, Approved Orchard Heaters
Rule 503, Condition of Heaters
Rule 504, Classification of Heaters
Rule 505, Non-Complying Heaters
Rule 506, Prohibition of Sale of Heaters
Rule 507, Burning Rubber and Other Substances
Rule 508, Fees

REGULATION VI

Rule 600, General
Rule 601, Filing Petitions
Rule 602, Contents of Petitions
Rule 603, Petitions for Variances
Rule 604, Appeal from Denial
Rule 605, Failure to Comply with Rules
Rule 606, Answers
Rule 607, Withdrawal of Petition
Rule 608, Place of Hearing
Rule 609, Notice of Hearing
Rule 610, Evidence
Rule 611, Record of Proceedings
Rule 612, Preliminary Matters
Rule 613, Official Notice
Rule 614, Continuance
Rule 615, Decision
Rule 616, Effective Date of Decision

REGULATION VII

Rule 700, General
Rule 701, Sampling Stations
Rule 702, Air Sampling
Rule 703, Reports
Rule 704, Continuing Program of Voluntary Cooperation
Rule 705, Plans
Rule 706, Application of Rules and Regulations
Rule 707, Episode Notification
Rule 708, Episode Criteria
Rule 709, First Stage Episode Actions
Rule 710, Second Stage Episode Actions
Rule 711, Third Stage Episode Actions
Rule 712, Termination of Episodes
Rule 713, Enforcement

REGULATION VIII

Rule 800, General
Rule 801, Order for Abatement
Rule 802, Filing Petitions
Rule 803, Contents of Petitions
Rule 804, Scope of Order
Rule 805, Findings
Rule 806, Pleadings
Rule 807, Evidence
Rule 808, Failure to Comply with Rules
Rule 809, Withdrawal of Petition
Rule 810, Place of Hearing
Rule 811, Notice of Hearing
Rule 812, Preliminary Matters
Rule 813, Official Notice
Rule 814, Continuance
Rule 815, Order and Decision
Rule 816, Effective Date of Decision

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

Dated: May 3, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77–15058 Filed 5–25–77;8:45 am]

[40 CFR Part 52]

[FRL 736–4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to San Joaquin County Air Pollution Control, Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the San Joaquin County Air Pollution Control District Rules and Regulations which were submitted to EPA by the State of California for inclusion in the California State Implementation Plan. These revisions were received on November 10, 1976. Regulations concerning New Source Review and Vapor Recovery are not being considered in this notice, and will be the topic of separate FEDERAL REGISTER notices. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 27, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn.: David Souten, 100 California Street, San Francisco, CA 94111 (415–556–7288).

SUPPLEMENTARY INFORMATION: The November 10, 1976, submittal contained revisions to the following rules:

Rule	
102	Definitions.
103	Confidential information.
103.1	Inspection of public records.
104	Enforcement.
105	Order of abatement.
111	Circumvention.
112	Arrests and notices to appear.
301(f)	Permit fee penalty.
305(a)	Hearing board fees.
402	Exceptions.
411.2	Transfer of gasoline into vehicle fuel tanks.
416.1	Agricultural burning.
501	Applicable provisions of the health and safety code.
504(e)	Contents of petitions.
511	Notice of hearing.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 27, 1977, will be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

San Joaquin County Air Pollution Control District, 1601 E. Hazleton Avenue, Stockton, CA 95201.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c–5).)

Dated: May 3, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77–15059 Filed 5–25–77;8:45 am]

[40 CFR Part 52]

[FRL 736–5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Placer County Air Pollution Control District Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Placer County Air Pollution Control District Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on July 25, 1973, January 10, 1975, April 10, 1975, and February 10, 1976. Since the January 10, 1975, April 10, 1975, and February 10, 1976, submittals represent the most recent set of rules and regulations for this Air Pollution Control District, they will be addressed in this notice. Regulations concerning New Source Review are not being considered in this notice, and will be the topic of a separate FEDERAL REGISTER notice. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 27, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn.: David R. Souten, 100 California Street, San Francisco, CA 94111 (415–556–7288).

SUPPLEMENTARY INFORMATION: The January 10, 1975, April 10, 1975, and February 10, 1976, submittals contained revisions to the following Regulations:

Regulation:
I—General provisions.
II—Prohibitions.
III—Burning regulations.
IV—Permit systems conditions.
VI—Fees.
VII—Procedure before the hearing board.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 27, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Placer County Air Pollution Control District, 11491 B Avenue, Auburn, CA 95603.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

Dated: May 3, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77–15060 Filed 5–25–77;8:45 am]

[40 CFR Part 52]

[FRL 736-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Plumas County Air Pollution Control District Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Plumas County Air Pollution Control District Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on July 25, 1973, January 10, 1975, July 22, 1975, and August 2, 1976. Since the January 10, 1975, July 22, 1975, and August 2, 1976, submittals represent the most recent set of rules and regulations for this Air Pollution Control District, they will be addressed in this notice. Regulations concerning New Source Review are not being considered in this notice, and will be the topic of a separate FEDERAL REGISTER notice. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 27, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn.: David R. Souten, 100 California Street, San Francisco, CA 94111 (415-556-7288).

SUPPLEMENTARY INFORMATION: The January 10, 1975, July 22, 1975, and August 2, 1976, submittals contained revisions to the following Regulations:

Regulation:
- I—Definitions.
- II—Prohibitions.
- III—Open burning.
- IV—Permit systems conditions.
- VI—Fees.
- VII—Procedure before the hearing board.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting writting comments to the Region IX Office. Relevant comments received on or before June 27, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Plumas County Air Pollution Control District, Courthouse Annex, Quincy, CA 95971.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington D.C. 20460.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c-5).)

Dated: May 3, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77-15061 Filed 5-25-77;8:45 am]

[40 CFR Part 52]

[FRL 736-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions in Metropolitan Los Angeles Intrastate Air Quality Control Region (AQCR), to the Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of, and invite public comments on: The rules and regulations of and their revisions for the Southern California APCD, and for the Counties of Los Angeles, Orange, San Bernardino, and Riverside; and also sections of the California Health and Safety Code. These were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan on: July 25, 1973; January 22, July 19, and October 23, 1974; January 10, April 10, July 22, and November 3, 1975; February 10, April 21, August 2, and November 10, 1976; and February 10, 1977. Regulations concerning New Source Review, Emergency Episodes, Vapor Recovery, and In-Stack Monitoring are not being considered in this notice and will be the topic of separate FEDERAL REGISTER notices. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 27, 1977.

ADDRESS: Send comments to:

Regional Administrator,
Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attention: David R. Souten, 100 California Street, San Francisco Calif. 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: The 1973-1977 submittal contained revisions to the following rules:

Southern California Air Pollution Control District Rules—common to San Bernardino, Riverside, Orange, and Los Angeles Counties and the Metropolitan Los Angeles Intrastate AQCR.

REGULATION I—GENERAL PROVISIONS

Rule
- 101 Title.
- 102 Definition of terms.
- 103 Definition of geographical areas.
- 104 Reporting of source test data and analysis.
- 105 Authority to arrest.
- 106 Increments of progress.

REGULATION II—PERMITS

Those parts of Regulation II not part of New Source Review are:

- 208 Permit for open burning.
- 218 Stack monitoring.

REGULATION IV—PROHIBITIONS

- 401 Visible emissions.
- 402 Nuisance.
- 403 Fugitive dust.
- 404 Particulate matter concentration.
- 405 Solid particulate matter—weight.
- 407 Liquid and gaseous air contaminants.
- 408 Circumvention.
- 409 Combustion contaminants.
- 430 Breakdown provisions.
- 431 Sulfur content of fuels.
- 432 Gasoline specifications.
- 441 Research operations.
- 442 Usage of solvents.
- 443 Labeling of solvents.
- 461 Gasoline transfer and dispensing.
- 462 Organic liquid loading.
- 463 Storage of organic liquids.
- 464 Oil-effluent water separator.
- 465 Vacuum producing devices.
- 466 Pumps and compressors.
- 467 Safety pressure relief valves.
- 468 Sulfur recovery units.
- 469 Sulfuric acid units.
- 470 Asphalt air blowing.
- 471 Asphalt or coal tar equipment.
- 472 Reduction of animal matter.
- 473 Disposal of liquid and solid wastes.
- 474 Fuel burning equipment—oxides of nitrogen.
- 475 Electric power generating equipment.
- 476 Steam generating equipment.

REGULATION V—PROCEDURE BEFORE THE HEARING BOARD

- 501 General.
- 502 Filing petitions.
- 503 Contents of petitions.
- 504 Petitions for variances.
- 505 Appeal from denial.
- 506 Failure to comply with rules.
- 507 Pleadings.
- 508 Dismissal of petition.
- 509 Place of hearing.
- 510 Notice of hearing.
- 511 Evidence.
- 512 Preliminary matters.
- 513 Official notice.
- 514 Continuances.
- 515 Decision.
- 516 Effective date of decision.

Rule
- 517 Lack of permit.
- 518 Findings.

Regulation VI has been rescinded and replaced by California Health and Safety Codes, Chapter 957, Division 26, Sections 43210 and 41860.

Regulation VII has been submitted by the Southern California APCD, but is not being considered in this notice and will be the topic of separate FEDERAL REGISTER notices.

REGULATION VII—EMERGENCIES

Rule
- 701 General.
- 702 Air monitoring stations.
- 703 Air monitoring summaries.
- 704 Episode criteria.
- 705 Episode notification.
- 706 Episode declaration.
- 707 Plans.
- 708 Radio communications system.
- 709 First stage episode actions.
- 710 Second stage episode actions.
- 711 Third stage episode actions.
- 712 Interdistrict coordination.
- 713 Enforcement.
- 714 Termination of episodes.
- 715 Scientific advisory committee.

REGULATION VIII—ORDERS FOR ABATEMENT

- 801 General.
- 802 Orders for abatement.
- 803 Filing petitions.
- 804 Contents of petition.
- 805 Scope of order.
- 806 Findings.
- 807 Pleadings.
- 808 Evidence.
- 809 Failure to comply with rules.
- 810 Dismissal of petition.
- 811 Place of hearing.
- 812 Notice of hearing.
- 813 Preliminary matters.
- 814 Official notice.
- 815 Continuance.
- 816 Order and decision.
- 817 Effective date of decision.

County APCD Rules not incorporated into Southern California APCD but still part of the Metropolitan Los Angeles AQCR, and contained within the Metropolitan Los Angeles Intrastate AQCR.

SAN BERNARDINO COUNTY APCD

REGULATION I—GENERAL PROVISIONS

Rule
- 5(a) Public availability of emission data.

REGULATION III—FEES

- 40 Permit fees.
- 42 Hearing board fees.

REGULATION IV—PROHIBITIONS

- 53A Specific air contaminants.
- 57 Open fires.
- 57.1 Open burning in agricultural operations.
- 57.2 Forest management burning.
- 70 Dry sandblasting.

RIVERSIDE COUNTY APCD

REGULATION III—FEES

- 42 Hearing board fees.

REGULATION IV—PROHIBITIONS

- 53 Specific air contaminants.
- 57 Open fires.

ORANGE COUNTY APCD

REGULATION IV—PROHIBITIONS

- 53 Specific air contaminants.

LOS ANGELES COUNTY APCD

REGULATION III—FEES

Rule
- 42 Hearing Board Fees

State of California State Health and Safety Code, Sections 39000 through 43834 as identified by Assembly Bill No. 1758 and approved by the Governor on September 22, 1975.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 27, 1977, will be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Southern California Air Pollution Control District, 350 West Mission Blvd., Room 217, Pomona, Calif. 91766.
California Air Resources Board, 1709 – 11th Street, Sacramento, Calif. 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c-5).)

Dated: May 2, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77-15062 Filed 5-25-77;8:45 am]

[40 CFR Part 52]

[FRL 736-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Imperial County Air Pollution Control Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Imperial County Air Pollution Control District's Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on November 10, 1976. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 27, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, Attn: David R. Souten, Chief, California SIP Section, 100 California Street, San Francisco CA 94111, 415-556-7288.

SUPPLEMENTARY INFORMATION: The November 10, 1976 submittal contained revisions to the following rules:

- Rule 100, Definitions
- Rule 114.5, Exception
- Rule 117, Nuisances
- Rule 131.5, Livestock Feed Yards
- Rule 148.D, Miscellaneous Exceptions

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 27, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Imperial County Air Pollution Control District, 940 West Main Street, El Centro CA 92243.
California State Air Resources Board, 1709 11th Street, Sacramento CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c-5).)

Dated: May 2, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77-15063 Filed 5-25-77;8:45 am]

[40 CFR Part 52]

[FRL 736-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Sacramento County Air Pollution Control Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Sacramento County Air Pollution Control District Rules and Regulations which were submitted to EPA by the State of California for inclusion in the California State Implementation Plan. These revisions were received by November 10, 1976. Regulations concerning New Source Review and Vapor Recovery are not being considered in this notice, and will be the topic of a separate FEDERAL REGISTER notice. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up to June 27, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, EPA, Region IX, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Material Division, Environmental Protection Agency, Attn: David Souten, San Francisco, CA 94111. 415–556–7288.

SUPPLEMENTARY INFORMATION: The November 10, 1976 submittal contained revisions to the following rules and regulations:

Rule	
1	Title.
2	Definitions.
11	Storage of Petroleum Products.
12	Organic Liquid Loading.
14	Transfer of Gasoline into Vehicle Fuel Tanks.
21	Dust and Condensed Fumes.
22a	Open Fires.
22b	Incinerator Burning.
24	Specific Contaminants.
25	Organic Solvents.
27	Orchard Heaters.
28	Gasoline Storage.
29	Circumvention.
33	Contents of Petition.
39	Notice of Hearing.
44	Decision.
70	Permit Fees.
71	Hearing Board Fees.
90	Agricultural Burning Permits.
92	"No Burn" Days.
93	Preparation of Agricultural Waste.
94	Limitation on Daily Burning Rate.
95	Other Burning Limitations.
96	Emergency Permits.
97	Agricultural Waterway Delivery and Drainage Systems.
98	Permits by Fire Protection Agencies.

Definitions List added to Regulation VII.

Pursuant to section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 27, 1977, will be considered. Comments received will be available for public inspection at the Region IX Office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Sacramento County Health Agency, Department of Community Health, 3701 Branch Center Road, Sacramento, California 96827.
California Air Resources Board, 1709 11th St., Sacramento, California 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

Dated: May 3, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77–15056 Filed 5–25–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 171]

[Docket No. HM–150; Notice No. 77–4]

RADIOACTIVE MATERIALS IMPORTED INTO THE UNITED STATES

Quantity Limitations

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This proposed rule would permit the import into the United States of packages of Type A and low specific activity radioactive materials which have been prepared in accordance with the quantity limitations of the most recent International Atomic Energy Agency (IAEA) standards. The proposal would permit such IAEA quantity limitations to be used in place of existing DOT quantity limitations, since differences between the two requirements are small but nevertheless hinder importation of Type A and low specific activity materials.

DATE: Comments must be received on or before June 27, 1977.

ADDRESSES: Comments must be addressed to Docket Section, Office of Hazardous Materials Operations, U.S. Department of Transportation, 2100 2nd Street SW., Washington, D.C. 20590. Five copies of comments are requested but not required.

FOR FURTHER INFORMATION CONTACT:

Dr. C. H. Thompson, Acting Director, Office of Hazardous Materials Operations, 2100 2nd Street SW., Washington, D.C. 20590, phone 202–426–0656.

SUPPLEMENTARY INFORMATION: Many countries and international transport organizations throughout the world have adopted the standards of the International Atomic Energy Agency's Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition, and the adoption of these standards by other countries is imminent. Since the allowable quantity limits for Type A quantities and for low specific activity radioactive materials as set forth in the 1973 IAEA Regulations are at variance with the limits established in current DOT Hazardous Materials Regulations, packages of such radioactive materials imported into the United States, while meeting the standards of the originating country or international transport organizations, and meeting U.S. requirements except for quantity, cannot be transported in commerce in the United States without further repacking. Primary drafters are Alfred W. Grella and Douglas A. Crockett.

The Materials Transportation Bureau is considering an amendment to bring U.S. requirements into closer conformity with 1973 IAEA Standards. However, until final action is taken in that regard, to avoid further interference with import activities involving radioactive materials, the rule proposed herein would authorize the acceptance and transportation of packages meeting the IAEA Standards for Type A or low specific activity radioactive materials.

The proposal would not result in a significant environmental or economic impact, as the net effect of the proposal is to marginally extend domestic quantity limitations for existing packagings. Domestic requirements concerning packaging, marking, labeling and shipping papers are not affected.

In consideration of the foregoing, it is proposed to amend Part 171 of Title 49, Code of Federal Regulations, as follows:

1. In § 171.7 paragraph (d)(10) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(10) IAEA "Regulations for the Safe Transport of Radioactive Materials", 1967 Edition and 1973 Revised Edition, Safety Series No. 6.

* * * * *

2. In § 171.12, a new paragraph (e) would be added to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(e) Notwithstanding the quantity limitations of § 173.389(e) and (L) of this subchapter, any package of radioactive materials which otherwise conforms to the requirements of this subchapter applicable to Type A quantities or low specific activity materials may be offered and accepted for transportation, and transported within the United States, under the following conditions:

(1) The package is being imported into the United States or is passing through in the course of being shipped between places outside the United States.

(2) The country or origin has adopted the Type A quantity limitations and low specific activity materials definition set forth in the IAEA Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition.

(3) The contents of the package have been assigned as a Type A quantity or a low specific activity material in accordance with the IAEA Type A quantity limitations and low specific activity materials definition adopted by the origin country. (For fissible radioactive materials or Type B quantities, see § 173.393b of this Chapter.)

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102.)

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in Washington, D.C., on May 20, 1977.

Dr. C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc.77–15084 Filed 5–25–77;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 75–16; Notice 11]

AIR BRAKE SYSTEMS

Agricultural Commodity Trailers

AGENCY: National Highway Traffic Safety Administration.

ACTION: Proposal.

SUMMARY: The proposal would extend indefinitely an existing option for specialized agricultural trailers under Standard No. 121, *Air Brake Systems*, of meeting the parking brake requirements of the standard or of the air-actuated "breakaway" requirements of the Bureau of Motor Carrier Safety. The option exists because the working environment of the trailers can lead to disabling of the parking brakes, and a solution to the underlying technical problems has not been perfected.

DATES: Comments must be received on or before June 20, 1977. *Proposed effective date.* Date of publication of the final rule in the FEDERAL REGISTER.

ADDRESSES: Comments should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Stephen Sacks, Office of Crash Avoidance, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202–426–21531.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) permits some bulk agricultural commodity trailers the option, until June 30, 1977, of meeting the parking brake requirements of the standard (actuation by an energy source unaffected by air loss in the service brake system) or the air-actuated "breakaway" system that complies with Bureau of Motor Carrier Safety (BMCS) requirements (49 CFR 393.43). Most manufacturers use the stored energy of a compressed spring to apply and maintain the required braking force required by S5.6.3 of Standard No. 121.

Manufacturers petitioned for modification of this parking brake requirement in the case of some agricultural trailers because they often are dropped off near the fields by the highway tractors, and then towed into fields by agricultural tractors. The farm tractors do not have air compressors to recharge the air supply and release the brakes in order to move the vehicles. When the spring brakes are mechanically released to allow movement they are often not reengaged for highway operation, permitting the trailer to operate on the highway without a secondary means of braking. To avoid the hazard of on-highway operation with disengaged spring brakes, the agency adopted the option for a limited period.

Wesco Truck and Trailer Sales has petitioned for extension of the option to December 31, 1978, and Utility Trailer Manufacturing Company has petitioned for its indefinite continuation. The agency has an outstanding proposal to broaden the available means to meet the parking and emergency brake requirements for all trailers (40 FR 56920; December 5, 1975). However, because of the comprehensive nature of the proposed revision, it will not be acted on in the immediate future.

Until the broad proposal is made final or until another solution is available, the agency has tentatively decided that the exclusion for these specialized trailers from the parking and emergency braking requirement should continue, as long as the vehicles are manufactured to comply with the BMCS requirements noted earlier. Accordingly, it is proposed that the temporary exclusion contained in S5.6 and S5.8 of the standard be made permanent. The agency would like to advise commenters that new requirements could be proposed in the future as part of any proposal to modify the standard's parking brake requirements.

Wesco also asked that the option be extended to all trailers to avoid problems of definition between those trailers that are and those that are not allowed the option. The agency believes that a more reasonable way to resolve definitional problems is to make a finding of status in the case of any particular trailer type which is not easily classified. Requests for interpretation of the agricultural trailer definition may be addressed to the Office of Chief Counsel at the address noted above. For this reason, Wesco's petition for expansion of the option to all trailer types is denied.

The economic and inflationary impacts of this rulemaking have been evaluated in accordance with OMB Circular A–107, and an Economic Impact Statement is not required.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The program official and lawyer principally responsible for the development of this proposal are Stephen Sacks and Tad Herlihy, respectively.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 601.8).

Issued on May 20, 1977.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.77–14903 Filed 5–20–77;4:02 pm]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Threatened Status for Three Species of Reptiles From Mona Island, P.R., With a Proposal for Critical Habitat

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Proposed rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to the Endangered Species Act of 1973 (16 U.S.C.1531–1543, 87 Stat. 884, hereinafter the Act), which would determine three species of reptiles, the Mona boa (*Epicrates monensis*), the Mona ground iguana (*Cyclura stejnegeri*), and the Mona blind snake (*Typhlops monensis*), to be threatened species and which would determine critical habitat for these species. These species occur on Mona Island, Commonwealth of Puerto Rico.

DATES: All relevant comments and materials with regard to this proposed rulemaking received no later than August 24, 1977, will be considered by the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Comments and materials concerning this proposed rulemaking preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202–343–4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes.

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

The three reptiles that are the subject of this proposed rulemaking are all endemic to Mona Island, a small (13,658 acres) island located midway between the Dominican Republic and Puerto Rico. Because they live in close proximity to one another, the factors affecting the status of these species will be summarized together. It should also be noted that all species of ground iguanas (*Cyclura* sp.) and all species of Caribbean boas (*Epicrates* sp.) are listed as Appendix II species by the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the three reptiles from Mona Island are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* At present, there are extensive plans for the development of Mona Island, which is not now inhabited. Should this development, principally an oil superport, be initiated and completed, a decline in the available habitat, especially those areas required for nesting by these species, would be expected. As such, the populations of these three reptiles would experience a serious decline in numbers.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* This is probably not a major threat to the Mona reptiles. However, Mona boas and Mona ground iguanas are occasionally shot by hunters who come to the island to hunt the many species of introduced mammals. Protection as threatened would serve to discourage such activity.

(3) *Disease or predation.* Predation on the eggs, young, and adults of Mona reptiles by introduced mammals, primarily rats, cats, and pigs, have contributed to the scarcity of many species of native Mona animals, including the three species which are the subject of this proposed rulemaking.

(4) *The inadequacy of existing regulatory mechanisms.* There are a few existing regulatory measures to protect the Mona ground iguana. No iguanas or their eggs may be killed or collected without a special permit from the Puerto Rico Department of Natural Resources, and public hunting is not allowed during iguana nesting season. There are no specific regulatory measures regarding the Mona boa or Mona blind snake.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to Section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765).

The areas delineated below (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) may not necessarily include the entire Critical Habitat of the three species of reptiles in this proposed rulemaking, and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of these species found within the areas delineated below.

Until the promulgation of Section 7 regulations, all Federal departments and agencies should, in accordance with Section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect Critical Habitat within the delineated areas. Consultation pursuant to Section 7 should be carried out using the procedures contained in the "Guidelines to Assist the Federal Agencies in Complying with Section 7 of the Endangered Species Act of 1973" which have been made available to the Federal agencies by the Service. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868–4875) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

CRITICAL HABITAT DETERMINATION

Critical Habitat for the three species of reptiles in this proposed rulemaking includes the following areas (exclusivve of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species):

I. Mona Island, Commonwealth of Puerto Rico, Entire Island.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. All of those prohibitions and exceptions also apply to any Threatened Species unless a Special Rule pertaining to that Threatened Species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered and Threatened Species, are found at §§ 17.21 and 17.31 of Title 50 and, for the convenience of the reader, are reprinted below:

§ 17.21 *Prohibitions.*

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c) (1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured, or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species, or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

[40 FR 44415; Sept. 26, 1975 as amended at 40 FR 53400; Nov. 18, 1975; 41 FR 19226; May 11, 1976]

§ 17.31 *Prohibitions.*

(a) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart all of the provisions in § 17.21 (a) through (c)(4) shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Co-operative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

[40 FR 44415; Sept. 26, 1975 as amended at 41 FR 19226; May 11, 1976]

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstances. Such permits involving Endangered Species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to Section 4(b) of the Act, the Director will notify the Governor of Puerto Rico with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interest or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to these three species of reptiles.

(2) The location of and reasons why any habitat of these three species of reptiles should or should not be determined to be "Critical Habitat" as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of these three species.

Final promulgation of the regulations on the three species of reptiles in this proposed rulemaking will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202–343–7814).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Date: May 17, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11 (i) by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and Threatened Wildlife.

Species			Range				
Common name	Scientific name	Population	Known	Portion of range where endangered or threatened	Status	When listed	Special rules
REPTILES:							
Boa, Mona	*Epicrates monensis*	NA	Mona Island	Entire	T		NA
Iguana, Mona ground	*Cyclura stejnegeri*	NA	do	do	T		NA
Snake, Mona blind	*Typhlops monensis*	NA	do	do	T		NA

It is further proposed to amend 50 CFR Part 17:

2. By adding new paragraph (c) (5), (6), and (7) to proposed § 17.95 to read as follows:

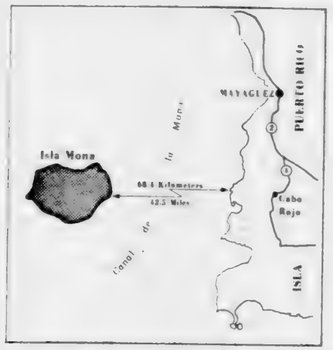
§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(c) Reptiles. * * *

(5) Mona boa.

(i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the three species of Mona reptiles:



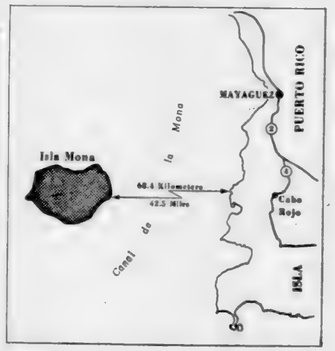
CRITICAL HABITAT FOR THREE REPTILES FROM MONA ISLAND, PUERTO RICO

(A) Mona Island, Commonwealth of Puerto Rico, Entire Island.

(ii) Pursuant to Section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat area.

(6) Mona ground iguana.

(i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the three species of Mona reptiles:



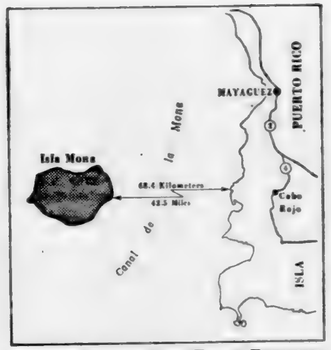
CRITICAL HABITAT FOR THREE REPTILES FROM MONA ISLAND, PUERTO RICO

(A) Mona Island, Commonwealth of Puerto Rico, Entire Island.

(ii) Pursuant to Section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat area.

(7) Mona blind snake.

(i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the three species of Mona reptiles:



CRITICAL HABITAT FOR THREE REPTILES FROM MONA ISLAND, PUERTO RICO

[FR Doc.77-14847 Filed 5-25-77;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for the New Mexican Ridge-Nosed Rattlesnake

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Proposed rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531–1543, 87 Stat. 884; hereinafter the Act), which would determine the New Mexican ridge-nosed rattlesnake (*Crotalus willardi obscurus*) to be an endangered species and which would determine Critical Habitat for this species. This species occurs in New Mexico and Chihuahua, Mexico.

DATES: All relevant comments and materials with regards to this proposed rulemaking received no later than August 24, 1977, will be considered by the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Comments and materials concerning this proposed rulemaking preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202–343–4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

The findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the New Mexican ridge-nosed rattlesnake are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The range of the New Mexican ridge-nosed rattlesnake is primarily restricted to two canyons in the Animas Mountains of New Mexico and may involve habitat of approximately one square mile or less. A small population also exists in the Sierra de San Luis, Chihuahua, Mexico. The Playas Valley is experiencing development in the form of a copper ore reduction plant and associated "company town." Evidence indicates that the plant itself will not adversely affect the rattlesnake; however, the increased usage of the Animas Mountains for recreational purposes could severely reduce available habitat and thus be detrimental to the populations of the New Mexican ridge-nosed rattlesnake.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* This is probably the chief danger to the New Mexican ridge-nosed rattlesnake. Although relatively abundant when first discovered in 1961, the attractiveness of this species, coupled with its limited geographic range, has made it a very desirable animal for scientific and commercial purposes. Dealers in live herpetological specimens have priced this species as high as $175 or more for an 18-inch specimen. The value of this animal has led to extreme habitat destruction in the process of collecting, even to the point of using dynamite to blast boulders out of the way. Evidence indicates that the New Mexican ridge-nosed rattlesnake is now rare and will continue to decline unless measures are enacted to restrict collecting.

3. *Disease or predation.* This is probably not a significant factor contributing to the current plight of the species.

4. *The inadequacy of existing regulatory mechanisms.* This species is currently listed an Endangered and protected by State law in New Mexico. The U.S. Fish and Wildlife Service has also entered into agreement with the Pruett-Wray Cattle Company, owners of the canyons where the New Mexican ridge-nosed rattlesnake lives, to close access to collectors. However, this has only been a partial deterrent to those who want a member of this species for their collection.

5. *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). In addition, proposed provisions for Interagency Cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868–4875) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

The areas delineated below do not necessarily include the entire Critical Habitat of the New Mexican ridge-nosed rattlesnake, and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out

by them do not result in the destruction or modification of the Critical Habitat of the New Mexican ridge-nosed rattlesnake found within the areas delineated below.

It is recognized that the Critical Habitat area may contain manmade structures that are not of primary use to the New Mexican ridge-nosed rattlesnake. It should be stressed, however, that this is only a proposed rulemaking that is setting forth the outer parameters of the Critical Habitat in question, and that based upon data received and additional studies conducted by the Fish and Wildlife Service, the final rulemaking may differ from this proposal.

Until the issuance of additional guidelines or regulations, all Federal departments and agencies should, in accordance with Section 7 of the Act, consult with the Secretary of the Interior wtih respect to any actions which might reasonbly be expected to affect the delineated Critical Habitat.

CRITICAL HABITAT DETERMINATION

Based upon a study by Dr. Herbert S. Harris of all known localities of the subject species, Critical Habitat for the New Mexican ridge-nosed rattlesnake includes the following:

(1) Elevations above 6,200 feet in the Animas Mountains, Hidalgo County, New Mexico.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. All of those prohibitions and exceptions also apply to any Threatened species unless a Special Rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

§ 17.21 *Prohibitions.*

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid to sick, injured, or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport, or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

[40 FR 44415; Sept. 26, 1975, as amended at 40 FR 53400, Nov. 18, 1975; 41 FR 19226, May 11, 1976.]

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to Section 4(b) of the Act, the Director will notify the Governor of New Mexico with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the New Mexican ridge-nosed rattlesnake;

(2) The location of and reasons why any habitat of the New Mexican ridge-nosed rattlesnake should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of the New Mexican ridge-nosed rattlesnake.

Final promulgation of the regulations on the New Mexican ridge-nosed rattlesnake will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884), and was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202–343–7814).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: May 5, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11(i) by adding in alphabetical order the following to the list of animals:

§ 17.11 **Endangered and threatened wildlife.**

(i)

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened			
REPTILES:							
Rattlesnake, New Mexican ridge-nosed.	*Crotalus willardi obscurus.*	NA	New Mexico and Chihuahua, Mexico.	Entire	E	NA	

2. It is further proposed to amend 50 CFR Part 17 by adding new paragraph (c)(3) to proposed § 17.95 to read as follows:

§ 17.95 **Critical habitat—fish and wildlife.**

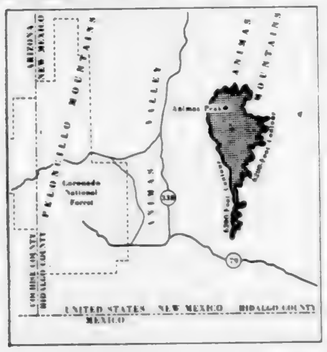
(c) Reptiles. * * *

(3) New Mexican ridge-nosed rattlesnake.

(i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the New Mexican ridge-nosed rattlesnake (*Crotalus willardi obscurus*):

(A) Elevations above 6200 feet in the Animas Mountains, Hidalgo County, New Mexico.

(ii) Pursuant to Section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat area.



CRITICAL HABITAT FOR THE NEW MEXICAN RIDGE-NOSED RATTLESNAKE

* * * * *

[FR Doc.77-14848 Filed 5-25-77;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Houston Toad

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Critical Habitat proposal.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a proposed rulemaking which would determine the Critical Habitat of the Houston toad (*Bufo houstonensis*). This proposal is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act).

DATES: All relevant comments and materials with regard to this proposed rulemaking received no later than August 24, 1977 will be considered by the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Comments and materials concerning this proposed rulemaking, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202–343–4646.

BACKGROUND

SUPPLEMENTARY INFORMATION: The Houston toad is among the rarest and most critically Endangered amphibians in the United States, and has been officially listed as Endangered since 1970. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable, undisturbed habitat and breeding sites. The Service recognizes that areas containing such sites may qualify for recognition as Critical Habitat as referred to in Section 7 of the Act. A notice of intent to determine Critical Habitat for the Houston toad was published by the Service in the FEDERAL REGISTER of May 16, 1975 (40 FR 21499–21500). In late 1976, the Albuquerque Regional Office (Region 2), of the Fish and Wildlife Service received a report from Dr. Robert A. Thomas of Texas A & M University recommending that certain areas in central Texas be designated as Critical Habitat for the Houston toad.

After evaluating his recommendation and supporting data, it was determined to proceed with the proposed rulemaking.

The areas delineated below have been used by Houston toads within the last few years, and contain the last remaining habitat and breeding sites for the species. If more populations are discovered in the future, additional areas may be proposed for Critical Habitat designation.

EFFECT OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting Critical Habitat of a species would not conform with Section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in fur-

ther jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under Section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat. Proposed provisions for Interagency Cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868–4875) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate as possible in delineating the Critical Habitat of the Houston toad. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these proposed rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: May 18, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

It is proposed to amend 50 CFR Part 17:

By adding new paragraph (d)(3) to proposed § 17.95 to read as follows:

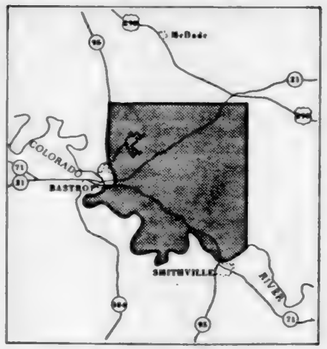
§ 17.95 Critical habitat—fish and wildlife.

(d) Amphabians. * * *

(3) Houston toad.

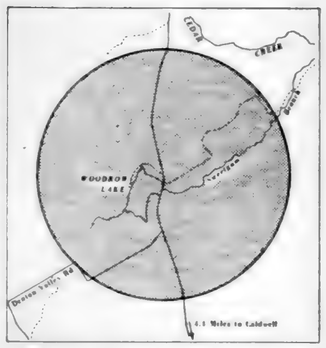
(i) The following areas (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) are Critical Habitat for the Houston toad (*Bufo houstonensis*):

(A) Bastrop County. From the junction of a line corresponding to 30°12′00″ N. and Texas state highway 95 east along a line corresponding to 30°12′00″ N. to where it intersects a line corresponding to 97°7′30″ W. to where it intersects the Colorado River, west and northwest along the north bank of the Colorado River to the City limits of Bastrop, and north thru Bastrop along Texas state highway 95 to where it intersects a line corresponding to 30°12′00″ N.



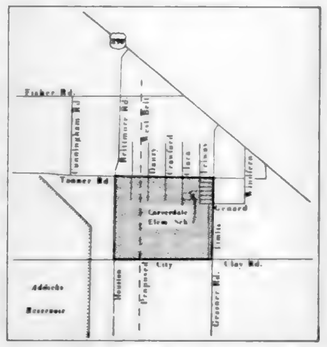
CRITICAL HABITAT FOR THE HOUSTON TOAD IN BASTROP COUNTY

(B) Burleson County—a circular area with a one mile radius, the center being the north entrance to Lake Woodrow from Texas FM 2000.



CRITICAL HABITAT FOR THE HOUSTON TOAD IN BURLESON

(C) Harris County, at the northwest corner of Houston, Texas. From the junction of Tanner and Brittmoore Roads east on Tanner Road to its junction with Gessner Road, south on Gessner Road to its junction with Clay Road, west on Clay Road to its junction with Brittmoore Road, and north on Brittmoore Road to its junction with Tanner Road.



CRITICAL HABITAT FOR THE HOUSTON TOAD IN HARRIS COUNTY

(D) Harris County, six areas in south Houston and Pasadena, Texas.

(1) From the junction of Harwin Drive and Fondren Road east on Harwin Drive to its junction with the Southwest Freeway, southwest on the Southwest Freeway to its junction with Fondren Road, and north on Fondren Road to its junction with Harwin Drive.

(2) From the junction of Hillcroft Avenue and South Main Street northeast on South Main Street to its junction with Holmes Road, northeast on Holmes Road to its junction with Knight Road, south on Knight Road to its junction with Almeda Road, southwest on Almeda Road to its junction with West Orem Drive, west on West Orem Drive to its junction with South Post Oak, south on South Post Oak to its junction with Sims Bayou, west along the north bank of Sims Bayou to where it crosses Hillcroft Avenue, and north on Hillcroft Avenue to its junction with South Main Street.

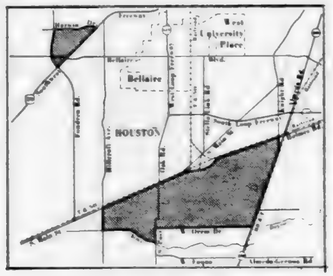
(3) From the junction of the Gulf Freeway and Shawnee Drive east on Shawnee Drive to its junction with Rodney, south on Rodney to its junction with Edgebrook Drive, southwest on Edgebrook Drive to its junction with the Gulf Freeway, and northwest on the Gulf Freeway to its junction with Shawnee Drive.

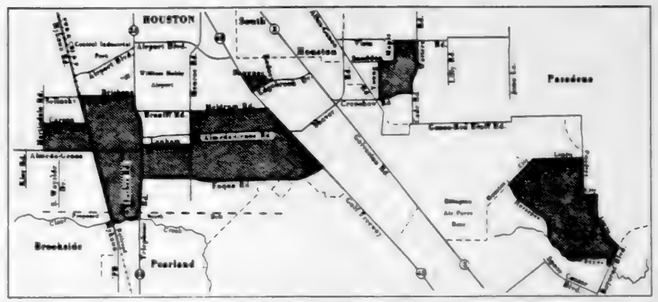
(4) From the junction of Vista Road and Maple east on Vista Road to its junction with Watters Road, South on Watters Road to its junction with Crenshaw Road, west on Crenshaw Road to its junction with Young, north on Young to its junction with Snodden Avenue, east on Snodden Avenue to its junction with Maple, and north on Maple to its junction with Vista Road.

(5) From the junction of Carson and Martindale south on Martindale to its junction with Almeda-Genoa Road, east on Almeda-Genoa Road to its junction with Mykawa Road, south on Mykawa Road to its junction with Clear Creek, east along the north bank of Clear Creek to where it crosses Telephone Road, north on Telephone Road to its junction with Fuqua, east on Fuqua to its junction with the Gulf Freeway, northwest on the Gulf Freeway to its junction with Meldrum, west on Meldrum to its junction with Monroe Road, south on Monroe Road to its junction with Lanham, west on Lanham to its junction with Telephone Road, north on Telephone Road to its junction with Brisbane, west on Brisbane until it ends, then continuing due west on a line which would intersect Mykawa Road near its junction with Selinsky Road, south on Mykawa Road to its junction with Carson, and west on Carson to its junction with Martindale.

(6) From the point at which Horsepen Bayou crosses Bayarea Boulevard, northeast on Bayarea Boulevard to the point at which it begins to form the southeastern boundary of the city of Pasadena, north and northwest along the western Pasadena city boundary to where it contacts the Houston city boundary, west along the southern boundary of Houston to where it crosses Horsepen Bayou, and southeast along the north bank of Horsepeno Bayou to where it crosses Bayarea Boulevard.

(ii) Pursuant to Section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat area.





CRITICAL HABITAT FOR THE HOUSTON TOAD IN HARRIS COUNTY

* * * * *

[FR Doc.77-14849 Filed 5-25-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 58]

MILK AND MILK PRODUCTS

Proposed Amendment to United States Sediment Standards

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Quality Service (FSQS) is proposing to amend the U.S. sediment standards for milk and milk products to provide for sediment standards for use with "universal" sample sizes (4 ounces, 2 ounces and 1 ounce) that are being adopted by the industry in their milk quality programs. A "universal sample" is taken from each producers milk when collected from the farm for use in determining quality and composition. This amendment will expand the use of the universal sample for sediment testing thus eliminating the need of larger special samples for determining sediment in milk. This amendment will provide equivalent standards to those presently used for the one pint mixed sample.

DATE: Comments on or before July 15, 1977.

ADDRESS: Written comments on this proposal may be sent, in duplicate, to the Hearing Clerk, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Richard W. Webber, Dairy Standardization Branch, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7473).

SUPPLEMENTARY INFORMATION: The United States Department of Agriculture under authority of the Agriculture Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621) issues official U.S. standards to measure and improve the quality of milk and milk products.

Historically, sediment testing of milk has been a measure of quality ever since milk has been produced and processed. It has been used by industry in quality improvement work as well as by regulatory agencies as a basis for rejecting milk produced or handled under unsatisfactory conditions.

In May, 1964, official U.S. sediment standards were promulgated. These standards were the result of several meetings of the Department and representatives of the National Association of State Departments of Agriculture; International Association of Milk, Food and Environmental Sanitarians; American Public Health Association; U.S. Food and Drug Administration; U.S. Public Health Service; and the National dairy trade associations representing different segments of the dairy industry.

These meetings also unified a common position that there be only one official method of reading or grading the discs. The Department wishes to reaffirm this position and further state that any other method or way of reading the discs would not be official nor would it be of any usefulness to the dairy industry.

During the past few years the dairy industry has increasingly used the "universal" sample system to determine the quality and composition of producer milk. Under this system a small sample of 1, 2, or 4 ounces is taken of the producer's milk each time it is collected from the farm for use in testing for quality and composition.

The Committee on the chapter "Sediment in Fluid Milk", "Standard Methods for the Examination of Dairy Products" (on which the Department is represented) responded to the need for sediment test procedures utilizing small sizes by designing and conducting a collaborative study to determine the feasibility of using "universal" samples to determine sediment. The results of the study were published in the January, 1977 issue of the "Journal of Food Protection". This study also is the basis for including in the upcoming revision of "Standard Methods for the Examination of Dairy Products" procedures for using 4 ounce, 2 ounce and 1 ounce samples for determining sediment in milk.

The amendment will provide standard references for sediment in each sample size and provide official visual aids to facilitate the use of the amended standard.

The proposed addition to 7 CFR, Part 58, Subpart T is as follows:

§ 58.2732 United States sediment standards for milk and milk products: for 0.10", 0.14", and 0.20" diameter filtering areas (fine sediment).

(a) The standards contained in this section consist of three series of four (4) sediment discs prepared as hereinafter indicated, each of which is numbered 0 to 3 representing one of the following amounts of sediment on a 0.10 inch, 0.14 inch, and 0.20 inch filtering area and is equivalent to the respective amounts of sediment of the 1⅛ inch diameter filtering area as described in section 58.2728:

0.10 inch diameter filtering area
0—0.0 mg. (0.0 mg. equivalent)
1—0.0039 mg. (0.50 mg. equivalent)
2—0.0118 mg. (1.50 mgs. equivalent)
3—0.0196 mg. (2.50 mgs. equivalent)
0.14 inch diameter filtering area
0—0.0 mg. (0.0 mg. equivalent)
1—0.0078 mg. (0.50 mg. equivalent)
2—0.0235 mg. (1.50 mgs. equivalent)
3—0.0391 mg. (2.50 mgs. equivalent)
0.20 inch diameter filtering area
0—0.0 mg. (0.0 mg. equivalent)
1—0.0156 mg. (0.50 mg. equivalent)
2—0.0489 mg. (150 mgs. equivalent)
3—0.0781 mg. (2.50 mgs. equivalent)

(b) Each sediment disc was prepared from "fine" sediment in accordance with the procedure set forth in paragraph 15.07 of "Standard Methods for the Examination of Dairy Products", Eleventh Edition, 1960 and paragraph 17.4, thirteenth edition, 1972. To facilitate the use and availability of these standards, a composite visual aid of the three series of four (4) sediment discs is attached hereto and made a part hereof.[1]

All persons who desire to submit written data, views or arguments in connection with the aforesaid proposals shall file the same in duplicate with the Hearing Clerk, Room 1077, South Building, Washington, D.C. 20250 not later than July 15, 1977. All written submissions pursuant to this notice will be made available for the public at the office of the Hearing Clerk during regular business hours. (7 CFR 1.27(b)). Received comments may be seen in the above office between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

It is proposed that this addition shall become effective September 1, 1977.

Done at Washington, D.C., this 20th day of May 1977.

WILLIAM T. MANLEY,
Acting Deputy Administrator, Commodity Operations.

[FR Doc.77-15018 Filed 5-25-77;8:45 am]

Agricultural Marketing Service

[7 CFR Part 918]

[Docket No. AO-162-A5]

FRESH PEACHES GROWN IN GEORGIA

Decision on Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreement and order for fresh peaches grown in Georgia. Georgia peach growers will vote in a referendum to determine if they favor the proposed changes in the order.

The proposed amendment would provide for a public member on the administrative committee, dissolve the advisory committee, change the conditions under which a continuance referendum would be held, end compensation for committee members attending meetings, and provide for establishment of a reserve fund. The proposed amendment would also make a number of minor changes with respect to the terminology and language used in the marketing order.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued November 19, 1976; published November 24, 1976 (41 FR 51818); Notice of Recommended Decision—Issued March 7, 1977; published March 11, 1977 (42 FR 13557); Corrections published April 8, 1977 (42 FR 18621) and May 6, 1977 (42 FR 23160).

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), (hereinafter referred to collectively as the "order") regulating the handling of fresh peaches grown in Georgia. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Fort Valley, Georgia, on December, 9, 1976, pursuant to notice thereof issued on November 19, 1976.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on March 7, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to correction of inadvertent, grammatical or obvious errors.

Material issues. The material issues of record are as follows:

(1) Redefine the term "Secretary".

(2) Update the section pertaining to districts.

(3) Provide for addition of a public member and alternate on the Industry Committee.

(4) Update the section pertaining to apportionment of committee members among districts.

(5) Delete provisions relating to selection of initial committee members.

(6) Delete the provision for compensating committee members for attending committee meetings.

(7) Deleter all provisions relating to the Distributors' Advisory Committee.

(8) Change the provisions on expenses and assessments to conform with the language of the act.

(9) Provide that the committee may establish a reserve fund.

(10) Delete provisions providing for a biennial referendum and provide that a referendum be conducted upon request of growers meeting specified conditions.

(11) Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of hearing:

1. The term "Secretary" contained in the order should be amended, as hereinafter set forth, to bring it into conformity with more recent definition of such term, and to recognize change in the titles of positions below that of Secretary. The current definition of "Secretary" in the order contains a reference to the "Under Secretary." The title of that position has been changed to "Deputy Secretary." Hence the definition of such term is incorrect. The term "Secretary" is defined in more recent orders in a manner which avoids the use of titles of position below that of Secretary such as "Secretary means the Secretary of the United States Department of Agriculture, or any officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead." Such definition avoids the necessity for redefinition each time the title of a delegatee is changed. Hence, the term "Secretary" should be revised as hereinafter set forth.

2. The order should be amended, as hereinafter set forth, to revise the term "District" to conform with the realignment previously effected in the rules and regulations (§ 918.111) under the order. The districts subdivide Georgia into geographical areas for purposes of allocating membership on the committee. The districts hereinafter defined provide an appropriate basis for the allocation of committee representation.

3. The order should be amended, as hereinafter set forth, to provide for the nomination and selection of a public member and alternate to serve on the Industry Committee.

The public interest is to be observed in actions taken under marketing orders, hence, the interests of all groups including growers, handlers, and consumers should be considered. Although meetings of the committee are open to the public, there has been little participation by consumers.

Consumers have petitioned the government for a voice in actions which affect them. Both government agencies and private organizations now actively solicit the participation of consumers in

[1] Filed as part of the original document.

their deliberations and decision-making processes. A public representative on the Industry Committee would be in a position to contribute the views of the public, other than that of the industry, to the development of recommendations for regulation designed to serve the interest of both the industry and the public generally. Therefore, it is concluded that the order should provide a position of public member on the Industry Committee with the provisions that persons filling such position shall have the same rights and privileges as other members of the committee. While the public member and alternate should not be involved in the growing and marketing of peaches or have a financial interest in the industry, such persons should reside within the production area so as to be in a position to gain an understanding of the industry's problems. This too would help assure that the travel and other expenses incurred in carrying out duties under the order could be kept within reasonable limits, and that such persons would be available when actions are being considered by the committee.

Provisions of member and alternate member positions on the Industry Committee would increase the number of positions for each from 8 to 9. Nominees to fill public member positions should be nominated by the 8 grower members selected to represent the districts. Such district grower representatives should meet as soon as practicable after their selection, make such nominations and promptly submit the names of such nominees, together with their qualifications, to the Secretary. The provisions of the order relative to term of office, selection, vacancies, qualification, alternates serving for members, reimbursement of expenses and similar provisions should apply to public members and alternates the same as to other members and alternates.

Criteria which the Industry Committee should use in considering nominees to fill the public member and alternate positions should include the following: The nominees should not grow or handle peaches; they should reside in Georgia; they should be interested in the peach industry; they should be able to devote sufficient time to committee activities; they should be willing to attend Industry Committee meetings; and they should indicate a willingness to familiarize themselves with the background, practices, and economics of the peach industry. Membership in consumer organizations, while desirable, should not be an absolute requirement for filling the public member position on the Industry Committee. Persons who should be eligible to serve as public members on the Industry Committee should include Agricultural and Home Economists and Consumer Specialists, as well as those involved in consumer groups.

4. Section 918.16 of the order should be amended, as hereinafter set forth, to bring the district representation of Industry Committee members specified in that section into conformity with the current representation by districts previously effected in the rules and regulation (§ 918.110) issued under the order. Such representation and districts currently are appropriate to the current situation in the peach industry.

5. The order should be amended, as hereinafter set forth, to delete § 918.17. The provisions of that section specify the manner in which the selection of the initial members of the Industry Committee were to be selected. The initial members were selected in 1942, and the section no longer serves any useful purpose. As a conforming change, in § 918.18 the words "after the year 1942" should be deleted from the first sentence and the title of that section revised to read; "Nomination of Members of Industry Committee". Likewise, the reference in § 918.26 to initial members and alternates should be deleted.

6. The order should be amended, as hereinafter set forth, to delete provisions in § 918.27 which allow the Industry Committee to compensate members and alternates up to $5.00 per day when attending committee meetings and other committee functions. This provision is no longer appropriate to program operation. Members and alternate members are concerned about the welfare of the peach industry and attend and participate at industry meetings in the interest of the industry as a whole. Hence compensation is not appropriate or necessary. Provisions of this section which provide for reimbursement of members and alternate members expenses should remain in effect.

7. The order should be amended, as hereinafter set forth, by deleting §§ 918.-32, 918.33, 918.34, 918.35, 918.36, 918.37, and 918.38, all which pertain to the Distributors' Advisory Committee, and revising § 918.29 to eliminate provisions relating to such committee. The record indicates that the Distributors' Advisory Committee is no longer essential to the operation of the order and authority for its establishment should be deleted.

Provision for the Distributors' Advisory Committee which is composed of seven handlers and their alternates was included in the order to recognize that an Industry Committee made up of growers solely engaged in the production of peaches needed assistance in the development of recommendations for grade and size regulations. The advice of handlers who marketed the growers' peaches was then made available through a Distributors' Advisory Committee because these handlers could provide information in regard to the grade and size of peaches considered marketable. Since the order has been in effect, the peach industry has changed substantially. In recent years more and more members of the Industry Committee have been growers involved in marketing their own peaches and in some instances in the marketing of peaches of other growers. This development has brought to the Industry Committee a shipper experience and viewpoint. Hence, the need for the Distributors' Advisory Committee under the order has been reduced considerably if not eliminated. Abolishing the Distributors' Advisory Committee will not deprive the Industry Committee of needed information and it should facilitate more timely action in handling matters under the marketing order.

Moreover, the Industry Committee could continue to request advice from shippers, or such advice may be offered at Industry Committee meetings which are open to the public and in the past have been well attended by all segments of the industry, including shippers. Also, information is now available from agencies such as the Crop Reporting Board, the Market News Service, and the Agricultural Extension Service, and such information is readily available to the Industry Committee. In addition, Industry Committee meetings are open to the public as well as to growers and handlers. Notice of such meetings is well publicized throughout Georgia. All persons present at these meetings are invited to participate in the discussion. All views expressed at these meetings are considered by the Industry Committee when it makes decisions affecting the peach industry and the public.

8. The order should be amended, as hereinafter set forth, to conform the provisions contained in the section pertaining to expenses and assessments to the Agricultural Marketing Agreement Act of 1937, as amended. The current language in the Act pertaining to committee expenses and assessments uses the words "reasonable and likely" rather than "reasonable and necessary" in specifying expenses which may be incurred and it is appropriate whenever possible that provisions of the order use the language of the Act.

9. The order should be amended, as hereinafter set forth, to authorize the Industry Committee to carry over into subsequent fiscal periods excess assessment funds remaining at the end of any fiscal period as a reserve. Currently, assessments not used during a fiscal period are carried over into the next fiscal period as handler credits, which are available to finance marketing order operations early in the season prior to the collection of assessments. However, the order requires refund of such assessments on request of handlers, in which case the fund is not available to finance such early season operations.

Peaches grown in Georgia are not shipped in volume until the end of April or the beginning of May, about two months after the start of the fiscal period. The period prior to the shipping season is one of considerable activity. During such period the Industry Committee must survey the crop and market condition; develop a marketing policy and budget for the coming season; and hold meetings to consider regulations for the insuing season. Without an operating reserve, the committee may find it necessary to either borrow funds or bill assessments in advance of shipment of the peaches to cover expenses prior to the time assessment income is available for

such purpose. In addition, if the peach crop is overestimated or the crop unexpectedly reduced, the committee assessment income may not be sufficient and this may necessitate a retroactive increase in the assessment rate to cover the deficit. This is objectionable and could be avoided through the establishment of a reserve fund.

Such a reserve fund should be available to the Industry Committee to defray expenses incurred early in the season before assessment income is received; to cover deficits incurred during any season when crop failure reduces assessment income; to cover expenses when assessment income for the fiscal period is insufficient; to defray expenses when a budget deficit is deliberately incurred to reduce the size of the reserve; to defray costs incurred during any period of suspension of part or all of the marketing order; to cover any expenses authorized by the order; and to cover expenses incurred in terminating the order.

The records indicate that the reserve fund should not exceed approximately $20,000, and the reserve should be accumulated in such manner that producers and handlers will not be unduly burdened. To keep the fund within the specified limit, if the amount approaches $20,000, the assessment rate for the next fiscal period should be fixed at a level which would likely result in a deficit. Reserve funds should be used to cover any such deficit.

Establishment of a reserve fund would be equitable to all concerned. Most growers and handlers under the order consider the growing and handling of peaches to be a lifetime pursuit, and production of peaches is a long term investment. Thus, there are few changes in the composition of the industry over time. Hence, those handlers whose assessments are transferred into the reserve fund should benefit from the later expenditure of these funds.

Establishing an adequate reserve fund should minimize the need to borrow funds, and enable the Industry Committee to avoid the expense of returning excess assessments. Also, such establishment should enable a more stable assessment rate from year to year as the rate would not need to reflect the size of the peach crop. The reserve fund should provide funds to defray the costs of liquidation should the order be terminated, and this would relieve handlers of the need to pay additional assessments to cover such liquidation costs. Similarly, the reserve fund could be used to cover necessary expenses in the event of a temporary suspension of the order.

If the order is terminated, reserve funds not needed for liquidation should be returned on a pro rata basis to those handlers who contributed such funds; used in a way which would benefit the Georgia peach industry, such as peach research; or disposed of in a manner deemed appropriate by the Secretary.

10. The order contains a provision which requires the conduct of a referendum every other year to ascertain if growers wish to continue the order in effect. This provision has been observed during the past 34 years and each time growers have favored retention of the order.

The conduct of referenda is time consuming and disrupts normal activities. It was advanced without opposition that unless conditions arise which indicate that growers are questioning the desirability of continuing the order that a referendum is unwarranted. It was indicated that growers will request a referendum if it is felt one should be held. It is therefore concluded that the provisions in the order which require a biennial referenudum to ascertain grower sentiment with respect to continuance should be deleted. It is further concluded that it is undesirable to eliminate provision for a referendum altogether, and that an optional provision should be provided whereby growers can obtain a referendum upon request. To assure that such request is concurred in by a reasonable proportion of the industry, such a provision should require that the request be supported by at least 6 growers who produced 10 percent of the inspected peaches shipped in the previous season. Furthermore, it should require that such a request be tendered no later than December 1, so that the committee and the Department can take action on it and have the action completed before the start of the following season. Therefore, the order should be amended consistent with the foregoing, as hereinafter set forth.

11. A number of conforming changes were found to be necessary. Most changes were covered in the discussion of material issues numbered 1–10, and appropriate changes made in the affected sections of the order, as hereinafter specified. The following additional changes should be made to conform the order to the recommended amendment:

(a) In § 918.19 the first sentence thereof should be revised to read: "At each meeting held to elect nominees for grower member and alternate grower member positions on the Industry Committee, the growers eligible to participate therein shall select a chairman and secretary therefor". This will make it clear that the meetings alluded to are not applicable to the nomination of individuals for the public member positions.

(b) In § 918.21 the phrase "subsequent to the initial members and alternates" should be deleted, and the section number 918.38 appearing in the text changed to 918.26.

(c) In § 918.22 the section number 918.38 appearing in the text should be changed to 918.26.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Further Amended, Regulating the Handling of Fresh Peaches Grown in Georgia", and "Order Amending the Order, as Amended, Regulating the Handling of Fresh Peaches Grown in Georgia", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of fresh peaches grown in Georgia is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be calendar year 1976.

The agents of the Secretary to conduct such referendum, jointly or severally, are hereby designated to be William C. Knowe and John R. Toth, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 9, Lakeland, Florida 33802.

Signed at Washington, D.C., on May 20, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

Order [1] amending the order, as amended, regulating the handling of fresh peaches grown in Georgia

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in Georgia.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Upon the basis of the record it is found that: (1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of fresh peaches grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended, and as hereby further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of fresh peaches grown in the production area; and

(5) All handling of fresh peaches grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of fresh peaches shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Deputy Administrator on March 7, 1977, and published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13557; FR Doc. 77-7214), and corrections published on April 8, 1977 (42 FR 18621) and on May 6, 1977 (42 FR 23160), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Section 918.1 is revised to read as follows:

§ 918.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

2. Section 918.10 is revised to read as follows:

§ 918.10 District.

"District" means the applicable one of the following described geographical subdivisions of the area:

(a) "South Georgia District" shall include the counties of Quitman, Coffee, Miller, Jeff Davis, Baker, Toombs, Terrell, Ware, Mitchell, Pierce, Worth, Evans, Brooks, Liberty, Turner, Glynn, Irwin, Echols, Atkinson, Early, Wheeler, Decatur, Montgomery, Randolph, Bacon, Dougherty, Wayne, Crisp, Charlton, Thomas, Bryan, Tift, McIntosh, Ben Hill, Berrien, Lanier, Clay, Telfair, Seminole, Clinch, Calhoun, Appling, Lee, Tattnall, Grady, Brantley, Colquitt, Long, Cook, Chatham, Wilcox, Camden, Lowndes, Stewart, Pulaski, Webster, Dodge, Sumter and Dooly;

(b) "Central Georgia District" shall include the counties of Muscogee, Bleckley, Marion, Laurens, Schley, Johnson, Macon, Candler, Houston, Glascock, Bullock, Twiggs, Wilkinson, Taylor, Washington, Crawford, Emanual, Peach, Jefferson, Burke, Effingham, Chattahoochee, Treutlen, Bibb, Jenkins, and Screven; and

(c) "North Georgia District" shall include the counties of Harris, Talbot, Upson, Monroe, Jones, Baldwin, Hancock, Warren, McDuffie, Polk, Troup, Gwinnett, Lamar, Jackson, Fayette, Forsyth, Jasper, Franklin, Douglas, Gordon, Henry, Dade, Greene, Whitfield, Lincoln, Haralson, Paulding, Cobb, De Kalb, Rockdale, Walton, Oconee, Oglethorpe, Floyd, Richmond, Cherokee, Pike, Clarke, Coweta, Elbert, Butts, Banks, Carroll, Chattooga, Clayton, Dawson, Morgan, Catoosa, Wilkes, Gilmer, Fannin, Lumpkin, Union, White, Towns, Haversham, Stephens, Rabun, Columbia, Bartow, Meriwether, Barrow, Heard, Madison, Spalding, Hall, Putnam, Hart, Fulton, Pickens, Newton, Walker, Taliaferro, and Murray.

3. Section 918.15 is revised to read as follows:

§ 918.15 Establishment of Industry Committee.

An Industry Committee, consisting of nine members, and alternates is hereby established to administer the terms and provisions of this part. Eight members and alternates shall be growers of peaches and one member and alternate shall be individuals who are neither growers nor handlers of peaches. The 8 members who shall be growers shall be known as "grower members" and the remaining member shall be known as a "public member". The members of said Industry Committee and their respective alternates, shall be selected in accordance with the provisions of this part.

4. Section 918.18 is revised to read as follows:

§ 918.18 Nomination of members of Industry Committee.

(a) The Industry Committee shall hold or cause to be held prior to January 31 of each year a meeting or meetings of growers in each of the districts designated in § 918.10, or as redesignated pursuant to § 918.29(k), for the purpose of designating nominees for grower member and alternate member positions on the Industry Committee. The Committee shall give adequate notice of any such meeting or meetings to all growers in the respective district. (b) Members of the committee, selected pursuant to § 918.21, may nominate individuals for the public member and alternate member positions on the Industry Committee, and promptly send the names of these nominees, along with their qualifications, to the Secretary.

5. Section 918.25 is revised to read as follows:

§ 918.25 Eligibility for membership on Industry Committee.

Any person nominated or selected to serve as a member or as an alternate member of the Industry Committee, except for the public member and alternate, shall be an individual grower of peaches in the respective district for which selected, or an officer, employee, or agent of a corporate grower or corporate growers in such district. The public member and alternate shall reside in Georgia, but neither person shall be a grower or handler of peaches.

6. Section 918.16 is revised to read as follows:

§ 918.16 Representation by grower members by districts on Industry Committee.

(a) Two members of the Industry Committee shall be selected from among growers in the South Georgia District.

(b) Four members of the Industry Committee shall be selected from among growers in the Central Georgia District.

(c) Two members of the Industry Committee shall be selected from among growers in the North Georgia District.

§ 918.17 [Deleted]

7. Section 918.17 is deleted.

8. Section 918.26 is revised to read as follows:

§ 918.26 Term of office.

The members of the Industry Committee and their respective alternates shall serve for the fiscal period for which they have been selected and if their successors have not been selected and qualified prior to the end of the respective fiscal period, each such member or alternate shall continue to serve until his respective successor shall have been selected and qualified.

9. Section 918.27 is revised to read as follows:

§ 918.27 Reimbursement for expense.

Each member of the Industry Committee and each alternate member when acting for a member or when designated by the committee to attend, may be reimbursed for expenses incurred while attending committee meetings; while attending to committee business authorized by the committee; and while attending each consultation or conference with any committee, or representatives thereof, established under any marketing agreement and order program pursuant to the act, with respect to the handling of peaches grown in Georgia or in any other State.

§ 918.29 [Amended]

10. In § 918.29 paragraph (q) is deleted; paragraph (h) is amended by deleting the words "and to authorize members and alternate members of the Distributors' Advisory Committee to attend such conferences and consultations;"; paragraph (r) is redesignated as paragraph (q).

§ 918.32 [Revoked]

§ 918.33 [Revoked]

§ 918.34 [Revoked]

§ 918.35 [Revoked]

§ 918.36 [Revoked]

§ 918.37 [Revoked]

§ 918.38 [Revoked]

11. Sections 918.32 through 918.38 are deleted.

12. Sections 918.40 and 918.41 are revised to read as follows:

§ 918.40 Expenses.

The Industry Committee is authorized to incure such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 918.41.

§ 918.41 Assessments.

Each handler who first ships peaches shall pay upon demand, to the Industry Committee, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning during each fiscal period: *Provided*, That no assessment shall be levied against peaches that are exempt from regulation pursuant to § 918.71 or against peaches that are exempt from inspection pursuant to § 918.64. Such handler's pro rata share of such expenses shall be equal to the ratio between the total assessable quantity of peaches shipped by such handler as the first shipper thereof, during the applicable fiscal period, and the total assessable quantity of peaches shipped by all handlers as the first shippers thereof during the same fiscal period.

13. Section 918.44 is revised to read as follows:

§ 918.44 Accounting.

If at the end of a fiscal period the assessments collected are in excess of expenses incurred, the Industry Committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve up to an amount of $20,000. Such reserve funds may be used to cover any expenses authorized by this part and to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period or be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such mannar as the Secretary may determine to be appropriate: *Provided*, That, to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

14. Section 918.81 is revised to read as follows:

§ 918.81 Termination.

(a) The Secretary shall terminate or suspend the operation of this part or any provision thereof whenever he finds that the part or any provision thereof does not tend to effectuate the declared policy of the act.

(b) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by the majority of the growers: *Provided*, That such majority has, during the current marketing season, produced more than 50 percent of the peaches which were produced for market within the area. Such termination shall become effective on the last day of February following the announcement thereof by the Secretary.

(c) The Secretary shall conduct a referendum among growers to ascertain whether continuance of this part is favored by growers, when requested to do so by the committee, or upon the request of 6 or more growers who produced 10 percent or more of the inspected peaches shipped during the then current fiscal period: *Provided*, That such request is received prior to December 1.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

15. Section 918.19 is revised to read as follows:

§ 918.19 Conduct of nomination meetings.

At each meeting held to elect nominees for grower member and alternate grower member positions on the Industry Committee, the growers eligible to participate therein shall select a chairman and secretary therefor. The chairman of each meeting shall announce at such meeting the name of each person for whom a vote has been cast, whether as member or alternate member, and the number of votes cast for each such person, and the chairman or the secretary of the meeting shall forthwith transmit such information to the Secretary or the designated representative of the Secretary. At each such meeting at least two nominees shall be desgnated for each position as member and at least two nominees shall be designated for each position as alternate member on the committee as representative or representatives of the respective district.

16. Section 918.21 is revised to read as follows:

§ 918.21 Selection of members of Industry Committee.

The Secretary may select the members of the Industry Committee and their respective alternates from nominations made by growers as provided in §§ 918.15 through 918.26 or the Secretary may select such members and alternates from among other persons.

17. Section 918.22 is revised to read as follows:

§ 918.22 Vacancies.

In the event nominations are not made for membership on the Industry Committee, pursuant to the provisions of §§ 918.15 through 918.26 by February 15 of the respective fiscal period, the Secretary may select such members and their respective alternates without waiting for nominees to be designated. To fill any vacancy occasioned by the failure of any person, selected as a member of the Industry Committee or as an alternate member thereof, to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary.

[FR Doc.77-15079 Filed 5-25-77;8:45 am]

[7 CFR Part 1004]

MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Suspension of Rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions of the Middle Atlantic milk marketing order relating to the regulatory status of distributing plants. Suspension of the provisions was requested by cooperative associations to continue the association of members' milk with the order. The proposed suspension would be for May, June, July and August 1977.

DATE: Comments are due 5 days from publication in the FEDERAL REGISTER.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Room 1077, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-7311).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.), the suspension of certain provisions of the order regulating the handling of milk in the Middle Atlantic marketing area is being considered for the months of May, June, July and August 1977.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 1077 South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than May 31, 1977. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

§ 1004.7 [Amended]

In § 1004.7(a), the language which reads "not less than 50 percent."

STATEMENT OF CONSIDERATION

The proposed action would suspend for the months of May through August 1977, the requirements that at least 50 percent of the receipts of milk at pool distributing plants be disposed of as Class I milk. The suspension was requested by Maryland Cooperative Milk Producers, Inc. and Lehigh Valley Cooperative Farmers.

The cooperative associations indicate that they are having to divert unusually large quantities of milk from pool distributing plants to manufacturing outlets due to increasing milk production.

In addition, a major milk dealer supplied by one of the cooperatives went out of business. The closing of the pool distributing plant, which was a major supplier of fluid milk sales in the marketing area, has resulted in a substantial increase in the volume of milk that the cooperative must divert to manufacturing plants.

In addition to the increased need for diversion, the plant closing has limited the cooperative's ability to divert milk. This occurs because diversions must be associated with distributing plants for pooling purposes. The number of other plants from which the cooperative can divert is limited. Additional diversions from such plants would result in their loss of pool plant status since less than 50 percent of receipts would be disposed of as Class I milk.

The cooperative associations anticipate a need for the suspension through August until the supply-demand situation improves.

Signed at Washington, D.C., on May 24, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-15265 Filed 5-25-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A478]

COLORADO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Coloradio Counties as a result of severe blizzard conditions March 10 through March 13, 1977, in all 17 counties and also high winds February 22 and 23, 1977, in Prowers County:

Baca	Lincoln
Bent	Logan
Cheyenne	Otero
Crowley	Phillips
Elbert	Prowers
El Paso	Sedgwick
Kiowa	Washington
Kit Carson	Yuma
Las Animas	

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Richard D. Lamm that such designation be made.

Applications for emergency loans must be received by this Department no later than July 5, 1977, for physical losses and February 6, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of May 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–15003 Filed 5–25–77;8:45 am]

[Notice of Designation Number A479]

IDAHO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Bonneville County, Idaho, as a result of frosts June 14 and 26, August 27, and September 8 and 9, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor John V. Evans that such designation be made.

Applications for emergency loans must be received by this Department no later than July 7, 1977, for physical losses and February 6, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of May 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–15004 Filed 5–25–77;8:45 am]

[Notice of Designation Number A477]

MICHIGAN

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Michigan Counties as a result of drought July 15 through September 15, 1976, in Branch County; tornadoes April 2, 1977, in Eaton County; and drought April 1 through October 31, 1976, and early frosts August 29 and September 1, 1976, in Presque Isle County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor William G. Milliken that such designation be made.

Applications for emergency loans must be received by this Department no later than July 5, 1977, for physical losses and February 6, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of May 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–15005 Filed 5–25–77;8:45 am]

[Notice of Designation Number A480]

MISSISSIPPI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Smith County, Mississippi, as a result of tornadic-like winds and a severe thunderstorm March 28, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Cliff Finch that such designation be made.

Applications for emergency loans must be received by this Department no later than July 7, 1977, for physical losses and February 6, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of May 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–15006 Filed 5–25–77;8:45 am]

[Notice of Designation Number A476]

OKLAHOMA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Oklahoma Counties as a result of drought July 1, 1976, to April 15, 1977, in Beaver County; drought July 1, 1976, through April 15, 1977, and blizzard March 11, 1977, in Cimarron County;

drought June 15, 1976, to April 4, 1977, in Ellis County; drought October 1, 1976, to April 15, 1977, and wind erosion February 1, 1977, to April 15, 1977, in Harper County; drought and wind January 1, 1976, through April 15, 1977; and blizzard March 11, 1977, in Texas County.

Therefore, the Secretary has designated this areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor David L. Boren that such designation be made.

Applications for emergency loans must be received by this Department no later than July 5, 1977, for physical losses and February 3, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of May 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–15007 Filed 5–25–77;8:45 am]

Forest Service

PROPOSED LAND USE PLAN FOR DEERFIELD RIVER AREA GREEN MOUNTAIN NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement on the Proposed Land Use Plan for the Deerfield River Area on the Green Mountain National Forest, USDA–FS–R9–FES–(ADM)–76–02.

The environmental statement concerns a proposed land use plan for approximately 2,860 acres of land within the Green Mountain National Forest in the southcentral part of Vermont.

This final environmental statement was transmitted to CEQ on May 16, 1977.

Copies are available for inspection during regular working hours at the following locations.

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. and Independence Ave., SW., Washington, D.C. 20250.

USDA, Forest Service, Eastern Region, 633 West Wisconsin Avenue, Milwaukee, WI 53203.

USDA, Forest Service, Green Mountain National Forest, Federal Building, 151 West Street, Box 519, Rutland, VT 05701.

A limited number of single copies are available upon request to Forest Supervisor, Green Mountain National Forest, Federal Building, 151 West Street, Box 519, Rutland, Vermont 05701.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

HAROLD FRITZ,
Acting Planning, Programming, and Budgeting.

MAY 16, 1977.

[FR Doc.77–15008 Filed 5–25–77;8:45 am]

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Deschutes National Forest Advisory Committee will meet at the Riverhouse, 3075 North Highway 97, Bend, Oregon 97701, at 8:00 p.m. on Thursday, June 23, 1977.

The subject of the meeting will be, "The Role of Wildlife in Land Use Planning."

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor or Sandy Fergerson at 211 NE Revere, Bend, Oregon 97701, telephone (503) 382–6922. Written statements may be filed with the Committee before or after the meeting.

Dated: May 18, 1977.

EARL E. NICHOLS,
Forest Supervisor.

[FR Doc.77–15020 Filed 5–25–77;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 30607, 30639, 30549; Order 77–5–111]

KLM ROYAL DUTCH AIRLINES, ET AL.

Transatlantic Specific Commodity Rates; Order Vacating Suspensions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of May, 1977.

By Order 77–4–67, adopted April 5, 1977, and Order 77–3–35, adopted February 25, 1977, the Board suspended and instituted investigations of specific commodity rates on books from Amsterdam and Brussels proposed by KLM Royal Dutch Airlines (KLM) and Societe Anonyme Belge D'Exploitation De La Navigation Aerienne (Sabena), and from London, Manchester, and Glasgow proposed by British Airways.[1]

On April 25, 1977, Sabena filed a petition for reconsideration of the aforementioned action. Sabena asserts, inter alia, that the Board has permitted Seaboard World Airlines, Inc. (Seaboard), Compagnie Nationale Air France (Air France), and KLM to provide Paris to New York transportation of books at rates identical to those suspended for Sabena from Brussels. Further, Sabena assumes that if the allegations set forth in Seaboard's complaint against the lawfulness of the book rates of KLM and Sabena are true, such allegations would be applicable with equal force to Seaboard's own tariff on the same commodities applicable between Paris and New York. On the other hand, Sabena contends the Board should reconsider and rescind Order 77–4–67. No answers to Sabena's petition have been received.

The Board believes that in order to treat all carriers' filings in an equitable manner, and since virtually identical low book specific-commodity rates already exist in the Paris to New York market, the suspensions ordered in Orders 77–4–67 and 77–3–35 should be vacated in order to permit such rates from Amsterdam, Brussels, London, Manchester and Glasgow to become effective pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, 404, 801, and 1002(j) thereof,

It is ordered That: 1. The suspensions ordered in Order 77–4–67 and Order 77–3–35 be vacated;

2. The petition of Societe Anonyme Belge D'Exploitation De La Navigation Aerienne in Dockets 30607 and 30639 is granted; and

3. Copies of this order shall be filed with the tariffs and be served upon British Airways, KLM Royal Dutch Airlines, Societe Anonyme Belge D'Exploitation De La Navigation Aerienne, Seaboard World Airlines, Inc., Pan American World Airways, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–15048 Filed 5–25–77;8:45 am]

[Docket 30805; Order 77–5–110]

PROFIT BY AIR, INC.

Increased C.O.D. Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautic Board at its office in Washington, D.C. on the 19th day of May, 1977.

By tariff revision[1] issued April 22 and marked to become effective May 22, 1977, Profit By Air, Inc. (Profit), an air freight forwarder, proposes to increase its domestic C.O.D. collection service minimum charge from $3.00 to $7.50 per shipment and the rate from $.01 to $.03 per $1.00 (or fraction thereof) of the C.O.D. amount to be collected.

In support of its proposal, Profit asserts, inter alia, that during calendar year 1976, it handled an aggregate C.O.D. amount of about $1,815,000 and received total service charges amounty to $21,200, with an average service fee of $8.43; that during the same period, its additional costs of handling such shipments were $55,300 (or approximately 2.6 times its revenue for providing the service); that

[1] Revisions to Air Tariffs Corporation, Agent, Tariff C.A.B. No. 50, and John M. Sampson, Agent, Tariff C.A.B. No. 18.

[1] Revisions to Profit By Air, Inc., Tariff C.A.B. No. 18.

the total costs of handling C.O.D. shipments, including allocation of other costs, amounted to well over $100,000; that the above added costs were based upon the additional clerical effort at both the station and general accounting levels, which required 2.2 man-hours per shipment at $10 per hour; that based on contractual increases the basic labor cost will rise by a minimum of 10 percent in calendar 1977; that C.O.D. service is offered only as an accommodation when required and should at least cover direct costs; and that the proposed revision would raise Profit's domestic charges to the level of its international charge, making them uniform.

Upon consideration of all relevant factors, the Board finds that the increased C.O.D. minimum charge proposed by Profit may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal, should be suspended pending investigation.

By Order 75–11–43, adopted November 12, 1975, the Board suspended the same proposals by Profit that it is now filing. In that order, we stated that the forwarder's justification was inadequate and contained little indication of how its estimated cost of $25 per C.O.D. service was determined.[2]

In support of its current proposal, Profit lists certain functions that must be performed for C.O.D. shipments at the station and at the general accounting office, and asserts that these functions require one man-hour per C.O.D. shipment at the station and 1.2 man-hours at the general accounting office (not including additional delivery and handling costs), for a total of 2.2 man-hours at $10 per hour.[3] However, Profit does not indicate how its cost estimates were made nor describe the surveys upon which they might have been based. Although the forwarder presents a detailed list of C.O.D. service functions and two overall estimates of the labor-hours required, it does not describe how these estimated times were arrived at. There is no full description of how the survey was conducted. Supporting details are not presented, details which, in our opinion, are necessary to justify the proposed tripling of the C.O.D. rate per $1.00 collected and raising the minimum charge 2½ times.

[2] "The forwarder merely states that this estimated cost is based on 'at least 2 man-hours at $6.50 per hour of general accounting time, a total of 1 man-hour processing time at $6.50 per hour between the origin and destination station, additional banking expense, and additional telephone expense as it is necessary to notify the consignee that the shipment is C.O.D.' Profit does not indicate how the foregoing estimates were reached, nor does it describe any surveys upon which they might have been based."

[3] These functions may be summarized as follows:

Additional steps at the station level

1. Rating and auditing of shipment.
2. Stamping of shipment.
3. Marking of each package.
4. Sending special tele to destination station.
5. Follow-up by origin station.
6. Notification of consignee.
7. Additional delivery time—not counted by forwarder.
8. Additional time if C.O.D. shipment refused.
9. Special precautions in handling cash or certified checks.

Additional steps required at general accounting office

1. Special report from stations.
2. Special reports by computer.
3. Continuous follow-up.
4. Claims payment due to failure to collect C.O.D.'s.

Furthermore, certain of the functions listed, e.g., that C.O.D. shipments must be fully rated and audited, are required for all types of shipments. Also, the "long explanation" to consignee of how "the whole procedure works", which the forwarder indicates is additional justification for the increase, would not seem to be required more than once for the same consignee.

The proposal would result in C.O.D. minimum charges and rates per $1.00 of money collected, much above those in effect for either direct carriers or forwarders. In fact, Profit's current C.O.D. minimum charge of $3.00 is already higher than that of the direct carriers and many forwarders, and its proposed $7.50 charge would be almost double the highest minimum charge in effect for any airline or forwarder. Practically all direct carriers have a domestic minimum charge for C.O.D. service of $1.00 per shipment and most forwarders have charges between $2.00 and $4.00. Profit's proposed rate of 3 cents per $1.00 collected would be 6 times as much as the 50 cents per $100 in effect domestically for direct carriers and three times as high as the 1 cent per $1.00 now in effect for many forwarders; in fact, some forwarders charge less.

Finally, inflation in recent years has significantly raised the value of shipments and thus has increased the forwarder's C.O.D. collections without any increase in the rate per $1.00. For example, a shipment valued at $500 ten years ago might be valued at $1,000 today, and the C.O.D. charge would be increased from $5.00 to $10.00 at Profit's current rate of 1 cent per $1.00 collected.

The Board has consistently suspended increases in C.O.D. charges and rates proposed by both forwarders and direct carriers in the absence of full and adequate justification.[4] We shall suspend Profit's proposal for the same reason.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

[4] For example, Order 77–4–104, 76–7–120, 76–6–9, 75–11–43, and previous orders.

It is ordered That: 1. An investigation is instituted to determine whether the charge and provisions in Rule No. 4(J)(1)(a) and the proposed cancellation in Rule No. 4(J)(1)(b) on 13th Revised Page 10 of C.A.B. No. 18, issued by Profit By Air, Inc., and rules, regulations, or practices affecting such charge and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charge and provisions, and rules, regulations, or practices affecting such charge and provisions;

2. Pending hearing and decision by the Board, the charge and provisions in Rule No. 4(J)(1)(a) and the proposed cancellation in Rule No. 4(J)(1)(b) on 13th Revised Page 10 of C.A.B. No. 18, issued by Profit By Air, Inc., are suspended and their use deferred to and including August 19, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board; and

3. Copies of this order shall be filed with the tariff and served upon Profit By Air, Inc., which is hereby made a party to Docket 30905.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–15047 Filed 5–25–77;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

GRADING OF ABRASIVE GRAIN ON COATED ABRASIVE PRODUCTS

Voluntary Product Standard Action on Proposed Withdrawal

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of Voluntary Product Standard PS 8–67, "Grading of Abrasive Grain on Coated Abrasive Products."

It has been determined that this standard is technically inadequate and that revision would serve no useful purpose. The subject matter of PS 8–67 is adequately covered by the American National Standards Institute's standard ANSI B74.18, "Specification for Grading of Certain Abrasive Grain on Coated Abrasive Products." This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of April 12, 1977 (42 FR 19169) to withdraw this standard.

The effective date for the withdrawal of this standard will be July 25, 1977. This withdrawal action terminates the authority to refer to the standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: May 23, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc. 77–15019 Filed 5–25–77;8:45 am]

National Oceanic and Atmospheric Administration

PRE-ACT ENDANGERED SPECIES PRODUCTS

Issuance of Certificates of Exemption

On April 7, 1977, notice was published in the FEDERAL REGISTER (42 FR 18421) that applications had been filed with the National Marine Fisheries Service by J. L. Houston, Inc. of Seattle, Washington and Robert Bruce Hartman of Lahaina, Maui, Hawaii for Certificates of Exemption to engage in certain commercial activities with respect to their declared inventories of pre-Act endagered species products.

Notice is hereby given that on May 26, 1977, as authorized by the provisions of the Endangered Species Act of 1973, as amended, (Pub. L. 94–359), and the regulations issued thereunder (50 CFR Part 222, Subpart B), the National Marine Fisheries Service issued Certificates of Exemption to J. L. Houston, Inc., 1408 12th Avenue, Seattle, Washington 98122 and Robert Bruce Hartman, d/b/a Whaler's Locker, P.O. Box 842, Lahaina, Maui, Hawaii 96761.

The Certificates of Exemption are available for review during normal business hours in the Office of the Enforcement Division, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20007.

Dated: May 20, 1977.

JACK W. GEHRINGER,
Deputy Director, NMFS.

[FR Doc.77–15035 Filed 5–25–77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MAY 16, 1977.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, AFSC, will hold meetings on June 14, 1977 from 8:30 a.m. to 5:00 p.m. and June 15, 1977 from 8:30 a.m. to 12:00 p.m., at Hanscom Air Force Base, Massachusetts in the Command Management Center, Building 1606.

The Group will receive classified briefings and hold classified discussions on selected Air Force Command, Control and Communications Programs.

The meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202–697–8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77–14993 Filed 5–25–77;8:45 am]

Department of the Army

CHEMICAL PROPULSION ADVISORY COMMITTEE PROPELLANT CHARACTERIZATION WORKING GROUP

Closed Meeting

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Chemical Propulsion Advisory Committee (Propellant Characterization Working Group) will be held on Tuesday, Wednesday, and Thursday, June 7–9, 1977 at 9 a.m. at the U.S. Air Force Academy, Colorado Springs, CO.

The Committee's primary responsibilities are to provide technical advice to the Joint Army, Navy, NASA, Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of propulsion. At this meeting the Committee will exchange technical information on methods for ahe analyses of solid and liquid missile propellants.

Under the provision of section 10(d) of Pub. L. 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are concerned with matters listed in section 552(b) of Title 5, United States Code. One of the matters so listed is that specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy.

Accordingly, this meeting will be closed to the public because the matters concerned are related to the design, development and production of classified rocket motors (5 U.S.C. 552(b)(1)). However, those individuals who possess a personal security clearance of at least confidential and a certified need-to-know in the area of chemical rocket propulsion may attend, provided they have notified the Advisory Committee Chairman in writing at least five (5) days prior to the meeting.

Members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. All communications regarding this Advisory Committee should be addressed to the Chairman, Mr. B. J. Alley, U.S. Army Missile Research and Development Command, Attn: DRDMI–TKC, Redstone Arsenal, AL 35809.

B. J. ALLEY,
Chairman.

[FR Doc.77–15145 Filed 5–25–77;8:45 am]

FORT ORD COMPLEX, CALIF.

Filing of Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army, on 23 May 1977 provided the Council on Environmental Quality with a Final Environmental Impact Statement (EIS) concerning Ground Squirrel Control at the Fort Ord Complex in California.

The control of the squirrels is required to reduce the existence of an ecological situation having high potential for a plague epizootic.

The EIS indicates the preferred action to be the use of the chemical 1080 to control the ground squirrels. However, based on our review of the FEIS; comments on the Draft EIS; and advice received from Federal agencies as part of the consultation process under Executive Order 11870, the Department of the Army prefers the alternative that would substitute the use of zinc phosphide for the pesticide 1080. It was concluded that the Army could serve the overall public interest best and at the same time protect the health of the troops and others through the use of an alternative that would not require the application of 1080 for ground squirrel control.

In the Washington area, inspection copies may be seen, during normal duty hours, in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310 (phone 202–694–1163).

BRUCE A. HILDEBRAND,
Deputy For Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc.77–15076 Filed 5–25–77;8:45 am]

Defense Civil Preparedness Agency

PRIVACY ACT OF 1974

Amendment of a Record System

In FR Doc. 75–21075 published in the FEDERAL REGISTER 40 FR 35337 (August 18, 1975), the Defense Civil Preparedness Agency set forth a record system as prescribed by subsection of 3(e) (4) and (11) of the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a) within the Defense Civil Preparedness Agency. This record system is identified as "DCPA LEG 5—Interest-Conflict Review."

Notice is hereby given that the Defense Civil Preparedness Agency is amending this record system. The proposed changes therein are not deemed to fall within the provisions of Office of Management and Budget (OMB) Circular No. A–108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974. This OMB guidance was set forth in FEDERAL

REGISTER (40 FR 45877) on October 3, 1975.

Following a brief identification of the record system and the changes made therein, the complete revised record system as amended, is published in its entirety.

Interested persons are invited to submit comments, including written data, views or arguments, concerning the proposed changes to the Assistant Director for Administrative Services, Defense Civil Preparedness Agency, Room 1D487, The Pentagon, Washington, D.C. 20301 on or before June 25, 1977. The record system will be effective as proposed without further notice, on or before June 25, 1977, unless comments are received which result in a contrary determination requiring republication for further comments.

CLEG 5

System name: DCPA LEG 5–Interest-Conflict Review
Changes:
Categories of records in the system: In the second and third lines the reference to Form 1555–1 is deleted and the name of the form is changed to read "Confidential Statement of Affiliations and Financial Interests."

Routine uses of records maintained in the system, including categories of uses and the purpose of such uses: After "Supervisor", delete the sentence "DD Form 1555 or 1555–1 is not shown supervisor."

Others: Revise to read as follows: "Reports on receipt of gratuities submitted to designee of Secretary of Defense (DCPA Inst. 5860.1). DD Form 1555 not disclosed outside Defense Civil Preparedness Agency except as Director or Civil Service Commission may determine."

Administrative Services: Revise to read as follows: "Maintains records of persons who need to submit DD Form 1555 and postemployment and defense related employment statements.

Record source categories: Delete "and 1555–1."

CLEG 5

System name:

DCPA LEG 5–Interest-Conflict Review

System location:

Defense Civil Preparedness Agency Headquarters (DCPA), The Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system:

All DCPA employees, headquarters and field, including full time permanent, part time, temporary, consultants, military and civilian, and former employees.

Categories of records in the system:

Files contain for those employees required to submit same, a DD Form 1555, "Confidential Statement of Affiliations and Financial Interests," and documents connected with review thereof, and for any DCPA employee documents accumulated in connection with enforcement of standards of conduct, review of conflicts of interest, reports of receipts of gratuities, entertainment, etc., disqualifications, reports of defense related employment and outside employment. For former employees, documents include those relating to conflict of interest and postemployment and defense related employment.

Authority for maintenance of the system:

Executive Order 11222 of May 8, 1964, "Prescribing Standards of Ethical Conduct for Government Officers and Employees." Civil Service Regulation, "Employee Responsibilities and Conduct," 5 CFR Part 735 and 5 U.S.C. 301. For former employees, Sec. 410, Pub. L. 91–121.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

General Counsel: To ascertain if there are conflicts of interest between employees private interest and official duties, or if there are violations of standards of conduct or postemployment restrictions. If such conflict or violation is identified, reports may be used in informal conferences with employee, report to Director and enforcement authorities, and in connection with appeals. Disclosure of any investigatory matter may be made to any Federal agency with jurisdiction.

Supervisor: Documents are used to determine if employee has a disqualifying interest or for enforcement of standards of conduct.

Others: Reports on receipt of gratuities submitted to designee of Secretary of Defense (DCPA Inst. 5860.1). DD Form 1555 not disclosed outside Defense Civil Preparedness Agency except as Director or Civil Service Commission may determine.

Administrative Services: Maintains records of persons who need to submit DD Form 1555 and postemployment and defense related employment statements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by name.

Safeguards:

Building employs security guards. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

Retention and disposal:

Files kept for two years after final decision or after employee leaves DCPA, whichever is later, then destroyed.

System manager(s) and address:

Director, DCPA, The Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from: Headquarters, DCPA, The Pentagon, Washington, D.C. 20301, Telephone: Area Code 202/695–6498.

Record access procedures:

Requests from individuals should be addressed to: Headquarters, DCPA, Room 1D511, The Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual and current address.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information could be verified with his case folder.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations may be obtained from Management Division, DCPA, Pentagon Building, Washington, D.C. 20301.

Record source categories:

DD Form 1555 reports on defense related employment and reports on receipts of gratuities are prepared and submitted by employee. Other sources include supervisors, informants.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(2), as applicable. For additional information, contact the Systems Manager.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MAY 23, 1977.

[FR Doc.77–15002 Filed 5–25–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of March 14–March 18, 1977

Notice is hereby given that during the week of March 14 through March 18, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Abco Fuel Oil Service, Inc.; Pride Utilities, Inc.; Plainview, N.Y.; FRA–1070; FRA–1080; No. 2 Fuel Oil

Abco Fuel Oil Service, Inc. (Abco) and Pride Utilities, Inc. (Pride), filed Appeals from Remedial Orders which were issued to them by FEA Region II. The Remedial Orders found that the firms had sold No. 2 fuel oil at unlawful price levels during the period November 1, 1973, through November 30, 1974. The Abco and Pride Appeals, if granted, would relieve the firms of the obligation to refund the amount of the previous overcharges plus interest. The Appeals were consolidated since they involved similar factual and legal questions and the two firms are under common ownership. In considering the Appeals, the FEA rejected the contention that Abco and Pride should have been permitted to pass through their costs of transporting heating oil to their customers on a dollar-for-dollar basis. The FEA determination was based on the finding that those costs were non-product costs as delineated in FEA Ruling 1975–10 and were therefore subject to the limitations specified in Section 212.93(b). With respect to the firms' claims that they would incur a serious hardship or gross inequity if they were required to immediately refund the overcharges, the FEA held that these allegations would be considered only in the context of an Application for Exception. Although both firms had previously filed exception applications with FEA Region II, those applications had been dismissed or denied on their merits. The FEA found no basis to depart from the previous determinations which had been reached in this matter. Consequently, since Abco and Pride failed to demonstrate the existence of any error in the Remedial Orders, their Appeals were denied.

Amtane, Inc.; Tulsa, Okla.; FXA–1107; Propane

Amtane, Inc. (Amtane), filed an Appeal from a Decision and Order which the FEA had issued to Small's LP Gas Co. (Small's) on December 3, 1976. *Small's LP Gas Co.*, 4 FEA Par. ¶83,219 (December 3, 1976). In that determination, the FEA granted an Application for Exception which Small's had filed on the grounds that adherence to its base period supplier/purchaser relationship with Amtane resulted in a serious hardship to the firm. Based upon that determination, the Regional Administrator of FEA Region VII was directed to assign Small's a new supplier with respect to its base period use of propane. The Amtane Appeal, if granted, would have resulted in the rescission of the December 3, 1976, Decision and the reinstatement of Small's base period supplier/purchaser relationship with Amtane. In its Appeal, Amtane contended that the December 3 Decision erred in finding that Small's competitive position had declined as a result of the higher prices which it had been paying for propane. Amtane further contended that the December 3 Decision was incorrect in the findings reached as to Amtane's propane prices and Small's freight costs. Amtane also contended that the exception relief granted to Small's was based upon an erroneous calculation of Small's base period use of propane. Finally, Amtane claimed that the December 3 Decision was procedurally defective because Amtane failed to receive formal notification of the Small's exception application as required by the provisions of 10 CFR 205.53 and was therefore improperly deprived of an opportunity to comment on the Application. In considering the Amtane Appeal, the FEA found that the December 3 Decision was correct in finding that Small's competitive position had deteriorated as a result of the prices which it was paying Amtane for propane. In this regard, the FEA observed that although Small's sales volume had increased between 1974 and 1976, the firm did not realize any financial benefits from the increased sales, and in fact the firm's financial position had deteriorated during this time. However, the FEA concluded that Amtane was correct in contending that the FEA used an erroneous calculation in computing Small's base period use. The FEA therefore ordered that appropriate adjustments be made in any future extensions of exception relief granted to Small's. The FEA also found that Amtane was partially correct in its assertion that the FEA used erroneous price information in calculating Small's delivered cost of propane. However, the FEA concluded that any such error was harmless because even if the correct data had been used in the December 3 determination, the result reached would not have been different. Finally, the FEA rejected Amtane's claim that the previous determination was procedurally defective since in the present proceeding Amtane was afforded an opportunity to challenge the factual and legal basis of the December 3 Decision and Order. Accordingly, the Amtane Appeal was denied.

Beren Corp.; Kansas City, Mo.; FRA–1059; Crude Oil

Beren Corporation filed an Appeal from a Remedial Order which the Deputy Regional Administrator of FEA Region VIII issued to the firm on November 15, 1976. In the Remedial Order, the FEA found that during the period November 16, 1973, through December 31, 1974, Beren had erroneously classified eight properties as stripper well leases and had sold the crude oil produced from those properties at uncontrolled market prices. On the basis of these findings, Beren was directed to refund with interest to the affected purchasers the revenues it derived from charging unlawful price levels for the crude oil involved. The Remedial Order further directed Beren to recalculate the average daily production of crude oil from the leases and determine if the properties qualified for stripper well status during 1975 or 1976 in accordance with the principles set forth in the Remedial Order. In its Appeal, Beren contended that the Remedial Order erroneously calculated crude oil production from the properties by misconstruing the phrase "average daily production." Beren contended that for purposes of measuring average daily production from a property, a well which produced crude oil for any portion of the 12 calendar month measurement period should be counted as a producing well for the entire measurement period. Beren had reactivated wells on five properties in late 1973 and by applying its interpretation of average daily production, the first asserted that the properties qualified for stripper well status in 1974. In considering Beren's Appeal, the FEA reviewed the legislative history of the stripper well exemption and concluded that the principal purpose of the exemption was to prevent the premature shutdown of stripper wells on marginal properties. In view of this background, the FEA concluded that the downward adjustment mechanism adopted in Ruling 1975–12 for wells that did not produce crude oil during the entire year was consistent with the purpose of the stripper well exemption, and Beren's interpretation of "average daily production" was therefore rejected as unreasonable. Moreover, the FEA determined that that there was no merit to Beren's further contention that a producer which did not keep adequate records of crude oil production should be permitted to use crude oil "sold" rather than "produced" for purposes of determining a property's eligibility for stripper well status. Finally, the FEA determined that the assessment of interest on the overcharges was a proper exercise of the agency's authority. Since Beren had failed to demonstrate that the Remedial Order was erroneous in fact or law or was arbitrary or capricious, the firm's Appeal was denied.

Edmond Oil Co.; Pawtucket, R.I.; FEA–1002; No. 2 Fuel Oil

The Emond Oil Company (Emond) appealed from a Remedial Order which was issued to the firm by FEA Region IX. In the Remedial Order, the Regional Office found that Emond had previously charged unlawful price levels for the No. 2 heating oil which it had sold. The Remedial Order directed Emond to immediately refund to its customers the amount of the overcharges plus interest. In its Appeal Emond raised a number of general issues regarding the FEA's authority to audit and take compliance action against firms which are in violation of the FEA Regulations. In considering the Appeal, the FEA held that it is not required to disclose its audit selection process as a precondition to enforcing the FEA Regulations in a compliance proceeding. The FEA further held that, contrary to Emond's assertion, May 15, 1973, is not an arbitrary and unreasonable date for the purpose of calculating maximum permissible selling prices. See *Frank Dupuis Co.*, 4 FEA Par. 80,583 (December 10, 1976). In addition, the FEA determined that it was not estopped from enforcing the Remedial Order on the grounds that it had not notified Emond that it was in violation during the period when the overcharges were occurring. In this regard the FEA noted that firms in the petroleum industry have an affirmative obligation to be cognizant of the application of the FEA Regulation to their business operations. Finally, the FEA found that Emond had failed to demonstrate that the enforcement of the Remedial Order would cause the firm to experience a serious financial hardship and the Appeal was accordingly denied.

Getty Oil Co.; New York, N.Y.; FEA–0978; Crude Oil

The Getty Oil Company filed an Appeal from a Remedial Order which the FEA Deputy Assistant Administrator for Compliance issued to the firm on August 12, 1976. The Remedial Order concerns certain crude oil transactions which occurred between Getty and the Standard Oil Company (Sohio) during the period October 1973 through January 1976. According to the Remedial Order, Getty agreed to sell 25,000 barrels per day (BPD) of predominantly old domestic crude oil to Sohio pursuant to the terms of two agreements which the firms had executed. In return, Sohio agreed to sell 25,000 BPD of foreign crude oil to Getty. The domestic crued oil which Sohio received from Getty was processed in its domestic refineries. The foreign crude oil which Getty received from Sohio was delivered to Getty in the Persian Gulf and was transferred in due course to a Getty affiliate in Japan. The Remedial Order found that Sohio treated the transactions summarized above as an exchange, and accordingly accounted for the old domestic crude oil which it received from Getty at the price at which Sohio acquired the foreign crude oil which it transferred to Getty. The FEA found that Getty improperly treated the crude oil transactions which occurred pursuant to the two agreements between the firms as independent purchases and sales, whereas it should have treated the transactions as an exchange. As a result of Getty's failure to treat the Getty/Sohio crude oil transactions as an exchange, the Remedial Order concluded that Getty had overcharged Sohio for the crude oil involved during the period October 1973 through October 1974, had improperly excluded the 25,000 BPD of old domestic crude oil which it transferred to Sohio from the crude oil receipts which it reported to the FEA, and thereby received excess entitlement sales revenues during the period November 1974 through January 1976. Getty was therefore directed to refund the overcharges to Sohio and to account for the previously unreported old crude oil over a six month period beginning with the effective date of the Remedial Order.

In its Appeal, Getty contended that an August 1, 1975, Notice of Probable Violation (NOPV) and the Remedial Order would not have been issued if the Senate Subcommittee on Administrative Practice and Procedure had not exerted improper pressure on the FEA to find Getty liable for the regulatory violations alleged with respect to the Getty/Sohio transactions. Getty contended that any administrative agency action which is based even in part on pressures emanating from Congressional sources is invalid under the precedent established in *Pillsbury Co. v. FTC*, 354 F. 2d 952 (5th Cir. 1966). In a related argument, Getty contended that the FEA's refusal to release certain documents which it previously requested under the Freedom of Information Act will frustrate its ability to fully understand and prepare a defense to the charges advanced in the Remedial Order. In connection with these arguments, Getty addressed a set of written Interrogatories to the Deputy Assistant Administrator for Compliance, in which it requested two distinct categories of material. The first category consists of information and documents which Getty claims are necessary as a threshold matter to enable the firm within the context of its administrative appeal to effectively raise the issues of Congressional interference with the FEA adjudicative process. The second category consists of information of a very broad scope which Getty states will generally support certain arguments which the firm has already raised in defense to the charges of the Remedial Order.

In considering the Interrogatories which Getty submitted, the FEA held that under the precedent established in *Petrolane, Inc.*, 2 FEA Par. 80,615 (June 17, 1975), a determination must be made as to whether access to the material which Getty requested is in fact essential to enable the firm to pursue its Appeal effectively. With respect to the information pertaining to Congressional interference, the FEA reviewed the applicable case law and noted that the federal courts have only invoked the "*Pillsbury* doctrine" in a limited number of situations where the following showing has been made: (I) there has been a final agency action which adversely affects the person seeking judicial review; (II) the agency's action was based in part on pressure emanating from Congressional sources; and (III) the agency changed its position in response to the Congressional pressures.

Based on a review of the entire record in this proceeding, the Office of Exceptions and Appeals concluded that Getty failed to make a prima facie showing of Congressional interference under the *Pillsbury* doctrine. Unlike the *Pillsbury* line of cases, none of the agency actions which Getty alleges were subject to Congressional influence was a final agency action. In addition, there is no evidence to indicate that the FEA changed its position in response to Congressional pressures. However, in order to avoid even the appearance of improper Congressional influence, the Office of Exceptions and Appeals determined that any agency officials who participated in the preliminary stages of the overall compliance proceeding would be recused from any participation in the agency's appellate review process with respect to the Getty Appeal. With respect to the other category of information which Getty requested in its Interrogatories which is unrelated to the issue of Congressional interference, the FEA found that Getty understands the charges in the Remedial Order and has been able to prepare an adequate defense to those charges. The request for discovery which Getty submitted in connection with its Appeal was accordingly denied.

Murphy Oil Corp., El Dorado, Ark.; FEA–0934; Crude Oil

Murphy Oil Corporation appealed from a Decision and Order which the FEA issued to it on July 16, 1976. *Murphy Oil Corp.*, 4 FEA Par. 83,009 (July 16, 1976). In that Decision, the FEA denied Murphy's request for exception relief from the provisions of 10 CFR Part 214 (the Mandatory Canadian Crude Oil Allocation Program). In its Appeal, Murphy contended that the FEA erred in determining that the application of the Canadian Crude Oil Allocation Program did not result in a serious hardship to the firm. In support of its Appeal, Murphy also submitted new financial data which the firm had not previously furnished. That data revealed that Murphy would not experience significant financial or operating difficulties in 1977 as a result of the Program. Moreover, although Murphy projected that its Superior refinery would incur a net operating loss in 1978, the FEA found that this projection was based upon erroneous assumptions regarding the quantity of Canadian crude oil that will be available to the Superior refinery. The FEA noted that the Canadian Government recently announced plans to license the exportation of heavy crude oil separately from light crude oil and to increase the volume of heavy crude oil for export into the United States. Murphy's projections as to the impact on its operations did not take these recent developments into account and were therefore significantly lower than current facts would appear to warrant. In view of these findings the FEA concluded that Murphy had not demonstrated that it will incur a serious financial hardship as a result of the operation of the Canadian Crude Oil Allocation Program. Murphy also contended on Appeal that the FEA erred in determining that the firm's Superior refinery is not unusually or disproportionately affected by the provisions of Part 214 of the FEA Regulations. The FEA found that the additional material which Murphy submitted on Appeal reaffirms the finding made in the prior Decision and Order. Although Murphy deliberately reduced the quantity of crude oil which it imported for use at its Superior refinery during the base period, it did so in reaction to economic conditions to which all other domestic refiners were subject. Consequently, the FEA found that Murphy had again failed to demonstrate that its Superior refinery was uniquely affected or placed in a position substantially different from other refineries. The FEA also affirmed the conclusion reached in the prior Decision that the crude runs at the Superior refinery during the base period were not so far below historical levels as to result in a serious distortion which would constitute a gross inequity. Accordingly, Murphy's Appeal was denied.

Petrochemical Energy Group; Washington, D.C.; FEA–1100; Butane

The Petrochemical Energy Group (PEG), an ad hoc group of independent petrochemical companies, appealed from a Decision and Order which the FEA Office of Regulatory Programs issued to Brooklyn Union Gas Company (Brooklyn Union) on October 18, 1976. The October 18 Order assigned Brooklyn Union a base period use of butane which the firm may utilize to increase the British thermal unit (Btu) heat value of the synthetic natural gas (SNG) which it produces. The butane would be used when the plant's methanator equipment is out of operation. Prior to reaching the substantive merits of the Appeal, the FEA rejected a challenge by Brooklyn Union to PEG's standing as an "aggrieved person" eligible to file an Appeal of the October 18 Order. The FEA found that although PEG had not shown that the allocation of butane granted in the Order will have an immediate impact upon the petrochemical industry, it could affect that industry adversely in the future. Consequently pursuant to prior precedents it was appropriate for the FEA to permit PEG to file an Appeal. In considering the PEG Appeal, the FEA determined that it was also proper for the FEA to have acted under Subpart C of the FEA Procedural Regulations in assigning Brooklyn Union a base period allocation of butane. The FEA noted that Section 211.12(e)(3) specifically designates the procedures in Subpart C to be used for the assignment of a base period supplier and base period volume to a firm which has no base period use. The FEA also rejected PEG's contention that Brooklyn Union's use of butane for Btu enrichment was improperly classified as an "industrial use" and should instead have been regarded as "peak shaving." The FEA found that Brooklyn Union's use of butane was not included within the regulatory definition of "peak shaving" since the firm does not inject butane into its SNG product stream for the purpose of increasing the Btu heating value and improving the flame characteristics of the SNG. The PEG Appeal was therefore denied.

Waterbury Petroleum Products, Inc., Waterbury, Conn., FFA–1192; Freedom of Information

Waterbury Petroleum Products, Inc. (Waterbury) appealed from a determination in which the FEA Information Access Officer denied in part a Request for Information that the firm had filed under the Freedom of Information Act, 5 U.S.C. 552 (the Act). In his Decision, the Information Access Officer withheld from disclosure to Waterbury an Issue Letter sent by the FEA Region IX Office to the Atlantic Richfield Company (ARCO) on October 1, 1976 and the text of ARCO's October 27, 1976 response to the Issue Letter dated October 27, 1976. The documents were withheld on the grounds that they were exempt from mandatory public disclosure pursuant to the provisions of Sections 552(b)(7)(A) and Section 552(b)(7)(B) of the Act. In considering Waterbury's Appeal, the FEA determined that the Issue Letter involved is a discovery device rather than a formal statement of violations based on the conclusion of a significant stage of the FEA's investigation of ARCO. Since formal allegations of violation had not yet been issued to ARCO by the FEA, it was determined that release of the Issue Letter and ARCO's response would lead to the premature crystallization of adversary positions thereby inhibitting the FEA's efforts to secure voluntary compliance from ARCO. The FEA therefore determined that the documents were exempt from mandatory public disclosure under Section 552(b)(7)(A) because their release would interfere with an integral part of the FEA's enforcement proceeding. The FEA further determined that the premature crystallization of adversary positions would not interfere with ARCO's right to an impartial adjudication and therefore that particular finding provides no basis for withholding the documents under Section 552(b)(7)(B). However on the basis of its findings with regard to Section 552(b)(7)(A) the FEA determined that the Information Access Officer had properly withheld the Issue Letter and ARCO's response from public disclosure and Waterbury's Appeal was therefore denied.

W. S. Hatch Co., Salt Lake City, Utah; FEA–0977
Cache County Corp.; Logan, Utah; FEA–0983
Gunnison City; Gunnison, Utah; FEA–0984
Board of County Commissioners, Utah County; Provo, Utah; FEA–0985
Dewain G. Washburn; Monroe, Utah; FEA–0986
Aurora Town Board; Aurora, Utah; FEA–0989
City of Salina; Salina, Utah; FEA–0990
Salt Lake County Commission; Salt Lake City, Utah; FEA–0991
Six County Economic Development District; Nephi, Utah; FEA–0992
Weber County Commission; Ogden, Utah; FEA–0993
Phillips Petroleum Co., Bartlesville, Okla.; FEA–0996
Arizona Fuels Corp.; Salt Lake City, Utah; FMR–0071; Crude oil

W. S. Hatch Company, Phillips Petroleum Company and nine other parties from the State of Utah (the Utah Appellants) filed Appeals from a Decision and Order which the FEA issued to the Arizona Fuels Corporation on August 27, 1976. Arizona Fuels Corp., 4 FEA Par. 83,061 (August 27, 1976). Arizona Fuels also filed an Application for Modification of the August 27 Order and all of these submissions were consolidated in a single proceeding. In the August 27 Decision and Order, the FEA approved exception relief which permitted Arizona Fuels to purchase additional quantities of crude oil produced from the Upper Valley Escalante Field in Garfield County, Utah. The Appeals, if granted, would result in the issuace of an Order rescinding that Decision. With regard to the Hatch Appeal, the FEA found that the data which the firm submitted merely indicated that the August 27 Decision would cause Hatch to experience offsetting decreases in both revenues and expenses and therefore the firm's profitability would be substantially unaffected by the approval of exception relief for Arizona Fuels. The FEA also found that since most of Hatch's employees were simply reassigned to other trucking routes, Hatch had not demonstrated that the alleged reduction in its payroll expenses associated with the transportation of Escalante crude oil would result in an economic loss to the citizens of the State of Utah. Accordingly, Hatch's claims that the August 27 determination caused it to experience serious adverse consequences were unsupported. In addition, the FEA found that in the prior Decision, the FEA sought to achieve the significant statutory objective of encouraging the expansion of domestic refinery capacity, and that in view of this purpose, even if Hatch were to experience some adverse consequences as a result of the August 27 Decision and Order, it had not demonstrated that the FEA abused its discretion or acted in an arbitrary or capricious manner.

Phillips contended in its Appeal that its Woods Cross refinery is more efficient in the production of asphalt than Arizona Fuels' Fredonia refinery, and that the FEA therefore acted arbitrarily in granting exception relief to Arizona Fuels which permitted it to use crude oil which Phillips would otherwise be authorized to purchase. Phillips also asserted that the August 27 Order will cause municipalities in the State of Utah to incur additional costs in purchasing asphalt that had been produced in other states. In considering these contentions, the FEA noted that the most efficient possible use of energy resources is only one of the FEA's statutory goals and that these goals are often mutually exclusive. The FEA found that Phillips had failed to demonstrate that the FEA abused its discretion in attempting to strike a balance between the competing statutory goals involved. Moreover, the FEA also found that Phillips had not convincingly demonstrated that it could not purchase additional supplies of asphaltic crude oil from other locations and thereby maintain its previous level of asphalt deliveries to the State of Utah. Accordingly, the Phillips Appeal was denied. The Appeals of the Utah Appellants, which merely reiterated the arguments advanced by Phillips and presented no data in support of their other claims, were also denied since they had failed to provide any basis to warrant rescission of the August 27 Order. Finally, with respect to the Arizona Fuels request for modification, the FEA found that the language of the August 27 Order was sufficiently clear and that the modification which Arizona Fuels requested was unnecessary. Accordingly, its Application for Modification was denied.

REQUESTS FOR EXCEPTION

Belcher Oil Co., Miami, Fla., FEE–3892, Residual fuel oil

Belcher Oil Company (Belcher) filed an Application for Exception from the provisions of 10 CFR 211.67(d)(4) which, if granted, would permit certain domestic refiners to sell to Belcher up to 1,000,000 barrels of residual fuel oil for sale into the "East Coast Market" during the months of March and April 1977, without incurring any additional entitlement obligations. In its Application, Belcher stated that 75 percent of the residual fuel oil sold in the Southeast historically has been supplied by domestic refineries. Belcher claimed that the provisions of Section 211.67(d)(4) have reduced the competitive advantage which was formerly enjoyed by these domestic refineries and that as a result, domestic refiners have reduced residual fuel oil supplies available for sale in the Southeast. Belcher further claimed that this situation has created supply shortages in the Southeast, and has increased the firm's reliance upon higher priced imported residual fuel oil. Belcher contended that this increase in its residual fuel oil costs constitutes a gross inequity for the firm and its customers. In considering the Belcher exception request, the FEA noted that the firm had failed to provide any documentation in support of the assertions it advanced, and that unsupported assertions do not form the basis for the approval of exception relief. The FEA also observed that the contentions advanced by Belcher concerning the effect of 10 CFR 212.67(d)(4) upon the market for residual fuel oil in the Southeast did not focus exclusively upon the firm, but instead challenged the FEA's generic impact upon the East Coast residual fuel oil market. The FEA therefore concluded that the exceptions process was not the appropriate forum for considering Belcher's contentions, and that if Belcher believes that a change in FEA policy is desirable, it should seek such change through a rulemaking proceeding. In addition, the FEA noted that the FEA is already considering regulatory amendments which would have a considerable impact upon the East Coast residual fuel oil market, and that Belcher has had ample opportunity to present its views in that rulemaking proceeding. Accordingly, the Belcher exception request was denied.

Cities Service Co.; Tulsa, Okla.; FEE–3546; Motor gasoline

Cities Service Company (Cities) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would have resulted in the assignment of the firm as the new base period supplier of motor gasoline for a retail sales outlet currently operated by Research Fuels, Inc. (RFI). In considering the Cities application, the FEA determined that contrary to the firm's allegation, the FEA regulations in no way hampered its ability to execute a contract with RFI under which Cities would lease the outlet. The FEA also found that Cities had submitted no material in support of its contention that RFI would incur a serious hardship in the future if Cities was not assigned as the outlet's base period supplier. On the basis of the record in the proceeding the FEA also concluded that Cities had failed to establish that the continuation of RFI's base period supplier/purchaser relationship with the Peacock Oil Company, its current base period supplier, resulted in a serious hardship or a gross inequity either to Cities or RFI. The Cities exception application was therefore denied.

Great Southern Oil & Gas Co., Inc.; Lafayette, La.; FXE–3584; Crude oil

Great Southern Oil & Gas Company, Inc (Great Southern) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would have resulted in an extension of the exception relief previously granted to Great Southern and would have permitted Great Southern to sell the entire working interest share of the crude oil produced from the Elizabeth Longman No. 1 well (Longman well) at upper tier ceiling prices. See Great Southern Oil & Gas Co., Inc., 4 FEA Par. 83,041 (August 11, 1976); and Great Southern Oil & Gas Co., Inc., 3 FEA Par. 83,124 (March 9, 1976). In considering the exception application, the FEA found that the Longman well was still incurring increased operating costs and the working interests continued to lack the incentive to produce crude oil from the property at the lower tier ceiling price. However, the FEA also determined that Great Southern had not demonstrated that it should be permitted to sell 100 percent of the working interest share of the production at upper tier ceiling prices. In this connection, the FEA pointed out that exception relief of the nature that had been granted to the firm in that past had been generally designed to provide the firm with an economic incentive to continue crude oil recovery activities. The Great Southern Application for Exception on the other hand was designed to permit the firm to recover operating costs which it had incurred in the past as a result of high workover expenses and would have no bearing on whether the firm would find it economically advantageous to operate the property in the future. However in order to permit Great Southern to recover workover expenses which it would incur in the future and therefore assure that the firm would continue to have an incentive to continue production from the Longman well, the FEA stated that Great Southern could file an Application for further exception relief at the time it is able to formulate with a reasonable degree of accuracy estimates of the expenses it will incur in Longman well. With respect to the present request, however, the FEA determined that under the procedures generally utilized in granting exception relief to producers from the lower their ceiling price rule Great Southern should be permitted to sell 94.36 percent of the crude oil produced from the Longman well at upper tier ceiling prices.

Kenco Refining, Inc.; Tesoro Petroleum Corp.; San Antonio, Tex; FEE–3621; Crude oil refined petroleum products

Kenco Refining, Inc. (Kenco) and Tesoro Petroleum Corporation (Tesoro) jointly requested various types of administrative relief relating to Kenco's acquisition from Tesoro of a refinery and related marketing assets located at Wolf Point, Montana (the Wolf Point refinery). Since the Mandatory Petroleum Allocation and Price Regulations are not specifically designed to apply to the

unusual conditions arising from the purchase and sale of a refinery, the FEA in accordance with previous Decisions involving similar circumstances consolidated the issues which the firms raised for evaluation through the exceptions process. With respect to the request for various types of retroactive relief, the FEA found that Kenco and Tesoro had made no showing that an exception application could not have been filed sufficiently in advance of the date of closing to afford adequate prospective relief. The FEA also noted that no explanation had been provided as to why the closing date of the refinery acquisition could not have been delayed until a determination was reached in this proceeding, and it therefore determined that any relief in this case should be granted on a prospective basis only. The FEA also determined that Kenco's acquisition of the Wolf Point refinery was not devised solely for the purpose of taking undue advantage of the FEA regulatory program.

In considering the firms' Application for Exception, the FEA found that since the Wolf Point refinery currently does not produce any refined products which are subject to the Mandatory Petroleum Allocation and Price Regulations, the portion of the firms' Application which requests exception relief with respect to the pricing and allocation of products produced at the Wolf Point refinery should be dismissed. With respect to the sale of the crude oil inventories at the refinery, the FEA determined that Tesoro and Kenco should be permitted to transfer the crude oil inventories at the prices which they agreed upon in their Sales Agreement.

However, since Tesoro will not be using the crude oil inventories which it is selling to Kenco, Tesoro was required to reduce its current "total cost of crude oil purchased" as that term is used in Section 212.83(c)(2)(iii) by the amount of revenues which it will receive from Kenco pursuant to the Agreement for that crude oil. Correspondingly, Kenco was required to include that amount in its "total cost of crude oil purchased." Kenco also requested that the FEA determine that it is eligible to participate as a refiner-buyer in the Crude Oil Buy/Sell Program beginning with the March–May 1977 allocation quarter. The FEA noted that the March–May 1977 Buy/Sell List had already been issued and published and the approval of Kenco's request could therefore require a complete revision of the List and thereby present a substantial administrative burden to the implementation of the Buy/Sell Program. Moreover, since the revision of the List might interfere with the business decisions which other firms may have made in reliance on the Buy/Sell List and Kenco had not made a strong showing that it would be adversely affected in a serious and substantial manner unless the List is revised, the FEA determined that Kenco's request should be denied in the form submitted. However, in order to assure an orderly transition in the ownership and operation of the refinery as well as afford Kenco the opportunity to submit a timely application to the FEA for an allocation of crude oil for the Wolf Point refinery under the Crude Oil Buy/Sell Program, the FEA permitted Kenco to purchase from Tesoro a portion of Tesoro's crude oil allocation under the Buy/Sell List for the March–May 1977 allocation quarter. Accordingly, the Application for Exception submitted by Kenco and Tesoro was granted in part and denied in part.

Midland Cooperatives, Inc.; Minneapolis, Minn.; FEE–3194; Crude oil

Midland Cooperatives, Inc. (Midland) filed an Application for Exception from a "Notice of Proposed Adjustments to 1975 Exception Relief Under Domestic Crude Oil Allocation Program" which the FEA published on August 30, 1976. 41 Fed. Reg. 36540 (August 30, 1976). On November 5, 1976, the FEA issued a Supplemental Order which resolved the issues discussed in the August 30 Notice pursuant to the provisions of 10 CFR 211.67. Beacon Oil Co., et al., 4 FEA Par. 87,024 (November 5, 1976). Pursuant to the November 5 Supplemental Order Midland is required to purchase entitlements during each month of the period November 1976 through October 1977 in order to offset the excessive exception relief which the firm received from the provisions of 10 CFR 211.67 during calendar year 1975. Midland's exception request, if granted, would have relieved the firm of its obligation to purchase those entitlements. In considering Midland's exception request, the FEA noted that exception relief from the Entitlements Program was granted to small refiners such as Midland during 1975 for the sole purpose of mitigating the projected adverse impact the Entitlements Program would have during that year which would otherwise have precluded the firms from operating at a level of profitability for 1975 that was consistent with their historical operations. The FEA found that Midland would have attained a level of profitability for 1975 which exceeded its historical profit margin even if no exception relief had been granted from the Entitlements Program. Therefore, in view of the additional profits which Midland actually attained during 1975 as a result of entitlements exception relief, the FEA determined that the firm had failed to provide any material which indicated that its ongoing business activities would be seriously or adversely affected by the requirement that it purchase entitlements to account for the excess 1975 benefits. The exception request was accordingly denied.

Northwest Propane, Inc.; Farmington, Mich.; FXE–3894; Propane

On December 22, 1977 the FEA issued a Supplemental Order to Northwest Propane, Inc. (Northwest) which approved an extension of the exception relief which had been previously granted to the firm on April 2, 1976. Northwest Propane, Inc., 4 FEA Par. 87,021 (December 22, 1977). The December 22 Order directed the Regional Administrator of REA Region V to assign to Northwest for the quarter beginning on January 1, 1977 and ending on March 31, 1977, a supplier or suppliers whose wholesale price for propane was within the range of prices paid for that product by major marketers in the area in which Northwest operates. The Order also specified that upon receiving a written request from Northwest, the Regional Administrator of FEA Region V to assign to Northwest for the any month subsequent to March 1977 as to whether Northwest would continue to experience a serious hardship unless further exception relief were approved. Northwest requested an extension of exception relief in accordance with the terms of that Order. Based on the data which Northwest submitted to the Regional Administrator, and the recommendation of the Regional Administrator, the FEA determined that if Northwest were required to purchase its propane supplies from its base period supplier, Northwest would continue to incur the type of serious financial hardship which led to the approval of exception relief in the past. The exception relief was therefore extended through June 30, 1977.

Nothstein Ford, Inc.; Kutztown, Pa.; FEE–3634; Motor gasoline

Nothstein Ford, Inc. (Nothstein) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the assignment of the Exxon Company, U.S.A. (Exxon) as Nothstein's base period supplier of motor gasoline to replace its present base period supplier, Texaco, Inc. In its submission, Nothstein stated that it was experiencing a serious hardship as a result of its base period supplier's unwillingness to replace Nothstein's gasoline storage tanks with larger storage tanks and to install an additional storage tank and pump island which would allow the firm to offer premium gasoline for sale as well as regular and unleaded grades. In considering the exception request, the FEA initially noted that exception relief was not necessary to permit Nothstein and Exxon to enter into a new supply relationship. The FEA also determined that the capital improvements which Nothstein desires to make were not necessary to enable the firm to continue its operations, but were intended to increase its sales volume which had already more than doubled since the firm began operating the station in 1975. The FEA also found that Nothstein had adequate financial resources to purchase and install the new equipment itself. Finally, the FEA determined that if Nothstein were to install its own storage tanks, it would save at least two cents per gallon in equipment rental costs and might well be able to recover the cost of the equipment in a period of only two years. The FEA therefore concluded that no showing had been made that Nothstein was experiencing a serious hardship or gross inequity as a result of the application to it of FEA regulatory requirements and the exception application was denied.

Quaker State Oil Refining Corp.; Oil City, Pa.; FEE–3630; Crude Oil

Quaker State Oil Refining Corp. (Quaker State) filed an Application for Exception from the provisions of 10 CFR 212.67 which, if granted, would increase the number of entitlements which the firm is permitted to sell each month in order to offset the increased crude oil costs which it is experiencing as a result of the exemption of stripper well property crude oil from price controls. In its Application, Quaker State pointed out that all of the crude oil which the firm processes in its four refineries consists of Penn-Grade crude oil, a paraffin-based crude oil which is primarily obtained from stripper well properties. Quaker State further stated that as a result of the September 1, 1976 regulatory amendments exempting the first sale of stripper well property crude oil from price controls, the firm has incurred a substantial increase in its crude oil costs. Quaker State argued that its increased crude oil costs have not been adequately offset by the increased entitlements benefits which the firm realized as a result of the November 3, 1976 amendments to the regulations governing the Entitlements Program. In considering the Quaker State exception application, the FEA observed that a showing by Quaker State that the Entitlements Program does not fully equalize its cost of crude oil as compared to other refiners does not in and of itself demonstrate that a gross inequity exists. The FEA also found that the increase in crude oil costs which Quaker State is incurring is not a result of the FEA regulatory program, but is instead a result of the high quality of the crude oil which it refines, and the anomolous pricing patterns which exist in the market for Penn-Grade crude oil. Furthermore, the FEA concluded that Quaker State had failed to make a showing that it is adversely affected by the FEA regulatory program in a grossly inequitable manner. In this connection, the FEA found that Quaker State's profitability has increased significantly since the September 1 stripper well property exemption as compared to the same time period of the firm's previous fiscal year. Accordingly, the Quaker State exception application was denied.

REQUEST FOR MODIFICATION OR RESCISSION

New England Petroleum Corp.; New York, N.Y.; FMR–0070; Crude Oil

The New England Petroleum Corporation (Nepco) filed an Application for Modification of a Decision and Order which the FEA issued to the firm on November 17, 1975. *New England Petroleum Corp.*, 3 FEA Par. 83,015 (November 17, 1975). In the November 17, 1975 Decision, the FEA approved an Application for Exception which Nepco had filed from the provisions of 10 CFR 211.67 and permitted the firm to earn entitlements with respect to certain imports of residual fuel oil in the month of September 1975. However, Nepco was unable to sell $116,971.56 of the entitlements which it had been issued pursuant to the November 17 Decision and Order because of the refusal of the Arizona Fuels Corporation to consummate its full entitlement purchase obligations as specified in the September 1975 Entitlement Notice. Nepco therefore requested that the FEA issue the firm entitlements which are equal in value to the entitlements which it had been unable to sell in accordance with the November 17 Order. In evaluating Nepco's contention, the FEA determined that at the time the November 17 Order was issued, Arizona Fuels' refusal to purchase entitlements was certainly not contemplated and consequently, Nepco had shown that a substantial change in the facts and circumstances surrounding the issuance of the November 17 Order had taken place. However, the FEA also determined that a showing of a significantly changed circumstance did not in and of itself justify a modification of the November 17 Order. After examining the basis of the November 17 Order, the FEA found that Nepco had not shown that the relief which it requested was necessary to ensure that the intent of the exception relief extended in the initial Order would be implemented. The FEA noted that the November 17 determination and all other Decisions granting exception relief to Nepco were intended to protect the firm's position as a viable competitor in the East coast residual fuel market on a temporary basis. The FEA found that the intent of these orders had been accomplished through Nepco's sale of nearly $31 million in entitlements and thus, the firm's inability to locate a purchaser for less than one-half of one percent of its total benefits had only a minimal impact upon the firm's total operations during the year. On the basis of this analysis and a further finding that Arizona Fuels had been issued further Orders requiring it to purchase the entitlements, the FEA denied Nepco's Application for Modification or Rescission.

REQUEST FOR STAY

Atlantic Richfield Co.; Philadelphia, Pa.; FRS–1209 Motor Gasoline

Atlantic Richfield Company (Arco) requested that a Remedial Order for Immediate Compliance issued to the firm by the Director of Regulatory Programs of FEA Region I on February 11, 1977 be stayed pending a determination of the FEA's Appeal. In the Remedial Order, the Regional Office determined that subsequent to January 31, 1977, Arco had refused to supply motor gasoline to Mr. Dennis J. Blandin (Blandin), a base period customer of Arco. The FEA further found that Blandin operated a retail outlet which was owned by Arco and Arco had ceased supplying him as a result of its decision not to renew Blandin's lease on the Arco station. The Remedial Order therefore required Arco to continue its supplier/purchaser relationship with Blandin. However the Remedial Order further require Arco to provide FEA Region I with a full list of all wholesale/purchaser-resellers to whom Arco had given or intended to give notice of the termination of the supplier/purchaser relationship. In denying the portion of Arco's request relating to its refusal to supply Blandin the FEA found that Arco had procided no information which demonstrated that Blandin was not entitled to receive his adjusted base period allocation of motor gasoline. However, the FEA also found that Arco's request should be approved with regard to the requirement in the Remedial Order that it furnish FEA Region I with a list of all wholesale/purchaser-resellers to whom Aroco had given or intended to give notice of the termination of the supplier/purchaser relationship. The FEA noted that the Remedial Order did not contain any findings with respect to any of Arco's customers other than Blandin. It was therefore determined that there was no factual basis which would justify the requirement specified in the Remedial Order that Arco provide a list to the FEA of wholesale purchaser/resellers other than Blandin to whom it had given or intended to give notice of termination. Accordingly, that portion of the Remedial Order was stayed.

SUPPLEMENTAL ORDERS

Air Transport Association of America; Washington, D.C.; FEX–0133; Crude Oil

The Air Transport Association of America (ATA) filed a submission in which it requested that it be permitted to intervene in an Appeal proceeding which is currently pending before the Office of Exceptions and Appeals. The Appeal referred to in the ATA submission was filed by the Getty Oil Company from a Remedial Order which was issued to Getty by the FEA Deputy Assistant Administrator for Compliance on August 12, 1976 (Case Nos. FEA–0978 and FRA–1230). The Remedial Order found that Getty charged unlawful price levels for certain crude oil which it delivered to The Standard Oil Company (Sohio) during the period October 1973 through October 1974. The Remedial Order further found that Getty had understated its old crude oil receipts which were used to calculate its entitlement sales obligations during the period November 1974 through January 1976 and as a result, Getty had received a very substantial amount of excess entitlement revenues during that period. Getty was therefore directed to refund the previous overcharges to Sohio and to account for the previously unreported old crude oil in the reports which it submits to the FEA under the provisions of the Entitlements Program over a six month period beginning with the effective date of the Order.

In order to ensure that the refunds which Getty is required to make to Sohio are passed through to Sohio's purchasers of covered products, the Deputy Assistant Administrator for Compliance also issued an Ancillary Order to Sohio pursuant to the provisions of 10 CFR 205.195(b). Paragraph (3) of the Ancillary Order directs Sohio to submit a "statement of alternative remedy" which could be implemented in order to pass through the refunds. In considering the Application to Intervene, the FEA found that the domestic scheduled air carriers who are members of the ATA have been affected by the Remedial Order and the Ancillary Order, and will also be affected by the determination reached with respect to the Getty Appeal, and the Appeal which Sohio filed from the Ancillary Order (Case No. FEA–1057). A number of ATA members purchased kerosene base jet fuel from Sohio during the period covered by the Getty/Sohio compliance proceeding. These carriers were therefore directly subjected to the passthrough of additional costs by Getty's alleged crude oil overcharges. In addition, the nationwide increased cost of crude oil generated by Getty's alleged entitlement violations arguably subjected all ATA members to increased cost passthroughs. The FEA therefore determined that the ATA represents a group of consumers of covered products which have an interest in the final determination of the pending administrative appeals arising out of the Getty/Sohio compliance proceeding. Based on the precedent established in *Consumers Union of United States, Inc.*, 5 FEA Par. 87,014 (February 18, 1977), the FEA concluded that the ATA had made a sufficiently strong showing that intervention on behalf of consumer interests should be granted in the Getty/Sohio appellate proceedings to represent opposing points of view, and the request was granted.

Consumers Union of United States, Inc., Washington, D.C.; FEX–0129; Refined Petroleum Products

Consumers Union of United States, Inc (Consumers Union) filed an application in which it requested that it be permitted to intervene in three exception proceedings which had been initiated by the Exxon Company, U.S.A., the Continental Oil Company and the Southland Oil Company and which are currently pending before the FEA Office of Exceptions and Appeals. Consumers Union also requested that it be permitted to receive financial assistance to enable it to participate in the proceedings which related to the passthrough of increased non-product costs by refiners during the period January 1, 1975 through January 31, 1976. The Consumers Union application was submitted pursuant to a Decision and Order which the FEA issued to the organization on February 18 1977 in response to a Petition for Special Redress which it had filed. *Consumers Union of U.S., Inc.*, 5 FEA Par. 87,014 (February 18, 1977). In that determination, the FEA concluded that, in view of the fact that agency officials had played a significant role in prompting the submission of exception applications involving the recovery of increased non-product costs by refiners and in view of the highly significant monetary value of the type of exception relief being sought, it would be most desirable to provide necessary financial assistance to ensure that intervenors who represent the interests of consumers are able to fully participate in the exception proceedings. In order to secure consumer representation in a manner which the Comptroller General of the United States had determined to be proper, the FEA stated in the Febbruary 18 Decision that it would permit any non-profit organization whose principal function involves the protection of consumer interests to file an application to intervene and that any such organization could submit appropriate documentation to establish that financial assistance would be necessary to enable it to participate in the exception proceedings. After reviewing the material which Consumers Union had submitted, the FEA concluded that the Consumers Union application made a sufficiently strong showing that intervention on behalf of consumer interests is necessary to adequately represent opposing points of view and that the application established that the organization itself could not bear the full financial costs of participation. The FEA therefore granted the application to intervene in the three exception proceedings and directed the FEA Associate Administrator for Management to take all reasonable and necessary measures to provide reasonable and appropriate financial assistance to Consumers Union to enable it to participate.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.166 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product costs increases:

Company	Case No.	Plant	Amount of price increase in dollars per gallon
Beacon Gasoline Co.	FXE-3648	Minden	0.0995
Getty Oil Co.	FXE-3700	Vermillion	.0396
	FXE-3701	West Bernard	.0487
	FXE-3702	Yates	.0337
Halliburton Co. and Vessels Gas Processing Co.	FXE-3696	Irondale	.0799
McCulloch Gas Processing Corp.	FXE-3650	Belle Fourche	.0364
	FXE-3651	Fairview	.0460
	FFE-3652	Gillette	.0155
	FXE-3653	Jamison Prong	.0999
	FXE-3654	Oedekoven	.0314
	FXE-3655	Well Draw	.1158
Sanford P. Fagadau	FXE-3641	Bluegrove	.10832
	FXE-3644	Maryetta	.02216

SUMMARY DECISION

In the following summary decision, the Regional Administrator of FEA Region VI was permitted an additional 15 days in which to issue a revised Remedial Order:

Shell Oil Co.; Houston, Tex.; FEX-0132

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Cotton Petroleum Corp.; Denver, Colo.; FES-0088
Flying Tiger Line, Inc.; Los Angeles, Calif.; FEA-1109
General Distributors, Inc.; Snow Hill, Md.; FES-0078
Inexco Oil Co.; Houston, Tex.; FEE-3456
Texas Pacific Oil Co. Inc.; Dallas Tex.; FEE-3657

The following submission was dismissed on the ground that the request is now moot:

Texaco, Inc.; Atlanta, Ga.; FRA-1054

RESCISSIONS

The stays granted to the following firms were rescinded following a determination by FEA that the relief requested was no longer necessary:

Flying Tiger Line, Inc.; Los Angeles, Calif.; FES-1109
Inexco Oil Co.; Houston, Tex.; FES-3456

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 20, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-14941 Filed 5-25-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of March 21 Through March 25, 1977

Notice is hereby given that during the week of March 21 through March 25, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Capitol oil Co.; Baltimore, Md.; FEA-0908, FEA-0951, No. 2 Fuel oil

Capitol Oil Company filed an Appeal from a Remedial Order in which the FEA determined that Capitol had charged unlawful prices for the No. 2 fuel oil which it sold during the period November 8, 1973 through July 31, 1975. Capitol also filed an Appeal from a previous Decision and Order in which FEA Region III had denied the firm's Application for Exception from 10 CFR 212.93. Since the two Appeals involve similar issues, they were consolidated. In its Appeals, Capitol contended that the application of FEA Price Regulations to its sales of No. 2 fuel oil to its principal customer, the U.S. Coast Guard, was unlawful because it abrogated a contract between the two parties. Contrary to Capitol's contention, the FEA found that it has been authorititively determined that the agency's regulations may legitimately affect existing contracts by limiting the prices which may be charged under those contracts. The FEA also held that there was no merit to Capitol's claim that FEA's authority to abrogate the pricing provisions of existing contracts does not extend to contracts in which the U.S. Government is a party. It was pointed out that those same contentions had been considered and rejected by the Temporary Emergency Court of Appeals. With respect to Capitol's claim that the Remedial Order incorrectly determined its May 15, 1973 price to the Coast Guard the FEA found that since no transaction had occurred between the parties on May 15, 1973 the Remedial Order had correctly referred to the price which Capitol charged the Coast Guard in an actual transaction which took place on May 14, 1973. The FEA found that Capitol had not established the existence of certain oral agreements which it alleged occurred on or prior to May 15, 1973. Therefore those agreements could not be considered in determining Capitol's May 15, 1973 price. *See FEA Ruling 1977-5*, 42 Fed. Reg. 15302 (March 21, 1977). With respect to the prior exception proceeding the FEA determined that, contrary to the contentions that Capitol raised in its Appeal, the price which it charged the Coast Guard on May 14, 1973 was not unrepresentative of the firm's historic pricing practices. The FEA also sustained the determination in the prior Capitol exception proceeding that the firm had failed to make a compelling showing that retroactive exception relief was warranted. The FEA found that Capitol has maintained a moderately healthy financial position and refunding the revenues which it realized through overcharges would not cause a severe and irreparable injury to Capitol or preclude the firm from continuing its essential operations. Nevertheless, the FEA concluded that in view of the financial strain which refunding the overcharges within 60 days would place on Capitol, the refund period should be extended to require that Capitol repay no more than one-third of the overcharges in any fiscal year.

City of Los Angeles; Los Angeles, Calif.; FEA-0981 crude oil

The City of Los Angeles filed an Appeal from a Decision and Order which the FEA had issued to the Damson Oil Corporation. *Damson Oil Corp.*, 4 FEA Par. 83,064 (August 27, 1976). In that Order the FEA granted Damson an exception from the provisions of 10 CFR, Part 212, Subpart D, thereby permitting the firm to sell at upper tier ceiling prices 100 percent of the crude oil produced for its benefit as the working interest owner from the Venice Beach Lease. The City's Appeal, if granted, would permit it, as the royalty interest owner, to share in the revenues accruing to Damson as a result of the exception relief. Consequently, if the City's Appeal was sustained that portion of the crude oil produced from the Venice Beach Lease for the benefit of the City would be sold at upper tier prices. In considering the City's Appeal, the FEA found that the City was not responsible for any of the costs associated with the production of crude oil from the Venice Beach Lease. The FEA therefore determined that the decision reached in *U.S. Geological Survey, et al.*, 5 FEA Par. 80,537 (January 26, 1977), was controlling and that the limitation of exception relief to the working interest owner was properly within the agency's authority and did not constitute arbitrary or capricious action. The FEA also determined that the City had failed to demonstrate that it was experiencing a gross inequity or a serious hardship as a result of the FEA Price Regulations and that there was consequently no basis for granting the City exception relief in its own right. Finally the FEA determined that the City had failed to demonstrate that the limitation of exception relief to Damson interfered with its State sovereignty as established by the Tenth Amendment of the United States Constitution. The FEA therefore denied the City's Appeal.

General Crude Oil Co.; Houston, Tex.; FXA-1061 crude oil

General Crude Oil Company (General Crude) filed an Appeal from a Decision and Order which the FEA issued to the firm on September 21, 1976. *General Crude Oil Company*, 4 FEA Par. 83,104 (September 21, 1976). In the prior determination, the FEA permitted the working interest owners of the Banning Lease of the West Newport Field to sell at upper tier price levels 100 percent of the additional quantities of crude oil which would be produced from the property in 1977 and 1978 as a result of the implementation of an accelerated thermal in-situ combustion project. General Crude was also permitted to sell at upper tier ceiling prices 79.06 percent of the additional quantity of crude oil which would be produced as a result of the project during 1979. The General Crude Appeal, if granted, would result in the issuance of a further Order which would permit it to sell the entire Banning Lease production at upper tier prices without any time limitation. In its Appeal General Crude contended that the level of exception relief approved in the September 21 Decision does not provide a sufficient economic incentive to justify undertaking the accelerated thermal in-situ combustion project. The General Crude argument was based on the firm's contention that the Banning Lease would qualify as a stripper well property if it terminated entirely the enhanced recovery activities which it now conducts at the Lease in favor of primary production activities. General Crude asserted that as a stripper well property, the Banning Lease would generate substantially greater profits than its present operations or those which it could conduct under the exception decision. In considering this contention, the FEA determined that, contrary to the position advanced by General Crude, the stripper well exemption was not intended to apply to firms which alter existing crude oil production patterns at a property solely to produce less than 10 barrels of crude oil per well per day and thereby attempt to qualify the property for stripper well status. The FEA therefore concluded that it is by no means clear that the Banning Lease would qualify as a stripper well property under current FEA requirements if General Crude terminates its thermal in-situ combustion operations. With respect to General Crude's further contention that the Decision failed to adequately consider the risks associated with the accelerated thermal in-situ project at the Banning Lease, the FEA held that the firm had failed to submit any factual material which established that it would in fact experience significant future difficulties at the Banning Lease and noted that the agency would certainly take into account any such difficulties which General Crude might experience in subsequent reviews of the matter. With respect to General Crude's claim that G. E. Kadane & Sons, Inc. (Kadane), the owner of 50 percent of the working interest in the Banning Lease lacks sufficient financial resources to contribute its portion of the capital necessary to undertake the accelerated thermal project, the FEA found that in view of the substantial amount of exception relief which was approved in the September 21 Decision, even if Kadane is unable to finance its portion of the additional investment through its own resources, it certainly would appear that the firm could readily obtain outside financial assistance which would enable it to undertake the project. The FEA therefore denied the General Crude Appeal.

Good Hope Industries, Inc.; Springfield, Mass.; FEA-1046 crude oil

Good Hope Industries, Inc. (Good Hope) filed an Appeal from a Decision and Order which the FEA issued to the firm on November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). The November 5 Decision was issued in conjunction with the FEA's review of exception relief which had been granted to small refiners during 1975 from their obligations under 10 CFR 211.67 (the Old Oil Entitlements Program). In Good Hope's particular case, the FEA determined that the firm had obtained excessive entitlement benefits as a result of the exception relief which it had received and accordingly required the firm to purchase additional entitlements during the period November 1976 through April 1977. The Appeal, if granted, would result in the rescission of the provisions of the November 5, 1976 Decision and Order which imposed an entitlement purchase obligation upon the firm. In considering Good Hope's Appeal, the FEA first noted that Good Hope had realized the excessive benefits for 1975 as a direct result of its sale of entitlements pursuant to the February 1975 Entitlements Notice. The FEA also pointed out it has been the consistent policy of the agency to prevent a firm which had been granted exception relief from its obligation during 1975 to purchase entitlements to retain any benefits from its sale of entitlements which were greater than the firm's actual entitlements expenditure in that year. Consequently, the FEA determined that Good Hope had properly been required to purchase entitlements equivalent in value to its net entitlement sales benefit. Since Good Hope had failed to establish that the previous determination was erroneous in fact or law and the firm's Appeal was accordingly denied.

Pasco, Inc.; Denver, Colo.; FXA-1068; Crude oil

Pasco, Inc. appealed from a Decision and Order which the FEA issued on November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision and Order, the FEA determined on the basis of the financial and operating data which Pasco submitted that the firm had been granted an excessive measure of exception relief from its obligations under the Entitlements Program in 1975. The November 5 Order accordingly required Pasco to purchase additional entitlements valued at $4,587,802 during the months of November and December 1976 in order to offset the excessive benefits which the firm had received. The November 5 Order further stated, however, that if Pasco established an interest-bearing escrow account in an amount equal to its total entitlement purchase obligation, the firm would only be required to purchase entitlements equal in value to one-twelfth of its total entitlement obligation during each month of the period November 1976 through October 1977. Pasco did establish such an account within the required time period. The Appeal, if granted, would result in certain adjustments being made to Pasco's 1975 profitability, thereby decreasing the amount of the excessive exception benefits which the FEA previously determined that Pasco received in 1975, and accordingly reducing the entitlement purchase obligation imposed on Pasco by the November 5 Decision. In considering the Pasco Appeal, the FEA rejected the firm's contention that in changing from the cash to accrual method of accounting for entitlements expenses in the analysis of exception applications, the FEA effectively reduced the period of the small refiner exemption under Special Rule No. 6 from the six months envisioned by Congress in Section 403 of the Energy Policy and Conservation Act to a period of only four months. The FEA pointed out that Pasco and other small refiners were exempt from purchase requirements which would have been specified in Entitlement Notices for the six month period December 1975 through May 1976. The FEA concluded therefore, that Pasco and other small refiners did in fact receive a benefit under Special Rule No. 6 for a six month period of time. The Pasco Appeal was therefore denied.

Ditlev Thyssen; Corona Del Mar, Calif.; FXA-1154 crude oil

Ditlev Thyssen appealed from a Decision and Order which the FEA issued to Pennzoil Producing Company on December 23, 1976. *Pennzoil Producing Co.*, 5 FEA Par. 83,012 (December 23, 1976). In that Decision, the FEA granted Pennzoil exception relief which permitted the firm to sell at upper tier ceiling prices 30.87 percent of the crude oil produced for the benefit of the working interest owner of the Perry Sand Waterflood Unit, North Segment, located in Yazo County, Mississippi. The Appeal, if granted, would permit Ditlev Thyssen, as owner of a royalty interest in the Unit, to share in the exception relief which was granted to the working interest owners. In considering the Appeal, the FEA noted that in several prior decisions, the FEA has considered the factors which led it to conclude that exception relief in cases of this type should be extended only to the working interest owners of crude oil producing properties. In *U.S. Geological Survey, et al.*, 5 FEA Par. 80,537 (January 26, 1977), the FEA held that since the royalty interest owners do not provide any of the funds necessary to meet the operating expenses of the properties, they have not established that they are experiencing any hardship or inequity as a result of the exception relief granted to the working interest owners. The FEA concluded that the precedent established in previous Decisions are equally applicable to the present Appeal. Accordingly, since Thyssen failed to demonstrate that the Decision and Order issued to Pennzoil was erroneous in fact or was arbitrary or capricious, his Appeal was denied.

REQUESTS FOR EXCEPTION

Apco Oil Corp.; Oklahoma City, Okla.; FEE-3399
Exxon Co., U.S.A.; Houston, Tex.; FEE-3417
Southland Oil Co.; Washington, D.C.; FEE-3448
Tesco Corp.; Los Angeles, Calif.; FEE-3467
Continental Oil Co.; Houston, Tex.; FEE-3520
Shell Oil Co.; Houston, Tex.; FEE-3545
Champlin Petroleum Co.; Fort Worth, Tex.; FEE-3590
Standard Oil Co. of Indiana; Chicago, Ill.; FEE-3708
Time Oil Co.; Seattle, Wash.; FEE-3893
Quaker State Oil Refining Corp.; Oil City, Pa.; FEE-3898 refined petroleum products

The ten firms listed above filed Applications for Exception from the provisions of the FEA Regulations which specified the order of recoupment of product and nonproduct cost increases during 1975 and January 1976. In reviewing those exception applications, the FEA found that certain unusual aspects of those submissions warranted a modification in the procedures to which the FEA Office of Exceptions and Appeals generally adheres. The FEA therefore determined that initial proceedings would be conducted with respect to the Applications filed by Continental Oil Company, Exxon Company, U.S.A., and Southland Oil Company. Following the issuance of a Decision and Order with respect to those three submissions, further proceedings would be conducted with respect to the other exception application listed above as well as any other exception applications that may be submitted with respect to these particular regulatory provisions.

The FEA also determined that to the extent material and substantial disputes exist

as to matters of fact in the Continental, Exxon, and Southland exception applications, direct testimony under oath which is subject to cross examination by other parties and the FEA will be required.

Boston Gas Co.; Washington, D.C.; FXE–3997 propane

The Boston Gas Company submitted an Application in which it requested an extension of exception relief which had been granted to the firm by FEA Region I on March 8, 1974, and which would terminate on March 31, 1977. The firm asserted that the extension was necessary in order to ensure that Boston Gas would be able to retain and utilize its current allocation of propane for use as an SNG feedstock for the remainder of the current heating season. In considering the Boston Gas request, the FEA noted that on February 7, 1977, the FEA Office of Specialty Fuels had requested additional information from Boston Gas with regard to its Application for Assignment of SNG feedstock. Boston Gas submitted the requested information to the FEA on February 11, 1977. The FEA Office of Regulatory Programs informed the FEA Office of Exceptions and Appeals that additional time would be required to analyze this information and that a final determination would not be rendered on the Boston Gas assignment application until shortly after March 15, 1977. Consequently, in order to ensure that Boston Gas would have access to an adequate supply of SNG feedstock pending a determination on its Application for Assignment, the FEA extended the exception relief granted on March 8, 1974 until April 21, 1977.

The Eagle Oil Co.; Columbus, Ohio; FXE–3906 motor gasoline

On December 15, 1976, the FEA issued a Decision and Order to The Eagle Oil Company granting the firm an exception from the provisions of 10 CFR 211.9. *The Eagle Oil Co.*, 4 FEA Par. 87,033 (December 15, 1976). In the December 15 Decision, the FEA determined that Eagle was experiencing a serious financial hardship as a result of the prices which its base period supplier, the Tressler Oil Company, was charging for motor gasoline. In order to alleviate the hardship which Eagle was experiencing as a result of the high cost of the motor gasoline which Tressler was furnishing, the December 15 Order directed the Regional Administrator of FEA Region V to assign to Eagle for the months of January, February and March 1977, a supplier or suppliers whose wholesale price for motor gasoline was within the range of prices paid for that product by major marketers in Eagle's marketing area. The December 15 Order provided that the assigned supplier(s) would furnish Eagle with 65 percent of its base period use during those months. Eagle requested an extension of exception relief in accordance with the terms of that Order. In considering the exception request, the FEA determined that in the absence of exception relief assigning Eagle a new supplier of motor gasoline during 1976, Eagle would still have attained a level of profitability which was considerably greater than the average level of profitability which the firm realized in previous fiscal years. Since it appeared on the basis of the financial data submitted that Eagle would be able to maintain a profitable and viable business if it purchsed its entire supply of motor gasoline from Tressler, the FEA determined that Eagle had failed to demonstrate that the application of FEA regulations would cause it to experience a serious financial hardship. Accordingly, Eagle's request for an extension of the exception relief granted in the December 15 Decision and Order was denied.

Phillips Petroleum Co.; Bartlesville, Okla.; FEE–3205; Motor gasoline

The Phillips Petroleum Company (Phillips) filed an Application for Exception from the provisions of 10 CFR 212.83(h) (the Equal Application Rule). The exception request, if granted, would permit Phillips to allocate exclusively to the prices of motor gasoline which the film sells in Puerto Rico the increased costs which it incurs as a result of a tax on imports levied by the Commonwealth of Puerto Rico. In considering the Phillips Application, the FEA noted that although the Puerto Rican tax was intended only as a local revenue measure, under the provisions of Section 212.83(c) Phillips is not permitted to reflect the entire amount of the Puerto Rican tax in its prices of the motor gasoline which it sells in Puerto Rico. In addition, under the FEA regulations, Phillips may not "bank" the unrecovered taxes for future recovery except to the limited extent which is permitted under the provisions of Section 212.83(h)(2)(i). The FEA therefore determined that the application of the provisions of Section 212.83 resulted in the same type of inequitable situation for which exception relief was granted in *Commonwealth Oil Ref. Co., Inc.*, 3 FEA Par. 83,625 (July 9, 1976). Accordingly, the FEA determined the Phillips should be permitted to recoup the entire amount of the Puerto Rican tax in the prices of the motor gasoline which it sells in Puerto Rico. In its exception application, Phillips also requested that exception relief be approved retroactive to August 1, 1976. The FEA noted that in order to sustain a request for retroactive exception relief a firm must present compelling reasons why retroactive relief is warranted or why it would experience a severe and irreparable injury in the absence of such relief. After analyzing the facts presented in the case, the FEA held that Phillips failed to make the requisite showing that would have entitled the film to relief retroactive to August 1, 1976. However, the FEA further noted that in previous Decisions the FEA has approved retroactive relief for the interval between the date of filing of the exception request and the date of issuance of the Decision and Order to alleviate the adverse effects which result from a significant administrative delay in reaching a decision on the merits of an Application for Exception. Based on the precedent established in these cases and in view of the protracted period of time involved in processing Phillips' exception request, the FEA determined that Phillips was entitled to relief retroactive to October 5, 1976, the date on which it filed the Application for Exception.

REQUESTS FOR STAY

Zenith Oil Co., Inc.; Minneapolis, Minn.; FRS–0073 No. 2 fuel oil

Zenith Oil Company requested that a Remedial Order which was issued to the firm on October 28, 1976 be stayed pending a final determination of the firm's Appeal from that Order. In the Remedial Order, the FEA determined that Zenith had sold No. 2 heating oil at unlawful price levels and directed the firm to issue credit memoranda to the customers it overcharged. In addition, Zenith was directed to maintain its current selling price for No. 2 heating oil to each customer until the previous overcharges to each customer have been refunded. In considering the request, the FEA noted that it had previously approved a stay of the same Remedial Order, but had conditioned the relief on Zenith's placing the amount of the refunds into an escrow account. *Zenith Oil Co., Inc.*, 4 FEA Par. 85,048 (December 8, 1976). However, the FEA had subsequently revoked the stay since Zenith failed to establish the escow account in accordance with that Order. *Zenith Oil Co., Inc.*, 5 FEA Par. 87,005 (January 7, 1977). The FEA determined that in its present application, Zenith had submitted new financial data which showed that its continued operations would be seriously imperiled if it were required to place the refunds in an escrow account as a condition of a stay. In view of this new material, the FEA concluded that the stay previously granted to Zenith on December 8, 1976 should be reinstated without requiring the firm to establish an escrow account.

REQUESTS FOR MODIFICATION OR RESCISSION

Boyd Oil Co.; Contoocook, N.H.; FMR–0092 middle distillates

Boyd Oil Company (Boyd) filed a submission which, if granted, would result in the modification of a previous Decision and Order which was issued to the firm. *Boyd Oil Company*, 5 FEA Par. ------ (March 4, 1977). The March 4 Decision had stayed the provisions of a Remedial Order issued by FEA Region I on February 4, 1977. However, as an express condition of the stay which was approved on March 4, 1977, Boyd was required to establish an irrevocable escrow account and desposit approximately 36% of the total overcharges specified in the Remedial Order into the account. In its present submission, Boyd claimed that as a result of a recent transfer of its assets to the Agway Petroleum Corporation (Agway), it lacks sufficient financial resources to deposit the required amount into the escrow account. In considering its request for modification, the FEA found that Boyd had failed to submit any factual material with respect to its current financial position or regarding the compensation which it receives from Agway as a result of the transfer of its assets. The FEA further found that strong public policy considerations militate against approval of Boyd's present request since the escrow account was required in order to ensure prompt and efficient restitution of its overcharges to the customers involved. With respect to Boyd's further request that the March 4 Decision be modified to relieve the firm of its obligation to maintain records sufficient to identify the customers for whose protection the escrow account is to be established, the FEA held that Boyd had made no showing that it would be adversely affected in any significant manner by compliance with the recordkeeping requirements of the Remedial Order. Boyd's request for modification of the March 4 Stay Order was therefore denied.

Sun Co., Inc.; Philadelphia, Pa.; FMR–0094 petroleum products

On March 23, 1977, Sun Company, Inc. (Sun) requested that the FEA modify a Decision and Order which had been issued to Amtel, Inc. on February 25, 1977. *Amtel, Inc.*, 5 FEA Par. 83,091 (February 25, 1977). A provision of that Decision requires Sun to submit certain pricing data to FEA Region III within 30 days of the date of issuance of the Order. After considering Sun's assertions that it and Amtel are planning to file timely Appeals from the Order, the FEA modified Paragraph (4) of the February 25, 1977 Decision and Order to grant Sun an additional 30 days in which to submit the data specified.

Tenneco Oil Co.; Washington, D.C.; FMR–0087 gasoline

Tenneco Oil Company filed a request for modification of a Decision and Order which was issued to the firm on February 28, 1977. *Tenneco Oil Co.*, 5 FEA Par. 85,038 (February 28, 1977). In the previous Decision, the FEA stayed the refund provisions of a Remedial Order issued to Tenneco by FEA Region VI, but conditioned the stay upon the establishment of an escrow account into which Tenneco would place a portion of the disputed funds. In its request for modification, Tenneco requested that it be permitted to acquire a letter of credit instead of establishing an escrow account. In considering the request, the FEA observed that the amount which Tenneco was required to secure was approximately $7.5 million and that the diversion of a sum of this magnitude from productive use should be avoided if there was an alternative satisfactory means of guaranteeing payment. In view of Tenneco's showing that it possesses the financial capability to meet the refund requirements, the FEA concluded that it was reasonable to permit Tenneco to acquire a letter of credit, and the provisions of the February 28 Order were modified accordingly.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase in dollars per gallon
Aminoil U.S.A., Inc.	FXE–3643	Aline	0.0291
	FXE–3654	Fox	.0060
	FXE–3655	Huntington Beach	.0375
	FXE–3636	Inglewood	.0064
	FXE–3637	Taloga	.0121
	FXE–3638	Tioga	.0164
	FXE–3746	Kern County	.1107
Belridge Oil Co.	FXE–3703	Gulf Plains	.0026
Champlin Petroleum Co.	FXE–3704	Witcher	.0155
	FXE–3695	Rincon	.0258
Coline Gasoline Corp.	FXE–3705	McKee	.0126
Diamond Shamrock Corp.	FXE–3710	Altonah	.0424
Mapco, Inc.	FXE–3711	Tyrone	.02518
	FXE–3734	No. 1 and No. 2 in Martin County, Tex.	.01759
Northern Natural Gas.	FXE–3676	Molino	0.04544
Shell Oil Co.	FXE–3780	Bayou Boula	.0281
	FXE–3781	Block Bayou	.01469
	FXE–3782	Camargo	.03430
	FXE–3783	Conley	.0228
	FXE–3784	Elk City	.03577
	FXE–3785	Grand Chenier	(1)
	FXE–3786	Halley	.00714
	FXE–3787	KNDU	.0678
	FXE–3788	Lake Washington	.0108
	FXE–3789	Lirette	.0091
	FXE–3790	Mermentau	.0271
	FXE–3791	Norco	.0363
	FXE–3792	O'Keene	.02427
	FXE–3793	Prentice	.05532
	FXE–3794	Red Fish Bay	.0215
	FXE–3795	Sea Robin	.0179
	FXE–3796	Selling	.02917
	FXE–3797	Tallahala	.0324
	FXE–3798	TXL	.0424
	FXE–3799	Van	.0747
	FXE–3800	Ventura	.01820
	FXE–3940	Lake Washington	.0071
Signal Petroleum	FXE–3741	Chico	.0475
Upham Oil and Gas Co.			

[1] Denied.

TEMPORARY STAY

The following Application for Temporary Stay was denied on the grounds that the applicant had failed to make a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Gary Western Co.; Fruita, Colo.; FST–0037

SUMMARY DECISION

The FEA Office of Exceptions and Appeals issued a Decision and Order rescinding the Stay which had been granted to the following firm after a finding was made that the relief granted was no longer necessary:

Grier Oil Co.; Baltimore, Md.; FEX–0134

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Baltimore Gas & Electric Co.; Baltimore, Md.; FMR–0091
Dow Chemical Corp.; Houston, Tex.; FEE–3643
Grier Oil Co.; Baltimore, Md.; FES–0080, FRA–1318
I.C.P., Inc.; Washington, D.C.; FFA–1233

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a commercially published loose leaf reporter system.

Dated: May 20, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77–14940 Filed 5–25–77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of March 28 Through April 1, 1977

Notice is hereby given that during the week of March 28 through April 1, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Mobile Oil Corp.; New York, N.Y.; FEA–1094
Union Oil Co. of California; Los Angeles, Calif; FEA–1079
Caldo Oil Co.; FEA–1084
Ramco Oil Co.; FEA–1086
Rinehart Oil Co.; FEA–1087
Major Oil Co.; FEA–1088
Miles Oil Co., Olympia Oil Co.; San Francisco, Calif.; FEA–1089, FEA–1090
Shell Oil Co.; Houston, Tex.; FEA–1182
Red Triangle Oil Co.; San Francisco, Calif; FEA–1188; Motor Gasoline

On November 5, 1976, the Office of Regulatory Programs of the Federal Energy Administration approved an Application which the Gulf Oil Corporation had filed pursuant to the provisions of 10 CFR 211.14(d) of the FEA Regulations. Under the terms of the November 5 Order, Gulf was permitted to withdraw from all marketing and distribution activities in the northwestern portion of the United States, including Washington, Oregon, Northern Nevada and Northern California. The November 5 Order, as amended by a Supplemental Decision and Order issued to Gulf on December 30, 1976, reduced Gulf's total motor gasoline supply obligation in the affected area from an average of 18,940 barrels per day. Ten firms submitted Appeals of the November 5 Order to the FEA Office of Exceptions and Appeals. In considering two of those Appeals filed by the Mobile Oil Corporation and the Union Oil Company of California, the FEA found that since neither firm had received any Assignment Orders as a result of the November 5 Order, those two firms were not aggrieved by that Order. They therefore lacked the requisite standing to file an Appeal of the November 5 Order, and their Appeals were dismissed.

The FEA found that the eight other appellants had sufficient standing to challenge the November 5 Order. In their submissions, these appellants contended that in the November 5 Order the FEA Office of Regulatory Programs failed to adequately consider the adverse impact which Gulf's withdrawal from the market areas in the northwestern United States would have on competition in those areas and on distributors and marketers of petroleum products which had previously received motor gasoline from Gulf. The FEA concluded that there was substantial merit to the firms' position. The FEA observed that the Emergency Petroleum Allocation Act of 1973, as amended, directs the agency to restore and foster competition in the distribution and marketing sectors of the petroleum industry and to preserve the competitive viability of independent marketers of petroleum products. The FEA found that the course of action for which Gulf sought FEA approval would certainly have had an immediate and direct impact on the class of independent marketers in the northwestern United States and on competition in the petroleum industry in that section of the country. Under these circumstances, the FEA determined that it was incumbent upon the FEA Office of Regulatory Programs to make particular findings of fact which are supported by the record in the proceeding as to the impact of the requested approval on the economic viability of the independent

marketing segment of the petroleum industry and on competition in that region. The FEA therefore remanded the November 5 Order to the FEA Office of Regulatory Programs for further findings of fact with respect to these issues.

Patton, Boggs & Blow; Washington, D.C.; FEA–1219; Freedom of Information

Patton, Boggs & Blow (Patton) appealed from a partial denial by the FEA Information Access Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). In its request, Patton sought information which the FEA obtained in order to administer the energy consumption reporting program for the paper industry. The program itself was established under Part D of Title III of the Energy Policy and Conservation Act. In the Order which he issued, the FEA Information Access Officer released certain information to Patton and withheld other material on the grounds that it was exempt from mandatory public disclosure under Exemption 4 of the Act. In analyzing the Patton Appeal, the FEA determined that the total energy consumption figures which the firms reported for 1975 and the percentage of that consumption which constituted electricity usage were not confidential information as that term is used in Exemption 4 of the Act. Accordingly, the FEA directed that these figures and a report which the FEA produced which utilized these figures as a basis for determining the 55 largest energy consuming corporations in the paper industry during 1975 should be released to Patton. The FEA also determined that it was erroneous to withhold certain material from Patton which illustrates the allocation of energy consumption of a jointly-owned firm to its parent corporations. Since the remainder of the memorandum which contained this illustration had already been released to Patton by the Information Access Officer no purpose would be served by withholding the example and the FEA directed that it be released to Patton pursuant to 10 CFR 202.1. The FEA also found that certain detailed information regarding energy usage which several firms voluntarily submitted with their Energy Usage Reports was properly withheld from Patton since release of that information could cause substantial competitive harm to the reporting firms. The Patton Appeal was therefore granted in part.

Peters Fuel Corp.; Oakland, Md.; FEA–1005; FEE–3369; Diesel Fuel, Kerosene, No. 2 Fuel Oil

Peters Fuel Corporation (Peters) filed an Appeal from a Remedial Order which FEA Region III had issued to the firm on October 6, 1976. In the Remedial Order the FEA Regional Office found that during the period November 1, 1973, through August 28, 1975, Peters had charged its customers prices for No. 2 fuel oil, diesel fuel, and kerosene which were in excess of the maximum permissible price levels for those products specified in 10 CFR 212.93. Peters also filed an Application for Exception in which it requested that it be relieved of any obligation to refund the overcharges which it received for those products during that period. In considering Peters' request for retroactive exception relief, the FEA noted that even before the issue of the propriety of that type of exception relief is addressed, an applicant must initially demonstrate that it would have been entitled to prospective exception relief if it had filed an application on a timely basis. The FEA determined that Peters had failed to make this initial demonstration since the financial data which the firm submitted did not establish that the firm's overall operations would have been adversely affected in a significant manner during the 1973–75 period if it had computed its prices in accordance with the applicable FEA price regulations. Based on the same data, the FEA also determined that Peters would not incur a serious hardship if it were required to refund the overcharges specified in the Remedial Order. Consequently, the Peters request for retroactive exception relief was denied. With respect to the Peters Appeal of the Remedial Order, the FEA noted that the contentions which the firm advanced merely reiterated the arguments that it presented in support of its request for exception relief. Since Peters did not contend that the Remedial Order was either erroneous in fact or law or that it was arbitrary or capricious, the FEA concluded that the firm had failed to establish any basis upon which its Appeal could be granted.

Quincy Oil, Inc.; Quincy, Mass.; FEA–1031; No. 6 Fuel Oil

Quincy Oil, Inc., appealed from a Remedial Order which the Federal Energy Administration Region I issued to the firm on November 2, 1976. In the Remedial Order the FEA found that during the period November 1, 1973 through September 30, 1975, Quincy sold No. 6 fuel oil to the Taunton Municipal Lighting Plan (Taunton) at prices which exceeded the maximum permissible price levels specified in 6 CFR 150.359 and 10 CFR 212.93. The Remedial Order also found that these overcharges resulted because Quincy had improperly established its May 15, 1973 selling price to Taunton by reference to a contract which Quincy and Taunton entered into on April 23, 1973, rather than on the basis of the price at which Quincy actually delivered fuel oil to Taunton on May 15, 1973. In considering the Quincy Appeal, the FEA observed that under Ruling 1976–5 a "transaction" occurs, in the case of a written variable-price contract at the time the price is fixed with respect to a particular delivery of a covered product. Since Quincy's April 1973 contract with Taunton was a variable-price contract under which deliveries did not begin until August 1973, the FEA concluded that the Remedial Order was correct in determining that the April 1973 contract was not a transaction for purposes of calculating Quincy's May 15, 1973, prices. The FEA further determined that on May 15, 1973, Quincy delivered fuel oil to Taunton under the terms of a variable-price contract which the parties had entered into in April 1972. The FEA therefore concluded that the Remedial Order was correct in finding that Quincy's deliveries to Taunton on May 15, 1973, pursuant to the April 1972 contract constituted a transaction on that date and that Quincy was therefore required to use the prices fixed for those deliveries in determining its maximum allowable selling prices. In rejecting Quincy's contention that the FEA lacks statutory authority to direct a firm to pay interest on refunds which a Remedial Order requires it to make, the FEA observed that it had thoroughly considered a similar argument in *Koch Industries, Inc.*, 2 FEA Par. 80,580 (May 2, 1975), and that the reasoning used in that case applies to Quincy as well. Finally, the FEA rejected Quincy's assertion that the position taken by the agency with respect to calculation of the firm's May 15, 1973, selling prices has a confiscatory effect upon Quincy. The FEA noted that it had previously considered similar contentions raised by Quincy in an Application for Exception and that the firm had presented no new evidence which would contradict the findings made in the exception proceeding. The Quincy Appeal was therefore denied.

Tenneco Oil Co.; Washington, D.C.; FEA–1018; Motor Gasoline

The Tenneco Oil Company appealed from a Decision and Order in which the FEA denied an Application for Exception from the price regulations for refiners which Tenneco had previously filed. *Tenneco Oil Co.*, 4 FEA Par. 83,117 (October 1, 1976). The Appeal, if granted, would have resulted in the issuance of an Order permitting Tenneco to increase, on a prospective and retroactive basis, its selling prices for motor gasoline above the maximum allowable levels specified in the under FEA Regulations. In the October 1 Decision, the FEA denied Tenneco's request that it be permitted to adjust the cost and quantity of gasoline which it purchased in May 1973 for purposes of determining its maximum allowable selling prices. In arriving at that Decision, the FEA found that the substantial profit which Tenneco realizes on its sales of gasoline produced in its refinery more than offsets any loss which Tenneco may sustain on its sales of purchased gasoline. The FEA therefore found that, contrary to a contention advanced by Tenneco, the firm was not entitled to exception relief on the basis of the gross inequity standards used in a prior decision issued in *Kerr-McGee Corp.*, 2 FEA Par. 80,533 (February 1, 1975). In considering Tenneco's Appeal of the October 1 Decision, the FEA observed that the firm had presented no new evidence which would lead to the conclusion that these findings were incorrect. The FEA noted that Tenneco, unlike Triangle Refineries, Inc., the Kerr-McGee subsidiary, was not incurring a loss on its overall sales of gasoline, and since Tenneco had failed to demonstrate that its May 1973 margin on its overall sales of gasoline was distorted, the firm had not satisfied the standards which were applied in the *Kerr-McGee* Decision. In response to Tenneco's contention that the FEA erred in considering the firm's gasoline sales operations as a whole rather than solely its activities involving the resale of purchased gasoline, the FEA observed that the method which had been used in the prior analysis was correct because Tenneco's purchased gasoline operations were not distinguishable and independent from the other parts of the firm. The FEA also determined that Tenneco's claim that it had relied on an interpretation which it allegedly received from a Cost of Living Council official was insufficiently substantiated and did not constitute a proper basis for the approval of retroactive exception relief. In this regard the FEA reaffirmed its earlier finding that Tenneco did not receive approval of a specific plan for adjusting its May 1973 cost figures, and the firm was therefore clearly not justified in actually implementing the plan which it has used. Accordingly, the FEA denied the Tenneco Appeal.

REQUESTS FOR EXCEPTION

Champlin Petroleum Co.; Fort Worth, Tex.; FEE–3574; Crude Oil

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, which, if granted, would permit the firm to charge upper tier ceiling prices for the crude oil which it produces from Fault Blocks II, III, and IV of the Wilmington Field, located in Long Beach, California. In its exception application, Champlin stated that it has been ordered to install pollution control devices on its Wilmington Field project at a cost of $2,569,100. Champlin claimed that the requirement that it expend this sum while being able to charge only lower tier ceiling prices for the crude oil which it produces constitutes a gross inequity to the firm and causes it to assume an unfair distribution of burdens. In considering Champlin's exception request, the FEA found that the financial and production projections which the firm submitted for the Wilmington Field project demonstrated that even in the absence of exception relief the project would generate a rate of return far in excess of 15 percent during the first three years after installation of the required pollution control devices. The FEA therefore concluded that Champlin has an ample economic incentive to make the required investment without the approval of exception relief. The FEA also determined that Champlin failed to establish that the environmental problems which it faces at its Wilmington Field operations are unique among crude oil producers and accordingly its contention that it is incurring an unfair distribution of burdens has no merit. The firm's request for exception relief was therefore denied.

Commonwealth of Virginia; Richmond, Va.; FPI–0109; No. 2 Fuel Oil

The Commonwealth of Virginia filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit the Commonwealth to receive refunds of license fees paid on 180,000 barrels of No. 2 fuel oil which it imported into the United States during the current allocation period. The FEA noted that an applicant seeking a refund of license fees already paid must generally demonstrate that it will incur a severe and irreparable injury before exception relief is approved. However, the FEA concluded that it would be unreasonable to apply this criterion in cases involving a supply emergency where an applicant files its Application as expeditiously as possible. Accordingly, the criteria which are utilized to evaluate requests for prospective exception relief were applied in this proceeding. In analyzing the Commonwealth Application, the FEA found that the supply of No. 2 fuel oil within Virginia was exceedingly low and that the Commonwealth had taken extraordinary measures to assure that adequate supplies of No. 2 fuel oil were available in Virginia for residential use and other priority needs. The FEA also found that the No. 2 fuel oil which the Commonwealth has imported will have a minimal effect on domestic supplies and markets of No. 2 fuel oil, and that the Commonwealth plans to pass through to its customers any benefits which it may derive from the requested exception relief. On the basis of these findings, the FEA concluded that exception relief should be approved which will enable the Commonwealth to recover the fees which it paid. Its Application for Exception was therefore granted.

Dixie Gas, Inc.; Marks, Miss.; FEE–3669; Propane

Dixie Gas, Inc. (Dixie) filed an Application for Exception from the provisions of 10 CFR 212.93. Its Application, if granted, would have relieved the firm of any obligation to refund revenues which it realized as a result of charging prices for propane during the period September 1, 1973, through March 31, 1974, which were in excess of the firm's maximum allowable selling prices. In its Application, Dixie acknowledged that it had overcharged its customers but contended that retroactive exception relief was appropriate because the firm had misconstrued its obligations under the applicable FEA regulations and would experience a serious financial hardship if it were required to refund the overcharges. In considering the Dixie exception request, the FEA noted that firms such as Dixie have an affirmative obligation to be cognizant of the correct application of FEA regulations to their business operations, and that Dixie's failure to meet this obligation is not a proper basis for granting the exception relief which the firm requested. After reviewing the firm's financial statements for its most recently completed fiscal year, the FEA further determined that Dixie had failed to make a showing that it would experience an irreparable financial injury in the absence of retroactive exception relief. The FEA therefore determined that Dixie had failed to establish compelling reasons which would warrant the approval of a retroactive exception. The Dixie request was accordingly denied.

Eason Oil Co.; Oklahoma City, Okla.; FEE–3994; Crude Oil

Eason Oil Company (Eason) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, which, if granted, would permit the firm to sell all of the crude oil produced from the Weiner Property, Madison County, Mississippi, at upper tier ceiling prices. In considering the exception request, the FEA found that the cost of producing crude oil from the Weiner Property had increased since 1973 to a level where those costs now exceed the revenues which the firm may realize from the sale of the crude oil at lower tier ceiling price levels. The FEA concluded that under these circumstances Eason does not have an economic incentive to continue to produce crude oil from the Weiner Property. The FEA also found that it was highly unlikely that the crude oil from the reservoir underlying the lease would be recovered by any other firm in the absence of exception relief. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule under these circumstances resulted in a gross inequity to Eason. Accordingly, on the basis of the operating data which the firm submitted for its most recently completed fiscal period Eason was granted exception relief which permit the firm to sell at upper tier ceiling prices 59.91 percent of the crude oil produced and sold from the Weiner Property for the benefit of the working interest owners.

Estate of George Parker; Lafayette, La.; FEE–3925; Crude Oil

The Estate of George Parker (Parker) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, which, if granted, would permit Parker to sell the crude oil produced from the Morgan Plantation No. 1 well located in Jefferson Davis Parish, Louisiana, at upper tier ceiling prices. In considering the exception application, the FEA determined that the costs of producing crude oil from the Morgan well have increased significantly since 1973, and that the firm's current production costs per barrel substantially exceed the lower tier ceiling price which Parker is permitted to charge for the crude oil. Consequently, the FEA found that Parker does not have an economic incentive to continue to operate the Morgan well. The FEA also determined that if Parker ceased production of crude oil from the property, a significant quantity of otherwise recoverable domestic crude oil would not be produced. On the basis of a number of previous precedents involving similar factual situations, the FEA granted exception relief to Parker which permits the firm to sell at upper tier ceiling prices 26.28 percent of the crude oil produced and sold from the Morgan well for the benefit of the working interest owners.

Mar-Low Corp.; Lafayette, La.; FXE–3586 crude oil

Mar-Low Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Mar-Low and would permit the firm to sell the crude oil which it produces from the West Tepatate Field (the Field) at exempt prices. In the prior exception Decision, Mar-Low had been permitted to sell at upper tier ceiling prices all of the crude oil which it produced from the Field for the benefit of the working interest. Mar-Low Corp., 4 FEA Par. 83,048 (August 17, 1976). In considering the exception request, the FEA found that the firm continued to incur increased operating costs at the Field and that in the absence of continued exception relief, the working interest would lack an economic incentive to continue to produce crude oil from the Field. The FEA also found that an extension of the prior exception relief, which would permit the sale of all of the crude oil produced from the Field at upper tier ceiling prices, would still be insufficient to warrant Mar-Low's continued operation of the Field. In view of this situation and on the basis of the operating costs for the Field for the previous six months, the FEA concluded that Mar-Low should be permitted to sell at exempt prices 62.26 percent of the crude oil produced and sold from the Field for the working interest and that the remainder of the crude oil produced from the Field for the working interest should be sold at upper tier ceiling prices.

Minard Run Oil Co.; Bradford, Pa.; FEE–3444 crude oil

Minard Run Oil Company (Minard Run) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit it to sell at prices in excess of the upper tier ceiling price the crude oil which it projects it will produce from 10 wells to be drilled on the Minard Run Venture Property. In considering the Minard Run submission, the FEA found that a substantial investment is necessary to drill the 10 wells and install the equipment necessary to initiate production from the property. The FEA further determined that the crude oil production estimates provided by the firm indicate that the investment would be uneconomic if the crude oil which will be produced from the property prior to its qualification as a stipper well property were sold at upper tier ceiling prices. Moreover, the FEA found that 30,000 barrels of crude oil which are otherwise unrecoverable could be extracted if the ten wells are drilled. On the basis of these findings, the FEA concluded that exception relief should be granted to Minard Run which would provide it with a sufficient economic incentive to undertake the capital investment required to develop the Minard Run Venture property. Based on an analysis of the financial and operating data that the firm submitted, the FEA concluded that if Minard Run were permitted to sell 14,130 barrels of crude oil at a price not to exceed $13.82 per barrel for the first twelve months of production from the property this objective would be achieved

W. A. Moncrief, et al. Houston, Tex.; FEE–3504 crude oil

W. A. Moncrief et al. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted would permit Moncrief to sell crude oil produced from the Aneth Field underlying the McElmo Creek Unit at upper tier ceiling prices. In considering Moncrief's exception request, the FEA found that crude oil will be recovered from the field regardless of whether Moncrief continues his ownership interest in the Unit and that consequently Moncrief is not

entitled to relief on the basis of the criteria applied in previous cases. The FEA also observed that the difficulties which Moncrief alleges he is experiencing were caused primarily by events which occurred prior to the inception of the FEA regulatory program and that, contrary to Moncrief's claim, the substantial royalty payments which he must make reflect the considerably reduced risk factor associated with investing in the Unit at the time Moncrief decided to participate. The FEA therefore concluded that Moncrief had failed to demonstrate that the application of the Mandatory Petroleum Price Regulations to his interest in the Unit constitutes the principal cause of any financial difficulties which he may be experiencing. Accordingly, Moncrief's exception request was denied.

Moran Pipe and Supply Co.; Seminole, Okla.; FEE–3327 crude oil

Moran Pipe and Supply Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Moran to sell the crude oil produced from the Cozar Lease at upper tier ceiling prices. In considering the Application, the FEA found that the net operating income which the firm derived from the Cozar lease during 1976 represented a return of more than 20 percent on the leases' operating revenues and was equivalent to a return of more than 19 percent on the net salvage value of the well equipment on the Cozar lease. The FEA further found that the firm had made no showing that if it liquidated the well equipment it could realize a greater rate of return on the proceeds than that which it could obtain by continuing to operate the Cozar lease. The FEA therefore determined that there was no economic incentive for Moran to abandon its production activities on the Cozar Lease, and its exception request was denied.

Pennzoil Producing Co.; Washington, D.C.; FXE–3888 crude oil

The Pennzoil Producing Company (Pennzoil) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of the exception relief previously granted to the firm and would thereby permit Pennzoil to continue to sell a portion of the crude oil produced from the Perry Sand Waterflood Unit, North Segment (the Unit) at upper tier ceiling prices. Pennzoil Producing Co., 5 FEA Par. 83,012 (December 23, 1976). In considering the Pennzoil request, the FEA determined that the Unit was continuing to experience increased operating costs and that the working interest owners consequently lacked an incentive to maintain the production and sale of crude oil from the property if they were permitted to charge only the lower tier ceiling price. In view of this determination and on the basis of the operating data which the firm submitted for its most recently completed fiscal period, the FEA concluded that the exception relief previously granted should be extended for an additional six month period and that Pennzoil should be permitted to sell at upper tier ceiling prices 76.01 percent of the crude oil produced from the Unit for the benefit of the working interest owners.

Rickelson Oil and Gas Co.; Tulsa, Okla.; FEE–3527 crude oil

Rickelson Oil and Gas Company (Rickelson) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit it to sell at exempt price levels the crude oil which is produced for the benefit of the working interest owners of the Vanbuskirk Lease (the Lease). In considering the exception application, the FEA found that Rickelson ceased crude oil production operations at the Lease when the firm determined that the Lease could not properly be classified as a stripper well property. At the time the Lease was shut-down, the operating expenses associated with the production of a barrel of crude oil from the property exceeded the revenues which could be derived at applicable lower tier ceiling price levels. Accordingly, the FEA found that Rickelson has no economic incentive to resume crude oil production from the Lease. The FEA further found that if the Lease were permanently abandoned a subtantial quantity of domestic crude oil would not be recovered. On the basis of the criteria applied in similar cases, the FEA concluded that exception relief should be granted and that Rickelson should be permitted to sell all of the crude oil produced from the Vanbuskirk Lease for the benefit of the working interest owners at upper tier ceiling prices.

TOSCO Corp.; Los Angeles, Calif.; FEE–2684 motor gasoline

The TOSCO Corporation (TOSCO) filed an Application for Exception from the provisions of 10 CFR 212.83. The TOSCO submission, if granted, would result in the issuance of an Order by the FEA confirming that TOSCO had correctly computed the May 15, 1973 selling prices which it utilized in determining the maximum allowable prices for motor gasoline to its wholesale rack and reseller classes of purchaser. In the alternative, TOSCO requested that it be granted an exception which would relieve it of any obligation to refund overcharges resulting from its use of incorrectly calculated May 15, 1973 selling prices. Under the terms of the relief which it requested, TOSCO would be permitted to continue to utilize those prices in determining its maximum allowable prices for covered products. In its submission, TOSCO indicated that prior to May 15, 1973, its subsidiary, the Toscopetro Corporation, had entered into a written variable price contract to sell gasoline to one of its wholesale rack purchasers, and had also entered into an oral agreement which provided for the sale of gasoline to a particular reseller at a price that was two cents per gallon below the California dealer tankwagon price. Both the written contract and the oral agreement applied to deliveries beginning on specified dates after May 15, 1973. In its exception application TOSCO contended that the variable price contract and the oral agreement constitute the "transactions" which establish its May 15, 1973 prices to its wholesale rack and reseller classes of purchaser, notwithstanding the fact that deliveries did not occur under those contracts until after May 15, 1973.

In considering that contention, the FEA observed that under Ruling 1977–5 the time when a price is set for a particular delivery pursuant to a variable price contract is the date when a "transaction" occurs. The FEA found that since TOSCO did not make any deliveries pursuant to its variable price contract until after May 15, 1973, it may not include transactions under that contract in calculating its May 15, 1973 prices. The FEA also found that since TOSCO did not make any deliveries under the oral agreement until after May 15, 1973, the prices charged pursuant to that oral agreement may not be included in the determination of TOSCO's weighted average May 15, 1973 price to its reseller class of purchaser. Thus, the FEA declined to affirm that the prices which TOSCO utilized as its May 15, 1973 prices for purposes of the refiner's price rule had been correctly calculated.

In its exception application, TOSCO also contended that its decision to acquire a refinery which had previously been owned by the Phillips Petroleum Company (the Avon refinery) was based on its reasonable belief that its May 15, 1973 prices had been calculated in accordance with the FEA Regulations. TOSCO claimed that its conviction that it had correctly calculated those prices was a result of its reliance on an opinion given by the Regional Counsel of the FEA Region IV. TOSCO asserted that the opinion had the force of an "interpretation" as that term is defined in the FEA Procedural Regulations. The FEA found that the Regional Counsel's opinion did not appear to support TOSCO's construction of the term "transaction". However, the FEA also determined that the opinion, which merely provided internal guidance to FEA employees and did not include the notice to aggrieved parties of their right to appeal as required by the FEA Procedural Regulations, did not constitute an Interpretation issued pursuant to 10 CFR, Part 205, Subpart F.

Although the FEA concluded that TOSCO had failed to demonstrate that it could reasonably have construed the opinion as an interpretation, the FEA also found that the firm's submission indicated that it might not have proceeded with its acquisition of the Avon refinery if it had known that the FEA might challenge the calculation of the firm's May 15, 1973 prices. In this regard, the FEA pointed out that, generally, even if a firm acted in reliance on erroneous advice given by FEA officials, exception relief would not be warranted unless the firm could show that the actions which it had taken in reliance upon that advice had a serious adverse effect on the firm. While the financial data furnished by TOSCO generally indicated that the firm may experience some adverse effects upon its profitability during 1976 as a result of its acquisition of the Avon refinery, the FEA determined that TOSCO failed to demonstrate that it would continue to experience those adverse effects in future periods or that the acquisition of the Avon refinery would be detrimental to the TOSCO's long-term overall operations. Based on an analysis of TOSCO's financial data, the FEA also concluded that TOSCO had failed to establish that it would experience a serious hardship or gross inequity if it were prospectively required to reduce its prices for gasoline. The FEA acknowledged however that these findings were based largely on projected data and indicated that it would reconsider its denial of exception relief if TOSCO files another application for exception containing new financial data.

Triad Oil and Gas Co., Inc.; Jackson, Miss.; FEE–3679; crude oil

Triad Oil and Gas Co., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would permit Triad to sell the crude oil produced from the W. J. Ainsworth No. 1 well at upper tier ceiling prices. In considering the exception application, the FEA found that Triad's production costs per barrel exceeded the prices which it is permitted to charge for the crude oil which it sells and, consequently, that Triad does not have an economic incentive to continue to operate the Ainsworth well. The FEA further found that if Triad abandoned the Ainsworth well, a substantial quantity of domestic crude oil would not be recovered. On the basis of the criteria which applied in previous similar cases, the FEA concluded that exception relief should be granted and that Triad should be permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Ainsworth well for the benefit of the working interest owners.

Twin-Tech Oil Co.; Garza County, Tex.; FEE–3225; natural gas liquid products

Twin-Tech Oil Company (Twin-Tech) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart K. The exception request, if granted, would permit Twin-Tech to increase the prices which it charges for natural gas liquids and natural gas liquid products (NGL's) produced at its plant above the maximum permissible price levels specified in Subpart K. After adjusting the non-product costs which Twin-Tech incurred in the base period by excluding certain non-recurring costs, the FEA found that Twin-Tech's actual non-product costs had increased substantially subsequent to the base period. In accordance with the precedent established in *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975), the FEA therefore granted exception relief which permitted the firm to increase its selling prices to reflect a specified amount of increased non-product costs. In its submission, Twin-Tech also requested that it be permitted to measure the increased cost of the natural gas shrinkage which it may reflect in its selling prices by calculating a value for its natural gas shrinkage based on the contract prices for residual natural gas established by another firm in the vicinity. In considering Twin-Tech's request, the FEA observed that under FEA Ruling 1975–7, the "cost of natural gas shrinkage" of a gas processor means the reduction in its sales revenues for natural gas which it could otherwise have received pursuant to a contract under which the gas would be sold. The FEA pointed out that, since Twin-Tech does not sell natural gas, it does not actually incur any reduction in sales revenues as a result of extracting the liquids. Additionally, in view of the exception relief which was being granted to permit Twin-Tech to pass through its increased non-product costs, the FEA found that the firm's contention that it had no economic incentive to continue to operate its plant was no longer valid. On the basis of these considerations, the FEA concluded that Twin-Tech's request for exception relief with respect to shrinkage costs should be denied. Finally, Twin-Tech requested that it be permitted to calculate its maximum permissible selling prices for NGL by reference to prices which were specified in a contract which it entered into in June 1973, instead of by reference to the imputed or adjusted prices as specified in Subpart K. With respect to this request, the FEA found that Twin-Tech had failed to provide any material which indicates that it is experiencing a serious hardship or gross inequity as a result of the manner in which it is required to determine its prices under Subpart K. Accordingly, that portion of the firm's Application was denied.

Wagner Oils, Inc.; Fairborn, Ohio; FEE–3931; No. 2 heating oil

Wagner Oils, Inc. filed an Application for Exception from the requirement that it file FEA Form P112–M–1, "No. 2 Heating Oil Supply/Price Monitoring Report." In considering the exception application, the FEA determined that the firm had failed to submit any material in support of its claim that it is unable to devote the time and effort necessary to complete and file the Form. The FEA further concluded that Wagner failed to demonstrate that the alleged inconvenience of supplying the information outweighs the benefits to be derived from the use of the aggregate data which the FEA collects from a sample for firms, including Wagner, as to the supply and price of No. 2 heating oil. Wagner's request for except relief was therefore denied.

REQUESTS FOR MODIFICATION OR RESCISSION

H&K Oil Co.; Yankton, S. Dak.; FMR–0083 No. 2 heating oil

On March 1, 1977, the Federal Energy Administration denied an Application for Stay filed by H&K Oil Company (H&K), *H&K Oil Co.*, 5 FEA Par. ____ (March 1, 1977). In that proceeding H&K had requested that the refund provisions contained in a Remedial Order which had been issued to it by FEA Region VIII be stayed pending a determination on H&K's Appeal of the Order. On March 15, 1977 H&K filed an Application for Modification in which it requested that the FEA reconsider its March 1, 1977 determination. In considering H&K's Application, the FEA reaffirmed its previous finding that the Remedial Order does not require H&K to make any refunds until July 1977 and that consequently H&K would not experience an immediate injury in the absence of a stay. Since H&K had failed to show that any substantial change had occurred in the circumstances under which the March 1, 1977 determination was made, its Application for Modification was denied.

Litchfield Oil Co.; Dracut, Mass.; FMR–0090 motor gasoline

On March 8, 1977, the Litchfield Oil Company filed a request for reconsideration of a Decision and Order which the FEA issued to the firm on January 25, 1977. *Litchfield Oil Co.*, 5 FEA Par. 80,533 (January 25, 1977). In considering the request the FEA found that the sole basis on which Litchfield sought to reopen the prior proceeding is the firm's unsubstantiated assertion that a May 15, 1973 delivery of gasoline was made pursuant to a prior supply agreement which the firm alleged qualifies as a "transaction" within the meaning of 10 CFR 212.31, as clarified by Ruling 1977–5. The FEA determined that Litchfield had failed to submit any evidence whatsoever which supports this claim. Consequently, the FEA concluded that there was no basis for reconsidering the determination reached in the prior Appeal and Litchfield's request for reconsideration was therefore dismissed.

The Standard Oil Co.; Findlay, Ohio; FMR–0081 Refined Petroleum Products

The Standard Oil Company (Sohio) filed an Application for Modification or Rescission of three Decisions and Orders which the FEA issued to it during 1975. *The Standard Oil Co.*, 2 FEA Par. 83,111 (April 8, 1975); *The Standard Oil Co.*, 2 FEA Par. 80,654 (August 12, 1975); and *The Standard Oil Co.*, 2 FEA Par. 87,014 (October 14, 1975). In the April 8, 1975 determination the FEA denied Sohio's request for an exception from the provisions of 10 CFR 212.87 which, if granted, would have permitted the firm to increase its selling prices for refined petroleum products to reflect increased refinery depreciation expenses. The August 12, 1975 Decision denied Sohio's Appeal from the April 8 Order. The October 24, 1975 determination denied Sohio's request that the two prior orders be modified or rescinded. The present Sohio Application for Modification or Rescission, if granted, would result in the rescission of the three prior Decisions and Orders and the approval of the exception relief originally requested. Sohio also requested that the exception relief be made retroactive to December 1974 when it initially filed its Application for exception. In considering Sohio's request for modification or rescission, the FEA observed that recent regulatory amendments which permit refiners to pass through increased refinery depreciation expenses appear to afford the type of prospective exception relief which Sohio sought in the prior proceedings. Consequently, the FEA determined that further consideration of Sohio's request for prospective exception relief was unnecessary. With respect to the firm's request for retroactive relief, the FEA determined that the Sohio had failed to show that there had been undue administrative delay in the processing of its prior applicatons. The FEA also found that new data collected by the FEA in a survey of other major refiners indicated that no factual basis exists for Sohio's contention that it has been disproportionately affected in an adverse manner by FEA regulatory requirements involving depreciation expenses. The FEA therefore concluded that since Sohio would not have been granted prospective relief even if this data had been available at the time of the prior proceedings, retroactive exception relief was unwarranted Accordingly, Sohio's Application for Modification or Rescission was denied.

REQUEST FOR STAY

Luke Bros., Inc.; Calera, Okla.; FES–0083 Propane

Luke Brothers, Inc. (Luke) requested that a Remedial Order which the FEA Region VI issued to the firm on October 5, 1976 be stayed pending both judicial review and a final determination of an Application for Modification and Rescission which Luke states that it plans to file with the FEA in the near future. In the Remedial Order, the FEA found that Luke's selling prices for propane during the period November 1, 1973 through September 1975 exceeded the maximum selling prices which the firm was permitted to charge under the FEA Regulations In order to remedy this violation, the Deputy Regional Administrator of FEA Region VI directed Luke to immediately reduce the prices which is charges for propane to a level which did not exceed the maximum lawful selling prices permissible under the FEA Price Regulations. In considering Luke's request that the Remedial Order be stayed the FEA found that the firm's Application failed to satisfy any of the criteria set forth in Section 205.125(b) for the approval of a stay. Although the firm asserted that in the absence of a stay it would experience a severe financial hardship and a more serious hardship and gross inequity than would be experienced by its customers if the stay were granted, Luke presented no evidence whatever to support the assertion. Since Luke had in addition failed to demonstrate that it would encounter any unusual difficulty if it is required to comply with the Remedial Order, the FEA concluded that a stay was clearly not warranted and Luke's request was denied.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase in dollars per gallon
Atlantic Richfield Co.	FXE-3747	Covington	0.0086
Do	FXE-3748	Crane	.0221
Do	FXE-3749	Dayton	.0176
Do	FXE-3750	Drummright	.0147
Do	FXE-3751	East Village Mills	.0676
Do	FXE-3752	Eldorado	.0151
Do	FXE-3753	Longview	.0278
Do	FXE-3755	Midland	.0324
Do	FXE-3756	North Cowden	.0138
Do	FXE-3757	Nueces River	.0191
Do	FXE-3758	Ojai Timber	.1274
Do	FXE-3759	Price	.0254
Do	FXE-3760	Riverton Dome	.0754
Do	FXE-3761	Robstown	(1)
Do	FXE-3762	Seminole	.8076
Do	FXE-3768	Silsbee	.0426
Do	FXE-3764	Spivey	.0192
Do	FXE-3765	Stevens-Calidon	.0065
Do	FXE-3769	Myrtle Springs	.T194
Cities Service Co.	FXE-3746	St. Amelia	.0598
Do	FXE-3837	Bluitt	.0621
Do	FXE-3838	Bryans Mill	.0100
Do	FXE-3839	Chico	.0141
Do	FXE-3840	Crowley	.0070
Do	FXE-3841	Dollarhide	.0090
Do	FXE-3842	East Texas	.0067
Do	FXE-3843	Lapeyrouse	.0098
Do	FXE-3844	Lefors	.0170
Do	FXE-3845	Maysville	.0176
Do	FXE-3846	Mermentua	.0289
Do	FXE-3847	Midway	.0561
Do	FXE-3848	North Cowden	.0129
Do	FXE-3849	Pampa	.0297
Do	FXE-3850	Price	.0356
Do	FXE-3851	Robstown	.0456
Do	FXE-3852	Rodman	.0099
Do	FXE-3853	San Antonio	.0798
Do	FXE-3854	Stonewall	.0197
Do	FXE-3855	Waco	.0108
Do	FXE-3856	Wichita	.0074
Continental Oil Co.	FXE-3766	Acadia	.0368
Do	FXE-3767	Burnell North Fettus	.0969
Do	FXE-3768	Hamlin	.0188
Do	FXE-3769	Mulmer	.0170
Do	FXE-3770	Medford	.0908
Do	FXE-3771	North Cowden	.0065
Do	FXE-3772	North Okiarche	.0865
Do	FXE-3773	O. W. Ward	.0521
Do	FXE-3774	Okeene	(1)
Do	FXE-3775	Ramsey	.0840
Do	FXE-3776	Rincon	.0272
Do	FXE-3777	Sussex	.0243
Do	FXE-3778	West Seminole	.0173
Do	FXE-3779	West World	.0301
Gulf Oil Corp	FXE-3670	Azalea	.0633
Do	FXE-3671	Milfay	.0591
Do	FXE-3672	Sand Hills	.0442
Do	FXE-3857	Adena	.0202
Do	FXE-3858	Bluebell	.0103
Do	FXE-3859	Breckenridge	.0239
Do	FXE-3860	Camrick	.0080
Do	FXE-3861	Chesterville	.0123
Do	FXE-3862	Como	.0364
Do	FXE-3863	Encinal	.0139
Do	FXE-3864	Eunice	.0084
Do	FXE-3865	Fannett	.0190
Do	FXE-3866	Gladewater	.0052
Do	FXE-3867	Kalkaska	.0204
Do	FXE-3868	Krotz Springs	.0069
Do	FXE-3869	Lake Washington	.0074
Do	FXE-3870	Maysville	.0162
Do	FXE-3871	Mermentau	.0183
Do	FXE-3872	Monahans	.0072
Do	FXE-3873	Monument	.0222
Do	FXE-3874	North Port Neches	(1)
Do	FXE-3875	Pledger	.0116
Do	FXE-3876	Saunder	.0110
Do	FXE-3877	Shackelford	.0255
Do	FXE-3878	South Fullerton	.0172
Do	FXE-3879	Spear	.0136
Do	FXE-3880	Vada	.0166
Do	FXE-3881	Waddell	(1)
Mobil Oil Corp	FXE-3680	Bradley	.0177
Do	FXE-3681	Burnell North Fettus	.0311
Do	FXE-3682	Chitwood	.01846
Do	FXE-3683	Desdemona	.0208
Do	FXE-3684	Dollarhide	.0075
Do	FXE-3685	Electra	.0353
Do	FXE-3686	Hickok	.0374
Do	FXE-3687	Kermit	.0092
Do	FXE-3688	Kettleman Hills Dome	.0246
Do	FXE-3689	LaGloria	.0184
Do	FXE-3690	Levelland	(1)
Do	FXE-3691	Nueces River	.0067
Do	FXE-3692	Old Ocean	.0056
Do	FXE-3693	Pegasus	.04871
Do	FXE-3694	Rio Bravo	.0369
Do	FXE-3695	Sholem Alechem	.0188
Do	FXE-3696	Spivey	(1)
Do	FXE-3697	Vanderbilt	.0708
Do	FXE-3698	West Seminole	.0086

Company	Case No.	Plant	Amount of price increase in dollars per gallon
National Helium Corp.	FXE-3810	Liberal	$0.0033
Standard Oil Co. (Indiana)	FXE-3811	Beaver Creek	.0126
Do	FXE-3812	Burnell North Fettus	.0226
Do	FXE-3813	Edgewood	.0210
Do	FXE-3814	Indian Basin	.0074
Do	FXE-3815	Luby	.0360
Do	FXE-3816	Midland Farms	.01754
Do	FXE-3817	North Cowden	.0099
Do	FXE-3818	Old Ocean	.0109
Do	FXE-3819	Peoria	.03493
Do	FXE-3820	South Fullerton	.00746
Do	FXE-3821	South Manchester	.0142
Do	FXE-3822	Thibodaux	.0207
Do	FXE-3823	West Bastian Bay	.0204
Do	FXE-3824	Garvin	.0214
Texaco, Inc.	FXE-3825	Handy	.0246
Do	FXE-3826	Kettleman Hills	.0233
Do	FXE-3827	Lignite	.0370
Do	FXE-3828	Luby	.0125
Do	FXE-3829	McKamie	.0763
Do	FXE-3830	New Hope	.0342
Do	FXE-3831	Roos South Campana	.1243
Do	FXE-3832	Seeligson	.0085
Do	FXE-3833	Shields Canyon	.0354
Do	FXE-3834	South Kermit	.1240
Do	FXE-3835	Tijerina	.0396
Do	FXE-3836	Van	.0071
Union Oil Co. of California	FXE-3677	Domingues	.0084
Do	FXE-3678	Rio Bravo	.6012
Do	FXE-3722	Adena	.0427
Do	FXE-3723	Cotton Valley	.0837
Do	FXE-3724	Dollarhide	.0097
Do	FXE-3725	Gillette	.0141
Do	FXE-3726	Houma	.0121
Do	FXE-3727	Kettleman Hills	.0848
Do	FXE-3728	Lisbon	.0090
Do	FXE-3729	Mermentau	.0224
Do	FXE-3730	Putnam Orwaco	.0098
Do	FXE-3731	Santa Maria Valley	.0951
Do	FXE-3732	Van	.0113
Do	FXE-3733	Worland	.0240

[1] Denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Genie Car Wash; San Diego, Calif.; FEE–3569
Gulf Energy & Development Corp., Washington, D.C.; FEE–3521, FEE–3522

The following submission was dismissed on the grounds that the request is now moot:

Litchfield Oil Co., Inc., Dracut, Mass.; FES–0090

The following submission was dismissed on the grounds that the request for stay was premature:

Joe E. Sharber; Wewoka, Okla.; FES–0084

The following submission was dismissed after a determination by FEA that the relief requested was no longer necessary:

Tennece Oil Co.; Washington, D.C.; FST–0038

The following submission was dismissed following a determination by FEA that there was no basis for further administrative review of the firm's claims:

Merwin L. Hoxsey, d.b.a. Hoxsey's Shell Service, San Diego, Calif.; FEE–3967

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: May 20, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77–14939 Filed 5–25–77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of April 4 Through April 8, 1977

Notice is hereby given that during the week of April 4 through April 8, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Beeco, Ltd.; Washington, D.C.; FEA–1046; Crude oil

Beeco, Ltd. filed an Appeal from a Decision and Order which the Federal Energy Administration issued to the General Crude Oil Company (General Crude) on September 21, 1976. *General Crude Oil Co.*, 4 FEA Par. 83,104 (September 21, 1976). The Appeal was filed on behalf of the twenty-three royalty interest owners of the Banning Lease in the West Newport Field, Orange County, California. In the September 21, 1976 Decision and Order, exception relief was granted which permitted General Crude to charge upper tier ceiling prices for a portion of the crude oil which it produces for its benefit from the Banning Lease. The exception was intended to provide the firm with an economic incentive to undertake an investment in an accelerated recovery project. Beeco sought to have the royalty interest owners share in the additional revenues produced as a result of that Decision. In considering the Beeco Appeal, the FEA noted that in a recent Decision and Order, U.S. Geological Survey, 5 FEA Par. 80,527 (January 26, 1977), the FEA determined that the agency has the authority to limit exception relief only to the working interest owners of crude oil producing properties since only those owners are responsible for the operating and investment costs associated with the production of crude oil. The FEA concluded that the U.S. Geological Survey Decision was controlling in the present case. The FEA also found that contrary to Beeco's contention, the September 21, 1976 Decision and Order did not constitute an unlawful regulation of real property rental terms by the FEA since it was not designed to regulate the property rights of royalty interest owners but rather to grant exception relief in a manner which was consistent with applicable statutes and FEA regulations. Finally the FEA determined that while the royalty payments in 1960, the nature of their royalty payments in 1960 the nature of their interest in the property continues to be a passive one and they have no responsibility for any of the operating costs or additional capital expenditures which are necessary in order to maintain or accelerate the enhanced recovery projects at the Banning Lease. In view of these considerations the FEA determined that the Beeco Appeal should be denied.

Cheyenne Exploration, Inc.; Wichita, Kans., FEA–1180; Crude oil

Cheyenne Exploration, Inc. filed an Appeal of a Remedial Order which the Director of the Compliance Division, Fea Region VII issued to the firm on January 12, 1977. In the Remedial Order, the FEA found that during the period March 1974 through December 1975 Cheyenne improperly sold certain volumes of crude oil which were produced from the Sipes A–3 property at uncontrolled market prices in violation of the provisions of 10 CFR 212.73. On the basis of this finding, the Remedial Order directed Cheyenne to refund $68,065.00 plus interest to Clear Creek, Inc., the purchaser of the crude oil produced from the Sipes A–3 property. In considering the Appeal, the FEA observed that Cheyenne did not challenge the factual or legal findings of the Remedial Order or contend that the Remedial Order was in any way arbitrary or capricious. Instead, Cheyenne contended that the application to the firm of the provisions of 10 CFR, Part 212, Subpart D in the Remedial Order, results in a serious financial hardship to the firm. The FEA noted that the arguments which Cheyenne presented did not form the proper basis for an Appeal of a Remedial Order, since the issues which the firm raised can properly be considered only in the context of an Application for Exception. Furthermore, the FEA determined that Cheyenne failed to make the type of showing which the FEA had previously held to be necessary for the FEA to consider such issues in the context of an Appeal of a Remedial Order. See, e.g., *Mobil Oil Corp.*, 4 FEA Par. 80,451 (September 24, 1976). Moreover, the FEA noted that counsel for Cheyenne had advised the FEA that the firm intends to file an Application for Exception in which the firm will raise its allegations of serious hardship. In view of these factors, the Cheyenne Appeal was denied.

Gulf Oil Corp.; Houston, Tex.; FEA–0925; No. 2 fuel oil

The Gulf Oil Corporation filed an Appeal from a revised Remedial Order which the Regional Administrator of FEA Region III issued to the firm on July 12, 1976. In the revised Remedial Order, the Regional Administrator found that Gulf had improperly calculated the May 15, 1973 base price for the No. 2 fuel oil which it sold to the Virginia Electric Power Company (Vepco), and as a result, had sold that product at price levels

which exceeded the maximum allowable prices specified in 6 CFR 150.355 and 10 CFR 212.82. Gulf was therefore directed to refund $2,080,035 in overcharges made in sales of fuel oil to Vepco during the period October 1, 1973 through April 30, 1975, and to calculate the overcharges which occurred during the period May 1, 1975 through June 30, 1976. In its Appeal, Gulf contended that the revised Remedial Order was based on an erroneous interpretation of the term "transaction" as defined in 10 CFR 212.31. Since no transaction occurred between Gulf and Vepco on May 15, 1973, the Remedial Order required Gulf to determine its May 15, 1973 base price for the fuel oil which it sold to Vepco by reference to the price at which a delivery of fuel oil was made to Vepco on May 3, 1973. In its Appeal Gulf alleged that a new contract into which the firms had entered on May 10, 1973 constituted the transaction to which the FEA should have referred in determining the May 15, 1973 prices. In considering the Appeal, the FEA found that the May 3, 1973 delivery was made pursuant to a written contract executed in June of 1972 in which Gulf agreed to supply No. 2 fuel oil to Vepco at specified fixed prices for a one-year period from July 1, 1972 through June 30, 1973. The FEA also found that on May 10, 1973 Gulf and Vepco had entered into a new variable price contract for the supply of No. 2 fuel oil for a one-year period that extended from July 1, 1973 through June 30, 1974. The FEA observed that under the clarification of the regulation issued in FEA Ruling 1977-5 (42 Fed. Reg. 15302 (March 21, 1977)), a transaction occurs, with respect to written, fixed-price contracts, at the time both parties have signed the written agreement. However, in the case of a written variable-price contract, a transaction is considered to occur at the time the price is fixed with respect to a particular delivery of a covered product pursuant to that contract. In applying the Ruling to Gulf's Appeal, the FEA determined that since Gulf's deliveries of fuel oil to Vepco under the May 10, 1973 variable price contract did not commence until after May 15, 1973, the execution of that contract did not constitute a transaction during the base period and was properly excluded from Gulf's calculations of its May 15, 1973 weighted average price for fuel oil. However, the FEA also found that the manner in which the revised Remedial Order had applied the term transaction in calculating the Gulf overcharges was incorrect. The FEA determined that the date of entry into the June 1972 fixed price contract, not the delivery of fuel oil on May 3 under that contract, constitutes the relevant base period transaction under Ruling 1977-5. Since the overcharges had been calculated on this basis in the original Remedial Order, the revised Remedial Order was amended accordingly, and the Gulf Appeal was therefore denied.

Mar-Low Corp.; Lafayette, Ind.; FXA-1228; Crude oil

The Mar-Low Corporation appealed from a Decision and Order issued to it by the FEA on February 24, 1977. *Mar-Low Corp.*, 5 FEA Par. 83,077 (February 24, 1977). In that order, the FEA approved exception relief from the provisions of 10 CFR, Part 212, Subpart D, and permitted Mar-Low to sell 60.14 percent of the crude oil which it produces from the Maxie Broussard No. 1-D well at upper tier ceiling prices. The Appeal, if granted, would permit the firm to sell an increased amount of the crude oil produced from the Broussard well at upper tier ceiling prices. In considering the Appeal, the FEA noted that subsequent to the issuance of the February 24 exception decision, the FEA amended its regulations and reduced by 45 cents per barrel the maximum allowable upper tier ceiling price of crude oil. Consequently, a greater percentage of the Broussard well crude oil must now be sold at the upper tier ceiling price in order to maintain the level of exception relief granted to Mar-Low in the February 24 Order. The FEA concluded that the adverse impact on Mar-Low which resulted from the recent reduction in the upper tier ceiling price constituted a significantly changed circumstance which warrants modification of the exception relief granted to the firm. The Appeal was therefore granted.

Monoco Oil Co., Inc.; Pittsford, N.Y.; FEA-1013; Residual fuel oil

Monoco Oil Company, Inc. appealed from a Decision and Order which was issued to the firm on September 24, 1976. *Monoco Oil Co., Inc.*, 4 FEA Par. 83,107 September 24, 1976). In that Decision, the FEA found that Monoco, a reseller of residual fuel oil, was experiencing a gross inequity and serious hardship because several of its competitors in its marketing area were domestic refiners whose effective cost of crude oil was reduced by benefits received under the Old Oil Entitlements Program. In contrast, the residual fuel oil sold by Monoco is purchased from foreign refineries which receive no entitlements. The FEA further found that the competitive disadvantage that Monoco was experiencing was the same as that experienced by marketers of imported residual fuel oil in the Bureau of Mines East Coast Refining District before the enactment of Section 211.67 (a)(3) and (d)(4). On the basis of the findings which it reached the FEA granted the Application for Exception which Monoco had filed and permitted Monoco to receive 30 percent entitlements benefits pursuant to 10 CFR 211.67(a)(3). In its Appeal, Monoco contended that the exception relief granted in the September 24, 1976 Decision was insufficient. In analyzing this claim, the FEA found that Monoco was still unable to compete effectively with domestic refiners in its marketing area. In particular, the FEA noted that despite the relief that had been granted the delivered cost to Monoco for the residual fuel oil which it sells was still substantially greater than the delivered price that one of its primary competitors paid for the same product. Monoco's high and relatively noncompetitive price, it was found, was the result of the failure of the September 24, 1976 Decision to take account of the substantial benefits which East Coast marketers other than domestic refiners indirectly derive from Section 211.67(d)(4). That regulation provides for a 50 percent reduction in the entitlements benefits received by domestic refiners with respect to runs of crude oil attributable to production of residual fuel oil for sale in the East Coast market. The FEA therefore concluded that the relief afforded in the September 24 Order was insufficient to alleviate the serious hardship or gross inequity experienced by Monoco. The Appeal was accordingly granted and additional exception relief was approved which increased the entitlements benefits which Monoco received in the previous Decision to 80 percent of the entitlement value of a barrel of crude oil for each barrel of residual fuel which it resells.

Southland Oil Co./VGS Corp.; Memphis, Tenn.; FXA-1066; Crude oil.

Southland Oil Company appealed from a Decision and Order which the Federal Energy Administration issued to the firm on November 5, 1976. *Beacon Oil Co. et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision and Order, the FEA determined on the basis of financial and operating data which Southland submitted that the firm had been afforded an excessive measure of exception relief from its obligations under the Entitlements Program in 1975. The November 5 Order accordingly requires Southland to purchase entitlements valued at $3,464,670 during the period November 1976 through October 1977 in order to offset the excessive benefits which the firm had received. The Appeal, if granted, would result in the rescission of that portion of the November 5 Decision and Order which imposes an entitlement obligation on Southland. In its Appeal, Southland contended that the FEA did not have the authority to recapture exception relief which it previously granted unless a showing could be made that the decision to approve the exception relief was erroneous when it was made. In rejecting this contention, the FEA found that a similar issue had been fully considered and ultimately rejected in a previous decision, *Delta Refining Co.*, 5 FEA Par. 80,530 (January 26, 1977).

Southland also argued that certain unusual expense items should have been deleted by the FEA from the firm's 1974 financial statement for purposes of calculating its historical profit margin. Contrary to Southland's claim, the FEA found that the effects of the firm's change during its historical period from a FIFO to a LIFO method of inventory valuation, should not be eliminated because such an adjustment would result in all of the historical years being reported on a basis different from the current year. It was also held that the FEA correctly determined in the November 5 Order that no adjustment should be made for a 1974 bad debt expense which the firm alleged was unrepresentative of its current operations. In this regard, the FEA noted that almost any firm could claim that its current operations differ in some respect from its historical operations and that, if a general policy of allowing such adjustments in historical profitability were adopted, the calculation of historical profitability would become an arbitrary process. However, with respect to one of the requested adjustments to the firm's 1974 financial statement relating to a former subsidiary of Southland's parent firm, the FEA observed that Southland had presented detailed information outlining its corporate structure and indebtedness which demonstrated that the item was wholly unrelated to any of the firm's refining and marketing operations. The FEA therefore made an adjustmento to the firm's 1974 financial statement which necessitated a recalculation of Southland's historical profit margin.

Southland also claimed that in order to provide the firm with the full six month exemption from entitlement purchases afforded by Special Rule No. 6, the firm's operating results for the months of October, November and December 1975 should be excluded from the FEA's review of the exception relief granted to Southland during 1975. In rejecting this argument with respect to the months of October and November, the FEA pointed out that Southland and other small refiners were exempt from purchase requirements which would have otherwise been specified in Entitlement Notices for the six month period from December 1975 through May 1976. The FEA therefore concluded that Southland and the other small refiners did in fact receive the intended benefits under Special Rule No. 6 during that period of time. The FEA found however, that Southland's argument had considerable merit with regard to the month of December 1975, and therefore excluded the firm's operating results for that month from its review of the exception relief granted to the firm in 1975. Finally, Southland's claim that the payback of the excessive benefits which it received should be delayed until the completion of FEA audits currently in progress was rejected. The FEA observed that Southland had received exception relief to which it was not entitled, that the approval of that relief had adversely affected other firms, and that the outcome of any pending FEA audit of Southland remained speculative. The exclusion of December 1975 operating results resulted in a reduction in the entitlements purchase obligation specified in the November 5 Decision by $807,266. The Southland Appeal was denied in all other respects.

Texas American Oil Corp. Midland, Tex.; FXA-1115; Crude oil

Texas American Oil Corporation (TAO) filed an Appeal from a Decision and Order which was issued to it and the United Refining Company on December 16, 1976. *United Ref. Co.; Texas American Oil Corp.*, 4 FEA Par. 83,262 (December 16, 1976). The December 16 Decision involved the application of the FEA regulations to TAO's proposed acquisition of United's refinery located in Osceola, Michigan (the Osceola refinery). Under the provisions of the Old Oil Entitlements Program, United would ordinarily have been eligible to receive entitlements for crude oil receipts and runs to stills for all months prior to December, the month in which it actually sold the refinery to TAO. However, the FEA determined in the December 16 Order that United should remit to TAO the revenues which it received from the sale of entitlements that are attributable to the Osceola refinery during the months of September, October and November 1976. However, the FEA found that TAO had improperly been listed on the November and December 1976 Entitltment Lists as the firm that was eligible to earn entitlements attributable to crude oil receipts and runs at the Osceola refinery, and accordingly directed that adjustments be made on future Entitlement Lists in order to recoup the excessive benefits which TAO had realized under the small refiner bias of Section 211.67(e). TAO's Appeal, if granted, would permit the firm to receive additional entitlements under the small refiner bias for the period between September and November 1976. In considering the Appeal, the FEA rejected the firm's contention that any firm which owns, operates or controls a refinery is automatically eligible to earn entitlements since under the specific criteria set forth in Section 211.67(a)(2), a firm is not eligible to participate in the Entitlements Program prior to the certification of its refining capacity. Accordingly, the FEA found that TAO was not permitted as a matter of law to earn entitlements until the FEA certified its refining capacity in January 1977. The FEA also rejected the contention that TAO's alleged equitable ownership interest in the Osceola refinery as of September 1, 1976, the effective date of its Purchase Agreement with United, provided a sufficient basis for entitlements to be issued to TAO. In this regard, the FEA held that the real property doctrine of equitable conversion was a matter of state contract law which did not govern the rights and obligations of parties under the FEA regulatory program. Moreover, the FEA found that even if TAO had acquired an equitable interest in the refinery prior to December 1976, there was no basis to issue entitlements to TAO instead of to United as the legal owner. The FEA also determined that the evidence presented by TAO failed to substantiate the firm's claim that it assumed primary responsibility over the Osceola refinery operations on September 1, 1976. Under these circumstances, the FEA affirmed its previous finding that the entitlements for the September through November 1976 period were properly issued to United. The FEA also held that it was not erroneous to have considered the firm's exception request under the standards which govern retroactive exception relief since the firm was requesting relief for a period of time preceding the issuance of the FEA's Decision. Finally, the FEA found that TAO failed to establish that its request became retroactive in nature as a result of any undue administrative delay attributable to the FEA. In view of the firm's overall financial viability and its recent profitable operations at the Osceola refinery, the FEA affirmed its finding that TAO had failed to establish that retroactive exception relief was appropriate. Accordingly, the TAO Appeal was denied.

APPLICATIONS FOR EXCEPTION

Colonial Oil Co. Jacksonville, Fla.: FXE-4022, Motor Gasoline

On July 3, 1975, the FEA granted exception relief to Colonial Oil Company (Colonial) on the ground that the Application to it of the provisions of 10 CFR, Part 211, which require adherence to the base period supplier/purchaser relationship, resulted in a serious hardship to the firm. *Colonial Oil Co.*, 2 FEA Par. 83,201 (July 3, 1975). In that Order the Regional Administrator for the FEA, Region IV, was directed to assign to Colonial a supplier whose wholesale prices for motor gasoline, No. 2 fuel oil and kerosene were within the range of prices paid for those products in Colonial's marketing area by wholesale marketers. The Order further provided that upon the submission of certain financial and operating data Colonial could request that the exception relief granted to the firm be extended for an additional period of time. On the basis of the data submitted by Colonial in connection with its present Application and the recommendation of the Regional Administrator, the FEA determined that: (i) the serious hardship which Colonial experienced in the past as a result of the provisions of 10 CFR 211.9 would continue to exist unless further exception relief were granted with respect to its motor gasoline supplies; and (ii) in order to alleviate this hardship Colonial should be assigned a lower-cost supplier for the months of April, May and June 1977 for the entire volume of gasoline which it is entitled to receive from its principal base period supplier.

Mar-Low Corp.; Lafayette, La.; FEE-3665; Crude Oil

Mar-Low Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell at upper tier prices the crude oil it produces from three wells on the Grand Lake Field. Mar-Low claimed that in the absence of exception relief it would not have any economic incentive to rework those wells and the crude oil which it seeks to produce would not be recovered. In considering the Application, the FEA found that Mar-Low's data indicated that under the general FEA regulatory program the firm will realize substantial revenues from the wells which it proposes to operate on the Field. In this regard, the FEA observed that in its submission Mar-Low itself stated that even after taking into account the payment of severance taxes the firm will have recouped its total investment to rework the wells within the first four years of the operation of the Field. Moreover, the FEA estimated that Mar-Low's rate of return on this investment would exceed the rate of return which the FEA has used as a measure for granting exception relief in previous cases of this type. The FEA therefore concluded on the basis of this record that Mar-Low needs no additional economic incentive to engage in the crude oil recovery project at the Grand Lake Field. Accordingly, the firm's Application for Exception was denied.

Read & Stevens, Inc.; Roswell, N. Mex.; FEE-3326; Crude Oil

Read & Stevens, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would relieve the firm of the obligation to refund any revenues which it might have received during the period January 1, 1975 through December 31, 1975 as a result of charging prices for the crude oil produced and sold from the firm's Federal "C" Lease which exceeded applicable ceiling price levels. Read & Stevens also requested prospective exception relief to permit it to sell the crude oil produced from the Federal "C" Lease at upper tier ceiling prices. In considering the firm's request for retroactive exception relief the FEA applied the criteria set forth in *Bobcat Oil Co.*, 3 FEA Par. 80,631 (May 18, 1976) and determined that Read & Stevens failed to even allege that in the absence of retroactive exception relief the firm would suffer an irreparable injury and be forced to discontinue its current business operations. Under these circumstances the FEA determined that retroactive exception relief should be denied. In considering the firm's request for prospective exception relief the FEA determined that the costs of producing crude oil from the Federal "C" Lease have increased significantly since 1973 and as a result now exceed the price levels which Read & Stevens may charge for the crude oil which it produces and sells. The FEA therefore concluded that Read & Stevens had no apparent economic incentive to continue to operate the Federal "C" Lease. The FEA also found that there was little likelihood that the recoverable crude oil from the lease's reservoir would be produced by any firm if exception relief is not granted. On the basis of previous precedents involving similiar factual situations, the FEA concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Read & Stevens. Based on operating data which the firm submitted for its most recently completed fiscal period, Read & Stevens was granted exception relief which permits it to sell at upper tier ceiling prices 33.80 percent of the crude oil produced and sold from the Federal "C" Lease for the benefit of the working interest owners.

REQUEST FOR MODIFICATION OR RESCISSION

Cotton Petroleum Corp.; Denver, Colo.; FMR-0088; Crude Oil

Cotton Petroleum Corporation filed an Application for Modification or Rescission of a Decision and Order issued to it by the FEA on February 4, 1977. *Cotton Petroleum Corp.*, 5 FEA Par. 80,540 (February 4, 1977). In the February 4 Order, the FEA granted Cotton an exception to the provisions of 10 CFR, Part 212, Subpart D and permitted the firm to sell at upper tier ceiling prices 15.9021 percent of the crude oil which it produces from the North Goose Lake Unit for the benefit of the working interests. In its Request for Modification, Cotton contended that the relief granted in the February 4 Order had failed to include an allowance for future workover and well conversion expenses. Cotton also contended that the relief granted in the February 4 Order should be increased to provide the firm with additional revenues to offset any refunds which it might be required to make in order to remedy apparent past violations of FEA pricing regulations which were cited in a Notice of Probable Violation (NOPV) issued to the firm. In considering Cotton's modification

request, the FEA determined that the firm's claim with respect to future workover and well conversion expenses had been advanced by Cotton during the prior exception proceeding and had been implicitly rejected by the FEA in the February 4 Decision. Accordingly the FEA found that that claim could not form the basis for the modification of the February 4 Order. The FEA further determined that the matters raised in the NOPV were unrelated to the determination reached in the February 4 Decision and that the issuance of the NOPV was therefore not a "changed circumstance" within the meaning of 10 CFR 205.135(b)(2). The FEA concluded that the Cotton modification request failed to meet the regulatory criteria for the approval of Applications for Modification or Rescission and therefore denied the request.

REQUESTS FOR STAY

Jack W. Grigsby d/b/a Grigsby Oil & Gas; Shreveport, La.; FES–0082; Crude Oil

Jack W. Grigsby d/b/a Grigsby Oil & Gas filed an Application for Stay of a Decision and Order which was issued to the firm on March 8, 1977. *Jack W. Grigsby d/b/a Grigsby Oil & Gas*, 5 FEA Par. 80,567 (March 8, 1977). In the March 8 Decision, the FEA denied an Appeal that Grigsby had filed from a Remedial Order which had previously been issued to it by FEA Region VI. The March 8 determination also directed the immediate disbursement of funds which Grigsby had placed in an escrow account. The present request, if granted, would stay the refund provisions of the Remedial Order pending judicial review of a complaint which the firm filed in the United States District Court for the Western District of Louisiana on March 15, 1977. In considering the request for stay, the FEA found that Grigsby's claim that it would be irreparably injured because of the potential difficulty in recovering refunds if the firm were to succeed in its lawsuit did not provide a basis for further delaying the implementation of the required refunds to the marketplace. The FEA also found that since Grigsby's substantive claim of error in the Remedial Order had been rejected in a final agency determination that was consistent with previous FEA decisions, there was little likelihood that Grigsby would ultimately prevail on the merits of its judicial action. Accordingly, the Grigsby Application for Stay was denied.

Uranich Coal and Oil; LaSalle, Ill.; FRS–1224; No. 2 Fuel Oil

Uranich Coal and Oil filed an Application for Stay of a Remedial Order which the FEA Region V issued to the firm on February 4, 1977. In the Remedial Order the FEA determined that during the period November 1, 1973 through December 31, 1974, Uranich sold No. 2 heating oil at prices which were in excess of the maximum permissible prices specified in 10 CFR 212.93 and 6 CFR 150.359. Uranich was therefore directed to refund the overcharges to its customers. In considering the Application for Stay, the FEA concluded that if Uranich were required to refund the overcharges specified in the Remedial Order and ultimately were to prevail on its Appeal, it could incur an irreparable injury because of the difficulty it would experience in recovering the refunds. The FEA further determined that Uranich had raised significant issues concerning the accuracy and procedural propriety of the Remedial Order. The FEA therefore held that Uranich had satisfied the criteria set forth in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976), modified, 3 FEA Par. 85,040 (July 8, 1975). However, the FEA also determined that in accordance with the considerations discussed in the General Crude, Decision the stay should be conditioned upon Uranich's establishment of an escrow account in which it places designated portions of the refunds required by the Remedial Order.

SUPPLEMENTAL ORDERS

Algonquin Gas Transmission Co.; Boston, Mass.; FEX–0098; Crude Oil & Unfinished Oils

Texas Asphalt & Refining Co.; Houston, Tex.; FEX–0099; Crude Oil & Unfinished Oils

Time Oil Co.; Los Angeles, Calif.; FEX–0100; Finished Products

On November 17, 1976, the Federal Energy Administration formally notified the Algonquin Gas Transmission Company (Algonquin), Texas Asphalt & Refining Company (TARCO) and Time Oil Company (Time) that it was proposing to revoke as of April 30, 1977, exceptions from the import license fee requirements which each of the firms had previously been granted by the Oil Import Appeals Board (the Board). In comments submitted in opposition to the proposed terminations, Time and TARCO contended that the FEA is not authorized to terminate pre-existing orders of the Board. In considering this contention, the FEA noted that under the terms of the Orders issued by the Board, the fee-exempt authorizations were expressly subject to further review and modification. Moreover, the Board has been abolished and the Office of Exceptions and Appeals of the FEA is authorized to exercise the adjudicatory functions which it previously exercised. Consequently, the FEA certainly has the authority to review, and if warranted to modify or revoke, the prior determinations of the Board. The FEA also determined that substantial changes in the regulatory framework underlying the Board's original determination had taken place since 1970. In particular, the FEA observed that a separate adjudicatory determination is now made for each allocation period for which a firm seeks fee-exempt authority, and that the FEA has previously stated that it will not consider any previous grant of such authority as a presumption in favor of continuing the fee-exempt status of a firm. Consequently, TARCO's contention that there has not been a change in the underlying factual and legal basis of its fee-exempt award was rejected.

With respect to the assertion advanced by Time and TARCO that the proposed revocation of their fee-exempt authority would cause them to experience inordinate hardship, the FEA determined that Time had not presented any evidence which indicated that the proposed termination would subject it to an inordinate burden or cause it to be treated differently from all other firms seeking fee-exempt authority. The FEA also concluded that the present proceeding was not the appropriate forum in which to reach a conclusion with respect to the substantive validity of claims that the proposed termination would cause the firms and their customers to experience an unusual competitive disadvantage, supply problems or financial difficulties. According to the FEA Decision those claims should be raised in specific applications for exception from the license fee requirements. The FEA also rejected Time's claim that the proposed termination violated the firm's right to due process of law. The FEA noted that the November 17 communication was forwarded to Time more than five months before the proposed termination date and that it clearly set forth the basis for the proposed termination. Accordingly, the FEA determined that the fee-exempt authority of Algonquin, Time and TARCO would be rescinded as of April 30, 1977. However, since TARCO received the November 17 communication on a date which was too late for it to take action during 1976 which would have qualified it for an automatic license-fee exemption for the 1977–78 allocation period under 10 CFR, Part 213, TARCO was granted a temporary exception which permits it to qualify under limited circumstances for a license-fee exemption.

Cotton Petroleum Corp.; Denver, Colo.; FEX–0138 crude oil

On February 4, 1977, the FEA issued a Decision and Order to the Cotton Petroleum Corporation denying the firm's Appeal from an earlier Decision and Order but granting the firm an exception to the FEA Mandatory Petroleum Price Regulations. *Cotton Petroleum Corp.*, 5 FEA Par. 80,540 (February 4, 1977). The February 4 Order provided that Cotton could request an extension of the exception relief which was approved by filing certain data with the FEA in accordance with the provisions of paragraph (5) of the Order. The FEA found that paragraph (5) of the February 4 Order contained certain errors relating to the reference dates to be used for the filing of the data. The FEA therefore ordered that the February 4 Order be amended to correct those errors.

Pennzoil Producing Co.; Washington, D.C.; FEX–0144 crude oil

On April 7, 1977, the FEA issued a Supplemental Order to the Pennzoil Producing Company which permitted the firm to sell at upper tier ceiling prices a portion of the crude oil produced from the Perry Sand Waterflood Unit, North Segment (the Unit) for the benefit of the working interest owners. *Pennzoil Producing Co.*, 5 FEA Par. ——— (April 7, 1977). Upon a review of that Order, the FEA determined that the amount of relief granted to Pennzoil had been based on an erroneous calculation of the upper tier ceiling price for crude oil produced from the Unit. Accordingly, the FEA modified the Supplemental Order to include the correct upper tier ceiling price in calculating the amount of relief which the firm should be granted.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase in dollars per gallon
Standard Oil Co. of California	FXE–3985	Carpinteria	(1)
Do	FXE–3986	Colonia Booster	(1)
Do	FXE–3987	Greeley System	(1)
Do	FXE–3988	S. E. Marietta	0.0520
Do	FXE–3989	Wilson Creek	.1003
Do	FXE–3990	Yates	.0267
Do	FXE–3987	Wakita	.01672
Sun Co., Inc	FXE–3989	Carney	.07657
Do	FXE–3990	Tonkawa	.07886
Do	FXE–3991	Canales	.0152
Do	FXE–3992	Concho	.0297
Do	FXE–3993	Maurice	.0582
Do	FXE–3994	Mermentau	.00620
Do	FXE–3995	Peoria	.0838
Do	FXE–3911	Cowden	.0244
Do	FXE–3912	Dragon Trail	.0050
Do	FXE–3913	Fordoche	.0133
Do	FXE–3914	Jameson	.03085
Do	FXE–3915	Levelland	(1)
Do	FXE–3916	Pledger	.0249
Do	FXE–3917	Slaughter	(1)
Do	FXE–3918	Spivey	.0104
Do	FXE–3919	Steedman	(1)
Do	FXE–3920	Van	.0076
Do	FXE–3941	Belle Isle	.01460
Do	FXE–3942	Sun	.0069
Do	FXE–3943	Victoria	.02222
Do			

SUMMARY DECISIONS

The FEA Office of Exceptions and Appeals has issued Decisions and Orders vacating stays which had been granted to the following firms after a finding was made that the firms had failed to comply with the express conditions of the Stay Order:

Bonray Oil Co.; Oklahoma City, Okla.; FEX–0140

Boyd Oil Corp.; Contoocook, N.H.; FEX–0143

Mackellar, Inc.; Oklahoma City, Okla.; FEX–0137

The FEA Office of Exceptions and Appeals has issued a Decision and Order vacating the Stay which had been granted to the following firm after it requested that the Stay be rescinded:

Buck Drilling and Exploration; Oklahoma City, Okla.; FEX–0139

The FEA Office of Exceptions and Appeals has issued a Decision and Order rescinding the Decision and Order which had granted exception relief to the following firm after a finding was made that the relief was no longer required:

Mobridge Gas Co.; Mobridge, S. Dak.; FEX–0135

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Atlantic Richfield Co.; Dallas, Tex.; FXE–3754
Major Oil Products; Rome, Ga.; FEE–3622
Robert Olsen; Gillette, Wyo.; FXA–1170
Standard Oil Co. of Indiana; Chicago, Ill.; FEA–1216

The following submission was dismissed on the grounds that the firm had presented no new evidence or information which had not been included in its prior Application for Stay which was denied:

Luke Bros., Inc.; Oklahoma City, Okla.; FST–0039

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 20, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc 77-14938 Filed 5-25-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of April 18 Through April 22, 1977

Notice is hereby given that during the week of April 18 through April 22, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

John H. Cathey; Kimball, Nebr.; FRA–1244 crude oil

John H. Cathey (Cathey) filed an Appeal from a Remedial Order which the Director of Compliance of FEA Region VII issued to the firm on March 14, 1977. In the Remedial Order, Cathey was required to refund the revenues which it received by charging prices which were in excess of the maximum levels permitted under the FEA Mandatory Petroleum Price Regulations. In considering the Appeal the FEA found that Cathey had failed to even allege that the March 14 Remedial Order was erroneous in fact or law or arbitrary or capricious. Consequently, the FEA summarily denied the Appeal in accordance with the provisions of 10 CFR 205.106(b)(1)(ii).

Earl W. Sauder, Emporia, Kans.; FRA–1108 crude oil

Earl W. Sauder (Sauder) filed an Appeal from a Remedial Order which was issued to the firm by the Regional Administrator for FEA Region VII on November 4, 1976. The Remedial Order found that during the period November 1973 through December 1975, Sauder had unlawfully obtained certain revenues from the sale of crude oil. The Remedial Order directed Sauder to immediately refund $342,589 plus interest for the past overcharges. The present Appeal, if granted, would result in a rescission of the Remedial Order and would relieve Sauder of his refund obligations. In considering the Appeal, the FEA found that Sauder's contention that the Remedial Order was procedurally defective was without merit. The FEA determined that contrary to Sauder's assertions, the Remedial Order properly considered the August 26, 1976 regulatory provision which clarified the manner in which the term "property" should be applied to crude oil operations. In his Appeal, Sauder further contended that the Remedial Order had incorrectly failed to consolidate the leases which he owns into a single property. The FEA determined that Sauder's assertion constituted an equitable argument which was properly raised only in the context of an exceptions proceeding and would be resolved in Sauder's pending Appeal of a Decision which denied an Application for Exception that Sauder had previously submitted on that matter. Furthermore, the FEA concluded that the Regional Administrator had not abused his administrative discretion in holding Sauder solely liable for the overcharges set forth in the Remedial Order. However, in light of the adverse financial impact of an immediate refund of the excessive revenues on Sauder's operations the FEA permitted Sauder to complete his refund obligations over an extended period of time. On the basis of these considerations, the FEA denied Sauder's Appeal of the November 4 Remedial Order.

General Distributors, Inc.; Snow Hill, Md.; FRA–1250, FRS–1250, FMR–0098, propane

General Distributors, Inc. filed an Appeal and an Application for Stay of a Remedial Order which had been issued to the firm by FEA Region III on February 23, 1977. In the Remedial Order, the FEA found that General had charged prices for propane that were in excess of maximum allowable levels specified in 10 CFR 212.93. The Remedial Order therefore directed General to refund the total amount of the overcharges. General also filed an Application for Modification of a Decision and Order which the FEA had previously issued with respect to an Application for Exception that the firm had filed. *General Distributors, Inc.*, 5 FEA Par. ——— (March 10, 1977). In the March 10, 1977 Decision exception relief was approved which permitted General to increase its maximum permissible selling prices for propane on a prospective basis. In its Application for Modification, General requested that the relief be accorded on a retroactive basis as well. Since these submissions involved similar issues, they were consolidated for decision in a single proceeding.

In considering General's Application for Modification, the FEA concluded that there was some merit to the firm's contention that undue administrative delay had occurred in the processing of its application for exception relief. The FEA found that over four months after the date upon which General first filed an Application for Exception with FEA Region III, FEA Region III incorrectly forwarded the firm's exception request to the National Office of Exceptions and Appeals. The FEA further determined that FEA Region III's incorrect referral of the exception application resulted in an unwarranted delay in processing General's application for exception. Accordingly, the FEA approved General's Application

for Modification and directed the Regional Administrator of FEA Region III to issue a revised Remedial Order which contains a computation of the amount of revenues which General would have obtained if the exception relief had been approved in a more timely manner. The FEA further directed that the refunds which General is required to make pursuant to the February 23, 1977 Remedial Order be reduced by the amount of revenues which General lost as a result of the delay in processing its request for exception. Consequently, the FEA also stayed the provisions of the February 23, 1977 Remedial Order pending the issuance of the revised Remedial Order and dismissed General's Appeal of the February 23, 1977 Remedial Order without prejudice to a refiling subsequent to the issuance of the revised Remedial Order.

Tesoro Petroleum Corp.; Washington, D.C.; FRA-1245; FRS-1245; Crude oil

The Tesoro Petroleum Corporation filed an Appeal from a Remedial Order which was issued to the firm on March 1, 1977. In the Remedial Order, the Deputy Regional Administrator of FEA Region VI determined that Tesoro had failed to submit consolidated Forms FEO-96 (the Monthly Cost Allocation Report) for the period February 1974 through August 1975 as required by Section 212.126 of the FEA Regulations and the instructions to Form FEO-96. The Remedial Order directed Tesoro to refile consolidated Forms FEO-96 for the period December 1973 through August 1975 and to refile its Forms PEO-96 and FEA P110-M-1 for all months subsequent to August 1975 to reflect the adjustments in banked costs. In considering the Tesoro Appeal, the FEA determined that the FEA Regulations unambiguously provide that a firm must consolidate its refining operations in determining the increased costs which it has incurred and the prices which it may charge for covered petroleum products. The FEA therefore found that the relevant provisions of the FEA Regulations, as well as the instructions to Form FEO-96, clearly required that each refiner submit a single consolidated Form FEO-96 for each month. The FEA concluded that the March 1, 1977, Remedial Order properly found that Tesoro's failure to submit a single, consolidated Form FEO-96 for each month during the December 1973 through August 1975 period constituted a violation of explicit provisions of the FEA Regulations. Moreover, the FEA also determined that contrary to Tesoro's claim, its submission of a certification which states that the amended forms have been prepared in a manner which is correct, complete, and in accordance with the provisions of the FEA Regulations would not constitute an admission by the firm that the forms which it previously submitted were falsely prepared. The Tesoro Appeal was therefore denied.

REQUESTS FOR EXCEPTION

EDCO Research Associates; Newcastle, Wyo.; FEE-3561; Crude Oil

EDCO Research Associates filed an Application for Exception which, if granted, would permit the firm to terminate its crude oil supplier/purchaser relationship with the National Cooperative Refinery Association (NCRA). In its submission, EDCO, a small and independent crude oil producer, alleged that for a fifteen month period, NCRA had paid it 15 cents per barrel less than the maximum lawful price for crude oil produced from the Zerbst Lease. In order to obtain a higher price, EDCO took appropriate steps under the provisions of Section 211.63(d)(iii) to locate another purchser for the crude oil. However, prior to EDCO's obtaining a written agreement from a new purchaser of the crude oil, NCRA notified EDCO that it was willing to pay the maximum permissible price for the crude oil produced from the Zerbst Lease. Accordingly, EDCO requested an exception from the provisions of Section 211.63 in order to terminate its relationship with NCRA. In considering the firm's exception request, the FEA noted that in previous cases the FEA permitted the termination of a supplier/purchaser relationship upon a finding that the relationship had deteriorated to such a significant extent that the applicant's operations would be seriously affected by a continuation of the base period relationship. Termination of a base period supply relationship has also been approved where a strong showing has been made that the firm's operations would be seriously impaired as a result of the FEA regulatory requirements. No such showing was made on the basis of the facts presented in this case and the EDCO exception application was accordingly denied.

Getty Oil Co.; Washington, D.C.; FEE-3368; Refined Petroleum Products

The Getty Oil Company filed an Application for Exception from the provisions of 10 CFR 212.83(c)(2) which, if granted, would permit the firm to deduct the volume of fluid petroleum coke that it produces from the total volume of all petroleum products it produces in computing the amount of its increased costs of crude oil allocable to covered products. In its Application for Exception Getty stated that, as a result of the low value of the fluid petroleum coke it produces at its Delaware City refinery, it has not been able to reflect in its sales price for that product a cost factor which is equivalent to the increased crude oil costs which it was required to allocate to the coke under the allocation formula set forth in 10 CFR 212.83(c)(2). Getty stated that in response to that situation it has stockpiled coke and refrained from selling the product. In considering Getty's Application for Exception, the FEA noted that identical contentions had previously been advanced by the firm in a similar submission and that exception relief had been granted in the past. *Getty Oil Co.*, 2 FEA Par 83,231 (August 4, 1975). However, the FEA noted that Getty's current submission was significantly different from the earlier proceeding since an amendment to the crude oil cost allocation formulae which became effective on January 19, 1977, had eliminated the inequity which led to the previous approval of exception relief. That amendment requires Getty and all other refiners to allocate increased crude oil costs on the basis of the volume of produced refined rather than on the basis of the volume of products sold. As a result of this regulatory change, Getty is now required to allocate increased crude oil costs to all of the products it refines, including fluid petroleum coke, regardless of whether it sells those products. Consequently, the FEA concluded that the two factors upon which its prior determination was predicated—the existence of a disincentive for Getty to market its production of petroleum coke and the disproportionate burden to the purchasers of covered products from Getty—had been eliminated by the January 19, amendment. Accordingly, Getty's Application for Exception was denied.

Power Test Corp.; Washington, D.C.; FPI-0106; FPI-0111; Motor Gasoline

Power Test Corporation filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit the firm to import an average of 4,552 barrels per day of motor gasoline into Districts I-IV on a license fee-exempt basis during the 1976-1977 allocation period. Power Test also filed a similar Application for Exception in which it requested the same daily average fee-exempt authority for the 1977-1978 allocation period. In considering these exception requests and the data submitted by Power Test, the FEA found that although the profitability of the firm's marketing division had declined in recent periods, the profitability of its total petroleum-related operations had not been appreciably below historic levels. The information submitted by Power Test further demonstrated that the primary reason for the decline in the firm's profitability was the increase in prices for motor gasoline of the firm's suppliers. The FEA therefore concluded that Power Test had not demonstrated that it was experiencing the type of financial hardship and competitive difficulty which had supported the approval of exception relief from the payment of license fees in previous cases. In addition, the FEA found that Power Test had not submitted any evidence which supported its claim that its customers would experience supply shortages if the firm did not obtain exception relief. Based on these considerations, the FEA denied Power Test's exception requests.

F. H. Rhees; Tulsa, Okla.; FEE-3526; Crude Oil

F. H. Rhees (Rhees) filed an Application for Exception which, if granted, would permit Rhees to sell the crude oil produced from the Glass-Paxton, Glass-Newcomb, Glass-Hart and University Leases without regard to the maximum price levels specified in 10 CFR Part 212, Subpart D. The exception request, if granted, would also permit Rhees to retroactively increase the price for the crude oil which he has already produced and sold from these leases. In his exception application, Rhees specifically requested that the leases be considered as qualifying as "stripper well properties," as that term is defined in Section 212.54. In his Application, Rhees stated that the leases had not been in operation for twelve consecutive months as would generally be required. In applying the precedent established in *Great Southern Oil & Gas Co., Inc.*, 3 FEA Par. 83,111 (February 27, 1976), the FEA determined that Rhees had presented no financial materials to show that it had an insufficient economic incentive to continue production from the Paxton, Hart and University Leases until these leases qualified as stripper well properties. The FEA also found that any economic disincentive which Rhees might experience with regard to the continued production of crude oil from the Newcomb Lease did not result from the FEA Regulations and would consequently not be alleviated by exception relief. Furthermore, the FEA determined that Rhees had submitted no data to support his contention that the FEA Regulations had created an economic disincentive for the drilling of additional wells on the properties. On the basis of these considerations, Rhees' exception request was denied.

Teche Production Co., Inc.; Lafayette, La.; FEE-3658; Crude Oil

Teche Production Company, Inc., filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Johnson Heirs No. 2 well (the Johnson well) at upper tier ceiling prices. According to the Teche submission, the firm would have no economic incentive to repair the tubing and resume production from the Johnson well in the absence of exception relief. In considering the Teche submission, the FEA determined that a substantial quantity of crude oil could be recovered from the Johnson well if Teche were to make the capital investment necessary to repair the well. The FEA also determined that since Teche was limited to charging the lower tier ceiling price for the crude oil produced from the Johnson well, the firm would receive a negative return on the capital investment necessary to restore production from the lease. In order to encourage the firm to recover the crude oil underlying the lease, the FEA determined that exception relief should be granted. The FEA concluded that in this particular case these objectives could be achieved by permitting Teche to sell 10,836 barrels of crude oil which it produces for the benefit of the working interest owner from the Johnson well at upper tier ceiling prices over the remaining three and one-half year life of the project.

Texaco, Inc.; Houston, Tex.; FEE-4844; Natural Gas Liquid Products

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR 212.165 which, if granted, would permit the firm to increase the total non-product costs which are available for recovery through the prices it charges for general refinery products. The requested price increases are designed to enable Texaco to pass through non-product cost increases incurred at Texaco's Lignite Gas Plant prior to Texaco's sale of that plant on December 31, 1976. In a Decision and Order which it issued to Texaco on October 29, 1976, the FEA found that Texaco's non-product costs at the Lignite Plant had increased between the fiscal quarter that included the month of May 1973 and Texaco's most recently completed fiscal period by an amount substantially in excess of the $0.005 per gallon pass-through permitted under Section 212.165. On the basis of this finding, the FEA granted Texaco exception relief which permitted the firm to increase in each month from the date of the Order until December 31, 1976, the total non-product costs available for recovery in the prices it charged for general refinery products. The specific cost passthrough amount was to be calculated by multiplying the volume in gallons of natural gas liquids produced at the Lignite Plant in that month by $0.0683. *Texaco, Inc.*, 4 FEA Par. 83,150 (October 29, 1976). In a Decision and Order which it issued to Texaco on December 29, 1976, the FEA extended that exception relief for the period January 1, 1977, through March 30, 1977. *Texaco, Inc.*, 5 FEA Par. 83,031 (December 29, 1976). In its Application for Exception, Texaco requested that the exception granted to the firm with respect to the Lignite Plant be modified. Texaco stated that because it sold the plant on December 31, 1976, and consequently has had no production from the plant since that date, it is not able to increase the non-product costs available for recovery during the period January through March 1977 to reflect the non-product cost increases which it had incurred at the Lignite Gas Plant. Texaco claimed that this result is grossly inequitable, and contrary to the intent of the prior Decisions. In considering the Texaco request, the FEA noted that the exception relief which it grants to gas plant owners is intended to provide an incentive for continued and possibly increased production from gas plants. The FEA further observed that this type of relief is generally not designed to permit a firm to recover through increased prices the total value of the increased costs which it has incurred in a prior period. Since Texaco did not provide any arguments which indicated that the FEA should depart from these precedents, the Texaco request for exception was denied.

REQUESTS FOR MODIFICATION OR RESCISSION

Getty Oil Co.; New York, N.Y.; FMR-0095; Crude oil

The Getty Oil Company filed an Application for Modification or Rescission of a Decision and Order which the FEA issued to the firm on March 16, 1977. *Getty Oil Co.*, 5 FEA Par. ------ (March 16, 1977). In the March 16 determination the FEA denied a request for discovery which the firm had submitted in connection with Getty's pending Appeal of an August 12, 1976 Remedial Order. The discovery request consisted of two distinct categories of material. The first category consisted of information and documents which Getty claimed were necessary in order to properly enable the firm to substantiate its argument that improper Congressional interference had occurred with the FEA adjudicative process. The second category consisted of information which Getty asserted would generally support certain arguments which the firm has previously raised in connection with its Appeal. In considering the request, the FEA first found that Getty had failed to demonstrate that the FEA's previous determination with respect to discovery of documents relating to the allegations of Congressional interference should be modified. As to the remainder of the material which Getty sought in its Interrogatories, the FEA determined that most of the firm's request was overly broad and unnecessary to enable Getty to prepare an adequate Appeal of the Remedial Order. However, in view of the magnitude of the ceiling price violation specified in the Remedial Order, and in view of the fact that Getty cannot effectively challenge the "transfer price" values used to calculate that violation unless it is given access to the data base and assumptions which were used to derive the "transfer prices," the FEA concluded that the Office of Compliance should be required to furnish certain of the information in Getty's Interrogatory No. 11 pertaining to the "transfer price" issue. The Request for Modification was therefore granted in part and denied in part.

REQUESTS FOR STAY

Braden-Zenith, Inc.; Wichita, Kans.; FRS-1258; Crude Oil

Braden-Zenith, Inc (B-Z), filed an Application for Stay of a revised Remedial Order which the Director of the Compliance Division of FEA Region VII issued to the firm on March 30, 1977. On September 31, 1976, the Regional Administrator of FEA Region VII had issued a Remedial Order to B-Z in which he found that during the period November 1973 through December 1975, B-Z sold the crude oil which it produced from the Zenith Waterflood Unit (the Unit) at prices which were in excess of the maximum permissible price levels determined in accordance with the provisions of 6 CFR 150.354 and 10 CFR 212.73. In a Decision and Order which was issued on January 13, 1977, the FEA partially granted an Appeal which B-Z had filed from the Remedial Order and remanded the Remedial Order to the Regional Administrator of FEA Region VII for further consideration as to whether a revised Remedial Order should be issued to B-Z which assesses an overcharge liability against each of the working interest owners of the Unit. *Braden-Zenith, Inc.*, 5 FEA Par. 80,522 (January 14, 1977). In response, FEA Region VII issued a Remedial Order to B-Z on March 30, 1977, which requires the firm to refund the full amount of the overcharge liability. The present stay request, if granted, would relieve B-Z of its obligations to make the specified refunds pending a determination on its Appeal of the revised Remedial Order. In considering the request for stay, the FEA concluded that B-Z had raised substantial issues concerning the proprietary of the Remedial Order. B-Z also made a strong showing that it could incur an irreparable injury as a result of the requirement that it make the specified refunds. The FEA therefore held that B-Z satisfied the criteria set forth in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976) for the approval of a stay of the refund requirements of a Remedial Order. The FEA also determined on the basis of the material presented, that it would be inappropriate to require the establishment of an escrow account in this case.

Robert E. Davis; Great Bend, Kans.; FES-4072; Crude Oil

Robert E Davis (Davis) filed an Application for Stay in which he requested that the FEA refrain from issuing a Remedial Order to him pending a determination on an Application for Exception which he also filed. In considering the Application for Stay, the FEA noted that at the present time, Davis has received only an NOPV and is therefore not required to refund any overcharges or take any other action. The FEA also found that Davis' submission did not satisfy any of the criteria for granting an application for stay such as demonstrating that he would incur an irreparable injury in the absence of stay relief. Accordingly, the Davis request for stay was dismissed.

Quincy Oil, Inc.; Quincy Mass.; FRS-4060; No. 6 Fuel Oil

On November 26, 1976, the Federal Energy Administration issued a Decision and Order to Quincy Oil. Inc. (Quincy) staying the refund provisions of a November 2, 1976 Remedial Order pending the FEA's determination with respect to an Appeal that Quincy filed from the Remedial Order. *Quincy Oil, Inc.*, 4 FEA Par. 85,037 (November 26, 1976). The Stay was granted on the condition that Quincy deposit the overcharges set forth in the Remedial Order in an escrow account. On March 31, 1977, the FEA issued a Decision and Order denying Quincy's Appeal of the Remedial Order. *Quincy Oil, Inc.*, 5 FEA Par. ------ (March 31, 1977). The March 31 Order provided for the termination of the Stay and contained a directive that the funds be disbursed to the Taunton Municipal Lighting Plant (Taunton) on April 30, 1977. On April 11, 1977, Quincy filed an Application for Exception which, if granted, would result in the elimination of the overcharge violations set forth in the Remedial Order. The FEA concluded that if the escrow funds were to be distributed to Taunton prior to a determination on Quincy's Application for Exception, Quincy might encounter an inordinate degree of difficulty in recovering the funds in the event that it is ultimately successful on the merits of its Application. The FEA therefore issued an Order providing that the November 26, 1976, Stay shall remain in effect pending the FEA's determination of Quincy's exception request.

SUPPLEMENTAL ORDERS

Austral Oil Co., Inc.; Houston, Tex.; FEX-0141; Crude Oil

On March 2, 1977 the Federal Energy Administration issued a Decision and Order to Austral Oil Company, Inc. (Austral), which granted the firm prospective exception relief from the provisions of 10 CFR Part 212, Subpart D. *Austral Oil Co., Inc.*, 5 FEA Par.

——— (March 2, 1977). Since the exception relief granted in the March 2 Order was based in part on the upper tier ceiling price which has substantially changed since the Order was issued and since the FEA also failed to take into account the revenues which Austral had realized from the property during 1975 and 1976, the FEA determined that it was appropriate to modify the exception relief to correct these errors. The FEA therefore recalculated the exception relief to permit Austral to sell sufficient amounts of crude oil produced from the property at upper tier price levels to obtain a 15 percent return on the firm's investments.

David Crow; Shreveport, La.; FEX–0150; Crude Oil

On February 17, 1977, the Federal Energy Administration issued a Decision and Order to David Crow (Crow) which granted in part an Appeal which Crow had filed from a Remedial Order issued to him by the Deputy Regional Administrator of FEA Region VI. *David Crow*, 5 FEA Par. 80,549 (February 17, 1977). In the February 17 determination, the matter was remanded to the Regional Administrator of FEA Region VI who was instructed to reconsider the level of overcharges assessed and issue a revised Remedial Order to Crow within 45 days. On April 15, 1977, the Deputy Regional Administrator of FEA Region VI notified the Office of Exceptions and Appeals that 60 additional days would be required for the preparation and issuance of a revised Remedial Order. After reviewing the record in this matter, the FEA determined that the February 17, 1977, Order should be modified to specify that a revised Remedial Order shall be issued by the Regional Administrator within 105 days of the issuance of the February 17 Order.

Husky Oil Co. of Delaware; Denver, Colo.; FEX–0145 crude oil

On June 21, 1976 and December 15, 1976, the FEA granted an exception to the Husky Oil Company of Delaware which relieved the firm of any obligation to purchase entitlements during the period June through December 1976. Both the June 21 and December 15 Orders stated that a review of Husky's actual financial operating results would be conducted at the end of the firm's December 31, 1976 fiscal year, to determine whether Husky received excessive benefits as a result of the exception relief which had been approved. The Orders further stated that if Husky did receive excessive entitlements exception relief during its 1976 fiscal year, an adjustment would be made and the firm would be required to purchase additional entitlements to account for the excessive benefits. In reviewing the entitlements exception relief provided to Husky during its 1976 fiscal year, the FEA determined that Husky did not attain either its historical profit margin or its historical return on invested capital during its entire 1976 fiscal year. Since Husky had received 100 percent exception relief from the Entitlements Program and had not exceeded its historical profit margin or historical return on invested capital, the FEA concluded that no adjustment to the firm's 1976 entitlements exception relief was necessary.

OKC Corp.; Washington, D.C.; FEX–0109 crude oil

On June 21, 1976 the FEA granted an Application for Exception which the OKC Corporation had filed thereby permitting the firm to offset its entitlements purchase obligation during the months of April, May, and June 1976 against its entitlements sales obligation during the July through September 1976 period. The June 21 Order stated that a review of OKC's actual financial operating results would be conducted at the end of the firm's fiscal year to determine whether OKC had received excessive benefits as a result of the exception relief which had been approved. In reviewing the entitlements exception relief granted to OKC, the FEA noted that the relief granted to the firm in the June 21 Order was intended to alleviate the disruptive impact that the Entitlements Program would have on the firm's operations as a result of the change in its crude oil supply. Since the financial data submitted by OKC appeared to indicate that this result had been achieved, the FEA concluded that no adjustment to OKC's 1976 entitlements exception relief was necessary.

Sunland Refining Corp.; Los Angeles, Calif.; FEX–0149 crude oil

On December 15, 1976, the FEA granted Sunland Refining Corporation exception relief which reduced by $798,180 per month the firm's obligation to purchase entitlements under the provisions of the Entitlements Program during each month of the period December 1976 through May 1977. On April 1, 1977, the FEA informed Sunland of its intention to rescind the exception on the grounds that the factual basis underlying the approval of exception relief had changed to a substantial extent. In the present Supplemental Order the FEA determined that, as a result of a new contract which Sunland entered into subsequent to the issuance of the December 15 Order for the purchase of crude oil, Sunland now anticipates it will be a net seller of entitlements for its entire 1977 fiscal year (i.e., the period January 1 through December 31, 1977), and will not incur any obligation to purchase entitlements during the period January 1 through March 31, 1977. The December 15 Order was therefore modified and the exception was revoked with respect to the months of January through March 1977.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase in dollars per gallon
Cabot Corp	FEE–3026	Beaver	0.0658
	FEE–3027	Estes	.01556
	FEE–3028	North Terrebone	.0173
	FEE–3029	Prentice	.01775
	FEE–3030	Walton	.01119
Doric Petroleum, Inc	FXE–4011	Hennessey	.01500
	FXE–4012	Newcastle	.0172

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

George A. Barnard; Eureka, Kans.; FEE–3970
Louis Kahan; Washington, D.C.; FRT–0041

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

C & K Oil Co.; Beckley, W. Va.; FEE–3993

The following Petition for Special Redress and Application for Stay were dismissed for failure to demonstrate that in accordance with the provisions of 10 CFR 210.91(d) the circumstances concerning a Special Report Order issued to the firm were so exceptional that an immediate review was warranted to correct substantial errors of law, or to prevent substantial injury to legal rights or cure a gross abuse of administrative discretion:

Phillips Petroleum Co.; Bartlesville, Okla.; FSG–0041, FES–0085

The following submission was dismissed on the grounds that the issues raised are currently being considered in a more appropriate proceeding pending before the Office of Exceptions and Appeals:

Southland Oil Co.;/VGS Corp.; Washington, D.C.; FMR–0086

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 20, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77–14942 Filed 5–26–77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of April 11 Through April 15, 1977

Notice is hereby given that during the week of April 11 through April 15, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Gulf Oil Corp.; Tulsa, Okla.; FEA–1053; motor gasoline

Gulf Oil Corporation appealed from a Decision and Order which the FEA issued to Mid-Michigan Truck Service, Inc. on October 6, 1976. *Mid-Michigan Truck Service, Inc.*, 4 FEA Par. 87,016 (October 6, 1976). In that Order the FEA approved an extension of the exception relief which it had initially granted on February 13, 1976. *Mid-Michigan Truck Service, Inc.*, 3 FEA Par. 83,100 (February 13, 1976), *modified, Mid-Michigan Truck Service, Inc.*, 3 FEA Par. 83,197 (May 20, 1976). In the February 13 determination, the FEA directed Gulf to cease supplying Mid-Michigan with motor gasoline through an unaffiliated firm pursuant to the supplier substitution provisions of 10 CFR 211.25 and to begin supplying Mid-Michigan directly. The FEA found that Gulf's use of a substituted supplier caused Mid-Michigan to pay substantially higher prices for gasoline and resulted in a serious financial hardship to Mid-Michigan. The May 20, 1976 Supplemental Order required Gulf to calculate the terms and conditions of its sale of motor gasoline to Mid-Michigan by using the actual selling price and credit terms which were in effect on May 15, 1973 between Gulf and Mid-Michigan. In considering the Gulf Appeal, the FEA rejected Gulf's contention that it could not determine the basis for the conclusion which the FEA reached in the prior decision that Mid-Michigan would incur an additional cost of at least 6.84 cents per gallon for motor gasoline purchased from the substituted supplier. The FEA observed that the price data contained in the October 6 Decision came from Mid-Michigan's application, that Gulf had received a copy of that application and therefore had an appropriate opportunity to contest the matter. The FEA also found that, in determining the financial impact on Mid-Michigan of Gulf's use of a substituted supplier, it is appropriate to compare the price which Mid-Michigan would have to pay for the motor gasoline it purchased from the Beatrom Oil Company, the substituted supplier, with the price at which it would be able to obtain that product directly from Gulf. The FEA therefore concluded that Gulf failed to demonstrate that the October 6 Decision was erroneous in fact or law, or was arbitrary or capricious and accordingly denied the firm's Appeal.

Louisiana Land and Exploration Co.; Washington, D.C.; FEA–1049; Refined Petroleum Products

The Louisiana Land and Exploration Company (LL&E) appealed from a Decision and Order which the FEA issued to it on October 15, 1976. *Louisiana Land and Exploration Co.*, 4 FEA Par. 83,149 (October 15, 1976). In the October 15 Decision, exception relief was granted which permitted LL&E to establish prices for its covered products during January 1976 which exceeded the firm's maximum allowable price levels. In approving this relief, the FEA noted that in January 1976, the first full month in which LL&E operated its new refinery, the firm would be required to sell refined products at or near May 15, 1973 price levels. The FEA found that this situation would cause LL&E to incur a substantial operating deficit and affect the competitive market equilibrium. On the basis of an analysis of those factors, the FEA concluded that exception relief was warranted. However, as a condition of the exception relief, LL&E was required to deduct from its bank of unrecouped increased costs the revenues which it realized in January 1976 as a result of charging prices that were in excess of its May 15, 1973 prices. In considering the LL&E Appeal, the FEA found that, contrary to LL&E's claim, the requirement that LL&E reduce its banks by the amount of costs which it actually passed through had not denied the firm the opportunity to pass through all of its increased costs nor did the requirement constitute a departure from precedents involving refinery acquisitions. Nevertheless, the FEA determined that this requirement would result in a gross inequity to the firm. In arriving at this determination, the FEA noted that LL&E was technically classified as a refiner in existence on May 15, 1973 by virtue of its natural gas processing activities and was therefore subject to the new item rule applicable to existing refiners when it sold refined products for the first time from its Mobile refinery. However, the application of that rule in LL&E's case resulted in the firm being required to sell its products at May 15, 1973 price levels. In contrast, new refiners which were not previously operating natural gas plants are permitted to charge prevailing market prices in their first month of operation. The FEA determined that if LL&E were nottreated as a new refiner and were required to refund the revenues which it realized from changing market prices in January 1976, a significant disincentive could be created to the construction of new refineries by natural gas processors, and LL&E would experience a gross inequity by virtue of the application of the new item rule to its circumstances. The FEA therefore granted the Appeal and rescinded the requirement that LL&E reduce its bank of unrecouped increased costs in the manner specified in the October 15 Decision and Order.

M. J. Mitchell; Campbell County, Wyo.; FXA–1167; Crude Oil

M. J. Mitchell (Mitchell) appealed from a Decision and Order which the FEA issued on December 17, 1976. *M. J. Mitchell*, 4 FEA Par. 83,250 (December 17, 1976). In that determination, the FEA granted the firm's request for an extension of exception relief and permitted Mitchell to sell 21.612 percent of the crude oil which it produces from the Mitchell State Minnilusa Sand Unit located in Campbell County, Wyoming (the Unit) at upper tier ceiling prices for a period of six months. The Mitchell Appeal, if granted, would permit Mitchell to sell 41.24 percent of the crude oil production at upper tier prices. In its Appeal, Mitchell claimed that the FEA had failed to reflect in its computation of the level of exception relief the increased depreciation costs which Mitchell had incurred. In addition, Mitchell contended that, in calculating the level of electricity costs experienced in the operation of the Unit, the FEA utilized an inappropriate reference period.

In considering Mitchell's arguments with respect to depreciation expenses, the FEA noted that it had considered and rejected this type of contention on a number of previous occasions. The FEA determined that Mitchell had not submitted any material which would indicate that the FEA should depart from its customary treatment of depreciation expenses in this particular case. In considering Mitchell's argument with respect to the reference period utilized in calculating the Unit's current electricity expenses, the FEA observed that in similar cases it has used the fiscal period immediately preceding the date of the exception application for the purpose of measuring the current level of costs. Although other reference periods have been utilized where a showing has been made that anomalous events occurred during the usual reference periods which distorted the use of those periods in the exceptions analysis, Mitchell's assertion that one expense item was somewhat lower than usual during the reference period did not constitute that type of a showing. The FEA therefore denied Mitchell's Appeal.

New York City Transit Authority; Brooklyn, N.Y.; FFA–1235; Freedom of Information

The New York City Transit Authority (NYCTA) appealed from an Order issued by the Information Access Officer of the FEA which denied in part a Request for Information which NYCTA had filed under the Freedom of Information Act, 5 U.S.C. 552. In its Request for Information, NYCTA sought certain documents pertaining to an FEA investigation of a Complaint which NYCTA had filed against Standard Oil Company (Indiana). The FEA found that the NYCTA Appeal failed to identify with particularity the alleged errors in fact or law which occurred in the determination being appealed, or to advance specific arguments in support of those contentions. The NYCTA Appeal was therefore dismissed and NYCTA was given leave to file an amended Appeal which corrects these deficiencies within 15 days.

OKC Corp. Washington, D.C.; FXA–1101; Crude Oil

The OKC Corporation filed an Appeal from a Decision and Order which the FEA issued to the firm on November 22, 1976. *OKC Corp.*, 4 FEA Par. 83,208 (November 22, 1976). In that determination, the FEA denied an Application for Exception from the provisions of 10 CFR 211.67 in which OKC requested that it be relieved of its obligation to purchase entitlements. According to the information which OKC provided in connection with its exception application, the firm's position under the Entitlements Program changed drastically between the third and fourth quarter of its 1976 fiscal year ending on September 30, 1976. OKC indicated in its original exception filing that it incurred a significant entitlement purchase obligation based on its operations during the third quarter and would be a seller of a substantial number of entitlements based on its operations during the fourth quarter of its 1976 fiscal year. Since the material which OKC had provided indicated that the firm would be a net seller of entitlements during that fiscal year, the FEA found that OKC's operations were not adversely affected by the Entitlements Program. In denying the exception application, the FEA concluded that it would not be appropriate to grant exception relief which would enhance the benefits which OKC was already realizing under the Entitlements Program.

In its Appeal, OKC contended that it had been injured as a result of the rescission of Special Rule No. 6. The firm noted that it would not have incurred an entitlement purchase obligation during the third quarter of its 1976 fiscal year if Special Rule No. 6 had remained in effect. OKC further contended that the FEA had given assurances to the Congress that no small refiner would be adversely affected by the revocation of the Special Rule. In considering this argument, the FEA held that the record in this matter did not lead to the conclusion that small refiners such as OKC would occupy the same advantageous position subsequent to the rescission of Special Rule No. 6 that they occupied during the period in which the Special Rule was in effect. Rather, the material on which OKC relied indicated that small refiners who could show that they would experience a serious hardship as a result of the modifications which the FEA had proposed to make in the Entitlements Program would be eligible to receive exception relief on an expedited basis. Although OKC's particular position with respect to the Entitlements Program was less favorable than the position it would have occupied if Special Rule No. 6 had remained in effect, the firm's position as a net seller of entitlements was nevertheless more favorable than it would have been in the absence of the Entitlements Program. Thus, the FEA held there was no basis for a conclusion that OKC was incurring a serious hardship as a result of the Entitlements Program.

The FEA also determined that there was no proper basis for the approval of OKC's request that exception relief be afforded only on the basis of the firm's financial position during the third quarter of its 1976 fiscal

year. The FEA therefore concluded that OKC had failed to establish that the November 22 Decision and Order was erroneous in fact or law or was arbitrary or capricious and the firm's Appeal was accordingly denied.

Powerine Oil Co.; Sante Fe Springs, Calif.; FXA–1074; Crude Oil

Powerine Oil Company filed an Appeal from a Decision and Order which the FEA issued to the firm on November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). The November 5 Decision was issued in connection with the FEA's review of the exception relief which had been granted to small refiners from the obligations under the Entitlements Program during 1975 and specified the FEA's determination as to whether each small refiner that had received exception relief during 1975 had been afforded an excessive or insufficient measure of exception relief. Powerine's Appeal, if granted, would result in a determination by the FEA that Powerine received insufficient exception relief from the Entitlements Program in 1975 and the issuance of an Order permitting the firm to sell additional entitlements. In considering the Powerine Appeal, the FEA determined that there was considerable merit to Powerine's contention that it should have received additional exception relief under the standards set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975). The FEA noted that during its fiscal year ending January 31, 1976 Powerine failed to achieve either its historical profit margin or its historical return on invested capital. Since the proper application of the *Delta* standards would entitle Powerine to exception relief from entitlements purchases which would impede the firm in achieving the lesser of these amounts, the FEA concluded that Powerine should be permitted to sell additional entitlements valued at $243,687.

Standard Oil Company of Ohio; Cleveland, Ohio; FXA–1142; Crude Oil

The Standard Oil Company of Ohio (Sohio) filed an Appeal from a Decision and Order which the FEA issued to the firm on December 3, 1976. *Standard Oil Co. of Ohio*, 4 FEA Par. 83,220 (December 3, 1976). The Appeal, if granted, would have resulted in the recission of the December 3 Decision and Order and the issuance of an Order granting Sohio exception relief to permit it to compute its maximum permissible selling prices for the covered products which it refines by reference to an imputed May 1973 per barrel cost of crude oil which is lower than the actual per barrel cost incurred by Sohio during that month. In its Appeal, Sohio stated that the expansion of its Marcus Hook refinery was not completed prior to the month of May 1973, and as a result the provisions of Section 212.83 prevented the firm from recovering on a dollar-for-dollar basis all of the increased crude oil costs which it incurred, as provided by the Emergency Petroleum Allocation Act (EPAA, Pub. L. 93–159). Sohio further claimed that it is experiencing substantial losses in its operation of the Marcus Hook refinery which may force the firm to close the facility at some time in the future. In considering the Sohio Appeal, the FEA determined that, while the Marcus Hook gross refinery margin has declined, this factor has not impaired Sohio's ability to pass through its increased crude oil costs on a dollar-for-dollar basis. The FEA further determined that Sohio had failed to support its claim that it was incurring losses as a result of its operations at the Marcus Hook refinery. In this connection, the FEA observed that any large firm such as Sohio could narrowly define a single facet of its operation so as to present that operations in an unfavorable light. The FEA noted that the Marcus Hook facility accounts for 40 percent of Sohio's refinery capacity, and the firm's petroleum related operation have recently been producing near-record levels of profits. The FEA observed that it would be highly unlikely that Sohio could achieve these levels of profitability if in fact 40 percent of its refinery capacity was not operating on a profitable basis. Accordingly, the Sohio Appeal was denied.

Standard Oil Co. of Ohio; Cleveland, Ohio; FEA–1034; Residual Fuel Oil

The Standard Oil Company of Ohio (Sohio) filed an Appeal from a Decision and Order in which the FEA denied an Application for Exception that Sohio had filed from the provisions of 10 CFR 211.67(d)(4) (the Entitlements Program). *Coastal States Gas Corp.; Standard Oil Co. of Ohio*, 4 FEA Par. 83,139 (October 8, 1976). The appeal, if granted, would permit Sohio to earn entitlements with respect to that portion of its crude oil runs to stills which is attributable to the residual fuel oil that it sells in the East Coast market. In its Appeal, Sohio contended that the FEA failed to consider the arguments which the firm presented in its exception application. The FEA determined that contrary to the firm's claim, an analysis had been made of all of the material which Sohio presented in its Application for Exception. Since Sohio merely reiterated these arguments in its Appeal, the FEA determined that Sohio had not demonstrated that the October 8, 1976 Decision and Order was erroneous. The firm's Appeal was accordingly denied.

Tenneco Oil Co.; Houston, Tex.; FEA–1225; Freedom of Information

Tenneco Oil Company appealed from a determination that had been issued to the firm by the FEA Information Access Officer. The Appeal, if granted, would have resulted in the release of two documents which the Information Access Officer had determined to be exempt from mandatory disclosure pursuant to exemptions (b)(4) and (b)(5) of the Freedom of Information Act, 5 U.S.C. 552. In considering Tenneco's Appeal, the FEA determined that portions of one of the two documents which the Information Access Officer withheld because it contained confidential financial information should be released since the only person who could be adversely affected by the release of the information had notified the FEA that it had no objection to its release. The FEA found that the other document which had been withheld was a pre-decisional intra-agency memorandum which reflected the FEA's group thinking in formulating its policy and legal position as to the appropriate action to take with respect to the issues raised in a Notice of Probable Violation which had been issued to the firm. The FEA concluded that this document was therefore properly withheld under the Section 552(b)(5) exemption. The Tenneco Appeal was therefore denied with respect to this memorandum.

Warrior Asphalt Co. of Alabama, Inc.; Tuscaloosa, Ala.; FXA–1067; Crude Oil

Warrior Asphalt Company of Alabama, Inc. appealed from a Decision and Order which the Federal Energy Administration issued to the firm on November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision and Order, the FEA determined that Warrior had been afforded an insufficient measure of exception relief from its obligations under the Entitlements Program in 1975 and should therefore be permitted to sell entitlements valued at $23,350 during the period November 1976 through January 1977 in order to offset those insufficient benefits. Warrior's Appeal, if granted, would result in certain adjustments to both the firm's 1975 profitability and its historical profitability, thereby increasing the level of additional exception relief granted to the firm.

In considering the Warrior Appeal, the FEA rejected the firm's contention that its historical profitability should be adjusted to reflect a more representative posture of the Warrior operation. The FEA found that Warrior had not demonstrated that it would be unable to attain a reasonable operating posture in the absence of the requested adjustment nor did Warrior's submission indicate other compelling reasons which would warrant approval of the adjustment sought by the firm. The FEA also rejected Warrior's contention that net profits realized by the firm during 1975 from the rental of fuel oil storage tanks should be excluded from the firm's financial results. The FEA held that items of income or expense which are alleged by a firm to be unrelated to its refining and marketing operations could be excluded from financial data submitted in support of an Application for Exception only when that firm makes a showing that the items are directly related to activities undertaken by an operating entity whose operations are distinct from the firm's refining and marketing operations. The FEA found that Warrior had not made that showing.

The FEA sustained Warrior's remaining contention that it should not have included the firm's operating results for the month of December 1975 in its review of the exception relief granted to the firm in 1975. After excluding Warrior's operating results for the month of December 1975, the FEA determined that Warrior's entitlement sales obligation specified in the November 5 Decision should be increased by $47,582.

REQUESTS FOR EXCEPTION

A & N Producing Services, Inc.; Jackson, Miss.; FXE–3969; crude oil

A & N Producing Services, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in an extension of the exception relief previously granted to A & N and would permit A & N to continue to sell a portion of the crude oil produced from the USA well No. 2 lease (USA well) at upper tier ceiling prices. *See A & N Producing Services, Inc.*, 4 FEA Par. 83,166 (October 29, 1976). In considering the exception application, the FEA found that the USA well continued to incur increased operating costs and that, in the absence of continued exception relief, the working interests would lack an incentive to produce crude oil from the property. In view of this situation and on the basis of the operating data presented for the previous six months, the FEA concluded that the working interest owners should be permitted to sell 100 percent of the crude oil produced from the well at upper tier ceiling prices.

Commonwealth Oil Refining Co., Inc.; Penuelas, Puerto Rico; FEE–3573 crude oil; naptha

The Commonwealth Oil Refining Company, Inc. (Corco) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) in which it requested that the FEA issue it a sufficient number of additional entitlements so as to enable it to achieve the earnings level which it achieved prior to 1974. As an alternative Corco requested that exception relief be granted which would provide the firm with a feedstock cost advantage of $1.25 per barrel for crude oil and naphtha as compared with refiners and petrochemical manufacturers

on the United States mainland. Corco further requested that the FEA issue it a sufficient number of additional entitlements so as to eliminate certain inequities which it experienced as a result of particular provisions in the Entitlements Program.

In considering the Corco exception application, the FEA rejected Corco's contention that the Government was obligated to provide Corco with a naphtha cost advantage as compared with domestic petrochemical companies on the mainland. The FEA found that no such obligation accrued from a prior commitment which the Department of Interior approved pursuant to which Corco was permitted to import naphtha into Puerto Rico.

However, the FEA did find substantial merit in Corco's contention that it is experiencing a gross inequity because of the impact on the firm of the provisions of 10 CFR 211.67(l)(4) and 10 CFR 211.67(d)(5). The FEA noted that the purpose of the 21 cent reduction in entitlement price that is specified in Section 211.67(l)(4) is to preserve incentives for refining domestic crude oil and that this objective is not served by the application of that regulatory provision to Corco. The FEA noted that Corco does not have any feasible economic alternative to importing the crude oil it uses from foreign sources. Since the Federal Government's Operation Bootstrap Program substantially contributed to Corco's decision to conduct its refining operations in a location in which it would be required to depend upon foreign crude oil as a feedstock, the FEA held that it would be incongruous for the Government to impose on Corco an effective penalty on the firm's continued reliance on crude oil imports. In regard to Section 211.67(d)(5), the FEA noted that the formula prescribed in that Section for calculating the number of entitlements to be issued to each Puerto Rican petrochemical producer with respect to its imports of naphtha is based upon the weighted average cost per barrel of naphtha imported into Puerto Rico as a petrochemical feedstock. The data furnished by Corco indicated that the imported naphtha which it uses weighs considerably more than the imported naphtha used by other Puerto Rican petrochemical producers. As a result the volumetric basis used in the formula within the Section produces a situation in which Corco's naphtha import costs significant exceed the weighted average costs of naphtha imported into Puerto Rico. On the basis of those findings, the FEA determined that Section 211.67(d)(5) as applied to Corco's situation failed to achieve the underlying regulatory objective of substantially equalizing Corco's imported naphtha costs with the domestic naphtha costs of its mainland competitors.

In addition, the FEA found that the data submitted by Corco and the Government of the Commonwealth of Puerto Rico strongly demonstrated the firm's precarious financial position and the potentially deleterious impact upon the Puerto Rican economy of a curtailment or termination of Corco's operations. While the FEA noted that Corco's financial difficulties are not primarily attributable to the application to the firm of the FEA Regulations since Corco is a substantial beneficiary of the Entitlements Program, it nevertheless concluded that the adverse, anomalous manner in which Section 211.67(l)(4) and Section 211.67(d)(5) apply to Corco certainly exacerbates the severe financial difficulties which the firm is currently experiencing. The FEA therefore granted Corco exception relief which restores to the firm the revenues which it would otherwise receive under the Entitlements Program if its particular entitlement sales were not reduced by the 21 cent figure specified in Section 211.67(l)(4). The FEA also approved exception relief which permits Corco, for purposes of applying the formula set forth in Section 211.67(d)(5)(iii), to substitute the actual naphtha import costs which it incurs for the weighted average per barrel cost of all naphtha imported into Puerto Rico for use as a petrochemical feedstock.

In its Application Corco also contended that it was experiencing a gross inequity as a result of the provisions of the Jones Act which allegedly result in its incurring significantly greater shipping costs than its competitors in the Virgin Islands and the Caribbean. 46 U.S.C. Section 883 (1970). However, the FEA found that, since the competitive disadvantage of which Corco complained is not attributable to the FEA Regulations, Corco had failed to establish that exception relief from the Entitlements Program should be granted to alleviate those problems. Corco further contended that additional exception relief should be granted in order to restore the benefits of which it had been deprived by several amendments to the overall FEA regulatory program which allegedly have reduced the value of the entitlements that are issued to Corco with respect to its crude oil runs to stills. In considering Corco's contention, the FEA observed that the firm had not presented any arguments as to why the application to it of those regulations creates a gross inequity or places a burden upon Corco which is substantially disproportionate to the burdens which other firms bear. The FEA also stated that the fact that certain regulatory amendments have diminished Corco's benefits under the Entitlements Program does not in itself furnish adequate grounds for the approval of exception relief.

Corco had also requested retroactive exception relief based on the claim that until February 1976 the Entitlements Program did not take into account the price difference between the imported crude oil that Corco refined and the domestic new or released crude oil refined by other firms. With respect to this contention, the FEA observed that the identical claim had been rejected as a ground for exception relief in a previous Decision which the FEA issued to Corco and which was controlling in this proceeding.

The FEA did find substantial merit, however, in Corco's contention that retroactive exception relief should be approved with respect to the 21 cent entitlement price adjustment and the naphtha entitlements formula. Although several months elapsed between the dates on which those regulatory provisions were adopted and the date on which Corco filed the present exception request, the FEA noted that the firm had submitted Applications for Exception before those provisions were adopted in which it described the basic circumstances upon which its present request for relief from those provisions is based. The FEA accordingly determined that substantial grounds existed for finding that Corco had not unduly delayed in seeking exception relief from those regulations. The FEA further determined that the financial and operating data presented by Corco indicated that the firm's continued existence would be in serious jeopardy despite the approval of prospective exception relief and established a sound foundation for concluding that the firm is experiencing a severe and irreparable injury. The FEA therefore ordered that the same type of prospective relief which it determined should be provided from the provisions of Section 211.67(l)(4) and Section 211.67(d)(5) be extended to Corco on a retroactive basis to the dates those regulatory provisions became effective. The FEA indicated that this measure of relief would accomplish the objective of mitigating the adverse impact on Corco of the general regulatory requirements without conferring on the firm excessive, windfall benefits.

Finally, the FEA noted that as a result of the prospective exception relief granted in the present Decision and Order with respect to Section 211.67(d)(5) Corco will not be receiving entitlement benefits for the naphtha that it imports into Puerto Rico on the basis of the average costs of all firms that import naphtha into the Island as a petrochemical feedstock. Nevertheless, under the express application of that regulatory provision, the other two firms that currently import naphtha as a petrochemical feedstock into Puerto Rico would continue to receive entitlement benefits on the basis of the average of all such naphtha imports, including those applicable to the Corco operations. Since the Corco costs significantly exceed those of the other two firms, the FEA tentatively determined that the continued use of an average figure that includes the Corco costs would produce excessive benefits for those two firms. In view of the fact that these benefits would result as a direct consequence of the exception relief approved in this proceeding, the FEA concluded that a further hearing would be held to determine whether a Supplemental Order should be issued directing that the average costs which Corco incurs for naphtha imports be excluded from the calculation of the average cost figure specified in Section 211.67(d)(5)(iii).

J & W Refining, Inc.; Tucker, Tex.; FXE–3591 crude oil

J & W Refining, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of April 1977. In considering J & W's exception request, the FEA noted that J & W's operations have been conducted under Chapter XI of the Federal Bankruptcy Act since July 1975 and, although the firm's entitlements obligation did not create its continuing financial difficulties, any entitlement purchases which the firm makes will reduce the amount of cash available to the firm to pay its outstanding debts. Since J & W is currently experiencing a deficit in its working capital balance even prior to any entitlement purchases and will continue to operate with an insufficient cash flow, the FEA determined that any entitlement purchases which the firm is required to make would be likely to extend the time necessary for the firm to return to a competitively viable status. The FEA therefore determined that J & W should be relieved of its entitlement purchase obligations during the period April 1977 through September 1977.

PETITION FOR SPECIAL REDRESS

Consumer Federation of America; Washington, D.C.; FSG–0040 middle distillates

The Consumer Federation of America (CFA) filed a Petition for Special Redress in which it requested that it be permitted to intervene in a rulemaking which it proposed be initiated to consider whether allocation and price controls should be reimposed with respect to middle distillates. The CFA also requested that the FEA Office of Private Grievances and Redress direct that financial assistance be provided to the CFA to ensure that it would be able to fully participate in the proposed rulemaking proceeding. In addition, CFA requested that the Office of Private Grievances and Redress direct that the hearing date for the proposed rulemaking be set no earlier than 30 days from the date of

notice of the hearing in order to afford the CFA and other consumer representatives an opportunity to make an adequate presentation. In considering the CFA request that the tentative hearing date be postponed the FEA concluded that the Office of Private Grievances and Redress did not have the jurisdiction to take the action which the CFA sought. The FEA therefore dismissed this portion of the CFA Petition, but referred the issue to the FEA Office of General Counsel for a prompt determination. The FEA reached a similar conclusion with respect to the CFA request that the FEA Office of Private Grievances and Redress specify that certain types of procedures be implemented at the hearing which the FEA will conduct in this matter. The FEA also referred this request to the FEA Office of General Counsel for its consideration. Finally, the FEA found that, in view of the dismissal of those portions of the CFA Petition discussed above, the request for financial assistance which CFA submitted could not be fully analyzed at the present time. The FEA therefore determined that this portion of the CFA Petition should be held in abeyance pending the formal establishment of the requested rulemaking proceeding and the response of the FEA Office of General Counsel to the CFA request for intervention in that proceeding.

REQUESTS FOR STAY

Exxon Co., U.S.A.; Houston, Tex.: FES–0091 refined petroleum products

The Exxon Company, U.S.A. filed an Application for Stay in which it requested that the FEA suspend all exception proceedings relating to the order of recovery of increased non-product costs by refiners during the period January 1, 1975 through January 31, 1976. Exxon specifically requested that those exception proceedings be stayed pending (i) the conclusion of a rulemaking proceeding pertaining to the recovery of increased non-product costs which Exxon claimed had never been completed, or (ii) a judicial determination as to whether the FEA Regulations that were in effect prior to February 1, 1976 prescribed a particular method pursuant to which refiners were permitted to recoup their increased non-product costs. Exxon based its request in large part on the contention that it would be premature to conduct the exception proceedings before the FEA concluded an outstanding rulemaking proceeding relating to the order of recovery of increased non-product costs by refiners during the period January 1, 1975 through January 31, 1976. In response to that contention, the FEA stated that there is no current rulemaking proceeding involving the recovery of increased non-product costs. Although the FEA did indicate at one point that it was aware of the problems that certain refiners could experience as a result of the regulatory requirement that increased non-product costs be recovered prior to February 1, 1976 only after all increased product costs had been passed through, the FEA stated that it had specifically decided not to attempt to resolve those possible difficulties through a rulemaking proceeding. The FEA also noted that it had encouraged refiners to file exception applications from the regulations governing the recovery of increased non-product costs prior to February 1, 1976. Consequently, the FEA rejected Exxon's contention that it would be inappropriate to conduct the exception proceedings at the present time.

In considering Exxon's further contention that the FEA had neglected to establish adequate procedures to ensure fundamental due process in the exception proceedings, the FEA enumerated the steps which it had taken to ensure due process. The FEA pointed out that it had described the general procedures that would be followed in *Apco Oil Corp., et al., supra*, and had held a hearing in which Exxon participated to discuss in greater detail the manner in which the initial proceedings would be conducted and to consider the views of the parties involved. The FEA also noted that Exxon was afforded an opportunity to file formal motions setting forth objections which it had expressed as to the scope of the proceedings and the participation of the FEA Office of Regulatory Programs in the proceedings and to have those motions considered by the Office of Exceptions and Appeals. Exxon was also being given an opportunity during the proceedings to develop the factual assertions which, if proven, would establish that it is entitled to exception relief, to file motions to strike factual assertions made by opposing parties that are unduly vague, and to introduce evidence and conduct discovery. In view of these measures, the FEA concluded that it did not appear that any denial of due process had occurred. In considering the Application for Stay, the FEA also rejected Exxon's assertion that the presence of the Office of Regulatory Programs as a party to the exception proceedings casts doubt upon the integrity of the proceedings. The FEA emphasized that the participation by the Office of Regulatory Programs would not be the type of participation in which a party adopts a view at the outset as to the ultimate disposition that it believes should be reached and then directs its conduct toward achieving that disposition. Instead, the participation of the Office of Regulatory Programs would consist of making independent analyses of factual data and would be useful in producing a full administrative record. After evaluating the arguments advanced by Exxon, the FEA concluded that Exxon's contention that the exception proceedings should be stayed was unpersuasive. The Exxon Application for Stay was accordingly denied.

Texas American Oil Corp.; Midland, Tex.: FES–0092 crude oil

On January 18, 1977, the Texas American Oil Corporation (TAO) filed an Appeal from a Decision and Order which the Federal Energy Administration issued to the firm on December 16, 1976. United Refining Co.; Texas American Oil Corp., 4 FEA Par. 83,262 (December 16, 1976). The TAO Appeal related to those portions of the December 16 Decision which specified the manner in which the provisions of the Entitlements Program (10 CFR 211.67) should apply to a refinery which TAO acquired from United Refining Company. On January 18, 1977, the FEA issued a Decision and Order to TAO which stayed certain provisions of the December 16 Order. Texas American Oil Corp., 5 FEA Par. 85,017 (January 18, 1977). On April 5, 1977, the FEA issued a Decision and Order to TAO denying the Appeal which the firm had filed. In addition, the April 5 Order vacated the stay which had previously been granted. Texas American Oil Corp., 5 FEA Par. ____ (April 5, 1977). On April 13, 1977 TAO filed with the FEA a request for a hearing in connection with the firm's Appeal from the December 16, 1976 Decision and Order. According to the TAO submission, the firm had requested a hearing during the course of the Appeal proceding, but such a hearing was never convened. After reviewing the record in the previous proceedings, the FEA determined that a hearing should be granted. In view of that determination, the FEA further determined that it would be appropriate to stay the provisions of the April 5 Decision and Order. Accordingly, the April 5, 1977 Order was stayed pending further order of the FEA.

The following Application for Temporary Stay was denied on the grounds that the applicant had failed to make a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Braden-Zenith, Inc.; Wichita, Kans.; FST–0040

SUMMARY DENIAL

The following Application for Modification or Rescission was summarily denied on the grounds that the firm made no showing that it was incurring significantly changed circumstances:

The Refinery Corp.; Washington, D.C.; FMR–0099

DISMISSALS

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Betty Gardner; Quincy, Ill. FXA–1215
Paul H. Williams; Plainville, Kans.; FEE–3932

The following submission was dismissed on the grounds that the request for exception relief was premature:

Southland Oil Co.; Washington, D.C.; FEE–3448

The following submission was dismissed on the grounds that it consists only of a restatement of an argument which is presently under consideration in another proceeding:
Beacon Oil Co.; Washington, D.C.; FES–0086

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Small's LP Gas Co.; Wyatt, Mo.; FXE–3737

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: May 20, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77–14943 Filed 5–25–77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact re the Minnesota Energy Conservation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Minnesota, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for Minnesota are available upon request from the FEA Office of Communications and Public Affairs, Room 2134, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plan are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communications, Box MX, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Minnesota Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m., e.d.s.t., June 6, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., May 23, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–15069 Filed 5–25–77;8:45 am]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact re the California and Massachusetts Energy Conservation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the States of California and Massachusetts, of their State Energy Conservation Plans. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for either of these plans.

Single copies of the environmental assessments of the State Plans for California and Massachusetts are available upon request from the FEA Office of Communications and Public Affairs, Room 2134, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessments will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessments to Executive Communications, Box MU, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—(Name of State) Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by June 6, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., May 23, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–15070 Filed 5–25–77;8:45 am]

INDUSTRY SUPPLY ADVISORY GROUP TO INTERNATIONAL ENERGY AGENCY

Meeting Regarding Voluntary Agreement and Plan of Action to Implement International Energy Program

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94–163), notice is hereby provided of a meeting of the Industry Supply Advisory Group (ISAG) of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) to be held at the offices of Gulf Oil Corporation, 439 Seventh Avenue, Pittsburgh, Pennsylvania on June 1 and 2, 1977 beginning at 9:30 a.m. on June 1, 1977. The agenda is as follows:

1. Opening Remarks.
2. Administrative Matters.
A. ISAG Organization.—Position Descriptions; Group Responsibilities; Company, Country, and Regional Assignment.
B. Emergency Management Organization.—Facilities and Staffing; Work Profile.
C. Adequacy of U.S. Government Clearance for Future Activities of U.S. ISAG Members.
3. Report on April 19–20 Subcommittee A Meeting.
A. Proposed ISAG Formats
B. Status Report.—Data Transmission, Data Processing; Data Bank; Computer Applications.
4. Discussion of Future Tests.
A. Data and Communications Test.
B. Allocation Systems Test.—Scope; ISAG Participation; Contact With NESO's and Companies; Data Base.
5. ISAG Reference Handbook.
6. Handling of Costs of ISAG Meetings.
7. Closing Remarks/Future Meetings.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public. Unanticipated circumstances have required the notice period as contained in § 209.32(b) of FEA regulations to be shortened.

Issued in Washington, D.C., May 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–15301 Filed 5–25–77;10:52 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PROCUREMENT POLICY ADVISORY COMMITTEE

Meeting

MAY 20, 1977.

In accordance with provisions of Pub. L. 92–463 (Federal Advisory Committee Act) the Procurement Policy Advisory Committee will hold its next meeting from 9:00 a.m. to 5:00 p.m., Tuesday, June 14, 1977, in Room 2010, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. This meeting will be open to the public. The purpose

of the meeting is to discuss those subjects included on the following agenda:

9:00–9:10 Call to Order—Review of Minutes of Meeting of March 24, 1977
9:10–10:00 Status Review of Current Projects
(a) Excessive Reporting Requirements
(b) Contract Funding Problems
(c) Cost Sharing
(d) Patent Policy Development
10:00–10:15 Break
10:15–11:30 How ERDA Looks upon the Proposed Energy Reorganization and the President's Message. ERDA's Role and Mission.
11:30–12:45 Lunch
12:45–1:45 ERDA Procurement Practices—Implementing Problems at the Working Level
1:45–2:45 ERDA Proposed Organizational Conflict of Interest Policy
2:45–3:00 Break
3:00–4:00 Grants versus Contracts—ERDA Implementation of OMB A–110
4:00–5:00 Agenda Items for Next Meeting
5:00 Adjournment

Practical considerations may dictate unannounced alterations in the agenda or schedule.

Mr. Stephen W. Rowen, Chairman of the Committee, will preside.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof post-marked no later than June 6, 1977, to the Director of Procurement, Room C–167, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be directly relevant to the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on June 10, 1977, to Mr. Harry Tayloe, Division of Procurement, on 301–353–5526 between 8:30 a.m. and 5:00 p.m., e.s.t.

(c) Questions at the meeting may be propounded only by members of the committee and ERDA officials assigned to participate with the committee in its deliberations.

(d) Seating will be made available to the public on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77–14968 Filed 5–25–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–180121; FRL 734–6]

IDAHO DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Benomyl To Control Foot Rot on Winter Wheat

The Environmental Protection Agency (EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the "Applicant") to use a maximum of 10,000 pounds active ingredient benomyl in aerial ground applications to control *Cercosporella* foot rot of winter wheat in 6 counties in northern Idaho. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M Street, SW., Room E–315, Washington, D.C. 20460.

According to the Applicant, approximately 420,000 acres of wheat will be grown in the counties of Benewah, Clearwater, Kootenai, Latah, Lewis and Nez Perce in northern Idaho during the year of 1977. Only early-planted wheat (approximately 15,000–20,000 acres) not previously planted to legumes would likely require treatment with benomyl. *Cercosporella* foot rot infects much of the wheat crop when the wheat is seeded early and the winters are mild; the environmental conditions during the fall and winter of 1976–1977 appear to be highly favorable for the development of this disease. The Administrator, EPA, granted specific exemptions for use of benomyl to control *Cercosporella* foot rot on wheat on about 515,000 acres in the States of Idaho, Oregon, and Washington last year. Again this year, the Administrator granted specific exemptions for this use of benomyl in January and February, 1977, to Oregon and Washington, respectively.

No registered pesticide or alternative methods of control are available to suppress this pathogen. Resistant varieties of wheat are not available for the area involved; later seeding, which reduces losses, is not economically practical.

The Applicant proposed to use Benlate (benomyl) fungicide (Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate), EPA Reg. No. 352–354. The benomyl will be applied at a rate of one-half (0.5) pound active ingredient in 5–10 gallons of water per acre and in 20–30 gallons of water per acre by air and ground, respectively. One application will be made before May 15, 1977. All applications will be made by State-licensed commercial applicators.

The Fish and Wildlife Service, U.S. Department of the Interior, has advised EPA that no serious adverse effects on fish and wildlife resources are anticipated from the application as described. Without the application of benomyl, the Applicant estimated the potential crop loss due to this outbreak at 20 to 25 percent of the yield from infested fields. EPA calculated that the value of the fields is approximately $75,000.

Formal tolerances for benomyl residues on wheat grain and green forage have not been established. However, the EPA has determined that the application of this fungicide to winter wheat at these application rates will result in residue levels of less than 0.2 ppm (parts per million) in or on the harvested wheat grain, which would not constitute a hazard to the public health. Based on evaluation of existing data, EPA has determined that a residue level on wheat straw not exceeding 15 ppm would be adequate to protect the public health. Green forage will not be used as a feed item. Meat, milk, poultry, and egg tolerances are already established for residues of benomyl resulting from the feed use of various raw agricultural commodities and processed feed commodities. It has been concluded that secondary benomyl residues transferring to meat, milk, poultry, or eggs as a result of feed use of the treated wheat grain and straw would be adequately covered by the existing tolerances.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *Cercosporella* foot rot disease has occurred; (b) there is no pesticide presently registered and available for use to control this pest in northern Idaho; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic, environmental or health problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 15, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Wheat acreage to be treated is limited to 20,000 acres in the six counties listed at the beginning of this notice;

2. One (1) pound of Benlate (0.5 pound active ingredient benomyl) per acre will be applied by ground (in 20–30 gallons of water) or air (in 5–10 gallons of water);

3. A maximum of 10,000 pounds A. I. benomyl will be applied;

4. A single application will be made;

5. Application will be made by licensed commercial applicators, licensed and tested by the Applicant;

6. A residue level not to exceed 0.2 ppm in or on harvested wheat grain and 15 ppm in or on wheat straw has been determined to be adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

7. Green forage will not be used as a feed item;

8. If benomyl is applied by aircraft, all precautions will be taken to avoid or minimize drift;

9. A final report will be submitted listing the counties and acreage for applications, benefits realized from this use of benomyl, and any losses due to phytotoxicity; and

10. All applicable directions, restrictions, and precautions on the EPA-registered label are to be followed.

STATUTORY AUTHORITY: Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).

Dated: May 17, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77–14952 Filed 5–25–77;8:45 am]

[OPP–180119; FRL 734–5]

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Benomyl To Control Blackleg on Cabbage Seeds

The Environmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use benomyl on commercial cabbage seeds to control blackleg, which is caused by the fungal pathogen *Phoma lingam*. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., SW., Room E–315, Washington, D.C. 20460.

According to the Applicant, *Phoma lingam*, the cause of blackleg in crucifers, is present in much of the crucifer seeds produced for resale. This organism reduces germination and results in poor stands, both in home gardens and in commercial production for canning purposes. Treatment was requested for up to thirty-three (33,000) pounds of cabbage seed obtained from fields that were infested with *P. lingam*, dependent upon determination of the presence of the organism. In 1976, the State of Washington was issued a specific exemption by EPA for the use of benomyl to treat up to one million pounds of blackleg-infested cabbage and other crucifer seeds (see FEDERAL REGISTER of January 27, 1977, p. 5123). The Applicant stated that most of the seed now present in Minnesota originated in Washington State.

P. lingam is frequently present on seed, but epidemic outbreaks are dependent on weather in seed growing, transplant and production growing areas. The organism may remain viable on infected debris for up to four years, and may be introduced into new fields by seed transmission; disease control requires treatment of both stock seed used for seed production as well as treatment of commercial seed lots.

The Applicant proposed to use benomyl (Benlate 50 percent Wettable Powder, EPA Reg. No. 352–354) applied at the rate of eight (8) ounces of the product, four (4) ounces active ingredient, in sufficient water to treat one hundred pounds of seed. A single application will be made to each seed lot. Seed treatment will be made by seed companies or seed contractors with seed-treating personnel. There are currently no alternative registered pesticides nor practical control methods available to treat fungal infestation on cruciferous seed. The Applicant stated that these cabbage seeds, valued at $660,000, would be unacceptable to commercial cabbage growers unless they were treated with benomyl to eradicate *P. lingam*.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak has or is about to occur; (b) there is no pesticide presently registered and available for use to control blackleg on cruciferous seed in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A benomyl product, Benlate 50 percent Wettable Powder (EPA Reg. No. 352–354), will be used;

2. Benomyl will be applied at the rate of eight (8) ounces of the product, four (4) ounces active ingredient, in sufficient water to treat one hundred pounds of seed;

3. Each seed lot will receive no more than a single application of benomyl;

4. A maximum of thirty-three thousand (33,000) pounds of cabbage seed, intended for commercial planting will be treated;

5. Treated seed will not be used for food, feed, or any other use except planting;

6. EPA has determined that residues of benomyl resulting from this use are not likely to exceed 0.20 ppm in cabbage, which will not pose a hazard to the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

7. The Applicant is responsible for ensuring that the restrictions pursuant to this specific exemption are met;

8. All packages containing benomyl-treated seed will be clearly labeled as such; and

9. All applications will be made by seed-treating personnel of the seed companies or seed contractors.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).

Dated: May 17, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77–14951 Filed 5–25–77;8:45 am]

[FRL 734–2]

NATIONAL LIME ASSOCIATION

Open Meeting

Notice is hereby given that a meeting between the Emission Standards and Engineering Division, Office of Air Quality Planning and Standards of the Environmental Protection Agency (EPA) and the Air Quality Committee of the National Lime Association will be held at 1:00 p.m. on June 16, 1977, at the auditorium of the EPA Office of Administration Annex (Beaunit Building), Alexander Drive, Research Triangle Park, North Carolina.

This meeting is being held at the request of the National Lime Association to allow them to present their comments on the standards of performance for lime manufacturing plants which were proposed in the FEDERAL REGISTER on May 3, 1977 (42 FR 22506). The standards were proposed under the authority of section 111 of the Clean Air Act and would limit emissions of particulate matter from new, modified, and reconstructed facilities at lime manufacturing plants.

This meeting is open to the public. Anyone wishing to attend or submit a presentation should contact Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 688–8146, extension 271.

Dated: May 18, 1977.

EDWARD F. TUERK,
Assistant Administrator for Air and Waste Management.

[FR Doc.77–14947 Filed 5–25–77;8:45 am]

[OPP-180120; FRL 737-4]

STATE OF MONTANA

Issuance of a Specific Exemption To Use Strychnine To Control Rabid Skunks

The Environmental Protection Agency (EPA) has granted a specific exemption to the State of Montana (hereafter referred to as the "Applicant") to use strychnine-treated lard and eggs to reduce rabid skunk populations and thereby reduce the probability of exposure of man and domestic animals to rabies in twenty-three (23) counties of eastern Montana. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

The section 18 regulations provide that the Administrator may grant an emergency exemption to a Federal or State agency when the following conditions exist:

(a) A pest outbreak has or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest, (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use.

(40 CFR 166.1.)

The exemption is also subject to the provisions of 40 CFR Part 164, specifically, Subpart D, published in the FEDERAL REGISTER on March 18, 1975 (40 FR 12261). In cases such as the one presented by this Applicant, if the request is for the use of a pesticide which has been finally cancelled or suspended, then the application constitutes a petition for reconsideration of such cancellation or suspension order. On March 9, 1972, Administrator Ruckelshaus cancelled and suspended the registration of strychnine, sodium cyanide, and 1080 (sodium fluoroacetate) for predator control. However, the Administrator's order banned the use of these pesticides for predator control without distinguishing between rabid and non-rabid predators, the former a human health problem and the latter an economic problem. Therefore, the exemption cannot be granted without the requirement of a prior public hearing, unless certain conditions are found to exist.

Subpart D of the section 3 regulations provides that in emergency circumstances the Administrator may rule on the application without convening a formal hearing and without making a finding as to the question of substantial new evidence when he determines:

(1) That the application presents a situation involving need to use the pesticide to prevent an unacceptable risk: (i) to human health, or (ii) to fish or wildlife populations when such use would not pose a human health hazard; and

(2) That there is no other feasible solution to such risk, and

(3) That the time available to avert the risk to human health or fish and wildlife is insufficient to permit convening a hearing as required by section 164.131; and

(4) That the public interest requires the granting of the requested use as soon as possible.

(40 CFR 164.133.)

It should also be noted that a rebuttable presumption exists against registration of rodenticide products containing strychnine which are registered for outdoor, above-ground use (see FEDERAL REGISTER of December 1, 1976, p. 52810); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

Since 1973, the Applicant has found it necessary to employ annually strychnine baits in an effort to reduce the exposure of man and domestic animals to rabid skunks. The latest exemption issued to the Applicant for the above purpose expired on November 16, 1976; the original specific exemption authorized only the use of strychnine-treated lard baits, but was amended to include the use of strychnine-treated eggs. The Applicant has again found it necessary to apply for a specific exemption in 1977. Two additional counties have been added to the request, as compared to last year's request. The affected counties are: Big Horn, Blaine, Carter, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Hill, Judith Basin, Liberty, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Valley, Wibaux, and Yellowstone.

The program calls for the use of (1) a maximum of 500 strychnine-treated paraffin lard baits to be placed within a five-mile radius per positive rabies case where skunks are determined as the vector species, or (2) a maximum of 500 strychnine-treated eggs to be placed within a five-mile radius per positive rabies case where skunks are determined as the vector species. A maximum of two strychnine lard baits or two strychnine-treated eggs per setting may be placed in the following skunk habitats: skunk dens, holes, garbage dumps, road culverts, junk piles, and under unoccupied buildings. At the end of a 30-day treatment period, treated bait and/or eggs will be collected and destroyed. Strychnine-treated lard baits or eggs will be placed only on those lands where premise entry agreements are signed by the landowner, lessee, or administrator, and warning signs will be posted at entries to all premises and other visible positions near locations where treated baits or eggs have been placed.

All retrieved or excess baits and eggs will be disposed of in an approved sanitary landfill. The Applicant will observe and supervise the destruction of treated baits/eggs. Containers to be destroyed will be handled in a similar manner. Animals destroyed in the control program will be buried to prevent possible secondary poisonings. Every animal killed by baits/eggs or other methods (shooting, trapping) will be submitted to laboratories for fluorescent antibody analysis for the rabies virus. Specimens which were shot in the head or have deteriorated from excessive heat are excluded from analysis. State personnel will check all bait stations at least once a week and more often, every four days. Property owners or residents are not permitted to approach the bait stations.

In light of the above and pursuant to the controlling regulations, the Administrator, EPA, determined that: (a) A pest outbreak of rabid skunks had occurred; (b) There was no pesticide presently registered for use in suppressing populations of rabid skunks in Montana; (c) The application presented a situation involving a need to use the pesticide as requested to prevent an unacceptable risk to human health; (d) There was no other feasible solution to such human health risk; (e) The time available to avert the risk to human health was not sufficient to convene a hearing; and (f) The public interest required the granting of the requested use as soon as possible. Accordingly, the Applicant was granted a specific exemption to use strychnine baits in twenty-three counties in eastern Montana. The specific exemption is also subject to the following conditions:

1. The areas to be treated are presently limited to a circle with a five (5) mile radius around a confirmed rabid skunk found within a two (2) mile radius of areas of human habitation in Blaine, Carter, and Powder River Counties;

2. When the Applicant receives a report of a skunk, cat, or raccoon which is behaving abnormally and located within two (2) miles of an area of human habitation, personnel may place a maximum of one hundred (100) strychnine-treated baits within a five (5) mile radius of the area of human habitation, pursuant to taking specimens of skunks to determine whether rabid skunks are present in the area. If no rabid skunks are found, the unconsumed strychnine baits will be retrieved. If one or more rabid skunks are found, a maximum of four hundred (400) additional baits may be placed in areas of skunk habitation within the five (5) mile radius circle around the location of the rabid skunk;

3. The Applicant, upon receipt of notification of issuance of this specific exemption, shall send an appropriate map of the State showing the location of currently active skunk rabies cases. Subsequently, the Applicant shall send a short telegram to the Registration Division, Office of Pesticide Programs, EPA, at any time that (1) one hundred or less strychnine baits are distributed to determine the presence of rabid skunks and (2) four hundred additional baits are distributed to suppress skunk populations in which the presence of rabies has been confirmed, giving adequate location data to permit the location of the bait treatment areas on the map. There are twenty-three counties where strychnine baits may be applied following establishment of the presence of rabid skunks near areas of human habitation;

4. Exposure of any bait station within a five (5) mile radius circle (to survey for presence of rabid or suppress rabid skunk populations) may not exceed thirty (30) days;

5. Each strychnine lard bait will contain approximately 0.012 grams of actual strychnine alkaloid. Each strychnine egg bait will contain approximately 0.035 grams of actual strychnine alkaloid;

6. The Applicant's personnel are responsible for preparing the strychnine baits, selecting bait stations, posting warning signs, securing premise entry agreements, checking bait stations periodically for kills, and retrieving all unconsumed baits at the termination of the control program;

7. A maximum of two strychnine lard or egg baits per setting will be placed in the following skunk habitats: skunk dens, holes, garbage dumps, road culverts, junk piles, and unoccupied buildings;

8. Strychnine-treated lard or egg baits will be placed only on those lands where premise entry agreements have been signed by the landowner, lessee, or administrator;

9. Warning signs will be posted at entries to all premises and other visible positions near locations where treated baits have been placed;

10. Each bait station will be checked as often as possible for kills, but, in any case, no less than once a week;

11. All retrieved or excess strychnine baits will be disposed of by burial at least 18 inches deep in an approved sanitary landfill. Containers to be destroyed will be handled in a similar manner;

12. Animals poisoned in the control program will be submitted for laboratory analysis for presence of rabies virus if possible. Otherwise, they will be buried on the premises to prevent possible secondary non-target species poisonings;

13. The Applicant must follow any more stringent requirements imposed by State law or regulation or applied by the State pesticide regulatory authority; and

14. The specific exemption expires on March 31, 1978.

Statutory authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: May 19, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-14950 Filed 5-25-77;8:45 am]

[FRL 734-1]

SCIENCE ADVISORY BOARD ENVIRONMENTAL HEALTH ADVISORY COMMITTEE STUDY GROUP ON MUTAGENICITY TESTING

Open Meeting

Notice is hereby given that a meeting of the Study Group on Mutagenicity Testing of the Science Advisory Board's Environmental Health Advisory Committee will be held at 9:00 a.m. on June 15, 1977, in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The purpose of the meeting will be to continue the discussion of Agency approaches to the evaluation of test data relating to mutagenicity in the context of section 3, Registration of Pesticides, of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. June 10, 1977. Please call Ms. Barbara Robinson on (703) 557-7720.

Dated May 19, 1977.

LLOYD T. TAYLOR,
Acting Staff Director.
Science Advisory Board.

[FR Doc.77-14948 Filed 5-25-77;8:45 am]

[OPP-42009B; FRL 733-7]

WASHINGTON

Extension of Contingent Approval of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and 40 CFR Part 171 (39 FR 36445 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable Daniel J. Evans, Governor of the State of Washington, submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingent basis, pending promulgation of implementing regulations. On January 7, 1976, the Regional Administrator, EPA Region, X, approved the plan on a contingent basis for a fifteen month period. Notice of the approval was published in the FEDERAL REGISTER on February 18, 1976 (41 FR 7449). Legal authority for the program is contained in the Washington Pesticide Control Act, Washington Pesticide Application Act, and Washington Regulations.

On April 7, 1977, the State of Washington requested an extension of the Washington contingent approval pending promulgation of the regulations as described in the State Plan. The Agency finds that there is good cause for approving the request, and has granted an extension until September 1, 1977.

Dated: May 16, 1977.

DONALD P. DUBOIS,
Regional Administrator, U.S. Environmental Protection Agency, Region X.

[FR Doc.77-14949 Filed 5-25-77;8:45 am]

[FRL 733-2 PP7G1883/T105]

N-CHLOROACETYL-N-(2,6-DIETHYLPHENYL)GLYCINE ETHYL ESTER

Establishment of Temporary Tolerances

Hercules, Inc., Wilmington, DE 19899, has submitted a pesticide petition (PP 7G1883) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for combined residues of the herbicide *N*-chloroacetyl-*N*-(2,6-diethylphenyl) glycine ethyl ester and its major metabolites *N*-chloroacetyl-*N*-(2,6-diethylphenyl) glycine ethyl ester glutathione conjugate and *N*-chloroacetyl-*N*-(2,6-diethylphenyl) glycine ethyl ester cysteine conjugate in or on the raw agricultural commodities soybeans and soybean forage at 0.2 part per million (ppm) and sugar beet roots and tops at 0.05 ppm.

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treted in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Hercules, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 11, 1978. Residues not in excess of 0.2 ppm remaining in or on soybeans and soybean forage and 0.05 ppm in or on sugar beet roots and tops after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Libby Zink, Registration Division (WH-567), Office of Pesticide Programs, Room 315,

East Tower, 401 M St., SW, Washington DC 20460 (202/755-4851).

Dated: May 13, 1977.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j).)

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc 77-14955 Filed 5-25-77;8:45 am]

[FRL 732-8; PP 4G1469/T107]

PROCYAZINE

Renewal of Temporary Tolerances

On May 12, 1976, the Environmental Protection Agency (EPA) announced (41 FR 19376) a renewal of temporary tolerances for residues of the herbicide procyazine (2-[[4-chloro-6-(cyclopropylamino) - 1,3,5 - triazin - 2 - yl]amino]-2-methylpropanenitrile) in or on the raw agricultural commodities fresh corn, including sweet corn (kernels plus cob with husk removed), corn grain, and corn fodder and forage (except sweet corn fodder and forage) at 0.1 part per million (ppm). These tolerances were established (39 FR 39906) in response to a pesticide petition (PP 4G1469) submitted by Ciba-Geigy Corp., Agricultural Div., PO Box 11422, Greensboro NC 27409. This renewal expired April 30, 1977.

Ciba-Geigy Corp. has requested a three-month renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire July 30, 1977. Residues not in excess of 0.1 ppm remaining in or on fresh corn including sweet corn (kernels plus cob with husk removed) and corn grain, fodder, and forage (except sweet corn fodder and forage) after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Ms. Libby Zink, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M St., SW, Washington DC 20460 (202/755-4851).

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j).))

Dated: May 13, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-14954 Filed 5-25-77;8:45 am]

[FRL 735-4; PP 6G1863, T104]

ESTABLISHMENT OF TEMPORARY TOLERANCES

Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate

Mobay Chemical Corp., Chemagro Agricultural Div., PO Box 4913, Kansas City MO 64120, has submitted a pesticide petition (PP 6G1863) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for combined residues of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities apples, cherries, and peaches at 0.2 par per million (ppm).

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with experimental use permits that are being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental uses, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permits.

2. Mobay Chemical Corp. must immediately notify the EPA of any findings from the experimental uses that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 11, 1978. Residues not in excess of 0.2 ppm remaining in or on apples, cherries, and peaches after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and temporary tolerances. These temporary tolerances may be revoked if the experimental use permits are revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health.

Specific inquiries concerning this notice should be directed to Mr. Don Stubbs, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW, Washington, DC 20460, or by telephone at 202/755-4851.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].)

Dated: May 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-15066 Filed 5-25-77;8:45 am]

[FRL 735-3; OPP-30132]

PESTICIDE PROGRAMS

Receipt of Applications to Register Pesticide Products Containing New Active Ingredients

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of these applications is made in accordance with the provisions of Sections 3(c)(4) of FIFRA [40 CFR 162.6(b)(6)] and does not indicate a decision by the Agency on the applications.

Any Federal agency or other interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received by June 27, 1977, and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending applications. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval or denial of the applications to register pesticide products listed will be announced in the FEDERAL REGISTER. The labels furnished by each applicant as well as all written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 40219-R. The International Nickel Co., Inc., One New York Plaza, New York, NY 10004. NOVAMET 632. Active Ingredients: *Copper (cuprous) sulfide* 93%. Application proposes that this product be classified for general use in the manufacture of antifouling paints. PM24.

EPA File Symbol 876-EAR. Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611. RAVAGE 75WP. Active Ingredients: *Buthidazole* 75.0%. Application proposes that this product be classified for general use as a non-crop herbicide. PM24.

[FR Doc.77-15067 Filed 5-25-77;8:45 am]

[FRL 735-6; OPP-30000/12A]

REBUTTABLE PRESUMPTION AGAINST REGISTRATION AND CONTINUED REGISTRATION OF CERTAIN PESTICIDE PRODUCTS CONTAINING AMITRAZ

Extension of Period for Submission of Rebuttal Evidence and Comments

On March 30, 1977, the Environmental Protection Agency (EPA) issued a notice of presumption against registration and continued registration of pesticide products containing the ingredient Amitraz [N-[[(2,4-dimethylphenyl)imino]methyl] - N - methylmethanimidamide]. This notice was published in the FEDERAL REGISTER on April 6, 1977 (42 FR 18299). The regulations governing rebuttable presumptions provide that the applicant or registrant of such pesticide products shall have forty-five (45) days from the date such notice is sent to submit evidence in rebuttal of the presumption. However, for good cause shown, an additional sixty (60) days may be granted in which such evidence may be submitted [40 CFR 162.11(a)(1)(i)].

A request for an additional 60 days in which to present evidence to the Agency has been received from Upjohn Co. Upjohn has a registration application pending with the Agency for an Amitraz product, and has a registration for a manufacturing use only product containing Amitraz. The Upjohn application and registration were the only application and registration affected by the notice of presumption.[1] Upjohn has specified a need for additional time to retrieve, review, and consolidate available data to adequately respond to the issues raised in the notice of presumption.

The Agency agrees that additional time would be beneficial to ensure the submission of a complete and accurate response to the notice of presumption. Therefore, because good cause has been shown, Upjohn and other interested persons shall have until July 18, 1977, to submit rebuttal evidence and other comments or information. Such evidence, comments, or other information relevant to the presumption against registration and continued registration should be submitted to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington, DC 20460. Three copies of the comments should be submitted to facilitate the efforts of the Agency and of others interested in them. All comments should bear the identifying "OPP-30000/12A." Comments and information received on or before July 18, 1977, shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii) and 7 U.S.C. 136(a)(c)(6) or 7 U.S.C. 136(d)(b)(1). Comments received after July 18, 1977, shall be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section at the above address from 8:30 a.m. to 4 p.m. on normal business days. The file supporting the Agency's presumption against this pesticide is available for public inspection in the Office of Special Pesticide Review, Rm. 447, East Tower, during the same time period.

Dated: May 17, 1977.

JAMES W. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-15065 Filed 5-25-77;8:45 am]

[FRL 735-5; OPP-33000/505]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the recent amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 21 & 22—202/426-2454
PM 24—202/755-2196

[1] EPA Registration No. 1053-58. Amitraz and EPA File Symbol 1053-LO. BAAM EC.

PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, & 17—202/426-9425
PM 23—202/755-1397
PM 25—202/755-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed by July 25, 1977. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made by June 27, 1977.

Dated: May 18, 1977.

DOUGLAS D. CAMP,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/505)

EPA Reg. No. 275-18. Agricultural & Veterinary, Products Div., Abbott Laboratories, North Chicago IL 60064. DIPEL WORM KILLER. Active Ingredients: Bacillus thuringiensis, Berliner 16,000 International Units of Potency per mg. (726 billion International Units per pound). Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses with data. PM17.

EPA Reg. No. 464-402. Dow Chemical, PO Box 1706, Midland MI 48640. DOWPON M GRASS KILLER. Active Ingredients: Sodium salt of dalapon 72.5%; Magnesium salt of dalapon 12.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM25.

EPA Reg. No. 618-75. Merck & Co., Inc., PO Box 2000, Rahway NJ 07065. MERTECT 340-F. Active Ingredients: 2-(4-thiazolyl) benzimidazole 42.8%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Significant new use pattern. PM21.

EPA Reg. No. 901-37. Airosol Co., Inc., PO Box 240, Neodesha KS 66757. 6840-753-4963 INSECT REPELLENT TYPE 11A. Active Ingredients: N,N-Diethylmetatoluamide 71.25%; Other Diethyl Toluamides 3.75%. Method of Support: Application proceeds under 2(a) of interim policy. PM17.

EPA Reg. No. 1239-60. Industrial Chemical Laboratories, Inc., 1015 N. 14 St., Omaha NB 68102. D/S/D II READY TO USE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.082%; n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) dimethyl ethylbenzyl ammonium chlorides 0.082%; Trisodium phosphate 0.027%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 1769-EIE. National Chemsearch, Div. of USA Chem, Inc., 2727 Chemsearch Blvd., Irving TX 75062. NATIONAL CHEMSEARCH PATHFINDER INSECTICIDE. Active Ingredients: Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridil) phosphorothioate] 6.6%. Method of Support: Application proceeds under 2(b) of interim policy. PM12.

EPA File Symbol 2724-ETU. Zoecon Industries, Inc. 12200 Denton Dr., Dallas TX 75234. GOLDEN MALRIN RF-128 FLY KILLER. Active Ingredients: Methomyl (s-methyl N-[methylcarbamoyl]oxy) thioacetimidate 1.000%; (Z)-9-Tricosene 0.025%. Method of Support: Application proceeds under 2(b) of interim policy. PM12.

EPA Reg. No. 3125-163. Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120. DASANIT SPRAY CONCENTRATE INSECTICIDE-NEMATICIDE. Active Ingredients: *O,O*-Diethyl *O*-[4-(methylsulfinyl) phenyl] phosphorothioate 63%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM15.

EPA Reg. No. 3125-164. Chemagro Agricultural Div. DASANIT 10% GRANULAR INSECTICIDE-NEMATICIDE. Active Ingredients: *O,O*-Diethyl *O*-[4-(methylsulfinyl) phenyl] phosphorothioate 10%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM15.

EPA Reg. No. 3125-213. Chemagro Agricultural Div. DASANIT 15% GRANULAR INSECTICIDE-NEMATICIDE. Active Ingredients: *O,O*-Diethyl *O*-[4-methylsulfinyl) phenyl] phosphorothioate 15%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM15.

EPA File Symbol 3125-GRN. Chemagro Agricultural Div. DASANIT 8 EMULSIFIABLE INSECTICIDE-NEMATICIDE. Active Ingredients: *O,O*-Diethyl *O*-[4-(methylsulfinyl) phenyl] phosphorothioate 80%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM15.

EPA File Symbol 3125-GRU. Chemagro Agricultural Div. SENCOR 4 FLOWABLE HERBICIDE. Active Ingredients: 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one 41%. Method of Support: Application proceeds under 2(b) of interim policy. PM25.

EPA File Symbol 3286-EI. Ferd Staffel Co., 331 Burnet St., San Antonio TX 78298. STAFFEL'S BIO ECOLOGICAL COMPATIBLE SPRAY. Active Ingredients: Bacillus thuringiensis, Berliner 0.68%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 3837-UU. Lubar Co., 1708 Campbell, Kansas City MO 64108. MINOR. Active Ingredients: Poly (oxyethylene) (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 3837-UL. Lubar Co. MAJOR. Active Ingredients: Poly(oxyethylene dimethyliminio) ethylene (dimethyliminio) ethylene dichloride) 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA Reg. No. 5204-11. M & T Chemicals, Inc., PO Box 1104, Rahway NJ 07065. BIOMET 611 DISINFECTANT. Active Ingredients: Diisobutylphenoxyethoxyethyl dimethyl benzyl ammonium chloride monohydrate 39.35%; Isopropanol 14.85%; Tri-n-butyltin benzoate 5.30%. Method of Support: Application proceeds under 2(a) of interim policy. PM33.

EPA File Symbol 5204-AN. M & T Chemicals, Inc. BIOMET ANTIFOULING PAINT. Active Ingredients: Triphenyltin Fluoride 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM24.

EPA Reg. No. 5197-50. Kem Manufacturing Corp., Kem International Bldg., Tucker GA 30084. KEM GERMEX AEROSOL HOSPITAL DISINFECTANT DEODORANT. Active Ingredients: Otho-phenylphenol 0.10%; Para-tertiary-amylphenol 0.05%; Essential Oils 0.75%; Alcohol 57.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 5719-TR. Chacon Chemical Corp., A Subsidiary of Leisure Enterprises, Inc., 2600 Yates Ave., City of Commerce CA 90040. CHACON FUNGICIDE. Active Ingredients: Chlorothalonil (Tetrachloroisophthalonitrile) 30.80%. Method of Support: Application proceeds under 2(b) of interim policy. PM21.

EPA File Symbol 6125-GG. Bixon Chemical Co., 50-19 97th Pl., Corona NY 11368. BOWL CLEANER I. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl amino betaine 1.000%; Hydrogen chloride 17.500%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 6125-GL. Bixon Chemical Co. QUAT NO. 10 CLEANER-DISINFECTANT-DEODORIZER-FUNGICIDE-VERUCIDE. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6125-GA. Bixon Chemical Co. QUAT NO. 11 CLEANER-DISINFECTANT - DEODORIZER - FUNGICIDE-VIRUCIDE. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6126-GT. Bixon Chemical Co. QUAT NO. 9 CLEANER-DISINFECTANT - DEODORIZER - FUNGICIDE-VIRUCIDE. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium carbonate 1.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 6889-RR. Palmetto Chemical & Supply Co., Inc., PO Box 1218, 600 Stitt St., Monroe NC 28110. SPEARMINT CLEANER DEODORIZER - DISINFECTANT - FUNGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 0.8%; n-Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium Ethylenediamine Tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM33.

EPA File Symbol 7368-UE. Georgia Pacific Corp., 2425 Malt Ave., Los Angeles CA 90040. SANISOL DISINFECTANT DEODORANT CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0% Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 8823-LT. Habco, Inc., 10501 Waysata Blvd., Hopkins MN 55343. HABCO CHLORBOR S-2. Active Ingredients: Sodium Chlorate (No. C103) 41.0%; Sodium Metaborate (No2B204 5H20) 51.0%; Tebuthiuron (1-(5-tert-butyl-1,3,4-thiadiazol-2-yl)-1,3-dimethylurea 1.6%). Method of Support: Application proceeds under 2(b) of interim policy. PM25.

EPA File Symbol 8823-LI. Habco Inc. HABCO CHLORBOR S-1. Active Ingredients: Sodium Chlorate (No. C103) 41.0%; Sodium Metaborate (No2B204 5H20) 51.0%; Tebuthiuron (1-(5-tert-butyl-1,3,4-thiadiazol-2-yl)-1,3-dimethylurea 0.8%). Method of Support: Application proceeds under 2(b) of interim policy. PM25.

EPA File Symbol 8823-LO. Habco, Inc. HABCO CHLORBOR S-1.6. Active Ingredients: Sodium Chlorate (No C103) 41.0%; Sodium Metaborate (No2B204 5H20) 51.0%; Tebuthiuron (1-(5-tert-butyl-1,3,4-thiadiazol-2-yl) - 1,3 - dimethylurea 1.28%). Method of Support: Application proceeds under 2(b) of interim policy. PM25.

EPA File Symbol 9019-A. Malco Products, Inc., 316 Fairview St., Barberton OH 44203. MALCO MILDEW PREVENTATIVE. Active Ingredients: Didecyl dimethyl ammonium chloride 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 9717-RR. Cal-Tek Industries, 1833 N. Eastern Ave., Los Angeles CA 90032. STEAMITE Q D. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 10367-I. N. I. Weinberg Co., 1701 W. Walnut St., Louisville KY 40203. OUTCIDE. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 30943-ER. Lea Chemicals, Inc., PO Box 868, Marianna FL 32446. LEA BACTERCIDE DISINFECTANT-SANITIZER FUNGICIDE DEODORIZER. Active Ingredients: Didecyl dimethyl ammonium chloride 7.5%; Isopropanol 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 39240-O. Xonex Chemicals, 3321 Empire Blvd., S.W., Atlanta GA 30354. XONEX LEMON ODOR DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.00%; Essential oils 0.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

[FR Doc.77-15068 Filed 5-25-77;8:45 am]

[FRL 734-8]

STATE-FEDERAL WATER PROGRAMS ADVISORY COMMITTEE

Renewal

Pursuant to section 7(a) of the Office of Management and Budget Circular No. A-63, Transmittal Memorandum No. 1, dated July 19, 1974, it is hereby determined that renewal of the State-Federal Water Programs Advisory Committee is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the State-Federal Water Programs Advisory Committee through June 27, 1979, unless otherwise sooner terminated, will be filed at the Library of Congress.

DOUGLAS M. COSTLE,
Administrator.

MAY 19, 1977.

[FR Doc.77-15064 Filed 5-25-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[TIAS-2594]

CANADA—U.S.A. TELEVISION AGREEMENT OF 1952

Amendment of Table A

Supplement No. 2

(To the table of Canadian television

(To the table of Canadian television channel assignments and allocations within 250 miles of the Canada-U.S.A. border, dated May 10, 1977, as revised to April 12, 1977.)

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. Television Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

The allocation below has been deleted from Table A.

Location	*Channel No.*
Sept Iles, Quebec	11-

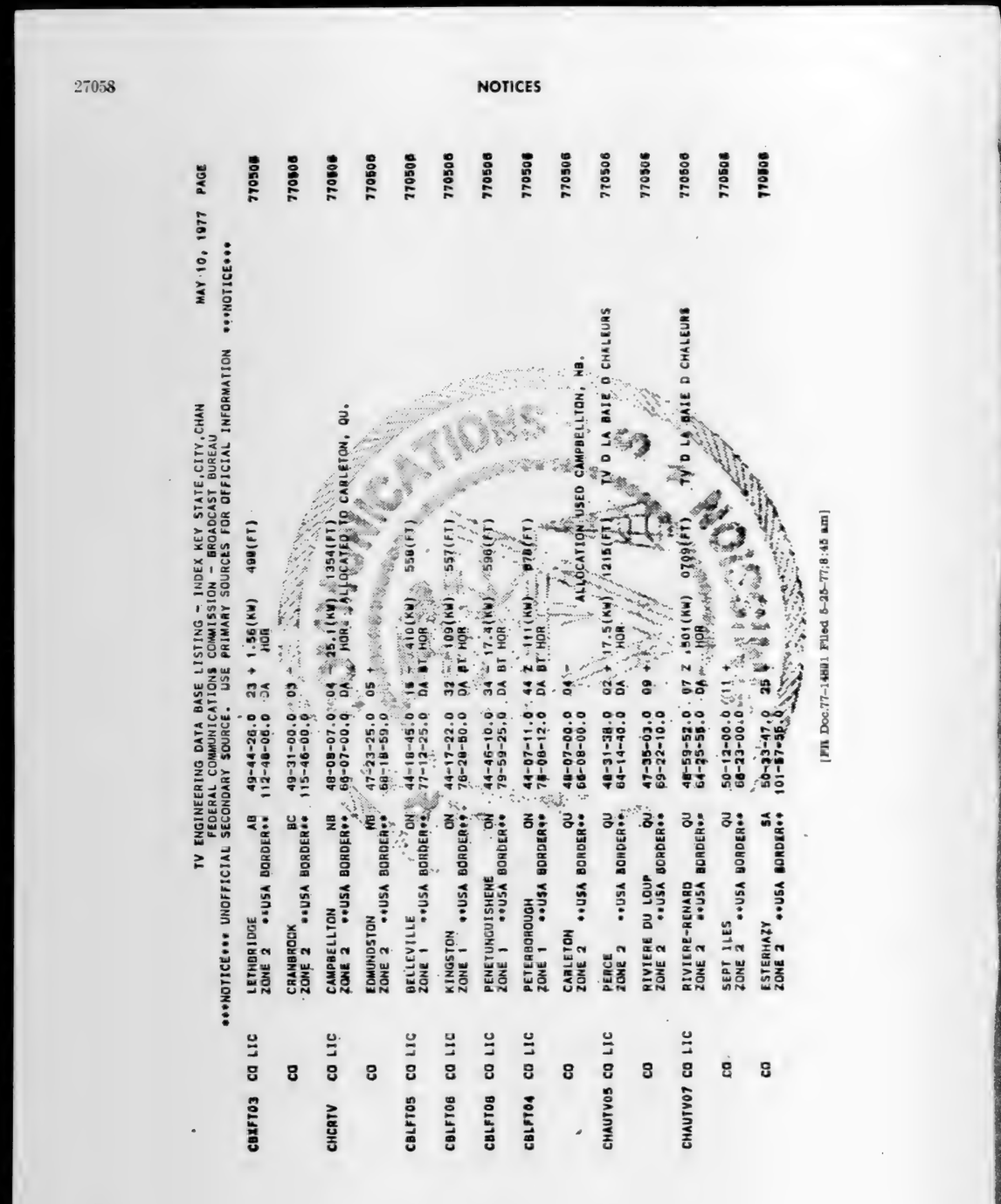
The assignment below has been deleted however the allocation for this location will remain in Table A.

Location and call letters	*Channel No.*
Haliburton, Ontario, CKVR-TV-3	5

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street NW., Washington, D.C. 20036, telephone 202-452-1422.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.



FEDERAL POWER COMMISSION

[Docket No. CI61–323, et al.]

UNION OIL CO. OF CALIFORNIA

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 13, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
I61–323 2–28–77 D	Union Oil Co. of California, Union Oil Center, P.O. Box 7600, Los Angeles, Calif. 90051.	Transwestern Pipeline Co. (certain acreage in Como Area, Beaver County, Okla.).	(1 3 9)	
CI77–446 4–28–77 A	Texas Pacific Oil Co., Inc., 1700 1 Main Pl., Dallas, Tex. 75250.	Trunkline Gas Co. (Eugene Island Block 380, south addition, offshore Louisiana).	4 $1.46	14.73
CI77–447 5–1–77 A	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Trunkline Gas Co. (Block 380 Field, Eugene Island, south addition, offshore southern Louisiana).	4 $1.46	14.73
CI77–449 2–28–77 A	General Electric Co., building 3, room 208, Appliance Park, Louisville, Ky. 40225.	Natural Gas Pipeline Co. of America (Blue Buck Point Field, Cameron Parish, La.).	4 5 6 $1.0332261	14.65
CI77–450 4–21–77 B	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Texas Gas Transmission Corp. (East Carterville Field, Webster Parish, La.).	(7)	
CI77–451 4–29–77 B	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	United Gas Pipe Line Co. (various fields, Calhoun and Jackson Counties, Tex.).	(8)	
CI77–452 5–2–77 A	Champlin Petroleum Co., 700 Houston Natural Gas Bldg., Houston, Tex. 77002.	El Paso Natural Gas Co. (La Huerta Field, Eddy County, N. Mex.).	9 10 11 172.4030¢	14.73
CI77–453 5–2–77 A	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	El Paso Natural Gas Co. (Southeast Parsell Field, Hemphill County, Tex.).	12 208.1730¢	14.73
CI77–454 5–3–77 A	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Trunkline Gas Co. (Eugene Island, south addition, Block 380 Field area, offshore Louisiana).	4 13 $1.90	15.025
CI77–455 5–4–77 A	A. G. Hill, 2900 1st National Bank Bldg., Dallas, Tex. 75202.	Natural Gas Pipeline Co. of America (Dee State No. 1 Well, North Dagger Draw Field, Eddy County, N. Mex.).	9 10 11 163.0987¢ 6 14.73	14.65
CI77–456 5–4–77 A	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America (Federal "E" No. 1 Well, Lea County, N. Mex.).	4 13 $1.45	14.73
CI77–457 5–4–77 A	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co. (Eumont and Jalmat Fields, Lea County, N. Mex.).	10 13 14 52¢	14.73
CI77–458 5–4–77A	Stephens Production Co., P.O. Box 248, Fort Smith, Ark. 72901.	Arkansas Louisiana Gas Co. (sec. 6–1N–10E and 35–2N–9E, Coal County, Okla.).	10 15 16 17 $1.00	14.65
CI77–459	Southland Royalty Co., 1600 1st National Bldg., Fort Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co. (State 3661 and Jeffery #1–X Wells, NE/4 and S/2 of sec. 36, township 21 north, range 23 west, Ellis County, Okla.).	18 144.2121¢	14.65
CI77–460 5–5–77B	William C. Russell, 745 5th Ave. New York, N.Y. 10022.	El Paso Natural Gas Co. (Blanco Mesa Verde Field, San Juan County, N. Mex.).	(19)	
CI77–461 4–27–77B	Beaty & Beaty, No. 10 4th St., Mannington, W. Va.	Consolidated Gas Supply Corp. (Mannington District, Marion County, W. Va.).	(19)	

[1] Expiration of lease.
[2] Well plugged and abandoned.
[3] Reassignment.
[4] Applicant proposes to collect the applicable national rate as prescribed in opinion No. 770–1, subject to adjustments contained therein.
[5] Pressure base adjustment to 15.025 lb/in².
[6] Escalation in the event of any increase in applicable taxes, such as severance tax.
[7] Reserves depleted, leases expired.
[8] Production has ceased.
[9] Subject to quarterly escalations of 1.0¢.
[10] Includes 100 pct tax reimbursement.
[11] Subject to upward and downward Btu adjustments, at a base of 1,000 Btu.
[12] Applicant is willing to accept a permanent certificate in accordance with opinion No. 770, as amended, subject to adjustments contained therein.
[13] Applicant and purchaser are affiliated.
[14] Plus 1.0¢ yearly escalation.
[15] Buyer to bear 50 pct of any tax increase.
[16] If gas is compressed by buyer, a charge of ¾¢ for single and 1½¢ for 2-stage compression may be made.
[17] If gas were of substandard quality, buyer authorized to bring up to standard quality and make charge.
[18] Production uneconomical.
[19] Low volume, contract canceled.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.77–14729 Filed 5–25–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI77-67]

BILL J. GRAHAM

Petition for Special Relief

MAY 19, 1977.

Take notice that on May 2, 1977, Bill J. Graham (Petitioner), P.O. Box 5321, Midland, Texas 79701, filed in Docket No. RI77-67 a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Petitioner seeks to collect a rate of $7.66 per Mcf for the sale of natural gas to The Permian Corporation, which resells the gas to El Paso Natural Gas Company, from the University 12 No. 1 Well and the University 1 No. 1 Well located in Crockett County, Texas. Petitioner states that in order to recover the remaining reserves of approximately 121,000 Mcf from these properties, it will be necessary to install pumping equipment on one well and periodically swab the other well. Petitioner further states that it will also be necessary to install a gas compressor, separator, water tank, and an electrical power system to run the compressor and pumping unit.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance wth the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-14975 Filed 5-25-77;8:45 am]

[Docket No. RP74-100 (PGA77-5 and PGA77-5a)]

NATIONAL FUEL GAS SUPPLY CORP.

Order Accepting PGA Rate Filing

MAY 18, 1977.

On April 19, 1977, National Fuel Gas Supply Corporation (National Fuel) tendered for filing proposed tariff sheets[1] containing: an increase of 0.50 cents per Mcf or $856,002 annually in rates under National Fuel's purchase gas cost adjustment (PGA) provision to track pipeline supplier rate increases; and a special surcharge of 2.36 cents per Mcf proposed to be charged over an eleven month period from May 1, 1977 through March 31, 1978, to recover additional gas costs of $4,169,868 incurred through purchases of 1,686,504 Mcf in emergency supplies during February and March 1977. National Fuel also tendered an alternate sheet[2] which would track its suppliers' rate increases without an additional emergency purchase surcharge. An effective date of May 1, 1977, is requested. For the reasons stated below, the Commission will accept for filing the proposed rate increase including the emergency surcharge, and permit it to become effective on May 1, 1977.

Public notice of the filing was issued on May 4, 1977. It provides for protests or petitions to intervene to be filed on or before May 19, 1977. None has been filed at this time.

This filing replaces an earlier filing on April 1, 1977 which contained a tracking increase of 0.51 cents per Mcf, and a surcharge of 13.31 cents per Mcf then proposed to be collected over five months. National Fuel states that the replacement filing accepted herein was submitted to track a subsequent rate adjustment by Consolidated Gas Supply Corporation and to provide for an extended and more equitable surcharge collection period of eleven months.

National Fuel's special surcharge reflects costs incurred in four emergency transactions. Three of these have been authorized by previous Commission orders: a sixty-day purchase from Paragon Resources Inc. the subject of an order issued February 8, 1977, in Docket No. CP77-38; the importation by Trans Canada Pipelines, Ltd., of supplies from Gaz Metropolitan, approved by order issued February 20, 1977, in Docket No. CP77-232; and importation of additional volumes from Trans Canada made available by the exchange exportation of electric energy by Niagara Mohawk Power Company, as authorized by orders issued February 5, 1977, and March 7, 1977, in Docket No. CP77-188. These three purchases also required transportation services by Tennessee Gas Pipeline Company. The fourth transaction involved the borrowing of volumes from Pacific Lighting Service Company under arrangements similar to those approved by the Administrator of the Emergency Natural Gas Act of 1977.

In this particular docket, due to the unusual circumstances, the Commission will permit National Fuel to recover through its PGA provision the costs of these transactions which were prudently incurred but are not limited to the simple purchase prices. Given National Fuel's additional supply requirements during the unprecedented emergency conditions that prevailed this past winter, these unusual arrangements appeared necessary and the majority were approved by the Commission. The costs to be recovered are clearly and directly associated with the receipt of the emergency volumes by National Fuel. These abnormal and non-recurring transactions could not have been affectuated without incurrence of these costs, such as the charges paid to Tennessee for special transportation services.

National Fuel also requests waiver of the terms of its PGA provision and of the Commission's notice requirements to permit this filing to become effective on May 1, 1977. Its tariff, §§ 17.3 and 17.5 of the General Terms and Conditions, provides for semi-annual adjustments on April 1st and October 1st to recover deferred purchased gas costs and for thirty days notice of filing. National Fuel states that immediate recovery of its significant emergency expenditures is necessary to prevent irreparable harm and severe cash flow problems. Again, in light of the unusual circumstances here, the appropriate waivers will be granted in this case. However, the Commission expects that in Docket No. RP77-57, the most recent general rate filing by National Fuel, the Staff will investigate carefully the possibility that any increases in sales resulting from these emergency transactions may have resulted in excess earnings.

Having reviewed National Fuel's filing, the Commission finds that the proposed PGA rate increase and surcharge are just and reasonable and are not unduly discriminatory or otherwise unlawful. Therefore, Twelfth Revised Sheet No. 4 will be accepted for filing and made effective as of May 1, 1977.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act, and good cause has been shown, to accept for filing and make effective as of May 1, 1977, National Fuel's proposed PGA rate increase and surcharge tendered on April 19, 1977, and to grant, as appropriate, waiver of the terms of National Fuel's tariff and of the Commission's regulations, as hereafter ordered.

The Commission orders. (A) Twelfth Revised Sheet No. 4 to Original Volume No. 1 of National Fuel's FPC Gas Tariff, as tendered by National Fuel on April 19, 1977, in these dockets, is hereby accepted for filing and made effective as of May 1, 1977.

(B) Waiver of the terms of National Fuel's FPC Gas Tariff, particularly §§ 17.3 and 17.5 thereof, and of the requirements of the Commission's Regulations is hereby granted to the extent necessary to carry out the provisions of ordering paragraph (A) above.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14976 Filed 5-25-77;8:45 am]

[1] Twelfth Revised Sheet No. 4 to Original Volume No. 1 of National Fuel's FPC Gas Tariff.

[2] Alternate Twelfth Revised Sheet No. 4 to Original Volume No. 1 of National Fuel's FPC Gas Tariff.

[Docket No. CS71-636]

OCCIDENTAL PETROLEUM CORP. AND PERMIAN CORP.

Petition for Declaratory Order

MAY 19, 1977.

Take notice that on February 28, 1977, Occidental Petroleum Corporation (Occidental) pursuant to § 1.7 (a) and (c) of the Federal Power Commission's rules of practice and procedure filed a petition for declaratory order. The petition states that Occidental and Permian Corporation (Permian) are affiliated producers within the meaning of § 157.40(a)(2) insofar as Permian has been a wholly owned subsidiary of Occidental since 1966. Permian sells casinghead gas from its Todd Ranch Plant in Crockett County, Texas, to El Paso Natural Gas Company (El Paso) as successor in interest to Continental Oil Company by order issued January 7, 1970, in Docket No. CI61-1653. Occidental filed an application for a small producer certificate in Docket No. CS71-636 on May 3, 1971. However, the application on its face did not purport to include Permian. A small producer certificate was issued to Occidental in Docket No. CS71-629 on November 17, 1971. Aggregate jurisdictional sales of Occidental and Permian did not exceed the statutory limit in 1971, the year in which the small producer certificate was granted to Occidental. Occidental and Permian request issuance of an amended small producer certificate which would include the Permian Todd Ranch Plant sales prospectively with the Commission order.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-14973 Filed 5-25-77;8:45 am]

[Docket No. ER77-236]

PUBLIC SERVICE CO. OF OKLAHOMA

Contract

MAY 19, 1977.

Take notice that the Public Service Company of Oklahoma (Okie) on May 5, 1977, tendered for filing a Contract (New Contract) with the City of Pawhuska (City). Okie states that the New Contract will run concurrently with the existing Contract (Old Contract) entered into on February 13, 1968 (FPC Rate Schedule No. 176), until September 1, 1978, when said Old Contract terminates by its own terms. Okie indicates that with the completion of new 138 kv facilities on September 1, 1977, all service delivered to the City will be delivered at the new point of connection, however, the rate charged for the quantity of power sold under the Old Contract will be as provided therein, and the quantity of power delivered in excess of the Old Contract will be sold under the terms of the New Contract.

According to Okie, the increase in the City's demand for power necessitated the new connection to the higher (138 kv) transmission system and the New Contract.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14971 Filed 5-25-77;8:45 am]

[Docket No. ER77-371]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

Filing of Agreement

MAY 18, 1977.

Take notice that the Public Service Company of New Hampshire (PSNH) on May 10, 1977, tendered for filing as an initial rate schedule a Transmission Contract with Boston Edison Company (the Buyer).

PSNH indicates that under the Contract, PSNH transmitted through its system an entitlement of power which the Buyer will be purchasing from Vermont Electric Power Company, Inc.

PSNH requests that the Commission waive the normal 30-day notice requirement and permit the rate schedule to be effective as of 11:59 p.m. on March 31, 1977.

According to PSNH, a copy of the filing was served upon the Buyer.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 1, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14969 Filed 5-25-77;8:45 am]

[Docket No. RP77-95]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

MAY 18, 1977.

Take notice that Texas Eastern Transmission Corporation on May 6, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

Revised Second Substitute Thirtieth Revised Sheet No. 14.

On May 4, 1977, Texas Eastern filed Rate Schedule ISS as a part of its FPC Gas Tariff, pursuant to the Commission's directive in its order dated April 21, 1977, in Docket No. CP77-313, and requested an effective date of April 16, 1977, for such rate schedule. Section 10 of Rate Schedule ISS provides for Texas Eastern to revise its rates under ISS coincident with changes in Consolidated Gas Supply Corporation's (Consolidated) Rate Schedule GSS. The above tariff sheet is being issued to reflect the flow through of Consolidated's change in GSS rates effective May 1, 1977, in Consolidated's general rate increase Docket No. RP77-7.

The proposed effective date of the above tariff sheet as May 1, 1977 to coincide with the effective date of the change in Consolidated's GSS rates.

Copies of the filing were served upon Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14977 Filed 5-25-77;8:45 am]

[Docket No. CP77-382]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

MAY 19, 1977.

Take notice that on May 16, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office Box 1396, Houston, Texas 77001, filed in Docket No. CP77-382 an application pursuant to section 7 of the Natural Gas Act, as amended, and the rules and regulations of the Federal Power Commission, for a certificate of public convenience and necessity authorizing Applicant to construct and operate pipeline facilities in the Brazos Area, South Addition, offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate approximately 4.06 miles of 20-inch pipeline and appurtenant metering and regulating facilities to connect natural gas production facilities in Brazos Block A-133 to an existing pipeline system in Brazos Block A-105. Applicant states that it will purchase Block A-133 gas production pursuant to advance payments to and/or gas purchase contracts with producers in such block.

The total estimated cost of the proposed facilities is $3,750,000 to be financed initially through short-term loans and available cash.

Applicant states that construction of the proposed facilities is scheduled to commence August 1, 1977.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 10, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14974 Filed 5-25-77;8:45 am]

[Docket No. CP77-375]

UNITED GAS PIPE LINE CO.

Application

MAY 19, 1977.

Take notice that on May 12, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-375 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing an additional delivery point for the delivery of up to 240 Mcf of natural gas per day to Entex, Inc.'s (Entex) Youngsville system, and the installation of a new tap on Applicant's Erath Arnaudville 26-inch line in Lafayette Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that it is presently delivering natural gas to Entex for its various distribution systems in South Louisiana including the City of Youngsville, Louisiana, pursuant to a service agreement dated November 17, 1971 between United Gas, Inc., the predecessor in interest of Entex, and Applicant.

Applicant states that Entex is having capacity problems on the northern part of its Youngsville system and by virtue of a letter agreement dated March 3, 1977, between Entex and Applicant, Applicant proposes to provide Entex with an additional delivery point for Youngsville at approximately Mile Post 18.47 on Applicant's Erath-Arnaudville 36-inch line in Lafayette Parish, Louisiana, and shift 240 Mcf of gas per day from Youngsville's allocation to this new delivery point.

Applicant states that the proposed new delivery point is to be known as Youngsville City Gate No. 2 (City Gate No. 2), and would require Applicant to install, at Entex's expense, a new tap at an estimated cost of $1,678.00. It is stated that no increased deliveries by Applicant would be made.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14972 Filed 5-25-77;8:45 am]

[Docket No. ER77-345]

VERMONT ELECTRIC POWER COMPANY, INC.

Filing of Purchase Agreement

MAY 19, 1977.

Take notice that on May 2, 1977, the Vermont Electric Power Company, Inc. (Velco), tendered for filing the following Rate Schedule:

Purchase Agreement for the sale of thirty-two thousand kilowatts (32,000 KW) and related energy from the Vermont Yankee Nuclear Generating Unit in Vernon, Vermont to the Boston Edison Company (Boston Edison) by the Vermont Electric Company, Inc., dated as of February 25, 1977.

Velco states that service under this Agreement began at 11:59 p.m. on March 31, 1977, and will terminate at 12 midnight on October 31, 1977. Velco indicates that the amount of power to be sold under the Contract is estimated to be sixteen million KwHrs per month, with estimated monthly revenues of $300,000. Velco states that the charges paid to it will be credited to those Vermont utilities which have released portions of their Vermont Yankee purchases from Velco in proportion to the amount of capacity and energy released by them to Velco for this sale, and that therefore there will be no change in the overall rate of return of Velco.

Velco requests a waiver of § 35.3 of the Commission's rules and regulations to allow an effective date of April 1, 1977, citing extended Contract negotiations with Boston Edison.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (1.8 and 1.10). All such petitions or protests should be filed on or before May 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-14970 Filed 5-25-77;8:45 am]

[Docket No. RP77-54]

ARKANSAS LOUISIANA GAS CO.

Revised Tariff Sheet

MAY 23, 1977.

Take notice that on April 29, 1977, Arkansas Louisiana Gas Company (Arkla) tendered for filing "Revised Sheet No. 185 issued on May 1, 1977" to its Rate Schedule No. X-26, FPC Gas Tariff Original Volume No. 3, which Arkla states represents the rates as filed in the captioned docket adjusted to reflect its currently effective purchased gas cost of 52.29 cents per Mcf at 14.73 psia and surcharge rate of 11.49 cents per Mcf at 14.65 psia.

Arkla requests the above described tariff sheet be substituted for the "Revised Sheet No. 185 issued on April 15, 1977" in its Notice of Rate Change filed on April 15, 1977 in Docket No. RP77-54 proposed to be effective June 1, 1977.

Arkla also states that copies of its filing were mailed to the jurisdictional customer affected and other interested parties.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-15139 Filed 5-24-77;2:41 pm]

FEDERAL RESERVE SYSTEM

[H. 2, 1977 No. 19]

ACTIONS OF THE BOARD OF GOVERNORS

Applications and Reports Received During the Week Ending May 7, 1977

Statement by Chairman Arthur F. Burns before the Senate Committee on Banking, Housing, and Urban Affairs on the condition of the national economy and the course of monetary policy.

Statement by Governor David M. Lilly before the House Subcommittee on Employee Ethics and Utilization of the Committee on Post Office and Civil Service on H.R. 2587, a bill that would raise to Level I of the Executive Schedule the positions of the Chairman of the Board of Governors and of the Director of the Office of Management and Budget, and to Level II the positions of the Board Members and the Deputy Director of the Office of Management and Budget.

Regulation Z, proposal to make four simplifying revisions of Truth in Lending the proposals are meant to eliminate unnecessary information from the Truth in Lending disclosure statement in order to focus attention on the more meaningful and useful cost disclosures as well as to promote creditor compliance with the Regulation. The Board will receive comments on its proposals through June 15, 1977. (Docket No. R-0098.)

Baylake Corp., Sturgeon Bay, Wisconsin, extension of time to October 21, 1977, within which to become a bank holding company through the acquisition of 80 percent or more of the voting shares of Bank of Sturgeon Bay, Sturgeon Bay, Wisconsin.[1]

Dunn Shares, Inc., Eagle Grove, Iowa, extension of time to June 4, 1977, within which to become a bank holding company through the acquisition of 51.33 percent or more of the voting shares of Security Savings Bank, Eagle Grove, Iowa.[1]

First City Bancorporation of Texas, Inc., Houston, Texas, extension of time to May 31, 1977, within which to consummate the acquisition of Red Bird National Bank, Dallas, Texas.[1]

Estate of James Millikin, Deceased, Decatur, Illinois, extension of time to August 3, 1977, within which to acquire 55 percent of the voting shares of the successor by merger to The Millikin National Bank of Decatur, Decatur, Illinois.[1]

Connecticut Bank and Trust Company, Hartford, Connecticut, extension of time to December 31, 1977, within which to establish a branch at 505 Saw Mill Road, West Haven, Connecticut.[1]

Harris Trust and Savings Bank, Chicago, Illinois, extension of time to September 1, 1977, within which to establish a branch at the Board of Trade Building, Chicago, Illinois.[1]

Columbus Trust Company, Columbus, Ohio, extension of time to June 30, 1977, within which to become a member of the Federal Reserve System.[1]

Marine Midland International Corporation, New York, New York, extension of time within which to complete its investment in Marmid Finance Limited, Hong Kong.[1]

Kentwood Bank, N.A., Kentwood, Michigan, proposed merger with Kentwood National Bank, Kentwood, Michigan, report to the Comptroller of the Currency on competitive factors.[1]

National Union Bank, Columbiana, Ohio, proposed merger with K National Bank, Columbiana, Ohio, report to the Comptroller of the Currency on competitive factors.[1]

Bank of West Blocton, West Blocton, Alabama, extension of time to September 1, 1977, within which to effect withdrawal from membership.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

[1] Application processed on behalf of the Board of Governors under delegated authority.

APPROVED

Western State Bank, Sioux Falls, South Dakota. Branch to be established upon relocation of main office.[2]

Thirty Day Notice by a Member Bank of Intention To Establish an Additional Branch in a Foreign Country.

APPROVED

Bank of America N T and S A: Branch—Additional in Red Hook, St. Thomas, Virgin Islands.

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Citibank Overseas Investment Corporation: Investment—to acquire shares of IAC (Holdings) Limited, Melbourne, Australia, now held by Citicorp and the Australian Public.

Citicorp: Amend Board's letter of December 23, 1975, reinvestment of cash dividends in Foreign subsidiaries.

Manufacturers Hanover International Finance Corporation: Investment—to acquire a de novo leasing corporation in Great Britain and for the latter to issue debt obligations.

International Bank of Detroit: To suspend subsidiary conditions: Hondela Finance Limited, Hong Kong.

Bankamerica Corporation: Investment—to reinvest cash dividends received.

To Form a Bank Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

McCune Bancshares, Inc., McCune, Kansas, for approval to acquire 80 percent or more of the voting shares of McCune State Bank, McCune, Kansas.

SYB Corporation, Oklahoma City, Oklahoma, for approval to acquire 80 percent or more of the voting shares of Stock Yards Bank, Oklahoma City, Oklahoma.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Peoples Banking Corporation, Bay City, Michigan, for approval to acquire 100 percent of the voting shares of The First National Bank of Lapeer, Lapeer, Michigan.

Roger Billings, Incorporated, Delphos, Kansas, for approval to acquire an additional 10 percent of the voting shares of The State Bank of Delphos, Delphos, Kansas.

DENIED

Northwest Bancorporation, Minneapolis, Minnesota, for approval to acquire 90 percent or more of the voting shares of First National Bank, Fort Dodge, Iowa, Fort Dodge, Iowa.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

WITHDRAWN

Manufacturers Hanover Corporation, New York, New York, for approval for the continuance of certain activities by its subsidiary, Ritter Financial Corporation, Wyncote, Pennsylvania, with offices located in Sicklerville, New Jersey, Fairmont, North Carolina; Red Springs, North Carolina; Wadesboro, North Carolina; Hummelstown, Pennsylvania; Warsaw, Virginia; Woodstock, Virginia (consumer credit related property and casualty insurance which is related to extensions of credit by Ritter Financial Corporation).

DELAYED

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans and purchasing consumer installment sales finance contracts; credit related insurance coverages are sold) from 3416 Central Avenue SE., Albuquerque, New Mexico, to Conronado Shopping Center, Corner of Menaul and Louisiana NE., Albuquerque, New Mexico (May 4, 1977).[3]

Trust Company of Georgia, Atlanta, Georgia, notification of intent to engage in de novo activities (providing data processing services to banks and bank holding companies including, but not limited to, processing for checking and savings accounts, automated proof transit, general ledger and check reconcilement) at 2140 Northeast 2nd Street, Gainesville, Florida, through a subsidiary, Trusco Data Systems of Florida, N.A. (May 4, 1977).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property and casualty insurance) at 80 South Lake Avenue Pasadena, California, through its subsidiary, Security Pacific Finance Corp. (May 2, 1977).[3]

PERMITTED

Manufacturers Hanover Corporation, New York, New York, notification of intent to engage in de novo activities (leasing real and personal property on a full payout basis and acting as agent, broker, or adviser in leasing of such property and the making and acquiring, for its own account or for the account of others, loans and other extensions of credit with respect to such property and serving such leases, loans or other extensions of credit) at 400 Executive Park Drive, Cincinnati, Ohio, through its subsidiary, Manufacturers Hanover Leasing Corporation (May 6, 1977).[3]

Manufacturers Hanover Corporation, New York, New York, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company; servicing loans and other extensions of credit for any person; and acting as agent or broker for the sale of credit related life/accident and health insurance which is related to extensions of credit made and acquired by Ritter Finance Company and/or its direct and indirect subsidiaries) at 110 Courthouse Avenue, Burgaw, North Carolina, through its indirect subsidiary, Ritter Finance Company, Inc. of North Carolina (May 6, 1977).[3]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company and servicing of such loans, particularly commercial and residential real estate loans) at 1325 South 800 East Street, Orem, Utah, through its subsidiary, Utah Mortgage Loan Corporation (May 5, 1977).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company and the servicing of such loans, particularly commercial and residential real estate loans) at 1445 South Poplar Street, Rock Springs, Wyoming, through its subsidiary, Utah Mortgage Loan Corporation (May 5, 1977).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extension of credit by Wells Fargo & Company or its subsidiaries: credit life and credit accident and health insurance and mortgage redemption life insurance and group mortgage disability insurance) at 7650 Pacific Avenue, Stockton, California, through its subsidiaries. Wells Fargo Mortgage Company and WFMC Corporation (May 2, 1977).[3]

APPROVED

Manufacturers Hanover Corporation, New York, New York, for approval to commence certain activities by its indirect subsidiary, Ritter Life Insurance Company, Wyncote, Pennsylvania (engaged in underwriting, as reinsurer, credit life and credit accident and health insurance which is related to extensions of credit made or acquired by Ritter Financial Corporation)

Manufacturers Hanover Corporation, New York, New York, for approval for the continuance of certain activities by its subsidiary, Ritter Financial Corporation, Wyncote, Pennsylvania with offices located in Sicklerville, New Jersey; Fairmont, North Carolina; Red Springs, North Carolina; Wadesboro, North Carolina; Hummelstown, Pennsylvania; Warsaw, Virginia; Woodstock, Virginia (engaged in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company; servicing loans and other extensions of credit for any person; and acting as agent or broker for the sale of credit related life and accident and health insurance)

McCune Bancshares, Inc., McCune, Kansas, for permission to engage in the sale of credit life and credit accident and health insurance and other insurance directly related to extensions of credit by McCune State Bank, McCune, Kansas.

SEAFIRST CORPORATION, Seattle, Washington, for approval to acquire indirectly, through its wholly-owned subsidiary, Seafirst Insurance Services Corporation, Seattle, Washington, all of the voting shares of Seafirst Life Insurance Company, Seattle, Washington.

Wells Fargo & Company, San Francisco, California, for approval to acquire all of the voting shares of Ben G. McGuire & Company, Houston, Texas.

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

Arizona-Colorado Land & Cattle Company, Phoenix, Arizona, notification of intent to acquire 49 per cent of Rechem Corp., Phoenix, Arizona. (5/5/77) [3]

Arkansas Best Corporation, Fort Smith, Arkansas, notification of intent to acquire, through its wholly-owned subsidiary, Arkansas Bandag Corporation, all of the capital stock of Southwest-Bandag, Inc., Houston, Texas (5/2/77) [3]

Certifications Issued Pursuant to the Bank Holding Company Tax Act of 1976.

Republic of Texas Corporation, Dallas, Texas ("Republic"), prior certification pursuant to Section 6158(a) of the Internal Revenue Code, that the proposed sale by The Howard Corporation, a subsidiary of Republic, of the Uptown Shopping Center, Shreveport, Louisiana, is necessary or appropriate to effectuate Section 4 of the Bank Holding Company Act. (Legal Division Docket No. TCR 76-107(b)).[4]

The Wachovia Corporation, Winston-Salem, North Carolina, prior certification pursuant to Section 6158(a) of the Internal Revenue Code, that its proposed sale of all of the 20,000 issued and outstanding shares of Financial Courier Corporation (formerly Wachovia Courier Corporation), is necessary or appropriate to effectuate Section 4 of the Bank Holding Company Act. (Legal Division Docket No. TCR 76-132)[4]

APPLICATIONS RECEIVED [4]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

Fidelity Union Trust Company, Newark, New Jersey. Branch to be established inside the Pathmark Supermarket located in the Ricker's Pathmark Shopping Center at the Intersection of Route 22 and Springfield Road, Union Township.

The Toledo Trust Company, Toledo, Ohio. Branch to be established at the Southeast Corner of Wales Road and Oregon Road, Village of Northwood, Wood County.

The Farmers Savings & Trust Company, Mansfield, Ohio. Branch to be established at 800 Ashland Road, Mansfield, Richland County.

Pee Dee State Bank, Timmonsville, South Carolina. Branch to be established at the Intersection of Railroad Avenue and Main Street, Lamar.

Old Kent Bank & Trust Company, Grand Rapids, Michigan. Branch to be established in the vicinity of 0-300 Chicago Drive, Georgetown Township, Ottawa County.

The Bank of Neosho, Neosho, Missouri. Branch to be established at a separate facility to be located adjacent to the Corner of Hill Street and Neosho Boulevard, Neosho.

Fort Worth Bank & Trust, Fort Worth, Texas. Branch to be established as a Drive-in and Mini-Bank Branch to be located immediately across Beach Street from Main Bank Building, Sullivan.

Valley Bank of Nevada, Las Vegas, Nevada. Branch to be established at the intersection of Tropicana Avenue and Jones Boulevard, Las Vegas.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve on behalf of the Board of Governors under delegated authority.

[4] Issued by the General Counsel of the Board pursuant to delegated authority.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

PEOTONE BANCORP, INC., Peotone, Illinois, for approval to acquire 80 percent or more of the voting shares of Peotone Bank and Trust Company, Peotone, Illinois.

Winner Banshares, Inc., Winner, South Dakota, for approval to acquire 94.4 percent of the voting shares of Farmers State Bank, Winner, South Dakota.

First of Grandfield Corporation, Grandfield, Oklahoma, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of First State Bank, Grandfield, Oklahoma.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Southeast Banking Corporation, Miami, Florida, for approval to acquire 100 percent of the voting shares of Southeast Acquisition Company, Miami; Southeast Bank of Fort Myers, N.A., Fort Myers; Southeast Bank of St. Armands, Sarasota; Southeast Bank of Siesta Key, Sarasota; and Southeast Bank of Village Plaza, N.A., Sarasota; all located in Florida.

DETROITBANK Corporation, Detroit, Michigan, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Kentwood Bank, N.A., Kentwood, Michigan, the successor by absorption to Kentwood National Bank, Kentwood, Michigan.

First Midwest Bancorp., Inc., St. Joseph, Missouri, for approval to acquire 80 percent or more of the voting shares of L.W.J.S. Corporation, Gower, Missouri and indirectly acquire The Farmers Bank of Gower, Gower, Missouri.

To Retain Bank Shares Acquired in a Fiduciary Capacity Pursuant to Section 3 of the Bank Holding Company Act of 1956.

First United Bancorporation, Inc. and First National Bank of Fort Worth, both in Fort Worth, Texas, for approval to retain 9,960 shares of Everman National Bank of Fort Worth, Fort Worth, Texas.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Northeast Bankshare Association, Lewiston, Maine, notification of intent to engage in *de novo* activities (servicing loans and other extensions of credit related to credit card issuance by banks and merchants particularly providing credit card administration, processing and customer servicing including distribution of newly approved and renewed credit cards, the calculation and distribution of monthly customer billing, the resolution of customer complaints and billing errors, the receipt of customer payments and the disbursement of funds to the credit granting bank or merchant) at 178 Court Street, Auburn, Maine, thorugh its subsidiary, Northeast Consumer Services Corp. (5/6/77) [3]

Chemical New York Corporation, New York, New York, notification of intent to engage in *de novo* activities (the origination and sale of mortgage loans on residential, commercial and industrial real estate; the servicing of mortgage loans owned by The Galbreath Mortgage Company and owned by others) in the vicinity of Briley Parkway and Murfreesboro Pike, Nashville, Tennessee and in the vicinity of the Galleria area on Westheimer Road, Houston, Texas, through its subsidiary, The Galbreath Mortgage Company (5/3/77) [3]

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (making of consumer installment personal loans; purchasing consumer installment sales finance contracts; the sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property subject to a security agreement with Citicorp Person-to-Person Financial Center) and to engage *de novo* in the following additional activity (making loans for the account of others such as one-to-four family unit mortgage loans) from 3845 Florida Street, Baton Rouge, Louisiana to Cortana Mall, Space D-7, Florida Boulevard at Airline Highway, Baton Rouge, Louisiana (5/2/77) [3]

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (making of consumer installment personal loans and purchasing consumer installment sales finance contracts; credit related insurance coverages are sold) from 3416 Central Avenue, S.E., Albuquerque, New Mexico to Coronado Shopping Center, Corner of Menaul & Louisiana, N.E., Albuquerque, New Mexico (5/2/77) [3]

Citicorp, New York, notification of intent to relocate *de novo* activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sales by a licensed agent of insurance which protects property subject to a security agreement with Nationwide Financial Corporation of Oklahoma) and to engage *de novo* in the following additional activity (making loans for the account of others such as one-to-four family unit mortgage loans) from 1531 Gore Boulevard, Lawton, Oklahoma to 3130 Cache Road, Suite 2, Lawton, Oklahoma, through its subsidiary, Nationwide Financial Services Corporation (5/6/77) [3]

Citicorp, New York, New York notification of intent to engage in *de novo* activities (making loans for the account of others such as one-to-four family unit mortgage loans) at 117 S. Air Depot Boulevard, Midwest City, Oklahoma, 2507 N.W. 23rd Street, Oklahoma City, Oklahoma, the Crossroads, 7000 Crossroads Boulevard, Oklahoma City, Oklahoma and North Penn Plaza, 5641 N. Pennsylvania Avenue, Oklahoma City, Oklahoma, through its subsidiary, Nationwide Financial Services Corporation (5/4/77) [3]

Citicorp, New York, New York, notification of intent to relocate *de novo* activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; sale by a licensed agent of insurance which protects personal property subject to a security agreement with Nationwide Financial Corporation of Oklahoma, Inc.) from 2808 N. Pennsylvania Ave., Oklahoma City, Oklahoma, 4800 S. Western Avenue, Oklahoma City, Oklahoma and 4520 N.W. 50th, Oklahoma City, Oklahoma to 2507 N.W. 23rd Street, Oklahoma City, Oklahoma, the Crossroads, 7000 Crossroads Boulevard, Oklahoma City, Oklahoma and North Penn Plaza, 5641 N. Pennsylvania Avenue, Oklahoma City, Oklahoma, respectively, through its subsidiary, Nationwide Financial Services Corporation (5/4/77) [3]

[3] 4(c)(8) ad 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Midlantic Banks Inc., West Orange, New Jersey, notification of intent to engage in *de novo* activities (leasing and financing personal property and equipment, all such leases to be on a full pay-out basis) at 95 Old Short Hills Road, West Orange, New Jersey and 9 South Centre Street, Merchantville, New Jersey, through its subsidiary, Midlantic Commercial Leasing Corp (5/6/77) [3]

Philadelphia National Corporation, Philadelphia, Pennsylvania, notification of intent to engage in *de novo* activities (leasing of real and personal property provided that at the inception of the initial lease the effect of the transaction will be to yield a return that will compensate the lessor for not less than its full investment in the property over the term of the lease) at Broad and Chestnut Streets, Philadelphia, Pennsylvania and 1133 Avenue of the Americas, New York, New York, through its direct and indirect subsidiary, Congress Factors Corporation, at 1133 Avenue of the Americas, New York, New York, through its direct and indirect subsidiary, Congress Financial Corporation and at 1401 Bricknell Avenue Miami, Florida, through its direct and indirect subsidiary, Congress Financial Corporation, Florida (4/29/77) [3]

Central National Bancshares, Inc., Des Moines, Iowa, for approval to acquire 100 percent of the voting shares of First Kansas Financial, Inc., Wichita, Kansas (to engage in the origination, selling and servicing of mortgage loans and acting as insurance agent for the sale of credit related insurance)

BankAmerica Corporation, San Francisco California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit, such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation) at 306E South Ironton Street, Aurora Colorado, through its subsidiary, FinanceAmerica Corporation (a Colorado Corporation) (4/27/77) [3]

Fremont Bancorporation, Fremont, California, notification of intent to engage in *de novo* activities (acting as an insurance agent or broker for the purpose of providing insurance to Fremont Bank, providing insurance that is directly related to extensions of credit by a bank or bank-related firm or is directly related to the provision of other financial services by a bank) at 39150 Fremont Boulevard, Fremont, California, 35880 Freemont Boulevard, Fremont, California and 4948 Stevenson Boulevard, Fremont, California, through its subsidiary, Appraisal Associates (4/8/77) [3]

Security Pacific Corporation, Los Angeles California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and

casualty insurance) at 80 South Lake Avenue, Pasadena, California, through its subsidiary, Security Pacific Finance Corp. (4/27/77)[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in *de novo* activities (the origination and acquisition of mortgage loans including development and construction loans on multi-family and commercial properties, for its own account or for the sale to others and the servicing of such loans for others) at 1700 West Loop South, Houston, Texas, through its subsidiary, Security Pacific Mortgage Corporation (4/28/77)[2]

For Certification Pursuant to the Bank Holding Company Tax Act of 1976.

304 Corporation, Omaha, Nebraska, to divest shares of Industrial Loan and Investment Company, Omaha, Nebraska. (Legal Division Docket No. TCR 76–140)

American General Insurance Company, Houston, Texas, to divest shares of Texas Commerce Bancshares, Inc., Houston, Texas. (Legal Division Docket No. TCR 76–141)

REPORTS RECEIVED

Registration Statement Filed Pursuant to Section 12(g) of the Securities Exchange Act.

Bank of Virginia Beach, Virginia Beach, Virginia.

Cape Cod Bank & Trust Company, Hyannis Massachusetts (Amendment #1).

Metropolitan Bank of Central Virginia, Lynchburg, Virginia.

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act.

Citizens Commercial & Savings & Trust Co., Wheeling, West Virginia.

Ownership Statement Filed Pursuant to Section 13(d) of the Securities Exchange Act.

Bank of the Commonwealth, Detroit, Michigan (Filed by the First Arabian Corporation—Amendment #1).

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, May 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77–15046 Filed 5–25–77; 8:45 am]

GEMA FINANCIAL CORP.

Formation of Bank Holding Company

GEMA Financial Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The Lawndale Trust and Savings Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 17, 1977.

Board of Governors of the Federal Reserve System, May 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77–15039 Filed 5–25–77;8:45 am]

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Revised Report Proposal

On November 11, 1976, the Regulatory Reports Review Staff, GAO, received and accepted a request for clearance of a proposed report intended for use in collecting information from the public. (See 44 U.S.C. 3512 (c) and (d).) GAO published a notice in the FEDERAL REGISTER on November 18, 1976, at 41 FR 50869, announcing that FEA form P124–M–1, entitled Domestic Crude Oil Purchasers Report, had been received and accepted.

On December 21, 1976, we suspended clearance of the proposed FEA form so that FEA would have sufficient time to respond to comments received on this form and GAO could review FEA's response. On December 29, 1976, GAO received an expanded supporting statement which was published in the FEDERAL REGISTER on January 5, 1977, at 42 FR 1072. GAO published this expanded supporting statement in the FEDERAL REGISTER in order to solicit further comments on the form. On the basis of comments received pursuant to the first and second FEDERAL REGISTER notices, FEA has substantially revised the form.

GAO is now requesting written comments from all interested persons, organizations, public interest groups, and affected businesses on the changes to the FEA P124–M–1 which are discussed below. For comments to be considered they must be received on or before June 13, 1977. Comments (in triplicate) must be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information and copies of the revised form and instructions may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff 202–275–3532.

FEDERAL ENERGY ADMINISTRATION

In response to a summary of comments received by GAO the FEA has prepared the following written response.

1. *Financial information.* The issue of burden has been of concern to FEA; thus, 2 schedules have been made annual submissions and one schedule has been eliminated. As to the "why the information is needed" FEA refers to Justification statement published in the FEDERAL REGISTER, January 5, 1977, by the GAO.

2. *Changes to accounting systems.* The instructions for filing the domestic crude oil purchasers reporting period state very plainly that each firm must use its historical method of accounting consistently applied. In addition, the requirements for inventory valuation, runs to stills valuation, and refinery runs has been eliminated.

3. *Need for a correction period.* The normal accounting practice is to estimate volumes each month and to pay producers and bill purchasers based on those estimates; then, in the future when the run tickets or other documents are available, the price is adjusted in that period (not previous periods nor are previous period accounting records changed). Thus, a need for a correction period is not necessary as FEA is tracking financial transactions, not the phyical movement of crude oil.

4. *Relationship of Schedules C and E.* Schedule C has been eliminated.

5. *Computer tapes.* The submission of computer tapes is merely an option available to the reporting firms if they wish, and not a requirement.

6. *Longer lead time.* The FEA has had the policy of allowing on a case by case basis additional time for respondents to file initial reports. This policy will be in effect for the domestic crude oil purchaser's reporting system.

7. *Stripper well information.* A targeting system would not be effective with ⅔ of the potential target firms deleted from the name and address systems.

8. *Period of time during which information can be used.* The compliance effort for crude oil has up to 7 years to audit a firm, so the requested information has a long potential use time.

9. *Information gathered by State regulatory agencies.* There are vast and radical differences among what various state regulatory agencies require from firms doing business within the state. No state that FEA knows of collects information compatible with that required for national price controls.

In addition, FEA provided the following list of changes which were made to the FEA–P124–M–1 in order to address issues raised during the GAO clearance review process and to reduce compliance burden:

Items eliminated: 1. Inventory valuation; 2. inventory volume reports; 3. runs to still information; 4. any requirement to use other than historical accounting practices; 5. schedule C, summary of state purchases; 6. monthly updates to the name and address file; 7. monthly submissions of other than first purchases.

Modifications: 1. Schedule D made an annual submission based upon a firm's accounting records; 2. schedule F made an annual submission and updated annually.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–15032 Filed 5–26–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Notice of Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled was established by Section 133(a)(1) of Public Law 91–517, which was signed October 30, 1970, to advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of the Act and study and evaluate programs authorized by the Act with a view to determining their effectiveness in carrying out the purposes for which they were established.

Notice is hereby given, pursuant to Pub. L. 92–463, that the National Advisory Council on Services and Facilities for the Developmentally Disabled will hold a meeting on June 13, 14, and 15, 1977. The meeting will be held in Room 425–A, South Portal Building, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C., from 9 a.m. to 5 p.m.

Agenda: Consideration and Adoption of Revised Work Plan; Developmental Disabilities Definition Study; Discussion of Guidelines for Developmental Disabilities State Plans; Consultation on National Significance Grants, Special Studies, and Advocacy; and Discussion on the Annual Report to Congress.

This meeting is open for public observation.

Further information on the Council may be obtained from Mr. Francis X. Lynch, Executive Secretary, National Advisory Council on Services and Facilities for the Developmentally Disabled, Room 3070, Mary Switzer Building, 330 C Street SW., Washington, D.C. 20201, telephone 202–245–0335.

FRANCIS X. LYNCH,
Executive Director.

MAY 19, 1977.

[FR Doc.77–15038 Filed 5–25–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Oregon 04759]

OREGON

Order Providing for Opening of Public Lands

MAY 20, 1977.

1. Pursuant to the Act of June 14, 1926 (44 Stat. 741), as amended and supplemented (43 U.S.C. 869 et seq.), the following lands have been voluntarily reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 15 S., R. 12 E.,
Sec. 22, SE¼NE¼.
T. 18 S., R. 12 E.,
Sec. 11, SW¼SW¼.

The areas described aggregate 80 acres in Deschutes County.

2. The subject lands consist of two 40-acre parcels, one located approximately five miles southeast of the City of Bend, and the other approximately six miles west of the City of Redmond. Elevation averages 3,500 feet above sea level, and the topography varies from generally flat to moderately sloping. Vegetation consists primarily of sagebrush and native grasses. In the past, the lands have been used for solid waste disposal purposes, and they will be managed, together with adjoining national resource lands, for multiple use management.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. June 27, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14984 Filed 5–25–77;8:45 am]

[OR 7311]

OREGON

Order Providing for Opening of Public Lands

MAY 20, 1977.

1. In an exchange of lands made under the provisions of the Act of July 31, 1939, 53 Stat. 1144, the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 14 S., R. 6 W.,
Sec. 31, lot 4.
T. 14 S., R. 7 W.,
Sec. 36, N½NE¼, SW¼NE¼, E½NW¼, and NW¼SE¼.

The areas described aggregate 280.11 acres in Benton County and are administered under the policy of sustained-yield forest management which governs the administration of the revested Oregon and California Railroad lands.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of law applicable to revested Oregon and California Railroad lands, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, including the mining law (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. June 27, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–14985 Filed 5–25–77;8:45 am]

[OR 9648 (Wash.)]

WASHINGTON

Order Providing for Opening of Public Land

MAY 20, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following land has been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 11N., R. 32 E.,
Sec. 31, lots 3 and 4 and E½SW¼

The area described contains 153.34 acres in Franklin County.

2. The subject land is located in the area known as the Juniper Forest approximately 13 miles northeast of the city of Pasco. Elevation ranges from 800 to 850 feet above sea level, and the topography is generally rolling and undulating. Vegetation consists primarily of native grasses and some western juniper. In the past, the land has been used for livestock grazing purposes. The land also has outdoor recreational values, and it will be managed, together with adjoining national resource lands, for multiple use.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. June 27, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.14986 Filed 5–25–77;8:45 am]

[NM 30554, 30556, and 30559]

NEW MEXICO

Applications

MAY 18, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4½-inch natural gas pipe-

line rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 31 E.,
Sec. 20, N½SE¼;
Sec. 21, N½S½;
Sec. 22, N½S½;
Sec. 23, N½S½;
Sec. 24, N½S½.
T. 17 S., R. 32 E.,
Sec. 15, S½SE¼;
Sec. 27, S½SW¼ and SW¼SE¼;
Sec. 28, S½S½;
Sec. 29, S½S½;
Sec. 30, SE¼SW¼ and S½SE¼.
T. 18 S., R. 32 E.,
Sec. 19, lot 3, NE¼SW¼ and S½SE¼;
Sec. 20, N½S½;
Sec. 21, NW¼SW¼.

These pipelines will convey natural gas across 10.256 miles of national resource lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15022 Filed 5-25-77;8:45 am]

[NM 30565]

NEW MEXICO

Application

MAY 19, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 33 E.,
Sec. 12, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 13, E½E½;
Sec. 24, E½E½E½;
Sec. 25, E½E½E½;
Sec. 36, E½NE¼ and E½NE¼SE¼.

These pipelines will convey natural gas across 4.508 miles of national resource land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15023 Filed 5-25-77;8:45 am]

[OR 10970]

OREGON

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

MAY 17, 1977.

The Department of Agriculture on behalf of the Forest Service, on June 7 1973, filed application, Serial No. OR 10970, for the withdrawal of the following described lands from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights:

WILLAMETTE MERIDIAN

DESCHUTES NATIONAL FOREST

Sparks-Devils Lakes Recreation Area

T. 18 S., R. 8 E.,

A tract of land in the following subdivisions excepting a strip previously withdrawn for the Cascade Lakes Road Zone by PLO 2751 of August 13, 1962 (27 FR 8277):

Sec. 4, S½SE¼;
Sec. 9, NE¼;
Sec. 10, NW¼ and SE¼;
Sec. 11, NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, S½S½, and NE¼SE¼;
Sec. 12, SW¼SW¼;
Sec. 14;
Sec. 15, E½;
Sec. 22, NE¼NE¼;
Sec. 23, W½.

The area described contains approximately 2,330 acres in Deschutes County.

The applicant desires that the lands be reserved for the Sparks-Devils Lakes Recreation Area.

A notice of the proposed withdrawal was published as FR Doc. 74-11064 which appeared in the May 14, 1974 issue of the FEDERAL REGISTER (Vol. 39, No. 94) at page 17241.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below, on or before June 27, 1977. Upon determination by the State Director that a public hearing will be held, a notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B.

All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before June 27, 1977.

The above described lands are temporarily segregated from location and entry under the mining laws only, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204 (g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15024 Filed 5-25-77;8:45 am]

[NM 30657 and 30658]

NEW MEXICO

Applications

MAY 18, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch and one 6-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 16 S., R. 25 E.,
Sec. 22, SW¼SW¼ and W½SE¼;
Sec. 27 NW¼NW¼.
T. 24 S., R. 26 E.,
Sec. 9, NE¼SW¼.

These pipelines will convey natural gas across 0.747 of a mile of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-15021 Filed 5-25-77;8:45 am]

MARINE MAMMAL COMMISSION

MARINE MAMMAL COMMISSION AND COMMITTEE OF SCIENTIFIC ADVISORS ON MARINE MAMMALS

Notice of Meeting

Notice is hereby given that the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals will meet on July 28-30, 1977, in Seattle, Washington. Notice of the specific location, time, and agenda items of the meeting will be published in the near future.

The purpose of this notice is to invite the suggestions of interested persons concerning issues and subjects to be considered at the meeting. Suggestions should be submitted, in writing, to the Marine Mammal Commission, 1625 Eye Street NW., Washington, D.C. 20006, by June 27, 1977.

JOHN R. TWISS, Jr.,
Executive Director, Marine Mammal Commission.

MAY 19, 1977.

[FR Doc.77-15025 Filed 5-25-77;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

MAY 24, 1977.

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5, U.S.C. App I (Supp V, 1975), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Monday and Tuesday, June 13-14, 1977. These sessions will be open to the public and will be held in Room 6802 of the U.S. Department of Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C., beginning at 9:00 a.m. on both days.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science and other appropriate areas, was established by Congress by Public Law 92-125, on August 16, 1971, as amended. Its duties are to (1) undertake a continuing review of national ocean policy, coastal zone management and the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before 30 June of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purpose of the National Oceanic and Atmospheric Administration.

The agenda will include the following topics:

JUNE 13, 1977

0900—Opening remarks.
0915—Review of material for NACOA sixth annual report.
1700—Adjournment.

JUNE 14, 1977

0900—Opening remarks.
0915—Review of material for NACOA sixth annual report (continued).
Adjournment at approximately 1330.

The public is welcome at these sessions and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 377-3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.77-15264 Filed 5-25-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-39)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL COMMITTEE ON SPACE PROPULSION & POWER

Meeting

The NASA Research and Technology Advisory Council Committee on Space Propulsion and Power will meet June 14 and 15, 1977, at NASA Headquarters, 600 Independence Ave., Washington, D.C. The meeting will be held in Room 625. The meeting is open to the public on a first-come, first-served basis, limited by the seating capacity of the meeting room which holds 25 persons. All visitors must sign in prior to attending the meeting.

The NASA Research and Technology Advisory Council Committee on Space Propulsion and Power serves in an advisory capacity only. This Committee provides technical advice on program goals, trends, scope and technical balance in relevant areas of space propulsion and power. It reviews, integrates, assesses and balances technical inputs in all areas of Committee interest and responsibility and reports its recommendations to the Research and Technology Advisory Council. There are 17 members on this Committee. The following list sets forth the approved agenda and schedule for the June 14 and 15, 1977, meeting of the Committee on Space Propulsion and Power. For further information, please contact Mr. James Lazar, Area Code 202, 755-3280 at NASA Headquarters, Washington, D.C. 20546.

JUNE 14, 1977

Time	*Topic*
8:30 a.m.	Opening Remarks (Purpose: To welcome members, report status of Committee actions, and discuss agenda.)
9:00 a.m.	Reports on Power Processing, Extended Performance Solar Electric Propulsion vs. Solar Sail, Research Presentation Proposal, and Research and Technology Assessment (Purpose: To report to Committee members on the NASA power processing program, the status of the extended performance solar electric propulsion and solar sail technology programs, a proposal for a research presentation, and the NASA in-house research and technology assessment.)
10:30 a.m.	NASA Thermionic Research and Technology Program Review (Purpose: To brief Committee members on the NASA thermionics research and technology program and to establish Committee position on the future direction of this program.)
2:30 p.m.	Potential Fiscal Year 1979 Propulsion and Power New Initiatives (Purpose: To brief Committee members on the potential fiscal year 1979 propulsion and power new initiatives.)

JUNE 15, 1977

8:30 a.m.	Discussion of Potential Fiscal Year 1979 Propulsion and Power New Initiatives (Purpose: To establish Committee positions on the potential fiscal year 1979 propulsion and power new initiatives.)
1:00 p.m.	Committee Discussions (Purpose: To discuss general topics and open items, to propose a date and place for the next Committee meeting, and to discuss possible agenda items.)
3:00 p.m.	Adjournment.

KENNETH R. CHAPMAN,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

MAY 20, 1977.

[FR Doc.77-14992 Filed 5-25-77;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

PRIVACY ACT OF 1974

Systems of Records

AGENCY: National Credit Union Administration.

ACTION: Adoption of systems of records pursuant to the Privacy Act of 1974.

SUMMARY: Pursuant to 5 U.S.C. 552a (e)(4) the National Credit Union Administration (NCUA) hereby adopts 10 systems of records.

EFFECTIVE DATE: Effective May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert M. Fenner, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456. Telephone: (202) 254–9810.

SUPPLEMENTARY INFORMATION: These systems of records were published in proposed form at pages 9731 through 9735 of the February 17, 1977, edition of the FEDERAL REGISTER. Concurrent with the publication in proposed form, a report on the systems was filed with the Director of the Office of Management and Budget, the Speaker of the House of Representatives, the President of the Senate and the Privacy Protection Study Commission.

NCUA's previously published systems of records, designated as systems "NCUA–1" through "NCUA–20", were set forth at pages 44982 through 44990 of the October 13, 1976, edition of the FEDERAL REGISTER.

No comments having been received, the National Credit Union Administration adopts, without change and effective May 26, 1977, the "Notice of Systems of Records" as published in proposed form at pages 9731 through 9735, Vol. 42, No. 33 of the February 17, 1977, edition of the FEDERAL REGISTER.

C. AUSTIN MONTGOMERY,
Administrator.

MAY 18, 1977.

[FR Doc.77–14885 Filed 5–25–77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for Humanities

ADVISORY COMMITTEE, PLANNING OFFICE PANEL

Meeting

MAY 11, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Planning Office Panel will be held at 806, 15th Street, NW., Washington, D.C. 20506, in room 314, from 9 am. to 5:30 pm. on June 23, and 24, 1977.

The purpose of the meeting is to review Youthgrants in the Humanities applications submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202–382–8301.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–15071 Filed 5–25–77;8:45 am]

ADVISORY COMMITTEE, RESEARCH GRANTS PANEL

Meeting

MAY 17, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1130, from 9 am to 5:30 pm on June 17, 1977.

The purpose of the meeting is to review Research Materials applications in the field of linguistics and lexicography submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202–382–8301.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–15072 Filed 5–25–77;8:45 am]

ADVISORY COMMITTEE, RESEARCH GRANTS PANEL

Meeting

MAY 16, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1130, from 9 am to 5:30 pm on June 16, 1977.

The purpose of this meeting is to review applications submitted to the Tools Program of the National Endowment for the Humanities, for projects in History, Social Science, and Philosophy beginning October 1, 1977.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15 Street, NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–15073 Filed 5–25–77;8:45 am]

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

PRIVACY ACT OF 1974

Revocation and Transfer of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a, the National Study Commission on Records and Documents of Federal Officials published in the FEDERAL REGISTER (41 FR 40048) a notice of the following systems of records subject to the Privacy Act: PDC–1, General Financial Records; PDC–2, Payroll Records; PDC–3, Informal Personnel Files. The Commission will terminate operations on May 30, 1977 and the above systems of records are revoked as of that date.

Following is a summary of the disposition of the Commission's systems of records, subsequent to the termination date:

PDC–1, General Financial Records and PDC–2 Payroll Records. To be retained by General Services Administration, Region 3, Payroll Processing Branch, for use in concluding administrative operations of the National Study Commission on Records and Documents of Federal Officials as part of the GSA system of records, Defunct Agency Records GSA/OAD–36.

PDC–3, Informal Personnel Files. Reviewed by the National Archives and Records Service and disposed of in accordance with Comprehensive Records Control Schedule NC 1–220–77–1, as approved by the Archivist of the United States.

DORI DRESSANDER,
General Counsel.

MAY 20, 1977.

[FR Doc.77–14987 Filed 5–25–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

FLORIDA POWER CORP., ET AL. (CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT)

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Facility Operating License No. DPR–72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach, and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission, and City of Orlando, Sebring Utilites Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee, which revised Technical Specifications for operation of the Crystal River Unit 3 Nuclear Generating Plant located in Citrus County, Florida.

The Amendment permits an acceptance criteria of 95 percent or greater for the removal efficiency for methyl iodide as demonstrated by a laboratory analysis of a representative carbon sample of the charcoal absorber units of the auxiliary building ventilation exhaust system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 21, 1977, (2) Amendment No. 4 to License No. DPR–72, and (3) the Commission's related Safety Evaluation Supporting Amendment No. 4 to License No. DPR–72. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida 32629. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 12th day of May 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77–14795 Filed 5–25–77;8:45 am]

[Docket Nos. 50–335A, 50–250A, and 50–251A]

FLORIDA POWER & LIGHT CO. (ST. LUCIE NO. 1, TURKEY POINT UNITS NOS. 3 AND 4)

Request for Order To Show Cause

Notice is hereby given that by petition dated April 18, 1977, Florida Cities (Fort Pierce Utilities Authority of the City of Fort Pierce, Gainesville-Alachua County Regional Electric Water and Sewer Utilities, Lake Worth Utilities Authority, Utilities Commission of the City of New Smyrna Beach, Orlando Utilities Commission, Sebring Utilities Commission, the Cities of Alachua, Bartow, Daytona Beach, Fort Meade, Key West, Mount Dora, Newberry, Quincy, St. Cloud, and Tallahassee, Florida, and the Florida Municipal Utilities Association) filed a request for an Order to Show Cause why License Nos. DPR–31, DPR–41 and DPR–67 should not be revoked, amended, or modified, due to alleged anticompetitive conduct and conditions under those licenses. The requested order would be issued to the Licensee, Florida Power & Light Company. In accordance with the procedures specified in 10 CFR § 2.206 appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450, and Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 16th day of May 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77–14668 Filed 5–25–77;8:45 am]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications which will modify the method of testing the operability of the relief valves used in the reactor pressure relief subsystem.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 9, 1977, (2) Amendment No. 34 to License No. DPR–49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of May 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–14669 Filed 5–25–77;8:45 am]

[Docket No. STN 50–482]

KANSAS GAS AND ELECTRIC CO. AND KANSAS CITY POWER AND LIGHT CO. (WOLF CREEK GENERATING STATION, UNIT 1)

Issuance of Construction Permit

Notice is hereby given that, pursuant to the Partial Initial Decision and the Initial Decision of the Atomic Safety and Licensing Board, dated January 18, 1977, and May 11, 1977, respectively, the Nuclear Regulatory Commission (the Commission) has issued Construction Permit No. CPPR–147 to the Kansas Gas and Electric Company and the Kansas City Power and Light Company for construction of a pressurized water nuclear reactor at the applicant's site in Coffey County, Kansas. The proposed reactor, known as the Wolf Creek Generating Station, Unit 1 is designed for a rated

power of 3,411 megawatts thermal with a net electrical output of 1,150 megawatts.

The Partial Initial Decision and the Initial Decision are subject to review by an Atomic Safety and Licensing Appeal Board prior to their becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with these Decisions may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permit is effective as of its date of issuance. The earliest date for the completion of the facility is March 1, 1982, and the latest date for completion is March 1, 1984. The permit shall expire on the latest date for completion of the facility.

A copy of (1) the Partial Initial Decision and the Initial Decision, dated January 18, 1977, and May 11, 1977, respectively; (2) Construction Permit No. CPPR–147; (3) the report of the Advisory Committee on Reactor Safeguards, dated October 16, 1975; (4) the Office of Nuclear Reactor Regulation's Safety Evaluation Report dated September 1975, and Supplement Nos. 1, 2, and 3, thereto, dated January 14, 1976, February 10, 1976, and November 29, 1976, respectively; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the applicants' Environmental Report dated, May 16, 1974, and supplements thereto; (7) the Draft Environmental Statement dated July 1975; and (8) the Final Environmental Statement dated October 1975, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555, and at the Office of the County Clerk, Coffey County Courthouse, Burlington County, Kansas 66839. A copy of the construction permit may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation Report (Document No. NUREG–75/080) and its supplements (Document Nos. NUREG–0019 for Supplement No. 1 and NUREG–0033 for Supplement Nos. 2 and 3) and the Final Environmental Statement (Document No. NUREG–75/096) may be purchased, at current rates, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 17th day of May, 1977.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc.77–14796 Filed 5–25–77;8:45 am]

[Docket No. 50–289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR–50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

This amendment adds provisions to the Technical Specifications to require operability and surveillance of shock suppressors (snubbers) required to protect the primary coolant system and all other safety related systems and components.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 23, 1975, as supplemented September 15 and October 19, 1976, and March 9, 1977, (2) the Commission's letter dated February 17, 1977 to Metropolitan Edison Company, (3) Amendment No. 30 to License No. DPR–50, and (4) the Commission's related Safety Evaluation issued February 17, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania.

A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77–14670 Filed 5–25–77;8:45 am]

[Docket No. 50–298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment To Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No. DPR–46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebraska. The amendment is effective 30 days from its date of issuance.

The amendment incorporated (1) fin fish impingement limits in the facility Technical Specifications and (2) changed the location of an environmental sampling station for poultry eggs, clarified sampling frequency requirements for soil samples, changed the location description of Sample Station No. 1, and corrected administrative errors from previous license amendments.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

In connection with item (1) above, the Commission has prepared an environmental impact appraisal relating to the action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action. In connection with item (2) above, the Commission has determined that this action will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared.

For further details with respect to this action, see (1) the applications for amendment dated December 16 and 20, 1976, (2) Amendment No. 37 to License No. DPR–46, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 118, 15th Street, Auburn, Nebraska 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this ninth day of May, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77–14672 Filed 5–25–77;8:45 am]

[Docket No. 50–220]

NIAGARA MOHAWK POWER CORP.

Issuance of Facility License Amendment

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR–63 to the Niagara Mohawk Power Corporation (the licensee) which revised Technical Specifications for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to permit the reactor vessel water level to be below the low-low-low level set point for an interval not to exceed twelve weeks. Amendment No. 14, issued March 25, 1977, permitted MNPC to lower the reactor vessel water level below the low-low-low level set point during major maintenance for an interval not to exceed six weeks.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 6, 1977, (2) Amendment No. 15 to License No. DPR–63, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego City Library, 120 E. Second Street, Oswego, New York 13126.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of May, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–14673 Filed 5–25–77;8:45 am]

[Docket No. STN 50–484]

NORTHERN STATES POWER CO. (MINNESOTA), NORTHERN STATES POWER COMPANY (WISCONSIN) (TYRONE ENERGY PARK, UNIT 1)

Order and Notice of Continuation of Hearing on Application For Construction Permit

On August 21, 1974 the Commission issued a "Notice of Hearing on Application for Construction Permits," published in 39 FR 31688 (August 30, 1974). The Notice related to the application by Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) for permits to construct Tyrone Energy Park, Nuclear Units 1 and 2, to be located in Dunn County, Wisconsin. Subsequently Northern States Power Companies amended their application to delete Unit 2 of Tyrone Energy Park because of its indefinite postponement. As a result of this amendment, the Atomic Safety and Licensing Board divided the proceedings into two phases. Phase 1 relates to the radiological health and safety aspects under the Atomic Energy Act of 1954, as amended. Phase 2 pertains to environmental issues under the National Environmental Policy Act of 1969.

Sessions of the hearing to receive evidence on radiological health and safety matters were held by an Atomic Safety and Licensing Board in Eau Claire, Wisconsin in September and October 1976 and the Board issued its Partial Initial Decision on these matters on May 3, 1977.

Notice is hereby given that the evidentiary hearing on the application for a construction permit for Nuclear Generating Unit No. 1, Tyrone Energy Park, will resume at 9:30 a.m., June 21, 1977 at Room 101, Hibbard Humanities Hall, University of Wisconsin Campus, Park and Garfield Avenues, Eau Claire, Wisconsin 54701. Evidence will be received with respect to environmental matters under the National Environmental Policy Act; particularly whether in accordance with the requirements of 10 CFR Part 51, the construction permit should be issued as proposed. The hearing is expected to last for several weeks.

The public is invited to attend. Any person may make a written limited appearance statement. Any person who has not already made an oral limited appearance statement may appear and do so. Statements should be limited to environmental considerations. Depending upon time requirements and the number of persons wishing to make oral statements the length of oral statements may be limited. No limitation is presently imposed upon the length of written statements.

Opportunities for limited appearances by members of the public will be afforded at the beginning of the opening session, 9:30 a.m., June 21; 7:00 p.m., June 21; and 1:00 p.m. June 25, 1977.

It is so ordered.

Dated at Bethesda, Maryland this 18th day of May, 1977.

For the Atomic Safety and Licensing Board.

IVAN W. SMITH,
Chairman.

[FR Doc.77–14674 Filed 5–25–77;8:45 am]

REGULATORY GUIDE

Expiration of Initial Public Comment Period

The Nuclear Regulatory Commission staff has, after consideration of the public comments received to date on a guide from its Regulatory Guide Series, determined that there is no need for a revision at this time. Most regulatory guides are revised to reflect additional staff review and public comments received during the initial 60-day comment period following a guide's first issuance. However, in a few cases, a guide may deal with a noncontroversial subject or may be a simple codification of existing practice, and therefore there may be no need for a revision. The guide noticed here is in this category, and for this reason the staff has concluded that no changes are needed at this time. The staff is therefore now using the guide in evaluating applicant and licensee submittals and performance, as noted in the guide's implementation section.

The guide involved is Regulatory Guide 1.116, "Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems."

The first page of the guide with the words "FOR COMMENT" deleted is being reissued to the distribution list for Division 1. The letter "R" added to the revision number is to indicate that the page has been reissued with no changes in the text. For example, "Revision O–R" indicates that the page as originally issued is being reissued unchanged.

Requests for single copies of the reissued first pages should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control.

Comments and suggestions for improvements in regulatory guides are encouraged at all times, and guides are revised, as appropriate, to accommodate comments and reflect new information or experience. However, newly issued guides have an initial comment period of about two months after issuance. Following the expiration of this period, the staff reviews the comments and revises the guides, as appropriate, to reflect such suggestions

as alternative ways of achieving acceptable levels of safety and safeguards.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 17th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.77-14797 Filed 5-25-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 7.8, "Load Combinations for the Structural Analysis of Shipping Casks," presents a set of initial conditions acceptable to the NRC staff for use in the structural analysis of type B packages used to transport irradiated nuclear fuel in the contiguous United States.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 7.8 will, however, be particularly useful in evaluating the need for an early revision if received by July 15, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 11th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office
of Standards Development.

[FR Doc.77-14677 Filed 5-25-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techiques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.63, Revision 1, "Electric Penetration Assemblies in Containment Structures for Light-Water-Cooled Nuclear Power Plants," describes a method acceptable to the NRC staff of complying with mechanical, electrical, and test requirements for the design, qualification, construction, installation, and testing of electric penetration assemblies in containment structures of light-water-cooled nuclear power plants. The original verfsion of this guide endorsed IEEE Std 317-1972, "IEEE Standard for Electric Penetration Assemblies in Containment Structures for Nuclear Power Generating Stations." This issuance reflects the changes necessary to endorse the revision of that standard (IEEE Std 317-1976).

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.63, Revision 1, will, however, be particularly useful in evaluating the need for an early, revision if received by July 20, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regutory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 16th day of May 1977.

ROBERT B. MINOGUE,
Director, Office
of Standards Development.

[FR Doc.77-14678 Filed 5-25-77;8:45 am]

[Docket No. 50-280]

VIRGINIA ELECTRIC AND POWER CO. (SURRY POWER STATION, UNIT NO. 1)

Order for Modification of License

Virginia Electric and Power Company (the Licensee), is the holder of Facility Operating License No. DPR-32 which authorizes the operation of the nuclear power reactor known as Surry Power Station, Unit No. 1 (the facility) at steady state reactor power levels not in excess of 2441 thermal megawatts (rated power). The reactor is a pressurized water reactor (PWR) located at the Licensee's site in Surry County, Virginia.

II

On February 8, 1977, the staff issued an Order related to License No. DPR-32 which addressed operation of Surry Power Station Unit No. 1 under conditions in which steam generator tubes have been plugged as a result of the tube denting caused by corrosion of the tube support plate in the annular spaces between tube and the tube support plate. Subsequently on February 11, 1977, we issued a Safety Evaluation supporting the Order. In order to perform an inspection of the steam generators, the February 8, 1977 Order limited operation to 60 equivalent days. The licensee ahs since that time submitted inspection and repair programs dated April 15 and 29, 1977[1] and has shutdown to perform the inspection and repairs. The NRC staff has evaluated the results of the inspection and repair program and has assessed whether continued operation of the facility would be safe. This evaluation is set forth in the staff's concurrently issued Safety Evaluation relating to the steam generator tube, integrity.

With respect to the effect of increased stress in the tube support plate as a result of tube support plate growth, the staff has concluded that neither buckling of the tube support plate nor damage to the steam generator shell through the wrapper and channel spacer would develop.

Continued growth of the tube support plate continues to impose stresses on the tubes and may result in the development of stress corrosion cracks in the tubes at denting locations. The staff has considered the effect of the development of stress corrosion cracking during the course of operation of this facility, and has assessed the potential effect of such cracks in conjunction with steam line break and loss of coolant accident events. The staff has concluded that under the additional limitations on tube leakage set forth in this Order, the potential effect of continued denting on the consequences of the steam line break event would not exceed a fraction of Part 100, and any effects of continued denting on LOCA events would not be significant. These events are of extremely low probability, especially for the limited period covered by this Order. The additional limitations set forth in this Order will provide reasonable assurance that the public health and safety will not be endangered.

After discussion with the staff, the licensee proposed in his April 29, 1977, submittal to modify the limitations applicable to this facility. The NRC staff believes that under the circumstances, the limitations proposed by the licensee and the additional ones added by the NRC staff are appropriate and should be confirmed by NRC order.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *It is ordered*, That Facility Operating License No. DPR-32 is hereby amended by deleting the provisions of the NRC Order dated February 8, 1977, as corrected February 11, 1977, and replacing in its entirety existing paragraph 3.E. of the license with the following:

E. Steam Generator Inspection

1. Unit No. 1 shall be brought to the cold shutdown condition in order to perform an inspection of the steam generators within six equivalent months of operation from May 6, 1977. Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection. For the purpose of this requirement, equivalent operation is defined as operation with a primary coolant temperature greater than 350° F.

2. Primary to secondary leakage through the steam generator tubes shall be limited to 0.3 gpm per steam generator, as described in the Safety Evaluation. With any steam generator tube leakage greater than this limit the reactor shall be brought to the cold shutdown condition within 24 hours and Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation.

3. If leakage from two or more tubes in the plant in any 20-day period is observed or determined, the reactor shall be brought to the cold shutdown condition within 24 hours and Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation or if two leaks are observed after the reactor is in cold shutdown Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation.

4. The concentration of radioiodine in the primary coolant shall be limited to 1 μCi/gram during normal operation and to 10 μCi/gram during power transients as defined in the concurrently issued addition of Appendix A-1 to the Technical Specifications of the license.

Dated in Bethesda, Maryland this 6th day of May 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office
of Nuclear Reactor Regulation.

[FR Doc.77-14675 Filed 5-25-77;8:45 am]

[1] Copies of (1) the Licensee's submittals dated April 15 and 29, 1977, (2) February 8, 1977 Order and Corrective Order dated February 11, 1977, relating to DPR-32, (3) this Order for Modification of License, In the Matter of Virginia Electric and Power Company, Surry Power Station, Unit No. 1, Docket No. 50-280, and (4) the Commission's concurrently issued Safety Evaluation supporting this Order are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Swem Library, College of William and Mary, Williamsburg, Viginia. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

[Docket No. 50-573; License No. XR-119]

WESTINGHOUSE ELECTRIC CORP.

Issuance of Facility Export License

Please take notice that no request for a hearing or a petition for leave to intervene having been filed following publication of notice of proposed action in the FEDERAL REGISTER on December 30, 1976 (41 FR 26894), and the Nuclear Regulatory Commission having found that:

(a) The application filed by Westinghouse Electric Corporation, Docket Number 50-573, complies with the requirements of the Act, and the Commission's regulations set forth in Title 10, Chapter I, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations,

the Commission has issued License No. XR-119 to Westinghouse Electric Corporation, Pittsburgh, Pennsylvania, authorizing the export of a power reactor with a thermal power level of 1,876 megawatts to Korea Electric Company, Seoul, Republic of Korea.

The export of this reactor to the Republic of Korea is within the purview of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea.

Dated at Bethesda, Maryland this 11th day of May 1977.

For the Nuclear Regulatory Commission.

MICHAEL A. GUHIN,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 77-14676 Filed 5-25-77;8:45 am]

ABNORMAL OCCURRENCE EVENT

Security Incident

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10950). Appendix A (Example I, C, 4) of the Policy Statement notes that a substantial breakdown of security that significantly weakens the protection against theft, diversion or sabotage can be considered an abnormal occurrence.

BREACH OF PHYSICAL SECURITY SYSTEM

DATE AND PLACE

On April 18-19, 1977 the security system at the Public Service Company of Colorado (PSCo) Fort St. Vrain Nuclear Generating Station was inspected. This plant is a high temperature gas cooled reactor, located near Platteville, Colorado.

NATURE AND PROBABLE CONSEQUENCE

During a shift change on April 19, 1977, an NRC Region IV (Dallas) inspector, who infrequently visits the facility and was not recognized, gained access to vital areas of the plant without a security challenge, contrary to the facility's existing security program and NRC regulatory requirements in 10 CFR Part 73. The inspector passed through security guard checkpoints unchallenged and arrived at the control room, at which point a reactor operations individual challenged the inspector for not displaying a security badge. The inspector demonstrated the existence of a laxness in the security program in the area of access control. The potential consequences, had this breach been made by a malevolent individual, could have been an act of sabotage.

CAUSE OR CAUSES

The cause of the breach of the security system was the failure of the personnel on duty to comply with security directives for the control of access to the protected and vital areas of the plant.

ACTION TAKEN TO PREVENT RECURRENCE

Licensee—The licensee reviewed the adequacy of the existing security plan. Additional measures were taken to strengthen the security program through personnel instruction, monitoring for enforcement, auditing and increased security staffing at security stations during periods of heavy personnel traffic.

NRC—NRC expresed its concern about the serious nature of this type of security breakdown and identified the actions deemed necessary to correct the situation during the inspection, as well as at a special corporate meeting on April 22 in Denver, Colorado. Enforcement action also included a proposed civil penalty in the amount of eight thousand dollars.

Following completion of a rulemaking proceeding addressed to upgrading of physical security requirements at nuclear facilities, the NRC issued revised security regulations (10 CFR 73.55) in February 1977 which require more stringent security measures to be implemented at this plant and other nuclear facilities covered by 10 CFR 73.55.

For the Nuclear Regulatory Commission.

Dated at Washington, D.C. this 20th day of May, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-15115 Filed 5-25-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Reactor Safety Research will hold an open meeting on June 16, 1977 at the Sheraton Inn-Airport, 3535 Quebec Street, Denver, CO 80207. The purpose of this meeting is to discuss current plans and programs for research associated with advanced reactors.

The agenda for subject meeting shall be as follows:

THURSDAY, JUNE 16, 1977, 8:00 A.M. UNTIL THE CONCLUSION OF BUSINESS

Members of the Subcommittee will hold discussions with representatives of the Energy Research and Development Administration (ERDA) and the NRC regarding current plans and programs for research associated with advanced reactors.

At the conclusion of these discussions, the Subcommittee will caucus to determine whether the matters identified in the session have been adequately covered and whether they are ready for review by the full Committee. During the caucus Subcommittee members will discuss their opinions and recommendations on these matters. The Subcommittee may prepare a report to the full Committee on these matters.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comment may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than June 9, 1977 to Mr. Thomas G. McCreless, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c). Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on June 15, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1374, Attn: Mr. Thomas G. McCreless) between 8:15 a.m. and 5 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and their consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented will be available for inspection on or after June 23, 1977 at the NRC Public Document Room 1717 H St. NW., Washington, D.C. 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after September 16, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: May 24, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-15114 Filed 5-25-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-21]

ACCIDENT REPORTS; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Helicopter Safety Recommendations.—To insure the continued safe operation of the Sikorsky Model S-61L series helicopter, the National Transportation Safety Board on May 18 issued two new recommendations to the Federal Aviation Administration. The recommendations were dispatched within 24 hours of the May 16 accident involving an S-61L helicopter on the Pan American Building Heliport in New York City.

The helicopter toppled as the right main landing gear collapsed; the rotating main rotor blades contacted the heliport surface and disintegrated. Parts of the blades caused fatal injuries to persons in the vicinity waiting to embark on a flight to the John F. Kennedy Airport.

Preliminary examination of the helicopter's landing gear structure disclosed that the gear collapsed as a result of a fatigue fracture of the forward fitting, P/N 6125-50333-2, a part which must be inspected every 9,900 hours. The failed fitting had been in service for 7,000 hours. The Board was not aware of any inspection requirements other than visual during the 9,900-hour period. Because of the similarity in design of the forward and aft fittings on both the right and left sides, the Board believes that inspection should include all landing gear fittings.

Accordingly, the Safety Board recommends that the FAA:

Issue an Airworthiness Directive to require an immediate one-time inspection by an approved method on both the forward and aft main landing gear attachment fittings, right and left, on all Sikorsky Model 61L series helicopters having similar installations. (Recommendation A-77-32) (Class I—Urgent Followup)

Reevaluate the current inspection interval and issue requirements for more frequent periodic inspections if necessary to insure continued safe operation. The inspection interval could be based on a set number of operating cycles instead of an established operating time. (A-77-33) (Class II—Priority Followup)

Railroad Accident Report.—The Safety Board reports that the inability of newly refurbished track to withstand forces generated by the braking of a long, unevenly loaded train caused the derailment of a Union Pacific freight near Hastings, Nebraska, last August 2. Narrative report No. NTSB-RAR-77-1 concerning this accident is now available to the public.

Thirty-nine cars of the 117-car eastbound freight derailed at a grade crossing when the brakes automatically went into emergency after the engineer had braked the train from 52 mph to about 45 mph. There were no injuries in the accident, but damage was estimated at more than $1 million.

The Safety Board determines that the probable cause of this accident was the failure of the previously disturbed track structure to withstand the lateral forces generated by the 42nd, 43rd, and 44th cars of the train. The lateral forces resulted from a run-in of disproportionately heavy cars in the rear portion of the train.

Three preventive recommendations, Nos. R-77-3 through R-77-5, are reprinted in the report. These recommendations were originally issued on April 22 to the Federal Railroad Administration. (See 42 FR 21677, April 28, 1977.) The recommendations seek (1) regulatory action to insure that the locations of heavily loaded freight cars in a train will not adversely affect the train's operation, (2) a requirement that trains operated over unstable track be limited by slow orders, radio instructions or flagging to speeds that will reduce the possibility of track buckling from forces that exceed the restraining ability of the track, and (3) a requirement that locomotive engineers be instructed in train braking for varied circumstances that may develop during the train's operation.

Aircraft and Railroad Accident Reports in Brief Format.—For many years the Safety Board has issued periodically publications containing a random selection of aircraft accidents reported in computerized, brief format. One such publication, "Aircraft Accident Reports, Brief Format, U.S. Civil Aviation, Issue Number 3 of 1976 Accidents," Report No. NTSB-BA-77-1, was made available to the public last week.

The Safety Board has now begun publishing similar compilations of briefs of selected railroad accidents. First in this series, "Railroad Accident Reports, Brief Format, Issue Number 1—1976," Report No. NTSB-RAB-76-1, was also released last week. Both publications present the basic facts, conditions, circumstances, and probable cause(s) concerning each reported accident.

Issue No. 3 (aircraft) reports on 906 general aviation and 18 air carrier accidents. Additional statistical information is tabulated by type of accident, phase of operation, kind of flying, injury index, aircraft damage, conditions of light, pilot certificate, injuries, and casual factors.

Issue No. 1 (railroad) reports on 35 U.S. railroad accidents arranged in chronological order. Selected accident information is tabulated, including (1) types of accidents broken down by carriers, (2) casualties broken down by types of accidents and classes of persons, and (3) causal factors arranged categorically and broken down by types of accidents. This information is compiled from a random selection of accident reports and does not necessarily reflect an accurate long-term statistical distribution.

NOTE.—The brief reports of accidents in both publications contain essential information; more detailed data on these accidents may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 25¢ per page for printed matter, $1.35 per page for black-and-white photographs, and $4.50 per page for color photographs, plus postage. Minimum reproduction charge is $3.00; an additional $4.00 user-service charge will be made for each order. Requests should directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The requester must provide this information concerning the accident: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot. Both publications may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

SAFETY RECOMMENDATION RESPONSES

Aviation: A-77-5 through A-77-8.—Federal Aviation Administration letter of May 11 responds to the recommendations issued by the Safety Board last February 15 concerning medical certification procedures for airmen. (See 42 FR 10915, February 24, 1977.)

With reference to A-77-5, FAA reports that, as recommended, the Civil Aeromedical Institute "continuously audits quality control functions in processing applications for medical certification and makes frequent changes to enhance the efficiency of the certification system." FAA anticipates that conversation to a new computer early next year will substantially improve its capabilities for detecting airman physical and Aviation Medical Examiner (AME) performance deficiencies, thereby enabling FAA to be more specific in its correction efforts.

FAA also concurs in A-77-6 which recommended issuance of a *Federal Air Surgeon's Bulletin* to emphasize to the AME the need for quality control and the need for adherence to the provisions of 14 CFR Part 67 and the *Guide for Aviation Medical Examiners*. FAA states that an issue of the *Bulletin* is in preparation, distribution expected before July 1. A notice to the AME's calling attention to the need for close conformity to the provisions of Part 67 and to the *Guide* will be included.

FAA does not concur in either recommendation A-77-7 or recommendation A-77-8. A-77-7 asked FAA to amend Part 67 to require that all applicants for first- and second-class medical certificates be administered periodically an audiometric hearing test. FAA states that, after careful evaluation of all alternatives, institution of such a requirement is not appropriate. FAA states:

The FAA is concerned only with assuring that airmen are capable of safely performing their duties for the validity period of the medical certificate. There is no responsibility for preventive medicine or liability for personnel compensation in cases of progressive hearing loss. Specific diagnosis and treatment of hearing abnormalities likewise are beyond the scope of regulatory concern. Audiometry, indispensable for clinical, hearing conservation, or research applications, is an unnecessarily sensitive and expensive screening procedure for civil airmen. It is unlikely that the greatly increased number of medical flight tests generated by use of a screening audiogram would result in the identification of significant numbers of airmen who should be refused certification.

Also with reference to A-77-7, FAA reports that a project is underway at the Civil Aeromedical Institute for developing a simple screening device to test intelligible speech reception. Pending successful completion of this project, FAA takes the position that the whispered voice test should be retained.

Recommendation A-77-8 asked FAA to require that all medical certificates be annotated appropriately when that certificate is governed by a Statement of Demonstrated Ability (SODA). FAA notes that SODA's (FAA Form 8500-15) are ordinarily issued only to airmen with static medical defects. "They are designed primarily to provide an airman with proof that his or her medical condition has been recognized and evaluated by the agency and that even though specific Part 67 medical standards are not met, eligibility for a medical certificate has been previously established," FAA said.

FAA notes that SODA's are most helpful to the examining AME's in determining whether a certificate may be issued to an applicant with an observable defect. The nature of most conditions that result in issuances of SODA's is such that their presence will be obvious to an AME even if the applicant fails to note the fact or present has FAA Form 8500-15, according to FAA. FAA states, "Rather than having a flight safety impact, the SODA is intended to prevent delays in issuance of medical certificates to airmen due to conditions previously evaluated and cleared by the FAA. AME's are instructed to withhold or deny certification in the presence of significant medical deficiencies unless the applicant can produce a SODA or other satisfactory evidence of clearance."

In view of this, FAA feels that annotating the medical certificates as suggested is unnecessary. FAA states:

However, we will prepare an article for publication in a future issue of the *Federal Air Surgeon's Bulletin* emphasizing the need for examiners to adhere to instructions contained in the *Guide for Aviation Medical Examiners* concerning SODA's. (Examiners are instructed to review the applications for completeness. If the applicant indicates that he or she has been issued a SODA, the AME is asked to review it to determine whether there has been an adverse change in the specified condition, whether there is some other disqualifying condition or history, and whether the SODA covers the class of certificate for which the airman is applying.)

Aviation: A-76-29 and A-76-30.—The Federal Aviation Administration initially

responded to these recommendations last June 7 (41 FR 26079, June 24, 1976). The recommendations were issued after Board review of several fatal general aviation accidents which occurred in instrument flight rules conditions during the period 1969 to 1973; these accidents involved instrument-rated pilots of small airplanes. In its first response FAA indicated that a study was being undertaken to analyze a number of accident reports to see whether a separate source of energy for the rate-of-turn indicator from that used to power the bank and pitch indicator would have prevented accidents.

In FAA's letter of May 2 regarding these recommendations, the agency reports that the study has been completed. FAA reports that the number of single-power source configured aircraft in service was considered, and the potential overall safety benefit versus the economic impact of a requirement for retrofit was weighed. FAA states that the study "did not provide justification for regulatory action at this time, as had been recommended by the Board in A–76–29. The FAA believes that issuance of an advisory circular on this subject is the proper course of action in this instance."

Recommendation A–76–30 called for issuance of an advisory circular to inform pilots of (1) procedures they should use to determine the operability of gyroscopic instruments, (2) the importance of instrument crosschecks during IFR flight, and (3) the importance of staying proficient in partial-panel emergency operation. FAA reports that Advisory Circular 9–46 "Gyroscopic Instruments—Good Operating Practices" was issued February 4, 1977.

Highway: H–76–17 and H–76–18.—Letter of May 10 from the State Department of Highways and Public Transportation, Austin, Texas, concerns recommendations issued following investigation of the April 29, 1975, Surtigas, S.A., tractor-tank-semitrailer accident near Eagle Pass, Texas. Referring to correspondence of last November with reference to these recommendations (41 FR 55002, December 16, 1976), the Department reports that it has completed the maintenance project on U.S. 277 north of Eagle Pass, and has made additional speed zone surveys.

The Department further reports that NO PARKING signs have been erected along the shoulders of U.S. 277 and that the restudy of the speed zoning has resulted in a reduction in posted speed limits from 55 mph to 45 mph from the East City Limit of Eagle Pass to U.S. 57. The Department believes that these changes should reduce the possibility of this type of accident occurring again. However, the Department will continue to monitor this section of roadway to see if additional steps need to be taken to increase the safety along this section of highway.

Railroad: R–77–1 and R–77–2.—Letter of May 2 from the Federal Railroad Administration acknowledges the Safety Board's letter of April 6 (42 FR 20693, April 21, 1977) advising of the revision to recommendation R–77–2 to eliminate reference to P–30–CH locomotive units. The recommendations were issued following investigation of the derailment of an Amtrack train last January 16 near Birmingham, Alabama. FRA refers to its initial response dated February 3, (42 FR 8446, February 10, 1977) which indicated that only the speeds of passenger trains with SDP–40 F locomotives were restricted. FRA believes that its February 3 response is still current and applicable to revised R–77–2.

SAFETY BOARD COMMENTS ON MEDICAL STANDARDS FOR DRIVERS

In commenting on Notice of Proposed Rule Making Docket No. MC–76, Notice 77–3 (42 FR 16452, March 28, 1977), the Safety Board commended the Bureau of Motor Carrier Safety, U.S. Department of Transportation, for its comprehensive review of medical standards for insulin-dependent diabetic drivers.

Referenced in the Board's May 10 letter to BMCS is report No. NTSB–HAR–74–5 concerning the Greyhound bus collision with a concrete overpass support column on I–880 at San Juan Overpass, Sacramento, California, on November 3, 1973. After investigating that accident the Board recommended stricter medical standards for drivers and development of regulations that specify the necessary qualifications of the examining physician. (Recommendation H–74–36)

Since there is no backup system on a bus to take over when a driver becomes incapacitated, the Board said that passenger safety requires that the driver's ability not be impaired by an identifiable medical condition. Also, the weight and size of buses and trucks makes them a substantial threat to others on or near the road if vehicle control is lost. In populated areas the release of hazardous materials cargoes in an accident can increase substantially the number of persons that are affected by the accident.

The Board believes that medical standards should not be changed to permit insulin-dependent diabetics to operate commercial motor vehicles in interstate or foreign commerce.

NOTE.—The above summarizes Safety Board documents made available, and safety recommendation responses received, during the week preceding publication of this notice in the FEDERAL REGISTER. The railroad accident report and the helicopter safety recommendation letter in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations and any Board correspondence may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the railroad accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

MAY 23, 1977.

[FR Doc. 77–15037 Filed 5–25–77; 8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 18, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Importers' Questionnaire (malleable cast-iron pipe and tube fittings), single time, importers of malleable cast-iron pipe and tube fittings, Evinger, S. K. 395–3710.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service, Epidemiologic Investigation of Brucellosis Reactor Herd VS 4–108 through 4–108C, on occasion, all farms with brucellosis reactor animals Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Economic Development Administration, Local Public Works Application Supplement, ED–101LPW–S, on occasion, Government agencies, National Security Division, Economics and General Government Division, 395–4734.

Bureau of Census, Annual Survey of Manufactures—Unfilled Orders—Shipments Supplement, MA–300, MA–300S, annually, manufacturing companies, C. Louis Kincannon, 395–3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, Survey of Hospital Staff, single time, administrators of short-stay hospitals, Richard Eisinger, 395–6140.

REVISIONS

GENERAL SERVICES ADMINISTRATION

Transfer Order Surplus Personal Property, SF 123, on occasion, State Agencies, Warren Topelius, 395–5872.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service, Declaration of Importation (animals, animal semen, poultry and eggs for hatching), VS 17–29, on occasion, importers, Warren Topelius, 395–5872.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Food and Drug Administration, Image Receptor Module, FD 2578A, single time, X-Ray equipment operators, Ellett, C. A., 395–5867.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration, Alcoholic Treatment Center Questionnaire, NIMH1009, on occasion, grantees, Richard Eisinger, 395–6140.

DEPARTMENT OF THE INTERIOR

Bureau of Sport Fisheries and Wildlife, Sandhill Crane Harvest Questionnaire, 3–530, annually, hunters of sandhill cranes, Maria Gonzalez, 395–6132.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–15166 Filed 5–25–77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

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NEW FORMS

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitrator's report and fee statement, FMCS R–19, on occasion, labor arbitrators, Warren Topelius, 395–5872.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Administrative Review Report—Child Care Food Program, FNS–345, FNS 345–1, on occasion, institutions participating in child care food program, human resources division, Warren Topelius, 395–3532.

DEPARTMENT OF COMMERCE

Bureau of Census, 1978 Census of Agriculture, A1(A)–T2, single time, national sample from 1974 census of agriculture, Gaylord Worden, 395–4730.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Center for Disease Control, Pulmonary Function Standards Study, single time, blue collar workers in North Carolina, Richard Eisinger, Ellett, C. A. 395–6140.

Alcohol, Drug Abuse and Mental Health Administration, Employment Specialist Study, single time, patients and staff in treatment programs, Strasser, A., Richard Eisinger, 395–5867.

Center for Disease Control, Health Effects of Sulfur Oxides and Sulfuric Acids, Nitrogen Oxides and Nitric Acids, single time, industrial workers, Ellett, C. A., 395–5867.

Alcohol, Drug Abuse and Mental Health Administration, National Drug Abuse Treatment Utilization Survey (NDATUS) Validation, single time, drug abuse treatment units, Richard Eisenger, 395–6140.

Center for Disease Control:
- Survey of National Attitudes Toward Immunization, single time, individuals over 18 in U.S. population, Richard Eisinger, 395–6140.
- Immunogenetics of Beryllium Disease in Humans, single time, beryllium workers and sarcoidosis patients, Richard Eisinger, 395–6140.
- Medical Health Surveillance of Grain Handlers, single time, Grain Handlers, Richard Eisinger, Ellett, C. A., 395–6140.

DEPARTMENT OF LABOR

Employment and training Administration:
- Rearranged Work Schedules Study, MT–281, single time, employees of rearranged work weeks, Strasser, A., 395–5867.
- Survey of Employment, Unemployment, and underemployment in the Performing Arts, ETA–5, single time, random sampling from 5 unions covering performing arts, Strasser, A., 395–5867.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation, Project Survey Questionnaire, single time, construction workers on water projects in Western U.S., natural resources division, Raynsford, R., 395–6827.

DEPARTMENT OF THE TREASURY

Departmental and Other United States Coinage Requirements, Survey of State Departments of Revenue, single time, State departments of revenue, Warren Topelius, 395–5872.

REVISIONS

VETERANS ADMINISTRATION

Application for Veterans Group Life Insurance (veteran separated more than 120 days), 29–8714–2, on occasion, veterans separated on or after August 1, 1974, Caywood, D. P., 395–3443.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Food and Drug Administration, New Drug Application (by manufacturers, including research, testing, manufacturing, descriptive data and samples), FD–356H, on occasion, drug manufacturers, Warren Topelius, 395–5872

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Highlights of Loan Provisions and Project Reporting Requirements, HUD 5510, 5511, 5512, 5513, and 5514, annually, owners of senior citizens housing projects, housing, veterans and labor division, 395–3532.

Policy Development and Research:
- Housing Authority Staff Survey Instrument, PH–4, annually, employees of PHA's central office, Larry Haber, 395–5631.
- Project Manager Survey Instrument, PH–3, annually, project managers of PHA housing projects, Larry Haber, 395–5631.
- Board of Commissioners Survey Instrument, PH–6, annually, Chairman, Board of Commissioners of PHA, Larry Haber, 395–5631.
- Household Survey Instrument, PH–1, annually, residents of PHA housing projects, Larry Haber, 395–5631.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Filbert Objective Yield—Oregon, annually, filbert growers, Gaylord Worden, 395–4730.

DEPARTMENT OF LABOR

Employment and Training Administration, Extended Benefit Data, MA 5–39, weekly, State ES agencies, Warren Topelius, 395–5872.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:
- Monthly Distribution of Donated Commodities to Special Groups, FNS–153, monthly, counties, cities and Indian reservations, Gaylord Worden, 395–4730.
- Report of Coupon Issuance for Disaster Relief (food stamp program), FNS–292, on occasion, Lowry, R. L., 395–3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration:
- Statement of Investigator (clinical pharmacology), FD–1572, on occasion, clinical investigators, Warren Topelius, 395–5872.
- Statement of Investigator, FD–1573, on occasion, clinical investigators, Warren Topelius, 395–5872.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research:
- Project Staff Survey Instrument, PH–2, annually, employees of the PHA's housing projects, Larry Haber, 395–5631.
- Executive Director Survey Instrument, PH–5, annually, executive director of public housing agency, Larry Haber, 395–5631.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:
- Gallium, 6–1551–A, annually, gallium consumers, Warren Topelius, 395–5872.
- Consumption, Receipts, and Stocks of Specified Grades of Asbestos, 6–1211–A, annually, consumers of asbestos, Warren Topelius, 395–5872.
- Producing or Developing Mining Property (Operators Previously Unknown), 6–1175–X, on occasion, new mines or those which have recently become active, Warren Topelius, 395–5872.
- Phosphate Rock Survey (Production, Disposition and Stocks), 6–1250–S, semi-annually, producers of phosphate rock, Warren Topelius, 395–5872.
- Barite (Disposition and Receipts), 6–1227–A, annually, producers of barite, Warren Topelius, 395–5872.
- Sulfur—Suppliers Report of Production, Receipts, Consumption, Shipments, and Stocks, 6–1238–M, monthly, producers of elemental sulfur, Warren Topelius, 395–5872.

Slate, 6–1282–A, annually, producers of slate, Warren Topelius, 395–5872.
Exfoliated Vermiculite (Production and Disposition), 6–1208–A, annually, producers of exfoliated vermiculite, Warren Topelius, 395–5872.
Crude Mica (Production), 6–1289–A, annually, producers of crude mica, Warren Topelius, 395–5872.
Crude Artificial Abrasives (Production and Stocks), 6–1200–A, annually, producers of crude artificial abrasives, Warren Topelius, 395–5872.
Stone Only (Quarriers Report), 6–1220–A, annually, producers of stone, Warren Topelius, 395–5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–15167 Filed 5–25–77;8:45 am]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1977, shall be at the rate of twelve and one-half cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1977, 14.1 percent of the taxes collected under Sections 3211 (b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 85.9 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By Authority of the Board.

Dated: May 18, 1977.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.77–14988 Filed 5–25–77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1335]

IOWA

Declaration of Disaster Loan Area

The counties of Lee and Webster and adjacent counties within the State of Iowa, constitute a disaster area because of physical damage caused by high winds, torrential rains, hail, tornadoes and flash flooding which occurred on May 4–5, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 18, 1977, and for economic injury until the close of business on February 20, 1978, at:

Small Business Administration, District Office, 210 Walnut Street, Des Moines, Iowa 50309.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 19, 1977.

RICHARD HERNANDEZ,
Acting Administrator.

[FR Doc.77–14995 Filed 5–25–77;8:45 am]

[Declaratiol of Disaster Loan Area No. 1330)

LOUISIANA

Declaration of Disaster Loan Area

As a result of the President's declaration, I find that the following Parishes of: Ascension, East Baton Rouge, East Feliciana, Lafayette, Livingston, St. Landry, St. Martin, and Tangipahoa and adjacent Parishes within the State of Louisiana, constitute a disaster area because of damage resulting from severe storms and flooding beginning about April 20, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 1, 1977, and for economic injury until the close of business on February 2, 1978, at:

Small Business Administration, District Office, Plaza Tower, 17th Floor, 1001 Howard Avenue, New Orleans, Louisiana 70113.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos 59002 and 59008)

Dated: May 7, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–14996 Filed 5–26–77;8:45 am]

[Declaration of Disaster Loan Area No. 1334]

MAINE

Declaration of Disaster Loan Area

Oxford County and adjacent counties within the State of Maine, constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on March 14–15, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 15, 1977, and for economic injury until the close of business on February 16, 1978, at:

Small Business Administration, District Office, 40 Western Avenue, Augusta, Maine 04330.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 16, 1977.

RICHARD HERNANDEZ,
Acting Administrator.

[FR Doc 77 -14997 Filed 5–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1331]

MISSOURI

Declaration of Disaster Loan Area

The Central Business District in the 1400 block of Main Street, City of Bethany, Harrison County, Missouri, constitutes a disaster area because of damage resulting from a fire which occurred on February 23, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 15, 1977, and for economic injury until the close of business on February 16, 1978 at:

Small Business Administration, District Office, 12 Grand Bldg., 5th Floor 1150 Grand Avenue, Kansas City, Missouri 64106.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 16, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77–14998 Filed 5–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1332]

MISSOURI

Declaration of Disaster Loan Area

As a result of the President's declaration, I find that the following counties of Cass, Clay, Jackson, Lafayette, Pettis, and adjacent counties within the State of Missouri, constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding beginning about May 4, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 7, 1977, and for economic injury until the close of business on February 7, 1978, at:

Small Business Administration, District Office, 12 Grand Building, 5th floor, 1150 Grand Avenue, Kansas City, Missouri 64106.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 19, 1977.

RICHARD HERNANDEZ,
Acting Administrator.

[FR Doc.77–14999 Filed 5–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1333]

TENNESSEE

Declaration of Disaster Loan Area

As a result of the President's declaration, of April 29, 1977, and Federal Disaster Assistance Administration's designation of Anderson, Campbell, Claiborne, Hancock, Roane and Scott Counties within the State of Tennessee, I find that these counties constitute a disaster area because of damage resulting from severe storms and flooding beginning about April 4, 1977. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties, and adjacent counties within the State of Tennessee.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 1, 1977, and for economic injury until the close of business on January 30, 1978, at:

Small Business Administration, Disaster Office, Parkerway Towers, Room 1012, 404 James Robertson Parkway, Nashville, Tennessee 37219.

Small Business Administration, Branch Office, Fidelity Bankers Bldg., Room 307, 502 South Gay Street, Knoxville, Tennessee 37902.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 16, 1977.

ROGER H. JONES
Acting Administrator.

[FR Doc.77–15000 Filed 5–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1328]

TEXAS

Declaration of Disaster Loan Area

Ward County, and adjacent counties within the State of Texas, constitute a disaster area because of physical damage resulting from tornadoes which occurred on April 19, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 11, 1977, and for economic injury until the close of business on February 13, 1978 at:

Small Business Administration, District Office, 712 Federal Office Building, and U.S. Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program No. 59002 and 59008)

Dated: May 12, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–15001 Filed 5–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1309]

TEXAS

Declaration of Disaster Loan Area

The county of Tarrant and adjacent counties, within the State of Texas, constitute a disaster area because of physical damage caused by turbulent weather conditions that brought tornadoes and flooding from March 26 through March 28, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 10, 1977, and, for economic injury until the close of business on January 21, 1978 at:

Small Business Administration, District Office, 1100 Commerce Street, Dallas, Texas 75242.

or other locally announced locations.

Dated: April 11, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–15049 Filed 5–25–77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 165–20]

DIRECTOR, USAID/PARAGUAY

Delegation of Authority

Pursuant to the authority vested in me as Assistant Administrator, Bureau for Latin America, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Paraguay, authority to negotiate, execute and implement a contract of guaranty with the Banco Central del Paraguay for a productive credit guaranty project in accordance with and subject to the terms and conditions set forth in the project authorization dated ____.

The delegation of authority to negotiate and execute shall lapse 120 days from the date of execution of the project authorization.

Dated: May 13, 1977.

DONOR M. LION,
Acting Assistant Administrator, Latin America Bureau.

[FR Doc.77–14989 Filed 5–25–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77–102]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Snelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from September 3, 1976 to April 3, 1977 (List No. 5–77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

The Herter's Inc., Waseca, Minnesota 56093, Approval No. 160.048/206/0 expired and was terminated effective March 3, 1977.

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD FOR MERCHANT VESSELS

The Crawford Manufacturing Company, 3rd & Decatur Streets, Richmond, Virginia 23212, Approval Nos. 160.055/68/0 and 160.055/69/0 expired and were terminated effective March 2, 1977.

MARINE BOUYANT DEVICE

The Carlon Rubber Products Company, 1 New Haven Avenue, Derby, Connecticut 06418, Approval No. 160.064/12/0 expired and was terminated effective March 7, 1977.

The Tuffy Products, Inc., 540 West Third Street, Bloomsburgh, Pennylvania 17815, Approval Nos. 160.064/306/0 and 160.604/307/0 expired and were terminated effective March 23, 1977.

The Sun Down Products, Inc., 99 Willie Street, Lowell, Massachusetts 01854, no longer manufactures certain marine buoyant devices and Approval Nos. 160.064/858/0, 160.064/859/0 and 160.064/860/0 were therefore terminated effective March 8, 1977.

FIRE EXTINGUISHING SYSTEMS, FOAM TYPE

The National Foam System, Inc., Union and Adams Street, West Chester, Pennsylvania 19380, Approval No. 162.033/1/1 expired and was terminated effective September 3, 1976.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The Pittsburgh Corning Corporation, Three Gateway Center, Pittsburgh, Pennsylvania 15222, Approval No. 164.009/104/0 expired and was terminated effective April 3, 1977.

Dated: May 17, 1977.

H. G. LYONS,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.77–15083 Filed 5–25–77;8:45 am]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 129—FUTURE CIVIL AVIATION FREQUENCY SPECTRUM REQUIREMENTS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 129 on Future Civil Aviation Frequency Spectrum Requirements to be held June 22–23, 1977, Conference Room 8210 Federal Communications Commission, 2025 M Street NW., Washington, D.C., commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Tenth Meeting held December 15–16, 1976; (3) Consid-

eration of the Federal Communications Commission Fifth Notice of Inquiry, Docket 20271; (4) Consideration of Inputs from Committee Members; and (5) Preparation of Response to Fifth Notice of Inquiry.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006 (202–296–0484). Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 19, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-14804 Filed 5-25-77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP77-2; Notice 2]

GENERAL MOTORS CORP.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warren, Michigan ("GM," herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, Control Location, Identification, and Illumination.

The noncompliance exists on 441 early model 1977 GMC Truck and Coach General, and Chevrolet Bison heavy duty trucks. Standard No. 101 requires identification of any heating and air-conditioning system control, but General Motors inadvertently failed to identify the fan switch. Subsequent models carry the word "FAN" and these vehicles comply with Standard No. 101. The company argued that the noncompliance is inconsequential as all heating/air-conditioning controls including the fan switch are located in a single recessed area in the instrument panel. The operating positions of the fan switch are identified as "hi" and "lo", and in GM's view "make it obvious to any driver that this switch controls the speed of the fan" and "especially * * * the skilled professional drivers of heavy duty commercial vehicles such and the General and Bison."

No comments were received on the petition.

The fan control modifies performance characteristics of the heating, air-conditioning, and defrost/defogging systems of the vehicles in which it is installed. As such, it is a control that is frequently used by the vehicle operator. GM has failed to identify the fan switch as such, nevertheless, its location and the operating positions of "hi" and "lo" would indicate the presence of a blower and that the switch is intended to operate it. The proximity of the fan control in the recessed area to other heating, air-conditioning, and defrost/defogging controls make it likely that the driver will understand its function at first sight.

Accordingly, petitioner has met its burden of persuasion and it has been determined that the noncompliance is inconsequential as it relates to motor vehicle safety. The petition by General Motors is hereby granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on May 18, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77 14784 Filed 5-25-77;8:45 am]

[Docket No. IP77-6; Notice 1]

MACK TRUCKS, INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Mack Trucks, Inc. of Allentown, Pa. ("Mack" herein) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices, and Associated Equipment, on the basis that it is inconsequential as it relates to motor vehicle safety.

Standard No. 108 requires each motor vehicle to be equipped with an amber reflex reflector as far to the front of the vehicle as practicable. These reflectors must be mounted on the vehicles not less than 15 inches or more than 60 inches above the road surface. Mack has determined that the front reflex reflectors on approximately 260 DMM Model construction-type truck chassis, manufactured between December 1973 and February 1977, may exceed the 60-inch maximum by up to 5 inches. The company states that construction type vehicles are normally used only in daylight hours and, when not in use, are parked on the owner's premises. It argues that the noncompliance is inconsequential because of the limited number of vehicles involved, and the general limitations on their use.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and 49 CFR Part 556 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition. Interested persons are invited to submit written data, views and arguments on the petition of Mack Trucks described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW, Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: July 11, 1977.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417) delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 18, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-14783 Filed 5-25-77;8:45 am]

[Docket No. 77-04; Notice 2]

ELECTRIC AND HYBRID VEHICLES

Meeting and Invitation for Applications for Financial Assistance

The purpose of this notice is to announce that the public meeting on the applicability of Federal motor vehicle safety standards to electric and hybrid vehicles, previously scheduled for July 11, 1977 (42 FR 2863), will instead be held on July 14, 1977.

This change is made due to the fact that the Fifth International Congress on Automotive Safety is scheduled to convene on July 11, 1977. Not only is the Administrator of the National Highway Traffic Safety Administration to deliver an address at the Safety Congress, but a number of the participants in the convention are individuals whose testimony at the electric and hybrid vehicle public meeting is important.

The three day delay in the date of the public meeting will enable the Administrator to be present at both meetings and also permit the full participation in both safety forums of all interested persons.

The deadline for written comments on the subject of the public meeting is also changed by this notice. All such comments must be submitted by July 15, 1977.

The meeting, as now scheduled, will be held on July 14, 1977, in Room 2230 of the Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, beginning at 9:30 a.m. The meeting will continue on July 15, 1977, if additional time is necessary to hear all presentations.

The principal author of this notice is Karen Dyson, Office of Chief Counsel.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 13, Pub. L. 94–413, 90 Stat. 1260 (15 U.S.C. 2512); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on May 20, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-14902 Filed 5-20-77;4:02 pm]

INTERSTATE COMMERCE COMMISSION

[Vol. No. 18]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

MAY 20, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before June 27, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 45544 (Sub-No. 1) (Notice of filing of petition to modify a certificate), filed May 2, 1977. Petitioner: SILVER LINE, INC., 171 Commerce Road, Carlstadt, N.J. 07072. Petitioner's representative: Edward L. Nehez, P.O. Box 1409, Fairfield, N.J. 07006. Petitioner holds motor *common carrier* Certificate in No. MC 45544 (Sub-No. 1), issued March 4, 1947, authorizing transportation, as pertinent, over irregular routes, of *Wearing apparel* (not including such articles which are transported crated or on hangers), from points in Lebanon and Monroe Counties, Pa., to New York, N.Y. By the instant petition, petitioner seeks to delete the restriction in the authority above.

No. MC 56967 (Sub-No. 4) (Notice of filing a petition to modify territorial description), filed April 28, 1977. Petitioner: GLENN - DOR PRODUCTS CORP., Drawer J, South Fallsburg, N.Y. 12779. Petitioner's representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, N.Y. 13202. Petitioner holds a motor *common carrier* Certificate in No. MC 56967 (Sub-No. 4), issued March 11, 1977, authorizing transportation over irregular routes, of (1) *Dairy products and agricultural commodities*, the transportation of which is otherwise exempt from economic regulation under Section 203(b) of the Interstate Commerce Act, in mixed loads with dairy products, from Friendship, N.Y., to New York, N.Y., and those points in New Jersey in and north of Hunterdon, Somerset, and Middlesex Counties, N.J.; and (2) *paper articles*, as described in Appendix XI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 290 and 291, from New York, N.Y., and those points in New Jersey in and north of Hunterdon, Somerset, and Middlesex Counties, N.J., to Friendship, N.Y. By the instant petition, petitioner seeks to include Monmouth County, N.J., as an additional origin point in (2).

No. MC 75579 (Notice of filing of petition to modify a certificate), file April 29, 1977. Petitioner: NATIONAL MOVERS CO., INC., Route S-3, East Rutherford, N.J. 07073. Petitioner's representative: Joseph A. Holl (same address as petitioner). Petitioner holds a motor *common carrier* Certificate in No. MC 75579, issued December 17, 1956, authorizing transportation, as pertinent, over irregular routes, *Household goods* as defined by the Commission, (1) Between points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; (2) Between points in Massachusetts, on the one hand, and, on the other, points in Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; (3) Between Boston, Mass., and points in Massachusetts, within 65 miles of Boston, on the one hand, and, on the other, points in Alabama, Connecticut, Illinois, Maine, Maryland, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, and Virginia; (4) Between points in the District of Columbia, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; (5) Between Chatham, N.J., and points within 25 miles of Chatham, on the one hand, and, on the other, points in Connecticut, Florida, Illinois, Indiana, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New York, North Carolona, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; (6) Between points in New York, N.Y., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in Alabama, Delaware, Georgia, Mississippi, South Carolina, Tennessee, and Wisconsin; (7) Between points in the New York, N.Y., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in Kentucky, and Michigan.

By the instant petition, petitioner seeks to modify the commodity description so as to read: "*Household goods*, as defined by the Commission, and *electronic equipment, parts and supplies* when related to transportation of unusually fragile, delicate and valuable article under Proviso 3 of 49 CFR 1056.1 and return shipments thereof."

No. MC 133146 (Sub-No. 2 and 13) (Notice of filing a petition to modify a commodity description), filed April 25, 1977. Petitioner: INTERNATIONAL TRANSPORTATION SERVICE, INC., Suite 1–M, 3300 Northeast Expressway, N.E., Atlanta, Ga. 30341. Petitioner's representative: J. Michael May, Suite 400, 1447 Peachtree St., N.E., Atlanta, Ga. 30309. Petitioner holds a motor *contract carrier* permit in No. MC 133146 (Sub-No. 2), issued April 8, 1971, authorizing transportation, over irregular routes, of *Inedible waste foodstuffs (except waste meats), and inedible meal*, between points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Petitioner holds a motor *contract carrier* permit in No. MC 133146 (Sub-No. 13), issued December 17, 1975, authorizing transportation, over irregular routes, of *Inedible waste foodstuffs (except waste meats), and inedible meal*, between points in Florida and Georgia, Sub-No. 2 and 13, are under a continuing contract, or contracts, with International Bakerage, Inc. By the instant petition, petitioner seeks to modify the commodity descriptions in (Sub-No. 2 and 13) to read: (1) *Surplus and waste foodstuffs (except meats), and bakery products* for further processing or recycling, and (2) *products produced or recycled* from the commodities named in (1) above.

No. MC 134404 (Sub-No. 13) (Notice of filing of petition to modify a permit), filed May 3, 1977. Petitioner: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Petitioner's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. Petitioner holds a motor *contract carrier* Permit in No. MC 134404 (Sub-No. 13), issued March 4, 1975, authorizing transportation as pertinent, over irregular routes, of *Paper and paper products*, from Franklin and Richmond, Va., to points in Massachusetts, Rhode Island, Maine, Vermont, New Hampshire, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia, under a continuing contract, or contracts, with Union Camp Corporation. By the instant petition, petitioner seeks to modify the commodity description by the addition of "pulpboard and particleboard".

No. MC 139884 (Sub-No. 3) (Notice of filing of petition to add an additional contract shipper) filed March 29, 1977. Petitioner: KLIMA, INC., 10650 S.W. Wilsonville Rd., Wilsonville, Oreg. 97070. Petitioner's representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue,

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Portland, Oreg. 97210. Petitioner holds a motor *contract carrier* Permit in No. MC 139884 (Sub-No. 3) issued June 18, 1976, authorizing transportation, as pertinent, over irregular routes, of *candy*, from Skokie, Ill., Des Moines, Iowa, Cambridge, Mass., Newark, N.J., and Bethlehem, Philadelphia, and Reading, Pa., to Portland, Oreg., and Seattle Wash., under a continuing contract, or contracts, with Northwest Brokerage Co. By the instant petition, petitioner seeks to add Luden's, Inc. as an additional contract shipper to the above authority.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 117503 (Sub-No. 10) (Republication), filed March 30, 1976, published in the FEDERAL REGISTER issue of May 6, 1976, and republished this issue. Applicant: HATFIELD TRUCKING SERVICE, INC., 1625 North C. Street, Sacramento, Calif. 95814. Applicant's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, Calif. 94108. An Order of the Commission, Review Board Number 4, dated March 30, 1977, and served April 4, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over regular routes, in the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission commodities in bulk, livestock, motor vehicles, and those which require the use of special equipment): (1) between Williams and Sacramento, Calif., over Interstate Highway 5, serving all intermediate points; (2) between Marysville and Modesto, Calif., over California Highway 99, serving all intermediate points; (3) between Marsyville and Roseville, Calif., over California Highway 65, serving all intermediate points; (4) between Williams and Marysville, Calif., over California Highway 20, serving all intermediate points; (5) between Sacramento and Placerville, Calif., over U.S. Highway 50, serving all intermediate points;

(6) between San Francisco and Auburn, Calif., over Interstate Highway 80, serving all intermediate points; (7) between Pinole and Stockton, Calif., over California Highway 4, serving all intermediate points; (8) between San Francisco and Stockton, Calif., serving all intermediate points, from San Francisco over Interstate Highway 580 to junction Interstate Highway 205, thence over Interstate Highway 205, to junction Interstate Highway 5, thence over Interstate Highway 5 to Stockton, and return over the same route; serving as off-route points in connection with routes "(1)" through (8) above, (a) the Sierra Ordnance Depot, at or near Herlong, Calif., (b) points in Alameda, Amador, Contra Costa, Marin, Sacramento, San Joaquin, San Mateo, Solano, Sutter, and Yolo Counties, Calif., (c) the points of Biggs, Palermo, Bangor, and Gridley, in Butte County, Calif., and (d) those points in Santa Clara County, Calif., on and north of California Highway 130, and Interstate Highway 280, and those points in Yuba County, Calif., on and south of an unnumbered State Highway extending from Comptonville through Dobbins and extending to Bangor in Butte County as far as its intersection with Yuba-Butte County boundary line; restricted in "(1)" through (8) above against the transportation of traffic originating at and destined to points in Alameda, Contra Costa, Marin, San Francisco, San Mateo and Santa Clara Counties, Calif.; that applicant is fit, willing, and able properly to perform the service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the modifications made in the exceptions to applicant's commodity description in its grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1184 (Sub-No. 23), filed April 22, 1977. Applicant: K & B MOUNTING, INC., 21533 Mound Road, Warren, Mich. 48091. Applicant's representative: Eugene C. Ewald, 100 West Long Lake Road, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles, new trucks and new chassis*, in secondary movements, in driveaway service, from railheads at South Bend, Ind., to points in Indiana, restricted to traffic originating at the plantsite of Ford Motor Company located at Lorain, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Detroit, Mich.

No. MC 2202 (Sub-No. 533), filed March 24, 1977. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, 7101 Wisconsin Ave., Suite 1010, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Meridian, Miss., on the one hand, and, on the other, points in Louisiana in the area bounded by a line beginning at the Texas-Louisiana State

line and drawn along Louisiana Highway 12 to its junction with U.S. Highway 190 located at or near Ragley, La., thence along U.S. Highway 190 to its junction with Louisiana Highway 30 located at or near Baton Rouge, La., thence along Louisiana Highway 30 to its junction with Louisiana Highway 74 located at or near St. Gabriel, La., thence along Louisiana Highway 74 to its junction with Louisiana Highway 75 located at or near St. Gabriel, La., thence along Louisiana Highway 75 to its junction with Louisiana Highway 22 located at or near Darrow, La.

Thence along Louisiana Highway 22 to its junction with Louisiana Highway 44 located at or near Burnside, La., thence along Louisiana Highway 44 to Reserve, La., thence along the Mississippi River to New Orleans, thence along Interstate Highway 10, to the Louisiana-Mississippi State Line, and serving all points located on and south of the described boundary line except Baton Rouge, La., restricted against the provision of service at Baton Rouge, La., and points between Baton Rouge and New Orleans (except New Orleans) that are located east of the west bank of the Mississippi River, and further restricted against the provision of service at points located on the west bank of the Mississippi River and lying within the respective commercial zones of Baton Rouge, Gramercy, Lutcher, Kenner, St. Rose, Norco, and Good Hope, La.

NOTE.—Applicant states it presently holds authority pursuant to MC-F-11901 (certificate not yet issued) authorizing the transportation of general commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), over irregular routes between New Orleans, and points within 10 miles of the corporate limits of New Orleans on the one hand, and, on the other, points in the above-described area in Southern Louisiana. The purpose of this application is to obtain authority to operate through an alternate gateway of Meridian, Miss. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 2860 (Sub-No. 155), filed April 22, 1977. Applicant: NATIONAL FREIGHT INC., 71 W. Park Avenue, Vineland, N.J. 08360. Applicant's representative: William J. Lippman, Steele Park, 50 South Steele Street, Denver, Colo. 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Denver, Colo. to points in California, Oregon, Utah, Nevada, Washington and Florida.

NOTE.—Applicant requests that hearing on this application be consolidated with MC-113658 (Sub-No. 11), Scott Truck Line, Inc., et al., scheduled for hearing in Denver, Colo., commencing June 21, 1977, through July 1, 1977, at the Court of Appeals, Division 2, U.S. Courthouse, 1961 Stout Street.

MC 4405 (Sub-No. 555), filed April 22, 1977. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Enterprise Bldg., Tulsa, Oklahoma 74103. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, North Dakota 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Pipe, boiler tubing* and *fabricated steel pipe, boilers and boiler parts (valves), coal crusher-feeders and burners, fabricated steel weldments, steel castings, steel plate*, from the plant sites of Riley Stoker Corp., Erie, Pennsylvania and Sapulpa, Oklahoma, to points in the United States, except Alaska and Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Boston, Massachusetts, or Washington, D.C.

No. MC 13134 (Sub-No. 45), filed March 28, 1977. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, Ohio 45656. Applicant's representative: David A. Turano, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refractories and refractory products*, (a) from Oak Hill, Ohio and points in Ohio within fourteen miles of Oak Hill and Elizabeth Township, Lawrence County, Ohio, to points in Arkansas, Colorado, Kansas, Mississippi, Nebraska, North Dakota, Oklahoma, and South Dakota; and (2) *materials, machinery, equipment and supplies* used in the manufacture, processing, and distribution of refractories and refractory products (a) from points in Arkansas, Colorado, Delaware, Florida, Kansas, Louisiana, Mississippi, Nebraska, North Dakota, Oklahoma, South Dakota and the District of Columbia, to Oak Hill, Ohio and points in Ohio within fourteen miles of Oak Hill; and (b) from points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to points in Elizabeth Township, Lawrence County, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 16903 (Sub-No. 50), filed April 29, 1977. Applicant: MOON FREIGHT LINES, INC., 120 West Grimes Lane, Bloomington, Ind. 47401. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane foam products, component parts and accessories* moving in the same vehicle, from Charleston, Ill., to all points in West Virginia, Pennsylvania, North Carolina, Virginia, District of Columbia, Maryland, Delaware, New Jersey, New York, Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, Vermont, Tennessee, Mississippi, Alabama, Georgia, and South Carolina. Restricted to transportation originating at the plantsite of the Celotex Corporation, Charleston, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Tampa, Fla., or Washington D.C.

No. MC 25798 (Sub-No. 293), filed April 26, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell, Post Office Box 1186, Auburndale, Fla. 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report In Descriptions in Motor Carrier Certificates 61 MCC 209 and 768 (except hides and commodities in bulk) from the plant site and storage facilities of Wilson Foods Corporation at Albert Lea, Minn., to points in Florida. Restricted to the transportation of traffic originating at the above named origin, and destined to the named destination.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Kansas City, Mo.

No. MC 28088 (Sub-No. 24), filed April 20, 1977. Applicant: NORTH & SOUTH, INC., 2710 S. Main Street, Harrisonburg, Va. 22801. Applicant's representative: John R. Simms, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Feed and feed materials*, except in bulk, from points in Alabama, California, Georgia, Florida, Illinois, Indiana, Kansas, Kentucky, Michigan, Nebraska, Nevada, North Carolina, Ohio, South Carolina, South Dakota, Tennessee, Texas, Wisconsin, Wyoming, and points in that part of Pennsylvania south and east of a line along U.S. Highway 11 from the Maryland-Pennsylvania State line to the junction with Pennsylvania State Highway 34, thence along Pennsylvania State Highway 34 to the junction with U.S. Highway 209, thence along U.S. Highway 209 to the Pennsylvania-New York State line to points in Delaware, Pennsylvania, Maryland, and Virginia and those points in West Virginia on and east of U.S. Highway 219.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Harrisonburg, Va.

No. MC 28088 (Sub-No. 25), filed April 20, 1977. Applicant: NORTH & SOUTH, INC., 2710 S. Main Street, Harrisonburg, Va. 22801. Applicant's representative: John R. Simms, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes

transporting: *Feed supplements*, except in bulk: (1) from Giles County, Tenn., to points in Virginia, Maryland, Delaware, Pennsylvania, and that part of West Virginia on and east of U.S. Highway 220 and (2) from Chicago Heights, Ill., to points in Virginia, Delaware, Maryland, North Carolina, South Carolina, and that part of West Virginia on and east of U.S. Highway 220.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Harrisonburg, Va.

No. MC 29120 (Sub-No. 203), filed April 26, 1977. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57101. Applicant's representative: Ralph H. Jinks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by American Beef Packers, Inc., at or near Oakland, Iowa, to points in Indiana, Kentucky, Michigan, and Ohio, restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Omaha, Nebr.

No. MC 33970 (Sub-No. 18), filed April 1, 1977. Applicant: GEORGE HILDEBRANDT, INC., R.D. 2, Hudson, N.Y. 12534. Applicant's representative: Neil D. Breslin, 99 Washington Avenue, Suite 1111, Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from White Marsh, Md., to points in New York.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Albany, N.Y.

No. MC 44639 (Sub-No. 92), filed April 18, 1977. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, N.J. 07071. Applicant's representative: Robert B. Russell, 220 Ridge Road, Lyndhurst, N.J. 07071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk) between Washington, N.C., and Emporia, Va. Applicant states that it intends to tack at Emporia, Va., with its present authority in MC 44639 (Sub-No. 72), which permits the transportation of wearing apparel and materials and supplies used in the manufacture of wearing apparel (except commodities in bulk) between Emporia, Virginia, on the one hand, and, on the other, New York, N.Y., and points in Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Sussex, and Union Counties, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Newark, N.J., or New York, N.Y.

No. MC 48221 (Sub-No. 8), filed April 26, 1977. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products, meat by-products and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Denver, Colo., and points in its Commercial Zone to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—Hearing: June 21–July 1, 1977, Court of Appeals, Division 2, U.S. Courthouse, 1961 Stout Street, Denver, Colo.

No. MC 52464 (Sub-No. 9), filed April 4, 1977. Applicant: EVANS TRUCKING CO., a corporation, 2773 Darlington Road, Beaver Falls, Pa. 15010. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Seamless Steel tubing and pipe*, from the plantsites of Babcok & Wilcox Co., Tubular Products Division, located at Beaver Falls and Koppel, Pa., to points in New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 69834 (Sub-No. 13), filed April 15, 1977. Applicant: PRICE TRUCK LINE, INC., 2945 North Market, Wichita, Kans. 67219. Applicants' representative: William H. Shawn, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *School, art, and hobbies supplies and commodities used in the manufacturing, packaging, and transporting of school, art, and hobbies supplies* from the facilities of Binney & Smith, Inc., located at Winfield, Kans., to points in Texas and Louisiana; (2) *paper* from points in Texas to the plantsite and facilities of Thermal Shield, Inc., at Hesston, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Wichita, Kans.

No. MC 78228 (Sub-No. 62), filed April 25, 1977. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, Pa. 15220. Applicant's representative Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories, hot top rings, hot top slabs, hot topping compound, brick, hardware, iron or steel fluxing or purifying compounds*, from the facilities of Foseco Minsep, Inc., Cleveland, Ohio, to points in Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Cleveland, Ohio.

No. MC 82492 (Sub-No. 154), filed April 25, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products and food ingredients*, from the plant site and storage facilities of Archer Daniels Midland Company at or near Decatur, Ill., to points in Indiana, Kentucky, Michigan, Ohio, those points in New York in and west of Allegany, Livingston, and Monroe Counties, and those points in Pennsylvania on and west of U.S. Highway 219.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or St. Louis, Mo.

No. MC 87720 (Sub-No. 165), filed March 31, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Ronald L. Knorowski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and pet food, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of animal and pet food, between Atlanta, Ga., and points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 87730 (Sub-No. 27) (correction), filed March 15, 1977, published in the FEDERAL REGISTER issue of May 5, 1977, and republished as corrected this issue. Applicant: R. W. BOZEL TRANSFER, INC., 4500 Hollins Ferry Road, Baltimore, Md. 21227. Applicant's representative: Donald E. Cross, 700 World Center Building, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products, and such commodities as are used by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, and food, foodstuffs, and animal food, in vehicles equipped with mechanical refrigeration, from Baltimore, Md., points in Baltimore, Howard, Prince George's, and Anne Arundel Counties, Md., and the District of Columbia, to points in West Virginia and Virginia (except Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, and Warren Counties, Va.).

NOTE.—The purpose of this republication is to correct applicant's requested authority. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Baltimore, Md.

MC 93980 (Sub-No. 71), filed April 22, 1977. Applicant: Vance Trucking Co., Inc., P.O. Box 1119, Henderson, N.C. 27536. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Iron and steel articles* from Waterford Township, N.J., to points in North Carolina and South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Raleigh, N.C., or Washington, D.C.

No. MC 100666 (Sub-No. 345), filed April 4, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lath*, from the plantsite of the Ceco Corporation, located at or near Broadview, Ill., to points in Florida, Georgia, North Carolina, South Carolina, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

MC 103066 (Sub-No. 60), filed April 26, 1977. Applicant: Stone Trucking Co., a corporation, P.O. Box 2014, Tulsa, Okla. 74101. Applicant's representative: Eugene D. Anderson, Suite 428, 910 Seventeenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plant site and storage facilities of Colorado Beef Processors, Inc., located at or near Denver, Colo., to points in Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia.

NOTE.—Hearing: June 21–July 1, 1977, Court of Appeals, Division 2, U.S. Courthouse, 1961 Stout St., Denver, Colo.

No. MC 103926 (Sub-No. 56), filed April 4, 1977. Applicant: W. T. Mayfield Sons Trucking Co., a corporation, P.O. Box 947, Mableton, Ga. 30059. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (I) *Machinery, equipment, materials*, and *supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment* and *supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; and (II) *earth drilling machinery* and *equipment*, and *machinery, equipment, materials, supplies* and *pipe* incidental to, used in, or in connection with (A) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (B) the completion of holes or wells drilled, (C) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (D) the injection or removal of commodities into or from holes or wells, (1) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia; and (2) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Illinois, Indiana, Kentucky, Louisiana, Mississippi, New Mexico, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, West Virginia, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 103993 (Sub-No. 891), filed April 25, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 U.S. 20 West, Elkhart, Indiana 46514. Applicant's representatives: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, Indiana 46514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: trailers, semi-trailers, and trailer chassis (except those designed to be drawn by passenger automobiles), in initial and secondary movements in truckaway service between Minneapolis-St. Paul, Minnesota, on the one hand, and on the other, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minnesota.

No. MC 104675 (Sub-No. 40), filed April 20, 1977. Applicant: FRONTIER DELIVERY, INC., 620 Elk Street, Buffalo, New York 14210. Applicant's representative: E. Russell Whiteman, 620 Elk Street, Buffalo, New York 14210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Soda Ash*, in bulk, in dump, tank or hopper type vehicles, from Solvay, N.Y., to points in Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Buffalo, N.Y. or Washington, D.C.

No. MC 104683 (Sub-No. 41), filed March 30, 1977. Applicant: TRANSPORT, INC., P.O. Box 1524, Hattiesburg, Miss. 39401. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from points in Washington County, Ala., to points in Louisiana and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss.

No. MC 105501 (Sub-No. 19), filed April 28, 1977. Applicant: TERMINAL WAREHOUSE COMPANY, a corporation, 1851 Raddison Road NE., Blaine, Minnesota 55434. Applicant's representative: Joseph J. Dudley, W–1260 First National Bank Building, St. Paul, Minnesota 55101. Authority sought to operate as a *Common Carrier*, by motor vehicle, over irregular routes, transporting: Concrete Products (Except in Bulk) from Coates, Minnesota and Lino Lakes, Minnesota, to all points in Montana, Idaho, the Upper Peninsula of Michigan and North Dakota.

NOTE.—If a hearing is deemed necessary, the Applicant requests that it be held at St. Paul, Minnesota.

No. MC 105566 (Sub-No. 134), filed March 31, 1977. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 2069, Springfield, Va. 22152. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household products and the following related*

articles: waxes and compounds; laundry bleach; buffing and polishing compounds; polish and wax impregnated into paper or cloth for buffing or polishing purposes; *cleaning compounds; wax, fruit or vegetable coatings; liquid or paste, drawing or drilling, metal cutting lubricants and compounds* (except petroleum) rust preventing or *removing iron and steel compounds; liquid or dry manufactured fertilizing compounds; weed killing compounds; deodorants and disinfectants* (except automobile top medicinal dressing; *insecticides and insect repellents* (except agricultural); *paper* treated with insect repellants; *shampoo; shaving cream; soap; textile softeners; sprayers; store display stand; toilet preparations;* and *varnishes,* from Waxdale, Wis., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 105813 (Sub-No. 222), filed March 28, 1977. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 1936, Ocala, Fla. 32670. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bakery products,* from Downers Grove, Ill., to points in Florida.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 107460 (Sub-No. 65), filed April 22, 1977. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, P.O. Box 566, Lancaster, Pa. 17604. Applicant's representative: Donald D. Shipley, 3055 Yellow Goose Road, P.O. Box 566, Lancaster, Pa. 17604. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Printed Matter,* from the plant site of R. R. Donnelley Corporation located at or near Crawfordsville, Ind., to the plant site of Random House, Inc., located at or near Westminster, Md., under a continuing contract, or contracts, with R. R. Donnelley Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107460 (Sub-No. 66), filed April 22, 1977. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17604. Applicant's representative: Donald D. Shipley, 3055 Yellow Goose Road, P.O. Box 566, Lancaster, Pa. 17604. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Printed matter,* from the plant sites of the Donnelley Printing Company, a subsidiary of R. R. Donnelley and Sons Company, located at or near Lancaster, Pa., to points in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Missouri, Oregon, Texas, Washington, and Wisconsin, under a continuing contract, or contracts, with Donnelley Printing Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107515 (Sub-No. 1071), filed April 22, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Superior Packing Company located at Ellensburg and Seattle, Wash., to points in Alabama, Florida, Kentucky, Louisiana, New Jersey, North Carolina, South Carolina, Texas, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Wash., or San Francisco, Calif. Common control and dual operations may be involved.

No. MC 107515 (Sub-No. 1072), filed April 27, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta ,Ga. 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Carpet and tufted textile products,* from morganfield, Ky., to points in Texas, Oklahoma, and Albuquerque, N. Mex.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga., or Washington, D.C. Common control and dual operations may be involved.

No. MC 107544 (Sub. No. 136), filed April 21, 1977. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580 Marion, Va. 24354. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., No. 805, Washington, D.C. 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Activated carbon,* in bulk, in tank vehicles, from Catlettsburg, Ky., Neville Island, Pa., and Bayport, Tex. to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107615 (Sub-No. 9), filed April 25, 1977. Applicant: UNTCO, INC., 850 E. Luzerne St., Philadelphia, Pa. 19124. Applicant's representative: Richard Mehley, 1000 16th Street NW., Washington, D.C. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Printed matter, products, and materials, and supplies* used in the manufacture and production thereof, between Harrisburg, Pa., on the one hand, and, on the other, points in West Virginia.

NOTE.—Applicant intends to tack the above sought authority at Harrisburg, Pa., with its existing authority contained in certificate No. MC 107615 to provide a through service between West Virginia points, on the one hand, and, on the other, points in New Jersey, points in Rockland, Westchester, Nassua, and Suffolk Counties New York, and New York, N.Y. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107912 (Sub-No. 18), filed April 1, 1977. Applicant: REBEL MOTOR FREIGHT, INC., 3060 Gill Road, Memphis, Tenn. 38106. Applicant's representative: James K. Child, Jr., P.O. Box 651, Jackson, Miss. 39205. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment), serving all points in Madison County, Miss., as off-route points in connection with applicant's existing authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Jackson, Miss., or Memphis, Tenn.

No. MC 108053 (Sub-No. 137), filed March 28, 1977. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, Nebr. 68025. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* in mixed shipments with *meats, meat products and meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, from the plantsites and warehouse facilities of Oscar Mayer, located at or near (1) Madison, Wis., to points in Arizona, California, Montana, Nevada, Oregon, Utah, and Washington; (2) Chicago, Ill., to points in California, Oregon, and Washington; and (3) Davenport, Iowa, to Los Angeles, Sacramento, San Diego, San Francisco, San Jose, and Stockton, Calif., Portland, Oreg., and Auburn, Seattle, Spokane, and Tacoma, Wash.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 108119 (Sub-No. 59), filed April 4, 1977. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 3010, St. Paul, Minn. 55165. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Self-propelled articulating terminal tractors* each weighing less than 15,000 pounds; and (2) *Parts, materials, and supplies* used in the construction or manufacture of the commodities described in (1) above, between the plantsite and storage facilities of C.T.E.C. Company located in King County, Wash., on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Seattle, Wash.

No. MC 109397 (Sub-No. 361), filed April 25, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *materials used in the manufacture and sale of explosives* (except in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii), to Biwabik, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 109633 (Sub-No. 21), filed April 18, 1977. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, Ill., 60627. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Suite 3520, Chicago, Ill. 60601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bicycles, tricycles, and parts and accessories thereof, and materials and supplies* used in the manufacture of bicycles and tricycles, between Celina, Ohio, on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Wisconsin, Michigan, Missouri, Iowa, Tennessee, Minnesota, Kansas, Nebraska, Arkansas, Mississippi, Alabama, Georgia, South Carolina, North Carolina, New Jersey, Virginia, West Virginia, Maryland, Pennsylvania, Massachusetts, Connecticut, and New York.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 109689 (Sub-No. 309), filed April 4, 1977. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Autohrity sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Crude oil,* in bulk, from points in Nye County, Nev., to points in California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 111231 (Sub-No. 213), filed April 20, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Arkansas 72764. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Poplarville, Miss., New Orleans, La., and Mobile, Ala., on the one hand, and, on the other, points in Mississippi and Louisiana within 200 miles of Poplarville, Miss., with service restricted against the transportation of traffic moving between points in West Baton Rouge, East Baton Rouge, Livingston, Ascension, and Iberville Parishes, La., on the one hand, and, on the other, Mobile, Ala., and points within five (5) miles of Mobile.

NOTE.—Applicant already performs all the service proposed via Poplarville, Miss. The purpose of this application is to add New Orleans, La., and Mobile, Ala., as base points to applicant's existing radial authority to serve Poplarville, Miss. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New Orleans, La., or Mobile, Ala.

No. MC 111401 (Sub-No. 483), filed April 1, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Alvin J. Meiklejohn, Jr., Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sodium salt solutions,* in bulk, in tank vehicles, from the Merichem plantsite and other storage locations, located at Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston or Dallas, Tex.

No. MC 111729 (Sub-No. 700), filed April 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Blood, whole human; blood components, blood plasma, blood derivatives, and business papers moving therewith,* from airports located at Miami, Ft. Lauderdale, Jacksonville, Orlando, and Tampa, Fla., to points in Florida, restricted to the transportation of shipments having an immediately prior movement by air.

NOTE.—Applicant holds motor contract carrier authority in No. MC 112750, and subs thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Richmond, Va.

No. MC 111812 (Sub-No. 531), filed April 25, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, Sioux Falls, S. Dak. 57104. Applicant's representative: Ralph H. Jinks, 900 West Delaware, Sioux Falls, S. Dak. 57104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Confectionery* from Jackson, Minn., to Harrisburg, Pa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Sioux Falls, S. Dak.

No. MC 112288 (Sub-No. 14), filed April 1, 1977. Applicant: YARBROUGH TRANSFER CO., a corporation, 1500 Doune Street, Winston-Salem, N.C. 27100. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Air conditioning, air filtration, refrigeration and humidifying equipment,* the transportation of which because of size or weight requires the use of special equipment, from Salisbury, N.C., to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, mississippi, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Greensboro, N.C., or Washington, D.C.

No. MC 112520 (Sub-No. 337), filed April 19, 1977. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Thomas F. Panebianco (same address as Applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Acid,* in bulk, in tank vehicles, from Bessemer, Ala., and Gibbstown, N.J., to St. Marks, Fla., and (2) *spent acid,* in bulk, in tank vehicles, from St. Marks, Fla., to Bessemer, Ala., and Kenvil, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 113434 (Sub-No. 74), filed April 22, 1977. Applicant: GRA-BELL TRUCK LINE, INC., 479 Lincoln Avenue, Holland, Michigan 49423. Applicant's representative: Miss Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Michigan 48226. Authority sought to operate as a *common carrier,* over irregular routes, transporting: *Paper trays, corrugated post, clay and clay products,* except commodities in bulk, from Oran, Mo., Bloomfield, Mo., Olmsted, Ill. and Paris, Tenn. to points and places in Michigan, Wisconsin, Illinois, Indiana, Ohio, Kentucky, Pennsylvania, West Virginia, Iowa and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Michigan; Chicago, Illinois or Washington D.C.

No. MC 113651 (Sub-No. 220), filed April 18, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., Post Office Box 552, Muncie, Indiana 47305. Applicant's representative: George E. Batty, Post Office Box 552, Muncie, Indiana 47305. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities exempt from economic regulation under Section 203(b) of the Act* when transported in

mixed loads with bananas from Norfolk, Virginia to points in Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kansas, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Norfolk, Virginia or Washington, D.C.

No. MC 113658 (Sub-No. 15), filed April 25, 1977. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport St., P.O. Box 16346, Commerce City, Colorado 80022. Applicant's representative: William K. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, Illinois 60521. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: meat, packinghouse products and commodities used by packinghouses as described in Appendix I, in the Descriptions In Motor Carrier Certificates, 61 M.C.C. 209 and 766, (excluding commodities in bulk and hides) from Denver, Colorado, to points in Kentucky, Texas, Kansas, Missouri, Oklahoma, Louisiana, Arkansas, Tennessee, Mississippi, Alabama, Georgia, Forida, South Carolina and North Carolina.

NOTE.—Hearing: June 21–July 1, 1977, Court of Appeals, Division 2, U.S. Courthouse, 1961 Stout St., Denver, Colo.

No. MC 113666 (Sub-No. 117), filed April 26, 1977. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pennsylvania 16229. Applicant's representative: Daniel R. Smetanick, 1200 Butler Road, Freeport, Pennsylvania 16229. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *saltcake*, in bulk, from Karns City and Petrolia, Pennsylvania, to points in New York and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C. or Pittsburgh, Pa.

No. MC 113908 (Sub-No. 399), filed April 25, 1977. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale St., P.O. Box 3180 G.S., Springfield, Missouri 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *fertilizer and de-icer*, from Viroqua, Wisconsin, to points in Arkansas, Colorado, Kentucky, Missouri, Montana, Oklahoma, Tennessee and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Kansas City, Missouri.

No. MC 114045 (Sub-No. 462) (Correction), filed March 17, 1977, published in the FEDERAL REGISTER issue of May 5, 1977 and republished this issue. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the plant site and storage facilities of Iowa Beef Processors, Inc., located at or near Amarillo,Tex., to points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington.

NOTE.—The purpose of this republication is to correct applicant's territorial description. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Chicago, Ill.

No. MC 114211 (Sub-No. 296), filed April 22, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, Illinois 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: I. *Aluminum, aluminum products and supplies, materials* and *equipment* used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc., and its subsidiary and affiliated companies located at or near Decatur, Alabama; Casa Grande, Arizona; Long Beach, Riverside, Visalia, Perris Valley and Woodland, California; Loveland, Colorado; Ocala and Plant City, Florida; Peachtree City and Jonesboro, Georgia; Boise and Twin Falls, Idaho; Chicago, Morris and St. Charles, Illinois; Bicknell, Bristol and Franklin, Indiana; McPherson, Kansas; Frederick, Maryland; Monte Video, Minnesota; St. Louis, Missouri; Hernando, Mississippi; Dunkirk, New York; Reedsville, North Carolina; Cleveland, Ohio; Tulsa, Checotah, Oklahoma; Stayton, Oregon; Bloomsburg, Pennsylvania; Dennison and Mansfield, Texas; Harrisonburg, Virginia; Spokane and Ferndale, Washington and Marshfield, Wisconsin on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); II. *Zinc* and *Zinc Alloys* (except in bulk), between the plantsites of Alumax, Inc. and its subsidiary and affiliated companies located at or near Long Beach, California; Chicago, Illinois; Cleveland, Ohio; Checotah, Oklahoma on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests a consolidated record with similar applications at Washington, D.C.

No. MC 114211 (Sub-No. 297), filed April 25, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, Illinois, 60604. Authority sought to operate as a *common carrier* over irregular routes, by motor vehicle, transporting: I. Such commodities as are dealt in, or used by, agricultural machinery, industrial equipment dealers from Aberdeen, South Dakota; Grinnell, Iowa; Greeley, Colorado; Green Isle, Minnesota and Hopkins, Minnesota; to points in the United States (except Alaska and Hawaii) including ports of entry on the International Boundary line between the United States and Canada, for further movements to points in the Provinces of Canada; II. Materials, Equipment and Supplies (except commodities in bulk) used in the manufacturing and distribution of the commodities named above from all points in the United States (except Alaska and Hawaii) including the ports of entry on the International Boundary line between the United States and Canada to Aberdeen, South Dakota; Grinnell, Iowa; Greeley, Colorado; Green Isle and Hopkins, Minnesota.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Minneapolis, Minn. or Chicago, Ill.

No. MC 114211 (Sub-No. 298), filed April 26, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Singer & Sullivan, 327 South La Salle, Chicago, Illinois 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Pressure treated and untreated lumber mill products from Plainview, Arkansas to Iowa, Minnesota, Michigan, Wisconsin, South Dakota, Nebraska and Kansas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock, Ark. or Memphis, Tenn.

No. MC 114569 (Sub-No. 174), filed April 4, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Games, toys and parts thereof*, and *advertising material* when moving in mixed shipments with games, toys and parts thereof, from Booneville, Ark., to those points in that part of the United States, in and east of Illinois, Kentucky, Mississippi, Tennessee, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Little Rock, Ark., or Washington, D.C.

No. MC 114569 (Sub-No. 175), filed April 1, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the storage facilities of Centropolis Warehouse, and Commercial Distribution Center, Inc., located at or near Kansas City, Mo., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Vermont, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 114632 (Sub-No. 110), filed April 26, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting *Meat, meat products, and meat by-products, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from points in Colorado, to points in Arizona, California, Idaho, Montana, Nevada, Oregon, Utah and Washington.

NOTE.—Applicant holds contract carrier authority in MC 129706, therefore, dual operations may be involved. Applicant requests consolidation with Apple Lines, Inc., MC 114632 (Sub-No. 104), now assigned for hearing on June 20, 1977, in Denver, Colo.

No. MC 114896 (Sub-No. 50), filed April 4, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precious metals*, between Scotteville, N.Y., on the one hand, and, on the other Carteret and Newark, N.J., under contract with Sabin Metal Corporation.

NOTE.—Applicant holds common carrier authority in MC 140345 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115669 (Sub-No. 160), filed April 28, 1977. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar, Post Office Box 95, Clay Center, Nebraska 68933. Applicant's representative: Howard N. Dahlsten, 101 West Edgar, Post Office Box 95, Clay Center, Nebraska 68933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and dry animal and poultry feed ingredients*, from Nebraska City, Nebraska, to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebraska.

No. MC 115826 (Sub-No. 265), filed March 28, 1977. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of Merchants Refrigerating Co., located at or near Denver, Colo., to points in New Mexico and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 116014 (Sub-No. 81), filed April 22, 1977. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *treated poles*, from Bibb, Fulton and Richmond Counties, Georgia, to points in Indiana, Kentucky, Ohio, and the Lower Peninsula of Michigan.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Louisville Ky. or Atlanta Ga.

No. MC 116077 (Sub-No. 380), filed April 4, 1977. Applicant: ROBERTSON TANK LINES, INC., 2000 West Loop South, Suite 1800, Houston, Texas 77027. Applicant's representative: Pat H. Robertson, 500 West Sixteenth Street, P.O. Box 1945, Austin, Texas 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium Salt Solution*, in bulk, in tank vehicles, from the plant site of Merichem Company and storage facilities of Merichem Company, located in Houston, Texas, to points in Alabama, Florida and Georgia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New Orleans, Louisiana, or Dallas, Texas.

No. MC 116254 (Sub-No. 179), filed April 19, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 739, Florence, AL 35630. Applicant's representative: Hampton M. Mills, P.O. Box 739, Florence, AL 35630. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Sodium aluminate* in bulk, in tank vehicles, from South Pittsburg, TN to Listerhill and Sheffield, AL.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Washington, D.C.

No. MC 116457 (Sub-No. 20) (correction), filed March 23, 1977, published in the FEDERAL REGISTER issue of May 12, 1977, and republished as corrected this issue. Applicant: GENERAL TRANSPORTATION, INCORPORTED, 1804 S. 27th ve., Phoenix, Ariz. 85005. Applicant's representative: Donald Parker Crosby (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick, unglazed brick, structural glazed brick and tile, fire brick, fluelining, ceramic floor and wall tile fire clay and commodities* incidental to the installation thereof (except commodities in bulk, moving in tank vehicles), (1) from points in Dona Ana County, N. Mex., and points in Arizona, Colorado, Oklahoma, Missouri, and Utah to points in Arizona, California, Nevada, Colorado, Utah, Washington, Oregon, Montana, Wyoming, Idaho and New Mexico; and (2) from points in Texas, Arkansas and Kansas, to points in Idaho, Utah, Colorado, New Mexico, Washington, Oregon, and those in California north of San Luis Obisp, Kern and San Bernidino Counties, Calif.

NOTE.—The purpose of this republication is to correct applicant's territorial description. If a hearing is deemed necessary, the applicant requests it be held at either Phoenix, Ariz. or Dallas, Tex.

No. MC 116763 (Sub-No. 372) (Amendment), filed March 10, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, and republished as amended this issue. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay, floor sweeping compounds and absorbents* (except in bulk, in tank vehicles), from the facilities of Oil-Dri Corporation of America, located at or near Ochlocknee, Ga., to points in Kansas, Missouri, Oklahoma and Texas.

NOTE.—The purpose of this republication is to amend applicant's commodity description. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 116763 (Sub-No. 377), filed April 25, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Paper and paper products and woodpulp, from the plantsite and warehouse facilities of Bowater Southern Paper Corp. located at or near McMinn County, Tennessee, to points in Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atalnta, Georgia or Washingon, D.C.

No. MC 117119 (Sub-No. 625), filed April 29, 1977. Applicant: Willis Shaw Frozen Express, Inc., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Cleaning and Washington Compounds, dry or liquid, Oven Cleaners, Sodium Bicarbonate and Sal Soda (except in bulk), from Syracuse, New York; Ft. Thomas, Kentucky; and Cincinnati, Ohio to points in Arkansas, Colorado, Iowa, Kansas, Idaho, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming, Tennessee, Louisiana, and Mississippi.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 117686 (Sub-No. 169), filed April 18, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *meats, meat products, and meat by-products*, as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Fort Dodge, Iowa and Fremont, Nebraska, to points in Alabama, Arkansas, Louisiana, Mississippi, Tennessee, and Texas, restricted to the transportation of shipments originating at the plantsite and/or storage facilities of Spencer Foods, Inc., and destined to the above destination states.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebraska or Kansas City, Missouri.

No. MC 117765 (Sub-No. 229), filed April 22, 1977. Applicant: HAHN TRUCK LINE, INC., 5315 N.W. 5th Street, Oklahoma City, Oklahoma 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, my motor vehicle, over irregular routes, transporting: Foodstuffs (Not Frozen) and Pet Foods, in containers, from (1) Plantsite and facilities of Blytheville Canning Company, Inc., Blytheville, Arkansas; to Alabama, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee, Texas and Wisconsin and (2) Plaintsite and facilities of Valley Canning Company, Cecilia and Ville Platte, Louisiana to Arkansas, Michigan, Oklahoma and Wisconsin and (3) Plantsite and facilities of Blytheville Canning Company, Inc., Muskogee, Oklahoma; to Illinois, Indiana, Iowa, Minnesota, and Wisconsin and (4) Plantsite and facilities of Bush Brothers Canning Company, Augusta, Wisconsin and Shiocton Kraut Company, Shiocton, Wisconsin; to Arkansas, Colorado and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C. or Columbus, Ohio.

No. MC 117883 (Sub-No. 214), filed April 20, 1977. Applicant: SUBLER TRANSFER, INC., 100 Vista Drive, Versailles, Ohio 45380. Applicant's representative: Neil E. Hannan, P.O. Box 62, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Canned, prepared, or preserved foodstuffs, other than frozen (except in bulk), from (1) Columbus Grove and Ottawa, Ohio to Sioux Falls, South Dakota and from (2) Hoopeston, Illinois to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, Wisconsin, and Sioux Falls, South Dakota, restricted in (1) and (2) above to traffic originating at named origins and destined to named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Oklahoma City, Oklahoma.

No. MC 118535 (Sub-No. 96), filed April 26, 1977. Applicant: Tiona Truck Line, Inc., 111 South Prospect, Butler, Missouri 64730. Applicant's representative: Jim Tiona Jr., 111 South Prospect, Butler, Missouri 64730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and Poultry feed*, and *Animal and Poultry feed ingredients*, from Nebraska City, Nebraska, to points in Arkansas, Arizona, Colorado, Illinois, Iowa, Kansas, Louisiana, Minneosta, Missouri, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 118535 (Sub-No. 97), filed April 29, 1977. Applicant: Tiona Truck Line, Inc., 111 S. Prospect, Butler, Missouri 64730. Applicant's representative: Wilburn Williamson, 280 National Foundation Life Center, 3535 N.W. 58th St., Oklahoma City, Oklahoma 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Lead and lead alloys (except commodities which because of size or weight require the use of special equipment) from Herculaneum, Missouri to points in Arizona, Arkansas, Colorado, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Minnesota, Nebraska, New Mexico, Oklahoma, Tennessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Missouri.

No. MC 119619 (Sub-No. 98), filed April 28, 1977. Applicant, DISTRIBUTORS SERVICE CO., 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Suite 1515, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (a) Meats, meat products, meat by-products and articles distributed by meat packing houses described in Sections A&C of Appendix I, to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 & 766, (except hides and commodities in Bulk); From St. Louis, Mo. and points in the St. Louis, Mo. Commercial Zone to points in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Vermont, Virginia, West Virginia, Rhode Island, North Carolina, South Carolina and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 119619 (Sub No. 99), filed April 28, 1977. Applicant, DISTRIBUTORS SERVICE CO., 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative Arthur J. Piken, One Lefrak City Plaza, Suite 1515, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Foods, food products, food ingredients, animal foods, animal food ingredients and meat by-products (except in bulk), (1) from the warehouses of Beatrice Foods Co., located at Scranton, Pa. and at or near Allentown, Pa., to points in Illinois, Indiana, and Michigan. Restricted to the transportation of traffic originating at the warehouse of Beatrice Foods Co., at Scranton, Pa., and at or near Allentown, Pa., and destined to the named destination states; and (2) from points in Indiana, Illinois, and Michigan, to the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa. Restricted to the movement of traffic originating in the named origin States and destined to the warehouses of Beatrice Foods Co. at Scranton, Pa. and at or near Allentown, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 119654 (Sub-No. 33), filed April 19, 1977. Applicant: Hi-Way Dispatch, Inc., 1401 West 26th Street, Marion, Indiana 46952. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Indiana 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic products*, From Seymour, Ind., to Michigan, Ohio and Wisconsin; (2) *Materials, equipment and supplies* used in the manufacture of plastic products, From Michigan, Ohio and Wisconsin to Seymour, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Indianapolis, Indiana or Chicago, Illinois.

No. MC 119741 (Sub No. 69), filed April 22, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 3225 5th Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles)*, From Denver, Colorado, to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin. Restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—Hearing: June 21–July 1, 1977, Court of Appeals, Division 2, U.S. Courthouse, 1961 Stout St., Denver, Colo.

No. MC 119789 (Sub-No. 334), filed March 31, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products*, from Dallas and Fort Worth, Tex., to points in Alabama, Georgia, South Carolina, North Carolina, Florida, Virginia, Maryland, Pennsylvania, New Jersey and Massachusetts, restricted to traffic originating at the plantsite, warehouse and storage facilities utilized by Supreme Beef Processors, Inc. and Supreme Beef Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Washington, D.C.

No. MC 120257 (Sub-No. 36), filed April 19, 1977. Applicant: K. L. BREEDEN & SONS, INC., 401 Alamo Street, Terrell, Texas 75160. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Texas 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting roofing materials, composition shingles, rolled roofing, roofing compounds and accessories from the plantsite and storage facilities of Elk Corporation at or near Stephens, Ark., and Camden, Ark., to points in Alabama, Louisiana, Mississippi, Oklahoma, Kentucky, Tennessee and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex. or Little Rock, Ark.

No. MC 120978 (Sub-No. 16), filed April 25, 1977. Applicant: REINHART MAYER dba MAYER TRUCK LINE, 1203 South Riverside Drive, Jamestown, North Dakota 58401. Applicant's representative: Gene P. Johnson, 425 Gate City Building, P.O. Box 2471, Fargo, North Dakota 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *dry fertilizer and dry fertilizer ingredients*, from Clara City and Gluek, Minnesota to points in North Dakota.

NOTE.—Applicant holds contract carrier authority in No. MC 128217 and subnumbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Fargo, North Dakota or Minneapolis, Minnesota.

No. MC 123233 (Sub-No. 68), filed March 24, 1977. Applicant: PROVOST CARTAGE, INC., 7887 Grenache Street, Ville d' Anjou Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar*, in bulk, in tank vehicles, from the Ports of Entry on the International Boundary Line between the United States and Canada located in New York and Vermont to points in Connecticut, Massachusetts, New York, and Vermont, restricted to the transportation of traffic having an immediate prior movement in foreign commerce in through, single-line, local movement.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Montpelier, Vt., or Albany, N.Y.

No. MC 123272 (Sub-No. 12), filed April 29, 1977. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, Illinois 60617. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, Illinois 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Clay and Clay Products* from Ochlocknee, Georgia, to points in the States of Texas, Oklahoma, Kansas and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C. or Atlanta, Ga.

No. MC 123387 (Sub-No. 7), filed April 20, 1977. Applicant: E. E. HENRY, 1923 Sparrow Road, Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Norfolk, Va., to points in Texas, Arkansas, Pennsylvania, Ohio, Illinois, Indiana, Wisconsin, and Michigan; and (2) *Empty malt beverage containers*, from points in Texas, Arkansas, Pennsylvania, Ohio, Illinois, Indiana, Wisconsin, and Michigan, to Norfolk, Va.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Norfolk, Va.

No. MC 123407 (Sub-No. 368), filed April 22, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Indiana 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, knocked down, and parts and materials used in the construction of the above* from Englewood, Colorado, to points in Arkansas, Arizona, Idaho, Iowa, Louisiana, Minnesota, Missouri, Montana, North Dakota, Utah, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, Colorado.

No. MC 123681 (Sub-No. 33), filed March 28, 1977. Applicant: WIDING TRANSPORTATION, INC., P.O. Box 03159, Portland, Oregon 97203. Applicant's representative: David C. White, 2400 SW. Fourth Avenue, Portland, Oregon 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from East Helena, Montana, to points in Colorado, Idaho, Minnesota, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in San Francisco, Calif.

No. MC 123812 (Sub-No. 4), filed April 25, 1977. Applicant: SULLIVAN FREIGHT LINES, INC., P.O. Box 276, U.S. 11 By-Pass, Athens, TN 37303. Applicant's representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and Trailer Chassis* (except those designed to be drawn by passenger automobiles) and *trailer converter dollies* in initial movements in truckaway and towaway service, from points in McMinn County, Tenn., to points in all of the United States, including Alaska but excluding Hawaii, (2) *Trailers and Trailer Chassis* (except those designed to be drawn by passenger automobiles) and *trailer converter dollies* in secondary movements in truckaway and towaway service, from points in McMinn County, Tenn., to points in all of the United States, including Alaska but excluding Hawaii, (3) *Motor vehicle bodies, packer bodies, lift gates, containers, and hoists*, between points in McMinn County, Tenn., on the one hand, and, on the other, points in all of the United States, including Alaska, but excluding Hawaii, and (4) *Materials, supplies, components, and equipment* used in the manufacture, assembly, or servicing of the commodities described in (1), (2), and (3) above, between points in McMinn County, Tenn., on the one hand, and, on the other, points in all of the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Knoxville, Tenn., Washington, D.C., or Milwaukee, Wis.

No. MC 124004 (Sub-No. 40), filed April 19, 1977. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, N.J. 07871. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Soda Ash, in bulk, from Solvay, N.Y. to Points in Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or Washington, D.C.

No. MC 124211 (Sub-No. 290), filed April 12, 1977. Applicant: HILT TRUCK LINE, INC., Post Office Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by manufacturers and distributors of irrigation systems and their component parts and accessories, between points in Douglas and Platte Counties, and Omaha, Nebr., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted against the transportation of traffic originating at or destined to the facilities of Valmont Industries, Inc., located at or near Valley, Nebr.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 124211 (Sub-No. 291), filed April 27, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such*

commodities as are dealt in and used by banking and financial institutions, between points in the United States in and east of the western boundaries of Minnesota, Iowa, Nebraska, Missouri, Arkansas, and Louisiana (except between points in Fremont, Mills, Montgomery, Page, and Pottawattamie Counties, Iowa, on the one hand, and, on the other, points in Nebraska).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln or Omaha, Nebr.

No. MC 124328 (Sub-No. 112), filed April 22, 1977. Applicant: BRINK'S INC., One Crossroads of Commerce, Suite 710, Algonquin Road and Route 53, Rolling Meadows, Ill. 60008. Applicant's representative: Chandler L. van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin and currency*, between Seattle, Wash. and points in Idaho, under a continuing contract, or contracts, with banks and banking institutions.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Wash., or Washington, D.C.

No. MC 124511 (Sub-No. 31), filed April 20, 1977. Applicant: JOHN F. OLIVER, P.O. Box 223, E. Highway 54, Mexico, Mo. 65265. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and building and construction materials*, from the plantsite and facilities of Penn-Dixie Steel Corporation at Kokomo, Ind., to points in Illinois located on and south of Illinois Highway 116 and those in Cook, Will, DuPage, and Lake Counties, Ill.; and (2) *materials and supplies used in the manufacture and distribution of the above commodities*, from points in Illinois to the plantsite and facilities of Penn-Dixie Steel Corporation at Kokomo, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 124511 (Sub-No. 31), filed April 20, 1977. Applicant: JOHN F. OLIVER, P.O. Box 223, E. Highway 54, Mexico, Mo. 65265. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and building and construction materials*, from the plantsite and facilities of Penn-Dixie Steel Corporation at Kokomo, Ind., to points in Illinois located on and south of Illinois Highway 116 and those in Cook, Will, DuPage, and Lake Counties, Illinois; and (2) *materials and supplies used in the manufacture and distribution of the above commodities*, from points in Illinois to the plantsite and facilities of Penn-Dixie Steel Corporation at Kokomo, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 124679 (Sub-No. 76), filed April 1, 1977. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: Daniel E. England, P.O. Box 2465, 165 South West Temple, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fairfield, Calif., to Cedar City, Logan, Moab, Price, Provo, Salt Lake City, and Tooele, Utah.

NOTE.—Applicant holds contract carrier authority in various subs under MC 128813, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah.

No. MC 125951 (Sub-No. 22), filed April 19, 1977. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, Nebr. 68106. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Dubuque Packing Company at Denison, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr. Applicant holds contract carrier authority in No. MC 135033; therefore dual operations may be involved.

No. MC 128021 (Sub-No. 30), filed April 20, 1977. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergeen, Ala. 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquets, wood chips (not charred), charcoal lighter fluid (naphtha distillate), fire place logs, sawdust, wax impregnated, vermiculite other than crude* (except in bulk, in tank vehicles) from the plantsite of Kingsford Company and its warehouse at Belle, Mo., and Bland, Mo., to Illinois, Michigan, Tennessee, and Wisconsin, under a continuing contract, or contracts, with Kingsford Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Louisville, Ky., or St. Louis, Mo. Dual operations may be involved.

No. MC 128256 (Sub-No. 32), filed April 29, 1977. Applicant: O. W. BLOSSER d.b.a. BLOSSER TRUCKING, 215 N. Main Street, Middlebury, Ind. 46540. Applicant's representatives: Sheldon Silverman and Marvin L. Szymkowicz, 1819 H Street NW., No. 550, Washington, D.C. 20006. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plastics and plastic articles, materials, supplies and accessories used in the installation, sales and distribution thereof*, from Elkhart County, Ind., to points in the United States (except Alaska and Hawaii), and materials, supplies, and accessories used in the manufacture of plastics on return to Elkhart County.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 128273 (Sub-No. 259), filed April 21, 1977. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes transporting: *Toys and games and parts thereof, and advertising materials, when moving with toys and games*, from Booneville, Ark., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark., or Washington, D.C.

No. MC 128527 (Sub-No. 80), filed April 27, 1977. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 398, Payette, Idaho 83661. Applicant's representative: Edward G. Rawle, 4635 Southwest Lakeview Blvd., Lake Oswego, Oreg. 97034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Axles and axle assemblies and components*, from McMinnville, Oreg., to points in Ada, Canyon, Washington, and Payette Counties, Idaho.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg., or Boise, Idaho.

No. MC 129301 (Sub-No. 6), filed April 4, 1977. Applicant: ENGLISH & SONS CORP., 412 Kingshighway, Thorofare, N.J. 08086. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, N.J. 80096. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the plantsite and storage facilities of Liqui-Box Corporation, located at Thorofare, N.J., to points in Delaware, Maryland, New York, Pennsylvania, and the District of Columbia, under a continuing contract, or contracts, with Liqui-Box Corporation.

NOTE.—The purpose of this application is to convert applicant's common carrier authority to a contract carrier authority. Applicant holds common carrier authority in MO 135966, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 129455 (Sub-No. 18), filed April 4, 1977. Applicant: CARRETTA TRUCKING, INC., 301 Mayhill Street, Saddle Brook, N.J. 07662. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, pet supplies, pet products, and pet accessories* (except in bulk), (1) from Cranbury, Lakewood, and Paramus, N.J., to Atlanta, Ga., and Jacksonville, Fla., and to points in Arizona, Colorado, California, Illinois, Indiana, Michigan, Ohio, Oregon, Tennessee, Texas, and Utah; and (2) in containers or in trailers, having a prior movement by water, from Port Newark, N.J., to Paramus and Cranbury, N.J., restricted in (1) and (2) above to a continuing contract, or contracts, with Carter-Wallace, Inc., located at Cranbury, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 133492 (Sub-No. 15), filed April 25, 1977. Applicant: CECIL CLAXTON, Box 7, Route 3, Wrightsville, Ga. 31096. Applicant's representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine* (not in bulk), from Tampa, Fla., to Savannah, Brunswick, Albany, Columbus, Macon, Dublin, Augusta, Atlanta, Athens, and Rome, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 133566 (Sub-No. 80), filed April 25, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, Suite 1573, One World Trade Center, New York, N.Y. 10048. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-frozen foodstuffs* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Duffy-Mott Company, Inc., located at or near Hamlin and Williamson, N.Y., to points in Colorado, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, and Wisconsin, restricted to traffic originating at the above named origin and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 133689 (Sub-No. 119), filed April 4, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, tricycles and parts and accessories* thereof (except commodities in bulk), from Celina, Ohio to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133897 (Sub-No. 1), filed April 4, 1977. Applicant: MILLVILLE TRUCKING CO., INC., P.O. Box 181, Millville, N.J. 08332. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand, gravel, and clay*, from the plantsite and shipping facilities of New Jersey Silica Sand Company, located at or near Millville, N.J., to points in Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Virginia, and West Virginia, and points in Bucks, Berks, Carbon, Chester, Delaware, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Pike, and Schuylkill Counties, Pa., under a continuing contract, or contracts, with New Jersey Silica Sand Company, restricted against transportation to the plantsite of Fairless Works of United States Steel Corp., located at Falls Township, and Bucks County, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 134286 (Sub-No. 22), filed April 25, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk), from the plantsite and/or warehouse facilities of Elm Hill Meats, Inc., at or near Lexington, Ky., to points in the states of Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minneosta, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restriction: Restricted to traffic originating at the named origin and destined to the above-named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Louisville, Ky., or Cincinnati, Ohio.

No. MC 134323 (Sub-No. 97), filed April 26, 1977. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, Tex. 79120. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive care and maintenance supplies*, (1) from the facilities of or utilized by Union Carbide Corporation, at or near Mauldin, S.C., to points in Arkansas, Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and West Virginia; (2) from the facilities of or utilized by Union Carbide Corporation, at or near Chicago and Danville, Ill., to points in the states specified in (1), above, except to points in Illinois; (3) from the facilities of or utilized by Union Carbide Corporation, at or near Holland and Owosso, Mich., to points in the states specified in (1), above, except to points in Michigan; and (4) from the facilities of or utilized by Union Carbide Corporation, at or near Camden and South Hackensack, N.J., to points in the states specified in (1), above, except to points in Connecticut, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, and Virginia, under a continuing contract, or contracts, with Union Carbide Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York City, N.Y., or Washington, D.C.

No. MC 134387 (Sub-No. 46), filed April 4, 1977. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, Calif. 90280. Applicant's representative: Lucy Kennard Bell, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles and jars*, less than one gallon in capacity, from points in Los Angeles and San Bernardino Counties, Calif., to points in Weber County, Utah.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif.

No. MC 134404 (Sub-No. 34), filed . Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J., 08835. Applicant's representative: Eugene M. Malkin, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brass, bronze, copper, pipe and tubing, brass and copper alloys, brass, bronze, copper and nickel products, and copper billets*, from Reading, Pa. to points in Tennessee and New York and (2) *metal scrap, fire brick, and materials and supplies* (except in bulk), used in the manufacture, sale and distribution of the aforementioned commodities, from the destination points named in (1) above, to Reading, Pa., under a continuing contract with Reading Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 134477 (Sub-No. 157), filed April 1, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Krey Packing Company, Inc., located at or near St. Louis, Mo., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to the transportation of shipments originating at the above described origin and destined to the above-described destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134477 (Sub-No. 160), filed April 21, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minnesota 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Foodstuffs and bone chews* (except commodities in bulk), from the plantsites and facilities of Sanna Division of Beatrice Foods Co. located at or near Cameron, Eau Claire, Menomonie, Vesper, and Wisconsin Rapids, Wisconsin to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minnesota.

No. MC 134477 (Sub-No. 163), filed April 20, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minnesota 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minnesota 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and processed pork*, from Dayton and Washington Court House, Ohio to Green Bay, Wisconsin; Des Moines, Iowa; Hopkins, Minnesota; and Fargo and Bismarck, North Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 134755 (Sub-No. 99), filed April 4, 1977. Applicant: CARTER EXPRESS, INC., P.O. Box 3772, Springfield, Missouri 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Kansas City, Missouri, and Kansas City, Kansas, to points in West Virginia, Maryland, Delaware, Georgia, South Carolina, Kentucky, New Jersey, New York, Pennsylvania, Connecticut, Massachusetts, Vermont, New Hampshire, Rhode Island, Maine, Mississippi, Alabama, Tennessee, Louisiana, Missouri, Texas, Arkansas, Ohio, Indiana, Illinois, Michigan, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 138398 Sub-No. 2 and subs thereunder, therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 134806 (Sub-No. 47), filed April 4, 1977. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tennis shoes*, from Boston, Mass., to Manchester, Conn., and the plantsite and warehouse facilities of AMF Head Division, located at points in Boulder County, Colo., under a continuing contract, or contracts, with AMF Head Division.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 134970 (Sub-No. 15), filed April 27, 1977. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, El Paso, Illinois 61738. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Canned goods, (1) From Gibson City, Hoopeston, and Rochelle, Illinois to points in Iowa, Michigan, Missouri, Minnesota, Ohio, West Virginia, Indiana, Kentucky, Tennessee, and Wisconsin; (2) From Tipton, Indiana to points in Illinois, Iowa, Michigan, Missouri, Ohio, West Virginia, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin; (3) From Indianapolis and Peru, Indiana to points in Illinois, Iowa, Kentucky, Minnesota, Missouri, Tennessee, West Virginia, and Wisconsin; (4) From Croswell, Michigan to points in Illinois, Iowa, Michigan, Ohio, West Virginia, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin; (5) From Hart and Scottville, Michigan to points in Illinois, Indiana, Iowa, West Virginia, and Tennessee; (6) From Curtice, Norwalk and Paulding, Ohio to points in Illinois, Iowa, Michigan, Ohio, West Virginia, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin; (7) From Cumberland, Frederic, and Plymouth, Wisconsin to points in Illinois, Iowa, Michigan, Ohio, West Virginia, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin; and (8) From Appleton, Columbus, and Horicon, Wisconsin to points in Indiana, Illinois, Iowa, Ohio, West Virginia, Kentucky, Minnesota, Tennessee, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.

No. MC 135078 (Sub-No. 11) (correction), filed November 19, 1976, and published in FEDERAL REGISTER issue of January 27, 1977, and republished this issue. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, Nebr. 68127. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Floor covering and floor tile*, from Lancaster, Pa., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas, Washington, Wyoming, and Utah; (b) *carpet*, from Ware, Mass., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; (c) *carpet lining*, from Derby and Shelton, Conn., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; restricted in parts (a), (b), and (c) above to traffic originating at the named origins and destined to the named destination states; (2) *new finished furniture*, from Taylor and San Marcos, Tex., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, and West Virginia, restricted to traffic moving from the facilities of Kerr-Ben Furniture Manufacturing Company, Inc., a subsidiary of William Volker & Company and destined to the named destination states.

(3) *Carpeting and rugs*, from points in Laurens County, Ga., Washington County, Miss., and Dillon County, S.C., to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, and Washington, restricted to traffic originating at the named origins and destined to the named destination states; (4) *floor covering, floor tile, carpet padding and lining, and materials, equipment and supplies* used in the installation thereof, from Anaheim and South Gate, Calif., to points in Washington, Oregon, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Arkansas, and Louisiana, restricted to traffic originating at the named origins and destined to the named destination states; (5) *new furniture*,

crated, from Taylor and San Marcos, Tex., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted to traffic originating at the named origins and destined to the named destination states; (6) *window rollers, slats, window shades, shutters, and roller fixtures*, from Ogdensburg, N.Y.; and Chicago, Ill., to points in California, Colorado, Missouri, Nebraska, Oregon, Texas, Utah, and Washington, restricted to traffic originating at the named origins and destined to the named destination states; (7) *floor covering and rugs*, from Crow Agency, Mont.; to points in Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Wyoming, Colorado, New Mexico, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, and Louisiana, restricted to traffic originating at the named origins and destined to the named destination states.

(8) *New unfinished furniture*, (a) from Loveland, Colo.; to points in New Mexico and Texas; and (b) from Spangle, Wash., to points in Montana, Utah, and Idaho, restricted in (a) and (b) above to traffic originating at the named origins and destined to the named destination states, (9) *new finished furniture*, from Portland, Oreg.; to points in Missouri, Kansas, Nebraska, Idaho, Montana, Colorado, Utah, California, Arizona, New Mexico, Texas, Oklahoma, Washington, and Nevada, restricted to traffic originating at the named origins and destined to the named destination states; (10) (a) *bed frames and accessories*, from Benicia, Calif., to points in Washington, Montana, New Mexico, Arizona, Texas, Oregon, Colorado, Idaho, and Utah; and (b) *carpet tacking strip and materials and equipment* used for the installation of carpet, from City of Industry and Los Angeles, Calif.; to points in New Mexico, Colorado, Texas, Oklahoma, Idaho, Utah, Arizona, Kansas, Missouri, Louisiana, and Nebraska, restricted in parts (a) and (b) to traffic originating at the named origins and destined to the named destination states; (11) *floor covering, floor tile and rugs*, from the facilities of William Volker & Company located at or near Merced, Calif.; to points in Washington, Oregon, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Arkansas, and Louisiana, restricted to traffic originating at the named origin and destined to the named destination states; (12) *new finished furniture*, from the facilities of William Volker & Company located at or near Cameron, Tex., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Oklahoma, restricted to traffic originating at the named origin and destined to the named destination states; (13) *floor covering, floor tile, carpet padding, and carpet lining*, from Milwaukee, Wis., and Libertyville, Waukegan, and Kankakee, Ill., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota, restricted to traffic originating at the named origins and destined to the named destination states.

(14) *New finished furniture*, from Canby, Oreg., to points in Arizona, California, Colorado, Idaho, Kansas, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, South Dakota, Texas, Utah, Washington, and Wyoming, restricted to traffic originating at the named origins and destined to the named destination states; (15) *such commodities*, as are dealt in and used by manufacturers and wholesalers of household furnishings (except commodities in bulk, commodities which because of their size or weight require special equipment for loading and unloading, lumber and construction and building materials), between points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; restricted to traffic originating at and/or destined to the suppliers, customers or facilities or/or utilized by William Volker & Company; (16) *carpet padding and materials and supplies* used in the installation of carpet padding (except commodities in bulk), from Grafton, W. Va., and Dyersburg, Tenn., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; restricted to traffic originating at the named origins and destined to the named destination states; and (17) *carpet lining and padding*, from Norfolk, Va., to points in Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas, restricted to traffic originating at the named origins and destined to the named destination states.

NOTE.—This application is being republished to indicate applicant's correct request for authority. The purpose of this application is to convert applicant's contract carrier authority to common. Applicant holds contract carrier authority in MC 135007 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif., or Omaha, Nebr.

No. MC 135221 (Sub-No. 5), filed April 19, 1977). Applicant: DICK SIMON TRUCKING, INC., 3700 South 4355 West, Salt Lake City, Utah 84120. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier* by motor vehicle irregular routes, transporting: *Ground beef patties*, in vehicles equipped with mechanical refrigeration, from the plantsite of Otto & Sons, Inc., located at West Jordan, Utah to Renton, Spokane, and Seattle, Wash., Stockton and San Jose, Calif., Portland, Oreg., Denver, Colo., Albuquerque, N. Mex., Billings, Mont. and Boise, Idaho; and *bulk boneless beef*, in vehicles equipped with mechanical refrigeration, from Boise, Idaho, Billings, Mont., Albuquerque, N. Mex., Denver and Greeley, Colo., Portland, Oreg., San Jose and Stockton, Calif., Renton, Spokane, and Seattle, Wash., to the plantsite of Otto & Sons, Inc. at West Jordan, Utah.

NOTE.—Applicant holds contract carrier authority in No. MC 142850, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah or Washington, D.C.

No. MC 135236, Sub No. 17, filed April 22, 1977. Applicant: Logan Trucking, Inc., 801 Erie Avenue, Logansport, Indiana. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting wine and liquors (except in bulk) from points in New York and New Jersey to points in Arkansas, Indiana, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or Washington, D.C.

No. MC 135236 (Sub-No. 18), filed April 25, 1977. Applicant: LOGAN TRUCKING, INC., 801 Erie Avenue, Logansport, Ind., Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind., 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting malt beverages from the plantsites of Champale, Inc. at Trenton, New Jersey and Norfolk, Virginia to points in Arizona, Arkansas, California, Idaho, Kansas, Mississippi, New Mexico, Utah and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135410 (Sub-No. 11), filed April 1, 1977. Applicant: COURTNEY J. MUNSON, doing business as MUNSON TRUCKING, 700 South Main, Monmouth, Ill. 61462. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Krey Packing Company, located at or near St. Louis, Mo., to points in Connecticut, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania and Vermont, restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 135425 (Sub-No. 24), filed April 19, 1977. Applicant: CYCLES LIMITED, a corporation, P.O. Box 5715, Jackson, Miss. 39208. Applicant's repre-

sentative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Such commodities as are dealt in by a manufacturer of abrasives and abrasive products and industrial materials and supplies, and materials, supplies and equipment used in the conduct of such business* (except in tank vehicles), between Worcester, Mass., Watervliet, Granville and Buffalo, N.Y., W. Memphis, Ark., Stephenville and Brownsville, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with the Norton Company.

NOTE.—If hearing is deemed necessary, applicant requests that it be held in Worcester or Boston, Mass.

No. MC 135684 (Sub-No. 31), filed April 4, 1977. Applicant: BASS TRANSPORTATION CO. INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, Federal Bar Building West, 1819 H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and plastic products*, (except commodities in bulk), from points in Los Angeles and Orange Counties, Calif., to points in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Texas, Utah and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 87720 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

MC 135684 (Sub-No. 34), filed April 25, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat byproducts and articles distributed by meat packing houses as described in sections A & C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 & 766 from Denver and Sterling, Colo. to points in Arizona, California, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 87720 and subs thereunder, therefore dual operations may be involved. Hearing commencing June 21, 1977 at Denver, Colo.

No. MC 135779 (Sub-No. 6), filed April 20, 1977. Applicant BALDWIN TRUCKING, INC., 192 98th Avenue, Oakland, California 94603. Applicant's representative: M. C. Leiden, Griffiths and Leiden, 1182 Market Street, Suite 207, San Francisco, California 94102. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Palletized empty tin cans, from the plants of Del Monte Corporation located at Sacramento and Oakland, California, to Medford, Oregon, and from the plant of Del Monte Corporation located at Sacramento, California to Salem, Oregon.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Oakland or San Francisco, California.

No. MC 135874 (Sub-No. 76), filed April 1, 1977. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, Minn. 55075. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dayton and Washington Court House, Ohio, to ports of entry on the International Boundary line between the United States and Canada, located at or near Pembina, N. Dak.; Noyes, Minn.; Blaine, Wash.; Buffalo, N.Y.; Houlton, Maine; and Sweetgrass, Mont., and destined to points in Winnipeg, Man., Vancouver, B.C., Toronto, Ont., and Moncton, N.B., Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 135874 (Sub-No. 78), filed April 1, 1977. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, Minn. 55075. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dayton and Washington Court House, Ohio, to Green Bay, Wis.; Des Moines, Iowa; Hopkins, Minn.; and Fargo and Bismarck, N. Dak.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 135874 (Sub-No. 85), filed April 14, 1977. Applicant: L.T.L. Perishables, Inc., 550 East 5th Street South, South St. Paul, Minnesota 55075. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 W. Center Road, Omaha, Nebraska 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 266 (except hides and commodities in bulk in tank vehicles), from the plant-site and storage facilities of Flavorland Industries, Inc., Denver, Colorado to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, restricted to shipments originating at the above origins and destined to the above named destinations.

NOTE.—Hearing: June 21–July 1, 1977, Court of Appeals, Division 2, U.S. Courthouse, 1961 Stout St., Denver, Colo.

No. MC 136212 (Sub-No. 22), filed March 31, 1977. Applicant: JENSEN TRUCKING COMPANY, INC., P.O. Box 349, Gothenburg, Nebr. 69138. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Morgan Colorado Beef Company, located at or near Ft. Morgan, Colo., to points in Indiana, Nebraska and Wisconsin, restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Denver, Colo.

No. MC 136408 (Sub-No. 37), filed April 28, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative, William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Chemicals (except in bulk, in tank vehicles) from Kearny, Bridgeport and Camden, New Jersey to points in the states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin, restricted to a transportation service to be performed, under a continuing contract, or contracts with Monsanto Company of St. Louis, Missouri.

NOTE.—Applicant holds common carrier authority in MC–140629 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests it to be held in Washington, D.C.

No. MC 136605 (Sub-No. 24), filed March 31, 1977. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, Mont. 59807. Applicant's representative: W. E. Seliski (same address as applicant). Authority sought to operate as a *common carrier* over *irregular routes* by motor vehicle, transporting *Knocked down manufactured homes* and *materials and supplies* used in the construction of such commodities from points in Washington to points in Montana, Idaho, Wyoming, North Dakota and South Dakota.

NOTE.—Applicant holds contract carrier authority in MC 127349 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Billings or Missoula, Mont.

No. MC 138235 (Sub-No. 12), filed April 22, 1977. Applicant: DECKER TRANSPORT CO., INCORPORATED, 412 Route 23, Pompton Plains, New Jersey 07444. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Texas 75201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hardware, conveyors and conveyor equipment, furniture, power equipment, wheel goods*, and *bicycles and parts thereof and attachments and accessories therefor* and *materials, equipment and supplies* used in the manufacture and distribution thereof, between the plantsites and storage facilities of MTD Products, Inc. at or near Cleveland, Strongsville, Willard and Shelby, Ohio, on the one hand, and, on the other, points in Minnesota, Iowa, Missouri, Illinois, Wisconsin, Michigan, and Indiana. RESTRICTED against the transportation of any of the above named commodities in bulk and further restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, under a continuing contract, or contracts, with MTD Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex.

No. MC 138274 (Sub-No. 44) filed April 27, 1977. Applicant: SHIPPERS BEST EXPRESS, INC., P.O. Box 15533, Salt Lake City, Utah 84115. Applicant's representative: Michael J. Ogborn, 300 NSEA Building, 14th & J Streets, P.O. Box 82028, Lincoln, Nebraska 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Meat, meat products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), (a) from Denver, Colorado to points in Arizona, California, Oregon, Washington, Utah, Idaho and Nevada; (b) from Fort Morgan, Colorado to points in Illinois, Kentucky, New Hampshire, New York, New Jersey, Maine, Michigan, Massachusetts, Connecticut, California, Oregon, Washington, Utah, Nevada Idaho and Arizona.

NOTE.—Applicant holds contract carrier authority in MC–138056 (Sub-No. 1). Therefore, dual operations may be involved.

HEARING: Set for June 21, 1977 through July 1, 1977 at the Court of Appeals, Division 2, U.S. Courthouse, 1961 Stout Street, Denver, Colo.

No. MC 138308 (Sub-No. 23), filed April 1, 1977. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fluorescent lighting fixtures and parts thereof*, from the facilities of Columbia Lighting, Inc., at or near Spokane, Wash., to points in Arizona, California, Colorado, Nevada, New Mexico and Utah.

NOTE.—Applicant holds contract carrier authority in MC 128592, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138313 (Sub-No. 24), filed April 20, 1977. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, Montana, 59404. Applicant's representative: Miss Irene Warr, attorney at law, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common* motor carrier, by motor vehicle, over irregular routes, transporting: *Bentonite, when used as an oil field commodity as defined in Mercer Extension—Oil Field Commodities, 74 M.C.C. 459*, from the facilities of American Colloid Company at or near Lovell, Wyoming, to Oregon and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 138492 (Sub-No. 3), filed April 28, 1977. Applicant: Richard E. Gregory, d.b.a. GREGORY GRAIN CO., Rural Route No. 1, Moweaqua, Illinois 62550. Applicant's representative: John E. Harvey, P.O. Box 1470, Decatur, Illinois 62525. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes transporting: *Grain or soybean products*, dry, in bulk, bags or boxes in straight or mixed loads from the plant and storage facilities of Archer Daniels Midland Company, Decatur, Illinois, to points in Illinois, Minnesota, Iowa, Missouri, Oklahoma, Arkansas, Texas, Mississippi, Alabama, Georgia, Tennessee, Kentucky, Indiana, Ohio, Michigan, Wisconsin, Virginia, Louisiana, and North Carolina, under a continuing contract with Archer Daniels Midland Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Springfield, Ill. or St. Louis, Mo.

No. MC 138633 (Sub-No. 3), filed April 25, 1977. Applicant: STATEWIDE CARRIERS, INC., 237 West 15th Place, Chicago Heights, Illinois 60411. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Indiana 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used cars and used pickup trucks*, in truckaway service, between Detroit, Mich., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

No. MC 138875 (Sub-No. 56), filed April 18, 1977. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Road, Boise, Idaho 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Tile; floor, wall, ceiling and counter coverings, trim and accessories; and such products as are dealt in by wholesale and retail distributors of tile and coverings, from Palatine, IL, Keyport and Salem, NJ, Buffalo, NY, Coshocton, OH, and Oneida, TN, to the facilities and warehouses of C. A. Newell Co. and their subsidiary companies at Portland, OR, and Seattle, WA.

NOTE.—If a hearing is deemed necessary, Applicant requests that it be held at Boise, Idaho, Seattle, WA, or Portland, OR.

No. MC 138931 (Sub-No. 4), filed April 28, 1977. Applicant: Louie Senske and Jim Senske, d.b.a. SENSKE & SON TRANSFER, a partnership, 117 Fourth Avenue North, Crookston, Minnesota 56716. Applicant's representative: James B. Hovland, P.O. Box 1637, 414 Gate City Building, Fargo, North Dakota 58102. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: (1) earth moving scrapers and parts and attachments for earth moving scrapers, from the facilities of Toreq, Inc. at or near Thief River Falls, Minnesota to points in the United States (except Alaska and Hawaii); and (2) materials and supplies used in the manufacture of earth moving scrapers (except commodities in bulk) from points in the United States (except Alaska and Hawaii) to the facilities of Toreq, Inc. at or near Thief River Falls, Minnesota, under a continuing contract, or contracts, with Toreq, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 136293 (Sub-No. 2); therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Fargo, N. Dak. or Minneapolis or St. Paul, Minn.

No. MC 139021 (Sub-No. 6), filed April 4, 1977. Applicant: INTERSTATE AUTO TRANSPORT, INC., P.O. Box 251, Michigan City, Ind. 46360. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used cars and used pickup trucks*, in truckaway service, between Detroit, Mich., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

No. MC 138936 (Sub-No. 3), filed April 28, 1977. Applicant: Richard E. Gregory, d.b.a. GREGORY GRAIN CO., Rural Route No. 1, Moweaqua, Illinois 62550. Applicant's representative: John E. Harvey, P.O. Box 1470, Decatur, Illinois 62525. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes transporting: *Grain or soybean products*, dry, in bulk, bags or boxes in straight or mixed loads from the plant and storage facilities of Archer Daniels Midland Company, Decatur, Illinois, to points in Illinois, Minnesota, Iowa, Missouri, Oklahoma, Arkansas, Texas, Mississippi, Alabama, Georgia, Tennessee, Kentucky, Indiana, Ohio, Michigan, Wisconsin, Virginia, Louisiana, and North Carolina, under a continuing contract with Archer Daniels Midland Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Springfield, Ill. or St. Louis, Mo.

No. MC 138633 (Sub-No. 3), filed April 25, 1977. Applicant: STATEWIDE CARRIERS, INC., 237 West 15th Place, Chicago Heights, Illinois 60411. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Indiana 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing felt*, in rolls, from Cornell, Wisconsin, to Chicago Heights, Illinois, and Minneapolis, Minnesota; and (2) *scrap or waste paper*, (a) from Chicago and Chicago Heights, Illinois, to Cornell, Wisconsin; (b) from Minneapolis, Minnesota, to Cornell, Wisconsin; and (c) from points in Indiana, Kentucky, and St. Louis, Missouri, to points in Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Illinois, or Indianapolis, Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Detroit, Mich., or Chicago, Ill.

No. MC 139148 (Sub-No. 4), filed April 19, 1977. Applicant: BULK HAULERS, INC., 717 South Twelfth Street, St. Louis, Mo. 63102. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica flour and silica sand*, in bulk, from St. Charles, St. Louis and Jefferson Counties, Mo., to points in Kansas and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Louis, Mo. or Washington, D.C.

No. MC 139482 (Sub-No. 15), filed March 24, 1977. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, Minn. 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Redwood furniture*, knocked-down, in cartons; *redwood furniture components*, knocked-down, in cartons; and *accessories and parts* intended for use therewith, Between Eureka, Calif., on the one hand, and on the other, points in Loveland, Colo.; Elkhart, Ind.; New Ulm, Minn.; and points in the Minneapolis-St. Paul, Minn., commercial zone as defined by the Commission; Waco, Tex.; and Prairie du Chien and Spencer, Wis.; (2) *upholstered furniture cushions*, Between Spring City, Tenn., on the one hand, and, on the other, points in Loveland, Colo.; Elkhart, Ind.; New Ulm, Minn.; and points in the Minneapolis-St. Paul, Minn., commercial zone as defined by the Commission; Waco, Tex.; and Prairie du Chien and Spencer, Wis.; (3) *Commodities* in (1) and (2) as described above, From Eureka, Calif.; Loveland, Colo.; Elkhart, Ind.; New Ulm, Minn.; and points in the Minneapolis-St. Paul, Minn., commercial zone as defined by the Commission; Spring City, Tenn., Waco, Tex.; and Prairie du Chien and Spencer, Wis., to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 139495 (Sub-No. 228), filed April 1, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: health, hygienic, medical, and surgical care products from the facilities of Parke, Davis & Company located at or near Greenwood, S.C. to points in and west of Michigan, Ohio, Indiana, Illinois, Missouri, Arkansas, and Louisiana.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 232), filed April 12, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kansas 67901. Applicant's representative: Herbert Alan Dubin, Suite 1030, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs* from Opelousas, La. to points in Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Virginia, West Virginia, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139577 (Sub-No. 4), filed April 1, 1977. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, Wis. 53935. Applicant's representative: Delbert De Young (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Fairwater and Beaver Dam, Wis., to points in Delaware, Maryland, New Jersey, New York, and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Chicago, Ill.

No. MC 139697 (Sub-No. 3), filed April 20, 1977. Applicant: EDWARD BRUCE WAGONER doing business as DELIGHT TRANSPORTATION COMPANY. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *lawn and garden tractors, parts and attachments thereof, and materials, equipment, and supplies used in the manufacture of such commodities* (except in bulk), between South Bend, Ind., on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, Washington, Oregon, Nevada, Idaho, Utah, Montana, North Dakota, South Dakota, and Nebraska, under a continuing contract or contracts with Wheel Horse Products, Inc., located at South Bend, Ind.

NOTE.—If hearing is deemed necessary, applicant requests it be held at South Bend, Ind.

No. MC 139923 (Sub-No. 31), filed March 21, 1977. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, Okla. 74079. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk) and *plastic and rubber articles* when moving in mixed shipments with foodstuffs (except commodities in bulk), from the plantsite and storage facilities of or utilized by Ross Laboratories, Division of Abbott Laboratories, located at or near Sturgis, Mich., to points in Arizona, Arkansas, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregan, Texas, Utah, Washington, and Wyoming, restricted to the transportation of traffic originating at the above named origin and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 139926 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbus or Cleveland, Ohio.

No. MC 140061 (Sub-No. 4), filed March 28, 1977. Applicant: DON MULDER, doing business as DON MULDER TRUCKING, 1735 North 50th Street, Lincoln, Nebr. 68504. Applicant's representative: A. J. Swanson, P.O. Box 81849, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such materials, supplies, and equipment* as are used in the production of marketing of fresh vegetables, from Indianapolis, Ind., St. Louis, Mo. and Cincinnati, Ohio, to Grand Island, Nebr. and Pine Bluffs, Wyo., under a continuing contract, or contracts, with D. H. Buckner, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Grand Island, Nebr. or Lincoln, Nebr.

No. MC 140071 (Sub-No. 5), filed April 1, 1977. Applicant: MID-AMERICA CARTAGE, INC., 1550 East Birchwood, Des Plaines, Ill. 60018. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, padding, and related floor covering materials*, between Chicago and Elk Grove Village, Ill., on the one hand, and, on the other, points in the Lower Peninsula of Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 140581 (Sub-No. 9), filed April 25, 1977. Applicant: TOMMY HAGWOOD d/b/a, HAGWOOD ENTERPRISES, Route 1, Box 222–A, Trafford, Ala. 35172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in truckaway service, between Los Angeles, Calif., and points in its Commercial Zone, on the one hand, and, on the other, points in Louisiana, Mississippi, Alabama, Georgia, Tennessee, Florida, South Carolina, North Carolina, Virginia, Maryland, Delaware, the District of Columbia, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, Texas, New Hampshire, and Maine, restricted against the transportation of trailers, semi-trailers, and

trailer chassis (except those designed to be drawn by passenger automobiles), in initial or secondary movements, in truckaway service; new self-propelled passenger or property-carrying golf buggies, or commercial adaptations thereof; three wheeled motor vehicles and trailers; and motorcycles and motor scooters.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 140612 (Sub-No. 17), filed April 1, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: J. L. Kazimour, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Bettendorf, Iowa, to points in Alabama, Illinois, Indiana, Iowa, Michigan, Mississippi, Missouri and Ohio.

NOTE.—Applicant holds contract carrier authority in MC 138003 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Bettendorf, Iowa or Cedar Rapids, Iowa.

No. MC 140916 (Sub-No. 1), filed March 31, 1977. Applicant: R. & E. HAULING, INC., 2940 Waterview Avenue, Baltimore, Md. 21230. Applicant's representative: M. Bruce Morgan, 104 Azar Building, Glen Burnie, Md. 21061. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, Md., on the one hand, and, on the other, points in Anne Arundel, Baltimore, and Howard Counties, Md., restricted to shipments having an immediately prior or subsequent movement by water, including containers, container chassis, and trailers.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Baltimore, Md. or Washington, D.C.

No. MC 141255 (Sub-No. 9), filed March 24, 1977. Applicant: TANDY TRANSPORTATION, INC., P.O. Box 7135, Fort Worth, Tex. 76111. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Electronic equipment, materials* and *supplies including antenna, antenna mounts*, and *antenna masts* (except commodities requiring special equipment) from Blauvelt, and Hicksville, N.Y.; Huntington, Ind.; Tarrant City, Ala.; Burlington, Iowa; Somerville and Parsippany, N.J.; St. Louis, Mo.; Boston, Mass.; and St. Paul, Minn. to Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (b) *electronic equipment, materials* and *supplies including antenna, antenna mounts*, and *antenna masts* (except commodities requiring special equipment) from Mundelein, Ill. to Vancouver, Wash.; and Charleston, S.C.; (c) *toys, games* and *toy and game construction kits* from Hagerstown, Md., to Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (d) *electronic equipment, materials* and *supplies* (except commodities requiring special equipment) *toys* and *games*, from Los Angeles, Calif., to Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (e) *electronic equipment, materials* and *supplies* (except commodities requiring special equipment) *toys* and *games*, from Detroit, Mich., to Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.

(2) (a) *Antenna mounts* (except commodities requiring special equipment) from Franklin Park, Ill. to Ft. Worth, Tex.; Garden Grove, Calif.; Groveport, Ohio; Randolph, Mass.; Vancouver, Wash.; and Charleston, S.C.; (b) *steel hardware cabinets* from Wadsworth, Ohio to Ft. Worth, Tex.; Garden Grove, Calif.; Randolph, Mass.; Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (c) *radio or telephone headsets* from Milwaukee, Wis., to Ft. Worth, Tex.; Garden Grove, Calif., Groveport, Ohio; Randolph, Mass.; Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (d) *electronic equipment, materials* and *supplies* (except commodities requiring special equipment) from Princeton, Ky. to Groveport, Ohio; Randolph, Mass.; Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (e) *plastic records, sound recordings*, and *recording tapes* from Port Washington, Pa., to Ft. Worth, Tex.; Garden Grove, Calif.; Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (f) *electronic equipment, materials* and *supplies* (except commodities requiring special equipment) from Philadelphia, Pa. to Ft. Worth, Tex.; Garden Grove, Calif.; Groveport, Ohio; Randolph, Mass.; Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (g) *electronic equipment, materials* and *supplies* (except commodities requiring special equipment) from Baltimore, Md., to Groveport, Ohio; Vancouver, Wash.; Chicago, Ill.; and Charleston, S.C.; (h) *electronic equipment, materials* and *supplies* (except commodities requiring special equipment) from Indianapolis, Ind., to Ft. Worth, Tex.; Garden Grove, Calif.; Randolph, Mass.; Vancouver, Wash.; and Charleston, S.C.

(3) (a) *sheet steel* (except commodities requiring special equipment) from Des Plaines, Ill. to Ft. Worth, Tex.; (b) *paper bags* from Yulee, Fla. to Ft. Worth, Tex.; (c) *particle board* from Morristown, Tenn. to Ft. Worth, Tex.; (d) *brass, bronze or copper wire* from Carrollton, Ga., to Ft. Worth, Tex.; (e) *steel stampings* (except commodities requiring special equipment) from Paducah, Ky., to Ft. Worth, Tex.; (f) *magnetized magnets* and *carpet rolls* from Chattanooga, Tenn. to Ft. Worth, Tex.; (g) *chrome plated brass parts* for electronic equipment from Willoughby, Ohio to Ft. Worth, Tex.; (h) *uncoated wire links* used for antennas, from Cockeysville, Md., to Ft. Worth, Tex.; (i) *plastic pellets* in bags or boxes from Peru and Ottawa, Ill.; Massilion, Ohio; and Gary, Ind., to Ft. Worth, Tex.; (j) *coiled and stripped aluminum* (except commodities requiring special equipment) from Burnsville, Minn., to Ft. Worth, Tex.; (k) *metal fasteners and connectors* from Elmhurst, Ill. to Ft. Worth, Tex.; (l) *plastic spools* from Chatham, N.Y., to Ft. Worth, Tex.; (m) *leather, leather supplies, saddle soap, neatsfoot oil*, and *leather dressing* from Milwaukee, Wis., to Ft. Worth, Tex.; and (n) *plastic pellets or granules*, in bags, from Perryville, Md., and Passaic, N.J., to Ft. Worth, Tex., restricted to traffic destined to the manufacturing plants, warehouses and storage facilities owned or utilized by Tandy Corporation, and Tandycrafts, Inc. and their divisions and subsidiaries, and under a continuing contract or contracts with Tandy Corporation and Tandycrafts, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., or Washington, D.C.

No. MC 141290 (Sub-No. 2), filed April 19, 1977. Applicant: AJF CONSOLIDATORS COMPANY, a corporation, 250 Great South West Parkway SW., Atlanta, Georgia 30336. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Georgia 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by trading stamp redemption centers (1) from Atlanta, Georgia to points in Alabama (2) from New Orleans, Louisiana to points in Louisiana and Mississippi, under a continuing contract or contracts with Top Value Enterprises, Inc. located at Dayton, Ohio.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New Orleans, Louisiana.

No. MC 141326 (Sub-No. 7), filed March 28, 1977. Applicant: C. C. SALTER and C. W. SALTER, a partnership, doing business as S & S TRUCKING COMPANY, P.O. Box 67, State Docks Road, Eufaula, Alabama 36027. Applicant's representative: George M. Boles, 903 Frank Nelson Building, Birmingham, Alabama 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Pre-cut Plywood from the plantsites, warehouses and storage facilities of Associated Forest Products, Inc., at or near Eufaula, Alabama, to Richmond, Ind. and Chicago Heights, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Montgomery, Ala.

No. MC 141426 (Sub-No. 5), filed April 1, 1977. Applicant: WHEATON CARTAGE CO., a corporation, Millville, N.J. 08332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass, metal, plastic, feldspar, talc, and clay articles and products; gift items, molds and machinery; bottle coating systems; and parts and accessories* for all the above-mentioned com-

modities; and *materials, equipment and supplies* used or useful in the production, fabrication, sale, distribution, assembly, finishing, coating, pressing and molding of the above-mentioned commodities, between the plantsite of and warehouse facilities utilized by Wheaton Industries, located at or near Springfield, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted (1) against the transportation of commodities in bulk, and (2) to the transportation of traffic moving under a continuing contract or contracts with Wheaton Industries.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 141527 (Sub-No. 2), filed April 19, 1977. Applicant: D & D LUMBER COMPANY, INC., 2146 Amity Hill Road, Statesville, North Carolina 28677. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from the plantsites and shipping facilities of Lewittes Furniture Enterprises, Inc. at or near Taylorsville, North Carolina, to points in Michigan, Ohio and Texas, under a continuing contract with Lewittes Furniture Enterprises, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Charlotte, North Carolina.

No. MC 141570 (Sub-No. 6), filed January 14, 1977. Applicant: ELECTRONICS TRANSPORT, INC., 3213 Eighth Avenue North, P.O. Box 31103, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Duplicating and reproducing machines*, and *parts and supplies* used in the installation of such commodities, between the plantsite and storage facilities of Xerox Corporation, located at Charlotte, N.C., on the one hand, and, on the other, points in Wilkes, Lincoln, Taliferro, Warren, McDuffie, Columbia, Richmond, Glascock, Jefferson and Burke Counties, Ga., under a continuing contract, or contracts, with Xerox Corporation.

NOTE.—Applicant holds common carrier authority in MC 136269 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 141691 (Sub-No. 1), filed March 21, 1977. Applicant: BEL'S PRODUCE CO., INC., 11357 Vienna Road, Montrose, Mich. 48457. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (not frozen), in containers, from the facilities of Vlasic Foods, Inc., located at Bridgeport, Imlay City, and Memphis, Mich., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, restricted to the transportation of shipments originating at said facilities and destined to points in said destination states, under a continuing contract or contracts with Vlasic Foods, Inc.

NOTE.—Applicant holds common carrier authority in MC 136267 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Chicago, Ill.

No. MC 141776 (Sub-No. 11), filed April 18, 1977. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, Pa. 17967. Applicant's representative: L. Agnew Myers, Suite 407, Walker Building, 734 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, N.O.I. (TV dinners), meat, fish or poultry*, from Salisbury, Md., and Downingtown, Pa., to points in Ohio and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Philadelphia, Pa.

No. MC 141804 (Sub-No. 53), filed April 25, 1977. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards or sheets of ground wood or sawdust with one or two coats of paint* (except commodities in bulk and those which, because of their size and weight, require specialized equipment for their loading, unloading or transportation) from Anaheim, Calif., to Rockville, Ill., and Barnesville, Ga., restricted to traffic originating at or destined to the facilities utilized by Davidson Panel Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Lincoln, Nebr., or Los Angeles, Calif.

No. MC 141849 (Sub-No. 3), filed April 4, 1977. Applicant: RAY LOCKRIDGE TRUCKING, INC., 95 Lawrenceville Industrial Park Circle NE., Lawrenceville, Ga., 30245. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet backing and textile products*, from the facilities of Amoco Fabrics Co., Patchogue Plymouth Division, located at Hazlehurst, Ga., to points in Los Angeles, San Bernardino, and Orange Counties, and Bakersfield and Fresno, Calif., under a continuing contract, or contracts, with Amoco Fabrics Co., Patchogue Plymouth Division.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 142207 (Sub-No. 8), filed April 22, 1977. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29267 (Chef Menteur Highway), New Orleans, La. 142207. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Lumber and lumber products*, from Ola, Ark., and points in Columbia County, Ark., to points in Texas, Oklahoma, Kansas, Missouri, Kentucky, Tennessee, Alabama, Mississippi, Louisiana, Iowa, and Nebraska.

NOTE.—If hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark., or Ft. Smith, Ark.

No. MC 142236 (Sub-No. 1), filed February 24, 1977. Applicant: ATKINSON WRECKER & SUPPLY CORP., 735 South 600 West, Salt Lake City, Utah 84101. Applicant's representative: Dale A. Kimball, 1800 Beneficial Life Tower, 36 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Reinforcing steel products* from the plant site or sites of Atkinson Steel Corporation located in Salt Lake and Davis Counties, Utah, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, and Wyoming under a continuing contract or contracts with Atkinson Steel Corporation; and (2) *steel coil, sheet plate bars, bar sized shapes, and structural steel items* from points in California, Oregon, and Washington, to the plant sites of Steelco, a Division of Alta Industries, Inc., located at Salt Lake County, Utah, Ada County, Idaho, and Mesa County, Colo., restricted against the transportation of heavy machinery, mining and constractors' equipment and commodities as described in Mercer Extension-Oil Field Commodities, 74 M.C.C. 459, 544, and earth drilling commodities as described in Roy L. Jones, Extension-Earth Drilling Commodities, 103 M.C.C. 823, 832, under a continuing contract or contracts with Steelco, a Division of Alta Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah, or Washington, D.C.

No. MC 142694 (Sub-No. 2), filed April 22, 1977. Applicant: JOSEPHINE V. CREAGER, doing business as Jack Creager Trucking, 3812 South 243rd St., Kent, Wash. 98031. Applicant's representative: Henry C. Winters, 235 Evergreen Bldg., 15 South Grady Way, Renton, Wash. 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal articles*, (1) between Los Angeles and Berkeley, Calif. on the one hand, and, on the other, Portland, Ore., and Kent, Wash.; and (2) between Portland, Oreg., and Kent, Wash.; restricted to a transportation service to be performed under a continuing contract or contracts with Ducommun Metals, Inc., of Kent, Wash.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle or Kent, Wash.

No. MC 142715 (Sub-No. 4), filed April 4, 1977. Applicant: LENERTZ, INC., 411 Northwestern National Bank Building, South St. Paul, Minn. 55076. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Siouxland Beef Processors, Inc., located at or near Sioux City, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the above named plantsite and storage facilities, and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Omaha, Neb., or St. Paul, Minn.

No. MC 142884 (Sub-No. 1), filed April 18, 1977. Applicant: SAM G. AMERMAN, 524 West North Street, Olney, Ill. 62450. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *malt beverages* from the facilities of Anheuser-Busch, Inc., located at St. Louis, Mo., to Lawrenceville, Ill., under a continuing contract or contracts with Gray Wholesale, Inc., located at Lawrenceville, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in St. Louis, Mo.

No. MC 142911 (Sub-No. 2), filed March 21, 1977. Applicant: FRAWLEY BUREAU OF INVESTIGATION CORP., 182 Beach 114th Street, Rockaway Park, N.Y. 11694. Applicant's representative: John M. Frawley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Documents, cash, checks, and other valuables*, (1) from New York City, N.Y., including Suffolk, Westchester, and Nassau Counties, N.Y., to West Orange, N.J., and (2) from Macungie, Pa., to West Orange, N.Y., under a continuing contract or contracts with Shell Oil Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Newark, N.J.

No. MC 142954 (Sub-No. 2), filed April 4, 1977. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, Ark. 72209. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue, NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric wire and wiring devices* (1) from Hillsgove, R.I., Maspeth and Brooklyn, N.Y., and Morganton, N.C., to points in Arizona, California, Oregon, and Washington, under a continuing contract, or contracts, with Leviton Manufacturing Company, Inc.; and (2) from South Attleboro, Mass., and Pawtucket, R.I., to points in Arizona, California, Oregon, and Washington, under a continuing contract, or contracts, with American Insulated Wire Co., a subsidiary of Leviton Manufacturing Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 142962 (Sub-No. 1), filed April 26, 1976. Applicant: CARL J. WITKOWSKI & SONS, INC., 39 Lakeshore Drive, North Fond du Lac, Wis. 54935. Applicant's representative: Nancy J. Johnson, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bones, fat, offal, and hides*, from Fond du Lac and Madison, Wis., to Chicago, Ill., under a continuing contract or contracts with Darling and Company, Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill., or Milwaukee, Wis.

No. MC 143018 (Sub-No. 2), filed April 22, 1977. Applicant: FLETCHER TRUCKING CO., INC., P.O. Box 727, Dunlap, Tenn. 37327. Applicant's representative: Blaine Buchanan, 1024 James Building, Chattanooga, Tenn. 37402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, between points in Alabama, Georgia, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Nashville or Chattanooga, Tenn.

No. MC 143112, filed March 18, 1977. Applicant: WESTERN KANSAS EXPRESS, INC., 624 East Morris, Wichita, Kans. 67211. Applicant's representative: William H. Shawn, 1730 M. Street NW., Suite 150, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Wichita, Kans., and Dodge City, Kans., serving no intermediate points; from Wichita over U.S. Highway 54 to junction U.S. Highway 154, thence over U.S. Highway 154 to Dodge City, and return over the same route; (2) between Dodge City, Kans., and Great Bend, Kans., serving the intermediate points of Spearville, Bellefont, Offerle, Kinsley, Lewis, and Larned, Kans.; from Dodge City over U.S. Highway 50 (also portion U.S. Highway 56) to Kinsley, thence over U.S. Highway 56 to Larned, thence over U.S. Highway 56 (also portion U.S. Highway 156) to Great Bend, and return over the same route; and (3) between Great Bend, Kans., and Wichita, Kans., serving no intermediate points; from Great Bend over U.S. Highway 56 to junction Interstate Highway 135 (formerly Interstate Highway 35W) to Wichita, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Wichita or Dodge City, Kans.

No. MC 143125, filed March 21, 1977. Applicant: TRANS WORLD, INC., 9311 47th Ave. SW., P.O. Box 99610, Tacoma, Wash. 98499. Applicant's representative: Henry Winters, 15 South Grady Way, Evergreen Building, Renton, Wash. 98055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Pierce, King, Thurston, Snohomish, Mason, Grays Harbor, Kitsap, Lewis, Cowlitz, and Clark Counties, Wash., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle or Tacoma, Wash.

No. MC 143139, filed April 1, 1977. Applicant: LARRY'S COLLISION, INC., 1460 Military Road, Tonawanda, N.Y. 14217. Applicant's representative: Harry J. Harman, Suite 700, Harrison Building, 143 West Market St., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used motor vehicles* to be used as replacements for wrecekd or disabled motor vehicles, in truckaway service, and *motor vehicle parts, accessories, supplies, and materials* for use in connection with repairing and reconditioning of disabled or wrecked motor vehicles, from Tonawanda, N.Y., on the one hand, and, on the other, to points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and West Virginia, and (2) *wrecked or disabled motor vehicles*, from points in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and West Virginia, to Tonawanda, N.Y., restricted to the transportation of traffic by wrecker equipment only.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 143155 (Sub-No. 1), filed April 26, 1977. Applicant: RICHARD B. ROSE doing business as RICHARD'S HAULING 508 Clinton Avenue, Wyckoff, New Jersey 07481. Applicant's representative: Ralph August, 222 Greenridge Road,

Franklin Lakes, New Jersey 07481. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: cut and uncut rolls and cartons of fabrics, between August Fabrics Inc., 37 Industrial Avenue, Fairview, New Jersey and Gwinnett Schiffli Embroidery, Inc., I–85 Route 120, Lawrenceville, Georgia, under a continuing contract, or contracts, with Fabrics, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Newark, N.J.

No. MC 143190, filed April 22, 1977. Applicant: LAVERNE W. GOULD, dba MILITARY TRANSPORT, 2636 Kelley Ave., San Pablo, Calif. 94806. Applicant's representative: LaVerne W. Gould, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities transported in bulk or in tank or hopper type vehicles), including containers and container trailers, between Oakland Army Base located at Oakland, Calif. and points in Marin, Sacramento, San Joaquin, Contra Costa, San Francisco, Monterey, Alameda, Santa Clara, San Benito, and Stanislaus Counties, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco or Oakland, Calif.

No. MC 143191, filed April 25, 1977. Applicant: WILLIAMS TRANSFER, INC., 3211 Georgetown Road, Baltimore, Maryland 21230. Applicant's representative: Maurice S. Bozel, 303 Felton Road, Lutherville, Md. 21093. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Containers, Container Chassis and Trailers (2) General Commodities (except commodities of unusual value, commodities requiring special equipment and commodities in bulk). Between points in Baltimore, Maryland commercial zone, restricted to shipments having a prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Baltimore, Md. or Washington, D.C.

No. MC 143192, filed April 4, 1977. Applicant: C L–B TRANSPORTATION, INC., 3510 Pariso Way, La Crescenta, Calif. 91214. Applicant's representative: Jerry Solomon Berger, 433 North Camden Drive, Beverly Hills, Calif. 90210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuff*, in vehicles equipped with mechanical refrigeration, from points in Los Angeles County, Calif., to points in Arizona, Colorado, Nevada, Oregon, Utah, and Washington; and (2) *commodities* used in the manufacture, production and distribution of foodstuff (except in bulk), from points in Arizona, Colorado, Nevada, Oregon, Utah, and Washington, to points in Los Angeles County, Calif., under a continuing contract, or contracts, with Rod's Food Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

PASSENGER APPLICATION

Docket Number MC 138907 (Sub-No. 2), filed April 21, 1977. Applicant: NAPA TRANSIT COMPANY, a corporation, 1851 Soscol Avenue, Napa, California 94558. Applicant's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, California 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passenger and their baggage*, in the same vehicle with passengers, in special and charter operations; beginning and ending at points in Contra Costa County, California, and extending to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco or Martinez, California.

WATER CARRIER APPLICATION

No. WC 1315 (Sub-No. 1), filed April 21, 1977. Applicant: BRENT TOWING COMPANY, INC., Industrial Harbor, Greenville, MS 38701. Applicant's representative: David A. Sutherlund, Suite 400, 1150 Connecticut Avenue NW., Washington, D.C. 20036. Authority is sought to operate as a *contract carrier by water* transporting: *Plastic material and products*, in containers, in shipper furnished non-self-propelled barges, by towing, for the account of Union Carbide Corporation, between Texas City and North Seadrift, T–, on the one hand, and, on the other, Leetsdale, PA, using all available waterways. If a hearing is deemed necessary, the applicant requests it be held at New Orleans, LA.

FINANCE APPLICATONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission on or before June 27, 1977. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.-240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC–F–12367. (Supplemental) (ROBINSON FREIGHT LINES, INC.—Puchase (Portion)—Dealers Transit, Inc.), published in the December 4, 1974 issue of the FEDERAL REGISTER. This supplemental notice reflects the decision of Division 3, as enumerated in its order served February 17, 1977, to permit applicant to amend its application. Under the amended application applicant seeks to operate as a common carrier of Class A and B explosives over irregular routes between points in Knox County, Tennessee, on the one hand, and on the other, points in Tennessee, Kentucky, North Carolina, South Carolina and Virginia.

No. MC–F–13148. (Correction) (FEDERAL FREIGHT SYSTEM, INC.—Purchase—Williams Transfer & Storage Co.), published in the March 24, 1977, issue of the FEDERAL REGISTER. Prior notice should include as follows: Stove and stove parts from Murray, Kentucky to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Wisconsin, and the District of Columbia, with restrictions.

No. MC–F–13195. (Correction) (THE NEW BRITAIN TRANSPORTATION COMPANY—Purchase—Corbin Coach Lines, Inc.), published in the April 28, 1977, issue of the FEDERAL REGISTER on page 21715. Prior notice should read as follows: "Vendee is authorized to operate as a common carrier in all the States in the United States (except Alaska and Hawaii)" instead of "Vendee is authorized to operate as a common carrier in Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Virginia, the District of Columbia and Florida".

No. MC–F–13205. Authority sought for purchase by ALBINA TRANSFER CO., INC., 714 N. Fremont, Portland, OR 97227, of a portion of the operating rights of Terminal Transfer, Inc., 3601 N.W. Yeon, Portland, OR 97210, and for acquisition by Clayton G. Robinson, Burton L. Robinson and William R. Robinson, all of 714 N. Fremont St., Portland, OR 97227, of control of such rights through the purchase. Applicants' attorney: Lawrence V. Smart Jr., 419 NW., 23rd Avenue, Portland, OR. Operating rights sought to be transferred: Heavy machinery, and building materials (except cement in bulk, in tank vehicles), as a common carrier over irregular routes between points in Washington. Vendee is authorized to operate as a common carrier in Oregon and Washington. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 732 (Sub-No. 13) is a directly related matter.

MC–F–13215. (COOPER-JARRETT, INC.—Purchase—Central City Express, Inc.), publisheed in the May 19, 1977, issue of the FEDERAL REGISTER. Application filed May 12, 1977, for temporary authority under section 210a(b).

No. MC–F–13216. Authority sought for purchase by CALIFORNIA AND WESTERN STATES AMMONIA TRANSPORT, INC., d/b/a CALIFORNIA AMMONIA TRANSPORT, INC., 415 Lemon Avenue, Walnut, CA 91789, of a portion of the operating rights and properties of Allyn Transportation Company, 14011 South Central Avenue, Los Angeles, CA 90059, and for acquisition by Bulk Transportation, George G. Cross, President, also of Walnut, CA 91789. Applicants' attorneys: Wyman C. Kanpp, Suite 825, 606 South Olive Street, Los Angeles, CA 90014 and William J. Monheim, P.O. Box 1756, 15942 Whittier Blvd., Whittier, CA 90609. Operating rights sought to be transferred: *Liquid fertilizer solutions and anhydrous ammonia*, in bulk, as a *common carrier* over irregular routes from Points in Imperial County, California, to points in Arizona; *Anhydrous ammonia*, in bulk, in tank vehicles from El Centro, California, to points in Nevada and to ports of entry on the United States-Mexico Boundary Line located in California; *Anhydrous ammonia*, in bulk, in tank vehicles over regular routes from Pittsburgh, Richmond, Pinole, and Brea, Calif., to ports of entry in Calif., on the United States-Mexico International Boundary line, with no transportation for compensation on return except as otherwise authorized; *Aqua ammonia*, in bulk, in tank vehicles, from points in California, to ports of entry in California on the United States-Mexico Boundary line, with no transportation for compensation on return except as otherwise authorized, with restrictions; *Liquid fertilizer* (other than anhydrous ammonia), in bulk, in tank vehicles from points in Orange and Los Angeles Counties, Calif., to the United States-Mexico Boundary Line at or near the port of entry at Calexico, California, with no transportation for compensation on return except as otherwise authorized, with restrictions. California parent, Bulk Transportation was granted the rights of FWS Development Co., Inc., d/b/a FWS Trucking in MC–FC–76695. This authority was granted January 28, 1977, served February 8, 1977 and transaction was consummated March 15, 1977. The certificate in this case has not been issued, but when issued it will be Docket No. MC 135215 under which Bulk Transportation will be authorized to operate as a *common carrier* in Arizona and California. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13219. Authority sought for purchase by DODDS TRUCK LINE, INC., 623 Lincoln, West Plains, MO., 65775 of the operating rights of Bennett Truck Line, Inc., Paragould, Arkansas, 72450, and for acquisition by Paul D. Dodds, also of West Plains, MO 65775, of control of such rights through the purchase. Applicants' attorneys: R. Connor Wiggin, 100 N. Main Bldg., Memphis, TN 38103 and Frank W. Taylor, Jr., 1221 Baltimore, Kansas City, MO 64105. Operating rights sought to be transferred: *General commodities*, as a *common carrier* over regular routes between Paragould, Ark., and Lake City, Ark., serving all intermediate points; between Paragould, Ark., and Memphis, Tenn., serving no intermediate points; between Blytheville, Ark., and Turrell, Ark., serving no intermediate points; between Paragould Ark., and Little Rock, Ark., serving all intermediate points between Paragould and Searcy, Ark; between Paragould, Ark., and Corning, Ark., serving all intermediate points and the off-route point of Knobel, Ark. Vendee is authorized to operate as a *common carrier* in Kansas, Illinois, Missouri and Arkansas. Application has been filed for temporary authority.

No. MC–F–13221. Authority sought for control and merger by HOHENWALD TRUCK LINES, INC., Columbia Highway, Hohenwald, TN 38462, of Harpeth Freight Lines, Inc., Confederate Drive, Franklin, TN 37064, and for acquisition by Robert V. Gafford, Columbia Highway, Hohenwald, TN 38462, of control of such rights through the transaction. Applicants' attorneys: A. O. Buck, 618 United American Bank Bldg., Nashville, TN 37219, and James Clarence Evans, 18th Fl., Third National Bank Bldg., Nashville, TN 37219. Operating rights sought to be controlled and merged: General commodities, with exceptions as a common carrier over irregular routes between points within six miles of Franklin, Tenn., including Franklin, with restrictions; General commodities, with exceptions as a common carrier over regular routes between Franklin, Tenn., and Nashville, Tenn., serving all intermediate points, between Arrington, Tenn., and Nashville, Tenn., serving no intermediate points; Under a certificate of Registration in Docket No. MC 97344 (Sub-No. 6) authorizing the transportation of general commodities over irregular routes in intrastate commerce solely within the State of Tennessee. Vendee is authorized to operate as a common carrier in Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13222. Authority sought for purchase by CAROLINA FREIGHT CARRIER CORPORATION, North Carolina Highway No. 150 East, Cherryville, N.C. 28021, of the operating rights of PERROW MOTOR FREIGHT LINES INCORPORATED, 800 Smith Street, Charleston, W. Va. 25301, of control of such rights through the purchase. Applicants' attorneys: John A. Vuono and William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219 and Palmer E. Huffstetler, North Carolina Highway No. 150 East, Cherryville, North Carolina 28021. Operating rights sought to be purchased: Packing-house products, butter, and advertising matter, as a common carrier over irregular routes, between Charleston, W. Va., on the one hand, and, on the other, points in Roane, Cabell, Putnam, Kanawha, Lincoln, Boone, Fayette, Nicholas, Clay, Greenbrier, Summers, Monroe, Mercer, McDowell, Wyoming, Raleigh, Mingo, Wayne, and Logan Counties, W. Va.; and under a Certificate of Registration in Docket No. MC–10794 (Sub-No. 5), covering the transportation of general commodities, except those of unsual value, dangerous explosives, household goods, commodities in bulk, and commodities requiring special equipment, as a common carrier over regular route, in interstate commerce, within the State of West Virginia. Vendee is authorized to operate as a common carrier in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC–2253 (Sub-No. 74) is a directly related matter.

MOTOR CARRIERS OF PASSENGER

No. MC–F–13225. Authority sought for purchase by THE CHIEPPO BUS COMPANY, 192 Forbes Avenue, New Haven, CT 06512, to purchase a portion of the operating authority of EMPIRE BUS LINES, INC., Route 32, Newburgh, New York 12550, and for acquisition by Thomas M. Chieppo of control of such rights through the purchase. Applicant's counsel: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117 and Joseph G. Dall, Jr., P.O. Box 567, McLean, VA 22101. Operating rights sought to be transferred: Passengers and their baggage, and express and newspaper in the same vehicle with passengers, as a common carrier over a regular route between Danbury, Connecticut and New Haven, Connecticut, serving all intermediate points: From Danbury over U.S. Highway 6 to Sandy Hook, Connecticut, thence over Connecticut Highway 34 to New Haven, and return over the same route. Vendee is authorized to operate as a common carrier in Connecticut, New York, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Ohio, Kentucky, Missouri, Kansas, Colorado, Utah, Arizona, California, Nevada, Wyoming, South Dakota, Iowa, Illinois, Indiana, West Virginia, Idaho, and Montana. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13226. Authority sought for control by COLONIAL REFRIGERATED TRANSPORTATION, INC., 9401 Executive Park Drive, Suite 110, Knoxville, TN 37919 of CLAREMONT MOTOR LINES, INC., P.O. Box 100, Claremont, N.C., and for acquisition by C. E. McBRIDE, also of 9401 Executive Park Drive, Suite 110, Knoxville, TN 37919, of control of such rights through the transaction. Applicants' attorneys: E. Stephen Heisley, 666 Eleventh Street NW., Suite 805, Washington, D.C. 20001 and Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Road, Atlanta, Ga. 30339. Operating rights sought to be controlled: (A) New furniture and furniture parts, as a common carrier, over irregular routes, from Conover, Hickory, Lenoir, Lincolnton, and Newton, N.C., to points in Ohio, points in that part of Virginia West of U.S. Highway 220, starting at the North Carolina-Virginia West of U.S. Highway 11 to the West Virginia-Virginia State line, except points in Lee, Scott, Wise, Russell, Dickensen, and Washington Counties, Va., points in West Virginia West of U.S. Highway 11, and points in Maryland West of U.S. Highway 11; (B) Salt and

salt products, and pepper, in packages, when transported in mixed loads with salt and salt products, as a common carrier over irregular routes, from Marysville and St. Clair, Mich., and Rittman and Akron, Ohio, to points in that part of Kentucky East of U.S. Highway 31W; North Carolina, South Carolina; points in that part of Tennessee East of U.S. Highway 31W, commencing at the Kentucky-Tennessee State line to Nashville, Tennessee and running along U.S. Highway 31 to the Tennessee-Alabama State line; and Virginia. (C) Animal and poultry mineral feed mixtures, in packages, in mixed loads with salt and salt products, as a common carrier over irregular routes, from Rittman, Ohio and Marysville, Michigan, to the same points as set forth in (B) above. (D) (1) Salt and salt products; (2) pepper in packages, when moving in mixed loads with salt and salt products; and (3) animal and poultry feed, in packages, and mineral and protein blocks for animal feeding, when moving in mixed loads with salt and salt products, from Rittman and Akron, Ohio, to points in West Virginia and Maryland.

(E) (1) Salt and salt products; (2) animal and poultry feed, in packages, and mineral and protein blocks for animal feeding, when moving in mixed loads with salt and salt products, as a common carrier over irregular routes, from Fairport Harbor, Ohio, to points in North Carolina and Virginia, restricted against the transportation of salt and salt products, in bulk, to points in Virginia; (F) Materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries, in mixed loads with salt and salt products (otherwise authorized), as a common carrier, over irregular routes, (1) from Akron and Rittman, Ohio, and Marysville and St. Clair, Mich., to points in that part of Kentucky East of U.S. Highway 31W; North Carolina, South Carolina; to points in that part of Tennessee East of U.S. Highway 31W commencing at the Kentucky, Tennessee State line to Nashville, Tennessee and running thence along U.S. Highway 31 to the Tennessee-Alabama State line; and Virginia. (2) from Akron and Rittman, Ohio to points in Maryland and West Virginia. (G) Cotton yarn, on beams, as a common carrier, over irregular routes, from Statesville, N.C., and points within 15 miles thereof, and Mount Holly, N.C., and points within 5 miles thereof, to New Bedford, Mass.; and, Empty yarn beams, as a common carrier over irregular routes, from New Bedford, Mass., to Statesville, N.C. and points within 15 miles thereof, and Mount Holly, N.C. and points within 5 miles thereof. (H) Cotton yarn, in cartons, as a common carrier over irregular routes, from Statesville, N.C., and points within 15 miles thereof, and Mount Holly, N.C., and points within 5 miles thereof, to Baltimore, Md., Newark, N.J., points in the New York, N.Y. commercial zone, as defined in 1 M.C.C. 665, points in that part of Pennsylvania on and east of U.S. Highway 11, and points in Connecticut, Massachusetts, and Rhode Island; (I) Poultry, poultry products, poultry dinners, and animal feed, as a common carrier, over irregular routes, from points in Wilkes, Alexander, and Union Counties, N.C., and Hanover and Accomack Counties, Va., to points in that part of the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundaries of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the United States-Canada Boundary line, and points in Louisiana, Iowa, Missouri, Arkansas, Kansas, Nebraska, Oklahoma and Minnesota, restricted against the transportation of commodities in bulk and to the transportation of traffic originating at the above-named origin points.

(J) New furniture, as a common carrier, over irregular routes, from points in Alexander, Burke, Caldwell, Catawba, Iredell, and Lincoln Counties, N.C., to points in Michigan and points in those parts of both New York and Pennsylvania on and west of U.S. Highway 11; (K) New furniture, as a common carrier, over irregular routes, from points in Alexander, Burke, Caldwell, Catawba, Iredell, and Lincoln Counties, N.C. to points in Indiana; (L) Canned and preserved foodstuffs, as a common carrier over irregular routes, from Biglerville and Gardners, Pennsylvania and Inwood, W. Va., to points in North Carolina; (M) Canned goods and preserves and vinegar, in bottles and barrels, as a common carrier, over regular routes, between Inwood, W. Va., and Biglerville, Pa., serving no intermediate points: from Inwood over U.S. Highway 11 to Chambersburg, Pa., thence over U.S. Highway 30 to Gettysburg, Pa.; and thence over Pennsylvania Highway 34 to Biglerville, and return over the same route. (n) Apples and peaches, as a common carrier, over irregular routes, from Winchester, Berryville, Mt. Jackson, New Market, and Front Royal, Va., Romney, Berkeley Springs, Martinsburg, Charles Town, and Tobler's Station, W. Va., to points in North Carolina; (O) Fruit products, canned goods, sauerkraut, and pickles, as a common carrier over irregular routes, from Winchester, Strasburg, Front Royal, Harrisonburg, and Waynesboro, Va., and Inwood and Martinsburg, W. Va., to points in North Carolina; (P) Canned Food products, as a common carrier, over irregular routes from Front Royal, Va., to points in North Carolina. Vendee is authorized to operate as a common carrier in all States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under Section 210a(b).

AMENDED NOTICE

AMERICAN RAIL HERITAGE, LTD., 208 North Market Street, Marion, Illinois, 62959, represented by Mr. James W. Sanders, Attorney, 208 North Market Street, Marion, Illinois 62959, hereby given notice that on the 4th day of April, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the acquisition and operation of a line of railroad owned by the Illinois Central Gulf Railroad Company between railroad milepost 99.47 near Ordill, Illinois, to railroad milepost 108 at Mande, Illinois, a distance of approximately 8.53 miles, which application is assigned Finance Docket No. 28360.

Applicant proposes to acquire and operate both freight and tourist trains on a branch line of railroad presently owned by Illinois Central Gulf Railroad Company, a portion of which is presently leased to the applicant for the operation of a tourist train. The branch line to be acquired extends from railroad milepost 99.47 near Ordill, Illinois, to railroad milepost 108 at Mande, Illinois, a distance of 8.53 miles, located solely in Williamson County, Illinois. The line passes through the town of Marion, Illinois, making interchange with the Missouri Pacific Railroad (formerly Chicago and Eastern Illinois).

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Revised Guidelines for Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

AMERICAN RAIL HERITAGE, LTD.

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, 400

West Madison Street, Chicago, Illinois 60606, represented by Louis T. Duerinck, General Solicitor, Chicago and North Western Transportation Company, 400 West Madison Street, Chicago, Illinois 60606, hereby give notice that on the 9th day of May, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 5(2) of the Interstate Commerce Act for an order approving and authorizing the trackage rights by the Chicago and North Western Transportation Company (CNW) over the tracks of the Elgin, Joliet and Eastern Railway Company at West Chicago Junction, DuPage County, Illinois, a distance of approximately 2.4 miles, which application is assigned Finance Docket No. 28468.

A cross-over will be constructed beginning at Eastern Station 2285+33.9, located 240 feet south of Eastern milepost 44. Trackage rights will extend north to Eastern Station 2186+87.4. Rights will also include a track presently connecting the Eastern main track, Eastern Station 2227+39.2, with the main track of the former Chicago Great Western Railroad Company (CGW), a predecessor of North Western.

The North Western track paralleling Eastern track is North Western's Belvidere Subdivision of the Illinois Division, extending from West Chicago, to Winnebago, Illinois, 70.2 miles. It, together with Eastern's track passes under the former CGW line at North Western milepost 32.3. The former CGW track is now North Western's Ingalton Subdivision of the Illinois Division, extending 70.8 miles from Elmhurst to Byron, Illinois. A connecting track is presently used in the southwest quadrant of the grade separation to connect the two subdivisions.

To serve industries on the Ingalton Subdivision East of the grade separation, North Western trains presently use the southwest connecting track to go up onto the Eastern tracks to Ingalton, where the locomotive runs around the train so that the train may proceed eastward.

Under the proposed operation, the North Western train would proceed north over Eastern tracks to clear point of switch of the Eastern connecting track in the northeast quadrant. Trains will then use the Eastern connecting track to go up onto the Ingalton Subdivision for movements east of the connection.

Movements to points west on the Ingalton Subdivision will continue to use North Western's connecting track in the southwest quadrant. In this way no trains will move over the bridges, and both roads will avoid substantial expenditures in repairing the bridges.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28468 and the original and 2 copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

LOUISVILLE AND NASHVILLE RAILROAD COMPANY (L&N), 908 WEST BROADWAY, LOUISVILLE, KENTUCKY 40201

Represented by Mr. Emried D. Cole, Jr., Assistant General Solicitor or Mr. R. Lyle Key, Jr., Commerce Attorney, Louisville and Nashville Railroad Company, 908 West Broadway, Louisville, Kentucky 40201, hereby give notice that on the 29th day of April, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing its construction of a Connecting Track, approximately 1,300 feet in length, between its Monon Subdivision and the South Bend Subdivision of the Grand Trunk Western Railroad Company (GTW) at Munster, Lake County, Indiana, which application is assigned Finance Docket No. 28464.

Applicant proposes to construct a new line of railroad. The line of railroad applicant proposes to construct will be located wholly within Lake County, Indiana. The Connecting Track will be located in the southwest quadrant of the L&N–GTW crossing at Munster, Indiana. It will diverge from the L&N at a point 721 feet south of the L&N–GTW crossing and join the GTW at a point 700 feet west of that crossing. The Connecting Track will be located within the corporate limits of Munster, Lake County, Indiana, and it will not pass through any other incorporated city or village. Applicant proposes to construct only the single connecting track, which will be approximately 1,300 feet in length.

Since there is currently no connection between L&N and GTW in the vicinity of their crossing at Munster, Indiana, the Connecting Track must be constructed to enable L&N to utilize the trackage rights it seeks to obtain over GTW between Munster and Thornton Junction, Illinois. The Connecting Track is thus directly related to the trackage rights project which is before the Interstate Commerce Commission in Finance Docket No. 27972.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.12) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaer of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tracking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon

applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 732 (Sub-No. 13), filed May 13, 1977. Applicant: ALBINA TRANSFER COMPANY, INC., 714 N. Fremont, Portland, Oregon 97227. Applicant's representative: Lawrence W. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oregon 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy Machinery and Building Materials* (except commodities in bulk, commodities requiring special equipment), between Portland, Oreg., on the one hand, and, points in Washington, on the other hand.

NOTE.—The purpose of this filing is to eliminate the gateway of Vancouver, Wash. This is a matter directly related to a Section 5(2) finance proceeding in MC–F–13205. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oregon. Notice of the filing in MC–F–13205 appears in a prior section of this issue.

No. MC 10761 (Sub-No. 284), filed May 5, 1977. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 5650 Foremost Drive S.E., Grand Rapids, Michigan 49506. Applicant's representative: A. David Millner, c/o Bowes, Millner, Rodgers & Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) General commodities, except loose bulk commodities (except aluminum scrap borings); livestock; explosives, except small arms ammunition; currency; bullion; commodities exceeding ordinary equipment and loading facilities, over the following routes in conjunction with the carrier's routes between Chicago, Illinois and Cleveland, Ohio; between Chicago and Flint, Michigan; between Chicago and Jackson, Michigan; and between Chicago and Detroit, Michigan: From Chicago over Interstate Highway 94 to Michigan City, Indiana and return over the same route; From Michigan City, Indiana over Interstate Highway 94 to Kalamazoo, Michigan and return over the same route; From Kalamazoo, Michigan over U.S. Highway 131 to Grand Rapids, Michigan, and return over the same route; restriction: Service between the termini or between intermediate points on the above-designated routes is restricted to traffic moving to, from, or through South Bend, Indiana. (2) General commodities, except those of unusual value, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk commodities requiring special equipment, as an alternate route for operating convenience only: Between Benton Harbor, Michigan, and Chicago, Illinois, serving no intermediate points, and serving Benton Harbor for purposes of joinder only: From Benton Harbor over Interstate Highway 94 to Chicago and return over the same route.

NOTE.—This application is directly related to No. MC–F–12928, currently pending before the Commission, in which applicant seeks to transfer to Ryder Truck Lines, Inc., operating authority over regular routes in Michigan, Indiana and Illinois. The purpose of this application is to obtain appropriate authority to conduct operations consistent with regular routes which are being retained by the applicant. Applicant's request that this application be granted is conditioned upon approval of applicant's request to sell and transfer the authority described in No. MC–F–12928. Applicant requests that this application be assigned for hearing at the same time and place as the hearing in No. MC–F–12928. Notice of the authority sought in MC–F–12928 appeared in the FEDERAL REGISTER issue of August 19, 1976.

No. MC 61440 (Sub-No. 159), filed April 7, 1977. Applicant: LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, Okla. 73108. Applicant's representative: Richard H. Champlin, P.O. Box 82488, Oklahoma City, Okla. 73108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except commodities in bulk), (1) Between Columbus, Ohio and the Ohio-Pennsylvania State Line near Conneaut, Ohio, serving all intermediate points: From Columbus over Interstate Highway 71 to Cleveland, thence over Interstate Highway 90 to the Ohio-Pennsylvania State Line near Conneaut, and return over the same route; (2) Between Columbus, Ohio and Ohio-Pennsylvania State Line near Youngstown, Ohio, serving all intermediate points: From Columbus over U.S. Highway 62 to Youngstown, thence over U.S. Highway 62 to the Ohio-Pennsylvania State Line, near Youngstown and return over the same route; (3) Between Columbus, Ohio and the Ohio-West Virginia State Line near Bridgeport, Ohio, serving all intermediate points: From Columbus over Interstate Highway 70 to the Ohio-West Virginia State Line near Bridgeport, and return over the same route; (4) Between Columbus and Marietta, Ohio serving all intermediate points: From Columbus, over U.S. Highway 33 to junction with U.S. Highway Alternate 50, thence over U.S. Highway Alternate 50 to Marietta, and return over the same route; (5) Between Columbus, Ohio and Pomeroy, Ohio serving all intermediate points: From Columbus over U.S. Highway 33 to Pomeroy, and return over the same route; (6) Between Columbus, Ohio and Chesapeake, Ohio serving all intermediate points: From Columbus over U.S. Highway 23 to Portsmouth, thence over U.S. Highway 52 to Chesapeake, and return over the same route; (7) Between Columbus, Ohio and Cincinnati, Ohio serving all intermediate points: From Columbus over Interstate Highway 71 to Cincinnati, and return over the same route; (8) Between Columbus, Ohio and the Ohio-Indiana State Line near New Paris, Ohio serving all intermediate points: From Columbus over Interstate Hhigway 70 to the Ohio-Indiana State Line near New Paris, and return over the same route.

(9) Between Columbus, Ohio and the Ohio-Indiana State Line near McGill, Ohio serving all intermediate points: From Columbus over U.S. Highway 33 to Bellefontaine, thence over Ohio Highway 117 to Lima, thence over U.S. Highway 30–S to Delphos, thence over U.S. Highway 30 to the Ohio-Indiana State Line near McGill, and return over the same route; (10) Between Columbus, Ohio and Toledo, Ohio serving all intermediate points: (a) From Columbus over U.S. Highway 33 to Bellefontaine, thence over Ohio Highway 117 to Lima, thence over Interstate Highway 75 to Toledo, and return over the same route; and (b) From Columbus, over U.S. Highway 23 to its junction with Ohio Highway 15, thence over Ohio Highway 15 to Findlay, thence over Interstate Highway 75 to Toledo, and return over the same route; (11) Between Columbus, Ohio and Sandusky, Ohio serving all intermediate points: From Columbus, over U.S. Highway 23 to its junction with Ohio Highway 98 at or near Waldo, thence over Ohio Highway 98 to Bucyrus, thence over Ohio Highway 4 to Sandusky, and return over the same route. Service is authorized from and to all points in Ohio as off-route points in connection with the routes named in (1)–(11) above, restricted against serving commercial zone points outside of Ohio; and further restricted to the transportation of traffic moving from, to or through Columbus, Ohio.

NOTE.—The purpose of this application is to convert irregular route authority to regular route authority, and also to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. Applicant states it intends to tack the authority sought herein to other authority contained in MC 61440 and Subs thereto to provide a through service between all points served and the the authority sought herein, and will use the instant authority to bridge existing authority to provide service to other points in MC 61440 beyond the authority sought herein. This matter is directly related to a finance proceeding under Section 5(2) in MC–F–13188 published in the FEDERAL REGISTER issue of April 21, 1977. If a hearing is deemed necessary, applicant requests it be held at either Columbus, Ohio, Atlanta, Ga., or Dallas, Tex.

No. MC 96938 (Sub-No. 2), filed March 31, 1977. Applicant: ARKANSAS TRANSIT HOMES, INC., 8400 Mabelvale Pike, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, *and component parts* when moving in such trailers, *and boats*, between points in the state of Arkansas, with the unrestricted right to tack and join with the authority in No. MC 138378.

NOTE.—The purpose of this application is to seek tacking of the authority held by applicant in No. MC 96938 with that it seeks to purchase in No. MC–FC–77045 to provide service between points in Bowie and Cass Counties, Tex., and Little River, Hempstead, Sevier, and Miller Counties, Ark., on the one hand, and, on the other, points in Arkansas, Louisiana, Oklahoma, and Texas. This application is directly related to a Section 212(b) transfer proceeding in No. MC–FC–77045 published in the FEDERAL REGISTER issue of May 5, 1977. If a hearing is deemed necessary, the applicant requests that it be held at Little Rock, Ark.; Memphis Tenn.; or Washington, D.C.

No. MC 143201 (Sub-No. 1), filed May 2, 1977. Applicant: MID-SOUTH TRUCKING, INC., 614 N. Commerce Street, Tupelo, Mississippi 38801. Applicant's representative: David M. Schwartz, 1025 Connecticut Avenue NW., Suite 500, Washington, D.C. 20036. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products, and meat by-products, articles distributed by meat packinghouses*, and *such commodities* as are used by meat packers in the conduct of their business when destined to or for use by meat packers, (except commodities in bulk and hides), as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (a) from the plantsite, warehouses, and storage facilities used by Mid-South Packers, Incorporated, at or near Tupelo, Mississippi, to points in the United States (except Alaska and Hawaii) and (b) from points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin to the plantsite, warehouses, and storage facilities used by Mid-South Packers, Incorporated, at or near Tupelo, Mississippi, under a continuing contract or contracts with Mid-South Packers, Incorporated, Tupelo, Mississippi.

NOTE.—Common control is involved in related Docket No. MC–F–13212. If a hearing is deemed necessary, the applicant requests that it be held in Philadelphia, Pa. or Washington, D.C.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB–1; Sub-No. 32]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN WATERTOWN AND DOLAND, IN CODINGTON, CLARK AND SPINK COUNTIES, SOUTH DAKOTA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on May 2, 1977, by the Commission, and the decision and order of the Commission, Review Board Number 5, served December 23, 1976, except as modified adopted the initial decision of the Administrative Law Judge entered on August 19, 1976, a finding, which is administratively final, was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of that portion of its branch line of railroad beginning at milepost 351.0 near Clark, South Dakota, and extending to the end of that line at milepost 369.7 near Doland, South Dakota. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB–26; Sub-No. 5]

THE GEORGIA NORTHERN RAILWAY COMPANY ABANDONMENT OF OPERATIONS BETWEEN ALBANY AND CORDELE, GEORGIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on April 12, 1977, and the decision and order of the Commission, Division 3, served December 17, 1976, except as modified, affirmed and adopted the initial decision of the Administrative Law Judge entered on July 20, 1976, a finding which is administratively final, was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment of operations by The Georgia Northern Railway Company over that part of its line of railroad beginning at milepost 1.60 northeast of Albany, Georgia, and milepost 34.44 at Cordele, Georgia, as well as the reclassification of the line from milepost 32.6 at West Cordele to milepost 34.44 at Cordele as an industrial lead, subject to conditions set forth in the initial decision and order served August 6, 1976. A certificate of abandonment will be issued to The Georgia Northern Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued

rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-31, Sub-No. 2]

GRAND TRUNK WESTERN RAILROAD COMPANY ABANDONMENT BETWEEN MARNE AND GRAND HAVEN, IN OTTAWA COUNTY, MICHIGAN

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 28, 1977, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Grand Trunk Western Railroad Company of that portion of its branch line, and operation thereof, between milepost 172.6 at Cooperville, Michigan, and milepost 188.25 at Grand Haven, Michigan, all of which is located in Ottawa County, Michigan. A certificate of abandonment will be issued to the Grand Trunk Western Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-14930 Filed 5-25-77;8:45 am]

[Notice No. 398]

ASSIGNMENT OF HEARINGS

MAY 23, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 43706 Sub 4, Atkinson Freight Lines, Inc. now being assigned July 6, 1977 at the Offices of the Interstate Commerce Commission at Washington, D.C.

MC 128273 Sub 247, Midwestern Distribution, Inc. now being assigned July 11, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 142080 Sub 1, Lite Transport, Inc. now being assigned July 19, 1977 for pre-hearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 142508 Sub 4, National Transportation, Inc. now being assigned July 14, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 2860 Sub 152, National Freight, Inc. now being assigned July 13, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 103066 Sub 42, Stone Trucking Company now being assigned July 19, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 138274 Sub 40, Shippers Best Express, Inc. now being assigned July 20, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 1380 Sub 21, Colonial Motor Freight Line, Inc. now being assigned September 12, 1977 (1 week) at Charlotte, North Carolina in a hearing room to be later designated.

MC 142399, Ellerbrock Trucking, Inc. now being assigned September 7, 1977 (1 day) at Omaha, Nebraska in a hearing room to be later designated.

MC 113678 Sub 630, Curtis, Inc. now being assigned September 12, 1977 (1 week) at Omaha, Nebraska in a hearing room to be later designated.

MC 1263 Sub 25, McCarty Truck Line, Inc., MC MC 133119 Sub 108, Heyl Truck Lines, Inc., MC 44989 Sub 5, Williams Truck Line, Inc., MC 139876 Sub 3, A B C Transit Co., Inc., MC 118142 Sub 141, M. Bruenger & Co., Inc., MC 139850 Sub 8, Four Star Transportation Inc., MC 115180 Sub 97, Onley Refrigerated Transportation, Inc., MC 119765 Sub 43, Eight Way Xpress, Inc., MC 113651 Sub 205, Indiana Refrigerator Lines, Inc., MC 22301 Sub 24, Sioux Transportation Co., Inc., MC 2052 Sub 10, Blair Transfer, Inc., MC 135874 Sub 66, LTL Perishables, Inc., MC 134134 Sub 21, Mainliner Motor Express, Inc., MC 139999 Sub 19, Redfeather Fast Freight, Inc., and MC 123389 Sub 33, Crouse Cartage Company now being assigned September 8, 1977 (2 days) at Omaha, Nebraska in a hearing room to be later designated.

No. MC 19227 Sub 227, Leonard Bros. Trucking Co., Inc., MC 60014 Sub 43, Aero Trucking, Inc., MC 73165 Sub 394, Eagle Motor Lines, Inc., MC 74321 Sub 124, B.F. Walker, Inc., MC 83539 Sub 449, C & H Transportation Co., Inc., MC 106644 Sub 225, Superior Trucking Co., Inc., MC 109397 Sub 330, Tri-State Motor Transit Co., MC 111545 Sub 232, Home Transportation Co., Inc., MC 112304 Sub 108, Ace Doran Hauling & Rigging Co., MC 113855 Sub 366, International Transport, Inc., MC 117574 Sub 277, Dailey Express, Inc., MC 124211 Sub 286, Hilt Truck Line, Inc., MC 124692 Sub 173, Sammons Trucking, MC 125433 Sub 89, F-B Truck Line Co., MC 128762 Sub 16, P. L. Lawton, Inc., MC 142059 Sub 2, & 3, Cardinal Transport, Inc., now being assigned pre-hearing conference on July 6, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 141675 Sub 3, Economy Trucking Service, Inc. now being assigned July 22, 1977 (1 day) in New York, New York in a hearing room to be later designated.

MC 133095 Sub 135, Texa Continental Express, Inc. now being assigned July 21, 1977 (1 day) at New York, New York in a hearing room to be later designated.

MC 139999 (Sub-No. 17), Redfeather Fast Freight, Inc. and MC 139999 (Sub-No. 20), Redfeather Fast Freight, Inc., now being assigned July 19, 1977 (1 day), at Omaha, Nebraska, in a hearing room to be later designated.

MC 136168 (Sub-No. 5), Wilson Certified Express, Inc. and MC 136168 (Sub-No. 11), Wilson Certified Express, Inc., now being assigned July 20, 1977 (3 days), at Omaha, Nebraska, in a hearing room to be later designated.

MC 135819 (Sub-No. 4), William A. Phillips & Willian I. Phillips a Partnership DBA Phillips & Phillips Trucking Company, now being assigned July 25, 1977 (1 day), at Omaha, Nebraska, in a hearing room to be later designated.

MC 125254 (Sub-No. 36), Morgan Trucking Co., now being assigned July 26, 1977, (2 days), at Omaha, Nebraska, in a hearing room to be later designated.

MC 133119 (Sub-No. 104), Heyl Trucking Lines, Inc., now being assigned July 28, 1977 (2 days), at Omaha, Nebraska, in a hearing room to be later designated.

MC 141172 Sub 1, Retta Trucking Co., Inc., now being assigned July 20, 1977 (1 day) at New York, New York in a hearing room to be later designated.

MC 136343 Sub 92, Milton Transportation, Inc., now being assigned July 19, 1977 (1 day) at New York, New York in a hearing room to be later designated.

MC-C 9616, Brink's Inc. -v- Wells Fargo Armored Service Corp. now being assigned July 18, 1977 (1 day) at New York, New York in a hearing room to be later designated.

MC 134772 Sub 3, George Lange Trucking, Inc., now assigned September 7, 1977, (3 days) at San Francisco, Calif., in a hearing room to be later designated.

MC 142646, Joanne Smith, dba Smith's Charter Bus Service, now being assigned September 12, 1977 (1 week) at San Francisco, Calif., in a hearing room to be later designated.

AB 12 Sub 35, Southern Pacific Transportation Co., Abandonment between Susanville and Westwood in Lassen County, La., now being assigned September 16, 1977, (1 week) at Susanville, Calif., in a hearing room to be later designated.

MC 142875, A. L. Gomes, dba A. Gomes Bus Lines Co. now being assigned September 12, 1977 (1 week) at Providence, Rhode Island in a hearing room to be later designated.

MC 115432 Sub 6, Pawtuxet Valley Bus Lines, Inc. now being assigned September 7, 1977 (3 days) at Providence, Rhode Island in a hearing room to be later designated.

MC 142416 Sub 1, Hamilton Transfer Storage & Feeds, Inc. now being assigned July 11, 1977 (2 weeks) at Cheyenne, Wyoming in a hearing room to be later designated.

MC-C-9645, Manhattan Transit Company, ET AL. v. S. I. Transit Company, Inc., now being assigned September 19, 1977 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 142766 (Sub-No. 2), White Tiger Transportation, Inc., now being assigned September 20, 1977 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 115322 (Sub-No. 126), Redwing Refrigerated, Inc., now being assigned September 21, 1977 (1 day), at New York, N.Y. in a hearing room to be later designated.

MC 142699, Maple Leaf Export & Import, Inc., now being assigned September 22, 1977 (2 days), at New York, N.Y. in a hearing room to be later designated.

MC 136849 (Sub-No. 1), E & H Distributing Co., Contract Carrier Application now being assigned July 6, 1977, (2 days), at Carson City, Nev., in a hearing room to be later designated.

MC 121142 (Sub-No. 14), J & G Express, Inc., now being assigned July 11, 1977 (2 weeks), at Jackson, Miss. in a hearing room to be later designated.

MC 130440, Lawrence J. Liner now being assigned September 27, 1977 (3 days), at Sanford, Connecticut in a hearing room to be later designated.

No. MC 138448 Sub 3, Murray's Transfer & Storage, Inc., now being assigned July 7, 1977 (1 day) at Des Moines, Ia., in a hearing room to be later designated.

No. MC 142365, Canusa Transport, Inc., now being assigned July 12, 1977 (1 week), at Bellingham, Wash., in a hearing room to be later designated.

MC 9644 (Sub-No. 5), B.T.L., Inc., now being assigned July 11, 1977, (1 week), at Lincoln, Nebraska, in a hearing room to be later designated.

MC 130410, Corporate Travel Service, Inc. now being assigned July 12, 1977 (3 days) at Lansing, Michigan in a hearing room to be later designated.

FF 488, Retail Merchants Consolidation & Distribution Center, Inc. now being assigned September 12, 1977 (1 week) at Columbus, Ohio in a hearing room to be later designated.

AB 19 Sub 11, Fairmont, Morgantown and Pittsburgh Railroad Company and the Baltimore and Ohio Railroad Company Abandonment Portion Smithfield and Masontown Branch Between Strum and Leckrone, in Fayette County, Pennsylvania now being assigned September 8, 1977 (2 days) at Uniontown, Pennsylvania in a hearing room to be later designated.

MC 141991 (Sub-2), James R. Blackmon, d/b/a Blackmon Haulers, now assigned June 8, 1977 at Birmingham, Alabama, will be held in the *GSA Conference Room No. 345, Federal Building, 1800—5th Avenue North*, instead of *Department of Labor Conference Room 1931—9th Avenue South*.

MC 52979 (Sub-No. 17), Hunt Truck Lines, Inc., now being assigned July 18, 1977, at Des Moines, Iowa (2 weeks), in a hearing room to be later designated.

MC 119988 Sub 97, Great Western Trucking Co., Inc., MC 139495 Sub 155, National Carriers, Inc., MC 52460 Sub 166, Eller Transportation, Inc., MC 142207 Sub 3, Gulf Coast Truck Services, Inc., MC 108366 Sub 40, Ronald A. Patterson, dba Anthony and Patterson Truck Line, MC 113267 Sub 340, Central & Southern Truck Lines, Inc., and MC 119493 Sub 144, Mon Kem Company, Inc. now being assigned June 27, 1977 (1 week) for continued hearing at New Orleans, Louisiana in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15040 Filed 5-25-77;8:45 am]

[AB 55 (Sub-No. 9)]

SEABOARD COAST LINE RAILROAD CO.

Abandonment Between Red Level Junction and Crystal River, Florida

MAY 17, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served March 9, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15042 Filed 5-25-77;8:45 am]

[AB 46 (Sub-No. 12; Finance Docket No. 28332]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Abandonment of Line and Trackage Rights

MAY 17, 1977.

In the matter of AB 46 (Sub-No. 12), William M. Gibbons, Trustee of the property of Chicago, Rock Island and Pacific Railroad Company, debtor, abandonment between Whitlow Junction and Crossett in Ashley County, Arkansas and Finance Docket No. 28232, William M. Gibbons, Trustee of Property of Chicago, Rock Island and Pacific Railroad Company, Debtor—trackage rights—over Ashley, Drew and Northern Railway Company.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceedings in which it was concluded that the proceedings do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served March 28, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. These proceedings are now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15043 Filed 5-25-77;8:45 am]

[Notice No. 170]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before June 27, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77075, filed May 18, 1977. Transferee, FRANCES FITZPATRICK doing business as GLENN's DELIVERY, Route 130 and Dwight Ave., Woodlynne, N.J. 08107. Transferor: A. T. Pinto, Inc., 1701 Porter St., Philadelphia, Pa. 19148. Applicant's representative: James W. Patterson, attorney-at-law, 1200 Western Savings Bank Bldg., Philadelphia,

Pa. 19107. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 129159 (Sub-No. 1), issued October 17, 1968 as follows: General commodities, except classes A and B explosives, other than small arms ammunition, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Philadelphia, Pa., on the one hand, and, on the other, points in Mercer, Burlington, and Camden Counties, N.J., south of a line extending from Trenton to Asbury Park, including Trenton and points within 10 miles of Pemberton, N.J. and north of New Jersey Highways 70 and 72, including Camden, N.J.; dry ice, liquid carbonic gas, empty cylinders, machinery and parts, beverages, glass, reels, and exhibition materials, from Philadelphia, Pa., to New York, N.Y.; empty containers, for the commodities specified immediately above, from New York, N.Y., to Philadelphia, Pa.; and wood and woolen yarn, from Philadelphia, Pa., to Indiana Orchard and Springfield, Mass., Bridgeport and Hartford, Conn., and Providence, R.I. Transferee presently holds no authority from this Commission. Application has not been field for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77089, filed May 12, 1977. Transferee: LORA R. MICKLES and C. R. GREGORY, a partnership, doing business as R & R Travel Bureau, 217 W. Germantown Pike, Norristown, Pennsylvania 19403. Transferor: Thomas F. Grisdale, 1620 DeKalb Street, Norristown, Pennsylvania 19401. Applicants' representative: Francis Recchuiti, 21 East Airy Street, Norristown, Pennsylvania 19401. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in License No. MC 12598, issued August 30, 1955, as follows: Passengers and their baggage, in round-trip tours, beginning and ending at Norristown, Pa., and points in Pennsylvania within 20 miles of Norristown, except Philadelphia, and extending to points within the United States. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77110 filed May 4, 1977. Transferee: SUNWAY LINES, INC., 95 Market Street, P.O. Box 24454, Oakland, California 94623. Transferor: Grant H. Scully, Jr., doing business as Sunway Lines, 95 Market Street, P.O. Box 24454, Oakland, California 94623. Applicants' representative: Thomas M. Loughran, 100 Bush Street, San Francisco, California 94104. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 134297 (Sub-No. 1) acquired by transferor pursuant to MC-FC-75781 approved by order entered April 30, 1975, and consummated June 11, 1975, as follows: Used household goods, between points in San Francisco, San Mateo, Santa Clara, Contra Costa, and Alameda Counties, Calif. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-F-77115, filed May 10, 1977. Transferee: BRONCO VAN & STORAGE, a corporation, 1039 Pellett St., Salinas, Cal. 93901. Transferor: Ronald R. Pluta, doing business as Bronco Van & Storage, 1039 Pellett St., Salinas, Cal. 93901. Applicant's representative: Ronald R. Pluta, 1039 Pellett St., Salinas, Cal. 93901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139462 Sub-1, issued December 20, 1974, as follows: *Used household goods*, over irregular routes, with restrictions between points in Monterey, Santa Cruz, San Luis Obispo, and San Benito Counties, Calif. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77117, filed May 10, 1977. Transferee: PANELLA TRUCKING, INC., 2150 East Fremont St., Stockton, Cal. 95205. Transferee: Ralph Panella, Robert A. Panella, and Eugene J. Panella, a partnership, doing business as Ralph Panella Trucking, 2150 East Fremont St., Stockton, Cal. 95205. Applicants' representative: Daniel W. Baker, attorney at law, 100 Pine St., San Francisco, Cal. 94111. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 121711 (Sub-No. 1), issued January 8, 1975, authorizing transportation within the State of California as follows: A. Nuts, in bulk, transported under rail bills of lading or substituted rail service to points in San Jonquin, Stanislaus, Sutter and Tulare Counties, from points in specified counties: B. Food, foodstuffs, cans, boxes, bins, pallets and fiberboard boxes between points in Merced, Stanislaus, San Joaquin and Santa Clara Counties and the described San Francisco-East Day Cartage Zone. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15044 Filed 5-25-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

MAY 20, 1977.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission on or before June 27, 1977. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530). A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 111329 (Sub-No. 68G) (Partial Correction), filed, February 10, 1977, published in the FEDERAL REGISTER issue of April 1, 1977, and republished in part as corrected this issue. Applicant: KEEN TRANSPORT, INC., 2001 Barlow Road, P.O. Box 668, Hudson, Ohio 44236. Applicant's representative: Michael Spurlock, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of I. (k) Between points in that part of Ohio on, south, and west of a line beginning at the Ohio-West Virginia State line, thence along U.S. Highway 22 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction Ohio Highway 60, thence along Ohio Highway 60 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Michigan State line, on the one hand, and, on the other, points in Louisiana. I (p) Between points in that part of Ohio on and south of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 6 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate highway 271, thence along Interstate Highway 271 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Ohio-Pennsylvania State line, on the on hand, and, on the other, points in that part of West Virginia on and west of Interstate Highway 77. I (t") Between points and places in South Dakota, on the one hand, and on the other, points in Kentucky, Tennessee, and West Virginia. I (u") Between points and places in Tennessee, on the one hand, and on the other, points and places in Utah, Wisconsin and Wyoming. (v") Between points and places in Texas, on the one hand, and on the other, points and places in Virginia and West Virginia. I (w") Between points and places in the District of Columbia, on the one hand, and on the other, points and places in Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon,

South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming. III (d) Between points in that part of New York on and west of a line beginning at the Pennsylvania-New York State line, thence along New York Highway 19 to junction New York Highway 63, thence along New York Highway 63 to junction New York Highway 98, thence along New York Highway 98 to Lake Ontario, on the one hand, and, on the other, points in Missouri.

III (e) Between points in that part of New York on the west of a line beginning at the New York-Pennsylvania State line, thence along New York Highway 21 to junction U.S. Highway 15, thence along U.S. Highway 15 to Lake Ontario, on the one hand, and, on the other, points in Illinois.

III (f) Between points in that part of New York on and west of a line beginning at the New York-Pennsylvania State line, thence along New York Highway 36 to junction New York Highway 256, thence along New York Highway 256 to junction U.S. Alternate Highway 20, thence along U.S. Alternate Highway 20 to junction U.S. Highway 15, thence along U.S. Highway 15 to Lake Ontario, on the one hand and on the other, points in that part of Kentucky on and east of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 25E to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 68, thence along U.S. Highway 68 to the Kentucky-Ohio State line.

III (g) Between points in that part of New York on and west of a line beginning at the New York-Pennsylvania State line, thence along New York Highway 16 to junction New York Highway 98, thence along New York Highway 98 to Lake Ontario and on and south of a line beginning at the New York-New Jersey State line thence along U.S. Highway 6 to the New York-Connecticut State line, on the one hand, and, on the other, points in that part of Tennessee on and south of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 11W to junction U.S. Highway 11, thence along U.S. Highway 11 to the Tennessee-Georgia State line.

III (h) Between points in that part of New York on and west of a line beginning at the New York-Pennsylvania State line, thence along New York Highway 21 to junction New York Highway 36, thence along New York Highway 36 to junction New York Highway 63, thence along New York Highway 63 to junction New York Highway 19, thence along New York Highway 19 to Lake Ontario, and on, east and south of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 11 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 8, thence along New York Highway 8 to the New York-Vermont State line, on the one hand, and, on the other, points in Maryland. III (rr) Between points in that part of New York on and west of a line beginning at Lake Erie, thence along U.S. Highway 319 to junction U.S. Highway 219, thence along U.S. Highway 219 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in that part of Mississippi on and north-east of a line beginning at the Mississippi-Tennessee State line, thence along U.S. Highway 51 to junction Mississippi Highway 16, thence along Mississippi Highway 16 to the Mississippi-Alabama State line. III (ss) Between points in that part of New York on and west of a line beginning at Lake Ontario, thence along New York Highway 57 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction New York Highway 13, thence along New York Highway 13 to junction New York Highway 38, thence along New York Highway 38 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 282, thence along New York Highway 282 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in the part of Ohio on and east of a line beginning at Lake Erie, thence along Interstate Highway 77 to the Ohio-West Virginia State line.

NOTE.—The purpose of this republication in part is to correct those portions of the application previously published in error, or omitted. It should also be noted that the material following (I) (s") which commences "Carolina Highway 98 to junction U.S. Highway 64 * * *" and extends through the sentence" The purpose of this filing is to elimate the gateway of Knoxville, Tenn." immediately before part (II) of the application, is not a part of this application and should be deleted. The purpose of parts (I), (II), and (III) of the application is to eliminate the gateways of Lorain, Ohio; Findlay, Ohio; and Elmira Heights, N.Y. respectively.

Office of Proceedings

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER-NOTICES

Notice

MAY 20, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 40215 (Sub-No. E24), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. Fifth Avenue, Salina, Kans. 67401. Applicant's representative: James F. Flint, Ephraim & Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (1) From points in Ohio to points in Arizona; (2) from points in Ohio to points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line and extending south along U.S. Highway 71 to junction U.S. Highway 70, thence west along U.S. Highway 70 to the Arkansas-Oklahoma State line; (3) from points in Ohio to points in California; (4) from points in Ohio to points in Colorado; (5) from points in Ohio to points in Idaho; (6) from points in Ohio to points in Kansas; (7) from points in Ohio to points in Missouri on and west of a line beginning at the Missouri-Iowa State line and extending south along U.S. Highway 69 to junction Missouri Highway 13, thence south along Missouri Highway 13 to junction Missouri Highway 39, thence south on Missouri Highway 39 to the Missouri-Arkansas State line; (8) (A) from points in Ohio to points in Nebraska on and north and west of a line beginning at the Nebraska-Kansas State line, and extending north along U.S. Highway 77 to junction Nebraska Highway 92, thence west along Nebraska Highway 79 to junction Nebraska Highway 92, hence west along Nebraska Highway 92 to junction U.S. Highway 81, thence north along U.S. Highway 81 to junction Nebraska Highway 22, thence north along Nebraska Highway 22 to junction Nebraska Highway 70, thence west along Nebraska Highway 70 to junction U.S. Highway 83, thence north along U.S. Highway 83 to the Nebraska-South Dakota State line; (B) from points in Ohio on and south of a line beginning at the Ohio-Indiana State line, and extending east along Interstate Highway 70 to the Ohio-West Virginia State line, to points in Nebraska; (9) from points in Ohio to points in Nevada; (10) from points in Ohio to points in New Mexico; (11) from points in Ohio to points in Oklahoma; (12) from points in Ohio on and south of a line beginning at the Ohio-West Virginia State line, and extending west along U.S. Highway 50 to junction Ohio Highway 28, thence west along Ohio Highway 28 to junction Ohio Highway 73, thence north and west along Ohio Highway 73 to the Ohio-Indiana State line, to points in South Dakota on and west of a line beginning at the South Dakota-North Dakota State line, and extending south along South Dakota Highway 73 to the South Dakota-Nebraska State line.

(13) (A) From points in Ohio to points in Texas on and west and south of a line beginning at the Texas-Oklahoma State line, and extending south along U.S. Highway 271 to junction Texas 49, thence east along Texas Highway

Highway 49 to the Texas-Louisiana State line; (B) from points in Ohio on and north of a line beginning at the Ohio-Indiana State line, and extending east along Ohio Highway 129, to junction Ohio Highway 4, thence along Ohio Highway 4 to junction Ohio Highway 63, thence along Ohio Highway 63 to junction Ohio Highway 350, thence east along Ohio Highway 350 to junction U.S. Highway 22, thence east along U.S. Highway 22 to junction Interstate Highway 70, thence east along Interstate Highway 70 to the Ohio-West Virginia State line, to points in Texas; (14) from points in Ohio to points in Utah; (15) (A) from points in Ohio on and south of a line beginning at the Ohio-Indiana State line, and extending east along U.S. Highway 30N to the Ohio-Pennsylvania State line, to points in Wyoming; (B) from points in Ohio to points in Wyoming on and west and south of a line beginning at the Montana-Wyoming State line, and extending south along U.S. Highway 87 to junction of U.S. Highway 20, thence east along U.S. Highway 20 to the Wyoming-Nebraska State line. The purpose of this filing is to eliminate the gateways of ((1), (2), (7), (8 A & B), (10), (11), (12), and (13) points in Kansas, (3), (5), (9), (14) and (15) Garden City, Kans., (4) Topeka, Kans., and (t) Kansas City, Mo.).

No. MC 40215 (Sub-No. E25), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC., 246 N. Fifth Avenue, Salina, Kans. 67401. Applicant's representative: James F. Flint, Ephraim and Polydoroff, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (1) From points in Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line, and extending along U.S. Highway 183 to the Oklahoma- Texas State line, to points in Arizona; (2A) from points in Oklahoma on and north and west of a line beginning at the Arkansas-Oklahoma State line, and extending west along Oklahoma Highway 33 to junction Interstate Highway 44, to junction Interstate Highwry 40, to junction U.S. Highway 277, thence south along U.S. Highway 277 to the Oklahoma-Texas State line, to points in Arkansas east and north of a line beginning at the Arkansas-Missouri State line, and extending south along U.S. Highway 63 to junction U.S. Highway 167, to junction U.S. Highway 64, thence east along U.S. Highway 64 to the Arkansas-Tennessee State line; (B) from points in Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line, and extending south along U.S. Highway 283 to junction Oklahoma Highway 6, thence west along Oklahoma Highway 6 to the Oklahoma-Texas State line, to points in Arkansas; (3) from points in Oklahoma to points in California; (4) from points in Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 54/64, thence along U.S. Highway 54 to the Oklahoma-Texas State line, to points in Colorado.

(5) From points in Oklahoma to points in the District of Columbia; (6) from points in Oklahoma to points in Idaho; (7A) from points in Oklahoma to points in Illinois on and south of a line beginning at the Missouri-Illinois State line, and extending east and southeast along Illinois Highway 177, to junction Illinois Highway 15, thence east along Illinois Highway 15 to the Illinois-Indiana State line; (B) from points in Oklahoma on and west of a line beginning at the Oklahoma-Arkansas State line, and extending along U.S. Highway 271 to the Oklahoma-Texas State line, to points in Illinois; (8) from points in Oklahoma on and north of a line beginning at the Arkansas-Oklahoma State line, and extending along Oklahoma Highway 83, thence west on Oklahoma Highway 83 to junction U.S. Highway 271, thence southwest on U.S. Highway 271 to the Oklahoma-Texas State line, to points in Indiana; (9) from points in Oklahoma to points in Iowa; (10) from points in Oklahoma on and north and west of a line beginning at the Oklahoma-Arkansas State line, and extending south along U.S. Highway 271, thence south along U.S. Highway 271 to the Oklahoma-Texas State line, to points in Kentucky; (11A) from points in Oklahoma to points in Maryland on and west of a line beginning at the Pennsylvania-Maryland State line, and extending along Interstate Highway 83, thence south on Interstate Highway 83 to junction Maryland Highways 2 and 3 to U.S. Highway 301, thence south along U.S. Highway 301 to the Virginia-Maryland State line; (B) from points in Oklahoma on and north and west of a line beginning at the Oklahoma-Arkansas State line, and extending along Maryland Highway 83 thence west along Maryland Highway 83 to junction U.S. Highway 271, thence southwest along U.S. Highway 271 to the Texas-Oklahoma State line, to points in Maryland.

(12) From points in Oklahoma to points in Michigan, and Minnesota; (13A) from points in Oklahoma to points in Missouri on and west and north of a line beginning at the Missouri-Arkansas State line and extending along U.S. Highway 65 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction Missouri Highway 34, thence along Missouri Highway 34 to the Missouri-Illinois State line; (B) from points in Oklahoma on and west and north of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 70 to junction U.S. Highway 177, thence north along U.S. Highway 177 to junction Interstate Highway 44, thence northeast along Interstate Highway 44 to junction Oklahoma Highway 33, thence east along Oklahoma Highway 33 to the Oklahoma-Arkansas State line, to points in Missouri; (14) from points in Oklahoma to points in Nebraska; (15A) from points in Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line, and extending south along U.S. Highway 83 to the Oklahoma-Texas State line, to points in Nevada; (B) from points in Oklahoma to points in Nevada on and north of a line beginning at the Nevada-California State line and extending east along U.S. Highway 6 to the Nevada-Utah State line; (16A) from points in Oklahoma on and east and north of a line beginning at the Oklahoma-Kansas State line, and extending south along U.S. Highway 182 to junction Oklahoma Highway 51, thence east along Oklahoma Highway 51 to junction Oklahoma Highway 33, thence east along Oklahoma Highway 33 to the Oklahoma-Arkansas State line, to points in New Mexico; (B) from points in Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line and extending south along U.S. Highway 183 to junction U.S. Highway 66, thence east along U.S. Highway 66 to junction U.S. Highway 281, thence south along U.S. Highway 281 to the Texas-Oklahoma State line, to points in New Mexico on and north of a line beginning at New Mexico-Texas State line, and extending along U.S. Highway 60 to the New Mexico-Arizona State line.

(17) From points in Oklahoma to points in New York and Pennsylvania; (18) from points in Oklahoma on and west and north of a line beginning at the Oklahoma-Arkansas State line, and extending along U.S. Highway 50 to junction U.S. Highway 259, thence south along U.S. Highway 259 to the Oklahoma-Texas State line, to points in North Carolina; (19) from points in Oklahoma to points in Ohio; (20) from points in Oklahoma to points in South Dakota; (21) from points in Oklahoma on and north and west of a line beginning at the Oklahoma-Arkansas State line, and extending west along Oklahoma Highway 33 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 81, thence south along U.S. Highway 81 to the Oklahoma-Texas State line, to points in Tennessee; (22) from points in Oklahoma to points in Texas, Utah, West Virginia, and Wyoming; (23) from points in Oklahoma, to points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending south along U.S. Highway 17, to junction Interstate Highway 95, thence south along Interstate Highway 95 to junction Virginia Highway 301, thence south along Virginia Highway 301 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of points in Kansas and Ohio in section 5–11–16–19–23, and in all the sections, points in Kansas.

No. MC 40215 (Sub-No. E31), filed May 17, 1974. Applicant: RICHARDSON TRANSFER & STORAGE CO., INC. 246 N. Fifth Avenue, Salina, Kans. 67401. Applicant's representative: James F. Flint, Ephraim and Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (1) (A) Fom points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending along U.S. Highway 21/52, thence along U.S. Highway 52 to the Virginia-North Carolina State line, to points in Arizona; (B) from points in Virginia to points in Arizona on and south of a line beginning at the Arizona-California State line, and extending along Interstate Highway 40 and U.S. Highway 66, thence along Interstate Highway 40 to the Arizona-New Mexico State line; (2) from points in Virginia to points in Arkansas on and west of a line beginning at the Arkansas-Missouri State line, and extending south along U.S. Highway 71 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line; (3) from points in Virginia to points in California; (4) from points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending along U.S. Highway 52, thence along U.S. Highway 52, to points in Colorado; (4) from points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending along U.S. Highway 52, thence along U.S. Highway 52 to points in Colorado.

(5) From points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending south along U.S. Highway 52 to the Virginia-North Carolina State line, to points in Idaho; (6) from points in Virginia to points in Iowa; (7) from points in Virginia on and east of a line beginning at the Virginia-North Carolina State line, and extending north along U.S. Highway 501 to junction U.S. Highway 29, thence north along U.S. Highway 29 to junction U.S. Highway 522, thence north along U.S. Highway 522 to the Virginia-West Virginia State line, to points in Kansas; (8) from points in Virginia on and east of a line beginning at the North Carolina-Virginia State line, and extending north and east along U.S. Highway 258 to junction Virginia Highway 32, thence along Virginia Highway 32 to junction U.S. Highway 17, thence north along U.S. Highway 17 to junction U.S. Highway 522, thence north along U.S. Highway 522 to the Virginia-West Virginia State line, to points in Missouri on and west of a line beginning at the Missouri-Iowa State line, and extending south along U.S. Highway 65 to junction Missouri Highway 52, thence west along Missouri Highway 52 to junction Missouri Highway 18, thence west along Missouri Highway 18 to junction U.S. Highway 71, thence south along U.S. Highway 71 to the Missouri-Arkansas State line; (9) from points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending southeast along Virginia Highway 29, to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 29, thence south along U.S. Highway 29 to the Virginia-North Carolina State line, to points in Nebraska; (10) from points in Virginia on and east of a line beginning at Kentucky-Virginia State line, and extending southeast along U.S. Highway 58 to the Virginia-North Carolina State line, to points in Nevada.

(11) From points in Virginia on and east and north of a line beginning at the Virginia-North Carolina State line, and extending north along U.S. Highway 301, to junction U.S. Highway 250, thence east along U.S. Highway 250 to the Virginia-West Virginia State line, to points in New Mexico; (12) from points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending south along U.S. Highway 17, to junction Interstate Highway 95, thence south along Interstate Highway 95 to junction Virginia Highway 301, thence south along Virginia Highway 301 to the Virginia-North Carolina State line, to points in Oklahoma; (13) (A) from points in Virginia on and south and east of a line beginning at Potomac River and extending on and west along Virginia Highway 218 to junction Virginia Highway 3, thence west along Virginia Highway 3 to junction Virginia Highway 20, thence along Virginia Highway 20 to junction Virgtnia Highway 231, thence south along Virginia Highway 231 to junction U.S. Highway 250, thence west along U.S. Highway 250 to junction Virginia Highway 220, thence south along U.S. Highway 220 to junction Virginia Highway 39, thence east along Virginia Highway 39 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 29, thence south along U.S. Highway 29 to the Virginia-North Carolina State line, to points in South Dakota on and west of a line beginning at North Dakota-South Dakota State line, and extending along U.S. Highway 83 to the South Dakota-Nebraska State line; (B) from points in Virginia on and east and south of a line beginning at the Virginia-North Carolina State line, and extending north along U.S. Highway 258 to junction U.S. Highway 66, thence along U.S. Highway 60 to Virginia Beach, Va., to points in South Dakota.

(14) (A) From points in Virginia on and west of a line beginning at the Virginia-West Virginia State line, and extending south along U.S. Highway 52 to the Virginia-North Carolina State line, to points in Texas on and north and west of a line beginning at the Texas-Oklahoma State line and extending west along U.S. Highway 66 to junction U.S. Highway 345, at Vega, Texas; thence south along U.S. Highway 385 to junction Texas Highway 115, thence southwest along Texas Highway 115 to junction U.S. Highway 80, thence west along U.S. Highway 80 to junction Texas Highway 17, thence south along Texas Highway 17 to the International Boundary between United States and Mexico; (B) from points in Virginia on and north of a line beginning at the Virginia-West Virginia State line and extending east along U.S. Highway 33 to junction Virginia Highway 20, thence along Virginia Highway 20 to the Potomac River near Fredericksburg, Va., to points in Texas on and west of a line beginning at the Oklahoma-Texas State line, and extending south along Interstate Highway 35 to junction U.S. Highway 77, thence south along U.S. Highway 77 to the Gulf of Mexico; (15) from points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending south along U.S. Highway 21 to the Virginia-North Carolina State line, to points in Utah; (16) (A) from points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending southeast along Virginia Highway 39 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 29, thence south along U.S. Highway 29 to the Virginia-North Carolina State line, to points in Wyoming on and west and south of a line beginning at the Wyoming-Montana State line, and extending south along U.S. Highway 89 to junction U.S. Highway 26, thence east along U.S. Highway 26 to junction U.S. Highway 20, thence east along U.S. Highway 20 to the Wyoming-Nebraska State line; (B) from points in Virginia on and east of a line beginning at the Virginia-North Carolina State line, and extending north along U.S. Highway 258 to junction U.S. Highway 60, thence east along U.S. Highway 60 to the Atlantic Ocean, to points in Wyoming. The purpose of this filing is to eliminate the gateways of Sec. (1), (5), (10), (15), and (16), points in Ohio and Garden City, Kans.; Sec. (2) points in Kansas; Sec. (3), (4), (8), (9), (11), (12), and (14) points in Ohio and Kansas; Sec. (6) and (13) points in Ohio, Kansas, and Kansas City, Mo.; and Sec. (7) points in Ohio and Kansas City, Mo.

No. MC 60014 (Sub-No. E200), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts tubing, and wire in coils*, (except commodities requiring special equipment) between points in New York on and south of a line beginning at the New Jersey-New York State line extending along U.S. Highway 202 to junction of Interstate Highway 87, thence along Interstate Highway 87 to junction of U.S. Highway 1, thence along U.S. Highway 1 to the New York-Connecticut State line, on the one hand, and, on the other, points in Connecticut. Gateways to be eliminated: (1) White Plains, New York. (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E201), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and*

steel angles, bars, channels, conduit, fenching, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils, (except commodities requiring special equipment) from points in New York on and south of a line beginning at Lake Erie extending along U.S. Highway 20 to the junction of New York Highway 12, thence along New York Highway 12 to the junction of New York Highway 23, thence along New York Highway 23 to the junction of New York Highway 8, thence along New York Highway 8 to the junction of New York Highway 206, thence along New York Highway 206 to the junction of New York Highway 30, thence along New York Highway 30 to the junction of New York Highway 26, thence along New York Highway 28 to the junction of New York Highway 199, thence along New York Highway 199 to the junction of U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line, to points in Maine on and east of a line beginning at the International Boundary line between the United States and Canada along Maine Highway 11 to the junction of Interstate Highway 95, thence along Interstate 95 to the junction of U.S. Alternate 1, thence along U.S. Alternate 1 to the junction of U.S. Highway 1, thence along U.S. Highway 1 to Penobscot Bay. Gateways to be eliminated: (1) Greenwich, Connecticut. (2) Points in Massachusetts on and east of U.S. Highway 5. (3) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E202), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment) between points in New York on and south a line beginning at Lake Erie and extending along New York Highway 17 to the junction of New York Highway 52, thence along New York Highway 52 to the junction of Interstate Highway 84, thence along Interstate 84 to the New York-Connecticut State line, on the one hand, and, on the other, points in New Hampshire on and east of a line beginning at the Massachusetts-New Hampshire State line extending along U.S. Highway 3 to the junction of New Hampshire Highway 28, thence along New Hampshire Highway 28 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the junction of New Hampshire Highway 11, thence along New Hampshire Highway 11 to the New Hampshire-Maine State line. Gateways to be eliminated: (1) Greenwich, Connecticut. (2) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.)

No. MC 60014 (Sub-No. 204), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Michigan on the one hand, and, on the other points in Maryland. Gateways to be eliminated: (1) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E205), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Michigan, on and east of a line beginning on the Ohio-West Virginia State line extending along West Virginia Highway 18 to the junction of U.S. Highway 33/119, thence along U.S. Highway 33/119 to the junction of West Virginia Highway 5, thence along West Virginia Highway 5 to the junction of West Virginia Highway 4, thence along West Virginia Highway 4 to the junction of U.S. Highway 19, thence along U.S. Highway 19 to the junction of U.S. Highway 60, thence along U.S. Highway 60 to the junction of West Virginia Highway 41, thence along West Virginia Highway 41 to the junction of U.S. Highway 19, thence along U.S. Highway 19 to the junction of West Virginia Highway 3, thence along West Virginia Highway 3 to the junction of West Virginia Highway 12, thence along West Virginia Highway 12 to the West Virginia-Virginia State line. Gateways to be eliminated: (1) Point in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, and (2) Points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220, (formerly portion Pennsylvania Highway 14, thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line.

No. MC 60014 (Sub-No. E206), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Michigan on the one hand, and, on the other points in Virginia on and east of a line beginning at the West Virginia-Virginia State line extending along Virginia Highway 311 to the junction of U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line. Gateways to be eliminated: (1) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, and points in (2) West Virginia.

No. MC 60014 (Sub-No. E207), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, from points in Michigan, to points in West Virginia on and east of a line beginning on the Ohio-West Virginia State line extending along West Virginia Highway 18 to the junction of U.S. Highway 33/119, thence along U.S. Highway 33/119 to the junction of West Virginia Highway 5, thence along West Virginia Highway 5 to the junction of West Virginia Highway 4, thence along West Virginia Highway 4 to the junction of U.S. Highway 19, thence along U.S. Highway 19 to the junction of U.S. Highway 60, thence along U.S. Highway 60 to the junction of West Virginia Highway 41, thence along West Virginia Highway 41 to the junction of U.S. Highway 19, thence along U.S. Highway 19 to the junction of West Virginia Highway 3, thence along West Virginia Highway 3 to the junction of West Virginia Highway 12, thence along West Virginia Highway 12 to the West Virginia-Virginia State line. Gateways to be eliminated: (1) Point in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, and points in (2) West Virginia.

No. MC 60014 (Sub-No. E208), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, pests, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, (the transportation of which because of age or weight, requires the use of special equipment), between points in Michigan on the one hand, and, on the other, points in New Hampshire, Rhode Island, and points in Massachusetts on and east of U.S. Highway 5. Gateways to be eliminated: (1) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line (2) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio.

(3) Points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line. (4) Points in New York. (5) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.)

No. MC 60014 (Sub-No. E209), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (the transportation of which, because of their size or weight, requires the use of special equipment), between points in Michigan on and north of a line beginning at Lake Michigan extending along Michigan Highway 21, thence along Michigan Highway 21 to the junction of Michigan Highway 56, thence along Michigan Highway 56 to the junction of Michigan Highway 54, thence along Michigan Highway 54 to the junction of Michigan Highway 83, thence along Michigan Highway 83 to Michigan Highway 15, thence along Michigan Highway 15 to Saginaw Bay on the one hand, and, on the other, points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along U.S. Highway 202, thence along U.S. Highway 202 to the junction of Connecticut Highway 10, thence along Connecticut Highway 10 to the junction of Connecticut Highway 72, thence along Connecticut Highway 72 to the junction of Connecticut Highway 9, thence along Connecticut Highway 9 to Long Island Sound.

Gateways to be eliminated: (1) Points in part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line. (2) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (3) Points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line, north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway E220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run.

No. MC 60014 (Sub-No. E210), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing strip structurals tank parts tubing and wire in coils* (except commodities requiring special equipment) between points in Michigan, on the one hand, and on the other, points in Virginia on and east of a line beginning at the Tennessee-Virginia State line extending along U.S. Highway 23, thence along U.S. Highway 23 to junction of U.S. Highway 23/58/421, thence along U.S. Highway 23/58/421 to junction of U.S. Highway 23, thence along U.S. Highway 23 to the Virginia-Kentucky State line. Gateways to be eliminated: (1) Cambridge and Zanesville, Ohio. (2) Points in West Virginia.

No. MC 60014 (Sub-No. E211), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except those requiring special equipment), between points in Michigan on the one hand, and, on the other, points in Connecticut, Maine. Rhode Island, those in Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along Interstate Highway 91, thence along Interstate Highway 91 to the junction of Massachusetts Highway 9, thence along Massachusetts Highway 9 to the junction of Massachusetts Highway 10, thence along Massachusetts Highway 10 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-Connecticut State line and points in New Hampshire on and east of a line beginning at Vermont-New Hampshire State line extending along U.S. Highway 2 to the junction of U.S. Highway 3, thence along U.S. Highway 3 to the junction New Hampshire Highway 118, thence along New Hampshire Highway 118 to the junction New Hampshire Highway 25/118, thence along New Hampshire Highway 25/118 to the junction of New Hampshire Highway 118, thence along New Hampshire Highway 118 to the junction U.S. Highway 4, thence along U.S. Highway 4 to the junction of New Hampshire Highway 11, thence along New Hampshire Highway 11 to the junction of New Hampshire Highway 31, thence along New Hampshire Highway 31 to the junction of New Hampshire Highway 10, thence along New Hampshire Highway 10 to the junction of New Hampshire Highway 123, thence along New Hampshire Highway 123 to the New Hampshire-Vermont State line.

Gateways to be eliminated: (1) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (2) Points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion of Pennsylvania Highway 14) to junction U.S. Highway 220 (formerly portion Pennsylvania Highway 141), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S.

Highway 15 to the Pennsylvania-New York State line. (3) Points in New York. (4) Greenwich, Connecticut. (5) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E212), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, from points in Michigan on and east of a line beginning at the Michigan-Ohio State line extending along U.S. Highway 127 to the junction of Interstate Highway 94, thence along Interstate Highway 94 to the junction of Michigan Highway 89, thence along Michigan Highway 89 to Lake Michigan, to points in Tennessee on and east of a line beginning at the Tennessee-Virginia State line extending along U.S. Highway 11E/19, thence along U.S. Highway 11E/19 to U.S. Highway 19, thence along U.S. Highway 19 to the Tennessee-North Carolina State line. Gateways to be eliminated: (1) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E213), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, the transportation of which, because of their size or weight, require the use of special equipment, between points in Michigan on the one hand, and, on the other, points and places in Ohio on and east of a line beginning at Lake Erie, extending along Ohio Highway 91 to the junction of Interstate Highway 271, thence along Interstate Highway 271 to the junction of Ohio Highway 3, thence along Ohio Highway 3 to the junction of Ohio Highway 162, thence along Ohio Highway 162 to the junction of U.S. Highway 224, thence along U.S. Highway 224 to the junction of U.S. Highway 42, thence along U.S. Highway 42 to the junction of U.S. Highway 30, thence along U.S. Highway 30 to the junction of U.S. Highway 30S, thence along U.S. Highway 30S to the junction of Ohio Highway 61, thence along Ohio Highway 61 to the junction of Interstate Highway 71, thence along Interstate Highway 71 to the junction of U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line. Gateways to be eliminated: (1) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E214), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structuals, tank parts, tubing, and wire in coils*, the transportation of which, because of their size or weight, require the use of special equipment, between points in Michigan on and north of a line beginning at Lake Michigan extending along Michigan Highway 115 to the junction of U.S. Highway 31, thence along U.S. Highway 31 to the junction of Michigan Highway 115, thence along Michigan Highway 115 to the junction of U.S. Highway 10, thence along U.S. Highway 10 to the junction of Michigan Highway 15, thence along Michigan Highway 15 to the junction of Michigan Highway 46, thence along Michigan Highway 46 to Lake Huron on the one hand, and, on the other, points in Ohio on and east of a line beginning at Lake Erie extending along Ohio Highway 60 to the junction of U.S. Highway 224, thence along U.S. Highway 224 to the junction of Ohio Highway 61, thence along Ohio Highway 61 to the junction of Ohio Highway 98, thence along Ohio Highway 98 to the junction of Ohio Highway 4, thence along Ohio Highway 4 to the junction of U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-Indiana State line. Gateways to be eliminated: (1) points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E215), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), between points in Michigan on and west of a line beginning at Lake Superior extending along Michigan Highway 77 to the junction of U.S. Highway 2, thence along U.S. Highway 2 to Lake Michigan on the one hand, and, on the other, points in Ohio on and east of a line beginning at Lake Erie extending along U.S. Highway 6 to the junction of U.S. Highway 6/20, thence along U.S. Highway 6/20 to the junction of Ohio Highway 53, thence along Ohio Highway 53 to the junction of Ohio Highway 12, thence along Ohio Highway 12 to the junction of U.S. Highway 68, thence along U.S. Highway 68 to the junction of U.S. Highway 62, thence along U.S. Highway 62 to the Ohio-Kentucky State line. Gateways to be eliminated: (1) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E216), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), between points in Michigan on and north of a line beginning at Lake Huron and extending along Michigan Highway 21 to the junction of Michigan Highway 78 to the junction of U.S. Highway 127, thence along U.S. Highway 127 to the junction of Michigan Highway 12, thence along Michigan Highway 12 to the junction of Michigan Highway 66, thence along Michigan Highway 66 to the Michigan-Indiana State line on the one hand, and, on the other, points in Vermont on and east of a line beginning at the International Boundary line between the United States and Canada and extending along U.S. Highway 5 to the junction of U.S. Highway 302, thence along U.S. Highway 302 to the Vermont-New Hampshire State line. Gateways to be eliminated: (1) Points in Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (2) Points in Pennsylvania. (3) Points in New York. (4) Within 10 Miles of Greenwich, Conn. (5) Points within 35 miles of Boston, Massachusetts.

No. MC 60014 (Sub-No. E217), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), between points in Virginia and points in Maine, New Hampshire, those in Vermont on and east of a line beginning at the International Boundary line between the United States and Canada and extending along Vermont Highway 105 to the junction of Vermont Highway 101, thence along Vermont Highway 101 to the junction of Vermont Highway 100, thence along Vermont Highway 100 to the junction of U.S. Highway 4, thence along U.S. Highway 4 to the junction of Vermont Highway 100, thence along Vermont Highway 100 to the junction of Vermont Highway 30, thence along Vermont Highway 30 to the junction of U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line; points in Massachusetts on and east of a line beginning at the Massachusetts-Connecticut State line, extending along Massachusetts Highway 8 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of Massachusetts Highway 9/8A, thence along Massachusetts Highway 9/8A to the junction of Massachusetts Higway 116, thence along Massachusetts Highway 116 to the junction of Massachusetts Highway 8A, thence along Massachusetts Highway 8A to the Massachusetts-Vermont State line; points in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line, extending along Rhode Island Highway 165 to the junction of Rhode Island Highway 102, thence along Rhode Island Highway 102 to the junction of U.S. Highway 1A to Narragansett Bay.

Gateways to be eliminated: (1) Points in New York. (2) Greenwich, Connecticut. (3) Points in Massachusetts on and east of U.S. Highway 5. (4) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E218), filed August 28, 1976. Applicant: AERO TRUCKING, P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), between points in Virginia, on the one hand and, on the other, points in Connecticut. Gateways to be eliminated: (1) Points in New York. (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E219), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, the transportation of which, because of their size or weight, require the use of special equipment, between points in Virginia on and east of Virginia Highway 16, on the one hand and, on the other, points in Ohio. Gateways to be eliminated: (1) Points in West Virginia. (2) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line (except points in Licking County, Ohio).

No. MC 60014 (Sub-No. E220), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, from points in Virginia on the one hand and, on the other, points in Virginia, on the one hand and, on the other, points in Connecticut. Gateways to be eliminated: (1) Points in New York. (2) Greenwich, Connecticut.

No. MC 60014 (Sub-No. E221), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in Virginia on and north of a line beginning at the West Virginia-Virginia State line extending along Virginia Highway 259 to the junction of Virginia Highway 42, thence along Virginia Highway 42 to junction Virginia Highway 260, thence along Virginia Highway 260 to junction of U.S. Highway 211, thence along U.S. Highway 211 to the junction of U.S. Highway 522, thence along U.S. Highway 522 to junction of Virginia Highway 3, thence along Virginia Highway 3 to junction of U.S. Highway 17, thence along U.S. Highway 17 to junction of U.S. Highway 360, thence along U.S. Highway 360 to the Chesapeake Bay on the one hand, and, on the other, points in Mississippi on and west of a line beginning at the Mississippi-Tennessee State line extending along U.S. Highway 45 to junction Natches Trace Parkway, thence along Natches Trace Parkway to junction of Interstate Highway 55, thence along Interstate Highway 55 to the Mississippi-Louisiana State lines, points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line extending along U.S. Highway 79 to junction of Tennessee Highway 13, thence along Tennessee Highway 13 to junction of U.S. Highway 70, thence along U.S. Highway 70 to junction of U.S. Highway 45, thence along U.S. Highway 45 to the Tennessee-Mississippi State line. Gateways to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E222), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, from points in places in Virginia on and east of a line beginning at the West Virginia-Virginia State line, extending along U.S. Highway 50 to the junction of U.S. Highway 522, thence along U.S. Highway 522 to the junction of Virginia Highway 3, thence along Virginia Highway 3 to the junction of U.S. Highway 17 to the Chesapeake Bay, and to points and places in Kentucky on and west of a line beginning at the Tennessee-Kentucky State line, extending along U.S. Highway 127 to the junction of Ken-

tucky Highway 90, thence along Kentucky Highway 90 to the junction of Kentucky Highway 461, thence along Kentucky Highway 461 to the junction of National Interstate Highway 75, thence along National Interstate Highway 75 to the junction of Kentucky Highway 627, thence along Kentucky Highway 627 to the junction of National Interstate Highway 64, thence along National Interstate Highway 64 to the junction of Kentucky Highway 11, thence along Kentucky Highway 11 to the Kentucky-Ohio State line. Gateways to be eliminated: (1) Wheeling West Virginia.

No. MC 60014 (Sub-No. E223), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in places in Virginia on and east of a line beginning at the West Virginia-Virginia State line, extending along U.S. Highway 250 to the junction of Virginia Highway 6, thence along Virginia Highway 6 to the junction of U.S. Highway 29, thence along U.S. Highway 29 to the junction of Virginia Highway 56, thence along U.S. Highway 56 to the junction of Virginia Highway 60, thence along Virginia Highway 60 to the junction of U.S. Highway 15, thence along U.S. Highway 15 to the junction of U.S. Highway 460, thence along U.S. Highway 460 to the junction of Virginia Highway 46, thence along Virginia Highway 46 to the Virginia-North Carolina State line, on the one hand, and, on the other, points in places in Indiana on and north of a line beginning at the Ohio-Indiana State line, extending along Indiana Highway 46 to the junction of Indiana Highway 45, thence along Indiana Highway 45 to the junction of Indiana Highway 54, thence along Indiana Highway 54 to the Indiana-Illinois State line. Gateways to be elminated: (1) West Virginia; (2) Columbiana, Cuyahoga, Mahoning, Summit and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E224), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), between points in Virginia on and east of a line beginning at the West Virgina-Virginia State line extending along U.S. Highway 250 to the junction of Virginia Highway 6, thence along Virginia Highway 6 to the junction of U.S. Highway 29, thence along U.S. Highway 29 to the junction of Virginia Highway 56, thence along Virginia Highway 56 to the junction of Virginia Highway 60, thence along Virginia Highway 60 to the junction of U.S. Highway 15, thence along U.S. Highway 15 to the junction of U.S. Highway 460, thence along U.S. Highway 460 to the junction of Virginia Highway 46, thence along Virginia Highway 46 to the Virginia-North Carolina State line, on the one hand, and, on the other, points in Indiana on and north of a line beginning at the Ohio-Indiana State line, extending along Indiana Highway 46 to the junction of Indiana Highway 45, thence along Indiana Highway 45 to the junction of Indiana Highway 54, thence along Indiana Highway 54 to the Indiana-Illinois State line. Gateways to be elminated: (1) West Virginia; (2) Columbiana, Cuyahoga, Mahoning, Summit and Trumbull Counties, Ohio.

No. MC 60014 (Sub-No. E225), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structural, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), between points in West Virginia on the one hand, and, on the other, points in Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, points in Vermont on and east of a line beginning at the New York-Vermont State line, extending along Vermont Highway 4A to the junction of U.S. Highway 7, thence along U.S. Highway 7 to the junction of Vermont Highway 103, thence along Vermont Highway 103 to the junction of Interstate Highway 91, thence along Interstate Highway 91 to Vermont-Massachusetts State line. Gateways to be eliminated: (1) Points in New York within 10 miles of Greenwich, Conn.; (2) Greenwich, Conn.; (3) points in Massachusetts on and east of U.S. Highway 5; (4) between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.).

No. MC 60014 (Sub-No. E226), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), between points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line extending along West Virginia Highway 14 to junction of West Virginia Highway 5, thence along West Virginia Highway 5 to junction of U.S. Highway 19, thence along U.S. Highway 19 to junction of West Virginia Highway 39, thence along West Virginia Highway 39 to West Virginia-Virginia State line on the one hand, and, on the other, points in Indiana on and north of a line beginning at the Indiana-Ohio State line extending along Interstate Highway 74 to junction of Indiana Highway 46, thence along Indiana Highway 46 to junction of U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Illinois State line. Gateways to be eliminated: (1) Zanesville, Ohio, (2) points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E227), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), between points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line extending along West Virginia Highway 14 to junction of West Virginia Highway 5, thence along West Virginia Highway 5 to junction of U.S. Highway 19, thence along U.S. Highway 19 to junction of West Virginia Highway 39, thence along West Virginia Highway 39 to West Virginia-Virginia State line on the one hand, and, on the other, points in Indiana on and north of a line beginning at the Indiana-Ohio State line extending along Interstate Highway 74 to junction of Indiana Highway 46, thence along Indiana Highway 46 to junction of U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Illinois State line. Gateways to be eliminated: (1) Zanesville, Ohio; (2) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E228), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier* by motor vehicle, over irregular roultes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structural, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), between points in West Virginia on the one hand, and, on the other, points in Indiana on and north of a line beginning at the Indiana-Ohio State line extending along U.S. Highway 6 to junction of Indiana Highway 9, thence along Indiana Highway 9 to junction of U.S. Highway 24, thence along U.S. Highway 24 to junction of U.S. Highway 421, thence along U.S. Highway 421 to junction of U.S. Highway 30, thence along U.S. Highway 30 to the Indiana-Illinois State line. Gateways to be eliminated: (1) Zanesville, Ohio; (2) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils, between points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line extending along West Virginia Highway 47 to junction of U.S. Highway 33/119, thence along U.S. Highway 33/119 to junction of U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line on the one hand, and, on the other, points in Mississippi. Gateways to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E229), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line extending along U.S. Alternate 50 to the junction of U.S. Highway 50, thence along U.S. Highway 50 to junction of West Virginia Highway 20, thence along West Virginia Highway 20 to junction of U.S. Highway 119, thence along U.S. Highway 119 to junction of U.S. Highway 19, thence along U.S. Highway 19 to junction of U.S. Highway 33, thence along U.S. Highway 33 to West Virginia-Virginia State line, on the one hand, and, on the other, points in Tennessee on west of a line beginning at the Kentucky-Tennessee State line extending along U.S. Highway 27 to junction of Tennessee Highway 62, thence along Tennessee Highway 62 to junction of Tennessee Highway 84, thence along Tennessee Highway 84 to junction of Tennessee Highway 111, thence along Tennessee Highway 111 to junction of Tennessee Highway 56, thence along Tennessee Highway 56 to the Tennessee-Alabama State line. Gateways to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E230), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same address as aplicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line extending along U.S. Alternate 50 to junction of U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Maryland State line, on the one hand, and, on the other, points in Alabama. Gateways to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E231), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line extending along West Virginia Highway 7 to junction of U.S. Highway 250, thence along U.S. Highway 250 to junction of U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line, on the one hand, and, on the other points in Kentucky on and west of a line beginning at the Ohio-Kentucky State line extending along U.S. Highway 27 to the junction of U.S. Highway 27/68, thence along U.S. Highway 27/68 to junction of U.S. Highway 27, thence along U.S. Highway 27 to the Kentucky-Tennessee State line. Gateways to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E232), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points in West Virginia on and north of a line beginning at the West Virginia-Ohio State line extending along West Virginia Highway 95 to junction of U.S. Highway 33/119, thence along U.S. Highway 33/119 to junction of U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line, on the one hand, and, on the other, points in Alabama on and west of a line beginning at the Alabama-Tennessee State line extending along U.S. Highway 231/431 to junction of U.S. Alternate Highway 72 to junction of U.S. Highway 31, thence along U.S. Highway 31 to junction of Interstate Highway 65, thence along Interstate Highway 65 to junction of Alabama Highway 69, thence along Alabama Highway 69 to junction of Alabama Highway 14, thence along Alabama Highway to junction of Alabama Highway 10, thence along Alabama Highway 10 to junction of Alabama Highway 47, thence along Alabama Highway 47 to junction of Alabama Highway 83, thence along Alabama Highway 83 to junction of Alabama Highway 84, thence along Alabama Highway 84 to the Alabama-Georgia State line. Gateway to be eliminated: (1) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E233), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, between points and places in West Virginia on and east of a line beginning at the Ohio-West Virginia State line, extending along West Virginia Highway 20 to the junction of U.S. Highway 19, thence along U.S. Highway 19 to junction of West Virginia Highway 39, thence along West Virginia Highway 39 to the West Virginia-Virginia State line, on the one hand, and, on the other, between points and places in Indiana on and east of a line beginning at the Ohio-Indiana State line, extending along Indiana Highway 26 to Indiana-Illinois State line. Gateways to be eliminated: (1) Ohio County, West Virginia. (2) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (3) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and, on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E234), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channel, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment) between points in West Virginia, on the one hand, and, on the other, points in Michigan. Gateways to be eliminated: (1) Zanesville, Ohio. (2) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33 to Pomeroy, and, on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E235), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals tank parts, tubing and wire in coils*, between points in West Virginia on and north and east of a line beginning at the Ohio-West Virginia State line extending along U.S. Alternate Highway 50 to junction of West

Virginia Highway 16, thence along West Virginia Highway 16 to junction of West Virginia Highway 5, thence along West Virginia Highway 5 to junction of U.S. Highway 19, thence along U.S. Highway 19 to junction of U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line, on the one hand, and, on the other, points in Michigan. Gateways to be eliminated: (1) Brook, Hancock, Marshall and Ohio Counties, West Virginia. (2) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (3) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and, on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E236), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of their size or weight, require the use of special equipment, between points in West Virginia, on the one hand, and, on the other, points in Michigan on and west and north of a line beginning at the Michigan-Canada International boundary extending along Interstate Highway 75 to junction of U.S. Highway 2, thence along U.S. Highway 2 to the Michigan-Wisconsin State line. Gateways to be eliminated: (1) Brooks, Hancock, Marshall and Ohio Counties, West Virginia. (2) Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio. (3) Points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and, on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

No. MC 60014 (Sub-No. E237), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, between points in Illinois on the one hand, and, on the other, points in Delaware, New Jersey, New York, Pennsylvania, and points in West Virginia north and east of a line beginning at the Ohio-West Virginia State line extending on West Virginia Highway 7 to junction of U.S. Highway 250, thence along U.S. Highway 250 to junction of U.S. Highway 119/250, thence along U.S. Highway 119/250 to junction of U.S. Highway 250, thence along U.S. Highway 250 to the West Virginia-Virginia State line and to the District of Columbia. Gateways to be eliminated: (1) Points in Columbiana, Cuyahoa, Mahoning, Summit, and Trumbull Counties, Ohio. (2) Those in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pennsylvania, thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, Pennsylvania, thence north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. High 220 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 220 to junction U.S. Highway 15 (formerly portion Pennsylvania Highway 14), thence along U.S. Highway 15 to Trout Run, Pennsylvania, thence continuing along U.S. Highway 15 to the Pennsylvania-New York State line. (3) Those in Brooks, Hancock, Marshall, and Ohio Counties, West Virginia.

No. MC 60014 (Sub-No. E238), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling pipe posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils*, from points in Rhode Island, to points in Alabama on and west of a line beginning at the Tennessee-Alabama State line extending along U.S. Highway 231 to the junction of Alabama Highway 79, thence along Alabama Highway 79 to the junction of U.S. Highway 11, thence along U.S. Highway 11 to the junction of Alabama Highway 5, thence along Alabama Highway 5 to the junction of Alabama Highway 219, thence along Alabama Highway 219 to the junction of Alabama Highway 41, thence along Alabama Highway 41 to the Alabama-Florida State line. Gateways to be eliminated: (1) Between points in that part of Massachusetts on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Points in Massachusetts on and east of U.S. Highway 5. (3) Greenwich, Connecticut. (4) New York. (5) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E239), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), from points in Rhode Island on and east of a line beginning at Charlestown, R.I. extending along Rhode Island Highway 2/112 to the junction of Rhode Island Highway 112, thence along Rhode Island Highway 112 to the junction of Rhode Island Highway 3, thence along Rhode Island Highway 3 to the junction of Rhode Island Highway 102, thence along Rhode Island Highway 102 to the Rhode Island-Massachusetts State line, to points in Alabama. Gateways to be eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass. (2) Points in Massachusetts on and east of U.S. Highway 5. (3) Greenwich, Connecticut. (4) New York. (5) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E240), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: Wilson J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), from points in Rhode Island on and east of a line beginning at Charlestown, R.I. extending along Rhode Island Highway 2/112 to the junction of Rhode Island Highway 112, thence along Rhode Island Highway 112 to the junction of Rhode Island Highway 3, thence along Rhode Island Highway 3 to the junction of Rhode Island Highway 102, thence along Rhode Island Highway 102 to the Rhode Island-Massachusetts State line, to points in Kentucky. Gateways to be eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Points in Massachusetts on and east of U.S. Highway 5. (3) Greenwich, Connecticut. (4) New York. (5) Wheeling, West Virginia.

eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.) (2) Points in Mass. on and east of Highway 5. (3) Greenwich, Connecticut. (4) New York. (5) Wheeling West Virginia.

No. MC 60012 (Sub-No. E241), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment) from points in Rhode Island on and east of a line beginning at the Massachusetts-Rhode Island State line, extending along Rhode Island Highway 24 to the junction of Rhode Island Highway 114, thence along Rhode Island Highway 114 to the junction of Rhode Island Highway 103, thence along Rhode Island Highway 103 to the junction of U.S. Highway 1, thence along U.S. Highway 1 to the junction of Rhode Island Highway 146, thence along Rhode Island Highway 146 to the Rhode Island-Massachusetts State line, to points in Tennessee. Gateways to be eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Points in Massachusetts, on and east of U.S. Highway 5. (3) Greenwich, Connecticut. (4) Points in New York. (5) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E243), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bar, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing, and wire in coils* (except commodities requiring special equipment), from points in Rhode Island, on and east of a line beginning at the Connecticut-Rhode Island State line extending along Rhode Island Highway 101 to the junction of Rhode Island Highway 102, thence along Rhode Island Highway 102 to the junction of U.S. Highway 6 thence along U.S. Highway 6 to the junction of Interstate 295, thence along Interstate 295 to the junction of Rhode Island Highway 2, thence along Rhode Island Highway 2 to the junction of Rhode Island Highway 4, thence along Rhode Island Highway 4 to the junction of Rhode Island Highway 138, thence along Rhode Island Highway 138 to the Rhode Island Massachusetts State line, to points in Kentucky. Gateways to be eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Points in Massachusetts on and east of U.S. Highway 5. (3) Greenwich, Connecticut. (4) New York. (5) Wheeling, West Virginia.

No. MC 60014 (Sub-No. E244), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), from points in Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence over Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Greenwich, Conn. (3) Points in New York. (4) Wheeling, W. Va.

No. MC 60014 (Sub-No. E245), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), from points in Massachusetts, to points in Kentucky on and west of a line beginning at the Ohio-Kentucky State line extending along Kentucky Highway 10 to the junction of Kentucky Highway 159, thence along Kentucky Highway 159 to the junction of U.S. Highway 27, thence along U.S. Highway 27 to the junction of Kentucky Highway 227, thence along Kentucky Highway 227 to the junction of Kentucky Highway 627, thence along Kentucky Highway 627 to the junction of Kentucky Highway 388, thence along Kentucky Highway 388 to the junction of U.S. Highway 421, thence along U.S. Highway 421 to the junction of Kentucky Highway 290, thence along Kentucky Highway 290 to the junction of Kentucky Highway 30, thence along Kentucky Highway 30 to the junction of U.S. Highway 25, thence along U.S. Highway 25 to the junction of Kentucky Highway 26, thence along Kentucky Highway 26 to the junction of U.S. Highway 25W, thence along U.S. Highway 25W to the Kentucky-Tennessee State line.

Gateways to be eliminated: 1. Between points in that part of Massachusetts, on and east of a line beinning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts

to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). 2. Greenwich, Conn. 3. Points in New York. 4. Wheeling, W. Va.

No. MC 60014 (Sub-No. E246), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joints, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), from points in Massachusetts to points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line extending along U.S. Highway 314/231 to the junction of U.S. Highway 231, thence along U.S. Highway 231 to the junction of U.S. Highway 41, thence along U.S. Highway 41 to the junction of Tennessee Highway 55, thence along Tennessee Highway 55 to the junction of U.S. Alternate Highway 41, thence along U.S. Alternate Highway 41 to the junction of U.S. Highway 64, thence along U.S. Highway 64 to the junction of Tennessee Highway 97, thence along Tennessee Highway 97 to the Tennessee-Alabama State line. Gateways to be eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Greenwich, Conn. (3) New York. (4) Wheeling, W. Va.

No. MC 60014 (Sub-No. E247), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transpoirting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), from points in Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along U.S. Highway 5 to the Massachusetts-Connecticut State line to points in Tennessee. Gateways to be eliminated: (1) Between points in that part of Massachusettts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except pooints in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Greenwich, Conn. (3) Points in New York. (4) Wheeling, W. Va.

No. MC 60014 (Sub-No. E248), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), from points in Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line, extending along Massachusetts Highway 8 to the junction of Massachusetts Highway 116, thence along Massachusetts Highway 116 to the junction of Massachusetts Highway 112 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the junction of Massachusetts Highway 10, thence along Massachusetts Highway 10 to Massachusetts-Connecticut State line, to points in Kentucky. Gateways to be eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massacuhsetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Greenwich, Conn. (3) Points in New York. (4) Wheeling, W. Va.

No. MC 60014 (Sub-No. E249), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), from points in Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along U.S. Highway 8 to the junction of Massachusetts Highway 116, thence along Massachusetts Highway 116 to the junction of Massachusetts Highway 112 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-Connecticut State line, to points in Alabama. Gateways to be eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) Greenwich, Conn. (3) Points in New York. (4) Wheeling, W. Va.

No. MC 60014 (Sub-No. E250), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip structurals, tank parts, tubing and wire in coils*, (except commodities requiring special equipment), from points in Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along U.S. Highway 8 to the junction of Massachusetts Highway 116, thence along Massachusetts Highway 116 to the junction of Massachusetts Highway 112 to the junction of U.S. Highway 20, thence along U.S. Highway 20 to the junction of U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-Connecticut State line, to points in Mississippi. Gateways to be eliminated: (1) Between points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) points in Massachusetts on and east of U.S. Highway 5. (3) Greenwich, Conn. (4) points in New York. (5) Wheeling, W. Va.

No. MC 66014 (Sub-No. E251), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing* and *wire in coils*, (except commodities requiring special equipment), from points in Vermont, to points and places in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line extending along U.S. Highway 31E/231 to the junction of U.S. Highway 231, thence along U.S. Highway 231 to the junction of U.S. Highway 41, thence along U.S. Highway 41 to the junction of Tennessee Highway 55, thence along Tennessee Highway 55 to the junction of U.S. Highway Alternate 41, thence along U.S. Highway Alternate 41 to the junction of U.S. Highway 64, thence along U.S. Highway 64 to the junction of Tennessee Highway 97, thence along Tennessee Highway 97 to the Tennessee-Alabama State line. Gateways to be eliminated: (1) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Balwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.), (2) points in Massachusetts on and east of U.S. Highway 5. (3) Greenwich, Conn. (4) points in New York. (5) Wheeling, W. Va.

No. MC 60016 (Sub-No. E252), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip structurals, tank parts, tubing and wire in coils*, (except commodities requiring special commodities), from points and places in Vermont on and north of a line beginning at the New York-Vermont State line extending along U.S. Highway 4 to the Vermont-New Hampshire State line, to points and places in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line extending along U.S. Highway 127 to the Tennessee-Georgia State line. Gateways to be eliminated: (1) Points in that part of Massachusetts, on and east of a line beginning at the Massachusetts-New Hampshire State line and extending southwardly along U.S. Highway 202 to junction Massachusetts Highway 68 (at or near Baldwinville, Mass.), thence along Massachusetts Highway 68 to junction Massachusetts Highway 56 (at or near Hubbardston, Mass.), thence over Massachusetts Highway 56 to junction Massachusetts Highway 12 (near Rochdale, Mass.), thence along Massachusetts Highway 12 to the Massachusetts-Connecticut State line, (except points in Barnstable, Dukes, and Nantucket Counties, Mass.). (2) points in Massachusetts on and east of U.S. Highway 5. (3) Greenwich, Conn. (4) points in New York. (5) Wheeling, W. Va.

No. MC 107064 (Sub-No. E441), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.D. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* and *liquid fertilizer ingredients*, in bulk, in tank vehicles from points in Colorado to points in Mississippi on and south of a line commencing at the Arkansas-Mississippi State Line and extending along U.S. Highway 82 to the Mississippi-Alabama State Line, restricted against the transportation of chemicals. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company in Hale County, Tex.

No. MC 107064 (Sub-No. E442), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions* and *liquid fertilizer ingredients*, in bulk, in tank vehicles from points in Wyoming to points in South Carolina on and south of a line commencing at the Georgia-South Carolina State Line and extending along U.S. Highway 378 to Conway, thence along U.S. Highway 701 to the South Carolina-North Carolina State Line. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company, Hale County, Tex.

No. MC 107064 (Sub-No. E443), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients* (except liquid sulphur and petroleum products) from points in Illinois on and south of Illinois State Highway 2 to points in New Mexico on, south and west of a line beginning at the Colorado-New Mexico State Line and extending along U.S. Highway 84 to its intersection with U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Texas State Line, restricted against the transportation of chemicals. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company in Hale County, Texas.

No. MC 107064 (Sub-No. E444), filed December 19, 1975. Applicant: STEERE TANK LINE, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients* (except liquid sulphur and petroleum products) from points in Missouri on and south of Interstate Highway 70 to points in New Mexico in and south of Valencia, Torrance, Lincoln, De Baca and Roosevelt Counties, N. Mex., restricted against the transportation of chemicals. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company, Hale County, Texas.

No. MC 107064 (Sub-No. E445), filed December 19, 1975. Applicant: STEERE TANK LINE, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients* (except liquid sulphur and petroleum products) from points in Kentucky to points in New Mexico on, south and west of a line beginning at the Colorado-New Mexico State Line and extending along U.S. Highway 84 to its intersection with U.S. Highway, thence along U.S. Highway 66 to the New Mexico-Texas State Line, restricted against the transportation of chemicals. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company, Hale County, Tex.

No. MC 107064 (Sub-No. E446), filed December 19, 1975. Applicant: STEERE TANK LINE, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients* (except liquid sulphur and petroleum products) from points in that part of Alabama on, south and east of a line commencing at the Mississippi-Alabama State Line and extending along U.S. Highway 11 to Birmingham, Ala., thence along Interstate Highway 65 to the Alabama-Tennessee State Line to points in Wyoming, restricted against the transportation of chemicals. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company in Hale County, Texas.

No. MC 107064 (Sub-No. E447), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Fertilizer and fertilizer ingredients* (except liquid sulphur and petroleum products) from points in Georgia on and south of a line commencing at the Alabama-Georgia State Line and extending along U.S. Highway 78 to Atlanta, Ga.,

thence along Interstate Highway 20 to the Georgia-South Carolina State line to points in Wyoming, restricted against the transportation of chemicals. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company in Hale County, Tex.

No. MC 107064 (Sub-No. E448), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Dry fertilizer*, in bags, from points in Kansas to points in Arizona in and south of Yuma, Maricopa, Gila, Graham and Greenlee Counties, Ariz., restricted against the transportation of chemicals. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company in Hale County, Texas.

No. MC 107064 (Sub-No. E449), filed December 19, 1975. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients* (except petroleum products and potash) from points in Parmer, Castro, Swisher, Briscoe, Hall, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens, Yoakum, Terry, Lynn, Garza, and Kent Counties, Tex., and points on and west of U.S. Highway 83 in Childress, Cottle, King, and Stonewall Counties, Tex., to points in Minnesota. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company in Hale County, Texas.

No. MC 107064 (Sub-No. E450), filed December 19, 1975. Applicant: STEERE TANK LINE, INC., P.O. Box 2998, Dallas, Tex. 75221. Applicant's representative: H. L. Rice, Jr., P.O. Box 2998, Dallas, Tex. 75221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* and *fertilizer ingredients* (except liquid sulphur and petroleum products) from points in Alabama on and south of a line commencing at the Mississippi-Alabama State Line and extending along U.S. Highway 82 to Tuscaloosa, Ala., thence along U.S. Highway 11 to the Alabama-Georgia State Line to points in Colorado, restricted to the transportation of chemicals. The purpose of this filing is to eliminate the gateway of plant site of Occidental Chemical Company in Hale County, Tex.

No. MC 112070 (Sub-No. E126), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Minnesota, on the one hand, and, on the other, points in Masachusetts and New Jersey. The purpose of this filing is to eliminate the gateway of points in Illinois and Easton, Pa., and points in Pennsylvania within 15 miles, thereof.

No. MC 112070 (Sub-No. E127), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Housesold goods*, as defined by the Commission, (a) Between points in Massachusetts, on the one hand, and, on the other, points in Colorado, Kansas and Nebraska. (b) Between points in Massachusetts, on the one hand, and, on the other, points in Oklahoma. (c) Between points in Massachusetts, on the one hand, and, on the other, those points in Arkansas on and west of a line beginning at the Arkansas-Missouri State line, and extending along U.S. Highway 65, to junction U.S. Highway 79, to junction U.S. Highway 82, thence along U.S. Highway 82, to the Arkansas-Texas State line. (d) Between points in Massachusetts, on the one hand, and, on the other, points in Illinois and Missouri. The purpose of this filing is to eliminate the gateways of Easton, Pa., and points in Pennsylvania within 15 miles thereof, and points in Illinois, Iowa and Missouri.

No. MC 112304 (Sub-No. E86), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky, on, east and north of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 to junction U.S. Highway Alt. 41, thence south along U.S. Highway Alt. 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in North Carolina on and east of a line beginning at the North Carolina-Tennessee state line and extending along U.S. Highway Alt. 41, thence south along U.S. Highway Alt. 41 to Western Kentucky Parkway to U.S. Highway 31W, north along U.S. Highway 31W to West Point on the Ohio River, to points in Virginia on, south, and east of a line beginning at the Virginia-District of Columbia state line and extending along U.S. Highway 29 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Virginia-West Virginia state line and points on and east of a line beginning at the Virginia-Kentucky state line and extending along U.S. Highway 23 to the Virginia-Tennessee state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E94), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 to junction U.S. Highway Alt. 41, thence south along U.S. Highway Alt. 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in North Carolina on and east of a line beginning at the North Carolina-Tennessee state line and extending along U.S. Highway 321 to the North Carolina-South Carolina state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E109), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 to junction U.S. Highway Alt. 41, thence south along U.S. Highway Alt. 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in South Carolina on, east, and north of a line beginning at the South Carolina-North Carolina state line and extending along U.S. Highway 321 to junction U.S. Highway 76–378, thence along U.S. Highway 76–378 to junction U.S. Highway 521, thence along U.S. Highway 521 to Georgetown. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E95), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* which by reason of size or weight require the use of special equipment, from points in Kentucky on, east, and north of a line beginning at the Kentucky-Indiana state line and extending along U.S. Highway 41 to junction U.S. Highway Alt. 41, thence south along U.S. Highway Alt. 41 to junction Western Kentucky Parkway, thence east along Western Kentucky Parkway to junction U.S. Highway 31W, thence north along U.S. Highway 31W to West Point on the Ohio River, to points in North Carolina on and east of a line beginning at the North Carolina-Tennessee state line and extending along U.S. Highway 321 to the North Carolina-South Carolina state line. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3 to junction U.S. Highway 50 bypass to the Mississippi River on the Illinois-Missouri State line, to points in New York. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No MC 112304 (Sub-No. E110), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 bypass to the Mississippi River on the Illinois-Missouri State line, to points in New Jersey. The purpose of this filing is to eliminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 112304 (Sub-No. E111), filed October 15, 1976. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles*, which by reason of size or weight require the use of special equipment, from points in Illinois on and east of a line bounded at the Mississippi River on the Illinois-Missouri State line and extending along Interstate Highway 270, to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 158, thence along Illinois Highway 158 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction U.S. Highway 50 bypass to the Mississippi River on the Illinois-Missouri State line, to points in Delaware. The purpose of this filing is to elminate the gateway of the facilities of Consolidated Aluminum Corporation at or near Carrollton, Ky.

No. MC 113855 (Sub-No. E387) (Partial correction), filed July 2, 1976, published in the FEDERAL REGISTER issue of April 21, 1977, and republished, as corrected, this issue. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. S.E., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, (B) between points in Kansas on, west and north of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 281 to junction U.S. Highway 40, to junction U.S. Highway 283, to junction Kansas Highway 96, to the Kansas-Colorado State line, on the one hand, and, on the other, points in Ohio south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 6 to junction U.S. Highway 20, to junction U.S. Highway 13, to junction U.S. Highway 224 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of South Dakota.

NOTE.—The purpose of this partial correction is to correct the territorial description. The remainder of the letter-notice remains as previously published.

No. MC 113855 (Sub-No. E435), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Auhority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles*, (a) between points in Nebraska on and north of a line beginning at the Wyoming-Nebraska State line, thence along U.S. Highway 26 to junction U.S. Highway 385, thence northerly along U.S. Highway 385 to junction Nebraska Highway 2, thence easterly along Nebraska Highway 2 to junction Nebraska Highway 91, thence easterly along Nebraska Highway 91 to junction U.S. Highway 81, thence northerly along U.S. Highway 81 to junction Nebraska Highway 35, thence northeasterly along Nebraska Highway 35 to junction U.S. Highway 77, thence northerly along U.S. Highway 77 to the Nebraska-Iowa State line, on the one hand, and, on the other, points in Missouri; (b) between points in Nebraska south of the line described in (a) above and west of Nebraska Highway 14, on the one hand, and, on the other, points in Missouri on and east of a line beginning at the Illinois-Missouri State line, at or near Hannibal, thence westerly on U.S. Highway 36 to junction U.S. Highway 61, thence southerly on U.S. Highway 61 to junction Missouri Highway 19, thence southerly on Missouri Highway 19 to the Missouri-Arkansas State line; (c) between points in Wisconsin, on the one hand, and, on the other, points in Nebraska.

(d) Between points in Nebraska on and north of a line beginning at the Colorado-Nebraska State line at the point it is intersected by Interstate Highway 80S, thence northeasterly along Interstate Highway 80S to junction Interstate Highway 80, thence easterly along Interstate Highway 80 to junction U.S. Highway 183, thence northerly along U.S. Highway 183 to junction Nebraska Highway 91, thence easterly along Nebraska Highway 91 to junction U.S. Highway 77, thence northerly to the Nebraska-Iowa State line, on the one hand, and, on the other, points in Illinois; (e) between points in Nebraska south of the line described in (d) above and on and west of Nebraska Highway 14, on the one hand, and, on the other points in Illinois on and north of U.S. Highway 50; (f) between points in Nebraska east of a line beginning at the intersection of the Nebraska-Iowa State line and U.S. Highway 77, thence southerly along U.S. Highway 77 to junction Nebraska Highway 91, thence westerly along Nebraska Highway 91 to junction Nebraska Highway 14, thence southerly along Nebraska Highway 14 to junction U.S. Highway 6, thence northeasterly along U.S. Highway 6 to the Nebraska-Iowa State line, on the one hand, and, on the other, points in Lake and Cook Counties, Ill.

(g) Between points in Nebraska (except points south of U.S. Highway 6 and east of U.S. Highway 81, not including points on the named highways), on the one hand, and, on the other, points in Indiana on and east of a line beginning at the intersection of Interstate Highway 90 and the Illinois-Indiana State line, thence southeasterly to junction Interstate Highway 65, thence southeasterly along Interstate Highway 65 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Indiana Highway 7, thence southeasterly along Indiana Highway 7 to the Indiana-Kentucky State line at or near Madison, Ill.; (h) between points in Nebraska (except points south of a line beginning at the Nebraska-Colorado State line, easterly along U.S. Highway 34 to junction Nebraska Highway 14, thence northerly along Nebraska Highway 14 to junction U.S. Highway 30, thence easterly along U.S. Highway 30 to junction U.S. Highway 77, thence northerly along U.S. Highway 77 to the Iowa-Nebraska State line, on the one hand, and, on the other, points in Indiana south of the line described in (g) above; and (i) between points in Nebraska, on the one hand, and on the other, points in Michigan. The purpose of this filing is to eliminate the gateways of points in South Dakota.

No. MC 113855 (Sub-No. E441), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles* (a) between points in Colorado, on the one hand, and, on the other, (1) points in West Virginia, points in Indiana on and north of Interstate Highway 74, (2) points in Kentucky in and east of Mason, Fleming, Bath, Menifee, Breathitt, Knott and Letcher Counties (South Da-

kota, Davenport, Iowa, and Elgin, Ill.)* (b) (1) Between points in Colorado, on the one hand, and, on the other, points in New York on and east of U.S. Highway 15, points in Maryland on and east of Interstate Highway 81, points in Virginia on, north and east of a line beginning at the Virginia–West Virginia State line and extending along U.S. Highway 33 to junction U.S. Highway 301, to the Virginia-North Carolina State line, points in North Carolina State line, points in North Carolina in and east of Hertford, Bertie, Beaufort and Pemlico Counties, and the District of Columbia.

(2) Between points in Colorado (except Logan, Sedgwick, Phillips, Washington, Yuma, Lincoln, Kit Carson, Cheyenne, Kiowa, Prowers, Bent, and Baca Counties), on the one hand, and on the other, points in New York, west of U.S. Highway 15 and on and east of a line beginning at Lake Ontario and extending along New York Highway 98 to junction New York Highway 63, thence along New York Highway 63 to junction New York Highway 19, thence along New York Highway 19 to the New York-Pennsylvania State line (South Dakota and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway to junction Business U.S. Highway 15, near Fairplay, to junction U.S. Highway 15, to junction unnumbered highway through Clear Spring to junction U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described lines in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pennsylvania and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pennsylvania*, (c) between points in Colorado on and north of a line beginning at the Colorado-Kansas State line and extending along U.S. Highway 36 to junction U.S. Highway 6, to the Colorado-Utah State line, on the one hand, and, on the other, points in Indiana south of Interstate Highway 74 and on, north and east of a line beginning at the Indiana-Illinois State line and extending along Interstate Highway 70 to junction Indiana Highway 46, to junction Interstate Highway 65, to the Indiana-Kentucky State line; and points in Kentucky on and east of Kentucky Highway 61 (South Dakota, Davenport, Iowa, and Elgin, Ill.).* The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113855 (Sub-No. E442), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Metal and metal articles* (1) between points in Iowa on and west of U.S. Highway 71, on the one hand, and, on the other, points in New Jersey and Delaware; and (2) between points in Iowa on and west of U.S. Highway 50, on the one hand, and, on the other, points in Washington, D.C. The purpose of this filing is to eliminate the gateways of points in South Dakota and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15 near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.).

No. MC–113855 (Sub-No. E446), filed July 19, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, (A) (1) from points in Washington on and west of U.S. Highway 97 to points in Mississippi, (2) from points in Washington east of U.S. Highway 97 to points in Mississippi on and south of U.S. Highway 80, and (3) from points in Washington on and west of Interstate Highway 5 to points in Tennessee on and south of U.S. Highway 64; (B) (1) from points in Oregon to points in Mississippi, and (2) from points in Oregon on and west of U.S. Highway 97 to points in Tennessee; (C) (1) from points in Idaho on and south of Interstate Highway 80N to points in Mississippi on and south of Interstate Highway 20, and (2) from points in Boundary County, Idaho, to points in Mississippi on and south of U.S. Highway 84; and (D) (1) between points in Nevada on, west, and south of a line beginning at the Nevada-Oregon State Line and extending along Nevada Highway 51 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Utah-Nevada State Line, on the one hand, and, on the other, points in Tennessee, and (2) between points in Nevada east and north of the line described in (1) above, on the one hand, and, on the other points in Tennessee on and south of U.S. Highway 64. The purpose of this filing is to eliminate the gateway of California.

No. MC 113855 (Sub-No. E450) (Partial Correction), filed July 19, 1976, published in the FEDERAL REGISTER issue of April 21, 1977, and republished, as corrected, this issue. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and Metal articles*, (a) (i) between points in North Dakota, on the one hand, and, on the other, points in New in and east of Monroe, Livingston, and Steuben Counties, points in Maryland (except in and west of Frederick County), points in Virginia on and east of U.S. Highway 301, and points in North Carolina in and east of Hartford, Bertie, Martin, Beaufort, and Pamlico Counties: * * * (b) between points in South Dakota, on the one hand, and, on the other, points in New York on and east of Highway 15, points in Maryland (except Garrett County), the District of Columbia, points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along North Carolina Highway 87 to junction U.S. Highway 301, thence along U.S. Highway 301 to the North Carolina-South Carolina State line, and points in Virginia east of Alleghany, Rockbridge, Bedford, and Pittsylvania Counties (points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15), to junction Business U.S. Highway 15, near Fairplay to junction U.S. Highway 15, thence along U.S. Highway 15 at junction unnumbered highway (formerly portion U.S. Highway 15), through Clear Spring to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line) (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

NOTE.—The purpose of this partial correction is to correct the territorial description. The remainder of the letter-notice remains as previously published.

No. MC 116014 (Sub-No. E11), filed June 15, 1975. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Mississippi to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania (except Hazelton), Delaware, Maryland, District of Columbia, West Virginia, Ohio, Michigan, points in that part of Kentucky on and east of U.S. Highway 31–E, points in that part of Indiana on and east of a line beginning at the Kentucky-Indiana State line, thence along U.S. Highway 421 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 35, thence along U.S. Highway 35 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Winchester, Ky.

No. MC 125777 (Sub-No. E32), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Robert A. Tatge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in dump vehicles, from points in Iowa (except points on and south of Interstate Highway 80), to points in Delaware, Maryland, Virginia, North Carolina, South Carolina, Florida, Alabama, New York, Vermont, Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, and Georgia. The purpose of this filing is to eliminate the gateway of Bridgman, Mich.

No. MC 125777 (Sub-No. E42), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Robert A. Tatge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar pitch*, in bulk, in dump vehicles, from Chicago, Ill., to points in Ohio, Michigan, Minnesota, and points in Wisconsin (except points in Wisconsin on, south, and east of a line beginning at Lake Michigan and extending along Wisconsin Highway 29 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Wisconsin Highway 80, thence along Wisconsin Highway 80 to the Wisconsin-Illinois State line), points in Iowa (except points in Iowa on and east of a line beginning at the Iowa-Minnesota State line and extending along Iowa Highway 150 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Iowa-Missouri State line), points in Missouri (except points in Missouri on, south, east, and north of a line beginning at the Missouri-Illinois State line and extending along Interstate Highway 70 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Kentucky State line) and points in Kentucky (except points in Kentucky on, north, and west of a line beginning at the Illinois-Kentucky State line and extending along U.S. Highway 62 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Indiana State line). The purpose of this filing is to eliminate the gateway of Gary, Ind.

No. MC 125777 (Sub-No. E46), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Robert A. Tatge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, in bulk, from Chicago, Ill., to points in Minnesota, Michigan, Ohio (except points in Ashtabula, Cuyahoga, Lake, Summit, Muskingum, Licking, Franklin, Wayne, Geauga, Lorain, and Portage Counties), points in Pennsylvania, Kentucky, Wisconsin (except points on and south of U.S. Highway 10), points in Iowa (except points on and east of Interstate Highway 35). The purpose of this filing is to eliminate the gateway of the plant site of H. B. Reed & Company at Gary, Ind.

No. MC 125777 (Sub-No. E50), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Robert A. Tatge (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone, marble, granite*, and *gravel*, crushed, in bulk, in dump vehicle, from points in Mississippi, to points in Wisconsin and Minnesota. The purpose of this filing is to eliminate the gateways of Champaign, Ill. and Chicago, Ill.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–15045 Filed 5–25–77;8:45 am]

TRANSPORTATION OF HOUSEHOLD GOODS BY MOTOR COMMON CARRIERS

Conference on Agency Relationships

AGENCY: Interstate Commerce Commission.

ACTION: Notice that the Commission intends to conduct an informal conference on agency relationships between or affecting motor common carriers of household goods in interstate or foreign commerce.

SUMMARY: This notice is to inform the public that the Interstate Commerce Commission will conduct an informal conference on the agency relationships of motor common carriers of household goods subject to the jurisdiction of the Commission. The purpose of this conference is to discuss the extent (if any) to which the Commission's regulations governing those agency relationships require modification to make them more meaningful to the Commission and prospective agents while making them less burdensome to principal carriers. This notice lists several items which will be discussed at the informal conference and informs interested persons how they may be included in this conference.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. (202) 275–7292

SUPPLEMENTAL INFORMATION: The Interstate Commerce Commission proposes to conduct an informal conference on the agency relationships of motor common carriers of household goods in interstate or foreign commerce.

In Ex Parte No. MC–19 (Sub-No. 9), "Practices of Motor Common Carriers of Household Goods (Agency Relationship)," 115 M.C.C. 628 (1972), the Commission promulgated regulations governing the filing of agency agreements of principal carriers (49 CFR 1056.19) and the responsibilities and liabilities of principal carriers (49 CFR 1056.20). Section 1056.19 requires principal carriers to file copies of their agency agreements with the Commission and to file with those agency agreements a statement containing certain information, including evidence of the financial condition of the carrier's agent and a definite plan of action designed fully to police the acts, policies, procedures, and practices of agents. Under § 1056.20, principal carriers are required to use due diligence and reasonable care in selecting their agents, to disclose to each prospective agent all relevant information relating to the carrier's operations, and to assume absolute liability for the acts and omissions of their agents.

The Commission's Bureau of Operations has encountered several problems in the enforcement of these regulations. Among those problems are (1) the lack of a specific deadline for the filing of agency agreements, which results in carriers' failure to file those agreements promptly; (2) different treatment of agents as between different carriers; (3) lack of certainty as to the contents of the statement required by § 1056.19; (4) differing formats for the presentation of information required by § 1056.19(b), which prevents the Commission from making meaningful comparisons between the data submitted by various carriers; (5) failure of carriers to indicate the manner in which they intend to police their agents, as required by § 1056.19(b); (6) failure of the regulations in § 1056.20 to specify the contents of the disclosure statement which the principal carrier must give to a prospective agent; and (7) the filing of possibly unnecessary documents when an agent authorized by its principal to perform one type of service (*e.g.*, transportation of military shipments) is authorized by the principal to perform other services (*e.g.*, transportation of non-military shipments).

Accordingly, the Commission intends to conduct an informal conference at which the issues raised by its Bureau

of Operations will be discussed. The following questions will be among those on the agenda of that informal conference:

(1) What changes should be made to the provisions of 49 CFR 1056.19 to ensure that specific and meaningful information concerning agency agreements is filed with the Commission?

(2) Should principal carriers continue to be required to file copies of agency agreements when those agency agreements merely enlarge or contract the authority which the principal has previously given to the agent?

(3) Should a uniform agency statement form, which all carriers would be required to complete, be prescribed?

(4) Should a deadline be established within which the carrier must file copies of its agency agreements with the Commission?

(5) What changes, if any, should be made to the provisions of 49 CFR 1056.19(b)(7) to ensure that principal carriers institute and file copies of meaningful plans of action designed to police the acts and practices of their agents?

(6) Should 49 CFR 1056.20 be modified to require the principal carrier to furnish additional or more complete information to the prospective agent?

(7) Should principal carriers be required to furnish a prospective agent with the information required by §1056.20 at a specific time prior to the signing of an agency agreement?

Other aspects of agency relationships of household goods carriers will also be discussed at the informal conference if participants wish to do so.

Persons who intend to participate in this conference or who wish to have items relating to agency relationships considered as part of the agenda of this conference should submit their names, addresses, and proposed agenda items (if any) to:

Michael Erenberg,
Assistant Deputy Director,
Section of Operating Rights,
Office of Proceedings,
Interstate Commerce Commission,
Washington, D.C. 20423.

Participants should forward this information on or before June 15, 1977. The conference on agency relationships will be scheduled sometime during the month of July, 1977. It will be held at the Commission's offices at 12th and Constitution, N.W., Washington, D.C. Notice of the exact time and place of the conference, a copy of the conference agenda, and copies of any relevant written materials for use at that conference will be forwarded to those who inform the Commission of their desire to participate in this conference.

This conference will be informal and will be conducted by a member of the Commission's staff and attended by staff persons from the Office of Proceedings and Bureaus of Accounts, Operations and Investigations and Enforcement. No written submissions are required, and no transcript will be kept. All interested persons, including individuals, shippers, consumer groups, other government agencies, carriers, and carrier associations, are invited to participate.

If, as a result of this conference, it is determined that the institution of a rulemaking proceeding directed toward the elimination, modification, or adoption of certain regulations would be advisable, the Commission staff or parties present at the conference might propose the institution of such a rulemaking proceeding. Not all participants will be expected to be of like mind with respect to the effects or the desirability of any such proposals. Therefore, any request for the institution of a rulemaking proceeding as a result of this conference will reflect the diverse viewpoints of the conference participants, and the formal request for that rulemaking proceeding should discuss briefly the issues raised by all of the conference participants. The informal conference will not involve sworn testimony, cross examination, or evidentiary rulings. Matters discussed at this conference will not be binding upon the Commission, and may not later be relied upon by a party to an adversary or other formal proceeding as "proof". The Commission reserves to itself the right to deny any request for the institution of a rulemaking proceeding.

We hope that this conference will lead to more meaningful regulations governing agency relationships and will aid us in our attempt to ensure that principal carriers disclose fully to their agents the nature of their operations, to ensure that principal carriers furnish to the Commission meaningful information on the basis of which to analyze agency relationships, and to ensure that principal carriers adequately police the activities of their agents.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15078 Filed 5-25-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Commodity Credit Corporation.

TIME AND DATE: 10 am., June 1, 1977.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meeting on May 13, 1977.
2. Resolution re: Amendment of by-laws of Commodity Credit Corporation.
3. Docket CZ 157, Revision 3, Amendment 2 re: Policy and procedure governing the submission of dockets to the Board of Directors, CCC, and the handling of dockets considered by the Board.
4. Docket SCP 33a re: 1977-crop rice loan, purchase and payment program.
5. Docket SCP 40a re: 1977 tobacco loan program.

CONTACT PERSON FOR MORE INFORMATION:

James E. McMahon, Acting Secretary, Commodity Credit Corporation, Room 218-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone 202-447-6803.

[S-503-77 Filed 5-24-77;10:50 am]

2

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: May 31, 1977, 2 p.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: At the request of the Environmental Defense Fund (EDF), the Commission will meet with representatives of EDF to discuss Commission action on consumer products containing asbestos. On April 28, the Commission voted to ban certain asbestos-containing products, under section 8 of the Consumer Product Safety Act (CPSA). On May 12, EDF asked the Commission to take action on these products under section 12, the "imminent hazard" section of CPSA.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-491-77 Filed 5-24-77;9:08 am]

3

AGENCY HOLDING THE MEETING: Consumer Product Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: May 19, 1977, 42 FR 25826.

PREVIOUSLY ANNOUNCED TIME AND DATE: May 19, 1977, 9:30 a.m.

CHANGES IN THE MEETING: The Commission, at its May 19 meeting, deferred consideration of item 3 on its previously announced agenda, a Report on the Office of Public Participation and Financial Compensation, until the May 26 meeting. This item becomes item 4 on the May 26 agenda, which is revised elsewhere in this issue of the FEDERAL REGISTER.

In addition, by majority vote, the Commission voted to add the following item to the May 19 agenda. The matter was considered in closed session:

Tris litigation. The Commission discussed legal strategies related to the U.S. Appellate Court's decision of May 19, 1977, vacating a previous Order of the U.S. District Court concerning CPSC's actions on the flame-retardant chemical Tris. The Commission also approved, a press release clarifying the agency's position on the Tris matter.

[S-492-77 Filed 5-24-77;9:08 am]

4

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: May 19, 1977, 42 FR 25826.

PREVIOUSLY ANNOUNCED TIME AND DATE: May 26, 1977, 9:30 a.m.

CHANGES IN THE MEETING: The Commission voted on May 19 to defer consideration of the following item from its May 19 meeting to its May 26 meeting. The item will be the fourth item considered in the open portion of the meeting.

Report on the Office of Public Participation and financial compensation program. In January, the Commission approved establishment of an Office of Public Participation, and in March published proposed rules for financial compensation to assist consumers to participate in CPSC rulemaking activities. This report, prepared by a contractor, proposes a plan for establishing the office, and methods for implementing consumer participation.

[S-493-77 Filed 5-24-77; 9:08 am]

5

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: June 2, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Part is open; part is closed.

MATTERS TO BE CONSIDERED:

A. Portion open to the public: 1. *Staff evaluation of Christmas tree lights offers.* The Commission will discuss selection of an offeror to develop a recommended safety standard for miniature Christmas tree lights. The Commission sought these offers after making a preliminary determination that a standard is necessary to prevent or reduce an unreasonable risk of injury associated with these products.

2. *Petition to revoke matchbook standard, CP 77-13.* D. D. Bean & Sons Co., of Daffrey, New Hampshire, a matchbook manufacturer, has petitioned the Commission to revoke its safety standard for matchbooks, which was published May 4, 1977, and becomes effective May 4, 1978.

3. *Possible substantial product hazard: Greenfeed International Corp., hydroponic growing chambers, ID 76-142.* In this case involving possible shock hazards, the Office of the General Counsel has determined that the products are not consumer products, and the staff has recommended that the Commission close the case. The staff has forwarded information on the matter to the Occupational Safety and Health Administration and the California State Division of Industrial Safety.

4. *Possible substantial product Hazard: Fly & Walker, children's sleepwear, ID 77-33.* In this case involving possibly flammable sleepwear, the staff has recommended that the Consumer Product Safety Act case be closed, since the matter can be handled under the Flammable Fabrics Act.

5. *Possible substantial product hazard: Midland International Corp., hydraulic floor jack, ID 77-27.* The staff has rec-

ommended that the Commission close this case involving possibly defective jacks, since the staff has determined that the possible defect does not pose a substantial product hazard.

6. *Possible substantial product hazard: Wiremold Co., general use cord sets, ID 77-31.* The staff has recommended that the Commission close this case involving a possible shock hazard, since the staff has determined that the possible defect does not pose a substantial product hazard.

7. *Possible substantial product hazard: Robert Bosch Corp., electric-powered angle grinders, ID 76-139.* The staff has recommended that the Commission close this case, based on the firm's degree of success in completing its corrective action plan.

B. Portion closed to the public:

8. *Alleged violation of the Flammable Fabrics Act, OS Package No. 381.* This case involves possible violations of the mattress flammability standard by a firm with which the staff was unable to reach a consent order agreement.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 200, 1111 18th St., NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-502-77 Filed 5-24-77;10:51 am]

6

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

TIME AND DATE: June 1, 1977, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 111 18th St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Mid-year review, priority decisions. At this meeting, the Commission and staff will complete the mid-fiscal year review of the Commission's operating plan.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-501-77 Filed 5-24-77;10:50 am]

7

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 10 a.m., Tuesday, May 31, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open en banc meeting.

MATTERS TO BE CONSIDERED: This is one of the regular monthly open en banc meetings which provide citizens and public interest and industry groups an opportunity to present their views on a wide range of communications policy issues directly to the seven members of the Commission. The Commission regards the exchange of ideas as an important contribution to its decision-making process. The participants at the May 31st meeting will be: Community Antenna Television Association (30 minutes); National Education Association (30 minutes); Call for Action (30 minutes).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: May 23, 1977.

[S-498-77 Filed 5-24-77;8:46 am]

8

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

TIME AND DATE: 11 a.m., May 31, 1977.

PLACE: Board Room, Sixth Floor, FDIC Building, 530 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Election of a new Chairman to succeed outgoing Chairman Robert E. Barnett, who has resigned as a member of the Corporation's Board of Directors effective the close of business, June 1, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary of the Corporation (202-389-4446).

[S-489 Filed 5-24-77;9:08 am]

9

AGENCY HOLDING MEETING: Federal Power Commission.

MAY 18, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 8552B:

TIME AND DATE: May 25, 1977, 2 p.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.) NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202-275-4166.

This is a list of the matters to be considered by the commission. It does not include a listing of all persons relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA, 7619TH MEETING—MAY 25, 1977; REGULAR MEETING—PART I

P-1 Docket Nos. E-7795, E-7789, Philadelphia Electric Co.

P-2 Docket Nos. E-8586, et al., Public Service Co., Indiana, Inc.

P-3 Docket Nos. ER77-5, ER77-6, ER77-7, E-9544, and E-8152, Otter Tail Power Co.

P-4 Docket No. ER77-175, Florida Power & Light Co.

P-5 Docket No. ER77-131, Portland General Electric Co.

P-6 Docket No. ER77-211, Mt. Carmel Public Utility Co.

P-7 Docket No. ER77-336, Oklahoma Gas & Electric Co.

P-8 Docket No. E-9587, Upper Peninsula Power Co.

P-9 (A) Docket No. ER77-339, West Texas Utilities Co.
(B) Docket Nos. ER76-747, ER76-753, West Texas Utilities Co. (West Texas).

P-10 Docket No. ER77-131, Portland General Electric Co.

P-11 Docket No. E-9563, U.S. Department of the Interior, Bonneville Power Administration.

P-12 Docket No. E-7671, Blanding Paper Co., et al.

P-13 Project No. 2758, Brown Co.

GAS AGENDA, 7619TH MEETING—MAY 25, 1977; REGULAR MEETING—PART I

G-1 Docket No. RP76-10, Arkansas Louisiana Gas Co.

G-2 Docket No. RP76-93, Kentucky West Virginia Gas Co.

G-3 Docket No. RP74-82, Columbia Gas Transmission Co.

G-4 Docket No. RP76-50, El Paso Natural Gas Co. (Rate Design).

G-5 Docket No. RP76-50, El Paso Natural Gas Co.

G-6 Docket No. RP76-144, *Fort Pierce Utility Authority, et al.*, Complainants v. *Florida Gas Transmission Co.*, Respondent.

G-7 FPC Gas Rate Schedule Nos. 7 and 10, the Louisiana Land & Exploration Co.

G-8 FPC Gas Rate Schedule No. 1, Alfred J. Smith.

G-9 Docket No. R-389-B, File No. 386-668, Placid Oil Co., et al.

G-10 Docket No. CP77-130, Northern Natural Gas Co.

G-11 Docket No. CP74-33, Transcontinental Gas Pipe Line Corp.

G-12 Docket No. CP77-327, Natural Gas Pipeline Co. of America, Columbia Gulf Transmission Co. and Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.

G-13 Docket Nos. CP73-283 and CP73-284, Consolidated System LNG Co.

POWER AGENDA, 7619TH MEETING—MAY 25, 1977; REGULAR MEETING—PART II

CP-1 Docket No. ER77-323, Indiana & Michigan Electric Co.

CP-2 Docket No. ER77-355, Southern California Edison Co.

CP-3 Docket No. ER77-332, Indiana & Michigan Electric Co.

CP-4 Docket No. ER77-309, Monongahela Power Co., West Penn Power Co.

CP-5 Docket No. ES77-17, Kentucky Utilities Co.

CP-6 Project No. 1746, E. L. Cord.

CP-7 Project No. 1927, Pacific Power & Light Co.

CP-8 Project No. 2205, Central Vermont Public Service Corp.

GAS AGENDA, 7619TH MEETING—MAY 25, 1977; REGULAR MEETING—PART II

CG-1 Docket No. RP77-61, McCulloch Interstate Gas Corp.

CG-2 Docket No. RP77-56, Northern Natural Gas Co.

CG-3 Docket Nos. RP77-54 and RP77-55, Arkansas Louisiana Gas Co.

CG-4 Docket No. RP77-59, South Texas Natural Gas Gathering Co.

CG-5 Docket No. RP77-60, Michigan Wisconsin Pipe Line Co.

CG-6 Docket No. RP77-64, Valley Gas Transmission, Inc.

CG-7 Docket No. RP77-5, Kansas-Nebraska Natural Gas Co., Inc.

CG-8 Docket No. CI76-770, Amoco Production Co.

CG-9 Docket No. CI76-731, Wise Oil Co.

CG-10 Docket Nos. CI77-147, et al., Kerr-McGee Corp., et al.

CG-11 Docket No. CP76-267, Texas Gas Transmission Corp.; Docket No. CP77-154, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., East Tennessee Natural Gas Co.

CG-12 Docket No. CP77-296, Texas Gas Transmission Corp.; Docket No. CP77-310, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., East Tennessee Natural Gas Co.

CG-13 Docket Nos. CP74-82 and CP74-83, Utah Gas Service Co.; Docket No. CP74-158, Northwest Pipeline Corp.

CG-14 Docket No. G-10012, et al., Coastal States Gas Producing Co., et al.

CG-15 Docket Nos. CP77-56 and CP77-117, Baca Gas Gathering System, Inc.; Docket No. CP77-91, Panhandle Eastern Pipe Line Co.

CG-16 Docket No. CP77-284, Locust Ridge Gas Processing Co.

CG-17 Docket No. CP72-181, Panhandle Eastern Pipe Line Co.

CG-18 Docket No. CP76-497, United Gas Pipe Line Co.

CG-19 Docket No. CP77-134, Trunkline Gas Co.

CG-20 Docket No. CP77-71, Natural Gas Pipeline Co. of America; Docket No. CP77-118, Columbia Gas Transmission Corp. and Columbia Gulf Transmission Corp.; Docket No. CP77-125, Texas Gas Transmission Corp.

CG-21 Docket No. CP76-90, Kansas-Nebraska Natural Gas Co., Inc.

MISCELLANEOUS AGENDA, 7619TH MEETING—MAY 25, 1977; REGULAR MEETING—PART II

CM-1 The Inland Gas Co., Inc.

CM-2 Commission Minutes.

CM-3 RM74-16, Natural gas companies annual report of proved domestic natural gas reserves, FPC Form No. 40.

KENNETH F. PLUMB,
Secretary.

[S-495-77 Filed 5-24-77; 9:08 am]

10

AGENCY HOLDING MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 26287, April 23, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 25, 1977, 2 p.m.

CHANGE IN THE MEETING: The following items have been added to the agenda upon the affirmative vote of Chairman Dunham, Commissioners Smith, Holloman, and Watt.

P-16 State Director, Bureau of Land Management, Sacramento, California (S017065).

P-17 Docket No. E-7740, Indiana & Michigan Electric Co.

P-18 Project No. 516, Docket No. E-7991, South Carolina Electric & Gas Co.

G-23 Docket No. RP77-18, El Paso Natural Gas Co.

The following items have been added to the agenda upon the affirmative vote of Chairman Dunham, Commissioners Smith and Watt.

G-24 Docket No. RI77-33, Clay J. Calhoun.

G-25 Docket No. CP75-362, El Paso Natural Gas Co.

KENNETH F. PLUMB,
Secretary.

[S-490-77 Filed 5-24-77;9:08 am]

11

AGENCY HOLDING MEETING: Federal Power Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 26283, April 23, 1977.

PREVIOUSLY ANNOUNCED TIMES AND DATES OF MEETINGS: May 25, 1977, 2 p.m.

CHANGE IN THE MEETING: The above meeting has been changed to May 24, 1977, at 2 p.m., upon the affirmative vote of Chairman Dunham, Commissioners Smith and Watt.

KENNETH F. PLUMB,
Secretary.

[S-494-77 Filed 5-24-77;9:08 am]

12

AGENCY HOLDING THE MEETING: Federal Reserve System.

ADDITION OF PREVIOUSLY ANNOUNCED AGENDA ITEM

The Board of Governors has previously announced a meeting to be held on Monday, May 23, 1977, which will be closed to public observation under exemption(s) of the Government in the Sunshine Act (5 U.S.C. 552b(c)). One of the items announced for inclusion at that meeting was consideration of any agenda items carried forward from a previous meeting. The purpose of this announcement is to inform the public that the following such item, postponed from May 20, 1977, will be considered at this meeting:

Positions to be taken on proposed legislation regarding the operations of foreign banks in the U.S.

The previously announced closed item for the May 23, 1977 meeting is:

Draft testimony to be presented before the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations, regarding S. 600, the Regulatory Reform Act of 1977, which sets out a procedure for the submission of regulatory reform proposals by the President according to an eight-year schedule.

The meeting will be held at 10 a.m. in the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board at 202-452-3204.

Board of Governors of the Federal Reserve System, May 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-496-77 Filed 5-24-77;9:08 am]

13

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 10 a.m., Tuesday, May 31, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Nonadjudicative matters. The Commission has not yet scheduled any Nonadjudicative items for discussion at this meeting.

Adjudicative matters under Part 3 of the rules of practice. The Commission has not yet scheduled any Adjudicative items for discussion at this meeting.

If no item is placed on the agenda by 10 a.m., on May 31, 1977, the meeting will automatically be cancelled. Any items that are placed on the agenda before that time will be announced in accordance with the Additional Information Procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information (202-523-3830); Recorded Message: 202-523-3806.

[S-500-77 Filed 5-24-77;10:02 am]

14

AGENCY HOLDING THE MEETING: Federal Trade Commission.

TIME AND DATE: 11 a.m., Wednesday, June 1, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Discussion of proposed rules changes and additions dealing with assurance of confidentiality with regard to and protection of confidential business information.

(2) Report from general counsel on congressional matters.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information (202-523-3830); Recorded Message: 202-523-3806.

[S-499-77 Filed 5-24-77;10:02 am]

15

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Wednesday, May 25, 1977.

CHANGES IN THE MEETING:

Item 8 is added respecting Commission consideration of a proposed letter of comment to the House Committee on Interstate and Foreign Commerce concerning H.R. 2386, H.R. 1758, and H.R. 1759. H.R. 2386 and H.R. 1758 would amend Section 13 of the Securities Exchange Act of 1934 to require certain investors to disclose certain information concerning their identity and background, including disclosure of their nationality, residence, and personal financial statements. H.R. 1759 proposes to protect American corporations and workers from foreign control and to encourage diversification of foreign investments in domestic industries.

Item 9 is added and relates to consideration of the proposed notification to the Federal Reserve Board of a staff study concerning the regulatory impacts resulting from the elimination of exchange off-board trading rules on market-making functions, including the effect on market making of existing margin requirements.

Item 5 is amended by changing the name "One Liberty" to "Merrill Lynch".

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to approve the above changes.

Dated: May 20, 1977.

[S-497-77 Filed 5-24-77;9:08 am]

federal register

THURSDAY, MAY 26, 1977

PART II

COMMODITY FUTURES TRADING COMMISSION

■

FUTURES COMMISSION MERCHANTS

Minimum Financial Requirements; Proposed Rulemaking

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

FUTURES COMMISSION MERCHANTS

Minimum Financial Requirements; Proposed Rulemaking

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rule changes would amend the minimum financial requirements imposed upon futures commission merchants and would change the computational formula used to determine whether a futures commission merchant meets those requirements. These revisions appear necessary in light of recent significant expansions in the size of, and changes in the nature of, the commodity futures trading industry, the increase in the number and types of persons who are subject to regulation by the Commodity Futures Trading Commission, and the resulting increased demands upon the limited audit resources of the Commodity Futures Trading Commission. In addition, many futures commission merchants are currently subject to divergent and duplicative minimum financial and related reporting requirements which result in unnecessary costs to registrants and substantial regulatory inefficiency. The intended effects of the proposed rule changes would be: (1) To impose minimum financial requirements upon futures commission merchants which would become the basis of an effective early warning system giving advance notice of the deterioration of a futures commission merchant's financial condition; (2) to increase regulatory efficiency; (3) to reduce the undue burden imposed upon futures commission merchants by duplicative minimum financial and related reporting requirements by, among other things, enabling those futures commission merchants which are also registered as securities broker-dealers to file the same financial reports with both the Commodity Futures Trading Commission and the Securities and Exchange Commission; (4) to establish a uniform computational formula for use in the futures industry; and (5) to facilitate the development of a registered futures association pursuant to section 17 of the Commodity Exchange Act, as amended (7 U.S.C. 21 (Supp. V, 1975)).

DATES: Comments on the proposed rule changes should be submitted by November 1, 1977, to the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

John L. Manley, Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-5218.

SUPPLEMENTARY INFORMATION:

On October 6, 1976, the Commodity Futures Trading Commission ("Commission") proposed amendments to §§ 1.10, 1.17 and 1.18 of the regulations under the Commodity Exchange Act, as amended ("Act"), 17 CFR 1.10, 1.17 and 1.18, and new regulations 1.10a and 1.16. 41 FR 45706 (October 15, 1976). These proposals would (1) require that financial reports submitted by futures commission merchants ("FCM's") be audited annually by independent public accountants, (2) increase the frequency of financial reports, (3) expand the content of such reports, (4) require that copies of these annual reports be sent to customers, (5) require that futures commission merchants compute their minimum capital requirements on a monthly basis, and (6) make these requirements uniform throughout the futures industry. In announcing these proposed rule changes, the Commission stated that these proposals were the first in a series of substantial revisions which would shortly be proposed in the financial and related reporting requirements imposed upon futures commission merchants under commission regulations. In response to the October 6, 1976 proposals, numerous comments were received requesting that the Commission publish all stages of its proposed revisions before taking final action on any stage. This has been the Commission's intent from the outset. The Commission is at this time proposing a uniform minimum capital rule which would be applicable to all futures commission merchants. Within the next few weeks an improved early warning system based upon this rule will also be proposed; and the Commission anticipates that shortly thereafter a rule will be proposed which would permit the responsibility for monitoring an FCM's financial status to be delegated to a single contract market or other self-regulatory organization.

The Commission emphasizes that the proposal of these rules represents the initiation of extensive, public rule-making proceedings which the Commission hopes will result, with the cooperation and participation of the futures industry and the public in general, in the development of uniform financial standards and related reporting requirements which are particularly appropriate for the modern FCM community. The Commission intends to publish and to conduct public hearings on all four of these proposals before taking final action on any of them. The Commission cannot give sufficient emphasis to the degree of public participation it desires in this rule-making effort. The subject of minimum financial standards and related reporting requirements for FCM's is by its very nature complex, as are the problems with which such standards and requirements must deal. Accordingly, the Commission believes that appropriate rules can be developed in this area only through extensive public participation in this rule-making effort.

Shortly after the October 6, 1976 proposal, the Commission received a joint submission from the Chicago Board of Trade and the Chicago Mercantile Exchange ("CBT–CME proposal") proposing the adoption by those contract markets of revised minimum financial standards and related reporting requirements for FCM's which are members of those exchanges.[1] In addition, numerous comments were received in response to the Commission's October 6, 1976 proposal, suggesting that the Commission adopt the minimum capital rule currently imposed upon securities brokers and dealers by the Securities and Exchange Commission "(SEC"), 17 CFR 240.15c3–1. In light of the need for extensive public participation in developing appropriate rules in this area, the Commission believes it is appropriate to request comment at this time on the CBT–CME proposal and the SEC's minimum capital rule as well as on the proposed revisions to the Commission's own minimu financial requirements. For convenience, the CBT–CME proposal has been included as an appendix to this release. Copies of the SEC minimum capital rule may be obtained from any public library which has a copy of the Code of Federal Regulations or from any one of several commercial securities publishers.

General Summary of Proposed Revisions to the Commission's Minimum Financial Rule

The Commission believes it has an affirmative responsibility to promulgate and to enforce rules and regulations which insure, to the extent practicable, that commodity customers are protected from substantial losses of funds due to the financial failures of futures commission merchants. This responsibility necessarily encompasses a duty to monitor developments in the commodity futures industry in order to determine whether the Commission's current regulatory approach is adequate in light of recent and anticipated changes in the industry. Customers trading in regulated commodity futures contracts have historically been protected from substantial losses of funds due to FCM financial failures as a result of a combination of factors, including: The willingness on the part of the FCM community to absorb customer losses resulting from the financial failures of FCM's; direct auditing the FCM's by the Commission and its predecessor, the Commodity Exchange Authority ("CEA"), and, more recently, by contract markets; and the requirement that

[1] The current minimum financial standards and related reporting requirements of the Chicago Board of Trade and of the Chicago Mercantile Exchange were approved by the Commodity Exchange Authority, a predecessor of the Commisison, pursuant to section 4f(2) of the Act. As a result, those FCM's which are members of either contract market and conform to the current minimum financial standards and related reporting requirements of that contract market were exempted from the present requirements of regulation 1.17(a).

the funds of customers be segregated. The Commission believes that recent and anticipated changes in the industry are producing a situation in which the protection afforded commodity customers by each of these elements will be significantly reduced.

Assumption of Customer Losses by FCM's

While the Commission recognizes that customers trading in futures contracts regulated under the Act have historically suffered only minimal losses as the direct result of FCM financial failures, the Commission is also aware that additional customer losses which would otherwise have been borne by customers have been voluntarily absorbed by the FCM community. The Commission questions whether, in light of recent industry expansion and the proliferation of FCM's which are not members of any contract market, the FCM community will continue to be willing to absorb such customer losses.

The amount of customer funds required to be segregated pursuant to the Act and the regulations thereunder, and hence the amount of funds which could be jeopardized by FCM failures, has increased dramatically as a result of recent growth and the increased number of commodities subject to regulation under the Act as a result of the Commodity Futures Trading Commission Act of 1974 ("CFTC Act"). This increase is reflected in the fact that the average segregation requirement for FCM's audited by the Commission's staff has grown from $213,517 in 1970 and $459,209 in 1971 to $2,105,809 in 1976. Consequently, the size of the average loss the FCM community would be called upon to absorb in the future as the result of an FCM's financial failure will be considerably larger than it has been in the past. The Commission questions both the willingness and the ability of the FCM community to absorb losses ten or more times as large as those of the recent past.

Perhaps even more significant in this regard is the recent increase in the number of non-member FCM's. On March 1, 1974, there were less than twenty non-member FCM's, 9% of the FCM community. Today there are close to 100 non-member FCM's, comprising over 30% of all FCM's. Moreover, this trend appears to be accelerating, due in part to the advent of fully negotiated commission rates. While FCM's may be willing to absorb potential customer losses which arise as the result of the failure of another FCM which is a member of the same contract market, especially when influenced to do so by the contract market, the Commission questions whether such FCM's will be willing to absorb customer losses resulting from the failure of a non-member FCM.

Direct Auditing of FCM's

Industry growth and the increased scope of regulation under the Act as a result of the CFTC Act have led to a significant increase in the number of FCM's registered with the Commission. In addition, since January 17, 1977, persons who accept funds from customers for the purchase or sale of commodity options have been required to register as futures commission merchants.[2] These factors have combined to increase the number of persons registered with the Commission as FCM's from 224 on March 1, 1974 to over 300 on March 1, 1977.

Despite these recent increases in the number of registered FCM's, the size of the Commission's audit staff has remained, and must, due to budgetary constraints, remain, relatively constant. As a result, the effectiveness of the Commission's direct audit program has been significantly reduced. Prior to requiring persons engaging in commodity option transactions to register as futures commission merchants, the Commission had sufficient audit resources to conduct audits of most FCM's once every fifteen to eighteen months.[3] The Commission believes this is too long an interval to permit effective monitoring of the financial status of an FCM and to insure compliance with the segregation requirements under the Act. With the addition of options dealers to the ranks of registered FCM's, this interval must necessarily increase. In addition, the inclusion of commodity pool operators within the regulatory responsibilities of the Commission has placed even further burdens on the Commission's audit staff.

The recent expansion and diversification of the industry present similar obstacles to the effectiveness of contract market auditing efforts with respect to their member FCM's. In addition, as previously noted, the number of FCM's which are not members of any contract market has risen markedly in recent months. Non-member FCM's are, of course, beyond the scope of contract market audit programs. While such FCM's could be subject to the surveillance programs of a registered futures association established pursuant to section 17 of the Act (a "Title III Association") the Commission believes that the recent expansion and diversification of the FCM community makes principal reliance on direct auditing by any regulatory organization an unacceptably inefficient regulatory tool.

Segregation

The primary safeguard against the loss of customer funds resulting from the financial failure of an FCM is the segregation requirements of the Act and Commission regulations. However, these segregation requirements can provide effective customer protection only if they are complied with. The Commission's audit staff frequently detects significant violations of its segregation requirements, including substantial undersegregation, regardless of whether the FCM involved has $25,000 in customer funds on deposit or $25,000,000. Moreover, the Commission has found generally that when FCM's encounter financial difficulties, the incidence of such violations, especially the incidence of undersegregation, increases appreciably. Therefore, the Commission does not believe it can fulfill its statutory mandate to protect customer funds by relying solely on segregation.

The Commission's Minimum Financial Rule

For the reasons set forth above, the Commission believes it is necessary to place increased reliance on its minimum financial rule to safeguard commodity futures customers from losses resulting from the financial failures of futures commission merchants. In light of this, the Commission believes its current minimum financial rule should be improved in several essential areas: The treatment of long-term debt, of unsecured receivables from commodity customers, and of unsecured trade receivables; the manner in which safety factors on open futures positions are calculated; the development of appropriate safety factors with respect to commodity options; and the amount of minimum capital which is necessary for registration as an FCM. The Commission's proposed revisions would eliminate the ability of FCM's to finance their brokerage operations almost exclusively through the use of long-term debt, a major shortcoming of the current rule. They would also reduce the amount of time unsecured receivables from customers and unsecured trade receivables could remain outstanding and still be included as current assets in computing an FCM's financial status. Safety factors on open customer and proprietary futures positions would be based upon the relative volatility of a contract rather than on the market value of the contract. A similar approach would be used in computing the safety factors on commodity options. Under the proposed revisions an FCM would be required to maintain adjusted net capital of at least $25,000 or 6⅔% of aggregate indebtedness, whichever is greater, as opposed to the present adjusted working capital requirements of $10,000 and 5% respectively. In addition, under the proposed revisions an FCM would be able to compute its minimum financial requirements under an entirely new and alternative method based upon the amount of customer funds required to be segregated by the FCM.

Uniformity

The Commission believes it is essential that all FCM's be required to maintain an adequate minimum amount of net

[2] See 41 FR 51808 (November 24, 1976).

[3] The Commission conducts both general and segregation audits of those FCM's which are not members of either the Chicago Board of Trade or the Chicago Mercantile Exchange, while it normally conducts only segregation audits of FCM's which are members of either of those contract markets.

While periodic audits of FCM's are conducted by the Commission's staff only once every 15 to 18 months, more frequent audits have been and will continue to be conducted of certain FCM's where such increased frequency appears necessary to insure the safety of customer funds and compliance with the Act and Commission regulations.

capital in order to be registered as FCM's and to retain such registration. This minimum must be sufficiently high to provide commodity customers with adequate protection in light of current conditions in the industry. As discussed above, the Commission believes certain changes are necessary in its current minimum financial rule to insure such an adequate minimum net capital level. Since, under the current regulatory structure of the futures industry, an FCM may be subject to the minimum financial requirements of the Chicago Board of Trade or the Chicago Mercantile Exchange rather than those of the Commission, the rules of these contract markets must also require FCM's to maintain an adequate minimum level of net capital. The Commission does not believe that the current minimum financial requirements of these exchanges establish adequate minimum capital levels for entrance into and continuance in the FCM business. In light of this, and for the reasons set forth below, the Commission believes it is appropriate at this time to utilize the public rule-making forum to develop a uniform minimum financial rule for use throughout the futures industry. Such a rule must, in the Commission's view, accomplish two objectives. First, and most importantly, it must establish a uniform method for evaluating an FCM's financial status. Secondly, it must establish for the entire FCM community one standard minimum financial prerequisite to registration as an FCM.[4] The Commission's proposed rule changes would accomplish these objectives.

The establishment of a single uniform rule for use in the futures industry, with the authority for interpretation of the rule vested in the Commission, would also eliminate the unnecessary regulatory burden placed upon FCM's by the existence of multiple minimum financial rules. There are currently three different minimum financial rules used in the commodity futures industry to monitor the financial status of FCM's. Under the present regulatory structure in the industry, many FCM's are subject to two of these rules simultaneously. The establishment of a uniform rule, for use in the industry would relieve these FCM's of the burden of complying with two different rules simultaneously.[5]

The existence of several different minimum financial rules also hinders the development of an effective financial surveillance program by a Title III Association. If an FCM is a member of two different contract markets with two different financial rules, a Title III Association responsible for monitoring the financial status of the FCM for both these contract markets must learn and apply the differing rules of both contract markets to the FCM. If, as discussed more fully below, each contract market is required to adopt and to enforce its own minimum finnancial rule, this problem could be compounded ten-fold.

Over 50 FCM's, representing approximately one-half of all commodity customer business in the futures industry, are also registered with the Securities and Exchange Commission as securities brokers or dealers and are accordingly subject to the minimum financial rule of that agency. As a result, many FCM/broker-dealers are currently subject to as many as three different minimum financial rules simultaneously. The major revisions which the Commission believes must be made in its minimum financial rule to provide for effective regulation of the FCM community would, to a great extent, eliminate the major differences between the Commission's rule and the minimum financial rule imposed upon brokers and dealers by the SEC. In an effort to eliminate the duplicative regulatory burden to which joint FCM/broker-dealer registrants are subject, the Commission is also proposing several minor changes in its current minimum financial rule, in addition to those necessitated by changes in the commodity futures industry and the scope of regulation under the Act, which would eliminate many of the minor differences between the Commission's proposed rule and that of the SEC. Nonetheless, certain differences remain between the Commission's proposal and the rule of the SEC. Cooperative efforts have begun between the Commission's staff and representatives of the SEC which, with the benefit of comments submitted by the public in response to this proposal, the Commission anticipates will result in the resolution of many of these differences before final action is taken on this proposal. The Commission believes that the few differences which might remain between the Commission's rule and that of the SEC after culmination of these cooperative efforts would be applicable only to those FCM's which also engage in a cash commodity, manufacturing or cooperative business—businesses in which few, if any, FCM/broker-dealers engage. Moreover, the Commission anticipates that the nature of these differences will be such that an FCM complying with the SEC's minimum financial rule would also be in compliance with that of the Commission in that the minimum capital requirements of the SEC would in all instances be more stringent than those of the Commission.[6] If such uniformity is attained, those FCM's which are also registered with the SEC as securities broker-dealers will be able to comply with the Commission's financial reporting requirements by simply filing copies of the SEC's FOCUS Report[7] with the Commission.

CASH HOUSES AND PRODUCERS

Several comments received by the Commission in response to its October 6, 1976 proposal argued that application of a minimum financial rule similar in theoretical basis to that employed by the SEC would needlessly exclude a certain class of futures commission merchants from the FCM business to the detriment of the commodity futures industry. This class of FCM's is composed of firms whose primary business is other than the brokerage business and whose FCM business is merely incidental to their primary business activities (such as manufacturers, processors of commodities, and cooperative associations). These firms typically make extensive use of long-term debt to finance their primary business activities. Since many of the assets acquired by such firms through the use of long-term debt would not fall within the definition of "current assets" in the proposed revisions to regulation 1.17, precluding such firms from using such assets to offset long-term debt in evaluating their financial status may make it impossible for these firms to comply with the Commission's proposed minimum financial requirements.

[4] The establishment of a standard minimum financial prerequisite for registration as an FCM would not, however, preclude contract markets from establishing, where appropriate, stricter financial requirements for their member FCM's than those set forth in the Commission's proposed rule. For example, a contract market might reasonably conclude that a higher minimum net level should be required for membership in the contract market's clearing organization. However, the computational formula used to determine compliance with such stricter requirements would be the same throughout the futures industry. See n. 5.

Similarly, it may be appropriate for the Commission to establish higher minimum net capital requirements for those FCM's which are not members of a contract market or other self-regulatory organization which adopts and enforces through an effective surveillance program adequate minimum net capital requirements for its members. The Commission specifically requests comment on the appropriateness of such higher standards, especially in light of the Commission's responsibility under section 15 of the Act to utilize the "least anticompetitive means of achieving the objectives" of the Act. However, as with stricter contract market requirements, the computational formula used to determine compliance with such requirements would be those of the uniform rule.

[5] While FCM's might still be required to comply with different minimum financial standards by different contract markets, the establishment of a single uniform rule by the Commission, utilizing a uniform method of computing an FCM's net capital, would eliminate the necessity of computing an FCM's financial status pursuant to several significantly different computational formulas. As a result, an FCM would only have to demonstrate compliance with the most stringent minimum financial requirements to which it is subject to demonstrate compliance with all other such rules.

[6] For example, under the Commission's proposed rule, unsecured receivables resulting from the marketing of commodities may, in certain circumstances, be included in computing an FCM's net capital. Under the SEC's current rule, such receivables may never be included in computing a broker-dealer's net capital. If this difference should remain after adoption of the Commission's proposed rule changes, an FCM/broker-dealer whose net capital satisfies the minimum requirements of the SEC would also satisfy those of the Commission in that net capital computed without including the unsecured receivables referred to above can never be greater than net capital computed by including such receivables.

[7] The Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934.

The Commission believes that the exclusion of such firms from the FCM business may be unnecessary in terms of customer protection and detrimental to the futures industry. Accordingly, the proposed revisions to regulation 1.17 would permit an FCM to reduce its liabilities in evaluating its financial status to the extent of the net book value of plant, property, and equipment used in the processing, manufacturing, storage or shipment of commodities, their products and by-products for a reportable segment of the firms' business, but not for the brokerage segments.[8] Such assets could not be used to offset the long-term debt, however, if they have been included in current assets. The Commission believes this represents an acceptable approach to these firms whose primary business is other than the brokerage business. However, the Commission requests comment on the appropriateness of this approach and on alternative methods of treating such FCM's.

UNIFORMITY AND THE CBT–CME PROPOSAL

The CBT–CME proposal would deal with duplicative minimum financial requirements and the existence of FCM's whose primary business is other than the brokerage business by developing a rule for all their nonbroker/dealer FCM members which can be complied with by those few members whose FCM business is incidental to their primary business and by exempting from this rule those FCM's which are also securities brokers or dealers and comply with the minimum financial requirements of the SEC. As mentioned above, approximately one half of all commodity customer business is transacted through FCM's which are also broker-dealers. Consequently, the effect of the CBT–CME proposal would be to place one half of the FCM community under one minimum financial rule and the other half under another rule which utilizes an entirely different method of computing capital. Under the Commission's proposed rule, all FCM's would be required to use the same computational method and would be subject to the same uniform minimum requirements.

SUMMARY OF PROPOSED REVISIONS TO REGULATION 1.17

PROPOSED REGULATION 1.17(A)—MINIMUM NET CAPITAL

Regulation 1.17(a) currently requires futures commission merchants to maintain adjusted working capital equal to or in excess of whichever of the following is greater: (1) $10,000 or (2) the sum of the safety factors set forth in regulations 1.17 (d) and (e) plus 5 percent of aggregate indebtedness. The Commission believes that these minimums may not provide commodity customers with adequate protection in light of the significant changes which are occurring in the industry and in the Commission's ability to monitor the financial condition of FCM's. A similar conclusion was apparently drawn by the Chicago Board of Trade and the Chicago Mercantile Exchange. The joint proposal submitted by those exchanges would require all FCM's to maintain adjusted working capital equal to or in excess of whichever of the following is greater: (1) $50,000 or (2) an amount equal to the sum of the safety factors plus 6⅔ percent of aggregate indebtedness. The Commission's proposed revisions to regulation 1.17(a) would require each futures commission merchant to maintain adjusted net capital equal to or in excess of the greater of: (1) $25,000 or (2) 6⅔ percent of aggregate indebtedness. Adjusted net capital would differ from adjusted working capital in two principal areas. First, in the proposed revisions to regulation 1.17, the safety factors are deducted in computing adjusted net capital prior to the comparison required by regulation 1.17(a). Second, the basic computation in determining adjusted net capital is a subtraction from current assets (which would be expanded in the proposed revisions) of all non-subordinated liabilities. The basic computation used to determine adjusted working capital under present regulation 1.17 is current assets minus all non-subordinated current liabilities.[9]

The proposed rule would require that an FCM be in compliance with the rule at all times and be able to demonstrate such compliance to the satisfaction of the Commission and any contract market of which the FCM is a member. If an FCM is not in compliance with the rule or is unable to demonstrate such compliance, the FCM must immediately cease doing new business until such time as it is able to demonstrate compliance with the rule. The Commission would, however, have the flexibility to allow an FCM to trade for liquidation purposes only while undercapitalized; such trading would normally take place under the direct supervision of a contract market or the Commission's staff. In its present form, regulation 1.17 requires an FCM to be in compliance with the rule at all times, but the burden of demonstrating noncompliance rests to a much greater extent with the Commission and the contract markets.

ALTERNATIVE MINIMUM REQUIREMENT

The proposed revisions to regulation 1.17(a) would also allow futures commission merchants to be subject to an alternative capital requirement based upon a concept which is entirely new to the futures industry. The principal purpose of minimum capital requirements for futures commission merchants is to insure the safety of customer funds. It is logical then to base an FCM's minimum requirements upon the amount of customer funds held by the FCM. The Commission's proposed alternative requirement would, for the first time, directly integrate an FCM's minimum capital requirements with its segregation requirements. Specifically, a futures commission merchant would be required to maintain adjusted net capital equal to or in excess of the greater of $100,000 or 4 percent of the funds required to be segregated pursuant to the Act and the regulations thereunder plus, for securities brokers or dealers, 4 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements, SEC rule 15c3–3a (17 CFR 240.15c3–3a).

SEC rule 15c3–3a currently provides that a broker-dealer which has elected to operate pursuant to that agency's alternative minimum net capital requirement must maintain adjusted net capital equal to or in excess of $100,000 or 4 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements for brokers and dealers (Exhibit A to SEC Rule 15c3–3, 17 CFR 240.15c3–3a). The Commission believes this alternative capital requirement would not provide adequate protection for commodity customers of FCM's, especially those with little or no securities business, if such FCM's were permitted to satisfy the Commission's minimum financial requirements by complying with this alternative requirement. However, because of the flexibility this alternative requirement would afford FCM's in obtaining capital and in order to enable FCM/broker-dealers to utilize the SEC's alternative requirement without being forced to comply with a different requirement under Commission regulations, the Commission is proposing the alternative to its own requirements set forth in the above paragraph. The Commission believes that this proposed alternative requirement would provide adequate protection for the commodity customers of an FCM because of its interrelationship with the FCM's segregation requirements. The Commission points out, however, that the adoption of this alternative requirement will not prevent the implementation of a uniform minimum financial rule for the futures industry. As with the more stringent requirements which may, in certain cases, be imposed upon FCM's by the contract markets of which they are members, FCM's electing to operate pursuant to this alternative requirement would be required to compute their net capital to determine compliance with this alternative requirement pursuant to the uniform computational formula set forth in proposed regulation 1.17.

[8] The term "reportable segment" of an FCM's business is a concept used under generally accepted accounting principles to denote a significant portion of a subject firm's business. See Financial Reporting for Segments of a Business Enterprise (Statement of Financial Accounting Standards No. 14, 1976).

[9] "Current assets," "liabilities," "current liabilities," and "safety factors" are specifically defined in regulation 1.17 and the proposed amendments thereto. In general, a safety factor is a percentage of the value of an open customer or proprietary commodity futures contract or commodity option deducted from an FCM's net capital in order to account for the risks incurred by the FCM in maintaining such open contracts.

ASSETS AND LIABILITIES PECULIAR TO THE SECURITIES INDUSTRY

With respect to assets and liabilities which are peculiar to the securities industry, such as securities failed to receive and failed to deliver and securities in transit, the Commission believes it should rely on the expertise of the Securities and Exchange Commission for the minimum net capital treatment of such assets or liabilities. Proposed regulation 1.17(b) provides accordingly.

CURRENT ASSETS

Proposed regulation 1.17(c)(1) defines "net capital" as "the amount by which current assets exceed liabilities." Proposed regulation 1.17(c)(2) defines current assets generally as cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold during the next twelve months. Certain items are then specifically included or excluded from current assets. The basic concept used by the Commission in determining whether to include or to exclude an asset from current assets is the liquidity of the asset.

Unsecured [10] deficits in commodity futures or commodity option accounts, whether customer or proprietary, are specifically excluded from current assets except for those unsecured accounts which are subject to current calls for margin outstanding five (5) business days or less. Regulation 1.17 presently allows unsecured customer deficits up to thirty days old to be included in current assets. This appears to be too long a time span for unsecured deficits to be outstanding and still be included in current assets. Moreover, the existence of large outstanding unsecured deficits has historically been a frequent cause of FCM financial difficulties. The CBT-CME proposal would reduce the period of time such unsecured receivables could remain outstanding and still be included in current assets from 30 to 15 days.

Regulation 1.17 presently allows as a current asset any other unsecured receivable which is due and collectable within six months from the date of its inception. The intent of this provision was to permit FCM's to include unsecured trade receivables, cash commodity receivables arising from other than commodity futures or option transactions, in current assets. However, the present provisions of regulation 1.17 are worded so broadly that assets of a very dubious nature and of questionable liquidity have been included in the capital computations of many FCM's. The proposed revisions to regulation 1.17 specifically define those categories of trade receivables which may be included in current assets by an FCM in computing its net capital and limit the amount of time such receivables may remain outstanding and still be included in current assets. More precisely, under the proposed revisions of regulation 1.17, all unsecured receivables other than those otherwise specifically dealt with in the proposed regulation, including advances and loans, are excluded from current assets except for:

(a) receivables resulting from the marketing of commodities and their products and by-products, which are outstanding not more than thirty days past the invoice due date and the invoice due date is not later than 30 days past the date for which the computation of net capital is being made; [11]

(b) interest receivable, floor brokerage receivable, certain realized commissions receivable, and dividends receivable where such receivables are not outstanding longer than 30 days;

(c) all receivables from clearing organizations, option clearing organizations, foreign clearing organizations, and securities clearing organizations;

(d) all receivables from futures commission merchants or brokers resulting from commodity futures or commodity option transactions; and

(e) insurance claims which meet the provisions of proposed regulation 1.17(c)(2)(ii)(E).

Also excluded from current assets under the proposed rule are all prepaid expenses and deferred charges, and all inventories except for:

(1) Readily marketable spot commodities,
(2) Readily marketable securities,
(3) Work in process and finished goods inventory which result from the processing of commodities, and
(4) Raw materials which will be combined with spot commodities to produce a finished processed commodity.

All assets which are doubtful of collection or realization, less any reserves established therefore, and all exchange memberships would be excluded from current assets under the proposed rule. However, fixed assets and other assets which would otherwise be considered non-current assets may be included in current assets to the extent these assets adequately collateralize long-term indebtedness.[12]

LIABILITIES—LONG-TERM DEBT

The Commission believes that two of the primary purposes of a minimum financial rule must be to prevent "surprise bankruptcies," the bankruptcy or insolvency of an FCM without sufficient advanced warning being given to the organizations charged with the responsibility of regulating the FCM, and to insure that each futures commission merchant has an adequate capital base to enable effective steps to be taken to prevent significant losses of customer funds prior to actual insolvency. In this regard, it appears essential that futures commission merchants be required to have a permanent capital base for their FCM operations. The most serious deficiency in current regulation 1.17 is the impermanence of the capital which an FCM may use to comply with the rule.[13]

Under current regulation 1.17 and the CBT-CME proposal, an FCM may finance its FCM business solely through the use of non-subordinated, long-term debt. An FCM may actually be insolvent and still comply with the requirements of current regulation 1.17 and the CBT-CME proposal. The Commission believes this makes it inappropriate to distinguish between current liabilities and non-subordinated, long-term liabilities in evaluating an FCM's financial status. In the event an FCM is forced into bankruptcy, the treatment of the FCM's current liabilities and long-term debt is identical—both represent immediate claims upon the estate of the FCM.[14] Moreover, most non-subordinated, long-term debt agreements contain acceleration clauses which operate to transform such long-term debt into a current liability and can, therefore, quickly change the status of an FCM's liquidity without adequate advance warning to the Commission or any self-regulatory organization. Many of these acceleration clauses provide generally that if the FCM defaults on any payment, the entire balance of the loan becomes immediately due and payable. Many also provide that if the FCM's net worth is reduced below a certain point the entire loan becomes immediately due and payable. In either event, the creditor would have an ability to force the FCM into bankruptcy if the loan obligation could not be paid.

In light of the above, the Commission believes it is essential that all non-subordinated debt, current as well as long-term, be subtracted from current assets in evaluating an FCM's financial status. The Commission points out, however, that this proposed rule change would not preclude an FCM from making extensive use of subordinated, long-term debt to finance its FCM business. Subordinated loan agreements must, by definition, subordinate the claims of the lender to those of the FCM's commodity customers and cannot contain acceleration clauses such as those referred to above. As a result, subordinated debt provides commodity customers with many, though not all, of the protections inherent in an actual permanent capital base and would not be treated in the same manner as non-subordinated, long-term debt under the proposed revisions to regulation 1.17.[15]

LIABILITIES—IN GENERAL

The Commission's proposed rule changes would define the term "liabilities" in regulation 1.17(c)(4) to include all liabilities of a futures commission merchant arising in connection with any transaction whatsoever, including economic obligations of an FCM that are recognized and measured in conformity with generally accepted accounting principles. "Liabilities" would also include certain deferred credits (such as deferred income taxes payable) that are not obligations but are recognized and measured in conformity with generally accepted accounting principles. The definition of liabilities is not intended to include items such as contingent liabilities or non-capitalized leases which are normally disclosed in footnotes to financial statements but are not required to be recorded as liabilities under generally accepted accounting principles.

In addition, certain items are specifically included or excluded from liabilities. Specifically excluded are:

(a) Adequately subordinated debt [16];

(b) Funds in segregation, provided that the money, securities and other property held in segregated accounts have also been excluded from current assets in computing net capital;

(c) Certain deferred income taxes payable; and

(d) Long-term liabilities to the extent of the net book value of plant, property and equipment which is used in the processing, manufacture, storage or shipment of commodities, their products and by-products in a reportable segment of the FCM's business other than the brokerage business, provided such assets are not included in current assets.

A sole proprietor FCM must also include in liabilities the excess of those liabilities which have not been incurred in the course of his FCM business over the assets not used in that business.

ADJUSTED NET CAPITAL

Proposed regulation 1.17(c)(5) defines "adjusted net capital" as net capital less certain safety factors and haircuts which are specifically set forth therein.

The safety factor computations currently provided for in regulations 1.17(d) and (e) with respect to open commodity futures contracts are based upon the dollar values of such contracts. As a result, the safety factors for high dollar value, low volatility contracts are disproportionately high in terms of the risks involved in trading in such contracts when compared with the safety factors on highly volatile, low-dollar contracts. In order to relate the safety factors on a particular contract to the risks involved in trading in that contract, the Commission is proposing the adoption of a new safety factor computation based on the volatility rather than the dollar value of each contract. Specifically, the safety factor on a particular contract under the proposed rule would be based on a percentage of a standard fluctuation of the price of that contract.

The standard fluctuation of a contract would be determined by measuring the price change in each delivery month of the contract over a five-business-day period beginning with each business day during the past six months. These price changes would be averaged to obtain the mean five-business-day price change for all delivery months. Three standard deviations would then be computed from the data, and added to, the mean to arrive at the standard fluctuation for the commodity.

Standard fluctuations would be published in dollar amounts for a specified quantity of each commodity. The safety factor for proprietary positions would be 100 percent of this dollar amount, adjusted to correspond to the quantity of the contract for which the safety factor is being determined. The safety factor for customer positions would be 5 percent of this amount, adjusted in the same manner. The Commission anticipates that the safety factors with respect to both customer and proprietary open trades or contracts would closely approximate the dollar amounts of the present safety factors for most commodities. For example, a typical mean five-business-day price change for a 5,000 bushel corn contract would be approximately $360, with a standard deviation of approximately $200. The standard fluctuation (and the proprietary safety factor) for the contract would be approximately $960 ($360 plus 3 times the standard deviation of $200). The customer safety factor would be five percent of this or $48. The current safety factors on proprietary and customer positions are in the neighborhood of $1250 and $62, respectively. For a 5,000 troy ounce silver contract, a typical mean 5-business-day price change would be $980 with a standard deviation of $415. The standard fluctuation, and the proprietary safety factor, would be $2225 ($980 plus 3 times the standard deviation of $415). The customer safety factor would be $111. The current proprietary and customer safety factors on this contract are in the neighborhood of $2450 and $123, respectively. A typical mean 5-business-day price change for a 50,000 pound Maine potato contract would be approximately $420, with a standard deviation of approximately $270. The standard fluctuation (and the proprietary safety factor) for the contract would be approximately $1230 ($420 plus 3 times the standard deviation of $270). The customer safety factor would be five percent of this or $61. The current safety factors on proprietary and customer positions are in the neighborhood of $280 to $550 and $14 to $28 respectively. The reason for the large change from the current safety factor to the proposed safety factor for potatoes is that the current safety factor does not properly reflect the volatility of potatoes in relation to the safety factors of most other commodities.

The Commission recognizes that the ability of an FCM to anticipate its future capital needs and to plan accordingly is critical. Safety factors on all commodities would be re-computed by the Commission on a semi-annual basis and published in the FEDERAL REGISTER at least thirty days prior to their effective date. The Commission would have the ability to adjust safety factors in response to unusually volatile or dangerous market situations, such as those which recently occurred in orange juice and Mexican Pesos; however, the Commission anticipates that such interim adjustments would be rare. If such adjustments are necessary, the Commission will give as much advance notice as possible. Moreover, the existence of aberrant market conditions necessitating such action would in itself alert the FCM community to the possibility of interim safety factor adjustments.

SAFETY FACTORS ON COMMODITY OPTIONS

Under current regulation 1.17, no specific treatment is provided for open commodity option contracts held in customers' or proprietary accounts of FCM. The Commission believes it may be appropriate to treat commodity options similar to commodity futures contracts in evaluating an FCM's financial status. Accordingly, in proposed regulation 1.17(c)(5)(xii), the Commission has set forth a series of proposed safety factors with respect to open commodity option contracts which are based upon the volatility of the underlying futures contract or of the futures contract on the commodity which is the subject of such option. These proposed safety factors re-

[10] Proposed regulation 1.17(c)(3) provides that a receivable may be considered "secured" for purposes of including that receivable in current assets where the receivable is secured by collateral which is otherwise unencumbered and which can be readily converted into cash equal to or in excess of that part of the receivable which is shown in the FCM's records as secured and where one of the following items is present: (a) the collateral is in the possession or control of the FCM; or (b) the FCM has a legally enforceable, written security agreement, signed by the debtor, and has a perfected security interest in the collateral within the meaning of the laws of the state in which the collateral is located.

The question of which collateral can be readily converted into cash should be determined on a case by case basis, although the following should not be considered as readily convertible into cash: real estate, buildings, furniture and fixtures, exchange membership, goodwill, prepaid items, and securities without a ready market.

[11] Such receivables could not be included in current assets under SEC rule 15c3-1, 17 CFR 240.15c3-1. See n. 6.

[12] Proposed regulation 1.17(c)(7) provides that liabilities may be deemed "adequately collateralized" when, pursuant to a legally enforceable written instrument, those liabilities are secured by identified assets that are otherwise unencumbered and the market value of such assets exceeds the amount of such liabilities.

[13] The impermanence of capital is not a new problem. One of the most serious problems which was encountered by the securities industry in the 1968–70 period, during which substantial amounts of security customers' funds were lost as the result of the bankruptcies of several securities broker-dealers, was the inadequacy and impermanence of capital. This was extensively discussed in the SEC's Study of Unsafe and Unsound Practices of Brokers and Dealers, H.R. Doc. No. 92-231, 92d Cong., 1st Sess. (1971).

[14] While the Commission believes customer funds held in segregation would be adequately protected in the event of the bankruptcy of an FCM, the Commission's audit experience has disclosed numerous violations of the Commission's segregation requirements by FCM's, particularly by those experiencing financial difficulties.

[15] The Commission stresses that subordinated borrowings do not provide commodity customers with the degree of protection provided by a permanent capital base; therefore, as discussed more fully below, certain limitations would also be placed on the use of subordinated debt under the proposed rule.

[16] The requirements for a satisfactory subordination agreement are specified in proposed regulation 1.17(h).

late only to commodity options which are traded on a commodity option exchange and which can neither be liquidated nor offset by another transaction on that exchange but are allowed only to expire or be exercised. These are the type of commodity options which are currently traded by members of the London Metals Exchange and the International Commodities Clearing House. In the event a different form of commodity option contract is developed by a United States commodity option exchange pursuant to Commission regulations governing a test program in domestic commodity options, the Commission will propose the adoption of appropriate safety factors with regard to such options. However, until such time as the Commission has had the opportunity to conduct a comprehensive review and study of a proposal for such options, the Commission believes it would be inappropriate to attempt to design safety factors for such options.[17]

The Commission believes that a commodity option contract which is part of a spread or straddle position should not be subject to the identical safety factor which is imposed upon a commodity option which is not part of a spread or straddle position. However, in attempting to adjust the safety factors on commodity options to account for the various spread and straddle positions which commodity options make possible when combined with other commodity options or commodity futures or cash commodity positions, the Commission is faced with an extremely complex problem. For example, what are the appropriate safety factors in the following situations:

(i) Where a long call or long put commodity option is used to cover a short or long futures contract;

(ii) Where a short or long futures contract is used to cover a short put or short call commodity option;

(iii) Where one option is used to cover another option, especially in the situation where the two options have different striking prices; and

(iv) Where a commodity option is used to cover cash inventory or cash inventory is used to cover a commodity option.

There are more than 50 separate and distinct safety factor computations which might be developed to cover the various spread or straddle positions which could arise through the combination of commodity options, commodity futures contracts and cash positions. The Commission has set forth in proposed regulation 1.17(c)(5)(xii) a series of 15 specific safety factor computations which it believes represent the optimum balance between a propor evaluation of an FCM's financial status and the complexities involved in evaluating this status with respect to safety factors imposed on commodity options contracts. However, the Commission specifically requests comment on the appropriateness of these safety factors and on any additional or alternative safety factors which might reduce the complexities of computation and provide for a more appropriate method of evaluating the financial status of an FCM engaging in commodity option transactions for its own account and those of its customers.

ALTERNATIVES TO THE USE OF SAFETY FACTORS

As can be seen from the above discussion of safety factors on commodity futures and options, these items add significantly to the complexity of an FCM's net capital computation. The Commission believes it may be possible to develop simpler safety factors or an acceptable alternative to the use of safety factors in general and specifically requests comment in this area. In this regard, the Commission points out that it may be possible to develop an approach to customer positions which differs from that used with respect to proprietary positions. For example, an acceptable alternative to safety factors on customer positions might be based upon the margin requirements of a contract market or its clearing house or upon the price limits of a contract. The Commission specifically requests comment on the appropriateness of this type of approach.

AGGREGATE INDEBTEDNESS

Proposed regulation 1.17(c)(6) defines the term "aggregate indebtedness" as "liabilities," as defined in paragraph (c)(4) of the proposed rule, less the following:

(a) Indebtedness adequately collateralized by spot commodities or securities which are carried long by the FCM or by securities which collateralize a secured demand note pursuant to paragraph (h) of the proposed rule;

(b) Advances received by the FCM against bills of lading issued;

(c) Credit balances in the accounts of general partners;

(d) Long-term debt adequately collateralized;

(e) Certain liabilities which are effectively subordinated to claims of creditors, but which are not subject to a satisfactory subordination agreement, as defined in proposed regulation 1.17(h); and

(f) Deferred tax liabilities not already specifically excluded from liabilities.

PORPOSED LIMITATIONS ON SUBORDINATED DEBT AND WITHDRAWAL OF CAPITAL

As previously discussed, the Commission believes one of the principal inadequacies in current regulation 1.17 is the impermanence of the capital an FCM may use to finance its operations. This concern has been reflected in the treatment of non-subordinated, long-term debt under the proposed revisions to regulation 1.17. While the Commission does not believe a similar treatment of subordinated debt is appropriate or necessary, it does believe an FCM should not be able to finance its business solely through the use of subordinated debt. Rather, some minimum amount of equity capital appears to be essential to the financial stability of any FCM. Accordingly, proposed regulation 1.17(d) provides that a futures commission merchant may not permit the total outstanding principal amounts of its satisfactory subordination agreements to exceed 70 percent of its debt-equity total for a period in excess of 90 days. The term "debt-equity total" is specifically defined in the proposed rule.

The Commission is also concerned that the withdrawal of capital by a partner or shareholder may impair an FCM's financial status. Accordingly, proposed regulation 1.17(e) provides that no equity capital of an FCM, or of a subsidiary or an affiliate consolidated pursuant to proposed regulation 1.17(f), may be withdrawn by action of a stockholder or partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor or employee, if such actions would reduce the FCM's adjusted net capital below certain specified minimums or cause the outstanding principal amount of satisfactory subordination agreements to exceed 70 percent of the FCM's debt-equity total as defined in proposed regulation 1.17(d).

Similar concerns led to SEC to restrict the withdrawal of capital from broker-dealers and the excessive use of subordinated debt by broker-dealers in SEC rules 15c3-1 (d) and (e), 17 CFR 240.-15c3-1 (d) and (e). Moreover, the SEC's experience in dealing with these restrictions indicates that compliance by the FCM community with these restrictions should present no major problems.

CONSOLIDATION

In computing an FCM's net capital and aggregate indebtedness, the assets and liabilities of all subsidiaries or affiliates for which the FCM guarantees, endorses or assumes, directly or indirectly, the obligations or liabilities thereof must be included. However, if such consolidation increases the FCM's adjusted net capital and/or decreases the minimum financial requirement applicable to the FCM, such benefits may not be recognized in the FCM's capital computation unless an opinion of counsel is obtained stating that the net asset values, or the portion thereof related to the parent's ownership interest in the subsidiary or affiliate, may be caused by the FCM or a trustee to be distributed to the FCM within 30 calendar days. The assets and liabilities of a subsidiary or affiliate whose liabilities and obligations have not been guaranteed, endorsed, or assumed directly or indirectly by the FCM may also be consolidated if such opinion by outside counsel is obtained.

Certain requirements must be followed in preparing a consolidated capital computation; paragraph (f)(3) of the proposed rule enumerates these requirements.

ALTERNATIVE CAPITAL REQUIREMENT

As previously stated, an FCM may, under proposed regulation 1.17(g), elect to be subject to an alternative capital requirement. If such an election is made, the FCM must at all times maintain adjusted net capital equal to the greater of $100,000 or 4 percent of the funds required to be segregated pursuant to the Act and the regulations thereunder plus, for Securities Brokers or Dealers, 4 percent of the aggregate debit items computed in accordance with the formula for determination of reserve requirements in SEC rule 15c3-3a, 17 CFR 240.15c3-3a. Once such an election has been made, an FCM must continue to operate under this alternative requirement until a change in such election is approved by the Commission.

SATISFACTORY SUBORDINATION AGREEMENT

Paragraph (h) of proposed regulation 1.17 defines, in detail, satisfactory subordination agreements. The definition is the same as that employed by the SEC except for those FCM's electing to comply with the minimum capital requirements of proposed regulation 1.17(g). For such FCM's certain specific provisions have been added which relate directly to the requirements to which they are subject.

FUTURE PROPOSALS—A REVISED EARLY WARNING SYSTEM AND THE DELEGATION OF REGULATORY RESPONSIBILITIES

EARLY WARNING

As mentioned at the outset of this release, the Commission will shortly propose the adoption of a revised early warning system designed to give advance notice of an FCM's financial deterioration. Specifically, this early warning system would require an FCM to notify the Commission immediately upon the occurrence of any of the following: the FCM's inability to comply with the minimum financial requirements of proposed regulation 1.17, undersegregation of customers' funds, suspension or expulsion of the FCM from any contract market, or any failure of the FCM to keep its books and records in a current status. It would also require an FCM to file more frequent financial reports as its financial condition deteriorates.

REGULATORY RESPONSIBILITY

In the October 15, 1976 FEDERAL REGISTER release announcing the proposal of revised financial reporting requirements for FCM's, the Commission stated that:

[I]t is Commission policy to encourage contract market self-regulation. In this regard, the Commission anticipates requiring all contract markets to adopt and to enforce uniform minimum financial and related reporting requirements. Such requirements would be subject to the same active oversight regulation as are the other rule enforcement programs of the contract markets. However, because of the common interest of the contract markets in the financial integrity of their member FCM's and because of the uniform applicability of the minimum financial and related reporting requirements envisioned by the Commission, it may be advantageous for the contract markets to engage in a joint enforcement or audit program to monitor compliance with such uniform minimum financial and related reporting requirements. Such a joint program or an alternative program through a national futures association, as provided for in Title III of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. 21, could meet the anticipated Commission requirements.

(41 FR 45706.)

The Commission is aware that should all contract markets be required to adopt and to enforce uniform minimum financial and related reporting requirements, the FCM community would be subjected to unnecessarily frequent and repetitive audits and financial examinations. Each contract market of which an FCM is a member would undoubtedly feel obligated to conduct its own independent audits to insure the FCM's financial integrity in order to avoid not only Commission sanctions but also civil liability to private litigants for failure to adequately enforce the minimum financial standards applicable to such FCM's. Even today, in the absence of such an enforcement obligation placed upon all contract markets, many FCM's are subject to audits by three different regulatory organizations within this industry, frequently in rapid succession.

In order to avoid the necessity for such unnecessary and repetitive audits and to facilitate the development of a Title III Association, the Commission will shortly propose the adoption of a rule which would enable contract markets to delegate responsibility for the financial oversight of an FCM which is a member of more than one contract market to a single contract market or other self-regulatory organization and which, in the absence of such a delegation, would authorize the Commission to designate a single contract market or other self-regulatory organization with this responsibility.

In consideration of the foregoing, the Commission hereby proposes to amend 17 CFR Part 1 by revising § 1.17 to read as follows:

§ 1.17 Minimum financial requirements—futures commission merchants.

(a)(1) Except as provided in paragraphs (a)(2) and (a)(3) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of (i) the greater of $25,00 or 6⅔ percent of aggregate indebtedness, or, (ii) in the case of a registrant electing to operate pursuant to paragraph (g) of this section, the greater of $100,00 or 4 percent of the funds required to be segregated pursuant to the Act and these regulations plus, for Securities Brokers and Dealers, 4 percent of aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements (Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a).

(2) The requirements of paragraph (a)(1) of this section shall not be applicable if the registrant is a member of a contract market and conforms to minimum financial standards and related reporting requirements set by such contract market in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to section 4(f)(2) of the Act after (the effective date of this regulation).

(3) Notwithstanding the provisions of paragraphs (a)(1) and (a)(2) of this section, a registrant which engages in commodity option transactions as defined in section 32.1 of these regulations and is required to be registered as a futures commission merchant under section 32.3 or which makes, underwrites, issues or otherwise assumes responsibility for the fulfillment of a commodity option transaction as defined in section 32.1 of these regulations must maintain adjusted net capital of at least $50,000.

(4) Each registrant must be in compliance with this section 1.17 at all times and must be able to demonstrate such compliance to the satisfaction of the Commission and/or any contract market of which the registrant is a member or such registrant must immediately cease doing business as a futures commission merchant until such time as the registrant is able to demonstrate compliance with this § 1.17; Provided, however, the registrant may trade for liquidation purposes only unless otherwise directed by the Commission. No person applying for registration as a futures commission merchant shall be so registered unless such person affirmatively demonstrates to the satisfaction of the Commission that it complies with the financial requirements of this § 1.17.

(b) Where the applicant or registrant has an asset or liability which is defined in Securities and Exchange Commission rule § 240.15c3-1 of this title, the inclusion or exclusion of all or part of such asset or liability for the computation of adjusted net capital and aggregate indebtedness shall be in accordance with § 240.15c3-1 of this title, unless specifically stated otherwise in this section.

(c) Definitions: For the purposes of this section: (1) The term "net capital" means the amount by which current assets exceed liabilities. In determining "net capital":

(i) Unrealized profits shall be added and unrealized losses shall be deducted in the accounts of the applicant or registrant;

(ii) All long and all short positions in listed security options shall be marked to their market value and all long and all short securities and commodities positions shall be marked to their market value;

(iii) The value attributed to any non-transferable commodity option shall be the difference between the option's striking price and the market value for the actual commodity or futures contract which is the subject of the option. In

[17] On March 30, 1977, the Commission stated that it hoped to adopt the revisions to regulation 1.17 proposed today to coincide with the implementation of a pilot program for trading commodity options. 42 FR 18260 (April 5, 1977). The Commission further stated that if this is not possible, it would propose modification of § 1.17 solely with respect to commodity option trading. Since the comment period on the proposed revisions to regulation 1.17 does not end until November 1, 1977, this latter approach now appears more likely.

the case of a call commodity option, if the market value for the actual commodity or futures contract which is the subject of the option is less than the striking price of the option, it shall be given no value. In the case of a put commodity option, if the market value for the actual commodity or futures contract which is the subject of the option is more than the striking price of the option, it shall be given no value;

(iv) The value attributed to any unlisted security option shall be the difference between the option's exercise value or striking value and the market value of the underlying security. In the case of an unlisted call, if the market value of the underlying security is less than the exercise value or striking value of such call, it shall be given no value; and, in the case of an unlisted put, if the market value of the underlying security is more than the exercise value or striking value of the unlisted put, it shall be given no value; and

(v) Units of inventory that are committed to fixed price sales, must be stated at the fixed sales price.

(2) The term "current assets" means cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold during the next twelve months. "Current assets" shall;

(i) Exclude any unsecured commodity futures or option account containing a ledger balance and open trades, the combination of which liquidates to a deficit or containing a debit ledger balance only, provided however, deficits or debit ledger balances in unsecured customers' and proprietary accounts which are the subject of calls for margin or other required deposits which are outstanding five business days or less may be included in current assets;

(ii) Exclude all unsecured receivables, advances and loans except for:

(A) Receivables resulting from the marketing of commodities and their products and by-products; Provided, such receivables are outstanding not more than 30 days past the invoice due date and the invoice due date is not later than 30 days past the date for which the report is made;

(B) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than unrealized commissions on open futures contracts and syndicate profits), mutual fund concessions receivable and management fees receivable from registered investment companies and commodity pools, provided such receivables are outstanding no longer than thirty (30) days from the date they arise; and dividends receivable outstanding no longer than thirty (30) days from the payable date;

(C) Receivables from "clearing organizations," option clearing organizations, foreign clearing organizations and securities clearing organizations;

(D) Receivables from registered futures commission merchants or brokers, resulting from commodity futures or option transactions, except those specifically excluded under paragraph (c)(2)(i) of this section;

(E) Insurance claims which are not older than seven (7) business days from the date the loss giving rise to the claim is discovered; insurance claims which are not older than twenty (20) business days from the date the loss giving rise to the claim is discovered and which are covered by an opinion of outside counsel that the claim is valid and is covered by insurance policies presently in effect; insurance claims which are older than twenty (20) business days from the date the loss giving rise to the claim is discovered and which are covered by an opinion of outside counsel that the claim is valid and is covered by insurance policies presently in effect and which have been acknowledged in writing by the insurance carrier as due and payable, provided such claims are not outstanding longer than twenty (20) business days from the date they are so acknowledged by the carrier.

(iii) Exclude all unrealized commissions on open futures contracts;

(iv) Exclude all prepaid expenses and deferred charges;

(v) Exclude all inventories except for:

(A) Readily marketable spot commodities;

(B) Securities which are considered "readily marketable" (as defined in 17 CFR 240.15c3–1(c)(11)) or which "adequately collateralize" indebtedness under paragraph (c)(7) of this section;

(C) Work in process and finished goods at market value which result from the processing of commodities; and

(D) Raw materials at market value which will be combined with spot commodities to produce a finished processed commodity.

(vi) Include fixed assets and assets which otherwise would be considered non-current to the extent of any indebtedness excluded in accordance with paragraph (c)(6)(iv) of this section, provided such liabilitties are not excluded from liabilities in the computation of net capital under paragraph (c)(4)(v) of this section;

(vii) Exclude all assets doubtful of collection or realization less any reserves established therefore;

(viii) Include, in the case of future income tax benefits arising as a result of unrealized losses, the amount of such benefits not exceeding the amount of income tax liabilities accrued on the books and records of the applicant or registrant, but only to the extent such benefits could have been applied to reduce accrued tax liabilities on the date of the capital computation, had the related unrealized losses been realized on that date;

(ix) Exclude exchange memberships.

(3) A loan or advance or any other form of receivable shall not be considered "secured" for the purposes of paragraph (c)(2) of this section unless the following conditions exist:

(i) The receivable is secured by collateral which is otherwise unencumbered and which can be readily converted into cash equal to or in excess of that part of the receivable which is shown in the applicant's or registrant's records as secured; and

(ii) (A) The collateral is in the possession and control of the applicant or registrant; or

(B) The applicant or registrant has a legally enforceable, written security agreement, signed by the debtor, and has a perfected security interest in the collateral within the meaning of the laws of the state in which the collateral is located.

(4) The term "liabilities" means the total money liabilities of an applicant or registrant arising in connection with any transaction whatsoever, including economic obligations of an applicant or registrant that are recognized and measured in conformity with generally accepted accounting principles. "Liabilities" also include certain deferred credits that are not obligations but that are recognized and measured in conformity with generally accepted accounting principles. For the purposes of computing "net capital", the term "liabilities":

(i) Excludes liabilities of an applicant or registrant which are subordinated to the claims of all general creditors of the applicant or registrant pursuant to a satisfactory subordination agreement, as defined in paragraph 1.17(h) of this section;

(ii) Excludes the amount of money, securities and property due to commodity futures or option customers which is held in segregated accounts in compliance with the requirements of the Act and these regulations: *Provided, however,* That such exclusion may be taken only if such money, securities and property held in segregated accounts have been excluded from current assets in computing net capital;

(iii) Includes, in the case of an applicant or registrant who is a sole proprietor, the excess of liabilities which have not been incurred in the course of business as a futures commission merchant over assets not used in the business;

(iv) Excludes the lesser of any deferred income tax liability related to the items in (A), (B), and (C) below, or the sum of (A), (B), and (C) below;

(A) The aggregate amount resulting from applying to the amount of the deductions computed in accordance with paragraph (c)(5) or paragraph (g) of this section, the appropriate Federal and State tax rate(s) applicable to any unrealized gain on the asset on which the deduction was computed;

(B) Any deferred tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to this section;

(C) Any deferred tax liability related to unrealized appreciation in value of any asset(s) which has been otherwise excluded from current assets in accordance with the provisions of this section;

(v) Excludes liabilities which would be classified as long term in accordance with generally accepted accounting principles to the extent of the net book value of plant, property and equipment which is used in the processing, manufacture,

storage or shipment of commodities, their products and by-products in a reportable segment of the future commission merchant's overall business activities, as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security and security option segments of the applicant or registrant; Provided, that such plant, property and equipment is not included in current assets pursuant to paragraph (c)(2)(vi) of this section, and Provided further, that the exclusion provided for in this paragraph (c)(4)(v) does not apply when computing aggregate indebtedness pursuant to paragraph (c)(6) of this section.

(5) The term "adjusted net capital" means net capital less:

(i) Five percent of all unsecured receivables includable under paragraph (c)(2)(ii)(A) of this section used by the applicant or registrant in computing "net capital";

(ii) The amount by which any advances paid by the applicant or registrant on spot commodity contracts and used in computing his net capital exceeds 90 percent of the market value of the commodities covered by such contracts;

(iii) In the case of spot commodity inventories that are hedged by bona fide hedging positions in the futures markets (as defined in § 1.3(z)), five percent of the market value of such inventories;

(iv) In the case of all inventories which are included as current assets and which are not subject to paragraph (c)(5)(iii) of this section, twenty percent of the market value of such inventories; *Provided, however,* That with respect to those units of inventory that are committed to fixed price sales agreements, five percent of the fixed sales price but not to exceed the excess of the value of the fixed price sales agreement over the market value of the spot commodity which is the subject of such agreement.

(v) In the case of securities and obligations used by the applicant or registrant in computing his net capital, and in the case of securities in segregation pursuant to section 4d(2) of the Act and these regulations which were not deposited by customers, the percentages specified in 17 CFR 240.15c3–1 (c)(2)(vi) ("Securities Haircuts") and 100 percent of the value of "Non-Marketable Securities" as specified in 17 CFR 240.15c3–1(c)(2)(vii), or where appropriate, the percentages specified in 17 CFR 240.15c3–1(f);

(vi) In the case of securities options used by the applicant of registrant in computing his net capital, the deductions specified in 17 CFR 240.15c3–1 Appendix A, after effecting certain adjustments to net capital for listed and unlisted options as set forth in such Appendix;

(vii) In the case of an applicant or registrant who has open contractual commitments, as hereinafter defined, the deductions specified in 17 CFR 240.15c3–1(c)(2)(viii);

(viii) In the case of a fixed price sales agreement for which the spot commodity which is the subject of such agreement is not either carried long in the applicant's or registrant's accounts or hedged by bona fide hedging positions in the futures market (as defined in 17 CFR 1.3(z)), the excess of the market value of the spot commodity which is the subject of the agreement over the fixed sales price plus ten percent of such market value;

(ix) In the case of fixed price purchase commitments, which are hedged by bona fide hedging positions in the futures markets (as defined in § 1.3(z)), five percent of the market value of the inventory which is the subject of such commitments or in the case of all other fixed price purchase commitments twenty percent of the market value of the inventory which is the subject of such commitments reduced by the amount by which the market value of the spot commodity which is the subject of such agreement exceeds the fixed purchase price; Provided, that no such reduction shall have the effect of increasing adjusted net capital;

(x) For undermargined commodity and/or securities accounts, the amount of cash required in each such account to meet the variation or maintenance margin requirements of the applicable contract market or, for securities accounts, the maintenance margin requirements of the Examining Authority, as defined in 17 CFR 240.15c3–1(c)(12), after application of calls for margin, marks to the market or other required deposits which are outstanding five business days or less. If for commodity accounts there are no such variation or maintenance margin requirements then the amount of cash required to provide margin on customers' and proprietary accounts equal to the amount necessary, after application of calls for margin, marks to market or other required deposits which are outstanding five business days or less, to restore initial margin, when the initial margin has been depleted by 50 percent or more;

(xi)(A) In the case of open futures contracts held in customers' accounts carried by the applicant or registrant, a safety factor of five percent of standard fluctuation of the greater of either the total long or total short futures contracts for each commodity in all such accounts; *Provided, however,* that in the case of any spread or straddle, held for the same account, in the same commodity, the safety factor shall be one and one quarter (1.25) percent of standard fluctuation of each such spread or straddle;

(B) In the case of open futures contracts held in proprietary accounts carried by the applicant or registrant, a safety factor of the standard fluctuation of the greater of either the total long or total short futures contracts in each commodity in all such accounts; *Provided, however,* (1) That such safety factor shall not apply to any contract representing a bona fide hedging transaction as defined in § 1.3(z) (however, such factor shall apply to contracts specified in § 1.3(z)(4), representing hedges against unfilled anticipated requirements); nor shall it apply to any contract resulting from a "changer trade" made in accordance with the rules of a contract market which have been submitted to and not disapproved by the Commission, and (2) that in the case of any spread or straddle, held for the same account, in the same commodity, the safety factor shall be twenty-five percent of the standard fluctuation of each such spread or straddle;

(C) The standard fluctuation to be used for the purposes of this paragraph (c)(5)(xi) of this section will be computed by the Commission and published semi-annually or more frequently if required in unusual circumstances.

(xii) For commodity options which are not capable of being liquidated or offset on a commodity option exchange:

(A) In the case of an open, short commodity option held in a customer's account carried by the applicant or registrant, a safety factor of five percent of the standard fluctuation of the futures contract on the commodity which is the subject of such option or which is the subject of the futures contract which is subject of such options; Provided, in the case of a short call commodity option the safety factor may be reduced to the extent the striking price plus the premium accruing on such option which has not been paid to the customer grantor, exceeds the current market value of the actual commodity or futures contract which is the subject of such option; or, in the case of a short put commodity option, the safety factor may be reduced to the extent the current market value of the actual commodity or futures contract which is the subject of such option, exceeds the striking price of such option less the premium accruing on such option which has not been paid to the customer grantor; but in no event shall the safety factor on any option be reduced below zero.

(B) In the case of an open, short commodity option held in a proprietary account carried by the applicant or registrant, a safety factor equal to the standard fluctuation of the futures contract on the commodity which is the subject of such option or which is the subject of the futures contract which is the subject of such option; Provided, in the case of a short call commodity option, the safety factor may be reduced to the extent of the striking price plus the premium accruing on such option which has not been paid to the proprietary grantor which is other than the applicant or registrant, exceeds the current market value of the actual commodity or futures contract which is the subject of such option; or in the case of a short put commodity option the safety factor may be reduced to the extent of the current market value of the actual commodity or futures contract which is the subject of such option, exceeds the striking price of such option less the premium accruing on such option which has not been paid to the proprietary grantor which is other than the

applicant or registrant; but in no event shall the safety factor on any option be reduced below zero.

(C) In the case of a commodity option which is carried long by the applicant or registrant as a taker of a commodity option which has value in accordance with paragraph (c)(iii) of this section and such value is used to increase adjusted net capital, a safety factor of the standard fluctuation of the futures contract on the commodity which is the subject of such option or which is the subject of the futures contract which is the subject of such option; but in no event shall the safety factor be greater than the value attributed to such option.

(D) In the case of an applicant or registrant which is a taker of a commodity option, the safety factor shall be the amount of any commodity option premium which has been used to increase adjusted net capital and in the case of an applicant or registrant which is a grantor of a commodity option, the safety factors may be reduced by the amount of any commodity option premium which has not been previously recognized as income.

(E) In the case of a short call option which is covered by a long call commodity option which has a striking price equal to or less than the striking price of such short call commodity option or in the case of a short put commodity option which is covered by a long put commodity option which has a striking price equal to or greater than the striking price of such short put commodity option held in the same account, in the same commodity, the safety factor prescribed in paragraph (c)(5)(xii)(A) of this section shall be one and one quarter percent (1.25 percent) of the standard fluctuation and the safety factor prescribed in paragraph (c)(5)(xii)(B) of this section shall be twenty-five percent (25 percent) of the standard fluctuation. These safety factors may be reduced in accordance with the provisions of paragraphs (c)(5)(xii)(A) and (B) of this section.

(F) In the case of a long call commodity option on a futures contract held in a customer's or proprietary account covering the open short futures contract which is the subject of such option, the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section may be reduced to the amount by which the market value of the short futures contract is below the striking price of such option, and the safety factor prescribed in paragraph (c)(5)(xii)(C) of this section shall not apply.

(G) In the case of a long call commodity option held in a customer's or proprietary account covering an open short futures contract held in the same account, in the same commodity, the safety factors precsribed in paragraphs (c)(5)(xi) (A) and (B) of this section may be reduced to the amount by which the market value of the short futures contract is below the striking price of such option, but in no event shall the safety factors be less than that of a spread or straddle position as indicated in paragraphs (c)(5)(xi) (A) and (B) of this section respectively, and the safety factor prescribed in paragraph (c)(5)(xii)(C) of this section shall not apply.

(H) In the case of a long put commodity option on a futures contract held in a customer's or proprietary account covering the open long futures contract which is the subject of such option, the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section may be reduced to the amount by which the market value of the long futures contract is above the striking price of such option, and the safety factor prescribed in paragraph (c)(5)(xii)(C) of this section shall not apply.

(I) In the case of a long put commodity option held in a customer's or proprietary account covering an open long futures contract held in the same account, in the same commodity, the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section may be reduced to the amount by which the market value of the long futures contract is above the striking price of such option, but in no event shall these safety factors be less than that of a spread or straddle position as provided in paragraphs (c)(5)(xi) (A) and (B) of this section; and the safety factor prescribed in paragraph (c)(5)(xii)(C) of this section shall not apply.

(J) In the case of a short call commodity option on a futures contract which is held in a customer's or proprietary account covered by the open long futures contract which is the subject of such option, the safety factors prescribed in paragraphs (c)(5)(xii) (A) and (B) of this section shall not apply and the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section may be reduced to the extent the market value of the long futures contract exceeds the striking price of such option less, for a grantor which is other than the applicant or registrant, the premium accruing on such option which has not been paid to the customer or proprietary grantor; but in no event shall the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section be reduced below zero.

(K) In the case of a short call commodity option which is held in a customer's or proprietary account covered by an open long futures contract held in the same account, in the same commodity, the safety factors prescribed in paragraphs (c)(5)(xii) (A) and (B) of this section shall not apply and the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section may be reduced to the extent the market value of the actual commodity or futures contract which is the subject of such option, exceeds the striking price of such option less, for a grantor which is other than the applicant or registrant, the premium accruing on such option which has not been paid to the customer or proprietary grantor; but in no event shall the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section be less than that of a spread or straddle position as provided in paragraphs (c)(5)(xi) (A) and (B) of this section.

(L) In the case of a short put commodity option on a futures contract which is held in a customer's or proprietary account covered by the open short futures contract which is the subject of such option, the safety factors prescribed in paragraphs (c)(5)(xii) (A) and (B) of this section shall not apply and the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section may be reduced to the extent the striking price of such option plus, for a grantor which is other than the applicant or registrant, the premium accruing on such option which has not been paid to the customer or proprietary grantor, exceeds the current market value of the futures contract which is the subject of such option; but in no event shall the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section be less than that of a spread or straddle position as provided in paragraphs (c)(5)(xi) (A) and (B) of this section.

(M) In the case of a short put commodity option which is held in a customer's or proprietary account covered by an open short futures contract held in the same account, in the same commodity, the safety factors prescribed in paragraphs (c)(5)(xii) (A) and (B) of this section shall not apply and the safety factors required by paragraphs (c)(5)(xi) (A) and (B) of this section may be reduced to the extent the striking price of such option plus, for a grantor which is other than the applicant or registrant, the premium accruing on such option which has not been paid to the customer or proprietary grantor, exceeds the current market value of the actual commodity or futures contract which is the subject of such option; but in no event shall the safety factors prescribed in paragraphs (c)(5)(xi) (A) and (B) of this section be less than that of a spread or straddle position as provided in paragraphs (c)(5)(xi) (A) and (B) of this section.

(N) In the case of a short call commodity option on an actual commodity which is held by the applicant or registrant for its own account which is covered by the actual commodity inventory of the applicant or registrant, the safety factors prescribed in paragraphs (c)(5)(xii) (A) and (B) shall not apply.

(O) In the case of a long put commodity option on an actual commodity which is held by the applicant or registrant for its own account which is covering the actual commodity inventory of the applicant or registrant, the safety factors prescribed in paragraph (c)(5)(iv) of this section may be reduced to the amount by which the market value of the actual commodity is above the striking price of such option, and the safety factor prescribed in paragraph (c)(5)(xii)(C) shall not apply.

(xiii) Five percent of all unsecured receivables includable under paragraphs (c)(2)(ii)(C) and (c)(2)(ii)(D) of this section used by the applicant or registrant in computing "net capital" and which are not receivable from (A) a registered futures commission merchant, or (B) a clearing organization which is associated with (*1*) a contract market or (*2*) a securities exchange which is regulated by the Securities and Exchange Commission.

(6) The term "aggregate indebtedness" means "liabilities" as defined in paragraph (c)(4) of this section excluding:

(i) Indebtedness adequately collateralized by spot commodities which are carried long by the applicant or registrant and indebtedness adequately collateralized by securities which are carried long by the applicant or registrant and which have not been sold or by securities which collateralize a secured demand note pursuant to paragraph (h) of this section;

(ii) Advances received by the applicant or registrant against bills of lading issued in connection with the shipment of commodities sold by the applicant or registrant;

(iii) Credit balances in the accounts of general partners;

(iv) Long-term debt adequately collateralized by assets acquired for use in the ordinary course of the trade or business of an applicant or registrant but no other long-term debt adequately collateralized by assets of the applicant or registrant shall be excluded unless the sole recourse of the creditor for nonpayment of such liability is to such asset;

(v) Liabilities which are effectively subordinated to the claims of creditors (but which are not subject to a satisfactory subordination agreement as defined in paragraph (h) of this section) by other than customers of the applicant or registrant prior to such subordination, and such subordinations by customers as may be approved by the applicable contract market, securities exchanges, national securities association or if the applicant or registrant is not a member of a self-regulatory organization, then the Commission; and

(vi) Deferred tax liabilities, not already excluded in paragraph (c)(4)(iv) of this section.

(7) "Liabilities" are "adequately collateralized" when, pursuant to a legally enforceable written instrument, such liabilities are secured by identified assets that are otherwise unencumbered and the market value of which exceeds the amount of such liabilities.

(8) The term "contractual commitments" shall include underwriting, when issued, when distributed and delayed delivery contracts; the writing or endorsement of security puts and calls and combinations thereof; commitments in foreign currencies; and spot commodities contracts; but shall not include uncleared regular way purchases and sales of securities and contracts in commodities futures. A series of contracts of purchase or sale of the same security, conditioned, if at all, only upon issuance, may be treated as an individual commitment.

(d) No applicant or registrant shall permit the total of outstanding principal amounts of its satisfactory subordination agreements (other than such agreements which qualify under this paragraph (d) as equity capital) to exceed 70 percent of its debt-equity total, as hereinafter defined, for a period in excess of 90 days or for such longer period which the Commission may, upon application of the applicant or registrant, grant in the public interest or for the protection of investors. In the case of a corporation, the debt-equity total shall be the sum of its outstanding principal amounts of satisfactory subordination agreements, par or stated value of capital stock, paid in capital in excess of par, retained earnings, unrealized profit and loss and other capital accounts. In the case of a partnership, the debt-equity total shall be the sum of its outstanding principal amounts of satisfactory subordination agreements, capital accounts of partners (exclusive of such partners' commodity and securities accounts) subject to the provisions of paragraph (e) of this section, and unrealized profit and loss. In the case of a sole proprietorship, the debt-equity total shall include the sum of its outstanding principal amounts of satisfactory subordination agreements, capital accounts of the sole proprietorship and unrealized profit and loss. *Provided, however,* That a satisfactory subordination agreement entered into by a partner or stockholder which has an initial term of at least three years and has a remaining term of not less than 12 months shall be considered equity for the purposes of this paragraph (d) if: (1) It does not have any of the provisions for accelerated maturity provided for by paragraphs (h)(2)(ix)(A), (h)(2)(x)(A), or (h)(2)(x)(B) of this section, and is maintained as capital subject to the provisions restricting the withdrawal thereof required by paragraph (e) of this section, or (2) the partnership agreement provides that capital contributed pursuant to a satisfactory subordination agreement as defined in paragraph (h) of this section shall in all respects be partnership capital subject to the provisions restricting the withdrawal thereof required by paragraph (e) of this section.

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated pursuant to paragraph (f) of this section, whether in the form of capital contributions by partners (excluding amounts in the commodities and securities accounts of partners and balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the pavment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any payments of payment obligations (as defined in paragraph (h) of this section) under satisfactory subordination agreements and any payments of liabilities excluded pursuant to paragraph (c)(4)(v) of this section which are scheduled to occur within six months following such withdrawal, advance or loan, either adjusted net capital of any of the consolidated entities would be less than 10 percent of aggregate indebtedness or its adjusted net capital would fail to equal 120 percentum of the appropriate minimum dollar amount required or would be less than 7 percent of the amount required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 7 percent of the aggregate debit items computed pursuant to 17 CFR 240.15c3–3, or in the case of any applicant or registrant included within such consolidation, if the total outstanding principal amounts of satisfactory subordination agreements of the applicant or registrant (other than such agreements which qualify as equity under paragraph (d) of this section) would exceed 70 percent of the debt-equity total as defined in paragraph (d). *Provided,* That this provision shall not preclude an applicant or registrant from making required tax payments or preclude the payment to partners of reasonable compensation.

(f) (1) Every applicant or registrant, in computing its net capital and aggregate indebtedness pursuant to this section must, subject to the provisions of paragraphs (f)(2) and (f)(4) of this section, consolidate in a single computation, assets and liabilities of any subsidiary or affiliate for which it guarantees, endorses, or assumes directly or indirectly the obligations or liabilities. The assets and liabilities of a subsidiary or affiliate whose liabilities and obligations have not been guaranteed, endorsed, or assumed directly or indirectly by the applicant or registrant may also be so consolidated if an opinion of counsel is obtained as provided for in paragraph (f)(2) of this section.

(2) (i) If the consolidation, provided for in paragraph (f)(1) of this section, of any such subsidiary or affiliate results in the increase of the applicant's or registrant's adjusted net capital and/or increases the applicant's or registrant's percentage of adjusted net capital to aggregate indebtedness or increases the applicant's or registrant's adjusted net capital and/or decreases the minimum adjusted net capital requirement called for by paragraph (g)(1) of this section and an opinion of counsel called for in paragraph (f)(2)(ii) of this section has not been obtained, such benefits shall not be recognized in the applicant's or registrant's computation required by this section.

(ii) Except as provided for in paragraph (f)(2)(i) of this section, consolidation shall be permitted with respect to any subsidiaries or affiliates which are majority owned and controlled by the applicant or registrant and for which the applicant or registrant can demonstrate to the satisfaction of the Commission, and the contract markets of which the applicant or registrant is a member, if any, by an opinion of counsel that the net asset values, or the portion thereof related to the parent's ownership inter-

est in the subsidiary or affiliate, may be caused by the applicant or registrant or an appointed trustee to be distributed to the applicant or registrant within 30 calendar days. Such opinion must also set forth the actions necessary to cause such a distribution to be made, identify the parties having the authority to take such actions, identify and describe the rights of other parties or classes of parties, including but not limited to customers, general creditors, subordinated lenders, minority shareholders, employees, litigants, and governmental or regulatory authorities, who may delay or prevent such a distribution and such other assurances as the Commission or the contract market by rule or interpretation may require. Such opinion must be current and periodically renewed in connection with the applicant's or registrant's annual audit pursuant to section 1.10 or upon any material change in circumstnaces.

(3) In preparing a consolidated computation of adjusted net capital and/or aggregate indebtedness pursuant to this section, the following minimum and non-exclusive requirements shall be observed:

(i) Consolidated adjusted net capital shall be reduced by the estimated amount of any tax reasonably anticipated to be incurred upon distribution of the assets of the subsidiary or affiliate.

(ii) Liabilities of a consolidated subsidiary or affiliate which are subordinated to the claims of present and future creditors pursuant to a satisfactory subordination agreement shall not be added to consolidated adjusted net capital unless such subordination extends also to the claims of present or future creditors of the parent applicant or registrant and all consolidated subsidiaries.

(iii) Subordinated liabilities of a consolidated subsidiary or affiliate which are consolidated in accordance with paragraph (f)(3)(ii) of this section may not be prepaid, repaid, or accelerated if any of the entities included in such consolidation would otherwise be unable to comply with the provisions of paragraph (h) of this section.

(iv) Each applicant or registrant included within the consolidation shall at all times be in compliance with the adjusted net capital requirement to which it is subject.

(4) No applicant or registrant shall guarantee, endorse, or assume directly or indirectly any obligation or liability of a subsidiary or affiliate unless the obligation or liability is reflected in the computation of adjusted net capital and/or aggregate indebtedness pursuant to this section except as provided in paragraph (f)(2)(i) of this section.

(g) An applicant or registrant may elect not to be subject to the limitations of paragraph (a) of this section respecting aggregate indebtedness as defined in paragraph (c)(6) of this section and certain deductions provided for in paragraph (c)(5)(v) of this section. *Provided*, That in order to qualify to operate under this paragraph (g), such applicant or registrant must at all times maintain adjusted net capital equal to the greater of $100,000 or 4 percent of the funds required to be segregated by the Act and these regulations plus for Securities Brokers or Dealers, 4 percent of the aggregate debit items computed in accordance with the Formula for Determination of Reserve Requirements (Exhibit A to Rule 15c3–3, 17 CFR 240.15c3–3a) and shall notify each contract market of which applicant or registrant is a member, if any, and the Commission, in writing of its election to operate under this provision. Once an applicant or registrant has determined to operate pursuant to the provisions of this paragraph (g), he must continue to do so unless a change in such election is approved upon application to the Commission.

(1) A broker or dealer electing to operate pursuant to this paragraph (g) shall be subject to 17 CFR 240.15(f)(3) in lieu of paragraph (c)(5)(v) of this section.

(2) A broker or dealer who is registered as such with the Securities and Exchange Commission and who is exempt from the provisions of 17 CFR 240.15c3–3 pursuant to paragraph (k)(1) or (k)(2)(i) of that section may not elect to use the alternative contained in this paragraph (g).

(h) The term satisfactory subordination agreements (hereinafter "subordination agreements") means an agreement which contains the minimum and non-exclusive requirements hereinafter set forth.

(1) Certain definitions for purposes of this section:

(i) A subordination agreement may be either a subordinated loan agreement or a secured demand note agreement.

(ii) The term "subordinated loan agreement" means the agreement or agreements evidencing or governing a subordinated borrowing of cash.

(iii) The term "collateral value" of any securities pledged to secure a secured demand note means the market value of such securities after giving effect to the percentage deductions specified in paragraph (c) of this section.

(iv) The term "payment obligation" means the obligation of an applicant or registrant in respect to any subordination agreement: (A) To repay cash loaned to the applicant or registrant pursuant to a subordinated loan agreement; or (B) to return a secured demand note contributed to the applicant or registrant or to reduce the unpaid principal amount thereof and to return cash or securities pledged as collateral to secure the secured demand note; and (C) "payment" shall mean the performance by an applicant or registrant of a payment obligation.

(v) (A) The term "secured demand note agreement" means an agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to an applicant or registrant and the pledgee of securities and/or cash with the applicant or registrant as collateral to secure payment of such secured demand note. The secured demand note agreement may provide that neither the lender, his heirs, executors, administrators, or assigns shall be personally liable on such note and that in the event of default the applicant or registrant shall look for payment of such note solely to the collateral then pledged to secure the same.

(B) The secured demand note shall be a promissory note executed by the lender and shall be payable on the demand of the applicant or registrant to which it is contributed: *Provided, however*, That the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the contract market and the Commission.

(C) If such note is not paid upon presentment and demand as provided for therein, the applicant or registrant shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral, in payment of such note. Subject to the prior rights of the applicant or registrant as pledgee, the lender, as defined herein, may retain ownership of the collateral and have the benefit of any increases and bear the risks of any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral and any right to income therefrom or distributions thereon, except the applicant or registrant shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

(D) Subject to the prior rights of the applicant or registrant as pledgee, the lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash or other securities as collateral; *Provided*, That the net proceeds of any such sale and the cash so substituted and the securities so purchased or substituted are held by the applicant or registrant as pledgee, and are included within the collateral to secure payment of the secured demand note, and *Provided further*, That no such transaction shall be permitted if, after giving effect thereto, the sum of the amount of any cash, plus the collateral value of the securities, then pledged as collateral to secure the secured demand note would be less than the unpaid principal amount of the secured demand note.

(E) Upon payment by the lender, as distinguished from a reduction by the lender which is provided for in paragraph (h)(2)(vi)(c) of this section or reduction by the applicant or registrant as provided for in paragraph (h)(2)(viii) of this section, of all or any part of the unpaid principal amount of the secured demand note, the applicant or registrant shall issue to the lender a subordinated loan agreement in the amount of such payment (or in the case of an applicant or registrant that is a partnership, credit a capital account of the lender), or issue preferred or common

stock of the applicant or registrant in the amount of such payment, or any combination of the foregoing, as provided for in the secured demand note agreement.

(F) The term "lender" means the person who lends cash to an applicant or registrant pursuant to a subordinated loan agreement and the person who contributes a secured demand note to an applicant or registrant pursuant to a secured demand note agreement.

(2) Minimum requirements for subordination agreements:

(i) Subject to paragraph (h)(1) of this section, a subordination agreement shall mean a written agreement between the applicant or registrant and the lender, which:

(A) Has a minimum term of one year, except for temporary subordination agreements provided for in paragraph (h)(3)(v) of this section, and

(B) Is a valid and binding obligation enforceable in accordance with its terms (subject as to enforcement to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws) against the applicant or registrant and the lender and their respective heirs, executors, administrators, successors and assigns.

(ii) Specific Amount. All subordination agreements shall be for a specific dollar amount which shall not be reduced for the duration of the agreement except by installments as specifically provided for therein and except as otherwise provided in this paragraph (h)(2) of this section.

(iii) Effective Subordination. The subordination agreement shall effectively subordinate any right of the lender to receive any payment with respect thereto, together with accrued interest or compensation, to the prior payment or provision for payment in full of all claims of all present and future creditors of the applicant or registrant arising out of any matter occurring prior to the date on which the related payment obligation matures, except for claims which are the subject of subordination agreements which rank on the same priority as or junior to the claim of the lender under such subordination agreements.

(iv) Proceeds of Subordinated Loan Agreements. The subordinated loan agreement shall provide that the cash proceeds thereof shall be used and dealt with by the applicant or registrant as part of its capital and shall be subject to the risks of the business.

(v) Certain Rights of the Borrower. The subordination agreement shall provide that the applicant or registrant shall have the right to:

(A) Deposit any cash proceeds of a subordinated loan agreement and any cash pledged as collateral to secure a secured demand note in an account or accounts in its own name in any bank or trust company;

(B) Pledge, repledge, hypothecate and rehypothecate, any or all of the securities pledged as collateral to secure a secured demand note, without notice, separately or in common with other securities or property for the purpose of securing any indebtedness of the applicant or registrant; and

(C) Lend to itself or others any or all of the securities and cash pledged as collateral to secure a secured demand note.

(vi) Collateral for Secured Demand Notes. Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if at any time the sum of the amount of any cash, plus the collateral value of any securities, then pledged as collateral to secure the secured demand note is less than the unpaid principal amount of the secured demand note, the applicant or registrant must immediately transmit written notice to that effect to the lender, the contract market, if applicable, and the Commission. The secured demand note agreement shall also require that following such transmittal:

(A) The lender, prior to noon of the business day next succeeding the transmittal of such notice, may pledge as collateral additional cash or securities sufficient, after giving effect to such pledge, to bring the sum of the amount of any cash plus the collateral value of any securities, then pledged as collateral to secure the secured demand note, up to an amount not less than the unpaid principal amount of the secured demand note; and

(B) Unless additional cash or securities are pledged by the lender as provided in (A) above, the applicant or registrant at noon on the business day next succeeding the transmittal of notice to the lender must commence sale, for the account of the lender, of such of the securities than pledged as collateral to secure the secured demand note and apply so much of the net proceeds thereof, together with such of the cash then pledged as collateral to secure the secured demand note as may be necessary to eliminate the unpaid principal amount of the secured demand note; provided, however, that the unpaid principal amount of the secured demand note need not be reduced below the sum of the amount of any remaining cash, plus the collateral value of the remaining securities, then pledged as collateral to secure the secured demand note. The applicant or registrant may not purchase for its own account any securities subject to such a sale; and

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by (B) above, the lender with the prior written consent of the applicant or registrant and the contract market or if the applicant or registrant is not member of a contract market, then the Commission, may reduce the unpaid principal amount of the secured demand note. Provided, that after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than 10 percent of aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, adjusted net capital would not be less than 7 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 7 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3–3a. Provided, further, that no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No contract market shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, adjusted net capital would be less than 120 percent of the appropriate minimum dollar amount required by this section.

(vii) Permissive Prepayments. An applicant or registrant at its option but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective; provided, however, that the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of subparagraph (h)(3)(v) of this section. No prepayment shall be made, if after giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, either the adjusted net capital of the applicant or registrant is less than 10 percent of its aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of thi section, its adjusted net capital is less than 7 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 7 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3–3a or its adjusted net capital is less than 120% of the appropriate minimum dollar amount required by this section. Notwithstanding the above, no prepayment shall occur without the prior written approval of the contract market and the Commission.

(viii) Suspended Repayment. (A) The payment obligation of the applicant or registrant in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to

payment of such payment obligation (and to all payments of payment obligations of the applicant or registrant under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation) either the adjusted net capital of the applicant or registrant would be less than 8⅓ percent of aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, adjusted net capital would be less than 6 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 6 percent of the aggregate debit items computed in accordance with 17 CFR 240.15 c3–3a or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by this section: Provided that the subordination agreement may provide that if the payment obligation of the applicant or registrant thereunder does not mature and is suspended as a result of the requirement of this pragraph (h)(2)(viii) of this section for a period of not less than six months the applicant or registrant shall thereupon commence the rapid and orderly liquidation of its business, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

(B) Whenever a subordination agreement provides that an applicant or registrant shall commence a rapid and orderly liquidation, as permitted in paragraph (h)(2)(viii)(A), the date on which the liquidation commences shall be the maturity date for each subordination agreement of the applicant or registrant then outstanding, but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provision of this section.

(ix) Accelerated Maturity. Obligation to repay to remain subordinate:

(A) Subject to the provisions of paragraph (h)(2)(viii) of this section, a subordination agreement may provide that the lender may, upon prior written notice to the applicant or registrant and the contract market or if applicant or registrant is not a member of a contract market, then the Commission, given not earlier than six months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the borrower, together with accrued interest or compensation, is scheduled to mature to a date not earlier than six months after giving of such notice, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this paragraph (h)(2) of this section.

(B) Notwithstanding the provisions of paragraph (h)(2)(viii) of this section, the payment obligation of the applicant or registrant with respect to a subordination agreement, together with accrued interest and compensation, shall mature in the event of any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws, or any other marshalling of the assets and liabilities of the applicant or registrant but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section.

(x) Accelerated Maturity of Subordination Agreements on event of default and event of acceleration. Obligation to repay to remain subordinate:

(A) A subordination agreement may provide that the lender may upon prior written notice to the applicant or registrant and the contract market or if the applicant or registrant is not a member of a contract market, the Commission, of the occurrence of any event of acceleration (as hereinafter defined) given no sooner than six months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the applicant or registrant, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than six months after notice of acceleration is received by the applicant or registrant and the contract market, or if the applicant or registrant is not a member of a contract market, then the Commission. Any subordination agreement containing such events of acceleration may also provide, that if upon such accelerated maturity date the payment obligation of the applicant or registrant is suspended as required by paragraph (h)(2)(viii) of this section and liquidation of the applicant or registrant has not commenced on or prior to such accelerated maturity date then notwithstanding paragraph (h)(2)(viii) of this section the payment obligation of the applicant or registrant with respect to such subordination agreement shall mature on the day immediately following such accelerated maturity date and in any such event the payment obligations of the applicant or registrant with respect to all other subordination agreements then outstanding shall also mature at the same time but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section. Events of acceleration which may be included in a subordination agreement complying with this paragraph (h)(2)(x) of this section shall be limited to:

(*1*) Failure to pay interest or any installment of principal on a subordination agreement as scheduled;

(2) Failure to pay when due other money obligations of a specified material amount;

(3) Discovery that any material, specified representation or warranty of the applicant or registrant which is included in the subordination agreement and on which the subordination agreement was based or continued was inaccurate in a material respect at the time made;

(4) Any specified and clearly measurable event which is included in the subordination agreement and which the lender and the applicant or registrant agree, (a) is a significant indication that the financial position of the applicant or registrant has changed materially and adversely from agreed upon specified norms; or (b) could materially and adversely affect the ability of the applicant or registrant to conduct its business as conducted on the date the subordination agreement was made; or (c) is a significant change in the senior management of the applicant or registrant or in the general business conducted by the applicant or registrant from that which obtained on the date the subordination agreement became effective;

(5) Any continued failure to perform agreed covenants included in the subordination agreement relating to the conduct of the business of the applicant or registrant or relating to the maintenance and reporting of its financial position; and

(B) Notwithstanding the provisions of paragraph (h)(2)(viii) of this section, a subordination agreement may provide that, if liquidation of the business of the applicant or registrant has not already commenced, the payment obligation of the applicant or registrant shall mature, together with accrued interest or compensation, upon the occurrence of an event of default (as hereinafter defined). Such agreement may also provide that, if liquidation of the business of the applicant or registrant has not already commenced, the rapid and orderly liquidation of the business of the applicant or registrant shall then commence upon the happening of an event of default. Any subordination agreement which so provides for maturity of the payment obligation upon the occurrence of an event of default shall also provide that the date on which such event of default occurs shall, if liquidation of the applicant or registrant has not already commenced, be the date on which the payment obligation of the applicant or registrant with respect to all other subordination agreements then outstanding shall mature but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section. Events of default which may be included in a subordination agreement shall be limited to:

(*1*) The making of an application by the Securities Investor Protection Corporation for a decree adjudicating that customers of the applicant or registrant are in need of protection under the Securities Investor Protection Act of 1970 and the failure of the applicant or registrant to obtain the dismissal of such application within 30 days;

(2) Failure to meet the minimum capital requirements of the Commission throughout a period of 15 consecutive business days, commencing on the day

the borrower first determines and notifies any contract market of which he is a member and the Commission; or any contract market or the Commission first determines and notifies the applicant or registrant of such fact;

(3) The Commission shall revoke the registration of the applicant or registrant;

(4) The contract market shall suspend (and not reinstate within 10 days) or revoke the applicant or registrant's status as a member thereof;

(5) Any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to bankruptcy laws, or any other marshalling of the assets and liabilities of the applicant or registrant. A subordination agreement which contains any of the provisions permitted by this subparagraph (2)(x) shall not contain the provision otherwise permitted by paragraph (h)(2)(ix)(A) of this section.

(3) Miscellaneous Provisions.—(i) Prohibited Cancellation. The subordination agreement shall not be subject to cancellation by either party; no payment shall be made with respect thereto and the agreement shall not be terminated, rescinded or modified by mutual consent or otherwise if the effect thereof would be inconsistent with the requirements of paragraph (h), of this section.

(ii) Notice of Maturity or Accelerated Maturity. Every applicant or registrant shall immediately notify the contract market and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the applicant or registrant, either the aggregate indebtedness of the applicant or registrant would exceed 8⅓ percent of its adjusted net capital or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by § 1.17 or in the case of an applicant or registrant who is operating pursuant to paragraph (g) of § 1.17, its adjusted net capital would be less than 6 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 6 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3–3a.

(iii) Certain Legends. If all the provisions of a satisfactory subordination agreement do not appear in a single instrument, then the debenture or other evidence of indebtedness shall bear on its face an appropriate legend stating that it is issued subject to the provisions of a satisfactory subordination agreement which shall be adequately referred to and incorporated by reference.

(iv) Legal Title to Securities. All securities pledged as collateral to secure a secured demand note must be in bearer form, or registered in the name of the applicant or registrant or the name of its nominee or custodian.

(v) Temporary Subordinations. For the purpose of enabling an applicant or registrant to participate as an underwriter of securities or other extraordinary activities in compliance with the net capital requirements of this section, an applicant or registrant shall be permitted, on no more than three occasions in any 12-month period to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective. Provided, that this temporary relief shall not apply to any applicant or registrant if, either the adjusted net capital of the applicant or registrant is less than 10 percent of its aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, adjusted net capital is less than 7 percent of the funds required to be segregated pursuant to the Act and these regulations plus for Securities Brokers or Dealers, 7 percent of the aggregate debit items computed in accordance with 17 CFR 240.15c3–3a or its net capital is less than 120% of the appropriate minimum dollar amount required by this section, or the amount of its then outstanding subordination agreements exceeds the limits specified in paragraph (d) of this section. Such temporary subordination agreement shall be subject to all the other provisions of this section.

(vi) Filing. Two copies of any proposed subordination agreement (including nonconforming subordination agreements) shall be filed with the Commission at lease ten days prior to the proposed execution date of the agreement or at such other time as the Commission for good cause shall accept such filing. Copies of the proposed agreement shall be filed with all contract markets of which the applicant or registrant is a member, if any, in such quantities and at such time as the contract markets may require. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carried funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined at the Commission and the contract market with whom such agreements are required to be filed prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the Commission has found the agreement acceptable and such agreement has become effective in the form found acceptable.

(vii) Subordination Agreements in Effect Prior to Adoption—Any subordination agreement which has been entered into prior to (date of adoption) and which has been deemed to be satisfactorily subordinated pursuant to this section heretofore in effect or the net capital rules of a registered national securities exchange or contract market shall continue to be deemed a satisfactory subordination agreement until the maturity of such agreement. Provided, that no renewal of an agreement which provides for automatic or optional renewal by the applicant or registrant or lender shall be deemed to be a satisfactory subordination agreement unless such renewed agreement meets the requirements of this section, within six months of (the effective date of this section). Provided Further, that all subordination agreements must meet the requirements of this rule within five years of (date of adoption).

(7 U.S.C. 6f and 12a.)

As indicated above, it is the intent of the Commission to publish all segments of its proposed revisions to the minimum financial standards and related reporting requirements imposed upon FCM's prior to taking final action on any of these proposals. The Commission also intends to conduct public hearings on these proposals prior to taking such action. The date and place of such hearings will be announced subsequent to publication of these proposals.

Issued in Washington, D.C., on May 17, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

APPENDIX—CBT–CME PROPOSAL

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I. Definitions. For the purposes of these Minimum Financial Standards and Related Reporting Requirements, including Appendices A and B, the following definitions apply; provided, however, that nothing contained herein shall be construed to prevent the Examining Authority in applying these Minimum Standards from making such adjustments to assets, liabilities, reserves, or equities which it considers to be reasonable and necessary to reflect the financial condition of a Member: A. "Member" means:

1. With regard to the Board of Trade, each Member, registered partnership, registered corporation, and registered cooperative asso-

ciation which is registered with the Commodity Futures Trading Commission as a Futures Commission Merchant;

2. With regard to the Board of Trade Clearing Corporation, each stockholder of the Corporation which is registered with the Commodity Futures Trading Commission as a Futures Commission Merchant; and

3. With regard to the Chicago Mercantile Exchange, each clearing member, sub-broker and each member or member firm which is registered with the Commodity Futures Trading Commission as a Futures Commission Merchant.

B. "Examining Authority" means:

1. With regard to members of the Board of Trade, the Business Conduct Committee of the Board of Trade;

2. With regard to Members of the Board of Trade Clearing Corporation, the Board of Governors of the Board of Trade Clearing Corporation;

3. With regard to Members of the Chicago Mercantile Exchange, the Clearing House Committee of the Chicago Mercantile Exchange; and

4. With regard to Members of more than one Examining Authority, each such Examining Authority.

C. "Working Capital" means the amount by which Current Assets exceed Current Liabilities.

D. "Current Assets" means cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold during the next twelve months in the normal course of operation of the business of the Member and which are available for and intended for payment of Current Liabilities.

"Current Assets" excludes: 1. Customer Accounts that liquidate to an unsecured deficit or contain unsecured debit balances and which accounts have been in such position over 15 days.

2. Crop loans (loans made to farmers for the purpose of financing their crops or farm operations) which are not (i) due and collectible within nine months after the respective dates of making such loans, and (ii) evidenced by legally enforceable written instruments in the possession of the Member.

3. All other unsecured receivables, except trade receivables, that are not due and collectible within six months from the respective dates of their inception.

4. Clearing house stocks (except Board of Trade Clearing Corporation Stock and the Chicago Mercantile Exchange Security Deposit), exchange memberships, guaranty funds, and permanent deposits.

5. Unsecured advances and loans to any business affiliate that directly or indirectly controls, is controlled by, or is under common control, with the Member.

6. Unrealized commissions on open futures contracts.

7. Cash and claims to cash which are restricted as to use, such as customers' segregated funds.

8. Land, buildings, furniture and fixtures, improvements to real property and other fixed assets.

9. Prepaid expenses and deferred charges.

10. Unsecured loans and advances to partners, officers, directors and employees of the Member.

11. Unsecured debit balances and unsecured deficits in accounts owned by the Member or in accounts of partners, officers, directors and employees of the Member.

12. Securities without a ready market.

E. "Current Liabilites" means obligations that are or will become due and payable in the next 12 months, or the liquidation of which is reasonably expected to require the use of existing resources classifiable as Current Assets or the creation of other Current Liabilities. "Current Liabilities" excludes:

1. The amount of money, securities and property due to customers of the Member which is held in accounts segregated under the Commodity Exchange Act, but only if such money, securities and property are excluded from Current Assets in computing Working Capital.

2. The amount of indebtedness subordinated to the claims of all general creditors of the Member pursuant to Subordination Agreements conforming with the standards set forth in Appendix A.

3. Deferred income taxes.

F. "Adjusted Working Capital" means Working Capital less: 1.5 percent of all unsecured receivables used by the Member in computing Working Capital, or such greater allowance for doubtful accounts as has been established for financial reporting purposes.

2. The amount by which any advances paid by the Member on cash commodity contracts and used in computing Working Capital exceed 95 percent of the market value of the commodities covered by such contracts.

3. In the case of cash commodity inventories that are hedged by bona fide hedging positions as defined by Regulation 1.3(z) of the Commodity Futures Trading Commission (17 CFR § 1.3(z)) 5 percent of the market value of such inventories used by the Member in computing Working Capital; provided, however, that if market value is in excess of or less than book value, the difference will be added to or subtracted from Working Capital respectively.

4. In the case of cash commodity inventories that are not hedged as specified in (3) above, 20 percent of the market value of such inventories used by the Member in computing Working Capital; provided, however, that if market value is in excess of or less than book value, the difference will be added or subtracted from Working Capital respectively; provided further, however, that with respect to those units of inventory that are committed to fixed price sales, there shall be no deduction for such units of inventory used by the Member in computing Working Capital if the book value so used does not exceed its committed sales price.

5. In the case of securities, money-market instruments, and options, the deductions set forth in Appendix B.

G. "Aggregate Indebtedness" means that portion of the total liabilities of a Member which is not secured, but excluding:

1. Advances received by the Member against bills of lading issued in connection with the shipment of commodities sold by the Member.

2. Equities in accounts of general partners.

3. Equities in Customer Accounts.

4. The amount of indebtedness subordinated to the claims of all general creditors of the Member pursuant to Subordination Agreements which conform with the standards set forth in Appendix A.

5. The used portion of a letter of credit that is secured or used for arbitrage and the unused portion of any letter of credit. "Arbitrage" means an account of a clearing Member containing trades as a result of a specific arrangement between an International Monetary Market member and an approved bank whereby the International Monetary Market member has taken simultaneously an opposite position with the bank to the International Monetary Market transactions contained in said account.

Liabilities shall be deemed to be "secured" only to the extent that such liabilities are adequately collateralized by property owned by the Member or, in the case of a partnership, a general partner thereof.

H. "Proprietary Account" means a commodity futures trading account carried on the books of the Member (1) for the Member itself or (2) for a business affiliate which controls, or which is controlled by, or which is under common control with, the Member.

I. "Customer Account" means a commodity futures trading account carried on the books of the Member which is subject to segregation under the Commodity Exchange Act.

J. "Secured", in connection with loans, advances or other forms of receivables, means that: 1. The item is secured by collateral which can be readily converted into cash equal to or in excess of that part of the receivable which is shown in the creditor's records as secured, and

2. The collateral is in the possession and control of the creditor, or

3. The creditor has a legally enforceable, written security agreement signed by the debtor and has a perfected security interest in the collateral within the meaning of the laws of the State in which the collateral is located.

II. *Minimum Financial Standards*

A. *Minimum Requirement.*—1. Each member shall maintain at all times Adjusted Working Capital equal to or in excess of whichever of the following is greater:

(a) $50,000 or (b) an amount equal to the sum of the Safety Factors prescribed below, plus 6⅔% of Aggregate Indebtedness.

Provided, however, That in the case of a Futures Commission Merchant which has operated as such for 6 months or less, $100,000 will be substituted for $50,000 in (a) above. Provided further, that applicants for clearing membership shall meet such minimum requirements as may be established by the Examining Authority from time to time.

2. *Safety factors.* The Safety Factors shall be:

(a) An amount equal to 5 percent (in the case of GNMA contracts, 1 percent) of the market value (in the case of T-Bill contracts, the difference between the market value and face value) of the net long or net short futures contracts in each commodity, whichever is greater, carried in all Proprietary Accounts of the Member, exclusive of:

1. Any contract representing a bona fide hedging transaction as defined by regulation 1.3(z) of the Commodity Futures Trading Commission (17 CFR § 1.3(z));

2. Any spread or straddle carried for the same account in the same commodity on the same market in the same crop year;

3. Any contract resulting from an approved changer trade or arbitrage trade made in accordance with the rules of a contract market;

(4) Any intermarket or intercrop year spread or straddle, or any intermarket and intercrop year spread or straddle, carried for the same account in the same commodity; instead, the Safety Factor for such positions shall be ¼ of 1 percent of the market value of that side of each such spread or straddle having the greater market value.

(5) An amount equal to ½ of 1 percent (in the case of GNMA contracts, ½₀ of 1 percent of the market value (in the case of T-Bill contracts, the difference between the market value and face value) of the total long or total short futures contracts in each commodity, whichever is greater, carried in all non-Proprietary Accounts by the Member, exclusive of:

1. Any contract representing a bona fide hedging transaction as defined by regulation 1.3(z) of the Commodity Futures Trading Commission (17 CFR § 1.3(z)) and carried in a non-Proprietary, non-Customer Account by the Member.

2. Any spread or straddle carried for the same account in the same commodity on the same market in the same crop year;

3. Any contract resulting from an approved changer trade or abitrage trade made

in accordance with the rules of a contract market;

4. Any intermarket or intercrop year spread or straddle, or any intermarket and intercrop year spread or straddle, carried for the same account in the same commodity; instead, the Safety Factor for such positions shall be ¼ of 1 percent of the market value of that side of each such spread or straddle having the greater market value.

(c) Such other amount as the Examining Authority may determine at any time to be reasonable and necessary in view of the financial condition of the particular Member, including the financial condition and capitalization of the Member in relation to the volume and nature of its commodities and other business transacted with or on the facilities of the Examining Authority or otherwise.

B. *Alternative Requirements for Certain Brokers or Dealers.* Upon application to the Examining Authority, a Member who is a broker or dealer subject to the provisions of rule 15c3-1 of the Securities and Exchange Commission (17 CFR § 240.15c3-1) may be exempted by the Examining Authority from the provisions of Section II.A., provided that all "satisfactory subordination agreements" of such member, as that term is defined in Appendix D to rule 15c3-1, include (by addendum or otherwise) the Examining Authority as an "examining authority", as that term is used in Appendix D to rule 15c3-1, to whom all notices must be given, or from whom prior consents or approvals must be obtained in accordance with or pursuant to the terms of such agreements. Each exempted Member shall instead maintain at all times Net Capital as computed in accordance with the rule 15c3-1 in such amount as to comply with the minimum requirements of that Rule. The exemption of a Member from the provisions of Section II.A. is within the sole discretion of the Examining Authority and may be revoked by the Examining Authority at any time. Immediately upon such revocation, the Member shall be subject to the provisions of Section II.A.

III. *Financial Reporting Requirements*

A. *Members Subject to the Requirement of Section II.A.*—1. Each Member who is subject to the requirement of Section II.A. shall submit to the Examining Authority during each 12-month period a financial report examined by an independent public accountant acceptable to the Examining Authority.

(a) Such report shall be submitted as of a specified date during the course of, or following, each 12-month period.

(b) The report shall be made on a form provided by the Examining Authority.

(2) In addition, each such Member shall submit during each 12-month period 1 additional financial report as of a date specified by the Examining Authority. The report shall be made on a form provided by the Examining Authority.

B. *Members Subject to the Requirement of Section II.B.* Each Member who is subject to the alternative requirement of Section II.B. shall:

1. Promptly provide the Examining Authority with copies of all statements, reports, documents, agreements and notices prepared and filed or submitted by the Member pursuant to or in compliance with Rules 15c3-1, 17a-5, 17a-10 and 17a-11 of the Securities and Exchange Commission (17 CFR §§ 240.-15c3-1, 17a-5, 17a-10 and 17a-11) and such additional reports and schedules as may be required by the Examining Authority from time to time, and

2. Submit, upon request, to the Examining Authority, at the same time that the audited financial report of the Member is submitted, a financial report prepared on a form provided by the Examining Authority.

Additional Requests for Financial Information; Audits.—1. Each Member shall provide such additional financial information as the Examining Authority may request from time to time.

2. All financial reports submitted may be audited by the Examining Authority in the course of any examination of the books and records of the Member.

3. A duplicate copy of any financial report requested by the Examining Authority shall be promptly sent to all other Examining Authorities.

4. All Examining Authorities shall be promptly notified by the Member of any request for modification of capital structure by an Examining Authority.

Minimum Financial Standards and Related Reporting Requirements

APPENDIX

Standard for Subordination Agreements for Purposes of Sections I.E. (2) and I.G. (4)

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A–I. *Additional Definitions.*—A. "Subordination Agreement" means either a Subordinated Loan Agreement or a Secured Demand Note Agreement.

B. "Subordinated Loan Agreement" means the agreement or agreements evidencing or governing a subordinated borrowing of cash.

C. "Collateral Value" of any securities pledged to secure a secured demand note means the market value of such securities after giving effect to the haircuts specified in Appendix B.

D. "Payment Obligation" means the obligation of a borrower under any Subordination Agreement (1) to repay cash loaned to the borrower pursuant to a Subordinated Loan Agreement or (2) to return a secured demand note contributed to the borrower or reduce the unpaid principal amount thereof and to return cash or securities pledged as collateral to secure the secured demand note.

E. "Payment" means the performance by a borrower of a Payment Obligation.

F. "Secured Demand Note Agreement" means an agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to a borrower and the pledge of securities and/or cash with the borrower as collateral to secure payment of such secured demand note. Additionally:

1. The Secured Demand Note Agreement may provide that neither the Lender, his heirs, executors, administrators or assigns shall be personally liable on such note and that in the event of default the borrower shall look for payment of such note solely to the collateral then pledged to secure the same.

2. The secured demand note shall be a promissory note executed by the Lender and shall be payable on the demand of the borrower to which it is contributed; provided, however, that the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the Examining Authority.

3. If such note is not paid upon presentment and demand as provided therein, the borrower shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral, in payment of such note. Subject to the prior rights of the borrower as pledgee, the Lender may retain ownership of the collateral and have the benefit of any increases and bear the risks of any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral any right to income therefrom or distributions thereon, except the borrower shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

4. Subject to the prior rights of the borrower as pledgee, the Lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash or other securities as collateral, provided that the net proceeds of any such sale and the cash so substituted and the securities so purchased or substituted are held by the borrower as pledgee, and are included within the collateral to secure payment of the secured demand note, and provided further that no such transaction shall be permitted if, after giving effect thereto, the sum of the amount of any cash, plus the Collateral Value of the securities then pledged as collateral to secure the secured demand note, would be less than the unpaid principal amount of the secured demand note.

5. Upon payment by the Lender, as distinguished from a reduction by the Lender as provided for in subdivision A–II.F.(3) below, or reduction by the borrower as provided for in A–II.G. below of all or any part of the unpaid principal amount of the secured demand note, a borrower shall issue to the Lender a Subordinated Loan Agreement in the amount of such payment (or in the case of a borrower that is a partnership, credit a capital account of the Lender) or issue preferred or common stock of the borrower in the amount of such payment, or any combination of the foregoing, as provided for in the Secured Demand Note Agreement.

G. "Lender" means the person who lends cash to a borrower pursuant to a Subordinated Loan Agreement and the person who contributes a secured demand note to a borrower pursuant to a Secured Demand Note Agreement.

A–II. *Minimum Requirements for Subordination Agreements.*—A. Terms and Nature of Obligation. Subject to A–I. above, a Subordination Agreement means a written agreement between the borrower and the Lender, which:

1. Has a minimum term of one year, and

2. Is a valid and binding obligation enforceable in accordance with its terms (subject as to enforcement to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws) against the borrower and the lender and their respective heirs, executors, administrators, successors and assigns.

B. Specific Amount. All Subordination Agreements shall be for a specific dollar amount which shall not be reduced for the duration of the agreement except by installments as specifically provided for therein and except as otherwise provided in this Appendix.

C. Effective Subordination. The Subordination Agreement shall effectively subordinate any right of the Lender to receive any Payment with respect thereto, together with accrued interest or compensation, to the prior payment or provision for payment in full of all claims of all present and future creditors of the borrower arising out of any matter occuring prior to the date on which the related Payment Obligation matures, except for claims which are the subject of Subordination Agreements which rank on the same priority as or junior to the claim of the Lender under such Subordination Agreements.

D. Proceeds of Subordinated Loan Agreements. The Subordinated Loan Agreement shall provide that the cash proceeds thereof shall be used and dealt with by the borrower as part of its capital and shall be subject to the risks of the business.

E. Certain Rights of the Borrower. The Subordination Agreement shall provide that the borrower shall have the right to:

1. Deposit any cash proceeds of a Subordinated Loan Agreement and any cash pledged as collateral to secure a secured demand note in an account or accounts in its own name in any bank or trust company;

2. Pledge, repledge, hypothecate and rehypothecate, any or all of the securities pledged as collateral to secure a secured demand note, without notice, separately or in common with other securities or property for the purpose of securing any indebtedness of the borrower; and

3. Lend to itself or others any or all of the securities and cash pledged as collateral to secure a secured demand note.

F. Collateral for Secured Demand Notes. Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The Secured Demand Note Agreement shall provide that if at any time the sum of the amount of any cash, plus the Collateral Value of any securities then pledged as collateral to secure the secured demand note is less than the unpaid principal amount of the secured demand note, the borrower must immediately transmit written notice to that effect to the Lender and the Examining Authority. The Secured Demand Note Agreement shall also require that following such transmittal:

1. The Lender, prior to noon of the business day next succeeding the transmittal of such notice, may pledge as collateral additional cash or securities sufficient, after giving effect to such pledge, to bring the sum of the amount of any cash plus the Collateral Value of any securities, then pledged as collateral to secure the secured demand note, up to an amount not less than the unpaid principal amount of the secured demand note; and

2. Unless additional cash or securities are pledged by the Lender as provided in (1) above, the borrower at noon on the business day next succeeding the transmittal of notice to the Lender must commence sale, for the account of the Lender, of such of the securities then pledged as collateral to secure the secured demand note and apply so much of the net proceeds thereof, together with such of the cash then pledged as collateral to secure the secured demand note as may be necessary to eliminate the unpaid principal amount of the secured demand note; provided, however, that the unpaid principal amount of the secured demand note need not be reduced below the sum of the amount of any remaining cash, plus the Collateral Value of the remaining securities, then pledged as collateral to secure the secured demand note. The borrower may not purchase for its own account any securities subject to such a sale.

3. The Secured Demand Note Agreement may also provide that, in lieu of the procedures specified in the provisions required by (2) above, the Lender with the prior written consent of the borrower and the Examining Authority may reduce the unpaid principal amount of the secured demand note. *Provided*, That after giving effect to such reduction the firm can demonstrate that it will comply with the Minimum Financial Standards of the Examining Authority.

G. Permissive Prepayments. A borrower at its option, but not at the option of the Lender, may, if the Subordination Agreement so provides, make a Payment of all or any portion of the Payment Obligation thereunder prior to the scheduled maturity date of such payment obligation (a "Prepayment"). No Prepayment shall be made, if, after giving effect thereto (and to all Payments of Payment Obligations under any other Subordinated Agreements then outstanding the maturity or accelerated maturities of which are scheduled to fall due within 6 months after the date such Prepayment is to occur pursuant to this provision or on or prior to the date on which the Payment Obligation in respect of such Prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the borrower, the borrower would fail to comply with the Minimum Financial Requirements of the Examining Authority. Notwithstanding the above, no Prepayment shall occur without the prior approval of the Examining Authority.

H. Suspended Repayment.—1. The Payment Obligation of the borrower in respect of any Subordination Agreement shall be suspended and shall not mature if, after giving effect to Payment of such Payment Obligation (and to all Payments of Payment Obligations of the borrower under any other Subordination Agreement(s) then outstanding which are scheduled to mature on or before such Payment Obligation) the borrower would fail to comply with the Minimum Financial Standards of the Examining Authority. Provided, that the Subordination Agreement may provide that if the Payment Obligation of the borrower thereunder does not mature and is suspended as a result of the requirement of this provision for a period of not less than 6 months the borrower shall thereupon commence the rapid and orderly liquidation of its business but the right of the Lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Appendix.

2. Whenever a Subordination Agreement provides that a borrower shall commence a rapid and orderly liquidation, as permitted in (1) above, the date in which the liquidation commences shall be the maturity date for each Subordination Agreement of the borrower then outstanding, but the rights of the respective lenders to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Appendix.

I. Accelerated Maturity—Obligation to Repay to Remain Subordinate:

1. Subject to the provisions of H. above, a subordination agreement may provide that the Lender may, upon prior written notice to the borrower and the Examining Authority not earlier than 6 months after the effective date of such Subordination Agreement, accelerate the date on which the Payment Obligation of the borrower, together with accrued interest or compensation, is scheduled to mature to a date not earlier than 6 months after giving of such notice, but the right of the Lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Appendix.

2. Notwithstanding the provisions of H. above, the Payment Obligation of the borrower with respect to a Subordination Agreement, together with accrued interest and compensation, shall mature in the event of any receivership, insolvency, liquidation, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws, or any other marshalling of the assets and liabilities of the borrower but the right of the lender to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Appendix.

J. Accelerated Maturity of Subordination Agreements on Event of Default and Event of Acceleration Obligation to Repay to Remain Subordinate:

1. A Subordination Agreement may provide that the lender may, upon written notice to the borrower and the Examining Authority of the occurrence of any Event of Acceleration (as defined below) given no sooner than 6 months ofter the effective date of such Subordination Agreement, accelerate the date on which the Payment Obligation of the borrower, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than 6 months after notice of acceleration is received by the borrower and the Examining Authority. Any Subordination Agreement containing such Events of Acceleration may also provide, that if upon such accelerated maturity date the Payment Obligation of the borrower is suspended as required by H. above and liquidation of the borrower has not commenced on or prior to such accelerated maturity date, then notwithstanding H. above the Payment Obligation of the borrower with respect to such Subordination Agreement shall mature on the day immediately following such accelerated maturity date and in any such event the Payment Obligations of the borrower with respect to all other Subordination Agreements then outstanding shall also mature at the same time, but the rights of the respective Lenders to receive Payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Appendix. Events of Acceleration which may be included in a subordination agreement complying with this provision shall be limited to:

(a) Failure to pay interest or any installment of principal on a Subordination Agreement as scheduled;

(b) Failure to pay when due other money obligations of a specified material amount;

(c) Discovery that any material, specified representation or warranty of the borrower which is included in the Subordinated Agreement and on which the Subordination Agreement was based or continued was inaccurate in a material respect at the time made;

(d) Any specified and clearly measurable event which is included in the Subordination Agreement and which the Lender and the borrower agree (i) is a significant indication that the financial position of the borrower has changed materially and adversely from agreed upon specified norms or (ii) could materially and adversely affect the ability of the borrower to conduct its business as conducted on the date the Subordination Agreement was made or (iii) is a significant change in the senior management of the borrower or in the general business conducted by the borrower from that which obtained on the date the Subordination Agreement became effective.

(e) Any continued failure to perform agreed covenants included in the Subordination Agreement relating to the conduct of the business of the borrower or relating to the maintenance and reporting of its financial position.

2. Notwithstanding the provisions of H. above, a Subordination Agreement may provide that, if liquidation of business of the borrower hase not already commenced, the Payment Obligation of the borrower shall mature, together with accrued interest or compensation, upon the occurrance of an Event of Default (as defined below). Such agreement may also provide that, if liquidation of the business of the borrower has not already commenced, the rapid and orderly liquidation of the business of the borrower shall then commence upon the happening of an Event of Default. Any Subordination Agreement which so provides for maturity of the Payment Obligation upon the occurrence of an Event of Default shall also provide that the date on which such Event of Default occurs shall, if liquidation of the borrower has not already commenced, be the date on which the Payment Obligation of the borrower with respect to all other Subordination Agreements then outstanding shall mature but the rights of the respective Lenders to receive Payment, remain subordinate as required by the provisions of this Appendix. Events of Default which may be included in a Subordination Agreement shall be limited to:

(a) Failure to comply with the Minimum Financial Standards of the Examining Authority throughout a period of 15 consecutive business days, commencing on the day the borrower first determines and notifies the Examining Authority, or the Examining Authority first determines and notifies the borrower of such fact;

(b) The Commodity Futures Trading Commission shall revoke the registration of the borrower;

(c) The Examining Authority shall suspend (and not reinstate within 10 days) or revoke the borrower's status as a Member thereof;

(d) Any receivership, insolvency, liquidation, bankruptcy, assignment for the benefit of creditors, reorganization, whether or not pursuant to bankruptcy laws, or any other marshalling of the assets and liabilities of the borrower.

(3) A Subordination Agreement which contains any of the provisions permitted by this Section J. shall not contain the provision otherwise permitted by I. (1) above.

A–III. *Miscellaneous Provisions.*—A. Prohibited Cancellation. The Subordination Agreement shall not be subject to cancellation by either party; no Payment shall be made with respect thereto and the agreement shall not be terminated, rescinded or modified by mutual consent or otherwise if the effect thereof would be inconsistent with the requirements of this Appendix.

B. Notice of Maturity or Accelerated Maturity—Every borrower shall immediately notify the Examining Authority if, after giving effect to all Payments of Payment Obligations under Subordination Agreements then outstanding which are then due or mature within the following 6 months without reference to any projected profit or loss of the borrower, it fails to comply with the Minimum Financial Standards of the Examining Authority.

C. Certain Legends. If all the provisions of a Subordination Agreement do not appear in a single instrument, then the debenture or other evidence of indebtedness shall bear on its face an appropriate legend stating that it is issued subject to the provisions of a Subordination Agreement which shall be adequately referred to and incorporated by reference.

D. Legal Title to Securities. All securities pledged as collateral to secure a secured demand note must be in bearer form, or registered in the name of the borrower or the name of its nominee or custodian.

E. Filing. Two copies of any proposed Subordination Agreement (including non-conforming subordination agreements) shall be filed at least 10 days prior to the proposed execution date of the agreement with the Examining Authority or at such other time as the Examining Authority for good cause shall determine. The borrower shall also file a statement setting forth the name and address of the Lender, the business relationship of the Lender to the borrower, and whether the borrower carried funds or securities for the Lender at or about the time the proposed agreement was so filed. No proposed agreement shall be satisfactory for the purposes of this section unless and until the Examining Authority has found the agreement acceptable and such agreement has become effective in the form found acceptable.

F. Subordination Agreements in Effect Prior to Adoption. Any subordination agreement which has been entered into prior to (Effective Date of Appendix A) and which has been deemed to be a "satisfactory subordination agreement" pursuant to the capital rule of the Examining Authority heretofore in effect shall be deemed to be satisfactory for the purposes of this section until the maturity of such agreement. *Provided*, That no renewal of any agreement which provided for automatic or optional renewal by the borrower or Lender shall be deemed to be satisfactory unless such renewed agreement meets the requirements of this Appendix. Provided, further, that all Subordination Agreements must meet the requirements of this Appendix within 5 years of (Effective Date of Appendix A).

MINIMUM FINANCIAL STANDARDS AND RELATED REPORTING REQUIREMENTS

APPENDIX B

Securities, Money Market Instruments and Options: Amounts to be Deducted in Computing Adjusted Working Capital Pursuant to Section I.F. (5)

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B–I. *Securities and Money Market Instruments.*

A. *U.S. Government Securities.* In the case of a security issued or guaranteed as to principal or interest by the United States or any agency thereof, the applicable percentages of the market value of the net long or short position in each of the categories specified below are:

1. Less than 1 year to maturity, 0 percent.
2. 1 year but less than 3 years to maturity, 1 percent.
3. 3 years but less than 5 years to maturity, 2 percent.
4. 5 years or more to maturity, 3 percent.

B. *Municipals.* In the case of any municipal security which is not traded flat or in default as to principal or interest, the applicable percentages of the market value on the greater of the long or short position in each of the categories specified below are:

1. Less than 1 year to maturity, 1 percent.
2. 1 year but less than 2 years to maturity, 2 percent.
3. 2 years but less than 5 years to maturity, 3 percent.
4. 5 years or more to maturity, 5 percent.

C. *Canadian Debt Obligations.* In the case of any security issued or unconditionally guaranteed as to principal and interest by the Government of Canada, the percentages of market value to be deducted shall be the same as in A above.

D. *Certain Municipal Bond Trusts and Liquid Asset Funds.* In the case of securities of an investment company registered under the Investment Company Act of 1940, which assets are in the form of cash or securities or money market instruments which are described in subdivision A, C above or E below, the deduction shall be 5 percent of the market value of the greater of the long or short position.

E. *Commercial Paper, Bankers Acceptances and Certificates of Deposit.* In the case of any short-term promissory note or evidence of indebtedness which has a fixed rate of interest or is sold at a discount and which has a maturity date at date of issuance not exceeding 9 months exclusive of days of grace, or any renewal thereof, the maturity of which is likewise limited and is rated in one of the three highest categories by at at least two of the nationally recognized statistical rating organizations, or in the case of any negotiable certificates of deposits or bankers acceptance or similar type of instrument issued or guaranteed by any bank, the applicable percentages of the market value of the greater of the long or short positions in each of the categories specified below are:

1. Less than 30 days to maturity, 0 percent.
2. 30 days but less than 91 days to maturity, ⅛ of 1 percent.
3. 91 days but less than 181 days to maturity, ¼ of 1 percent.
4. 181 days but less than 271 days to maturity, ⅜ of 1 percent.

5. 271 days but less than 1 year to maturity, ½ of 1 percent, and

6. With respect to any negotiable certificate of deposit or bankers acceptance or similar type of instrument issued or guaranteed by any bank as defined above having 1 year or more to maturity, the deduction shall be on the greater of the long or short position and shall be the same percentage as that prescribed in A. above.

F. *Nonconvertible Debt Securities.* In the case of nonconvertible debt securities having a fixed interest rate and fixed maturity date and which are not traded flat or in default as to principal or interest and which are rated in one of the four highest rating categories by at least two of the nationally recognized statistical rating organizations, the applicable percentages of the market value of the greater of the long or short potsition in each of the categories specified below are:

(1) Less than 1 year to maturity, 1 percent.

(2) 1 year but less than 2 years to maturity, 2 percent.

(3) 2 years but less than 3 years to maturity, 3 percent.

(4) 3 years but less than 4 years to maturity, 4 percent.

(5) 4 years but less than 5 years to maturity, 5 percent and

(6) 5 years or more to maturity, 7 percent.

G. *Convertible Debt Securities.* In the case of a debt security not in default which has a fixed rate of interest and a fixed maturity date and which is convertible into an equity security, the deductions shall be as follows: If the market value is 100 percent or more of the principal amount, the deduction shall be determined as specified in subdivision J. below; if the market value is less than the principal amount the deduction shall be determined as specified in subdivision F. above if such securities are rated as required by subdivision F. above.

H. *Preferred Stock.* In the case of cumulative nonconvertible preferred stock ranking prior to all other classes of stock of the same issuer, which are not in arrears as to dividends, the deduction shall be 20 percent of the market value of the greater of the long or short position.

I. *Risk Arbitrage Positions.* In the case of each risk arbitrage transaction, the deduction shall be 30 percent (or such other percentage as required by this subdivision) on the long or equivalent short position, whichever has the greater market value. A "risk arbitrage transaction" shall mean the sale (either when issued, when distributed or short) of securities involved in a pending merger, consolidation, transfer of assets, exchange offer recapitalization or other similar transaction which has been publicly announced and has not been terminated, in connection with a previous or approximately simultaneous offsetting purchase of other securities which upon consummation of the transaction will result in the equivalent of the securities sold.

J. *All Other Securities.* In the case of all securities, except those described in part II of this Appendix, which are not included in any of the percentage categories enumerated in A.–I. above or K. (2) below, the deduction shall be 30 percent of the market value of the greater of the long or short position and to the extent the market value of the lesser of the long or short position exceeds 25 percent of the market value of the greater of the long or short position, there shall be a percentage deduction on such excess equal to 15 percent of the market value of such excess. Provided, that no deduction need be made in the case of (1) a security which is convertible into or exchangeable for other securities within a period of 90 days, subject to no conditions other than the payment of money and the other securities into which such security is convertible or for which it is exchangeable, are short in the accounts of such broker or dealer or (2) a security which has been called for redemption and which is redeemable within 90 days.

K. *Securities with a Limited Market.* In the case of securities (other than exempted securities, nonconvertible debt securities, and cumulative nonconvertible preferred stock) which are not: (1) traded on a national securities exchange; (2) designated as "OTC Margin Stock;" (3) quoted on "NASDAQ"; or (4) redeemable shares of investment companies registered under the Investment Company Act of 1940, the deduction shall be as follows:

1. In the case where there are regular quotations in an inter-dealer quotations system for the securities by three or more independent market-makers (exclusive of the computing member) and where each such quotation represents a bona fide offer to brokers or dealers to both buy and sell reasonable quantities at stated prices, or where a ready market as defined in (a) and (b) below is deemed to exist, the deduction shall be determined in accordance with J. above.

(a) "Ready market" shall include a recognized established securities market in which there exists independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined for a particular security almost instantaneously and where payment will be received in settlement of a sale at such price within a relatively short time conforming trade custom.

(b) A "ready market" shall also be deemed to exist where securities have been accepted as collateral for a loan by a bank and where the Member demonstrates to its Examining Authority that such securities adequately secure such loans.

2. In the case where there are regular quotations in an inter-dealer quotations system for the securities by only one or two independent market-makers (exclusive of the computing Member) and where such quotation represents a bona fide offer to brokers or dealers both to buy and sell in reasonable quantities at stated prices, the deduction on both the long and short position shall be 40%.

L. *Exception to K. above.* Where a Member demonstrates that there is sufficient liquidity for any securities long or short in the proprietary or other accounts of the Member which are subject to a deduction required by K. above, such deduction, upon a proper showing to the Examining Authority, may be appropriately decreased, but in no case shall such deduction be less than that prescribed in J. above.

B–II. *Stock Options*

A. *Additional Definitions.*—1. "Listed option" means any option traded on a registered national securities exchange or facility of a registered national securities association.

2. "Unlisted option" means any option not traded on a registered national securities exchange or facility of a registered national securities association.

B. *Certain Adjustments to Working Capital for Listed Options Before Computing the Deductions Specified in C. below.*—1. The market value of short positions in listed options shall be added to Working Capital and the market value of any long positions in listed options, which relate to long or short securities positions or short positions in listed options, shall be deducted from Working Capital, and;

2. The amount by which the market value of a short security position, which is related to a long listed call, exceeds the exercise value of such long call, or the amount by which the exercise value of a long listed put, which is related to a long security position, exceeds the market value of the long security, shall be added to Working Capital, and;

3. The amount by which the market value of the underlying security would exceed the exercise value of the short listed call, or the amount by which the exercise value of a short listed put exceeds the market value of the underlying security, shall be deducted from Working Capital.

C. *Deduction from Working Capital for Uncovered Options and Securities Positions in Which the Broker or Dealer has Offsetting Option Positions.* Every Member shall in computing Adjusted Working Capital deduct from Working Capital the percentages of all securities positions or options in the proprietary or other accounts of the Member specified below. However, where the computation of deductions required for option positions as if uncovered and security positions as if there were no related option positions would result in a lesser deduction from Working Capital, the Member may compute such deductions separately.

1. *Uncovered Calls.* Where a Member is short a call, deduct, after the adjustment provided for in B–II.B. above, 30 percent (or such other percentage required by B–I. A.–K.) of the current market value of the security underlying such option, reduced by any excess of the exercise value of the call over the current market value of the underlying security. Provided that, in no event shall this deduction be less than $250 for each option contract for 100 shares.

2. *Uncovered puts.* Where a Member is short a put, deduct, after the adjustment provided for in B–II.B., 30 percent (or such percentage required by B–I.A–K. above) of the current market value of the security underlying the option, reduced by any excess of the market value of the underlying security over the exercise value of the put. Provided that in no event shall this deduction be less than $250 for each option contract for 100 shares.

3. *Covered Calls.* Where a Member is short a call and long equivalent units of the underlying security, deduct, after the adjustment provided for in B–II.B. above 30 percent (or such other percentage required by B–I.A.–K. above) of the current market value of the underlying security, reduced by any excess of the current market value of the underlying security over the exercise value of the call. Provided that no such reduction shall have the effect of increasing Adjusted Working Capital.

4. *Covered Puts.* Where a Member is short a put and short equivalent units of the underlying security, deduct, after the adjustment provided for in B–II.B. above, 30 percent (or such other percentage required by B–I. A.–K. above) of the current market value of the underlying security reduced by any excess of the exercise value of the put over the market value of the underlying security. Provided that no such reduction shall have the effect of increasing Adjusted Working Capital.

5. *Conversion Accounts.* Where a Member is long equivalent units of the underlying security, long an unlisted put written or endorsed by a broker or dealer and short an unlisted call in his Proprietary or other accounts, deduct 10 percent (or 50 percent of such other percentage required by B–I. A.–K. above) of the market value of the underlying security.

6. Where a Member is short equivalent units of the underlying security, long an unlisted call written or endorsed by a broker or dealer and short an unlisted put in his Proprietary or other accounts, deduct 10 percent (or 50 percent of such other percentage required by B–I. A.–K. above) of the market value of the underlying security.

7. *Long Over-the-Counter Options.* Where a Member is long an unlisted put or call endorsed or written by a broker or dealer, deduct 30 percent (or such other percentage required by B–I. A.–K. above) of the market value of the underlying security, not to exceed any value attributed to such option in (a) and (b) below.

(a) In determining Working Capital all long and all short positions in listed options shall be marked to their market value.

(b) In determining Working Capital the value attributed to any unlisted option shall be the difference between the option's exercise value and the market value of the underlying security. In the case of an unlisted call, if the market value of the underlying security is less than the exercise value of such call, it shall be given no value and in the case of an unlisted put if the market value of the underlying security is more than the exercise value of the unlisted put it shall be given no value.

8. *Listed Options.* Where a Member is long listed options and there is no offsetting security position, deduct 30 percent of the market value of any net long positions in options in the same underlying security, with the same exercise price and the same expiration date. Where a Member has a net short position in an option in the same underlying security, with the same exercise price and the same expiration date and for which the broker or dealer does not have a related position in the underlying security or an option position otherwise provided for in this Appendix the deduction shall be determined as provided in II.C. (1) or (2) of this Appendix.

9. *Certain Security Positions with Offsetting Options.* Where a Member is long a security for which he is also long a listed put (such Member may in addition be short a call), deduct, after the adjustments provided in B–II.B. above, 30 percent of the market value of the long security position not to exceed the amount by which the market value of equivalent units of the long security position exceeds the exercise value of the put. Provided, that if the exercise value of the put is equal to or exceeds the market value of equivalent units of the long security position, no percentage deduction shall be applied.

10. Where a Member is short a security for which he is also long a listed call, (such Member may in addition be short a put) deduct, after the adjustments provided in B–II.B. above, 30 percent of the market value of the short security position not to exceed the amount by which the exercise value of the long call exceeds the market value of equivalent units of the short security position. Provided, that if the exercise value of the call is less than or equal to the market value of equivalent units of the short security position no percentage deduction shall be applied.

11. *Certain Spread Positions.* Where a Member is short a listed call and is also long a listed call in the same class of option contracts and the long option expires on the same date as or subsequent to the short option, deduct, after the adjustments required in B–II.B. above, the amount by which the exercise value of the long call exceeds the exercise value of the short call. Provided, that if the exercise value of the long call is less than or equal to the exercise value of the short call, no deduction is required.

12. Where a Member is short a listed put and is also long a listed put in the same class of option contracts and the long option expires on the same date as or subsequent to the short option, the deduction after the adjustments required in B–II.B. above, shall be the amount by which the exercise value of the short put exceeds the exercise value of the long put. Provided, that if the exercise value of the long put is equal to or greater than the exercise value of the short put, no deduction is required.

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federal register

THURSDAY, MAY 26, 1977

PART III

DEPARTMENT OF AGRICULTURE

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

PRIVACY ACT OF 1974

Revision of System of Records

Notice is hereby given that the Office of Investigation is revising its Systems of Records for the reasons given below. Since there are no new routine uses of these records, this revision becomes effective May 26, 1977.

System USDA/OI—1 is revised to correct the addresses of several field offices and make editorial changes.

System USDA/OI—2 is revised to refer to System USDA/OI—1 for location of records and thereby eliminate field office addresses and to make editorial changes.

System USDA/OI—3 is revised to make editorial changes and to amend the system to:

A. include applicants for OI employment in the categories of individuals covered,

B. show how investigative files are stored, and

C. specify exemption under 5 U.S.C. 552a(k)(5) for investigative material compiled solely for determining suitability, eligibility, or qualifications for Federal civilian employment.

System USDA/OI—4 is revised to make editorial changes.

In accordance with the above, USDA/OI—1 through USDA/OI—4 are revised to read as follows:

USDA/OI—1

System name: Employees Records, USDA/OI

System location: In the Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, and in the following field offices:

Room 1707, 26 Federal Plaza
New York, New York 10007
Room 432A, Federal Center Building
Hyattsville, Maryland 20782
Room 901, 1447 Peachtree Street, NE.
Atlanta, Georgia 30309
Room 800, 1 North Wacker Drive
Chicago, Illinois 60606
Room 311, Federal Office Building
101 South Main Street
Temple, Texas 76501
8930 Ward Parkway
P.O. Box 205
Kansas City, Missouri 64141
Room 526, 555 Battery Street
San Francisco, California 94111
Room 220, U.S. Court House
Hato Rey, Puerto Rico 00918
600 Dekalb Pike
King of Prussia, Pennsylvania 19406
Room 328, 310 New Bern Avenue
Raleigh, North Carolina 27611
Room 444, 80 North Hughey Avenue
Orlando, Florida 32801
Room 214, Imperial Towers Office Building
333 Waller Avenue
Lexington, Kentucky 40504
Room 5, 5305 Executive Place
Jackson, Mississippi 39206
Room 202, Federal Building
3rd and State Streets
Columbus, Ohio 43215
Room 614, Federal Building
600 South Street
New Orleans, Louisiana 70130
Suite 18–A, 1 Diamond Plaza
2490 West 26th Avenue
Denver, Colorado 80211
Building 7, 4747 Eastern Avenue
Bell, California 90201

Categories of individuals covered by the system: OI temporary and permanent employees, former employees, and applicants for employment.

Categories of records in the system: These records show personnel management and work-related information, including position, title, grade, pay rate, pay, temporary and permanent address, phone number, performance evaluations, promotions, travel information, accident reports and related information, activity reports, participation in savings and contribution programs, availability for employment, for assignment, or for transfer, qualifications, awards, hours worked, issuance of credentials, passports, and other identification, assignment and accountability of property and other things of value, parking space assignments, training and development, and special assignments.

Authority for maintenance of the system: 5 U.S.C. 301, 7 CFR 2.333

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To other agencies in the Department and Executive Branch agencies, such as the Civil Service Commission, as necessary for proper personnel actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, notebooks, and card file boxes.

Retrievability: By name of individual employee.

Safeguards: Available on official need to know basis. Kept in locked offices after office hours.

Retention and disposal: Records are retained as long as needed and then discarded. Personal information that might be considered derogatory or embarrassing is burned when no longer needed.

System manager(s) and address: Administrative Officer, OI, U.S. Department of Agriculture, Washington, D.C. 20250.

Notification procedure: Inquiries and requests should be addressed to Assistant Director for Information, Research and Development (IRD), Office of Investigation, U.S. Department of Agriculture, Washington, D.C. 20250.

Record access procedures: To gain access to information in this system, send request to the Assistant Director, IRD.

Contesting record procedures: To contest information in this system, send request to the Assistant Director, IRD.

Record source categories: The primary information is from employee himself. Additional information is provided by supervisors, coworkers, references, and investigative personnel.

USDA/OI—2

System name: Intelligence Records, USDA/OI

System location: In the Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, and in the field offices listed in the system of records designated USDA/OI—1.

Categories of individuals covered by the system: Suspects and unpaid informants

Categories of records in the system: Allegations against suspects and types of information previously furnished by or to be expected from informants

Authority for maintenance of the system: 5 U.S.C. 301, 7 CFR 2.33

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine uses for law enforcement purposes will include referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on sheets of paper and index cards

Retrievability: Retrievable by name of individual subject

Safeguards: Available on an official need-to-know basis and kept in locked storage when not in use.

Retention and disposal: Kept indefinitely and continually updated; out-of-date material is burned.

System manager(s) and address: Administrative Officer, Office of Investigation, U.S. Department of Agriculture, Washington, D.C. 20250

Inquiries and requests should be addressed to Assistant Director for Information, Research and Development, Office of Investigation, U.S. Department of Agriculture, Washington, D.C. 20250.

Systems exempted from certain provisions of the act: This system has been exempted from the provisions of sections (c)(3), (d), (e)(1), (e)(4)(G)(H)(I) and (f) pursuant to 5 U.S.C. 552a(k)(2) as investigatory material compiled for law enforcement purposes. This exemption is contained in 7 CFR 1.123, 40 Fed. Reg. 45103 (1975).

USDA/OI—3

System name: Investigative Files and Subject/Title Index, USDA/OI

System location: In the Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, and in the field offices set forth in the system of records designated USDA/OI—1.

Except for inadvertent errors, all entries in regional indexes (at the first seven field offices listed in USDA/OI—1) are duplicated in the Headquarters index. Thus the Headquarters index is the only complete index in OI. The Headquarters files also contain a copy of every OI investigative report, but not the correspondence in all cases. Older investigative files of each OI office may have to be retrieved from Federal Records Centers when needed.

Categories of individuals covered by the system: The individual names in the OI index fall into one or more of the following categories:

Subjects. These are applicants for OI employment or individuals against whom allegations of wrongdoing have been made. In some instances, these individuals have been the subjects of investigations conducted to establish whether allegations were true. In other instances, the allegations were deemed too frivilous or indefinite to warrant inquiry.

Principals. These are individuals who are not named subjects of investigative inquiries, but may be responsible for alleged violations. For example, the president of a firm alleged to have violated laws or regulations would likely be individually listed in the OI index.

Complainants. These are individuals who allege wrongdoing, mismanagement, or unfair treatment relating to USDA employees and/or programs.

Others. These are all other individuals closely connected with a matter of investigative interest or whose names have been checked through the index to determine whether they were of record. Among these names are those of people who are connected with a matter only in that they have shown unusual interest in having allegations investigated or in learning the results of investigation. Also included in the index are the names of persons on the Department of Justice crime list.

Categories of records in the system: The OI Subject/Title Index and Investigative Files consist of:

1. Index cards and/or a microfiche index filed alphabetically by the names of individuals, organizations, and firms with a separate card or line item for each; dates of entries made into the index or dates of materials containing information about the named subjects' and identification of the OI file or files containing information on that subject.

2. Files containing bound sheets of paper or microfiche of such sheets from investigative and other reports, correspondence, and informal notes and notations concerning (a) one investigative matter or (b) a number of incidents of the same sort of alleged violation or irregularity.

If such information was available when an index card or line item was made, the card or microfiche on an individual will include the individual's address, date of birth, and Social Security number.

3. Where investigation is being or will be conducted, but has not been completed, various case management records, investigator's notes, statements of witnesses, and copies of records. These are contained on index slips or cards and sheets of paper located in an OI office or in the possession of the OI investigator. Certain management records are retained after the investigation report is released as a means of following action taken on the basis of the OI investigative report.

Authority for maintenance of the system: 5 U.S.C. 301, 7 CFR 2.33

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine use for law enforcement purposes will include referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility for investigating or prosecuting a violation of law or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The OI Subject/Title Index consists of 3-inch by 5-inch cards or microfiche line items stored in steel cabinets. The investigative files are stored in steel Lektriever cabinets.

Retrievability: The cards or line items are arranged alphabetically, and each card or line item identifies one or more OI investigative case file or administrative file arranged numerically by file number, but not individually identifiable.

Safeguards: These records are available within USDA and to others in the Executive Branch only upon proper identification and a need to know and are kept in a limited-access area during normal duty hours and in a locked office after duty hours.

Retention and disposal: The cards or line items are kept indefinitely and investigative case files are maintained for 30 years. Certain investigative case files of unusual significance are also kept indefinitely. Administrative files are kept for five years.

System manager(s) and address: Administrative Officer, Office of Investigation, U.S. Department of Agriculture, Washington, D.C. 20250.

Inquiries and requests should be addressed to Assistant Director for Information, Research and Development, Office of Investigation, U.S. Department of Agriculture, Washington, D.C. 20250.

Systems exempted from certain provisions of the act: This system has been exempted from the provisions of sections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) pursuant to 5 U.S.C. 552a (k)(2) and (k)(5) as investigatory material compiled for law enforcement purposes or compiled solely for determining suitability, eligibility, or qualifications for Federal civilian employment. This exemption is contained in 7 CFR 1.123, 40 Fed. Reg. 45103 (1975).

USDA/OI—4

System name: Liaison Records, USDA/OI

System location: Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, and in the field offices set forth in the system of records designated USDA/OI—1.

Categories of individuals covered by the system: Employees or officials of Federal, State, and local governmental agencies

Categories of records in the system: Such information as name, title, address, phone number, and type of assistance previously given or interest previously shown or expected

Authority for maintenance of the system: 5 U.S.C. 301, 7 CFR 2.33

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosed to other investigative agencies (e.g., FBI, Secret Service, IRS) to coordinate investigative efforts or for those agencies to use in their independent investigations and to facilitate referral of OI investigative information to other Executive Agencies that have an official interest.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index cards and sheets of paper

Retrievability: By name of person and Agency

Safeguards: Information usually obtained from public records and available to OI employees and to others on request.

Retention and disposal: Information is kept indefinitely and disposed of when updated. Out-of-date information is discarded.

System manager(s) and address: Administrative Officer, Office of Investigation, U.S. Department of Agriculture, Washington, D.C. 20250

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Dated: May 19, 1977

Bob Bergland
Secretary

[FR Doc.77-14825 Filed 5-25-77;8:45 am]

federal register

THURSDAY, MAY 26, 1977

PART IV

THE PRESIDENT

presidential documents

Title 3—The President

Executive Order 11992 • May 24, 1977

Establishing the Committee on Selection of Federal Judicial Officers

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

SECTION 1. *Establishment of the Committee.* There is hereby established the Committee on Selection of Federal Judicial Officers, hereinafter referred to as the Committee. The Committee shall consist of a Chairman and six other members to be appointed by the President.

SEC. 2. *Functions.* When requested by the President, the Committee shall conduct inquiries to identify persons who may be qualified to serve as Federal judicial officers, other than United States Circuit Judges or District Judges, and shall conduct investigations of those persons to determine their qualifications.

SEC. 3. *Procedures; Report.* (a) When notified by the President that he desires its assistance in filling a Federal judicial vacancy, other than a United States Circuit Court or District Court vacancy, the Committee shall conduct inquiries to identify persons who may be qualified to serve in the position and shall conduct further inquiries to determine those persons' qualifications.

(b) In conducting its inquiries the Committee shall follow any procedures established by the President in his letter of notification or by the Attorney General acting on behalf of the President.

(c) The Committee shall submit to the President and to the Attorney General, within 60 days from the date it is notified by the President that he desires its assistance, a report listing the names of no more than five persons whom the Committee considers well qualified to serve in the position. In determining which persons are well qualified the Committee shall apply criteria established by the President or by the Attorney General acting on behalf of the President.

(d) The Committee shall conduct such additional inquiries and submit such additional reports as may be requested by the President.

(e) The Committee shall perform no function except when requested by the President to assist him in filling a vacancy.

SEC. 4. *Ineligibility of Committee Members.* No member of the Committee shall be eligible to be nominated to fill a position as a Federal judicial officer with respect to which the Committee's assistance has been requested.

SEC. 5. *Cooperation by Executive Agencies.* The Committee is authorized to request, through its Chairman, from any Executive department or agency such information or assistance as the Committee deems necessary to carry out its functions under this Order. Each department or agency shall, to the extent permitted by law, furnish such information or assistance to the Committee. The Committee also is authorized to request from any State agency such information and assistance as the Committee deems necessary, and to obtain such information and assistance to the extent permitted by State law.

SEC. 6. *Travel Expenses; Administrative Support; Financing.* (a) Members of the Committee shall serve without compensation. While engaged in the work of the Committee, members may receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

(b) The Attorney General shall furnish to the Committee necessary staff, supplies, facilities and other administrative services.

(c) All necessary expenses incurred in connection with the work of the Committee, to the extent permitted by law, shall be paid from funds available to the Attorney General.

SEC. 7. *Federal Advisory Committee Act Functions.* Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Committee, shall be performed by the Attorney General in accordance with the guidelines and procedures established by the Office of Management and Budget.

SEC. 8. *Termination of the Committee.* The Committee shall terminate on December 31, 1978, unless sooner extended.

Jimmy Carter

THE WHITE HOUSE,
May 24, 1977.

[FR Doc.77-15312 Filed 5-25-77;12:02 pm]

Executive Order 11993 May 24, 1977

Relating to the United States Circuit Judge Nominating Commission

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, Section 3 of Executive Order No. 11972 of February 14, 1977, is amended by redesignating the present text as subsection (a), redesignating the present lettered subsections as numbered paragraphs (1), (2), (3), and (4), and by adding the following new subsection (b):

"(b) The Panel for the District of Columbia Circuit shall have the additional function of recommending nominees for the United States District Court for the District of Columbia, in accordance with the standards and procedures prescribed by this order for recommending nominees for circuit judges.".

Jimmy Carter

THE WHITE HOUSE,
May 24, 1977.

[FR Doc.77-15313 Filed 5-25-77;12:03 pm]



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Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Miscellaneous Technical Amendments; Correction

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Amendment of a final rule.

SUMMARY: On April 20, 1976, the Office of Foreign Assets Control published amendments to the Foreign Assets Control Regulations (31 CFR Part 500) in FR Doc. 76–11339 at 41 FR 16553. In the amendment to paragraph (a)(4) of § 500.322 which appeared on page 16554, "Finland" was inadvertently excluded. This error is being corrected by the addition in paragraph (a)(4) of § 500.322 of "Finland" immediately after "the Federal Republic of Germany and the Western Sector of Berlin" and immediately before "France (including Monaco)."

EFFECTIVE DATE: April 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell, Acting Chief Counsel, Department of the Treasury, Office of Foreign Assets Control, Washington, D.C. 20220 (202–376–0236).

SUPPLEMENTARY INFORMATION: As this amendment is merely a correction to a previously published rule and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The principal draftsman of this amendment is David J. Dir.

Accordingly, 31 CFR Part 500 is amended by the addition in paragraph (a)(4) of § 500.322 of "Finland" immediately after "the Federal Republic of Germany and the Western Sector of Berlin" and immediately before "France (including Monaco)."

(50 U.S.C. App. 5(b); Executive Order 9193, 3 CFR 1943 Cum. Supp.; Treasury Department Order No. 128, 32 FR 3472.)

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:
BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77–15096 Filed 5–24–77;11:00 am]

PART 505—TRANSACTION CONTROL REGULATIONS

Miscellaneous Technical Amendments; Correction

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Amendment of a final rule.

SUMMARY: On April 20, 1976, the Office of Foreign Assets Control published amendments to the Transaction Control Regulations (31 CFR Part 505) in FR Doc. 76–11338 at 41 FR 16556. In the amendment of the schedule to § 505.10 which appeared on page 16556 "Poland and Danzig" were inadvertently excluded. This error is being corrected by the addition in the schedule to § 505.10 of "Poland and Danzig" immediately after "Peoples Republic of China" and immediately before "Rumania".

EFFECTIVE DATE: April 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell, Acting Chief Counsel, Department of the Treasury, Office of Foreign Assets Control, Washington, D.C. 20220 (202–376–0236).

SUPPLEMENTARY INFORMATION: As this amendment is merely a correction to a previously published rule and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The principal draftsman of this amendment is David J. Dir.

Accordingly, 31 CFR Part 505 is amended by the addition in the schedule to § 505.10 of "Poland and Danzig" immediately after "Peoples Republic of China" and immediately before "Rumania".

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:
BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77–15097 Filed 5–24–77;11:00 am]

PART 530—RHODESIAN SANCTIONS REGULATIONS

Prohibitions Against Imports of Strategic and Critical Materials of Southern Rhodesian Origin and of Ferrochromium and Chromium Steel Products From Any Country, Except as Authorized; Correction

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Correction of a final rule.

SUMMARY: On April 5, 1977, the Office of Foreign Assets Control published amendments to the Rhodesian Sanctions Regulations (31 CFR Part 530) in FR Doc. 77–10108 at 42 FR 18073. In the amendment of § 530.808 which appeared on page 18075 a sentence in paragraph (c)(2) reads: "It shall bear an endorsement reading: "This document has been accepted pursuant to § 500.808(c)(2) of the Foreign Assets Control Regulations." This sentence should have referred to the Rhodesian Sanctions Regulations instead of the Foreign Assets Control Regulations. This correction substitutes the correct reference.

EFFECTIVE DATE: April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell, Acting Chief Counsel, Department of the Treasury, Office of Foreign Assets Control, Washington, D.C. 20220 (202–376–0236).

SUPPLEMENTARY INFORMATION: As this change is merely a correction to a previously published rule and involves a foreign affairs function, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The principal draftsman of this correction is David J. Dir.

31 CFR Part 530 is corrected by the deletion from § 530.808(c)(2) of the sentence: "It shall bear an endorsement reading: "This document has been accepted pursuant to § 500.808(c)(2) of the Foreign Assets Control Regulations," and the substitution therefor of: "It shall bear an endorsement reading: "This document has been accepted pursuant to § 530.808(c)(2) of the Rhodesian Sanctions Regulations."

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:
BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77–15098 Filed 5–24–77;11:00 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Amendment of the Commission's Rules to bring up-to-date the List of Treaties and Other International Agreements, relating to telecommunications, which are in force with respect to the United States. These are editorial changes to add treaties and agreements which have entered into force since the last amendment and to delete those which have been superseded.

EFFECTIVE DATE: May 31, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Neva Bell Perry, Office of Chief Engineer (202–632–7055).

SUPPLEMENTARY INFORMATION:

Adopted: May 13, 1977.

Released: May 19, 1977.

1. The Commission has before it the desirability of making certain editorial changes in Part 2 of its Rules and Regulations.

2. The authority for the amendments is contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and section 0.231(d) of the Commission's Rules. Because the amendments are editorial in nature, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.

3. *It is ordered*, effective May 31, 1977, That Part 2 of the Rules and Regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION.
R. D. LICHTWARDT,
Executive Director.

In subpart G §§ 2.601, 2.602, and 2.603 are revised to read as follows:

§ 2.601 General.

This subpart is corrected to May 31, 1977. The Commission does not distribute copies of these documents. Inquiry may be made to the U.S. Government Printing Office concerning availability for purchase.

§ 2.602 Citation abbreviations used in this subpart.

Trenwith—Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and Other Powers, 1923–1937 compiled under S. Res. No. 132, 75th Cong., 1st Sess.).

LNTS—League of Nations Treaty Series.
Stat.—United States Statutes at Large.
UST—United States Treaties and Other International Agreements.
TS—Treaty Series.
EAS—Executive Agreement Series.
TIAS—Treaties and Other International Acts Series.
Bevans—Treaties and Other International Agreements of the United States of America 1776–1949.

§ 2.603 Treaties and other international agreements relating to radio.

(a) The applicable treaties and other international agreements in force relating to radio and to which the United States of America is a party (other than reciprocal operating agreements for radio amateurs) are listed below:

Date	Citations	Subject
1925	IV Trenwith 4248, 4250 and 4251; TS 724-A; 6 Bevans 22; 12 Bevans 451.	U.S.-U.K. (also for Canada and Newfoundland) Bilateral Arrangements providing for the Prevention of Interference by Ships off the Coasts of these Countries with Radio Broadcasting. Effected by exchange of notes September and October 1925. Entered into force Oct. 1, 1925.
1928 and 1929	102 LNTS 143; TS 767-A; 6 Bevans 26.	U.S.-Canada Arrangement governing Radio Communications between Private Experimental Stations. Effected by exchange of notes at Washington Oct. 2 and Dec. 29, 1928, and Jan. 12, 1929. Entered into force Jan. 1, 1929. Continued by the arrangement contained in EAS 62.
1929	IV Trenwith 4787; TS 777-A; 2 Bevans 775.	U.S.-Canada (including Newfoundland) Arrangement relating to Assignment of High Frequencies on the North American Continent. Effected by exchange of notes at Ottawa Feb. 26 and 28, 1929. Entered into force Mar. 1, 1929. (Originally, Cuba was also a party to this arrangement, but by virtue of notice to the Canadian Government, it ceased to be a party effective Oct. 5, 1933.)
1931	49 Stat. 3355; EAS 66, 10 Bevans 1103.	U.S.-Peru Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Lima Feb. 16, and May 23, 1934 Entered into force May 23, 1934.
1934	48 Stat. 1876; EAS 62; 6 Bevans 26.	U.S.-Canada Arrangement relative to Radio Communications between Private Experimental Stations and between Amateur Stations. Continues the arrangement contained in TS 767-A. Effected by exchange of notes at Ottawa Apr. 23, and May 2 and 4, 1934. Entered into force May 4, 1934.
1934	49 Stat. 3667; EAS 72; 6 Bevans 564.	U.S.-Chile Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Santiago Aug. 2 and 17, 1934. Entered into force Aug. 17, 1934.
1937	53 Stat. 1576; TS 938; 3 Bevans 462	Inter-American Radio Communications Convention between the United States and Other Powers. Signed at Havana Dec. 13, 1937. (First Inter-American Radio Conference.) Entered into force for the United States July 21, 1938, for Parts I, III and IV; Apr. 17, 1939 for Part II. Part II of the Convention (Inter-American Radio Office) terminated for all parties Dec. 20, 1958 (TIAS 4079).
1938	54 Stat. 1675; TS 949; 3 Bevans 529	Regional Radio Convention between the United States (in behalf of the Canal Zone) and Other Powers. Signed at Guatemala City Dec. 8, 1938. Entered into force Oct. 8, 1939.
1939	53 Stat. 2157; EAS 143; 6 Bevans 143.	U.S.-Canada Arrangement governing the Use of Radio for Civil Aeronautical Services. Effected by exchange of notes at Washington Feb. 20, 1939. Entered into force Feb. 20, 1939.
1946	60 Stat. 1606; TIAS 1527; 11 Bevans 1291.	U.S.-U.S.S.R. Agreement on Organization of Commercial Radio Teletype Communication Channels. Signed at Moscow May 24, 1946. Entered into force May 24, 1946.
1947	61 Stat. (4) 3800; TIAS 1726; 6 Bevans 447.	U.S.-Canada Agreement providing for Frequency Modulation Broadcasting in Channels in the Radio Frequency Band 88–108 Mc/s. Effected by exchange of notes at Washington Jan. 8 and Oct. 15, 1947. Entered into force Oct. 15, 1947.
1947	61 Stat. (4) 3416; TIAS 1676; 12 Bevans 956.	U.S.-UN Agreement relative to Headquarters of the United Nations. Signed at Lake Success June 26, 1947. Entered into force Nov. 21, 1947. Supplemented by the agreements contained in TIAS 5961 and TIAS 6750 signed Feb. 9, 1966, and Aug. 28, 1969, respectively.
1947	61 Stat. (3) 3131; TIAS 1652; 12 Bevans 824.	U.S.-UK Agreement regarding Standardization of Listance Measuring Equipment. Signed at Washington Oct. 13, 1947. Entered into force Oct. 13, 1947.
1948	9 UST 621; TIAS 4044; 4 Bevans 700.	Intergovernmental Maritime Consultative Organization (IMCO) Convention. Signed at Geneva Mar. 6, 1948. Entered into force Mar. 17, 1958. Modified by the amendments contained in TIAS 6285 and in TIAS 6490 adopted by the IMCO Assembly Sept. 15, 1964, and Sept. 28, 1965, respectively.
1949	3 UST (3) 3064; TIAS 2489, 4 Bevans 851.	Inter-American Radio Agreement between the United States and Canada and Other American Republics. Signed at Washington July 9, 1949. (Fourth Inter-American Radio Conference.) Entered into force Apr. 13, 1952, subject to the provisions of Article 13.
1949	3 UST (2) 2686; TIAS 2435; 4 Bevans 852.	London Telecommunications Agreement between the United States and Certain British Commonwealth Governments. Signed at London Aug. 12, 1949. Entered into force Feb. 24, 1950. Amended by the agreement contained in TIAS 2705 which was signed Oct. 1, 1952.
1950	3 UST (2) 2672; TIAS 2433	U.S.-Ecuador Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Quito Mar. 16 and 17, 1950. Entered into force Mar. 17, 1950.
1950 and 1951	2 UST (1) 683; TIAS 2223	U.S.-Liberia Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Monrovia Nov. 9, 1950, and Jan. 8, 9, and 10, 1951. Entered into force Jan. 11, 1951.
1950	11 UST 413; TIAS 4460	North American Regional Broadcasting Agreement (NARBA) Signed at Washington Nov. 15, 1950. Entered into force Apr. 19, 1960. Effective between United States, Canada, Cuba, Dominican Republic, and the United Kingdom of Great Britain and Northern Ireland for the Bahama Islands. Ratification on behalf of Jamaica pending.
1951	3 UST (3) 3787, TIAS 2508.	U.S.-Canada Convention relating to the Operation by Citizens of Either Country of Certain Radio Equipment or Stations in the Other Country. Signed at Ottawa Feb. 8, 1951. Entered into force May 15, 1952.

Date	Citations	Subject
1951 and 1952	3 UST (3) 3892; TIAS 2520	U.S.-Cuba Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Havana Sept. 17, 1951, and Feb. 27, 1952. Entered into force Feb. 27, 1952.
1951	3 UST (2) 2860; TIAS 2459	U.S.-Cuba Agreement concerning the Control of Electromagnetic Radiation. Effected by exchange of notes at Havana Dec. 10 and 18, 1951. Entered into force Dec. 18, 1951.
1952	3 UST (3) 4443; TIAS 2594	U.S.-Canada Agreement relating to the Assignment of Television Frequency Channels along United States-Canadian Border. Effected by exchange of notes at Ottawa Apr. 23 and June 23, 1952. Entered into force June 23, 1952.
1952	3 UST (4) 5140; TIAS 2705	London Revision (1952) of the London Telecommunications Agreement (1949) between the United States and Certain British Commonwealth Governments. Signed at London Oct. 1, 1952. Entered into force Oct. 1, 1952. This amends the agreement contained in TIAS 2435 signed Aug. 12, 1949.
1953	5 UST (3) 2840; TIAS 3138	U.S.-Canada Understanding relating to the Sealing of Mobile Radio Transmitting Equipment. Effected by exchange of notes at Washington Mar. 9 and 17, 1953. Entered into force Mar. 17, 1953.
1956	7 UST 2179; TIAS 3617	U.S.-Panama Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Panama July 19 and Aug. 1, 1956. Entered into force Sept. 1, 1956.
1956	7 UST 2839; TIAS 3665	U.S.-Costa Rica Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington Aug. 13 and Oct. 19, 1956. Entered into force Oct. 19, 1956.
1956	7 UST 3159; TIAS 3694	U.S.-Nicaragua Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Managua Oct. 8 and 16, 1956. Entered into force Oct. 16, 1956.
1957	9 UST 1037; TIAS 4079	Multilateral Declaration between the United States and Other Powers terminating Part II (Inter-American Radio Office) of the Inter-American Radio Communications Convention of Dec. 13, 1937 (TS-938). Signed at Washington Dec. 20, 1957. Entered into force Dec. 20, 1957. Additionally, a Contract on the Exchange of Notifications of Radio Broadcasting Frequencies between the Pan American Union, the United States and Other Powers was signed at Washington Dec. 20, 1957. Entered into force Jan. 1, 1958.
1958	9 UST 1091; TIAS 4089	U.S.-Mexico Agreement regarding Allocation of Ultra High Frequency Channels to Land Border Television Stations. Effected by exchange of notes at Mexico July 16, 1958. Entered into force July 16, 1958.
1959	10 UST 1449; TIAS 4295	U.S.-Mexico Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Mexico July 31, 1959. Entered into force Aug. 30, 1959.
1959 and 1960	11 UST 257; TIAS 4442	U.S.-Honduras Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Tegucigalpa Oct. 26, 1959, and Feb. 17, 1960, and related note of Feb. 19, 1960. Entered into force Mar. 17, 1960.
1959	10 UST 3019; TIAS 4394	U.S.-Venezuela Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Caracas Nov. 12, 1959. Entered into force Dec 12, 1959.
1959	12 UST 2377; TIAS 4893	International Radio Regulations Annexed to the International Telecommunication Convention. Signed at Geneva Dec. 21, 1959. Entered into force with respect to the United States Oct. 23, 1961. Revised by the Partial Revisions of the Radio Regulations, Geneva, 1959, contained in TIAS 5603, TIAS 6332, TIAS 6590, TIAS 7435, and TIAS . . . signed Nov. 8, 1963, Apr. 29, 1966, Nov. 3, 1967, July 17, 1971, and June 8, 1974 respectively.
1960	11 UST 1; TIAS 4399	U.S.-Haiti Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Port-au-Prince, Jan. 4 and 6, 1960. Entered into force Feb. 5, 1960.
1960	16 UST 185; TIAS 5780	International Convention for the Safety of Life at Sea and Annexed Regulations. Signed at London June 17, 1960. Entered into force May 26, 1965. Corrections to certain annexes contained in TIAS 6284 signed Feb. 15, 1966.
1960	11 UST 2229; TIAS 4596	U.S.-Paraguay Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Asuncion Aug. 31, and Oct. 6, 1960. Entered into force Nov. 5, 1960.
1961	17 UST 1574; TIAS 6115	U.S.-Uruguay Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Montevideo Sept. 12, 1961. Entered into force Sept. 26, 1966.
1961	12 UST 1695; TIAS 4888	U.S.-Bolivia Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at La Paz Oct. 23, 1961. Entered into force Nov. 22, 1961.
1962	13 UST 411; TIAS 5001	U.S.-El Salvador Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at San Salvador Apr. 5, 1962. Entered into force May 5, 1962.
1962	13 UST 997; TIAS 5043	U.S.-Mexico Agreement relating to the Assignment of VHF Television Channels along United States-Mexican Border. Effected by exchange of notes at Mexico Apr. 18, 1962. Entered into force Apr. 18, 1962. Amended by the agreement contained in TIAS 8185, signed Aug. 20, 1975.
1962	13 UST 2418; TIAS 5205	U.S.-Canada Agreement relating to the Coordination and Use of Radio Frequencies above 30 Mc/s. Effected by exchange of notes at Ottawa Oct. 24, 1962. Entered into force Oct. 24, 1962. The technical annex to this agreement was revised by the agreement contained in TIAS 5833 signed June 16 and 24, 1965.
1963	14 UST 817; TIAS 5360	U.S.-Dominican Republic Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Santo Domingo Apr. 18 and 22, 1963. Entered into force May 22, 1963.

Date	Citations	Subject
1963	14 UST 825; TIAS 5362	U.S.-U.S.S.R. Memorandum of Understanding regarding the Direct Communication Link, with Annex. Signed at Geneva June 30, 1963. Entered into force June 20, 1963. This understanding was supplemented and modified by the agreements contained in TIAS 7187 and 8059, signed Sept. 30, 1971, and Mar. 20 and Apr. 29, 1975, respectively.
1963	15 UST 887; TIAS 5603	Partial Revision of the Radio Regulations Geneva, 1959, Final Acts of the EARC to Allocate Frequency Bands for Space Radio Communication Purposes. Signed at Geneva Nov. 8, 1963. Entered into force Jan. 1, 1965.
1963	14 UST 1754; TIAS 5483	U.S.-Colombia Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Bogota Nov. 16 and 29, 1963. Entered into force Dec. 29, 1963.
1964	16 UST 1299; TIAS 6285	Amendments to Articles 17 and 18 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at London Sept. 15, 1964. Entered into force Oct. 6, 1967.
1965	16 UST 821; TIAS 5816	U.S.-Brazil Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington June 1, 1965. Entered into force June 1, 1965.
1965	16 UST 923; TIAS 5833	U.S.-Canada Agreement regarding Coordination and Use of Radio Frequencies above 30 Mc/s Revising the Technical Annex to the Agreement of Oct. 24, 1962 (TIAS 5205). Effected by exchange of notes at Ottawa June 16 and 24, 1965. Entered into force June 24, 1965.
1965	16 UST 883; TIAS 5827	U.S.-Israel Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington July 7, 1965. Entered into force Aug. 6, 1965.
1965	19 UST 4855; TIAS 6490	Amendment to Article 28 of the IMCO Convention (TIAS 4044). Adopted by the IMCO Assembly at Paris, Sept. 28, 1965. Entered into force Nov. 3, 1968.
1966	17 UST 74; TIAS 5961	U.S.-UN Agreement regarding Headquarters of the United Nations Supplementing the Agreement of June 26, 1947 (TIAS 1676). Signed at New York Feb. 9, 1966. Entered into force Feb. 9, 1966. Amended by the agreement contained in TIAS 8176 signed Dec. 8, 1966.
1966	18 UST 1289; TIAS 6281	Proces-Verbal of Rectification to Certain Annexes to the International Convention for the Safety of Life at Sea of June 17, 1960 (TIAS 5780). Done at London Feb. 15, 1966.
1966	18 UST 2091; TIAS 6332	Partial Revision of the Radio Regulations, Geneva, 1959, Final Acts of the EARC for the Preparation of a Revised Allotment Plan for the Aeronautical Mobile (R) Service. Signed at Geneva Apr. 29, 1966. Entered into force for the United States Aug. 23, 1967, except for the frequency allotment plan contained in Appendix 27 which entered into force Apr. 10, 1970.
1966	17 UST 2319; TIAS 6178	U.S.-UN Agreement regarding Headquarters of the United Nations Amending the Supplemental Agreement of Feb. 9, 1966 (TIAS 5961). Effected by exchange of notes at New York Dec. 8, 1966. Entered into force Dec. 8, 1966.
1967	18 UST 365; TIAS 6244	U.S.-Argentina Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Buenos Aires Mar. 31, 1967. Entered into force Apr. 30, 1967.
1967	18 UST 1201; TIAS 6268	U.S.-Canada Agreement relating to Pre-Sunrise Operation of Certain Standard (AM) Radio Broadcasting Stations. Effected by exchange of notes at Ottawa Mar. 31 and June 12, 1967. Entered into force June 12, 1967. Amended by the agreement contained in TIAS 6626 signed Apr. 18, 1968, and Jan. 31, 1969.
1967	19 UST 6717; TIAS 6590	Partial Revision of the Radio Regulations, 1959, Final Acts of the WARC to Deal with Matters relating to the Maritime Mobile Service. Signed at Geneva Nov. 3, 1967. Entered into force Apr. 1, 1969.
1968 and 1969	20 UST 7; TIAS 6626	U.S.-Canada Agreement relating to Pre-Sunrise Operation of Certain Standard (AM) Radio Broadcasting Stations Amending the Agreement of Mar. 31 and June 12, 1967 (TIAS 6268). Effected by exchange of notes at Ottawa Apr. 18, 1968, and Jan. 31, 1969. Entered into force Jan. 31, 1969.
1968	21 UST 2776; TIAS 7021	U.S.-Mexico Agreement concerning radio broadcasting in the standard band (535–1605 kHz), with annexes. Signed at Mexico Dec. 11, 1968. Entered into force Nov. 18, 1970.
1968	21 UST 2934; TIAS 7021	U.S.-Mexico Agreement concerning the operation of broadcasting stations in the standard broadcast band (535–1605 kHz) during a limited period prior to sunrise ("Pre-Sunrise") and after sunset ("Post-Sunset"), with annexes. Signed at Mexico Dec. 11, 1968. Entered into force Nov. 18, 1970.
1969	20 UST 2810; TIAS 6750	U.S.-UN Agreement regarding Headquarters of the United Nations Supplementing the Agreement of June 26, 1947, as Supplemented (TIAS 1676, 5961, 6176). Signed at New York Aug. 28, 1969. Entered into force Aug. 28, 1969.
1969	21 UST 1744; TIAS 6931	U.S.-Canada Agreement relating to the Operation of Radiotelephone Stations. Signed at Ottawa Nov. 19, 1969. Entered into force July 24, 1970.
1970	21 UST 2089; TIAS 6955	U.S.-NATO Agreement concerning North Atlantic Treaty Organization Satellite Communications Earth Terminal in the United States. Signed at Washington July 10 and at Mons, Belgium Aug. 20, 1970. Entered into force Aug. 20, 1970.
1971	23 UST 1527; TIAS 7435	Partial Revision of the Radio Regulations, 1959, Final Acts of the WARC for Space Telecommunications, with Annex. Signed at Geneva July 17, 1971. Entered into force January 1, 1973.
1971	23 UST 3813; TIAS 7532	Agreement relating to the International Telecommunications Satellite Organization (INTELSAT), with Annexes, and Operating Agreement. Done at Washington Aug. 20, 1971 Entered into force Feb. 12, 1973.
1971	22 UST 2053; TIAS 7230	U.S.-Trinidad & Tobago Arrangement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Port-of-Spain Oct. 26 and Nov. 18, 1971. Entered into force Dec. 18, 1971.
1971	24 UST 1120; TIAS 7636	U.S.-Guatemala Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Guatemala Oct. 21 and Nov. 19, 1971. Entered into force May 26, 1973.

Date	Citations	Subject
1971	22 UST 1598; TIAS 7187	U.S.-USSR Agreement on Measures to Improve the Direct Communications Link, with Annex. Signed at Washington Sept. 30, 1971. Entered into force Sept. 30, 1971. Amended by the agreement contained in TIAS 8059, signed Mar. 20 and April 29, 1975.
1972	23 UST 906; TIAS 7355	U.S.-Guyana Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Georgetown May 30 and June 6, 1972. Entered into force July 6, 1972.
1972	23 UST 3492; TIAS 7508	U.S.-Jordan Agreement regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes at Washington Nov. 13 and 30, 1972. Entered into force Dec. 30, 1972.
1972	24 UST 1815; TIAS 7647	U.S.-Mexico Agreement concerning Frequency Modulation Broadcasting in the 88 to 108 mHz Band, with Annexes and Related Notes. Signed at Washington Nov. 9, 1972. Entered into force Aug. 9, 1973. Amended by the agreements contained in TIAS 8152, 8301 and 8412, signed Aug. 21, 1975, Nov. 21, 1975, and Sept. 9 and 15, 1976, respectively.
1973		Telegraph Regulations with appendices, annex and final protocol. Signed at Geneva Apr. 11, 1973. Entered into force for the United States Apr. 21, 1976.
1973		Telephone Regulations with appendices and final protocol. Signed at Geneva Apr. 11, 1973. Entered into force for the United States Apr. 21, 1976.
1973		International Telecommunication Convention with annexes and protocols. Signed at Malaga-Torremolinos Oct. 25, 1973. Entered into force for the United States Apr. 7, 1976.
1973	25 UST 935; TIAS 7837	U.S.-Canada Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, with technical regulations. Signed at Ottawa Feb. 26, 1973, with exchange of notes at Washington May 6, 1974. Entered into force May 6, 1974.
1974	25 UST 2478; TIAS 7929	U.S.-Bahamas Agreement relating to pre-sunrise operation of certain standard broadcasting stations. Effected by exchange of notes at Nassau Jan. 30 and Sept. 4, 1974. Entered into force Sept. 4, 1974.
1974		Partial Revision of the Radio Regulations, Geneva, 1959, as amended (TIAS 4896, 5603, 6332, 6590 and 7435) to establish a frequency allotment plan for high-frequency radiotelephone coast stations, with annexes and final protocol. Signed at Geneva June 8, 1974. Entered into force for the United States April 21, 1976.
1975	26 UST 584; TIAS 8059	U.S.-USSR Agreement regarding the Direct Communications Link. Effected by exchange of notes at Moscow March 20 and April 29, 1975. Entered into force April 29, 1975.
1975	26 UST 2120; TIAS 8152	U.S.-Mexico Agreement amending the Agreement of Nov. 9, 1972 (TIAS 7607) concerning Frequency Modulation Broadcasting in the 88 to 108 mHz Band. Effected by exchange of notes at Mexico Aug. 21, 1975. Entered into force Aug. 21, 1975. Further amended by TIAS 8301 and 8412, signed Nov. 21, 1975 and Sept. 9 & 15, 1975, respectively.
1975	TIAS 8301	U.S.-Mexico Agreement amending the Agreement of Nov. 9, 1972, as amended (TIAS 7607, 8152) concerning Frequency Modulation Broadcasting in the 88 to 108 mHz Band. Effected by exchange of notes at Mexico Nov. 21, 1975. Entered into force Nov. 21, 1975. Further amended by TIAS 8112, signed Sept. 9 & 15, 1976.
1975	TIAS 8185	U.S.-Mexico Agreement amending the Agreement of April 18, 1962 (TIAS 5043) relating to the Assignment and Use of Television Channels along the U.S.-Mexican Border. Effected by exchange of notes at Tlatelolco and Mexico Aug. 20, 1975. Entered into force Aug. 20, 1975.
1976		U.S.-ITU Special Arrangement Permitting Third Party Exchanges between the ITU Amateur Radio Station and Amateur Radio Stations under U.S. Jurisdiction. Effected by exchange of letters at Geneva and Washington April 23 and June 7, 1976. Entered into force June 7, 1976.
1976	TIAS 8412	U.S.-Mexico Agreement amending the Agreement of Nov. 1972 as amended (TIAS 7607, 8152, 8301) concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band. Effected by exchange of notes at Mexico Sept. 9 and 15, 1976. Entered into force Sept. 15, 1976.
1976		U.S.-INTELSAT Agreement regarding Headquarters of INTELSAT. Effected by exchange of notes at Washington Nov. 22 and 24, 1976. Entered into force Nov. 24, 1976.

(b) The applicable agreements in force between the United States and another country relating to the reciprocal granting of authorizations to permit licensed amateur radio operators of either country to operate their stations in the other country are as follows:

Date	Citations	Subject
1964	15 UST 1787; TIAS 5649	U.S.-Costa Rica Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at San Jose Aug. 17 and 24, 1964. Entered into force Aug. 24, 1964.
1965	16 UST 93; TIAS 5766	U.S.-Dominican Republic Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Santo Domingo Jan. 28 and Feb. 2, 1965. Entered into force Feb. 2, 1965.
1965	16 UST 165; TIAS 5777	U.S.-Bolivia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at La Paz Mar. 16, 1965. Entered into force Apr. 15, 1965.
1965	16 UST 181; TIAS 5779	U.S.-Ecuador Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Quito Mar. 26, 1965. Entered into force Mar. 26, 1965.
1965	16 UST 817; TIAS 5815	U.S.-Portugal Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Lisbon May 17 and 26, 1965. Entered into force May 26, 1965.

Date	Citations	Subject
1965	16 UST 869; TIAS 5824	U.S.-Belgium Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Brussels June 15 and 18, 1965. Entered into force June 18, 1965.
1965	16 UST 973; TIAS 5836	U.S.-Australia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Canberra June 25, 1965. Entered into force June 25, 1965.
1965	16 UST 1160; TIAS 5860	U.S-Peru Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Lima June 28 and Aug. 11, 1965. Entered into force Aug. 11, 1965.
1965	16 UST 1746; TIAS 5900	U.S-Luxembourg Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Luxembourg July 7 and 29, 1965. Entered into force July 29, 1965.
1965	16 UST 1131; TIAS 5856	U.S-Sierra Leone Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Freetown Aug. 14 and 16, 1965. Entered into force Aug. 16, 1965.
1965	16 UST 1742; TIAS 5899	U.S.-Colombia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bogota Oct. 19 and 28, 1965. Entered into force Nov. 28, 1965.
1965	16 UST 2047; TIAS 5941	U.S.-UK Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at London Nov. 26, 1965. Entered into force Nov. 26, 1965. Supplemented by the amendment contained in TIAS 6800 which was signed Dec. 11, 1969.
1966	17 UST 328; TIAS 5978	U.S.-Paraguay Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Asuncion Mar. 18, 1966. Entered into force Mar. 18, 1966.
1966	17 UST 719; TIAS 6022	U.S-France Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Paris May 5, 1966, with related notes of June 29 and July 6, 1966. Entered into force July 1, 1966. Modified by the amendment contained in TIAS 6711 which was signed Oct. 3, 1969.
1966	17 UST 813; TIAS 6038	U.S.-India Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at New Delhi May 16 and 25, 1966. Entered into force May 25, 1966.
1966	17 UST 760; TIAS 6028	U.S.-Israel Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Washington June 15, 1966. Entered into force June 15, 1966.
1966	17 UST 2426; TIAS 6189	U.S.-Netherlands Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at The Hague June 22, 1966. Entered into force Dec. 21, 1966. (Extended to Netherlands Antilles and Surinam.)
1966	17 UST 1120; TIAS 6068	U.S.-Federal Republic of Germany Arrangement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bonn June 23 and 30, 1966. Entered into force June 30, 1966.
1966	17 UST 1039; TIAS 6061	U.S.-Kuwait Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Kuwait July 19 and 24, 1966. Entered into force July 19, 1966.
1966	17 UST 1560; TIAS 6112	U.S.-Nicaragua Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Managua Sept. 3 and 20, 1966. Entered into force Sept. 20, 1966.
1966	17 UST 2215; TIAS 6159	U.S.-Panama Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Panama Nov. 16, 1966. Entered into force Nov. 16, 1966.
1966 and 1967	18 UST 525; TIAS 6259	U.S.-Honduras Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Tegucigalpa Dec. 29, 1966, Jan. 24 and Apr. 17, 1967. Entered into force Apr. 17, 1967.
1967	18 UST 554; TIAS 6264	U.S.-Switzerland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bern Jan. 12 and May 16, 1967. Entered into force May 16, 1967.
1967	18 UST 543; TIAS 6261	U.S.-Trinidad and Tobago Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at St. Ann's and Port of Spain Jan. 14 and Mar. 16, 1967. Entered into force Mar. 16, 1967.
1967	18 UST 361; TIAS 6243	U.S.-Argentina Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Buenos Aires Mar. 31, 1967. Entered into force Apr. 30, 1967.
1967	18 UST 1661; TIAS 6309	U.S.-El Salvador Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at San Salvador May 24 and June 5, 1967. Entered into force June 5, 1967.
1967	18 UST 1241; TIAS 6273	U.S.-Norway Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Oslo May 27 and June 1, 1967. Entered into force June 1, 1967.
1967	18 UST 1272; TIAS 6281	U.S.-New Zealand Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Wellington June 21, 1967. Entered into force June 21, 1967.
1967	18 UST 2499; TIAS 6348	U.S.-Venezuela Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Caracas Sept. 18, 1967. Entered into force Oct. 3, 1967.
1967	18 UST 2878; TIAS 6378	U.S.-Austria Agreement regarding Alien Amateur Radio Operators. Done at Vienna Nov. 21, 1967. Entered into force Dec. 21, 1967.
1967	18 UST 2882; TIAS 6380	U.S.-Chile Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Washington Nov. 30, 1967. Entered into force Dec. 30, 1967.
1967	20 UST 2883; TIAS 6766	U.S.-Guatemala Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Guatemala Nov. 30 and Dec. 11, 1967. Entered into force Oct. 2, 1969.
1967	18 UST 3153; TIAS 6406	U.S.-Finland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Helsinki Dec. 15 and 27, 1967. Entered into force Dec. 27, 1967.
1968	19 UST 7852; TIAS 6622	U.S.-Monaco Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Nice and Paris Mar. 29, and Oct. 16, 1968. Entered into force Dec. 1, 1968.
1968	19 UST 4892; TIAS 6494	U.S.-Guyana Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Georgetown May 6 and 13, 1968. Entered into force May 13, 1968.
1968	19 UST 5994; TIAS 6553	U.S.-Barbados Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Bridgetown Sept. 10 and 12, 1968. Entered into force Sept. 12, 1968.
1968	19 UST 6057; TIAS 6566	U.S.-Ireland Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Dublin Oct. 10, 1968. Entered into force Oct. 10, 1968.

Date	Citations	Subject
1968	20 UST 490; TIAS 6654	U.S.-Indonesia Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Djakarta Dec. 10, 1968. Entered into force Dec. 10, 1968.
1969	20 UST 773; TIAS 6690	U.S.-Sweden Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Stockholm May 27 and June 2, 1969. Entered into force June 2, 1969.
1969	20 UST 2398; TIAS 6711	U.S.-France Agreement regarding Alien Amateur Radio Operators Amending the Agreement of May 5, 1966 (TIAS 6022). Effected by exchange of notes at Paris Oct. 3, 1969. Entered into force Oct. 3, 1969.
1969	20 UST 4089; TIAS 6800	U.S.-U.K. Agreement regarding Alien Amateur Radio Operators Supplementing the Agreement of Nov. 26, 1965 (TIAS 5941). Effected by exchange of notes at London Dec. 11, 1969. Entered into force Dec. 11, 1969.
1970	21 UST 1960; TIAS 6936	U.S.-Brazil Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Rio de Janeiro and Brasilia Jan. 26, June 19 and July 30, 1970. Entered into force June 19, 1970.
1971	22 UST 644; TIAS 7127	U.S.-Jamaica Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Kingston March 4 and April 28, 1971. Entered into force April 28, 1971.
1971	22 UST 701; TIAS 7129	U.S.-Uruguay Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Montevideo May 28, 1971. Entered into force May 28, 1971.
1972	23 UST 1334; TIAS 7417	U.S.-Fiji Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Suva and Washington July 10 and Aug. 14, 1972. Entered into force Aug. 14, 1972.
1973	24 UST 2156; TIAS 7730	U.S.-Denmark Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Copenhagen Oct. 11, 1973. Entered into force Oct. 11, 1973.
1976	TIAS 8415	U.S.-Philippines Agreement regarding Alien Amateur Radio Operators. Effected by exchange of notes at Manila Oct. 25, 1976. Entered into force Oct. 25, 1976.

(c) With respect to its relations with several countries, the United States is bound by certain superseded treaties and agreements because some of the contracting countries other than the United States did not become a party to subsequent treaties and agreements. These include the following:

Date	Citations	Subject
1912	38 Stat. 1672; TS 581; 1 Bevans 883	International Radiotelegraph Convention. Signed at London July 5, 1912. Entered into force July 1, 1913. Superseded by the International Radiotelegraph Convention and General Regulations, Washington, 1927 (TS 767).
1927	45 Stat. 2760; TS 767; 2 Bevans 683	International Radiotelegraph Convention and General Regulations. Signed at Washington Nov. 25, 1927. Entered into force Jan. 1, 1929. Superseded by the International Telecommunication Convention and General Radio Regulations, Madrid, 1932 (TS 867).
1932	49 Stat. 2391; TS 867; 3 Bevans 65	International Telecommunication Convention. Signed at Madrid Dec. 9, 1932. Entered into force for the United States June 12, 1934. Superseded by the International Telecommunication Convention, Atlantic City, 1947 (TIAS 1901).
1937	54 Stat. 2514; EAS 200; 3 Bevans 480.	Inter-American Arrangement concerning Radiocommunications and Annex. Signed at Havana Dec. 13, 1937. (First Inter-American Radio Conference.) Entered into force for the United States July 18, 1938. This arrangement was replaced by the Inter-American Agreement concerning Radiocommunications, Santiago, 1940 (EAS 231).
1940	55 Stat. 1482; EAS 231; 3 Bevans 611.	Inter-American Radiocommunications Agreement between the United States, Canada and Other American Republics. Signed at Santiago Jan. 26, 1940. (Second Inter-American Radio Conference.) Entered into force with respect to the United States Feb. 25, 1942. Replaced by the Inter-American Radio Agreement, Washington, 1949 (TIAS 2489).
1947	63 Stat. (2) 1399; TIAS 1901; 4 Bevans 570.	International Telecommunication Convention and Radio Regulations. Signed at Atlantic City Oct. 2, 1947. Entered into force Jan. 1, 1949. The Convention was superseded by the International Telecommunication Convention, Buenos Aires, 1952 (TIAS 2956). The Radio Regulations were superseded by the International Radio Regulations, Geneva, 1959 (TIAS 4893).
1949	2 UST (1) 17; TIAS 2175; 4 Bevans 852.	Telegraph Regulations (Paris Revision, 1949) Annexed to the International Telecommunication Convention. Signed at Paris August 5, 1949. Entered into force with respect to the United States Sept. 30, 1950. Superseded by the Telegraph Regulations, Geneva Revisions, 1958 (TIAS 4390).
1952	6 UST 1213; TIAS 3266	International Telecommunication Convention Signed at Buenos Aires Dec. 22, 1952. Entered into force with respect to the United States June 27, 1955. Superseded by the International Telecommunication Convention, Geneva, 1959 (TIAS 4892).
1958	10 UST 2423; TIAS 4390	Telegraph Regulations (Geneva Revision, 1958) Annexed to the International Telecommunication Convention. Signed at Geneva Nov. 20, 1958. Entered into force Jan. 1, 1960. Superseded by the Telegraph Regulations, Geneva, 1973.
1959	12 UST 1761; TIAS 4892	International Telecommunication Convention. Signed at Geneva Dec. 21, 1959. Entered into force with respect to the United States Oct. 23, 1961. Superseded by the International Telecommunication Convention, Montreux, 1965 (TIAS 6267).
1965	18 UST 575; TIAS 6267	International Telecommunication Convention. Signed at Montreux Nov. 12, 1965. Entered into force with respect to the United States May 29, 1967. Superseded by the International Telecommunication Convention, Malaga-Torremolinos, 1973.

(d) There are certain treaties and agreements primarily concerned with matters other than the use of radio but which affect the work of the Federal Communications Commission insofar as they involve communications. Among the most important of these are the following which are available from the Secretary General, International Civil Aviation Organization (ICAO), P.O. Box 400, Succursale: Place de l'Aviation Internationale, 1000 Sherbrooke Street West, Montreal H3A 2R2, Canada:

Date	Citations	Subject
1944	61 Stat. (2) 1180; TIAS 1591; 3 Bevans 944.	International Civil Aviation Convention. Signed at Chicago Dec. 7, 1944. Entered into force Apr. 4, 1947. Amended by the protocols contained in TIAS 3756, 5170, 8162, 7616 and 8092.
1954	8 UST 179; TIAS 3756	Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Montreal June 14, 1954. Entered into force Dec. 12, 1956.
1961	13 UST 2105; TIAS 5170	Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Montreal June 21, 1961. Entered into force July 17, 1962.
1962	TIAS 8162	Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at Rome Sept. 7, 1962. Entered into force Sept. 11, 1975.
1968	19 UST 7963; TIAS 6605	Protocol on the Authentic Trilingual Text of the Convention on International Civil Aviation (TIAS 1591). Done at Buenos Aires Sept. 24, 1968. Entered into force Oct. 24, 1968.
1969	20 UST 718; TIAS 6681	Process-Verbal of Rectification to the Protocol of Sept. 24, 1968, on the Authentic Text of the Convetion on International Civil Aviation (Chicago, 1944). Done at Washington April 8, 1969. Entered into force April 8, 1969.
1971	24 UST 1019; TIAS 7616	Protocol Amending the International Civil Aviation Convention (TIAS 1591). Done at New York March 12, 1971. Entered into force Jan. 16, 1973.
1971	28 UST 1061; TIAS 8092	Protocol Amending Article 56 of the International Civil Aviation Convention (TIAS 1591). Done at Vienna July 7, 1971. Entered into force Dec. 19, 1974.

[FR Doc.77-14890 Filed 5-26-77;8:45 am]

[Docket No. 20909]

PART 89—PUBLIC SAFETY RADIO SERVICES

PART 91—INDUSTRIAL RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

Reallocation of Land Mobile Channels in the 470–512 MHz Band; Correction

AGENCY: Federal Communications Commission.

ACTION: Errata to Report and Order, Docket 20909.

SUMMARY: In the Report and Order in Docket 20909, published in the FEDERAL REGISTER of April 18, 1977, the name of one city (Philadelphia) was omitted from a list of frequencies available for assignment at that place. Also, in the same listing, two frequencies were omitted at the bottom of one column due to inaccurate positioning when the sheet was photo-copied. This errata corrects those omissions.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

A. C. King, Safety and Special Radio Services Bureau, 632–6497.

SUPPLEMENTARY INFORMATION:

Released: May 24, 1977.

In the matter of amendment of Parts 89, 91, and 93 of the rules to reallocate land mobile channels in the 470–512 MHz band in the Boston, Chicago, Cleveland, Detroit, Los Angeles, New York, Philadelphia, Pittsburgh, San Francisco, and Washington, D.C. urbanized areas, Docket No. 20909.

Appendix B of the Commission's Report and Order, FCC 77–226, released March 31, 1977, and published as 42 FR 20257 is corrected by amending the tables in paragraph (c) of §§ 89.123, 91.114, and 93.114 as follows:

1. In the column titled "Urbanized Area (Channel Assignment)," page 20261 of the Table, immediately above "Channel 19" entry add: Philadelphia.

2. In the Table in § 89.123(c) in the column titled "Public Safety Pool" at the bottom of page 20261 in the Channel 19 section, add:

501.1125/504.1125.
501.1375/504.1375.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-15262 Filed 5-26-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Executive Office of the President, Office of the Special Representative for Trade Negotiations

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Motor Vehicle Operator (Chauffeur to the Special Representative) is excepted under Schedule C because it is confidential in nature. This section is further amended to show that one position of Confidential Assistant to the Special Representative was revoked in error in the FEDERAL REGISTER of June 25, 1975 (FR Doc. 75–16535, page 26669).

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3303(d) is amended to read as follows:

§ 213.3303 Executive Office of the President.

* * * * * *

(d) *Office of the Special Representative for Trade Negotiations.* * * *

(2) Confidential Assistant to the Special Representative.

(3) One Motor Vehicle Operator (Chauffeur to the Special Representative).

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15014 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Deputy Under Secretary for Management because the position is confidential in nature.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3304(a)(5) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(5) One Special Assistant to the Deputy Under Secretary for Management.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15015 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Special Assistant to the U.S. Representative to the United Nations because of the confidential nature of the position.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3304(h)(5) is added as set out below:

§ 213.3304 Department of State.

* * * * * *

(h) *Bureau of International Organization Affairs.* * * *

(5) One Special Assistant to the U.S. Representative to the United Nations.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15016 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Executive Assistant to the Assistant Secretary (Economic Policy) because the position is confidential in nature.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3305(a)(18) is amended to read as follows:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(18) One Confidential Secretary and one Executive Assistant to the Assistant Secretary (Economic Policy).

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant. to the Commissioners.

[FR Doc.77-15017 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reflects a title change from one Private Secretary to the Under Secretary of Interior, to one Confidential Assistant to the Under Secretary of Interior, because this title more appropriately reflects the duties of this position.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3312(a)(8) is amended to read as follows:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* * * *

(8) One Confidential Assistant to the Under Secretary.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15010 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Private Secretary to the Deputy Assistant Secretary for Conservation, Research, and Education is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3313(a)(39) is added as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(39) One Private Secretary to the Deputy Assistant Secretary for Conservation, Research, and Education.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15011 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Interstate Commerce Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Writer for the Chairman because of the confidential nature of the position.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3322(b) is added as set out below:

§ 213.3322 Interstate Commerce Commission.

* * * * * *

(b) One Writer for the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15013 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C the following positions because they are confidential in nature: (1) Private Secretary to the General Counsel; (2) two positions of Staff Assistant to the Executive Assistant to the Secretary; (3) one position of Special Assistant to the Assistant Secretary for Administration; and (4) one position of Special Assistant to the Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3384 (a)(6) is reestablished; (a)(65), (a)(66) and (b)(22) are added as follows:

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(6) One Private Secretary to the General Counsel. * * *

(65) One Staff Assistant to each of two Executive Assistants to the Secretary.

(66) One Special Assistant to the Assistant Secretary for Administration.

(b) *Office of the Assistant Secretary for Housing-Federal Housing Commissioner.* * * *

(22) One Special Assistant to the Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

(5 U.S.C. 3301; 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15011 Filed 5-26-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reestablishes under Schedule C one position of Special Assistant to the Assistant Attorney General, Civil Rights Division, because of the confidential nature of the position.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3310(q)(2) is added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(q) *Civil Rights Division.* * * *

(2) One Special Assistant to the Assistant Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–15206 Filed 5–26–77;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE[1]

SUBCHAPTER—REGULATONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 53—LIVESTOCK, MEAT, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart A—Regulations

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations are being changed to reflect an increase in fees for the voluntary Federal meat grading service to cover increased program operating costs. Under recent interpretations of the Fair Labor Standards Act of 1974 (FLSA), the cost of paying graders for all types of travel time allowable under the Act will substantially increase operating costs. Since meat grading services are provided on a fee-for-service basis, the hourly fee rate must be raised to cover the increased travel costs.

EFFECTIVE DATE: June 5, 1977.

FOR FURTHER INFORMATION CONTACT:

David K. Hallett, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–2210)

SUPPLEMENTARY INFORMATION: A significant portion of the fee increase is required to cover increased costs associated with grader travel for transportation of meat grading equipment from residence to worksite and return. Such travel is now considered work under provisions of the FLSA. To avoid a substantially higher fee rate than currently planned and thereby minimize the financial impact of the FLSA on users of meat grading services, the Department is proposing to utilize in-plant storage and other centralized storage to significantly reduce travel associated with transporting equipment. The hourly fee increase of $2 will cover the cost of payment to graders for transporting equipment until the proposed plan for equipment storage can be fully implemented, payment for other grader travel compensable under FLSA, and related costs.

Accordingly, the provisions of 7 CFR 53.29(a) prescribing fees for Federal meat grading services are hereby amended by changing the phrases "$17 per hour," "$20 per hour," and "$34 per hour" to "$19 per hour," "$23 per hour," and "$38 per hour," respectively.

(Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, 1090, (7 U.S.C. 1622, 1624).)

Public participation in this rulemaking proceeding would not provide additional relevant information to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found that notice and other procedures are impracticable.

Done at Washington, D.C., on this 24th day of May 1977.

WILLIAM T. MANLEY,
Acting Deputy Administrator, Commodity Operations.

[FR Doc.77–15257 Filed 5–26–77;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

TOBACCO REFERENDUM RESULTS

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule announces the results of the Maryland (type 32), cigar filler (type 41), Virginia sun-cured (type 37), and burley (type 31) tobacco marketing quota referendums. Producers of burley and Virginia tobacco approved national marketing quotas for the marketing years 1977–78, 1978–79 and 1979–80. Therefore, quotas will be in effect and producers will be entitled to participate in the tobacco price support program. Producers of Maryland and cigar-filler tobacco disapproved national marketing quotas for the same three year period. Therefore, quotas will not be in effect and producers will not be entitled to participate in the tobacco price support program. The need for this rule is to satisfy the statutory requirements as provided for in the Agricultural Adjustment Act of 1938, as amended.

The rule also establishes a procedure whereby the Secretary of Agriculture may be petitioned prior to November 10, 1977 or prior to November 10, 1978 to proclaim quotas for cigar-filler (type 41), or for Maryland (type 32) tobacco for the next three marketing years.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

William L. Lanier, Director, Tobacco and Peanut Division, ASCS, USDA, 5750 South Building, P.O. Box 2415, Washington, D.C. 20013 (202–447–7413).

SUPPLEMENTARY INFORMATION: The Secretary announced that separate referendums would be held by mail during the period February 22–25, 1977, inclusive, to determine whether producers of each of the previously identified kinds of tobacco were in favor of marketing quotas for the three marketing years beginning October 1, 1977 (42 FR 7962). Since the only purpose of these regulations is to proclaim the results of referendums and to provide a petition procedure, it is hereby found and determined that compliance with the procedure for notice of proposed rule making and public participation is unnecessary. Therefore, these regulations are issued without compliance with procedure. Accordingly, 7 CFR Part 723, 7 CFR Part 724, and 7 CFR Part 726 are hereby amended by revising §§ 723.21, 724.21 and 726.21 to read as set forth below, effective with the 1977 crops of the respective tobaccos.

PART 723—CIGAR-FILLER (TYPE 41) AND MARYLAND (TYPE 32) TOBACCO

§ 723.21 Referendum results for cigar-filler (Type 41) and Maryland (Type 32) tobaccos for the 1977–78, 1978–79 and 1979–80 marketing years.

(a) *Cigar-filler (Type 41).* Of the 806 eligible cigar-filler (Type 41) tobacco farmers who voted in the February 22–25, 1977 referendum, 104 or 12.9 percent favored national marketing quotas for the three marketing years 1977–78, 1978–79, and 1979–80; and 702, or 87.1 percent, were opposed to quotas. Since more than one-third of the farmers voting opposed quotas, the national marketing quota for cigar-filler (Type 41) tobacco of 27.6 million pounds for the marketing year beginning October 1, 1977, proclaimed on February 1, 1977 (42 FR 6817) will not be in effect. Likewise, as national marketing quotas have been disapproved in three successive years since 1952 (18 FR 8474) (19 FR 9365) (21 FR 667), quotas will not be in effect for the marketing years beginning October 1, 1978 and October 1, 1979, respectively, unless pursuant to Section 312 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is petitioned prior to November 10, 1977, or prior to November 10, 1978, by one-fourth or more eligible farmers to proclaim national marketing quotas for each of the next three succeeding marketing years, respectively, and unless the quotas so proclaimed are approved by two-thirds or more of the farmers voting in a referendum.

(b) *Maryland (Type 32).* Of the 2,543 eligible Maryland tobacco farmers who voted in the February 22–25, 1977 referendum, 797 or 31.3 percent, favored national marketing quotas for the three marketing years 1977–78, 1978–79, and 1979–80; and 1,746 or 68.7 percent, were opposed to quotas. Since more than one-third of the farmers voting opposed quotas, the national marketing quota for Maryland (Type 32) tobacco of 27.6 million pounds for the marketing year beginning October 1, 1977, proclaimed on February 1, 1977 (42 FR 6817), will not be in effect. Likewise, as national marketing quotas have been disapproved in three successive years since 1952 (18 FR 8474) (19 FR 9365) (21 FR 667), quotas will not be in effect for the marketing years beginning October 1, 1978 and October 1, 1979, respectively, unless pursuant to Section 312 of the Agricultural Adjustment Act of 1938, as amended, the Secretary of Agriculture is petitioned prior to November 10, 1977, or prior to November 10, 1978, by one-fourth or more eligible farmers to proclaim national marketing quotas for each of the next three succeeding marketing years, respectively, and unless the quotas so proclaimed are approved by two-thirds or more of the farmers voting in a referendum.

(c) *Petition Procedure.* Any petition under paragraph (a) of Section 312 of the Act shall be in writing and submitted to the Secretary, or if mailed shall be postmarked, prior to November 10, 1977, in the case of a petition for marketing quotas for the marketing years 1978–79, 1979–80, and 1980–81, or prior to November 10, 1978, in the case of a petition for marketing quotas for the marketing years 1979–80, 1980–81, and 1981–82. Any such petition shall include the address of each petitioner; shall state that such persons favor the proclamation of national marketing quotas for cigar-filler (type 41) or for Maryland (type 32) tobacco, as the case may be, for the years stated in the petition and the holding of a referendum; and shall show that such persons are producers engaged in the production of the crop of cigar-filler (Type 41) tobacco, or Maryland (Type 32) tobacco, as the case may be, harvested in the calendar year preceding the first of the marketing years stated in the petition, and constitute one-fourth, or more of the producers so engaged.

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52) AND CIGAR-FILLER AND BINDER (TYPES 42–44, 53–55) TOBACCO

§ 724.21 Referendum results for Virginia sun-cured tobacco for the 1977–78, 1978–79 and 1979–80 marketing years.

Of the 403 eligible Virginia sun-cured tobacco farmers who voted in the February 22–25, 1977 referendum 386 or 95.8 percent, favored quotas for a period of three years beginning October 1, 1977; and 17 or 4.2 percent were opposed to quotas. Therefore, the national marketing quota of 1,779,000 pounds proclaimed February 1, 1977 (42 FR 6819) for Virginia sun-cured tobacco for the 1977–78 marketing year will be in effect, and marketing quotas will be in effect for the three marketing years beginning October 1, 1977, October 1, 1978, and October 1, 1979.

PART 726—BURLEY TOBACCO

§ 726.21 Referendum results for burley tobacco for the 1977–78, 1978–79, and 1979–80 marketing years.

Of the 245,986 eligible burley tobacco farmers who voted in the February 22–25, 1977 referendum 243,457 or 99.0 percent, favored quotas for a period of three years beginning October 1, 1977; and 2,529 or 1.0 percent opposed quotas. Therefore, the national marketing quota of 637 million pounds proclaimed February 1, 1977 (42 FR 6823) for burley tobacco for the marketing year beginning October 1, 1977 will be in effect, and marketing quotas will be in effect for the three marketing years beginning October 1, 1977, October 1, 1978, and October 1, 1979.

(Secs. 301, 312, 319, 375, 52 Stat. 38, as amended; 46, as amended, 85 Stat. 23, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1312, 1314e, 1375.)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Signed at Washington, D.C., on May 18, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77–14828 Filed 5–26–77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 94]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 29–June 4, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons continues steady this week. Average f.o.b. price was $6.37 per carton the week endedMay 21, 1977 compared to $6.23 per carton the previous week. Track and rolling supplies at 180 cars were up to 30 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the

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[1] Food Safety and Quality Service intends to establish a new Chapter XXVIII in Title 7 of the Code of Federal Regulations. Part 53 will be recodified in Part 2853 of Title 7, Chapter XXVIII.

quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on May 24, 1977

§ 910.394 Lemon Regulation 94.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 29, 1977, through June 4, 1977, is established at 320,508 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: May 25, 1977.

CHARLES R. BRADER,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–15384 Filed 5–26–77;8:45 am]

[Avocado Reg. 19]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Quality and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: Avocado Regulation 19 prescribes during the period May 30, 1977 through April 30, 1978, the following grade and maturity requirements for fresh avocados grown in South Florida: Avocados shipped to destinations outside the production area shall grade at least U.S. No. 3 and individual fruit for specified types of avocados must be at least the prescribed minimum weights or diameters by specified dates (maturity requirements). Avocados shipped to destinations within the production area are exempted from all grade requirements, if packed in containers other than those authorized for shipments outside such area, but such avocados must meet maturity requirements. The requirements are issued in the interest of producers and consumers and are designed to keep immature and defective fruit off the market. Immature avocados will not ripen satisfactorily and would be unacceptable in taste.

EFFECTIVE DATE: May 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: On May 10, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 23607), regarding a proposed regulation to be made effective on May 30, 1977, pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The proposed regulation was recommended by the Avocado Administrative Committee established pursuant to the marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice allowed interested persons until May 20, 1977, to submit written comments in connection with the proposed regulation. None were received.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Avocado Administrative Committee (established pursuant to the marketing agreement and order), and other available information, it is hereby found and determined that the regulation, as hereinafter set forth, is in accordance with the provisions of the amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The regulation is based upon an appraisal of current and prospective crop and market conditions. Total 1977–78 season fresh shipments of Florida avocados is estimated at 350,000 bushels, as compared with fresh shipments of about 818,000 bushels in the 1976–77 season. The regulation is designed to assure shipment of fruit of a quality and maturity acceptable to consumers in the respective distribution areas in the interest of consumers and producers consistent with the objectives of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give further notice and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as hereinafter set forth in that (1) shipments of the current crop of avocados are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to all such shipments in order to effectuate the declared policy of the act; (2) the recommendations upon which this regulation is based were developed by the committee at an open meeting on April 13, 1977, after due notice thereof, and all interested persons present were given an opportunity to express their views; (3) a notice of proposed regulation for Florida avocados was published in the FEDERAL REGISTER (42 FR 23607); (4) the regulation herein specified is essentially the same as the proposed regulation.

§ 915.319 Avocado Regulation 19.

(a) *Order.* (1) During the period May 30, 1977, through April 30, 1978, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade: *Provided,* That avocados which fail to meet the requirements of such grade may be handled within the production area, if such avocados meet all other applicable requirements of this section and are handled in containers other than the containers prescribed in § 915.305, as amended (7 CFR Part 915), for the handling of avocados between the production area and any point outside thereof;

(2) On and after the effective date of this regulation, except as otherwise provided in subparagraphs (10) and (11) of this paragraph, no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with subparagraph (3), (4), (4), (6), (7), (8), and (9) hereof.

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Dawn	7-18-77	12 oz. 3-4/16 in.	8-1-77	10 oz. 3-0/16 in.	8-15-77		
Webb	7-18-77	18 oz.	8-1-77	16 oz.	8-15-77		
Rincon	8-1-77	15 oz.	8-15-77	12 oz.	10-3-77		
Cash	7-18-77	16 oz.	10-3-77				
Peterson	7-25-77	14 oz. 3-8/16 in	8-8-77	10 oz. 3-2/16 in.	8-22-77	8 oz. 2-14/16 in.	9-5-77
232	8-1-77	14 oz.	8-15-77	12 oz.	8-29-77		
Gretchen	8-1-77	14 oz.	8-15-77	12 oz.	8-29-77		
Trapp	8-15-77	14 oz. 3-10/16 in.	8-29-77	12 oz. 3-7/16 in.	9-12-77		
Nob	8-1-77	16 oz. 3-8/16 in.	9-5-77				
Waldin	8-15-77	16 oz. 3-9/16 in.	8-29-77	14 oz. 3-7/16 in.	9-12-77	12 oz. 3-4/16 in.	9-26-77
Pinelli	8-1-77	18 oz. 3-12/16 in.	8-15-77	16 oz. 3-10/16 in.	8-29-77		
Miguel	8-1-77	22 oz. 3-13/16 in.	8-15-77	20 oz. 3-12/16 in.	8-29-77	18 oz. 3-10/16 in.	9-12-77
Nesbitt	8-1-77	22 oz. 3-12/16 in.	8-15-77	18 oz. 3-8/16 in.	8-22-77	16 oz. 3-5/16 in.	9-12-77
Beta	8-15-77	18 oz. 3-11/16 in.	8-22-77	16 oz. 3-5/16 in.	9-12-77		
K-9	8-15-77	16 oz.	9-5-77				
Tower 2	8-15-77	14 oz.	8-29-77	12 oz.	9-26-77		
Shula	8-15-77	22 oz.	9-5-77				
Tonnage	8-29-77	14 oz. 3-4/16 in.	9-5-77	12 oz. 3-0/16 in.	9-12-77	10 oz. 2-13/16 in.	9-19-77

TABLE I

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Ruehle (Continued)					8-15-77	12 oz. 3-5/16 in.	8-29-77
Alpha	7-25-77	16 oz. 3-9/16 in	8-15-77				
Donnie	7-11-77	16 oz. 3-5/16 in.	7-25-77	14 oz. 3-4/16 in.	8-22-77		
Kosol	5-30-77	16 oz.	6-13-77	13 oz.	6-27-77	10 oz.	7-11-77
Arue	5-30-77	16 oz.	6-13-77	14 oz. 3-3/16 in	7-18-77		
Roland 22	6-13-77	22 oz.	6-27-77	20 oz.	7-18-77		
J.H. Pozopat	6-20-77	20 oz.	6-27-77	18 oz.	7-18-77	16 oz.	8-1-77
Fuchs	6-20-77	14 oz. 3-3/16 in.	7-4-77	12 oz. 3-0/16 in.	7-18-77	10 oz. 2-14/16 in.	8-8-77
K-5	6-27-77	18 oz. 3-5/16 in.	7-11-77	14 oz. 3-3/16 in.	7-25-77		
Dr. DuPuis #2	6-20-77	16 oz. 3-9/16 in.	7-4-77	14 oz. 3-7/16 in.	7-18-77	12 oz. 3-2/16 in.	8-1-77
Hardee	7-4-77	16 oz. 3-2/16 in.	7-11-77	14 oz. 2-14/16 in.	8-1-77		
Pollock	7-4-77	18 oz. 3-11/16 in.	7-18-77	16 oz. 3-7/16 in.	8-1-77	14 oz. 3-4/16 in.	8-15-77
Simmonds	7-4/77	16 oz. 3-9/16 in.	7-18-77	14 oz. 3-7/16 in.	8-1-77	12 oz. 3-1/16 in.	8-15-77
Nadir	7-4-77	14 oz. 3-3/16 in.	7-11-77	12 oz. 3-1/16 in.	7-18-77	10 oz. 2-14/16 in.	8-1-77
Katherine	7-4-77	16 oz.	7-18-77	14 oz.	8-1-77		
Hille	7-4-77	20 oz.	7-18-77	16 oz.	7-25-77	14 oz.	8-15-77
Ruehle	7-18-77	18 oz. 3-11/16 in.	7-25-77	16 oz. 3-9/16 in.	8-1-77	14 oz. 3-7/16 in.	8-15-77

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sherman	10-3-77	16 oz.	10-17-77	14 oz.	10-31-77	10 oz.	11-21-77
Marcus	10-3-77	32 oz. 4-12/16 in.	11-14-77				
Booth 10	10-10-77	16 oz. 3-10/16 in	11-7-77				
Booth 7	9-26-77	18 oz. 3-13/16 in.	10-10-77	16 oz. 3-10/16 in.	10-24-77	14 oz. 3-8/16 in.	11-7-77
Avon	10-10-77	15 oz. 3-11/16 in.	10-31-77				
Booth 11	10-10-77	16 oz. 3-12/16 in.	10-31-77				
Leona	10-10-77	18 oz. 3-10/16 in.	10-24-77				
Winslowson	10-10-77	18 oz. 3-14/16 in.	10-31-77				
Nelson	10-10-77	14 oz. 3-8/16 in.	10-24-77	12 oz. 3-5/16 in.	11-7-77	10 oz. 3-1/16 in.	11-28-77
Hall	10-10-77	26 oz. 3-14/16 in.	10-24-77	20 oz. 3-9/16 in.	11-7-77	18 oz. 3-8/16 in.	11-21-77
Lula	10-17-77	18 oz. 3-11/16 in.	10-31-77	14 oz. 3-6/16 in.	11-14-77	12 oz. 3-5/16 in.	11-28-77
Choquette	10-17-77	24 oz. 4-1/16 in.	10-31-77	20 oz. 3-14/16 in.	11-14-77	16 oz. 3-9/16 in.	11-21-77
Monroe	11-14-77	24 oz. 4-1/16 in.	11-28-77	20 oz. 3-14/16 in.	12-12-77	16 oz. 3-9/16 in.	12-26-77
Herman	10-17-77	16 oz. 3-9/16 in.	10-31-77	14 oz. 3-6/16 in.	11-14-77		
Murphy	10-17-77	16 oz.	10-31-77	14 oz.	11-14-77	11 oz.	12-5-77

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Fairchild	8-29-77	16 oz. 3-10/16 in.	9-12-77	14 oz. 3-7/16 in.	9-26-77	12 oz. 3-4/16 in.	10-3-77
Hirody	8-29-77	18 oz. 3-15/16 in.	9-12-77	16 oz. 3-12/16 in.	9-26-77		
Lorette	8-29-77	28 oz. 4-1/16 in.	12-19-77				
Black Prince	9-12/77	23 oz.	9-26-77	16 oz.	10-17-77		
Catalina	9-12-77	24 oz.	9-19-77	22 oz.	10-3-77		
Cronka	9-19-77	22 oz.	10-17-77				
Blair	9-12-77	16 oz.	9-26-77	14 oz. 3-9/16 in.	10-17-77		
Collinson	9-26-77	16 oz. 3-10/16 in.	10-24-77				
Chica	9-26-77	12 oz. 3-7/16 in.	10-10-77	10 oz. 3-4/16 in.	10-24-77		
Rue	9-26-77	30 oz. 4-3/16	10-3-77	24 oz. 3-15/16 in.	10-17-77	18 oz. 3-9/16 in.	10-31-7
Brooks 1978	10-10-77	10 oz.	10-17-77	8 oz.	11-14-77		
Booth 5	10-3-77	14 oz. 3-9/16 in	10-17-77	12 oz. 3-6/16 in.	10-31-77		
Hickson	10-3-77	15 oz. 3-5/16 in	10-17-77	12 oz. 3-1/16 in.	10-31-77	10 oz. 3-0/16 in.	11-14-77
Simpson	10-3-77	16 oz. 3-9/16 in.	10-24-77				
Vaca	10-3-77	16 oz. 3-9/16 in.	10-24-77				

TABLE I (Continued)

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Ajax (B-7-B)	10-24-77	18 oz. 3-14/16 in.	11-14-77				
Booth 1	11-21-77	16 oz. 3-12/16 in.	12-5-77	14 oz. 3-10/16 in.	12-19-77	12 oz. 3-6/16 in.	1-2-78
Booth 3	10-24-77	16 oz. 3-10/16 in.	11-14-77				
Taylor	10-24-77	14 oz. 3-5/16 in.	11-7-77	12 oz. 3-2/16 in.	11-21-77		
Dunedin	11-7-77	16 oz. 3-10/16 in.	11-21-77	14 oz. 3-8/16 in.	12-5-77	10 oz. 3-1/16 in.	12-26-77
Byers	11-14-77	16 oz. 3-14/16 in.	12-5-77				
Linda	11-14-77	18 oz. 3-12/16 in.	12-5-77				
Nabal	11-14-77	14 oz. 3-9/16 in.	12-5-77				
Zio	11-28-77	12 oz.	12-12-77	10 oz.	12-26-77		
Wagner	12-5-77	12 oz. 3-5/16 in.	12-19-77	10 oz. 3-2/16 in.	1-2-78		
Maya	12-26-77	13 oz.	1-9-78	11 oz.	1-23-78		
Brookslate	1-9-78	14 oz.	1-23-78	12 oz.	2-6-78	10 oz.	2-20-78
Schmidt	1-16-78						
Itzamna	2-13-78						

(3) From the date listed for the respective variety in Column 2 of Table I to the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocado of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(4) From the date listed for the respective variety in Column 4 of Table I to the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(5) From the date listed for the respective variety in Column 6 of Table I to the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7 of such table or is of at least the diameter specified for such variety in said Column 7;

(6) No handler shall handle (i) prior to August 22, 1977, any Lisa variety avocados, (ii) during the period August 22, 1977, through August 28, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, (iii) during the period August 29, 1977, through September 4, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 11 ounces, (iv) during the period September 5, 1977, through September 11, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces, (v) during the period September 12, 1977, through September 18, 1977, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 9 ounces;

(7) No handler shall handle (i) prior to September 12, 1977, any Booth 8 variety avocados, (ii) during the period September 12, 1977, through October 2, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least $3^9/_{16}$ inches in diameter, or (iii) during the period October 3, 1977, through October 16, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least $3^9/_{16}$ inches in diameter, or (iv) during the period October 17, 1977, through October 30, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or is at least $3^9/_{16}$ inches in diameter, or (v) during the period October 31, 1977, through November 13, 1977, any Booth 8 variety avocados unless the individual fruit in each of such avocados weighs at least 10 ounces or is at least $3^1/_{16}$ inches in diameter.

(8) Except as otherwise provided in subparagraphs (10) and (11) of this paragraph, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 4, 1977.

(ii) From July 4, 1977, through July 31, 1977, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From August 1, 1977, through September 4, 1977, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From September 5, 1977, through October 2, 1977, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(9) Except as otherwise provided in subparagraphs (10 and 11) of this paragraph, varieties of avocados not covered by subparagraphs (2) through (8) hereof shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 19, 1977.

(ii) From September 19, 1977, through October 16, 1977, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 17, 1977, through December 18, 1977, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(10) Notwithstanding the provisions of subparagraphs (2) through (9) hereof regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided*, That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I or in subparagraphs (6), (7), (8), and (9). Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(11) The provisions of subparagraphs (2) through (10) of this paragraph shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color for that fruit when mature.

(b) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit; and the term "U.S. No. 3" shall have the same meaning as set forth

in the United States Standards for Florida Avocados (7 CFR 51.3050–51.3069).

(c) The provisions of this regulation shall become effective May 30, 1977.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated, May 24, 1977, to become effective May 30, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–15258 Filed 5–26–77;8:45 am]

[Avocado Regulation 25]

Part 944—Fruits; Import Regulations

AVOCADOS

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Avocado Regulation 25 prescribes during the period May 30, 1977, through April 30, 1978, the same grade requirement for imported avocados as that applicable, pursuant to Order No. 915, to avocados grown in South Florida. The maturity regulation applies the same minimum size or weight requirements to imported avocados of the Pollock, Catalina, and Trapp varieties as are applicable to Florida avocados of the same varieties. All other imported avocados are required to meet minimum size or weight requirements comparable to those for similar types grown in Florida as variations in characteristics make application of identical requirements impractical. The regulation is required by Federal law.

EFFECTIVE DATE: May 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: On May 9, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 23514) inviting written comments for consideration in connection with a proposed regulation which would establish requirements for importation of avocados into the United States, during the period May 30, 1977, through April 30, 1978, pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944). None were received.

It is hereby found that good cause exists for not postponing the effective time of the regulatory provisions of the regulation, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (b) such regulation imposes the same grade and comparable maturity requirements on imports of avocados as are being made applicable to the shipment of avocados grown in Florida under Avocado Regulation 19, which becomes effective May 30, 1977; (c) such domestic and import regulations should become effective at as near the same time as is reasonably practicable; (d) three days notice hereof, the minimum prescribed by said section 8e, is given with respect to this import regulation; and (e) such notice is hereby determined, under the circumstances, to be reasonable.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the grade, size, and maturity requirements that are the same as or are comparable to those to be in effect pursuant to the said amended marketing order shall apply to avocados to be imported.

§ 944.17 Avocado Regulation 25.

(a) On and after the effective time of this section, the importation into the United States of any avocados is prohibited unless such avocados are inspected and meet the following requirements:

(1) All avocados imported during the period May 30, 1977, through April 30, 1978, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 4, 1977; (ii) from July 4, 1977, through July 17, 1977, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least $3^{11}/_{16}$ inches in diameter; (iii) from July 18, 1977, through July 31, 1977, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least $3^{7}/_{16}$ inches in diameter; and (iv) from August 1, 1977, through August 14, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least $3^{4}/_{16}$ inches in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to September 12, 1977; (ii) from September 12, 1977, through September 18, 1977, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 19, 1977, through October 2, 1977, unless the individual fruit in each lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to August 15, 1977; (ii) from August 15, 1977, through August 28, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least $3^{10}/_{16}$ inches in diameter; and (iii) from August 29, 1977, through September 11, 1977, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least $3^{7}/_{16}$ inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to July 4, 1977; (ii) from July 4, 1977, through July 31, 1977, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from August 1, 1977, through September 4, 1977, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from September 5, 1977, through October 2, 1977, unless the individual fruit in each lot of such avocados weighs at least 14 ounces: *Provided*, That any lot of such avocados may be imported without regard to the date or minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in the regulation shall not be imported (i) prior to September 19, 1977; (ii) from September 19, 1977, through October 16, 1977, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 17, 1977, through December 18, 1977, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified and be less than the specified diameter: *Provided*, That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service. Fruit and Vegetable Division, Agricultural Market Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports of avocados. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the avocados will be imported:

Port, Office, and Advance Notice

All Texas points.—Leo M. Denbo, 506 S. Nebraska Ave., San Juan, Texas 78589, Phone (512) 787–4091, 1 day, or Charles E. Paragon, 724 E. Overland, El Paso, Texas 79901, Phone (915) 543–7723, 1 day.

All New York points.—Carmine J. Cavallo, Room 28A Hunts Point Market, Bronx, New York 10474, Phone (212) 991–7668 and 7669, 1 day, or Charles D. Renick, 176 Niagara Frontier Food, Terminal—Room 8, Buffalo, New York 14206, Phone (716) 824–1585, 1 day.

All Arizona points.—B. O. Morgan, 225 Terrace Avenue, Nogales, Arizona 85621, Phone (602) 287–2902, 1 day.

All Florida points.—Bennie C. Tiner, 1350 NW., 12th Ave.—Room 530, Miami, Florida 33136, Phone (305) 324–6116, 1 day, or Cecil Brantley, 550 3rd Street NW., Winter Haven, Florida 33880, Phone (813) 294–3511, 1 day, or Bobby E. Stafford, Unit 46, 3335 North Edgewood, Jacksonville, Florida 32205, Phone (904) 354–5983, 1 day.

All California points.—T. A. Trombatore, 784 S. Central Ave.—Room 266, Los Angeles, California 90021, Phone (213) 622–8756, 3 days.

All Louisiana points.—Leonard E. Mixon, 5027 Federal Office Bldg., 701 Loyola Avenue, New Orleans, Louisiana 70113, Phone (504) 589–6741 and 6742, 1 day.

All other points.—M. A. Castille, F&V Div.—AMS–USDA, Washington, D.C. 20250, Phone (202) 447–5870, 3 days.

(c) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any avocados to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement, if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(g) It is hereby found that the application of the maturity restrictions being imposed, pursuant to Order No. 915 (7 CFR Part 915), upon avocados grown in south Florida to imported avocados, other than of the Pollock, Catalina, and Trapp varieties, is not practicable because of variations in characteristics between the domestic and imported avocados; and the maturity restrictions applicable to imported avocados other than of the Pollock, Catalina, and Trapp varieties are comparable to those imposed upon the domestic commodity. The quality restrictions for all imported avocados, and the maturity restrictions for imported avocados of the Pollock, Catalina, and Trapp varieties, are the same as those being imposed upon the domestic commodity.

(h) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(i) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(j) The terms relating to grade, as used herein, shall have the same meaning as when used in the United States Standards for Florida Avocados (7 CFR 51.3050–51.3069). "Diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit. "Importation" means release from custody of the United States Bureau of Customs.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated, May 24, 1977, to become effective May 30, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–15259 Filed 5–26–77;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

Correction to Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction of final rule.

SUMMARY: This action corrects an error in the language of a final rule that was issued on April 29, 1974, with respect to the Eastern South Dakota Federal milk marketing order.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250 (202–447–7183).

SUPPLEMENTARY INFORMATION: This action corrects an order amending the order regulating the handling of milk in the Eastern South Dakota marketing area which was issued April 29, 1974 (39 FR 16312) and which became effective August 1, 1974. Due to a clerical error, the words "of other handlers" were inadvertently included in § 1076.7 (c) of the amended order. These words had been specifically terminated in an earlier rule-making action (39 FR 2597).

Accordingly, § 1076.7(c) is corrected to read as follows:

§ 1076.7 Pool plant.

* * * * *

(c) A plant, other than a distributing plant, operated by a cooperative association if more than 50 percent of the total milk supply of producer members of such cooperative association is shipped to pool distributing plants during the month, either directly from the farm or by transfer from the plant of the cooperative association.

Signed at Washington, D.C., on May 24, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

[FR Doc.77–15256 Filed 5–26–77;8:45 am]

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION

PART 1701—PUBLIC INFORMATION

Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA is amending its regulations to include revisions since August 10, 1976, to the listing and summary description of REA bulletins and supplements that provide the program policies and requirements of the Rural Electrification Administration. The revision reflects both new and revised REA bulletins issued after publication in the FEDERAL REGISTER under proposed rule making procedures to secure public comment and participation.

DATE: REA bulletins become effective on date of final issuance.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert H. Robinson, Director, Management Services Division, Rural Electrification Administration, Room 4024, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–4512.

SUPPLEMENTARY INFORMATION: Public comments were received on four of the REA bulletins issued in this period: 20–22, Guarantee of Loans for Bulk Power Facilities; 44–2:345–1, REA Specification for Wood Poles, Stubs, and Anchor Logs, and for Preservative Treatment of These Materials; 345–45, Field Trial of Telephone Construction Materials and Equipment; and 345–67, REA Specification for Filled Telephone Cables. There were no public comments or suggestions received on any other proposed

revisions of REA bulletins included in this update of Appendix A.

Several comments were received on the proposed revision of REA Bulletin 20–22, Guarantee of Loans for Bulk Power Facilities. The revision of the bulletin adds provisions with respect to the guaranteeing by REA of certain loan arrangements involving variable interest rates. Some of the public comments received were supportive of the acceptance of variable interest rates while others took objection to this change. After giving very careful consideration to all the comments and suggestions received, REA believes it is in the general interest of its borrowers and their members to make large amounts of additional capital available for power supply facilities by accepting for consideration of REA loan guarantee, certain loan arrangements involving variable interest rates. In each case, as provided by the bulletin, a very careful assessment will be made of the variable interest rate proposal to determine its effect on feasability and the protection afforded against the lenders control of the rate variations.

The only comment received on Bulletin 44–2:345–1 took exception to the preservative retention requirements for LPG-treated poles stated in Table 10 of the proposed specification. In the revision of the specification, REA proposed an assay of two zones (outer and inner), rather than an assay of only an inner zone for LPG-treated poles. The comment did not object to the two assay zone requirement, but did recommend that REA specify the same retentions for both the LPG treatment and the penta in heavy solvent treatment. The exception was based essentially on the proposed retention requirement in the outer assay zone (zero to 0.5 inch for Douglas fir and the pine species, and zero to 0.6 inch for western larch and the cedar species for which only the outer assay zone will be required). The proposed zone assays and retentions are intended to improve the quality of LPG-treated poles and are considered necessary because of field experience. The proposed retention in the outer assay zone is based on the requirements of Federal Specification TT–W–00571J. The Federal specification requires an assey of only one zone, which in the thin sapwood species is a narrow zone near the pole surface. This narrow assay zone near the pole surface is comparable to REA's proposed outer assay zone, and for the outer zone we have proposed the same retention value as that in the Federal specification for the narrow zone near the pole surface. After careful consideration of the exception and supporting statements, and after an extensive review of available field data and published information including a comparison of the proposed specification requirements with Federal Specification TT–W–00571J, REA determined that the specification, as proposed, should be retained.

Eight changes were suggested through public comment on the proposed revision of REA Bulletin 345–45, Field Trial of Telephone Construction Materials and Equipment.

The first suggestion was for more definitive guidelines as to when modified material or equipment would require a field trial. REA agreed and substituted for the second sentence in paragraph II, the sentence that was suggested, with the exception of a few words.

The second suggested change also dealt with the field trial of modified material and equipment. We accepted a part of this suggestion. The first sentence of paragraph III.A.1 was changed to the lines that were suggested. The second sentence of the suggestion was not accepted because field trials are for the benefit of all the REA borrowers and should be conducted under REA's conditions and not those proposed by the manufacturer and a specific borrower.

Suggestion No. 3, dealing with the need for field trials, was adopted and the second sentence in paragraph III.A.1 was revised accordingly.

The fourth suggestion referred to paragraph III.B.1 and REA's intent in its conduct of field trials with respect to extreme climatic conditions. The wording of this paragraph was modified to clarify REA's intent.

The fifth suggestion proposed to limit the quantity of field trials for the specific items to the minimum number reasonably necessary for adequate evaluation. We agree with the concept, but in actual practice manufacturers desire many field trials as it permits marketing of the products to REA borrowers using loan funds prior to formal listing of the equipment. This suggestion was not adopted.

Suggestion No. 6, dealing with the location of field trials, was not adopted. It was felt that the present wording under paragraph III.B.4 is fully descriptive of the operating conditions under which a field trial should be made.

Suggestion No. 7 referred to the duration of the field trial. Here again it was felt that the description in paragraph III.B.5 with respect to duration of field trials was satisfactory and could see no reason for changing it.

The eighth suggestion made reference to field trials of materials and equipment on the REA List of Materials Acceptable for Use on Telephone Systems of REA Borrowers. Field trials are conducted on materials and equipment that have not been accepted by REA and therefore would not be on the List of Materials. The purpose for having field trials is to allow REA and its borrowers to obtain information necessary to justify placing the items of material or equipment on the List of Materials following the procedures of REA Bulletin 44–7:345–3. For these reasons, REA considers the field trials essential and this suggestion was not adopted.

Public comments were received when the proposed revision of REA Specification PE–39 for Filled Telephone Cables (Bulletin 345–67) was published in the FEDERAL REGISTER on October 5, 1976. The following actions were taken on the comments received:

1. Suggestions to change the references in the bulletin to the most recent editions of the ASTM specifications were adopted where the new edition did not alter the PE–39 requirement.

2. A recommendation to adopt the PE–39 spark test requirement to the Underwriters Laboratories Standard UL83, "Alternative Spark Testing" and make reference to this standard was not adopted. The UL83 test would not be appropriate for the PE–39 specification.

3. In response to several requests, metric equivalents were provided throughout the PE–39 specification.

4. The suggestion was made to follow the ASTM method of rounding off measurements and computed values. This was not adopted because the ASTM method refers to odd and even significant digits which are not employed in PE–39.

5. In addition to the thermal wrap protection supplied on each reel of cable, it was suggested that a mechanical protection be required. The thermal wrap offers a small amount of mechanical protection. Additional mechanical protection is left to the discretion of each individual cable manufacturer. As an additional protection, all manufacturers are required to stencil on each reel "TRUCK FROM SIDE."

6. The reason for the change in the "shrinkback" requirement in the specification was questioned. In the past, the requirement was not cause for rejection, but was a marginal noncompliance. "Shrinkback," or lack of it, is a very important parameter in the telecommunications technology and therefore shrinkback is retained in the specification as a firm requirement.

7. Several comments were received concerning the inclusion of a test for residual antioxidant activity after processing. REA believes that such a test is needed to provide assurance that an adequate amount of antioxidant remains in the insulation of the conductors after extrusion. The presence of the antioxidant is necessary to prevent deterioration (cracking) of the insulation as it ages. The test specified in PE–39 is a result of discussions with the producers of the raw material used in making the insulation. The final specification states that other methods of testing may be used if acceptable to REA.

The following listings of revised REA bulletins and the summary descriptions of bulletins add to or replace existing listings in Appendix A to Part 1701 (40 FR 16074).

APPENDIX A—REA BULLETINS

JOINT RURAL ELECTRIFICATION AND TELEPHONE PROGRAM BULLETINS

REA Bulletin Number and Date of Last Issuance	*Description of content*
1–3:300–2; October 1976 (Replacing October 1973).	Rural Electrification Act of 1936 with Amendments to October 20, 1976, providing the statutory basis for the rural electrification and telephone loan programs of REA and the Rural Telephone Bank.
20–9:320–12; October 1976 (Replacing December 1969).	Policy and procedure for the computation of interest on REA loans and loan account statements sent to borrowers.
44–2:345–1; November 1976 (Replacing January 1968).	REA specification for wood poles, stubs, and anchor logs, and for preservative treatment of these materials to be purchased by REA electric and telephone borrowers.
44–2:345–1; January 1977 (Additional Supplement).	A supplement dated February 1977 containing revised Drawing M–20, Pole Framing Guide.
44–4:345–9; November 1976 (Replacing November 1970).	REA standards and procedures for the inspection of wood poles, stubs and anchor logs, wood crossarms, construction lumber and pole keys and the preservatives and preservative treatment in REA-financed construction.
44–5:345–2; June 1976 (Replacing July 1974).	Inspection agencies authorized by REA for inspection of timber products and their preservative treatment for installation on REA borrowers' electric or telephone systems.

RURAL ELECTRIFICATION PROGRAM BULLETINS

20–3; July 1956 (Supplement)---	A supplement dated October 14, 1976, providing for an increase in the minimum investment in realty for which REA requires title insurance.
20–22; April 1977 (Replacing February 1975).	REA's policies and requirements concerning the guarantee by REA of loans made by legally organized lending agencies for bulk power supply facilities.
40–6; August 1970 (Supplements).	Supplements dated March and June 1976. The March supplement specifies the dollar amount of contracts associated with the procurement of equipment for the construction of generation facilities not requiring REA approval, and modifies the REA equipment contract Form 198 as required by the change. The June supplement reflects the change to $25,000 as the contract limit above which contractors are required to secure a contractor's bond on a form approved by REA.
43–5; July 1976 (Replacing July 1975).	List of Materials acceptable for use in the construction of borrowers' electric systems.
43–5; July 1976 (Supplements)---	Supplements 1, 2, and 3 dated October 1976, January 1977, and April 1977, respectively, updating the basic July 1976 bulletin on REA's approved List of Materials.
43–6; December 1976 (Replacing February 1957).	REA policy and requirements for the selection of materials and equipment by electric borrowers and their inspection upon delivery.
65–1; July 1970 (Supplement)---	A supplement dated June 1976 providing a revised substation drawing relating to chain link fence grounding.
83–1; March 1977 (Replacing October 1958).	REA guidelines and requirements for the adequate grounding of primary distribution lines.
108–1; October 1974 (Supplement)	A supplement dated October 1976 prescribing the procedure for reporting customer service and informational expenses on the distribution borrowers' operating report.
108–2; January 1971 (Supplement).	A supplement dated October 1976 prescribing the procedure for reporting customer service and informational expenses.
140–1; January 1977 (New)------	REA policy and general guidelines with respect to borrowers' load management programs.
145–1; January 1977 (New)------	REA recommendations, procedures, and guidelines for developing estimated irrigation power requirements.
181–1; January 1972 (Supplement).	A supplement dated August 1976 providing amendments to the Uniform System of Accounts prescribed for REA electric borrowers.

RURAL TELEPHONE PROGRAM BULLETINS

344–2; January 1977 (Replacing January 1975).	List of Materials acceptable to REA for use in the construction of borrowers' telephone systems.
345–26; July 1976 (Replacing September 1974).	REA specification for buried plant housings.
345–45; October 1976 (Replacing December 1964).	REA specification for field trials of telephone construction materials and equipment.
345–50; May 1975 (Supplement).	A revised page 13 to the bulletin dated September 1976 providing new requirements to cover low density trunk carrier equipment.
345–52; September 1975 (Supplement).	A supplement dated January 1977 concerning station installation on mobile homes or trailers, and the accessibility of pay stations to the handicapped.
345–67; November 1976 (Replacing December 1972).	REA specification for filled telephone cables.
345–73; November 1976 (New)	REA specification for all-weather pressure sensitive vinyl tape.
345–74; February 1977 (New)	REA specification for type A telephone sets.
345–75; February 1977 (New)	REA specification for electronic trunk circuits.
380–1; July 1956 (Supplement)	A supplement dated January 1977 modifying REA requirements concerning title insurance.

Dated: May 19, 1977.

DAVID A. HAMIL,
Administrator.

[FR Doc.77–1514 Filed 5–26–77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. E. R. Mackery, USDA, APHIS, Veterinary Service, Room 868, Federal Building, Hyattsville, Md. 20782 (301–436–8685).

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1976 ed.), as amended January 21, 1976 (41 FR 3074), April 16, 1976 (41 FR 16145), July 23, 1976 (41 FR 30321), November 30, 1976 (41 FR 52433), and April 26, 1977 (42 FR 21269), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to the respective list therein as follows:

§ 97.2 **Administrative instructions prescribing the commuted traveltime.**

* * * * *

OUTSIDE METROPOLITAN AREA

TWO HOURS

Add: Oakfield, Wisconsin (served from Madison or Markesan, Wisconsin).

THREE HOURS

Add: Harrisburg, Pennsylvania (served from Shippensburg, Pennsylvania).

(64 Stat. 561 (7 U.S.C. 2260).)

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C., it is found upon good cause that notice and public procedure on this instruction are impracticable, unnecessary, and contrary to the public interest and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of May 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77–14910 Filed 5–26–77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 0—ORGANIZATION

Honolulu, Hawaii Field Station; Change of Address

AGENCY: Federal Trade Commission.

ACTION: Amendment of § 0.18(b)(9).

SUMMARY: The address of the Commission's Honolulu, Hawaii, field station set out in § 0.18(b)(9) is changed to Room 6324, 300 Ala Moana, Honolulu, HI 96850.

DATE: Effective May 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Joseph N. Kuzew, Chief, Rules and Publications Branch, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580 (202–724–1185).

By direction of the Commission.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–15205 Filed 5–26–77;8:45 am]

[Docket C–2885]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Sears, Roebuck and Co.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This consent order, among other things, requires a Chicago, Ill., department store chain, in its capacity of shopping center developer and/or major tenant, to cease entering into and enforcing agreements which exclude particular classes of occupants; control tenants' advertising, goods and prices; or otherwise restrict competitive trade. Additionally, to ensure compliance with the terms of the order, respondent is prohibited from using the same officers and employees in its separate capacities as tenant or shopping center developer.

DATES: Complaint and order issued April 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael J. Vitale, Director, Washington Regional Office, Federal Trade Commission, 600–C Gelman Bldg., 2120 L St., NW., Washington, D.C. 20017, 202–254–7700.

SUPPLEMENTARY INFORMATION: In the Matter of Sears, Roebuck and Co., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart-Combining or Conspiring: § 13.388 To control allocation and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.405 To discriminate unfairly or restrictively in general; § 13.410 To eliminate competition in conspirators' goods; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade. Subpart-Cutting off Access to Customers or Market: § 13.560 Interfering with distributive outlets. Subpart-Interfering with Competitors or their Goods: § 13.1080 Interfering with competitors or their goods.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719 as amended; 15 U.S.C. 45.)

The order to cease and desist, including further order requiring report of compliance therewith, and the dissenting statement of Commissioner Clanton, is as follows:

DISSENTING STATEMENT OF COMMISSIONER CLANTON

I continue to adhere to my belief that the order, in its presept form, should be rejected. Paragraph III E.5.(d) permits Sears to enter into agreements with shopping center developers that inter alia designate the layout of a shopping center, including "the usage by square footage of leasable floor area * * * of each type of merchandise or service to be handled or offered for sale for which the developer will use his best efforts to obtain tenants * * *." This exemption from the prescriptions of the order comes perilously close to conferring the kind of prior approval rights which the Commission struck down by its decision *In the Matter of Tysons Corner Regional Shopping Center et al.*, 85 F.T.C. 970 (1975). While not authorizing the exclusion of identified prospective tenants, paragraph III E.5.(d) may achieve a similar effect by enabling Sears to exercise veto power over various types of retail product lines and services (and thereby, perhaps, excluding certain classes of retailers) through the designation of allowable floor space. As the Commission noted in *Tysons Corner*:

It is almost self-evident, and the administrative law judge so found, that floor space is a crucial element in the ability of a store to compete (citation omitted). The inability to expand beyond a certain size can effectively preclude a retailers from offering a particular product line or services that would render it a more viable competitor for consumers' patronage. (Id. at 1013).

The interests of a tenant in the viability of a shopping center can be met, as the Commission pointed out in *Tysons Corner*, by spelling out in lease agreements "specific and legitimate considerations which a tenant may insist that developers consider in admitting new entrants, without creating the massive potential for price-fixing and anticompetitive exclusionary activity inherent in agreements conferring blanket approval rights * * *." Id. at 1012. (Footnote omitted). The Commission there distinguished between lease provisions giving a tenant broad rights of prior approval over other prospective entrants and those provisions setting forth well-defined entry criteria that are unlikely to constitute a cover for price-fixing and other price-controlling activities. In the latter situation, the burden would be on the tenant to demonstrate that the developer failed to give proper consideration to the relevant standards in the lease, a showing the Commission observed as "unlikely to be made or ever attempted if pricing policy is the main reason for the objection to the new competitor." Id. at 1018. By contrast, the *Sears* order permits major tenant participation in the design and layout of shopping centers in a way that renders effective enforcement of the order difficult if not impossible.

To the extent that appropriate consideration may be given to the economic viability of a proposed shopping center, the pending order contains several provisions outlining permissible lease arrangements similar to those incorporated in the *Tysons Corner* order; in fact, the order here would go further by permitting Sears to spell out in its lease agreement with a developer "reasonable categories of retailers" from which the developer would select tenants for location within the immediate proximity (150 feet) of Sears' store. (Paragraph III E.3.). To go beyond that, as provided in paragraph III E.5.(d), creates an unnecessary risk of anticompetitive exclusionary conduct.

For the above reasons, the order should not be approved.

ORDER

I

For the purpose of this Order the following definitions shall apply:

(a) The term "Respondent" refers to Sears, Roebuck and Co., its operating divisions, its subsidiaries including but not limited to Homart Development Co., and their respective officers, agents, representatives, or employees.

(b) The term "shopping center" refers to a group of retail outlets in the United States of America planned, developed and managed as a unit containing (1) a total floor area designed for retail occupancy of 200,000 square feet or more, of which at least 50,000 square feet are for occupancy by tenants other than Respondent, (2) at least two tenants other than Respondent, (3) at least one major tenant other than Respondent, and (4) on-site parking.

(c) The term "tenant" refers to any retail occupant or potential occupant of floor area in a shopping center, whether as a lessee or owner of such space, but the term does not refer to an occupant of space within the store or other area occupied by Respondent, which occupant operates as a department for Respondent pursuant to a license from Respondent.

(d) The term "major tenant" refers to a tenant providing primary drawing power in a shopping center. A tenant which occupies at least 50,000 square feet of floor area will be deemed to provide primary drawing power.

(e) The term "retailer" refers to a tenant which sells merchandise or services to the consuming public.

(f) The terms "range of prices," "range of fashions" and "range of quality" refer to, "popular priced," medium priced," and "high priced;" "low popular fashion," and "high fashion;" "low or popular quality," "medium quality" and "high quality," which identify a tenant as a member of a class of merchants which sell their merchandise within a generally identifiable range of prices.

(g) The term "radius restriction" refers to a limitation which precludes a tenant, directly or indirectly, from engaging in, owning, or operating any business within a specified radius or distance from a shopping center.

(h) The term "developer" means any business entity which plans, constructs, or operates a shopping center and negotiates and executes lease agreements with tenants.

(i) The term "shopping center joint venturer" or "joint venturer" means any shopping center developer who enters into an agreement with Sears, Roebuck and Co. through its subsidiary Homart Development Co. to develop, construct, or operate a shopping center.

(j) The term "Agreement" refers to any Operating Agreement, Reciprocal Easement Agreement (R.E.A.), lease, or other contract of any kind, oral or written, which sets forth a relationship between the parties relating to the occupancy of floor area in a shopping center.

II

A. *It is ordered* That respondent Sears, Roebuck and Co., a corporation, its successors and assigns, and its officers, and Respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in its capacity as a tenant in a shopping center, cease and desist from making, carrying out or enforcing, directly or indirectly, an Agreement or provision of an Agreement, which:

1. Prohibits the admission into a shopping center of any particular tenant or class of tenants, including, for purposes of illustration:

(a) Other department stores,
(b) Junior department stores,
(c) Discount stores, or
(d) Variety stores;

2. Grants Respondent the right to approve or disapprove the entry into a shopping center of any other tenant;

3. Provides for the formulation or circulation of lists of approved tenants;

4. Grants Respondent the right to approve or disapprove the amount of floor space that any other tenant may occupy or use in a shopping center;

5. Specifies that any tenant in a shopping center shall or shall not sell its merchandise or services at any particular price, or within any range of prices, or within any range of fashions, or within any range of quality, when such descriptions identify tenants as members of a class of merchants which sell their merchandise within a generally identifiable range of prices;

6. Limits discount advertising, discount pricing, or discount selling;

7. Grants Respondent the right to approve or disapprove the amount of floor space that any other tenant may choose to allocate for specific use in a shopping center;

8. Limits the types of merchandise or services which any named tenant other than Respondent in a shopping center may offer for sale;

9. Limits other tenants in a shopping center from conducting bona fide sales;

10. Prescribes the minimum hours of business operation of other tenants in a shopping center;

11. Grants Respondent the right to approve or disapprove the location in a shopping center of any other tenant;

12. Provides for radius restrictions upon any tenant in a shopping center; or

13. Authorizes a major tenant to limit the types of merchandise or services which Respondent may offer for sale in a shopping center.

B. *It is further ordered* That Respondent, in its capacity as a tenant in a shopping center, shall not enter into or carry out any conspiracy, combination, or arrangement with any other tenant or developer to exclude any tenant from a shopping center or to achieve the results which Respondent is prohibited from undertaking by Paragraph IIA of this order.

III

A. *It is further ordered* That Respondent, in its capacity as a shopping center developer, cease and desist from making, carrying out, or enforcing, directly or indirectly, an Agreement or provision of an Agreement, which:

1. Specifies that any tenant in any shopping center shall or shall not sell merchandise or services at any price, or within any range of prices, or within any range of fashions, or within any range of quality, when such descriptions identify tenants as members of a class of merchants which sell their merchandise within a generally identifiable range of prices;

2. Specifies that any tenant in any shopping center shall not be a discounter or sell merchandise or services at discount prices;

3. Specifies that any tenant in any shopping center shall be subject to a radius restriction; or

4. Specifically conditions the approval of tenant entry into one of its shopping centers upon the tenant's agreement to occupy space in another of its shopping centers.

B. *It is further ordered* That Respondent, in its capacity as a shopping center developer, cease and desist from entering into any Agreement or provision of an Agreement with any tenant that said tenant may:

1. Specify or control or may require Respondent to specify or control prices, price ranges, fashion ranges, quality ranges, which identify tenants as members of a class of merchants which sell their merchandise within a generally identifiable range of prices; or

2. Control or may require Respondent to control discounting by any other retailer; or

3. Exclude any retailer from any of Respondent's shopping centers by reason of such retailer's discount selling or discount advertising.

C. *It is further ordered* That Respondent cease and desist from using the same officers or other employees in Respondent's separate capacities as a tenant in or as a developer of shopping centers.

D. *It is further ordered* That this Order shall not prohibit Respondent, in its capacity as a tenant in a shopping center, from including a provision in an Agreement which identifies in designated buildings Respondent and those other major tenants which enter into such an Agreement.

E. *It is further ordered* That this Order shall not prohibit Respondent, in its capacity as a tenant in a shopping center, from negotiating to include, including, carrying out or enforcing an Agreement or provision in any Agreement which:

1. Requires that in regard to the selection of other tenants in the shopping center by the joint venturer or developer the following objective shall be considered—maintaining a balanced and diversified grouping of financially sound retail stores, merchandise and services;

2. Prohibits occupancy of space in a shopping center by clearly objectionable types of tenants, including, for purposes of illustration, establishments selling or exhibiting pornographic materials, massage parlors, and body and fender shops;

3. Permits Respondent to establish reasonable categories of retailers from which the developer or the landlord may select tenants to be located in the area immediately proximate to Respondent's store; provided that such categories shall not include specification of (a) price ranges, (b) price lines, (c) trade names, (d) store names, (e) trademarks, brands or lines of merchandise of retailers, or (f) identity of particular retailers, including the listing of particular retailers as examples of a category; and further, provided that such area shall not exceed 150 lineal feet on each level of the center;

4. Requires that reasonable standards of appearance, signs, maintenance and housekeeping be maintained in a shopping center;

5. Establishes a layout of a shopping center which layout may designate: (a) Respondent's store and stores of other major tenants, (b) the location, size and height of all structures (including any structure that is to be occupied by only one tenant) but not the amount of floor area that any other tenant may occupy in the shopping center, (c) the use of all structures of a non-merchandising nature, (d) the usage by square footage of leasable floor area in the shopping center (excluding floor area occupied by major tenants) of each type of merchandise or service to be handled or offered for sale, for which the developer will use his best efforts to obtain tenants, and (e) parking areas, roadways, utilities, entrances, exits, walkways, mails, landscaped areas and other common areas, and (f) expansion areas and may within such areas establish a layout incorporating items (a) through (e) of this subsection 5; or

6. Requires that any expansion of the shopping center not provided for in the initial layout:

(a) Shall not interfere with efficient automobile and pedestrian traffic flow into and out of the shopping center and between Respondent's store and perimeter and access roads, parking areas, malls and other common areas of the shopping center;

(b) Shall not interfere with the efficient operation of Respondent's store, including its utilities or its visibility from within the shopping center or from public highways adjacent thereto;

(c) Shall not result in a change of (i) the shopping center's parking ratio, (ii) the location of a number of parking spaces reasonably accessible to Respondent's store determined by the application of such parking ratio to the number of square feet of floor area of Respondent's store, (iii) the entrances and exits to and from Respondent's store and any malls, and (iv) those parking area mall entrances and exits which substantially serve Respondent's store; or

(d) Shall be accomplished only after any and all covenants, obligations and standards (for example, construction, architecture, operation, maintenance, repair, alteration, restoration, parking ratio, and easements) of the shopping center, exclusive of the expansion area (i) shall be made applicable to the expansion area and (ii) shall be made prior in right to any and all mortgages, deeds of trust, liens, encumbrances, and restrictions applicable to the expansion area, and (iii) shall be made prior in right to any and all other covenants, obligations and standards applicable to the expansion area.

F. *It is further ordered* That Respondent, in its capacity as a shopping center developer, will within thirty (30) days after service of this order mail a copy of this order and a copy of Letter "A", attached hereto, by registered or certified mail, to all tenants in its Homart shopping centers.

G. *It is further ordered* That Respondent, in its capacity as a shopping center developer, advise the Commission in writing within sixty (60) days after Respondent has knowledge of any occasion that:

1. A tenant disapproves the admission into any of Respondent's shopping centers of any other retailer;

2. A tenant refuses to approve the renewal of another retailer's lease in any of Respondent's shopping centers;

3. A tenant approves the admission of another retailer into any of Respondent's shopping centers subject to conditions imposed by the tenant relating to the pricing, price ranges, fashion ranges, quality ranges, trade names, store names, trademarks, brands or lines of merchandise or the discounting practices or methods of such other retailer; or

4. A tenant enters into an Agreement or provision of an Agreement with Respondent to become a tenant in any of Respondent's shopping centers on condition that Respondent refuse to renew the lease of another retailer.

IV

A. *It is further ordered* That Respondent shall within thirty (30) days after service of this order upon Respondent distribute a copy of this order to each of its operating divisions.

B. *It is further ordered* That Respondent, in its capacity as a tenant, shall within thirty (30) days after service of this order upon Respondent, distribute a copy thereof by registered or certified mail to each major tenant, shopping center joint venturer and developer in every shopping center in which Respondent is a major tenant.

C. *It is further ordered* That Respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent or in its subsidiary Homart such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

D. *It is further ordered* That Respondent shall within sixty (60) days after service of this order upon Respondent file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Dole abstained, not having participated in the decision to provisionally accept this agreement. Commissioner Clanton dissented.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-15088 Filed 5-26-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13565]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Uniform Net Capital Rule and Customer Protection Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final rules and interpretations.

SUMMARY: These amendments require brokers and dealers to reflect in their capital computations the exposure resulting from certain short security positions, to enable net capital computations to take into account more completely the risks associated with transactions in options and to effect certain technical adjustments to these rules.

The interpretations in this release relate to the definition of the term "bearer form" for purposes of Rule 15c3-1d and the treatment of the consolidated computation of net capital by affiliates and subsidiary corporations and are designed to resolve questions raised by the application of these provisions of the rule to specific factual situations. These amendments and interpretations arise from the Commission's ongoing review of its financial responsibility requirements.

DATE: Effective date: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1390).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today the adoption of certain amendments and interpretations to Rule 15c3-1 (17 CFR 240.15c3-1) ("Rule 15c3-1"), the uniform net capital rule, and Rule 15c3-3 (17 CFR 240.15c3-3) ("Rule 15c3-3"), the customer protection rule. The amendments are essentially those proposed in Securities Exchange Act Release No. 11969 (January 2, 1976) (41 FR 5299 (Feb. 5, 1976)) ("Release No. 11969"), modified in light of suggestions received in response to the Commission's solicitation of public comment upon the proposals. The amendments, which become effective on July 15, 1977, are intended to require brokers and dealers to reflect in their capital computations the exposure resulting from certain short security positions, to enable net capital computations to take into account more completely the risks associated with transactions in options and to effect certain technical adjustments to Rules 15c3-1 and 15c3-3.

In addition, the Commission issued today certain interpretations of Rule 15c3-1 designed to resolve questions raised by the application of certain provisions of the rule to specific factual situations. These interpretations, set forth below, are made with respect to Rule 15c3-1c ("Appendix C") and Rule 15c3-1d ("Appendix D"). Rule 15c3-1c sets forth the requirements which must be met to consolidate in a single net capital computation the assets and liabilities of affiliates in order to obtain the flow-through capital benefits for a parent broker or dealer. The interpretation of Rule 15c3-1c concerns the general applicability of flow-through benefits, the minimum net capital requirement of the consolidated entity and the treatment under Rule 15c3-1(c)(2)(vi) and (f)(3) of consolidated security positions. The interpretation of Rule 15c3-1d clarifies the definition of "bearer form" as used therein with respect to securities collateralizing a secured demand note. The Commission believes that these interpretations are necessary and in the public interest to resolve questions raised by the application of these provisions of the rule to particular factual situations.

BACKGROUND

Section 15(c)(3) of the Securities Exchange Act of 1934 ("the Act") requires the Commission to regulate brokers and dealers respecting, inter alia, the custody, carrying and use of customers' funds and securities, and the maintenance of reserves against customers' deposits or credit balances. In 1972,[1] the Commission, acting under section 15(c)(3), adopted Rule 15c3-3,[2] a customer protection rule. Rule 15c3-3 obliges brokers and dealers to obtain possession or control over fully paid or excess margin customers' securities and, through the Formula for Determination of Reserve Requirements of Brokers and Dealers ("the Reserve Formula"),[3] requires brokers and dealers to maintain reserves with respect to customers' funds and funds realized through the utilization of customers' securities.

The Securities Acts Amendments of 1975 amended section 15(c)(3)[4] to require the Commission to adopt minimum financial responsibility standards for all brokers and dealers. In response to this directive, the Commission adopted amendments to Rule 15c3-1 on June 26, 1975.[5] Rule 15c3-1 requires substantially all brokers and dealers to maintain specified levels of net capital computed in accordance with the rule's provisions, which are intended to provide safeguards with respect to the financial responsibility of brokers and dealers. As amended, Rule 15c3-1 preserves the traditional aggregate indebtedness concept and also provides an alternative capital requirement based on aggregate debit items in the Reserve Formula.

The Commission has determined that amendments to Rule 15c3-1 and the Reserve Formula of Rule 15c3-3 are necessary and appropriate for the protection of investors. First, the recent experience of certain brokers and dealers demonstrates the desirability of reducing the exposure of customers' funds and securities which arises when a broker or dealer regularly maintains for extended periods short security positions in fail to receive or stock loan accounts, as well as in special omnibus accounts established under section 4(b) of Regulation T of the Federal Reserve Board (12 CFR 220.4(b)) or otherwise. Accordingly, in Securities Exchange Act Release No. 11969 (Jan. 2, 1976) ("Release No. 11969") the Commission proposed amendments to Rule 15c3-1 and the Reserve Formula which effectively would require brokers and dealers to reflect such exposure in their computation of net capital or mark to the market these short positions.[6] Second, experience with the rapidly developing options marketplace suggests the necessity of certain amendments to these rules to reflect more appropriately the risks associated with transactions in options.

Therefore, in Release No. 11969 the Commission proposed to raise to fifty percent the deduction on long positions in listed options not offset by a short position in securities,[7] and to require recognition in the Reserve Formula of certain methods of financing brokers' and

[1] Securities Exchange Act Release No. 9856 (Nov. 10, 1972) (37 FR 25224 (Nov. 29, 1972)).

[2] 17 CFR 240.15c3-3 (1975). Rule 15c3-3 was adopted pursuant to section 15(c)(3) as it existed prior to the Securities Act Amendments of 1975. See 15 U.S.C. 78o(c)(3) (1970), as amended, 15 U.S.C. 78o(c)(3) (Supp. V, 1975).

[3] The Reserve Formula constitutes Exhibit A to Rule 15c3-3, 17 CFR 240.15c3-3a (1976).

[4] Act of June 4, 1975, Pub. L. No. 94-29, § 11(3), 89 Stat. 126.

[5] Securities Exchange Act Release No. 11497 (June 26, 1975), 40 FR 29795 (July 16, 1976).

[6] Securities Exchange Act Release No. 11969 (Jan. 2, 1976), 41 FR 5299, 5300 (Feb. 5, 1976).

[7] Id. at 11, 41 FR at 5302.

dealers' margin requirements at the clearing corporation level.[8] Finally, the need for certain other amendments to Rule 15c3–1 and the Reserve Formula became apparent during efforts on the part of the Commission and self-regulatory organizations to assist brokers and dealers in understanding and implementing Rule 15c3–1. The Commission's response to this need consisted of proposed amendments to Rule 15c3–1(b)(2),[9] the alternative financial responsibility standard for floor brokers, as well as proposed amendments to the undue concentration provisions of Rule 15c3–1(c)(2)(vi)(M) and (f)(3)(iii)[10] and proposed amendments constituting clarifications of certain other provisions of Rule 15c3–1.[11]

Generally, public comment concerning these proposals has been favorable. The Commission has determined that it is appropriate to adopt the amendments to Rule 15c3–1 and the Reserve Formula of Rule 15c3–3 in substantially the form proposed in Release No. 11969. However, several thoughtful comments received from the public did suggest the advisability of certain changes to these proposed amendments. Additionally, later amendments to Rule 15c3–1 have rendered obsolete certain of the proposals announced in Release No. 11969, necessitating their withdrawal at this time.

The modifications to the amendments proposed in Release No. 11969 may be summarized as follows:

(1) The Commission has determined not to adopt the amendment to Rule 15c3–1(c)(13) proposed in Release No. 11969. In its original form, Rule 15c3–1(c)(13) provided that, for purposes of the deductions from net worth specified in Rule 15c3–1(c)(2)(x) relative to certain positions in listed options, equity shall be computed by adding the credit balance in an options specialist's account to the current market value of the long positions in the account, and deducting the debit balance and the current market value of the short positions in the account. In Release No. 11969, the Commission proposed an amendment to this provision to clarify that all securities positions (including options positions) in such an account must be haircut pursuant to Rule 15c3–1(c)(2)(vi), (c)(2)(x), or Appendix A to the rule, as appropriate.[12] Subsequently, the Commission adopted amendments to Rule 15c3–1(c)(2)(x) which incorporated a definition of "equity" into Rule 15c3–1(c)(2)(x) and deleted Rule 15c3–1(c)(13) thereby rendering the proposed amendment to Rule 15c3–1(c)(13) unnecessary.

(2) With respect to the amendments to the Reserve Formula (Rule 15c3–3a) proposed in Release No. 11969, interested members of the public suggested two modifications which the Commission has determined are appropriate for the protection of investors. First, the amount of restricted letters of credit obtained by a clearing member of Options Clearing Corp. ("OCC") and collateralized by customers' securities will be includable as a credit item only[13] to the extent of the member's OCC margin requirement. Second, the amount of margin deposited with OCC and represented by a restricted letter of credit collateralized by customers' securities will be includable as a debit item even though the customers' securities are margin securities. Also we have further clarified Note A with respect to an overdraft in any account balance of a broker or dealer.

In all other respects, the Commission has determined to adopt in their original form the amendments to Rule 15c3–1 and the Reserve Formula proposed in Release No. 11969. The full text of the amendments to these rules adopted herein is set forth below.

STATUTORY BASIS, COMPETITIVE CONSIDERATIONS AND EFFECTIVE DATE

The amendments and interpretations set forth below with respect to §§ 240.15c3–1 and 240.15c3–3 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations, are adopted, effective July 15, 1977, pursuant to the Securities Exchange Act of 1934 and particularly sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3), w(a). The Commission finds that any burden imposed upon competition by the proposed amendments is necessary and appropriate in furtherance of the purposes of the Act, and particularly to implement the Commission's continuing mandate under section 15(c)(3) thereof, 15 U.S.C. 78o(c)(3), to provide minimum safeguards with respect to the financial responsibility of brokers and dealers.

INTERPRETATIONS OF RULE 15c3–1

The Commission has determined to issue the following interpretations to Rule 15c3–1:

A. *Section 240.15c3–1c Consolidated Computations of Net Capital and Aggregate Indebtedness for Certain Subsidiaries and Affiliates (Appendix C to 17 CFR 240.15c3–1).* Appendix C (17 CFR 240.15c3–1c) to Rule 15c3–1 sets forth the requirements which must be met to consolidate in a single net capital computation the assets and liabilities of subsidiaries and affiliates in order to obtain flow-through capital benefits for a parent broker or dealer.

Paragraph (b)(2) of Appendix C provides that a broker or dealer may claim flow-through capital benefits only if it possesses majority ownership and control over its consolidated subsidiary or affiliate, and there exists a satisfactory opinion of counsel essentially stating that at least the portion of the subsidiary's or affiliate's net asset values related to the parent's ownership interest therein may be distributed to the parent (or its SIPC trustee) within thirty days, at the instance of the distributee.

The Division of Market Regulation has received inquiries from certain interested members of the public raising questions of general applicability concerning flow-through benefits, the minimum net capital requirement of the consolidated entity, and the treatment under Rule 15c3–1(c)(2)(vi) and (f)(3) of consolidated securities positions. The following interpretations are intended to respond to these inquiries.

(a) *Flow-through capital benefits.* A subsidiary or affiliate broker or dealer included within a consolidated computation pursuant to Appendix C must comply, in its own right, with all applicable provisions of Rule 15c3–1 as if the consolidation did not exist. For purposes of its computations under the rule, the consolidated subsidiary or affiliate may not derive from such consolidation, directly or indirectly, any decrease in its aggregate indebtedness, increase in its net capital, or decrease in its required minimum net capital.

(b) *Minimum net capital requirement of the consolidated entity.* (1) The minimum dollar net capital requirement of the consolidated entity is determined by adding the amount of net capital required for compliance by each consolidated subsidiary subject to Rule 15c3–1 to the minimum dollar net capital requirement of the parent broker or dealer.

(2) If the parent computes its capital requirement under the alternative net capital requirement set forth in Rule 15c3–1(f), the net capital of the consolidated entity must equal at least the greater of the minimum dollar net capital requirement described in (1) above or 4 percent of the combined aggregate Reserve Formula debit items.

(3) If the parent computes capital under the aggregate indebtedness method set forth in Rule 15c3–1(a), the net capital of the consolidated entity must equal at least the minimum dollar net capital requirement described in (1) above and, in addition, the aggregate indebtedness of the consolidated entity may not exceed 1500 percent of the net capital of the consolidated entity.

(c) *Deductions on consolidated security positions.* For purposes of computing the net capital of the consolidated entity, the parent corporation shall apply the deductions set forth in Rule 15c3–1(c)(2)(vi), (f)(3) and Appendix A to all

[8] Id. at 12–15, 41 FR at 5300. Since the issuance of Release No. 11969, the Commission has adopted additional amendments to Rule 15c3–1 which are intended to enable net capital computations to reflect more directly the credit and market risks assumed by brokers and dealers who clear, gurantee, or endorse transactions by specialists in listed options. Securities Exchange Act Release No. 12766 (Sept. 2, 1976), 41 FR 39014 (Sept. 14, 1976) and letters from the Division of Market Regulation to the various options exchanges March 28, 1977 and April 8, 1977. See note 13 infra and accompanying text.

[9] Release No. 11969, supra note 6, at 7–8, 41 FR at 5300.

[10] Id. at 8–10, 41 FR at 5300.

[11] Id. at 10, 41 FR at 5301 (adjustment to net worth for indebtedness collateralized by exempted securities); id. at 10–11, 41 FR at 5301 (definition of "equity").

[12] Release No. 11969 at 10–11, 41 FR at 5301.

[13] As proposed, the value of the face amount of the letter of credit might have been considered as includable.

the securities held by the parent and by the subsidiary or affiliate as if all such positions were the positions of the parent. Therefore, deductions applicable to the consolidated positions are those required by the parent's method of computing capital under Rule 15c3–1.

B. *Section 240.15c3–1d Satisfactory Subordination Agreements (Appendix D to 17 CFR 240.15c3–1).* Rule 15c3–1d (c)(4) provides that all securities collateralizing a secured demand note must be in bearer form, or registered in the name of the borrowing broker or dealer, or his nominee or custodian. The Commission wishes to clarify that this term, as used in Rule 15c3–1d(c)(4), possesses no specialized definition; a security is in bearer form for purposes of Appendix D when it runs to bearer according to its terms and not by reason of any endorsement.[14]

TEXT OF AMENDMENTS

Accordingly, 17 CFR Part 240 is amended as follows:

§ 240.15c3–1 **Net capital requirements for brokers or dealers.**

* * * * * * *

(b) * * *

(2) A member in good standing of a national securities exchange who acts as a floor broker (and whose activities do not require compliance with other provisions of this rule), may elect to comply, in lieu of the other provisions of this section, with the following financial responsibility standard: The value of the exchange membership of the member (based on the lesser of the most recent sale price or current bid price for an exchange membership) is not less than $15,000, or an amount equal to the excess of $15,000 over the value of the exchange membership is held by an independent agent in escrow: *Provided,* That the rules of such exchange require that the proceeds from the sale of the exchange membership of the member and the amount held in escrow pursuant to this paragraph shall be subject to the prior claims of the exchange and its clearing corporation and those arising directly from the closing out of contracts entered into on the floor of such exchanges.

* * * * * * *

(c) * * *

(2) * * *

(iv) * * *

(B) *Certain unsecured and partly secured receivables.* All unsecured advances and loans; deficits in customers' and non-customers' unsecured and partly secured notes; deficits in special omnibus accounts maintained in compliance with the requirements of 12 CFR 220.4(b) of Regulation T under the Securities Exchange Act of 1934, or similar accounts carried on behalf of another broker or dealer, after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less; deficits in customers' and non-customers' unsecured and partly secured accounts after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less, except deficits in cash accounts as defined in 12 CFR 220.4(c) of Regulation T under the Securities Exchange Act of 1934 for which not more than one extension respecting a specified securities transaction has been requested and granted, and deducting for securities carried in any of such accounts the percentages specified in paragraphs (c)(2)(vi) or (f) of this section or Appendix (A) (17 CFR 240.15c3–1a); the market value of stock loaned in excess of the value of any collateral received therefor; receivables arising out of free shipments of securities (other than mutual fund redemptions) in excess of $5,000 per shipment and all free shipments (including mutual fund redemptions) outstanding more than 7 business days; any collateral deficiencies in secured demand notes as defined in Appendix (D) (17 CFR 240.15c3–1d);

* * * * * * *

(E) *Other deductions.* All other unsecured receivables; all assets doubtful of collection less any reserves established therefor; the amount by which the market value of securities failed to receive outstanding longer than thirty (30) calendar days exceeds the contract value of such fails to receive, and the funds on deposit in a "segregated trust account" in accordance with 17 CFR 270.–27d–1 under the Investment Company Act of 1940, but only to the extent that the amount on deposit in such segregated trust account exceeds the amount of liability reserves established and maintained for refunds of charges required by sections 27(d) and 27(f) of the Investment Company Act of 1940; *Provided,* That any amount deposited in the "Special Reserve Bank Account for the Exclusive Benefit of Customers" established pursuant to 17 CFR 240.15c3–3 and clearing deposits shall not be so deducted.

* * * * * * *

(vi) * * *

(M) *Undue concentration.* In the case of money market instruments or securities of a single class or series of an issuer, including any option written, endorsed or held to purchase or sell securities of such a single class or series of an issuer (other than "exempted securities" and redeemable securities of an investment company registered pursuant to the Investment Company Act of 1940), which are long or short in the proprietary or other accounts of a broker or dealer, including securities which are collateral to secured demand notes defined in Appendix (D) (17 CFR 240.15c3–1d), for more than 11 business days and which have a market value of more than 10 percent of the "net capital" of a broker or dealer before the application of paragraph (c)(2)(vi) of this section or Appendix (A) (17 CFR 240.15c3–1a), there shall be an additional deduction from net worth and/or the Collateral Value for securities collateralizing a secured demand note defined in Appendix (D) (17 CFR 240.15c3–1d), equal to 50 percent of the percentage deduction otherwise provided by this paragraph (c)(2)(vi) of this section or Appendix (A) (17 CFR 240.15c3–1a), on that portion of the securities position in excess of 10 percent of the "net capital" of the broker or dealer before the application of paragraph (c)(2)(vi) of this section and Appendix (A) (17 CFR 240.15c3–1a).

This provision shall apply notwithstanding any long or short position exemption provided for in (I) or (J) of this subdivision (except for long or short position exemptions arising out of the first proviso to paragraph (c)(2)(vi)(J) of this section) and the deduction on any such exempted position shall be 15 percent of that portion of the securities position in excess of 10 percent of net capital before the application of paragraph (c)(2)(vi) of this section and Appendix (A) (17 CFR 240.15c3–1a). *Provided,* That such additional deduction shall be applied in the case of equity securities only on the market value in excess of $10,000 or the market value of 500 shares, whichever is greater, or $25,000 in the case of a debt security. *Provided, further,* That any specialist which is subject to a deduction required by this (M), respecting his specialty stock, who can demonstrate to the satisfaction of the Examining Authority for such broker or dealer that there is sufficient liquidity for such specialists' specialty stock and that such deduction need not be applied in the public interest for the protection of investors, may upon a proper showing to such Examining Authority have such undue concentration deduction appropriately decreased, but in no case shall the deduction prescribed in (J) of this subparagraph be reduced. Each such Examining Authority shall make and preserve for a period of not less than 3 years a record of each application granted pursuant to this subdivision, which shall contain a summary of the justification for the granting of the application. *Provided, further,* That until August 1, 1977, this paragraph shall not apply to municipal securities.

* * * * * * *

(xii) *Deduction from net worth for certain undermargined accounts.* Deducting the amount of cash required in each customer's or non-customer's account to meet the maintenance margin requirements of the Examining Authority for the broker or dealer, after application of calls for margin, marks to the market or other required deposits which are outstanding 5 business days or less.

(xiii) *Deduction from net worth for indebtedness collateralized by exempted securities.* Deducting, at the option of the broker or dealer, in lieu of including such amounts in aggregate indebtedness, 4 percent of the amount of any indebtedness secured by exempted securities or municipal securities if such indebtedness would otherwise be includable in aggregate indebtedness.

* * * * * * *

(f) * * *

(3) * * *

[14] Accord, Uniform Commercial Code § 8–102(1)(d). See also id. § 8–310, Comment 1.

(iii) *Undue concentrations.* In the case of money market instruments, or securities of a single class or series of an issuer, including any option written, endorsed or held to purchase or sell securities of such a single class or series of an issuer (other than "exempted securities" and redeemable securities of an investment company registered pursuant to the Investment Company Act of 1940), and securities underwritten (in which case the deduction provided for herein shall be applied after 11 business days) which are long or short in the proprietary or other accounts of a broker or dealer, including securities which are collateral to secured demand notes defined in Appendix (D) (17 CFR 240.15c3–1d), and which have a market value of more than 10 percent of the "net capital" of a broker or dealer before the application of paragraphs (c)(2)(vi), (f)(3) or Appendix (A)(17 CFR 240.15c3–1a) there shall be an additional deduction from net worth and/or the Collateral Value of securities collateralizing a secured demand note defined in Appendix (D) (17 CFR 240.15c3–1d), equal to 50 percent of the percentage deduction otherwise provided by this section or Appendix (A) (17 CFR 240.15c3–1a) (in the case of securities described in paragraph (f)(3)(i) of this section which receive a 30 percent deduction or securities described in paragraph (f)(3)(ii) of this section the deduction required by this paragraph (f)(3)(iii) of this section shall be 15 percent) on that portion of the securities position in excess of 10 percent of the "net capital" of the broker or dealer before the application of paragraphs (c)(2)(vi), (f)(3) (i) and (ii) of this section and Appendix (A) (17 CFR 240.15c3–1a). This provision shall apply notwithstanding any long or short position exemption provided for in paragraph (c)(2)(vi)(I) or (f)(3)(ii) of this section (except for a long or short position exemption arising out of the first proviso to paragraph (f)(3)(ii) of this section) and the deduction on any such exemption position shall be 15 percent of that portion of the position in excess of 10 percent of net capital before the application of paragraph (c)(2)(vi), paragraphs (f)(3) (i) and (ii) of this section and Appendix (A) (17 CFR 240.15c3–1a).

Provided, That such additional deductions shall be applied in the case of equity securities only on the market value in excess of $10,000 or the market value of 500 shares, whichever is greater, or $25,000 in the case of a debt security. *Provided further,* That any specialist who is subject to a deduction required by this paragraph (f)(3)(iii) of this section respecting his specialty stock, who can demonstrate to the satisfaction of the Examining Authority for such broker or dealer that there is sufficient liquidity for such specialist's specialty stock and that such deduction need not be applied in the public interest for the protection of investors may on a proper showing to such Examining Authority have such undue concentration deduction appropriately decreased but in no case shall the deduction prescribed in paragraph (f)(3)(ii) of this section be reduced. Each such Examining Authority shall make and preserve for a period of not less than 3 years a record of each application granted pursuant to this subdivision, which shall contain a summary of the justification for the granting of the application. *Provided further,* That until August 1, 1977, this paragraph shall not apply to municipal securities.

* * * * *

§ 240.15c3–1a Options (Appendix A to 17 CFR 240.15c3–1).

* * * * *

(c) * * *

(8) *Listed Options.* Where a broker or dealer is long listed options and there is no offsetting security position, deducting 50 percent of the market value of any net long positions in options in the same underlying security, with the same exercise price and the same expiration date. Where a broker or dealer has a net short position in an option in the same underlying security, with the same exercise price and the same expiration date and for which the broker or dealer does not have a related position in the underlying security or an option position otherwise provided for in this Appendix (A), the deduction shall be determined as provided in subparagraph (c)(1) or (2) of this Appendix (A).

§ 240.15c3–3a Exhibit A—formula for determination of reserve requirement of brokers and dealers under § 240.-15c3–3.

		In dollars— Credits	Debits
1	Free credit balances and other credit balances in customers' security accounts. (See note A.)	xxx	
2	Monies borrowed collateralized by securities carried for the account of customers. (See note B.)	xxx	
3	Monies payable against customers' securities loaned. (See note C.)	xxx	
4	Customers' securities failed to receive. (See note D.)	xxx	
5	Credit balances in firm accounts which are attributable to principal sales to customers	xxx	
6	Market value of stock dividends, stock splits and similar distributions receivable outstanding over 30 calendar days	xxx	
7	Market value of short security count differences over 30 calendar days old	xxx	
8	Market value of short securities and credits (not to be offset by longs or by debits) in all suspense accounts over 30 calendar days	xxx	
9	Market value of securities which are in transfer in excess of 40 calendar days and have not been confirmed to be in transfer by the transfer agent or the issuer during the last 40 days	xxx	
10	Debit balances in customers' cash and margin accounts excluding unsecured accounts and accounts doubtful of collection. (See note E.)		xxx
11	Securities borrowed to effectuate short sales by customers and securities borrowed to make delivery on customers' securities failed to deliver		xxx
12	Failed to deliver of customers' securities not older than 30 calendar days		xxx
13	Margin required and on deposit with the Options Clearing Corp. for all option contracts written or purchased in customer accounts. (See note F.)		xxx
	Total credits		
	Total debits		
14	Excess of total credits (sum of items 1–9) over total debits (sum of items 10–13) required to be on deposit in the "Reserve Bank Account" (§ 240.15c3–3(e)). If the computation is made monthly as permitted by this section, the deposit shall be not less than 105 pct of the excess of total credits over total debits	xxx	

NOTE A.—Item 1 shall include all outstanding drafts payable to customers which have been applied against free credit balances or other credit balances and shall also include checks drawn in excess of a bank balance per the records of the broker or dealer.

NOTE B.—Item 2 shall include the amount of Letters of Credit obtained by a member of Options Clearing Corporation which are collateralized by customers' securities, to the extent of the member's margin requirement at Options Clearing Corp.

NOTE C.—Item 3 shall include in addition to monies payable against customers' securities loaned the amount by which the market value of securities loaned exceeds the collateral value received from the lending of such securities.

NOTE D.—Item 4 shall include in addition to customers' securities failed to receive the amount by which the market value of securities failed to received and outstanding more than thirty (30) calendar days exceeds their contract value.

NOTE E.—(1) Debit balances in margin accounts shall be reduced by the amount by which a specific security (other than an exempted security) which is collateral for margin accounts exceeds in aggregate value 15 percent of the aggregate value of all securities which collateralize all margin accounts receivable; provided, however, the required reduction shall not be in excess of the amount of the debit balance required to be excluded because of this concentration rule. A specified security is deemed to be collateral for a margin account only to the extent it represents in value not more than 140 percent of the customer debit balance in a margin account.

(2) Debit balances in special omnibus accounts, maintained in compliance with the requirements of section 4(b) of Regulation T under the Act (12 CFR 220.4(b) or similar accounts carried on behalf of another broker or dealer, shall be reduced by any deficits in such accounts (or if a credit, such credit shall be increased) less any calls for margin, marks to the market, or other required deposits which are outstanding 5 business days or less.

(3) Debit balances in customers' cash and margin accounts included in the formula under item 10 shall be reduced by an amount equal to 1 percent of their aggregate value.

NOTE F.—Item 13 shall include the amount of margin required and on deposit with Options Clearing Corporation to the extent such margin is represented by cash, proprietary qualified securities, and letters of credit collateralized by customers' securities.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 23, 1977.

[FR Doc.77–15260 Filed 5–26–77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76C–0426]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

D&C Red No. 17; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is confirming the effective date of December 20, 1976, of an order concerning the use of D&C Red No. 17 in externally applied drugs and cosmetics. The Commissioner of Food and Drugs, in response to an objection to the order, is also revising one of the specifications for the certification of D&C Red No. 17.

DATES: Effective date confirmed: December 20, 1976. Revision effective date: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204 (202–472–5740).

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51005), that added §§ 74.1317 and 74.2317 (21 CFR 74.1317 and 74.2317) (formerly §§ 8.4116 and 8.7179, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), to provide for safe use of D&C Red No. 17 in externally applied drugs and cosmetics and amended § 81.1 (21 CFR 81.1) (formerly § 8.501) by deleting D&C Red No. 17 from the provisionally listed colors in paragraph (b). The order of November 19, 1976, also amended the identity nomenclature and specifications for the certification of D&C Red No. 17 under § 82.1317 (21 CFR 82.1317) (formerly § 9.162) to reference § 74.1317.

One objection to the order was filed by a co-petitioner for the listing of D&C Red No. 17. A hearing was not requested. The objection concerned the specification in the order (§ 74.1317(b)) that limited matter insoluble in both toluene and water to not more than 0.5 percent. The objection noted that D&C Red No. 17 is an oil soluble, water insoluble color and could not be properly certified under this limitation without including in the specification a description of the procedure needed to solubilize the color. The objection further noted that "what is meant is the dye should be dissolved in toluene and the residue then slurried with water and the resultant insoluble matter be less than 0.5 percent."

The Commissioner agrees that the specification regarding "Matter insoluble in both toluene and water" in § 74.1317(b) should be clarified. Accordingly, the regulations set forth below add a parenthetical phrase similar to that suggested by the co-petitioner. The Commissioner concludes that there is no need to provide for further public comment on this change in the regulation because it represents an editorial change for clarification rather than a substantive amendment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1):

1. There being no other objections and no requests for a hearing in response to the order of November 19, 1976, the amendments promulgated thereby became effective on December 20, 1976.

2. Part 74 is amended in the listing in § 74.1317(b) by adding after the specification for "Matter insoluble in both toluene and water" a parenthetical expression; the revised entry in the listing reads as follows:

§ 74.1317 D&C Red No. 17.

* * * * *

(b) *Specifications.* * * *

Matter insoluble in both toluene and water (color additive mixed in toluene and the resultant residue isolated and mixed with water to obtain the matter insoluble in both toluene and water), not more than 0.5 percent.

* * * * *

Effective dates: (1) This amendment was effective December 20, 1976; (2) The revision to this amendment as set forth above is effective May 27, 1977.

Dated: May 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–15094 Filed 5–26–77;8:45 am]

PART 101—FOOD LABELING

Foods That Are Not Meaningful Sources of Nutrients; Establishment of Effective Date

CROSS REFERENCE: In the FEDERAL REGISTER of March 6, 1974 (39 FR 8621), the Commissioner of FDA proposed to exempt certain foods of negligible nutritional value from the labeling requirements of 21 CFR 1.17 (later recodified as 21 CFR 101.9). An FDA document (FR Doc. 77–14806) in the proposed rules section of this FEDERAL REGISTER terminates this proceeding and establishes an effective date of July 1, 1979 by which these foods must comply with the nutritional labeling requirements in 21 CFR 101.9.

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N–0066]

PART 101—FOOD LABELING

Declaration of Amounts of Protein, Fat, and Carbohydrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Commissioner of Food and Drugs is allowing for the declaration of protein content, carbohydrate content, and fat content in nutrition labeling of foods in terms of "less than one gram" when a serving of a food contains less than 1 gram. The regulation, based on a proposal resulting from petitions to allow exemptions from the complete labeling format, will facilitate labeling of such items by providing for this declaration as a permissible alternative.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202–245–3092).

SUPPLEMENTARY INFORMATION: The Commissioner issued a proposal in the FEDERAL REGISTER of March 6, 1974 (39 FR 8620) to amend § 1.17 (21 CFR 1.17, recodified as § 101.9 in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to allow for the declaration of protein content, carbohydrate content, and fat content by the statement "contains less than one gram" whenever such a statement is appropriate.

Eight comments were received in response to the proposal. Three comments did not address the proposal, but commented on other aspects of nutrition labeling. The points raised in the remaining comments and the Commissioner's responses are discussed below:

1. Three comments recommended that the declaration "contains less than one gram" or "less than one gram" be a permissible alternative to the declaration of these constituents to the nearest gram.

The Commissioner advises that the proposal was intended to provide for the declaration of these constituents to the nearest gram or, where appropriate, "less than one gram." The Commissioner is revising the regulation to clearly provide for such declaration as a permissible alternative.

2. One comment said that the wording of labels would appear redundant if, for example, protein were required to be declared, "Protein content: Contains less than one gram." The same comment questioned the necessity of "contains" in the phrase "contains less than one gram."

The Commissioner advises that use of the term "content" is optional. "Contains" is not required for the numerical gram designations, and the Commissioner agrees that it is also unnecessary for the "less than one gram" declaration.

3. One comment questioned the value of attempting to differentiate between 0.5 gram of protein and 0.0 gram because of variation in analytical methodology.

The Commissioner advises that products containing less than 1 gram per serving (portion) of protein, fat, or carbohydrate need only declare "less than

one gram" as indicated in the amendments to § 101.9(c) (4), (5), and (6). Therefore, manufacturers need only be able to distinguish analytically between those products that contain less than 1 gram of protein and those products that contain 1 gram of protein or more.

The issue of labeling increments for calories, protein, fat, and carbohydrates has been discussed in paragraphs 20 and 36 of the preamble to the nutrition labeling regulations published in the FEDERAL REGISTER of March 14, 1973 (38 FR 6951).

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 101 is amended in § 101.9 by revising paragraphs (c) (4), (5), and (6) to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(c) * * *

(4) "Protein content" or "Protein": A statement of the number of grams of protein in a serving (portion) expressed to the nearest gram except that if a serving (portion) contains less than one gram, the statement "Contains less than one gram" or "less than one gram" may be used as an alternative. Protein content may be calculated on the basis of the factor of 6.25 times the nitrogen content of the food as determined by the appropriate method of analysis of the Association of Official Analytical Chemists. 12th edition, 1975,[1] except when the official procedure for a specific food requires another factor.

(5) "Carbohydrate content" or "Carbohydrate": A statement of the number of grams of carbohydrate in a serving (portion) expressed to the nearest gram except that if a serving (portion) contains less than one gram, by the statement "Contains less than one gram" or "less than one gram" may be used as an alternative.

(6) "Fat content" or "Fat": A statement of the number of grams of fat in a serving (portion) expressed to the nearest gram, except that if a serving (portion) contains less than one gram, the statement "Contains less than one gram" or "less than one gram" may be used as an alternative. Fatty acid composition, cholesterol content, and sodium content may also be declared in compliance with §§ 101.25 and 105.69 of this chapter.

* * * * *

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

Effective date: This regulation shall become effective June 27, 1977.

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055 (21 U.S.C. 321, 343, 371(a)).)

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register March 11, 1976, and on file in the Federal Register Office library.

[FR Doc.77-14805 Filed 5-26-77;8:45 am]

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 77N-0103]

PART 201—LABELING

Information Commonly Known

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document deletes from the regulations certain prescription drugs that were reviewed in the FDA Drug Efficacy Study and were formerly listed as being exempt from the requirement of "full disclosure" labeling. The agency is taking this action because new information about the directions, hazards, warnings, and use of those drugs may not be commonly known. This final regulation will require that those drugs bear "full disclosure" labeling in their dispensing packages.

EFFECTIVE DATE: November 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–5220)

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 24, 1975 (40 FR 3783), the Commissioner of Food and Drugs proposed to amend § 201.160 (21 CFR 201.160) by deleting from the list of drugs exempted from the labeling requirements of § 201.100 (c)(1) (i.e., full disclosure information on or within the package from which the drug is dispensed) those drugs for which such exemptions have been superseded by Drug Efficacy Study Implementation (DESI) notices. The Commissioner also proposed that the reference to nitroglycerin in § 201.160(b) specify the sublingual dosage form, which was the intent of the original exemption.

Two comments were received in response to the proposal. A summary of the comments and the Commissioner's conclusions regarding them follows:

1. One manufacturer stated that the DESI notice cited as superseding the exemptions from full disclosure for barbiturates (DESI 793, published in the FEDERAL REGISTER of July 28, 1972 (37 FR 15186)), affected only seven oral or parenteral forms of specified short-to-intermediate-acting barbiturates, and the manufacturer also stated that there is no DESI notice applicable to the remaining single-entity oral barbiturate preparations such as phenobarbital, the second oldest and most widely used member of its class. The comment further pointed out that the use of phenobarbital not in excess of 100 milligrams per dosage unit is well known and accepted and should not require full disclosure information.

The Commissioner agrees that phenobarbital as a single-entity drug is not covered by any DESI notice. Accordingly, in § 201.160(b) the entry *"Barbiturates"* will be replaced by the following entries: *"Phenobarbital.* For oral use, not in excess of 100 milligrams per dosage unit" and *"Phenobarbital sodium.* For oral use, not in excess of 100 milligrams per dosage unit."

The Commissioner believes, however, that an exemption from "full disclosure" labeling for any prescription drug can no longer be justified. Elsewhere in this issue of the FEDERAL REGISTER he is proposing to revoke the provision in § 201.100(c)(2) of the drug labeling regulations permitting the "full disclosure" labeling to be omitted from the dispensing package of certain prescription drugs for which the directions, hazards, warnings, and use information are commonly known to physicians. That proposal also includes the proposed revocation of § 201.160, which is amended by this final regulation.

2. The other comment stated that the final regulation should allow not less than 6 months from the date of publication for the labeling of affected drug products to be brought into compliance with its requirements.

The Commissioner agrees with this comment. Accordingly, this regulation will be effective on November 23, 1977. After that date, FDA will regard as misbranded prescription drugs that do not carry "full disclosure" labeling, except those prescription drugs listed in § 201.-100(b); no person after that date will be permitted to introduce or deliver for introduction into interstate commerce, or to hold for sale after shipment in interstate commerce, any such prescription drug product without "full disclosure" labeling. This prohibition, however, will not apply to any drug product received prior to the effective date by any distributor (other than an own-label distributor) or retailer. The purpose of the prohibition is to prevent the further distribution of such products after the effective date by any person involved in the production of prescription drug products who has responsibility for the content of the labeling.

The requirements thus exempt those who merely distribute or sell products whose labeling is the responsibility of others. It will allow distributors (but not own-label distributors) and retailers to exhaust supplies on hand on the effective date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701, 52 Stat. 1050–1053, 1055–1056, as amended (21 U.S.C. 352, 355, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 201 is amended in § 201.160(b) by deleting the entries *"Aminophylline," "Atropine methyl nitrate," "Barbiturates," "Digitalis," "Epinephrine injection," Mannitol hexanitrate," "Pentaerythritol tetranitrate," "Pentaerythritol tetranitrate with phenobarbital," "Quidine sulfate," "Scopolamine methylbromide";* by inserting the following new entries: *"Phenobarbital.* For oral use, not in excess of 100 milligrams per dosage unit." and *"Phenobarbital sodium.* For oral use, not in excess of 100 milligrams per dosage unit"; and by revising the entry *"Nitroglycerin"* to read *"Nitroglycerin sublingual".* As revised, § 201.160(b) reads as follows:

§ 201.160 Drugs; information commonly known.

* * * * *

(b) The Commissioner of Food and Drugs has considered submitted material covering a number of drug products and has offered the opinion that the following drugs, when intended for those human uses for which they are now generally employed by the medical profession, should be exempt from the requirements of § 201.100(c)(1) of this chapter, provided that they meet the conditions prescribed in this paragraph. Preparations that are not in dosage unit form (for example, solutions) will be regarded as meeting the conditions with respect to the maximum quantity of drug per dosage unit if they are prepared in a manner that enables accurate and ready administration of a quantity of drug not in excess of the maximum per dosage unit:

Atropine sulfate. For oral use, not in excess of 0.54 milligram per dosage unit; for injection, not in excess of 0.54 milligram (1/120 grain) per dosage unit.

Chloral hydrate. For oral use, not in excess of 500 milligrams per dosage unit; for use as suppositories, not in excess of 1.0 gram per suppository.

Codeine phosphate. For oral use, not in excess of 65 milligrams per dosage unit; for injection, not in excess of 65 milligrams per dosage unit.

Codeine sulfate. For oral use, not in excess of 65 milligrams per dosage unit; for injection, not in excess of 65 milligrams per dosage unit.

Dihydrocodeinone bitartrate. For oral use, not in excess of 10 milligrams per dosage unit.

Dihydromorphinone hydrochloride. For oral use, not in excess of 4 milligrams per dosage unit.

Erythrityl tetranitrate. For oral use, not in excess of 30 milligrams per dosage unit.

Homatropine methylbromide. For oral use, not in excess of 5 milligrams per dosage unit.

Hyoscyamine hydrobromide. For oral use, not in excess of 1 milligram per dosage unit.

Hyoscyamine sulfate. For oral use, not in excess of 1 milligram per dosage unit.

Hyoscyamus tincture. For oral use, not in excess of 2 milliliters per dosage unit.

Methenamine. For oral use, not in excess of 1 gram per dosage unit.

Morphine phosphate. For oral use, not in excess of 33 milligrams per dosage unit: for injection, not in excess of 33 milligrams per dosage unit.

Morphine sulfate. For oral use, not in excess of 33 milligrams per dosage unit: for injection, not in excess of 33 milligrams per dosage unit.

Nitroglycerin sublingual. For oral use, not in excess of 0.65 milligram per dosage unit.

Phenobarbital. For oral use, not in excess of 100 milligrams per dosage unit

Phenobarbital sodium. For oral use, not in excess of 100 milligrams per dosage unit.

Sodium chloride injection.

Sodium nitrite. For oral use, not in excess of 60 milligrams per dosage unit.

Theobromine. For oral use, not in excess of 325 milligrams per dosage unit.

Thyroid. For oral use, not in excess of 220 milligrams per dosage unit.

Water for injection, sterile.

Effective date: This order shall be effective on November 23, 1977.

(Secs. 502, 505, 701, 52 Stat. 1050–1053, 1055–1056, as amended (21 U.S.C. 352, 355, 371).)

Dated: May 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 77-15092 Filed 5-26-77;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0101]

PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Fees for Certifying Insulin Drugs; Increase

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending the fee schedule for certifying insulin drugs by adding a fee of $85 for each batch of drugs submitted for certification and by increasing certain other fees. The increases are needed to maintain an adequate insulin certification program, as required by section 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356).

DATES: Effective June 27, 1977; comments by July 26, 1977.

ADDRESS: Written comments to: Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

David Petak, Accounting Branch (HFA–120), Food and Drug Administration, Department of Health, Education and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–1768).

SUPPLEMENTARY INFORMATION: The current fee schedule specified in § 429.55(b) (21 CFR 429.55(b)) became effective in January 1964, except for the sterility test fee, which was increased on October 3, 1972 (37 FR 20685). Since that time there has been a general increase in employees' salaries and in the cost of operating laboratories.

Section 506(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356(b)(5)) requires that fees adequate to maintain an insulin certification program be specified in agency regulations. The current fee schedule is insufficient to provide, equip, and maintain an adequate certification service, and therefore, an immediate increase is necessary.

The current fee schedule for insulin certification was designed to cover all the costs involved in the certification program. These include both the cost of specific tests required by the regulations and the general costs associated with the certification program, such as costs of accounting, reviewing data, issuing certificates, carrying out research, and conducting establishment inspections. In the revised schedule published below in this regulation, the test fees are based solely on the cost of the tests performed. The additional fee of $85 for each batch of drugs submitted is intended to cover the general costs of the certification program.

The institution of the $85 fee for each batch of drugs submitted for certification and the increase in the present fee schedule are expected to provide sufficient funds to maintain an adequate certification program.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 506, 55 Stat. 851 as amended (21 U.S.C. 356)), and under authority delegated to the Commissioner (21 CFR 5.1), Part 429 is amended in § 429.55 by revising the introductory text of paragraph (b) and paragraphs (b) (1)(i), (2)(ii), (3)(ii), (4), (5), (6)(ii), (7), (8), and (9) to read as follows:

§ 429.55 Fees.

* * * * *

(b) The fee for such services is $85 for each batch submitted, plus the sum of the fees for all services rendered with respect to the samples submited pursuant to § 429.40(d), as follows:

(1) * * *

(i) $195 if the master lot or mixture has not been previously approved by the Commissioner.

* * * * *

(2) * * *

(ii) $3.177 if the results referred to in paragraph (b)(3)(i) of this section are not submitted and are not to be submitted.

(3) * * *

(ii) $2.754 if the results referred to in paragraph (b)(3)(i) of this section are not submitted and are not to be submitted.

(4) $378 for each lot of protamine.

(5) $1,328 for each trial mixture of isophane insulin suspension.

(6) * * *

(ii) $2.754 if the results referred to in paragraph (b)(6)(i) of this section are not submitted and are not to be submitted.

(7) $386 for each lot of globin hydrochloride.

(8) $537 for each trial mixture of insulin zinc suspension, prompt insulin zinc suspension, and extended insulin zinc suspension.

(9) $16 for each package in the sample of the finished batch submitted for all tests except sterility; $68 for all packages in the sample submitted for the initial sterility test in accordance with § 429.40(d)(10); and $136 for all packages in the sample submitted for any re-

peat sterility test, if necessary, in accordance with the U.S.P.

* * * * *

Since the amendment established by this regulation is necessary to provide, equip, and maintain an adequate insulin drug certification service, the Commissioner finds that notice and public procedure are impracticable, unnecessary, and contrary to the public interest. A copy of the agency study supporting the changes is available for review in the office of the Hearing Clerk. Interested persons may, on or before July 26, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in quadruplicate and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date: This amendment shall be effective June 27, 1977.

(Sec. 560, 55 Stat. 851 as amended (21 U.S.C. 356).)

Dated: May 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–15288 Filed 5–26–77;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N–0116]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 448—PEPTIDE ANTIBIOTIC DRUGS

Bacitracin and Bacitracin Zinc

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the antibiotic drug regulations that provide for certification of bacitracin drug products. This action is taken because of the need to update and make technical changes to these regulations. Certain inactive sections or partial sections are revoked, nomenclature changes are made, changes affecting indexing and placement of sections within Part 448 are made, and technical changes are made by this action.

DATES: Effective June 27, 1977, rearrangement of nonproprietary name from "zinc bacitracin" to "bacitracin zinc" by November 22, 1977, bacitracin zinc preparations must be labeled by November 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Rice, Jr., Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of July 16, 1976 (41 FR 29413), to amend the antibiotic drug regulations by updating and making technical changes to those regulations providing for bacitracin- and bacitracin zinc-containing drugs intended for human use.

Interested persons were given until September 14, 1976 to submit written comments. One comment was received from a manufacturer, pointing out an error in the potency statement for neomycin in § 448.313b (21 CFR 448.313b).

The Commissioner finds that potency for neomycin was stated incorrectly in proposed § 448.313b as 3.0 milligrams instead of 3.5 milligrams. The regulation is corrected accordingly, and other minor typographical errors are corrected.

Although no comments were received concerning the proposed revocation from § 448.510a of the provisions for certifying bacitracin zinc ointment (a dermatologic drug product), a review of FDA certification records indicates that such a product is currently being certified. The Commissioner, therefore, is not revoking the provisions for its certification, but is updating and redesignating them as § 448.513f to correspond to the section number of the bulk drug. Because the only known manufacturer of this drug product has agreed to the technical changes necessary to update the applicable monograph, the Commissioner concludes that it is unnecessary to propose for public comment the updated monograph for bacitracin zinc ointment. Therefore, § 448.513f Bacitracin zinc ointment is included in this final rulemaking document.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 436 and 448 are amended as follows:

A. Part 436 is amended as follows:

1. In § 436.20 by adding new paragraph (c)(14) to read as follows:

§ 436.20 Sterility test methods and procedures.

* * * * *

(c) * * *

(14) *Medium N.*

Pancreatic digest of casein	grams	15.0
Peptic digest of soybean meal	do	5.0
Sodium chloride	do	5.0
Agar	do	15.0
Water	milliliters	1,000

pH 7.3±0.2 after sterilization.

* * * * *

2. In § 436.105(b) in the table, by deleting the item "Bacitracin" and by alphabetically inserting the following new item:

§ 436.105 Microbiological agar diffusion assay.

* * * * *

(b) * * *

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 436.200)	Working standard stock solutions: Initial solvent	Working standard stock solutions: Diluent (solution number as listed in § 436.101(a))	Standard response line concentrations: Final concentration units or milligrams per milliliter	Standard response line concentrations: Storage time under refrigeration	Standard response line concentrations: Diluent	Standard response line concentrations: Final concentrations, units or micrograms of antibiotic activity per milliliter
*	*	*	*	*	*	*	*
Bacitracin zinc	1		0.01*N* HCl	100 units	Use same day	1	0.64, 0.80, 1.0, 1.25, 1.56 units.
*	*	*	*	*	*	*	*

3. In Subpart F by adding new § 436.319 to read as follows:

§ 436.319 Thin layer chromatography identity test for bacitracin and bacitracin zinc.

(a) *Equipment*—(1) *Chromatography tank.* A rectangular tank approximately 23 centimeters long, 23 centimeters high, and 9 centimeters wide, equipped with a glass solvent trough in the bottom and a tight-fitting cover for the top. Line the inside walls of the tank with Whatman 3MM chromatographic paper or equivalent.

(2) *Plates.* Use a 20- by 20-centimeter thin layer chromatography plate coated with silica gel G or equivalent to a thickness of 250 micrometers. Activate the plate by heating for 20 minutes at 110° C. Allow to cool to room temperature and use immediately.

(b) *Reagents*—(1) *Developing solvent.* Mix *n*-butanol, water, pyridine, glacial acetic acid, and ethyl alcohol in volumetric proportions of 60:10:6:15:5, respectively.

(2) *Spray solution.* Dissolve I gram of ninhydrin in a mixture of 1 milliliter of pyridine and sufficient *n*-butanol to make 100 milliliters.

(c) *Preparation of spotting solutions.* Prepare solutions of the sample and working standard, each containing 6.0 milligrams of bacitracin per milliliter in 1 percent disodium ethylenediamine tetraacetic acid in water.

(d) *Procedure.* Pour the developing

solvent into the glass trough on the bottom of the tank and onto the paper lining the walls of the tank. Cover and seal the tank. Allow it to equilibrate for at least 30 minutes. Prepare a plate as follows: On a line 2.0 centimeters from the base of the silica gel plate, and at intervals of 2.0 centimeters, spot approximately 1.0 microliter of the standard solution to points 1 and 3. When these spots are dry, apply approximately 1.0 microliter of sample solution to points 2 and 3. After all spots are thoroughly dry, place the base of the silica gel plate directly into the glass trough in the chromatography tank. Cover and seal the tank. Allow the solvent front to travel approximately 13 centimeters from the starting line. Remove the plate from the tank, and allow it to air dry. After the plate is dry, spray lightly with the spray solution. The plate may take 1 hour or more to develop at room temperature. The development may be speeded up by warming the plate in a 110° C oven.

(e) *Evaluation.* The sample and standard should have spots of corresponding R_f value (approximately 0.26) and standard and sample combined should appear as a single spot of corresponding R_f value.

B. Part 448 is amended as follows:

1. In Subpart A, by adding new § 448.10 to read as follows:

§ 448.10 Bacitracin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin is a white to brown, neutral water-soluble polypeptide. It is so purified and dried that:

(i) Its potency is not less than 40 units of bacitracin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5 percent.

(iv) Its pH in an aqueous solution containing 10,000 units per milliliter is not less than 5.5 and not more than 7.5.

(v) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity.

(ii) Samples required: 10 packages, each containing approximately 1.0 gram.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of convenient concentration. Remove an aliquot of the stock solution, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10,000 units per milliliter.

(5) *Identity.* Proceed as directed in § 436.319 of this chapter.

2. Section 448.10a is revised to read as follows:

§ 448.10a Sterile bacitracin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin is a white to brown, neutral water-soluble polypeptide. It is so purified and dried that:

(i) Its potency is not less than 50 units per milligram. If it is packaged for dispensing, its content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of units of bacitracin that it is represented to contain.

(ii) It is sterile.

(iii) It passes the safety test.

(iv) It is nonpyrogenic.

(v) Its loss on drying is not more than 5 percent.

(vi) Its pH in an aqueous solution containing 10,000 units per milliliter is not less than 5.5 and not more than 7.5.

(vii) Its residue on ignition is not more than 3.0 percent.

(viii) It passes the identity test.

(ix) Its heavy metals content is not more than 30 parts per million.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, loss on drying, pH, residue on ignition, identity, and heavy metals.

(ii) Samples required:

(*a*) If the batch is packaged for repacking or for use in the manufacture of another drug:

(*1*) For all tests except sterility: 10 packages, each containing approximately 1 gram.

(*2*) For sterility testing: 1 package, containing approximately 12 grams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of convenient concentration; also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container, or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with solution 1 to obtain a stock solution of convenient concentration. Remove an aliquot of the stock solution, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 300 units of bacitracin per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(6) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10,000 units per milliliter.

(7) *Residue on ignition.* Proceed as directed in § 436.207(a) of this chapter.

(8) *Identity.* Proceed as directed in § 436.319 of this chapter.

(9) *Heavy metals.* Proceed as directed in § 436.208 of this chapter.

3. Section 448.13 is revised to read as follows:

§ 448.13 Bacitracin zinc.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc is the zinc salt of a kind of bacitracin or a mixture of two or more such salts. It is so purified and dried that:

(i) Its potency is not less than 40 units of bacitracin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5 percent.

(iv) Its pH is not less than 6.0 and not more than 7.5.

(v) Its zinc content is not more than 10 percent by weight on an anhydrous basis.

(vi) It passes the identity test.

(2) *Labeling.* In addition to the labeling requirements of § 432.5 of this chapter, each package shall bear on the outside wrapper or container and the immediate container the statement "For use only in the manufacture of nonparenteral drugs".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(ii) Samples required: 10 packages, each containing approximately 1.0 gram.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample (usually 25 to 35 milli-

grams) in sufficient 0.01*N* hydrochloric acid to give a bacitracin concentration of 100 units per milliliter (estimated). Further dilute an aliquot with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

NOTE.—The final sample solution must contain the same amount of hydrochloric acid as the reference concentration of the working standard.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a saturated solution (approximately 100 milligrams of the sample per milliliter).

(5) *Zinc content.* Proceed as directed in § 436.312 of this chapter.

(6) *Identity.* Proceed as directed in § 436.319 of this chapter.

4. Section 448.13a is amended by revising the section heading and the introductory text of paragraph (a)(1), by adding new paragraph (a)(1)(vii), by revising paragraph (a)(3)(i), and by adding new paragraph (b)(7) to read as follows:

§ 448.13a Sterile bacitracin zinc.

(a) *Requirement for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile bacitracin zinc is the zinc salt of a kind of bacitracin or a mixture of two or more such salts. It is so purified and dried that:

* * * * * *

(vii) It passes the identity test.

* * * * * *

(3) * * *

(i) Results of tests and assays on the batch for potency, sterility, safety, loss on drying, pH, zinc content, and identity.

* * * * * *

(b) * * *

(7) *Identity.* Proceed as directed in § 436.319 of this chapter.

§ 448.110a [Revoked]

5. Section 448.110a. *Bacitracin tablets; zinc bacitracin tablets; bacitracin suppositories; zinc bacitracin suppositories (if they are represented for vaginal use)* is revoked.

§ 448.110b [Revoked]

6. Section 448.110b *Bacitracin polymyxin tablets* is revoked.

§ 448.310a [Revoked]

7. Section 448.310a *Bacitracin ophthalmic* is revoked, and the section designation is reserved.

8. Section 448.310b is revised to read as follows:

§ 448.310b Bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment contains bacitracin, neomycin sulfate, and polymyxin B sulfate in a suitable and harmless ointment base. Each gram contains 500 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The bacitracin used conforms to the standards prescribed by § 448.10a(a)(1), except pyrogens, residue on ignition, and heavy metals. The neomycin sulfate used conforms to the standards prescribed by § 444.42a(a)(1) of this chapter, except pyrogens. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1), except pyrogens, residue on ignition, and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch:

(*1*) For all tests except sterility: A minimum of 17 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assays—*(1) *Potency—*(i) *Bacitracin content.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

9. Section 448.310c is revised to read as follows:

§ 448.310c Bacitracin ophthalmic ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin ophthalmic ointment contains bacitracin in a suitable and harmless ointment base. Each gram contains 500 units of bacitracin. Its potency is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The bacitracin used conforms to the standards prescribed by § 448.10a(a)(1), except pyrogens, residue on ignition, and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The batch for potency, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 15 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

10. Section 448.313 is revised and redesignated § 448.313b and a new § 448.313 *Bacitracin zinc ophthalmic dosage forms* is added to read as set forth below.

§ 448.313 Bacitracin zinc ophthalmic dosage forms.

11. Section 448.313a is added to read as follows:

§ 448.313a Bacitracin zinc-polymyxin B sulfate ophthalmic ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-polymyxin B sulfate ophthalmic ointment contains in each gram 500 units of bacitracin and 10,000 units of polymyxin B in a suitable and harmless ointment base. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of bacitracin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The bacitracin zinc used conforms to the standards prescribed by § 448.13a(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The batch for bacitracin content, polymyxin B content, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 17 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution contains the same amount of acid as the final sample solution.) Remove an aliquot and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6) and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

12. Section 448.313b, as revised and redesignated from former § 448.313, is added to read as follows:

§ 448.313b Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment is bacitracin zinc, neomycin sulfate, and polymyxin B sulfate in a suitable and harmless ointment base. Each gram contains:

(i) 400 units of bacitracin, 3.5 milligrams of neomycin, 5,000 units of polymyxin B with or without 10 milligrams of hydrocortisone acetate; or

(ii) 500 units of bacitracin, 3.5 milligrams of neomycin, and 10,000 units of polymyxin B.

Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that

it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The bacitracin zinc used conforms to the standards prescribed by § 448.13a(a)(1). The neomycin sulfate used conforms to the standards prescribed by § 444.42a(a)(1) of this chapter, except pyrogens. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30a(a)(1), except pyrogens, residue on ignition, and heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch:

(*1*) For all tests except sterility: A minimum of 17 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution contains the same amount of acid as the 1.0 unit per milliliter sample solution.) Remove an aliquot and further dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1) to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of 3 more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

13. Section 448.510a is revised to read as follows:

§ 448.510a Bacitracin ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin ointment is composed of 500 units of bacitracin per gram in a suitable ointment base. It may contain a suitable local anesthetic. Its potency is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed by § 448.10(a)(1), except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5(a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The batch for potency and moisture

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1) and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 448.510b [Revoked]

14. Section 448.510b *Bacitracin-tyrothricin ointment* is revoked, and the section designation is reserved.

§ 448.510c [Revoked]

15. Section 448.510c *Bacitracin-polymyxin ointment; zinc bacitracin-polymyxin ointment* is revoked, and the section designation is reserved.

16. Section 448.510d is revised to read as follows:

§ 448.510d Bacitracin-neomycin sulfate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin-neomycin sulfate ointment contains bacitracin and neomycin sulfate in a suitable ointment base. Each gram contains 500 units of bacitracin and 3.5 milligrams of neomycin. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent of the number of milligrams of neomycin that it is represented to contain. The moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed by § 448.10(a)(1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter, except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5(a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The batch for bacitracin content, neomycin content, and moisture.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

17. Section 448.510e is revised to read as follows:

§ 448.510e Bacitracin-neomycin sulfate-polymyxin B sulfate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin-neomycin sulfate-polymyxin B sulfate ointment, in a suitable and harmless ointment base, contains in each gram the following:

(i) 500 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B; or

(ii) 400 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B:

It may contain a suitable local anesthetic. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed by § 448.10(a)(1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter, except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1), except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5(a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch: A minimum of 7 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake

the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumertic flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 448.510f [Revoked]

18. Section 448.510f *Bacitracin-neomycin-polymyxin powder topical; zinc bacitracin-neomycin-polymyxin powder topical* is revoked.

19. Section 448.513 is added to read as set forth below.

§ 448.513 Bacitracin zinc dermatologic dosage forms.

20. Section 448.513a is added to read as follows:

§ 448.513a Bacitracin zinc-polymyxin B sulfate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-polymyxin B sulfate ointment contains bacitracin zinc and polymyxin B sulfate in a suitable and harmless ointment base. Each gram contains 500 units of bacitracin and 10,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of bacitracin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1), except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1), except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5 (a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, loss on drying, pH, zinc content, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The batch for bacitracin content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing equal portions of approximately 1.0 gram.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution contains the same amount of acid as the 1.0 unit per milliliter sample solution.) Remove an aliquot and further dilute with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

21. Section 448.513b is added to read as follows:

§ 448.513b Bacitracin zinc-neomycin sulfate ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-neomycin sulfate ointment contains bacitracin zinc and neomycin sulfate in a suitable and harmless ointment base. Each gram contains 500 units of bacitracin and 3.5 milligrams of neomycin. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of neomycin that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter, except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5 (a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The batch for bacitracin content, neomycin content, and moisture.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution will have the same amount of acid as the final sample solution.) Remove an aliquot and further dilute with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

22. Section 448.513c is added to read as follows:

§ 448.513c Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate hydrocortisone ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* This drug, in a suitable and harmless ointment base, contains in each gram the following:

(i) 400 units of bacitracin, 3.0 milligrams of neomycin, 8,000 units of polymyxin B; or

(ii) 400 units of bacitracin, 3.5 milligrams of neomycin, 5,000 units of polymyxin B with and without 10 milligrams of hydrocortisone acetate.

Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1), except safety. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter, except safety. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1), except safety.

(2) *Labeling.* If it contains a steroid, it shall be labeled in accordance with the requirements of § 432.5 of this chapter. If it does not contain a steroid, each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) The batch mark.

(ii) The name and quantity of each active ingredient contained in the drug.

(iii) An expiration date that conforms to the requirements prescribed by § 432.5 (a)(3) of this chapter.

(iv) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, and moisture.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch: A minimum of 7 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the acid layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so

that each standard solution contains the same amount of acid as the 1.0 unit per milliliter sample solution.) Remove an aliquot and further dilute with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1) to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter of polysorbate 80 and sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows:

(*a*) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(*b*) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

23. Section 448.513d is added to read as follows:

§ 448.513d Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical powder.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical powder contains bacitracin zinc, neomycin sulfate, and polymyxin B sulfate in a suitable and harmless base. Each gram contains 400 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 7.0 percent. It contains not more than an average of 10 microorganisms per gram. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1). The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30 (a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, moisture, and a microorganism count.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch: A minimum of 12 immediate containers.

(b) *Tests and methods of assay*—(1) Potency—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Wash an accurately weighed sample (usually 2 grams) into a 100-milliliter volumetric flask with 0.01*N* hydrochloric acid. Dilute to volume with 0.01*N* hydrochloric acid. Further dilute an aliquot with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

NOTE: The final sample solution must contain the same amount of hydrochloric acid as the reference concentration of the working standard.

(ii) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Blend an accurately weighed representative portion of the sample (usually 1 gram) for 3 to 5 minutes in sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(iii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Dissolve an accurately weighed representative portion of the sample (usually 1 gram) in 20 milliliters of sterile distilled water. Wash into an appropriate-sized volumetric flask with 10 percent potassium phosphate buffer, pH 6.0 (solution 6). Further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Microorganism count*—(i) *Conduct of test for bacteria.* Using approximately 200 milligrams of powder from each of five separate immediate containers, proceed as directed in § 436.20(e)(1) of this chapter, except after the three washings transfer the entire filter membrane to the surface of medium N as described in § 436.20(c)(14) of this chapter. Incubate the plate for 7 days at 30° C to 32° C. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

(ii) *Conduct of test for molds and yeasts.* Proceed as directed in § 436.20(e)(1) of this chapter, using approximately 200 milligrams from each of the five containers tested, except transfer the entire filter membrane to the surface of medium N as described in § 436.20(c)(14) of this chapter, and incubate at 22° C to 25° C for 7 days. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

24. Section 448.513e is added to read as follows:

§ 448.513e Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical aerosol.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical aerosol is bacitracin zinc, neomycin sulfate, polymyxin B sulfate in a suitable and harmless vehicle, packaged in a pressurized container with suitable and harmless inert gases. Each container contains 8,000 units of bacitracin, 70 milligrams of neomycin, and 100,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of bacitracin that it is represented to contain. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. It contains not more than an average of 10 microorganisms per gram. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1). The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1) of this chapter. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(*b*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*d*) The batch for bacitracin content, neomycin content, polymyxin B content, moisture, and a microorganism count.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*c*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*d*) The batch: A minimum of 12 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Spray, as directed in the labeling, the entire contents of each container to be tested into a separate 2-liter Erlenmeyer flask, held in a horizontal position. Add 500 milliliters of 0.01*N* hydrochloric acid and shake to dissolve the contents. Immediately remove aliquots of this sample solution and proceed as directed in paragraph (b)(1)(i) (*a*), (*b*), and (*c*) of this section for each antibiotic to be tested.

(*a*) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, diluting an aliquot of the sample solution with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

NOTE: The final sample solution must contain the same amount of hydrochloric acid as the reference concentration of the working standard.

(*b*) *Neomycin content.* Proceed as directed in § 436.105 of this chapter. Further dilute the sample solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(*c*) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Further dilute the sample solution with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 10.0 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Microorganism count*—(i) *Conduct of test for bacteria.* Thoroughly cleanse the valve of each container to be tested with a suitable disinfectant. Into an empty, sterile Erlenmeyer flask, stoppered with a cotton plug, spray about one-half of the contents of each of five separate immediate containers by removing the cotton plug temporarily and using aseptic technique. Allow the propellant to evaporate. To the dry residue, which should not exceed 1 gram, add 500 milliliters of diluting fluid C as described in § 436.20(d)(3) of this chapter. Stopper the flask and swirl to dissolve the drug. As soon as the sample has completely dissolved, proceed as directed in § 436.20(e)(1)(ii) of this chapter, except after the three washings transfer the entire filter membrane to the surface of medium N as described in § 436.20(c)(14) of this chapter. Incubate the plate for 7 days at 30° C to 32° C. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

(ii) *Conduct of test for molds and yeasts.* Proceed as directed in paragraph (b)(3)(i) of this section, except transfer the entire filter membrane to the surface of medium N as described in § 436.20(c)(14) of this chapter, and incubate at 25° C for 7 days.

25. Section 448.513f is added to read as follows.

§ 448.513f Bacitracin zinc ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc ointment is composed of 500 units of bacitracin zinc per gram in a suitable ointment base. Its potency is satisfactory if it is not less than 90 percent and not more than 140 percent of the number of units of bacitracin that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1), except safety.

(2) *Labeling*—(i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark.

(*b*) The name and quantity of each active ingredient contained in the drug.

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5 (a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin zinc used in making the batch for potency, loss on drying, pH, zinc content, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The bacitracin zinc used in making the batch: 10 packages, each containing 1.0 gram.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.01*N* hydrochloric acid and shake well. Allow the layers to separate. Remove the aid layer and repeat the extraction procedure with each of

three more 20- to 25-milliliter quantities of 0.01*N* hydrochloric acid. Combine the acid extractives in a suitable volumetric flask and dilute to volume with 0.01*N* hydrochloric acid. (If the bacitracin content is less than 100 units per milliliter in 0.01*N* hydrochloric acid, add sufficient additional hydrochloric acid to each concentration of the standard response line so that each standard solution contains the same amount of acid as the 1.0 unit per milliliter sample solution.) Remove an aliquot and further dilute with 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

§ 448.610 [Revoked]

26. Section 448.610 *Bactiracin tablets; zinc bactiracin tablets; bacitracin suppositories; zinc bacitracin suppositories (if they are represented for vaginal use)* is revoked.

27. Section 448.910 is revised to read as follows:

§ 448.910 Bacitracin for prescription compounding.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin for prescription compouding is a white to brown, neutral, water-soluble polypeptide intended for use in the extemporaneous compounding of prescriptions by practicing pharmacists. It is so purified and dried that:

(i) Its potency is not less than 40 units of bacitracin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5.0 percent.

(iv) Its pH in an aqueous solution containing 10,000 units per milliliter is not less than 5.5 and not more than 7.5.

(v) It passes the identity test.

(2) *Packaging.* The immediate container shall be of colorless, transparent glass, and it shall be a tight container as defined by the United States Pharmacopeia (U.S.P.). It shall be so sealed that the contents cannot be used without destroying such seal. Each such container shall contain 500,000 or 5 million units of bacitracin.

(3) *Labeling.* Each package shall bear on its outside wrapper or container and on the immediate container the following:

(i) The statement "Caution: Federal law prohibits dispensing without prescription".

(ii) The statement "Not sterile".

(iii) The batch mark.

(iv) The number of units of bacitracin activity in each milligram and the number of grams of bacitracin in the immediate container.

(v) The statement "Expiration date ---------", the blank being filled in with the date that is 12 months after the month during which the batch was certified, unless the use of a longer dating period has been approved in accordance with § 432.5(a)(3) of this chapter.

(vi) The statement "The potency of this drug cannot be assured for longer than 60 days after the container is first opened for compounding a prescription".

(vii) The statements, "For use only in extemporaneous prescription compounding. Not for manufacturing use".

(4) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, and identity.

(ii) Samples required: A 0.5-gram portion for each 5,000 packages in the batch, but in no case less than 10 such portions. Each such portion shall be collected at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed for bacitracin zinc in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of convenient concentration. Remove an aliquot of the stock solution, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard and further dilute with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10,000 units per milliliter.

(5) *Identity.* Proceed as directed in § 436.319 of this chapter.

28. Section 448.913 is revised to read as follows:

§ 448.913 Bacitracin zinc for prescription compounding.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin zinc for prescription compounding is the zinc salt of a kind of bacitracin or a mixture of two or more such salts intended for use in the extemporaneous compounding of prescriptions by practicing pharmacists. It is so purified and dried that:

(i) Its potency is not less than 40 units of bacitracin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 5.0 percent.

(iv) Its pH in a saturated aqueous solution is not less than 6.0 and not more than 7.5.

(v) Its zinc content is not more than 10 percent by weight on an anyhdrous basis.

(vi) It passes the identity test.

(2) *Packaging.* The immediate container shall be of colorless, transparent glass, and it shall be a tight container as defined by the United States Pharmacopeia (U.S.P.). It shall be so sealed that the contents cannot be used without destroying such seal. Each such container shall contain 500,000 or 5 million units of bacitracin.

(3) *Labeling.* Each package shall bear on its outside wrapper or container and on the immediate container the following:

(i) The statement "Caution: Federal law prohibits dispensing without prescription".

(ii) The statement "Not sterile".

(iii) The batch mark.

(iv) The number of units of bacitracin activity in each milligram of the bacitracin zinc and the number of grams of bacitracin zinc in the immediate container.

(v) The statement "Expiration date ----------", the blank being filled in with the date that is 12 months after the month during which the batch was certified, unless use of a longer dating period has been approved in accordance with § 432.5(a)(3) of this chapter.

(vi) The statement "The potency of this drug cannot be assured for longer than 60 days after the container is first opened for compounding a prescription".

(vii) The statements, "For use only in extemporaneous prescription compounding. Not for manufacturing use".

(4) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, zinc content, and identity.

(ii) Samples required: A 0.5-gram portion for each 5,000 packages in the batch, but in no case less than 10 such portions. Each such portion shall be collected at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample (usually 25 to 35 milligrams) in sufficient 0.01*N* hydrochloric acid to give a bacitracin concentration of 100 units per milliliter (estimated). Further dilute an aliquot with solution 1 to the reference concentration of 1.0 unit of bacitracin per milliliter (estimated).

NOTE: The final sample solution must contain the same amount of hydrochloric acid as the reference concentration of the working standard.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a saturated solution (approximately 100 milligrams of the sample per milliliter).

(5) *Zinc content.* Proceed as directed in § 436.312 of this chapter.

(6) *Identity.* Proceed as directed in § 436.319 of this chapter.

This order shall become effective June 27, 1977, except that the effective date for rearrangement of the nonproprietary name from "zinc bacitracin" to "bacitracin zinc" shall be November 22, 1977. Any bacitracin zinc preparation labeled after November 22, 1977 that does not bear the name "bacitracin zinc" is misbranded.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

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SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 77N-0014]

PART 539—BULK ANTIBIOTIC DRUGS SUBJECT TO CERTIFICATION

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE BACITRACIN AND BACITRACIN-CONTAINING DRUGS; CONFORMING AMENDMENTS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations regarding certification of bacitracin drug products for animal use to conform with amendments to regulations on bacitracin drug products for human use being published elsewhere in this issue of the FEDERAL REGISTER.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This regulation is not substantive, nor does it affect presently approved new animal drug applications (NADA's), the labeling contained therein or the requirements for certification of the named antibiotic drug products. Revised labeling requirements will be the subject of a future proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 539 and 548 are amended as follows:

1. Part 539 is amended in § 539.310 by revising paragraphs (a) (1) (ii), (iii), and (4) (i) and (b) to read as follows:

§ 539.310 Bacitracin methylene disalicylate.

(a) * * *

(1) * * *

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 7 percent.

(4) * * *

(i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in the batch, the number of units of bacitracin activity per gram, and the number of grams of bacitracin activity per pound. Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, safety, loss on drying, and pH.

* * * * *

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place an accurately weighed sample of approximately 1 gram in a blending jar, add 99 milliliters of an aqueous solution of 2-percent sodium bicarbonate and 1 milliliter of polysorbate 80, and blend for 3 minutes in a high-speed blender. Allow the foam to subside, remove an aliquot of the solution, and dilute to 1 unit per milliliter with 1-percent phosphate buffer.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using a saturated aqueous solution containing approximately 50 milligrams per milliliter.

2. Part 548 is amended as follows:

a. In § 548.110, paragraphs (a) (1), (4) (ii) (*a*), (*b*), and (iii) (*b*), and (b) (1), (2) are revised to read as follows:

§ 548.110 Bacitracin powder.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Bacitracin powder is bacitracin, with or without suitable and harmless buffer substances, preservatives, diluents, colorings, and flavorings. It contains the equivalent of not less than 10 grams of the bacitracin master standard per pound. Its loss on drying is not more than 5 percent. The bacitracin used conforms to the standards prescribed therefor by § 448.10(a)(1) of this chapter. Each other substance used, if its name is recognized in the *United States Pharmacopeia* or *National Formulary*, conforms to the standards prescribed therefor by such official compendium.

* * * * *

(4) * * *

(ii) * * *

(*a*) The batch: units of bacitracin per gram, and loss on drying.

(*b*) The bacitracin used in making the batch: potency, safety, loss on drying, pH, and identity.

(iii) * * *

(*b*) The bacitracin used in making the batch: six packages, each containing approximately equal portions of not less than 500 milligrams.

* * * * *

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place an accurately weighed sample of approximately 1 to 5 grams in a 100-milliliter volumetric flask, dissolve in 1 percent phosphate buffer, and dilute to 100 milliliters with 1 percent phosphate buffer. Dilute a suitable aliquot with 1-percent phosphate buffer to a concentration of 1 unit per milliliter (estimated). Its potency is satisfactory if it contains not less than 85 percent of the number of units of bacitracin per pound that it is represented to contain.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

b. In § 548.111, paragraphs (a) (1) and (2), (b) (1), (2), and (3)(ii) are revised to read as follows:

§ 548.111 Feed grade manganese bacitracin powder oral.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Feed grade manganese bacitracin powder oral is a mixture of the manganese salt of a kind of bacitracin or a mixture of two or more such salts, with or without one or more essential vitamins and mineral substances for nutritive purposes and with or without one or more suitable and harmless diluents. It contains the equivalent of not less than 5 grams of the bacitracin master standard per pound. Its loss on drying is not more than 8.0 percent. The manganese bacitracin used in making the batch has a potency of not less than 2.0 units per milligram, it contains not more than 1.0 gram of manganese for each gram of bacitracin, and its loss on drying is not more than 6.0 percent. Each other substance used, if its name is recognized in the *United States Pharmacopeia* or *National Formulary*, conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging; labeling; requests for certification, samples.* Feed grade manganese bacitracin powder oral conforms to all requirements and procedures prescribed for feed grade bacitracin zinc powder oral by § 548.113(a)(1), except:

(i) Its expiration date shall be 12 months.

(ii) Its labeling is such that, when the drug is mixed with animal feed according to the directions contained therein, such medicated feed complies with the requirements of § 510.510 of this chapter and the requirements of regulations in Part 558 of this chapter.

(b) *Tests and methods of assay—*(1) Proceed as directed in § 436.105 of this chapter, preparing the sample as follows:

(i) Place 2 grams of the sample in a 150-milliliter beaker, add 5 milliliters of 10 percent HCl and stir 1 minute. Check pH with test paper. If pH is greater than 2 add more acid until pH 2 is reached. Add 45 milliliters of pyridine-buffer solution (mix 9 volumes pyridine and 31 volumes pH 6.0 buffer) and transfer the mixture to a centrifuge tube. Shake well for 5 minutes then centrifuge for 15 minutes at 2,000 r.p.m. Dilute an aliquot of the clear solution with enough pH 6.0 buffer to obtain an estimated concentration of 0.20 unit per milliliter.

(ii) Prepare the following dilutions in 0.1 MpH 6 buffer from the stock solution for the standard curve: 0.025, 0.05, 0.1, 0.2, 0.4, and 0.8 unit per milliliter with 0.2 unit per milliliter as the reference concentration. Also add 10 milliliters of agar to each petri dish instead of 21 milliliters. Its potency is satisfactory if it contains not less than 85 percent of the number of grams of manganese bacitracin per pound that it is represented to contain.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

(3) * * *

(ii) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

* * * * *

c. In § 548.112a, paragraph (a)(1) is amended in the third sentence by deleting "moisture content" and inserting "loss on drying"; paragraph (b)(1) is amended by revising the introductory portion of the text; and paragraphs (b)(2) and (3) are revised to read as follows:

§ 548.112a Soluble bacitracin methylene disalicylate.

(a) * * *

(1) * * * Its loss on drying is not more than 8.5 percent. * * *

* * * * *

(b) * * *

(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using a solution containing 200 units per milliliter.

* * * * *

d. In § 548.112b, paragraphs (a)(3)(i) introductory text and (b)(2) and (3) are revised to read as follows:

§ 548.112b Tablets bacitracin methylene disalicylate and streptomycin sulfate oral.

* * * * *

(a) * * *

(3) * * *

(i) For potency and loss on drying: * * *

(b) * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter.

e. In § 548.112c, paragraph (b)(2) is revised to read as follows:

§ 548.112c Capsules bacitracin methylene disalicylate and streptomycin sulfate oral.

* * * * *

(b) * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

f. In § 548.112d, paragraph (a)(1) is amended by revising the third sentence and paragraphs (a)(4)(ii)(*b*) and (b) are revised to read as follows:

§ 548.112d Powder bacitracin methylene disalicylate and streptomycin sulfate oral.

(a) * * *

(1) * * * Its loss on drying is not more than 7.5 percent. * * *

(4) * * *

(ii) * * *

(*b*) The bacitracin methylene disalicylate and the streptomycin sulfate oral veterinary used in making the batch; potency, loss on drying, and pH.

* * * * *

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place an accurately weighed sample of approximately 5 grams in a blending jar. Add sufficient dimethylformamide so that when the sample is diluted to its reference point the concentration of dimethylformamide in the final blank is no greater than 20 percent. Blend for 3 to 5 minutes. Filter through filter paper immediately. Remove an aliquot of the filtrate at once and dilute to 1 unit per milliliter with 1.0 percent phosphate buffer, pH 6.0. Add sufficient dimethylformamide to the working solution of the standard so that the concentration of dimethylformamide is the same as that in the sample being tested. In lieu of the test organisms prescribed by § 436.105(a), use either of the test organisms R or V described in § 436.103(a) of this chapter.

NOTE.—Pyridine may be substituted for dimethylformamide in the procedure described in paragraph (b)(1)(i).

Its potency is satisfactory if it contains not less than 85 percent of the units of bacitracin activity that it is represented to contain.

(ii) *Streptomycin content.* Proceed as directed in § 444.70a(b)(1) of this chapter. Its content of streptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams of streptomycin activity per gram that it is represented to contain.

(2) *Loss on drying.* Using a 1.0-gram sample, proceed as directed in § 436.200(b) of this chapter.

g. In § 548.113, the section heading and paragraphs (a)(1), (a)(3)(ii) (*a*) and (*b*), (b), and (c) are revised to read as follows:

§ 548.113 Crude, unrefined, feed grade bacitracin/bacitracin zinc powder oral.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Feed grade bacitracin powder oral is bacitracin with or without one or more essential vitamins and mineral substances for nutritive purposes and with or without one or more suitable and harmless diluents. Feed grade bacitracin zinc powder oral is a mixture of bacitracin zinc and zinc proteinates, with or without one or more essential vitamins and mineral substances for nutritive purposes and with or without one or more suitable and harmless diluents. They contain the equivalent of not less than 2.5 grams of the bacitracin master standard per pound, except that if it is bacitracin zinc powder it contains the equivalent of not less than 5 grams of the bacitracin master standard per pound. Their loss on drying is not more than 5 percent. The bacitracin used in making the batch has a potency of not less than 5 units per milligram, and its loss on drying is not more than 5 percent. The bacitracin zinc used in making the batch has a potency of not less than 2 units per milligram nor more than 2 grams of zinc for each gram of bacitracin, and its loss on drying is not more than 6 percent. Each other substance used, if its name is recognized in the United States Pharmacopeia or National Formulary, conforms to the standards prescribed therefor by such official compendium.

* * * * *

(3) * * *

(ii) * * *

(*a*) The batch: Grams of bacitracin per pound and loss on drying.

(*b*) The bacitracin used in making the batch: Potency, loss on drying, and zinc content if the bacitracin used is bacitracin zinc.

* * * * *

(b) *Tests and methods of assay*—(1) *Feed grade bacitracin or bacitracin zinc powder oral*—(i) *Potency.* Proceed as directed in § 548.110(b)(1), except if it is feed grade bacitracin zinc powder oral proceed as directed in § 448.13(b)(1) of this chapter. Their potency is satisfactory if they contain not less than 85 percent of the number of grams of bacitracin or bacitracin zinc per pound that they are represented to contain.

(ii) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(2) *Bacitracin or bacitracin zinc used in making the batch*—(i) *Potency.* Proceed as directed in § 448.10(b)(1) of this chapter, except if it is bacitracin zinc proceed as directed in § 448.13(b)(1) of this chapter.

(ii) Zinc content (if bacitracin zinc is used). Proceed as directed in § 448.13(b)(5) of this chapter.

(iii) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(c) *Conditions of marketing.* If it is feed grade bacitracin powder, its conditions of marketing are described in § 548.110(c). If it is feed grade bacitracin zinc powder, oral, its conditions of marketing are described in § 548.114(c).

h. In § 548.114, the section heading and paragraphs (a), (b), and (c)(1) and (3) are revised to read as follows:

§ 548.114 Bacitracin zinc oral.

(a) *Requirements for certification.* The requirements for certification for bacitracin zinc oral are described under § 548.113(a).

(b) *Tests and methods of assay.* The tests and methods of assay for bacitracin zinc oral are described under § 548.113(b).

(c) *Conditions of marketing*—(1) *Specifications.* Bacitracin zinc is the zinc salt of the antibiotic substance produced by growth of *Bacillus subtilis var. Tracy* or the same antibiotic substance produced by any other means, and for the purposes of this section refers to bacitracin zinc or feed grade bacitracin zinc.

* * * * *

(3) *Special considerations.* Quantities of bacitracin zinc expressed in paragraph (c)(5) of this section refer to the weight of an appropriate antibiotic standard.

* * * * *

i. Section 548.212 is revised to read as follows:

§ 548.212 Bacitracin methylene disalicylate tablets; bacitracin/bacitracin zinc implantation pellets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin methylene disalicylate tablets, bacitracin tablets, and bacitracin zinc tablets are tablets composed of bacitracin methylene disalicylate, bacitracin or bacitracin zinc with or without one or more suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings, and with or without a suitable amebicidal agent. The potency of each tablet is not less than 1,000 units or more than 10,000 units. Its loss on drying content is not more than 5 percent. Tablets not exceeding 15 millimeters in diameter shall disintegrate within 1 hour. The bacitracin methylene disalicylate used conforms to the standards prescribed therefor by § 539.310(a)(1) of this chapter. The bacitracin used conforms to the standards prescribed therefore by § 448.10(a)(1) of this chapter. The bacitracin zinc used conforms to the requirements of § 448.13(a)(1) of this chapter. Each other substance used, if its name is recognized in the United States Pharmacopeia or National Formulary, conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging.* Unless each tablet is enclosed in a foil or plastic film and such enclosure is a tight container as defined by the United States Pharmacopeia, except the provision that it shall be capable of tight reclosure, the immediate container shall be a tight container as so defined. The immediate container may also contain a desiccant separated from the tablets by a plug of cotton or other like material. The composition of the immediate container, or of the foil or film enclosure, shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(3) *Labeling.* It shall be labeled in accordance with the requirements of § 510.55 of this chapter, and its label and labeling shall bear the statement, "Warning—not for use in animals raised for food production".

(4) *Request for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark; the number of packages of each size in such batch; the batch mark and, unless it was previously submitted, the date on which the latest assay of the bacitracin methylene disalicylate, bacitracin, or bacitracin zinc used in making such batch was completed; the number of units in each tablet; the quantity of each ingredient used in making the batch; the date on which the latest assay of the drug comprising such batch was completed; and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor, if any, by this section.

(ii) Except as otherwise provided in paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(*a*) The batch: Average potency per tablet, average loss on drying, and if required by paragraph (a)(1) of this section, disintegration time.

(*b*) The bacitracin methylene disalicylate, bacitracin, or bacitracin zinc used in making the batch; potency; safety; loss on drying; pH; identity if it is bacitracin; and zinc content if it is bacitracin zinc.

(iii) Except as otherwise provided by paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(*a*) The batch:

(*1*) For potency and loss on drying: One tablet for each 5,000 tablets in the batch, but in no case less than 30 tablets, collected by taking single tablets throughout the entire time of tableting so that the quantities tableted during the intervals are approximately equal.

(*2*) For disintegration time: six tablets.

(*b*) The bacitracin methylene disalicylate used in making the batch: five packages, each containing approximately equal portions of not less than 5 grams.

(*c*) The bacitracin used in making the batch: six packages, each containing approximately equal portions of not less than 500 milligrams.

(*d*) The bacitracin zinc used in making the batch: six packages, each containing approximately equal portions of not less than 1.0 gram.

(*e*) In case of an initial request for certification, each other substance used in making the batch: one package of each containing approximately 5 grams.

(iv) No result referred to in paragraph (a)(4)(ii)(*b*) of this section and no sample referred to in paragraph (a)(4)(iii) (*b*), (*c*), (*d*) or (*e*) of this section are required if such result or sample has been previously submitted.

(b) *Tests and methods of assay*—(1) *Potency:* (i) If it is bacitracin or bacitracin zinc, proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: If it is bacitracin, place a representative sample (usually five tablets) in a blending jar containing 250 milliliters of 1-percent phosphate buffer, pH 6.0. If it is bacitracin zinc, use 250 milliliters of 0.01*N* HCl. If it is bacitracin, after blending for 1 minute with a high-speed blender, add 250 milliliters of buffer to the blender, and if it is bacitracin zinc, add 250 milliliters of 0.01*N* HCl to the blender. Blend again for 1 minute and make the proper estimated dilutions in 1-percent phosphate buffer, pH 6.0. If it is bacitracin zinc, make all dilutions for the assay so that the final dilution contains the same ratio of 1.01*N* HCl to 1-percent phosphate buffer, pH 6.0, as the sample under test. The content of bacitracin, or bacitracin zinc is satisfactory if it contains not less than 85 percent of the number of units per tablet that it is represented to contain.

(ii) If it is bacitracin methylene disalicylate, proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place a representative sample (usually five tablets) into a high-speed glass blender jar containing 99 milliliters of an aqueous solution of 2-percent sodium bicarbonate and 1 milliliter of polysorbate 80. Blend 3 to 5 minutes. Allow the foam to subside. Dilute an aliquot of the resultant solution with 1 percent sodium phosphate buffer, pH 6.0, to the reference concentration of 1 unit of bacitracin per milliliter (estimated). Its potency is satisfactory if it contains not less than 85 percent of the number of units of bacitracin per tablet that it is represented to contain.

(2) *Loss on drying.* Proceed as directed in § 436.200 of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter, using the procedure described in paragraph (e)(1) of that section.

j. Section 548.310a is amended to read as follows:

§ 548.310a Bacitracin ophthalmic.

(a) *Requirements for certification*—(1) *Standards of identity, quality, and purity.* Bacitracin ophthalmic is bacitracin, with or without one or more suitable and harmless preservatives, local anesthetics, buffer substances, and diluents. It is sterile. Its loss on drying is not more than 5 percent. The bacitracin is of such quantity that when dissolved as directed in its labeling the potency of such solution is not less than 500 units per milliliter and maintains its labeled potency after it has been kept for 7 days at room temperature. Such solution has a pH of 6.5 ± 0.5. The bacitracin used conforms to the requirements of § 448.10(a)(1) of this chapter. Each other ingredient used, if its name is recognized

in the United States Pharmacopeia or National Formulary, conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging.* The immediate container of bacitracin ophthalmic shall be a tight container as defined by the United States Pharmacopeia; its closure shall be one through which a hypodermic needle cannot be introduced; and the immediate container and closure shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each such container shall contain not less than 5,000 units, and each may be packaged in combination with a container of the solvent, sterile distilled water U.S.P.

(3) *Labeling.* In addition to the labeling requirements prescribed by § 510.55 of this chapter, each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On the outside wrapper or container and the immediate container, the statement "Warning—not for injection".

(ii) If a local anesthetic is present, after the name "bacitracin ophthalmic", wherever it appears, the words "with ----------", (the blank being filled in with the established name of the local anesthetic) in juxtaposition with such name.

(4) *Requests for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the bacitracin used in making such batch was completed, the number of units in each immediate container, the date on which the latest assay of the drug comprising such batch was completed, the quantity of each other ingredient used in making the batch, and a statement that each such ingredient used conforms to the requirements prescribed therefor by this section. If such batch or any part thereof is to be packaged with a solvent, such request shall also be accompanied by a statement that such solvent conforms to the requirements prescribed therefor by this section.

(ii) Except as otherwise provided in paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(*a*) The batch: potency, sterility, loss on drying, and pH of the solution prepared as directed in its labeling;

(*b*) The bacitracin used in making the batch, potency, safety, loss on drying, pH, and identity.

(iii) Except as otherwise provided by paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request in the quantities hereinafter indicated, accurately representative samples of the following:

(*a*) The batch:

(*1*) For all tests except sterility: One immediate container for each 5,000 immediate containers in the batch, but in no case less than five immediate containers.

Such samples shall be collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch so that the quantities packaged during the intervals are approximately equal.

(*2*) For sterility testing: 20 immediate containers collected at regular, intervals throughout each filling operation.

(*b*) The bacitracin used in making the batch: 6 packages, each containing approximately equal portions of not less than 500 milligrams.

(*c*) In case of an initial request for certification, each other ingredient used in making the batch; one package of each, containing approximately 5.0 grams.

(iv) No result referred to in paragraph (a)(4)(ii)(*b*) of this section and no sample referred to in paragraph (a)(4)(iii)(*b*) of this section are required if such result or sample has been previously submitted.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 448.10(b)(1) of this chapter.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using a solution prepared as directed in the labeling for the drug.

(4) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

K. Section 548.310b is revised to read as follows:

§ 548.310b Bacitracin-polymyxin B sulfate-neomycin sulfate ointment.

(a) *Requirements for certification.* The requirements for certification for bacitracin-polymyxin B sulfate-neomycin sulfate ointment are described under § 448.510e(a) of this chapter.

(b) *Tests and methods of assay.* The tests and methods of assay for bacitracin-polymyxin B sulfate-neomycin sulfate ointment are described under § 448.510e(b) of this chapter.

L. Section 548.313a is revised to read as follows:

§ 548.313a Bacitracin - neomycin - polymyxin powder topical; bacitracin zinc - neomycin - polymyxin powder topical.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin-neomycin-polymyxin powder topical and bacitracin zinc-neomycin-polymyxin powder topical are bacitracin or bacitracin zinc neomycin, and polymyxin B with or without suitable and harmless diluents, preservatives, and lubricants, and with or without hyaluronidase, chymotrypsin, and polyvinylpyrrolidone. Unless it is packaged with one or more suitable and harmless inert gases, each gram contains not less than 200 units of bacitracin or bacitracin zinc not less than 1,600 units of polymyxin B, and not less than 3.5 milligrams of neomycin. It contains not more than an average of 10 microorganisms per gram. Its moisture content is not more than 7.0 percent, unless it is packaged with one or more suitable and harmless inert gases, in which case its moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed therefor by § 448.10(a)(1) of this chapter.

The bacitracin zinc used conforms to the standards prescribed by § 448.13(a)(1) of this chapter. The neomycin used conforms to the standards prescribed by § 444.42a(a)(1)(i), (iv), (v), and (vi) of this chapter. The polymyxin B used conforms to the standards prescribed therefor by § 444.170a(a)(1) of this chapter. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging.* In all cases the immediate container shall be a tight container as defined by the U.S.P. The composition of the immediate container shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limits therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each such container may contain one or more suitable and harmless inert gases; in which case it shall contain not less than 8,000 units of bacitracin zinc, not less than 70 milligrams of neomycin, and not less than 100,000 units of polymyxin B.

(3) *Labeling.* In addition to the labeling requirements prescribed by § 510.55 of this chapter, each package shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On the outside wrapper or container and the immediate container:

(*a*) The statement "Expiration date ----------", the blank being filled in with the date that is 12 months after the month during which the batch was certified, except that the blank may be filled in with the date that is 18 months, or 24 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that after having been stored for such period of time such drug as prepared by him complies with the standards prescribed by paragraph (a)(1) of this section.

(*b*) The statement "Not sterile".

(ii) If it contains, in addition to the antibiotic drug, one or more other active ingredients specified in paragraph (a)(1) of this section, after the name "bacitracin-neomycin-polymyxin powder topical" or "bacitracin zinc-neomycin-polymyxin powder topical", wherever such name appears, the words "with---- ----------", in juxtaposition with such name, the blank being filled in with the established name of each such other ingredient.

(4) *Request for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless they were previously submitted) the dates on which the latest assays of the bacitracin or bacitracin zinc neomycin, and polymyxin used in making such batch were completed, the number of units of bacitracin or bacitracin zinc and polymixin B, and the number of milligrams of neomycin in each immediate container, the date on which the latest assays of the drugs comprising such batch were completed, the quantity of each ingredient used in making the batch, and a statement that each such ingredient conforms to the requirements prescribed therefor by this section.

(ii) Except as otherwise provided in paragraph (a)(4)(iv) of this section such person shall submit in connection with his request results of the tests and assays listed after each of the following made by him on an accurately representative sample of:

(*a*) The batch: The number of units of bacitracin or bacitracin zinc the number of units of polymyxin, and the number of milligrams of neomycin, a microorganism count, and moisture.

(*b*) The bacitracin or bacitracin zinc used in making the batch: Potency, safety, loss on drying, pH, and zinc content if it is bacitracin zinc.

(*c*) The neomycin used in making the batch: Potency, toxicity, moisture, and pH.

(*d*) The polymyxin B used in making the batch: Potency and toxicity.

(iii) Except as otherwise provided by paragraph (a)(4)(iv) of this section such person shall submit in connection with his request, in the quantities hereinafter indicated accurately representative samples of the following:

(*a*) The batch: For all tests except microorganism count, one immediate container for each 5,000 immediate containers in the batch, but in no case less than seven immediate containers, collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(*b*) For microorganism testing: Five immediate containers.

(*c*) The bacitracin or bactracin zinc used in making the batch: Six packages, containing approximately equal portions of not less than 0.5 gram.

(*d*) The neomycin used in making the batch: Five packages containing approximately equal portions of not less than 0.5 gram.

(*e*) The polymyxin B used in making the batch: Five packages containing approximately equal portions of not less than 0.5 gram.

(*f*) In case of an initial request for certification, each other substance used in making the batch: One package of each containing approximately 5 grams.

(iv) The results referred to in paragraph (a)(4)(ii)(*b*), (*c*), and (*d*) of this section and the samples referred to in paragraph (a)(4)(iii)(*c*), (*d*), (*e*), and (*f*) of this section are not required if such results or samples have been previously submitted.

(b) *Tests and methods of assay*—(1) *Potency.* (i) *Dry powder*—(*a*) *Bacitracin content.* Proceed as directed in § 448.10(b)(1). Its content of bacitracin is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(*b*) *Bacitracin zinc content.* Proceed as directed in § 448.13(b)(1). Its content of zinc bacitracin is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(*c*) *Neomycin content.* Proceed as directed in § 436.517(b)(1) of this chapter. Its content of neomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.

(*d*) *Polymyxin B content.* Proceed as directed in § 444.170a(b)(2)(i) of this chapter. Its content of polymyxin B is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(ii) *Powder packaged with inert gases.* Spray, as directed in the labeling, the entire contents of each container to be tested into a separate 2-liter Erlenmeyer flask, held in a horizontal position. Add 500 milliliters of 0.01*N* HCl and shake to dissolve the contents. Immediately remove aliquots of this solution and using the appropriate buffer solutions to make further dilutions, proceed as directed in paragraph (b)(1)(i) of this section. Calculate the average total amount of each antibiotic expelled from the containers. The total potency is satisfactory if it contains not less than 85 percent of the number of units of bacitracin zinc and polymyxin and not less than 85 percent of the number of milligrams of neomycin that it is represented to contain.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Microorganism count*—(i) *Conduct of test for bacteria*—(*a*) *Dry powder.* Using approximately 200 milligrams of powder from each of five separate immediate containers, proceed as directed in § 436.20(e)(1) of this chapter, except after the three washings transfer the entire filter membrane to the surface of medium G as described in § 436.20(c)(7) of this chapter. Incubate the plate for 5 days at 30° C to 32° C. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

(*b*) *Powder packaged with inert gases.* Thoroughly cleanse the valve of each container to be tested with a suitable disinfectant. Into an empty, sterile Erlenmeyer flask, stoppered with a cotton plug, spray about one-half on the contents of each of five separate immediate containers by removing the cotton plug temporarily and using aseptic technique. Allow the propellant to evaporate. To the dry residue, which should not exceed 1 gram, add 500 milliliters of diluting fluid C as described in § 436.20(c)(3) of this chapter, and swirl the flask to dissolve the contents. Then proceed as described in paragraph (b)(3)(i)(*a*) of this section.

(ii) *Conduct of test for molds and yeasts*—(*a*) *Dry powder.* Proceed as directed in § 436.20(e)(1) of this chapter, using approximately 200 milligrams from each of the five containers tested, except use the agar medium H as described in § 436.20(b)(8) of this chapter, and incubate at 22° C—25° C for 5 days. Count the number of colonies appearing on the filter pad and calculate therefrom the number of viable microorganisms per gram of powder.

(*b*) *Powder packaged with inert gases.* Proceed as directed in paragraph (b)(3)(i)(*b*) of this section, use agar medium H as described in § 436.20(c)(8) of this chapter, and incubate at 25° C for 5 days.

(iii) *Evaluation of results.* The microorganism count of the sample is satisfactory if the average number of viable microorganisms is not more than 10 per gram of powder, or per container if it is packaged with inert gases.

§ 548.313b [Amended]

m. In § 548.313b, the section heading is revised to read § 548.313b *Bacitracin/bacitracin zinc ointment*, the introductory text of paragraph (a) and paragraph (b) are amended by changing "zinc bacitracin" to read "bacitracin zinc", and paragraph (a)(2)(i) is amended in the last sentence by changing "§ 448.510a(a)(3)" to read "448.510a(a)(2)".

n. In § 548.314a, the section heading and paragraph (a) are revised to read as follows:

§ 548.314a Bacitracin zinc, polymyxin B sulfate, neomycin sulfate ophthalmic ointment.

(a) *Specifications.* The drug conforms to the provisions of § 448.313b of this chapter.

* * * * *

o. In § 548.314b, the section heading and paragraphs (a), (b), and (c)(1) are revised to read as follows:

§ 548.314b Bacitracin zinc, polymyxin B sulfate, neomycin sulfate, hydrocortisone acetate, ophthalmic ointment.

(a) *Requirements for certification.* The requirements for certification for bacitracin zinc, polymyxin B sulfate, neomycin sulfate, hydrocortisone ace-

tate, ophthalmic ointment are described under § 448.313b(a) of this chapter.

(b) *Tests and methods of assay.* The tests and methods of assay for bacitracin zinc, polymyxin B sulfate, neomycin sulfate, hydrocortisone acetate, ophthalmic ointment are described under § 448.313b of this chapter.

(c) *Conditions of marketing—(1) Specifications.* The drug conforms to the specification requirements in § 448.313b of this chapter and is subject to the tests and methods of assay prescribed in § 548.310b of this chapter. Each gram of the drug contains the following active ingredients: 400 units of bacitracin zinc, 5,000 units of polymyxin B sulfate, 5 milligrams of neomycin sulfate (equivalent to 3.5 milligrams of neomycin base), and 10 milligrams of hydrocortisone acetate.

* * * * *

Effective date: This regulation shall become effective June 27, 1977.

(Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b).)

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–14965 Filed 5–26–77;8:45 am]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[Army Reg. 340–21]

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Privacy Act of 1974

AGENCY: Department of the Army.

ACTION: Final rule.

SUMMARY: This rule adopts prescribed exemptions which may be claimed under the Privacy Act for the system of records ID: A0709.01aDAPE, entitled: United States Military Academy Candidate Files. This action is being taken in order to protect information sources, evaluative material, and investigatory and testing techniques.

DATE: This rule is effective May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus Fraker (202–693–0973).

SUPPLEMENTARY INFORMATION: In FR Doc. 77–10574 published in the FEDERAL REGISTER issue of April 11, 1977 (42 FR 18863), the Department of the Army published a proposed exemption rule as a proposed amendment to 32 CFR 505.9 for system of records identified above. Comments were received from the Office of Management and Budget and the House of Representatives concerning necessity for claiming a (k)(6) exemption for the Candidate Summary Sheet. It was suggested that the Army consider separating information furnished by the candidate from the values (scores) assigned such information by the Academy so that a person could see his/her scores. This suggestion was considered infeasible since a candidate could be supplying ten or more papers containing self-prepared information about oneself. The Academy does not verify all information reported by the candidate. Thus, if a candidate knows the weight assigned to a given item of information, he/she could obtain undue advantage. For example, a candidate may report having lettered in football or track when, in reality, the person may have only participated in these sports. Another may report being Editor-in-Chief of a high school newspaper when the person was only a reporter. The Academy develops quantified scores from the information provided. To permit an individual to see his/her scores on the Candidate Summary Sheet would give the candidate the opportunity to derive a close approximation of the values assigned to each event or category of accomplishment reported and therefore jeopardize the objectivity of the evaluation in fairness to all candidates.

ROME D. SMYTH,
Colonel, GS, Director, Administrative Management.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 17, 1977.

The following exemption rule is added and should be inserted before exemption rule ID–A0709.03aDAPE, SYSNAME—United States Military Academy Cadet Files (41 FR 30905).

§ 505.9 Exemption rules for Army systems of records.

* * * * *

EXEMPTED RECORD SYSTEM (SPECIFIC EXEMPTIONS)

ID–A0709.01aDAPE.

SYSNAME: United States Military Academy Candidate Files.

EXEMPTION: All portions of this system which fall within 5 U.S.C. 552a(k) (5), (6), or (7) are exempt from the following provisions of Title 5 U.S.C. section 552a:(d).

AUTHORITY: 5 U.S.C. 552a(k) (5), (6), and (7).

REASONS: From subsection (d) because access might reveal investigatory and testing techniques. The exemption from access necessarily includes exemption from amendment, certain agency requirements relating to access and amendment of records, and civil liability predicated upon agency compliance with those specific provisions of the Privacy Act.

Exemption is necessary to protect the identity of individuals who furnished information to the United States Military Academy which is used in determining suitability, eligibility, or qualifications for military service and which was provided under an express promise of confidentiality.

Exemption is needed for the portion of records compiled within the Academy which pertain to testing or examination material used to rate individual qualifications, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

Exemption is required for evaluation material used by the Academy in determining potential for promotion in the armed services, to protect the identity of a source who furnished information to the Academy under an express promise of confidentiality.

[FR Doc.77–15029 Filed 5–26–77;8:45 am]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261—NATIONAL FOREST SYSTEM PROHIBITIONS

Permits for Chattooga River

AGENCY: Forest Service, Department of Agriculture.

ACTION: Interim regulations applicable to Region 8, Southern Region, and Notice of Proposed Rulemaking.

SUMMARY: This action requires private and commercial users to obtain a permit to float the Chattooga Wild and Scenic River. Permits will include conditions of use to protect river values and provide for floater safety. Safety regulations have drastically reduced the high number of fatalities occurring prior to regulations.

DATES: Effective date May 27, 1977. Comments must be received on or before: August 25, 1977.

ADDRESS: Sent comments to: USDA, Forest Service, Fiscal and Accounting Management Staff, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Forest Supervisor John Orr, Francis Marion & Sumter National Forests, 1801 Assembly Street, Second Floor, Columbia, South Carolina 29201, 803–765–5222.

SUPPLEMENTARY INFORMATION: The number of people annually floating and canoeing the Chattooga River has increased over 7,000 percent since 1967.

The river was designated a Wild and Scenic River in 1974. The river is located on the border of Georgia-South Carolina and is one of the largest rivers in the Southeast with challenging whitewater rapids.

The number of accidents, including drownings, also increased at an alarming rate, averaging seven per year. In 1974, regulations to provide for user safety were adopted. Principal among these was the required wearing of life jackets. The fatality rate has been lowered drastically. No fatalities have occurred since October 1975. Safety regulations and more experienced users are thought to account for this improved record. This action provides these regulations to continue as a condition of the permit required to float or canoe the river. There is immediate need for the regulations as the warmer weather increases use on the river. They will be issued as interim regulations for ninety days during which time comments may be submitted. After ninety days, the regulations will be issued as permanent regulations or modified depending upon comments received.

INTERIM REGULATIONS

Pursuant to 36 CFR 261.70, the Regional Forester, Region 8, Southern Region, has determined that advanced notice of proposed rulemaking and public participation thereon relative to the interim regulations hereinafter set forth is impracticable, unnecessary, or contrary to the public interest. Accordingly, the following interim regulations, prohibiting acts or omissions within the areas of the Sumter National Forest and the Chattahoochee National Forest described below for the purposes of public safety and establishing reasonable rules of public conduct, are hereby issued with the concurrence of the Chief of the Forest Service, United States Department of Agriculture. The prohibitions set forth below become effective on May 27, 1977, and shall remain effective for not more than 90 days unless readopted as permanent regulations as hereinafter proposed.

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Department of Agriculture, by and through the Regional Forester, Region 8, Southern Region, Forest Service, is considering readopting the interim regulations set forth below, 36 CFR 261.77, as permanent regulations pursuant to 36 CFR 261.70 for the purposes of public safety and establishing reasonable rules of public conduct on the areas mentioned in the interim regulations.

It is proposed that the said interim regulations being published concurrently herein become permanent regulations and that § 261.77, as set forth in the interim regulations, become permanent regulations.

All persons wishing to submit written data, views, or objections pertaining to the proposed new permanent section § 261.77, may do so by submitting them to the U.S. Department of Agriculture, Forest Service, Fiscal and Accounting Management Staff, Washington, D.C. 20250 on or before August 25, 1977.

All written submissions made pursuant to this notice will be available for public inspection in Room 4007, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, D.C., during regular business hours (7 CFR 1.27(b)).

Subpart C is amended by adding a new interim regulation section, § 261.77, as follows:

§ 261.77 Prohibitions in Region 8, Southern Region.

(a) Using or occupying any area of the Sumter National Forest or the Chattahoochee National Forest abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind or description, unless authorized by permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit.

(b) Using or occupying within the scope of any commercial operation or business any area of the Sumter National Forest or the Chattahoochee National Forest abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind or description, unless authorized by special use permit.

(c) Violating or failing to comply with any of the terms or conditions of any permit authorizing the occupancy and use specified in paragraphs (a) or (b) of this section is prohibited.

(d) Entering, going, riding, or floating upon any portion or segment of the Chattooga River within the boundaries of the Chattahoochee National Forest in, on, or upon any floatable object or craft of every kind or description, unless authorized by a permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit.

(e) Entering, going, riding, or floating within the scope of any commercial operation or business upon any portion or segment of the Chattooga River within the boundaries of the Chattahoochee National Forest in, on, or upon any floatable object or craft of every kind or description, unless authorized by special use permit.

(f) Violating or failing to comply with any of the terms or conditions of any permit authorizing the occupancy and use specified in paragraph (d) or (e) of this section is prohibited.

Dated: May 20, 1977.

JAMES E. WEBB,
Deputy Regional Forester for Administration, Region 8, Southern Region, Forest Service, Department of Agriculture.

[FR Doc.77–15148 Filed 5–26–77;8:45 am]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 1—GENERAL PROVISIONS

United States Flag for Burial Purposes

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: This amended regulation would eliminate the preference being given to sons and fathers in the disposition of a United States Flag for burial purposes. It would permit the eldest child to be eligible to receive the flag if there is no spouse, and it would combine the eligibility of mothers and fathers into one category of parents. In addition minor editorial changes have been made to reflect agency policy concerning use of precise terms denoting gender. These actions are being taken in the interests of fairness and in conformity with recent decisions of the United States Supreme Court. It is intended that this rule will eliminate sex discrimination with regard to this regulation.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles M. Ott, Veterans Assistance Specialist (272), Veterans Assistance Service, Veterans Administration, Washington, D.C. 20420, telephone 202–389–3675.

SUPPLEMENTARY INFORMATION: On page 54777 of the FEDERAL REGISTER of December 15, 1976, there was published a notice of proposed regulatory development to amend § 1.10(b)(2) and (3). This proposal concerned the elimination of preference being given to sons over daughters with regard to the disposition of a United States Flag for burial purposes. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. Twenty-one written comments were received. Four of these concurred with the proposal while the remaining seventeen not only agreed with the proposal but wished to see it extended to also eliminate the preference being given to fathers over mothers. The proposal has been reviewed in light of these comments and consequently subdivisions (iii) and (iv) of paragraph (b)(2) have been combined with the remaining subdivisions renumbered accordingly. The proposed regulation is adopted as changed and set forth below.

Inflation Impact: The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Approved: May 20, 1977.

By direction of the Administrator

RUFUS H. WILSON,
Deputy Administrator.

1. In § 1.10, paragraph (b) (2) and (3) is revised to read as follows:

§ 1.10 Eligibility for and disposition of the United States flag for burial purposes.

* * * * *

(b) *Disposition of burial flags.* * * *

(2) The phrase "next of kin" for the purpose of disposing of the flag used for burial purposes is defined as follows, with preference to entitlement in the order listed:

(i) Widow or widower.

(ii) Children, according to age (minor child may be issued a flag on application signed by guardian).

(iii) Parents, including adoptive, stepparents, and foster parents.

(iv) Brothers or sisters, including brothers or sisters of the halfblood.

(v) Uncles or aunts.
(vi) Nephews or nieces.
(vii) Others—cousins, grandparents, etc. (but not in-laws).

(3) The phrase "close friend or associate" for the purpose of disposing of the burial flag means any person who because of his or her relationship with the deceased veteran arranged for the burial or assisted in the burial arrangements. In the absence of a person falling in either of these categories, any person who establishes by evidence that he or she was a close friend or associate of the veteran may be furnished the burial flag. Where more than one request for the burial flag is received and each is accompanied by satisfactory evidence of relationship or association, the head of the field station having jurisdiction of the burial flag quota will determine which applicant is the one most equitably entitled to the burial flag.

2. Immediately preceding § 1.12, the following centerhead is added "Public Participation."

[FR Doc.77-15163 Filed 5-26-77;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Definition of Advertisements; Marking of Paid Reading Matter

AGENCY: U.S. Postal Service.

ACTION: Final rule.

SUMMARY: The rule, among other things, revises 125.52 of the Postal Service Manual to simplify and more precisely define the term "advertising." It also incorporates administrative rulings of the Postal Service to the effect that, if an advertising rate is paid for the publication of reading matter or other material in a second-class publication, such material is deemed to be "advertising." Under 125.52 articles published in scientific journals or other second-class publications would not be considered "advertising" for rate purposes, even though the author paid a fee for the publication based upon the number of printed pages. Such articles, however, continue to fit the definition of "advertisement" in 132.7, which requires disclosure that valuable consideration has been paid or promised for the publication of editorial or other reading matter. In this connection, 132.7, which deals with the marking of paid reading matter with the word "advertisement," is amended by limiting the required marking to one page of a piece of reading matter, regardless of the total number of pages.

EFFECTIVE DATE: May 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Arthur S. Cahn, 202-245-4604.

SUPPLEMENTARY INFORMATION: On March 2, 1977, the Postal Service published for comment in the FEDERAL REGISTER a notice of rule which, among other things, would revise 125.52 of the Postal Service Manual to simplify and more precisely define the term "advertisement" and amend 132.7 of the Postal Service Manual, which deals with the marking of paid reading matter with the word "advertisement," so that the required marking would be limited to one piece of reading matter, regardless of the total number of pages.

Interested persons were invited to submit written data, views or arguments concerning the proposed revised regulations. Comments were received from a total of 23 individuals and organizations. These comments were carefully considered by the Postal Service in adopting the amendments to the regulations set forth below.

The general areas of concern of the commenters and the Postal Service analysis of the comments follows:

(a) Labeling requirement—Many commenters suggested that the Postal Service not require that advertising matter in an editorial format be marked "advertisement." Others felt that the word "advertisement" should be permitted as an explanatory phrase at the end of a multi-page article, while others felt that our proposed regulations should clearly specify the exact location where the word "advertisement" should appear. 18 U.S.C. 1734 provides as follows:

> Sec. 1734. Editorials and other matter as 'advertisements'
>
> Whoever, being an editor or publisher, prints in a publication entered as second-class mail, editorial or other reading matter for which he has been paid or promised a valuable consideration, without plainly marking the same 'advertisment' shall be fined not more than $500.

The Postal Service has no authority to waive this statutory requirement that any reading matter must be labeled "advertisement" if consideration is paid for its publication. Since the statute on which the regulation is based states that the matter in question is to be plainly marked, the regulation prescribes that the word "advertisment" must be on the first page of a multi-page article.

Further, the word "advertisement" may appear as part of an explanatory statement telling why the material must be marked advertisement. However, any such statement must be prominent on the first page of an article and the word "advertisement" in the statement must be in bold or italicized print, or otherwise given emphasis so it can be plainly seen. We have added this requirement to 132.73 in the final regulation.

(b) A second area of concern for several commenters concerned whether the revised regulation would apply to articles published in scientific journals which have a "voluntary page charge" policy. The Postal Service has previously stated that the provisions of part 132 of the Postal Service Manual do not apply to articles in scientific or other publications for which payment of a page charge or other consideration is not a condition of publication. However, in order for these provisions not to apply, any payments resembling page charges must be truly voluntary contributions. Part 132 applies to all publications, scientific or otherwise, having mandatory page charges.

(c) Several commenters objected to the proposed revision on the basis that it may violate the provisions of the First Amendment of the Constitution because of vagueness and possible censorship questions. This criticism does not appear to be valid. The revised regulations do not prohibit or censor the content of a second-class publication but simply contain a more precise statement of how the Postal Service determines what is "advertising" for rate purposes, a statutory and regulatory responsibility of the Postal Service. Additionally, a commenter felt that the word "promotes" in the last sentence of proposed section 125.52 was too vague. We have changed the word "promotes" to "advertises" in the final version of the regulation.

(d) Several commenters objected to the last two sentences of proposed section 125.52 as constituting a substantive change in Postal Service regulations. However, the last two sentences of the proposed regulation are almost identical to the existing regulation and changes were made simply for clarity. No substantive changes are intended. The Postal Service received several phone inquiries concerning the meaning of the term "reader," which is a technical term used in the current regulation and in the proposed revision. To avoid any confusion concerning this term, we have used nontechnical language in the final regulation.

(e) Lastly, several commenters indicated their approval of the revised regulation.

Accordingly, having given due consideration to all comments received, the Postal Service has determined to adopt the following amendments to the Postal Service Manual, with these changes from the original proposal.

The third and fourth sentences of § 125.52 are rewritten as follows:

> Articles, items, and notices in the form of reading matter are deemed to be "advertising" if they are inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears. If a newspaper or periodical advertises its own services or issues, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be "advertising."

The following sentence has been added to 132.73:

> The word "advertisement" may be part of a statement which explains why the material is marked advertisement. However, such a statement must be prominent on the first page of an article and the word "advertisement" in the statement must be in bold or italicized print, or otherwise given emphasis so it can be plainly seen.

Accordingly, the Postal Service hereby adopts the following revisions of the Postal Service Manual effective 12:01 a.m. on May 27, 1977.

PART 125—SECOND-CLASS BULK MAILINGS

1. In 125.5 of the Postal Service Manual revise .52 to read as follows:

125.5 *Statement and copy filed with mailings.*

* * * * *

.52 *Definition of advertising.* The term "advertising" includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. Moreover, if an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be "advertising." Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be "advertising." If a newspaper or periodical advertises its own services or issues, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be "advertising."

PART 132—SECOND CLASS

2. In 132.7 of the Postal Service Manual revise .73 to read as follows:

132.7 *Marketing of paid reading matter.*

* * * * *

.73 Each paid editorial or other reading matter which occupies all or any part of one page, or which occupies more than one page, must be marked plainly "advertisement" either on the one page or on the first page. The word "advertisement" may be part of a statement which explains why the material is marked advertisement. However, such a statement must be prominent on the first page of an article and the word "advertisement" in the statement must be in bold or italicized print, or otherwise given emphasis so it can be plainly seen.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual is in the process of being published and will be transmitted to subscribers automatically as soon as possible. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 CFR 111.3.

(39 U.S.C. 401(2).)

LOUIS A. COX,
General Counsel.

[FR Doc.77-15149 Filed 5-26-77;8:45 am]

Title 41—Public Contract and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (ERDA-PR TEMPORARY REGULATION NO. 32)

PART 51—REVIEW AND APPROVAL OF CONTRACT ACTIONS

PART 55—JUSTIFICATION AND DOCUMENTATION OF PROCUREMENT ACTIONS

AGENCY: Energy Research and Development Administration.

ACTION: Temporary Regulation No. 32.

SUMMARY: This regulations deletes the fixed dollar threshold for independent review of contract and subcontract actions. Currently, Managers of Field Offices are not permitted the flexibility to determine at what levels such reviews should be initiated. This action will permit them to establish appropriate levels based upon individual office needs.

DATE: Effective date: This regulation is effective May 27, 1977.

ADDRESS: Charles E. Arbanas, Division of Procurement, Room C-167, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Charles E. Arbanas (301-353-4541).

SUPPLEMENTARY INFORMATION: Expiration date: This regulation will remain in effect until canceled or until its provisions are incorporated into a permanent ERDA procurement regulation.

BACKGROUND: ERDA-PR Subpart 9-51.4, Contract and Subcontract Review Requirements, requires that all prime and subcontracts under cost-type prime contracts in excess of $100,000 shall be subjected to the independent review procedures of this subpart. This requirement unduly impinges upon the management responsibilities of Managers of Field Offices. As a corollary action, the $100,000 threshold is also removed from § 9-55.102-2, Justification of ERDA direct negotiated contracts. Such action will require only that the justification be in the scope and detail, as appropriate, based on the nature, dollar value, and complexity of the transaction involved.

1. Subpart 9-51.4 is amended as follows:

Subpart 9-51.4—Contract and Subcontract Review Requirements

§ 9-51.401 Applicability.

Prime contracts and subcontracts under cost-type prime contracts shall be reviewed in conformance with this subpart, based on dollar thresholds to be established by Managers of Field Offices. Such reviews shall be made prior to award in all cases. Managers of Field Offices may, if considered appropriate, exempt basic research lump sum contracts with educational institutions from the independent review board requirements of this subpart.

* * * * *

§ 9-51.403-2 Alternate review procedures.

* * * * *

(b)(3)(i) Contract or subcontract actions requiring review under a field office (or area office with respect to contract or subcontract actions within the approval authority of an Area Manager in those instances where Area Managers have been delegated contracting or approval authority in excess of the independent review threshold established by the Manager of the Field Office) to the fullest extent practicable shall be reviewed by the same reviewers regardless of the nature of the work under the individual contracts in order to assure continuity of experience and uniformity of treatment.

2. Subpart 9-55.1 is amended as follows:

Subpart 9-55.1—Justification of Procurements

§ 9-55.102-2 Justification of ERDA direct negotiated contracts.

The justification of negotiated prime contracts shall be in the form of a narrative statement covering, to the extent applicable to the particular transaction, the general type of information as indicated in paragraphs (a) through (i) of this section. The scope and detail of information to be included in the contract file should generally be determined on the basis of the nature dollar value, and complexity of the transaction involved.

* * * * *

AUTHORITY: Section 105 of the Energy Reorganization Act of 1974 (P.L 93-438).

Dated: May 11, 1977.

WILLIAM A. PARKER,
Acting Deputy Director, Division of Procurement.

[FR Doc.77-15310 Filed 5-26-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected Service Order No. 1268]

PART 1033—CAR SERVICE

Return of Trailers

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1268).

SUMMARY: Service Order No. 1268 directs the return to Seaboard Coast Line (SCL), Louisville and Nashville (L&N), and Richmond, Fredericksburg and Potomac (RFP) of insulated trailer-on-flat-car (TOFC) trailers owned or leased by Seaboard Coast Line and affiliated lines. Named railroads prohibited from furnishing insulated TOFC trailers except for transportation of freight requiring protection from heat. L&N and RFP directed to deliver surplus insulated trailers to SCL. There is a shortage of

insulated TOFC trailers on SCL in Florida for transporting shipments of watermelons, potatoes, and other perishable commodities.

DATES: Effective 12:01 a.m., May 19, 1977. Expires 11:59 p.m., June 15, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423. Telephone 202–275–7840, TLX 89–2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of May, 1977.

It appearing, That an acute shortage of insulated trailers equipped with ventilating devices exists on certain railroads in the southeast for transporting melons, potatoes, and other perishable products requiring protection from heat; that shippers are being deprived of the insulated and ventilated trailers required to transport such perishable freight, thus creating spoilage of produce and great economic loss; that insulated, ventilated trailers, after being unloaded are being retained and appropriated for other services which do not result in their return to the major origin areas for perishable freight; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of insulated, ventilated trailers are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1268 Regulations for return of trailers.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Remove from general distribution and deliver by rail, on flat cars insulated trailers described in paragraph (i) herein to any of the following railroads:

Louisville and Nashville Railroad Company (L&N), Richmond, Fredericksburg and Potomac Railroad Company (RFP), Seaboard Coast Line Railroad Company (SCL)

(i) Insulated trailers subject to this order are identified as follows:

Reporting Marks: RCLZ, RCRZ, RGRZ, RLNZ,[1] RSCZ—Series 700000–709999 SBD, Series 30230–30899, SBDZ 703043, 703076 and 703105.

(2) Trailers described in paragraph (a) (1) of this section, located on railroads other than the L&N, RFP or SCL, may be loaded with freight requiring protection from heat to any destination to which loading is authorized by Rule 2 of the Code of Trailer Service Rules, published on page 185 of the Official Intermodal Equipment Register, ICC–OIER No. 29, issued by R. G. Hilts, or reissues thereof; or, such trailers may be loaded with any type of freight to any station on the lines of the L&N, RFP or SCL.

(3) Trailers described in paragraph (a) (1) of this section located on the L&N or RFP for which no suitable loading, as defined in paragraph (a) (4) of this section is available, shall be delivered empty, on cars, to the SCL.

(4) Trailers described in paragraph (a) (1) of this section, located on the L&N, RFP, or SCL, may be used only for transporting traffic requiring protection from heat.

(b) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423.

(c) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded trailer, described in this order contrary to the provisions of the order.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(e) Effective Date: This order shall become effective at 12:01 a.m., May 23, 1977.

(f) Expiration date: The provisions of this order shall expire at 11:59 p.m., June 15, 1977, unless otherwise modified, changed or suspended by order of this Commission.

(Secs. 1, 12, 15 and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4) and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–15270 Filed 5–26–77;8:45 am]

[1] RLNZ omitted in error.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 59]

REGULATIONS GOVERNING THE INSPECTION OF EGGS AND EGG PRODUCTS

Importation of Egg Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This notice proposes to list Canada in the regulations governing the inspection of eggs and egg products as a nation maintaining an egg products inspection system that is the equivalent of the system maintained by the United States and therefore establishing the eligibility for certain plants in Canada to ship egg products into the United States.

DATE: Comments must be received on or before July 26, 1977.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Ashley R. Gulich, United States Department of Agriculture, Food Safety and Quality Service, Room 3944 South Building, Washington, D.C. 20250, phone 202–447–3506.

SUPPLEMENTARY INFORMATION: The Egg Products Inspection Act (84 Stat. 16.20 et seq, 21 U.S.C. 1031–1056) prohibits the importation of egg products into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin and are labeled and packaged in accordance with the standards of the Act and regulations issued thereunder (Part 59). The laws and regulations of Canada concerning these matters have been reviewed and are acceptable. Further, onsite reviews of the Canadian egg products inspection program indicate that it is equal to our program in the United States. Thus, it is proposed to provide for the eligibility of egg products produced in certain approved Canadian plants to be imported into the United States.

§ 59.910 [Amended]

The proposed rule is as follows: Section 59.910(b) in 7 CFR Part 59 would be amended by adding the word "Canada" after "United States:"

Dated: May 20, 1977.

WILLIAM T. MANLEY,
Acting Deputy Administrator, Commodity Operation.

[FR Doc.77–15100 Filed 5–26–77;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO LOAN PROGRAM

1977 Flue-Cured Tobacco Grade Loan Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would establish the grade loan rates to be applied to the various grades of 1977 crop flue-cured tobacco to provide price support as required by the Agricultural Act of 1949, as amended. This action will provide producers with appropriate levels of support for the various grades of tobacco.

DATE: Comments must be received by June 10, 1977, to be sure of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanut Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus (202–447–5753).

SUPPLEMENTARY INFORMATION: Section 106 of the Agricultural Act of 1949, as amended, requires that the 1977 crop of flue-cured tobacco be supported at the level of 113.8 cents per pound. The average level of support for flue-cured tobacco is increased by 7.3 percent over the 1976 level. It is anticipated that price support will be provided through a loan to a producers association which will receive the tobacco from the producers and advance to the producers the support price for the tobacco received. In accordance with Section 403 of the Act, the price support advances will be based on grade loan rates which will average the required level of support when weighted by the anticipated grade percentages.

The period for receiving comments is limited to 14 days because the harvesting season will commence in June and the rates applicable to the various grades may affect harvesting practices.

The public is invited to submit written data, views and recommendations to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

PROPOSED RULE

Under the Tobacco Loan Program published in this part, Commodity Credit Corporation proposes to establish loan rates by grades for the 1977 crop of flue-cured tobacco, types 11–14, as set forth herein. These proposed rates, calculated to provide the level of support of 113.8 cents per pound as determined under Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) are as follows:

§ 1464.16 1977 Crop flue-cured tobacco, types 11–14, loan schedule.[1]

[Cents/lb, farm sales weight]

Grade	Loan rate	Grade	Loan rate	Grade	Loan rate
A1F	147	B3K	125	B3KR	124
A1L	147	B4K	121	B4KR	120
B1L	137	B5K	117	B5KR	116
B2L	130	B6K	112	B4KV	110
B3L	130	B3V	121	B5KV	106
B4L	126	B4V	116	B6KV	101
B5L	122	B5V	112	B4G	111
B6L	117	B3S	118	B5G	107
B1F	137	B4S	114	B6G	102
B2F	133	B5S	110	B5GR	[illegible]
B3F	130	B3KL	118	B4GK	108
B4F	126	B4KL	114	B5GK	104
B5F	122	B5KL	111	B6GK	[illegible]
B6F	117	B6KL	106	B5GG	[illegible]
B1FR	135	B3KF	118	H3L	132
B2FR	131	B4KF	114	H4L	129
B3FR	128	B5KF	111	H5L	124
B4FR	125	B6KF	106	H6L	119
B5FR	121	B3KM	121	H1F	[illegible]
B6FR	116	B4KM	118	H2F	135
B4R	117	B5KM	114	H3F	132
B5R	111	B6KM	[illegible]	H4F	129

[1] The loan rates listed are applicable to tied and untied flue-cured tobacco which is (1) eligible tobacco as defined in the regulations and (2) identified by a marketing card which does not bear the notation "Discount Variety-Limited Support." Rates for eligible tobacco identified by a marketing card, which bears the notation "Discount Variety-Limited Support," are 50 percent of the loan rates listed plus fifty cents ($0.50) per hundred pounds. Any grade to which the special factor "sand" or "dirt" is added (denoting a moderate amount of sand or dirt in excess of normal) may be accepted at 90 percent, rounded to the nearest cent, of the loan rate listed. Tobacco graded "W" (doubtful keeping order), "U" (unsound), "N2", "No-G", "No-G-F", "No-G-F-sand", "No-G-F-dirt" or "scrap" will not be accepted. Tobacco is eligible for advance only if consigned by the original producer. The cooperative association through which advances are made available is authorized to deduct 1 cent per pound to apply against overhead costs.

Grade	Loan rate	Grade	Loan rate	Grade	Loan rate
H5F	124	X2L	128	P2F	105
H6F	119	X3L	123	P3F	101
H4FR	127	X4L	118	P4F	97
H5FR	122	X5L	111	P5F	92
H6FR	117	X1F	132	P4G	88
H4K	125	X2F	128	P5G	82
H5K	120	X3F	123	M4F	113
H6K	115	X4F	118	M5F	108
C1L	136	X5F	111	M4KR	107
C2L	133	X3V	115	M4KM	105
C3L	130	X4V	110	M5KM	101
C4L	127	X3S	114	M4GK	100
C5L	123	X4RL	110	M5GK	95
C1F	136	X4KF	110	N1L	84
C2F	133	X4KV	105	N1XL	89
C3F	130	X3KR	120	N1K	95
C4F	127	X4KR	115	N1R	86
C5F	123	X3KM	117	N1GL	78
C4V	118	X4KM	111	N1GF	87
C4S	117	X4G	104	N1GR	82
C4KL	117	X5G	99	N1KV	86
C4KM	118	X4GK	103	N1GG	79
C4KR	122	P2L	105	N1BO	78
C4G	112	P3L	101	N1XO	76
C4GK	110	P4L	97	N1PO	73
X1L	132	P5L	92		

NOTE.—The Commodity Credit Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Signed at Washington, D.C., on May 23, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77–15146 Filed 5–26–77;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 85]

PSEUDORABIES REGULATIONS

Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to establish regulations which would prevent the spread of pseudorabies in the United States. This would be accomplished by regulating the interstate movement of livestock affected with or exposed to pseudorabies, by requiring negative official test results for pseudorabies and health certification of swine moved interstate for breeding purposes, and by requiring the cleaning and disinfection of means of conveyance, facilities, and premises used in the interstate movement of pseudorabies affected or exposed livestock.

The number and severity of outbreaks of pseudorabies has been increasing dramatically during the past 3 years and is expected to continue upward. Since pseudorabies is particularly prevalent in swine, this trend is expected to cause serious financial losses to individual swine producers and the swine industry, in particular. The regulations proposed in this document are intended to reduce the overall spread of pseudorabies.

DATE: Comments on or before July 26, 1977.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Room 704, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. J. W. Walker, USDA, APHIS, VS, Room 704, Federal Building, Hyattsville, Md. 20782 (301–436–8487).

SUPPLEMENTARY INFORMATION: Under the administrative procedure provisions in 5 U.S.C. 553, the Animal and Plant Health Inspection Service is considering adding a new Part 85, Title 9, Code of Federal Regulations, to provide interstate regulations concerning pseudorabies.

Pseudorabies, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is primarily a disease of swine caused by a herpes virus. Occasionally, this disease also infects other livestock, dogs, cats, and wild animals causing a fatal encephalomyelitis manifested by intense itching and self mutilation. Swine are believed to be the chief reservoir of pseudorabies, however. In swine the infection is often inapparent, except in suckling pigs which usually develop a fatal encephalomyelitis, and in sows that abort or produce stillborn or mummified fetuses.

There are currently no regulations specifically designed to prevent the interstate spread of pseudorabies. Because the disease is known to be spreading rapidly and causes serious losses, representatives of the swine industry have urged that Federal regulations be placed in effect to prevent further spread of the disease in interstate commerce.

The proposed regulations would (1) permit the movement of swine, other than breeding swine, not known to be affected with or exposed to pseudorabies, without restrictions under this part for a period of one year following the effective date of this regulation; (2) after one year has expired, permit such movements only from a State which requires that the chief livestock sanitary official be immediately notified of all confirmed or suspected cases of pseudorabies and that affected or exposed animals be quarantined; (3) prevent the interstate movement of known affected or exposed livestock, except directly to slaughter when accompanied by a permit; (4) require negative testing and health certification of swine moved interstate for breeding purposes; and (5) require the cleaning and disinfection of vehicles, facilities, and premises involved in the movement of livestock affected with or exposed to pseudorabies.

The basis for the different requirements proposed for use during the first year these regulations are in effect as compared to proposed requirements for subsequent years is to provide States adequate time to obtain necessary legal authority and to place control measures into effect. However, we believe that, in the interim, the proposed restrictions on the movement of livestock would be adequate as a first step in reducing the overall spread of pseudorabies.

Accordingly, Part 85, Title 9, Code of Federal Regulations, would be added to read:

PART 85—PSEUDORABIES

Sec.
85.1 Definitions.
85.2 Notice relating to the existence of the contagion of pseudorabies.
85.3 General restrictions.
85.4 Interstate movement of livestock affected with or exposed to pseudorabies.
85.5 Interstate movement of livestock not known to be affected with or exposed to pseudorabies.
85.6 Other movements.
85.7 Cleaning and disinfection.

AUTHORITY: Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.

§ 85.1 Definitions.

For purposes of this part, the following terms mean:

(a) *Administrator.* The Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other official of the Service to whom authority has been delegated or may be delegated to act in his stead.

(b) *Deputy Administrator.* The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official to whom authority has been delegated or may be delegated to act in his stead.

(c) *Veterinary Services.* Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

(d) *Pseudorabies.* The contagious, infectious, and communicable disease of livestock and other animals commonly known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

(e) *Accredited Veterinarian.* An accredited veterinarian as defined in Part 160 of this chapter.

(f) *Exposed livestock.* Any livestock that has ever been in contact with an animal affected with pseudorabies or that has ever been inoculated with pseudorabies virus or attenuated or inactivated vaccine, or that has ever been in contact with an inoculated animal.

(g) *State.* Any State, Puerto Rico, Guam, the United States Virgin Islands, or the District of Columbia.

(h) *Interstate.* From any State into or through any other State.

(i) *Moved.* Shipped, transported, or otherwise moved, or delivered or received for movement by land, water, or air.

(j) *Recognized slaughtering establishment.* A slaughtering establishment where State or Federal meat inspection is available.

(k) *Livestock.* Swine, cattle, sheep, or goats.

(l) *Affected livestock.* Any livestock that has reacted to an official test for pseudorabies or from which pseudorabies virus has been isolated, or which has been otherwise diagnosed, by a veterinarian, as having pseudorabies.

(m) *Official test.* The serum neutralization test for pseudorabies or the enzyme labeled antibody test for pseudorabies conducted in a laboratory approved by the Deputy Administrator.

(n) *Breeding farm.* A farm on which swine are bred and to which no swine have been introduced within 6 months immediately preceding the interstate movement of any swine therefrom, except swine that were found negative to an official test within 60 days prior to their introduction, or swine that were introduced directly from another breeding farm on which all swine 6 months of age and older were tested and found negative to an official test within one year prior to the movement involved. An organized sale which permits entry and sale only of swine from breeding farms shall be considered to qualify as a breeding farm for the purpose of interstate movement under this regulation.

(o) *Permit.* An official document issued by a Veterinary Services representative, State representative, or an accredited veterinarian for movement of livestock under this part that lists the identification tag, tattoo, backtag, or registration number or similar identification of each animal to be moved, the number of animals covered by the document, the purpose for which the animals are to be moved, the points of origin and destination, the consignor, and the consignee.

§ 85.2 Notice relating to the existence of contagion of pseudorabies.

Notice is given that there is reason to believe that the contagion of pseudorabies may exist in each State and that to prevent the spread and dissemination of the contagion thereof, and to protect the livestock of the United States, the regulations in this part are promulgated.

§ 85.3 General restrictions.

Movement of livestock not in accordance with the regulations of this part is prohibited.

§ 85.4 Interstate movement of livestock affected with or exposed to pseudorabies.

No livestock showing clinical signs of pseudorabies may be moved interstate. Livestock affected with or exposed to pseudorabies, other than those showing clinical signs of the disease, may be moved interstate from any point directly to a recognized slaughtering establishment for immediate slaughter under the following conditions:

(a) *Movement of swine.* (1) The swine so moved must be identified by a hole ½ inch in diameter punched in the left ear by the person who ships, transports, or otherwise causes the movement of such swine,

(2) The swine so moved must be accompanied by a permit, and

(3) The swine so moved must be moved in one continuous movement only without unloading enroute.

(b) *Movement of livestock other than swine.* (1) The livestock so moved must be accompanied by a permit, and

(2) The livestock so moved must be moved in one continuous movement only without unloading enroute.

§ 85.5 Interstate movement of livestock not known to be affected with or exposed to pseudorabies.

(a) *Movement of livestock other than swine.* Livestock, other than swine, not known to be affected with or exposed to pseudorabies may be moved interstate without restrictions under this part.

(b) *Movement of swine.* Swine, other than breeding swine not known to be affected with or exposed to pseudorabies, may be moved without restrictions under this part: Except, That one year after the effective date of this regulation such swine may only be moved from a State which requires that the chief livestock sanitary official of such State be immediately notified of any confirmed or suspected cases of pseudorabies in that State and which requires that pseudorabies exposed or affected animals be quarantined.

(c) *Movement of swine for breeding purposes.* Swine for breeding purposes not known to be affected with or exposed to pseudorabies may be moved from a breeding farm if they are accompanied by a certificate issued by a Veterinary Services representative, State representative, or an accredited veterinarian, a copy of which shall be mailed immediately to the chief livestock sanitary official in the State of destination by such State or Federal representative or accredited veterinarian, showing: (1) The identification tag, tattoo or registration number of each animal, (2) the number of animals covered by the certificate, (3) the points of origin and destination, (4) the consignee and consignor, and (5) that each animal in the shipment over 3 months of age was subjected to an official test within the 60 days prior to movement and was found to be negative, the date the animal was tested, and the laboratory conducting the test, or (6) that each animal was part of a breeding farm herd in which all swine 6 months of age and older, at the time of testing, were found negative to two official tests for pseudorabies conducted not less than 60 days nor more than 180 days apart and within 1 year immediately prior to the movement involved.

§ 85.6 Other movements.

The Deputy Administrator may upon request, in specific cases, permit the movement of livestock not otherwise provided for in this part.

§ 85.7 Cleaning and disinfection.

Means of conveyance, facilities, and premises used in connection with the interstate movement of pseudorabies affected or exposed livestock shall be thoroughly cleaned and disinfected by the owner or person having control of such conveyances, facilities, and premises in accordance with § 71.7 of this chapter, except that permitted disinfectants specified in §§ 71.10–71.12 shall not be used for the purposes of this Part 85, and only disinfectants registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 135 et seq.) with herpes virucidal claims as disinfectants for general use, shall be used for the purposes of this part in accordance with directions on the labels accepted in connection with their registration. Such cleaning and disinfection shall be carried out immediately after any means of conveyance, facilities, and premises are used in connection with the transportation of livestock in interstate commerce and before they are again used for such purpose.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 704, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 23rd day of May 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

G. V. PEACOCK,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77–15109 Filed 5–26–77;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Lending in Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: These proposed rules implement the provisions of the April 19, 1977, amendments to the Federal Credit Union Act (Pub. L. 95–22, 91 Stat. 49) pertaining to Federal credit union lending policies, lines of credit to members, loans to officials, loans endorsed by officials, and insured or guaranteed loans. In addition, these proposed rules contain certain clarifications of existing rules pertaining to the amortization of loans to members and insured or guaranteed loans.

DATE: Comments must be received on or before July 1, 1977.

ADDRESS: National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Joseph Bellenghi, Assistant Administrator for Examination and Insurance, at the above address (202–254–8760).

SUPPLEMENTARY INFORMATION: These proposed rules implement the provisions of the Federal Credit Union Act (12 U.S.C.A. 1751, et seq., hereafter "the Act"), as amended by Pub. L. 95–22, pertaining to loans and lines of credit to members of Federal credit unions. These rules do not apply, however, to real estate or mobile home loans with maturities in excess of 12 years. Nor do they apply to loans and lines of credit to nonmember borrowers, i.e., other credit unions (except members of a corporate central Federal credit union) and credit union organizations. Rules implementing provisions of the amended Act regarding such loans will be proposed at a later date.

The following information relates to the specific sections of the proposed rules:

LENDING POLICIES, § 701.21–1

Pub. L. 95–22 removed from the Act the $2,500 limit on unsecured loans to any one member. The House Report on Pub. L. 95–22 indicates a Congressional intent that the Board of Directors of each Federal credit union establish its own lending policies, and requires that the National Credit Union Administration (NCUA) report to the Congress each year on the unsecured loan limits adopted by Federal credit unions. (See, House Report 95–23, page 8.) Accordingly, these rules propose that the Board of Directors of each Federal credit union establish specific written lending policies, which include maximum unsecured and secured loan limits. These limits would reflect, respectively, the maximum amount of credit which may be granted to one member without security, and the maximum amount which may be granted with full or partial security. (Any unsecured portion of a partially secured loan would be subject to the unsecured loan limit.) Whether a given member is eligible to borrow up to each limit may, of course, be affected by that individual's creditworthiness.

Proposed § 701.21–1(d) sets forth those factors which the credit committee or loan officer should consider when reviewing a member's loan application. These factors are carried over from § 701.21(a) of NCUA's present regulations.

Section 701.21–1(c) provides that the rates of interest imposed on outstanding loan balances (including line of credit balances) may vary according to "reasonable classifications" established by the board of directors. Within a given classification, however, the rate must be uniform among all member borrowers. In regard to loans granted by Federal credit unions under the Act prior to its amendment by Pub. L. 95–22, § 701.21–1 restates existing policy. In regard to loans accessed by a line of credit, this limitation is imposed because of the statement in the House Report that lines of credit may be offered "with the terms and conditions, but not rate, varying among borrowers" (House Report No. 95–23, page 7).

The most restrictive reading of this statement would require that a single rate of interest be imposed upon all line of credit balances to all borrowers, without regard to factors such as the type of loan or credit obtained under the line of credit or the value of any security provided by the borrower. Other language in the same paragraph in which the statement appears indicates, however, that the purpose of the line of credit authority is to allow Federal credit unions to continue their present practice of providing varying types of open-end or similar credit plans, but with the added convenience to all parties of eliminating the need for credit committee or loan officer approval of each advance, once a credit ceiling has been established. Further language, appearing in a different portion of the House Report, reveals Congress' endorsement of the traditional Federal credit union practice of varying rates of interest according to the classification of loan, but imposing the same rate upon loans within each classification (See, House Report, p. 10).

It is in this light that these rules propose to implement the expressed Congressional intent by requiring uniform rates within any given class of loans, including those under a line of credit. Thus, for example, a member who obtains a loan to purchase a particular item (such as an automobile) and provides a security interest in that item, or a member who provides a security interest in his or her share account as to a portion of the loan balance may to that extent qualify for a lower rate of interest than that imposed on unsecured loan balances. Within a given classification, such as share secured consumer loans, or unsecured credit card account balances, however, all member borrowers are subject to the same rate. The board of directors may establish "reasonable classifications" for varying rates, according to the criteria set forth in § 701.21–1(c). To ensure the existence of a readily accessible record of the board's decision, § 701.21–1(b) proposes that the classifications established by the board be set forth in the credit union's written lending policies. The "uniform rate" provisions are drafted in a manner which is intended to allow maximum discretion to each individual Federal credit union's board of directors, while at the same time, ensuring achievement of the apparent Congressional intent that all members who qualify for a particular type of loan be afforded the same rate of interest.

The Administration views the establishment of specific written lending policies to be increasingly important because of the board of directors' increased responsibility under the new provisions of the Act and as an aid in ensuring that credit union members are afforded their rights under the provisions of consumer protection laws. Beyond any specific requirements of § 701.21, and consistent with other applicable law and regulations, lending policies will be established as determined to be necessary by the board of directors of each Federal credit union.

AMORTIZATION OF LOANS TO MEMBERS, § 701.21–2

The major changes to this Section are of a housekeeping nature, i.e., general provisions of § 701.21 of NCUA's present regulations are carried over and reorganized in a more logical format, with the deletion of those provisions superseded by Pub. L. 95–22. The only new provision, found in § 701.21–2(b), requires that payments on loans granted under a line of credit be made at intervals not greater than monthly. It is felt that requiring at least monthly payments by a member on a line of credit will serve to emphasize, to that member, the continuing debt obligations which arise through use of a line of credit.

LINES OF CREDIT TO MEMBERS, § 701.21–3

Section 107(5) of the amended Act (12 U.S.C.A. 1757(5)) gives Federal credit unions the authority to establish "lines of credit" for their members, other credit unions and credit union organizations. Section 107(5)(D) of the Act provides that the terms and conditions of "self-replenishing lines of credit" may vary among borrowers. The two quoted terms are considered synonymous, since the most common definition of the term "line of credit" includes the concept of self-replenishment.

Section 701.21–3 of these rules implements the line of credit authority for member borrowers. Rules implementing line of credit authority for nonmember borrowers (other credit unions and credit union organizations) will be proposed at a later date.

The method by which funds will be accessed under a line of credit is not addressed or restricted in § 701.21–3. The Administration views the method of access (credit card, loan draft, etc.) as a management decision, within the limitations of the Act and this Part. In this regard, it is expected that many Federal credit unions will convert existing "special loan programs" to lines of credit by eliminating the need for separate approval of each loan advance.

Section 701.21–3(a) defines certain key terms used in the line of credit rules. A "line of credit" is defined, in effect, as any loan plan with a self-replenishment feature. Self-replenishment is the characteristic which distinguishes the new line of credit authority from those lending activities which were authorized for Federal credit unions prior to Public Law 95–22.

Section 701.21–3(a)(2) sets forth a self-explanatory definition of the term "agreement."

Section 701.21–3(b) establishes those items which must be contained in a line of credit agreement. The effects of the specific subsections are largely self-evident, and are either reflective of requirements of the Act, or of provisions which would normally be established in any line of credit agreement. Further explanation of one aspect of this Section is, however, in order. Subsection 701.21–3(b)(4) provides that loans obtained under a line of credit shall be subject to rates of interest

not exceeding 1 per centum per month on the unpaid balance "inclusive of all fees and service charges." This requirement is carried over from section 107(5)(A)(vi) of the Act (12 U.S.C.A. 1757(5)(A)(vi)), which establishes a 1 per centum per month maximum interest, "inclusive of all service charges", for all loans to members. The word "fees" is inserted in the regulatory provision to eliminate any question of distinguishing fees from other service charges.

Section 701.21–3(c) requires that the "loan file" of each member who has been extended a line of credit be reviewed and updated at least once every 36 months, to determine that member's continued creditworthiness. With the introduction of self-replenishment as a feature of Federal credit union loan plans, the opportunity for the credit union to review a member's creditworthiness at the time of application for an advance or for renewal of a nonreplenishable ceiling is eliminated. The "periodic review" requirement of § 701.21–3(c) is intended to provide an ongoing review of each member's creditworthiness, to ensure fair distribution of lending resources among creditworthy members, and to protect the best interests of the credit union.

Section 701.21–3(d) requires that the credit committee or a loan officer rule on any modification (other than termination) of a line of credit agreement. This is consistent with section 114 of the Act, which requires that initial approval of each line of credit application be by the credit committee or a loan officer.

Section 701.21–3(e) is intended to cause the board of directors of each Federal credit union which extends lines of credit to its members to closely monitor the relationship between (1) the credit union's liquidity status, and (2) actual and prospective member activity on line of credit accounts. The section requires that the board of directors conduct a monthly review to this end, with specific consideration of the credit union's liquidity status, existing member balances on line of credit accounts, total approvals (ceilings) on such accounts and member use and payment activity during the previous review period.

LOANS TO OFFICIALS, § 701.21–4

The recent amendments to sections 107(5)(A)(iv) and (v) of the Act (12 U.S.C.A. 1767(5)(A)(iv) and (v)) increased, from $2,500 to $5,000, the aggregate amount of loan(s) which may be made to or endorsed by an official without board of director approval. The House Report states that "[the] Committee is sensitive to any grant of authority which appears to make it easier for 'insiders' to take advantage of funds entrusted to their care." (Page 9.) In accordance with this expression of legislative intent, proposed § 701.21–4 requires that the rate, terms and conditions of a loan to an official shall not be more favorable than the rate, terms and conditions to other credit union members. The proposed rule also clarifies the board of directors' responsibility in approving loans to officials, requires concurrence or nonconcurrence by the credit committee on all officials' applications sent to the board for action, and establishes a computation which will clearly determine which loans must be approved by the board of directors. (Properly authorized executive committees or loan officers may act on loans to officials for the board of directors or credit committee.)

Sections 107(5)(A)(iv) and (v) of the Act, as amended, are unclear as to whether or not the same criteria must be applied to both a loan endorsed by an official and a loan granted to an official when determining whether board of director approval is necessary. However, the legislative history of Pub. L. 95–22 evidences an intent to require that an official's entire liability to the credit union be considered prior to his receiving a loan and/or prior to allowing the official to endorse a loan to another member. In addition to loan liability, the Administration also believes the Act requires that the official's potential liability under a line of credit must be considered in determining which loan applications will be submitted to the board of directors for action.

The following examples show how the computation set forth in § 701.21–4 will be used:

(1) An official applies for a loan of $5,000 and has $1,000 in shares to be pledged on the loan. He is an endorser on a loan to his son which has an outstanding balance of $3,500.

Computation:	
$5,000	Current application
+3,500	Son's loan
8,500	Total liability
−1,000	Pledged shares
7,500	Total

Result:

The total exceeds $5,000. The application must be acted on by the board of directors after obtaining the concurrence or nonconcurrence by the credit committee or loan officer.

(2) An official intends to cosign a loan for his wife for $3,000. The official currently has a line of credit with a maximum limit of $2,000 with an outstanding balance of $500.

Computation:	
$ 3,000	Current application
+ 500	Official's line of credit balance
+1,500	Official's unused line of credit
5,000	Total

Result:

The total does not exceed $5,000. The application may be approved or disapproved by the credit committee without action by the board of directors.

INSURED AND GUARANTEED LOANS, § 701.21–5

Neither section 107(5)(A)(iii) of the Federal Credit Union Act, as amended, nor this proposed rule specify which Federal or State insured or guaranteed loan programs may be used by a Federal credit union in providing this type of loan to its members. Because of the vast array of these programs, the decision to participate in such programs is left to the discretion of the board of directors, limited only by a requirement that the credit committee determine that in each such loan the interest of the credit union is adequately protected.

Finally, it is proposed that § 701.25 of the National Credit Union Administration Rules and Regulations (12 CFR 701.25) be deleted because the provisions of such Section, which address loans pursuant to the Higher Education Act of 1965, fall within the scope of proposed § 701.21–5.

Accordingly, it is proposed that 12 CFR Part 701 be amended as follows:

§ 701.21 [Deleted]

(1) Delete § 701.21 and add new sections to read as follows:

§ 701.21–1 Lending policies.

(a) For the purposes of § 701.21: (1) "Security" means an interest in property which has tangible value or any endorsement of a person which will wholly or partially secure a loan obligation.

(2) "Unsecured loan limit" means the maximum amount of funds which may be loaned to any member, including advances under a line of credit, without security.

(3) "Secured loan limit" means the maximum amount of funds which may be loaned to any member, including advances under a line of credit, with security.

(4) "Loan file" means a file maintained by a Federal credit union which includes applications for loans and lines of credit for a specific borrower and other related information concerning the borrower's creditworthiness.

(b) Within the limits of the Act and this Part, the board of directors of a Federal credit union shall establish specific written policies, which shall include at least (1) the secured loan limit and unsecured loan limit, and (2) the classifications established under paragraph (c) of this section, and the rate of interest applying to each classification.

(c) Rates of interest charged on loans (including line of credit balances) may vary according to reasonable classification established by the board of directors. Distinctions among classifications shall be based upon one or more of the following: Type of line of credit or loan plan, purpose of the loan, and type or value of security in relation to the amount of the loan. Within a given classification, the same rate of interest must be applied uniformly to all member borrowers.

(d) Subject to limitations established by the board of directors, the credit committee or loan officer shall consider the following factors in ruling on applications for loans or loan accounts (including lines of credit):

(1) The amount and regularity of receipt of funds which the borrower intends to rely upon for repayment.

(2) The borrower's other commitments and anticipated financial needs over the term of his obligation to the credit union.

(3) Other valid factors of creditworthiness as determined by the credit committee or loan officer.

(4) The best interests of the member and credit union.

(e) The loan files of a Federal credit union shall contain evidence of the financial responsibility of any endorser and the value of any security provided by a borrower.

§ 701.21–2 Amortization and payment of loans to members.

(a) A loan to a member approved by the credit committee or loan officer shall be paid by substantially equal payments of principal at intervals of not greater than 12 months, except that, an approved line of credit agreement shall provide for payments at intervals of not greater than 1 month.

(b) The board of directors may, by resolution: (1) Require that any loan agreement provide for periodic substantially equal payments of principal at intervals shorter than 12 months.

(2) Authorize the following exceptions to the requirements of paragraph (a) of this section:

(i) A loan for the purpose of vocational or higher education of the member/borrower may be made with a maturity of not greater than 12 years and on such terms of payment as the credit committee or loan officer find to be consistent with the needs of the member/borrower and the best interest of the credit union.

(ii) A loan with a maturity of less than 30 months may be repaid by a single payment of principal if the credit committee or loan officer find such terms are justified by the needs and condition of the borrower.

(c) Each loan approved by the credit committee or loan officer shall provide for: (1) Payment of interest with each payment of principal;

(2) Payment of interest not less frequently than annually, and;

(3) Sufficient payment to pay the loan in full at maturity.

§ 701.21–3 Lines of credit to members.

(a) For the purposes of this section: (1) "Line of credit" means a fixed amount which may be drawn upon by a member from time to time and which may be replenished by payment on amounts previously drawn.

(2) "Agreement" means the written document signed by the borrower to establish the terms and conditions of a line of credit.

(b) Each line of credit approved by the credit committee or loan officer shall be evidenced by an agreement which shall provide for at least the following:

(1) The maximum amount of loan outstanding under the agreement.

(2) Maturity within the limits of the Act.

(3) The terms of payment.

(4) Interest at a rate or rates not exceeding 1 per centum per month on the unpaid balance inclusive of all fees and service charges.

(5) The borrower's promise to pay.

(6) A requirement that the borrower advise the credit union of any change in his financial condition which may affect his creditworthiness.

(7) Repayment of any amounts outstanding prior to maturity in whole or in part on any business day without penalty.

(8) Other conditions established by the board of directors necessary to protect the best interests of the credit union and to comply with applicable Federal and State laws and regulations.

(9) That the board of directors may terminate the agreement under the following conditions:

(i) Upon adverse reevaluation of the borrower's creditworthiness.

(ii) At the option of the borrower.

(iii) Upon failure of the borrower to satisfy the terms of the agreement. Termination shall be given by written notice and shall not affect the balance outstanding incurred prior to the notice.

(c) The board of directors shall require a review, at least once every 36 months, of the loan file of each member who has a line of credit. The review shall be completed by obtaining current information to reassess the member's creditworthiness. The date of this review shall be documented in the member's loan file.

(d) Modifications to a line of credit agreement shall require reapplication by the member and approval by the credit committee or loan officer.

(e) Each month the board of directors shall review the credit union's liquidity status in relation to extending loans approved under line of credit agreements and shall document at least the following information as of the previous month end in the board of directors' minutes:

(1) The number and amount of outstanding balances under all line of credit agreements.

(2) The aggregate amount of credit approved under line of credit agreements.

(3) The total amount of loans advanced and the total amount of loans repaid under line of credit agreements for the previous month.

§ 701.21–4 Loans to Officials.

(a) For purposes of this section: (1) "Official" includes a member of the board of directors, credit committee, or supervisory committee.

(2) "Endorser" is the same as guarantor.

(3) "Application" shall include all applications by officials for loans and lines of credit and all applications by members for loans and lines of credit for which officials intend to act as endorsers.

(b) The following computation shall be used to determine which applications must be considered by the board of directors.

(1) Add: (i) The amount of the current application.

(ii) The outstanding balances of loans, including the used portion of an approved line of credit, extended to or endorsed by the official.

(iii) The total unused portion of approved lines of credit extended to or endorsed by the official.

(2) From the above total subtract: (i) The amount of shares pledged by the official on loans or lines of credit extended to or endorsed by the official.

(ii) The amount of shares to be pledged by the official on the loan or line of credit applied for.

(3) The board of directors shall consider an application if the computation produces a total in excess of $5,000.

(c) The board of directors shall establish a procedure for processing all applications involving officials. This procedure shall include the appointment of an individual responsible for:

(1) Receiving all applications involving officials.

(2) Assuring that the application is completed as to income and debt obligations.

(3) Documenting, on the application, the computation explained in paragraph (b).

(4) Referring the application to the credit committee for concurrence or nonconcurrence if the board of directors must consider the application.

(d) Prior to disbursing a loan or granting a line of credit which must be considered by the board, the following requirements must be met:

(1) The application shall indicate the credit committee's concurrence or nonconcurrence.

(2) The rate, terms and conditions of the approved loan or line of credit shall not be more favorable than the rate, terms and conditions for comparable loans or lines of credit to other credit union members.

(3) The approved loan or line of credit must comply with the requirements of the Act.

(4) An official shall not consider his/her application or one for which he/she is acting as an endorser. Also, an official shall not be present at a meeting while his/her application or one for which he/she is acting as an endorser is being considered.

(5) The application may be approved only if a quorum of the board is present and all present agree to approve the application.

(6) As a minimum, the following information shall be recorded in the board's minutes:

(i) Board's decision on an application.

(ii) Name of applicant.

(iii) Names of board members present at the meeting.

(iv) Name of endorsing official (if applicable).

(v) Board's reason for approving a loan or line of credit if the credit committee did not concur (if applicable).

§ 701.21–5 Insured and guaranteed loans.

(a) A Federal credit union which has been qualified as a lender under a Federal or State insured or guaranteed loan program may make loans to members under the terms and conditions and within the maturities specified by the laws and regulations governing the program.

(b) Loans or lines of credit approved under the provisions referenced in paragraph (a) of this section shall be in full compliance with all applicable provisions of such laws and regulations including any requirements to record liens or related collateral. Where a Federal or State insurance or guarantee is accepted as security for a loan or line of credit, the credit committee shall determine that the interest of the credit union is adequately protected and that the borrower's application reflects his/her creditworthiness.

§ 701.25 [Deleted]

(2) Delete § 701.25.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

C. AUSTIN MONTGOMERY,
Administrator.

MAY 24, 1977.

[FR Doc.77–15287 Filed 5–26–77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

[15 CFR Part 70]

CUTOFF DATES FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 1980 CENSUS

Proposed Rulemaking

AGENCY: Department of Commerce, Bureau of the Census.

ACTION: Proposed rule.

SUMMARY: It is proposed that cutoff dates for recognition by the Census Bureau of boundaries to be used in the 1980 Decennial Census be promulgated. A cutoff date was promulgated in 1967 applicable to the 1970 Decennial Census providing that only those boundaries legally in effect on January 1, 1970 be recognized. The purpose of Part 70 is to encourage municipalities and other units of government to complete their desired boundary changes sufficiently in advance of the decennial census to allow time for the Bureau of the Census to incorporate the changes into maps, control records, enumerator materials, computer tapes, and so on.

DATES: Comments must be received within 30 days after the date of this publication.

ADDRESSES: Written comments should be addressed to Assistant Director for Demographic Censuses, Bureau of the Census, Washington, D.C. 20233.

FOR FURTHER INFORMATION:

Jacob Silver, Chief Geography Division, Room 3203, FB–4, Washington, D.C. 20233, telephone (301) 763–5636.

SUPPLEMENTARY INFORMATION: This proposal will update 15 CFR Part 70 in preparation for the 1980 Decennial Census. The proposed rule is identical to that promulgated prior to the 1970 Decennial Census except as follows:

1. The dates have been adjusted from 1970 to 1980.

2. A cutoff date is added for receipt of boundary changes submitted to the Bureau. The purpose of the cutoff date is to avoid last minute revisions made necessary by receipt of notice of new annexations and other boundary changes after March 1, 1980. The decennial census date is April 1, 1980. Data will be tabulated on the basis of the boundaries legally existing on January 1, 1980, as officially submitted to the Bureau not later than March 1, 1980; boundary change information reported after that date will necessarily be set aside for post-census processing.

3. The term "municipality" is defined in addition to "county subdivision."

4. Some minor nonsubstantive changes in wording have also been made.

All written views and comments received by the aforementioned date will be considered by the Bureau of the Census and made available to the public for inspection and copying on request.

Proposed 15 CFR Part 70 reads as follows:

PART 70—CUTOFF DATES FOR RECOGNITION OF BOUNDARY CHANGES FOR THE 1980 CENSUS

Sec.

70.1 Cutoff dates and effect on enumeration and data tabulation.

70.2 "Municipality" and "county subdivision" defined for census purposes.

70.3 Effect of boundary changes occurring or reported after the cutoff dates.

AUTHORITY: 13 U.S.C. 4; 32 FR 15154; and Department of Commerce Organization Order 35–2A (40 FR 42765).

§ 70.1 Cutoff dates and effect on enumeration and data tabulation.

For the tabulation and publication of data from the 1980 Census of Population and Housing, the Bureau of the Census will recognize only those boundaries that are legally in effect on January 1, 1980 and have been officially reported to the Bureau no later than March 1, 1980. Respondents will be enumerated on the decennial census date as residing within the legal limits of municipalities, county subdivisions, counties, States, and equivalent areas as those limits exist on January 1, 1980.

§ 70.2 "Municipality" and "county subdivision" defined for census purposes.

For purposes of this part, "municipalities" and "county subdivisions" are defined to include the areas identified by the Bureau of the Census as incorporated places (such as cities and villages) and minor civil divisions (such as townships and magisterial districts). A more complete description appears on pages X and XI of U.S. "Census of Population: 1970", Volume I, Part A.

§ 70.3 Effect of boundary changes occurring or reported after the cutoff dates.

Changes in boundaries that become effective after January 1, 1980 will not be recognized by the Bureau of the Census in taking the 1980 Decennial Census; the residents of any area which is transferred to another jurisdiction after that date will be enumerated in and reported by the 1980 census as residents of the area in which their residences were located on January 1, 1980. Changes occurring on or before January 1, 1980, but not officially submitted to the Bureau of the Census until after March 1, 1980, will not be recognized in the data tabulations prepared for the 1980 census except as necessary by the Bureau for its decennial census operations; only population counts will be reported for such areas.

Dated: May 23, 1977.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc.77–15113 Filed 5–26–77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 771 0027]

PERFORMANCE SAILCRAFT, INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent agreement contains an order which requires a Point-Claire, Quebec, Canada, manufacturer and distributor of fiberglass sailboats and accessories, among other things, to cease entering into or enforcing any form of agreement with its dealers concerning the retail price of its products; restricting territories in which its dealers may advertise or sell its products; and terminating or threatening to terminate dealers who do not follow its pricing and territorial instructions. Further, any future price lists distributed by the firm must note that the prices are suggested or approximate.

DATE: Comments must be received on or before July 25, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Michael J. Vitale, Regional Director, Washington, D.C., Regional Office, Federal Trade Commission, 600–C Gilman Building, 2120 L St. NW., Washington, D.C. 20017 (202–254–7700).

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and §2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record

for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9 (b)(14)).

[File No. 771 0027]

IN THE MATTER OF PERFORMANCE SAILCRAFT, INC., A CORPORATION

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Performance Sailcraft Inc., a corporation, it now appears that Performance Sailcraft, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Performance Sailcraft, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Performance Sailcraft, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the province of Quebec, Canada, with its principal office and place of business at 91 Hymus Boulevard, Pointe-Claire, Quebec, Canada.

2. For purposes of this agreement, proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's counsel at the following address shall constitute service: David J. Cynamon, Covington & Burling, 888 16th Street N.W., Washington, D.C. 20006. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I. *It is ordered*, That respondent Performance Sailcraft, Inc., and its subsidiaries, divisions, licensees, successors, assigns, officers, directors, agents, representatives, and employees, directly or indirectly, or through any corporate or other device, in connection with the distribution, advertising, offering for sale, or sale of fiberglass sailboats and accessories, or any other products (hereinafter referred to in this order as "said products"), in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, shall forthwith cease and desist from:

A. Establishing, maintaining, or enforcing any contract, agreement, understanding, or arrangement fixing, establishing, maintaining, controlling, influencing, or enforcing in any way or to any extent, directly or indirectly, the price at which any of said products is advertised, sold or offered for sale at retail.

B. Requiring any dealer or prospective dealer to enter into any oral or written agreement or understanding that such dealer or prospective dealer will maintain any resale or retail price for any of said products as a condition of buying any of said products.

C. Requesting or requiring any dealer or prospective dealer, either directly or indirectly, to report any dealer, person, or firm who does not adhere to any resale or retail price for any of said products, or acting on reports so obtained by refusing or threatening to refuse sales to any dealer, person or firm so reported.

D. Threatening to terminate or terminating, either directly or indirectly, any dealer for failure to observe, maintain, or advertise respondent's suggested resale prices for said products.

E. Requiring, from any dealer charged with price cutting or failure to adhere to any resale or retail price, a promise or assurance to adhere to any resale or retail price for any of said products as a condition precedent to any future sales to said dealer.

F. Publishing, disseminating, or circulating any price list, price book, price tag, advertising, or promotional material, or other document indicating any resale or retail price without stating on each page (of such list, book, tag, advertising, or promotional material or other document), on which a price appears, that the price is suggested or approximate.

G. Imposing or attempting to impose any limitations or restrictions respecting the territories in which said products may be advertised or sold by its dealers.

H. Attempting to enter into, entering into, continuing, maintaining, or enforcing any contract, combination, understanding, or agreement to limit, allocate, or restrict the territory in which said products may be advertised or sold by its dealers.

I. Requesting or requiring any dealer or prospective dealer, either directly or indirectly, to report any dealer, person, or firm who does not adhere to any territorial restriction in the advertising and sale of any of said products, or acting on reports so obtained by refusing or threatening to refuse sales to any dealer, person, or firm so reported.

J. Threatening to terminate or terminating, either directly or indirectly, any dealer for failure to limit or restrict the advertising and sale of said products to a specified territory.

Provided, That none of the provisions herein shall prohibit respondent from designating geographical areas within which a dealer may agree to devote his best efforts to the sale of said products (hereinafter "area of primary responsibility") as a condition of becoming a dealer or maintaining a dealership, provided that such dealers are told that said area is not exclusive and does not place a territorial restriction upon the sale of said products.

Provided further, That none of the provisions herein shall prohibit respondent from terminating dealers for lawful business reasons.

II. *It is further ordered*, That the respondent shall within sixty (60) days after the service upon it of this order, mail a copy of this order to each of its dealers of said products in the United States and, during the five (5) year period of time following the date of service of this order, to all of its future dealers in the United States at the time said dealers are opened as accounts, under cover of the letter annexed hereto as Exhibit A, and furnish the Commission proof of the mailing thereof in the file required to be maintained under Paragraph V herein.

III. *It is further ordered*, That respondent shall forthwith distribute a copy of this order to each of its operating divisions engaged in the manufacture, sale, marketing, and distribution of said products and to all of its sales personnel connected with the sale, marketing, and distribution of said products and shall instruct each sales person employed by it now or in the future to read this order and to be familiar with its provisions.

IV. *It is further ordered*, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the order.

V. *It is further ordered*, That the respondent herein, for a period of five (5) years from the date of this signing, establish and maintain a file of all records referring or relating to respondent's refusal to sell said products to any of respondent's dealers, which file shall contain the names and addresses of all dealers with whom respondent has refused to deal since the effective date of the order, a description of the reason for the refusal, the date of the refusal, and a record of a communication to each such dealer explaining respondent's refusal to sell said products, and which file will be made available on reasonable notice for inspection at the Commission's offices in Washington, D.C.

VI. *It is further ordered*, That the respondent herein shall within sixty (60) days after service upon it of this order file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

EXHIBIT A

(*Letterhead of Performance Sailcraft, Inc.*)

DEAR DEALER: PSI has entered into an agreement with the Federal Trade Commission relating to our territorial allocation and pricing policies. A copy of the consent order entered into pursuant to that agreement is enclosed herewith.

We have entered into this agreement solely for the purpose of settling a dispute with the Commission, and the agreement and consent order are not to be construed as an admission that we have violated any of the laws administered by the Commission, or that any of the allegations in the complaint are true and correct. Instead, the order merely relates to our activities in the future.

In order that you may readily understand the terms of the consent order, we have set forth the essentials of the agreement with the Commission, although you must realize that the consent order itself is controlling rather than the following explanation of its provisions:

(1) Our dealers are free to set their own retail or resale prices for the products covered by the consent order.

(2) We will not solicit, invite, or encourage any dealer or any other person to report any dealer not following any retail or resale price for any of said products, and, furthermore, will not act on any such report sent to us.

(3) We will not require or induce our dealers to refrain from advertising said products at any price or from selling or offering said products at any price to any person.

(4) As you know, it is a condition of becoming a dealer or maintaining a dealership that you agree to devote your best sales efforts in your designated geographical territory. However, you are free to advertise and sell any of the products covered by the consent order outside of these designated territories.

Sincerely,

_____,
Officer.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Performance Sailcraft, Inc., a Canadian sailboat manufacturer, with its principal offices located at 91 Hymus Boulevard, Pointe-Claire, Quebec, Canada.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint accompanying the proposed consent order alleges that Performance Sailcraft, Inc., regularly furnished its U.S. dealers with retail price lists and required that its products be sold at such prices as a condition of establishing or maintaining a dealership.

Further, the complaint alleges that the company has sought to prohibit its dealers from advertising or selling its products outside of their allocated territories.

Finally, the complaint alleges that the company has encouraged its dealers to report the names of other dealers who do not follow its pricing and territorial instructions.

The proposed order prohibits Performance Sailcraft, Inc., from entering into or enforcing any form of agreement with its dealers and prospective dealers concerning the retail price of its products. Also, the company may not terminate dealers who do not follow its pricing instructions, and any price lists distributed by the company must note that the prices and suggested or approximate.

While recognizing that dealers may be assigned territories in which it is expected that they will devote their best efforts, the proposed order also prohibits the company from entering into or enforcing any agreement which restricts the territories in which its dealers may advertise and sell its products, and prohibits the company from terminating dealers who advertise or sell Performance products outside of their assigned territories.

Further, the order prohibits the company from requiring or encouraging its dealers to report any other dealer not following the company's pricing or territorial instructions, and prohibits the company from acting on any such reports.

Finally, Performance Sailcraft, Inc., is required to send a copy of the order and an explanatory letter to each of its dealers and to maintain a file containing detailed information about any future dealer terminations.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JOHN P. DUGAN,
Acting Secretary.

[FR Doc.77-15089 Filed 5-26-77;8:45 am]

[16 CFR Part 13]

[File No. 751 0011]

UNION CARBIDE CORP.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order, among other things, requires a N.Y.C. producer of industrial gases and gas welding apparatus, for a 20-year period, to cease using any tying arrangement, or employing any excusive dealing contract that is not for one year or less, or which fails to provide a 90-day or less period for notice of termination. Additionally, the firm is prohibited for a ten-year period from acquiring distributors of industrial gases or gas welding equipment without prior Commission approval, except where any of the prescribed conditions exist. Further, in those instances where prior approval is not required, Union Carbide must furnish the Commission with sufficient data so as to enable it to determine whether such acquisition violates the terms of the order.

DATES: Comments must be received on or before July 29, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Gordon Youngwood, Attorney, Bureau of Competition, Federal Trade Commission, 2120 "L" St. N.W., Washington, D.C. 20580 202–254–6975.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comments is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14).)

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

[File No. 751 0011]

AGREEMENT CONTAINING CONSENT ORDER

UNION CARBIDE CORPORATION

The Federal Trade Commission having initiated an investigation of certain acts and practices of Union Carbide Corporation, a corporation, and it now appearing that Union Carbide Corporation is willing to enter into an agreement with respect to the acts and practices being investigated.

It is hereby agreed by and between Union Carbide Corporation, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Union Carbide Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business at 270 Park Avenue, New York, New York 10017.

2. Proposed respondent admits all the jurisdictional facts set forth in Paragraphs 6 and 18 of the draft of the complaint here attached.

3. Proposed respondent waives: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within sixty (60) days after the acceptance, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of any of the facts alleged in the draft of complaint attached hereto, beyond the admission in

Paragraph 2 above, or that the law has been violated as alleged in such draft complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

8. Proposed respondent agrees that its receipt of mailing of the complaint and decision containing the agreed-to order to its address stated in this agreement constitutes service of same, and respondent waives any right it may have to any other manner of service.

ORDER

For the purpose of this order, the following definitions shall apply:

1. "Industrial Gases" shall mean the following gases: Oxygen, Nitrogen, Argon, Acetylene, Hydrogen and Helium.

2. "Welding Products" shall mean equipment, supplies and consumable items used to fuse or cut metals.

3. "Gas Welding Apparatus" shall mean equipment used to fuse or cut metals by means of heat produced by a gas flame.

4. "Distributor" shall mean a business firm whose primary function in the Industrial Gas and Welding Products business is the purchase of Industrial Gases and Welding Products for the purpose of resale, but shall not include any business firm whose primary function in the resale of Industrial Gases and Welding Products is the distribution of Industrial Gases and Welding Products to entities engaged in the plumbing, heating or air conditioning trade.

5. "Location" shall mean a bona fide sales and distribution facility operated by a Distributor as a receiving or distribution point for Industrial Gases, which facility ordinarily carries an inventory of Industrial Gases and Welding Products and is staffed with a bona fide sales force and operating and/or distribution personnel. Two or more facilities that are staffed by common sales and operating and/or distribution personnel shall be deemed to comprise a single Location.

6. "Requirements" of any Distributor for any Industrial Gas at any Location shall mean such Distributor's total requirements for such Industrial Gas either delivered to such Location or delivered direct by the Distributor to using customers which are generally served by sales or distribution personnel assigned to such Location.

I

It is ordered and directed, That for a period of twenty (20) years from the date of service of this Order, respondent Union Carbide Corporation (hereinafter Union Carbide), its subsidiaries, divisions, affiliates, successors, and assigns, in connection with the distribution, offering for sale, or sale of Industrial Gases or Welding Products to Distributors in which it owns less than a majority interest, shall:

A. Not offer, renew, extend or enter into any contracts or agreements, or enforce directly or indirectly those provisions of any contract or agreement, which require any Distributor:

1. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas unless (a) the initial term of such contract or agreement is one year or less, and (b) such contract or agreement may be terminated by either party effective on any anniversary date upon written notice given some minimum period in advance of such date as set forth in such contract, such minimum period to be not more than ninety (90) days; or

2. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas at one or more Locations as a condition to being permitted to purchase from Union Carbide such Industrial Gas at another Location; or

3. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas at any Location as a condition to being permitted to purchase from Union Carbide any other Industrial Gas at the same or any other Location; or

4. To purchase from Union Carbide all or any part of its requirements of any Industrial Gas at any Location as a condition to being permitted to purchase from Union Carbide any Welding Products.

B. Not refuse to sell, subject to paragraph A1 above, Industrial Gases or Welding Products to a Union Carbide Distributor because that Distributors refuses (1) to purchase all or a designated part of its requirements of Industrial Gases from Union Carbide; or (2) to purchase from Union Carbide all or any part of its requirements of Industrial Gases at more than one of its Locations.

II

It is further ordered, That for a period of twenty (20) years from the date of service of this order, Union Carbide shall not, either directly or indirectly through subsidiaries in which Union Carbide owns a majority interest, (1) lease or otherwise make available to customers of any Distributor who has ceased purchasing one or more Union Carbide Industrial Gases within the preceding two years, Industrial Gas cylinders at rental or demurrage rates set for the purpose of destroying a competitor or eliminating competition, or (ii) lease or otherwise make available to competitors of any Distributor who has ceased purchasing one or more Union Carbide Industrial Gases within the preceding two years, Industrial Gas cylinders at rental or demurrage rates lower than the standard rental or demurrage rate for such cylinders then in effect for Union Carbide Industrial Gas Distributors, for the purpose of destroying a competitor or eliminating competition; *provided, however,* That if either a standard cylinder rental rate schedule to Union Carbide Industrial Gas Distributors or a standard cylinder demurrage rate schedule to such Distributors, but not both, is in effect, then, for the purpose of this Part II, one shall be deemed to be equivalent to the other on the basis of the revenue that would be generated by a single cylinder during a two-month period of continuous usage, rounded to the nearest cent: *And provided, further,* That for the purpose of this Part II, a standard cylinder rental or demurrage rate shall be a rate which is available to all Union Carbide Industrial Gas Distributors: *And provided, further,* That the purpose of destroying a competitor or eliminating competition must be established by proof of intent on the part of Union Carbide to destroy the Industrial Gas business of, or eliminate as a competitor, a Distributor who has ceased to distribute one or more Union Carbide Industrial Gases; and evidence that Union Carbide has engaged in price competition with such Distributor or that Union Carbide intends to seek or obtain the trade of particular customers then being served by such Distributor shall not, by itself, be sufficient to establish such intent: *And provided, further,* That Union Carbide may set rental or demurrage rates for customers or competitors of such Distributor lower than those in effect for Union Carbide Industrial Gas Distributors in good faith response to competitive conditions in the area served by such Distributor; *And provided still further,* That Union Carbide shall have all defenses which would be available in law, including, but not limited to, the defenses of meeting competition and cost justification.

III

A. *It is further ordered,* That for a period of ten (10) years from the date of service of this order, Union Carbide shall not without prior approval of the Commission, except as otherwise provided in paragraph B of this Part III, acquire, directly or indirectly, the whole or any part of the asset, stock, share capital of, or other equity interest in, any Distributor of Industrial Gases and/or Gas Welding Apparatus.

B. No prior approval shall be required under this Order for any acquisition by Union Carbide of any assets, stock, share capital of, or other equity interest in, any Distributor of Industrial Gases or Gas Welding Apparatus if such acquisition meets any of the following standards:

1. The acquisition involves only a change in the equity interest of Union Carbide in a Distributor in which Union Carbide already holds an equity interest; or

2. Except to the extent such acquisition is covered by clause 3 of this paragraph B, the consummation of the acquisition does not result in Union Carbide owning an equity interest, obtained by acquisition, in Distributors to whom in the calendar year prior to the calendar year in which such acquisition is consummated, Union Carbide sold in excess of 16 percent of its total sales of Industrial Gases or 16 percent of its total sales of Gas Welding Apparatus sold in such year to all acquired and independent Distributors; *Provided, however,* That no acquisition of a Distributor shall be exempt from prior approval under this clause 2 unless the Distribtutor to be acquired purchased from Union Carbide more than 50 percent of its total purchases of industrial gases in the calendar year prior to the calendar year in which such acquisition is consummated; or

3. The acquisition is not covered by clause 2 of this paragraph B, but within twelve (12) months prior to the consummation of such acquisition Union Carbide has divested absolutely and in good faith by sale or spin-off its equity interests in one or more Distributors the aggregate dollar value of whose purchases of Industrial Gases and Gas Welding Apparatus, respectively, in the calendar year in which such acquisition is consummated was equal to or in excess of the aggregate dollar value of purchases of Industrial Gases and Gas Welding Apparatus, respectively, in such prior calendar year, by the Distributor so acquired: *Provided, however,* That, to the extent that any purchases by a divested Distributor are utilized by Union Carbide in a determination that an acquisition falls within the provisions of clause 2 or 3 of this paragraph B, the purchases so utilized shall not again be utilized by Union Carbide in determining whether any other acquisition falls within the provisions of this clause 3; or

4. The transaction involves only (a) the purchase of products from a Distributor in the normal course of business, or (b) the purchase of fixed assets from an independent Distributor in a transaction in which the Distributor will continue thereafter to carry on its function as an independent Distributor in which Union Carbide has no equity interest; or

5. But for the acquisition by Union Carbide, the Distributor would have ceased business operations as an Industrial Gas distributor as a result either of its financial condition or of the death or physical or mental incapacity of essential management personnel.

C. During the period that this Part III is in effect, Union Carbide shall advise the Commission, prior to consummation thereof, of each acquisition of the type described in paragraph A of this Part III as to which prior approval is not required because of the provisions of paragraph B2 or B3 of this Part III.

D. During the period that this Part III is in effect, Union Carbide shall, within ninety (90) days from the date of each acquisition described in paragraph B5 of this Part III, provide information sufficient for the Commission to determine whether, but for the acquisition by Union Carbide, the Distributor would have ceased business operations as an Industrial Gas Distributor as a result either of its financial condition or of the death or physical or mental incapacity of essential management personnel.

IV

It is further ordered, That if, during the ten (10) year period beginnnig on the date of service of this Order, any Distributor of Industrial Gases and/or Gas Welding Apparatus in which Union Carbide holds an equity interest acquires, without the prior approval of the Commission to the extent such approval would be required under Part III of this Order if such acquisition were made directly or indirectly by Union Carbide, the whole or any part of the assets, stock, or share capital of, or other equity interest in, any Distributor of Industrial Gases and/or Gas Welding Apparatus, then Union Carbide shall within six (6) months thereafter divest absolutely and in good faith by sale or spin-off its equity interests in one or more Distributors, the aggregate dollar value of whose purchases of Industrial Gases and Gas Welding Apparatus, respectively, in the prior calendar year was equal to or in excess of the aggregate dollar value of purchases of Industrial Gases and Gas Welding Apparatus, respectively, in such prior calendar year by the Distributor so acquired; *Provided, however,* That to the extent that any purchases by a divested Distributor are utilized by Union Carbide in determining compliance with the divestiture provisions of this Part IV, the purchases so utilized shall not again be utilized by Union Carbide in determining whether any other acquisition falls within the provisions of Paragraph III B3 of this order.

V

It is further ordered: A. That if the Commission does not seek against Airco, Inc., an order to cease and desist from engaging in practices set forth in paragraph 10 of the complaint here attached, similar to that provided in Parts I and II of this order, in a complaint arising out of the investigation conducted under FTC File No. 751 0010 and issued not later than one year from the effective date of this order, then Parts I and II of this order shall be of no further force and effect after such anniversary date.

B. That if the Commission issues on or before the first anniversary of the effective date of this order a complaint against Airco, Inc., arising out of the investigation conducted under FTC File No. 751 0010 and at any time after issuance such complaint is dismissed on the motion of, or without objection by, the Commission staff, then Parts I and II of this order shall be of no further force and effect after the effective date of such dismissal.

C. That if a consent order is entered against Airco, Inc. in settlement of a proceeding arising out of the investigation conducted under FTC File No. 751 0010 which contains any provisions that differ from any provisions of Part I or II of this order, then Union Carbide may apply to the Commission for modification of, or relief from, any such different provisions in this order, and upon such application the Commission shall grant such modification or relief in the provisions covered by such application as are necessary to conform such provisions in this order with the corresponding provisions of such Airco, Inc., consent order.

VI

It is further ordered, That Union Carbide shall within twenty-one (21) days after service upon it of this order forward a copy of this order and the Complaint issued herein along with a copy of the attached letter (Attachment A) on respondent's official company stationery and signed by a responsible official of Union Carbide to Distributors of Union Carbide Industrial Gases and/or Gas Welding Apparatus.

VII

It is further ordered, That Union Carbide notify the Commission at least thirty (30) days prior to any proposed changes in corporate structure of Union Carbide such as dissolution, assignment or sale resulting in the emergence of a successor corporation, which may affect compliance obligations arising out of the order.

VIII

It is further ordered, That Union Carbide shall within sixty (60) days after service upon it of this order file with the Commission a report in writing setting forth in detail the manner in which it has complied with this order, and shall file such other reports as may from time to time be required to assure compliance with the terms and conditions of this order.

UNION CARBIDE CORPORATION

FILE NO. 751 0011 ANALYSIS OF PROVISIONALLY ACCEPTED CONSENT ORDER

Paragraph IA of the order prohibits Union Carbide, for a period of twenty years, from entering into any agreement or enforcing any provision of any agreement that requires a distributor of acetylene, argon, helium, hydrogen, nitrogen, and oxygen (hereinafter called industrial gases) to purchase from Union Carbide all or any part of its requirements of industrial gases unless the initial term of such contract is one year or less and the minimum period for termination is not more than ninety days. It also restrains Union Carbide from requiring a distributor to purchase at any one or more locations all or any part of its requirements of any industrial gas a condition to purchasing welding products or any other industrial gas at the same or any other location.

Paragraph IB prohibits Union Carbide, for a period of twenty years, from refusing to sell industrial gases or welding products to a Union Carbide distributor because the distributor refuses to purchase from Union Carbide all or a designated part of its requirements of industrial gases at any one or more locations.

Paragraph II of the order prohibits Union Carbide, for a period of twenty years, from making available industrial gas cylinders to customers of any distributor who has ceased purchasing one or more industrial gases from Union Carbide within the preceding two years at rates set for the purpose of destroying a competitor or eliminating competition. It also prohibits Union Carbide from leasing industrial gas cylinders to competitors of such a distributor at rates set for the purpose of destroying a competitor or eliminating competition.

Paragraph III bans, for a period of ten years, any acquisition of a Union Carbide distributor of industrial gas or gas welding apparatus without prior approval from the Commission unless (1) the acquisition is merely an increase in Union Carbide's equity interest in a distributor; (2) the acquisition of a distributor buying more than 50 percent of his industrial gases from Union Carbide does not result in Union Carbide having acquired an equity interest in distributors accounting in the year prior to acquisition for more than 16 percent of Union Carbide's total sales of industrial gases or gas welding apparatus to all distributors; (3) within 12 months prior to an acquisition not covered by subparagraph 2 above, Union Carbide has sold its interest in one or more distributors, the aggregate dollar value of whose purchases of industrial gases and gas welding apparatus, respectively, is no less than the respective purchases of the distributor acquired; (4) the acquisition is merely a purchase of products in the normal course of business or is a purchase of fixed assets from an independent distributor that continues to operate as an independent distributor; (5) the acquisition is of a distributor which, but for the acquisition, would have ceased to operate as an industrial gas distributor as a result of its financial condition or of the death or physical or mental incapacity of essential management personnel.

Paragraph IIIC requires Union Carbide to notify the Commission in advance of each acquisition for which prior approval is not required under subparagraphs (2) and (3) above. Paragraph IIID directs Union Carbide to provide within 90 days from the date of acquisition information sufficient for the Commission to determine whether an acquisition purportedly made under the provisions of subparagraph (5) above violates the terms in the order.

Paragraph IV of the Order provides that if any distributor in which Union Carbide has an equity interest acquires a distributor which could not have been acquired by Union Carbide without prior approval of the Commission, Union Carbide shall within six months sell its interest in one or more distributors whose purchases of industrial gases and gas welding apparatus respectively are not less than the aggregate industrial gases and gas welding apparatus purchases respectively of the acquired distributor.

Paragraph V provides that Parts I and II of the Order will be of no further force and effect if (1) the Commission does not seek within one year relief against Airco similar to that set forth in Parts I and II of the Order or (2) the Commission issues a complaint against Airco which is subsequently dismissed on the motion of or without objection by the Commission staff. In addition, Union Carbide may apply to the Commission to conform this order to any agreement entered in settlement of the Airco complaint.

Paragraphs VI, VII, and VIII are standard to Commission orders. Paragraph VI requires that a letter be sent to all of Union Carbide's industrial gas and welding products distributors forwarding a copy of the order and complaint issued in this matter. Paragraph VII requires Union Carbide to notify the Commission thirty days prior to any proposed change in corporate structure which may affect Union Carbide's compliance obligations. Paragraph VIII requires a written report within sixty days demonstrating the manner in which Union Carbide has complied with the terms of the order and such other compliance reports as are required to assure compliance with its terms.

The order furthers competition among industrial gas suppliers by providing them with the opportunity to sell any one or more industrial gases to a substantial group of purchasers for whose requirements there had been virtually no competition. The increased competition brought about from this order is expected to result in lower prices to distributors and consumers of industrial gas. In addition, by preventing the purchase of further industrial gas and gas welding apparatus distributors, the agreement ensures that important sources of distribution of these products are not foreclosed to other industrial gas suppliers.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-15204 Filed 5-26-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 231, 241]

[Release Nos. 33-5827, 34-13552, 35-20032; File No. S7-696]

DEVELOPMENT OF GUIDELINES FOR DISCLOSURE BY ELECTRIC AND GAS UTILITY COMPANIES

AGENCY: Securities and Exchange Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Securities and Exchange Commission announces its intention to develop guidelines for the disclosure to be included in registration statements and reports filed by electric and gas utility companies under the federal securities regulations. The Commission anticipates that these guidelines should improve the usefulness to investors of the various documents prepared under the securities regulations by specifying the types of data which such documents should disclose. Interested persons are invited to participate in the formulation of the guidelines by submitting comments and suggestions.

DATES: Comments must be received on or before August 1, 1977.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Comments should refer to file No. S7-696 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Linda Griggs, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202/755-1750).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it has authorized the staff of its Division of Corporation Finance to develop guidelines for the disclosure to be included in registration statements and reports filed by electric and gas utility companies pursuant to the Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). Such guidelines would not constitute Commission rules nor would they bear the Commission's official approval; they would represent policies and practices followed by the Division in administering the disclosure requirements of the federal securities laws.

The decision to formulate these guidelines represents another step in the Commission's undertaking to implement a recent recommendation made by the Advisory Committee on Corporate Disclosure. At its October meeting, the Advisory Committee recommended that the Commission develop on a limited experimental basis disclosure guides for specific industries in order to encourage uniform textual and financial statement disclosure of material items which are unique to a particular industry. In response to this recommendation, the Commission has recently requested comments and suggestions from interested persons on the development of disclosure guidelines for railroads in Securities Act Release No. 5824 (April 28, 1977) (42 FR 24069).

The electric and gas utility industry has been selected as one of the industries for which disclosure guidelines will be developed. The high demand of the industry for capital to defray escalating costs and the unavailability to this heavily regulated industry of current pricing adjustments for carrying through to customers increased expenses necessitate frequent reliance upon the public equity and debt markets. In addition, the availability of energy to meet the ever-increasing needs of users is a primary concern of gas and electric utilities. The capital and energy needs of utilities and industry practices have increased the need for more meaningful and uniform disclosure relating to electric and gas utility companies.

The proposed guidelines are intended to provide registrants with a convenient reference to the disclosure sought by the staff of the Securities and Exchange Commission in documents filed under the federal securities regulations. Their format will be analogous to that of the disclosure guidelines previously developed for bank holding companies,[1] real estate limited partnerships,[2] and oil and gas drilling programs.[3]

Consistent with the recommendation of the Advisory Committee, the Commission hereby invites interested persons to participate in the formulation of these guidelines by submitting comments and suggestions as to the scope and substance of the guidelines. Users and preparers of information relating to electric and gas utility companies are particularly requested to assist in the development of meaningful guidelines by recommending areas of disclosure appropriate to uniform presentation by electric and gas utility companies and by considering any difficult disclosure problems with respect to both accounting and non-accounting matters.

Commentators are asked to consider guidelines with respect to disclosure of the following matters, among others:

(1) Construction programs, including nuclear power construction projects—estimated and actual expenses and performance schedules associated therewith, financing arrangements for long term capital programs and a definition and an explanation of the effect of the allowance for funds used in construction;

(2) Statistical data on utility rates—schedules for different classes of market segments and rate structure analysis by specific jurisdictions;

(3) Sources of fuel supplies used or distributed—the impact on utilities of fuel supply mix, environmental requirements, fuel conversion programs and regulatory actions affecting the fuel adjustment clause(s);

(4) Revenue growth—contribution of volume and rate changes;

(5) Relationship with suppliers—loans and guarantees on loans made to suppliers;

(6) Asset valuation—consequences of underdepreciation and obsolescence of the physical plants and related salvage values; and

(7) Form and content of line of business or industry segment (electric or gas) reporting, including volume, dollar sales and operating profit.

Comments are also specifically invited as to whether disclosure should be required of both dollar and volume sales, where appropriate, of each class of similar products or services within a line of business or segment of a company's business if the total sales of such class of products or services comprises a certain percentage (i.e. 5 to 10 percent) of consolidated sales in the previous fiscal year.[4]

[1] Securities Act Release No. 5735 (August 31, 1976), (41 FR 39007).

[2] Securities Act Release No. 5692 and Securities Exchange Act Release No. 12224 (March 30, 1976), (41 FR 17374).

[3] Securities Act Release No. 5036 (Jan. 19, 1970), (35 FR 1233).

[4] The Advisory Committee recommended that in developing the industry guides the Commission give consideration to (a) requiring, as necessary, disclosure of both dollar sales and, where appropriate, volume of each material class of similar products or services within a segment and (b) developing on an industry basis the most effective breakdown for displaying such sales information. Minutes of the Sixth Meeting of the Securities and Exchange Commission Advisory Committee on Corporate Disclosure on February 7 and 8, 1977.

In addition, suggestions are requested on the most effective product line breakdown for displaying such sales information.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 19, 1977.

[FR Doc.77-15261 Filed 5-26-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 655]

TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE

Location of Public Hearing

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice changing public hearing location.

SUMMARY: The purpose of this notice is to inform the public that the public hearing on the Department's proposed regulations governing the temporary employment of aliens in agriculture, scheduled for Springfield, Massachusetts, on June 8 and 9, 1977, has been moved to a new location.

DATES: June 8 and 9, 1977.

ADDRESS: The hearing will be held at: Old Federal Building and Court House, 3rd Floor Court Room, 436 Dwight Street, Springfield, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. William E. Daly, United States Employment Service, (Attn. TET), Employment and Training Administration, U.S. Department of Labor, 601 D Street N.W., Washington, D.C. 20213. Tel.: 202-376-6297.

SUPPLEMENTARY INFORMATION: The purpose of the public hearing will be to allow the public to comment and testify on the Department of Labor's proposed regulations on the labor certification process for the use of temporary foreign labor in the United States in agricultural employment (including logging and sheepherding). The proposed regulations were published in the FEDERAL REGISTER on January 25, 1977 at 42 FR 4670. For further information regarding the public hearings, see the FEDERAL REGISTER notices of April 19, 1977 at 42 FR 20312 and May 3, 1977 at 42 FR 22378. The notice of May 3, 1977 stated that the Springfield, Mass. hearing would be held at the Holiday Inn. This notice, as set forth above, changes the location of the Springfield, Mass. hearing.

Signed at Washington, D.C., this 20th day of May 1977.

WILLIAM B. LEWIS,
Administrator, United States Employment Service.

[FR Doc.77-15272 Filed 5-26-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 101]

[Docket No. 77N-0067]

FOODS THAT ARE NOT MEANINGFUL SOURCES OF NUTRIENTS

Withdrawal of Proposal and Termination of Rule Making Procedure; Establishment of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Termination of proposal.

SUMMARY: The Commissioner of Food and Drugs withdraws a proposal to exempt from certain requirements of nutritional labeling, foods that are not meaningful sources of nutrients. Comments indicate that the abbreviated format is unsatisfactory to consumers and manufacturers. This document also sets an effective date for labeling compliance.

EFFECTIVE DATE: July 1, 1979 for all products initially introduced into interstate commerce on or after this date.

FOR FURTHER INFORMATION CONTACT:

Howard Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-3092).

SUPPLEMENTARY INFORMATION: The Commissioner issued a proposal in the FEDERAL REGISTER of March 6, 1974 (39 FR 8621) to amend § 1.17 (21 CFR 1.17) by adding new paragraphs (h)(11) and (12). Section 1.17 was recodified as § 101.9 in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302); hereafter it will be referred to as its new designation, § 101.9. Proposed paragraph (h)(11) would have exempted from the full nutrition labeling format, foods that provide per serving (portion) less than 2 percent of the U.S. Recommended Daily Allowances (U.S. RDA) of protein, vitamins, and minerals and foods that provide less than 25 calories. Proposed paragraph (h)(12) would have similarly exempted foods that provide calories derived from only a single component, i.e., from protein, carbohydrate, fat, or any other safe and suitable compound not classified as one of these, e.g., alcohol, and foods that provide less than 2 percent of the U.S. RDA per serving of vitamins and minerals. These proposed exemptions would have allowed for a shortened listing of nutrients not present in any amount or present at less than 2 percent of the U.S. RDA.

The Commissioner, after reviewing petitions submitted by General Foods Corp., National Soft Drink Association, National Coffee Association, and Borden, Inc., determined that the petitions were all similar in that they referred to products that either have a very low calorie content or are composed of one component that provides calories and no vitamins or minerals. Therefore, he issued on his own initiative a proposal for a modified statement for use in a limited number of situations.

Thirty-two comments were received. Four comments specifically supported the proposal. One comment endorsed the proposal in principle, but not the proposal itself. One comment expressed neither endorsement nor opposition, but requested clarification. Twenty-six comments opposed the proposal.

The Commissioner has considered each of the comments and has decided to withdraw the proposal and terminate the rule making on the proposed amendment to § 101.9 for the following reasons:

1. Three of the four original petitioners said that the proposal was not responsive to their respective petitions.

General Foods said that a simple declarative sentence, "Not a meaningful source of nutrients," together with a statement of the number of calories in a specified serving, should be the only labeling required. The National Coffee Association contended that any nutritional labeling for coffee would significantly contribute to consumer misunderstanding. Consequently, the association urged a further revision of § 101.9(h)(12) as follows:

> Coffee products, containing only pure coffee as an ingredient, may use the following statement in lieu of the labeling requirements in this section: This product is not a meaningful source of calories or nutrients.

The National Soft Drink Association said that the proposal would discourage, rather than encourage, nutritional labeling. It maintained that its proposal was less confusing than that offered by the Commissioner because compliance with appropriate sections in Part 125 (21 CFR Part 125, recodified under Part 105 in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) followed by a declaration that the product "Contains no vitamins, proteins or minerals" is more meaningful to the consumer and provides for ready identification of nutritional value, or the lack thereof.

The Commissioner stated in the preamble to the proposal that "It is important, even where no vitamins, minerals or protein are present in the product that consumers have a statement of the actual caloric content." The Commissioner also indicated that retention of the standardized format is necessary to provide a uniform method of presenting nutrition information to the consumer at the point of purchase. Thus the Commissioner feels that the alternatives suggested in these comments do not provide sufficient information for consumers to readily identify the nutritional value of the product. The comments do suggest that the abbreviated format proposed offers little advantage over the full format. The Commissioner concludes that under these circumstances the consumer is best served by adherence to the standard format.

2. Nine other comments—from manufacturers and trade associations—op-

posed the proposal. Some comments objected to the requirement that products must contain less than 2 percent of the U.S. RDA per serving of all vitamins and minerals listed in § 101.9(c)(7)(iv) to be exempted from full nutrition labeling by proposed paragraph (h)(11). They urged a more flexible approach—for example, for products that contain more than 2 percent of the U.S. RDA per serving for one or two vitamins, a simply declared exception could suffice, for example, "Contains less than 2% of the U.S. RDA of vitamins and minerals, except for niacin, 6% of the U.S. RDA." Other comments, preferring a simple label such as "Not a meaningful source of nutrients" without any further elaboration, regarded the proposal as too detailed and restrictive, and contended that consumers would be confused with excessive labeling and that manufacturing costs would increase. The remaining comments requested format changes designed to suit a particular product. All of these latter comments sought authority to provide positive nutrition information in broad and simple terms without providing any negative information.

The Commissioner advises that in cases where foods contain less than 2 percent of the U.S. RDA per serving of five or more of the eight nutrients specified in § 101.9(c)(7)(iii), the manufacturer may choose the alternative form of declaration provided for in § 101.9(c)(7)(i). The Commissioner has concluded that when specific nutrients are declared, both positive and negative nutrition information must be provided to the consumer. Furthermore, it is the Commissioner's conclusion that publishing exceptions tailored to certain food categories, as suggested in the comments, would result in a proliferation in the number of ways vitamin and mineral content may be declared. This would only confuse the consumer and would not be consistent with a policy of uniform nutrition labeling, a concept vital to § 101.9.

3. The remaining 14 comments opposing the proposal came from consumers. The majority of these comments objected to any alteration in the nutrition labeling format and to any "watering down" of nutrition labeling. Several comments supported the position that negative information would inform, not confuse, the consumer. One comment opposed any labeling changes made only because the source of the calories is obtained from a single component, namely, carbohydrate, protein, or fat.

The Commissioner recognizes that most of the foods involved in the proposed exemptions are not used by consumers primarily for nutritional purposes. But some manufacturers and associations said that some nutrition labeling for these products is desirable. The Commissioner, in issuing his proposal, intended to explore the value of establishing an abbreviated nutrition labeling format that might be useful to the industry and still provide enough nutrition information to the consumer so as to be consistent with the general principles enunciated by the Commissioner in promulgating § 101.9. The Commissioner's principal reason for proposing the abbreviated nutrition labeling format was the hope that it might encourage the use of nutrition labeling. The comments have indicated that the abbreviated format is not satisfactory to either manufacturers or consumers.

The Commissioner, after considering all the comments, now believes that the proposal will not serve its intended purpose and that consumers will best be served by retaining the full nutrition labeling format under § 101.9. The Commissioner is therefore withdrawing the proposal, published in the FEDERAL REGISTER of March 6, 1974 (39 FR 8621), and terminating the rule making procedure regarding nutrition labeling for foods which are not meaningful sources of nutrients.

EFFECTIVE DATES

In the FEDERAL REGISTER of October 10, 1974 (39 FR 36501), products subject to this proposed rule making were granted an extension from the December 31, 1974 uniform effective date for labeling regulations. The October 10, 1974 notice further provided that the final regulation ruling upon the March 6, 1974 proposal would establish new effective dates for compliance for products subject to the proposal. Since this document terminates that proposed rule making, a new effective date must be established for those products subject to the March 6, 1974 proposal (39 FR 8621).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047, 1055 (21 CFR U.S.C. 321, 343, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner provides that all labeling for products subject to the March 6, 1974 proposal (39 FR 8621) may be changed to comply with § 101.9 and all other applicable regulations covered by the uniform effective date notice published in the FEDERAL REGISTER of October 10, 1974 (39 FR 36501) beginning May 27, 1977. All labeling for these products initially introduced into interstate commerce on or after July 1, 1979 shall comply with § 101.9 and all other applicable regulations.

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-14806 Filed 5-26-77;8:45 am]

[21 CFR Part 201]

[Docket No. 77N-0102]

THYROID, DIGITALIS, AND RELATED DRUGS FOR HUMAN USE

Proposed Labeling Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require that the physician labeling for thyroid, digitalis, and related drugs include a boxed warning against the use of those drugs in the treatment of obesity. These drugs were formerly promoted and advertised for, and continue to be used in, the treatment of obesity, but the safety and effectiveness of that use has never been established.

DATES: Comments by July 26, 1977. Proposed effective date—60 days after date of publication of a final regulation in the FEDERAL REGISTER.

ADDRESS: Written comments to Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–5220).

SUPPLEMENTARY INFORMATION: Drugs with thyroid hormone activity together with digitalis and related drugs have formerly been promoted for, and continue to be used in, the treatment of obesity, although their safety and effectiveness for such use have never been demonstrated. In 1968, the Food and Drug Administration (FDA) seized a number of thyroid-digitalis combination drug products recommended for the treatment of obesity, alleging that they were misbranded under section 502 (a), (f)(1), and (j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (a), (f)(1), and (j)) or, in some cases, that they were new drugs marketed without the approved new drug applications (NDA's) required under section 505 of the act (21 U.S.C. 355). In addition, in the FEDERAL REGISTER of April 11, 1968 (33 FR 5616), FDA published a statement of policy in § 250.11 (21 CFR 250.11) stating that: (1) Combinations of thyroid or other thyrogenic drugs with central nervous system stimulants are regarded as misbranded when offered for the treatment of obesity not related to hypothyroidism, and (2) such combinations, when offered for the treatment of obesity related to hypothyroidism, are new drugs within the meaning of section 201 (p) of the act (21 U.S.C. 321(p)), requiring approval of an NDA prior to marketing. As a result of these actions, the marketing of these combination drug products for use in obesity was discontinued.

Despite FDA's removal from the market of combination drugs containing thyroid and digitalis, and thyroid and central nervous system stimulants, and the halting of overt promotion of thyroid and digitalis for use in the treatment of obesity, the Commissioner of Food and Drugs is concerned that some practitioners continue to dispense or prescribe the individual drugs for the treatment of obesity, and that this use of these drug products may produce serious or even life-threatening manifestations of toxicity.

Accordingly, he proposes that labeling for drugs with thyroid hormone activity (e.g., dessicated thyroid, liotrix, sodium dextrothyroxine sodium levothyroxine, sodium liothyronine and thyroglobulin) and digitalis and other related cardiotonic preparations (e.g., acetyldigitoxin, digoxin, gitalin, and lanatoside C) be required to bear a boxed warning against their use in the treatment of obesity.

Under § 201.100(c)(2) (21 CFR 201.100(c)(2)) and § 201.160 (21 CFR 201.160), certain digitalis and thyroid drug products may omit from their dispensing packages the "full disclosure" labeling required by § 201.100(c)(1). Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is revoking the exemption for digitalis and is also proposing to revoke the exemption for thyroid. The Commissioner concludes, however, that the boxed warning for thyroid need not await the publication of a final regulation revoking § 201.160.

The Commissioner has also proposed regulations, published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392), revising the format for prescription drug labeling. In that document the Commissioner proposed that a specific warning relating to a use not provided for under the "Indications and Usage" section of the labeling might be required by FDA if a drug is commonly prescribed for a disease or condition, there is lack of substantial evidence of effectiveness for that disease or condition, and such usage is associated with serious risk or hazard. The boxed warnings for digitalis and thyroid drug products that are proposed in this document are the kinds of warnings at which the April 7, 1975 proposal was directed. Although the Commissioner expects to issue a final regulation on the 1975 proposal in the near future, he concludes that the boxed warnings proposed here should not be delayed until such final regulation is effective.

The Commissioner proposes that a final regulation published under this proposal be effective 60 days after its date of publication in the FEDERAL REGISTER. All drug products that are subject to this regulation, packaged on or after that date without labeling containing the boxed warnings against the use of these drugs in the treatment of obesity, would be misbranded.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701, 52 Stat. 1050–1053, 1055–1056, as amended (21 U.S.C. 352, 355, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 201 as follows:

1. By adding a new § 201.316, to read as follows:

§ 201.316 Drugs with thyroid hormone activity for human use; required warning.

(a) Drugs with thyroid hormone activity have been promoted for, and continue to be dispensed and prescribed for, use in the treatment of obesity, although their safety and effectiveness for that use have never been established.

(b) Drugs for human use with thyroid hormone activity are misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act unless their labeling bears the following boxed warning at the beginning of the warnings section:

Drugs with thyroid hormone activity, alone or together with other therapeutic agents, have been promoted for the treatment of obesity. In euthyroid patients, doses within the range of daily hormonal requirements are ineffective for weight reduction. Larger doses may produce serious or even life-threatening manifestations of toxicity, particularly when given in association with sympathomimetic amines such as those used for their anorectic effects.

2. By adding a new § 201.317, to read as follows:

§ 201.317 Digitalis and related cardiotonic drugs for human use; required warning.

(a) Digitalis and related cardiotonic drugs have been promoted for, and continue to be dispensed and prescribed for, use in the treatment of obesity, although their safety and effectiveness for that use have never been established.

(b) Digitalis and related cardiotonic drugs for human use are misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act unless their labeling bears the following boxed warning at the beginning of the warnings section:

Digitalis alone or with other drugs has been promoted for use in the treatment of obesity. This use of digoxin or other digitalis glycosides is unwarranted. Moreover, since they may cause potentially fatal arrhythmias or other adverse effects, the use of these drugs in the treatment of obesity is dangerous.

Interested persons may, on or before July 26, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-15090 Filed 5-26-77;8:45 am]

[21 CFR Part 201]

[Docket No. 77N-0104]

DRUGS; INFORMATION COMMONLY KNOWN

Revocation of Labeling Exemption

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would revoke the provision in the drug labeling regulations that permits the "full disclosure" labeling to be omitted from the dispensing package of certain prescription drugs for which directions, hazards, warnings, and use information are commonly known to physicians. This proposal would also revoke the regulation that lists those drugs for which the Commissioner of Food and Drugs has offered an opinion that the use information is commonly known. The Food and Drug Administration is taking this action because the agency's experience with these regulations has demonstrated that "full disclosure" labeling is necessary for the safe and effective use of prescription's drugs.

DATES: Comments by July 26, 1977. Proposed effective date—180 days after date of publication of a final regulation in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–5220).

SUPPLEMENTARY INFORMATION: Section 201.100(c)(1) (21 CFR 201.100(c)(1)) requires that labeling on or within the package from which a prescription drug is to be dispensed bear adequate information for the safe and effective use of the drug by physicians. Section 201.100(c)(2) provides that such information may be omitted from the dispensing package of drugs for which directions, hazards, warnings, and use information are commonly known to physicians. The Commissioner of Food and Drugs has, upon written request, offered opinions that such information may be omitted from the dispensing package for the drugs listed in § 201.160(b) (21) CFR 201.160(b)).

The Commissioner last offered an opinion exempting a drug from the labeling requirements of § 201.100(c)(1) in an amendment to § 201.160 published in the FEDERAL REGISTER of June 8, 1962 (27 FR 5428), prior to enactment of the Drug Amendments of 1962. The experience of FDA over the last 15 years has demonstrated that drugs once thought to be safe and effective for a particular indi-

cation may later be found to be ineffective or present a greater risk than originally believed. Moreover, it is not uncommon for new information about drugs long used by physicians to become available which causes the directions, hazards, and warnings to require modification. Accordingly, the Commissioner concludes that current "full disclosure" labeling should be provided for all prescription drugs so that physicians have the information they need to use drugs safely and effectively.

The Commissioner has already taken certain steps in this direction. In the FEDERAL REGISTER of January 24, 1975 (40 FR 3783), he proposed to delete from the list in § 201.160(b) those drugs that have been the subject of Drug Efficacy Study Implementation (DESI) notices setting forth the conclusions of FDA on their effectiveness. An exemption for those drugs from the "full disclosure" labeling requirement on the ground that physicians had adequate information about their use was no longer appropriate. Accordingly, in the January 24, 1975, notice, the Commissioner concluded that exemptions from drug labeling requirements previously offered under §§ 201.100 (c)(2) and 201.160 should be revoked insofar as they applied to a drug that was the subject of a DESI notice. The FDA study of the effectiveness of new drugs approved prior to October 10, 1962, on the basis of safety found that many drugs whose claims were commonly known to practitioners in fact lacked substantial evidence of effectiveness. The Commissioner also suggested that the exemptions for the other drugs listed in paragraph (b) of § 201.160 that were not the subject of a DESI notice would be superseded by the anticipated promulgation of old drug monographs for those drugs. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is issuing a final regulation on the January 24, 1975, proposal. That final regulation requires "full disclosure" labeling for the drugs formerly listed in § 201.160(b) that were subject to DESI notices.

The Commissioner concludes, however, that full disclosure labeling is needed for the safe and effective use of all drugs and need not await promulgation of old drug monographs. Accordingly, he proposes to revoke the provision in § 201.100(c)(2) that permits the omission of the "full disclosure" labeling from the dispensing package of certain prescription drugs and to revoke the list of drugs in § 201.160 for which the Commissioner has previously indicated such labeling may be omitted.

The Commissioner proposes that a final regulation based on this proposal be effective 180 days after the date of publication of the final rule in the FEDERAL REGISTER. After that date, FDA would regard the drug as misbranded, and no person would be permitted to introduce or deliver for introduction into interstate commerce, or to hold for sale after shipment in interstate commerce, any prescription drug product without "full disclosure" labeling. However, this prohibition would not apply to any drug product that had been received prior to the effective date by any distributor (other than an own-label distributor) or retailer. The purpose of the prohibition is to prevent further distribution after the effective date by any person involved in the production of prescription drug products who has responsibility for the content of the labeling.

The requirements thus exempt those who merely distribute or sell products whose labeling is the responsibility of others. It would allow distributors (but not own-label distributors) and retailers to exhaust supplies on hand on the effective date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701, 52 Stat. 1050–1053, 1055–1056, as amended (21 U.S.C. 352, 355, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 201 as follows:

1. In § 201.100 by revising paragraph (c)(2) to read as follows:

§ 201.100 Prescription drugs for human use.

* * * * * * *

(c) * * *

(2) If the article is subject to section 505, 506, or 507 of the act, the labeling bearing such information is the labeling authorized by the approved new-drug application or required as a condition for the certification or the exemption from certification requirements applicable to preparations of insulin or antibiotic drugs:

§ 201.160 [Revoked]

2. By revoking § 201.160 *Drugs; information commonly known.*

Interested persons may, on or before July 26, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 23, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–15091 Filed 5–26–77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[21 CFR Part 500]

[Docket No. 77N–0152]

RESTRICTION ON SUBTHERAPEUTIC USE OF ANTIBACTERIALS IN ANIMAL FEEDS

Intent To Propose Rules and Call for Environmental Impact Data

AGENCY: Food and Drug Administration.

ACTION: Notice of intent to propose rules.

SUMMARY: The Commissioner of Food and Drugs intends to issue a series of proposals to restrict the subtherapeutic use of penicillin and tetracyclines in animal feeds, and he calls for information concerning the potential environmental impact of the proposed restrictions. These actions are based on the analyses and recommendations of experts concerned with the safety of widespread use of antibacterial drugs in animal feeds and the development of drug-resistant bacteria in the environment. Environmental data and information are needed to complete an analysis for a determination of the need for the preparation of an Environmental Impact Statement.

DATE: Comments and/or data by July 26, 1977.

ADDRESSES: Written comments and data to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Susan E. Feinman, Bureau of Veterinary Medicine (HFV–5), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–1414).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is announcing his intention to implement decisions reached after evaluating the information collected under § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* (21 CFR 558.15). The grounds for the decisions are the analyses and recommendations of the Food and Drug Administration Task Force on the Use of Antibiotics in Animal Feeds, the Bureau of Veterinary Medicine, the Subcommittee of the National Advisory Food and Drug Committee, and the National Advisory Food and Drug Committee. Based on the foregoing, the Food and Drug Administration will propose to restrict the subtherapeutic use of antibacterials in animal feeds. Although each step in the overall process has not yet been precisely defined, in general the Bureau of Veterinary Medicine will propose:

1. To terminate all subtherapeutic use of penicillin in all feed;

2. To restrict the use of the tetracyclines to situations where there are no viable alternatives;

3. To impose restrictions on the distribution and use of the remaining uses of penicillin and tetracycline; and

4. To expedite implementation of the drug efficacy study implementation (DESI) notices proposing to withdraw approval of all penicillin and tetracycline combination products that lack evidence of effectiveness.

The agency will assess the environmental impact of each separate action in the implementation procedure. But the proposed actions will restrict the subtherapeutic use of antibacterials in animal feeds in a manner that will minimize any potential public health problems that are associated with the development and spread of drug-resistant bacteria in the environment. For these reasons, it may be possible to consider the class of actions as a single program.

Under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 (1970)), the Commissioner is required to assess the environmental impact of the agency's major actions to determine whether there is a significant effect on the quality of the human environment and decide if an environmental impact statement (EIS) is necessary. Moreover, the Council on Environmental Quality (CEQ) guidelines suggest that agencies carefully define the scope of the actions that will most appropriately serve as the subject of an EIS (40 CFR 1500.6(d)). Several factors in this case favor gathering information and preparing a comprehensive EIS on the general use of antibacterial drugs in animal feeds. Briefly, they are as follows:

1. The subtherapeutic use of antibacterials in animal feeds is widespread.

2. Although the presence of bacteria that are resistant to one or more antibacterials has been demonstrated, the importance of this is strongly debated. Further, the magnitude of any effects on the public health stemming from the development of drug-resistant bacteria in the environment is largely unknown but potentially significant.

3. Although some antibacterials, e.g., tetracyclines, are primarily excreted intact by the target animal, the effect of drug residues on soil microflora, including the possible development of drug-resistant nonenteric bacteria, is largely unknown.

4. The proposed actions may cause a shift in drug production and drug use to alternative antibacterials that are not extensively used today.

PROPOSED ACTION

Based on these facts, the agency has concluded that it is required to determine whether its proposed actions will significantly affect the quality of the human environment. This determination is necessary to the evaluation of the need for the preparation of an EIS, and the CEQ guidelines suggest that an agency begin public discussion and gathering information as soon as possible. For these reasons, the Commissioner is electing to publish a single call for information on the preparation of a comprehensive EIS on the subtherapeutic use of antibacterials in animal feeds. If a statement is necessary, it would first seek to determine the environmental impact of the antibacterials currently approved for subtherapeutic use; then it would examine any changes in the impact that can be expected from the agency's proposed actions. In this manner, an EIS would be able to evaluate comprehensively the cumulative environmental effects of such antibacterial use in the environment. This approach is superior to preparing EIS's limited to individual drugs involved in separate actions because each individual impact may be so closely related that they cannot always be separated. For example, the spectra of antibacterial activity overlap; cross-resistance may occur; and transferable, plasmid-mediated, multiple resistance has been demonstrated. Furthermore, these drugs are all used in the same local environments for the same purposes, i.e., principally for preventing the same diseases and for promoting growth and improving feed efficiency.

DRUGS AFFECTED

The drugs targeted for direct agency action and most of the drugs that may be used as replacements were initially approved for marketing before enactment of the National Environmental Policy Act and promulgation of the agency's implementing regulations. To supplement the extensive information that the agency has already gathered on these drugs, therefore, the Commissioner is requesting information about the potential environmental impact of all drugs that will be affected by the agency's proposed actions either directly or indirectly.

Accordingly, the Commissioner is requesting environmental impact information on the following drugs:

(1) Drugs directly affected:

(a) Penicillin;

(b) Tetracyclines; and

(c) Combination drugs containing penicillin or tetracycline, e.g., chlortetracycline-sulfamethazine (or sulfathiazole)-penicillin, oxytetracycline-neomycin, and penicillin-streptomycin.

(2) Drugs indirectly affected:

(a) Bacitracin (zinc and methylene disalicylate);

(b) Erythromycin;

(c) Flavomycin;

(d) Carbadox;;

(e) Oleandomycin;

(f) Tylosin;

(g) Poloxalene;

(h) Sulfaquinoxaline;

(i) Hygromycin;

(j) Sulfadimethoxine-ormetoprim;

(k) Arsenicals; and

(l) Lincomycin, for use in poultry.

The environmental information on the potential alternatives monensin, virginiamycin, and lincomycin (for swine) has been submitted, but the Commissioner welcomes any supplementary data that may be available. In addition, he requests environmental information on any other antibacterial drugs approved for subtherapeutic use in animal feed.

FORMAT FOR SUBMISSION

The agency has the authority to refuse to file or approve a new animal drug application (NADA) unless it is accompanied by an appropriate environmental impact assessment report (EIAR), and this requirement is being applied to all previously approved new animal drugs as appropriate supplemental NADA's are filed (for a discussion of the agency's authority, see the FEDERAL REGISTER of April 15, 1977 (42 FR 19986)). Therefore, the Commissioner requests that all holders of NADA's for the above listed drugs who have never filed an EIAR for the subtherapeutic use of their product submit such reports at this time. For holders who have previously submitted EIAR's, the Commissioner requests any additional environmental information gathered since the EIAR was filed. All submissions should follow the format in the environmental regulations (21 CFR 25.1(j)—see the FEDERAL REGISTER of April 15, 1977 (42 FR 19990)), with specific emphasis on the following topics:

1. *Introduction into the environment.* (a) Total quantity of the drug produced for all uses, portion used subtherapeutically in animal feeds, and the relative magnitude of other uses, including any uses in humans; (b) pollutants generated and resources consumed by the manufacture of the drug, premix, and medicated feed, including energy usages; (c) routes through which the drug may pass into the environment, and any data to quantify the amounts of the drug and its primary metabolites passing through each route. (Possible source points for such routes include releases during manufacture of the drugs, preparation of premixes and medicated feeds, animal feeding, and excretion by target animals).

2. *Fate in the environment.* (a) Mobility of the drug and its primary metabolites in the environment, measured by such factors as leaching potential, vaporization, and adsorption to soils; (b) stability and persistence of the drug and its primary metabolites in those environments where it is determined that they are introduced or those environments to which it is subsequently transported; (c) potential for the drug or its primary metabolites to be accumulated or bioconcentrated by plants, animals, and microorganisms, measured by such factors as lipid/water partitioning or studies with animals.

3. *Environmental effects.* (a) Effects of the drug and its primary metabolites on organisms functionally important to key ecological processes, such as freshwater algae, nitrogen-fixing and nitrifying bacteria, soil fungi, and bacteria responsible for nutrient mineralization, higher plants, and soil invertebrates; (b) effects on fish, mammals, and other vertebrates that are important to man as food or food for human food-producing animals, or organisms that are of aesthetic interest to man, or of interest for their

uniqueness or rarity (such as organisms listed in the Endangered Species List); (c) indirect effects on populations of organisms and communities that might arise from the subtherapeutic use of the drug.

In addition to the data submitted, information should be supported to the extent possible by the published references or unpublished submitted studies. Statements or opinions that are unsupported by factual information are acceptable, but of less use to the Commissioner.

Any interested persons who have information relating to any of the specific requests listed above, regardless of whether they can supply data relating to all the requests, are encouraged to respond. Interested persons may, on or before (July 26, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this notice. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 19, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77–15093 Filed 5–26–77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

APPROVED CALIFORNIA STATE PLAN

Supplement

AGENCY: Occupational Safety and Health Administration.

ACTION: Proposed rule.

SUMMARY: This notice invites comment on a Supplement to the California Occupational Safety and Health Plan submitted as a State initiated change under Subpart E of Part 1953 of this Chapter. The supplement, submitted December 26, 1976, adds a program for control of occupational hazards from carcinogens. Part 1953 of this Chapter prescribes procedures for the review of changes in State plans which have been approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act).

DATES: Comments and requests for a hearing should be submitted by June 27, 1977.

ADDRESSES: Written comments and requests for a hearing should be submitted to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3112, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Daniel Hoeschen, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3112, Washington, D.C. 20210.

A copy of the supplement, along with the approved plan, may be copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N–3620, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 9470, 450 Golden Gate Avenue, San Francisco, California 94102; and the California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, California 94102.

SUPPLEMENTARY INFORMATION:

DESCRIPTION OF THE SUPPLEMENT

The supplement concerns a new State program relating to occupational hazards from carcinogens which is to be included within the California Occupational Safety and Health Plan. This new program resulted from the enactment of the California Occupational Carcinogens Control Act of 1976 which became effective January 1, 1977 (Senate Bill 1678, Chapter 2, Division 20, California Health and Safety Code). The supplement contains copies of the Occupational Carcinogens Control Act, current California standards concerning vinyl chloried, asbestos, and a group of 14 other carcinogenic substances, and an interagency agreement between the Division of Industrial Safety of the California Agriculture and Services Agency and the Occupational Health Branch of the California Department of Health. The State anticipates that the carcinogen compliance program will involve 24 industrial hygienists in the field, 2 senior industrial hygienists, 1 supervisory industrial hygienist, 1 staff counsel and 1 man-year of compliance safety engineer time.

The California Carcinogen Program has three minor components. The first component of the program is a special carcinogen enforcement program. The Division of Industrial Safety within the Agriculture and Services Agency, which is the designated agency responsible for the administration of the CAL/OSHA program, will have responsibilities for the enforcement of this program. The Occupational Health Branch of the Department of Health, utilizing reports from carcinogen users, is to establish priorities for inspections and perform as many inspections of the use of carcinogens as resources permit. The Division of Industrial Safety is to establish an inspection fee schedule ranging from $25 to $500, based on the number of affected employees and the time required for inspecting. On July 1, 1977, the CAL/OSHA penalty schedule will be modified so that failure to report the use of any carcinogen as required by the carcinogen standards carries a civil penalty of not less than $500, a serious violation involving the use of a carcinogen will be $1,000, and there will be a penalty of not less than $5,000 for a repeated violation of standards or special orders involving the use or failure to report the use of a carcinogen. In addition, the definition of a serious violation under the CAL/OSHA Act (Section 6432, California Labor Code) has been modified to include the violation of a standard or special order respecting the use of a carcinogen. This new provision will become effective July 1, 1977.

The second component of the Carcinogen program centers on standards requirements. Each employer using any carcinogen, currently defined as the 16 substances listed in the legislation, is required to submit a report to the Division of Industrial Safety regarding such use. The legislation also provides the same reporting requirement for all standards involving carcinogens which the State promulgates following promulgation at the Federal level. The Division of Industrial Safety is to transmit reports of users to bargaining and other representatives of the affected employees–of a reporting employer. Employers are required to post a copy of these reports in a location conspicuous to affected employees. Every employer using carcinogens must provide for medical examinations of affected employees where required by standards. In addition to providing that the Occupational Safety and Health Standards Board adopt standards at least as restrictive as the comparable Federal standards on carcinogens, the program provides for the adoption of standards concerning substances for which there is a preponderance of evidence establishing carcinogenicity but for which no Federal standards have been promulgated.

The third component of the Carcinogen Program is an education and consultation program. The Department of Health and the Division of Industrial Safety will utilize all appropriate means of communication to inform all affected employees, employers and the public about the requirements of the Carcinogens Control Act by July 1977. In addition, the Department of Health will provide consultation services for employers using carcinogens. Particular emphasis will be placed on education and consultation activities during the first six months of the Carcinogen Program.

PUBLIC PARTICIPATION

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections with respect thereto within the time allowed for comments with the Director of the Office of Federal Compliance and State Programs at the above address. If, in the opinion of the Assistant Secretary of Labor for Occupational Safety and Health, substantial objections are filed which warrant public discussion, an informal hearing on the subjects and issues involved may be held.

DECISION

The Assistant Secretary will consider all revelant comments, arguments and requests submitted concerning the supplement and will thereafter issue a decision approving or disapproving it. The Assistant Secretary's decision will be published in the FEDERAL REGISTER and the appropriate section of Subpart K of 29 CFR Part 1952 will be amended.

Signed at Washington, D.C., this 23d day of May 1977.

EULA BINGHAM,
Assistdnt Secretary of Labor.

[FR Doc.77–15267 Filed 5–26–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 703–4]

APPENDIX N—EMISSION REDUCTIONS ACHIEVABLE THROUGH INSPECTION AND MAINTENANCE OF LIGHT DUTY VEHICLES, MOTORCYCLES, AND LIGHT AND HEAVY DUTY TRUCKS

Correction

In FR Doc. 77-42296 appearing at page 22177 in the issue for Monday, May 2, 1977 the comment date now given as "August 1, 1977" should have read "July 1, 1977".

[40 CFR Part 52]

[FRL 735–7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules of the Following Air Pollution Control Districts in the State of California: Del Norte County, Humboldt County, Mendocino County, and Trinity County

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The purpose of this notice is to advise the public of receipt of proposed revisions to the California State Implementation Plan and to request public comments concerning the proposed revisions.

DATES: Public comments will be received for thirty (30) days from publication of this notice.

ADDRESSES: Copies of the proposed SIP revisions are available for public inspection during regular business hours at the following locations:

Environmental Protection Agency, Region IX Enforcement Division, 100 California Street, San Francisco, CA 94111.

State of California, Air Resources Board, 1709 11th Street, Sacramento, CA 95814.

Del Norte County APCD, Courthouse, Crescent City, CA 95531.

Humboldt County APCD, 5600 S. Broadway Street, Eureka, CA 95501.

Mendocino County APCD, 890 N. Bush Street, Ukiah, CA 95482.

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460.

Interested persons may participate in the rulemaking process by submitting comments to:

Regional Administrator, Attn: Enforcement Division (E–4–3), EPA Region IX, 100 California Street, San Francisco, CA 94111.

Comments received will be available for public inspection during regular business hours at:

EPA, Region IX, Room 309, 100 California Street, San Francisco, CA 94111.

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mike Pollock, Enforcement Division, Permits Branch, EPA, Region IX, 100 California Street, San Francisco, CA 94111, Phone 415–556–4723.

SUPPLEMENTARY INFORMATION: Since EPA's approval of portions of the California State Implementation Plan (SIP) in 1972, the State of California has submitted, periodically, proposed revisions to the SIP. These proposed revisions have been submitted as local air pollution control districts (APCD) have adopted new or amended existing regulations. Included in the submissions have been the regulations of four APCDs located in the California North Coast Air Basin. These are the Mendocino County APCD, the Humboldt County APCD, the Del Norte County APCD and the Trinity County APCD. In several cases, the submissions for the four abovementioned districts have included regulations relating to permits for new sources of air pollution. The table below summarizes the dates upon which such permit regulations were submitted for these districts.

Submission date:	*Air Pollution Control Districts*
July 25, 1973	Mendocino, Trinity, Humboldt, Del Norte.
July 19, 1974	Mendocino, Trinity, Humboldt.
Oct. 23, 1974	Trinity, Del Norte.
Jan. 10, 1975	Mendocino.
Apr. 10, 1975	Humboldt, Del Norte.
July 27, 1975	Mendocino, Trinity.

On May 13, 1976, complete revised air quality control rules were adopted by the Basin Coordinating Council of the North Coast Air Basin. Subsequently, identical rules were adopted in toto by the four abovementioned Air Pollution Control Districts. On November 10, 1976, the State of California submitted these rules to the Regional Administrator, Region IX, as proposed revisions to the California SIP. As revised, Chapter II, Rules 200, 210, 220, 230, 240, 250 and 260 and Chapter III, Rules 300 and 310 provide a procedure by which persons who wish to construct, erect, modify, replace, operate or use any equipment which may cause, potentially cause, reduce, control or eliminate the emission of air contaminants may be granted a permit to do so. A permit shall be granted only after the district control officer determines that the new or modified stationary source of air contaminants will not prevent the attainment, interfere with the maintenance, or cause a violation of any state or national ambient air quality standard.

The State of California has certified, by letter of November 10, 1976, that the revisions to its SIP for the four abovementioned air pollution control districts, submitted on the same date, were adopted after a public hearing was held after notice conforming to 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans was given.

The decision of the Administrator to approve or disapprove the proposed revisions to the SIP discussed above will be based on whether or not they meet the requirements of Clean Air Act Section 110(a)(2)(A)–(H), the requirements of 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans, and particularly 40 CFR 51.18.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c–5).

Dated: May 17, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77–15136 Filed 5–26–77;8:45 am]

[40 CFR Part 52]

[FRL 735–8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California: Proposed Approval of Compliance Schedules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In order to satisfy the requirements of the Clean Air Act, the State of California has submitted to the Environmental Protection Agency (EPA) a State Implementation Plan (SIP) for the control of air pollution. Portions of the Plan have been approved by EPA and are now enforceable by EPA as Federal regulations. On April 18, 1977, the designated representative of the Governor of California submitted to EPA compliance schedules for sources found to be in violation of the approved SIP. This publication proposes to approve these compliance schedules as revisions to the California State Implementation Plan, thereby making the schedules federally enforceable.

DATES: (1) Final compliance dates: See table below. (2) Comments must be postmarked by June 27, 1977.

ADDRESSES: (1) Schedules are available for inspection at the following addresses:

State of California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.

(2) Comments should be addressed to:

Environmental Protection Agency, Region IX, Director, Enforcement Division, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

William Rhea, Environmental Protection Agency, Region IX, Enforcement Division, 100 California Street, San Francisco, CA 94111, (415–556–0970).

SUPPLEMENTARY INFORMATION: On May 21, 1972 (37 FR 10842), September 22, 1972 (37 FR 19812), and May 14, 1973 (39 FR 12702), pursuant to Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c–5) and 40 CFR Part 51, the Administrator approved and promulgated portions of the California plan for the implementation of national ambient air quality standards. On April 18, 1977, after notice and public hearings, the Governor of California through his designee submitted to the Environmental Protection Agency (EPA) fourteen compliance schedules, all of which have been found to satisfy the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51. This publication proposes that these fourteen schedules be approved as revisions to the state compliance schedule portion of the approved plan pursuant to 40 CFR 51.8 and Section 110 of the Clean Air Act.

Each proposed compliance schedule revision establishes a new date by which the individual air pollution source must comply with an emission limitation specified by the implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date." In some cases, the schedule includes incremental steps toward compliance with the specified regulations. While the table below does not include these interim dates, the actual compliance schedule does. The increments of progress, as well as the final compliance date, are legally enforceable by the Administrator pursuant to Section 113 of the Clean Air Act as amended.

An evaluation report setting forth EPA's position on each of the schedules is available at the office of EPA, Region IX. Interested persons are encouraged to submit written comments on any proposed compliance schedule. All comments will be available for public inspection during business hours.

(Sec. 110(a), Clean Air Act, as amended (42 U.S.C. 1857c–5(a)).)

Dated: May 17, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator, Region IX.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart F—California

1. In § 52.220, paragraph (c) is amended as follows:

§ 52.220 **Identification of plan.**

* * * * *

(c) * * *

(39 Supplemental information (compliance schedules) was submitted by the California Air Resources Board on April 18, 1977.

2. In § 52.240, paragraph (f) is amended by adding the following schedules to the table in subparagraph (1):

§ 52.240 **Compliance schedules.**

* * * * *

(f) * * *

(1) * * *

Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
* * *	*	*	*	*	*
Sun Valley Oil Co. No. 76–9	Kern	412, 412.1	Oct. 14, 1976	Immediately.	May 31, 1977
Mohawk Petroleum Corp., Inc. No. 76–11	do	412.1	Nov. 22, 1976	do	Do.
Moore Petroleum No. 76–47–R1	San Joaquin.	411.1	Oct. 21, 1976	do	Do.
Atlantic Richfield Co. No. 76–50	do	411.2	Nov. 18, 1976	do	Do.
Atlantic Richfield Co. 76–51	do	411.2	do	do	Do.
Atlantic Richfield Co. No. 76–52	do	411.2	do	do	Do.
Atlantic Richfield Co. No. 76–53	do	411.2	do	do	Do.
Delta Fleet Service No. 76–54–R1	do	411.1, 411.2	do	do	Do.
Diamond International No. 76–55	do	411.2	do	do	Do.
Reilly's Car Wash No. 76–56	do	411.1, 411.2	do	do	Do.
Three Palms Service Station, No. 76–57–R1	do	411.2	Dec. 16, 1976	do	Do.
Al's Nightingale Chevron Service, No. 76–58–R1	do	411.1	do	do	Do.
Flame Liquors No. 76–60–R1	do	411.2	do	do	Do.
J. D. General Store No. 76–61–R1	do	411.2	do	do	Do.

[FR Doc.77–15055 Filed 5–25–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21246; RM–2851]

FM BROADCAST STATION IN HEIDELBERG, MISSISSIPPI

Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action proposing to assign a first Class A FM channel to Heidelberg, Mississippi. Petitioner, New Laurel Radio Stations, Inc., stated that an FM station would stimulate the economy of Heidelberg and would provide local weather and agricultural information as well as good music and news.

DATES: Comments must be received on or before June 27, 1977, and reply comment must be received on or before July 18, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202–632–7792).

SUPPLEMENTARY INFORMATION:

Adopted: May 13, 1977.

Released: May 24, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Heidelberg, Mississippi), Docket No. 21246. RM 2851.

1. PETITIONER, PROPOSAL AND COMMENTS

(a) Petition for rulemaking,[1] filed March 9, 1977, by New Laurel Radio Station, Inc. ("petitioner"), proposing the assignment of Channel 257A to Heidelberg, Mississippi, as a first FM assignment to that community.

(b) The channel could be assigned in full conformity with the minimum distance separation requirements provided the transmitter site for Channel 257A is located 6.4 kilometers (4 miles) southwest of Heidelberg. There were no oppositions to the proposal.

(c) Petitioner states that he intends to apply for a station if the channel is assigned and build a station if authority is granted.

2. COMMUNITY DATA

(a) *Location.* Heidelberg is located in Jasper County approximately 24 kilometers (15 miles) northeast of Laurel, Mississippi, and 153 kilometers (95 miles) northwest of Mobile, Alabama.

(b) *Population.* Heidelberg—1,112; Jasper County—15,994.[2]

(c) *Local Broadcast Service.* There is no local broadcast service in Heidelberg.

3. *Economic Data.* Petitioner states that Heidelberg, which is the center of much oil activity, showed a 6 percent gain in population between 1960–1970. We are told that it contains several firms having total annual retail sales of approximately $4,751,900. Petitioner asserts that an FM station would stimulate the economy of Heidelberg and would provide local weather and agricultural information as well as good music and news.

4. In light of the above information and the fact that the proposed FM station would provide the community with a first full-time local broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to Heidelberg, Mississippi, as follows:

[1] Public Notice of the filing of the petition was given on March 28, 1977 (Rept. No. 1033).

[2] Both population figures are taken from the 1970 U.S. Census.

City	Channel No. Present	Channel No. Proposed
Heidelberg, Miss.		257A

5. Authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

6. Interested parties may file comments on or before June 27, 1977, and reply comments on or before July 18, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponents(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denal of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in intial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77–15269 Filed 5–26–77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MEETING

Cancellation of Public Meeting

The May 31, 1977, meeting of the Shippers Advisory Committee, announced in the May 12, 1977, issue of the FEDERAL REGISTER (42 FR 24074) is canceled. The committee is established under Marketing Order No. 905 (7 CFR Part 905), which regulates the handling of oranges, grapefruit, tangerines, and tangelos grow in Florida. This regulatory program is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). At its meeting of May 24, 1977, the committee recommended regulations it deemed appropriate to current and anticipated demand conditions for the balance of the season, and requested that the meeting scheduled for May 31 be canceled.

Dated: May 25, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-15307 Filed 5-26-77;8:45 am]

Forest Service

ILLINOIS WILD AND SCENIC RIVER

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Illinois Wild and Scenic River, Forest Service Report Number USDA–FS–DES (Leg). 77–03.

The environmental statement concerns a proposal to include 50.4 miles of the Illinois River in the National Wild and Scenic Rivers System. The recommended segment of river is all within the Siskiyou National Forest and flows through Josephine and Curry Counties, Oregon. The proposal provides the means to preserve and enhance the river in its free-flowing status and to minimize adverse environmental effects on the river and adjacent lands.

This draft environmental statement was transmitted to CEQ on May 23, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northwest Region, 319 SW. Pine Street, Portland, Oregon 97204.

USDA, Forest Service, Siskiyou National Forest, 1504 NW. Sixth Street, Grants Pass, Oregon 97526.

A limited number of single copies are available upon request to the offices listed above.

Copies of the environmental statement have been sent to various Federal, State and local agencies and private individuals as outlined in the CEQ guideline.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to the Regional Forester, Multomah Building, 319 SW. Pine Street, P.O. Box 3623, Portland, Oregon 97208. Comments must be received by *August 27, 1977*, in order to be considered in the preparation of the final environmental statement.

Dated: May 23, 1977.

EINAR L. ROGET,
Acting Deputy Chief.

[FR Doc.77-15249 Filed 5-26-77;8:45 am]

Rural Electrification Administration

UNITED POWER ASSOCIATION

Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with a proposed loan guarantee commitment from the Rural Electrification Administration for United Power Association (UPA) of Elk River, Minnesota, to construct three combustion turbines in Minnesota. The proposed loan guarantee commitment will assist in obtaining financing to purchase three 25 MW combustion turbines to be located at the existing Maple Lake and Cambridge diesel sites and the new Pine City site.

An on-site investigation on the proposed sites was conducted by REA. REA has prepared an Environmental Assessment on the proposed action. UPA has prepared an Environmental Analysis of the proposed action in which REA had extensive input. The Environmental Analysis is in compliance with REA's environmental guidelines and numerous commitments have been made by UPA to satisfy Federal, State, and local requirements.

Installation permits have been obtained from the Minnesota Pollution Control Agency. Rare and endangered species, prime and unique farmlands, archaeological and historic sites and other potential impacts of the project are adequately considered, and we do not anticipate any significant effects as a result of this project.

Our independent evaluation of the proposed project leads us to conclude that REA's proposed financial assistance for this project does not represent a major Federal action that would significantly affect the quality of the human environment.

Based on REA's independent evaluation, our Environmental Assessment, our review of the Environmental Analysis and REA experience with installations of this type and the subsequent environmental effects, a negative determination was made under Section 5K of REA Bulletin 20–21.

Copies of the Environmental Assessment and Environmental Analysis may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken after June 13, 1977, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 20th day of May 1977.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77-15009 Filed 5-26-77;8:45 am]

Office of the Secretary

CLOSED MEETING ACTIVITIES OF ADVISORY COMMITTEES

Public Availability of Reports

Pursuant to the provisions of the Department of Agriculture's Committee Management regulations, those advisory committees of the Department which held unannounced meetings have prepared reports on the activities of those meetings. Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Microform Reading Room, Room MB–104B, Main Building, 10 First Street, SE., Washington, D.C.

Department of Agriculture, Office of Management and Finance, Room 115A, Administration Building, 14th Street and Independence Avenue, SW., Washington, D.C.

The names of the subject committees are listed below:

Montezuma Section, San Juan Grazing Advisory Board
Lincoln National Forest Grazing Advisory Board

J. PAUL BOLDUC,
Assistant Secretary for Administration.

MAY 24, 1977.

[FR Doc.77-1510 Filed 5-26-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30055; Ordered No. 77-5-112]

PHOENIX-LAS VEGAS-RENO COMPETITIVE NONSTOP SERVICE PROCEEDING

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of May 1977.

By Order 77–3–53, March 9, 1977, the Board expanded the scope of the *Las Vegas-Reno Competitive Nonstop Service Proceeding*, Docket 30055, to include the Las Vegas-Phoenix market in the same proceeding. The purpose of this proceeding, the *Phoenix-Las Vegas-Reno Competitive Nonstop Service Proceeding*, Docket 30055, is to determine whether the public convenience and necessity require additional nonstop service between Las Vegas and Reno, Nevada, and Las Vegas, Nevada, and Phoenix, Arizona.

Applications within the expanded scope of this proceeding have been filed by Western, TWA, American,[1] and Continental together with appropriate motions to consolidate the applications herein.

The Reno Parties have petitioned for reconsideration of Order 77–3–53, requesting that the scope of this proceeding be expanded to include the Reno-Phoenix, Reno-San Francisco, Reno-Albuquerque, Reno-Denver, and Reno-Dallas/Ft. Worth markets. Continental and Texas International Airlines have filed answers in support of the petition.

The Bureau and TWA oppose the petition, although TWA urges that the two markets be the subject of separate, expedited hearings.

Hughes Airwest opposes the consolidation of the applications of American and Continental unless the Board consolidates its application filed in Docket 29554 in this proceeding. In the alternative, Airwest requests that the applications of American and Continental be made subject to a prehearing restriction prohibiting through-plane service between Las Vegas and El Paso, San Antonio, Houston and New Orleans, cities which are the subject matter of its application in Docket 29554.[2]

The Board has duly considered the pleadings and all the relevant facts. The four participating Members are equally divided as to whether the petition of the Reno Parties should be granted and whether American's application should be consolidated in its entirety in this proceeding.

The consolidation of Docket 29554 in this proceeding will result in a significant expansion of the case and a significant delay in the resolution of the basic issues; namely, whether the Las Vegas-Reno and Las Vegas-Phoenix markets require competitive nonstop authority. Accordingly, we do not believe that the consideration of multiple-markets, unrelated to those basic issues, is appropriate in this proceeding. We will thus deny Airwest's motion to consolidate.

Finally, we will deny Airwest's request for a prehearing restriction on Continental and American. The imposition of such restrictions, absent special and unsual circumstances, is not desirable as a matter of policy and not required as a matter of law. If there is, in fact, a need for such restrictions it can be shown at the hearing.

Accordingly, *it is ordered*, That:

1. The petition for reconsideration of Order 77–3–53 of the Reno Parties be and it hereby is denied;

2. The amended application of Western Air Lines, Inc., in Docket 29197 be and it hereby is consolidated in Docket 30055;

3. The application of Trans World Airlines, Inc., in Docket 30649 be and it hereby is consolidated in Docket 30055;

4. The application of Continental Air Lines, Inc., in Docket 30643 be and it hereby is consolidated in Docket 30055;

5. The application of American Airlines, Inc., in Docket 30642, to the extent that it conforms to the scope of this proceeding, be and it hereby is consolidated in Docket 30055.

6. The motion of Continental Air Lines, Inc., for leave to file an otherwise unauthorized document be and hereby is granted;

7. The motion of Hughes Airwest, insofar as it requests consolidation of its application in Docket 29554 or the imposition of pre-trial restrictions, be and it hereby is denied; [3]

8. This order shall be served upon Hughes Airwest, Western Air Lines, Trans World Airlines, Delta Air Lines, American Airlines, Continental Air Lines, the Las Vegas Parties, and the Reno Parties, the Governor of Arizona, the Mayor of Phoenix, and the Arizona Department of Transportation, Aeronautics Division; and

9. Except to the extent granted or otherwise disposed of herein, all motions, petitions, and requests for relief be and they hereby are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-15226 Filed 5-26-77;8:45 am]

[1] American's application appears to contemplate nonstop authority between Reno and Phoenix, authority not in issue in this proceeding. Its application will be consolidated to the extent that it conforms to the scope of this proceeding.

[2] Continental has filed an answer and a reply opposing the consolidation of Docket 29554 herein and the imposition of the requested prehearing restriction. Continental's reply is accompanied by a motion for leave to file an otherwise unauthorized document. We shall grant the motion.

[3] The request for immediate hearing on the application filed in Docket 29554 will be separately considered.

[Order 77–5–119; Dockets 30732, 30771, 30305]

SEABOARD WORLD AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 23rd day of May 1977.

By tariffs filed April 8, 1977, for effect May 9, 1977, Seaboard World Airlines, Inc. (Seaboard), proposes a new general commodity rate (GCR) for carriage of unit load device (ULD) cargo from New York to Frankfurt.[1] The ULD rate, set at 91 cents/kilogram, would require cargo be tendered in minimum-sized shipments of 15,000 kilograms.

In support of the filing, Seaboard contends that its proposal is intended as an experimental rate designed to offer shippers an alternative means to ship intermediate-size shipments and to fill a void in the present North Atlantic rate structure. The carrier argues that the rate is consistent with the Board's policy and will produce many benefits both to itself and to shippers through lower ground-handling costs and lower shipping rates. The carrier believes the rates will also encourage and promote use of its 10- and 20-foot intermodal containers by attracting shippers who cannot accumulate enough cargo at one time to ship under the existing 34,000-kilogram bulk GCR and by enticing present shippers to add volume to their present traffic. The carrier suggests that its proposed rate, which would yield approximately 21.4 cents per revenue ton mile (RTM), is economic in light of its forecast 1977 average cost of 16.01 cents per available ton mile (ATM) and expected handling cost savings (estimated to be at least four cents per kilogram) and other savings in sales and administrative costs resulting from the tender of pre-loaded containers by the shipper.

In a complaint filed April 13, 1977, Trans World Airways, Inc. (TWA) requests that the proposed rate be sus-

[1] Air Tariffs Corporation, Agent, C.A.B. No. 52, 15th Revised Page 78.

pended, pending investigation.[2] TWA contends that the proposal would produce a yield five percent below the average of Seaboard's forecast costs per ATM submitted in Docket 27573 in support of the recent IATA North Atlantic rates agreement, and thus is uneconomic; that there is no measurable cost savings per kilogram for containerized loads exceeding one pallet unit; that the proposed rate undercuts existing general commodity container rates by up to 30.6 percent; that there is no evidence to support Seaboard's argument that the rate will attract bulk shipments to containers; that the present rate structure offers savings to shippers tendering as little as 800 kilograms of cargo in containers; and that the spread of Seaboard's rate to other European points would dilute TWA's revenue by an estimated $164,000.

We will also deal herein with complaints by TWA and Pan American[3] in Docket 30305 against a Seaboard-proposed GCR at 82 cents per kilogram for minimum-sized shipments of 34,000 kilograms between New York and Frankfurt. Filed in December 1976, the rate became effective February 1, 1977 for eastbound shipments; the German Government has rejected this application westbound from Germany.

Briefly the complainants allege that the rate is inadequately justified, is uneconomic, undercuts existing charter/high weightbreak (HWB) rate relationships, and would spread to and adversely affect their operations in neighboring countries. Seaboard disputes the complaintants' allegations and maintains that the filing is not a new rate but rather an increase to an existing 34,000 kilogram HWB rate in effect for two years which comports with enunciated Board policy and directives on HWB rates and had been agreed to continue in effect at the level proposed herein by carriers serving U.S.-Germany at a meeting held under supervision of the two affected Governments; that the level of the instant rate has been recently approved by the Board in the context of an IATA North Atlantic rates agreement; and that it is fully justified as in the public interest.

Upon consideration of the proposals, the complaints and all other relevant matters, the Board has determined to dismiss the complaints.

The Board has frequently expressed the view that higher weightbreaks for general commodity shipments should be introduced into the North Atlantic rates structure, but has stressed that such high weightbreak rates should be set at economic levels, consistent with demonstrable cost savings. Seaboard's Form 242 data for calendar year 1976 indicate that the carrier's operating cost per RTM in its North Atlantic operations was 25.30 cents, while the proposed rate would yield only 21.4 cents per RTM. However, Seaboard alleges containerization cost savings of four cents per kilogram from application of its proposed rate. In our judgment, the cost savings trat Seaboard anticipates through containerization appear to be achievable. Accordingly, the complaint in Docket 30732 will be dismissed.

We will also dismiss the complaints of TWA and Pan American in Docket 30305. The level of the rate was approved by the Board in Order 76–12–98, December 16, 1976, as part of the IATA-proposed North Atlantic rate structure. Although specified in that structure as a 34,000 kilogram specific commodity rate (SCR), the Board's order expressed disappointment that the agreement had not proposed high weightbreak freight-all-kinds (FAK) rates instead. Seaboard's filing merely extends the application of the approved high weightbreak SCR's to all commodities in the U.S.-Germany market and as such, is consistent with Board policy objectives. Further, as noted in Order 76–12–98, the level approved therein for the high weightbreak specific commodity traffic is 11 percent above the then existing high weightbreak FAK rate levels.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. The complaints of Pan American World Airways, Inc., and Trans World Airlines, Inc., in Docket 30305 and the complaint of Trans World Airlines, Inc., in Docket 30732 be and hereby are dismissed;

2. The complaint of Pan American World Airways, Inc., in Docket 30771 be and hereby is not accepted;

3. The motion of Seaboard World Airlines, Inc., to file an otherwise unauthorized document in response to Pan American be and hereby is denied;

4. The motion of Pan American World Airways, Inc., in Docket 30305 to file an otherwise unauthorized document be and hereby is granted; and

5. Copies of this order be served upon Pan American World Airways, Inc., Seaboard World Airlines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15227 Filed 5-26-77;8:45 am]

[2] Pan American World Airways, Inc. (Pan American), filed a complaint against the proposed rate in Docket 30771 on April 21, 1977, eight days after complaints were due. The complaint was not accompanied by a motion to file a late-filed document and, accordingly, Pan American's complaint will not be accepted. Seaboard's motion to file an otherwise unauthorized document answering Pan American's late-filed complaint similarly will be denied.

[3] Pan American filed late but with a motion to file an unauthorized document which will be granted.

CIVIL SERVICE COMMISSION

ENVIRONMENTAL PROTECTION AGENCY

Notice of Revocation of Authority to Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Director, Office of Technical Analysis, Office of Assistant Administrator for Enforcement and General Counsel.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15207 Filed 5-26-77;8:45 am]

FEDERAL TRADE COMMISSION

Notice of Grant of Authority to Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Trade Commission to fill by noncareer executive assignment in the excepted service the position of Assistant to the Chairman, Office of the Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc 77-15208 Filed 5-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Chief Counsel, National Highway Traffic Safety Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-15209 Filed 5-26-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NORTHWESTERN UNIVERSITY ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 16, 1977.

Amended regulations issued under cited Act (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00220. Applicant: Northwestern University, 311 E Chicago Ave., Chicago, Illinois 60611. Article: Woehler Fatigue Testing Machine, Type 1B with US type Motor. Manufacturer: GTG Engineering Co., United Kingdom. Intended use of article: The article is intended to be used for studies of fatigue properties of endodontic files and reamers. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00221. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 808, Livermore, California 94550. Article: Travelling Wave Oscilloscope, Model TSN 660 4GHZ and Accessories. Manufacturer: Thomson CSF, France. Intended use of article: The article is intended to be used to observe electrical signals generated by a picosecond response x-ray diode during fast x-ray emission from a laser irradiated deuterium-tritium filled glass microballoon. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00222. Applicant: University of Florida, College of Engineering, Chemical Engineering, 227 CHE, Gainesville, Florida 32611. Article: NMR Spectrometer, Model JNM–C–60–HL.

Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by staff members and students for studies of biological materials such as lipids, proteins, hormones, vitamins, and membranes, as well as, engineering materials such as asphalt, crude oils, surfactants, pigments, and various colloids by means of nuclear magnetic resonance spectroscopy. The following are the major projects which will be carried out with the article: (a) The structure of water in microemulsions. (b) The mechanisms of phase inversion of micro- and macro-emulsions. (c) Molecular motions in liquid-crystalline structures. (d) The equilibrium rate of exchange of molecules at the air-liquid interface. (e) Micelle formation and solubilization in surfactant solutions. (f) Molecular interactions in biological membranes. (g) The structure of absorbed phases as solids. (h) The structure of fluid mixtures and electrolyte solutions. (i) NMR spectroscopy for fluorocarbon studies. (j) Application for NMR spectroscopy in asphalt research. (k) Mechanisms, reactions, and activity of thiolsulfonates and disulfides. (l) Synthesis of new polymers for use in extreme environments. (m) Donor-acceptor complexes of fluorine compounds. (n) Nonclassical aromaticity in hydrogen-bonded systems. (o) The effect of meal ions of unsaturated hydrocarbons in relation to boundary lubrication. (p) Interaction of oxygen with fluorocarbons. (q) NMR spectroscopic studies of polymeric fluids. In addition, the article will be used for teaching and training of graduate students in Chemistry. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00223. Applicant: Duke University Medical Center, Box 3094, Durham, N.C. 27710. Article: Gas Analyser, Model 200 MGA. Manufacturer: Twentieth Century Electronics, United Kingdom. Intended use of article: The article is intended to be used to analyze up to eight individual gases simultaneously either in a breathing mixture or in blood or other tissue fluids following, on a moment-to-moment basis, changes in gas composition in a given respired gas mixture. In addition, the article will be used to identify and subsequently, to analyze a wide variety of gases in both hyperbaric and operating room environments. This not only includes gaseous contaminants but also includes all general anesthetic gases and vapors. Water vapor content in the breath will also be analyzed on a moment-to-moment basis. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00224. Applicant: East Tennessee University, College of Medicine, Johnson City, Tennessee 37601. Article: Electron Microscope, Model H–500–L with Waterchiller and recirculator, Model HX75. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in a wide variety of research projects which will include:

(a) Studies of the ultrastructural characteristics of normal and diseased cells and tissues (including those requiring the detection of viral inclusions with cells).

(b) Experimental studies involving the localization of antigens and antibody-forming cells by the horseradish peroxidase procedure and the unlabeled antibody enzyme method of Sternberger.

(c) Detection of various enzymes at the ultrastructural level, including phosphatases, esterases, and NAD-pyrophosphorylase, and to localize biogenic amines (adrenaline, noradrenaline, depamine, and serotonin) by the procedure of Tranzer and Richards, and

(d) Experimental studies of nonhistone proteins and nucleoprotein organization in chromatin and chromosomes following various manipullations, including critical-point drying, acid and/or salt extractions, denaturation, etc.

Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00225. Applicant: University of Wisconsin-Platteville, Platteville, Wisconsin 53818. Article: Electron Microscope, Model HS–9–1, and Haskris Company Water Recirculator, Model R033, and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for research in the following projects:

1. Mesosome formation of Gram: Negative bacterial cells during division.
2. Septa and clamp connections in fungi.
3. Mitotic cycle of slime molds.
4. Effects of penicillin on bacterial cell wall formation.
5. Use of ferritin-conjugated antibody to investigate the production and maturation of mammalian viruses.
6. Diatom cell wall structure for purposes of taxonomy.
7. Effect of protein inhibitors in bacteriophage maturation.
8. Microtubule involvement in cell wall formation and cytokinesis of plant cells.
9. Cytological changes of a 8-nucleate developing megagametophyte and the egg nucleus.
10. Host-parasite relationships with tissue cells and intracellular bacteria.
11. Relationship of peroxisomes and spherosomes with other cytoplasmic organelles such as chloroplasts and mitochondria.
12. Sclerotia structure of slime molds and fungal plant pathogens.
13. Comparative study of epithelial tissue of mammals and amphibians.
14. Shadow casting and surface replication of pollens and spores.
15. Cytological changes induced in host cells by plant pathogens.
16. Cellular de-differentiation and degeneration of defunct megaspores after megasporogenesis.
17. Relationship between calcium and sporulation in bacteria.
18. Chloroplast structure in *Spirogyra* and *Zygnema*.

The article will also be used for educational purposes in the course Cytology 403 which will include the teaching and application of electron microscopic techniques and interpretation of ultrastructure as part of the course sequence. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00226. Applicant: University of Utah College of Medicine, 50 North Medical Drive, Salt Lake City, Utah 84132. Article: Tubinger Perimeter and accessories. Manufacturer: Oculus, West Germany. Intended use of article: The article is intended to be used for static and kinetic visual field examination which is necessary for the clinical management of patients with glaucoma. In addition, the article will be used to provide comprehensive clinical material relating to static perimetry for use in teaching conferences. The article will also be used to provide ophthalmology residents in training understanding of static perimetry techniques. Application received by Commissioner of Customs: May 4, 1977.

Docket Number: 77–00227. Applicant: Rockford School of Medicine of the University of Illinois, 1601 Parkview Avenue,

Rockford, Illinois 61101. Article: Electron Microscope, Model H–500 and Accessory. Manufacturer: Perkin-Elmer (Hitachi), Japan. Intended use of article: The article is intended to be used for studies of basic chemicals (i.e., Bence-Jones protein), viral particles and other organisms including bacteria, tissue being evaluated from research work on animals as well as from biopsy material obtained from humans. Specific projects to be conducted include the study of Bence-Jones protein, relationship of structure to clinical condition of patient and the evaluation of the fine structure of membrane alteration in the course of platelet aggregation. In addition, the article will be used for educational purposes in an electron microscopy course. Application received by Commissioner of Customs: May 5, 1977.

Docket Number: 77–00228. Applicant: University of Texas Medical Branch, Department of Physiology and Biophysics, Galveston, Texas 77550. Article: Ultrotome, Model LKB 2128–010 UM IV and Knifemaker, Model LKB 7800B and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare ultrathin sections of retinas (or part of them) which have been embedded in hardened epoxy resins such as Epon or Spurr media. The neuronal organizations in the vertebrate retinas are to be studied to correlate functions of retinal neurons with their structures. The article will also be used in a graduate program in neurophysiology in which students will be trained in the morphological (electron microscopic) functional identifications of neurons in the central nervous system. Application received by Commissioner of Customs: May 5, 1977.

Docket Number: 77–00229. Applicant: Auburn University, Department of Anatomy and Histology, School of Veterinary Medicine, Auburn, Alabama 36830. Article: Ultrotome III Ultramicrotome, Modal LKB 8800A and Knifemaker, Model LKB 7800B and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of normal tissues, organs, and organ structures of major species of domestic animals and selected species of laboratory animals and wildlife. Comparative studies will be focused on determining, at the subcellular level, morphologic features of organs which contribute to the establishment of blood-organ barriers. Among the areas in this category to be investigated are the blood-retinal barrier, blood-thymic barrier, and blood-brain barrier. The article will also be used for educational purposes in the following courses:

VM 326 Microscopic Anatomy I—Microscopic anatomy of the form, structure, and characteristics of the basic tissues of animals.

VM 327 Microscopic Anatomy II—Microscopic anatomy of the tissue, composition of organs and organ systems.

VM 328 Microscopic Anatomy III—Microscopic anatomy of the reproductive organs.

VAH 570 Histological Techniques—A detailed study of the techniques employed in the preparation of cytological and histological materials.

VAH 623 Neuroanatomy—Structure of the central and peripheral nervous systems.

VAH 626 Anatomy of the Special Senses—Study of taste, smell, sight, and hearing.

VAH 627 Advanced Histology of Domestic Animals—A detailed study of the basic tissues.

VAH 628 Advanced Organology of Domestic Animals—A detailed study of organs and organ systems, utilizing the light microscope and electron micrographs to interpret morphology.

Application received by Commissioner of Customs: May 6, 1977.

Docket Number: 77–00230. Applicant: University of Utah, University and 200 South, Salt Lake City, Utah 84112. Article: Automatic Recording Spectropolarimeter, Model J–40A with Standard Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of nucleosides, nucleic acids, peptides and proteins. Experiments will be conducted to obtain circular dichroism spectra at various concentrations and temperatures for solutions of nucleosides, polynucleotides and polynucleotide complexes, peptides, proteins, and proteins in the presence of various membranes. These experiments frequently involve the measurement of very small changes in ellipticity (rotation of a beam of polarized light) in the presence of high absorbance of the light beam. The article will also be used in the course Medicinal Chemistry 797, Thesis Research to train Ph. D. candidates in the techniques and skills required for the conduct of original research in Medicinal Chemistry. Application received by Commissioner of Customs: May 5, 1977.

Docket Number: 77–00233. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: Photochron I Image Converter Tube, Model C73435T. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in studying the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. This article is the principal ingredient in a streak camera being built which will be used to convert laser photons to electrons and then sweep the accelerated electrons across a phosphor, transforming temporal to spatial variations. Application received by Commissioner of Customs: May 9, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77–15133 Filed 5–26–77;8:45 am]

THAT MAN MAY SEE, INC., ET AL.

Applications For Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before June 16,1977.

Amended regulations issued under cited Act, (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00231. Applicant: That Man May See, Inc., 95 Kirkham Street, San Francisco, California 94122. Article: Electron Microscope, JEM 100C/SEG with side entry goniometer, with eucentric goniometer stage and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for studies of the following materials and phenomena:

(1) Ocular tissues from clinical and experimental studies in order to elucidate the pathogenesis of such diseases as glaucoma, retinitis pigmentosa, viral infections, tumors, etc.

(ii) The nature of junctional complexes forming the various ocular barriers will be studied with special attention given to the subcellular components of such junctions, and

(iii) Ocular tissues afflicted with diseases of unknown cause will be studied at high magnification searching for viruses or other causative organisms, etc.

The experiments to be conducted have a two-fold objective: determination of the pathogenesis of such diseases as glaucoma and determination of better modes of therapy. In addition, the article will be used for teaching electron microscopy techniques to investigators, ophthalmology residents, and medical students. Application received by Commissioner of Customs: May 9, 1977.

Docket Number: 77–00232. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: Streak Camera Tube—S1 Photocathode Photochron I. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in studying the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. This article is the principal ingredient in a streak camera being built which will be used to convert laser photons to electrons and then sweep the accelerated electrons across a phosphor, transforming temporal to spatial variations. Applications received by Commissioner of Customs: May 9, 1977.

Docket Number: 77–00234. Applicant: Baylor College of Medicine, 1200 Moursund, Houston, Texas 77030. Article: Cryokit, Model 14800–1 with all accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of the molecular structure of three minimally denatured and minimally extracted membranes (the plasma membrane of photoreceptors, the plasma membrane of pigment epithelium, and outer segment disc membranes); and the unaltered locus of labeled lipid precursors in photoreceptor membranes. Application received by Commissioner of Customs: May 10, 1977.

Docket Number: 77–00236. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: Image Converter Tube, Model C73435T. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in studying the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. This article is the principal ingredient in a streak camera being built which will be used to convert laser photons to electrons and then sweep the accelerated electrons across a phosphor, transforming temporal to spatial variations. Application received by Commissioner of Customs: May 10, 1977.

Docket Number: 77–00239. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: (3) Three Ultrafast Streak Cameras and Accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in the study of the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. The article converts the laser photons to electrons and then sweeps the accelerated electrons across a phosphor, transforming temporal to spatial variations. Application received by Commissioner of Customs: May 11, 1977.

Docket Number: 77–00240. Applicant: University of Illinois at the Medical Center, College of Nursing, Department of General Nursing, Room 516, 845 South Damen, Chicago, Illinois 60612. Article: Ultrotome IV Ultramicrotome, Model 2128–010 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for preparation of thin sections of biological materials including plants, normal and pathological tissues/cells of animal and/or human origin, and fungal specimens. Investigations will include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on nervous and endocrine systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions, synaptic components, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the courses ultrastructure and cytochemistry to train individual students in the use and application of electron microscopy and in the use of the microtome, in solving individual research problems. Application received by Commissioner of Customs: May 12, 1977.

Docket Number: 77–00241. Applicant: Virginia Polytechnic Institute and State University, Biology Department, Derring Hall, Blacksburg, Virginia 24061. Article: Electron Microscope, Model JEM–100C/SEG and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the following materials:

(a) The gametophytic and sporophytic tissues of the fern Dawsonia,

(b) The cultured callus tissue of Nicotiana tabacum (tobacco), and

(c) Crystalline materials, mainly rock-forming silicates, especially those showing domain textures and exsolution.

The article will also be used extensively in the following courses:

1. Introduction to Electron Microscopy—a graduate and advanced undergraduate level research course intended to acquaint potential investigators with the basic procedures of fixation, staining, embedding, sectioning, operation of a basic transmission microscope and ultrastructural interpretation.

2. General Cytology—an undergraduate/graduate course designed to familiarize biology students and those in other life sciences with basic cytological techniques.

3. Advanced Cytology—a graduate course concentrating on organelle structure and function.

4. Crystal Chemistry of the rock-forming Minerals; Crystallography and Crystal Structure Analysis—to teach methods of investigating atomic and unit-cell scale structures of crystalline matter, particularly rock-forming minerals and sulfides.

Application received by Commissioner of Customs: May 12, 1977.

Docket Number: 77–00242. Applicant: University of California San Francisco, Department of Otolaryngology, Coleman Memorial Laboratory HSE–863, 3rd & Parnassus Streets, San Francisco, California 94143. Article: Electron Microscope, Model JEM–100S with plate camera and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine biological material including mammalian cochlea, the organ of Corti and adjacent nucellar tissue in the spiral ganglion in order to study the interrelationship of cochlear hair cells and their neural projections. The article will also be used in an introductory course to biological electron microscopy for residents and research fellows in otolaryngology to teach techniques of specimen preparation and transmission electron microscope operation. Other students, postdoctoral fellows, and faculty will be trained on an informal basis. Application received by Commissioner of Customs: May 12, 1977.

Docket Number: 77–00243. Applicant: Northern Regional Research Center ARS–USDA, 1815 N. University Street, Peoria, IL 61604. Article: Electron Microscope, Model HU–12A and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in support of the following research:

(1) Study of the prevalence of fungal viruses in agriculturally important fungi,

(2) Examination of insect tissue in researching alternative biological methods for controlling pest insect populations,

(3) Examination of spore wall ornamentation on all Actinomycetales in the Culture Collection (ca. 4,000 strains),

(4) Examination of two different aspects of yeast ultrastructures to clarify taxonomic and phylogenetic problems, and

(5) Study of the oval inclusion of the parasporе of *Bacillus thuringiensis*, to determine if the inclusion is structurally different or similar to the parasporе.

Application received by Commissioner of Customs: May 12, 1977.

Docket Number: 77–00244. Applicant: U.S. Department of Agriculture—Agricultural Research Service, 359 Main Rd., Box 365, Delaware, Ohio 43015. Article: Scanning Electron Microscope, Model S–500 and Dual Magnification Module, Model DMS–11. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for studies of nursery crops and etiological agents (i.e. fungi, bacteria, mycoplasma-like organisms) in order to (1) differentiate between cultivars with scanning electron microscopy (SEM) on the basis of unique micromorphological characters, (2) identify and describe with SEM morphological characters, (2) identity and describe with SEM morphological changes to nursery crops exposed to ozone and sulfur dioxide, (3) devise SEM techniques for rapid, accurate identification of pathogenic organism, and (4) elucidate hostparasite relationships to improve control methods. Application received by Commissioner of Customs: May 12, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77–15134 Filed 5–26–77;8:45 am]

UNIVERSITY OF NORTH CAROLINA-CHARLOTTE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00292. Applicant: University of North Carolina at Charlotte, Department of Biology, UNCC Station, Charlotte, North Carolina 28223.

Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for educational purposes in the following courses:

Biology 231: Cell Biology—The structual, functional, and genetic aspects of cells as well as the principles underlying living systems.

Biology 474: Virology—The fundamental aspects of some sub-microscopic organisms including methods of study, identification and classification, replicative cycles and selected topics in viral genetics.

Biology 395C: Advanced Microbiology—A highly laboratory oriented course designed to follow general microbiology. Emphasis is on application of techniques and planning and execution of an individual research project.

Biology 497: Investigations in Biology—Individual research projects.

Non-credit: Short course in Electron Microscope Technique—Intensive instruction in scope operation, maintenance, and photographic technique.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (March 20, 1975).

Reasons: This application is a resubmission of Docket Number 75-00552-33-46040 which was denied without prejudice to resubmission on September 29, 1975 for informational deficiencies. In response to Question 8, the applicant alleges the foreign article provides the following pertinent characteristics:

(1) Full resolution is maintained with chromatic change of magnification and image rotation even with up to 100 electron volts lost. Image sharpness is retained by compensating for electrons which lose energy while traversing thick sections. Thicker than normal sections can be taken for biochemical assay.

(2) Ease of Operation.—No day to day alignment is needed since the four lenses are pre-aligned in the column. The gun alignment is by electromagnetic controls, and the illumination and image are always centered. The beam and image is never lost during switching through the entire range of magnification.

(3) Entire magnification range is viewed without a pole-piece change with a continuous view of the specimen.

(4) A specimen airlock which functions smoothly and adequately.

(5) Good illumination at higher magnifications providing simpler focusing and recording of images.

(6) A guaranteed resolution of 4 Angstroms point (Å point) or .4A line at the user's site with 2.5Å attainable.

(7) Image distortion is 1.5 percent (%) over the entire magnification range.

(8) Magnification reproducibility is within 1%.

(9) Reduced downtime for repairs.

The most closely comparable domestic electron microscope available at the time the article was ordered was the Model EMU-4C manufactured by the Adam David Company. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated April 22, 1976 that this application be denied because the applicant provides no pertinent specification within the meaning of § 301.2(n) of the regulations upon which duty-free entry could be based. As to the specific allegations made by the applicant, in the order listed above, the following is noted:

(1) HEW advises that the EMU-4C has equivalent resolution to that of the article for the planned work and that thick section compensation is a convenience which is not pertinent.

(2) With respect to ease of operation, HEW advises that the planned work includes both research and teaching so that a simple instrument would be inadequate and neither the EMU-4C nor the article can be described as simple instruments. For these reasons, HEW advises that basic simplicity and ease of operation are not pertinent. In this connection, HEW advises that ease or stability of alignment and image centering stability are conveniences which are not pertinent. As indicated above, the balance of the features which the applicant lists as conferring ease of operation are also not pertinent.

(3) The EMU-4C provides magnifications of 1400 to 240,000× with 400× or less for scanning. The article provides a magnification range of 1500 to 200,000× with 200× for scanning. No pole-piece change is necessary for either instrument although both provide for a change to another pole-piece for low magnification work. HEW advises that the magnification range of the EMU-4C is equivalent to that of the article for the applicant's work. We note that the requirement for the use of the entire magnification range with continuous view of the specimen is related by the applicant in response to Question 8(c)(3) to ease of operation which HEW advises is not pertinent.

(4) HEW advises that the EMU-4C and the article provide specimen airlock chambers which are equivalent for the work.

(5) HEW advises that the EMU-4C and the article provide equivalent illumination for the work.

(6) Section 301.11(a) of the regulations stipulates that guaranteed specifications [as opposed to those obtainable] of the foreign article and the most closely comparable domestic instrument shall be utilized in the determination of scientific equivalency. The EMU-4C provides a guaranteed resolution of 5Å point and the article provides a guaranteed 4Å point. HEW advises that for the applicant's intended work both instruments provide equivalent resolution.

(7) HEW advises that for the planned work both instruments provide equivalent image distortion.

(8) HEW advises that magnification reproducibility is a convenience which is not pertinent.

(9) HEW advises that downtime or reliability projections are cost related and not pertinent.

In general, information which can lead to a direct quantitative comparison of the reliability (i.e., ability to conform to specifications without excessive breakdown) of two instruments is almost never available. When a specification is "guaranteed" the manufacturer is stating, in effect, that the necessary steps have been taken to verify ability to meet this obligation. Thus a guaranteed specification presupposes a determination of reliability to some "engineered-in" degree. Customarily, manufacturers neither issue quantitative specifications on reliability nor guarantee reliability. Moreover, the reliability of a single instrument can, and frequently does, improve abruptly with time (for example, as the manufacturer gains experience and makes minor modifications dictated by such experience). No two instruments of the same model supplied by the same manufacturer will have identical records insofar as reliability is concerned and a documented history of poor reliability does not mean that such performance will not vastly improve with the very next instrument (and subsequent instruments) produced. Without strong and substantive supporting evidence in the record that the reliability of two instruments were measurably different and the difference in reliability precluded performance of the work intended, reliability could not be considered a justifiable basis for duty-free entry under Pub. L. 89-651. While reputations with respect to reliability which are derived from subjective, word-of-mouth allegations or even personal experience may, reasonably or otherwise, enter into a person's decision to buy a particular instrument, such a yardstick could not serve as a clear-cut objective basis for duty-free entry.

Moreover, we would reemphasize that reliability is considered a cost-related consideration for duty-free entry purposes which by regulation and by Congressional intent is not a sufficient basis for the granting of duty-free entry.

For these reasons, we find that the Model EMU-4C was of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 77-15135 Filed 5-26-77;8:45 am]

Economic Development Administration
Office of Planning and Program Support

CARTER LEATHER GOODS COMPANY, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Carter Leather Goods Company, Inc., 41 East Eleventh Street, New York, New York 10003, a producer of billfolds, purses and key cases, was accepted for filing on May 17, 1977, pursuant to Section 251 of the Trade Act of 1974 (P.L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-1544 Filed 5-26-77;8:45 am]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Meetings

Notice is hereby given of meetings of the North Pacific Fishery Management Council's Scientific and Statistical Committee and Advisory Panel.

The North Pacific Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Scientific and Statistical Committee and Advisory Panel established by Section 302(g) of the Act, provide assistance to the Council in the development and amendment of fishery management plans.

1. The Scientific and Statistical Committee will meet in Juneau, Alaska at the Juneau Hilton Hotel on June 15, 16, and 17, 1977. The purpose of this meeting will be to review drafts of the Council's management plans with the drafting teams.

2. The Scientific and Statistical Committee and the Advisory Panel will meet independently in the Post Office Mall Building, Suite 32, 333 West 4th Street, Anchorage, Alaska, on June 22, 1977 to discuss the Council's management plans and other business.

3. The Scientific and Statistical Committee and the Advisory Panel will meet in the Post Office Mall Building, Suite 32, 333 West 4th Street, Anchorage, Alaska, on July 27, 1977, to discuss Council management plans and other business.

The meeting will convene at 8:30 a.m. and adjourn at approximately 5:00 p.m. The meetings may be extended or shortened depending upon progress of the meeting.

The June 22nd and July 27th meeting precede regular scheduled Council meetings by one day. Formal notice for Scientific and Statistical Committee and Advisory Panel joint attendance with the North Pacific Fishery Council at those meetings will be published separately in the FEDERAL REGISTER.

The meetings will be open to the public and there will be seating for approximately 65-75 public members available on a first come, first serve basis.

Members of the public having an interets in the meetings are advised that agenda changes are at times made prior to the meetings. To receive information on chages, if any, made to the agenda, interested members of tre public should contact:

Mr. Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

At the discretion of the Scientific and Statistical Committee and the Advisory Panel, interested members of the public may be permitted to speak at times which will allow the orderly conduct of business.

Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim Branson at the above address. To receive due consideration and facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda should be received within 10 days after the close of the meeting. Other written statements may be submitted at any time before or after the meeting.

Dated: May 24, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-15248 Filed 5-26-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE ADVISORY PANEL

Public Meetings

Notice is hereby given of meetings of the South Atlantic Fishery Management Council, established by Section 302, and the Council's Scientific and Statistical Committee and Advisory Panel, established by Section 302(g), of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The South Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings. The Scientific and Statistical Committee assists the Council in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The Advisory Panel contains broad representation from interests affected by Council activities in order to assist the Council in carrying out its functions under the Act.

The Council and Scientific and Statistical Committee will meet jointly Tuesday through Thursday, June 21, 22, and 23, 1977, at the Holiday Inn, North Lumina Avenue, Wrightsville Beach, North Carolina. The Meeting will convene at 1:30 p.m. on June 21 and adjourn at about noon on June 23. The daily sessions will start at 9:00 a.m. and adjourn at 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda:

1. Meeting of the South Atlantic Council Steering Committees for the billfish, snapper-grouper, and King and Spanish mackerel management plans to finalize plan development procedures and appoint plan development teams.

2. Orientation of Advisory Panel members.

3. Consideration of administrative and technical matters as may be deemed appropriate.

The Advisory Panel will meet jointly with the Council and the Scientific and Statistical Committee on June 21 and 23 and in separate session at the same facility on June 22 beginning at 9:00 a.m. and adjourning at approximately 5:00 p.m.

Proposed Agenda:

1. Election of Chairman and Vice Chairman.

2. Review of charter and development of operational procedures.

3. Other management business.

These meetings will be open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact, on or about June 17, 1977:

Mr. Ernest D. Premeta, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, No. 1 Southpark Circle, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

At the discretion of the Council, the Committee, or the Panel, as appropriate, interested members of the public may be

permitted to speak at times which will allow the orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the aforementioned address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Dated: May 24, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-15247 Filed 5-26-77;8:45 am]

Patent and Trademark Office

PATENT AND TRADEMARK OFFICE ADVISORY COMMITTEE

Meeting

The Patent and Trademark Office Advisory Committee will meet from 10:00 a.m. to 5 p.m. on June 17, 1977 in Room 3-11C28 (Commissioner's Conference Room), Patent and Trademark Office, Crystal Plaza Building 3, Arlington, Virginia. This committee was established on December 15, 1975 to advise the Patent and Trademark Office on matters concerning the patent system and the administration of the Office. The agenda for the June 17 meeting is:

(1) Status report on Patent and Trademark Office studies and activities concerning topics previously considered by the Committee.

(2) Further consideration of draft recommendation for a system for reexamination of issued patents.

(3) Further discussion of problems of the independent investor and small business patentee.

(4) How to disseminate more widely the technological information contained in patents.

The meeting will be open to public observation; approximately 15 seats will be available for the public on a first-come, first-served basis. A period will be set aside for oral comments or questions by public observers of 3 minutes per individual on each of the agenda items. More extensive comments or questions should be submitted in writing before June 15. Other public statements may be submitted at any time before or after the meeting.

Copies of the minutes will be available on request 45 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Herbert C. Wamsley, Office of the Commissioner of Patents and Trademarks, Washington, D.C. 20231, telephone: 703-557-3071; or to the Executive Secretary, David B. Allen, Office of Legislation and International Affairs, Patent and Trademark Office, Washington, D.C. 20231, telephone 703-557-3065.

Dated: May 23, 1977.

C. MARSHALL DANN,
Commissioner of Patents and Trademarks.

Approved:

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc.77-15102 Filed 5-26-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1977 commodities produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 27, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On April 1, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 17510) of proposed deletion from Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1977:

Class 8440

Neckties, 8440-00-926-6604, 8440-00-926-4933, 8440-00-426-1999.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-15165 Filed 5-26-77;8:46 am]

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 a commodity to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 30, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1977, November 18, 1976 (41 F.R. 50975):

Class 6695

Sampling Kit, Spectrometric, Oil Analysis, 6695-NC-609-651P.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-15164 Filed 5-26-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from May 16 through May 20, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (July 11, 1977.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307-A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Big Creek Dam, Selway Bitterroot Area, Ravalli County, Mont., May 20: Proposed is the reconstruction of the existing Big Creek Dam in the 1,239,840-acre Selway-Bitterroot Wilderness, Montana. The statement discusses the importance of stored water provided by the dam in maintaining agricultural production on 5,250 acres of land owned by the 44 shareholders who operate the dam under special use permit. Alternative methods of reconstruction are analyzed, and the use of motorized equipment is proposed both for transporting materials to the site and in construction. Adverse impacts include disturbance of vegetation and soil, and subjection of the lake system and its fishery to unnatural water level fluctuations. (ELR Order No. 70613.) Vegetation Management w/ Herbicides, ORE/WAS/CAL, Oregon, Washington, California, May 19: The proposed action is the reduction of unwanted vegetation, with herbicides, as a part of resource management activities on National Forest lands. The action covered by this EIS involves the use of the following herbicides: 2,4-D, 2,4,5-T, silvex, atrazine, dicamba, dalapon, amitrole-T, picloram, monosodium methanearsenate, Krenite and cacodylic acid. All counties in the states of Oregon and Washington which contain Forest Service lands plus Del Norte and Siskiyou Counties of California are involved. (ELR Order No. 70603.)

Final

Mount Hebgen Management Alternatives, Gallatin County, Mont., May 18: Proposed is the issuance of a special use permit to Ski Yellowstone, Inc., to develop ski facilities on Mount Hebgen, Montana. The plan consists of the construction of a mountaintop restaurant, an 8,800-foot long gondola, and 11 double chair lifts, serving 637 acres of ski slopes and trails. The facility, to be built over a 10-year period, will have a capacity of 6,500 skiers. Negative impacts include minor slope instability, soil erosion, increased demands on existing facilities and degradation of air due to increased automobile emissions. Comments made by: FEA, FPC, USDA, COE, DOI, EPA, and State and local agencies, concerned citizens. (ELR Order No. 70600.)

Ophir-Dog-Macdonald Pass, Helena National Forest, Powell, Lewis, and Clark Counties, Mont., May 19: The proposed action is the preparation and implementation of an intensive Multiple Use Plan for Ophir-Dog-Macdonald Pass Planning Unit, Helena National Forest. The action will affect 50,600 acres of forest land and include the following major changes: a slight reduction in the harvest of timber, more emphasis on production of red meat, and more specific direction on management of recreation and unroaded areas. Adverse impacts include soil movement, damage to residual vegetation, and restriction of motorized traffic in some areas. Comments made by: HUD, AHP, EPA, DOI, USDA, OEO, and State and local agencies and concerned citizens. (ELR Order No. 70607.)

W. Spruce Budworm Suppression and Evaluation, Sandoval, Rio Arriba Counties, N. Mex., May 18: Proposed is the evaluation of the western spruce budworm and its effects on forestry resources on 74,848 acres of Federal and Indian lands. To properly conduct this evaluation, it will be necessary to chemically treat 37,450 acres of the total acreage; 34,000 acres on the Santa Fe National Forest and 3,450 acres on the Jemez Pubio Indian Reservation, New Mexico. Carbaryl (Servin R-4-Oil) will be the insecticide used, and will be applied at the recommended dosage rate of 1 lb. of active ingredient in an oil carrier to make up 64 ounces of material per acre. Pesticide impacts are evaluated. Comments made by: USDA, DOI, DOT, COE, EPA, HEW, and State organizations, concerned citizens. (ELR Order No. 70602.)

DEPARTMENT OF DEFENSE

ARMY

Contact: Col. Charles Sell, Chief, Environmental Office, Department of the Army, Room 1E673, Pentagon Chief of Staff, Washington, D.C. 20310, 202-694-4269.

Draft

Operation RMT, Chemical Materiel Transport, Colorado, Utah, May 19: The proposed action involves the movement of GB nerve agent filled Weteye Bombs from Rocky Mountain Arsenal, Denver, Colorado, to Tooele Army Depot, Tooele, Utah. The munitions will be moved across the Arsenal by truck convoy to Stapleton International Airport, then loaded onto USAF C-141 cargo aircraft and flown to the Michael Army Airfield at Dugway Proving Ground. The movement from Dugway Proving Ground to Tooele Army Depot will be by truck convoy. The potential for an accident resulting in release of the chemical agency has been evaluated and is considered to be minimal. (ELR Order No. 70611.)

Final

Ground Squirrel Control, Fort Ord Complex, Monterey, San Luis Obispo County, Calif., May 20: Proposed is the significant reduction of ground squirrel populations occupying large areas of grassland and woodland-grassland on Fort Ord, Fort Hunter Liggett and Camp Roberts, located in Monterey and San Luis Obispo Counties. This action would treat the open range ground squirrel habitat at Fort Hunter Liggett and Camp Roberts with 1080-treated bait from the air. Zinc phosphide would be applied by hand to open-range ground squirrel habitat on Fort Ord. Environmental impact include the reduction of non-target populations such as other seed-eating rodents like meadow voles, kangaroo rats, field mice, and seed-eating birds due to secondary poisoning. Comments made by: DOI, DOT, USDA, DOD, HEW, EPA, and State and local agencies, concerned citizens. (ELR Order No. 70617.)

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Ave, S.W., Washington, D.C. 20314, 202-693-6795.

Draft

Hartwell Lake, GEO/SC, O & M, South Carolina, Georgia, May 19: Proposed is the continuance of the operation and maintenance program on Hartwell Lake, Savannah River. The operation and maintenance activities consist of reservoir regulation, flood control, hydroelectric power generation management of land resources and facilities, management of leases, easements and other outgrants, and project management and maintenance activities. Adverse effects associated with the operation of Hartwell Lake are: soil erosion and/or compaction, damage to or loss of vegetation, and alterations of the natural environment through recreational development. (Savannah District.) (ELR Order No. 70608).

Final

Pebble Beach-Indianola Development Permit, Ocean County, N.J., May 20: The Statement concerns the permit application by the Mayer Corp. for the dredging and bulkheading of the Pebble Beach-Indianola area. The proposed action will allow the construction of approximately 68 single family residences in the northern portion of the largely completed site. Adverse impacts include destruction of marsh salt, elimination of vegetation and habitat on wetlands and low and upland forests, and temporary turbidity, noise and erosion. (Philadelphia District.) Comments made by: USDA, DOC, DOI, EPA, HUD, HEW, and State and local agencies, concerned citizens. (ELR Order No. 70612.)

Red River Chloride Control, Texas, Oklahoma, May 18: Proposed is the construction of five low-flow dams, three subsurface cutoff walls, two shallow wells collection systems, and installation of associated pumps and pipelines for collecting, transporting and storing brine-laden waters. There will be a total of about 11,900 acres of land eventually inundated with brine. The brine will cause a progressive degradation of the soil and vegetation, causing displacement of land animals. The aesthetic conditions surrounding the brine pools may be regarded as an encroachment upon a wild landscape by manmade features. (Tulsa District.) Comments made by: AHP, DOI, HEW, DOC, HUD, DOT, USDA, EPA, and State agencies. (ELR Order No. 70604.)

Supplement

Inland Waterway, Delaware River, Chesapeake Bay (S-1), Delaware, Maryland, May 16: This statement supplements a final EIS filed with CEQ in May 1974, and addresses discussion which has taken place since the completion of the Final EIS between the Corps, EPA, the Maryland Department of Resources, and interested public concerning the maintenance dredging program and its environmental effects. The supplment synopsizes the results of two, ad hoc studies of the maintenance dredging program. (ELR Order No. 70596.)

NAVY

Contact: Mr. Ben Montoya, Department of the Navy, Room 12N45, Washington, D.C. 20350.

Final

Ready Missile Test Facility, Project P-875, Ventura County, Calif., May 18: The proposed action is entitled Military Construction Project P-875: "Ready Missile Test Facility." This action involves the construction of 15 small buildings on 5 acres of mudflat at the Pacific Missile Test Center, Point Mugu, California. It will involve dredging about 25,000 cubic yards of mud out of an intertidal mudflat and filling it in with about 100,000 cubic yards of sand. The purpose of the project is to provide facilities for testing air-launched missiles with line warheads and motors. Few adverse effects are anticipated.

Comments made by: DOD, EPA, DOI, AHP, COE, DOC, and State and local agencies, concerned citizens. (ELR Order No. 70599.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

OSDOC Wastewater Management Plan, Orange County, Calif., May 20: The proposed

action is the construction of additional treatment facilities at the County Sanitation Districts of Orange County, California. The recommended alternative water pollution control projects consist of expansion of primary and secondary treatment capacity at two regional wastewater treatment plants through the year 1996. The capacity of Plant No. 1, located in Fountain valley, would be increased from 46 mgd to 126 mgd. Proposed additions to Plant No. 2, in Huntington Beach, would add 36 mgd of primary treatment to the present capacity of 138 mgd. Adverse effects include construction and operational impacts. (Region IX.) (ELR Order No. 70619.)

South Kennebec Valley Water Quality Plan, several counties, Maine, May 20: Proposed is the implementation of a two-year area-wide water quality plan for the Southern Kennebec Valley area in Maine. The planning process is subdivided into the following four major areas: (1) water quality, (2) waste reduction, (3) land use, and (4) management planning. One of the major goals of the plan is to maintain, or obtain for certain substandard waters, a quality capable of supporting water contact recreation. Waste reduction studies are included and address both point and non-point sources. Impacts vary according to the alternate selected. (Region I.) (ELR Order No. 70618.)

Draft

Jackson Wastewater Treatment System, Teton County, Wyo., May 17: Proposed is the provision of Federal matching funds for wastewater treatment for the town of Jackson, Wyoming, through the authority of the Federal Water Pollution Control Act. The town of Jackson proposes to build a stabilization lagoon system in the state-owned South Park Elk Feedground five miles south of the town. Because there are various difficulties associated with this option, EPA has decided not to fund the option. Alternative systems, which include lagoon systems located at three sites other than the Elk Feedground, are discussed extensively. (Region VIII.) (ELR Order No. 70598.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. 202–755–6308

Draft

Sherwood Trails Subdivision, Harris County, Tex., May 19: Proposed is the development of 200.592 acres into a community composed of single-family homes in Kingwood, Texas. The development will be designed to accommodate approximately 3,234 persons. Adverse effects include the loss of wooded land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 70605.)

Final

Northeast Suisan, 983-acre Development, Suisan and Solano Counties, Calif., May 18: The proposed action consists of the development of 953 acres of land in the northeastern portion of Suisan, Solano County, California. The project calls for the construction of 2,468 single family units, 1,220 medium density apartments, 1,500 high density apartments, 2 potential schools, and commercial services. Potential adverse impacts include increased noise levels, and stress on the existing water system. (170 pages.) Comments made by: DOT, GSA, ERDA, VA, AHP, USDA, USAF, HEW, State and local agencies, concerned citizens. (ELR Order No. 70601.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 5311, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF INDIAN AFFAIRS

Draft

Vekol Hills Project, Papago Reservation, Pinal County, Ariz., May 19: The proposed action is the approval by the Secretary of the Interior of (a) a Mining Lease Indian Lands, and (b) a Business Lease (Water Well Sites) on lands within the Papago Indian Reservation, Arizona. The Lessee of both leases will be the Vekol Copper Mining Company, a wholly owned subsidiary of the Newmont Mining Company; the Lessor will be the Papago Tribe of Arizona. The leases will be for the purpose of mining and producing copper, molybdenum, gold, and silver by conventional open pit methods. Approximately 1,600 acres of natural desert and foothill terrain will be affected. (ELR Order No. 10609.)

Lower Truckee-Lower Carton R. Basins, Nev., May 19: Proposed is the reduction of the amount of water diverted by the Newlands Reclamation Project from the Truckee River watershed into the Carson River watershed, and the accomplishment of certain improvements in operation and management. (Under the long-term implementation of operating criteria for the Newland Reclamation Project, the amount of water the project may use each year is reduced from 406,000 acre-feet to 288,100 acre feet.) As a result of this action, an annual average increase of 127,000 acre-feet in inflow to Pyramid Lake will occur and provide the basis for stabilization of the lake. (ELR Order No. 70601.)

BUREAU OF RECLAMATION

Final

Colorado River Water Quality Program, Utah and Nevada, May 20: Proposed is the construction of four salinity control units as a part of the initial stage of the Colorado River Water Quality Improvement Program. These units include Paradox Valley Unit, Colorado; the Grand Valley Unit; Colorado; the Crystal Geyser Unit, Utah; and the Las Vegas Wash Unit, Nevada. This statement presents cumulative impacts of the program and detailed impacts of the Las Vegas Wash and Crystal Geyser Units. Implementation of all salinity control units will reduce the salinity of the Colorado River at Imperial Dam by about 150 milligrams per liter. Comments made by: DOI, AHP, USDA, HEW, STAT, FPC, FEA, DOT, EPA, State and local agencies, concerned citizens. (ELR Order No. 70614.)

De Luz Heights Municipal Water System, San Diego County, Calif., May 16: The statement refers to the proposed construction of a pipe distribution system to convey water from the San Diego Aqueduct for the irrigation of 1,825 acres of potential avocado lands. Approximately 14 acres will be committed to the project; 1,625 acres of presently undeveloped land will be used for agricultural purposes, disturbing existing wildlife habitat and stimulating rural development. Comments made by: DOI, EPA, State and local agencies, concerned citizens. (ELR Order No. 70595.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street SW., Washington, D.C. 20590, 202–426–4357.

FEDERAL HIGHWAY ADMINISTRATION

Final

South Midtown Freeway (Route 71), Jackson County, Mo., May 20: The proposed 10.2 mile highway improvement consists of an 8-lane freeway, constructed on a new location with limited access right-of-way from the Interchange of Route I–35—I–70 in the downtown loop to 95th Street, Jackson County, in Kansas City, Missouri. Approximately 1,630 individuals have been relocated and 1,650 more will be displaced. Thirteen school districts and nine fire districts will be affected by the improvement. A 4(f) statement is included for Spring Valley Park and Hagerwood Park. (Region 7.) (ELR Order No. 70616.)

U.S. COAST GUARD

Contact: Captain Frederick P. Schubert, Office of Marine Environment and Systems, U.S. Coast Guard, Washington, D.C. 20590, 202–426–2010

Draft

Ohio R. Bridge and U.S. 22, Ohio and West Virginia, May 20: The proposed action is the granting of a U.S. Coast Guard permit for construction of a toll-free bridge and approaches in Ohio and West Virginia. The 2.5-mile project begins at a connection to existing U.S. 22 (Stoney Hollow Boulevard) in Steubenville, Jefferson County, Ohio, and continues across the Ohio River to Main Street (U.S. 22 and W. Va. 2) in Weirton, Brooke County West Virginia. Two alternate locations were considered: (1) a site across the Ohio River at Alikanna, and (2) an alignment in which the West Virginia approach would be the same but the Ohio approach would be skewed to the north. The action will result in the relocation of 63 families and 6 businesses (ELR Order No. 70615.)

VETERANS ADMINISTRATION

Contact: For Housing Programs—Mr. Lyman T. Miller, Assistant Director for Construction and Valuation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, 202–389–2691. For all other programs—Mr. Nicholas Clark, Civil Engineer, Technical Services Division, Engineering Service, Veterans Administration, Washington, D.C. 20420, 202–389–2086.

Draft

VA Replacement Hospital, Richmond, Va., May 19: Proposed is the construction of an 820-bed replacement Veterans Administration Hospital to be located on the existing 130-acre Veterans Administration property in Richmond, Virginia. The proposed new construction will replace a functionally inadequate and outmoded facility presently existing at the Veterans Administration Hospital, Richmond. Adverse effects include impacts on soil erosion and increased dust and noise levels. (ELR Order No. 70606.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77–15311 Filed 5–26–77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

CHEMICAL PROPULSION ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of Public Law 92–463, effective January 5, 1973, notice is hereby given that the Chemical Propulsion Advisory Committee (CPAC) will meet in open session at 0930 hours on Wednesday, June 22, 1977 at the Johns Hopkins University, Applied Physics Laboratory, Johns Hopkins Road, Laurel, Maryland 20810. The meeting will be held in Room L–2 of the R.E. Gibson Library.

At this meeting the CPAC will summarize for the Joint Army, Navy, NASA, Air Force (JANNAF) Interagency Propulsion Committee the current status of reviews by its Working Groups in fields of technical interest relating to the chemical propulsion of rockets, missils, and gun projectiles. The activities of the Working Groups for the past year and those projected for the coming year will be discussed.

Attendees outside of CPAC membership will be admitted as observers to the proceedings.

Due to the limited time and space availability, it is requested that persons interested in attending the CPAC meeting provide written notice to the address listed below by June 15, 1977. Notice should include information with respect to interest and degree of participation.

Mr. Ted Gilliland, Chemical Propulsion Information Agency, The Johns Hopkins University, Applied Physics Laboratory, Johns Hopkins Road, Laurel, Maryland 20810.

Telephone inquiries may also be made to Mr. Gilliland at 953–7100, extension 7804.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 12, 1977.

[FR Doc.77–15086 Filed 5–26–77;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Notice of Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, N.Y. 10014 on June 15 and 16, 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MAY 25, 1977.

[FR Doc.77–15142 Filed 5–26–77;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON COUNTER-COMMUNICATIONS, COMMAND AND CONTROL (C^3)

Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Counter-Communications, Command and Control (Counter-C^3) will meet in closed session on 20 and 21 June 1977 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the communications, command and control (C^3) employed by potentially hostile forces and identify countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MAY 24, 1977.

[FR Doc.77–15170 Filed 5–26–77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

FUEL SWITCHING FORUM

Notice of Conference

The Energy Research and Development Administration/Fossil Energy is sponsoring a Forum on Industrial Fuel Switching to Coal on June 6–7, 1977, at the William Penn Hotel, Pittsburgh, Pennsylvania.

The purpose of this forum is to provide industrial fuel users with the opportunity to learn of the techniques and experiences used successfully by other firms in the major energy consuming industrial categories to rapidly increase their direct utilization of coal in lieu of dependence on oil and natural gas. Attendees will be briefed by representatives of selected industries pioneering in the switch to coal use.

For further information, contact Mr. Jack Gordon, MITRE Corporation, Westgate Research Park, McLean, Virginia 22101, telephone 703–790–6152.

PHILIP C. WHITE,
Assistant Administrator for Fossil Energy.

[FR Doc.77–15309 Filed 5–26–77;8:45 am]

LONG-TERM MANAGEMENT OF DEFENSE HIGH-LEVEL RADIOACTIVE WASTES (SAVANNAH RIVER PLANT, AIKEN, S.C.)

Preparation of Environmental Impact Statement and Availability of Technical Alternatives Defense Waste Document

Notice is hereby given that in accordance with the National Environmental Policy Act, the Energy Research and Development Administration (ERDA) intends to prepare a programmatic environmental impact statement (EIS) concerning the long-term management of the high-level radioactive wastes that are generated as part of the national defense effort at the Savannah River Plant (SRP) located near Aiken, South Carolina. Currently, large quantities of these radioactive wastes in liquid and solid forms are stored at the SRP site.

The environmental impacts of the continuing waste management operations at the plant were assessed in ERDA–1537, a draft environmental impact statement issued in October 1976 (41 FR 47284, October 28, 1976). This new programmatic statement will assess the environmental impacts associated with the reasonably available alternatives for ultimate storage or disposal of the wastes in an environmentally acceptable manner for periods of time required for the radioactivity to decay to safe levels, i.e., hundreds to thousands of years. Research and development programs are being performed at the Savannah River Plant on alternative waste forms and storage modes for the long-term management of these defense wastes.

The purpose of this notice is to present pertinent background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation. In order to provide background regarding the state-of-the-art of various technologies to be considered for use in disposal of the wastes, ERDA has prepared a Defense Waste Document (DWD), "Alternatives for Long-Term Management of Defense High-Level Waste" (ERDA–77–42). The preparation of this DWD was announced October 18, 1976 (41 FR 45901). This DWD describes the alternative technologies with respect to their probable relative costs, risks, and uncertainties. A total of 23 plans are included in the DWD including alternatives ranging from continuing the storage as salt cake and sludge in tanks on the SRP site (which is the "no action" alternative) to conversion of the waste

to a glass form before shipping it to an off-site Federal repository.

The EIS will assess the environmental impact of the main alternative candidate plans using the DWD as a reference source of input. The EIS will provide the environmental input into decisions related to the research, development, demonstration activities and engineering design studies required to establish an environmentally acceptable mode of disposal for these high-level radioactive wastes.

Interested agencies, organizations or persons desiring to submit comments or suggestions should submit them to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E–201, U.S. Energy Research and Development Administration, Washington, D.C. 20545, telephone 301–353–4241, on or before August 1, 1977. Those desiring a copy of the DWD for use in preparing comments or suggestions, or a copy of the draft EIS when it is issued, should notify Mr. Pennington.

Copies of the DWD, the existing Savannah River draft EIS (ERDA–1537), and other documentation to be used in the preparation of the new EIS are available for public inspection at the public document room located at the Savannah River Operations Office at the SRP. Copies of the DWD and ERDA–1537 are also available for public inspection at ERDA's public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue, NW., Washington, DC 20545.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, NM 87115.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439.
Idaho Operations Office, 550 Second Street, Idaho Falls, ID 83401.
Oak Ridge Operations Office, Federal Building, Oak Ridge, TN 37830.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, NV 89114.
Richland Operations Office, Federal Building, Richland, WA 99352.
San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

Dated at Germantown, Maryland, this 23rd day of May 1977. For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77–15200 Filed 5–26–77;8:45 am]

[ERDA–1555]

PORTSMOUTH GASEOUS DIFFUSION PLANT SITE

Availability of Final Environmental Impact Statement

Notice is hereby given that the Final Environmental Impact Statement, Portsmouth Gaseous Diffusion Plant Site, Piketon, Ohio, ERDA–1555 (May 1977), has been issuued pursuant to the Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. The statement was prepared in support of the continued operation of the Portsmouth facility including the offsite production of electric power.

Copies of the final statement are available for public inspection in the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue, Washington, D.C.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, New Mexico.
Chicago Operations Office, 9500 South Cass Avenue, Argonne, Illinois.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.
Richland Operations Office, Federal Building, Richland, Washington.
San Francisco Operations Office, 1333 Broadway, Oakland, California.
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Copies have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration as ERDA–1555–D on February 10, 1977, and participants of the public hearing, which was held on the draft statement on April 5, 1977. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tennessee 37830, (615) 483–8611, Extension 34672. The statement is also available from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Germantown, Maryland, this 23rd day of May 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for Environment and Safety.

[FR Doc.77–15099 Filed 5–26–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 733–8]

ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of March 1, 1977 and March 31, 1977.

Appendix I below contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II below, and the EPA source for copies of the comments as set forth in Appendix VI below.

Appendix II below contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I below.

Appendix III below contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI below.

Appendix IV below contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI below.

Appendix V below contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI below.

Appendix VI below contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V below.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW., Washington, D.C. 20460, telephone 202–755–2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: May 18, 1977.

WILLIAM D. DICKERSON,
Acting Director,
Office of Federal Activities.

APPENDIX I *Draft environmental impact statement which comments were issued between Mar. 1, 1977 and Mar. 31, 1977*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Corps of Engineers		
D8–COE–A32037–MO	Smithville Lake, Little Platte River, replacement of the Trimble Wildlife area, Mo.	LO–1	H
D–COE–B36013–MA	Knightville Dam modification project, Huntington and Chesterfield, Hampshire County, Mass.	LO–1	H
D–COE–B36014–MA	Leominster local protection project, Monoosnoc Brook, Worcester County, Mass.	ER–1	H
D–COE–C36024–OO	Flood control project, Mamaroneck and Sheldrake River basins, Mamaroneck, N.Y. and Byram River Basin, Greenwich, Conn. and Port Chester, N.Y.	ER–2	C
D–COE–C36062–NY	Hudson River project, Northeast U.S. water supply study, metro area, New York.	3	C
D8–COE–E36004–FL	Beach erosion control and hurricane protection, Panama City beaches, Bay County, Fla.	LO–2	E
D–COE–E36005–FL	Beach erosion control and shoreline protection, survey report, Indian River County, Fla.	LO–2	E
D–COE–F08004–OH	Coal transfer facility, Ohio River mile 314.5, Lawrence County, Ohio.	ER–2	F
D8–COE–F32035–OO	Interim survey report, Great Lakes-St. Lawrence Seaway navigation season extension.	1	F
D–COE–H34014–KS	Wilson Lake, operation and maintenance, Russell and Lincoln Counties, Kans.	LO–1	H
D8–COE–H36029–NB	Papillion Creek and tributaries, Nebr.	ER–3	H
D–COE–J36005–00	Missouri River main stem system, operation and maintenance, Mont., N. Dak., S. Dak., Nebr., Colo., Wyo., Kans., Iowa, Miss., and Minn.	ER–3	I
D–COE–L36045–1D	Lucky Peak modification, Boise River, Idaho.	LO–2	K
	Department of Agriculture		
D–AFS–B61007–VT	Timber management plan, Green Mountain National Forest, Vt.	LO–1	H
D–AFS–B82003–ME	Cooperative spruce budworm suppression project, 1977 Maine	ER–2	B
D–AFS–D65005–WV	Monongahela National Forest, land management plan, W. Va.	LO–2	D
D–AFS–J65058–CO	Boulder-Grand Divide unit, Arapaho and Roosevelt National Forests, Colo.	ER–2	I
D–AFS–L61086–OR	Badger-Jordan land use plan, Mount Hood National Forest, Wasco and Hood River Counties, Oreg. (USDA–FS–R6–DES–ADM–77–).	LO–1	K
D–AFS–L67003–AK	U.S. Bora Mining access road, Quartz Hill project, east of Ketchikan, Alaska (USDA–FS–R10–DES–ADM–77–04).	3	K
D–REA–D08001–MD	Chalk Point to Lexington Park, transmission line 230 KV, St. Marys County, Md.	LO–2	D
	Department of Commerce		
D–NOA–B91006–00	Fishery management plan, groundfish, haddock, cod, yellowtail flounder.	LO–1	H
D–NOA–L00010–00	Proposed implementation of the fishery management plan for commercial troll and recreational salmon fisheries off the coasts of Wash., Oreg. and Calif.	LO–1	K
	Department of Defense		
D–USA–K82000–CA	Ground squirrel control, Fort Ord complex, Calif.	ER–2	J
	Department of Interior		
D–BLM–J99002–CO	San Luis resource area, grazing management, Colo.	LO–2	I
D8–IBR–G07001–NM	El Paso coal gasification, El Pas County, N. Mex.	LO–1	G
D–IBR–L36049–00	Touchet division, Walla Walla project, Wash. and Oreg.	LO–2	K
D–IBR–L36050–WA	Bumping Lake enlargement, supplemental storage division, Yakima project, Wash.	LO–1	K
D–NPS–E61019–AL	General management plan, Tuskegee Institute National Historic Site, Ala.	LO–1	E
	Department of Transportation		
D–FAA–D51006–PA	Proposed radar facility, (ARSR/JSS), joint surveillance system, Pine Township, Clearfield County, Penn.	LO–2	D
D–FHW–C40029–NJ	Ocean Boulevard, Morris to Ocean Ave., Long Branch, Monmouth County, N.J.	LO–2	C
D8–FHW–D40028–MD	Air quality analysis, MD–51, Cumberland to North Branch, Allegheny County, Md.	LO–2	D
D–FHW–E40096–GA	I–85 improvements, Fulton-DeKalb County line to I–285, DeKalb County, Ga. (FHWA–GA–EIS–76–06–D).	ER–2	E
D–FHW–E40097–NC	Relocated U.S. 321, Dallas to Hickory, Gaston, Lincoln and Catawba Counties, N.C.	ER–2	E
D–FHW–F40083–OH	I–675, Montgomery and Greene Counties, Ohio.	ER–2	F
D–FHW–F40084–IN	U.S. 24 relocation, U.S. 24 bypass to IN–37, Wabash and Huntington Counties, Ind.	LO–2	F
D–FHW–F40085–WI	University Avenue, Cedar St. to Humboldt Rd., Brown County, Wis.	LO–2	F
D–FHW–F40086–OH	Akron Interbelt, OH–59, I–76/77 to OH–8, Summit County, Ohio.	ER–2	F
D–FHW–H40066–IA	Arterial Highway 500, IA–5 to I–80, Polk County, Iowa (FHWA–IA–EIS–77–02–D).	LO–2	H
D–FHW–K40049–AZ	Roosevelt-Payson Highway, AZ–188, junction of AZ–88 and AZ–87, Gila County, Ariz.	LO–1	J

Federal Energy Administration			
D-FEA-F01001-OH	Strategic petroleum reserve, Ironton mine, Lawrence County, Ohio.	ER-2	F
D-FEA-G03008-TX	Bryan Mound salt dome, strategic petroleum reserve, Brazoria, Tex.	LO-2	G
Department of Housing and Urban Development			
D-HUD-F85014-IL	Proposed complex, Oak Tower, Oak Park, Cook County, Ill.	LO-2	F
D-HUD-F85015-IN	Merrillville Terrace multifamily project, Lake County, Ind. (HUD-R05-EIS-77-02-D).	3	F
D-HUD-F85016-IL	Finger Lake estates, unincorporated, Will County, Ill.	ER-2	F
D-HUD-F85018-IL	Indian Oaks subdivision, Will County, Ill.	LO-2	F
D-HUD-G85023-TX	Williamsburg subdivision, Harris County, Tex.	LO-1	G
D-HUD-G85024-TX	Settlers Village subdivision, Harris County, Tex.	LO-2	G
D-HUD-K85006-CA	Clovis Heights and Cougar estates development, Clovis, Fresno County, Calif.	LO-2	J
DS-HUD-K88001-CA	Merced, Atwater, Castle Air Force Base and environs, Merced County, Calif.	LO-1	J
D-HUD-K89017-CA	Irvington redevelopment project, Fremont, Calif.	ER-2	J
Department of Labor			
RD-OSH-A99130-00	Proposed standard for occupational exposure to cotton dust (41 FR 56498).	LO-1	A
National Aeronautics and Space Administration			
D-NAS-D09004-VA	Refuse-fire steam generating facility, Langley Research Center, Hampton, York County, Va.	LO-1	D

APPENDIX II—DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

ENVIRONMENTAL IMPACT OF THE ACTION

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requestd more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final environmental impact statements for which comments were issued between Mar. 1, 1977 and 31, 1977*

Identifying No.	Title	General Nature of Comments	Source for Copies of Comments
Corps of Engineers			
F-COE-E36001-FL	Panacea Harbor project, maintenance dredging, Wakulla County, Fla.	EPA's concerns were adequately addressed in the final EIS. However, EPA believes that future dredging operations should be planned around improved environmentally oriented equipment.	E
F-COE-E36057-00	Nonconnah Creek, Shelby County, Tenn. and Desoto and Marshall Counties, Miss.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggested that the land treatment techniques for agricultural land will need to be supplemented with appropriate controls for storm water retention and control of erosion and siltation from construction activities.	E

Identifying No.	Title	General Nature of Comments	Source for Copies of Comments
F-COE-F32086-MI	Confined disposal facility, Clinton River, maintenance dredging, Macomb County, Mich.	EPA's concerns were adequately addressed in the final EIS.	F
F-COE-K32008-CA	Navigation improvement project, Humboldt Harbor and bay, Humboldt County, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
F-COE-K36007-HI	Honolulu Harbor, Oahu County, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J
F-COE-K36004-CA	Fort Sonoma development project, permit, Sonoma County, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
F-COE-K80009-CA	Redwood shores regional shopping center, permit, Sonoma County, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
Department of Agriculture			
F-AFS-J65044-WY	Savage run planning unit, Medicine Bow National Forest, Albany County, Wyo.	EPA continues to have environmental reservations on the proposed project. EPA expressed concern that the conversion of much of the roadless area within the planning unit to timbering activities does not seem to be consistent with the goal of maintaining water quality.	I
F-AFS-K65013-AZ	Woods planning unit, Coconino National Forest, Yavapai County, Ariz.	EPA's concerns were adequately addressed in the final EIS.	J
Department of Interior			
F-IBR-G07001-NM	El Paso coal gasification, El Paso County, N. Mex.	In general, EPA's concerns were adequately addressed in the final EIS. However, EPA recommended that adequate plans be developed to mitigate the potential adverse secondary impacts.	G
FS-SFW-A64021-WI	Goose observation development plan, Horicon National Wildlife Refuge, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
Department of Transportation			
F-DOT-A41193-MI	MI-21, relocation, MI-24 to near Wadhams, Lapeer and St. Clair Counties, Mich. (FHWA-MI-EIS 75-04-F).	In general, EPA's concerns were adequately addressed. However, EPA recommended that appropriate mitigation be considered for those noise sensitive receptors which may experience significant increased noise levels, even though the FHWA recommended standard may not be exceeded.	F
F-FAA-F51008-WI	Development at Rhinelander-Oneida airport, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-A42417-NY	N.Y.-209, Spring Glen to Hurley Ulster County, N.Y.	EPA's concerns were adequately addressed in the final EIS.	C
F-FHW-E40086-NC	U.S. 74, Lauringburg bypass, Scotland and Robeson Counties, N.C. (FHWA-NC-EIS-76-18-F).	In general, EPA's concerns were adequately addressed in the final EIS. However, EPA suggested two categories of noise impacted sites should be catalogued; those which receive levels in excess of the FHWA design maximums and those that receive an increase of 10 dba or greater over existing levels.	E
F-FHW-F40065-OH	OH-5, Southeasterly to OH-82, Trumbell County, Ohio.	EPA's review of the final EIS indicates the FHWA was unresponsive to EPA's comments on the draft EIS. Furthermore, EPA continues to have environmental reservations based upon adverse wetland impacts and the lack of consideration given to alternatives that would minimize flood plain and wetland impacts.	F
F-FHW-F40056-WI	WI-35, River Falls to Hudson Rd., Pierce and St. Croix Counties, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-H40004-NB	I-680, Omaha, Douglas County, Nebr.	EPA continues to have environmental reservations on the proposed project. Specifically, the projected noise levels if unabated, will exceed the noise standards contained in the Federal aid highway program manual (FHPM) 7-7-3. In addition, information contained in the air pollution assessment suggests carbon monoxide conditions may be higher than currently predicted.	H
F-FHW-K40003-HI	Piilani Highway, Kihei to Makena Rd., Kula Highway, Maui County, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J

Identifying No.	Title	General Nature of Comments	Source for Copies of Comments
F-FHW-K40009-HI	Salt Lake Boulevard, Puuloa Rd. to Halawa Heights Rd. extension, Honolulu County, Hawaii.	EPA's concerns were adequately addressed in the final EIS.	J
Department of Housing and Urban Development			
F-HUD-A61246-GA	Lake Alma project, Alma-Bacon County, Ga. (HUD-R04-EIS-76-PE-01-F).	The proposed action was determined to be environmentally unsatisfactory because the lake, once created, would be of questionable water quality and would be eutropic and short-lived. Pursuant to EPA's responsibility under section 309(B) of the Clean Air Act, the matter is being referred to the Council on environmental quality with a recommendation that CEQ appoint and chair a study team to review the project and that the release of CDBG funds for the project be postponed. Further, when the section 404 process is activated by an application for a permit to dredge and fill, it will be the recommendation of the agency to deny issuance of the permit.	A
F-HUD-C85012-PR	Los Caobos development, Ponce, PR.	In general, EPA's concerns were adequately addressed in the final EIS.	C
F-HUD-J85009-CO	Habitat, planned unit development, Boulder County, Colo.	EPA continues to have environmental reservations on the proposed project concerning air quality impacts. Individually these projects may be insignificant, however, the cumulative impacts may be adverse.	I
National Aeronautics and Space Administration			
F-NAS-D84003-VA	Langley Research Center Institution, National transonic facility, Hampton, Va.	EPA's concerns were adequately addressed in the final EIS. However, EPA suggested that mitigating measures be incorporated into the project if any unexpected problems develop during operation.	D
F-NAS-J00001-UT	Space shuttle solid rocket motor DDT&E program, Thiokol/Wasatch Division, Promontory, Utah.	EPA's concerns were adequately addressed in the final EIS.	I
Nuclear Regulatory Commission			
F-NRC-B06000-MA	Montague nuclear power station, units 1 and 2, Northeast Nuclear Energy Co., Franklin County, Mass. (NUREG-0084).	In general, the final EIS was found to be responsive to EPA's concerns and presently EPA drafting the discharge permit under section 402 of the Federal Water Pollution Control Act, as amended.	B
F-AEC-A09018-00	Use of recycle plutonium in mixed oxide fuel in light water cooled reactors, GESMO (NUREG-0002).	EPA indicated that, since all the necessary technology to close the mixed-oxide fuel cycle had not been demonstrated, the incentive for recycle and the advisability of a prompt commitment to full-scale commercial implementation are in question. However, EPA saw no environmental reason for not proceeding with essential pilot or limited demonstration efforts to resolve various technical questions. EPA advocated anaylyses of technological alternatives to mixed-oxide utilization and consideration of other feasible options to assure domestic safeguards and avoid foreign proliferation. Further, EPA indicated that prior to final decisions on commercialization a high-level waste management plan should be put into effect. Finally, EPA, in reviewing the cost/benefit aspects of the statement, found that the economic viability of plutonium recycle cannot be judged with any certainty.	A

APPENDIX IV.—*Final environmental impact statements which were reviewed and not commented on between Mar. 1, 1977 and Mar. 31, 1977*

Identifying No.	Title	Source of review
Corps of Engineers		
FS-COE-A32043-00	Red River Waterway, La., Ark., Tex. and Okla.	G
FS-COE-A32312-LA	Atchafalaya River and Bayous Chene, Boeuf, and Black, La.	G
F-COE-E36020-NC	Deep Creek flood control project, Edgecombe County, N.C.	E
F-COE-E36027-MS	Gordons Creek project, flood control, Forest County, Miss.	E
F-COE-G34018-LA	Gulf Intracoastal Waterway, (GIWW), Petit Anse, Tigre and Carlin Bayous, and Bayou Grosse Tete, La.	G
F-COE-G34023-LA	Operation and maintenance, Bayou Teche, Bayou Teche and Vermilion River and Freshwater Bayou, La.	G
F-COE-L36007-00	McNary second powerhouse, Columbia River, Oreg. and Wash.	K

Identifying No.	Title	Source of review
Department of Agriculture		
F-AFS-F65056-MT	Warm Spring-Medicine Tree Planning Unit, Bitterroot National Forest, Mont.	I
F-AFS-L61061-OR	Chemult planning unit, Winema National Forest, Klamath and Lake Counties, Oreg. (USDA-FS-R6-FES(AVM)-76-6).	B
F-AFS-L61070-ID	Skwish planning unit, St. Joe National Forest, Idaho (USDA-FS-R1-OR-FES-ADM-76-14).	K
F-AFS-L65024-AK	North Irish Creek timber sale, Tongass National Forest, Alaska (USDA-FS-R10-FES-ADM-76-04).	K
Department of Defense		
F-UAF-C11002-00	Closure of Craig Air Force Base, Ala. and Webb Air Force Base, Tex.	G
F-UAF-G81008-OK	AWACS Beddown, Tinker, AFB, Okla.	G
F-USN-D02002-VA	Fol Bulk pipelines, Naval Supply Center, Norfolk, Va.	D
Department of Transportation		
F-FAA-J51001-UT	ADAP Project, Vernal Airport, Vernal, Utah.	I
F-FHW-A40619-KY	U.S. 23 and U.S. 231, Tennessee State line to Scottsville and Glasgow Rds., Allen County, Ky. (FHWA-KY-EIS-75-04-F).	E
F-FHW-A50125-CT	CT-156, Bridge and approaches, East Lyme to Waterford, Conn. (FHWA-CT-EIS-75-01-F).	B
F-FHW-E40002-00	Louisa-Fort Gay Bridge, Lawrence County, Ky. and Wayne County, W. Va. (FHWA-KY-EIS-75-03-F, FHWA-CT-EIS-75-02-F).	E
F-FHW-G40041-TX	LOOP 301, TX-146, Harris County, Tex.	G
F-FHW-G40045-TX	U.S. 90, I-10 to TX-146, Harris and Liberty Counties, Tex.	G
F-FHW-G40050-NM	Bridge Stadium overpass, Bernalillo County, N. Mex.	G
F-FHW-H40045-NB	West Cornhusker Highway, Lincoln, Lancaster County, Nebr.	H
General Services Administration		
F-GSA-L61006-AK	Haines Border station, Haines Borough, Alaska Dalton Cache at United States and Canadian Border, mile 42 Alaska (EAK 77001).	K
Department of Housing and Urban Development		
F-HUD-E28018-AL	Castleberry Water system improvements, Ala.	E
F-HUD-E61018-GA	Dublin Park, neighborhood park facility, Augusta, Ga. (CDBG).	E
F-HUD-E85015-FL	Leslie estates, Dade County, Fla.	E
F-HUD-G85018-TX	Trailwood subdivision, Dallas County, Tex.	G
Nuclear Regulatory Commission		
FS-NRC-A00121-00	Personnel neutron dosimeters that contain natural thorium, Docket PRM 40-19 (NUREG-0137).	A

APPENDIX V.—*Regulations, legislation and other Federal agency actions for which comments were issued between Mar. 1, 1977 and Mar. 31, 1977*

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Commerce			
R-NOA-A99127-00	50 CFR pts. 217, 223, endangered and threatened fish and wildlife, interagency cooperation.	EPA believes the proposed regulations need further clarification of what actions constitute Federal control, should integrate NEPA more fully into section 7 procedures, and should allow Federal agencies to delegate administrative responsibilities under section 7.	A
Department of Interior			
R-BLM-A65125-00	43 CFR pts. 4100, 4200, 4300, 4700, 9230, range management and technical services, grazing administration and trespass.	EPA does not believe that BLM's proposed regulations give proper recognition to "No Grazing" alternatives as integral parts of an overall range management strategy. Since the EIS "Livestock Grazing Management on National Resource Lands" listed a no grazing option as one of the tools available to BLM, EPA suggests this tool be incorporated into section 4120.2.	A
R-SFW-A99128-00	50 CFR pt. 17, endangered and threatened wildlife and plants, proposed provisions for interagency cooperation (42 FR 4868).	EPA believes the proposed regulations need further clarification of what actions constitute Federal "Control," should integrate NEPA more fully into section 7 procedures, and should allow Federal agencies to delegate administrative responsibilities under section 7.	A

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Transportation			
R-CGD-A52107-00	33 CFR Pt. 164, proposed navigation safety requirements Loran-C on vessels of 1600 gross tons or more (CGD-77-002) (42 FR 5966).	EPA expressed no comments on the proposed rule at this time.	A
A-DOT-A52106-00	International air transportation policy statement.	EPA indicated no objections to the contents of the plan. However, EPA recommended an additional item calling for the assisted development of international air emission standards, practices, and guidance materials. Also, the statement was made that if noise or air standards are adopted by ICAO which are less stringent than EPA believes necessary to meet the health and welfare protection requirements of the U.S. Domestically these standards should not be used to justify the adoption of similarly less stringent domestic standards.	A
R-FAA-A52100-00	CFR Pt. 36, noise standard aircraft type and airworthiness certification, proposed alternative noise reduction stages and acoustical change requirements.	EPA stated that it had no objections to the proposed rule's promulgation, but the FAA should complement it with requirements such as those contained in EPA's earlier proposal (NPRM76-22) for aircraft to be certificated in 1980 and beyond.	A
A-FRA-A53042-00	Procedures for considering environmental impacts notice of proposed procedures (FRA docket No. EP-1) (42 FR 5171).	EPA found that the proposed procedures generally addressed the requisite procedural and substantive areas appropriate to NEPA regulations. EPA did offer a number of suggestions, however, which it believed would strengthen the procedures from an environmental perspective.	A
Department of Agriculture			
R-SCS-A86101-00	7 CFR 650 compliance with NEPA preparation of environmental impact statements, guidelines.	EPA's comments expressed concern that the revised regulations delete important criteria contained in the current SCS NEPA regulations concerning the need to prepare an EIS.	A

APPENDIX VI

SOURCE FOR COPIES OF EPA COMMENTS

A.—Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 922, Waterside Mall SW., Washington, D.C. 20460.

B.—Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C.—Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D.—Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E.—Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30308.

F.—Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G.—Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

H.—Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I.—Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J.—Director of Public Affairs, Region 9, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K.—Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc.77-14953 Filed 5-26-77;8:45 am]

[FRL 737-1]

SCIENCE ADVISORY BOARD, ECOLOGY ADVISORY COMMITTEE

Amended Notice of Open Meeting

Pursuant to Public Law 92-463, notice was given in the May 17, 1977, issue of the FEDERAL REGISTER (p. 25348) that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held June 6-7, 1977, beginning at 9 a.m., the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street SW., Washington, D.C.

This amended notice is to advise of a change in location to Crystal Mall Building 2, Conference Room 1112, Crystal City, Arlington, Virginia.

This is the twelfth meeting of the Ecology Advisory Committee. The agenda includes a report on the Science Advisory Board activities; responses to the Committee's review of EPA's draft "National Ecological Effects Research Program 1978-1982" and to the Committee's Advisory Statement, Ecosystem Research Can Save Money; discussions relative to the "Draft Sulfates Research Plan—Ecological Effects," and to the program plan, "Biological and Climate Effects Research (BACER)—Effects of Stratospheric Modification"; presentations on selected extramural research projects; discussions on collection and maintenance of scientific specimens, items for the Committee's future consideration; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Advisory Committee (703-557-7720).

Dated: May 20, 1977.

LLOYD T. TAYLOR,
Acting Staff Director,
Science Advisory Board.

[FR Doc.77-15271 Filed 5-26-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 859]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MAY 23, 1977.

By the Chief, Common Carrier Bureau:

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21259-CD-P-(10)-77 Waco Communications, Inc. (KLB498), C.P. to change antenna system and replace transmitter operating on 152.03, 152.09, 152.15, 152.18, 454.025, 454.075, 454.200 MHz located 2 miles ESE of Moody; and two additional sites. Loc. No. 4 to operate on 454.100, 454.150 MHz to be located off Highway 81, approximately 5 miles south of city limits of Waco; Loc. No. 5 to operate on 152.21 MHz to be located 1200 Block of North of 46th Street, Texas.

21326-CD-P-(2)-77 The Pacific Telephone and Telegraph Company (KMD999), C.P. to relocate, change antenna system and replace transmitter operating on 152.54, 152.78 MHz (standby facilities) from location No. 2; to a new site described as Loc. No. 3 to be located 3.5 miles NE of San Marcos, California.

21327-CD-MP-(2)-77 Radio Paging & Telephone Answering Service of Charlotte, Inc. (KIM905, modification permit to change antenna system operating on 35.22 MHz at loc. No. 1; located 300 South College Street, Charlotte; and Loc. No. 2; located 5950 Fairview Road, Charlotte, North Carolina.

21328-CD-P-77 Phone Depots of Connecticut, Inc. d/b as Liberty Communications KCI310), C.P. for additional facilities to operate on 72.12 MHz to be located at a new site described as Loc. No. 6; Video Lane, Trumbull, Connecticut.

21329-CD-AL-(5)-77 Radio Telephone, Inc. Consent to Assignment of License from Radio Telephone, Inc., assignor to General Communications Service, Inc., assignee. Stations: KIJ356, KRM948, KTS269, KIY-509 and KIY583, Atlanta, Georgia.

21330-CD-MP-77 Dodge County Telephone Company (KWH346), modification permit to relocate facilities operating on 158.10 MHz (Loc. No. 2) to be located 3.75 miles SSE of Jackson, Wisconsin.

21331-CD-P-77 Professional Answering Service of Olean, New York, Inc. (new), C.P. for a new 2-way station to operate on 152.21 MHz to be located at White Glen, approximately 2.5 miles S. of Olean, New York.

21332-CD-P-77 The Ohio Bell Telephone Company (new), C.P. for a new 1-way station to operate on 152.84 MHz to be located 121 west Hardin Street, Findlay, Ohio.

21333-CD-MP-(4)-77 South Central Bell Telephone Company (KKI455) modification permit to change antenna system to operate on 454.425, 454.525,, 152.57, 152.78 MHz at Loc. No. 1; 3 miles South of Erath, Louisiana.

21334-CD-P-77 Western Communication Service, Inc. (new), C.P. for a new 2-way station to operate on 152.06 MHz to be located 5 Miles W. Junct. Hwy. US 66 and State 6, 1¼ miles West ¼ mile North Elk City, Oklahoma.

21335-CD-MP-77 Pine Telephone Company, Inc. (KLB702), modification permit to relocate facilities operating on 152.54 MHz to be located approximately 6.5 miles NE of Broken Bow, Oklahoma.

21336-CD-AL-77 Auto Phone, Inc. Consent to Assignment of License from Auto Phone, Inc., assignor to L & L Services, Inc. d/b as Metro Communication Service, assignee. Station: EUC906, Decatur, Alabama.

21337-CD-P-77 Susquehanna Mobile Communications, Inc. (KGC599), C.P. for additional facilities to operate on 152.18 MHz to be located at a new site described as Loc. No. 3; 2005 S. Queen Street, York, Pennsylvania.

21338-CD-AL-77 Alvin D. Escue d/b as Telpage of Dothan. Consent to Assignment of License Alvin D. Escue d/b as Telpage of Dothan, assignor to Communications Specialist, Inc. d/b as Radio-Telpage, assignee. Station: KTS276, Dothan, Alabama.

21341-CD-MP-77 Minnesota Communications Corporation (KDN408), C.P. to change antenna system and relocate facilities operating on 454.175 Loc. to be located 80 South 8th Street, Minneapolis, Minnesota.

21342-CD-MP-(3)-77 Minnesota Communications Corporation (KRS663), C.P. to change antenna system operating on 454.250, 454.300, 454.350 MHz to be located 80 South 8th Street, Minneapolis, Minnesota.

21343-CD-MP-77 Neil E. Stone d/b as Stone's Mobile Radio and Dial-A-Page (KWU507), modification permit to change antenna system operating on 152.24 MHz located 511 North Atlantic Avenue, Thief River Falls, Minnesota.

21344-CD-P-L-77 Neil E. Stone d/b as Stone's Mobile Radio and Dial-A-Page (new), C.P. for a new 2-way station to operate on 152.15 MHz to be located 511 Atlantic Avenue, North, Thief River Falls, Minnesota.

21345-CD-P-77 Salinas Valley Radio Telephone Company (new), C.P. for a new 1-way station to operate on 43.22 MHz to be located 8333 Swanston Lane, Gilroy, California.

21346-CD-P-77 Metrotec, Inc. (KTS283), C.P. to change antenna system and replace transmitter operating on 35.22 MHz located 0.2 mile N. of Hann Road, 0.7 mile W. of S.R. 44, Canton, Ohio.

21348-CD-TC-77 Raco, Inc. Consent Transfer of Control from Philip E. Sledge, transferor, to Billie R. Simmons, transferee. Station: KUS339, Forrest Park, Georgia.

21349-CD-TC-77 Raco Inc. Consent Transfer of Control from Philip E. Sledge, transferor, to Billie R. Simmons, transferee. Station: KQZ787, Rome, Georgia.

CORRECTION

21560-CD-P-77 Mid State Telephone Company, Stanley, North Dakota (new), correct base frequency of major amendment 152.69 MHz to read 152.60 MHz. All other particulars are to remain as reported on PN No. 855 dated April 25, 1977.

20997-CD-P-(6)-77 Michigan Bell Telephone Company (KQK579), correct PN to read: C.P. for additional facilities to operate on 152.54, 152.75, 454.450, 454.550, and 454.650 MHz. All other particulars to remain as reported on PN No. 852 dated April 4, 1977.

INFORMATIVE

Pursuant to Section 21.32(d) of the Commission's Rules, Edward C. Smith, doing business as Answerite Professional Telephone Service, has rejected the partial grant of his application, File No. 21648-C2-P-(4)-74, issued by memorandum opinion and order of the Commission and released on April 5, 1977. The application has been amended to eliminate co-channel electrical interference on the frequencies 454.325, 454.350 MHz.

RURAL RADIO

60273-CR-P/L-77 The Mountain States Telephone and Telegraph Company (new), C.P. for a new Rural Subscriber Fixed station to operate on 157.80, 157.89 MHz to be located 8.5 miles SW of Manitou Springs, Colorado.

60274-CR-P/L-77 Fresno Mobile Radio, Inc., doing business as Coaling Radio Telephone Service (new), C.P. for a new Rural Subscriber-Fixed station to operate on 459.175 MHz to be located at temporary fix location.

60275-CR-P/L-77 The Mountain States Telephone and Telegraph Company (new), C.P. for a new Rural Fixed station to operate on 157.77 MHz to be located 3.9 miles south-southwest of Table Rock, Wyoming.

POINT-TO-POINT MICROWAVE RADIO SERVICE

2393-CF-MP-77 The Offshore Telephone Company (WAU231), WC513B, Block 513, West Cameron, Gulf of Mexico (lat. 28°23'-53" N., long. 93°12'38" W.): Mod. of C.P. (4792-CF-77) to change frequency 2178.4H to 2176.8H MHz toward WC605A on azimuth 172.6 degrees.

2394-CF-MP-77 Same (WBB283), WC605A, Block 605, West Cameron, Gulf of Mexico (lat. 28°04'36" N., long. 93°09'48" W.): Mod. of C.P. (4795-CF-P-77) to change frequency 2128.4H to 2126.8H MHz toward WC 513B on azimuth 352.6 degrees.

2397-CF-P-77 Lafourche Telephone Company, Inc. (WBB219), Larose No. 2,117 W. 9th Street, Larose, Louisiana (lat. 29°33'-53" N., long. 90°22'50" W.): C.P. to change transmit station name and to add new point of communication on frequencies 5945.2V, 6063.8V MHz toward Golden Meadow, Louisiana, on azimuth 150.2 degrees.

2398-CF-P-77 Same (KKM31) Golden Meadow, Louisiana (lat. 29°23'13" N., long. 90°-15'51" W.): C.P. to change location of receive station and replace antenna on frequencies 6197.2V, 6315.9V MHz toward Larose No. 2 on azimuth 330.2 degrees.

2414-CF-P-77 Southwestern Bell Telephone Company (new), 215 S. New Orleans, Brinkley, Arkansas (lat. 34°53'05" N., long. 91°11'32" W.): C.P. for a new station frequencies 2112.0H MHz toward Clarendon, Arkansas, on azimuth 207.3 degrees.

2471-CF-P-77 The Mountain States Telephone and Telegraph Company (KAQ85), renewal of radio station license expired June 12, 1977; term: June 12, 1977, to June 12, 1978.

2464-CF-P-77 Southwestern Bell Telephone Company (WGI79), Monroe and Highway 4, McGehee, Arkansas (lat. 33°37'41" N., long. 91°24'21" W.): C.P. to add a new point of communication on frequency 2112.0H MHz toward Arkansas City on azimuth 97.7 degrees.

2465-CF-P-77 Same (new), Spragg and A Street, Arkansas City, Arkansas (lat. 33°-36'19" N., long. 91°12'17" W.): C.P. for a new station on frequency 2162.0H MHz toward McGehee on azimuth 277.8 degrees.

2498-CF-MP-77 Florida Telephone Company (KIO67), 111 South 9th Street, Dade City, Florida (lat. 28°21'40" N., long. 82°-11'28" W.): Mod. of C.P. to add a new point of communication on frequency 6063.8V MHz toward Eva on azimuth 102.3 degrees.

2396-CF-P-77 Eastern Microwave, Inc. (WOR 74), off Brush Run Road, 2 miles South of Bethel Park, Pennsylvania (lat. 40°17'36" N., long. 80°03'05" W.): Construction permit to change antenna structure and to add 10735.0V MHz toward Mt. Lebanon, Pennsylvania, via power split, on azimuth 3 degrees.

2399-CF-P-77 Western Tele-Communications, Inc. (WHA 93), Rattlesnake, 11 miles North of Sunnyside, Washington (lat. 46°29'11" N., long. 119°59'28" W.): Construction permit to change receive station location—5960.0V 5989.7H, and 6137.9V MHz toward Elma-TV, via Elma Passive

Reflector, (lat. 46°36'22" N., long. 120°27' 47" W.): both in Washington, on azimuths 34.6 and 290.4 degrees respectively.

2440–CF–P–77 First Television Corporation (KGN 76), 2 miles North of Cambridge, Maryland, on Route 50, Trappe, Maryland (lat. 38°36'50" N., long. 76°03' 18" W.): Construction permit to change antenna structure and to add 6241.7V MHz toward Salisbury, Maryland, on azimuth 122 degrees.

2436–CF–P–77 CPI Microwave, Inc. (WPE 39), 2.7 miles West of Artell, Texas (lat. 31°39'20" N., long. 96°59'49" W.): Construction permit to replace transmitter and antenna structure and to change frequency to 6241.7H MHz toward Waco KWTX, Texas.

2457–CF–P–77 Pacific Telatronics, Inc. (KPQ 91), Blanton Heights, 3.5 miles South of Eugene, Oregon (lat. 44°00'05" N., long. 123°06'18" W.): Construction permit to change antenna structure and to add 5960.0V MHz toward Vineyard Hill, Oregon, on azimuth 349.6 degrees.

2458–CF–P–77 Pacific Telatronics, Inc. (KPQ 90), Vineyard Hill, 6 miles North of Corvallis, Oregon (lat. 44°38'45" N., long. 123°16'13" W.): Construction permit to add 6390.0V MHz toward Salem, Oregon, on azimuth 15.1 degrees.

2459–CF–P–77 American Television & Communications Corporation (WBA 750), Ellis Road, Northwest of Glover Road, Durham, North Carolina (lat. 35°57'43" N., long. 78°52'17" W.): Construction permit to add 6019.3H MHz toward Raleigh, North Carolina.

2460–CF–P–77 American Television & Communications Corporation (WBA 760), 1609 Old Louisburg Road, Raleigh, North Carolina (lat. 35°48'12" N., long. 78°37'27" W.): Construction permit to add 6241.7H MHz toward Durham, North Carolina, on azimuth 128.2 degrees.

2463–CF–P–77 Mountain Microwave Corporation (new), 0.8 mile North-Northwest of Valentine, Nebraska (lat. 42°53'25" N., long. 100°33'23" W.): Construction permit for new station—6226.9V, 6286.2V, and 6345.5V MHz toward Ainsworth, Nebraska, on azimuth 120.9 degrees.

2478–CF–P–77 Eastern Microwave, Inc. (KEM 58) Helderberg Mountain, Beaver-Dam Road, 1.8 mile Northwest of New Salem, New York (lat. 32°48'12" N., long. 73°59'45" W.): Construction permit to add 6271.4V MHz toward Black Spruce Mountain, New York, via power split, on azimuth 12.1 degrees.

CORRECTIONS

2326–CF–P–77 Eastern Microwave, Inc. (KTF 96), 1.5 mile North-Northwest of Italy Hill, New York (lat. 42°37'13" N., long. 77°15'17" W.): This entry appearing in Public Notice of May 16, 1977, is corrected to show coordinates as above. All other particulars remain the same.

2290–CF–P–77 Penn Service Microwave Company, Inc. (WQQ 37), Wyoming Mountain, 4 miles South-Southwest of Wilkes-Barre, Pennsylvania (lat. 41°11'53" N., long. 75°49'16" W.): This entry appearing in Public Notice of May 16, 1977, is corrected to show coordinates as above. All other particulars remain the same.

[FR Doc.77–15201 Filed 5–26–77;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 66—"Receiver Standards for the Maritime Mobile Service."

Notice of 40th Meeting: Tuesday, June 14—9:30 a.m. (All-day meeting.) Conference Room A–205, 1229 – 20th Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Appointment of Rapporteur.
3. Acceptance of SC–66 Summary Record.
4. Continue preparation of MMS R–5, Standard for "General Purpose Marine Receivers".
5. Discussion of problem areas.
6. Solicitation of Work Assignments.
7. Other business.
8. Establishment of next meeting date.

H. R. Smith, Chairman, SC–66, ITT Mackay Marine, 441 U.S. Highway No. 1, Elizabeth, N.J. 07202, Phone: (201) 527–0300.

To: Members of Special Committee No. 65—"Ship Radar."

Subject: Notice of 56th Meeting.

Date/Time: Wednesday, June 15, 1977—1:30 p.m.

Location: Conference Room 8210, 2025 M Street, N.W., Washington, D.C.

Agenda for SC–65 Committee Meeting appears later in this notice.

SC–65 Working Group schedule. To be held at 2025 M Street, N.W., Washington, D.C.

Working Group: Collision Avoidance; Room: 8210; Date: June 15; Time: 9:30 a.m.

If other Working Group meetings are scheduled, Group Members will be notified.

NOTE.—Meeting Room location is subject to change. Check at Room 8210 first.

AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC–65 Summary Records; Appointment of Rapporteur. May 18, 1977. Paper 74–77/SC 65–239.
3. Progress Report of Collision Avoidance Working Group.
4. Status Reports on Other Working Groups.
5. Report of Action of Executive Committee on Termination of SC–65.
6. Mini-meeting of REWG
7. Other business.
8. Establishment of next meeting date. (July 20, 1977)

For approval at this meeting.

Irvin Hurwitz, Chairman, SC–65, Federal Communications Commission, Washington, D.C. 20554; Phone: (202) 632–7197.

Executive Committee Meeting — Thursday, June 16, 1977.

The next Executive Committee Meeting will be on Thursday, June 16, 1977 at 1:30 p.m., in Conference Room 847, 1919 M Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of Minutes of Executive Committee Meetings.
4. Committee Reports.
5. Report of Budget/Finance Working Group.
6. Appointment of Constitution Revision Working Group.
7. Summary Reports and Announcements.
8. New Business.
9. Establishment of next meeting date.

To comply with the advance notice requirements of Public Law 92–463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be aavilable on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632–6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred by the previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–15203 Filed 5–26–77;8:46 am]

FEDERAL MARITIME COMMISSION

[Docket No. 77–19; Agreement 10235]

CONSOLIDATED FORWARDERS INTERMODAL CORP.

Order of Investigation and Hearing

Agreement No. 10235 was filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, by the Consolidated Forwarders Intermodal Corporation (CONFICO) on behalf of CONFICO's shareholders, 49 of which are Commission licensed ocean freight forwarders. In 1967, shareholders of CONFICO had sought and were granted approval to incorporate and conduct operations as a non-vessel operating common carrier (NVOCC) at the Port of New York under Agreement No. 9646. This Agreement was cancelled as of August 1, 1970 following the cessation of NVOCC operations by CONFICO. Under Agreement No. 10235, the shareholders of CONFICO request Commission approval to resume NVOCC operations and to consolidate and deconsolidate cargo in the foreign and domestic offshore export and import trades of the United States.

Under the terms of this Agreement, CONFICO, on behalf of its shareholders, will engage in either or both of the following activities at the Port of New York, and at other unspecified ports and inland points in the United States:

(1) Assemble and consolidate export cargo into containers or unit loads for tender to vessel operating carriers either as an NVOCC or as a "consolidator" working on a fee or allowance basis; and/or

(2) Break bulk or deconsolidate import cargo for distribution within local port areas or arrange for the transportation of containers or individual shipments to inland points of destination.

Approval of the Agreement would also permit the shareholders, acting through the corporation, to meet, discuss, and agree with any other person subject to the Shipping Act, 1916, on matters of mutual interest with the proviso that adoption of any agreement(s) would require a majority vote of the shareholders and Commission approval before implementation. Finally, membership in the corporation and participation in any activity contemplated by the Agreement would be restricted to current CONFICO shareholders and any other Commission licensed ocean freight forwarder who applies for membership.

Notice of the filing of Agreement No. 10235 and a request for interested persons to comment thereon, as published in the FEDERAL REGISTER on May 7, 1976. J. E. Bernard and Co., Boston Consolidation Service Inc., ocean freight forwarder/NVOCCs, Air-Sea Forwarders, Inc., and thirty-eight Conferences on behalf of their member lines filed comments with the Commission. Several commentators unconditionally requested the Commission to institute a formal hearing on the approvability of the Agreement. Other commentators foresaw the need to hold hearings only in the event additional information was not provided by CONFICO or its shareholders. To date, this information has not been provided by CONFICO or its shareholders.

The North Atlantic Mediterranean and Gulf/Australia-New Zealand Conferences and their member lines oppose approval of the Agreement on two principal grounds. First, these Conferences perceive the proposed CONFICO arrangement as a "joint venture" within the ambit of the anti-trust laws, particularly Section 7 of the Clayton Act, 15 U.S.C. § 18, which clearly lessen competition between the individual shareholders of CONFICO and in effect creates an identical but larger NVOCC/ocean freight forwarding operation capable of engaging in destructive competition with NVOCCs and ocean freight forwarders who are not affiliated with CONFICO. These Conferences would require the proponents of the Agreement to demonstrate under the standards enumerated in *F.M.C. v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968), that the Agreement is required by a serious transportation need, is necessary to secure important public benefits or furthers a valid regulatory purpose of the Shipping Act, 1916. Second, these protestants point out that the provisions authorizing forwarding operations to inland points fall within the ambit of Section 402(a)(5) of the Interstate Commerce Act (49 U.S.C. § 1002(a)(5)) and would require CONFICO to obtain appropriate authority from the Interstate Commerce Commission before commencing operations. Without such authority, it is argued, CONFICO's contemplated service to inland points would violate a federal statute and that Commission approval of an unlawful activity is not in the public interest.

One issue repeatedly raised in the comments is the lack of specificity in the Agreement regarding the operations to be conducted thereunder and the relationship which exists or would exist between CONFICO and its shareholders. One commentator asserts that the Agreement does not appear to be the complete understanding of the parties since CONFICO has not filed any Articles of Incorporation or By-laws with the Commission. Another comment notes the disturbing lack of detail regarding CONFICO's and its shareholder's activities in view of the extensive number of services which would be provided.

Comments by the Far East Conference and Pacific West-bound Conference question the legality of CONFICO's proposed operations in conjunction with its shareholders under Section 44 of the Shipping Act, 1916, and Commission regulations promulgated in the Code of Federal Regulations governing ocean freight forwarders. They construe CONFICO's intended activity as "carrying on the business of forwarding" and, as such, submit CONFICO would be obligated to obtain a license if the "corporation" is to provide forwarding services within the ambit of Sections 1 and 44 of the Shipping Act, 1916 and 46 CFR § 516.2 (a), (f), and (c). Otherwise, violations of 46 CFR § 516.23(a) would occur if CONFICO provides forwarding services through the licenses of its shareholders. A further question is raised with regard to the status of any dividends which would be paid by CONFICO to its shareholders and whether these payments would be considered unearned compensation and thereby be prohibited under the provisions of Section 44(e) of the 1916 Act. (46 U.S.C. 841b.)

A further matter of concern to the Commission is whether CONFICO and its shareholders are conducting operations prior to the Agreement being approved. In this regard, the Commission's staff was informed by CONFICO that it will conduct operations in New York as a "consolidator" in spite of advice from the staff that such operations should await Commission approval.

Comments submitted by Conferences on behalf of member lines which serve Atlantic coast ports urge the Commission to evaluate the economic and competitive consequences which may result from the Commission approving Agreement No. 10235 as it is presently written. These Conferences point out that there are no assurances in the Agreement that carriers presently doing business with any individual shareholder of CONFICO will be given consideration to transport any shipments controlled or consolidated by or under the CONFICO arrangement on an impartial basis. It is further urged that the Commission seriously consider the potential economic power which would reside in the shareholders of CONFICO to control cargo and the impact such control would have on the transportation conditions which are currently in force in the foreign commerce of the United States.

Upon consideration of Agreement No. 10235 and the numerous factual and legal issues which surround its implementation and approvability, the Commission has determined that the Agreement should be made the subject of an adjudicatory proceeding, and that an investigation and hearing should be instituted to determine, among other things, whether Agreement No. 10235 should be approved, disapproved or modified pursuant to Section 15 of the Shipping Act, 1916.

It is therefore ordered, That pursuant to Section 15 (46 U.S.C. 814) and Section 22 (46 U.S.C. 821) of the Shipping Act, 1916 a proceeding is hereby instituted to determine:

(1) Whether Agreement No. 10235 is a true and complete copy of the understandings or arrangements between the parties;

(2) Whether the parties have in any manner entered into and implemented any agreement or agreements, understandings, and/or arrangements without prior approval, in violation of Section 15 of the Act; and

(3) Whether Agreement No. 10235, or agreements, understandings, or arrangements between the parties shall be approved, disapproved, or modified under the provisions of that section.

It is further ordered, That Consolidated Forwarders Intermodal Corporation, and the independent ocean freight forwarders listed in Appendix A hereto, are hereby made Proponents in this proceeding.

It is further ordered, That J. E. Bernard and Co., Boston Consolidation Service, Inc., Air-Sea Forwarders, Inc., and the conferences, on behalf of their members lines, listed in the Appendix B hereto, are hereby made Protestants in this proceeding.

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be determined and announced by the Presiding Administrative Law Judge, to commence no later than November 23, 1977.

It is further ordered, That the hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That this order be published in the FEDERAL REGISTER, and a copy thereof served upon Proponents, and Protestants and as listed in the Appendices hereto.

It is further ordered, That any person(s) other than Proponents, Protestants, and the Bureau of Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for Leave to Intervene in accordance with Rule 72 (46 CFR 502.72) of the Commission's Rules of Practice and Procedure.

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties or counsel of record.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

Alltransport Incorporated
Allmac Shipping Co., Inc.
Amerford International
American Union Transport Forwarding Co.
Arncam Shipping Co., Inc.
Novo International Corp.
Albert E. Bowen, Inc.
Cosmos Shipping Co., Inc.
Dunnington & Arnold, Inc.
Export-Import Services, Inc.
Fabius & Co., Inc.
F. N. S. Corporation
Fort Forwarding, Inc.
Freedman & Slater, Inc.
Gaynar Shipping Corp.
Gerhard & Hey Co., Inc.
Globe Shipping Co., Inc.
C.S. Greene & Co., Inc.
Hensel, Bruckmann & Lorbacher, Inc.
Hirschbach & Smith, Inc.
Hudson Shipping Co., Inc.
Karr, Ellis & Co., Inc.
Leading Export Service Corp.
Lep Transport, Inc.
Lunham & Reeve, Inc.
Maron Shipping Agency, Inc.
Mohegan International Corp.
F.W. Myers & Co., Inc.
Natural Nydegger Transport Corp.
New Era Shipping Co.
Phoenix Shipping Co., Inc.
H. Stone & Co.
Taub, Hummel & Schnall, Inc.
Trans-World Shipping Corp.
Triangle Forwarding Corp.
United Forwarders Service, Inc.
United States Forwarding Corp.
Unsworth & Co., Inc.
Wedemann & Godknecht, Inc.
Daniel F. Young, Inc.
Pitt & Scott Corp.
C.H. Powell Co., Inc.
R.N. Forwarding Co., Inc.
Schenkers International Forwarders, Inc.
Karl Schroff & Associates, Inc.
Luigi Serra, Inc.
Milton Snedeker Corporation
Sobel Shipping Co.
Spartan Overseas Shipping Corp., c/o Gerald H. Ullman, Esq., 120 Broadway, New York, New York 10005

APPENDIX B

Pacific Westbound Conference
Far East Conference, % Edward D. Ransom, Esq., Lillick, McHose & Charles, Two Embarcadero Center, 26th Floor, San Francisco, California 94111
Atlantic and Gulf-Indonesia Conference
Atlantic and Gulf/Panama Canal Zone, Colon and Panama City Conference
Atlantic and Gulf-Singapore, Malaya and Thailand Conference
Atlantic and Gulf/West Coast of Central America and Mexico Conference
Atlantic Gulf/West Coast of South America Conference
East Coast Colombia Conference
Leeward and Winward Islands and Guianans Conference
U.S. Atlantic and Gulf-Haiti Conference
U.S. Atlantic and Gulf-Jamaica Conference
U.S. Atlantic and Gulf-Santo Domingo Conference
U.S. Atlantic and Gulf-Venezuela and Netherlands Antilles Conference
West Coast South America Northbound Conference, % Wade S. Hooker, Jr., Esq., Casey, Lane & Mittendorf, 26 Broadway, New York, New York 10004
North Atlantic Mediterranean Freight Conference
U.S. Atlantic and Gulf/Australia-New Zealand Conference
Marseilles/North Atlantic U.S.A. Freight Conference
West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference
Iberian/U.S. North Atlantic Westbound Freight Conference (except Seatrain)
Mediterranean North Pacific Coast Freight Conference
Med-Gulf Conference, % John R. Attanasio, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006
Latin America Pacific Coast Steamship Conference
Pacific Coast Australasian Tariff Bureau
Pacific Coast European Conference
Pacific Coast River Plate Brazil Conference
Pacific Straits Conference, % David C. Nolan, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111
Transpacific Freight Conference of Japan/Korea
Japan/Korea-Atlantic and Gulf Freight Conference, % Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, D.C. 20036

[FR Doc.77-15253 Filed 5-26-77;8:45 am]

LION FERRY A/B AND BONNIERFORETAGEN A/B

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-86 and Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C-1,081; Order of Revocation

WHEREAS, Lion Ferry A/B and Bonnierforetagen A/B c/o Prince of Fundy Cruises, P.O. Box 4216 Station A, Portland, Maine 04101, have ceased to operate the Prince of Fundy to and from United States ports; and

WHEREAS Certificate (Performance) No. P-86 and Certificate (Casualty) No. C-1,081 have been returned for revocation.

IT IS ORDERED, that Certificate (Performance) No. P-86 and Certificate (Casualty) No. C-1,081 issued to Lion Ferry A/B and Bonnierforetagen A/B covering the Prince of Fundy be and are hereby revoked effective May 18, 1977.

IT IS FURTHER ORDERED, that a copy of this Order be published in the FEDERAL REGISTER and served on certificants.

By the Commission May 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-15251 Filed 5-26-77;8:45 am]

[Docket No. 77-18]

SEATRAIN GITMO, INC.

Rates on Government Cargo; Order of Investigation

On May 25, 1977, Seatrain Gitmo, Inc. (Seatrain) proposes to make effective certain rates and rules applicable to the carriage of government cargoes[1] between U.S. Atlantic Ports and Ports in Puerto Rico. The proposed tariff pages would establish three basic rates applicable to government cargo, viz.: Cargo N.O.S.; Refrigerated Cargo, and Vehicles. In order to take advantage of these rates, both the shipper and consignee must be a Government or Government Agency and the cargo must be tendered under a Shipping Order as opposed to a Commercial Bill of Lading. The Shipping Order is set forth in section 5 of Seatrain's Tariff FMC-F No. 1.

Upon consideration of the subject rates and rules and their potential conflict with the Congressional intent in the repeal of section 6 of the Intercoastal Shipping Act, 1933, the Commission is of the opinion that the proposed tariff matter should be made the subject of a public investigation to determine whether it is unjust, unreasonable or otherwise unlawful under sections 16 First and 18(a) of the Shipping Act, 1916 and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933.

The Commission currently has pending an investigation of essentially identical tariff provisions in Docket No. 75-20, Puerto Rico Maritime Shipping Authority Rates on Government Cargo. The record in this proceeding is ripe for decision. Due to similarity of the issues herein and those in Docket No. 75-20, it is felt that any investigation in this proceeding should be delayed until the initial decision in the companion docket.

Therefore, *it is ordered*, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, as amended, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, as amended, an investigation is hereby

[1] The applicable tariff matter is set forth in Appendix A hereto.

ordered into the lawfulness of the proposed tariff matter set forth in Appendix A hereto for the purpose of making such findings and orders as the facts and circumstances warrant. In the event that the tariff matter hereby placed under investigation is further changed, amended, or reissued, such changes are hereby ordered to be made part of this investigation;

It is further ordered, That pursuant to section 16, First of the Shipping Act, 1916, as amended, a determination shall be made as to whether Seatrain, by the subject rates and rules, is proposing to grant any undue or unreasonable preference or advantage to Government, Government agencies or Government cargoes or to subject any particular person or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever within the meaning of that section;

It is further ordered, That Seatrain Gitmo, Inc., be named respondent in this proceeding;

It is further ordered, That the parties submit to the Secretary, not later than 30 days after service of the initial decision in Docket No. 75-20 individual or joint recommendations to the Commission identifying all unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these recommendations, the Commission will issue an appropriate order limiting the issues and establishing the procedure for their resolution or, alternatively, refer the matter to the Office of Administrative Law Judges for the establishment of such a procedure;

It is further ordered, That (1) a copy of this order be forthwith served upon the respondent and upon the Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

APPENDIX A

Tariff	*Page*
Seatrain Gitmo, Inc., FMC-F No. 1.	1st Revised Page 86. 1st Revised Page 87. 1st Revised Page 88. 1st Revised Page 89. 1st Revised Page 90. 1st Revised Page 91. 1st Revised Page 92. 1st Revised Page 93. 2nd Revised Page 320. 2nd Revised Page 321. Original Page 322. Original Page 323.

[FR Doc.77-15252 Filed 5-26-77;8:45 am]

UNITED STATES/EUROPE DISCUSSION AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 6, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 10022-5, among the member lines of the above-named agreement, amends the basic agreement by extending its duration through September 5, 1977.

By Order of the Federal Maritime Commission.

Dated: May 23, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-15250 Filed 5-26-77;8:45 am]

FEDERAL RESERVE SYSTEM

ARK VALLEY BANKSHARES, INC.

Formation of Bank Holding Company

Ark Valley Bankshares, Inc., La Junta, Colorado, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 83 per cent of the voting shares of The La Junta State Bank, La Junta, Colorado, and 56 per cent of the voting shares of The Empire State Bank, Rocky Ford, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 20, 1977.

Board of Governors of the Federal Reserve System, May 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15155 Filed 5-26-77;8:45 am]

BANKAMERICA CORP.

Order for Hearing

On September 28, 1976, BankAmerica Corporation, San Francisco, California ("BankAmerica"), submitted to the Federal Reserve Bank of San Francisco ("Reserve Bank"), pursuant to § 4(c)(8) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1843(c)(8)) and in the manner and form specified in Part 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), a proposal to expand geographically, and continue to engage in, the data processing activities of its data processing subsidiary, Decimus Corporation, San Francisco, California ("Decimus"), within a 500 miles radius of Piscataway, New Jersey. The market to be serviced would encompass Federal Reserve Districts 1 through 5, except for the State of Ohio. BankAmerica proposes, through Decimus, to engage in the activities of storing and processing banking, financial and related economic data, including deposit accounting, general ledger accounting, account reconciliation, loan accounting, credit union accounting and providing payroll, accounts receivable and payable, billing and similar data processing services. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(8)).

The Piscataway office of Decimus Corporation was established in October 1974 pursuant to the provisions of § 225.4(b)(1) of Regulation Y after BankAmerica published notice of its proposal in the Newark Star Ledger. In 1976, BankAmerica was advised that Decimus was without authority to conduct business activities from the Piscataway office for customers at locations at which the Star Ledger could not be considered to be a newspaper of general circulation. In response to this advice, in September 1976, BankAmerica published notice of its intention to expand the activities of Decimus in the eastern edition of The Wall Street Journal, The Washington Post, The New York Times, Boston Herald American, Philadelphia Evening Bulletin, The Richmond Times-Dispatch, Buffalo Courier-Express, Baltimore News American and The Pittsburgh Press.

Following publication of notice of the proposal, written submissions in opposition were filed by National Computer Analysts, Inc ("NCA") and other interested parties.[1] NCA and certain of the other protestants in this matter have requested that the Board require BankAmerica to file an application pursuant to § 4(c)(8) of the Act and order a formal hearing on the application.[2] BankAmerica raises a number of arguments to establish that no application is necessary or, that if an application is required, a hearing is neither necessary nor appropriate.

BankAmerica first contends that, by virtue of its 1974 proposal pursuant to § 225.4(b)(1) of Regulation Y, it has authority to serve the natural market area of the Piscataway office despite the fact that publication of the proposal did not appear in various local markets. In this regard, BankAmerica contends that the consistent administrative position of the Federal Reserve System has been to allow such activities with only local publication and that the Board is, therefore, precluded from taking the position that the activities are not authorized.

The Board does not agree that such has been the consistent administrative interpretation. Furthermore, § 225.4(b)(1) of Regulation Y is explicit that publication must occur in the communities to be served. Even if the Board had such an administrative practice as contended by BankAmerica, such a practice could not operate to deprive potential competitors of the opportunity to either contest the proposed expansion of activities or to contend that they were being carried on without authority. In this connection, the legislative history of the 1970 Amendments makes it abundantly clear that the purpose of the notice and opportunity for hearing provisions of § 4(c)(8) of the Act was to give potential competitors an opportunity to challenge the entry of bank holding companies into their market areas.[3] BankAmerica's contentions in this regard are, therefore, not well founded.

BankAmerica further points out that none of the protests was received within the 30-day comment period set forth in the newspaper notices it published and thus contends that the Board may not consider them. While it is true that none of the protests was received during the 30-day period, Form FR Y-4A, which is the format of the newspaper publication, states that comments "should" be received within 30 days of publication of notice, not that they "must" be so received. The purpose of this statement is to insure that comments by interested parties are received in time to be considered before the proposal automatically becomes effective at the conclusion of the 45-day period which starts on the date of applicant's submission of the notice to the Reserve Bank pursuant to § 225.4(b)(1) of Regulation Y. That period had not expired when the protests were received. Furthermore, submissions in opposition to the proposal were relevant and were received shortly after the Board published notification of the proposal in its H2 release for the week ending October 9, 1976. The purpose of the H2 release is again to give notice to interested persons. Since the 45-day period had not expired, the proposal had not become effective and the relevant comments in opposition received will be considered by the Board.

In a related argument, BankAmerica contends that NCA is not a proper party to the instant proceedings. BankAmerica and NCA are currently engaged in litigation over the propriety of the data processing activities carried out by Decimus. In this connection, BankAmerica points out that the United States District Court for the District of New Jersey has held that NCA was in a position to object to the 1974 proposal and had failed so to do. Thus, BankAmerica believes that NCA, having had actual notice of the proposal, was not affected by any defect in its original notice and should not benefit therefrom. The fact that a potential competitor may have neglected to exercise its rights with respect to an earlier proposal does not, in the Board's view, provide a ground for excluding the competitor from a further, legally required, proceeding. Furthermore, the Board does not believe that the fact that many of the issues raised by NCA are the subject of the pending litigation precludes the Board from considering their merits in this proceeding. Section 4(c)(8) of the Act requires that, in contested cases, the Board determine with respect to each proposal whether reasonably expected public benefits outweigh the possible adverse effects. If the contentions raise issues of fact material to this determination, the fact that those issues are the subject of a judicial proceeding does not affect the Board's responsibility under the Act.

BankAmerica argues that, since the proposals are for the geographic expansion of services commenced de novo, there is a presumption that there are no adverse effects that require outweighing and, therefore, no hearing is necessary and BankAmerica has no burden of demonstrating public benefits. The Board believes that NCA and the other protestants have raised substantive arguments of possible adverse effects that, if borne out at a hearing, would eliminate the presumption established by §§ 225.4(a) and 225.4(b)(1). Thus, under § 4(c)(8) of the Act, the Board's obligation is to separately determine, on the basis of the record, that the public benefits outweigh possible adverse effects in this specific case prior to allowing BankAmerica to expand Decimus' activities. In view of the foregoing, the Board has determined that a hearing is necessary and appropriate.

BankAmerica has indicated that it wishes to rely on the above-mentioned presumptions with respect to permissible activities. The Board has determined not to require that BankAmerica file a formal application pursuant to § 225.4(b)(2) and thus make an affirmative case relating to public benefits since much of the formal application form which relates to acquisitions of going concerns or activites not already on the permissible list would not apply to this proceeding. In this regard, the Board will regard BankAmerica's reliance on the presumption as well as any material it may choose to submit at the hearing as constituting an "application" and as part of a "record." However, it should be noted that the burden of establishing that reasonably expected public benefits outweigh possible adverse effects is upon BankAmerica in this proceeding and, furthermore, it is expected that the hearing officer will obtain more specific information as to BankAmerica's proposal than is contained in the newspaper notices.

BankAmerica has requested that the Board separate the proposal and allow the 45-day period to expire with respect to areas other than southern New Jersey and Pennsylvania, since these appear to be the primary areas in which protestants are interested. However, BankAmerica has contended that the natural market area of data processing services offered out of the Piscataway office would include a radius of at least 500 miles. If this is the case, protestants who are in the data processing business themselves would be potential competitors throughout the proposed service area and, in fact, NCA has amended its protest to cover all of the proposed areas. Furthermore, in view of the contentions raised by the protestants, the question whether there would be reasonably expected public benefits to outweigh possible adverse effects would arise with respect to all areas to be served.

BankAmerica is intending to solicit business throughout the State of New Jersey and is continuing to service clients that it has previously contracted within other areas. NCA has requested that BankAmerica be directed to terminate these activities pending the results of the hearing.

While the Board believes that BankAmerica was without authority under Regulation Y to commence activities outside of New Jersey, BankAmerica has agreed to cease soliciting new customers in those areas and the Board believes that a requirement that it cease serving existing customers would not be equitable. The Board is aware of no information that would lead it to believe that BankAmerica's expansion of services to these customers was done in willful violation of the Bank Holding Company Act or in deliberate disregard to the provisions of Regulation Y. Furthermore, the customers have gone to a significant expense to convert to BankAmerica's system, and to require termination would require a loss of that expenditure and consequent expense and dislocation to those customers in converting to other providers of the services. Such harm to third parties pending the outcome of the proceedings can only be justified where a violation was willful or where it is clear that the bank holding company would not be permitted to retain the activity, as for instance where the activity was not permissible for bank holding companies. For the Board to require a termination in advance of the outcome of this proceeding might well constitute a prejudgment of the issues and, depending on the outcome of the proceeding, might be an imposition of economic harm for no useful purpose.

With respect to the continuance of activities in New Jersey, as the District Court has stated, the Newark Star Ledger is a "paper of wide circulation in New Jersey." However, in light of certain information submitted by protestants, it is not clear whether or not it can be considered to be of general circulation in all of the communities to be served in New Jersey. However, the Board believes that NCA would certainly be charged with notice that BankAmerica at least intended to conduct the activity throughout New Jersey. Under these circumstances it would not appear necessary to require BankAmerica to terminate its activities in this area pending the outcome of the proceeding.

Accordingly, *it is hereby ordered*, That a hearing with respect to this matter be held before an Administrative Law Judge, to be designated by the Civil Service Commission. Such hearing shall be conducted in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263); however, the Administrative Law Judge shall establish a schedule whereby Applicant and protestants shall submit their direct and rebutal testimony in written form. Public, oral cross examination shall then commence on a date designated by the Administrative Law Judge at the Federal Reserve Bank of Philadelphia, Philadelphia, Pennsylvania. The Administrative Law Judge may, in his discretion, convene a prehearing conference or conferences at any convenient time or place.

It is further ordered, That the basic issue to be considered at such hearing is whether the proposal of BankAmerica to expand the data processing operations of its subsidiary, Decimus, into the proposed market areas "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

It is further ordered, That any person desiring to give testimony, present evidence, or otherwise participate in these proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before June 15, 1977, a written request containing a statement of the nature of the Petitioner's interest in the proceedings, the extent of the participation desired, a summary of the matters concerning which the Petitioner desires to give testimony or submit evidence, and the names and identity of witnesses who propose to appear. Such requests will be submitted to the designated Administrative Law Judge for his disposition.

By the order of the Board of Governors,[4] effective May 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15156 Filed 5-26-77;8:45 am]

[1] Other protestants are: On Line Service Corporation, Philadelphia, Pennsylvania; The Denton National Bank, Denton, Maryland; National Association of Bank Services, Columbus, Ohio; Systems Development Corporation, Santa Monica, California; Datatel, Inc., Alexandria, Virginia; Bankputer, Inc., New Haven, Connecticut; and Virginia Data Center, Norfolk, Virginia.

[2] On Line Service Corporation; Systems Development Corporation; Datatel, Inc.; and The Denton National Bank.

[3] E.g., H.R. 91-1747, pages 15-22 (December 19, 1970).

[4] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

CITIZENS BANKERS, INC.

Formation of Bank Holding Company

Citizens Bankers, Inc., Baytown, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 100 percent, less directors' qualifying shares, of the voting shares of two banks: Citizens National Bank & Trust Company of Baytown, Baytown, Texas, and Baytown State Bank, Baytown, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 21, 1977.

Board of Governors of the Federal Reserve System, May 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15157 Filed 5-26-77;8:45 am]

INTERNATIONAL BANK

Order Granting Motion To Reopen the Record

In the matter of the determination of control over Financial General Bankshares, Inc.

On August 1, 1974, the Board entered an Order determining that International Bank, Washington, D.C., had not terminated its control over Financial General Bankshares, Inc., Washington, D.C., which International Bank admittedly had in 1966, and preliminary determining, pursuant to § 2(a)(2)(C) of the Bank Holding Company Act (12 U.S.C. 1841(a)(2)(C)), that International Bank exercises a controlling influence over the management and policies of Financial General Bankshares. International Bank requested a hearing to contest the Board's determinations of control and, by Order dated October 4, 1974 (39 FEDERAL REGISTER 36510), the Board ordered such a hearing before Frederick Denniston, Administrative Law Judge, to be conducted in accordance with the Board's Rules of Practice for Formal Hearings and the Board's Order of August 1, 1974.

On March 10, 1977, the Board ordered the Administrative Law Judge not to prepare a recommended decision but to submit and certify the record of the hearing to the Board not later than April 30, 1977. The Board further ordered that the record include (1) a statement of the issues for decision by the Board, jointly agreed to by the parties and separately stated as to those issues on which there is not agreement; (2) proposed findings of fact and conclusions of law on behalf of each party; (3) such brief and reply brief as each party may wish to file in support of those proposed findings of fact and conclusions of law. The hearing officer has complied with the Order and so certified the record.

At the time of his certification there was a pending motion by International Bank to reopen the record to introduce additional documents as well as a response by Board's counsel to that motion and a further response and motion of International Bank. The hearing officer, because of the time constraints, was not able to act on these motions and they were, therefore, certified to the Board for its action.

Among the issues certified by the hearing examiner is the question whether the proceeding is "moot" due to the then-proposed sale of International Bank's holdings in Financial General to a group of investors headed by J. William Middendorf II. The pending motion was obviously intended to provide information bearing on changes in the relationship between International Bank and Financial General and thus, on the "mootness" issue.

The Board believes that the use of the term "moot" misconstrues the issues involved in the proceeding. The fact that the relationship between International Bank and Financial General may have changed does not relieve the Board of the obligation to determine on the record of this proceeding whether control or a controlling influence existed at any point in time. Rather, if such control or a controlling influence existed, a subsequent change in that relationship may bear only on the nature of any affirmative relief that may be ordered by the Board.

However, in an attempt to expedite this proceeding and resolve all issues relating thereto at one time, the Board has determined to grant the motion in part.

It is hereby ordered, That the record in this proceeding is reopened and the matter is referred back to the Administrative Law Judge for such proceedings as may be consistent with this order. In this regard the parties are directed

to develop additional facts, to formulate supplemental issues, and to submit to the Administrative Law Judge supplemental briefs and proposed findings of fact relating to whether, assuming control or a controlling influence over Financial General has been exercised by International Bank, such relationship has been terminated. In this regard the possible applicability of § 2(g)(3) of the Bank Holding Company Act and any relationship between the Middendorf group and International Bank should be explored. Furthermore, assuming the position is taken that any such control relationship has not been terminated, the question of what conditions should be imposed by the Board to insure such termination should be addressed. Further, if it is contended that control or a controlling influence existed at any point in time, the question of what affirmative relief, if any, should be ordered by the Board with respect to the future activities of International Bank and Financial General should be addressed.

It is further ordered, That the hearing officer shall set such schedules on this matter as shall allow him to certify the additional portions of the record to the Board not later than July 15, 1977. As with respect to the prior certification, the hearing officer shall certify such record without a recommended decision.

By order of the Board of Governors, effective May 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15158 Filed 5-26-77;8:45 am]

KICKERILLO CO.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g)(3)) ("the Act"), by Kickerillo Company, Houston, Texas ("Company"), for a determination, with respect to its sale of 65,624 shares (representing 26.25 percent of the outstanding voting shares) of Southwest Bank of Fort Worth, Fort Worth, Texas ("Bank"), to Mr. Herman J. Smith, that neither Company nor any of its subsidiaries, affiliates, stockholders, or officers is or will be in fact capable of controlling Mr. Herman J. Smith or the transferred shares, notwithstanding the facts that Mr. Smith is indebted to Company by a promissory note that is secured by shares of Bank and by the collateral assignment of a vendor's lien note on certain specified real property owned by the purchaser.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than June 20, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, May 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15159 Filed 5-26-77;8:45 am]

PACESETTER FINANCIAL CORP.

Order Approving Acquisition of Bank

Pacesetter Financial Corporation, Grand Haven, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire all the voting shares of the successor by consolidation to First Security Bank of Grand Blanc, Grand Blanc, Michigan ("Bank"). The bank into which Bank is to be consolidated has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of $306.1 million,[1] representing approximately one percent of the total commercial bank deposits in Michigan, and is the 17th largest banking organization in the State. Acquisition of Bank (deposits $15.0 million) would not result in a significant increase in the concentration of banking resources in Michigan, nor would it alter Applicant's Statewide ranking.

Bank is the tenth largest of fourteen banks located in the Flint, Michigan, banking market,[2] in which it controls less than one percent of commercial bank deposits. Four branches of one of Applicant's subsidiary banks are located in the relevant market, where they would be considered the twelfth largest bank represented in the market, controlling approximately 0.7 percent of total market commercial bank deposits. However, presently existing competition between the branches and Bank is slight. Consummation of the proposed transaction would not eliminate any meaningful existing competition.

The proposed acquisition is likely to promote a more vigorous and balanced competitive environment between Bank and the largest banks in the highly concentrated Flint banking market. It is concluded that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are considered to be satisfactory, particularly in view of Applicant's commitment to inject $300 thousand into Security First Bank & Trust Co., Grand Haven, Michigan, and $100 thousand into Bank during 1977. Applicant's capital injection will be made in a form acceptable to the appropriate Federal banking agency. Therefore, banking factors are consistent with approval of subject application.

Consummation of the proposed transaction is not expected to provide any immediate benefits to the public. However, Applicant's financial, managerial and other resources would be made available to Bank, which may ultimately increase its internal efficiencies and increase the quality of service to the public. Considerations relating to the convenience and needs of the community to be served are viewed as being consistent with approval of the application. It is the judgment of this Reserve Bank that consummation of the proposed transaction would be in the public interest and that the application should be approved.

[1] All banking and deposit data are as of June 30, 1976.

[2] The Flint banking market is the relevant banking market and is approximated by the Flint RMA, except that portion which extends into Shiawassee County and Attica township east of Lapeer in Lapeer County.

[1] Voting for this action: Vice Chairman Gardner and Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Wallich.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago, pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective May 17, 1977.

FRANKLIN D. DREYER,
Vice President.

[FR Doc.77-15160 Filed 5-26-77;8:45 am]

PHILLIPSCO, INC.

Formation of Bank Holding Company

PHILLIPSCO, INC., Holyoke Colorado, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The First National Bank of Holyoke, Holyoke, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than June 20, 1977.

Board of Governors of the Federal Reserve System, May 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15161 Filed 5-26-77;8:45 am]

[Docket No. TCR 76-140]

304 CORP.

Prior Certification Pursuant to the Bank Holding Company Tax Cut of 1976

304 Corporation, Omaha, Nebraska ("304"), has requested a prior certification pursuant to § 6158(a) of the Internal Revenue Code (the "Code"), as amended by § 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its sale of all of the 1,050 issued and outstanding shares of common stock of Industrial Loan and Investment Company, Omaha, Nebraska ("Industrial"), now held by 304 to Industrial Investment Company, Omaha, Nebraska, is necessary or appropriate to effectuate § 4 of the Bank Holding Company Act (12 U.S.C. § 1843) ("BHC Act").

In connection with this request, the following information is deemed relevant for the purposes of issuing the requested certification:[1]

1. 304 is a corporation organized under the laws of the State of Nebraska on February 18, 1970.

2. Industrial is an industrial loan and investment corporation organized under the laws of the State of Nebraska on August 18, 1938, and engaged in the business of an industrial bank. On February 14, 1967, Industrial acquired direct ownership and control of 81.4 per cent of the outstanding voting shares of Mid City Bank, Inc., Omaha, Nebraska ("Bank"). On March 13, 1970, 304 acquired direct ownership and control of 1010 shares, representing all of the outstanding voting shares, of Industrial, and thereby acquired indirect ownership and control on that date of 81.4 per cent of the outstanding voting shares of Bank.

3. 304 became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its indirect ownership and control at that time, through Industrial, of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on June 28, 1971.[2] 304 would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its indirect ownership and control, through Industrial, of more than 25 percent of the outstanding voting shares of Bank. 304 presently indirectly owns and controls 8,866 shares, representing 88.6 percent of the outstanding voting shares, of Bank.

4. 304 has not filed an application with the Board, or otherwise obtained the Board's approval pursuant to § 4(c)(8) of the BHC Act, to retain the shares of Industrial or engage in the activities carried on by Industrial.[3]

5. 304 has contracted to sell the shares of Industrial to Industrial Investment Company for cash. Prior to the sale of its shares of Industrial, 304 will purchase from Industrial all of the shares of Bank held by Industrial.

On the basis of the foregoing information, it is hereby certified that:

(A) 304 is a qualified bank holding corporation within the meaning of § 6158(f)(1) and subsection (b) of section 1103 of the Code, and satisfies the requirements of that subsection:

(B) Industrial is "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code; and

(C) the sale of Industrial is necessary or appropriate to effectuate § 4 of the BHC Act.

This certification is based upon the representations made to the Board by 304 and upon the facts set forth above. In the event the Board should hereafter determine that facts material to this certification are otherwise than represented by 304 or that 304 has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 C.F.R. § 265.2(b)(3)), effective May 20, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-15154 Filed 5-26-77;8:45 am]

[1] This information derives from 304's correspondence with the Board concerning its request for this certification, 304's Registration Statement filed with the Board pursuant to the BHC Act and other records of the Board.

[2] Industrial registered with the Board as a bank holding company on the same date.

[3] The operation of an industrial bank is a permissible activity for a bank holding company. See 12 CFR § 225.4(a)(2). However, in the absence of approval by the Board of an application by 304 to retain Industrial, 304 would have no authority for retaining Industrial beyond December 31, 1980. (Cf. Wachovia Corp., Docket No. TCR 76-132, 42 Fed. Register 24316 (May 13, 1977).)

TRANS TEXAS BANCORPORATION, INC.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(g)(3)) ("the Act"), by Trans Texas Bancorporation, Inc., El Paso, Texas ("Trans Texas"), for a determination, with respect to the sale of 2,500 shares (comprising 10 percent of the outstanding voting shares) of C. F. Opel, Inc. ("Opel"), by El Paso International Company, a wholly owned nonbank subsidiary of Trans Texas, to Mr. Charles Frederick Opel, that neither Trans Texas nor any of its subsidiaries, affiliates, stockholders, or officers is or will be in fact capable of controlling Mr. Charles Frederick Opel individually or the transferred shares of C. F. Opel, Inc. This request for determination is made notwithstanding the fact that, at the time of the sale and thereafter, Mr. Charles Frederick Opel was an indebted customer of El Paso National Bank, El Paso, Texas, a subsidiary of Trans Texas.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to

the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than June 20, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, May 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-15162 Filed 5-26-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 20, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 10, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

FEA requests clearance of its new, semi-annual Form FEA-U524-P-O entitled Industrial Energy Conservation and Consumption Report. The FEA-U524-P-O is required by Section 375 of Part D of Title II of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163). The FEA-U524-P-O provides the means for monitoring the progress by industry towards conservation targets set by FEA in accordance with Section 374 of the EPCA. FEA estimates respondents to the FEA-U524-P-O to number approximately 130 corporations and burden to average 30 hours per response.

NORMAN F. HEYL,
Regulatory Reports,
Review Officer.

[FR Doc.77-15103 Filed 5-26-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77G-0099]

ARTHUR A. CHECCHI, INC.

Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: A petition has been filed by Arthur A. Checchi, Inc., proposing affirmation that high-fructose corn syrup prepared by converting a part of the glucose in corn syrup to fructose by glucose isomerase enzyme, derived from *Bacillus coagulans*, for use as a sweetener in foods and the glucose isomerase enzyme are GRAS.

DATE: Comments by July 26, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of Gras status in § 170.35 (21 CFR 170.35, formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), notice is given that a petition (GRASP 7G0086) has been filed by Arthur A. Checchi, Inc., 1730 Rhode Island Ave. NW., Washington, D.C. 20036, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that high-fructose corn syrup prepared by converting a part of the glucose in corn syrup to fructose by glucose isomerase enzyme, derived from *Bacillus coagulans*, for use as a sweetener in foods and the glucose isomerase enzyme are GRAS.

Any petition which meets the format requirements outlined in § 170.35 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before July 26, 1977, review the petition and/or file comments (in quadruplicate) with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 18, 1977.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc. 77-15095 Filed 5-26-77;8:45 am]

[Docket No. 76N-0406; DESI 7504]

CORTICOTROPIN FOR PARENTERAL USE

Drugs For Human Use; Drug Efficacy Study Implementation Amended Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Amended notice.

SUMMARY: This notice amends a notice published in the FEDERAL REGISTER of March 1, 1977, to correct the omission of an indication for use of parenteral corticotropin, to change the name of one of the new drug application holders, and to correct two other errors.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 7504; directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD-130), Rm. 14B-03, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

John H. Hazard, Jr., Administrative Compliance Branch (HFD-32), Office of the Assistant Director for Regulatory Affairs, Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 7504) published in the FEDERAL REGISTER of March 1, 1977 (42 FR 11891), several inadvertent errors appeared in the indications section on page 11892 in the third column: In item 10, "*Edematous states,*" the phrase "the idiopathic" should be inserted before the word "type." In item 12, "Miscellaneous," the words "concurrent by" should read "concurrently." Also under "Miscellaneous," the following indication should be added:

Trichinosis with neurologic or myocardial involvement.

In addition, the notice incorrectly stated that the holder of NDA 12-089, Purified Corticotropin-Gel/Injection was Elkins-Sinn, Inc., 2 Easterbrook Ln., Cherry Hill, NJ 08002. The holder of the NDA should be listed as Philadelphia Laboratories, Inc., formerly of 9815 Roosevelt Blvd., Philadelphia, PA 19114.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: May 10, 1977.

CARL M. LEVENTHEL,
Acting Director,
Bureau of Drugs.

[FR Doc.77-14961 Filed 5-26-77;8:45 am]

[Docket No. 77C-0126]

COSMETIC, TOILETRY, AND FRAGRANCE ASSOCIATION, INC.

Color Additive Petitions

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402 (21 U.S.C. 376(d)), notice is given that color additive petitions (CAP's) have been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc., 1130 15th St., NW., Washington, DC 20005, proposing the issuance of color additive regulations (21 CFR Part 73) to provide for the safe use and exemption from certification of the color additives specified below.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204. (202-472-5740).

SUPPLEMENTARY INFORMATION: The submitted color additive petitions are as follows:

CAP No.	Color additives	Uses
6C0117	Aluminum powder.	In externally applied drugs and externally applied cosmetics including those used in the area of the eye.
6C0118	Annatto.....	In externally applied drugs and in cosmetics, generally, including those used in the area of the eye.
6C0121	β-Carotene...	Do.
6C0122	Zinc oxide..	Do.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, during working hours Monday through Friday.

Dated: May 3, 1977.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc.77-14964 Filed 5-26-77;8:45 am]

[Docket No. 77F-0077]

GENERAL FOODS CORP.

Filing of Food Additive Petitions

Correction

In FR Doc. 77-12971 appearing at page 23170 in the issue for Friday, May 6, 1977, the headings should read as set forth above.

[Docket No. 76N-0209; DESI 10070]

PANCREATIC DORNASE

Opportunity For Hearing on Proposal to Withdraw Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

DATES: Hearing requests due on or before June 27, 1977.

SUMMARY: This notice reclassifies pancreatic dornase to lacking substantial evidence of effectiveness, proposes withdrawal of approval of the new drug application and offers an opportunity for a hearing on the proposal.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 10070 and the docket number appearing in the heading of this notice, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Request for Hearing: Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Request for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. (301-443-3650.)

SUPPLEMENTARY INFORMATION: In a notice (DESI 10070) published in the FEDERAL REGISTER of July 30, 1970 (35 FR 12232), the Food and Drug Administration (FDA) announced its conclusion that the drug product described below is less than effective (probably effective) as an adjunct in the treatment of paranasal sinus infections, for tracheitis sicca, cystic fibrosis of the pancreas, and for reducing tenacity of pulmonary secretions in bronchopulmonary infections; and is less than effective (possibly effective) for its other labeled indications.

NDA 10-070; Dornavac Powder containing pancreatic dornase for inhalation or irrigation; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.

Pursuant to the notice of July 30, 1970, Merck, Sharp & Dohme submitted data from three clinical studies. The studies are discussed below.

Dr. M. J. Dulfano evaluated the effect of pancreatic dornase on 30 male patients (14 on pancreatic dornase and 16 on placebo) who were suffering from an acute exacerbation of chronic bronchitis and had a mucopurulent sputum. The drug was administered twice daily for 3 days, and the investigator assessed pulmonary function by chest X-ray examinations and by determining the forced expiratory volume, the forced expiratory volume in 1 second, the maximum volume ventilation, and the maximum mid-expiratory flow. He also evaluated cough, dyspnea, and chest symptoms (all on a 3-point scale) and the sputum characteristics (quantity, viscosity in poises, elastic recoil in units, opacity on a 3-point scale, specific gravity, cell population on a 5-point scale, the cell differential, and bacteriology) before treatment, five times during the treatment, and once the day after the treatment was terminated. During the study two patients on Dornavac had to discontinue taking the drug, one because of wheezing and shortness of breath and the other because of the taste of the drug. Statistical analysis of the results by the sponsor indicated no significant differences in sputum characteristics and pulmonary function variables. The scores, however, for the chest symptoms during the last 2 days of the study showed a statistically significant difference in favor of the placebo. Merck Sharp & Dohme acknowledged that Dr. Dulfano's study did not show efficacy.

Dr. J. Bushnell evaluated the effect of pancreatic dornase on 40 patients (20 on pancreatic dornase and 20 on placebo) with paranasal sinus infection. The drug was administered once daily for 3 days, and the investigator assessed the results by X-ray examination, transillumination, and bacteriological cultures, and also by estimating the amount of discharge and pus in the sinus washings

and the degree of pain, swelling, and redness (on a 3-point scale) after each treatment. At the end he evaluated the overall effect of treatment (satisfactory or unsatisfactory). Statistical analysis of patient characteristics indicated that the two groups (20 placebo patients vs. 20 Dornavac patients) were comparable regarding age and sex, but they were not comparable in the duration of infection before the treatment was initiated, a critical variable that could affect the rate of healing and resolution of symptoms. 21 CFR 314.111(a)(5)(ii)(*a*)(2)(*iii*). The average duration of illness before treatment was started was 1.5 weeks in the Dornavac group, while it was 3 to 5 weeks in the placebo group ($p<0.05$). The results of this study indicated that there were no significant differences between the two groups regarding any of the parameters except that the Dornavac group felt less pain after the first treatment than did the placebo group ($p=0.04$) so that the reduction of pain from the pretreatment level was greater in this group ($p=0.1$). However, there were no significant differences in pain between the groups after the second and third treatments. In addition, the X-ray examinations indicated that more placebo patients had both antra clear at the second examination ($p=0.08$). In view of the fact that the placebo group and Dornavac group differed with respect to duration of illness, a critical variable it cannot be concluded that the initial faster reduction of pain in the Dornavac group indicates drug effectiveness. Merck Sharp & Dohme acknowledged that the Bushnell study did not demonstrate effectiveness.

Dr. W. E. Loch treated 16 patients suffering from sinusitis with Dornavac and 15 others with placebo in a claimed randomized double-blind parallel design for a period of 4 days. The sponsor claims that the treatment groups were comparable in age and sex, presence of local discharge prior to the study, presence of headaches, past history, and use of other therapies for headaches during the study, although significant pretreatment differences were observed in the frequency of allergy, use of regular prestudy medication, and presence of headaches influenced by cough. The investigator assessed the results by physical examinations, bacteriological cultures, nasal photographs, X-rays, and rhinometry. Observations were made of the patients' progress at each of the four treatment days and at a followup day 1 to 2 weeks after the last treatment. The investigator found that the patients who were treated with Dornavac had significantly more improvement in nasal discharges, swelling, and redness than did the patients treated with the placebo, and that this improvement was evidenced also in nasal photographs of the affected sinuses which were taken before and after treatment. The investigator also commented that treatment with Dornavac was satisfactory in all patients in all four evaluation periods, while treatment with placebo was unsatisfactory in all cases in all evaluation periods except in the last period for one patient, when he found the treatment satisfactory.

Copies of the nasal photographs have never been submitted to the agency. However, these were reevaluated for Merck Sharp & Dohme by Dr. James Snow, Jr., who found no significant differences between the Dornavac and the placebo group regarding the disappearance of the exudate. Similarly, reevaluation of the X-ray reports by FDA and by the sponsor showed no significant differences between the groups regarding improvement of the sinus condition. In addition, blind reevaluation of the original X-ray films by Dr. Wallace T. Miller at the request of the sponsor revealed no differences. Also not supportive of effectiveness were the results of the (a) bacteriological cultures, which showed no significant differences between the groups in the type, number, and sensitivity of the cultured bacteria to six antibiotics, and (b) rhinometry. The rhinograms, as reported by the sponsor, showed improvement only in two of the 16 Dornavac patients and in one of the 15 placebo patients. These results give a valuable of $p>0.5$.

The experimental and placebo groups in this study were not comparable regarding condition treated. 21 CFR 314.111(a)(5)(ii)(*a*)(2)(*iii*). Five patients in the placebo group had chronic pansinusitis that had lasted from 11 months to 8 years, with recurrent exacerbations. In five other placebo patients the pansinusitis was superimposed on viral infections. None of the 15 placebo patients had allergic manifestations at the time of the study, and only five of them had a history of allergy. In contrast, only two of the patients treated with Dornavac had chronic sinusitis, which had been of rather short duration (4 and 9 months respectively), and only one Dornavac patient had a viral infection. In further contrast, five Dornavac patients had allergic rhinitis during the period of the study while an additional six patients had a history of allergy, making a total of 11 Dornavac patients who had a history of allergy. Since allergic reactions can subside without treatment once the offending antigen is eliminated, the Dornavac-treated patients as a group were in a more favorable condition than the placebo patients in addition to having fewer chronic sinusitides to start with.

In this study the investigator's subjective evaluations of the patients' symptoms are in sharp contrast with the objective criteria and suggest that observer or analyst bias could have been present, perhaps because of breakdown of double-blind conditions. 21 CFR 314.111(a)(5)(ii)(*a*)(4). Included with the protocol that was sent to the Investigator was a chart that divided the medication numbers into two groups and identified them as Dornavac and placebo. It appears, therefore, that the study was not blind at all, at least for the investigator, who received a copy of the protocol before he treated any patient. His knowledge of the allocation schedule can explain the discrepancies between his subjective evaluations and the objective criteria of the study.

In summary, the Loch study cannot be considered adequate and well controlled and does not support the claim that the drug product is effective for the claimed indications.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product(s) evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before June 27, 1977, a written notice of appearance and request for hearing, and (2) on or before July 26, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearings as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate, with the Hearing Clerk, Food and Drug Administration (HFC–20). Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (Recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: May 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77–14962 Filed 5–26–77;8:45 am]

[Docket No. 77N–0150]

PHENFORMIN HYDROCHLORIDE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

Correction

In FR Doc. 77–12970 appearing at page 23171 in the issue for Friday, May 6, 1977, make the following changes:

1. In the second column, the 11th line of the second full paragraph, the last words should read "included".

2. In the 17th line of the same paragraph, the second word should be spelled "phenformin".

3. On page 23172, in the second column, in the material that precedes the first full paragraph, "phenforim", which appears in three places in this material, should be spelled "phenformin".

[Docket No. 77N–0107; DESI 8278]

PHENTOLAMINE MESYLATE FOR INJECTABLE USE AND PHENTOLAMINE HYDROCHLORIDE FOR ORAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice offers an opportunity for a hearing on indications previously stated to lack substantial evidence of effectiveness for phentolamine mesylate injection phentolamine hydrochloride tablets, and announces the conditions under which the drugs may be marketed for the indications for which they continue to be regarded as effective.

DATES: Hearing requests due on or before June 27, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with reference number DESI8278, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Cardio-Renal Drug Products (HFD–110), Rm. 16B–30 Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20) Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Administrative Compliance Branch (HFD–32), Office of the Assistant Director for Regulatory Affairs, Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301–443–3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 8278) published in the FEDERAL REGISTER of April 6, 1971 (36 FR 6531), the Food and Drug Administration announced its conclusions that the drug products described below are (1) effective for use in diagnosis of pheochromocytoma; prevention or control of hypertensive episodes that may occur as a result of stress and manipulation of the tumor in preoperative preparation of the patient with a pheochromocytoma and during the actual removal of the tumor; and to prevent or counteract dermal necrosis and sloughing caused by intravenous norepinephrine; (2) probably effective in the medical management of pheochromocytoma to prevent paraxysmal attacks during a period when postponement of surgical treatment may be necessary; and (3) possibly effective as adjunctive therapy in patients with vasospasm, with or without arterial occlusive disease.

A followup notice published in the FEDERAL REGISTER of July 6, 1972 (37 FR 13284), reclassified the probably effective and possibly effective indications to lacking substantial evidence of effectiveness. No opportunity for a hearing was offered at that time for those indications. The holder of the new drug application had previously deleted all less-than-effective indications from the labeling of the drug products.

NDA 8–278; Regitine Lyophilized Powder for Injection containing phentolamine mesylate; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

NDA 8–278; Regitine Tablets containing phentolamine hydrochloride; Ciba Pharmaceutical Co.

Accordingly, the April 6, 1971, notice is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to the drug products named above, as defined in 21 CFR 316.8. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to the drug products named in this notice by writing to the Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. The drug products lack substantial evidence of effectiveness for all other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Phentolamine mesylate is in sterile powder form suitable for reconstitution for intramuscular or intravenous administration, and phentolamine hydrochloride is in tablet form suitable for oral administration.

2. *Labeling conditions.* (a) The label bears the statement "CAUTION.—Federal law prohibits dispensing without prescription."

(b) The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For use in the diagnosis of pheochromocytoma; prevention and counteraction of hypertensive episodes that may occur as a result of stress manipulation of the tumor in preoperative preparation of the patient with a pheochromocytoma and during the actual removal of the tumor; prevention and counteracting dermal necrosis and sloughing caused by intravenous norepinephrine.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before July 26, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related ,or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before June 27, 1977, a written notice of appearance and request for hearing, and (2) on or before July 26, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quadruplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977, (42 FR 15553)).

Dated: May 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77–14963 Filed 5–26–77;8:45 am]

[Docket No. 75N–0304]

ORAL CONTRACEPTIVE DRUG PRODUCT

Revision of Physician and Patient Labeling

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Based on additional data, the Food and Drug Administration (FDA) is amending the text of physician and patient labeling of oral contraceptive drug products, with respect to those provisions describing the relative effectiveness of methods of contraception.

DATE: Compliance by July 26, 1977.

ADDRESSES: Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Edwin M. Ortiz, Bureau of Drugs (HFD–130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857. (301–443–3490).

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER of December 7, 1976 (41 FR 53633) setting forth the text of physician and patient labeling for oral contraceptive drug products. The Commissioner of Food and Drugs invited comment on the labeling and stated that if upon reviewing the comments he concluded that revisions in the labeling were necessary, he would publish a followup notice giving the revised text of the physician and patient labeling. He is currently in the process of reviewing the comments. Several of the comments reviewed thus far involve objections to the information summarizing the comparison of effectiveness of various methods of contraception—the comments particularly question the accuracy of the figures representing the pregnancies per 100 woman-years for the various methods of contraception.

On September 30 and October 1, 1976, members of the agency's Obstetrics and Gynecology Advisory Committee discussed the physician and patient labeling for oral contraceptives. During their discussion of the summary of the effectiveness of the various methods of contraception, they emphasized that this is a controversial subject because of the wide variability of the effectiveness rates reported for the different methods of contraception. They advised FDA that several issues of "Population Reports" (published by the Population Information Program, The George Washington University Medical Center, 2001 S St. NW., Washington, D.C. 20009) combine to cover what is available in the published literature on this subject. They advised FDA to review the cited "Population Reports" issues and to use the figures derived from that source. These figures include the lower and upper limits of contraception that can be achieved with the various methods of contraception. A copy of the pertinent sections of the transcript of the Obstetrics and Gynecology Advisory Committee meeting has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.

The information in the summary of effectiveness of various methods of contraception that was included in the physician and patient labeling published on December 7, 1976 (41 FR 53633) was obtained from the reference "Novak, E. R. (ed), 'Textbook of Gynecology,' Williams and Wilkins, 1975." After having reviewed the comments received on this subject and having reconsidered the advice of the Obstetrics and Gynecology Advisory Committee, the Commissioner has concluded that the figures derived from the "Population Reports" present a more accurate summary of effectiveness than do the figures in the labeling published in the December 7 FEDERAL REGISTER and is amending the labeling accordingly. In the physician labeling these changes are being made in the table that appears under the section entitled "Indications and Usage", and in the paragraph preceding the table. In the patient labeling the changes are being made in the table that appears under the section entitled "Deciding to Use Oral Contraceptives", and in the first paragraph after the table. Concurrently, "Reference 1" in the physician labeling is being deleted and replaced with the following new Reference 1: "Population Reports," Series H, Number 2, May 1974; Series I, Number 1, June 1974; Series B, Number 2, January 1975; Series H, Number 3, January 1975; Series H, Number 4, January 1976." A copy of this reference has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.

The table in the patient labeling has also been amended by deleting the "percent-effective" figures of the various methods of contraception. Upon further consideration, the Commissioner has concluded that the pregnancy rates of these methods of contraception, which are properly expressed in pregnancies per 100-woman years, cannot be accurately converted to "percent-effective" figures, and that the use of such figures is undesirable.

The Commissioner has deemed it necessary to respond immediately to the comments on the effective rates of the various methods of contraception because there are risk/benefit issues involved: stating a lesser effective rate for one method of contraception may persuade a patient to use an apparently more effective but less safe method. The Commissioner is continuing to review the comments received on the December 7 notice. Upon completion of his review, if he concludes that further changes are necessary in the physician or patient labeling for oral contraceptives, he will publish a followup notice setting forth the revised text of the labeling.

Physician labeling effective dates: Firms that have already revised their physician labeling based on the December 7, 1976 notice may continue to use that labeling until July 26, 1977. All oral contraceptive drug products packaged on or after July 26, 1977 shall contain the revised physician labeling.

Patient labeling effective dates: Because patient labeling for oral contraceptive drug products is the subject of a substantive regulation (§ 310.501(a) (21 CFR 310.501(a)), the December 7 notice announced that use of the revised labeling—the labeling published in the December 7 notice—could be delayed until the rule making procedure providing for the revision is completed. Firms that elected not to use the labeling published in the December 7 notice, therefore, may likewise elect not to use the revised labeling published herein until the rule making procedure is completed. Firms that have already revised their patient labeling based on the December 7 notice, however, may continue to use that labeling only until July 26, 1977. All oral contraceptive drug products packaged on or after July 26, 1977 by firms that have elected to use patient labeling based on the December 7 notice shall contain the revisions published in this notice.

Accordingly, in the December 7, 1976 notice setting forth physician and patient labeling, the sections of the physician labeling entitled "Indications and Usage" and "References" and the section of the patient labeling entitled "2. Other Ways to Prevent Pregnancy" are amended by revising certain portions to read as follows:

INDICATIONS AND USAGE

(Insert name of drug) is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception.

Oral contraceptives are highly effective. The pregnancy rate in women using conventional combination oral contraceptives (containing 35 mcg or more of ethinyl estradiol or 50 mcg or more of mestranol) is generally reported as less than one pregnancy per 100 women-years of use. Slightly higher rates (some-

what more than 1 pregnancy per 100 woman-years of use) are reported for some combination products containing 35 mcg or less of ethinyl estradiol, and rates on the order of 3 pregnancies per 100 women-years are reported for the progestin-only oral contraceptives.

These rates are derived from separate studies conducted by different investigators in several population groups and cannot be compared precisely. Furthermore, pregnancy rates tend to be lower as clinical studies are continued, possibly due to selective retention in the longer studies of those patients who accept the treatment regimen and do not discontinue as a result of adverse reactions, pregnancy, or other reasons.

In clinical trials with (insert name of drug) (insert name of) patients completed _____ cycles and a total of _____ pregnancies were reported. This represents a pregnancy rate of _____ per 100 woman-years (manufacturer to add other information related to the pregnancy rate with his particular product, if needed to provide adequate prescribing information to the physician.)

The following table gives ranges of pregnancy rates reported in the literature (Ref. 1) for other means of contraception. The efficacy of these means of contraception (except the IUD) depends upon the degree of adherence to the method.

PREGNANCIES PER 100 WOMAN-YEARS

IUD, less than 1–6;
Diaphragm with spermicidal product (creams or jellies), 2–20;
Condom, 3–36;
Aerosol foams, 2–29;
Jellies and creams, 4–36;
Rhythm (all types), less than 1–47;
1. Calendar method, 14–47;
2. Temperature method, 1–20;
3. Temperature method—intercourse only in post-ovulatory phase, less than 1–7;
4. Mucus method, 1–25;
No contraception, 60–80.

Epidemiological studies have shown a positive association between the dose of estrogens in oral contraceptives and the risk of thromboembolism (refs. 2 and 3). For this reason, it is prudent and in keeping with good principles of therapeutics to minimize exposure to estrogen. The oral contraceptive product prescribed for any given patient should be that product which contains the least amount of estrogen that is compatible with an acceptable pregnancy rate and patient acceptance. It is recommended that new acceptors of oral contraceptives should be started on preparations containing 50 MCG or less of estrogen.

REFERENCES

"*Population Reports*," Series H, Number 2, May 1974; Series I, Number 1, June 1974; Series B, Number 2, January 1975; Series H, Number 3, 1975; Series H, Number 4, January 1976 (published by the Population Information Program, The George Washington University Medical Center, 2001 S St. NW., Washington, D.C.).

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2. **Other Ways to Prevent Pregnancy. As this leaflet will explain, oral contraceptives have several serious risks. Other methods of contraception have lesser risks or none at all. They are also less effective than oral contraceptives, but, used properly, may be effective enough for many women. The following table gives reported pregnancy rates (the number of women out of 100 who would become pregnant in 1 year) for these methods:**

PREGNANCIES PER 100 WOMEN PER YEAR

Intrauterine device (IUD), less than 1–6;
Diaphragm with spermicidal products (creams or jellies), 2–20;
Condom(rubber), 3–36;
Aerosol foams, 2–29;
Jellies and creams, 4–36;
Rhythm (all types), less than 1–47;
1. Calendar method, 14–47;
2. Temperature method, 1–20;
3. Temperature method—intercourse only in post-ovulatory phase, less than 1–7;
4. Mucus method, 1–25;
No contraception, 60–80.

The figure (except for the IUD) vary widely because people differ in how well they use each method. Very faithful users of the various methods obtain very good results (with the exception of the calendar method of rhythm). Except for the IUD, effective use of these methods requires somewhat more effort than simply taking a single pill every morning, but it is an effort that many couples undertake successfully. Your doctor can tell you a great deal more about these methods of contraception.

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This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: May 18, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-14967 Filed 5-23-77;10:12 am]

National Institutes of Health

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institutes of Health, on June 18–19, 1977, at the Palmer House, Chicago, IL 60690. The meeting on June 18th will be held in Parlor F, and on June 19th in the PrivateDining Room No. 6.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. subject to space available. The purpose of the meeting is to discuss final recommendations that will be incorporated into its report to the President and the Congress and the Comprehensive National Plan. The meeting is also being held in conjunction with the 102nd Annual Meeting of the American Neurological Association.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, MD 20014 (301) 496–9275, will provide substantive program information.

Mr. Robert Hinkel, Acting Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A02, Bethesda, MD 20014 (301) 496–5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: May 23, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-15108 Filed 5-26-77;8:45 am]

INFECTIOUS DISEASE COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases on July 6, 7, and 8, 1977, in Building 31C, Conference Room 8, at the National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. until 10:30 a.m. on July 7 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public from 7:00 p.m. until recess on July 6, from 10:30 a.m. until recess on July 7, and from 9 a.m. until adjournment on July 8, for the review, discussion, and evaluation of individual grant applications and individual contract proposals. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20014, (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. James A. Ferguson, Executive Secretary, Infectious Disease Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Maryland 20014, (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: May 20, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-15106 Filed 5-26-77;8:45 am]

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Diabetes Advisory Board on July 15, 1977 (times below), in Conference Room 4131, in the North Building of Health, Education and Welfare, at 330 Independence Avenue, Southwest, Washington, D.C.

In addition, the below listed subcommittees of the Board will have meetings from 9 a.m.–5 p.m. on July 14, 1977, Building 31, National Institutes of Health, Bethesda, Maryland: The Board Structure and Organization Subcommittee will meet in Room 9A51; the Diabetes Program Budget Subcommittee will meet in Room 9A52B.

The entire advisory board meeting, which will be open to the public from 9 a.m.–5 p.m., is being held to discuss the organization and staffing, and to continue its review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission on Diabetes. The subcommittee meetings will be open to the public 9 a.m.–5 p.m. Attendance by the public will be limited to space available.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, 301–496–3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: May 23 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-15107 Filed 5-26-77;8:45 am]

NIH PUBLIC ADVISORY COMMITTEES

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following Committees:

Experimental Virology Study Section.
Immunological Sciences Study Section.
Molecular Cytology Study Section.
Pathobiological Chemistry Study Section.

Authority for these committees will expire on June 30, 1978 unless the Secretary formally determines that continuance is in the public interest.

Dated: May 19, 1977.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc.77-15104 Filed 5-26-77;8:45 am]

REVIEW OF CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

NAME OF COMMITTEE: Carcinogenesis Program Scientific Review Committee A.

DATES: July 7, 1977; 9 a.m.—adjournment.

PLACE: Building 31C Conference Room 9, National Institutes of Health.

TIMES:

OPEN: July 7, 9 a.m.—9:30 a.m.

CLOSED: July 7, 9:30 a.m.—adjournment.

CLOSURE REASON: To review research contract proposals.

EXECUTIVE SECRETARY: Dr. Carl E. Smith.

ADDRESS: Landow Building, Room 306, National Institutes of Health.

PHONE: 301/496–5471.

(Catalog of Federal Domestic Assistance Number 13.393 National Institutes of Health.)

NAME OF COMMITTEE: Virus Cancer Program Scientific Review Committee *B*.

DATES: July 18–19, 1977; 9 a.m.

PLACE: Landow Building, Room C–418; 7910 Woodmont Avenue, Bethesda, Maryland 20014.

TIMES:

OPEN: July 18, 9 a.m.—9:30 a.m.

CLOSED: July 18, 9:30 a.m.—5 p.m.

CLOSED: July 19, 9 a.m.—adjournment.

CLOSURE REASON: To review research contract proposals.

EXECUTIVE SECRTTARY: Dr. Wilna A Woods.

ADDRESS: Landow Building, Room C306, National Institutes of Health.

PHONE: 301/496–4533.

(Catalog of Federal Domestic Assistance Number 13.393 National Institutes of Health.)

NAME OF COMMITTEE: Virus Cancer Program Scientific Review Committee *A*.

DATES: July 20–22, 1977; 9 a.m.

PLACE: Landow Building, Room C–418, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

TIMES:

OPEN: July 20, 9 a.m.—9:30 a.m.

CLOSED: July 20, 9:30 a.m.—5 p.m.

CLOSED: July 21, 9 a.m.—5 p.m.
CLOSTD: July 22, 9 a.m.—adjournment

CLOSURE REASON: To review research contract proposals.

EXECUTIVE SECRETARY: Dr. Maurice L Guss.

ADDRESS: Landow Building, Room C306 National Institutes of Health.

PHONE: 301/496–4533.

(Catalog of Federal Domestic Assistance Number 13.393 National Institutes of Health.)

NAME OF COMMITTEE: Clinical Cancer Program Project Review Committee.

DATES: July 28–29, 1977; 9 a.m.

PLACE: Building 31C, Conference Room 8 National Institutes of Health.

TIMES:

OPEN: July 28, 9 a.m.–10:30 a.m.

CLOSED: July 28, 10:30 a.m.–5:30 p.m.

CLOSED: July 29, 8:30 a.m.–adjournment.

CLOSURE REASON: To review research grant applications.

EXECUTIVE SECRETARY: Dr. Louise G Thomson.

ADDRESS: Westwood Building, Room 809 National Institutes of Health.

PHONE: 301/496–7925.

(Catalog of Federal Domestic Assistance Number 13.397, National Institutes of Health.)

NAME OF COMMITTEE: Cancer Control Intervention Programs A Review Committee.

DATES: July 29, 1977; 8:30 a.m.

PLACE: Building 31C, Conference Room 7, National Institutes of Health.

TIMES:

OPEN: July 29, 8:30 a.m.–10 a.m.

CLOSED: July 29, 10 a.m.—adjournment.

CLOSURE REASON: To review research contract proposals.

EXECUTIVE SECRETARY: Dr. Veronica L Conley.

ADDRESS: Blair Bldg., Room 7A07, National Institutes of Health.

PHONE: 301/427-7941.

(Catalog of Federal Domestic Assistance Number 13.399, National Institutes of Health.)

Dated: May 20, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-15105 Filed 5-26-77;8:45 am]

Pharmaceutical Reimbursement Board

AMPICILLIN

Final Maximum Allowable Cost Determinations

Notice is hereby given, under the authority of 45 CFR Part 19, that the Pharmaceutical Reimbursement Board of the Department of Health, Education, and Welfare has determined Maximum Allowable Costs (MACs) for ampicillin capsules in strengths of 250 mg and 500 mg. The MAC limits and a statement of the Board's reasons for its determinations are described in this notice.

In establishing these MAC limits, the Board has followed the requirements outlined in the Department's regulations concerning Limitations on Payment or Reimbursement for Drugs (45 CFR Part 19). § 19.5 specifies that after considering the advice and recommendations of the Pharmaceutical Reimbursement Advisory Committee, the written public comments, the presentations made at any public hearing, and any other evidence included as a part of the record, the Board shall decide whether a MAC should be established for a drug.

As required by the regulations, the Board published as a notice in the November 19, 1976, FEDERAL REGISTER (45 FR 51085) the following proposed Maximum Allowable Costs:

1. Ampicillin, 250 mg capsules: $0.0725 per capsule; and
2. Ampicillin, 500 mg capsules: $0.1390 per capsule.

This proposal covered both the trihydrate and anhydrous forms of ampicillin. Interested persons were invited to submit comments on the proposal within 30 days of its publication. Approximately 50 written comments were received, primarily from pharmacists. Several comments supported the proposed MACs and indicated the availability of the drugs at or below the MAC price. Many other comments opposed the Board's proposal, expressing concern that the quality of drug products will be compromised and that these drugs are not available to all pharamacists at or below the MAC price.

As announced in the FEDERAL REGISTER of November 19, 1976 (41 FR 51085), and December 15, 1976 (41 FR 54824), a public hearing was held before the Board on January 10, 1977, at 10 a.m. in Room 1409 of the Federal Office Building, 200 C Street SW., Washington, D.C. Representatives of a drug wholesalers' association, a pharmaceutical manufacturer, and a pharmaceutical manufacturers' association gave testimony at this hearing.

Because the notice was specific to the MACs on ampicillin products, the Board considered only comments and testimony addressing the appropriateness of the ampicillin MACs for the purpose of these final determinations. The comments and recommendations, and the Board's responses to them are set out below. The analysis is limited to the comments received in response to the notice and testimony presented at the hearing. The conclusions and findings of the Board, however, are based upon the entire record, including the advice of the Pharmaceutical Reimbursement Advisory Committee. The full report of the Committee is contained in the November 19 FEDERAL REGISTER notice (41 FR 51085).

ECONOMIC

1. Several comments indicate that not every pharmacist can purchase the specified ampicillin products at the proposed MAC levels. In particular, pharmacies in small, isolated communities frequently purchase drugs at much higher prices than larger pharmacies in an urban setting. Another comment reports that costs vary by region. Many pharmacists are therefore concerned that their costs will be greater than the reimbursement level.

Based on the Department's data, as submitted to the Advisory Committee on September 14, 1976, and not having received any evidence to the contrary, the Board is satisfied that an adequate amount of these products can be purchased at or below these MAC levels. The data further confirm the availability of drugs within the MAC limits in each of the nine census regions. No evidence has been provided to the Board which indicates that the specified ampicillin products are not widely and consistently available in any particular region or area at or below the MAC level.

In addition, the Board received comments in support of the proposed MAC limits. One pharmacist wrote that "$0.0725 is a good and fair price to the pharmacist and for that sum he can supply as good a brand of ampicillin as can be obtained in the U.S.A." A manufacturer similarly reported that his ampicillin capsules, 250 mg each, are available to pharmacies in every State at $4.90 per 100 capsules.

2. Two comments argue that if ampicillin prices fluctuate significantly it will require a continuous update in the MAC level. A continuing review to justify the applicability of these ampicillin MACs is planned by the Board.

3. At the public hearing both the wholesalers' association and the manufacturers' association contended that savings to government programs purchasing ampicillin is either uncertain or overstated in the government estimates. Both parties acknowledged, however, that substantial cost savings is not a required regulatory condition for the establishment of a MAC. Another report submitted to the Board indicates potential savings substantially above the Department's estimates.

On balance, it is evident that there are significant savings, estimated at $730,000, that will accrue to government programs with the establishment of these MACs. The government, as any cost conscious buyer, has an obligation to identify the maximum prices at which it will purchase medication.

Furthermore, the discrepancy between the wholesaler and Departmental costs savings projections appears to be largely attributable to the very limited nature of the data used by the wholesalers. Their savings calculations were based upon data drawn from wholesalers in three states over a three week period, and excluded sales made directly by manufacturers. In addition list price as opposed to invoice price data were used.

The manufacturers' estimate of potential savings from the MAC limit was based upon a misunderstanding of how Medicaid reimburses for prescription drugs. Reimbursements are based upon the state program administrators' estimate of the actual cost (EAC) of the product to the providers of pharmaceutical services. The Department's calculations are based on the assumption that state EACs are derived from survey data gathered by the Department and sent to the states. The manufacturers have incorrectly assumed that the average acquisition cost is used for reimbursement purposes. Consequently they underestimated potential MAC savings.

QUALITY ISSUES

4. Several written comments address the issue of quality of ampicillin products. Some comments discuss the general concern that quality control, research, and past manufacturing performance will be sacrificed for the sake of cost. The Board believes that these particular comments are not related specifically to the ampicillin MACs, and that the Department fully responded to this issue in the preamble to the final regulations entitled "Limitations on Payment or Reimbursement for Drugs" (45 CFR Part 19), published in the July 31, 1975, FEDERAL REGISTER (40 FR 32284).

Other comments are directed specifically at the quality of ampicillin products available in the price range below the MAC levels. These comments assert that ampicillin products purchased below $0.0725 and $0.1390 are of inferior quality. The Board agrees with the advice of the Food and Drug Administration that there is no known reason to recommend against the establishment of MAC limits on ampicillin capsules based upon quality considerations. Every manufacturer of ampicillin must comply with the requirements of 21 U.S.C. 357(a), which provides for the certification of each batch of the drug by FDA. In addition, bioavailability data for every manufacturer is submitted to and approved by FDA prior to certification. The FDA has no evidence that any of the currently marketed subject products or their manufacturers are in violation of the Federal Food, Drug, and Cosmetic Act with respect to these products.

5. Since closure of the comment period and completion of the public hearing concerning MAC limits on ampicillin capsules, the Board received a report on ampicillin liquid preparations for which it is considering the establishment of MAC limits. In this report the Board was informed by the FDA of a pending regulatory matter concerning the presence of residues of N,N-dimethylaniline (DMA), in bulk ampicillin. DMA is a chemical used to remove hydrochloric acid during the production of ampicillin.

Because materials regarding this matter had not previously been part of the administrative record for the establishment of MAC limits for ampicillin capsules, the Board invited additional comment on March 31, 1977 (42 FR 17182), related solely to the presence of DMA residue in ampicillin and its bearing upon the establishment of MAC limits for ampicillin capsules. No comments were received from the public. FDA has stated that DMA residues have no known public health significance. Furthermore, FDA has established an upper limit for DMA residue in ampicillin.

Based on all available evidence the Board concurs with the finding of the FDA that there is no reason connected with DMA levels in ampicillin for withholding or delaying MAC limits for ampicillin capsules.

6. During the hearing, a representative of a drug manufacturer presented information to the Board of scientific factors that could affect the bioavailability or quality of ampicillin products and argued that this information renders assumptions of bioequivalency based on chemical equivalency invalid.

No evidence was presented in comments or at the hearing of any bioequivalence problems with any of the brands of ampicillin available on the American market. In fact, as stated in the hearing on ampicillin, at least one major pharmaceutical manufacturer relies on in vitro testing of chemical equivalency in its own quality control program, which provides the basis of its assumption of bioequivalency from batch to batch and lot to lot for its brand of ampicillin, as well as other drugs it manufactures. The Board concludes that reliance on the FDA's assurances concerning the quality of marketed ampicillin is justified.

LEGAL ISSUES

7. One comment queries what recourse a pharmacist has in a jurisdiction where brand substitution is prohibited by law when he receives a prescription requesting a brand of ampicillin capsules priced above the MAC limit. The Board concludes that the MAC regulation neither supersedes nor contravenes State anti-substitution laws. The regulation does not authorize or require pharmacists to dispense drugs in violation of State law.

The regulations, however, do not limit reimbursement for the cost of a drug to the MAC limit when the physician certifies medical necessity of the brand for the treatment of a patient in accordance with 45 CFR 19.3(a). Prior to filling a brand-name prescription, a pharmacist may ask the prescribing physician either to authorize substitution or to certify the brand's medical necessity to assure that reimbursement will not be limited to the MAC.

8. One comment recommends that the Department delay implementation of the ampicillin MACs until the final resolution of pending lawsuits. The Board does not believe that the existence of litigation justifies delay in implementing the MAC program.

OTHER COMMENTS

During the hearing, a number of other comments were presented which were not directly or solely related to the proposed MACs on ampicillin. The manufacturers' association requested HEW to consider the development of an effective substitute for the present MAC system as a cost containment procedure, to establish the right of interested parties to offer timely information on quality and other justifications for establishing a MAC limit for a particular drug, and to adopt a "certified source" mechanism to determine whose products are reimbursable under government programs.

Although these comments are not germane to the establishment of the proposed ampicillin MACs, the Board will consider these points at some future time for possible implementation.

ORDER

After consideration of the recommendations provided by the Pharmaceutical Reimbursement Advisory Committee, written comments and testimony presented at the public hearing, the Pharmaceutical Reimbursement Board has determined that the proposed MACs on ampicillin products are appropriate. The Board therefore establishes the following MACs:

1. Ampicillin, 250mg capsules: $0.0725 per capsule; and
2. Ampicillin, 500mg capsules: $0.1390 per capsule.

The effective date of these MACs is on or before June 27, 1977.

Dated: May 10, 1977.

MARK NOVITCH,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc.77-14859 Filed 5-26-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-479; FDAA-3040-EM]

IDAHO

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Idaho (FDAA-3040-EM), dated May 5, 1977, and related determinations.

DATED: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on May 5, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Idaho is of sufficient severity and magnitude to warrant a declaration of an emergency under Pub. L. 93-288. I therefore declare that such an emergency exists in the State of Idaho.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. William H. Mayer, FDAA Region X, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area to have been adversely affected by this declared emergency.

The County of:

Blaine

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-15110 Filed 5-26-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Tentative Sale No. 65]

EASTERN GULF OF MEXICO OUTER CONTINENTAL SHELF

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

The Department of the Interior on May 17, 1977, identified a new proposed sale in the Eastern Gulf of Mexico Outer Continental Shelf (OCS Sale No. 65). Therefore, the Department is issuing this supplemental Call for Nominations for

the area. This Call area constituted a part of a Call for Nominations and Comments for proposed OCS Sale No. 51 (42 FR 9452, February 16, 1977). The areas identified in this call will not be considered for proposed OCS Sale No. 51.

Pursuant to the authority prescribed in 43 CFR 3301.3 (1976), nominations are hereby requested for areas on the Eastern Gulf of Mexico Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343 (1970)). Nominations will be considered for any or all of that part of the following mapped areas, on OCS Official Protraction Diagrams, seaward of the submerged lands of the adjacent States.

1. NH 16–5 Pensacola (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks).

2. NH 16–8 Destin Dome (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks); (formerly Pensacola South No. 1).

3. NH 16–11 De Soto Canyon (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks); (formerly Pensacola South No. 2).

4. NH 16–9 Apalachicola.

5. NH 16–12 Florida Middle Ground (formerly Apalachicola South).

6. NG 16–3 The Elbow (formerly Tampa West No. 1).

7. NG 16–6 Note: Unnamed (formerly Fort Myers West No. 2).

8. NH 17–7 Gainesville.

9. NH 17–10 Tarpon Springs.

10. NG 17–1 Saint Petersburg (formerly Tampa).

11. NG 17–4 Charlotte Harbor (formerly Fort Myers West No. 1).

All these maps may be purchased for $2 each from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

All nominations must be described in accordance with the Outer Continental Shelf Official Protraction Diagrams prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

In addition to requesting nominations of tracts for possible oil and gas leasing within the specified areas, this notice also requests comments identifying particular tracts recommended to be either specifically excluded from oil and gas leasing or leased only under special conditions because of conflicting values or environmental concerns. Particular geological, environmental, biological, archaeological, socio-economic or other information which might bear upon potential leasing and development of particular tracts is requested where available. Information on these subjects will be used in the tentative selection of tracts which precedes any final selection by the Director pursuant to 43 CFR 3301.4. This information is requested from Federal, State and local governments, industry, universities, research institutes, environmental organizations, and members of the general public. Comments may be submitted on blocks or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Department's decision whether to make a preliminary selection of particular tracts within these areas for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347 (1970)) and possible leasing. Comments relating to general matters which would be applicable to oil and gas operations in any part of the OCS are not sought at this time.

Nominations and comments must be submitted not later than June 30, 1977, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf Eastern Gulf of Mexico," or "Comments on Leasing in the Outer Continental Shelf Eastern Gulf of Mexico," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Conservation Manager, Gulf of Mexico OCS Operations, Geological Survey, Suite 336, Imperial Office Building, 3301 North Causeway Boulevard, Metairie, Louisiana 70011 and to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management at his address cited above.

This call for nominations and comments does not in any way commit the Department to leasing in the Eastern Gulf of Mexico. It is an information-gathering component of the Department's leasing procedure.

Final selection of tracts for competitive bidding will be made only after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

CURT BERKLUND,
Director, Bureau of Land Management.

Approved: May 20, 1977.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc.77-15026 Filed 5-26-77;8:45 am]

Bureau of Land Management

[M 141]

MONTANA

Transfer of Submarginal Lands, Fort Peck Indian Reservation

MAY 19, 1977.

1. Pursuant to Public Law 94-114 (89 Stat. 577) and Sec. 2 thereof, the lands described in paragraph 3 of this notice, together with all minerals underlying these lands, whether acquired or otherwised owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Assiniboine and Sioux Tribes of Montana. The lands shall be a part of the established Fort Peck Indian Reservation. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and Sec. 55 of the Act of August 24, 1935 (49 Stat. 750, 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. All existing mineral leases, including oil and gas leases, which have been issued on these lands will remain in force and effect in accordance with the terms and provisions of the Act under which the leases were issued. The lease files will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Billings, Montana. Future rentals for these leases will be paid to and collected by that office. Jurisdiction of these mineral leases is transferred from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Assiniboine and Sioux Tribes.

3. PRINCIPAL MERIDIAN, MONTANA

T. 33 N., R. 39 E.,
Sec. 25, Lot 5.
T. 33 N., R. 40 E.,
Sec. 30, Lots 3 and 4, E½SW¼, W½SE¼, and SE¼SE¼; and
Sec. 35, S½S½.
T. 31 N., R. 41 E.,
Sec. 29, NW¼; and
Sec. 30, NE¼.
T. 32 N., R. 41 E.,
Sec. 6, Lots 1, 2, 3, and 4;
Sec. 35, W½NE¼, NW¼, and N½SE¼; and
Sec. 36, N½.
T. 27 N., R. 42 E.,
Sec. 1, Lots 1 and 2, S½NE¼, and SE¼; and
Sec. 5, Lot 11, SW¼NE¼.
T. 29 N., R. 42 E.,
Sec. 1, SW¼NE¼, S½NW¼, and W½SE¼.
T. 30 N., R. 42 E.,
Sec. 19, E½SE¼;
Sec. 20, NW¼SW¼;
Sec. 26, E½; and
Sec. 30, NE¼NE¼.
T. 31 N., R. 42 E.,
Sec. 2, Lots 1, 2, 3, and 4, and S½N½;
Sec. 11, S½NW¼, E½SW¼, and SE¼; and
Sec. 13, S½NE¼ and E½SE¼.
T. 32 N., R. 42 E.,
Sec. 35, SE¼.
T. 26 N., R. 43 E.,
Sec. 4, Lot 8;
Sec. 12, W½NW¼SW¼, E½E½SE¼, and W½SW¼SE¼; and
Sec. 13, E½NE¼NE¼.
T. 27 N., R. 43 E.,
Sec. 5, Lots 1, 2, 3, and 4, and S½N½;
Sec. 6, Lots 1, 2, and 7, and S½NE¼;
Sec. 9, S½;
Sec. 16, S½;
Sec. 18, Lots 3 and 4, E½SW¼, and SE¼; and
Sec. 36, N½NW¼.

T. 28 N., R. 43 E.,
Sec. 1, Lots 3 and 4, S½NW¼, SW¼, and W½SE¼;
Sec. 2, Lots 1, 2, and 3, SE¼NE¼, SE¼NW¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 5, Lots 1 and 2;
Sec. 7, Lots 1, 2, 3, and 4, E½SW¼, and SE¼;
Sec. 9, E½SW¼ and SE¼;
Sec. 10, E½SE¼;
Sec. 11, All;
Sec. 12, W½W½ and E½SW¼;
Sec. 13, S½;
Sec. 16, NE¼NW¼;
Sec. 25, E½ and S½SW¼;
Sec. 33, SE¼SW¼ and S½SE¼;
Sec. 34, N½NE¼; and
Sec. 36, W½NE¼ and NW¼.
T. 29 N., R. 43 E.,
Sec. 10, NW¼SW¼;
Sec. 14, W½NW¼;
Sec. 15, N½NE¼ and NW¼;
Sec. 18, Lots 1, 2, 3, and 4, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 19, Lot 1, NE¼NW¼ and SE¼;
Sec. 20, W½;
Sec. 23, SE¼SW¼ and SE¼;
Sec. 24, S½;
Sec. 26, N½;
Sec. 27, S½;
Sec. 28, E½SE¼;
Sec. 29, SW¼SW¼ and S½SE¼;
Sec. 30, SE¼SE¼;
Sec. 31, Lots 3 and 4, NE¼, and SE¼NW¼;
Sec. 32, NW¼NW¼ and E½SE¼;
Sec. 33, S½NE¼, W½SW¼, and SE¼;
Sec. 34, N½NE¼; and
Sec. 35, N½ and S½SW¼.
T. 30 N., R. 43 E.,
Sec. 3, Lots 3 and 4, S½NW¼, and E½SW¼; and
Sec. 18, Lots 1 and 2, and E½NW¼.
T. 31 N., R. 43 E.,
Sec. 21, N½; and
Sec. 34, W½.
T. 32 N., R. 43 E.,
Sec. 33, W½; and
Sec. 35, NE¼SE¼.
T. 26 N., R. 44 E.,
Sec. 7, Lot 8 and W½SE¼SW¼;
Sec. 9, W½NE¼NE¼; and
Sec. 18, Lot 6.
T. 27 N., R. 44 E.,
Sec. 2, Lots 1 and 2, S½NE¼, SW¼NW¼, NW¼SW¼, and SE¼;
Sec. 3, Lots 3 and 4, and S½NW¼;
Sec. 9, E½;
Sec. 10, NE¼;
Sec. 17, SW¼;
Sec. 20, N½ and N½S½; and
Sec. 25, E½.
T. 28 N., R. 44 E.,
Sec. 2, Lot 4 and SW¼NW¼;
Sec. 4, Lots 3 and 4;
Sec. 5, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 6, Lots 1 and 2, S½NE¼, and N½SE¼;
Sec. 9, N½, E½SW¼, and W½SE¼;
Sec. 10, S½;
Sec. 11, W½NW¼ and SW¼;
Sec. 13, S½NW¼ and N½SW¼;
Sec. 14, S½NE¼ and NW¼;
Sec. 15, NE¼;
Sec. 16, N½;
Sec. 17, E½;
Sec. 18, Lots 1, 2, 3, and 4, and E½W½;
Sec. 20, S½;
Sec. 21, All;
Sec. 22, SE¼SE¼;
Sec. 23, SE¼;
Sec. 27, NE¼NE¼;
Sec. 28, NE¼;
Sec. 29, W½;
Sec. 30, Lots 1, 2, 3, and 4, and E½;
Sec. 31, Lots 2, 3, and 4, and E½W½;
Sec. 33, S½; and
Sec. 34, SW¼ and SW¼SE¼.
T. 29 N., R. 44 E.,
Sec. 2, Lots 2 and 3, SW¼NE¼, and SE¼NW¼;
Sec. 8, E½;
Sec. 12, W½;
Sec. 13, NW¼ and S½;
Sec. 17, E½SW¼ and SE¼;
Sec. 21, W½;
Sec. 23, S½;
Sec. 24, N½N½;
Sec. 25, S½S½;
Sec. 26, N½ and SE¼;
Sec. 27, W½;
Sec. 28, NE¼;
Sec. 30, SE¼SW¼ and SW¼SE¼;
Sec. 31, E½ and E½NW¼;
Sec. 32, W½SW¼;
Sec. 34, NE¼;
Sec. 35, NE¼ and N½SE¼; and
Sec. 36, N½ and N½SW¼.
T. 30 N., R. 44 E.,
Sec. 36, S½NW¼, SW¼, and W½SE¼.
T. 26 N., R. 45 E.,
Sec. 12, E½SE¼NE¼ and E½NE¼SW¼.
T. 27 N., R. 45 E.,
Sec. 3, Lots 1 and 2 and S½NE¼;
Sec. 7, E½;
Sec. 12, S½;
Sec. 14, N½;
Sec. 15, N½ and SW¼;
Sec. 18, E½;
Sec. 20, E½;
Sec. 21, N½;
Sec. 26, SE¼SE¼; and
Sec. 29, NW¼.
T. 28 N., R. 45 E.,
Sec. 2, E½SE¼;
Sec. 3, S½S½;
Sec. 4, NE¼SE¼;
Sec. 5, Lots 3 and 4;
Sec. 7, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 8, S½S½;
Sec. 9, SW¼;
Sec. 10, N½NE¼, NE¼NW¼, and E½SE¼;
Sec. 11, E½NE¼ and S½;
Sec. 16, W½NW¼ and SE¼;
Sec. 17, E½NE¼ and W½NW¼;
Sec. 18, SE¼NE¼, SE¼SW¼, and NE¼SE¼;
Sec. 21, N½NW¼ and SW¼NW¼;
Sec. 22, NE¼;
Sec. 27, NW¼;
Sec. 28, SE¼;
Sec. 30, Lots 1, 2, 3, and 4, E½W½, and SE¼;
Sec. 33, N½N½;
Sec. 34, SE¼; and
Sec. 36, E½.
T. 29 N., R. 45 E.,
Sec. 1, Lots 1 and 2 and S½NE¼;
Sec. 4, Lots 3 and 4, S½NW¼, and N½SW¼;
Sec. 5, Lot 1;
Sec. 9, S½;
Sec. 10, SE¼;
Sec. 13, S½N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 14, SE¼NE¼ and N½NW¼;
Sec. 15, NE¼;
Sec. 19, Lot 2 and SE¼NW¼;
Sec. 33, NE¼SW¼ and W½SE¼; and
Sec. 34, SE¼NW¼, N½SW¼, and SE¼SW¼.
T. 30 N., R. 45 E.,
Sec. 33, SW¼SW¼.
T. 32 N., R. 45 E.,
Sec. 5, S½SE¼;
Sec. 10, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 15, NE¼NE¼; and
Sec. 26, E½NW¼.
T. 26 N., R. 46 E.,
Sec. 2, E½NE¼NW¼; and
Sec. 5, SE¼NE¼.
T. 27 N., R. 46 E.,
Sec. 1, Lots 1 and 2 and S½NE¼;
Sec. 3, E½SE¼;
Sec. 4, Lots 1, 2, 3, and 4 and S½N½;
Sec. 6, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 18, Lots 3 and 4, E½SW¼, and SE¼;
Sec. 22, S½NW¼ and SW¼;
Sec. 26, SE¼NE¼;
Sec. 27, N½NW¼ and N½N½SW¼NW¼;
Sec. 30, NE¼SE¼; and
Sec. 34, SW¼NW¼.
T. 28 N., R. 46 E.,
Sec. 19, Lots 1 and 2 and E½NW¼;
Sec. 25, SE¼SW¼;
Sec. 29, NW¼;
Sec. 30, Lots 3 and 4, E½, and E½SW¼; and
Sec. 31, Lots 1 and 2, E½, and E½W¼.
T. 29 N., R. 46 E.,
Sec. 14, NE¼;
Sec. 19, NE¼;
Sec. 20, NW¼;
Sec. 35, E½; and
Sec. 36, SW¼NW¼, SW¼, N½SE¼, and SW¼SE¼.
T. 27 N., R. 47 E.,
Sec. 5, All; and
Sec. 6, Lots 1, 2, 6, 7, and 12, and E½.
T. 28 N., R. 47 E.,
Sec. 25, SE¼.
T. 29 N., R. 47 E.,
Sec. 22, S½NE¼ and SE¼;
Sec. 23, S½NW¼ and N½SW¼;
Sec. 25, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 26, E½W½; and
Sec. 27, N½NE¼.
T. 27 N., R. 48 E.,
Sec. 2, E½SW¼;
Sec. 8, SE¼NE¼; and
Sec. 16, SE¼NW¼ and NE¼SW¼.
T. 28 N., R. 48 E.,
Sec. 4, SW¼NW¼;
Sec. 6, SE¼SW¼ and SE¼;
Sec. 10, NE¼;
Sec. 14, S½S½;
Sec. 19, NE¼;
Sec. 24, E½;
Sec. 27, W½;
Sec. 30, Lots 3 and 4, and E½SW¼;
Sec. 32, S½;
Sec. 35, All; and
Sec. 36, SW¼.
T. 29 N., R. 48 E.,
Sec. 3, SW¼NW¼;
Sec. 4, Lots 1 and 2, and SE¼NE¼;
Sec. 5, Lots 3 and 4, and S½N½;
Sec. 6, Lot 1 and SE¼NE¼;
Sec. 9, W½NE¼ and E½NW¼;
Sec. 11, SE¼;
Sec. 12, SW¼;
Sec. 13, NW¼;
Sec. 16, SW¼SW¼;
Sec. 17, E½SE¼;
Sec. 21, NW¼NW¼;
Sec. 23, W½; and
Sec. 36, W½NE¼, E½SW¼, and SE¼.
T. 30 N., R. 48 E.,
Sec. 11, S½S½; and
Sec. 33, SE¼.
T. 32 N., R. 48 E.,
Sec. 5, S½; and
Sec. 8, N½NW¼.
T. 27 N., R. 49 E.,
Sec. 4, N½NW¼NE¼ and N½S½NW¼NE¼;
Sec. 5, N½SW¼NE¼ and E½N½SE¼NE¼;
Sec. 6, SE¼NW¼; and
Sec. 16, Lot 8.
T. 28 N., R. 49 E.,
Sec. 6, Lots 6 and 7, and E½SW¼;
Sec. 7, E½;
Sec. 22, N½;
Sec. 24, SE¼;
Sec. 25, N½NE¼ and SE¼NE¼;
Sec. 26, W½;
Sec. 31, SE¼SE¼;
Sec. 32, SW¼SW¼;
Sec. 34, S½SE¼SE¼; and
Sec. 35, NE¼NE¼.

T. 29 N., R. 49 E.,
Sec. 8, E½;
Sec. 10, SW¼NE¼, SE¼NW¼, N½SE¼, and SW¼SE¼;
Sec. 11, N½SW¼ and SE¼SW¼;
Sec. 15, NE¼;
Sec. 16, NE¼, NE¼SW¼, and S½SW¼;
Sec. 17, NE¼NE¼, W½, and SW¼SE¼;
Sec. 18, NE¼;
Sec. 20, N½NE¼ and NE¼NW¼;
Sec. 21, E½;
Sec. 27, N½;
Sec. 28, NE¼; and
Sec. 30, NE¼.
T. 30 N., R. 49 E.,
Sec. 15, S½;
Sec. 16, E½;
Sec. 21, N½NE¼, SW¼NE¼, E½SW¼, and NW¼SE¼;
Sec. 22, N½NW¼; and
Sec. 33, SW¼.
T. 31 N., R. 49 E.,
Sec. 15, NE¼;
Sec. 20, SW¼;
Sec. 31, SE¼;
Sec. 33, NE¼; and
Sec. 34, SW¼.
T. 27 N., R. 50 E.,
Sec. 4, NW¼NE¼ and NE¼NW¼.
T. 28 N., R. 50 E.,
Sec. 2, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 4, Lots 1 and 2, S½NE¼, and SE¼;
Sec. 5, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 10, SW¼;
Sec. 11, E½;
Sec. 13, N½NE¼;
Sec. 14, All;
Sec. 15, E½;
Sec. 24, N½;
Sec. 28, E½;
Sec. 30, Lot 2; and
Sec. 33, SW¼SW¼ and S½SE¼.
T. 29 N., R. 50 E.,
Sec. 6, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 7, NE¼SE¼;
Sec. 8, W½SW¼;
Sec. 9, SE¼SW¼;
Sec. 13, E½;
Sec. 16, N½NW¼ and SE¼NW¼;
Sec. 20, SW¼;
Sec. 24, All;
Sec. 26, S½;
Sec. 31, Lots 1 and 2, NE¼ and E½NW¼; and
Sec. 32, E½.
T. 30 N., R. 50 E.,
Sec. 22, NE¼ and E½SE¼; and
Sec. 23, W½SW¼.
T. 27 N., R. 51 E.,
Sec. 11, NW¼;
Sec. 12, NW¼; and
Sec. 21, E½NW¼NW¼.
T. 28 N., R. 51 E.,
Sec. 1, Lot 1;
Sec. 3, SE¼;
Sec. 4, SW¼NW¼;
Sec. 5, SE¼SE¼;
Sec. 9, NE¼SW¼;
Sec. 11, S½;
Sec. 12, All;
Sec. 13, N½;
Sec. 15, NE¼, S½NE¼NW¼, and SE¼NW¼;
Sec. 16, SW¼NE¼;
Sec. 17, SW¼NE¼ and NW¼SE¼;
Sec. 18, SW¼SE¼;
Sec. 23, All;
Sec. 24, S½N½;
Sec. 25, S½;
Sec. 36, NW¼; and
Sec. 27, N½.
T. 29 N., R. 51 E.,
Sec. 4, Lot 8 and W½SW¼NW¼;
Sec. 9, NE¼SE¼;
Sec. 10, NW¼NW¼;
Sec. 13, NE¼;
Sec. 15, NE¼;
Sec. 28, NE¼;
Sec. 30, NE¼SW¼;
Sec. 34, W½; and
Sec. 35, NW¼.
T. 30 N., R. 51 E.
Sec. 4, Lots 3 and 4, S½NW¼, and SE¼;
Sec. 5, Lots 1 and 2, S½NE¼, and SW¼;
Sec. 8, NW¼;
Sec. 10, S½NE¼, N½SE¼, N½S½SE¼, and N½S½S½SE¼;
Sec. 16, NW¼;
Sec. 17, NE¼, SE¼SW¼, and SW¼SE¼;
Sec. 20, NE¼NE¼, N½NW¼NE¼, SE¼NW¼NE¼, NE¼SW¼NE¼, N½SE¼NE¼, and E½SW¼SE¼;
Sec. 21, N½;
Sec. 23, S½S½;
Sec. 26, N½N½; and
Sec. 29, E½NW¼NE¼.
T. 27 N., R. 52 E.,
Sec. 2, NW¼SW¼ and W½SE¼;
Sec. 3, SW¼;
Sec. 4, W½;
Sec. 8, NE¼ and N½NW¼;
Sec. 9, N½NW¼ (excluding 2.85 acres for highway right-of-way);
Sec. 11, NE¼ and NW¼SE¼; and
Sec. 12, NW¼SW¼.
T. 28 N., R. 52 E.,
Sec. 4, Lots 1, 2, 3, and 4, S½N½, N½SW¼, N½S½SW¼, N½S½S½SW¼, N½S½S½S½SW¼, and SE¼;
Sec. 5, SE¼;
Sec. 10, S½;
Sec. 11, W½;
Sec. 14, W½;
Sec. 16, All;
Sec. 18, Lots 3 and 4, E½ and E½SW¼;
Sec. 19, Lots 1 and 2, NE¼ and E½NW¼;
Sec. 21, All;
Sec. 22, NW¼;
Sec. 23, W½W½E½NE¼, W½NE¼, W½, and SE¼;
Sec. 24, SW¼;
Sec. 26, All;
Sec. 27, N½;
Sec. 28, All;
Sec. 29, E½; and
Sec. 32, All.
T. 29 N., R. 52 E.,
Sec. 21, SE¼;
Sec. 22, SW¼;
Sec. 28, NW¼ and N½N½N½SW¼;
Sec. 30, Lots 1 and 2, NE¼ and E½NW¼; and
Sec. 31, All.
T. 31 N., R. 52 E.,
Sec. 33, S½NE¼, SE¼NW¼, NE¼SW¼, and SE¼.
T. 32 N., R. 52 E.,
Sec. 15, NW¼.
T. 28 N., R. 53 E.,
Sec. 12, S½;
Sec. 19, Lots 1 and 2, NE¼ and E½NW¼; and
Sec. 34, W½SW¼NE¼.
T. 29 N., R. 53 E.,
Sec. 4, S½;
Sec. 7, Lots 3 and 4, E½SW¼, W½SE¼, W½E½SE¼, and W½E½E½SE¼;
Sec. 9, All;
Sec. 14, NE¼;
Sec. 18, Lots 1, 2, 3, and 4, and E½W½; and
Sec. 20, SE¼.
T. 30 N., R. 53 E.,
Sec. 23, W½.
T. 31 N., R. 53 E.,
Sec. 9, SE¼;
Sec. 17, S½NE¼ and N½SE¼; and
Sec. 33, All.
T. 27 N., R. 54 E.,
Sec. 4, E½SE¼SE¼.
T. 28 N., R. 54 E.,
Sec. 18, Lots 1, 2, 3, and 4, and E½W½;
Sec. 27, N½SW¼, NW¼SE¼, and SE¼SE¼; and
Sec. 31, Lot 6.
T. 29 N., R. 54 E.,
Sec. 4, Lots 3 and 5, and N½SW¼;
Sec. 5, SE¼NE¼ and NE¼SW¼;
Sec. 6, Lots 2 and 3, NW¼NE¼ and SE¼NE¼;
Sec. 9, Lots 6 and 7;
Sec. 17, Lot 5;
Sec. 19, SE¼NE¼, E½SE¼, and SW¼SE¼;
Sec. 20, Lots 4, 6, 8, and 9, W½SW¼ and W½SE¼;
Sec. 21, Lot 2;
Sec. 28, Lots 6, 7, and 8;
Sec. 29, Lots 3, 4, and 7, NW¼NE¼ and NW¼NW¼;
Sec. 30, Lots 3 and 4, E½ and E½SW¼; and
Sec. 31, Lots 1 and 2, NE¼ and E½NW¼.
T. 30 N., R. 54 E.,
Sec. 19, Lots 3 and 4, and E½SW¼; and
Sec. 25, S½NE¼.
T. 30 N., R. 55 E.,
Sec. 19, SE¼NW¼; and
Sec. 30, N½NE¼ and SE¼NW¼.

The areas described aggregate 85,352.50 acres.

KANNON RICHARDS,
Acting State Director.

[FR Doc.77-15087 Filed 5-26-77;8:45 am]

National Park Service

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, June 17, 1977, at 1:30 p.m., at the Headquarters Buildings, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Public Law 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: (1) Request by Horton's Park to extend the term of its Certificate of Suspension of Condemnation for Commercial Properties from 5 to 10 years; (2) request by the owners of "improved property" located on North Beach in Chatham to exchange lands with the Federal Government to permit relocation of dwellings threatened by erosion; (3) reports of Sub-Committees appointed to study noise pollution in the Provincelands, and management of public uses on ponds within the Seashore. The Superintendent will report on a variety of matters relating to Seashore programs and operations.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663 (telephone 617-349-3785). Minutes of the meeting will be available for public information and copying four weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: May 23, 1977.

ROBERT M. LANDAU,
Assistant for Advisory Boards and Commissions.

[FR Doc.77-15222 Filed 5-26-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of section 9.17 of 36 CFR Part 9, American Borate Corporation has filed a plan of operations in support of proposed mining activities on lands embracing its Sigma Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: April 20, 1977.

RICHARD S. RAYNER,
Acting Superintendent, Death Valley National Monument.

Dated: May 3, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc.77-15223 Filed 5-26-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of section 9.17 of 36 CFR Part 9, Pfizer Inc. has filed a plan of operations in support of proposed mining activities on lands embracing its Mongolian Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: April 22, 1977.

DONALD M. SPALDING,
Superintendent, Death Valley National Monument.

Dated: May 5, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc.77-15224 Filed 5-26-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of section 9.17 of 36 CFR Part 9, Cyprus Industrial Minerals Company has filed a plan of operations in support of proposed mining activities on lands embracing its Panamint Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: April 28, 1977.

RICHARD S. RAYNER,
Acting Superintendent, Death Valley National Monument.

Dated: May 3, 1977.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc.77-15225 Filed 5-26-77;8:45 am]

SAINT-GAUDENS NATIONAL HISTORIC SITE

Notice of Establishment

In accordance with Section 3, Pub. L. 88-543, 78 Stat. 749, providing for the establishment of Saint-Gaudens National Historic Site in New Hampshire, it has been determined that the criteria for establishment as outlined in Section 3 have been met. Therefore, Saint-Gaudens National Historic Site is hereby formally established.

Effective date: This formal establishment shall become effective on May 30, 1977.

GARY E. EVERHARDT,
Director, National Park Service.

[FR Doc.77-15299 Filed 5-26-77;8:45 am]

Office of the Secretary

LOWER CARSON-LOWER TRUCKEE RIVER BASINS CHURCHILL AND WASHOE COUNTIES, NEVADA

Proposed Operating Criteria; Draft Environmental Impact Statement; Public Hearing

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 the Department of the Interior has prepared a Draft Environmental Statement for the Proposed Operating Criteria for the Lower Truckee-Lower Carson River Basins located principally in Churchill and Washoe Counties in Nevada. The Statement (INT-DES 77-18) was transmitted to the Council on Environmental Quality on May 18, 1977 and was made available on May 18, 1977.

The proposed action is to change the operating criteria for the Newlands Reclamation Project in a way that restricts the diversion of water out of the Truckee River watershed, for use in the Newlands Reclamation Project, to that amount of water needed for beneficial use as required by the decreed rights of lands having approved water rights within that project. Certain improvements will be made in the operation and management of the project. Further the proposed action will increase flows in the Lower Truckee River and into Pyramid Lake.

Three public hearing dates have been scheduled to receive the views and comments from interested individuals and organizations concerning the Draft Environmental Statement. The locations, dates and times for the hearings are as follows:

In Fallon, Churchill County, Nevada, at the Law Enforcement Facilities, 73 North Main Street, on June 28, 1977 at 2:00 p.m. and at 7:00 p.m.

In Wadsworths, Nevada, on the Pyramid Lake Indian Reservation, in the Natchez Elementary School at 7:30 p.m. on June 29, 1977.

In Reno, Nevada at Earl Wooster High School Auditorium, 1331 East Plumb Lane, Reno, Nevada, on June 30, 1977 at 7:30 p.m.

Each hearing will continue until all persons desiring to comment have been heard.

Individuals and representatives of organizations desiring to present their views at the hearing should contact the Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503; Telephone (702) 322-4042. Requests for scheduling of oral presentation will be accepted until June 27, 1977 at 5:00 p.m. Insofar as practicable, speakers will be scheduled according to time preferences in their letter or telephone requests. Speakers being scheduled at the time of the hearing will be scheduled according to the time of their arrival on a first come first serve basis.

The time permitted for oral presentations at the hearing may be limited to 10 minutes per speaker, depending upon the number of presentations scheduled. Speakers will not be permitted to trade or consolidate their scheduled times to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comment by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations and by those unable to attend the public hearing may be submitted to the Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503, address given above, through July 9, 1977 for inclusion in the hearing record.

Copies of the Draft Environmental Impact Statement are available pursuant to the notice published in the Federal Register at the places therein designated and further may be obtained for public examination at the Department of the Interior, Special Projects Office, 900 West First Street, Reno, Nevada 89503. Single copies of the statement may be obtained

without charge by writing to the same office.

Dated: May 18, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant,
Secretary of the Interior.

[FR Doc.77-15147 Filed 5-26-77;8:48 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 23rd day of May 1977.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 20, 1977

Name of applicant, location of enterprise, and principal product or activity

San-Vel Concrete Corp., Littleton, Mass., manufacture of concrete.
The Oren Corp. (Tenant of Village of Port Dickinson), Port Dickenson, N.Y., manufacture of cellulose insulation.
James W. McDaniel and James I. McDaniel, Gordo, Ala., grocery store.
Hayes and Tart Abattoir (Tenant of Town of Coats), Coats, N.C., meat packers.
Advanced Poly Products, Inc., Newnan, Ga., manufacture of polyethylene film and bags.
David W. Reed Co., Sylvania, Ga., grain storage, cotton ginning, and fertilizer mixing.
Royce Glenn Thornton, Decatur, Ala., fast food restaurant.
Altamont Garment Co. (Tenant of Clay City), Clay City, Ill., manufacture of children's clothing.
Moorman Brothers Manufacturing Co. (Tenant of City of Rushville), Rushville, Ind., liquid level guages and remote readout systems.
Leland R. McElmurry, M.D., Escanaba, Mich., motel.
LeRoy R. and Shirley A. Trost, Marissa, Ill., Dairy Queen restaurant.
Wood Design, Inc., French Lick, Ind., furniture manufacturing.
Hamilton Drug Centers, Inc., Brigham City, Utah, drugs and drug sundries.

[FR Doc.77-15111 Filed 5-26-77;8:45 am]

GRANTS TO PRIME SPONSORS UNDER TITLE I OF COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the allocations which have been made for fiscal year 1977 to prime sponsors under Title I of the Comprehensive Employment and Training Act pursuant to 29 CFR 95.2.

FOR FURTHER INFORMATION CONTACT:

Adolf Wansong, Chief, Division of Financial Management, Rm. 4010, 601 D Street NW., Washington, D.C. 20213 (202-376-6060).

SUPPLEMENTARY INFORMATION: This notice has been prepared under the direction and control of Albert J. Angebranndt, Administrator for Administration and Management, Employment and Training Administration.

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I ALLOCATION--FY 1977
AS OF 10/14/76

REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION 1	82,764,572	580,518	1,371,000	94,740,488	94,740,488
CONNECTICUT	21,115,257	132,999	206,000	22,788,521	22,788,521
BRIDGEPORT CSRT	3,397,279	17,830	31,840	3,360,688	3,360,688
HARTFORD CSRT	4,977,452	23,236	55,300	4,737,285	4,737,285
NEW HAVEN CSRT	3,411,129	17,283	45,640	3,383,263	3,383,263
STAMFORD CSRT	1,278,293	6,384	13,770	1,243,249	1,243,249
WATERBURY CITY	1,118,853	6,556	11,340	1,168,023	1,168,023
BALANCE OF CONN	6,932,261	61,700	124,110	8,896,013	8,896,013
MAINE	6,112,844	40,433	185,000	7,696,117	7,696,117
PENOBSCOT CNTY	990,670	5,652	26,860	1,137,883	1,137,883
CUMBERLAND CNTY	1,159,414	7,089	26,070	1,302,838	1,302,838
BALANCE OF MAINE	4,114,570	24,157	113,940	4,637,348	4,637,348
KENNEBEC CNTY	548,290	3,235	15,130	618,048	618,048
MASSACHUSETTS	40,613,094	304,695	582,000	47,429,771	47,429,771
BOSTON	7,900,173	39,432	84,920	7,694,973	7,694,973
ENHRA CSRT	2,103,119	17,274	33,100	2,577,437	2,577,437
NEW BEDFORD CSRT	3,250,260	11,608	27,980	1,881,450	1,881,450
HAMPDEN CNTY CSRT	1,688,550	25,342	55,900	4,231,805	4,231,805
WORCESTER CSRT	1,849,851	16,658	39,080	2,248,764	2,248,764
LOWELL CSRT	1,186,638	12,304	19,400	2,015,182	2,015,182
BROCKTON CSRT	20,407,492	10,641	17,090	1,505,670	1,505,670
BALANCE OF MASS		172,436	326,556	25,273,990	25,273,990
NEW HAMPSHIRE	3,745,835	23,237	112,000	4,348,470	4,348,470
ROCK/STRAFFORD CS	905,791	6,558	30,560	1,135,792	1,135,792
HILLSBOROUGH CNTY	1,295,468	7,358	26,790	1,459,177	1,459,177
BALANCE OF N H	1,644,576	9,321	52,650	1,753,501	1,753,501
RHODE ISLAND	7,506,525	59,417	122,000	9,056,210	9,056,210
PROVIDENCE	3,038,958	13,392	31,110	2,822,582	2,822,582
BALANCE OF R I	4,467,567	46,025	91,890	6,233,628	6,233,628
VERMONT	2,970,917	19,437	71,000	3,421,899	3,421,899
BALANCE OF VERMON	2,970,917	19,437	71,000	3,421,899	3,421,899

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I ALLOCATION--FY 1977
AS OF 10/14/76

REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION II	189,990,316	1,221,157	1,211,000	214,826,791	217,304,783
NEW JERSEY	47,679,805	332,030	794,000	54,432,638	55,447,480
ATLANTIC COUNTY	1,362,813	8,663	33,420	1,570,624	1,570,624
BERGEN COUNTY	3,447,426	34,182	65,500	4,687,579	4,687,979
BURLINGTON COUNTY	1,584,421	15,256	29,760	2,121,812	2,121,812
CAMDEN COUNTY	1,763,742	17,076	32,090	2,362,624	2,362,624
CAMDEN CITY	1,271,457	8,652	20,210	1,432,279	1,432,279
CUMBERLAND COUNTY	923,861	7,527	19,100	1,151,070	1,151,070
ELIZABETH CITY	784,920	6,084	16,210	956,220	956,220
ESSEX COUNTY	2,572,946	23,021	51,410	3,339,257	3,339,257
GLOUCESTER COUNTY	962,897	9,355	18,880	1,299,196	1,299,196
HUDSON CSRT	5,247,829	31,614	95,470	5,692,162	5,692,162
MERCER COUNTY	787,210	5,930	15,660	941,718	941,718
MIDDLESEX COUNTY	2,970,424	26,701	44,190	3,781,175	3,781,175
MONMOUTH COUNTY	2,704,763	17,991	46,850	2,772,671	2,772,671
MORRIS COUNTY	1,368,007	12,558	27,760	1,777,673	1,777,673
NEWARK CITY	8,829,648	78,134	74,390	7,384,680	7,946,683
OCEAN COUNTY	1,274,959	10,455	30,310	1,658,278	1,658,278
PASSAIC COUNTY	1,581,031	13,563	36,650	2,034,512	2,034,512
PATERSON CITY	1,310,139	10,507	25,760	1,592,619	1,592,619
SOMERSET CNTY	700,575	5,511	12,550	848,645	848,645
TRENTON CITY	2,766,717	5,364	17,770	2,037,676	2,490,045
UNION COUNTY	1,803,044	16,391	33,870	2,346,305	2,346,305
BALANCE OF N J*	2,160,171	16,078	46,190	2,649,543	2,649,543
NEW YORK	111,003,032	729,997	2,318,000	126,270,952	126,270,952
ALBANY CSRT	1,731,983	9,090	30,080	1,777,332	1,777,332
BROOME COUNTY	1,511,136	7,210	27,310	1,506,333	1,506,333
BUFFALO CITY	4,006,426	29,045	72,930	4,687,548	4,687,548
CHAUTAUQUA CSRT	1,588,073	11,345	45,520	1,936,812	1,936,812
CHEMUNG COUNTY	605,822	4,004	11,840	702,571	702,571
DUTCHESS COUNTY	754,935	5,766	18,800	931,207	931,207
ERIE CSRT	2,960,806	25,640	50,960	3,738,748	3,738,748
MONROE/ROCHESTER	3,666,365	23,194	58,180	4,004,672	4,004,672
NASSAU COUNTY CSR	5,913,425	44,390	79,760	6,872,726	6,872,726
NIAGARA COUNTY	1,571,707	12,214	26,020	1,958,406	1,958,406
ONEIDA COUNTY	1,624,131	10,737	35,130	1,858,357	1,858,357
ONONDAGA CNTY	984,762	8,803	21,080	1,285,142	1,285,142
ORANGE COUNTY	1,184,317	9,540	27,810	1,486,098	1,486,098
OSWEGO CNTY	644,787	6,147	14,150	870,019	870,019
RENSSELAER CNTY	759,067	5,319	12,900	902,984	902,984

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I ALLOCATION--FY 1977
AS OF 10/14/76

REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
ROCKLAND COUNTY	849,366	6,687	13,460	1,019,714	1,019,714
ST LAWRENCE CNTY	704,158	5,794	17,120	895,250	895,250
SARATOGA COUNTY	587,585	4,286	13,660	712,628	712,628
SCHENECTADY CNTY	746,016	5,354	19,100	899,117	899,117
STEUBEN CNTY	513,216	4,065	15,540	658,176	658,176
SUFFOLK CNTY CSRT	4,726,160	36,609	82,820	5,814,619	5,814,619
SYRACUSE CITY	1,612,548	9,599	27,810	1,663,157	1,663,157
ULSTER COUNTY	791,408	7,024	20,480	1,048,558	1,048,558
WESTCHESTER CSRT	3,351,974	24,742	54,720	3,910,279	3,910,279
YONKERS CITY	1,058,058	8,571	19,490	1,301,855	1,301,855
BAL OF NEW YORK	9,794,136	73,663	239,250	11,976,193	11,976,193
NEW YORK CITY	56,760,265	399,599	1,249,000	61,844,451	61,844,451
PUERTO RICO	30,687,779	159,160	1,103,000	34,122,701	34,122,701
BAYAMON MUNICIPIO	1,589,949	7,137	56,560	1,705,137	1,705,137
CAGUAS MUNICIPIO	1,701,608	6,696	30,430	1,638,985	1,638,985
CAROLINA MUNICIPI	860,432	3,095	37,120	946,574	946,574
MAYAGUEZ MUNICIPI	1,268,946	5,108	30,290	1,239,101	1,239,101
PONCE MUNICIPIO	2,102,120	10,736	61,010	2,269,914	2,269,914
SAN JUAN CSRT	5,379,643	27,704	195,500	6,011,469	6,011,469
BAL OF PUERTO RIC	17,185,081	98,184	671,090	20,311,521	20,311,521
VIRGIN ISLANDS	1,219,700				1,463,640
VIRGIN ISLANDS	1,219,700				1,463,640

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REGION III	**140,723,941**	**785,670**	**3,440,000**	**152,869,574**	**155,803,395**
DELAWARE	3,544,827	21,164	83,000	3,932,473	3,932,473
DEL INTGOV MA S.C	2,292,000	16,369	64,530	2,788,635	2,788,635
WILMINGTON	1,252,827	4,795	18,470	1,143,838	1,143,838
WASHINGTON D. C.	13,942,368	26,019	93,000	10,213,846	12,548,121
WASHINGTON D. C.	13,942,368	26,019	93,000	10,213,846	12,548,121
MARYLAND	21,152,212	126,899	460,000	23,366,825	23,366,825
BALANCE OF MD	2,243,035	10,409	75,080	2,403,571	2,403,571
BALTIMORE CSRT	12,619,809	76,000	256,230	13,831,706	13,831,706
MONTGOMERY COUNTY	1,824,027	12,772	26,570	2,028,317	2,028,317
PRINCE GEORGES CO	2,719,256	17,674	51,400	3,060,401	3,060,401
WESTERN MD CSRT	1,746,085	10,544	50,720	2,042,830	2,042,830
PENNSYLVANIA	64,826,633	421,998	1,612,000	74,560,978	75,460,454
LEHIGH VALLEY CON	1,739,093	12,236	57,970	2,479,973	2,479,973
LANCASTER CSRT	1,513,669	15,459	51,130	2,211,514	2,211,514
BUCKS COUNTY	1,028,197	15,109	29,980	2,250,156	2,250,156
CHESTER COUNTY	983,082	6,808	22,590	1,153,576	1,153,576
DELAWARE COUNTY	2,571,632	20,218	47,840	3,124,010	3,124,010
MONTGOMERY COUNTY	2,307,617	18,253	42,300	2,814,525	2,814,525
PHILADELPHIA	12,538,476	68,007	273,070	13,321,073	13,321,073
BERKS COUNTY	1,052,226	9,167	35,620	1,476,559	1,476,559
LACKAWANNA COUNTY	860,333	6,346	23,820	1,058,597	1,058,597
SCRANTON	678,502	4,954	19,100	833,041	833,041
LUZERNE COUNTY	2,537,487	17,356	66,530	3,007,252	3,007,252
SCHUYKILL CSRT	1,344,754	9,226	46,710	1,658,012	1,658,012
ERIE CTY	1,066,446	5,438	18,380	1,086,011	1,086,011
ERIE CNTY	566,485	5,545	15,190	789,437	789,437
ALLEGHANY COUNTY	4,344,025	26,699	112,420	4,930,192	4,930,492
PITTSBURGH	7,243,668	19,766	81,100	5,919,825	6,519,301
BEAVER COUNTY	875,362	5,085	26,900	996,122	996,122
WASHINGTON COUNTY	1,011,381	6,942	35,110	1,247,092	1,247,092
WESTMORELAND CNTY	2,143,672	14,807	52,770	2,511,019	2,511,019
TRI-COUNTY CSRT	1,340,865	8,669	46,050	1,638,261	1,638,261
FAYETTE COUNTY	1,069,119	5,785	37,570	1,212,669	1,212,669
LAWRENCE COUNTY	579,572	4,853	17,140	759,308	759,308
MERCER CNTY CSRT	1,858,503	14,586	55,120	2,367,794	2,367,794
S. ALLEGANY CSRT	2,994,228	17,972	93,630	3,456,354	3,456,354
SUSQUEHANNA CSRT	1,649,650	12,705	50,100	2,091,269	2,091,269

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YORK COUNTY	974,972	10,435	37,240	1,453,930	1,453,930
LYCOMING CSRT	869,068	7,429	24,840	1,172,686	1,172,686
FRANKLIN COUNTY	437,007	3,610	17,560	587,385	587,385
BALANCE OF PENN	4,610,506	33,626	145,570	5,764,843	5,764,843
CENTRE CNTY	474,332	3,595	13,240	563,781	563,781
NORTHUMBERLAND CO	761,904	5,851	23,410	924,412	924,412
VIRGINIA	24,724,170	144,080	762,000	33,178,988	33,178,988
PENNINSULA CSRT	1,594,223	9,185	42,300	1,772,446	1,772,446
STAMA CSRT	4,533,539	19,497	113,890	4,539,761	4,539,761
RAMPS CSRT	2,162,662	8,132	47,040	2,067,043	2,067,043
HENRICO CNTY CSRT	524,347	4,584	22,980	757,437	757,437
ROANOKE CSRT	1,199,940	7,699	38,400	1,443,845	1,443,845
ARLINGTON COUNTY	772,050	5,170	15,860	867,095	867,095
FAIRFAX COUNTY	1,290,617	10,032	23,180	1,651,643	1,651,643
PRINCE WM COUNTY	362,943	2,180	10,480	414,334	414,334
ALEXANDRIA CITY	470,168	2,797	10,850	520,017	520,017
BALANCE OF VA	11,713,731	74,024	437,020	14,165,297	14,165,297
WEST VIRGINIA	12,033,131	45,490	429,000	13,316,944	13,316,944
W. VA. STATEWIDE	12,033,131	45,490	429,000	13,316,944	13,316,944

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REGION IV	213,609,024	1,292,902	7,645,000	251,019,778	253,275,978
ALABAMA	23,229,310	111,030	837,000	25,438,408	25,438,408
BALANCE OF ALABAM	12,289,532	65,295	522,850	14,251,210	14,251,210
BIRMINGHAM CSRT	4,707,010	19,703	123,410	4,709,051	4,709,051
HUNTSVILLE CSRT	1,435,725	6,260	20,360	1,403,225	1,403,225
MOBILE CSRT	2,554,728	10,958	89,800	2,698,456	2,698,456
MONTGOMERY CSRT	1,614,894	5,753	48,310	1,578,035	1,578,035
TUSCALOOSA COUNTY	627,421	3,031	21,270	698,431	698,431
FLORIDA	45,412,179	269,999	1,895,000	61,770,512	60,896,403
BALANCE OF FLORID	7,216,769	48,017	339,050	9,274,982	9,274,982
ALACHUA COUNTY	662,013	3,913	21,560	720,982	720,982
BREVARD COUNTY	1,668,500	12,584	35,550	2,014,210	2,014,210
BROWARD CSRT	4,148,445	47,942	146,030	6,496,285	6,222,662
MIAMI/DADE CNSRT	8,799,211	79,773	315,390	12,559,570	12,559,570
ESCAMBIA COUNTY	1,144,019	6,695	51,400	1,409,351	1,409,351
HTLND MNPWR CNSR	2,342,296	13,762	96,120	3,807,681	3,807,681
LEE COUNTY	596,803	7,292	34,430	1,039,196	895,217
LEON/GADSDEN CNSR	520,252	5,000	31,770	1,064,603	1,064,603
NE FLA MNPWR CNSR	2,328,345	17,147	130,440	3,760,588	3,760,588
ORANGE/ORLANDO CR	2,026,360	21,550	80,310	3,034,046	3,039,518
MANATEE CNTY	566,185	5,085	40,040	892,545	848,273
P/LM BEACH COUNTY	2,534,993	23,012	86,360	3,521,324	3,521,324
PASCO COUNTY	523,792	6,285	42,510	965,452	785,563
SEMINOLE CNTY	628,606	7,049	20,540	955,415	942,909
ST PETERSBURG CSR	2,876,966	24,419	170,310	4,238,730	4,209,739
SARASOTA COUNTY	577,260	6,674	42,730	1,038,020	866,040
TAMPA CSRT	3,725,502	24,236	130,100	4,505,017	4,505,017
VOLUSIA COUNTY	1,125,837	8,086	55,560	1,580,218	1,580,318
GEORGIA	27,143,725	185,030	935,000	33,360,613	33,360,613
BALANCE OF GEORGI	13,658,724	87,704	570,010	17,059,489	17,059,489
CSRA CSRT	1,699,536	9,808	69,700	2,024,624	2,024,624
ATLANTA	4,137,561	32,048	88,790	5,098,907	5,098,907
CLAYTON CNTY	421,655	4,073	8,990	571,213	571,213
COBB COUNTY	976,253	9,587	20,310	1,353,528	1,353,528
COLUMBUS AREA CSR	1,263,357	4,861	36,740	1,253,162	1,253,862
DEKALB COUNTY	1,298,118	13,483	20,750	1,886,711	1,886,711
FULTON COUNTY	691,477	6,768	17,650	958,735	958,735
MID. GA CSRT	1,436,217	8,186	50,060	1,655,679	1,655,679
SAV/CHATHAM CSRT	946,647	5,187	36,410	1,095,271	1,095,371

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GWINNETT CNTY	214,180	2,295	10,990	387,494	387,494
KENTUCKY	25,908,146	91,279	761,000	23,606,269	26,913,249
BLUEGRASS MA CSRT	1,589,793	7,206	57,340	1,726,623	1,726,623
LVILLE/JEFF CSRT	3,890,038	25,551	92,540	4,485,263	4,485,263
KENTON COUNTY	646,196	4,659	16,550	791,219	791,219
BALANCE OF KENT	17,022,069	53,683	592,570	16,603,144	16,603,144
RURAL CEP	2,760,000				3,312,000
MISSISSIPPI	17,489,905	64,613	506,000	17,592,993	17,592,993
BALANCE OF MISS	15,802,857	58,169	537,530	15,925,404	15,925,404
JACKSON CSRT	1,687,048	6,444	48,420	1,667,589	1,667,589
NORTH CAROLINA	31,197,996	217,012	1,050,000	38,632,555	38,197,994
BALANCE OF N.C.	19,792,642	137,923	707,150	24,662,079	24,662,079
ALAMANCE CNTY	590,595	4,575	11,870	733,046	733,046
BUNCOMBE COUNTY	724,930	6,731	33,080	1,051,581	1,051,581
CUMBERLAND COUNTY	1,092,771	6,129	39,620	1,142,790	1,142,790
CHARLOTTE	1,089,417	10,709	31,420	1,868,643	1,868,643
DURHAM CSRT	1,202,318	5,476	30,860	1,296,715	1,206,715
GASTON COUNTY	611,487	9,826	24,260	1,138,458	917,231
GREENSBORO CSRT	1,209,869	10,695	40,230	1,705,205	1,705,205
ONSLOW COUNTY	367,444	1,650	15,360	431,067	431,067
RALEIGH CSRT	1,274,667	9,345	47,350	1,799,998	1,799,998
WAKE CNTY	417,239	3,256	10,230	562,160	562,160
WINSTON-SALEM CSR	1,299,911	8,732	35,490	1,549,620	1,549,620
DAVIDSON CNTY	324,706	4,086	10,600	640,382	407,059
SOUTH CAROLINA	17,502,251	102,999	603,000	20,363,895	20,363,895
S. CAROLINA CSRT	17,502,251	102,999	603,000	20,363,895	20,363,895
TENNESSEE	25,725,512	151,030	969,000	30,354,553	30,507,343
BALANCE OF TENN	14,596,093	91,505	630,540	18,954,906	18,954,906
CHATTANOOGA	1,764,242	3,971	20,290	1,486,118	1,487,907
MEMPHIS CSRT	3,015,164	23,996	135,330	4,554,233	4,554,233
HAMILTON COUNTY	576,515	3,465	20,170	677,479	677,479
KNOXVILLE CSRT	1,997,749	7,517	56,370	1,915,771	1,915,771
NASHVILLE/DAVIDSO	2,464,668	16,503	69,730	2,951,995	2,951,995
SULLIVAN COUNTY	610,976	3,043	20,020	766,041	766,041

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REGION V	263,594,377	1,720,628	5,317,000	305,955,720	301,910,807
ILLINOIS	66,679,066	355,000	1,261,000	69,353,647	70,345,496
CHICAGO	33,243,463	116,000	426,580	29,523,838	29,919,100
COOK COUNTY	7,180,889	63,790	114,930	9,132,163	9,132,163
DUPAGE COUNTY	757,575	11,547	19,150	1,264,756	1,136,362
KANE COUNTY CSRT	1,131,738	12,037	25,100	1,671,602	1,671,602
LAKE COUNTY	1,384,166	11,986	20,310	1,761,345	1,761,345
MACON COUNTY	505,617	5,138	11,970	728,920	728,920
MCHENRY COUNTY	299,732	3,760	10,090	542,021	542,021
ROCK ISLAND COUNT	699,516	5,126	11,050	672,034	872,034
TAZEWELL COUNTY	377,226	2,211	10,790	496,260	496,260
LASALLE COUNTY	433,158	3,089	14,090	537,016	537,016
ROCKFORD CSRT	973,330	12,166	20,420	1,434,119	1,450,996
CHAMPAIGN CSRT	690,589	4,647	21,040	846,893	846,303
WILL COUNTY CSRT	1,117,553	9,657	20,700	1,417,717	1,417,717
SANGAMON CNTY CSR	651,673	4,957	22,340	799,043	799,043
MADISON CNTY CSRT	1,599,430	11,553	33,140	1,890,340	1,890,340
ST CLAIR CSRT	1,255,451	8,868	34,680	1,517,023	1,517,023
PEORIA CSRT	782,652	4,194	20,920	849,162	849,162
EAST ST LOUIS	2,584,629	4,433	15,030	1,654,588	2,326,166
SHAWNEE CSRT	1,158,462	2,496	15,410	913,739	1,042,616
BAL OF ILLINOIS	9,461,656	54,921	350,730	11,090,515	11,090,515
MCLEAN CNTY	282,521	2,174	10,550	379,862	379,862
INDIANA	30,759,906	206,001	717,300	35,661,653	36,500,114
GARY	4,556,017	8,036	22,270	3,266,664	4,101,125
HAMMO'D	428,110	3,794	14,250	563,946	563,946
LAKE CNTY	1,465,614	7,745	22,230	1,490,135	1,490,135
ELKHART CNTY	560,329	6,000	13,080	812,552	812,552
SOUTH BEND	1,611,657	5,130	15,980	1,256,632	1,450,401
ST JOSEPH CNTY	443,037	4,272	12,070	619,202	619,202
TIPPECANOE CNTY	398,182	3,020	12,430	502,811	502,811
MADISON CNTY	658,748	6,563	16,910	921,903	921,903
VIGO CNTY	520,917	3,022	10,990	608,339	608,339
INDIANAPOLIS	4,224,467	26,930	89,870	4,726,703	4,726,703
LA PORTE CNTY	326,272	4,137	11,310	536,596	489,409
FT WAYNE CSRT	1,780,325	20,674	47,240	2,704,289	2,670,403
DELAWARE CSRT	685,390	6,638	20,380	961,104	961,104
SOUTHWESTERN CSRT	2,139,993	11,645	60,100	2,367,914	2,367,914
BAL OF INDIANA	10,959,698	89,337	340,090	14,276,253	14,276,253
MICHIGAN	60,765,229	409,690	1,001,000	73,966,440	73,966,440

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BAL OF MICHIGAN	9,829,641	75,941	241,670	12,168,408	12,168,408
GENESSEE/FLINT CS	3,742,035	31,563	56,150	4,621,677	4,621,677
LANSING CSRT	2,324,626	18,736	37,180	2,822,937	2,822,937
JACKSON CSRT	1,457,121	15,042	32,410	2,104,223	2,104,223
KENT CNTY CSRT	3,984,057	29,597	66,540	4,463,177	4,463,177
MUSKEGON CSRT	1,520,262	9,241	24,500	1,898,197	1,898,197
DEARBORN	504,736	4,560	9,150	653,032	653,032
DETROIT	14,426,859	90,999	211,540	15,655,705	15,655,705
LIVONIA	341,760	3,542	5,350	458,302	458,302
WARREN CITY	832,663	8,501	8,290	1,108,346	1,108,346
BAY CNTY	755,017	6,004	13,160	917,111	917,111
BERRIEN CNTY	1,114,748	10,439	22,400	1,479,004	1,479,004
CALHOUN CNTY	892,126	7,179	16,870	1,096,737	1,096,737
KALAMAZOO CNTY	1,064,075	8,693	15,730	1,301,141	1,301,141
MACOMB CNTY	2,426,169	23,704	28,890	3,187,313	3,187,313
MONROE CNTY	589,460	6,522	10,960	777,020	777,020
OAKLAND CNTY	5,710,892	53,643	55,110	7,112,647	7,112,647
OTTAWA CNTY	679,654	5,705	13,060	853,187	853,187
SAGINAW CITY	1,356,813	9,415	23,260	1,550,327	1,550,327
ST CLAIR CNTY	1,105,192	8,066	16,070	1,343,411	1,343,411
WAYNE CNTY	5,084,549	48,145	66,070	6,611,617	6,611,617
ANN ARBOR	407,803	3,636	7,320	540,504	540,504
WASHTENAW CNTY	914,171	9,535	10,070	1,240,516	1,240,516
MINNESOTA	23,039,415	95,479	526,300	21,600,127	21,312,917
DAKOTA CNTY	460,705	3,819	6,560	573,313	573,313
RAMSEY CNTY	529,078	4,670	6,550	671,660	671,660
ST PAUL CITY	2,104,299	11,797	33,740	2,196,520	2,196,520
UEB MINNESOTA CSR	1,190,602	10,668	20,850	1,483,170	1,483,170
REGION III CSRT	1,731,177	4,528	30,160	1,503,287	1,559,089
DULUTH	1,550,664	3,694	17,290	1,508,280	1,355,598
BAL OF MINNESOTA	8,561,295	26,626	320,780	8,448,400	8,448,400
RURAL CEP	2,059,000				2,470,300
HENNEPIN COUNTY	1,234,125	14,134	26,360	1,846,097	1,846,097
MINNEAPOLIS	3,618,770	18,913	54,710	3,663,400	3,663,400
OHIO	59,124,915	429,999	1,282,300	70,391,776	69,963,523
CINCINNATI	5,220,207	22,090	71,080	4,880,737	4,880,737
BUTLER CNTY	954,062	12,503	25,490	1,589,602	1,421,093
CLARK CNTY	643,515	6,371	15,240	912,598	912,598
HAMILTON CNTY	1,032,975	13,508	30,770	1,704,423	1,549,463
LORAIN CNTY	992,396	11,098	22,180	1,455,103	1,455,103
AKRON CSRT	3,191,775	23,663	62,990	3,797,470	3,797,470
CANTON CSRT	1,654,260	10,031	51,230	2,411,200	2,411,200

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
TITLE I ALLOCATION--FY 1977
AS OF 10/14/76

REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
CLEVELAND CSRT	13,025,805	60,450	180,760	12,568,024	12,568,674
COLUMBUS CSRT	4,304,098	30,531	90,810	5,057,357	5,057,357
MIAMI VALLEY CSRT	4,201,369	23,438	69,240	4,355,001	4,355,001
LICKING/DEL CSRT	1,023,972	6,751	27,080	1,197,213	1,197,213
TOLEDO CSRT	3,105,272	23,915	59,930	3,749,361	3,719,361
NE OHIO MPWR CSR	3,292,232	21,245	71,880	4,510,352	4,510,352
BAL OF OHIO	11,606,731	104,000	395,462	15,953,611	15,953,611
ALLEN CNTY	506,145	6,010	13,480	778,512	769,218
GREENE CNTY	368,437	3,727	10,540	525,431	525,431
CLERMONT CNTY CSR	1,598,814	6,616	21,728	1,500,925	1,500,925
LAKE/ASHTABULA CSR	994,740	10,568	21,880	1,434,312	1,434,312
PORTAGE COUNTY	508,574	7,057	10,420	1035,191	762,761
RICHLAND/MORROW C	798,743	7,572	10,750	1,081,430	1,081,430
WISCONSIN	23,225,846	181,151	527,080	21,883,677	20,813,077
OUTAGAMIE CNTY	375,174	3,278	10,760	506,553	506,553
ROCK CNTY	676,095	5,880	12,670	833,276	833,276
MILWAUKEE CNTY	5,654,547	39,066	90,460	6,446,512	6,446,512
MADISON-DANE CSRT	1,168,369	7,425	25,460	1,317,074	1,317,074
MCM CSRT	1,057,821	8,532	19,960	1,329,402	1,329,402
WIOME-FOND CSRT	971,090	7,967	22,220	1,225,934	1,225,934
TRICO CET/C	1,391,466	11,591	31,660	1,761,877	1,761,877
BAL OF WISCONSIN	9,937,920	57,435	290,930	11,040,877	11,009,877
RURAL CEP	1,526,000				1,831,200
MARATHON CNTY	465,064	3,107	12,370	561,162	561,162

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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION VI	127,746,280	584,577	4,536,000	137,731,272	137,728,464
ARKANSAS	14,009,136	69,277	552,000	15,773,395	15,773,395
CENT. ARK CSRT	2,663,079	12,272	79,150	2,793,287	2,793,287
TEXARKANA CSRT	494,163	1,560	11,770	452,531	452,531
BALANCE OF ARK	10,851,894	55,545	467,080	12,527,577	12,527,577
LOUISIANA	25,050,847	106,030	794,000	25,808,045	25,803,045
RAPIDES PARISH	800,873	3,960	27,870	881,467	881,467
BATON ROUGE	1,764,521	9,019	62,050	1,796,196	1,796,196
LAFAYETTE PARISH	674,649	2,210	21,870	661,930	661,930
CALCASIEU/JEFF CR	1,218,804	5,738	37,230	1,348,566	1,348,966
OUACHITA PARISH	801,102	4,032	25,980	875,773	875,773
NEW ORLEANS CTY	4,718,045	20,588	127,570	4,799,538	4,799,538
JEFFERSON PARISH	1,758,590	7,592	46,280	1,744,334	1,744,334
SHREVEPORT CITY	1,394,091	6,493	35,340	1,433,860	1,433,860
BAL OF LOUISIANA	11,819,763	47,262	432,910	12,345,973	12,345,973
NEW MEXICO	8,962,806	31,504	230,000	8,136,184	8,136,184
ALBUQUERQUE CSRT	2,613,670	10,550	55,190	2,564,748	2,564,748
BAL OF NEW MEXICO	5,648,616	20,954	170,810	5,571,436	5,571,436
OKLAHOMA	15,224,119	82,599	586,000	17,589,193	17,589,193
COMANCHE CNTY	464,174	2,330	21,910	944,337	944,337
OKLAHOMA CITY	773,629	5,581	21,180	941,991	941,991
OKLAHOMA CTY CSRT	2,460,508	15,000	77,960	2,876,682	2,876,682
CLEVELAND CTY	280,398	2,863	11,950	479,754	479,754
TULSA CSRT	2,679,905	14,243	77,790	2,932,525	2,932,525
BAL OF OKLAHOMA	8,164,505	42,382	380,220	9,413,904	9,413,904
TEXAS	65,199,692	294,597	2,367,000	70,344,459	70,341,647
TEXARKANA CSRT	806,760	2,656	15,460	725,845	726,004
PANHANDLE MA CSRT	1,248,724	4,186	52,410	1,389,355	1,389,355
CAPITAL AREA CSRT	2,320,465	9,503	97,030	2,531,715	2,531,715
SE TEX CORP MA CR	1,909,156	11,595	69,150	2,211,173	2,211,173
PASADENA CITY	227,553	2,409	8,770	341,327	341,327
CAMERON COUNTY	1,385,030	6,474	46,330	1,487,511	1,487,511
COASTAL BEND CSRT	2,672,476	10,093	103,440	2,092,462	2,092,462
DALLAS CITY	3,854,223	20,080	130,460	4,285,092	4,285,092
DALLAS CNTY	1,762,078	11,539	44,070	2,040,274	2,040,274
LUBBOCK	882,657	3,670	29,050	871,731	871,731
WEST CENTRAL TEX	1,421,209	4,581	70,700	1,557,223	1,557,223

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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
EL PASO CTY/CNTY	2,328,923	13,171	76,950	2,674,944	2,674,944
FT WORTH CSRT	2,674,684	18,536	84,940	3,181,866	3,181,866
TARRANT COUNTY	619,569	3,955	17,210	719,050	719,050
GALVESTON CNTY	1,153,764	3,662	28,070	1,061,147	1,061,147
HOUSTON	7,946,910	36,000	190,540	8,043,711	8,043,711
HARRIS COUNTY	1,397,031	10,168	45,720	1,748,240	1,748,240
CENTRAL TEXAS CSR	976,238	3,564	54,270	1,096,418	1,096,418
HIDALGO CNTY CSRT	1,970,166	7,274	68,850	1,996,932	1,996,932
ALAMO CSRT	7,684,286	30,153	225,740	7,679,698	7,679,698
REGION XI CSRT	1,574,387	6,672	64,460	1,706,972	1,706,972
N TEXAS PLAN CSRT	1,175,249	3,712	54,970	1,222,702	1,222,702
WEBB COUNTY	1,200,339	3,695	25,800	1,082,156	1,082,156
BRAZORIA CSRT	1,733,939	8,256	85,330	2,091,023	2,091,023
BALANCE OF TEXAS	14,773,076	59,143	675,260	15,676,302	15,676,302

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REGION VII	60,029,560	302,115	2,028,000	66,044,112	66,191,476
IOWA	12,872,904	79,121	458,000	14,691,353	14,691,353
BALANCE OF IOWA	7,304,900	44,312	327,100	9,002,437	9,002,437
BLACKHAWK COUNTY	564,894	4,008	15,460	608,611	608,611
CENT IOWA RALC	3,210,765	12,964	68,300	3,070,801	3,070,801
LINN CNTY CSRT	694,061	3,710	16,500	741,561	741,561
SCOTT COUNTY	451,613	3,081	14,350	547,987	547,987
WOODBURY COUNTY	647,271	2,046	16,130	639,956	639,956
KANSAS	10,696,520	46,477	380,000	11,305,009	11,305,009
BAL OF KANSAS	5,744,494	20,405	277,940	6,192,395	6,192,395
KANSAS CITY CSRT	1,467,318	7,293	20,170	1,488,044	1,488,044
JOHNSON CNTY CSRT	831,651	6,785	18,730	1,045,191	1,045,191
WICHITA CTY	1,577,961	7,586	37,010	1,623,158	1,623,158
TOPEKA CSRT	975,096	4,528	26,150	956,221	956,221
MISSOURI	28,643,101	142,001	930,000	31,168,461	31,315,825
BAL OF MISSOURI	10,506,118	47,676	550,900	12,288,987	12,288,987
SPRINGFIELD	853,254	3,940	25,790	897,774	897,774
BAL JACKSON CNTY	420,880	3,421	10,660	534,492	534,492
KANSAS CITY CSRT	5,044,348	27,029	97,120	5,266,816	5,266,816
JEFFERSON CSRT	972,040	6,533	25,070	1,141,606	1,141,606
ST LOUIS COUNTY	3,474,276	27,013	74,590	4,253,770	4,253,770
ST LOUIS CITY	6,434,640	19,000	124,360	5,643,812	5,791,176
INDEPENDENCE	411,821	3,221	12,470	532,256	532,256
ST CHARLES CNTY	525,724	3,768	8,960	608,768	608,768
NEBRASKA	7,917,035	42,816	260,000	8,879,289	8,879,289
BAL OF NEBRASKA	4,050,048	20,536	195,190	4,709,194	4,709,194
LINCOLN CITY	718,169	4,253	16,980	795,182	795,182
OMAHA CSRT	3,148,818	17,977	47,830	3,794,913	3,794,913

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REGION VIII	32,265,284	162,826	1,060,000	34,887,675	35,799,151
COLORADO	11,499,767	72,073	403,000	13,723,093	13,597,769
ADAMS CNTY	728,513	8,536	21,440	1,123,384	1,092,770
ARAPAHOE COUNTY	495,113	5,954	17,060	787,657	742,670
BOULDER CNTY	643,537	5,272	16,280	820,014	820,014
COL SPRINGS CSRT	1,015,827	6,257	44,230	1,251,591	1,251,591
DENVER CTY/CNTY	3,001,260	19,962	99,690	3,917,208	3,917,208
JEFFERSON COUNTY	728,217	8,798	21,550	1,142,049	1,092,326
LARIMER CNTY	424,071	2,104	18,410	486,840	486,840
PUEBLO CNTY	680,319	7,635	25,150	705,624	705,624
WELD CNTY	459,885	1,571	21,330	513,766	513,766
BAL OF COLORADO	2,723,025	10,584	127,860	2,974,960	2,974,960
MONTANA	5,602,734	21,025	142,800	4,920,228	5,957,020
RURAL CEP	864,000				1,036,800
BAL OF MONTANA	4,738,734	21,025	142,800	4,920,228	4,920,228
NORTH DAKOTA	3,497,410	13,497	117,800	3,552,289	3,552,289
BALANCE OF N.D.	3,497,410	13,497	117,800	3,552,289	3,552,289
SOUTH DAKOTA	3,410,181	13,958	132,800	3,621,580	3,621,580
BALANCE S.D.	3,410,181	13,958	132,800	3,621,580	3,621,580
UTAH	6,529,082	35,098	198,800	7,218,510	7,218,510
UTAH STATEWIDE CR	6,529,082	35,098	198,800	7,218,510	7,218,510
WYOMING	1,726,110	7,245	68,000	1,852,055	1,852,055
BALANCE OF WYOMIN	1,726,110	7,245	68,000	1,852,055	1,852,055

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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
REGION IX	162,725,221	1,059,583	3,417,800	183,628,057	185,517,030
ARIZONA	13,703,743	82,427	382,000	15,583,072	15,583,072
BALANCE OF ARIZON	4,645,755	17,662	118,940	4,507,983	4,507,983
PHOENIX/MARICOPA	4,513,482	32,924	104,450	5,416,290	5,416,290
MESA	454,132	3,247	12,470	558,030	558,030
MARICOPA COUNTY	2,024,025	16,273	68,180	2,650,047	2,650,047
TECSON-PIMA COUNT	2,066,349	12,221	78,960	2,450,722	2,450,722
CALIFORNIA	138,147,639	925,003	2,960,000	158,138,707	158,214,650
CITY OF ALAMEDA	3,394,793	26,499	56,620	4,018,509	4,018,509
BERKELEY	1,165,548	9,519	16,570	1,412,812	1,412,812
CONTRA COSTA CNTY	2,480,736	20,797	41,270	3,093,385	3,093,385
MARIN COUNTY	1,039,213	8,177	16,910	1,249,772	1,249,772
OAKLAND	5,412,501	24,621	60,510	5,108,442	5,108,442
RICHMOND	1,294,137	4,910	11,790	1,138,670	1,164,723
SAN FRANCISCO	7,201,467	45,205	103,900	7,790,482	7,790,482
SAN MATEO COUNTY	2,703,237	21,279	46,610	3,260,246	3,260,246
SONOMA COUNTY	1,643,516	11,408	30,080	1,931,876	1,931,876
SANTA BARBARA CNT	1,442,925	8,067	30,280	1,587,607	1,587,607
GLENDALE	564,909	4,726	17,240	742,710	742,710
LONG BEACH	2,857,154	15,619	56,510	2,786,330	2,786,330
LOS ANGELES COUNT	19,136,353	138,753	426,160	22,814,861	22,814,861
LOS ANGELES	21,114,997	144,866	424,160	24,349,274	24,349,374
ORANGE CNTY CONSP	7,604,470	60,000	141,940	9,255,371	9,255,371
PASADENA	888,603	4,132	16,690	881,375	881,375
TORRANCE	611,291	4,914	9,340	739,059	739,059
VENTURA COUNTY	2,239,909	14,512	46,050	2,565,050	2,565,050
BAL OF CALIFORNIA	6,906,160	43,061	152,180	7,742,231	7,742,231
HUMBOLT CNTY	943,659	6,390	17,690	1,035,481	1,035,481
SANTA CLARA VALLE	5,563,092	48,213	92,550	7,022,386	7,022,386
SOLANO COUNTY	833,137	4,528	27,370	1,020,478	1,020,478
SUNNYVALE	524,033	4,679	7,700	664,349	664,349
BUTTE COUNTY	836,503	5,846	24,920	1,016,293	1,016,293
SACRAMENTO/YOLO	4,996,142	28,735	105,350	5,176,487	5,176,487
STOCKTN/SAN JOAQUI	2,529,586	13,033	50,500	2,614,699	2,614,699
STANISLAUS COUNTY	2,106,217	14,275	42,610	2,459,208	2,459,208
MONTEREY COUNTY	1,473,052	8,192	30,600	1,614,568	1,614,568
SANTA CRUZ COUNTY	1,048,359	7,292	26,140	1,243,559	1,243,559
FRESNO CTY/CNTY.	4,067,755	19,000	88,770	4,109,470	4,109,470
IMPERIAL COUNTY	770,253	4,642	16,240	847,734	847,734
KERN COUNTY	2,090,943	11,383	67,860	2,345,902	2,345,902

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REGION STATE PRIME SPONSOR	FY 1976 MANPOWER ALLOCATION	CY 1975 AVERAGE NUMBER OF UNEMPLOYED	NUMBER OF ADULTS IN LOW-INCOME FAMILIES	FORMULA AMOUNT	ADJUSTED AMOUNT (EXCL. CONSORTIUM INCENTIVE)
MERCED COUNTY	887,675	4,669	25,030	977,823	977,823
INLAND MANP ASSOC	8,463,775	48,008	216,360	9,312,689	9,312,689
SAN LOUIS OBISPO	642,096	3,029	21,690	692,557	692,557
TULARE/KINGS CNTY	2,035,168	9,542	64,520	2,163,609	2,163,000
SAN DIEGO RETC	9,274,760	71,992	201,230	11,358,744	11,358,744
HAWAII	5,224,571	25,680	96,000	5,268,916	5,268,916
BAL OF HAWAII	1,236,193	6,118	24,800	1,260,949	1,260,949
HONOLULU CITY/CNT	3,988,378	19,562	71,200	4,007,967	4,007,967
NEVADA	4,096,668	26,473	70,000	4,587,272	4,587,272
BALANCE OF NEVADA	793,601	4,627	17,020	864,151	864,151
LAS VEGAS CSRT	2,440,360	15,762	42,900	2,712,663	2,712,663
WASHOE COUNTY	862,707	6,084	18,080	1,010,458	1,010,458
AMERICAN SAMOA	239,600				287,520
AMERICAN SAMOA	239,600				287,520
GUAM	997,500				1,197,000
GUAM	997,500				1,197,000
PACIFIC TRUST	315,500				378,600
PACIFIC TRUST	315,500				378,600

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION
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REGION X	**48,526,278**	**295,440**	**1,081,000**	**53,930,296**	**53,947,320**
ALASKA	3,507,753	14,500	36,000	3,191,833	3,208,857
ANCHORAGE BOROUGH	1,085,448	5,201	9,560	1,028,782	1,028,782
BALANCE OF ALASKA	2,422,305	9,299	26,440	2,163,051	2,180,075
IDAHO	4,948,300	24,942	161,000	5,414,957	5,414,957
IDAHO STATEWIDE	4,948,300	24,942	161,000	5,414,957	5,414,957
OREGON	15,147,658	110,000	382,000	18,314,306	18,314,306
PORTLAND CITY	3,527,145	20,901	64,080	3,801,149	3,801,149
CLACKAMAS COUNTY	893,259	7,668	22,950	1,164,567	1,164,567
LANE COUNTY	1,557,136	13,027	38,310	1,997,090	1,997,090
MULTNOMAH/WASH CR	1,660,712	14,782	41,480	2,195,147	2,195,147
N-WILM VAL MPR CR	1,693,551	11,417	46,220	2,005,376	2,005,376
JACKSON CNTY CSRT	1,097,994	8,193	31,870	1,365,563	1,365,563
BALANCE OF OREGON	4,717,771	34,012	137,090	5,785,414	5,785,414
WASHINGTON	24,922,567	145,998	502,000	27,009,200	27,009,200
SPOKANE CSRT	1,796,877	11,595	50,040	2,097,083	2,097,083
CLARK COUNTY	727,812	6,129	18,640	940,236	940,236
KING SNO CSRT	10,756,339	60,999	147,230	11,138,881	11,138,881
KITSAP COUNTY	607,822	3,660	14,530	678,076	678,076
TACOMA CITY	1,443,015	7,315	26,460	1,470,430	1,470,430
PIERCE CTY	1,312,049	8,272	36,050	1,515,062	1,515,062
YAKIMA COUNTY	1,280,094	6,749	35,500	1,387,980	1,387,980
BALANCE OF WASH	6,998,559	41,279	173,550	7,781,452	7,781,452
NATIONAL TOTAL	1,321,474,853	8,005,416	34,110,000	1,485,633,263	1,502,218,912

Signed at Washington, D.C., this 8th day of April 1977.

ALBERT J. ANGEBRANDT,
Administrator, Administration and Management.

[FR Doc.77-14811 Filed 5-26-77;8:45 am]

Office of the Secretary

ACME LEATHER SPORTSWEAR, INC. ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act" and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 6, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 6, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 10th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Acme Leather Sportswear, Inc. (ACTWU).	Elizabeth, N.J..	May 5, 1977	Apr. 29, 1977	TA-W-2,048	Men's leather and suede outerwear.
Dynamics Corp., Reeves-Hoffman Div. (company).	Carlisle, Pa....	do.....	May 4, 1977	TA-W-2,049	Quartz crystal blanks and watch modules.
Ford Motor Co., Cleveland Stamping Plant (UAW).	Cleveland, Ohio.	May 10, 1977	Mar. 28, 1977	TA-W-2,050	Stampings.
Ford Motor Co., Dearborn Stamping Plant (UAW).	Dearborn, Mich	do.....	do.....	TA-W-2,051	Do.
Ford Motor Co., Woodhaven Stamping Plant (UAW).	Woodhaven, Mich.	do.....	do.....	TA-W-2,052	Do.
Ford Motor Co., Sterling Transmission & Chassis (UAW).	Warren, Mich	do.....	do.....	TA-W-2,053	Transmissions and chassis.
Ford Motor Co., Van Dyke Transmission & Chassis.	do.....	do.....	do.....	TA-W-2,054	Do.
Ford Motor Co., Lima trim (UAW).	Lima, Ohio.....	do.....	do.....	TA-W-2,055	Enginee.
Ford Motor Co., Utica trim.....	Utica, Mich.....	do.....	do.....	TA-W-2,056	Trim.
Fraser Shoe Co. (Missouri employment security office).	Union, Mo.....	May 4, 1977	May 4, 1977	TA-W-2,057	Women's casual shoes.
Gellich Tanning Co. (workers).	Taunton, Mass..	May 5, 1977	May 3, 1977	TA-W-2,058	Tanning of hides for shoes and handbags.
Kings Image, Inc. (ACTWU)...	New York, N.Y.	do	Apr. 26, 1977	TA-W-2,059	Men's and boys' outerwear and sportswear.

[FR Doc.77-14753 Filed 5-26-77;8:45 am]

[TA-W-1764]

AIRCO, INC., NIAGARA FALLS, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1764: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 7, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing ferro-chrome silicone alloys at the Niagara Falls, New York plant of Airco, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Airco, Incorporated, and the United Steelworkers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Niagara Falls, New York plant produces ferrochrome-silicone alloys and is a part of the Airco Alloys Division of Airco, Incorporated.

The Department's investigation revealed that there have been no involuntary separations of workers at the Niagara Falls, New York plant of Airco, Incorporated from November 20, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that separations of workers have not occurred at the Niagara Falls, New York plant of Airco, Incorporated as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14913 Filed 5-26-77;8:45 am]

[TA-W-1629]

ALLIED TEXTILE PRINTERS CORP., PATERSON, NEW JERSEY

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1629: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on February 7, 1977 which was filed by the Textile Printing Colorist Guild on behalf of workers and former workers producing printed textiles at Allied Textile Printers Corporation. Subsequently a petition was filed by the Machine Printers and Engravers Association on behalf of workers at that plant.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12493). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Allied Textiles Printers Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers declined 2.6 percent from 1975 to 1976. Maintenance and office employment declined 14.3 percent and 5.9 percent, respectively, from 1975 to 1976. The majority of production workers were laid off by February 24, 1977 when the plant closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total company sales and production declined 38.5 percent and 44.6 percent, respectively, from 1975 to 1976. Production ceased on February 24, 1977.

INCREASED IMPORTS

Imports of cotton broadwoven printcloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment at Allied Textile Printers. Converters, who are customers of Allied stated that imports of apparel have been a factor in reduced business with Allied. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Allied Textile Printers Corporation are converters who buy greige goods and commission Allied to finish the fabric, by printing it in accordance with apparel manufacturers' specifications. During the course of the Department's investigation, it was established that converters, in general, do not import printed or finished fabric. The Department's survey of apparel manufacturers, who are customers of converters, revealed that manufacturers are importing printed or finished fabric for use in the manufacture of men's and women's wearing apparel. The converters reported a growing trend toward manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed textiles produced at Allied Textile Printers Corporation, Paterson, New Jersey contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provision of the Act, I make the following certification:

All workers at Allied Textile Printers Corporation, Paterson, New Jersey who became totally or partially separated from employment on or after January 24, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14914 Filed 5-26-77;8:45 am]

[TA-W-1630]

BEACON TEX PRINT, LTD., BEACON, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1630: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on February 27, 1977 which was filed by the Textile Printing Colorist Guild on behalf of workers and former workers producing printed textiles at Beacon Tex Print, Ltd., Beacon, New York. Subsequently, a petition was filed by the Machine Printers and Engravers Association on behalf of workers at that plant.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12494). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of Beacon Tex Print, Ltd. and its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at Beacon Tex Print increased 23.1 percent from 1974 to 1975 and then declined 26.2 percent from 1975 to 1976. Average employment of salaried and office workers increased 15.8 percent from 1974 to 1975 and then declined 13.6 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production of printed textiles at Beacon increased 60.6 percent from 1974 to 1975 and then declined 31.6 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of cotton broadwoven print cloth declined absolutely from 1972 to

1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment at Beacon Tex Print. Converters, who are customers of Beacon stated that imports of apparel have been a factor in reduced business with Beacon. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Beacon Tex Print Ltd. are converters who buy greige goods and commission Beacon to finish the fabric, by printing it in accordance with apparel manufacturers' specifications. During the course of the Department's investigation, it was established that converters, in general, do not import printed or finished fabric. The Department's survey of apparel manufacturers, who are customers of converters, revealed that manufacturers are importing printed or finished fabric for use in the manufacture of men's and women's wearing apparel. Beacon's customers reported a growing trend toward manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed textiles produced at Beacon Tex Print, Ltd., New York, New York contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Beacon Tex-Print, Ltd., Beacon, New York who became totally or partially separated from employment on or after January 24, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14915 Filed 5-26-77;8:45 am]

[TA-W-1694]

BECKERMAN SHOE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1694: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 1, 1977, in response to a worker petition received on February 14, 1976, which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing boys' shoes at the Reading, Pennsylvania plant of the Beckerman Shoe Corporation.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13627). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Beckerman Shoe Corporation, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

The plant in Reading, Pennsylvania, was established in the 1930's and produced boys' shoes until the plant closed and all employees were separated in June 1975 more than one year prior to the signature date of the petition, January 31, 1977. The plant reopened under new management in 1976 as a contracting facility to stitch uppers for shoes, exclusively. The Beckerman Shoe Corporation stitched uppers for companies not corporately related to the Beckerman Shoe Corporation.

A report published by the International Trade Commission reveals that imports of uppers represent less than one-half of one percent of the total number of uppers consumed as components of footwear. In discussing the term "like or directly competitive" as used in the Trade Act of 1974, the House Ways and Means Committee noted that under the Trade Expansion Act of 1962, the courts concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America* v. *Bedell, et al.*, 506 F. 2d 174 (1974). (S. Rept. 93-1298, 93rd Cong., 2nd Sess., 1974, p. 122.) In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters. Therefore, imports of shoes which incorporate uppers of the same origin are not like or directly competitive with those uppers produced at the Reading, Pennsylvania, plant of the Beckerman Shoe Corporation.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of uppers have not contributed importantly to the total or partial separation of workers at the Reading, Pennsylvania, plant of the Beckerman Shoe Corporation as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15275 Filed 5-26-77;8:45 am]

[TA-W-1670]

CARDINAL COTTONS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1670: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 22, 1977, in response to a worker petition received on February 7, 1977, which was filed on behalf of workers and former workers engaged in employment related to the production of ladies' robes and loungewear at the New York City central office of Cardinal Cottons Corporation.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13083). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cardinal Cottons Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at the central office increased 5 percent for 1974 to 1975, and increased 9.6 percent from 1975 to 1976.

Total employment at Cardinal Cottons decreased 7.1 percent from 1974 to 1975 and decreased 17.6 percent from 1975 to 1976. In January 1977, 18 workers remained; Cardinal Cottons Corporation is currently in the process of shutting down all its operations completely.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production plus purchases from outside contractors decreased 16 percent from 1974 to 1975, and decreased 5.2 percent in the first three quarters of 1976 compared with the same period in 1975. Production ceased when Cardinal Cottons' remaining manufacturing facility closed in December 1976; outside purchases also ceased in December 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's robes and dressing gowns, which include ladies' robes and loungewear, decreased each year from 271 thousand dozens in 1971 to 134 thousand dozens in 1973, increased to 151 thousand dozens in 1974, and then decreased to 113 thousand dozens in 1975. The ratio of imports to U.S. production decreased each year from 6.5 percent in 1971 to 3 percent in 1973, increased to 3.4 percent in 1974, and decreased again to 2.5 percent in 1975. In the first three quarters of 1976 imports increased 57.6 percent compared with the same period in 1975.

CONTRIBUTED IMPORTANTLY

Customers that decreased purchases of ladies robes and loungewear from Cardinal Cottons reported either shifts to other domestic sources or reduced purchases from all sources. Customers cite fashion as a major reason for changes in their purchases.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' robes and loungewear produced at Cardinal Cottons Corporation did not contribute importantly to the total or partial separation of workers of that company's New York City central office.

Signed at Washington, D.C., this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning

[FR Doc.77-15276 Filed 5-26-77;8:45 am]

[TA-W-1671]

CARDINAL COTTONS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1671: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investgiation was initiated on February 22, 1977, in response to a worker petition received on February 7, 1977, which was filed on behalf of workers and former workers engaged in employment related to the production of ladies' robes and loungewear at the Coatesville, Pennsylvania warehouse of Cardinal Cottons Corporation.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13083). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cardinal Cottons Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at the Coatesville warehouse decreased 4.6 percent from 1974 to 1975, and decreased 9.6 percent from 1975 to 1976. All workers were laid off when the warehouse closed in January 1977.

Total employment at Cardinal Cottons decreased 7.1 percent from 1974 to 1975 and decreased 17.6 percent from 1975 to 1976. In January 1977, 18 workers remained; Cardinal Cottons Corporation is currently in the process of shutting down all its operations completely.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Ladies' robes and loungewear produced by Cardinal Cottons' plants, plus purchases of ladies' robes and loungewear from outside contractors, were shipped to customers from the Coatesville warehouse. Total production plus outside purchases decreased 16 percent from 1974 to 1975, and decreased 5.2 percent in the first three quarters of 1976 compared with the same period in 1975. Production ceased when Cardinal Cottons, last remaining manufacturing facility in Gettysburg closed in December 1976; outside purchases also ceased in December 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's robes and dressing gowns, which include ladies' robes and loungewear, decreased each year from 271 thousand dozens in 1971 to 134 thousand dozens in 1973, increased to 151 thousand dozens in 1974, and then decreased to 113 thousand dozens in 1975. The ratio of imports to U.S. production decreased each year from 6.5 percent in 1971 to 3 percent in 1973, increased to 3.4 percent in 1974, and decreased again to 2.5 percent in 1975. In the first three quarters of 1976 imports increased 57.6 percent compared with the same period in 1975.

CONTRIBUTED IMPORTANTLY

Customers that decreased purchases of ladies robes and loungewear from Cardinal Cottons reported either shifts to other domestic sources or reduced purchases from all sources. Customers cite fashion as a major reason for changes in their purchases.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' robes and loungewear produced at Cardinal Cottons Corporation did not contribute importantly to the total or partial separation of workers of that company's Coatesville, Pennsylvania, warehouse.

Signed at Washington, D.C., this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15277 Filed 5-26-77;8:45 am]

[TA-W-1280]

CARDINAL COTTONS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1280: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of Act.

The investigation was initiated on November 15, 1976, in response to a worker petition received on that date which was filed on behalf of workers and former workers producing ladies' robes and loungewear at the Scottdale, Pennsylvania, plant of Williams Manufacturing Company. Evidence developed in the investigation revealed that Williams Manufacturing Company is a subsidiary of Cardinal Cottons Corporation, which at one time operated another plant producing ladies' robes and loungewear in Coatesville, Pennsylvania. On February 10, 1977, the petition was expanded to include workers and former workers producing ladies' robes and loungewear at the Coatesville plant.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53098). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of Cardinal Cottons Corporation, its customers, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Scottdale, Pennsylvania, plant decreased 1.9 percent from 1974 to 1975. Employment increased 41.2 percent in the first three quarters of 1976 compared with the same period in 1975; all workers were laid off when the plant closed in October 1976.

Employment at the Coatesville, Pennsylvania, plant decreased 15.6 percent from 1974 to 1975; all workers were laid off when the plant closed in December 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Scottdale, Pennsylvania, plant increased 3.5 percent from 1974 to 1975, and increased 55.5 percent in the first three quarters of 1976 compared to the same period in 1975. Production ceased when the plant closed in October 1976.

Production at the Coatesville, Pennsylvania, plant decreased 15.8 percent from 1974 to 1975 and ceased when the plant closed in December 1975.

INCREASED IMPORTS

Imports of women's, misses', and children's robes and dressing gowns, which include ladies' robes and loungewear, decreased each year from 271 thousand dozens in 1971 to 134 thousand dozens in 1973, increased to 151 thousand dozens in 1974, and then decreased to 113 thousand dozens in 1975. The ratio of imports to U.S. production decreased each year from 6.5 percent in 1971 to 3 percent in 1973, increased to 3.4 percent in 1974, and decreased again to 2.5 percent in 1975. In the first three quarters of 1976 imports increased 57.6 percent compared with the same period in 1975.

CONTRIBUTED IMPORTANTLY

Customers that decreased purchases of ladies' robes and loungewear from Cardinal Cottons reported either shifts to other domestic sources or reduced purchases from all sources. Customers cited fashion as a major reason for changes in their purchases.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' robes and loungewear produced at the Scottdale, Pennsylvania, plant of Williams Manufacturing Company, a subsidiary of Cardinal Cottons Corporation, and at the Coatesville, Pennsylvania, plant of Cardinal Cottons Corporation, did not contribute importantly to the total or partial separation of workers of that company.

Signed at Washington, D.C., this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15278 Filed 5-26-77;8:45 am]

[TA-W-1666]

CHERIE BRASSIERE COMPANY, INC., BROOKLYN, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1666: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 17, 1977 in response to a worker petition received on February 17, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing brassieres at the Brooklyn, New York plant of Cherie Brassiere Company, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13084). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cherie Brassiere Company, Incorporated, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers declined 23.1 percent in 1975 compared to 1974 and declined 10.0 percent in 1976 compared to 1975. All employment ceased in December, 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales equal company production since the subject firm is a contractor producing brassieres under contract from manufacturers.

Production declined 14.0 percent in 1975 compared to 1974; 17.4 percent in 1976 compared to 1975 and ceased on December 8, 1976 when the plant shutdown.

INCREASED IMPORTS

Imports of brassieres, bra-lettes and bandeaux increased each year, from 4.995 million dozens in 1971, to 6.921 million dozens in 1975 and increased again to 8.751 million dozens in 1976.

CONTRIBUTED IMPORTANTLY

Approximately 95.0 percent of Cherie's production of brassieres in 1975 took place under contract from two brassiere manufacturers. One of these manufacturers accounted for approximately 75 percent of Cherie's production in 1975 and did not contract production to Cherie in 1976. This manufacturer's imports of brassieres increased 25.0 percent in 1975 compared to 1974 and 40.0 percent in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with brassieres produced at the Brooklyn, New York plant of Cherie Brassiere Company, Incorporated contributed importantly to the total or partial separations of the workers engaged in the production of such brassieres at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in the employment related to the production of brassieres at the Brooklyn, New York plant of Cherie Brassiere Company, Incorporated who became totally or partially separated from employment on or after January 28, 1976 and before January 31, 1977 are eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14916 Filed 5-26-77;8:45 am]

[TA-W-1974]

CREINER AND BRUMBERG, INC., NEW YORK, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1974: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 12, 1976 in response to a worker petition received on April 12, 1976 which was filed on behalf of workers and former workers engaged in the wholesale distribution of handbags at Creiner and Brumberg, Incorporated, New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1976 (42 FR 19937). No public hearing was requested and none was held.

The information upon which the determination as made was obtained principally from officials of Creiner and Brumberg, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

Creiner and Brumberg is a wholesale distributor of ladies' handbags. Employees travel to handbag shows, take orders, purchase handbags from domestic firms and ship the handbags to customers. The company was closed in April 1976. All employees were engaged in either selling or shipping activities and performed no production functions.

Creiner and Brumberg does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in "Pan American World Airways, Incorporated" (TA-W-153, 40 FR 54639). Creiner and Brumberg performed a service, the wholesale distribution of ladies' handbags.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by Creiner and Brumberg, Incorporated, New York, New York are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974.

The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14917 Filed 5-26-77;8:45 am]

[TA-W-1718]

CREST SHOE CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1713: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on that date which was filed by Lewiston and Auburn Shoeworkers Protective Association on behalf of former workers producing childrens' nonrubber footwear at the Crest Shoe Company, Inc., Lewiston, Maine.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Crest Shoe Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Crest Shoe Company declined 20.6 percent in 1976 compared to 1975 and declined 4 percent in the first

three months of 1977 compared to the first three months of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Shipments of childrens' nonrubber footwear at the Crest Shoe Company declined 13 percent in 1976 compared to 1975 and declined 36.5 percent in the first three months of 1977 compared to the first three months of 1976.

INCREASED IMPORTS

Imports of infants' nonrubber footwear increased from 6.9 million pairs in 1975 to 10.7 million pairs in 1976. Imports of children's nonrubber footwear increased from 11.1 million pairs in 1975 to 15.8 million pairs in 1976. Imports of misses' nonrubber footwear increased from 7.12 million pairs in 1975 to 11.64 million pairs in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Crest Shoe Company increased purchases of imports of childrens' nonrubber footwear and have decreased purchases from Crest.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with childrens' nonrubber footwear produced by Crest Shoe Company contributed importantly to the total or partial separations of the workers at that firm. In accordance with provisions of the Act, I make the following certification:

All workers of the Crest Shoe Company, Lewiston, Maine, who became totally or partially separated from employment on or after February 23, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15279 Filed 5-26-77;8:45 am]

[TA-W-1640]

DIXON FORD SHOE CO., SALINAS, PUERTO RICO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1640: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1977 in response to a worker petition received on February 9, 1977 which was filed on behalf of workers and former workers producing men's work shoes at the Salinas, Puerto Rico plant of Dixon Ford Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12495). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dixon Ford Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers for men's work shoes declined 14.2 percent in 1975 compared to 1974 and decreased 33.1 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales, in pairs, of men's work shoes, decreased 2.0 percent in 1975 compared to 1974 and decreased 59.6 percent in 1976 compared to 1975. Moreover, sales declined 11.0 percent in the first quarter of 1976 compared to the same quarter in 1975.

Company production, in pairs, of men's work shoes, increased 7.0 percent in 1975 compared to 1974 and decreased 55.6 percent in 1976 compared to 1975. Production declined 10.9 percent in the first quarter of 1976 compared to the same quarter in 1975.

INCREASED IMPORTS

Imports of work footwear increased each year, from 2.3 million pairs in 1972, to 3.3 million pairs in 1974. Imports declined to 2.6 million pairs in 1975 and increased to 4.7 million pairs in 1976. Imports also increased from 0.5 million pairs in the first quarter of 1975, to 1.0 million pairs in the same quarter in 1976.

CONTRIBUTED IMPORTANTLY

A fire destroyed the plant's main building on March 27, 1976, stopping production in the last nine months of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports like or directly competitive with men's work shoes produced at the Salinas, Puerto Rico plant of Dixon Ford Shoe Company, have not contributed importantly as required for certification under Section 222 of the Trade Act of 1974. Therefore, these workers are not eligible to apply for adjustment assistance.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14918 Filed 5-26-77;8:45 am]

[TA-W-1641]

HARMONY CO., CHICAGO, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1641: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1977, in response to a worker petition received on February 9, 1977, which was filed by the Piano and Musical Instruments Workers Union on behalf of workers and former workers producing fretted musical instruments at the Harmony Company, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12497). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of Harmony Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OF PARTIAL SEPARATIONS

The average number of production workers at the Harmony Company declined 28 percent in the last six months of 1976 compared to the like period of 1975. All production employment was terminated in December 1976.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Unit sales of all fretted instruments declined 18 percent from 1974 to 1975 and then increased 29 percent from 1975 to 1976. Unit sales declined 21 percent in the last six months of 1976 compared to the like period of 1975.

In 1976, total unit sales consisted of 78 percent guitars, 10 percent banjos, 9 percent ukeleles, and 3 percent mandolins. Production at the Harmony Company was equivalent to unit sales. In December 1976, production ceased and the company closed.

INCREASED IMPORTS

Imports of fretted musical instruments with wholesale prices of $25 and up, declined absolutely and relative to domestic production in each year from 1972 through 1975. Imports increased 38 percent from 1975 to 1976. The ratio of imports to domestic production increased from 95.3 percent in 1975 to 125.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that Harmony's customers increased purchases of imported fretted musical instruments from 1975 to 1976. Although some of these customers also increased purchases from Harmony, the bulk of these purchases were made in the first half of 1976. As the year continued, purchases from Harmony declined. A major customer discontinued purchases entirely from Harmony in the last quarter of 1976.

This is evidenced by Harmony's sales which increased from 1975 to 1976, but declined in the last six months of 1976 compared to the last six months of 1975. This decline, combined with a low sales projection for 1977, led to the decision to close the Harmony Company.

Harmony specialized in the production of lower priced instruments that appealed to the "beginner musician" market. According to Harmony's customers, there is no brand awareness in this particular market. Consumers are primarily concerned with price and basic appearance of the instrument. Overseas firms offer exact copies of domestically manufactured instruments at lower prices. This has resulted in significant import penetration of the fretted musicial instrument market.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fretted musical instruments produced at the Chicago, Illinois, plant of Harmony Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Harmony Company, Chicago, Illinois, who became totally or partially separated from employment on or after July 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc 77-14919 Filed 5-26-77;8:45 am]

[TA-W-622]

INTERNATIONAL SHOE CO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on May 14, 1976, the Department of Labor issued a certification to workers and former workers of the Conway, Arkansas, plant of the International Shoe Company (TA-W-622). The notice of certification was published in the FEDERAL REGISTER on May 28, 1976 (41 FR 21870).

Further investigation developed evidence that revealed employment and production at the Conway plant continues to be adversely influenced by imports of articles like or directly competitive with men's footwear produced at the Conway, Arkansas, plant.

Production at the Conway plant declined 33.5 percent in quantity in the last six months of 1976 compared to the same period of 1975. All production ceased in April 1977.

Employment of production workers at the Conway plant declined 5.7 percent in the last six months of 1976 compared to the same period of 1975. All workers were laid off in April 1977.

Imports of men's dress and casual footwear increased absolutely and relative to domestic production from 1975 to 1976. The ratio of imports to domestic production increased from 58.7 percent in 1975 to 68.5 percent in 1976.

Based on additional evidence, a review of the entire record and in accordance with the provision of the Act, I have determined that the termination date included in TA-W-622 Certification, issued on May 14, 1976, should be deleted. Such deletion of the termination date contained in TA-W-622 Certification is hereby made as follows:

All workers engaged in employment related to the production of men's footwear at the Conway, Arkansas, plant of the International Shoe Company, St. Louis, Missouri, who became totally or partially separated from employment on or after February 5, 1975, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-15280 Filed 5-26-77;8:45 am]

[TA-W-1624]

INTERNATIONAL SHOE CO.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 25, 1977 in response to a worker petition received on that date which was filed by three workers on behalf of workers and former workers producing men's footwear at the Conway, Arkansas plant of the International Shoe Company.

The Notice of the investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12497). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Conway, Arkansas plant were previously certified as eligible to apply for adjustment assistance on May 14, 1976 (41 FR 21870) under TA-W-622, as revised in May 1977.

The existing certification will expire on May 14, 1978 unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (February 5, 1975) and before the certification expiration date (May 14, 1978), a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 77-15281 Filed 5-26-77;8:45 am]

[TA-W-1604]

JOSEPH F. CORCORAN SHOE CO., STOUGHTON, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1604: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of Act.

The investigation was initiated on January 26, 1977, in response to a worker petition received on January 26, 1977, which was filed by former workers at the Stoughton, Massachusetts, plant of the Joseph F. Corcoran Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8021). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Joseph F. Corcoran Shoe Company, Acme Boot Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average plant employment increased 2.1 percent from 1974 to 1975 before decreasing 1.4 percent from 1975 to 1976. In December 1976 employment decreased 18.2 percent compared to December 1975 and in January 1977 employment decreased 8.8 percent compared to January 1976.

Average weekly hours worked by all employees at the Stoughton, Massachusetts, plant increased 5.2 percent from 1974 to 1975 before decreasing 2.4 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by the Stoughton, Massachusetts, plant of the Joseph F. Corcoran Shoe Company decreased 5.7 percent in quantity while increasing 20 percent in value from 1974 to 1975. Sales increased 2.6 percent in quantity and 23.4 percent in value from 1975 to 1976.

Production declined 5.1 percent in quantity from 1974 and 1975 and 2.6 percent in quantity from 1975 to 1976.

INCREASED IMPORTS

Between 1972 and 1973 imports of men's dress and casual footwear increased from 53.5 million pairs to 56.4 million pairs. Import levels dropped 21.5 percent to 44.3 million pairs between 1973 and 1974. Imports of men's dress and casual footwear increased from 47.5 million pairs in 1975 to 58.7 million pairs in 1976, an increase of 23.6 percent.

Imports of men's work footwear increased between 1972 and 1974 by a total of 43.4 percent. In 1975 imports declined 21.2 percent from the 1974 level of 3.3 million pairs to the 1975 level of 2.6 million pairs. In 1976 4.7 million pairs of men's work footwear were imported into the United States, an 80.8 percent increase over the 2.6 million pairs imported in 1975.

CONTRIBUTED IMPORTANTLY

Customers of the Joseph F. Corcoran Shoe Company indicated that they were purchasing imported men's dress boots.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's boots produced at the Stoughton, Massachusetts plant of Joseph F. Corcoran Shoe Company have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Stoughton, Massachusetts plant of the Joseph F. Corcoran Shoe Company who became totally or partially separated from employment on or after November 24, 1976, and before February 2, 1977,

Signed at Washington, D.C., this 13th day of May 1977.

are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14920 Filed 5-26-77;8:45 am]

[TA-W-1734]

KATHI-DIN

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 3, 1977 in response to a worker petition received on March 3, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of former workers producing ladies' sportswear at Kathi-Din, South El Monte, California.

Notice of the investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

During the course of the investigation it was established that the most recent involuntary separations at Kathi-Din occurred in January 1976. Section 223(b) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is February 14, 1977 and, thus, workers laid off prior to February 14, 1976 could not be eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-15282 Filed 5-26-77;8:45 am]

[TA-W-1603]

LEVER BROTHERS CO., EDGEWATER, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1603: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 26, 1977, in response to a worker petition received on January 26, 1977, which was filed by the International Chemical Workers Union on behalf of workers and former workers producing margarine and shortening at the Edgewater, New Jersey, plant of Lever Brothers Company.

The notice of investigation was published in the FEDERAL REGISTER on February 11, 1977 (42 FR 8732). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lever Brothers Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (3) and (4) have not been met.

The Department's investigation revealed that the production of margarine and shortening at the Edgewater, New Jersey, plant of Lever Brothers Company ceased on October 1, 1976. The cessation was based on a management decision to move the operation to a more efficient plant at Hammond, Indiana. Thirteen percent of the workers involved were able to shift to jobs at other plants within the company at which the International Chemical Workers Union has bargaining agreements.

Imports of margarine decreased 34.4 percent in 1976 compared to 1975—from 32,000 pounds to 21,000 pounds. The import to production ratio fell from 0.0016 percent in 1975 to 0.0008 percent in 1976. Imports of shortening decreased 26.3 percent in 1976 compared to 1975—from 4,160,000 pounds to 3,065,000 pounds. The import to production ratio fell from 0.11 percent in 1975 to 0.08 percent in 1976.

Imports of products which are like or directly competitive with the margarine and shortening produced at the Edgewater plant include butter, lard, salad and cooking oils and are negligible.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the margarine and shortening produced at the New Jersey plant of Lever Brothers Company, did not contribute importantly to the total or partial separations of the workers at the plant as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14921 Filed 5-26-77;8:45 am]

[TA-W-1659]

MAR MAC MANUFACTURERS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1659: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's slacks and shorts and ladies' slacks at Mar Mac Manufacturers, Inc., Baltimore, Maryland.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13090). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of Mar Mac Manufacturers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Mar Mac Manufacturers, Inc. increased 2 percent in 1975 from 1974 and increased 6 percent in 1976 from 1975. Employment declined 54 percent during the first quarter of 1977 compared to the same quarter of 1976.

Production employees worked partial weeks from November 1976 through the first quarter of 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production by Mar Mac Manufacturers, Inc. declined 19 percent in 1975 from 1974 and increased 14 percent in 1976 from 1975. Production declined 67 percent during the first quarter of 1977 compared to the same quarter of 1976.

Total sales declined 4 percent in 1975 from 1974 and increased 37 percent in 1976 from 1975. Sales declined 64 percent during the first quarter of 1977 compared to the same quarter of 1976.

INCREASED IMPORTS

Imports of women's, misses' and children's slacks and shorts increased in quantity in 1975 from 1974 and in 1976 from 1975. Imports increased from 10,067 thousand dozen units in 1975 to 11,040 thousand dozen units in 1976—an increase of 9.7 percent.

Imports of men's and boys' dress and sport trousers and shorts increased in quantity in 1975 from 1974 and in 1976 from 1975. Imports amounted to 30.3 percent of domestic production in 1975 and 32.0 percent during January–June 1976.

CONTRIBUTED IMPORTANTLY

Purchases by Mar Mac's sole customer for ladies' slacks accounted for approximately 40 percent of total sales by Mar Mac Manufacturers, Inc. in 1975 and 15 percent of sales in 1976. The customer discontinued its business with Mar Mac in mid-1976. The customer's purchases of ladies' slacks from foreign sources increased in 1976 from 1975 and during the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' slacks produced at Mar Mac Manufacturers, Inc. contributed importantly to the total or partial separations of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

"All workers of Mar Mac Manufacturers, Inc., Baltimore, Maryland, who became totally or partially separated from employment on or after October 23, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 23rd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15283 Filed 5-26-77;8:45 am]

[TA-W-1914]

PETTYJOHN BROTHERS SHOE MANUFACTURING, INC., LYNCHBURG, VIRGINIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1914: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 28, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing footwear for children at Pettyjohn Brothers Shoe Manufacturing, Inc., Lynchburg, Virginia.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19178). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pettyjohn Brothers Shoe Manufacturing, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have be-

come totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Pettyjohn Brothers declined 15 percent in the first quarter of 1977 compared to the same quarter of 1976.

Average weekly hours for production workers declined two percent, nine percent, and 15 percent in the third and fourth quarters of 1976 and first quarter of 1977 compared to the respective quarter of the previous year. Production workers began working short weeks in December 1976 due to a lack of work.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by Pettyjohn Brothers declined 26 percent and 40 percent in quantity in the fourth quarter of 1976 and first quarter of 1977 compared to the respective quarters of the prior year.

Production declined 29 percent and 33 percent in the fourth quarter of 1976 and first quarter of 1977 compared to the respective quarters of the prior year.

INCREASED IMPORTS

Imports of children's nonrubber footwear increased from 11.1 million pairs in 1975 to 15.8 million pairs in 1976. Imports relative to domestic production increased from 59.2 percent in 1974 to 60.0 percent in 1975 and 72.1 percent in 1976.

Imports of infants' and babies' nonrubber footwear increased from 6.8 million pairs in 1974 to 6.9 million pairs in 1975 and 10.7 million pairs in 1976. Imports increased relative to domestic production from 28.5 percent in 1975 to 41.0 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of Pettyjohn Brothers indicated that they reduced purchases from the firm while increasing purchases of imported footwear for babies, infants, and children.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the footwear for children produced by Pettyjohn Brothers Shoe Manufacturing, Inc. contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at Pettyjohn Brothers Shoe Manufacturing, Inc., Lynchburg, Virginia, who became totally or partially separated from employment on or after August 14, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14922 Filed 5-26-77;8:45 am]

[TA-W-1379]

PLEASANT BEEF CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1379; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 7, 1976 in response to a worker petition received on December 7, 1976 which was filed on behalf of workers and former workers processing meats at the Lynn, Massachusetts plant of the Pleasant Beef Company, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 894). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pleasant Beef Company, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria (1) and (2) have been met, criteria (3) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers employed by the Pleasant Beef Company, Inc. declined 13.8 percent in 1975 compared to 1974 and 52.0 percent in 1976 compared to 1975.

The average number of hours worked per week by employees of the Pleasant Beef Company declined 3.4 percent in 1975 compared to 1974 and 2.0 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of meats in terms of 1974 dollars by the Pleasant Beef Company, Inc. declined 26.5 percent in 1975 compared to 1974 and 14.1 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of table beef and veal increased absolutely and relative to domestic production in 1972 compared to 1971 and in 1973 compared to 1972. Imports declined absolutely and relatively in 1974 compared to 1973 and again in 1975 compared to 1974. The ratios of imports to domestic production and consumption declined from 0.21 percent in 1974 to 0.17 percent in 1975. Imports increased 13.0 percent in the period January through September 1976 compared to the corresponding period in 1975. The ratio of imports to domestic production and consumption increased from 0.15 percent and 0.15 percent, respectively, in the period January-September 1975 to 0.21 percent and 0.21 percent, respectively, in the period January-September 1976. At no time during the period 1971 through September 1976 did the ratio of imports to domestic production exceed 0.30 percent.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that the Pleasant Beef Company, Inc. experienced no layoffs in 1976. The company did during the period June 1975 through December 1975. Imports of table beef and veal into the United States declined absolutely and relative to domestic production and consumption in 1975 compared to 1974. Company imports of frozen meats have constituted less than 1.0 percent of Pleasant Beef's total sales since 1974.

The separations that occurred during the June-December 1975 period resulted from a change in product line by Pleasant Beef from fresh hanging meats to frozen meats. These frozen meats are deboned, cut, frozen and boxed at domestic facilities before they are shipped to the Pleasant Beef plant; therefore, Pleasant Beef performs less meat cutting and related processing, such as inspecting and packaging. Consequently, the Pleasant Beef Company laid off workers in the cutting, inspecting and packaging departments.

CONCLUSION

After careful review, I conclude that imports of articles like or directly competitive with beef processed at the Lynn, Massachusetts plant of Pleasant Beef Company, Inc. did not contribute importantly to the total or partial separations of the workers at that plant.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15284 Filed 5-26-77;8:45 am]

[TA-W-1631]

UNION TEXTILE PRINTERS, SECAUCUS, NEW JERSEY

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1631: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on February 7, 1977 which was filed by the Textile Printing Colorist Guild on behalf of workers and former workers printing fabric at the Secaucus, New Jersey plant of Union Textile Printers.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12498). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union Textile Printers, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the criteria have been met for the Secaucus plant.

SIGNIFICANT TOTAL AND PARTIAL SEPARATIONS

Employment of production workers at Union Textile Printers declined 6 percent from 1974 to 1975 and declined 19 percent from 1975 to 1976. All employment was terminated in December 1976.

SALES, PRODUCTION, OR BOTH, DECREASED ABSOLUTELY

The quantity (in yards) of sales by Union Textile Printers increased 10 percent from 1974 to 1975 and declined 47 percent from 1975 to 1976.

The company printed fabric based on orders received. Therefore, production is equivalent to sales. Production ceased and the plant closed in December 1976.

INCREASED IMPORTS

Imports of cotton broadwoven printcloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment at Union Textile Printers. Converters, who are customers of Union, stated that imports of apparel have been a factor in reduced business with Union. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Union Textile Printers are converters who buy greige goods and commission Union to finish the fabric, by printing it in accordance with apparel manufacturers' specifications. During the course of the investigation it was established that converters, in general, do not import printed or finished fabric. The Department's survey of apparel manufacturers, who are customers of the converters, revealed that manufacturers are importing printed or finished fabric for use in the production of men's and women's wearing apparel. The converters reported a growing trend towards manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the imported finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed fabric produced at the Secaucus, New Jersey plant of Union Textile Printers contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Secaucus, New Jersey plant of Union Textile Printers who became totally or partially separated from employment on or after January 24, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14923 Filed 5-26-77;8:45 am]

[TA-W-1954]

TRW, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 4, 1977 in response to a worker petition received on that date which was filed by the International Union of Electrical Radio and Machine Workers on behalf of workers and former workers producing carbon composition resistors at the Philadelphia Division of TRW, Incorporated, Philadelphia and Downington, Pennsylvania.

Notice of the investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19938). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Philadelphia Division were certified eligible to apply for adjustment assistance on June 19, 1975 (See TA-W-11).

The existing certification will expire on June 19, 1977. Since workers newly separated, totally or partially, are covered by the existing certification provided that such separations occurred on or after the impact date (November 4, 1974) and before the expiration date (June 19, 1977), a new investigation would serve no purpose at this time; consequently the investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-15285 Filed 5-26-77;8:45 am]

[TA-W-1677]

YKK (USA), INC., LYNDHURST, NEW JERSEY

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1677: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 24, 1977 in response to a worker petition received on February 15, 1977 which was filed on behalf of workers and former workers engaged in the assembly of zippers at the Lyndhurst, New Jersey facility of YKK (USA), Inc. The investigation was expanded to include data on YKK's primary domestic production facility for zippers, located in Macon, Georgia.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13095). No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of YKK (USA) Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Lyndhurst, New Jersey plant increased 13.8 percent in 1975 compared to 1974 and decreased 27.3 percent in 1976 from 1975. In the first quarter of 1977, the average number of production wrokers declined 65.9 percent compared to the same period of 1976.

The average number of production workers at the Macon, Georgia production facility increased 169.1 percent in 1975 from 1974 and increased 49.3 percent in 1976 from 1975. In the first quarter of 1977 the average number of production workers increased 17.6 percent compared to the same period in 1976.

SALES, PRODUCATION, OR BOTH, HAVE DECREASED ABSOLUTELY

The Lyndhurst facility distributes YKK zippers throughout the Northeastern United States. Sales of zippers at the Lyndhurst plant declined 6.3 percent in 1975 compared to 1974 and increased 43.6 percent in 1976 compared to 1975. Sales increased 14.0 percent in the first quarter of 1977 compared to the same period in 1976.

Zipper assembly at the Lyndhurst, New Jersey facility increased 56.4 percent in 1975 compared to 1974 and decreased 20.8 percent in 1976 compared to 1975. In the first quarter of 1977 zipper assembly decreased 49.3 percent compared to the same period in 1976.

Production of zippers and zipper components at the Macon, Georgia plant increased 291.5 percent in 1975 from 1974 and increased 64.4 percent in 1976 from 1975. Production increased 22.5 percent in the first quarter of 1977 compared to the same period in 1976.

INCREASED IMPORTS

Imports of zippers declined in quantity in 1973 from 1972 and increased in 1974 from 1973. Imports of zippers decreased from 127 million units in 1974 to 66 million units in 1975, a decrease of 48 percent, and then increased 26 percent in 1976 to 83 million units. The import/production and import/consumption ratios increased in the period 1972 to 1974 and then decreased to 3.6 percent and 3.5 percent, respectively, in 1975, and both increased to 4.3 percent in 1976.

Imports of zippers and components by the Lyndhurst plant decreased 75.4 percent in 1975 from 1974 and increased 44.6 percent in 1976 from 1975. In the first quarter of 1977, imports at Lyndhurst decreased 71.9 percent compared to the same period in 1976.

CONTRIBUTED IMPORTANTLY

YKK (USA) has four regional sales and assembly outlets. The Lyndhurst, New Jersey facility distributes zippers for YKK throughout the Northeastern United States. Regional sales for YKK increased in 1976 compared to 1975 and in the first quarter of 1977 compared to the same quarter in 1976.

The Lyndhurst facility maintains inventories of most zippers in order to supply customers on short notice. Only zippers not in stock are assembled at Lyndhurst. Production is confined to cutting chain to the customer's desired length and attaching a slider and end pieces. All component parts are supplied from either the Macon, Georgia production facility or Japan.

Since the opening of the Macon, Georgia plant YKK (USA)'s primary domestic production facility for components and finished zippers), sales by Lyndhurst have relied increasingly on zippers produced at Macon. Of total purchases by the Lyndhurst facility, 15 percent were supplied by Macon in 1974, 69 percent in 1975, 75 percent in 1976 and 91 percent in the first quarter of 1977. Conversely, imports supplied a decreasing share of Lyndhurst's purchases throughout the same period; from 85 percent in 1974, to 31 percent in 1975, 25 percent in 1976, and nine percent in the first quarter of 1977. Purchases of imports relative to total Lyndhurst sales declined from 90 percent in 1974, to 24 percent in 1975 and 1976, and six percent in the first quarter of 1977.

Separations of production workers from the Lyndhurst facility were due to the increasing reliance on zippers produced at Macon, and the termination of all dyeing operations at the Lyndhurst plant in 1976. YKK (USA) has increased production at its Macon plant while reducing production at Lyndhurst and its other three regional assembly facilities; and has consolidated all dyeing operations at the Macon plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with zippers produced at the Lyndhurst, New Jersey plant of YKK (USA), Incorporated did not contribute importantly to the total or partial separation of workers of that plant.

Signed at Washington, D.C., this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-14924 Filed 5-26-77;8:45 am]

[International Labor Affairs Order No. 77-1]

WORKER ADJUSTMENT ASSISTANCE

Assignment of Responsibility and Designation of Certifying Officers

1. *Purpose.* To assign responsibility and designate officials as certifying officers to carry out functions required under the worker adjustment assistance provisions of the Trade Act of 1974 (19 U.S.C. 2101 *et seq.*; hereinafter referred to as the Act) and the implementing regulations published in 29 CFR Part 90.

2. *Directives affected.* International Labor Affairs Order No. 1 and Revised Order No. 1 are canceled.

3. *Background.* Pursuant to the Act and the implementing regulations, the Secretary of Labor must expeditiously process petitions filed by worker groups and promptly reach a determination of whether such groups should be certified as eligible to apply for adjustment assistance. The Act and the regulations also provide for the issuance of subpenas and, when requested by petitioners or other interested parties, public hearings concerning determinations on petitions. Secretary's Order 3–75 (40 FR 17863) delegated general responsibility for administration of the petitioning and determination processes to the Deputy Under Secretary for International Affairs; and the regulations (29 CFR Part 90) authorize persons titled "certifying officers" to issue subpenas, preside at public hearings, make determinations, issue certifications, and perform such other duties as may be required. This order is issued to designate those persons who shall act as certifying officers under the implementing regulations.

4. *Assignment of responsibility and designation of Officials.* a. The following officials of the Bureau of International Labor Affairs are hereby designated as certifying officers under 29 CFR Part 90:

1. The Deputy Under Secretary for International Affairs; 2. The Associate Deputy Under Secretary for International Affairs;

3. The Director of the Office of Foreign Economic Policy;

4. The Director of Management Administration and Planning;

5. The Executive Assistant to the Deputy Under Secretary for International Affairs; and

6. The Director of the Office of Foreign Economic Research.

b. Persons designated as certifying officers are hereby assigned responsibility to make determinations and issue certifications of eligibility to apply for adjustment assistance, preside at public hearings held under 29 CFR 90.13, issue subpeanas under 29 90.14, issue terminations of certifications of eligibility under 29 CFR 90.17, grant or deny reconsideration and issue revised determinations concerning certifications of eligibility under 29 CFR 90.18, and make findings of fact concerning determinations, pursuant to 29 CFR 90.16 and 90.17.

c. Any certifying officer who receives the recommendation of the Director of the Office of Trade Adjustment Assistance, pursuant to 29 CFR 90.15, shall generally continue to act as the certifying officer with regard to the particular petition involved until a notice of negative determination or a notice of certification is issued covering the group of workers involved.

5. Effective date: This order is effective May 27, 1977.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc.77-14912 Filed 5-26-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20040; 70-6013]

ALABAMA POWER CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

MAY 20, 1977.

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, (70-6013) a public-utility subsidiary company of the Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama proposes to issue up to $100,000,000 principal amount of its First Mortgage Bonds of a series having a term of not less than five years nor more than 30 years (the "new Bonds") and to sell such bonds at competitive bidding for the best price obtainable but for a price to Alabama of not less than 98 percent nor more than 101¾ percent of the principal amount thereof, plus accrued interest. Alabama may request by amendment hereto that such sale be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of Alabama's management, make such exception in the best interest of Alabama and its investors and consumers.

The new Bonds will be issued under the Indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented by various indentures supplemental thereto and as to be further supplemented by a Supplemental Indenture to be dated as of July 1, 1977.

Alabama states that it is difficult to determine, under present bond market conditions, whether it would be more advantageous to Alabama to sell new Bonds having a 30-year or some shorter term. Alabama states that it is in the public interest that Alabama be afforded the necessary flexibility to adjust its financing program to developments in the markets for long-term debt securities when and as they occur in order to obtain the best possible price, interest rate and term for its new Bonds. Alabama proposes, therefore, that Alabama decide on the term of the new Bonds after the date of public invitation for proposals and then notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of the bidding.

Alabama proposes to use the proceeds from the sale of the new Bonds, along with (1) $39,417,000 of funds from tax-exempt bond issues of public authorities for financing certain of Alabama's pollution control facilities, (2) $95,000,000 of additional equity funds from the Southern Company and (3) $273,901,000 from the net change in notes payable, from other financings of types and in amounts to be determined and from usual internal sources, to finance its 1977 construction costs, estimated to be $497,578,000, to pay a portion of notes payable for such purpose and to retire $740,000 principal amount of First Mortgage Bonds.

The fees and expenses to be incurred in connection with this transaction are to be filed by amendment. It is stated that the issuance and sale of the new Bonds have been expressly authorized by the Alabama Public Service Commission which has jurisdiction over the issuance of securities by public utility companies operating in Alabama. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address; and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15176 Filed 5-26-77;8:45 am]

[Rel. No. 34-13559; File No. SR-Amex-77-8]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 28, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The American Stock Exchange, Inc. ("Amex") proposes to amend its Rules 900(b), 901, 903, 904, 905, 908, 910, 915, 916, 917, 923, 925, 950, 951, 952, 958, 962, 963, 981, 982 and 462 relating to the trading of options in order to accommodate the trading of put and call options on debt securities on the Amex. The terms of substance of the proposed rule changes are summarized below.

The Rules listed below that are proposed to be amended replace the word "stock(s)" with "security(ies)" and, where necessary, incorporate the language "bonds" or "per bond" with any "shares" or "per share" references.

Rule 900—Applicability Definitions (b)(8), (9), (10), (12), (23).
Rule 901—Option Contracts To Be Traded.
Rule 903—Series of Options Open for Trading.
Rule 908—Limit on Uncovered Short Positions.
Rule 909—Other Restrictions on Exchange Option Transactions and Exercises.
Rule 923—Suitability.
Rule 925—Confirmations.
Rule 950—General Applicability.
Rule 962—Filing of Trade Information.
Rule 963—Contract Lists and Uncompared Trade List.
Rule 982—Delivery and Payment.

Rule 900(b) Definitions

A new definition ("(12a) Bond") has been added and is referenced throughout the amended Rules package. A "bond" is defined to represent $1,000 in par value of the underlying debt security. Definitions "(13) Exercise Price" and "(14) Aggregate Exercise Price" have been amended to specify that exercise prices for options on debt securities will be expressed in terms of a per cent of par value rather than on a dollar basis, and the aggregate exercise price will also include accrued interest. Finally, definition "(26) Primary Market" has been amended to recognize that the primary market for debt securities is the over-the-counter market.

Rule 904(b) and Commentary .02—Position Limits

The position limits for options on debt securities will be fixed by the Exchange from time to time and be a function of the outstanding principal amount of underlying debt security publicly owned. Such limits, however, will generally not exceed 2½% of such amount.

Rule 905(b) and Commentary—Exercise Limits

The exercise limits for bond options will conform with the position limits on bond options established in Rule 904. Options contracts on underlying debt securities representing no more than 2½% of the outstanding principal amount publicly owned may be exercised by one party, acting alone or in concert, within any five consecutive business days.

Rule 910—Restriction of Out of the Money Option

Opening transactions in out of the money options on underlying debt securities will be restricted once the exercise price is four points above (for calls) and four points below (for puts) the mean between the final representative bid and asked quotation for the underlying security. Likewise, those bond options trading at a price of less than 2/32nds of 1 percent per bond—$62.50 per $100,000 (Par Value) contract—will also be restricted.

Rule 915—Approval of Underlying Stocks

In order to be eligible for options trading, underlying debt securities issued or unconditionally guaranteed as to principal and interest by the U.S. Government or agencies thereof, will be required:

To have at least $2 billion principal amount outstanding and publicly owned if their original term to maturity is 10 years or less, or $750 million if the original term to maturity is beyond 10 years; and

To have not been issued or outstanding for more than six (6) months from the date of original offering, or the date of the latest additional offering of an already issued debt security; and

To be the latest issue within the maturity range.

Rule 916—Withdrawal of Approval of Underlying Stocks

Underlying debt securities issued or unconditionally guaranteed as to principal and interest by the U.S. Government will in most instances be considered to no longer meet the Exchange's requirements for continued approval for options trading whenever:

The principal amount outstanding and publicly owned falls below $1.5 billion for issues with a remaining term to maturity of ten (10) years or less; or $550 million for issues with a remaining term to maturity of greater than ten years; or

The spread between the bid and asked prices exceeds, for a period of five (5) consecutive business days, 8/32nds of 1 percent for issues maturing in ten (10) years or less or 16/32nds of 1 percent for issues maturing beyond ten (10) years; or

The issue has been outstanding for longer than one year from the date of its original issuance or latest additional offering; or

The market for the issue no longer possesses sufficient breadth, depth and/or resiliency to qualify for continued dealings.

Rule 917—Trading Halts and Suspensions

The availability of current representative quotations, rather than closing prices, for underlying debt securities will be a factor in considering whether or not an option on such security should be halted or suspended because the underlying debt securities are traded primarily in the over-the-counter market.

Because trading in debt securities in the over-the-counter market starts prior to 10 a.m. EST and since there is no officially sanctioned quotation dissemination service, the over-the-counter market for debt securities as reflected by any widely recognized quotation dissemination system or service will be utilized for the purpose of determining if quotations for an underlying debt security are available within a reasonable time after the recognized opening time prescribed by the custom of the primary market.

Rule 951—Premium Bids and Offers

Bond option premiums will be expressed as a percent of par value represented by the contract, which will have a unit of trading of $100,000 principal amount.

Rule 952—Minimum Fractional Changes

The minimum fractional change on bond option contracts will, like bonds, normally be expressed in 1/32nds of 1 percent.

Rule 958—Options Transactions of Registered Traders

Rule 958 prescribes maximum spread limits for bids and offers made by Registered Traders on bond option contracts. To conform with the proposed revisions of Rules 951 and 952, the spread limits for bond options are set forth on a percentage of par value basis.

Spread differential:	*Price of option contract*
1/32nd of 1 percent	2 32nds of 1 percent or less.
2/32nds of 1 percent	Higher than 2/32nds of 1 percent but not more than 1 percent.
3/32nds of 1 percent	Over 1 percent but less than 2 percent.
4/32nds of 1 percent	2 percent or more.

Rule 981—Allocation of Exercise Assignment Notices

A block size with respect to options on underlying debt securities will be 100 or more contracts, the equivalent of $10 million or more in principal amount.

Rule 462(d)—Minimum Margins

A new sub-paragraph (iii) has been added to 462(d)(2)(C) to prescribe specific minimum margins in respect of customer uncovered short option positions on Government guaranteed debt securities. In essence the Exchange is proposing that options on such issues with a remaining term to maturity of ten (10) years or less require margin of 3 percent of the market value of the underlying debt security, and that options on such issues with a remaining term to maturity of greater than ten (10) years require margin of 5 percent of the market value of the underlying debt security. In each instance a mark-to-market of plus any in-the-money amount or minus any out-of-the-money amount will be required. The minimum margin required on each such put or call is to be not less than $500.

In most respects, where Rule 462(d)2 and the sub-paragraphs thereto are applicable to options on debt securities, or where distinctions between stocks and debt securities or bonds are necessary, such changes have also been incorporated by addition of the words "securities," "stocks," or "bonds."

EXCHANGE'S STATEMENT OF PURPOSE AND BASIS

The purpose and basis of the proposed rule changes are as follows:

The proposed rule changes are designed to provide the self-regulatory framework for the trading of put and call options on debt securities on the Amex. Many of the proposed changes are of a technical nature and merely broaden the applicability of the rules to options on securities (stocks and debt instruments) rather than options on stocks alone. Other changes are proposed in order to reflect in the rules, without compromise to the general self-regulatory principles embodied therein, the specific nuances, terms and trading standards and practices adopted over the years by the fixed-income securities trading and investing community. Such changes are necessary because the specific requirements developed to govern the listing, maintenance and regulation of trading in options on stocks are not applicable to options on debt securities.

The proposed amendments are based upon Section 9(b) and Section 6(b) of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975. The Amex believes that the expansion of its options program to include put and call options on debt securities is consistent with the protection of investors and is in the public interest.

Since it began operating in January 1975, the Amex's call options market has grown and matured. The improved liquidity and efficiency of this market has provided investors with a versatile new investment vehicle and has enabled investors to implement their investment objectives with increasing ease.

The call option program has effectively demonstrated that options serve an important role in transferring risk and providing opportunities for investors. To date, the risks and opportunities of options have been applied primarily to common stocks. However, these qualities exist in other forms of investments as well, including fixed-income securities. Over the last few years, investors large and small have become more aware of fixed-income securities primarily because the performance of stock prices proved to be volatile and often disappointing, and interest rates during the last few years have, at times, offered attractive returns relative to alternative forms of investment.

It is believed that an Amex listed options program on debt securities will meet a public as well as an industry need and provide investors, speculators and users of the fixed-income securities markets with a means of redistributing risks and new investment opportunities. Also, public and professional interest in this trading vehicle is likely to be counter-cyclic with equity trading, aiding member firms and the Exchange to smooth out trading volume fluctuations.

Amex-listed options on debt securities would be standardized as to expiration date and exercise price, similar to the market in all options on stocks. Investors would have a secondary market to close out options previously purchased or written, and prices would be determined in an auction market environment on the Exchange floor.

Options trading on debt securities on the Amex will be subject to the same types of controls now in place with respect to the trading of calls. The Amex intends to extend to debt security options trading all of the regulatory safeguards presently applicable to calls on stocks. Thus, Amex's position and exercise limits will apply to debt security options, just as they now apply to calls. Amex's restrictions on out-of-the-money options will be applied to debt security options in the same manner as they are applied to calls. The same stringent suitability standard presently applicable to uncovered short calls will be applied to debt

security option writing. Amex's prospectus delivery requirement will apply equally with respect to options on debt securities as they do for stock options.

The trading of debt security options on the Amex will be conducted in the same manner as calls are presently traded and specialists and options traders will have responsibilities and obligations with respect to the debt security options market similar to those presently in effect with respect to the stock-options market.

The Amex believes that the addition of debt security options trading under this proposed regulatory framework will be in the public interest.

Prior to the Amex Board of Governor's endorsement of trading options on debt securities, the Amex solicited and received comments from a representative sample of its membership engaged in options transactions on the Amex. Also surveyed were a number of dealers and other institutional participants in the fixed-income securities market, the Department of the Treasury and the Federal Reserve Board. These comments are summarized in the "Amex Plan for Trading Options on Fixed-Income Securities" submitted to the Commission staff on December 1, 1976, which is attached to the 19b–4 filing as Exhibit 2.

The Amex has determined that the proposed amendments contained therein will not impose a burden on competition.

On or before July 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed Rule change, or

(B) Institute proceedings to determine whether the proposed Rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 27, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 20, 1977.

[FR Doc.77–15192 Filed 5–26–77;8:45 am]

[Rel. No. 20045; 70–6014]

APPALACHIAN POWER CO. AND AMERICAN ELECTRIC POWER CO., INC.

Proposed Issuance and Sale of Common Stock by Subsidiary to Holding Company

MAY 23, 1977.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway, New York, New York 10004, a registered holding company, and Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, its electric utility subsidiary company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(b), 7, 9(a) and 10 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Appalachian proposes to issue and sell to AEP, and AEP proposes to purchase from Appalachian, from time to time prior to January 1, 1978, a total of 1,250,000 shares of Appalachian common stock, no par value, at a price of $40 per share, or a total consideration of $50,000,000. It is stated that Appalachian will apply the cash proceeds toward the cost of its construction program for 1977, which is estimated at $277,000,000, and to retire short-term debt. It is anticipated that AEP will obtain all, or substantially all, of the $50,000,000 which it proposes to invest in Appalachian from the net proceeds of an unwritten rights offering of AEP common stock which is the subject of a separate filing (File No. 70–6000).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $4,500, including legal fees of $2,000. It is stated that the State Corporation Commission of Virginia, the Public Service Commission of Tennessee, and the Public Service Commission of West Virginia have jurisdiction over the proposed transaction and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 15, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15177 Filed 5–26–77;8:45 am]

[Release No. 20042, 70–6009]

ARKANSAS POWER & LIGHT CO.

Proposed Sale of Partial Interest in Coal-Fired Electric Generating Facility

MAY 20, 1977.

Notice is hereby given that Arkansas Power & Light Company ("AP&L"), First National Building, Little Rock, Arkansas 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

AP&L proposes to sell to Arkansas Electric Cooperative Corporation ("AECC"), an electric cooperative corporation organized and existing under the laws of the State of Arkansas, a 35 percent undivided ownership interest as tenant in common in two 700 MW nominally rated coal-fired generating units known as White Bluff Units Nos. 1 and 2 ("White Bluff Plant") to be located near Redfield, in Jefferson County, Arkansas and originally planned to be constructed and owned by AP&L. AP&L will obtain from the corporate trustee under its Mortgage and Deed of Trust, dated as of October 1, 1944, as supplemented, a release of such undivided ownership interest in the White Bluff Plant as will be sold to AECC and will retain a 65 percent undivided ownership interest in such Plant.

AP&L's sale of such partial interest in the White Bluff Plant will be governed by the terms of an ownership agreement ("Ownership Agreement") between AP&L and AECC. The Ownership Agreement will provide that AECC is to pay AP&L an amount equal to 35 percent of AP&L's cost incurred in the construction of the White Bluff Plant (AECC's share estimated as of May 31, 1977, to be $47,680,000) plus 35 percent of AP&L's cost of money to finance such construction (AECC's share estimated as of May 31, 1977, to be $7,535,000).

After the closing, AP&L is to complete the construction of the White Bluff Plant on its own behalf and as agent for AECC, and AECC is to make monthly payments in advance to AP&L in respect of 35 percent of all additional costs to be incurred in the construction and completion of the White Bluff Plant. The Ownership Agreement will further provide that the respective investments of AP&L and AECC in the construction of the White Bluff Plant, and consequently the respective undivided ownership interests of each party, may be adjusted under certain circumstances due to (1) the availability of an equivalent amount of more economical energy to AP&L from other sources, (2) AP&L's not requiring the capacity and energy from the White Bluff Plant, or (3) the inability of either AP&L or AECC to finance its respective investment in the continuing construction of the White Bluff Plant.

In addition to the above payments to be made by AECC to AP&L with respect to its acquisition of an undivided ownership interest in the White Bluff Plant, and in recognition of the fact that AP&L has incurred certain overhead costs and has developed expertise in the construction, operation and maintenance of the White Bluff Plant to the benefit of AECC, AECC is to pay to AP&L $875,000 at the closing and an additional $875,000 no later than January 2, 1978. In the event that AECC is unable to obtain, within two years from the date of closing, permanent financing by means of a long-term loan guaranteed by the Rural Electrification Administration, AP&L will be required to repurchase AECC's interest in the White Bluff Plant.

AP&L expects to apply the total proceeds of the sale, estimated not to exceed $59,000,000, to the repayment of short-term indebtedness incurred to finance its construction program.

AP&L will also enter into an operating agreement with AECC ("Operating Agreement") providing for the sole operation and maintenance of the White Bluff Plant by AP&L. The Operating Agreement AECC will be responsible for that portion of all costs of operation and maintenance, other than fuel costs, in accordance with its ownership interest. AECC will also make payments to AP&L for fuel costs for all electricity generated at the White Bluff Plant for its account. The Operating Agreement will further provide for the sharing by AECC of certain other overhead, administrative and general expenses and costs to be incurred by AP&L in operating and maintaining the White Bluff Plant. The Operating Agreement will terminate on the earlier of the date the White Bluff Plant is retired from commercial service or December 31, 2015, or on such other date as is agreed to by the parties thereto.

In addition to the above described transaction, AP&L has made similar arrangements for the sale to City Water and Light Plant of the City of Jonesboro, Jonesboro, Arkansas ("CWL"), of a 5 percent undivided ownership interest as tenant in common in the White Bluff plant. Assuming that the closing of such sale were to take place on August 1,1977, AP&L would expect to receive approximately $8,831,000 from CWL in respect of the purchase of such undivided ownership interest. Such sale and subsequent operation of the White Bluff Plant will be governed by the same Ownership and Operating Agreements which will govern the relationship of AP&L and AECC with respect to the White Bluff Plant. The sale to CWL is excepted from the provisions of the Act by reason of Rule 44(b)(3) promulgated thereunder.

It is stated that a statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The Arkansas Public Service Commission has jurisdiction over the proposed transaction. It is stated that no other state commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 14, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15178 Filed 5–26–77;8:45 am]

[File Nos. 81–228; 3–5153]

ARWOOD CORP.

Application and Opportunity for Hearing

MAY 11, 1977.

Notice is hereby given that Arwood Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting the Applicant from the provisons of Section 15(d) of that Act, insofar as such provisions would require the Applicant to file reports on Form 10–Q for the fiscal quarters ended June 30 and September 30, 1976 and Form 10–K for the fiscal year ended December 31, 1976.

Section 15(d) provides that each issuer that has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the periodic reporting provisions of the 1934 Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part:

1. On April 29, 1976 Applicant became a wholly-owned subsidiary of Interlake, Inc. ("Interlake") through the merger of an Interlake subsidiary into Applicant.

2. Interlake files reports with the Commission under Section 13 of the 1934 Act.

3. Prior to the merger, Applicant had common stock registered pursuant to Section 12(b) of the 1934 Act and filed reports under Sections 13 and 15(d) of that Act.

4. As a result of the merger, Applicant's only publicly-held securities are its Convertible Debentures held of record by about 213 persons. There is no significant trading in the debentures.

5. The Applicant will undertake to file information on Form 8–K with respect to any change in its condition, financial or otherwise, which would have a material effect on the rights of the debentureholders for the period of time during which the Applicant would continue to file 1934 Act reports if this Application were not granted.

In the absence of an exemption, Applicant would be required to file reports on Form 10–Q for the fiscal quarters ended June 30 and September 30, 1976 and Form 10–K for the fiscal year ended December 31, 1976. Applicant believes that its request for an order exempting it from the provisions of Section 15(d) of the 1934 Act is appropriate in view of the fact that Applicant is now a wholly-owned subsidiary, and its only publicly held securities are the Debentures, held of record by about 213 persons. Applicant believes that the time, effort and expense involved in the preparation of the periodic reports for the interim period, before the obligation to file such reports is suspended pursuant to Rule 15d–6, would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than June 6, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W. Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15179 Filed 5-26-77;8:45 am]

[Release No. 13551]

BRADFORD NATIONAL CLEARING CORP.

Application for Exemption From Registration as a Securities Information Processor; Order Granting

MAY 19, 1977.

Section 11A(b)(1) of the Securities Exchange Act of 1934 (the "Act") provides for registration with the Commission of those securities information processors which perform the functions of a securities information processor on an exclusive basis on behalf of a national securities exchange or registered securities association. That section also authorizes the Commission to exempt, by rule or order, any securities information processor from any provision of Section 11A or the rules and regulations thereunder, if the Commission finds that "such exemption is consistent with the public interest, the protection of investors, and the purposes of [Section 11A], including the maintenance of fair and orderly markets in securities and the removal of impediments to and perfection of the mechanism of a national market system."

On February 16, 1977, Bradford National Clearing Corporation ("Bradford") and its parent, Bradford National Corporation, , entered into a facilities management agreement ("Agreement") with the Pacific Stock Exchange ("PSE") and its wholly-owned subsidiary, P.C. Service Corporation ("PCSC"), pursuant to which Bradford undertook to perform, among other things, the securities information processing services performed at that time by PCSC on an exclusive basis for PSE. Those services include the automated collection and processing of trade data transmitted by PSE on the Los Angeles and San Francisco floor of the PSE and re-transmission of the trade data in sequential order to the Securities Industry Automation Corporation for inclusion on the Consolidated Tape.[1]

On January 22, 1976, the Commission granted PCSC an exemption from registration as a securities information processor,[2] and by its letter dated February 4, 1977, Bradford requested a similar exemption. Pending determination of its application for permanent exemption, the Commission, in Securities Exchange Act Release No. 13278 (February 17, 1977)[3] granted Bradford a 90-day temporary exemption from registration. Notice of Bradford's application for exemption was published for public comment;[4] however, no comments were received.

The Commission finds that the exemption of Bradford from registration with respect to its performance of the securities information processing services heretofore performed by PCSC is appropriate and consistent with the public interest, the protection of investors, and the purposes of Section 11A. Such exemption is conditional upon Bradford's compliance with Sections 17 (a) and (b) of the Act (concerning the making, keeping and filing of prescribed records and authorization for Commission inspection of records kept). As a further condition of this exemption, Bradford shall be subject to the direction and control of PCSC with respect to compliance with the requirements of Section 11A(b)(5) of the Act and any rules thereunder concerning any notice of prohibition or limitation of access to securities information processing services performed by Bradford on behalf of PCSC.

Accordingly, it is ordered, pursuant to Section 11A(b)(1) of the Act, that Bradford, with respect to the services and upon the conditions stated herein, is hereby exempt from registration as a securities information processor.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15180 Filed 5-26-77;8:45 am]

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[1] Pursuant to the "Plan submitted pursuant to Rule 17a-15 of the Securities and Exchange Commission under Securities Exchange Act of 1934" (the "Plan"), last sale transaction reports in exchange-listed securities which qualify under the Plan are disseminated by the Consolidated Tape Association on Network A or B of the Consolidated Tape. See Securities Exchange Act Release No. 10787 (May 10, 1974).

[2] Securities Exchange Act Release No. 12036 (January 22, 1976), 41 FR 4369 (January 29, 1976), 8 SEC Docket 1100 (February 3, 1976).

[3] 11 SEC Docket 1749 (March 1, 1977).

[4] Securities Exchange Act Release No. 13386 (March 17, 1977), 42 FR 15996 (March 24, 1977), 11 SEC Docket 2010 (March 22, 1977).

[Rel. No. 20033; 70-6006]

CENTRAL POWER & LIGHT CO. AND PUBLIC SERVICE CO. OF OKLAHOMA

Proposed Charter Amendments and Order Authorizing Solicitation of Proxies in Connection Therewith

MAY 20, 1977.

Notice is hereby given that Central Power and Light Company ("CP&L") P.O. Box 2121, Corpus Christi, Texas 78403, and Public Service Company of Oklahoma ("PSO"), P.O. Box 201, Tulsa, Oklahoma 74102, electric utility subsidiaries of Central and South West Corporation ("CSW"), a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7 and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CP&L and PSO each propose to amend their respective Articles of Incorporation ("Articles") so as to modify the minimum deductions required in computing "Common Stock equity". Both CP&L and PSO state that, at present, payment of common stock dividends are limited, so long as any Preferred Stock is outstanding, payable in any 12-month period ending with and including the date on which the particular dividend is proposed to be paid (a) to 75 percent of the net income available for Common Stock dividends for the 12 months ending with 60 days next preceding the month in which such dividend is proposed to be declared if the ratio of "Common Stock equity" to total capitalization on the last day of a calendar month ending within such 60-day period is or would be 20 percent or more but less than 25 percent and (b) to 50 percent of such net income if such ratio is or would be less than 20 percent plus any amounts that could have been declared as dividends pursuant to such limitations, but which were not actually declared, during any previous year or years. If such ratio is 25 percent or more, the total amount of all Common Stock dividends may not exceed a sum which would reduce such ratio below 25 percent, except to the extent permitted by clauses (a) or (b) above. At December 31, 1976, such ratio was about 45.4 percent for CP&L and 39.6 percent for PSO.

For this purpose "Common Stock equity" is defined generally as the par value of, and premiums in respect of, all outstanding shares of stock ranking junior to Preferred Stock as to dividends or assets and the company's surplus (retained earnings) subject to certain deductions. One such deduction is the excess, during a stated period, of an amount equal to 15 percent of gross operating revenues (less non-operating income, revenues derived directly from properties leased to the company and the cost of power purchased for exchange or resale) over the aggregate amount charged or provided on the books for maintenance, repairs and depreciation of property for such period.

CP&L and PSO's respective Boards have proposed that the Articles be amended to provide that the foregoing deduction remain in effect for the period through December 31, 1976, but that for all periods after that date there be required to be deducted annually instead the excess, if any, of an aggregate amount equal to 3.2 percent and 3.0 percent respectively (or such other percentage as may upon application be approved by this Commission) of the arithmetical average of the amount of depreciable property, bondable under the Indenture, owned by each company during each calendar year and portion thereof after January 1, 1977, over the aggregate amount charged or provided on the books for depreciation, retirements, renewals and replacements and/or amortization for such periods. It should be noted that the provision for the minimum deduction for periods after December 31, 1976, would relate solely to depreciation, rather than maintenance, repairs and depreciation.

Both CP&L and PSO state that while present projections indicate no restrictions on customary dividend payments are likely as a result of this test, the inflation of gross operating revenues resulting from recovery of higher costs of fuel could make it difficult, as time goes on, for them to maintain the required imputed capitalization ratios and thereby avoid the operation of the limitations on declaration of Common Stock dividends.

CP&L and PSO do not intend, if the amendment is adopted, to modify, because of such adoption, its traditional practice with resepct to the amount of Common Stock dividends declared. Each company states that it has traditionally paid approximately two-thirds of its earnings in dividends, but may modify this ratio from time to time. The respective Indentures contains various limitations on Common Stock dividends based on operating revenues which will not be affected by this amendment to the Articles. These limitations may at various times impose limitations on the ability of both CP&L and PSO to pay dividends even when such payment is permitted under the proposed amendment to the Articles.

Secondly, the respective Articles presently prohibit, without the approval of the holders of a majority of Preferred Stock outstanding, the issuance of additional Preferred Stock unless the company's Common Stock equity is not less than the aggregate amount payable upon liquidation in respect of all shares of outstanding Preferred Stock. The definition of Common Stock equity for purposes of the Common Stock dividend limitation set forth above applies as well with resepct to the limitations on issuing Preferred Stock.

While it is unlikely that the limitation referred to in this paragraph will ever limit the issuance of Preferred Stock because of the limited amount of outstanding Preferred Stock, the reasons previously set forth for changing the deduction apply equally to this proposed change. The respective Boards therefore have proposed that the Articles be amended so that the amended definition of Common Stock equity used above be permitted to apply also for the purpose set forth in this pargaraph. The Boards are also of the opinion that it is desirable to have the same definition of "Common Stock equity" apply to all sections of the Articles, rather than have several different definitions for the same term.

Finally, CP&L and PSO's respective Articles presently provide, that if earned surplus is considered to determine that the liquidation amount for issuing Preferred Stock is sufficient, dividends on common stock cannot be paid if such payment would result in reducing Common Stock equity to an amount less than the aggregate amount payable upon liquidation in respect to all outstanding Preferred Stock. Common Stock equity for this purpose is defined in the same manner as it is defined for purposes of the Common Stock dividend limitation set forth above. While it is again unlikely that the limitation referred to in this paragraph wil ever restrict the payment of dividends on Common Stock, the reasons for changing the deduction set forth above apply equally to this proposed change. The respective Boards therefore have proposed that the Articles be amended so that the proposed amended definition of Common Stock equity, above, be permitted to apply here too.

Both CP&L and PSO state that they have previously amended their Articles, pursuant to Commission authorization, (see HCAR No. 19271 and 19572 respectively), to change the earnings test that must be satisfied as a precondition for the issuance of Preferred Stock without approval of the holders of a majority of Preferred Stock then outstanding, eliminating from that computation the 15 percent maintenance, repairs and renewals deduction and substituting for it a deduction equal to 3.2 percent and 3.0 percent respectively, annually, of the amount of their depreciable bondable property. They now seek to make analogous modifications here.

CP&L proposes to call a special meeting of its shareholders (both Common Stock and Preferred Stock) to be held on or about July 5, 1977 to consider and vote upon the adoption of the proposed amendments and to solicit proxies in connection therewith.

PSO proposes to call a special meeting of its shareholders (both Common Stock and Preferred Stock) to be held on or about July 19, 1977 to consider and vote upon the adoption of the proposed amendments and to solicit proxies in connection therewith.

Each share of outstanding Preferred Stock of CP&L is entitled to one vote with respect to each of the proposed CP&L amendments. Each share of outstanding Preferred Stock of PSO is entitled to 10 votes with respect to each of the proposed PSO amendments. The voting requirements under the Articles and Texas law for CP&L require, for passage, the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock (voting as a class) entitled to vote at the meeting and the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock and Common Stock (voting together) entitled to vote at the meeting. Central and South West Corporation is the holder of all 6,755,535 shares of CP&L's Common Stock and has indicated its intention to vote such shares in favor of all the proposed amendments.

The voting requirements under the Articles and Oklahoma law for PSO require, for passage, the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock (voting as a class) entitled to vote at the meeting and the affirmative vote of the holders of at least two-thirds of the outstanding shares of Preferred Stock and Common Stock (voting together) entitled to vote at the meeting. Central and South West Corporation is the holder of all 10,482,000 shares of PSO's Common Stock and has indicated its intention to vote such shares in favor of all the proposed amendments.

Fees and expenses to be incurred in connection with the proposed transaction are estimated at $5,000 for each of CP&L and PSO including in each case $1,500 in counsel fees. No state commission and no federal commission other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants of the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes to solicitation of proxies from CP&L and PSO's stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered That the declaration regarding the proposed solicitation of

proxies of CP&L and PSO's stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-15181 Filed 5-26-75;8:45 am]

[Rel. No. 9774; 812-4119]

FUND FOR MUTUAL DEPOSITORIES, INC., ET AL.

Filing of Application for Order

MAY 20, 1977.

Notice is hereby given that Fund for Mutual Depositors, Inc. ("FMD"), 200 Park Avenue, New York, New York 10017, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), Mutual Depositors Service Corp. ("Service Corp.") 200 Park Ave., New York, New York 10017, and Roger F. Murray, 2nd ("Murray") Columbia University, Graduate School of Business, 625 Uris Hall, New York, New York 10027, (collectively, the "Applicants"), filed an application on April 5, 1977, and an amendment thereto on April 28, 1977, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission (1) permitting an agreement ("Supplemental Agreement") whereby Service Corp. will indemnify FMD up to $20,000 for certain presently unascertained liabilities, and (2) permitting Murray to provide certain required collateral to secure FMD's indemnity of Scudder, Stevens & Clark Common Stock Fund, Inc. ("Scudder"), an open-end, diversified management investment company registered under the Act, under an Agreement and Plan of Reorganization ("Agreement"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that FMD was organized in 1969 by individual savings bank officers and trustees for the purpose of making available a low-cost mutual fund to people who already have the primary financial protection of savings bank deposits. Service Corp., organized and operated solely for the purpose of paying certain expenses of FMD, has as its sole stockholder Central Industry Fund, Inc., a nonstock corporation whose members are mutual savings banks and the National Association of Mutual Savings Banks. Murray has been a director and President of both FMD and Service Corp. for the last five years. Of the remaining four directors of Service Corp., two are directors and two are officers of FMD. Murray and the other directors or officers of FMD or Service Corp. have never received compensation from FMD or Service Corp. for their services as such.

The application states that under an agreement with Service Corp. ("Service Corp. Agreement"), FMD bears the cost of its stock transfer, custodian, accounting and legal services and any expenses incurred for taxes, brokerage commissions, or the purchase or sale of FMD's assets, as well as the investment advisory fee payable to FMD's investment adviser, Smith Barney, Harris Upham & Co. Incorporated. The remainder of FMD's expenses, including but not limited to FMD's organization expenses, are paid by Service Corp. In return, the agreement obligates FMD to reimburse Service Corp. for the Fund's organization expenses and to pay Service Corp. an annual fee equal to .6 percent of the first $20,000,000 of the Fund's average daily net assets, .5 percent of the next $20,000,000 of such net assets and .4 percent of such net assets in excess of $40,000,000.

Applicants state that the fees paid by FMD have been insufficient to cover Service Corp.'s obligations under its agreement with FMD. As of December 31, 1976, unrepaid organization expenses of FMD amounted to $39,058, and Service Corp. had a cumulative deficit of approximately $219,037. Applicants further state that to meet its obligations, Service Corp. borrowed an aggregate of $300,000 from certain banks by issuing two series of notes in 1969 and 1974 ("Notes"): $65,000 principal amount of 7¼ percent notes maturing June 30, 1984, and $235,000 principal amount of 9 percent notes maturing December 31, 1989. As of March 1, 1977, (i) no lending bank held more than $15,000 of Notes; (ii) the lending banks included banks which held an aggregate of approximately 405,334 FMD shares; (iii) three of the lending banks own more than 5 percent but less than 10 percent of the outstanding shares of FMD; and (iv) four members of the Board of Directors of FMD were trustees of lending banks holding an aggregate of $50,000 of Notes and approximately 75,398 FMD shares. After the Board of Directors of FMD voted in principle on March 18, 1977, to recommend the sale of its assets to Scudder, Murray purchased the $15,000 of Notes held by one of the affiliated lending banks for the principal amount thereof plus interest accrued since January 1, 1977. This purchase was made pursuant to an undertaking given by Murray just prior to his retirement as a trustee of that affiliated lending bank in January, 1977, after 27 years as a member of its Board of Trustees.

In order to relieve Service Corp. of the burden of some of its expenses, at the annual meeting in the fall of 1975 FMD shareholders were asked to approve an amendment to the Service Corp. Agreement under which FMD would assume the kind of expenses normally carried by other investment companies (see previous paragraph). This amendment became effective on November 1, 1975. Under the amended agreement with FMD, Service Corp. has operated at a profit since November 1, 1975, and during the six months ended December 31, 1976, realized a profit of $14,050. Under the terms of the Service Corp. Agreement, Service Corp. has the right to retain any profits realized until its accumulated deficit has been eliminated. Any profit realized by Service Corp. thereafter would be credited to the fee payable by FMD, and would therefore redound to the benefit of FMD shareholders. If the proposed exchange with Scudder is not consummated, on the basis of FMD's current net assets it is estimated that the fee payable to Service Corp. would exceed its expenses, and that Service Corp. would continue to be profitable. If FMD's net assets increase, Service Corp.'s net operating profit and the amount available for repayment of the Notes would also increase.

The Application also states that under the Service Corp. Agreement, if FMD's shareholders approve the consolidation of FMD with another open-end diversified management investment company, FMD may terminate the Service Corp. Agreement with no further obligation to Service Corp., except for the portion of the unreimbursed organization expenses and fee accrued to the date of termination.

FMD proposes to enter into an Agreement with Scudder, consummation of which is subject to the approval of its shareholders, the granting of this Application and other conditions. The Agreement provides for the transfer of substantially all of the assets of FMD to Scudder in exchange for shares of capital stock of Scudder on the basis of the value of said assets on the business day preceding the Closing Date as defined in the Agreement. Applicants state that there is no connection between FMD and Scudder's Adviser; no affiliated person of FMD is an affiliated person of Scudder or Scudder's Adviser; and no affiliated person of Scudder is an affiliated person of FMD. If the Agreement is approved by the shareholders of FMD and is consummated, FMD will be dissolved as soon as practicable pursuant to Article 10 of the New York Business Corporation Law. Applicants further state that the effect of the ultimate dissolution of FMD on FMD shareholders will be the distribution to them of the shares of Scudder Capital Stock received by FMD in exchange for the transferred assets and the subsequent distribution to them of all assets, if any, remaining after all FMD's liabilities have been paid and its dissolution completed. FMD does not anticipate that its shareholders will receive any distribution other than the shares of Scudder Capital Stock.

Applicants also state that under the terms of the Agreement with Scudder, FMD is obligated to bear its expenses in connection with the proposed reorganization. FMD estimates that its reorganization expenses may approximate $60,000, but will not exceed $65,000. Under the existing Service Corp. Agreement, Service Corp. would not be liable for such expenses. As part of the proposed reorganization, Scudder's Adviser (Scudder Stevens & Clark) has agreed to pay to FMD at the Closing Date the sum of $65,000 for expenses incurred by FMD in connection with the proposed reorganization and other liabilities of FMD. If the proposed reorganization is not consummated, FMD will not be reimbursed for its expenses in connection with the proposed reorganization. Under the Agreement, FMD has the right to withhold from the assets transferred to Scudder cash ("Retained Cash") in an amount not to exceed $30,000, sufficient to pay known and contingent liabilities accrued as of the Closing Date, and its anticipated expenses for dissolving and winding up its affairs. It is anticipated that such liabilities will accrue solely from normal expenses of operation which, under the existing Service Corp. Agreement, would be payable by FMD (see above analysis for a description of such expenses). These known and contingent liabilities specifically will not include expenses incurred by FMD in connection with the proposed reorganization. The exact amount of Retained Cash to be set aside cannot be stated at this time, and will be determined shortly before the Closing Date. Since FMD is already obligated to bear such expenses, withholding cash for such known and contingent liabilities will have no adverse effect on the calculation of FMD's net asset value for purposes of the exchange under the Agreement with Scudder. If the Retained Cash amount is not sufficient to pay the above known and contingent liabilities, they will be paid first from any excess of the $65,000 contributed by Scudder's Advisor over the amount of the reorganization expenses, and thereafter from a $20,000 indemnity to be provided by Service Corp. under the Supplemental Agreement.

The application states that the Agreement provides that all representations and warranties made thereunder shall terminate one year after the Closing Date, and requires the deposit in escrow, as security for FMD's obligations, representations and warranties, of the number of shares of Scudder Capital Stock (or equivalent value) distributed by FMD upon the reorganization in exchange for not less than 9,500 FMD shares. Scudder has agreed that such security shall constitute its exclusive remedy for any such breaches by FMD. Murray has agreed to personally provide the required security for FMD.

Under Section 719 of the New York Business Corporation Law, directors of a corporation who authorize the distribution of its assets to shareholders after dissolution without adequately providing for all known liabilities of the corporation could be liable to the corporation for the benefit of its creditors. In addition to such known liabilities, FMD would be liable for any unknown liabilities represented by valid claims filed prior to the expiration of a period of six months ("Claims Period") following publication of a notice under Section 1007 of the Business Corporation Law requiring creditors to present their claims in writing. Applicants state that in lieu of setting aside an additional reserve for such unknown liabilities, FMD will, subject to the approval of its shareholders, enter into a Supplemental Agreement with Service Corp. pursuant to which Service Corp. will agree, if FMD's liabilities during the Claims Period exceed its assets, to indemnify FMD up to $20,000 for liabilities which are not known by FMD on the Closing Date. This $20,000 indemnity will also be applicable to any known and contingent liabilities of FMD that cannot be met by the Retained Cash account to be established by FMD. In consideration of Service Corp.'s agreement to indemnify FMD, the Supplemental Agreement provides that, at the expiration of the Claims Period, FMD will pay to Service Corp. any excess of the $65,000 received from Scudder's Adviser for FMD's reorganization expenses over the sum of (1) FMD's expenses fairly allocable to the reorganization and (2) any other liabilities of FMD, to the extent that the Retained Cash account shall be insufficient for the payment thereof. Under no circumstances will any portion of the Retained Cash account be paid to Service Corp. or any other affiliated person of FMD in connection with the proposed reorganization.

Applicants state that as soon as practicable following the Closing Date, Service Corp. will dissolve. In addition, upon the Closing Date, Service Corp. will be required under the terms of the Service Corp. Agreement with FMD, to take as a loss the unrepaid organization expenses of FMD amounting to approximately $32,180, thereby substantially reducing the present asset coverage of the Notes. Applicants further state that Service Corp.'s assets will be insufficient, after the payment of current liabilities in accordance with its existing agreement with FMD, to pay the principal and interest of its outstanding Notes. It is estimated that the amount available for the payment of such Notes, excluding any payment which Service Corp. will make to, or receive from, FMD pursuant to the Supplemental Agreement, will not exceed $60,000. The Service Corp. Noteholders have indicated that they will agree that, if the Agreement is consummated, Service Corp. may liquidate its obligations under the Notes by making a pro rata distribution to all Noteholders of the amount remaining after payment of Service Corp.'s current liabilities. This would permit a pro rata distribution to the Noteholders of approximately twenty cents for each dollar of the outstanding principal amount of the Notes. As a holder of $15,000 of the Notes, Murray will participate in such distribution to the same extent as all the other Noteholders. Each Noteholder, including Murray, will therefore incur a loss equal to the difference between (1) the face amount of its Notes and the interest accrued thereon since January 1, 1977, and (2) the amount received from Service Corp. in liquidation of its obligation on the Notes.

Rule 17d-1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Under Section 2(a)(3) of the Act, any officer or director of an investment company, or any person controlled by an investment company is an affiliated person of such investment company. Service Corp. may be considered under the effective control of FMD, and therefore to be an affiliated person of FMD, because (1) Service Corp. was organized solely for the purpose of paying certain expenses of FMD, (2) the Board of Directors of FMD, under the terms of the Service Corp. Agreement, reviews and approves the reasonableness of Service Corp.'s expenses, and (3) all of the directors of Service Corp. are either directors or officers of FMD. The Supplemental Agreement between FMD and Service Corp. may therefore result in an affiliate of an investment company participating in, or effecting a transaction in connection with, a joint arrangement in which the investment company is a participant. Moreover, because Murray is an officer and director of FMD, he is an affiliated person of FMD; and his personally providing the required security for FMD in furtherance of the Agreement, in conjunction with his status as a holder of the Notes and being directly affected as such by the Agreement, could result in an affiliate of an investment company participating in, or effecting a transaction in connection with, a joint arrangement in which the investment company is a participant.

Applicants submit that, but for the arrangements under the Supplemental Agreement with Service Corp., FMD would find it advisable to withhold a reserve for liabilities not known on the Closing Date. Further, if the expenses incurred by FMD in effecting the proposed reorganization are not less than the estimated $60,000 and no unknown liabilities arise during the Claims Period,

no more than $5,000 will be payable to Service Corp. by FMD under the Supplemental Agreement. If, on the other hand, unknown liabilities arise during the Claims Period, or the Retained Cash account set aside to pay known and contingent liabilities of FMD is not sufficient to meet such liabilities, Service Corp. may, depending on the amount thereof, receive no payment from FMD and be obligated to pay FMD up to $20,000 pursuant to its indemnification of FMD under the Supplemental Agreement. In any event, consummation of the Agreement will result in a substantial loss to all the Service Corp. Noteholders, including Murray. For these reasons, the Board of Directors of FMD, excluding those directors who are also directors of Service Corp., unanimously approved the Supplemental Agreement and recommended its adoption by the FMD shareholders.

Applicants also represent that by personally providing the required collateral to secure FMD's agreement with Scudder, Murray cannot receive any benefit not available to the shareholders of FMD, and may incur additional losses. Moreover, even if Service Corp. receives approximately $5,000 under the Supplemental Agreement with FMD, the proposed reorganization will result in an immediate loss to the holders of the Notes, including Murray, equal to the interest accrued on the Notes since January 1, 1977, and approximately 78 percent of the principal value of the Notes. By contrast, if the reorganization were not consummated, it is anticipated that Service Corp. could continue to operate at a profit that would result in a reduction of its accumulated deficit and a corresponding increase in the amount available for the payment of the Notes. In this sense, consummation of the proposed reorganization will be disadvantageous to the holders of the Notes, including Murray.

For the reasons outlined above, Applicants submit that the granting of the Application and the issuance of such an order would be consistent with the provisions, policies and purposes of the Act and that, to the extent that the participation of FMD is different from that of Service Corp. or Murray, it is more advantageous to FMD. Accordingly, Applicants request an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder (1) permitting the Supplemental Agreement whereby Service Corp. will indemnify FMD up to $20,000 for certain presently unascertained liabilities, and (2) permitting Murray to provide certain required collateral to secure FMD's indemnity of Scudder under the Agreement.

Notice is further given that any interested person may, not later than June 14, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15182 Filed 5–26–77;8:45 am]

[Rel. No. 9773; 812–4131]

KEYSTONE CUSTODIAN FUNDS, INC., ET AL.

Filing of Application for Order Exempting Proposed Combination of Two Funds

MAY 17, 1977.

Notice is hereby given that Keystone Custodian Funds, Inc. ("Keystone"), a Delaware corporation, as Trustee of Keystone Custodian Fund, Series S–1 (the "S–1 Fund"), and Keystone Custodian Fund, Series S–2 (the "S–2 Fund") (Keystone and the S–1 and S–2 Funds are hereafter sometimes referred to as "Applicants"), 99 High Street, Boston, Massachusetts 02104, filed an application on April 8, 1977, and an amendment thereto on May 13, 1977, pursuant to Section 17(b) of the Investment Company Act of 1940 (the "Act") for an order exempting a proposed combination of the S–1 Fund and the S–2 Fund (the "Funds") pursuant to an Agreement and Plan of Reorganization (the "Plan") from the provisions of Sections 17(a) (1) and (2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Plan provides that the S–2 Fund will transfer all of its assets to the S–1 Fund in exchange for the assumption by the S–1 Fund of all of the liabilities of the S–2 Fund and for shares of the S–1 Fund having an aggregate net asset value equal to the net asset value of the assets and liabilities of the S–2 Fund transferred to it. On or prior to the Valuation Date, as defined in the Plan, the Funds will distribute to their respective shareholders of record on June 10, 1977 all net investment income undistributed on the record date and, in the case of the S–2 Fund, its net realized capital gains undistributed on such date, if any. Net asset values of the Funds will be computed in the manner described in the current prospectus of the S–1 Fund as of the close of business on the business day next preceding the Closing Date as defined in the Plan. In addition, as a result of the combination of the Funds, any capital tax loss carryforward of the S–2 Fund, which at February 28, 1977 amounted to $1,289,000, will be transferred to the S–1 Fund. As soon as practicable after such transfer takes place, Keystone, acting on behalf of the S–2 Fund, will distribute to the shareholders of the S–2 Fund the shares of the S–1 Fund received by the S–2 Fund, and the S–2 Fund will be terminated and liquidated.

The closing of the transaction contemplated by the Plan will take place on July 15, 1977 or such earlier date as Keystone, acting on behalf of the Funds, may determine unless the required approval by the shareholders of the S–2 Fund of the Plan, the required approval of the shareholders of the S–1 Fund of certain proposals, the required order of the Commission to which the application relates or the required tax ruling or opinion described below has not been obtained prior to that date, in which case the closing shall be on such other business day as Keystone may determine after such conditions have been fulfilled.

Both the S–1 Fund and the S–2 Fund are diversified open-end management companies registered under the Act and were organized in July 1935 pursuant to identical Trust Agreements as common law trusts under the laws of The Commonwealth of Pennsylvania. As of February 28, 1977 the S–1 Fund had total net assets of $38,351,074 and the S–2 Fund had total net assets of $58,398,713. Applicants state that Keystone has acted as trustee for each of the Funds since they were organized. Applicants also state that while their investment objectives differ in that the S–1 Fund seeks to obtain the best possible capital growth performance from securities of corporations with established records of divided payments, and the S–2 Fund seeks long-term growth of income without sacrificing the capital performance provided by investment grade stocks, and while there is no overlap in their portfolios, they are identical in almost all other respects. Moreover, Applicants represent that the capital and income performance of the Funds has been strikingly similar.

Applicants state that the principal difference between the Funds over the years has been the distinct universes or classes from which their investment securities have been selected. In recent years, however, it has become increasingly difficult to distinguish between issues belonging to the universe of investments of the S–1 Fund and that of the S–2 Fund, because, in 1971, the S–2 Fund's investment objective of current income was changed by vote of its shareholders to one of long-term growth of income, and, since then, the computer evaluation and selection techniques used to select their investment securities have made it increasingly apparent that issues of higher investment quality—i.e., candidates for the S–1 Fund's class of investments—also generally experience increases in their long-term rates of growth of income—i.e., the principal characteristic of candidates for the S–2 Fund's class of investments. Accordingly, Keystone believes that the proposed combination, together with a proposed revision of the investment objective of the S–1 Fund to incorporate certain features of the investment objective of the S–2 Fund, would solve the issue selection problem of Keystone and would result in the combined fund having a universe of issues from which its investments could be drawn larger than the present universe of either of the Funds, thereby benefiting the shareholders of both the S–1 Fund and the S–2 Fund by the increased investment opportunities and flexibility of portfolio management which would result.

Applicants state that neither of the Funds nor their shareholders will realize any monetary savings from the proposed combination since, under the provisions of their Trust Agreements, Keystone is required to pay all of the operating expenses of the Funds, except interest and taxes. Consequently, any monetary savings resulting from the combination will inure to the benefit only of Keystone.

Because the continuance of the Funds' separate identities involves some duplication of expense and diversion of time which would be eliminated if they were operated as a combined fund, with resulting savings to Keystone estimated by it at approximately $10,000 per year, all expenses, currently estimated at approximately $80,000, to be incurred in connection with the combination of the Funds, including the registration fee under the Securities Act of 1933 for the shares of the S–1 Fund to be issued in connection with the combination, the cost of the preparation, printing and mailing of the Post-Effective Amendment, and the Ballot Statement and Prospectus included therein, of the Ballot Statement of the S–2 Fund and of the accompanying Ballots and legal and accounting expenses, will be paid by Keystone. Neither Fund nor any of their shareholders will bear any part of such expenses.

Applicants state that the investment policies and restrictions of the two Funds are virtually identical and the management fee and recurring charge rates, sales and conversion charges, allocation of brokerage, rights of shareholders and shareholder services are identical for both Funds.

As of February 28, 1977, the S–1 Fund had $1,107,296 of net realized but undistributed long-term taxable capital gain and $33,178 of unrealized taxable capital gain. At the same date, the S–2 Fund had $1,289,489 of net realized but undistributed long-term capital loss which could be carried forward through its fiscal year ending August 31, 1983 and $3,229,714 of unrealized capital gain. Given the relative sizes of the two Funds, application of a tax adjustment formula of the type sometimes used in investment company combinations to take account of the differences between the two Funds in net realized but undistributed long-term taxable capital gain (or loss) and in net unrealized taxable capital gain (or loss) would not have resulted in a change in the net asset value of either Fund as of February 28, 1977 of more than one half of one percent. For that reason and in view of the inherent uncertainty following a combination of two investment companies of the impact of the realized and unrealized capital gain or loss of one investment company on the individual shareholders of the other and the likelihood that any such impact would be uneven because of the widely differing tax bases and tax rates of such shareholders, the board of directors of Keystone, acting on behalf of both Funds, has determined that it would not be appropriate to apply any such tax adjustment formula in the proposed transaction described herein.

As alluded to above, consummation of the Plan is subject to receipt of a ruling of the Internal Revenue Service or an opinion of Messrs. Sullivan and Cromwell, special counsel to the S–1 Fund, with respect to the United States Federal income tax consequences of the transactions contemplated by the Plan, including that no gain or loss will be recognized to the S–1 Fund, the S–2 Fund or (except in respect of cash, if any, received in lieu of fractional shares of the S–1 Fund) to the shareholders of the S–2 Fund. The two Funds have applied for such a ruling from the Internal Revenue Service.

Sections 17(a) (1) and (2) of the Act provide, in part, that it shall be unlawful for any affiliated person of a registered investment company, acting as principal, knowingly to sell to or purchase from such investment company any security or other property. Section 17(b) of the Act provides, in part, that the Commission, upon application, shall exempt from the provisions of Section 17(a) a proposed transaction if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve any overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants state that the Funds might be deemed to be "affiliated persons" of one another because they might be considered to be under "common control" as a result of Keystone acting as trustee of each, although Applicants do not concede that the Funds are "affiliated persons." Applicants believe that an exemption from the provisions of Sections 17(a) (1) and (2) is necessary to avoid any question being raised thereunder with respect to the proposed combination of the Funds in the manner described herein.

Applicants submit that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned in that the S–1 Fund will be issuing its shares in exchange for property at a price equal to the net asset value thereof and without payment of any commission or other expense. Similarly, the stockholders of the S–2 Fund will receive shares of common stock of the S–1 Fund equal in value to the S–2 Fund's net assets. All expenses incurred in connection with the combination of the two Funds will be paid by Keystone. Moreover, Applicants believe the proposed transaction is consistent with the respective policies of the S–1 Fund and the S–2 Fund and the general purposes of the Act.

Notice is further given that any interested person may, not later than June 13, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15183 Filed 5–26–77;8:45 am]

[Release No. 20043; 70–6012]

LOUISIANA POWER & LIGHT CO.

Proposed Transactions Related to Financing of Pollution Control Facilities

MAY 20, 1977.

Notice is hereby given that Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10 and 12(d)

of the Act and Rule 44(b)(3) as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Louisiana states that it will construct and install certain water pollution control facilities at its Little Gypsy Steam Electric Generating Station ("Little Gypsy Station") and Units 1 and 2 of its Waterford Steam Electric Generating Station ("Waterford 1 and 2") in St. Charles Parish, Louisiana, (collectively, the "St. Charles Stations"), and at its Sterlington Steam Electric Generating Station ("Sterlington Station") in Ouachita Parish, Louisiana, in order to comply with water discharge standards prescribed by the Environmental Protection Agency and thereby to maintain in effect the National Pollution Discharge Elimination System permits which Louisiana has heretofore obtained for these generating stations. The present filing relates to Louisiana's proposed long-term financing of such pollution control facilities, and also of $1 million of additions and improvements (the "Industrial Development Facilities") to Unit 3 (presently under construction) of its Waterford Steam Electric Generating Station in St. Charles Parish, Louisiana ("Waterford 3"), by sale and repurchase of such facilities.

To effect the contemplated financing of the pollution control facilities at the St. Charles Stations, Louisiana, proposes to enter into a sale agreement with the Parish of St. Charles, Louisiana ("St. Charles Agreement"). The St. Charles Agreement will provide for the construction, installation, equipment and completion of the pollution control facilities at the St. Charles Stations ("St. Charles Facilities") by Louisiana and for the issuance and sale by the Parish of pollution control revenue bonds ("St. Charles Series 1977 Bonds") in the principal amount of $4,000,000, sufficient to cover construction and related costs of such facilities. The proceeds derived from the sale of said bonds will be deposited with a Trustee pursuant to an Indenture ("St. Charles Indenture") to be entered into by the Parish and the Trustee. The St. Charles Agreement further provides for the sale by Louisiana of the St. Charles Facilities to the Parish (in one or more completed portions) for cash, which is to be paid by the Trustee out of such proceeds, and for the simultaneous repurchase of said facilities by Louisiana from the Parish, on an installment payment basis, for an aggregate price equal to the amount of money that will be required to fully pay or retire the St. Charles Series 1977 Bonds in accordance with their terms. Title to said facilities or any portion thereof will be transferred to the Parish and the Parish will, simultaneously with each conveyance, reconvey said facilities to Louisiana.

The repurchase price will be an amount equal to the aggregate principal amount of the Series 1977 Bonds and will be payable by Louisiana in semi-annual installments over a term of years. Louisiana will also pay as interest on the purchase price an amount equal to the interest and premium, if any, on said bonds. Such installment payments are to be made directly to the Trustee pursuant to an assignment and pledge thereof by the Parish to the Trustee as set forth in the St. Charles Indenture and as assented to by Louisiana in the St. Charles Agreement.

The St. Charles Agreement will provide that Louisiana may prepay the repurchase price at any time upon payment of a premium corresponding to the redemption premium on the St. Charles Series 1977 Bonds as provided in the St. Charles Indenture. Said bonds are noncallable for redemption prior to July 1, 1987, except under certain conditions as specified in the St. Charles Agreement.

To effect the contemplated financing of the Industrial Development Facilities at Waterford 3, Louisiana proposes that it will enter into a sale agreement with the Parish of St. Charles, Louisiana ("Industrial Development Agreement"), and that the Parish will enter into an Indenture with a Trustee ("Industrial Development Indenture"), which, except as hereinafter set forth, are substantially similar to the St. Charles Agreement and the St. Charles Indenture, respectively. The Industrial Development Agreement will provide for the construction, installation and completion of the Industrial Development Facilities by Louisiana and for the issuance and sale by the Parish of industrial development revenue bonds ("St. Charles Industrial Development Bonds") in the principal amount of $1,000,000, sufficient to cover construction and related costs of the Industrial Development Facilities. The Industrial Development Agreement further provides for the sale by Louisiana of the Industrial Development Facilities to the Parish for cash, to be paid by the Trustee out of the proceeds derived from the sale of said bonds, and for the repurchase of said facilities from the Parish on an installment payment basis in the same manner and under the same terms as the St. Charles Facilities. There will be no provision for the issuance of additional series of such bonds. The Industrial Development Agreement and Industrial Development Indenture will provide for the subordination by the Parish of all liens, conditions and rights in the Industrial Development Facilities in connection with the resale to Louisiana of said facilities. This subordination will be in lieu of the waiver by the Parish of all liens and resolutory conditions in connection with the resale to Louisiana of the St. Charles Facilities as set forth in the St. Charles Agreement and St. Charles Indenture.

To effect the contemplated financing of the pollution control facilities at the Sterlington Station in Ouachita Parish ("Ouachita Facilities"), Louisiana proposes that it will enter into a sale agreement with the Parish of Ouachita, Louisiana ("Ouachita Agreement") and that said Parish will enter into an Indenture with a Trustee ("Ouachita Indenture") which, except as hereinafter set forth, are substantially similar to the St. Charles Agreement and the St. Charles Indenture, respectively. The Ouachita Agreement will provide for the construction, installation, equipment and completion of the Ouachita Facilities, and for the issuance and sale by the Parish of its pollution control revenue bonds (the "Ouachita Bonds") in the principal amount of $2,000,000 sufficient to cover construction and related costs of said facilities. The Ouachita Agreement further provides for the sale by Louisiana of the completed facilities to said Parish for cash, to be paid by said Trustee out of the proceeds derived from the sale of said bonds and for the simultaneous repurchase of said facilities from the Parish on an installment payment basis, in the same manner and under the same terms as hereinabove set forth with respect to the St. Charles Facilities.

Each issue of bonds will mature thirty years after the first day of the month in which it is (initially) issued and be subject to a mandatory sinking fund which will retire not less than 25 percent of the aggregate principal amount of said issue prior to maturity. Each of the sale agreements provides that the Parish will sell, issue and deliver the bonds as and when but only if requested by Louisiana, provided that the issuance date requested by Louisiana shall be no later than December 1, 1977. Louisiana will not be a party to any of the Indentures nor to the underwriting arrangements for any of the bonds. Louisiana states that since the amounts of the respective installment payments to be made by Lousiana in payment of the respective repurchase price will be determined by the interest rate or rates of the respective bond issues, Louisiana will request the sale, issuance, and delivery of such bonds only if it considers satisfactory the interest rate or rates thereof offered (and the amounts of underwriter's fees proposed) by the underwriter or underwriters, and only with the further authorization of this Commission. Louisiana understands that interest payable on any of the bonds will be exempt from Federal income taxes. It is Louisiana's further understanding that the interest rates on bonds and other debt obligations, the interest on which is so tax exempt, historically have been and can be expected at the time of issuance of said bonds to be 1½ percent to 2½ percent lower than the rates of obligations of like tenor and comparable quality, interest on which is not so exempt.

It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the transactions proposed. The fees and expenses incurred in connection with the proposed transactions are to be filed by amendment.

Notice is further given that any interested person may, not later than June 13, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegate authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15184 Filed 5-26-77;8:45 am]

[Release No. 20041; 70-6010]

MIDDLE SOUTH UTILITIES, INC.

Proposed Issuance and Sale of Short-Term Notes to Banks

MAY 20, 1977.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to issue and sell, pursuant to a $218.5 million revolving credit agreement "Credit Agreement"), its unsecured short-term promissory notes to a group of commercial banks headed by Manufacturers Hanover Trust Company ("MHTC"). Under the terms of the Credit Agreement, Middle South may borrow and reborrow until June 30, 1978, up to an aggregate of $218.5 million outstanding at any one time, to be evidenced by its unsecured promissory notes payable 90 days from the date of issuance thereof, but in no event later than June 30, 1978 ("Notes"). The Notes will be issued to the participating banks to the extent of their participation (collectively, the "Commitments") as follows:

Name of bank	Group	Maximum amount to be borrowed
Manufacturers Hanover Trust Co	B	$51,300,000
The First National Bank of Chicago	A	35,000,000
Bank of America National Trust and Savings Association	B	25,000,000
Continental Illinois National Bank and Trust Co. of Chicago	B	20,000,000
The First National Bank of Boston	B	15,000,000
The Northern Trust Co	A	11,100,000
Irving Trust Co	B	11,100,000
Morgan Guaranty Trust Co. of New York	A	10,000,000
North Carolina National Bank	B	10,000,000
First Pennsylvania Bank, N.A.	A	5,000,000
The Fidelity Bank	A	5,000,000
Crocker National Bank	A	5,000,000
Hartford National Bank and Trust Co.	A	5,000,000
Total		218,500,000

Each subsequent borrowing and each payment by Middle South will be made pro rata among the participating banks according to their original Commitment, with appropriate adjustment for the interest rate differential.

The Notes issued to those banks designated as A Banks in the Credit Agreement will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to 105 percent of the commercial loan rate of MHTC from time to time in effect on borrowings having a 90-day maturity by its most responsible and substantial domestic corporate borrowers ("MHTC Rate"). The Notes issued to those banks designated as B Banks in the Credit Agreement will bear interest from the date thereof on their unpaid principal amount at a rate per annum equal to 115 percent of the MHTC Rate. Middle South will agree to pay to each participating bank a commitment fee for the period from and including June 30, 1977, to June 30, 1978 (or any earlier date of termination of the Commitments), computed at the rate of ½ of 1 percent per annum on the average daily unused portion of the Commitments in effect during the period for which payment is made. Based on a 6¼ percent prime rate, the weighted average interest cost, assuming balances of 10 percent on the line from the A Banks, would be 7.29 percent, and on the B Banks would be 7.19 percent.

Middle South presently intends to repay the principal of the Notes out of the proceeds of the sale of additional shares of its common stock. The Notes will be prepayable at any time on two business days' notice in whole or in part without premium. Middle South shall have the right at any time on three business days' notice to the participating banks to terminate, or, from time to time, to reduce the Commitments, at which time it will prepay the Notes and accrued interest thereon to the extent that the aggregate principal amount thereof then exceeds the Commitments.

The initial borrowing under the Credit Agreement will be used for the payment of short-term notes issued by Middle South to MHTC and various commercial banks under a Credit Agreement dated as of June 1, 1976 (See File No. 70-5863). As of February 28, 1977, such notes payable amounted to $62 million and, it is estimated, will amount to $93 million at the time the initial borrowing is made under the Credit Agreement. Such borrowings were utilized by Middle South to purchase, at various times, the common stocks of certain of its subsidiary companies. Subsequent borrowings under the Credit Agreement will be used by Middle South to purchase additional common stock of its subsidiaries. The issuance and acquisition of such common stock will be the subject of separate filings with this Commission.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is further stated that no special or separate expenses are anticipated in connection with the proposed transactions except for a $2,000 filing fee.

Notice is further given that any interested person may, not later than June 13, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15785 Filed 5-26-77;8:45 am]

[Rel. No. 34-13562; File No. SR-MSE-77-12]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L.

No. 94–29, 16 (June 4, 1975), notice is hereby given that on April 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Amendment to Rule 6 of Article XLVII, Obligations of Market Makers.

Additions Italicized—[Deletions Bracketed]

Rule 6(a) No change in text.
6(b) (i) No change in text.

6(b) (ii) Bidding no more than $1 lower and/or offering no more than $1 higher than the last preceding transaction price for the particular option contract. However, this standard shall not ordinarily apply if the price per share (or other unit of trading) of the underlying security has changed [by more than $1] since the last preceding transaction for the particular option contract [.] *in which event a Market Maker may then bid no lower than or offer no more than $1 plus the aggregate change in the price per share (or other unit of trading) of the underlying security since the time of the last preceding transaction for the particular option contract. Nothing in this subparagraph (b) (ii) shall alter the maximum bid/ask differentials established by subparagraph (b) (i) of this Rule.*

(b) (iii) *Whenever in the judgment of two Floor Officials the interest of maintaining a fair and orderly market so requires, those Floor Officials may waive the requirements of section (ii) above on a case by case basis.*

(c) No change in text.
(d) No change in text.
Interpretations and Policies: No change in text.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

Our experience with the provisions of Rule 6(b) (ii) has shown that in certain market conditions, a literal application of the rule does not protect market orders to the extent they should be protected in the maintenance of a fair and orderly market.

As the rule presently reads, there is a restriction on trading in options more than one point away from the last option trade unless the underlying security has moved more than one point. This hinders the option price from reflecting with accuracy the price change in the underlying issue. In many cases, a change of less than one point, even that of ¼ point, may signal significant market movement. The proposed amendment is designed to eliminate this artificial constraint on trading and allow option contracts to be valued in proper relationship to the price of the underlying security.

This Amendment provides that a Market Maker may decrease his bid or increase his offer by not more than one dollar ($1.00) plus the aggregate change in the price per share (or other unit of trading) of the underlying security since the last preceding transaction for the particular option contract. Of course, the maximum bid/ask differentials contained in subparagraph (b) (i) of the rules will not be altered.

Also, the new rule provides in new subparagraph (b) (iii) that Floor Officials may waive the limiting provisions of subparagraph (b) (ii), if in their judgment a fair and orderly market will be promoted. Such a waiver of the rule, for example, would be justified in the case of an illiquid series when business or economic news is transmitted to the floor which would significantly affect the price of the underlying security. In case of such a news break, Floor Officials may judge that a revaluing of the price of an option is in order, a revaluing even greater than allowed by the amended subparagraph (b) (ii). The Exchange believes that these Officials, persons closest to the actual trading and cognizant of the particular market circumstances, should be granted this authority.

The basis for the proposed rule change described above is found in section 6(b) (5) of the Securities Exchange Act of 1934 as amended, which, in pertinent part, states that the rules of the Exchange should be designed to promote just and equitable principles of trade, protect investors and the public and not permit unfair discrimination between customers, brokers and dealers.

Comments have neither been solicited nor received.

The proposed rule change will impose no burden on competition.

On or before July 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 27, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 23, 1977.

[FR Doc.77–15194 Filed 5–26–77;8:45 am]

[Rel. No. 34–13563; File No. SR–MSE–77–13]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b) (1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on April 12, 1977, the abovementioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Additions Italicized—[Deletions Bracketed].

Article XLIV, Rule 6, Priority of Bids and Offers.

Rule 6. Except as provided by Rule 8 of this Article, the following rules of priority shall be observed with respect to bids and offers:

(a) No change.
(b) No change.
(c) Openings. Notwithstanding anything in Paragraphs (a) and (b) to the contrary, where necessary in order to achieve a single-price opening, [the Order Book Official may give] market orders *in which no member or any non member broker/dealer has an interest* [entitled to participate in the opening] *shall have* priority over limit orders at the same opening price on the Order Book Official's Book. The Floor Procedure Committee shall establish the cut-off time for orders entitled to participate in the opening.
* * * Interpretations and Policies:
.01 No change.
.02 No change.
.03 No change.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of this rule change is to ensure fair and orderly markets through the use of single price openings. Therefore, in an effort to standardize the opening rotation procedures utilized by Order Book Officials to achieve this goal, it is proposed that this rule be amended to require, rather than permit, market orders to be given priority over limit orders held by the Order Book Official. It should be noted that only market orders for those other than members and non-member broker/dealers should be afforded priority treatment in order to effect single price openings.

The Midwest Stock Exchange, Incorporated believes that it is clearly consistent with the standards of the Act designated for the protection of investors. This provision maintains the priority afforded the orders of public customers.

Comments have neither been solicited nor received.

The proposed rule change will impose no burden on competition.

On or before July 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 27.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 23, 1977.

[FR Doc.77–15194 Filed 5–26–77;8:45 am]

[Release No. 34–13554; File No. SR–MSRB–77–4]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b) (1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on May 11, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Board's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board (the "Board") filed the following proposed amendment to Rule G–8(g) (hereinafter referred to as the "proposed rule change");

Rule G–8[1] Books and Records to be Made by Municipal Securities Brokers and Municipal Securities Dealers.

(g) Effective Date. The requirements of this rule shall become effective on April 25, 1977, and nothing herein contained shall be construed to require the making of the records specified in paragraph (a) of this rule for events occurring prior to such effective date. The customer account records required by subparagraph (a) (ii) and customer account information required by subparagraph (a) (xi) shall be required only for customers for whom transactions in municipal securities are effective on or after such date. *Notwithstanding the foregoing, subparagraphs (a) (xi) (G) and (a) (xi) (K) shall not become effective until September 1, 1977.*

The Board's Statement of Basis and Purpose of Proposed Rule Change

The basis and purpose of the foregoing proposed rule change is as follows:

The Board's Statement of Purpose of Proposed Rule Change

The purpose of the proposed rule change is to provide to the Board and the Commission sufficient time to file and consider proposed substantive amendments to subparagraphs (a) (xi) (G) and (a) (xi) (K) of rule G–8. The Board contemplates filing such amendments with the Commission on or about June 1, 1977.

The Board's Statement of Basis Under the Act for Proposed Rule Change

The Board has adopted the proposed rule change pursuant to section 15B(b) (2) (G) of the Securities Exchange Act of 1934, as amended (the "Act"), which requiries and empowers the Board to adopt rules prescribing the records to be made and kept by municipal securities brokers and municipal securities dealers and the periods for which such records shall be preserved.

Comments Received from Members, Participants or Others on Proposed Rule Change

Comments were not solicited or received on the proposed rule change.

The Board's Statement of Burden on Competition

The Board is of the opinion that the proposed rule change will not impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for a finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 20, 1977.

[FR Doc.77–15195 Filed 5–26–77;8:45 am]

[Release No. 13550; SR–NASD–76–5]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

MAY 19, 1977.

On April 28, 1976, the National Association of Securities Dealers, Inc., 1735 "K" Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change. The proposed rule change would amend in certain respects the requirements of Schedule E of Article IV of the NASD's By-Laws relating to public offerings by members and affiliates of members of their own securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 12406 (May 4, 1976)) and by publication in the FEDERAL REGISTER (41 FR 19176 (May 10, 1976)). The NASD filed with the Commission certain technical amendments to the proposed rule change on October 7, 1976, and on January 11, 1977.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities associations, and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b) (2) of the Act, that the proposed rule change filed with the Commission on April 28, 1976, and subsequently amended, be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15786 Filed 5–26–77;8:45 am]

[1] Italics indicate new language; brackets indicate deletions.

[Release 34-13560; File No. SR-NASD-77-2]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

SELF-REGULATOTY ORGANIZATIONS; PROPOSED RULE CHANGE

Pursuant to Section 10(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on May 17, 1977 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Association's Statement of the Terms of Substance of the Proposed Rule Change
Text of Proposed Rule Change

The following is the full text of the proposed rule contained in this amendment No. 4. The NASDAQ Options Plan: An Overview, will be amended by the deletions and additions to the following paragraph at page 2. (Brackets indicate deletions; italics indicate new material:)

[The Association will interface its NASDAQ System with OPRA's new technical specifications to be implemented in September 1977.]

Last sale price reporting to OPRA will not commence at the start-up of the NASDAQ Options Program. The Association has requested that the Securities and Exchange Commission (SEC) approve a delayed interface with OPRA until such time as OPRA's new high-speed line is operational. It is presently anticipated, therefore, that the Association will interface its NASDAQ System with OPRA in October 1977.

The SEC has indicated to the Association that, on preliminary consideration, it would not object to a delayed interface and that it further believes that the time lapse from the commencement of NASDAQ options trading until such interface would not be substantial.[1]

Despite the fact that OPRA will not receive and distribute last sale price information on NASDAQ options until October, 1977, such information will be made available to the public from the start-up date of the NASDAQ options program. The Association will supply last sale information directly to vendors of interrogation devices. The vendors will, in turn, make such information available for distribution to the public.

Association's Statement of Basis and Purpose of Proposed Rule Change

The purpose of the proposed rule change is to enable the Association to delay the commencement of last sale reporting to OPRA of transactions in NASDAQ Options until October 1977, the anticipated commencement date for operation of OPRA's new high-speed data transmission line.

No comments have been received regarding the proposed changes.

No burden on competition is or will be imposed by the proposed rule change.

[1] Letter to Gordon S. Macklin from Sheldon Rappaport dated March 21, 1977.

Within 35 days of the date of this publication, or within such longer period as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 27, 1977.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 20, 1977.

[FR Doc.77-15196 Filed 5-26-77;8:45 am]

[Release No. 13549; SR-NYSE-77-10]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change by New York Stock Exchange, Inc.

MAY 18, 1977.

On March 25, 1977, the New York Stock Exchange, Inc. (the "NYSE"), 11 Wall Street, New York, New York 10005, filed with the Commission pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to rescind a provision in the NYSE Constitution which authorized the NYSE to direct a member to sever a business connection if the interest or good repute of the NYSE could suffer. The Commission had previously indicated its concern with this provision in connection with its review of rules of self-regulatory organizations under Section 31(b) of the Securities Acts Amendments of 1975.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of Securities Exchange Act Release No. 13414 (March 30, 1977) and by publication in the FEDERAL REGISTER (42 FR 18315 (April 6, 1977). The Commission did not receive any comments with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-15187 Filed 5-26-77;8:45 am]

[1] Securities Exchange Act Release No. 12187 (March 2, 1976), 41 FR 10662 (March 12, 1977).

[Release No. 34-13541; File No. SR-PSE-77-12]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 6, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Section 7(b) of Rule I of the Rules of its Board of Governors as follows (brackets indicate deletions and italics indicate additions):

RULE I—DEALING UPON THE EXCHANGE

Trading Differentials

SEC. 7(b). Unless specifically ruled otherwise the trading differentials on stocks shall be as follows:

(1) On stocks other than those traded on the New York or American Stock Exchange:

Selling price	Trading differential
Below ¼ of $1	1/32
¼ of $1 but under [$1] $5	⅛
[$1] $5 and above	¼

(2) On stocks also traded on the New York or American Stock Exchange the trading differentials shall be the same as those prescribed by such Exchange.

PSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed amendment is to change the trading differentials of local PSE stocks trading between $1 and $5 to permit PSE specialists to make tighter markets on these lower price securities.

By tightening the trading differentials on lower priced PSE local stocks the proposed rule change will lead to better markets and assist in the promotion of

just and equitable principles of trade and foster protection of investors and the public interest. The PSE therefore concludes that Section 6(b)(5) of the Act provides the statutory basis for the proposed amendment.

The Exchange states that comments have neither been solicited nor received from members on the proposed rule change.

The PSE believes that the proposed rule change imposes no burden upon competition.

Within thirty-five (35) days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period: (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submission will be available for inspection in the Public Reference Room, 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within twenty-one days of the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 13, 1977.

[FR Doc.77-15197 Filed 5-26-77;8:45 am]

[Release No. 34-13561; File No. SR-PSE-77-11]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 A.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 28, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Rule VI, Section 5 of the Rules of its Board of Governors and Commentary .05 thereunder as follows (brackets indicate deletions; italics indicate additions):

RULE VI—EXCHANGE OPTIONS TRADING

POSITION LIMITS

SEC. 5. Except with the pior written approval of the Exchange in each instance, no member organization shall effect, for any account in which such member organization has an interest or for the account of any partner, officer, director, or employee thereof or for the account of any customer, an opening transaction in an option contract of any class of options dealt in on the Exchange if the member organization has reason to believe that as a result of such transaction the member organization or partner, officer, director, or employee thereof or customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of:

(a) An aggregate long position in any class of options; or

(b) [An aggregate long position in any expiration month in any class of options; or] *An aggregate short position in any class of options; or*

(c) [An aggregate short position in any class of options; or] *An aggregate position on the same side of the market in the same underlying stock, which position shall be ascertained by combining long call options with short put options and short call options with long put options; or*

(d) [An aggregate short position in any expiration month in any class of options; or] *An aggregate uncovered short position in any class of options in excess of such number of option contracts as shall be fixed from time to time by the Exchange as the position limit for that particular class of options or expiration month.*

[(e) An aggregate uncovered short position in any class of options in excess of such number of option contracts as shall be fixed from time to time by the Exchange as the position limit for that particular class of options or expiration month.]

Commentary:

.05 The current position limits established pursuant to Section 5 follow: [(a)] aggregate positions [,whether long or short, in the same class of options] shall be 1000 contracts *on the same side of the market in the same underlying stock.* [; and (b) the aggregate position, whether long or short, in option contracts of the same class and the same expiration month shall be 500 contracts. *These position limits shall include 1000 long call options, or 1000 short put options, or any combination thereof not to exceed an aggregate of 1000 contracts, and 1000 short call options, or 1000 long put options, or any combination thereof not to exceed an aggregate of 1000 contracts.*

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to establish revised position limits in light of the anticipated start of trading put options on the PSE on or after June 1, 1977.

The proposed rule change by establishing aggregate position limits for call and put options and combinations thereof is consistent with the desire to promote just and equitable principles of trade and provide for the protection of investors and the public interest ,and enables the PSE to enforce compliance with the Act and the rules and regulations thereunder.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden upon competition.

Within thirty-five (35) days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period: (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submission will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 20, 1977.

[FR Doc.77-15198 Filed 5-26-77;8:45 am]

[Release No. 13548; SR-PHLX-77-2]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

MAY 18, 1977.

On March 23, 1977, the Philadelphia Stock Exchange, Inc. ("PHLX"), 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and

Rule 19b–4 thereunder, copies of a proposed rule change relating to the affiliation of the Exchange President with wholly owned corporate subsidiaries of the Exchange.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13412 (March 30, 1977)) and by publication in the FEDERAL REGISTER (42 FR 19203; April 12, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on March 23, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15188 Filed 5–26–77;8:45 am]

[File No. 500–1]

RANCHERS PACKING CORP.

Notice of Suspension of Trading

MAY 17, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Ranchers Packing Corporation being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3:10 p.m. (EDT) on May 17, 1977 through May 26, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15189 Filed 5–26–77;8:45 am]

[Release No. 9775; 812–4122]

SCUDDER, STEVENS & CLARK COMMON STOCK FUND, INC. AND SCUDDER, STEVENS & CLARK

Notice of Application for Order Granting an Exemption

MAY 20, 1977.

Notice is hereby given that Scudder, Stevens & Clark Common Stock Fund, Inc. ("Fund"), 175 Federal Street, Boston, Massachusetts 02110, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and Scudder, Stevens & Clark, the Fund's investment adviser ("Adviser") (collectively, "Applicants"), have filed an application on April 8, 1977, and an amendment thereto on May 12, 1977 pursuant to Rule 17d–1 of the Act for an order exempting Applicants from the provisions of Section 17(d) of the Act to the extent necessary (1) to permit the Adviser and the Fund to join in the sharing of certain of the Fund's expenses in connection with the proposed acquisition by the Fund, in exchange for shares of the Fund, of substantially all the assets of Fund for Mutual Depositors, Inc. ("FMD"), a registered open-end diversified investment company and (2) to permit the Adviser to pay FMD $65,000 in connection with such acquisition. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicants state that the Fund and FMD propose to enter into an Agreement and Plan of Reorganization (the "Plan") which provides for the transfer of substantially all the assets of FMD to the Fund in exchange for shares of capital stock of the Fund on the basis of the value of said assets and the net asset value per share of the Fund on the business day preceding the Closing Date as defined in and pursuant to said Plan. In connection with this Plan, the Adviser and the Fund have agreed, subject to obtaining the requested relief, that the Fund's out-of-pocket expenses related to this transaction up to a maximum of $40,000 shall be borne one-half by the Fund and one-half by the Adviser, with the remainder of such expenses in excess of $40,000 being borne by the Adviser. The Fund's out-of-pocket expenses for the purpose of this agreement shall include legal and accounting fees and the filing fees associated with this application, but shall not include state and federal registration fees applicable to the shares of the Fund to be issued pursuant to the Plan. The Adviser has also agreed that it will pay to FMD on the Closing Date $65,000 in cash for expenses incurred by FMD in connection with this Plan and to insure that, following its dissolution, FMD will have adequate reserves for its liabilities and estimated expenses. Any excess will be paid to Mutual Depositors Service Corp., a company organized solely for the purpose of paying ongoing expenses of FMD.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in Rule 17d–1 includes any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether participation of such registered company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

The application states that the proposed payment to FMD by the Adviser, an affiliated person of the Fund, and the proposed expense sharing arrangement between the Fund and its Adviser may each be deemed to be a joint and several transaction by the Fund with an affiliated person of it and that an order pursuant to Rule 17d–1 may consequently be necessary for each transaction. Applicants submit that to the extent the Fund's participation is different than that of the Adviser, (1) with respect to the $65,000 payment, the Fund benefits because such payment, which will be borne solely by the Adviser, is necessary to induce FMD to enter into the transaction with the Fund, which transaction will benefit the shareholders of the Fund, and (2) with respect to the shared expenses, the Fund's participation is more advantageous than that of its affiliate because the $40,000 of expenses to be shared by Scudder and the Adviser are, in the first instance, expenses of the Fund, and because any expenses in excess of $40,000 will be borne solely by the Adviser. Applicants further state that there is no connection between the Fund and FMD; no affiliated person of FMD is an affiliated person of the Fund; and no affiliated person of the Fund is an affiliated person of FMD; and that the granting of the application would be consistent with the provisions, policies and purposes of the Act.

Notice is further given that any interested person may, not later than June 13, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request.

As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15190 Filed 5–26–77;8:48 am]

[Release No. 34–13553;
File No. SR–TAD–77–1]

TAD DEPOSITORY CORP.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on May 4, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change is an addition to existing services presently performed by the TAD Depository Corporation ("TAD"), in that TAD intends to open an interface account with The Depository Trust Company (DTC).

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

To provide TAD and its participants with a vehicle to deliver shares from TAD to participants in DTC and to receive shares from DTC participants by book entry transfer in dually eligible securities and to make book entry transfers from their TAD accounts or DTC accounts where securities will be available for their disposition.

The interface account will provide for an automated mode of delivery between TAD, TAD participants and participants of DTC thereby increasing TAD's capacity to facilitate the prompt and accurate clearance and settlement of securities.

The system provides for the safekeeping of participants' accounts by eliminating the need for the participant to physically withdraw shares between depositories for settlement of participant transactions.

TAD's participants have encouraged the depository to enter into interfaces with other depositories. No comments were formally solicited.

The TAD Depository Corporation believes that no burden has been placed on competition.

On or before July 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 17, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 19, 1977.

[FR Doc.77–15199 Filed 5–26–77;8:45 am]

[File No. 500–1]

U.S. COAL CORP.

Notice of Suspension of Trading

MAY 17, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of U.S. Coal Corporation, being traded on a national securities exchange or otherwise, is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:45 p.m. (EDT) on May 17, 1977, through May 26, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–15191 Filed 5–26–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP76–15 and RP76–98]

ALGONQUIN GAS TRANSMISSION CO.

Order Approving Settlement Agreement and Extending Purchased Feedstock Adjustment Clause for One Year

MAY 23, 1977.

Pipeline rates: Settlement. Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Hollowman, and James G. Watt.

On December 6, 1976, the Presiding Administrative Law Judge certified to the Commission for consideration and disposition a proposed Stipulation and Agreement in settlement of the proceedings in the above-captioned dockets. The proposed agreement pertains to Algonquin's Gas Transmission Company's (Algonquin) purchased feedstock adjustment clause (PFAC). For the reasons discussed below, the Commission shall approve the Stipulation and Agreement and allow the PFAC to continue through its next cycle.

Algonquin SNG, Inc., a wholly owned subsidiary of Algonquin, owns and operates a synthetic natural gas (SNG) plant in Freetown, Massachusetts. Algonquin SNG, Inc., sells this SNG to Algonquin which, in turn, sells it to on-system customers and off-system customers under Algonquin's Rate Schedule SNG–1.

Under Algonquin's contracts with its suppliers, the price of naphtha feedstock can be changed at any time. Feedstock costs account for approximately 70 percent of total SNG project costs. As a result, Algonquin has sought to be allowed to track changes in feedstock costs through a PFAC. Under the PFAC, Algonquin establishes a base cost for naphtha to be used for purposes of current billings. Any differences between actual feedstock costs and the base cost during a winter heating season are recorded in a deferred account. Amounts recorded in the deferred account are charged or credited to Algonquin's customers during the succeeding winter heating season by means of a surcharge adjustment to the base cost. Should Algonquin's revenues under the base cost be more than actual feedstock costs, Algonquin must refund the amount of overcollection, with interest, through a surcharge decrease or lump-sum repayment. Should Algonquin's revenues under the base cost be less than actual feedstock cost, its customers are charged the amount of the undercollection, plus interest, through a surcharge increase.

By order issued October 24, 1975, in Docket No. RP76–15 the Commission accepted for filing and suspended a proposed PFAC for the 1975–1976 winter season. The Commission ordered a hearing to be held at the close of the 1975–76 season to determine the reasonableness of the PFAC and the charges being collected under it. In taking this action, the Commission stated:

> We believe this offers Algonquin the temporary protection it desires and allows the Commission ample opportunity to review the operation and effect of the PFAC on Algonquin and its customers. By permitting Algonquin to collect this charge subject to refund, we stress that we have not passed judgment on the reasonableness of Algonquin's proposal, nor should this indicate that we have passed judgment that normal Section 4 procedures are insufficient to allow Algonquin to recover its expenses for naptha reasonably incurred.

Algonquin requested in Docket No. RP76–98 that use of the PFAC be al-

lowed through the 1976–77 winter heating season. On May 28, 1976, the Commission accepted the proposed 1976–77 PFAC for filing, suspended its use for one day, and consolidated Docket Nos. RP76–98 and RP76–15 for purposes of hearing and decision. Hearings were held; however, prior to the completion, the parties reached the agreement before the Commission, and all procedural dates were suspended pending Commission action.

The proposed stipulation and agreement clarifies the position of the parties with respect to Algonquin's PFAC. The parties agree that the surcharge adjustment for over-collections realized by Algonquin during the 1975–1976 winter heating season under the PFAC including interest shall be 42 cents per MMBTu for on-system customers. Off-system customers will receive a lumpsum refund of $575,391 including interest.[1] The proposed agreement provides for carrying charges on the deferred PFAC account. The monthly carrying charges are to be calculated by multiplying the deferred account balance by ½ of the Commission's effective annual interest rate. The agreement contemplates an indefinite extension of the PFAC, provided, however, that if the Commission finds that an indefinite extension should not be granted, the parties agree to an extension of the PFAC for one additional cycle in order to provide time for a remand to the Presiding Judge and a determination on the present record as to whether the PFAC should be extended indefinitely. Finally, the agreement is proposed to become effective on the date when the Commission's order approving it is no longer subject to judicial review.

Public notice of the proposed settlement agreement was issued on December 28, 1976, providing for comments to be filed on or before February 11, 1977. Comments were filed by Algonquin and the Commission Staff. Neither party opposes the settlement.

In response to an informal request for clarification by the staff, Algonquin on April 15, 1977, filed a letter with the Commission's Secretary setting forth its interpretation and understanding of certain of the terms of the proposed settlement, particularly those dealing with the annual review and refund provisions of the PFAC. Algonquin states as follows:

> If a rate case is not pending covering the SNG–1 period at issue, the PFAC provisions contemplate a separate annual review of the claimed actual SNG–1 cost of service with the actual revenues collected under said rate schedule.
>
> • • • • •
>
> The costs which would be the subject of any such separate Commission review would be submitted in the cost of service study required under Section 10.8. Sheet 20–C, in Section 10.9 provides that any amounts collected by Algonquin Gas under the PFAC shall be subject to refund, but the limitation of such refund obligation to feedstock cost revenues will not affect the ability of the Commission, in the course of its cost-revenue review for SNG–1 service, to require refunds of fixed-cost revenues to the extent that such reviews are found to exceed the revenues that would have resulted from just and reasonable rates.

Algonquin states that the SNG cost of service study will be filed with the Commission pursuant to Section 10.8 of the PFAC in September of each year and proposes that 90 days be established as a time limit for commencement by the Commission of formal review proceedings with respect thereto. The contemplated post-audit period is the 12-month period ending September 30th. The undertakings and procedures set forth in Algonquin's letter of April 15, 1977, appear reasonable and are approved.

The Commission finds that Algonquin's PFAC should be extended at this time for only one additional cycle covering the 1977–78 winter heating season and subsequent 1978–79 amortization period. The Commission finds it would be desirable and in the public interest to review the actual operation of the PFAC, including the post-audit review procedures, prior to giving approval for an indefinite extension. The Commission finds, however, that there is no need to remand the record of these proceedings for further hearings on the issue of further extensions of the PFAC. Following the submission and review of Algonquin's report pursuant to Section 10.8 of the PFAC in September 1977, the Commission will be prepared, upon proper motion of the parties, to rule on the question of further extension.

Based upon a review of the entire record of these proceedings, including the proposed settlement agreement, the comments of the parties, and Algonquin's letter of clarification, the Commission finds that the proposed agreement represents a reasonable resolution of the issues in this proceeding in the public interest and that the settlement agreement should accordingly be approved and adopted for the purpose of approving Algonquin's proposed PFAC for an additional year.

In its letter of clarification, Algonquin has included a suggested condition incorporating procedures which shall govern the post-audit review of Algonquin's SNG–1 service pursuant to the PFAC. The suggested condition appears reasonable and shall be adopted.

On April 6, 1977, Algonquin tendered for filing Second Revised Sheet No. 20–A and Third Revised Sheet No. 20–B to its FPC Gas Tariff, First Revised Volume No. 1. Algonquin states that these tendered sheets are identical to those found in the proposed settlement agreement. Algonquin states further that "the Commission may disregard this filing if it approves said settlement." In view of the action taken in this order, the Commission believes that Algonquin's filing of April 6, 1977, is rendered moot.

The Commission orders: (A) The proposed settlement agreement certified to the Commission on December 6, 1976, is incorporated herein by reference and is hereby approved and adopted.

(B) Algonquin is authorized to continue use of its PFAC for one additional cycle.

(C) Algonquin Gas shall file and serve the report as provided for in Section 10.8 of its FPC Gas Tariff, First Revised Volume No. 1, Sheet 20–C, showing total actual revenues and actual claimed total cost of service, including fixed costs, under Rate Schedule SNG–1 for the 12-month period ending September 30 of the year in which such report is filed. To the extent that Algonquin Gas is required to rely upon estimated costs for purposes of the report, it can furnish, if necessary, actual figures when they become available, and such actual figures if furnished shall supersede the estimates previously reported. If review proceedings with respect to any such report are not instituted through issuance of a formal Commission order within 90-days after the filing of such report, the report shall be deemed accepted and Algonquin Gas shall no longer be obligated to make refunds of revenues for the period covered by such report. Any review proceeding with respect to such report shall be limited to a Commission determination of excess revenues, if any, above the revenues which would have resulted from the charging of just and reasonable rates for SNG–1 service during such period; to the related requirement that Algonquin Gas refund any such excess revenues to the customers who received SNG–1 service during such period; and to the consideration of any question, if any, as to whether actual feedstock costs for the period in question were reasonably incurred. Any refunds thus ordered shall be made in lump-sum payments unless otherwise ordered by the Commission, or unless Algonquin Gas and the other parties to such review proceedings shall have agreed upon a procedure for effecting refunds through a prospective unit adjustment to the SNG–1 rate and the Commission approves such alternative refund procedure in its final order in such review proceeding.

(D) Algonquin's Second Revised Sheet No. 20–A and Second Revised Sheet No. 20–B are accepted for filing and made effective as of October 16, 1976, *Provided, however,* That they shall be effective for one additional cycle only unless otherwise ordered by the Commission upon appropriate motion.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15236 Filed 5–26–77;8:45 am]

[1] The refunds referred to in the proposed agreement have been paid, with interest, to Algonquin's on-system and off-system customers pursuant to the Commission's orders of October 15, 1976, and December 10, 1976, in these dockets.

[Docket No. CP77–378]

CITIES SERVICE GAS CO.

Application

MAY 20, 1977.

Take notice that on May 13, 1977, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP77–376 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Union Gas System, Inc. (Union), and the installation and operation of certain minor facilities in order to transport such volumes, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport approximately 1,000 Mcf of natural gas per day for Union pursuant to the terms of a transportation agreement between Union and Applicant dated March 7, 1977, as amended April 22, 1977. It is stated that by the terms of the transportation agreement, Union would deliver volumes of gas to Applicant at a point near Union's Herd Compressor Station in Osage County, Oklahoma, and Applicant would redeliver volumes to Union at three new delivery points in Osage County, Oklahoma, and through existing facilities in Montgomery County, Kansas.

Applicant states that Union is purchasing and producing gas from lands in Osage County, Oklahoma, and Chautaugua County, Kansas, and its facilities are not adequate to transport the gas to points where it is needed on its system. Union's pipeline system in this area is a deteriorating condition and Union's current experience with this line indicates that there is a significant loss of gas due to leakage, it is said. It is stated that Union desires to end the unnecessary loss of significant volumes of gas due to leakage, and it has determined that it is not economically feasible to improve the efficiency of its pipeline system in this area and operate and maintain it in conformance with the minimum safety standards applicable to its system, especially since most of the reserves of gas originally available to Union have already been produced. Pursuant to the terms of the instant transportation agreement, Applicant would transport this gas for Union to its market area. Applicant indicates that this arrangement would permit Union to abandon a significant portion of its pipeline system in the area and, in the interest of conservation, end the unnecessary loss of significant volumes of gas due to leakage.

Applicant states that it has the option of purchasing a portion of this gas from Union subject to the terms of a gas purchase contract dated March 7, 1977. The purchase price for the gas sold to Applicant by Union would be the authorized FPC rate with all price adjustments, including tax reimbursement, plus a 1.5 cent per Mcf gathering charge, it is said.

Applicant states that in order to implement the transportation arrangement it proposes to install a meter station near Union's Herd Compressor Station (Herd Exchange Point), on a site to be furnished by Union and Union would construct approximately ¾ of a mile of 4-inch gas pipeline from this meter station to a point of connection with Applicant's Blackwell-Caney 16-inch gas pipeline where Applicant would install a tap and connect this 4-inch line. Applicant also proposes to install taps at three locations (Mullendore Exchange Point) on its 16-inch line in Osage County to deliver gas to Union to enable Union to serve several existing customers, and the remaining volumes would be redelivered to Union at an existing sales meter site in Montgomery County, Kansas (Compton Exchange Point).

Applicant indicates that it would charge Union 10 cents per Mcf for all gas transported for under the transportation agreement, and that it has the option of purchasing up to 25 percent of all gas defined as "new vintage".

Applicant estimates that the cost of the facilities proposed to be installed and operated would be approximately $6,650, which would be paid from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15239 Filed 5–26–77;8:45 am]

[Docket No. CP76–421]

COLORADO INTERSTATE GAS CO.

Notice of Petition To Amend

MAY 19, 1977.

Take notice that on April 29, 1977, Colorado Interstate Gas Company (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP76–421 a petition to amend the Commission's order of January 19, 1977 (57 FPC ——), issued in the instant docket pursuant to section 7 of the Natural Gas Act so as to authorize the exchange of natural gas with Northern Natural Gas Company, operating as Peoples Natural Gas Division (Peoples) at two additional exchange points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that on January 19, 1977, it was authorized to transport for and exchange natural gas with Peoples, pursuant to an exchange agreement dated April 20, 1976, between the two parties, and that it delivers gas to Peoples at two delivery points in southwest Kansas on a generally uniform basis throughout the year. Petitioner states that it has the option to purchase 25 percent of all gas volumes so delivered in excess of 37,500 Mcf per month, and that redeliveries to Peoples during the period April 1 through October 15 are made at five locations, of which four are in southeast Colorado and one in the Texas Panhandle. It is stated that the exchange is beneficial to both parties. Peoples controls certain quantities of gas in locations remote from its system, and that by virtue of the exchange, Peoples is able to make gas available to its irrigation customers for agricultural purposes during the growing season, it is said. Petitioner states that it receives, but does not redeliver, gas during the colder months to assist it in meeting its customers' heating season requirements.

By this amendment Petitioner proposes an additional point for deliveries by Peoples to Petitioner in Kiowa County, Colorado, and an additional point for redelivery by Petitioner to Peoples which deliveries would be made at an existing point of interconnection between Petitioner and Panhandle Eastern Pipe Line Company (Panhandle) in Texas County, Oklahoma, it is said. It is indicated that Peoples has made the necessary arrangements to receive the gas from Panhandle which Petitioner would deliver at this point.

Petitioner states that it has been informed by Peoples that there is a critical gas supply shortage on its system in southwest Kansas because the state of Kansas has ordered constraints on the operation of certain gas wells under control in that state, and that these constraints include the shutting-in of two wells and limitation of production from 13 others because the wells have been overproduced to various degrees. Because of the curtailment of its gas supply, Peoples is unable to make the necessary gas deliveries to certain of its agricultural customers during the irrigation season which begins on or about April 1.

Petitioner asserts that the two new exchange points proposed herein would permit Peoples to provide additional gas to its southwest Kansas customers to fulfill high priority agricultural irrigation requirements during the growing season.

Petitioner states that it would receive the additional volumes of gas during the colder months and redeliver gas during the warmer months.

Petitioner further states that it would be necessary for People to install only minor facilities to deliver and measure gas at the Peoples-to-Petitioner delivery point, and that Petitioner would provide a suitable valve to receive deliveries at that point, which would be constructed under current gas purchase budget authority.

It is stated that volumes delivered at the Colorado delivery point would be limited to those gas supplies for which Peoples presently has long-term commitments and would not exceed 6,000 Mcf per day, it is said.

It is indicated that Petitioner would pay Peoples the following for each Mcf purchased:

(a) For deliveries at the two Kansas delivery points, the same average price that Peoples pays for the gas delivered to Petitioner which it purchases in the Kendall Field area from wells contracted and connected on or after January 1, 1973.

(b) For deliveries at the Colorado delivery point, the same average price that Peoples pays for gas delivered to Petitioner which it purchases in designated areas from wells commenced on or after January 1, 1975.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15214 Filed 5-26-77;8:45 am]

[Docket No. CP77-366]

COLORADO INTERSTATE GAS CO.

Notice of Application

MAY 19, 1977.

Take notice that on May 4, 1977, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP77-366 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon the existing 969-horsepower Vilas compressor station and appurtenant equipment located in Baca County, Colorado and for a certificate of public convenience and necessity authorizing the construction and operation of a new 2,400-horsepower Vilas compressor station at a site approximately 1,400 feet from the existing station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it originally contracted for natural gas in the Vilas Field area in 1967, and the new gas supply was connected to its transmission system by 2.8 miles of 6-inch pipeline and the 569-horsepower Vilas compressor station which were constructed under budget authority. Applicant further states that the new supply added 16.3 Bcf of gas to its system reserves and produced an average daily volume of 2,032 Mcf initially. It is stated that a 1974 drilling program resulted in ten successful wells out of twelve drilled and added 2,364 million Mcf of new gas reserves and an average daily volume of 4,200 Mcf, and that Applicant's gas purchase contracts with the Vilas Field area producers were renegotiated at this time to include the 10 new gas wells and additional acreage committed to Applicant and to revise the minimum gathering system pressure. The increased gas supply and reduced gathering system pressure requirements created an immediate requirement for additional compression horsepower, it is said. Applicant indicates that it was authorized to install at Vilas compressor station a 400-horsepower compressor which was in its stock. Applicant further indicates that this 400-horsepower compressor was not designed for the Vilas Field operation conditions and that it was most expedient to utilize an existing compressor at that point in time because ordering a new compressor would have added months to the project. Applicant states that the additional supply was even greater than expected and that that, along with the fact that the recently added 400-horsepower compressor unit was not designed for the existing operating conditions, led to operational problems. As a consequence of these operating difficulties two leased 425-horsepower field compressors were installed temporarily and 3.3 miles of gathering line was looped in 1975, it is said.

Applicant states that the Vilas field area operator has recently committed more acreage to Applicant and has commenced an 18-well drilling program which is projected significantly to increase the Vilas field area reserves and deliverability and necessitates additional compression.

Applicant proposes to abandon the existing single-stage Vilas compressor station and construct and operate a new two-stage station at a site approximately 1,400 feet from the existing station. Applicant states that the existing compressor station has 969 installed horsepower and is located in Baca County, Colorado. The cost of the facilities proposed to be abandoned is $373,988 and reusable salvaged materials removed upon abandonment would be retained for future use elsewhere on Applicant's system, it is said. Applicant states that the new 2,400-horsepower station that it proposes to construct and operate at a more suitable location is estimated to cost $1,352,002, and the compressor unit would be housed in a prefabricated building whereas the present units are not enclosed.

Applicant states that the abandonment of the existing single-staged station and construction of the new two-stage station would enable it to accommodate additional gas supplies projected from this on-going 18-well developmental drilling program which is scheduled to be complete in June 1978 and that greater efficiency and operational flexibility would result.

Applicant states that the cost of the project would be financed from working funds on hand, funds from operations, short-term borrowings, or long-term financing. Applicant projects that the program would result in an additional 15,316 million Mcf of recoverable gas reserves and increased deliverability of 5,880 Mcf of gas per day.

It is stated that relocating the Vilas compressor station approximately 1,400 feet to the east, would benefit Applicant and the landowner. Presently, runoff water accumulates at the Vilas station posing a hazard to Applicant's employees and impeding their ability to perform maintenance and operating procedures, it is said. Applicant states that after relocation, the runoff water can be utilized by the landowner for agricultural purposes, and Applicant would restore the land presently occupied at the existing site, making it suitable for future agricultural use.

Applicant asserts that it is in need of additional gas supplies as a result of declining deliverability from existing sources of supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15213 Filed 5-26-77;8:45 am]

[Docket No. ER76-320]

CONNECTICUT LIGHT & POWER CO.

Notice of Extension of Time

MAY 20, 1977.

On May 18, 1977, The Connecticut Light and Power Company filed a motion to extend the time within which to file a response to the Motion for Summary Judgment, filed May 9, 1977, by the Connecticut Municipal Group in the above docketed proceeding. The motion states that counsel for all parties have no objection to the extension.

Upon consideration, notice is hereby given that the time for filing a response to the Motion for Summary Judgment is extended to and including June 8, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15228 Filed 5-26-77;8:45 am]

Administrator, Emergency Natural Gas Act of 1977

[Docket No. E77-94]

COLUMBIA GAS OF OHIO, INC.

Supplemental Emergency Order

By order issued April 14, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), Columbia Gas of Ohio, Inc. (Columbia-Ohio), was authorized to make a number of emergency purchases under Section 6(a). Included in the authorized purchase was a purchase from Pride Refinery, Inc. (Pride).

On April 18, 1977, Lone Star Gas Company (Lone Star) filed a protest to Columbia-Ohio's petition and questioned whether Pride had the legal authority to sell gas to Columbia-Ohio. By supplemental order issued April 19, 1977, pursuant to Section 6 of the Act, Columbia-Ohio, Lone Star and Pride were ordered by the Administrator to submit a joint statement to the Administrator which was to determine if Pride had the legal authority to make the proposed sale to Columbia-Ohio.

On May 9, 1977, Lone Star filed an individual statement which it believes is uncontradicted by any other individual statement and is consistent with the individual statement submitted by Columbia-Ohio. Lone Star states that Pride does not have title to the gas which it proposes to sell, and consequently no legal authority to make such sale to Columbia-Ohio. Therefore, Lone Star seeks a permanent stay of the April 14, 1977 Emergency Order in Docket No. E77-94 which authorized Columbia-Ohio to purchase gas from Pride or, in the alternative, Lone Star requests that said emergency order be amended to delete any reference to such purchase from Pride.

On May 10, 1977, a letter from Pride to the Administrator stated that due to Lone Star's refusal to cooperate, it was necessary to terminate the Columbia-Pride contract without performance being initiated.

After giving the individual statements of Lone Star and Pride careful consideration, I order that any reference to "Pride", or, inter alia, to the Columbia-Ohio contract to purchase gas from Pride, or to the Administrator's authorization for Columbia-Ohio to purchase gas from Pride be deleted from the April 14, 1977 Emergency Order in Docket No. E77-94, Columbia Gas of Ohio, Inc.

However, to the extent not inconsistent with the provisions of this order, the provisions of the April 14, 1977 order remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia-Ohio, James P. Dunigan, Inc., Energy Industrial Development, Inc., Marie Edwards Gillespie, et al., Kilgore Brothers, Mid-Plains Pipeline Company, Onix Corporation, Pride, Rocanville Corporation, Amoco Gas Company, Lone Star, Lone Star Gathering Company, Natural Gas Pipeline Company of America, Trunkline Gas Company, Tennessee Gas Pipe Line Company, Columbia Gulf Transmission Company, and Columbia Gas Transmission Corporation. This order shall also be published in the FEDERAL REGISTER.

This order is subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 23, 1977.

[FR Doc.77-15241 Filed 5-26-77;8:45 am]

[Docket No. ER77-364]

CONSUMERS POWER CO.

Notice of Tariff Change

MAY 20, 1977.

Take notice that Consumers Power Company on May 9, 1977, tendered for filing Supplemental Agreement No. 9 to the Interconnection Agreement dated September 1, 1973 between (1) Consumers Power Company (Consumers) and (2) Northern Michigan Electric Cooperative, Inc., Wolverine Electric Cooperative, Inc., City of Grand Haven, Michigan, and City of Traverse City, Michigan, collectively denoted the "MMCPP members." Consumers indicates that the Interconnection Agreement is designated Consumers Power Company Rate Schedule FPC No. 34.

According to Consumers, Supplemental Agreement No. 9, provides for the establishment of a fifth interconnection point between the electric systems of Consumers and the MMCPP members, and is dated April 1, 1977. Consumers states that construction of the facilities needed to effect the interconnection is expected to be complete in mid May, 1977.

Consumers indicates that Supplemental Agreement No. 9 does not affect the rates charged for electric power energy interchanged under the terms of the Interconnection Agreement Consumers also indicates that it does provide, however, for Northern Michigan Electric Cooperative, Inc., to bear the capital cost of the installation of certain facilities that will be owned by Consumers and for Consumers to sell its interest in certain facilities to Northern Michigan Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed by or before May 27, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15210 Filed 5-26-77;8:45 am]

[Project No. 2683]

CROWN ZELLERBACH CORP.

Order Denying Motion

MAY 23, 1977.

Before Commissioners James G. Watt, Acting Chairman; Don S. Smith, and John H. Holloman III.

On March 8, 1977, a motion was filed jointly by the Secretary of the Interior and the Lower Elwha Indian Tribe (Petitioners), both of whom are intervenors in the above-captioned proceeding. Petitioners request that this Commission take immediate action, pursuant to Section 4(a) of the Federal Power Act, to determine whether the Elwha River Project (Project No. 2683) constitutes a public safety hazard and to issue such orders as are necessary and appropriate to protect the public safety during the pendency of the instant proceeding, in which the Project's jurisdictional status is to be determined.

Petitioners state that in 1968 the Commission received a safety inspection report of Crown Zellerbach (Applicant) on the Elwha hydroelectric facility.[1] The Commission also received comparable reports, prepared in 1968 and 1972, on the Applicant's licensed Glines Canyon Dam

[1] The cover letter to the report (filed June 13, 1969) indicates that the inspection and report, which were voluntary, were made so as to conform to the requirements of Commission Order No. 315 (see footnote 3, infra).

(Project No. 588), which is situated some miles upstream from the Elwha facility.[1] Petitioners state that these reports raised questions concerning the safety of both facilities, especially regarding the inadequate spillway capacities and, in the case of Elwha, structural problems creating a threat to downstream safety. Petitioners note that the Commission issued, on July 7, 1976, an order requiring modifications to the Glines Canyon Project to increase its spillway capacity and ensure its structural integrity during probable maximum floods. But Petitioners state that no comparable modifications to the Elwha facility have been proposed by the Applicant or ordered by the Commission.

Petitioners further report that recent attempts by both Petitioners and the Washington State Department of Ecology (which claims to lack the authority to ensure the safety of existing power facilities) to obtain from the Applicant verification of the safety of the Elwha dam have been unsuccessful. Finally, Petitioners explain that concerns about the safety of the dam have prompted the Department of Housing and Urban Development to cancel plans for a 25 unit housing project on the Lower Elwha Indian Tribe reservation.

In its Answer to the Motion, filed March 23, 1977, the Commission Staff expresses its concurrence with the conclusions of the 1968 safety study and therefore regards an additional safety study, as requested by Petitioners, as unnecessary at this time. The Staff also directs our attention to a letter from the Commission Secretary, dated March 23, 1977, informing Crown Zellerbach of the Staff's concern for the safety of the Elwha Dam and urging the Applicant to execute immediately the corrective measures recommended in the safety studies.[2] For these reasons the Staff believes it is also unnecessary for the Commission to decide here whether, under the circumstances of this case, Section 4(a) grants authority to perform this type of formal investigation.

The Staff argues that nothing in the Federal Power Act or in Commission precedent supports the Petitioners' request for an order to protect the public safety pending the outcome of the instant proceeding to determine the Elwha project's jurisdictional status. The Staff concludes therefore that the Commission is without authority to issue any such order until its jurisdiction over the Elwha project has been established.

On February 11, 1977, the Commission issued an Order Providing For Hearing in this proceeding to determine licensing jurisdiction. The order ruled that, in the event the Commission ultimately finds it has jurisdiction over Project No. 2683, only then may a hearing be set, if needed, for examining any other issues raised by the application for license.

The type of protective order which the Petitioners seek in this proceeding is authorized for the Commission under Section 10(c) of the Federal Power Act, which states in pertinent part:

> That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power * * * and shall conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health and property.

"Licensee" is defined in Section 3(5) as "any person, State, or municipality licensed under the provisions of section 4 of this Act, and any assignee or successor in interest thereof."

The very subject of this proceeding is to establish whether or not the Elwha Project falls within the jurisdiction of this Commission and consequently whether we have the authority to require licensing of the project under the provisions of the Federal Power Act. In advance of such finding, therefore, Crown Zellerbach is not a Licensee as to the Elwha Project, and we cannot enforce a Section 10(c) protective order against the Applicant.

The Petitioners also request that the Commission determine whether the Elwha River Project constitutes a public safety hazard. In its Answer Staff subscribes to the findings of the 1968 safety study of the Elwha facility. Moreover, the Commission Secretary's letter of March 22, 1977, to Crown Zellerbach (to which Staff refers) included the following language: [4]

> The Commission's staff has reviewed the recommendations made by R. W. Beck (the independent engineering consultant which prepared the 1968 report) and believes that compliance with all of the recommendations would significantly improve the safety of the dam.
>
> The matter of Commission jurisdiction over the Elwha project is in the process of being determined; however, the procedures could be protracted. Meanwhile the Elwha dam could become more unsafe since none of the deficiencies are self correcting. Therefore, as a matter of public interest, you are urged to immediately initiate a program to correct the deficiencies in Elwha dam as set forth in the R. W. Beck Associates 1968 inspection report.

On August 9, 1976, a visual pre-license inspection of the Elwha facility was made by an engineer from the Commission's San Francisco Regional Office. The engineer's report to the Commission, filed September 13, 1976, contained the following conclusions:

> From visual inspection, the writer found the Elwha Dam and Power Plant structures to be in similar condition to that found in 1968. There was no evidence of any appreciable increased deterioration or distress of the concrete structures or foundation over that noted eight years ago.

In view of (1) the existence of the 1968 safety inspection report, the findings of which Staff supports, (2) the 1976 visual pre-license inspection which updates the earlier report's findings, and (3) the Commission's March 22, 1977 letter to Crown Zellerbach expressing concern over the project's safety deficiencies and urging that the deficiencies be corrected, together with Crown Zellerbach's response, we conclude that at this time sufficient information as to the condition of the facility is available so that it is unnecessary to decide whether, under the circumstances of this case, Section 4(a) grants us the authority to perform the type of investigation which Petitioners request. This conclusion should not be taken to mean that we believe that deficiencies affecting the project's safety should not be corrected. We urge that such deficiencies be corrected immediately.

Our decision to deny Petitioners' motion does not preclude the Washington State Department of Ecology, or any other duly authorized State or Federal agency, from acting at this juncture with respect to the safety of the Elwha facility.[5] Such action would not prejudice any future jurisdiction which this Commission may determine it has over the Elwha project.

This policy pertains all the more to a project over which the Commission's jurisdiction has not yet been determined.

The Commission finds: Good cause exists to deny the motion filed by Petitioners on March 8, 1977.

The Commission orders: (A) The motion filed by Petitioners is hereby denied. (B) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15237 Filed 5-26-77;8:45 am]

[Docket Nos. RP72-150 (Rate Design), *et al.*]

EL PASO NATURAL GAS CO.

Notice of Payment of Refunds

MAY 19, 1977.

Take notice that on May 17, 1977, El Paso Natural Gas Company ("El Paso") tendered for filing a Report of Refunds Made on March 25, 1977, to its interstate

[1] The Commission received the latest periodic report on Glines Canyon Dam in April 1977.

[2] See pg. 4, infra.

[4] By letter dated March 25, 1977, Crown Zellerbach responded to the Secretary's letter, stating that, based on recomputations from the report's basic data, the company has concluded that the Elwha facility is currently safe for operation up to flows of 45,000 CFS, which is above any reasonably expected level.

[5] Order No. 315 (34 FPC 1551) promulgated the regulations requiring licensees to provide safety inspections of hydroelectric project works by independent consultants at regular five-year intervals or more frequently, if necessary. In an order issued February 25, 1966, dismissing application for rehearing of Order No. 315, the Commission wrote:

> * * * in a matter as important as the safety of hydroelectric projects, where a failure can result in catastrophic results, federal action by the responsible licensing agency does not purport to pre-empt the field and duplicative inspectoral activities are mutually beneficial rather than inconsistent with one another.

jurisdictional and nonjurisdictional keyed customers. El Paso states that such refunds were made in accordance with El Paso's Stipulation and Agreement dated and filed August 6, 1976, as approved by the Commission "Order Affirming Initial Decision, Adopting Settlement Proposal and Reversing Initial Decision on Rate Design Complaint" issued February 16, 1977, at Docket Nos. RP72-150 (Rate Design), RP73-104, RP74-57 and RP75-39.

El Paso further states that the refunds made are comprised of $78,730,833.34 principal refunds, plus interest thereon of $11,600,215.39, computed through March 24, 1977, at the interest rates for each of the docketed proceedings, as set forth in Article IV, Section A(ii), of the aforementioned Stipulation and Agreement. The aggregate amount of refunds made by El Paso on March 25, 1977, is $90,331,048.73.

El Paso states that copies of the filing were served on all of El Paso's affected interstate transmission customers, all parties of record in Docket Nos. RP72-150 (Rate Design), RP73-104, RP74-57 and RP75-39, and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before June 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15217 Filed 5-26-77;8:45 am]

[Docket No. E77-102]

EL PASO NATURAL GAS CO.

Supplemental Emergency Order

By order issued May 17, 1977, El Paso Natural Gas Company (El Paso) was authorized, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), to make certain emergency purchases of natural gas in Eddy County, New Mexico at a price of $2.25 per MMBtu from eleven wells of Yates Petroleum Corporation, from three wells of Yates Drilling Company, from two wells of Alan J. Antwell and Moranco, from six wells of Depco, Inc. and from five wells of Husky Oil Company through July 31, 1977.

By telegram filed May 18, 1977, El Paso requested that the following third and fourth paragraphs on page two and the first paragraph on page three be deleted from the May 17, 1977 order:

> El Paso advises and I find that the gas made available by Sellers will result in a commingling of interstate natural gas with Sellers' normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Sellers and their producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale of gas for which El Paso seeks approval may result in some commingling of interstate natural gas with Sellers' normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas.
>
> Under the provisions of section 9(b), (c) of Pub. L. 95-2 (91 Stat. 4, 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Sellers or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since Sellers are selling gas for El Paso pursuant to Section 6(a) of that Act. Sellers and any third person whose gas is commingled with El Paso's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.
>
> According to the official files of the Federal Power Commission, Yates Petroleum Corporation, Yates Drilling Company, Alan J. Antwell and Moranco, Depco, Inc., and Husky Oil Company are not classified as natural gas companies within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *." 91 Stat. at 8. In addition § 6(c)(2) provides:
>
> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Upon review of this matter, it is my opinion that said paragraphs should not have been included and therefore should be deleted from the order issued May 17, 1977. To the extent not inconsistent with this order, the provisions of the May 17, 1977 order remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), shall be served upon El Paso, Yates Petroleum Corporation, Yates Drilling Company, Alan J. Antwell and Moranco, Depco, Inc., and Husky Oil Company.

This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 23, 1977

[FR Doc.77-15242 Filed 5-26-77;8:45 am]

[Docket No. E77-106]

EL PASO NATURAL GAS CO.

Emergency Order

On May 16, 1977, El Paso Natural Gas Company (El Paso) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to make certain emergency purchases of natural gas from Read & Stevens, Inc. (Read & Stevens). For the reasons set forth below, I authorize these emergency purchases.

By agreement dated May 13, 1977, El Paso agreed to purchase natural gas from Read & Steven's W. R. State Com No. 1 Gas Well, Eddy County, New Mexico. Said agreement will begin as soon as practicable as an emergency purchase and will terminate on July 31, 1977.

El Paso will purchase these supplies at a price of $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act, I hereby authorize Read & Stevens to sell El Paso natural gas from the W. R. State Com No. 1 Gas Well, Eddy County, New Mexico, on the terms and conditions set forth in El Paso's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso and Read & Stevens. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administator.

MAY 23, 1977.

[FR Doc.77-15244 Filed 5-26-77;8:45 am]

[Docket No. E77-109]

EL PASO NATURAL GAS CO.

Emergency Order

On May 20, 1977, El Paso Natural Gas Company (El Paso), filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)) an application for authorization to make certain emergency purchases of natural gas from Inexco Oil Company and Sol West III (Seller). For

the reasons set forth below, I authorize these emergency purchases.

By agreement dated May 19, 1977, El Paso agreed to purchase natural gas from Seller's Federal No. 1–7 Gas Well, Lea County, New Mexico. Said agreement will begin as soon as practicable as an emergency purchase and will terminate on July 31, 1977.

El Paso will purchase these supplies at a price of $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act I hereby authorize Seller to sell El Paso natural gas from the Federal No. 1–7 Gas Well, Lea County, New Mexico on the terms and conditions set forth in El Paso's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso and Seller. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administator.

MAY 23, 1977.

[FR Doc.77–15245 Filed 5–26–77;8:45 am]

[Docket No. E77–110]

EL PASO NATURAL GAS CO.

Emergency Order

On May 20, 1977, El Paso Natural Gas Company (El Paso), filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to make certain emergency purchases of natural gas from Coquina Oil Corporation, Coquina 76 Exploration Program, and Nautilus Venture VI (Seller). For the reasons set forth below, I authorize these emergency purchases.

By agreement dated May 20, 1977, El Paso agreed to purchase natural gas from Seller's Bass-State No. 1 Gas Well, Eddy County, New Mexico. Said agreement will begin as soon as practicable as an emergency purchase and will terminate on July 31, 1977.

El Paso will purchase these supplies at a price of $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act I hereby authorize Seller to sell El Paso natural gas from the Bass-State No. 1 Gas Well, Eddy County, New Mexico, on the terms and conditions set forth in El Paso's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso and Seller. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77–15246 Filed 5–26–77;8:45 am]

[Docket No. CP75–362]

EL PASO NATURAL GAS CO., APPLICANT

Availability of Final Environmental Impact Statement

MAY 25, 1977.

Notice is hereby given in the above docket that on May 25, 1977, a Final Environmental Impact Statement (FEIS), "Crude Oil Transportation System: Valdez, Alaska, to Midland, Texas (As Proposed By SOHIO Transportation Company)", prepared by the Department of the Interior, Bureau of Land Management (Interior), was made available. The pipeline abandonment proposal by El Paso Natural Gas Company (El Paso) filed with the Federal Power Commission in Docket No. CP75–362 pursuant to Section 7(b) of the Natural Gas Act is one of several integral parts of SOHIO's proposed crude oil transportation system. El Paso's proposal would involve the abandonment of 667.3 miles of 30-inch O.D. gas transmission pipeline, 57,050 horsepower of compressor facilities at six existing compressor stations, and five right-of-way grantor taps. The El Paso abandonment proposal is described and the environmental impacts of the El Paso abandonment are identified and evaluated in the Interior FEIS.

In order to fulfill the requirements of Section 2.82(b) of the Commission's Rules of Practice and Procedure (18 CFR 2.82(b)), for compliance with the National Environmental Policy Act of 1969, it is the intention of the FPC staff to adopt parts of the Interior FEIS in lieu of preparing a separate impact statement. Interior's FEIS will be incorporated into the record developed in the FPC proceedings in Docket No. CP75–362.

The following parts of Interior's DEIS will be adopted by the FPC staff:

(i) *Chapter 1—Description of the Proposal.*

(ii) *Chapter 2 (2 volumes)—Description of the Environment.*

(iii) *Chapter 3 to 7—Environmental Impacts of the Proposed Action; Mitigating Measures; Adverse Impacts That Cannot Be Avoided; Short Term Uses and Long Term Productivity, Irreversible or Irretrievable Commitments of Resources* (Except the portion of Chapter 3, Section 3.1.16.5—Energy Supply and Demand, entitled *Natural Gas* on Pages 3–426 to 3–432.)

The subsection in Chapter 3, Section 3.1.16.5 entitled *Natural Gas* contains an analysis of El Paso's capability to deliver all presently dedicated and reasonable future supplies of gas through its transmission system after the abandonment. This topic was the subject of extensive analysis by the FPC staff, El Paso and parties to the proceeding in Phase I of the FPC hearings. In addition, the analysis is incomplete in that it only considers southern California and does not analyze northern California which could also be affected by the proposed abandonment. For these reasons, the staff does not adopt this portion of the FEIS.

(iv) *Chapter 8 and Appendices—Alternatives to the Proposed Action.*

(v) *Chapter 9—Consultation and Coordination*—This volume also contains comments which were received by Interior on the DEIS and Interior's responses to those comments.

(vi) Attachment 1—Map Volume.

(vii) Attachment 2—Map Volume.

The FPC has sent copies of the Interior FEIS to all Parties in the FPC proceeding. A list of Federal, state and local agencies to which Interior has sent copies of the FEIS is included in the Summary Sheet in Chapter 1 of the FEIS. In addition, Interior's FEIS is on file with the Commission and is available for public inspection at its Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426. Copies of the FEIS are available in limited quantities from the FPC's Office of Public Information, Washington, D.C., at its regional offices located at 555 Battery Street, San Francisco, California 94111, and 819 Taylor Street, Fort Worth, Texas 75102, and from the Office of Public Affairs, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15143 Filed 5–26–77;8:45 am]

[Docket No. CP77–368]

LONE STAR GAS CO., A DIVISION OF ENSERCH CORP.

Petition for Declaratory Order

MAY 20, 1977.

Take notice that on April 22, 1977, Lone Star Gas Company, a Division of ENSERCH Corporation (Petitioner), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP77–368 a petition pursuant to Section 16 of the Natural Gas Act and Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order to remove uncertainties which have arisen as a result of an application filed with the Commission in Docket No. CI77–246, by a producer to abandon the sale of natural gas to Petitioner, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that on July 15, 1955, R. J. Carraway, et al. (Carraway) executed a gas purchase contract with Lone Star Gas Company (predecessor to Petitioner) to sell gas to Petitioner from certain lands in Grayson County, Texas, including two gas units, the M. J. Turner Unit and the W. N. Garr Unit, and Carraway was issued authorization for such sale by the Commission in Docket No. G–9182.

Petitioner further states that the Commission in Docket No. CI68–291 subsequently amended its certificate previously issued Carraway so as to redesignate Gordon Oil Company (Gordon) as operator and authorize the sales from the Garr and Turner Units, and redesignated Carraway Gas Rate Schedule No. 2 as Gordon Gas Rate Schedule No. 1. Petitioner states that Gordon continued to sell gas to Petitioner from said units pursuant to a small producer certificate in Docket No. CS72–1181.

Petitioner asserts that it was advised by Gordon that Gordon had requested Commission authorization to enable it to terminate its sale of gas to Petitioner on December 31, 1976, concurrent with the expiration of the gas purchase contract between Carraway and Petitioner, which contract had been assumed by Gordon. Petitioner further asserts that Gordon at the same time advised that it was Gordon's belief that the gas covered by said contract was not flowing into Petitioner's interstate transmission facilities. Gordon, it is stated, requested Petitioner's approval to terminate the gas purchase contract and disconnected the pipelines on December 31, 1976, but Petitioner refused approval and demanded that the pipeline be reconnected, which was accomplished approximately one month later.

Petitioner states that as a result of Gordon's allegations and requests, it proceeded to investigate the arrangement of facilities in the Sherman Field, Grayson County, Texas, to determine if gas was being inadvertently diverted from the interstate transmission facilities. Petitioner determined as a result of this investigation that in 1961 gas which was produced from the Carraway wells out of the Garr and Turner Units was flowing into an uncertificated gathering facility designated gathering Line EC, thereafter being delivered into Petitioner's certificated transmission Line E. Petitioner further states that during 1961, for reasons presently unclear, Petitioner constructed a pipeline from a point on gathering Line EC to a point on its wholly separate intrastate transmission Line D–9, thereby diverting some volumes of gas produced from the Garr and Turner Units to Petitioner's intrastate gas transmission system. Petitioner asserts that subsequently, in 1966, for reasons presently unclear, Petitioner removed a portion of gathering Line EC, thereby causing all gas from the Carraway wells to flow into Line D–9. Petitioner states that upon investigation and discovery of this misalignment, Petitioner directed the severance of Line D–9 from the gathering facilities and directed the replacement of that portion of gathering facility EC removed in 1966 so as to return the Carraway (Gordon) gas to certificated transmission Line E, which was accomplished in November 1976.

Pursuant to the investigation of the gathering facilities in the Sherman Field, Petitioner believes that other producers also delivered gas into gathering Line EC during the period from November 1, 1961, to November 24, 1976. Petitioner asserts that the following operators sold gas to Petitioner from wells which were connected to gathering Line EC:

R. J. Carraway, et al. (Predecessor to Gordon).
Walter H. Gant, et al.
Walter H. Gant.
R. P. Karll.
Langford Drilling Co.
Larson and Thomas, et al.
Perry E. Larson, et al.
Perry E. Larson.
H. S. Moss, et al.
Moss Petroleum Co.
Hugh E. Prather.

Petitioner believes that all, or substantially all, of the above named operators sold gas during the period in question to Petitioner for sale in interestate commerce pursuant to authorization of the Commission. Petitioner estimates further that during the period from November 1, 1961, until November 24, 1976, the gas sold Petitioner by said operators in the Sherman Field totaled 16,983,455 Mcf; and of the total, Petitioner believes all but 15,074 Mcf was delivered into Petitioner's intrastate D–9 system.

Petitioner believes that the gas inadvertently diverted, if any, may be made up from a source of gas currently dedicated to Petitioner's intrastate transmission system, if proper authorization can be obtained. Petitioner, therefore, requests a declaratory order exempting from jurisdiction any natural gas from Petitioner's intrastate system which could be used to payback any deficiencies in the interstate system caused by possible diversions of natural gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15238 Filed 5–26–77;8:45 am]

[FPC Gas Rate Schedule Nos. 7 and 10]

LOUISIANA LAND AND EXPLORATION CO.

Extension of Time

MAY 20, 1977.

On May 17, 1977, the Louisiana Land and Exploration Company filed a request for an extension of time in which to submit rate reduction filings in accordance with Ordering Paragraph (E) of Opinion No. 749, and required by letter order issued April 6, 1977.

Upon consideration, notice is hereby given that an extension of time for submitting rate reduction filings is granted to and including June 30, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–15235 Filed 5–26–77;8:45 am]

[Docket No. CP77–384]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

MAY 19, 1977.

Take notice that on May 16, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77–384 an abbreviated application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate an offshore gas gathering facility, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct a 5.3 mile 16-inch offshore gas gathering pipeline and other appurtenant facilities from a point of connection with Sea Robin Pipeline Company's (Sea Robin) existing 24-inch offshore pipeline in Eugene Island Block 295, offshore Louisiana, to a production platform located in Eugene Island Block 305, offshore Louisiana. Applicant states that the estimated cost of the proposed facilities is $4,400,800, and that such costs will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 10, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15218 Filed 5-26-77;8:45 am]

[Docket No. ER76-818]

NORTHERN STATES POWER CO. (MINNESOTA)

Order Accepting Settlement Agreement and Setting Hearing

MAY 23, 1977.

Before Commissioners: James G. Watt, Acting Chairman; Don S. Smith, and John H. Holloman III.

On July 29, 1976, Northern States Power Company tendered for filing revised rate schedules for service to Northern States' sixteen total requirements wholesale customers. In accord with a moratorium provision reached in a prior settlement agreement the proposed increase was suspended and permitted to become effective January 1, 1977. The proposed rates would increase test year revenues by $1,453,000.

On September 13, 1976, a settlement agreement was reached between Northern States and the Intervenors, represented by River Electric Association (REA). The settlement agreement reduced the proposed rate increase by $200,000 and imposed a moratorium on further rate increases until July 1, 1978. By letter of September 20, 1976, the City of Shakopee advised the Commission of its intent to continue to be an Intervenor in this proceeding and revoked the authority of REA to settle the instant rate case on Shakopee's behalf. All the other wholesale customers continued to support the settlement agreement.

In its amended petition to intervene Shakopee stated that none of the wholesale customers had had the benefit of a full review of Northern States' rate filing. Shakopee raised numerous cost of service questions and alleged that it would face a price squeeze under Northern States' proposed rate increase and under the settlement rates proposed herein. In its petition Shakopee stated that it had filed an antitrust suit against Northern States in the United States District Court in Minnesota. Shakopee's antitrust suit alleges price squeezes created by past and present wholesale rate filings by Northern States.

A further settlement conference was convened by order of the Commission on December 1, 1976. According to the various comments filed in this proceeding, it was evident at that settlement conference that the wholesale customers favored the approval of the original settlement agreement. Commission Staff suggested a modified settlement agreement reducing the rate increase by a further $200,000 and eliminating the moratorium provision. Northern States and REA agreed to continue to support the originally tendered settlement agreements. Shakopee's position is that it will not accept any settlement which may jeopardize its rights in the pending antitrust suit. Shakopee does not want Northern States to be able to use Shakopee's agreement to any settlement agreements as an argument that Shakopee has acceded to a price squeeze by agreeing to settlements in prior cases before the Commission.

On January 14, 1977, Northern States renewed its motion for approval of a settlement agreement. In support of the settlement agreement including a moratorium provision Northern States pointed out that without a moratorium it would immediately file for another rate increase to take advantage of the Commission's recent orders granting more favorable treatment for construction work in progress and tax normalization. Northern States argued that if Shakopee refused to concede that the settlement rates end Shakopee's price squeeze contentions then the Commission should institute a full investigation of the price squeeze issue in this case. Northern States contends that it does not want to put into effect any settlement rates that are allegedly anticompetitive without a complete Commission investigation. Northern States argues that because of Shakopee's allegations and the fact that it has instituted an antitrust action in the District Court Northern States has a legitimate interest in seeing that the price squeeze issue is resolved as soon as possible.

Shakopee's comments contend that the Commission is faced with two alternatives, either determine that there is no price squeeze on the basis on an inadequate and untested record, or, force Shakopee alone into a lengthy hearing on the price squeeze issue. Shakopee contends that there is a price squeeze but that it cannot afford to carry on a costly rate proceeding to litigate this matter before both the Commission and the U.S. District Court. Shakopee points out that its antitrust suit against Northern States was instituted prior to the Supreme Court's decision in Conway.[1] The action was commenced at a time when the Commission refused to consider price squeeze issues and an antitrust action in the District Court was the only remedy available to Shakopee. Shakopee states that in October 1976, the District Court found that it had jurisdiction over Shakopee's complaint even though the Supreme Court had ruled in June that the Federal Power Commission must consider price squeeze allegations in the context of wholesale rate proceedings.

Shakopee argues that Northern States is seeking to obtain a Commission finding that no price squeeze exists based on inadequate data submitted in support of its motion. Shakopee argues that Northern States would then take this Commission determination and offer it to the District Court as an expert determination on the price squeeze question. Alternatively, if Northern States cannot obtain a summary finding that a price squeeze does not exist, Shakopee argues that it is trying to compel Shakopee to litigate the same issue in two different forums simultaneously. Shakopee contends that its limited resources will not permit it to litigate this issue in both forums. Shakopee points out that Northern States filed a motion to dismiss Shakopee's antitrust action on the grounds that Shakopee had acceded to a price squeeze in the past by being a party to prior settlements of rate proceedings before this Commission. In order to avoid a recurrence of this situation Shakopee is contesting this settlement. Shakopee requests that the price squeeze issue be excluded from consideration by the Commission and permit the District Court to consider that issue. On that basis Shakopee states its willingness to accept the settlement.

In its comments on the settlement agreement Staff points out that the Supreme Court's mandate in Conway establishes that the Commission has a duty to consider price squeeze allegations in evaluating wholesale rate filings. Shakopee has made such an allegation and therefore Staff believes the Commission is obligated to investigate the price squeeze issue in this proceeding. Northern States conditioned its motion in this proceeding on the Commission's addressing and making a determination on the price squeeze issue. In support thereof Northern States has submitted revenue comparison data which Staff reviewed. Staff's comments indicate that after a review of the data, Staff can make no final determination of whether a price squeeze exists or not. Staff concedes that the data indicates there is no price squeeze but that a final determination cannot be made. Staff concedes that it is the only party objecting to the proposed rate settlement from a cost of service viewpoint.

On February 2, 1977, the City of North St. Paul, a wholesale customer of Northern States, filed a motion requesting that the Commission approve the proposed settlement agreement without acting on the price squeeze issue because Shakopee has failed to present evidence indicating the existence of a price squeeze. Alternatively, if the Commission must consider the price squeeze issue North St. Paul requests that the settlement agreement be approved and the price squeeze issue severed for separate hearing.

[1] *FPC v. Conway Corporation*, 426 U.S. 271 (1976).

On February 17 Northern States filed a response to North St. Paul's motion. Northern States indicates that it is prepared to go forward with the settlement agreement despite Shakopee's withdrawal. However, since Shakopee continues to allege that the settlement rates are anticompetitive, Northern States has conditioned its motion for approval on a Commission determination on the price squeeze issue. Northern States points out that a price squeeze investigation need not hold up the approval of the settlement agreement. Northern States notes that Commission approval of the settlement agreement, while severing the price squeeze issue, will result in immediate refunds down to the settlement level for all wholesale customers. Northern States points out that the negotiated settlement rate could in no way be increased as a result of a decision on the price squeeze issue. Northern States argues that, in light of the Supreme Court's decision in Conway, the Commission cannot make the necessary determination that the settlement rates are just and reasonable without making a determination on the price squeeze issue. Northern States argues that the Commission has primary jurisdiction over price squeeze claims and that a wholesale customer does not have the option to have a price squeeze claim taken up exclusively in the U.S. District Court.

On March 14 Shakopee's counsel filed a letter with the Commission in response to Northern States' February 17 filing. Shakopee argues that Northern States' comments, while superficially addressed to the motion of North St. Paul, actually constitute a rebuttal to the comments of Shakopee and the Staff on the settlement agreement. Shakopee argues that the Court's decision in Conway does not find that the FPC has exclusive jurisdiction over price squeeze nor does it find that the FPC has primary jurisdiction. Shakopee argues that Conway does not hold that the Commission is to enforce the Federal antitrust laws. Shakopee argues that there are times when an administrative agency should defer to a court on the decision of a matter pending before that court citing *California v. FPC*.[2] Shakopee argues that the Commission jurisdiction can only deal with a portion of Shakopee's antitrust claims and cannot grant the remedies Shakopee requires. Shakopee states that the Commission cannot reach the real problem faced by Shakopee, the initiation of rates which are discriminatory but which go into effect subject to refund and pending examination; the Commission cannot enjoin the initiation of discriminatory rates; the Commission cannot reach the conduct of the utility which is designed to prevent the expansion of a municipal utility and; the Commission cannot award triple damages for violation of the antitrust laws that Shakopee is seeking. Accordingly, Shakopee argues that the Commission should defer to the jurisdiction of the District Court in this instance.

[2] 369 U.S. 482 (1962).

On March 31, Commission Staff filed a response to Shakopee's letter to the Commission and gave its recommendations regarding the impact of Commission Order No. 563[3] on this proceeding. Staff states that unless the Commission denies Northern States' motion for cost of service reasons it must affirmatively deal with the primary jurisdiction and price squeeze issues which have been raised in this case. Staff argues that the public interest would best be served by the Commission's proceeding to determine the anticompetitive effect, if any, of Northern States' settlement rates and providing a remedy therefore. Staff argues that this action would not preclude the District Court from examining the price squeeze issue and it would make available to the Court an expert determination by the Commission on the question. Staff argues that Shakopee, by alleging the existence of a price squeeze, has made price squeeze a material issue in this docket which must be addressed. Staff believes Shakopee must affirmatively pursue its price squeeze allegation in this proceeding or risk a finding of no price squeeze. Staff believes that, should the Commission decide to accept the settlement agreement, it should set the price squeeze issue for hearing in order that a prehearing conference be held in accordance with the provisions of Order No. 563.

We believe that the rates set forth in a settlement agreement should be permitted to take effect. Setting aside for the moment the price squeeze question, it is clear that these rates are just and reasonable and should be approved. The comments in this proceeding show that the wholesale customers of Northern States prefer the inclusion of a moratorium in the proposed settlement agreement rather than a lowering of the settlement rates as proposed by Commission Staff. Additionally, permitting these settlement rates to take effect, without deciding the price squeeze issue, will permit Northern States to immediately lower its rates to the settlement level thus making refunds available to its wholesale customers. Any determination made on the price squeeze question in the future can only result in a further lowering of these rates.

The price squeeze issue must be severed and set for hearing. Shakopee has raised the price squeeze issue and, this issue having been raised in a rate proceeding before this Commission, we must make a determination on it. Our consideration of the issue is necessarily limited to the instant rate filing. If a price squeeze is found to exist the Commission can adjust the rates, within the zone of reasonableness, to eliminate or ease the price squeeze.

Our examination of the price squeeze will not affect Shakopee's District Court action. That action seeks damages for allegedly anticompetitive activity that occurred in the past. As the District Court noted in its October 18, 1976, order denying Northern States' motion to dismiss, should Shakopee prove itself entitled to relief the regulatory process would not be disrupted by an award of damages for past conduct nor by an enjoining of certain future conduct. These remedies are beyond our jurisdiction as we cannot look to past rate schedules and, if a price squeeze were found, we could not take any remedial action.[4] Accordingly there is no alternative to this issue being litigated in both forums, one concerning itself with present rates and the other with past rates and possible future conduct.

The Commission finds: (1) The amended petition to intervene filed by the City of Shakopee on October 12, 1976, should be granted.

(2) It is desirable and in the public interest that the settlement agreement submitted by Northern States in this proceeding be accepted, subject a future determination of the price sequeeze issue.

(3) Good cause exists to sever and set for hearing the issue of whether or not a price squeeze is caused by the rates set forth in the proposed settlement agreement.

The Commission orders: (A) The City of Shakopee's petition to intervene is hereby granted.

(B) The Stipulation and Agreement submitted by Northern States, and incorporated herein by reference, is approved. Such approval does not constitute a determination with respect to the merits of the price squeeze allegations raised by the City of Shakopee.

(C) The price squeeze issue is hereby severed and set for hearing in this docket.

(D) Within 60 days of the issuance of this order Applicant shall file a revised cost of service and any necessary amendments to its rate schedules in lieu of those at issue herein, in accordance with the findings and conclusions on this decision, subject to the approval of the Commission.

(E) Within 30 days of the Commission's approval of Applicant's substitute tariff sheets, Applicant shall refund to its customers all amounts, if any, collected in excess of those which would have been payable under the rates and charges approved in this proceeding, together with interest at a rate of nine percent per annum from the date of payment to Applicant to the date of refund.

(F) Within 15 days after refunds have been made Northern States shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and adjudicated rates; monthly adjudicated rate increase, monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customer distributes and sells electric energy at retail.

[3] Order No. 563, Docket No. RM76-29 (March 21, 1977).

[4] *Cf., Carnation Co. v. Pacific Westbound Conference* 383 U.S. 213, 222 (1966).

(G) Pursuant to the authority of the Federal Power Act, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter 1) a prehearing conference shall be held before a Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge, at a date to be designated by the Presiding Administrative Law Judge, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(H) The Presiding Administrative Law Judge shall preside at the initial conference in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Pratcice and Procedure).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15234 Filed 5-26-77;8:45 am]

[Docket No. CP77-380]

NORTHWEST PIPELINE CO.

Application

MAY 20, 1977.

Take notice that on May 13, 1977, Northwest Pipeline Company (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-380 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a one-inch farm-type tap and necessary appurtenances located on Applicant's 6⅝-inch O. D. Coeur d'Alene Lateral in Kootena County, Idaho, all as more fully set forth in the application on file with the Commission and open to public inspection.

Pursuant to the Commission's order issued January 9, 1961, in Docket No. CP61-108 as amended, El Paso Natural Gas Company (El Paso), Applicant's predecessor in interest, was authorized inter alia, to construct and operate a line tap and necessary appurtenances on El Paso's O. D. Coeur d'Alene Lateral for the purpose of selling natural gas to Washington Water Power Company (Water Power) for resale to the U.S. Forest Service located at Coeur d'Alene, Idaho. Applicant states that service at such location is currently being rendered by Applicant to Water Power under the terms and conditions of a service agreement dated May 4, 1974, providing for the sale and delivery of gas on a firm basis.

It is indicated that Water Power has informed Applicant of its intent to extend its present distribution system to include the service to the U.S. Forest Service location, and that the service rendered by Applicant at the subject tap would no longer be required. The facilities as presently installed do not permit orderly maintenance and require that deliveries to the U.S. Forest Service be disrupted during inspection and repairs, it is said. Applicant states that Water Power has a distribution line in the immediate vicinity of the tap serving the Forest Service and has indicated its willingness to continue to deliver gas directly to Forest Service. Water Power would be required to extend its distribution main approximately 1,130 feet at a cost of approximately $2,600 in order to continue to serve the Forest Service without Applicant having to upgrade its facilities, it is asserted. Applicant further states that there would not be any interruption, reduction or termination of natural gas service rendered by Applicant to Forest Service as a result of the abandonment and that it would continue to provide Water Power with the gas it requires to meet its requirements in Water Power's Coeur d'Alene service area.

Applicant proposes to remove and salvage the surface materials of the line tap and necessary appurtenances, and to place such items in stock pending need therefor, and to abandon in place the subsurface tap. It is stated that the total estimated cost of the facilities to be abandoned is $249.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15230 Filed 5-26-77;8:45 am]

[Docket No. CP77-379]

NORTHWEST PIPELINE CORP.

Application

MAY 20, 1977.

Take notice that on May 13, 1977, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-379 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for and the exchange of approximately 500 Mcf of natural gas per day with Mountain Fuel Supply Company (Mountain Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to a gas purchase contract dated August 5, 1976 between Mountain Fuel and Marathon Oil Company (Marathon), Mountain Fuel acquired a 33.75 percent share of the Wilson Ranch No. 2 well which is connected to Applicant's gathering system in Lincoln County, Wyoming. It is further stated that in order to make the volumes of gas to be purchased from Marathon available to Mountain Fuel's transmission system at the least possible investment, Mountain Fuel and Applicant have entered into a Gas Purchase, Transportation and Exchange Agreement (Agreement) dated March 9, 1977. Mountain Fuel proposes to deliver up to 500 Mcf of natural gas per day from the Wilson Ranch No. 2 well to Applicant at a point on Applicant's gathering line located in Lincoln County pursuant to the instant agreement. Applicant states that it would receive for exchange such volumes as are delivered by Mountain Fuel at the well head separator of the Wilson Ranch No. 2 well and would redeliver equivalent volumes, subject to Applicant's right to purchase up to 25 percent of the volumes delivered for transportation and exchange, at an existing point of interconnection between the facilities of Applicant and Mountain Fuel in or near Grange, Wyoming.

Applicant indicates that the term of the agreement is for 10 years and that the price to be paid by Applicant for the gas Mountain Fuel proposes to sell to Applicant would be equal to the purchase gas cost paid by Mountain Fuel to Marathon. The current price being paid for Applicant's share of the Wilson Ranch No. 2 well is 93.0 cents per Mcf adjusted for Btu content. It is stated that Mountain Fuel would pay Applicant its transportation cost-of-service, including a reasonable rate of return, for all costs incurred from the delivery point to the point of redelivery to Mountain Fuel, and that the initial cost-of-service charge would be 18.2 cents per Mcf.

Applicant states that it does not propose to construct any facilities to implement the proposed transportation and exchange service.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15231 Filed 5-26-77;8:45 am]

[Docket No. E-9586]

NORTHWESTERN WISCONSIN ELECTRIC CO.

Declaration of Intention

MAY 23, 1977.

Public notice is hereby given that a declaration of intention was filed on February 28, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by Northwestern Wisconsin Electric Company (Applicant) (Correspondence to: Mr. Hugh H. Bell, Bell, Blake and Metzner, S.C., P.O. Box 1807, Madison, Wisconsin 53701; and Mr. Mark F. Dahlberg, Vice President, Northwestern Wisconsin Electric Co., 104 Pine Street, Grantsburg, Wisconsin 54840) to purchase the Black Brook Dam facilities from Polk County, Wisconsin and install two hydroelectric generating units. The project is located on the Apple River in Polk County, Wisconsin.

The Black Brook Dam facilities were built in 1917–1919 and had been in continuous operation until 1967 when the generating equipment was dismantled and the dam was sold by Northern States Power Company to Polk County. The project would consist of: (1) the existing Black Brook dam, about 131 feet long with a spillway section containing two twelve-foot high tainter gates and one sixteen-foot high tainter gate; (2) the existing 98-acre reservoir, about two miles long; (3) the existing powerhouse, integral with the dam; (4) two proposed turbine generator units rated at 327 kva and 485 kva (650 kW total capacity); (5) a proposed substation; (6) a proposed 15kV transmission line; and (7) appurtenant facilities.

Applicant would enter into a wheeling agreement with Northern States Power Company to transmit the power to the Dairyland Power Cooperative System.

Any person desiring to be heard or to make any protest with reference to said declaration of intention should on or before June 16, 1977, file with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15233 Filed 5-26-77;8:45 am]

[Project No. 2796]

SISKIYOU COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Application for Preliminary Permit

MAY 20, 1977.

Public notice is hereby given that on April 8, 1977, the Siskiyou County Flood Control and Water Conservation District, California (Applicant) filed an application for preliminary permit, pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r) (Correspondence to: Mr. D. A. Gravenkamp, Director of Public Works, Siskiyou County Department of Public Works, 305 Butte Street, Yreka, California 96097, and to: Frank J. DeMarco, Esquire, County Counsel, County of Siskiyou, 304 Lane Street, P.O. Box 659, Yreka, California 96097) for proposed Project No. 2796, to be known as the Lake Siskiyou Power Plant, located on the Sacramento River in Siskiyou County, California. The proposed project would produce hydroelectric power to be used in interstate commerce and might affect lands of the United States located within Shasta National Forest. Project energy would be sold, either to the State of California, a public utility, or an investor-owned utility serving northern California and Southern Oregon.

According to the application, the proposed Lake Siskiyou Power Plant would have a total installed capacity of 4,000 kW and would consist of Applicant's existing Box Canyon Dam and Lake Siskiyou reservoir at elevation 3181 feet with a total storage of 26,000 acre-feet, an existing 60-inch outlet conduit approximately 200 feet long installed in the dam, and a proposed powerhouse adjacent to the dam, containing three turbine-generator units.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license. In this instance, Applicant seeks a 36-month permit.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PUMB,
Secretary.

[FR Doc.77-15211 Filed 5-26-77;8:45 am]

[Docket No. CP77-364]

SOUTHERN CONNECTICUT GAS CO.

Notice of Application

MAY 19, 1977.

Take notice that on May 2, 1977, The Southern Connecticut Gas Company (Applicant), a customer of Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 1540, Bridgeport, Connecticut 06609, filed in Docket No. CP77-365 an application pursuant to Section 3 of the Natural Gas Act for authorization to import up to 250,000 Mcf of vaporous equivalent of liquefied natural gas (LNG) from Montreal, Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import 250,000 Mcf vaporous equivalent of LNG during the months of June and July 1977, from Montreal, Canada to its LNG storage facility located in Milford, Connecticut. Applicant states that the LNG which it proposes to import would be purchased from Gaz Metropolitan Inc. (Gaz Metro) of Montreal, Canada pursuant to a liquefied natural gas sales contract dated March 9, 1977, between Applicant

and Gaz Metro. Gaz Metro would sell the LNG to Applicant at Gas Metro's Montreal storage facility and the LNG would be transported to Applicant's storage facility in Milford, Connecticut by cryogenic tank trucks owned and operated by Gas Incorporated (Gas Inc.), a motor carrier of Lowell, Massachusetts, it is said. Applicant indicates it would pay Gaz Metro $2.60 per Mcf equivalent for all gas delivered during the months of June and July 1977, and would pay Gas Inc., approximately $1.10 per Mcf equivalent to transport this LNG from Montreal to Milford. Applicant asserts that no new or additional facilities are necessary to effectuate this importation of LNG.

Applicant indicates that the LNG proposed to be imported is needed to assist it in meeting its high priority requirements next winter and would be used solely to meet such requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15215 Filed 5-26-77;8:45 am]

[Docket No. CP77-109]

TEXAS EASTERN TRANSMISSION CORP.

Amended Application

MAY 20, 1977.

Take notice that on May 17, 1977, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, filed an Amendment to its application previously filed in Docket No. CP77-109 on December 27, 1976, pursuant to Section 7(c) of the Natural Gas Act and the Regulations thereunder for a certificate of public convenience and necessity for the transportation of gas by Transcontinental Gas Pipe Line Corporation (Transco) of natural gas volumes for Texas Eastern from the Block 110 High Island Area, Offshore Texas.

Within Section V of the application (Footnote 3) Texas Eastern advised the Commission that it would furnish when available, the gas transportation agreement between itself and Transco. The gas transportation agreement dated March 30, 1977, with Transco being filed herewith provides for the receipt of natural gas volumes at the High Island Block 110 "A" Platform and delivery to Texas Eastern at a point of intersection with Texas Eastern's proposed Sabine River facilities, Jefferson County, Texas; all as more fully set forth in the application on file with the Commission, which is open for public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before June 10, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15232 Filed 5-26-77;8:45 am]

[Docket No. E77-45]

TEXAS GAS TRANSMISSION CORP.

Supplemental Emergency Order

By order issued March 3, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), Texas Gas Transmission Corporation (Texas Gas) as agent for certain of its customers,[1] was authorized to purchase approximately 1,500 Mcf of natural gas from United Cities Gas Company (United Cities).

By telegram dated May 13, 1977, Texas Gas requested that the order be amended to permit Texas Gas to purchase up to 2,300 Mcfd of natural gas from United Cities. Texas Gas states that on May 9, 1977, it amended the contract with United Cities to provide for the purchase of these additional volumes.

The March 3, 1977 order in this proceeding is hereby amended to permit Texas Gas, as agent, to purchase up to 2,300 Mcfd of natural gas from United Cities and transport and deliver that gas to the customers for which it is an agent. The provisions of the March 3, 1977 order remain in full force and effect to the extent not inconsistent with the provisions of this order.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and United Cities. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 23, 1977.

[FR Doc.77-15240 Filed 5-26-77;8:45 am]

[Docket No. E77-105]

TEXAS GAS TRANSMISSION CORP.

Emergency Order

On May 16, 1977, Texas Gas Transmission Corporation (Texas Gas) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application to make certain emergency purchases of natural gas, as an agent for certain of its customers,[1] from Louisiana Land and Exploration Company (LL&E). Texas Gas also requests permission to construct those facilities necessary to receive the natural gas purchased and to transport, and deliver this gas to certain of its customers.

By contract executed May 3, 1977, Texas Gas as agent, agreed to purchase 2,000 to 2,500 Mcfd of natural gas from LL&E at the Bayou Piquant Field, Terrebonne Parish, Louisiana. The contract between Texas Gas and LL&E is to terminate on July 31, 1977.

Texas Gas, as agent, will purchase these supplies at a price of $2.25 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2.

Texas Gas, as agent, will receive delivery of the subject gas from LL&E at Terrebonne Parish, Louisiana and transport and deliver such gas to its customers along the Texas Gas Pipeline System at existing delivery points. Texas Gas' proposed transportation rates are based upon the cost data supporting the settlements rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP77-38, and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find no basis for prescribing other charges since the parties have agreed upon the transportation charges.

Further, Texas Gas advises that it will have to construct and install a meter station and 1000 feet of 2-inch pipeline at an estimated cost of $30,915 in order to transport these volumes to its customers. The cost of said facilities will be paid on a pro rata basis by those customers of Texas Gas for whom Texas Gas is acting as an agent.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from LL&E and to transport and deliver such gas for certain of its customers and to construct those facilities necessary to receive the subject gas. This authorization is conditioned on (1) Texas Gas' submission of the names of the customers for which it is acting as agent, and (ii) those customers agreeing to submit reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and LL&E. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MAY 23, 1977.

[FR Doc.77-15243 Filed 5-26-77;8:45 am]

[Docket No. RP77-48]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Denying Application for Rehearing and Request for Stay

MAY 23, 1977.

On May 4, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed an application for rehearing and immediate stay of the Commission's letter order issued on April 27, 1977, in the above-captioned proceeding. The April 27th order rejected Transco's proposed increased rates for interruptible transportation services.

The Commission's rejection of Transco's proposed transportation rates was based upon Transco's failure to comply with the requirements of the Commission's regulations, particularly section 154.63 thereof. However, the rejection was made without prejudice to Transco's right to resubmit its transportation rate proposals in compliance with the applicable regulations. The Commission further pointed out that the proposed transportation rates appeared to duplicate costs already claimed by Transco in Docket No. RP76-136, and would thus result in revenues in excess of Transco's total cost of service.

In its application for rehearing Transco argues that the Commission's rejection exposes it to undercollections in the event the staff's recommended higher transportation rates in RP76-136 are approved by the Commission to be effective prior to the date of decision. Transco therefore prays in the alternative that the Commission announce that any change in the method of cost allocation resulting in higher transportation rates will be made prospective only in Docket No. RP76-136. While the Commission cannot at this time judge the final outcome of the issues in RP76-136, the Commission nevertheless will consider all relevant facts and circumstances, including the potential effect of the rejection of Transco's filing in RP77-48, in reaching a final decision on cost allocation issues in Docket No. RP76-136.

On May 9, 1977, Public Service Company of North Carolina, Inc., Piedmont Natural Gas Company, Inc., and North Carolina Natural Gas Corporation filed a joint answer in opposition to Transco's application for rehearing and request for stay. The North Carolina companies, however, support Transco's alternative request that the Commission's determination of the issue of allocation of costs to interruptible transportation services be prospective only. On May 12, 1977 Pennsylvania Gas and Water Company also filed in support of Transco's alternative request. As indicated above, the Commission will give full consideration to this request in deciding the cost allocation issues in Docket No. RP76-136.

Based upon a review of Transco's application for rehearing and request for stay, the Commission finds that no facts or principles of law have been shown which would warrant any change in the letter order of April 27th, and Transco's application shall therefore be denied.

The Commission orders: (A) Transco's application for rehearing and request for stay filed herein on May 4, 1977, are denied. (B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15229 Filed 5-26-77;8:45 am]

[Docket Nos. CP75-17 and CP75-277]

TRANSWESTERN PIPELINE CO.

Notice of Petition To Amend

MAY 19, 1977.

Take notice that on May 2, 1977, Transwestern Pipeline Company (Petitioner), P.O. Box 2521, Houston, Texas 77001, filed in Docket Nos. CP75-17 and CP75-277 a petition to amend the Commission's order issued November 15, 1976 in said docket (56 FPC ____), so as to authorize the construction and operation of three additional taps to be used for the direct sale of natural gas to its right-of-way grantors and the adjustment of the previously authorized annual volume requirement, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that on March 25, 1975, it filed for certificate authorization in Docket No. CP75-277 for the continued operation of facilities which were being used for the direct sales of natural gas to its 50 right-of-way grantors in various locations along Petitioner's pipeline system in Texas, New Mexico and Oklahoma, and that on December 29, 1975, April 26, 1976, and June 21, 1976, it filed in Docket No. CP75-17 separate petitions to amend the Commission's order issued October 17, 1974 which requested authorization for the construction and operation of 12 additional taps for service to Petitioner's right-of-way grantors in various locations in Texas. By the Commission's order issued November 15, 1976, Petitioner was granted the authorizations sought in Docket Nos. CP75-277 and CP75-17.

Petitioner indicates that by this petition it seeks authorization to construct and operate the following additional facilities:

(1) A one-inch tap, meter and related equipment located in Ellis County, Oklahoma, for the delivery of natural gas to Shatuck Farms, Inc.;

(2) A one-inch tap, meter and related equipment located in Eddy County, New Mexico, for the delivery of natural gas to Mr. W. C. Welch; and

(3) A one-inch tap, meter and related equipment located in Survey, Sherman County, Texas for delivery of natural gas to Vincent Bros.

Petitioner states that the cost of the proposed facilities is estimated to be $33,770, and that it would own the taps and related equipment on its line and would be partially reimbursed by the customers for the cost of taps and all connections, design, installation, inspection, operation and maintenance of the proposed facilities.

Petitioner also seeks authorization to increase the previously authorized annual sales volumes. Petitioner states that the proposed increases are necessary due to the low yearly estimates erroneously made by Petitioner in the absence of sufficient market data in Petitioner's original filings. Annual requirements originally estimated by Petitioner in CP75-17 for Harold Biggs and Floyd Cole of 1,000 Mcf each should be increased to 73,000 Mcf each, for Leon Daugherty (CP75-277) from 139 Mcf to 9,000 Mcf, it is said. It is stated that the new estimates for CP75-277 would increase from 375,995 Mcf to 384,856 Mcf, and the new estimate for CP75-17, including the three new taps, would increase from 199,800 to 498,250 Mcf. The total authorization for farm tap deliveries under the two dockets, including the 13,000 Mcf in the original application in Docket No. CP75-17, would be 896,106 Mcf, less than .4 percent of Petitioner's total 1976 sales volumes, it is said.

Petitioner indicates that the proposed authorization is sought in order to implement agreements entered into by Petitioner to provide direct gas service to the following grantors under the right-of-way grants: William Schultz and wife Marguerite, John Barton Doyle and wife Joretta G. Boyle, Paul Terry and Julia S. Terry, Thelma Vincent and husband, H. L. Vincent. These

[1] These customers are local distribution companies and interstate pipelines as defined in § 2(1), (5) of the Act (91 Stat. 4 (1977)).

[1] These customers are local distribution companies and interstate pipelines as defined in §§ 2(1), (5) of the Act (91 Stat. 4 (1977)).

grantors have reserved in such grants of easements and rights-of-way a right to have a tap installed on Petitioner's pipeline and to purchase natural gas from Petitioner for domestic and agricultural uses, it is said. Petitioner states that it would render natural gas service not in excess of 200 Mcf per day, and that the total service under these contracts is estimated to be 154,450 Mcf of natural gas annually.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 3, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15216 Filed 5-26-77;8:45 am]

[Docket No. ER77-313]

UNION LIGHT, HEAT AND POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Changes, Granting Intervention, Granting Waiver, and Establishing Procedures

MAY 19, 1977.

On April 19, 1977, Union Light, Heat and Power Company (Union) tendered for filing revised rates for service to its single wholesale customer, the City of Williamstown, Kentucky (Williamstown). For the reasons set forth below, the Commission shall accept the tendered rates for filing, suspend their effectiveness for two months and establish hearing procedures to determine the justness and reasonableness of the proposed rates and charges.

Union states that the proposed tariff, FPC Electric Tariff Original Volume No. 1, would cancel and supersede Rate Schedule FPC No. 10, which is the present tariff established in the Contract for Electric Service with the City of Williamstown for the period August 1, 1966 to July 31, 1976. The proposed rates would result in an estimated increase of $137,146 (37%) based upon the twelve month period ended June 30, 1976.

The present rate schedule contains a three step demand charge and a five step energy charge. Union states that the proposed rate schedule changes the present rate by providing for an increased single step demand and energy charge and by changing the demand determination from kilovoltamperes recorded in a fifteen minute interval to the kilowatts for a thirty minute interval.

A comparison of the present and proposed rates is as follows:

Demand Charge	*Energy Charge*
Present	
1st 50 kVA at $112.50	1st 10,000 kWh at 2.5802¢/kWh.
Next 100 kVA at $2/kVA	Next 30,000 kWh at 2.0802¢/kWh.
All over 150 kVA at $1.35/kVA	Next 60 kWh/kVA at 1.5802¢/kWh.
	Next 120 kWh/kVA at 1.4302¢/kWh.
	Additional kilowatt-hour at 1.2302¢/kWh.
Proposed	
All kilowatt at $5.0153/kW	All kilowatt-hour at 1.275¢/kWh.

The proposed rate schedule also contains a fuel adjustment clause, a minimum bill and a 70 percent ratchet provision.

By motion filed on April 19, 1977, as part of its rate filing Union has requested the Commission to waive Section 35.13(b)(4)(iii) of its Regulations Under the Federal Power Act (18 CFR 35.13(b)(4)(iii))[1] which requires that the last day of the twelve months of actual experience upon which the Company's statement of the cost of service is based should be no more than seven months prior to the date of tender for filing of the proposed notice of change in rates. Union's statement of the cost of service contains unadjusted system costs for the twelve months ending June 30, 1976, which is approximately 9½ months prior to the date of its April 19, 1977 filing. In support of its Motion, Union states that it would have filed within the seven month period had it not been for the settlement of the wholesale electric rate for service to Union from the Cincinnati Gas and Electric Company (CG&E),[2] which has a significant impact upon the cost of service for Williamstown. CG&E's proposed rate for Union became effective on August 25, 1976. However, Union states that it did not want to make an adjustment in the cost of service for Williamstown to reflect the increase resulting from the proposed rate when it expected a settlement with CG&E for a lower rate. A settlement was reached with CG&E on April 4, 1977. Union states that it postponed the filing of the revised rates herein beyond the seven-month period so that adjustment to the cost of service for the City of Williamstown would reflect the lower settlement rates. Upon consideration of the motion filed by Union seeking waiver of the "seven month" rule, the Commission concludes that it is appropriate and in the public interest to grant waiver and to allow Union to use the twelve months ending June 30, 1976 as the test year in this proceeding.

Notice of the proposed increase was issued on May 3, 1977, with comments, protests, or petitions to intervene due on May 11, 1977. A Petition to Intervene was filed by Williamstown on May 2, 1977, in which Williamstown alleges that the $137,146 rate increase proposed by Union exceeds a fair rate of return, and Williamstown requests the Commission to suspend the filing for five months. On May 13, 1977, Williamstown filed an Amended Petition to Intervene and Protest in which Williamstown requests a five month suspension, or in the alternative, a suspension period of not less than ninety (90) days.

The Commission's review indicates that the proposed rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, or otherwise unlawful. Accordingly, the Commission shall accept for filing the proposed rate schedules, suspend their use for two months, and establish hearing procedures.

The Commission finds: (1) Good cause exists to accept for filing the proposed rate schedule changes filed herein on April 19, 1977, and suspend the use thereof for two months until July 21, 1977, when they shall be permitted to become effective subject to refund.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of Union's rates as proposed to be revised herein.

(3) Good cause exists to grant the petition to intervene of Union's wholesale customer.

(4) Good cause exists to grant waiver of Section 35.13(b)(4)(iii) of the Commission's Regulations Under the Federal Power Act.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, and the Commission's Rules and Regulations, a public hearing shall be held concerning the justness and reasonableness of the rates and charges included in the subject filing of Union.

(B) Pending a hearing and a final decision thereon, Union's filing is hereby accepted and suspended for two months to become effective on July 21, 1977, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before July 29, 1977. (See Administrative Order No. 157.)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall convene an initial conference in this proceeding on a date certain within 10 days after service of top sheets by the Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions, (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(F) The Petitioner is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) Union shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by Section 35.19a of the Commission's Regulations, 18 CFR 35.19a.

(H) Union's Motion to waive Section 35.13(b)(4)(iii) of the Commission's Regulations Under the Federal Power Act (18 CFR 35.13(b)(4)(iii)) is hereby granted.

(I) The Secretary shall cause the prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15219 Filed 5-26-77;8:45 am]

[1] In its Motion, Union has incorrectly cited the Commission Regulation as Section 35.13(b)(4)(ii).

[2] Docket No. ER76-709.

[Docket No. ER77-311]

UTAH POWER AND LIGHT CO.

Extension of Time

MAY 20, 1977.

On May 13, 1977, and May 16, 1977, respectively, Lincoln Service Corporation and the Utah Division of Public Utilities, Utah Public Service Commission, filed motions for extensions of time within which to file petitions to intervene or protests to the proposed tariff changes tendered for filing in the above indicated docket on April 20, 1977, and noticed April 29, 1977. Both requests state that counsel for Utah Power and Light Company does not object to an extension.

Upon consideration, notice is hereby given that the time for filing petitions to intervene or protests in the above proceeding is extended to and including June 6, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15212 Filed 5-26-77;8:45 am]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

MAY 18, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides:

> At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Legal Aid of Western Oklahoma which is created by the merger of the two programs of Legal Aid Society of Oklahoma County and Southwest Oklahoma Legal Aid Council to serve the counties of Oklahoma, Jackson, Greer, Herman, Comanche, Caddo, Grady and Potawatomie.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado.

THOMAS EHRLICH,
President.

[FR Doc.77-15085 Filed 5-26-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

MUSEUM ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held on June 15, 1977, from 9:15 a.m. to 5:00 p.m., and June 16, 1977, from 9:15 a.m. to 1:00 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

A portion of this meeting will be open to the public on June 15, 1977, from 9:15 a.m. to 1:30 p.m., on a space available basis. Accomodations are limited. The agenda will include a discussion of program guidelines.

The remaining sessions of this meeting on June 15, from 1:30 p.m. to 5:00 p.m., and June 16 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions may be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts and the Humanities.

[FR Doc.77-15137 Filed 5-26-77;8:45 am]

NATIONAL LABOR RELATIONS BOARD

CHAIRMAN'S TASK FORCE ON THE NATIONAL LABOR RELATIONS BOARD

Meeting

The Chairman's Task Force on the National Labor Relations Board will hold open meetings at 9 a.m. on Monday, June 6, 1977, and at 9 a.m. on Tuesday, June 7, 1977, in the Board hearing room and other offices of the Agency located at 1717 Pennsylvania Avenue, NW., Washington, D.C.

The Task Force agenda for both meetings will consist of consideration of the actions taken by the National Labor Relations Board on the Task Force recommendations contained in its interim report, and the continuation of deliberations by the Task Force committees on further recommendations to be made.

Requests for further information on the meeting should be addressed to Mr. Earl D. Proctor, Secretary for the Task Force. He may be reached by telephone on (202) 254-8047.

Dated this 24th day of May 1977 in Washington, D.C.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc. 77-15268 Filed 5-26-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUP REPORTS

Notice of Availability

The National Science Foundation has filed with the Library of Congress reports of those advisory groups which held any closed or partially closed meetings in 1976. The reports were filed in accordance with the Federal Advisory Committee Act. P.L. 92-463, and are available for public inspection and use at the Library of Congress, Rare Book Division, Room 256, Washington, D.C.

In addition, copies of the reports may be obtained by writing the Committee Management Coordination Staff, Division of Personnel and Management, National Science Foundation, Washington, D.C. 20550. The names of the groups submitting reports are:

Ad Hoc Advisory Committee on the Sacramento Peak Observatory
Advisory Committee for Research
Advisory Committee for Science Education
Advisory Committee on Ethical and Human Value Implications of Science and Technology
Advisory Group on Anticipated Advances in Science and Technology
Advisory Group on Contributions of Technology to Economic Strength
Advisory Panel for Anthropology
Advisory Panel for Developmental Biology
Advisory Panel for Earth Sciences
Advisory Panel for Ecological Sciences
Advisory Panel for Economics
Advisory Panel for Genetic Biology
Advisory Panel for History and Philosophy of Science
Advisory Panel for Human Cell Biology
Advisory Panel for Law and Social Sciences
Advisory Panel for Linguistics
Advisory Panel for Memory and Cognitive Processes
Advisory Panel for Metabolic Biology
Advisory Panel for Molecular Biology
Advisory Panel for Neurobiology
Advisory Panel for Oceanography Project Support
Advisory Panel for Political Science
Advisory Panel for Psychobiology
Advisory Panel for Regulatory Biology
Advisory Panel for Science Education Projects
Advisory Panel for Sensory Physiology and Perception
Advisory Panel for Social and Developmental Psychology
Advisory Panel for Sociology
Advisory Panel for Systematic Biology
Advisory Panel for Weather Modification
Advisory Panel on the Materials Research Laboratories
Alan T. Waterman Award Committee
International Decade of Ocean Exploration Proposal Review Panel
National Magnet Laboratory Visiting Committee
President's Committee on the National Medal of Science
Joint Meeting of the Ecological Sciences and Systematic Biology Panel

Dated: May 23, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15172 Filed 5-26-77;8:45 am]

ADVISORY PANEL FOR DEVELOPMENTAL BIOLOGY PCM/BBS

Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Developmental Biology/PCM/BBS.

DATE AND TIME: June 13, 14, 15, 1977. 9:00 AM-5:00 PM.

PLACE: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed

CONTACT PERSON: Dr. Mary E. Clutter, Program Director, Developmental Biology, Room 326, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-4314.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in the Developmental Biology Program.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: May 24, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15175 Filed 5-26-77;8:45 am]

ADVISORY PANEL FOR POLITICAL SCIENCE

Notice of Meeting

In accordance with the Federal Advisory Committee Act. P.L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Political Science.

DATE AND TIME: June 14, 1977—9:00 a.m. to 5:00 p.m.; June 15, 1977—9:00 a.m. to 5:00 p.m.

PLACE: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C.

TYPE OF MEETING: Closed, June 14, 1977—9:00 a.m. to 5:00 p.m.; Open, June 15, 1977—9:00 a.m. to 12:00 p.m.; Closed June 15, 1977—1:30 p.m. to 5:00 p.m.

CONTACT PERSON: Dr. Richard E. Dawson, Program Director, Political Science Program, Room 316, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4348.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in Political Science.

AGENDA CLOSED SESSIONS: To review and evaluate research proposals and projects as part of the selection process for awards.

AGENDA, OPEN SESSIONS: Discussion with panel members about program goals for the Political Science Program and to identify research topics that should receive special emphasis from the Program in the future.

REASON FOR CLOSING: The proposals being reviewed include: Information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 18, 1977.

Dated: May 24, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-15174 Filed 5-26-77;8:45 am]

FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION MANAGERS

Meeting

A special meeting of the Federal Scientific and Technical Information Managers will be held on Tuesday, June 14, 1977, from 10:00 a.m.—12:00 noon, at the National Academy of Sciences, Constitution Avenue, NW, Room 250. The theme of this meeting will be the "Status of the US/USSR Working Group on the Development and Testing of a Common Machine-Readable Format," by Thomas E. Hughes, Library of Congress, and members of his Panel.

These meetings, sponsored by the National Science Foundation, provide a forum for the interchange of information concerning common problems and coordination among public and private scientific and technical information systems.

Any persons wishing to attend this meeting or requiring further information should notify Mr. Andrew A. Aines, Division of Science Information, National Science Foundation, 1800 G Street NW., Washington, DC 20550, telephone: (202) 632-5836.

LEE G. BURCHINAL,
Director, Division of Science Information.

MAY 23, 1977.

[FR Doc.77-15173 Filed 5-26-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

NATIONAL ADVISORY COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES

Open Meeting

Pursuant to Executive Order 11671, the Federal Highway Administration announces the meeting dates and relevant information for the mid-year meeting of the National Advisory Committee on Uniform Traffic Control Devices. The meeting will be held June 22-24, 1977, at the Holiday Inn-Downtown, 88 Spring Street, Portland, Maine. The full Committee will convene at 1:00 p.m. June 22. Subcommittee meetings will be held June 22 and June 23 and the full Committee will reconvene at 8:30 a.m. June 23.

Attendance by the public will be limited to space available. For further information contact the Office of Traffic Operations, Federal Highway Administration, Washington, D.C. 20590, Code 202-426-0411.

Purpose. This Committee reviews currently approved standards, guides and warrants for traffic control devices contained in the Manual on Uniform Traffic Control Devices, the national standards for all classes of highways. Recommendations on revisions and proposed new standards to meet new developments and improvements are developed as needed.

Agenda. Agenda items will include recommendations relative to proposed additions to or revisions in traffic control device standards prepared by the technical subcommittees on signs, signals, markings, traffic controls for construction and maintenance areas, bicycle facilities and grade crossings as advice to the Federal Highway Administration in developing appropriate standards as authorized in 23 U.S.C. 109(d) and 402(a).

DAVID M. BALDWIN,
Acting Director, Office of Traffic Operations, Federal Highway Administration.

[FR Doc.77-15168 Filed 5-26-77;8:45 am]

NATIONAL ADVISORY COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES

Reestablishment

Notice is hereby given that the National Advisory Committee on Uniform Traffic Control Devices is being reestablished effective June 10, 1977. The Federal Highway Administration, Office of Traffic Operations, is the sponsor of the Committee which consists of a group of experts on traffic control devices. The Committee periodically reviews currently approved standards, guides and warrants for traffic control devices as contained in the Manual on Uniform Traffic Control Devices, approved by the Federal Highway Administrator under the authority granted in 23 U.S.C. 109(b), 109(d), and 402(a) and recommends revisions and new standards to meet new developments and improvements.

The Secretary of Transportation has determined that the formation and use of the National Advisory Committee on Uniform Traffic Control Devices is necessary in the public interest in connection with the performance of duties imposed on the Federal Highway Administration by law. Meetings of the Committee will be open to the public.

This notice is given in compliance with Pub. L. 92-463.

Issued in Washington, D.C., on May 23, 1977.

DAVID M. BALDWIN,
Acting Director, Office of Traffic Operations.

[FR Doc.77-15169 Filed 5-26-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 165]

CERTAIN INTERNAL REVENUE SERVICE OFFICIALS

Delegation of Authority Regarding Responses to Appeals; Freedom of Information Act

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authority of the Commissioner of Internal Revenue to respond to appeals filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, to acknowledge receipt of FOIA appeals, and to assert mandatory extensions of the FOIA appeal time limits is redelegated to certain Internal Revenue Service officials. The text of the delegation order appears below.

EFFECTIVE DATE: May 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Christina M. Burkeholder, CC:D:F, 1111 Constitution Avenue, NW., Room 3552, Washington, D.C. 20224, 202-566-3321 (Not toll free).

MICHAEL B. FROSCH,
Chief, FOI and Privacy Branch Disclosure Division.

[Order No. 165]

RESPONSES TO APPEALS FILED PURSUANT TO THE FREEDOM OF INFORMATION ACT 5 U.S.C. 552 [FOIA]

The authority vested in the Commissioner of Internal Revenue by 31 CFR 1.5(h) and Appendix B(4) to respond to administrative appeals filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, is hereby delegated to the Deputy Commissioner. This authority may not be redelegated.

In addition, the authority vested in the Commissioner by 31 CFR 1.5(h)-(i) to acknowledge receipt of FOIA appeals and assert mandatory extensions of FOIA appeal time limits is hereby delegated to the Director, Disclosure Division. This authority may be redelegated to the level of Branch Chief, Disclosure Division.

Date of issue and effective date: May 23, 1977.

JEROME KURTZ,
Commissioner.

MAY 20, 1977.

[FR Doc.77-15269 Filed 5-26-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 399]

Assignment of Hearings

MAY 24, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 109533 Sub 84, Overnite Transportation Company now being assigned September 12, 1977 (2 weeks) at Charleston, West Virginia in a hearing room to be later designated.
MC 81533 (Sub-14), South Bend Freight Lines, Inc., now being assigned July 19, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.
MC 100666 (Sub-333), Melton Truck Lines, Inc., now being assigned July 20, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.
MC 123407 (Sub-334), Sawyer Transport, Inc. and MC 136828 (Sub-11), Cook Transports, Inc., now being assigned July 21, 1977 (1 day), at Chicago, Illinois, in a hearing room to be later designated.
MC 128270 Sub 20, Redlehs Interstate, Inc. now being assigned July 14, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.
MC 135236 Sub 12, Logan Trucking, Inc. now being assigned July 12, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.
MC 139193 (Subs-47 & 49), Robert & Oake, Inc., now being assigned July 22, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.
MC 117940 (Sub-190), Nationwide Carriers, Inc., now being assigned July 25, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.
MC 140033 (Sub-19), Cox Refrigerated Express, Inc., now being assigned July 26, 1977 (1 day) at Chicago, Illinois, in a hearing room to be later designated.
MC 142555, Emerson Delivery, Inc., now being assigned July 27, 1977 (3 days) at Chicago, Illinois, in a hearing room to be later designated.
MC 114211 Sub 287, Warren Transport, Inc. now being assigned July 11, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.
MC 720 Sub 20, Bird Trucking Co., Inc. now being assigned July 7, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.
MC 117883 Sub 209, Subler Tranafer, Inc. now being assigned July 6, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 101186 (Sub-No. 14), Arledge Transfer, Inc., now being assigned for continued hearing on June 28, 1977 (2 days), in Hearing Room B, Iowa State Office Building, 300 4th Street, Des Moines, Iowa.

MC-F 12753, Whitfield Transportation, Inc.—Purchase—Haywood L. Washum, dba Los Angeles-Yuma Freight Lines and MC 108461 Sub 126, Whitfield Transportation, Inc. now being assigned September 12, 1977 (1 week) at Roswell, New Mexico and September 19, 1977 (1 week) at El Paso, Texas for continued hearings in hearing rooms to be later designated.

MC 141848, Yellow Enterprise Systems, Inc. now being assigned September 26, 1977 (1 week) at Louisville, Kentucky in a hearing room to be later designated.

MC 124796 Sub 67, Continental Contract Carrier Corp. now being assigned September 22, 1977 (2 days) at Nashville, Tennessee in a hearing room to be later designated.

MC 107295 Sub 697, Pre-Fab Transit Corp. now being assigned September 20, 1977 (2 days) at Nashville, Tennessee in a hearing room to be later designated.

MC 52979 (Sub-No. 17), Hunt Truck Lines, Inc., now being assigned July 18, 1977, at Des Moines, Iowa, in a hearing room to be later designated.

MC 2890 Sub 51, American Bus Lines, Inc., MC 41638 Sub 6, Delux Trailways, Inc., MC 54591 Sub 9, Southeastern Trailways, Inc.

MC 66810 Sub 20, Peoria-Rockford Bus Company and MC 109780 Sub 72, Continental Trailways, Inc. now being assigned September 13, 1977 (4 days) at Chicago, Illinois and continued September 19, 1977 (2 days) at Rockford, Illinois and September 22, 1977 (2 days) at St. Louis, Missouri in hearing rooms to be later designated.

MC 142467, Hugh A. Mitchell, DBA Mitchell Special Emergency Hauling Service, now being assigned July 25, 1977, at Jackson, Miss., in a hearing room to be later designated.

MC 1301198 (Sub-No. 1), Robert Gavin & Associates, Inc., now assigned June 1, 1977, at Madison, Wis. is canceled and transferred to Modified Procedure.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15254 Filed 5-26-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 138]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

It appearing, that there are substantial shortages of plain gondola cars on the lines of the Missouri Pacific Railroad Company (MP); that there is an available supply of such cars on the National Railways of Mexico (NDM); that the NDM has consented to use by the MP of certain of these cars; and the MP has secured clearance from the United States Customs Service for use of these cars provided they are interchanged from and to the NDM exclusively by the MP; and that use of these cars by the MP will substantially relieve gondola car shortages on the MP.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars owned by the National Railways of Mexico (NDM) identified herein may be used by the Missouri Pacific Railroad Company (MP) without regard to the requirements of Car Service Rules 1 and 2.

It is further ordered, That NDM plain gondola cars identified herein available empty on lines other than the MP must be returned to the MP either loaded or empty and may not be returned to the NDM by any line other than the MP, regardless of the requirements of Car Service Rules 1 and 2; and

It is further ordered, That this exemption is applicable to freight cars owned by the NDM identified in Appendix A hereto.

Effective May 9, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., May 9, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

APPENDIX A TO
REVISED EXEMPTION NO. 138

REPORTING MARKS NDM

055055 055064 055222 055237 055305 055315 055500 055520 055567 055577
055598 055816 055826 055845 055908 055992 056106 056189 056406 082083
082784 082544 083606 083673 083708 083716 084102 084218 084607 084751
084782 084797 084884 085432 085514 086045 086056 086737 086749 086753
086762 086786 086790 086793 086797 086798 086804 086806 086807 086813
086815 086824 086830 086855 086861 086862 086872 086875 086879 086901
086907 086910 086923 086925 086946 086949 086950 086956 086965 086982
086989 087010 087027 087066 087072 087081 087088 087089 087090 087098
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087199 087230 087234 087244 087254 087256 087258 087262 087266 087267
087270 087274 087279 087281 087289 087300 087314 087320 087325 087327
087351 087362 087364 087374 087378 087390 087394 087403 087409 087410
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087465 087466 087469 087480 087492 087495 087498 087513 087529 087533
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088404 088418 088420 088428

TOTAL 264

055028 055067 055073 055131 055262 055296 055313 055318 055510 055523
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055833 055843 055880 055928 055961 056000 056024 056055 056193 056271
056321 056445 056457 056480 056499 083573 084004 084290 084301 084544
084634 084799 084866 084989 085040 085191 085257 085319 085342 085450
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087425 087528 087532 087580 087597 087613 087625 087686 087697 087714
087756 087805 087814 087991 088060 088125 088126 088133 088165 088181
088191 088322 088342 088347 088417 088567 088627

TOTAL=0097

[FR Doc.77-15041 Filed 5-26-77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC–85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission within 20 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P–4–77 (Special certificate-waste products), filed March 16, 1977. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, Calif. 90280. Applicant's representative: Lucy Kennard Bell, 606 South Olive St., Suite 825, Los Angeles, Calif. 90014. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *aluminum or steel (tin) containers, aluminum household scrap, bottles, glass, and paper products*, from points in Arizona, to points in California, in furtherance of recognized pollution control programs sponsored by (1) The Beverage Industry Recycling Program, located in Phoenix, Ariz., and (2) Commercial Waste Paper Company, Inc., located at South El Monte, Calif., for the purpose of collecting recyclable waste products for recycling.

P–9–77 (Special certificate-waste products), filed April 21, 1977. Applicant: FOOD CARRIERS, INC., P.O. Box 2287, Savannah, Ga. 31402. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St., N.W., Washington, D.C. 20004. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste paper*, from points in Florida, to Savannah, Ga., in furtherance of a recognized pollution control program sponsored by: Union Camp Corporation, of Savannah, Ga., for the purpose of collecting and transporting waste paper for recycling.

P–10–77 (Special certificate-waste products), filed April 27, 1977. Applicant: Robert F. Kazimour, d.b.a. ROBERT F. KAZIMOUR TRANSPORTATION COMPANY, P.O. Box 2011, Cedar Rapids, Iowa 52403. Applicant's representative: George L. Hirschbach, 5000 South Lewis Boulevard, Sioux City, Iowa 51102. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *waste products for recycling or reuse*, dry, in packages, from the plantsite and storage facilities of the Milwaukee Sewerage Commission of the City of Milwaukee, Wis., located at or near Milwaukee, Wis., to points in Arizona, Arkansas, California, Illinois, Indiana, Iowa, Kentucky, Missouri, Nevada, New Mexico, Ohio, Oregon, Tennessee, Texas, Utah and Washington, in furtherance of a recognized pollution control program sponsored by the Milwaukee Sewerage Commission of the City of Milwaukee, Wis., for the purpose of reuse of recycled waste materials.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–15255 Filed 5–26–77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

TIME AND DATE: 12:15 p.m., May 24, 1977.

PLACE: Telephone conference.

STATUS: Closed to the public.

MATTERS CONSIDERED:

A matter closed to the public under § 1612.13(a) of the Commission's regulations. (42 FR 13830, March 14, 1977)

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at (202–634–6748).

This Notice Issued May 25, 1977.

[S–510–77 Filed 5–25–77; 10:02 am]

2

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 10 a.m., June 1, 1977.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Appeal of Jugolinija's Special Permission No. P–2441–I.
2. Agreement No. 57–104, Amendment of the Appendix to the Pacific Westbound Conference Agreement.
3. Agreement No. 10281, Administrative Agreement of the Trans-Atlantic Associated Freight Conferences.
4. Agreement No. T–3130–3, Between the City of Anchorage (Port) and Totem Ocean Trailer Express, Inc.
5. Orlando A. Puig d/b/a Houston Export International (FMC License No. 1744).
6. Agreement No. 10118–3—Atlantic Steamship Energy Conservation Agreement.

Portions closed to the public:

1. Civil Penalty Compromise Guidelines.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202–523–5727).

[S–508–77 Filed 5–24–77;4:05 pm]

3

AGENCY HOLDING THE MEETING: Federal Power Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published May 23, 1977 (S464–77).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., May 24, 1977.

CHANGE IN THE MEETING: The following items have been added to the agenda upon the affirmative vote of Chairman Dunham, Commissioners Smith, Holloman and Watt.

G–26. Docket No. RP74–21, United Gas Pipe Line Company.

G–27. Docket Nos. RP71–130, RP72–58 and RP75–111, Texas Eastern Transmission Corporation.

G–29. Amoco Production Company, Rate Schedule No. 439.

M–2. Docket No. RM76–15, Regulation of Small Producer.

The following items have added to the agenda upon the affirmative vote of Commissioners Smith, Holloman and Watt.

G–30. Docket Nos. CP75–158 and CP77–267, Consolidated Gas Supply Corporation.

G–31. Docket No. RP77–94, Western Gas Interstate Company.

G–32. Docket No. RP77–62, Tennessee Gas Pipeline Company, A Division of Tenneco Inc.

G–33. Docket No. RP77–57, National Fuel Gas Supply Corporation.

KENNETH F. PLUMB,
Secretary.

[S–506–77 Filed 5–24–77;2:40 pm]

4

AGENCY HOLDING THE MEETING: Federal Reserve System.

CHANGE IN TIME OF MEETING: The time of the May 27, 1977, closed meeting of the Board of Governors of the Federal Reserve System at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., has been changed from 10 a.m. to 12 noon.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202–452–3204).

Board of Governors of the Federal Reserve System, May 24, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S–505–77 Filed 5–24–77;2:40 pm]

5

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Wednesday, June 1, 1977, at 10 a.m., a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. Possible amendments to Section 23A of the Federal Reserve Act to be submitted to the House and Senate Banking Committees. This matter was originally scheduled for a meeting on May 4, 1977.
2. Computer purchase by the Federal Reserve Board. This matter was originally scheduled for a meeting on May 20, 1977.
3. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b (c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202–452–3204).

Board of Governors of the Federal Reserve System, May 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–504–77 Filed 5–24–77;2:40 pm]

6

AGENCY HOLDING THE MEETING: National Mediation Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S–488–77, published on May 25, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Wednesday, June 1, 1977.

CHANGES IN THE MEETING: Addition to matters to be considered. Amendment to Section 310.0 of the Mediator's Manual—Representation Procedures pertaining to the distribution of employee addresses furnished by Carriers for the purpose of conducting a mail ballot election.

SUPPLEMENTARY INFORMATION: Chairman McMurray and Board Members Ives and Stowe have determined by recorded vote that Agency business requires this change and that no earlier announcement of such change was possible.

(Date of Notice: May 24, 1977.)

[S–507–77 Filed 5–24–77;4:05 pm]

7

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following closed meetings during the week of May 23, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 24 at 10 a.m., and Wednesday, May 25 after the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission or his designee, has certified, that in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)A and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans and Pollack voted to hold the aforesaid meetings in closed session.

The subject matter of the closing meeting scheduled for Tuesday, May 24 will be:

Formal orders of investigation
Institution of injunctive actions
Institution of administrative proceedings
Settlement of administrative proceedings
Referral of investigative files to Federal, State or self regulatory authorities
Proposal for exchange listing of certain securities

The subject matter of the closed meeting scheduled for Wednesday, May 25 will be:

Suspension of trading
Freedom of Information Act appeal
Institution of administrative proceeding
Other litigation matter

FOR INFORMATION CONTACT:

Philip N. Lee (202–755–1234).

MAY 23, 1977.

[S–509–77 Filed 5–25–77; 8:45 am]

federal register

FRIDAY, MAY 27, 1977

PART II



DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

■

RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT

Claims Procedure for Employee Benefit Plans

federal

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS

SUBCHAPTER G—ADMINISTRATION AND ENFORCEMENT UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2560—RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT

Claims Procedure for Employee Benefit Plans

AGENCY: Department of Labor.

ACTION: Final rules, and interim rules pending adoption of final rules.

SUMMARY: This regulation sets the rules for the claims procedure which ERISA requires all plans to have. The rules are designed to insure that plan participants and beneficiaries have their claims for benefits handled by their plans in a fair way.

DATES: Effective date October 1, 1977. Comments must be received by July 31, 1977.

ADDRESS: Data, views and arguments should be submitted to the Office of Regulatory Standards and Exceptions, Room C-4526, U.S. Department of Labor, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Judith Bleich Kahn, Pension and Welfare Benefits Programs, United States Department of Labor, Washington, D.C. (202 523-8686).

SUPPLEMENTARY INFORMATION: The supplementary information on these rules is divided into two parts. Part I, "Description of the Rules", is a general, nontechnical description of what the rules require. It is written for the reader who is not a professional or an expert in the field of employee benefit plans. Part I is designed to help readers to find the sections of the regulation or of the Part II technical explanations that they need for more detailed information. Part II, "Technical Explanation of the Regulation", contains discussions of the background and major issues involved, or significant differences between the proposed sections published in the FEDERAL REGISTER on December 4, 1974 and the final sections published here, and of substantive public comments on the proposals, as well as detailed explanations of certain technical requirements.

PART I—DESCRIPTION OF THE RULES

SCOPE

This regulation applies to all plans which are covered under ERISA except apprenticeship plans. Apprenticeship plans are excluded by subsection (1) of the regulation. Special rules are provided for some plans maintained under labor contracts.

PURPOSE

ERISA requires employee benefit plans to provide reasonable steps for handling claims for benefits filed by participants. If a claim is filed and the plan refuses to pay benefits, the plan must notify the participant. The plan must also offer a chance for a full and fair review of the refusal to pay benefits.

FILING A CLAIM FOR BENEFITS

A plan must set up reasonable rules for filing a claim. The rules must be described in the summary plan description. If a plan fails to set up these rules, the participant or beneficiary may present the claim to the unit or office which normally handles claims. For instance, if an employer's personnel office normally handles claims, a participant can present the claim to anyone working in the personnel office.

The rules allow the plan administrator to take a reasonable amount of time to decide whether to pay benefits. The administrator must decide within 90 days of when the claim is filed. In some special cases, more than 90 days may be needed to decide. If a special case comes up, the administrator shall notify the participant and explain why more time is needed. After giving the notice, the plan administrator may take up to another 90 days to make the decision.

DENIED CLAIMS FOR BENEFITS

If a claim is denied, the administrator shall notify the participant. This notice must explain in detail why the claim was denied. If the claim is denied because the administrator needs more information to make a decision, the administrator must tell the participant what is needed. The notice must also explain the rules of the plan for reviewing the decision to deny the claim.

If the participant doesn't get any answer at all in 90 days—or 180 days, if it's a special case—this is the same as denying the claim. The participant can use the plan rules for appealing denied claims.

REVIEW PROCEDURE

Every plan must set up rules for reviewing denied claims. The review must be full and fair. The review must be done by someone with authority to make a final decision on the claim. As part of the review the participant must be allowed to see all plan documents and other papers which affect the claim. The participant must be allowed to argue against the denial in writing. The participant must also be allowed to have a representative if he or she wishes. The plan rules must give the participant at least 60 days after the claim denial to request this review.

DECISION ON REVIEW

The plan must conduct the review and decide on the appeal within 60 days after the request for review is made. In special cases, more time may be needed to make the decision on review. If the plan notifies the participant that there will be a delay and explains the reasons for needing more time, the plan may have 60 days more.

Some plans provide for review by a committee or board. These plans do not have to decide within the 60 day limit if the committee or board meets at least four times a year (about every 90 days). Instead, they must decide the matter, ordinarily, at the first meeting after the request is filed. The exception is when a request is made less than thirty days before a meeting. Then a decision can wait until the next meeting. Sometimes a hearing must be held. This may cause a delay. In such case, the committee can wait to make its decision until the first meeting after the hearing. If it waits, the committee must notify the participant and explain the delay. If the decision on review is not made within the time limits, the appeal will be considered denied.

The decision must be in writing and it must be clear and understandable. Exact reasons must be given for the decision, not just general statements.

INSURED PLANS

Certain special rules apply to plans run by an insurance company. The claims procedure can be operated by such company. This means that the insurance company can give notice of a decision on a claim, it can review that decision, and it can make the final decision.

COLLECTIVELY BARGAINED PLANS

Some plans maintained under labor contracts do not have to follow the rules set forth above, but may use the grievance and arbitration provisions of the collective bargaining agreement as the claims procedure. This does not apply to "Taft-Hartley" plans administered by a joint board. Some of these plans are also called multiemployer plans. Taft-Hartley plans must have a claims procedure which follows the general rules.

PART II—TECHNICAL EXPLANATION OF THE REGULATION

On December 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 42242) of a proposal to adopt Part 2560 of Title 29, later redesignated as proposed § 2560.503-1 of Title 29, which set forth certain minimum requirements for claims procedures established by employee benefit plans. Interested persons were invited to submit written comments on the proposed regulation. After consideration of all such comments received, § 2560.503-1 is adopted in the form set forth below, pursuant to the authority of sections 102, 503 and 505 of the Employee Retirement Income Security Act of 1974 (the Act).

Section 503 of the Act requires that an employee benefit plan which denies a claim for plan benefits give the participant or beneficiary who made the claim (the claimant) adequate written notice of denial and a reasonable opportunity for a full and fair review. The Secretary of Labor is authorized to prescribe regulations concerning the notice and review procedures which plans must establish.

Section 2560.503-1 sets out minimum requirements which the benefit claims procedures of covered plans must meet to be deemed reasonable. It should be noted that a claims procedure which meets the minimum requirements set forth in this regulation nevertheless

may be deemed not reasonable if it contains other provisions which unduly inhibit or hamper the initiation or processing of plan claims. For example, a claims procedure may be deemed unreasonable if it requires a claimant to file a complicated claim form before the claim is considered properly filed, or if it requires the payment of a fee as a condition for filing a claim or obtaining review of a denied claim. It should be noted that a procedure which is reasonable on its face may be deemed unreasonable if it is administered in such a way as to unduly inhibit or hamper the initiation or processing of plan claims.

Paragraph (a) explains the scope and purpose of section 2560.503-1. Paragraph (b) states the general requirement that a plan's claims procedure must be reasonable, and provides certain rules under which a plan's claims procedure will be deemed reasonable.

Subparagraph (b)(1)(ii) states that a claims procedure must be described in the summary plan description, as required by § 520.102-3, to be deemed reasonable. This does not require any special revision of the summary plan description (See § 2520.102-3), nor does it modify § 2520.102-3. However, if the claims procedure is not described in the initial SPD, a summary of material modifications will be required pursuant to 2520.104b-3.

Subparagraph (b)(2) expands in a number of ways the provision in the proposed regulation which stated that plans established and maintained pursuant to a collective bargaining agreement which provides for grievance and arbitration of plan benefits claims are deemed to contain a reasonable claims procedure. First, a grievance and arbitration procedure could be constructed so as to commence only upon an adverse action having been taken against an employee, i.e., only after the denial of a claim. In such a case, there would be no provisions governing the filing of claims and the disposition of them. Therefore, the regulation distinguishes between procedures up to and including the initial denial of a claim, and procedures concerning review of a denied claim. If the plan is not subject to collectively bargained procedures for handling claims up to and including the point of the initial denial of a claim, the plan must establish procedures which comply with paragraphs (d) through (f) of the regulation. Second, the collectively bargained procedures must be described in the collective bargaining agreement or incorporated therein by specific reference.

For example, mere inclusion in the collective bargaining agreement of a grant of authority to plan trustees to establish a claims procedure would not be sufficiently specific; similarly, the object of an incorporation by reference must be a particular set of written rules. Third, subparagraph (b)(2) is applicable only to collectively bargained plans which are not subject to the joint representation provisions of section 302(c)(5) of the Labor Management Relations Act, 1947 (i.e., which are not Taft-Hartley plans). Taft-Hartley plans are therefore subject to the requirements of paragraphs (d) through (h) of § 2520.503-1. Comments received on the proposed regulation urged that Taft-Hartley plans should be required to meet the general provisions of this regulation in view of the dual roles of the employee organization in representing employees and in participating in the operation of the plan. The latter role may not always be consistent with the former. Finally, the reference to "binding" arbitration in proposed § 2560.2 has been deleted to avoid any inference regarding the substantive effect of arbitration under section 503 of the Act. Section 503 establishes only procedural requirements for a claims procedure, and the regulation has been modified to conform to this principle.

Although it might be objected that collectively bargained grievance and arbitration procedures can deviate in significant ways from the general rules in the regulation, particularly the various time requirements, it is the Department's view that such arrangements should not be disturbed. Collectively bargained grievance and arbitration procedures constitute agreements reached at arm's length which accommodate a variety of interests in the employer-employee relationship. In this context, employee benefit plan claims are one among many categories of grievable disputes which may arise under a collective bargaining agreement. As a matter of policy, the Department believes that it should not interfere with the operation of such agreements merely because they involve employee benefit plan claims.

Paragraph (c) of the regulation (proposed § 2560.4) has been amended to apply not only to insured welfare plans but to insured pension plans as well. Comments received on this provision argued persuasively that the rule it establishes should be made applicable to both types of plans. Additionally, the paragraph has been clarified to deal only with the filing and processing of original claims and the issuance of initial decisions on them, rather than on the review process. Insurance company handling of the review of denied claims and issuance of final decisions is addressed in subparagraph (g)(2).

Under paragraph (d), a plan may establish reasonable procedures for the initial filing of a claim. If there are no such reasonable rules, paragraph (d) establishes rules which ensure that any communication reasonably calculated to bring the claim to the plan's attention will constitute filing. Also, paragraph (d) has been expanded, pursuant to comments, to include plans whose benefits are provided or administered by an insurance company, insurance service, or other similar organization. Thus, any communication regarding a claim which is delivered to the insurer of an insured plan which lacks a reasonable procedure for the initial filing of a claim will constitute a proper filing of that claim.

Paragraph (e) of the regulation makes final the terms of proposed § 2560.5, which require that a plan issue any notice of denial of a claim for benefits within a reasonable period of time after receipt of the claim. Comments received on proposed § 2560.5 suggested the establishment of more specific time limit requirements within which an initial decision on a claim should issue. Fixing specific time limits, the comments advised, would induce plans to process the initial claim promptly, and would eliminate unreasonable delays in responding to claims. As adopted, the regulation retains the standard of reasonableness but provides that in no event will a period of more than 90 days be deemed reasonable, unless special circumstances require an extension for an additional period of no more than 90 days. If the plan fails to act on the claim within these periods of time, paragraph (e) provides that the claim is deemed denied and the claimant may proceed to the review stage, described below. A new provision has been added requiring notice to the claimant if an extension is necessary.

Under paragraph (f), notice to a participant or beneficiary of the denial of a claim must contain the following items: the specific reasons for denial, specific references to pertinent plan provisions, a description of any additional material or information necessary for the claimant to perfect the claim, an explanation of why such material or information is needed, and information concerning the procedure the participant or beneficiary must follow to obtain review of the denial.

Under paragraph (g), plan procedures for review of claim denials must include the right of a claimant to request review, have representation, review pertinent documents relating to the denial and submit issues and comments in writing. The decision on review must be made by an appropriate "named fiduciary" as defined in section 402(a)(2) of the Act. Where review and final decision on claims is performed by an insurance company, insurance service or similar organization as provided in a plan's claims procedure, the insurance organization is the "named fiduciary". In other cases, the plan must designate (pursuant to section 402(a)(1)) the person who has the authority to make the final decision on review.

Many insurance carriers and associations objected to the position taken in the proposed regulation concerning insurance carriers as named fiduciaries, on the grounds that the employee benefit plan provided by an employer to its employees is not synonymous with the insurance contract entered into by the employer and the insurer as a vehicle to accomplish the payment of benefit claims. A person is a fiduciary by operation of section 3(21)(A)(iii) of the Act if the person exercises discretionary authority or discretionary responsibility in the administration of a plan. If this is the case under the terms of a particular plan regarding final decision on appeals from claim denials, the plan has effectively designated that person a named fiduciary. It is immaterial that the plan

documents may fail to state that the person is a named fiduciary or indeed a fiduciary.

The regulation also provides that the plan must give claimants at least 60 days from receipt of the notice of denial in which to request review. This provision responds to comments on proposed § 2560.6, which suggested the need for a specific minimum period within which claimants must be allowed to initiate the review procedure.

Under paragraph (h), decisions on review must be issued within 60 days after receipt of a request for review, unless special circumstances, such as the need under a plan procedure to hold a hearing, would make the issuance of a decision within the 60-day limit infeasible. In such cases, an extension of up to 60 days is available, if the claimant is notified of such extension. Because of the particular nature of plans with a committee or board of trustees designated as named fiduciary, the regulation contains special rules for such plans. Comments received indicate that many such plans review claims appeals on a monthly, bi-monthly or quarterly basis by committee, not on a daily basis. The regulation therefore links the time limits for issuing decisions on review to the dates of the meetings of such committee or board, provided such meetings are regularly scheduled and held at least quarterly.

Finally, section (i) provides a interim rule stating that apprenticeship plans are not covered by this regulation. The Department received no comments relating to the applicability of the claims procedure to apprenticeship plans. However, it has come to the Department's attention that there are certain questions concerning the application of claims procedure to apprenticeship plans.

First is the question of the atypical nature of apprenticeship plans as compared to other welfare plans under the Act. Apprenticeship is a temporary status persisting for a relatively short period of time. Thus, the individuals covered by the plan are constantly changing. The benefits are in the form of direct provision of training, and the training is not only for the benefit of the apprentices but also for the benefit of the trade or craft as a whole in preserving and transmitting its skills. Second, there is the concurrent regulation of apprenticeship plans by the Bureau of Apprenticeship Training and by state apprenticeship agencies. Regulations prepared by the Bureau of Apprenticeship Training (BAT) and appearing at 42 FR 10138 (February 18, 1977) provide for the review of complaints raised by apprentices. (See 29 CFR § 29.11 42 FR 10143. Under this procedure, disputes relating to apprenticeship plans can be brought before the appropriate Federal or State registration authority for impartial resolution.

The Department solicits comments on the question of the rules to be applied to apprenticeship plans under section 503. In formulating comments, the effects of the preemption provisions of section 514 of the Act should be considered.

Many comments were received requesting the views of the Department regarding various substantive issues not addressed in this regulation. Specifically, some comments suggested that the Department should state its views as to whether claims procedures must be exhausted by a claimant prior to the initiation of a civil action pursuant to section 502 of the Act (and whether failure to so exhaust would bar a section 502 action), and as to the scope of judicial review of a decision by an arbitrator as to a benefit claim where the grievance and arbitration process is collectively bargained and where it is not. While these issues are not addressed in this regulation, the Department solicits comments from the public relating to them, including comments on whether it is appropriate for the Department to address them, and if so, in what form, as well as comments on the substance of the issues.

Comments on the issues presented in the immediately preceding paragraph and on paragraph (i) should be submitted by July 31, 1977 to "Claims Procedure", Office of Regulatory Standards and Exceptions, Room C-4526, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216.

Accordingly, 29 CFR Chapter XXV is amended by adding a new Part 2560, and a new § 2560.503-1 thereof, which reads:

§ 2560.503-1 Claims procedure.

AUTHORITY: Sections 102, 503 and 505, Pub. L. 93-406, 88 Stat. 893, 894 (29 U.S.C. 1133, 1135), Secretary of Labor's Order No. 76-13.

§ 2560.503-1 Claims procedure.

(a) *Scope and purpose.*—(1) This section sets out certain minimum requirements for employee benefit plan procedures pertaining to claims by participants and beneficiaries (claimants) for plan benefits, consideration of such claims, and review of claim denials, hereinafter referred to in the aggregate as "claims procedures." Except as otherwise noted, these requirements apply to every employee benefit plan described in section 4(a) and not exempted under section 4(b) of the Employee Retirement Income Security Act of 1974 (the Act).

(b) *Obligation to establish a reasonable claims procedure.* Every employee benefit plan shall establish and maintain reasonable claims procedures.

(1) A claims procedure will be deemed to be reasonable only if it:

(i) Complies with the provisions of paragraphs (d) through (h) of this section, or is deemed to comply with some or all of these provisions under the authority of paragraph (b)(2).

(ii) Is described in the summary plan description, as required by § 2520.102-3,

(iii) Does not contain any provision, and is not administered in a way, which unduly inhibits or hampers the initiation or processing of plan claims, and

(iv) Provides for informing participants in writing, in a timely fashion, of the time limits set forth in paragraphs (e)(3) and (g)(3) and subsection (h).

(2) In the case of a plan established and maintained pursuant to a collective bargaining agreement (other than a plan subject to the provisions of section 302(c)(5) of the Labor Management Relations Act, 1947 concerning joint representation on the board of trustees):

(i) Such plan will be deemed to comply with the provisions of paragraphs (d) through (h) of this section if the collective bargaining agreement pursuant to which the plan is established or maintained sets forth or incorporates by specific reference

(A) Provisions concerning the filing of benefit claims and the initial disposition of benefit claims, and

(B) A grievance and arbitration procedure to which denied claims are subject.

(ii) Such plan will be deemed to comply with the provisions of paragraphs (g) and (h) of this section (but will not be deemed to comply with paragraphs (d) through (f)) if the collective bargaining agreement pursuant to which the plan is established or maintained sets forth or incorporates by specific reference a grievance and arbitration procedure to which denied claims are subject (but not provisions concerning the final and initial disposition of benefit claims).

(c) *Claims procedure for an insured welfare or pension plan.*—(1) To the extent that benefits under an employee benefit plan are provided or administered by an insurance company, insurance service, or other similar organization which is subject to regulation under the insurance laws of one or more States, the claims procedure pertaining to such benefits may provide for filing of a claim for benefits with and notice of decision by such company, service or organization.

(2) See paragraph (g) regarding review and final decision on denied claims by insurance companies, insurance services and similar organizations.

(d) *Filing of a claim for benefits.* For purposes of this section, a claim is a request for a plan benefit by a participant or beneficiary. A claim is filed when the requirements of a reasonable claim filing procedure of a plan have been met. If a reasonable procedure for filing claims has not been established by the plan, a claim shall be deemed filed when a written or oral communication is made by the claimant or the claimant's authorized representative which is reasonably calculated to bring the claim to the attention of:

(1) In the case of a single employer plan, either the organizational unit which has customarily handled employee benefits matters of the employer, or any officer of the employer.

(2) In the case of a plan to which more than one unaffiliated employer contributes, or which is established or maintained by an employee organization, either the joint board, association, committee or other similar group (or any member of any such group) administering the plan, or the person or organizational unit to which claims for benefits

under the plan customarily have been referred.

(3) In the case of a plan the benefits of which are provided or administered by an insurance company, insurance service, or other similar organization, which is subject to regulation under the insurance laws of one or more states, the person or organizational unit which handles claims for benefits under the plan or any officer of the insurance company, insurance service, or similar organization.

(4) For purposes of paragraphs (d)(1), (2), and (3) of this section, a communication shall be deemed to have been brought to the attention of an organizational unit if it is received by any person employed in such unit.

(e) *Notification to claimant of decision.*—(1) If a claim is wholly or partially denied, notice of the decision, meeting the requirements of paragraph (f) of this section, shall be furnished to the claimant within a reasonable period of time after receipt of the claim by the plan.

(2) If notice of the denial of a claim is not furnished in accordance with paragraph (e)(1) of this section within a reasonable period of time, the claim shall be deemed denied and the claimant shall be permitted to proceed to the review stage described in paragraph (g) of this section.

(3) For purposes of paragraphs (e)(1) and (2), of this section, a period of time will be deemed to be unreasonable if it exceeds 90 days after receipt of the claim by the plan, unless special circumstances require an extension of time for processing the claim. If such an extension of time for processing is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 90-day period. In no event shall such extension exceed a period of 90 days from the end of such initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the plan expects to render the final decision.

(f) *Content of notice.* A plan administrator or, if paragraph (c) of this section is applicable, the insurance company, insurance service, or other similar organization, shall provide to every claimant who is denied a claim for benefits written notice setting forth in a manner calculated to be understood by the claimant:

(1) The specific reason or reasons for the denial;

(2) Specific reference to pertinent plan provisions on which the denial is based;

(3) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and

(4) Appropriate information as to the steps to be taken if the participant or beneficiary wishes to submit his or her claim for review.

(g) *Review procedure.* (1) Every plan shall establish and maintain a procedure by which a claimant or his duly authorized representative has a reasonable opportunity to appeal a denied claim to an appropriate named fiduciary or to a person designated by such fiduciary, and under which a full and fair review of the claim and its denial may be obtained. Every such procedure shall include but not be limited to provisions that a claimant or his duly authorized representative may:

(i) Request a review upon written application to the plan;

(ii) Review pertinent documents; and

(iii) Submit issues and comments in writing.

(2) To the extent that benefits under an employee benefit plan are provided or administered by an insurance company, insurance service, or other similar organization which is subject to regulation under the insurance laws of one or more States, the claims procedure pertaining to such benefits may provide for review of and decision upon denied claims by such company, service or organization. In such case, that company, service, or organization shall be the "appropriate named fiduciary" for purposes of this section. In all other cases, the "appropriate named fiduciary" for purposes of this section may be the plan administrator or any other person designated by the plan, provided that such plan administrator or other person is either named in the plan instrument or is identified pursuant to a procedure set forth in the plan as the person who reviews and makes decisions on claim denials.

(3) A plan may establish a limited period within which a claimant must file any request for review of a denied claim. Such time limits must be reasonable and related to the nature of the benefit which is the subject of the claim and to other attendant circumstances. In no event may such a period expire less than 60 days after receipt by the claimant of written notification of denial of a claim.

(h) *Decision on review.*—(1)(i) A decision by an appropriate named fiduciary shall be made promptly, and shall not ordinarily be made later than 60 days after the plan's receipt of a request for review, unless special circumstances (such as the need to hold a hearing, if the plan procedure provides for a hearing) require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review.

(ii) In the case of a plan with a committee or board of trustees designated as the appropriate named fiduciary, which holds regularly scheduled meetings at least quarterly, a decision on review shall be made by no later than the date of the meeting of the committee or board which immediately follows the plan's receipt of a request for review, unless the request for review is filed within 30 days preceding the date of such meeting. In such case, a decision may be made by no later than the date of the second meeting following the plan's receipt of the request for review. If special circumstances (such as the need to hold a hearing, if the plan procedure provides for a hearing) require a further extension of time for processing, a decision shall be rendered not later than the third meeting of the committee or board following the plan's receipt of the request for review.

(2) If such an extension of time for review is required because of special circumstances, written notice of the extension shall be furnished to the claimant prior to the commencement of the extension.

(3) The decision on review shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, as well as specific references to the pertinent plan provisions on which the decision is based.

(4) The decision on review shall be furnished to the claimant within the appropriate time described in paragraph (h)(1) of this section. If the decision on review is not furnished within such time, the claim shall be deemed denied on review.

(i) *Apprenticeship plans.* This section does not apply to employee benefit plans which provide solely apprenticeship training benefits.

Effective date: This section becomes effective for claims filed on or after October 1, 1977.

Signed at Washington, D.C., this 23rd day of May 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77-15314 Filed 5-25-77;12:03 pm]

federal register

FRIDAY, MAY 27, 1977

PART III

DEPARTMENT OF COMMERCE

Economic Development Administration

■

ROUND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Grants of Assistance

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 317—ROUND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Grants of Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: These regulations contain the requirements and procedures governing the grant of assistance under round II of the Local Public Works program. They implement the amendments made to the Local Public Works Capital Development and Investment Act of 1976 by the Public Works Employment Act of 1977, Pub. L. 95–28, and administrative decisions regarding the grant of assistance under that Act.

DATES: Effective date: May 27, 1977. Comments by: June 27, 1977.

ADDRESS: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230 (202–377–5441).

SUPPLEMENTARY INFORMATION:

STATEMENT OF PROGRAM OBJECTIVES

The national economy and the economies of many areas and regions in this country continue to exhibit levels of distress that are excessive and, consequently, incompatible with our goals as a nation. This distress is reflected in a variety of ways, including high unemployment and inadequate public capital stock. The purpose of this program is to address such problems by providing for the expeditious construction of useful public works and development facilities in these areas.

Previous experience has demonstrated that local and State governments in every section of the country possess the capability to undertake public works projects within a very short time span. Experience has further proven that such projects furnish needed public facilities as well as generate employment. In many cases, this stimulus and the employment generated continue beyond the period of project construction and contribute to the area's long-term development.

On the basis of our knowledge about public works expenditures and the needs of economically disadvantaged areas and regions, round II of this program has been developed to authorize the immediate funding of local and State government public works facilities in accordance with the following objectives.

To target projects, to the greatest degree possible, to those areas of greatest unemployment.

To reduce previous funding inequities among different areas and governmental units.

To place maximum emphasis on local decision-making in establishing priorities and the selection of projects.

To increase the program's efficiency decision-making in establishing priorities and the selection of projects.

To increase the programs' efficiency while reducing the administrative workload.

To make the program more predictable so that participants and the general public can assess it more readily.

Because these regulations relate to an EDA grant program, they are exempted from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding these regulations to the Assistant Secretary for Economic Development at the above address.

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular A–107 and the interpretative guidelines as issued by the Department of Commerce. A determination has been made that these regulations do not extend beyond the statute, and therefore there is no inflationary impact of these regulations beyond the statute.

Accordingly, 13 CFR Chapter III is amended by adding a new Part 317 to read as follows:

Subpart A—Introduction

Sec.
317.1 Purpose.
317.2 Definitions.

Subpart B—Eligibility Criteria

317.10 Eligible applicants.
317.11 Eligible areas.
317.12 Eligible applications for round II funding.
317.13 Types of grants.
317.14 Eligible projects.
317.15 Ineligible projects.
317.16 Projects ineligible unless accompanied by unusual circumstances.
317.17 Project costs.
317.18 Ineligible project costs.
317.19 Construction requirements.
317.20 Maximum project cost.

Subpart C—Application Procedure

317.30 Revival of applications currently on file.
317.31 New applications.
317.32 Acceptance of revived and new applications.
317.33 Project areas.
317.34 Determination of unemployment data.
317.35 Certifications.
317.36 False or inaccurate statements.
317.37 Applicant's priority rating of projects.
317.38 Amendment of existing applications.

Subpart D—Allocation of Program Funds

317.40 Allocation of funds to the States.
317.41 Statutory minimum and maximum State allocations.
317.42 Indian tribe set-aside.
317.43 Procedural errors set-aside.

Subpart E—Planning Targets

317.50 General considerations.
317.51 State planning target.
317.52 Sub-State area planning targets.
317.53 Sub-State applicant planning targets.

Subpart F—Project Selection Procedure

317.60 Conserving energy.
317.61 Projects selected from national setasides.
317.62 Projects selected from State-wide planning targets.
317.63 Projects selected from sub-State planning targets.
317.64 Undue concentration.
317.65 Similar applications.

Subpart G—General Requirements

317.70 Environmental considerations.
317.71 Compliance with other Federal requirements.
317.72 Transfer of grant awards to drought-related projects.
317.73 Lease of project facilities.
317.74 Final determination.
317.75 Suspension and termination.

Subpart H—Eligibility of Non-Profit Entities

317.80 Grants for non-profit entities.

AUTHORITY: Section 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Pub. L. 94–369, 90 Stat. 999 (42 U.S.C. 6701); Pub. L. 95–28, 91 Stat. 116; Department of Commerce Organization Order 10–4 (September 30, 1975), as amended (40 FR 56702 as amended at 40 FR 58878 and 41 FR 36548).

Subpart A—Introduction

§ 317.1 Purpose.

The purpose of this part is to set forth the requirements and procedures pursuant to which eligible applicants may receive grants under the "Local Public Works Capital Development and Investment Act of 1976," as amended by the "Public Works Employment Act of 1977," Pub. L. 95–28.

§ 317.2 Definitions.

"Assistant Secretary" means the Assistant Secretary of Commerce for Economic Development or his delegate.

"Endorsement" means the process by which an applicant can select a project, which was originally submitted by another applicant, for consideration for funding from its planning target.

"General purpose unit of local government" means any city, county, town, parish, Indian tribe, or any other "unit of general local government" as included within the definition of that term by section 104 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201 et seq.).

"Indian tribe" means the governing body of a tribe, nonprofit Indian corporation (restricted to Indians), Indian authority, or other tribal organization, or entity, or Alaskan native village.

"Initiation of construction" means that notice to proceed or its equivalent has been issued or on-site labor has begun, except where on-site labor has commenced on the project but the project was abandoned due to lack of funds or where the project is to expand or modify a completed facility which has integrity in and of itself.

"Local Public Works Act" means the "Local Public Works Capital Development and Investment Act of 1976," as amended by the "Public Works Employment Act of 1977," Pub. L. 95–28.

"Local government" means any city, county, town, parish, or other political subdivision of a State (including local school districts), and any Indian tribe.

"Maintenance costs" means costs that are incurred for any necessary repairs or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but rather keep it in an efficient operating condition.

"Minority business enterprise" means a business at least fifty percent of which is owned by minority group members or, in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by minority group members.

"Minority group member" means a citizen of the United States who is Negro-Spanish-speaking, Oriental, Indian, Eskimo, or Aleut.

"Non-primary city" means any city, township, or village with a population less than 50,000 persons.

"Pocket of poverty" means a project area with a population of 4,000 or more persons and an unemployment rate of at least 8.5 percent which becomes qualified for assistance using the procedures contained in section 108(c) of the Local Public Works Act. A pocket of poverty must be located within a primary city which did not receive a planning target.

"Political subdivision of a State" means the agencies, instrumentalities and authorities established or authorized by State law including, but not limited to, special districts and regional authorities formed by local governments.

"Project area" means a primary city; the balance of a county in which a primary city is located; a county without a primary city; a pocket of poverty; or an Indian reservation or tribal land (trust and/or restricted land), as appropriate under the provisions of § 317.33.

"Primary city" means any city or township (which performs the same services as a city) with a population of 50,000 or more persons, as determined by the Bureau of the Census 1973 estimates.

"Renovation, repair, or other improvements" means only those activities which either substantially or appreciably increase the value or prolong the life of a public facility and excludes those activities which keep the public facility in ordinary efficient operating condition during its probable useful life.

"Round I" of funding under the local Public Works program refers to the funding of projects with money appropriated by Pub. L. 94–447.

"Round II" of funding under the Local Public Works program refers to the funding of projects with money appropriated by Pub. L. 95–29.

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Subpart B—Eligibility Criteria

§ 317.10 Eligible applicants.

A State or a local government, as defined in § 317.2, is eligible for assistance under this part if it is located in an area described in § 317.11.

§ 317.11 Eligible areas.

(a) Subject to the provisions of subsection (b) of this section, assistance under this part may only be extended to eligible applicants located in project areas, as defined in § 317.2, for which planning targets have been established. Planning targets have been established in the following manner, subject to the provisions of § 317.42 and Subpart E of this part.

(1) Where the State average unemployment rate is 6.5 percent or higher, planning targets have been established for project areas with unemployment rates of at least 6.5 percent.

(2) Where the State average unemployment rate is less than 6.5 percent, planning targets have been established for project areas with unemployment rates of at least the State average unemployment rate.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, planning targets have been established for pocket of poverty project areas only where such areas have unemployment rates of at least 8.5 percent.

(b) In States which are receiving the statutory minimum allocation of Local Public Works funds and for which the Assistant Secretary has waived the priority ranking of applicants required by section 108(c) of the Local Public Works Act, assistance under this part may be extended to eligible applicants in project areas as necessary to expend the statutory minimum allocation.

§ 317.12 Eligible applications for round II funding.

The following applications shall be eligible for consideration for funding under round II of the Local Public Works program:

(a) Applications for Local Public Works projects submitted by eligible applicants located in eligible areas, as defined in § 317.11, which were received by EDA before December 24, 1976, including applications originally filed before that date which were returned for deficiencies; and

(b) New applications from eligible applicants located in eligible areas subject to the requirements of § 317.31.

§ 317.13 Types of grants.

(a) *Direct grants.* (1) The Assistant Secretary may make direct grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects, including those for which Federal financial assistance is authorized under provisions of law other than the Local Public Works Act. Such grants may include funds for the completion of plans, specifications and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

(2) Applications under this section will be approved only if the applicant submits with its application, if applicable and required by EDA, a written certification from the other Federal agency/agencies primarily concerned with projects of the type involved in the application that the project meets all applicable Federal statutory and regulatory requirements to the extent necessary to assure the utilization of the project for the services intended.

(3) The Federal share of any project for which a grant is made under this subsection shall be 100 percent of the cost of the project exclusive of any funds budgeted and available or otherwise specifically committed for the project by the applicant.

(b) *Supplemental grants.* (1) The Assistant Secretary may make supplemental grants for the purpose of increasing the Federal contribution to 100 percent of the project cost for any Federally assisted public works project authorized by any Federal law other than the Local Public Works Act.

(i) Ordinarily, the Assistant Secretary will award supplemental grants increasing the Federal contribution to 100 percent of the project cost exclusive of any funds budgeted and available or otherwise specifically committed for the project by the applicant.

(A) For the funding of revived applications during round II, the Assistant Secretary may waive the requirement of paragraph (b)(1) of this section where:

(*1*) The applicant had provided the assurance that no funds were budgeted and available or otherwise specifically committed for the project in round I; and

(2) The applicant demonstrates that local funds apparently available were diverted from some other use solely to meet the additional requirements of other Federal programs caused by the delay in funding between rounds I and II.

(ii) The applicant shall submit with its application a written certification that actual construction of the project has not yet been initiated because of lack of funding for the non-Federal share.

(A) The Assistant Secretary may waive this requirement where he finds that construction was initiated after filing of the application under round I due to the requirements of the other Federal program.

(iii) The applicant shall submit written certification obtained from the other Federal agencies involved in the project that:

(A) Federal financial assistance for the project has been approved and the funds are immediately available for the project; and

(B) the project meets all applicable Federal statutory and relevant related requirements.

(2) The Assistant Secretary also may make grants in an amount necessary to provide all or part of the required State or local share (but not both shares) of

the cost of any public works project for which financial assistance is authorized by State or local law requiring such contribution if the applicant submits with its application a written certification from the appropriate authority that:

(i) The share of financial assistance not applied for has been properly approved and is immediately available for the project;

(ii) The project meets all applicable statutory and other relevant requirements of the law; and

(iii) Construction of the project has not yet been initiated.

(3) Grants under this subsection may include funds for the completion of plans, specifications, and estimates where additional architectural and engineering work or related planning is required to permit construction of the project under this section.

§ 317.14 Eligible projects.

Eligible projects include projects for the construction of public works facilities, including but not limited to municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, other public facilities, and the transportation of and providing of water to drought-stricken areas as designated by the Federal Disaster Assistance Administration or other Federal agency or department authorized to designate drought-stricken areas.

§ 317.15 Ineligible projects.

The following projects shall be ineligible for funding under this part:

(a) Canals and watercourses. Unless the requirements of § 317.72 are met, no grant shall be made under this part for any project having as its principal purpose and permanent effect:

(1) The channelization, damming, diversion, or dredging of any natural watercourse, or

(2) The construction or enlargement of any canal except a canal or raceway designated for maintenance as a historic site.

(b) Projects on which construction has been initiated. (1) For projects seeking a supplemental grant under § 317.13 (b) (1), the project will be eligible where construction has been initiated if the Assistant Secretary determines that construction was initiated after filing the application under round I due to the requirements of the other Federal program.

(c) Projects on which on-site labor cannot begin within 90 days after receipt of notification of project approval.

(d) Projects with extremely high ratios of labor costs to total project costs (greater than 80 percent) and projects with extremely low ratios of labor costs to total project costs (less than 10 percent).

(e) Projects whose costs exceed the planning targets established by subpart E.

§ 317.16 Projects ineligible unless accompanied by unusual circumstances.

Projects will not normally be approved where any of the following conditions exist.

(a) The applicant has not obtained rights to the project site, including easements and rights-of-way, in one of the following ways:

(1) The eligible applicant owns the project facility and/or site clear of any encumbrances;

(2) The eligible applicant holds a noncancellable long-term lease on the project facility and/or site which is defined as 20 years or the useful life of the facility, whichever is longer; or

(3) The eligible applicant holds a clearly enforceable option through time of grant approval to purchase the project facility and/or site and demonstrates that it has sufficient funds available to complete the purchase.

(b) The project request is for a grant supplemental to another Federal, State or local grant which has not been approved by the applicable grant agency.

(c) The project's construction will involve the use of raw materials not mined or produced in the United States, or United States manufactured articles not substantially made from raw materials mined or produced in the United States, or manufactures not manufactured in the United States.

(1) The restriction contained in paragraph (c) of this section will not apply to any project for which the Assistant Secretary makes one of the following determinations:

(i) The restriction is not in the public interest; or

(ii) The restriction would cause unreasonable project costs; or

(iii) Materials or articles, either raw or manufactured, needed in the construction of the project are not available in the United States in reasonable and sufficient commercial quantity and satisfactory quality.

§ 317.17 Eligible project costs.

(a) The following types of project costs are eligible for funding under this part.

(1) Construction and facility improvement costs;

(2) Eligible expenses and payments under Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646);

(3) Costs for capital equipment not included in the construction contract;

(4) Costs for completing and updating plans, specifications, and estimates—where either architectural design/preliminary engineering or related planning has already been undertaken, and where additional architectural and engineering work or related planning is required to permit construction of the project;

(5) Other A/E costs such as inspection fees and test borings;

(6) Administrative costs including legal and audit costs; and

(7) Other costs not inconsistent with the Local Public Works Act and allowed by Federal Management Circular No. 74-4.

§ 317.18 Ineligible project costs.

(a) *Real property.* No part of any grant made under this part may be used for the acquisition of any interest in real property.

(b) *Maintenance.* No part of any grant made under this part may be used for the payment of maintenance costs in connection with a project constructed (in whole or in part) with Federal financial assistance under the Local Public Works Act.

(c) *Cost overruns.* No part of any grant made under this Act may be used for cost overruns for public works projects previously funded under this Act.

(d) *Prior expenses.* No part of any grant made under this part may be used for project costs for administration, plans, specifications, estimates or other A/E costs, which have been incurred prior to the date of original application.

(e) *Construction by State or local governments or Indian tribes.* No part of any grant made under this part may be used for the payment of construction activities directly performed by any department, agency or instrumentality of any State or local government or any Indian tribe.

(f) *Interest.* No part of any grant made under this part may be used for interest on interim construction financing except for supplemental grants where authorized by other program legislation.

§ 317.19 Construction requirements.

(a) *Competitive bidding.* (1) Construction of each project funded under this part shall be performed by contract awarded by competitive bidding, unless

(i) The Assistant Secretary makes a determination that, under circumstances relating to that project, a method of contract award other than competitive bidding is in the public interest.

(2) If the Assistant Secretary does not waive the competitive bidding requirement, the following procedures apply.

(i) Contracts for the construction of such projects shall be awarded on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility.

(ii) The award of a contract for the construction of a project funded under this part may be subject to review by the Assistant Secretary. The Assistant Secretary may withhold his concurrence from the award of a contract for good cause.

(iii) No requirements or obligations shall be imposed as conditions precedent to the award of a contract or to the Assistant Secretary's concurrence in the award unless such requirements or obligations are lawful and set forth in the advertised specifications.

(b) *Minority business enterprise.* (1) No grant shall be made under this part for any project unless at least ten percent of the amount of such grant will be expended for contracts with and/or supplies from minority business enterprises.

(2) The restriction contained in paragraph (1) of this subsection will not apply to any grant for which the Assistant Secretary makes a determination that the ten percent set-aside cannot be filled by minority businesses located within a reasonable trade area determined in relation to the nature of the services or suppplies intended to be procured.

§ 317.20 Maximum project cost.

The maximum amount of financial assistance made available under this part should not exceed $5 million for each project; however, the Assistant Secretary may, in his discretion, waive this policy for good cause.

Subpart C—Application Procedure

§ 317.30 Revival of applications currently on file.

(a) Unfunded applications meeting the criteria described at § 317.12(a), with the exception of applications described in subsection (b) of this section, will be revived if the project area in which such applicants are located receives a planning target or set-aside. EDA will revive these applications for consideration under the second round of funding of the Local Public Works program in the following manner.

(1) EDA will revise and update these applications to bring them into conformance with the new program requirements and procedures as described in these regulations.

(2) The applicant will provide EDA with such additional information and certifications, including revised project cost estimates, as required to bring the application into conformance with the legislative and administrative changes to the Local Public Works program.

(i) The information and certifications described in paragraph (2) of this subsection will be provided to EDA on such forms and in such manner as the Assistant Secretary directs.

(b) Pocket of poverty applications currently on file and non-pocket of poverty applications currently on file for which applicants request consideration as pocket of poverty applications will be revived for consideration under round II of the Local Public Works program in the following manner.

(1) Where an applicant requests use of the pocket of poverty criteria in determining its project area, that request will be granted only if the applicant meets the requirements of § 317.51(a)(1).

(2) All projects using the pocket of poverty criteria must be located in the community or neighborhood proposed as the project area. Where necessary, applicants will revise their applications to locate the projects within the community or neighborhood proposed as the pocket of poverty area.

(3) Pocket of poverty applicants will provide EDA with the following information:

(i) An exact description of the community or neighborhood proposed as the project area;

(ii) The appropriate unemployment data for the project area obtained from the State Employment Security Agency; and

(iii) Such additional information and certifications, including revised project cost estimates, as required to bring the application into conformance with the legislative and administrative changes to the Local Public Works program.

(c) Applications currently on file will be deemed revived by EDA when all relevant and necessary materials for the re-evaluation of the application are received in the proper form and manner from the applicant.

§ 317.31 New applications.

(a) Subject to the provisions of § 317.53(e)(2), new applications shall be received where necessary to use a State's allocation or an applicant's planning target or an Indian tribe set-aside.

(b) Any new application under this part must be properly prepared on appropriate forms, as prescribed by the Assistant Secretary, and must contain all the information and certifications required by this part.

(c) New applications shall only be submitted to the appropriate EDA Regional Office as provided in 13 CFR 301.31.

(d) New applications shall be recorded and deemed received upon their arrival at the appropriate EDA Regional Office.

§ 317.32 Acceptance of revived and new applications.

EDA shall endeavor, within five working days from the date a new or revived application is actually received by the appropriate Regional Office, to determine if the application has been completely and properly prepared. An application may be rejected (denied) unless it contains full and accurate information as required by this part. The Regional Director should notify the applicant if the application contains deficiencies and state what is needed to properly complete the application. EDA reserves the right during the 60 day period after receipt of an application to reject an application for substantially being incomplete, improperly prepared, or otherwise failing to meet the requirements of this part.

§ 317.33 Project areas.

The project area of eligible applicants shall conform to the following requirements:

(a) *Counties with no primary cities.* The project area shall be the county for all applicants.

(b) *Counties with one or more primary cities.*

(1) Projects located in the primary city: the project area shall be the city.

(2) Projects located outside primary cities: the project area shall be the balance of the county excluding the primary cities.

(c) *Pocket of poverty applicants.* The project area shall be the community or neighborhood of the primary city, as described in § 317.51(a)(1), in which the project is located.

(d) *Indian tribe applicants.* The project area shall be the reservation or tribal land on which the project will be located.

§ 317.34 Determination of unemployment data.

(a) In considering applications during the round II of funding, EDA shall utilize the following data:

(1) The average number of unemployed persons in the applicant's project area during the twelve most recent consecutive months available; and

(2) The average unemployment rate of the applicant's project area for the twelve most recent consecutive months available.

(b) Unemployment data for project areas of applications currently on file and new applications will be determined as follows:

(1) *Primary city applicants.* EDA shall utilize the appropriate data for the city from the Bureau of Labor Statistics of the Department of Labor.

(2) *Balance of county and county without primary city applicants.* EDA shall utilize the appropriate data from the Bureau of Labor Statistics of the Department of Labor.

(3) *Pocket of poverty applicants.* The applicant shall define the exact location of the community or neighborhood in which the project will be located. Unemployment data will be obtained from the State Employment Security Agency for that community or neighborhood.

(4) *Indian tribe applications.* The Assistant Secretary may use population data as a proxy for unemployment data EDA shall utilize the appropriate data from the Bureau of Indian Affairs.

§ 317.35 Certifications.

An application shall be rejected unless it includes all the following materials:

(a) It contains adequate certification by the applicant and by any "other parties" as defined in 15 CFR Subtitle A, Part 8, that no person shall, on the grounds of race, color, sex (as required by section 110 of Pub. L. 94-369), or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under the proposed project.

(1) The application shall also contain an assurance that the applicant is not involved in any civil rights litigation; or, if it is involved in a lawsuit or Federal administrative action alleging discrimination, the applicant shall provide a brief narrative description of the action alleging discrimination and its outcome.

(2) The application shall also contain assurances of compliance with: Title VI of the Civil Rights Act of 1964; 28 CFR Part 42, Subpart F to the extent set forth in EDA's policies and guidelines; and Executive Order 11246 "Equal Employment Opportunities."

(b) It contains a certification by the applicant that construction on the project has not yet been initiated unless the provisions of § 317.15(b)(1) or § 317.43(b)(3) are met.

(c) It contains a certification, satisfactory to the Assistant Secretary, that on-site labor can begin within ninety days of project approval.

(d) Where applicable, it contains a certification that the applicant has related the proposed project to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions.

(e) Where appropriate, it contains certification and evidence that the proposed project will promote or advance longer range plans and programs.

(f) It contains certification, by the properly authorized official of the Federal agency or State or local government, that no funds budgeted and available or otherwise specifically committed for the project applied for in its application shall be reduced, diminished, or replaced by funds requested under this part.

(1) With respect to supplemental grants under § 317.13(b)(1), this certification is not necessary if the applicant has obtained a waiver from the Assistant Secretary under § 317.13(b)(1)(i)(A).

(g) It contains adequate assurances that all laborers and mechanics employed on the proposed project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5).

(h) It contains a certification by the applicant that no contract for the project will be awarded to a bidder who will employ illegal aliens.

(i) It contains adequate assurances that the project will be constructed from raw materials mined or produced in the United States and from United States manufacturers substantially made from materials mined, produced or manufactured in the United States, unless the Assistant Secretary has made a determination under § 317.16(c)(1) that this requirement is not applicable to the applicant's project.

(j) Unless the Assistant Secretary has made a determination of inapplicability under § 317.19(b)(2), it contains certification satisfactory to the Assistant Secretary that at least ten percent of the amount of the grant will be expended for contracts with and/or supplies from minority business enterprises.

(k) It contains certification satisfactory to the Assistant Secretary that the project will be designed and constructed in accordance with the requirements for providing access to the physically handicapped and elderly as contained at 42 U.S.C. 4151 et seq.

(l) The Architectural and Transportation Barriers Compliance Board, established by the Rehabilitation Act of 1973, is authorized to insure that any construction and renovation done pursuant to any grant made under the Local Public Works Act complies with the accessibility standards for public buildings and facilities issued under the Act of August 12, 1968.

(l) Where an application uses the pocket of poverty project area, it contains certification satisfactory to the Assistant Secretary that employment engendered by the project will be offered preferentially to the residents of the neighborhood or community which defines the project area.

(m) Where an application involves a project normally funded by another Federal agency, it contains certification as required in § 317.13(a)(2) and (b).

(n) It contains certification that special consideration shall be given to the employment on the project of qualified veterans who:

(1) Have a disability rating of 30 percent or more, or

(2) Served on active service for more than 180 days in Vietnam and were discharged or released from service—other than dishonorably—within 48 months.

§ 317.36 False or inaccurate statements.

(a) An application shall be rejected unless it is, in the opinion of the Assistant Secretary, accurate and complete.

(b) Applicants should be advised that false representations and/or certifications in connection with applications for assistance under this part may be the basis for criminal liability under title 18 of the United States Code.

§ 317.37 Applicant's priority rating of projects.

(a) An applicant who has more than one application eligible for funding under the second round of the Local Public Works program shall submit as part of each such application its priority rating for each project for which it has applied.

(b) State governments, county governments, primary city governments, and any general purpose unit of local government may endorse a project of another applicant. If such a project is funded, it will apply against the planning target of the endorsing applicant but not the planning target of the receiving applicant.

§ 317.38 Amendment of existing applications.

Applications on file from round I may be amended to modify or change the project when, in the opinion of the Assistant Secretary, a compelling reason for such modification or change exists.

Subpart D—Allocation of Program Funds

§ 317.40 Allocation of funds to the States.

(a) Subject to program administrative costs, statutory minimum and maximum allocation requirements and statutory set-asides, 65 percent of the amounts appropriated for round II of the Local Public Works program will be allocated to each State based on its share of the total number of unemployed persons in all the States; the remaining 35 percent of the amounts appropriated for round II of the Local Public Works program will be allocated to those States with an average unemployment rate for the preceding twelve month period in excess of six and one-half percent (6½ percent) on the basis of the relative severity of unemployment in such States.

(b) Amounts allocated to the States according to this formula constitute State planning targets.

§ 317.41 Statutory minimum and maximum State allocations.

(a) The minimum allocation to each State of all amounts appropriated after the date of enactment of the Public Works Employment Act of 1977 to carry out this part shall be determined as follows:

(1) Subject to the provisions of paragraph (2) of this subsection, each State will receive at least three-quarters of one percent of such amounts appropriated to carry out this part.

(2) Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, in the aggregate, shall receive not less than one-half of one percent of such amounts appropriated to carry out this part.

(i) Population and other factors, as may be determined by the Assistant Secretary, will be used to establish planning targets for these territories.

(b) States whose unemployment data was converted for the first time under a new methodology to the benchmark data of the current population survey annual average compiled by the Bureau of Labor Statistics shall receive a percentage of funds under round II at least as great as the percentage of funds allocated to that State under round I prior to January 1, 1977.

(c) The maximum allocation for any State of all amounts appropriated after the date of enactment of the Public Works Employment Act of 1977 to carry out this part shall be twelve and one-half percent of such appropriation.

§ 317.42 Indian tribe set aside.

(a) The maximum allocation of all amounts appropriated after the date of enactment of the Public Works Employment Act of 1977 for projects sponsored by Indian tribes shall be two and one-half percent of such appropriation.

(b) All projects applied for by Indian tribes will be funded from this allocation, with the exception of those projects which qualify for funding under § 317.43.

(c) Each Indian tribe will receive a planning target determined in the following manner.

(1) Subject to the provisions of paragraph (c)(2) of this section, each Indian tribe's planning target will be based on population data, as determined by the Assistant Secretary.

(2) No Indian tribe will receive a planning target exceeding twelve and one-half percent (12½ percent) of the amount determined by subsection (a) of this section plus the amount of round I funds expended on Indian applications.

(d) In the event applications have not been filed to exhaust the planning targets established under this section by September 1, 1977, such planning targets may be administratively reapportioned by the Assistant Secretary.

§ 317.43 Procedural errors set aside.

(a) An applicant who made an application before December 24, 1976 and whose application was not received, was not considered, or was rejected solely because of an error by an officer or employee of the United States may petition the Assistant Secretary to reconsider his application, subject to the provisions of § 317.61(b).

(b) In order to be funded from this set-aside, a project must meet all of the following requirements:

(1) The project would have been selected for funding under round I of the Local Public Works program but for the error described in subsection (a) of this section;

(2) The project has been identified by EDA as eligible for funding from the procedural error set-aside; and

(3) The project met all the requirements of the Local Public Works Act as in effect at the time of the error.

(c) Not to exceed seventy (70) million dollars may be used to fund projects under the authority of this section.

Subpart E—Planning Targets

§ 317.50 General considerations.

In order to insure an equitable geographic distribution of funds, EDA has established planning targets for States, sub-State areas and sub-State applicants.

(a) Sub-State area planning targets are computed for project areas which have unemployment rates equalling or exceeding the lower of 6.5 percent or the State average unemployment rate.

(1) Within each State, these planning targets will be ranked and projects will be selected from high ranking areas until the amount of planning target is expended.

(2) Sub-State area planning targets and sub-State applicant planning targets will reflect the total six (6) billion dollar Local Public Works program authorization, constructively following the sub-State 65/35 formula, as set forth in §317.52(a), for round I funds. Projects which were selected for funding during the round I of the program will be deducted from the sub-State area planning targets and sub-State applicant planning target.

(3) Certain eligible sub-State areas and sub-State applicants will not receive planning targets due to the procedure described in paragraphs (a)(1) and (2) of this section which will result in insufficient funds.

(4) A minimum planning target level of 75,000 dollars will be set in order to carry out the public works aspect of this program. In the case of areas which would receive a planning target below this minimum, no planning target would be established.

(i) Planning target funds below the 75,000 dollar minimum will be administratively reapportioned to the county government.

(b) Funds requested for projects may not exceed the appropriate planning targets.

(c) EDA will use sub-State area and applicant planning targets as aids in the distribution of funds under this part. These planning targets do not, however, constitute entitlements. The Assistant Secretary reserves the right to adjust these planning targets as necessary to assure that each eligible area and applicant receives a planning target commensurate with its distress. If an eligible area or applicant does not receive a planning target which reflects its level of distress due to miscalculation, the Assistant Secretary may re-adjust other sub-State planning targets to rectify the miscalculation.

§ 317.51 State planning target.

Each State's overall planning target was established pursuant to the allocation formulae described in §§ 317.40 and 317.41, as appropriate. From each State's planning target, the following Statewide planning targets will be deducted.

(a) *Pocket of poverty planning target.* An amount, determined by multiplying the number of primary cities as described in paragraph (1) of this subsection by one (1) million dollars, will be deducted to fund applications from pocket of poverty areas. However, not more than twenty million dollars shall be available in any one State to fund these projects.

(1) Projects to be funded from this deduction must be located in a city which did not receive a planning target.

(2) Each pocket of poverty area must have a population of 4,000 or more persons and an unemployment rate of at least 8.5 percent for the most recent twelve months. A pocket of poverty must be a contiguous area and separate and distinct from other pocket of poverty areas. A pocket of poverty area may not be subdivided.

(3) Applicants with planning targets may fund projects in pocket of poverty areas from their planning targets.

(b) *State government planning target.* Except as the Assistant Secretary determines for the Commonwealth of Puerto Rico, State governments will be given a planning target which will be eight (8) percent of the total State allocation. The amount of this planning target is based on the approximate proportion of the dollar value of State government applications on file to the dollar value of the total number of applications from all States on file from round I.

(c) In the event applications have not been filed to exhaust the planning targets established under this section by September 1, 1977, such planning targets will be administratively reapportioned within the State by the Assistant Secretary.

§ 317.52 Sub-State area planning targets.

The amount of each State's allocation available for sub-State area planning targets will consist of the State's statutory allocation less the amount of the planning targets described in § 317.51.

(a) EDA has established planning targets for eligible sub-State areas, subject to the provisions of § 317.50(a), based on the sub-State 65/35 formula, which is the relative need of an area as determined by its number of unemployed persons compared to the number of unemployed persons in all eligible areas of the State and its unemployment rate compared to the lower of 6.5 percent or the State unemployment rate. Planning targets have been stablished in this manner for the following types of areas:

(i) Primary city;

(ii) Balance of county;

(iii) County with no primary cities.

(b) The sub-State areas described in subsection (a) of this section will be ranked according to their respective planning targets which will reflect the relative distress in each of the areas.

§ 317.53 Sub-State applicant planning targets.

EDA has divided the sub-State area planning targets into sub-State applicant planning targets. Subject to the provisions of § 317.50, EDA has established these applicant planning targets for the following types of applicants.

(a) *County government.* This planning target will be determined for each State, based on the relative activity of county governments as determined by the dollar value of county government applications filed with EDA during round I compared to the total dollar value of applications filed by all applicants, with the exception of Indian tribes, in that State during round I. Subject to the joint priority agreement with the school district set forth in paragraph (d) of this section, this planning target shall be available for funding projects of the county government.

(b) *Primary city government.* Subject to the joint priority agreement with the school district set forth in paragraph (d) of this section and subject to any incorporated area in the city which will share in the planning target, this planning target shall be available for funding projects of the city government.

(c) *Non-primary cities/townships located in balance of county and county without primary city areas.* The funds allocated to the balance of county and county without primary city have been further distributed to non-primary cities and townships within these areas as applicant planning targets.

(1) These applicant planning targets are based on the unemployment data of the non-primary city or township, calculated by EDA according to the census share method and according to the sub-State 65/35 formula.

(2) Normally, EDA has established these planning targets only for non-primary city/township applicants which had submitted applications in round I. Provided, however, when an area's planning target funds exceed existing applications on file by 25 percent or $200,000, whichever is greater, the excess funds in the planning target will be made available for new applications to be filed by applicants in the area. Provided further, however, that in accepting applications from these applicants,

EDA will allow only that applicant(s) with the highest distress factors to file such application.

(3) Subject to the joint priority agreement set forth in paragraph (d) of this section, these applicant planning targets shall be available for projects of the non-primary city or township.

(d) *School districts.* School districts will share in the applicant planning targets established for primary cities and non-primary cities and townships. School districts will also share in the county government planning target if the school district serves the whole county or a major region. By joint agreement between the school district and the above applicants, these applicants will submit the priority ratings of their projects as required by § 317.37.

(1) In order to share in the planning target of these applicants, the school district must have authority under local law to file an application.

(2) In order to share in the applicant planning target of a primary city or non-primary city/township, the school district project must serve the residents of the primary city or non-primary city/township.

(3) In order to share in the county government planning target the school district project must serve the population of the whole county or major region.

(4) Should the school district and the applicant whose planning target it shares fail to come to an agreement with respect to prioritizing their projects, EDA will select their projects according to factors which include but are not limited to:

(i) Job creating potentials;

(ii) Time necessary to complete the project;

(iii) Energy conservation;

(iv) Long-term economic benefits;

(v) Critical local needs.

(e) In the event applications have not been filed to exhaust the planning targets established under this section by September 1, 1977, such planning target funds will be administratively reapportioned by the Assistant Secretary.

Subpart F—Project Selection Procedure

§ 317.60 Conserving energy.

(a) In making grants for projects for construction, renovation, repair or other improvement of buildings, EDA shall also give consideration as between such building projects to those projects which will result in conserving energy. Such projects include, but are not limited to, projects to redesign existing public facilities for energy conservation purposes and projects using alternative energy systems.

(b) In giving such consideration EDA will permit increased funding for projects which meet the provisions of this section subject to the requirements of § 317.50(b).

§ 317.61 Projects selected from national set-asides.

(a) *Indian set-aside.* Each Indian reservation or tribal land has a planning target.

(1) In approving projects under this set-aside, EDA will take into consideration the number and dollar amount of projects approved under round I.

(b) *Procedural error set-aside.* (1) In order to be funded from this set-aside, a project must meet all the following conditions.

(i) The project must be eligible under § 317.43.

(ii) The project is located in an area which does not have a planning target.

(iii) The project met the requirements of the Local Public Works Capital Development and Investment Act of 1976, as enacted on July 22, 1976.

(2) Error projects located in eligible areas which receive planning targets will be funded from State and sub-State planning targets, but only if chosen by their applicants as priority projects.

(i) In the event the applicant's planning target is insufficient to fund the error project completely, the applicant may request the Assistant Secretary to fund the remainder from the error set-aside.

(ii) Projects funded in this manner will be counted against the appropriate area and applicant planning targets or set-asides as calculated on the basis of the total Local Public Works Act authorization.

(3) In exercising its privilege of prioritizing projects, an applicant shall be under no obligation to request priority for any project which may have been previously denied in error, but such choice of another or other projects shall be deemed a waiver of any claim of entitlement or priority for funding of any such project which may have been previously denied as a result of error.

(4) Projects eligible for funding under this subsection must have met all the requirements of the Local Public Works Act as in effect at the time of the error.

§ 317.62 Projects selected from State-wide planning targets.

(a) *Pocket of poverty planning target.* Each primary city eligible for funding under § 317.51(a) will submit to EDA a description of its pocket of poverty area, setting forth the numbers and rates of unemployment and total population for that area. Such figures must be certified by the State Employment Security Agency. EDA will then assign a planning target to each pocket of poverty based on its relative needs as measured by its number and rate of unemployment.

(b) *State government planning target.* The Governor shall submit a priority ranking of State government projects up to the amount of the State government planning target, provided such projects are located in areas with unemployment rates equally or exceeding the State's average unemployment rate or 6.5 percent, whichever is lower unless the State receives the statutory minimum allocation.

(1) EDA will select projects in accordance with the Governor's priorities up to an amount as close as is administratively feasible to the amount of the State government planning target.

§ 317.63 Projects selected from sub-State applicant planning targets.

(a) *County government, primary city government, and primary city school district projects.* County governments, primary city governments, and primary school district applicants which submitted one or more applications shall submit priority rankings of their projects in accordance with §§ 317.37 and 317.53 (a), (b) and (d). EDA will select projects in accordance with § 317.50 and local priorities up to the amount of county government's/school district's planning target and primary city government's/primary city school district's planning target.

(b) *City/township projects in balance of county or counties without primary cities.* (1) Non-primary city/township and school district applicants which have planning targets and which submitted one or more applications shall submit a priority ranking of their projects in accordance with §§ 317.37 and 317.53 (c) and (d). EDA will select projects in accordance with § 317.50 and local priorities up to the amount of their planning targets.

(2) If a town has already exceeded its planning target in round I, it would receive no further projects. Similarly, once a town has reached its planning target with a round II project, no further projects would be selected.

(3) If all local (general purpose and school) projects have been funded or there are no projects available for funding after following the procedures of § 317.53(c)(2), any surplus funds will be administratively reapportioned by the Assistant Secretary.

§ 317.64 Undue concentration.

The Assistant Secretary reserves the right to vary the selection procedure as necessary to avoid undue concentration of funds in any geographic region of a State receiving the minimum statutory allocation and as necessary to comply with the objectives of the Act.

§ 317.65 Similar applications.

Any application for a project which serves similar needs, in the same general area, as an existing project or application under the Local Public Works program or any other program administered by the Economic Development Administration may be denied by the Assistant Secretary for that reason.

Subpart G—General Requirements

§ 317.70 Environmental considerations.

(a) *The National Environmental Policy Act.* (1) The Local Public Works Act requires applications to be processed within 60 days of their acceptance. EDA will not be able to prepare environmental impact statements for those projects which may significantly affect the quality of the human environment. However, to the fullest extent possible within this time period, EDA will analyse a project's potential environmental impacts and give appropriate consideration to environmental impacts in making its final decisions.

(2) In order that EDA may conduct its environmental analysis of proposed projects, applicants shall include the following materials with their application:

(i) A description of those elements of the proposed project which will have an impact on the environment, the nature of the environment which will be affected, and data on the expected environmental impact;

(ii) Alternatives to the proposed project;

(iii) Any environmental analysis previously conducted by local, State, Federal agencies; and

(iv) Evidence of public reaction to the project, such as transcripts of local public hearings held on the proposal.

If the materials required by paragraphs (a)(2)(iii) and (iv) of this section are not available, the applicant must so certify in the application.

(3) EDA will independently review and analyze environmental information submitted by applicants.

(i) Where appropriate, EDA, within the 60 day limit, may seek the views of other government agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) If a project appears to be highly controversial for environmental reasons and there is a need to further understand the basis of the controversy, EDA may, within the 60 day limit, request the views of concerned residents through a newspaper notification or a public information meeting held near the project site.

(4) EDA shall deny an application if, after consideration of the benefits of a project against any environmental costs, it concludes that the environmental costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. EDA, where necessary, may condition approval of a project upon the adoption of specified measures designed to mitigate any adverse environmental impacts.

(b) *The National Historic Preservation Act.* (1) Applicants shall include with their applications either a statement of their State Historic Preservation Officer's views of the proposed project or shall certify that their State Historic Preservation Officer was provided with a detailed project description and request for comments prior to the application's submission to EDA. Such description shall include:

(i) A narrative of the elements of the project and its location;

(ii) A map of the project site and surrounding area indicating the specific location of the project site in relation to adjacent streets and other identifiable objects;

(iii) Line drawings or sketches of the project; and,

(iv) If the building demolition or renovation is involved, photographs of the affected properties.

(2) If necessary, EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation. EDA will use the results of this coordination process, even though completion of this process may not be possible, as a factor in making a final decision on the project.

§ 317.71 Compliance with other Federal requirements.

Each applicant shall, as a condition to its receipt of a grant under this part, comply with the following relevant Federal requirements.

(a) All labor standards including those relating to the payment of wages, working conditions, anti-kickback prohibitions and equal employment as provided 13 CFR 309.6.

(b) Those requirements concerning relocation and related payments to all persons displaced as a result of the development of a public works project with funds received under this part, as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., and 13 CFR Part 310.

(c) If a project involves the construction of a detention facility, the applicant must certify that the project complies with those sections of Part E of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, found at 42 U.S.C. 3750(b)(1) and (4)–(9).

(d) The provisions of OMB Circular A–95, with the following modification.

(1) Applicants must submit their full applications or notifications of intent to apply to the appropriate clearinghouse as early as possible.

(2) Upon submission of an application to EDA, the application must certify that he has submitted the full application to the appropriate clearinghouse.

(3) EDA may begin processing the application upon its receipt but will make no final approval of an application until 30 days after its receipt unless clearinghouse response is received before 30 days have elapsed.

(4) Applications received by EDA need not have State application identifier numbers.

(5) Clearinghouse comments will be submitted directly to EDA; EDA will consider such comments until it has finished processing the application.

(e) All environmental requirements, to the maximum extent possible, as determined by the Assistant Secretary, including, but not limited to:

(1) The National Environmental Policy Act of 1969; as amended (42 U.S.C. 4321 et seq.) and EDA's requirements found in § 317.70;

(2) The Clean Air Act, as amended (42 U.S.C. 1857–1858a);

(3) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251–1376);

(4) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and EDA's requirements found in § 317.70;

(5) The Wild and Scenic Rivers Act (16 U.S.C. 1271–1287);

(6) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(7) The Historical and Archeological Data Preservation Act, as amended (16 U.S.C. 469 et seq.); and

(8) The Safe Drinking Water Act (42 U.S.C. 300f–j9).

(f) 13 CFR 309.9, entitled "Records and audit."

(g) 13 CFR 309.27, entitled "Land use near Federal airfields."

(h) 13 CFR 309.26, entitled "Project modification."

(i) 13 CFR Part 314, entitled "Property management standards" except 13 CFR 314.6(a), 13 CFR 314.6(b), and 13 CFR 314.50.

(j) The National Flood Insurance Program and EDA's requirements regarding flood hazards found at 13 CFR 309.15.

(k) Other laws affecting this program.

§ 317.72 Transfer of grant awards to drought-related projects.

(a) Subject to the Assistant Secretary's approval, applicants who have been awarded a grant, or who have so prioritized a project as to be tantamount to a grant award by EDA, may request EDA to transfer the funds from the project listed on their application to one or more other projects intended to alleviate drought or other emergency or disaster related conditions or damage.

(b) The Assistant Secretary may approve such a transfer after making the following determinations:

(1) The Federal cost in the aggregate of such project or projects will not be increased beyond the cost of the original award;

(2) Construction on the project or projects proposed for substitution can begin within ninety days; and

(3) The project or projects proposed for substitution will in fact aid in alleviating drought or other emergency or disaster related conditions or damage.

(c) Section 106(a) of the Local Public Works Act and § 317.15(a) will not apply to projects substituted under the authority of this section.

§ 317.73 Lease of project facilities.

Normally, public works projects constructed with funds under this part must retain their public character. The project facility may be leased under the following conditions.

(a) The project facility may be leased by the grantee to a non-profit operator providing the applicant maintains a continuing significant economic interest in the project and is not acting simply in a passive role for a prospective lessee, and such facility is used for the purpose of the grant.

(b) The project facility may be leased by the grantee to a profit making operator provided all of the following conditions are met:

(1) The lease is incidental to the project and not its principal purpose;

(2) The lease does not change the public nature or character or the purpose of the project as a whole; and

(3) The applicant maintains a continuing significant economic interest in the project and is not acting simply in a passive role as applicant for a prospective lessee.

§ 317.74 Final determination.

(a) All applications for assistance under this part shall be processed by the appropriate EDA Regional Office.

(b) The Regional Director shall notify the applicant, in writing, when its application has been rejected and state the reasons therefor.

(c) The Regional Director shall forward to the Assistant Secretary in Washington, D.C., all applications which he deems are properly completed and eligible for assistance under this part.

(d) The Assistant Secretary shall review all applications received from the Regional Directors and make the final determination.

(e) If no determination has been made by the end of the sixtieth day after the application was received, the application will be deemed to be approved.

§ 317.75 Suspension and termination.

(a) *Suspension or termination for cause.* EDA may initiate a suspension or termination of a project approved under this part for failure by the grantee to adhere to the requirements of the grant. EDA shall promptly notify the grantee in writing of the suspension or termination, specifying the reasons for the action and its effective date. Payments made to the grantee or recoveries by EDA under grants suspended or terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(b) *Suspension or termination for convenience.* EDA or the grantee may initiate a suspension or termination of a project approved under this part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the conditions of the action, including the effective date, and in the case of partial suspension or termination, the portion to be suspended or terminated. The grantee shall not incur new obligations for the suspended or terminated portion, after the effective date, and shall cancel as many outstanding obligations as possible. EDA shall allow full credit to the grantee for the Federal share of the non-cancellable obligations which were properly incurred by the grantee prior to suspension or termination.

Subpart H—Eligibility of Non-Profit Entities

§ 317.80 Grants for non-profit entities.

After September 30, 1977, grants may be made from appropriations under the Local Public Works Act to States or local governments for projects for the construction, renovation, repair, or other improvements of health care or rehabilitation facilities owned and operated by private non-profit entities.

(a) In the even that EDA has obligated all funds appropriated under this Act prior to or on September 30, 1977, this section will not take effect.

(Section 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Pub. L. 94-369, 90 Stat. 999 (42 U.S.C. 6701); Pub. L. 95-28, 91 Stat. 116; Department of Commerce Organization Order 10-4 (September 30, 1975), as amended (40 FR 56702 as amended at 40 FR 58878 and 41 FR 35546).)

Dated: May 24, 1977.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc.77-16366 Filed 5-26-77;8:45 am]

federal register

FRIDAY, MAY 27, 1977

PART IV



ENVIRONMENTAL PROTECTION AGENCY

LOW NOISE EMISSION PRODUCTS

Proposed Criteria and Data Requirements

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 203, 204, 205]

[FRL 718-6]

LOW NOISE EMISSION PRODUCTS

Proposed Criteria and Data Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules.

SUMMARY: This notice proposes the establishment of noise emission criteria and requirements for submission of data for use by the EPA in determining whether a manufactured product can be certified as a low-noise-emission product and qualified as a suitable substitute for products purchased by the Federal government. Products so certified and qualified will receive preferential treatment in purchasing by Federal agencies. The notice also proposes specific low-noise-emission criteria for portable air compressors and for new medium and heavy trucks. This action is being taken pursuant to Section 15 of the Noise Control Act of 1972 (86 Stat. 1245).

DATES: Interested persons are invited to submit their written data, views, and arguments. To assure that all comments receive adequate consideration, they should reach the EPA no later than July 11, 1977.

ADDRESSES: Send comments, in five (5) copies where practicable, to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW-471), Attention: Docket No. ONAC 77-7, U.S. Environmental Protection Agency, Washington, D.C. 20460. All written comments received which are not identified as company proprietary in nature will be open for public inspection and copying between the hours of 8 a.m. and 4:30 p.m. weekdays at the Public Information Center, Room 2104D, Waterside Mall, 4th and M Streets SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ellen Robinson, Public Information Specialist, U.S. Environmental Protection Agency, Office of Public Affairs (A-107), 401 M Street SW., Washington, D.C. 20460 (202-755-0704).

SUPPLEMENTARY INFORMATION: Section 15 of the Noise Control Act of 1972 (42 U.S.C. 4914) established a process by which the Federal Government will give preference in its purchasing to products whose noise emissions are significantly below those required by the Federal noise emission standards promulgated pursuant to Section 6 of that Act (42 U.S.C. 4905).

Under Section 6 of the Act, the Environmental Protection Agency (EPA) to date has published noise emission standards for Portable Air Compressors (40 CFR Part 204) and Medium and Heavy Trucks (40 CFR Part 205). Under Section 15 of the Act, EPA has published regulations prescribing procedures for the certification of Low-Noise-Emission Products (LNEP) (40 CFR Part 203). The LNEP certification procedures refer to a "low-noise-emission criterion" (See 40 CFR 203.1(a)(5), 203.2(b), 203.4(c)), and to a "suitable substitute decision" (See 40 CFR 203.1(a)(6), 203.5). However, EPA stated in promulgating those procedures that they "* * * do not contain the low-noise-emission criterion nor do they contain the specific data requirements necessary for deciding whether the product is a 'suitable substitute.' These will be published at a later date." (39 FR 6670, February 21, 1974).

The Environmental Protection Agency now proposes to amend 40 CFR Parts 203, 204, and 205 to include the suitable substitute data requirements for all LNEP applications and the low-noise-emission criteria for Portable Air Compressors and Medium and Heavy Trucks.

The LNEP criterion is the noise level which a product must meet for the Administrator to find that its noise emissions are "significantly below" the applicable standards in effect under Section 6 of the Act, as required by Section 15(a)(3) and 15(b)(2) of the Act. The LNEP criteria proposed for Portable Air Compressors and Medium and Heavy Trucks are 5 dBA below what the applicable noise emission standards will be in the year following procurement.

The Section 6 standards for Portable Air Compressors and Medium and Heavy Trucks were both promulgated at a level 2 dBA above manufacturers' presumed design levels. To achieve a noise reduction that is "significant" in a technological sense, it is required that an additional 3 dBA reduction be obtained below presumed design levels. Thus, for Portable Air Compressors and Medium and Heavy Trucks, the LNEP criteria as proposed are 5 dBA below the Section 6 standards. It will be EPA's policy with respect to LNEP criteria for products regulated in the future to generally require at least a 5 dBA reduction below the applicable Section 6 standard. However, the criteria may vary in some cases.

The noise data utilized by the EPA in the development of the Portable Air Compressor Standard indicate that approximately two percent of the machines tested would meet the proposed LNEP level. These machines, all rated less than 250 cfm, are considered to represent abnormally large deviations from the mean noise level of quieted production machines. The EPA believes that manufacturers would more likely apply new technology rather than resort to the exhaustive testing required to selectively choose those few qualified products from their normal production line. In order to promote the early application of new technology the proposed LNEP criteria for Portable Air Compressors are to take effect one year preceding the effective dates of the Section 6 noise emission standard.

In the case of Medium and Heavy Trucks, the standards under Section 6 of the Act are step standards, requiring trucks manufactured in 1982 to meet a level 3 dBA below the standards applicable before that date. A further tightening is contemplated for 1985. (See 40 CFR 205.52(a).) The stepwise reduction of the standard over a period of time presents a problem for purposes of the LNEP criteria. Manufacturers will be producing trucks in early 1981 at design levels of 78 dBA in order to meet the production verification and other requirements for the 1982 trucks. Because a considerable number of trucks can be expected to come off the assembly line at 78 dBA during 1981, a LNEP criterion 5 dBA below the standard in effect during that year would allow those 78 dBA trucks to be certified as Low-Noise-Emission Products, even though they will not at that point represent a significant technological advance over trucks manufactured to EPA standards. In order to alleviate this eventuality, the LNEP criterion proposed is 5 dBA below the noise emission standard that will be in effect the year following the year in which the product is procured by the Federal Government.

Applicants should ensure that their application is consistent with the LNEP criterion in effect at the time the product will actually be procured by the Federal Government.

In order to be considered for certification, manufacturers must also submit a data package consistent with the information specified in the LNEP Certification Procedures (40 CFR Part 203). EPA intends to amend these data requirements, as proposed in this notice. The amendments clarify what data will be relevant to the suitable substitute decision required by Section 15(b)(2)(C) of the Noise Control Act, deleting the provisions which stated that separate data requirements would be published with each Section 6 standard. These and certain minor amendments are proposed to present § 203.2(a).

(Sec. 15 and Sec. 6, Noise Control Act of 1972, 86 Stat. 1245 and 86 Stat. 1237 (42 U.S.C. 4914 and U.S.C. 4905).)

Dated: May 17, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend 40 CFR Parts 203, 204, and 205 as set forth below:

1. 40 CFR Part 203 is amended by revising § 203.1 as follows:

§ 203.1 [Amended]

(a) 40 CFR 203.1(a)(5) is deleted.
(b) 40 CFR 203.1(a)(6) is deleted.

2. 40 CFR Part 203 is amended by revising § 203.2 as follows:

(a) In § 203.2 paragraph (a) is revised as follows, paragraph (b) is deleted, and paragraph (c) is redesignated (b).

§ 203.2 Application for certification.

(a) Any person desiring certification of a class or model of product under Section 15 of the act shall file with the Administrator an application for certification. The application shall be completed upon such forms as the Administrator may deem appropriate and shall contain the following data to allow the Administrator to determine whether a product is a low-noise-emission product; and, if so, whether the product is a suitable substitute for a product presently being purchased.

(1) Data required by the Administrator for low-noise-emission determination:

(i) A statement citing the Section 6 standard under which the product is regulated;

(ii) A statement signed by an authorized representative of the manufacturer certifying that the product does meet the low-noise-emission level appropriate for that product;

(iii) Noise emission data from the manufacturer's test(s) of the product validating its noise emission levels.

(2) To allow the Administrator to determine that the low-noise-emission product is a suitable substitute:

(i) The applicant shall include a statement specifying the product(s) for which suitable substitution is claimed and, if applicable, identification of the Federal procurement specification(s) for the product(s).

(ii) Any additional information which would substantiate the claim of suitable substitutability of the low-noise-emission product should be submitted in the applicant's proposal including such factors as:

(A) Safety (compliance with applicable regulatory standards or specifications);

(B) Performance characteristics;

(C) Reliability of product and reliability of low-noise-emission features (Mean Time Between Failures, ratios of up-time to down-time);

(D) Maintenance (nature of requirements, special skills, additional time or materials beyond those required for a non-low-noise-emission product);

(E) Operating costs (detailed estimate of annual operating costs, with separate identification of items that would incur costs beyond those incurred with a non-low-noise emission product);

(F) Conformance with Federal Agency Purchase Specifications.

(iii) The Federal government agency responsible for procuring the product(s) for which suitable substitution is claimed may further request such information as is deemed necessary to determine the suitability of substitution.

(iv) The Administrator, in reconciling potential differences between the procuring Federal agency and the applicant, may request amplifying information from the agency, the applicant, or both.

* * * * *

3. 40 CFR Part 203 is amended by revising paragraphs (a) and (b) of § 203.3 to read as follows:

§ 203.3 Test procedures.

(a) Unless otherwise specified by the Administrator, the applicant shall test or cause his product to be tested in accordance with the procedures applicable to the product for verification of its conformance to noise emission standards issued under section 6 of the Act.

(b) The Administrator may conduct whatever investigation is necessary, including testing or actual inspection of the product at a place designated by him.

4. 40 CFR Part 203 is amended in § 203.5 as follows:

§ 203.5 [Amended]

(a) In § 203.5 paragraphs (a) and (c) are amended by inserting the words "pursuant to § 203.4" after the words "low-noise-emission product."

5. 40 CFR Part 203 is amended by adding a a new § 203.9 to read as follows:

§ 203.9 General low-noise-emission criterion.

In order that a product be determined to be a low-noise-emission product, the noise emission level will be approximately 5 dBA below the noise level required by the section 6 standard for that product; however, the general LNEP criterion is to be a guideline only. The low-noise-emission level will be set individually for each product at the time of the appropriate section 6 regulation promulgation.

6. 40 CFR Part 204 is amended by revising § 204.52(c) to read as follows:

§ 204.52 Portable air compressor noise emission standard.

* * * * *

(c) *Low noise emission product.* For purposes of Low-Noise-Emission Product Certification according to Part 203, portable air compressors subject to this subpart shall emit no more than the levels indicated, when tested, as prescribed in § 204.54-1,2:

Capacity	Procurement date	Level (dBA)
Less than or equal to 250 ft³/min.	Jan. 1, 1977, and after	71
Greater than 250 ft³/min.	July 1, 1977, and after.	71

7. 40 CFR Part 205 is amended by revising § 205.52(e) to read as follows

§ 205.52 Vehicle noise emission standards.

* * * * *

(e) *Low-noise-emission product.* For purposes of Low-Noise-Emission Product Certification according to Part 203, vehicles subject to this subpart which are procured during the following time periods shall emit no more than the levels indicated, when tested as prescribed in § 205.54-1,2:

Procurement date	*Level*
(i) Jan. 1, 1977–Dec. 31, 1980	78 dBA.
(ii) Jan. 1, 1981–Dec. 31, 1983	75 dBA.
(iii) Jan. 1, 1984, and after	Reserved.

[FR Doc.77-15220 Filed 5-26-77;8:45 am]

federal register

FRIDAY, MAY 27, 1977

PART V



DEPARTMENT OF COMMERCE

Economic Development Administration

■

COMMUNITY EMERGENCY DROUGHT RELIEF PROGRAM

Requirements and Procedures

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 318—COMMUNITY EMERGENCY DROUGHT RELIEF PROGRAM

Requirements and Procedures

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: These regulations contain the requirements and procedures governing the grant of assistance under the Community Emergency Drought Relief Act of 1977, Pub. L. 95–31. Assistance extended under this program will facilitate emergency actions in drought impacted areas to mitigate the effects of the 1976–1977 drought and to promote water conservation.

DATES: Effective date: May 27, 1977. Comments by: June 27, 1977.

ADDRESSES: Send comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202–377–5441.

SUPPLEMENTARY INFORMATION: During the past two years, many areas of the country have experienced severe shortages of rainfall and snowpack. As a result of these conditions, many communities are suffering from shortages in their water supplies. This program is designed to provide emergency assistance through grants and loans for temporary relief from drought conditions to those areas with populations of 10,000 or more persons which are most severely distressed.

Because these regulations relate to an EDA grant program, they are exempted from the procedures described in s553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding these regulations to the Assistant Secretary for Economic Development at the above address.

Consideration has been given as to whether matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular A–107 and the interpretative guidelines as issued by the Department of Commerce. A determination has been made that these regulations do not extend beyond the statute, and therefore there is no inflationary impact of these regulations beyond the statute.

Accordingly, 13 CFR Chapter III is amended by adding a new Part 318 to read as follows:

Sec.

318.1 Purpose.
318.2 Definitions.
318.3 Designation of eligible areas.
318.4 Eligible applicants.
318.5 Eligible projects.
318.6 Grants.
318.7 Loans.
318.8 Security.
318.9 Previously acquired assets as part of total project cost.
318.10 Amount of grant assistance.
318.11 Financial assistance from other sources.
318.12 Considerations in evaluating applications.
318.13 Priority among applications.
318.14 Ineligible projects.
318.15 Powers of the Assistant Secretary.
318.16 Use of other facilities.
318.17 Compliance with other Federal requirements.
318.18 Acceptance of applications.
318.19 Environmental considerations.
318.20 Final determination.
318.21 Suspension and termination.
318.22 Records and audit.
318.23 Project implementation.
318.24 Loan monitoring, closing and disbursement.
318.25 Grant servicing.

AUTHORITY: Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Pub. L. 95–31.

§ 318.1 Purpose.

The purpose of this part is to set forth the requirements and procedures pursuant to which eligible applicants may receive grants and loans under Title I of the Community Emergency Drought Relief Act of 1977.

§ 318.2 Definitions.

"Act" as used in this part means the Community Emergency Drought Relief Act of 1977, Pub. L. 95–31.

"Assistant Secretary" means the Assistant Secretary of Commerce for Economic Development or his delegate.

"Designated drought impacted area" means any area which has been determined eligible for assistance under this part pursuant to the criteria contained in § 318.3.

"Indian tribe" means the governing body of a tribe, nonprofit Indian corporation (restricted to Indians), Indian authority or other tribal organization or entity or Alaskan native village.

"Political subdivision of a State" means the authorities established or authorized by State law including, but not limited to, special districts whose areas of jurisdiction include populations of 10,000 or more persons.

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

§ 318.3 Designation of eligible areas.

(a) The Assistant Secretary may designate any area a drought impacted area if he finds that a major and continuing adverse drought condition exists and is expected to continue and cause significant hardships in the affected area.

(b) The Interagency Drought Emergency Coordination Committee of 1977, of which EDA is a member with delegated authority to designate, may designate any area a drought impacted area according to the criteria and procedures it has established.

(c) If an area which has requested designation from the Interagency Drought Emergency Coordinating Committee of 1977 does not receive designation, it may apply to EDA for designation. Such designations will be made on the basis of the criteria contained in paragraph (a) of this section.

§ 318.4 Eligible applicants.

The following entities located in areas designated under § 318.3 are eligible to apply for assistance under this part:

(a) States and political subdivision of States with populations of 10,000 or more persons;

(b) Indian tribes;

(c) public or private non-profit corporations; and

(d) water districts which are political subdivisions of States or public or private non-profit corporations.

§ 318.5 Eligible projects.

(a) Projects eligible for assistance under this part are projects which, in the opinion of the Assistant Secretary, will make substantial contributions to the relief of existing or threatened drought conditions in designated areas.

(1) Such assistance shall be for projects that conserve water or implement short-term actions to augment an applicant's water supplies where there are severe problems due to water shortages resulting from the 1976–77 drought.

(2) Assistance may be provided to those applicants that demonstrate a threat to the health and safety of their inhabitants or other severe problems, such as major adverse economic impact, as a result of the 1976–77 drought. Such threats must be fully supported by factual information.

(3) Projects eligible for assistance may include:

(i) Projects for the improvement, expansion or construction of water supplies;

(ii) Projects for the purchase and transportation of water; and

(iii) Projects which will promote water conservation.

(b) Assistance shall also be available under this part to reimburse eligible applicants for projects conducted during fiscal year 1977 but before the passage of this Act, if the Assistant Secretary determines such projects are compatible with the broad purposes of this Act.

§ 318.6 Grants.

(a) The Assistant Secretary may make direct grants to any eligible applicant for the purpose of carrying out eligible projects under this part.

(b) The grant share of a project made under this part shall not exceed fifty (50) percent of the allowable project costs.

(1) An eligible applicant may use in-kind services as its local contribution, pursuant to the provisions of § 318.9.

§ 318.7 Loans.

(a) The Assistant Secretary may make loans to any eligible applicant for the purpose of carrying out eligible projects under this part.

(b) No loans under the authority of this part may be made for periods exceeding forty (40) years from the date of the signing by the borrower of the evidence of indebtedness, except as provided for by § 318.15.

(c) Loans under the authority of this part shall bear interest at a rate of five (5) percent per annum.

§ 318.8 Security.

(a) A loan may be secured if the Assistant Secretary determines such security is necessary.

(b) In order to encourage financial participation in a loan project by other lenders and investors, and to the extent necessary, the loan may be repayable only after other loans made in connection with the project have been repaid in full. The lien position of EDA security on the loan, if any, may be subordinated and made inferior to lien or liens securing other loans and may provide for future subordination pursuant to conditions in the loan.

§ 318.9 Previously acquired assets as part of total project cost.

(a) The fair market value of land and facilities (including buildings, machinery, and equipment) acquired by the recipient before receipt of the assistance under this part may be allowed as part of the total project cost if the following conditions are met:

(1) The land and/or facilities are so physically related to the project as to be required for the successful functioning of the project; and

(2) The project cost does not include more land and/or facilities than EDA determines to be reasonably necessary for the successful completion of the project to be constructed.

(b) EDA will not grant or lend more than the difference between the total project cost and the value of such previously acquired land and/or facilities.

(c) The fair market value of such previously acquired land and/or facilities will be set at a conservative figure determined by EDA appraisal or by an independent appraiser satisfactory to EDA.

(d) Previously acquired easements and rights-of-way may be included in project costs if they meet the requirements of paragraph (a) of this section. However such previously acquired easements and rights-of-way will not be included in project costs at a sum in excess of their fair market value. In addition, the successful construction of the project must require inclusion of the easements and rights-of-way.

§ 318.10 Amount of grant assistance.

(a) The amount of grant assistance for a project shall not exceed fifty (50) percent of the total allowable project cost.

(b) The amount of grant assistance available for projects receiving priority under section 318.13 shall be determined as follows: *Provided, however,* That normally no such project will receive less than twenty (20) percent of the total allowable project cost in the form of grant assistance.

(1) Calculate one (1) percent of the median family income of those individuals located within the service area covered by the project multiplied by the number of families or users served; this amount is the applicant's annual available debt service.

(2) Calculate the amount needed annually to service existing indebtedness. Where there are overlapping jurisdictions providing utilities for the applicant's area, EDA will also include in this calculation the debt service requirements for the existing debt of all jurisdictions involved.

(3) Subtract from the applicant's annual available debt service calculated under paragraph (1) of this subsection the amount needed to service indebtedness calculated under paragraph (2) of this subsection. This is the net annual available debt service.

(4) Calculate the amount of debt that could be amortized during the estimated useful life of the project with the net annual available debt service calculated under paragraph (3) of this subsection.

(5) Subtract from the total allowable project cost the amount determined in paragraph (4) of this subsection. The remainder will be the maximum amount of grant assistance for the project.

(c) All other eligible projects shall receive only loan assistance under this part. However, the Assistant Secretary may provide grant assistance to these projects up to an amount not to exceed fifty (50) percent of total allowable project cost and not to exceed the amount permitted pursuant to the calculation set forth in paragraph (b) of this section. In determining the amount of grant assistance under this subsection, the Assistant Secretary may give consideration to one or more of the following factors:

(1) The relative distress of the area based on the rate of unemployment, the median family income, and the nature of the project to be assisted;

(2) The type of user being benefited from the project; and

(3) The amount of revenues that can be reasonably anticipated as a direct result of the project.

§ 318.11 Financial assistance from other sources.

Subject to the fifty (50) percent maximum limitation on grants and further subject to the limitation that no projects shall be funded over one hundred (100) percent of the project cost, grant assistance under this Act will not be reduced by virtue of the applicant receiving financial assistance from Federal, State or local governments or from any other source.

§ 318.12 Considerations in evaluating application.

In making grants and loans under this part, the Assistant Secretary shall take into consideration the following factors:

(a) The relative needs of the designated areas from which applications are received; and

(b) The appropriateness of the project for relieving drought conditions.

§ 318.13 Priority among applications.

In making grants and loans under this part, the Assistant Secretary shall give priority and preferential treatment to applications for projects primarily designed to meet existing or immediately forseeable threats to health and public safety.

§ 318.14 Ineligible projects.

(a) Projects for which the applicant cannot certify to the satisfaction of the Assistant Secretary that construction work can be completed by April 30, 1978 are ineligible for assistance under this part, except that the Assistant Secretary may, in exceptional circumstances, extend the time in which the work on the project must be completed.

(b) Projects which are primarily intended to provide a water supply capacity beyond the immediate needs of the applicant's users resulting from the 1976–77 drought are ineligible for assistance under this part.

§ 318.15 Powers of the Assistant Secretary.

In performing his duties under this act, the Assistant Secretary is authorized to use all powers granted by section 701 of the Public Works and Economic Development Act of 1965, as amended.

§ 318.16 Use of other facilities.

The Assistant Secretary is authorized to delegate to the heads of other departments and agencies of the Federal Government any of the Assistant Secretary's functions, powers, and duties under this Act, as he may deem appropriate, in conformity with section 708 of the Public Works and Economic Development Act of 1965, as amended.

§ 318.17 Compliance with other Federal requirements.

Each applicant shall, as a condition to its receipt of a grant or loan under this part, comply with the following relevant Federal requirements:

(a) Those requirements concerning relocation and related payments to all persons displaced as a result of the development of a project in a drought impacted area with funds received under this part, as provided for in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., and 13 CFR Part 310.

(b) The provisions of OMB Circular A–95, with the following modifications. Copies of the application will be sent to the State and area-wide clearinghouses at the same time they are submitted to the funding agency. The applicant will also notify the clearinghouses that because of the time constraints any comments will have to be made almost immediately and addressed to the funding agency. If comments or objections from clearinghouses are not received prior to completion of application processing, they will not be considered.

(c) All environmental requirements, to the maximum extent possible as determined by the Assistant Secretary, including, but not limited to:

(1) The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) and requirements found in § 318.19;

(2) The Clean Air Act, as amended (42 U.S.C. 1857–1858a);

(3) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251–1376);

(4) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and requirements found in § 318.19;

(5) The Wild and Scenic Rivers Act (16 U.S.C. 1271–1287);

(6) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(7) The Safe Drinking Water Act (42 U.S.C. 300f–j9); and

(8) The Historical and Archeological Data Preservation Act, as amended (16 U.S.C. 469 et seq.).

(d) 13 CFR 309.27, entitled "Land use near Federal airfields."

(e) 13 CFR 309.14, entitled "Design, construction, and alteration of buildings to accommodate the physically handicapped."

(f) 13 CFR Part 314, entitled "Property management standards." except 13 CFR 314.6(a), 13 CFR 314.6(b), and 13 CFR 314.50.

(g) The National Flood Insurance Program and EDA's requirements regarding flood hazards found at 13 CFR 309.15.

(h) 15 CFR Subtitle A, Part 8 "Civil Rights"; Title VI of the Civil Rights Act of 1964; 28 CFR Part 42, Subpart F to the extent set forth in EDA's policies and guidelines; and Executive Order 11246 "Equal Employment Opportunities."

(i) Other laws affecting this program.

§ 318.18 Acceptance of applications.

(a) Applications for assistance under this part shall only be submitted to the appropriate EDA Regional Office or other designated offices.

(b) Applications shall be on forms approved by the Assistant Secretary and accompanied by such exhibits as may be required.

(c) Applications shall be recorded and deemed received upon their arrival at the appropriate EDA Regional Office or other designated offices.

§ 318.19 Environmental considerations.

(a) *The National Environmental Policy Act.* (1) Section 105 of the Act requires the National Environmental Policy Act to be implemented to the fullest extent consistent with, but subject to, the time constraints imposed by the Act. Accordingly, the Assistant Secretary or his designee when making the final determination regarding an application for assistance shall give consideration to environmental consequences determined within that period. EDA will not be able to prepare environmental impact statements for those projects which may significantly affect the quality of the human environment. However, to the fullest extent possible within this time period, EDA will analyze a project's potential environmental impacts and give appropriate consideration to environmental impacts in making its final decisions.

(2) In order that EDA may conduct its environmental analysis of proposed projects, applicants shall include the following materials with their applications:

(i) A description of those elements of the proposed project which will have an impact on the environment, the nature of the environment which will be affected, and data on the expected environmental impact;

(ii) Alternatives to the proposed project;

(iii) Any environmental analysis previously conducted by local, State, and Federal agencies; and

(iv) Evidence of public reaction to the project, such as transcripts of local public hearings held on the proposal.

If the materials required by paragraphs (iii) and (iv) are not available, applicants must include a certification as to why such materials are not available.

(3) EDA will independently review and analyze environmental information submitted by applicants.

(i) Where appropriate, EDA may seek the views of other government agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved;

(ii) If a project appears to be highly controversial for environmental reasons and there is a need to further understand the basis of the controversy, EDA may request the views of concerned residents through a newspaper notification or a public information meeting held near the project site.

(4) EDA shall deny an application if, after consideration of the benefits of a project against any environmental costs, it concludes that the environmental costs exceed the benefits. EDA may deny any application solely on the basis that its environmental impact analysis discloses that unacceptable adverse impacts will or are likely to result. EDA, where necessary, may condition approval of a project upon the adoption of specified measures designed to mitigate any adverse environmental impacts.

(b) *The National Historic Preservation Act.* (1) Applicants shall include with their applications either a statement of their State Historic Preservation Officer's views of the proposed project or shall certify that their State Historic Preservation Officer was provided with a detailed project description and a request for comments prior to the submission of the application to EDA. Such description shall include a narrative of the elements of the project and its location; a map of the project site and surrounding area indicating the specific location of the project site in relation to adjacent streets and other identifiable objects; line drawings or sketches of the project; and, if the building demolition or renovation is involved, photographs of the affected properties.

(2) If necessary, EDA will attempt to complete the coordination of proposed projects with the Advisory Council on Historic Preservation. EDA will use the results of this coordination process, even though completion of this process may not be possible, as a factor in making a final decision on the project.

§ 318.20 Final determination.

(a) All applications for assistance under this part shall be processed by the appropriate EDA Regional Office.

(b) The Regional Director or his designee shall notify the applicant, in writing, when its application has been rejected and state the reasons therefore.

(c) The Assistant Secretary or his designee shall review all applications and make the final determination.

(d) The offer of a grant or a loan shall be made in writing and on such terms and conditions as the Assistant Secretary or his designee may determine.

§ 318.21 Suspension and termination.

(a) *Suspension or termination for cause.* EDA may initiate a suspension or termination of a project approved under this part for failure by the recipient of assistance to adhere to the requirements of the grant or loan. EDA shall promptly notify the recipient in writing of the suspension or termination, specifying the reasons for the action and its effective date. Payments made to the recipient or recoveries by EDA under grants or loans suspended or terminated for cause shall be in accord with the legal rights and liabilities of the parties.

(b) *Suspension or termination for convenience.* EDA or the recipient of assistance under this part may initiate a suspension or termination of a project approved under this part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the conditions of the action, including the effective date, and in the case of partial suspension or termination, the portion to be suspended or terminated. The recipient shall not incur new obligations for the suspended or terminated portion, after the effective date, and shall cancel as many outstanding obligations as possible. EDA shall allow full credit to the Federal share of the non-cancellable obligations, properly incurred by the grantee prior to suspension or termination.

§ 318.22 Records and audit.

(a) Each recipient of assistance under the Act shall keep such records as EDA shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. Records shall be kept for a period of three (3) years after the date of the final expenditure report, except that:

(1) If audit findings have not been resolved, these records are to be retained beyond the three (3) year period;

(2) Records for nonexpendable property shall be retained for three (3) years after its final disposition;

(3) When grant records are transferred to or maintained by EDA, the three (3) year retention requirements is not applicable.

(b) The Assistant Secretary, the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance under the Act.

§ 318.23 Project implementation.

(a) *Timing.* Applicants may begin project implementation action at their own risk without prejudice to their applications. Projects must be completed by April 30, 1978, unless the Secretary approves a time extension due to exceptional circumstances.

(b) *Project manager.* Where appropriate, a project manager or director may be employed. The costs of that person's services are eligible project costs.

(c) *Disbursement.* Disbursements will be by Treasury check or letter of credit pursuant to established policies and procedures of EDA. Loans will not be disbursed until the loan has been closed.

(d) *Construction project implementation.*—(1) Bid procedures. Construction on projects normally will be contracted for through competitive bidding. Negotiated contracts will be allowed if the Assistant Secretary determines it necessary in accordance with Attachment O of FMC 74–7. EDA will allow simultaneous design and construction of projects if the Assistant Secretary determines it necessary. Force account construction is also acceptable.

(2) Proposed construction contract documents. Where the Grantee intends to use its own contract documents, the contract documents must conform to the requirements of Attachment O, of FMC 74–7, and to local and State law.

(3) Project construction monitoring. Grantees will be expected to constantly monitor the performance of grant-supported projects to assure that time schedules are being met and other performance goals are being achieved.

(4) EDA inspections. EDA will perform random construction project inspections as circumstances dictate and may perform special audits in addition to the final audit.

(5) Final inspection. A final inspection will be scheduled by the Grantee when all construction has been completed, the Architect/Engineer has accomplished his final inspection, and all deficiencies have been corrected. The project must be complete and functional before the final inspection is performed.

§ 318.24 Loan monitoring, closing and disbursement.

Loans will be monitored, closed and disbursed in accordance with the policies and procedures set forth in EDA's guidelines and procedural papers for the Community Emergency Drought Relief Program.

§ 318.25 Grant servicing.

Grants will be serviced in accordance with the policies and procedures set forth in EDA's guidelines and procedural papers for the Community Emergency Drought Relief Program.

Dated: May 25, 1977.

ROBERT T. HALL,
Assistant Secretary
for Economic Development.

[FR Doc.77-15316 Filed 5-26-77;8:45 am]

federal register

FRIDAY, MAY 27, 1977

PART VI



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

OCCUPATIONAL EXPOSURE TO BENZENE

Emergency Temporary Standards; Hearing

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H–059]

OCCUPATIONAL EXPOSURE TO BENZENE

Proposed Standards and Notice of Hearing

AGENCY: The Occupational Safety and Health Administration, Department of Labor.

ACTION: Proposed rule and notice of hearing.

SUMMARY: The Occupational Safety and Health Administration (OSHA), in the FEDERAL REGISTER issue of May 3, 1977 (42 FR 22516), published an Emergency Temporary Standard (ETS) regulating worker exposure to benzene. The basis for that ETS was clinical and epidemiological data, some of which was only recently received, that conclusively established that benzene causes leukemia in humans. By this notice, OSHA proposes a permanent standard for the regulation of benzene. The proposed standard provides, as does the ETS, for a permissible employee exposure limit of one part benzene per million parts of air (1 ppm) averaged over an eight-hour period, with a 5 ppm ceiling limit, and proposes to limit eye and skin exposure. The proposal also requires, among other things, measurements of employee exposure, certain methods of compliance, personal protective equipment, employee training, work practices, medical surveillance, signs, labels, and recordkeeping. The permanent standard will supersede the existing ETS at the conclusion of the rulemaking.

DATES: Comments and Notices of Appearance concerning the proposed rule must be postmarked on or before June 27, 1977; all materials which will be introduced into the hearing record must be received by July 11, 1977; an informal hearing is scheduled to begin July 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, OSHA, Third Street and Constitution Ave. NW, Room N3641, Washington, D.C. 20210, 202–523–8151.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

In the May 3, 1977 issue of the FEDERAL REGISTER, OSHA published an Emergency Temporary Standard (ETS) regulating benzene exposure in the workplace (29 CFR 1910.1028). That ETS, and the preamble explaining the reasons therefor, are incorporated herein in their entirety and annexed hereto for the convenience of all interested parties.[1] A correction document was published on May 10, 1977 (42 FR 23601). In the FEDERAL REGISTER for May 24, 1977, at 42 FR 26429, an amendment to the ETS is published. Pursuant to sections 6(b), 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8–76 (41 FR 25059) and 29 CFR Part 1911, it is now proposed to amend Part 1910 of 29 CFR by revising 29 CFR 1910.1028 (42 FR 22516).

This proposal applies to all employments in all industries covered by the Act that include "general industry," construction and maritime. One of the major issues involved in this proceeding is whether the final standard should exempt certain specified operations from its coverage. For the purpose of raising this issue, the proposal, as drafted, does not cover storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from a bulk terminal, and operations in which the only exposure to benzene is from liquid mixtures which contain no more than 0.1% benzene (1% benzene during the first year after the effective date of the standard). The question of whether these types of operations should be exempted is raised herein, and some of the reasons for the suggested exclusion of these operations are set out below. If these operations are excluded from the final standard issued as a result of this rulemaking, they would still be covered by the existing benzene standard in § 1910.1000. OSHA seeks public comment and evidence on these issues.

Other major issues raised in the proposal on which comment from the public is requested include the following:

1. Whether the proposed permissible exposure limit of 1 ppm is the minimum feasible exposure limit for all industries of whether a lower level should be required in the final standard.

2. Whether OSHA should consider different levels of exposure for industries which can feasibly reduce these levels below those that could be achieved by other industries.

3. Whether the ceiling level of 5 ppm and the prohibition against eye contact and repeated skin contact are sufficiently protective.

4. Whether the provisions for methods of compliance, regulated areas, medical surveillance, personal protective equipment and clothing, and recordkeeping are appropriate.

5. Whether the provisions for warning signs and labels and training-education program are appropriate and fully apprise employer of the leukemia hazard.

6. What, if any hygiene facilities, such as housekeeping, waste disposal, clothing laundering, should be required.

7. Whether the exclusion of activities related to storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to the discharge of such gasoline from bulk terminals is appropriate. If not, what requirements should be instituted.

8. Whether benzene can feasibly be removed from solvents and other products, and what exposures are associated with benezene contents below 1%.

9. What requirements, if any, should be established where, as a result of the medical surveillance program, it is determined that an employee is at an increased risk. What circumstances would arise if a rate retention requirement is subsequently adopted by OSHA for general application in health standards.

10. What are the environmental and economic impacts of this proposal.

11. Whether compliance with the proposal would be technologically and economically feasible for all affected industries, and particularly for employers with small numbers of employees.

12. How protection should be provided to employees where there are potentially conflicting standards. For example, coke oven workers are exposed to both coke oven emissions and benzene; however, certain provisions of the standard to control exposure to coke oven emissions, such as the respirator requirements may not be effective in controlling benzene exposure and vice versa.

In the development of this proposal, OSHA has considered recommendations and data received from the National Institute for Occupational Safety and Health (NIOSH), Department of Health, Education, and Welfare, as well as numerous reference works, studies, case histories, and journal articles, some of which are included in the reference section of the ETS. The discussions in the ETS concluding that benzene is a leukemogen to humans will not be repeated here. However OSHA has placed into the record the updated NIOSH report of the data from the Goodyear Tire and Rubber Company (dated April 28, 1977), an earlier version of which was referenced by the ETS as reference 51. The updated report again confirmed the findings that the workers, exposed to benzene during Pliofilm operations, had at least a seven times increase in the risk of contracting the malignant disease leukemia.

II. PERTINENT LEGAL AUTHORITY

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards.

Occupational safety and health standards provide notice of the requisite conduct or exposure level and provide a basis for assuring the existence of safe and healthful workplaces. The Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. (Section 6(b)(5))

Sections 2(b) (5) and (6), 20, 21, 22, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence including causative factors, epidemiological studies or dose-response data may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, standards need only be supported by the best available evidence. The legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Committee on Education and Labor, Report No. 91–1291, 91st Cong., 2d Sessions, p. 18 (1970). This Congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court or Appeals for the Second Circuit stated that "it remains the duty of the Secretary to act to protect the working man, and to act even in circumstances where existing methodology or research is deficient. *Society of the Plastics Industry Inc.* v. *Occupational Safety and Health Administration*, 509 F. 2d 1301 (C.A.2 1975), cert den sub nom. *Firestone Plastic Co.* v. *United States Department of Labor*, 95 S. Ct. 1998, 4 L.Ed. 2d 482 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in reviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001). The Court stated that:

> Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual judgments.

Industrial Union Department, AFL–CIO v. *Hodgson*, 499 F. 2d 467, 474 (C. A. D. C.1974).

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rep. No. 91–1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of the Plastic Industry, Inc.* v. *Occupational Safety and Health Administration*, supra at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (section 8(c)).

III. SUMMARY AND EXPLANATION OF ADDITIONS TO OR MODIFICATIONS OF THE ETS

The requirements imposed by OSHA in the ETS were those requirements that OSHA considered essential and feasible for employers to meet immediately, pending the development of a permanent standard. The preamble to the ETS explains the purpose and rationale for the provisions of the ETS. The following sections discuss any changes or additions that have been made in this proposal. Changes or additions that OSHA believes are more appropriate for a final, permanent standard regulating employee exposure to benzene.

A. *Scope and application.* In the ETS and its subsequent amendments, OSHA exempted storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to the discharge of such gasoline from bulk terminals, and exposure to liquids containing benzene in amounts of 1 percent or less by volume.

OSHA recognizes the need for development of appropriate equipment control devices to reduce the loss of gasoline vapors containing benzene. OSHA also recognizes that, while the scope of its statutory obligations may be different than those of the Environmental Protection Agency (EPA), that Agency has a rich background of knowledge in the area of engineering control of hydrocarbon vapors. OSHA announces that it is in the process of establishing with EPA and NIOSH a joint federal agency taskforce to coordinate efforts in reducing worker exposure to benzene in retail automotive gasoline stations, and certain other aspects of transportation, storage, distribution and sale of gasoline and other motor fuels, if the facts warrant. OSHA will decide as a part of this rulemaking whether to include these employers in the final, permanent standard on benzene, to commence an independent rulemaking proceeding concerning worker exposure to benzene at these workplaces or to take other appropriate regulatory action in conjunction with EPA. OSHA is seeking the widest possible public input regarding the appropriate regulatory mechanism for protecting employees exposed to benzene at retail automotive gasoline stations, and during activities related to storage, transportation, and distribution of gasoline. Since other hazardous substances, such as asbestos, are present in gasoline stations, one regulatory option would be a "vertical" standard on all occupational hazards in retail gasoline stations. Moreover, OSHA desires comment on whether certain protective requirements should be included in any standard applying to gasoline stations and related activities, for example limiting use of gasoline as a solvent in such workplaces, and requiring information and training of employees.

As to liquids containing a certain percentage of benzene, the ETS did not apply where the only benzene exposure was from liquids containing benzene in amounts of 1 percent or less by volume. Benzene is a contaminant as well as an additive in a multitude of industrial substances; for example, benzene is found in toluene, gasoline, xylene, petroleum naphthas, and other hydrocarbon derivatives. The degree of benzene contamination in these and other materials is variable depending upon the practices of individual refineries and the material specifications established by many large volume solvent purchasers.

The ETS excluded mixtures containing 1 percent or less benzene by volume based upon OSHA's concern for the feasibility of requiring employers to implement such regulatory activities in so large a number of establishments in a short period of time. Moreover, there is some evidence that employee exposures to these substances are generally less than 1 part per million. However, in this proposal for a permanent standard, OSHA believes that a more careful consideration of this issue is necessary. There is only limited evidence which serves to correlate the potential exposure levels with the amount of benzene contaminant in solvent mixtures. As pointed out in the ETS, there is some indication that exposures resulting from the use of mixtures containing less than 1 percent benzene will generally be less than 1 part per million. However, it is not clear that this would always be the case.

The Arthur D. Little study of technological feasibility and economic impact presents a summary of the data on the benzene content of various solvents and employee exposures that reportedly result from the use of these solvents; for example, within the rubber industry employee exposure to benzene during tire building operations ranges from 1 to 3 parts per million on an 8-hour time weighted average basis. These exposure result from the use of petroleum naptha (white gasoline) which contains benzene in amounts ranging up to 4 percent by volume.

There appears to be no safe level for exposure to a carcinogen, and particularly as to benzene, as pointed out in the ETS. However, benzene is a widespread contaminant in industrial substances and is present in a large number of workplaces. As noted above, there is limited evidence presently available to predict the exposure that would typically result from the use of many of these substances. OSHA recognizes that the lower the benzene content, generally the lower the worker exposure. Consistent with its general policy of limiting exposure to carcinogens to the lowest feasible level, OSHA intends to exempt from the permanent standard only those substances for which the benzene content has been reduced to the greatest extent feasible.

[1] See Appendix D.

Therefore, OSHA is proposing a step-down procedure exempting those workplaces in which employee exposure to benzene occurs only from liquids containing benzene of 1% or less with a reduction of that percentage to 0.1% benzene after 1 year. OSHA believes that the 0.1% exemption will result in worker exposures below the permissible exposure limit. This period of time is considered necessary to permit reformulation of products containing benzene, substitution, and disposal, perhaps by use, of existing stocks of products already in the channels of trade.

B. *Methods of compliance.* This proposed standard would require the employer to institute engineering and work practice controls to reduce employee exposures to or below the permissible limits. In situations where immediately implemented engineering and work practice controls that can be instituted immediately will not reduce exposures to the permissible exposure limit, these controls must nonetheless be used to reduce exposures to the lowest feasible level and be supplemented by respirators. In addition, a compliance program to reduce exposures to within the permissible exposure limits solely by means of engineering and work practice controls must be developed and implemented. Written plans for this program must be developed and be furnished upon request for examination and copying to representatives of the Secretary, representatives of the Director or affected employees. These plans must be reviewed and updated periodically to reflect the current status of the program.

Engineering controls are the preferred means of compliance because they reduce exposure hazards in the workplace environment by removing the airborne contaminant. Engineering controls may include the installation of local exhaust ventilation, modification of a process to as to reduce emission of the contaminant into the workplace, or substitution of another substance for benzene. Work practices often are necessary for the effective operation of engineering controls, and they therefore are also preferred as means of control.

Respirators are the least satisfactory means of control because of certain difficulties inherent in their use. Respirators are capable of providing good protection only if they are properly selected for the concentrations of airborne contaminants present, properly fitted to the employee, worn by the employee and replaced when they have ceased to provide protection. While it is theoretically possible for all of these conditions to be met, it is more often the case that they are not. As a consequence, the protection of employees by respirators is not always effective.

C. *Regulated areas.* Where employee exposure is in excess of the permissible exposure level, the employer must establish a regulated area. The purpose of establishing regulated areas is to limit the exposure to as few employees as possible. The burden on the employer is expected to be minimal since the provisions require the employer merely to identify and control access to regulated areas and to notify the applicable OSHA area office of their existence and conditions therein.

D. *Medical surveillance.* The proposal requires more thorough and sensitive laboratory blood tests than did the ETS. The additional tests will permit more comprehensive evaluation of hematopoetic functions and thereby increase the detection of bone marrow toxicity. In particular, the reticulocyte assay, a sensitive means of estimating changes in red cell production, may indicate impairment of the marrow when other indices appear normal, such as in the case of subtle anemias. Likewise, serum bilirubins provide a means of detecting early phases of benzene-induced anemia which may be hemolytic in nature. There is not complete agreement as to which parameter of hematologic function is the first indicator of benzene intoxication resulting from chronic low-level exposure to benzene. Therefore, OSHA believes that these blood tests need to be conducted on a quarterly basis. OSHA has accepted this recommendation based upon the Agency's view that this frequency is adequate to detect changes in the components of the blood which indicate benzene intoxication, while not placing an inappropriate burden upon the employer or the employee. OSHA requests, however, detailed comments on this issue.

E. *Rate retention.* The proposed standard does not include a provision prohibiting the exposure of an employee to benzene if the employee would be placed at increased risk of material impairment of his or her health from such exposure. Nor does the proposal include any provision requiring the transfer of such an employee to another job, or providing that removal for medical reasons should not result in loss of earnings or seniority status to the affected employee. Provisions of this type have been referred to collectively as rate retention and mandatory removal.

The Coke Oven Emissions standard (41 FR 46742 at page 46780, October 22, 1976) addresses the major considerations which must be dealt with in determining how to treat this issue. The conclusion reached by OSHA in that document is that:

> • • • further exploration of this (the rate retention) issue is necessary in order to deal in considerably more depth with the numerous issues raised by such a provision. It is therefore our intention to conduct further study, through an Advisory Committee or other means of the need and implications of rate retention as an aspect of an OSHA health standard." On the basis of this study, the Agency will take further action under the Act, as appropirate, regarding rate retention."

In the meantime, with respect to the benzene proposal, OSHA specifically invites comment on the issues of the propriety, scope and implications of a rate retention requirement in this standard, including: the number of employees who would be at increased risk from exposure to benzene at levels below the permissible exposure limit; the range of rate retention provisions available and their relation to determining when a condition is caused by agents other than benzene and, if so, whether an employer should be responsible for such an employees' retention of pay rate where the condition results in transfer or mandatory removal; the impact of such a provision on the affected industries; and possible alternatives to employee withdrawal.

F. *Labels.* Due to the hazardous nature of benzene, OSHA believes that emphasis should be placed on warning employees and other persons about the danger of exposure to benzene. For this reason, the ETS included a section requiring signs.

For the same reason, this proposal includes a requirement that caution labels be affixed to all containers of benzene and of the products containing benzene, not only because of the hazardous nature of benzene exposure, but because of the related necessity for both the employer and employee to know whether the product contains any benzene. The labeling provision also requires the employer to assure that caution labels are affixed to any product containing benzene when such product leaves the employer's workplace. This proposed requirement is designed to protect any other employees who will be handling, transporting, or using this product. Thus manufacturers and suppliers would be required to affix caution labels. The rationale for this requirement would be that the manufacturer or supplier is in the best position to know whether the product does contain benzene.

G. *Recordkeeping.* The proposed standard requires the employer to keep written records of employee exposure measurements and medical examinations. Symptoms of leukemia may not appear for many years after the last exposure to benzene. Thus, records of exposure measurements and medical examinations should be retained for a definite period of years even after the employee ceases to work. For this reason, the recordkeeping provisions of the proposal require the employer to retain these records for at least 40 years, or for the duration of employment plus 20 years, whichever is longer.

IV. Conclusions

OSHA recognizes that many of the matters considered in this proposal are controversial and that some gaps may exist in the available scientific evidence. OSHA has concluded that benzene is extremely harmful to workers. The unavailability of certain limited scientific evidence cannot legitimately delay the proposal of a permanent standard for protecting workers exposed to benzene. OSHA hopes that the public participation in this rulemaking will help to fill whatever gaps exist.

Therefore, based on the best available evidence and in view of the statutory requirement that no employee suffer material impairment of health or functional capacity as a result of exposure to toxic substances, OSHA believes that employee exposures to benzene must be reduced to the lowest level feasible and

that the other requirements to regulate exposure to benzene must be imposed, as set forth in the proposal. After the rulemaking record is closed, OSHA will evaluate all the evidence received and issue a final permanent standard based on the entire record.

V. Technological Feasibility Assessment and Economic Impact Statement

Pursuant to section 6(b) of the Occupational Safety and Health Act and in accordance with Executive Order No. 11949 (42 FR 1017, January 5, 1977), OSHA contracted for and received a technological feasibility assessment and economic impact statement from Arthur D. Little Company. This statement has been reviewed and OSHA concludes that the proposed regulation of benzene is a "major" action. The Assistant Secretary certifies that the economic impact of this proposal has been evaluated.

This statement along with all other references cited and other relevant material, are available for inspection and copying at the OSHA Technical Data Center, Room S6212, Third St. and Constitution Avenue, NW., Washington, D.C. 20210. OSHA invites comments on any of the information contained or conclusions reached, in the statement concerning technological feasibility and economic impact.

VI. Environmental Impact

The preceding description of the proposed standard and its supporting rationale together with that found in the annexed ETS, as well as the following sections on environmental impact, constitute OSHA's draft environmental impact statement on the proposed standard for occupational exposure to benzene.

This statement has been prepared in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 et. seq.) as well as the guidelines of the Council on Environmental Quality (40 CFR Part 1500) and OSHA's regulations (29 CFR Part 1999). The purpose of this draft environmental impact statement is to aid in the Agency decision making on proposed actions which may have the potential for significantly affecting the quality of the human environment. Written comments and information on the projected impacts of this proposed standard for exposure to benzene are solicited from any interested persons or groups during the period for written comment submissions listed below in this Notice.

In addition to this general request for comment, copies of this proposal and environmental impact statement will be sent to numerous Federal and State agencies, industry representatives, employee unions; and public interest groups with requests for their comments. A copy of this listing is available in the OSHA Technical Data Center, Room S-6212, Department of Labor, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

Testimony, data, arguments, and related submissions will be received at the public hearing to be held on this proposed standard on July 19, 1977, provided prehearing submission requirements, also outlined below, are complied with.

Additional copies of this proposed standard and draft environmental impact statement are available for review and copying in the OSHA Technical Data Center.

Alternatives

There are three major areas of regulatory decision making which will affect the impact of the benzene standard on the external environment. These are: (1) the scope and application of the regulation, (2) the airborne permissible exposure limit, and (3) the methods by which compliance is mandated. The purpose of this section is to present the alternatives available. The discussion of the impact of each of these alternatives will be in the following section.

(1) *Scope and application.* The emergency temporary standard (ETS) applied to all establishments in which benzene is present, including "general industry," construction, and maritime. The ETS did not apply, however, to storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals nor to operations utilizing liquid mixtures containing 1 percent or less benzene by volume.

This proposal applies to "general industry," construction and maritime. It has retained the exclusion for the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals. Although the proposal retains the ETS exemption of those operations utilizing liquids containing less than 1.0 percent benzene by volume, this exemption would be in effect only for one year. Thereafter, only operations containing 0.1 percent or less benzene by volume would be exempted.

Other options available to OSHA include elimination of the percentage exclusion or the expansion of coverage to retail automotive service stations and a broader range of gasoline industries. Conversely, OSHA could further restrict the scope of the regulation.

(2) *Permissible exposure limit.* The previous OSHA permanent standard for benzene, in effect prior to the issuance of the ETS, prescribed an 8-hour time weighted average (TWA) of 10 ppm with an acceptable ceiling concentration of 25 ppm. In addition, it allowed excursions above the ceiling to a maximum peak concentration of 50 ppm, provided that this peak occurred for no more than 10 minutes in any 8-hour work period. This standard was based largely on benzene's general toxicity rather than on its leukemia hazard.

The proposal establishes an airborne permissible exposure limit (PEL) of 1 ppm with a ceiling limit of 5 ppm exposure averaged over any 15 minute period. The proposal additionally prohibits eye contact and repeated skin exposure to liquid benzene.

The PEL adopted by this proposal was chosen not as a "safe" or "no effect" level, but on the basis of OSHA's belief that 1 ppm is the lowest level that generally can be achieved. OSHA is mandated by the Act to consider feasibility in setting regulations. However, it is possible that a level lower than 1 ppm could be shown to be feasibly attained either by existing controls or by the development of new controls. In that case, OSHA has the option to regulate to whatever level below 1 ppm is determined to be appropriate.

Another regulatory alternative is to adopt differing standards for different industries, moderating the degree of regulation as deemed necessary for adequate and feasible protection of workers in the various industries where benzene is present.

(3) *Methods of compliance.* OSHA's regulation, 29 CFR 1910.1000, under which benzene was initially regulated, provided that compliance be achieved first through administrative or engineering controls, whenever feasible, and, when such controls were not feasible, through the use of supplementary protective equipment.

This proposal requires the institution of engineering and work practice controls to reduce exposure to or below the PEL. In addition, the proposal requires that a program be established and implemented to reduce exposures to or below the PEL, solely by means of engineering and work practice controls. Protective clothing and equipment are also required where necessary to prevent eye contact or repeated skin contact.

Engineering controls may include the installation of local exhaust ventilation, modification of a process so as to reduce emissions, or substitution of another substance for benzene.

Alternatives involved in the compliance section of the regulation are primarily concerned with establishing a particular priority among the types of controls (engineering, work practice, and respiratory protective equipment). Sole reliance on engineering controls or on use of engineering and work practices equally could be required. Another alternative would allow the employer complete freedom in choosing the method of control without any required priority systems. An alternative approach would be to specify controls, such as reformulation of products to decrease benzene content, or the preferential use of vapor recovery systems over ventilation.

Additionally, there are other areas in which alternative actions might variously have impact upon what is considered the external environment. One of these areas is medical surveillance. The ETS provided for the minimum tests considered necessary to determine the effects of exposure to benzene. This proposal requires a more comprehensive evaluation and more sensitive means of detecting changes which may indicate effects of exposure.

It is clear that there are numerous areas with various regulatory approaches which may have differential effects on some aspects of the external environment. The possible impacts of these ap-

proaches will be discussed in the following chapter.

PROJECTED IMPACTS

The primary effect of this regulation is expected to impact on the workplace by reducing worker exposure to benzene. A second potential impact may occur to the environment external to the workplace.

The impacts on workers and the work environment of OSHA's proposed regulation of benzene has already been treated in the preceding chapters of this preamble and the preamble to the ETS. This section will attempt to delineate the impacts of the proposed rule on the external environment and will also consider the potential impacts of alternative regulatory measures and various compliance methods.

A standard for control of occupational exposure to benzene has the potential for affecting the external air quality, water quality, waste disposal (a function of land use, air quality and water quality), energy consumption, and human resources. Economic costs of implementing an occupational health standard have also been determined to have the potential for impacting the general human environment. A brief discussion of these particular impacts is included in this statement. For further information, the Technological and Economic Impact Assessment on Benzene prepared for OSHA by Arthur D. Little Inc. should be referred to. It is available at the OSHA Technical Data Center.

The specifics of potential impacts expected as a result of OSHA's proposed regulation and of alternatives to that regulation will be addressed in this chapter. But initially an overview will be presented to give a general idea of the types of impacts which may result, and the ways in which they depend on the various alternatives involved in the regulatory decision making and subsequent choice of compliance methods.

The first area of alternatives is in the scope and application of the regulation. One option is the inclusion or exemption of storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals. The areas of the external environment which will be impacted by this choice are air quality and human resources. The impacts on water quality, solid waste, and energy consumption would be insignificant, if any were to result at all, for the ways in which OSHA regulation would effect this segment would be to control vapor release and to provide medical surveillance of employees.

The direcion of the impact would be improvement of the ambient air quality by reduction of contamination of the employees' breathing air. It is reasonable to expect that it would be necessary to control exposure through engineering controls, resulting in containment of benzene at the source.

To the extent that monitoring and medical surveillance of employees is required, there will be an impact on medical resources and the supply of industrial hygienists. The full extent of this impact cannot be readily quantified.

The second area of alternatives is in setting the permissible exposure level (PEL). This area is integrally related to the methods of compliance (the third area of alternatives) used to achieve control of exposure to or below the PEL. The choice of alternative PEL's and of compliance is expected to have impact in some way on almost every category of the external environment.

In a general sense, reduction of benzene exposure will involve engineering controls to prevent emissions at the source, work practices to prevent accidental spills and contacts with benzene, and good housekeeping procedures to cope with spills when they do occur. Respirators may also be used in some cases to prevent worker exposure to benzene vapor. An additional method of compliance is the substitution of some other substance for benzene.

The extent of engineering control required is to some extent relative to the level of exposure which must be met. If exposure is to be controlled by preventing leaks and evaporation, then the controls would have to be tighter and perhaps more extensive to meet the lower PEL. This would result in less workplace contamination and, thereby, lower ambient emissions. On the other hand, if control is achieved by ventilation, the amount of benzene contamination would remain constant but the rate of exhaust outside the plant would increase. This increased flow rate may not affect the ambient air quality, but might result in an insignificant increase in energy consumption.

Likewise, tighter engineering controls to achieve lower PELs would reduce the escape of benzene into the effluent discharge, representing a positive impact on water quality. Conversely, other means of control and their degree of effectiveness may result in increased contamination of water and increased sludge production, representing a potential negative impact on both water quality and the amount of solid waste.

The PEL and compliance methods chosen should have no effect on the amount of monitoring and medical surveillance required. However, the degree of impact on human resources will depend on the contents of monitoring and medical surveillance provisions.

A. AIR POLLUTION IMPACT

The importance of benzene in air pollution is related to the concern for long-term exposure to low levels by large numbers of people. Benzene's participation in the formation of photochemical oxidants is minimal, and as a result, it is generally omitted from control efforts to reduce the formation of photochemical oxidants. However, the evidence regarding the leukemia hazard of exposure to benzene must be taken into account in evaluating the environmental impact of this proposal.

The sampling for air pollutants has been largely concerned with the total hydrocarbon levels in the atmosphere. However, several studies summarized in Table I have been conducted to specifically evaluate benzene levels. These studies were carried out in Los Angeles, Toronto, Zurich and the Netherlands and the data in Table I indicates that the ambient benzene concentrations in the urban atmosphere are normally well below 0.1 ppm and have an average concentration of 0.01 ppm. In the Los Angeles, Toronto and Netherlands studies it was noted that the benzene concentrations found at sampling sites adjacent to major roadways were highly correlated with periods of heavy traffic volume. This suggests that the motor vehicle is a source of benzene in the community air as a result of both incompletely combusted exhaust emissions and direct evaporation from vehicle gas tanks.

TABLE I (4).—*Comparison of measurement results of several sites, concentrations in part per billion*

	Benzene	
	Maximum	Average
Los Angeles	57.0	15
Toronto	98.0	18
Zurich	74.0	35
Netherlands:		
Delft	8.0	1
The Hague	29.0	8
Tunnel [1]	32.2	25

[1] High traffic area.

Source: Modified from: Burghardt, E. and Jeltes, R., "Gas Chromatographic Determination of Aromatic Hydrocarbons in Air Using a Semi-Automatic Preconcentration Method, Atmospheric Environment," vol. 9, pp. 935-940.

1. *Production.* Mitre's estimates of the quantity of benzene currently lost during commercial production, storage and transport is 79 million pounds. These emissions are largely derived from petroleum cracking facilities which currently contribute approximately 95% of the nation's total output for benzene.(7). A report in the process of being published by EPA indicates somewhat smaller estimates.

Emissions from these production sources are related to a variety of operations including equipment repair and maintenance, clean-up of small spills, transfer of materials, and the normal operation of process equipment. Additional emissions result from blow down systems, waste water separators, cooling towers and storage facilities. Fugitive emission sources include leaking pumps and compressor seals, pressure relief valves, pipeline valves and flanges, changing pipeline blinds and purging sample lines. The relative magnitude of benzene emissions can be based in part upon the emission factors summarized in Table IV.(6). These data are representative of total hydrocarbon emissions, but are pertinent to the evaluation of benzene releases where it constitutes a portion of the process stream.

TABLE II (5).—*Benzene emissions to the environment—1971*

[In millions of pounds]

Source	Location	Quantity	Media of entry
Commercial benzene production, storage and transport.	Primarily southwest	79 (assumed 1 pct. of total production).	Air, water.
Commercial benzene usage	Primarily southwest and northeast.	658 (based on reaction yields)	Do.
Oil spills	Oceans and rivers	22-34	Water.
Motor vehicle emissions	Similar to population distribution.	1,000	Air.
Coke ovens	Primarily, North Central States and Alabama.	122 (1974)	Air.

Source: Modified from Walker, P., "Air Pollution Assessment of Benzene; Mitre Technical Report," MTR-7188 Mitre Corp.; McLean, Va., 1976.

TABLE III (6).—*Emission factors for petroleum refineries*

Type of process:	*Hydrocarbons*
Fluid catalytic cracking units (FCC):	
Pounds per thousand barrels fresh feed	220
Kilograms per thousand liters fresh feed	.630
Moving-bed catalytic cracking units (TCC):	
Pounds per thousand barrel fresh feed	87
Kilgrams per thousand liters fresh feed	.250
Blowdown systems:	
Pounds per thousand barrels refinery capacity—	
With control	5
Without control	300
Kilograms per thousand liters refinery capacity—	
With control	.014
Without control	.860
Process drains:	
Pounds per thousand barrels waste water—	
With control	8
Without control	210
Kilograms per thousand liters waste water—	
With control	.023
Without control	.600
Vacuum jets:	
Pounds per thousand barrels vacuum distillation—	
With control	(1)
Without control	130
Kilograms per thousand liters vacuum distillation—	
With control	(1)
Without control	.370
Cooling tower:	
Pounds per thousand gallons cooling water	6
Kilograms per thousand liters cooling water	.72
Miscellansous losses, pounds per thousand barrels refinery capacity: [1]	
Pipeline valves and flanges	28 (0.080)
Vessel relief values	11 (.031)
Pump seals	17 (.049)
Compressor seals	5 (.014)
Other (air blowing, sampling, et cetera)	10 (.029)

[1] Kilograms per thousand liters shown in parentheses.

TABLE IV (6).—*Hydrocarbon emission factors for evaporation losses from the storage of petroleum products*

Type of tank [1]	Units	Type of material stored: Gasoline or finished petroleum product	Type of material stored: Crude oil
Fixed roof breathing loss	Pounds per day—1,000 gal storage capacity	0.4	0.3
	Kilograms per day—1,000 l storage capacity	.05	.04
Working loss [2]	Pounds per 1,000 gal throughput	11	8
	Kilograms per 1,000 l throughput	1.32	.96
Floating roof breathing loss	Pounds per day—tank	(3)	(4)
	Kilograms per day—tank	63.5	45.4
Working loss	Pounds per 1,000 gal throughput	(5)	(3)
	Kilograms per 1,000 l throughput	(3)	(3)

[1] For tanks equipped with vapor-recovery systems, emissions are negligible.
[2] An average turnover rate for petroleum storage in approximately 6. Thus, the throughput is equal to 6 times the capacity.
[3] 140 (40 to 210). 140 (63.5) based on average conditions and tank diameter of 100 ft (30.5 m); use 40 (18.1 kg) for smaller tanks, 50 ft (15.3 m) diameter; use 210 (95 kg) for larger tanks, 150 ft (45.8 m) diameter.
[4] 100 (30 to 160). Use 30 (13.6 kg) for smaller tanks, 50 ft (15.3 m) diameter; use 160 (72.5 kg) for larger tanks, 150 ft (45.8 m) diameter.
[5] Negative.

The Compilation of Air Pollution Emission Factors published by the Environmental Protection Agency states, "There are essentially no emissions from reforming operations" in the petroleum refining industry. However, due to benzene's volatility there is a possibility that some environmental contamination occurs during these operations.

Promulgation of a 1 ppm level for benzene will have the effect of reducing overall emissions for benzene. This results because greater controls will be maintained over leaking process equipment and fugitive emissions. In this case there is an anticipated positive impact on the external environment of reduced benzene emissions from production sites.

2. *Storage and Transportation.* Since gasoline contains a certain amount of benzene, an alternative to the proposal would also affect gasoline storage and marketing facilities as well as firms distributing gasoline. Expected means of compliance would suggest that engineering controls possibly include internal floating roofs on storage tanks, bottom loading assemblies and vapor condensing and/or return equipment. Tables IV and V illustrate the expected hydrocarbon emission rates (a portion of these amounts are benzene) resulting from storage and transfer operations (6). The application of vapor return or recovery equipment, as well as internal floating roofs and bottom loading assemblies, will largely eliminate ambient emissions.

3. *Commercial Usage: Chemical Processing.* The chemical process industries utilizing benzene feedstock material were evaluated during the development of the Economic Impact Analysis (EIA) prepared for OSHA by Arthur D. Little. It was determined that these operations were largely in compliance with the previous OSHA standard due to the constraints of closed system operations and the economics of preventing possible losses of feedstock and products. Possible, though infrequent, over-exposures would be due to non-routine situations such as process upsets or equipment failure.

As with the benzene production facilities, engineering controls may be necessary to comply with a 1 ppm benzene standard. Controls would be very similar in type and extent to those used in the production facilities to reduce emissions during process operations and from fugitive sources. The reduction in process and fugitive losses may result in a significant, (though as yet unquantified) reduction in benezene emmissions and those of its process intermediates.

4. *Commercial Usage: Solvent Usage.* Another use of benzene is as an industrial solvent. Benzene has been largely removed from solvent applications, often being replaced by toluene, which, however, does contain a small percentage of benzene. Benzene is still found in a limited number of specialized low volume applications such as proprietary adhesives within the rubber industry, and in paint remover formulations.

The purpose of solvent materials is simply to provide a vehicle for solid materials to facilitate the application of solid materials. As such, much of the benzene used as solvent is lost by evaporation upon application. Only a limited number of processes within the adhesives and printing industries utilize vapor recovery equipment as a method of solvent recovery and recycling.

Exposure control of this compound in solvent application involves a variety of alternatives (7). Primary among the control alternatives would be general dilution and local exhaust ventilation systems and product reformulation to either reduce or remove the benzene component. These alternatives will be discussed separately for their possible environmental impacts.

A common method for protecting workers from solvent vapors is to provide adequate ventilation to both dilute the vapors with fresh air and to carry them out of the worker breathing zone. This approach to exposure reduction finds widespread application within industries having adhesive and coating solvent exposures. The necessary equipment and design knowledge for spray booth and ventilation-hood installations is readily available for these applications. In many cases, existing equipment can be adapted to achieve lower exposures by increasing

the velocity of the fans or reducing the area of the ventilation ducts or booth areas.

Since the purpose of ventilation equipment is to remove vapors from the work environment, once this task is accomplished, the exhausted air, including the vapors, is often emitted directly into the external environment. The vapor concentration in the exhaust is often so low that further treatment is considerably more difficult. When the exhaust air contains large amounts of particulate matter, as from a paint spray operation, or particularly malodorous vapors, air treatment becomes more necessary.

Increased ventilation will alter the rate at which benzene vapors are shunted to the atmosphere and could change the final impact on ambient levels of benzene. Where reformulation is practiced to reduce solvent usage, however, the atmosphere will realize a reduction in total hydrocarbon load. Therefore, if the OSHA regulation were to specify the control technology, there would be a basis for evaluating the possible changes in the benzene levels in the atmosphere.

The second general method to reduce benzene exposures is reformulation. In this approach other solvents may be substituted for either part or all of the benzene or the benzene contamination of other solvents reduced; equipment may be developed to utilize a higher solid content solution (i.e., less solvent per volume of material applied); solvent systems may be completely replaced with a water based and hot melt applications; or in extreme cases the process involving the solvent may be discontinued entirely. Analysis in the EIA demonstrates examples of each of these reformulation possibilities. The coatings industry is exploring possibilities of high solds and water based coating applications systems (9). Manufacturers of paint removers are substituting other solvents for benzene. Adhesives manufacturers are beginning to utilize other systems including substitution of solvents such as methyl ethyl ketone, water based systems and new solventless systems that are liquidified by heat and form the adhesive bond when they cool and solidify ("hot melt" adhesives) (6).

5. *Motor Vehicle Emissions.* While this is perhaps one of the most important sources of benzene emissions, it is excluded from this particular rule. The only segment of these emissions that may possibly be controlled by OSHA would be those affecting employee exposure resulting primarily from the filling of vehicle gas tanks.

B. WATER POLLUTION IMPACTS

The relatively moderate water solubility (compared to other hydrocarbons) (1780 mg/1 at 25°C) and vapor pressure (95.2 mmHg at 25°C) of benzene are important parameters in the determination of its potential for contamination of water. Because of its moderate solubility in water, benzene may be washed out of the atmosphere with rain. In combination with the evaporation process, this would result in a continuous cycling between air and water.

The three major industrial sectors having emissions which emit benzene to the aquatic environment appear to be: (1) chemical production and processing; (2) coating operations, and (3) storage-transportation.

While engineering controls would act to reduce leakage and spillage of compounds, work practice controls would tend to emphasize a prompt response to spills with flushing to waste chemical drains. From chemical drains in these plants the materials would proceed to oil separators where the organic materials are recycled to the production system.

Some amount of material, however, including benzene, might escape into the water effluent. (15) In comparison to the reduction of leaks and spills expected to result from the regulation, the potential increase in effluent emissions due to more efficient work practices is not expected to be significant. An overall reduction in emissions should result from the implementation of the regulation.

C. SOLID WASTE

As discussed previously, methods to comply with the proposed benzene regulation are largely aimed at preventing releases to the air and to a lesser extent to the water. Since the control measures largely involve work practices and durable equipment to either prevent or redirect vapor emissions, impacts upon solid waste loads are expected to be minimal if not completely negligible.

D. HUMAN RESOURCES IMPACTS

As stated earlier in this document, the intent of the OSHA standard for occupational exposure to benzene is to protect employees from the health hazards associated with such exposures. Health benefits resulting from control of benzene include prevention of blood and bone marrow poisoning as well as lowering the risk of leukemia. Reduced rates of industrial accidents and short term illnesses are also viewed as the proposed standard's beneficial impacts.

A possible further impact of the proposed standard is to increase the demand for limited medical resources. This will not be a major impact for those companies affected by the regulation which are large corporate concerns which already maintain a medical staff. However, smaller facilities may have to acquire the services of medical personnel, which could create an additional burden on the limited supply of industrial hygienists, nurses and doctors. This impact on human resources will be directly dependent on the scope of the final rule and could become significant if retail automotive service stations and to the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals are ultimately included. A factor to be considered, however, is that reducing worker exposure to benzene is expected to result in improved health.

E. ENERGY

Within the scope of the proposed OSHA benzene standard the only activities requiring an increased energy demand would be increased ventilation and the resulting need to condition greater volumes of make-up air. The Arthur D. Little study (EIA) evaluates industry's compliance costs for engineering control to primarily result from tightening up production processes, and installing new hardware (i.e., rupture disks, floating roofs, vapor control systems and mechanical seals). Since engineering control requirements were based upon slight modification to existing inplant systems, the EIA judged increased energy consumption to be "negligible."

F. LAND USE

As enumerated in the EIA analysis, compliance activities for this regulation are expected to consist of modifications to existing control equipment and work practice controls where necessary. These modifications should be easily completed in existing areas and no additional land usage will result. The EIA demonstrates that changes in costs and productivity as a result of the OSHA regulation should be minimal (in most cases less than 0.5%). With these small changes it is not felt that the construction of new facilities because of productivity constraints can be justifiably attributed to the proposed OSHA standard.

G. ECONOMIC IMPACT

The EIA on benzene has estimated the costs and benefits of compliance with the proposed regulation (as well as other control scenarios).

In addition to cost of compliance estimated, the EIA also addresses the issue of expected price changes in products involving these materials.

RELATIONSHIP WITH OTHER FEDERAL ACTIONS

Workers exposed to benzene during industrial operations constitute that portion of the general population most exposed to its health hazards. Any OSHA standard to limit occupational exposure to benzene is written for their protection. However, since benzene is released to the ambient environment and has impacts on the environment external to the workplace, it is also a matter of concern to the Environmental Protection Agency (EPA) which is responsible for safeguarding air quality under the provisions of the Clean Air Act (as amended, 42 U.S.C. 1857 et seq.) and water quality under the provisions of the Water Pollution Control Act of 1972.

EPA was petitioned by the Environmental Defense Fund on April 14, 1977 to list benzene as an agent of concern under section 112 of the Clean Air Act no later than May 30, 1977. They are currently responding to this petition. If benzene is determined to be a hazardous air pollutant, the EPA would then be responsible for proposing a regulation within 180 days from the date of listing.

In its ongoing process of developing water pollution criteria, EPA is currently evaluating aquatic benzene toxicity. At the present time, benzene effluents are controlled as contributors to the total BOD load of industrial effluents. As such, OSHA regulations resulting in slightly more benzene effluent would not conflict with EPA water effluent standards as long as the total BOD (biological oxygen demand) level is controlled. While this relationship in regard to water emissions may change with future standard setting on the part of EPA, it is not expected to alter industry's approach to compliance with OSHA benzene regulations. Since benzene is normally only a portion of the effluent produced by a given industry and it does not offer any unusual problems during water treatment (3) compliance with EPA regulations can be expected to be within industry's capabilities.

The Consumer Product Safety Commission (CPSC) was petitioned on May 8, 1977 by the Health Research Group to ban and recall benzene-containing products by its authority under the Hazardous Substances Act. At this time the agency is reviewing the petition and does intend to respond.

Whatever possible action the CPSC might take should create no interference with OSHA's regulation of occupational exposure to benzene.

REFERENCES

(1) Seminar on Air Pollution from Motor Vehicles; Technical Coordination, Office of Air Programs, Environmental Protection Agency; 1972.1.

(2) Air Quality Criteria for Photochemical Oxidants; U.S. Department of Health, Education and Welfare, National Air Pollution Control Administration, No. AP-63, 1970.

(3) Air Quality Criteria for Hydrocarbons; U.S. Department of Health, Education and Welfare, National Air Pollution Control Administration, No. AP-64, 1970.

(4) Burghardt, E. and Jeltes, R.; Gas Chromatographic Determination of Aromatic Hydrocarbons in Air Using a Semi-Automatic Preconcentration Method; Atmospheric Environ., 9, 355–940; 1975.

(5) Walker, P.; Air Pollution Assessment of Benzene; Mitre Technical Report, MTR-7188; Mitre Corporation, McLean, Va.; 1976.

(6) Adapted from: Compilation of Air Pollution Emission Factors (Revised), U.S. Environmental Protection Agency, AP-42; 1972.

(7) Technology Assessment and Economic Impact Study of an OSHA Regulation for Benzene—Draft Report; for U.S. Department of Labor, Occupational Safety and Administration; Arthur D. Little, Inc., Cambridge, Mass., October 1976.

(8) Air Pollution Engineering Manual; Danielson, John A., ed.; Environmental Protection Agency, Research Triangle Park, N.C., 1973.

(9) Ellerhorst, H.; Energy Crisis; Catalyst for Change; Modern Paint and Coatings, p. 31–33; October 1975.

(10) Policy Statement on Use of the Concept of Photochemical Reactivity or Organic Compounds in State Implementation Plant for Oxidant Control, EPA Quality Office, January 29, 1976.

(11) Communication with Plant Manager of Durant Paints, Inc., Revere, Massachusetts.

(12) Communication with Plant Manager of Touraine Paints, Inc., Everett, Massachusetts.

(13) Howard, P. H. and Sustin, R. R.; Benzene: Environmental Sources of Contamination, Ambient Levels and Fate; Office of Toxic Substances, U.S. Environmental Protection Agency; EPA 560/5–75–005; December 1974.

(14) Blamer, M., Saunders, H. L., Grassie, J. F. and Hamson, G. R.; A Small Oil Spill; Environment, 13, 2–12; March 1971.

(15) Communication with Mr. J. L. Goodier, Bio-Enviro Section, Arthur D. Little, Inc., Cambridge, Massachusetts; December 1976.

(16) Communication with Mr. G. Hama; Industrial Hygienist, Wayne State University, Detroit, Michigan; December 1976.

VII. PUBLIC PARTICIPATION; NOTICE OF HEARING

Interested persons are invited to submit written data, views and arguments with respect to the ETS and this subsequent proposal. These comments must be postmarked on or before June 27, 1977, and submitted in quadruplicate to the Docket Officer, Docket H–059, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210. Written submissions must clearly identify the provisions of either the ETS, the proposal, or both which are addressed and the position taken with respect to each issue therein. The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record for this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on July 19, 1977, in the Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue, N.W., Washington, D.C., 20210.

NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at the hearing, must file in quadruplicate, a notice of intention to appear, postmarked on or before June 27, 1977 with the OSHA Division of Consumer Affairs, Docket No. H–059, Room N–3635, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210 (telephone: (202) 523–8024). The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center-Docket Office (Room S6212), telephone (202) 523–7894, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by July 11, 1977, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

CONDUCT OF HEARINGS

The hearing will commence at 9:30 a.m. on July 19, 1977, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the ETS and its emergency nature, the hearing will be conducted in as expedited a manner as possible, consistent with a full development of the record and rights of the parties.

The hearings will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any post hearing comment period that might be provided, the Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

VIII. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to sections 4(b), 6(b), 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 1599, 29 U.S.C. 653, 655, 657), the Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29, Code of Federal Regulations by amending section 1910.1028 as set forth below. In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592; 29 U.S.C. 653), OSHA is of the view that the proposed standard is more effective than the corresponding

standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918 and 1926 of Title 29, Code of Federal Regulations. Therefore, these corresponding standards would also be superseded by the new proposed standard.

NOTE.—It is hereby certified that the economic and inflationary impact of this proposed regulation has been carefully evaluated in accordance with Executive Orders 11821 and 11949.

Signed at Washington, D.C., this 20th day of May 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore proposed to be amended by revising § 1910.-1028 to read as follows:

§1910.1028 Benzene.

(a) *Scope and application.* (1) This section applies to production, reaction, release, packaging, repackaging, storage, transportation, handling, or use of benzene.

(2) This section does not apply:

(i) To the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of such gasoline from bulk terminals; or

(ii) To work operations where the only exposure to benzene is from liquid mixtures containing 1% (0.1% after one year from the effective date of this standard) or less of benzene by volume, or the vapors released from these liquids.

(b) *Definitions.* For the purpose of this section:

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, or designee.

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area for the purpose of exercising the opportunity to observe monitoring and measuring procedures under paragraph (m) of this section.

"Benzene" (C6H6) (CAS Registry No. 000071432), means benzene, or a mixture of liquids containing benzene, or the benzene vapor released by these liquids, or the benzene vapor released by any other materials.

"Bulk terminal" means a facility which is primarily used for the marketing of gasoline which receives its petroleum products by tanker, barge, or pipeline.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education and Welfare, or designee.

"OSHA Area Office" means that office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the employer's establishment is located.

(c) *Exposure Limits.*—(1) *Permissible exposure limits.* (i) The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 1 part benzene per million parts of air (1 ppm) as an 8-hour time-weighted average.

(ii) the employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 5 ppm as averaged over any 15 minute period.

(2) *Eye and dermal exposure limit.* The employer shall assure that no employee is exposed to eye contact or repeated skin contact with benzene.

(d) *Regulated areas.* (1) The employer shall establish within the place of employment regulated areas where:

(i) Benzene is produced, reacted, released, packaged, repackaged, handled, stored, or used; and

(ii) Benzene concentrations are in excess of the permissible exposure limit.

(2) The employer shall limit access to regulated areas to authorized persons.

(3) *Notification of Use.* Within 30 days following the establishment of a regulated area, the employer shall report the following information to the OSHA area office:

(i) The address of each establishment which has one or more regulated areas;

(ii) The location of each regulated area;

(iii) A brief description of each process or operation which may result in employee exposure to benzene in each regulated area; and

(iv) The number of employes engaged in each process or operation in each regulated area which may result in exposure to benzene, and an estimate of the frequency and degree of exposure that results.

(e) *Exposure monitoring and measurement.*—(1) *Employee exposure.* For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Monitoring.* Each employer who has a place of employment where benzene is present shall monitor each such workplace and work operation to determine the airborne concentrations of benzene to which employees may be exposed. This determination shall be made by monitoring and measurements which are representative of each employee's exposure to benzene.

(3) *Frequency of monitoring.* The monitoring required under paragraph (e)(2) of this section shall be conducted, and the results obtained, with 30 days of the effective date of this section and thereafter repeated quarterly for employees whose exposure is found not to be in excess of the permissible exposure limit, and monthly for those employees whose exposure is found to be in excess of the permissible exposure limit. Where exposures in excess of the permissible exposure limit, the employer shall continue monthly monitoring until at least two consecutive measurements taken at least (7) days apart are not in excess of the permissible exposure limit, and thereafter the employer shall monitor quarterly.

(4) *Redetermination.* Whenever there has been a production, process, or control change which may result in new or additional exposure to benzene, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to benzene, the employer shall repeat the monitoring which is required by paragraph (e)(2) of this section.

(5) *Employee notification.* (i) Within 5 working days after the receipt of measurement results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Where the results reveal the employee's exposure to be in excess of the permissible exposure limit, such notification shall also include the corrective action to be taken to reduce exposure to or below the permissible exposure limit.

(6) *Accuracy of measurement.* The employer shall use a method of measurement which has an accuracy, to a confidence level of 95 percent, of not less than plus or minus 25 percent for concentrations of benzene greater than or equal to 1 ppm.

(f) *Methods of compliance.* The employer shall control employee exposures to airborne concentrations of benzene to or below the permissible exposure limit by engineering controls, work practices and respiratory protection as follows:

(1) *Priority of compliance methods.* The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to benzene at or below the permissible exposure limit, except to the extent that the employer establishes that such controls are not feasible. Whenever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (g) of this section.

(2) *Compliance program.* (i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limit solely by means of engineering and work practice controls required by paragraph (f)(1) of this section.

(ii) Written plans for these compliance programs shall include a schedule for development and implementation of the engineering and work practice controls. These plans shall be revised and updated at least every six months to reflect the current status of the programs.

(iii) Written plans for these compliance programs shall be submitted, upon requests, to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, and the employees or their authorized representatives.

(iv) the employer shall institute and maintain the controls described in his most recent written compliance program.

(g) *Respiratory protection.*—(1) *General.* Where respiratory protection is required under this section, the employer shall select, provide and assure the use of respirators. Compliance with the permissible exposure limit may not be

achieved by the use of respirators except:

(i) During the time period necessary to install or implement feasible engineering and work practice controls; or

(ii) In work operations such as maintenance and repair activities in which engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limit; or

(iv) In emergencies.

(2) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select and provide the appropriate respirator from Table I below and shall assure that the employee uses the respirator provided.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

TABLE I.—RESPIRATORY PROTECTION FOR BENZENE

Concentration of benzene or condition of use	*Respirator type*
(a) Less than or equal to 10 p/m.	(1) Any chemical cartridge respirator with organic vapor cartridge and; or (2) Any supplied air respirator.
(b) Less than or equal to 50 p/m.	(1) Any chemical cartridge respirator with organic vapor cartridge and full facepiece; or (2) Any supplied air respirator with full facepiece; or (3) Any organic vapor gas mask; or (4) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 1,000 p/m.	(1) Supplied air respirator with half mask in positive pressure mode.
(d) Less than or equal to 2,000 p/m.	(1) Supplied air respirator with full facepiece, helmet, or hood, in positive pressure mode.
(e) Less than or equal to 10,000 p/m.	(1) Supplied air respirator and auxiliary self-contained facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(3) *Respirator program.* The employer shall institute a respiratory protection program in accordance with § 1910.134 (b), (d), (e) and (f).

(4) *Respirator use.* (i) Where air-purifying respirators are used (cartridge, canister, or gas mask), the employer shall replace the air-purifying canisters or cartridges prior to the expiration of their service life or the end of the shift in which they are first used, whichever occurs first.

(ii) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is properly fitted.

(iii) The employer shall allow each employee who wears a respirator to wash his or her face and respirator facepiece to prevent skin irritation associated with respirator use.

(h) *Protective clothing and equipment.* Where eye or repeated skin contact with liquid benzene may occur, the employer shall provide and assure that employees wear appropriate protective clothing and equipment to protect the area of the body likely to come in contact with liquid benzene.

(i) *Medical surveillance.*

(1) The employer shall make available a medical surveillance program for all employees who are or will be exposed to benzene. The medical surveillance program shall include:

(i) A history which includes past work exposures to benzene or any other hematologic toxins; a family history of blood dyscrasias including hematological neoplasms; a history of blood dyscrasias including genetically related hemoglobin alterations, bleeding abnormalities, abnormal function of formed blood elements; a history of renal or liver dysfunction; a history of drugs routinely taken, alcoholic intake and systemic infections;

(ii) A complete blood count including red cell count, white cell count, platelet count, hematocrit, hemoglobin, mean corpuscular volume, a differential white blood cell count;

(iii) A reticulocyte count;

(iv) A serum bilirubin; and

(v) Additional tests where, in the opinion of the examining physician, alterations in the components of the blood are related to benzene exposure.

(2) The employer shall assure that all medical procedures are performed by or under the supervision of a licensed physician and provided without cost to the employee.

(3) Medical surveillance and testing of each employee shall be conducted within thirty days of the effective date of this section or within thirty days following placement in a job involving exposure to benzene, and quarterly thereafter.

(4) *Interim examinations.* If the employee is accidentally exposed by ingestion, inhalation or by skin or eye contact under conditions known or suspected to be immediately hazardous, or for any reason develops signs and symptoms commonly associated with toxic exposure to benzene, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendixes;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(a) The results of medical testing;

(b) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to benzene;

(c) Any recommended limitations upon the employee's exposure to benzene or upon the use of protective clothing and equipment such as respirators; and

(d) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(j) *Employee information and training.*—(1) *Training program.* The employer shall provide a training program for employees assigned to workplaces where benzene is present and shall assure that each affected employee is informed of the following:

(i) The information contained in the substance data sheet for benzene which is contained in Appendix A to this part;

(ii) The quantity, location, manner of use, release or storage of benzene and the specific nature of operations which could result in exposure above the permissible exposure limit, as well as necessary protective steps;

(iii) The purpose, proper use, and limitations of respiratory devices as specified in paragraph (g) of this section and in § 1910.134 (b), (d), (e), and (f) of this Part;

(iv) The purpose and a description of the medical surveillance program required by paragraph (i) of this section and the information contained in Appendix C of this section; and

(v) The contents of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(k) *Signs and labels.* (1) The employer shall post signs in the regulated area bearing the legend:

DANGER
BENZENE
CANCER HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATOR REQUIRED

(2) The employer shall assure that caution labels are affixed to all containers of benzene and of products containing benzene, and that labels remain affixed when the benzene or products containing benzene are sold, distributed or otherwise leave the employer's workplace.

(3) The caution labels required by paragraph (k)(2) of this section shall be readily visible and legible. The labels shall bear the legend:

CAUTION
CONTAINS BENZENE
CANCER HAZARD

(4) The employer shall assure that no statement which contradicts or detracts from the required information appears on or near any required sign or label.

(l) *Recordkeeping* — (1) *Exposure measurements.* The employer shall establish and maintain an accurate record of all measurements required by paragraph (e) of this section.

(i) This record shall include:

(*a*) The dates, number, duration and results of each of the samples taken, including a decription of the sampling procedure used to determine representative employee exposures;

(*b*) A description of the sampling and analytical methods used;

(*c*) Type of respiratory protective devices worn, if any; and,

(*d*) Name, social security number, and job classification of the employee monitored and all of other employees whose exposure the measurement is intended to represent.

(ii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(2) *Medical surveillance.* The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (i) of this section.

(i) This record shall include:

(*a*) A copy of the physician's written opinion; and

(*b*) Any employee medical complaints related to exposure to benzene;

(*c*) A copy of the information provided to the physician as required by paragraph (i)(5) of this section; and

(*d*) A copy of the employee's work history.

(ii) The employer shall maintain medical records required under paragraph (l)(2) of this section for at least 40 years or for the duration of employment plus 20 years, whichever is longer.

(3) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records as required by this section be made available for examination and copying to affected employees or their designated representatives.

(iii) The employer shall assure that former employees and the employees' designated representatives have access to such records as will indicate the employees' own exposures to benzene.

(iv) The employer shall assure that employee medical records required to be maintained by this section be made available upon request for examination and copying to a physician designated by the affected employee or former employee.

(4) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by paragraph (1) of this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by registered mail to the Director.

(iii) At the expiration of the retention period for the records required to be maintained under paragraph (1)(1) and (1)(2) of this section, the employer shall transmit these records by registered mail to the Director.

(m) *Observation of monitoring*—(1) *Employee observation.* The employer shall provide affected employees or their designated representatives an opportunity to observe any measuring or monitoring of employee exposure to benzene conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) When observation of the measuring or monitoring of employee exposure to benzene requires entry into an area where the use of protective clothing and equipment, including respirators, is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing or equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the measurement, observers shall be entitled to:

(*a*) Receive an explanation of the measurement procedures;

(*b*) Observe all steps related to the measurement of airborne concentrations of benzene performed at the place of exposure; and

(*c*) Record the results obtained.

(n) *Effective date.* This section shall become effective 30 days following publication.

(o) *Appendixes.* The information contained in the appendixes is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

APPENDIX A.—SUBSTANCE SAFETY DATA SHEET: BENZENE

I. SUBSTANCE IDENTIFICATION

A. *Substance:* Benzene (C_6H_6).

B. *Permissible Exposure Limit.* 1. *Airborne.* 1 part of benzene vapor per million parts of air (1 ppm) as a time-weighted average (TWA) for an 8-hour workday with a ceiling concentration of 5 ppm, as averaged over any 15 minute period.

2. *Dermal.* Eye contact and repeated skin contact with liquid benzene is prohibited.

C. *Appearance and odor.* Benzene is a clear, colorless liquid with a pleasant, sweet odor. The odor of benzene does not provide adequate warning of its hazard.

II. HEALTH HAZARD DATA

A. *Ways in which the benzene affects your health.* Benzene can affect your health if you inhale it, or if it comes in contact with your skin or eyes. Benzene may also be harmful if you swallow it.

B. *Effects of overexposure.* 1. Short-term (acute) overexposure: If you are overexposed to high concentrations of benzene, you may feel breathless, irritable, euphoric, or giddy; you may experience irritation in eyes, nose, and respiratory tract. You may develop a headache, feel dizzy, nauseous, or experience unsteadiness in walking. Severe exposures may lead to convulsions.

2. Long-term (chronic) exposure: Repeated and prolonged exposure of benzene may cause headache, fatigue, exhaustion, tendency to bleed, nervousness, sleeplessness, shortness of breath, and serious blood disorders, including leukemia.

III. PROTECTIVE CLOTHING AND EQUIPMENT

A. Respirators: Respirators are required for those operations in which engineering controls or work practice controls are not available to reduce exposure to the permissible exposure limit. If respirators are worn, they must have a National Institute for Occupational Safety and Health (NIOSH) seal of approval. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. Protective Clothing: You must wear appropriate protective clothing (such as boots, gloves, sleeves, aprons, etc.) over any parts of your body that could be repeatedly exposed to liquid benzene.

C. Eye and Face Protection: You should wear splash proof safety goggles if it is possible that benzene may get into your eyes. In addition, you should wear a face shield if your face could be splashed with benzene liquid.

IV. EMERGENCY AND FIRST AID PROCEDURES

A. Eye and face exposure: If benzene is splashed in your eyes, wash it out immediately with large amounts of water. Call a doctor as soon as possible.

B. Skin exposure: If benzene is spilled on your clothing or skin, remove the contaminated clothing and wash the exposed skin with large amounts of water and soap immediately.

C. Breathing: If you or any other person breathes in large amounts of benzene, get yourself or the exposed person to fresh air at once. Apply artificial respiration if breathing has stopped. Call a doctor as soon as possible.

D. Swallowing: If benzene has been swallowed do not induce vomiting because it will cause further harm. Call a doctor immediately.

V. MEDICAL REQUIREMENTS

If you are exposed to benzene, your employer is required to provide within thirty days of the effective date of this standard, or within 30 days following placement in a job involving benzene exposure, medical surveillance consisting of a medical history and laboratory tests. These tests shall be provided without cost to you.

VII. OBSERVATION OF MONITORING

Your employer is required to perform measurements that are representative of your exposure to benzene and you are entitled to observe the monitoring procedure. You or your representative are entitled to receive an explanation of the measurement procedure, observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also be provided with, and must wear the protective clothing and equipment.

VIII. ACCESS TO RECORDS

You or your representative are entitled to see the records of measurements of your exposure to benzene upon request to your employer. Your medical examination records can be furnished to your physician upon request to your employer. A copy of the physician's written opinion following medical surveillance shall be supplied to you by your employer.

IX. PRECAUTIONS FOR SAFE USE, HANDLING AND STORAGE

Benzene liquid is highly flammable. It should be stored in tightly closed containers in a cool, well ventilated area. Benzene vapor may form explosive mixtures in air. All sources of ignition must be controlled. You should use non-sparking tools when opening or closing benzene containers. You must ground or bond metal benzene containers. Fire extinguishers, where provided, must be readily available and you should know where they are located and how to operate them. Smoking is prohibited in areas where benzene is used or stored. Ask your supervisor where benzene is used in your work area and for additional plant safety rules.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES BENZENE

I. PHYSICAL AND CHEMICAL DATA

A. *Substance Identification.* 1. Synonyms: Benzol, benzole, coal naptha, cyclohexatriene, phen, phenyl hydride, pyrobenzol. (Benzin, petroleum benzin, and benzine, do not contain benzene).

2. Formula: C_6H_6 (CAS Registry Number: 000071432).

B. *Physical Data.* 1. Boiling Point (760 mm Hg): 80.1 C (176F).

2. Specific Gravity (water=1): 0.879.

3. Vapor Density (air=1): 2.7.

4. Melting Point: 5.5 C (42F).

5. Vapor Pressure at 20 C (68F): 75 mm Hg.

6. Solubility in Water: .06%.

7. Evaporation Rate (ether=1): 2.8.

8. Appearance and Odor: Clear, colorless liquid with a distinctive sweet ordor.

II. FIRE, EXPLOSION AND REACTIVITY HAZARD DATA

A. *Fire.* 1. Flash Point (closed cup): −11 C (12F).

2. Autoignition Temperature: 580 C (1076F).

3. Flammable Limits in Air, % by Volume: Lower: 1.3%. Upper: 7.1%.

4. Extinguishing Media: Carbon dioxide, dry chemical, or foam.

5. Special Fire-Fighting Procedures: Do not use solid stream of water, since stream will scatter and spread fire. Water spray can be used to keep fire exposed containers cool.

6. Unusual fire and explosion hazards: Benzene is a flammable liquid. Its vapors can form explosive mixtures. All ignition sources must be controlled when benzene is used, handled, or stored. Where liquid or vapor may be released, such areas shall be considered as hazardous locations. Benzene vapors are heavier than air; thus the vapors may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which benzene is handled.

7. Benzene is classified as a 1 B flammable liquid for the purpose of conforming to the requirements of 29 CFR 1910.106. A concentration exceeding 3250 ppm is considered a potential fire or explosion hazard. Locations where benzene may be present in quantities sufficient to produce explosive or ignitable mixtures are considered Class 1 Group D for the purposes of conforming to the requirement of 29 CFR 1910.309.

B. *Reactivity.* 1. Conditions contributing to instability: Heat.

2. Incompatibility: Heat and oxidizing materials

3. Hazardous decomposition products: Toxic gases and vapors (such as carbon monoxide).

III. SPILL AND LEAK PROCEDURES

A. *Steps to be taken if the material is released or spilled.* Large amounts of water should be used to flush the spills. Do not flush benzene into a confined space, such as a sewer, because of explosion danger. Remove all ignition sources. Ventilate enclosed places.

B. *Waste Disposal Method.* Disposal methods must conform to other jurisdictional regulations. If allowed, benzene may be disposed of: (a) by absorbing it in dry sand or earth and disposing in a sanitary land fill; (b) if small quantities, by removing it to a safe location from buildings or other combustible sources, pouring it in dry sand or earth and cautiously igniting it; (c) if large quantities, by atomizing it in a suitable combustion chamber.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. Normal Monitoring Program: Measurements taken for the purpose of determining employee exposure are best taken so that the representative average 8-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Short-time interval samples (or grab samples) may also be used to determine average exposure level if a minimum of five (5) measurements are taken in a random manner over the 8-hour work shift. Random sampling means that any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one (1) work shift is an estimate of the employee's average level of exposure for that work shift. NIOSH recommends that samples be collected at a sampling rate of one liter per minute for a minimum of two hours. Air samples should be taken in the employee's breathing zone (air that would nearly represent that inhaled by the employee). Sampling and analysis should be performed by gas absorption tubes with subsequent chemical analysis, by gas chromatography of those areas most likely to represent the highest airborne concentration of benzene where employees are exposed. Methods meeting the prescribed accuracy and precision requirements are available in the "NIOSH Manual of Analytical Methods."

V. MISCELLANEOUS PRECAUTIONS

A. High Exposures to benzene can occur when transferring the liquid from one container to another. Such operations should be well ventilated and good work practices should be established to avoid spills.

B. Non-sparking tools should be used to open benzene containers which should be effectively grounded and bonded prior to opening and pouring.

C. Employers should advise employees of all plant areas and operations where exposure to benzene could occur. A few of the common operations in which high exposures to benzene may be encountered are: manufacture of styrene, phenol, cyclohexane, pesticides, and detergents.

APPENDIX C.—MEDICAL SURVEILLANCE GUIDELINES FOR BENZENE

I. ROUTES OF ENTRY

Inhalation: skin absorption, ingestion.

II. TOXICOLOGY

Benzene is primarily an inhalation hazard. Systemic absorption causes depression of the hematopoietic system. Inhalation of high concentrations can effect the central nervous system function. Aspiration of small amounts of liquid benzene immediately causes pulmonary edema and hemorrhage of pulmonary tissue. Skin absorption through intact skin is possible. Absorption may be accelerated in the case of injured skin, and benzene may be more readily absorbed if it is present in a mixture or as a contaminate in solvents which are readily absorbed. Defatting action of benzene may produce irritation upon repeated or prolonged contact with the skin. High concentrations are irritating to the mucuous membranes of the eyes, nose, and respiratory tract.

III. SIGNS AND SYMPTOMS

Benzene is poorly absorbed through the skin; however, direct contact may cause erythema or blistering. Repeated or prolonged contact may result in drying, scaling, dermatitis, or precipitate development of secondary skin infections. Effects of benzene vapor or liquid on the eye are slight. Only at very high concentrations is there any smarting sensation in the eye. Droplet contamination of the eye by benzene causes a moderate burning sensation, but only a slight transient injury of the epithelial cell, with the eye recovering rapidly. Inhalation of high concentrations of benzene may have an initial stimulatory effect on the central nervous system characterized by exhilaration, nervous excitation, and or giddiness, followed by a period of depression, drowsiness, fatigue, or vertigo. There may be a sensation of tightness in the chest accompanied by breathlessness and ultimately the victim may lose consciousness. Convulsions and tremors occur frequently, and death may follow from respiratory paralysis or circulatory collapse in a few minutes to several hours following severe exposures. The insidious and often irreversible effect on the blood-forming system of prolonged exposure to small quantities of benzene vapor is of extreme importance. These effects have been noted to occur at concentrations of benzene which may not cause irritation of mucous membranes or any unpleasant sensory effects. Early signs and symptoms of benzene morbidity are varied and vague, and not specific for benzene exposure. Subjective complaints of headache, dizziness, and loss of appetite may precede or follow clinical symptomology. Bleeding from the nose, gums, or mucous membranes and the development of purpuric spots may occur as the condition progresses. Rapid pulse and low blood pressure in addition to a physical appearance of anemia may accompany a subjective complaint of shortness of breath. Clincial evidence of leucopenia and anemia are the most common abnormalities reported, however, macrocytosis and thrombocytopenia are also frequently present. Bone marrow may appear normal, aplastic, hypoplastic or hyperplastic and may not in all situations correlate with peripheral blood findings in-

dicating hypo-hyper-activity of blood forming tissue. There are great variations in the susceptibility to benzene morbidity which prohibits the identification of "typical" blood pictures. The effects of prolonged benzene exposure may appear after several weeks or years after the actual exposure has ceased. Development of leukemia also may result from exposure to benzene.

IV. TREATMENT

Remove from exposure immediately, give oxygen or artificial resuscitation if indicated. Flush eyes and wash contaminated skin. Symptoms of non-specific nervous disturbances may persist following severe exposures.

V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. Other considerations: Benzene can cause both acute and chronic effects. It is important that the physician become familiar with how exposure to benzene occurs. Those with skin disease may not tolerate the wearing of protective clothing and those with chronic respiratory disease may not tolerate the wearing of negative pressure respirators.

B. Surveillance and Screening: Medical histories and laboratory examinations are required for each employee subject to exposure to benzene. The employer must screen employees for history of certain medical conditions (listed below) which might place the employee at increased risk from exposure.

1. Liver disease: The primary site of biotransformation and detoxification of benzene is the liver. Liver dysfunctions likely to inhibit the conjugation reactions will tend to promote the toxic actions of benzene. These precautions should be considered before exposing persons with impaired liver function to benzene vapors.

2. Renal disease: Although benzene is not known as a kidney toxin, the importance of the kidney in the elimination of toxic substances and metabolites justifies special consideration in those with possible impairment of renal function.

3. Skin disease: Benzene is a defatting agent and can cause dermatitis on prolonged exposure. Persons with preexisting skin disorders may be more susceptible to the effects of benzene.

4. Blood dyscrasias: Benzene is a hematopoietic depressant. Persons with existing blood disorders may be more susceptible to the effects of benzene.

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(Secs. 4, 6, 8, (84 Stat. 1592, 1593, 1599) (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911.)

APPENDIX D

EDITORIAL NOTE.—This appendix consists of a republication of the amendments to 29 CFR Part 1910 that appeared at pages 22516–22529 in the FEDERAL REGISTER of May 3, 1977.

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Emergency Temporary Standard for Occupational Exposure to Benzene; Notice of Hearing

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Emergency Temporary Standard; Notice of Hearing.

SUMMARY: This emergency temporary standard (ETS) is based on the determination that clinical and epidemiological data conclusively establish that employee exposure to benzene presents a leukemia hazard. Therefore, a grave danger currently exists for workers exposed to this cancer hazard and it is necessary to issue an emergency temporary standard to protect them. By this ETS the Occupational Safety and Health Administration (OSHA) limits employee exposure to benzene to 1 part benzene per million parts of air (1 ppm), as an 8 hour time-weighted average concentration, with a ceiling level of 5 ppm for any 15 minute period during the 8 hour day. In addition, the ETS requires the measurement of employee exposure, engineering controls, personal protective equipment and clothing, employee training, medical surveillance, work practices, and record-keeping. The ETS will be superseded by a permanent standard within six months. A public hearing on the permanent standard will commence July 12, 1977.

EFFECTIVE DATE: May 21, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

APPLICABILITY OF EMERGENCY TEMPORARY STANDARD

The accompanying document is an emergency temporary standard issued pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8–76 (41 FR 25059) and 29 CFR Part 1911. The new standard, section 1910.1028, applies to all employments in all industries covered by the Act, including "general industry", construction and maritime. For reasons set out below, this standard does not apply to retail automotive service stations or to operations which use liquid mixtures containing 1 percent or less of benzene; however, these exempted operations are still subject to the requirements contained in the benzene standard at 29 CFR 1910.1000.

In addition, pursuant to section 4(b)(2) of the Act, OSHA has determined that this emergency temporary standard is more effective than corresponding standards now applicable to the maritime and construction industries and currently contained in Subpart B of Part 1910, and Parts 1915, 1916, 1917, 1918 and 1926 of Title 29, Code of Federal Regulations. Therefore, those corresponding standards are superseded by the new standard in § 1910.1028.

Pursuant to section 6(c)(3) of the Act, OSHA will shortly commence a rulemaking proceeding under section 6(b) of the Act. The emergency temporary standard will serve as a proposed final rule, along with other proposed requirements which will be published in the FEDERAL REGISTER pursuant to 29 CFR 1911.12. OSHA will publish an additional proposal in the very near future, encompassing those areas of occupational safety and health considered appropriate for the agency's permanent regulation of benzene. This document sets a public hearing on the permanent benzene standard to begin July 12, 1977.

The development of a permanent standard will be conducted pursuant to the rulemaking procedures of section 6(d) of the Act. The Assistant Secretary's decisions on the provisions of the final standard will be based on the entire record developed, including public comments and the informal rulemaking hearing.

EVENTS LEADING TO THE EMERGENCY TEMPORARY STANDARD

Benzene has long been recognized as a toxin affecting the hematopoietic (blood forming) system, and a cause and effect relationship between benzene exposure and observed blood abnormalities has been established for man and animals during the last 75 years. The evidence indicating a relationship between benzene exposure and leukemia has been expanding and the international scientific community has increasingly acknowledged that worker exposure to benzene is associated with an increased risk of leukemia. Data made available by the National Institute for Occupational Safety and Health (NIOSH) in the last few weeks on workers exposed to benzene provide conclusive evidence that benzene is a leukemia causing agent and therefore immediate action to protect workers is imperative. (7)

The present OSHA standard for benzene, found in 29 CFR 1910.1000, Table Z–2, was adopted in 1971 under the authority of section 6(a) of the Act from the American National Standards Institute's (ANSI) Z 37.4–1969 standard. That OSHA standard prescribes an 8-hour time-weighted average of 10 ppm with an acceptable ceiling concentration of 25 ppm. In addition, the present standard allows excursions above the ceiling to a maximum peak concentration not to exceed 50 ppm: *Provided*, That such exposure occurs for no more than 10 minutes in any 8-hour work period. Neither the ANSI standard nor the resultant OSHA standard were based on the possible leukemia hazard from exposure to benzene.

In 1974, Aksoy et al. reported that, when contrasted with the general population, shoe workers having prior exposure to benzene had a significant increased incidence of leukemia.

Also in 1974, pursuant to section 22(d) of the Act, the Director of NIOSH submitted to the Secretary of Labor a criteria document concerning occupational exposure to benzene which stated that "the possibility that benzene can induce leukemia cannot be dismissed."(3) However, NIOSH recommended retention of the present permissible exposure limit of 10 ppm and ceiling concentration of 25 ppm as measured over a 10 minute period which recommendation was not based on benzene's potential leukemia hazard.

In a letter to the Secretary of Labor, dated April 23, 1976, the United Rubber, Cork, Linoleum, and Plastic Workers of America urged that an emergency temporary standard regulating occupational exposure to benzene be issued (42). The request was denied on May 18, 1976 by then Secretary of Labor William J. Usery (43).

Less than 1 year ago, the National Academy of Sciences, under contract with the United States Environmental Protection Agency, reviewed the literature concerning health effects of benzene exposure. (4) The Academy concluded that benzene must be considered as a suspect leukemogen.

In August 1976, NIOSH submitted to OSHA an updated criteria document which revised its earlier assessment of 1974. (5) On the basis of a review of old studies and new data, NIOSH concluded that benezene was leukemogenic. This report further pointed out that "it is apparent from the literature that benzene leukemia continues to be reported." NIOSH, therefore, recommended that, since no safe level for benzene exposure could be established "no worker be exposed to benzene in excess of 1 ppm in air". Following publication of the updated criteria document, the Director of NIOSH recommended to the Assistant Secretary of Labor, by letter dated October 27, 1976, that OSHA publish an emergency temporary standard for benzene establishing the exposure level at 1 ppm. (6) Based on the information supplied by NIOSH, OSHA issued on January 4, 1977 voluntary "Guidelines for Control of Occupational Exposure to Benzene," recommending that exposure to benzene in air not exceed an 8-hour time-weighted average of 1 ppm in any 8-hour shift of a 40 hour week. (44)

In January 1977, NIOSH informed OSHA that workplace environments had been found in St. Mary's and Akron, Ohio where a sufficient number of employees had been exposed to benzene for a number of years to facilitate an epidemiological study of health risks. (45) The worksite was a Pliofilm manufacturing plant owned by Goodyear Tire and Rubber Company. The preliminary conclusions of the epidemiological study NIOSH conducted of the pliofilm workers were transmitted to OSHA on April 15, 1977. (7) The NIOSH data demonstrated an incidence of leukemia in workers exposed to benzene that was at least five times the expected incidence. NIOSH concluded that:

report shows a statistically significant ... in the risk for developing myelog... leukemia among workers exposed to ... e. We hope this new information will ... of assistance to you in reaching a deci... on the most appropriate regulatory ...

... his letter of April 15, 1977, transmitting the report on the Goodyear Pliofilm plant, the Director of NIOSH again ... that an emergency standard be ... ued.

REASONS FOR ISSUANCE OF AN EMERGENCY TEMPORARY STANDARD

The Assistant Secretary finds that exposure to benzene poses a grave danger to humans. Specifically, human exposure to benzene can induce chromosomal aberrations, bone marrow damage and destruction, and other blood dyscrasias. Moreover, the accumulated studies strongly support the conclusion that benzene causes leukemia in humans. The data collected by NIOSH and made available during the past few weeks show that workers exposed to benzene in an Ohio Pliofilm plant have contracted leukemia at a rate at least five times the rate expected in the general population. Because of the conservative statistical approach to evaluating these preliminary data, final results of this study will certainly show that the increased risk of developing leukemia from exposure to benzene is even greater than five times the normal incidence of this disease. This new evidence has been interpreted by NIOSH, and is found by OSHA, to conclusively establish that benzene causes leukemia in humans. This conclusion is supported by the substantial body of clinical and epidemiological evidence previously vail- epidemiological evidence previously available which suggested the same casual relationship between benzene exposure and leukemia. In view of the new evidence the relationship can no longer be subject to serious question.

The Assistant Secretary concludes, based on a review of the latest NIOSH study and recommendations together with the epidemiological and clinical studies and other scientific data, that benzene exposure subjects workers to the risk of contracting leukemia, a malignant and irreversible disease. The best available scientific evidence indicates that no safe level for exposure to a carcinogen, including benzene, can be established or assumed to exist. OSHA has considered this question of a safe level in previous rulemaking proceedings (see preambles to carcinogen standards (39 FR 3758), vinyl chloride standard (39 FR 35892), and coke oven emissions standard (41 FR 46742)) and has relied on that considerable body of scientific opinion holding that, when dealing with a carcinogen, no safe level exists for any given population. For example, the National Cancer Institute's Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens (1976) states:

No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1976, p. 1)

And NIOSH has taken the position that in regulating cancer-causing substances "* * * it is not possible at present to determine a safe exposure level for carcinogens." (Rev. Arsenic Crit. Doc. 1975.)

Since leukemia is a form of cancer and exposures generally below 25 ppm have already induced leukemia, it is not currently possible to determine whether a safe level of exposure exists for worker populations exposed to benzene. Therefore, the Assistant Secretary has determined that exposure must be reduced to the lowest feasible level.

Furthermore, during the period of time for formal rulemaking, workers would continue to be exposed to levels higher than those that may be achieved by this ETS.

In conclusion, the Assistant Secretary determines that exposure of employees to a cancer-causing substance in the workplace environment is a "grave danger" within the meaning of section 6(c)(1)(A) of the Act. The proposition that cancer, and substances that cause cancer, pose a grave danger to man does not need lengthy discussion. The nature of a cancer hazard differs from other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible and, in most cases, fatal consequences. These consequences may be irreversibly set in time. No symptomatic evidence of the development of the cancer may be apparent to the employee during a long latency period. A single exposure episode may be sufficient to cause cancer. These factors, which establish the grave danger posed by exposure to carcinogens, also lead inexorably to the conclusion that it is necessary to provide immediate protection for employees through the issuance of an emergency temporary standard, within the meaning of section 6(c)(1)(B) of the Act.

The existing 10 ppm standard, adopted from the ANSI national consensus standard, was based largely on benzene's general toxicity rather than on the leukemia hazard and, therefore, does not, within the meaning of section 6(b)(5) of the Act, provide the protection now shown to be necessary. The Assistant Secretary finds that this emergency temporary standard better effectuates the purposes of the Act than the National consensus standard.

BACKGROUND AND DISCUSSION OF EARLIER DATA

Benzene (C_6H_6) is a clear, colorless, non-corrosive, highly flammable liquid with a strong, rather pleasant odor. Benzene's low boiling point and high vapor pressure cause it to evaporate rapidly under ordinary atmospheric conditions, giving off vapors nearly three times heavier than air.

Benzene is produced primarily by the petrochemical and petroleum refining industries by the process called catalytic reformation, which converts certain lower octane hydrocarbons into higher octane aromatics. The two industries are responsible for 94 percent of the total U.S. production of benzene. Recovery through catalytic reformation, including the benzene formed from the hydrodealkylation of toluene, accounts for almost 80 percent of the total quantity produced. Recovery of coal-derived benzene, primarily as a by-product of the coking process in steel mills, was once the major source of benzene. Today, however, it accounts for only 6 percent of the total U.S. production.

The production of benzene is rapidly expanding with approximately 11 billion pounds produced in 1976. Only eleven other chemicals and only one other hydrocarbon (ethylene) are produced in greater tonnage in the U.S. Approximately 86 percent of this benzene is used chiefly as an intermediate in the production of other organic chemicals, including styrene, phenol, and cyclohexane. The remaining amount is used primarily in the manufacture of detergents, pesticides, solvents and paint removers. Benzene is also present as a component of motor fuels, averaging less than 2 percent in gasoline.

The first major industrial use of benzene, however, was as a solvent in the rubber industry just preceding World War I. During World War I, benzene production was stimulated greatly by the demand for and resulting production of toluene in the manufacture of explosives. The large quantities of benzene which were produced resulted in its more widespread use as a starting point for the manufacture of various organic compounds. This situation led to greatly increased uses of benzene as a solvent in the artificial leather, rubber goods, and rotogravure industries, and as a starting material in organic synthesis.

Industries and processes currently using benzene include the chemical, printing, lithograph, rubber cements, rubber fabricating, paint, varnish, stain removers, adhesives, and petroleum industries. Benzene is also used extensively in chemical laboratories as a solvent and as a reactant in numerous chemical applications. Where benzene is produced and used in large amounts, it is generally used in enclosed systems, although exposures can occur during liquid transfer operations, from equipment leakage and carryover losses, and in maintenance operations.

A. *Toxic effects.* Benzene has been recognized as a toxic substance capable of causing acute or chronic effects since 1900. Inhalation is the primary route of entry of benzene in the worker. Benzene diffuses rapidly through the lungs and is quickly absorbed into the blood. The rate of absorption is greatest during the first five minutes and thereafter declines significantly. Benzene saturation of the circulating blood may reach as high as 70–80 percent of the air content of benzene within the first 30 minutes. Relatively complete saturation of the blood may not be attained for two to three days.

Though the available literature suggests that benzene is not readily absorbed through the human skin, appreciable quantities of benzene could be absorbed in the case of injured skin. Moreover, absorption of benzene by the skin may be significantly accelerated when benzene is present in a mixture or as a contaminant in solvents known to be readily absorbed, such as toluene and xylene. (48)

The benzene absorbed by the circulating blood is distributed throughout the body where, because of its liposolubility, it tends to accumulate in various body organs in proportion to their fat content.

Upon removal from benzene exposure, the concentration of benzene in the expired breath follows an exponential decay curve, reflecting removal of benzene from various body compartments. Elimination via this route has been estimated to range from 12 to 50 percent of the total amount of benzene absorbed in humans.

A fraction of the absorbed benzene is eliminated in an unchanged form, primarily in the expired air and, to a minimal extent, in the urine. The remainder of the absorbed benzene is metabolized by enzymes contained in the liver and ultimately to derivatives which are more water soluble thereby facilitating their removal by the kidneys. A first intermediate in the biotransformation of benzene is believed to be benzene epoxide, a highly reactive intermediate and one of several candidates suggested as the active agent responsible for benzene's myelotoxic effects. Phenol, and to a lesser extent, hydroquinone, pyrcatechol, and phenyl-mercapturic acid are the primary metabolites of benzene found in urine.

B. *Acute effects.* Exposures to high concentrations of benzene produce an almost immediate effect upon the central nervous system. Benzene concentrations of about 20,000 ppm are fatal within minutes, with death occurring from acute circulatory failure or coma, with or without convulsions. Milder exposures produce a period of nervous excitation, euphoria, headache and nausea, followed by a period of depression which can result in cardiovascular collapse and/or unconsciousness. The occurrence of nonspecific nervous disturbance as an aftereffect of acute exposures is dependent on duration of unconsciousness and/or severity of circulatory failure. Breathlessness, nervous irritability, and unsteadiness in walking have been observed to persist for a period of several weeks. Inhalation of still lower concentrations (250–500 ppm) yields signs and symptoms of mild poisoning, characterized by vertigo, drowsiness, headache, and nausea. Rapid recovery from these symptoms usually occurs following cessation of exposure.

Direct contact with the liquid may cause erythema and blistering. Prolonged or repeated skin contact, even with small quantities of benzene, has been associated with the development of a dry, scaly dermatitis or with secondary infections.

C. *Chronic effects.* Benzene exerts a primary toxic effect in the bone marrow, the major blood forming organ. Long-term exposures to low concentrations of benzene have been observed to have an initial stimulatory effect on the blood-forming tissues (bone marrow) followed by aplasia (no cell production) and fatty degeneration. Clinically an initial increase, then decrease, in the red blood cells, white blood cells, or platelets, is seen, with progression if exposures are continued, to aplastic anemia (lack of functioning of bone marrow), leucopenia (decrease in leucocytes which are white blood cells), thrombocytopenia (decrease in platelets), or pancytopenia (decrease in all cells in the peripheral blood). Secondary effects of thrombocytopenia include coagulation disturbances, characterized by increased bleeding time, poor clot retraction, and increased susceptibility to hemorrhaging. This clinical picture of chronic benzene poisoning may exist with or without the physical signs or symptoms of fatigue, vertigo, headache or excessive bleeding.

The following studies are representative, although by no means all inclusive, of the published literature on the chronic effects in humans of benzene exposure. These studies do however illustrate the diversity and variability of effects which dominate the literature on chronic benzene exposure.

1. *Blood dyscrasias.* Greenburg and coworkers' investigation in 1939 of 332 pressmen in three rotogravure printing plants was one of the earliest, comprehensive studies of benzene poisoning.(8) In addition to physical examinations, including medical and occupational histories and laboratory tests, workplace air samples and chemical analysis of ink solvents and thinners were performed in an attempt to provide a correlation with medical findings. Air samples (48) revealed benzene concentrations ranging from 11 ppm to 1060 ppm for 3 plants.

Five workers with the most severe benzene poisoning expressed no subjective complaints and physical examination revealed negative findings. The signs of "poisoning" included a reduction in the number of erythrocytes, leucocytes and platelets.

Greenburg stated that: "These findings illustrate the well-known fact that the effects of benzene may be persistent and also suggest that even before blood changes are apparent, processes may have been initiated that will continue to develop even after exposure to benzene has ceased." The authors also reported that individuals varied greatly in susceptibility although data on personal monitoring were not available.

In the same year, Mallory et al. reported post-mortem findings in 19 case studies of workers with a history of chronic exposure to benzene.(9) Exposures varied from 6 months to 12 years, but no exposure levels were available. The authors indicated that significant changes were found regularly throughout the entire hematopoietic system including bone marrow, liver, spleen and lymph nodes. Of the 19 case studies, six exhibited hypoplasia of the bone marrow (decreased bone marrow function), whereas nine cases showed hyperplasia (overactivity of the bone marrow), and two were diagnosed as leukemia. The authors concluded that exposure to benzene under varying conditions produced diverse reactions and that individual variation was of great importance.

In 1948, Hardy and Elkins investigated an artificial leather plant in Massachusetts in which a man who had been employed as a coating machine operator for 12 years died of what was diagnosed as benzene poisoning.(10) The subject had worked as a coating machine operator in other locations for 18 years. Fifty-two workers were still employed in the leather plant. Benzene concentrations ranged from 40 to 80 ppm with an average concentration of 60 ppm. Blood studies, performed upon all 52 employees, showed abnormalities in more than one blood component in sixteen of the employees. Abnormalities were observed in hemoglobin, RBC, and WBC counts. There was a wide variation among subjects as to the particular component affected. Six of the 16 employees with blood abnormalities worked in the same coating room as the deceased man. Despite this evidence of blood abnormalities from the laboratory tests, none of the physical examinations revealed any clinical signs or symptoms of overexposure to benzene.

In an epidemiological investigation, Aksoy et al compared the hematological findings of 100 healthy male subjects (controls) with those of 217 apparently healthy males, 95 percent of whom worked with solvents containing benzene in small shoe shops. (11) The shops were considered unhygienic and poorly ventilated. The concentration of benzene in the working environment ranged from 15 to 30 ppm during non-working hours to 210 ppm when adhesives containing benzene were being used. The duration of employee exposures ranged from 3 months to 17 years. In 51 (23.5 percent) of the 217 employees, hematological abnormalities were found consisting of leucopenia (9.7 percent), thrombocytopenia (1.84 percent), leucopenia associated with thromobocytopenia (4.6 percent) and pancytopenia (2.7 percent). In addition, relative to controls, benzene-exposed workers demonstrated a significant reduction in mean white cell counts and mean platelet counts. The proportion of benzene-exposed workers diagnosed with anemia was increased when compared to controls; however the presence of iron-deficiency anemia could not be ruled out.

In French survey of 45 fatal cases of benzene induced diseases of the blood, covering the years 1947 to 1962, 23 were diagnosed as leukemia and 22 were attributed to aplastic anemia. Of the latter cases, one patient was afflicted after only 3 years exposure to benzene with the remainder having an average exposure of 16 years. (13) The authors also reported that in the cases of aplastic anemia, the evolution of the illness was lengthy. A similar observation was also reported by Vigliani and Forni (1969). (14) Of 32 fatal cases of chronic benzene poisoning seen in the provinces of Milan and Pavia, 18 were due to leukemia and 14 due to aplastic anemia. These authors noted that

aplastic anemia usually occurs in patients while they are still being exposed to high concentrations of benzene. In a later study, Vigliani reported that among 59 surviving workers with benzene-related aplastic anemia, 11 later died from acute leukemia. The author also reported that he had knowledge of at least 150 cases of leukemia attributed to benzene in Italy alone. (49)

Pancytopenia has been equated with aplastic anemia, although strictly defined aplastic anemia is characterized by pancytopenia and accompanied by a fatty displacement of the bone marrow. In 1976, Vigliani and Forni stated:

> In the past two decades, the case records of patients with acute or subacute leukemia, usualy with leukopenia at some state of the illness, have become so numerous that they exceed those of acute pancytopenia. This finding led us to suspect that many cases that were considered as acute pancytopenia in the past, prior to the introduction of bone marrow biopsy, may in fact have been examples of acute hemocytoblastic leukemia leucopenic and aleukemic, or with few microhemocytoblasts in the circulating blood, possibly mistaken for lymphocytes. (15)

Unsuccessful at inducing chronic poisoning through inhalation of vapors, Sellings in 1916 produced leukopenia in rabbits through subcutaneous injections of commercially pure benzol with olive oil. (12) Selling's findings demonstrated a constant, well defined aplasta of the bone marrow, characterized by the complete disappearance of leukocytes in the peripheral blood. He noted that although both the myeloid and lymphoid tissues are vulnerable, that myeloid tissue is injured to a greater extent.

Deichman et al (1963) published results of animal studies which also indicated the great toxicity of benzene vapors for hematopoietic tissue. (16) Eight groups of rats, consisting of 40 animals per group, were exposed to benzene vapors at average concentrations of 831, 65, 61, 47, 44, 31, 29, and 15 ppm respectively. The duration of exposure was for 5 hours per day, 4 days per week, for periods ranging from 5 weeks to 7 months. Exposures to the three highest concentrations resulted in a significant leukopenia after 14 weeks. A moderate, but definite, leukopenia occurred in the rats exposed to 47 and 44 ppm after 5 to 8 weeks of exposure. Exposures to three lowest benzene concentrations for periods of 4, 3, and 7 months, respectively, induced no demonstrable changes in the numbers of leucoytes.

2. *Chromosomal aberrations.* The development of various chromosomal aberrations in peripheral leukocytes and bone marrow cells has also been attributed to benzene exposures. Several investigators characterized these aberrations as both unstable chromosome changes (i.e. including fragments, dicentric, tricentric and ring chromosomes) or stable chromosomal changes (i.e. deletions, translocations, inversions, and trisomies). These types of chromosomal aberrations also occur as the result of exposure to ionizing radiation, which is known to induce leukemia.

Increases in chromosomal aberrations in subjects suffering from benzene hemopathy were investigated by Pollini and Colombi and by Forni and Moreo. (17), (18), (19)

Forni et. al. examined chromosomal changes and their evolution in 25 individuals who had suffered bone marrow impairment of varying severity, 1–18 years previously, as a result of exposure to benzene. (20) Hematologic examinations performed at the time of the cytogenetic study, but subsequent to cessation of exposure and recovery from benzene hemopathy, indicated normal blood values. However, both stable and unstable chromosomal changes were still present. The authors noted that "This finding (persistence of chromosomal aberrations) is similar to that reported in individuals with past exposure to ionizing radiations, both therapeutic and accidental, and suggests that long-lived lymphocytes might maintain chromosome damage even for years".

Chromosomal changes in individuals either no longer exposed to benzene, or exposed intermittently to low levels, and who show no hemotological disorders, have also been investigated. After examination of three groups of factory employees who displayed no toxic symptoms, Tough et al reported that two of these groups exposed on the average of 8 and 15 years, respectively, to similar working environments containing between 25 to 150 ppm benzene, showed a significant increase of structural chromosomal aberrations in lymphocytes over the general population. (21) The third group of workers from a different kind of factory and exposed to approximately 12 ppm for an average of 13 years showed a frequency of chromosome aberrations not significantly different from those found in the general population. Tough et al suggested that their findings may indicate that an interplay between the age of workers and exposure to benzene is responsible for the observed effects.

Induction of chromosomal damage in rabbit lymphocytes by subcutaneous injection of benzene has been reported by Kissling and Speck. (22) During the phase of peripheral pancytopenia the frequency of mitotic figures showing aberrations (mostly gaps and breaks) increased from an initial value of 6 percent to 58 percent after an average of 18 weeks. Two months later, after the discontinuance of benzene treatment, visible chromosomal damage was still observed in 36 percent of the mitotic cells. Also Philip and Jensen in a preliminary report demonstrated that a single subcutaneous injection of benzene (dose: 2.0 ml benzene/kg body weight) administered to rats is capable of increasing the fraction of marrow cells which exhibit chromosomal abnormalities.(23)

3. *Leukemia.* As pointed out, benzene presents a considerable range of health risks to the working population. These include the threat of developing a form of cancer known as leukemia, a fatal and irreversible disease. Robbins defines leukemia by stating:

> Leukemia may best be considered as a neoplasm (cancer) of the white blood cells and is so classified in the "International Lists of Causes of Death." It is characterized chiefly by: the appearance of abnormal, immature white cells in the circulating blood; diffuse and almost total replacement of the bone marrow with the leukemic cells; and widespread infiltrates of the liver, spleen and other tissues, analogous to metastatic dissemination of solid tissue cancer. (24)

The recent epidemiological study of Infante et al., (51) demonstrating a five-fold increased risk of total leukemia and a ten-fold increased risk of mylomonocytic leukemia among Pliofilm workers-exposed to benzene, is supported by numerous case reports in the scientific and medical literature over the past several years concerning benzene related leukemia, predominantly of the mylogenous type.

At the outset it should be noted that, prior to the development of the Infante et al. data conclusively showing the linkage between benzene exposure and the development of fatal leukemia in workers, many had argued that any substance capable of inducing bone marrow depression or other blood abnormalities should be treated as a potential leukemogen. For example, Cronkite stated over twenty years ago that:

> The heart of the problem in the induction of leukemia by industrial hazards rests upon quantitation of the agent and the yield of leukemia. Two agents used in industry have been correlated with an increased incidence of leukemia in human beings. The first, ionizing radiation, is unquestionably able to increase the incidence of leukemia. The second agent, benzol, probably can produce an increased incidence of leukemia, but the data are not as good as for the former. First, the finger of suspicion must be pointed at any agent which is able to produce an aplasia of the bone marrow, assuming it will probably be able to produce leukemia also. Second, there is no reason to doubt that any agent which will produce a cancer elsewhere in the body will not be able to produce leukemia if the offending agent is transported to the hemopoietic tissues. (25)

And, as the National Academy of Sciences pointed out in its report of June 1976:

> Benzene fits in the former category because it is well documented that it produces aplasia of the bone marrow.(4)

And as Williams et al. notes:

> Any chemical capable of producing myelotoxicity must be regarded as a potential leukemogen, if the findings in radiation—induced leukemia apply which indicate that cell damage with depression of marrow function may produce alterations leading to the transformation of damaged cells into neoplastic ones. The only chemical which has been clearly identified as one which increases the incidence of myeloid leukemias in man is benzene in rather heavy occupational exposure.(26)

The relationship between benzene exposure and leukemia in humans in the past has resulted in large part from clinical observation and to a lesser degree from epidemiological studies. The clinical evidence of leukemia has been obtained either from a survey of medical records primarily in various European

clinics, or from a canvass of the published literature reporting case histories of individuals diagnosed with leukemia. In lieu of quantitative, individual exposure data, subjective evaluations of intensity of exposure have been utilized. The epidemiological evidence has been derived from either the determination of the frequency of chronic benzene exposure among cases of leukemia or from the determination of frequency of, or mortality from, leukemia among employees of work shops that utilize benzene. In other words, in the first method the leukemia is the constant factor of all case studies and the benzene exposure is the variable; while the second method is the reverse, that is, the benzene exposure is the constant factor while leukemia is the variable.

Vigliani and Saita, in their review of 47 individuals suffering from benzene hemopathy between the period of 1942 and 1963, presented clinical and laboratory accounts of six cases, all of whom were diagnosed as having haemocytoblastic leukemia. (27) The period of exposures of these individuals to either resins, inks, varnishes, or glues containing varying concentrations of benzene ranged up to 19 years. Data on the concentrations of benzene in the workplace environment, with one exception (190–660 ppm) were not available. Although information on previous occupational histories or medical status prior to the final diagnoses were also not available, the authors stated that "attribution of the cases (of leukemia cited) to the exposure cannot be doubted." During the years 1962–1963, when there was sharp rise in the incidence of leukemia among workers exposed to benzene which coincided with an increase in number of benzene poisoning cases for this period, the risk of acute leukemia was estimated to be about 20 times greater than the risk for the general adult population.

Twelve years following the Vigliani and Saita study, Vigliani and Forni observed that in the rotogravure industry, no new cases of aplastic anemia nor of leukemia were found among workers exposed solely to toluene after this solvent was substituted for benzene in 1964. (15) However, these authors noted in 1974 that cases of benzene-induced leukemia with long latency periods may still be occasionally observed. (50) These investigators also observed that workers exposed to toluene did not exhibit chromosomal aberrations, a finding seen in employees who work with benzene.

Sixteen (16) cases of various forms of leukemia developing from long term exposure to benzene were reported by Tareef et al. (28) The duration of exposure ranged between 4 and 27 years. However, no exposure concentrations were reported. In contrast to data previously reported in Italy and Turkey, the authors found evidence of chronic leukemia. Acute leukemia accounted for only 6 of the 16 cases. Three of the six acute leukemias were diagnosed at 2, 4 and 5 years following cessation of benzene exposure. Four of the acute cases underwent a definite period of hematologic shifts ranging from anemia or leucopenia to aplastic anemia and spanning a period of 2 to 10 years. Of the 10 chronic cases reported, none of the patients had hemocytopenic changes prior to the onset of leukemia.

Aksoy et al. reported the deaths, due to leukemia, of four Turkish shoemakers resulting from their exposure to benzene for periods ranging from 6 to 14 years. (29) At the time of the study, air concentrations were found to be between 150–210 ppm of benzene. Previous occupational exposure data was not provided. Two of the four patients developed acute leukemia approximately two and three years after the occurrence of aplastic anemia although the other two did not.

Adding 8 new cases of leukemia associated with exposure to benzene to 26 previously found, between the years 1967 and 1973, Aksoy et al. observed that with the exception of one case of chronic myeloid leukemia, all had various forms of acute leukemia. (30) A preceding period of pancytopenia was reported present in almost 25 percent of the cases, and the interval between the pancytopenic period and the onset of leukemia varied from 6 months to 6 years. Often the clinical findings and blood picture improved considerably before leukemia was diagnosed. During an 8 year period of observation, the incidence of leukemia among shoe-workers chronically exposed to benzene was calculated to be more than twice that experienced by the general population (13.5/100,000 vs. 6/100,000).

Browning tabulated from published studies 61 cases of leukemia among workers exposed to benzene at various concentrations. (31) The majority of cases were of the myeloid series. Browning noted that "benezene leukemia is frequently superimposed on a condition of aplastic anemia, but can develop without a preceding peripheral blood picture characteristic of bone marrow aplasia." She also noted that the transition from aplastic anemia to leukemia was not unknown in the ideopathic forms of leukemias.

DeGowin (32) and others (Vigliani & Saita, Tareff, Aksoy etc.) observed that the development of acute leukemia in some individual cases was preceded by a latency period of up to 15 years following cessation of exposure to benzene. Some of the cases underwent what was considered to be a preleukemic period, which was characterized by leucopenia, anemia, thrombocytopenia, aplastic anemia, pancytopenia or a combination thereof. Other cases developed leukemia without any evidence of anemia. According to Vigliani and Saita, the time delay "does not permit us to attribute the disease to the persistence of benzene in the bone marrow". (27) They suggested, however, that "on the basis of the initiation-promotion theory of the induction of neoplasms, we might regard benzene as an initiator of the leukemia process, but we have no suggestion of a possible promoter."

Based on the hypothesis that the risk of leukemia was higher among workers who were exposed to benzene and medical x-rays, Ishimaru et al. conducted a retrospective epidemiological investigation examining the relationship between occupations and environmental factors, other than A-bomb exposure, and the incidence of leukemia in Nagasaki and Hiroshima between 1945 and 1967. (33) This case control study compared all cases diagnosed as definite or probable leukemias between 1945 and 1967 and residing, at the time of the onset of the disease, in Hiroshima or Nagasaki. Controls were matched for city, sex, date of birth (±30 months), distance from the atomic bomb explosion, and alive and residing in either city at the time of the onset of the disease in the patient. Four hundred ninety-two leukemia cases were identified, but matched controls could only be obtained for 413. Fifteen occupations were selected in which there had been exposure to either medical x-rays or solvents especially benzene and its derivatives. Three hundred and three adult cases with the onset of leukemia at age 15 years or over and their controls were compared. Eleven of the 15 occupations were selected based on whether there had been a history of such occupations by either the leukemia cases or the controls. Considered as a group, the risk of leukemia was found to be significantly higher (about 2.5 times greater) among those with a history of such occupations in which various volatile solvents were used as compared with those without. The relative risk was 1.8 times higher for chronic leukemia and 2.9 times higher for acute. Eighteen of the leukemia cases associated with solvents were located in distant and non-exposed radiation areas and were considered too far from the A-bomb explosion for radiation to have enhanced the increased risk. Accepting the source of error inherent in the method which was used to collect the data, the results of this study nonetheless reinforce the observation that an increase in leukemia existed in that portion of the population exposed to radiation and employed in an occupation where solvents were used, especially benzene or where exposure to medical x-ray occurred.

Thorpe, then Associate Medical Director for the Exxon Corporation, on the other hand, reported that the incidence of leukemia among a population of 38,000 workers exposed to low levels of benzene over a ten year period (1962–1972) was not significantly different when compared with the general population. (34)

This study has been severely criticized by Brown for its relaxed case-finding techniques and the methods of analyses. (35) Thus, the conclusions derived from this study must be viewed in the light of serious methodological problems which were encountered in the collection and treatment of the data. These problems, which were also acknowledged by Thorpe, included: (1) the low incidence of leukemia in the general population; (2) the validity of the diagnosis of leukemia, (3) the quantitative determina-

tions of the extent of exposures, (4) an inadequate follow-up of annuitants and (5) incomplete occupational histories on individuals diagnosed as having leukemia.

Infante et al. recently reported the results of an ongoing epidemiologic study among workers exposed to benzene during the manufacture of Pliofilm, a process unconfounded with mixed solvent exposures. (51) Although follow-up is less than 75% completed, the results already demonstrate a statistically significant excess of leukemia in benzene exposed workers as compared with the expectations based on the U.S. white male population or on a second population employed at an industry in the same state over the same period of time. Among benzene exposed workers, a five-fold excess of total leukemia and a 10-fold excess of myelomonocytic leukemias were demonstrated even under conditions leading to an underestimate of the true leukemia risk. Those conditions were the treatment and the analyses of individuals whose vital status was unknown—they were assumed to be alive until the last day of the study period. Note was made of the consistency of the types of leukemia in this study population (myelogenous and monocytic) with earlier case reports by Vigliani of workers who had died from benzene related leukemia in Italy.

The wide variety of clinical manifestations and hematological disorders observed in humans exposed to benzene, which range from simple anemia and leukopenia to aplastic anemia have been experimentally induced in animals. However, attempts to demonstrate the development of leukemia in animals exposed to benzene has met with less success. To date, a study by Lignac in 1932 is the only animal study known to OSHA in which leukemia has been observed in animals exposed to benzene. (38) Fifty-four mice (28 females, 26 males) were given subcutaneous injections of benzene (0.001 ml in 0.1 ml of olive oil) for 17 to 21 weeks. Nine mice were initially excluded following bacteriological examination and an additional 12 were lost through atrophy of various organs, especially the spleen. Lignac attributed these deaths to the size of the dose of benzene based upon the findings of a preceding experiment. Eight of the remaining 44 mice developed leukemia or Kundrat's lymphosarcoma and died 4 to 11 months after receiving the first injection. The absence of concurrent controls makes interpretation of the results difficult, and uncertainties as to the strain of the mice studied has frustrated efforts to independently confirm the findings.

More recent studies have failed to produce Lignac's results. Amiel in 1960 utilized four inbred strains of mice and subjected them to the same experimental program outlined in Lignac's study. (39) No leukemic or aplastic hemopathies were observed. More recently, Ward et al. administered benzene subcutaneously to a species and strain of mice which is responsive to leukemogenic agents. (40) Although they observed a slight increase in the percentage of granulocytic leukemias in the benzene-treated mice as compared with the controls, the authors viewed the increase as not statistically significant.

SUMMARY AND EXPLANATION OF THE STANDARD

The requirements of the emergency temporary standard are those which OSHA considers essential and feasible to protect employees from the grave danger resulting from benzene exposure until a permanent standard can be promulgated in accordance with sections 6 (b) and (c) of the Act. The following section discusses the significant provisions of the emergency temporary standard for benzene and the necessity for including these provisions in the ETS.

A. *Scope and application.* The emergency temporary standard applies to all employers and all establishments in which benzene is present, except for two general groups. The ETS does not apply to retail automotive service stations. It's estimated that there are presently more than 200,000 such service stations in the country. Further, the limited evidence presently available suggests that employee exposures during gas dispensing operations are generally below 1 ppm. In light of these facts, and the relatively short duration of the ETS, it has been determined that exclusion of such service stations from the ETS would be appropriate.

Similarly, the ETS does not cover exposure to liquids containing benzene in amounts of 1 percent or less by volume, or benzene vapor released by these liquids. Benzene is a contaminant as well as an additive in a multitude of industrial substances. OSHA estimates that some 60,000 facilities with over 400,000 employees are engaged in industrial operations utilizing liquid mixtures containing 1 percent or less benzene by volume.

Also based on the presently available evidence in the Arthur D. Little study the exposure of employee working with these mixture is generally less than 1 ppm on an 8 hour average. In view of the foregoing, the ETS excludes users of these mixtures from its coverage.

However, during the proceedings on the proposed permanent standard, it is OSHA's intention to consider the appropriate scope and application of its permanent standards to protect workers from the leukemia hazard of benzene exposure.

Meanwhile, the existing standard in § 1910.1000 which governs benzene exposure will continue to apply to retail automotive service stations and to operations which use liquids containing one percent or less benzene.

Thus, these employers must continue to limit their employees' exposures to benzene to the 10 ppm permissible exposure limit, 25 ppm limit ceiling and 50 ppm excursion limit of that section.

The emergency temporary standard is applicable to "general industry," construction and maritime.

B. *Permissible exposure limit.* The standard has separate permissible limits for airborne exposure and for eye and dermal exposures.

(1) *Airborne exposure limits.* Considerable scientific opinion supports the regulatory policy for carcinogens that no safe level exists for any exposed population. For example, the National Cancer Institute's Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens (1970) stated:

> No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1970, p. 1).

Furthermore, NIOSH has stated that, "it is not possible at the present time to establish an exposure level at which benzene may be regarded to be without danger," a position which it has consistently taken with regard to other carcinogens.

This regulatory policy is consistent with previous OSHA actions to control employee exposure to carcinogens; see, e.g. the preambles to the carcinogen standards, 29 CFR 1910.1003 et seq. (39 FR 3758); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892) and the coke oven emissions standard, 29 CFR 1910.1029 (41 FR 46742). Thus, the level of 1 ppm has been chosen, not as a "safe" or "no effect" level, but on the basis of OSHA's belief, for the reasons set forth in the technical feasibility and economic impact study prepared for OSHA by Arthur D. Little Co., that 1 ppm is the lowest level that generally can be achieved at this time.

(2) *Ceiling limit.* In addition to limiting 8-hour time weighted average exposures to 1 ppm, the emergency standard requires that no employee be exposed to benzene in excess of 5 ppm averaged over any 15-minute period. An employee may be exposed to varying concentrations of benzene during the course of the workday with some periods of exposure above 1 ppm and corresponding periods below 1 ppm. OSHA has determined that the peak excursions permitted under the present standard are not appropriate in regulating exposure to benzene—a human leukemia hazard for which no safe level can be determined. For this reason, the 15-minute ceiling limit of 5 ppm is established to limit the magnitude of brief excursions which might otherwise occur even where the 8-hour time weighted average was not exceeded.

(3) *Dermal and eye exposure limits.* The standard prohibits eye and repeated or prolonged skin exposure to liquid benzene. While studies indicate benzene is not readily absorbed through intact skin, direct contact with liquid benzene can cause blistering and breakage of the skin surface. (46), (47) Under these circumstances, or where the skin is otherwise broken, prolonged or repeated skin contact may result in significant absorption of benzene. In addition, benzene absorption through the skin may be enhanced when it occurs in combination with other solvents. (48) Once absorbed, the benzene is distributed throughout the body by the blood.

C. *Notification of use.* The standard requires employers to notify OSHA of the location of workplaces in which benzene is used and to describe the conditions of use and protective measures in effect. This requirement is designed to assure compliance during the effective period of this ETS.

D. *Monitoring of exposure.* The standard requires employers to monitor each workplace where benzene is present to determine employee exposure. Such determinations may be made by monitoring and measurements which are representative of each employee's exposure to benzene over an 8-hour period. Actual measurements of airborne concentrations of benzene are required in order to determine employee exposure to benzene. However, employers do not have to measure the exposure of each individual employee.

Where the initial measurements reveal benzene exposure to be above the permissible exposure limit, monthly monitoring is required. Measurements which reveal levels of exposure to benzene below the permissible exposure limit require quarterly monitoring.

The results of the exposure measurement program determine what further action must be taken by the employer. In addition to monthly monitoring, measurement of exposures above the permissible exposure limit require the employer to institute controls to reduce the exposure to or below the permissible exposure limit. A monitoring requirement is necessary in the ETS to reduce employee exposure.

In establishing the monitoring and measurement requirements of this standard, OSHA has considered the importance of such activities to identifying exposed employees and their levels of exposure so that appropriate protective measures may be taken. OSHA has also considered the question of the feasibility of immediately complying with the monitoring requirements specified.

Performing the required measurements of employee exposure to benzene will generally involve the use of portable battery-powered air sampling pumps worn by the employee during the sampling period, charcoal tubes for absorption of the benzene, and access to appropriate laboratory facilities for subsequent analysis of the charcoal tube samples. The laboratory analysis would usually be performed using gas chromotographs, a technique commonly available in analytical laboratories and utilized for the analysis of a wide range of air contaminants found in samples of the workplace environment and general community. The standard provides that the initial sampling must be conducted and results obtained within 30 days of the effective date of the standard, which would be almost 50 days following publication of the standard. The standard does not require a separate measurement for each affected employee. It requires only that sufficient measurements are obtained to be representative of the exposure of all affected employees.

OSHA notes that the monitoring requirements will arise principally in the industries engaged in benzene production, gasoline production, and related chemical industries. These industries are generally regarded to be at the forefront of all industries with respect to existing industrial hygiene and occupational health programs. Many of the employers in these industries have extensive professional and technical staffs and established employee health programs which include periodic measurement of employee exposure to benzene. Thus these employers are expected to have little difficulty in complying with the monitoring requirements of this standard. Some of these employers have had to acquire much of the apparatus and equipment required for measuring employee exposure to benzene in order to comply with other occupational health standards previously issued by this Agency. For example, those employers engaged in manufacturing or use of vinyl chloride and polyvinyl chloride and employers engaged in the operation of coke ovens—one source of benzene production, will find that much of the effort made earlier in complying with the standards for vinyl chloride and coke oven emissions will be applicable to the requirements under this standard for measuring employee exposure to benzene.

There are approximately eight manufacturers of suitable sampling pumps. While it is not possible to know the total number of pumps immediately available from these manufacturers, one of the major manufacturers has indicated an ability to deliver 200 immediately and 800 within 45 days. That manufacturer estimated that the entire industry is capable of delivering up to 2,000 pumps in no more than 60 days from now. OSHA believes this capacity is adequate to meet the additional needs of employers who do not presently have a sufficient number of these sampling pumps. Moreover, the standard does not require that the employer own the equipment and do this monitoring himself; the utilization of consultants or contractors is another choice available to many employers.

For the above reasons, the Assistant Secretary concludes that the monitoring and measurement requirements of this emergency standard are feasible.

E. *Methods of compliance.* The standard requires employee exposure to benzene to be reduced to 1 ppm by engineering controls, work practices and respiratory protection. The emergency standard reflects a preference for the use of engineering controls, work practices and, where possible, substitution because of the greater reliability of these control techniques. (See, for example, the standards on vinyl chloride, § 1910.1017, and coke oven emissions § 1910.1029, and the reasons given therein.)

Thus, employers are required to institute feasible engineering controls and work practices as soon as possible to reduce employee exposure to or below the permissible exposure limits. In operations where engineering controls and work practices do not completely reduce exposure to the permissible level, they must still be implemented to reduce exposures to the lowest practicable level and supplemented by respirators.

OSHA recognizes that initial compliance may involve the use of respirators in many instances until engineering controls are installed and work practices initiated.

Based on a review of the Arthur D. Little Co. study and data furnished by respirator manufacturers, OSHA has determined that the availability of respirators of the required types, especially the air-purifying respirators and replacement cartridges, is adequate to meet the needs of employers who will require them for compliance with the ETS. For example, there are several manufacturers of air-purifying respirators for use against benzene. One of these manufacturers has indicated that it currently has in stock 100,000 replacement cartridges more than normal order requirements, can deliver more than 250,000 cartridges per month, and is presently increasing production capacity for this type of respirator. Additionally, OSHA is aware that respirators are currently available for use by employees in many job categories in the industries covered by this standard, such as the petroleum refining, petrochemical, chemical, and related industries.

OSHA estimates that approximately 30,000 of the 150,000 employees affected by this standard would have to be furnished respirators for use some of the time during the initial period of compliance with this standard. In view of the current existence of suitable respirators in many workplaces where they would be needed and the ability of the respirator manufacturers and suppliers to supply promptly on receipt of order additional respirators needed to comply, OSHA concludes that the respirator requirements of this standard are feasible.

F. *Medical surveillance.* The standard requires employers to institute a limited program of medical surveillance for all employees exposed to benzene. The purposes of these medical surveillance requirements are to determine the effects of exposure on the blood forming systems of the employees, to detect blood abnormalities, and to ensure that symptoms of overexposure to benzene are recognized as early as possible. The standard provides that this medical testing shall be conducted within 30 days of the effective date of the standard and quarterly thereafter. The medical surveillance requirements are limited to those minimum tests considered necessary for the emergency standard. (41) The standard also requires a medical history to be taken for every employee who may be exposed to benzene.

Facilities for performing such routine blood tests are readily available in all parts of the country and OSHA has concluded that compliance with this limited medical testing requirement is immediately feasible.

Following the medical examination, the employer must obtain a written opinion from the examining physician stating whether the employee has any medical condition that would place him at increased risk to his health from exposure to benzene. The employer must provide a copy of the physician's opinion to the affected employee. Employees are not required by the standard to submit to the medical surveillance offered under this provision.

G. *Employee education and training.* Information and training are important to protect employees from workplace cancer hazards. Appropriate training of employees can result in immediate benefits in terms of reduced exposures. To be effective, an employee education system must fully inform the employee of the specific hazards associated with the work environment. For this reason, the employer is required to inform each employee who is assigned to work in the presence of benzene about the specific operations where benzene exposure may occur and about proper procedures to avoid unnecessary exposure. The required training program must, among other things, advise employees of the signs and symptoms of exposure to benzene, the purpose of the medical tests, and the purpose, proper use, and limitation of respirators.

H. *Signs.* It is important for the protection of employees that appropriate forms of warning, as necessary, be used to inform employees of the hazards to which they are exposed in the course of their employment.

In light of the grave danger posed by exposure to benzene, OSHA believes that signs are necessary in addition to the periodic training program for informing employees of the carcinogenic hazard of benzene exposure.

I. *Recordkeeping.* The standard requires a limited amount of recordkeeping. Employers must maintain exposure measurement records and medical records. Such records must be maintained during the period of the emergency standard. Thereafter, employers will be subject to the long-term recordkeeping requirements included in the final standard promulgated under section 6 (b) of the Act.

J. *Appendixes.* Three appendixes have been attached to the standard for informational purposes. These appendixes do not impose any additional requirements on the employer.

V.—References

The studies and other data listed below, as well as the additional material referred to in this document, represent the principal sources upon which the emergency standard is based. A complete set of the references is available for inspection and copying at the OSHA Technical Data Center, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

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VI. Environmental and Economic Impacts

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued thereunder (29 CFR Part 1999) require that Federal agencies assess their proposed major actions to determine whether a significant impact on the quality of the human environment may result, and if necessary to prepare an environmental impact statement. An environmental impact statement on the regulation of occupational exposure to benzene will be prepared and made available as required during the rulemaking proceedings under section 6(b) of the Act. Because of the emergency nature of this standard, no environmental impact statement can be prepared or is required for the emergency temporary standard. In addition, notice is hereby given that an economic impact analysis under Executive Order 11949 (42 FR 1017) and applicable procedures will be prepared and made available prior to the promulgation

of any permanent standard resulting from this emergency temporary standard. The preliminary economic and technological feasibility study done by Arthur D. Little indicates that the emergency standard is feasible.

VIII—PUBLIC PARTICIPATION—NOTICE OF HEARING

Pursuant to section 6(c) (3) of the Act, this ETS as published also serves as a proposal for a permanent rule. It is OSHA's intention to develop and publish a more comprehensive proposal in the very near future which will contain additional provisions and some modifications of this emergency standard. Since the comprehensive proposal will be based on the emergency standard and since the emergency nature of the proceeding and the requirements of section 6(c) will necessitate expedited treatment throughout the development of the final standard on benzene, interested parties should begin preparation of their written comments and oral presentations immediately.

Interested persons are invited to submit written data, views and arguments with respect to this ETS and the supplementary proposal to be published shortly. These comments must be postmarked on or before June 20, 1977 and submitted in quadruplicate to the Docket Officer, Docket No. H–059, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS and the proposal which are addressed and the position taken with respect to each issue therein. The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding.

Pursuant to section 6(b) (3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on July 12, 1977, in the New Department of Labor Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210.

NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at the hearing, must file in quadruplicate a notice of intention to appear, postmarked on on before June 20, 1977 with the OSHA Committee Management Office, Docket No. H–059, Room N–3635, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210 (telephone: (202) 523–8024).

The notices of intention to appear, which will be available for inspection and copying at the OSHA Committee Management Office, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony including any documentary evidence to be presented at the hearing, to the OSHA Committee Management Office where it will be available for inspection and copying. This material must be received by July 5, 1977. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

CONDUCT OF HEARINGS

The hearing will commence at 9:30 a.m. on July 12, 1977, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the emergency nature of this rulemaking proceeding, the hearing will be conducted in as expedited a manner as possible, consistent with a full development of the record and the rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any posthearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–2315, Washington, D.C. (202–523–9261).

Accordingly, pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 1599, 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8–76, and 29 CFR Part 1911, Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended by adding a new § 1910.1028 as set forth below. In addition, pursuant to section 4(b) (2) of the Act (84 Stat. 1592; 29 U.S.C. 653), the standard in the new § 1910.1028 is determined to be more effective than the corresponding standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918 and 1926 of Title 29, Code of Federal Regulations. Therefore, these corresponding standards are superseded by the new standard in § 1910.1028. These amendments are effective May 21, 1977.

Signed at Washington, D.C., this 29th day of April 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore amended as follows:

1. A new § 1910.20 is added to 29 CFR Part 1910 to read as follows:

§ 1910.20 Benzene.

Section 1910.1028 shall apply to the exposure of every employee to benzene in every employment and place of employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or § 1910.16, in lieu of any different standard on exposure to benzene which would otherwise be applicable by virtue of any of those sections.

§ 1910.1000 [Amended]

2. Table Z–2 of § 1910.1000 is amended by adding a footnote 1 following the words "Benzene (Z37.4–1969)" and by adding the following below Table Z–2:

Occupational exposures to benzene are subject to the requirements of § 1910.1028 except as specifically exempted by § 1910.1028(a). Exposures exempted by § 1910.1028(a) are covered by this section.

3. Part 1910 of Title 29 of the Code of Federal Regulations is amended by adding thereto a new § 1910.1028 to read as follows:

§ 1910.1028 Benzene.

(a) *Scope and application.* (1) This section applies to the production, reaction, release, packaging, repackaging, storage, transportation, handling, or use of benzene.

(2) This section does not apply: (i) To retail automotive service stations; or (ii) where the exposure to benzene is only from liquid mixtures containing 1 percent or less of benzene by volume, or the vapors released from these liquids.

(b) *Definitions.* "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, or designee.

"Benzene" (C6H6) (CAS Registry No. 000071432), means benzene, or a mixture of liquids containing benzene, or the benzene vapor released by these liquids.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the employer's establishment is located.

(c) *Exposure limits.*—(1) *Permissible airborne exposure limits.* (i) The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 1 part benzene per million parts of air (1 ppm), as an 8-hour time-weighted average.

(ii) The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 5 ppm as averaged over any 15 minute period.

(2) *Dermal and eye exposure limit.* The employer shall assure that no employee is exposed to eye contact or repeated skin contact with benzene.

(d) *Notification of use.* Within 30 days of the effective date of this section, every employer who has a place of employment where benzene is present, shall report the following information to the nearest OSHA area office for each such establishment:

(1) The address and location of each establishment where employee exposure to benzene occurs;

(2) A brief description of each process or operation which may result in employee exposure to benzene;

(3) The number of employees engaged in each process or operation which may result in exposure to benzene and an estimate of the frequency and degree of exposure that results; and

(4) A brief description of the employee safety and health program as it relates to limitation of employee exposure to benzene.

(e) *Exposure monitoring and measurement.*—(1) *Initial monitoring.* (i) Each employer who has a place of employment where benzene is present, shall monitor each such workplace and work operation to determine the airborne concentrations of benzene to which employees may be exposed. This determination shall be made by monitoring and measurements which are representative of each employee's exposure to benzene over an 8-hour period.

(ii) Each employer, who has a place of employment in which benzene is present, shall inspect each workplace and work operation to determine if any employee may be exposed to benzene through eye contact or repeated skin contact.

(2) *Frequency of monitoring.* The monitoring required under paragraph (e) (1) of this section shall be conducted, and the results obtained, within thirty days of the effective date of this section and thereafter repeated quarterly for employees whose exposure is found to be less than 1 ppm, and monthly for those employees whose exposure is found to be in excess of the permissible exposure limit. The employer shall continue monthly measurements until at least two consecutive measurements taken at least seven (7) days apart are below the permissible exposure limit, and thereafter the employer shall measure quarterly.

(3) *Additional monitoring.* Whenever there has been a production, process, or control change which may result in new or additional exposure to benzene, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to benzene, additional monitoring which complies with paragraph (e) (1) of this section shall be made.

(4) *Employee notification.* (i) Within 5 working days after the receipt of measurement results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Where the results reveal the employee's exposure to be over the permissible exposure limit, this notification shall also include the corrective action being taken to reduce exposure to or below the permissible exposure limit.

(5) *Accuracy of measurement.* The method of measurement shall have an accuracy, to a confidence level of 95 percent, of not less than plus or minus 25 percent for concentrations of benzene greater than or equal to 1 ppm.

(6) *Employee exposure.* For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(f) *Methods of compliance.* The employer shall control employee exposures to airborne concentrations of benzene to or below the permissible exposure limit, and shall protect against employee exposure to eye or repeated skin contact with benzene, by engineering controls, work practices and personal protective devices and equipment, as follows:

(1) *Engineering controls.* The employer shall develop and implement, as soon as possible, feasible engineering controls to reduce the airborne concentration of benzene to or below the permissible exposure limit.

(2) *Work practices.* The employer shall examine each work area in which benzene is present and shall institute, as soon as possible, work practices to reduce employee exposure to benzene to or below the permissible exposure limit. The work practices shall be described in writing and shall include, among other things, the following:

(i) Limiting access to work areas where benzene is present to authorized personnel only;

(ii) Prohibiting smoking and the consumption of food and beverages in work areas where benzene is present; and

(iii) Establishing good maintenance and housekeeping including the prompt cleanup of spills, repair of leaks, etc.

(3) *Respiratory projection.* Whenever engineering and work practice controls which can be instituted are not sufficient to reduce exposures to or below the permissible exposure limit, they shall be used nontheless to reduce exposurse to the lowest practicable level, and shall be supplemented by the use of respirators in accordance with paragraph (g) of this section.

(g) *Respirators.*—(1) *Required use.* The employer shall assure that respirators are used where required under this section to reduce employee exposure to or below the permissible exposure limit, and in emergencies.

(2) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select and provide the appropriate respirator from Table I below and shall assure that the employee uses the respirator provided.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

TABLE I

RESPIRATORY PROTECTION FOR BENZENE

Concentration of benzene or condition of use	*Respirator type*
(a) Less than or equal to 10 ppm	(1) Chemical cartridge respirator with organic vapor cartridges and half mask; or (2) Any supplied air respirator with half mask.
(b) Less than or equal to 50 ppm	(1) Chemical cartridge respirator with organic vapor cartridges and full facepiece; or (2) Any supplied air respirator with full facepiece; or (3) Any organic vapor gas mask; or (4) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 1,000 ppm	(1) Supplied air respirator with half mask in positive pressure mode.
(d) Less than or equal to 2,000 ppm	(1) Supplied air respirator with full facepiece, helmet, or hood, in positive pressure mode.
(e) Less than or equal to 10,000 ppm	(1) Supplied air respirator and auxiliary self-contained facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(3) *Respirator program.* The employer shall institute a respiratory protection program in accordance with § 1910.134 (b), (d), (e) and (f).

(4) Where air-purifying respirators are used (cartridge, canister or gas mask), the air-purifying canisters or cartridges shall be replaced prior to the expiration of their service life or the end of the shift in which they are first used, whichever occurs first.

(h) *Protective clothing and equipment.* Where eye or repeated skin contact with liquid benzene may occur, employers shall provide and assure that employees wear impermeable protective clothing and appropriate equipment to protect the area of the body likely to come in contact with liquid benzene.

(i) *Medical surveillance.* (1) Each employer shall make available a medical surveillance program for all employees who are or will be exposed to benzene. The medical surveillance program shall consist of:

(i) A history which includes past work exposures to benzene or any other hematologic toxins, a family history of hematological neoplasms, a history of blood dyscrasias including genetically related hemoglobin alterations, bleeding abnormalities, abnormal function of formed blood elements, a history of renal or liver dysfunction, a history of drugs routinely taken, alcoholic intake and systemic infections;

(ii) A complete blood count including a differential white blood cell count; and

(iii) Additional tests shall be conducted where, in the opinion of the examining physician, alterations in the components of the blood are related to benzene exposure.

(2) All medical procedures shall be performed by or under the supervision of a licensed physician, and shall be provided by the employer without cost to the employee.

(3) Medical surveillance and testing of each employee shall be conducted within thirty days of the effective date of this section, and quarterly thereafter. If an employee is accidently or otherwise exposed to benzene by ingestion, inhalation, skin or eye contact, or for any reason, an employee develops signs and symptoms commonly associated with exposure to benzene, the employer shall provide appropriate medical examinations and emergency treatment.

(4) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendixes;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(5) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(a) The results of the medical testing;

(b) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to benzene;

(c) Any recommended limitations upon the employee's exposure to benzene or upon the use of protective clothing and equipment such as respirators; and

(d) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(j) *Employee information and training.*—(1) *Training program.* Within fifteen days of the effective date of this section, the employer shall provide a training program for employees assigned to workplace areas where benzene is present and shall assure that each affected employee is informed of the following:

(i) The information contained in the substance data sheet for benzene which is contained in Appendix A of this section;

(ii) The quantity, location, manner of use, release or storage of benzene and the specific nature of operations which could result in exposure above the permissible exposure limit, as well as necessary protective steps;

(iii) The purpose, proper use, and limitation of respiratory devices as specified in § 1910.134;

(iv) The purpose and a description of the medical testing program required by paragraph (i) of this section and the information contained in Appendix C of this section; and

(v) The contents of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(k) *Signs.* (1) The employer shall post signs to clearly designate all work areas where benzene may be present, bearing the legend:

DANGER
BENZENE
CANCER HAZARD

(2) Where the permissible exposure limit is exceeded, the signs shall also include the legend: Respirator required.

(3) The employer shall assure that no statement appear on or near any required sign which contradicts or detracts from the required information.

(l) *Recordkeeping.*—(1) *Exposure measurements.* The employer shall establish and maintain an accurate record of all measurements required by paragraph (e) of this section.

(i) This record shall include:

(a) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposures;

(b) A description of the sampling and analytical methods used;

(c) Type of respiratory protective devices worn, if any; and

(d) Name, social security number, and job classification of the employee monitored and all other employees whose exposure the measurement is intended to represent.

(ii) This record shall be maintained during the effective period of this section.

(2) *Medical surveillance.* The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (i) of this section.

(i) This record shall include:

(a) A copy of the physician's written opinion;

(b) Any employee medical complaints related to exposure to benzene; and

(c) A copy of the information provided to the physician as required by paragraph (i) (4) of this section;

(ii) This record shall be maintained during the effective period of this section.

(3) *Availability.* (i) All records required to be maintained by this section shall be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) Employee exposure measurement records as required by this section shall be made available for examination and copying to affected employees, and their designated representatives.

(iii) Former employees and the employees' designated representatives shall have access to such records as will indicate their own exposure to benzene.

(iv) Employee medical records required to be maintained by this section shall be made available upon request for examination and copying to a physician designated by the affected employee or former employee.

(m) *Observation of monitoring.*—(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any measuring or monitoring of employee exposure to benzene conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) When observation of the measuring or monitoring of employee exposure to benzene requires entry into an area where the use of protective clothing and equipment or respirators is required, the employer shall provide the observer with personal protective devices required to be worn by employees working in the area, assure the use of such equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the measurement, observers shall be entitled to:

(a) Receive an explanation of the measurement procedures;

(b) Observe all steps related to the measurement of airborne concentrations of benzene performed at the place of exposure; and

(c) Record the results obtained.

(n) Effective date: This section shall become effective May 21, 1977.

(o) *Appendixes.* The information contained in the appendixes is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

I. SUBSTANCE IDENTIFICATION

APPENDIX A—SUBSTANCE SAFETY DATA SHEET

BENZENE

A. *Substance.* Benzene.

B. *Permissible Exposure.* Except as to retail gasoline stations and operations which use liquids containing benzene in amounts greater than 1% by volume, or the benzene vapor released by any such liquids.

1. *Airborne.* 1 part of benzene vapor per million parts of air (1 ppm); time-weighted average (TWA) for an 8-hour workday for a 40-hour week, with a ceiling concentration of 5 ppm.

2. *Dermal.* Eye contact and repeated skin contact with liquid benzene shall be prohibited.

C. *Appearance and odor.* Benzene is a clear, colorless liquid with a pleasant, sweet odor. The odor of benzene does not provide adequate warning of its harzard.

II. HEALTH HAZARD DATA

A. *Ways in which the benzene affects your health.* Benzene can affect your health if you inhale it, or if it comes in contact with your skin or eyes. Benzene may also be harmful if you happen to swallow it.

B. *Effects of overexposure.* 1. Short-term (acute) overexposure: If you are overexposed to high concentrations of benzene, well above the levels where its odors are first recognizable, you may feel breathless, irritable, euphoric, or giddy; you may experience irritation in eyes, nose, and respiratory tract. You may develop a headache, feel dizzy, nauseous, or experience unsteadiness in walking. Severe exposures may lead to convulsions.

2. Long-term (chronic) exposure: Repeated and prolonged exposure of benzene may cause headache, fatigue, exhaustion, tendency to bleed, nervousness, sleeplessness, shortness of breath, and serious blood disorders, including leukemia.

III. PROTECTIVE CLOTHING AND EQUIPMENT

A. *Respirators.* Respirators are required for those operations in which engineering controls or work practice controls are not available to reduce exposure to the permissible level. If respirators are worn, they must have a National Institute for Occupational Safety and Health (NIOSH) seal of approval. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. *Protective Clothing.* You must wear impervious protective clothing (such as boots, gloves, sleeves, aprons, etc.) over any parts of your body that could be repeatedly exposed to liquid benzene.

C. *Eye and Face Protection.* You must wear splash proof safety goggles if it is possible that benzene may get into your eyes. In addition, you should wear a face shield if your face could be splashed with benzene liquid.

IV. EMERGENCY AND FIRST AID PROCEDURES

A. *Eye and face exposure.* If benzene is splashed in your eyes, wash it out immediately with large amounts of water. Call a doctor as soon as possible.

B. *Skin exposure.* If benzene is spilled on your clothing or skin, remove the contaminated clothing and wash the exposed skin with large amounts of water and soap immediately. Wash contaminated clothing before you wear it again.

C. *Breathing.* If you or any other person breathes in large amounts of benzene, get the exposed person to fresh air at once. Apply artificial respiration if breathing has stopped. Call a doctor as soon as possible.

D. *Swallowing.* If benzene has been swallowed and the patient is conscious, do not induce vomiting. Call a doctor immediately.

V. MEDICAL REQUIREMENTS

If you are exposed to benzene your employer is required to provide the following medical procedures within thirty days of the effective date of this standard, consisting of a medical history and laboratory tests. These tests shall be provided without cost to you.

VII. OBSERVATION OF MONITORING

Your employer is required to perform measurements that are representative of your exposure to benzene and you are entitled to observe the monitoring procedure. You are entitled to receive an explanation of the measurement procedure, observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also be provided with, and must wear the protective clothing and equipment.

VIII. ACCESS TO RECORDS

You or your representative are entitled to see the records of measurements of your exposure to benzene upon request to your employer. Your medical examination records can be furnished to your physician upon request to your employer.

IX. PRECAUTIONS FOR SAFE USE, HANDLING AND STORAGE

Benzene liquid is highly flammable. It should be stored in tightly closed containers in a cool, well ventilated area. Benzene vapor may form explosive mixtures in air. All sources of ignition must be controlled. You should use non-sparking tools when opening or closing benzene containers. You must ground or bond metal benzene containers. Fire extinguishers, where provided, must be readily available and you should know where they are located and how to operate them. Smoking is prohibited in areas where benzene is used or stored. Ask your supervisor where benzene is used on your work area and for additional plant safety rules.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES

BENZENE

I. PHYSICAL AND CHEMICAL DATA

A. Substance Identification

1. *Synonyms.* Benzol, bensole, coal naptha, cyclohexatriene, phene, phenyl hydride, pyrobensol. (Benzin, petroleum bensin, and benzine, do not contain benzene).

2. *Formula.* C_6H_6 (CAS Registry Number: 000071432)

B. Physical Data

1. Boiling point (760 mm Hg): 80.1 C (176F).

2. Specific Gravity (water=1) :0.879.

3. Vapor Density (air=1) :2.7.

4. Melting Point: 5.5 C (42F).

5. Vapor Pressure at 20 C (68F) :75 mm Hg.

6. Solubility in Water: .06%.

7. Evaporation Rate (ether=1) :2.8.

8. Appearance and Odor: Clear, colorless liquid with a distinctive sweet odor.

II. FIRE, EXPLOSION AND REACTIVITY HAZARD DATA

A. *Fire.* 1. Flash Point (closed cup): —11 C (12F).

2. Autoignition Temperature: 680° C (1076F).

3. Flammable Limits in Air, % by Volume: Lower: 1.3% Upper: 7.1%.

4. Extinguishing Media: Carbon dioxide, dry chemical, or foam.

5. Special Fire-Fighting Procedures: Do not use solid stream of water, since stream will scatter and spread fire. Water spray can be used to keep fire exposed containers cool.

6. Unusual fire and explosion hazards: Benzene is a flammable liquid. Its vapors can form explosive mixtures. All ignition sources must be controlled when benzene is used, handled, or stored. Where liquid or vapor may be released, such areas shall be considered as hasardous locations. Benzene vapors are heavier than air; thus the vapors may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which benzene is handled.

7. Benzene is classified as a 1 B flammable liquid for the purpose of conforming to the requirements of 29 CFR 1910.106. A concentration exceeding 3250 ppm is considered a potential fire or explosion hasard. Locations where benzene may be present in quantities sufficient to produce explosive or ignitable mixtures are considered Class 1 Group D for the purposes of conforming to the requirement of 29 CFR 1910.309.

B. *Reactivity.* 1. Conditions contributing to instability: Heat.

2. Incompatibility: Heat and oxidizing materials.

3. Hazardous decomposition products: Toxic gases and vapors (such as carbon monoxide).

III. SPILL AND LEAK PROCEDURES

A. *Steps to be taken if the material is released or spilled.* Large amounts of water should be used to flush the spills. Do not flush benzene into confined space, such as a sewer, because of explosion danger. Remove all ignition sources. Ventilate enclosed places.

B. *Waste Disposal Method.* Disposal methods must conform to other jurisdictional regulations. If allowed, benzene may be disposed of: (a) By absorbing it in dry sand or earth and disposing in a sanitary land fill; (b) if small quantities, by removing it to a safe location from buildings or other combustible sources, pouring it in dry sand or earth and cautiously igniting it; (c) if large quantities, by atomizing it in a suitable combustion chamber.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. Normal Monitoring Program: Measurements taken for the purpose of determining employee exposure are best taken such that the representive average 8-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Short-time interval samples (or grab samples) may also be used to determine average exposure level if a minimum of five (5) measurements is taken in a random manner over the 8-hour work shift. Random sampling means that

any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one (1) work shift is an estimate of an employee's average level of exposure for that work shift. NIOSH recommends that samples be collected at a sampling rate of one liter per minute for a minimum of two hours. Air samples should be taken in the employee's breathing zone (air that would nearly represent that inhaled by the employee). Sampling and analysis should be performed by gas absorption tubes with subsequent chemical analysis, by gas chromatography of those areas most likely to represent the highest airborne concentration of benzene where employees are exposed. Methods meeting the prescribed accuracy and precision requirements are available in the "NIOSH Manual of Analytical Methods."

V. MISCELLANEOUS PRECAUTIONS

A. High Exposures to benzene can occur when transferring the liquid from one container to another. Such operations should be well ventilated and good work practices should be established to avoid spills.

B. Non-sparking tools should be used to open benzene containers which should be effectively grounded and bonded prior to opening and pouring.

C. Employers should advise employees of all plant areas and operations where exposure to benzene could occur. A few of the common operations in which high exposures to benzene may be encountered are: manufacture of styrene, phenol, cyclohexane, pesticides, and detergents.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR BENZENE

I. ROUTE OF ENTRY

Inhalation; possible skin absorption.

II. TOXICOLOGY

Benzene is primarily an inhalation hazard. Systemic absorption cause depression of the hematopoietic system. Inhalation of high concentrations can affect the central nervous system function. Aspiration of small amounts of liquid benzene immediately causes pulmonary edema and hemorrhage of pulmonary tissue. Skin absorption through intact skin is negligible. However, absorption will be accelerated in the case of injured skin, and benzene may be more readily absorbed if it is present in a mixture or as a contaminate in solvents which are readily absorbed. Defatting action of benzene may produce primary irritation upon repeated or prolonged contact with the skin. High concentrations are irritating to the mucous membranes of the eyes, nose, and respiratory tract.

III. SIGNS AND SYMPTOMS

Benzene is poorly absorbed through the skin, however, direct contact may cause erythema or blistering. Repeated or prolonged contact may result in drying, scaling, dermatitis, or precipitate development of secondary skin infections. Local effects of benzene vapor or liquid on the eye are slight. Only at very high concentrations is there any smarting sensation in the eye. Droplet contamination of the eye by benzene causes a moderate burning sensation, but only slight transient injury of the epithelial cell, with the eye recovering rapidly. Inhalation of high concentrations of benzene may have an initial stimulatory effect on the central nervous system characterized by exhilaration, nervous excitation, and/or giddiness, followed by a period of depression, drowsiness, fatigue, or vertigo. There may be sensation of tightness in the chest accompanied by breathlessness and ultimately the victim may lose consciousness. Convulsions and tremors occur frequently, and death may follow from respiratory paralysis or circulatory collapse in a few minutes to several hours following severe exposures. The insidious and often irreversible effect on the blood-forming system of prolonged exposure to small quantities of benzene vapor is of extreme importance. These effects have been noted to occur at concentrations of benzene which may not cause irritation of mucous membranes, or any unpleasant sensory effects. Early signs and symptoms of benzene morbidity are varied and vague, and not specific for benzene exposure. Subjective complaints of headache, dizziness, and loss of appetite may precede or procede clinical symptomology. Bleeding from the nose, gums, or mucous membranes and the development of purpuric spots may occur as the condition progresses. Rapid pulse and low blood pressure in addition to a physical appearance of anemia may accompany a subjective complaint of shortness of breath. Clinical evidence of leucopenia and anemia are the most common abnormalities reported, however, macrocytosis and thrombocytopenia are also frequently present. Bone marrow may appear normal, aplastic, or hyperplastic and may not in all situations correlate with peripheral blood findings indicating hypo-hyper-activity of blood forming tissues. There are great variations in the susceptibility to benzene morbidity which prohibits the identification of "typical" blood picture. The effects of prolonged benzene exposure may appear after several weeks or years after the actual exposure has ceased. Development of leukemia also results from exposure to benzene.

IV. TREATMENT

Remove from exposure immediately, give oxygen or artificial resuscitation if indicated. Flush eyes and wash contaminated skin. Symptoms of non-specific nervous disturbances may persist following severe exposures. Recovery from mild exposures is usually rapid and complete.

V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. *Other considerations.* Benzene can cause both acute and chronic effects. It is important that the physician become familiar with the operating conditions in which exposure to benzene occurs. Those with skin disease may not tolerate the wearing of protective clothing and those with chronic respiratory disease may not tolerate the wearing of negative pressure respirators.

B. *Surveillance and screening.* Medical histories and laboratory examinations are required for each employee subject to exposure to benzene. The employer must screen employees for history of certain medical conditions (listed below) which might place the employee at increased risk from exposure.

1. *Liver disease.* The primary site of biotransformation and detoxification of benzene is the liver. Liver dysfunctions likely to inhibit the conjugation reactions will tend to promote the toxic actions of benzene. These precautions should be considered before exposing persons with impaired liver function to benzene vapors.

2. *Renal disease.* Although benzene is not known as a kidney toxin the importance of the organ in the elimination of toxic substances and metabolites justifies special consideration in those with possible impairment of renal function.

3. *Skin disease.* Benzene is a defatting agent and can cause dermatitis on prolonged exposure. Persons with preexisting skin disorders may be more susceptible to the effects of benzene.

4. *Blood dyscrasias.* Benzene is a hematopoietic depressant. Persons with existing blood disorders may be more susceptible to the effects of benzene.

REFERENCES

1. Grant, W. Morton: Toxicology of the Eye, (Second Edition), Charles C. Thomas, Illinois, 1974, page 655.

2. Browning, Ethel: Toxicity and Metabolism of Industrial Solvents, Elsevzer Publishing Company, Amsterdam, 1965, pp. 440–442.

3. Patty, F. A.: Industrial Hygiene and Toxicology, Volume II-Toxicology, Interscience Publishers, New York, 1593, pp. 1756–1758.

4. Gerade, H. W.: Toxicology and Biochemistry of Aromatic Hydrocarbons, Elsevzer Publishing Company, Amsterdam, 1960, pp. 98–108.

(Secs. 4, 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911.)

[FR Doc.77-14959 Filed 5-26-77;8:45 am]

federal register

FRIDAY, MAY 27, 1977

PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

ENVIRONMENTAL PROTECTION AGENCY

PESTICIDE PRODUCTS

National List of Priority Needs for Minor Use Registration; Additional Information

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00042A; FRL 733-6]

PESTICIDE PRODUCTS

National List of Priority Needs for Minor Use Registration; Additional Information

On March 10, 1977 (42 FR 13448), the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER a list of the most important food-crop minor uses for which pesticide residue and/or efficacy data are needed to support tolerance and registration. This list and subsequent ones on this subject are being published to encourage the development of the needed data, and to inform the public that the Interregional Project Number 4 (IR-4) at Rutgers University is available to assist in solving minor use problems. However, the list showed only the pesticide and commodity involved, along with other general and technical information regarding that expressed need. As stated at that time, a non-crop list is also being prepared. The list published on March 10 has been revised to include additional information regarding the pest(s) or desired use(s) in each instance.

Comments concerning this notice and the revised list should be submitted in triplicate to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St. SW., Washington DC 20460. The comments should be received within 60 days of publication of this notice and should bear the identifying notation OPP-00042A to facilitate the recordkeeping process. Comments received by the Agency will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. on normal business days.

Dated: May 19, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

STANDARDIZED INFORMATION RETRIEVAL SYSTEM KEY TO PESTICIDE CLEARANCE REQUESTS

Pr No. (5 digits and 1 character, e.g. 1 thru 99999). Numbers assigned by IR-4. Numbers followed by an asterisk indicate a request for a non-food use.

Pesticide (52 characters, 1 line). Ref: Acceptable Common Names and Chemical Names for the Ingredient Statement on Pesticide Labels, USEPA, OPP, CED (current edition).

Commodity (50 characters, 1 line). Ref: 40 CFR 180.34.

Reason for use (48 characters, 3 lines). Ref: EPA, OPP, TSD standardized 7-letter code. EX: Greenhouse whitefly—IRABANA.

State (9 characters, 5 lines). All states requesting same use pattern. Ref: U.S. Post Office approved abbreviations for states. ARS before state abbreviation signifies request via USDA-ARS.

Region (2 characters, 5 lines). USDA regions encompassing the interested states.

Activity (1 character, 5 lines). Activity of Pesticide.
A—Avicide.
I—Insecticide (incl. Miticides).
H—Herbicides.
F—Fungicides (incl. bactericides and viricides).
R—Rodenticide.
N—Nematicide.
M—Molluscicide.
D—Desiccant and/or defoliant.
P—Plant regulator.
B—Biocide.

Category (2 digits, 1 line). Status code assigned to that PR.

ACTION CATEGORY CODES

00—Amendment to existing registration.
01—Additional data not required for tolerance registration.
02—Additional data required; data requirements are minor.
03—Additional data required; data requirements are major.
04—Cannot be registered at this time.
05—Manufacturer handling.
06—Undesignated.
07—Initially rejected by EPA, project still active.

INACTIVE CATEGORY CODES

10—Request deleted.
11—Manufacturer will not register.
12—Rejected by EPA.
13—Canceled Pesticide.

CLEARANCE CATEGORY CODES—FOOD USE

20—Petition submitted for tolerance.
21—Data package submitted to industry.
22—Tolerance or exemption established.
23—Registrant submission to EPA.
24—Use registered.

CLEARANCE CATEGORY CODES—NON-FOOD USE

30—Data package submitted to industry.
31—Registrant submission to EPA.
32—Use registered.

Data Requirements (1 character, 5 lines).
E—Efficacy data.
R—Residue data.
F—Phytotoxicity data.
V—Environmental data.

Residue Lab (9 characters, 5 lines).
Year: State, ARS (State), or Company responsible for residue analysis.
EX: 76:PA or 76:ARS(PA) or 76:DUPONT.

Company (6 characters, 5 lines). Six letter abbreviation of the manufacturer.
ABBOTT—Abbott Laboratories.
AGWAY—Agway, Inc.
AMCHEM—Amchem Products, Inc.
AMCY—American Cyanamid Co.
ANSUL—The Ansul Co.
BASF—BASF Wyandotte.
BORAX—United States Borax & Chemical Corp.
CHEMAG—Chemagro Ag. Chem. Div. Mobay Chemical Corp.
CHEMPR—Chempar Chemical Co., Inc.
CHEV—Chevron Chemical Co.
C-G—Ciba-Geigy Corp.
CLOROX—The Clorox Co.
D-S—Diamond Shamrock Chemical Co.
DOW—Dow Chemical Company.
DUPONT—E. I. DuPont De Nemours & Co., Inc.
ELANCO—Elanco Products Division Eli Lilly.
FMC—FMC Corp., Agricultural Chemicals Div.
HERC—Hercules Inc.
HOOKER—Hooker Chemical Corp.
ICI—ICI USA.
KOCIDE—Kocide Chemical Corp.
KUMIAI—Kumiai Chemical Industry Co., Ltd.
LILLY—The Charles H. Lilly Co.
MALLIN—Mallinckrodt, Inc.
MERCK—Merck & Co., Inc.
MEYER—Wilson and Geo. Meyer Co.
MILLER—Miller Chemical & Fertilizer Corp.
MOBIL—Mobil Chemical Co.
MONS—Monsanto Commercial Products Co.
NORAM—Nor-Am Agricultural Products, Inc.
OLIN—Olin Corp.
PENICK—S.B. Penick and Co.
PFIZER—Pfizer, Inc.
PPG—PPG Industries Inc.
R+H—Rohm and Haas Co.
RALPUR—Ralston-Purina.
RHODIA—Chipman Div. of Rhodia, Inc.
SANDOZ—Sandoz, Inc.
SHELL—Shell Chemical Co.
SMC—Southern Mill Creek Products, Co., Inc.
STAUFF—Stauffer Chemical Co.
T-H—Thompson-Hayward Chemical Co.
TNCOOP—Tennessee Farm Coop., Inc.
UC—Union Carbide Corp.
UNIROY—Uniroyal Inc.
UPJOHN—The Upjohn Company.
VELSI—Velsicol Chemical Corp.
WARF—Warf Institute, Inc.
WOOL—Woolfolk Chem. Works, Inc.
ZOECON—Zoecon Corp.

Comments (26 characters, 5 lines). Standardized comments about that PR.

EX: 76 PROJECT: IN.—A 1976 project in Indiana.

SUBMISSION: 78.—Projected year (or quarter, year) that the data package will be submitted by IR-4.

ARS(MD)—Maryland ARS involved.

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PR. NO. PESTICIDE COMMODITY — STATE — REG ACT CAT — DATA RESIDUE REQ LAB — CO. — COMMENTS

HH — NC D 00 V — DOW — 24(C). MFG DELAYING REG FOR ENV DATA.

00033& DINOSEB — NE I 00 S — STAUFF MFG SUGGESTS 24(C)110776.
BLUEGRASS (SEED CROP) DESSICATION — HD,MS

00040 FONOFOS — S I 00 — STAUFF LABEL AMENDMENT OR 24(C).
SWEET POTATOES FLEABEETLES — LA,MS,NC, FL

00041 PHOSMET — W H 00 — ANSUL — MSMA LABELLED. REQUEST NEW USE PATTERN:24(C).
SWEET POTATOES SWEET POTATO WEEVIL, TORTOISE BEETLE, SWEET POTATO HORNWORM, FLEA BEETLE — AZ

00048 MSMA, DSMA — S N 00 E — CHEMAG — LABEL FOR NEMATODE CONTROL. 24(C) FOR NEW PESTS. SEE PR 470,476.
COTTON JOHNSON GRASS — PR

00081 FENSULFOTHION — S I 00 — UC — LABEL AMEND OR 24(C).
PLANTAINS NEMATODES — MS,AR

00115 CARBARYL — W I 00 — UC DUPONT — LABEL AMEND OR 24(C).
PECANS PHYLLOXERA, SPITTLEBUGS — MS,WI,MI

00116 CARBARYL +/OR METHOMYL — NE F 00 — KOCIDE — LABEL AMEND OR 24(C).
BEANS (SNAP + LIMA) VARIEGATED CUTWORM, DIABROTICA BEETLES, EUROPEAN CORN BORER — NS,CT,PA, NC

00122 COPPER HYDROXIDE — NC I 00 E — UC — 76 PROJECT:IN;MI;KS;IL, OH;IA. EFFICACY FOR LABEL AMEND OR 24(C).
CRUCIFERS BLACK ROT — MS,WI,MO, IA,MI,KS, IL,OH

00124 CARBARYL
CORN
CHINCHBUG, COMMON STALK BORER

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00125	CARBARYL SORGHUM CINCHBUG, COMMON STALK BORER	~~09/75~~ MS,WI,MI, KS,IL,OH. IA	NC S	I	00	E		UC	76 PROJECT:WI,KS,IL,OH, IA. EFFICACY FOR LABEL AMEND OR 24(C).
00127	DIAZINON GRASS (PASTURE) CINCHBUG	~~09/75~~ MS,WA	S W	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00128	DIAZINON SORGHUM CINCHBUG	~~09/75~~ MS	S	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00129	DIAZINON CORN CINCHBUG	~~09/75~~ MS	S	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00150*	HYAMINE POTATOES DISINFECTANT	~~10/75~~ ME,PA	NE	F	00	E		R+H	NEED EFFICACY DATA FOR LABEL AMEND OR 24(C).
00179	CARBARYL SOYBEANS THISTLE CATEPILLAR	~~10/75~~ IA,IN	NC	I	00	E		UC	76 PROJECT FOR EFF DATA: IN,IA. POSSIBLE 24(C).
00180	MALATHION SOYBEANS THISTLE CATEPILLAR	~~10/75~~ IA,IN	NC	I	00	E		AMCY	76 PROJECT FOR EFF DATA: IN,IA. POSSIBLE 24(C).
00183	THIRAM CELERY (SEED TREATMENT) EARLY BLIGHT, LATE BLIGHT	~~10/75~~ PA	NE	F	00	E		DUPONT	PA TO SUPPLY EXIST EFF DATA FOR LABEL AMEND.
00190	PARATHION SORGHUM LESSER CORNSTALK BORER, STINKBUG	~~10/75~~ GA,AZ	S W	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00191	PARATHION CORN LESSER CORNSTALK BORER	~~10/75~~ GA	S	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).
00192	PARATHION SOYBEANS LESSER CORNSTALK BORER	~~10/75~~ GA	S	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).
00203*	SODIUM HYPOCHLORITE PEPPERS (SEED TREATMENT) SEED DISINFECTANT:BACTERIAL SPOT	~~10/75~~ NJ,PA,VT, NC,NY	NE S	F	00			AGWAY CLOROX	PKG SUBMITTED TO AGWAY & CLOROX FOR LABEL REG: 8/76.
00213	DIAZINON COFFEE GREENSCALE	~~10/75~~ HI	W	I	00	E		C-G	EFFICACY NEEDED FOR LABEL AMEND OR 24(C).
00228*	HYDROCHLORIC ACID TOMATOES (SEED TREATMENT) SCARIFICATION	~~10/75~~ PA,NJ,NC	NE S	F	00			AGWAY	24(C).
00229*	HYDROCHLORIC ACID PEPPERS (SEED TREATMENT) SCARIFICATION	~~10/75~~ PA,NJ	NE	F	00			AGWAY	24(C).
00249	ETHEPHON BLUEBERRIES CONCENTRATE MATURITY	~~10/75~~ PA,ME	NE	P	00	E		AMCHEM	EFF DATA FOR LABEL AMEND OR 24(C).
00270	DIAZINON PEANUTS BROWNING BUGS	~~10/75~~ TX	S	I	00	E		C-G	NEED EFF DATA FOR LABEL AMEND OR 24(C).
00280	METHOMYL SPINACH CABBAGE LOOPER, BEET ARMYWORM	~~11/75~~ AZ,NJ,WV	NE W	I	00	E		DUPONT	NEED EFF DATA FOR LABEL AMEND OR 24(C).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00283	PARATHION (METHYL) COTTON PINK BOLL WORM	[illegible] AZ	W	I	00	E		MONS	LABEL AMEND OR 24(C).
00287	SULFUR (WETTABLE) BEETS (GARDEN) POWDERY MILDEW	[illegible] TX	S	F	00			SANDOZ	LABEL AMEND OR 24(C).
00314	ENDOSULFAN APPLES TARNISHED PLANT BUG	[illegible] NC,TX,OH	S NC	I	00	E		FMC	EFF DATA FOR LABEL AMEND OR 24(C).
00339	2,4-D (BUTOXYETHANOL ESTER) CRANBERRIES CATSEAR, FALSE DANDELION, PURPLE ASTER, TUSSOCKS, BIRDSFOOT TREFOIL,SHEEP SORREL, CLOVER, VUNCUS, BRAMBLES BRIERS, GOLDENROD	[illegible] WA,MA	NE W	H	00	E	76:WA	AMCHEM	TOL OF 0.5 PPM EST:3/76. 76 PROJECT FOR EFF DATA:WA. SEE PR 670.
00352	CAPTAN ONIONS, GARLIC LEAFSPOTS	[illegible] NC	S	F	00			CHEV STAUFF	LABEL AMEND OR 24(C).
00354	CAPTAN BEANS (LIMA) LEAFSPOTS	[illegible] NC	S	F	00			CHEV STAUFF	LABEL AMEND OR 24(C).
00355	CAPTAN LEEKS LEAFSPOTS	[illegible] NC	S	F	00			CHEV STAUFF	LABEL AMEND OR 24(C).
00392	CHLOROTHALONIL LEEKS, GARLIC LEAFSPOTS	[illegible] NC,FL,NY, PA	NE S	F	00	E		D-S	TOL ON ONION INCL LEEK & GARLIC. NEED EFF & PHYTOTO DATA FOR REG. SEE EPA LETTER:6/76. POSSIBLE 24(C). MFG WANTS PET HELD.
00396	CHLOROTHALONIL SQUASH BOTRYTIS LEAFBLIGHT	[illegible] NC	S	F	00	E		D-S	EFF DATA FOR LABEL AMEND OR 24(C). MFG WANTS PET HELD:2/77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00402	CARBARYL POTATOES POTATO TUBERWORM	[illegible] NC	S	I	00			UC	LABEL AMEND OR 24(C).
00404	METHOMYL CUCUMBERS PICKLEWORM, BEET ARMYWORM, CORN EARWORM	[illegible] NC	S	I	00	E		DUPONT	24(C) FOR LEAFMINER.
00418*	ZINC PHOSPHIDE SOYBEANS, TRUCK CROPS, GARDEN GROUNDHOGS	[illegible] TN	S	R	00	E V		HOOKER	CAND 24(C).
00429*	DISULFOTON RADISHES (SEED CROP) APHIDS:GREEN PEACH APHID	[illegible] ID	W	I	00	E		CHEMAG	EFF DATA FOR 24(C).
00450	METHOMYL POTATOES VARIEGATED CUTWORM	[illegible] OR,VA	S W	I	00	E		DUPONT	EFF FOR LABEL AMEND OR 24(C).
00454	MALATHION GRASS (RANGE) BLACKGRASS BUGS	[illegible] OR	W	I	00	E		AMCY	EFF DATA FOR LABEL AMEND OR 24(C).
00459	FONOFOS KOHLRABI (SEED CROP) ROOT MAGGOT	[illegible] OR	W	I	00	E		STAUFF	EFF DATA FOR 24(C).
00460	DISULFOTON KOHLRABI (SEED CROP) APHIDS	[illegible] OR	W	I	00	E		CHEMAG	EFF DATA FOR 24(C).
00462	CARBOPHENOTHION ONIONS (SEED CROP) ROOT MAGGOTS	[illegible] OR	W	I	00	E		STAUFF	TOL OF 0.1 PPM EST. LABELLED IN NC & NE. 24(C).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00466	ZINC ION + MANEB KOHLRABI (SEED TREATMENT) ALTERNARIA, PHOMA BLACKLEG	[illegible]	OR	W	F	00	E	R+H DUPONT	EFF DATA FOR 24(C).
00469	CARBOFURAN SWEET POTATOES SWEET POTATO WEEVIL .	[illegible]	PR	S	I	00	E R	FMC	TOL PENDING. LABEL DOES NOT INCLUDE THIS PEST. NEED CONFIRM DATA FOR PROPOSED TOL. 24(C). DIFF USE THAN PR 739.
00470	FENSULFOTHION BANANAS BANANA ROOT BORER	[illegible]	PR	S	I	00	E	CHEMAG	TOL OF 0.02 PPM EST. 24(C) SEE PR 81, 476.
00476	ETHOPROP PLANTAINS BANANA ROOT BORER, NEMATODES	[illegible]	PR	S	I N	00	E	MOBIL	24(C) FOR NEW PEST. LABEL FOR NEMA CONTR ON BANANA. NEED TO ADD PLANTAIN. SEE PR 470, 81.
00478	BENOMYL SUGARCANE BLACK ROT (E. ADIPOSA), TOP ROT (G. MONILIFORME)	[illegible]	PR	S	F	00	E R	DUPONT	LABELLED AS NON-FOOD IN HI. 24(C) FOR PR.
00496	DBCP PLANTAINS BURROWING NEMATODES, SPIRAL NEMATODES, LESION NEMATODES	[illegible]	PR	S	N	00		DOW	ADD PLANTAIN TO LABEL OR 24(C).
00497	FENAMIPHOS PLANTAINS BURROWING NEMATODES, SPIRAL NEMATODES, LESION NEMATODES	[illegible]	PR	S	N	00	E R	CHEMAG	TOL OF 0.1 PPM EST BASED ON HI DATA. NEED EFF + RES DATA FOR 24(C).
00500	DIURON PLANTAINS CAESARWEED, GUINEAGRASS, DAYFLOWER, BALSAMAPPLE, ANNUAL GRASSES,SENSITIVE PLANT REDTASSLEFLOWER, PURPLE NUTSEDGE	[illegible]	PR	S	H	00		DUPONT	ADD PLANTAIN TO LABEL OR 24(C).
00506	FENSULFOTHION SWEET POTATOES NEMATODES AND SOIL INSECTS	[illegible]	PR	S	I N	00		CHEMAG	TOL OF 0.05 PPM EST. LABELLED IN SE STATES FOR NEMA + SWEET POTATO WIREWORM, 24(C).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00509	MANEB GRAPES BLACK ROT, DOWNY MILDEW, ANTHRACNOSE, BUNCH ROT, POWDERY MILDEW	[illegible]	AR	S	F	00		DUPONT	TOL OF 8 PPM EST. LABELLED FOR BLACKROT IN GR LAKE STATES ONLY. POSSIBLE 24(C).
00513	FENAMINOSULF VEGETABLES DAMPING OFF, ROOT ROT	[illegible]	AR	S	F	00		CHEMAG	USE ON PLANTBED, GH. FIELD TRT. LABELLED FOR BEAN, PEA, BEET, SPINACH, CUCUMBER. VERIFY NON-FOOD USE FOR OTHER SEED TRTS.
00520	SIMAZINE AVOCADOS UNSPECIFIED ANNUAL AND PERENIAL WEEDS	[illegible]	FL	S	H	00		C-G	TOL OF 0.25 PPM EST. LABELLED IN CA. 24(C). SEE PR 524.
00529	CARBOXIN CORN HEAD SMUT	[illegible]	ID	M	F	00	E	UNIROY	LABELLED FOR SEED DECAY. 24(C) FOR HEAD-SMUT.
00530	AZINPHOS METHYL CRANBERRIES CRANBERRY WEEVIL	[illegible]	MA	NE	I	00	E	CHEMAG	LABELLED FOR OTHER INSECTS. 24(C) FOR CRANBERRY WEEVIL. SEE PR 532.
00531	CARBARYL CRANBERRIES GREEN CRANBERRY SPAN WORM	[illegible]	MA	NE	I	00	E	UC	LABELLED FOR OTHER INSECTS. 24(C) FOR GREEN CRANBERRY SPANWORM.
00532	PARATHION (METHYL) CRANBERRIES CRANBERRY WEEVIL	[illegible]	MA	NE	I	00	E	MONS	TOL OF 1 PPM EST. 24(C). SEE PR 530.
00535	MALATHION VEGETABLES (GH) FLYING INSECTS, SOIL INSECTS	[illegible]	MA	NE	I	00		AMCY	POSSIBLE 2E(C).
00536	DIMETHOATE LETTUCE (GH) APHIDS, LEAFHOPPERS, LEAFMINER, MITES, THRIPS, WHITEFLIES	[illegible]	MA	NE	I	00		AMCY	LABELLED FOR OUTDOOR USE ON APHID, LEAFHOPPER, LEAF MINER. 24(C) FOR OTHER PEST.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00537	DIAZINON CRANBERRIES CRANBERRY GIRDLER	[illegible]	MA	NE	I	00	E		C-G	LABELLED FOR OTHER INSECTS 24(C) FOR CRANBERRY GIRDLER.
00549	ALACHLOR BEANS (LIMA) UNSPECIFIED WEEDS	[illegible]	MD	NE	H	00			MONS	TOL OF 0.1 PPM. LABELLED FOR WEST OF MISS ONLY. 24(C). SEE PR 262.
00550	TRIFLURALIN EGGPLANT UNSPECIFIED WEEDS	[illegible]	MD	NE	H	00			ELANCO	TOL OF 0.05 PPM FOR FRUIT VEG. 24(C) FOR EGGPLANT.
00558	CARBARYL GRASS (HAY + PASTURE) ESSEX SKIPPER	[illegible]	MI	NC	I	00	E		UC	TOL OF 100 PPM EST ON GRASS + HAY. 24(C). 1ST PREF. SEE PR 559,560,561.
00559	DIAZINON GRASS (HAY + PASTURE) ESSEX SKIPPER	[illegible]	MI	NC	I	00	E		C-G	TOL OF 60 PPM ON GRASS, 20 PPM ON GRASS HAY. 24(C). 2ND PREF. SEE PR 558,560,561.
00560	MALATHION GRASS (HAY + PASTURE) ESSEX SKIPPER	[illegible]	MI	NC	I	00	E		AMCY	TOL OF 135 PPM ON GRASS, 20 PPM ON GRASS HAY. 24(C). 3RD PREF. SEE PR 558,559,561.
00561	TRICHLOROFON GRASS (HAY + PASTURE) ESSEX SKIPPER	[illegible]	MI	NC	I	00	E		CHEMAG	TOL OF 60 PPM ON PASTURE GRASS, 90 PPM ON PASTURE GRASS HAY. 24(C). 4TH PREF. SEE PR 558,559,560.
00564	GIBBERELLIC ACID LIMES DELAY FRUIT MATURITY	[illegible]	CA	W	P	00	E		ABBOTT	TOL OF 0.18 PPM ON CITRUS FRUIT. 24(C).
00565	CARBARYL BEES (LEAFCUTTING) CONTROL OF PARASITES IN POLLINATING BEE CELLS	[illegible]	UT	W	I	00	E		UC	TOL OF 100 PPM ON ALFALFA. REQUEST EPA COMMENT ON REG REQ.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00580	THIABENDAZOLE SWEET POTATOES BLACK ROT (CERATOCYSTIS FIMBIATA)	[illegible]	LA	S	F	00			MERCK	TOL OF 0.02 PPM. POSSIBLE 24(C) FOR NEW USE PATTERN.
00587	BENOMYL PEACHES BARK NECROSIS (BOTRYOSPHAERIA DOTHIDAE)	[illegible]	GA	S	F	00	E		DUPONT	TOL OF 15 PPM. NEW USE PATTERN. POSSIBLE 24(C).
00592	MALATHION ALFALFA (HAY) EGYPTIAN ALFALFA WEEVIL	[illegible]	CA	W	I	00	E		AMCY	TOL OF 135 PPM. NEW USE PATTERN.
00595	CARBARYL ALFALFA ALFALFA BLOTCH LEAFMINER	[illegible]	NY	NE	I	00	E		UC	LABELLED. 24(C) FOR NEW PEST.
00596	AZINPHOS METHYL ALFALFA ALFALFA BLOTCH LEAFMINER	[illegible]	NY	NE	I	00	E		CHEMAG	LABELLED. 24(C) FOR NEW PEST.
00597	MALATHION ALFALFA ALFALFA BLOTCH LEAFMINER	[illegible]	NY	NE	I	00	E		AMCY	LABLLED. 24(C) FOR NEW PEST.
00607	DIAZINON CRUCIFERS CABBAGE MAGGOTS	[illegible]	NY	NE	I	00			C-G	TOL OF 0.75 PPM. 24(C) FOR NEW USE PATTERN (SEED FURROW).
00628*	METHOMYL TOBACCO CUTWORM	[illegible]	NC	S	I	00	E		DUPONT	ADD NEW PEST TO LABEL. 24(C).
00629*	ACEPHATE TOBACCO CUTWORM	[illegible]	NC	S	I	00	E		CHEV	ADD NEW PEST TO LABEL. 24(C). SEE PR 582.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00634	BENOMYL CANTALOUPS, CUCUMBERS, WATERMELON, SQUASH BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	~~00336~~ NC	S	F	00	E		DUPONT	TOL EST ON ALL CUCURBITS. NEW PESTS?
00635	BENOMYL BEANS, PEAS, OKRA BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	~~00336~~ NC,NY	NE S	F	00	E		DUPONT	REC EFF DATA FROM NY: 11/76.
00655	BACILLUS THURINGIENSIS PECANS WALNUT CATERPILLAR	~~09478~~ TX	S	I	00	E		SANDOZ ABBOTT RHODIA	EXEMPT ON GROWING PLANTS.
00656	FONOFOS SUGARCANE WHITE GRUBS	~~00496~~ TX	S	I	00	E		STAUFF	NEW PEST.
00657	FENSULFOTHION SUGARCANE WHITE GRUBS	~~00496~~ TX	S	I	00	E R		CHEMAG	NEW PEST + POSSIBLY HIGHER TOL. SEE PR 272 FOR SAME PESTS. LABEL IN FL FOR NEMA ONLY. SUGG 24(C) FOR GRUBS.
00660	AZODRIN TOMATOES HELIOTHUS CATERPILLARS	~~09478~~ TX	S	I	00			SHELL	TOL OF 0.5 PPM EST. LABELLED IN FL ONLY. 24(C).
00663	PICLORAM GRASS (RANGE) POST OAK, BLACKJACK OAK, ELM, YAUPON, HACKBERRY, BIGLEAF SHIN OAK, CATCLAW ACACIA, DOWNY SERVICEBERRY	~~00496~~ TX	S	H	00	E		DOW	ADD PESTS TO LABEL. SEE PR 93.
00664*	TRIFLURALIN RADISHES (SEED CROP) ANNUAL BROADLEAF WEEDS AND GRASSES	~~00430~~ ID	W	H	00			ELANCO	
00673	MALATHION MANGOES OLEANDER SCALE	~~09478~~ FL	S	I	00	E		AMCY	FL PREFERS PR 674,675. TOL OF 8 PPM EST. LABELLED FOR FRUITFLY IN HI. 24(C) FOR FL AFTER EFF DATA. SEC 18 TO FL FOR BLACKFLY ON CITRUS 12/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00678	ENDOSULFAN SWEET POTATOES SWEET PTOATO WEEVIL	~~10436~~ FL	S	I	00	E R		FMC	TOL OF 0.2 PPM EST. NEW USE PATTERN. WILL REQ CONFIRM RES DATA.
00680	BENOMYL GRAPES ANTHRACNOSE	~~10478~~ FL	S	F	00	E		DUPONT	TOL OF 10 PPM EST. 24(C) FOR FL AFTER EFF DATA.
00681	CAPTAN GRAPES ANTHRACNOSE	~~10478~~ FL	S	F	00	E		CHEV	TOL OF 50 PPM EST. 24(C) FOR FL AFTER EFF DATA.
00682	SULFUR OKRA POWDERY MILDEW	~~10478~~ FL	S	F	00	E		FMC MONS STAUFF	EXEMPT CHEM. 24(C) FOR FL AFTER EFF DATA.
00685	LINURON CARROTS (SEED CROP) BROADLEAF WEEDS	~~10436~~ ID,WA	W	I	00	F		DUPONT	TOL OF 1 PPM EST AND LABELLED ON CARROT. WA GOING FOR 24(C) ON CARROT SEED. NEED PHYTOTOX DATA.
00691	ACEPHATE BEANS (SNAP + LIMA) MEXICAN BEAN BEETLE	~~11436~~ NJ	NE	I	00	E		CHEV	LABELLED IN VA. TOL OF 3 PPM EST. 24(C) FOR NJ AFTER EFF DATA. MFG WILL REGISTER NAT LABEL AND ADD AIR APPLICATION.
00697	CHLORPYRIFOS NECTARINES LESSER PEACHTREE BORER	~~10478~~ OH	NC	I	00			DOW	TOL OF 0.05 PPM EST ON PEACH. ADVISE OH OF WORK IN PROG WITH PEACH. SEE PR 85.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00096	DIMETHOATE PEAS (SOUTHERN) LEAFMINERS, APHIDS	[illegible]	GA	S	I	01			AMCY	EPA AGREES TO REG AMEND. SUSPECT CHEMICAL. SUBMISSION:?
00159	DIMETHOATE BLACKBERRIES TARNISHED PLANT BUG	[illegible]	NY,CT,VT, WV	NE	I	01			AMCY	SUBMISSION AWAITING STRAWBERRY PET. SUSPECT CHEM. SEE PR 32.
00241	TERBACIL SAINFOIN DOWNY BROMEGRASS, BARNYARD GRASS, GREEN FOXTAIL, SHEPARD'S PURSE, DANDELION, LAMBSQUARTER, WILD MUSTARD, FANWEED, QUACKGRASS	[illegible]	MT	W	H	01			DUPONT	SUBMISSION AWAITING ALFALFA CLEARANCE. SEE PR 55.
00474	FENSULFOTHION TANIERS SOIL INSECTS, BANANA APHID, SUGARCANE ROOTSTALK BORER WEEVIL	[illegible]	PR	S	I	01	E		CHEMAG	POSSIBLE CAT 01 USING RUTABAGA. EFF DATA FOR 24(C).
00481	FENSULFOTHION YAMS SUGARCANE ROOTSTALK BORER WEEVIL	[illegible]	PR	S	I	01			CHEMAG	POSSIBLE CAT 01 USING SWEET POTATO. EFF DATA FOR 24(C).
00485	CARBOFURAN YAMS LESION NEMATODES, SPIRAL NEMATODES, ROOT-KNOT NEMATODES, SUGARCANE BEETLE	[illegible]	PR	S	I N	01			FMC	POSSIBLE CAT 01 USING SWEET POTATO. EFF DATA FOR NEW INSECT FOR 24(C).
00515	METHOXYCHLOR HORSERADISHES BEET LEAFHOPPER	[illegible]	IL	NC	I	01			DUPONT	USE CARROT AS PLIOT CROP. SUBMISSION:3RD,77. SEE PR 515.
00527	BROMACIL + DIRUON LIMES (TAHITI) UNSPECIFIED ANNUAL AND PERENIAL WEEDS	[illegible]	FL	S	H	01			DUPONT	COMBINED PROD (KROVAR II). CLEARED ON ORANGE, GRAPEFRUIT, LEMON. SUBMISSION:3RD,77.
00538	DIAZINON RUTABAGA CABBAGE MAGGOT	[illegible]	MA	NE	I	01			C-G	USE TURNIP AS PILOT CROP. SUBMISSION:3RD,77.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00545	PEBULATE PEPPERS UNSPECIFIED WEEDS	[illegible]	MD	NE	H	01			STAUFF	USE TOMATO AS PILOT CROP. SUBMISSION:3RD,77.
00600	CARBARYL BIRDSFOOT TREFOIL (SEED CROP) CUTWORMS, PLANTBUGS, LEAFHOPPERS	[illegible]	NY	NE	I	01			UC	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00601	DIAZINON BIRDSFOOT TREFOIL (SEED CROP) CUTWORMS, APHIDS, PLANTBUGS	[illegible]	NY	NE	I	01			C-G	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00602	TRICHLORFON BIRDSFOOT TREFOIL (SEED CROP) CUTWORMS, PLANTBUGS	[illegible]	NY	NE	I	01			CHEMAG	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00603	MALATHION BIRDSFOOT TREFOIL (SEED CROP) APHIDS	[illegible]	NY	NE	I	01			AMCY	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00604	MEVINPHOS BIRDSFOOT TREFOIL (SEED CROP) APHIDS, PLANTBUGS	[illegible]	NY	NE	I	01			SHELL	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00605	PARATHION (METHYL) BIRDSFOOT TREFOIL (SEED CROP) APHIDS, PLANTBUGS	[illegible]	NY	NE	I	01			MONS	USE ALFALFA AS PILOT CROP. SUBMISSION:3RD,77.
00606	PARATHION BIRDSFOOT TREFOIL (SEED CROP) LEAFHOPPERS, PLANTBUGS	[illegible]	NY	NE	I	01			MONS	USE ALFAFA AS PILOT CROP. SUBMISSION:3RD,77.
00609	DEMETON ENDIVE APHIDS	[illegible]	NY	NE	I	01			CHEMAG	USE LETTUCE AS PILOT CROP. SUBMISSION:3RD,77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00610	MEVINPHOS ENDIVE APHIDS	[redacted] NY	NE	I	01			SHELL	USE LETTUCE AS A PILOT CRO SUBMISSION:3RD,77.
00611	DCNA ENDIVE BOTRYTIS GRAY MOLD	[redacted] NY	NE	F	01			UPJOHN	USE LETTUCE AS A PILOT CRO SUBMISSION:3RD,77.
00631	PCNB VEGETABLES (LEAFY) CLUBROOT (PLASMIDOPHORA BRASSICAE), WIRESTEM (RHIZOCTONIA SOLANI)	[redacted] NC	S	F	01			OLIN	PEND TOL ON CABBAGE:12/71. USE CABBAGE, CAULIFLOWER, BROCCOLI, BRUSSEL SPROUT, AS PILOT CROPS. SUBMISSION:4TH,77.
00640	ALDICARB CUCUMBERS, CANTALOUPS, WATERMELON, SQUASH PREPLANT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PLANT BEDS, GREENHOUSES	[redacted] NC	S	N I	01			UC	SUBMISSION:4TH,77.
00641	ALDICARB BEANS, PEAS, OKRA PREPLANT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PLANT BEDS, GREENHOUSES	[redacted] NC	S	N I	01			UC	MFG PET TO EPA FOR TOL ON SOYBEANS (SUCC + DRY). SOYBEAN (STRAW): 9/7o. SUBMISSION:4TH,77.
00642	ALDICARB CABBAGE, GREENS, LETTUCE PREPLANT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PLANT BEDS, GREENHOUSES	[redacted] NC	S	N I	01			UC	SUBMISSION:4TH,77.
00643	ALDICARB EGGPLANT, PEPPERS, TOMATOES PREPALNT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PLANT BEDS, GREENHOUSES.	[redacted] NC	S	N I	01			UC	SUBMISSION:4TH,77.
00644	ALDICARB CARROTS, POTATOES, SWEET POTATOES PREPLANT USE FOR SOIL NEMATODES WHITEFLIES, LEAFMINERS MITES IN FIELDS, PLANT BEDS, GREENHOUSE	[redacted] NC	S	N I	01			UC	TOL EST ON POTATO AND SWEET POTATO. SUBMISSION:4TH,77.
00645	ALDICARB CORN PREPLANT USE FOR SOIL NEMATODES, WHITEFLIES, LEAFMINERS, MITES IN FIELDS, PALNTBEDS, GREENHOUSES	[redacted] NC	S	N I	01			UC	SUBMISSION:4TH,77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00650	CHLORAMBEN PEAS (PIGEON) PREEMERGENT WEED CONTROL	[redacted] PR	S	F	01	E		AMCHEM	USE BEAN (SNAP + LIMA) AS PILOT CROP. MATURE PEA HARVEST ABOUT 150 DAYS AFTER SEEDING. SUBMISSION:2ND,77.
00665	TRIFLURALIN ONIONS (SEED CROP) ANNUAL BROADLEAF WEEDS AND GRASSES	[redacted] ID	W	H	01			ELANCO	SUBMISSION:3RD,77.
00672	CARBOFURAN EGGPLANT APHIDS, COLORADO POTATO BEETLES, FLEABEETLES, NEMATODES	[redacted] NJ	NE	I N	01			FMC	MFG OK:11/76. EFF + RES DATA AVAIL FROM RUTGERS. IF NEEDED. USE PEPPERS AS PILOT CROP. SUBMISSION:3RD,77.
00720	DCPA CRESS (UPLAND) WEEDS	[redacted] TN	S	H	01			D-S	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 5 PPM EST ON MUSTARD AND TURNIP GREENS. SUBMISSION:4TH, 77.
00721	TRIFLURALIN CRESS (UPLAND) WEEDS	[redacted] TN	S	H	01			ELANCO	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 0.5 PPM EST ON LEAFY VEG. SUBMISSION: 4TH,77.
00728	CDEC CRESS (UPLAND) WEEDS	[redacted] TN	S	H	01		77:FL	MONS	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 0.2 PPM EST ON MUSTARD AND TURNIP GREENS. 77 PROJ:TN. SUBMISSION: 4TH,77.
00765	ALUMINUM PHOSPHIDE SAFFLOWER (SEED CROP) STORED PRODUCT PESTS	[redacted] CA	W	I	01			PHOTOX	PET IN PREP:3/77. SUBMITTED TO EPA:3/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00016	CHLOROTHALONIL PEAS (SOUTHERN) CERSOSPORA RUST, LEAFSPOT, ANTHRACNOSE	[illegible] MS,NC,GA, ARS(GA)	S	F	02	E R	76:ARS-GA	D-S	76 PROJECT:MS,GA. ARS(GA). MFG WANTS PET HELD:2/77.
00017	CHLOROTHALONIL SAFFLOWER ALTERNARIA LEAF BLIGHT	[illegible] ND	NC	F	02	E R	76:ND	D-S	77 PROJ:ND. EFF DATA FROM ND:3/77. MFG WANTS PET HELD:2/77.
00023	2,4-DB GRASS (PASTURE) WEEDS	[illegible] NY,VT,WI, ARS(MD)	NC NE	H	02	E R	76:ARS-MD	AMCHEM	76 PROJ:WI. EFF DATA FROM WI:3/77. SUBMISSION:3RD, 77.
00043	METHOMYL COLLARDS, KALE, GREENS BEET ARMYWORM; CABBAGE LOOPER, IMPORTED CABBAGE WORM, DIAMONDBACKED MOTH, FLEABEETLE	[illegible] GA,VA,AL, MS,TN,FL, ARS(SC), ARS(AZ)	S W	I	02	E R	76:VA 75:ARS-GA	DUPONT	76 PROJ:ARS(SC,AZ),GA,AL, VA. DATA:MFG(R):11/76, VA(E):2/77. AWAIT ADD RES DATA. SUBMISSION:3RD, 77. SEE PR 279.
00054	SIMAZINE BIRDSFOOT TREFOIL ANNUAL WEEDS	[illegible] MN,PA,NY	NC NE	H	02	E R	76:MI	C-G	76 PROJECT:MN. SUBMISSION:3RD,77.
00064	BROMOXYNIL GARLIC ANNUAL BROADLEAF WEEDS	[illegible] CA,OR	W	H	02	E R		AMCHEM RHODIA	BR RPTEN REGISTRANT:10/76. REC EFF + RES DATA FROM CA:12/76. PET IN PREP: 12/76.
00067	BENOMYL CABBAGE (FOLIAR)	[illegible] MS,NY,AZ, PA	NE S W	F	02	E R	76:NY	DUPONT	76 PROJ:NY. DATA:NY(E+R): 3/77. SUBMISSION:4TH,77.
00069	CHLORPYRIFOS GRASS (PASTURE) MOLE CRICKETS, ARMYWORMS	[illegible] MS,GA,FL, TN,TX	S	I	02	E R	76:VA 77:VA	DOW	76 PROJECT:TX. 77 PROJ:TX. MFG WILL SUPPORT:1/77. SUBMISSION:2ND,78.
00070	SODIUM BORATE	[illegible] MS	S	F	02	E	76:VA	BORAX	76 PROJECT:MS.
	SWEET POTATOES SCURF, BLACK ROT, STEM ROT					R			SUBMISSION:2ND,77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00073	BENOMYL TURNIPS (GREENS) CERCOSPROA, CERCOSPORELLA, ANTHRACNOSE	[illegible]75 GA	S	F	02	E R	76:FL	DUPONT	76 PROJECT:GA. SUBMISSION:4TH,77. SEE PR 67,138,636.
00084*	ACEPHATE CABBAGE, BROCCOLI, GREENS, SPINACH CABBAGE WORMS, CUTWORM, APHIDS, CABBAGE LOOPERS	[illegible]75 NC,TN,MA, TX,AL,NY, GA,VA,FL, ARS(SC)	NE S	I	02	E R	76:NY 77:GA	CHEV	PEND TOL ON CABB, BROC, BR SPRTS. 76 PROJ:ARS(SC),AL, NY,VA,GA. 77 PROJ:GA. DATA:ARS(SC)(E):1/77. VA(E):2/77. SUBMISSION: 2ND,78. SEE PR 622.
00085	CHLORPYRIFOS PEACHES PEACH TREE BORER, LESSER PEACH TREE BORER	[illegible] MI,AR,NY, ARS(IN), ARS(GA)	NC NE S	I	02	E R	76:ARS-GA	DOW	76 PROJECT:ARS(GA,IN). SUBMISSION:3RD,77. REC 75 ANAL DATA FROM MI:11/76. SEE PR 697, 728. MFG WILL SUPPORT: 1/77.
00087	ACEPHATE TOMATOES (GH) WHITEFLIES, APHIDS, LEAFMINERS	[illegible]6 OH,NC,TN, IN, ARS(MD)	NC NE S	I	02	E R	76:MI	CHEV	76 PROJECT:IN,OH. COOP PROJ WITH MFG. SUBMISSION: 3RD,77. TOL PEND:12/76. SEE PR 401.
00092	LINURON ASPARAGUS ANNUAL WEEDS	[illegible] IN,MI,MD, ARS(MD), CA	NC NE W	H	02	R	76:DUPONT 77:DUPONT	DUPONT	PET SUB CA ONLY:3/76. 76 PROJECT FOR NAT LABEL: IN,MD,ARS(MD). REC EFF DATA FROM IN:1/77. 77 PROJECT:MI. SUBMISSION:4TH,77.
00109	PHORATE SORGHUM (GRAIN) GREENBUG, MITES	[illegible] TX	S	I	02	E R	76:FL	AMCY	76 PROJECT:TX. REQUEST IS FOR 2 APPLICATIONS. SUBMISSION:3RD,77.
00130	CAPTAFOL HORSERADISHES CERCOSPORA, ALTERNARIA LEAFSPOT, WHITERUST, LEAF BLIGHT, ANTHRACONSE, ALTERNARIA	[illegible] IL	NC	F	02	R	76:CHEV	CHEV	76 PROJ:IL. 77 PROJ:IL. MFG WILL CHECK ON RES WORK.
00138	BENOMYL LETTUCE (GH) DROP ROT, RHIZOCTONIA BOTTOM ROT, BOTRYTIS GRAY MOLD, SCLEROTINIA, SCLEROTIORUM	[illegible] NY,NJ,PA, AZ, ARS(MD)	NE W	F	02	E R F	76:PA	DUPONT	76 PROJ:NY,NJ,ARS(MD). TOL PEND:11/76. AWAIT ON MFG PET. THEN 24(C).
00144	CARBOFURAN BIRDSFOOT TREFOIL PLANTBUGS	[illegible] NY,VT,WV	NE	I	02	E R	76:NJ	FMC	76 PROJECT:VT. SUBMISSION:3RD,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00145	CARBOFURAN CROWN VETCH PLANTBUGS	[redacted] NY,WV, ARS(NY)	NE	I	02	E R	76:NJ	FMC	76 PROJECT:ARS(NY). SUBMISSION:3RD,77.
00158	DIMETHOATE RASPBERRIES TARNISHED PLANT BUG	[redacted] NY,CT,VT, WV	NE	I	02	E R		AMCY	ANALYSIS COMPLETED. AWAITING STRAWBERRY PET. SUSPECT CHEM. SEE PR 32.
00177	NAA (PAINT) APPLES INHIBITS SPROUTING OF DORMANT BUDS	[redacted] ME,NC	NE S	P	02	E R		AMCHEM	TOL EST. EUP ISSUED TO MFG:9/76. MFG EVAL 76 RESULTS. 77 PROJ:ME. NC PLANS 24(C):3/77. SUBMISSION:79.
00184	DICHLOROVOS SHEEP SHEEP NOSE BOT	[redacted] IA,KY	NC S	I	02	E R		SHELL	KY HAS EFF DATA. IA HAS NO INT AS A 77 PROJ.
00187	ATRAZINE MILLET (PROSO) BROADLEAF WEEDS + GRASSES	[redacted] MN,CO,NB, MI	NC W	H	02	E R	76:MI	C-G	76 PROJ:MN,NB. EFF DATA FROM CO,NB,MN:12/76. SUBMISSION:2ND,77.
00193	PARATHION PEACHES SCALES, PEACH TREE BORER, SHOT HOLE BORER, MITES, LEAFHOPPERS	[redacted] SC,GA,NC	S	I	02	E R		MONS	CAND 24(C).
00200	PCNB CRUCIFERS (GH) TRANSPLANT WATER DRENCH, BLACK ROT, BLACKLEG	[redacted] NJ,PA,WV	NE	F	02	E		OLIN	76 PROJ:NJ,PA. RES DATA FROM NY:3/77. SUBMISSION: 4TH,77.
00205	BENOMYL VEGETABLES (PLANTS) ROOT ROT	[redacted] NJ,NY	NE	F	02	E F	75:PA	DUPONT	76 PROJ:NJ. EFF DATA FROM NY:11/76. SUBMISSION:78.
00208	DIAZINON GINGER APHIDS, BEETLES, CHEWING CATERPILLARS	[redacted] HI	W	I	02	E R	75:HI	C-G	76 PROJECT:HI. HI DEVELOPING DATA. SUBMISSION:2ND,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00210	CARBARYL COFFEE PEACH TWIG BORER	[redacted] HI	W	I	02	E R		UC	
00211	MALATHION TARO TARO LEAFHOPPER, APHIDS	[redacted] HI	W	I	02	E R		AMCY	
00214	DIURON COFFEE WEEDS	[redacted] HI	W	H	02	E R		DUPONT	MFG REQUIRES PHYTOTOX DATA.
00216	DBCP PAPAYA NEMATODES	[redacted] HI	W	H	02	E R		DOW	MFG WILL SUPPORT:1/77.
00230	FERBAM BLUEBERRIES SHORTER PHI:ANTHRACNOSE	[redacted] PA,NJ, ARS(NJ)	NE	F	02	E R	78:NJ	RHODIA FMC	76 PROJ:ARS(NJ). EFF DATA FROM ARS(NJ):1/77. SUBMISSION:2ND,77.
00252	PARAQUAT VEGETABLES PREPLANT/PRE EMERGENCE WEED CONTROL	[redacted] PA,MD,IL, CA,OR,MI, FL,NY,NJ, ARS-GA,WA	NE NC S W	H	02	E R	76:CHEV 75:NJ 77:CHEV	CHEV	COOP PROJ WITH MFG. 76 PROJ:IL,CA,OR,MI,FL,NY,NJ MD. 77 PROJ:ARS(GA)(SNAP, LIMA),NJ,IL,MI. ONION PET SUB:2/77. SUBMISSION:4TH, 77.
00256	AZINPHOS METHYL PARSLEY CARROT WEEVILS	[redacted] NJ	NE	I	02	E	76:NJ	CHEMAG	76 PROJ:NJ. RES DATA FROM NJ:3/77. SUBMISSION:1ST, 78.
00259	AZINPHOS METHYL EGGPLANT COLORADO POTATO BEETLES	[redacted] NJ	NE	I	02	E R		CHEMAG	ANALYSIS IN PROGRESS. SUBMISSION:3RD,77. 76 PROJECT:NJ.
00285	METHIOCARB VEGETABLE BEDDING PLANTS (GH) SNAILS AND SLUGS	[redacted] TN,IL	NC S	H	02	E N	77:MI	CHEMAG	77 PROJ:IL. SUBMISSION:79.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00272	CARBOFURAN SUGARCANE WHITE GRUBS	[redacted] ARS(TX), TX,PR,LA	S	I	02	E		FMC	MFG REQ CLARIFICATION OF USE PATTERN. SEE PR 657 FOR PESTS. 77 PROJ: ARS(TX). SUBMISSION:1ST. 78.
00276	METHOMYL FENNEL CABBAGE LOOPER, BEET ARMYWORM	[redacted] AZ	W	I	02			DUPONT	CAT 00 PET REJ:11/76. SAME SITE AS PR 277.
00277	METHOMYL ANISE CABBAGE LOOPER, BEET ARMYWORM	[redacted] AZ	W	I	02			DUPONT	CAT 00 PET REJ:11/76. SEE PR 276.
00279	METHOMYL CHINESE CABBAGE CABBAGE LOOPER, BEET ARMYWORM	[redacted] AZ	W	I	02	E R		DUPONT	PET IN PREP FOR LEAFY VEG. SUBMISSION:2ND,77. SEE PR 43.
00281	METHOMYL RADISHES CABBAGE LOOPER, BEET ARMYWORM, FLEA BEETLES	[redacted] AZ	W	I	02	E R		DUPONT	FOR ROOT CORP TOL MFG REQ EFF + RES DATA. 76 PROJECT:AZ. SUBMISSION:4TH, 77.
00282	METHOMYL BEETS (GARDEN) CABBAGE LOOPER, BEET ARMYWORM, FLEA BEETLES, VARIEGATED CUTWORM	[redacted] AZ,OR,ID, WA	W	I	02	E R		DUPONT	FOR ROOT CROP TOL MFG REQ EFF + RES DATA. 76 PROJECT:AZ,OR. SUBMISSION: 4TH,77.
00299	METHIDATHION SAFFLOWER BANDED SUNFLOWER MOTH, SUNFLOWER MAGGOT,SUNFLOWER BLOSSOM MIDGE, JUNIPERTIP MIDGE	[redacted] CA	W	I	02	E R		C-G	AWAITING RES DATA FROM CA. CAND 77 PROJ:CA. MFG OK: 2/77. SUBMISSION:2ND,78.
00305	BENOMYL SWEET POTATOES FUSARIUM WILT	[redacted] CA,NJ,MD	NE W	F	02	E R	76:PA	DUPONT	76 PROJ:MD,CA. DATA: DUPONT(E),NY(R):2/77. DATA NOW COMPLETE. SUBMISSION:3RD,77. SEE PR 503.
00325	ACEPHATE COLLARDS DIAMOND BACKED MOTH, CABBAGE LOOPERS, CATERPILLARS, APHIDS	[redacted] NC,VA,AL, FL,GA	S	I	02	E R	76:GA	CHEV	76 PROJECT:VA,AL, SUBMISSION:3RD,77. REC EFF DATA FROM VA: 2/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00338	ORYZALIN SWEET POTATOES WEEDS	[redacted] MS,NC,LA, MD,VA,SC, GA,AR,TN	NE S	H	02	E R	76:FL	ELANCO	76 PROJECT:VA,NC,MS. SUBMISSION:4TH,77. REC EFF DATA FROM TN:11/76
00343	DCPA CARROTS DODDER WEED	[redacted] MD,OH	NC NE	H	02	E R	76:NY	D-S	76 PROJECT:MD,OH. SUBMISSION:3RD,77.
00348	DALAPON WALNUTS WEEDS	[redacted] OH	NC	H	02	E R		DOW	WAITING FOR USE PATTERN FROM FOREST SERVICE.
00366	PARAQUAT RHUBARB DORMANT WEED CONTROL	[redacted] OR	W	H	02	E R	77:CHEV	CHEV	COOP PROJ WITH MFG. NO COOP IN 76. PA WITHDRAW REQUEST:1/77. 77 PROJ:MI. SUBMISSION:3RD,78.
00381	ATRAZINE GRASS (ORCHARD + FESCUE) (SEED CROP) WINTER ANNUAL WEEDS	[redacted] OR	W	H	02	R		C-G	MFG OK:10/76. MFG SENT EFF DATA TO EPA:10/76.
00407	BACILLUS THRUINGIENSIS + METHOMYL COLE CROPS CABBAGE LOOPERS, CABBAGE WORMS, DIAMOND BACKED MOTHS	[redacted] NC,VA	S	I	02	E R	76:VA	DUPONT	76 PROJECT:VA. SUBMISSION:1ST,77.
00416	ETHION BLUEBERRIES BUD MITE	[redacted] NC	S	I	02	E R		FMC	NEEDS TOL.
00445	DIMETHOATE CORN (SWEET) THRIPS	[redacted] OR	W	I	02	E R		AMCY	CAND FOR ARS(WEST).
00448	DIMETHOATE GRASS (SEED CROP) APHIDS, BROWN CLOVER MITE	[redacted] OR	W	I	02	E R		AMCY	CAND FOR ARS(WEST).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00480	ENDOSULFAN PAPAYA LEAFHOPPERS, PAPAYA FRUIT FLY	[redacted] PR	S	I	02	E R		FMC	POSSIBLE ADI PROB. MFG OK:10/76.
00493	PARAQUAT YAMS POSTEMERGENT DIRECT WEED CONTROL	[redacted] PR	S	H	02	E R		CHEV	LOW PRIORITY. MFG OK: 10/76. 77 PROJECT:PR.
00494	PARAQUAT TANIERS POSTEMERGENT DIRECT WEED CONTROL	[redacted] PR	S	H	02	E R		CHEV	LOW PRIORITY. MFG OK: 10/76.
00502	PARAQUAT PEAS (PIGEON) UNSPECIFIED WEEDS	[redacted] PR	S	H	02	E R	77:ARS-GA	CHEV	MFG OK:10/76. 77 PROJ:PR. SUBMISSION:1ST,78.
00503	BENOMYL YAMS COLLECTOTRICHUM ANTHRACNOSE	[redacted] PR	S	F	02	E R		DUPONT	MFG OK:10/76.
00515	METHOMYL HORSERADISHES BEET LEAFHOPPER	[redacted] IL	NE	I	02	E R F	77:MI	DUPONT	TOL OF 0.2 PPM EST ON ROOT CROP VEG. NEED CONFIRM DATA. MFG STILL INTERESTED 77 PROJ:IL. SUBMISSION: 3RD,78. SEE PR 516.
00525	DIURON MANGOES UNSPECIFIED ANNUAL AND PERENIAL WEEDS	[redacted] FL	S	H	02	E R F	77:DUPONT		MFG OK. MFG TO PERFORM RES ANAL:9/76. SUBMISSION: 4TH,78.
00539	DIAZINON ASPARAGUS ASPARAGUS MINER	[redacted] MA	NE	I	02	E R		C-G	77 PROJECT:MA. SUBMISSION:3RD,78.
00547	DINOSEB BEANS (LIMA, SNAP, SOUTHERN PEA) UNSPECIFIED WEEDS	[redacted] ARS(MO), MO,AR,NC	NE S	H	02	E		DOW	77 PROJ:ARS(MO),AR,GA. LABELLED WEST OF ROCKIES FOR FLD BEANS. SUBMISSION: 4TH,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00548	DCPA RHUBARB UNSPECIFIED WEEDS	[redacted] ARS(MO), MD	NE	H	02	E R	77:NY	D-S	MFG OK IF NO PHYTOTOX: 10/76. 77 PROJ:ARS(MO), MO. SUBMISSION:2ND,77.
00566	METHOMYL AVOCADOS OMNIVOROUS LEAFROLLER, MEXICAN LEAFROLLER, AVACADO LOOPER	[redacted] CA	W	I	02	E R	75:DUPONT	DUPONT	MFG ANAL CA SAMPLES:10/76.
00567	ETHEPON GRAPES (MUSCADINE) HARVEST AID	[redacted] NC,GA	S	P	02	E R	77:VA	AMCHEM	TEMP TOL OF 10 PPM EST. MFG PET TO EPA:9/76. MUSCADINE NOT ON LABEL. 77 PROJ:GA. SUBMISSION: 2ND,78.
00571	CHLOROTHALONIL PEPPERS ANTHRACNOSE	[redacted] NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. MFG WANTS PET HELD:2/77.
00574	CHLOROTHALONIL COLLARDS DOWNY MILDEW	[redacted] NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. SEE PR 572,573. MFG WANTS PET HELD.
00575	CHLOROTHALONIL KALE DOWNY MILDEW	[redacted] NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. SEE PR 572,573. MFG WANTS PET HELD.
00577	CHLOROTHALONIL STRAWBERRIES GRAY MOLD LEAFSPOT	[redacted] NJ,NH,CT	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. MFG WANTS PET HELD:2/77.
00649	METRIBUZIN PEAS (PIGEON) PREEMERGENT WEED CONTROL	[redacted] PR	S	H	02	E R	77:VA	CHEMAG DUPONT	MATURE PEA HARVEST ABOUT 150 DAYS AFTER SEEDING. TOL PEND ON PEA + FORAGE: 12/76. 77 PROJ:PR. SUBMISSION:4TH,77.
00666	FONOFOS TOMATOES (GH) GARDEN SYMPHYLAN	[redacted] IN	NC	I	02	E R		STAUFF	TOL OF 0.1 PPM ADEQUATE FOR 24(C) REG. IN HAS CONTACTED MFG FOR 24(C). MAY NEED CONF RES DATA FOR GH USE.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00667	FONOFOS LETTUCE (GH) GARDEN SYMPHYLAN	[redacted]	IN	NC	I	02	E R		STAUFF	TOL OF 0.1 PPM ADEQUATE FOR 24(C) REG. IN HAS CONTACTED MFG FOR 24(C). MAY NEED CONF RES DATA FOR GH USE.
00674	ETHION MANGOES OLEANDER SCALE	[redacted]	FL	S	I	02	E R	77:FL	FMC	FL PREFERS THIS TO PR 673. MFG OK FOR 24(C):11/76. ADI PRO. 77 PROJ:FL. SUBMISSION:2ND,78.
00677	PHORATE SWEET POTATOES CUCUMBER BEETLE LARVAE, WIREWORMS	[redacted]	FL	S	I	02	E R	77:FL	AMCY	FL PREFERS THIS TO PR 676. 77 PROJ:FL. SUBMISSION: 2ND,78.
00705	ALUMINUM PHOSPHIDE GRAPEFRUITS, PAPAYA, MANGOES, AVOCADOES CORN BLOTCH LEAFMINER COMPLEX	[redacted]	ARS(SC), FL,HI	S W	I	02	E R		PHOTOX	RESEARCH UNDER WAY IN FL, HI. REQ SOME DATA ON ALL 4 COMMOD. SUBMISSION:79.
00709	OXAMYL CELERY NORTHERN ROOT-KNOT NEMATODE	[redacted]	OH	NC	N	02	E R	77:MI	DUPONT	TOL OF 3 PPM EST. LABELLED FOR LEAFMINER IN FL. HIGHER RATE + NEW USE PATTERN. 77 PROJ:OH. SUBMISSION:4TH,78.
00711	CAPTAFOL BLUEBERRIES ANTHRACNOSE, FRUIT ROT, PHOMOPSIS, FUSICOCCUM, MUMMYBERRY	[redacted]	ARS(NJ)	NE	F	02	E R		CHEV	TOL EST + LABELLED FOR GRND USE. REQ IS FOR AIR APPLICA SO E+R DATA ARE NEEDED. 77 PROJ:ARS(NJ). SUBMISSION:1ST,78. SEE PR 181.
00713*	SIMAZINE CABBAGE (SEED CROP) WINTER ANNUAL WEEDS	[redacted]	ID	W	H	02	E F		C-G	
00716*	OXADIAZON ONIONS (SEED CROP) WEEDS	[redacted]	ID	W	H	02	E F		RHODIA	
00717*	EPTAM RADISHES (SEED CROP) NIGHTSHADE	[redacted]	ID	W	H	02	E F		STAUFF	TOL OF 0.1 PPM EST ON ROOT CORP VEG. POSSIBLE 24(C).

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00718*	TRIFLURALIN + EPTAM TURNIPS (SEED CROP) GRASSES, BROADLEAF WEEDS, NIGHTSHADE	[redacted]	ID	W	H	02	E F		ELANCO	TOL EST OF BOTH EPTAM AND TRIFLURALIN ON ROOT CROP VEG. POSSIBLE 24(C).

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00001	ALDICARB CUCUMBERS (GH) GREENHOUSE WHITEFLY, VEGETABLE LEAFMINER, TWO-SPOTTED SPIDER MITE, APHID	[redacted] OH,IN,MI, NC	NC S	I	03	E R F	76:MI 77:MI	UC	76 PROJECT:IN. SUBMISSION:78. 77 PROJECT:OH.
00003	ALDICARB TOMATOES (GH) GREENHOUSE WHITEFLY, VEGETABLE LEAFMINER, TWO-SPOTTED SPIDER MITE, APHID	[redacted] OH,NC,OR, IN,MI,GA	NC S W	I	03	E R F	76:MI 77:MI	UC	76 PROJECT:IN,OH,NC. SUBMISSION:3RD,78. 77 PROJECT:OH,IN,
00006	BENOMYL ONIONS, GARLIC BOTRYTIS LEAF BLIGHT, SCLEROTIUM WHITE ROT, ROOT DISEASES	[redacted] ARS(MD), PA,NJ,AR, NY,NC,WA, CA,OR	NE S W	F	03	E R	76:NY 77:NY	DUPONT	76 PROJ:OR,ARS(MD),NJ,WA. DATA:ARS(MD),NJ(E): 11/76,CA(E+R):1/77. 77 PROJ:ARS(MD). CAND:CA,WA. SUBMISSION:2ND,78.
00014	CHLOROPHACINONE APPLES PINE VOLE, MEADOW VOLE	[redacted] VA,NC,WV	NE S	R	03	E V		CHEMPR	WAITING FOR ENV DATA FROM MFG.
00019	CARBOFURAN CRANBERRIES ROOT WEEVILS	[redacted] WA,OR	W	I	03	E R	76:WA	FMC	NON-IRRIGATED CRANBERRIES ONLY. 78 PROJ:WA. NJ,NY, WI,WA WITHDRAWS REQUESTS: 1/77. SUBMISSION:79.
00020	CHLORPYRIFOS CRUCIFERS ROOT MAGGOT, CABBAGE MAGGOT	[redacted] NY,WA,ID, MI,MI,WI	NC NE W	I	03	E R	76:MI	DOW	RES ANAL IN PROG:WA. DATA REC:MI(R),NY(E):1/77; NY(R):1/77. MFG OK: 1/77. SUBMISSION:3RD. 77. SEE PR 452, 29.
00052	RONNEL HORSES LICE, FLIES	[redacted] CO,AZ,UT, NV,WY,WA, ARS(TX), CA	S W	I	03	E R		DOW	76 PROJECT:ARS(TX). SUBMISSION:3RD,77.
00063	ALDICARB PECANS APHIDS, MITES, NEMATODES, LEAF PHYLLOXERA, PECAN BUD MOTH	[redacted] GA,MS,SC, AL	S	I N	03	E R	76:FL 76:ARS-GA 76:UC	UC	76 PROJECT:SC,MS,GA,AL, SUBMISSION:3RD,77. SEE PR 563.
00066	CHLORPYRIFOS GRAPES GRAPE ROOT BORER	[redacted] AR,SC,NC, GA	S	I	03	E R	76:VA	DOW	76 PROJ:SC. MFG WILL SUPPORT:1/77. SUBMISSION AFTER EVAL OF DATA.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00077	CARBOFURAN BLUEGRASS (SEED CROP) BILLBUGS, CUTWORMS, LEPIDOPTEROUS LARVAE	[redacted] WA,AZ,OR	W	I	03	E R		FMC	
00078	CHLORPYRIFOS BLUEGRASS (SEED CROP) CUTWORMS, LEPIDOPTEROUS LARVAE	[redacted] WA	W	I	03	E R	76:CA	DOW	76 PROJECT:WA. SUBMISSION:4TH,77.
00088	OXYTETRACYCLINE PEACHES TRUNK INJECTION:MYCOPLASMA DISEASES, FOLIAR SPRAY:BACTERIAL SHOT	[redacted] ARS(MD), SC,MI	NC NE S	F	03	E R		PFIZER	2 USE PATTERNS:TRUNK INJ + FOLIAR SPRAY.SPRAY PET SUB + REJECTED FOR INCOMPL RES DATA. INJ PET SUBMITTED: 11/76. EUP TO NY FOR INJ: 12/76. 77 PROJ:ARS(MD).
00089	ACEPHATE CRANBERRIES CRANBERRY FRUITWORM, CRANBERRY SPANWORM, CRANBERRY FIREWORMS, SPARGANOTHIS FRUITWORM, CRANBERRY BLOSSOM WORM	[redacted] MA,CT,PA, NJ,WI,WA	NC NE W	I	03	E R	76:CHEV 77:CHEV	CHEV	COOP PROJ WITH MFG. HAVE 76 PROJ:WA,NJ,NI,WA. 77 PROJ:WI. SUBMISSION:1ST. 78. 4,75,76 EFF DATA FROM WI.
00090	PARAQUAT MINT WINTER ANNUAL WEEDS, BROADLEAF WEEDS, GRASSES, RUSSIAN THISTLE	[redacted] WA,OR,ID, ARS(WA), WI	NC W	H	03	E R	76:CHEV	CHEV	COOP PROJ WITH MFG. 76 PROJ:WA,WI,OR. 77 PROJ: ARS(WA). SUBMISSION:3RD. 77.
00091	GLYPHOSATE ASPARAGUS COMMON MILKWEED, FIELD BINDWEED, HORSENETTLE	[redacted] ARS(MD), IN,MI,CA, MD,NJ,IL, ARS(WA), NC	NC NE W S	H	03	E R	76:MONS 77:MONS	MONS	76 PROJ:IN,NI,MD,NJ, ARS(MD). COOP PROJ WITH MFG. DATA:IN(E):1/77. 77 PROJ:ARS(MD,WA),NC, MN. SUBMISSION:79.
00095	DIMETHOATE SQUASH LEAFMINERS, APHIDS	[redacted] ARS(SC), ARS(IN), GA	NC S	I	03	E R		AMCY	SUSPECT CHEM. 77 PROJ:ARS(SC,IN). SUBMISSION:79.
00103	FENSULFOTHION SPINACH WHITE GRUBS	[redacted] TX, ARS(TX)	S	I	03	E R	77:ARS-TX	CHEMAG	77 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00104	FENSULFOTHION CABBAGE WHITE GRUBS	[redacted] TX. ARS(TX)	S	I	03	E R	77:ARS-TX	CHEMAG	77 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00105	FENSULFOTHION BEETS (GARDEN) WHITE GRUBS	[redacted]	TX, ARS(TX)	S	I	03	E R	77:ARS-TX	CHEMAG	77 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00106	FENSULFOTHION CARROTS WHITE GRUBS	[redacted]	TX, ARS(TX)	S	I	03	E R	77:ARS-TX	CHEMAG	77 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00117	RESMETHRIN CUCUMBERS (GH) WHITEFLIES	[redacted]	OH,MA	NC NE	I	03	E R F		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76.
00134	BENOMYL BEETS (GARDEN) ROOT ROT, RHIZOCTONIA, CERCOSPORA, PYTHIUM	[redacted]	NY,AR	NE S	F	03	E R	76:NY	DUPONT	76 PROJ:NY. EFF DATA FROM NY:11/76. SUBMISSION:4TH, 77.
00135	BENOMYL BRUSSEL SPROUTS BOTRYTIS, SCLEROTINIA, ALTERNARIA, SOO ROOT ROT	[redacted]	NY,OR,AR	NE S W	F	03	E R	76:NY	DUPONT	76 PROJ:NY. EFF + RES DATA FROM NY:3/77. SUBMISSION:4TH,77.
00136	RESMETHRIN TOMATOES (GH) GREENHOUSE WHITEFLIES	[redacted]	OH,NC,NJ, MA,MI	NC NE S	I	03	E R		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76. 77 PROJ:OH,MI?
00151	PHOSMET BLUEBERRIES BLUEBERRY MAGGOT, THRIPS	[redacted]	NH,NJ	NE	I	03	E R		STAUFF	HELD IN 76 BY ME FOR MORE EFF DATA. ME WITHDRAWS REQUEST:4/77. SUBMISSION:79.
00153	2,4-DB GRASS (FORAGE) WEEDS	[redacted]	NY,CT,VT, WV, ARS(NY)	NE	H	03	E R	76:ARS-NY	AMCHEM	76 PROJECT:ARS(NY). SUBMISSION:2ND,77.
00156	DIMETHOATE CARROTS ASTER LEAFHOPPER, APHIDS	[redacted]	NY,WV,OR	NE W	I	03	E R	76:NY	AMCY	76 PROJ:NY. EFF + RES DATA FROM NY:1/77. SUSPECT CHEMICAL. SUBMISSION: 3RD,77.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00157	RESMETHRIN LETTUCE (GH) GREENHOUSE WHITEFLY	[redacted]	OH	NC	I	03	E R		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76.
00173	NEODECANOIC ACID ONIONS DESSICANT	[redacted]	NY,MD	NE	O	03	E R	76:NY	AGWAY	METHOD APPROVED BY EPA. 76 PROJECT:NY. SUBMISSION: 3RD,77.
00198	GLYPHOSATE CRANBERRIES WEEDS	[redacted]	NJ,MA,WI, ARS(NJ)	NC NE	H	03	E R	76:MONS 77:MONS	MONS	76 PROJ:ARS(NJ). 77 PROJ: ARS(NJ). WI HAS DATA. SUBMISSION:80.
00199	TERBACIL CRANBERRIES WEEDS	[redacted]	NJ,CT,WV, WA,WI,MA, ARS(NJ)	NC NE W	H	03	E R	76:DUPONT 77:DUPONT	DUPONT	76 PROJECT:WA,WI,MA, ARS(NJ). 77 PROJ: ARS(NJ). SUBMISSION:78.
00215	GLYPHOSATE PAPAYA PERENIAL WEEDS	[redacted]	HI	W	H	03	E R		MONS	
00217	DICOFOL TARO SPIDER MITES	[redacted]	HI	W	I	03	E H		R+H	
00221	CHLORPROPHAM BIRDSFOOT TREFOIL WEEDS	[redacted]	NY,CT,VT, WV, ARS(NY)	NE	H	03	E R	76:ARS-NY	PPG	76 PROJECT:ARS(NY). SUBMISSION:2ND,77.
00253	GLYPHOSATE VEGETABLES QUACKGRASS, CANADA THISTLE, BRAMBLES	[redacted]	AR,TN,TX, PA,CT,MD, WV,MI,NC, ARS(TX)	NC NE S	H	03	E R	77:FL	MONS	77 PROJ:MI,CT,PA:FOR LETTUCE, SPINACH, CABBAGE (FALL CROP):AR,TN, TX. MFG PET FOR ROOT CROP VEG. SUBMISSION:80.
00266	METHOXYCHLOR PECANS, CHESTNUTS NUT WEEVILS	[redacted]	ARS(GA), TN	S	I	03	E R	76:VPI 77:GA	DUPONT	76 PROJECT:AL,TN,ARS(GA). 77 PROJ:ARS(GA). AL WITHDRAWS:2/77. SUBMISSION:2ND,78.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00275	2,4-DB GUAR BROADLEAF WEEDS:PIGWEED	[redacted]	TX	S	H	03	E R		RHODIA	POSSIBLE CAT 01 IF USE PATTERN SAME AS ALFALFA. TX WILL ADVISE.
00284	NAA TANGARINES FRUIT THINNING	[redacted]	AZ,CA	W	P	03	E R		AMCHEM	PET IN PREP.
00285	PARAQUAT PLANTAGO WINTER AND ANNUAL WEEDS	[redacted]	AZ	W	H	03	E R	77:CHEV	CHEV	76 PROJECT:AZ. SUBMISSION:4TH,77.
00286	NAA MANDARINS FRUIT THINNING	[redacted]	AZ,CA	W	P	03	E R		AMCHEM	PET IN PREP.
00289	PROPACHLOR WHEAT, BARLEY, OATS SESBANIA	[redacted]	ND,MN	NC	H	03	E R	76:MI 77:ME	DOW	76 PROJECT:ND,MN. 77 PROJ:ND,MN. SUBMISSION:3RD,77.
00291	PROPACHLOR FLAX SESBANIA	[redacted]	ARS(IL), NC,MN	NC	H	03	E R	76:ND 77:ND	DOW	76 PROJECT:ND. 77 PROJ:ND,MN,ARS(IL). SUBMISSION:3RD,78.
00306	CHLOROTHALONIL FIGS SURFACE ROT (ALTERNARIA ALTERNATA)	[redacted]	CA	W	F	03	E R		D-S	MFG WANTS PET HELD:2/77.
00313	ETHEPHON CUCUMBERS INCREASE FRUIT SETS	[redacted]	NC,TX	S	P	03	E R	76:FL	AMCHEM	76 PROJECT:OH,NC. DATA: OH(E),NC(E),FL(R):3/77. SUBMISSION:3RD,77.
00329	ETHOPROP ROOT + TUBER CROPS LESION NEMATODES, ROOT-KNOT NEMATODES. SPIRAL NEMATODES	[redacted]	NC,VA,OK, ARS(MD). AL	NE S	N	03	E R	76:NC 76:ARS-MD	MOBIL	76 PROJECT:NC,VA,ARS(MD). 77 PROJ:ARS(MD). SUBMISSION:78.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00330	ETHOPROP BULB CROP NEMATODES	[redacted]	NC,VA,OK, ARS(MD). AL	NE S	N	03	E R	76:NC	MOBIL	76 PROJECT:NC,VA. 77 PROJ:ARS(MD). SUBMISSION:78.
00331	ETHOPROP VEGETABLES (LEAFY BRASSICA) NEMATODES	[redacted]	NC,VA,OK, ARS(MD). AL	NE S	N	03	E R	76:VA	MOBIL	76 PROJECT:VA. 77 PROJ:ARS(MD). SUBMISSION:78. EUP TO MFG:1/77.
00332	ETHOPROP VEGETABLES (LEAFY) NEMATODES	[redacted]	NC,VA,OK, ARS(MD). AL	NE S	N	03	E R	76:NC 76:ARS-MD	MOBIL	76 PROJECT:NC,ARS(MD). 77 PROJ:ARS(MD). SUBMISSION:78.
00333	ETHOPROP VEGETABLES (STEM) NEMATODES	[redacted]	NC,VA,OK, AL	S	N	03	E R		MOBIL	
00334	ETHOPROP VEGETABLES (LEGUMES) NEMATODES	[redacted]	NC,VA,OK, ARS(MD). AL	NE S	N	03	E R	76:NC	MOBIL	76 PROJECT:NC. 77 PROJ:ARS(MD). SUBMISSION:78. EUP TO MFG:1/77.
00335	ETHOPROP VEGETABLES (BUSH + VINE, EDIBLE PEEL) NEMATODES	[redacted]	NC,VA,OK, ARS(MD). AL	NE S	N	03	E R	76:NC 76:ARS-MD	MOBIL	76 PROJECT:VA,NC,ARS(MD). 77 PROJ:ARS(MD),VA. SUBMISSION:78.
00336	ETHOPROP VEGETABLES (BUSH + VINE, INEDIBLE PEEL) NEMATODES	[redacted]	NC,VA,OK, AL	S	N	03	E R		MOBIL	NO 76 SAMPLES DUE TO DRY WEATHER.
00341	DIAZINON MUSHROOMS CORN SILK FLY, SCIARID MUSHROOM FLIES	[redacted]	ARS(MD). DE	NE	I	03	E R	76:CSCO	C-G	76 PROJECT:ARS(MD). SUBMISSION:4TH,77. EUP ISSUED TO DE:9/76.
00342	PCNB + TERRAZOLE CUCUMBERS PYTHIUM, RHIZOCTONIA	[redacted]	MS,NC	S	F	03	E R		OLIN	

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00344	CAPTAFOL CARROTS CERCOSPORA LEAFSPOTS, LEAF BLIGHT, BACTERIAL BLIGHT	[redacted]	OH,TX,WI, FL	NC S	F	03	E R	76:CHEV	CHEV	76 PROJECT:WI,OH,TX,FL. EUP TO MI. SUBMISSION:4TH, 77. REC EFF & RES DATA FROM MI:1/77.
00345	CARBOFURAN GRAPES BLACKVINE WEEVIL	[redacted]	ARS(WA)	W	I	03	E R	76:ARS-WA	FMC	PEND TOL:6/76. 76 PROJ: ARS(WA). EFF DATA FROM ARS(WA):1/77. NOT AN ARS PROJ IN 77. SUBMISSION: 78.
00370	FENSULFOTHION JAPANESE RADISHES ROOT MAGGOTS	[redacted]	ARS(WA), OR	W	I	03	E R		CHEMAG	77 PROJECT:ARS(WA). SUBMISSION:79.
00372	ACEPHATE ASPARAGUS CUTWORMS, ARMYWORMS, BEETLES, APHIDS	[redacted]	WA,MI,DE, CA	NC NE W	I	03	E R	76:CHEV 77:CHEV	CHEV	76 PROJECT:WA,MI,CA. 77 PROJ:DE,MI,WA. MFG'S PROJ IN MI,WA. SUBMISSION: 4TH, 77.
00373	ACEPHATE STRAWBERRIES FLOWER THRIPS, LEGUME BUG, TARNISHED PLANT BUG	[redacted]	CA,NJ,NH	NE W	I	03	E R	76:CHEV 77:CHEV	CHEV	76 PROJECT:CA,NJ. COOP PROJ WITH MFG. 77 PROJ: NJ,CA. SUBMISSION:4TH,77. SUBMISSION:2ND,77 FOR CA ONLY.
00374	ACEPHATE BLUEBERRIES CHERRY FRUITWORM, CRANBERRY FRUITWORM	[redacted]	NJ,WA,MI	NE NC	I	03	E R	76:NY 77:CHEV	CHEV	76 PROJECT:NJ,WA. COOP PROJ WITH MFG. 77 PROJ NJ. SUBMISSION:3RD,78.
00375	CAPTAFOL SUGAR BEETS CERCOSPORA	[redacted]	ND,MI,OH, TX,CO,NM	NC W S	F	03	E R	76:CHEV 77:CHEV	CHEV	76 PROJECT:OH,MI,TX,CO,NM. COOP PROJ WITH MFG. 77 PROJ:MI,NM,CO,TX. SUB-MISSION:4TH,78.
00376	CAPTAFOL CHERRIES CHERRY LEAFSPOT	[redacted]	MI	NC	F	03	E R	76:CHEV	CHEV	76 PROJECT:MI. COOP PROJ WITH MFG. SUBMISSION:3RD, 77.
00378	PARAQUAT ONIONS DESSICANT (HARVEST AID)	[redacted]	WA,PA,NJ, MI,NY	NC NE W	D	03	E R	76:NY 77:MI	CHEV	76 PROJ:MI. 77 PROJ:MI. MFG'S PROJ:FL,OR. SUBMISSION:3RD,78.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00379	TERRAZOLE + THIOPHANATE METHYL VEGETABLES (BEDDING PLANTS) (GH) DAMPING OFF, PHTHIUM, RHIZOCTONIA, FUSARIUM	[redacted]	NJ	NE	F	03	E R		MALLIN	WAITING FOR MFG COM-MENTS:1/77.
00380	BUTRALIN CUCUMBERS BROADLEAF WEEDS AND GRASSES	[redacted]	NC,MD,GA, SC,AR,VA, CT,TX,FL	NE S	H	03	E R	76:FL	AMCHEM	76 PROJECT:NC,GA,SC,AR, VA. EFF DATA FROM AR: 3/77. SUBMISSION:2ND.77.
00387	PRONAMIDE STRAWBERRIES GRASSES	[redacted]	OR	W	H	03	E R		R+H	PET IN PREP. SUBMISSION: 2ND,77.
00395	CHLOROTHALONIL PEAS (ENGLISH) LEAFSPOTS, POWDERY MILDEW	[redacted]	NC	S	F	03	E R		D-S	NC ASKED TO HOLD IN 77.
00397	CHLOROTHALONIL SPINACH WHITE RUST, LEAFSPOTS	[redacted]	NC,AR,TX	S	F	03	E R	76:FL	D-S	76 PROJECT:TX,NC. D-S HAS DATA. SUBMISSION:4TH,77. SEE PR 273. MFG WANTS PET HELD: 2/77.
00398	BENOMYL + CHLOROTHALONIL PAPAYA POST HARVEST USE FOR RHIZOPUS, PEDUNCLE INFECTION	[redacted]	HI	W	F	03	E R		DUPONT D-S	CHLOROTHALONIL REJECTED: 6/77. SUBMISSION:1ST,77.
00399	CHLOROTHALONIL MINT LEAFSPOT (SEPTORIA METHICOLA), SPEARMINT RUST (PUCCINIA MENTHAE)	[redacted]	WI,MI,IN, WA	NC W	F	03	E R	76:MI	D-S	76 PROJ:IN. RES DATA FROM MI:1/77. MFG WANTS ALL PET HELD:12/77. SUBMISSION:79.
00417	CARBOFURAN CUCUMBERS, SQUASH LEAFMINER, PICKLEWORM, SQUASH VINE BORER	[redacted]	NC,AL	S	I	03	E R	76:FL	FMC	76 PROJ:AL. TOL PEND ON BOTH CROPS:12/76. SUBMISSION:79.
00424	CARBOFURAN MINT STRAWBERRY ROOT WEEVIL, MINT ROOT WEEVIL	[redacted]	ID,OR,WA, ARS(WA)	W	I	03	E R	76:OR	FMC	76 PROJ:OR. ARS(WA). 77 PROJ:ARS(WA). SUBMISSION:79.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00426	CARBOFURAN HOPS ROOT WEEVILS, BLACKVINE WEEVIL	[redacted]	ID,OR, ARS(WA)	W	I	03	E R	76:ARS-WA	FMC	76 PROJECT:ARS(WA),ID. SUBMISSION:79.
00427	METHOXYCHLOR WATER (CANALS) BLACK FLY	[redacted]	ID	W	I	03			MILLER	ID STILL INTERESTED. NEW MFG SO NEEDS REEVALUATION: 10/76.
00430	ACEPHATE MINT CUTWORMS, LOOPERS, APHIDS	[redacted]	OR,ID,MI, WA,IN	NC W	I	03	E R	75:CHEV	CHEV	76 PROJECT:MI,WA,OR,ID,IN. COOP PROJ WITH MFG. SUBMISSION:3RD,77. SEE PR 461.
00433	BENTAZON MINT WEEDS:CANADA THISTLE	[redacted]	ARS(WA), OR,WI	NC W	H	03	E R	76:BASF	BASF	76 PROJ:OR. COOP PROJ WITH MFG. WI SENT SAMPLES TO MFG:1/77. SUBMISSION:2ND,77.
00438	CARBOFURAN CHINESE CABBAGE ROOT MAGGOTS	[redacted]	OR	W	I	03	E R		FMC	MFG ADVISES TO WAIT ON CRUCIFER REG.
00452	CHLORPYRIFOS ONIONS DION MAGGOT	[redacted]	OR,WA,WI, NY,MI, ARS(WA)	NC NE W	I	03	E R	77:MI	DOW	RES ANAL IN PROG:WA. DATA REC:MI(R),NY(E):1/77: NY(R):1/77. 77 PROJ:WI. NY,ARS(WA). SEE PR 20. 29. SUBMISSION:3RD,78.
00453	CHLORPYRIFOS MINT CUTWORMS, ROOT BORERS	[redacted]	OR, ARS(WA)	W	I	03	E R	76:OR	DOW	76 PROJECT:OR,ARS(WA). MFG WILL SUPPORT:1/77. SUBMISSION:79.
00455	FONOFOS HOPS SYMPHYLIDS	[redacted]	OR	W	I	03	E R		STAUFF	
00456	FENSULFOTHION CHINESE CABBAGE ROOT MAGGOTS	[redacted]	ARS(WA), OR	W	I	03	E R		CHEMAG	77 PROJ:ARS(WA). SUBMISSION:79.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00461	METHAMIDOPHOS MINT LOOPERS	[redacted]	OR	W	I	03	E R		CHEMAG	WORK IN PROGRESS ON PR 430.
00475	FENSULFOTHION COFFEE	[redacted]	PR	S	N	03	E R		CHEMAG	
00498	FENAMIPHOS PINEAPPLE ROOT-KNOT NEMATODES, SPIRAL NEMATODES, LESION NEMATODES, RING NEMATODES	[redacted]	PR	S	N	03	E R	77:ARS-GA	CHEMAG	TWO DIFF USE PATTERNS. TEMP TOL FOR HI EXP:9/76. COMPLETE DATA PKG REQ FOR PR. MFG OK:11/76. 77 PROJ: PR. SUBMISSION:79.
00504	PIRIMIPHOS-ETHYL BANANAS BANANA ROOT BORER	[redacted]	PR	S	I	03	E R		ICI	TOL OF 0.2 PPM EST. MFG OK:11/76.
00505	PIRIMIPHOS-ETHYL PLANTAINS BANANA ROOT BORER	[redacted]	PR	S	I	03	E R		ICI	TOL OF 0.2 PPM EST. MFG OK:11/76.
00522	PARAQUAT CHERRIES (BARBADOS) UNSPECIFIED ANNUAL AND PERENIAL WEEDS	[redacted]	FL	S	H	03	E R F	77:FL	CHEV	77 PROJECT:FL.
00523	GLYPHOSATE MANGOES UNSPECIFIED PERENIAL WEEDS	[redacted]	FL	S	H	03	E R		MONS	
00533	SILVEX CRANBERRIES POISON IVY	[redacted]	MA,NH	NE	N	03	E R		DOW AMCHEM	DIOXIN PROB. NEED AQUATIC DATA. MFG FEELS REG TO BE DIFFICULT. DEPENDS ON IR-4 SUCCESS. DOW WILL SUPPORT:1/77.
00534	MALEIC HYDRAZIDE CRANBERRIES WILD BEAN	[redacted]	MA	NE	P	03	E R		UNIROY	1957-60 RES DATA AVAIL. NEED DATA ON AQUATIC ENV. MFG OK:10/76. 77 PROJ:MA. SUBMISSION:79.

PR. NO	PESTICIDE / COMMODITY / PESTS	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00551	GLYPHOSATE BLUEBERRIES PERENIAL WEEDS	[redacted] ARS(NJ), RI,CT,NJ, NH,AR,NC, ARS(GA)	NE S	H	03	E R	77:NY	MONS	77 PROJ:ARS(NJ). SUBMISSION:80.
00554	BENTAZON BEANS (SNAP + LIMA) UNSPECIFIED WEEDS	[redacted] ARS(GA), MD,WI	NE S	H	03	E R	77:NY 77:MI	BASF	MFG WORKING ON TOL FOR LIMA:11/76. MFG OK ON SNAP:11/76. 77 PROJ:MD, ARS(GA). WAIT ON PEA TOL. SUBMISSION:79. SEE PR 555.
00562	CHLORPYRIFOS STRAWBERRIES STRAWBERRY WEEVIL	[redacted] MI,NY,WI	NC NE	I	03	E R	77:NY 77:MI	DOW	MFG WILL SUPPORT:1/77. 77 PROJ:NY,MI,WI. SUBMISSION:79.
00569	PIRIMICARB SPINACH APHIDS	[redacted] TX	S	I	03	E R		ICI	MFG OK:11/76. SUBMISSION:79.
00570	CHLORPYRIFOS PEANUTS LESSER CORNSTALK BORER	[redacted] TX,OK	S	I	03	E R	77:VA	DOW	MFG WILL SUPPOT:1/77. REC EFF DATA FROM TX: 1/77. 77 PROJ:OK. SUBMISSION:79.
00578	CARBOFURAN BLUEBERRIES OTIORHYNCHUS WEEVILS, OBSCURE ROOT WEEVIL, WOODS WEEVIL	[redacted] WA	W	I	03			FMC	76 PROJECT:WA. SUBMISSION:79.
00579	CARBOFURAN RASPBERRIES OTIORHYNCHUS WEEVILS, OBSCURE ROOT WEEVIL, WOODS WEEVIL	[redacted] WA	W	I	03			FMC	76 PROJECT:WA. SUBMISSION:79.
00581	GLYPHOSATE PEPPERS PREPLANT PERENIAL WEEDS:NUTSEDGE, BERMUDA GRASS	[redacted] LA,TN,NC	S	H	03	E R	77:FL	MONS	77 PROJ:TN,NC,LA. SUBMISSION:79. SEE PR 369.
00586	PROPACHLOR ONIONS CRABGRASS, PROSTATE SPRUGE	[redacted] MI,IN,NY, OH,IN	NC NE S	H	03	E R	77:MSU 77:NY	DOW	MUCK SOILS. MFG WILL SUPPORT:1/77. 77 PROJ:NY,MI,IL,IN. SUBMISSION:79.

PR. NO	PESTICIDE / COMMODITY / PESTS	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00588	CHLORPYRIFOS TOMATOES TOMATO FRUITWORM	[redacted] ARS(SC)	S	I	03	E R		DOW	MFG WILL SUPPORT:1/77. 77 PROJ:ARS(SC). SUBMISSION:79.
00589	TERRAZOLE BEANS (SNAP) (SEED TREATMENT) BLIGHT, ROOT ROT, PYTHIUM DAMPING OFF	[redacted] ARS(MD)	NE	F	03	E R	77:OLIN	OLIN MALLIN	PROD LABELLED. REQUEST IS FOR ACETONE INFUSING TRT METH TO IMP CONTROL. 77 PROJ:ARS(MD). SUBMISSION: 80.
00590	TERRAZOLE SOYBEANS (SEED TREATMENT) ROOT ROT, PHYTOPHTHORA DAMPING OFF	[redacted] ARS(MD)	NE	F	03	E R		OLIN MALLIN	PROD LABELLED. REQUEST IS FOR ACETONE INFUSING TRT METH TO IMP CONTROL. SUBMISSION:80.
00593	TERRAZOLE TOMATOES PYTHIUM	[redacted] FL	S	F	03	E R	77:FL	OLIN	PLUG MIX AT PLANTING. MFG OK:9/76. 77 PROJ: FL,GA. SUBMISSION:80.
00598	PARATHION ASPARAGUS ASPARAGUS BEETLE	[redacted] NY	NE	I	03	E R		MONS	
00613	CROTOXYPHOS + DICHLOROVOS HORSES BITING FLIES, FACE FLIES	[redacted] NY	NE	I	03	E R		SHELL	CROTOXYPHOS TOL NEEDED ON HORSEMEAT. 77 PROJ: NY. SUBMISSION:79.
00615	RABON POULTRY HOUSEFLY, LITTLE HOUSEFLY	[redacted] NY,NH	NE	I	03	E R		SHELL	RES DATA NEEDED FOR CHICKEN AND EGGS. BARN TRT. 77 PROJ:NY. SUBMISSION:79.
00617	FENSULFOTHION CRUCIFERS ROOT MAGGOT	[redacted] NY	NE	I	03	E R		CHEMAG	77 PROJ:NY. SUBMISSION: 79. SEE PR 323.
00618	FENSULFOTHION ROOT CROPS ROOT MAGGOTS	[redacted] NY	NE	I	03	E R		CHEMAG	RUTABAGA ALREADY LABELLED. SEE PR 326. 77 PROJ:NY. SUBMISSION: 79.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00620	CYHEXATIN EGGPLANT TWO-SPOTTED SPIDER MITES	[redacted] NJ	NE	I	03	E R	77:NY	DOW	MFG WILL SUPPORT:1/77. 1ST CHOICE OVER PR 690. 77 PROJ:NJ. SUBMISSION: 79.
00630	CYHEXATIN WATERMELON TWO-SPOTTED SPIDER MITES	[redacted] NC	S	I	03	E R		DOW	MFG WILL SUPPORT:1/77. 77 PROJ:NC. SUBMISSION: 79.
00632	PCNB RUTABAGA CLUBROOT (PLASMIODOPHORA BRSSICAE), WIRESTEM (RHIZOCTONIA SOLANI)	[redacted] NC	S	F	03	E R		OLIN	MFG OK:9/76.
00633	PCNB RADISHES CLUBROOT (PLASMIODOPHORA BRASSICAE), WIRESTEM (RHIZOCTONIA SOLANI)	[redacted] NC	S	F	03	E R		OLIN	MFG OK:9/76.
00637	BENOMYL EGGPLANT, PEPPERS BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	[redacted] NC,PR	S	F	03	E R	77:DUPONT	DUPONT	MFG OK:10/76. 77 PROJ:NC. SUBMISSION:79.
00638	BENOMYL CARROTS, POTATOES, SWEET POTATOES BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA, POWDERY MILDEW	[redacted] NC	S	F	03	E R	77:DUPONT	DUPONT	MFG OK:10/76. TOL PEND ON CARROTS 77 PROJ (POTATO + SWEET POTATO):NC. SUBMISSION: 79.
00648	OXAMYL PLANTAINS BURROWING NEMATODES, SPIRAL NEMATODES, RENIFORM NEMATODES	[redacted] PR	S	N	03	E R F		DUPONT	REQUEST GRAN SOIL + LIQ FOLIAR APPLICA. MFG WANTS TOL ON BANANA. THINKS PLANTAIN CAN BE ADDED: 10/76.
00651	OXYAMYL PINEAPPLE SPIRAL NEMATODES, RING NEMATODES, ROOT-KNOT NEMATODES, LESION NEMATODES	[redacted] PR	S	N	03	E R	77:DUPONT	DUPONT	FOLIAR APPLICA. MFG REQU EUP + TEMP TOL FOR HI. MFG HAS SOME PR DATA + MAY INCLUDE PR IN TEMP TOL REQUEST:10/76. 77 PROJ:PR. SUBMISSION:79.
00652	CARBOFURAN GRASS (PASTURE) WHITE GRUBS	[redacted] TX	S	I	03	E R		FMC	TOL EST ON ALFALFA.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00654	CHLORPYRIFOS SORGHUM (GRAIN) FALSE CINCH BUGS, STINKBUGS	[redacted] TX,UT	W S		03	E R	77:WA	DOW	TOL EST ON CORN. CAND 77 PROJ:UT.
00662	PIRIMICARB GREENS APHIDS	[redacted] TX	S	I	03	E R	77:ICI	ICI	SEE PR 84 FOR SAME PEST. 77 PROJ:NC. SUBMISSION: 80.
00668	2,4-D SOYBEANS MESOMESOBANIA	[redacted] LA	E	H	03	E R	77:FL	DOW AMCHEM RHODIA	EPA ISSUED LA EXEMT TO USE 2,4-D:9/76. 77 PROJ:LA. SUBMISSION:3RD,78.
00669	CHLOROBROMURON CARROTS GRASSES AND BROADLEAF WEEDS	[redacted] WA	W	H	03	E R		C-G	
00671	RESMETHRIN VEGETABLES WHITEFLIES	[redacted] MJ	NE	I	03	E R		BENICK	FOR USE IN HOME VEG GARDENS. MFG D :10/78 NO TOL.
00675	METHIDATHION MANGOES OLEANDER SCALE	[redacted] FL	S	I	03	E R	77:FL	C-G	FL PREFERS THIS TO PR 673. METABOLITE PROB. 77 PROJ: FL. SUBMISSION:79.
00684	DICOFOL PAPAYA MITES:YELLOW SPIDER MITE, SPIDERMITES, BROAD MITE	[redacted] HI	W	I	03	E R		R+H	
00686	SODIUM CHLORATE CORN DESSICANT	[redacted] TX	S	D	03	E R	77:TX		NEED CATTLE FEED STUDIES TO REMOVE GRAZING RESTRIC. 77 PROJ(CROP STUDIES): TX. SUBMISSION:2ND,78.
00687	BENTAZON PEPPERS POSTEMERGENT CONTROL OF RAGWEED, COCKLEBUR, MORNINGGLORY	[redacted] NC,LA,TX		H	03	E R	77:NC	BASF	77 PROJ:NC.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00690	OXAMYL EGGPLANT COLORADO POTATO BEETLE, APHIDS, MITES, NEMATODES	[redacted]	NJ	NE	I N	03	E R		DUPONT	NO. 2 CHOICE OVER PR 620.
00693	METHIOCARB STRAWBERRIES BIRD REPELLANT	[redacted]	OH	NC	A	03	E R	77:MN	CHEMAG	NEW USE. 77 PROJ:OH
00694	METHIOCARB RASPBERRIES BIRD REPELLANT	[redacted]	OH	NC	A	03	E R	77:MI	CHEMAG	77 PROJ:OH.
00695	METHIOCARB GRAPES BIRD REPELLANT	[redacted]	OH	NC	A	03	E R	77:MI	CHEMAG	77 PROJ:OH.
00696	METHIOCARB BLUEBERRIES BIRD REPELLANT	[redacted]	OH	NC	A	03	E R	77:MI	CHEMAG	77 PROJ:OH. SUBMISSION: 78.
00698	CHLORPYRIFOS CHERRIES (SWEET + TART) LESSER PEACHTREE BORER	[redacted]	OH,MI	NC	I	03	E R	77:MI	DOW	APPLICA TO TRUNK AND LIMBS. 77 PROJ:MI. SUBMISSION:78.
00707	ETHYLENE DICHLORIDE GRAPES GRAPE ROOT BORER, SOIL FUMIGANT	[redacted]	GA	S	I	03	E R F	77:GA	WOOL	77 PROJ:GA. SUBMISSION: 3RD.78.
00710	NORFLURAZON HOPS ANNUAL AND PERENIAL WEEDS	[redacted]	ARS(WA), OR	W	H	03	E R		SANDOZ	77 PROJ:ARS(WA). CAND 77 PROJ:OR.
00723	POTASSIUM AZIDE ONIONS, GARLIC WHITE ROT (SCLEROTIUM CEPIVORUM)	[redacted]	ARS(MD)	NE	F	03	E F	77:ARS-MD	PPG	77 PROJ:ARS(MD).

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00724	CHLORPYRIFOS APPLES CUTWORMS	[redacted]	ARS(WA)	NE	I	03	E R		DOW	NEW USE PATTERN. GROUND APPL. TOL PEND ON APPLES:12/76.
00728	CHLORPYRIFOS BLUEBERRIES BLACK VINE WEEVIL	[redacted]	IN,OH	NC	I	03	E R		DOW	

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00030	DIMETHOATE WHEAT, BARLEY APHIDS	[redacted]	ND,NB	NC	I	05		AMCY	MFG HANDLING.
00032	DIMETHOATE STRAWBERRIES TARNISHED PLANT BUGS	[redacted]	NY,WV,VT,CT	NE	I	05		AMCY	PEND TOL:9/75. NEED CHRONIC STUDIES. SEE PR 158, 159.
00050	CYHEXATIN CORN TWO-SPOTTED SPIDER MITES, BANKS GRASS MITE	[redacted]	UT,ID,WA,CO,NC,NJ	NE S W	I	05		DOW	MFG HANDLING. PROJ NEARLY COMPLETE:1/77.
00051	CYHEXATIN RASPBERRIES TWO-SPOTTED SPIDER MITES	[redacted]	UT,ID,WA,CO	W	I	05		DOW	MFG HANDLING:1/77. PROJ NEARLY COMPLETE:1/77. CAND 77 PROJ:UT.
00055	TERBACIL ALFALFA PERENIAL WEEDS	[redacted]	WY	W	H	05		DUPONT	SUBMISSION UNDER REVIEW. SEE PR 241.
00056	TOXAPHENE SUNFLOWER CUTWORM, THISTLE CATERPILLAR, SUNFLOWER CATERPILLAR	[redacted]	MN	NC	I	05		HERC	MFG HANDLING.
00068	NALED MUSHROOMS MYCETOPHILID MUSHROOM FLIES, PHORID MUSHROOM FLIES, SCIARID MUSHROOMFLIES	[redacted]	PA	NE	I	05		CHEV	SHORTER PHI REQUESTED.
00080	FONOFOS BLUEGRASS (SEED CROP) CUTWORMS, LEPIDOPTEROUS LARVAE	[redacted]	WA	W	I	05		STAUFF	MFG HANDLING. WA OBTAINED 24(C):4/76.
00086	ALACHLOR CABBAGE BROADLEAF WEEDS, GRASSES	[redacted]	NC,VA,FL,OH,MI	NC S	H	05		MONS	MFG HANDLING.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00097	METHIOCARB STRAWBERRIES SLUGS, SNAILS	[redacted]	OH,IL,VA	NC S	M	05		CHEMAG	MFG HANDLING.
00098	LINDANE PECANS PHYLLOXERAS, PECAN WOOD BORERS, PECAN SPITTLEBUGS	[redacted]	GA,AR	S	I	05		WOOL	MFG HANDLING.
00101	ATRAZINE SUGARCANE ANNUAL BROADLEAF WEEDS, GRASSES	[redacted]	TX	S	H	05		C-G	MFG TO AMEND LABEL.
00102	PROMETRYN COTTON WINTER ANNUAL WEEDS	[redacted]	TX	S	H	05		C-G	MFG TO AMEND LABEL.
00107	FENSULFOTHION SORGHUM (GRAIN) WHITE GRUBS	[redacted]	TX	S	I	05		CHEMAG	MFG HANDLING.
00108	CARBOFURAN SORGHUM (GRAIN) WHITE GRUBS	[redacted]	TX,NB	NC S	I	05		FMC	MFG HANDLING.
00121	CARBOFURAN CORN (SWEET) EUROPEAN CORN BORER	[redacted]	NJ,KY	NE S	I	05		FMC	MFG HANDLING.
00123	CARBOFURAN CORN (FIELD) SOUTHERN CORN BILLBUG, LESSER CORNSTALK BORER	[redacted]	MS,FL,NC,NB	NC S	I	05		FMC	EFFICACY FOR LABEL AMEND OR 24(C). FL OBTAINED 24(C):10/76.
00141	CARBOFURAN CRUCIFERS MAGGOTS, FLEABEETLES	[redacted]	NY,VT,WV,IL	NC NE	I	05		FMC	MFG HANDLING.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00142	CARBOFURAN POTATOES VERTICULLUM WILT, NEMATODES	[redacted]	NE W	N F	05			FMC	ADDED NEMATODES TO LABEL. MFG HAS SUB PET TO EPA TO LOWER TOL FROM 2.0 PPM TO 1.3 PPM:11/76. NJ OBTAINED 24(C):3/76.
00171	COPPER PARSNIPS BLACK ROT, BACTERIAL DISEASES	[redacted]	NE	F	05			KOCIDE	EFF DATA SENT TO MFG FOR LABEL REG.
00172	COPPER SPINACH BLACK ROT, BACTERIAL DISEASES	[redacted]	NE S	F	05			KOCIDE	EFF DATA SENT TO MFG FOR LABEL REG.
00201*	SODIUM HYPOCHLORITE ASPARAGUS (SEED TREATMENT) SEED DISINFECTANT:BACTERIAL SPOT	[redacted]	NE	F	05			AGWAY CLOROX	PKG SUBMITTED TO AGWAY & CLOROX FOR LABEL REG:8/76.
00206	CARBARYL POULTRY NORTHERN FOWL MITE, LICE	[redacted]	NE	I	05			UC	MFG HANDLING.
00257	CARBOFURAN TOMATOES POTATO BEETLES, APHIDS, FLEA BEETLES, NEMATODES	[redacted]	NE	I M	05			FMC	MFG HANDLING.
00269	DBCP PEANUTS LESION NEMATODE, ROOT-KNOT NEMATODE	[redacted]	S	N	05			DOW	LABEL AMENDMENT FOR IRRIGATION USE:MFG CHECKING ON RESIDUES: 1/77.
00278	METHOMYL TOMATOES (GH) TOMATO PINWORM	[redacted]	NC W	I	05			DUPONT	MFG HANDLING. OH OBTAIN 24(C):11/76.
00290	PARAQUAT BEANS (DRY) DESSICANT:HARVEST AID	[redacted]	NC	D	05			CHEV	MFG HANDLING.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00292	PARAQUAT WHEAT DESSICANT	[redacted]	NC	D	05			CHEV	MFG HANDLING:1/77.
00293	TERBUFOS SUGAR BEETS SUGARBEET ROOT MAGGOT	[redacted]	NC	I	05			AMCY	MFG HANDLING.
00310	CYHEATIN PEANUTS SPIDER MITES	[redacted]	NC	S	I	05		DOW	SAME USE AS PR 311.
00320	COPPER HYDROXIDE ASPARAGUS FUNGAL LEAFSPOTS, RUST	[redacted]	NC	S	F	05		KOCIDE	EFF DATA TO MFG FOR LABEL AMEND.
00321	COPPER HYDROXIDE ARTICHOKES LEAFSPOTS	[redacted]	NC	S	F	05		KOCIDE	EFF DATA TO MFG FOR LABEL AMEND.
00377	CAPTAFOL CRANBERRIES CRANBERRY FRUIT ROT	[redacted]	MA,WI,NJ NC NE	F	05		76:CHEV 77:CHEV	CHEV	76 PROJECT:NJ,MA. ADD AERIAL APPL TO EXIST LABEL. MFG'S PROJ.
00386	ATRAZINE GRASS ANNUAL GRASSES AND BROADLEAF WEEDS	[redacted]	IA,MO	NC	H	05		C-G	MFG HANDLING.
00389	CHLOROTHALONIL BEANS (LIMA) LEAFSPOTS	[redacted]	NC	S	F	05		D-S	MFG HANDLING.
00488	AMETRYN PLANTAINS UNSPECIFIED WEEDS	[redacted]	PR	S	H	05		C-G	ADD PLANTAIN TO CURRENT HI. PR LABEL OR 24(C). MFG HOLDING PROJ:12/77. SEE PR 483.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00514	PARAQUAT ALFALFA FALL PANICUM	08/76	NJ	NE	H	05			CHEV	TOL OF 5 PPM. LABELLED FOR DORM ALFAL IN OR + WA. 90 DAY PHI. NEED CONFIRM DATA. MFG'S PROJECT.
00521	GLYPHOSATE AVOCADOS UNSPECIFIED PERENIAL WEEDS	01/76	FL	S	H	05		77:FL	MONS	MFG PROJ IN CA,FL: 2/77.
00540	CHLORPYRIFOS CORN (SWEET) CORNWORMS, EUROPEAN CORN BORER, ARMYWORM, CLIMBING CUTWORMS, CORN EARWORM, FALL ARMYWORM	11/75	ARS(SC), ARS(IN), MA,NH,NY, NJ	NC NE S	I	05			DOW	MFG HANDLING AND WILL REGISTER:3/77.
00541	CHLORPYRIFOS CRANBERRIES BLUEBERRY FRUITWORM, CRANBERRY SPANWORM, CRANBERRY FIREWORMS, CRANBERRY GIRDLER, SPARAGANOTHIS FRUITWORM, CRANBERRY BLOSSOMWORM	11/75	MA,NJ,WI	NC NE	I	05			DOW	MFG HANDLING:1/77. HAS SAMPLES FOR RES ANAL:1/77.
00544	BENSULIDE CUCURBITS DELETE ROTATIONAL RESTRICTIONS! PERENIAL WEEDS	01/76	MD	NE	H	05			STAUFF	REFER TO MFG.
00546*	NAPROPAMIDE TOMATOES (SEED TREATMENT) UNSPECIFIED WEEDS	06/76	MD	NE	H	05			STAUFF	TOL OF 0.1 PPM FOR FRUIT VEG. LABLLED IN CA ONLY. MFG TO EPA FOR NAT LABEL: 10/76.
00555	BENTAZON PEAS UNSPECIFIED WEEDS	06/76	MD	NE	H	05			BASF	SEE MFG LETTER OF 11/76.
00556	METHAZOLE ONIONS UNSPECIFIED WEEDS	06/76	MD	NE	H	05			VELSI	10/76:MFG EXPECTS FULL LABEL LATE 79.
00594	ACEPHATE LETTUCE CABBAGE LOOPER, GREEN PEACH APHIDS, CORN EARWORMS	06/76	NJ	NE	I	05			CHEV	TOL OF 10 PPM. LABELLED IN CA, AZ, FL ONLY. FFF + RES DATA ON CORN EARWORM REQ FOR 24(C). MFG'S PROJ. SUBMISSION:3RD,78.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00679	COPPER SULFATE FIGS	[redacted]	FL	S	F	05			KOCIDE	
00683	PARAQUAT GRASS (HAY) RETAIN NUTRIENTS OF GRASS	[redacted]	OR	W	D	05			CHEV	MFG HANDLING.
00692	METHIOCARB CHERRIES (SWEET + TART) BIRD REPELLANT	[redacted]	OH	NC	A	05			CHEMAG	TOL OF 25 PPM EST. LABELLED FOR MITE + CURCULIO. MFG PROJ FOR BIRD REPELLENT.
00702	GLYPHOSATE RASPBERRIES (DORMANT) PERENIAL WEEDS	[redacted]	OH	NC	H	05			MONS	CONTACT MFG.
00703	GLYPHOSATE BLACKBERRIES PERENIAL WEEDS	[redacted]	OH	NC	H	05			MONS	CONTACT MFG.
00727	FENAMINOPHOS TOMATOES (TRANSPLANTS) ROOT-KNOT NEMATODES	[redacted]	ARS(GA)	S	N	05			CHEMAG	TOL OF 0.5 PPM PEND.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00131	PESTICIDES PINEAPPLE (BY-PRODUCTS) PESTS IN GENERAL	[redacted]	HI	W	B	06			ND MFG	HI HANDLING.
00612	DIMETHOATE LIVESTOCK STABLE FLIES	[redacted]	NY	NE	I	06			AMCY	
00704	DIURON PEAS (WINTER) GROMWELL, LAMBSQUARTER, FANWEED, PIGWEED, REDROOT	[redacted]	ID	W	H	06			DUPONT	TOL OF 1 PPM EST. EFF DATA AVAIL FROM ID. CHECK WITH MFG.
00706	CARBOFURAN BARLEY, WHEAT BLIGHT (PSEUDOMONAS SYRINGAE)	[redacted]	ND,SD,MN, MT	NC W	F	06			FMC	POSSIBE 24(C). TOL PEND ON BARLEY, OAT, WHEAT, RYE:12/76.
00708	CARBOFURAN SAFFLOWER BLIGHT (PSEUDOMONAS SYRINGAE)	[redacted]	ND,SD,MT, NM	NC W	W	06			FMC	POSSIBLE 24(C).

00245

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00245	AZINPHOS METHYL GOOSEBERRIES GOOSEBERRY FRUITWORM	[redacted]	CO	W	I	07			CHEMAG	REJECT:8/76. 2ND ONCO STUDY REQUIRED. SCHEDULED BY MFG:10/76.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00007	BENOMYL PEANUTS BLACKHULL DISEASE	[redacted]	NM	W	F	11			DUPONT	MFG WILL NOT REGISTER.
00009	CARBOFURAN PEPPERS EUROPEAN CORNBORER, CORN EARWORM APHID	[redacted]	NJ,NC,MS,IL,KY,DE,WV	NC NE S	I	11			FMC	NEED NEW TOLERANCE OR PHI.
00013	CHLORDIMEFORM TOMATOES (GH) TOMATO PINWORM	[redacted]	OH	NC	I	11			C-G NORAM	WITHDRAWN FROM MKT BY MFG:9/76.
00018	CHLOROTHALONIL WILD RICE HELMINTHOSPORIUM LEAF BLIGHT	[redacted]	MN	NC	F	11			D-S	MFG WILL NOT REGISTER.
00028	DIMETHOATE BLUEBERRIES BLUEBERRY MAGGOTS, THRIPS	[redacted]	WV,ME	NE	I	11			AMCY	RESIDUES TOO HIGH FOR PHI REQUIRED.
00045	MCPB PEAS BROADLEAF WEED:CANADA THISTLE	[redacted]	WI,PA	NC NE	H	11			RHODIA	INACTIVE PROJECT. NEED ANIMAL FEED STUD. USE CLEARED FOR MCPA:10/76.
00111	PICLORAM SORGHUM BROADLEAF PERENIAL WEEDS	[redacted]	TX,NB,OR,KS	NC S W	H	11			DOW	LIABILITY.
00146	CHLORPROPHAM LETTUCE WEEDS	[redacted]	NY,MD	NE	H	11			PPG	PHYTOTOX PROB. IPC REGISTERED ON LETTUCE: 11/76.
00147	CHLOROTHALONIL LETTUCE DOWNY MILDEW, BOTRYTIS GRAY MOLD	[redacted]	NY,PA,AR,FL,NC,KY	NE S	F	11			D-S	MFG DECLINES DUE TO ADI PROBLEM.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00148	CHLOROTHALONIL RADISHES DOWNY MILDEW	[redacted]	NY,PA,NC,AR	NE S	F	11			D-S	HIGH RESIDUE POTENTIAL.
00149	CHLOROTHALONIL RHUBARB ASCOCHYTA LEAFSPOT	[redacted]	NY,PA	NE	F	11			D-S	LIABILITY.
00193	CHLORDIMEFORM CUCUMBERS (GH) TWO-SPOTTED SPIDER MITES	[redacted]	OH	NC	I	11			C-G NORAM	LIABILITY. WITHDRAWN FROM MKT BY MFG:9/76.
00197	ETHEPHON PEACHES ADVANCE MATURITY	[redacted]	NJ,PA	NE	P	11			AMCHEM	LIABILITY.
00212	ATRAZINE GUAVAS PRE AND POST EMERGENCE WEED CONTROL	[redacted]	HI	W	H	11			C-G	LIABILITY.
00225	PARAQUAT POTATOES VINE DESSICANT	[redacted]	ME,CT,VT,WV	NE	H	11			CHEV	LABEL FOR NON-STORED POTATOES. MFG WILL REGISTE USE ON POTATOES TO BE STORED.
00237	CHLOROTHALONIL MUSHROOMS VERTICULLUM, MILDEW, BUBBLE	[redacted]	PA,CA,MI,OH,IN,FL,TX,WA,MD,NJ,DE,NY	NE NC S W	F	11			D-S	LIABILITY.
00238	CHLOROTHALONIL BLUEBERRIES ALTERNARIA LEAFSPOT, ANTHRACNOSE, MUMMYBERRY, CRANBERRY FRUIT ROT	[redacted]	PA,MJ,WV,NC	NE S	F	11			D-S	AQUATIC HAZARDS.
00246	LINURON CELERY GALINSAGA, RAGWEED, FALL PANICUM	[redacted]	PA	NE	H	11			DUPONT	PHYTOTOX IN MINERAL SOILS.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00250	ETHEPHON TOMATOES (GH) CONCENTRATE MATURITY	[redacted]	PA,CA	NE W	P	11		ANCHEM	LIABILITY.
00261	DINOSEB STRAWBERRIES WINTER BROADLEAF WEEDS	[redacted]	TN	S	H	11		DOW	LIABILITY. TOL EST:12/74. LIMITED TO NW.
00262	ALACHLOR BEANS (SNAP) BROADLEAF WEEDS AND GRASSES	[redacted]	TN,AR	S	H	11		MONS	PHYTOTOXICITY PROBLEM. SEE PR 549.
00288	PARAQUAT SUNFLOWER DESSICANT (HARVEST AID)	[redacted]	ND	NC	D	11		CHEV	MFG WILL NOT REGISTER.
00296	ENDOSULFAN SESAME GREENPEACH APHID, LYGUS, STINKBUG, CATERPILLARS	[redacted]	CA	W	I	11		FMC	ADI PROBLEM.
00337	DESMEDIPHAM BEETS (GARDEN) RED ROOT PIGWEED	[redacted]	WI,OH,NY	NC NE	H	11		NORAM	POSSIBLE PHYTOTOXICITY.
00353	CHLOROTHALONIL OKRA LEAFSPOTS	[redacted]	NC	S	F	11		D-S	ADI PROBLEM.
00393	CHLOROTHALONIL PARSLEY LEAFSPOTS	[redacted]	NC	S	F	11		D-S	LIABILITY.
00400	DIAZINON TOMATOES (GH) LEAFMINER, APHIDS	[redacted]	NC,VT,WV	NE S	I	11		C-G	LIABILITY.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00437	CARBOFURAN JAPANESE RADISHES ROOT MAGGOTS, FLEA BEETLES	[redacted]	OR	W	I	11		FMC	RESIDUES + LIABILITY.
00446	DIMETHOATE CHERRIES CHERRY FRUITFLY	[redacted]	OR	W	I	11		AMCY	MFG WILL NOT REGISTER.
00482	PROMETRYN CASSAVA UNSPECIFIED WEEDS	[redacted]	PR	S	H	11		C-G	HIGH POTENTIAL INJURY.
00483	PROMETRYN PLANTAINS UNSPECIFED WEEDS	[redacted]	PR	S	H	11		C-G	AMETRYN TO BE LABELLED FOR SNAE USE.
00484	PROMETRYN YAMS UNSPECIFIED WEEDS	[redacted]	PR	S	H	11		C-G	HIGH POTENTIAL INJURY.
00489	AMETRYN TANIERS PREEMERGENT WEED CONTROL	[redacted]	PR	S	H	11		C-G	HIGH POTENTIAL INJURY
00490	AMETRYN YAMS SPRUCE, PANGOLAGRASS, SIGNALGRASS, JUNGLERICE, AMARANTHUS, GOOSEGRASS, HORSE PURSLANE	[redacted]	PR	S	H	11		C-G	HIGH POTENTIAL INJURY.
00491	PROMETRYN TANIERS UNSPECIFIED WEEDS	[redacted]	PR	S	H	11		C-G	HIGH POT INJURY
00492	PROMETRYN PEAS (PIGEON) UNSPICIFIED WEEDS	[redacted]	PR	S	H	11		C-G	

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00495	DBCP YAMS LESION NEMATODES, SPIRAL NEMATODES, ROOT-KNOT NEMATODES	[redacted] PR	S	N	11			DOW SHELL	MFGS WILL NOT REGISTER. PHYTOTOXICITY PROBLEM.
00519	TERBUFOS MALANGA (YAUTIA) WIREWORMS	[redacted] FL	S	I	11			AMCY	WITHDRAW BY FL:8/76. MFG WITHDRAWS SUPPORT: 11/76.
00524	SIMAZINE MANGOES UNSPECIFIED ANNUAL AND PERENIAL WEEDS	[redacted] FL	S	H	11			C-G	MFG DECLINES DUE TO LOW MKT POTENTIAL + LIABILITY. SEE PR 520.
00552	BENTAZON CUCUMBERS UNSPECIFIED WEEDS	[redacted] MD	NE	H	11			BASF	LIABILITY.
00553	BENTAZON WATERMELON UNSPECIFIED WEEDS	[redacted] MD	NE	H	11			BASF	LIABILITY.
00563	CARBOFURAN PECANS, CHESTUNTS SUCKING INSECTS, LEAFMINERS, CHESTNUT WEEVILS, PECAN WEEVILS	[redacted] GA	S	I	11			FMC	NOTIFIED:10/76. SEE PR 63.
00583	CHLORATHALONIL TOMATOES (GH) EARLY BLIGHT, GRAY LEAF MOLD, BOTRYTIS GRAY MOLD, LATE BLIGHT, SEPTORIA LEAFSPOT, ANTHRACNOSE, LEAFMOLD	[redacted] KY,IN	NC S	F	11			D-S	TOL OF 5 PPM. LABELLED FOR FIELD USE ONLY. SEE PR 584. MFG WILL NOT REG:10/76.
00715	LINURON ONIONS (SEED CROP) ANNUAL WEEDS	[redacted] ID	W	H	11			DUPONT	NOTIFIED:12/76.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00132	AMETRYN BEANS (LIMA) DEFOLIANT	[redacted] NY	NE	D	12			C-G	REJECTED:11/76. LABEL RESTRICTIONS.
00176	CALCIUM CYANAMIDE BLUEBERRIES MUMMYBERRY	[redacted] PA,MJ	NE	F	12			MEYER	REJECTED:10/76. NOT A NON-FOOD USE.
00207	OXYTHIOQUINOX PAPAYA BROAD MITE, RED AND BLACK FLAT MITE, FALSE SPIDER MITE, SPIDER MITES	[redacted] HI	W	I	12			CHEMAG	REJECTED:1/77. HI HAS SEC 18. WILL COLLECT RES SAMPLES: 1/77. MFG WANTS NO MORE TOL:12/77.
00247	NITROFEN COLLARDS, KALE, GREENS ANNUAL GRASSES AND BROADLEAF WEEDS, PIGWEED, PURSELANE, SHEPARD'S PURSE, NIGHTSHADE, CRABGRASS	[redacted] PA,AR,NC	NE S	H	12			R+H	REJECTED:1/77.
00248	NITROFEN RAPE WEEDS	[redacted] PA	NE	H	12			R+H	TO MFG FOR REVIEW:8/76. SUBMITTED TO EPA:9/76. REJECTED:1/77.
00273	DODINE SPINACH ALBUGO WHITE RUST	[redacted] TX,AR,TN	S	F	12	E R		AMCY	REJECTED:8/74. ENV DATA LACKING. SEE PR 397.
00301	TEPP PEACHES MIDGES, THRIPS, LEAFHOPPERS, CATERPILLARS	[redacted] CA	W	I	12			MILLER	REJECTED:5/76. NEED:ONCO, CHRONIC TERATO.
00302	TEPP APRICOTS, NECTARINES MIDGES, THRIPS, LEAFHOPPERS, CATERPILLARS	[redacted] CA	W	I	12			MILLER	REJECTED:5/76. NEED: ONCO, CHRONIC TERATO.
00383	MCPA LEGUMES ANNUAL AND PERENIAL BROADLEAF WEEDS: MUSTARD, WILD RADISH	[redacted] WI	NC	H	12			DOW	SUBMITTED TO EPA:8/76. REJECTED:3/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00403	CARBARYL SWEET POTATOES SWEET POTATO WEEVIL, CORN EARWORM, SWEET POTATO HORNWORM, FLEABEETLE, TORTOISE BEETLE	[redacted]	NC	S	I	12		UC	SUBMITTED TO EPA:8/76. REJECTED:3/77.
00468	BENOMYL CURRANTS POWDERY MILDEW	[redacted]	OR	W	F	12		DUPONT	SUBMITTED TO EPA:7/76. REJECTED:4/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00160	PYRETHRINS (ULV) LETTUCE (GH) GREENHOUSE WHITEFLY	[redacted]	OH,IN, ARS(MD)	NC NE	I	20		FMC	SUB TO MFG FOR A LABEL AMENDMENT:3/77.
00161	PYRETHRINS (ULV) CUCUMBERS (GH) GREENHOUSE WHITEFLY	[redacted]	OH,IN, ARS(MD)	NC NE	I	20		FMC	SUB TO MFG FOR A LABEL AMENDMENT:3/77.
00166	PYRETHRINS (ULV) TOMATOES (GH) GREENHOUSE WHITEFLY	[redacted]	OH,IN, ARS(MD)	NC NE	I	20		FMC	SUB TO MFG FOR A LABEL AMENDMENT:3/77. DATA FROM ARS(MD):10/76.
00189	PROPACHLOR PUMPKIN WEEDS	[redacted]	IL	NC	H	20		MONS	PET IN PREP:11/76. SUBMITTED TO MFG:3/77.
00202*	SODIUM HYPOCHLORITE TOMATOES (SEED TREATMENT) SEED DISINFECTANT:BACTERIAL SPOT	[redacted]	NJ,PA,VT, NC	NE S	F	20		AGWAY CLOROX	PKG SUBMITTEDTO AGWAY + CLOROX FOR LABEL REG:8/76.
00350	CAPTAN PARSLEY LEAFSPOTS	[redacted]	NC,WV	NE S	F	28		CHEV STAUFF	TO MFG FOR REVIEW:7/76.
00351	CAPTAN PARSNIPS LEAFSPOTS	[redacted]	NC	S	F	20		CHEV STAUFF	SUB TO MFG:9/76.
00356	CAPTAN COLLARDS, KALE, ENDIVE, ESCAROLE LEAFSPOTS, CLUBROOT	[redacted]	NC	S	F	20		CHEV STAUFF	SUBMITTED TO STAUFF:8/76.
00357	COPPER HYDROXIDE SQUASH, PUMPKIN ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	28		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00358	COPPER HYDROXIDE RADISHES ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00359	COPPER HYDROXIDE PEAS (ENGLISH) ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00360	COPPER HYDROXIDE ONIONS, LEEKS, GARLIC ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00361	COPPER HYDROXIDE OKRA ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00362	COPPER HYDROXIDE BEANS (LIMA) ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00363	COPPER HYDROXIDE KHOLRABI, TRUNIP + MUSTARD GREENS, KALE, ESCAROLE ALTERNARIA + BOTRYTIS LEAFSPOTS, SCAB, ANTHRACNOSE, DOWNY MILDEW	[redacted]	NC,AR	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00364	COPPER HYDROXIDE EGGPLANT BOTRYTIS, LEAFSPOTS	[redacted]	NC	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00365	COPPER HYDROXIDE BEETS (GARDEN) BOTRYTIS, LEAFSPOTS	[redacted]	NC	S	F	20		KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00405	METHOMYL BERMUDAGRASS (COASTAL) FALL ARMYWORM	[redacted]	NC,TX	S	I	20		DUPONT	PETITION IS FOR FORAGE GRASSES AND LEGUMES. SUBMITTED TO MFG:12/76. SUBMITTED TO EPA:3/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00422	CAPTAN KHOLRABI LEAFSPOTS	[redacted]	NC	S	F	20		CHEV	PET TO MFG:10/76.
00453	BENOMYL BROCCOLI (SEED TREATMENT) ALTERNARIA, PHOMA BLACKLEG	[redacted]	OR,WA	W	F	20		DUPONT	INCLUDED IN PR 385. SUBMITTED TO MFG:7/76. WA ISSUED SEC 18:1/77.
00499	METHOMYL PEAS (PIGEON) TOBACCO BUDWORM, LIMABEAN POD BORER, CORN EARWORM, CARIBBEAN POD BORER	[redacted]	PR	S	I	20		DUPONT	MFG CONSULTED ON 24(C) REG:3/77.
00621	2,4-D MACADAMIA NUTS BROADLEAF WEEDS:SPREADING DAYFLOWER	[redacted]	HI	W	H	20		DOW	SUBMITTED TO MFG:10/76.
00726	CARBARYL CHESTNUTS BLACK VINE WEEVIL	[redacted]	ARS(SC)	W	I	20		UC	PET SUB TO MFG:3/77.
00733	BENOMYL + CAPTAFOL CORN (SWEET) (SEED TREATMENT) SEED ROT AND SEEDLING DAMPING OFF	[redacted]	FL	S	F	20		DUPONT CHEV	DATA SENT TO MFG:12/76. BENOMYL REJECTED:4/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00011	CARBARYL SMALL GRAINS ARMYWORM, CUTWORM, ARMY CUTWORM, WHEATHEAD ARMYWORM	[redacted] OK,GA,TN, VA,WI	NC S	I	21			UC	PEND TOL ON BARLEY WHEAT, OAT, RYE:11/76.
00015	CHLOROTHALONIL BEANS (DRY) CERCOSPORA RUST, LEAFSPOT	[redacted] GA,MN,FL, ARS(MI)	NC S	F	21			D-S	SUBMITTED TO MFG:12/76. MFG WANTS ALL PET HELD: 2/77.
00022	2,4-D MILLET (PROSO) BROADLEAF WEEDS, NON-GRASS ANNUAL WEEDS, PERENIAL WEEDS	[redacted] MN,CO,NB, ND	NC W	H	21			DOW	PET FOR ALL RAC REJ:1/77. RESUBMITTED:2/77.
00038	ENDOSULFAN RASPBERRIES ROSE STEM GIRDLER	[redacted] UT,CA, ARS(WA)	W	I	21			FMC	PET IN PREP:12/76. SUBMITTED TO MFG:3/77. SUBMITTED TO EPA:3/77.
00042	MALATHION WILD RICE RICE WORM, MIDGES	[redacted] MN	NC	I	21			AMCY	SUBMITTED:10/76. SEE PR 12.
00065	2,4-D (AMINE) WALNUTS, ALMONDS, FILBERTS SUCKERS, BROADLEAF WEEDS, PLANT GROWTH REGULATOR	[redacted] CA,OR	W	M P	21			DOW	OR PET TO EPA FOR FILBERTS:4/76 (PP 6E1776). PET FOR ALL RAC REJ:1/77. RESUBMITTED:2/77.
00072	CHLOROTHALONIL TURNIPS (GREENS) ALTERNARIA LEAFSPOT, WHITE SPOT, BOTRYTIS GRAY MOLD, BOTTOM ROT, DOWNY MILDEW, ANTHRACNOSE	[redacted] GA,NC,TN, MS	S	F	21			D-S	TURNIP GREENS PET TO EPA: 7/76. TURNIP ROOT PET TO EPA:11/76.
00112	2,4-D STONE FRUITS BROADLEAF PERENIAL WEEDS	[redacted] WA	W	H	21		76:WA	LILLY DOW	76 PROJECT:WA. APRICOT PROPOSAL PUB:1/76. PET FOR ALL RAC REJ:1/77. RESUBMITTED:2/77.
00113	2,4-D CITRUS FRUITS EXTEND POSTHARVEST TOLERANCE	[redacted] FL	S	H	21			DOW	24(C) FOR LEMON IN FL: 1/77. PET FOR ALL RAC REJ:1/77. RESUBMITTED: 2/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00164	DINOSEB GRASS (FORAGE) ANNUAL SMARTWEED, NIGHTSHADE, YELLOWSTAR THISTLES, LAMBSQUARTER, PIGWEED, CRABGRASS, CHICKWEED, MUSTARD	[redacted] NY,VT,WV	NE	H	21			DOW	SUBMITTED:7/76.
00165	ENDOSULFAN ENDIVE APHIDS	[redacted] NY	NE	I	21			FMC	SUBMITTED:10/76.
00174	SILVEX APPLES POISON IVY, HORSENETTLE, BROADLEAF WEEDS, BRAMBLES	[redacted] WV,NY,AR, VA,CT,MD, NJ,VT	NE S	H	21			AMCHEM	SUBMITTED:7/76. SEE PR 599.
00175	TERRBACIL STRAWBERRIES ANNUAL BROADLEAF WEEDS, GRASSES:QUACKGRASS	[redacted] NY,AR,CT, PA,NC,VA	NE S	H	21			DUPONT	SUBMITTED:3/77.
00218	DICOFOL PASSION FRUIT BROAD MITE, CARMINE SPIDER MITE RED AND BLACK FLAT MITE	[redacted] HI	W	I	21			R+H	SUBMITTED:5/76.
00244	DICOFOL GOOSEBERRIES TWO-SPOTTED SPIDER MITES	[redacted] CO,NY	NE W	I	21			R+H	SUBMITTED:11/76.
00255	AZINPHOS METHYL CARROTS CARROT WEEVILS	[redacted] NY,NJ,MA, DE,MD,OH	NE NC	I	21			CHEMAG	AMEND PET TO EPA:3/77.
00295	OXYDEMETONMETHYL SESAME (SEED) GREENPEACH APHID, BEAN APHID, CABBAGE APHID, TURNIP APHID	[redacted] CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00296	OXYDEMETONMETHYL SESAME (SEED CROP) GREENPEACH APHID, BEAN APHID, CABBAGE APHID, TURNIP APHID	[redacted] CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00297	OXYDEMETONMETHYL TURNIPS GREENPEACH APHID, BEAN APHID, CABBAGE APHID, TURNIP APHID	[redacted]	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00298	OXYDEMETONMETHYL MUSTARD GREENPEACH APHID, BEAN APHID, CABBAGE APHID, TURNIP APHID	[redacted]	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00367	PARAQUAT STRAWBERRIES POSTEMERGENT BROADLEAF WEEDS AND GRASSES	[redacted]	FL,MD,TX, LA, ARS(MD)	NE S	H	21			CHEV	SUBMITTED TO EPA:8/76.
00371	PARAQUAT ASPARAGUS WEEDS	[redacted]	MI,NJ,IL, CA,WA,MD, MA,VA	NC NE S W	H	21			CHEV	SUBMITTED:7/76.
00384	DINOSEB LENTILS BROADLEAF WEEDS:MUSTARD, BORAGE, LAMBSQUARTER, AMARANTH, MINT	[redacted]	WA,ID	W	H	21			DOW	PET SUB TO EPA:3/77.
00385	BENOMYL BRASSICA CROPS (SEED TREATMENT) BLACKLEG (PHOMA LINGAM)	[redacted]	WA,WI,NY, OR,CA	NC NE W	F	21			DUPONT	SUBMITTED:9/76. WA ISSUED SEC 18:1/77. SEE PH 463.
00391	CHLOROTHALONIL BEETS (GARDEN) ALTERNARIA LEAFSPOT	[redacted]	NC	S	F	21			D-S	SUBMITTED:11/76.
00394	CHLOROTHALONIL PARSNIPS ALTERNARIA LEAFSPOTS	[redacted]	NC,SC	S	F	21			D-S	SUBMITTED:11/76.
00411	PYRETHRIN SWEET POTATOES (STORAGE) FRUITFLIES (DROSOPHILA)	[redacted]	NC	S	I	21			FMC	SUBMITTED TO MFG:8/76. SUBMITTED TO EPA:9/76.

PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00425	FORMETANATE HYDROCHLORIDE HOPS TWO-SPOTTED SPIDER MITES	[redacted]	ID,WA	W	I	21			NORAM	SUBMITTED TO EPA:3/77.
00428	CARBARYL LENTILS ALFALFA LOOPER, WESTERN YELLOW-STRIPED WORM	[redacted]	ID,WA, ARS(WA)	W	I	21		76:ARS-WA	UC	76 PROJECT FOR AIR APPLIC: ARS(WA). SUBMITTED:7/76.
00432	PARATHION (METHYL) LENTILS ARMYWORMS, CUTWORMS, LOOPERS, APHIDS	[redacted]	ID,WA, ARS(WA)	W	I	21		76:ARS-WA	MONS	76 PROJECT FOR AIR APPLIC: ARS(WA). SUBMITTED:5/76.
00439	CARBOFURAN ONIONS ROOT MAGGOTS	[redacted]	OR	W	I	21			FMC	TOL PEND FOR ROOT MAGGOT.
00467	DINOCAP CURRANTS POWDERY MILDEW	[redacted]	OR	W	F	21			R+H	SUBMITTED:5/76.
00528	GLYPHOSATE LIMES (TAHITI) UNSPECIFIED PERENIAL WEEDS	[redacted]	FL	S	H	21			MONS	MFG TO PET FOR GRP TOL ON CITRUS:2/77.
00572	CHLROTHALONIL ENDIVE DOWNY MILDEW	[redacted]	NJ	NE	F	21			D-S	SUBMITTED:7/76.
00573	CHLOROTHALONIL ESCAROLE DOWNY MILDEW	[redacted]	NJ	NE	F	21			D-S	SUBMITTED:7/76.
00576	CHLOROTHALONIL MUSTARD DOWNY MILDEW	[redacted]	NJ	NE	F	21			D-S	SUBMITTED:7/76.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00619	METRIBUZIN TOMATOES GALINSOGA	[redacted]	NJ	NE	H	21			CHEM&G	TOL AND LABEL PENDING: 7/76.
00636	BENOMYL LETTUCE (FOLIAR) BOTRYTIS BLIGHT, SCLEROTINIA, ALTERNARIA, CERCOSPORA, SEPTORIA. POWDERY MILDEW	[redacted]	NC,NJ	NE S	F	21			DUPONT	MFG SUB PET TO EPA:3/77.
00647	GLYPHOSATE GRASS (FORAGE) VENEZUELA GRASS	[redacted]	PR	S	H	21			MONS	PET SUB FOR FORAGE GRASS + LEGUME.
00661	AZODRIN CORN SOUTHWESTERN CORN BORER	[redacted]	TX	S	I	21			SHELL	MFG SUB'PET FOR TOL ON KERNEL, GRAIN, FORAGE, FODDER:11/76.
00688	GLYPHOSATE APPLES (BEARING) PERENIAL WEEDS	[redacted]	OH	NC	H	21			MONS	TOL OF 0.2 PPM PEND ON POME FURIT:10/76.
00689	CARBARYL CELERY ASTER LEAFHOPPER	[redacted]	NY,FL,CA, MI,NY	NC NE S W	I	21			UC	SUBMITTED TO MFG:11/76. SUB TO EPA:3/77.
00699	CHLORPYRIFOS PLUMS LESSER PEACHTREE BORER	[redacted]	OH	NC	I	21			DOW	CONTACT MFG ON TOL PENDING.
00700	GLYPHOSATE PEACHES PERENIAL WEEDS	[redacted]	OH	NC	H	21			MONS	MFG SUB PET FOR STONE FRUIT:2/77.
00701	GLYPHOSATE GRAPES PERENIAL WEEDS	[redacted]	OH	NC	H	21			MONS	MFG SUB PET FOR GRAPES: 2/77.

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PR. NO	PESTICIDE / COMMODITY		STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00712	GLYPHOSATE CORN (SEED CROP) BROADLEAF WEEDS	[redacted]	ID	W	H	21			MONS	MFG SUB PET TO EPA:2/77.
00725	GLYPHOSATE FILBERTS WEEDS	[redacted]	ARS(OR)	W	H	21			MONS	PET SUB FOR NUTS.
00766	CALCIUM POLYSULFIDE BLUEBERRIES PHOMOPSIS STEM CANKER	[redacted]	NJ	NE	F	21			MILLER	SUB TO MFG:3/77. MFG SUB TO EPA:3/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00167	COPPER BROCCOLI BLACK ROT. BACTERIAL DISEASES	[redacted]	NE S	F	23			KOCIDE	SUBMITTED:11/76.
00168	COPPER BRUSSEL SPROUTS BLACK ROT. BACTERIAL DISEASES	[redacted]	NE	F	23			KOCIDE	SUBMITTED:11/76.
00169	COPPER CABBAGE BLACK ROT. BACTERIAL DISEASES	[redacted]	NC NE S	F	23			KOCIDE	SUBMITTED:11/76.
00170	COPPER CAULIFLOWER BLACK ROT. BACTERIAL DISEASES	[redacted]	NE	F	23			KOCIDE	SUBMITTED:11/76.
00449	CHLOROTHALONIL CHERRIES ALTERNARIA ROT	[redacted]	W	F	23			D-S	MFG SUB PET TO EPA: 6/76.
00510	COPPER HYDROXIDE PEACHES BACTERIAL SPOT	[redacted]	B	F	23			KOCIDE	TO BE SUBMITTED:11/76.
00542	ACEPHATE CORN (SWEET) APHIDS, LEPIDOPTEROUS LARVAE	[redacted]	NE	I	23			CHEV	LABEL + PET SUBMITTED: 10/76.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00714*	ETHEYLENE OXIDE BEEHIVES (EMPTY) BEE DISEASES	[redacted]	NE	F	31			UC	MFG SENT PROP LABEL AMEND TO EPA:11/76.
00734*	ZINC PHOSPHIDE HONEY + BEESWAX MICE CONTROL IN HIVES	[redacted]	NE	R	31			HOPKIN	PET SUB FOR NON-FOOD RULING:1/77.
00758	RESMETHRIN HONEY BEES KILL PEST BEES AND CONTROL DISEASES	[redacted]	NC NE W	I	31			PENICK	LABEL SUBMITTED TO EPA: 04/76.

[FR Doc.77-14957 Filed 5-26-77;8:45 am]

federal register

FRIDAY, MAY 27, 1977

PART VIII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Indiana	IN77–2093, IN77–2094, IN77–2095, IN77–2096, IN77–2097, IN77–2098, IN77–2099

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR77–4018	Feb. 4, 1977.
AR77–3082; AR77–4078; AR 77–4083.	Apr. 8, 1977.
Colorado:	
CO77–5049	May 6, 1977.
Florida:	
FL77–1024	Feb. 25, 1977.
FL77–1065	May 13, 1977.
Idaho:	
ID77–5045	Do.
Indiana:	
IN77–2006	Feb. 4, 1977.
IN77–2082; IN77–2083; IN 77–2084; IN77–2085.	May 13, 1977.
Iowa:	
IA77–4100	Do.
Kansas:	
MO77–4075; MO77–4076; KS77–4076; KS77–4079; KS77–4080; KS77–4081.	Apr. 8, 1977.
KS77–4085	Apr. 15, 1977.
Maryland:	
MD77–3017	Jan. 14, 1977.
Michigan:	
MI77–2050	May 6, 1977.
Missouri:	
MO77–4051	Mar. 4, 1977.
Nevada:	
NV77–5022	Mar. 18, 1977.
Oklahoma:	
OK77–4063	Mar. 11, 1977.
Texas:	
TX77–4006	Jan. 21, 1977.
TX77–4053	Mar. 4, 1977.
TX77–4101; TX77–4102	May 13, 1977.
Washington, D.C.:	
DC77–3040	Mar. 18, 1977.
Virginia:	
MD77–3041	Do.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR77–4061 (AR77–4106)	Mar. 11, 1977.

Signed at Washington, D.C. this 20th day of May 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: INDIANA
DECISION NO.: IN77-2094
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: DELAWARE
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING AND HEATING MECHANICS	$5.00				
BRICKLAYERS	5.00				
CARPENTERS	5.13				
CEMENT MASONS	5.00				
ELECTRICIANS	5.50				
INSULATORS	5.00				
LABORERS	4.00				
PAINTERS	5.75				
PLUMBERS	5.75				
ROOFERS	4.93				
SHEET METAL WORKERS	5.00				
TRUCK DRIVERS	4.75				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	6.00				
Bulldozer operators	6.00				

NEW DECISION

STATE: INDIANA
DECISION NO.: IN77-2093
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: BARTHOLOMEW
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$6.75				
CARPENTERS	5.53				
CEMENT MASONS	7.00				
HEATING MECHANICS	4.50				
LABORERS	4.00				
PAINTERS	6.00				
ROOFERS	5.04				
SHEET METAL WORKERS	4.50				
TRUCK DRIVERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	7.00				
Bulldozer operators	7.00				

NEW DECISION

STATE: INDIANA COUNTY: HENDRICKS
DECISION NO.: IN77-2095 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$4.00				
BRICKLAYERS	5.50				
CARPENTERS	4.33				
CEMENT MASONS	6.00				
ELECTRICIANS	4.00				
HEATING MECHANICS	5.00				
LABORERS	3.00				
PAINTERS	3.00				
PLUMBERS	5.56				
SHEET METAL WORKERS	5.00				
POWER EQUIPMENT OPERATORS:					
Dozer operators	5.50				
Backhoe operators	5.50				

NEW DECISION

STATE: INDIANA COUNTY: LAWRENCE
DECISION NO.: IN77-2096 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.00				
CARPENTERS	5.00				
CEMENT MASONS	5.00				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	4.50				
ELECTRICIANS	5.00				
LABORERS	3.00				
PAINTERS	4.75				
PLUMBERS	5.00				
ROOFERS	5.00				
SHEET METAL WORKERS	5.00				
SOFT FLOOR LAYERS	5.00				
TRUCK DRIVERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	5.00				
Grader operator	4.00				

NEW DECISION

STATE: INDIANA COUNTY: MADISON
DECISION NO.: IN77-2097 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING/HEATING MECHANICS	$5.75				
BRICKLAYERS/BLOCKLAYERS	6.00				
CARPENTERS	6.42				
CEMENT MASONS	5.48				
DRYWALL HANGERS	6.92				
ELECTRICIANS	7.09				
HOD CARRIERS	3.91				
LABORERS	3.86				
LANDSCAPERS	5.25				
PAINTERS	5.00				
PLUMBERS	5.82				
ROOFERS	5.48				
SHEET METAL WORKERS	5.75				
SOFT FLOOR LAYERS	5.24				
TILE SETTERS	5.00				
TRUCK DRIVERS	5.05				
POWER EQUIPMENT OPERATORS:					
Bulldozer operators	5.74				
Backhoe operators	5.00				

NEW DECISION

STATE: INDIANA COUNTY: STEUBEN
DECISION NO.: IN77-2098 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$7.00				
BRICKLAYERS	5.75				
CARPENTERS	5.89				
CEMENT MASONS	5.38				
DRYWALL FINISHERS	7.25				
DRYWALL HANGERS	7.25				
ELECTRICIANS	5.90				
HEATING MECHANICS	7.00				
INSULATION INSTALLERS	5.37				
LABORERS	4.00				
PAINTERS	5.40				
PLASTERERS	6.70				
PLUMBERS	5.79				
ROOFERS	5.65				
TRUCK DRIVERS	4.73				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	6.17				
Dozer operators	6.17				

NEW DECISION

STATE: INDIANA COUNTY: TIPPECANOE
DECISION NO.: IN77-2099 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$6.80				
BRICKLAYERS	6.25				
CARPENTERS	5.00				
CEMENT MASONS	5.43				
DRYWALL FINISHERS	7.00				
DRYWALL HANGERS	6.00				
ELECTRICIANS	5.76				
HEATING MECHANICS	7.34				
LABORERS	3.68				
PAINTERS	4.97				
PLUMBERS	6.50				
ROOFERS	5.55				
SHEET METAL WORKERS	6.89				
SOFT FLOOR LAYERS	7.10				
POWER EQUIPMENT OPERATORS:					
Bulldozer operators	5.25				
Grader operators	5.25				
Tractor operators	6.00				
Backhoe operators	6.71				

MODIFICATIONS P. 1

DECISION NO.: AR77-3082 - Mod. #2
(42 FR 18798 - April 8, 1977)
Union and Ouachita Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$9.64	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		

DECISION NO. AR77-4018 - Mod. #5
(42 FR 7040 - February 4, 1977)
Crawford, Sebastian and Washington Counties, Arkansas

CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$9.64	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		

DECISION NO.: AR77-4078 - Mod. #3
42 FR 18796 - April 8, 1977)
Pulaski County, Arkansas

CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$9.64	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		
Change modification No. 1 issued in Federal Register dated May 20, 1977 to read "modification No. 2"					

MODIFICATIONS P. 2

DECISION NO. AR77-4083 - Mod. #2
(42 FR 18800 - April 8, 1977)
Garland, Hot Springs and Clark Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$9.64	.35	.35		
Group II	8.76	.35	.35		
Group III	8.36	.35	.35		
Group IV	6.92	.35	.35		

MODIFICATIONS P. 3

DECISION NO. CO77-5049 - Mod. #2
(42 FR 23329 - May 6, 1977)
El Paso County, Colorado

Change:	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Educati and/or Appr. T
LABORERS	ZONE 1*	Zone 2*	Zone 3*				
Group 1	$ 5.50	$ 5.95	$ 6.40	.49	.55		.0
Group 2	7.00	7.45	7.90	.49	.55		.0
Group 3	7.28	7.73	8.18	.49	.55		.0
Group 4	7.50	7.95	8.40	.49	.55		.0
Group 5	7.55	8.00	8.45	.49	.55		.0
Group 6	7.70	8.15	8.60	.49	.55		.0

ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in Colorado Springs

ZONE 2: That area encompassed by 30 to 70 driving miles from the main Post Office in Colorado Springs

ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office in Colorado Springs.

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #FL77-1024 - Mod. #3 (42 FR 11193 - February 25, 1977) Orange County, Florida					
Change:					
Laborers:					
Air tool operator	$6.45	.25	.10		
Laborers	6.30	.25	.10		
Mason tenders	6.45	.25	.10		
Mortar mixers	6.45	.25	.10		
Pipelayers (concrete & clay)	6.45	.25	.10		
Plasterers tenders	6.45	.25	.10		
DECISION NO. FL77-1065 - Mod. #1 (42 FR 24575 - May 13, 1977) Brevard & Volusia (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only and including Melabar Radar Site), Florida.					
Add:					
Plumbers, pipefitters, steamfitters:					
Industrial (Powerhouses, chemical plants, missile sites, oil refineries, bulk plants, etc.)	$10.82	.57	.56	.60	.05

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #ID77-5045 - Mod. #1 (42 FR 24577 - May 13, 1977) Statewide Idaho					
Change:					
Electricians:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties:					
Electricians	$10.75	.70	1% + .50		1%
Cable splicers	10%overJR	.70	1% + .50		1%
Add:					
Plumbers:					
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, Shoshone Counties	11.60	.65	1.10	1.00	.11

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN77-2006 - Mod. #4 (42 FR 7046 - February 4, 1977) Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana					
Change:					
Glaziers:					
Benton Co. (E. of Rte. #41, S. to Gravel Hill)	$9.05	.40	.30		
Vanderburgh Co.	10.105	.48	.50	.85	
Plumbers; Steamfitters:					
Vanderburgh Co.	12.18	.58	.90		.06
DECISION NO. IN77-2083 - Mod #1 (42 FR 24588 - May 13, 1977) Lake, LaPorte, Porter, & St. Joseph Counties, Indiana					
Change:					
Ironworkers:					
LaPorte (Rem. of Co.), & St. Joseph Cos.	$10.10	.75	1.00		.01
Add:					
Glaziers:					
Lake (E. of Rte #41, excl. Hammond), LaPorte (W. of Rte #39), & Porter Cos.	9.05	.40	.30		
Painters:					
Porter Co. (S. of Hwy #6):					
Brush; Paperhanging; Taping on drywall; Sandblasting; Vinyl hanging	8.75				
Spray	9.75				
Work above 40 ft. above ground	9.00				

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN77-2083 - Mod. #1 (42 FR 24596 - May 13, 1977) Statewide, except Lake, LaPorte, Porter, & St. Joseph Counties, Indiana					
Change:					
Ironworkers:					
Elkhart, Fulton, Kosciusko, LaGrange (western ½ of Co.), Marshall, Pulaski, & Starke Cos.	$10.10	.75	1.00		.01
DECISION NO. IN77-2084 - Mod. #1 (42 FR 24555 - May 13, 1977) Brown, Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington Counties, Indiana					
Change:					
Carpenters:					
Lawrence & Orange Cos.:					
Carpenters; Soft floor layers	$9.87	.57	.50		
Millwrights; Piledrivermen	10.27	.57	.50		
DECISION NO. IN77-2085 - Mod. #1 (42 FR 24562 - May 13, 1977) Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne Counties, Indiana					
Change:					
Bricklayers; Stonemasons:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	$9.40	.80			
Marble setters; Tile setters:					
Fayette, Franklin, Rush, Union, & Wayne Cos.					
Tile setters	9.40	.80			

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IA77-4100 - Mod. #1 (42 FR 24609 - May 13, 1977) Des Moines County (City of Burlington & abutting municipalities & Burlington Ordnance Plant), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction: Ironworkers	$10.75	.55	.65		

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO77-4075 - Mod. #2 (42 FR 18815 - April 8, 1977) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas.					
Change: Soft floor layers	$8.71	.45	.75	10%	1%
DECISION #MO77-4076 - Mod. #1 (42 FR 18820 - April 8, 1977) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas					
Change: Soft floor layers	$8.71	.45	.75	10%	1%

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS77-4078 - Mod #2 (42 FR 18803 - April 8, 1977) Shawnee County, Kansas					
Change: Sprinkler fitters	$11.48	.60	.90		.08
DECISION #KS77-4080 - Mod. #2 (42 FR 18806 - April 8, 1977) Shawnee County, Kansas					
Change: Sprinkler fitters	11.48	.60	.90		.08

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KS77-4085 - Mod. #2 (42 FR 20063 - April 15, 1977) Leavenworth County, Kansas					
Change: Sprinkler fitters	$11.48	.60	.90		.08
DECISION #KS77-4081 - Mod. #2 (42 FR 18809 - April 8, 1977) Sedgwick County, Kansas					
Change: Sprinkler fitters	11.48	.60	.90		.08

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3017 - Mod. #7 (42 FR 3042 - January 14, 1977) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore, Baltimore City, Harford, and Howard, Maryland					
OMIT: Modification #6 issued in Federal Register Dated March 25, 1977, Page # 15253					
Glaziers:					
Inside work	$7.90	.25	.40		
Outside work	9.77	.80	1.53		.06
ADD:					
Glaziers	$9.77	.80	1.53		.06
DECISION #MI77-2050 - Mod. #1 (42 FR 23369 - May 6, 1977) Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda and Presque Isle, Counties, Michigan					
CHANGE:					
Sheet Metal Workers: Mason, Muskegon & Oceana Counties	$9.55	.67	.65	.67	.02

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO77-4051 - Mod. #4 (42 FR 12611 - March 4, 1977) Description of Work and Locations: Heavy and Highway Construction, Missouri					
Change:					
ELECTRICIANS:					
Zone 17					
Electricians	$10.99	.27	1%	7%+.30	½ of 1%
Cable splicers	11.24	.27	1%	7%+.30	½ of 1%
Omit:					
Zone 5					
PAINTERS					
Brush	8.75				
Spray, taping machine	9.75				
Bridges 75 ft. in height	9.75				
All structural steel over 50 ft. in height	9.50				
Sandblasting	9.75				
Bridge	9.50				
Add:					
Zone 5					
PAINTERS					
Brush	9.25				
Bridge	10.00				
Spray; storage bins & storage tanks underground, storage bins & storage tanks above ground which are over (40) ft. in height or depth; sandblasting operator; work performed on bridges 75 ft., in height	10.25				
All structural steel over 50 ft. in height	10.00				

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV77-3027 - Mod. #4 (42 FR 15273 - March 18, 1977) Clark County (does not include the Nevada Test Site), Nevada					
Add:					
Brick Tenders	$8.47	.51	$1.23	$1.00	
DECISION NO. OK77-4063 - Mod. #4 (42 FR 13790 - March 11, 1977) Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma					
CHANGE:					
GLAZIERS	$11.60				

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4006 - Mod. #4 (42 FR 4105 - January 21, 1977) Travis County, Texas					
Change:					
Ironworkers	$ 9.45	.55	.80		.12
Laborers:					
Group 1	5.655	.275	.30		.02
Group 2	5.805	.275	.30		.02
Group 3	5.98	.275	.30		.02
Group 4	6.055	.275	.30		.02
DECISION #TX77-4053 - Mod. #3 (42 FR 12668 - March 4, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Ironworkers	9.45	.55	.80		.12
Sheet metal workers:					
Zone 1 - Within a radius of 20 miles from the McLennan County Court House, Waco	9.26		.39		.05
Zone 2 - Over 20 miles but less than 45 miles including the towns of Hillsboro, Temple, Marlin, Gatesville & Clifton	9.76		.39		.05
Zone 3 - Over 45 miles	10.26		.39		.05

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4101 - Mod. #1 (42 FR 24705 - May 13, 1977) Bexar County, Texas					
Change:					
Carpenters:					
Carpenters	$ 8.14	.43	.40	.40	.05
Millwrights	8.44	.43	.40	.40	.05
DECISION #TX77-4102 - Mod. #1 (42 FR 24707 - May 13, 1977) Galveston & Harris Cos., Texas					
Change:					
Bricklayers & stonemasons:					
Galveston County	10.53	.63	.60		.06
Laborers:					
Group 1	7.58	.33	.40		.02
Group 2	7.755	.33	.40		.02
Group 3	7.855	.33	.40		.02
Group 4	8.13	.33	.40		.02
Group 5	7.705	.33	.40		.02
Group 6	8.005	.33	.40		.02

MODIFICATIONS P. 17

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #DC77-3040 - Mod. #4 (42 FR 15293 - March 18, 1977) Washington, D. C.					
CHANGE:					
BUILDING CONSTRUCTION (INCLUDING WMATA - RRTS)					
Laborers (excluding WMATA RRTS):					
Common laborers, landscapers	$8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, tunnesters, buggy mobiles, spaders, mortar men and scootcrates	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
Laborers (WMATA - RRTS ONLY)					
Group I	8.46	.60	.45		.05
Group II	8.61	.60	.45		.05
Group III	8.66	.60	.45		.05
Group IV	8.71	.60	.45		.05
Group V	8.91	.60	.45		.05
Group VI	9.11	.60	.45		.05
Group VII	9.235	.60	.45		.05
Group VIII	9.685	.60	.45		.05
Ironworkers, reinforcing	10.80	.62	.95		.03
Painters:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
Sprinkler fitters	11.70	.65	.95		.08

MODIFICATIONS P. 18

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3041 - Mod. #4 (42 FR 15268 - March 18, 1977) Montgomery and Prince Georges Counties, Maryland; Arlington County, Virginia; D.C. Training School, and for WMATA - RAPID RAIL TRANSIT SYSTEM PROJECTS ONLY, Alexandria, Virginia					
CHANGE:					
BUILDING CONSTRUCTION (INCLUDING WMATA - RRTS)					
Laborers (excluding WMATA RRTS):					
Common laborers, landscapers	$8.46	.60	.45		.05
Acetylene burners used on wrecking	8.96	.60	.45		.05
Air tool op., scaffold builders, paving breakers, tunnesters, buggy mobiles, spaders, mortar men and scootcrates	8.61	.60	.45		.05
Pipelayers	8.61	.60	.45		.05
Powdermen	9.635	.60	.45		.05
Powersaw, well points	8.71	.60	.45		.05
Laborers (WMATA - RRTS ONLY)					
Group I	8.46	.60	.45		.05
Group II	8.61	.60	.45		.05
Group III	8.66	.60	.45		.05
Group IV	8.71	.60	.45		.05
Group V	8.91	.60	.45		.05
Group VI	9.11	.60	.45		.05
Group VII	9.235	.60	.45		.05
Group VIII	9.685	.60	.45		.05
Ironworkers, reinforcing	10.80	.62	.95		.03
Painters:					
Brush, spray, paperhangers, tapers	10.54	.81	1.10		.06
Steel, sandblasting, swing stage, power brushing	11.04	.81	1.10		.06
Sprinkler fitters	11.70	.65	.95		.08

SUPERSEDEAS DECISION

STATE: Arkansas — COUNTY: Conway, Faulkner, Van Buren, Cleburne & Perry

DECISION NO. AR77-4106 — DATE: Date of Publication

SUPERSEDES DECISION NO. AR77-4061 dated March 11, 1977 in 42 FR 13723.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.05	.45	.50		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.70	.40	.35		.04
CARPENTERS:					
Cleburne, Van Buren, Faulkner County and the Eastern half of Conway and Perry Counties:					
Carpenters	8.63	.45	.35		.05
Millwrights & piledrivermen	9.13	.45	.35		.05
Western half of Conway and Perry Counties:					
Carpenters	7.63	.40	.30		.04
Millwrights & Piledrivermen	8.13	.40	.30		.04
CEMENT MASONS	8.27	.25			.03
ELECTRICIANS:					
Electricians	9.95	.40	1%		1/4%
Cable splicers	10.075	.40	1%		1/4%
ELEVATOR CONSTRUCTORS:					
Journeymen	8.88	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers - Probationary	50%JR				
GLAZIERS	7.90		.25		
IRONWORKERS	9.06	.45	.40		.01
LABORERS:					
Group I	5.82	.25	.35		.04
Group II	6.07	.25	.35		.04
Group III	6.22	.25	.35		.04
Group IV	6.32	.25	.35		.04
Group V	6.47	.25	.35		.04
Group VI	6.72	.25	.35		.04
Group VII	6.62	.25	.35		.04

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

GROUP II
Semi-skilled laborer; pipelayers, concrete-clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP III
Steelform setters, curb and gutters, grout and cement muckers
GROUP IV
Swinging scaffold, Barco, 90 lb pavement breaker, and burners
GROUP V
Nozzleman (Gunite, Grout, and sandblasterer; concrete pump (nozzle placer)
GROUP VI
Powderman & blasterers
GROUP VII
Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 8.85				.02
LINE CONSTRUCTION:					
Linemen	10.85		1%		3/8%
Cable splicers	10.975		1%		3/8%
Operator	10.85		1%		3/8%
Groundmen (advanced)	65%JR		1%		3/8%
Groundmen (1st 6 months)	49%JR		1%		3/8%
Winch equipment	73%JR		1%		3/8%
MARBLE, TILE AND TERRAZZO WORKERS	7.40				
MARBLE, TILE & TERRAZZO HELPERS	5.35				
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	7.80		.35		.02
Spray gun operators and sand blasterers	8.40		.35		.02
All skelton steel and all work on stages, structural steel over 30 feet high	8.05		.35		.02
PLASTERERS	7.80				.02
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	10.35	.45	.55		.02
Over 10 mile from Pulaski County Courthouse	10.65	.45	.55		.02
POWER EQUIPMENT OPERATORS:					
GROUP I	9.64	.35	.35		
GROUP II	8.76	.35	.35		
GROUP III	8.36	.35	.35		
GROUP IV	6.92	.35	.35		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP II
Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS:
All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS:
Oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$7.60		.10		
SHEET METAL WORKERS	9.65	.40	.40		.02
SPRINKLER FITTERS	10.12	.65	.95		.08

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Paid Holidays - A through F
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employees who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

[FR Doc.77-14844 Filed 5-26-77;8:45 am]

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TUESDAY, MAY 31, 1977

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

PART 220—SCHOOL BREAKFAST PROGRAM

[CFR Correction]

The following are corrections to Title 7, Parts 210 to 699, revised as of January 1, 1977.

1. In § 210.8, the title and paragraph (e) should read as set forth below:

§ 210.8 Requirements for participation.

* * * * *

(e) The State agency, or the Department through FNSRO where applicable, shall enter into a written agreement with each School Food Authority for schools approved for participation in the Program. Such agreements shall provide that the School Food Authority shall, with respect to participating schools under its jurisdiction:

(1) Operate a nonprofit lunch program and observe the limitations on the use of Program income set forth in § 210.7(b) and on any competitive food service set forth in § 210.15b of this part;

(2) Limit its operating balance to a level consistent with Program needs;

(3) Serve lunches which meet the minimum requirements prescribed in § 210.10 during a period designated as the lunch period by the School Food Authority;

(4) Price the lunch as a unit;

(5) Supply lunches without cost or at reduced price to all children who are determined by the school food authority to be unable to pay the full price thereof in accordance with the free and reduced price policy statement approved under Part 245 of this chapter;

(6) Make no discrimination against any child because of his inability to pay the full price of the lunch in accordance with such approved free and reduced price policy statement;

(7) Claim reimbursement only for the type or types of lunches specified in the agreement;

(8) Submit claims for reimbursement in accordance with procedures established by the State Agency, or FNSRO where applicable;

(9) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations;

(10) Purchase, in as large quantities as may be efficiently utilized in its lunch program, foods designated as plentiful by the State Agency or the department;

(11) Accept and use, in as large quantities as may be efficiently utilized in its lunch program, such foods as may be offered as a donation by the Department;

(12) Maintain necessary facilities for storing, preparing and serving food;

(13) Maintain a financial management system as prescribed by the State agency, or FNSRO where applicable;

(14) Upon request, make all accounts and records pertaining to its lunch program available to the State agency and to FNS, for audit or review, at a reasonable time and place. Such records shall be retained for a period of three years after the end of the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit.

(15) Comply with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15).

(16) Retain the individual applications for free and reduced price lunches submitted by families for a period of three years after the end of the fiscal year to which they pertain, except that if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit;

(17) Estimate, as of October 1 and March 1 of each year, the number of children in the school who are eligible for free and reduced price lunches under the school's approved eligibility criteria for such lunches. The data used to make these estimates shall be maintained as part of the records to be retained by School Food Authorities.

2. In § 220.16, the words "or School Food Authority", "or School Food Authority's" and "or School Food Authorities" are deleted wherever they appear.

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

BEEF RESEARCH AND INFORMATION

Procedure for the Conduct of Referendums in Connection

CROSS REFERENCE: For a document issued jointly by the Department of Agriculture's Agricultural Stabilization and Conservation Service and Agricultural Marketing Service on the subject of beef research and information, see FR Doc. 77-15410 appearing in the rules and regulations section of this issue.

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973-74 and Subsequent Marketing Years

TRANSFER OF FLUE-CURED TOBACCO QUOTAS BY LEASE AND OTHER MISCELLANEOUS AMENDMENTS

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the eligibility requirements for lease and transfer of flue-cured tobacco quota if the transfer agreement is filed after June 14. The rule also requires tobacco dealers to obtain the signature of the seller of flue-cured tobacco on a prescribed form if tobacco is purchased at nonauction. The changes in leasing were requested by flue-cured tobacco producers because many producers were speculating in flue-cured tobacco leasing. This rule is designed to prevent speculation in flue-cured tobacco leasing.

EFFECTIVE DATE: June 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack S. Forlines, Program Operations Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013. (202) 447-7935.

SUPPLEMENTARY INFORMATION: On March 29, 1977, a notice of proposed rulemaking was published (42 FR 16633) relating to the requirements that a flue-cured tobacco farmer must meet in order to transfer flue-cured tobacco quota by lease if a transfer agreement is filed with the county ASC committee after June 14. The primary purpose of the proposal was to stop speculation on leasing quota. The proposal also included a change to require the signature on form MQ-72-2 of the seller of flue-cured tobacco if the tobacco is sold as a nonauction sale. Other less significant changes were proposed.

Most of the comments received in response to the proposal were favorable. A few commenters said that the existing rules for leasing flue-cured tobacco quota were adequate. One commenter said that the proposed change as it relates to a farm's eligibility to receive leased quota is not needed because it would create a hardship on a farmer and would almost stop leasing of flue-cured tobacco quota after June 14. Another commenter said that the proposal seemed too complicated. Other comments were received

which were not within the scope of the proposal.

DISCUSSION OF COMMENTS

1. *Are existing rules adequate?* Public meetings were held throughout the flue-cured tobacco producing area in December 1976. Many participants expressed the opinion that steps needed to be taken to prevent speculation on leasing of flue-cured tobacco quota. It was said that some farmers were leasing quota to their farm without expecting to produce enough tobacco to market their entire quota. These farmers leased the quota to other farmers during the selling season. They charged the receiving farmer a much higher rate for the quota than they initially had paid for the quota earlier in the year. The administrator believes that most flue-cured tobacco growers want the rules changed to stop the practice of speculation in leasing flue-cured tobacco quota. It is the administrator's opinion that the adoption of the rule will meet that objective.

2. *Would limiting the amount of quota that could be transferred to a farm after June 14 cause a hardship on the farmer?* Some additional effort may be required by the farmer; however, leasing excessive quota to a farm is another means of speculating in leasing. The unused quota is available to the farmer to lease from the farm the next year with a similar potential for profit as if leased in the same year. The administrator does not believe an undue hardship is placed upon the farmer who receives leased quota because the farmer is permitted to market ten percent over the effective farm marketing quota without having to pay a marketing quota penalty. With this provision a farmer should be able to lease within the limits provided by the rule and yet market his tobacco without a marketing quota penalty.

3. *Comments beyond scope.* Beyond the scope of the proposal were comments:

a. Relating to the price paid for flue-cured tobacco quota when leasing.

b. To prohibit leasing of flue-cured tobacco quota after June 14.

c. Relating to grading and marketing of tobacco.

CHANGES WHICH WERE NOT IN THE NOTICE OF PROPOSED RULEMAKING

This rule includes changes which were not in the notice of proposed rulemaking as follows:

1. The first sentence in § 725.50 is amended to make a minor correction required by the previous addition of a new § 725.116 (42 FR 9159).

2. Section 725.72(c)(3)(ii) is amended to provide that if the effective farm marketing quota for a transferring farm exceeds 2,000 pounds a transfer may not be approved unless the transferring farm and the operator of the receiving farm each have planted at least 50 percent of the allotment that was in effect for their respective farm prior to June 15. Previously a transfer could be approved if the "farm marketing quota" (basic quota) did not exceed 2,000 pounds even though the "effective farm marketing quota" exceeded 2,000 pounds. This permitted a farmer to speculate on leasing by transferring large amounts of quota to a farm prior to June 15, planting no tobacco on the farm, and transferring the quota from the farm after June 14 at a price greater than initially was paid for the quota. This change is made to stop this practice.

3. Section 725.87(f) is amended to provide that if the estimated pounds of tobacco on hand from a farm are less than the effective farm marketing quota the county committee may consider the estimated pounds as the effective farm marketing quota for purposes of issuing a marketing card even though quota may be transferred from the farm by the provisions of § 725.72. Previously an exception applied to a farmer who was eligible to transfer quota because the total effective farm marketing quota was needed in order to transfer quota at a market town location. The current rule requires the farmer to file all transfers of quota at the county ASCS office of the county in which the farm is located for administrative purposes.

The amendment to the regulations is as follows:

1. The table of contents is amended by revoking and reserving § 725.61, as follows:

Sec.

* * * * * * *

725.61 [Reserved]

* * * * * * *

§ 725.50 [Amended]

2. In § 725.50 the first sentence is amended by substituting the words "this subpart" in lieu of the words "§ 725.50 through 725.115".

3. Section 725.53 is amended to read as follows:

§ 725.53 Extent of determinations, computations, and rule for rounding fractions.

(a) *General.* All prescribed rounding shall be according to the provisions of Part 793 of this chapter.

(b) *Allotments.* Farm acreage allotments shall be determined in hundredths of an acre.

(c) *Yields.* Yields shall be determined in whole pounds.

(d) *Percentage reduction for violation.* A percentage reduction in an allotment for violation of this part shall be determined in tenths of a percent.

§ 725.61 [Reserved]

4. Section 725.61 is revoked and reserved.

§ 725.66 [Amended]

5. In § 725.66, paragraph (b) is amended by deleting the words "as determined under Part 718 of this chapter" from the first sentence and paragraph (c) is revoked and reserved.

§ 725.68 [Amended]

6. In Section 725.68, paragraph (d) is amended by substituting the words "established and publicized by the State committee" in lieu of the words "specified in Part 731 of this chapter" at both places these words are used in the paragraph.

7. In § 725.72 paragraphs (c)(3) and (l) are amended to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

* * * * * * *

(c) * * *

(3) * * *

(ii) Not be made if the effective farm * * *.

(iii) * * *

(iv) Not be made if the pounds of quota to be transferred from the lessor farm exceed the results obtained when the reported (or determined) acreage of tobacco in the lessor farm is multiplied by the farm yield (§ 725.51(o)) for the farm and the product is reduced by the total pounds of tobacco marketed and/or available for marketing (based on estimated pounds of tobacco on hand and/or in process of being produced) from the farm in the current year.

(v) Not be made if the pounds of quota to be transferred to the lessee farm exceed the difference obtained by subtracting the effective farm marketing quota (the quota prior to the filing of the transfer agreement) for the lessee farm from the total pounds of tobacco marketed and/or available for marketing (based on estimated pounds of tobacco on hand and/or in process of being produced) from the farm in the current year.

* * * * * * *

(l) *Effective of transfer on price support eligibility and allotment reductions for a violation.* The effective farm acreage allotment and effective farm marketing quota prior to approval of a transfer of quota will be used in determining:

(1) Eligibility of the farm for price support if the transfer agreement was filed after the farm operator reported the acreage of tobacco on the farm.

(2) The percentage of reduction in a farm acreage allotment for a violation of the regulations in this subpart if the violation takes place prior to approval of the transfer.

* * * * * * *

(8) In § 725.87, paragraph (f) is amended by deleting the words "and the quota is not eligible to be transferred from the farm under the provisions of § 725.72," from the first sentence, paragraph (d) is amended, and paragraph (g) is added to read:

§ 725.87 Issuance of marketing cards.

* * * * * * *

(d) *Farms not eligible for price support.* The marketing card issued for a farm shall have the notation "No Price Support" when the farm does not qualify for price support eligibility under the provisions of Part 1464 of this chapter.

* * * * * * *

(g) *Marketing cards for producers of registered or certified flue-cured tobacco seed.* Producers of registered or certified flue-cured tobacco seed may devote flue-cured tobacco acreage to seed production without such tobacco affecting the farm's eligibility for price support if an agreement is signed by the farm operator, and the producer if different from the operator, which provides:

(1) For the destruction prior to harvest of all tobacco produced on the acreage designated for seed production.

(2) That the producers shall pay the cost of compliance visits to a farm by representatives of the county committee for the purposes of (i) designating and determining the acreage for seed production and (ii) determining that no tobacco has been harvested from the acreage designated for seed production and to witness destruction of the tobacco leaves.

(3) That the producer(s) signing the agreement shall agree to timely notify the county office when the tobacco seed have been harvested.

(4) That the planting of the tobacco acreage for seed production will not create history acreage for the purpose of establishing future farm allotments.

(5) That if the county committee determines that any of the terms and conditions of the agreement have been violated or any material misrepresentation has been made, any marketing card issued for the farm in recognition of the agreement shall be recalled and canceled, and a marketing card shall be issued to reflect that the tobacco produced on the farm is not eligible for price support.

* * * * * * *

§ 725.95 [Amended]

9. Section 725.95 is amended by deleting the period at the end of the first sentence in paragraph (b) and adding the following: "plus the amount determined by multiplying the farm yield times the number of acres harvested in excess of the effective farm acreage allotment.".

§ 725.98 [Amended]

10. In § 725.98, paragraph (a) is amended by deleting the words "in a certification county (as defined in Part 718 of this chapter)" in the second sentence.

11. Section 725.99 is amended by revoking and reserving subparagraph (a)(4)(v), by deleting the first two sentences following subparagraph (a)(4)(xvii) and by revising subparagraph (a)(8) and paragraph (k) to read as follows:

§ 725.99 Warehouseman's records and reports.

* * * * * * *

(a) * * *

(8) *Nonquota tobacco or quota tobacco of a different kind.* Should tobacco be presented for sale that is represented to be nonquota tobacco or should there be a question as to what kind of quota tobacco is being offered, an inspection shall be obtained from the Agricultural Marketing Service of this Department (AMS) after the tobacco is weighed and in line for sale. The basket ticket for the tobacco shall be cross-referenced to the sale bill by sale bill number and date. The sale bill shall show the producer's name and address and the State and county code and farm number of the farm on which the tobacco was produced. If an AMS inspection shows that a basket or lot of tobacco is of a different kind than that identified by the basket ticket after it is weighed in and a sale bill prepared, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared. Copies of the basket ticket and sale bill shall be furnished to the State office at the end of the sale day.

* * * * * * *

(k) *Basket, or sheet identification and cross-referencing between tobacco sale bill, basket ticket, and bill to buyer.* Each warehouseman shall record the weight of each basket or sheet of tobacco on the tobacco sale bill and the basket ticket at the time the tobacco is weighed for marketing. The sale bill number shall be recorded on the basket ticket which is prepared for the tobacco. When the tobacco has been sold at auction, the bill-out invoice to the buyer shall include the warehouse registration number (warehouse code) and the sale bill number and line number of the entry on the sale bill.

* * * * * * *

12. In § 725.100, paragraphs (b)(1)(ii), (c)(3), and (f)(1) are amended to read as follows:

§ 725.100 Dealer's records and reports.

* * * * * * *

(b) * * *

(1) * * *

(ii) In addition a Form MQ-72-2, Report of Tobacco Nonauction purchase, shall be prepared and shall show: (A) Date of purchase, (B) identification number of buyer, (C) identification or producer selling the tobacco as shown on the marketing card, including his name and address and complete farm number, (D) type code 10, (E) pounds purchased, (F) amount of penalty collected, (G) the signature of the seller, and (H) whether the pounds marketed were determined by weighing or by estimating. Each nonauction purchase of tobacco made by the dealer shall be recorded on MQ-79.

* * * * * * *

(c) * * *

(3) The date to be entered on MQ-72-2, Report of Tobacco Nonauction Purchase, for nonauction purchases from a producer shall be that enumerated under paragraph (b)(1)(ii) of this section. For nonauction purchases from a dealer, the data to be entered on MQ-72-2 shall be the following: (i) Date of purchase; (ii) identification number of buyer; (iii) identification number of dealer making the sale; (iv) type code 10, (v) pounds purchased; (vi) signature of seller; and (vii) whether the pounds marketed were determined by weighing or by estimating.

* * * * * * *

(f) * * *

(1) Execute a basket ticket on which shall be imprinted the type of designation for the kind of quota tobacco normally marketed in the area which shows: (i) the weight of the tobacco in the basket or sheet, (ii) the sale bill number and line number of the sale bill on which the basket or sheet of tobacco is recorded;

* * * * * * *

(Sec. 301, 313, 314, 316, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65–66, as amended, 72 Stat. 995; section 401, 63 Stat. 1054, as amended, sections 106, 122, 125, 70 Stat. 191, 195, 196, as amended, section 16(e), 76 Stat. 606; (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372–1375, 1377, 1378, 1421, 1813, 1824, 1836), (16 U.S.C. 590p(e)).)

Signed at Washington, D.C., on May 20, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-15317 Filed 5-27-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Suspension of Regulations for Certain Varieties of Cherries

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This rule suspends the grade, size, and container regulations on cherries of the Rainier and Royal Anne and other similar varieties commonly referred to as "light sweet cherries," imposed under the marketing agreement and order. The quantities of these varieties of cherries shipped in the fresh market is minimal, therefore, it is not necessary that these varieties be regulated in order to effectuate the declared policy of the act.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to § 923.53 of the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), and on the basis of the recommendation of the Washington Cherry Marketing Committee established under the order, and other available information, it is found that this action will tend to effectuate the declared policy of the act.

(2) It is further found that it is impracticable and contrary to the public

interest to give preliminary notice, engage in public rulemaking procedure and postpone the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: Some shipments of these varieties of cherries may be made by June 1, 1977, and this suspension from requirements should apply to those shipments; and this action relieves restrictions on the handling of certain varieties of cherries, thus, handlers require no additional time or preparation to comply. Therefore, § 923.315 (a) and (b) (41 FR 26851) are revised to read as follows:

§ 923.315 Cherry Regulation 15.

Order. (a) *Grade and sizes.* During the period July 1, 1976, through June 30, 1977, no handler shall handle, except as otherwise provided in paragraphs (b) and (c) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries meet each of the following applicable requirements:

* * * * *

(b) *Containers.* During the period July 1, 1976, through June 30, 1977, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries," unless such cherries are in containers which meet each of the following applicable requirements:

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated May 24, 1977, to become effective June 1, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–15318 Filed 5–27–77;8:45 am]

[Valencia Orange Reg. 556, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 20–26, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period May 20–26, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 150,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 908.856 Valencia Orange Regulation 556 (42 FR 25719) are hereby amended to read as follows:

§ 908.856 Valencia Orange Reg. 556.

* * * * *

(b) * * *

(1) * * *

(i) District 1: 348,000 cartons;

(ii) District 2: 502,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31 as amended (7 U.S.C. 601–674).)

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–15405 Filed 5–27–77;8:45 am]

[Lemon Reg. 93, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 22–28, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period May 22–28, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 25,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.393 Lemon Regulation 93 (42 FR 25849) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period May 22, 1977, through May 28, 1977, is established at 335,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: May 25, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–15406 Filed 5–27–77;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES) DEPARTMENT OF AGRICULTURE

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Procedure for the Conduct of Referendums in Connection With Beef Research and Information Order

AGENCIES: Agricultural Marketing Service and Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Producer Referendum.

SUMMARY: This document announces a referendum among cattle producers to determine whether they approve issuance of an order establishing a program of research and information for cattle, beef, and beef products. The Secretary of Agriculture on April 15, 1977, announced a decision to issue such an order. Under the Beef Research and Information Act, an order becomes effective only if it is approved by cattle producers who vote in a referendum for producers. This notice announces the representative period of cattle ownership to be eligible to register and vote; the registration and voting periods; and the place to register and vote.

DATES: Registration, June 6 through June 17, 1977. Voting, July 4 through July 15, 1977. Representative period of ownership of cattle for determining eligibility of producers to vote, January 1 through December 31, 1976.

FOR FURTHER INFORMATION CONTACT:

Robert Cook, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Room 3639 South Building, Washington, D.C. 20250 (202) 447–7997.

SUPPLEMENTARY INFORMATION: A decision by the Secretary of Agriculture to issue a beef research and information order establishing a program of research and information for cattle, beef, and beef products as authorized by the Beef Research and Information Act (7 CFR 2901 et seq.) was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19865). As required by Section 9 of the Act, the Order will become effective only if approved by cattle producers who vote in a referendum. For approval, ballots must be cast by at least 50 percent of the producers registering to vote in the referendum and not less than two-thirds of those voting must favor or approve issuance of the Order.

Notice is hereby given of a referendum to determine whether cattle producers approve the Order issued by the Secretary of Agriculture on April 15. The registration period will be June 6 through June 17, 1977. The voting period will be July 4 through July 15, 1977. The representative period of ownership of cattle to determine the eligibility of producers to register and vote in the referendum is January 1 through December 31, 1976. Registration and voting will be conducted through county offices of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

Issued at Washington, D.C. this 25th day of May, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

WILLIAM T. MANLEY,
Acting Administrator, Agricultural Marketing Service.

[FR Doc.77–15410 Filed 5–27–77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 1]

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–5)

MISCELLANEOUS AMENDMENTS

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: In response to questions raised by several participants in the CCC Export Credit Sales Program (7 CFR Part 1488), these amendments clarify the regulations with respect to the U.S. bank's liability with regard to risk for payment of bank obligations confirmed by them. Also, these amendments make a minor editorial change concerning additional documents which CCC may require from exporters. These changes will better inform participants as to program requirements.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

L. T. McElvain, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Ave. SW., Washington, D.C. 20250, telephone 202–447–3224.

SUPPLEMENTARY INFORMATION: Since the amendments are primarily for clarification of the regulations and in view of the urgent need for such clarification, it is hereby found and determined that compliance with the procedure for notice of proposed rulemaking and public participation is unnecessary. Therefore, these amendments are issued without compliance with such procedure.

RULE

Accordingly, Part 1488 of 7 CFR containing the terms and conditions of the CCC Export Credit Sales Program regulations (GSM–5) (42 FR 10999, corrected at 42 FR 13535 and 42 FR 13561) is hereby amended as follows:

§ 1488.8 [Amended]

1. In § 1488.8, paragraph (a) is amended by adding after the words "in paragraphs (b) through (e) of this section" the words "and any documentation and certifications required by any supplements to these regulations."

2. In § 1488.8, paragraph (f) is amended by adding before the comma appearing after the words "in paragraphs (b) through (e) of this section" the words "and any documentation and certifications required by any supplements to these regulations."

3. In § 1488.12, paragraph (a) is amended to read as follows:

§ 1488.12 Coverage of bank obligations.

(a) U.S. banks and branch banks shall be liable without regard to risk (i) for payment of bank obligations issued by them or (ii) for payment of bank obligations confirmed by them if a requirement for such confirmation is included in the financing agreement.

* * * * *

4. In § 1488.12, paragraph (b) is amended by adding "(a)," after the words "as provided in paragraphs".

5. In § 1488.12, paragraph (f) is amended by (i) adding "(a)," in the first sentence after the words "Except as provided in paragraphs" and (ii) adding the words, "except as provided in paragraph (a) (ii)," in the third sentence after the words "For the confirmed amount,".

§ 1488.13 [Amended]

6. In § 1488.13, the fifth sentence is amended by adding "(a)," after the words "except as provided in § 1488.12".

§ 1488.14 [Amended]

7. In § 1488.14, the third sentence is amended by adding after the words "for which payment is assured by a bank obligation issued" the words "or confirmed for all risks according to § 1488.12 (a) (ii)".

(Sec. 5(f), 62 Stat. 1072 (15 U.S.C. 714c); sec. 4, 80 Stat. 1538 (7 U.S.C. 1707a).)

Signed at Washington, D.C., on May 25, 1977.

GEORGE S. SHANKLIN,
Acting Vice President, Commodity Credit Corporation and Acting General Sales Manager, Office of the General Sales Manager.

[FR Doc.77–15412 Filed 5–27–77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC–0072, FC–0073, FC–0074]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: May 23, 1977.

FOR FURTHER INFORMATION CONTACT:

D. Edwin Schmelzer, Chief, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2412).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

12 CFR PART 226, FC–0072

§ 226.13(a) Bank identification card that serves specific substantive purpose and is issued on an unsolicited basis may be converted into credit card after issuance, provided credit capability is attached only after customer has expressly requested such capability. Card need not be returned for re-encoding; necessary computer programming can take place at bank operations center.

MAY 3, 1977.

This is in response to your letter of * * *, in which you request an official staff interpretation of Regulation Z.

Your inquiry relates to § 226.13(a) and involves a variation of the facts on which official staff interpretation FC–0041 was based. Interpretation FC–0041 provides that the return and re-encoding of an existing check identification card (issued on an unsolicited basis with no credit privileges attached) is an acceptable manner of complying with § 226.13(a) of the regulation. By such re-encoding, which occurs only on the customer's specific request for attachment of credit privileges to a card, a check identification card is converted into a credit card.

You state that your bank's check identification card serves a specific substantive purpose other than to provide credit (namely, to access the customer's checking or savings account funds through automatic tellers or electronic terminals) at the time it is issued to a customer on an unsolicited basis. Withdrawals are limited to the balance in the customer's deposit account unless the customer has executed a specific written request for attachment of credit privileges to the card. Thus, only customers who have expressly requested attachment of such privileges are able to use a check identification card as a credit card.

The difference between your bank's system and the one described in FC–0041 is that under your system no additional encoding of a card is required. Whenever a customer requests credit capability on a card the necessary computer programming takes place at the bank operations center.

It is staff's opinion that the dictates of § 226.13(a) are satisfied so long as credit capability is attached to a card which is usable for a specific substantive purpose other than obtaining credit only after a customer has expressly requested that such capability be attached. In staff's opinion, therefore, the method contemplated by your bank for issuing the cards would not be an unsolicited issuance of a credit card under Regulation Z.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts outlined above. I trust it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

12 CFR PART 226, FC–0073

§ 226.4(a)(6) Creditor may exclude cost of VSI insurance from finance charge by complying with § 226.4(a)(6) even though creditor has knowledge that insurance is unavailable to customers on an individual basis.

MAY 4, 1977.

This is in response to your request of * * *, for an official staff interpretation of Regulation Z with respect to the treatment of vendor's single interest (VSI) insurance premiums under § 226.4(a)(6). Your client, in connection with its financing of automobile purchases, requires that VSI insurance coverage be obtained. The relevant portion of the disclosure regarding this insurance is as follows:

Purchaser may choose person through whom required insurance is to be obtained.

Vendor's single interest insurance is available at a cost of $------ for the term of the contract.

The insurer waives rights of subrogation.

You state that your client, in accordance with § 226.4(a)(6), reflects the VSI premium, when financed, as a separate component of the amount financed and excludes the same from the finance charge.

It has recently come to the attention of your client that, as a practical matter, such coverage generally is unavailable to individual customers from licensed insurance companies in the State. Your client is unaware of the precise reason for the unavailability of such coverage.

You inquire whether your client may continue to exclude the VSI insurance premium from the finance charge by complying with § 226.4(a)(6) with respect to providing a written statement to the effect that it is permissible for the customer to procure the VSI insurance from or through an entity other than the creditor.

It is the staff's opinion that your client may continue to exclude the cost of the VSI insurance premium from the finance charge by disclosing that the customer may choose the person through which the insurance is to be obtained in addition to disclosing the cost, if the insurance is procured from or through the creditor. Your client's subjective knowledge of the availability of individual VSI insurance coverage need not be the factor which determines the treatment of the premium amount for disclosure purposes; that knowledge may be incomplete and the customer may, in fact, be able to obtain VSI insurance from a source unknown to your client. While it may be true that such insurance is generally unavailable to individual customers at the present time, there is no requirement in the regulation that such insurance coverage actually be available from persons other than the creditor in order to exclude the premium amount from the finance charge.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d) of Regulation Z and limited to the facts outlined herein. It appears that your client may be a creditor subject to the law of the State of Connecticut and not the Federal law. Since that State has been granted an exemption under the relevant portion of the Truth in Lending Act, you may wish to contact the office of Mr. Lawrence Connell, Jr., the State Bank Commissioner, for his views.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

12 CFR PART 226, FC–0074

§ 226.2(s) Seller that is a creditor as to one account is not a creditor as to another account that does not involve the use of a credit card and is neither subject to a finance charge nor payable in more than four instalments.

MAY 4, 1977.

This will respond to your letter of * * *, in which you request an official staff interpretation of § 226.2(s) of Regulation Z.

Your client, a retail seller, offers two separate types of credit accounts: a revolving open end account to which a finance charge is applied, and a single purchase contract account which does not involve the use of a credit card, imposition of a finance charge, or payment by agreement in more than four instalments. You ask whether, if a retailer is a "creditor" in connection with the first account, it is a creditor whenever it extends "credit" as defined in § 226.2(q).

Section 226.2(s) defines a "creditor" as: A person who in the ordinary course of business regularly extends * * * consumer credit * * * which is payable by agreement in more than four instalments, or for which the payment of a finance charge is or may be required.

Although the above quoted terminology may provide the basis for an argument to the effect that one who extends credit of the type described in the ordinary course of business becomes a creditor whenever "credit" of any type is extended, the staff believes a more limited coverage is intended by the definition. Even though a seller is a creditor under the terms of one purchasing or loan arrangement, it is not necessary to make disclosures under the regulation when sales are made on an account that does not involve the use of a credit card, and that is neither subject to a finance charge nor payable by agreement in more than four instalments. As to those accounts which do not involve these elements the seller is not a creditor for purposes of regulation Z.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation. The interpretation relates solely to the issues addressed herein. I note that your client is a creditor subject to the laws of the State of Connecticut and not the Federal law. Since that State has been granted a limited exemption under the Truth in Lending Act, I suggest that you contact the office of Mr. Lawrence Connell, Jr., Bank Commissioner of the State of Connecticut, for his views.

We hope our response has been helpful. If you have further questions, please do not hesitate to contact us.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, May 20, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–15286 Filed 5–27–77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76–EA–67; Amdt. 39–2887]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

Correction

In FR Doc. 77–14115 appearing at page 25722 in the issue for Thursday, May 19, 1977, in the second line of the text of the airworthiness directive, first column, page 25723, "Serial Numbers 1001 and 1043" should read "Serial Numbers 1001 to 1043".

[Docket No. 77–WE–15–AD, Amdt. 39–2911]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Company Model DC–10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: An emergency airworthiness directive (AD) was issued on May 6, 1977, as a result of an uncontained compressor disc failure, in AiResearch auxiliary power units (APU). This AD prohibits in-flight operation of the APU installed in DC–10 aircraft to minimize the potential hazard of such failures.

DATES: Effective date: June 3, 1977, for all persons except those to whom it was made effective by telegram dated May 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone 213–536–6351; or Richard G. Wittry, Attorney, Office of the Regional Counsel, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone 213–536–6274.

SUPPLEMENTARY INFORMATION: This AD is required because of uncontained separation of the compressor first stage disc of the AiResearch Model TSCP700 Series APU's installed in these aircraft. In at least one case, failure of this part in an APU installed in a similar installation resulted in the compressor assembly becoming unstacked and the second stage compressor disc was ejected through the APU compartment and released from the aircraft. Primary cause of the failure of the first stage disc appears to be low cycle fatigue. Since this problem could affect other APU's of the same type, the agency has determined that aircraft operating limitations are necessary and is requiring installation of a placard and incorporation of an airplane flight manual limitation prohibiting in-flight operation of the APU or equivalent changes approved by the Chief, Aircraft Engineering Division, FAA Western Region.

The principal authors of this document are John A. Kenworthy, Aircraft Engineering Division, and Richard G. Wittry, Attorney, Office of the Regional Counsel.

Since it was found that immediate corrective action was required notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of airplanes by individual telegrams dated May 7, 1977. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

MCDONNELL DOUGLAS: Applies to DC–10–10, –10F, –30, –30F, and –40 Series airplanes, certificated in all categories, equipped with AiResearch Model TSCP700 Series APU's.

To prevent secondary damage to the aircraft during flight, due to compressor disc failure, accomplish the following:

(a) Immediately upon receipt of this telegram, advise flight crews by the most practicable means, of the action required by (b).

(b) Within seven days after the effective date of this AD, unless already accomplished, install a placard, at the flight engineer station, containing the following information: "Do not operate the APU in-flight".

(c) Within sixty days after the effective date of this AD, unless already accomplished, incorporate the following limitation in the appropriate FAA approved airplane flight manual (AFM), under the heading APU in the limitations section, reports MDC–J1010, MDC–J1030, MDC–J5830, MDC–J1040, or MDC–J2140: "Do not operate the APU in-flight".

(d) Equivalent placards and revised AFM pages, may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment is effective June 3, 1977, for all persons except those to whom it was made effective by telegram dated May 7, 1977, which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif. on May 19, 1977.

M. C. BEARD,
Acting Director,
FAA Western Region.

[FR Doc.77–15295 Filed 5–27–77;8:45 am]

[Docket No. 15694, Amdt. 39–2912]

PART 39—AIRWORTHINESS DIRECTIVES

Messerschmitt-Bolkow-Blohm (MBB) Model BO–105 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires periodic inspections and the replacement, as necessary, of the quadruple nuts and associated bolts on the main rotor hub of MBB Model BO–105 helicopters, to preclude the possible loss of the main rotor due to cracks.

DATES: Effective—June 14, 1977. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The referenced service bulletin may be obtained from Messerschmitt-Bolkow-Blohm GmbH, Helicopter Division, 8000 Munchen-Ottobrunn, Federal Republic of Germany or Boeing Vertol Company, Mail Stop P31–69, P.O. Box 16858, Philadelphia, Pennsylvania, 19142, telephone (215) 522–2755.

A copy of the service bulletin is contained in the rules docket for this amendment in Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

M. E. Gaydos, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A notice proposing to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive applicable to MBB Model BO–105 helicopters was published in the FEDERAL REGISTER at 41 FR 18683. The notice proposed to require periodic inspections and the replacement, as necessary, of the quadruple nuts and associated bolts on the main rotor hub to preclude the possible loss of a rotor due to cracks in the nuts or bolts.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are Mr. M. E. Gaydos, Europe, Africa, and Middle East Region, Mr. F. H. Kelley, Flight Standards Service, and Mr. J. D. Jeffrey, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MESSERSCHMITT-BOLKOW-BLOHM GmbH. Applies to Model BO-105 helicopters, certificated in all categories.

Compliance is required as indicated.

To prevent the possible failure of the main rotor hub quadruple nuts and the consequent loss of the main rotor, accomplish the following:

(a) For main rotor hub quadruple nuts, P/N's 105-14101.19 and 105-14101.20 and associated bolts, P/N's 105-14101.22 and 105-14101.23, with more than 1,400 hours total time in service, within the next 100 hours time in service after the effective date of this AD, unless already accomplished within the last 200 hours time in service, and thereafter at intervals not to exceed 300 hours time in service from the last inspection, remove the quadruple nuts and associated bolts and inspect them for cracks using a magnaflux process, or a FAA-approved equivalent.

(b) If a crack is found in a nut or bolt during any of the inspections required by this AD, before further flight, replace the cracked part with a serviceable part of the same part number. For parts installed as replacements, before the accumulation of 1,500 hours total time in service on the replacement parts and thereafter at intervals not to exceed 300 hours time in service from the last inspection, remove the replacement quadruple nuts and associated bolts and inspect them for cracks using a magnaflux process or an FAA-approved equivalent.

(c) Before the accumulation of 2,400 hours total time in service on a quadruple nut or bolt specified in paragraph (a) of this AD, replace the quadruple nuts and associated bolts with serviceable nuts and bolts of the same part numbers and comply with paragraphs (a) and (b) of this AD for the replacement parts.

(MBB Service Bulletin No. 10-18 dated July 18, 1975, covers this same subject.)

This amendment becomes effective June 14, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 23, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-15296 Filed 5-27-77;8:45 am]

[Docket No. 16257; Amdt. No. 121-134]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Additional Weather Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires that domestic and flag air carriers adopt an approved system for obtaining forecasts and reports of adverse weather conditions that may affect safety of a flight while en route and at each airport to be used. Prior to a flight, the aircraft dispatcher would be required to provide the pilot in command with all available weather reports and forecasts of weather conditions for each route to be flown and each airport to be used. During a flight, the aircraft dispatcher would be required to provide the pilot in command with any additional available information of meteorological conditions that may affect safety of the flight. The intended effect of this amendment is to reduce the number of accidents resulting from adverse weather. These changes are needed because a review of recent aircraft accidents indicates that hazardous weather conditions remain a serious threat to air safety.

DATES: Amendment is effective June 30, 1977, but a compliance date of December 31, 1977, is established.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

HISTORY

This amendment is based on a notice of proposed rule making (Notice No. 76-23) published in the FEDERAL REGISTER on November 15, 1976 (41 FR 50275). That notice invited comments by all persons interested in the making of the proposed rule. All interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. Seventy-eight commentators responded to Notice 76-23. Except for minor editorial revisions, and as specifically discussed hereinafter, this amendment and the reasons therefor are the same as those in Notice 76-23.

DISCUSSION OF COMMENTS

One commentator disagreed with the proposal. Several commentators, while agreeing with the intent of the proposal, recommended that certain changes be accomplished. The majority of the comments supported the proposal without qualification.

It was noted that the proposal for an approved system for obtaining forecasts and reports of adverse weather phenomena did not include any guidelines regarding the details of a system which will be acceptable to the Administrator. Guidelines were intentionally omitted from the proposed regulation in order to provide flexibility to a certificate holder in developing a system for its particular operation. However, the FAA is developing an advisory circular that will be of assistance to certificate holders in developing their systems.

One commentator expressed concern that proposed § 121.601(c) is not limited to information of meteorological conditions which may affect safety of flight. Therefore, according to the commentator, the pilot in command would be deluged with unnecessary weather information and, consequently, safety of flight could be adversely affected. It was not intended that the pilot in command be furnished unnecessary information and proposed § 121.601(c) has been revised to make it clear that only that information which may affect safety of flight must be furnished to the pilot in command.

One commentator contended that there is no need for a regulatory change to require a system for reporting adverse weather because each domestic and flag air carrier presently has such a system. In conjunction with this comment it was argued that there is no need for FAA approval of the system. Current regulations do not explicitly require the certificate holders to use a system having the capability proposed in Notice 76-23. In the FAA's opinion, that system and the changes proposed in § 121.601 are necessary to ensure that the pilot in command will be furnished information concerning adverse weather that may affect safety of flight. FAA approval of the system is necessary in order to ensure that the system is satisfactory before it is used under operational conditions.

It was suggested that operations within the State of Hawaii be excluded from the requirement for the system in § 121.101(d) because of the generally favorable weather conditions which exist in the Hawaiian Islands and the unique nature of the operations there. The FAA does not agree with this suggestion because experience establishes that adverse weather phenomena, including clear air turbulence, thunderstorms, and low altitude wind shear can occur in the State of Hawaii. Any special characteristics of operations in Hawaii will be considered by the Administrator in reviewing for approval systems developed by certificate holders.

One comment urged that the tower and approach control facilities, not the certificate holder, should have the responsibility of providing weather reports to aircraft in terminal areas. The FAA does not agree with this comment. The FAA believes that the certificate holder, not the tower and approach control facilities, should have the primary responsibility for providing weather reports to aircraft in terminal areas. Consequently, it would not be appropriate for persons not under the control of the certificate holder to have the responsibility of relaying weather information to the certificate holder's flights.

It was pointed out that at the present time the National Weather Service does not provide routine forecasts of low-level wind shear and, consequently, some dispatch departments do not provide such forecasts to flight crews. Even if the National Weather Service does not implement procedures to provide routine forecasts of low-level wind shear, the FAA believes that, with minimal costs, certificate holders can develop other acceptable sources for that information. In this respect, it should be noted that at least one certificate holder has develop a workable system for gathering and disseminating such information.

Two commentators expressed concern with the FAA's conclusion that Notice 76-23 did not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107. However, neither commentator offered any data concerning economic impact. The FAA believes that its conclusion was correct. In addition, while some certificate holders may find it necessary to incur some expenses in achieving compliance with the new rules, the FAA believes that the expenses of compliance are more than offset by the enhancement of safety which the FAA believes will result from the rules.

Various other comments and suggestions were received that proposed regulatory changes which would exceed the proposals in the notice. They included:

(1) Extend the proposal to include supplemental air carriers, commercial operators, and commuter air carriers;

(2) Extend the proposal to include the entire aviation community by having the National Weather Service gather and disseminate hazardous weather information to airmen at all airports;

(3) Require aircraft instrumentation which will measure turbulence; and

(4) Require aircraft instrumentation which will enable the flight crew to determine wind shear conditions.

While these comments and suggestions have not been specifically discussed herein because they exceed the proposals in the notice, they are appreciated.

COMPLIANCE DATE

In order to provide adequate time for certificate holders to accomplish the steps required to achieve compliance with the new requirements, a compliance date for this amendment of December 31, 1977, is established. A certificate holder may obtain an extension of the compliance date, but not beyond June 30, 1978, from the Director, Flight Standards Service if, before December 31, 1977, it shows that it cannot meet the compliance date due to circumstances beyond its control. The certificate holder also would be required to submit a schedule acceptable to that Director, indicating that it will achieve compliance at the earliest practicable date.

REGULATORY EVALUATION

In accordance with Department of Transportation Regulatory Reform Policy, an evaluation of the anticipated impacts of this amendment has been made. It has been determined that it is probable that no maintenance costs and only minor capital investment costs will be incurred as a result of this amendment. It is probable that some domestic and flag air carriers will incur minimal additional costs for the training of personnel. However, the FAA believes that the additional costs will be more than offset by the enhancement in safety which is expected to result from the rule amendment. Accordingly, it has been determined that this amendment is expected to be neither costly nor controversial and will not impose a significant burden on the private sector, on consumers, or on the Federal, state, or local governments.

PRINCIPAL AUTHORS

The principal authors of this document are Charles E. Radawick, Air Carrier Regulations Branch, Flight Standards Service, and Richard C. Beitel, Office of the Chief Counsel.

Accordingly, Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended, effective June 30, 1977, as follows:

1. By amending § 121.101 by revising paragraphs (b) and (c) and by adding new paragraphs (d) and (e) to read as follows:

§ 121.101 Weather reporting facilities.

* * * * *

(b) Except as provided in paragraph (d) of this section, no domestic or flag air carrier may use any weather report to control flight unless—

(1) For operations within the 48 contiguous States and the District of Columbia, it was prepared by the U.S. National Weather Service or a source approved by the U.S. National Weather Service; or

(2) For operations conducted outside the 48 contiguous States and the District of Columbia, it was prepared by a source approved by the Administrator.

(c) Each domestic or flag air carrier that uses forecasts to control flight movements shall use forecasts prepared from weather reports specified in paragraph (b) of this section and from any source approved under its system adopted pursuant to paragraph (d) of this section.

(d) By December 31, 1977, each domestic and flag air carrier shall adopt and put into use an approved system for obtaining forecasts and reports of adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear, that may affect safety of flight on each route to be flown and at each airport to be used.

(e) A domestic or flag air carrier may obtain an extension of the December 31, 1977, compliance date specified in paragraph (d) of this section and paragraphs (b) and (c) of § 121.601, but not beyond June 30, 1978, from the Director, Flight Standards Service if, before December 31, 1977—

(1) It shows that due to circumstances beyond its control it cannot comply by that date; and

(2) It has submitted by that date a schedule for compliance, acceptable to the Director, indicating that compliance will be achieved at the earliest practicable date.

2. By amending § 121.601 by revising paragraph (b) and redesignating it as paragraph (c), and by adding a new paragraph (b), to read as follows:

§ 121.601 Aircraft dispatcher information to pilot in command: Domestic and flag air carriers.

* * * * *

(b) By December 31, 1977, before beginning a flight, the aircraft dispatcher shall provide the pilot in command with all available weather reports and forecasts of weather phenomena, including adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear, for each route to be flown and each airport to be used.

(c) During a flight, the aircraft dispatcher shall provide the pilot in command any additional available information of meteorological conditions (including, by December 31, 1977, adverse weather phenomena, such as clear air turbulence, thunderstorms, and low altitude wind shear), and irregularities of facilities and services, that may affect the safety of the flight.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on May 19, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[FR Doc.77-15293 Filed 5-27-77;8:45 am]

[Airspace Docket No. 76-WE-34]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

AGENCY: Federal Aviation Administration/DOT (FAA).

ACTION: Final rule.

SUMMARY: This action proposes to extend the Palm Springs, California, 700 foot transition area to provide additional 700 foot controlled airspace for radar vector procedures. This is necessitated by the commissioning of a radar air traffic control facility at Palm Springs, California.

DATE: Effective date, April 28, 1977.

ADDRESS: Federal Aviation Administration, Office of the Regional Counsel, AWE-7, ATTN: Rules Docket Clerk, Docket No. 76-WE-34, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Specialist, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. Telephone (213-536-6182).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Monday, January 10, 1977, (42 FR 2079) which proposed to extend the Palm Springs, California, 700 foot transition area to provide additional 700 foot controlled airspace for radar vector procedures. No objections were received.

Subsequent to the notice closing date, information received revealed that the 700 foot transition area, as proposed, could be reduced in size. Since the 700 foot transition area will be smaller in size than originally proposed and impose no additional burden on any person, additional notice and public procedure thereon is unnecessary.

Accordingly, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) is amended, effective April 28, 1977, as follows:

1. By deleting the description of the Palm Springs, California 700 foot transition area and inserting in lieu thereof the following description:

PALM SPRINGS, CALIFORNIA TRANSITION AREA

That airspace extending upward from 700 feet above the surface beginning at latitude 34°05'00" N., longitude 116°34'00" W., to latitude 33°42'45" N., longitude 115°53'30" W., to latitude 33°26'00" N., longitude 116° 09'30" W., to latitude 33°55'00" N., longitude 116°46'00" W., to point of beginning.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 18, 1977.

W. R. FREHSE,
Acting Deputy Director,
Western Region.

[FR Doc.77-15319 Filed 5-27-77;8:45 am]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 3—RULES OF PROCEDURE FOR HANDLING CONTRACT APPEALS

Change of Location

AGENCY: Department of Commerce.

ACTION: Correction to final rule.

SUMMARY: This document corrects a final rule (FR Doc. 76-594) which was published in the FEDERAL REGISTER of January 9, 1976, at page 1583.

EFFECTIVE DATE: This change is effective as of May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Hugh J. Dolan (202-377-3135).

SUPPLEMENTARY INFORMATION: On January 9, 1976, at 41 FR 1583, the Department of Commerce revised its rules of procedure for handling contract appeals (15 CFR Part 3). Paragraph 2(a) of the Preface to that document contains the address of the Appeals Board.

This amendment revises Paragraph 2(a) of the Preface to read as follows:

2. *Organization and location of the Board.* (a) The Board is located in Washington, D.C., and its mailing address is U.S. Department of Commerce, Appeals Board, Room 5019, telephone 202-377-3135.

HUGH J. DOLAN,
Chairman, Appeals Board.

[FR Doc.77-15414 Filed 5-27-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM76-29; Order No. 563-A]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Policy Statement Concerning Electric Rate Schedule Filings and Requirement for Filing of Comparative Rate Information in Certain Situations

AGENCY: Federal Power Commission.

ACTION: Order denying rehearing.

SUMMARY: This order denies reconsideration of Order No. 563, issued March 21, 1977, 42 FR 16131, as corrected by Erratum Notice of April 1, 1977, which prescribed a new § 2.17 of the Commission's General Policy and Interpretations. The Order finds that the issues raised in the applications for rehearing do not warrant modification at this time.

EFFECTIVE DATE: May 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Lilo Schifter, Office of General Counsel, Federal Power Commission, Washington, D.C. 20426 (202-275-4275).

ORDER DENYING REHEARING

MAY 20, 1977.

Applications for rehearing of the Commission's Order No. 563, issued March 21, 1977,[1] were filed on April 20, 1977, by Publicly Owned Systems,[2] and on April 21, 1977, by Pacific Gas and Electric Company (PG&E) and Municipal Electric Utilities of Wisconsin (MEUW). For the reasons set out below, the Commission shall deny the requests for rehearing or modification of Order No. 563.

PG&E requests clarification of whether under § 2.17(e) the burden of proof shifts to the utility only after the complaining party has pleaded and proved a prima facie case. We believe that a reading of all of § 2.17 leaves no room for misinterpretation. Section 2.17(a) specifically states that in order to have the issue of price discrimination considered in the rate proceeding, the intervening customer or other interested person must support its allegation by a prima facie case. It only follows that there would be no allegations to rebut, and, therefore, no shifting of the burden of proof unless a prima facie case had been established.

Publicly Owned Systems and MEUW are concerned that it would be difficult or impossible to stay within the timetable which is established for data requests and the presentation of the prima facie case and case-in-chief, and request modification of mandatory time limits. Both argue that subsection (a)(4) which includes the wholesale customer's prospective rate for comparable retail service is irrelevant to the prima facie case, and both would want us to elaborate on the remedies available to correct price squeeze.

Order No. 563 is a statement of general policy which adopts procedures for raising price squeeze issues in wholesale electric rate proceedings, procedures which are to be followed unless they are demonstrated in an individual case to be inadequate. As stated in the order, we decided to proceed by statement of policy rather than by rulemaking because we considered it premature to establish rules which would govern consideration of price squeeze issues until we had the opportunity to review what actual fact patterns develop in the trial of "Conway" cases before the Commission. While some of the objections raised by Publicly Owned Systems and MEUW may have merit, we will not modify our statement of policy at this time. Any party and the Commission staff has the opportunity to demonstrate to the Presiding Administrative Law Judge that the procedures are inadequate in an individual proceeding. If this should occur with any frequency, we will reevaluate our statement of policy and consider modification. In the meantime we hope that our statement of policy will help to expedite consideration of price squeeze issues, even in those situations where the Presiding Administrative Law Judge may find it justified to deviate from the established procedures.

The Commission finds: The issues raised in the various applications for rehearing do not warrant modification of Order No. 563 at this time.

The Commission orders: (A) The applications for rehearing of Order No. 563 filed on April 20 and 21, 1977, are hereby denied. (B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15323 Filed 5-27-77;8:45 am]

[1] As corrected by Erratum Notice of April 1, 1977.

[2] A coalition of publicly-owned municipals and REA cooperatives.

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER F—BIOLOGICS

[Docket No. 77N-0047]

NORMAL SERUM ALBUMIN (HUMAN) AND PLASMA PROTEIN FRACTION (HUMAN)

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document issues additional standards for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). Additional standards are specific requirements applicable to particular biological products and supplement the general biologics regulations applicable to all biological products. Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) are similar biological products that are used to treat patients in shock, after burns, or after an abnormal decrease in plasma protein. The additional standards are issued below to give increased protection to the public and reflect changes in manufacturing techniques and testing procedures.

DATES: Effective August 29, 1977; except for the labeling requirements, which are effective November 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 800 Rockville Pike, Rockville, Md. 20014 (301-443-4626).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of February 20, 1975 (40 FR 7456), the Commissioner of Food and Drugs proposed additional standards for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). The proposed standards were issued after thorough investigations of several reported incidents of adverse reactions—including septicemia and hepatitis—involving fractionated products, and after review of pertinent manufacturing procedures for these products. Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) are biological products that are similar in composition and use. Both are blood derivatives obtained through fractionation of human blood plasma. Both products are administered to burn victims to combat plasma loss and are also useful in treatment of shock due to trauma. Also, these products are sometimes useful in replacing plasma proteins in persons with an abnormal decrease in the amount of protein in the blood.

Interested persons were given until April 21, 1975 to submit written comments on the proposal. Twelve letters containing varying numbers of comments regarding the proposal were received. The comments received and the Commissioner's responses are discussed below.

In the following paragraphs, the section numbers for Normal Serum Albumin (Human) are listed first, and those for Plasma Protein Fraction (Human) are listed second. Where the comments discussed apply to both products, the word "product" is used rather than repeating both product names. Where a comment applies to only one product, that product is named.

1. One comment said that the proposed requirements in § 640.80(b) for source material for Normal Serum Albumin (Human) do not take into account the unique problems involved in the collection and use of placentas, and the commentor requested to be exempted from these requirements.

The Commissioner is aware that there are differences between the collection and use of placentas and those of other source materials. But the Commissioner finds that all currently approved licenses for Normal Serum Albumin (Human) that describe use of placentas as source materials comply with the applicable requirements of § 640.80(b). Therefore, it is apparent that an exemption is not necessary. Accordingly, the comment is rejected.

2. The Commissioner is amending §§ 640.80(b) and 640.90(b) of the final regulations by deleting the proposed requirement that source material be "licensed." Subsequent to the proposal for additional standards for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human), FDA promulgated regulations for the collection, processing, and storage of blood and blood products, published in the FEDERAL REGISTER of November 18, 1975 (40 FR 53532), which require in § 606.100 (21 CFR 606.100) that standard operating procedures for licensed and unlicensed products, including source materials, comply with published additional standards in Part 640 (21 CFR Part 640) for the products being processed. Therefore, where additional standards are effective for the source material, whether licensed or unlicensed, compliance with the additional standards determines the propriety of that source material for use in the production of the product.

3. One comment on proposed §§ 640.80 (b) and 640.90(b) suggested that the short supply provisions prescribed in § 601.22 (21 CFR 601.22) are outdated, and should not be applicable in the procurement of unlicensed source material. The collection date of source material is currently considered the start of manufacture, but the comment suggested that the pooling date of source material be the start of manufacture.

The Commissioner advises that the source material must be properly processed before pooling to preclude the presence of disease-causing agents or contaminants that may adversely affect the final product. For this reason, proper processing of source material prior to pooling is requisite for approval of the license application for the final product. Assurances of proper processing are provided when the source material is collected in accordance with applicable additional standards such as those for Source Plasma (Human) (21 CFR 640.60 through 640.76). But if the source material includes materials for which additional standards are not effective, e.g., recovered plasma or placentas, the manufacturer of the final product must provide assurances that the source material was properly processed from the time of collection and that it does not contain disease-causing agents or contaminants. The Commissioner believes that such assurances are obtained under the short supply provisions of § 601.22, which permit the initial or partial manufacture of products by persons other than the manufacturer of the licensed product, provided the manufacturer of the licensed product has established with respect to such persons that the procedures, tests, or other arrangements will assure the continued safety, purity, potency, and effectiveness of the product.

In addition, the short supply provision provides a mechanism for an unlicensed source material to be shipped in interstate commerce for use in the manufacture of a licensed final product.

Unless operating under the short supply provision of § 601.22, unlicensed source materials are prohibited in interstate commerce. Accordingly, the comment is rejected.

4. One comment on proposed §§ 640.80(b)(1) and 640.90(b)(1) requested clarification regarding the responsibility of the product manufacturer for assuring use of proper collection procedure for source material for which additional standards have not been prescribed.

The Commissioner advises that the licensed product manufacturer is responsible for ensuring that source material obtained pursuant to the short supply provisions be collected as described in the effective license for the final product. Accordingly, §§ 640.80(b)(1) and 640.90(b)(1) of the final regulations are amended to clarify this responsibility.

5. One comment on proposed §§ 640.80(b)(1) and 640.90(b)(1) asked whether a new application for approval will be required for a collection procedure already approved by the Director of the Bureau of Biologics.

The Commissioner advises that a new application for approval is not required in that situation.

6. One comment on proposed §§ 640.80(b)(4) and 640.90(b)(4) requested clarification regarding the storage and transportation requirements for source materials for which there are no additional standards. Another comment suggested that the word "minimize" should be substituted for the word "prevent" for consistency with §§ 640.80(b)(1) and 640.90(b)(1).

No specific storage and transportation procedure has been prescribed; any procedure may be used as long as it is shown to prevent the risk of contamination. The word "prevent" was chosen for storage and shipment because methods can and have been designed to preclude contamination of the source material. Accordingly, the comment suggesting that the word "minimize" should be substituted for the word "prevent" is rejected. The word "minimize" was used in §§ 640.80(b)(1) and 640.90(b)(1) because it is impossible to prevent some contamination during phlebotomy and pooling.

7. Three comments on proposed §§ 640.81(a) and 640.91(a) said that the date of manufacture, which was proposed as the date of placing the product powder or concentrate into solution, would prohibit alternative methods of processing that do not include a powder or concentrate stage and would also prohibit the current general practice of recovering the product from bulk filling residues, excess samples, and rejected containers. Two of the comments suggested that the date of manufacture should be changed to the date of final sterile filtration, since this would permit recovery of such materials.

The Commissioner recognizes that the proposed date of manufacture would have resulted, unintentionally, in prohibiting alternative methods of processing that do not include a powder or concentrate stage and in prohibiting the practice of recovering processed product. Indeed, a combination of fresh source materials, older powders, frozen pastes, and reworked product can be used to manufacture a product that meets the requirements of § 640.82. Accordingly, the Commissioner agrees that the date of manufacture should be revised as suggested by the comment, and §§ 640.81(a) and 640.91(a) of the final regulations are amended to designate the date of manufacture as the date of final sterile filtration of a uniform pool of bulk solution. For consistency, § 610.50(b) is also amended by adding this date of manufacture to the list prescribed for products that are not subject to official potency tests.

8. Two comments on proposed §§ 640.81(b) and 640.91(b) suggested revision to preclude resubmission of processing methodology data that are already part of the approved license for the product.

The Commissioner advises that the regulations do not require resubmission of such data. Accordingly, no revision of the regulations is necessary. But it should be noted that the Director of the Bureau of Biologics may periodically request that the manufacturer submit in a single document, a revised version of the processing procedure that describes currently used methodology.

9. One comment on proposed §§ 640.81(d) and 640.91(d) requested clarification of the phrase "bulk liquid concentrate." Three comments requested more flexibility in the requirements for storage of bulk liquid concentrates. The comments suggested that bulk liquid concentrates can be held for 10 days at a temperature of up to 5° C prior to further processing rather than the proposed limit of 1 week at a temperature no greater than −5° C. Two of these comments noted that the bulk concentrate may freeze at −5° C or colder, which may result in physical changes in the product and breakage of the containers.

The Commissioner advises that the "bulk liquid concentrate" is the partially processed material, including pastes and other crude fractions. By comparison, "bulk solution" is the bulk product after all processing steps have been completed.

The Commissioner advises that alcohol, which is present in most bulk liquid concentrates, may cause significant physical changes in the product if the concentrates are stored for more than 1 week at the suggested temperatures of 5° C or colder. Accordingly, the Commissioner concludes that the 1-week limit, after which the bulk liquid concentrate must be stored at −5° C or colder, is necessary to prevent physical changes; there is no basis for permitting more flexibility.

The Commissioner believes that the comments noting that bulk liquid concentrate may freeze at −5° C or colder and result in breakage of the container have misinterpreted the term "bulk liquid concentrate" and appear to apply to "bulk solution." The regulation concerning storage of bulk solutions, §§ 640.83 and 640.93 (21 CFR 640.83 and 640.93), requires a storage temperature no greater than that recommended for final container material (21 CFR 610.53). Accordingly, the comments are rejected. But for clarification, §§ 640.81(d) and 640.91(d) of the final regulation are amended by deleting the word "liquid" from the phrase "bulk liquid concentrate" and identifying a storage temperature of 5° C or colder for any bulk fraction to be held one week or less.

10. Eight comments on proposed §§ 640.81(e) and 640.91(e) suggested that the time interval between completion of filling and heating of final containers be extended to 24 hours, since the 4-hour limit is too restrictive and hinders production efficiency.

The Commissioner advises that the proposed 4-hour interval between completion of filling and heating of final containers was chosen because transfer of final containers from the filling line to the heating apparatus can be accomplished within this time. The Commissioner concludes that the 4-hour interval may be too restrictive, as suggested by the comments, and should be extended. The Commissioner finds that extension to 24 hours will not adversely affect the ability of the heating to inactivate the hepatitis virus or the integrity of the final product. Accordingly, the comments are accepted, and §§ 640.81(e) and 640.91(e) of the final regulations are amended by extending the time interval between completion of filling and heating of final containers, from 4 hours to within 24 hours.

11. Two comments on proposed §§ 640.81(e) and 640.91(e) requested clarification of the heat treatment requirement. Another comment said that the heating period of 10 hours is too specific and suggested revision to permit a range within 1 hour.

The Commissioner advises that the solution must be heated for 10 hours at an attained temperature of 60° C±0.5° C to assure the inactivation of hepatitis virus. The Commissioner agrees that it may be unnecessarily burdensome to pinpoint the attained heating time at exactly 10 hours. Therefore the comments are accepted, and §§ 640.81(e) and 640.91(e) of the final regulations are amended to permit a range of not less than 10 nor more than 11 hours. The Commissioner concludes that the extended period will not adversely affect the quality of the final product.

12. Two comments on proposed §§ 640.81(e) and 640.91(e) said that heating the final product in the final container will result in a greater occurrence of particulates. One of these comments suggested that heating the bulk solution would be more efficient. The other comment requested that the product not be regarded as a large volume parenteral for purposes of applying the standards for the presence of particulates.

The Commissioner recognizes that heating the product in the final container may result, as may heating the product in bulk, in occurrence of particulates. Nevertheless, the Commissioner believes that final container heat treatment provides a greater margin of safety than heat treatment of bulk solution since the final product is the product intended for the marketplace. The Commissioner advises that the proposed regulations under § 212.3(b)(1) concerning large volume parenterals, published in the FEDERAL REGISTER of June 1, 1976 (41 FR 22202), are not applicable to biological products. Accordingly, the comments are rejected.

13. One comment on §§ 640.81(f) and 640.91(f) suggested that the amount of stabilizers should permit a specified range, such as ±20 percent, that is related to the assay limit for the stabilizers. No data were submitted with the comment.

The Commissioner finds that the amounts of stabilizers required in §§ 640.81(f) and 640.91(f) are the same as those currently identified in the effective licenses for the product. In addition, the

Commissioner is not aware of any data from which to establish a meaningful range. Accordingly, the comment is rejected. The Commissioner invites the submission of data upon which a meaningful range can be established.

14. Two comments on §§ 640.81(g) and 640.91(g) said that particles of protein origin may develop in the final container as a result of the heating requirements prescribed in §§ 640.81(e) and 640.91(e), and be detected during the incubation period. One of the comments provided no data, but suggested that since the particles are extremely small and scarce, a level of acceptability should be permitted. The other comment said that the final containers may be rejected because of turbidity not caused by microbial contamination and that these containers could be included in rework solutions.

The Commissioner has no basis to establish a level of acceptability of particles of protein in final containers because data are not available on which an acceptable level can be established that would provide a safe, pure, potent and effective product. The Commissioner has no objection to, nor does the regulation prohibit, reprocessing of material cited by the comment, provided that the processing and tests on final products conform with those prescribed in §§ 640.81 and 640.91, as well as §§ 640.82 and 640.92, respectively. Accordingly, the comments are rejected.

15. Three comments on proposed §§ 640.81(g) and 640.91(g) said that the temperature range of 20° to 25° C for incubation is too restrictive because it would require storage of the product in an incubator or air conditioned area. The comments suggested incubation temperatures that range from 15° to 35° C to provide greater flexibility and allow the growth of a broader spectrum of microbial contaminants.

The proposed temperature range was selected to facilitate optimum microbial growth. A temperature lower than 20° C is inappropriate since some microorganisms grow very slowly at this temperature while others do not grow at all. The Commissioner agrees, however, that temperatures up to 35° C will provide greater flexibility in storage procedures without significantly compromising the growth of microbial contaminants. Accordingly, §§ 640.81(g) and 640.91(g) of the final regulations are amended by broadening the incubation temperature from 20° to 25° C to a range of 20° to 35° C.

16. Five comments on proposed §§ 640.81(g) and 640.91(g) objected to the requirement that the final containers of the product be incubated for 21 days. The comments said that extension of the incubation period from 7 days, now prescribed in the minimum requirements, to 21 days would increase inventory cost to the manufacturer because of the need for additional storage space, and that this cost would ultimately be borne by the consumer. In addition, the comments noted that the extended incubation period has no advantage because bacterial contamination of a 25-percent product may not be visually detected, since the refractive indices of some bacterial cells are similar to those of the concentrated product solution.

The 21-day incubation period was proposed in response to investigation by FDA into several adverse reactions involving the product, including septicemia and pyrogenic reactions, and on the basis of data indicating that some slow-growing microorganisms may not be visually detectable during an incubation period of 14 days. The 21-day period was proposed to cover the 14 days needed for slow-growing organisms and included an additional 7-day safety factor. Upon review of all the data, the Commissioner concludes that the requirement for 7 additional days may be deleted since all contaminating organisms will ordinarily be visually detectable within 14 days. Moreover, the 14-day incubation period is consistent with the incubation period prescribed for nearly all other biologicals in the general sterility test, § 610.12 (21 CFR 610.12). Accordingly, §§ 640.81(g) and 640.91(g) of the final regulations are amended to require that the product shall be stored at 20° to 35° C for at least 14 days after heat treatment.

The Commissioner is of the opinion that any cost increase resulting from the extended incubation period is justified in view of the additional margin of safety provided by this requirement.

The Commissioner is aware that detection of bacterial contamination of a 25-percent product may be difficult, as noted by the comment. But visual contamination is more evident after 14 days than after 7 days because of the increased bacterial growth occurring during the longer incubation period. In view of this, and the applicability of these additional standards to products other than 25 percent, no further change is made in the final regulation.

17. Two comments on proposed §§ 640.81(g) and 640.91(g) requested clarification and questioned the requirement that the type of organisms be determined if growth occurs in final containers.

The Commissioner advises that determining the type of organisms is intended to aid in the identification of the source of the contamination problem. For example, some genera of organisms such as *Micrococcus* and *Bacillus* are frequently implicated in faulty aseptic technique. Thus, repeated isolation of organisms of these genera may suggest a likely focus for appropriate corrective action. For clarification, §§ 640.81(g) and 640.91(g) of the final regulations are amended by using the phrase "the organisms shall be identified as to genus" rather than "the types of organisms shall be identified" as proposed.

18. One comment on proposed §§ 640.82(a) and 640.92(a) asked whether the protein conversion factor is 6.25 percent of total nitrogen determined.

The Commissioner advises that the protein conversion factor is 6.25.

19. One comment on proposed §§ 640.82 and 640.92 asked whether the required final product tests for protein, sodium, and heme could be conducted on the bulk final solution rather than on solutions in final containers.

The Commissioner believes that, whenever possible, the product should be tested in the form in which it is distributed in the marketplace. The Commissioner finds that this requirement presents no undue hardship to manufacturers of these products since all the tests can be performed on the contents of a single final container. Accordingly, the comment is rejected.

20. Two comments suggested that proposed § 640.82(a) be amended to permit manufacturing of Normal Serum Albumin (Human) as 4 and 20 percent protein solution in addition to the 5 and 25 percent solutions specified in the proposal. The comments stated that such products are commonly used in, and meet the requirements of, other countries.

Since the manufacture of Normal Serum Albumin (Human) containing 4 and 20 percent protein will not significantly affect the use pattern of the product in the United States and will facilitate manufacture for export to countries that prefer Normal Serum Albumin (Human) as 4 and 20 percent protein solutions, the Commissioner accepts the comments. Accordingly, § 640.82(a) of the final regulation is amended to specify that the final Normal Serum Albumin (Human) product shall conform to one of the following concentrations: 4±0.25 percent; 5±0.30 percent; 20±1.2 percent; or 25±1.5 percent solution of protein. For consistency, § 640.84 (a)(3) and (a)(4) are also amended to require that the container and package labels shall contain: (1) a statement of the need for additional fluids when 20 percent or 25 percent albumin is administered to a patient with marked dehydration, and (2) a statement of the albumin content, expressed as either a 4 percent, 5 percent, 20 percent, or 25 percent solution, respectively.

21. One comment on proposed §§ 640.82(b) and 640.92(b) asked whether the method for protein determination must be reapproved by the Director of the Bureau of Biologics if it was described in a license application approved before publication of the regulations.

The Commissioner advises that the method need not be submitted for reapproval since these regulations do not alter currently approved procedures for protein determination.

22. Three comments on proposed § 640.82(d) suggested that the sodium content for Normal Serum Albumin (Human) should be the same as that prescribed for Plasma Protein Fraction (Human) in § 640.92(d), irrespective of the protein concentration, because both products are used for plasma volume expansion under similar conditions. One of these comments said that red blood cells hemolyze (rupture) when suspended in 25 percent Normal Serum Albumin (Human) that contains less than 90 milliequivalents of sodium per liter. The comment further said that this hemolysis is dependent on the sodium

concentration, not on the suspending medium, the cell concentration, or the batch tested.

As stated in the preamble of the proposal, a lower limit was not proposed for the sodium content of 25 percent Normal Serum Albumin (Human) in recognition of the fact that where a higher sodium concentration is desired by the administering physician, the sodium content can be adjusted by dilution with Normal Saline.

In view of the apparent conflict concerning the sodium level, the Commissioner consulted the Advisory Review Panel for Blood and Blood Derivatives established pursuant to § 601.25 (21 CFR 601.25). The panel recommended that because of the hemolysis potential and regardless of protein concentration, the sodium content of both Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) should be within the range of 130 to 160 milliequivalents per liter (the isotonic range). An isotonic solution has the same osmotic pressure as that of physiological solutions, e.g., blood serum. The panel stated that sodium does not cross vascular membranes instantaneously and therefore exerts a transient fluid-drawing or fluid-retaining effect (a noncolloid osmotic pressure). The panel further recommended that this noncolloid osmotic pressure, which is indicated by the sodium content when the latter is expressed as a value or range in terms of milliequivalents per liter, is clinically significant and should be stated on the label of the product so that this information is available to the physician when treating a patient.

The Commissioner has considered these suggestions and recommendations and concludes that, regardless of protein concentration, the sodium content of both Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) should be within the physiological range of 130 to 160 milliequivalents per liter. The potential for hemolysis, cited by the comment, has been confirmed in laboratory tests conducted by the Bureau of Biologics. In addition, review of released lots of Normal Serum Albumin (Human) that contain 25 percent protein reveals that the product of most manufacturers contains at least 130 milliequivalents of sodium per liter. Sections 640.82(d) and 640.92(d) of the final regulations are amended accordingly. In those instances in which the physician determines that a lower sodium concentration is indicated, it is expected that dilution with Sterile Water for Injection will be performed.

The Commissioner concludes that the sodium content should appear on the label of the product as the panel recommends. Therefore, §§ 640.84(a)(1) and 640.94(a) of the final regulations are also amended by adding the requirement that the container and package labels shall contain the sodium content in terms of a value or a range in milliequivalents per liter. The Commissioner emphasizes that the phrase "salt poor" is misleading and shall not be used in future labeling.

23. One comment on proposed § 640.82(d) requested that shipment of Normal Serum Albumin (Human) with sodium content different from that prescribed in these regulations be allowed if the product was manufactured before publication of the final order.

The Commissioner does not intend to take regulatory action against shipment of products with a sodium content different from that prescribed in the final regulation for products manufactured before the effective date of the regulation.

24. One comment on proposed §§ 640.82(f) and 640.92(f) suggested that the heat stability test be deleted since use of the nephelometric system is not required. The comment noted that the subtle types of product changes that result from heating at 57° C for 50 hours can be detected only by the nephelometric system and cannot be detected by the proposed visual inspection.

The Commissioner advises that the proposed heating requirement is intended to identify potentially unstable product lots that can be identified visually by the development of haze or other gross changes. The Commissioner is aware that the nephelometric system is more sensitive than visual inspection in the detection of subtle changes. But as stated in the preamble to the proposal, the scientific literature indicates that a nephelometric reading has limited significance and reliability in clinical evaluation of the safety and efficacy of the product. The Commissioner concludes that the evidence available to date does not support a correlation between safety or efficacy and those changes detectable only by the nephelometric system. Accordingly, the comment is rejected. But the Commissioner encourages manufacturers to gather evidence in this area and to use nephelometry whenever it is appropriate for quality control.

25. One comment on proposed §§ 640.83(b) and 640.93(b) questioned the requirement to store sterile bulk solution at a temperature of 5° C or colder, in view of the fact that the final product can be stored at room temperatures. Another comment requested clarification of the phrase, "after all processing steps" used to describe the time when this storage requirement applies.

The Commissioner agrees that the required storage temperature for the final product will adequately protect safety, purity, potency and effectiveness of the sterile bulk solution provided it is stored in a manner that will ensure its continued sterility. Accordingly, §§ 640.83(b) and 640.93(b) of the final regulations are amended to require that the bulk solution be stored in a manner that will ensure the continued sterility of the product and at a temperature not exceeding the recommended storage temperature for the final product prescribed in § 610.53 (21 CFR 610.53).

The Commissioner advises that the phrase, "after all processing steps" means the stage of production when the bulk solution is ready for filling into final containers.

26. One comment on proposed §§ 640.83(b) and 640.93(b) suggested that either filling into final containers within 48 hours of sterile filtration or sterility testing of bulk solution at the time of filling should be required to minimize contamination of the product. No data were submitted to support this suggestion. Inasmuch as no supportive data are available, the Commissioner concludes that there is no basis for requiring these procedures where the product is processed as prescribed in these regulations. Accordingly, the comment is rejected.

27. One comment on proposed §§ 640.84 and 640.94 said that smaller-sized containers, such as 20- and 50-milliliter containers, may not accommodate all the labeling requirements. The comment suggested the use of partial labels, as prescribed in § 610.60(c), if all the required information cannot be accommodated on the package and container labels.

The Commissioner advises that reference in §§ 640.84 and 640.94 to § 610.60 authorizes the use of partial labels if the container is capable of bearing only a partial label. But it should be noted that most licensed manufacturers currently incorporate all the required labeling information on all containers and package labels. Accordingly, the comment is rejected.

28. One comment on proposed §§ 640.84(a)(1) and 640.94(a) requested clarification of the phrase "osmotic equivalent" and the method by which it is calculated or determined.

The Commissioner advises that the osmotic equivalent is the fluid-drawing capacity of the product as compared to the fluid-drawing capacity of the proteins in plasma. Comparison of relative osmotic efficiencies and calculation of the osmotic equivalent are described in detail in the following reference: Scatchard, G., A. C. Batchelder and A. Brown, "Chemical, Clinical, and Immunological Studies on the Products of Human Plasma Fractionation. VI. The Osmotic Pressure of Plasma and of Serum Albumin," "Journal of Clinical Investigation," 23:458–464, 1944.

29. One comment on proposed §§ 640.84(a)(2) and 640.94(b) suggested that the labeling contain a statement warning against use of the product if the container has been opened more than four hours prior to use rather than the warning against use if turbid, as proposed. It was suggested that this additional statement would clarify the implication that the product is safe merely so long as turbidity is not detected.

The Commissioner advises that the proposed statement, "DO NOT USE IF TURBID", is intended to preclude the use of a product that is contaminated or contains large particles of denatured proteins. The Commissioner notes that many manufacturers already include the statement "USE PROMPTLY" in circulars for their product. The Commissioner concludes that an additional warning

statement should be added because it amplifies the purpose of the proposed warning. Accordingly, §§ 640.84(a)(2) and 640.94(b) of the final regulations are amended to require that the container and package labels shall contain the caution, "DO NOT USE IF TURBID OR MORE THAN 4 HOURS AFTER THE CONTAINER HAS BEEN ENTERED."

30. One comment on proposed § 640.84(b) objected to the requirement that the type of source material used to manufacture Normal Serum Albumin (Human) shall appear on the container, package label or in the package insert.

As stated in the preamble to the proposal, the Commissioner believes that information regarding the source of Normal Serum Albumin (Human) should be available to the physician. For example, placental albumin contains a higher level of alkaline phosphatase than plasma albumin. Patients receiving placental albumin may show a temporary elevation of serum alkaline phosphatase. This information may be needed by physicians to make complete medical evaluation of some clinical cases. Accordingly, the comment is rejected.

31. Four comments on proposed §§ 640.85(a) and 640.95(a) suggested revisions to permit the following: (1) Submission of samples in final containers that are partially filled but contain 100 milliliters of product as required; (2) submission of samples concurrently with the incubation of final containers as prescribed in §§ 640.81(g) and 640.91(g), and (3) submission of samples prior to completion of the tests prescribed in §§ 640.82 and 640.92.

The submission of a sample consisting of at least two final containers packaged as for distribution was proposed so that tests conducted by the Bureau of Biologics would be comparable with those conducted by the manufacturer. Therefore, the Commissioner concludes that the sample must be as intended for distribution in both volume and container. Submission of samples in partially filled containers, as suggested, is rejected.

Section 610.1 requires that each applicable test shall be made on each lot after completion of all processes of manufacture that may affect compliance with the standard to which the test applies. Therefore, the Commissioner rejects the suggestion that samples be submitted concurrently with the incubation requirement prescribed in §§ 640.81 and 640.91 because completion of these requirements affects compliance with the sterility test prescribed in § 610.12.

The Commissioner advises that the regulations do not prohibit the submission of final container samples prior to completion of the tests on final products prescribed in §§640.82 and 640.92. Therefore, §§ 640.85(a) and 640.95(a) need not be revised as suggested by the comments.

32. One comment on proposed §§ 640.85(a) and 640.95(a) suggested revision to permit submission of samples in final containers prior to packaging for distribution. The comment noted the unnecessary expenditures of manpower and materials incurred by packaging the entire lot for distribution in the event that the lot is not released.

Since the final packaging has no bearing on the results or comparability of required tests, and since product in final containers is the form of the product that will be marketed, the Commissioner accepts the suggestion and §§ 640.85(a) and 640.95(a) of the final regulations are amended by substituting the word "intended" for the phrase "packaged as" in describing the containers submitted to the Bureau.

33. One comment on proposed §§ 640.85(b) and 640.95(b) suggested that there should be an approved, uniform protocol format.

The Commissioner is evaluating the feasibility of a uniform protocol format. No amendment to these regulations can be proposed at this time.

34. Three comments on proposed §§ 640.85(b)(1) and 640.95(b)(1) objected to the required submission of lot numbers for all in-process bulk lots used to prepare the final bulk material, including a description of any reprocessing performed on in-process bulk material. The comments stated that this information is (1) proprietary, (2) available to FDA during routine inspection, and (3) not related to the safety, purity, potency, or efficacy of the product.

The Commissioner advises that submission of this information was proposed because data available before the publication of the proposal suggested a correlation between the extent of reprocessing bulk material in process and the safety of the product. More recent data demonstrate, however, that the extent of reprocessing may not always be directly correlated with the safety, purity, potency, or efficacy of the product. Accordingly, §§ 640.85(b)(1) and 640.95(b)(1) are deleted in the final regulation. The subsequent subparagraphs are renumbered sequentially. Information regarding reprocessing at later stages of production must be submitted pursuant to other provisions of these additional standards.

The Commissioner advises that proprietary information is regularly submitted to FDA by manufacturers and is also available during FDA inspections. These factors do not therefore preclude the submission of information in protocols or similar reports to the Agency.

35. Two comments on proposed §§ 640.85(b)(2) and 640.95(b)(2) (redesignated as §§ 640.85(b)(1) and 640.95(b)(1) respectively), requested clarification of the term "reprocessing" and the intent of the requirement to describe in the protocol any reprocessing performed on the final bulk or final container material before packaging. The comments stated that the term could be interpreted to include repeat steps which would not affect the safety or efficacy of the product, such as refiltration due to blockage of the filter.

The term "reprocessing" means repetition of an operation. The Commissioner advises that the requirement that certain reprocessing information be reported in the protocol applies to bulk solution and final container material and therefore includes, for example, repooling, reprecipitation and refiltration; the term also includes repeat steps cited by the comments. The Commissioner considers it necessary to review all information related to reprocessing at this stage of production to permit the evaluation of these deficiencies for their potential effect on the safety, purity, potency and effectiveness of the final product. Accordingly, §§ 640.85(b)(1) and 640.95(b)(1) of the final regulations are amended to require that a brief description of any reprocessing of bulk or final container material because of failure to pass required tests must be included in a protocol for each filling of each lot of product.

36. Two comments on proposed §§ 640.85(b)(3) and 640.95(b)(3) (redesignated as §§ 640.85(b)(2) and 640.95(b)(2), respectively), said that the requirement to include in the protocol the results of all required tests, including initial and repeat tests performed on bulk and final container material, is inconsistent with § 610.1 (21 CFR 610.1), which provides that a test result may be discarded when it is established that the test is invalid because of causes unrelated to the product.

The Commissioner disagrees with the comments that § 610.1 is inconsistent with the information to be included in the protocol. The fact that a manufacturer is not bound by a test rendered invalid for causes unrelated to the product does not bar review and evaluation by FDA, whose interest goes beyond the particular test objective at issue. The Commissioner considers it necessary to review the data from all tests whether the manufacturer deems the test valid or invalid. Many required tests, such as that for sterility in § 610.12 (21 CFR 610.12) and that for general safety in § 610.11 (21 CFR 610.11), are subject to a relatively large number of variables that may influence the validity of test results although they are unrelated to the product. To evaluate the validity of test data adequately and to confirm the manufacturer's claim of the safety, purity, potency, and effectiveness of the product, results of all required tests, valid or invalid, must be reviewed by the Bureau. Accordingly, the comments are rejected.

37. One comment on proposed §§ 640.85(b)(4) and 640.95(b)(4) (redesignated as §§ 640.85(b)(3) and 640.95(b)(3), respectively) objected to the requirement to include in the protocol the reasons for, and results of, any heating steps on final container material other than those required in §§ 640.81(e) and 640.91(e), or those performed on bulk material. The comment said that this requirement is restrictive and does not allow for variation in manufacturing procedures that are already in the approved product license.

The Commissioner advises that the reasons for and results of the heating steps are required because they identify and help correct variations in the manufacturing procedures. In addition, the requirement to report information does not

prohibit heating the bulk and final container materials, and it does not prohibit variations in manufacturing procedures, provided such heating and variations are described in the approved product license and are as prescribed in §§ 640.86 and 640.96. Accordingly, the comment is rejected.

38. Five comments on proposed §§ 640.85(b)(5) and 640.95(b)(5) (redesignated as §§ 640.85(b)(4) and 640.95(b)(4), respectively), objected to the requirement to include in the protocol the total number of vials filled and the fill volume for the vials. The comment argued that protocols are subject to public disclosure and noted that lot size, including volume and number of vials filled, is trade secret information. The comments said that the proposal is not pertinent to the safety, purity, potency, and effectiveness of the product.

The Commissioner advises that FDA regulations under § 20.61 (21 CFR 20.61) on public disclosure of records under the Freedom of Information Act protect trade secrets in documents submitted as part of a biologics license file. Section 601.51(e)(7) (21 CFR 601.51(e)(7)) provides that records showing the manufacturer's testing of a particular lot are available for public disclosure only after deletion of data or information that would show the volume of the drug produced, manufacturing procedures and controls, yield from raw materials, and costs. The biologics regulations are consistent with §§ 20.61 and 20.111(c)(2) (21 CFR 20.61 and 20.111(c)(2)) of the Agency's freedom of information regulations.

The Commissioner disagrees with the comment's contention. Such data are extremely important in assessing problems encountered in manufacture and distribution. Such data help determine appropriate remedial action. Accordingly, the comments are rejected.

39. Four comments on proposed §§ 640.85(b)(6) and 640.95(b)(6), (redesignated §§ 640.85(b)(5) and 640.95(b)(5), respectively), suggested the following revisions: (1) Permit identification of the total number of rejected filled vials in a supplementary protocol submitted after completion of the incubation period prescribed in §§ 640.81(g) and 640.91(g); (2) require only the number of vials rejected for turbidity rather than the total number of rejected vials. The comments said that requiring the total number of rejected filled vials to be identified in the original protocol would unnecessarily increase inventory cost, since the protocol could not be submitted until after incubation is completed, thereby prolonging release of the product. The comments also said that the total number of rejected filled vials is not related to the safety of the product, since many vials are rejected because of physical defects such as crooked labels.

Identification of the total number of rejected filled vials is available only after completion of the incubation period.

The Commissioner advises that submission of this information in a "supplementary protocol" is acceptable because it is considered a part of the same protocol for each filling of each lot. But the Commissioner emphasizes that written notification of official release of a lot will not be issued until all information related to the safety and purity of the product is received and reviewed by the Bureau of Biologics; hence, there may be little advantage in submitting a partially completed protocol.

The Commissioner rejects the second suggested change. The Commissioner considers it necessary to review information concerning the total number of rejected filled vials to determine the adequacy of manufacturing and quality control procedures.

Moreover, patterns of deficient practices producing rejected vials raise legitimate questions about the safety of vials that pass and may justify closer investigation. The Director of the Bureau of Biologics may request additional samples and protocols for any licensed product to determine the propriety of releasing any lot (21 CFR 601.2).

40. Three comments on proposed §§ 640.85(c) and 640.95(c) requested clarification of the phrase "written notification of release." The comments said that other additional standards, such as those for Typhoid Vaccine (21 CFR 620.14) and Anthrax Vaccine, Adsorbed (21 CFR 620.24), require only that the product shall not be issued by the manufacturer until notification of official release is received from the Director of the Bureau of Biologics. The comments suggested deletion of the word "written" from the phrase to conform it with what was alleged to be the current practice of releasing biological products based on telephone communication from the Bureau—a procedure that avoids delays in the mailing system.

The Commissioner advises that the phrase "written notification of official release," means the official document signed by the Director of the Bureau of Biologics, or by his designated agent, notifying the manufacturer that a product can be issued. The phrase "notification of official release" in §§ 620.14(c)(2) and 620.24(c)(2) as well as in §§ 620.35(e)(3), 630.66(e)(3), 630.75(d)(2), 630.86(e)(3), 650.6(b), 650.11(c)(4), 660.2(f)(1)(iii) and 660.15(c) is intended to mean the same. The Commissioner advises that it is not current practice to release any biological product based on telephone communication. Rather, to ease preparation and planning by the manufacturer, and as a courtesy, manufacturers are advised by telephone, that a product will be released after the official document is signed by or on behalf of the Director. Communication other than written notification of release is not official, and the product cannot be issued by the manufacturer on this basis. Accordingly, the comments are rejected. But for clarification and consistency, the Commissioner is amending §§ 620.14, 620.24, 620.35, 630.66, 630.75, 630.86, 650.6, 650.11, 660.2 and 660.15 to specify that "written" notification of official release must be received before issuance of the product by the manufacturer.

41. One comment on proposed §§ 640.86 and 640.96 requested clarification of the terms "method," "process," and "conditions." Another comment said that the requirements regarding equivalent methods are not needed, since § 601.6(b) (21 CFR 601.6(b)) already requires proposed changes to be reported to the Bureau and provides that such changes are not effective until receipt of notification of acceptance from the Director.

The Commissioner advises that the terms "method," "process," and "conditions" refer to any manufacturing procedures and to all analytical test procedures. The "equivalent methods" provisions are similar in scope to § 601.6(b) and the definition of the term "manufacture" in § 600.3(u). The Commissioner believes that it is appropriate to reiterate the requirement concerning equivalent methods in the published additional standards for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human), and other licensed products.

42. Two comments on proposed § 640.91(b)(1) requested clarification of whether the limit of no more than 5 percent increase of alpha-globulin-like components is to be determined in terms of the total protein of Plasma Protein Fraction (Human) or in terms of the alpha-globulin-like components only, before and after heating. The comments said that all current manufacturing methods produce Plasma Protein Fraction (Human) that shows an increase of alpha-globulin-like components of more than 5 percent after heating when compared to the alpha-globulin-like component present before heating. The comments said that this increase averages 32 percent.

The Commissioner intended that the limit of no more than 5 percent increase in alpha-globulin-like components after heating be determined in terms of the total protein of Plasma Protein Fraction (Human). Accordingly, § 640.91(b)(1) of the final regulation is amended to specify that the product, after the heating prescribed in paragraph (e), must not show an increase in the components with an electrophoretic mobility similar to that of alpha globulin that amounts to more than 5 percent of the total protein.

43. One comment on proposed § 640.91(b)(2) said that the requirement that Plasma Protein Fraction (Human) contain less than 5 percent protein with a sedimentation coefficient of greater than 7.0 S is restrictive since it implies that only ultracentrifugal analysis is permitted.

The Commissioner disagrees; alternate methods are already permitted in accordance with § 640.96. Accordingly, the comment is rejected.

44. Two comments requested clarification of proposed § 640.92(b) as to whether the limit of 1 percent gamma globulin in the final product is in terms of the total protein or the total globulin.

The Commissioner intended the limit to be in terms of the total protein, and §640.92(b) of the final regulation is clarified accordingly.

45. One comment on proposed § 640.92(c) suggested that the requirement for hydrogen ion concentration of Plasma Protein Fraction (Human) should be the same as that for Normal Serum Albumin (Human). The comment contended that there is no rationale for having different hydrogen ion concentration requirements for the two products, but provided no data.

The Commissioner advises that currently available data demonstrate that Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) that conform to the hydrogen ion concentration requirements prescribed in §§ 640.82(c) and 640.92(c), respectively, will be safe, pure, potent, and effective. The Commissioner invites submission of data that support the comment, but he currently has no basis to change the requirement. Accordingly, the comment is rejected.

46. One comment on proposed § 640.92(e) said that the test for heme content was originally developed for Normal Serum Albumin (Human) and presented data demonstrating that the test is unreliable for Plasma Protein Fraction (Human) because of the amount of nonalbumin protein components in the product.

The Commissioner concludes that the data presented with the comment adequately demonstrate that the proposed test is unreliable when used to measure the heme content of Plasma Protein Fraction (Human) and should not be required. Accordingly, the comment is accepted, and proposed § 640.92(e) is deleted. For continuity, proposed § 640.92(g) is renumbered § 640.92(e).

A few comments were not directly related to the proposed additional standards. Nevertheless, the comments and the Commissioner's responses are as follows:

47. One comment suggested that a more stringent pyrogen test than that prescribed in § 610.13(b) (21 CFR 610.13(b)) should be required for the product to reduce the incidence of febrile reactions from its administration.

In the FEDERAL REGISTER of September 22, 1976 (41 FR 41422), the Commissioner amended the regulation concerning pyrogen tests (21 CFR 610.13) to increase uniformity, sensitivity, and reliability of the pyrogen test procedure. The Commissioner is not aware of any satisfactory data demonstrating that a more stringent pyrogen test alone would increase detection of pyrogenic substances and reduce the incidence of febrile reactions in recipients. But the Commissioner invites submission of data to support a requirement for a more stringent pyrogen test.

48. One manufacturer asked whether continuing clinical trials are necessary since such a requirement was not included in the proposed additional standards for Normal Serum Albumin (Human). The firm that submitted the comment routinely conducts clinical trials on all lots and considers clinical trials the best means available to ensure the product's safety.

The Commissioner advises that clinical trials on lots of Normal Serum Albumin (Human) are not required after a license has been approved; clinical trials are required only prior to approval for licensure and certain amendments to the license. But the Commissioner has no objection to a manufacturer's conducting additional tests, including clinical trials, on a product that is manufactured in accordance with its license and applicable regulations.

49. One comment suggested that the following requirements should be added to the additional standards: (1) The product must be hepatitis B antigen negative by radioimmunoassay (RIA) or equivalent method; (2) the product must not contain soluble human leucocyte antigens (HLA); (3) the product must be free of endotoxin; and (4) complete, easily retrievable records of each unit administered to patients must be kept by hospitals.

The Commissioner concludes that testing the final product for hepatitis B surface antigen (HB_sAg) is unnecessary, for the following reasons: (1) §§ 640.81(g) and 640.91(g) require heating the product in final containers for 10 hours at 60° C—this temperature will inactivate any hepatitis virus present; (2) § 610.40(a) (21 CFR 610.40(a)) requires that each donation of blood, plasma, or serum to be used in preparing a biological product shall be tested by a method of third generation sensitivity, such as RIA; and (3) § 610.40(d) (21 CFR 610.40(d)) requires that blood, plasma, or serum that is reactive when tested for HB_sAg shall not be used in manufacturing injectable biological products, such as Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). The Commissioner is of the opinion that, because the current testing and manufacturing requirements adequately ensure that the final product is free of hepatitis B virus infectivity, patient protection will not be enhanced by the suggested requirement that the final product be tested and found nonreactive for HB_sAg. Therefore, the portion of the comment suggesting that the product must be hepatitis B surface antigen negative by RIA or equivalent method is rejected.

The Commissioner is not aware of any processing procedure that will eliminate HLA antigen, as suggested by the comment. Furthermore, although there are data to relate HLA to potential transplantation and white cell transfusion immunity problems, the significance of the presence of HLA in the product is not completely understood. Therefore, it is not now practical or reasonable to require that the product not contain HLA. But the Commissioner encourages all interested persons to submit data that may contribute to a better understanding of HLA and its clinical role.

Concerning the suggestion that the product must be free of endotoxin, the Commissioner agrees that elimination of endotoxin would contribute to the safety of the product. License requirements and standards for Limulus Amebocyte Lysate (LAL) were proposed in the FEDERAL REGISTER of September 18, 1973 (38 FR 26130). LAL has been shown to be a more sensitive indicator for the presence of bacterial endotoxin than is the currently prescribed pyrogen test.

But there are unresolved problems in using LAL to detect endotoxin in the product—the physicochemical binding of the product and endotoxin hampers specificity. Although no license for the use of LAL has yet been issued, the Bureau is actively studying the use of LAL as a means to a more effective method for detecting endotoxin in biological products.

The Commissioner agrees with and endorses the suggestion that hospitals keep complete, easily retrievable records of each unit administered to patients and encourages the individual States, local jurisdictions, physicians, and hospital staffs to accept this recommendation.

50. One comment suggested adding a requirement that Plasma Protein Fraction (Human) be required to contain less than 1 nanogram of bradykinin per milliliter. Bradykinin is a substance liberated by the action of proteolytic enzymes on a precursor (kininogen) found in the globulin fraction of blood plasma. Bradykinin can produce a transient decrease in blood pressure. The comment stated that since Plasma Protein Fraction (Human) is indicated for blood volume expansion in patients suffering severe, prolonged, and acute shock, the presence of bradykinin may cause prolonged irreversible hypotension, and even death.

The Commissioner is aware that bradykinin is implicated in hypotension. Precautionary statements regarding hypotensive responses are given in the labeling of Plasma Protein Fraction (Human). But data relating the concentration of bradykinin to the degree of clinical hypotension are not sufficient to establish a maximum permissible level. Accordingly, the Commissioner rejects the comment. Interested persons are, however, encouraged to submit data relating to the concentration of bradykinin and the degree of clinical hypotension expected.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Additional background data and information on which the Commissioner relies in promulgating this regulation are on public display in the office of the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 610, 620, 630, 640, 650, and 660 are amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

1. In Part 610, by revising § 610.50(b) to read as follows:

§ 610.50 Date of manufacture.

* * * * *

(b) For products that are not subject to official potency tests, (1) the date of removal from animals, (2) the date of extraction, (3) the date of solution, (4) the date of cessation of growth, or (5) the date of final sterile filtration of a bulk solution, whichever is applicable.

PART 620—ADDITIONAL STANDARDS FOR BACTERIAL PRODUCTS

2. In Part 620, as follows:

a. In § 620.14, by revising paragraph (c)(2) and adding paragraph (c)(3) to read as follows:

§ 620.14 General requirements.

* * * * *

(c) * * *

(2) A protocol that consists of a summary of the history of manufacture of each lot including all results of each test for which test results are requested by the Director, Bureau of Biologics.

(3) The product shall not be issued by the manufacturer until written notification of official release of each filling lot of dried vaccine and of each bulk lot of aqueous vaccine is received from the Director, Bureau of Biologics.

b. In § 620.24, by revising paragraph (c)(2) and adding paragraph (c)(3) to read as follows:

§ 620.24 General requirements.

* * * * *

(c) * * *

(2) A sample of no less than 40 milliliters of the final product distributed in approximately equal amounts into four final containers.

(3) The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics.

c. In § 620.35, by revising paragraph (e)(3) to read as follows:

§ 620.35 General requirements.

* * * * *

(e) * * *

(3) The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics.

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

3. In Part 630, as follows:

a. In § 630.66, by revising paragraph (e)(3) to read as follows:

§ 630.66 General requirements.

* * * * *

(e) * * *

(3) The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics.

b. In § 630.75, by revising paragraph (d)(2) to read as follows:

§ 630.75 General requirements.

* * * * *

(d) * * *

(2) The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics.

c. In § 630.86, by revising paragraph (e)(3) to read as follows:

§ 630.86 General requirements.

* * * * *

(e) * * *

(3) The product shall not be issued by the manufacturer until written notification of official release of each filling of each lot is received from the Director, Bureau of Biologics.

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

4. In Part 640 by adding new Subpart H and new Subpart I, to read as follows:

Subpart H—Normal Serum Albumin (Human)

Sec.

640.80 Normal Serum Albumin (Human).
640.81 Processing.
640.82 Tests on final product.
640.83 General requirements.
640.84 Labeling.
640.85 Samples; protocols; official release.
640.86 Equivalent methods.

AUTHORITY: Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262).

Subpart H—Normal Serum Albumin (Human)

§ 640.80 Normal Serum Albumin (Human).

(a) *Proper name and definition.* The proper name of the product shall be Normal Serum Albumin (Human). The product is defined as a sterile solution of the albumin component of human blood.

(b) *Source material.* The source material of Normal Serum Albumin (Human) shall be blood, plasma, serum or placentas from human donors determined at the time of donation to have been free from disease-causative agents that are not destroyed or removed by the processing method, as determined by the medical history of the donor and from such physical examination and clinical tests as may appear necessary for each donor at the time the blood was obtained. Where source material is a product for which additional standards are effective, the requirements of those additional standards shall determine the propriety of the source material for use in the production of Normal Serum Albumin (Human). Where no additional standards are effective with respect to source material for the production of Normal Serum Albumin (Human), such source material shall:

(1) Be collected by a procedure which is designed to assure the integrity and to minimize the risk of contamination of the source material. The manufacturer of Normal Serum Albumin (Human) shall ensure that the collection procedure shall be as described in its license.

(2) Be identified to relate it accurately to the individual donor and the dates of collection.

(3) Not contain a preservative.

(4) Be stored and transported in a manner designed to prevent contamination by microorganisms, pyrogens, or other impurities.

(c) *Additives in source material.* Source material shall not contain an additive unless it is shown that the processing method yields a final product free of the additive to such extent that the continued safety, purity, potency, and effectiveness of the final product will not be adversely affected.

§ 640.81 Processing.

(a) *Date of manufacture.* The date of manufacture shall be the date of final sterile filtration of a uniform pool of bulk solution.

(b) *Processing method.* The processing method shall not affect the integrity of the product, and shall have been shown to yield consistently a product which is safe for intravenous injection.

(c) *Microbial contamination.* All processing steps shall be conducted in a manner to minimize the risk of contamination from either microorganisms or other deleterious matter. Preservatives to inhibit growth of microorganisms shall not be used during processing.

(d) *Storage of bulk fraction.* Bulk concentrate to be held more than 1 week prior to further processing shall be stored in clearly identified closed vessels at a temperature of −5° C or colder. Any other bulk form of the product, exclusive of the sterile bulk solution, to be held more than 1 week prior to further processing shall be stored in clearly identified closed vessels at a temperature of 5° C or colder. Any bulk fraction to be held one week or less prior to further processing shall be stored in clearly identified closed vessels at a temperature of 5° C or colder.

(e) *Heat treatment.* Heating of the final containers of Normal Serum Albumin (Human) shall begin within 24 hours after completion of filling. Heat treatment shall be conducted so that the solution is heated for not less than 10 or more than 11 hours at an attained temperature of 60°±0.5° C.

(f) *Stabilizer.* Either 0.16 millimole sodium acetyltryptophanate, or 0.08 millimole sodium acetyltryptophanate and 0.08 millimole sodium caprylate shall be added per gram of albumin as a stabilizer.

(g) *Incubation.* All final containers of Normal Serum Albumin (Human) shall be incubated at 20° to 35° C for at least 14 days following the heat treatment prescribed in paragraph (e) of this section. At the end of this incubation period, each final container shall be examined and all containers showing any indication of turbidity or microbial contamination shall not be issued. The contents of turbid final containers shall be examined microscopically and tested for sterility. If growth occurs, organisms shall be identified as to genus, and the material from such containers shall not be used for further manufacturing.

§ 640.82 Tests on final product.

Tests shall be performed on the final product to determine that it meets the following standards:

(a) *Protein content.* The final product shall conform to one of the following concentrations: 4.0±0.25 percent; 5.0±0.30 percent; 20.0±1.2 percent; and 25.0±1.5 percent solution of protein.

(b) *Protein composition.* At least 96 percent of the total protein in the final product shall be albumin, as determined by a method that has been approved for each manufacturer by the Director, Bureau of Biologics, Food and Drug Administration.

(c) *Hydrogen ion concentration.* The pH shall be 6.9±0.5 when measured in a solution of the final product diluted to a concentration of 1 percent protein with 0.15 molar sodium chloride.

(d) *Sodium content.* The sodium content of the final product shall be 130 to 160 milliequivalents per liter.

(e) *Heme content.* The absorbance at 403 nanometers of a solution of the final product diluted to a concentration of 1 percent protein in a cell with a 1-centimeter light path shall not exceed 0.25.

(f) *Heat stability.* A final container sample of Normal Serum Albumin (Human) shall remain unchanged, as determined by visual inspection, after heating at 57° C for 50 hours, when compared to its control consisting of a sample, from the same lot, which has not undergone this heating.

§ 640.83 General requirements.

(a) *Preservative.* The final product shall not contain a preservative.

(b) *Storage of bulk solution.* After all processing steps have been completed, the sterile bulk solution shall be stored in a manner that will ensure the continued sterility of the product, and at a temperature that shall not exceed the recommended storage temperature of the final product prescribed in § 610.53 of this chapter.

§ 640.84 Labeling.

In addition to the labeling requirements of §§ 610.60, 610.61, and 610.62 of this chapter,

(a) The container and package labels shall contain the following information:

(1) The osmotic equivalent in terms of plasma, and the sodium content in terms of a value or a range in milliequivalents per liter;

(2) The caution "DO NOT USE IF TURBID OR MORE THAN 4 HOURS AFTER THE CONTAINER HAS BEEN ENTERED" placed in a prominent position on the label;

(3) The need for additional fluids when 20 percent or 25 percent albumin is administered to a patient with marked dehydration;

(4) The protein content, expressed as a 4 percent, 5 percent, 20 percent, or 25 percent solution.

(b) The type of source material, expressed as venous plasma, placental plasma, or both, used to manufacture the final product shall appear on either the container or package label or in the package insert.

§ 640.85 Samples; protocols; official release.

For each filling of each lot of Normal Serum Albumin (Human), the following material shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, Building 29A, 8800 Rockville Pike, Bethesda, MD 20014:

(a) A sample consisting of no less than 100 milliliters of product in at least two final containers intended for distribution.

(b) A protocol which consists of a complete summary of the history of manufacture of each filling, including the following items:

(1) A brief description of any reprocessing of bulk or final container material because of failure to pass required tests.

(2) The results of all required tests, including initial and repeat tests performed on bulk and final container material.

(3) A description of any heating steps on the bulk and on final container material other than that required in § 640.81(e), including the reasons for the heating and the results of such heating.

(4) The total number of vials filled, the fill volume of the vials and, if more than one fill volume is used, the total number of vials filled for each fill volume.

(5) The total number of rejected filled vials, including the vials rejected for turbidity, and the results of the tests performed on the turbid vials.

(c) The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics, Food and Drug Administration.

§ 640.86 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted, as set forth in these additional standards for Normal Serum Albumin (Human), shall be permitted only upon the submission by the manufacturer to the Director, Bureau of Biologics, Food and Drug Administration, of substantial evidence demonstrating that the modification will assure the continued safety, purity, potency, and effectiveness of Normal Serum Albumin (Human) to an extent equal to or greater than the methods or processes provided in §§ 640.80 through 640.85, and after the equivalent method has received the written approval of the Director, Bureau of Biologics, Food and Drug Administration.

Subpart I—Plasma Protein Fraction (Human)

Sec.

640.90 Plasma Protein Fraction (Human).
640.91 Processing.
640.92 Tests on final product.
640.93 General requirements.
640.94 Labeling.
640.95 Samples; protocols; official release.
640.96 Equivalent methods.

AUTHORITY: Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262).

Subpart I—Plasma Protein Fraction (Human)

§ 640.90 Plasma Protein Fraction (Human).

(a) *Proper name and definition.* The proper name of the product shall be Plasma Protein Fraction (Human). The product is defined as a sterile solution of protein composed of albumin and globulin, derived from human blood.

(b) *Source material.* The source material of Plasma Protein Fraction (Human) shall be blood, plasma, or serum from human donors determined at the time of donation to have been free from disease-causative agents that are not destroyed or removed by the processing method, as determined by the medical history of the donor and from such physical examination and clinical tests as may appear necessary for each donor at the time the blood was obtained. When source material is a product for which additional standards are effective, the requirements of those additional standards shall determine the propriety of the material for use in the production of Plasma Protein Fraction (Human). When no additional standards are effective with respect to source material for the production of Plasma Protein Fraction (Human), such source material shall:

(1) Be collected by a procedure which is designed to assure the integrity and to minimize the risk of contamination of the source material. The manufacturer of Plasma Protein Fraction (Human) shall ensure that the collection procedure shall be as described in its license;

(2) Be identified to relate it accurately to the individual donor and to the dates of collection;

(3) Not contain a preservative; and

(4) Be stored and transported in a manner designed to prevent contamination by microorganisms, pyrogens, or other impurities.

(c) *Additives in source material.* Source material shall not contain an additive unless it is shown that the processing method yields a final product free of the additive to such extent that the continued safety, purity, potency, and effectiveness of the final product will not be adversely affected.

§ 640.91 Processing.

(a) *Date of manufacture.* The date of manufacture shall be the date of final sterile filtration of a uniform pool of bulk solution.

(b) *Processing method.* The processing method shall not affect the integrity of the product, and shall have been shown to yield consistently a product which:

(1) After the heating prescribed in paragraph (e) of this section does not show an increase in the components with electrophoretic mobility similar to that of alpha globulin that amounts to more than 5 percent of the total protein.

(2) Contains less than 5 percent protein with a sedimentation coefficient greater than 7.0 S.

(3) Is safe for intravenous injection.

(c) *Microbial contamination.* All processing steps shall be conducted in a manner to minimize the risk of contamination from either microorganisms or other deleterious matter. Preservatives to inhibit growth of microorganisms shall not be used during processing.

(d) *Storage of bulk fraction.* Bulk concentrate to be held more than 1 week prior to further processing shall be stored in clearly identified closed vessels at a temperature of −5° C or colder. Any other bulk form of the product (exclusive of the sterile bulk solution) to be held more than 1 week prior to further processing, shall be stored in clearly identified closed vessels at a temperature of 5° C or colder. Any bulk fraction to be held one week or less prior to further processing shall be stored in clearly identified closed vessels at a temperature of 5° C or colder.

(e) *Heat treatment.* Heating of the final containers of Plasma Protein Fraction (Human) shall begin within 24 hours after completion of filling. Heat treatment shall be conducted so that the solution is heated for not less than 10 or more than 11 hours at an attained temperature of 60°±0.5° C.

(f) *Stabilizer.* Either 0.16 millimole sodium acetyltryptophanate, or 0.08 millimole sodium acetyltryptophanate and 0.08 millimole sodium caprylate shall be added per gram of protein as a stabilizer.

(g) *Incubation.* All final containers of Plasma Protein Fraction (Human) shall be incubated at 20° to 35° C for at least 14 days following the heat treatment prescribed in paragraph (e) of this section. At the end of this incubation period, each final container shall be examined and all containers showing any indication of turbidity or microbial contamination shall not be issued. The contents of turbid final containers shall be examined microscopically and tested for sterility. If growth occurs, the types of organisms shall be identified as to genus and the material from such containers shall not be used for further manufacturing.

§ 640.92 Tests on final product.

Tests shall be performed on the final product to determine that it meets the following standards:

(a) *Protein content.* The final product shall be a 5.0±0.3 percent solution of protein.

(b) *Protein composition.* The total protein in the final product shall consist of at least 83 percent albumin, and no more than 17 percent globulins. No more than 1 percent of the total protein shall be gamma globulin. The protein composition shall be determined by a method that has been approved for each manufacturer by the Director, Bureau of Biologics, Food and Drug Administration.

(c) *Hydrogen ion concentration.* The pH shall be 7.0±0.3 when measured in a solution of the final product diluted to a concentration of 1 percent protein with 0.15 molar sodium chloride.

(d) *Sodium content.* The sodium content of the final product shall be 130 to 160 milliequivalents per liter.

(e) *Potassium content.* The potassium content of the final product shall not exceed 2 milliequivalents per liter.

(f) *Heat stability.* A final container sample of Plasma Protein Fraction (Human) shall remain unchanged, as determined by visual inspection, after heating at 57° C for 50 hours, when compared to its control consisting of a sample, from the same lot, which has not undergone this heating.

§ 640.93 General requirements.

(a) *Preservative.* The final product shall not contain a preservative.

(b) *Storage of bulk solution.* After all processing steps have been completed, the sterile bulk solution shall be stored in a manner that will ensure the continued sterility of the product, and at a temperature that shall not exceed the recommended storage temperature of the final product prescribed in § 610.53 of this chapter.

§ 640.94 Labeling.

In addition to the labeling requirements of §§ 610.60, 610.61, and 610.62 of this chapter, the container and package labels shall contain the following information:

(a) The osmotic equivalent in terms of plasma, and the sodium content in terms of a value or a range in milliequivalents per liter.

(b) The caution "DO NOT USE IF TURBID OR MORE THAN 4 HOURS AFTER THE CONTAINER HAS BEEN ENTERED" placed in a prominent position on the label.

§ 640.95 Samples; protocols; official release.

For each filling of each lot of Plasma Protein Fraction (Human), the following material shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, Building 29A, 8800 Rockville Pike, Bethesda, MD 20014:

(a) A sample consisting of no less than 100 milliliters of product in at least two final containers intended for distribution.

(b) A protocol which consists of a complete summary of the history of manufacture of each filling, including the following items:

(1) A brief description of any reprocessing of bulk or final container material because of failure to pass required tests.

(2) The results of all required tests, including initial and repeat tests performed on bulk and final container material.

(3) A description of any heating steps on the bulk and on final container material other than that required in § 640.91(e), including the reasons for the heating and the results of such heating.

(4) The total number of vials filled, the fill volume of the vials and, if more than one fill volume is used, the total number of vials filled for each fill volume.

(5) The total number of rejected filled vials, including the vials rejected for turbidity, and the results of the tests performed on the turbid vials.

(c) The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics, Food and Drug Administration.

§ 640.96 Equivalent methods.

Modification of any particular manufacturing method or process, or the conditions under which it is conducted, as set forth in the additional standards for Plasma Protein Fraction (Human), shall be permitted only upon the submission by the manufacturer to the Director, Bureau of Biologics, Food and Drug Administration, of substantial evidence demonstrating that the modification will assure the continued safety, purity, potency, and effectiveness of Plasma Protein Fraction (Human) to an extent equal to, or greater than, the methods or processes provided in §§ 640.90 through 640.95, and after the equivalent method has received the written approval of the Director, Bureau of Biologics, Food and Drug Administration.

PART 650—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR DERMAL TESTS

5. In Part 650, as follows:

a. In § 650.6, by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 650.6 Samples; protocols; official release.

* * * * *

(b) A sample of no less than 20 milliliters of the product.

(c) The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics.

b. In § 650.11, by revising paragraph (c)(4) and adding paragraph (c)(5) to read as follows:

§ 650.11 General requirements.

* * * * *

(c) * * *

(4) Sufficient dried tuberculin in final containers so that upon reconstitution as recommended in labeling it will yield at least 20 milliliters.

(5) The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics.

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

6. In Part 660, as follows:

a. In § 660.2, by revising paragraph (f)(1)(iii) to read as follows:

§ 660.2 General requirements.

* * * * *

(f) * * *

(1) * * *

(iii) The product shall not be issued by the manufacturer until written notification of official release of each filling of each lot is received from the Director, Bureau of Biologics.

* * * * *

b. In § 660.15, paragraph (c) is revised and paragraph (d) is added to read as follows:

§ 660.15 Samples, protocols, official release.

* * * * *

(c) *Protocols.* A protocol which consists of a summary of the history of manufacture of each lot, including all results of all tests required by regulations, shall be submitted for each lot of product to be released.

(d) *Release.* The product shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics.

Effective date. This regulation shall be effective August 28, 1977 except for the labeling requirements. All labeling for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) shall comply with §§ 640.84 and 640.94, respectively, on or before November 28, 1977.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 3, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-15423 Filed 5-27-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER IV—SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION, DEPARTMENT OF TRANSPORTATION

PART 401—SEAWAY REGULATIONS

Metric System of Measurement and Miscellaneous Amendments

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Seaway Regulations. These amendments are intended to make the Regulations comply with the policy of the Metric Conversion Act of 1975 which is to coordinate and plan the increasing use of the metric system in the United States.

EFFECTIVE DATE: May 31, 1977.

ADDRESS: Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662.

FOR FURTHER INFORMATION CONTACT:

Frederick A. Bush, General Counsel, 315-764-0271, Ext. 245, author of the amendments.

SUPPLEMENTARY INFORMATION: On March 18, 1977 (42 FR 15077), the FEDERAL REGISTER published proposed amendments to the Seaway Regulations (33 CFR Part 401) pertaining to the metric system of measurement and other miscellaneous revisions. The proposal added the metric equivalents as the primary system of measurement, supplemented by the English measurements. No actual measurements are being changed in this initial phase of metric conversion. Additionally, the proposal deleted specific reference to Form SLS 429, The St. Lawrence Seaway Application for Vessel Preclearance, to allow revisions to be made to the form without amending the Seaway Regulations. Also a change in the distance between signs and movable bridges was made in § 401.51 to conform to the actual distance.

In response to the Corporation's request for public comment, two were received. Both respondents suggested that the method of conversion chosen by the Corporation was unnecessarily precise and not altogether convenient.

One commenter also suggested that the use of the prefix "deci" should be discouraged and that the use of a comma in metric measurements was erroneous due to the fact that several other countries use the comma as a decimal marker when using the metric system. The comments were carefully considered and as pertains to the use of a precise metric conversion, it was stated that during the initial transition period of metric conversion, when both metric and English measures are expressed, the equivalence of the two units should be preserved by a precise conversion. In the final period of metric conversion, further determinations will be made regarding rounding off and the use of convenient metric measurements.

With respect to the comment referring to the use of the prefix "deci", the commenter was advised that the Corporation's use of the prefix is consistent with channel depth units to be used by both American and Canadian hydrological agencies and that the use of a certain prefix dependent upon its application is recognized and accepted by the American National Standards Institute.

The comment that the comma should not be used pointed out a discrepancy in the Corporation's proposal which is being revised accordingly.

The Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Since these amendments do not require any action by interested parties but are substantially informational in nature, I find that good cause exists for making them effective in less than 30 days. Therefore, pursuant to the authority contained in 33 U.S.C. 981 et seq., the Saint Lawrence Seaway Act, and the authority vested in the Secretary of Transportation with respect to the St. Lawrence Seaway under the Ports and Waterways Safety Act of 1972 (Pub. L. 92-340, 86 Stat. 424), which authority was subsequently delegated to the Administrator of the Saint Lawrence Seaway Development Corporation in the FEDERAL REGISTER on October 17, 1972 (37 FR 21942), the Seaway Regulations are amended as follows:

* * * * *

1. In § 401.3 paragraphs (a) and (b) are amended to read as follows:

§ 401.3 Maximum vessel dimensions.

(a) No vessel of more than 222.50 meters (730 feet) in overall length or 23.16 meters (76 feet) in extreme breadth, including permanent fenders, shall transit.

(b) No vessel shall transit if any part of the vessel or anything on the vessel extends more than 35.66 meters (117 feet) above water level.

* * * * *

2. Section 401.4 is amended to read as follows:

§ 401.4 Minimum length and weight.

No vessel of less than 6.10 meters (20 feet) in overall length or 907.18 kilograms (1 ton) in weight shall transit.

3. Section 401.6 is amended to read as follows:

§ 401.6 Draft markings.

(a) Vessels of more than 19.81 meters (65 feet) in overall length shall be correctly and distinctly marked and equipped with draft markings on both sides at the bow and stern.

(b) In addition to the markings required by paragraph (a) of this section, vessels of more than 106.68 meters (350 feet) in overall length shall be marked on both sides with midship draft markings.

4. Section 401.8 is amended to read as follows:

§ 401.8 Landing booms.

Vessels of more than 45.72 meters (150 feet) in overall length shall be equipped with at least one adequate landing boom on each side.

5. Section 401.9 is amended to read as follows:

§ 401.9 Radiotelephone equipment.

(a) Self-propelled vessels, other than pleasure craft of less than 19.81 meters (65 feet) shall be equipped with VHF (very high frequency) radiotelephone equipment.

(b) The radio transmitters on a vessel shall

(1) Have sufficient power output to enable the vessel to communicate with Seaway stations from a distance of 48.28 kilometers (30 miles); and

• • • • • •

6. Section 401.10(a)(2) and (c) is amended to read as follows:

Table

Ship's overall length	Length of mooring line	Breaking strength
38.10 m to 60.96 m (125 ft to 200 ft)	109.73 m (360 ft)	88.96 kN (10 tons).
61.26 m to 91.44 m (201 ft to 300 ft)	do	133.45 kN (15 tons).
91.74 m to 121.92 m (301 ft to 400 ft)	do	177.93 kN (20 tons).
122.22 m to 182.88 m (401 ft to 600 ft)	do	249.10 kN (28 tons).
183.18 m to 222.50 m (601 ft to 730 ft)	do	311.38 kN (35 tons).

7. Section 410.12 is amended to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

(a) Minimum requirements in respect to mooring lines and winches and the location of fairleads on vessels are as follows:

(1) Vessels of 38.10 meters (125 feet) or less in overall length shall have at least two mooring lines or hawsers that may be led through closed chocks and be hand held, one of which shall lead from the break of the bow and the other shall lead from the quarter;

(2) Vessels of more than 38.10 meters (125 feet) but not more than 60.96 meters (200 feet) in overall length shall have four mooring lines, two of which shall be power operated by winches, capstans or windlasses and shall be led through a

§ 401.10 Mooring lines.

(a) Mooring lines shall

• • • • • •

(2) be fitted with a spliced eye not less than 2.44 meters (8 feet) long;

• • • • • •

(c) • • •

type of fairlead acceptable to the Corporation and the Authority, of which two mooring lines

• • • • • •

(3) The other two mooring lines required on vessels of more than 38.10 meters (125 feet) but not more than 60.96 meters (200 feet) may be led through closed chocks and may be hand held;

(4) Vessels of more than 60.96 meters (200 feet) in overall length shall have four mooring lines, two of which shall lead from the break of the bow and two of which shall lead from the quarter, and

• • • • • •

(b) The following table sets out the requirements for the location of fairleads for vessels of 60.96 meters (200 feet) or more in overall length:

Table

Overall length of vessels in meters	For mooring lines No. 1 and 2	For mooring lines No. 3 and 4
60.96 m to 91.44 m (200 ft to 300 ft)	Between 9.14 m and 24.38 m (30 ft and 80 ft) from the stem.	Between 9.14 m and 24.38 m (30 ft and 80 ft) from the stern.
91.44 m to 121.92 m (300 ft to 400 ft)	Between 12.19 m and 30.48 m (40 ft and 100 ft) from the stem.	Between 15.24 m and 33.53 m (50 ft and 110 ft) from the stern.
121.92 m to 152.40 m (400 ft to 500 ft)	Between 12.19 m and 33.53 m (40 ft and 110 ft) from the stem.	Between 15.24 m and 39.62 m (50 ft and 130 ft) from the stern.
152.40 m to 182.88 m (500 ft to 600 ft)	Between 15.24 m and 39.62 m (50 ft and 130 ft) from the stem.	Between 18.29 m and 45.72 m (60 ft and 150 ft) from the stern.
182.88 m to 222.50 m (600 ft to 730 ft)	Between 18.29 m and 48.77 m (60 ft and 160 ft) from the stem.	Between 21.34 m and 51.82 m (70 ft and 170 ft) from the stern.

8. In § 401.13 paragraph (b) is amended to read as follows:

§ 401.13 Hand lines.

Hand lines shall:

• • • • • •

(b) Have a minimum diameter of 12.70 millimeters (½ inch) and a minimum length of 30.48 meters (100 feet).

9. Section 401.14 is amended to read as follows:

§ 401.14 Anchor marking buoys.

An orange colored anchor marking buoy of a type approved by the Corporation and the Authority, fitted with 22.86 meters (75 feet) of suitable line, shall be secured directly to each anchor so that the buoy will mark the location of the anchor when the anchor is dropped.

10. Section 401.15 is amended to read as follows:

§ 401.15 Stern anchors.

Every vessel of more than 106.88 meters (350 feet), the keel of which is laid after January 1, 1975, shall be equipped with a stern anchor.

11. The introductory text of § 401.16 is amended to read as follows:

§ 401.16 Propeller direction alarms.

Every vessel of more than 79.25 meters (260 feet) in overall length shall be equipped with —

• • • • • •

12. The introductory text of § 401.21 is amended to read as follows:

§ 401.21 Rudder angle indicators.

Every vessel of more than 79.25 meters (260 feet) in overall length shall be equipped with rudder angle indicators or repeaters that are—

• • • • • •

13. Section 401.22(a) is amended to read as follows:

§ 401.22 Preclearance of vessels.

(a) No vessel, other than a pleasure craft of 317.52 metric tons (350 tons) or less in weight shall transit until an application for preclearance has been made, pursuant to § 401.24, to the Corporation or the Authority by the vessel's representative and the application has been approved by the Corporation or the Authority pursuant to § 401.25.

• • • • • •

14. Section 401.24 is revised to read as follows:

§ 401.24 Application for preclearance.

The representative of a vessel may, on a form obtained from the Corporation, Massena, New York, or the Authority, Cornwall, Ontario, apply for preclearance, giving particulars of the ownership, liability insurance and physical characteristics of the vessel and guaranteeing payment of the tolls and charges that may be incurred by the vessel.

15. Section 401.28(a) is amended to read as follows:

§ 401.28 Speed limits.

(a) The maximum speed over the bottom for a vessel of more than 12.19 meters (40 feet) in overall length shall be regulated so as not to adversely affect other vessels or shore property, and in no event shall such a vessel proceeding in an area between the place set out in Column I of an item of Schedule I and the place set out in Column II of that item exceed the speed set out in Column III or Column IV of that item, whichever is designated by the Corporation and the Authority from time to time as being appropriate to existing water levels.

• • • • • •

16. Section 401.29 is amended to read as follows:

§ 401.29 Maximum draft.

(a) The loading, draft and speed of a vessel in transit shall be controlled by the master, who shall take into account the vessel's individual characteristics and its tendency to list or squat, so as to avoid striking bottom.[1]

(b) The draft of a vessel shall not, in any case, exceed 79.25 decimeters (26 feet) or the maximum permissible draft designated by the Corporation or the Authority for the part of the Seaway in which a vessel is passing.

(c) No vessel shall transit the Sault Ste. Marie (Canada) Canal with a draft in excess of the maximum permissible draft currently prescribed by the Authority for that Canal or unless the available depth of water on the appropriate controlling point for draft exceeds by at least 7.62 centimeters (3 inches) the maximum draft of the vessel at the time.

[1] The main channels between the Port of Montreal and Lake Erie have a controlling depth of 8.23 meters (27 feet).

17. Section 401.31(c) is amended as follows:

§ 401.31 Meeting and passing.

• • • • •

(c) Except as instructed by the vessel traffic controller, no vessel shall overtake and pass or attempt to overtake and pass another vessel—

(1) • • •

(2) Within 609.60 meters (2000 feet) of a canal entrance;

• • • • • •

18. Section 401.35 is amended as follows:

§ 401.35 Employment of tugs.

No tug shall be fastened alongside a vessel in a canal so that the aggregate of the beams exceeds—

(a) 16.76 meters (55 feet) in the case of the Sault Ste. Marie (Canada) Canal; or

(b) 23 meters (75 feet 6 inches) in the case of any other canal.

19. Section 401.42 is amended to read as follows:

§ 401.42 Passing hand lines.

(a) At locks, hand lines shall be secured to the mooring lines and passed as follows:

• • • • • •

(2) Hand lines shall be passed to upbound vessels by the linesmen as soon as the vessel passes the open gates, and secured, by means of a clove hitch, to the mooring lines 61 centimeters (2 feet) behind the splice of the eye; and

• • • • • •

20. The table in § 401.48 is amended to read as follows:

§ 401.48 Turning basins.

• • • • • •

TABLE

• • • • • •

2. Welland Canal:

(a) Turning Basin No. 1—Opposite St. Catherines Wharf for vessels up to 106.68 meters (350 feet).

(b) Turning Basin No. 2—Between Lock 7 and Guard Gate for vessels up to 182.88 meters (600 feet).

(c) • • •

(d) Turning Basin No. 4—North of Lock No. 8 for vessels up to 167.64 meters (550 feet).

(e) For vessels up to 79.25 meters (260 feet):

• • • • • •

21. Section 401.51 is amended to read as follows:

§ 401.51 Signalling approach to a bridge.

Unless a vessel's approach has been recognized by a flashing red signal light, three distinct blasts shall be sounded on the vessel's whistle when it comes abreast of any of the bridge whistle signs, which signs shall be placed at distances varying between 670.56 meters and 1,500 meters (2,200 feet and 4,921 feet) upstream and downstream from movable bridges at sites other than lock sites.

22. Section 401.65(a)(1) is revised to read as follows:

§ 401.65 Communication—ports, docks and anchorages.

(a) • • •

(1) Toronto and Hamilton—0.87 of a nautical mile (1 mile) outside of harbor limits; and

• • • • • •

23. In § 401.67 (b) and (c) are revised to read as follows:

§ 401.67 Explosive vessels.

A vessel carrying:

• • • • • •

(b) More than 9.07 metric tons (10 tons) of explosives that do not explode en masse; or

(c) More than 90.72 metric tons (100 tons) of explosives having a fire hazard with minor or no explosive effect, shall be deemed for the purposes of these Regulations to be an explosive vessel.

24. Section 401.68 is amended by revising paragraphs (a) (1), (2) and (3) to read as follows.

§ 401.68 Explosives permit.

(a) • • •

(1) 1.81 metric tons (2 short tons) of explosives with mass explosive risk;

(2) 45.36 metric tons (50 short tons) of explosives that do not explode en masse; or

(3) 453.59 metric tons (500 short tons) of explosives having a fire hazard without explosive effect.

• • • • • •

25. In § 401.69, paragraphs (b) (1) through (11) are revised as follows:

§ 401.69 Hazardous cargo vessels.

A vessel that is:

• • • • • •

(b) • • •

(1) 45.36 metric tons (50 tons) of gases, compressed, liquified or dissolved under pressure.

(2) 45.36 metric tons (50 tons) of inflammable liquids of the low flashpoint group,

(3) 45.36 metric tons (50 tons) of organic peroxides,

(4) 90.72 metric tons (100 tons) of oxidizing substances,

(5) 90.72 metric tons (100 tons) of inflammable liquids of the intermediate flashpoint group,

(6) 90.72 metric tons (100 tons) of inflammable solids or spontaneously combustible substances,

(7) 90.72 metric tons (100 tons) of substances emitting inflammable gases when wet,

(8) 90.72 metric tons (100 tons) of poisonous substances,

(9) 90.72 metric tons (100 tons) of infectious substances,

(10) 181.44 metric tons (200 tons) of corrosive substances, or

(11) 453.59 metric tons (500 tons) of inflammable liquids of the high flashpoint group,

shall be deemed for the purposes of the regulations in this part to be a hazardous cargo vessel.

26. In § 401.74 paragraph (a) is revised to read as follows:

§ 401.74 Transit declaration.

(a) The Seaway Transit Declaration Form (Cargo and Passenger), which may be obtained from the Corporation, Massena, New York, or from the Authority, Cornwall, Ontario, shall be forwarded to the Corporation or the Authority by the representative of every vessel, other than a pleasure craft of not more than 317.52 metric tons (350 tons), within fourteen days after the vessel first enters the Seaway on any upbound or downbound voyage.

• • • • • •

27. Section 401.82 is revised to read as follows:

§ 401.82 Reporting mast height.

A vessel, any part of which extends more than 33.53 meters (110 feet) above water level shall not transmit any part of the Seaway until precise information concerning the height of the vessel has been furnished to the Seaway station.

28. Schedule I, *The St. Lawrence Seaway Application for Vessel Pre-Clearance*, is deleted.

29. Schedule II is renumbered Schedule I and is revised to read as follows:

SCHEDULE I.—*Table of Speeds*[1]

From	To	Maximum speed over the bottom, knots	
		Col. III	Col. IV
Upper Entrance South Shore Canal.	Lake St. Louis Buoy 13A	10.4 (12 mi/h)	10.4 (12 mi/h).
Lake St. Louis Buoy 13A	Lower Entrance Beauharnois Lock.	13.5 (18 mi/h)	15.5 (18 mi/h).
Upper Entrance Beauharnois Lock Buoy 5B.	Lake St. Francis Buoy 27F	8.6 (10 mi/h upb) 10.4 (12 mi/h dnb)	8.6 (10 mi/h upb). 10.4 (12 mi/h dnb).
Lake St. Francis Buoy 27F	Lake St. Francis Buoy 87F	13.5 (18 mi/h)	13.5 (18 mi/h).
Lake St. Francis Buoy 87F	Snell Lock	8.6 (10 mi/h upb) 10.4 (12 mi/h dnb)	7.7 (9 mi/h upb). 10.4 (12 mi/h dnb).
Eisenhower Lock	Richards Point Light 55	11.3 (13 mi/h)	10.4 (12 mi/h).
Richards Point Light 55	Morrisburg Buoy 81	13.0 (15 mi/h)	10.4 (12 mi/h).
Morrisburg Buoy 84	Ogden Island Buoy 99	11.3 (13 mi/h)	10.4 (12 mi/h).
Ogden Island Buoy 99	Blind Bay ½ mile east of Light 162	13.0 (15 mi/h)	10.4 (12 mi/h).
Blind Bay ½ mile east of Light 162	Dver Island Light 186	11.3 (13 mi/h)	10.4 (12 mi/h).
Deer Island Light 186	Bartlett Point Light 227	8.6 (10 mi/h upb) 10.4 (12 mi/h dnb)	7.7 (9 mi/h upb). 10.4 (12 mi/h dnb).
Bartlett Point Light 227	Tibbetts Point	13.0 (15 mi/h)	10.4 (12 mi/h).
Junction of Canadian Middle Channel and Main Channel abreast of Ironsides Island.	Open waters between Wolfe and Howe Islands through the said Middle Channel.	9.5 (11 mi/h)	9.5 (11 mi/h).
Lock 1, Welland Canal	Outer Piers, Port Weller Harbor	7.7 (9 mi/h)	7.7 (9 mi/h).
Port Robinson	Ramey's Bend through the Welland Bypass.	7.7 (9 mi/h)	7.7 (9 mi/h).
All other canals		6.1 (7 mi/h)	6.1 (7 mi/h).

[1] Maximum speeds at which a vessel may travel in identified areas in both normal and high water conditions are set forth in this schedule. The Corporation and the Authority shall, from time to time, designate the set of speed limits which is in effect. The maximum speeds set forth in the schedule shall always be subject to specific instruction to a particular vessel.

(68 Stat. 92–97, 33 U.S.C. 981–990, as amended and Sec. 104, Pub. L. 92–340, 86 Stat. 424, 49 CFR 1.50a (37 FR 21943).)

30. Schedule III, Calling-In Table, is renumbered Schedule II.

31. Schedule IV, regarding pleasure craft tickets, is renumbered Schedule III.

(68 Stat. 92–97, 33 U.S.C. 981–990, as amended and Sec. 104, Pub. L. 92–340, 86 Stat. 424, 49 CFR 1.50a (37 FR 21943).)

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
D. W. OBERLIN,
Administrator.

[FR Doc.77-15030 Filed 5-27-77;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 601—PROCUREMENT OF PROPERTY AND SERVICES

Change of Address of Regional Branch

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Regional Contract and Supply Management Branch for the Southern Region has changed its physical location. The purpose of this regulation change is to reflect that fact.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

William Jones (202–245–4603).

Accordingly, 39 CFR Part 601 is amended as follows:

§ 601.104 [Amended]

In paragraph (a) of § 601.104 strike out "Southern Region, 5100 Poplar Avenue, Clark Tower Building, Memphis, TE 38166" and insert the following in lieu thereof: "Southern Region, Mid-Memphis Tower, 1407 Union Avenue, Memphis, TN 38166".

(5 U.S.C. 552(a); 39 U.S.C. 401.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-15354 Filed 5-27-77;8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 738–7]

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Ohio-Sulfur Dioxide Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule is an amendment to the federally promulgated Ohio State Implementation Plan for Sulfur Dioxide. The amendment is a result of comments made in response to an Order for reconsideration issued by the United States Court of Appeals for the Sixth Circuit on November 12, 1976 in *Buckeye Power, Inc., et al.* v. *Environmental Protection Agency*, No. 76–2090 et al.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack Chicca, Chief, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn, Chicago, Ill. 60604.

SUPPLEMENTARY INFORMATION: On August 27, 1976, the U.S. Environmental Protection Agency promulgated a regulation for the control of sulfur dioxide in Ohio (41 FR 36324). Corrections to the plan were made on November 30, 1976 (41 FR 52455). Thirty-six petitions for review were filed with the United States Court of Appeals for the Sixth Circuit pursuant to Section 307 of the Clean Air Act Amendments of 1970. Following a prehearing conference on motions to stay, the Court on November 12, 1976, entered a stay of enforcement of the regulation for petitioners and ordered the Agency to (i) reopen the administrative record, allowing petitioners to further comment on the regulation, and (ii) amend the regulations as necessary. This notice sets forth those amendments to the regulation justified by petitioners' comments.

The Agency received forty-two individual comments. The Agency considered all of the comments and supporting materials and reevaluated the regulation in light of this information. The Agency determined that the changes set forth in this action were warranted based on computational or transpositional errors in the original data base. The Agency's analysis of the comments is set forth in a supplemental technical support document (STSD), dated May 27, 1977. This analysis reflects the Administrator's judgments on the appropriateness and meritoriousness (or lack thereof) of the comments and is incorporated herein by this reference. The STSD is available at the USEPA Public Information Reference Unit, Rm. 2922, 401 M Street SW., Washington, D.C. 20460. It may also be obtained (or inspected) at the USEPA Region V office, Air and Hazardous Materials Division, Eleventh Floor, 230 S. Dearborn, Chicago, Illinois.

The Agency has reconsidered the appropriate attainment date and compliance schedules for those sources subject to the period of reconsideration and attendant stay of enforcement granted by the Court of Appeals and has determined that the appropriate attainment date for all petitioners listed in § 52.1875 footnote f should now be three years from June 17, 1977. This date was derived as follows: First, it was recognized that, under § 110(a)(2) of the Act, attainment of the primary standards may be no later than three years from the date of promulgation. For those sources affected by the Court's order of November 12, 1976, the Agency considered a promulgation date of May 27, 1977. It was on this date that the Agency issued its response to the comments provided for by the Court's order, thereby finalizing the rulemaking for these sources. However, this would have ignored the fact that the Court's order delayed the effectiveness of the regulations for a period extending 21 days beyond the Agency's response.

Taking these 21 days into account and given the unusual circumstances of this case, the Agency concluded that a promulgation date of June 17, 1977, was appropriate. Three years from this date is June 17, 1980.

For petitioners only, the Agency is removing from the fossil fuel-fired steam-generating unit compliance schedule the eight-week requirement for electing the intended mode of compliance. Instead, petitioners will have 17 weeks to make this election. It is the expectation of the Agency that this additional time will enable such sources to make a more informed judgment as to whether compliance should be achieved through fuel adjustments, e.g., the burning of low sulfur coal, or the use of mechanical coal washing or coal blending, or through pollution control equipment such as scrubbers. (A similar revision is not required for petitioning process sources since such sources are not confronted with the need to make an election.) The removal of this increment does not affect the ability to comply with the final compliance date since it is expected that research and, perhaps, preliminary design work on all viable options will be taking place while petitioners are deciding which option to choose. As is the case with the new attainment date being established for such sources, the new compliance schedules applicable to them will not begin to run until June 17, 1977. To reflect this, a new paragraph has been added to § 52.1882.

In addition, the Agency gives notice to those sources electing to comply by use of low sulfur fuel that it is the enforcement policy of the Agency to require sources that elect to comply with the regulation by switching to low sulfur coal to show that they will remain in compliance with Ohio's State Plan for particulate matter. The attainment date for particulate matter is April 15, 1977. This policy is necessitated by the fact that under certain conditions switching to low sulfur coal normally increases particulate emissions and requires upgrading controls for particulate matter.

The Administrator has determined that the amended regulation remains consistent with current EPA policies and meets the goals set forth in section 110(c) of the Clean Air Act Amendments of 1970 and Agency regulations in 40 CFR Part 51.

(42 U.S.C. 1857c–5.)

Dated: May 24, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart KKK—Ohio

1. In § 52.1875, the attainment dates for sulfur dioxide in the table are revised for petitioners in *Buckeye Power, Inc. et al.* v. *U.S. Environmental Protection Agency*. This revision is reflected in footnote "f" to the table.

§ 52.1875 **Attainment dates for national standards.**

* * * * *

f. August 27, 1979 except for the following companies which are subject to an attainment date of June 17, 1980:

Ashland Oil, Inc.; Youngstown Sheet & Tube Co.; PPG Industries, Inc.; Wheeling-Pittsburgh Steel Corp.; Pittsburgh-Canfield Corporation; The Timken Company; The Sun Oil Co.; Sheller-Globe Corp.; The B. F. Goodrich Company; Phillips Petroleum Co.; Shell Oil Co.; Federal Paper Board Co., Inc.; The Firestone Tire & Rubber Co.; Republic Steel Corp.; Chase Bag Co.; White-Westinghouse Corp.; U.S. Steel Corp.; Interlake, Inc.; Austin Powder Co.; Diamond Crystal Salt Co.; The Goodyear Tire & Rubber Co.; The Gulf Oil Co.; The Standard Oil Co.; Champion International Corp.; Koppers Co., Inc.; General Motors Corp.; E. I. duPont de Nemours and Co.; Coulton Chemical Corp.; Allied Chemical Corp., Specialty Chemicals Division; The Hoover Co.; Aluminum Co. of America; Ohio Greenhouse Assoc.; Armco Steel Corp.; (Buckeye Power, Inc.; Cincinnati Gas and Electric; Cleveland Electric Illuminating Co.; Columbus and Southern Ohio Electric; Dayton Power and Light Co.; Columbus and Southern Ohio Electric; Dayton Power and Light Co.; Duquesne Light Co.; Ohio Edison Co.; Ohio Electric Co.; Ohio Power Co.; Pennsylvania Power Co.; Toledo Edison Co.

2. Section 52.1881(b) is amended as follows:

§ 52.1881 **Control strategy: Sulfur dioxide**

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

(1) Definition * * *

(iii) "Fossil fuel" means natural gas, refinery fuel gas, coke oven gas, petroleum, coal and any form of solid, liquid, or gaseous fuel derived from such materials.

* * * * *

(14) In Athens County:

* * * * *

(ii) The Columbus and Southern Ohio Power Company or any subsequent owner or operator of the Poston Power Plant in Athens County, Ohio shall not cause or permit the emission of sulfur dioxide from stacks 1 and 2 at the Poston Plant in excess of 3.72 pounds of sulfur dioxide per million BTU actual heat input. Stack number 3 is subject to New Source Performance Standards and is limited to 1.2 pounds of sulfur dioxide per million BTU of actual heat input.

(iii) In lieu of meeting subparagraph (14)(ii), the Columbus and Southern Ohio Power Company may elect in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.1932\ EL_1+0.0757\ EL_2 \leq 1$
(B) $0.1389\ EL_3+0.1276\ EL_4 \leq 1$
(C) $0.1230\ EL_5+0.1406\ EL_6 \leq 1$

where EL_i is the emission limitation (in pounds of sulfur dioxide per million BTU of actual heat input) per stack i, and i is the stack number. For purposes of this regulation, each stack is identified as follows:

Stack No.:	Boiler identification
1	1, 2
2	3, 4
3	5, 6

* * * * *

(17) In Butler County:

(i) No present or subsequent owner or operator, unless otherwise specified in this subparagraph, of any fossil fuel-fired steam generating unit(s) located in Butler County, Ohio shall cause or permit sulfur dioxide emissions from any stack in excess of 1.40 pounds of sulfur dioxide per million BTU actual heat input.

(ii) No present or any subsequent owner or operator, unless otherwise specified in this subparagraph, of a by-product coke oven located in Butler County, Ohio, shall cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 100 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack at this facility in excess of 0.50 pounds of sulfur dioxide per million BTU actual heat input.

(iii) The Armco Steel Company or any subsequent owner or operator of the Armco Steel-Hamilton Plant located in Butler County, Ohio shall cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 146 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack at this facility in excess of 0.73 pounds of sulfur dioxide per million BTU actual heat input.

(iv) The Armco Steel Company or any subsequent owner or operator of the Armco Steel-Middletown Plant located in Butler County, Ohio shall not cause or permit emissions of sulfur dioxide from fossil fuel-fired steam generating units numbered B001, B002, B003, and B004 in excess of 2.11 pounds of sulfur dioxide per million BTU actual heat input and from fossil fuel-fired steam generating units numbered B007, B008, B009, and B010 in excess of 1.79 pounds of sulfur dioxide per million BTU actual heat input.

(v) The Champion Paper Company or any subsequent owner or operator of the Champion Paper facilities located in Butler County, Ohio shall not cause or permit emissions of sulfur dioxide from fossil fuel-fired steam-generating units numbered B010 and B020 in excess of 3.43 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(21) In Coshocton County: (i) The Columbus and Southern Ohio Power Company or any subsequent owner or operator of the Conesville Plant in Coshocton County, Ohio shall not cause or permit the emission of sulfur dioxide from any of the stacks 1, 2, and 3 at the Conesville Plant in excess of 5.66 pounds of sulfur dioxide per million BTU actual heat input. Stack 4 at the Conesville Plant is subject to New Source Performance Standards and is limited to 1.2 pounds of sulfur dioxide per million BTU actual heat input.

(ii) In lieu of meeting subparagraph (21)(i), the Columbus and Southern Ohio Power Company may elect for stacks 1, 2, and 3 only, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.0677\ EL_1+0.0411\ EL_2+0.0065\ EL_3 \leq 1$
(B) $0.0707\ EL_1+0.0730\ EL_2+0.0011\ EL_3 \leq 1$
(C) $0.0623\ EL_1+0.0767\ EL_2+0.0013\ EL_3 \leq 1$
(D) $0.0565\ EL_1+0.0337\ EL_2+0.0886\ EL_3 \leq 1$
(E) $0.0401\ EL_1+0.0683\ EL_2+0.0026\ EL_3 \leq 1$
(F) $0.0410\ EL_1+0.1021\ EL_2+0.0\ \ EL_3 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i, and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	Boiler Identification
1	1, 2
2	3
3	4
4	5, 6

* * * * *

(30) In Hamilton County:

* * * * *

(iv) No owner or operator of any fluidized catalytic cracking unit located in Hamilton County, Ohio shall cause or permit sulfur dioxide emissions from any unit in excess of 0.78 pounds of sulfur dioxide per thousand pounds of charging feed stock.

* * * * *

(39) In Lucas County: * * *

* * * * *

(iii) The Toledo Edison Company or any subsequent owner or operator of the Bayshore Station in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Bayshore Station in excess of the rates specified below:

(A) 1.20 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units burning coal.

(B) 0.50 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units burning oil.

(iv) Standard Oil of Ohio or any subsequent owner or operator of the Standard Oil of Ohio facility located in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the rates specified below:

(A) 0.29 pounds of sulfur dioxide per million BTU actual heat input for all process heaters and fossil fuel-fired steam-generating units unless otherwise specified in this subparagraph.

(B) 1.00 pounds of sulfur dioxide per million BTU actual heat input for process heaters or fossil fuel-fired steam-generating units numbered B024.

(C) 0.50 pounds of sulfur dioxide per million BTU actual heat input for process heater or fossil fuel-fired steam-generating unit number B021.

(D) 0.57 pounds of sulfur dioxide per million BTU actual heat input for process heaters of fossil fuel-fired steam-generating units numbered B009, B010, B018, B020, B023, and B025.

(E) 0.92 pounds of sulfur dioxide per 1,000 pounds of charging stock for catalytic cracking units and CO boilers connected to a common stack.

(F) 0.40 pounds of sulfur dioxide per ton of actual process weight input for any process.

(v) [Reserved]

(vi) The Coulton Chemical Company or any subsequent owner or operator of the Coulton Chemical facility in Lucas County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Coulton Chemical facility in excess of the rates specified below:

(A) 0.80 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units or process heaters.

(B) 1.10 pounds of sulfur dioxide per ton of 100 percent sulfuric acid produced for sulfuric acid production units.

(vii) The Toledo Edison Company or any subsequent owner or operator of the Acme Power Plant in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack in excess of the rates specified below:

(A) 3.00 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units burning coal.

(B) 1.00 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units burning oil.

(viii) Gulf Oil or any subsequent owner or operator of the Gulf Oil facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Gulf Oil facility in excess of the rates specified below:

(A) 0.81 pounds of sulfur dioxide per million BTU actual heat input for process heaters or fossil fuel-fired steam-generating units numbered B001, B002, B003, B004, B005, B006, B007, and B008.

(B) 0.60 pounds of sulfur dioxide per million BTU actual heat input for process heater or fossil fuel-fired steam-generating unit B009.

(C) 0.50 pounds of sulfur dioxide per million BTU actual heat input for process heater or fossil fuel-fired steam-generating unit B013.

(D) 0.40 pounds of sulfur dioxide per million BTU actual heat input for process heaters or fossil fuel-fired steam-generating unit B014.

(E) 1.85 pounds of sulfur dioxide per 1,000 pounds of charging stock for catalytic cracking units and CO boilers connected to the same stack.

(F) 200 pounds of sulfur dioxide per 1,000 pounds of sulfur processed for sulfur recovery plants.

(G) Gulf Oil or any subsequent owner or operator of facilities located in Lucas County, Ohio shall not cause or permit the combustion of refinery fuel gas at process heaters or fossil fuel gas-fired steam-generating units numbered B010, B011, B012, B015, B017, B018, 8019, and B020 containing a total sulfur content expressed as hydrogen sulfide in excess of 10 grains of hydrogen sulfide per 100 dry standard cubic feet of refinery fuel gas or the emission of sulfur dioxide from any stack at the above units in excess of 0.04 pounds of sulfur dioxide per million BTU actual heat input.

(H) Gulf Oil or any subsequent owner or operator of the Gulf Oil facilities located in Lucas County, Ohio shall operate only one of the units numbered B001, B002, B003 and B004 simultaneously with units numbered B005, B006 or B016.

(ix) The Toledo Edison Company or any subsequent owner or operator of the Water Street Steam Plant in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Water Street Station in excess of 1.06 pounds of sulfur dioxide per million BTU actual heat input.

(x) Phillips Petroleum Company or any subsequent owner or operator of the Toledo Philblack Plant in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Toledo Philblack Plant in excess of the rates specified below:

(A) 4.67 pounds of sulfur dioxide per million BTU actual heat input for any process dryer.

(B) 4.99 pounds of sulfur dioxide per million BTU actual heat input for all fossil fuel-fired steam-generating units, processes and incinerator unless otherwise specified in this subparagraph.

(xi) Interlake Steel or any subsequent owner or operator of the Interlake Steel facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the rates specified below:

(A) 0.10 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units.

(B) 4.00 pounds of sulfur dioxide per ton of actual process weight input for any process.

* * * * *

(xiv) Sun Oil or any subsequent owner or operator of the Sun Oil facility in Lucas County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at the Sun Oil facility in excess of the rates specified below:

(A) Unless otherwise specified in this subparagraph, the combustion of refinery fuel gas containing a total sulfur content expressed as hydrogen sulfide in excess of 10 grains of hydrogen sulfide per 100 dry standard cubic feet of refinery fuel gas or the emission of sulfur dioxide from any stack at this facility in excess of 0.04 pounds of sulfur dioxide per million BTU actual heat input.

(B) 0.0 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units or process operation heaters numbered 502, 504, 1901, 1902, 1903, 1904, 1905, and 1906.

(C) 3.50 pounds of sulfur dioxide per 1,000 pounds of charging stock for catalytic cracking units and CO boilers connected to the same stack.

(D) 1.60 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating units or process heaters numbered 301, 304, 507, 508, and 1910 and 113.4 pounds of sulfur dioxide per 1,000 pounds of sulfur processed for sulfur recovery plants.

(E) In lieu of compliance with subparagraph (D) of this subparagraph in accordance with section 52.1882(b)(4), Sun Oil or any subsequent owner or operator of the Sun Oil facility in Lucas County, Ohio may elect the following emission limitations: 1.00 pounds of sulfur dioxide per million BTU actual heat input for

fossil fuel-fired steam-generating units or process heaters numbered 301, 304, 507, 508 and 1910 and 200 pounds of sulfur dioxide per 1,000 pounds of sulfur processed for sulfur recovery plants.

* * * * *

(40) In Mahoning County, no owner or operator, unless otherwise specified in this subparagraph, shall cause or permit the emission of sulfur dioxide in excess of the rates specified below:

* * * * *

(iii) No owner or operator shall cause or permit the combustion of by-product coke oven gas from any stack containing a total sulfur content expressed as hydrogen sulfide in excess of 135 grains hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or the emission of sulfur dioxide from any stack in excess of 0.68 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(vii) The Koppers Company or any subsequent owner or operator of the Koppers Company facilities located in Mahoning County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at Koppers Company in excess of 2.00 pounds of sulfur dioxide per million BTU actual heat input.

* * * * *

(47) In Morgan County:

* * * * *

(ii) In lieu of meeting subparagraph (47)(i), the Ohio Power Company may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy all the following equations:

(A) $0.0773\ EL_1+0.0622\ EL_2 \leq 1$
(B) $0.0640\ EL_1+0.0902\ EL_2 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i, and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.	Boiler identification
1	1, 2, 3, 4
2	5

* * * * *

(51) In Pickaway County:

(i) The Columbus and Southern Ohio Power Company or any subsequent owner or operator of the Picway Power Plant in Pickaway County, Ohio, shall not cause or permit the emission of sulfur dioxide from any stack at the Picway plant in excess of 6.04 pounds sulfur dioxide per million BTU actual heat input.

(ii) In lieu of meeting subparagraph (51)(i), the Columbus and Southern Ohio Power Company may elect, in accordance with the compliance schedule provision of § 52.1882, to comply with the emission limitations which will satisfy all of the following equations:

(A) $0.0764\ EL_1+0.0759\ EL_2+0.0133\ EL_3 \leq 1$
(B) $0.0487\ EL_1+0.0484\ EL_2+0.0522\ EL_3 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i, and i is the stack number. For purpose of this regulation each stack is identified as follows:

Stack No.:	Boiler identification
1	3
2	4
3	5

* * * * *

(58) For Starck County:

* * * * *

(vi) The present or any subsequent owner or operator of the Timken Steel Company facilities in Starck County, Ohio shall not cause or permit the emission of sulfur dioxide from any fossil fuel-fired steam generating unit(s) stack at this facility in excess of the rates specified below:

(A) 3.08 pounds of sulfur dioxide per million BTU actual heat input for the stack common to the fossil fuel-fired steam-generating units B001 and B002 at the Gambrinus plant.

(B) 0.93 pounds of sulfur dioxide per million BTU actual heat input for the fossil fuel-fired steam-generating unit B003 at the Gambrinus plant.

(C) 0.0 pounds of sulfur dioxide per million BTU actual heat input for the fossil fuel-fired steam-generating units B003 and B004 at the Canton Number 5 Plant.

(D) 0.67 pounds of sulfur dioxide per million BTU actual heat input for fossil fuel-fired steam-generating at the Canton Number 5 Plant unless otherwise specified in this subparagraph.

* * * * *

(ix) The Ashland Oil Company, or any subsequent owner or operator of the Ashland Oil Company facilities in Stark County, Ohio shall not cause or permit sulfur dioxide emissions from any stack at this facility in excess of the emission limitations listed below for the different sources.

(A) 1.20 pounds of sulfur dioxide per million BTU actual heat input to the stacks identified by Ashland Oil Company as 4–16–B–11 and 4–9–B–6.

(B) 0.47 pounds of sulfur dioxide per million BTU actual heat input for all process heaters and fossil fuel-fired steam-generating units unless otherwise specified in this subparagraph.

(C) 0.84 pounds of sulfur dioxide per 1,000 pounds of charging stock for catalytic cracking units.

(D) 50 pounds of sulfur dioxide per 1,000 pounds of sulfur processed for sulfur recovery plants.

(59) In Summit County, * * *

* * * * *

(vi) The present or subsequent owner or operator of the Sieberling Rubber Company facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.33 pounds of sulfur dioxide per million BTU actual heat input.

(vii) The present or subsequent owner or operator of the Firestone Tire and Rubber Company facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 1.78 pounds of sulfur dioxide per million BTU actual heat input.

(viii) The present or subsequent owner or operator of the B. F. Goodrich Tire and Rubber Company facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at this facility in excess of 2.71 pounds of sulfur dioxide per million BTU actual heat input.

(ix) The Goodyear Tire and Rubber Company or any subsequent owner or operator of the Goodyear facilities in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of the rates specified below:

(A) 3.96 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired steam-generating unit B001 located at Plant I.

(B) 1.80 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired steam-generating units B002 and B003 located at Plant I.

(C) 1.84 pounds of sulfur dioxide per million Btu actual heat input for all fossil fuel-fired steam-generating units located at Plant II.

(D) 100 pounds of sulfur dioxide per 1,000 pounds of sulfur processed for the sulfur recovery unit(s).

* * * * *

(xi) The Ohio Edison Company or any subsequent owner or operator of the Ohio Edison Company's Beech Street Power Station in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack at the Beech Street Plant in excess of 2.71 pounds of sulfur dioxide per million Btu actual heat input.

(xii) The Ohio Edison Company or any subsequent owner or operator of the Ohio Edison Company's Gorge Plant in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide in excess of 2.56 pounds of sulfur dioxide per million Btu actual heat input.

* * * * *

(xiv) PPG Industries or any subsequent owner or operator of the PPG Industries facilities located in Summit County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of the rates specified below:

(A) 1.78 pounds of sulfur dioxide per million Btu actual heat input for fossil fuel-fired steam-generating unit(s).

(B) 0.0 pounds of sulfur dioxide per ton actual process weight input for the kilns.

(60) In Trumbull County:

* * * * *

(iii) The Republic Steel Company or any subsequent owner or operator of the Republic Steel facilities in Trumbull County, Ohio shall not cause or permit the emission of sulfur dioxide from fossil fuel-fired steam-generating unit number B001 in excess of 1.60 pounds of sulfur dioxide per million Btu actual heat input and from process operation P001 in excess of 1.00 pounds of sulfur dioxide per million Btu of actual heat input.

(iv) Republic Steel Corporation or any subsequent owner or operator of the Republic Steel facilities in Trumbull County, Ohio shall not cause or permit the combustion of by-product coke oven gas containing a total sulfur content expressed as hydrogen sulfide in excess of 300 grains of hydrogen sulfide per 100 dry standard cubic feet of coke oven gas or 1.52 lbs. SO_2/MMBtu actual heat input.

* * * * *

(63) In Washington County:

* * * * *

(ii) In lieu of meeting subparagraph (63)(i), the Ohio Power Company may elect, in accordance with the compliance schedule provisions of § 52.1882, to comply with the emission limitations which will satisfy all the following equations:

(A) $0.0773\ EL_1 + 0.0622\ EL_2 \leq 1$
(B) $0.0640\ EL_1 + 0.0902\ EL_2 \leq 1$

where EL_i is the emission limitation (pounds per million BTU) per stack i, and i is the stack number. For purposes of this regulation each stack is identified as follows:

Stack No.:	*Boiler identification*
1	1, 2, 3, 4
2	5

3. Section 52.1882 is amended by adding paragraph (b) as follows:

§ 52.1882 Compliance schedules.

* * * * *

(b) Federal compliance schedule for petitioners in *Buckeye Power, Inc. et al v. USEPA*, No. 76–2090 et al.

(1) Except as provided in paragraph (b)(5) of this section, the owner or operator of any process equipment subject to applicable subparagraphs of § 52.1881 (b) shall comply with the compliance schedule in paragraph (a)(2) of this section.

(2) Any owner or operator of any process equipment subject to applicable paragraphs of § 52.1881(b) of the Chapter shall take the following actions to comply with the requirements of said regulation with respect to that source no later than the date specified.

(i) 8 weeks from June 17, 1977: Submit preliminary control plans to the Administrator.

(ii) 25 weeks from June 17, 1977: Submit final control plan to the Administrator.

(iii) 34 weeks from June 17, 1977: Award contracts for emissions control systems or process modification, or issue orders for purchase of component parts to accomplish emission control or process modification and notify the Administrator in writing that such action was taken.

(iv) 52 weeks from June 17, 1977: Initiate on-site construction or installation of emission control equipment or process change and notify the Administrator in writing that such action was taken.

(v) 139 weeks from June 17, 1977: Complete construction or installation of emission control equipment or process change and notify the Administrator in writing that such action was taken.

(vi) 154 weeks from June 17, 1977: Complete shakedown operations and performance test on source, submit performance test results to the Administrator and achieve final compliance with § 52.1881(b) of this chapter, as applicable.

(3) Except as provided in subparagraph (5) of this paragraph, the owner or operator of any stack venting any fossil fuel-fired steam generating unit(s) subject to § 52.1881(b) of this chapter shall comply with the applicable compliance schedule in paragraph (a)(4) of this section.

(4)(i) The Owner or operator of any stack venting any fossil fuel-fired steam generating unit(s) or process subject to § 52.1881(b) of this chapter who elects to comply with an applicable optional emission limitation specified in § 52.1881 (b) of this chapter, shall notify the Administrator no later than 17 weeks after June 17, 1977 of the specific emission limitations selected. Failure to select applicable optional emission limitations shall result in the facility being subject to the single uniform emission limitation for all stacks at that facility specified in § 52.1881(b). Notice received later than 17 weeks after June 17, 1977 shall be invalid.

(ii) The owner or operator of any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter shall notify the Administrator no later than 17 weeks after June 17, 1977 of his intent to utilize either low-sulfur fuel including blended or washed coal or flue gas desulfurization to comply with the requirements of said regulation.

(iii) Any owner or operator of any stack venting any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who elects to utilize low sulfur fuel including blended or washed coal to comply with the requirements of said regulation shall take the following actions with respect to that source no later than the date specified:

(A) 17 weeks after June 17, 1977: Submit to the Administrator a projection for ten years of the amount of fuel by types that will be substantially adequate to enable compliance with § 52.1881(b) of this chapter, as applicable.

(B) 32 weeks from June 17, 1977: Submit data demonstrating the availability of the fuel meeting the requirements projected in subparagraph (a) to the Administrator.

(C) 36 weeks after June 17, 1977: Submit a statement to the Administrator as to whether boiler modifications will or will not be required. If modifications will be required, submit plans for such modifications.

(D) 50 weeks from June 17, 1977: Let contracts for necessary boiler modifications, if applicable, and notify the Administrator in writing that such action was taken.

(E) 60 weeks after June 17, 1977: Initiate on-site modifications, if applicable, and notify the Administrator in writing that such action was taken.

(F) 118 weeks from June 17, 1977: Complete on-site modification, if applicable, and notify the Administrator in writing that such action was taken.

(G) 122 weeks from June 17, 1977: Achieve final compliance with the emission limitation of § 52.1881(b) of this chapter, as applicable, and notify the Administrator in writing that such action was taken.

(iv) Any owner or operator of any stack venting any fossil fuel-fired steam generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who elects to utilize flue gas desulfurization to comply with the requirements of said regulations shall take the following actions with respect to the source no later than the date specified.

(A) 17 weeks from June 17, 1977: Let necessary contracts for construction and notify the Administrator in writing that such action was taken.

(B) 61 weeks from June 17, 1977: Initiate on-site construction and notify the Administrator in writing that such action was taken.

(C) 145 weeks from June 17, 1977: Complete on-site construction and notify the Administrator in writing that such action was taken.

(D) 156 weeks from June 17, 1977: Complete shakedown operations and performance test on source, submit performance test results to the Administrator and achieve final compliance with § 52.1881(b) of this chapter, as applicable.

(5)(i) None of the preceding subparagraphs of this paragraph shall apply to any owner or operator of a source which is presently in compliance with the applicable subparagraphs of § 52.1881(b) of this chapter.

(ii) Any owner or operator of a source capable of emitting 100 tons of sulfur dioxide per year from all stacks at any facility who is presently in compliance with the applicable subparagraphs of § 52.1881(b) of this chapter shall so certify to the Administrator by four weeks from June 17, 1977.

(iii) Any owner or operator subject to a compliance schedule in this paragraph who elects to achieve compliance by means not covered by this paragraph may submit to the Administrator no later than six weeks from June 17, 1977, a proposed alternative compliance schedule. For process equipment subject to applicable subparagraphs of § 52.1881(b) of this chapter no such compliance schedule may provide for final compliance after the final compliance date in subparagraph (2) of this paragraph. For any stack venting any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter, which will utilize low-sulfur fuel including blended or washed coal to comply with the requirements of said regulations, no such compliance schedule may provide for final compliance after final compliance date in subparagraph (4)(iii) of this paragraph. For any stack venting any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter, which will utilize flue gas desulfurization to comply with the requirements of said regulations, no such compliance schedule may provide for final compliance date in subparagraph (4)(iv) of this paragraph.

(iv) Any owner or operator of any process equipment subject to applicable subparagraphs of § 52.1881(b) of this chapter who submits an alternative compliance schedule pursuant to § 52.1882 (b)(5)(iii) of this chapter shall remain subject to the provisions of § 52.1882 (b)(2) of this chapter until the alternative schedule is approved by the Administrator.

(v) Any owner or operator of any stack venting any fossil fuel-fired steam-generating unit(s) subject to applicable subparagraphs of § 52.1881(b) of this chapter who submits an alternative compliance schedule pursuant to § 52.1882(b)(5)(iii) of this chapter shall remain subject to the provisions of § 52.1882(b)(4) of this chapter until the alternative schedule is approved by the Administrator.

(6) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedules in paragraphs (d)(2) or (4) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

[FR Doc.77–15355 Filed 5–27–77;8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Notice 6132–2]

PART 1061—CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

Subpart—Community Food and Nutrition Program

PROGRAM EMPHASIS

AGENCY: Community Services Administration.

ACTION: Interim rule.

SUMMARY: The Community Services Administration is publishing an interim rule affecting the Community Food and Nutrition Program policy published in the FEDERAL REGISTER on March 2, 1977 (Volume 42, No. 41, FR 12047). The text of the rule published for the Community Food and Nutrition Program provides for considering the wide variety of food and nutrition needs of low-income groups. Since the extent and nature of needs vary greatly between states, CSA will establish and publish annually specific program emphases for each state. It will be more efficient for applicants to prepare proposals consistent with statewide needs.

DATES: Comments on this interim rule must be received prior to June 30, 1977.

ADDRESS: Send all comments to: Robert C. Czapiewski, Office of Operations, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506

FOR FURTHER INFORMATION CONTACT:

Robert C. Czapiewski (202) 254–5400.

SUPPLEMENTARY INFORMATION: Should comments be received and revisions warranted they will be published as amendments to this interim rule.

(Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).)

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR 1061.50 is amended to add the following:

§ 1061.50–15. Program emphases.

CSA will publish annually the Community Food and Nutrition Program emphases for each state in the FEDERAL REGISTER. Concurrent with publication of the emphases will be a notice that CSA is accepting applications which must be submitted in accordance with procedures outlined in 1061.50–12. All applications must be received within forty (40) calendar days following publication in the FEDERAL REGISTER. Only those proposals consistent with the published program emphases for the applicable state will be given consideration.

[FR Doc.77–15363 Filed 5–27–77;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RP–1, Notice 2]

PART 211—RULES OF PRACTICE

Petitions for Reconsideration; Amended Procedures

AGENCY: Federal Railroad Administration, DOT.

ACTION: Amendment.

SUMMARY: The Federal Railroad Administration (FRA) is amending 49 CFR 211.29 to provide that, except for good cause shown, a petition for reconsideration must be submitted not later than 60 days after publication of the rule in the FEDERAL REGISTER, or 10 days prior to the effective date of the rule, whichever is the earlier. This amendment is designed to accommodate parties that desire to file petitions for reconsideration as to rules that have a protracted effective date.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Anne-Marie Hyland, Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590 (202–426–8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND INFORMATION

On December 13, 1976, the Federal Railroad Administration (FRA) published in the FEDERAL REGISTER (41 FR 54181) a general revision of the rules of practice applicable to proceedings under the jurisdiction of FRA. These rules include a provision setting forth the procedures to be followed in the submission of a petition requesting the Federal Railroad Administrator to reconsider a final rule (49 C.F.R. 211.29). Such petitions must now be filed no later than 20 days after publication of the final rule in the FEDERAL REGISTER, unless good cause is shown as justification for a later filing. Since final rules may become effective as soon as 30 days after publication, FRA established the 20 day time period in order to allow sufficient time to determine whether the final rules should be stayed from becoming effective pending a determination on the petition for reconsideration.

On occasion, FRA also issues regulations which, because of their complexity or the industry's need to modify current equipment or operating practices, have a protracted effective date. In these cases, affected parties may require more than 20 days to analyze the rules, conduct whatever field investigation may be necessary, and prepare a complete petition for reconsideration. Rather than requiring preliminary petitions in order to preserve the right to complete a petition for reconsideration once all the necessary information is available, FRA believes it is appropriate to amend § 211.29 to address this situation. Therefore, FRA is amending § 211.29 to provide that, except for good cause shown, a petition must be submitted not later than 60 days after publication of the rule in the FEDERAL REGISTER or 10 days prior to the effective date of the rule, whichever is the earlier. It should be noted that, according to the terms of this section, the filing of a petition for reconsideration does not stay the effective date of a final rule (49 C.F.R. 211.29(d)). Unless the Administrator specifically determines that a stay should be granted, the rules becomes effective as provided in the FEDERAL REGISTER notice, and all parties are responsible for compliance therewith.

Since this amendment of Part 211 does not affect substantive rights or duties and pertain solely to procedures and practices before the FRA, notice and public procedures thereon are unnecessary.

In consideration of the foregoing, Part 211 of Title 49 of the Code of Federal Regulations is amended by revising paragraph (a) of § 211.29 to read as follows:

§ 211.29 Petitions for reconsideration of a final rule.

(a) Any person may petition the Administrator for reconsideration of any rule issued under this part. Except for good cause shown, such a petition must be submitted not later than 60 days after publication of the rule in the FEDERAL REGISTER, or 10 days prior to the effective date of the rule, whichever is the earlier. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not possible, is not practicable, is unreasonable, or is not in the public interest.

* * * * *

(Secs. 6, 9, 80 Stat. 937, 944 (49 U.S.C. 1655, 1657); the statutes referred to in sec. 6(e)(1), (2), (3), 80 Stat. 939 (49 U.S.C. 1655); sec. 202, 84 Stat. 971 as amended by sec. 5(a) of Pub. L. 94-348 (45 U.S.C. 431); and § 149 of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49.)

Issued in Washington, D.C., on May 23, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77-15315 Filed 5-27-77;8:45 am]

[Docket No. HS-4, Notice No. 7]

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

Statement of Agency Policy and Interpretation on the Hours of Service Act, as Amended

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final statement of agency policy and interpretation.

SUMMARY: This document amends Part 228 of Title 49, Code of Federal Regulations by adding at the end thereof an appendix setting forth the position of FRA on the requirements of the Hours of Service Act. The appendix is being published at this time for the following reasons: (1) To explain the position of FRA on certain of the amendments to the Act contained in the Federal Railroad Safety Authorization Act of 1976, Pub. L. No. 94-348; (2) to give the broadest possible notice concerning the policy of FRA on issues of construction and interpretation; and (3) to provide an educational tool for the use of those subject to the Act. Publication of this statement will apprise the public concerning the circumstances under which the agency will seek civil penalties against carriers subject to the Act.

EFFECTIVE DATE: This document is effective on May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: John A. McNally (202-426-9178); Principal Lawyer: Grady C. Cothen Jr. (202-426-8285).

SUPPLEMENTARY INFORMATION: On September 28, 1976, the Federal Railroad Administration (FRA) published in the FEDERAL REGISTER (41 FR 42692) a proposed statement of agency policy and interpretation concerning the Hours of Service Act, as amended, 45 U.S.C. 61-64b (hereinafter "Act"). Public comments were requested to be submitted by October 29, 1976. Subsequent notices extended the comment period through December 17, 1976 (see 41 FR 48163, November 2, 1976; 41 FR 52351, November 29, 1976; 41 FR 54047, December 10, 1976). FRA administers and enforces the Act under section 6(f)(3)(A) of the Department of Transportation Act (49 U.S.C. 1655(f)(3)(A)) and a delegation from the Secretary of Transportation (49 CFR 1.49(d)).

Having analyzed the comments received in light of the express purpose of the Act, its legislative history, case law, and prior administrative interpretations, FRA has decided to issue a final statement of agency policy and interpretations addressing two of the three broad categories of service covered by the Act, as well those provisions of the Act which apply to all covered service. The policy statement is issued in the form of an appendix to Part 228 of Title 49, Code of Federal Regulations. Part 228 consists of FRA regulations implementing the Hours of Service Act. The categories of service addressed in the final statement which appears below are (1) train and engine service (section 2 of the Act) and (2) the communication of train orders (section 3 of the Act).

FRA has issued a separate document setting forth interim interpretations concerning limitations on the hours of service of individuals engaged in installing, repairing or maintaining signal systems (section 3A of the Act) (42 FR 4464; January 25, 1977). The limitations on signal service were added by the Federal Railroad Safety Authorization Act of 1976. FRA believes that the unique circumstances associated with this new category of covered service raise a sufficient number of questions to warrant continued study.

Thirteen individuals or organizations submitted comments on Docket No. HS-4 which addressed topics within the scope of the present document. Many of the comments expressed disagreement with positions which are necessitated by longstanding administrative practice, by case law, by the explicit language of the statute, or by a combination of these factors. Therefore, the discussion of those comments will be brief and direct.

Several commenters noted that the function of interpretations is to provide guidance to persons subject to the Act and to the courts based on the informed judgment and experience of the agency. As the commenters pointed out, the issuance of interpretations is not an act of substantive or "legislative" rulemaking. However, it should be noted that in areas requiring the application of special knowledge and expertise the courts give significant weight to the agency judgment.

One commenter objected to publication of the interpretations in the Code of Federal Regulations based on the fact that they do not constitute an affirmative imposition of new substantive obligations. Appendix A as revised for final publication is clearly identified as a statement of agency policy and interpretation. FRA has decided to publish these interpretations in the Code as a means of achieving wider circulation and availability.

Another commenter raised the question of the applicability of the Act to service in Canada. The Act is offended at any time a carrier requires or permits an employee "to go, be, or remain on duty" in violation of the stated requirements. However, the United States has no jurisdiction to control conduct on foreign soil, as such. Thus, when a train crosses the Canadian border, its crew ceases to be subject to limitations on service imposed by United States law. However, when a train enters the United States from Canada, the train crew is immediately subject to the Act and all time spent on duty in Canada is counted in computing the appropriate periods of service and release. For example, if, on entering the United States while performing service as a brakeman, an employee had been on duty for 14 hours, the carrier would immediately become liable for a civil penalty for permitting the employee to remain on duty within the United States in contravention of the 12-hour limitation. The commenter suggested that FRA seek to resolve the issue of hours of service regulation in Canada through agreement with Canadian authorities or by recommending that industry and labor resolve the matter through collective bargaining. It is within the power and discretion of the Canadian government to provide for railroad safety within Canada, and it would be inappropriate for FRA to address this matter absent some demonstrated impact on railroad safety within the United States.

The following discussion relates to comments on the portion of the text entitled "Train and Engine Service":

Covered service. Several commenters challenged the proposed interpretation on covered service, with most of the objections centering on the issue of what is meant by the term "hostlers". The Act now provides for coverage of any "individual actually engaged in or connected with the movement of any train, including hostlers". Employees known as "outside hostlers" generally move locomotives between shops or engine terminals and other yard areas. Employees known as "inside hostlers" generally move locomotives within shop or repair areas. Since outside hostlers were considered by the Interstate Commerce Commission, FRA and the industry to be covered by the Act prior to the 1976 amendment which added the words "including hostlers", it is evident that Congress wished to establish as a matter of law that inside hostlers should be considered to be "connected with" the movement of trains.

The legislative materials on the coverage of hostlers and individuals engaged in signal service are not extensive, since no hearings were conducted on that aspect of the legislation. However, the House Committee on Interstate and Foreign Commerce stated:

> Section 4(c) of the bill adds two more crafts of employees under the hours of service protection. The two crafts are hostlers and signalmen. The primary functions of hostlers are to move engines into and out of the shop areas and to service the locomotives by adding water, sand, and fuel to them. H.R. Rep. No. 94-1166, 94th Cong., 2nd Sess. (1976) at page 12.

The dictionary definition of "hostler" includes "one who services a vehicle (as a locomotive or truck) or machine (as a crane)". "Webster's Seventh New Collegiate Dictionary" (Merriam-Webster 1967). Clearly Congress intended to

limit the hours of persons who move locomotives in association with servicing and repair. To argue that only outside hostlers are covered by the Act is to ignore these considerations: (1) Outside hostlers were covered prior to the 1976 amendment; (2) the common meaning of "hostler" includes inside hostlers; (3) all employees engaged in "hostling" have a direct role in the safety of railroad operations, i.e., the safe movement of rolling equipment.

Clearly persons who perform the usual functions associated with the title "inside hostler" are covered by the Act.

Limitations on hours. Several commenters expressed difficulty with the 24-hour concept as it is applied to aggregate service and required periods of release. The position set forth in the proposed interpretations is merely a recital of the position of FRA, the industry and railroad labor since revision of the Act in 1969. A very literal reading of the statute would require that the required 8-hour release period be within the "preceding twenty-four hours" described in section 2(a)(2) of the statute (45 U.S.C. 62(a)(2)) in every instance. That would mean that broken service would have to be distributed within the remaining 16 hours in every instance. (For instance, 4 hours on duty, 4 hours off duty—the minimum permitted—and 4 hours on duty.) After passage of the 1969 revision to the Act it was agreed by all interested parties that such a construction was unnecessarily restrictive and was not intended by Congress. In light of prior administration of the Act, the legislative body seemed to have had two objectives: (1) To prohibit service in excess of 12 hours either consecutively or in the aggregate and (2) to assure that an employee not be worked in broken service for more than 24 hours without receiving at least 8 consecutive hours off duty. Thus, FRA adopted a less restrictive reading of the statute which achieves those objectives. The only alternative to this reading is the literal, more restrictive reading.

One commenter noted that under the longstanding interpretation, which is repeated in the text below, an employee can be required to work a cycle of 8 hours on duty and 8 hours off duty for an indefinite period. FRA appreciates that this is the case. In fact, that kind of flexibility is the feature which, on a practical level, commended this approach to labor and the industry some years ago. It should be recalled that shorter hours are a proper subject for collective bargaining and that the 8-hour release affords what Congress deemed to be an appropriate period for rest after broken service or continuous service of less than 12 consecutive hours.

One commenter expressed concern at the use of the term "work tour". In the text below the term is used to describe a period of aggregate service preceded by and followed by a required 8 or 10-hour release. "Work tour" as used in the interpretations does not necessarily mean a discrete work assignment or "run". That is, for purposes of the interpretations a new work tour (and new 24-hour period) could begin after an 8 or 10-hour release at a designated terminal, even if more than one work assignment or run was accomplished during the work tour.

Duty time and effective periods of release: Designated terminals. Section 1 of the Act provides that train or engine service may be broken by a period of release of 4 or more hours at a designated terminal. Despite extensive correspondence and lengthy conferences between FRA and carrier officials over the past 5-6 years, a number of commenters persist in their view that the word "designated" either (1) is mere surplusage, (2) refers to unilateral action by the carrier, or (3) has no application to the commenter's own operating environment.

Construction of the term designated terminal has been the subject of litigation and it is the view of FRA that the matter has been definitely and finally resolved in the courts. As stated by the United States Court of Appeals for the Ninth Circuit, "we hold that the term 'designated terminal' as used in the Hours of Service Act, 45 U.S.C. 61(b)(3), refers to terminals designated in or under collective bargaining agreements." "United States v. The Atchison, Topeka and Santa Fe Ry.", 525 F. 2d 1184, 1190 (1975), cert denied 425 U.S. 992 (1976). Specifically, "the 'home' and 'away-from-home' terminals were the 'designated terminals' Congress had in mind", 552 F. 2d 1188. The appellate court specifically rejected the argument that if a terminal is designated as a release point for one or more crew assignments it is "designated" within the meaning of the Act for any crew assignment:

> "We think * * * that section 61(b)(3) refers to the "terminals" which are designated for the particular crew and run involved. The Santa Fe has advanced no reasons, and we can think of none, why a stop at any place with minimum facilities would be more conducive to rest just because it happened to be a "terminal" for other trains and other crews. And certainly to add that the place must be unilaterally designated by management would be to require a pointless formality. We think that Congress must have intended to require a bilateral designation process. 525 F. 2d 1189.

One commenter argued that this view might block the establishment of new runs, since the established points of release could not be inserted in collective bargaining agreements which are negotiated on a periodic basis. This concern ignores the language of the court and the FRA interpretation which explains that terminals may be designated "under" collective bargaining agreements. That is, employee representatives and carrier officials may agree by letter or memorandum what the proper points of release shall be. All that is required is that the terminals agreed upon by the parties, whether they be two or three or six in number, provide adequate facilities for food and lodging. To avoid confusion and unnecessary FRA involvement, such letters or memoranda executed in the future should explicitly refer to the fact that the designation process is intended to identify appropriate points of release under the Hours of Service Act for specific crew assignments.

One commenter was concerned that the FRA intends to displace the collective bargaining process with respect to the determination of which terminals provide suitable facilities for food and lodging. FRA is interested in this issue only with respect to compliance with the Hours of Service Act. Certainly the agreement of the affected parties on the issue of "suitability" will be persuasive (normally dispositive) evidence on the adequacy of the facilities under the Hours of Service Act, though FRA must reserve the right to make an independent judgment on the latter issue. It should be noted that, under a 1976 amendment to section 2 or the Act (45 U.S.C. 62), carrier-provided sleeping quarters, including dormitories, trailers, and bunk cars, must be "clean, safe, and sanitary" and "free from interruptions caused by noise under the control of the railroad". FRA is responsible for the administration of that provision, as well.

Deadheading. Two commenters suggested that the discussion of deadheading be revised to note that statutory language on deadheading does not apply to operators, dispatchers and other section 3 employees. The organization of both the proposed and revised documents is intended to reflect the fact that only train and engine service employees are said to engage in "deadhead transportation" within the meaning of the Act. This is explicitly confirmed in the revised text by reference to "train and engine service" employees.

Concerning deadheading of train or engine crews by private automobile, a commenter questioned the relevance of compensation through a fixed or "arbitrary" payment on the issue of whether transportation by private automobile is to be considered ordinary commuting or deadheading. FRA believes that, along with other factors, such compensation is a significant indicium of the nature of the period in question. The issue in each case is whether the employee is traveling to a point of duty assignment other than his normal reporting point or "base of operations" by personal vehicle in lieu of carrier-provided transportation.

Wreck and relief trains. The 1976 amendments to the Act make wreck and relief crews subject to the 12-hour limitation and the requirements for 8 or 10-hour release periods. However, a special-purpose emergency provision permits wreck and relief crews to work up to 16 hours if necessitated by the emergency. An emergency for these purposes must be read to include most accidents and derailments requiring the use of such crews. The emergency concept seems less strict than the "casualty or unavoidable accident or act of God" described in section 5(d) of the Act. The text reflects that distinction and has been further clarified at the request of a commenter. However the additional 4 hours are available only as

required to deal with an ongoing emergency.

The following discussion relates to comments on the portion of the text entitled "Communication of Train Orders":

Shifts. Several commenters questioned the definition of "shift" set forth in the notice, a definition which was contained in FRA's previous public memoranda on the Act. The rule that employees must be assigned the same starting time to be considered one "shift" is rooted in the legislative history of the 1969 revision to the Act (Pub. L. No. 91–169). See H.R. Rep. No. 604, 91st Cong., 1st Sess. 9 (1969). Two commenters submitted evidence suggesting a broader meaning for the term, based on National Railroad Adjustment Board awards and the wording of several collective bargaining agreements. FRA believes the Act should be given the reading anticipated by Congress, whether or not there may be disagreement concerning usage of the term in the industry. To recognize staggered starting times as a feature of a single "shift" would be to invite confusion and result in the Act being unevenly applied. Though most carriers with agreements allowing shifts to commence at different times within a specified range appear to limit that range of 1½ to 2 hours, one commenter suggested a one-shift example with one employee working 6:30 a.m.–3:00 p.m. and another working 10:00 a.m.–6:00 p.m. The logical extension of such a principle would treat any overlap whatsoever as creating a single shift, provided the collective bargaining agreement so provided. Again, FRA believes that the law should be construed in the simple manner anticipated by the Congress. Therefore, a "shift" is defined to mean a tour of duty constituting a day's work for one or more employees performing the same class of work at the same station who are scheduled to begin and end work at the same time.

Duty time and effective periods of release. Commenters expressed apprehension concerning treatment of travel time for employees engaged in the communication of train orders. FRA's informational memorandum of January 9, 1973 stated that time spent traveling between places in the course of a duty tour is considered time on duty. Traditionally other travel time for such covered employees has not been considered on-duty time. Nor have such employees been considered subject to the provisions on deadheading. FRA does not propose to adopt a new position at this time.

The following discussion relates to comments on the portion of the text entitled "General Provisions":

Commingled service. Two commenters objected to counting attendance at rules classes as on-duty time under the provisions on commingled service. Other commenters limited their objection to counting required rules classes where employees have the option to attend one of several sessions. Certain commenters also objected to counting time spent in compelled attendance at disciplinary proceedings. Others would count only those periods spent in other service which precede covered service.

The statute requires that all time spent in other service for the carrier be counted in computing the on-duty time of an employee performing covered service during the 24-hour period. It is immaterial that the specific scheduling of such service is left, in part, to the employee.

The carrier must assure that its employees do not exceed the limitations on hours through commingled service. Case law establishes that training sessions constitute "time on duty" ("United States v. Baltimore and Ohio R.R.," 328 F.Supp. 1102 (W.D. Pa. 1971)), and the same result must obtain with regard to attendance at disciplinary proceedings at the behest of the carrier.

The statute does not permit different treatment of situations in which noncovered service follows, rather than precedes, covered service. Even before the enactment of explicit language requiring that "all time on duty in other service" be counted in computing on-duty time, the courts had construed the law to require that subsequent noncovered service be counted. "See Atchison, Topeka and Santa Fe Ry. v. United States," 243 F. 114 (8th Cir. 1917); "San Pedro, L.A. & S.L. R.R. v. United States," 213 F. 326 (8th Cir. 1914); "Delano v. United States," 220 F. 635 (7th Cir. 1915).

One commenter suggested that time spent in jury duty and similar endeavors be subject to the rule of commingled service. The statute speaks only of "other service performed for the common carrier".

Casualty; unavoidable accident; Act of God. At the suggestion of several commenters, the discussion of subsection (d) of section 5 of the Act (45 U.S.C. 64a(d)) has been moved beneath the heading of "General Provisions". This reflects the fact that the subsection may provide relief from the requirements governing each of the three types of covered service.

Several commenters suggested that the proposed interpretations of section 5(d) were excessively restrictive. Based on judicial interpretations of this provision, FRA respectfully disagrees. The overwhelming view adopted by the courts is that most common operational difficulties do not excuse excess service. See, for example, "Atchison, Topeka and Santa Fe Ry. v. United States," 243 F. 114 (8th Cir. 1917); "United States v. Atchison, Topeka and Santa Fe Ry.," 302 F. Supp. 393 (D. N.M. 1969). Further, even when an extraordinary event occurs which might be regarded as involving the exemption, the carrier must still exercise "due diligence" to avoid or limit excess service. "Atchison, Topeka and Santa Fe Ry. v. United States," 244 U.S. 336 (1917). The carrier has the burden of establishing that the excess service could not have been avoided. "United States v. Lehigh Valley R.R.," 219 F. 532 (2nd Cir. 1914); "United States v. Great Northern Ry.," 220 F. 630 (7th Cir. 1915).

Sleeping quarters. No new comments were received on the application of paragraph (3) of subsection 2(a) of the Act (45 U.S.C. 62(a)(3)), which was added by section 4 of Pub. L. No. 94–348, 90 Stat. 817, 818. That paragraph makes it unlawful for a carrier to provide sleeping quarters for employees covered by the Act which do not afford an opportunity for rest, free from interruptions caused by noise under the control of the railroad, or which are not clean, safe, and sanitary. Paragraph (4) of subsection 2(a) provides that sleeping quarters may not be located "within or in the immediate vicinity" of switching or humping operations, as determined in accordance with rules prescribed by FRA (under a delegation from the Secretary of Transportation). See FRA interim rules at 41 FR 53028 (December 3, 1976) and a notice of proposed rulemaking on paragraph (4) determinations at 41 FR 53070 (December 3, 1976).

In the absence of comments addressing paragraph (3), FRA will administer that provision on a case-by-case basis until guidelines can be developed. Further opportunity to comment will be provided when proposed guidelines have been formulated. In preparing proposed guidelines, FRA will consider materials submitted in connection with FRA Rulemaking Petition 74–3 (see 40 FR 6701; February 13, 1975), which preceded the recent amendments to the Hours of Service Act and which has, therefore, been denied (see 41 FR 53030).

In consideration of the foregoing, Part 228, Title 49, Code of Federal Regulations is amended by the addition of the following appendix.

APPENDIX A—REQUIREMENTS OF THE HOURS OF SERVICE ACT: STATEMENT OF AGENCY POLICY AND INTERPRETATION

First enacted in 1907, the Hours of Service Act was substantially revised in 1969 by Pub. L. 91–169. Further amendments were enacted as part of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94–348. The purpose of the law is "to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees * * *." This appendix is designed to explain the effect of the law in commonly-encountered situations.

The Act governs the maximum work hours of employees engaged in one or more of the basic categories of covered service treated below. If an individual performs more than one kind of covered service during a tour of duty, then the most restrictive of the applicable limitations control.

The Act applies to any common carrier engaged in interstate or foreign commerce by railroad. It governs the carrier's operations over its own railroad and all lines of road which it uses.

TRAIN AND ENGINE SERVICE

Covered Service. Train or engine service refers to the actual assembling or operation of trains. Employees who perform this type of service commonly include locomotive engineers, firemen, conductors, trainmen, switchmen, switchtenders (unless their duties come under the provisions of section 3) and hostlers. With the passage of the 1976 amendments, both inside and outside hostlers are considered to be connected with the movement of trains. Previously, only outside hostlers were covered. Any other employee who is actually engaged in or connected with the movement of any train is also covered, regardless of his job title.

Limitations on Hours. The Act establishes two limitations on hours of service. First, no employee engaged in train or engine service may be required or permitted to work in excess of twelve consecutive hours. After working a full twelve consecutive hours, an employee must be given at least ten consecutive hours off duty before being permitted to return to work.

Second, no employee engaged in train or engine service may be required or permitted to continue on duty or go on duty unless he has had at least eight consecutive hours off duty within the preceding twenty-four hours. This latter limitation, when read in conjunction with the requirements with respect to computation of duty time (discussed below) results in several conclusions:

(1) When an employee's work tour is broken or interrupted by a valid period of interim release (4 hours or more at a designated terminal), he may return to duty for the balance of the total 12-hour work tour during a 24-hour period.

(2) After completing the 12 hours of broken duty, or at the end of the 24-hour period, whichever occurs first, the employee may not be required or permitted to continue on duty or to go on duty until he has had at least 8 consecutive hours off duty.

(3) The 24-hour period referred to in paragraphs 1 and 2 above shall begin upon the commencement of a work tour by the employee immediately after his having received a statutory off-duty period of 8 or 10 hours as appropriate.

Duty time and effective periods of release. On-duty time commences when an employee reports at the time and place specified by the railroad and terminates when the employee is finally released of all responsibilities. (Time spent in deadhead transportation to a duty assignment is also counted as time on duty. See discussion below.) Any period available for rest that is of four or more hours and is at a designated terminal is off-duty time. All other periods available for rest must be counted as time on duty under the law, regardless of their duration.

The term "designated terminal" means a terminal (1) which is designated in or under a collective bargaining agreement as the "home" or "away-from-home" terminal for a particular crew assignment and (2) which has suitable facilities for food and lodging. Carrier and union representatives may agree to establish additional designated terminals having such facilities as points of effective release under the Act. Agreements to designate additional terminals for purposes of release under the Act should be reduced to writing and should make reference to the particular assignments affected and to the Hours of Service Act. The following are common situations illustrating the designated terminal concept:

(1) A freight or passenger road crew operates a train from home terminal "A" to away-from-home terminal "B" (or the reverse). Terminals "A" and "B" would normally be the designated terminals for this specific crew assignment. However, carrier and employee representatives may agree to designate additional terminals having suitable facilities for food and lodging as appropriate points of release under the Hours of Service Act.

(2) A road crew operates a train in turn-around service from home terminal "A" to turn-around point "B" and back to "A". Terminal "A" is the only designated terminal for this specific crew assignment, unless carrier and employee representatives have agreed to designate additional terminals having suitable facilities for food and lodging.

(3) A crew is assigned to operate a maintenance-of-way work train from home terminal "A", work on line of road and tie up for rest along the line of road at point "B". Home terminal "A" and tie-up point "B" both qualify as designated terminals for this specific work train crew assignment. Of course, suitable facilities for food and lodging must be available at tie-up point "B".

Deadheading. Under the Act time spent in deadhead transportation receives special treatment. Time spent in deadhead transportation to a duty assignment by a train or engine service employee is considered on-duty time. Time spent in deadhead transportation from the final duty assignment of the work tour to the point of final release is not computed as either time on duty or time off duty. Thus, the period of deadhead transportation to point of final release may not be included in the required 8- or 10-hour off-duty period. Time spent in deadhead transportation to a duty assignment is calculated from the time the employee reports for deadhead until he reaches his duty assignment.

Transit time from the employee's residence to his regular reporting point is not considered deadhead time.

If an employee utilizes personal automobile transportation to a point of duty assignment other than the regular reporting point in lieu of deadhead transportation provided by the carrier, such actual travel time is considered as deadheading time. However, if the actual travel time from his home to the point of duty assignment exceeds a reasonable travel time from the regular reporting point to the point of duty assignment, then only the latter period is counted. Of course, actual travel time must be reasonable and must not include diversions for personal reasons.

Example: Employee A receives an assignment from an "extra board" located at his home terminal to protect a job one hour's drive from the home terminal. In lieu of transporting the employee by carrier conveyance, the railroad pays the employee a fixed amount to provide his own transportation to and from the outlying point. The employee is permitted to go directly from his home to the outlying point, a drive which takes 40 minutes. The normal driving time between his regular reporting point at his home terminal and the outlying point is 60 minutes. The actual driving time, 40 minutes, is considered deadhead time and is counted as time on duty under the Act.

Employee A performs local switching service at the outlying point. When the employee returns from the outlying point that evening, and receives an "arbitrary" payment for his making the return trip by private automobile, 40 minutes of his time in transportation home is considered deadheading to point of final release and is not counted as either time on duty or time off duty.

Wreck and relief trains. Prior to the 1976 amendments, crews of wreck and relief trains were exempted entirely from the limitations on hours of service. Under present law that is no longer the case. The crew of a wreck or relief train may be permitted to be on duty for not to exceed 4 additional hours in any period of 24 consecutive hours whenever an actual emergency exists and the work of the crew is related to that emergency. Thus, a crew could work up to 16 hours, rather than 12. The Act specifies that an emergency ceases to exist for purposes of this provision when the track is cleared and the line is open for traffic. An "emergency" for purposes of wreck or relief service may be a less extraordinary or catastrophic event than an "unavoidable accident or Act of God" under section 5(d) of the Act.

Example: The crew of a wreck train is dispatched to clear the site of a derailment which has just occurred on a main line. The wreck crew re-rails or clears the last car and the maintenance of way department releases the track to the operating department 14 hours and 30 minutes into the duty tour. Since the line is not clear until the wreck train is itself out of the way, the crew may operate the wreck train to its terminal, provided this can be accomplished within the total of 16 hours on duty.

Emergencies. The Act contains no general exception using the term "emergency" with respect to train or engine service or related work. See "casualties," etc., under "General Provisions".

COMMUNICATION OF TRAIN ORDERS

Covered Service. The handling of orders governing the movement of trains is the second type of covered service. This provision of the Act applies to any operator, train dispatcher, or other employee who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements.

The approach of the law is functional. Thus, though a yardmaster normally is not covered by this provision, a yardmaster or other employee who performs any of the specified service during a duty tour is subject to the limitations on service for that entire tour.

Limitations on hours. No employee who performs covered service involving communication of train orders may be required or permitted to remain on duty for more than nine hours, whether consecutive or in the aggregate, in any 24-hour period in any office, tower, station or place where two or more shifts are employed. Where only one shift is employed, the employee is restricted to 12 hours consecutively or in the aggregate during any 24-hour period.

The provision on emergencies, discussed below, may extend the permissible hours of employees performing this type of service.

Shifts. The term "shift" is not defined by the Act, but the legislative history of the 1969 amendments indicates that it means a tour of duty constituting a day's work for one or more employees performing the same class of work at the same station who are scheduled to begin and end work at the same time. The following are examples of this principle:

Scheduled Hours	*Classification*
7 a.m. to 3 p.m.	1 shift.
7 a.m. to 12:30 p.m. 1:30 p.m. to 8 p.m. (Schedule for one employee including one hour lunch period).	Do.
7 a.m. to 3 p.m. 7 a.m. to 3 p.m. (Two employees scheduled).	Do.
7 a.m. to 3 p.m. 8 a.m. to 4 p.m. (Two employees scheduled).	2 shifts.

Duty time and effective periods of release. If, after reporting to his place of duty, an employee is required to perform duties at other places during this same tour of duty, the time spent traveling between such places is considered as time on duty. Under the traditional administrative interpretation of section 3, other periods of transportation are viewed as personal commuting and, thus, off-duty time.

A release period is considered off-duty time if it provides a meaningful period of relaxation and if the employee is free of all responsibilities to the carrier. One hour is the minimum acceptable release period for this type of covered service.

Emergencies. The section of the Act dealing with dispatchers, operators, and others who transmit or receive train orders contains its own emergency provision. In case of emergency, an employee subject to the 9 or 12-hour limitation is permitted to work an additional four hours in any 24-hour period, but only for a maximum of three days in any period of seven consecutive days. However, even in an emergency situation the carrier must make reasonable efforts to relieve the employee.

GENERAL PROVISIONS

(APPLICABLE TO ALL COVERED SERVICE)

Commingled Service. All duty time for a railroad even though not otherwise subject to the Act must be included when computing total on-duty time of an individual who performs one or more of the types of service covered by the Act. This is known as the principle of "commingled service".

For example, if an employee performs duty for 8 hours as a trainman and then is used as a trackman (not covered by the law) in the same 24-hour period, total on-duty time is determined by adding the duty time as trackman to that as trainman. The law does not distinguish treatment of situations in which non-covered service follows, rather than precedes, covered service. The limitations on total hours apply on both cases. It should be remembered that attendance at required rules classes is duty time subject to the provisions on "commingling". Similarly, where a carrier compels attendance at a disciplinary proceeding, time spent in attendance is subject to the provisions on commingling.

When an employee performs service covered by more than one restrictive provision, the most restrictive provision determines the total lawful on-duty time. Thus, when an employee performs duty in train or engine service and also as an operator, the provisions of the law applicable to operators apply to all on-duty and off-duty periods during such aggregate time. However, an employee subject to the 12 hour provision of section 2 of the law does not become subject to the 9 or 12-hour provisions of section 3 merely because he receives, transmits or delivers orders pertaining to or affecting the movement of his train in the course of his duties as a trainman.

Casualties, Unavoidable Accidents, Acts of God. Section 5(d) of the Act states the following: "The provisions of this Act shall not apply in any case of casualty or unavoidable accident or the Act of God; nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time said employee left a terminal, and which could not have been foreseen." This passage is commonly referred to as the "emergency provision". Judicial construction of this sentence has limited the relief which it grants to situations which are truly unusual and exceptional. The courts have recognized that delays and operational difficulties are common in the industry and must be regarded as entirely foreseeable; otherwise, the Act will provide no protection whatsoever. Common operational difficulties which do not provide relief from the Act include, but are not limited to, broken draw bars, locomotive malfunctions, equipment failures, brake system failures, hot boxes, unexpected switching, doubling hills and meeting trains. Nor does the need to clear a main line or cut a crossing justify disregard of the limitations of the Act. Such contingencies must normally be anticipated and met within the 12 hours. Even where an extraordinary event or combination of events occurs which, by itself, would be sufficient to permit excess service, the carrier must still employ due diligence to avoid or limit such excess service. The burden of proof rests with the carrier to establish that excess service could not have been avoided.

Sleeping Quarters. Under the 1976 amendments to the Act it is unlawful for any common carrier to provide sleeping quarters for persons covered by the Hours of Service Act which do not afford such persons an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters. Such sleeping quarters include crew quarters, camp or bunk cars, and trailers.

Collective Bargaining. The Hours of Service Act prescribes the maximum permissible hours of service consistent with safety. However, the Act does not prohibit collective bargaining for shorter hours of service and time on duty.

Penalty. The penalty provisions of the law apply to the carriers and not their employees.

Each and every violation of the requirements of the Hours of Service Act subjects the offending railroad to a penalty of $500. Each employee who is required or permitted to be on duty for a longer period than prescribed by law or who does not receive a required period of rest represents a separate and distinct violation and subjects the railroad to the statutory penalty of $500.

Statute of limitations. No suit may be brought after the expiration of two years from the date of violation.

Exemptions. A railroad which employs not more than 15 persons covered by the Hours of Service Act (including signalmen and hostlers) may be exempted from the law's requirements by the FRA after hearing and for good cause shown. The exemption must be supported by a finding that it is in the public interest and will not adversely affect safety. The exemption need not relate to all carrier employees. In no event may any employee of an exempt railroad be required or permitted to work beyond 16 hours continuously or in the aggregate within any 24-hour period. Any exemption is subject to review at least annually.

Issued in Washington, D.C., on May 24, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77-15413 Filed 5-27-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 55 (Sub-No. 24)]

PART 1100—RULES OF PRACTICE

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: In the Report of the Commission in the above-entitled proceeding of April 28, 1977, served May 2, 1977, and published in the FEDERAL REGISTER at 42 FR 23806, May 11, 1977, clerical errors were made in §§ 1100.5(c), 1100.12 (e), and Appendix B to the rules of practice. They are hereby corrected as set forth under "Supplementary Information".

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak (Rates), (202–275–7245).

Philip Israel (Finance), (202–275–7245).

Michael Erenberg (Operating Rights), (202–275–7292).

SUPPLEMENTARY INFORMATION: (1) Section 1100.5(c) The term "complainant" means a person filing a complaint; "defendant" means a person against whom a complaint is filed; "applicant" means a person filing an application; "respondent" means a person designated in an investigation; "protestant" means a person opposed to the granting of an application, to any tariff or schedule becoming effective or to a tentative valuation; "intervener" means a person permitted to intervene as provided in Rule 70 or 71, and "petitioner" means any person seeking relief other than by complaint, protest or application.

(2) Section 1100.12(e) *Termination of joint board jurisdiction; subsequent procedure.* The jurisdiction of a joint board over a referred matter shall be terminated in the event of: (1) Service of an initial decision as provided in paragraph (d) of this section; (2) submission of the board's conclusions without a written initial decision; (3) waiver of action in writing by appropriate authority of each State from which a member is entitled to be appointed; (4) failure of all members of the board to appear at the hearing; (5) failure of a majority of the board to agree on substantive matters; or (6) entry of an initial decision is served as provided in paragraph (d) of this section, in which event the subsequent procedure will be as provided in Rules 96, 97, 98, and 99, a referred matter, after termination of joint board jurisdiction, will be decided by the Commission or be made the subject of another officer's initial decision on the record theretofore made or after such hearing or further hearing as may be required.

(3) Appendix B—(a) Table of Contents.

5. Form of reparation statement under Rule 95.

(b) Footnote 1—See Rules 24 to 31 inclusive.

(c) Footnote 3—Signature and verification by complainant unnecessary if complaint is signed by a practitioner—See Rule 15.

(d) Footnote 4—See Rules 33 to 35, inclusive.

(e) Footnote 5—See Rule 15.

(f) No. 3—Certificate of Service

I certify that I have this day served the forgoing document upon all parties of record in this proceeding, by (here state the precise manner of making service, which must be consistent with Rule 20).

(g) Footnote 6—See Rule 20.

(h) Footnote 7—See Rule 71.

(i) No. 5—Form Of Reparation Statement Under Rule 95.

(j) Footnote 8—See Rule 48.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15407 Filed 5-27-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Rice Lake National Wildlife Refuge Including Sandstone Unit, Minnesota, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Rice Lake National Wildlife Refuge including the Sandstone Unit is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: May 1, 1977 through November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Rice Lake National Wildlife Refuge, Route 2, McGregor, Minnesota 55760. Telephone number 218–768–2402.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Rice Lake National Wildlife Refuge, Aitkin County, Minnesota, and also on the Sandstone Unit, Pine County, Minnesota, only on the areas designated by signs as being open to fishing. These areas comprising approximately 80 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for sport fishing on the refuge shall be from May 1, 1977 through November 30, 1977, both dates inclusive.

2. Public use of the fishing areas shall be during daylight hours only.

3. The use of motors on boats is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

DON E. ADAMS,
Refuge Manager.

APRIL 19, 1977.

[FR Doc.77-15331 Filed 5-27-77;8:45 am]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 661—SALMON FISHERY

Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Correction.

SUMMARY: This document corrects an omission brought to the attention of the National Marine Fisheries Service concerning size restrictions for coho salmon that was inadvertently left out of § 661.8 when republished in amendments to emergency regulations published on May 24, 1977 (42 FR 26580).

EFFECTIVE DATE: May 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Wash. 98109, phone 206–442–7575.

Subparagraph (2) of § 661.8(c) reads as follows:

§ 661.8 Commercial fishing.

* * * * * * *

(c) * * *

(2) No person while aboard a vessel used for commercial fishing shall take and retain any coho salmon (*Oncorhynchus kisutch*) less than:

(i) 16 inches in length in Management Areas A, B and C; or

(ii) 22 inches in length in Management Areas D and E.

* * * * * * *

Issued in Washington, D.C., May 25, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-15421 Filed 5-27-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Private Secretary to the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence) is excepted under Schedule C because it is confidential in nature. This section is further amended to show that the need for the following positions no longer exists and they are no longer excepted under Schedule C: Private Secretary to the Assistant Secretary (Intelligence); and Private Secretary to the Director, Telecommunications and Command, and Control Systems.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3306(a)(2) is amended, and (a)(59) is revoked, and (a)(84) is added as follows:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: the Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic Systems), (Research and Technology); the Director, Advanced Research Project Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Program Analysis and Evaluation), and (Legislative Affairs); the General Counsel; the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

* * * * * * *

(59) [Revoked]

* * * * * * *

(84) One Private Secretary to the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence).

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-15438 Filed 5-27-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-148]

PART 162—INSPECTION, SEARCH, AND SEIZURE

Seizures by Customs Officers; Correction

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule; T.D. 77-136, amending the Customs Regulations pertaining to seizures by Customs officers, corrected.

SUMMARY: This rule corrects a recent amendment to the Customs Regulations concerning the instances in which Customs officers will seize merchandise for Customs violations. As corrected, the Customs Regulations will conform to the policy of the Customs Service, as explained in the preamble of the recent amendment, which permits the seizure

of merchandise for certain violations not involving a loss of revenue.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

John T. Roth, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION: On May 17, 1977, Treasury Decision 77-136 was published in the FEDERAL REGISTER (42 FR 25323) amending the Customs Regulations pertaining to seizures of merchandise by Customs officers for Customs violations. In the preamble of Treasury Decision 77-136, under the heading "Supplementary Information," the Customs Service set forth its policy with respect to seizures and stated, "where absolutely prohibited importations are not involved, it is the position of the United States Customs Service that unless required by law, property should only be seized when it is necessary to protect the revenue."

Treasury Decision 77-136 amended § 162.41(a) of the Customs Regulations (19 CFR 162.41(a)) to provide for certain situations in which merchandise shall, or shall not, be seized. Section 162.41(a)(3) was amended to provide that merchandise shall only be seized if the district director is satisfied that (1) the violator appears to be insolvent or may soon become insolvent, (2) the violator or his assets appear to be beyond the jurisdiction of the United States, or (3) for some other reason, a claim for the domestic value of the merchandise would not protect the revenue.

As amended, § 162.41(a)(3) could be construed to forbid the seizure of absolutely prohibited merchandise or the seizure of merchandise involved in other violations not resulting in an actual or potential loss of revenue. This effect was not intended and occurred because the qualifying clause: "In the case of a violation resulting solely in an actual or potential loss of revenue" was inadvertently omitted from § 162.41(a)(3). In order to conform the Customs Regulations to the Customs policy with regard to the seizure of merchandise for Customs violations, it is necessary to amend § 162.41(a)(3) by the insertion of the clause noted above.

This amendment corrects an inconsistency between a stated policy of the Customs Service and a previous amendment to the Customs Regulations which was intended to reflect that policy. No additional burden of any kind is placed on the public by this amendment. Accordingly, the Customs Service has determined that notice and public procedure with respect to this amendment are unnecessary, and that there is good cause for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553(d).

DRAFTING INFORMATION

The principal author of this amendment was John T. Roth, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service, Washington, D.C. 20229. However, personnel from other offices of the Customs Service participated in its development, both on matters of substance and style.

AMENDMENT

Accordingly, the first sentence of subparagraph (3) of § 162.41(a) of the Customs Regulations (19 CFR 162.41(a)(3)) is amended to read as follows:

§ 162.41 Merchandise entered by false invoice, declaration, other document or statement, subject to forfeiture.

(a) * * *

(3) In the case of a violation resulting solely in an actual or potential loss of revenue, the merchandise shall only be seized if the district director is satisfied that:

* * * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: May 25, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-15442 Filed 5-27-77;8:45 am]

Title 41—Public Contract and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA-PR Temporary Regulation No. 33]

PART 9-3—PROCUREMENT BY NEGOTIATION

Contract Audit as Pricing Aid

AGENCY: Energy Research and Development Administration.

ACTION: Temporary Regulation No. 33.

SUMMARY: This action changes ERDA-PR § 9-3.809 by raising the dollar level for mandatory preaward audit required prior to the negotiation of certain contract types. Inflation has made the present $100,000 threshold unrealistic for most contract types. The effects of this action will be to reduce administrative efforts and expenses to both industry and Government, and will permit application of resources to actions of greater significance.

DATE: *Effective date.* This regulation is effective on May 31, 1977.

ADDRESSES: Berton J. Roth, Division of Procurement, Room C-167, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Berton J. Roth (202-376-9229).

SUPPLEMENTARY INFORMATION: *Expiration date.* This regulation will remain in effect until canceled or until its provisions are incorporated into a permanent procurement regulation.

Section 9-3.809(b) is revised as follows:

Subpart 9-3.8—Price Negotiation Policy and Techniques

§ 9-3.809 Contract audit as a pricing aid.

* * * * *

(b) *Auditors reports on contract price proposals.* (1) Prior to negotiation of any contract or modification resulting from a proposal in excess of $100,000 for firm fixed-price and fixed-price with economic price adjustment provisions or $250,000 for all other contract types (including initial prices, estimated costs of cost-reimbursement types, interim and final price redeterminations, escalation, target and settlement of incentive types where the price will be based on cost or pricing data (paragraphs 1-3.807-3 and 9-3.807-3) submitted by the contractor), the contracting officer or his authorized representative shall request an audit review by the contract audit activity.

(i) The requirement for audit of proposals which exceed the thresholds may be waived only by the field office manager or the Assistant Director for Operations, Headquarters, Division of Procurement, and then only whenever it is clear that information already available is adequate for the proposed procurement. In such case, the contract file shall be documented to reflect the reason for any such waiver, provided, however, that independent Government estimates of cost or price shall not be used as the sole justification for any such waiver (see § 1-3.811(a)(4).

(ii) Audits should be requested for proposals of less than the threshold limits where a valid need exists.

(Sec. 105, Energy Reorganization Act of 1974 (Pub. L. 93-438).)

Dated: May 16, 1977.

WILLIAM A. PARKER,
Deputy Director,
Division of Procurement.

[FR Doc.77-15409 Filed 5-27-77;8:45 am]

CHAPTER 7—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[AIDPR Notice 77-6]

MISCELLANEOUS AMENDMENTS TO CHAPTER

AGENCY: Agency for International Development, State.

ACTION: Interim regulations.

SUMMARY: Based on policy decisions made by the Deputy Administrator of AID, AID's procurement regulations have been revised to: (1) incorporate a reference to the Agency's internal procurement policy statements, in order to advise the public of the existence and location of these statements; (2) to increase AID's overseas Mission's authority for non-competitive procurement, to provide Missions with increased flexibility and reduce the need for review and approval by AID/Washington; and (3) to make clear that formal solicitation of proposals from more than one source is not required under AID's research and development or collaborative assistance programs.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Wayne McKeel, Director, Procurement Policy Working Group, Department of State, Agency for International Development, Washington, D.C. 20523 (202-235-1840).

PART 7-1—GENERAL

Subpart 7-1.1—Introduction

1. Section 7-1.101 is amended as follows:

§ 7-1.101 Purpose.

The Agency for International Development Procurement Regulations (AIDPR) supplement the Federal Procurement Regulations (FPR) and implement the procurement related aspects of the Foreign Assistance Act, Executive Order 11223, and established AID policies on procurement as set forth in Supplement B to AID Handbook 1. The AIDPR provides for the codification and publication of procedures for the procurement of services and personal property by AID.

PART 7-3—PROCUREMENT BY NEGOTIATION

Subpart 7-3.1—Use of Negotiation

2. In § 7-3.101-50, paragraph (a)(2) is revised as follows:

§ 7-3.101-50 Exceptions to normal negotiation procedures.

* * * * *

(a) * * *

(2) A procurement by an overseas procuring activity (e.g. AID Missions) where the estimated cost of professional/technical services under a single contract is less than $50,000, or the estimated landed cost of all equipment and materials purchased under a single contract is less than $25,000.

* * * * *

PART 7-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 7-4.53—Procurement Under AID Research and Analysis Programs

3. In § 7-4.5301, paragraph (e) is revised as follows:

§ 7-4.5301 Unsolicited research and analysis proposals.

* * * * *

(e) *Method of procurement.* A contract may be awarded to an offeror without consideration of other competitive sources, if an unsolicited proposal is the product of original thinking, has significant scientific merit, and contributes to AID's research program. Such an award shall be made upon a determination by the Assistant Administrator having primary responsibility for the research activity.

Subpart 7-4.58—Collaborative Assistance Selection Procedure

4. Section 7-4.5805 is retitled and revised as follows:

§ 7-4.5805 Evaluation and selection.

(a) A sufficient number of sources must be considered to insure that competition is obtained to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected pursuant to the procedures of this subpart. Formal solicitation is not required.

(b) Following determination that a project is in fact collaborative assistance, the evaluation panel shall:

(1) Prepare evaluation and selection criteria;

(2) Prepare an intial source list including all potential sources known to have capabilities and expertise in the areas required by the proposed project; and

(3) Evaluate the list, using the evaluation criteria previously determined, for the purpose of making a written determination of the source (or sources) considered most capable of performing the project.

(c) The Chairman of the evaluation panel will prepare a memorandum to the contracting officer setting forth:

(1) The formal determination that the project is collaborative assistance,

(2) The evaluation criteria which have been determined, and

(3) The recommended source list and the rationale therefor, and requesting the contracting officer to prepare a request for expressions of interest from the qualified institution (or institutions).

(d) The contracting officer and the project officer will prepare a request for an expression (or expressions) of interest, containing sufficient information to permit an institution to determine its interest in the project, and to discuss the project with AID representatives, if appropriate. The request for expression of interest should include a concise statement of the purpose of the project, any special conditions or qualifications considered important, a brief description of the selection procedure and evaluation criteria which will be used (if expressions of interest are being requested from more than one institution), the proposed contract format, and any other information considered appropriate. The request for expression of interest will be issued to the institution or institutions recommended by the panel.

(e) The contracting officer will transmit all expressions of interest to the evaluation panel for evaluation and selection recommendation. The panel may conduct on site evaluations at its discretion, as part of the evaluation process.

(f) The Chairman of the evaluation panel will prepare a written selection recommendation with supporting justification, recommending that negotiations be conducted with the institution (or institutions) selected by the evaluation panel. The selection recommendation shall be transmitted to the contracting officer together with the complete official file on the project which was being maintained by the evaluation panel.

(g) The contracting officer will review the selection recommendation, obtain necessary cost and other data, and proceed to negotiate with the recommend source.

This AIDPR Notice is an interim procurement instruction, issued pursuant to 41 CFR 7-1.104-4.

Dated: May 26, 1977.

JOHN F. OWENS,
Acting Assistant Administrator for Program and Management Services.

[FR Doc.77-15561 Filed 5-27-77;11:51 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1802]

[FmHA Instruction 430.2]

SUPERVISION OF ASSOCIATION AND ORGANIZATION BORROWERS AND GRANT RECIPIENTS, INCLUDING INDIVIDUAL LABOR HOUSING AND RURAL RENTAL HOUSING BORROWERS WITH LOAN AGREEMENTS

Proposed Amendment

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to amend its regulations to provide notice and an opportunity for comment to tenants when Labor Housing and Rural Rental Housing project owners request increases in the monthly rental rates. This amendment is intended to allow tenants to have a voice in proceedings before a planned increase in rental rates is approved.

DATE: Comments must be received on or before June 30, 1977.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn (202-447-7207).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Farmers Home Administration (FmHA) has under consideration the amendment of Subpart G of Part 1802, Chapter XVIII, Title 7, Code of Federal Regulations to add a new § 1802.81, "Rent Increases," and a new Exhibit F, "Rent Increases." This amendment will provide a method of processing a project owner's request for increases in the monthly rental rates which will include advance notice of the increase and an opportunity to comment on the increase to tenants in FmHA Rural Rental Housing and Labor Housing projects.

As proposed, the new 1802.81 and Exhibit F read as follows:

§ 1802.81 Rent increases.

Rent increases for tenants occupying units in RRH and LH projects will be processed in accordance with Exhibit F of this regulation.

EXHIBIT F

RENT INCREASES

I. *Objectives.* The basic objective of this exhibit is to provide a method of processing requests for increases in the monthly rental rates for tenants in Farmers Home Administration (FmHA), Rural Rental Housing (RRH) and Labor Housing (LH) projects. This exhibit covers all RRH and LH loans including those approved prior to the date of this instruction.

II. *Initial Understanding With Borrowers.* The County Supervisor will inform all RRH and LH applicants at the time of application that rent rates in projects financed in whole or in part by an RRH or LH loan cannot be raised without FmHA consent in accordance with requirements in loan agreements, loan resolutions and other instruments executed in connection with RRH and LH loans. The County Supervisor will advise all applicants that all proposed rent increases are subject to compliance with this exhibit in giving advance notice to the tenants and in making formal application to FmHA.

III. *Processing requests—A. Borrower's Responsibility.* When an RRH or LH borrower determines that a rent increase is needed, he should provide the County Supervisor with a letter of application which provides:

1. Need and justification for a rent increase.
2. Past year's operating budget showing actual income and expenses for the project.
3. A new operating budget based on the old rates covering the period to the effective date of the proposed rent increase and then using the new rates to the end of the operating year selected by the borrower.
4. A budget for the next full year of operation using the proposed rates.
5. Schedule of proposed rent for each size unit.
6. Any other information the borrower believes necessary to justify the proposed rent increase.

IV. *Notification to tenants of proposed rent increases.* When the borrower submits the application to FmHA for the proposed rent increase, the borrower will:

A. Post in a conspicuous place in each structure or building of the project for which the rent increase is sought a Notice to Tenants of Proposed Rent Increase hereinafter referred to as Notice in the format in Attachment 1 of this exhibit.

B. Give or mail copies of the Notice to all tenants.

C. Advise the tenants that during a 30 day waiting period in which the Notice will be posted, that they have an opportunity to inspect, copy, and make written comments or objections to all materials justifying the proposed rent increase which will be made available to the tenants as noted on the "Notice to Tenants of Proposed Rent Increase."

D. Advise the tenants that all written comments or objections should be submitted directly to the County Supervisor by the end of the 30 day waiting period.

E. After the 30 day waiting period has ended, submit any comments and objections received from tenants and any other information to be considered to the County Supervisor.

V. *Determination by FmHA—A.* Actions by *County Supervisor.* When the application and all attachments for the proposed rent increase including the tenant comments have been submitted, the County Supervisor will:

1. Review the application, past year's budgets, planned budgets, schedule for proposed rents and other information submitted.
2. List the number of tenant comments or objections submitted.
3. Write a short narrative describing the general tone of the tenant comments and complaints.
4. Provide recommendations concerning whether the proposed increase should be approved.
5. Submit all the material to the State Director within 10 days after receipt from the borrower.

B. *Actions by the State Director.* When the application and attachments with comments have been submitted, the State Director will review the material to make a determination on the rent increase.

1. When the State Director determines an application for a proposed rent increase is not justified on the basis of the information submitted, he will directly or through the County Supervisor notify the borrower in writing stating the reason why the rent increase is not authorized.
2. When the approval of a rent increase is given, the State Director will notify the borrower directly or through the County Supervisor of the amount of rent increase approved in writing. The State Director will require that the letter of approval of the rent increase be posted by the borrower in a conspicuous place for the information of the tenants.
3. The letter of approval should contain concise statements of FmHA's reasons for approval of the rent increase and indicate that it does not authorize the borrower to violate the terms of any lease with the tenants.

VI. *Special Problem Cases. Problem* cases which cannot be handled under this instruction, should be submitted to the National Office for review.

NOTICE TO TENANTS OF PROPOSED RENT INCREASE

_____
(Date posted)

This will advise you that the_____ has filed with the Farmers Home Administration, United States Department of Agriculture (FmHA), a request to approve an increase in the monthly rental rates of the _____ project for the following reasons:

1.
2.
3.
4.

Planned rent increases are as follows:

Project name	Unit	Present rent	Proposed rent	Amount increase

All materials justifying the proposed rent increase will be made available for the tenants to inspect and copy at_____ during the hours of _____. The tenants may submit comments in writing to the County Supervisor of the local FmHA office for a 30 day period or until_____. The FmHA County Supervisor is _____ located at_____

These comments will be reviewed by the FmHA County Supervisor and forwarded to the FmHA State Director and a decision will be made as to whether the rent increase should be granted.

Each tenant will be notified of the FmHA decision and the effective date of and authorized rent increase.

By _____
(Borrower or borrower's representative)

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 20, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-15411 Filed 5-27-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 77-CE-8 and 77-CE-9]

TRANSITION AREAS AT CLARION, IOWA, AND MOUNTAIN VIEW, MISSOURI

Proposed Designations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notices of Proposed Rulemaking (NPRMs), extension of comment period.

SUMMARY: This Notice extends the period for receipt of comments on proposals to designate transition areas at Clarion, Iowa (77-CE-8), and Mountain View, Missouri (77-CE-9), to permit interested persons additional time to present meaningful comments in relation thereto.

DATES: Comments must be received on or before July 2, 1977.

ADDRESSES: Send comments on the proposals to: FAA, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket Nos. 77-CE-8 and 77-CE-9, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Alden C. Schneider, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: On April 21, 1977, the FAA published Notices of Proposed Rulemaking proposing to designate transition areas at Clarion, Iowa, Airspace Docket No. 77-CE-8, (42 FR 20634, 20635), and Mountain View, Missouri, Airspace Docket No. 77-CE-9, (42 FR 20635). Interested persons were invited to participate in the making of the proposed rules by submitting such written data, views or comments as they desired on or before May 26, 1977. The FAA has concluded that additional time is needed to provide interested persons the opportunity to submit meaningful comments and therefore believes that good cause exists for an extension of the comment period on these two proposals until July 2, 1977.

Therefore, pursuant to the authority delegated to me by the Administrator the closing date for public comment on Airspace Dockets 77-CE-8 and 77-CE-9 is extended to July 2, 1977.

The principal authors of this document are Alden C. Schneider, Air Traffic Division, and John L. Fitzgerald, Jr., Office of the Regional Counsel.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

NOTE: The Federal Aviation Administration has determined that these documents do not contain major proposals requiring preparation of Economic Impact Statements under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on May 20, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-15294 Filed 5-27-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 239, 240, 249]

[Release No. 33-5826, 34-13535, 35-20023, IC-9761]

INDUSTRY AND HOMOGENEOUS GEOGRAPHIC SEGMENT REPORTING

Proposed Amendments of Disclosure Forms and Rules

Correction

In FR Doc. 77-14237 appearing at page 26009 in the issue for Friday, May 20, 1977, on page 26010, in the first column under "For Further Information Contact" the number given for Linda Griggs should have read "202-755-1750". Also, on page 26019, the table at the top of the page is a continuation of the table beginning at the bottom of page 26018 and should have the same column headings.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 137, 166, 172, 173, 175, 176, 177, 178, 180, 181, and 182]

[Docket No. 77N-0003]

BUTYLATED HYDROXYTOLUENE

Use Restrictions

AGENCY: Food and Drug Administration (FDA).

ACTION: Proposal.

SUMMARY: The Commissioner of Food and Drugs is proposing to restrict the use of butylated hydroxytoluene (BHT) as a direct and indirect additive to food pending completion of animal feeding studies necessary to resolve certain safety questions about the metabolism of BHT in man and the toxic effects seen in experimental animals. The proposal would remove BHT from the list of substances that area generally recognized as safe (GRAS) and established an interim food additive regulation for BHT.

DATES: Comments by July 26, 1977.

ADDRESSES: Written comments to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-355), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204 (202-472-4750).

SUPPLEMENTARY INFORMATION: Butylated hydroxytoluene is 2,6-di-*tert*-butyl-p-cresol and is also known as DBPC. It is a white crystalline solid, not known to occur naturally, and is prepared synthetically from p-cresol and iso-butylene. It is one of several phenolic compounds with antioxidant properties. Because of these properties it has been used as an antioxidant in fats, oils, and fat-containing foods susceptible to rapid rancidification and other oxidative reactions. It has also been used as an antioxidant in food packaging and other food-contact applications.

Subchapter B of Chapter I of Title 21, which contains all FDA regulations for food for human consumption, was reorganized and republished in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302). For the convenience of the reader the former designation numbers of the recodified section numbers used throughout this proposal are set forth as follows:

New section	*Old section*
137.350	15.525
166.110	45.1
170.3	121.1
170.30	121.3
170.35	121.40
170.38	121.41
172.115	121.1034
172.615	121.1059
173.340	121.1099

175.105	121.2520
175.125	121.2577
175.300	121.2514
175.380	121.2559
175.390	121.2548
176.170	121.2526
176.210	121.2519
177.1010	121.2591
177.1210	121.2550
177.1350	121.2570
177.2260	121.2536
177.2600	121.2562
178.3570	121.2553
180.1	121.4000
181.5	121.14
181.24	121.2005(a)
182.3173	[1] 121.101(d)(2)
Part 184	121.104
Part 186	121.105

[1] Table entry for BHT

The Food and Drug Administration first approved BHT for use in food in 1954 after it reviewed the available animal studies. During 1954 and 1955, FDA issued several letters, now referred to as "prior sanctions," approving the use of BHT at levels not to exceed 0.02 percent (200 parts per million (ppm)) of the oil content of food fats and oils. This maximum use level was incorporated into the GRAS list under § 182.3173 (21 CFR 182.3173) when BHT was first listed there in 1959. Since 1959, numerous specific food additive uses of BHT have been approved by issuance of the following regulations: (1) in § 137.350 (21 CFR 137.350), for use in enriched rice; (2) in § 166.110 (21 CFR 166.110), for use in margarine; (3) in § 172.115 (21 CFR 172.115), as an emulsion stabilizer for shortening, dehydrated potato shreds, dry breakfast cereals, potato flakes, sweetpotato flakes, and potato granules; (4) in § 172.615 (21 CFR 172.615), for use in chewing gum base; (5) in § 173.340 (21 CFR 173.340), for use in defoaming agents; (6) in § 175.105 (21 CFR 175.105), as a component of adhesives; (7) in § 175.125 (21 CFR 175.125), for use in pressure-sensitive adhesives; (8) in § 175.300 (21 CFR 175.300), as a component of resinous and polymeric coatings; (9) in § 176.210 (21 CFR 176.210), as a component of defoaming agents used in the manufacture of paper and paperboard; (10) in § 177.1010 (21 CFR 177.1010), as a component of semirigid and rigid acrylic and modified acrylic plastic; (11) in § 177.2260 (21 CFR 177.2260), for use in filters, resin-bonded; (12) in § 177.2600 (21 CFR 177.2600), as a component of rubber articles intended for repeated use; (13) in § 178.3570 (21 CFR 178.3570), for use in lubricants with incidental food contact; (14) in § 181.24 (21 CFR 181.24), as a substance employed in the manufacture of food-packaging materials; and (15) in §§ 175.380, 175.390, 176.170, 177.1210, and 177.1350 (21 CFR 175.380, 175.390, 176.170, 177.1210, and 177.1350), by cross-reference, for use as a component of xylene-formaldehyde resins condensed with 4,4'-isopropylidenediphenol - epichlorohydrin epoxy resins, as a component of zinc-silicon dioxide matrix coatings, as a component of paper and paperboard in contact with aqueous and fatty foods, as a component of closures with sealing gaskets for food containers, and as a component of ethylene-vinyl acetate copolymers, respectively.

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as GRAS or subject to a prior sanction. The criteria for determining whether food ingredients are GRAS or subject to prior sanction and the procedures for the review of GRAS ingredients are set forth in §§ 170.30, 170.35, 170.38, 180.1, 181.5, Part 184 and Part 186 (21 CFR 170.30, 170.35, 170.38, 180.1, 181.5, Part 184 and Part 186). Under this review, the safety of BHT has been evaluated.

Butylated hydroxytoluene has been the subject of a search of the scientific literature from 1920 to the present. The search encompassed scientific articles that considered the following: (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing of the substance. A total of 476 abstracts on BHT were reviewed and 58 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

A representative cross-section of food manufacturers was surveyed by the National Academy of Sciences/National Research Council (NAS/NRC) to determine the specific foods in which BHT was used and at what levels. Information on consumer consumption of these foods was then obtained and combined with the available use information to obtain an estimate of the consumer exposure to BHT. Its use in food in 1970 is reported to have been 596,748 pounds. This is twice the amount reported in 1960. It is also reported that the 1970 figure is only 60 to 70 percent of the total used in food. To make calculations based on the total poundage used, the 60-percent weight figure was used to estimate a 100-percent estimated poundage. The per-capita-per-day average intake was then calculated to be 6.2 milligrams of BHT. This figure is, however, about half the value that has been concluded to be the potential average level of consumption by consumers in the age group 2 to 65 years.

The Select Committee on GRAS Substances (SCOGS) (a subcommittee of the Federation of American Societies for Experimental Biology) has reviewed and evaluated all available data and information on BHT as a food ingredient. The scientific literature review shows the following information, as summarized in the report of the Select Committee:

After oral administration of a single dose of BHT to rats it was almost completely excreted within 4 days. It was also found that 20 to 40 percent of the administered dose was excreted in the urine and an additional 20 to 40 percent excreted in the feces. Since BHT is excreted in the bile, biliary excretion after absorption could account for much of the material in the feces. Extensive enterohepatic recirculation of BHT has been demonstrated in rats. Absorption and excretion studies have been carried out in man. Daniel et al. administered 40 mg of BHT orally and found that about 67 percent of the material administered was excreted in the urine within 11 days. These data indicate that BHT is readily absorbed after oral administration in humans. However, it appears that no considerable enterohepatic circulation occurs in man.

The problem of tissue accumulation also has been investigated in the rat. Rats fed 0.5 to 1 percent BHT in a diet for up to 50 days were sacrificed and the BHT content of their fat and liver measured. It was found that only a small amount (less than 50 ppm) of BHT accumulated in the fat. These data demonstrate that BHT does not accumulate in fatty tissues. The half-life for stored BHT was 7–10 days in the rat. However, extracts of human adipose tissue contained from 0.15–1.30 ppm BHT; the compound was 5–6 times more concentrated in Americans than in Englishmen.

The metabolic fate of BHT has been studied in several animal species, including man. In general, the major metabolic products have been shown to be 3,5-di-tert-butyl-4-hydroxy benzoic acid, its glucuronide and S-(3,5-di-tert-butyl-4-hydroxybenzyl)-N-acetylcysteine. Gilbert and Goldberg demonstrated that in the rat, BHT retention is reduced after the induction of hepatic microsomal mixed-function oxidases. This enzyme system can be induced by prior BHT treatment and, therefore, it was concluded that animals subjected to prolonged BHT administration metabolize the substance at a higher rate. An enzyme that oxidizes BHT is induced in the liver by BHT ingestion. The reaction product is 2,6-di-tert-butyl-4-hydroxymethyl phenol.

It is noteworthy that an oxidation product of BHT, 3,3',5,5'-tetra bis-(tert-butyl) stilbenequinone, was found in cereal products and snack foods aged at elevated temperatures. This compound was found to be present in the range of 0.01 ppm in such foods after aging, but no data were presented concerning its metabolism or toxicology.

The oral lethal dose and LD_{50} of BHT in various animal species have been reported. In the rat, the LD_{50} is 1.7 and 2.0 g per kg in males and females, respectively. In the rabbit, the lethal dose is greater than 2 g per kg and in the guinea pig, the lethal dose is approximately 10.7 g per kg. Other investigators have reported the oral LD_{50} of BHT in rats, mice, rabbits and hamsters to be 2250, 1800, 3200, and 2820 mg per kg, respectively.

Short-term toxicity studies have been carried out with BHT by a number of investigators. BHT has been fed to dogs at levels of 170 to 940 mg per kg per day for 12 months and to rats at a level of 0.2 percent in the diet for 90 days with no discernible toxic effects. Rats fed 0.1 and 0.5 percent BHT in the diet for 6 months or less exhibited significant reduction in the growth rate of male animals only when the BHT was incorporated in a diet supplemented with 20 percent lard. These investigators also observed an increased incidence of alopecia in rats fed 0.5 percent BHT in the diet. This effect could only be observed when the BHT was fed in lard; the response was not manifested in rats fed BHT in coconut oil. Even at a dietary level of 0.5 percent, BHT had no effect on one reproductive cycle in the rat and no effect on the histology of spleen, kidney, liver, testes, or skin. However, there was significant increase in the weight of the liver relative to body weight and the mean absolute weight of the liver was also increased.

Several other investigators have noted that the administration of BHT affects liver

weight. Hepatomegaly, accompanied by increased proliferation of the smooth endoplasmic reticulum and by increased mitotic activity, was observed in rats fed 2.8 mg BHT per calorie of diet for 22 of 24 days; another group of rats received 1.4 g per kg body weight as a single dose. This effect seemed to occur at about 200 times the acceptable dose (0.5 to 2.0 mg per kg) estimated by FAO/WHO. In doses of 150 to 300 mg per kg per day, there was an increase in absolute and relative liver weights in the rat. The same authors showed that at 0.5 percent BHT in the diet for 10 days there was an increase in liver weight but no statistically significant increase when the dietary level was 0.5 percent for 8 weeks.

In recent work young rhesus monkeys administered 500 mg of BHT in corn oil per kg daily by gastric intubation for 4 weeks, showed no clinical abnormalities but exhibited liver hypertrophy, proliferation of hepatic endoplasmic reticulum, and nucleolar fragmentation in many of the hepatic nuclei. The observed effects were less pronounced with BHT than with BHA at the same dosage. At doses of 50 mg per kg, hepatic cytoplasmic changes were less obvious and no nucleolar changes were observed. No significant effect was observed on a number of organ weights, including the liver, in rats fed 0.5 percent BHT. No evidence of hepatotoxicity was found in rats fed 0.1 percent BHT for 16 weeks. A consistent no-effect level with respect to liver enlargement of 25 mg per kg per day of BHT has been reported.

Since there is little doubt that BHT increases the liver weight of animals fed adequate doses of BHT in their diet, it can be expected that this effect can be evaluated with biochemical measurements. It has been demonstrated that, in addition to liver weight, total protein and ribonucleic acid increased in the livers of rats fed 0.5 percent BHT in the diet for 68 days. Mixed function oxidases in the microsomes of liver obtained from animals fed BHT have also been shown to have increased enzyme activity. The synthesis of drug-metabolizing enzymes is induced. Biphenyl 4-hydroxylase activity was increased at concentrations of BHT that did not increase liver size. Cytochrome oxidase activity of liver tissue decreased 20 percent when BHT was fed to rats at the 0.5 percent level for 10 days. BHT at a level of 500 mg per kg per day had a striking effect on ascorbic acid excretion; this condition remained elevated for 1 week after dosage of BHT was ended. Increase in liver weight and depression in glucose-6-phosphatase activity were no longer manifest after a 14-day recovery period following cessation of administration of BHT. But, whereas liver weight returned to normal within two weeks of maximum drug effect in rats, other parameters such as elevated DNA content, number of liver cell nuclei, and percentage of tetraploid nuclei remained relatively constant over a 7-week post-treatment period. Takanaka et al. fed BHT to rats at levels of 50 to 150 mg per kg per day and observed that at the high doses BHT increased liver weight but at the low dose there was no such increase in weight but a substantial increase in activity of drug metabolizing enzymes, aminopyrine N-demethylase, hexobarbital hydroxylase, and butynamine N-demethylase ($C_{12}H_{17}N{\cdot}HCl$). There was no direct relationship between increase in activity of drug metabolizing enzymes and increase in liver weight. The increase in drug metabolizing activity induced by feeding BHT was reflected in reduction of the activity of pentobarbital by about 60 percent.

The consensus is that the effect of BHT on liver enlargement represents a type of hypertrophy, which is fully reversible and without toxicological significance. However, a somewhat different view notes that increases in liver size and increases in drug-metabolizing enzymes can be interpreted as an adaptive mechanism. With two substances other than BHT it has been demonstrated experimentally that a point is reached when adaptation fails, a new condition develops, and injury commences. It does not appear that "fully adapted" livers have been challenged by additional doses of BHT or, more importantly, other chemicals. Such information should be available before one can conclude that BHT-induced liver hypertrophy is completely harmless.

The induction of hepatic microsomal enzymes is an established effect of BHT. The pharmacological implications of microsomal enzyme induction have been described. Others have discussed the role of microsomal hydroxylases in polycyclic hydrocarbon carcinogenesis. It is also apparent that microsomal enzymes can be induced in such tissues as the intestinal tract, lung, adrenals and kidney. The effects of BHT on these extra-hepatic systems have not been reported. While probably the overall contribution of these sites to the metabolism and disposition of foreign substances is small, the effects of microsomal enzyme induction in these tissues, exposed to potentially carcinogenic substances, are unknown. There are observations indicating that aryl hydrocarbon hydroxylase is responsible for the conversion of some polycylic hydrocarbons to toxic and carcinogenic forms. It is also known that the mixed-function oxidases in the microsomes can affect the metabolic transformation of steroid hormones. BHT may stimulate, as do other microsomal enzyme inducers, the activity of steroid hydroxylating enzymes. Such stimulation could affect reproduction.

BHT has been shown to influence lysosomal membranes and these data are of interest as related to the role of lysosomes in physiologic and pathologic processes. However, before any interpretation of the data concerning the effects of BHT on lysosomes can be attempted, it must be pointed out that in the study in question too few animals and too many dose schedules were employed. No conclusions ought to be drawn before these experiments have been validated using more appropriate numbers of animals and experimental conditions.

It has been reported recently that in large doses administered parenterally BHT is capable of producing lung damage in mice. Histological examination of lung tissue revealed thickened intra-alveolar septa, congestion, and a general pattern of tissue disorganization; the lesions seemed to be dose-dependent and appeared to be reversible. Alterations in the lung were generally observed at a threshold dose of 40 mg per kg. These data await confirmation from studies by other investigators. However, it is interesting to note that similar pulmonary changes have been found in dogs fed 1.4–4.7g BHT per kg per day for 28 days. These investigators interpreted their finding as not being due to BHT, but rather to the way the animals were killed (by air embolism). This explanation cannot be substantiated without further investigations on the eventual effects of BHT on lung tissue.

Long-term feeding studies have been carried out in several species. Rats maintained on diets containing up to 1 pefcent BHT for 2 years exhibited no evidence of pathology and carcinogenicity. Mice have been fed 0.5 percent BHT in the diet for 28 months; no pathology was observed. Rats maintained on 0.1 percent BHT in cocoanut oil for 2 years exhibited no differences between control and experimental animals.

BHT had no clearly discernible effect on nidation or maternal or fetal survival when administered in daily amounts up to 180 mg per kg (day 6 through day 15 of gestation) in mice, up to 225 mg per kg (day 6 through day 15 of gestation) in rats, and up to 280 mg per kg (day 6 through day 10 of gestation) in hamsters.

A multigeneration study in rats feed 300, 1000, and 3000 ppm BHT in their diet has been conducted. Females were mated at 100 days with males maintained on the same regimen. Observations included complete blood counts, cell indices, reticulocyte count, prothrombin time, serum glutamic-pyruvic transaminase, serum glutamic-oxaloacetic transaminase, fasted blood sugar, serum alkaline phosphatase, blood urea nitrogen, icterus index, urine albumin, reducing substances and microscopic elements, organ weights of liver, kidney, spleen, gonads, heart, brain, thyroid, and adrenal, and microscopic pathologic studies of heart, trachea, lungs, liver, pancreas, stomach, small intestine, caecum, colon, spleen, cervical and mesenteric lymph nodes, kidney, urinary bladder, testes, ovaries, prostate, uterus, pituitary gland, submaxillary gland, thyroid, parathyroid, adrenals, skeletal muscle, bone marrow of sternum and femur, sciatic nerve, brain, seminal vesicles, esophagus, and spinal cord. These tests were conducted on animals of the first and second generations. The investigators found that at a level of 3000 ppm of BHT the growth rates of parents and young were depressed 10 to 20 percent. They also found a 20 percent increase in serum cholesterol level after 28 weeks, but no elevation after 10 weeks, and a 10 to 20 percent increase in relative liver weight after 42 weeks. All other observations at 3000 ppm and all observations at 1000 and 300 ppm were comparable with those of the controls.

All criteria of reproduction were normal and no teratogenic effects were detected. They suggest that by all criteria in 2 generations of rats and their offspring, a "no-effect" level of 1000 ppm BHT in a high fat diet is established.

Feeding tests with mice and rats demonstrated no evidence of significant embryo toxicity in doses of 1000 mg per kg as a single dose on a specific day of pregnancy or up to 750 mg per kg in daily doses both before and during pregrancy. Observations included mating and fertility indices, number of corpora lutea, implantation and resorption sites, and examination of fetuses for gross skeletal and soft tissue abnormalities. In another report the investigators were unable to demonstrate any effect on fertility index, litter size or viability index in rats fed 0.125 to 0.313 percent BHT in the diet while 1.55 percent caused drastic weight loss or fetal deaths. No effect on one reproductive cycle of the rat was observed but anophthalmia was noted in the young of rats fed BHT at levels up to 0.5 percent of the diet (equivalent to 250 mg per kg) of body weight. One of these investigators as well as another laboratory were unable to repeat these results in subsequent studies. It was suggested by the latter that the original observations may have been due to avitaminosis A rather than to the feeding of BHT. BHT fed in a single dose of 0.5 g in the diet after mating was reported to have definite prophylactic value in reducing the frequency of resorptions in the rat.

The possible mutagenic effects of BHT have been tested. BHT did not produce any measurable mutagenic response or alteration in the recombination frequency for *Saccharomyces cerevisiae* in either the host-mediated assay or the associated in vitro tests. BHT exhibited no adverse effect on metaphase chromosomes from rat bone marrow in the treatment range of 30 to 1400 mg per kg for 6 to 48 hours. BHT caused a sharp increase in the percentage of aberrant hu-

man embryonic lung cells in tissue culture in the range of 2.5 to 250 μg per ml. No consistent responses occurred to suggest that BHT is mutagenic in the rat as measured by the dominant lethal gene test. Intraperitoneally administered BHT in a dose of 1000 mg per kg also failed to indicate mutagenicity by a dominant lethal test in mice.

Monolayers of monkey kidney cells have been exposed to concentrations of BHT varying from 0.1 mM to 0.136 mM. Inhibition of cell multiplication and a substantial depression of the incorporation of radioactive precursors into DNA, RNA and protein were observed. However, both effects were reversible and no morphological alterations in the structure of the exposed cells were observed. At concentrations up to 30 mg of BHT per g of cells, no visible cytopathological changes were observed. Another laboratory has stressed the point that inhibition of cell multiplication was fully reversible and could be repeated several times in the same monkey kidney cell culture. It was concluded that the effect of BHT on the incorporation of precursors into macromolecules was not a specific effect of BHT and that the effects occur only at rather high concentrations of BHT in the culture medium. It is not established to what extent tissue culture techniques can be used to evaluate or to predict toxicity. Therefore, the effects of BHT in tissue culture cannot be interpreted at this time.

No reports of studies of the carcinogenicity of BHT have been found but there are reports suggesting that BHT interferes with the induction of tumors in two strains of rats by *p*-dimethylaminoazobenzene, and that BHT suppresses the processes of protein and nucleic acid biosynthesis in cancer cells in vivo in mice with Ehrlich's ascites carcinoma and solid hepatoma 22.

Allergies to BHT in food have not been reported.

All of the available safety information on BHT has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

The information on the metabolism and toxicology of butylated hydroxytoluene (BHT) is extensive. There is ample evidence of efficacy of this compound as an antioxidant. It has been suggested that BHT in fatty tissue may even have some effect similar to that of vitamin E. There are some data to indicate that BHT in diets reduces the incidence of certain tumors and the rate of fetal absorption in the rat.

The available evidence does not support the view that BHT interferes in any specific way with cellular metabolism. There is no evidence that demonstrates that BHT causes frank biochemical lesions in the liver; moreover, it is obvious that high doses of BHT are needed to induce biochemical alterations. With 0.1 percent BHT in the diet in rats there are differing data in the literature concerning the effect of such treatment on liver growth and liver enzymes. At 0.05 percent in the diet, no toxic effects are discernible. This "no-effect level" is equivalent to 50 mg per kg per day.

However, BHT increases the level of microsomal enzymes in the liver. The significance of this increase raises certain questions. The liver weight of animals fed BHT is increased and some interpret this enlargement as hypertrophy which is fully reversible and without apparent toxicological significance. But a point could occur at which adaptation fails, a new condition is created, and injury commences. It does not appear that "fullyadapted" livers have been challenged by additional doses of BHT or, more importantly, other chemicals. In view of the widespread use, for example, of oral contraceptives, it is felt that information should be available on the effect of challenging fully adapted livers with compounds which are themselves metabolized by microsomal hydroxylases. Therefore, there is the need to determine the effects of BHT at levels now present in foods under conditions where steroid hormones or oral contraceptives are being ingested.

Other tissues such as lung and the gastrointestinal mucosa, in addition to liver, can respond to enzyme inducing agents. More information is required on the inducing properties of BHT on extrahepatic organs. If induction should be found to occur, it would be necessary to determine the effect of such enzymes on the conversion of other ingested materials into toxic substances or carcinogens.

It is the further conclusion of the Select Committee that: "while no evidence in the available information on butylated hydroxytoluene (BHT) demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies should be conducted."

Before completion of his own evaluation of the available information on BHT, the Commissioner received a citizen petition and several additional studies on BHT for his consideration. A summary of this information is described below:

1. The first of these new studies was an additional teratogenic study conducted by the WARF Institute of Madison, Wisconsin, to determine the toxic and teratogenic effects of BHT when injected into the air cell and yolk of fertile chicken eggs. The report stated that a dose-related mortality was observed. However, the solvent contribution to observed mortality was considerable. It was also noted that the abnormalities found in this experiment were of relatively low incidence and had been seen at the same levels in control eggs or in the flock background. Because of the apparent increase in severity of the anomalies, it was concluded by the investigator that this may suggest a need to further evaluate the test sample. No additional teratologic testing of BHT is contemplated with this technique by the Food and Drug Administration.

2. Tyndall et al. reported (International Journal of Cancer, 16:184–191, 1975) that there are early alterations in plasma esterases with associated pathology following oral administration to BALB/c mice of BHT singly or in combination with diethylnitrosamine (DENA). Caesarean-derived 4-week-old male and female mice were divided into four groups. The control group was fed lab chow only, while the other three groups were fed the following: (1) Lab chow with 0.75 percent BHT; (2) lab chow with 0.75 percent BHT and DENA added to water; and (3) lab chow, nothing added, and DENA in water. The DENA ingested by the mice was approximately 7 to 8 milligrams per kilogram (mg/kg) body weight daily for a total of 360 to 400 mg/kg body weight over a 7-week exposure period. The study continued for 20 weeks. Mice treated with DENA or with DENA and BHT showed both stomach and lung tumors, whereas untreated controls and mice fed only BHT were free of tumors. Some early changes in bile duct epithelium were detected in mice at 20 weeks that had been fed only BHT-treated food. The observations that the food additive BHT enhances the severity of early esterase alterations and subsequent carcinogenic action of diethylnitrosamine when fed concomitantly were considered noteworthy. BHT was also found to enhance greatly the activity of several plasma esterases when ingested alone.

3. The citizen petition requests FDA to revise the maximum conditional acceptable daily intake (ADI) of the antioxidants BHA and BHT, as determined by FDA and the Joint Food and Agriculture Organization/World Health Organization Expert Committee on Food Additives Sixth Report, until more extensive research can determine the effects of these food additives in man. The petitioner, in support of this request, reiterated the studies described in this preamble and those presented in the report of the Select Committee. The response of the Commissioner to the petitioner advised that FDA does not adopt nor have control over FAO/WHO determinations of ADI's for food additives nor can FDA unilaterally modify an ADI. The Commissioner also informed the petitioner of the GRAS review of BHT and concluded that the petition should be denied.

4. A tier I mutagenic study was conducted for FDA by Litton Bionetics Inc. (April 1975). FDA toxicologists evaluated the data and concluded that BHT exhibited no mutagenic activity for Salmonella or Saccharomyce, with or without metabolic activation, in any of the tests reported.

5. In a study by Clapp et al. (Food and Cosmetics Toxicology, 12:367–371, 1974), eleven male BALB/c mice maintained on a diet containing 0.75 percent BHT for a period of 16 months had a 63.6 percent incidence of lung tumors in the test group (7 tumor-bearing mice in 11) compared with 24 percent in controls (6 tumor-bearing mice in 25). The number of tumors per mouse was greater in the group that received both BHT and DENA (4 percent in drinking water) than with either compound mentioned above. It was also noted that reticulum cell sarcoma incidence was reduced in mice that received BHT. No liver tumors were seen in either group.

In a more recent report by Clapp, Kline, and Satterfield (published abstract No. 669, Proceedings of the American Association for Cancer Research, 17:168, 1976), the significance of the above observations was determined in a larger group of 400 BALB/c mice of both sexes. This study showed, on histological examination, that BHT had no effect on the incidence of lung tumors in either sex.

6. A recent unpublished study by Brooks, T. M., P. F. Hunt, E. Thorpe, and A. T. T. Walker (Shell Research Ltd., Tunstall Laboratory, Sitting-bourne, Kent, England) reported a positive increase in the risk of lung neoplasia with increasing exposure to BHT. CF1 strain mice, 1-month old at the beginning of the study, were fed 1,000 ppm BHT. After 1 month, the mice either continued at this level or received 2,500 ppm or 5,000 ppm BHT. Four weeks later, a second group was raised from 1,000 ppm to 5,000 ppm BHT, and all groups were maintained on these test diets until examined at 100-weeks of age. Histopathological findings were noted in the liver, lung, and ovary. Only the lung response was considered tumorgenic, the liver response cytomegaly. With 24 male and 24 female mice in each group, the overall incidence in lung neoplasia in controls was 46.8 percent compared with 53.2 percent in the 1,000 ppm group, 73.9 percent in the 2,500 ppm group, and 75 percent in the combined 5,000 ppm group (groups raised from 1,000 ppm to 5,000 ppm BHT either at 1 months or 2 months). There was, accordingly, a dose-related increase in tumorigenic response that was said to be statistically significant by an actuarial-likelihood ratio calculation. Additionally, there was said to be an apparent increase in ovarian tumors in BHT-treated female mice. The authors also concluded that there were no morphological features to distinguish the lung tumors in treated mice from those in controls.

After thorough review of the above information, including the report of the Select Committee, the Commissioner has concluded that several issues must be resolved before a final determination can be made on BHT. The first issue concerns the and the absence of any reported data on the metabolism of BHT in the mouse. To resolve this issue, the Commissioner proposes that appropriate metabolism studies be undertaken in the mouse to provide information on the excretion patterns of BHT in this animal as compared to man. If similar metabolism is found, a long-term feeding study would then be required to resolve the tumorigenic potential of BHT in a strain of mice that does not have a normal high incidence of lung adenomas. If the mouse is found not to metabolize BHT through an excretion pattern similar to man, an appropriate animal species would then have to be found that does metabolize BHT in this manner. A long-term chronic feeding study would then have to be undertaken in the appropriate animal species. This study would also address the potential for enzyme induction effects of BHT on the liver of the selected animal species.

If BHT is found to induce liver microsomal enbymes in this animal, then a study will be needed to establish a threshold dose-effect level for BHT in the, and to provide further information on the possible enzyme-inducing effect of BHT on the lung, kidney, and gastrointestinal mucosa. A study that will provide further information on the challenge of fully adapted livers to both BHT and a compound that is metabolized by by microsomal hydroxylases, such a hexobarbital, would also have to be conducted in the event that liver enzyme induction is found to occur.

Although concern was not expressed by the Select Committee over the oxidation product of BHT—3,3', 5,5'-tetra bis-*tert*-butyl) stilbenequinone, found in cereals and snack foods (and subsequently in heated oils), the Commissioner concludes that further toxicological information is required on this and similar degradation products. The Commissioner therefore proposes to require that a short-term (90-day, with in-utero exposed animals) feeding study be undertaken with repetitively cooked fats containing a high level of BHT and fed to the animal species named above. A dosage level of heated oil, containing a high level of BHT, would also be incorporated into the long-term feeding study to investigate further any chronic effects of these potential degradation products.

Although the studies described above appear extensive, the Commissioner notes that the primary intent of these studies is to resolve the question of metabolism of BHT in man and test animals. Questions regarding the potential lung tumorigenicity and enzyme-inducing effects of BHT are only significant if they are observed in an animal species that metabolizes BHT in a manner similar to man. From the animal data now available, the Commissioner further concludes that there is a reasonable certainty that the continued use of BHT, under conditions proposed in this regulation, will not present any significant risk to consumers for the period of time required to complete the studies, and, accordingly, continued limited use of BHT would be authorized under the proposal.

Copies of the studies named above, the Scientific Literature Review on BHT, reports of the teratology and mutagenic screening tests for the ingredient, and the report of the FASEB Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857. Several of these reports may also be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, Va. 22151, as follows:

Title	Order No.	Cost (dollars)
Butylated hydroxytoluene (BHT) (Scientific Literature Review).	PB–221–202	4.50
BHT (FASEB evaluation).	PB–259–917/AS	4.00
BHT (teratology test).....	PB–221–782	3.75
BHT (mutagenic test) (X).	PB–221–627	5.45
BHT (mutagenic test) (Y).	PB–245–467/AS	3.75

NOTE.—(X) = Cytogenetic, dominant lethal, host mediated assay. (Y) = Tier I (microbial) test.

In accordance with § 180.1, the Commissioner concludes that the primary responsibility for undertaking the studies on BHT shall lie with the interested parties. If no commitment to undertake the studies is made to FDA within 60 days after the adoption of a final regulation based upon this proposal, an order will be published promptly in the FEDERAL REGISTER that will revoke all food additive regulations for this ingredient and advise the public of the agency's intentions to pursue appropriate regulatory action regarding all uses of BHT under the adulteration provisions of the Federal Food, Drug, and Cosmetic Act.

The Commissioner further concludes that the unresolved issues concerning BHT warrant the following proposed actions:

1. The continued limited use of BHT as a direct food additive, GRAS substance, and prior-sanctioned substance should be permitted under an interim food additive regulation pending completion of additional studies.

2. Indirect uses of BHT should be permitted under the interim food additive regulations subject to the requirement that the use conforms to current good manufacturing practice.

3. Uses of BHT as an optional ingredient in FDA standards of identity, and uses authorized by the U.S. Department of Agriculture under the Meat Inspection Act and the Poultry Inspection Act should conform to the interim food additive regulation.

4. Maximum levels of use reported in the NAS/NRC survey of food manufacturers will not be permitted by the interim regulation where such levels exceed 200 ppm of the oil content of the food, unless higher levels of use are specifically permitted by other regulations in Subchapter B of Title 21 of the Code of Federal Regulations.

This proposal does not affect any present use of BHT for pet food or animal feed.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended, 52 Stat. 1055 (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 137, 166, 172, 173, 175, 176, 177, 178, 180, 181, and 182 be amended as follows:

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

1. Part 137 is amended in § 137.350 by revising paragraph (a)(4) to read as follows:

§ 137.350 Enriched rice.

(a) • • •

(4) In the case of enriched parboiled rice, butylated hydroxytoluene may be added as an optional ingredient in an

amount not to exceed 0.0033 percent by weight of the finished food. The use of butylated hydroxytoluene under this section shall comply with the provisions of § 180.20 of this chapter.

* * * * *

PART 166—MARGARINE

2. Part 166 is amended in § 166.110 by revising paragraph (a)(5) to read as follows:

§ 166.110 Margarine.

(a) * * *

(5) Preservatives including, but not limited to the following within these maximum amounts in percent by weight of the finished food: Sorbic acid, benzoic acid and their sodium, potassium, and calcium salts, individually, 0.1 percent, or in combination, 0.2 percent, expressed as the acids; calcium disodium EDTA, 0.0075 percent; propyl, octyl, and dodecyl gallates, BHT, BHA, ascorbyl palmitate, ascorbyl stearate, all individually or in combination, 0.02 percent; stearyl citrate, 0.15 percent; isopropyl citrate mixture, 0.02 percent. The use of butylated hydroxytoluene (BHT) under this section shall comply with the provisions of § 180.20 of this chapter.

* * * * *

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

3. Part 172 is amended:

a. In § 172.115 by revising paragraph (b) to read as follows:

§ 172.115 BHT.

* * * * *

(b) As an antioxidant in foods under the interim food additive provisions of § 180.20 of this chapter, BHT is used alone or in combination with BHA in the following:

Dehydrated potato shreds.
Dry breakfast cereals.
Emulsion stabilizers for shortenings.
Potato flakes.
Potato granules.
Sweetpotato flakes.

* * * * *

b. In § 172.615(a) by revising the entry for butylated hydroxytoluene under the heading "Antioxidants" in the table to read as follows:

§ 172.615 Chewing gum base.

* * * * *

(a)' * * *

PLASTICIZING MATERIALS (SOFTENERS)	
* * * * *	
ANTIOXIDANTS	
* * * * *	
Butylated hydroxytoluene	Not to exceed antioxidant content of 0.1 percent when used alone or in any combination. Interim food additive regulation § 180.20 of this chapter.

* * * * *

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

4. Part 173 is amended in § 173.340 (a)(3) by revising the entry for BHT in the table to read as follows:

§ 173.340 Defoaming agents.

* * * * *

(a) * * *

(3) * * *

Substances	*Limitations*
* * * * *	
BHT	As an antioxidant, not to exceed 0.1 percent by weight of defoamer. Interim food additive regulation § 180.20 of this chapter.
* * * * *	

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

5. Part 175 is amended:

a. In § 175.105, paragraph (c)(5) is amended by revising the entry for BHT (butylated hydroxytoluene), to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES	
Substances	*Limitations*
* * * * *	
BHT (butylated hydroxytoluene).	Interim food additive regulation § 180.20 of this chapter.
* * * * *	

b. In § 175.125, paragraph (b)(2) is amended by revising the entry for BHT, to read as follows:

§ 175.125 Pressure-sensitive adhesives.

* * * * *

(b) * * *

(2) * * *

BHT, interim food additive regulation § 180.20 of this chapter.

* * * * *

c. In § 175.300, paragraph (b)(3)(xxx) is amended by revising the entry for butylated hydroxytoluene in the listing, to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxx) * * *

Butylated hydroxytoluene, interim food additive regulation § 180.20 of this chapter.

* * * * *

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

6. Part 176 is amended in § 176.210(d)(3) by revising the entry for butylated hydroxytoluene to read as follows:

§ 176.210 Defoaming agents used in the manufacture of paper and paperboard.

* * * * *

(d) * * *

(3) * * *

Butylated hydroxytoluene, interim food additive regulation § 180.20 of this chapter.

* * * * *

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

7. Part 177 is amended:

a. In § 177.2260, paragraph (d)(2) is amended by revising the entry for BHT to read as follows:

§ 177.2260 Filters, resin-bonded.

* * * * *

(d) * * *

(2) * * *

BHT, interim food additive regulation § 180.20 of this chapter.

* * * * *

b. In § 177.2600, paragraph (c)(4)(iii) is amended by revising the entry for BHT (butylated hydroxytoluene), to read as follows:

§ 177.2600 Rubber articles intended for repeated use.

* * * * *

(c) * * *

(4) * * *

(iii) * * *

BHT (butylated hydroxytoluene), interim food additive regulation § 180.20 of this chapter.

* * * * *

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS PRODUCTION AIDS, AND SANITIZERS

8. Part 178 is amended in § 178.3570(a)(3) by revising the entry for BHT to read as follows:

§ 178.3570 Lubricants with incidental food contact.

* * * * *

(a) * * *

(3) * * *

Substances	*Limitations*
BHT	Interim food additive regulation § 180.20 of this chapter.

* * * * *

PART 180—INTERIM FOOD ADDITIVES PERMITTED IN FOOD ON AN INTERIM BASIS OR IN CONTACT WITH FOOD PENDING ADDITIONAL STUDY

9. Part 180 is amended by adding new § 180.20, to read as follows:

§ 180.20 Butylated hydroxytoluene (BHT).

(a) Butylated hydroxytoluene ($C_{15}H_{24}O$, CAS Reg. No. 000128-37-0) is the chemical 3,4-di-*tert*-butyl-4-hydroxytoluene. BHT is prepared from *p*-cresol and isobutylene.

(b) The food additive meets the specifications of the Food Chemicals codex, 2d ed. (1972).[1]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

(c) The food additive may be used as a component of food-contact surfaces in accordance with good manufacturing practice.

(d) The ingredient is used directly in food, as served, not to exceed the following maximum levels:

Maximum usage levels permitted

Food categories	Parts per million	Function
Breakfast cereals (dry only), § 170.3(n)(4) of this chapter.	50.0	Antioxidant, § 170.3(o)(3) of this chapter.
Chewing gum base (softeners), § 172.615 of this chapter	1,000.0	Do.
Defoaming agents (used in processing beet sugar and yeast), § 173.340(a)(3) of this chapter.	1,000.0	Do.
Fats and oils, § 170.3(n)(12) of this chapter	200.0	Do.
Potatoes, dehydrated flakes, shreds, § 172.115(b) of this chapter.	50.0	Do.
Potatoes, granules, § 172.115(b) of this chapter	10.0	Do.
Sweetpotatoes, flakes, § 172.115(b) of this chapter	50.0	Do.
All other categories[1]	200.0	Antioxidant, 170.3(o)(3) of this chapter; flavoring agent and adjuvant, § 170.3(o)(12) of this chapter.

[1] Total content of antioxidants not over 200 p/m of fat or oil content, including essential (volatile) oil content of the food.

(e) To assure safe use of the additive in addition to other information required by the act:

(1) The label of the additive and any intermediate mix shall bear:

(i) The name of the additive.

(ii) A statement of the concentration of the additive, expressed as "Butylated hydroxytoluene", "BHT", etc., in any intermediate mix; or other information to permit a food processor to determine independently that use of the ingredient will comply with this section.

(iii) Adequate directions for use to provide a final food product that complies with the provisions of this section.

(2) The label of any finished food product containing the additive shall bear the name of the additive, e.g., "Butylated hydroxytoluene" or "BHT" unless exempted by specific regulation.

(f) In accordance with § 180.1, adequate and appropriate feeding studies shall be undertaken for this food additive. Interested persons shall agree in writing to undertake those studies by (60 days after date of final regulation). Continued use of BHT is contingent upon the timely filing of adequate progress reports of such tests and no indication of an increased risk to public health during the test period.

PART 181—PRIOR-SANCTIONED FOOD INGREDIENTS

10. Part 181 is amended in § 181.24 by revising the entry for butylated hydroxytoluene in the listing to read as follows:

§ 181.24 Antioxidants.

* * * * *

Butylated hydroxytoluene, interim food additive regulation § 180.20 of this chapter.

* * * * *

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.3173 [Revoked]

11. Part 182 is amended by revoking § 182.3173 Butylated hydroxytoluene.

The Commissioner gives notice that he is unaware of any prior sanction for the use of BHT in foods under conditions different from those identified in this proposal. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sancation at any later time. This notice also constitutes a proposal to establish a regulation under Part 181, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before July 26, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (four copies), identified with the Hearing Clerk Docket number found in brackets in the heading of this document, regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on July 10, 1973, and it is on file in the Federal Register library.

Dated: May 12, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-15028 Filed 5-26-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 258]

PREFERENCE IN EMPLOYMENT

Issuance of New Part

MAY 20, 1977.

AGENCY: Bureau of Indian Affairs.

ACTION: Proposed rule.

SUMMARY: The Bureau proposes to add a new part to its regulations. The purpose of this addition is to establish a definition of the term "Indian" for eligibility for a preference in employment in the Bureau of Indian Affairs. Because there could be two standards in defining the term, discretion is being exercised with respect to the Indian Reorganization Act to establish a uniform standard.

DATE: Comments must be received on or before: July 15, 1977.

ADDRESS: Written comments should be directed to: Acting Commissioner, Bureau of Indian Affairs, Attention: Division of Personnel Management, 1951 Constitution Avenue NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis Bayhylle, Division of Personnel Management, telephone 202-343-5547.

SUPPLEMENTARY INFORMATION: This proposal represents a change from the previous eligibility standard for a Schedule A excepted appointment, 5 CFR 213.3112(a)(7). Where necessary a preference in employment is extended by conferring a Schedule A excepted appointment on the Indian. Previously, the authority applied only to an Indian of one-quarter degree Indian ancestry of a Federally recognized tribe. On September 24, 1976, the Civil Service Commission, at the request of the Secretary of the Interior, modified the excepted appointment authority by deleting the quarter-degree standard and imposing on the Secretary the responsibility of defining the term "Indian."

This change is necessitated by an opinion of the Associate Solicitor for Indian Affairs dated April 9, 1975, which concluded that the definition of "Indian" in the Indian Reorganization Act had to be applied to the preference provision of that same act in appointments to vacant positions in the Bureau of Indian Affairs. The preference conferred in 25 U.S.C. 472 must be applied in the filing of every vacant position in the Bureau of Indian Affairs. *Freeman* v. *Morton*, 499 F. 2d 492 (D.C. Cir. 1974). Since there is no Civil Service regulation of appointment actions beyond initial hiring, i.e., promotions, transfers and reassignments, on April 20, 1976, the Commissioner of Indian Affairs extended the statutorily defined standards in 25 U.S.C. 479 to the filing of vacant positions by way of pro-

motion, transfer and reassignment. Because of the Civil Service Commission standards for initial appointments where Schedule A excepted appointments are conferred, no action was taken to modify the quarter-degree standard. However, on March 18, 1976, the Secretary of the Interior had requested the Civil Service Commission to modify the Schedule A authority to adopt the statutory standards of 25 U.S.C. 479 plus an additional standard for tribes whose rolls have been closed by act of Congress and who have not as yet organized. Rather than accepted the Secretary's proposed standards, the Commission in the notice published on September 24, 1976, conferred on the Secretary the authority to define an Indian for Schedule A excepted appointments.

The proposed definition below varies from the statutorily set standards in two respects. Section 258.1(c) adds the requirement that persons of one-half or more Indian ancestry must be of tribes indigenous to the United States. This addition is merely to make clear that, apart from Federal recognition, aboriginal persons of tribes which were never a part of the United States are not eligible for preference. The second variance is the addition of a fifth criterion, as mentioned above. Ostensively, this criterion would apply to three of the Five Civilized Tribes of Oklahoma (Choctaw, Creek, and Chickasaw Tribes) and the Osage Tribe whose rolls were closed by acts of Congress and who have not as yet reorganized so as to establish current membership standards. Many such persons have received preference based on the quarter-degree standard. In order that they are not now deprived of that eligibility and made to meet the half-degree standard, it is proposed that the quarter-degree standard remain applicable for three years from the final date of publication so that they may formally organize and establish membership standards.

The second criterion—descendancy of members who were residing on reservations on June 1, 1934—posed an ambiguity which was resolved in an opinion of the Associate Solicitor for Indian Affairs on March 24, 1976. A person qualifying under this criterion must have been born on or before June 1, 1934, and must be descended from a member who resided on any Indian reservation.

Persons who are employed by the Bureau of Indian Affairs on the date these regulations become effective and who received preference in any previous appointment will continue to be preference eligibles so long as they are continuously employed.

The authority for the Commissioner to issue these regulations is contained in Section 9 of the Act of June 30, 1834 (4 Stat. 737, 25 U.S.C. 43), Section 6 of the Act of May 17, 1882 (22 Stat. 88, 25 U.S.C. 46), Section 10 of the Act of August 15, 1894 (28 Stat. 313, 25 U.S.C. 44), Section 5 of the Act of February 8, 1887 (24 Stat. 389, 25 U.S.C. 348), and Sections 12 and 19 of the Act of June 18, 1934 (48 Stat. 986, 25 U.S.C. 472 and 479), and 230 DM 1 and 2.

It is proposed to add a new Part 258 to Subchapter W, Miscellaneous Activities, Chapter I of Title 25 of the Code of Federal Regulations to read as follows:

PART 258—PREFERENCE IN EMPLOYMENT

Sec.
258.1 Definitions.
258.2 Appointment actions.
258.3 Application procedure for preference eligibility.

AUTHORITY: 4 Stat. 737, 25 U.S.C. 43; 22 Stat. 88, 25 U.S.C. 46; 28 Stat. 313, 25 U.S.C. 44; 24 Stat. 389, 25 U.S.C. 348; and 48 Stat. 986, 25 U.S.C. 472 and 479.

§ 258.1 Definitions.

For purposes of making appointments to vacancies in all positions in the Bureau of Indian Affairs a preference will be extended to persons of Indian descent who are:

(a) Members of any recognized Indian tribe now under Federal jurisdiction;

(b) Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation;

(c) All others of one-half or more Indian blood of tribes indigenous to the United States;

(d) Eskimos and other aboriginal people of Alaska; and

(e) Until _____ ____, 198__ (three years from effective date of final publication) a descendant of at least one-quarter degree Indian ancestry of a currently Federally-recognized tribe whose rolls have been closed by an act of Congress.

§ 258.2 Appointment actions.

(a) Preference will be afforded a person meeting any one of the standards of § 258.1 whether the appointment involves initial hiring, reinstatement, transfer, reassignment or promotion.

(b) Preference eligibles may be given a Schedule A excepted appointment under 5 CFR 213.3112(a)(7). However, if the individuals are within reach on a Civil Service Register, they may be given a competitive appointment.

§ 258.3 Application procedure for preference eligibility.

(a) Proof of eligibility must be submitted with the person's application for a position.

(b) In order for a person to be considered a preference eligible according to the standards of § 258.1, they must submit proof of membership, descendancy or degree of Indian ancestry as indicated on rolls or records acceptable to the Secretary.

RAYMOND V. BUTLER,
Deputy Acting Commissioner of Indian Affairs.

[FR Doc.77-15404 Filed 5-27-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Arbitrage Bonds

MAY 20, 1977.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to arbitrage bonds. The regulations are intended to control certain practices that have been used to defeat the purposes of the arbitrage regulations. They affect purchasers and governmental issuers of tax-exempt bonds.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 15, 1977. The proposed regulations apply to bonds sold after May 25, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Benjamin J. Cohen of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3458).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103(c) of the Internal Revenue Code of 1954. These amendments are to be issued under the authority contained in sections 103(c)(6) and 7805 of the Internal Revenue Code of 1954 (83 Stat. 656 and 68A Stat. 917; 26 U.S.C. 103, 7805).

PREVIOUS NOTICES OF PROPOSED RULEMAKING

On May 3, 1973, the FEDERAL REGISTER published proposed Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954 (38 FR 10944). The proposed regulations were revised by notices of proposed rulemaking published in the FEDERAL REGISTER for December 3, 1975 (40 FR 56488) and October 29, 1976 (41 FR 47679) and corrected by notices published in the FEDERAL REGISTER for May 11, 1973 (38 FR 12405), December 18, 1975 (40 FR 58656), and November 24, 1976 (41 FR 51840). This notice of proposed rulemaking further revises the proposed regulations.

GROSS REFUNDINGS

In 1969, Congress enacted section 103(c) of the Internal Revenue Code. Section 103(c) recognizes that under many circumstances advance refundings can be a legitimate tool of municipal finance. At the same time, however, Congress sought to prevent advance refunding that produce arbitrage and conferred upon the Treasury broad authority to promulgate regulations carrying out the purpose of this provision.

Section 103(c) and regulations thereunder have been successful in preventing issuers from realizing arbitrage on most advance refunding issues. Recently, however, the Treasury has learned that issuers are still able to realize arbitrage from certain advance refundings—namely, gross refundings (sometimes called full cash defeasance refundings or AB refundings). These new regulations are designed to eliminate the arbitrage advantage in gross refundings.

The basic change in the regulations is the amendment to § 1.103-13(c)(1)(ii). This change requires the issuer to determine the yield on each refunding issue separately. Thus, the issuer can no longer determine a combined yield on two or more issues. The combined yield formerly required by § 1.103-13(c)(1)(ii) has been responsible for the arbitrage advantage in gross refundings. In addition, § 1.103-13(a) is amended to ensure that the issuer cannot secure the advantages of a combined yield by artificially pricing its obligations. § 1.103-13(f) is amended to ensure that the issuer cannot secure the advantages of a combined yield by artificially allocating principal and interest on acquired obligations, and a new § 1.103-15 is added principally to ensure that the issuer cannot secure the advantages of a combined yield by combining what are usually two issues into one. Other changes, some clerical and some technical, are also made.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Benjamin J. Cohen of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

PARAGRAPH 1. Section 1.103-13 is amended as follows:

1. Paragraph (a) is amended by striking out the period at the end of the fourth sentence of subparagraph (2)(ii) and inserting in lieu thereof "(see subparagraph (3) of this paragraph).", by redesignating subparagraph (3) as subparagraph (4), by adding a new subparagraph (3), and by adding a new sentence at the end of subparagraph (4).

2. Paragraph (b) is amended by striking out "this section and § 1.103-14" in the first sentence and inserting in lieu thereof "this section, § 1.103-14, and § 1.103-15", by deleting the fifth sentence of subparagraph (1)(ii), by striking out "and the application of the major portion test" in the first sentence of subparagraph (9)(i) and inserting in lieu thereof "the application of the major portion test, and the application of § 1.103-15 (relating to excess proceeds)", and by adding a new subparagraph (10).

3. Paragraph (c) is amended by revising the fourth sentence and deleting the sixth and seventh sentences of subparagraph (1)(ii), redesignating subparagraph (3) as subparagraph (4), and adding a new subparagraph (3).

4. Paragraph (f) is amended by revising the fourth sentence of subparagraph (1), deleting the fifth and sixth sentences of subparagraph (1), redesignating subparagraph (4) as subparagraph (5), adding a new subparagraph (4), revising the first sentence of subparagraph (5), and adding new examples (4) and (5) to subparagraph (5). These new and revised provisions read as follows:

(a) *Scope.* * * *

(3) *Reasonable purchase price.* (i) In determining whether the purchase price of a refunding issue is reasonable for purposes of subparagraph (2)(ii) of this paragraph, each refunding issue must be judged separately and individually.

(ii) The application of this subparagraph may be illustrated by the following example:

"Example. On May 13, 1977, city A sells $10.4 million principal amount of 7-percent revenue bonds and $5 million principal amount of 4-percent special obligations bonds to underwriter X. Underwriter X pays $10.6 million for the revenue bonds and $4.8 million for the special obligation bonds. Assume that $15.4 million is a reasonable price for both issues together, but also assume that the special obligation bonds could be sold separately to another underwriter for at least $4.85 million and that the revenue bonds could not be sold separately to any other underwriter for more than $10.5 million. Since each refunding issue must be judged separately and individually, neither the purchase price of the revenue bonds nor the purchase price of the special obligation bonds can be considered reasonable.

(4) *Effective date.* * * * The amendments made by the notice of proposed rulemaking published in the FEDERAL REGISTER for May 31, 1977 (page 27610) apply to issues sold after May 25, 1977.

(b) *Definitions.* * * *

(10) *Issue.* (i) Two or more obligations are part of the same "issue" if the obligations—

(A) Are issued at substantially the same time,

(B) Are sold pursuant to a common plan of financing, and

(C) Will be paid out of substantially the same source of funds.

All other facts (such as whether the obligations are offered by the same official statement or are sold under the same indenture) are irrelevant for purposes of this subparagraph.

(ii) The following examples illustrate the application of this subparagraph:

Example (1). On January 1, 1980, city T issues $10,000,000 of series A revenue bonds and on January 7, 1980, city T issues $5,000,000 of series B revenue bonds. The series A and series B bonds are sold pursuant to a common plan of financing and both will be paid solely out of revenues of the city T water works. Based on these facts, the series A and series B bonds are all part of one issue.

Example (2). The facts are the same as in example (1), except that the series B bonds are special obligation bonds and will be paid out of interest on Treasury obligations. Because the series A and series B bonds will not be paid from the same source of funds, they are treated as separate issues

* * * * *

(c) *Computation of yield.*—(1) *In general.* * * *

(ii) * * * In the case of governmental obligations, the computation must be made separately for each issue of obligations issued by a governmental units, except that a single computation may be made for two or more issues if, before the issuance of the last issue, the issuer establishes to the satisfaction of the Commissioner that the single computation will not distort yield or otherwise tend to defeat the purposes of section 103(c). * * *

* * * * *

(3) *Allocation of certain administrative costs.* (i) If two or more refunding issues are used to refund the same prior issue, then any fees paid to a lawyer, accountant, fiscal agent, or financial consultant in connection with the refunding issues must be allocated among the refunding issues in proportion to their principal amounts. The following examples illustrate the application of this subdivision:

Example (1). On January 1, 1980, State X issues $10 million of series A revenue bonds and $5 million of series B special obligation bonds to the full cash defeasance of a prior issue. On the same day, State X pays lawyer R $12,000 for legal services rendered in connection with issuing the refunding bonds and $9,000 for legal services rendered in connection with investing the proceeds of the refunding bonds. Of the $12,000 fee for services rendered in connection with issuing the refunding bonds, State X must treat $8,000 (i.e., $12,000 × $10 million / ($5 million + $10 million)) as a cost of issuing the series A bonds and the remaining $4,000 as a cost of issuing the series B bonds. Similarly, of the $9,000 fee for services rendered in connection with investing the proceeds of the refunding bonds, State X must treat $6,000 as a cost of investing the proceeds of the series A bonds

and $3,000 as a cost of investing the proceeds of the series B bonds

Example (2). The facts are the same as in example (1). In addition, on November 1, 1984, State X will pay accountant K $1,500 for accounting services to be rendered in connection with carrying the refunding bonds. State X must treat $1,000 as a cost of carrying the series A bonds and the remaining $500 as a cost of carrying the series B bonds. This is the result even though some (or all) of the series B bonds will be retired before November 1, 1984.

(ii) [Reserved]

* * * * *

(f) *Allocations of investments and expenditures.*—(1) *In general.* * * * Allocations under this paragraph may be made at any time and under any reasonable method chosen by the State or local governmental unit, provided that the method of allocation satisfies the requirements in subparagraph (4) of this paragraph.

* * * * *

(4) *Requirements.* (i) All allocations made under this paragraph must be consistent with one another. Thus, for example, an acquired obligation cannot be allocated to more than one issue of governmental obligations at the same time.

(ii) Obligations purchased with the proceeds of a refunding issue must be allocated to the refunding issue.

(iii) Obligations not purchased with proceeds of a refunding issue may not be allocated to the refunding issue.

(iv) If any obligation is allocated to two or more sources of funds, each receipt of principal or interest on the obligation must be allocated ratably among the several sources of funds. (See examples (4) and (5) of subparagraph (5) of this paragraph.)

(5) *Examples.* The following examples illustrate the application of this paragraph:

* * * * *

Example (4). On February 1, 1980, county T issues series A revenue bonds and series B special obligation bonds in the full cash defeasance of a prior issue. $40,000 of proceeds of the Series A issue and $60,000 of proceeds of the Series B issue are used together to purchase an acquired obligation. County T allocates interest with a present value of $60,000 to the Series B issue and the remaining interest and principal to the Series A issue. This Allocation is Improper. Instead, county T must allocate 40 percent of each payment of principal or interest on the acquired obligation to the Series A issue and 60 percent of each such payment to the Series B issue; no other allocation is permitted.

Example (5). On February 1, 1980, city A issues $10 million of revenue bonds for the purpose of constructing a water treatment facility. On the same day, city A purchases an acquired obligation for $1 million. $200,000 of the acquired obligation is allocated to proceeds of the revenue bonds that are held in a reserve fund and invested at an unrestricted yield (see § 1.103–14(d)). $700,000 of the acquired obligation is allocated to proceeds of the revenue bonds that are invested at a restricted yield, and the remaining $100,000 is allocated to other funds (which are not proceeds of the revenue bonds). Of each payment of principal and interest on the acquired obligation, city A must allocate 20 percent to the bond proceeds that are invested at an unrestricted yield, 70 percent to the bond proceeds that are invested at a restricted yield, and 10 percent to the other funds.

PAR. 2. Section 1.103–14(e) is amended by revising subparagraphs (1) and (5)(ii)(C) and by adding new subparagraphs (1–A) and (1–B) to read as follows:

§ 1.103–14 Temporary investments, reserve fund and refunding issues.

* * * * *

(e) *Refunding issue.*—(1) *In general.* This paragraph applies to refunding issues. The general rules regarding the temporary period (see paragraph (b) of this section), the reasonably required reserve or replacement fund (see paragraph (d) of this section), and the major portion test (see § 1.103–13(b)(1)) do not apply to a refunding issue except as provided in this paragraph. This paragraph does not apply to proceeds of a prior issue until they become "transferred proceeds" under the rules in subparagraph (2) of this paragraph.

(1–A) *Operating rules; temporary period.* (i) The rules in this subparagraph apply solely for purposes of subparagraph (3) of this paragraph (relating to the temporary period).

(ii) If two or more refunding issues are used to refund the same prior issue, and if the refunding is in substance a single transaction, then the refunding issues are treated as a single issue.

(iii) If a refunding issue is used to refund a portion (but not all) of the prior issue, then the refunded and nonrefunded portions of the prior issue are treated as separate issues.

(iv) The following examples illustrate the application of this subparagraph:

Example (v). City A has outstanding $10 million of noncallable 9-percent revenue bonds (the "prior issue") due on January 1, 1990. On January 1, 1980, city A issues $6 million of series A 6½-percent general obligation bonds and $4 million of series B 7-percent revenue bonds at par in a crossover refunding of the prior issue. For purposes of the temporary period rules in subparagraph (3), the two refunding issues are treated as a single issue.

Example (2). City B has outstanding $8 million of noncallable 9-percent revenue bonds (the "prior issue") due on January 1, 1990. On January 1, 1980, city A issues $3 million of 6⅝-percent refunding bonds at par in a crossover refunding of a portion of the prior issue. The remaining $5 million of the prior issue will be paid from revenues. Based on these facts, the prior issue is treated as two separate issues—one of $3 million and one of $5 million—for purposes of the temporary period rules in subparagraph (3).

Example (3). City C has outstanding—$12 million of noncallable 9-percent revenue bonds (the "prior issue") due according to the following schedule:

	Dollars in millions
Jan. 1, 1981	2
Jan. 1, 1982	4
Jan. 1, 1983	6

On January 1, 1980, city C issues $2 million of series B 6½ percent general obligation bonds and $6 million of series A 7-percent special obligation bonds at par in a crossover refunding of two portions of the prior issue. The proceeds of the series B bonds will be used to pay the $2 million due on January 1, 1981, and the proceeds of the series A bonds will be used to pay the $6 million due on January 1, 1983. The $4 million due on January 1, 1982 will be paid from revenues. For purposes of the temporary period rules in subparagraph (3), the series A and series B issues are treated as a single issue. In addition, the $8 million refunded portion and the $4 million nonrefunded portion of the prior issue are treated as separate issues.

(1–B) *Operating rules; transferred proceeds, minor portion, and 4–R fund.* (i) The rules in this subparagraph apply solely for purposes of subparagraphs (2), (4), (5), and (6) of this paragraph. Subparagraphs (2), (4), (5), and (6) relate, respectively, to transferred proceeds, the major portion test, the reasonably required reserve or replacement fund, and the adjusted maturity date.

(ii) If the proceeds of a refunding issue are used to refund two or more prior issues, then the portion of the proceeds used to refund each prior issue is treated as a separate refunding issue.

(iii) If a refunding issue is used to refund a portion (but not all) of a prior issue, then:

(A) The refunded and nonrefunded portions of the prior issue are treated as separate issues,

(B) Unspent proceeds of the prior issue must be allocated ratably between the separate issues, and

(C) If any unspent proceeds of the prior issue are invested at an unrestricted yield pursuant to paragraph (d) of this section or § 1.103–13(b)(1)(ii), those proceeds must be allocated ratably between the separate issues.

(iv) Notwithstanding subdivision (iii) of this subparagraph, if a Series B issue is used together with one or more Series A issues in a gross refunding of a prior issue, and if the requirements in § 1.103–15(d)(2)(i), (ii), (iii), and (iv) are satisfied, then:

(A) Each portion of the prior issue that is refunded by one of the Series A issues is treated as a separate issue,

(B) All unspent proceeds of the prior issue must be allocated ratably among the separate issues,

(C) If any unspent proceeds of the prior issue are invested at an unrestricted yield pursuant to paragraph (d) of this section or § 1.103–13(b)(1)(ii), those proceeds must be allocated ratably among the separate issues, and

(D) None of the unspent proceeds of the prior issue may be allocated to any portion of the prior issue that is refunded by the Series B issue.

For purposes of this subparagraph, the terms "Series B issue" and "Series A issues" have the same meaning as in § 1.103–15(d).

(v) The following examples illustrate the application of this subparagraph:

Example (1). City E has outstanding $10 million of noncallable 9-percent revenue bonds and $5 million of noncallable 8-percent revenue bonds due on January 1, 1990. On January 1, 1983, city E issues $15 million of 6-percent general obligation bonds at par in a crossover refunding of both issues of revenue bonds. Under this subparagraph, the refunding issue is treated as two separate issues—one of $10 million and one of $5 million.

Example (2). The facts are the same as in example (1) of subparagraph (1–A)(iv) of this paragraph. Under this subparagraph, the prior issue is treated as two separate issues—one $6 million issue ("issue p–1") that is refunded by the series A bonds and one $4 million issue ("issue p–2") that is refunded by the series B bonds. Assuming that $1 million of the proceeds of the prior issue remain unspent on January 1, 1980, $600,000 of these unspent proceeds must be allocated to issue p–1 and the remaining $400,000 must be allocated to issue p–2. Assuming further that $500,000 of the unspent proceeds of the prior issue are invested at an unrestricted yield in a replacement fund, $300,000 of these proceeds must be allocated to issue p–1 and the remaining $200,000 must be allocated to issue p–2.

Example (3). The facts are the same as in example (2) of this subdivision, except that the prior issue will be retired serially. The result is the same excpt that issues p–1 and p–2 may be further subdivided under subparagraph (6) of this paragraph (relating to adjusted maturity date).

Example (4). The facts are the same as in example (2) of subparagraph (1–A)(iv) of this paragraph. Under this subparagraph, the prior issue is treated as two separate issues—one $3 million issue that is refunded and one $5 million issue that is not refunded.

Example (5). The facts are the same as in example (3) of subparagraph (1–A)(iv) of this paragraph. Under this subparagraph, the prior issue is treated as three separate issues—one $2 million issue that is refunded by the series A bonds, one $4 million issue that is not refunded, and one $6 million issue that is refunded by the series B bonds.

Example (6). The facts are the same as in example (4) of § 1.103–15(j). As a result of this subparagraph, all unspent proceeds of the prior issue would become transferred proceeds of the Series A issue, and none would become transferred proceeds of the Series B issue. The result would be the same even if some of the proceeds of the Series B issue were used to pay principal on the prior issue.

* * * * *

(5) *Reasonably required reserve or replacement fund.* * * *

(ii) * * *

(C) If a refunding issue is a Series B issue (within the meaning of § 1.103–15(d)), and if the requirements in § 1.103–(d)(2) are satisfied, then the proceeds of the refunding issue may not be invested at a materially higher yield pursuant to paragraph (d) of this section.

* * * * *

PAR. 3. A new § 1.103–15 is added to read as follows:

§ 1.103–15 Excess proceeds.

(a) *Effective date.* This section applies to refunding issues sold after May 25, 1977.

(b) *General rule.* If the excess proceeds (as defined in paragraph (c) of this section) of a refunding issue exceed 1 percent of the original proceeds, then (except as provided in paragraphs (d), (e), and (f) of this section) the refunding obligations are arbitrage bonds.

(c) *Excess proceeds.*—(1) *In general.* For purposes of this section, the "excess proceeds" or a refunding issue are all proceeds (including investment proceeds) other than:

(i) Proceeds that will be used to pay principal, interest, or call premium on the prior issue;

(ii) Proceeds that will be used to pay not more than 6 months' accrued interest on the refunding issue;

(iii) Proceeds that will be used to pay capitalized interest (as defined in subparagraph (2) of this paragraph) on the refunding issue;

(iv) Proceeds that will be used as part of a reasonably required reserve or replacement fund for the refunding issue;

(v) Proceeds that will be used to pay the administrative costs of:

(A) Repaying the prior issue,

(B) Carrying and repaying the refunding issue, or

(C) Purchasing, carrying, and selling or redeeming obligations acquired with the proceeds of the refunding issue, and

(vi) Transferred proceeds that will be used for the purpose of the prior issue.

(2) *Capitalized interest.* For purposes of subparagraph (1) of this paragraph, "capitalized interest" means interest on a refunding issue that accrues within—

(i) The period of time necessary to complete the construction or acquisition of the project for which the prior issue was issued, plus

(ii) (A) One year, or

(B) A period not longer than 5 years if, prior to the issuance of the refunding issue, the issuer demonstrates to the satisfaction of the Commissioner that, because of inadequate revenues during the commencement of operations of the project, interest which accrues during that period should be treated as capitalized interest.

(d) *First exception: gross refunding.*—(1) *In general.* If a refunding issue (hereinafter called the "Series B issue") is used together with one or more other refunding issues (hereinafter called the "Series A issues") in a gross refunding of a prior issue, and if all five of the requirements set out in subparagraph (2) of this paragraph are satisfied, then this section shall not apply to the Series B issue or the Series A issues.

(2) *Requirements.* The requirements referred to in subparagraph (1) of this paragraph are as follows:

(i) Substantially all of the excess proceeds of the Series B issue and substantially all of the excess proceeds of each Series A issue will be used to pay principal and interest on the Series B issue. (For the meaning of "substantially all", see paragraph (e)(2) of this section.)

(ii) Substantially all of the excess proceeds of the Series B issue and substantially all of the excess proceeds of each Series A issue will be investment proceeds.

(iii) At least 99 percent of all principal and interest on the Series B issue will be paid with proceeds of the Series B and Series A issues, or with the earnings on other amounts put into escrow to discharge the prior issue.

(iv) The Series B issue will not be discharged later than the prior issue.

(v) At no time will the proceeds of the Series B issue which have been spent exceed the sum of the payments made on or before that time of—

(A) Principal and interest on the Series B issue, and

(B) Administrative costs of the Series B issue described in paragraph (c)(1)(v)(B) and (C) of this section.

(e) *Second exception: Crossover refunding.*—(1) *In general.* This section shall not apply to a refunding issue if both of the following requirements are satisfied:

(i) Substantially all of the excess proceeds of the refunding issue will be used to pay interest that accrues on the refunding issue before the prior issue is discharged.

(ii) No proceeds of any refunding issue will be used to pay interest on the prior issue or to replace funds that are used directly or indirectly to pay such interest.

(2) *Substantially all.* For purposes of paragraphs (d)(2) and (e)(1) of this section, "substantially all" of the excess proceeds of a refunding issue means all of the excess proceeds except for an amount not larger than 1 percent of the original proceeds.

(f) *Third exception: Prior ruling.*—(1) *In general.* This section shall not apply to a refunding issue if, prior to the issuance of the refunding issue, the issuer demonstrates to the satisfaction of the Commissioner that it will not realize any material debt service or other savings directly or indirectly from the receipt of excess proceeds amounting to more than 1 percent of the original proceeds of the issue.

(2) *Material.* For purposes of this paragraph—

(i) A debt service or other savings is material if it has a present value of more than $100 on the day the refunding issue is sold;

(ii) In determining the present value of any debt service or other savings, the yield on the refunding issue (as determined under § 1.103–13(c)(2)(ii)) shall be used as the discount rate.

(g) *Special rule.* If the original proceeds of a refunding issue are less than $500,000, then "$5,000" shall be substituted for "1 percent of the original proceeds" in paragraphs (b) and (e)(2) of this section and for "1 percent of the original proceeds of the issue" in paragraph (f)(1) of this section.

(h) *Meaning of terms.* The terms used in this section have the same meaning as in §§ 1.103–13 and 1.103–14.

(i) [Reserved]

(j) *Illustrations.* For purposes of this paragraph, it is assumed that city A has outstanding $10 million of noncallable 9-percent revenue bonds (the "prior issue") due on January 1, 1990. Principal and interest on the prior issue are payable solely from revenues of the city A water works. In order to modify restrictions in the bond indenture, city A contemplates refunding the prior issue on January 1, 1983. To that end, city A takes under consideration four different advance refunding programs:

Example (1). The first refunding program contemplates a standard defeasance of the prior issue. In this first program, city A would issue $11,500,000 of 7-percent refunding bonds at par on January 1, 1983. The refunding bonds would mature on January 1, 1990 and would be paid solely from revenues of the city A water works. The original proceeds of the refunding bonds would be $11,435,000 (*i.e.*, $11,500,000 less issuing expenses of $65,000) and the investment proceeds (derived from investment in 6.5-percent Treasury obligations) would be $4,916,820. Of the total $16,351,820 of proceeds, $10,000,000 would be used to pay principal on the prior issue, $6,300,000 would be used to pay interest on the prior issue, $35,000 would be used to pay administrative costs of purchasing, carrying, and redeeming acquired obligations, $10,000 would be used to pay administrative costs of carrying and repaying the refunding bonds, and the remaining $6,820 would be used to pay principal on the refunding bonds. Based on these assumptions, the excess proceeds of the refunding issue (*i.e.*, $6,820) would be less than 1 percent of the original proceeds (*i.e.*, .01×$11,435,000=$114,350). Therefore, the refunding bonds would not be treated as arbitrage bonds under this section. (See paragraph (b) of this section.)

Example (2). The second refunding program contemplates a full cash defeasance of the prior issue. In this second program, city A would issue $11,135,000 of Series A revenue bonds and $5,320,000 of Series B special obligation bonds at par on January 1, 1983. The Series A bonds would bear a 7-percent coupon, would mature on January 1, 1990, and would be paid solely from revenues of the city A water works. The Series B bonds would bear a 4-percent coupon, would be paid solely out of earnings on amounts put into escrow to defease the prior issue, and would mature according to the following schedule:

July 1, 1983	$410,000
Jan. 1, 1984	430,000
July 1, 1984	410,000
Jan. 1, 1985	405,000
July 1, 1985	395,000
Jan. 1, 1986	395,000
July 1, 1986	385,000
Jan. 1, 1987	375,000
July 1, 1987	370,000
Jan. 1, 1988	365,000
July 1, 1988	355,000
Jan. 1, 1989	350,000
July 1, 1989	340,000
Jan. 1, 1990	335,000

The yield on the Series B bonds (computed separately) would be approximately 4¼ percent (see § 1.103-13(c)). The proceeds of both the Series A and Series B issues would be invested in United States Treasury obligations paying 6.5 percent. Even though the combined yield on the Series A and Series B issues would be somewhat greater than 6.5 percent, the Series B bonds would be arbitrage bonds.

Example (3). The third refunding program also contemplates a full cash defeasance of the prior issue. In this third refunding program, city A would issue $16,455,000 of 6⅜-percent refunding bonds at par on January 1, 1983. The 6⅜-percent refunding bonds would be an amalgamation of the Series A and B refunding bonds described in example (2) of this paragraph. The 6⅜-percent refunding bonds would be paid partly from revenues of the city A water works and partly from earnings on amounts put into escrow to defease the prior issue. They would mature according to the following schedule:

July 1, 1983	$410,000
Jan. 1, 1984	430,000
July 1, 1984	410,000
Jan. 1, 1985	405,000
July 1, 1985	395,000
Jan. 1, 1986	385,000
July 1, 1986	375,000
Jan. 1, 1987	370,000
July 1, 1987	365,000
Jan. 1, 1988	355,000
July 1, 1988	350,000
Jan. 1, 1989	340,000
July 1, 1989	335,000
Jan. 1, 1990	11,470,000

The original proceeds of the 6⅜-percent refunding issue would be $16,355,000 (*i.e.*, $16,455,000 less issuing expenses of $100,000) and the investment proceeds (derived from investment in 6.5 percent Treasury obligations) would be $6,085,625. Of the total $22,440,625 of proceeds, $10,000,000 would be used to pay principal on the prior issue, $6,300,000 would be used to pay interest on the prior issue, $50,000 would be used to pay administrative costs of purchasing, carrying, and redeeming acquired obligations, $767,100 would be used to pay interest on the refunding bonds, and the remaining $5,323,525 would be used to pay principal on the refunding bonds. Based on these assumptions, the excess proceeds of the 6⅜-percent refunding issue would be $6,090,625 (*i.e.*, $767,100+$5,323,525), which is $5,927,075 more than the amount permitted under paragraph (b) of this section (*i.e.*, 1 percent of the original proceeds=.01×$16,355,000=$163,550). City A would realize a debt service savings of approximately $115,000 by using the 6⅜-percent refunding bonds to refund the prior issue instead of using the 7-percent refunding bonds described in example (1) of this paragraph. Moreover, at least $101 of the $115,000 savings would result from city A's receipt of $5,927,075 of impermissible excess proceeds. Therefore, the 6⅜-percent refunding bonds would not come within the exception in paragraph (f) of this section. Because the 6⅜-percent refunding bonds would also fail to come within the exceptions in paragraphs (d) and (e) of this section, they would be arbitrage bonds.

Example (4). (a) The fourth refunding program also contemplates a full cash defeasance of the prior issue. In this fourth refunding program, city A would issue $11,500,000 of Series A revenue bonds and $4,950,000 of Series B special obligation bonds at par on January 1, 1983. The Series A bonds would bear a 7-percent coupon, would mature on January 1, 1990, and would be paid solely from revenues of the city A water works. The Series B bonds would bear a 4-percent coupon, would be paid solely out of earnings on amounts put into escrow to discharge the prior issue, and would mature as shown in column C of Table II (see item (b) of this example).

(b) Table I shows receipts and payments of proceeds of the Series A issue. Table II shows receipts and payments of proceeds of the Series B issue. For explanatory notes, see item (c) of this example.

Table I

A	B	C	D	E	F
Date	Original Proceeds Spent	Investment Proceeds Spent	Administrative Costs	Remaining Proceeds	Cash Balance
1-1-83	$ 35,000	$ 0	$35,000	$11,400,000	$ 0
7-1-83	79,500	370,500	0	11,320,500	0
1-1-84	83,084	367,916	1,000	11,237,400	16
7-1-84	84,785	365,215	0	11,152,600	31
1-1-85	88,541	362,459	1,000	11,064,000	90
7-1-85	90,420	359,580	0	10,973,600	70
1-1-86	94,358	356,642	1,000	10,879,300	12
7-1-86	96,423	353,577	0	10,782,800	89
1-1-87	100,559	350,441	1,000	10,682,300	30
7-1-87	102,825	347,175	0	10,579,500	5
1-1-88	107,166	343,834	1,000	10,472,300	39
7-1-88	109,650	340,350	0	10,362,600	89
1-1-89	114,216	336,784	1,000	10,248,400	73
7-1-89	116,927	333,073	0	10,131,500	46
1-1-90	10,131,546	329,274	4,000	0	0

§ 1.103-15 (j) Example (4)

Table II

A	B	C	D	E	F	G	H	I
Date	Interest Paid on Series B Issue	Principal Paid on Series B Issue	Investment Proceeds Spent	Original Proceeds Spent	Administrative Costs	Remaining Proceeds	Cash Balance	Outstanding Principal Amount of Series B Issue
1-1-83	$ 0	$ 0	$ 0	$ 15,000	$15,000	$4,900,000	$ 0	$4,950,000
7-1-83	99,000	375,000	103,500	370,500	0	4,529,500	2,954	4,575,000
1-1-84	91,500	375,000	100,584	366,916	1,000	4,162,500	859	4,200,000
7-1-84	84,000	370,000	88,785	365,215	0	3,797,300	2,491	3,830,000
1-1-85	76,600	365,000	81,141	361,459	1,000	3,435,900	3,788	3,465,000
7-1-85	69,300	365,000	74,720	359,580	0	3,076,300	3,734	3,100,000
1-1-86	62,000	360,000	67,358	355,642	1,000	2,720,600	3,268	2,740,000
7-1-86	54,800	360,000	61,223	353,577	0	2,367,100	1,074	2,380,000
1-1-87	47,600	350,000	49,159	349,441	1,000	2,017,600	3,400	2,030,000
7-1-87	40,600	350,000	43,425	347,175	0	1,670,600	3,833	1,680,000
1-1-88	33,600	345,000	36,766	342,834	1,000	1,327,600	3,323	1,335,000
7-1-88	26,700	345,000	31,350	340,350	0	987,300	766	990,000
1-1-89	19,800	335,000	20,016	335,784	1,000	651,500	2,215	655,000
7-1-89	13,100	335,000	15,027	333,073	0	318,400	1,369	320,000
1-1-90	6,400	320,000	8,232	318,454	1,000	0	0	0

§ 1.103-15 (j) Example (4)

(c) The following notes explain Tables I and II in item (b) of this example:

(1) Column B of Table I shows when the original proceeds of the Series A issue would be spent. The original proceeds would be $11,435,000 (*i.e.*, $11,500,000 less issuing expenses of $65,000). Of these original proceeds, $10,000,000 would be used to pay principal on the prior issue, $1,400,000 would be used to pay interest on the prior issue, and the remaining $36,000 would be used to pay administrative costs of investing the proceeds of the Series A issue.

(2) Column C of Table I shows when the investment proceeds of the Series A issue would be spent. (All these investment proceeds would be spent at the same time they were received.) Of the $4,916,820 of investment proceeds, $10,000 would be used to pay administrative costs of carrying and repaying the Series A issue, $4,900,714 (which would be excess proceeds) would be used to pay principal and interest on the Series B issue, and the remaining $6,106 would be used to pay principal on the Series A issue. These investment proceeds would be derived from investing the original proceeds of the Series A issue in 6½ percent Treasury obligations. (It is assumed that 6¼ percent is the highest rate that the Treasury will pay on January 1, 1983.)

(3) Column D of Table I shows administrative costs of carrying the Series A issue and of investing the proceeds of the Series A issue. These administrative costs would be paid with proceeds of the Series A issue.

(4) Column E of Table I shows the amount of original proceeds of the Series A issue that would be invested in Treasury obligations as of the end of the corresponding day in column A.

(5) Column F of Table I shows small amounts of original proceeds that would be kept in a checking account. These amounts would be temporary investments (see § 1.103-14(e)(3)(ix)).

(6) Column B of Table II shows the interest that would be paid on the Series B issue.

(7) Column C of Table II shows the principal that would be paid on the Series B issue.

(8) Column D of Table II shows when the investment proceeds of the Series B issue would be spent. (Not all these investment proceeds would be spent at the same time they were received. Some would be put into the checking account described in item (c)(12) of this example.) Of the $781,286 of investment proceeds, $7,000 would be used to pay administrative costs of carrying and repaying the Series B issue, and the remaining $774,286 (which would be excess proceeds) would be used to pay principal and interest on the Series B issue. These investment proceeds would be derived from investing the original proceeds of the Series B issue in 4.345-percent Treasury obligations. (However, the yield on the acquired obligations, taking into account $35,000 of administrative costs paid on January 1, 1983, would be only 4.252 percent. The yield on the Series B issue would also be 4.252 percent.)

(9) Column E of Table II shows when the original proceeds of the Series B issue would be spent. The original proceeds would be $4,915,000 (*i.e.*, $4,950,000 less issuing expenses of $35,000). All these original proceeds would be used to pay interest on the prior issue except for $15,000 that would be used to pay administrative costs of investing the original proceeds of the Series B issue.

(10) Column F of Table II shows administrative costs of carrying and repaying the Series B issue and investing the proceeds of the Series B issue. These administrative costs would be paid with investment proceeds of the Series B issue.

(11) Column G of Table II shows the amount of original proceeds of the Series B issue that would be invested in Treasury obligations as of the end of the corresponding day in column A.

(12) Column H of Table II shows small amounts of original and investment proceeds of the Series B issue that would be kept in a checking account. These amounts would be temporary investments (see § 1.103-14(e)(3)(ix)).

(d) Based on items (a), (b), and (c) of this example, the following conclusions may be drawn:

(1) All of the excess proceeds of the Series B issue and substantially all (*i.e.*, all but $6,106) of the excess proceeds of the Series A issue would be used to pay principal and interest on the Series B issue.

(2) All of the excess proceeds of the Series B and Series A issues would be investment proceeds.

(3) All of the principal and interest on the Series B issue would be paid with proceeds of the Series B and Series A issues.

(4) The Series B issue would be discharged on January 1, 1980, the same day as the prior issue.

(5) The proceeds of the Series B issue would not be spent faster than principal and interest on the Series B issue and administrative costs of the Series B issue would be paid. For example, on January 1, 1984, $956,500 of proceeds of the Series B would have been spent (*i.e.*, $752,416 of original proceeds plus $204,084 of investment proceeds), which is the same as the $956,500 of principal, interest, and administrative costs of the Series B issue that would be paid on or before January 1, 1984 (*i.e.*, $750,000 of principal plus $190,500 of interest plus $16,000 of administrative costs).

(e) Based on the conclusions in item (d) of this example, the Series A and Series B bonds are not treated as arbitrage bonds under this section (see paragraph (d) of this section).

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77-15415 Filed 5-26-77;9:17 am]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2608]

BENEFITS COVERED BY INSURANCE COMMITMENTS; ALLOCATION OF ASSETS

Supplemental Notice of Proposed Rulemaking; Extension of Comment Period

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Extension of comment period.

SUMMARY: The Pension Benefit Guaranty Corporation is extending until June 17, 1977 the comment period on its proposed rules pertaining to the allocation of plan assets with respect to benefits covered by insurance commitments, which appeared in the FEDERAL REGISTER on April 18, 1977, (42 FR 20156). Because persons interested in this rulemaking proceeding have requested additional time to study the important and complicated issues it raises, the comment period is being extended in order to enable those persons to have sufficient opportunity to submit comments.

DATES: Comments must be received on or before June 17, 1977.

ADDRESSES: Comments should be sent to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Copies of written comments will be available for public inspection in the PBGC's Office of Communications, at the same address, between 9 a.m. and 4 p.m. Each person submitting comments should include his or her name and address, identify this notice and give reasons for any recommendations.

FOR FURTHER INFORMATION CONTACT:

Judith F. Mazo, Executive Assistant to the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-4868.

Issued in Washington, D.C. this 25th of May, 1977.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc.77-15328 Filed 5-27-77;8:45 am]

[29 CFR Part 2611]

INSURANCE CONTRACTS; VALUATION OF PLAN ASSETS

Proposed Amendments; Extension of Comment Period

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Extension of comment period.

SUMMARY: The Pension Benefit Guaranty Corporation is extending until June 17, 1977 the comment period on its proposed rules pertaining to the valuation of plan assets with respect to insurance contracts, which appeared in the FEDERAL REGISTER on April 18, 1977, (42 FR 20158). Because persons interested in this rulemaking proceeding have requested additional time to study important and complicated issues it raises, the comment period is being extended in order to enable those persons to have sufficient opportunity to submit comments.

DATES: Comments must be received on or before June 17, 1977.

ADDRESSES: Comments should be sent to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006. Copies of written comments will be available for public inspection in the PBGC's Office of Communications, at the same address, between 9 a.m. and 4 p.m. Each person submitting comments should include his or her name and address, identify this notice and give reasons for any recommendations.

FOR FURTHER INFORMATION CONTACT:

Judith F. Mazo, Executive Assistant to the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street, NW., Washington, D.C. 20006, 202–254–4895.

Issued in Washington, D.C. this 25th of May, 1977.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc.77–15329 Filed 5–27–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 738–3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Amador County Air Pollution Control District Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Amador County Air Pollution Control District Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on July 25, 1973, January 22, 1974, July 19, 1974, and April 21, 1976. Since the April 21, 1976 submittal represents the most recent set of rules and regulations for this Air Pollution Control District, they will be addressed in this notice. Regulations concerning New Source Review are not being considered in this notice, and will be the topic of a separate FEDERAL REGISTER notice. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 30, 1977.

ADDRESS: Send comments to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attention: David R. Souten, San Francisco, Calif. 94111 (415–556–7288).

SUPPLEMENTARY INFORMATION: The April 21, 1976 submittal contained revisions to the following Regulations:

Regulation I—General Provisions
Regulation II—Prohibitions
Regulation III—Open Burning
Regulation IV—Permit Systems Conditions
Regulation VI—Fees
Regulation VII—Procedure Before The Hearing Board

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 30, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Amador County Air Pollution Control District, 810 Court Street, Jackson, Calif. 95642.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 1857c–5).)

Dated: May 3, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77–15350 Filed 5–27–77;8:45 am]

[40 CFR Part 52]

[FRL 738–4]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to Lake County Air Pollution Control District's Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Lake County Air Pollution Control District's Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were submitted on February 10, 1977 as a complete revision of the District's Rules and Regulations. Regulations concerning the Emergency Episodes and New Source Review are not being considered in this notice, and will be treated in separate FEDERAL REGISTER notices. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up to June 30, 1977.

ADDRESS: Send Comments to: Regional Administrator, ATTENTION: Air and Hazardous Materials Diviison, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, Calif. 94111.

Copies of the proposed revision are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Lake County Air Pollution Control District, 883 Lakeport Boulevard, Lakeport, Calif. 95453.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, (415–556–7288).

SUPPLEMENTARY INFORMATION: The February 10, 1977 submittal contained revisions to the following rules:

CHAPTER I—GENERAL PROVISIONS

ARTICLE I—PURPOSE

Section 100

ARTICLE II—DEFINITIONS

Section 200
Section 201
Sections 202–260 (terms defined)

ARTICLE III—HEARING BOARD

Section 300
Section 301

CHAPTER II—PROHIBITIONS AND STANDARDS

ARTICLE I—VISIBLE EMISSIONS

Section 400
Section 401
Section 402—Exclusions

ARTICLE II—PARTICULATE MATTER EMISSIONS

Section 410 (combustion contaminants)
Section 411—Other Sources
Section 412—Sulfur Recovery Units

ARTICLE III—GEOTHERMAL OPERATIONS

Section 421—Sulfur Emissions
Section 422—Geothermal Well Venting

ARTICLE IV—OTHER EMISSIONS OR CONTAMINANTS

Sec.
430 General.
431 Non-agricultural burning.
432–436
437 Animal matter.
438 Orchard heaters.
439 Gasoline storage.
440 New source performance standards.
450 National emissions standards for hazardous air pollutants.

CHAPTER III—MAINTENANCE, MALFUNCTION, EVASION, AND INSPECTION

ARTICLE I—MAINTENANCE

500

ARTICLE II—MALFUNCTION

510
511

ARTICLE III—EVASION

520

ARTICLE IV—INSPECTION

530 Emission data and sampling access.
531 Credentials for entry.
532 Request procedure.
533 Trade secrets.

CHAPTER VI—ORDERS FOR ABATEMENT

600

CHAPTER VII—PENALTIES

900–902

CHAPTER VIII—AGRICULTURAL BURNING

1000–1008
1100 Range improvement burning.
1200 Forest management burning.
1300 Open burning in agricultural operations in the growing of crops or raising of animals.
1400 Wood waste burning.
1500 Enforcement.

CHAPTER IX—HEARING BOARD

ARTICLE I—HEARING

1600 Public hearing.
1601 Notice.

ARTICLE II

1610 Decisions.
1611 Effective date.
1612 Transcripts.

ARTICLE III—FEES

1620

CHAPTER X—VARIANCES

ARTICLE I—INTERIM VARIANCE

1700
1701 Petition.

ARTICLE II—VARIANCE

1710–1714

ARTICLE III—INCREMENTS OF PROGRESS

1720–1725

ARTICLE IV—PROCEDURE

1730 Non-acceptance of petition.
1731–1736

TABLE I—AGENCIES DESIGNATED TO ISSUE AGRICULTURAL BURNING PERMITS

TABLE II—DAILY QUOTA OF AGRICULTURAL MATERIAL THAT MAY BE BURNED BY WATERSHED

TABLE III—GUIDES FOR ESTIMATING DRY WEIGHTS OF SEVERAL CALIFORNIA FUEL TYPES

TABLE IV—PARTICULATE MATTER EMISSIONS STANDARD FOR PROCESS UNITS AND PROCESS EQUIPMENT

TABLE V—TABLE OF STANDARDS, APPLICABLE STATEWIDE

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relative comments received on or before June 30, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

(Secs. 110, 301, Clean Air Act, as amended (42 U.S.C. 1857c–5).)

Dated: May 11, 1977.

PAUL DE FALCO, JR.
Regional Administrator.

[FR Doc.77–15351 Filed 5–27–77;8:45 am]

[40 CFR Part 52]

[FRL 738–5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Nevada County Air Pollution Control District Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Nevada County Air Pollution Control District Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on July 25, 1973, April 10, 1975, and April 21, 1976. Since both the April 10, 1975, and April 21, 1975, submittals represent the most recent set of rules and regulations for this Air Pollution Control District, they will be addressed in this notice. Regulations concerning New Source Review are not being considered in this notice, and will be the topic of a separate FEDERAL REGISTER notice. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to June 30, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn.: David R. Souten, 100 California Street, San Francisco, CA 94111 (415–556–7288).

SUPPLEMENTARY INFORMATION: The April 10, 1975, and April 21, 1976, submittals contains revisions to the following Regulations:

Regulation I—General revisions.
Regulation II—Prohibitions.
Regulation III—Open burning.
Regulation IV—Permit systems conditions.
Regulation VI—Fees.
Regulation VII—Procedure before the hearing board

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 30, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Nevada County Air Pollution Control District, 201 Church Street, Nevada City, CA 95959.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 1857c–5).)

Dated: May 3, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77–15352 Filed 5–27–77;8:45 am]

[40 CFR Part 52]

[FRL 738-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Tuolumne County Air Pollution Control District Rules and Regulations in State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is the purpose of this notice to acknowledge receipt of and invite public comments on revisions to the Tuolumne County Air Pollution Control District Rules and Regulations which were submitted to EPA by the California Air Resources Board for inclusion in the California State Implementation Plan. These revisions were received on February 10, 1977. Regulations concerning New Source Review are not being considered in this notice, and will be the topic of a separate FEDERAL REGISTER notice. The EPA solicits comments regarding the desirability of approving or disapproving the rules and regulations being considered, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up until June 30, 1977.

ADDRESS: Send comments to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 100 California Street, San Francisco CA 94111.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, Attn.: David R. Souten, 100 California Street, San Francisco CA 94111 (415-556-7288).

SUPPLEMENTARY INFORMATION: The February 10, 1977, submittal contained revisions to the following rules and regulations:

Rule
102 Definitions.
202 Visible emissions.
203 Exceptions.
206 Incinerator burning.
207 Particulate matter.
208 Orchard or citrus heaters.
209 Fossil fuel-steam generator facility.
213 Storage of petroleum products.
215 Abrasive blasting.
216 Enforcement.
217 Existing sources.
301 Open outdoor fires.
302 Exceptions to rule 301.
303 Burning permits.
304 Exceptions to rule 303.
307 Exceptions to rule 306.
308 Agricultural burning reports.
319 Open burning of wood waste.
321 Hazard reduction burning.
322 Mechanized burners.
323 Enforcement responsibility.
324 Penalty.
402 Authority to inspect.
404 Upset conditions, breakdown or scheduled maintenance.
407 Circumvention.
409 Public records.
413 Organic liquid loading.
414 Effluent oil water separators.

REGULATION VI—FEES

REGULATION VII—PROCEDURE BEFORE THE HEARING BOARD

Pursuant to section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Relevant comments received on or before June 30, 1977, will be considered. Comments received will be available for public inspection at the Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Tuolumne County Air Pollution Control District, Nine North Washington Street, Sonora, CA 95370.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library, 401 M Street SW., Washington D.C. 20460.

(Sec. 110, Clean Air Act as amended (42 U.S.C. 1857c-5).)

Dated: May 3, 1977.

PAUL DEFALCO, JR.,
Regional Administrator.

[FR Doc. 77-15353 Filed 5-27-77;8:45 am]

[40 CFR Part 204]

[FRL 737-6]

NOISE EMISSION STANDARDS FOR CONSTRUCTION EQUIPMENT

Proposed Miscellaneous Changes to Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: These rules propose to amend certain provisions of Subpart A, General Provisions, and Subpart B, Portable Air Compressors, of 40 CFR Part 204, Noise Emission Standards for Construction Equipment. These proposed rules clarify and better define a number of points that were discussed by the EPA and Atlas Copco, Inc., et al, manufacturers of portable air compressors, in meetings and correspondence on a petition for review of such regulations filed by the latter party in the U.S. Court of Appeals for the Disrtcit of Columbia Circuit.

DATES: Comments must be received by June 30, 1977, to Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Richard G. Kozlowski, Director, Noise Enforcement Division, U.S. Environmental Protection Agency (EN-387), Washington, D.C. 20460 (703-557-7470).

SUPPLEMENTARY INFORMATION: On January 14, 1976 (41 FR 2162), the EPA promulgated a regulation to control noise from portable air compressors. This included general provisions that apply to portable air compressors and to other pieces of construction equipment that will be regulated in the future.

On April 4, 1976, Atlas Copco, Inc., et al., manufacturers of portable air compressors, filed in the U.S. Court of Appeals for the District of Columbia Circuit a petition for review of certain points in the regulation. As a result of meetings held subsequent to the filing of the petition for review, the EPA has concluded that certain provisions of the regulations should be amended or revoked. The following is a brief discussion of each of the proposed changes and the rationale for each proposed revision.

1. It is proposed to amend in § 204.5–5 paragraphs (c) and (d). As promulgated, this section states that export exemptions are retroactively invalid when a product intended for export is distributed in the United States, but allows the EPA to decline prosecuting the manufacturer if he had acted in good faith to attempt to prevent the violation. Petitioners objected that the provision entails possible criminal liability on the part of the manufacturer for third parties' actions.

While the provision is a statement of how EPA interprets section 10(a)(2) of the Act, it may be read as an attempt by EPA to limit a party's defenses in a criminal action. It is not EPA's intention to create any criminal liability which sections 10 and 11 of the Act do not contemplate. EPA recognizes that, despite the absence of an exemption, a party is not subject to criminal liabilities unless his violation was willful or knowing. To clarify this matter, it is proposed to amend § 204.5–5 so as to restrict its effect to the imposition of administrative orders under section 11(d). By this revision, EPA does not intend to relieve any person of possible criminal liability which the Act itself may place on him.

2. A similar modification is proposed to § 204.5–6 for the same reasons as discussed above. As with the amendment to § 204.5–5, this should not be construed as precluding any criminal liability, but rather as avoiding the creation of criminal liability. A further amendment proposed is to provide manuacturers with an opportunity for a hearing in any case where the Administrator proposes to withdraw a test exemption previously granted.

3. The proposed amendment to § 204.–55–2 expands the causes for which a manufacturer may delay production verification while distributing products

in commerce. As promulgated, the regulation allows up to 45-day delay if weather prevents testing, and a further delay for weather or other reasons beyond the manufacturer's control. The amendment would make conditions beyond the manufacturer's control a valid reason for delay during both the first and second 45-day periods. To implement this and clarify the provisions, § 204.55–2 (a) would be completely rewritten to read as proposed herein.

4. It is proposed to revise in § 204.53 paragraph (a)(1) by adding a new subparagraph (iv) to require manufacturers to maintain a record of the date of manufacture of each compressor that can be traced to a serial number or other coded identification on the required compliance label. This will allow the EPA to determine the time period during which compressors were manufactured without requiring that the actual date of manufacture appear on the label. This scheme will cure the petitioners' objections that putting the date of manufacture on the label could disrupt industry distribution and marketing patterns.

5. It is proposed to amend in § 204.55–8 paragraph (a)(4) by deleting the words "The label • • •" and adding the words "Labels for compressors not manufactured solely for use outside the United States • • •". This clarifies that the labels for compressors that are manufactured for export only need not contain the information required by paragraph (a)(4) of this section. In the same section it is proposed to amend subparagraph (iii) by requiring on the label a serial number or code that can be tied to the records that would be required under the amendment proposed in (4) rather than the date of manufacture of the compressor.

6. It is proposed to amend in § 204.56 paragraph (b) to require that site disqualification be based on the test site requirements as specified in § 204.54–1 (a) and (b) rather than on a judgement of inappropriateness. Also, the manufacturers may now request within 15 days of the Administrator's notice of intent to disqualify, a formal hearing on the potential disqualification of their site. Disqualification will take effect 15 days after receipt of the Administrator's notice or at the conclusion of a hearing if one has been requested.

It is further proposed to revoke paragraph (c) in this section.

7. It is proposed to amend § 204.55–11 (b), § 204.57–1(h), and § 204.59(d) by specifying that the hearings afforded to manufacturers by those sections will be conducted in accordance with section 554 of Title 5 of the United States Code.

8. Section 204.57–8 authorizes the Administrator to require that all compressors of a category or configuration which has failed an audit test be tested to show compliance before distribution in commerce. Petitioners have objected to the imposition of this potentially expensive requirement without a hearing. The proposed revision is intended to grant a hearing limited to the issue of whether the selective enforcement audit was failed. The manufacturer would be required to commence and continue such testing during the progress of this hearing; accordingly, there is proposed a maximum time in which the Administrator must commence the hearing. Subsection (a) would also be amended to allow continued testing of a subgroup of a configuration.

9. The discontinuation of continued testing under § 204.57–8 appears discretionary with the Administrator under promulgated § 204.57–9. The proposed amendment makes clear that if the requirements of § 204.57–9(a) (1) and (2) are met, the Administrator must permit the cessation of 100% testing.

It is also proposed to add paragraphs § 204.57–9(a) (3) and (4). Paragraph (3) would specify that the manufacturer may cease 100% testing upon submitting the report required by paragraph (2), subject to the Administrator's reinitiating testing should he find the report does not fulfill the requirements imposed. Paragraph (4) would provide the manufacturer an opportunity to demonstrate a group of compressors narrower than a category or configuration to which the failure is confined, in which case the 100% testing requirement would be correspondingly restricted.

10. It is proposed to amend § 204.58–3 (d) to narrow the scope of the Administrator's authority to require modification of maintenance, use and repair instructions. The original purpose of the "reasonable and necessary" criterion of this paragraph was to prevent manufacturers from placing unduly strict requirements on users who would have to comply in order to keep their warranty in effect. Since the standard as promulgated does not apply over the useful life of the product, this criterion is not appropriate. EPA thus proposes to revise it to limit the scope of EPA's review of the instructions to whether they are sufficient to fulfill the requirements of the regulations. Should a useful life standard be promulgated, this provision may be amended again.

These amendments are proposed under authority of sections 6, 10, 11, and 13 of the Noise Control Act of 1972, 42 U.S.C. 4905, 4909, 4910, 4912.

Dated: May 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to revise 40 CFR Part 204 as set forth below.

Subpart A—General Provisions

1. In § 204.5–5, it is proposed to amend paragraphs (c) and (d) to read as follows:

§ 204.5–5 Export exemptions.

• • • • • •

(c) For purposes of section 11(d) of the Noise Control Act, any export exemption under section 10(b)(2) shall be void ab initio with respect to each new product intended solely for export which is distributed in commerce for use in any state.

(d) The Administrator will not institute proceedings against any manufacturer pursuant to section 11(d)(1) of the Noise Control Act with respect to any product, originally intended for export, but distributed in commerce for use in any state, if it is demonstrated to the Administrator's satisfaction that:

(1) The manufacturer had no knowledge that such product would be distributed in commerce for use in any state; and

(2) The manufacturer made reasonable efforts to ensure that such product would not be distributed in commerce for use in any state. Such reasonable efforts would include consideration of prior dealings with any person which resulted in introduction into commerce of a product manufactured for export only, investigation of prior instances known to the manufacturer of introduction into commerce of a product manufactured for export only, and contract provisions which minimize the probability of introduction into commerce of a product manufactured for export only.

2. In § 204.5–6, it is proposed to amend paragraph (a) by revoking the last sentence and to amend paragraph (b) to read as follows:

§ 204.5–6 Granting of exemptions.

• • • • •

(b) Any exemption granted pursuant to paragraph (a) of this section shall be deemed to cover any product only to the extent that the specified terms and conditions are complied with. A breach of any term or condition shall cause the exemption to be void ab initio for purposes of section 11(d) of the Noise Control Act, and may give rise to an order by the Administrator with respect to any product subject to such exemption, whether distributed before or after such breach. The Administrator may also, upon notice and opportunity for a hearing, withdraw the exemption at any time if he determines that the public health or welfare is being endangered.

Subpart B—Portable Air Compressors

3. In § 204.53, it is proposed to amend paragraph (a)(1) by adding subparagraph (iv) as follows:

§ 204.53 Maintenance of records: submittal of information.

(a) • • •
(1) • • •

(iv) A record of the date of manufacture of each compressor unit subject to this part, keyed to the serial number or other coded identification contained on the label affixed to each compressor pursuant to § 204.55–8(a).

• • • • • •

4. In § 204.55–2, it is proposed to amend paragraph (a) to read as follows:

§ 204.55–2 Production verification; compliance with standards.

(a) (1) Prior to distribution into commerce of the compressors of a specific

configuration, the manufacturer of such compressors shall verify such configuration in accordance with this subpart.

(2) Notwithstanding paragraph (a)(1) of this section, the manufacturer may distribute in commerce compressors of that configuration for up to 90 days if weather or other conditions beyond the control of the manufacturer make production vertification of a configuration impossible, provided that the following conditions are met:

(i) The manufacturer shall perform the tests required under paragraph (b) or (c) of this section on such configuration as soon as conditions permit;

(ii) The manufacturer shall maintain records of the conditions which make production verification impossible;

(iii) If on the 45th day following distribution in commerce of compressors of a configuration the manufacturer has not performed the tests required by paragraph (b) or (c) of this section, the manufacturer shall within 5 days notify the Administrator in writing that such compressors have been distributed in commerce and shall provide to the Administrator documentation of the conditions which have made production vertification impossible.

(3) At any time following receipt of notice under paragraph (a)(2)(iii) of this section with respect to a configuration, the Administrator may require that the manufacturer ship test compressors to the EPA test facility in order for the Administrator to perform the tests required for production verification.

* * * * *

5. In § 204.55–8, it is proposed to revise paragraph (a)(4) introductory text and paragraph (a)(4)(iii) as follows:

§ 204.55–8 Labeling.

(a) * * *

(4) Labels for compressors not manufactured solely for use outside the United States shall contain * * * of the label:

* * * * *

(iii) Date of manufacture, which may consist of a serial number or code in those instances where records specified in § 204.53(a)(1)(iv) are maintained.

* * * * *

§ 204.55–11 [Amended]

6. In § 204.55–11, it is proposed to amend paragraph (b) by adding the words "in accordance with section 554 of Title 5 of the United States Code".

7. In § 204.56, it is proposed to amend paragraph (b) and revoke paragraph (c) as follows:

§ 204.56 Testing by the Administrator.

* * * * *

(b)(1) If, based on tests conducted by the Administrator or other relevant information, the Administrator determines that the test facility does not meet the requirements of § 204.54–1 (a) and (b) he will notify the manufacturer in writing of his determination and the reasons therefor.

(2) The manufacturer may at any time within 15 days after receipt of a notice issued under paragraph (b)(1) request a hearing conducted in accordance with 5 U.S.C. 554 on the issue of whether his test facility was in conformance. Such notice will not take effect until 15 days after receipt by the manufacturer, or if a hearing is requested under this paragraph, until adjudication by the hearing examiner.

(3) After any notification issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from such test facility will be acceptable for purposes of this Part.

(4) The manufacturer may request in writing that the Administrator reconsider this determination under paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(5) The Administrator will notify the manufacturer of his determination and an explanation of the reasons underlying it with regard to the requalification of the test facility within 10 working days after receipt of the manufacturer's request for reconsideration pursuant to paragraph (b)(4) of this section.

(c) [Revoked]

§ 204.57–1 [Amended]

8. In § 204.57–1, it is proposed to amend paragraph (h) by adding the words "in accordance with section 554 of Title 5 of the United States Code."

9. In § 204.57–8, it is proposed to amend paragraphs (a) and (b), redesignate paragraphs (c) and (d) as (d) and (e), and add a new paragraph (c) as follows.

§ 204.57–8 Continued testing.

(a) If a batch sequence is rejected in accordance with paragraph (b) of § 204.57–7, the Administrator may require that any or all compressors of that category, configuration or subgroup thereof produced at that plant be tested before distribution in commerce.

(b) The Administrator will notify the manufacturer in writing of his intent to require such continued testing of compressors pursuant to paragraph (a) of this section.

(c) The manufacturer may request a hearing on the issue of whether the selective enforcement audit was conducted properly and whether the criteria for batch sequence rejection in § 204.57–7 have been met. In the event that a hearing is requested, the hearing shall begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress shall affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

* * * * *

10. In § 204.57–9, it is proposed to amend paragraph (a) to read as follows:

§ 204.57–9 Prohibition of distribution in commerce; manufacturer's remedy.

(a) The Administrator will permit the cessation of continued testing under § 204.57–8 once the manufacturer has taken the following actions:

(1) Submits a written report which the Administrator determines identifies the reason for the noncompliance of the compressors, describes the problem, and determines identifies the reason for the noncompliance of the compressors, describes the problem, and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem, or follows the requirements for an engineering change pursuant to § 204.55–9; and

(2) Demonstrates that the specified compressor category, configuration or subgroup thereof has passed a retest conducted in accordance with § 204.57 and the conditions specified in the initial test request.

(3) The manufacturer may begin testing under paragraph (2) above upon submitting such report, and may cease continued testing upon making the demonstration required by paragraph (2), *Provided*, That the Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of paragraphs (a) (1) and (2) of this section.

(4) In lieu of paragraphs (a) (1) and (2) of this section, the Administrator will permit the cessation of continued testing under § 204.57–8 with respect to any subgroup of a nonconforming category or configuration if the manufacturer demonstrates to the satisfaction of the Administrator that such subgroup does not exhibit the cause of the nonconformity of such category or configuration.

* * * * *

11. In § 204.58–3, it is proposed to amend paragraph (d) to read as follows:

§ 204.58–3 Instructions for maintenance, use and repair.

* * * * *

(d) The Administrator will require modifications to the instructions if they are not sufficient to fulfill the requirements of paragraph (a) of this section.

* * * * *

§ 204.59 [Amended]

12. In § 204.59, it is proposed to amend paragraph (d) by adding the words 'in accordance with section 554 of Title 5 of the United States Code."

[FR Doc.77–15357 Filed 5–27–77;8:45 am]

[FRL 737–5]

[40 CFR Part 205]

NOISE EMISSION STANDARDS FOR TRANSPORTATION EQUIPMENT

Proposed Miscellaneous Amendments

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: These rules propose to amend certain provisions of Subpart A, General Provisions, and Subpart B, Medium and Heavy Trucks of 40 CFR Part 205, Noise Emission Standards for Transportation Equipment. These proposed rules clarify and better define a number of points that were discussed by the EPA and Chrysler Corp., et al. manufacturers of medium and heavy duty trucks, in meetings and correspondence on a petition for review of such regulations filed by the latter party in the U.S. Court of Appeals for the District of Columbia Circuit.

DATE: Comments must be submitted by June 30, 1977, to Director, Noise Enforcement Division, (EN–387), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Richard G. Kozlowski, Director, Noise Enforcement Division, U.S. Environmental Protection Agency (EN–387), Washington, D.C. 20460 (703–557–7470).

SUPPLEMENTARY INFORMATION: On April 13, 1976 (41 FR 15538), the EPA promulgated a regulation to control noise from medium and heavy duty trucks. This included general provisions that apply both to trucks and to other products that will be regulated in the future.

On June 28, 29, 1976, Chrysler Corp., et al., manufacturers of medium and heavy duty trucks, filed in the U.S. Court of Appeals for the District of Columbia Circuit a petition for review of certain points in the regulation. As a result of meetings held subsequent to the filing of the petition for review, the EPA has concluded that certain provisions of the regulations should be amended or revoked. The following is a brief discussion of each of the proposed changes and the rationale for each proposed revision.

1. It is proposed in § 205.2 to delete paragraph (a)(6) and revise paragraph (a)(26); in § 205.5–2 to correct the typographical error in paragraph (e), to revise paragraph (a) and to add a new paragraph (f). § 205.5–3 is proposed to be deleted. This consolidates provisions for testing exemptions and pre-verification exemptions. The former "pre-verification exemption" is a type of testing exemption, and to avoid confusion it has been incorporated in the testing exemption section, § 205.5–2. In addition, to expedite the procedures in obtaining an exemption for product development and similar programs, a 15 day time limit has been imposed on the Administrator's response. This is to avoid delay in EPA determinations regarding exemption requests, and at the same time provide EPA with the necessary time to review the substance of exemption applications for their adequacy.

2. It is proposed to amend in § 205.5–5 paragraphs (c) and (d). As promulgated, this section states that export exemptions are retroactively invalid when a product intended for export is distributed in the United States, but allows the EPA to decline prosecuting the manufacturer if he had acted in good faith to attempt to prevent the violation. Petitioners objected that the provision entails possible criminal liability on the part of the manufacturer for third parties' actions.

While the provision is a statement of how EPA interprets section 10(b)(2) of the Act, it may be read as an attempt by EPA to limit a party's defenses in a criminal action. It is not EPA's intention to create any criminal liability which sections 10 and 11 of the Act do not contemplate. EPA recognizes that, despite the absence of an exemption, a party is not subject to criminal liability unless his violation was willful or knowing. To clarify this matter, it is proposed to amend § 205.5–5 so as to restrict its effect to the imposition of administrative orders under section 11(d). By this revision, EPA does not intend to relieve any person of possible criminal liability which the Act itself may place on him. The details of what information the Administrator will consider prior to deciding not to institute section 11(d) proceedings is given in more detail in this amended paragraph (d). This provides more guidance to the manufacturers subject to these regulations.

3. A similar modification is proposed to § 205.5–6 for the same reasons as discussed above. As with the amendment to § 205.5–5, this revision should not be construed as precluding any criminal liability, but rather as avoiding the creation of criminal liability. A further amendment proposed is to provide manufacturers with an opportunity for a hearing in any case where the Administrator proposes to withdraw a testing exemption previously granted.

4. It is proposed to amend § 205.51, revising paragraphs (a) (3), (5), (8), (9), and (23). Formerly the definitions of batch, batch sample and test sample only accounted for products being selected randomly. The Administrator's intent was to require random selection only if the test request so specifies, as established in § 205.57–2. The amendment removes this apparent conflict between § 205.57–2 and the definitions. Also, the test request may designate a subgroup of a configuration for testing, as compared to only a category or configuration, e.g. certain vehicles of a configuration manufactured at a specific plant. Section 205.57–2 has been amended similarly. The definitions of category and configuration have been amended to remove incorrect section references.

5. It is proposed to revise § 205.53, paragraph (a)(2)(ii) regarding the maintenance of records. EPA will require record keeping of repairs, maintenance and service when performed on test products prior to required noise testing, if they could affect the noise emissions of the product. Details on who authorized it, the reason for it, and the names of supervisory personnel responsible for conducting it have been deleted. This will limit record keeping more closely to those instances where the kind of repair, maintenance, or service may affect the results of a noise test. This gives the Administrator an adequate check and relieves the manufacturer of what could be a burdensome requirement with limited practical value to the Administrator.

6. The proposed amendment to § 205.55–2 expands the causes for which a manufacturer may delay production verification while distributing products in commerce. As promulgated, the regulation allows up to a 45-day delay if weather prevents testing, and a further delay for weather or other reasons beyond the manufacturer's control a valid amendment would make conditions beyond the manufactuer's control a valid reason for delay during both the first and second 45-day periods. To implement this and clarify the provision. § 205.55–2(a) would be completely rewritten to read as proposed herein.

7. It is proposed to amend § 205.55–4, paragraph (b)(4) and (b)(6). Subparagraph (b)(4)(ii) is revised in a manner similar to § 205.53(a)(2)(ii), to restrict the reporting requirement to those events which could affect the noise emissions of the product. Specifically, the normal early production quality control procedures of a manufacturer need not be reported unless they could affect the noise emissions of the vehicle. Subparagraph (b)(6) is amended such that the authorized representative of the company endorses that all testing and data reported are accurate and in compliance with the applicable regulations to the best of the company's knowledge, not his personal knowledge. This more accurately reflects the level of knowledge the authorized representative can be expected to have.

8. It is proposed to amend § 205.55–6 by revising paragraph (a) to specifically include early production quality control as part of a manufacturers prescribed manufacturing and inspection procedures. This is done in recognition that manufacturers typically employ increased quality control over early production vehicles. EPA intends to restrict the selection of test vehicles subject to such quality control to the extent that the quality control program not bias the resulting noise tests.

9. It is proposed to revise § 205.55–9, paragraph (a), to clarify the intent of that provision. This provision is revised to more explicitly provide that the production verification requirements need not be satisfied prior to the start of the model year so long as they are satisfied prior to the start of production of that configuration.

10. It is proposed to amend § 205.55–11 by deleting subparagraph (a)(3)(v), revising the first clause of paragraph (a)(3), and adding a new paragraph (b). This clarifies the Administrator's intent that vehicles manufactured solely for use outside the United States need be clearly labeled "For Export Only", but need not contain the other information specified in § 205.55–11(a), which is applicable only to vehicles subject to the standards.

11. It is proposed to amend § 205.56. Paragraph (a)(1) clarifies the purposes of testing by the Administrator pursuant to this section; conditions such testing on EPA's using good engineering practice and meeting or exceeding the requirements of § 205.54; and details the rights of manufacturers to observe such testing by the Administrator, copy data, and inspect vehicles before and after EPA tests.

Paragraph (b) as revised requires that site disqualification be based on the test site requirements as specified in § 205.54–1 (a) and (b) rather than on a judgment of inappropriateness. Also, the manufacturers may now request, within 15 days of the Administrator's notice of intent to disqualify, a formal hearing on the potential disqualification of their site. Disqualification will take effect 15 days after receipt of the Administrator's notice or at the conclusion of a hearing if one has been requested.

It is further proposed to revoke paragraph (c). A new paragraph (c) is added detailing when the Administrator will pay the reasonable costs associated with shipment of vehicles for testing under this section.

12. It is proposed to amend § 205.57–1, paragraphs (a), (c), and (e). Paragraph (a) is revised to set a limit on the number of test requests the Administrator may issue under this section when there is no reason to believe the category, configuration or subgroup does not meet the noise emission standard in § 205.52. Paragraphs (a) and (c) also establish that a test request can be issued for a subgroup of a configuration. Revised paragraph (e) extends the reasons allowed for delaying initiation of testing to any conditions beyond the control of the manufacturer, not just ambient test site weather conditions.

13. It is proposed to amend § 205.57–2 by correcting the typographical error in the heading and revising paragraph (e) to include subgroups as subjects of a selective enforcement audit test request, and to reference the requirement that vehicles be manufactured in the normal production process as discussed in § 205.55–5(a).

14. It is proposed to amend § 205.57–5 by deleting paragraphs (a) and (b), and redesignating paragraph (c) as paragraph (a), which will be revised to restrict the reporting of repairs and other actions on the test vehicle to those repairs which could affect noise emissions. The statement and endorsement which accompanies the test report is modified in a way similar to § 205.55–4, production verification report. The requirement to submit a test report at the conclusion of each 24 hour period has been deleted as unduly burdensome for its limited value to the Administrator.

15. It is proposed to amend § 205.57–7 by revising paragraph (d). The provision allowing a manufacturer to voluntarily cease distribution of certain vehicles into commerce in order to terminate selective enforcement audit testing has been modified so that the cessation applies to categories and subgroups, as well as to configurations, and applies only to the plant that produced the vehicles being tested.

16. Section 205.57–8 authorizes the Administrator to require that all vehicles of a category or configuration which has failed an audit test be tested to show compliance before distribution in commerce. Petitioners have objected to the imposition of this potentially expensive requirement without a hearing. The proposed revision is intended to grant a hearing limited to the issue of whether the selective enforcement audit was failed. The manufacturer would be required to commence and continue such testing during the progress of this hearing; accordingly, there is proposed a maximum time in which the Administrator must commence the hearing. Subsection (a) would also be amended to allow continued testing of a subgroup of a configuration.

17. The discontinuation of continued testing under § 205.57–8 appears discretionary with the Administrator under promulgated § 205.57–9. The proposed amendment makes clear that if the requirements of § 205.57–9(a)(1) and (2) are met, the Administrator must permit the cessation of 100 percent testing.

It is also proposed to add paragraph § 205.57–9(a)(3). Paragraph (3) would specify that the manufacturer may cease 100 percent testing upon submitting the report required by paragraph (2), subject to the Administrator's reinitiating testing should he find the report does not fulfill the requirements imposed.

18. It is proposed to amend Appendix I, Table I and III to correct typographical errors. The batch size for code letter D is changed to 26 and larger, and missing acceptance and rejection numbers in the sequence inspection criteria for code letter B are inserted.

These amendments are proposed under the authority of sections 6, 10, 11, and 13 of the Noise Control Act of 1972, 42 U.S.C. 4905, 4909, 4910, 4912.

Dated: May 25, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to revise 40 CFR Part 205 as set forth below (asterisks indicate wording unchanged from promulgated regulation).

1. Amend 40 CFR 205.2(a) by deleting paragraph (a)(6) and revising paragraph (a)(26) to read as follows:

§ 205.2 Definitions.

(a) * * *

(26) "Testing exemption" means an exemption from the prohibitions of section 10(a) (1), (2), (3), and (5) of the Act, which may be granted under section 10(b)(1) of the Act for the purpose of research, investigations, studies, demonstrations, or training, but not for the purpose of national security.

* * * * *

2. Amend 40 CFR 205.5–2 by correcting the typographical error in the designation of paragraph (e), revising paragraph (a) and adding a new paragraph (f), to read as follows:

§ 205.5–2 Testing exemption.

(a) Except as provided in paragraph (f) of this section any manufacturer requesting a testing exemption must demonstrate that the proposed test program:

* * * * *

(f) Any manufacturer requesting an exemption for products used in the ordinary course of business for product development, production method assessment or market promotion, and in a manner not involving lease or sale, shall state only the general nature of the program and the number of products involved and shall demonstrate that adequate record-keeping procedures for control purposes will be employed. If the manufacturer does not receive a response from the Administrator within 15 working days from the day the Administrator receives the request, the exemption is granted for one year.

§ 205.5–3 [Deleted]

3. Delete 40 CFR 205.5–3.

4. Amend 40 CFR 205.5–5 by revising paragraphs (c) and (d) to read as follows:

§ 205.5–5 Export exemptions.

* * * * *

(c) For purposes of section 11(d) of the Noise Control Act, the Administrator may consider any export exemption under Section 10(b)(2) as void ab initio with respect to each new product intended solely for export which is distributed in commerce for use in any State.

(d) In deciding whether to institute proceedings against a manufacturer pursuant to section 11(d)(1) of the Act with respect to any product originally intended solely for export but distributed in commerce for use in any state, the Administrator will consider:

(1) Whether the manufacturer had knowledge that such product would be distributed in commerce for use in any state; and

(2) Whether the manufacturer made reasonable efforts to ensure that such product would not be distributed in commerce for use in any state. Such reasonable efforts would include consideration of prior dealings with any person which resulted in introduction into commerce of a product manufactured for export only, investigation of prior instances known to the manufacturer of introduction into commerce of a product manufactured for export only, and contract provisions which minimize the probability of introduction into commerce of a product manufactured for export only.

5. Amend 40 CFR 205.5–6 by deleting the last sentence of paragraph (a) and revising paragraph (b) to read as follows:

§ 205.5–6 Granting of exemptions.

* * * * *

(b) Any exemption granted pursuant to paragraph (a) of this section shall be deemed to cover any product only to the extent that the specified terms and conditions are complied with. A breach of any term or condition shall cause the exemption to be void ab initio for purposes of section 11(d) of the Act and may give rise to an order by the Administrator with respect to any product subject to such exemption, whether distributed before or after such breach. The Administrator may also, upon notice and opportunity for a hearing, withdraw the exemption at any time if he determines that the public health or welfare is being endangered.

6. Amend 40 CFR 205.51 by revising paragraphs (a)(3), (5), (9) and (23) and by amending paragraph (a)(8), and (9) to read as follows:

§ 205.51 Definitions.

(a) * * *

(3) "Batch" means the collection of vehicles of the same category, configuration or subgroup thereof as designated by the Administrator in a test request, from which a batch sample is to be drawn, and inspected to determine conformance with the acceptability criteria.

* * * * *

(5) "Batch sample" means the collection of vehicles of the same category, configuration or subgroup thereof which are drawn from a batch and from which test samples are drawn.

* * * * *

(8) "Category" means * * * with respect to the parameters listed in § 205.55–2.

(9) "Configuration" means * * * with respect to the parameters listed in § 205.55–3.

* * * * *

(23) "Test sample" means the collection of vehicles from the same category, configuration or subgroup thereof which is drawn from the batch sample and which will receive noise emissions tests.

7. Amend 40 CFR 205.53 by revising paragraph (a)(2)(ii) to read as follows:

§ 205.53 Maintenance of records: submittal of information.

(a) * * *

(2) * * *

(ii) A record and description of all repairs, maintenance and other servicing which were performed before successful testing of the vehicle pursuant to these regulations and which could affect the noise emissions of the product, giving the date and time

* * * * *

8. Amend 40 CFR 205.55–2 by revising paragraphs (a) and (b) to read as follows:

§ 205.55–2 Production verification: compliance with standards.

(a)(1) Prior to distribution into commerce of vehicles of a specific configuration, the first manufacturer of such vehicles shall verify such configuration in accordance with this subpart.

(2) Notwithstanding paragraph (a)(1) of this section, the manufacturer may distribute in commerce vehicles of that configuration for up to 90 days if weather or other conditions beyond the control of the manufacturer make production verification of a configuration impossible, provided that the following conditions are met:

(i) The manufacturer shall perform the tests required under paragraphs (b) or (c) of this section on such configuration as soon as conditions permit;

(ii) The manufacturer shall maintain records of the conditions which make production verification impossible;

(iii) If on the 45th day following distribution in commerce of vehicles of a configuration the manufacturer has not performed the tests required by paragraph (b) or (c) of this section, the manufacturer shall within 5 days notify the Administrator in writing that such vehicles have been distributed in commerce and shall provide to the Administrator documentation of the conditions which have made production verification impossible.

(3) At any time following receipt of notice under paragraph (a)(2)(iii) of this section with respect to a configuration, the Administrator may require that the manufacturer ship test vehicles to the EPA test facility in order for the Administrator to perform the tests required for production verification.

(b) * * *

(1) Testing in accordance with § 205.54 of a vehicle selected in accordance with § 205.55–5;

* * * * *

9. Amend 40 CFR 205.55–4 by revising paragraphs (b)(4) and (b)(6) to read as follows:

§ 205.55–4 Production verification report: required data.

* * * * *

(b) * * *

(4) * * *

(ii) A complete description of any preparation, maintenance or testing which could affect the noise emissions of the vehicle, and which was performed on the test vehicle but will not be performed on all other production vehicles.

* * * * *

(6) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. To the best of _____ (Company name) knowledge, all testing for which data are reported herein was conducted in strict conformance with applicable regulations under 40 CFR § 205.1 et seq., all the data reported herein are a true and accurate representation of such testing and all other information reported herein is true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

_____
(Authorized representative)

* * * * *

10. Amend 40 CFR 205.55–6 by revising paragraph (a) to read as follows:

§ 205.55–6 Test vehicle preparation.

(a) Prior to the official test, the test vehicle selected in accordance with § 205.55–5 shall not be prepared, tested, modified, adjusted, or maintained in any manner unless such adjustments, preparation, modification and/or tests are part of the manufacturer's prescribed manufacturing and inspection procedures, and are documented in the manufacturer's internal vehicle assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. For purposes of this section and § 205.55–5, prescribed manufacturing and inspection procedures include quality control testing and assembly procedures normally performed by the manufacturer on like products during early production so long as the resulting testing is not biased by this procedure. In the case of imported products, the manufacturer may perform adjustments, preparations, modification and/or tests normally performed at the port of entry by the manufacturer to prepare the vehicle for delivery to a dealer or customer.

* * * * *

11. Amend 40 CFR 205.55–9 by revising the introductory text of paragraph (a) to read as follows:

§ 205.55–9 Production verification based on data from previous model years.

(a) Production verification of each configuration will be required at the beginning of production of that configuration each model year except that in certain instances,

* * * * *

12. Amend 205.55–11 as follows; in paragraph (a) the first clause of paragraph (a)(3), substitute the language as set forth below for the first two words in the clause which are "The label", paragraph (a)(3)(v) is deleted, and a new paragraph (b) is added. As amended, these paragraphs read as follows:

§ 205.55–11 Labeling—Compliance.

(a) * * *

(3) Labels for vehicles not manufactured solely for use outside the United States shall contain the following information * * * label:

* * * * *

(b) Labels for vehicles manufactured solely for use outside the United States shall contain the words "For Export Only."

13. Amend 40 CFR 205.56 by revising paragraphs (a)(1), (b) and (c) and by adding new paragraphs (a)(3) and (b)(5) to read as follows:

§ 205.56 Testing by the Administrator.

(a)(1) The Administrator may require that any vehicles to be tested pursuant to the Act be submitted to him, at such place and time as he may reasonably designate and in such quantity and for such time as he may reasonably require for the purpose of conducting tests in accordance with test procedures described in § 205.54 to determine whether such vehicles or a manufacturer's test

facility conform to applicable regulations. It is a condition of the requirements under this section that the manner in which the Administrator conducts such tests, the EPA test facility itself, and the test procedures he employs shall be based upon good engineering practice and meet or exceed the requirements of § 205.54.

* * * * *

(3) The manufacturer may observe tests conducted by the Administrator pursuant to this section on vehicles produced by such manufacturer and may copy the data accumulated from such tests. The manufacturer may inspect any such vehicles before and after testing by the Administrator.

(b)(1) If, based on tests conducted by the Administrator or other relevant information, the Administrator determines that the test facility does not meet the requirements of § 205.54–1 (a) and (b) he will notify the manufacturer in writing of his determination and the reasons therefor.

(2) The manufacturer may at any time within 15 days after receipt of a notice issued under paragraph (b)(1) of this section request a hearing conducted in accordance with 5 U.S.C. 554 on the issue of whether his test facility was in conformance. Such notice will not take effect until 15 days after receipt by the manufacturer, or if a hearing is requested under this paragraph, until adjudication by the hearing examiner.

(3) After any notification issued under paragraph (b)(1) of this section has taken effect, no data thereafter derived from such test facility will be acceptable for purposes of this Part.

(4) The manufacturer may request in writing that the Administrator reconsider his determination under paragraph (b)(1) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(5) The Administrator will notify the manufacturer of his determination and an explanation of the reasons underlying it with regard to the requalification of the test facility within 10 working days after receipt of the manufacturer's request for reconsideration pursuant to paragraph (b)(4) of this section.

(c)(1) The Administrator will assume all reasonable costs associated with shipment of vehicles to the place designated pursuant to paragraph (a) of this section except with respect to:

(i) Any production verification testing performed at a place other than the manufacturer's facility as provided for in § 205.55–2(a)(3), or as a result of the manufacturer's not owning or having access to a test facility;

(ii) Testing of a reasonable number of vehicles for purposes of selective enforcement auditing under § 205.57 or testing of smaller numbers of vehicles, if the manufacturer has failed to establish that there is a correlation between its test facility and the EPA test facility or the Administrator has reason to believe, and provides the manufacturer a statement of such reasons, that the vehicles to be tested would fail to meet the standard prescribed in this subpart if tested at the EPA test facility, but would meet such standard if tested at the manufacturer's test facility;

(iii) Any testing performed during a period when a notice of nonconformance of the manufacturer's test facility issued pursuant to paragraph (b) of this section is in effect;

(iv) Any testing performed at a place other than the manufacturer's facility as a result of the manufacturer's failure to permit the Administrator to conduct or monitor testing as required by this Part; and

(v) In addition to any vehicles included in paragraphs (c)(1) (i), (ii), (iii), or (iv), up to 10 percent of the manufacturer's production verification test vehicles to be tested during a model year if the Administrator determines it is necessary to test such vehicles at the EPA test site in order to assure that a manufacturer has acted or is acting in compliance with the Act.

14. Amend 40 CFR 205.57–1 by revising paragraphs (a), and (e)(1) and amending paragraph (c) as follows:

§ 205.57–1 Test request.

(a) The Administrator will request all testing under § 205.57 by means of a test request addressed to the manufacturer.

(1) Except as provided in paragraphs (a) (2) and (3) of this section, the Administrator will not issue to a manufacturer during any model year more test requests than a number determined by dividing the total number of vehicles subject to this regulation which the manufacturer projects he will produce during that model year by 25,000 and rounding to the next higher whole number: Except, that the Administrator may issue one additional test request beyond the annual limit to any manufacturer for each time a batch sequence for any category, configuration or subgroup thereof of such manufacturer's production is rejected in accordance with § 205.57–7.

(2) Any test request issued against a category, configuration or subgroup thereof which the Administrator has reason to believe does not meet the standards specified in § 205.52 will not be counted against the annual limit on test requests described in paragraph (a)(1) of this section. Any such request shall include statement of the Administrator's reason for such belief.

(3) Any test request under which testing is not completed will not be counted against the Annual limit on test requests described in paragraph (a)(1) of this section.

* * * * *

(c) The test request will specify the vehicle category, configuration or subgroup thereof selected for testing, the batch selected for testing, the batch size, * * *

* * * * *

(e)(1) Any testing conducted by the manufacturer pursuant to a test request shall be initiated within such period as is specified within the test request: Except, that such initiation may be delayed for increments of 24 hours or one business day where ambient test site weather conditions, or other conditions beyond the control of the manufacturer, in any 24-hour period do not permit testing: Provided, that these conditions for that period are recorded.

* * * * *

15. Amend 40 CFR 205.57–2 by correcting the section number in the heading and revising (e) to read as follows:

§ 205.57–2 Test vehicle sample selection.

* * * * *

(e) The test vehicle of the category, configuration or subgroup thereof selected for testing shall have been assembled by the manufacturer for distribution in commerce using the manufacturer's normal production process in accordance with § 205.55–5(a).

16. Amend 40 CFR 205.57–5 by deleting paragraphs (a) and (b) and redesignating paragraph (c) as (a), which will be amended as follows:

§ 205.57–5 Reporting of the test results.

(a) Within 5 working days after completion of testing * * *

* * * * *

(3) * * *

(ii) A complete description of any modification, repair, preparation, maintenance, and/or testing which could affect the noise emissions of the vehicle and which was performed on the test vehicle but will not be performed on all other production vehicles.

* * * * *

(5) The following statement and endorsement:

This report is submitted pursuant to section 6 and section 13 of the Noise Control Act of 1972. To the best of _____ (company name) knowledge, all testing for which data are reported herein was conducted in strict conformance with applicable regulations under 40 CFR 205.1 et seq., all the data reported herein are a true and accurate representation of such testing and all other information reported herein is true and accurate. I am aware of the penalties associated with violations of the Noise Control Act of 1972 and the regulations thereunder.

_____ (authorized representative)

17. Amend 40 CFR 205.57–7 by revising paragraph (d) to read as follows:

§ 205.57–7 Acceptance and rejection of batch sequence.

* * * * *

(d) The Administrator may terminate testing earlier than required in paragraph (b) of this section based on a request by the manufacturer accompanied by voluntary cessation of distribution in commerce of vehicles from the category, configuration or subgroup in question manufactured at the plant which produced the vehicles under test: *Provided*, That before reinitiating distribution in commerce of vehicles from such plant of such vehicle category, configuration or subgroup, the manufacturer must take the action described in § 205.57–9 (a)(1) and (a)(2).

18. Amend 40 CFR 205.57–8 by redesignating paragraphs (c) and (d) as (d) and (e), respectively, adding new paragraph (c), and revising paragraphs (a) and (b) to read as follows:

§ 205.57–8 Continued testing.

(a) If a batch sequence is rejected in accordance with paragraph (b) of § 205.57–7, the Administrator may require that any or all vehicles of that category, configuration of subgroup thereof produced at that plant be tested before distribution in commerce.

(b) The Administrator will notify the manufacturer in writing of his intent to require such continued testing of vehicles pursuant to paragraph (a) of this section.

(c) The manufacturer may request a hearing on the issue of whether the selective enforcement audit was conduced properly and whether the criteria for bath sequence rejection in § 205.57–7 have been met. In the event that a hearing is requested, the hearing shall begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress shall affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

* * * * *

19. Amend 40 CFR 205.57–9 by revising paragraph (a) to read as follows:

§ 205.57–9 Prohibition on distribution in commerce: manufacturer's remedy.

(a) The Administrator will permit the cessation of continued testing under § 205.57–8 once the manufacturer has taken the following actions:

(1) Submits a written report which identifies the reason for the noncompliance of the vehicles, describes the problem and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change pursuant to § 205.55–8, and

(2) Demonstrates that the specified vehicle category, configuration or subgroup thereof has passed a retest conducted in accordance with § 205.57 and the conditions specified in the initial test request.

(3) The manufacturer may begin testing under paragraph (2) of this section above upon submitting such report, and may cease continued testing upon making the demonstration required by paragraph (2) of this section, *Provided*, That the Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of paragraphs (a)(1) and (2) of this section.

Appendix I [Amended]

20. Amend Appendix I, Table I by changing the batch size for code letter D to 26 and larger.

21. Amend Appendix I, Table III by revising code letter B to read as follows:

APPENDIX I, TABLE III.—*Batch sequence plans*

Sample size code letter	Number of batches	Cumulative number of batches	Sequence inspection criteria: Acceptance No.	Sequence inspection criteria: Rejection No.
*	*	*	*	*
B	2	2	0	(2)
	2	4	1	4
	2	6	2	5
	2	8	3	5
	2	10	4	6
	2	12	5	6
*	*	*	*	*

[FR Doc.77–15356 Filed 5–27–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 100a, 199]

STATE PLANNING COMMISSIONS PROGRAM

Interstate Planning

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under the authority contained in Title XII, section 1203(c) of the Higher Education Act of 1965, as amended (20 U.S.C. 1142b(c)), the Commissioner of Education is giving notice that he proposes to issue, with the approval of the Secretary of Health, Education, and Welfare, the following rules and regulations for interstate postsecondary education planning under the State Planning Commissions Program. These rules pertain to the eligibility of applicants and the criteria which the Commissioner will use in evaluating applications. The Commissioner also proposes to include this program among those programs covered by 45 CFR Part 100a.

DATES: All comments, suggestions, or objections to be considered must be received not later than the 45th day after publication of this notice of proposed rulemaking in the FEDERAL REGISTER, or on the next business day if the 45th day is a Saturday, Sunday, or Federal holiday. Comments must be received on or before July 15, 1977.

ADDRESSES: Comments should be addressed to: State Planning Commissions Program, Bureau of Postsecondary Education, Room 4052, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202. The Commissioner will not acknowledge the comments individually, but they will be available for inspection in Room 4052, Regional Office Building 3, between 8:30 a.m. and 4:00 p.m. on Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Charles I. Griffith, Telephone 202–245–2671.

SUPPLEMENTARY INFORMATION: The statute provides that grants made under this program be used to plan, develop and carry out interstate cooperative postsecondary education projects designed to increase the accessibility of postsecondary educational opportunities for the residents of the participating States and to assist such States to carry out postsecondary education programs in a more effective and economical manner.

SUMMARY OF COMMENTS PREVIOUSLY RECEIVED

The Commissioner published a Notice of Intent to Issue Regulations implementing the provisions of the Education Amendments of 1976 in the FEDERAL REGISTER of November 29, 1976 (41 FR 52410, 52418). Comments were invited concerning the criteria which the Commissioner should use in approving interstate compact postsecondary educational agencies for participation in the program. Five public conferences were held at various locations between December 13–17, 1976, at which time the Office of Education received comments on this and other provisions of the Education Amendments. Further written comments were also received through December 30, 1976. The following is a summary of the comments received and the Office of Education's response.

Comment. Four comments were received concerning the criteria to be used in approving an interstate compact postsecondary educational agency for purposes of this program. One commenter suggested that a compact agency should be deemed to exist whenever two or more State Commissions submit a joint application for grant funds. Three commenters pointed out that interstate compact agencies are organizations of States created by the member States and established by statute in each member State.

Response. The Commissioner is proposing to approve interstate compact postsecondary educational agencies if they are organizations of States which have been created statutorily by their member States and through which the member States pursue cooperative efforts for the improvement of postsecondary education on an interstate or regional basis.

Comment. The statute provides that the Commissioner may make grants to State Postsecondary Education Commissions, and to interstate compact postsecondary educational agencies, applying jointly for funds to enable the participating Commissions to plan, develop, and carry out interstate cooperative postsecondary education projects. Three comments were received concerning the eligibility of applicants. Two commenters suggested that the statute could be interpreted to allow interstate compact

postsecondary educational agencies to apply for grant funds independently rather than jointly with State Postsecondary Education Commissions. One commenter suggested the opposite approach, that the statute should be interpreted to allow interstate compact agencies to apply for funds only in conjunction with State Commissions.

Response. Since the language of the statute refers to enabling the participating Commissions to conduct interstate cooperative postsecondary education projects, the Commissioner has determined that two or more State Commissions must be the joint applicants for such grant funds, and that interstate compact agencies may apply for such funds in conjunction with the State Commission but not by themselves.

Comment. One commenter suggested that proposed projects submitted under this program by the State Postsecondary Education Commissions be approved by the higher education agencies in the participating States if those agencies are different from the State Postsecondary Education Commissions.

Response. Since the State Postsecondary Education Commissions were established for the purpose of conducting postsecondary education planning activities and projects, and have the authority to do so in their respective States, the Commissioner does not feel that the approval of their proposed projects by other agencies in the respective States should be a Federal requirement.

Comment. Two commenters suggested that the proposed projects should be required to be directed toward significant, long-term, service oriented results.

Response. The Commissioner has included in the funding criteria factors which will enable projects to be evaluated in line with these suggestions.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.550; State Planning Commissions Program—Interstate Planning.)

Dated: March 9, 1977.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

Approved: May 21, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended to read as follows:

1. In Part 100a, §100a.10(a) is revised to read as follows:

§ 100a.10 Scope.

(a) *Programs.* Unless inconsistent with a statute or regulation, the regulations in this part apply to the following programs:

(1) • • •

(37) Interstate Postsecondary Education Planning under section 1203(c) of the Higher Education Act of 1965, as amended (20 U.S.C. 1142b(c)).

• • • • • •

2. A new Part 199 is added, to read as follows:

Sec.
199.1 General provisions regulations.
199.2 Eligibility criteria.
199.3 Funding criteria.

AUTHORITY: Title XII, sec. 1203(c) of Pub. L. 89-329, as amended (20 U.S.C. 1142b(c)), unless otherwise noted.

§ 199.1 General provisions regulations.

Assistance under Title XII, section 1203(c) of the Higher Education Act of 1065, as amended (20 U.S.C. 1142b(c)), is subject to applicable conditions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 1142b(c).)

§ 199.2 Eligibility criteria.

Applications for grants under this program may be submitted either (a) jointly by two or more State Commissions established pursuant to section 1202(a) of the Act, or (b) jointly by two or more such State Commissions and an interstate compact postsecondary educational agency approved by the Commissioner. For purposes of this program, the Commissioner will give approval to interstate compact postsecondary educational agencies which are organizations of States which have been created statutorily by their member States and through which the member States pursue cooperative efforts for the improvement of postsecondary education on an interstate or regional basis.

(20 U.S.C. 1142b(c).)

§ 199.3 Funding criteria.

In addition to the criteria set forth in § 100a.26(b) of 45 CFR, the Commissioner will evaluate proposed projects in accordance with the following criteria:

(a) The extent to which, as a result of this project, previously unavailable postsecondary education opportunities and services will be made accessible to resdients of each of the participating States.

(b) The degree to which postsecondary education resources in the area included in the proposed project as a whole and in each of the participating States will be more efficiently and economically utilized as a result of the project.

(c) The extent to which there is evidence of a commitment on the part of the participating States toward continued interstate and regional cooperative efforts in postsecondary education.

(d) The extent to which the anticipated results and benefits to be realized from the activities are justified by the cost of the project.

(e) The extent to which the Commissioner will be able to distribute appropriated funds to a maximum number of applicants while still funding projects of sufficient size and scope to accomplish the purpose of this program.

(20 U.S.C. 1142b(c).)

[FR Doc.77-15326 Filed 5-27-77;8:45 am]

National Institute of Education

[45 CFR Part 1470]

EDUCATION AND WORK GRANTS PROGRAM

Proposed Changes in Research Topics

AGENCY: The National Institute of Education, Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The proposed amendments change the research topics to be funded under this grant program. Changes have been recommended by teachers, researchers, and businessmen so that schools can make students more aware of and better prepared for careers.

DATES: Interested parties are invited to submit written comments, suggestions or objections regarding the proposed rule to the Office of Administration and Management, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208, on or before July 15, 1977.

Comments received in response to this notice will be available for public inspection in Room 639, of the above address, between 8:00 a.m. and 4:30 p.m., Mondays through Fridays.

FOR FURTHER INFORMATION CONTACT:

EDUCATION AND WORK GROUP, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208, Mr. Robert W. Stump (202) 254-8827 or Dr. Judy S. Shoemaker (202) 254-5470.

SUPPLEMENTARY INFORMATION: The proposed § 1470.5 identifies eligible projects in two specific areas (a) Occupational Change and Assessment for Career Preparation, and (b) Women and Mathematics. Background information for each of these topics is discussed below.

Occupational change and assessment for career preparation. In mid 1975 the Education and Work Group within NIE proposed that the Institute begin research and development activities into the issues of occupational change with the objective of understanding how educational experiences or programs could improve an individual's ability to change jobs, occupations or employers when they chose to or were required to. The initial focus of these efforts has been on identifying the skills, abilities and attributes that would be useful in a variety of positions and how these skills and abilities play a role in the process of job or occupational change. A better understanding would lead, then, to more effective educational experiences and programs to develop these skills, abilities and attributes.

NIE's efforts in the last two years have reviewed the major research efforts that have identified the skills and abilities considered transferable from one job to another. The majority of these efforts have relied on job or occupational analyses. What is missing is an understanding of how these skills or abilities relate to job changes and patterns of job change. Research to explore this relationship will be supported.

In addition to concern for identifying the skills, abilities and attributes that are useful in a variety of occupations, NIE's research to date has suggested examination of another central question concerning the process of adaptation to new work situations. How does an individual, performing in one work situation, transfer that performance to another work situation? It has been suggested that an individual's skills, abilities and/or attributes play an important role in this process of adaptation and that educational and training experiences can help develop the individual's capacities to adapt. These skills, abilities and attributes may not be the same ones that are required to perform the work. Research to examine this process of adaptation will also be supported.

Women and mathematics: The Education and Work Group of NIE identified the area of Women and Mathematics as a continuation of the investigation of the problem of occupational segregation by sex, characterized by an unbalanced distribution of occupations by sex. The undersupply of women interested in and prepared for occupations requiring mathematical competence contributes to occupational segregation by sex.

Several researchers have identified mathematics as a critical skill area directly related to educational and occupational choices. Current enrollment data show that fewer women than men choose to study mathematics beyond the minimal school requirements. By choosing not to study mathematics beyond the minimal requirements, women preclude themselves from entering many traditionally male-dominated occupations which require mathematical competency for performance on the job or as a prerequisite to the job, resulting in further occupational segregation by sex. Differences between men and women in their study of mathematics and in their selection of occupations requiring mathematics persist despite the fact that there are no significant differences in arithmetic achievement before the seventh grade.

The research proposed in this area will contribute to the development of ways to assist women to make thoughtful and informed career choices by identifying the major factors affecting women's participation and achievement in mathematics and identifying how education can increase women's perceived occupational and educational choices.

Based on previous experience with grant awards, it is expected that 2,150,000 will be available for an anticipated 12-18 awards in the area of Occupational Change and Assessment for Career Preparation, and that $840,000 will be available for an anticipated 6-10 awards in the area of Women and Mathematics.

The proposed amendments change the Eligible Projects (§ 1470.5) in the current regulations, 45 CFR 1470, published at 41 FR 42663, September 28, 1976.

NOTE.—The National Institute of Education has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development.)

Dated: March 31, 1977.

HAROLD L. HODGKINSON,
Director, National Institute of Education.

Approved: May 25, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

It is proposed that Title 45, Subchapter B of Chapter XIV, Part 1470 of the Code of Federal Regulations be amended as follows:

§ 1470.2 [Amended]

1. Section 1470.2(c) is deleted.

2. Section 1470.3 is amended to read as follows:

§ 1470.3 Definitions.

As used in this part:

"Research project" means a project designed to increase or synthesize basic knowledge about processes or conditions relevant to career development; and to provide answers to research problems which can be utilized in program development or for making policy decisions relating to education and work program objectives.

• • • • •

3. Section 1470.5 is amended to read as follows:

§ 1470.5 Eligible research projects.

An award will be made for a project which seeks to answer questions in one of two problem areas related to the objective of this part:

(a) *Occupational change and assessment for career preparation.* Research in this problem area must have the objective of improving understanding of how educational experiences and programs can better prepare individuals to perform successfully in a number of jobs or occupations. Movement from training to job might be studied.

(1) A project must address one or more of the following questions:

(i) To what extent may a series of jobs held by individuals be related by similarities of skills, abilities or attributes required by the jobs?

(A) The research must go beyond identifying the relatedness of various jobs.

(B) An applicant may propose to describe and explain how individual movement among various jobs is or is not related to these similarities.

(C) An applicant may propose a variety of ways that jobs can be defined and analyzed, and that the skill, ability or attribute requirements of jobs can be validly defined and assessed.

(ii) What skills, abilities or attributes enable an individual to adapt successfully to new jobs or occupations?

(A) The research must go beyond describing the many ways in which work situations can and do differ from one another.

(B) The research must explore the reasons why individuals are or are not successful in adapting to these changes.

(C) An applicant may propose to examine any of a variety of influences on successful adaptation, including, but not limited to, changes in motivational and reward systems, and changes in patterns or procedures for doing work.

(2) Research supported under this part may analyze the actual experience of individuals. In presenting the design of the study and discussing the potential utility of the findings, an applicant shall take into account the fact that actual job changes are often constrained by a number of influences, including but not limited to the structure of the labor market and realities such as labor union regulations, employer biases in selection and promotion decisions, license and certification requirements and structured job ladders.

(b) *Women and mathematics.* (1) The central research question to be addressed by applications under this problem area is: What are the major positive and negative factors related to the participation and achievement of women in the study of mathematics and their preferences for occupations requiring mathematical competence?

(i) An application may focus on women alone or on male-female differences in school, home, community or work settings.

(ii) The study of mathematics includes computation, comprehension, application, analysis and problem solving at any level of schooling or training. However, an applicant must not limit the study of mathematics to basic computational skills or skills with computational algorithms.

(iii) An applicant investigating participation in mathematics courses must investigate women's enrollment and retention rates in mathematics courses beyond the minimal school requirements.

(2) An applicant must propose to do one or more of the following:

(i) Identify and explain how selected cognitive, affective, educational, familial or social factors influence the achievement and participation of women in grades seven through twelve in their study of mathematics, their attitudes toward the study and usefulness of mathematics and their preferences for occupations requiring mathematical competence. An applicant must include reviews of related research and the development and testing of hypotheses based on a sound theoretical foundation.

(ii) Identify when and how women make major decisions regarding their participation in mathematics courses and occupations requiring mathematical competence.

(A) Identify and explain how major personal characteristics, social influences and characteristics of institutions such as schools and home affect those decisions.

(B) Explain how women make these decisions and how these decisions affect later occupational and educational outcomes.

(C) Decisions must include but not be limited to those made in grades seven through twelve.

(iii) Evaluate the impact of one or more programs designed to increase the participation and achievement of women in grades seven through twelve in mathematics courses or their preferences for occupations requiring mathematical competence.

(A) Identify the significant characteristics of these programs, assess their effectiveness relative to each other or a control group on a variety of achievement, participation and attitude measures, and describe how these programs could be implemented in other locations, including necessary conditions for success such as staff development or other prerequisites.

(B) These programs might include intervention programs or schools where an unusually high percentage of women elect to study mathematics beyond the minimal requirements.

4. Section 1470.7(b)(1)(iii) is amended to read as follows:

§ 1470.7 Application requirements.

* * * * * *

(b) * * *

(1) * * *

(iii) The substantive area, as described in § 1470.5 in which the applicant wishes the project to be reviewed;

* * * * * *

5. Section 1470.9(a)(1) and (a)(4) are amended to read as follows:

§ 1470.9 Evaluation criteria.

(a) * * *

(1) The significance of the proposed research for American education (25%), including:

(i) The importance of the problem area from the standpoint of basic knowledge or problems of American education;

(ii) The likely magnitude of the addition that will be made to knowledge if the project is successful, including the generalizability of the results;

(iii) The appropriateness of the proposed activities to the purposes of the grants program as specified in this regulation.

* * * * * *

(4) Qualifications of the principal investigator and other professional personnel (10%), as evidenced by:

(i) Experience and previous research productivity; and

(ii) The quality of the discussion and analysis in the application.

Appendix [Deleted]

7. The Appendix is deleted.

[FR Doc.771-15366 Filed 5-27-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 21116]

AMATEUR RADIO SERVICE

Prohibiting Marketing of External Radio Frequency Amplifiers Capable of Operation on Any Frequency From 24 to 35 MHz; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: This document extends the time for filing comments and reply comments by 30 days on a proposed rule that would prohibit the marketing of external radio frequency amplifiers capable of operation on any frequency from 24 to 35 MHz. This extension is the result of filings received from the R. L. Drake Company, the Heath Company, and the American Radio Relay League, Incorporated.

DATES: Comments must be received on or before June 24, 1977, and reply comments must be received on or before July 6, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John A. Reed, Office of Chief Engineer (202-632-7093).

SUPPLEMENTARY INFORMATION:

ORDER EXTENDING TIME TO FILE COMMENTS

Adopted: May 19, 1977.

Released: May 23, 1977.

In the matter of Amendment of Part 2 of Commission's rules to prohibit the marketing of external radio frequency amplifiers capable of operation of any frequency from 24 to 35 MHz, Docket No. 21116.

1. On February 28, 1977, the Commission released a notice of proposed rule making in the above entitled matter.[1] Since that time three requests for an extension of time to file comments have been received from (1) the R. L. Drake Company, filed April 18, 1977, (2) Heath Company, filed April 20, 1977, and (3) the American Radio Relay League, Incorporated, filed April 27, 1977.

2. In light of the above filings, our desire to obtain the most definitive responses possible, and our desire to investigate additional means of achieving our intended goals, a 30 day extension of time from May 25, 1977 to June 24, 1977 for filing Comments and from June 6, 1977 to July 6, 1977 for filing Reply Comments is hereby ordered pursuant to the authority granted by § 0.241(d).

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc. 77-15320 Filed 5-27-77;8:45 am]

[1] See 42 FR 12203, March 3, 1977.

[47 CFR Parts 2, 97]

[Docket No. 21117]

AMATEUR RADIO SERVICE

Type Acceptance of Equipment Marketed for Use; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: This document extends the time for filing comments and reply comments by 30 days on a proposed rule that would require type acceptance of equipment marketed for use in the Amateur Radio Service. This extension is the result of filings received from the R. L. Drake Company, the Heath Company, and the American Radio Relay League, Incorporated.

DATES: Comments must be received on or before June 24, 1977, and reply comments must be received on or before July 6, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John A. Reed, Office of Chief Engineer (202-632-7093).

SUPPLEMENTARY INFORMATION:

ORDER EXTENDING TIME TO FILE COMMENTS

Adopted: May 19, 1977.

Released: May 23, 1977.

In the matter of Amendment of Parts 2 and 97 of the Commission's rules to require type acceptance of equipment marketed for use in the Amateur Radio Service, Docket No. 21117.

1. On February 28, 1977, the Commission released a Notice of Proposed Rule Making in the above entitled matter.[1] Since that time, three requests for an extension of time to file comments have been received from (1) the R. L. Drake Company, filed April 18, 1977, (2) the Heath Company, filed April 20, 1977, and (3) the American Radio Relay League, Incorporated, filed April 27, 1977.

2. In light of the above filings, our desire to obtain the most definitive responses possible, and our desire to investigate additional means of achieving our intended goals, a 30 day extension of time from May 25, 1977 to June 24, 1977 for filing Comments and from June 6, 1977 to July 6, 1977 for filing Reply Comments is hereby ORDERED pursuant to the authority granted by § 0.241(d).

RAYMOND E. SPENCE,
Chief Engineer.
CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.77-15322 Filed 5-27-77;8:45 am]

[1] See 42 FR 12204, March 3, 1977.

[47 CFR Part 73]

[Docket No. 20418; Rm. 2346, 2727]

TELEVISION TABLE OF ASSIGNMENTS

Notice of Proposed Rulemaking; Correction

PREAMBLE

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This document corrects paragraphs 168–169 and part of paragraph 170 of Memorandum Opinion and Order and Notice of Proposed Rule Making in Docket 20418, VHF drop-in proceeding, which were inadvertently omitted from text of document.

DATE: Released April 27, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of petition for rulemaking to amend television table of assignments to add new VHF stations in the top 100 markets and to assure that the new stations maximize diversity of ownership, control and programming.

Released: April 27, 1977.

In the *Memorandum Opinion and Order and Notice of Proposed Rulemaking* in the above-entitled proceeding, FCC 77-169, Mimeo No. 44289, adopted March 7, 1977 (42 FR 16782, published March 30, 1977), paragraph 169 and part of 170 were inadvertently omitted when the document was printed. The initial portion of the section on Portland-Poland Spring, Maine, of which these paragraphs are a part, should read as follows:

PORTLAND-POLAND SPRING, MAINE
CHANNEL 3

168. *Demographics.* This is the 77th prime time household market according to 1975 ARB rankings (74th in 1974). Portland (1970 pop. 65,116) is located on the southern coast of Maine, and has an ADI of 252,100 TV households. Fluctuating but increasing per capita earnings are projected for this market, even though population is predicted to decline.

169. *Present television service.* Portland has two network VHF stations, and receives a third from Poland Spring. The primary stations are:

WCSH-TV, Portland, Maine, Channel 6, NBC;
WGAN-TV, Portland, Maine, Channel 13, CBS;
WMTW-TV, Poland Spring, Maine, Channel 8, ABC; and
WMEG-TV, Biddeford, Maine, Channel 26, Educational.

Portland receives educational service from Channel 10 in Augusta, Maine.

170. *Short-spacings.* The proposed Channel 3 drop-in at Portland, Maine, if located at the OTP proposed coordinates, would be short-spaced to:

WCAX-TV, Burlington, Vermont, Channel 3, CBS.

In addition, the drop-in would not be short-spaced to the following stations, but would cause new interference to:

WFSB-TV, Hartford, Connecticut, Channel 3, CBS;
WBZ-TV, Boston, Massachusetts, Channel 4, NBC; and
CBHFT-1, Yarmouth, Nova Scotia, Channel 3 (interference over ocean).

Finally, the drop-in would create potential interference, but would not be short-spaced to, full facility operation of:

Channel 3, Woodstock, New Brunswick, vacant allocation; and
CBVAT, St. Pamphile, Quebec, Channel 3 (interference over U.S.).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-15365 Filed 5-27-77;8:45 am]

[Docket No. 21000]

[47 CFR Part 95]

CITIZENS RADIO SERVICE

Addressing Matter of Further Attenuation of Spurious and Harmonic Emissions From Class D Transmitters; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: This document extends the time for filing comments and reply comments by 90 days on a proposed rule that would address the matter of further attenuation of the spurious and harmonic emissions from Class D transmitters operating in the Citizens Radio Service. This extension is the result of a filing received from Consumer Electronics Group of the Electronic Industries Association.

DATES: Comments must be received on or before August 29, 1977, and reply comments must be received on or before September 28, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John A. Reed, Research and Standards Division, Office of Chief Engineer (202-632-7093).

SUPPLEMENTARY INFORMATION:

ORDER EXTENDING TIME TO FILE COMMENTS (42 FR 11252)

Adopted: May 18, 1977.

Released: May 23, 1977.

In the matter of Amendment of the Commission's rules to address the matter of further attenuation of the spurious and harmonic emissions from Class D transmitters operating in the Citizens Radio Service under Part 95, Docket No. 21000.

1. On November 30, 1976, the Commission released a Notice of Inquiry and Proposed Rule Making in the above entitled matter.[1] In a further action in this matter, released February 23, 1977, the time to file Comments was extended by 90 days from March 2, 1977, to May 31, 1977, and the time to file Reply Comments was extended from April 1, 1977, to June 30, 1977. Since that time, a request for an extension of time to file comments has been received from the Consumer Electronics Group of the Electronic Industries Association.

2. Because of the technical nature of this proceeding, which would require testing and other studies by those commenting, the importance of this proceeding to both the manufacturers and licensees, and the Commission's desire to have the most definitive responses possible, a 90 day extension of time from May 31, 1977, to August 29, 1977, for filing Comments and from June 30, 1977, to September 28, 1977, for filing Reply Comments is hereby ordered pursuant to the authority granted by § 0.241(d).

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc.77-15321 Filed 5-27-77;8:45 am]

[1] See 42 FR 11252, February 28, 1977.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

AMERICUM–241

Price Increase

Correction

In FR Doc. 77–14816 appearing on page 26450 in the issue for Tuesday, May 24, 1977, in the fourth paragraph "effective May 1977" should read "effective May 24, 1977".

ERDA FEDERAL ASSISTANCE MANUAL

Notice of Issuance

AGENCY: Energy Research and Development Administration.

ACTION: Notice.

SUMMARY: ERDA is issuing an ERDA Federal Assistance Manual to carry out certain assistance purposes authorized in ERDA legislation. The Manual implements OMB Circular No. A–110 and Federal Management Circular 74–7 which thereby establishes a uniform administrative system for application, award, and administration of assistance awards.

DATES: Effective date—The grants policy and procedures in the Manual are authorized for interim use on May 31, 1977. Comments are invited on the Manual on or before July 15, 1977.

ADDRESSES: Comments should be addressed to: Mr. David F. Mears, Division of Procurement, C–167, Policy Development Branch, U.S. Energy Research and Development Administration, Washington, D.C. 20545. To assist ERDA in considering and acting on comments, it would be helpful if they could be arranged in the Chapter and Section sequence of the proposed Manual, with any general comments or suggestions at the beginning.

FOR FURTHER INFORMATION CONTACT:

David F. Mears (301–353–4541).

SUPPLEMENTARY INFORMATION: The FEDERAL REGISTER, Vol. 41, No. 82, April 27, 1976 Notice (41 FR 17602) which established an Interim Grant Procedure is superseded.

AUTHORITY: Section 105 of the Energy Reorganization Act of 1974 (Pub. L. 93–438).

Date: May 20, 1977.

M. J. TASHJIAN,
Director of Procurement.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, FEDERAL ASSISTANCE MANUAL

(SIXTH DRAFT) APRIL 1977

Chapter
1—Information About the ERDA Federal Assistance Manual.
2—General Policies and Considerations.
3—Identification of ERDA Programs.
4—Submission of Proposals.
5—Evaluation and Selection of Potential Awardees.
6—Award Instruments.
7—Negotiation and Award of Agreement.
8—Postaward Administration.
9—Additional Funding Support.
10—Closeout of ERDA Grant and Cooperative Agreements.

CHAPTER 1—INFORMATION ABOUT THE ERDA FEDERAL ASSISTANCE MANUAL

Sec.
100 Purpose.
101 Scope.
102 Applicability.
103 Authority to prescribe policies, standards, and procedures.
104 Establishment, amendment, and dissemination.
106 General organization, numbering, and citation.
106 Deviations.
107 Incorporation of applicable Federal policies.
108 Definitions.

100 Purpose.

This Manual implements ERDA's statutory authority to award grants and cooperative agreements by establishing uniform policies and procedures relating to the award and administration of ERDA assistance and support through these instruments. The effect of this Manual is to establish a formal assistance system to carry out assistance purposes. This Manual itself does not authorize the use of a grant or cooperative agreement or the making of assistance awards where statutory authority has not been provided. This assistance system is separate and distinct from the procurement system which procurement system is subject to the Federal Property and Administrative Services Act of 1949, and the Federal and ERDA Procurement Regulations.

101 Scope.

a. *Process.* Any matter which impacts or must become a part of the administration of ERDA assistance and support, from project identification through closeout of the assistance instrument, is within the scope of the process described in this manual. Subject areas covered in other ERDA manuals and publications will be referenced, when applicable, not repeated.

b. *Assistance instruments.* Although various forms of grants are the customary vehicle used to convey support or assistance, the scope also of this Manual includes such functionally similar vehicles as used equipment grants, financial awards to inventors under Pub. L. 93–577, cooperative agreements, and the like. None of the foregoing instruments or arrangements may be made or entered into except as provided for in this Manual. The scope excludes interagency agreements and memoranda of understanding between or among Federal government components or between ERDA and other non-Federal government entities, loan guarantees, price supports, guaranteed purchase agreements, programs or projects the prime purpose of which is the dissemination of technical information and/or the provision of specialized services or counseling, Special Research Support Agreements, or any other arrangements within the scope of the Federal and ERDA Procurement Regulations. Grants and other support arrangements, which are established separately to implement memoranda of understanding with state and local governments are subject to the provisions of this Manual.

c. *Certain ERDA activities.* The activities and methods described in ERDA Manual Chapter 7603, Use of ERDA Facilities and Equipment for Private Purposes, and ERDA Manual Appendix 1701, Part 1, G. Use of ERDA-Owned Facilities are outside the scope of this Manual.

d. *Construction.* The Manual does not provide coverage regarding construction grants or construction under grants at this time. Coverage for the construction subject area will be added at a later time.

102 Applicability.

a. *Organizations.* This Manual is applicable to all ERDA organizations staffed by ERDA employees.

b. *Types of Recipients.* The policies in this Manual are applicable to grants and cooperative agreements with institutions of higher education, hospitals, other nonprofit organizations, individuals, profit making organizations, and State and local governments except otherwise specified herein.

103 Authority to prescribe policies, standards, and procedures.

The ERDA Federal Assistance Manual is issued by the Director of Procurement pursuant to the authority of Section 105 of the Energy Reorganization Act of 1974 (Pub. L. 93–438), other applicable law, and ERDA Manual Chapter 0155.

104 Establishment, amendment, and dissemination.

a. *Establishment.* The ERDA Federal Assistance Manual (ERDA–FAM) is hereby established. Although the Manual is established primarily for internal use by ERDA employees, the Manual and changes will be published in the FEDERAL REGISTER in the form of a public notice.

b. *Amendment.* Changes to the Manual will be issued using serially numbered Manual Instructions. Changes will be in printed looseleaf form containing revised or additional pages, paragraphs or sections. Each revised or new page of a change will bear the date of the change and the change number.

c. *Dissemination.* It is ERDA policy to make the Manual available to the public. Copies of the Manual including formal changes when published in the FEDERAL REGISTER may be purchased at nominal cost, from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

105 General organization, numbering, and citation.

a. *Organization.* The Manual is organized into chapters which correspond to the sequence of the normal process taken by ERDA in evaluating, awarding, and administering a grant or cooperative agreement action from identification of a project through award instrument closeout. Chapters are subdivided into sections which cover single subjects within the scope of the chapter.

b. *Numbering.* Chapters are designated in ascending serial order from the beginning of the Manual. Each chapter is further subdivided into sections. A new one hundred series number is used to number sections within each chapter. For example, Chapter 1 uses 100 through 199, Chapter 2 uses 200 through 299, etc. Sections may be further subdivided into paragraphs which are lettered and numbered: a.1.(a)(1)(i).

c. *Citation.* The ERDA Federal Assistance Manual may be identified, for purposes of brevity, as ERDA–FAM followed by the section number, i.e., "ERDA–FAM 104a.".

106 Deviations.

a. *Purpose.* The deviation procedure is intended to maintain consistency and provide information about needed changes. Therefore, deviations which include recommendations for improvement or constructive changes are encouraged.

b. *Applicability.* A deviation shall be considered to be any of the following:

1. When a proposed provision covering the same subject matter varies from, or has the effect of altering a provision or its application as prescribed by this Manual;

2. When a proposed provision is inconsistent with the intent, principle and substance of a prescribed provision or related Manual coverage of the subject matter;

3. Omission or alteration of any prescribed award instrument provision except as authorized herein;

4. Use of prescribed award instruments for other than their intended purpose(s) or beyond prescribed dollar ceilings;

5. When forms other than those prescribed by this Manual are used for the same purpose;

6. Alteration of forms prescribed in this Manual except as authorized herein;

7. When minimums or maximums beyond those imposed by this Manual are desired;

8. When any policy, procedure, method, or practice is inconsistent with this Manual.

c. *Approval of deviations.* Deviations will be authorized when essential to effect necessary assistance or support actions or where special circumstances make such deviations clearly in the best interests of the Government. Such deviations will be approved only by the Director of Procurement or his duly authorized representative at ERDA Headquarters. Appropriate coordination with Headquarters staff and program divisions will be obtained by the Director of Procurement.

d. *Request for deviations.* Requests shall be submitted to the Director of Procurement, ERDA Headquarters. Prior verbal communication is encouraged. Such requests should be submitted as far in advance as exigencies of the situation will permit. Each request for a deviation shall:

1. Identify the Manual reference affected;

2. Describe the deviation, the relevant Manual section, the proposed language, its intended effect, and the circumstances in which it will be used;

3. Indicate whether the deviation has been requested previously, and if so, the applicable circumstances;

4. Provide the proposed recipient's name and the dollar value;

5. Provide the rationale in support of the request including any pertinent background information; and

6. Suggested revision to the Manual should be made whenever appropriate. Requests will be considered on an expedited basis. Appropriate coordination with Headquarters staff and program divisions will be obtained by the Director of Procurement.

107 Incorporation of applicable Federal policies.

This Manual contains ERDA implementation of the following Office of Management and Budget Circulars and Federal Management Circulars applicable to Federal agencies which administer grants and other support instruments:

FMC 73–6 (A–88), "Coordinating indirect cost rates and audit at educational institutions."

FMC 73–7 (A–101), "Administration of college and university research grants," Parts I and II.

FMC 73–8 (A–21), "Cost principles for educational institutions."

FMC 74–4 (A–87), "Cost principles applicable to grants and contracts with State and local governments."

FMC 74–7 (A–102), "Uniform administrative requirements for grants-in-aid to State and local governments." (A–110), "Grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations."

108 Definitions.

a. *General.* All terms used in this Manual which are defined in the statutes pertaining to ERDA, shall have the meaning given to them in the relevant statutes. The other terms defined in this Section shall have the meanings set forth below when used in this Manual or in any correspondence, changes, or other documents relating to grants and cooperative agreements, unless the context clearly requires that a different meaning or definition is prescribed for a particular part or portion thereof. It is recognized that common and universally accepted definitions of many terms in the grants, cooperative agreements, and assistance arena are not available, therefore, the following definitions are intended to be functionally accurate within the context of ERDA and its programs.

b. *Definitions.* 1. *Administrator.* The Administrator of the United States Energy Research and Development Administration or his designee.

2. *Applied research.* Applied research consists of the effort which (1) normally follows basic research, but may not be severable from the related basic research, (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materials, processes, methods, devices, and techniques, and (3) attempts to "advance the state of the art." Applied research involves the study of phenomena relating to specific, known needs in connection with the functional characteristics of a system. Applied research does not include any efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development.

3. *Assistance.* Means the provision of money, services, or property to a non-Federal recipient for the purpose of supporting or stimulating activities in the national interest. Federal assistance may be Congressionally specified and directed, or may be Congressionally authorized and encouraged within general parameters for specific definition and implementation by a particular component of the Executive Branch.

4. *Authorized institutional representative.* The administrative official(s) who is authorized to represent the proposing organization in the submission of a proposal, and/or negotiations, or signature on behalf of the proposing organization. The submitting organization is responsible for indicating which of their officials ERDA is to deal with and for what purposes if there is more than one.

5. *Award date.* The date the award is signed by ERDA. The award date will usually also be the effective date as defined in 17 below unless some other effective date is specified in the award.

6. *Awarding officer.* This is a single generic term which when used may mean either grants officer and/or cooperative agreements officer.

7. *Basic research.* Is that type of research which is directed toward increase of knowledge in science wherein the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than a clear or direct practical application thereof. This includes analytical and experimental activities which primarily seek to increase the understanding of fundamental phenomena. The end product is usually a report, although experimental hardware may be involved. In basic research, the particular use of the knowledge is not foreseen or identified at the beginning of the effort.

8. *Budget.* The financial plan for expenditure of all project funds, including grant funds or other Federal assistance, which is developed by the performing organization.

9. *Continuing grant.* See Section 903a.

10. *Contract.* The term contract as used herein means procurement contract subject to the Federal and ERDA Procurement Regulations not this ERDA–FAM. The term also includes the Special Research Support Agreement as prescribed in ERDA–PR 9–16.–5002–8.

11. *Cooperative agreement* See Section 621a.

12. *Cooperative agreement officer.* Any employee or officer of ERDA who has been delegated the authority to take final action on cooperative agreements including the obligation of ERDA funds or the formal commitment of ERDA as an organization by signing cooperative agreement awards and modifications thereto.

13. *Cost sharing.* See Section 205a.

14. *Development.* Means the systematic use and practical application of investigative findings and theories of a scientific or technical nature toward the production of, or improvements in, useful products to meet specific performance requirements but exclusive of manufacturing and production engineering. The dominant characteristic is that the effort be pointed toward specific energy problem areas to develop and evaluate the feasibility and practicability of proposed solutions and determine their parameters. Development includes studies, investigations, initial hardware development and ultimately development of hardware, systems, or other means for experimental or operational test.

15. *Discrete grant.* See Section 902a.

16. *Educational institution.* Any non-profit post secondary institution which is recognized by an appropriate State education authority. Normally such institution will (1) have faculty, (2) offer courses of instruction, and (3) award a degree or certificate upon completion of a specific course of study.

17. *Effective date.* The date when the charging of allowable project costs against the award may begin. Normally the effective date is concurrent with the award date but may be later than the award date. Anticipatory costs incurred prior to the effective date

may be allowed when specifically provided for in the award.

18. *ERDA*. Energy Research and Development Administration.

19. *Expiration date*. The date after which no additional costs may be charged to the award except that for educational institutions as defined above, costs incurred for report preparation will be recognized as allowable up to 90 days after the expiration date. Expenditures of ERDA funds may be continued after the expiration date to satisfy obligations of funds and/or accrued expenditures incurred on or before that date.

20. *Grant (agreement)*. A written agreement issued in accordance with this Manual by which money or property is paid or transferred by the Federal Government to a recipient under a project that provides financial assistance, support, or stimulation to accomplish a public purpose where no substantial involvement is anticipated between ERDA and the recipient during performance of the project.

21. *Grantee*. The entity which accepts a grant award and thereby assumes legal and financial responsibility and accountability both for the awarded funds or property and for the performance of the grant-supported activity. A grantee is the recipient which accepts the grant.

22. *Grant period*. The grant period is that period of time beginning on the award date which extends through the expiration date.

23. *Grants officer*. Any employee or officer of ERDA who has been delegated the authority to take final action on grants including the obligation of ERDA funds by signing grant awards and modifications thereto.

24. *Grant specialist*. An employee of ERDA who is assigned the responsibility to negotiate and administer grant terms, conditions, and budget.

25. *Local government*. The term "local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or instrastate government enity, or any agency or instrumentality of a local government exclusive of institutions of higher education, hospitals, and school districts.

26. *New grant*. The initial grant (with a new grant instrument number) made where there is no current grant or has not been a prior grant for a particular project.

27. *Nonprofit organization*. Any corporation, trust, foundation, trade association, or other institution (1) which is entitled to exemption under Section 501(c)(3) of the Internal Revenue Code or (2) which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual. Within the context of this Manual, the terms nonprofit and not-for-profit are considered synonymous.

28. *Partial funding*. This term means less than full funding.

29. *Patent Counsel*. This term means the ERDA Patent Counsel assisting the awarding activity or office.

30. *Principal Investigator (PI)/Project Director (PD)*. The individual designated by the recipient who will be responsible for the scientific or technical direction of the project. The term "Principal Investigator" generally is used in research projects, while the term "Project Director" generally is used in other than research projects.

31. *Profit making organization*. An entity, notwithstanding the form of organization, which is organized for profit and which provides that its net earnings inure to the benefit of any private shareholder or other ownership interest. This term includes profit making educational institutions or organizations.

32. *Program (project) officer*. The ERDA scientific or technical employee designated in the award instrument as having responsibility for the scientific and technical aspects of award administration and for liaison with Principal Investigators and Project Directors.

33. *Project*. The activity outlined in the proposal and approved for ERDA support.

34. *Project period*. See Section 903 b.

35. *Proposal*. The submission of a request for ERDA support or assistance for the performance of a specific activity.

36. *Recipient*. The term recipient indentifies the organizational entity which is a signatory party to the Federal award, notwithstanding whether the award is a grant or cooperative agreement.

37. *State government*. The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession or 'instrumentality thereof, or interstate organization exclusive of State institutions of higher edueation and hospitals.

38. *Step funded*. This term means funding awarded beyond the first year in approximately equal decreasing increments over the grant period. This is one form of partial funding.

39. *Subagreement*. A contract or purchase order from a recipient to a third party to carry out one or more of the purposes for which the award was made or to furnish services or supplies necessary to complete the project for which an award was made.

40. *Supplement*. See Section 904.

CHAPTER 2—GENERAL POLICIES AND CONSIDERATIONS

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200 Policy.
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200 Policy. a. *Policy*. ERDA has been charged by the Congress to support, participate, assist, encourage, stimulate, and to serve as a catalyst to motivate individuals, educational institutions, nonprofit organizations, commercial firms, and in certain program areas State and local governments to apply their efforts toward meeting the nation's energy needs. ERDA policy is, therefore, to use the means provided in this Manual to carry out these nonprocurement objectives.

1. *Primary objective of ERDA grants and cooperative agreements*. The primary objective of ERDA grants and cooperative agreements is to support or stimulate those parties who offer meritorious ideas and proposals which offer the expectation of making a meaningful contribution toward meeting the Nation's energy needs. The primary objective is not intended to be a laissez faire provision of generalized support.

2. *What is an ERDA grant*. An ERDA grant is neither a pure gift where little if anything is expected to way of performance for the resources provided, nor an ERDA specified requirement where failure to perform as specified is met with the consequences of default. An ERDA grant as compared to a procurement contract is a less restrictive instrument which makes resources available to grantees to perform grantee proposed projects. Grantees are expected to use responsibly the grant resources and apply their dedicated efforts toward the successful achievement of the grant project. In keeping with ERDA's policy of making awards to meritorious proposals, each grant will require a report to ERDA of the progress made and results achieved with the resources ERDA provided. This report will provide feedback vital to assessing the effectiveness with which ERDA is carrying out its Congressional charge.

3. *What is an ERDA cooperative agreement*. An ERDA cooperative agreement is designed to implement certain projects where ERDA desires to assist or support a recipient in a partnership or joint venture relationship or where there is substantial ERDA interest.

201 Background—Nature of ERDA Grant and Cooperative Agreement Activity.

Grants and cooperative agreements may be awarded for research, development, planning, manpower training, conferences, educational support, materials or equipment, awards to inventors under P. L. 93-57, or demonstration and construction projects without regard to whether the awardee is educational, nonprofit, commercial, or a State and local government. Because ERDA legislation does not prescribe on-going "financial assistance" programs as such to State and local governments, formula and block grants, grants-in-aid to State or local governments are not expected to be used. Where the interests of State or local governments coincide with ERDA program interests, a cooperative agreement, contract, or grant may be used to fund projects of mutual interest.

202 Grant and Cooperative Agreement Administration Organization, Authorities, and Responsibilities.

a. *Organization*. 1. The Director, Division of Procurement, is responsible for the development, promulgation, and administration of policy, procedures, and standards, consistent with assigned policy responsibilities of other ERDA HQ staff offices, with respect to the solicitation of proposals, award administration, and award instruments for grants and cooperative agreements.

2. ERDA organizational elements which are responsible for entering into procurement contracts, may also be assigned the responsibility for preparation, execution, and administration of grants and cooperative agreements.

b. *Authority to enter into grants and cooperative agreements*.

1. *Source*. The fundamental authority for awarding grants and cooperative agreements is derived from ERDA legislation. This authority is vested in the Administrator and may only be used when and to the extent that the authority is formally redelegated.

2. *Delegation of authority*. To be added.

c. *Responsibilities*. 1. *Grants officer*. The Grants Officers are the only representatives of ERDA who may award grants. Grants Officers

are primarily responsible for the negotiation, execution, administration, termination, and closeout of grants. Their specific responsibilities include the following:

(a) Execute and administer grants in such a manner as to safeguard the interest of the United States.

(b) Obtain necessary approvals and otherwise comply with applicable directives issued by the Administrator or his designee; Heads of Headquarters and field offices.

(c) Personally sign with an original signature all grants and modifications. Signing shall not be accomplished by facsimile stamps or by proxy.

(d) Assure that funds and the authority to obligate such funds are available prior to execution of award.

(e) Support the Project Officer in project planning and administration involving grants.

(f) Perform business and budget evaluation of proposals. (See Section 503)

(g) Evaluate the responsibility of the recipient prior to award. (See Section 703)

(h) Comply with the procedure in Section 212 regarding Civil Rights prior to award.

(i) Conduct negotiations of awards with prospective recipients and make modifications to existing awards with assistance of the Program Officer and other appropriate advisors.

(j) Decide which award instrument is appropriate. (See Section 502)

(k) Monitor the financial and administrative aspects of the award during the award period.

(l) Prepare award documents.

(m) Maintain a current, official award file including award documents, correspondence with the recipient and relevant information concerning recipient performance. (See section 718)

(n) Closeout of, or termination of all awards. (See Chapter 10)

(o) Submit award information on each grant and cooperative agreement award to the Director of Procurement using the Contract Information System. (See Section 714)

(p) Coordinate the above activities with the General Counsel and other staff offices where appropriate.

2. *Cooperative agreements officer*. A cooperative agreements officer is a contracting officer who has been delegated the additional authority to award cooperative agreements as described in paragraph b. Contracting officers who have been authorized to sign cooperative agreements are the only representatives of ERDA who may enter into cooperative agreements. The responsibilities of the cooperative agreements officer for management of cooperative agreements are described in paragraph c.1. of this section.

3. *Project officer*. The project officer is the ERDA scientific or technical program employee responsible for the scientific and technical aspects of proposal evaluation and grant and cooperative agreement administration, and for liaison with their counterparts under the award. The project officer is not authorized to execute grants, or cooperative agreements, or issue orders which either commit or change the commitment made by the grants or cooperative agreements officer. The head of the program office should designate individuals in headquarters, a field office or both to be responsible for performing project officer functions for each award. The project officer's specific responsibilities (to the extent delegated) include the following:

(a) Assists in the preparation of Program Opportunity Notices, Program Research and Development Announcements, Notices of Program Interest, and other methods for stimulating the submission of proposals.

(b) Prepares technical evaluation criteria, methods of scoring and evaluating proposals where applicable.

(c) Defines project objectives, needs, goals, the program purpose, and ERDA role in the project.

(d) Defines reporting requirements and the technical data, if any, to be furnished to ERDA.

(e) Prepares project descriptions when needed. (See Section 603.)

(f) Participates in the evaluation of proposals with assistance from the awarding officer regarding business factors. Responsible for preparing written evaluation.

(g) Initiates and coordinates the approval of the procurement request, ERDA Form 799.

(h) Responsible for developing recommendations regarding selection in accordance with Section 505, the amount and duration of the award, and the parameters of the project to be supported.

(i) Responsible for taking action to make funds available to the awarding officer for obligation at execution of the award.

(j) Recommends instrument category in accordance with guidance provided in Section 502, and if a grant, whether it should be discrete or continuing as defined in Section 901.

(k) During negotiations, reviews and approves revisions to the project or project description in areas such as the proposed resources or proposed equipment requirements.

(l) Monitors as necessary the recipients project performance under the award consistent with the constraints of the award.

(m) Reviews the recipients periodic cost/schedule/technical progress reports and other items that require technical review and/or approval.

(n) Notifies the Awarding Officer of the causes of, and recommended course of action on, performance difficulties or other anticipated problems. Timely notification is important.

(o) Make judgments regarding the value of technical and overall performance under the award.

(p) Reviews requests for interim payments (partial or progress) submitted by recipients, when applicable, and reconcile payment requests with recipient progress reports.

(q) Reviews and evaluates recipient's proposals for project changes.

(r) Reviews articles and final reports, for excellence and consistency with ERDA policies prior to publication.

(s) At project completion, advises the Awarding Officer of the following:

(1) Whether performance under the award achieved the stated objectives.

(2) What disposition of any government-furnished or acquired property is recommended.

(t) Prepares written technical and program responses to protests, inquiries, or other actions which require explanation or justification for the technical or program decisions.

4. *Patent Counsel*. The ERDA patent counsel assisting the procuring activity is responsible for implementing award provisions relating to patents, data and copyrights and has the following specific responsibilities:

(a) Approves non-standard patent, data and and copyright clauses,

(b) Negotiates and processes requests for waiver of government patent rights and requests for greater rights;

(c) Reviews invention disclosures, patent applications and interim and final reports of subject inventions;

(d) Reviews and approves release of technical and scientific information for publication;

(e) Approves clearance of grants and agreements regarding grantee's or participant's compliance with patent provisions thereof (patent certification).

(f) Examines records of grantee or participant to ensure compliance with invention reporting;

(g) Conducts and approves patent clearance.

203 [Reserved]

204 [Reserved]

205 Cost Participation.

a. ERDA policy on cost participation.

To be added.

b. Criteria and procedures for the allowability of cash and in-kind contributions.

1. *Purpose*. This subsection sets forth criteria and procedures prescribed by OMB Circular A-110, Attachment E for the allowability of cash and in-kind contributions made by institutions of higher education, hospitals, other nonprofit organizations, State and local governments, subrecipients and FMC 74-7, Attachment F or third parties in satisfying cost sharing and matching requirements in subsection 205 a. Also established are criteria for the evaluation of in-kind contributions made by third parties, which supplements the guidance to Federal Management Circular 73-8 with respect to cost sharing on federally-sponsored research to cooperative agreements when general guidance is needed. This subsection is not mandatory but may be applied to grants and cooperative agreements with profit making organizations, individuals, and foreign organizations when general guidance is needed.

2. *Definitions*.

a. Project costs. Project costs are all allowable costs (as set forth in the applicable Federal cost principles) incurred by a recipient and the value of the in-kind contributions made by the recipient or third parties in accomplishing the objectives of the grant or other agreement during the project or program period.

b. Cost sharing and matching. In general, cost sharing and matching represent that portion of project costs not borne by the Federal Government.

c. Cash contributions. Cash contributions represent the recipient's cash outlay for either direct and/or indirect costs, including the outlay of money contributed to the recipient by non-Federal third parties for the grant costs.

d. In-kind contributions. In-kind contributions represent the value of noncash contributions provided by the recipient and non-Federal third parties. Only when authorized by Federal legislation, may property purchased with Federal funds be considered as the recipient's in-kind contribution. In-kind contributions may be in the form of charges for real property and non-expendable personal property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

3. *Guidelines for computation*. General guidelines for computing cost sharing or matching are as follows:

a. Cost sharing or matching may consist of:

(1) Charges incurred by the recipient as project costs. (Not all charges require cash outlays by the recipient during the project period; examples are depreciation and use charges for buildings and equipment.)

(2) Projects costs financed with cash contributed or donated to the recipient by other non-Federal public agencies and institutions, and private organizations and individuals, and

(3) Project costs represented by services and real or personal property, or use thereof, donated by other non-Federal public

agencies and institutions, and private organizations and individuals.

b. All contributions, both cash and in-kind, shall be accepted as part of the recipient's cost sharing and matching when such contributions meet all of the following criteria:

(1) Are verifiable from the recipient's records;

(2) Are not included as contributions for any other federally-assisted program;

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives;

(4) Are types of charges that would be allowable under the applicable cost principles;

(5) Are not paid by the Federal Government under another assistance agreement (unless the agreement is authorized by Federal law to be used for cost sharing or matching);

(6) Are provided for in the approved budget when required by the Federal agency; and

(7) Conform to other provisions of this subsection.

4. *Role of cost principles.* Values for recipient in-kind contributions will be established in accordance with the applicable cost principles.

5. *Procedures for computation.* Specific procedures for the recipients in establishing the value of in-kind contributions from non-Federal third parties are set forth below:

a. Valuation of volunteer services. Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteer services may be counted as cost sharing or matching if the service is an integral and necessary part of an approved program.

(1) Rates for volunteer services. Rates for volunteers should be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates should be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved.

(2) Volunteers employed by other organizations. When an organization other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead costs) provided these services are in the same skill for which the employee is normally paid.

b. Valuation of donated, expendable personal property. Donated expendable personal property includes such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to expendable personal property included in the cost or matching share should be reasonable and should not exceed the market value of the property at the time of the donation. Credit will not be given for costs which are borne by the government through overhead charges.

c. Valuation of donated, nonexpendable personal property, buildings, and land or use thereof.

(1) The method used for charging cost sharing or matching for donated nonexpendable personal property, buildings and land may differ according to the purpose of the grant or other agreement as follows:

(i) If the purpose of the grant or other agreement is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(ii) If the purpose of the agreement is to support activities that require the use of equipment, buildings or land, depreciation or use charges for equipment and buildings may be made. The full value of equipment or other capital assets and fair rental charges for land may be allowed provided that the Federal agency has approved the charges.

(2) The value of donated property will be determined in accordance with the usual accounting policies of the recipient with the following qualifications:

(i) Land and buildings. The value of donated land and buildings may not exceed its fair market value, at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or GSA representatives) and certified by a responsible official of the recipient.

(ii) Nonexpendable personal property. The value of donated nonexpendable personal property shall not exceed the fair market value of equipment and property of the same age and condition at the time of donation.

(iii) Use of space. The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(iv) Loaned equipment. The value of loaned equipment shall not exceed its fair rental value.

6. *Records requirements.* The following requirements pertain to the recipient's supporting records for in-kind contributions from non-Federal third parties.

a. Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient for its employees.

b. The basis for determining the valuation for personal services, material, equipment, buildings and land must be documented.

206 Conflicts of interest. [Reserved]

207 Grants and Cooperative Agreements to Individuals.

a. *Policy.* Grants and cooperative agreements may be awarded to institutions, organizations, and individuals. Although institutions and organizations may have available greater depth of financial and other resources with which to assure successful performance, meritorious proposals from responsible individuals and organizations should be viewed with equal interest. All recipients, however, whether individuals or organizations must satisfy the criteria for recipient responsibility as set forth in Section 703.

b. *Implementation of grants and cooperative agreements to individuals.* 1. *Indirect costs and expenditures.* Costs which are customarily categorized as indirect costs in organizations will be treated as direct costs by individuals. Individuals may not use ERDA funds for alterations or renovations of real or personal property, nor for the purchase of fixed or general purpose equipment unless specifically approved in the award. Otherwise, the expenditures policies applicable to grants and cooperative agreements with commercial institutions are applicable to awards made to individuals.

2. *Reporting.* Generally speaking an individual recipient will have the same reporting requirements as an organization as provided in the award.

3. *Equipment.* Unless provided in the award, the disposition of equipment acquired with ERDA funds must be determined by the ERDA Awarding Officer at the conclusion of ERDA's support of the project. Such disposition is usually by way of transfer to the Federal Government.

4. *Responsibility.* Although the individual is held entirely responsible for the award, personal indemnity bonds are not required. The Project Officer will be responsible for regular contact with the individual to ensure that the terms of the award are being met.

208 Cash Depositories.

a. *Purpose.* Paragraphs b. through e. in this section set forth standards prescribed by OMB Circular A–110, Attachment A and FMC 74–7, Attachment A governing the use of banks and other institutions as depositories of funds advanced under grants and cooperative agreements awarded to institutions of higher education, hospitals, other nonprofit organizations, and State and local governments. Paragraphs b. through e. also apply to grants and cooperative agreements with profit making organizations, individuals, and foreign organizations except that for these recipients, physical segregation of cash depositories for ERDA funds may be required to meet the project need for cash control and accountability of funds.

b. *Physical segregation and eligibility.* Except as provided in c., d, and e, ERDA will not:

1. Require physical segregation of cash depositories for ERDA funds which are provided to recipients;

2. Establish any eligibility requirements for cash depositories in which ERDA funds are deposited by recipients.

c. *Checks-paid basis letter of credit.* A separate bank account shall be used when payments under a letter of credit are made on a "checks-paid" basis in accordance with agreements entered into by a recipient, the Federal Government, and the banking institutions involved unless the recipient is a State or local government, then a separate bank account may be used. A checks-paid basis letter of credit is one under which funds are not drawn from the Treasury until the recipient's checks have been presented to its bank for payment.

d. Any moneys advanced to a recipient which are subject to the control or regulation of the United States or any of its officers, agents or employees' (public moneys as defined in Treasury Circular No. 176, as amended) must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and the balance exceeding the FDIC coverage must be collaterally secured.

Minority-owned banks. Consistent with the national goal of expanding opportunities for minority business enterprises, recipients and subrecipients are encouraged to use minority banks (a bank which is owned by at least 50 percent minority group members).

209 Bonding and insurance.

a. *Purpose.* This section sets forth requirements prescribed by OMB Circular A–110, Attachment B and FMC 74–7, Attachment B regarding bonding and insurance requirements applicable to grants and cooperative agreements awarded to institutions of higher education, hospitals, other nonprofit organizations, and State and local governments. This section is not mandatory but may be applied in whole or part to grants and cooperative agreements with profit making organizations, individuals, and foreign organizations where useful. Except for the situation provided for in paragraph d., no other bonding and insurance requirements shall be imposed other than those normally required by the recipient.

b. *Construction and facility improvement.* The recipient of an ERDA grant which requires contracting for construction or facility improvement (including any ERDA grant which provides for alterations or renovations of real property) shall follow its own requirements and practices relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, ERDA may accept the bonding policy and requirements of the recipient provided ERDA has made a determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

1. A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

2. A performance bond on the part of the contractor for 100 percent of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

3. A payment bond on the part of the contractor for 100 percent of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

c. *Loan guarantee.* (When specifically authorized by law.) Where in connection with an ERDA grant, ERDA also guarantees the payment of money borrowed by the grantee, ERDA may, at its discretion, require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interests of the Federal Government.

d. *Fidelity bond coverage.* ERDA may require adequate fidelity bond coverage where the recipient, excluding State or local governments, has no coverage and the bond is needed to protect the Government's interest.

e. *Acceptable sureties.* Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR 223).

210 Standards for financial management systems.

a. *Purpose.* This section sets forth standards prescribed by OMB Circular A–110, Attachment F and FMC 74–7, Attachment B regarding financial management systems applicable to institutions of higher education, hospitals, other nonprofit organizations, and State and local governments which receive grants or cooperative agreements. ERDA will not impose additional standards unless specifically provided for in this section. However, suggestions and assistance may be provided in establishing or improving finanical management systems when such assistance is needed or requested. This section is not mandatory but normally should be applied to profit making organizations, individuals, and foreign organizations which receive ERDA funds through grants or cooperative agreements.

b. *Standards.* Recipient's financial management systems shall provide for:

1. Accurate, current and complete disclosure of the financial results of each federally sponsored project or program in accordance with the Federal reporting requirements set forth in Section 805. If ERDA requires reporting on an accrual basis, the recipients shall not be required to establish an accrual accounting system but shall (substitute "should" for "shall" if the recipient is a State or local government) develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

2. Records that identify adequately the source and application of funds for federally sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Recipients shall adequate safeguard such assets and shall assure that they are used solely for authorized purposes.

4. Comparison of actual outlays with budgeted amounts for each grant or cooperative agreement. Whenever appropriate or required by ERDA financial information should be related to performance and unit cost data.

5. Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the recipient, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the recipient shall make drawdowns as close as possible to the time of making disbursements.

6. Procedures for determining the reasonableness, allowability and allocability of costs in accordance with provisions of the applicable Federal cost principles and the terms of the grant or cooperative agreement.

7. Accounting records that are supported by source documentation.

8. *Examination of records.*

(a) Applicable to all recipients including profit making organizations and individuals except State and local governments.

(1) *Audits.* Examinations in the form of audits or internal audits. Such audits shall be made by qualified individuals who are sufficiently independent of those who authorize the expenditure of Federal funds, to produce unbiased opinions, conclusions or judgments. They shall meet the independence criteria along the lines of Chapter 3, Part 3 of the U.S. General Accounting Office publication, Standards for Audit of Governmental Organizations, Programs, Activities and Functions. These examinations are intended to ascertain the effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the agreements. It is not intended that each agreement awarded to the recipient be examined. Generally, examinations should be conducted on an organizationwide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the Federal grants and other agreements. Such tests would include an appropriate sampling of Federal agreements. Examinations will be conducted with reasonable frequency, on a continuing basis or at scheduled intervals, usually annually, but not less frequently than every two years. The frequency of these examinations shall depend upon the nature, size and the complexity of the activity. These examinations do not relieve ERDA of its audit responsibilities, but may affect the frequency and scope of such audits.

(2) *Examination of records.* Pursuant to 42 USC 2208 and Section 306 of P.L. 93–438, the Administrator of ERDA and the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the recipient and any recipients under assistance awards to make audits, examinations, excerpts and transcripts at all reasonable times during the life of the award and during the required record retention period.

(b) Applicable to State and local governments only.

(1) *Audit.* Audits should be made by the recipient or at the recipient's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations, and administrative requirements. The recipient will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(2) *Examination of records.* The policy in b.8.(a)(2) also applied to State and local governments.

9. Systematic method to assure timely and appropriate resolution of audit findings and recommendations.

c. *Subrecipients.* Primary recipients shall require subrecipients (institutions of higher education, hospitals, and other nonprofit organizations, State and local governments, excluding commercial organizations and individuals) to adopt the standards in paragraph b. except for reporting forms and frequencies referred to in b.1., and letter of credit procedure in b.5.

211 Competition.

a. *Policy.* It is ERDA policy to maximize the opportunities for proposers and potential recipients to compete or otherwise be considered for award of ERDA funds through grants and coopertaive agreements. The policy objective is to maximize opportunities for new proposers and new ideas to obtain awards by minimizing the precommitment of available and future funds to projects which are continuously renewed. To the extent that funds are allocated to continuously renewed projects, the competitive opportunity for new projects is diminished.

b. *Definitions.* Competition is the opportunity to propose and compete whether under a solicited or an unsolicited method, and be selected for an award of ERDA funds on the basis of comparative merit. To the extent possible, competition should be stimulated through the use of competitive solicitations. Competition excludes supplements which provide for completion of discrete projects and continuation actions where ERDA is funding a prior commitment.

c. *Implementation for grants.*

1. Grants for discrete projects should be supplemented only for the purpose of completing the work as proposed for the initial grant. Supplements should not exceed six months beyond the initial grants period or 50 percent of the amount of funding for the existing budget period. Supplements beyond six months should be requested in the form of a renewal proposal which will be considered in competition equally with all other proposals within a program area.

2. Grants for continuing projects should be awarded only where the shorter term discrete grants are not adequate to meet project requirements. No continuing grant may exceed a total period of five years. ERDA support beyond the fifth year may only be provided in the form of a renewal grant award, subsequent to a rigorous program evaluation which concludes that the grant results are promising and that there are not other more promising proposals available to accomplish the same or similar purpose.

d. *Implementation for cooperative agreements.* The restrictions placed on discrete and continuing grants in c. do not apply to cooperative agreements.

e. *Proposals from educational institutions in competition with commercial firms and other organizations.* All potential recipients, regardless of type are responsible for making proposal submission decisions consistent with their overall interests and responsibilities. See 404 a.

f. *Restrictions on competition.*

1. *Competitive solicitations.* Solicitation of proposals using the assistance solicitations referenced in Section 301 c.1. and 2. May be restricted to certain categories of recipients such as small business, or institutions of higher education when there is adequate

statutory basis in ERDA's or other legislation or a sound basis established in published policy to justify such a restriction. Proposed restrictions as described above shall be reviewed by ERDA Office of General Counsel for legal sufficiency prior to issuance of the solicitation.

2. *Noncompetitive solicitations.* A noncompetitive solicitation is one where only one potential recipient is given the opportunity to submit a proposal and be considered for award of ERDA funds. This situation is under most circumstances inconsistent with the policy in a. and should be the rare exception. However, there may be unusual circumstances or reasons which would justify a noncompetitive solicitation.

(a) Reasons. The most obvious reason is that only one recipient is available to perform the intended effort. Availability may be narrowed because of geographical location; there is a certain State, interstate, or local government unit or nonprofit organization in a region or other area comprised of representatives of such government units which are the only organization(s) for which it would be appropriate to provide assistance to accomplish ERDA's mission; support to one recipient is appropriate in order to meet the requirements of a single series of actions in carrying out an experiment or test; or the like.

(b) Test. The adequacy of the reasons offered to justify a noncompetitive solicitation must be tested for consistency with the policy in a. and the objective of maintaining an open and fair system of making awards.

(c) Justification. A justification for noncompetitive solicitation must be prepared which sets forth the reasons for restricting the opportunity to be considered for award to one recipient, and shows why the noncompetitive solicitation complies with the policies in a. and 2(b). The justification should be signed by the Head of the Program Office and reviewed by Office of General Counsel for legal sufficiency prior to issuance of the noncompetitive solicitation.

212 Nondiscrimination in federally assisted ERDA programs—civil rights.

a. *Policy.* 1. *Applicability.* This section applies to grants and cooperative agreements issued pursuant to this Manual where the recipient receiving funds from ERDA is subject to the Civil Rights Act of 1964 (Pub. L. 88–352), and the implemeting ERDA regulations in 10 CFR Chapter III, Part 704, and ERDA Manual Chapter 0206. This section does not apply to any Federal financial assistance by way of insurance or guaranty contracts; assistance awards made prior to December 31, 1964; any assistance to any individual who is the ultimate beneficiary under an assistance award or program; or any employment practice, under any such program, if any employer, employment agency, or labor organization except where the primary objective of the financial assistance is to provide employment.

2. *Prohibition.* No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any grant or cooperative agreement award where the recipient receives funds from ERDA.

3. *Federally assisted construction contracts.* The provisions of Executive Order No. 11246 apply to Federally assisted construction contracts which ERDA funds. See Section 621c.6.(a)(2) for definition of Federally assisted construction contracts. Awards subject to Executive Order No. 11246 are also subject to the sex discrimination provisions of the Order and its implementing regulations.

b. *Implementation.* 1. The ERDA Director, Office of Equal Opportunity is responsible for the implementation of 10 CFR Chapter III, Part 704. All questions regarding such implementation should be directed to the ERDA, Director, Office of Equal Opportunity, Washingtn, D.C. 20545.

2. No award involving funds may be made under this Manual until prospective recipients except individuals have submitted a signed Assurance of Compliance as presented in paragraph c. to the Awarding Officer. Following award, the Awarding Officer will send the original signed Assurance to the Director, Office of Equal Opportunty for filing. Prospective recipients are required to submit the Assurance once or at intervals specified by the Director, Office of Equal Opportunity. Subsequent to the initial submission, Awarding Officers shall verify the prior submission of the Assurance with the Director, Office of Equal Employment Opportunity prior to making an award.

c. *Form for Assurance of Compliance.*

ASSURANCE OF COMPLIANCE WITH THE ENERGY RESEARCH AND DEVELOPMENT REGULATION TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

----------(hereinafter called the (name of applicant)
"Applicant") hereby agrees that it will comply with title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) and all requirements imposed by or pursuant to the regulation of the Energy Research and Development Administration (10 CFR Chapter III, Part 704) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Regulation, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Energy Research and Development Administration; and hereby gives assurance that it will immediately take any measures necessary to effecutate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant by the Energy Research and Development Administration, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Energy Research and Development Administration.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Applicant by the Energy Research and Development Administration, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or person whoe ignature appear below are authorized to sign this assurance on behalf of the Applicant.

Dated:----------

----------,
Applicant.

By----------,
President, Chairman of Board, or comparable authorized official.

(Applicant's mailing address)

213 Sex discrimination.

a. *Policy.* All awards issued pursuant to this Manual are subject to title IV of the Energy Reorganization Act of 1974, Public Law 93–438 which reads as follows:

SEC. 401. No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under any title of this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

b. *Implementation.* The substance of the foregoing provision is included in prescribed award instruments.

214 Nondiscrimination against handicapped.

a. *Policy.* All awards issued pursuant to this Manual where the recipient receives funds from ERDA are subject to the provisions of the Rehabilitation Act of 1973, Public Law 93–112 which requires that:

No otherwise qualified handicapped individual in the United States (as defined in Section 7(6) of the Act), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

b. *Implementation.* Pending publication of implementing guidelines from the Department of Health, Education, and Welfare, the substance of the foregoing provisions is included in prescribed award instruments.

215 Patent rights, copyrights, technical data.

a. Grants and cooperative agreements issued pursuant to this Manual are subject to the patents, data, and copyrights regulation set forth in 41 CFR 9–9. Deviations from the provisions of 41 CFR 9–9 or from the Patent, Copyright, and Technical Data Provisions of this Manual shall be obtained from Patent Counsel in accordance with 41 CFR 9–9.107–4.

b. Patent rights (short form) applicable to educational, nonprofit institutions, State and local governments, and individuals.

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the grantee conceived or first actually reduced to practice in the course of or under this grant, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plants, whether patented or unpatented, under the Patent Laws of the United States of America or any foreign country.

(2) "Patent Counsel" means the ERDA Patent Counsel assistant the procuring or grant activity.

(b) *Invention disclosures and reports.* (1) The grantee shall furnish the Grants Officer or Patent Counsel:

(i) A written report contained full and complete technical information concerning each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under this grant, but in any event prior to any on sale, public use, or public disclosure of such invention known to the Grantee. The report shall identify the grant and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Upon request, but not more than annually, interim reports on an ERDA-approved form listing Subject Inventions for that period and certifying that all Subject Inventions have been disclosed or that there were no such inventions; and

(iii) A final report on an ERDA-approved form within 3 months after completion of the grant work listing all Subject Inventions have been disclosed or that there were no such inventions.

(2) The grantee agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to the grant.

(c) *Allocation of principal rights.* (1) *Assignment to the Government.* The grantee agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the grantee under paragraphs (c)(2) and (d) of this clause.

(2) *Greater rights determination.* The grantee or the employee-inventor with authorization of the grantee may request greater rights than the nonexclusive license and the right to request foreign patent rights provided in paragraph (d) of this clause on identified inventions in accordance with the procedures and criteria of 41 CFR 9–9.109–6. A request for a determination of whether the grantee or the employee-inventor is entitled to retain such greater rights must be submitted to the Administration at the time of the first disclosure of the invention pursuant to paragraph (b)(1) of this clause or not later than 8 months thereafter or such longer period as may be authorized by the Grants Officer or Patent Counsel for good cause shown in writing by the grantee. The information to be submitted for a greater rights determination is specified in 41 CFR 9–9.109–6(e).

(d) *Minimum rights to the grants.* The grantee reserves a revocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. Revocation shall be in accordance with the procedure of paragraph (c)(2) and (3) of the clause in 41 CFR 9–9.107(a). The grantee also has the right to request foreign rights in accordance with the procedures of paragraph (c)(4) of the clause in 41 CFR 9–9.107–5(a).

(e) *Employee and subcontractor agreements.* Unless otherwise authorized by the Grants Officer the grantee shall:

(1) Obtain patent agreements to effectuate the provisions of the Patent Rights clause from all persons in its employ who perform any part of the work under this grant except nontechnical personnel, such as clerical employees and manual laborers.

(2) Unless otherwise authorized or directed by the Grants Officer in accordance with 41 CFR 9–9.107–4(f), the grantee shall include the Patent Rights clause of 41 CFR 9–9.107–5(a) or 41 CFR 9–9.107–5, as appropriate, modified to identify the parties in any subcontract hereunder; and

(3) Promptly notify the Grants Officer in writing upon the award of any subcontract containing a Patent Right clause by identifying the subcontractor, the work to be performed under the subcontract, and the dates of award, and estimated completion. Upon the request of the Grants Officer the grantee shall furnish a copy of the subcontract to such requestor.

(f) *Atomic energy.* No claim for pecuniary award or compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted by the grantee or its employees with respect to any invention or discovery made or conceived in the course of or under this grant.

(1) Except as otherwise authorized in writing by the Grants Officer, the grantee will obtain patent agreements to effectuate the provisions of paragraph (f)(1) of this clause from all persons who perform any part of the work under this grant, except such clerical and manual labor personnel as will not have access to technical data.

c. *Patent rights clause (long form).* The Patent Rights clause (long form) in 41 CFR 9–9.107–5 is applicable to grants and cooperative agreements with profit making organizations and individuals where such grants and cooperative agreements involve research, development, or demonstration work and in any grant or cooperative agreement where a waiver of patent rights is requested. The clause in 41 CFR 9–9.107–5 is incorporated herein by reference.

d. *Rights in technical data (long form).* The clause in 41 CFR 9–9.202–3(e) applies to grants and cooperative agreements with profit making organizations where such grants or agreements call for research, development or demonstration work. When this clause is used the "Additional Technical Data Requirements" clause of 41 CFR 9–9.202–3(c) shall normally also be used. A short form version of the above Rights in Technical Data clause may be used in grants or cooperative agreements with educational, nonprofit institutions, State and local governments, and individuals where such grants or agreements involve research, development, or demonstration work.

e. *Authorization and consent.* This clause in 41 CFR 9–9.102–2 shall be used in all grants and cooperative agreements calling for research development or demonstration work.

f. *Notice and assistance.* This clause in 41 CFR 9–9.104 shall be used in all grants and cooperative agreements in excess of $10,000 for supplies, services, construction, research, development, or demonstration work provided, that the clause shall not be included in grants or cooperative agreements:

(a) Where both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions, or Puerto Rico; or

(b) Of $10,000 or less (as a matter of administrative convenience, however, the clause need not be deleted when it is part of a standard form being used for such grants or cooperative agreements since it is self-deleting.

g. *Classified inventions.* Unauthorized disclosure of classified subject matter, whether in a patent application or resulting from the issuance of a patent, may be a violation of not only the Atomic Energy Act of 1954, as amended, and other laws relating to espionage and national security, but also provisions pertaining to disclosure of information incorporated in the grant or cooperative agreement. Accordingly, the clause of 41 CFR 9–9.106 shall be included in every grant or cooperative agreement which covers or is likely to cover classified subject matter.

h. *Reporting of royalties.* In order that ERDA may be informed regarding royalty payments to be made by a recipient in connection with any assistance, construction, or operation where the amount of the royalty payments is reflected in the award budget, or is to be reimbursed by the Government, the negotiator shall (a) obtain from the offeror information concerning the royalty payments expected to be made in connection with the proposed assistance, construction, or operation, together with the names of the licensors and either the patent numbers involved or such other information as will permit identification of the patents and patent applications as well as the basis on which the royalties are to be paid, and (b) obtain from the offeror a certification that the award budget includes no amount representing the payment of any royalty by the offeror directly to others in connection with the performance of the award, or (c) insert in the grant or cooperative agreement the clause set forth in 41 CFR 9–9.110.

216 Clean air—clean water.

a. *Purpose.* This section prescribes policies and procedures regarding the requirements of the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 91–604, December 31, 1970), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Pub. L. 92–500, October 18, 1972), Executive Order 11738, September 10, 1973, and the related regulations of the Environmental Protection Agency (EPA) (40 CFR, Part 15).

b. *Policy.* 1. Executive Order 11738 provides in Section 1 that: "It is policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that each Federal agency * * * empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such * * * assistance activities in such a manner that will result in effective enforcement of the Clean Air Act * * *' and 'Water Act' * * *".

2. Except as provided in c., ERDA shall not enter into, renew, or extend any grant or cooperative agreeemnt with a recipient proposing to use in the performance thereof a facility which is listed by the Director, Office of Federal Activities, EPA, pursuant to 40 CFR 15.20, as a violating facility under either the Air Act or Water Act. Current listing information may be obtained from EPA on area code 202–755–8731.

c. *Exemptions.* 1. Prime awards and subawards under $100,000 in any one year.

2. When the facilities to be used are outside the United States.

However, no award may be made, notwithstanding the dollar value if the facility to be used is listed on the EPA List of Violating Facilities on the basis of a conviction either under the Air Act or Water Act. The Administrator of ERDA, where he determines that the paramount interest of the United States so requires, may exempt from the requirements of this section any individual or class of awards for one year.

d. *Award provisions.* The provisions in Appendix O to this Manual are applicable to awards where either funds or property interest in excess of $100,000 is provided within the United States. If no funds or property are provided by ERDA, or if the funds or property provided are $100,000 or less, then the foregoing Acts and the provisions in Appendix O do not apply.

217 National security.

a. *General.* Normally ERDA grants and cooperative agreements do not involve classi-

fied information. However, if information is sought or developed by the recipient which should be classified in the interests of national security, the ERDA Awarding Officer should be notified immediately. If work with classified information is advantageous as decided by the ERDA Project Officer, necessary security arrangements can be made.

b. *Implementation.* All security matters are subject to the applicable portions of the ERDA Manual. All questions concerning security or classified information shall be referred to the Division of Safeguards and Security, HQ or to cognizant Safeguards and Security organizations in ERDA-Field.

218 Waiver of "single" State agency requirements.

a. *Purpose.* This section implements FMC 74–7, Attachment A and is applicable to State and local governments only.

b. *Handling.* Requests to ERDA from the Governors, or other duly constituted State authorities, for waiver of the "single" State agency requirements in accordance with Section 204 of the Intergovernmental Cooperation Act of 1968 should be given expeditious handling and, whenever possible, an affirmative response should be made to such requests.

c. *Refusals.* When it is necessary to refuse a request for waiver of the "single" State agency requirements under Section 204 of the Act, ERDA will so advise the General Services Administration prior to informing the State that the request cannot be granted. Such advice should indicate the reasons for denial of the request.

219 Protection of human subjects.

The ERDA policy regarding protection of human subjects was published in the FEDERAL REGISTER on November 30, 1976, Volume 41, No. 231.

220 Small and minority business participation.

a. *Policy.* The policy for ERDA regarding small businesses was clearly set forth in the Energy Reorganization Act of 1974 Pub. L. 93–438 Section 2(d) where "The Congress declared that it is in the public interest and the policy of Congress that small business concerns be given a reasonable opportunity to participate, insofar as is possible, fairly and equitably in *grants*, contracts, purchases, and other Federal activities relating to research, development, and demonstration of sources of energy efficiency, and utilization and conservation of energy." (Italic added for emphasis.)

b. *Implementation.* 1. *ERDA employees.* In recognition of the foregoing declaration in a., it is ERDA's desire to encourage the maximum feasible involvement of small and minority businesses in ERDA grant and cooperative agreement awards. Small and minority businesses should be given every consideration in selection and award of grants and cooperative agreements.

2. *Assistance solicitations.* The methods of soliciting proposals referenced in Section 301 c.1., 2., and 3. may provide for small business set-asides or preference to implement the policy in a. No preference or set-aside may be established in the absence of a statutory basis or a basis established in published public policy. See Section 211, Competition.

3. *Recipients.* Recipients should accomplish the maximum amount of subcontracting to small and minority business concerns that is reasonable, appropriate, and consistent with the efficient performance of the awards received from ERDA.

c. *Definitions.* 1. *Small business concern.* Unless otherwise designated by the ERDA Senior Small Business Advisor, a small business concern for the purpose of awarding assistance through ERDA grants and cooperative agreements is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is submitting requests for ERDA assistance, and can further qualify under the procurement criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration (see Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures).

2. *Minority business enterprise.* Is a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For purposes of this definition, minority group members are Black-Americans, Spanishing-speaking American persons, American Orientals, American-Indians, American-Eskimos, and American Aleuts.

3. *Set-aside.* Assistance solicitation restricted exclusively to small business concerns.

221 Buy American Act.

Grants and cooperative agreements which provide for payment of funds to the recipient any part of which may be used to acquire articles, materials, and supplies to make an end product which is to be delivered to ERDA for its use, shall include the Buy American Act clause as provided in Appendix O to this Manual. If title to all end products is held by the recipient this clause shall not be used. Under such circumstances a clause expressing a preference for domestic articles, materials, and supplies may be included instead where appropriate.

CHAPTER 3—IDENTIFICATION AND PUBLICATION OF ERDA PROGRAMS

Sec.
300 General.
301 Methods of publicizing ERDA programs and obtaining proposals.
302 Unsolicited proposal policy for assistance awards.
303 Joint Funding Simplification Act.

300 General.

ERDA, as contrasted to other Executive Branch components, has very few Congressionally prescribed grant programs where Congress specifically legislates programs, purposes, types of recipients, and funding amounts to be implemented exclusively through grants. ERDA's legislation generally authorizes energy programs without legislative prescription as to the use of instruments or type of grantee for a particular program. This chapter describes the several methods ERDA uses to publicize and obtain proposals its programs.

301 Methods of publicizing ERDA programs and obtaining proposals.

a. *General.* This section describes the several methods of publicizing ERDA programs which may result in the award of grants or cooperative agreements. There is a large variety of methods because of the large variety of ERDA programs which may utilize grants or cooperative agreements.

b. *Catalog of Federal Domestic Assistance.* The Catalog of Federal Domestic Assistance, which is compiled and published annually by the Office of Management and Budget, lists ERDA programs in the 24.000 series.

c. *Solicited methods.* A solicited method is a formal written invitation by ERDA to submit proposals for a particular effort or objective to ERDA by a particular common due date. The availability of solicitations may be advertised in the Commerce Business Daily for dissemination upon request. Copies of solicitations which may be of particular interest to institutions of higher education should be forwarded upon release by the awarding officer to the Headquarters Office of University Programs which will assist in disseminating copies to the university community. Note the presolicitation approval requirement in Section 602e. if it is expected that a grant or cooperative agreement award may exceed $5,000,000.

1. *Program Opportunity Notices (PON).* (a) PONs are issued to solicit of proposals to accelerate the demonstration of the technical, operational, economic and commercial feasibility and environmental acceptability of particular energy technologies, systems, subsystems and components. Grants and cooperative agreements may be awarded where appropriate for proposals submitted in response to a PON, unless the PON prescribes an award instrument other than grants or cooperative agreements in advance.

(b) The applicable policy regarding the use, content, evaluation and selection of proposals is presently issued as ERDA Procurement Temporary Regulation No. 10 dated June 27, 1975. (ERDA–PR 9–4.57)

2. *Program Research and Development Announcements (PRDA).* (a) PRDAs permit ERDA program offices to solicit proposals in those instances where a specific need or solution is not sufficiently definable to permit a traditional focused, competitive procurement. The primary objective of the solicitation is to receive proposals which include not only competing methods of doing particular work but also new ideas or approaches which should be undertaken to further national energy research and development.

(b) The applicable policy regarding the use, content, evaluation and selection of proposals is in ERDA Procurement Regulation Temporary Regulation No. 16 dated March 8, 1976. (ERDA–PR 9–4.58)

3. *Program announcements.* A program announcement is functionally similar to a PRDA in paragraph 2. above except that it is more definitive and specific as to the types of projects the program wishes to fund, and may be for any type of project not just research and development. Competition among proposals is more focused, and special evaluation and selection procedures are identified and used. Although program announcements are not technically subject to the PRDA Regulation, they should be fashioned after the PRDA as described in ERDA-PR Temporary Regulation No. 16 and at a minimum should reflect the particular provisions of 9–4.5804–3, Information to be included in Program Announcements; 9–4.5804–4, Information to be provided in proposals; and 9–4.5806, Method and criteria for evaluation and selection. Program terms and conditions, including the desired budget format, which may be needed by program offices in addition to the administrative and statutory provisions in the grant instrument, should be included in the program announcement to permit incorporation by reference in the award.

4. *Request for proposal (RFP) and request for quotation (RFQ).* Requests for proposals or quotations are normally procurement methods of formally soliciting proposals and quotations for the purpose of awarding procurement contracts. When it is determined prior to solicitation that a grant or cooperative agreement is the appropriate award instrument, preference should be given to the use of soliciting methods specified in c.1., 2, and 3.

5. *Required notice of right to request patent waiver.* Offerors and prospective recipients are to be provided with notice of and the opportunity to request, in advance of award, a waiver of all or any part of the rights of the United States with respect to subject inventions. In no event will the fact that an offeror has requested such a waiver be a consideration in the evaluation of his offer or the determination of its acceptability. Accordingly, the following notice will be given to all prospective recipients and will be inserted in all solicitations which may result in grants or cooperative agreements calling for research, development or demonstration:

"Offerors and prospective recipients in accordance with applicable statutes and ERDA Regulations (41 CFR 9–9.109–6) have the right to request in advance of or within 30 days after the effective date of award a waiver of all or any part of the rights of the United States in subject inventions."

d. *Unsolicited proposals.* An unsolicited proposal is where ERDA does not issue a formal written invitation to submit proposals by a specific common due date. The submission on an unsolicited proposal is at the initiative of the proposer rather than at ERDA's invitation. Note the preaward requirement for approval in Section 602e., if a grant or cooperative agreement award amount exceeds $5,000,000.

1. If an offeror desires to submit an unsolicited proposal for a demonstration, the proposal should be prepared in accordance with ERDA Procurement Regulation Temporary Regulation No. 10.

2. Unsolicited proposal policy applicable to award of assistance. See Section 302.

3. Unsolicited proposals from educational institutions. A Guide for the Submission of Research Proposals from Educational Institutions is available from the: Office of University Programs, U.S. Energy Research and Development Administration, Washington, DC 20545. In the event of any inconsistency, the provisions of this Manual govern over the Guide.

4. Unsolicited proposals from other than educational institutions. A Guide for the Submission of Research and Development Proposals by Individuals and Organizations other than Educational Institutions is available from: U.S. Energy Research and Development Administration, Division of Procurement, C–167, Proposal Coordinated Section, Washington, DC 20545. In the event of any inconsistency, the provisions of this Manual govern over the Guide.

5. *Notice of Program Interest (NPI).* (a) NPIs are issued to assist potential interested proposers by providing information about ERDA's interest in obtaining innovative and meritorious methods, approaches and ideas applicable to specific problem areas or program objectives involving energy and related technology utilization. NPIs are not formal solicitations but communication devices which inform and help potential interested proposers focus on areas where submission of unsolicited proposals may be mutually beneficial to ERDA and the proposer.

(b) The applicable policy is in ERDA Procurement Regulation, Temporary Regulation No. 21, § 9–4.5203–1 as published in the FEDERAL REGISTER on July 23, 1976.

302 Unsolicited proposal policy for assistance awards.

a. *Policy.* ERDA will strive to maintain the highest standards of public accountability by making competent, objective, impartial judgments as to the merits of proposals submitted, and by documenting the rationale for the selection decisions made.

b. *Scope.* Unsolicited proposals from any type of proposing organization which are being considered in accordance with the criteria in Section 602 for award of assistance through a grant or cooperative agreement are within the scope of this policy. Unsolicited proposals which are being considered for procurement award through instruments prescribed by the Federal and ERDA Procurement Regulations are outside the scope of this policy.

c. *Definitions.* 1. *Unsolicited proposal.* A written request for ERDA support to perform a project, which is submitted solely on the initiative of the proposer, not in response to a written or verbal request made by ERDA. The term may include both requests for support of a new project and requests for additional support of a previously funded project (renewals).

2. *Assistance.* See Section 108.

3. *Renewal.* See Sections 902 and 903.

d. *Advance consultation.* The project officer will, when feasible, be available for technical discussions with potential proposers. Advance discussions shall be limited to clarification of broad areas of technical concern to ERDA.

The project officer will not indicate or imply in discussions with the potential proposer that a proposal will result in an award. Nothing is to be suggested to encourage or authorize the proposer to perform any work at ERDA expense in anticipation of support of an award.

e. *Submission of unsolicited proposals.* See Section 301d.

f. *Receipt and review.* 1. *Receipt.* Receipt of unsolicited proposals will be acknowledged promptly by the responsible receiving office and then forwarded expeditiously to potentially interested program offices. Each unsolicited proposal that is circulated for a comprehensive evaluation shall have a legend attached or imprinted on it by the responsible receiving office identifying it as an unsolicited proposal, and stating that it shall be used only for purposes of evaluation.

2. *Review.* The responsible program official or designee shall assign a project officer and such other personnel as necessary to evaluate the proposal fairly and objectively. In some instances, the responsible program official may find it advantageous to subject the proposal to external rather than internal evaluation, such as peer group reviews.

g. *Evaluation.* 1. *Sequence.* The unsolicited proposal evaluation sequence is organized around the making of three major program decisions as to whether: the proposal has technical merit, funds are available, and whether acceptance of the unsolicited proposal can be justified. An award may result only if there are three affirmative decisions.

2. *Responsibility.* The responsibility for making the judgments and decisions in the evaluation sequence rests with the ERDA program office which makes the decision(s).

3. *Factors.* An unsolicited proposal will first be evaluated to develop a program opinion as to whether the unsolicited proposal has technical merit or program value. The following factors should be considered in forming the opinion:

(a) The anticipated, research, development, and application objectives to be achieved by the activities or facilities proposed, including the probability of achieving the stated objective;

(b) The capability, related experience, facilities, or techniques which the proposer possesses and offers, and which are considered to be integral factors for achieving the objectives of the proposal;

(c) The qualifications, capabilities, and experiences of the proposed investigator, team leader, or key personnel, who are considered to be critical in achieving the objectives of the proposal;

(d) How the proposal differs from current work in the same subject area, and the significance of this difference.

If the proposal does not offer sufficient technical merit or program value, or if funds are not available, the proposal will be returned to the submitter in accordance with paragraph h.

h. *Non-support of proposal.* The program officer prepares:

1. A written statement setting forth the basis for rejection of the unsolicited proposal, submits one copy to the responsible program official and retains one copy in the permanent file.

2. A letter to the submitter, for the signature of the responsible program official or designee, with one copy to the responsible receiving office, setting forth the basis for rejection of the proposal but including, if known, the names of other agencies that might have an interest in the proposed effort.

i. *Support and justification for acceptance.* An unsolicited proposal may be accepted if, in the judgment of the ERDA program office, such support is appropriate to accomplish a public purpose of support or stimulation authorized by ERDA's legislation. The justification will provide the rationale for the decision to award support. The following list, which is not all inclusive, illustrates the kinds of factors which may be considered and used as a basis for accepting an unsolicited proposal.

1. The potential contribution which the proposed work is expected to make to ERDA's specific mission, if supported at this time;

2. The economic, environmental, and societal significance which a successful demonstration may have for the national fuels and energy system;

3. The relationship of the proposal to the criteria of priority set forth as follows:

(a) The urgency of public need for the potential results of the research, development, or demonstration effort is high, and it is unlikely that similar results would be achieved in a timely manner in the absence of Federal assistance;

(b) The potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial utilization of proprietary knowledge appear inadequate to encourage timely results;

(c) The extent of the problems treated and the objectives sought by the undertaking are national or widespread in their significance;

(d) There are limited opportunities to induce non-Federal support of the undertaking through regulatory actions, end use controls, tax and price incentives, public education, or other alternatives to direct Federal financial assistance.

(e) The degree of risk of loss investment inherent in the research is high, and the availability of risk capital to the non-Federal entities which might otherwise engage in the field of the research is inadequate for the timely development of the technology.

(f) The magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts.

4. The availability of non-Federal participants to construct and operate the facilities or perform the activities associated with the proposal and to contribute to the financing of the proposal;

5. The total estimated cost including the Federal investment and the probable time schedule;

6. The proposed participants and the proposed financial contributions of the Federal Government and of the non-Federal participants; and

7. The proposed cooperative arrangement, agreements among the participants, and form of management of the activities.

There is no prescribed format for the justification. The minimum requirements are that there be adequate basis for acceptance, the rationale for selection be written, approvals be obtained as required by paragraph j, and that a copy of the justification be attached to the procurement request ERDA Form–799 to be included in the grant or cooperative agreement award file. The

justification analysis may be included within documents required by Program Offices for project approval.

j. *Approvals.* The justification shall be reviewed and approved for support as follows:

1. Up to $5 million—Program Division Director.

2. Up to $10 million—Program Assistant Administrator.

3. Over $10 million—Concurred by Program Assistant Administrator, and Assistant Administrator for Administration, with approval by the Administrator.

303 Joint Funding Simplification Act

a. The Joint Funding Simplification Act of 1974 (42 U.S.C. 4251 et seq.) permits local governments and nonprofit organizations to combine State and Federal resources in support of projects of common interest.

b. OMB Circular A–111 has established procedures for the submission of applications for joint funding through State and area-wide clearinghouses and Federal Regional Councils. ERDA has been unable to identify any of its programs which are particularly suitable or appropriate for funding under the A–111 procedures. Prospective applicants should make preliminary inquiries to ERDA before initiating formal applications.

CHAPTER 4—SUBMISSION OF PROPOSALS

Sec.

400 [Reserved]
401 Who is eligible to submit proposals.
402 Where and when to submit proposals.
403 [Reserved]
404 Contents of proposal.
405 Coordination (OMB Circular A–95).
406 [Reserved]
407 [Reserved]
408 [Reserved]
409 Restrictive marking of proposals.

400 [Reserved]

401 Who is eligible to submit proposals.

a. *Domestic recipients.* Any domestic party, organization, institution, or other kind of entity may submit proposals and receive a grant or cooperative agreement awards in accordance with the provisions of this Manual. For individuals, domestic means citizens of the United States. For organizations, domestic means organized or otherwise incorporated under the laws of the United States and controlled by U.S. citizens.

b. *Foreign recipients.* Awards to foriegn recipients, whether to other than American citizens or foreign organizations, may be made after the cognizant ERDA Program Division Director has prepared a written determination that the research or other services offered by the foreign recipient are not available on a comparable basis from a domestic recipient.

c. *Facilities in violation of Air or Water Acts.* In order to be eligible for an award, potential recipients may not propose to use a facility listed on the Environmental Protection Agency List of Violating Facilities on the basis of a conviction either under the Air Act (42 U.S.C. 1857c–8(c)(1)) or the Water Act (33 U.S.C. 1319(c)).

402 Where and when to submit proposals.

a. *Solicited proposals.* Solicited proposals should be submitted to the address and at the time specified in the solicitation.

b. *Unsolicited proposals.* 1. Educational institutions, and certain other non-profit institutions that conduct educational and training activities, or whose facilities are used in joint programs with universities should submit unsolicited proposals to:

Office of University Programs, U.S. Energy Research and Development Administration, Washington, D.C. 20545.

2. Commercial firms, State and local governments, individuals, nonprofit research organizations, and all other prospective proposers except those identified in b.1. should submit unsolicited proposals to:

Director of Procurement, Proposal Coordinating Unit C–167, U.S. Energy Research and Development Administration, Washington, D.C. 20545.

The ERDA offices in b.1. and b.2. are responsible for recording receipt of the proposal, sending receipt notice to the proposer, and forwarding the proposal to an ERDA program office for evaluation.

3. *What to submit.* Unsolicited proposals may be submitted at any time.

c. *Proposal costs.* Proposers should be aware that ERDA is under no obligation or duty to make any award in response to any unsolicited proposal received whether the the submission was with or without the benefit of preliminary discussions with ERDA. Further, ERDA is in no way liable for or in any other way obligated to pay the proposer for the costs of preparing an unsolicited proposal, apart from past award recovery of bid and proposal costs in the negotiated indirect rate, even if preliminary discussions with ERDA were held.

403 [Reserved.]

404 Contents of proposal.

a. *Recipient considerations prior to proposal submission.* 1. Before submitting a proposal to ERDA, the submitting organization should be satisfied that, among other things:

(a) The proposed project is consistent with the policies and goals of the submitting organization;

(b) The organization has, can make available, or obtain the necessary facilities, equipment, and services for the conduct of the project;

(c) The organization has, can make available, or obtain the necessary personnel for amounts of time estimated to be required;

(d) The organization has legal authority to accept grants and/or enter into cooperative agreements and the requisite policies, procedures, and personnel to ensure project stewardship of Federal funds;

(e) The total costs estimated to be required for the conduct of the project are reasonable and there is a plan for meeting such costs either from award funds or from some other source;

(f) The costs which ERDA is being asked to support are allowable (see Section 808) and the treatment of such costs as direct or indirect in the proposal budget is consistent with applicable Federal cost principles, with the policies of the submitting organization, and such State requirements as may be appropriate.

2. If the submitting organization does not already have an indirect cost base and rate recognized by ERDA or by a cognizant Federal Negotiating Agency, an indirect cost proposal should be separately submitted (see 808d, Establishment of Indirect Cost Rates).

3. The submitting organizations should furnish the Civil Rights Assurance described in Section 212.

b. *Proposal content.* See Section 301.

c. *State and local governments.* State and local governments may apply either by submitting the information requested in Section 301 or by using the Standard Forms prescribed in FMC 74–7, Attachment M.

405 Coordination (CMB Circular A–95).

a. *Current status.* OMB Circular No. A–95 furnishes guidance to Federal Agencies for cooperation with State and local governments on the evaluation, review, and coordination of Federal and federally assisted programs and projects. In the revision to A–95 dated January 2, 1976, no ERDA programs were included in the Attachment D which identified those Federal programs subject to the requirement of A–95. As ERDA programs develop, however, some may become subject to A–95 in the future.

b. *Standard federal assistance application form.* 1. This paragraph promulgates a standard form (SF 424) prescribed by OMB Circular A–110, Attachment M to be used by public and private institutions of higher education, public and private hospitals and other quasi-public and private nonprofit organizations as a face sheet for applications when applying for Federal grants or cooperative agreements under programs covered by Part I, Attachment A, OMB Circular No. A–95. ERDA offices are encouraged to extend the use of SF 424 to common programs with State and local governments where this form is now required by FMC 74–7.

2. The SF 424 may also be used, on an optional basis, to fulfill the requirements of OMB Circular A–95 for a notification of intent, from applicant to clearinghouses, that Federal assistance will be applied for. Local or State clearinghouse procedures will govern the use of the form for this purpose.

3. The standard form will also be used by ERDA to report to the clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A–95, and to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082.

4. This form is not applicable to profit making organizations and individuals, and to applications from all recipients for projects not covered by Part I, Attachment A, of OMB Circular No. A–95.

406 [Reserved]

407 [Reserved]

408 [Reserved]

409 Restrictive marking of proposals. See section 501.

CHAPTER 5—EVALUATION AND SELECTION OF POTENTIAL AWARDEES

Sec.

500 General.
501 Treatment of proposal information.
502 Evaluation of technical proposals.
503 Evaluation of business proposals.
504 [Reserved]
505 Selection.

500 General.

This chapter describes the policy applicable to the activities of evaluation and selection of potential recipients. These are the activities key to the effective implementation of ERDA's mission.

501 Treatment of proposal information.

The FAM policy for treatment of proposal information is identical to the policy in 41 CFR 9–3.150 which is incorporated herein by reference.

502 Evaluation of technical proposals.

a. Policy. ERDA will strive to maintain the highest standards of public accountability by making competent, objective, impartial judgments as to the merits of proposals submitted and by documenting the rationale for the decisions made.

b. *Evaluation criteria.* Proposals shall be evaluated in accordance with the applicable evaluation criteria as stated in the solicitation or unsolicited proposal guides. ERDA program offices are responsible for developing criteria which appropriately reflect ERDA program priorities and needs. Program officials are responsible for the implementation of the policy in a. above.

c. *Peer review.* [Reserved].

503 Evaluation of business proposals.

a. *General.* Evaluation of business proposals include separate evaluations of the prospective recipient in b. below, and the proposed business proposal or budget. The Awarding Officer is primarily responsible for the evaluation of the business aspects of the proposal but will need to rely on project officer judgments regarding need and reasonableness of quantity of resources proposed.

b. *Evaluation of the prospective recipient.* A prospective recipient must be evaluated for at least the following:

1. Responsibility determination. See Section 703.

2. Adequacy of financial management system. See Section 210.

3. Compliance with nondiscrimination requirements. See Sections 212, 213, and 214.

4. Approved assurances regarding the protection of human subjects. See Section 219.

c. *Evaluation of the business proposal and budget.* A business proposal or budget should be evaluated for at least the following:

1. Allowability of cost in accordance with applicable Federal cost principles if a grant or cooperative agreement. See Section 808. Preaward audits are not required but may be requested when necessary to determine adequacy of the accounting system or reasonableness of the proposal. Audit's role should be used for these purposes rather than to determine the exactness of each cost element, since the pricing objective is to support the recipient with a reasonable and realistic quantity of resources, not to obtain the lowest possible price to the Government.

2. Availability of an approved overhead rate if a grant or cooperative agreement with institutions of higher education, hospitals, other nonprofit organizations, and State and local local governments. See Section 808. Establish or determine availability of reasonable or approved overhead rate if cooperative agreement, or grant with profit making organization, individual, or foreign organization.

3. Review terms and basis for cost sharing, or cost participation, if any. See Section 205.

4. Subagreements.

5. Bona fide proposal signature of both the principal investigator and an officer of the submitting organization with the power to commit the organization to performance.

6. Evaluate type of instrument recommended. See Section 602.

7. Review requests for waiver and other patent and rights in data provisions. See Section 215.

8. Evaluate need and allowability of equipment requested. See Sections 806 and 814.

9. Determine type and content of technical reports. See Section 801.

10. Establish method of payment. Bear in mind the objective to support and provide cash flow to the recipient, rather than payment only on the basis of reimbursement or partial delivery. See Section 807.

11. Evaluation reasonableness of cost or budget elements, cost sharing, and total resources requested. The need and realism of estimates for travel and equipment should be evaluated in terms of the objectives, interests, and limitations of the program.

12. Determine which party will do the accounting for the project, if a cooperative agreement.

13. The Project Officer shall assess the need and reasonableness of the resources requested.

14. How funds which pass through the recipient to subrecipients will be handled and accounted for.

d. *Evaluation of business arrangement for cooperative agreements.*

Evaluate business arrangements for cooperative agreements in terms of paragraphs b. and c. above

The development of appropriate business arrangements requires the application of sophisticated business analysis and judgment.

Project officers should be actively and thoughtfully involved in evaluating and conceptualizing cooperative agreement business arrangements because it is they who will be responsible for ERDA's performance under the agreement.

504 Reserved.

505 Selection.

a. *Policy.* ERDA will strive to maintain the highest standards of public accountability by making competent, objective, impartial judgments as to which proposals best reflect ERDA program priorities and needs, and by documenting the rationale for the award decisions made.

b. *Number of awards.* The methods of publicizing ERDA programs listed in Section 301 may result in multiple, one, or no awards. The number and dollar amounts of actual awards depends upon the relevance and merit of the proposals submitted.

CHAPTER 6—AWARD INSTRUMENTS

Sec.:	Title
600	Purpose.
601	Instrument authority.
602	Selection of instrument category: procurement contract, grant agreement, cooperative agreement.
603	Grant face page.
604	Project grant for institutions of higher education, hospitals, and other nonprofit organizations.
605	Project grant for State and local governments.
606	Project grant for profit-making organizations and individuals.
607	Used equipment grants.
608	Conference grants.
609–619	Reserved for additional grant instruments.
620	Cooperative agreement face page.
621	Provisions for cooperative agreements.

600 Purpose.

This Chapter provides grant and cooperative agreement instruments and the rationale for their use. The Director of Procurement is responsible for establishing grant and cooperative agreement instruments and policy regarding their use. No grant or cooperative agreement instruments are authorized for use by ERDA unless prescribed by the Director of Procurement.

601 Instrument authority.

a. *General instrument authority.* ERDA has been given broad flexible instrument authority for use in both nonnuclear and nuclear programs. The "Energy Reorganization Act of 1974" (P. L. 93–438) and the "Atomic Energy Act of 1954," both authorize the making of arrangements (including contracts, agreements, and loans). The terms arrangements and agreements include grants and cooperative agreements. The "Federal Nonnuclear Energy Research and Development Act of 1974" (P. L. 93–577), authorizes fund transfers, grants, or contracts. Because the foregoing three Acts authorize contracts for research, the authority of the "Grants Act" (P. L. 85–934), 42 USC 1891–1893 which authorizes the making of grants for basic scientific research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research is also available.

b. *Specific instrument authority.* Additional specific instrument authority is available in the various ERDA legislation.

1. P. L. 93–577, the "Federal Nonnuclear Energy Research and Development Act of 1974," authorizes financial awards, planning grants, and cooperative agreements for certain designated purposes.

2. P. L. 93–409, the "Solar Heating and Cooling Demonstration Act of 1974," authorizes contracts and grants as may be necessary or appropriate.

3. P. L. 93–410, the "Geothermal Energy, Research, Development and Demonstration Act of 1974," authorizes cooperative agreements for certain purposes.

4. P. L. 93–473, the "Solar Energy Research, Development, and Demonstration Act of 1974" authorizes cooperative agreements for certain designated purposes.

602. Selection of instrument category: Procurement contract, grant cooperative agreement.

a. *General.* ERDA legislation authorizes programs and a variety of award instruments without a legislative prescription as to which instruments must be used for particular programs except for the limited direction summarized in Section 601.b. The legislation does not establish "grant programs" as such, and further does not limit the use of grants to certain programs, purposes, or parties such as educational and nonprofit institutions or State and local governments. The legislation leaves the choice of instruments to the administrative discretion of ERDA for use as reasonable and appropriate. Since there are various kinds of instruments within the grant, contract, and cooperative agreement categories, the guidance in this Section will indicate when the use of a particular category of instruments is appropriate. The guidance is provided in terms of the Federal objective and Federal role as manifested in the degree of control sought by ERDA program officials, not the characteristics intrinsic in the project itself.

b. *Procurement contracts.* Use procurement contracts when one or any combination of the following applies:

1. Whenever the prinicpal purpose of the award is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of ERDA. A contract may be used for assistance when needed or appropriate to best accomplish the objectives of ERDA.

2. The outcome of the effort is something which ERDA must have or obtain to meet its program or operational needs.

3. ERDA program official(s) consider(s) it necessary to exercise strong control over the objectives, direction, specifications, costs, reporting of results, methods of research, and scheduling of the project. The factor of control alone may dictate use of a procurement contract even though other considerations may suggest use of a grant or cooperative agreement. Control means the rights to unilaterally terminate for convenience or default where under default the government obtains repurchase rights and may impose excess costs and damages upon the contractor; issue unilateral changes; issue stop work orders; redirect the work within the limits of the scope of work and changes clause; specify strict not merely general adherence to the scope of work; and require extensive and detailed rather than summary reporting of results.

4. It is necessary to prohibit the contractor from withdrawing or limiting the withdrawal to a few milestone points or contract objectives.

5. ERDA desires to obtain for or have delivered to itself: personal or real property; construction; services subject to the Services Contract Act; paper studies which offer to perform the routine functions to collect, categorize, analyze, evaluate and recommend; management consultant services the subject of which is ERDA operations, management, organization and the like; or ADP equipment and services.

6. ERDA desires to accept a proposal solicited by a request for proposal or quotation and make an award.

7. Procurement contracts include cost sharing contracts (See ERDA–PR 9–4.56). A cost sharing contract is suitable for those procurements which cover projects which are jointly sponsored by the Government and the contractor in lieu of full monetary reimbursement of costs. In consideration of this benefit, the contractor agrees to absorb a portion of the costs of performance.

c. *Grants.* Use grants when:

1. The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of ERDA; and no substantial involvement is anticipated between ERDA and the recipient during performance of the contemplated activity.

2. This paragraph restates the thought of paragraph 1. in more specific terms. The outcome of the effort is something which ERDA determines is useful, beneficial, would like to explore, try out, support, stimulate, encourage, accelerate, experiment with, see if it works, and which outcome would be helpful but not mandatory to meet program objectives or operational needs and ERDA's role is that of supporting the grantee's project rather than obtaining satisfaction of an ERDA operational or program requirement; and ERDA does not consider it necessary to exercise or have the types of contractual controls as described in b.3. and considers that preaward approval of the proposed project and post award monitoring compared to direction is sufficient to assure the desired outcome.

Monitoring generally connotes a more passive, nondirective, observer role with rights to revoke or terminate but not default with its associated rights; changes may not be made unilaterally by ERDA but must be the subject of mutual agreement; stop work orders may not be issued; ERDA may not redirect the work after award. The grantee has wide latitude in how the purposes of the grant are accomplished, especially in research grants.

The working relationship is more flexible and less formal than the formal and legalistic relationship under a procurement contract. Simplicity and economy in execution and administration are mutually desirable and appropriate.

3. Grants may be used with commercial firms to accomplish purposes of the nature described in c.1. The following are a few examples which are intended to illustrate but not limit the appropriate use of grants with commercial firms:

(a) a firm needs support to complete, not begin, the research, development, testing initial marketing necessary to bring an idea, machine, technique, etc., which ERDA considers promising to the point of application, demonstration, or commercial availability.

(b) a firm has an idea or equipment which needs ERDA support to demonstrate or operate for a trial period.

(c) ERDA desires to accelerate or stimulate the rate of activity in which a firm is already engaged.

(d) ERDA desires to add a new or additional factor or consideration to work already contemplated and being performed by a firm.

4. Grants shall never be used to evade the advertising and competitive negotiation requirements of the Federal and ERDA Procurement Regulations where a procurement transaction is appropriate, or be selected for use in lieu of a procurement contract on the basis of relative processing times.

5. Grants shall not be used in cases where the factors in b. indicate a procurement contract is more appropriate.

d. Use cooperative agreements when:

1. The principle purpose of the ERDA is the transfer of money, property, services, or anything of value to a recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of ERDA; and substantial involvement is anticipated between ERDA and the recipient during performance of the contemplated activity. In determining ERDA's purpose consideration should be given to representations made to Congress, ERDA's programmatic objectives, the intended ownership of facilities and major equipment, the degree of government control needed, and the intended responsibilities of the parties. In addition, the factors in 2, 3, 4. below should be considered.

2. ERDA desires to enter into a partner or joint venture type relationship to support the recipient's project which is intended to achieve objectives which are or directly related to the operational missions of both ERDA and the recipient. In some instances, the parties will be jointly and mutually responsible for performance of work and/or provision of materials or services in their distinct areas of responsibility in order to achieve an outcome which is of mutual interest and benefit.

3. ERDA desires to establish a relationship with other parties in which the participants and ERDA agree to coordinate and cooperate with each other in performing their respective but related missions or to share in each others work results.

4. As a matter of fairness it is considered appropriate to allow the performer some control over changes rather than provide the Government the unilateral right to change. Such control may be based upon a reliance on the good business judgment of the performer. Also it might be appropriate to allow the performer some right to withdraw or to restrict the Government's right to withdraw. It might be appropriate to condition the ability to withdraw by either party or to impose penalties if the right to withdraw is exercised by either party.

5. ERDA has had only limited experience with the use of cooperative agreements to date. It is strongly suggested that cooperative agreements be utilized very selectively until substantial experience is gained in their use. After such experience has been gained this Manual will be appropriately modified and this paragraph deleted.

6. Note the exclusions from this Manual in Section 101.

e. *Approval.* The written approval of the AAA, General Counsel, and Controller (or as they may delegate) must be obtained for the issuance of any grant or cooperative agreement which may exceed $5,000,000 prior to the issuance of solicitation, when the instrument is to be specified, or prior to award, when the instrument was not specified in a solicitation or the project was unsolicited. The request for approval should provide a brief statement justifying the use of the proposed instrument in accordance with the guidelines in this section.

603. Grant face page.

a. *Purpose.* The grant face page (Form ERDA–337, Notice of Grant Award) contains all administrative data needed for a grant award. The face page includes variable 18 numbered blocks to be completed by ERDA prior to issuance of a grant award. Preprinted copies of Form ERDA–337 may be requested from the Director of Procurement. A sample Form ERDA–337 is contained in Appendix B to the Manual. The form may be used to make any kind of grant award with any type of grantee.

b. *Completion instructions.* The following instructions of how to complete Form ERDA–337 are arranged in the numerical order in which the blocks appear.

1. *Block 1a., Grant Number.* Grants shall be numbered in accordance with the instructions in Section 713.

2. *Block 1b., Modification Number.* Modification numbers shall be in accordance with instructions in Section 713.

3. *Block 2., Grant period.* The grant period is the time for which ERDA financial support will be actually awarded and during which the grantee will be authorized to make charges against the grant.

4. *Block 2a.* Project period is the total period for which the ERDA program has given project approval. See Section 903 for explanation.

5. *Block 3., Type of action.* (a) New award-indicates a new grant award instrument with a new number where there is no current or prior grant award for the same project. See Section 901.

(b) Continuation-indicates both additional time and money in support of multi-year projects which at the outset are recognized as ongoing or long run. See Section 903 for explanation.

(c) Supplement-indicates additional money, with or without additional time. See Sections 902 and 903 for explanation.

(d) Renewal-indicates a new grant instrument and number to support a project which has received prior ERDA support. See Sections 902 and 903.

(e) Termination-indicates that the grant is being wholly or partially terminated. The extent of the termination should be indicated in Block 16., Remarks. Note the requirement in Section 816 to coordinate proposed termination or suspension actions affecting educational institutions with Office of University Programs.

(f) Other-provides space for identifying a type of action, such as a transfer, not included in (a) through (e) above.

6. *Block 3.a., Type of grant.* See Sections 902 and 903 for explanation.

7. *Block 4., Grantee name and address.* Self explanatory.

8. *Block 5., Grantee type.* Indicate the type of grantee by organization.

9. *Block 6., Project title.* Self explanatory.

10. *Block 7., Project will be conducted per.* Indicate whether the grant project will be conducted as described in the grantee's proposal(s) including revisions, or a separate project description. If ERDA accepts the Grantee's proposal without change as the project definition for support, then insert the proposal date. If the proposal is not accepted without change, the grant must indicate those parts of the proposal which are accepted or rejected. If the project under the grant is only partly described in the proposal, the balance of the project must be separately stated. If the award budget differs from the proposed budget, an Appendix B award budget must be attached which shows the amounts agreed to for each cost element.

11. *Block 8., Technical reports are required.* This block provides a means of indicating the types of reports needed by the program officer. The types of performance reports permitted for institutions of higher education, hospitals, and other nonprofit organizations are described in Section 801. No grant will be awarded without a requirement for a final report.

12. *Block 9., Principal Investigator(s) or Program Director(s).* Indicate the name(s) and address(es) of the individual(s) designated by the grantee who will be responsible for the scientific or technical direction of the grantee's project.

13. *Block 10., ERDA Program (Project) Officer.* Indicate the name address, and telephone number of the ERDA scientific or technical employee responsible for the scientific and technical aspects of grant administration and for liaison with the principal investigator or program director.

14. *Block 11., Accounting and appropriation data.* Indicate the complete set of financial data necessary to properly record the commitment and obligation of funds, and for making payments. See ERDA Manual Appendix 1101, Part II.

15. *Block 12., Method of payment.* The grants officer is responsible for determining the appropriate method of payment in accordance with the requirements of Section 807.

16. *Block 13., Submit vouchers, if any, to grants officer.* Where payment methods require submission of vouchers or requests for advance or reimbursement (see Section 805), they will be submitted to the grants officer unless otherwise indicated in block 13. This provides for a known submission point unless some other submission point is appropriate in accordance with other Headquarters or Field Organization instructions or procedures.

17. *Block 14., Funding sources and allocation to project time units.* Block 14 is designed to show the source of financial support (ERDA, Grantee), project time units (one or several years), and the funding allocation to each time unit. The layout can accommodate a variety of projects including new (one or several year) efforts, supplements, continuations, with or without cost participation. Under the source column, the terms "this grant" provide space to enter amounts of funds from ERDA and the grantee (the grantee cost share). For supplement and continuation actions, the terms "previously obligated" by ERDA and "prior grant" by Grantee refer to funds made available from a prior grant action which are currently available to fund a present and/or future project time unit.

18. *Block 15., Amount obligated by this grant action.* Indicate the total *new* dollars awarded/obligated by this action regardless of whether the action is a new award or modification, or how the funds are allocated over the current and/or prospective project time units.

19. *Block 16., Remarks.* If the grant award contains a patent clause, the name and mailing address of the cognizant ERDA patent counsel should be included in this block. This block may also be used for written acceptance by the grantee.

20. *Block 17., ERDA Issuing Office.* Indicate the ERDA procurement office responsible for issuing the grant instrument. If the ERDA office other than the issuing office will be responsible for administering the grant, so indicate in Block 16., Remarks.

21. *Block 18., ERDA Grants Officer.* Only those ERDA officials who have been formally designated Grants Officers by delegation of grant authority may execute grant awards. See Section 202b.

604 Project grant for institutions of higher education, hospitals, and other nonprofit organizations.

a. *Content of instrument.* The instrument is composed of a grant face page (Form ERDA–377, Notice of Grant Award, see explanation in Section 603, and sample in Appendix B) and ERDA Project Grant Provisions for institutions of higher education, hospitals, and other nonprofit organizations, see Appendix C at the back of the Manual. Appendix C is designed to be attached as is to the grant face page without need for any additional entries, typing, or modification. All data particular to an individual grant award will be entered on or reference in the grant face page.

b. *Use of instrument.* The grant instrument described in paragraph a. may be u ~1 to make awards for any type of assistance project except construction to institutions of higher education, hospitals, and other nonprofit organizations, such as (but not limited to) research institutes, educational associations, and health centers. The grant may be for more than one but not more than a five year period. See Sections 902 and 903 regarding discrete and continuing grants.

605 Project grant for State and local governments.

a. *Content of instrument.* The instrument is composed of a grant face page (Form ERDA–377, Notice of Grant Award, see explanation in Section 603, and sample in Appendix B), and ERDA Project Grant Provisions for State and local governments, see sample in Appendix E. Appendix E is designed to be attached, as is to the grant face page. All data particular to an individual grant award will be entered on or referenced in the grant face page.

b. *Use of instrument.* The grant instrument described in paragraph a. may be used to make awards for any type of assistance project except construction to State and local governments.

606 Project grant for profit making organizations and individuals.

a. *Content of instrument.* The instrument is composed of a grant face page (Form ERDA–377, Notice of Grant Award, see explanation in Section 603, and sample in Appendix B), and ERDA Project Grant Provisions for Profit Making Organizations and Individuals, see sample in Appendix F. Appendix F is designed to be attached, as is, to the grant face page. All data particular to an individual grant award will be entered on or referenced in the grant face page.

b. *Use of instrument.* The grant instrument described in paragraph a. may be used to make awards for any type of assistance project except construction to profit making organizations and individuals.

607 Used equipment grants under the Atomic Energy Act.

a. *Content of instrument.* The used equipment grant instrument is composed of a grant face page (Form ERDA–377–1, Notice of Grant Award for Used Equipment) and Used Equipment Grant Provisions, see samples in Appendix G.

b. *Numbering, reporting, execution.* Used equipment grants are subject to the applicable provisions of the ERDA Federal Assistance Manual including Sections 202 Execution, 713 Numbering, and 714 Reporting.

c. *Use.* Used equipment grants may be awarded to colleges, universities, hospitals, and eleemosynary or charitable institutions for the purposes authorized by the Atomic Energy Act, 42 USC Section 2061.

608 Conference grants.

a. *Content of instrument.* The conference grant instrument is composed of a grant face page (Form ERDA–377, Notice of Grant Award) and ERDA Conference Grant Provisions, see Appendix H.

b. *Use of instrument.*

1. *Purpose.* The grant instrument described in paragraph a. may be used to make awards to provide financial assistance for conferences including symposia, workshops, seminars, and similar undertakings where the purpose is to provide for communication and exchange of information or views directly pertinent to ERDA's mission. The use of a grant for conferences must be consistent with the instrument selection criteria in Section 602.

2. *Recipients.* The instrument may be awarded to any type of recipient provided the recipient is responsible in accordance with the criteria in Section 703 and that the grant does not provide for payment of fee, profit, or retention of income in excess of costs after the conclusion of the conference project.

3. *Dollar ceiling.* The instrument may not be used for awards in excess of $75,000, without prior approval from the Director of Procurement, Assistant Director for Policy.

4. *Grant period.* The grant shall not be awarded for a time period greater than that necessary to prepare, present, and complete the conference work. A conference grant, once awarded, shall not be renewed.

5. *Program terms and conditions.* The conference grant includes only essential operational and statutory provisions. Program terms and conditions including the desired budget format, reports, allowable and unallowable costs in addition to the guidance provided in the applicable federal cost principles as identified in Section 808, which may be needed in addition, should be provided to the Grants Officer by the initiating program division so they may be incorporated into the grant award.

c. *Guide for allowability of conference costs.*

Because of the frequency with which similar questions are raised regarding the phrase "facilities for meetings and costs incidental thereto", contained in the various sets of Federal cost principles, the following summarizes the allowability of various items of cost associated with conferences, symposia, workshops or other meetings supported by ERDA awards.

1. *Allowable costs.*

(a) *Conference facilities.* Rental of facilities and necessary equipment is allowable.

(b) *Supplies.* Purchase of expendable materials and supplies necessary for the meeting is allowable.

(c) *Conference services.* Costs of translation services, and of recording and transcribing the proceedings, are allowable.

(d) *Publication costs.* Cost of publishing the proceedings are allowable.

(e) *Salaries.* Salaries of professional personnel, editorial and clerical assistants, and other staff members are allowable in proportion to the time or effort devoted to the preparation and conduct of the conference and summarizing its results.

(f) *Consultant services and speakers fees.* Reasonable fees and travel allowances are allowable.

(g) Administrative costs of a U.S. organization cosponsoring a conference outside of the U.S.

(h) Travel expenses of U.S. participants to a conference outside of the U.S. when approved by ERDA.

2. *Unallowable costs.* (a) Entertainment costs. (b) Social activities. (c) Purchase of equipment. (d) Alcoholic beverages.

d. Preaward action by grants officer. The following Conference Grant Provisions referenced by number require preaward action by the grants officer:

1.a. Include a definition of what the grant is for (what the grantee will do) either by incorporating the grantee's proposal by reference or attaching a project description.

2.b. Develop an award budget which lists the cost elements and amounts approved by the project and/or Grants Officer. Only those costs which are allowable under applicable Federal cost principles may be approved and included in the award budget. The approved budget must be included in the grant award. Funds included for travel by third parties, if any, must be expended in accordance with Federal travel regulations. No funds shall be approved for social activities, alcoholic beverages, entertainment and the like. Doubts about the allowability of certain costs should be coordinated with the cost policy staff, HQ Division of Procurement.

2.c. The grantee's proposal should present information as to all sources of supporting funds for the conference in order to permit administration of the conference income provision.

3. Indicate the method of payment on the face page.

4. The program offices must specify what reports they require from the grantee. This may be satisfied by the grant requirement for a brief, informal letter type report, or may extend to requiring delivery of published conference proceedings. Conference reporting requirements and papers prepared by ERDA sponsored participants should be coordinated with the Office of Technical Information in accordance with ERDA Manual Chapter 0205. Copies of published documents resulting from ERDA supported scientific or technical conferences should normally be delivered to HQ Office of Technical Information which will then distribute copies to the ERDA Program Office and the Technical Information Center.

5. Be sure funds approved for travel, if any, are specifically identified in the award budget. For foreign travel see Section 818. Funds may not be used to provide travel, per diem, and related expenses to third parties unless specifically approved by the project officer in the award budget. Such approved funds for travel expenses by third parties shall be expended in accordance with the Federal Travel Regulations. Travel costs for grantee employees will be allowed in accordance with applicable Federal cost principles.

e. Review of final expenditure report. The grant officer is responsible for reviewing and comparing the expenditure report against the award budget. Expenditures which are consistent with the approved budget should be accepted for payment. Expenditures which are clearly inconsistent with the purpose of the grant as expressed in the approved budget are subject to refund. Unexpended funds will be returned to ERDA. Audit of expenditures is not prerequisite to closeout of the grant. However, where particular expenditures are found to be inconsistent with the purpose of the grant, the grants officer may require the grantee to submit additional information or require an audit if necessary. Reasonable reallocation within the award budget to accommodate functional changes in the grant project do not require advance ERDA approval.

609–619 [Reserved]

620 Cooperative Agreement Face Page.

a. Purpose. The cooperative agreement face page (Form ERDA–377–2) provides a place to make reference to the administrative data needed for a cooperative agreement award. The face page by providing a summary of administrative data serves the dual purposes of assuring that all administrative items have been included in the agreement, and of making it unnecessary for the parties to read the entire document to find basic administrative data. The face page includes 18 blacks most of which should be completed by ERDA prior to award. Preprinted copies of the Form ERDA–377–2 may be obtained from the Director of Procurement. A sample Form ERDA–377–2 is contained in Appendix M. The form will be used for all cooperative agreement awards.

b. Completion instructions. 1. *Block 1.a., Agreement Number.* Cooperative agreements shall be numbered in accordance with Section 713.

2. *Block 1.b., Modification Number.* Modification numbers shall be in accordance with Section 713.

3. *Block 2., Agreement Period.* The agreement period should identify that period of time during which the agreement is in effect. The period should reflect the period of the cooperative relationship.

4. *Block 3., Participant name and address.* Self explanatory.

5. *Block 4., Participant type.* Indicate the type of participant organization.

6. *Block 5., Project title.* Self explanatory.

7. *Block 6., Project will be conducted per.* Indicate whether the project will be conducted as described in the participant's proposal(s), a separate project description attached as an Appendix, or an Article in the agreement.

8. *Block 7., Technical reports are required.* Indicate where the technical reporting requirements are located in the agreement. Technical reports may be of any kind appropriate to the project and may be mutually required from both parties to the other.

9. *Block 8., Principal Investigator(s) or Program Director(s).* Indicate the name(s) and address(es) of the individual(s) designated by the participant who will be responsible for the scientific or technical direction of the participant's project.

10. *Block 9., ERDA Program (Project) Officer.* Indicate the name, address, and telephone number of the ERDA scientific or technical employee responsible for performance of ERDA's scientific and technical responsibilities under the agreement and for liaison with the principal investigator or program director.

11. *Block 10., Accounting and appropriation data.* Indicate the complete set of financial data necessary to properly record the commitment and obligation of funds, and for making payments. See ERDA Manual Appendix 1101, Part II.

12. *Block 11., Method of payment.* The cooperative agreements officer is responsible for determining the appropriate method of payment in accordance with the requirements of Section 807.

13. *Block 12., Submit vouchers, if any, to cooperative agreements officer.* Where payment methods require submission of vouchers or requests for advance or reimbursement (see Section 805), they will be submitted to the cooperative agreements officer unless otherwise indicated in block 12. This provides for a known submission point unless some other submission point is appropriate in accordance with other Headquarters or Field Organization instructions or procedures.

14. *Block 13., Funding sources.* Block 13 shows the source of financial support (ERDA, Participant).

15. *Block 14., Remarks.* If the award contains a patents clause, the name and mailing address of the cognizant ERDA patent counsel should be indicated in this block.

16. *Block 15., Amount obligated by this action.* Indicate the total new funds awarded/obligated by this action regardless of whether the action is a new award or modification.

17. *Block 16., Participant acceptance.* This block provides for acceptance signature by the participant. Cooperative agreements are always bilateral agreements and require written acceptance by the participant.

18. *Block 17., ERDA Cooperative Agreements Officer.* Only those ERDA officials who have been formally designated as cooperative agreements officers by a delegation of cooperative agreement authority may execute cooperative agreement awards. See Section 202b.

19. *Block 18., ERDA Issuing Office.* Indicate the ERDA procurement office responsible for issuing the cooperative agreement. If an ERDA office other than the issuing office will be responsible for administering the agreement, so indicate in Block 14, Remarks.

621 Provisions for cooperative agreements.

a. Definition of cooperative agreement. 1. *Application of procurement regulations.* Cooperative agreements are instruments designed to implement a support or assistance purpose specifically when ERDA desires to establish a partner or joint venture relationship with a non Federal party. A cooperative agreements is not procurement contract. They are, therefore, not subject to the Federal Property and Administrative Services Act of 1949, or the Federal or ERDA Procurement Regulations in 41 CFR Chapters 1 and 9 respectively.

2. *Application of assistance regulations.* By their nature, cooperative agreements cannot be standardized. Although a cooperative agreement is not a grant, it is classified as an assistance instrument. Each agreement must be tailored to reflect the varying responsibilities and rights of the parties for each project. The policies in FMC 74–7 and OMB Circular A–110 are mandatory to cooperative agreements which obligate ERDA funds with State and local governments and to institutions of higher education, hospitals, and other nonprofit institutions respectively. This Manual has been submitted to OMB for review in accordance with the aforementioned Circulars. With profit making organizations, individuals, and foreign organizations, the policies in A–110 and FMC 74–7 are applicable as prescribed in specific sections of the FAM.

3. *Application of Statutes.* For the purpose of determining the applicability of Statutory requirements, cooperative agreements are defined as a "contract" in the broad generic sense, but not procurement contracts. Any clause required by Statute to be included in "any contract" (as opposed to a procurement contract or negotiated procurement contract for the purchase of supplies, material or services) shall be incorporated into such instruments.

Cooperative agreements are also defined as an assistance instrument, as contrasted to procurement instruments. Therefore, any clause required by Statute to be included in awards involving Federal financial assistance or Federal assistance will be included where required. A cooperative agreement is not within the meaning of contract as defined in 41 CFR 60–1.3 or as used in Executive Order No. 11246. See paragraph c.4., 5., and 6.

b. Objective in fashioning a cooperative agreement. The objective in drafting a cooperative agreement is to define a business arrangement which, based upon the mutual interest and investment of the parties, defines and allocates the mutual responsibilities and rights appropriate to a particular project. The cooperative agreement generally provides for mutual rights and obligations of the parties, in areas such as project performance and management, termination, changes, extending the period of performance, provisions of resources, title to property, inspection, and insurance and liability. Each cooperative agreement shall be concise and as simple as possible and include only those provisions necessary to clearly state the terms and condition agreed upon. Drafting cooperative agreements will require the application of perceptive and sophisticated business judgment by the ERDA cooperative agreements negotiator, program staff, and ERDA Cooperative Agreement Awarding Officer.

c. Structure. The following is an outline of what shall be included in a cooperative agreement. The instrument shall have a face page, a schedule of articles, followed by statutory and policy provisions. Samples of each are provided in Appendices M, N, and O respectively.

1. *Cooperative agreement face page.* Every cooperative agreement with or without funds will have a face page in accordance with Section 620. This document provides a summary of common administrative data elements. See Appendix M for sample.

2. *Schedule Articles.* The subjects included in (a) through (k) below should

usually be covered in all cooperative agreements. The sample Articles in Appendix N are illustrative only. The content of Articles used should be drafted to meet the purposes described below in (a) through (k) as appropriate for each agreement.

(a) *Article I—Statement of joint objective.* The purpose of this Article is to identify the objectives, purposes, and benefits to the parties so as to demonstrate that the agreement is, in fact, a joint endeavor appropriate to a cooperative agreement. This may take the form of a series of whereas statements, or a background statement which describes the ERDA program rationale for awarding the cooperative agreement and how the support provided will achieve ERDA's and the Participant's objective.

(b) *Article II—Description of responsibilities.* The purpose of this Article is to identify the responsibilities each parties to assume as their part in achieving the joint objective. This Article should be as complete a description as possible to assure that there are no unassigned responsibilities which may hamper successful project completion. The description may be in either narrative or outline form, and should always include a description of what resources such as services, facilities, equipment, materials, supplies, personnel, etc. each party will provide and when.

(c) *Article III—Financial support of the project.* This Article is only applicable if ERDA and/or the participant contributes funds to the project. The purpose of this Article is to identify what the dollar costs of the project will be, if any, and how the responsibility for funding will be assigned to each party. All kinds of arrangements are possible where both, neither, or either ERDA and the Participant obligate or otherwise transfer funds to the other, or where one party provides funds and the other provides equipment, services or other in-kind items of value.

In any event, the financial responsibilities must be defined. This may take the form of minimums, ceilings, and who will be responsible for costs in excess of amounts originally estimated.

If ERDA does obligate funds, the Article should state the total amount to be obligated over the total period of the agreement, and if a lesser amount is obligated at award, so state. The basis for cost allowability should be so specified. See Section 808 b. regarding applicability of cost principles to cooperative agreements. This Article should be drafted to complement the Limitation of Cost Article in c.3.

The rights and obligations of the parties should be defined in the event the project cannot be completed within the estimated cost.

(d) *Article IV—Method and basis of payment.* This Article is only applicable if ERDA obligates funds in Article III in (c). See Section 807 for payment methods and Section 805 for general guidance regarding financial reporting requirements and payment request forms. See Section 805 j. Financial Forms Matrix for summary of forms. The guidance in the Sections 805 and 807 may be modified or adapted as necessary to meet the requirements of a particular cooperative agreement.

(e) *Article V—Term of agreement.* This Article should indicate when the agreement begins, when the project should be completed. If appropriate it may provide that the period of the agreement may be extended as mutually agreed by ERDA and the Participant.

(f) *Article VI—Project management.* This Article should state the responsibilities for project management and how progress and performance will be measured to evaluate whether the objectives stated in Article I are achieved. If the responsibilities are extensive, a management plan may be stated in an Appendix to the agreement. The program director for the Participant and ERDA's project officer will be identified on the face page for easy identification.

(g) *Article VII—Project information.* This article should describe the requirements for a flow of project information between the parties. Project information may include technical reports but not be limited to such reports. Both parties may obligate themselves to provide reports to the other. This may be especially appropriate for agreements where the Participant provides raw data to ERDA for analysis and expects to receive the benefit of the results.

(h) *Article VIII—Changes and modifications.* Changes to the project under the agreement may be necessary during the term of the agreement. Where such changes may occur, this article should cover the method by which changes may be initiated and accepted.

(i) *Article IX—Termination.* This article should describe the terms and conditions applicable to termination. The provision may permit termination by either party and provide for any conditions, restrictions, or penalties with respect to such termination. The consequences of termination must be defined in terms of property, funds invested, patent and data rights, and the like.

(j) *Article X—Liability and indemnification.* This Article should define the potential hazards and risks to the parties employees, and to third parties, and express the respective responsibilities of the parties regarding liability, and whether or how these risks will be insured. In cooperative agreements, the Government will not always self insure. In certain cases, it is appropriate for ERDA to ask the Participant to obtain or, include ERDA as an insurable party under the Participants insurance. In other cases, ERDA and the Participant may decide to each be responsible for handling their own risk exposure especially where their own employees and facilities are involved. This is an area which shall be reviewed by ERDA legal counsel prior to award.

(k) *Article XI—Contents of agreement.* This Article must list all of the components of the cooperative agreement.

3. *Schedule Articles.* (*Subjects to be covered when applicable.*) This is not intended as an all inclusive list, but is provided for general guidance. See Appendix N for samples.

(a) *Article—Title to property.* This Article should describe the rights of the parties as to title to property. The Article should express a position which reflects what each party provides to the agreement in terms of funds to acquire property, property itself, ERDA's short and long run program objectives, and the Participant's objectives. Disposition should be specified both in the event of termination by either party and at project completion.

(b) *Article—Patent rights and related clauses.* Cooperative agreements are within the meaning of the term contract as used in P. L. 93–577, Section 9 (m)(2). Therefore any cooperative agreement which includes research, development, or demonstration work, shall include applicable patent rights provisions from 41 CFR 9–9. Because Participants under cooperative agreements may involve private resources equal to or greater in value than the resources provided by ERDA, special patent waiver provisions may be appropriate. All patent right provisions, rights in data provisions or other like provisions other than those published in 41 CFR 9–9 shall be approved by ERDA Patent Counsel prior to award. When ERDA provides funds for research, development or demonstration under a cooperative agreement the following clauses shall be included:

(1) *Rights in technical data clause (short form) or (long form).* If the long form is used the Additional Technical data requirements clause (41 CFR 9–9.202–3) in accordance with Section 215 d.

(2) *Authorization and consent* clause of 41 CFR 9–9.102–2 in accordance with Section 215 e.

(3) *Notice and assistance clause* of 41 CFR 9–9.104 in accordance with Section 215.

(4) *Classified inventions* clause of 41 CFR 9–9.106 in accordance with Section 215 g.

(5) Reporting or royalties clause of 41 CFR 9–9.110 in accordance with Section 215 h.

(6) The patent rights clause of 41 CFR 9–9.107–5(a) or 41 CFR 9–9.105–6 in accordance with Section 215.

(c) *Article—Subcontracts.* If subcontracts are either a large part of the project or are critical to its success, ERDA may desire to impose requirements for review and consent prior to the subcontract award.

(d) *Article—Public access to the project.* If the project requires public support, understanding, or acceptance to achieve the project objectives, a provision may be included which requires the Participant to provide for public access and viewing of the project.

(e) *Article—Mutual observance of rules.* If the project requires employees of the respective parties to work on the property of the other party, a provision may be included which covers observance of rules on each others property.

(f) *Article—Public information releases and publication.* A provision requiring coordination of all public releases concerning the project may be included in the agreement. Agreement should also be reached regarding the conditions for publication of results. ERDA Manual Chapter 3101 and the Office of Public Affairs should be consulted for advice in defining requirements in this subject area.

(g) *Article—Limitation of cost.* This Article should be included in the agreement when the agreement obligates ERDA funds. The purpose to be accomplished by establishing financial limits is to prevent financial liabilities to ERDA greater than the amount obligated. A limitation of cost provision is a means of assuring compliance with the Anti-Deficiency Act.

4. *Provisions.—Required Statutory and policy provisions in all cooperative agreements.* (Appendix O contains the prescribed text for these provisions. Changes to the text require deviation approval.)

(a) Officials not to benefit. (41 U.S.C. 22).

(b) Covenant against contingent fees. (policy).

(c) Sex discrimination prohibited. (Energy Reorganization Act of 1974, Pub. L. 93–438, Title IV, Section 401).

(d) Small and minority business participation. (Energy Reorganization Act of 1974, Pub. L. 93–438, Section 2(d), and policy).

(e) Preference for U.S. Flag Air Carriers. (International Air Transportation Fair Competitive Practices Act of 1974, Pub. L. 93–623, Section 1117).

(f) Disputes (policy). This provision prescribes the method whereby disagreements between the parties to a cooperative agreement may be resolved. Because a cooperative agreement reflects a partnership type relationship, disagreements should be resolved informally and administratively wherever possible.

5. *Provisions.—Additional provisions required in cooperative agreements which provide for payment of ERDA funds to the*

Participant. (See Appendix O for prescribed text. Text changes require deviation approval.)

(a) *Clean Air and Water.* (Clean Air Act, Section 114, as amended, (42 USC 1857 et. seg., as amended by P. L. 91–604) and Section 308 of the Federal Water Pollution Control Act (33 USC 1251 et. seg., as amended by P. L. 92–500). The foregoing is applicable and the provision in Appendix O shall be included in cooperative agreements where funds in excess of $100,000 are provided to the participant. If funds are not provided by ERDA, or if the funds provided are $100,000 or less, then the foregoing Acts do not apply.

(b) *Civil Rights.* (42 USC 2000d) when ERDA obligates funds uder a cooperative agreement and by so doing provides Federal financial assistance t the Participant, the provisions of the Civil Rights Act 42 USC 2000 d. and the implementing ERDA regulations in 10 CFR, Chapter III, Part 704 apply and the Civil Rights provision in Appendix O shall be included in the agreement.

(c) *Discrimination against handicapped prohibited.* (Rehabilitation Act of 1973, 29 USC 794). When ERDA obligates funds under a cooperative agreement and by so doing provides Federal Financial Assistance to the Participant, the provisions of the Rehabilitation Act Section 794 apply and the provision in Appendix O shall be included in the agreement.

(d) *Examination of records by Comptroller General.* (Policy based on 41 USC 254(c)). All cooperative agreements which provide for payment of ERDA funds to the Participant shall include the Examination of Records by the Comptroller General provision provided in Appendix O.

(e) *Assignment of Claims (41 USC 15).* All cooperative agreements which provide for payment of ERDA funds to the Participant shall include the Assignment of Claims provision provided in Appendix O.

(f) *Audit.* (Policy). All cooperative agreements which provide for payment of ERDA funds to the Participant shall include the Audit provision provided in Appendix O.

6. *When applicable provisions.* Text changes require deviation approval.

(a) *Equal Employment Opportunity.* (Executive Order No. 11246)

(1) Applicability. The provisions of the foregoing Executive Order apply to cooperative agreements only when such agreements involve the award of Federal financial assistance which may include a construction contract, and to all contractors and subcontractors performing under construction contracts which are funded from such programs. When applicable, the provision in Appendix O shall be used.

(2) Definition of Federally Assisted Construction Contract. (FPR 1–12.802(k).) "Federally assisted construction contract" means any agreement, or modification thereof, between any applicant and a person for construction work which is paid for, in whole or in part, with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(b) *Buy American Act.* All cooperative agreements which provide for payment of funds to the Participant any part of which may be used to acquire articles, materials, and supplies to make an end product which is to be delivered to EPDA for its use, shall include the Buy American Act clause as provided in Appendix O. If title to all end products is held by the participant this clause shall not be used. Under such circumstances a clause expressing a preference for domestic articles, materials and supplies may be included instead.

(c) *Mandatory purchase of flood insurance.* (Flood Disaster Relief Act of 1973, P. L. 93–234.)

(1) The Flood Disaster Protection Act of 1973 (P. L. 92–234), as amended, requires that participants purchase flood insurance as a condition of receiving any form of Federal financial assistance, including loan guaranties, for acquisition or construction purposes in an identified flood plain area having special flood hazards. The requirement applies to all identified special flood hazard areas within the United States, and no Federal financial assistance can legally be provided for structures in those areas unless the community has entered the National Flood Protection Insurance Program and flood insurance has been purchased.

(2) Questions pertaining to the compliance with the provisions of the Act and the guidelines of the Federal Insurance Administration (FIA) shall be referred through the Administrator to the FIA. Applicable regulation has been published in 24 CFR, Chapter X, Subchapter B. When the Act is applicable, the provision in Appendix O shall be included in the agreement.

CHAPTER 7—NEGOTIATION AND AWARD OF AGREEMENT

Sec.:	Title
700	Negotiation of agreement.
701	Authority to make award.
702	Reserved.
703	Responsible prospective recipient.
704	Preaward review and approval.
705	Award acceptance.
706	Reserved.
707	Do.
708	Recording of grant and cooperative agreement obligations.
709	Reserved.
710	Do.
711	Award notification.
712	Reserved.
713	Numbering of grants and cooperative agreements.
714	Reporting of grants and cooperative agreements in the contract information system.
715	Reserved.
716	Distribution of award documents.
717	Reserved.
718	Grant and cooperative agreement award file contents.

700 Negotiation of agreement.

a. *General.* The objective of ERDA grants and cooperative agreements is to make awards to those parties who offer meritorious ideas and proposals which will meaningfully contribute toward meeting the Nation's energy needs.

b. *Negotiation objective.* The purpose of negotiation(s) is to establish mutual agreement between ERDA and the prospective recipient as to the project definition, timing, ERDA's role in the project, purpose and the resources appropriate to support and carry out the project.

c. *Scope of negotiation(s).* All proposals submitted for possible award pursuant to this Manual, notwithstanding the instrument selected for award, are to be negotiated before award. Any subject which is or may be relevant to the successful accomplishment of the award objective may be the subject of negotiations. During negotiations it is important to question and clarify assumptions and to resolve doubts and ambiguities. The scope of negotiations should consider the project not only as an instant action, but how the project relates to other projects, whether support beyond the initial award will be needed, and whether a discrete or continuing grant is appropriate.

d. *Negotiation of grant and cooperative agreement provisions.* In recognition of ERDA's unique and pressing mission, the policies in this Manual should not be rigidly carried out at the expense of accomplishing ERDA's mission. To provide flexibility and efficiency, any needed deviation from this Manual may be requested and verbally discussed with the Division of Procurement prior to submission of a written request for deviation.

e. *Responsibility for negotiations.* The Awarding Officer is authorized and responsible for accomplishing necessary negotiations. However, because of the importance of the technical aspects of the agreement the Awarding Officer will negotiate the project consistent with the project parameters provided by the project officer. The awarding officer must negotiate only with the recipient's authorized officials and not with program directors or principal investigators. It is the responsibility of the proposer to identify who is authorized to conduct negotiations, concerning fiscal aspects, award terms and conditions, and technical negotiations.

f. Negotiation and processing of requests of waiver of Government patent rights. All waiver determinations shall be initiated by a written request. A request for an advance waiver shall be submitted to the Awarding Officer by the prospective recipient normally in advance of award but in no case later than thirty (30) days after award. A request for a waiver (other than advance waiver) shall be submitted to the Awarding Officer, or to ERDA patent counsel, at the time of first disclosure of the invention or not later than three (3) months thereafter, or such longer period as may be authorized by the Awarding Officer or patent counsel for good cause shown in writing by the recipient or inventor. The processing and approval of all waiver requests, and the negotiation of clauses for approved waivers, shall be conducted in accordance with the procedures set forth in 41 CFR 9–9.109–6.

701 Authority to make awards.

The authority of the Grants Officer and Cooperative Agreement Officer to make grant awards is discussed in Section 202b. and c.

702 Reserved

703 Responsibility of recipient.

a. *Determination of responsibility.* A grant or cooperative agreement shall not be awarded to any prospective recipient until the Awarding Officer determines that the prospective recipient is responsible within the meaning of this section. Written determinations are required by the Awarding Officer only when there is some doubt about the proposer's responsibility or when requested by the project officer.

b. *Standards.* In order to qualify as responsible, a prospective recipient must meet the following standards as they relate to the award under consideration:

1. Has adequate financial resources for performance, or has the ability to obtain such resources as required.

2. Has the necessary experience, organization, technical qualifications, and facilities, or has the ability to obtain them (including proposed subagreements);

3. Is able to comply with the proposed or required completion schedule for the project;

4. Has a satisfactory record of integrity, judgment, and performance, including performance under grants and contracts from the Federal Government.

4. Appears to be able to conform to the Civil Rights and/or Equal Opportunity requirements of this Manual; and

6. Is otherwise qualified and eligible to receive a grant or cooperative agreement award under applicable laws and regulations. Acceptable ability to obtain financial resources, experience, organization, technical qualifications, skills, and facilities (see subparagraphs 1. and 2. above) generally shall comprise a firm commitment or arrangement to obtain financial resources, experience, organization, technical qualifications, skills or facilities.

704 Preaward review and approval.

a. *Headquarters.* Preaward review and approval by the Headquarters Division of Procurement will be required for those matters which arise under Section 105 Deviations, when the award exceeds the dollar ceiling of an awarding officer's delegated authority or when required during the selection process as described in Section 505 c. and d.

b. *Field.* Field offices awarding grants or cooperative agreements pursuant to this Manual are responsible for establishing adequate review requirements to assure consistency with the policies in this Manual.

c. *Cooperative agreement.* No cooperative agreement may be issued, notwithstanding the dollar value, without review by ERDA legal counsel prior to award. Cooperative agreements are subject to the Headquarters review and approval of contract actions in ERDA Procurement Regulation 9–51.102(a) and (b). The dollar threshold is based on the total project funds provided by both parties.

705 Award acceptance.

The recipient is free to accept or reject the award. However, in the absence of a specific acceptance, action to obtain Federal funds constitutes acceptance of an award. In some cases, ERDA may require a recipient to formally accept an award in writing.

706 [Reserved]

707 [Reserved]

708 Recording of grant and cooperative agreement obligations.

a. *General.* This section provides the policy and procedures applicable to the issuance and recording of ERDA grant and cooperative agreement obligations.

b. *Definition of obligation.* An obligation is an actual or contingent liability of a Government activity resulting from orders placed for goods or services, grants/cooperative agreements awarded, and salaries earned which reserve an appropriation for expenditure.

c. *Creation of an obligation.* A legal obligation is incurred when an award is executed by a properly authorized awarding officer, conforms to legal authority, regulations and policy, and the recipient is formally notified of the issuance of the award. Where formal acceptance by the recipient is required, the legal obligation comes into existence upon acceptance by the last party to the agreement. Funds shall have been made available by the Program Office to the Awarding Officer prior to execution of the award. Grant and agreement awards may be fully costed upon obligation.

d. *Recording.* Copies of the obligating documents will be forwarded to the cognizant ERDA Finance Office immediately after the documents have been executed for recording as an obligation in the official accounting records. Claims for payment under awards will not be recognized until the obligating document has been received and recorded by the Finance Office. See Section 716 regarding distribution of award documents.

709 [Reserved]

710 [Reserved]

711 Award notification.

a. *General.* This section establishes requirements and procedures for notification of certain organizations and interested parties prior to or as part of the award process.

b. Congressional notifications. See IAD No. 3101–2.

c. Notification of States of Grants-In-Aid Information in accordance with Department of Treasury Circular No. 1082; OMB Circulars A–95 and A–98. See Section 405.

d. Public Information Releases. See ERDA Manual Chapter 3101.

712 [Reserved].

713 Numbering of grants and cooperative agreements.

Grant awards and modifications thereto shall be numbered in accordance with ERDA–PR Part 9–53 as revised by ERDA–PR Temporary Regulation No. 18 dated June 17, 1976.

714 Reporting of grant and cooperative agreement actions in the contract information system.

a. *Policy.* Grant and cooperative agreement actions made pursuant to this Manual will be reported to the Division of Procurement.

b. *Reporting system.* Grant and cooperative agreement actions will be reported using the existing Contract Information System prescribed by ERDA–PR 9–54 and ERDA–PI Appendix 9–54, Contract Information System (CIS) Handbook.

c. *Supplementary instructions to ERDA–PR 9–54.* In order to report grants and cooperative agreements in the existing CIS, the following supplementary instructions are added to several sections of ERDA–PR 9–54.

1. 9–54.003(a) Definition of "procurement action".

(a) For the purpose of reporting grant and cooperative agreement activity in the Contract Information System, the terms grant and cooperative agreements are equivalent to contract.

(b) For reporting purposes, "Procurement action" shall include all grant and cooperative agreement awards and modifications thereto.

2. 9–54.004 Reports required.

(a) Form ERDA–328A, Contract Data Worksheet, shall be prepared by ERDA procurement offices for each new grant and cooperative agreement award regardless of dollar value including all awards under $10,000.

(b) ERDA–328B, Prime Contract Change Worksheet, shall be submitted to report changes made under the original grant or cooperative agreement.

(c) No Form ERDA–330A, Supplemental Report of Procurement Actions is required.

3. Submission and frequency of reports shall be in accordance with ERDA–PR 9–54.005.

715 [Reserved].

716 Distribution of award documents.

a. *Standard distribution.* Distribution of award document shall be in accordance with ERDA–PR 9–53.108 as revised by ERDA–PR Temporary Regulation No. 18 dated June 17, 1976.

b. *Special distribution.* In addition to the standard distribution in a., one copy of every executed cooperative agreement shall be forwarded to Division of Procurement, Chief, Policy Development Branch within 30 days after the award.

717 [Reserved].

718 Grant and cooperative agreement award file.

a. *Policy.* ERDA desires to maintain high standards of public accountability in the evaluation of proposals, selection of recipients and the administration of grants and cooperative agreements. To accomplish this end, there will be an orderly, complete, and accessible record of all actions taken concerning the grant or cooperative agreement or modifications thereto. The objective is to assure all decisions affecting grant and cooperative agreements determinations be sufficiently documented so that any person reviewing a file can determine who made a decision, what the decision was, and the supporting rationale.

b. *Award file.* In order to implement this policy, an award file will be established for each grant and cooperative agreement instrument. Modifications will be filed in the award file.

c. *Responsibility.* The grant or cooperative agreement awarding office is responsible for establishing and filing the appropriate documentation for determinations made and actions taken. The project officer is responsible for providing written documentation for all decisions made within the purvue of the program responsibility. The Awarding Officer will assure that all required actions are completed.

d. *Contents.* The items listed below should either be documented or included in the award file. The guide for determining file contents will be the satisfaction of the policy in a.

1. Award file check list. A sample is provided in Appendix D. The sample may be revised to meet local requirements.

2. Copy or reference to the document which stimulated submission of the proposal.

3. List of solicited proposers where a recipient was selected from competing solicited proposals. No list is required for unsolicited proposals.

4. Evaluation criteria and scoring system used for selection.

5. Copies of the narrative technical and numerical evaluation of proposals, a list of proposals to be funded, a list of proposals approved but not funded, and a list of rejected proposals.

6. List of evaluators—names of all individuals who formally reviewed and evaluated proposals, and also the names of those individuals who are responsible for making the selection, rejection decisions.

7. All correspondence to or from Office of General Counsel.

8. Any official and Congressional communications.

9. Copy of the entire proposal.

10. Copies of any clearances.

11. Assurances and Certifications: Civil Rights, Protection of Human Subjects, etc.

12. Business evaluation.

13. Determination of recipient responsibility when necessary.

14. Certification from the program office that funds are available for obligation.

15. Negotiation documentation. If any discussions are held with the prospective grantee to revise or clarify either the technical or cost proposal, the file should be documented to reflect the discussion, the agreements reached, and the changes incorporated as a result of the negotiation.

16. Copy of preaward approvals where required.

17. Copy of the award document and any attachments are awarded.

18. Financial reports.

19. Performance reports.

20. Termination documentation, if any.

21. Audit reports, if any.

22. Requests for changes or approvals, if any.

23. Instrument closeout documents.

CHAPTER 8—POST AWARD ADMINISTRATION

Sec.:	Title
800	Scope of chapter.
801	Monitoring and reporting program performance.
802	Reserved.
803	Reserved.
804	Reserved.
805	Financial reporting and payment request requirements.

Sec.:	Title
806	Revision of financial plans.
807	Payment methods.
	Expenditures under ERDA grants and cooperative agreements.
809	Program income.
810	Fee and profit under ERDA grants and cooperative agreements.
811	Assignment of grant payments to financial institutions (reserved).
812	Successor in interest and change of name agreements (reserved.
813	Property management standards for State and local governments.
814	Property management standards for other than State and local governments.
815	Procurement standards.
816	Suspension and termination procedures.
817	Collection of information—surveys and questionnaires.
818	Foreign travel.

800 Scope of chapter.

This chapter covers financial and technical operating matters which follow a grant or cooperative agreement award and precede requests for additional support or initiation of closeout. The primary responsibility for administration of a grant or cooperative agreement must remain with the recipient, who is responsible for the success of the project for which the award was made. Although recipients are encouraged to seek the advice and opinions of ERDA on problems that may arise, the giving of advice shall not shift the responsibility for final decisions to ERDA. The primary concern of ERDA is that the funds be used to achieve the objectives of the project award consistent with program objectives. Recipients and those assisting them on the project work must direct their efforts to this end.

801 Monitoring and reporting program performance.

a. *Purpose.* This section sets forth the procedures prescribed by OMB Circular No. A–110, Attachment H, and FMC 74–7, Attachment I, for monitoring and reporting program performance of institutions of higher education, hospitals other nonprofit organizations, and State and local governments which receive grants or cooperative agreements. This section is not mandatory, but may be used, in grants and cooperative agreements with profit making organizations, individuals, or foreign organizations.

b. *Responsibility for monitoring.* Recipients shall monitor the performance under grants and other agreements and, where appropriate, ensure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved. This review shall be made for each program (project), function, or activity of each agreement as set forth in the approved application or award documents.

c. *Performance report.* For each agreement recipients shall submit a report that briefly presents the following information for each prgoram, function, or activity as prescribed by ERDA.

1. A comparison of actual accomplishments with the goals established for the period, the findings of the investigator, or both. If the output of programs or projects can be readily guantified, such guantitative data should be related to cost data for computation of unit costs.

2. Reasons why established goals were not met, if applicable

3. Other pertinent information cinluding, when appropriate, analysis and explanation of cost overruns or high unit costs.

d. *Frequency and submission.* Except as provided in 1. and 2. below, and in subparagraph c.1.(a), Section 805, recipients shall submit the performance or technical reports to ERDA and the Financial Status Reports covering the same period in the frequency established in Section 805 c.1.(a) and, where appropriate, a final technical or performance report after completion of the project. ERDA shall prescribe the frequency with which the performance reports will be submitted (quarterly and/or final). Except as provided for in paragraph e. below, performance reports shall not be required more frequently than quarterly or less frequently than annually. ERDA may waive the requirement for recipients to submit performance reports which cover the same period as the financial reports under the following circumstances:

1. When the recipient is required to submit a performance report with a continuation or renewal application.

2. When ERDA determines that on-site technical inspections and certified completion data will be sufficient to evaluate construction projects.

3. When ERDA requests annual financial reports on a fiscal year basis but it is necessary to get annual progress reports on a calendar year basis.

e. *Report of special events.* Between the required performance reporting dates, events may occur that have significant impact upon the project or program. In such instances, the recipient shall inform ERDA as soon as the following types of conditions becomes known:

1. Problems, delays, or adverse conditions that will materially affect the ability to attain program objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

2. Favorable developments or events that enable time schedules to be met sooner than anticipated or more work units to be produced than orginally projected.

f. *Budget revision.* If any performance review conducted by the recipient discloses the need for change in the budget estimates in accordance with the criteria established in Section 806, the recipient shall submit a request for budget revision.

g. *Site visits.* The ERDA shall make site visits as frequently as practicable.

1. Review program accomplishments and management control systems, and

2. Provide such technical assistance as may be required.

h. *Reports clearance.* ERDA shall submit proposed technical and performance reporting forms to the Office of Management and Budget for approval in accordance with the report clearance requirements of OMB Circular No. A–40 (Clearance of plans and report forms under the Federal Reports Act), as revised. See Section 817. There is no specified performance reporting format required for recipient reporting of information in paragraphs c. or e.

802 [Reserved].

803 [Reserved].

804 [Reserved].

805 Financial reporting and payment request requirements.

a. *Purpose.* This section prescribes uniform reporting procedures required by OMB Circular No. A–110, Attachment G, and FMC 74–7, Attachment H for institutions of higher education, hospitals, other nonprofit organizations and State and local governments to: Summarize expenditures made and Federal funds unexpended for each award, report the status of Federal cash advanced, request advances and reimbursement when the letter-of-credit method is not used; and promulgates standard forms incident thereto. Separate procedures are included in this section for profit making organizations, individuals, and foreign organizations which receive grants or cooperative agreements. Paragraph J. provides a Financial Forms Matrix which charts the forms appropriate for each type of recipient.

b. *Definitions.* The following definitions apply for purposes of this section:

1. *Accrued expenditures.* Accrued expenditures are the charges incurred by the recipient during a given period requiring the provision of funds for: (a) goods and other tangible property received; (b) services performed by employees, contractors, subrecipients, and other payees, and (c) other amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

2. *Accrued income.* Accrued income is the sum of (a) earnings during a given period from (1) services performed by the recipient; and (2) goods and other tangible property delivered to purchasers; and (b) amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

3. *Federal funds authorized.* Federal funds authorized are the total amount of Federal funds obligated by ERDA for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior fiscal years when permitted by law or agency regulation.

4. *In-kind contributions.* In-kind contributions are defined in Section 205 b.2.

5. *Obligations.* Obligations are the amounts of orders placed, contracts and grants awarded, services received, and similar transactions during a given period that will require payment by the recipient during the same or a future period.

6. *Outlays.* Outlays or expenditures represent charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advanced and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

7. *Program income.* Program income is defined in Section 809b. It may be reported on a cash or accrual basis, whichever is used for reporting outlays.

8. *Unobligated balance.* The unobligated balance is the portion of the funds authorized by ERDA that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

9. *Unliquidated obligations.* For reports prepared on a cash basis, unliquidated obligations represents the amount of obligations incurred by the recipient that has not been paid. For reports prepared on an accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

c. *Financial reporting forms.* Only the following forms will be authorized for obtaining financial information from recipients.

1. All recipients except profit making organizations, individuals, and foreign organizations.

(a) *Financial Status Report* (SF–269).

(1) ERDA shall require recipients to use the standardized Financial Status Report to report the status of funds for all nonconstruction projects or programs. ERDA may, however, opt to not require the Financial Status Report when the Request for Advance or Reimbursement in paragraph d.1., or Report of Federal Cash Transactions in paragraph c.2. is determined to provide adequate information to meet ERDA's needs, except that a final Financial Status Report shall be required at the completion of the project when the Request for Advance or Reimbursement form is used only for advances.

(2) Reports may be on a cash or accrual basis. If the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(3) ERDA shall determine the frequency of the Financial Status Report for each project or program considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually except as povided in subparagraph c.1.(a) above. A final report shall be required at the completion of the agreement.

4. ERDA shall require recipients to submit the Financial Status Report (original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 days for annual and final reports. Extensions to reporting due dates may be granted upon request of the recipient.

(b) *Report of Federal Cash Transactions* (SF–272).

(1) When funds are advanced to recipients through letters of credit or with Treasury checks, ERDA shall require each recipient to submit a Report of Federal Cash Transactions. ERDA shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement from the recipients.

(2) ERDA may require forecasts of Federal cash requirements in the "Remarks" section of the report.

(3) When practical and deemed necessary, ERDA may require recipients to report in the "Remarks" section the amount of cash advances in excess of three days' requirements in the hands of subrecipients and to provide short narrative explanations of actions taken by the recipients to reduce the excess balances.

(4) Recipients shall be required to submit not more than the original and two copies of the Report of Federal Cash Transactions 15 working days following the end of each quarter. ERDA may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(5) ERDA may waive the requirement for submission of the Report of Federal Cash Transactions when monthly advances do not exceed $10,000 per recipient, provided that such advances are monitored through other forms contained in this section, or if, in ERDA's opinion, the recipient's accounting controls are adequate to minimize Federal advances.

2. Profit making organizations, individuals, and foreign organizations.

Final cost report. Profit making organizations, individuals and foreign organizations shall submit a final cost report within 90 days after, the end of the grant period. The format of the report should be the same as the budget as awarded. The final cost report shall compare the amounts allocated in the award budget to the amounts expended for each budget element, and shall indicate whether there is an unobligated balance to be refunded to ERDA.

d. *Payment request forms.* Except as noted below, only the following forms will be authorized for the recipients in requesting advances and reimbursements.

1. All recipients except profit making organizations, individuals and foreign organizations.

(a) Request for Advance or Reimbursement (SF–270).

(1) The Request for Advance or Reimbursement is required as a standardized form for all nonconstruction programs when letters-of-credit or predetermined advance methods are not used. This form may be used for construction programs in lieu of the Outlay Report and Request for Reimbursement for Construction Programs in subparagraph d.2.

(2) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when letters-of-credit are not used. ERDA shall not require the submission of more than the original and two copies of the Request for Advance or Reimbursement.

(b) Outlay report and request for reimbursement for construction programs (SF–271).

(1) The Outlay Report and Request for Reimbursement for Construction Programs is required as the standardized format to be used for requesting reimbursement for construction programs. The Request for Advance or Reimbursement Form in subparagraph d.1. may be substituted when ERDA determines that it provides adequate information to meet its needs.

(2) Recipients are authorized to submit requests for reimbursement at least monthly when letters-of-credit are not used. ERDA shall not require more than the original and two copies of the Outlay Report and Request for Reimbursement for Construction Programs.

2. Profit making organizations, individuals, and foreign organizations.

(a) *Standard Form 1034, Public Voucher.* Payment in advance or reimbursement by Treasury check. Profit making organizations and individuals should use the Standard Form 1034, Public Voucher and Standard Form 1035, Continuation Sheet, when requesting payment either in advance or reimbursement by Treasury check. The request for payment should include the cummulative costs incurred by budget cost element through the billing period, the amount previously received from ERDA, either in advance or as a reimbursement, and the currently requested amount. An original and two copies should be submitted.

(b) *Payment by letter of credit.* If payment is made by letter of credit, then the Report of Federal Cash transactions described in c.1.(b) will be submitted quarterly with a final cost report as described in c.2.

e. *Additional financial information.* When ERDA needs additional information in using these forms or more frequent reports, the following shall be observed:

1. When additional information is needed to comply with legislative requirements, ERDA shall issue instructions to require recipients to submit such information under the "Remarks" section of the reports.

2. When necessary to meet specific program needs ERDA shall submit the proposed reporting requirements to the Financial Management Branch, Budget Review Division, Office of Management and Budget for approval prior to submission of the reports for clearance under the provisions of OMB Circular A–40.

3. When ERDA has determined that a recipient's accounting system does not meet the Standards for Financial Management contained in section 210, additional pertinent information to further monitor grants and other agreements may be obtained upon written notice to the recipient until such time as the system is brought up to standard.

4. ERDA in obtaining information as in paragraphs a., b., and c. above, must comply with report clearance requirements of the Office of Management and Budget Circular No. A–40, as revised.

f. *Deletion of reporting items.* ERDA may shade out any line item on any report that is unnecessary for decision-making purposes.

g. *Acceptance of machine reports.* ERDA will accept the identical information from the recipients in machine usable format or computer printouts in lieu of prescribed formats.

h. *ERDA computer outputs.* ERDA may provide computer outputs to recipients when it will expedite or contribute to the accuracy of reporting.

i. *Authority to reproduce forms.* ERDA may reproduce the forms prescribed in this section. The forms for reproduction purposes can be obtained from the Office of Management and Budget.

j. *Financial reporting forms matrix.*

Type of recipient	Proposal budget format	Payment financial method	Monthly financial submissions	Quarterly submission	Final financial submission
State and local Governments..	FMC 74-7, Attachment M application for Federal assistance (nonconstruction) pt. III—Budget or Optional Form 60 in 41 CFR 1-16.902 at States option.	Letter of credit..... Advance by Treasury check.	None..... RAR [3] (Block 12).	RFCT [1]..... RAR RFCT.	RFCT FSR. [2] RFCT FSR.
Educational, hospitals, and other nonprofit institutions.	No prescribed format, may use: 1. Optional Form 60 in 41 CFR 1-16.902; 2. Sample budget in ERDA guide for submission of research proposals from educational institutions.	Reimbursement by Treasury check.	RAR (Block 11)..	None.....	None.
Profit making organizations and individuals.	Use optional form 60 in 41 CFR 1-16.902.....	Letter of credit..... Advance by Treasury check. Reimbursement by Treasury check.	None..... SF-1034 [5]..... SF 1034.....	RFCT..... SF-1034..... SF-1034.....	FSR final cost report. [4] SF-1034 (final voucher) final cost report. SF-1034 final cost report.
Applicable section in ERDA-FAM.	Sec. 301.....	Sec. 807.....	Sec. 805.....	Sec. 805.....	Sec. 805.

[1] RFCT means "Report of Federal Cash Transactions" (SF-272).
[2] FSR means "Financial Status Report" (SF-269).
[3] RAR means "Request for Advance or Reimbursement" (SF-270).
[4] Final cost report. See section 805 c. for explanation.
[5] SF 1034 means Standard Form 1034, Public Voucher. (See section 806 d.2. for explanation.)

806 Revision of financial plans.

a. *Purpose.* This section sets forth criteria and procedures prescribed by OMB Circular No. A-110, Attachment J, AND FMC 74-7, Attachment E, to be followed by ERDA in requiring institutions of higher education, hospitals, other nonprofit organizations, and State and local governments under grants and cooperative agreements to report deviations from financial plans and to request approvals for financial plan revisions. This section is not mandatory for grants and cooperative agreements with profit making organizations, individuals, or foreign organizations, but may be imposed where useful.

b. *Financial plan/budget.* The financial plan is the financial expression of the project or program as approved during the application and/or award process. It may include either the Federal and non-Federal share, or only the Federal share. It should be related to performance for program evaluation purposes whenever appropriate.

c. *Prior approvals (nonconstruction).* For nonconstruction awards, recipients shall immediately request approvals from ERDA when there is reason to believe that within the next seven days a revision will be necessary for the following reasons:

1. Changes in the scope or the objective of the project or program.

2. The need for additional ERDA funding.

3. The transfer of amounts budgeted for indirect cost to absorb increases in direct costs or vice versa, if approval is required by ERDA. Normally, ERDA will not require such prior approval.

4. (a) *For educational, hospitals, other nonprofit organizations.* The expenditures as require approval in accordance with FMC 73-8, "Cost Principles for Educational Institutions." For all other awards, approval requirements for other items of expenditures may be imposed if they are consistent with those in FMC 73-8. No other requirements for specific items may be imposed unless a deviation has been approved by the Office of Management and Budget.

(b) *For State and local governments.* Revisions pertaining to the addition of items requiring approval in accordance with the provisions of FMC 74-4.

5. Recipients plan to transfer funds allotted for training allowances (direct payments to trainees) to other categories of expense. This is not applicable to State and local governments.

d. *Approval to subcontract or transfer work.* None of the substantive programmatic work under a grant or other agreement may be subcontracted or transferred without prior approval of ERDA. This provision does not apply to the purchase of supplies, material, equipment, or general support services. The foregoing is not applicable to State and local governments.

e. *Fund transfers among direct cost categories.* Although ERDA may restrict transfers of funds among direct cost categories for awards in which the Federal share exceeds $100,000 when the cumulative amount of such transfers exceeds or is expected to exceed five percent of the total budget as last approved by ERDA, ERDA awarding officers should rarely impose such a restriction. The same criteria shall apply to the cumulative amount of transfers among programs, functions, and activities when budgeted separately for an award, except that ERDA shall permit no transfer that would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended.

f. *Approval not required for other changes.* All other changes to nonconstruction budgets, except for the changes described in paragraphs c. and h., do not require approval. This includes the use of recipient funds in furtherance of program objectives over and above the recipient minimum share included in the approved budget.

g. *Prior approvals (construction).* For construction awards, recipients shall request prior approvals promptly from ERDA for budget revisions wherever:

1. The revision results from changes in the scope or the objective of the project or program, and

2. The revision increases the budget amounts of ERDA funds needed to complete the project.

h. *Fund transfers between nonconstruction and construction work.* When ERDA makes an award that provides support for both construction and nonconstruction work, the ERDA may require the recipient to request prior approval from ERDA before making any fund or budget transfers between the two types of work supported.

i. *Notice of excess funds.* For both construction and nonconstruction awards, ERDA shall require recipients to notify promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient by more than $5,000 or five percent of the Federal award, whichever is greater. This notification will not be required if applications for additional funding are submitted for continuing grants or contracts.

j. *Forms.* When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless a letter request will suffice.

k. *Timing of ERDA approval.* Within 30 calendar days from the date of receipt of the request for budget revisions, ERDA shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, ERDA shall inform the recipient in writing of the date when the recipient may expect the decision.

807 Payment methods.

a. *Purpose.* This section sets forth the methods prescribed by OMB Circular No. A-110, Attachment I, and FMC 74-7, Attachment J, which is being applied to making payments to all prime recipients whether under a grant or cooperative agreement. These methods will minimize the time elapsing between the disbursement by these recipients and the transfer of funds from the United States Treasury to these recipients whether such disbursement occurs prior to or subsequent to the transfer of funds.

b. *Definitions.* Payments can be made to prime recipients through a letter-of-credit, an advance by Treasury check or a reimbursement by Treasury check. The following definitions apply for the purpose of this section:

1. *Letter-of-credit.* A letter-of-credit is an instrument certified by an authorized official of ERDA that authorizes a prime recipient to draw funds when needed from the Treasury, through a Federal Reserve bank and the recipient's commercial bank, in accordance with the provisions of Treasury Circular No. 1075, as revised. See ERDA Manual Appendix 1101, Part IV, Section A, Advanced Payment and Letter of Credit Procedures.

2. *Advance by Treasury check.* An advance by Treasury check is a payment made by a Treasury check to a recipient upon its request before outlays are made by the recipient, or through the use of predetermined payment schedules.

3. *Reimbursement by Treasury check.* A reimbursement by Treasury check is a Treasury check paid to a recipient upon request for reimbursement from the recipient.

c. *Letter of credit method.* Except for construction grants and other construction agreements for which optional payment methods are authorized, as described in paragraph e., the letter-of-credit method shall be used by ERDA if all of the following conditions exist:

1. If there is or will be a continuing relationship between a recipient and ERDA for at least a 12-month period and the total amount of advance payments expected to be received within that period from ERDA is $250,000 or more, as prescribed by Treasury Circular No. 1075. For joint funded projects the Treasury has authorized a dollar criteria of $120,000.

2. If the recipient has established or demonstrated to ERDA the willingness and ability to maintain procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the recipient.

3. If the recipient's financial management system meets the standards for fund control and accountability prescribed in Section 210.

d. *Advance by Treasury check method.* The method of advancing funds by Treasury check shall be used, in accordance with the provisions of Treasury Circular No. 1075, when the recipient meets all of the requirements specified in paragraph c., above, except those in subparagraph c.1.

e. *Reimbursement by Treasury check method.* The reimbursement by Treasury check method shall be the preferred method if the recipient does not meet the requirements specified in subparagraph c.2. and c.3. above. At ERDA's option, this method may also be used on any construction agreement, or if the major portion of the program is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the program. When the reimbursement method is used, ERDA shall make payment within thirty days after receipt of the billing, unless the billing is improper.

f. *Consolidated letter of credit.* When the letter-of-credit procedure is used, the recipient shall be issued one consolidated letter-of-credit whenever possible to cover anticipated cash needs for all grants and other agreements awarded by ERDA. Likewise, to the extent possible, when the advance by Treasury check method is used, advances should be consolidated (pooled) for all grants and other agreements made by ERDA to that recipient.

g. *Withholding of payments.* Unless otherwise required by law, ERDA shall not withhold payments for proper charges made by recipients at any time during the project or program period unless:

1. A recipient has failed to comply with the program objectives, award conditions, invention reporting requirements, or Federal reporting requirements; or

2. The recipient is indebted to the United States, and collection of the indebtedness will not impair accomplishment of the objectives of a project or program sponsored by the United States.

Under such conditions, ERDA may, upon reasonable notice, inform the recipient that payments will not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

808 Expenditures under ERDA grants and cooperative agreements.

a. *Purpose.* This section provides guidance regarding the basis for reimbursing all recipients as indicated for direct and indirect costs under grants and cooperative agreements.

b. *Basic principles.* The allowability of costs for which ERDA funds may be expended under ERDA grants and cooperative agreements shall be determined in accordance with the following cost principles:

1. *Federal cost principles.* (a) OMB Circular A-21 reissued as FMC 73-8 provides cost principles and policy guides to be applied by Federal agencies supporting research and development and training and other educational services under grants and contracts with educational institutions.

(b) OMB Circular A-87 reissued as FMC 74-4 provides comparable principles and guides affecting Federal awards to State and local government agencies (excluding institutions of higher education, hospitals, and school districts).

(c) Subpart 1-15.2 of the Federal Procurement Regulations as supplemented by ERDA Procurement Regulation 9-15.205-3, Bidding Costs, and 9-15.205-35, Research and Development Costs, provides comparable principles and procedures for use in cost-reimbursement type supply and research contracts with commercial organizations. Such principles and procedures are applicable to grants to individuals and profit making organizations. These same cost principles are also applicable to nonprofit organizations until government-wide cost principles for these organizations are established.

(d) One of the cost principles referenced in (a) or (c) above will be applicable to hospitals depending on whether the hospital is classified as an educational institution, nonprofit, or a profit making organization.

2. *Applicability to ERDA cooperative agreements.* The cost principles are applicable to cooperative agreements to the extent that ERDA funds are involved. The cost principles may be used as a general guide to pricing when evaluating the costs to be reimbursed by nonfederal funds. Federal cost principles need not, and should not be rigidly applied to nonfederal funds. Areas of potential disagreement should be negotiated and settled prior to award. See Section 503c.

3. *Cost accounting standards.* Public Law 91-379, 50 U.S.C. App. 2168, as implemented by the regulations of the Cost Accounting Standards Board (See 4 CFR 331 et seq.) are not applicable to ERDA grants and cooperative agreements issued pursuant to this Manual.

4. *Cost or pricing data.* The requirements of Pub. L. 87-653 regarding the submission and certification of cost or pricing data are not mandatory for grants and cooperative agreements. However, explanatory data and supporting schedules, stated in sufficient detail to facilitate a meaningful review, and evaluation of the estimated cost proposal, will generally be required.

5. *Grantee policies.* Where a grantee has a formal policy as to the allowability of costs which differs from the policy stated herein, the ERDA policy is to be considered the minimum requirement. Where the grantee has requirements which are more stringent than those stated herein, he must adhere to at least the minimum ERDA requirement.

6. *Basic considerations.* In addition to the basic considerations concerning such factors as the general allowability and reasonableness of costs and the allocability to specific cost objectives contained in the applicable Federal cost principles, the following apply to ERDA grants:

(a) *Maximum obligation.* The maximum obligation of ERDA for support of the project will not exceed the amount awarded in the grant instrument, as amended.

(b) *Pre-award costs.* In amplification of Section J.25 of Attachment A to FMC 73-8 and comparable sections of the other Federal cost principles, expenditures may not be charged against ERDA funds prior to the effective date of the grant unless specifically provided for in the grant award.

(c) *Post-award costs.* Grant funds may not be expended subsequent to the expiration date of the grant except to liquidate valid commitments which were made on or before the expiration date such as those minimum commitments necessary for the physical preparation and submission of the final report.

c. *Direct costs.* 1. *General.* This subsection implements FMC 73-8 and therefore is applicable only to grants and cooperative agreements with educational institutions. Subject to the basic considerations in paragraph a.6. direct costs as defined in the applicable Federal principles may be chargeable to ERDA grants or cooperative agreements if considered allowable under the "Standards for Selected Items of Cost" in those principles, as amplified by this subsection. The "Selected Items of Cost" which the applicable Federal cost principles state are unallowable, or allowable only if approved by the awarding agency, are not allowable charges against an ERDA grant or cooperative agreement unless specifically approved in the award instrument, as amended.

2. *Salaries and wages—compensation for personal services.* (a) *Salary supplementation.* (1) *Professorial and professional personnel.* The general prohibition against salary supplementation contained in subsection J.7.i of FMC 73-8 applies to ERDA research grants with educational institutions.

(2) *Nonprofessional personnel.* When all of the salary of nonprofessional personnel is fully assigned to projects supported by ERDA grants, overtime may be charged to the grants on which the overtime was worked under the conditions (i) through (iv) below. When the salary of nonprofessional personnel not fully assigned to ERDA grants is charged partly to grant funds and partly to other funds, the premium pay amount should be prorated in accordance with the time spent on all activities except for the following situations when they apply specifically to ERDA work:

(i) When necessary to cope with emergencies, such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(ii) When by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(iii) In the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat, which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(iv) When lower overall cost to the Government will result.

(b) *Graduate research assistants.* Graduate students actually employed as research assistants may be paid salaries (not stipends), furnished remission of tuition, or both, depending on the institution's working arrangements with the graduate research assistant and within the guidelines of institutional policy, consistently applied.

3. *Staff (fringe) benefits.* Staff (fringe) benefit payments are allowable in accordance with the applicable Federal cost principles.

4. *Travel.* (a) *General.* Travel costs of project personnel, including transportation, lodging, subsistence, and incidental expenses, are allowable in accordance with the applicable Federal cost principles as amplified herein.

(b) *Travel accommodations.* Except as provided in section J.44.c. of FMC 73-8 and comparable sections of the other Federal cost principles, the difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable. A train, bus, or other surface carrier may be used in lieu of or as supplement to air travel at the lowest first-class rate by the transportation facility used. However, if such travel could have been performed by air, the allowance will not normally exceed that for jet economy air fare

(c) *Domestic travel.* Expenditures for domestic travel may not exceed $500 or 125 percent of the amount allotted for such travel in the grant budget, as amended, whichever is greater, without prior ERDA approval.

(d) *Foreign travel.* Expenditures for foreign travel are allowable only as prescribed in Section 818, Foreign travel.

(e) *Dependent travel.* Travel costs of dependents of project personnel are not allowed without prior ERDA approval, which gen-

erally will be granted only under the following circumstances:

(1) The individual scientist is a key person whose full-time presence is essential to the effective performance of the project;

(2) His residence in a foreign country for a continuous period of at least six months is essential to the effective performance of the project; and

(3) The payment of a travel allowance for dependents is consistent with the policies of the grantee institution.

5. Permanent (nonexpendable) equipment.

(a) *General.* Ordinarily, a grantee is expected to have the facilities and equipment necessary to carry out projects supported by ERDA grants. Additional permanent (nonexpendable) equipment and accessories required for ERDA-supported projects may be purchased or rented with grant funds if allowable under Section 814 f.

(b) *Limitation on total expenditures.* Expenditures for permanent equipment may not exceed 125 percent of the amount allocated in the grant budget, as amended, without prior ERDA approval.

6. *Supplies, materials, and expendable equipment.* Expendable equipment and supplies such as office or laboratory supplies, may be purchased with grant funds, to the extent that they are required for successful completion of the grant-supported project.

7. *Alterations and renovation.* Expenditures for minor alterations or renovation of existing facilities essential to the conduct of a grant-supported project are allowable only if prior ERDA approval has been granted in the award budget.

8. *Other allowable costs.* This section summarizes other costs which normally are allowable as an expenditure from ERDA grant funds, usually under the "other direct cost" category.

(a) *Audio-visual materials.* Films or other audio-visual materials needed for science education projects may be purchased with prior ERDA approval. Such materials and/or related equipment may be rented with grant funds if the grantee institution would normally charge such costs to similar non-ERDA-supported projects.

(b) *Books and periodicals.* Reference books and periodicals essential to the conduct of the project may be purchased with grant funds. When the project is completed, it is expected that any special purpose books or periodicals acquired by grant funds will be retained in the department or main library of the grantee institution for future use. Grant funds may not be used for direct purchase of books to be placed on library shelves for the general use of either staff or students.

(c) *Communications.* Costs resulting from local and long distance telephone calls, telephone surveys, telegrams, postage, etc., necessary to the project, and not treated as indirect costs, are allowable as direct costs if the grantee consistently makes similar direct charges to non-ERDA supported projects.

(d) *Computer (ADPE) costs.* The cost of automatic data processing services, including rental of equipment or depreciation on grantee-owned equipment, is an allowable direct cost expenditure with the provisos concerning ADPE leasing costs in such other Federal cost principles as may be applicable. The acquisition of ADP equipment with grant funds, whether by outright purchase, rental-purchase agreement, or other method of purchase is subject to the requirements concerning other nonexpendable property in Section 814.

(e) Consultant services. (1) *Outside consultants.* The use of grant funds for the payment of fees to consultants or to technical personnel not employed by the grantee is allowable for short periods for services which are essential to the project and cannot be provided by persons receiving salary support under the grant or otherwise are compensated for their services. The fees to be provided should be commensurate with the time devoted to the project and consistent with the grantee's usual rate of compensation for consultants. Such compensation is to be treated as an "other direct cost" rather than "salary". The specific circumstances, the grantee's policies on such matters, any special preparation required on the part of the individual, and his qualifications should be taken into consideration in determining the amount of such fees.

(2) *In-house consultants.* Grants funds may not be used to pay consultant fees to employees of the grantee except under the conditions specified in FMC 73–8, subsection J.7.i. or comparable section of other applicable Federal cost principles.

(3) *Federal employees.* Employees of the Federal government (other than ERDA) may be utilized as lecturers or staff members and may receive compensation and/or expenses if they obtain prior approval from their agencies to participate and if service to the project are performed outside their regular working hours or while they are on leave status from official duties. Under no circumstances may ERDA employees receive compensation for an ERDA-supported project.

(f) *Insurance costs.* Insurance is usually treated and reimbursed as an indirect cost. In certain situations, however, where special insurance needs to be purchased due to a peculiar project risk, the premiums may be charged as a direct cost with the restrictions stipulated in the applicable cost principles. Such premiums might include those on hazard, malpractice, or other liability insurance to cover personnel directly connected with the grant-supported project or to cover esoteric or one of a kind equipment supported by grants if such practice is in accordance with organizational policy. Cost of accident insurance to cover participants in research is allowable as a direct cost.

(g) *Printing and related costs.* If appropriate to the specific project, costs of printing and distributing project announcements, brochures, and application forms should be itemized in the proposal budget. ERDA approval will be indicated in the grant budget.

(h) *Publication costs.* Costs of preparing and publishing the results of ERDA-supported research, including costs of reports, reprints, page charges, and necessary illustrations, are allowable charges against the grant. In the event that valid commitments for publication have been incurred, but it is not possible to effect an actual payment for such charges within 90 days after completion of the expiration date the grantee may transfer from the grant account to an institutional account an amount equal to the commitment and retain such funds for payment of the publication charge when it is rendered. If actual publication costs are less than the commitment, the excess funds may be retained by the recipient for use in its energy related research programs; if more than the commitment, the excess will not be reimbursed by ERDA.

(i) Relocation costs. (1) Provides that a proposal for ERDA support specifically indicates that the grantee intends to hire a named individual for full-time work on the project and such recruitment action is not disapproved by the grant terms, relocation costs may be charged to an ERDA grant as in "other direct cost" in accordance with the applicable Federal cost principles. Otherwise specific ERDA approval must be obtained.

(2) Normally ERDA will give favorable consideration to such action only if the prospective employee or visiting staff member is (1) essential to the project on a full-time basis for a continuous period of at least six months and, (2) is regularly located at a place sufficiently removed from the project site that his employment necessitates the change. The amount of actual reimbursement should be in accordance with the grantee's established policy or practice which (1) is in conformance with the applicable Federal cost principles, (2) has been approved either by the cognizant Federal audit agency or ERDA.

(j) *Space rental.* Normally the grantee is expected to make available appropriate facilities without direct charge to grant funds. However, on occasion, it is necessary to utilize facilities not under the control of the grantee. Rental of space off-site may be allowed for example, for an education project where for the benefit of the participants, the project must be held at locations other than the campus or, for a research project, if laboratory facilities or other work areas of a type or coverage not normally available within the holdings of the grantee are required. If justification for the rental of space is given in the proposal, and space rental costs are included in the grant budget, rental charges may be made in conformance with grantee policies and in the same manner that similar charges are made to any account.

(k) *Specialized service facilities.* The costs of institutional services involving the use of highly complex and/or specialized facilities such as electronic computers, cyclotrons, wind tunnels reactors or ships are allowable as outlined in section 5.37 of FMC 73–8 or comparable section in such other Federal cost principles as may be applicable. Requests for computer time, etc., should be itemized as to cost per hour or per day applicable to intramural and extramural activities. The type of facility or machine, the number of hours of anticipated usage and the relationship to the quality of the project must also be stated in the proposal. The extent to which funds from other Federal sources are involved in the establishment or maintenance of the facility should be taken into consideration in computing usage charges in order to assure that double payment for the service is not charged to the Government.

(l) *Contracts under grants or consortia grants.* If the grant instrument authorizes the grantee institution to contract part of the substantive project effort to another organization, or if the grant is made to one institution on behalf of a consortium cost associated with the third-party participation (including any applicable indirect cost) if otherwise allowable, will be summarized in the "other direct cost" category.

d. Indirect costs. 1. *Policy.* It is ERDA policy that a U.S. recipient is entitled to full reimbursement from award funds for the indirect costs allocable to the Federal share of the project, in accordance with applicable Federal cost principles and standards as amplified herein, with the following exceptions:

(a) Grants awarded to individuals;

(b) Grants awarded solely for the support of travel, equipment, construction or facilities.

(c) Grants in which ERDA support is exclusively in the form of fellowships, traineeships, or other fixed amounts such as cost-of-education allowances; and

(d) Grants involving special programs, such as those in (a), (b), or (c) above, or unusual circumstances under which full indirect costs are considered inappropriate. ERDA normally will not reimburse grantees for indirect costs associated with such projects. In unusual circumstances, where considered appropriate, or in connection with certain specific programs, ERDA may provide a special allowance to assist the grantee institution in defraying administrative costs associated with the project. Any action taken under this subparagraph (d) will be consistent with the policy in Section 205, Cost Participation.

(e) Grants to foreign organizations.

(f) Reimbursement of indirect costs under cooperative agreements is a matter which may be negotiated to meet the reasonable needs of the business arrangement. See Section 621 b., and c.2.(c).

e. Establishment of indirect cost rates. 1. *General.* Office of Management and Budget Circular No. A–88 reissued as FMC 73–6 provided for the assignment of cognizance to single departments and agencies for conducting indirect cost negotiations and audits at single educational institutions. Attachment A to the Circular assigned to the Department of Health, Education, and Welfare the responsibility for indirect cost negotiations and audits at most educational institutions. FMC 73–6 prescribed that the negotiated rate would be accepted by all Federal agencies. FMC 73–2 provides for cross-servicing arrangements with respect to State and local governments.

2. *New grantees.* An institution or organization submitting a proposal for ERDA support, which does not have an indirect cost rate approved by a cognizant Federal negotiating agency should also submit to ERDA a separate indirect cost proposal based on actual cost experience for the most recent time period available. Such proposal should consist of the following:

(a) A statement indicating the method used in separating component activities such as research, instruction, and other organizational activities.

(b) A statement indicating the basis for distributing indirect costs to such component activities.

(c) A computation of the indirect cost rate based on the principles outlined in the applicable Federal cost principles.

(d) A copy of the organization's audited financial statements and other supporting information for the particular period. In instances where proposed grant activities are to be performed in whole or substantial part at an off-campus or non-headquarters location, a separate indirect cost proposal applicable thereto should be submitted.

f. Proposal for ERDA support. 1. *General.* Proposals for ERDA support of projects other than those excepted in c.1., should include an amount for indirect costs calculated by applying the indirect cost rate(s), approved by the cognizent Federal negotiating agency which approved the rate(s), the type of rates (e.g., pre or post determined) the date of such approval, and the time period(s) applicable to such rate(s). In the event the grantee voluntarily elects in advance to request less than full reimbursement for the indirect costs to which it otherwise would be entitled on the basis of the direct costs in the proposal, the Authorized Institutional Representative must expressly indicate that election on the proposal budget or any modification thereof. Otherwise, the ERDA grant will provide an allowance for indirect costs calculated in accordance with f.

2. *Off-campus (off-site) activities.* In the event the proposed project contemplates work to be performed in an environment or in a manner which would generate a significantly different level of indirect costs then the normal work of the organization, such as off-campus (off-site) projects and instances involving the contracting out of substantial elements of the project activities supported by ERDA, the proposal should so state. If the negotiated indirect cost agreement provides for the conditions under which separate indirect cost rates would be applicable under such circumstances, the proposal should so state.

3. *Consortium grants.* If the proposal is for a consortium grant, the proposed amount for indirect costs to the grantee should be as in any other proposal by that institution. Indirect cost amounts for cooperating institutions should be computed using the approved rates for those institutions, but should be shown in the "other direct cost" category of the composite proposal budget.

g. ERDA calculation of indirect cost amount. 1. *General.* ERDA grant and cooperative agreement awards will provide a single award amount which indicates funds for both direct and indirect costs. The amount included for indirect costs generally will be determined by applying the approved indirect costs rate(s) to the appropriate indirect cost base, as outlined below. If the prospective recipient does not have an approved rate, and has submitted an indirect cost proposal containing data which are insufficient to enable ERDA to make an indirect cost determination, a grant or cooperative agreement may be awarded for direct costs only, pending determination of an appropriate indirect cost rate or allowance. Where such rate subsequently is established, the award will be amended to provide for indirect costs at the established rate.

2. *Institutions of higher education.* (a) Where an institution of higher education and the cognizant Federal negotiating agency have agreed on projected indirect cost rates for current or future time periods, ERDA will calculate the indirect cost portion of the award by applying to the appropriate time frames (the recipient's fiscal year(s)) within the grant period the agreed upon projected rates known to ERDA at the time the award amount is determined. If there is only a single such approved rate, ERDA will apply that rate to the entire period of support. However, if an institution has negotiated different rates for different time periods, either as "predetermined fixed rates" or as "negotiated fixed rates with carry forward provisions" as prescribed in subsections g.4 or g.5 of FMC 73–8, ERDA will apply each rate to the applicable portion of the estimated period of support. In such cases, unless it would be clearly inappropriate to do so (as for example, in projects involving activities to be performed solely during the summer months or in those cases where the recipient can demonstrate in its proposal that the charges for salaries and wages will not be straight line), ERDA will assume that the direct cost base expenditures to which the project supported by the grant will be performed.

(b) Where the time period covered by the negotiating agreement has expired (or will expire prior to the expiration date of the award), ERDA will continue to use the last approved rate (whether "predetermined" or "fixed with carry forward provisions") in calculating indirect costs even though the institution may have proposed but has not received Audit approval for different rate.

3. *Other grantees.* For educational institutions which do not have approved projected indirect cost rates for current or future time periods and for all non-academic organizations, ERDA will continue to apply the latest available approved rate, based on actual past cost experience, to the appropriate direct cost base, regardless of when the base costs are expected to be incurred. By statute (Public Law 87–638; 41 U.S.C. 254a) predetermined fixed rates are available only to universities, colleges, and other educational institutions. Grants to other nonprofit organizations and to profit-making firms will utilize the latest available rate, based on actual past cost experience, as a maximum provisional rate subject to downward adjustment only.

4. *Alternative approaches.* In special cases where it is determined that the use of a fixed indirect cost rate would be inappropriate under the circumstances, ERDA may use alternative methods of providing for indirect costs. These methods include (1) use of a maximum provisional indirect cost rate subject only to downward adjustment when actual cost data become available, or (2) lump sum dollar allowance for indirect costs or for administrative expenses in lieu of indirect costs. The maximum provisional rate is standard ERDA practice in grants to commercial organizations and to certain nonprofit organizations.

5. *Predetermination of rates.* Except in situations discussed in section f.3. and f.4. above, the indirect cost rates used by ERDA in calculation of award amounts generally will be considered as "predetermined" fixed rates for ERDA grant award purposes. As such, they will not be effective retroactively, nor subject to adjustment either during or after the grant period unless specifically provided otherwise by the grant or subsequent amendments. If a grant is amended to provide additional funding support the grant budget for the new support will reflect the indirect cost base and rate appropriate to the new support period.

h. Grantee reimbursement for indirect costs.

1. *Institutions of higher education.* Universities and colleges (or "foundations" which administer awards on their behalf) may charge ERDA grants for the ERDA share of the indirect costs associated with a grant-supported project by the method which best meets their own financial management system, provided that such method is consistently applied and is consistent with the applicable Federal cost principles and generally accepted accounting practices. Generally, such method will be one of the following:

(a) Those with approved projected "predetermined fixed rates" or "negotiated fixed rates with carry-forward provision" may charge indirect costs to the grant at the appropriate approved rate in effect based upon the recipient's fiscal year during the particular time period, regardless of the rates, if any, specified in the proposal.

(b) Those which do not have approved projected rates of any kind, or who prefer this approach, may charge indirect costs at the single rate specified in the grant award.

2. *All other recipients.* Recipients other than institutions of higher education and individuals may charge indirect costs only at the single rate specified in the grant award.

3. *Consortium grants.* The grantee institution should reimburse cooperating institutions at their approved indirect cost rates, except in the case of educational institutions where reimbursement for indirect costs shall be made in accordance with h.1. of this section.

4. *Adjusting for differences between estimated and actual indirect costs.* Although it is the intent of ERDA to provide full reimbursement for the Federal share of indirect costs, the estimated amount included in an award for indirect costs may not correspond to that actually incurred by the recipient. The factor most often responsible for this occurrence is that the amount estimated in the award for the indirect cost base items proves not to be in accord with the actual expenditures by the recipient for these cost items. It may also occur when a grant period overlaps two or more time periods for which different approved indirect cost rates are authorized for charging indirect costs under the procedures outlined above. In such cases the indirect costs base expenditures may often not be incurred during the period assumed by ERDA in calculating estimated indirect cost amounts. While great flexibility is afforded

grantees in adjusting line item expenditures under ERDA grants to coincide with operational realities, total charges to grants may not exceed the total grant amount, as amended. Should the actual indirect costs chargeable to an ERDA grant exceed the amount estimated by ERDA for this purpose, it is the grantee's responsibility to determine which direct or indirect cost elements to reduce or absorb to remain with the total grant amount. Should actual allowable indirect costs prove less than estimated, the grantee may use available funds as appropriate to defray other costs allowable under the grant.

809 Program Income.

a. *Purpose.* This section sets forth standards prescribed by OMB Circular A–110, Attachment D and FMC 74–7, Attachment E, applicable to institutions of higher education, hospitals, other nonprofit organizations and State and local governments regarding program income under grants and cooperative agreements. This section is not mandatory for grants and cooperative agreements with profit making organizations, individuals, or foreign organizations but may be used as guidance where useful.

b. *Definition.* The standards set forth in this section shall be applied in requiring recipient organizations to account for program income related to projects financed in whole or in part with ERDA funds. Program income represents gross income earned by the recipient from the ERDA supported activities. Such earnings exclude interest earned on advances and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, royalties on patents and copyrights, and for State and local governments only, sale of assets purchased with grant funds.

c. *Interest.* Interest earned on advances of ERDA funds shall be remitted to ERDA except for interest earned on advances to States or instrumentalities of a State as provided by the Intergovernmental Cooperation Act of 1968 (Public Law 90–577).

d. *Proceeds from sale of property.* Proceeds from the sale of real and personal property either provided by the Federal Government or purchased in whole or in part with Federal funds shall be handled in accordance with Section 814 pertaining to property management.

e. *Royalties.* Unless the grant or other agreement provides otherwise, recipients shall have no obligation to the Federal Government with respect to royalties received as a result of copyrights or patents produced under the grant or other agreement (see Section 814).

f. *All other program income for recipients other than profit making organizations and individuals.* Unless otherwise provided in the award all other program income earned during the project period shall be retained by the recipient and in accordance with the grant or other agreement, shall be:

1. Added to funds committed to the project by ERDA and recipient organization and be used to further eligible program objectives;

2. Used to finance the non-Federal share of the project when approved by ERDA; or

g. *All other income for profit making organizations and individuals only.* All other income earned during the project period shall either be used to reduce the amount of support awarded by ERDA or returned to ERDA by check made payable to the U.S. Treasury at the end of the award period unless otherwise provided in the award.

810 Fee and Profit Under ERDA Grants and Cooperative Agreements.

a. *Purpose.* This section establishes policy regarding payment of fee and/or profit under ERDA grants and cooperative agreements.

b. *Policy.* No fee or profit shall be paid to prime recipients under grants or cooperative agreements. Payment of fee or profit to subcontractors will be in accordance with Section 205a.

c. *Background.* Fee or profit should be paid to contractors, in addition to full payment of cost as both an incentive to and reward for producing goods and services ERDA requires for delivery to and consumption by itself. When ERDA awards grants and cooperative agreements, its intention is to support, stimulate, or otherwise assist the performer to achieve objectives established by the performer. In many cases, performers propose substantial financial involvement on their part to motivate ERDA to provide complementary support. The ERDA support is, therefore, itself the incentive and reward to performers. It would be inappropriate to provide for payment of fee or profit to a performer to motivate the performer to achieve its own stated objectives, especially where there is cost participation by the performer.

811 Assignment of grant paymnts to financial institutions. [Reserved]

812 Successor in interest and change of name agreements. [Reserved]

813 Property management standards for State and local governments.

a. *Purpose.* This section sets forth uniform standards prescribed by Federal Management Circular 74–7, Attachment N, governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds by State and local governments only. ERDA shall require State and local governments to observe these standards under grants from the Federal Government and shall not impose additional requirements unless specifically required by Federal law. The grantee may use their own property management standards and procedures as long as the provisions of this attachment are included. This section is not mandatory for cooperative agreements with State and local governments but may be used for guidance where useful.

b. *Definitions.* The following definitions apply for the purpose of this attachment:

1. *Real property.* Real property means land, land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

2. *Personal property.* Personal property means property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copyrights.

3. *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $500 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

4. *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

5. *Excess property.* Excess property means property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs for the discharge of its responsibilities.

c. *Real property.* The award shall prescribe requirements for grantees concerning the use and disposition of real property.

The award may provide for an unqualified title in the recipient, unqualified title in ERDA, or a qualified title as appropriate to best achieve ERDA's statutory and program objectives.

d. *Federally-owned nonexpendable personal property.* The award shall prescribe requirements for recipients concerning the ownership, use, and disposition of nonexpendable personal property furnished or acquired with Federal funds under the award.

1. *Nonexpendable personal property acquired with Federal funds.* When nonexpendable personal property is acquired by a grantee wholly or in part with Federal funds, the award may provide for an unqualified title in the recipient, unqualified title in ERDA, or a qualified title as appropriate to best achieve ERDA's statutory and program objectives.

(a) The grantee shall retain the Government property acquired in the grant program as long as there is a need for the property to accomplish the purpose of the grant program whether or not the program continues to be supported by Federal funds. When there is no longer a need for the property to accomplish the purpose of the grant program, the grantee shall use the property in connection with other Federal grants it has received in the following order of priority:

(1) Other grants of ERDA needing the property.

(2) Grants of other Federal agencies other than ERDA needing the property.

(b) When the grantee no longer has need for Government property in any of its Federal grant programs, the property may be used for its own official activities in accordance with the following standards:

(1) Nonexpendable property with an acquisition cost of less than $500 and used four years or more. The grantee may use the property for its own official activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) All other nonexpendable property. The grantee may retain the property for its own use provided that a fair compensation is made to the original grantor agency for the latter's share of the property.

(c) If the grantee has no need for the property, disposition of the property shall be made as follows:

(1) Nonexpendable property with an acquisition cost of $1,000 or less. Except for that property which meets the criteria of (b)(1) above, the grantee shall sell the property and reimburse ERDA an amount which is computed in accordance with (iii) below.

(2) Nonexpendable property with an acquisition cost of over $1,000. The grantee shall request disposition instructions from the grantor agency. ERDA shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration (GSA) by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. ERDA shall issue instructions to the grantee within 120 days and the following procedures shall govern:

(i) If the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency for the grantee's share of the property plus any shipping or interim storage costs incurred.

(ii) If the grantee is instructed to otherwise dispose of the property, he shall be reimbursed by ERDA for such costs incurred in its disposition.

(iii) If disposition instructions are not issued within 120 days after reporting, the grantee shall sell the property and reimburse ERDA an amount which is computed by applying the percentage of Federal participation in the grant program to the sales proceeds. Further, the grantee shall be permitted to retain $100, or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(d) Where ERDA determines that property with an acquisition cost of $1,000 or more and financed solely with Federal funds is unique, difficult, or costly to replace, it may reserve title to such property, subject to the following provisions:

(1) The property shall be appropriately identified in the grant agreement or otherwise made known to the grantee.

(2) ERDA shall issue disposition instructions within 120 days after the completion of the need for the property under the Federal grant for which it was acquired. If ERDA fails to issue disposition instructions within 120 days, the grantee shall apply the standards of d.1.(a), d.1.(b)(2) and d.1.(c)(2).

2. *Federally-owned nonexpendable personal property.* Except as specifically authorized by statute, title to Federally-owned property (property to which the Federal Government retains title including excess property made available by the Federal grantor agencies to grantees) remains vested by law in the Federal Government. Upon termination of the grant or need for the property, such property shall be reported to ERDA for further agency utilization or, if appropriate, for reporting to the General Services Administration for other Federal agency utilization. Appropriate disposition instructions will be issued to the grantee after completion of ERDA review.

e. *Procedural requirements.* The grantees' property management standards for nonexpendable personal property shall also include the following procedural requirements:

1. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; location, use, and the condition of the property; and ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the grantor agency for its share.

2. A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

3. A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

4. Adequate maintenance procedures shall be implemented to keep the property in good condition.

5. Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

f. *Disposition.* When the total inventory value of any unused expendable personal property exceeds $500 at the expiration of need for any Federal grant purposes, the grantee may retain the property or sell the property as long as he compensates the Federal Government for its share in the cost. The amount of compensation shall be computed in accordance with d.1.(b)(2).

g. *Intangible property.* Specific standards for control of intangible property are provided in Section 215 of this Manual for Patent Rights, Copyrights, and Rights in Technical Data.

814 Property management standards for other recipients than State and local governments.

a. *Purpose.* This section sets forth the uniform standards prescribed by OMB Circular No. A–110, Attachment N governing management of property furnished by the Federal Government or whose cost was charged to a project supported by a Federal grant or other agreement with institutions of higher education, hospitals, and other nonprofit organizations. The recipient may use its own property management standards and procedures provided it observes the provisions of this section. This section also applies to subrecipients (institutions of higher education, hospitals, and other nonprofit organizations). This section is not mandatory for grants or cooperative agreements to profit making organizations, individuals, or foreign organizations but should be applied when government property is furnished or acquired. Title to property shall not vest in a profit making organization, or an individual under a grant or cooperative agreement unless explicitly authorized in the award instrument.

b. *Definitions.* The following definitions apply for the purpose of this section:

1. *Real property.* Real property means land, land improvements, structures, and appurtenances thereto, but excluding movable machinery and equipment.

2. *Personal property.* Personal property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copy-rights.

3. *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit except that recipients subject to Cost Accounting Standards Board regulations may use the CASB standard of $500 per unit and useful life of two years. A recipient may use its own definition of nonexpendable personal property provided that the definition would at least include all tangible personal property as defined above.

4. *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

5. *Excess property.* Excess property means property under the control of a Federal agency, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

6. *Acquisition cost of purchased nonexpendable personal property.* Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

7. *Exempt property.* Exempt property means tangible personal property acquired in whole or in part with ERDA funds, and title to which is vested in the recipient pursuant to Pub. L. 85–934 without further obligation to ERDA except as provided in subparagraph f.1. below. Such unconditional vesting of title will be pursuant to any Federal legislation that provides ERDA with adequate authority.

c. *Real property.* The Award shall prescribe requirements for recipients concerning the use in disposition of real property.

The award may provide for an unqualified title in the recipient, unqualified title in ERDA, or a qualified title as appropriate to best achieve ERDA's statutory and program objectives.

d. *Federally-owned nonexpendable personal property.* The award shall prescribe requirements for recipients concerning the ownership, use, and disposition of nonexpendable personal property furnished or acquired with federal funds under the grant.

Upon completion of the agreement or when the property is no longer needed, the recipient shall report the Government property, it shall be declared excess and reported If ERDA has no further need for the property, it shall be declared excess and reported to the General Services Administration. Appropriate disposition instructions will be issued to the recipient after completion of review.

e. *Exempt property.* Based on the statutory authority in Pub. L. 85–934, (42 U.S.C. 1892) (for basic research with educational and nonprofit institutions), title to nonexpendable personal property acquired with project funds, shall be vested in the recipient upon acquisition unless it is determined prior to award that to do so is not in furtherance of the objectives of ERDA. When title is vested in the recipient, the recipient shall have no other obligation or accountability to the Federal Government except as provided in f.1. below.

f. *Other nonexpendable property.* When other nonexpendable tangible personal property is acquired by a recipient with project funds, under Pub. L. 85–934, title shall not be taken by the Federal Government but shall vest irrevocably in the recipient unless otherwise provided in the award instrument, in which event the vesting in the recipient will be subject to the following conditions.

1. *Right to transfer title.* For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, the ERDA may reserve the right prior to award to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(a) The property shall be appropriately identified in the grant or other agreement or otherwise made known to the recipient in writing at the time of the award.

(b) ERDA shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired.

(c) When ERDA exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph d. above.

2. [Reserved]

3. [Reserved]

4. *Property management standards for nonexpendable property.* The recipient's property management standards for nonexpendable personal property shall include the following procedural requirements:

(a) Property records shall be maintained accurately and shall include:

(1) A description of the property.

(2) Manufacturer's serial number, model number, Federal stock number, or other identification number.

(3) Source of the property, including grant or other agreement number.

(4) Whether title vests in the recipient or the Federal Government.

(5) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(6) Percentage (at the end of the budget year) of Federal participation in the cost

of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(7) Location, use, and condition of the property and the date the information was reported.

(8) Unit acquisition cost.

(9) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates ERDA for its share.

(b) Property owned by the Federal Government must be marked to indicate Federal ownership.

(c) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(d) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the recipient shall promptly notify ERDA.

(e) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(f) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

g. *Expendable personal property.* Title to expendable personal property shall vest in the recipient upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant or other agreement, and the property is not needed for any other federally sponsored project or program, the recipient shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

h. *Intangible property.* Specific standards for control of intangible property are provided in Section 215 of this Manual for Patent Rights, Copyrights, and Rights in Technical Data.

815 Procurement standards.

a. *Purpose.* This section sets forth standards for use by institutions of higher education, hospitals, other nonprofit organizations, and State and local governments in establishing procedures prescribed by OMB Circular No. A-110, Attachment O and FMC 74-7, Attachment O, for the procurement of supplies, equipment, construction and other services with ERDA funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and executive orders. No additional procurement standards or requirements shall be imposed by ERDA upon recipients unless specifically required by Federal statute or executive order. This section is not mandatory for grants and cooperative agreement with profit making organizations and individuals but may be used for guidance where useful. This section is not applicable to foreign organizations. Notwithstanding the use of the term subgrants in this section, subgrants under ERDA grants or cooperative agreements shall not be made unless specifically authorized in the prime award instrument.

b. *Recipients are responsible.* The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contracts. The recipient is the responsible authority, without recourse to ERDA regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

c. *Procurement system standards.* Recipients may use their own procurement policies and procedures. However, all recipients shall adhere to the standards set forth in paragraphs c. and d.

1. The recipient shall maintain a code or standards of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding and administration of contracts using ERDA funds. No employee, officer, or agent shall participate in the selection, award, or administration of a contract in which ERDA funds are used, where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family or partner has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment. The recipients' officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary actions to be applied for violations of such standards by the recipients' officers, employees or agents.

2. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals should be excluded from competing for such procurements. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the recipient. Any and all bids/offers may be rejected when it is in the recipient's interest to do so.

3. All recipients shall establish procurement procedures that provide for, at a minimum, the following procedural requirements.

(a) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase, alternatives to determine which would be the most economical, practical procurement.

(b) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other a salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(c) Positive efforts shall be made by the recipients to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing ERDA funds.

(d) The type of procuring instruments used, e.g., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, shall be determined by the recipient but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(e) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(f) All proposed sole source contracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 shall be subject to prior approval at the discretion of ERDA.

(g) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(h) Procurement records and files for purchases in excess of $10,000 shall include the following:

(1) Basis for contractor selection;

(2) Justification for lack of competition when competitive bids or offers are not obtained;

(3) Basis for award cost or price.

(i) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions, and specifications of the contract, and to ensure adequate and timely followup of all purchases.

d. *Required contract provisions.* The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

1. Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

2. All contracts in excess of $10,000 shall contain suitable provisions for termination by the recipient including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

3. In all contracts for construction or facility improvement awarded for more than $100,000, recipients shall observe the bonding requirements provided in Section 200.

4. All contracts awarded by recipients and their contractors or subgrantees having a value of more than $10,000, shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60).

5. All contracts and subgrants in excess of $2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to ERDA.

6. When required by the ERDA program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to ERDA.

7. Where applicable, all contracts awarded by recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

8. Provisions relating to Patents, Technical Data, and Copyrights shall be flowed down to contractors and subcontractors in accordance with 41 CFR 9-9.

9. All negotiated contracts (except those of $10,000 or less) awarded by recipients shall include a provision to the effect that the recipient, ERDA, the Comptroller General of the United States, or any duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.

10. Contracts and subagreements of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended. Violations shall be reported to ERDA agency and the Regional Office of the Environmental Protection Agency.

816 Suspension and termination procedures.

a. *Purpose.* This section sets forth the uniform suspension and termination procedures prescribed by OMB Circular No. A-110, Attachment L, for Federal grants and other agreements with institutions of higher education, hospitals, and nonprofit organizations. This section is not applicable to grants and cooperative agreements with State and local governments. This section is applicable to grants but not cooperative agreements with profit making organizations, individuals, and foreign organizations. See Section 621 for applicable provisions.

b. *Definitions.* The following definitions shall apply for the purpose of this section:

1. *Termination.* The termination of a grant or other agreement means the cancellation of ERDA sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

2. *Suspension.* The suspension of a grant or other agreement is an action by ERDA that temporarily suspends ERDA sponsorship under the grant or other agreement, pending corrective action by the recipient or pending a decision by ERDA to terminate the grant or other agreement.

c. *Procedure.* 1. *Notice.* Prior to issuing a termination or suspension notice, efforts should be made to informally resolve any discrepancies with the recipient. If informal efforts fail, ERDA may issue a notice of suspension or termination which notice will take effect 10 days after its issue date. Beginning on the effective date of the notice, ERDA may suspend the grant or other agreement, withhold further payments, prohibit the recipient from incurring additional obligations of funds pending corrective action by the recipient or a decision by ERDA to terminate. ERDA shall allow all necessary and proper costs that the recipient could not reasonably avoid during the period of suspension provided that they meet the provisions of the applicable Federal cost principles.

2. *Educational institutions.* Any proposed suspension or termination of a grant or other agreement with an institution of higher education must be coordinated with the Office of University Programs prior to final issuance.

3. *Authority to issue notice.* Awarding officers are the exclusive agents of ERDA authorized to issue notices and take final actions regarding suspension and termination actions. The awarding officer is available to take such action at the recommendation and request of the program officer. All notices to suspend or terminate cooperative agreements require the review of ERDA Office of Legal Counsel prior to issuance.

d. *Types of terminations.* ERDA shall systematically settle terminated grants or other agreements including the following:

1. *Termination for cause.* ERDA may reserve the right to terminate any grant or other agreement in whole or in part at any time before the date of completion, whenever it is determined that the recipient has failed to comply with the conditions of the agreement. ERDA shall promptly notify the recipient in writing of the determination and the reasons for the termination, together with the effective date. Payments made to recipients or recoveries by ERDA under grants or other agreements terminated for cause shall be in accordance with the legal rights and liabilities of the parties.

2. *Termination for convenience.* ERDA or recipient may terminate grants and other agreements in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. ERDA shall allow full credit to the recipient for the ERDA share of the noncancellable obligations, properly in curred by the recipient prior to termination.

817 Collection of information—surveys and questionnaires.

Surveys, questionnaires, and other reports subject to the Federal Reports Act and OMB Circular A-40, revised are subject to the requirements of ERDA Manual Chapter 0210-055 through 057.

818 Foreign travel.

a. *Definition.* In grants to U.S. or Canadian institutions, foreign travel as defined by FMC 73-8 5.44e. is any travel outside of Canada and the United States and its territories and possessions.

b. *Prior ERDA approval.* Prior ERDA approval is required for each separate foreign trip before the grant may be charged directly for the cost of foreign travel. Foreign travel by grantee personnel may be charged to a grant only when explicitly approved in advance by the Grants Officer (regardless of its inclusion in the approved proposal budget). Approval of individual requests for foreign travel under grants are subject to such criteria, policies, and procedures as may be promulgated by the Office of University Programs, the Office of International Affairs, or other appropriate authority. More specifically, foreign travel requests should be processed and evaluated for approval in accordance with ERDA Manual Appendix 1501, Part VII and IAD 1501-1 dated April 28, 1975, and IAD 1501-4 dated February 27, 1976.

c. *Use of United States-flag carrier.* U.S.-flag air or surface carriers should be used for foreign travel supported by an ERDA award.

d. *Passports and visas.* ERDA assumes no responsibility for securing passports or visas required by any person because of their participation in an ERDA-supported project.

CHAPTER 9—ADDITIONAL FUNDING SUPPORT

Sec.
900 Purpose.
901 New grant.
902 Discrete grants.
903 Continuing grants.
904 Supplement request.
905 Renewal request.
906 Continuation request.

900 Purpose.

This chapter describes the kinds and methods of obtaining additional grant funding support. Since the kinds of additional funding are dependent upon the type of grant originally awarded, the chapter will begin with an explanation of types of grants. This Chapter is not applicable to cooperative agreements. Additional support for cooperative agreements is most appropriately negotiated on a case-by-case basis.

901 New Grant.

A new grant award is awarded where there is no current grant or has been no prior grant for a particular project with the recipient.

902 Discrete grant.

a. *Definition.* A discrete grant is awarded for a project, which is susceptible to definition and completion within a period of two years or less, within the funding provided during the period, and with no expectation or commitment of on-going or continuing ERDA suport beyond the two year period. The project is usually a one-time effort where subsequent support, if any, would be provided in the form of a renewal grant.

b. *Funding.* Discrete grants of one year or less should be fully funded where possible for the entire period upon award. However discrete grants with a period greater than one year should, at a minimum, be fully funded for the first year, or may be fully funded for the entire period or may be subsequently funded after award where project requirements dictate. If the grant is less than fully funded for the first or second years, then ERDA should initiate action to provide the remaining funding. A discrete grant may also provide full funding for the first year with funding for the second year contingent upon acceptable progress during the first year.

c. *Supplement request.* A supplement request may be submitted to ERDA to obtain the remaining funding of a partially funded grant, or when additional time and/or funds beyond the awarded amounts are needed to complete the project. In some cases, the expiration date may be extended, but no more than six months. Requests for supplemental funds may not exceed 50 percent of the funds for the time period currently awarded. Supplement awards of additional time and/or funds will be added to the current grant by modification. Supplement requests are not subject to the requirement for competition in Section 211 or justification for acceptance of unsolicited proposal in Section 302.

d. *Renewal request.* A renewal request, not a supplement request, may be submitted to ERDA for further support beyond the final increment of the discrete grant. A renewal request should be in the form of a new proposal. Renewal awards, if made, will be under a new grant instrument and number. To carry out the purpose of Section 211 regarding competition, renewal requests will be considered along with all other proposals competing for ERDA funds. Renewal requests are subject to the requirements regarding justification for acceptance of unsolicited proposal in Section 302.

903 Continuing grant.

a. *Definition.* Continuing grants are for those projects which, because of their long run, on-going nature, need on-going or continuing ERDA support for more than two years. Support beyond the amount initially awarded may be provided in accordance with b. Continuing grants shall not exceed a total of five years. Support beyond five years for the same project shall be made in response to a renewal request and awarded using a new grant instrument and number.

b. *Funding.* Continuing grants may be funded using the project period system as defined below:

1. *Project period.* A project period is the total time (not to exceed five years) for which the program office administratively approves the project and administratively commits itself to its financial support. Approval of continuation requests will be based on availability of funds, evidence of satisfactory progress, and continued relevance to ERDA's sponsoring program office. The project period is divided into several budget periods. The total project period includes the project period as initially awarded and any extension thereto. A continuing grant encompasses the total project period.

2. *Budget period.* Although the continuing grant may identify a several-year project period, the grant is funded in annual increments called budget periods. A budget period is an interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes. The budget period provides funds in an amount estimated as being necessary to provide the Federal share of project costs in the approved budget for that year. Any funds in excess of the needs of the budget period for which they are awarded remain available for use in a succeeding budget period in accordance with the instructions of the grant officer. Any continuing grant award should be funded at a minimum of one 12 month budget period and may be funded by subsequent award of additional budget periods up to a total of five years.

c. *Continuation request.* A continuation request may be submitted to obtain additional financial support for a subsequent budget period within a previously approved project period. Continuation awards will be added to the current grant by modification. These requests are not subject to the requirements of Sections 211 or 302. Approval of continuation requests will be based on availability of funds, evidence of satisfactory progress, and continued relevance to ERDA's sponsoring program office.

d. *Supplement request.* A supplement request under a continuing grant should be submitted to ERDA only when funding within an approved budget period will not support performance until the funds are received from the subsequent budget period. Supplement awards will be added to the current grant by modification. These requests are not subject to the requirements of Sections 211 or 302.

e. *Renewal request.* A renewal request may be submitted to ERDA for additional support for one or more budget periods beyond an expiring project period. Renewal awards, if made, will be under a new grant instrument and number. These renewal requests are subject to Sections 211 and 302 and will be competing with other requests for ERDA funds.

904 Supplement request.

a. *When to submit.* Supplement requests as defined in Sections 902 and 903 should be as soon as the need for the supplement becomes known.

b. *What to submit.* The request should briefly summarize the status of the work, what additional funds and/or time is needed, the reasons why the supplement is needed and the consequences to the project if the supplement is not approved.

c. *Where to submit.* All supplement requests should be submitted to the ERDA grants officer who signed the grant award with one information copy submitted to the ERDA Program Officer.

905 Renewal request.

a. *When to submit.* If the grantee desires continuity of Federal funding for a particular project beyond the final increment, renewal proposals as defined in Sections 902 and 903 should be submitted at least three months prior to the expiration date of the current grant.

b. *What to submit.* Because a renewal request will result in award of a new grant instrument, a proposal for renewed support should be documented and endorsed as fully as though the proposer were applying for the first time, including a summary of progress made under the expiring grant, and all the information required in a proposal for a new project. See Chapters 3 and 4.

c. *Where to submit.* Renewal requests should be submitted to the offices designated in Section 402 with one information copy submitted to the ERDA program officer.

906 Continuation request.

a. *When to submit.* Continuation requests as defined in Section 903 should be submitted at least three months prior to the expiration of the current budget period.

b. *What to submit.* Because a continuation request, if approved, will result in adding an additional budget period to an existing grant which has initial project approval for several years, the progress made, findings and results obtained, project work or funding changes needed from the project as initially approved should be submitted. For the convenience of the recipient, the continuation request may be submitted with financial reports due at the end of the budget period third quarter. The continuation request progress report may be substituted for any other progress reports due at that time. The request must be signed by the principal investigator(s) and by the authorized organizational representative.

c. *Where to submit.* All continuation requests should be submitted to the ERDA grants officer who signed the grant with one information copy to the ERDA program officer.

CHAPTER 10—CLOSEOUT OF ERDA GRANTS AND COOPERATIVE AGREEMENTS

Sec.
1000 Title.
1001 Closeout procedures.
1002 [Reserved]
1003 [Reserved]
1003 Retention custodial requirements for records.

1000 Closeout procedures.

a. *General.* This section sets forth uniform, closout procedures prescribed by OMB Circular No. A–110, Attachment K, and FMC 74–7, Attachment L for grants and cooperative agreements with all recipients.

b. *Definitions.* The following definitions shall apply for the purpose of this Manual:

1. *Closeout.* The closeout of a grant or cooperative agreement is the process by which ERDA determines that all applicable administrative actions and all required work of the agreement have been completed by the recipient and ERDA.

2. *Date of completion.* The date of completion is the date on which all work under grants and cooperative agreements is completed, or the expiration date on the award document, or any supplement or amendment thereto, on which ERDA sponsorship ends.

3. *Disallowed costs.* Disallowed costs are those charges to a grant or cooperative or other agreement that ERDA or its representative determines to be unallowable, in accordance with the applicable Federal cost principles or other conditions contained in the agreements.

c. *Procedures for normal closeout.* ERDA's closeout procedures include the following requirements:

1. *Final payments.* Upon request ERDA shall make prompt payments to a recipient for allowable reimbursable costs under the grant or cooperative agreement being closed out consistent with Section 807 g.

2. *Refunds.* The recipient shall immediately refund any balance of unobligated (unencumbered) cash that ERDA has advanced or paid and that is not authorized to be retained by the recipient for use in other grants or cooperative agreements.

3. *Final reports.* In accordance with Sections 801 and 805 recipients shall submit, and ERDA shall obtain from the recipient within 90 calendar days after the date of completion of the agreement all financial, performance, and other reports required to be submitted to ERDA within such time as the condition of the agreement. The agency may grant extensions when requested by the recipient.

4. *Adjustment of Federal share.* When authorized by the grant or cooperative agreement, ERDA shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.

5. *Property accounting.* The recipient shall account for any property acquired with Federal funds, or received from the Government in accordance with the provisions of Section 814 and the terms in the award instrument.

6. *Right to recover.* If ERDA requires a final audit and it has not been performed prior to the closeout of the grant or cooperative agreement, ERDA shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

7. *Patent clearance.* If the grant or cooperative agreement has a patent rights clause, it is the renponsibility of ERDA Patent Counsel to certify that the recipient has complied with the provisions of the Patent Rights clause prior to closeout. Notwithstanding the reference to an ERDA approved form in the Patent Rights clause, recipients may furnish the required information without the use of an ERDA form.

d. *Closeout of suspended or terminated agreements.* Suspension and termination procedures are contained in Section 816.

1001 [Reserved]
1002 [Reserved]
1003 Retention and custodial requirements for records.

a. *Purpose.* This section sets forth record retention requirements prescribed by OMB Circular No. A–110, Attachment C, and FMC 74–7, Attachment C, for grantee and cooperative agreements with all recipients for grants and other agreements with recipients. This section is conceptually equivalent to FMC 74–7, Attachment C for State and local governments. ERDA shall notimpose any record retention requirements upon recipients other than those described below. This section applies only to those cooperative agreements which provide for payment of Federal funds to the recipient.

b. *Applicability to subrecipients.* Except for paragraph a., this section also applies to subrecipients which receive subagreements from a recipient.

c. *Retention period duration.* Financial records, supporting documents, statistical records, and all other records pertinent to an agreement shall be retained for a period of three years, with the following qualifications:

1. If any litigation, claim or audit is started before the expiration of the 3 year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

2. Records for nonexpendable property acquired with Federal funds shall be retained for 3 years after its final disposition.

3. When records are transferred to or maintained by ERDA, the 3-year retention requirement is not applicable to the recipient.

d. *Retention period starting point.* The retention period starts from the date of the submission of the final expenditure report or, for grants and other agreements that are renewed annually, from the date of the submission of the annual financial status report.

e. *Use of microfilm.* Recipients may substitute microfilm copies in lieu of original records.

f. *Transfer of records to ERDA.* ERDA shall request transfer of certain records to its custody from recipient organizations when it determined that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, ERDA may make arrangements with recipient organizations to retain any records that are continuously needed for joint use.

g. *Examination of records.* The Administrator of ERDA, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient organization and their subrecipients to make audits, examinations, excerpts, and transcripts.

h. *Public access to records for recipients other than State and local governments.* Unless otherwise required by law, ERDA will not place restrictions on recipient organizations that will limit public access to the records of recipient organizations that are pertinent to a grant or agreement except when ERDA can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to ERDA.

i. *Public access to records for State and local governments.* Unless otherwise required by law, no Federal grantor agency will place restrictions on State and local governments which will limit public access to the State and local governments' records except when records must remain confidential. Following are some of the reasons for withholding records: 1. Prevent a clearly unwarranted invasion of personal privacy. 2. Specifically required by statute or Executive order to be kept secret. 3. Commercial or financial information obtained from a person or a firm on a privileged or confidential basis.

APPENDIXES

Appendix and Title

A.—Process Flow Chart (Reserved).
B.—Grant Face Page (Form ERDA–337 Notice of Grant Award).
C.—ERDA Project Grant Provisions for Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.
D.—Sample Grant Award File Check List.
E.—ERDA Project Grant Provisions for State and Local Governments.
F.—ERDA Project Grant Provisions for Profit Making Organizations and Individuals.
G.—Used Equipment Grant—Face Page and Provisions.
H.—ERDA Conference Grant Provisions.
I.—Reserved.
J.—Reserved.
K.—Reserved.
L.—Reserved.
M.—Cooperative Agreement—Face Page (Form ERDA 377–2).
N.—Cooperative Agreement—Sample Schedule Articles (Reserved).
O.—Cooperative Agreement—Sample Provisions.

APPENDIX B.—RESERVED

APPENDIX C.—ERDA PROJECT GRANT PROVISIONS FOR INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

This grant subject to the following provisions:

1. *General.* a. This grant award is composed of a grant face page which may incorporate the grantee's proposal by reference and the ERDA Project Grant Provisions for institutions of higher education, hospitals, and other nonprofit organizations.

b. This award constitutes acceptance by the U.S. Energy Research and Development Administration (ERDA) of the grantee's proposal and budget unless otherwise indicated on the face page.

c. The grantee is obligated to conduct such project oversight as may be appropriate, to manage the funds with prudence, and to comply with the provisions outlined herein. Within this framework, the Principal Investigator (PI) or Program Director (PD) named on the grant face page is responsible for the scientific or technical direction of the project and for preparation of the project performance reports.

d. This grant is funded on a cost reimbursement basis not to exceed the amount awarded as indicated on the face page and is subject to a refund of unexpended funds to ERDA.

e. This grant award is subject to the policies prescribed in OMB Circular A–110 dated July 30, 1976, and the ERDA Federal Assistance Manual (FAM).

2. *Reporting Program Technical Performance.*—a. *Frequency.* Performance reports will be submitted in the frequency indicated on the face page (quarterly and final, or final only). Final reports must be submitted no later than 90 days after the expiration date of the grant period indicated on the face page.

b. *Copies.* One copy of the reports shall be submitted to the Grants Officer and three copies to the ERDA Program Officer at the addresses indicated on the face page.

c. *Content.* The report content will be that prescribed in OMB Circular A–110, Attachment H.

d. *Publication of results.*—(1) *Acknowledgement statement.* Grantees may publish the results of their work. However, publications and reports prepared under this grant shall contain the following acknowledgement statement, "This (material) was prepared with the support of the U.S. Energy Research and Development Administration (ERDA) Grant No. ——. However, any opinions findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of ERDA."

3. *Additional funding support.* The requirements and procedures for requesting additional funding support are set forth in ERDA Federal Assistance Manual, Chapter 9.

4. *Suspension and termination.* This grant may be suspended or terminated in accordance with the policy prescribed by OMB Circular A–110, Attachment L and the procedures set forth in the FAM, Section 816.

5. *Travel.* Domestic travel is an appropriate charge to this grant, and prior authorization for specific trips is not required. Foreign travel must be clearly essential to the grant effort and must, to be charged against this grant, have prior explicit approval of the Grants Officer regardless of its inclusion in the approved grant budget. The grantee agrees to use U.S. Flag air carriers to the maximum extent practicable when international air transportation becomes necessary under this grant. Except as otherwise provided in the applicable cost principles referenced in Provision 6., the difference in cost between first-class air accommodations and economy class accommodations is unallowable.

6. *Allowable costs.* Allowability of costs shall be determined in accordance with Federal Management Circular 73–8 for Educational Institutions, or the Federal Procurement Regulations Subpart 1–15.2 as supplemented by ERDA Temporary Procurement Regulation No. 25 for nonprofit organizations. The extent of cost sharing, if any, is indicated on face page. The cost principles applicable to hospitals will be FMC 73–8, 41 CFR 1–15.2, or 41 CFR 1–15.7 depending on whether the hospital is classified as an educational institution, nonprofit or commercial organization, or an agency of a State or local government respectively.

7. *Retention and custodial requirements for records.* Grantees shall retain and permit examination of records as required by OMB Circular A–110, Attachment C.

8. *Payment and financial reporting requirements.* Payments by ERDA will be made by the method indicated on the face page. Grantee requests for payment, ERDA payments, and grantee financial reporting requirements shall be made in accordance with

OMB Circular A–110, Attachments I and G as implemented by the FAM, Sections 805 and 807.

9. *Property management standards.* Property shall be accounted for and managed in accordance with OMB Circular A–110, Attachment N as implemented in the FAM, Section 814.

10. *Patent rights (short form).* If the grant project involves research, development or demonstration, the patent provision in the FAM, Section 215 b. is applicable to this grant unless patent waiver is granted.

11. *Rights in data.* If the grant project involves research, development or demonstration, the rights in technical data clause (short form) is applicable to this grant and may be used in the FAM, Section 215 d.

12. *Authorization and consent.* Use the clause of 41 CFR 9–9.102–2 in accordance with Section 215 e. of the FAM.

13. *Notice and assistance.* Use the clause of 41 CFR 9–9104 in accordance with Section 215 f. of the FAM.

14. *Classified inventions.* Use the clause of 41 CFR 9–9.106 in accordance with Section 215 g. of the FAM.

15. *Reporting of royalties.* Use the clause of 41 CFR 9–9.110 in accordance with Section 215 h. of the FAM.

16. *Procurement standards.* Grantee procurements are subject to the requirements of OMB Circular A–110, Attachment O.

17. *Revision of financial plans.* Grant activity under this grant is subject to the requirements of OMB Circular A–110, Attachment J.

18. *Program income.* Program income is subject to the policy prescribed by OMB Circular A–110, Attachment D.

19. *Statutory requirements.*—a. *Civil rights.* This grant is subject to the Civil Rights Act of 1964; Title IV, Sex Discrimination, of the Energy Reorganization Act of 1974; and the implementing ERDA regulations in 10 CFR, Chapter III, Part 704.

The grantee agrees that no person in the United States shall, on the ground of race, sex, color or national origin, be excluded from participation in, be deprived the benefits of, or be otherwise subjected to discrimination under any program or activity for which the grantee receives financial support from ERDA.

b. *Nondiscrimination under federal grants.* This grant is subject to the provisions of the Rehabilitation Act of 1973, Public Law 93–112. The grantee therefore agrees that "No otherwise qualified handicapped individual in the United States (as defined in section 7(6) of the Act), shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

c. *Clean air—clean water.* If this grant is over $100,000, it is subject to the provision of the Clean Air Act, as amended (42 USC 1857 et seq.,) the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.). Executive Order 11738, September 10, 1973, and the related regulations of the Environmental Protection Agency in 40 CFR Part 15, as implemented in the ERDA Federal Assistance Manual, Section 216.

20. *Liabilities and losses* ERDA assumes no liability with respect to any damages or loss arising out of any activities undertaken with the financial support of this grant.

APPENDIX D.—AWARD FILE CHECK LIST

—— 1. Solicited (see items 2–6). Unsolicited (skip to 7).

—— 2. Copy of the document which stimulated submission of the proposal, e.g., Program Opportunity Notice, Program R.&D. Announcement, other solicitation.

—— 3. List of solicited proposers where a grantee was selected from several competing solicited proposals.

—— 4. Evaluation criteria and scoring system used to select awardees.

—— 5. Copies of the narrative technical and numerical evaluation of proposals, a list and rationale for those proposals selected for funding, proposals approved but not funded, and rejected proposals.

—— 6. List of evaluators—names of all individuals who formally reviewed and evaluated proposals, and also the names of those individuals who are responsible for making the selection, rejection decisions.

—— 7. Procurement request, contract authorization or functional equivalent which includes certification that funds be available for obligation by the Awarding Officer.

—— 8. Copy of the whole proposal including revisions.

—— 9. Assurances and Certifications: Civil Rights, Protection of Human Subjects, etc.

——10. Unsolicited proposal or Panel recommendation to Accept unsolicited Proposal, and project evaluation.

——11. All correspondence to or from Office of General Counsel.

——12. Any official and Congressional communications.

——13. Copies of any clearances, or other administrative approvals.

——14. Determination of grantee responsibility.

——15. Negotiation documentation. If any discussions are held with the prospective grantee to revise or clarify either the technical or cost proposal, the file must be documented to reflect the discussion, the agreements reached, and the changes incorporated as a result of the negotiation. Documentation should reflect business evaluation of the proposal.

——16. Copy of preaward approvals where required (locally determined).

——17. Copy of the award document and any attachments as awarded.

——18. Financial reports.

——19. Performance reports.

——20. Termination documentation, if any.

——21. Audit reports.

——22. Request for changes or approvals.

——23. Instrument closeout documents, e.g. certification of compliance with patent rights clause.

APPENDIX E.—ERDA PROJECT GRANT PROVISIONS FOR STATE AND LOCAL GOVERNMENTS

This grant subject to the following provisions:

1. *General.* a. This grant award is composed of a grant face page which may incorporate the grantee's proposal by reference and the ERDA Grant Provisions for State and local governments.

b. This award constitutes acceptance by the U.S. Energy Research and Development Administration (ERDA) of the grantee's proposal and budget unless otherwise indicated on the face page.

c. The grantee is obligated to conduct such project oversight as may be appropriate, to manage the funds with prudence, and to comply with the provisions outlined herein. Within this framework, the Principal Investigator (PI) or Program Director (PD) named on the grant face page is responsible for the scientific or technical direction of the project and for preparation of required reports.

d. This grant is funded on a cost reimbursement basis not to exceed the amount awarded as indicated on the face page and is subject to a refund of unexpended funds to ERDA.

e. This grant award is subject to the policies prescribed in FMC 74–7 as implemented in the ERDA Federal Assistance Manual (FAM).

2. *Reporting program technical performance.* a. *Frequency.* Performance reports will be submitted in the frequency indicated on the face page (quarterly and final, or final only). Final reports must be submitted no later than 90 days after the expiration date of the grant period indicated on the face page.

b. *Copies.* One copy of the reports shall be submitted to the Grants Officer and three copies to the ERDA Program Officer at the addresses indicated on the face page.

c. *Content.* The report content will be that prescribed in FMC 74–7, Attachment I.

d. *Publication of results.* (1) *Acknowledgement statement.* Grantees may publish the results of their work. However, publications and reports prepared under this grant shall contain the following acknowledgement statement; "This (material) was prepared with the support of the U.S. Energy Research and Development Administration (ERDA) Grant No. _____. However, any opinions, findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of ERDA."

3. *Additional funding support.* The requirements and procedures for requesting additional funding support are set forth in the FAM, Chapter 9.

4. *Travel.* Domestic travel is an appropriate charge to this grant, and prior authorization for specific trips is not required. Foreign travel is unallowable unless clearly essential to the grant effort and must have prior explicit written approval from the Grants Officer regardless of its inclusion in the approved grant budget. The grantee agrees to use U.S. Flag air carriers to the maximum extent practicable when international air transportation becomes necessary under the grant. The difference in cost between first-class air accommodations and economy class accommodations is unallowable.

5. *Allowable costs.* Allowability of costs shall be determined in accordance with Federal Management Circular 74–4.

6. *Retention and custodial requirements for records.* Grantees shall retain and permit examination of records as required by FMC 74–7, Attachment C.

7. *Payment and financial reporting requirements.* Payments by ERDA will be made by the method indicated on the face page. Grantee requests for payment, ERDA payments and grantee financial reporting requirements shall be made in accordance with FMC 74–7, Attachments H and J as implemented by the FAM, Sections 805 and 807.

8. *Property management standards.* Property shall be accounted for and managed in accordance with FMC 74–7, Attachment N as implemented in the FAM, Section 813.

9. *Patent rights (short form).* If the grant project involves research, development or demonstration, the patent provision in the FAM, Section 215b. is applicable to this grant unless patent waiver is granted.

10. *Rights in data.* If the grant project involves research, development or demonstration, the rights in technical data clause (short form) applies to this grant and may be used in accordance with Section 215d. of the FAM.

11. *Authorization and consent.* Use the clause of 41 CFR 9–9.102–2 in accordance with Section 215e. of the FAM.

12. *Notice and assistance.* Use the clause of 41 CFR 9–9.104 in accordance with Section 215f. of the FAM.

13. *Classified inventions.* Use the clause of 41 CFR 9–9.106 in accordance with Section 215g. of the FAM.

14. *Reporting of regulations.* Use the clause of 41 CFR 9–9.110 in accordance with Section 215h. of the FAM.

15. *Procurement standards.* Grantee procurements are subject to the requirements of FMC 74–7, Attachment O.

16. *Revision of financial plans.* Activity under this grant is subject to the requirements of FMC 74–7, Attachment E.

17. *Program income.* Program income is subject to the policy prescribed by FMC 74–7, Attachment E.

18. *Statutory requirements.* a. *Civil rights.* This grant is subject to the Civil Rights Act of 1964; Title IV, Sex Discrimination, of the Energy Reorganization Act of 1974; and the implementing ERDA regulations in 10 CFR, Chapter III, Part 704.

The grantee agrees that no person in the United States shall, on the ground of race, sex, color, or national origin, be excluded from participation in, be deprived the benefits of, or be otherwise subjected to discrimination under any program or activity for which the grantee receives financial support from ERDA.

b. *Nondiscrimination under federal grants.* This grant is subject to the provisions of the Rehabilitation Act of 1973, Public Law 93–112. The grantee therefore agrees that: "No otherwise qualified handicapped individual in the United States (as defined in section 7(6) of the Act), shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

c. *Clean air—clean water.* If this grant is over $100,000, it is subject to the provisions of the Clean Air Act, as amended (42 USC 1857 et seq.,), the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.).

d. Executive Order No. 11738, September 10, 1973, and the related regulations of the Environmental Protection Agency in 40 CFR Part 15, as implemented in the FAM, Section 216.

19. *Liabilities and losses.* ERDA assumes no liability with respect to any damages or loss arising out of any activities undertaken with the financial support of this grant.

APPENDIX F.—ERDA PROJECT GRANT PROVISIONS FOR PROFIT MAKING ORGANIZATIONS AND INDIVIDUALS

This grant subject to the following provisions:

1. *General.* a. This grant award is composed of a grant face page which may incorporate the grantee's proposal by reference and the ERDA Grant Provisions for profit making organizations and individuals.

b. This award constitutes acceptance by the U.S. Energy Research and Development Administration (ERDA) of the grantee's proposal and budget unless otherwise indicated on the face page.

c. The grantee is obligated to conduct such project oversight as may be appropriate, to manage the funds with prudence, and to comply with the provisions outlined herein. Within this framework, the Principal Investigator (PI) or Program Director (PD) named on the grant face page is responsible for the management and technical direction of the project and for preparation of required reports.

d. This grant is funded on a cost reimbursement without fee or profit not to exceed the amount awarded as indicated on the face page and is subject to a refund of unexpended funds to ERDA. There is no commitment for further additional ERDA funding beyond the amount awarded in this grant. Grantees are expected to bring their project to a conclusion within the funds provided. It is stressed that ERDA is under no obligation to provide additional funding if the project cannot be completed within the awarded grant funds.

e. This grant award is subject to the policies prescribed in the ERDA Federal Assistance Manual (FAM).

2. *Reporting program technical performance.* a. *Frequency.* Performance reports will be submitted in the frequency indicated on the face page (quarterly and final, or final only). Final reports must be submitted no later than 90 days after the expiration date of the grant period indicated on the face page.

b. *Copies.* One copy of the reports shall be submitted to the Grants Officer and three copies to the ERDA Program Officer at the addresses indicated on the face page.

c. *Content.* The report content will be that prescribed in the FAM, Section 801 unless otherwise specified on the face page.

d. *Publication of results.* (1) *Acknowledgment statement.* Grantees may publish the results of their work. However, publications and reports prepared under this grant shall contain the following acknowledgment statement: "This (material) was prepared with the support of the U.S. Energy Research and Development Administration Grant No. _____. However, any opinions, findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of ERDA."

3. *Additional funding support.* The requirements and procedures for requesting additional funding support are set forth in the FAM, Chapter 9.

4. *Suspension and termination.* This grant may be suspended or terminated in accordance with the policy and procedures set forth in the FAM, Section 816.

5. *Travel.* Domestic travel is an appropriate charge to this grant, and prior authorization for specific trips is not required. Foreign travel must be clearly essential to the grant effort and must, to be charged against this grant, have prior explicit approval of the Grants Officer regardless of its inclusion in the approved grant budget. The grantee agrees to use U.S. Flag air carriers to the maximum extent practicable when international air transportation becomes necessary under this grant. The difference in cost between first-class air accommodations and economy class accommodations is unallowable.

6. *Allowable costs.* Allowability of costs shall be determined in accordance with the Federal Procurement Regulations Subpart 1–15.2 cost principles for commercial organizations as amended by ERDA Procurement Regulation 9–15.205–3, Bidding Costs, and 9–15.205–35, Research and Development Costs. The extent of cost sharing, if any, is indicated on face page.

7. *Retention and custodial requirements for records.* Grantees shall retain and permit examination of records as required by the FAM, Section 1003.

8. *Payment and financial reporting requirements.* Payments by ERDA will be made by the method indicated on the face page. Grantee requests for payment, ERDA payments, and grantee financial reporting requirements shall be made in accordance with the FAM, Sections 805 and 807.

9. *Property management standards.* If government property is either furnished by ERDA or acquired by the grantee, it will be accounted for and managed in accordance with the FAM, Section 814. Title to grantee acquired property shall remain in ERDA unless otherwise provided in this award.

10. *Patent rights.* If the grant project involves research, development, or demonstration, the patent provision reference in the ERDA Federal Assistance Manual, Section 215c. is applicable to this grant.

11. *Rights in data.* The rights in technical data (long form) clause of 41 CFR 9–9.202–3(e) and the additional technical data requirements clause of 41 CFR 9–9.202–3(c) are to be used in accordance with Section 215D. of the FAM.

12. *Authorization and consent.* Use the clause of 41 CFR 9–9.102–2 in accordance with Section 215e. of the FAM.

13. *Notice and assistance.* Use the clause of 41 CFR 9–9.104 in accordance with Section 215f. of the FAM.

14. *Classified inventions.* Use the clause of 41 CFR 9–9.106 in accordance with Section 215g. of the FAM.

15. *Reporting of royalties.* Use the clause of 41 CFR 9–9.110 in accordance with Section 215h. of the FAM.

16. *Procurement standards.* Grantee procurements are subject to the requirements of the FAM, Section 815 unless otherwise provided in this award.

17. *Revision of financial plans.* Activity under this grant is subject to the requirements of the FAM, Section 806 unless otherwise provided herein.

18. *Program income.* Program income is subject to the policy prescribed by OMB Circular A–110, Attachment D, as implemented in the FAM, Section 809 unless otherwise provided in this award.

19. *Statutory requirements.* a. *Civil rights.* This grant is subject to the Civil Rights Act of 1964; Title IV, Sex Discrimination, of the Energy Reorganization Act of 1974; and the implementing ERDA regulations in 10 CFR, Chapter III, Part 704.

The grantee agrees that no person in the United States shall, on the ground of race, sex, color, or national origin, be excluded from participation in, be deprived the benefits of, or be otherwise subjected to discrimination under any program or activity for which the grantee receives financial support from ERDA.

b. *Nondiscrimination under federal grants.* This grant is subject to the provisions of the Rehabilitation Act of 1973, Public Law 93–112. The grantee therefore agrees that: "No otherwise qualified handicapped individual in the United States (as defined in Section 7(6) of the Act), shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

c. *Clean air—clean water.* If this grant is over $100,000, it is subject to the provisions of the Clean Air Act, as amended (42 USC 1857 et seq.), the Federal Executive Order 11736, September 10, 1973, and the related regulations of the Environmental Protection Agency in 40 CFR Part 15, as implemented in the FAM, Section 216.

20. *Liabilities and losses.* ERDA assumes no liability with respect to any damages or loss arising out of any activities undertaken with the financial support of this grant.

APPENDIX G.—USED EQUIPMENT GRANT PROVISIONS

The grant on the face hereof is placed in accordance with and subject to the following terms and conditions:

1. The term "grantee" as used herein means the educational institution receiving this grant. The term "ERDA" means the U.S. Energy Research and Development Administration and its duly authorized representatives. The phrase "persons acting on behalf of the ERDA" includes authorized contractors of the ERDA and their duly authorized representatives. The term "equipment" as used herein means the used items described on the face hereof as the item(s) being

granted. The term "ERDA Facility" means the laboratory, plant, or office, operated by or on behalf of the ERDA, in possession and/or responsible for each equipment item shown on the face hereof.

2. The grantee understands that the ERDA may fulfill its obligations under this grant through any ERDA Facility(s).

3. The grantee agrees to pay for all costs of packing, normal and special handling, crating and shipping, and agrees to coordinate the costs and any payments with the ERDA Facility.

4. The grantee will be responsible for any repair and modification costs to any equipment received under this grant.

5. The grantee agrees to arrange shipping instructions and costs with the cognizant ERDA Facility(s) within two weeks from acceptance of this grant.

6. Neither the Government, the ERDA, nor persons acting on behalf of the ERDA make any warranty or other representation, express or implied, that the equipment granted under this program will accomplish the results for which it is requested or intended.

7. The grantee hereby releases and agrees to hold the Government, the ERDA, or persons acting on behalf of the ERDA harmless for any and all liability of every kind and nature whatsoever resulting from the receipt, shipping, installation, operation, handling, use, and maintenance of the equipment after said equipment is physically removed from the ERDA Facility(c).

8. The grantee will utilize the granted equipment primarily for nuclear instructional purposes in regularly scheduled laboratory and instructional courses.

9. The grant of this equipment does not relieve the grantee from complying with the Atomic Energy Act of 1954, as amended, and the regulations issued pursuant thereto, including all requirements for permits and licenses, with respect to such equipment.

10. The grantee agrees to grant to the Government an irrevocable, non-exclusive, royalty-free license in any invention covering a modification or improvement of the granted equipment made in the course of or under this grant.

11. *Statutory requirements.* a. *Civil rights.* This grant is subject to the Civil Rights Act of 1964; Title IV. Sex Discrimination, of the Energy Reorganization Act of 1974; and the implementing ERDA regulations in 10 CFR Chapter III, Part 704.

The grantee agrees that no person in the United States shall, on the ground of race, sex, color or national origin, be excluded from participation in, be deprived the benefits of, or be otherwise subjected to discrimination under any program or activity for which the grantee receives financial support from ERDA.

b. *Nondiscrimination under federal grants.* This grant is subject to the provisions of the Rehabilitation Act of 1973, Public Law 93–112. The grantee therefore agrees that "No otherwise qualified handicapped individual in the United States (as defined in Section 7(6) of the Act), shall solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

12. The grantee agrees to deliver a report in such form and content as may be requested by the ERDA grants officer, one year from date of delivery of the equipment granted hereunder.

13. The grantee in signing on the face hereof accepts the grant and its terms and conditions and acknowledges that this agreement and the proposal referenced herein comprise the total agreement between the grantee and the ERDA.

APPENDIX H.—ERDA CONFERENCE GRANT PROVISIONS

1. *General.* a. This award is composed of a grant face page which may incorporate the grantee's proposal by reference, an award budget, and these Conference Grant Provisions.

b. This grant award constitutes acceptance by the U.S. Energy Research and Development Administration (ERDA) of the grantee's proposal and budget unless otherwise indicated on the face page.

c. The grantee is responsible for mangaging the project as required in conformance with the provisions and award budget of this grant. The program director (PD) named on the grant face page is responsible for the direction of the project and for preparation of required reports.

2. *Expenditures.* a. *Limitation of support.* This grant gives the authority to the grantee to commit and expend funds for allowable costs in support of the project up to the award amount specified on the face page at any time during the grant period. ERDA is neither obligated nor committed to provide any additional funds beyond the amount awarded in the grant. Expenditures by the grantee beyond the funds provided in the grant will be considered a contribution by the grantee toward furtherance of the project.

b. *Allowable costs.* The award budget lists the approved categories of cost, as itemized in the final proposed budget, for which ERDA support is being provided. Unless otherwise stated in the award budget, the grant may be charged for the approved categories of expenses listed therein. Expenses for categories other than those approved by ERDA in the award budget may be charged to the grant provided such expenses are allowable in accordance with applicable Federal cost principles. FMC 73–8, Educational institutions; FMC 74–4, State and local governments; 41 CFR 1–15.2, Profit making organizations, nonprofits, and individuals as supplemented by ERDA Temporary Procurement Regulation No. 25. ERDA's objective in providing grant support is to make possible the communication and exchange of scientific, technical, and other information in areas relevant to ERDA's mission. Therefore, ERDA funds shall only be used for costs which are directly related to this objective. ERDA funds shall not be used to pay for purchase of equipment, any kind of social activities, food, beverages, entertainment, or the like without specific prior approval from the grants officer. No ERDA funds may be used to conduct research, development, or demonstration work under this grant.

c. *Conference income.* This paragraph applies where there is income from any source other than ERDA to offset conference costs from other than ERDA. The amount of conference cost, if any, for which the grantee is at risk or otherwise contributes which is not funded by ERDA, other Federal government agencies, or other contributions or conference fees, is hereby defined as the grantee's cost share. If the total income, including the grantee cost share, exceeds the total conference cost, then the surplus income in excess of the cost from the conference shall first be retained by the grantee to offset its cost share. Any remaining surplus income in excess of the grantees cost share shall be allocated to Federal government sponsors up to the amount of their support either as a refund or a reduction in the amount the grantee requests for reimbursement from these agencies. Any income remaining after the foregoing allocations shall vest in the grantee and shall be dedicated by the grantee to support similar conference activities in the future.

d. *Final expenditure report.* The grantee shall, by the end of the grant period, submit to the ERDA grants officer a final expenditure report which identifies all sources and amounts of conference income, details the amounts actually expended, indicates whether there is an income surplus, how the costs were allocated to all Federal project sponsors, and how income surplus, if any, will be allocated in accordance with paragraph c. above. Where particular expenditures charged to the grant are believed to be inconsistent with the purpose of the grant as expressed in the approved budget or applicable cost principles, the grants officer may require the grantee to submit additional information or require an audit. Final payment may be withheld or suspended pending clarification of the matter. Expenses charged to the grant which are clearly inconsistent with the purpose of the grant are subject to being refunded to ERDA.

3. *Payment.* The method of payment (advance payment by Treasury check(s), or reimbursement by Treasury check(s)) is indicated on the grant face page. If the grantee is an institution of higher education, payment may be made by letter of credit. Payments of up to 60 percent of the grant award may be made following execution of the grant and submission of a voucher for payment. An additional 20 percent may be paid upon request by the grantee at the time additional funds are needed. The remaining 20 percent will be withheld by ERDA until receipt of all required reports except that only 5 percent will be withheld if all reports other than those delayed by provision 6.b. have been delivered. The documents to be submitted for payment will be specified by the grants officer and submitted to the address given on the face page.

4. *Project Activity Report and Proceedings.* The Project Director, by the end of the grant period, shall describe the project results in a brief, informal letter type summary activity report to the ERDA program officer. More specific activity reporting requirements may be identified on the face page.

Any conference proceedings published by the Grantee must acknowledge support by this ERDA grant with a statement to the effect that: "This material was prepared with the support of Energy Research and Development Administration Grant No. . Any opinions, findings, conclusions, or recommendations are those of the author(s) and do not necessarily reflect the views of ERDA."

5. *Travel.* Funds from this grant may not be used to provide travel, per diem, or related expenses to third parties unless specifically approved by ERDA in the award budget. Such approved funds for travel expenses by third parties shall be expended in accordance with Federal Travel Regulations. Travel costs for grantee employees will be allowed in accordance with applicable Federal cost principles referenced in provision 2.

6. *Rights in Technical Data and Copyrights.* This provision is applicable only where the principal purpose of this grant is to present technical data (i.e., recorded information, regardless of form or characteristic, of a scientific or technical nature) relating to the energy field.

a. The Grantee grants to the Government a world-wide, royalty-free, nonexclusive, irrevocable license to publish, duplicate, translate, perform, exhibit and dispose of, and to have others do so, technical information or data including copyrightable material first produced by the Grantee under this grant.

b. ERDA has the right to require delivery of all technical information or data first produced by the grantee under this grant and all conference papers of a scientific or technical nature. The Grantee agrees not to include in the technical information, or data, or scientific or technical conference papers delivered under this grant, any material copyrighted by the Grantee or any material including scientific or technical conference papers copyrighted by others without first obtaining without cost a license therein for the benefit of the government of the same scope as set forth in paragraph a. above. If, nevertheless, there must be included in the technical information, or data, or scientific or technical conference papers to be delivered copyrighted material for which a license of the above scope cannot be obtained, the Grantee shall obtain the written authorization of ERDA to include such material prior to its physical delivery to ERDA.

7. *Revocation.* This grant may be revoked in whole or in part by ERDA. In the event of revocation, the grantee shall refund to ERDA any unexpended funds that it has received under the grant, except such portion thereof as may be required by the grantee to meet noncancellable obligations properly incurred, become firm prior to the effective date of revocation and are otherwise appropriate. The Grantee should notify the grants officer whenever the Grantee believes circumstances may impair the successful continuation of the grant or may require that the grant be modified or revoked.

8. *Statutory Requirements.* a. *Civil rights.* This grant is subject to the Civil Rights Act of 1964; Title IV, Sex Discrimination, of the Energy Reorganization Act of 1974; and the implementing ERDA regulations in 10 CFR Chapter III, Part 704. The grantee agrees that no person in the United States shall, on the ground of race, sex, color or national origin, be excluded from participation in, be deprived the benefits of, or be otherwise subjected to discrimination under any program or activity for which the grantee receives financial support from ERDA.

b. *Nondiscrimination under federal grants.* This grant is subject to the provisions of the Rehabilitation Act of 1973, Public Law 93–112. The grantee therefore agrees that "No otherwise qualified handicapped individual in the United States (as defined in Section 7(6) of the Act), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

APPENDIX M.—RESERVED

APPENDIX N.—COOPERATIVE AGREEMENT—SAMPLE SCHEDULE ARTICLES (RESERVED)

APPENDIX O

This Appendix provides sample provisions which should be used as prescribed in Section 621 c.4. and 5. The provisions have been written to reflect use in cooperative agreements and should be used as provided. This Appendix is divided into three subparts: 1. Required provisions in all cooperative agreements; 2. Additional required provisions in cooperative agreements which provide for payment of funds to the Participant; 3. When applicable provisions.

1. *Required provisions in all cooperative agreements*—a. *Officials not to benefit.* No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

b. *Covenant against contingent fees.* The Participant warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Participant for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

c. *Sex discrimination prohibited.* No person shall on the ground of sex be excluded from participation in, be denied a license under, be denied the benefits of, or be subjected under any program or activity carried on or receiving Federal assistance under any title of this Act (P.L. 93–438).

d. *Small and minority business participation.* It is the policy of ERDA to ensure that small and minority businesses have a reasonable opportunity to participate in the projects which it supports. In accordance with this policy, the participant will make a reasonable effort to ensure fair consideration and utilization of small and minority businesses in purchases and subcontracts awarded by the participant under this Agreement.

e. *Preference for U.S. flag air carriers.* 1. It is the policy of the United States that all Federal agencies and Government contractors and subcontractors utilize U.S. flag air carriers for international air transportation of personnel and cargo.

2. The Participant agrees to utilize U.S. flag air carriers to the maximum extent practicable in connection with the performance of this agreement in the transportation by air of any personnel and cargo between the United States and a foreign country, or between foreign countries.

3. The terms used in this clause have the follow meanings:

a. "International air transportation" means transportation by air of personnel and cargo from the United States to a foreign country, between two or more foreign countries, and between a foreign country and the United States.

b. "U.S. flag air carrier" means one of a class of air carriers holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board, approved by the President, authorizing operations between the United States and/or its territories and one or more foreign countries.

c. The term "United States" includes the fifty States, Commonwealth of Puerto Rico, possessions of the United States and the District of Columbia.

d. "Practicable" includes (i) satisfactory servicing of agency programs, and (ii) timely deliveries at fair and reasonable prices.

4. The Participant shall include the substance of this clause, including this paragraph (d) in each subcontract or purchase order hereunder which may involve air transportation between the United States and a foreign country or between foreign countries.

f. Disputes [Reserved]

2. Additional provisions required in cooperative agreements which provide for payment of ERDA funds to the Participant.

a. *Clear Air and Water.* (a) The Participant agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act, as amended (42 USC 1857, et seq., as amended by P.L. 91–604) and section 308 of the Federal Water Pollution Control Act (33 USC 1251 et seq., as amended by P.L. 92–500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this agreement.

(2) That no portion of the work required by this agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this agreement was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air standards and clean water standards at the facility in which the agreement is being performed.

(4) To insert the substance of this clause into any nonexempt subcontract, including this paragraph (a)(4).

(b) The terms used in this provision have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 USC 1857 et. seq., as amended by P.L. 91–604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 USC 1251 et. seq., as amended by P.L. 92–500).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 USC 1857c–5(d)), an approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 USC 1857(c)–6 (c) and (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 USC 1857c–7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act 33 (U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an air or water pollution control agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a participant or subcontractor, to be utilized in the performance of an agreement or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

b. *Civil rights.* The Participant agrees that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity for which the Participant receives Federal financial assistance from ERDA.

e. *Discrimination against handicapped prohibited.* The Participant agrees that no otherwise qualified handicapped individual in the United States (as defined in Section 7(8) of the Act), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

d. *Examination of records by Comptroller General.* 1. The Participant agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this agreement, unless ERDA authorizes their prior disposition, have access to and the right to examine any directly pertinent books, document, papers, and records of the participant involving transactions related to this agreement.

2. The Participant further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $10,000 and (2) subcontracts or purchase orders for public utility services at rates established or uniform applicability to the general public.

3. The periods of access and examination described in (a) and (b), above, for records which relate to (1) appeals under the "Disputes" clause of this agreement, (2) litigation or the settlement of claims arising out of the performance of this agreement, or (3) costs and expenses of this agreement as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, or ERDA shall continue until such appeals, litigation, claims or exceptions have been disposed of.

e. *Assignment of Claims.* Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), claims for moneys due or to become due the participant from the Government under this agreement may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this agreement and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this agreement, payments to assignee of any moneys due or to become due under this agreement shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff.

f. *Audit.* The Participant shall maintain, and the Awarding Officer or his representative shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this agreement. Such right of examination shall include inspection at all reasonable times of the Participant's plants, or such parts thereof, as may be engaged in the performance of this agreement.

The materials described above, shall be made available at the office of the Participant, at all reasonable times, for inspection, audit or reproduction, until the expiration of 3 years from the date of final payment under this agreement or such lesser time specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20) and for such lesser period, if any, as is required by applicable statute, or by other clauses of this agreement by (1) and (2) below:

(1) If this agreement is completely or partially terminated, the records relating to the work terminated shall be made available for a period of 3 years from the date of any resulting final settlement.

(2) Records which relate to appeals under the "Disputes" clause of this agreement, or litigation or the settlement of claims arising out of the performance of this agreement, shall be made available until such appeals, litigation, or claims have been disposed of.

3. When applicable provisions. a. *Equal employment opportunity.* During the performance of this agreement, the Participant agrees as follows: (1) The Participant will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Participant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; and selection for training, including apprenticeship. The Participant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(2) The Participant will, in all solicitations or advertisements for employees placed by or on behalf of the Participant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color or national origin.

(3) The Participant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers representative of the Participant's commitments under the Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Participant will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Participant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Participant's noncompliance with the Equal Opportunity clause of this agreement or with any of the said rules, regulations, or orders, this agreement may be canceled, terminated, or suspended in whole or in part, and the Participant may be declared ineligible for further Government contracts or agreements in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed, and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Participant will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 1246 of September 24, 1965, so that such provisions will be binding upon each subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the Participant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by ERDA, the Participant may request the United States to enter into such litigation to protect the interests of the United States.

b. *Buy American Act.* (1) In acquiring end products, the Buy American Act (41 U.S.C. Code 10a-d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) "Components" means those articles, materials and supplies which are directly incorporated in the end products;

(ii) "End products" means those articles, materials, and supplies which are to be acquired under this agreement for public use; and

(iii) A "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. For the purposes of this (1) (iii) (B), components of foreign origin of the same type or kind as the products referred to in (2) (ii) and (iii) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(2) The Participant agrees that there will be delivered under this agreement only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Administrator or his designee determines the domestic preference to be inconsistent with the public interest; or cost to the Government to be unreasonable.

c. *Mandatory purchase of Flood Insurance.* If funds under this agreement are used for acquisition or construction purposes in an identified flood plain area in the United States having special flood hazards, the Participant agrees to purchase flood insurance and comply with the provisions prescribed by the Federal Insurance Administration in 24 CFR Chapter X, Subchapter B.

d. *Authorization and consent,* 41 CFR 9-9.102-2.

e. *Notice and assistance,* 41 CFR 9-9.104.

f. *Classified inventions,* 41 CFR 9-9.110.

g. *Reporting of Royalties,* 41 CFR 9-9.110.

h. *Patent rights (long form),* 41 CFR 9-9.107-6.

i. *Patent rights (short form),* 41 CFR 9-9.107-6.

j. *Rights in technical data (long form),* 41 CFR 9-9.203-3(e).

k. *Additional technical data requirements* (normally used when the rights in technical data (long form) is used), 41 CFR 9-9.203-3 (c).

l. *Rights in technical data (short form),* 41 CFR 9-9.202.

[FR Doc.77-14960 Filed 5-27-77;8:45 am]

ADMINISTRATOR, EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-107]

EL PASO NATURAL GAS CO.

Emergency Order

On May 13, 1977, El Paso Natural Gas Company (El Paso) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)) an application for authorization to make certain emergency purchases of natural gas from Diamond Shamrock Corporation (Diamond). For the reasons set forth below, I authorize these emergency purchases.

By agreement dated May 12, 1977, El Paso agreed to purchase natural gas from Diamond's Fillingim No. 1 Gas Well, Hemphill County, Texas. Said agreement will begin as soon as practicable as an emergency purchase and will terminate on July 31, 1977.

El Paso will purchase these supplies at a fair and equitable rate, not to exceed $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act, I hereby authorize Diamond to sell El Paso natural gas from the Fillingim No. 1 Gas Well, Hemphill County, Texas, on the terms and conditions set forth in El Paso's filing in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso and Diamond. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

MAY 24, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-15434 Filed 5-27-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

FLUE-CURED TOBACCO ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

NAME: Flue-Cured Tobacco Advisory Committee

DATE: June 23, 1977

PLACE: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, North, Carolina 27505

TIME: 1:00 p.m.

PURPOSE: To discuss marketing area opening dates and selling schedules for flue-cured tobacco to be sold in each marketing area for the 1977 season. Also, other matters as specified in 7 CFR, Part 29, Subpart G, 9404.

The meeting is open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. J. W. York, Director, Tobacco Division, Agricultural Marketing Service, 300 12th Street, SW., United States Department of Agriculture, Washington, D.C. 20250, (202) 447-2567.

Dated: May 25, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-15368 Filed 5-27-77;8:45 am]

Soil Conservation Service

CENTRAL COAST RESOURCE CONSERVATION AND DEVELOPMENT AREA; PINTO LAKE PUBLIC WATER-BASED RECREATION MEASURE, CALIFORNIA IDENTIFICATION NUMBER 06-6002-087-001

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.6(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974, the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pinto Lake Public Water-Based Recreation Measure, Santa Cruz County, California.

The environmental assessment of this Federal action indicates that the measure will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the measure. As a result of these findings, Mr. Francis C. H. Lum, State Conservationist, Soil Conservation Service, USDA, 2828 Chiles Road, Davis, California 95616, has determined that the preparation and review of an environmental impact statement is not needed for this measure.

The measure concerns a plan for the installation of basic recreation facilities and the preservation and enhancement of wildlife resources around Pinto Lake.

The negative declaration is being filed with the Council on Environmental Quality, and copies are being sent to various Federal, State, and local agencies. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 100 West Alisal, Salinas, California 93901, or at the Soil Conservation Service, 2828 Chiles Road, Davis, California 95616. A limited number of copies of the negative declaration is available from the same addresses to fill single copy requests.

No administrative action on implementation on the proposal will be taken until June 15, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Services)

Dated: May 19, 1977.

M. D. BURDICK,
Director, Resource Development Division.

[FR Doc.77-15342 Filed 5-27-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 15529; 27589; Order 77-5-132]

BAGGAGE LIABILITY RULES CASE AND DOMESTIC BAGGAGE LIABILITY RULES INVESTIGATION

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of May 1977.

The Board in the "Baggage Liability Rules Case," 45 C.A.B. 182 (1966), established the minimum lawful liability rules for the carriage of passenger baggage on local service and trunkline air carriers in air transportation within the 48 contiguous states and the District of Columbia. Excluded from the scope of the original investigation was the transportation of baggage in overseas, Alaskan and Hawaiian markets. Subsequent to the original case, the Board certificated several new air carriers to provide scheduled interstate service which were never made subject to these rules including: Air Midwest, Inc.; Air New England, Inc., Aspen Airways, Inc., Pan American World Airways, Inc., and Wright Air Lines, Inc.[1] Also, various other certificated carriers that transport baggage are not subject to these rules.

In the "Domestic Baggage Liability Rules Investigation," Docket 27589, Order 77-2-9, February 2, 1977, the Board required various modifications in the carriers' liability rules, among other things raising the minimum limitation on liability from $500 to $750. In Order 77-2-9, the Board noting that the earlier case was applicable only to domestic trunkline and local service carriers expressly extended the provisions of its new order to all certificated air carriers engaged in interstate or overseas air transportation of persons.

[1] See Orders of certification: 76-9-165, 74-10-102, E-24829, 76-9-168 and 69-8-165.

The earlier order specifically provided:

> The limitation of liability of the carriers shall include and apply to loss of, damage to, or delay in delivery of money, jewelry, silverware, negotiable papers, securities, business documents, samples, paintings, antiques, artifacts, manuscripts, irreplaceable books or publications, or other similar valuables. A declaration of value on such valuables in excess of the carrier's limitation of liability shall be accepted by the carrier when such valuable articles are not included in checked baggage.[2]

It appears that certain carriers hereinafter named deeming themselves not bound by the earlier order (45 C.A.B. at 191) have tariff provisions on file expressly exculpating them from liability for valuables in derogation of the express provisions of the earlier order regarding a passenger's valuables. We perceive no reason why this gap between the Board's earlier order and the Board's later orders[3] should exempt some carriers from liability for the mishandling of valuables.[4]

We, therefore, tentatively find and conclude that Air Midwest, Inc., Air New England, Inc., Alaska Airlines, Inc., Aloha Airlines, Inc., Aspen Airways, Inc., Capitol International Airways, Inc., Evergreen International Airlines, Inc., Kodiak-Western Alaska Airlines, Inc., McCulloch International Airlines, Inc., Modern Air Transport, Inc., Overseas National Airways, Inc., Pan American World Airways, Inc., Reeve Aleutian Airways, Inc., Trans International Airlines, Inc., World Airways, Inc., and Wright Air Lines, Inc., shall be bound by the "Baggage Liability Rules Case, Docket 15229, particularly as to liability for valuables, and as modified by the Domestic Baggage Liability Rules Investigation," Docket 27589, for all interstate and overseas air transportation as if they were certificated carrier parties to those proceedings.[5]

Interested persons will be given twenty days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary, and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That: 1. All interested parties, and particularly Air Midwest, Inc., Air New England, Inc., Alaska Airlines, Inc., Aloha Airlines, Inc., Aspen Airways, Inc., Capitol International Airways, Inc., Evergreen International Airlines, Inc., Kodiak-Western Alaska Airlines, Inc., McCulloch International Airlines, Inc., Modern Air Transport, Inc., Overseas National Airways, Inc., Pan American World Airways, Inc., Reeve Aleutian Airways, Inc., Trans International Airlines, Inc., World Airways, Inc., and Wright Air Lines, Inc., are hereby directed to show cause why the Board shall not make final its tentative findings and conclusions stated herein with respect to their baggage rules, particularly as to their liability for valuables pursuant to Dockets 15529 and 27589;

2. Any interested persons having objections to the issuance of an order making final the proposed findings and conclusions set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all certificated air carriers a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; and

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the matter will be submitted to the Board for final action.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15371 Filed 5-27-77;8:45 am]

[Docket No. 27573; Agreement C.A.B. 26621; Order 77-5-121]

IATA

Agreement on Specific Commodity Rates; Order

Issued under delegated authority May 23, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement was adopted at the 44th Meeting of the TC1 Specific Commodity Rates Board in Vancouver held May 9, 1977.

The agreement contains revisions to the specific commodity rate structure within TC1 (South America/Central America). Such rates are not combinable with rates to/from U.S. points and we will therefore disclaim jurisdiction.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that Agreement C.A.B. 26621 affects air transporation within the meaning of the Act.

Accordingly, it is ordered, That: Jurisdiction be disclaimed with respect to Agreement C.A.B. 26621.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15369 Filed 5-27-77;8:45 am]

[Docket No. 27573; Agreement C.A.B. 26620 R-1 and R-2; Order 77-5-122]

IATA

Agreement on Specific Commodity Rates; Order

Issued under delegated authority May 23, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names one additional specific commodity rate under an existing commodity description and adds one new rate with a new specific commodity description as set forth below, reflecting reductions from general cargo rates; and were adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated April 20, 1977

Agreement CAB	Specific commodity item No.	Description and rate[1]
26620:		
R-1.....	0274	Skis, skipoles, ski bindings: 124 c/kg, minimum weight 500 kg; 112 c/kg, minimum weight 1,000 kg; from Gothenburg to New York/Montreal.
R-2.....	0275	Ice hockey equipment:[2] 124 c/kg,[3] minimum weight 500 kg; 112 c/kg,[3] minimum weight 1,000 kg; from Gothenburg to New York/Montreal.

[1] Subject to applicable currency conversion factors as shown in tariffs.
[2] New description.
[3] Expires Dec. 31, 1978.

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[2] 45 C.A.B. at 191.
[3] Orders 77-2-9, 77-4-73; and ER-995.
[4] Thus ER-995, April 15, 1977, amending § 221.176 of the Board's Regulations to conform the notice provisions to the new $750 liability limitation struck former § 221.176(c) which maintained the earlier distinction between trunkline and local service carriers on the one hand and the other certificated carriers on the other.
[5] Following the initial certification of Air Midwest, Air New England and Pan American to provide interstate air transportation within the 48 contiguous states, the Board, by Orders to Show Cause, afforded passengers traveling on these carriers the protection of the ratemaking standards of the Domestic Passenger-Fare Investigation. See Orders 76-11-3, 74-10-102 and 76-12-36.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That: Agreement C.A.B. 26620 be and hereby is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such a period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-15370 Filed 5-27-77;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the President's agent announced the following meeting:

NAME: Federal Employees Pay Council.

DATE AND TIME: June 15, 1977, 2 p.m.

PLACE: U.S. Civil Service Commission, 1900 E Street, N.W., Washington, D.C., Room 5A06A.

TYPE OF MEETING: Open.

CONTACT PERSON:
Claire Kline, Committee Management staff for the President's agent, U.S. Civil Service Commission, 1900 E Street, N.W., Washington, D.C., Telephone (202) 632-5595.

PURPOSE OF COMMITTEE: To make recommendations to the President's agent with respect to the process and procedures leading to, and amounts of, annual comparability adjustments in Federal white-collar pay.

AGENDA: Discussions on the 1977 comparability adjustment for the statutory pay systems of the Federal Government, which are defined in section 5301 of title 5, United States Code.

For the President's agent:

RICHARD H. HALL,
Committee Management Officer for the President's agent.

[FR Doc.77-15542 Filed 5-27-77;9:48 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

BLACK HILLS MARINELAND, INC.

Issuance of Permit To Take Marine Mammals

On March 25, 1977, notice was published in the FEDERAL REGISTER (42 FR 16171), that an application had been filed with the National Marine Fisheries Service by Black Hills Marineland, Inc., D/B/A Marinelife, Box 1243, Rapid City, South Dakota 57701, for a Permit to take three (3) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on May 19, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to Black Hills Marineland, Inc., subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington, 98109; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 19, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-15289 Filed 5-27-77;8:45 am]

HOGLE ZOOLOGICAL GARDEN

Issuance of Permit To Take Marine Mammals

On March 25, 1977, notice was published in the FEDERAL REGISTER (42 FR 16171), that an application had been filed with the National Marine Fisheries Service by Hogle Zoological Garden, 2600 Sunnyside Avenue, P.O. Box 8475, Salt Lake City, Utah 84108, for a permit to take four (4) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on May 23 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to Hogle Zoological Garden subject to certain conditions set forth therein. The permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington, 98109; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 23, 1977.

WINFRED H. MEIBOHM,
Associate Director National Marine Fisheries Service.

[FR Doc.77-15291 Filed 5-27-77;8:45 am]

LOUIS SCARPUZZI ENTERPRISES, INC.

Issuance of Permit To Take Marine Mammals

On February 10 and 17, 1977, notices were published in the FEDERAL REGISTER (42 FR 8403/42) F.R. 9698) that applications had been filed with the National Marine Fisheries Service by Louis Scarpuzzi Enterprises, Inc., 339 Riverside Drive, Fort Myers, Florida 33905, for permits to take five (5) Atlantic bottlenosed dolphins (*Tursiops truncatus*) and five (5) California sea lions (*Zelophus californianus*) for public display.

Notice is hereby given that on May 20, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking to Louis Scarpuzzi Enterprises, Inc., subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 20, 1977.

WINFRED H. MEIBOHM,
Associate Director National Marine Fisheries Service.

[FR Doc.77-15290 Filed 5-27-77;8:45 am]

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Wednesday, June 22, 1977 from 9:45 a.m. until 5 p.m. in Room 4830, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

The Board was established to study and evaluate the technical activities of

the Department of Commerce and recommend measures to increase their value to the business community. Tentative agenda items include:

(a) Continuation of Discussion on Undesirable Impacts of Regulations on Land, Water and Air.

(b) Discussion on Formation of Panel to Study (a) above.

(c) Review of Final Draft Statement on Technology.

The meeting will be open to public observation. The public may submit written statements or inquiries to the chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce, Central Reference and Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3865, U.S. Department of Commerce, Washington, D.C. 20230. Telephone 202–377–5065.

Dated: May 24, 1977.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc.77–15364 Filed 5–27–77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN APPAREL PRODUCTS IN CHIEF VALUE LEATHER AND CHIEF WEIGHT TEXTILE MATERIALS

Extension of Exemption From Bilateral Textile Agreements

MAY 26, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Extending until July 1, 1977 the exemption from bilateral textile agreements of certain apparel products which are in chief weight textile materials and chief value nontextile materials.

SUMMARY: A notice published in the FEDERAL REGISTER on March 21, 1977 (42 FR 15359) announced establishment of TSUS 791.74 to cover "certain wearing apparel of leather which is: In part of textile materials, the aggregate weight of which exceeds the weight of any individual nontextile material contained therein," and delayed its inclusion under the textile import restraint program until May 1, 1977. The exemption was extended through May 31, 1977 (42 FR 21155). The purpose of the present notice is to announce a further extension of the exemption through June 30, 1977.

EFFECTIVE DATE: June 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4212).

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.77–15480 Filed 5–27–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 738–1]

CSDOC WASTEWATER MANAGEMENT PROGRAM

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the County Sanitation Districts of Orange County Wastewater Management Program, California.

The proposed project involves additions to the existing treatment facilities of the County Sanitation Districts of Orange County located in Fountain Valley and Huntington Beach, California.

This DEIS was transmitted to the Council on Environmental Quality on May 20, 1977. In accordance with CEQ's notice of availability, comments are due on July 11, 1977. Copies of the DEIS are available for review and comment from: Project Officer, US Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111 (telephone 415–556–3458).

To receive additional public comments, the Environmental Protection Agency, Region 9, will hold open public hearings during June, 1977. The times and places for these hearings will be provided at a later date. All interested parties are invited to express their views at the hearings. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region IX Library, 100 California Street, San Francisco, California.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW., Washington, D.C.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036. Please reference ELR No. 70619.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: May 24, 1977.

WILLIAM D. DICKERSON,
Acting Director, Office of Federal Activities.

[FR Doc.77–15361 Filed 5–27–77;8:45 am]

[FRL 738–2]

JACKSON WASTEWATER TREATMENT SYSTEM

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Jackson Wastewater Treatment System, Town of Jackson, Wyoming.

The EPA, Region VIII, proposes to fund Federal matching funds for wastewater treatment for the Town of Jackson, Wyoming, through the authority of the Federal Water Pollution Control Act Amendments, 1972. The present facility does not have sufficient capacity to treat present or future wastewater flows adequately to meet prescribed discharge permit limitations.

The DEIS was transmitted to the Council on Environmental Quality (CEQ) on May 17, 1977. In accordance with CEQ's notice of availability, comments are due on July 11, 1977. Copies of the DEIS are available for review and comment from: Mr. Wes Wilson, Environmental Protection Agency, Region 8, 1860 Lincoln Street, Denver, Colorado 80203 (telephone 303–837–4331.

To receive additional public comments, the Environmental Protection Agency, Region 8, will hold an open public hearing on this DEIS on June 28, 1977 at 7 pm at the Teton County Court House. All interested persons are invited to express their views at this hearing. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VIII Library, 1860 Lincoln Street, Denver, Colorado 80203.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036. Please reference ELR No. 70598.

Copies of the DEIS have been sent to various Federal, State and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: May 24, 1977.

WILLIAM D. DICKERSON,
Acting Director, Office of Federal Activities.

[FR Doc.77–15360 Filed 5–27–77;8:45 am]

[FRL 715–5]

NEW MOTOR VEHICLE CERTIFICATION

Intent To Develop Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to develop rulemaking.

SUMMARY: The Environmental Protection Agency is giving consideration to amending the certification regulations (40 CFR Part 86) which apply to new light-duty vehicles and new light-duty trucks. The amendments to the certification regulations would permit EPA to test vehicles in any state of adjustment to which they can be set, rather than set precisely to the manufacturers' specifications in such respects as carburetor and distributor calibrations.

FOR FURTHER INFORMATION CONTACT:

Paul Lapsley, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (AW–455), Environmental Protection Agency, Washington, D.C. 20460 (202–755–0596).

SUPPLEMENTARY INFORMATION: The need for amending the certification regulations became apparent when data, collected from vehicles in actual use, revealed that significant numbers of vehicles which were certified as being capable of meeting applicable emissions standards (when properly maintained and operated) were exceeding the standards in actual use. Analysis of these data, and data collected in other testing programs, indicate that failures to meet the emissions standards are most closely related to maladjustments.

The present certification regulations provide that test vehicles be set to the nominal calibrations specified by the manufacturer. This proposed amendment to the procedures would permit EPA to set test vehicles' calibrations anywhere within the ranges of adjustments available on the vehicles prior to making the official emission test. Thus, EPA will be able to select settings which represent calibrations least likely to meet the standards. If certification vehicles "maladjusted" in this way can meet the standards throughout their useful lives, then even maladjusted vehicles in use should meet the standards, if they have been built according to the certified design and if they have otherwise been properly maintained and used (e.g., spark plugs and oil changed on schedule, not used for drag racing, etc.).

These certification test procedure changes should alleviate in-use problems arising from the ease with which critical engine parameters can be (and are) maladjusted in the field. Such maladjustment may result from incompetence on the part of those servicing cars, or it may be intentional adjustment performed to improve driving characteristics such as cold starting, acceleration, etc. While these test procedure changes are not likely to solve the maladjustment problem completely, they should reduce the incidence of serious maladjustment.

Statutory authority for this intended action would be provided by sections 206 and 301 of the Clean Air Act, 42 U.S.C. 1857f–5 and 1857g.

Dated: May 23, 1977.

EDWARD J. TUERK,
Acting Assistant Administrator, Office of Air and Waste Management.

[FR Doc.77–15349 Filed 5–27–77;8:45 am]

[FRL 738–3; OPP–30000/15]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Diallate

The Deputy Assistant Administrator, Office of Pesticide Programs, Environmental Protection Agency (EPA), has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing diallate [S-(2,3-dichloroally) diisopropylthiocarbamate].[1]

I. REGULATORY PROVISIONS

A. *General.* Title 40, 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 971, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in § 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

[1] This notice of presumption differs in presentation from previously published notices. Specifically, in the past the Agency has published a notice of rebuttable presumption which included a discussion of the substantive reasons for the action taken. This notice does not include such a discussion, but instead incorporates the substantive discussion contained in the lengthy Position Document which is also published. These changes were made in order to streamline the process of information dissemination while providing as much information as possible to affected and interested parties.

A notice of rebuttable presumption is issued when the evidence related to risk meets the criteria set forth in § 162.11(a)(3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

Accordingly, all registrants and applicants for registration are invited pursuant to § 162.11(a)(4) to submit evidence in rebuttal of this presumption, and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may also submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to section 6(a)(1) of FIFRA.

B. *Rebuttal criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" (40 CFR 162.11(a)(3)(i) and (iii));

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" (40 CFR 162.11(a)(ii); or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error."

C. *Benefits information.* In addition to submitting evidence to rebut the presumption of risk, § 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit

evidence submitted by the registrant,' applicants and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically, § 162.11(a)(5)(iii) provides that if the "benefits appear to outweigh risks," the Administrator may (1) issue a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA rather than a notice of intent to cancel or (2) deny registration pursuant to section 3(c)(6) of FIFRA. Alternatively, if the "benefits do not appear to outweight the risks, the Administrator shall issue a notice pursuant to section 3(c)(6) or section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to section 6(c) of the Act.

Stated below is the § 162.11(a)(3) risk criterion which the Agency has found to have been met or exceeded by registrations and applications for registration of pesticide products diallate. The Agency's basis for concluding that this risk criterion has been met or exceeded is set out in "Diallate: Position Document 1", which follows. This document was prepared by an Agency Working Group and later revised in accordance with the directions of the DAA, OPP, as affected in a memorandum dated May 13, 1977. Copies of the attachments to the Position Document which are not published with this notice are available for public inspection. Information protected from disclosure pursuant to FIFRA section 10 cannot be provided. Specific inquiries concerning the Position Document should be directed to Project Manager James Stewart, Office of Special Pesticide Reviews (WH–566), EPA, Room 447, East Tower, 401 M St. SW., Washington, D.C. 20460 (202–755–8050).

II. PRESUMPTION

A. *Oncogenicity.* 40 CFR 162.11(a)(ii)(A) provides, "A rebuttable presumption shall arise if a pesticide's ingredient(s) * * * (i)nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure * * *" As a further clarification of the provision, the preamble to the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402) states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or malignant tumors in humans or animals."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing diallate, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

III. GROUNDS FOR PESTICIDE REVIEW IN ADDITION TO REBUTTABLE PRESUMPTION CRITERIA

A. *General.* In addition to the risk criteria set forth in 40 CFR 162.11(a)(3) which require the issuance of a notice of rebuttable presumption against registration or continued registration and a determination by the Administrator to register or cancel a pesticide, 40 CFR 162.11(a)(6) provides that the Administrator may determine that a pesticide should be cancelled or that a hearing should be held if the pesticide poses a substantial question of safety to man or the environment "based on toxicological data, epidemiological studies, use history, accident data, monitoring data, or such other evidence as is available to the Administrator."

A determination to cancel or deny registration of a pesticide or to hold a hearing based upon such data and a finding that a pesticide poses a substantial question of safety need not be preceded by public notice and opportunity for rebuttal prior to the administrative adjudicatory hearing procedure of section 6(b) of the Act. However, where the Agency is using a notice of rebuttal presumption against registration or continued registration based on the risk criteria of 40 CFR 162.11(a)(3), it is in the public interest to include in that notice all evidence which may indicate additional grounds for determining that a pesticide causes unreasonable adverse effects on the environment. Accordingly, evidence derived from a diallate study, that suggests that diallate may produce neurotoxic effects in humans, has been included in this notice.

B. *Neurotoxic effects.* The information concerning the neurotoxic effects of diallate is summarized in the Position Document. Diallate caused delayed neurotoxic effects in test animals at a dose level of 0.312 g/kg. However, because this level was the only level tested in the study, and there is no information to indicate a no observable effect level, or to determine dose/response relationships, it is not possible at this time to make a judgment as to what constitutes a safe level for diallate. Delayed neurotoxic effects are of concern to the Agency because some studies show these effects to be irreversible.

For these reasons, the Agency is soliciting comments on the available evidence. In addition, the Agency is requiring registrants to complete appropriate additional neurotoxicity studies on appropriate experimental animal species and submit the results to the Agency within 180 days of the issuance of this notice. Registrants who do not comply with the request for submission of additional data within the time provided will be subject to cancellation on the basis pursuant to FIFRA section 6(b)(1).

IV. REGISTRATIONS AND PRODUCTS SUBJECT TO THE NOTICE

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until July 11, 1977, to submit evidence in rebuttal of the presumption. However, the Administration may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the FEDERAL REGISTER.

V. DUTY TO SUBMIT INFORMATION ON ADVERSE EFFECTS

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of diallate products has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which has not been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

VI. PUBLIC COMMENTS

During the time allowed for submission of rebuttal evidence, comments on the presumptions set forth in this notice and on the material contained in the Position Document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed, are requested to be submitted to the EPA as soon as possible. Specifically, information on reproductive and mutagenic effects are solicited as well as information on the fate and effects of diallate, is impurities, metabolites, and degradation products on flora and fauna, particularly animals with metabolism similar to man. Similarly, any studies or comments on the benefits from the use of diallate are requested to be submitted. All comments and information received, as well as any other relevant information and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to § 162.11(a)(5).

All comments and information should be sent to:

Federal Register Section, Technical Services Division (WH–569), Room 401 East Tower, 401 M Street SW., Washington, D.C. 20460.

Three copies of the comments or information should be submitted if possible to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OOP–30000/15." Comments and information received within the specified time limit shall be considered before it is determined whether a notice shall be issued in accordance with § 162.11(a)(5)(ii). All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. on normal working days.

Comments received after the specified time period will be considered only to the extent feasible consistent with the time limits imposed by § 162.11(a)(5)(ii). Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since (1) all of the information received may serve as a basis for final determination pursuant to § 162.11(a)(5) and (2) the Agency will not generally publish a summary of information received in the FEDERAL REGISTER at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the FEDERAL REGISTER, but rather handled by mail with affected parties. Omissions will be corrected by notice in the FEDERAL REGISTER.

Dated: May 24, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

FEDERALLY REGISTERED PRODUCTS CONTAINING DIALLATE

Registrant No., Name and Address, and Product No. and Name

000449, Techne Corp., c/o Farmland Ind., Inc., Agricultural Chemicals Div., P.O. Box 7305, Kansas City, MO 64116, 00448 Dexil 10 Granular.

000524, Monsanto Company, Agricultural Products, 800 N. Lindbergh Blvd., St. Louis, MO 63166, 00119 Avadex Selective Herbicide Emulsifiable Concentrate; 00151 Granular Avadex; 00306 Avadex Technical.

008399, Great Western Sugar Co., Box 5308 Terminal Annex, Denver, CO 80200, 00001 GW Pre-Beta-1 10 percent Granules; 00002 GW Pre-Beta-1 Liquid; 00003 GW Pre-Beta-2 Liquid; 00004 GW Pre-Beta-2 10 percent Granules.

DIALLATE: POSITION DOCUMENT 1

Prepared by Diallate Working Group, James Stewart, Project Manager, U.S. Environmental Protection Agency, April 18, 1977.

Revised in accordance with the directions of the Deputy Assistant Administrator for Pesticide Programs, as reflected in a memorandum dated May 31, 1977.

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I. BACKGROUND

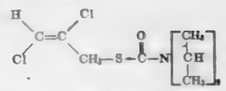
A. NOMENCLATURE

Diallate is marketed under the trade name, AVADEX®. Other names that have been used are CP 15 336 and DATC. The American Chemical Society's Chemical Abstracts Service has assigned the name S-(2,3-dichloro-2-propenyl) bis(1-methylethyl) carbamothioate and the number CAS 230 3-16-4 to diallate. S-(2, 3-Dichlorallyl) diisopropylthiocarbamate is the name placed on labels of pesticide products.

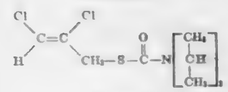
B. CHEMISTRY

1. *General.* Diallate is a volatile, amber colored liquid with a melting point of 25–30° C. It is soluble in most organic solvents but only slightly soluble in water (14 ppm at 25° C).

Structural formula:



trans isomer



cis isomer

$C_{10}H_{17}Cl_2NOS$

Molecular weight=270.2

2. *Residues in food.* The only available information on diallate residues in food comes from data submitted by Monsanto in their tolerance requests of 1967 (Pesticide Petition No. 607) and 1969 (Pesticide Petition No. 832). In PP No. 607, data on 49 samples of 13 crops (an average of 4 samples/crop) indicated that diallate residues were below 0.1 ppm. However, the analytical methodology used to obtain this data was less sensitive (0.1–0.2 ppm) when compared with the methodology (<0.02 ppm) followed in the study submitte din PP No. 832. The latter data was obtained from 17 samples from 5 additional crops and loged in the study submitted in PP No. 607. Residues were not found at or above the level of the method of detection, <0.02 ppm.

Analysis for diallate residues has never been done by the Food and Drug Administration Total Diet Program (Market Basket Survey) or by the U.S. Department of Agriculture meat and poultry inspection program. Joint meetings of the World Health Organization and the Food and Agriculture Organization on pesticide residues have never reviewed residue data on diallate.

3. *Fate in the environment.*—a. *Water.* No information is currently available on the fate of diallate in water.

b. *Air.* Diallate has a vapor pressure of 1.5×10^{-4} mm Hg at 25° C. Its evaporation rate is 10.63×10^{-4} mol/cm hr at 20° C (1). Since diallate is volatile, use directions recommend incorporation into the upper 2 inches of soil as soon as possible after application, preferably on the day of application.

Diallate is not currently included in the EPA National Air Monitoring Program for Pesticides.

c. *Soil.* Diallate has been reported to disappear most rapidly from soils containing living microbial populations (2). In experiments with radiolabeled diallate, 50 percent of the diallate applied initially (2.5 ppm) had disappeared after 1.5 to 4 weeks in nonsterile soils compared with 20 weeks for sterile soils. This disappearance has been reported to be a result of degradation by soil microflora rather than by volatilization, adsorption or retention by soil microflora. Other studies have reported the

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* Registrants or other interested persons who desire to submit benefit information should consider submitting benefit information on the following subjects, along with any other relevant information they desire to submit.
1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the minor uses of the pesticide, including estimated quantities used by category such as a specific agricultural crop.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon user productivity (e.g. yield per acre and/or total output) from using available substitute pesticides or from using or no other pesticide.
6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

degradation of diallate by isolated soil fungi (3). Mills and Alley report two major information gaps on diallate: (a) the effect of diallate on the major soil biota and (b) the identity of plant and soil metabolites of diallate (4).

Analysis for diallate residues is not currently included in the EPA National Soils Monitoring Program.

d. *Plants.* Plant metabolism studies with radiolabeled diallate on seedlings of barley, flax and sugar beets were submitted in PP No. 607. These studies showed that diallate was rapidly metabolized by the plants. The slowest rate was observed for barley where 74 percent of the radioactivity was released as labelled CO_2 after 11 days. The fastest release was in sugar beets with 87 percent of the radioactivity released as CO_2 after 6 days.

C. MANUFACTURING PROCESS, TECHNICAL PRODUCTS, AND FORMULATIONS

Diallate is prepared by reacting a mixture of diisopropylamine and 1,2,3-trichloropropene with carbonyl sulfide (5).

Technical diallate is available to formulators at 90 percent purity. The remaining 10 percent consists of unreacted intermediates from the manufacturing process which are unkown to EPA. The identity of this material has been requested from the supplier and will be evaluated for potential hazard (6).

Diallate formulations include a granular product that contains 10 percent active ingredient and an emulsifiable concentrate that contains 4 lb active ingredient/gal. The granular product may be used on sugar beets only. The most common form is the emulsifiable concentrate which is sprayed directly onto the soil surface. Commercial formulations contain roughly equal amounts of the cis and trans isomers (7).

D. PRODUCTION

Monsanto Chemical Company is the sole producer of technical diallate in the United States. Production data is confidential information under sections 7(c) and 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and is therefore presented in Table 1 for EPA use only. The International Agency for Research in Cancer estimates that annual production of diallate in Europe is in the range of 1 to 5 million kg (5).

E. REGISTERED USES

Diallate has been used in the United States as a selective preemergence herbicide since 1960. Current registered uses are for the control of wild oats in sugar beets, flax, barley, corn, forage legumes (alfalfa, alsike clover, red clover, sweet clover), lentils, peas, potatoes, and soybeans. Registered uses also include control of other grasses and broadleaf weeds in sugar beets when combined with pebulate or cycloate. Diallate is applied directly to the soil by spray, broadcast, or band methods in the fall just before the freeze or in the spring before or after seeding but not after emergence. Incorporation into the soil after application is required. Usually only one application per season is made. There are eight Federal registrations of products containing diallate which are held by three registrants.

II. Regulatory History

An experimental use permit was obtained by Monsanto in May 1960 for the use of diallate on barley, flax, sugar beets, rapeseed, and sunflowers.

The first registration for a product containing diallate was granted December 9, 1960, to Monsanto (EPA Registration Number 524–119). Use of diallate on corn, forage legumes, lentils, peas, potatoes, safflower, and sugar beets was approved because no residues were detected on these foods.

Monsanto had originally requested (Pesticide Petition No. 607) a tolerance of 0.3 ppm for diallate on the above crops plus soybeans. These tolerances were not granted because of inadequacies in residue and toxicity data submitted by the petitioner. Toxicity data submitted for a 90-day dog feeding study were considered inadequate to establish a "no effect" level (NEL). Ovarian and testicular changes were noted during microscopic examination of these tissues. This petition was withdrawn in December 1967.

A second petition (PP No. 832) was filed by Monsanto in June 1969 for negligible residue tolerances of 0.05 ppm for diallate on corn, forage legumes, lentils, peas, potatoes, safflower, sugar beets, and soybeans. These additional residue data, obtained by a more sensitive analytical method, satisfied the reviewers that they would not expect residues to transfer to meat, milk, eggs, and poultry since no crop residues greater than the background of the untreated samples (<0.02 ppm) were found. Monsanto resubmitted the toxicity data that was in PP No. 607, including the 90-day dog study, but this time a NEL of 3.3 mg/kg/day (25 ppm) was determined for testicular and ovarian changes in the dog. The toxicology review concluded that the proposed tolerances provided an adequate margin of safety to man based on the dog NEL.

Establishment of the 0.05 ppm tolerances was delayed, however, pending the report of the Department of Health, Education, and Welfare Secretary's Commission on Pesticides and Their Relationship to Environmental Health, chaired by Dr. Emil M. Mrak. When this report was issued in December 1969, it recommended that human exposure to diallate be minimized because of evidence of tumor induction in mice fed diallate at 560 ppm for 18 months (8). The Commission judged that these tests were adequately conducted.

After consideration of the Mrak report and the cited mouse studies, the Toxicology Branch, Food and Drug Administration, concluded that with the 2000-fold safety factor, an adequate margin of safety for man was provided by the 0.05 ppm tolerances (9). Tolerances were established on July 28, 1971 (40 CFR 180.277).

III. Summary of Scientific Evidence to Support Rebuttable Presumption

The Working Group has determined that the following adverse effects of diallate meet or exceed the criteria for issuance of a rebuttable presumption against registration (RPAR).

A. ONCOGENIC EFFECTS IN TEST ANIMALS

As provided in 40 CFR 162.11(a)(3)(ii)(A), the induction "of oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure" is basis for an RPAR.

1. *Mice.* The only study of oral administration of diallate to mice was conducted by Innes et al. and resulted in an increased incidence of liver-cell and pulmonary tumors (10, 11). This study provided the basis for the Mrak Commission recommendation that human exposure to diallate be minimized (see section on Regulatory History).

In a 1976 evaluation of the carcinogenic risk of diallate, a working group of the United Nations International Agency for Research on Cancer (IARC) concluded that diallate is carcinogenic in mice after oral administration on the basis of the Innes study (5).

The EPA Carcinogen Assessment Group (CAG) subsequently reviewed this study and concluded that "In mice, the Innes study showed statistically significant and pronounced increases in hepatoma incidence in males of the two tested strains. There were small but statistically significant increases in the incidence of lung adenomas in both sexes in one strain (X) of mice and in males only of the other strain (Y)" (12).

2. *Rats.* In addition to the above mouse study, there have been two studies of long-term oral administration of diallate to rats.

An abstract appeared in 1973 on a study conducted by Ulland et al. at Litton-Bionetics (13). No further information was available for the 1976 IARC working group so their monograph concluded that "inadequate reporting does not allow an evaluation of this experiment" (5). Since the IARC evaluation, the EPA Office of Special Pesticide Reviews (OSPR) has received data verified by the National Cancer Institute on this study (14). Details of this study are given in the CAG report (12). In their review of this study, CAG concluded "the Litton Bionetics study showed a statistically significant increase in malignant tumors, as a whole only at the highest dose in male rats and only at the lower dose in female rats."

Industrial Bio-Test also conducted a rat study in which they concluded "that the neoplastic lesions noted in the test and controls were considered normal for rats of this age and strain" (15).

After evaluating this study, CAG concluded, "the Industrial Bio-Test study in rats showed a statistically significant excess of mammary carcinomas in females" (12).

On the basis of these two studies, the Diallate Working Group concluded that the evidence of oncogenicity from long-term oral administration of diallate to mice and rats supports the issuance of an RPAR.

IV. Other Adverse Effects

This section addresses certain adverse effects which diallate may produce but for which insufficient evidence exists to issue a rebuttable presumption. The Working Group recommends that the Agency solicit comment on the evidence presented below and encourage the submission of additional studies or relevant information on these effects.

A. NEUROTOXICITY

As provided in 40 CFR 162.11(a)(3)(ii)(B), the production of "any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety" is a basis for a RPAR.

Neurotoxic effects were observed in a recent study in which chickens were administered diallate (16). Ten hens over 9 months old were administered 0.312 g/kg body weight diallate by gavage twice daily for 3 consecutive days. This dosing procedure was repeated for 3 more consecutive days beginning on test day 21. The total cumulative dosage for the 6 days was 3.74 g/kg. The study also included negative and positive control groups of 10 hens. The positive control group received triortho cresyl phosphate (TOCP) at an unreported dosage level and regimen. At the end of the 42-day test period, all surviving hens from the negative control and test groups were sacrificed and subjected to a gross pathological examination. All positive control hens were sacrificed in extremis on day 16. Hematoxylineosin-stained sections of brain, spinal cord and sciatic nerve from all negative control, diallate-treated and 4 of 10 positive control hens were examined microscopically.

Test hens showed moderate to severe clinical signs of neurotoxicity within 48 hours after the beginning of both dosing periods. Ataxia, weakness of wings and legs and inability to stand continued through the 42-day test period but decreased to some extent.

Three of the 10 test hens died during the test (on days 27, 28 and 39) after exhibiting paralysis. A fourth hen was sacrificed in extremis on day 31 after exhibiting paralysis for 6 days. Histologic evaluation of the sacrificed hen revealed mild demyelination of the peripheral sciatic nerve, moderate multifocal axonal degeneration of the spinal cord and mild axonal degeneration of the brain. The only other test hen showing treatment-induced lesions was the one that died on day 27. Minimal to mild axonal degeneration was present in the sciatic nerve of this hen.

Evaluations of this study by EPA (17) and by an EPA contractor (18) concluded that the study provides adequate evidence that diallate produces a neurotoxic effect at the dosage level used but that it does not provide adequate evidence to determine a dose-response relationship.

In the absence of evidence demonstrating a no effect level after repeated administration, it is not possible to determine an adequate margin of safety for the human population (19). The registrant has notified the Agency that he is conducting a study to determine a dose response relationship (20). Should evaluation of this or any other study that comes to our attention provide an adequate basis for an RPAR a supplemental Position Document and Federal Register notice will be issued. In addition the Agency has the option to initiate cancellation proceedings on this basis without prior resort to the RPAR process, pursuant to 40 CFR 162.11(a)(6).

B. MUTAGENICITY

Regulations in 40 CFR 162.11(a)(3)(ii)(A) require that an RPAR be issued if "mutagenic effects, as determined by multitest evidence" are induced by the pesticide.

Two different types of mutagenic studies have been reported for diallate: A dominant lethal study in mice (21) and a bacterial study (Ames Test) (22).

These studies were evaluated by an EPA contractor who concluded that while mutagenic effects were not induced in either of these studies, additional studies are required to evaluate mutagenic risk (23).

In the guidelines for dominant lethal tests published by the Canadian government, negative results are not considered meaningful "unless derived from tests carried out at different dosage levels with different dosage regimes" (24). Although the available dominant lethal study for diallate concludes that diallate produced no mutagenic effect, it is limited because the investigator used only two dose levels instead of the three-four dose levels recommended as good protocol.

The negative result of the published bacterial study can only be considered tentative since no metabolic activation system was included.

Very recently, a third mutagenicity study (Ames Test) was received in prepublication form (25), but an evaluation could not be done in time for inclusion in this document. It is recognized the many carbamate pesticides produce an arrest in cell division at metaphase (c-mitosis) in plants (26). We solicit information concerning the activity of diallate on plant and animal cell division. Should evaluation of this or any other study that comes to our attention provide adequate basis for an RPAR, a supplemental Position Document and Federal Register notice will be issued. In addition, the Agency has the option to initiate cancellation proceedings on this basis without prior resort to the RPAR process, pursuant to 40 CFR 162.11(a)(6).

C. REPRODUCTIVE EFFECTS

Effects on reproduction are of concern in view of the effects observed in the 90-day dog study submitted in support of tolerance requests (see section on Regulatory History). This study is currently being reevaluated.

A teratogenic study in albino rabbits was also submitted (27). In evaluating this study, an EPA contractor concluded that diallate was not teratogenic or fetotoxic in rabbits (23).

A three-generation reproduction study in rats is currently in progress. An interim report was submitted by Monsanto with data on the Fo generation only (28). It is not possible to make conclusions from these data.

Evaluation of these studies will be pursued and if these or any other studies provides adequate basis for an RPAR on reproductive effects, a supplemental Position Document and Federal Register notice will be issued. In addition, the Agency has the option to initiate cancellation proceedings on this basis without prior resort to the RPAR process, pursuant to 40 CFR 162.11(a)(6).

V. Recommendation

The Working Group recommends that the Agency solicit comment on the fate and effects of diallate and its impurities on the environment specifically (a) the identity of metabolites and degradation products and their rates of formation in all media, especially water; and (b) their effect upon flora and fauna especially those with a metabolism similar to man.

List of Appendices

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(3) Kaufman, D.D. and J. Blake. 1973. Microbial degradation of several acetamide, acylanilide, carbamate, toluidine and urea pesticides. Soil. Biol. Biochem. 5:297.

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(7) Rummens, F.H.A. 1975. Separation and structural assignment of the cis and trans isomer of S-(2,3,dichloroallyl) diisopropylthiocarbamate (diallate). Weed Sci. 23:7.

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A.J. Pollotta, R.R. Bates, H.L. Falk, J.J. Gart, M. Klein, I. Mitchell, and J. Peters. 1969. Bioassay of pesticides and industrial chemicals for tumorigenicity in mice: a preliminary note. J. Nat. Cancer Inst. 42:1101.

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(12) Albert, R.E. 1977. The Carcinogen Assessment Group Preliminary Review of Avadex (Diallate). 21 pp. Unpublished.

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[FR Doc.77–15358 Filed 5–27–77;8:45 am]

[FRL 726–1]

STAGE II VAPOR RECOVERY REGULATIONS

Deferral of Certain Final Compliance Dates

This order defers until further notice the May 1, 1977, date for completion of on-site construction or installation, and the May 31, 1977, date for final compliance for Stage II Vapor Recovery systems for eleven air quality control regions.

Statement of considerations. On November 1, 1976, the Environmental Protection Agency reproposed vapor recovery regulations for certain affected Air Quality Control Regions. Promulgation of the amended regulations is expected in the near future. Installation and compliance dates for Stage II Vapor Recovery will be established at that time.

It is therefore ordered, That the dates for completion of on-site construction or installation and final compliance for Stage II Vapor Recovery in the following regulations are deferred until established by a new publication:

Colorado: 40 CFR 52.337(g)
California: 40 CFR 52.256(g)
District of Columbia: 40 CFR 52.488(g)
Massachusetts: 40 CFR 52.1147(g)
Maryland: 40 CFR 52.1087(g); 52.1102(g)
New Jersey: 40 CFR 52.1699(g)
Texas: 40 CFR 52.2288(h); 52.2289(f)
Virginia: 40 CFR 52.2439(g)

Dated: May 23, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77–15324 Filed 5–27–77;8:45 am]

[FRL 737–7]

STATE-FEDERAL WATER PROGRAMS ADVISORY COMMITTEE

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: State-Federal Water Programs Advisory Committee.
Date: June 21, 1977.
Place: Environmental Protection Agency, 401 M Street SW., Washington, D.C., Room 3906, Waterside Mall.
Time: 9–4:30 p.m. (approximately).

PROPOSED AGENDA

Time	*Topic*
9–4:30 p.m.	EPA's proposed legislative amendments to Pub. L. 92–500 (as amended). This meeting will include the Construction Grants Program and Water Quality Management (208) Program.

These meetings are open to the public. Any member of the public may file a written statement with the Committee before, during or after the meeting. All communication regarding these meetings should be addressed to: Taylor Adams, Office of Water and Hazardous Materials (WH–556), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Anyone wishing to have their name placed on the mailing list for any Committee reports, meeting announcements, and minutes of all meetings should contact Taylor Adams, either in writing or by telephone 202–755–0405.

Dated: May 24, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77–15325 Filed 5–27–77;8:45 am]

[FRL 737–8]

WATER QUALITY MANAGEMENT PLAN FOR THE SOUTHERN KENNEBEC VALLEY

Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) on the Proposed 208 Water Quality Management Plan for the Southern Kennebec Valley of Maine.

The proposed project is a joint product of the Southern Kennebec Valley Regional Planning Commission, Augusta, Maine, the Cobbossee Watershed District, Winthrop, Maine, and the EPA Region 1, Boston, Massachusetts. It is part of a two year areawide water quality management planning process funded by EPA as a result of Section 208 of the Federal Water Quality Act Amendments of 1972. The DEIS summarizes the alternative technical control and management alternatives developed towards a composite areawide plan.

The DEIS was transmitted to the Council on Environmental Quality on May 20, 1977. In accordance with CEQ's notice of availability, comments are due on July 11, 1977. Copies of the DEIS are available for review and comment from: Project Officer, Environmental Protection Agency, Region 1, JFK Federal Building, Boston, Massachusetts 02203, telephone 617–223–4635.

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region 1, Library, JFK Federal Building, Boston, Massachusetts.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036. Please reference ELR No. 70618.

Copies of the DEIS have been sent to various Federal, State and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: May 24, 1977.

WILLIAM D. DICKERSON,
Acting Director, Office of Federal Activities.

[FR Doc.77–15362 Filed 5–27–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Availability of Draft Environmental Impact Statement and Notice of Public Hearing Re Georgia Power Co., McManus Generating Station, Powerplants 1 and 2

Pursuant to 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C) and 10 CFR Parts 208 and 305, the Federal Energy Administration (FEA) has prepared a draft environmental impact statement concerning the issuance of a Notice of Effectiveness to powerplants number 1 and 2 of McManus Generating Station, owned by the Georgia Power Company and located in Brunswick, Georgia.

The effect of the Notice of Effectiveness would be to make effective a prohibition order issued to the powerplants on June 30, 1975; the order would prohibit the burning of petroleum products or natural gas by the powerplants as their primary energy source. This prohibition would become effective on a date to be stated in the Notice of Effectiveness.

Single copies of the draft environmental impact statement may be obtained from the FEA National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461; from FEA Region IV, Public Reading Room, 7th Floor, 1655 Peachtree Street NE., Atlanta, Georgia 30309; and from the Brunswick-Glynn County Regional Library, 208 Gloucester Street, Brunswick, Georgia 31520.

Copies of the draft statement will also be available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m. Monday through Friday, and in FEA Region IV, Public Reading Room 7th floor, 1655 Peachtree Street NE., Atlanta, Georgia 30309.

Interested persons are invited to submit written data, views or arguments with respect to the draft environmental impact statement to Executive Communications, Room 3309, Box MM, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on any documents submitted to FEA Executive Communications with the designation "Draft EIS—McManus Generating Station." Fifteen copies should be submitted. All comments and relevant information should be received by FEA by July 20, 1977, in order to ensure full consideration.

Pursuant to 10 CFR 208.14 a public hearing on the draft environmental impact statement to receive oral presentations from interested persons will be held from 1–4:30 p.m. and 6–9 p.m. on July 7, 1977, in Room 233, Office Park Building, 1803 Gloucester Street, Brunswick, Georgia 31520.

Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. That request must be received before 4:30 p.m. e.d.t., June 24, 1977, and should be delivered to Mr. Warren Zurn, 1655 Peachtree Street NE., Atlanta, Georgia 30309, 404–881–4463. The request may be hand-delivered at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The request should be signed by the person making the request; it should describe the person's interest in the issue(s) involved; if appropriate, it should state why the person is an appropriate spokesperson for the group or class of persons which has such an interest; and it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through July 6, 1977. Speakers will be contacted by an FEA representative before 5:30 p.m. June 27, 1977, to confirm receipt of the written request. Ten copies of the presentation should then be sent by the speakers to Mr. Warren Zurn, 1655 Peachtree Street NE., Atlanta, Georgia 30309, before 4:30 p.m. e.d.t., July 6, 1977. FEA will accommodate, to the greatest extent possible, those persons wishing to make an oral presentation at the hearing but who do not request an opportunity to do so by June 24, 1977.

The FEA reserves the right to limit the number of spokespersons of a particular group or class of persons to be heard at the hearing, to schedule their respective presentations, to limit their presentations to 30 minutes, and to establish the procedures governing the conduct of the hearing. The FEA will prepare an agenda that shall provide, to the extent practicable, for the presentation of all relevant views by competent spokespersons.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the FEA and made available for inspection and copying at the Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, and FEA Region IV, 1655 Peachtree Street NE., Atlanta, Georgia, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

After all testimony and comments, including written data, views, and arguments have been received and reviewed, a final environmental impact statement will be prepared and issued.

Issued in Washington, D.C., May 25, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77–15408 Filed 5–30–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RM77–14]

GAS RESEARCH INSTITUTE

Application for Approval of Research and Development Program

AGENCY: Federal Power Commission.

ACTION: Notice of application for approval of Research and Development Program.

SUMMARY: The Commission requests comments and interventions on the application of Gas Research Institute (GRI) which has asked approval for payments made to GRI by jurisdictional companies who are its members for funding of its research and development programs. GRI also asks approval for such jurisdictional companies to file and place in effect research and development rate adjustments through such payments on a final and non-refundable basis.

DATES: Comments, protests and interventions are due on or before June 6, 1977.

ADDRESS: Office of the Secretary, Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary (202) 275–4166.

MAY 24, 1977.

Take notice that, on March 22, 1977, Gas Research Institute (GRI), 3424 South State Street, Chicago, Illinois 60616, filed in Docket No. RM77–14 an Application pursuant to sections 4, 8, 15 and 16 of the Natural Gas Act for an or-

der: that payments be made to GRI by jurisdictional companies who are its Members for funding its R&D Programs are reasonable and proper costs of operation; and that such jurisdictional companies may file and place in effect research and development rate adjustments for the purpose of flowing through such payments on a final and non-refundable basis. The Application further prays that the Commission consider the Application on the highest priority basis and issue the requested order within ninety (90) days of the filing of the Application.

Most of the major interstate pipeline companies in the United States have become Members of GRI and it is anticipated that they, as well as other Members of GRI, will become intervening parties in this proceeding in support of such requested order.

Attached to the Application as Exhibit 1 is the First Five-Year R&D Program of GRI. This plan and program proposes research and development (R&D) programs to be conducted by GRI in the next five years. The estimated annual costs of the programs are approximately $30 million in 1977 and increasing to approximately $93 million in 1981. For the 1977 R&D programs, the Application submits to the Commission, for approval, a list of projects which are estimated to cost $9.5 million in the first year of operations of GRI.

The Application requests an order approving payments to GRI by jurisdictional interstate pipeline companies which are Members of GRI. Such payments will be determined by multiplying 1.2 mills ($0.0012) per Mcf times the volumes, as rendered, of the following categories of gas:

(1) Sales for resale to distribution utility customers; (2) Transportation deliveries to distribution utility customers; (3) Sales and transportation deliveries to pipeline companies which are not Members of GRI. The Application also requests approval for jurisdictional company Members of GRI to file R&D cost adjustment provisions in their tariffs and for the funds received under such provisions to be used to make the payments to GRI. It is requested that such R&D cost adjustment provisions take effect without hearing and suspension

Any person desiring to be heard or to make any protest with reference to the said Application should, on or before June 6, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commissions' rules of practice and procedure. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commissions' rules. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-15477 Filed 5-27-77;9:37 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0025]

SPECIFICATION, MANUFACTURING, AND USE INFORMATION ON CERTAIN GRAS OR PRIOR-SANCTIONED HUMAN FOOD INGREDIENTS

Request for Data and Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests the submittal of data and information on: (1) the food-grade specifications, (2) manufacturing practices, and (3) extent of food use of certain generally recognized as safe (GRAS) or prior-sanctioned human food ingredients. The GRAS review has shown these three categories of data to be deficient for some GRAS ingredients.

DATE: Available data and information may be submitted until August 1, 1977.

ADDRESSES: Written submissions to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-4750).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients that are classified as "generally recognized as safe" (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs issued several notices and proposed regulations published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. The review includes those GRAS ingredients published in Part 182 (21 CFR Part 182, formerly § 121.101, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), as well as other GRAS substances permitted for use under limited conditions. In accordance with § 170.35 (21 CFR 170.35, formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), affirmation of a substance as GRAS requires, among other things, that (1) the identity of the substance, (2) its method of manufacture, and (3) its extent of use in food be known to the Commissioner. If such information is not available, it may not be possible to affirm a substance as GRAS or to specify the conditions under which it may be used safely in food.

The initial phase of the GRAS review has led to the identification of three categories of data in which some GRAS ingredients are deficient. These categories of data are:

1. *Food-grade specifications.* Essential composition and quality factors including physical and chemical properties, assay, and limits of impurities including arsenic, lead, selenium, and other heavy metals where applicable. Test methods and data resulting from the use of these methods are essential.

2. *Manufacturing procedures.* General descriptions of the physical, chemical and biological processes used to produce the ingredient from the raw materials, excluding trade secrets.

3. *Use data.* (a) Food categories, as defined in § 170.3(n) (21 CFR 170.3(n), formerly § 121.1(n), prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), in which the ingredient is used; (b) technical effects, as defined in § 170.3(o) (21 CFR 170.3(o)), for which the ingredient is used; and (c) usual and maximum levels of use in each food category.

The Commissioner specifically requests that additional data and information necessary to resolve the deficiencies on the following food ingredients and categories of data be submitted:

Ingredients:	Categories of data needed [1]
Acrylates (methyl, ethyl)	1, 3
Bentonite and clay	1, 3
Bioflavonoids:	
Hesperidin	1, 2, 3
Rutin	1, 2, 3
Neringin	1, 2, 3
Lemon bioflavonoid complex	1, 2, 3
Orange bioflavonoid complex	1, 2, 3
Lemon-orange flavonate glycoside	1, 2, 3
Bisulfites (K, Na)	2, 3
Borax and boric acid	2, 3
Butter fat (enzyme modified with butyric acid)	1, 2
Calcium hexametaphosphate	1, 2, 3
Calcium phytate	1, 2
Calcium pyrophosphate	3
Cellulose acetate	1, 2, 3
Collagen	1, 2, 3
Cornmint oil (mentha arvensis oil)	1, 3
Corn silk	1, 2
Fish oil (hydrogenated)	1, 2
Formate (Na)	1, 2, 3
Gluconates (Ca, Cu, Mn, Na)	2
Gluconates (K)	3
Hydrosulfites (Na, Zn)	1
Hypophosphites (Ca, K, Mn, Na)	1, 2, 3
Invert sugar (glucose-fructose mixture)	1
Linoleic acid	1, 2, 3
Metabisulfites (K, Na)	2, 3
Methylpolysilicone(s)	1, 2
Milk powder (whole, enzyme modified)	1, 2
Monosodium phosphate derivatives of mono- and diglycerides	1, 2, 3
Nickel	1, 3
Oiticica oil	2, 3
Peanut stearine	1, 2, 3
Pectinates (Na, K, Ca)	3
Pectin(s)	3
Rice bran oil	1, 2, 3
Smoke flavors	1, 2, 3
Sodium phosphoaluminate	1, 2, 3
Sodium sulfite	2, 3
Soybean oil (hydrogenated)	1, 3
Soy protein, isolated	1, 2, 3
Starter distillate	1, 2
Stearyl alcohol	3
Succinic acid	2
Succistearin	1, 3
Sulfoacetate derivatives of mono- and diglycerides	1, 2, 3
Sulfur dioxide	1, 3
d-α-Tocopherol acetate concentrate/preparation	2, 3
Urea	3
Vegetable protein (hydrolyzed)	1, 2
Wax (shellac)	1, 2

[1] 1=Food-grade specifications. 2=Manufacturing methods. 3=Use data (food categories, technical effects, maximum levels).

The data and information requested above may be filed on or before August 1, 1977, with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Data and information received pursuant to this request may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-15417 Filed 5-27-77;8:45 am]

National Institute of Education

EDUCATION AND WORK GRANTS PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 405 of the General Education Provisions Act, as amended, 20 U.S.C. 1221e, applications are being accepted for grants under the Education and Work Grants Program.

Applications must be received by the Proposal Clearinghouse, National Institute of Education, on or before July 7, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: Proposal Clearinghouse, Stop 35, National Institute of Education, Washington, D.C. 20208. The envelop should be marked in the lower right hand corner, Education and Work Group, Selected Area: (Occupational Change, and Assessment or Women and Mathematics). An application will be considered to be received on time by the Clearinghouse if:

(1) It is received at the Clearinghouse by 4:30 p.m., July 7, 1977; or

(2) The application was sent by certified mail for which an official Post Office stamp on the original receipt for certified mail has been obtained indicating that the proposal was mailed by 4:30 p.m., July 5, 1977.

B. *Hand delivered applications.* An application to be hand delivered must be brought to Room 708, Reviere Building, 1832 M Street NW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 9 a.m. and 4:30 p.m. except Saturdays, Sundays and Federal holidays. Hand delivered applications will not be accepted after 4:30 p.m. on the closing date July 7, 1977. A receipt will be issued upon acceptance of the application package.

C. *Program information and forms.* Programs Announcements may be obtained from the Research Staff, Education and Work Group, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208. Telephone 202-254-5470 or 202-254-5650.

D. *Applicable regulations.* The regulations applicable to this program include the National Institute of Education General Provisions Regulations, 45 CFR Part 1400, published in the FEDERAL REGISTER on November 4, 1974 at 39 FR 38992; regulations for the Education and Work Grants Program, 45 CFR Part 1470, published in the FEDERAL REGISTER on September 28, 1976 at 41 FR 42663 and proposed amendments to the Education and Work Grants Program published in this issue of the FEDERAL REGISTER.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development.)

Dated: May 3, 1977.

EMERSON J. ELLIOTT,
Acting Director,
National Institute of Education.

[FR Doc.77-15374 Filed 5-27-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: June 17, 1977 November 1 Report Committee Meeting 7:30 pm-9 pm; June 18, 1977: Business Meeting 9 am-5 pm; June 19, 1977: Standing Committee Meeting 9 am-12 noon.

ADDRESS: Quality Inn, Capitol Hill, 415 New Jersey Avenue NW., Washington, D.C. 20001.

FOR FURTHER INFORMATION CONTACT:

Dr. John C. Molina, Director, Office of Bilingual Education, Reporters' Bldg., Room 421, Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202-245-2600).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The proposed agenda for the November 1 Report Committee meeting on June 17, 1977 includes: A discussion of the Council members recommendations for inclusion in the annual report.

The proposed agenda for the Council meeting on June 18, 1977 includes:

(1) Program Delegate's Report.
(2) Committee discussion and reports.
(3) Report on the Third Annual November 1 Report to Congress.
(4) Special Reports.
(5) Discussion on Council member recommendation for the annual report.
(6) Discussion Issue Papers.
(7) Future NACBE Activities; and
(8) Regular Council business.

On June 19, 1977, three of the Council's standing committees will meet: Budget—Update Report of FY 1977 expenditures (9 am-10 am); Non-Spanish Minority Languages—review of issue paper relating to "Serving diverse Language groups" (10 am-11 am); and Legislation—preparation of Council's slate of proposed legislative changes (11 am-12 noon).

Records will be kept of all Council proceedings and shall be available for public inspection in Room 421, reporters' Building, 300 7th Street, S.W., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C. on May 20, 1977.

JOHN C. MOLINA,
Director,
Office of Bilingual Education.

[FR Doc.77-15359 Filed 5-27-77;8:45 am]

Food and Drug Administration

GASTROINTESTINAL DRUGS ADVISORY COMMITTEE

Agenda Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agenda for the June 6 and 7, 1977, meeting of the Gastrointestinal Drugs Advisory Committee has been changed.

FOR FURTHER INFORMATION CONTACT:

Joan C. Standaert, Bureau of Drugs (HFD-110), 5600 Fishers Lane, Rockville, MD 20857, (301-443-4730).

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of May 13, 1977 (42 FR 24320), meetings of FDA public

advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the agenda of the Gastrointestinal Drugs Advisory Committee meeting scheduled for June 6 and 7, 1977, has been changed to delete discussion of IND 11,134 (chenodeoxycholic acid) and IND 13,020 (ursodeoxycholic acid) and to add discussion of long-term animal safety studies on Tagamet (NDA 17-920).

Dated: May 25, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-15548 Filed 5-27-77;10:45 am]

[Docket No. 77N-0148]

METABOLIC, INC.

Change of Date for Comments on Proposed Revocation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is changing the date from July 12, 1977 to June 13, 1977 for interested persons to submit comments on the proposed revocation of license of Metabolic, Inc., U.S. License No. 415.

DATE: Comments to be submitted by June 13, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Donna C. Williams or Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, (301-443-1920).

SUPPLEMENTARY INFORMATION: The Commissioner issued a notice in the FEDERAL REGISTER of May 13, 1977 (42 FR 24328) offering an opportunity for a hearing on his intended revocation of U.S. License No. 415 issued to Metabolic, Inc., 4520 Yoakum Blvd., Houston, TX. Pursuant to 21 CFR 601.6, certain locations operating under the license had been suspended on February 25, 1977, and the remaining locations had been suspended on April 26, 1977. The licensee was given until July 12, 1977 to submit data justifying a hearing and other persons were given the same amount of time to comment on the proposed revocation.

On May 3, 1977, Metabolic, Inc., filed suit in the Federal District Court of the Southern District of Texas, for an injunction to compel the Food and Drug Administration to release the suspension (Civil No. H77CA676). On May 20, the District Court directed that Metabolic pursue its administrative remedy on the ultimate question of revocation as announced in the notice published in the FEDERAL REGISTER of May 13, and he postponed further jurdicial proceedings until July 20, 1977.

To assure that submission of comment by persons other than Metabolic does not delay the administrative proceedings and thereby cause an undue hardship for Metabolic, the Commissioner is shortening the time for comments by such persons; the date is changed from July 12, 1977 to June 13, 1977.

Dated: May 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-15549 Filed 5-27-77;10:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-484]

INTERAGENCY DROUGHT EMERGENCY COORDINATING COMMITTEE

Designation of Additional Emergency Drought Impact Areas

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the designation of additional counties as Emergency Drought Impact Areas by the Interagency Drought Emergency Coordinating Committee of 1977. In addition, additional counties are listed that were inadvertently omitted in the first Notice of April 29, 1977.

DATED: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack W. McGraw, Director, Preparedness Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410. (202-634-7845).

NOTICE: The Notice of designation of Emergency Drought Impact Areas (42 FR 21855, April 29, 1977), is hereby amended to include the following counties, which were inadvertently omitted from the initial list, among those areas determined to be Emergency Drought Impact Areas:

KANSAS

Entire State designated.

MICHIGAN

Chippewa.

TEXAS

El Paso.

Acting upon the request of the respective Governors, the Interagency Drought Emergency Coordinating Committee designated the following counties as Emergency Drought Impact Areas:

ARIZONA

Entire State designated.

COLORADO

Entire State designated.

IDAHO

Entire State designated.

IOWA

Entire State designated.

NEW MEXICO

Entire State designated.

OREGON

Coos.	Lincoln.
Curry.	Tillamook.

The designation of a county or an entire State as an Emergency Drought Impact Area does not confer entitlement to dought assistance. Individuals and communities must meet the separate eligibility requirements established by each agency before assistance may be provided.

Under the authority granted to me as Secretary to the Committee by the Memorandum of Agreement (42 FR 21855, April 29, 1977), I have provided the list of designated counties for the public record.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-15302 Filed 5-27-77;8:45 am]

[FDAA-535-DR]

MISSOURI

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FDAA-535-DR), dated May 7, 1977, and related determinations.

DATED: May 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on May 7, 1977, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms, tornadoes and flooding beginning about May 4, 1977, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Missouri.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Francis X. Tobin, FDAA Region VII, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas to have been adversely affected by this declared major disaster.

The Counties of:

Cass	Lafayette
Clay	Pettis
Jackson	

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 77-15303 Filed 5-27-77;8:45 am]

[Docket No. NFD-480; FDAA-3039-EM]

OREGON

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Oregon (FDAA-3039-EM), dated April 29, 1977.

DATED: May 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Oregon dated April 29, 1977, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of April 29, 1977.

The Counties of:

Jackson
Josephine

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-15304 Filed 5-27-77;8:45 am]

WASHINGTON

[Docket No. NFD-483; FDAA-3037-EM]

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Washington (FDAA-3037-EM), dated March 31, 1977.

DATED: May 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Washington dated March 31, 1977, and amended on April 4, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 31, 1977:

The Counties of:

Adams	Grant
Asotin	Lincoln
Douglas	Pend Oreille
Ferry	Stevens
Franklin	Whitman

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-15303 Filed 5-27-77;8:45 am]

[Docket No. NFD-483; FDAA-3037-EM]

WASHINGTON

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Washington (FDAA-3037-EM), dated March 31, 1977.

DATED: May 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Washington dated March 31, 1977, and amended on April 4, 1977, and May 6, 1977, is hereby further amended to include the following county among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President on March 31, 1977:

The County of:

Klickitat

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-15306 Filed 5-27-77;8:45 am]

Office of the Secretary

[Docket No. N-77-763]

ADVISORY COMMITTEE

Establishment of Advisory Committee and Notice of Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: The Secretary hereby establishes a Task Force on the Future of the FHA (Federal Housing Administration) and this notice announces the time and place for its first meeting.

SUMMARY: The Task Force on the Future of the FHA will review and consider alternative roles for the Federal Housing Administration and make recommendations to the Secretary. The time, place and agenda for the first Task Force meeting are announced.

DATES: The Task Force on the Future of the FHA shall be established effective on the filing of its charter by the Secretary of Housing and Urban Development with the Senate Committee on Banking, Housing and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs, these being the standing committees of the Congress having legislative jurisdiction over the Department of Housing and Urban Development.

The Task Force will continue in existence for six months from the date of its establishment.

The first meeting of the Task Force will be held on June 15, 1977, at 9 o'clock in the morning.

ADDRESS: Committee Management Officer Douglas C. Brooks, Room 3260, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Douglas C. Brooks (202) 755-9086 or Donald K. McLain (202) 755-5333.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Com-

mittee Act (P.L. 92–463) it is hereby determined that the establishment of the Task Force on the Future of the FHA is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Secretary of Housing and Urban Development.

The purpose of the Task Force shall be to review and consider alternative roles for the Federal Housing Administration and recommend for the consideration of the Secretary a Departmental position to assist the Secretary in her testimony before the Senate Committee on Banking, Housing, and Urban Affairs, and perform such other functions as may be appropriate.

The membership of the Task Force on the Future of the FHA shall not exceed thirty (30) persons serving without compensation. The plan for balanced membership representing a diversity of viewpoints anticipates representation of consumer interests, organized labor, minority groups and women, private mortgage insurers, savings and loan associations, mortgage bankers, commercial and savings banks, state, county and municipal officers, the academic world, the legal profession, homebuilders and developers, and HUD related Federal employees. Broad geographical representation will be provided.

The first meeting will be held in Room 10233, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C., at the time stated above.

The agenda for the first meeting of the Task Force shall include the following:

a. The timetable for delivering recommendations to the Secretary.

b. Review of and outline of alternative roles proposed for the FHA.

c. In-depth analysis of as many of the alternative roles as time permits.

d. General discussion of such other matters as may be appropriate, and the agenda for the next scheduled meeting.

The meeting of the Task Force will be open to the public.

Issued at Washington, D.C. May 24, 1977.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc.77–15292 Filed 5–26–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

COLD SPRINGS RANCHERIA, CALIF.

Revocation of Plan for the Distribution of Assets and of Continuance of Federal Trust Relationship

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that at the request of all persons who were determined to hold rights, claims or interests in the Cold Springs Rancheria, Fresno County, California, under a Plan for the Distribution of Assets drafted pursuant to the Act of August 18, 1958 (72 Stat. 619), and accepted September 16, 1960, and on April 11, 1970, the general membership of the Sycamore Valley Association of the Cold Springs Rancheria adopted a resolution rescinding its approval for the removal of Federal supervision over the affairs and property of the rancheria, said Plan for Distribution of Assets of the Cold Springs Rancheria is hereby revoked.

All individuals affected by the revocation of the Plan for Distribution of Assets are eligible for all services performed by the Federal Government for Indians because of their status as Indians and are subject to all statutes which affect Indians because of their status as Indians. Those individuals include the following persons and the dependent members of their immediate families:

Sallie Hunter, P.O. Box 64, Tollhouse, Calif. 93667.
Lutie Shortie, Sadie Shortie, P.O. Box 53, Clovis, Calif. 93612.
Ed Hunter, P.O. Box 78, Tollhouse, Calif. 93667.
Jim George, General Delivery, Tollhouse, Calif. 93667.
Mary Hunter, Deceased.
Henry Buckskin, Deceased.
Annie George, General Delivery, Tollhouse, Calif. 93667.
Evelyn Buckskin Perez, a.k.a. Aleva Perez, 1365–302 LaSalle, Minneapolis, Minn. 98104.
Lena Tom Strombeck, P.O. Box 109, Tollhouse, Calif 93667.
Jim Edd, P.O. Box 66, Tollhouse, Calif. 93667.
Emma Lewis, General Delivery, Tollhouse, Calif. 93667.
Lillian Lee, P.O. Box 14, Tollhouse, Calif. 93667.
Georgia George, Deceased.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77–15332 Filed 5–27–77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Request for Amendment

On July 27, 1976, an application dated July 21, 1976, was received from the St. Louis Zoological Park requesting authorization to purchase 1 male and 1 female cheetah (*Acinonyx jubatus*) from Lion Country Safari Inc., Laguna Hills, California. The application was published in the FEDERAL REGISTER (Vol. 41 No. 205) Thursday, October 21, 1976.

Permit PRT 2–307 was issued on February 16, 1977. Two cheetahs arrived at the St. Louis Zoo on March 17, 1977; unfortunately, both were males.

The St. Louis Zoological Park hereby requests an amendment to their permit PRT 2–307 allowing the purchase of 1 female cheetah from the same source. Published herewith is a copy of the request for these changes which will be considered an amendment to this permit. This request is being considered pursuant to § 13.23, Title 50 Code of Federal Regulations (see 39 FR 1162).

MR. DONALD G. DONAHOO,
Chief, Wildlife Permit Office, U.S. Fish & Wildlife Service, Washington, D.C.

DEAR MR. DONAHOO: Under the conditions of permit PRT–2–307 we received 2 cheetahs from Laguna Hills, California which should have been (1) male and (1) female Cheetah *Acinonyx jubatus.*

Close examination by our curators and veterinarians has confirmed that these are both males. Therefore, some amendment must be made to our permit. Lion Country still has a female and we could ask them to exchange. We are, however, attempting to gather a group of young captive born cheetahs for propagating purposes so we may apply for additional permit for this additional specimen.

Is it possible to get our permit PRT–2–307 amended to 2 males and 1 female to cover this additional female at Laguna Hills? If not, please amend our permit to cover the 2 males and we will apply for an additional permit.

Sincerely yours,
CHARLES H. HOESSLE,
General Curator,
Deputy Director.

In keeping with the spirit of the Endangered Species Act of 1973 this notice is being published to allow public comment on the request for an amendment. Interested persons may comment on this amendment by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WP), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–207–07. Please refer to this number when submitting comments. All relevant comments received on or before June 30, 1977 will be considered.

Dated: May 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch.
Federal Wildlife Permit Office.

[FR Doc.77–15343 Filed 5–27–77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Wisconsin Department of Natural Resources, State Office Building, Room 108, 3550 Mormon Coulee Road, La Crosse, Wisconsin 54601.

OMB NO. 42-R1678

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
A federally funded mussel survey is to be conducted by the Wisconsin DNR. The objectives are to locate and determine species composition of mussel beds as well as monitor commercial clam fishermen. Endangered mollusk species are anticipated to be collected during the survey.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Wisconsin Department of Natural Resources
State Office Building, Room 108
3550 Mormon Coulee Road
La Crosse, WI 54601 (608) 788-2534

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF BUSINESS, AGENCY, OR INSTITUTION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. (608) 266-2121
Anthony Earl, Secretary, Madison, WI
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Pools 3-11
Mississippi River

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES * ☐ NO
(If yes, list jurisdictions and type of document(s))
N/A

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
May 1, 1977

11. DURATION NEEDED
Two years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.32

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (IN INK) Willis B Fremberg
DATE 11 April 77

3-200 (6-76)

Item 12—Attachments 50 CRF 17.32(a).

1. We desire a permit for the collection of the following endangered mussels: Higgins' Eye pearly mussel, *Lampsilis higginsi;* Pink Mucket pearly mussel, *Lampsilis orbiculata;* Fat Pocketbook pearly mussel, *Potamilus capax:* and any other endangered mussel species added to the current list. The use of a crowfoot bar for sampling is not selective as to sex but will restrict collection to the larger (older) specimens. The proposed study by the Wisconsin Department of Natural Resources is designed to document the location and species abundance of existing mussel beds. As few as possible of the endangered mollusks will be taken in order to document their presence in each area where found.

2. The animals proposed for collection are currently in the wild.

3. The confirmation of the identity of endangered mollusks must be performed by a recognized authority, thus requiring their death and removal from the environment.

4. N/A.

5. Wisconsin Department of Natural Resources, La Crosse Area Office, State Office Building, La Crosse, Wisconsin 54601.

Any educational or governmental institution associated with the study of mussels from the upper Mississippi River.

6. N/A.

7. The mussel survey to be conducted by the Wisconsin Department of Natural Resources is funded by the Commercial Fish Act, Project 3–276–R. A copy of the contract is enclosed. Principal investigators of the study are James Holzer, Mississippi River Biologist, Tim Larson, Mississippi River Biologist, and Terry Larsen, Project Biologist. The period of study is to be February 1, 1977 to January 30, 1979.

8. (i) To comply with the requirements of the proposed Wisconsin mussel survey, a permit is necessary to collect endangered species for identification.

(ii) The field survey to be conducted will involve the use of a crowfoot bar to locate and sample mussel beds. Pools 3–8 of the Mississippi River will be sampled during the

period of this study. The primary sampling period will be during the warm water months, May through September.

(iii) Information obtained will be coordinated with an on going study by the U.S. Army Corps of Engineers in Pools 7–10 and the St. Croix River. Knowledge gained will provide for protection of the endangered mollusks. Data collected will also aid the State of Wisconsin in evaluating the status of mussel beds in that portion of its Mississippi River boundary waters.

(iv) Any specimen identified by an expert as an endangered species will be kept for reference at the Area Headquarters, Wisconsin Department of Natural Resources, La Crosse, Wisconsin, or donated to any agency or university to which the specimen may be useful.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–721–07. Please refer to this number when submitting comments. All relevant comments received on or before June 30, 1977 will be considered.

Dated: May 25, 1977.

DONALD G. DONAHOU,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77–15344 Filed 5–27–77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Charles Sivelle, 41 Westcliff Drive, Dix Hills, New York 11746.

Form Approved OMB No. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
[X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Charles Sivelle
41 Westcliff Drive
Dix Hills, N.Y. 11746
516-423-6146

3. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED. to export in the course of a commercial activity 2 pr. of each of the following: Mikado, Swinhoe, Edwards, Humes, Elliots and Brown-eared pheasants and shipment of 6 eggs of each, of the above.

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
[X] MR. [ ] MRS. [ ] MISS [ ] MS.	5'11"	190 lbs
DATE OF BIRTH: 9-24-18	COLOR HAIR: Brown	COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 516-423-6146	SOCIAL SECURITY NUMBER: 125-07-0277	
OCCUPATION: Manufacturer		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Not applicable

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: Not applicable

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: Not applicable

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Export from New York City to Montevideo, Uruguay

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit numbers): PRT 8 306-C, 5-PR-1084 ES-68

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
(If yes, list jurisdictions and type of document): Necessary Import Permit to be supplied by Importer

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ No fee required

10. DESIRED EFFECTIVE DATE: At Once

11. DURATION NEEDED: 6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Attachment

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Charles Sivelle
DATE: April 4, 1977

3-200
05/74

APRIL 4, 1977.

Director (FWS),
U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036.

DEAR SIR: The undersigned hereby applies for an Endangered Species Permit under Section 10(a) of the Endangered Species Act of 1973. The following information is submitted pursuant to paragraph 17.22 of Volume 40, No. 188 of the FEDERAL REGISTER.

Request is made for a permit to export two pairs of Mikado, Swinhoe, Edwards, Humes, Elliots and Brown-eared pheasants and 6 eggs of each of the above listed pheasants. The specimens referred to were captive propagated in the aviaries of the undersigned at 41 Westcliff Drive, Dix Hills, N.Y. 11746 during 1976.

Mr. Fassano is a noted game bird breeder within his country having propagated many rare species of waterfowl, quail and partridge. His intention is now to propagate the above mentioned endangered species of pheasants. He also requests shipment of 6 eggs of each of the above named species. He has prepared aviaries with shelter of approximately 1500 cubic feet and outside runs of approximately 3000 cubic feet. The enclosures are landscaped and his management techniques have proven successful in the past with game birds including other pheasants.

He hopes to establish a captive self-sustaining flock of these species in his country and distribute progeny among other breeders therein. At present there aren't any of these species available in Uruguay.

The recipient will participate in a cooperative breeding program which is one of the conditions of the sale and will contribute data to any Studbrook when required. Mr. Fassano is versed in the care of wildlife and is knowledgeable of avian diseases, their treatment and prevention.

Birds will be shipped in crates similar and equal to International Air Transport Association taken from Live Animal Regulations, 5th Edition, Feb. 7, 1975, containing litter on bottom, containers for feed and water and a padded top for the protection of the birds.

Proper import permits including any permit that applies to the Convention on International Trade in Endangered Species will be provided by Mr. Fassano.

Sincerely yours,

CHARLES SIVELLE.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–741–C07. Please refer to this number when submitting comments. All relevant comments received on or before June 30, 1977 will be considered.

Dated: May 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77–15345 Filed 5–27–77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Oklahoma City Zoo, Rt. 1, Box 1, Oklahoma City, Oklahoma 73111. Lawrence Curtis, Director.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
[ ] IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Import one male and two female Malayan tapir (Tapirus indicus).

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Oklahoma City Zoo
Rt. 1, Box 1
Oklahoma City, OK
405/424-3344

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
[ ] MR. [ ] MRS. [ ] MISS [ ] MS.		
DATE OF BIRTH	COLOR HAIR	COLOR EYES
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
OCCUPATION		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: n/a

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Zoological, educational or, scientific propagation

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 405/424-3344
Lawrence Curtis, Director

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: 1/1 currently available in Denmark (1/0 Aalburg Zoo; 0/1 in Copenhagen Zoo); 0/1 tentatively available in Holland (Amsterdam Zoo or Rotterdam Zoo).

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [ ] NO
(If yes, list license or permit numbers): 73EZ2

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of document): valid export permit will be in hand prior to shipment.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ Not required

10. DESIRED EFFECTIVE DATE: 1 April 77

11. DURATION NEEDED: six months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Lawrence Curtis
DATE: 11 May 1977

3-200
05/74

APRIL 1, 1977.

DIRECTOR,
Fish & Wildlife Service, United States Department of Interior
Washington, D.C.

DEAR SIR: Please consider this our application to import an endangered species of animal within the context of the Endangered and Threatened Wildlife and Plants, Part 17, Subpart C, Article 17.22 for the enhancement of propagation.

(a)(1) Purchase and importation of one male and two female Malayan tapir (*Tapirus indicus*).

(2) (iii) The Oklahoma City Zoo is currently pursuing acquisition of one male and two female captive born Malayan tapir from two foreign Zoos breeding the species. We request permission to import one male and two female captive born Malayan tapir. These tapir are legally exportable from their country of birth and/or holding.

(3) See (2) (iii).

(4) The Oklahoma City Zoo has located and been offered one male and one female captive born Malayan tapir. The male offered was born in the Aalborg Zoo, Denmark, in September of 1976 and is currently exhibited there. The Copenhagen Zoo, Denmark, currently has two breeding females. Copenhagen Zoo has given us a purchase option on a young female Malayan tapir born at their Zoo approximately 6 months ago. This animal is currently located at Copenhagen Zoo.

Additionally, Copenhagen Zoo has given Oklahoma City Zoo a first option on their next born surplus female.

Amsterdam Zoo has two breeding females with no current surplus of young. Amsterdam Zoo, in north Holland, has offered Oklahoma City Zoo the next option on future surplus from their collection.

Hopefully, if permit is granted, the endangered species herein applied for would come from the above described stock. If this proves impossible, we would pursue other sources and avenues to obtain *captive born* stock.

(5) Oklahoma City Zoo, Route 1, Box 1, Oklahoma City, OK 73111.

(6) (i) See attachment number one.

(ii) Our original male and female Brazilian tapir (*Tapirus terrestris*) were received on 15 October 64 and 30 June 65, respectively. This pair produced the following four offspring in the facility on Attachment One: female-born 22 October 69, female-born 30 May 71, male-born 20 Nov. 72, and male-born 6 August 74. The former three animals went to other institutions as part of their breeding program and the latter animal died at the Oklahoma City Zoo (see Attachment 2). All four offspring were successfully mother-reared in our current tapir facility.

In the past, the Oklahoma City Zoo staff has hand-reared many offspring due to a variety of reasons. Our staff has successfully hand-reared most species of great and several species of lesser cats; developed a technique to hand rear kangaroos and wallabies; was the first to successfully hand-rear the Golden lion marmoset (*Leontophithecus rosalia*); and is currently hand-rearing a Pileated gibbon (*Hylobates lar pileatus*) and Colobus monkey (*Colobus guereza*); when necessary we routinely hand-rear offspring born to one of the largest and most diverse collections of ungulates in captivity in the world. With our nursery staff's expertise, we are confident we can hand-rear a Malayan tapir should the situation arise.

(iii) The Oklahoma City Zoo is willing to participate in a cooperative breeding program and to maintain or contribute to a studbook for the wildlife covered by this permit.

(iv) These animals will be placed in crates meeting or exceeding current IATA regulations and shipped by the most appropriate airline from the point of origin to the Oklahoma City Zoo. Complete feeding and watering instructions are to be attached to shipping crates.

(v) See Attachment 2. In addition, the Oklahoma City Zoo's animal care program consists of an animal hospital with adequate medical, surgical and holding facilities staffed by a full-time veterinarian and a registered medical technologist. We have two backup veterinarians with two and six years of exotic animal experience, respectively. The animal care unit is part of the Hospital and Isolation area which is staffed by two full-time animal technicians. Twenty-five area clinicians are members of our Animal Health Council (AHC). The AHC meets monthly and works with our full-time veterinarian on exceptional health related problems.

(7) See (2)(iii) and (4). Copies of the contract(s) from the institution(s) or individual(s) and an export permit from the country of origin, as well as documentation of the information required in (4), will be forwarded to the U.S.D.I. upon their receipt by the Oklahoma City Zoo.

(8) The Oklahoma City Zoo currently has a facility designed specifically for exhibiting and breeding Tapirus species. This facility has functioned in the successful exhibit, breeding, and rearing of the Brazilian tapir as evidenced by the four births and subsequent mother-rearing of all tapir born. Based on the availability of a facility designed for tapir species, and the desperate need to propagate the species in captivity, we feel justified in obtaining a permit to acquire one male and two female captive born Malayan tapir.

(i) See USDI form 3-200 (item 2) attached.

(ii) See (6) (vi).

(iii) Acquisition of one male and two female captive born Malayan tapir will increase the reproductive potential of the captive population by establishing a breeding nucleus and will provide additional offspring for future captive populations, thus reducing the demand on wild populations.

(iv) In the event of the death of the animals in question, the carcasses will be preserved as scientific specimens and made available to institutions of higher learning for post mortem study.

Sincerely,

LAWRENCE CURTIS,
Director.

ATTACHMENT NUMBER 2 (PAGE ONE)
OFR 17.22(6)(v)

(6)(v) Five year history of mortality in the Malayan tapir (*Tapirus indicus*) and the Brazilian tapir (*Tapirus terrestris*) at the Oklahoma City Zoo.

Malayan Tapir

OKC Zoo ID No.	Sex	Date of death	Cause of death	Corrective measures taken
3734-01	M	Nov. 23, 1976	*Bacterial septicemia*	See below.[1]
Brazilian tapir				
0243-02	F	Nov. 4, 1974	Intussusception of intestines	Not available.
3987-06	M	Aug. 13, 1975	Drowned	See below.[3]
0342-01	M	Aug. 15, 1976	Euthanized	Do.[4]

[1] The primary cause of death has been determined to be the result of a bacterial speticemia involving a *Beta hemolytic streptococcus* infection, a common cause of strep throat in humans. Other common enteric organisms cultured upon post mortem were *Klebsiella sp.* and *E. coli*, the latter of which is known to evidence several pathogenic strains. It has been standard practice not to allow personnel to work with this animal when they had a sore throat or symptoms of influenza. A review of the health records of the personnel within a reasonable time prior to the death of this animal shows no one with the above health problems having worked with the animal. Laboratory tests and post mortem results are available upon request.

[2] Euthanized due to irreparable damage to feet (post mortem available upon request).

[3] Our animal staff found the juvenile male drowned in the outdoor pool (post mortem available upon requwst).

Documents and other information submitted in connectoin with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-736-C07; please refer to this number when submitting comments. All relevant comments received within 30 days of the date of publication will be considered.

Dated: May 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-15346 Filed 5-27-77;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Lincoln Park Zoological Gardens, 2200 N. Cannon Drive, Chicago, Illinois 60614.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one) — ☐ IMPORT OR EXPORT LICENSE — ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Import eight Oerstedt's Squirrel monkeys thru Miami, Florida for exhibition and breeding at the Lincoln Park Zoological Gardens Chicago, Illinois from the Panama Canal Zone.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Lincoln Park Zoological Gardens
2200 N. Cannon Drive
Chicago, Illinois 60614 USA
Telephone: 312-294-4660 Day
312-294-4668 Night

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ U.S. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Municipal Zoological Gardens
Open to the public daily as a free facility. Concerned with Education, Conservation and Scientific Studies.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
DNA

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Dr. Lester E. Fisher, DVM Dir.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Lincoln Park Zoological Gardens
2200- N. Cannon Drive
Chicago, Illinois 60614 USA

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT-6-3-I-75Z; ES - 76;PRT8-271-C etc.

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document(s))

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ DNA

10. DESIRED EFFECTIVE DATE
ASAP

11. DURATION NEEDED
Until terminated

12 ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THIS TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Attached letter to the Director USDI and enclosures A-L.

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not fill) — Dennis A. Merritt Jr., Assistant Director — DATE: 30 March 1977

DIRECTOR, *U.S. Department of the Interior, Fish and Wildlife Service, Office of Endangered Species, Permit Division, Washington, D.C.*

MARCH 30, 1977.

DEAR SIR: The Lincoln Park Zoological Gardens formally requests an Endangered Species Permit to import four male and four female Central American or Oerstedt's Squirrel monkeys, *Saimiri sciureus oerstedti* (=*Saimiri cerstedti*) from the Panama Canal Zone.

These eight (8) primates are young adults. From information in hand seven appear to be in their second year of life while one animal, a male, is somewhat older. Authorization is requested to import to the United States from the Panama Canal Zone these mammals for exhibition and breeding studies.

At this time the animals have been removed from the wild. They are not captive born. These eight primates were rescued from the mercado publico in Panama City where they were to be offered for sale as pet animals. Please see attached letter marked enclosure A from Dr. N. B. Gale for details.

Beginning in 1974, Lincoln Park Zoological Gardens attempted to obtain and cooperate with the two zoological facilities known to have this primate. The San Diego Zoological Society, California and the Natura Artis Magistra, Amsterdam, Netherlands both currently hold this mammal. Artis has been successful in breeding and rearing them. San Diego has thus far not produced any young. This may be directly related to the small numbers at that facility. Please see attached letters marked enclosures B and C for further details.

Additionally, we have published in the Newslettter of the American Association of Zoological Parks and Aquariums a notice of our interest and need for this primate. This professional publication reaches several hundred zoological facilities in the United States and abroad. No responses were generated from these notices. See attached copy marked enclosure D.

These eight Oerstedt's Squirrel monkeys were born in the wild in the Republic of Panama in the region near David, Panama Republic. They were removed from the wild and brought by truck to Panama City where they were to be offered for sale as pets. It is not uncommon for such mammals to be offered for sale as pets in the mercado publico. I have in the recent past seen several mammal types offered for sale there. These included Geoffroy Tamarins, *Saguinus goeffroyi*, Ocelot, *Felis pardalis*, Kinkajou, *Potos flavus*, Variegated Squirrel, *Sciurus variegatoides*, Raccoon, *Procyon lotor*, Margay, *Felis Wiedi*, Coati, *Nasua nasua*, Owl Monkey, *Aotus trivirgatus*, Howler money, *Alouatta villosa* and Grisson, *Galictis allamandi*. Additionally, several types of psittacine birds are frequently offered for sale.

These Oerstedt's Squirrel monkeys will be displayed and maintained at the Lincoln Park Zoological Gardens, 2200 N. Cannon Drive, Chicago, Illinois 60614. Contact telephone numbers are A/C 312-294-4660, 294-4665, 294-4667. Previous permit applications have detailed and documented the structure and organization of this facility.

These primates will be initially quarantined at our Zoo Animal Hospital as required by the United States Public Health Service, Department of Health, Education and Welfare. After this 31 day period and screening for tuberculosis and parasites, they will be moved to a permanent display in our Primate House. Please see attached item marked E, diagramming the enclosure and item F showing the building location with respect to the zoo grounds.

The person with overall responsibility for the operation of the Lincoln Park Zoological Gardens is Dr. Lester E. Fisher, D.V.M., Director. He has been associated with the facility for over 30 years. The person directly responsible for the mammal collection and record keeping is Mr. Mark A. Rosenthal, Curator of Mammals. The full-time resident Veterinarian is Dr. Erich Maschgan, D.V.M., who has been associated with this facility for over 15 years. Mr. Dennis A. Meritt, Jr., Assistant Director, has been with the zoological gardens for over 10 years and was the former Mammal Curator.

Both Mr. Rosenthal and Mr. Meritt have worked with a variety of Central and South American primates. These have included among others, Squirrel monkeys, *Saimiri sciureus*, various Tamarins including several species of *Saguinus*, various Marmosets including several species and subspecies of *Callithrix* as well as Titi monkeys, *Callicebus mollach ssp.* In addition, Mr. Meritt has conducted detailed observational and behavioral studies on the Owl monkey, *Aotus trivergatus*. This work began in 1968 and continues through the present. Similar studies have been undertaken with *Callicebus sp.*

It is of interest to note that all of the aforementioned genera have bred and successfully reared offspring at our facility. Of note are the second generation births among *Aotus* and *Callithrix sp.* Please see attached item marked G detailing the mammal breedings during 1976 at the Lincoln Park Zoological Gardens. Attached items marked H are resumes for the appropriate staff people.

Although no studbook currently exists for Oerstedt's Squirrel monkey, *Saimiri s. oerstedi*, Lincoln Park Zoological Gardens would be willing to cooperate with and contribute to such a program. Should such a studbook be deeemed necessary by appropriate professionals, this facility would be willing to maintain such a studbook. We have previously maintained the studbook for Snow Leopards, *Uncia uncia*, and contribute to all studbooks requesting data relevant to our collection.

Shipping containers for these primates will be of special design and construction. They will be mosquito proof as the Panama Canal

Zone is periodically considered a possible Yellow Fever zone, although it has not been for several years. They will have built-in provisions for food and water so that no servicing will be required en route. Only canned primate diet will be included to fulfill USDA port of entry requirements for foreign plant and fruit material. The monkeys will be acclimated to this diet during their acclimation period. The shipping containers will be provided with suitable perches/shelves to insure the comfort of the primates. The shipping containers will be waterproof to insure no spillage of elimination products. The shipping containers will conform to the specifications as established by IATA, as a minimum.

Routing of this shipment by air from Panama, Canal Zone is non-stop to Miami, Florida. From Miami, Florida to Chicago, Illinois is also non-stop. In the event of difficulty or lay-over there are qualified zoological personnel in Miami and the Miami area willing to service these primates on behalf of the Lincoln Park Zoological Gardens.

Mortality data for the previous five years for the related primate *Saimiri sciureus* are attached as enclosure I. The causes of mortality are included and self-explanatory in all cases.

Copies of all correspondence that specify our agreement with the supplier and our contract agreement are attached as enclosures A and J. These are dated and signed identifying each person involved in the negotiations/activities.

Permission and authorization is requested to purchase from the supplier in the Panama Canal Zone eight Oerstedt's Squirrel monkeys; to transport these by air to Chicago, Illinois, U.S.A. via Miami, Florida, U.S.A. by commercial airlines; to quarantine these in the Lincoln Park Zoological Gardens Animal Hospital as prescribed by the USPHS/HEW licensed primate quarantine facilities regulations (see attached enclosure K—Lincoln Park's License) and to place these in a suitable exhibit for breeding purposes and behavioral study. These various activities have been explained above and in enclosures.

The rescue of these primates from the Panama Canal Zone is sound zoological management. Their probable destinations were as pets, in all likelihood as lone animals, not pairs or an intact group. They were obtained by a qualified, skilled tropical biologist with veterinary medical expertise. They have been introduced to captive diets and acclimated to conditions of captivity without injury or mortality. Additionally, they have had daily observation and care and have been prophylactically treated for intestinal parasites, a known problem in these primates. The group is compatible, eating well and in apparent good health. These animals represent the nucleus of a potential breeding group of known age and condition as well as locale. There is an opportunity to establish a captive breeding group of this primate species (subspecies) with these examples.

A thorough literature search has been carried out in an effort to obtain information about this primate. Knowledgeable biologists were contacted for additional detailed information. Personal interviews and discussions in the country of origin were conducted in 1974, 1976 and 1977 by the writer, pertaining to this primate type. This data has been tabulated and organized. It is included as attachment L.

These primates, if importation is authorized, would be maintained indefinitely at the Lincoln Park Zoological Gardens. Should the breeding efforts be productive and surplus animals become available, qualified facilities would be contacted in an effort to distribute and establish further captive groups.

If, due to unseen circumstances, the animals are not maintained at the Lincoln Park Zoological Gardens indefinitely, the animals would be placed with another institution qualified to care for and breed this primate. This subject to approval and authorization by appropriate agencies should this be required.

A summation of attachment enclosed (L) shows that this primate's status in the Republic of Panama is precarious. Land use and habitat destruction continues at an accelerated rate threatening primate habitat. This primate has been used as an animal model during malaria investigations and has probable use in cutaneous leishmaniasis studies. No reserves, national parks or preserves have been established or appear to be forthcoming to insure survival of this primate in its country of origin. Insecticide spraying in recent years for malaria and yellow fever appears to have adversely affected this primate. It has been stated that if the present economic rate of development continues and no protection is afforded the wildlife, several species will become endangered, including *Saimiri oerstedti*. This may already be the case for several mammalian species in the Republic of Panama.

The importation of these eight primates would aid in the understanding of the behavior, reproduction and physiology of this species (subspecies). Proven management techniques are available. The nutritional needs of this primate have been established and will be used as guidelines. Knowledge gained in the maintenance and breeding of *Saimiri sciureus* (Colombian) over the course of several years will be invaluable in establishing *oerstedti*. The animals in question were salvaged, rescued mamals destined for local consumption in the pet trade. They have already been removed from the wild and are acclimated to conditions of captivity. It is sound zoological thinking to further study and observe this primate under the previously described surroundings. Members of the Lincoln Park Zoological Society's Docent Behavioral Group will conduct detailed observations to try and determine food preferences, activity cycle, respiratory rate and social interactions. Graduate students in biology and anthropology currently utilize the zoological gardens as a resource for observational studies. An attempt will be made to locate a student to work with this species in a similar manner. Results from these studies will be distributed to interested individuals and agencies. These observations coupled with field efforts already reported will give a clearer insight into the life style and habits of this primate.

The ultimate goal with mammals of this type is the attainment of captive self-sustaining status. This has been possible with *Saimiri sciureus* and there is every reason to believe that this is also possible with this related form *Saimiri sciureus oerstedti* (=*S.* oerstedti). The acquisition of these primates is essential to this goal.

If additional information or details are required, please contact the undersigned directly.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13 of the Code of Federal Regulations and the other applicable parts in Subchapter B of Charter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 USC 1001.

Dated this 30th day of March, 1977 at Chicago, Illinois, U.S.A.

Sincerely yours,

DENNIS A. MERITT, JR.,
Assistant Director,
Lincoln Park Zoological Gardens.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–760–C07; please refer to this number when submitting comments. All relevant comments received on or before June 30, 1977 will be considered.

Dated: May 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77–15347 Filed 5–27–77;8:45 am]

Geological Survey

KNOWN RECOVERABLE COAL RESOURCE AREA

Grass Creek, Wyo.; Revision

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 203 Departmental Manual 1, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94–377, August 4, 1976), Federal lands within the State of Wyoming have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(50) Wyoming

Revised Grass Creek (Wyoming) Known Recoverable Coal Resource Area; July 26, 1976; 1,360 acres previously defined, and 160 acres added. Total area now classified is 1,520 acres.

A diagram showing the revised boundary and acreage has been filed with the appropriate and office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: May 23, 1977.

W. A. RADLINSKI,
Acting Director.

[FR Doc.77–15333 Filed 5–27–77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 31, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by June 10, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

ARIZONA

Santa Cruz County

Nogales, *Santa Cruz County Courthouse*, Court St. and Morley.

COLORADO

Moffat County

Maybell vicinity, *Two–Bar Ranch*, 50 mi. W of Maybell off CO 418.

GUAM

Agana, *Guam Institute*, off Route 1.

IOWA

Dickinson County

Orleans vicinity, *Templar Park*, NE of Orleans on IA 276.

Polk County

Des Moines, *Herndon Hall*, 2000 Grand Ave.

Scott County

Davenport, *Beiderbecke, Leon Bismarck (Bix), House*, 1934 Grand Ave.

KANSAS

Cowley County

Arkansas City vicinity, *Arkansas City County Club Site*, E of Arkansas City.

Stafford County

Stafford vicinity, *Comanche Archeological Site*, 16 mi. NE of Stafford.

MAINE

Cumberland County

Freeport, *Freeport Main Street Historic District*, Main St.

Lincoln County

Newcastle vicinity, *Sheepscot Historic District*, W of Newcastle.

York County

Kittery, *Portsmouth Naval Shipyard*, Seavey Island.

MISSISSIPPI

Attala County

Kosciusko, *Brown, David L., House*, 200 E. Washington St.

Warren County

Vicksburg, *Biedenharn Candy Company Building*, 1107–1109 Washington St.

NEVADA

Lyon County

Yerington vicinity, *East Walker River Petroglyph Site*, S of Yerington.

NEW HAMPSHIRE

Sullivan County

Cornish Flat, *First Baptist Church of Cornish*, Meriden State Rd. and NH 120.

NEW JERSEY

Burlington County

Jacobstown vicinity, *Arneytown Historic District*, N of Jacobstown (also in Monmouth Co.).

Essex County

Newark, *James Street Commons Historic District*, roughly bounded by Broad, Orange, Halsey, Warren, Bleeker, and Boyden Sts.

Hunterdon County

Clinton vicinity, *Turner–Chew–Carhart Farm*, NW of Clinton on Syckles Corner Rd.

Middlesex County

New Brunswick, *Wood Lawn*, Clifton Ave

NEW MEXICO

Bernalillo County

Albuquerque, *Southwestern Brewery and Ice Co.*, 601 Commercial, NE.

NORTH DAKOTA

Billings County

Medora, *Billings County Courthouse*, 4th St. and 4th Ave.
Medora, *St. Mary's Catholic Church*, 4th St. and 3rd Ave.
Medora, *Von Hoffman House*, Broadway and 5th St.

Burleigh County

Bismarck, *Bismarck Public Library*, 510 E. Thayer Ave.
Bismarck, *Fire Hall*, 517 E. Thayer Ave.
Bismarck, *Ward Earth Lodge Village Site*, Eastern Edge Pioneer Park.
Bismarck vicinity, *Double Ditch Earth Lodge Village Site*, 14 mi. NW of Bismarck on ND 1804.

Mercer County

Hazen, *Hazen High School*, 400 Central Ave.
Riverdale vicinity, *High Butte Effigy and Village Site*, S of Riverdale.

Traill County

Buxton, *First State Bank of Buxton*, 423 Broadway St.

Ward County

Minot, *Soo Line Passenger Depot*, 11 N. Main St.

OREGON

Klamath County

Chemult vicinity, *Gupguaksi*, SE of Chemult.

PENNSYLVANIA

Allegheny County

Glenshaw, *Lightner, Isaac, House*, 2407 Mt. Royal Blvd.
Pittsburgh, *East Liberty Market*, Centre Ave. and Baum Blvd.
Pittsburgh, *Moreland–Hofstot House*, 5057 - 5th Ave.
Pittsburgh, *Way, Nicholas, House*, 108 Beaver Rd.

Berks County

Reading, *Philadelphia & Reading Railroad Depot and Swinging Bridge*, 6th and Oley St.

Lackawanna County

Scranton, *Delaware, Lackawanna & Western Railroad Station*, Lackawanna and Jefferson Aves.

Lebanon County

Annville, *Biever House*, 49 S. White Oak St.

Perry County

Newport vicinity, *Little Buffalo Historic District*, SW of Newport off PA 34.

Philadelphia County

Philadelphia, *College Hall*, University of Pennsylvania campus.

SOUTH CAROLINA

Berkeley County

Cordesville vicinity, *Taveau Church*, S of Cordesville on SR 44.
Moncks Corner vicinity, *Biggin Church Ruins*, 2 mi. NE of Moncks Corner on SC 402.

Charleston County

Charleston, *Aiken, Gov. William, House*, 48 Elizabeth St.

Dorchester County

St. George vicinity, *Appleby's Methodist Church*, SW of St. George at jct. of SRs 19 and 71.

Spartanburg County

Spartanburg vicinity, *Walker Hall*, SE of Spartanburg on SC 56.

WASHINGTON

Kittitas County

Roslyn, *Roslyn Historic District*, WA 2E.

WISCONSIN

Portage County

Stevens Point, *Kuhl, Christina, House*, 1416 Main St.

Sauk County

Baraboo vicinity, *Man Mound*, E of Baraboo off WI 33.

[FR Doc.77–15027 Filed 5–27–77;8:45 am]

National Park Service

[Order No. 2]

SUPERINTENDENTS, ET AL., NORTH ATLANTIC REGION

Delegation of Authority

Section 1. *Superintendents.* The National Park Service Superintendents of the North Atlantic Region, in the administration, operation and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Regional Director, North Atlantic Region, by the Director, National Park Service, except with respect to the following:

(a) Approval of Master Plans.

(b) Acceptance of an offer in settlement of a timber trespass unless (1) the trespass is an innocent one, (2) the damages therefrom do not exceed $5,000, and (3) payment of the full amount of the damages is offered.

(c) Sales of timber pursuant to the Federal Property and Administrative Services Act of 1949, and the Federal

Property Management Regulations when the fair market value of the timber involved in any single transaction exceeds $1,000.

(d) Approval of programs for destruction and disposition of wild animals which are damaging the land of its vegetative cover, and of permits to collect rare or endangered species.

(e) Acceptance of donations of personal property valued in excess of $10,000, and acceptance of donations of money in excess of $10,000.

(f) Authority to designate areas at which recreation fees will be charged as specified by the Land and Water Conservation Fund Act of 1965 (78 Stat. 987), as amended.

(g) Authority to select from the fees established by 43 CFR. Part 18 (38 FR 3385), as amended, the specific fees to be charged at the designated areas in accordance with the Land and Water Conservation Fund Act of 1965 (78 Stat. 987), as amended.

(h) Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies, and services, as follows:

(1) Superintendents, Grade GS–12 and below—in excess of $10,000.

(2) Superintendents, Grade GS–13—in excess of $50,000.

(3) Superintendents, GS–14—in excess of $100,000.

(4) Superintendents, GS–15—in excess of $200,000.

The limitations in this paragraph (h) apply only to open market or nonmandatory sources of supply. Each office may continue to issue orders to GSA Centers and sources under established Federal Supply Schedule of Contracts in amounts exceeding $2,000. The authority limitations in paragraph (h), (2), (3), and (4) above include construction services.

(i) Authority with respect to the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam.

(j) Authority to approve land acquisition priorities.

(k) Authority to execute the land acquisition program, including contracting for acquisition of lands and related property and options and offers to sell related thereto.

(l) Authority to issue revocable special use permits having a term of more than 10 years.

(m) Authority to hire, rent, or purchase personal property from employees.

(n) Authority to conduct archeological investigations and salvage activities.

SEC. 2. *Delegation.* (a–1) *Associate Regional Director, Administration.* The Associate Regional Director, Administration, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, North Atlantic Region, except authority to contract for acquisition of land and related property and options and offers to sell related thereto.

(a–2) *The Associate Regional Director, Administration,* is authorized to approve the use of a government-owned or leased motor vehicle between domicile and place of employment for any office or area under the administration of the North Atlantic Region.

(b) *Regional Chief, Division of Contracting and Property Management.* The Regional Chief, Division of Contracting and Property Management is authorized to execute, approve and administer contracts, and to issue purchase orders for equipment, supplies and services, including construction, not in excess of $200,000. This authority may be exercised by the Chief, Contracting and Property Management in behalf of any office or area under the administration of the North Atlantic Region.

(c) *Regional Contract Specialist.* The Regional Contract Specialist may execute, approve, and administer contracts, including construction, not in excess of $50,000. This authority may be exercised by the Regional Contract Specialist in behalf of any office or area under the administration of the North Atlantic Region.

(d) *Regional General Supply Specialist.* The Regional General Supply Specialist may execute, approve, and administer contracts and purchase orders for equipment, supplies, and services not in excess of $50,000. This authority may be exercised by the Regional General Supply Specialist in behalf of any office or area under the administration of the North Atlantic Region.

(e) *Regional Supply Technician.* The Regional Supply Technician may execute and approve purchase orders for equipment, supplies and services not in excess of $10,000. This authority may be exercised by the Regional Supply Technician in behalf of any office or area under the administration of the North Atlantic Region.

(f) *Regional Purchasing Agent.* The Regional Purchasing Agent may execute and approve purchase orders for equipment, supplies and services not in excess of $1,000.

This authority may be exercised by the Regional Purchasing Agent in behalf of any office or areas under the administration of the North Atlantic Region.

(g) *Regional Land Acquisition Officer.* The Regional Land Acquisition Officer is authorized to execute the land acquisition program, including contracting for acquisition of lands and related properties, and acceptance of offers to sell to, or exchange with the United States, lands or interests in lands, and to execute all necessary agreements and conveyances incidental thereto; to accept deeds giving to the United States lands or interests in lands; to approve on behalf of the National Park Service offers of settlement in condemnation cases, and to approve claims for reimbursement under Public Law 91–646.

SEC. 3. *Redelegation.* The authority delegated in this Order No. 2 may not be redelegated, except that a Superintendent may, in writing, redelegate to any officer or employee the authority delegated to him by this order and may authorize written redelagation of such authority. Each redelegation shall be published in the FEDERAL REGISTER.

SEC. 4. *Revocation.* This order revokes North Atlantic Region Order No. 1 (39 FR 3695), published January 29, 1974.

(National Park Service Order No. 77 (38 FR 7478, as amended).)

Dated: January 31, 1977.

JACK E. STARK,
Regional Director.

[FR Doc.77–15330 Filed 5–27–77;8:45 am]

Office of the Secretary

GARY E. ADAMS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 1, 1977.

Dated: April 25, 1977.

GARY E. ADAMS.

[FR Doc.77–15334 Filed 5–27–77;8:45 am]

EDWARD C. GLASS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 23, 1977.

Dated: April 25, 1977.

EDWARD C. GLASS.

[FR Doc.77–15335 Filed 5–27–77;8:45 am]

DONALD B. GREGG

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 5, 1977.

Dated: April 25, 1977.

DONALD B. GREGG.

[FR Doc.77–15336 Filed 5–27–77;8:45 am]

HERBERT H. HUNT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change in last 6 months.
(2) Bought—Aetna Life and Cas., 17 Shares, Gould, 20 shares, Chemex Corp., 500 shares, Vipont Mining, 2,000 shares, KRM, 100 shares, Vipont Chemical, 100 shares.
(3) No change.
(4) No change.

This statement is made as of March 3, 1977.

Dated: May 11, 1977.

HERBERT H. HUNT.

[FR Doc.77–15337 Filed 5–27–77;8:45 am]

EVAN W. JAMES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) Officer—Dolores Bench Resources, Ltd., Subsidiary of Wisconsin Public Service Corp.
(2) Sold common stock of W. A. Krueger Co. Purchased additional shares of: Peavey Co., Potomac Electric Power Co., Texaco Inc.
(3) No change.
(4) No change.

This statement is made as of May 23, 1977.

Dated: April 29, 1977.

EVAN W. JAMES.

[FR Doc.77–15338 Filed 5–27–77;8:45 am]

MARTIN T. QUIGLEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Jointly own 100 shares of Potomac Electric Power Company common stock.
(3) No change.
(4) No change.

This statement is made as of May 1, 1977.

Dated: May 1, 1977.

MARTIN T. QUIGLEY.

[FR Doc.77–15339 Filed 5–27–77;8:45 am]

NICHOLAS A. RICCI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) Add: First Trust Insured Municipal Bonds—Ser. 14, Amerada Hess PFD Conv., IBM, Nuveen Municipal Bond Fund Inc., Cardiac Pacemakers, Eastman Kodak, Colgate Palmolive.

This statement is made as of May 2, 1977.

Dated: May 2, 1977.

NICHOLAS A. RICCI.

[FR Doc.77–15340 Filed 5–27–77;8:45 am]

JOHN ROLFING

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 20, 1977.

Dated: April 25, 1977.

JOHN ROLFING.

[FR Doc.77–15341 Filed 5–27–77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–23]

CERTAIN COLOR TELEVISION RECEIVING SETS

Commission Memorandum Opinion [1]

PROCEDURAL BACKGROUND

On November 5, 1976, the presiding officer in this investigation issued an Order and Recommended Ruling To Deny the Motion of Tokyo Shibaura Electric Co., Ltd., and Toshiba America, Inc., for Summary Determination and Termination of Investigation (motion No. 23–30). This recommended ruling of the presiding officer is one of three to deny various motions for summary determination and termination of this investigation (see the recommended ruling of November 19, 1976, to deny motions Nos. 23–35 and 23–40 and the recommended ruling of December 2, 1976, to deny motions Nos. 23–43 and 23–45).

On November 22, 1976, respondents Tokyo Shibaura and Toshiba filed exceptions and alternative findings of fact and conclusions of law to the presiding officer's order and recommended ruling of November 5, 1976. On December 20, 1976, the Commission issued a Notice of Suspension of Investigation (41 FR 55947, Dec. 23, 1976) suspending this investigation during the pendency of investigation No. TA–201–19 (Television Receivers). This investigation resumed at the opening of business on March 23, 1977 (see Notice of Commission Action, 42 FR 21117, Apr. 25, 1977), on March 24, 1977, a letter was received from counsel for Tokyo Shibaura and Toshiba requesting prompt consideration of motion No. 23–30. This letter, which was addressed to the Chairman, was docketed by the Office of the Secretary as motion No. 23–75. On March 30, 1977, counsel for complainants filed a letter in response to motion No. 23–75.

ORDER

Motion No. 23–30 is hereby remanded to the presiding officer for a final ruling.

OPINION

Section 210.24 of the Commission's Rules of Practice and Procedure provides, in pertinent part, as follows:

When the presiding officer is not the Commission, any motion within his authority shall be ruled upon by him, and any motion upon which the presiding officer has no authority to rule shall be certified by him to the Commission with his recommendation, and the Commission shall then rule on the motion.

Section 210.50 provides that the presiding officer has the authority to (1) refuse the motion for summary determination or order its continuance (§ 210.50 (d)), (2) grant the motion in part (§ 210.50(e)), or (3) grant the motion in full by issuing an order of summary determination (§ 210.50(f)). The Commission is of the view that a motion for summary determination is a motion within the authority of the presiding officer pursuant to § 210.24 and is, therefore, not properly before the Commission.

To the extent that motion No. 23–30 requests relief under section 210.51, the Commission is of the view that the same procedures are prescribed. (See § 210.51 (c)). The presiding officer has followed such a procedure in the past under this rule. (See the ruling of the presiding officer of July 12, 1976, denying motions Nos. 23–2A and 23–3A). A consistent procedure for disposing of motions under section 210.51 is essential in the proper administration of 19 U.S.C. 1337.

It is expected that the presiding officer will rule on motions Nos. 23–35, 23–40, 23–43, and 23–45 in a manner consistent with this order. In light of the instant ruling, motion No. 23–75 is denied as moot.

By order of the Commission.

Issued: May 24, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77–15403 Filed 5–30–77;8:45 am]

[1] Commissioner Ablondi dissents from the Commission Order and Opinion.

DEPARTMENT OF LABOR

Office of the Secretary

[TA–W–1465]

ARMCO STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of

Labor herein presents the results of TA–W–1465: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976 in response to a worker petition received on that date by the United Steelworkers of America on behalf of workers and former workers producing hot rolled carbon sheets and plates, strip slabs, galvanized sheets and products, coils, blooms and billets at the Ashland, Kentucky plant of Armco Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1532). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armoc Steel Corporation, the United Steelworkers of America, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

Evidence developed by the Department's investigation reveals that there have been no involuntary separations of production workers from employment at the Ashland, Kentucky plant of Armco Steel Corporation from December 3, 1975, one year prior to the date of the petition, to the present.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Ashland, Kentucky plant of Armco Steel Corporation have not become totally or partially sepraated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–15386 Filed 5–30–77;8:45 am]

[TA–W–1456]

ARMCO STEEL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1456: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon and alloy seamless pipe and couplings at the Ambridge, Pennsylvania plant of Armco Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1532). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corporation, the United Steelworkers of America, the American Iron and Steel Institute, the U.S. Department of Commerce and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant Total or Partial Separations. Employment at the Ambridge Works declined 7 percent in 1975 compared to 1974 and declined 6 percent in 1976 compared to 1975. Average hours worked declined 12 percent in 1976 compared to 1975.

Sales or Production, or Both Have Decreased Absolutely. Sales in terms of quantity declined 8 percent in 1975 compared to 1974 and declined 30 percent in 1976 compared to 1975. Production in terms of quantity increased 2 percent in 1975 compared to 1974 and decreased 29 percent in 1976 compared to 1975.

Increased Imports. Imports of carbon steel pipe decreased from 1781.5 thousands of short tons in 1974 to 1542.5 thousands of short tons in 1975. Imports increased to 1820.7 thousand of short tons in 1976. Imports of alloy steel pipe increased from 104.6 thousands of short tons in 1974 to 131.4 thousands of short tons in 1975. Imports increased in 1976 to 173.9 thousands of short tons.

Contributed Importantly. Customers of the Ambridge Works increased purchases of imports directly or indirectly by increasing purchases from domestic sources that supply imported seamless steel pipe and couplings.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with seamless steel pipe and couplings produced at the Ambridge, Pennsylvania plant of Armco Steel Corporation contributed importantly to the separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Ambridge, Pennsylvania plant of Armco Steel Corporation who became totally or partially separated from employment on or after February 14, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 77–15389 Filed 5–30–77;8:45 am]

[TA–W–1294]

J. H. BONCK COMPANY, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1294: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 22, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's and boys' woven dress, sport and uniform/work shirts and girls' and boys' woven parochial school shirts and blouses at the J. H. Bonck Company, Inc., New Orleans, Louisiana.

The Department of Labor hereby withdraws the Termination of Investigation notice pertaining to this case which was published in the FEDERAL REGISTER on March 29, 1977 (42 FR 16679).

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53090). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of J. H. Bonck Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant Total or Partial Separations. Employment at J. H. Bonck Company declined 9.1 percent in 1975 compared to 1974 and increased 5.5 percent in 1976 compared to 1975. Employment in the fourth quarter of 1976 fell 13.3 percent compared to the fourth quarter of 1975.

Sales or Production, or Both, Have Decreased Absolutely. Sales at J. H. Bonck Company declined 9.5 percent in 1975 compared to 1974 and declined 2.9 percent in 1976 compared to 1975.

Increased Imports. Imports of men's and boys' dress, sport and uniform/work shirts and girls' and boys' woven parochial school shirts and blouses increased from 85.0 million units in 1974 to 91.8 million units in 1975. Imports increased from 91.8 million units in 1975 to 144.0 million units in 1976.

Contributed Importantly. Customers of J. H. Bonck Company increased purchases of imports directly or by increasing purchases from domestic sources that supply imported men's and boys' woven dress sport and uniform/work shirts and girls' and boys' woven parochial school shirts and blouses.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' woven dress sport and uniform/work shirts and girls' and boys' woven parochial school shirts and blouses produced by J. H. Bonck Company contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act I make the following certification:

All workers of J. H. Bonck Company, Inc., New Orleans, Louisiana who became totally or partially separated from employment on or after October 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–15387 Filed 5–30–77;8:45 am]

[TA–W–1521]

BROWN SHOE COMPANY

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1521: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 27, 1977 in response to a worker petition received on December 27, 1977 which was filed on behalf of workers and former workers producing children's shoes at the Union City, Tennessee plant of the Brown Shoe Company.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3368). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brown Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations. Employment of production workers declined 8.4 percent from 1974 to 1975 and declined 3.4 percent from 1975 to 1976.

Employment declined 2.0 percent in the fourth quarter of 1975 compared to the same quarter of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production of Children's shoes declined 22.2 percent in quantity from 1974 to 1975 and increased 2.1 percent in quantity from 1975 to 1976. Production declined 1.4 percent in quantity in the last six months of 1976 compared to the same period of 1975. Production declined 15.3 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975. Sales declined 1.7 percent in value from 1974 to 1975 and declined 3.6 pecent from 1975 to 1976. The sales data have been adjusted for price increases.

Increased Imports. Imports of children's nonrubber footwear except athletic declined absolutely in each year from 1972 to 1975, and then increased from 1975 to 1976. The ratio of imports to domestic production increased from 60.0 percent in 1975 to 72.1 percent in 1976.

Contributed Importantly. Evidence developed during the course of the investigation revealed that retail customers switched purchases from Brown Shoe Company to imported children's shoes from 1975 to 1976.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with children's nonrubber footwear produced at the Union City, Tennessee plant of the Brown Shoe Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of children's nonrubber footwear at the Union City, Tennessee plant of Brown Shoe Company who became totally or partially separated from employment on or after June 26, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–15388 Filed 5–30–77;8:45 am]

Office of the Secretary

CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Notice of Investigations

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an ap-

propriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 10, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 10, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 18th day of May 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner	Location	Date received	Date of petition	Petition No.	Articles produced
Union/workers or former workers of:					
Fashion Mate, Inc. (ILGWU).	Brooklyn, N.Y.	May 17, 1977	Apr. 28, 1977	TA-W-2,076	Ladies' pantsuits and dresses.
Maryland Monotype, Ltd. (workers).	Woodlawn, Md.	May 16, 1977	May 11, 1977	TA-W-2,077	Printing of mathematical and scientific books and journals.
Thelinda Knitting Mills, Inc. (workers).	Brooklyn, N.Y.	do	do	TA-W-2,078	Cutting, sewing, finishing and pressing knitted fabrics to manufacturer ladies' sportswear.
U & I, Inc. (company)	Salt Lake City, Utah.	May 17, 1977	May 6, 1977	TA-W-2,079	Processing of beet sugar.
Do	Garland, Utah	do	do	TA-W-2,080	Processing of beet sugar.

[FR Doc.77-15274 Filed 5-27-77;8:45 am]

[TA-W-1426]

CONNORS STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1426: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel at the Birmingham, Alabama plant of the Connors Steel Company, a subsidiary of H. K. Porter Company, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 882). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of H. K. Porter Company, Inc., its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that although the first two criteria have been met, the third criterion has not been met with respect to bar-size light shapes and the fourth criterion has not been met with respect to other products manufactured at the Birmingham plant.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Birmingham plant of Connors Steel declined 21.5 percent in 1975 compared to 1974 and then increased 9.7 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production at the Birmingham plant declined 39.7 percent in quantity in 1975 compared to 1974 and then increased 26.0 percent in 1976 compared to 1975.

Sales of bar-size light shapes structural shapes and cold drawn bars increased in both quantity and value in 1976 compared to 1975 after declining in 1975 compared to 1974. Sales of concrete reinforcing bars decreased each year from 1974 to 1976.

INCREASED IMPORTS

Imports of bar-size light shapes, the principal product manufactured at the Birmingham plant, decreased from 521.5 thousand tons in 1975 and to 164.3 thousand tons in 1976. The ratio of imports to domestic shipments of bar-size light shapes declined from 53.1 percent in 1974 to 22.7 percent in 1975 and to 19.5 percent in 1976.

Imports of carbon steel structural shapes decreased from 1,614.0 thousand tons in 1972 to 804.9 thousand tons in 1975 and then rose to 1,351.4 thousand tons in 1976. The ratio of imports to domestic shipments of carbon structural shapes declined from 34.1 percent in 1972 to 19.5 percent in 1975 and then increased to 40.0 percent in 1976.

Imports of cold drawn steel bars decreased from 131.9 thousand tons in 1972 to 65.6 thousand tons in 1975 and then rose to 70.3 thousand tons in 1976. The ratio of imports to domestic shipments of cold drawn bars declined from 9.5 percent in 1972 to 4.7 percent in 1974, rose to 5.5 percent in 1975 and fell to 5.3 percent in 1976.

Imports of concrete reinforcing bars fell from 477.5 thousand tons in 1974 to 141.9 thousand tons in 1975 and rose to 192.2 thousand tons in 1976. The ratio of imports to domestic shipments of concrete reinforcing bars declined from 9.5 percent in 1974 to 3.9 percent in 1975 and rose to 5.0 percent in 1976.

The Department's investigation revealed that of seventeen customers contacted, fourteen do not purchase imported steel products similar to those purchased from Connors. The same fourteen customers have been increasing their purchases from Connors. Several noted the high quality of Connors' products as a factor in their purchasing decision.

One of the customers who does purchase imports has maintained his purchases from Connors at a steady level and stated that imports do not affect the amount of steel purchased from Connors. Another customer who purchases imports has tripled his purchases from Connors over the last year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the steel products manufactured at the Birmingham plant of Connors Steel Company, a subsidiary of H. K. Porter Company, Inc., did not contribute importantly to the total or partial separations of the workers producing such articles at that plant.

Signed at Washington, D.C., this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15390 Filed 5-27-77;8:45 am]

[TA-W-1332]

CRANE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1332: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel valves at the Chattanooga, Tennessee plant of Crane Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55603). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Crane Co., their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers at the Chattanooga, Tennessee plant of Crane Co. declined 26 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual sales of valves produced at the Chattanooga, Tennessee plant in constant dollars declined 42 percent in 1976 compared to 1975.

Annual production at the Chattanooga plant declined 30 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of articles considered like or directly competitive with the valves produced at the Chattanooga plant are classified under the category "valves and similar devices" in the official import statistics. Statistics are also compiled for a sub-category of valves and similar devices: "hand-operated and check valves, made of iron and steel." The principal types of valves produced at the Chattanooga plant are of the hand-operated and check type, made of iron and steel.

Imports of valves and similar devices increased each year from 56.5 million dollars in 1971 to 165.1 million dollars in 1975. Imports further increased from 127.6 million dollars in the first nine months of 1975 to 134.2 million dollars in the first nine months of 1976.

The ratio of imports to domestic production of valves and similar devices increased each year from 1971 through 1975, from 2.4 percent in 1971 to 4.7 percent in 1975. The ratio of imports to domestic production decreased from 4.9 percent in the first nine months of 1975 to 4.5 percent in the first nine months of 1976.

Imports of hand-operated and check iron and steel valves increased in each year compared to the immediately preceding year from 13.3 million dollars in 1971 to 75.0 million dollars in 1975. Imports declined from 59.8 million dollars in the first nine months of 1975 to 49.3 million dollars in the first nine months of 1976. The level of imports in the first 9 months of 1976 is 46.6 percent, greater than the average level of imports for the years 1971 through 1975.

CONTRIBUTED IMPORTANTLY

Customers of Crane Co. indicated that they reduced purchases of steel valves from Crane Co. while increasing purchases of steel valves from imported sources. In addition some customers who are distributors of domestic valves reported that they lost sales to end users of valves who began buying imports. The end users confirmed that they had reduced purchases of steel valves manufactured by Crane and increased purchases of imported steel valves.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the valves produced at the Chattanooga, Tennessee plant of Crane Co. contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Chattanooga, Tennessee plant of Crane Company who became totally or partially separated from employment on or after February 15, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15391 Filed 5-27-77;8:45 am]

[TA-W-1176]

GOTHAM FIFTH AVENUE, INC.

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issued a Notice of Negative Determination on November 30, 1976, published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54157), regarding eligibility to apply for adjustment assistance applicable to former workers producing men's suits and sportcoats at Gotham Fifth Avenue, Incorporated, New York, New York.

On the basis of a legal brief filed by Jacob Goldblatt, Gotham Company President, on May 2, 1977, the Office of Trade Adjustment Assistance instituted a review investigation. The review investigation developed additional information from officials and employees of Gotham Fifth Avenue and court records.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed impor-

tantly" means a cause which is important but not necessarily more important than any other cause.

The reinvestigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Gotham Fifth Avenue ceased production of men's suits and sportcoats in early 1975. Subsequent to the cessation of production, Gotham continued to operate its retail outlet by selling inventories of men's suits and sportcoats from its manufacturing operation and by selling men's clothing purchased from outside suppliers. The company filed for bankruptcy in July 1975 and was liquidated in February 1976. All employees were laid off by March 1976, subsequent to the liquidation.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

All production at Gotham's manufacturing facility ceased in early 1975. All sales by Gotham Fifth Avenue ceased in February 1976, when the company was liquidated.

INCREASED IMPORTS

U.S. imports of men's and boy's tailored suits increased absolutely and relatively in each year from 1972 through 1976. The ratio of imports to U.S. production and consumption increased from 18.3 percent and 15.5 percent, respectively, in 1975 to 20.0 percent and 16.7 percent, respectively, in 1976.

U.S. imports of men's and boy's tailored dress coats and sportcoats increased absolutely and relatively from 1972 to 1973. Imports increased relative to domestic production and consumption from 1973 to 1974 and then increased absolutely and relatively from 1974 to 1975 and from 1975 to 1976. The ratio of imports to domestic production and consumption increased from 28.2 percent and 22.0 percent, respectively, in 1975 to 32.4 percent and 24.5 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's reinvestigation indicated that Gotham operated a retail outlet as part of the integrated production process of its manufacturing operations. Approximately 45–60 percent of the stock of the retail outlet in the fall of 1975 consisted of men's suits and sportcoats produced by Gotham. The remaining stock was purchased from outside suppliers.

Gotham ceased manufacturing operations in early 1975. Company officials stated that the cessation of production was a temporary measure for the purpose of depleting inventories. This attempt failed and the company President filed a petition for bankruptcy in July 1975. The company was liquidated in February 1976.

Gotham's customers were individual consumers. Company officials attributed the decline in sales at Gotham to increased competition from imported men's suits and sportcoats.

CONCLUSION

After careful review of the facts obtained in the reinvestigation of TA–W–1176, Gotham Fifth Avenue, New York, New York, I conclude that increases of imports of men's suits and sportcoats like or directly competitive with the men's suits and sportcoats produced by Gotham Fifth Avenue, Incorporated, New York, New York, contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I hereby issue the following revised determination:

All workers engaged in employment related to the production of men's suits and sportcoats at Gotham Fifth Avenue, Incorporated, New York, New York, including the workers associated with the related retail operation who became totally or partially separated on or after September 23, 1975 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–15392 Filed 5–27–77;8:45 am]

[TA–W–1652]

GULFWAY TRAWLERS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1652: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 10, 1977 in response to a worker petition received on February 10, 1977 which was filed on behalf of workers and former workers who are engaged in shrimp fishing at Gulfway Trawlers, Incorporated, Port Isabel, Texas.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13086). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Gulfway Trawlers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The number of workers per ship has remained constant over the 1974–1976 period as insurance regulations require a minimum crew to meet safety standards. Employment records in the shrimp fishing industry are not maintained according to number of hours worked. Therefore employment data are based on the average number of trips per boat and average crew earnings per boat.

The average number of trips per boat at Gulfway Trawlers, Inc. increased 8.7 percent in 1975 compared to 1974 and then remained constant in 1976 compared to 1975. The average number of trips per boat declined 33.3 percent in the last quarter of 1976 compared to the same quarter of 1975.

Average crew earnings per boat increased 30.3 percent in 1975 compared to 1974 and increased 16.9 percent in 1976 compared to 1975.

Average crew earnings per boat declined 18.4 percent in the last quarter of 1976 compared to the same quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The average shrimp catch per boat in terms of quantity at Gulfway Trawlers, Inc. declined 2.4 percent in 1975 compared to 1974 and declined 5.0 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of shrimp in terms of quantity declined absolutely and relatively in 1973 compared to 1972 and then increased absolutely and relatively in 1974 compared to 1973. Imports declined absolutely and relatively in 1975 compared to 1974 and then increased 17.2 percent in 1976 compared to 1975. The ratio of imports to domestic production increased from 111.4 percent in 1975 to 116.8 percent in 1976. The ratio of imports to domestic consumption declined from 57.0 percent in 1975 to 56.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

Gulfway's only customer indicated that it had increased its purchases of imported shrimp. This customer cited price, quality and availability of supply as the most important factors in its purchasing decisions.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with shrimp produced by Gulfway Trawlers, Incorporated, Port Isabel, Texas contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of shrimp at Gulfway Trawlers, Incorporated, Port Isabel, Texas, who became totally or partially separated from employment on or after October 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–15393 Filed 5–27–77;8:45 am]

[TA–W–1628]

HULL DYE AND PRINT WORKS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1628: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 7, 1977 in response to a worker petition received on January 27, 1977 which was filed by the Textile Printing Colorist Guild on behalf of workers and former workers producing printed and dyed textiles at Hull Dye and Print Works, Incorporated, Derby, Connecticut. A subsequent petition was filed by the Machine Printers and Engravers Association.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12497). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hull Dye and Print Works Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat, thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at Hull increased 2.9 percent from 1975 to 1976. Employment declined 2.2 percent in the last nine months of 1976 compared to the same period in 1975. Beginning in the second quarter of 1976, average employment declined in each quarter compared to the previous quarter. Average employment declined 2.3 percent in the third quarter and 9.2 percent in the fourth quarter compared to the same quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production of dyed and printed textiles at Hull declined 20.0 percent, in quantity, and 24.5 percent, in value, from 1975 to 1976. Total sales declined 19.7 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of cotton broadwoven print cloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

Imports of bleached and dyed woven man-made fabrics decreased absolutely from 1972 to 1973 and from 1973 to 1974. Imports increased 13.2 percent from 1974 to 1975 and increased 8 percent from 1975 to 1976. The ratios of imports to both domestic production and consumption declined from 3.9 percent in 1975 to 3.7 percent in 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment at Hull Dye and Print. Converters, who are customers of Hull stated that imports of apparel have been a factor in reduced business with Hull. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Hull and Dye Print Works are converters who buy greige goods and commission Hull to finish the fabric, by printing or dyeing it, in accordance with apparel manufacturers' specification. During the course of the Department's investigation, it was established that converters, in general, do not import printed or finished fabric. However, some of the converters who did business with Hull have recently begun to import fabric. The Department's survey of apparel manufacturers, who are customers of converters, revealed that manufacturers are importing printed or finished fabric for use in the manufacture of men's and women's wearing apparel. Hull's customers reported a growing trend toward manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed and dyed textiles produced at Hull Dye and Print Works, Incorporated, Derby and Shelton, Connecticut contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Hull Dye and Print Works, Incorporated, Derby and Shelton, Connecticut who became totally or partially separated from employment on or after April 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management. Administration and Planning.

[FR Doc.77–15394 Filed 5–27–77;8:45 am]

[TA–W–8T]

MAGNAVOX CO.

Determinations Regarding Revision of Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA–W–8T: investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in section 223(d) of the Act.

On June 11, 1975, workers engaged in employment related to the production of monochrome and color televisions at the Jefferson City, Tennessee plant of the Magnavox Company were certified as eligible to apply for trade adjustment

assistance. All workers engaged in production of Odyssey electronic games, radio/stereo/tape combinations and cabinets for console televisions and radio/stereo/tape combinations at the Jefferson City plant; and all workers producing console color televisions at the Greenville, Tennessee plant were denied eligibility to apply for adjustment assistance. The Notice of Determination was published in the FEDERAL REGISTER on June 20, 1975 (40 FR 26084).

The investigation regarding termination of certification was initiated on May 27, 1976 to determine whether the group of workers specified above continue to meet the group eligibility requirements of Section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER (41 FR 26769) on June 29, 1976. No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of the Magnavox Company, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' form, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "constributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria are no longer met, the certification as issued must be revised to include a termination date. The termination date would apply only with respect to total or partial separations occurring after this date as specified in the revised certification. The investigation reveals that all four criteria continue to be met with respect to monochrome televisions and that criteria one is no longer met with respect to color televisions at the Jefferson City, Tennessee plant of Magnavox Company.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Subsequent to the June 11, 1975 finding, employment of production workers in the Electronics Division of the Jefferson City plant of the Magnavox Company decreased 18 percent from 1974 to 1975 and then increased 25 percent from 1975 to 1976. Employment declined 25 percent in the first two months of 1977, when compared to the same period in 1976. All employment related to the production of P/T (portable table) color televisions ceased in September 1975, when color television production was transferred to the Greenville, Tennessee plant of Magnavox. Average weekly hours worked increased 4 percent from 1974 to 1975, and then decreased 3 percent from 1975 to 1976. Average weekly hours worked decreased 3 percent in the first two months of 1977, when compared to the same period in 1976.

Employment for salaried workers at the Jefferson City plant of Magnavox decreased seven percent from 1974 to 1975 and then increased eight percent from 1975 to 1976.

Labor turnover data for the Jefferson City plant's Electronics Division showed layoffs in the first, second and fourth quarters of 1976 equalling 43 percent, 4 percent, and 60 percent, respectively, of average quarterly employment. In the first two months of 1977, layoffs were equivalent to 14 percent of average employment.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Subsequent to the June 11, 1975 finding, sales of monochrome televisions at the Jefferson City, Tennessee plant of the Magnavox Company decreased in quantity, 21 percent from 1974 to 1975 and 28 percent from 1975 to 1976. Sales of P/T color televisions is not separately identifiable for the Jefferson City plant of Magnavox, but is maintained with sales records for the Greenville, Tennessee plant. Data for Greenville was not obtained, because workers at that plant were denied eligibility to apply for adjustment assistance in the original determination.

Production of monochrome televisions at the Jefferson City plant of Magnavox decreased in quantity 1 percent from 1974 to 1975 and decreased 37 percent from 1975 to 1976. Production of P/T color televisions at the Jefferson City, Tennessee plant decreased in quantity 61 percent in the first three quarters of 1975 compared to the same period in 1974. Production ceased entirely in September 1975, when color television production was shifted to the Greenville, Tennessee plant of Magnavox.

INCREASED IMPORTS

Subsequent to the June 11, 1975 finding, imports of monochrome televisions increased absolutely and relatively from 1975 to 1976. The ratio of imports to domestic production and consumption increased from 193.8 percent and 67.3 percent, respectively, in 1975, to 311.3 percent and 77.8 percent in 1976.

The ratio of imports to domestic production and consumption increased from 23.4 percent and 19.5 percent, respectively, in 1975 to 55.0 percent and 36.2 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that Magnavox dealers have reduced purchases of black and white televisions from Magnavox and increased purchases of imported black and white televisions from 1975 to 1976. These customers attributed the shift in purchasing patterns to the lower price and better quality of imports.

Additionally, in November 1976 the Magnavox Company began importing small screen monochrome televisions from Japan, due to the lower price and greater availability of imports. Imports by the company in the November-December period equalled 332 percent of production of monochrome televisions at Jefferson City during the same period.

Magnavox Company officials anticipate future layoffs at the Jefferson City, Tennessee plant due to import related declines in sales and production of monochrome televisions.

Production of P/T color televisions at the Jefferson City plant ceased in September 1975, when all P/T color television production was shifted to the Greenville plant. All employment related to the production of P/T color televisions at the Jefferson City plant ceased at that time. Company officials at Magnavox stated that subsequent to the shift in production, all color television production employees were transferred to other product lines in the Electronics Division.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers engaged in employment related to the production of monochrome televisions at the Jefferson City, Tennessee plant of the Magnavox Company continue to be attributable to the conditions specified in Section 222 of the Trade Act of 1974. Therefore, the certification issued on June 11, 1975 for workers engaged in employment related to the production of monochrome televisions at the Jefferson City, Tennessee plant of Magnavox (TA-W-8) is not revised to include a termination date of eligibility to apply for adjustment assistance.

I further conclude that total or partial separations of workers engaged in the production of P/T color televisions at the Jefferson City, Tennessee plant of the Magnavox Company are no longer attributable to the conditions specified in Section 222 of the Trade Act of 1974. In accordance with Section 223(d) of the Act, I hereby revise the certification of June 11, 1975 to read as follows:

That all workers engaged in employment related to the production of color televisions at the Jefferson City, Tennessee plant of the Magnavox Company (TA-W-8) who became or will become totally or partially separated on or after October 3, 1974 and before May 15, 1977 be certified eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees who became or will become totally or partially separated from employment related to the production of color televisions at the Jefferson City, Tennessee plant after May 15, 1977 are denied certification of eligibility to apply for adjustment assistance.

Signed at Washington D.C. this 13th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15395 Filed 5-27-77;8:45 am]

[TA-W-1657]

MILADY BRASSIERE AND CORSET CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1657: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 16, 1977 in response to a worker petition received on February 2, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing brassieres and girdles at the Milady Division of Milady Brassiere and Corset Company, Incorporated, New York.

The notice of investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13091). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Milady Brassiere and Corset Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of plant production workers declined 21.2 percent in 1975 compared to 1974 and increased 1.9 percent in 1976 compared to 1975. Employment declined 16.7 percent and 5.0 percent in the third and fourth quarters of 1976, respectively, compared to the same quarters of 1975. Separations occurred throughout 1976. Workers are used interchangeably between brassieres and girdles.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Plant sales equal production. Plant sales declined 21.2 percent in 1975 compared to 1974 and decreased 24.4 percent in 1976 compared to 1975. Sales also declined 49.8 percent and 37.2 percent in the third and fourth quarters of 1976, respectively, compared to the same quarters in 1975.

INCREASED IMPORTS

Imports of brassieres, bra-lettes and bandeaux increased each year, from 4.995 million dozens in 1971 to 6.921 million dozens in 1975 and increased again to 8.751 million dozens in 1976.

Imports of corsets and girdles increased from 55,000 dozens in 1971, to 106,000 dozens in 1972; declined to 66,000 dozens in 1973; and increased each year, from 116,000 dozens in 1974, to 231,000 dozens in 1976.

CONTRIBUTED IMPORTANTLY

A representative sample of Milady's customers indicated that customers increased purchases of imported brassieres and girdles, while decreasing their purchases from the subject plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with brassieres and girdles produced at the Milady Division of Milady Brassiere and Corset Company, Incorporated, New York, New York contributed importantly to the total or partial separations of the workers engaged in the production of such products at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Milady Division of Milady Brassiere and Corset Company, Incorporated, New York, New York who became totally or partially separated from employment on or after January 28, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15396 Filed 5-27-77;8:45 am]

[TA-W-1565]

MIRED FOUNDATIONS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1565: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 1, 1977 in response to a worker petition received on January 1, 1977 which was filed by the Corset and Brassiere Workers Union on behalf of workers and former workers producing girdles at the New York City plant of Mired Foundations, Inc., a division of Lido International, Inc.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5453). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lido International, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average weekly employment of production workers at Mired Foundations decreased 13.3 percent in 1975 compared with 1974 and decreased 53.8 percent in 1976 compared with 1975. Average weekly hours worked increased 11.2 percent in 1976 compared with 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of girdles in terms of quantity decreased 12.6 percent in 1975 compared with 1974 and decreased 61.0 percent in 1976 compared with 1975.

INCREASED IMPORTS

Imports of girdles and corsets in terms of quantity decreased 37.7 percent in 1973 compared with 1972, increased 75.8 percent in 1974 compared with 1973, increased 18.1 percent in 1975

compared with 1974 and increased 68.6 percent in 1976 compared with 1975. The ratios of imports to domestic production and consumption, unavailable for 1976, increased from 2.6 percent for each in 1974 to 3.1 percent for each in 1975.

CONTRIBUTED IMPORTANTLY

Customers indicated that they were not buying imported girdles and that they found no appreciable import influence in the marketing of girdles. According to the customers, the quality, styling and brand identification offered by domestic girdles are superior to those of imported girdles and imports do not offer a great enough price differential to warrant greater interest on the part of consumers. As the import to domestic production and consumption ratios for corsets and girdles indicate, 3.1 percent in 1975, there is not the sufficient volume to generate large production runs of girdles offshore, according to customers, to the extent that potential labor savings might be reflected in the price of girdles.

It was furthermore stated that customers had either held purchases of the Mired girdle at relatively constant levels or had reduced them sharply in 1976 compared with 1975. In the cases of decreased purchases, customers either had shifted to other domestic sources or reduced girdle purchases in general in response to declining consumer demand for girdles. With changing fashion trends, women have increasingly abandoned the wearing of girdles as panty hose and light weight panty girdles have become more popular with today's women. The number of girdles produced by Mired and sold under the Lido label declined in 1976 as the company chose to deemphasize its participation in the girdle business in favor of brassieres and health and beauty aids which it considered to offer greater sales and profit potentials. These products are not manufactured by Mired Foundations.

CONCLUSION

After a careful review of the facts obtained in the investigation, it is concluded that imports of articles like or directly competitive with girdles produced at the New York City plant of Mired Foundations, Inc., a division of Lido International Inc., have not contributed importantly to the total or partial separations of workers at that plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15397 Filed 5-27-77;8:45 am]

[TA-W-1477]

INTERLAKE, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1477: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976 in response to a worker petition received on December 20, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing molten iron at the Chicago, Illinois plant of Interlake, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1534). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United Steelworkers of America and Interlake, Incorporated.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic producton; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred since January of 1973 except for three (3) periods during which some employees were laid off for short periods of time. The separations were due to shutdowns for major maintenance and repairs of equipment. The last separations occurred in June 1975 more than one year prior to the date of the petition, December 3, 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of workers at the Chicago, Illinois plant of Interlake, Incorporated have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15398 Filed 5-27-77;8:45 am]

[TA-W-1605]

SHERIDAN AMC/JEEP INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1605: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 26, 1977 in response to a worker petition received on January 26, 1977 which was filed on behalf of workers and former workers selling and servicing automobiles and recreational vehicles and selling automotive parts at Sheridan AMC/Jeep Incorporated, Kenosha, Wisconsin.

The notice of investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sheridan AMC/Jeep Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

Sheridan AMC/Jeep Inc. does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in Pan American World Airways, Incorporated (TA-W-153, 40 FR 54639). The only question in this case is whether American Motors Corporation, i.e., a firm which produces an article, namely automobiles, and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in Nu-Car Driveaway, Incorporated (TA-W-393, 41 FR 12749).

Prior to October 1976, Sheridan AMC/Jeep Inc., then known as Kenosha AMC/Jeep Inc., was an independently owned and operated automobile dealership. American Motors Corporation (AMC) had no capital or financial investment in the dealership and no control over its operation.

In October 1976, Sheridan AMC/Jeep was incorporated under the provisions of the AMC Dealer Investment Program. This program was established to temporarily provide the additional capital funds necessary to permit properly qualified individuals to become dealers. The program is administered by a subsidiary of AMC which temporarily becomes majority stockholder in the dealership. The dealer is obligated to repurchase that stock as soon as is economically feasible. During the period of joint ownership, the AMC subsidiary does not influence the daily operation of the dealership. All expenses of the firm are paid by the dealership.

The workers upon whose behalf this petition was filed were hired and are paid by Sheridan AMC/Jeep Inc. They are supervised by Sheridan AMC/Jeep personnel only. All employment benefits which they receive are provided by Sheridan AMC/Jeep Inc.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by Sheridan AMC/Jeep Inc. are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974, and that the American Motors Corporation cannot be considered the "workers' firm." The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15399 Filed 5-27-77;8:45 am]

[TA-W-1639]

PALMLAND FASHIONS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1639: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 17, 1977 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport shirts at Palmland Fashions, Incorporated, Miami, Florida a wholly owned subsidiary of Allied Artists Industries, Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12498). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Palmland Fashions, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Evidence developed in the Department's investigation reveals that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Palmland Fashions decreased 4.0 percent in 1975 compared to 1974 and decreased 16.7 percent in 1976 compared to 1975. Average weekly hours worked declined 8.3 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of men's sport shirts in terms of value increased 20.4 percent in 1975 compared to 1974 but decreased 28.8 percent in 1976 compared to 1975.

Production data were not available.

INCREASED IMPORTS

Imports of men's and boys' knit sport and dress shirts increased to 78.8 million units in 1973 from 67.2 million in 1972. Imports decreased to 54.9 million units in 1974 but increased to 66.2 million in 1975 and increased again to 74.0 million in 1976. The ratio of imports to domestic production creased to 25.6 in 1973 from 24.0 in 1972. In 1974 the import—production ratio decreased to 17.8 but increased in 1975 to 20.9.

CONTRIBUTED IMPORTANTLY

Customers of Palmland Fashions increased purchases of imports directly or indirectly by increasing purchases from domestic sources that supply imported men's sport shirts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's sport shirts produced by Palmland Fashions, Miami, Florida contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Palmland Fashions, Incorporated, Miami, Florida who became totally or partially separated from employment on or after June 26, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15400 Filed 5-27-77;8:45 am]

[TA-W-104T]

SPRINGFIELD WIRE OF INDIANA, INC.

Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223(d) of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-104T: investigation regarding termination of certification of eligibility to apply for adjustment assistance as prescribed in Section 223(d) of the Act.

On October 3, 1975, workers engaged in employment related to the production of heater wire harnesses, sewing and foil bonding at the Evansville, Indiana plant of Springfield Wire of Indiana, Inc., were certified as eligible to apply for trade adjustment assistance. The Notice of Determination was published in the FEDERAL REGISTER on October 15, 1976 (40 FR 48412).

The investigation regarding termination of certification was initiated on May 27, 1976 to determine whether the group of workers specified above continue

to meet the group eligibility requirements of Section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER (40 FR 26297) on June 25, 1976. No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of Springfield Wire of Indiana, Inc., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have increased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria are no longer met, the certification as issued must be revised to include a termination date. The termination date would apply only with respect to total or partial separations occurring after this date as specified in the revised certification.

Without regard to whether the other criteria are satisfied, the investigation reveals that the first criterion is no longer met with respect to workers at Evansville, Indiana plant of Springfield Wire of Indiana, Inc.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Subsequent to the October 3, 1975 finding, employment of hourly workers at the Evansville, Indiana plant of Springfield Wire of Indiana, Inc. decreased 56 percent in the first four months of 1975 compared to the same period in 1974. Average hours worked decreased 11 percent in the first four months of 1975 compared to the same period in 1974. All production workers were laid off on April 18, 1975 when the plant closed.

Employment of salaried workers declined 30 percent in the first eight months of 1975, compared to the same period in 1974. All salaried workers were laid off by the end of August 1975, subsequent to the transfer of the Evansville plant to a new owner on August 28, 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers engaged in employment related to the production of heater wire harnesses, sewing and foil bonding at the Evansville, Indiana plant of Springfield Wire of Indiana, Inc., are no longer attributable to the conditions specified in Section 222 of the Trade Act of 1974. In accordance with Section 223(d) of the Act, I hereby revise the certification of October 3, 1975 to read as follows:

That all workers of the Evansville, Indiana plant of Sprinfield Wire of Indiana, Inc. (TA-W-104), who became or will become totally or partially separated from employment on or after October 3, 1974 and before June 15, 1977 be certified eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who became or will become totally or partially separated from employment on or after June 15, 1977 are denied certification of eligibility to apply fro adjustment assistance.

Signed at Washington, D.C. this 19th day of May 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-15401 Filed 5-27-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR PUBLIC UNDERSTANDING OF SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

NAME: Advisory Panel for Public Understanding of Science.

DATE AND TIME: June 16, 1977, 2 p.m. to 5 p.m., June 17, 1977, 9 a.m. to 3:30 p.m.

PLACE: Room 651, National Science Foundation, 5225 Wisconsin Avenue NW., Washington, D.C.

TYPE OF MEETING: June 16. 1977. open. June 17, 1977, closed.

CONTACT PERSON:

Mr. George W. Tressel, Program Director, Public Understanding of Science, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7770.

PURPOSE OF PANEL: To provide advice and recommendations concerning direction and priorities and to provide advice and recommendations concerning support for projects in Public Understanding of Science Program.

AGENDA:

THURSDAY, JUNE 16 (OPEN)

2 to 3:30—Discussion of the effectiveness of alternative media with nonformal audiences.

3:30 to 5—Discussion of PUOS future program plans.

FRIDAY, JUNE 17 (CLOSED)

9—Review and evaluate proposals as part of the selection process for awards.

3:30—Adjourn.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Room 248, National Science Foundation, Washington, D.C. 20550.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 25, 1977.

[FR Doc. 77-15372 Filed 5-27-77;8:45 am]

SUBPANEL FOR SCIENCE FOR CITIZENS PUBLIC SERVCE SCIENCE RESIDENCIES AND PUBLIC SERVICE SCIENCE INTERNSHIPS OF THE ADVISORY PANEL FOR SCIENCE EDUCATION PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

NAME: Subpanel for Science for Citizens Public Service Science Residencies and Public Service Science Internships of the Advisory Panel for Science Education Projects.

DATE AND TIME: June 16, 1977, 7:30 p.m. to 10 p.m. June 17, 1977, 9 a.m. to 10 p.m. June 18, 1977, 9 a.m. to 10 p.m.

PLACE: Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, D.C.

CONTACT PERSON:

Ms. Rachelle Hollander, Acting Program Manager, Science for Citizens Program, Office of Science and Society, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

PURPOSE OF PANEL: To provide advice and recommendations concerning support for research in Public Service Science Residencies and Public Service Science Internship.

AGENDA: To review applications as part of the selection process for awards.

REASON FOR CLOSING: The applications being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 25, 1977.

[FR Doc.77-15373 Filed 5-27-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-26, issued to Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specification requirements to specify an increase in accumulator water volume at Indian Point Unit No. 2. The amendment also terminates the Commission's Order for Modification of License dated August 27, 1976, since the results of the emergency core cooling system reanalysis assuming upper head temperatures equal to the outleg (hot leg) fluid temperature and assuming 4 percent uniform steam generator tube plugging and an increased accumulator volume are conservative relative to the 10 CFR 50.46 criteria.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment transmitted by letter dated January 28, 1977, (2) Amendment No. 29 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-15118 Filed 5-27-77;8:45 am]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility), located in Buchanan, Westchester County, New York. The amendment is effective as of its date of issuance.

The amendment requires an inspection of steam generators within 12 equivalent months of operation from May 13, 1977. The Technical Specifications for the facility have also been expanded to establish steam generator leakage limits.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated May 6, 1977, (2) Amendment No. 30 to License No. DPR-26 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors

Dated at Bethesda, Maryland, this 13th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-15119 Filed 5-27-77;8:45 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR-20, issued to Consumers Power Company (the licensee), which revised Technical Specifications for operation of the Palisades Plant, (the facility) located in Covert Township, Van Buren County, Michigan. The amendment is effective as of its date of issuance.

This amendment makes revisions to the Palisades Plant Technical Specifications and ensures compliance with the fracture toughness requirements of Appendix G to 10 CFR Part 50 during heat-up and cooldown operations, system hydrostatic tests and reactor core criticality.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment. For further details with respect to this action, see (1) the application for amendment dated January 6, 1977, (2) Amendment No. 27 to License No. DPR-20, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W.,

Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 5th day of May 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-15128 Filed 5-27-77;8:45 am]

DRAFT ENVIRONMENTAL STANDARD REVIEW PLANS, PART II

Availability of Draft for Public Comment

The Nuclar Regulatory Commission is developing Environmental Standard Review Plans for the purpose of directing the NRC staff's environmental review of applications for nuclear power plant construction permits. When completed, these plans will serve to inform interested parties of the nature of the technical portion of the environmental review and the basis for the various technical conclusions made.

The first group of draft Environmental Standard Review Plans, NUREG–0158 Part I, was issued in January 1977, the availability of which was noticed in the FEDERAL REGISTER on February 10, 1977 (42 FR 8443). Public comment was invited on these plans at that time. At this time a second group of plans, NUREG–0158 Part II, is available for review and comment. Approximately two-thirds of the total plans are now available. The remaining plans will be issued later in 1977.

Interested persons may submit comments on the second group of Draft Environmental Standard Review Plans for the Commission's consideration. Comments on this group of plans are due by July 18, 1977.

Draft Environmental Standard Review Plans (NUREG–0158 Part II) is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Requests for single copies should be addressed to the Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated this 20th day of May 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-15129 Filed 5-27-77;8:45 am]

NORTHEAST NUCLEAR ENERGY CO. ET AL.

Notice of Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Provisional Operating License No. DPR–21 and Amendment No. 26 to Facility Operating License No. DPR–65 to Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised Environmental Technical Specifications for operation of the Millstone Nuclear Power Stations, Units Nos. 1 and 2, located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

The amendment consists of changes to the Environmental Technical Specifications which will allow an increase from 25° F. to 28° F. of the maximum temperature increase as measured at the Quarry Cut above the intake water temperature.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated June 1973.

For further details with respect to this action, see (1) the application for amendment May 12, 1977, (2) Amendments Nos. 37 and 26 to Licenses Nos. DPR–21 and DPR–65, (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of May 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-15132 Filed 5-27-77;8:45 am]

[Docket No. 50–133]

PACIFIC GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR–7 issued to Pacific Gas and Electric Company for operation of the Humboldt Bay Power Plant Unit No. 3, located near Eureka, California. The amendment is effective as of its date of issuance.

This amendment increases the possession limits for Antimony-124 to facilitate startup source replacement and authorizes possession of the radionuclides Americium-241 and Radium-226 for calibration purposes.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 11, 1977, (2) Amendment No. 14 to License No. DPR–7, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Humboldt County Library, 636 F Street, Eureka, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-15130 Filed 5-27-77;8:45 am]

[Docket Nos. 50–277–OL and 50–278–OL]

PHILADELPHIA ELECTRIC CO., ET AL. (PEACH BOTTOM ATOMIC POWER STATION, UNITS 2 AND 3)

Notice of Reconstitution of Board

Edward Luton, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict, Mr. Luton is unable to continue his service on this Board.

Accordingly, Marshall E. Miller, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 23rd day of May 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-15125 Filed 5-27-77;8:45 am]

[Docket Nos. 50–514 and 50–515]

PORTLAND GENERAL ELECTRIC CO., ET AL., (PEBBLE SPRINGS NUCLEAR PLANT, UNITS 1 AND 2)

Order Establishing Schedule for Prehearing Conference

A Prehearing Conference in this matter is scheduled for Thursday, June 23, 1977, at 9 a.m., local time. It will be held at the following location:

U.S. Court of Appeals Courtroom, The Pioneer Courthouse, 555 S.W. Yamhill, Portland, Oregon 97204.

The purpose of this Prehearing Conference is to establish a future schedule for this proceeding. With respect to the above, the following matters will be discussed:

(1) S–3 (fuel cycle rule).

(2) Environmental effects of coal utilization.

(3) Seismic reports.

(4) Costs of system for zero-radioactive discharges in liquid form.

Members of the public are invited to attend but limited appearances will not be received at this Conference.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland, this 20th day of May 1977.

JAMES R. YORE,
Chairman.

[FR Doc.77-15126 Filed 5-27-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.31, Revision 2, "Control of Ferrite Content in Stainless Steel Weld Metal," describes a method acceptable to the NRC staff for implementing requirements with regard to the control of welding in fabricating and joining austenitic stainless steel components and systems for light-water-cooled reactors. Public comments on earlier versions of this guide expressed concern over the burden imposed by the testing needed to follow the guide's recommendations. This revision incorporates recommendations of the Joint ASME/ANSI/NRC Task Group on Control of Stainless Steel Welding. This group studied alternative approaches to the control of the ferrite content in stainless steel weld material that would give an equivalent level of control to that in Revision 1 of Regulatory Guide 1.31.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.31, Revision 2, will, however, be particularly useful in evaluating the need for an early revision if received by July 25, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 18th day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-15127 Filed 5-27-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.35, "Assumptions Used for Evaluating the Potential Radiological Consequences of Accidental Nuclear Criticality in a Plutonium Processing and Fuel Fabrication Plant," lists assumptions used by the NRC staff to evaluate the magnitude and radiological consequences of a criticality accident in a plutonium processing and fuel fabrication plant. These assumptions are based on previous accident experience, engineering judgment, and on the analysis of applicable experimental results from safety research programs.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.35 will, however, be particularly useful in evaluating the need for an early revision if received by July 28, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 23rd day of May 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-15131 Filed 5-27-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on May 24, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Study of Human Tissue Heavy Metal Burden in Nonferrous Smelter Communities, single time, households and individuals in seven smelter communities, Ellett, C. A., Richard Eisinger, 395–5867.

DEPARTMENT OF COMMERCE

Bureau of Census:

Prelist Address Register—1980 Census Dress Rehearsal (Part of 1980 Decennial Census), D–101A(X), D–101B(X), single time, households not covered by commercial mailing list, Maria Gonzalez, 395–6132.

Quality Control Listing and Matching Record (1980 Census Dress Rehearsal—Part of 1980 Decennial Census) D–169X, single time, sample of households in prelist area of dress rehearsal, Maria Gonzalez, 395–6132.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census:

Post Enumeration Survey (A), Census Day Households Roster—1977 Census of Oakland, Calif., DH–810, single time, households in Oakland, Calif., Maria Gonzalez, 395–6132.

Post Enumeration Survey (B), Current Households Roster—1977 Census of Oakland, Calif., DH–811, single time households in Oakland, Calif., Maria Gonzalez, 395–6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Evaluation of Minnesota Comprehensive Epilepsy Program, impact, single time, providers of services to people with epilepsy, human resources division, Richard Eisinger, 395–3532.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Application for Federal Assistance State and Local Construction Grants, EPA 5700–32, on occasion, municipalities applying for loan guarantees, Lowry, R. L., 395–3772.

EXTENSIONS

FEDERAL HOME LOAN BANK BOARD

Annual Report (Savings & Loan Holding Companies), H–B11, on occasion, savings and loan holding companies, Gaylord Worden, 395–4730.

EXTENSIONS

FEDERAL HOME LOAN BANK BOARD

Current Report of Savings and Loan Holding Co., H–(B)12, on occasion, savings and loan holding companies, Gaylord Worden, 395–4730.

DEPARTMENT OF DEFENSE

Departmental and Other Contractors Request For Progress Payment, DD 1195, on occasion, DOD contractors, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–15484 Filed 5–27–77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM–7/71]

UNITED STATES ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session on Monday, June 13, 1977, in Room 1410 of the State Department. The meeting will run from 9:30 a.m. until 1 p.m.

There will be two items on the agenda, in addition to any old or new business which any Commission member wishes to raise.

1. Final approval of the Commission's 13th Annual Report.

2. Final approval of Commission recommendation on a Western Hemisphere Center.

Members of the general public may attend and participate in the discussion subject to the instructions of the Chairman. They will be accommodated up to the seating capacity of the room.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Staff Director of the Commission by close of business Monday, June 6, of his intention to attend. He may be reached by telephone at (202) 632–2764.

Dated: May 18, 1977.

W. E. WELD, JR.,
Staff Director,
Commission Secretariat.

[FR Doc.77–15327 Filed 5–27–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

ENGINEERING AND MANUFACTURING DISTRICT OFFICE

Notice of Change of Location

Notice is hereby given that on or about July 1, 1977, the Engineering and Manufacturing District Office at Tulsa, Oklahoma, will be moved to Oklahoma City, Oklahoma. There is no change in the District Office boundaries or functional responsibilities to the aviation public. This move does not constitute a change to the FAA Organization Statement.

Issued in Fort Worth, Texas, on April 25, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77–15298 Filed 5–27–77;8:45 am]

Federal Aviation Administration

FLIGHT STANDARDS GENERAL AVIATION DISTRICT OFFICE

Notice of Rescindment

Notice is hereby given that establishment of a Flight Standards District Office at Opa Locka, Florida, as published in the FEDERAL REGISTER on March 3, 1977, is rescinded. General aviation services with which the public is concerned will continue to be provided by the General Aviation District Office. Communications should be addressed as follows:

Chief, General Aviation District Office, Federal Aviation Administration, Building 121, Opa Locka Airport, Opa Locka, Florida 33054.

(Sec. 313(a), 72 Stat. 752 (49 U.S.C. 1354).)

Issued in East Point, Georgia, on May 17, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77–15297 Filed 5–27–77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP77–8; Notice 1]

FORD MOTOR CO.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

Ford Motor Company of Dearborn, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, Lamps, Reflective Devices and Associated Equipment, on the basis that it is inconsequential as it relates to motor vehicle safety.

The apparent nonconformance was discovered by NHTSA in the course of a compliance investigation (File CIR 1123). It is the failure of lenses on the rear side marker lamps of 1972–74 model Gapri passenger cars to meet Federal requirements for the color red. These requirements are those set in SAE Standard J578, "Color Specification for Electric Signal Lighting Devices," April 1965. Colors are expressed by chromaticity coordinates according to the CIE (1931) standard colormetric system. Color values may be determined visually by comparing the light from the device being judged with the light emitted from a standard source. They may also be computed from the spectral energy distribution curve (the spectraphotometric method). For red, the y coordinate shall not be greater than 0.33 and the z coordinate shall not be greater than 0.008. NHTSA test samples of the lamps have failed both methods, with an average of

0.344 for the y coordinates and 0.023 for the z. This means that the z coordinate is three times the maximum permitted value of the red requirement, placing the coordinate toward the pink portion of the chromaticity diagram. To the naked eye the lamp is distinctly paler and pinker than one that meets the color requirements. There are approximately 294,000 Capris which have been imported and sold during the time that the lamp was manufactured. It is presently unknown how many lamps have been manufactured for the replacement market.

Ford's arguments that this apparent noncompliance is inconsequential may be summarized as follows. The lamp itself otherwise meets all requirements of Standard No. 108. Further even though the color deviates from the prescribed red, it in no way could be mistaken for the amber-colored front side marker lamp. There is also a de minimis exposure to oncoming motorists from the limited number of situations in which one will encounter a Capri, or any vehicle, at right angles. In virtually all situations, argues the company, direction of travel of the Capri is determined by the presence and relative motion of lights other than the side marker lamps long before situations arise in which sole reliance on those lamps could be placed.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit written data, views and arguments on the petition of Ford Motor Company described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: July 15, 1977.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 23, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77–15112 Filed 5–27–77;8:45 am]

STUART FAUNCE, Ph.D.

Grant of Petition to Commence Defect Proceeding

This notice announces the granting of a petition by Stuart Faunce, Ph.D., of Fanwood, N.J., that the National Highway Traffic Safety Administration commence a proceeding to determine whether to issue an order pursuant to Section 152(b) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.). Such an order, if issued, would require Ford Motor Company to initiate a notification and remedy campaign to correct a safety-related defect.

The petition alleges that 1972 Capri passenger cars, manufactured by Ford Motor Company and sold through its Lincoln-Mercury dealers, may incorporate improperly designed and manufactured stabilizer bars in a front suspension system, and that accordingly such vehicles contain a defect which relates to motor vehicle safety.

The file number assigned to the petition is P7–004.

(Sec. 102, Pub. L. 93–492; 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on May 23, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77–15138 Filed 5–27–77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRESSURE SENSITIVE PLASTIC TAPE MEASURING OVER ONE AND THREE-EIGHTS INCHES IN WIDTH AND NOT EXCEEDING FOUR MILS IN THICKNESS FROM ITALY

Antidumping Determination of Sales at Less Than Fair Value

AGENCY: United States Treasury Department.

ACTION: Determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that pressure sensitive plastic tape measuring over one and three-eights inches in width and not exceeding four mils in thickness from Italy is being sold at less than fair value under the Antidumping Act. (Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.) This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: May 31, 1977.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202–566–5492.

SUPPLEMENTARY INFORMATION: Information was received in proper form on April 8, 1976, from the Minnesota Mining and Manufacturing Company of St. Paul, Minnesota, alleging that pressure sensitive plastic tape from Italy was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of May 14, 1976 (41 FR 19990). The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

The Secretary concluded that a tentative determination could not reasonably be made within the usual six-month period. The investigatory period in this case was therefore extended to no more than 9 months, and a "Notice of Extension of Investigatory Period" to that effect was published in the FEDERAL REGISTER of November 17, 1976 (41 FR 50748).

A "Withholding of Appraisement Notice" issued by the Secretary of the Treasury was published in the FEDERAL REGISTER of February 18, 1977 (41 FR 10086).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that for the reasons stated below, pressure sensitive plastic tape measuring over one and three-eighths inches in width and not exceeding four mils in thickness, from Italy other than that produced and sold by Plasturopa is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

(a) *Scope of the investigation.* It appears that 92 percent of imports of the subject merchandise from Italy was manufactured by four companies: Manuli Autoadesivi S.p.A., Milan, Italy (Manuli), Boston S.p.A., Milan, Italy (Boston), Comet S.A.R.A. S.p.A., Como, Italy (Comet), and Plasturopa-SIPA S.a.S., Florence, Italy (Plasturopa). Therefore, the investigation was limited to these four manufacturers.

(b) *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and the home market price of such or similar merchandise on sales by Boston, Plasturopa and Comet and between purchase price or exporter's sales price and the home market price of such or similar merchandise on sales by Manuli. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used in the cases of Boston, Plasturopa and Comet since all export sales by those three companies appear to be made to non-related purchasers in the United States. Purchase price was also used for certain sales by Manuli where the merchandise was purchased by a non-related customer prior to the exportation from Italy. Exporter's sales price as defined in section 204 of the Act (19 U.S.C. 163), was used for those sales in which the related importer acted as the seller of the merchandise.

Home market price, as defined in section 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise was sold in the home market in sufficient quantities, at prices equal to or above the cost of production, to provide a basis of comparison for fair value purposes.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31 (b)), pricing and cost of production information was obtained concerning export and appropriate home market sales of pressure sensitive plastic tape from Italy during the period December 1, 1975, through June 30, 1976.

(c) *Purchase price.* For the purpose of this determination of sales at less than fair value, purchase price has been calculated on the basis of the c.i.f. price to U.S. customers. Deductions have been made for ocean freight and shipping expenses, Italian inland freight, insurance and brokerage costs, as appropriate.

(d) *Exporter's sales price.* For the purpose of this determination of sales at less than fair value, exporter's sales price has been calculated on the basis of the price to the unrelated United States customers, with deductions for transportation, insurance, United States customs duties, handling costs, and selling expenses.

(e) *Home market price.* For the purpose of this determination of sales at less than fair value, adjustments have been made on the following bases. The home market price has been calculated on the basis of the delivered price in the home market to unrelated purchasers, with adjustments for differences in merchandise sold to the two markets, as appropriate.

In the case of Boston, adjustment was made for differences in inland shipping expenses, cash discounts, commissions and packing costs between the two markets.

In the case of Comet, adjustment was made for differences in inland freight, cash discount and commissions between the two markets.

In the case of Plasturopa, adjustment was made for differences in delivery expenses and commissions between the two markets.

In the case of Manuli, adjustment was made for differences in cash discounts, inland freight expenses and commissions between the two markets in all cases. In accordance with Section 153.10(b), Customs Regulations (19 CFR 143.10(b)), adjustment was made for actual selling expenses incurred in the some market up to the amount of selling expenses incurred in the United States market, in those cases where home market price was compared to sales made to the United States on which exporter's sales price applied.

The issue has been raised in what circumstances home market sales at prices below the cost of production might be included with other home market sales at prices equal to or greater than the cost of production under Section 205 (b). Section 205(b) of the Act requires that if the Secretary determines that home market sales made at less than the cost of production have been made over an extended period of time and in substantial quantities, and are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade, such sales shall be disregarded in the determination of foreign market value and thereby the fair value. In this case, it has been determined that although some home market sales by Manuli occurred at prices less than the cost of production, these sales occurred in less than substantial quantities within the meaning of Section 205(b) of the Act, and therefore have not been disregarded in computing home market price. It has further been determined that home market sales at prices less than the cost of production, by Plasturopa, Comet, and Boston have occurred in substantial quantities over an extended period of time and at prices not permitting recovery of all costs within a reasonable period of time in the normal course of trade. These sales have therefore been disregarded in computing home market price for these manufacturers.

(f) *Result of fair value comparisons.* Using the above criteria, purchase price and/or exporter's sales price was found to be lower than the home market price of such or similar merchandise. Comparisons were made on approximately 76 percent of the merchandise sold to the United States by manufacturers during the investigative period. Margins were found ranging from 0 to 17 percent for sales made by Boston on 71.5 percent of the sales compared, ranging from 2 to 18 percent for sales made by Comet on 77.3 percent of the sales compared, and from 1 to 26 percent for sales made by Manuli on 80 percent of the sales compared. No margins were found on sales by Plasturopa.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

The United States International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

Dated: May 20, 1977.

HENRY C. STOCKELL, Jr.,
Acting General Counsel.

[FR Doc.77-15487 Filed 5-27-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 400]

ASSIGNMENT OF HEARINGS

MAY 25, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 111231 (Sub-203), Jones Truck Lines, Inc., now assigned July 21, 1977 at Chicago, Illinois, hearing canceled and the application is dismissed.

MC 138420 (Sub-14), Chizek Elevator & Transport, Inc., now being assigned July 21, 1977 (2 days) at Chicago, Illinois, in a hearing room to be later designated.

MC 110563 Sub 187, Coldway Food Express, Inc., Extension Denver Meats now being assigned June 21, 1977 (9 days) and July 19, 1977 (9 days) at Denver, Colorado and will be held at the Court of Appeals, Division Two, US Courthouse, 1961 Stout Street and at the Tax Court, Room 587, US Federal Building and Courthouse, 1961 Stout Street respectively.

AB 52 Sub 7, Atchison, Topeka and Santa Fe Railway Company Abandonment Between Cushing and Shawnee in Payne, Lincoln and Pottawatomie Counties, Oklahoma now assigned June 1, 1977 at Shawnee, Oklahoma is cancelled.

MC 134922 Sub Nos. 214, 210, 217, 201, and 225, B. J. McAdams, Inc., and MC 19157 Sub Nos. 24, 27, 28 and 32, McCormack's Highway Transportation, Inc. now being assigned June 27, 1977 for prehearing conference at the Office of the Interstate Commerce Commission in Washington, D.C.

MC 128007 (Sub-No. 91), Hofer, Inc., now being assigned July 26, 1977, at Jefferson City, Mo. in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15375 Filed 5-27-77;8:45 am]

[Notice No. 171]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

MAY 31, 1977.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 20, 1977. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76451. By order entered March 7, 1977, (corrected order served April 4, 1977), the Motor Carrier Board approved the transfer to Mercer Water & Sewer Transportation Co., Fort Worth, Tex., of the operating rights set forth in Certificate No. MC-106407 (Sub-No. 21) issued August 9, 1968 to T. E. Mercer Trucking Co., Fort Worth, Tex. authorizing the transportation of: Machinery, equipment, materials, and supplies used in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines for the transportation of water and sewage, including the stringing and picking up of pipe, with restrictions between points in the United States. Clayte Binion, 1108 Continental Life Bldg., Fort Worth, Texas 76102 attorney for applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15377 Filed 5-27-77;8:45 am]

[Notice No. 172]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before June 30, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77020, filed May 16, 1977. Transferee: SIMPSONVILLE WRECKER SERVICE, INC., 4507 Illinois Ave., Louisville, Ky. 40213. Transferor: Joe Moss, d.b.a. Simpsonville Garage Wrecker Service, 4507 Illinois Ave., Louisville, Ky. 40213. Applicant's representative: Robert M. Pearce, P.O. Box 1111, Bowling Green, Ky. 42101. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC 127122, MC 127122 (Sub-No. 1), MC 127122 (Sub-No. 2), MC 127122 (Sub-No. 3), and MC 127122 (Sub-No. 4), issued June 6, 1966, September 10, 1969, March 13, 1970, May 5, 1970, and May 27, 1971, respectively, as follows: *Wrecked, disabled, and repossessed motor vehicles,* including trailers designed to be drawn by passengers automobiles, and replacement vehicles and parts therefor, by use of wrecker equipment only, between points in Kentucky, and points in Bartholemew, Clark, Crawford, Daviess, Dearborn, Dubois, Floyd, Greene, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Monroe, Ohio, Orange, Perry, Pike, Ripley, Scott, Spencer, Switzerland, Warrick, and Washington Counties, Ind., on the one hand, and, on the other, points in the United States, except Hawaii; between points in Kentucky, on the one hand, and, on the other, points in Bartholemew, Clark, Crawford, Daviess, Dearborn, Dubois, Floyd, Greene, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Monroe, Ohio, Orange, Perry, Pike, Ripley, Scott, Spencer, Switzerland, Warrick, and Washington Counties, Ind.; *Wrecked, disabled, or repossessed motor vehicles, wrecked or disabled trailers* designed to be drawn by passenger automobiles, and replacement vehicles and parts therefor, by use of wrecker equipment only.

Between points in that part of Kentucky on and west of U.S. Highway 25 and points in Alabama, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; *Wrecked, disabled, and repossessed motor vehicles, and replacement vehicles and parts thereof,* by use of wrecker equipment only in connection with wrecked, disabled, and repossessed motor vehicles, between points in that part of Kentucky on and west of U.S. Highway 23 and points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming; *Wrecked, disabled, and repossessed motor vehicles, and replacement vehicles and parts therefor,* by use of wrecker equipment only, between points in that part of Kentucky on and west of U.S. Highway 23 and points in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and *Wrecked and disabled motor vehicles, and replacement vehicle and parts therefor* by use of wrecker equipment only, between points in that part of Kentucky on and west of U.S. Highway 23, and points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. The transaction also includes the transfer of all of transferor's letter E notices. E-2, E-3, E-4, E-5, and E-6 all filed on June 3, 1974, published October 3, 1974, September 23, 1974, September 23, 1974, and September 24, 1974, respectively, and effective October 18, 1974, October 8, 1974, October 8, 1974, October 8, 1974, and October 9, 1974, respectively; E-7 filed April 24, 1975, published August 19, 1975, and effective September 3, 1975; and E-8, E-9, E-10, E-11, E-12, and E-13 filed April 24, 1975, published August 20, 1975, and effective September 4, 1975. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77108, filed May 3, 1977. Transferee: CENTRAL TRANSIT LINES, INC., 84 Ward Street, Patterson, N.J. Transferor: Colonial Coach Corp., 17 Franklin Turnpike, Mahwah, N.J. Attorney for transferee: Ronald I. Shapss, Esq., 450 7th Ave., New York, N.Y. 10001. Attorney for transferor: Samuel B. Zinder, 98 Cutter Mill Rd., Great Neck, N.Y. 11021. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-39491, issued April 1, 1969, as follows: *Passengers and their baggage, and express and newspapers,* in the same vehicle with passengers, over specified regular routes, between junction U.S. Highway 13 and Pennsylvania Turnpike (northeast of Bristol, Pa.) and the Borough of Manhattan, New York City, N.Y., serving no intermediate points. Restriction: The operations are restricted against service or transportation between Burlington, N.J., on the one hand, and, on the other, the Borough of Manhattan, New York City, N.Y. The above described authority to transport passengers was issued pursuant to an application filed on or before January 1, 1967, and therefore incidental charter

operations in interstate or foreign commerce may be conducted under rules and regulations prescribed by the Commission pursuant to section 208(c) of the Interstate Commerce Act, as amended November 10, 1966. Transferee presently holds no authority from this Commission Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77124, filed May 12, 1977. Transferee: HOAGY WRECKER SERVICE, INC., 5418 South Calhoun St., Fort Wayne, Ind. 46807. Transferor: James E. Hoagland, doing business as Hoagy's Wrecker Service, 5418 South Calhoun St., Fort Wayne, Ind. 46807. Applicants' representative: Harry J. Harman, Attorney at Law, 700 Harrison Bldg., 143 West Market St., Indianapolis, Ind. 46204. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 133157, issued March 3, 1975, as follows: *Used motor vehicles*, to be used as replacements for wrecked or disabled motor vehicles, in truckaway service, and *motor vehicle parts, accessories, supplies, and materials*, for use in connection with repairing and reconditioning of disabled or wrecked motor vehicles, over irregular routes, from points in Indiana, to points in Pennsylvania, Ohio, Michigan, Illinois, Wisconsin, Kentucky, and Tennessee; and *wrecked or disabled motor vehicles*, from points in Pennsylvania, Ohio, Michigan, Illinois, Wisconsin, Kentucky, and Tennessee, to points in Indiana. Restriction: The authority granted herein is restricted to the transportation of traffic by wrecker equipment only. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–77125, filed May 12, 1977. Transferee: DUFFY AND HUGHES, INC., 15 North 59th St., Philadelphia, Pa. 19139. Transferor: Joseph F. Hughes, an individual doing business as John M. Duffy and P. Hughes & Sons, 15 North 59th St., Philadelphia, Pa. 19139. Applicants' representative: Robert G. Bellwoar, Attorney at Law, 2901 P.S.F.S. Bldg., 12th and Market Sts., Philadelphia, Pa. 19107. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC–7587, issued March 8, 1971, as follows: *Household goods and office furniture*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, New York, N.Y., and points in Delaware and New Jersey. Also *musical instruments, piano stools, organ accessories, radio, and television sets*, uncrated, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey, and Delaware, and *pianos and organs and parts and accessories* of pianos and organs, over irregular routes, between points in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., on the one hand, and, on the other, points in Delaware, New Jersey, and New York, N.Y. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77126, filed May 12, 1977. Transferee: OTIS CAREY, doing business as Wykagyl Express, 172 Morris St., New Rochelle, N.Y. 10801. Transferor: Robert B. Williams, doing business as Wykagyl Express, 79 Potter Ave., New Rochelle, N.Y. 10801. Applicant's representative: Edward M. Alfano, Attorney at Law, 550 Mamaroneck Ave., Harrison, N.Y. 10528. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 105328, issued July 28, 1972, as follows: *Household goods*, as defined by the Commission, between points in Westchester County, N. Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, New York and Pennsylvania. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–77127, filed May 16, 1977. Transferee: MT. EPHRAIM STORAGE CO., a corporation, 101 Washington Ave., Gloucester City, N.J. 08030. Transferor: Joseph F. Hughes, doing business as Mt. Ephraim Storage, 101 Washington Ave., Gloucester City, N.J. 08030. Applicants' representative: Robert G. Bellwoar, Attorney at Law, 2901 P.S.F.S. Bldg., 12 S. 12th St., Philadelphia, Pa. 19107. Authority sought for purchase by transferee of the operating rights set forth in Certificates Nos. MC 65398 (Sub-No. 1), MC 65398 (Sub-No. 2), and MC 65398 (Sub-No. 3), issued January 18, 1966, January 18, 1966, and February 27, 1973, respectively, to Miller Brothers Moving & Storage, Inc., Riverside, N.J., and acquired by transferor herein pursuant to No. MC–FC–75202, approved June 17, 1974, and consummated August 30, 1974, as follows: *Household goods*, as defined by the Commission, between Philadelphia, Pa., and points in Pennsylvania within 25 miles of Philadelphia, on the one hand, and, on the other, points in New York, New Jersey, and Delaware; between points in New Jersey, on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, Maryland, Delaware, Pennsylvania, and the District of Columbia; and between Philadelphia, Pa., and points within 25 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, and Delaware. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–15978 Filed 5–27–77;8:45 am]

[Notice No. 67]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 24, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1380 (Sub-No. 22TA), filed May 13, 1977. Applicant: COLONIAL MOTOR FREIGHT LINE, INC., Uwharris Rd., P.O. Box 5468, High Point, N.C. 27262. Applicant's representative: Max H. Towery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dimethyl terephthalate*, in bulk, in tank vehicles, from Kingsport, Tenn., to Mt. Vernon, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tennessee Eastman Company, P.O. Box 511, Kingsport, Tenn. 37663. Send protests to: Archie W. Andres, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 36509 (Sub-No. 27TA), filed May 4, 1977. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 55 Battery Street, Seattle, Wash. 98121. Applicant's representative: Robert C. Knokle (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver Bullion* between Owyhee County, Idaho, on the one hand, and, on the other, Portland, Oreg., under a continuing contract or contracts with Earth Resources Co., DeLamar Silver Mine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Earth Resources Co., DeLamar Silver Mine, P.O. Box 52, Jordan Valley, Oreg. 97910. Send protests to: District Supervisor Claud W. Reeves, 211 Main Suite 500, San Francisco, Calif. 94105.

No. MC 82079 (Sub-No. 48TA), filed April 21, 1977, Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products, fresh and frozen products* which require protection from heat or cold in mechanically refrigerated vehicles (except commodities in bulk) from Chicago, Ill., and its commercial zone to points in Michigan on, north and west of a line beginning at the intersection of U.S.–23 and the Michigan/Ohio border on M–15 to Bay City, Mich., such traffic to be restricted to that originating at the origin point and destined to the destination points. Further restricted to traffic originating at the storage and warehouse facilities of U.S. cold Storage in Chicago, Ill., for 180 days. Supporting shipper: U.S. Cold Storage, 8424 W. 47th Street, P.O. Box 312, Lyons, Ill. 60534. Send protest to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 103926 (Sub-No. 58TA), filed May 12, 1977. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, Ga. 30059. Applicant's representative: Kim G. Meyer, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel girders and beams* which because of size or weight require special equipment and handling and parts and accessories necessary, for the installation thereof, from Savannah, Ga., to points in Fulton County, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Visio International, Inc., 360 Post St., Room 602, San Francisco, Calif. 94108. Send Protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 546, Atlanta, Ga. 30309.

No. MC 105172 (Sub-No. 8TA), filed May 4, 1977. Applicant: COVERED WAGON TRAIN, INC., P.O. Box 368, Upper Main St., Dansville, N.Y. 14437. Applicant's representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products* (except in bulk), and (2) *vehicle body sealer and sound deadener compound* (in containers), from New Kensington, Pa., to all points in Maine, Vermont, Massachusetts, New Hampshire, Rhode Island, and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Quaker State Oil Refining Corp., P.O. Box 989, Oil City, Pa. 16301. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, N.Y. 13202.

No. MC 106195 (Sub-No. 14TA), filed May 5, 1977. Applicant: CLARK BROS. TRANSFER, INC., 800 North First Street, P.O. Box 388, Norfolk, Nebr. 68701. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Modular* homes and buildings when moving on shipper-owned trailers from Norfolk Homestead Housing, Inc., at or near Norfolk, Nebr., to points in Iowa, South Dakota and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Marion Wagner, Vice-President, Norfolk Homestead Housing, Inc., P.O. Box 648, Norfolk, Nebr. 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 69102.

No. MC 107403 (Sub-No. 1014TA), filed May 5, 1977. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from Griffith, Ind., to Mountain Home, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Unitech Chemical Inc., Swift Specialty Chemicals, 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Rm. 3238, Philadelphia, Pa. 19106.

No. MC 107452 (Sub-No. 10TA), filed May 4, 1977. Applicant: R. D. BROWN, doing business as DAN BROWN TRUCKING, Greybull Heights, Greybull, Wyo. 82426. Applicant's representative: James B. Hovland, P.O. Box 1637, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay*, in bulk, in pneumatic tank vehicle, from facilities of Wyo-Ben Products located at or near Lovell, Wyo., to points in Idaho, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Materials Supply Division, Wyo-Ben Products, 3044 Hesper Road, Billings, Mont. 59104. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, 105 Federal Bldg. & U.S. Courthouse, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 107515 (Sub-No. 1079TA), filed, May 12, 1977, Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Rd., S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen pizza crust*, in vehicles equipped with mechanical refrigeration, from the facilities of Food Products, Inc., at or near Greenville, S.C., to the facilities of Jeno's, Inc., at Duluth, Minn., and Superior, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jeno's, Inc., 525 Lake Avenue South, Duluth, Minn. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree, St., NW., Room 546, Atlanta, Ga. 30309.

No. MC 111401 (Sub-No. 489TA), filed May 12, 1977. Applicant: GROENDYKE, INC., 50 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium bichromate solution*, in bulk, in tank vehicles, from Corpus Christi, Tex., to Telluride, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Van Waters & Rogers, P.O. Box 25187, 3301 Edmunds, S. E., Albuquerque, N. Mex. 87125. Send protests to: District Supervisor Joe Green, Rm 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 112582 (Sub-No. 46TA), filed May 5, 1977. Applicant: T. M. ZIMMERMAN COMPANY, P.O. Box 380, R.D. No. 2, Chambersburg, Pa. 17201. Applicant's representative: John M. Musselman, 410 N. Third Street, P.O. Box 1146, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration from the plant-site and facilities of Stouffer's Frozen Foods (Stouffer Foods Corporation) located at Solon, Ohio, to Boston, Southboro, Watertown, Milton, Andover and Westboro, Mass., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stouffer Food Corporation, 5750 Harper Rd., Solon, Ohio 44139. Send protests to: Robert P. Amerine, Dist. Supv., Bureau of

Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 113280 (Sub-No. 8TA), filed May 12, 1977. Applicant: BUCHMEIER & SONS, INC., 2988 Skyline Drive, P.O. Box 68, Hubertus, Wis. 53033. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Cold Sping, Minn., to Mequon and Watertown, Wis., and from Dubuque, Iowa to Germantown, Wis., under a continuing contract or contracts with Schuppert Distributing Co., Inc., Suburban Beverages, Inc. and Better Brands Distributing Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Schuppert Distributing Co., Inc., 1224 Clark St., Watertown, Wis. 53094 (John R. Schuppert). Suburban Beverages, Inc., 11035 N. Industrial Drive, Meqyon, Wis. 53092 (Michael Moriarty). Better Brands Distributing Co., Inc., W162 N11819 Fond du Lac Avenue, Germantown, Wis. 53022 (William Martin). Send protests to: Gail Daughtery, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 113784 (Sub-No. 62TA), filed May 4, 1977. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario, Canada L8L 4M1. Applicant's representative: Douglas Ross Gowland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fine pneumatic lime, in pneumatic tank vehicles*, for and on behalf of BeachvilLime Limited, Ingersoll, Ontario, from ports of entry on the United States-Canada boundary line located on the Niagara and Detroit Rivers to points in the States of Ohio and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authortiy. Supporting shipper: BeachvilLime Limited, P.O. Box 217, Ingersoll, Ontario, N5C 3K5. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 117954 (Sub-No. 24TA), filed May 11, 1977. Applicant: H. L. Herrin, J., doing business as H. L. HERRIN TRUCKING CO., P.O. Box 1106, 3420 Airline Highway, Metairie, La. 70004. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and dry processed potatoes*, from tre facilities of American Potato Co., at or near Plover, Wis., to points and places in Alabama, Arizona, Florida, Georgia, Louisiana, Minnesota, Tennessee and Texas, for 180 days. Supporting shipper(s): American Potatoe Co., Corporate Traffic Manager, 4600 Bank of America Center, San Francisco, Calif. 94104. Send protests to: District Supervisor Ray C. Armstrong, Jr., 9038 Federal Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 118142 (Sub-No. 150TA), filed May 13, 1977. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxed beef and beef products*, from Muskogee, Okla., to the commercial zone of Los Angeles, Calif., and San Francisco, Calif., for 180 days. Supporting shipper(s): M and M Meat Company, 2000 Anderson Drive, Muskogee, Okla. 74401. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 118468 (Sub-No. 49TA), filed May 5, 1977. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe* from the plantsite of Johns-Manville Sales Corporation at or near Wilton, Iowa to points in Illinois, Indiana, Kansas, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin, under contract with Johns-Mansville Sales Corporation, under a continuing contract or contracts with Johns-Manville Sales Corporation, for 180 days. Supporting shipper: Johns-Manville Sales Corporation, 2222 Kensington Court, Oak Brook, Ill. 60521. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 121664 (Sub-No. 19TA), filed May 3, 1977. Applicant: HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, Ala. 35460. Applicant's representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Louisville, Mississippi and Taylorsville, Mississippi to Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Missouri and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corporation, P.O. Box 520, Crossett, Ark. 71635. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 124511 (Sub-No. 32TA), filed May 5, 1977. Applicant: JOHN F. OLIVER, Box 223, Mexico, Mo. 65265. Applicant's representative: James V. Angel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel articles*, (1) from the facilities of Caine Steel Company at or near Madison, Ill., and (2) from St. Louis Terminals Corp. at Granite City, Ill., and St. Louis, Mo., to the facilities of Bull Moose Tube Company, a subsidiary of National Steel Corp. at Gerald, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bull Moose Tube Company, subsidiary of National Steel Corp., P.O. Box 214, Highway 50, Gerarld, Mo. 63037. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 124813 (Sub-No. 171TA), filed May 4, 1977. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer* in bulk from Mason City, Iowa to points in Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Land O'Lakes Agricultural Services, 2827 8th Avenue South, Fort Dodge, Iowa 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 125433 (Sub-No. 100TA), filed May 5, 1977. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Michael J. Norton, P.O. Box 2135, Suite 404 Boston Bldg., Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from Lancaster County, Nebr., to points in Washington, Oregon, Idaho, Montana, Utah, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and Maine and further including ports of entry between the United States and Canada, located in Washington, Idaho, Montana, North Dakota, Minnesota, Michigan, and New York, restricted to traffic originating at facilities utilized by Kawasaki Motors Corp., U.S.A. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kawasaki Motors Corp., U.S.A., 2009 East Edinger Ave., P.O. Box 1147, Santa Ana, Calif. 92711 (Jon De Casare-Traffic Manager). Send protests

to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 125777 (Sub-No. 189TA), filed May 12, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: William E. Frantz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in dump vehicles, from Dubuque, Iowa, to all points in Illinois and Wisconsin, for 180 days. Supporting shipper(s): Miller and Company, 55 E. Monroe, Chicago, Ill. 60603. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 127651 (Sub-No. 38TA), filed May 4, 1977. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, Wis. 54449. Applicant's representative: Nancy J. Johnson, 4506 Regent St., Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood pallets* from Rhinelander, Wis., to Fulton, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Marplex Products, Subsidiary of Nekoosa Paper Co., P.O. Box 279, Rhinelander, Wis. 54501. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Rm. 202, Madison, Wis. 53703.

No. MC 129074 (Sub-No. 1TA), filed May 10, 1977. Applicant: DELTA TRANSPORT LIMITED, P.O. Box 130, North Sydney, Nova Scotia, Canada B2A 3M2. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park, Hingham, Mass. 02043. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fish packaging supplies and trawler equipment and machinery*, from Portland, Me., to ports of entry on the United States-Canada Boundary line at or near Calais and Houlton, Me., under a continuing contract or contracts with (1) H. B. Nickerson & Sons Limited, (2) Riverport Seafoods Limited, for 180 days. Supporting shipper(s): (1) H. B. Nickerson & Sons Limited, North Sydney, Nova Scotia, Canada. (2) Riverport Seafoods Limited, Riverport, Nova Scotia, Canada. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl Street, Portland, Me. 04111.

No. MC 133133 (Sub-No. 14TA), filed May 13, 1977. Applicant: FULLER MOTOR DELIVERY CO., 802 Plum Street, Cincinnati, Ohio 45202. Applicant's representative: Norbert B. Flick, Executive Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in dump vehicles, from Cincinnati, Ohio, to points in the state of Indiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Indiana Farm Bureau Coop. Ass'n, Inc., 47 S. Pennsylvania St., Indianapolis, Ind. 46204. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 133867 (Sub-No. 11TA), filed May 3, 1977. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, 3501 S. Federal Highway, Fort Pierce, Fla. 33450. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables* from points in California, Lewiston, Idaho, Stanwood, Wash., Exmore, Va., Orlando, Fla.; Bells, Tenn., Hart, Mich., Ogden, Utah, Trappe, Maryland; and Vineland, N.J., to the facilities of Foodways National, Inc., at Wethersfield, Conn., under a continuing contract or contracts with Foodways National, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Foodways National, Inc., 1000 Silas Deane Highway, Wethersfield, Conn. 06109. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 134060 (Sub-No. 18TA), filed May 13, 1977. Applicant: DAVINDER FREIGHTWAYS, LTD., 435 Truck Road, Duncan, British Columbia, Canada V9L 2P8. Applicant's representative: James T. Johnson, 1610 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium chlorate*, in bulk, in tank vehicles, from the port of entry on the U.S.-Canada boundary at or near Blaine, Wash., to Bellingham, Wash., for 180 days. Supporting shipper(s): Eroco Industries, Ltd., 2 Gibbs Road, Toronto, Islington 678, Ontario, Canada. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 134477 (Sub-No. 168TA), filed April 28, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail and wholesale department and hardware stores (except foodstuffs and commodities in bulk), from points in Connecticut, Illinois, Indiana, Massachusetts, Michigan, New Jersey, New York, Ohio and Pennsylvania to Brookings, South Dakota, restricted to the transportation of traffic destined to the facilities of Coast to Coast Stores Central Organization located at or near Brookings, S. Dak., for 180 days. Supporting shipper: Coast of Coast Stores Central Organization, Inc., P.O. Box 80, Minneapolis, Minn. 55440. Send protests to: Mrs. Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135070 (Sub-No. 7TA), filed May 4, 1977. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 4146, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, 521 S. 14th, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Metal cabinets and parts and accessories* thereto, from Dover, Del., to Bentonville, Arkansas and Wichita, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midway America, Inc., 721 East Central Street, Wichita, Kans. 67202. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Bos H–4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 139077 (Sub-No. 1TA), filed April 14, 1977. Applicant: LOOP FLEET SERVICE, INC., 1776 North Commerce St., Milwaukee, Wis. 53212. Applicant's representative: Rolfe E. Hanson, 121 W. Doty St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, splits and pieces, and scrap of hides, skins and splits* between Milwaukee, Wis., and Chicago, Ill., on the one hand, and on the other, Burns Harbor, South Bend, Evansville, New Albany, Indianapolis, and Fort Wayne, Ind.; Louisville and Auburn, Ky.; St. Louis, Mo.; Bolivar and Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately five (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 140174 (Sub-No. 2TA), filed May 5, 1977. Applicant: BROOKS TRUCKING, INC., Post Office Box 187, Vanlue, Ohio 45890. Applicant's representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer compounds*, from Findlay, Ohio to points in Indiana and Michigan,

restricted against liquid commodities in bulk, under a continuing contract or contracts with W. R. Grace & Co., Agricultural Chemicals Group for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Grace & Co., Agricultural Chemicals Group, 301 E. Bidglow Avenue, P.O. Box 88, Findlay, Ohio 45840. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 140642 (Sub-No. 1TA), filed October 18, 1976. Applicant: DON RAY DRIVE-A-WAY COMPANY, INC., 304 N. 13th St., Decatur, Ind. 46733. Applicant's representative: Edwin J. Simcox, 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in a drive-a-way or tow-a-way service, between Decatur, Adams County, Ind., and Quincy, Branch County, Mich., on the one hand, and on the other, points in Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, West Virginia, and Wisconsin, for 180 days. The above-described request for authority was published in the FEDERAL REGISTER November 12, 1976, but the destination State of Florida was not included. Points in Florida were added by Amendment of the applicant and the entire authority was granted by the Commission, Division 1, acting as an Appellate Division, by order entered May 13, 1977. Insofar as the authority to serve points in Florida is concerned, any interested party may file a petition for reconsideration within 30 days from the date this notice is published. Supporting shippers: There are approximately 32 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the Interstate Commerce Commission, 345 W. Wayne St., Fort Wayne, Ind. 46802. Send petitions for reconsideration to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 141546 (Sub-No. 18TA), filed May 10, 1977. Applicant: BULK TRANSPORT SERVICE, INC., 1 Dundee Park, Andover, Mass. 01810. Applicant's representative: Kenneth B. Williams, 84 State St., Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank trucks, from points in Massachusetts to points in New York, New Jersey and Pennsylvania, for 180 days. Supporting shipper(s): Independent Cement Corporation, 65 William St., Wellesley Office Park, Wellesley, Mass. 02181. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway St., Boston, Mass. 02114.

No. MC 142994 (Sub-No. 1TA), filed May 5, 1977. Applicant: VIRGINIA COURIER SERVICE, INC., P.O. Box 287, Harrisonburg, Va. 22801. Applicant's representative: Chester A. Zyblut, 1030 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except household goods, commodities in bulk and those requiring special equipment, restricted to the transportation of shipments not exceeding 5,000 lbs. per shipment, between points within a forty-mile radius of Elkton, Va., between points within a forty-mile radius of Elkton, Va.; on the one hand, and, on the other, Albany and Putney, Ga., Danville, Ga., Danville, Riverside, Philadelphia and West Point, Pa., Rahway, N.J.; John F. Kennedy Airport, L.I., and New York, City, N.Y.; Friendship Airport and Baltimore, Md., Dulles International Airport and Richmond, Va., and Washington, D.C. for 180 days. Supporting shipper: Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 143045 (Sub-No. 1TA), filed May 5, 1977. Applicant: JOHN M. BERMES doing business as JOHN M. BERMES TRUCKING, 1105 St. John's Avenue, Billings, Mont. 59102. Applicant's representative: Hugh Sweeney, 1201 First Northwestern Bank Center, 175 North 27th Street, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* from Arlington and Ortonville, Minn., to points in Montana, North Dakota, Wyoming, Colorado, and Utah, for the account of Big Stone, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Blaine Mann, Vice President and General Manager, Big Stone, Inc., Box 86, Chaska, Minn. 55318. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 143201TA, filed May 5, 1977. Applicant: MID-SOUTH TRUCKING, INC., 614 N. Commerce Street, Tupelo, Miss. 38801. Applicant's representative: Mr. David M. Schwartz, 1025 Connecticut Avenue NW., Suite 500, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products, articles distributed by meat packinghouses*, and such commodities as are used by meat packers in the conduct of their business when destined to or for use by meat packers (except commodities in bulk and hides), as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the plant site, warehouse, and storage facilities of Mid-South Packers, Inc., at or near Tupelo, Miss., to points in Alabama, Arkansas, Connecticut, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, under a continuing contract or contracts with Mid-South Packers, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mid-South Packers, Inc., 614 N. Commerce Street, Tupelo, Miss. 28801. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, Suite 2006, Memphis, Tenn. 38103.

No. MC 143231TA, filed April 29, 1977. Applicant: J. H. LAFAYETTE, doing business as SKYLINE EXPRESS, Route 2, Box 325–27, Cornelius, Oreg. 97113. Applicant's representative: J. H. Lafayette (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned grape juice, frozen grape juice, canned apple juice, and canned cranberry juice*, from Grandview, Wash., to Oregon, Washington, and California, under a continuing contract or contracts with Yakima Valley Grape Producers, Inc., for 180 days. Supporting shipper: Yakima Valley Grape Producers, Inc., P.O. Box 520, Grandview, Wash. 98930. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW. Yamhill Street, Portland, Oreg. 97204.

No. MC 143243TA, filed May 5, 1977. Applicant: CECIL LINTON, doing business as LINTON TRUCKING, 114 Ewing St., Seymour, Ind. 47274. Applicant's representative: Donald W. Smith, Suite 2465—One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic beehives*, from Seymour and Columbus, Ind., to the facilities of Walter T. Kelley Company at or near Clarkson, Ky., for 180 days. Supporting shipper(s): Cartwright Plastics, Inc., R.R. 1, Seymour, Ind. 47274. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-15876 Filed 5-27-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 AM, May 31, 1977.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Maintenance of Minimum Financial Requirements by FCM's—The Early Warning System.

Portions closed to the public:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckley, 254–6314.

[S-511-77 Filed 5-25-77:3:58 pm]

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: May 20, 1977, 42 FR 29547, and scheduled to be published May 26, 1977.

PREVIOUSLY-ANNOUNCED DATE AND TIME: May 26, 1977, 2 p.m. and May 31, 1977, 2 p.m.

CHANGES IN THE MEETINGS: The Commission had previously agreed to meet on May 31 with representatives of the Environmental Defense Fund (EDF) to discuss asbestos in consumer products. At EDF's request, the Commission changed the date of the meeting to May 26, adding the EDF meeting to the agenda immediately after a staff briefing on asbestos, which was previously announced.

[S-513-77 Filed 5-26-77;10:10 am]

3

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Monday, June 6, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue, N.W., Washington, D.C. to consider the following items of official Board business:

1. A staff study of the private placement activities of commercial banks requested by the House Committee on Banking, Finance, and Urban Affairs.

2. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b (c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-514-77 Filed 5-26-77;11:10 am]

4

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Friday, June 3, 1977, at 11 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue, NW., Washington, D.C., to consider the following items of official Board business:

1. Draft testimony to be presented before the Senate Committee on Banking, Housing and Urban Affairs, regarding H.R. 5675, a bill to authorize the Secretary of the Treasury to invest operating cash in (1) obligations of depositories maintaining tax and loan accounts and (2) obligations of the United States and United States agencies.

2. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b (c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, May 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-515-77 Filed 5-26-77;11:00 am]

5

AGENCY HOLDING THE MEETING: Occupational Safety and Health Review Commission.

TIME AND DATE: 2 p.m., May 31, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson (202) 634-7970.

Dated: May 25, 1977.

[S-512-77 Filed 5-26-77;10:03 am]

6

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Thursday, June 2, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Photographs on Radio Operator Certificates.

Safety and Special Radio Services—1—Deregulation of Part 97 of the Commission's Rules, regarding emissions authorized in the Amateur Radio Service (Docket No. 20777).

Safety and Special Radio Services—2—Amendment of Parts 2, 13, 81 and 83 to implement changes in frequencies, operating procedures, technical standards and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974 (Docket No. 20813).

Common Carrier—1—Petition for suspension and investigation of American Telephone and Telegraph Company's Transmittal No. 12704 filed by Communique Auto Parts Service.

Cable Television—1—Petition for Special Relief filed by KTV Spot Sales, a Los Angeles advertising agency; and objection filed by the National Association of Broadcasters.

Television—1—Application (BRCT-166) of McClatchy Newspapers, Inc., for renewal of license for KMJ-TV, Channel 24, Fresno, California; application (BPCT-4879) of McClatchy Newspapers, Inc., for modification of the facilities of KMJ-TV, Fresno, California; and application (BPCT-4804 of San Joaquin Communications Corporation for a construction permit for a new commercial television broadcast station on Channel 24, Fresno, California.

Special—1—Additional Research Projects for Fiscal Year 1977.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632-7260.

Issued: May 26, 1977.

[S-522-77 Filed 5-27-77;10:01 am]

7

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: Follows 9:30 a.m., Open Meeting, Thursday, June 2, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:
Agenda, Item No., and Subject

Hearing—1—Motions for leave to file an Application for Review late and with extra pages and an interlocutory application for review in the comparative proceeding for construction permits for certain educational television broadcast facilities in the State of Alabama (Docket Nos. 20675-76).

Hearing—2—Petition by W. Smoot Brimhall, Commissioner of Financial Institutions of the State of Utah to terminate hearings, grant license renewal and assignment of license in Centerville, Utah AM (KLRK) license renewal proceeding (Docket Nos. 20458-59).

Hearing—3—Petitions for leave to intervene, and for stay of effective date of Initial Decision in the Ocean City, Maryland, standard broacast Station WETT renewal proceeding (Docket No. 20674).

Common Carrier—1—Discussion of the alternative facilities plans to be discussed at meeting in Rome, Italy (June 13-15, 1977) with CEPT and Canadian representatives.

Complaints and Compliance—1—Field investigation into the operations of Station WPCE, Portsmouth, Virginia and Station WOWI-FM, Norfolk, Virginia.

Complaints and Compliance—2—Field investigation into the operation of Station WBLU, Salem, Virginia.

CONTACT PERSON FOR MORE INFORMATION: Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632-7260.

Issued: May 26, 1977.

[S-523-77 Filed 5-27-77;10:01 am]

8

AGENCY HOLDING THE MEETING: Federal Communications Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 267222.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, May 26, 1977.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Consideration of the following Safety and Special Radio Services Agenda item has been cancelled, and a new date for consideration will be announced at a later time.

Notice of Proposed Rule Making relating to amendment of Part 83 to delete the requirement that voluntarily equipped ship stations be provided with a copy of Part 83 of the rules, and to require manufacturers to supply an instructional sheet with the radio equipment package.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632-7260.

Issued: May 26, 1977.

[S-524-77 Filed 5-27-77;10:01 am]

federal register

TUESDAY, MAY 31, 1977

PART II

FEDERAL COMMUNICATIONS COMMISSION

FIFTH NOTICE OF INQUIRY IN PREPARATION FOR A GENERAL WORLD ADMINISTRATIVE CONFERENCE IN 1979

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20271; FCC 77-349]

INTERNATIONAL RADIO REGULATIONS

Fifth Notice of Inquiry [1]

In the matter of an inquiry relative to preparation for a General World Administrative Radio Conference of the International Telecommunication Union to consider revision of the international Radio Regulations.

Adopted: May 20, 1977.

Released: May 23, 1977.

By the Commission: Commissioners Wiley, Chairman; and White concurring in part and dissenting in part and issuing a joint statement; Commissioner Fogarty concurring in part and dissenting in part and issuing a statement.

1. On November 24, 1976, the Commission adopted a Third Notice of Inquiry in the above entitled matter (FCC 76-1099, No. 43086). It was released on December 6, 1976 and appeared in the FEDERAL REGISTER on December 13, 1976 (41 FR 54309). The period for comments and reply comments has passed.

2. The primary purpose of the Third Notice was "to present a proposed International Frequency Allocations Table (Article 5) and to solicit comments thereto." The proposed Table represented the status, at that time, of the development of the United States proposal for revisions to Article 5 of the international Radio Regulations; it took into consideration the comments received in response to past notices, the reports of various advisory radio Service Working Groups (SWG), and spectrum requirements made known by Government agencies. The proposed Table was accompanied by a narrative which contained a rationale for its contents and which noted a number of issues that had to be resolved before the U.S. proposal could become final; the narrative solicited specific comments on these issues in order to obtain guidance from the public on resolution of them. In addition, the Third Notice solicited specific comments on a draft protocol concerning the communications of protected medical transports which was proposed for inclusion in the Geneva Convention and on methods proposed for specifying the allowable frequency tolerance of radio transmitters. The Notice further solicited comments on "any other matter relevant to preparation for the 1979 WARC."

3. The names of parties which filed comments and reply comments in response to the Third Notice are given in Appendix 1. Although the comments and reply comments have been considered and will continue to receive attention as this preparatory effort proceeds, they are not summarized herein. Instead, their substance will be treated in the discussion which follows. It is not our intent to dwell on areas where the public agreed with proposals presented in the Third Notice of Inquiry; the discussions highlight those areas where the respondents felt their requirements were not being satisfied.

4. In reviewing the multitude of comments received in response to the Third Notice, it became apparent that many parties have misinterpreted the purpose and extent of this proceeding. This docket has been initiated for the purpose of preparing the U.S. proposals for the 1979 World Administrative Radio Conference, and it is the only issue that is involved. We recognize that in some cases it may be difficult to separate purely domestic issues from international matters; however, every attempt must be made to keep these issues distinct. As has been previously indicated in this docket, it is not a domestic Rule Making proceeding, but rather an Inquiry to determine the best U.S. proposals to modify the International Table of Frequency Allocations and associated Radio Regulations in order to meet future telecommunication needs. Since the international allocations table forms the framework of our domestic allocations table, the international table must have the flexibility built into it to accommodate national/regional needs as they arise. The table cannot remain static to accommodate only present on-the-air systems; it must be capable of accommodating future technological developments. Without this flexibility in the table, the ability of the U.S. to meet future requirements would be severely constrained. It is in this context that comments are solicited.

5. The agenda established by the Administrative Council of June 1976 of the International Telecommunication Union (ITU) for the 1979 GWARC was presented in paragraph 6 of the Third Notice, and that Agenda is still the guide for preparing U.S. proposals.

6. The Third Notice presented a draft protocol concerning communications for protected medical transports which was proposed for inclusion in the Convention on International Humanitarian Law applicable in armed conflict. Since no respondents commented on that draft protocol, we shall assume that the public favors it and we will proceed to take the appropriate action.

7. The Third Notice also solicited comments on methods for expressing frequency tolerances. That subject was further treated in the Fourth Notice of Inquiry in this docket along with discussions on small antenna earth stations, spacecraft stationkeeping, spacecraft antenna pointing error, Radio Regulation Appendices 3 and 4, and possible new emission designators.

8. This Fifth Notice of Inquiry in Docket 20271 includes discussions of articles in the Radio Regulations which deal with allocations, definitions, and technical and operational matters, and discussions of the Resolutions and Recommendations. We emphasize that we are presenting proposals for changes to these items. Depending on their further development, these proposals may or may not be submitted to the International Telecommunication Union; they may or may not be accepted at the 1979 WARC. National implementation will require further action by us. The proposals and associated discussions represent the views of the United States preparatory structure as identified to date. As previously indicated, other requirements will continue to be treated as identified.

9. The primary purpose of this Notice is to present a revised proposal for the International Frequency Allocations Table (Article 5) and to solicit comments thereto. In the development of this proposal, we have considered the comments and reply comments received in response to the Third Notice, the intentions of the Federal Government and information available to the Commission. The proposed Table is attached as Appendix 2 to this Notice; a discussion of its contents is provided in the following paragraphs.

INTERNATIONAL RADIO REGULATIONS (ARTICLE 5)

SPECTRUM BETWEEN 10 KHZ AND 400 KHZ

10. Allocation table changes proposed in this frequency range in the Third Notice were the subject of numerous comments and reply comments from interested parties. Due consideartion of the comments and continued evaluation of service requirements has led to several changes in the proposed Table of Allocations. In the following paragraphs we will discuss the proposed changes, as well as address the several areas of controversy developed in the public comments.

Amateur

11. The proposed changes in the Amateur allocation given in the Third Notice were generally well received by the amateur community. However, in the responses received from other services, notably the radiolocation service and the power line carrier system operators, there was repeated concern that the possibility of frequency coordination with the Amateur service is extremely remote due to the variable and unpredictable frequency usage of any given amateur radio operator. Therefore, it is felt that all services would benefit from the assignment of an exclusive allocation for the Amateur service wherever possible. This is what is generally proposed. This would have the additional effect of removing any unusual restrictions on amateur use in their exclusive channels, enabling more efficient use of a smaller allocation.

12. The need for an amateur allocation to be proposed by the U.S. to the 1979 WARC at 160–190 kHz has not been established. We have, however, proposed that Broadcasting be added in the 115–190 kHz range; this is treated in further detail in the Broadcast section.

13. Because of extensive national requirements, we have not been able to continue the proposal for Amateur shared use of the 1750–1800 kHz band. We have, however, maintained the proposal for exclusive Amateur use of the 1800–1900 kHz band. This proposal, if adopted by the 1979 WARC, should adequately provide for the Amateur service in this band. Because of the continuing need for LORAN in the 1900–2000 kHz band, we are proposing to maintain RADIONAVIGATION in this band, shared internationally with Amateur and other services.

14. At the 3500 kHz region, we are continuing the proposal for exclusive Amateur use of the 3500–3900 kHz band, but only on a Region 2 basis. Further, we are continuing the proposal for shared use of the 3900—4000 kHz band by the Amateur and other radio services.

Broadcast

15. Many comments were received regarding the proposed extension of the present AM broadcast allocation. In response to these comments, we are proposing international allocations that will provide for broadcasting between 115–190 kHz, and 1615–1800 kHz, noting that the international proposal for broadcast allocations between 525–535 kHz, and 1605–1615 kHz contained in the Third Notice have not been modified. We feel that the need for additional spectrum for the AM broadcasting service has been established. The present AM band, 535–1605 kHz, is used very efficiently in this country; however, the increasing complexity of applications and increasing cost of brodcasting antenna facilities necessary to protect existing stations greatly inhibits future development of this service. If the proposal is adopted internationally and implemented nationally, these channels could increase the diversity of programming choices available to listeners, and provide local broacast services to communities presently denied service due to existing interference situations.

16. If the broadcast allocation between 115–190 kHz is adopted internationally, national requirements dictate that existing operations (including power line operations) would have to be accommodated. This would mean the "engineering-in" of broadcast frequencies. Since AM broadcast operations are already subject to extensive engineering studies, we foresee no great difficulty in this regard. Thus, existing national requirements would be taken into consideration when domestic implementation of the broadcast allocations were undertaken.

17. As mentioned earlier, we are proposing internationally an allocation for broadcasting at 1615–1800 kHz, to be shared with, among others, the Radiolocation service. We feel that the need for the proposed broadcasting allocation has been amply justified. Sharing difficulties, particularly with the Radiolocation service, will be treated under that service.

Mobile

18. Comments in response to the Third Notice on Land Mobile below 400 kHz were very limited in number. The Third Notice contained a proposal to add this service to the 1615–1750 kHz band, deleting the Mobile Service. At this time, and in light of other proposals, we are proposing Mobile at 1605–1800 kHz, which could provide for land mobile use of this band after appropriate national rulemaking.

Radiolocation

19. Several comments were received regarding the present high interference levels being experienced in the shared band 1605–1800 kHz. As indicated earlier, we are proposing an allocation for Broadcast in Region 2 in this band. We solicit detailed parameters of present and foreseen systems for developing meaningful sharing criteria. In this regard, we are adding a proposed footnote 195B to provide for Radiolocation on a world-wide basis in the bands 1615–1800 kHz and 3230–3400 kHz. We fully recognize that if this proposal is adopted internationally, Radiolocation will have to continue to be satisfied on a national basis. Proposed footnote 195C, for the 1615–1800 kHz band, would assist in ensuring that Radiolocation would not receive harmful interference in the proximity of international boundaries. Notwithstanding this, we feel that Broadcasting and Radiolocation can share the band, and that Radiolocation requirements will be met. Further, we may be able to guarantee Radiolocation access to this band by setting aside nationally, and within the interior of the country, a certain number of frequencies in which no broadcasting signals in the periphery of the Radiolocation emission would be permitted to exceed a specified level. A frequency width of 6 kHz with no broadcasting signals exceeding 0.1 microvolt in the Radiolocation emission has been suggested, to satisfy one existing known national requirement. In addition, Radiolocation is being continued to be proposed in the 1900–2000 kHz band.

Radionavigation

20. As suggested in comments filed in response to the Third Notice, it is proposed to add Aeronautical Radionavigation in the 190–200 kHz band in Region 2. The fixed requirements remaining in this band would have to be accommodated. We are also proposing that the permitted status for Aeronautical Radionavigation in the 525–535 kHz band be restored. Further, we are proposing that this service be reinstated as previously allocated in all regions for the band 510–525 kHz.

21. The U.S. Maritime interests which commented on our proposal for an Aeronautical Radionavigation permitted allocation at 415–490 kHz, felt strongly that the present allocation for maritime services and this proposed allocation were incompatible. We have deleted the proposed Aeronautical Radionavigation allocation; however, we note that there is a continuing need to provide for navigation beacons in applications such as on off-shore platforms and at smaller airports. We solicit specific comments as to how that need can be accommodated.

22. We are proposing to delete Aeronautical Radionavigation from 1605–1800 kHz since no justification for retention has been received and further, to delete Radionavigation from 1800–1900 kHz. This latter proposal is predicated on the removal of LORAN operations in this band by 1980. Since the status of LORAN in the 1900–2000 kHz band is unclear, we have made no proposal to remove the allocation from this band, noting that the secondary allocation proposed for Radiolocation is continued. We are, however, proposing a modification to footnote 198 and a new footnote 198A, which should provide for other use of this band once the LORAN system is disestablished.

SPECTRUM BETWEEN 4 MHZ AND 27.5 MHZ

Amateur

23. Comments were filed by the WARC Advisory Committee for Amateur Radio and the American Radio Relay League (ARRL); twenty-five amateur radio clubs; and thirty amateurs. While the comments varied, nearly all concerned one or more of the following: proposed allocation of additional bands at 10, 18, and 24 MHz; rearrangement of the proposed allocations at 21 MHz, which would cause expensive equipment modification; and correction of the interference at 7 MHz between the Amateur and international Broadcasting services.

24. In this Notice of Inquiry we are proposing an additional band at 25760–25860 kHz for the Amateur Service which could be considered as satisfying the request for a band at 24 MHz, but we are unable to propose bands at 10 and 18 MHz. The request for rearrangement of the 21 MHz allocation has been fulfilled since comments submitted by the Radio Technical Commission for Marine Services indicate that such a rearrangement would be acceptable. Removal of the interference at 7 MHz between Amateur and international Broadcasting has been difficult to accomplish because of the large demand for spectrum and the I.T.U. Region 1 and 3 allocation of 7100–7300 kHz to the Broadcasting service. The attached proposal provides the bands 6950–7000 and 7000–7250 kHz for the Amateur service on an exclusive worldwide basis and the bands 7250–7300 and 7300–7500 kHz for the Broadcasting service on a shared basis. We believe this proposal could be acceptable to international Broadcasters and would eliminate the sharing difficulties presently encountered by the amateur and the international Broadcasters.

Aeronautical Mobil (R)

25. Comments were filed by Aircraft Owners and Pilots Association (AOPA); Special Committee 129 of the Radio Technical Commission for Aeronautics; Aviation Service Working Group (ASWG; and jointly by Aeronautical Radio, Inc. (ARINC) and the Air Transport Association of America (ATA).

26. ARINC, ATA, AOPA and A–SWG supported the proposals for the bands between 4 and 27.5 MHz as set forth in the Third Notice and those proposals are unchanged in this Notice.

Fixed Service

27. As mentioned in the Third Notice, and affirmed by the comments of the American Telephone and Telegraph Co., a substantial part of common carrier and other operations using frequencies in the

[1] 42 FR 11258.

Fixed Service at 4–27.5 MHz have been shifted to satellite and to cable systems. The table attached to this Notice proposes substantial reallocations of spectrum currently allocated to the Fixed Service to other services. To alert the parties affected, we are listing below the proposed services and the portion of the spectrum proposed for reallocation to those services:

Present ITU band (kilohertz)	Existing service	Proposed ITU band (kilohertz)	Proposed new service
4438–4650	Fixed mobile except aeronautical mobile (R)	4438–4560	Maritime mobile.
5060–5250	Fixed	5200–5250	Do.
5250–5430	Fixed land mobile	5250–5300	Do.
6765–7000	Fixed	6950–7000	Amateur/amateur satellite.
7300–8195	do	8000–8195	Maritime mobile.
11975–12330	do	12130–12330	Do.
13360–14000	do	13360–13410	Radio astronomy.
13360–14000	do	13950–14000	Amateur.
14350–14990	do	14350–14400	Do.
15450–16460	do	16310–16460	Maritime mobile.
17360–17700	do	17360–17410	Do.
20010–2100	do	20010–20230	Do.
20010–21000	do	20950–21000	Amateur/amateur satellite.
22720–23200	do	22720–22855	Maritime mobile.

28. In addition to these proposed reallocations, this Notice contains proposals to add other services to bands now allocated exclusively to the Fixed service. As the fixed operations move from this part of the spectrum, those services can make more use of the vacated frequencies.

29. It is our intention to accommodate the fixed users that justify their operation in this part of the spectrum by reassigning the operations to suitable frequencies. To further reduce the impact on the Fixed users, we are considering proposing a footnote to the allocations table along the following lines:

On the condition that harmful interference is not caused to the Maritime Mobile Service, the frequencies 4438–4560 kHz, 5200–5300 kHz, 8000–8195 kHz, 12130–12330 kHz, 16310–16460 kHz, 17360–17410 kHz, 20010–20230 kHz, and 22720–22855 kHz may be used exceptionally by fixed stations communicating only within the boundary of the country in which they are located.

30. This note would be similar to the present Nos. 209 and 211. We are not now, however, proposing a power limit against the Fixed service using frequencies from within the maritime allocations. Comments on the proposed footnote, along with a power limit, if any, are requested.

Maritime Mobile

31. Comments on this portion of the spectrum were filed by Special Committee 69 of the Radio Technical Commission for Marine Services (Maritime Mobile Service Working Group, MM–SWG); American Telephone and Telegraph Company (AT&T); North Pacific Marine Radio Council (NPMRC); Mobile Marine Radio, Inc. (Mobile); Hoyt Haddock; and Arthur Thompson. Reply comments were filed by RTCM SC69 (MM–SWG) to the comments filed by Arthur Thompson.

32. RTCM (MM–SWG), AT&T, NPMRC, Mobile and H. Haddock strongly supported the proposed expansion of allocations to the Maritime Mobile service in the bands between 4 and 27.5 MHz. RTCM (MM–SWG) and AT&T urged that these allocations be further expanded. AT&T stated that the proposed Maritime Mobile allocations were only ⅓ of that necessary to accommodate the service and noted that frequencies in this portion of the spectrum are required because satellite systems will be attractive only to vessels with large and special needs. The RTCM stated that the increased allocations proposed in the Third Notice would fall far short of accommodating needs and submitted additional statistics which would justify additional increases. It believes that the HF Fixed service should be further reduced. Arthur Thompson believes that HF should be put to use for services which have no other alternatives and noted that the Maritime Mobile service is lagging in the implementation of new techniques such as satellite communication. The RTCM replied that there is a growing number of small ships for which the costs of satellite communications could not be justified. In general, while there was generous support in favor, there was no substantial comment in opposition to expansion of allocations to Maritime Mobile service in the 4–27.5 MHz bands.

33. In the attached Table we are proposing the band changes between 20010 and 21850 kHz, as urged by the Amateur service and supported by the RTCM, which involves the proposed allocations for the Amateur, Amateur-Satellite, Mobile, Fixed, Maritime Mobile and Broadcasting Services. We cannot, at this time, propose the additional increases in spectrum which have been requested by the Maritime Mobile interests.

Mobile

34. Comments were filed on behalf of the Citizens Band service by the International CB Radio Operators Association (CBA). In their comments, CBA restated an earlier request by the Citizens Radio Advisory Service WARC Advisory Committee that one megacycle of spectrum be proposed for reallocation to the Citizens Band service between 26 and 28 MHz. However, the Consumer Electronics Group of the Electronic Industries Association was opposed to any expansion of the service at 27 MHz because it believes that the expansion would result in more TV interference. The Private Land Mobile SWG commended the Commission for retaining the allocations below 470 MHz which are used by the Land Mobile services. The proposals contained in this Notice are unchanged from those contained in the Third Notice.

Radio Astronomy

35. The National Academy of Sciences supported the general plan of the proposed table, but concurred with the comments of the Radio Astronomy Service Working Group (RA–SWG). The RA–SWG commented that the proposed allocation at 13360–13410 kHz should be expanded from 50 to 100 kHz, and further, that the proposed allocation at 25850–26050 kHz would better meet the needs of the Radio Astronomy community if it were located at 25900–26100 kHz. Considering the needs of all services, we are unable to propose an expansion of the proposed allocation at 13 MHz from 50 to 100 kHz, and find it necessary to relocate the previously proposed allocation to Radio Astronomy from 25850–26050 to 25600–25760 kHz. The opposition to the allocation previously proposed at 25 MHz for Radio Astronomy, expressed by the Auxiliary Broadcast Service Working Group, is treated under the section headed Broadcast Auxiliary.

Broadcast Auxiliary

36. The National Broadcasting Company recommended that the frequency table continue to provide for the use of remote pickup broadcast base and mobile stations. These are currently provided in the band 25850–26100 kHz. The Auxiliary Broadcast Service Working Group opposed the proposed allocation to Radio Astronomy at 25850–26050 kHz on the basis that the allocation would substantially negate use of 25850–26100 kHz for remote pickup broadcasting. The F.C.C. rules currently locate remote pickup broadcasting within the international allocation (25600–26100 kHz) for Broadcasting. In this Notice we are proposings changes in allocations for Broadcasting and Radio Astronomy; these changes would not impede continuation of the past domestic practice of meeting the needs of remote pickup broadcast within the Broadcasting allocation, except perhaps for that portion of 25600–26100 kHz which we are proposing for reallocation to Radio Astronomy and Amateur use.

HF Broadcasting

37. Comments were filed by Trans World Radio, Trans World Radio Pacific, Far East Broadcasting Company, Inc., Family Stations, Inc., and the International Broadcasting Service Working Group. The comments urged the allocation of additional spectrum for International Broadcasting. Family Stations noted that there has already been a de-facto allocation of spectrum due to out-of-band operations conducted by some countries. The respondents generally believed that the Commission's treatment of their needs was inadequate and, perhaps, arbitrary. They noted that program hours is not a good measure of broadcast growth and pointed to channel hours as the relevant statistic which should be used (the channel hours figure increases as the number of transmitters broadcasting a particular program grows). They also noted that the Panel of Experts established following the 1959 Ordinary Administrative Radio Conference had not recommended single sideband for broadcast emission, but had limited that recommendation to radiotelephony and telegraphy systems only.

38. The thrust of the comments was that interference between stations in the bands allocated to HF Broadcasting Service is so severe that additional spectrum must be allocated since the present HF broadcasting bands are overcrowded. The number of transmitters worldwide has since 1959 increased approximately four times. Extensive monitoring by many countries has established the extreme nature of the congestion beyond reasonable doubt. The basic questions are—why are the bands so crowded and can anything be done about the growing congestion?

39. The crowded condition of the bands is partially due to the fact that the HF broadcasting services have been confined to spectrum space allocated in 1947 at the Atlantic City Conference. Over 100 countries are using the bands either for international or domestic coverage, and many for both services. This growth in usage has led to the application of higher power installations and the use of more than one transmitter to cover the same service area.

40. The proposals contained in this Notice of Inquiry are aimed toward the long term alleviation of the congestion and a reduced need for higher and higher power. First, three new bands are proposed as follows: 4063–4123 KHz; 7250–7500 KHz; and 13,700–13,800 KHz. The 7 and 13 MHz bands should provide for greater frequency diversity permitting stations to operate under more optimum propagation conditions depending upon length of path to the area to be served thereby reducing the need for competing signals in the same band.

41. Secondly, this Notice proposes the expansion of three bands to alleviate crowding. These expansions are as follows: The 11,700–11,975 KHz band would be expanded downward to 11,600 KHz; the 15,100–15,450 KHz band would be expanded upwards to 15,550 KHz, and the 17,700–17,900 KHz band would be expanded downward to 17,600 KHz.

42. We feel that the above proposals will do much to treat the basic causes of congestion in the HF broadcasting service. However, there is a great need for technical and operational rules which could facilitate the shared use of spectrum and accommodate the future growth of HF Broadcasting.

43. The time between now and the 1979 Conference is probably insufficient to develop technical and operational rules. Certainly there will be insufficient time at the Conference to fully develop plans for High Frequency broadcasting and a subsequent specialized WARC will probably need to be held to deal only with that service. In this connection, because of the present uncertainty with respect to the specific wording of certain items on the 1979 Conference agenda, there is some question as to whether Article 10 of the international Radio Regulations is to be included. Alternatively, it is possible that a resolution to hold a specialized High Frequency broadcasting conference may result. We are, therefore, requesting comments on either eventuality although the 32nd Administrative Council Session meeting in Geneva during the period May 23–June 10, 1977 may clarify the point.

44. As to the details to be taken up in such a specialized WARC we solicit comments. In this Notice we propose maximum power limits for HF Broadcasting. Should minimum power limits also be established? Compatible single side band transmissions have been suggested and offers have been made to undertake tests. A move in this direction could provide space for growth in the present bands and could result in a significant reduction in primary power requirements. Co-channel and adjacent channel protection ratios and minimum required field strength over a service area should be examined.

45. Further, Appendix 3 draws attention to proposals which among other matters would limit power, and stresses the need for consideration of compatible single side band which could improve spectrum efficiency considerably. While the conversion to CSSB would create difficulties at first in implementation, nevertheless we believe these proposals deserve intensive consideration.

46. Although requirements for HF Broadcasting have not yet been finalized, some allocations and technical changes are being proposed.

47–51. [Reserved.]

SPECTRUM BETWEEN 27.5 MHZ AND 1215 MHZ

52. Our Third Notice stated that this portion of the spectrum may be the most contentious portion to be considered in preparation for the 1979 WARC and at the WARC itself. We believe this is so because this range of frequencies is the most desirable for local broadcasting as well as non-broadcast communications. Frequencies between 450 MHz and 1 GHz are particularly suited for short-range mobile communications and will likely be the only area of the spectrum where short-range mobile communications growth can be expected to be accommodated into the longterm future. Frequencies between 470 and 890 MHz are also the range of spectrum where television broadcasters expect growth to occur. Comments and service working group reports received in response to our Notice confirm these observations. We summarize the nature and extent of the problem between 470 MHz and 890 MHz:

53. The international Radio Regulations provide exclusive frequency allocations between 470 and 890 MHz for the Broadcasting Service in Region 2.[1] Region 2 includes North and South America. In the United States the band 470 to 890 MHz provides for UHF TV channels 14 thru 83 (70 UHF-TV channels, each 6 MHz wide). Commission decisions taken in Docket 18261 and 18262 respectively provide for Land Mobile access to the lower 7 channels (14–20) in 13 major urbanized areas and for reallocation of the upper 14 channels (70–83) to the Land Mobile services nationwide with existing TV translators on a secondary basis.

Statement of the Problem

54 Beyond Commission decisions taken in Dockets 18261 and 18262 there have been non-television requirements stated particularly for short-range mobile communications, which, by the year 2000, could amount to approximately 268 MHz in the band between 470 and 806 MHz.[2] On the other hand, Broadcasting requirements for commercial and noncommercial UHF television stations have been stated which, by the year 2000 could require a full complement of frequencies between 470 and 806 MHz.

55. In reviewing the comments and the service working group reports we have found that projecting service requirements to the year 2000 is not an easy task for spectrum users. Justifying such projections is particularly difficult since the communications industry is growing and technology is changing so fast that requirements for frequencies so far into the future are subject to considerable uncertainty.

BAND 470–890 MHZ

56. In this Fifth Notice of Inquiry, we are proposing that Region 2 of the International Table be modified along the following lines:

470–512 MHz BROADCASTING/MOBILE
512–608 MHz BROADCASTING
608–614 MHz RADIO ASTRONOMY
614–806 MHz BROADCASTING
806–890 MHz Broadcasting/MOBILE

57. This proposal, if adopted by the 1979 WARC, would bring the international allocation table into line with our current domestic table except in the band 806–890 MHz where it provides for international allocation for Mobile service primary and broadcasting secondary and a footnote for mobile-satellite service operation. In addition, national rules confine mobile operations in the bands 470–512 MHz and 806–890 MHz to the land mobile services; and for Broadcast operations, to TV translators on a secondary basis in the 806–890 MHz band.

58. The above allocation proposal would reduce the exclusive Broadcasting allocations in Region 2 and would not provide for all the exclusive Region 2 spectrum requested by the TV Service Working Group. Neither would it provide for spectrum between 584 and 614 MHz requested by the Aeronautical Services worldwide, or spectrum between 582

[1] Except that Footnote 332 provides for radio astronomy use of the band 606–614 MHz.

[2] Private Land Mobile 102 to 174 MHz; Aeronautical Mobile (R) 30 MHz; Maritime Mobile 18 MHz; Radioastronomy 6 MHz; FM Broadcast 24 MHz; B'Cast Sat. (Aural) 6 MHz; Personal Radio services 10 MHz.

and 606 MHz requested by the Maritime Services worldwide. It is argued that co-equal allocations would provide the flexibility requested by the land mobile community for a primary Broadcasting and Mobile allocation in Region 2 in the band between 512 and 806 MHz to meet potential need for between 102 and 174 MHz of spectrum in this band.

59. The Commission is not convinced that sufficient evidence has been introduced to justify a position other than that outlined in paragraph 56 for any of the services indicated. Proposals for the use of the band 470–890 MHz range all the way from exclusive television broadcasting to a total co-equal allocation of broadcasting and mobile across the band. The Commission finds that the various service working group reports and comments received do not adequately justify in terms of documented future growth, scientifically based studies and usage data, the requests for exclusive worldwide spectrum allocations for aeronautical and maritime services or the shared Region 2 international allocation requested by the land mobile community. Absent such documentation we see no compelling reasons, at this point, to provide for exclusive allocations or additional flexibility in the international table between 470 and 890 MHz beyond that described. Accordingly, we continue to solicit comments and supporting data to fully support retention of present allocations, as well as any changes in the allocations as proposed in paragraph 56. We also solicit further views regarding alternatives which may exist to satisfy requests for spectrum between 470 and 890 MHz.

60. It should be noted that the Commission created a Task Force on October 14, 1976, to obtain information and conduct studies to aid in developing policies concerning frequency allocations in the UHF television band (470–890 MHz). It is hoped that the interim results of its studies will be available early enough to assist the Commission in formulating a final U.S. position on UHF allocations for the 1979 World Administrative Radio Conference. One of the areas to be examined by the Task Force concerns the requests of the non-television services seeking the use of the 470–890 MHz spectrum. Time constraints of the WARC have limited the major focus of the group in this area to consideration of the international services requests. These are the Aeronautical and Maritime Services which seek, respectively, 30 and 18 MHz of the spectrum domestically allocated to the UHF television band. While much information has been developed on the present VHF operations of the Maritime Service and a lesser amount on the Aeronautical Service, additional specific data is needed for each service.

61. As technology progresses it is likely that improved methods of television transmissions will emerge providing a new generation of higher quality pictures and sound. It is questionable if such a new generation can be expected to emerge within the spectrum currently allocated to VHF, but may emerge in the UHF band. It is also anticipated that lower power local origination television stations may also develop in the UHF frequencies. Further, the future needs of minorities and non-commercial operators may be heavily dependent on frequency availability in the UHF band. Additional comments, documenting as far as possible, future broadcast type needs in the UHF band are invited.

62. The Commission recognizes the complexity of issues found at this band both internationally and domestically, issues which relate to technology, growth of services, the need for flexibility, and the efficient use of spectrum. Comments are requested on these and other related issues.

63. [Reserved]

Aeronautical Mobile

64. The aeronautical community has withdrawn its proposal for a navigation requirement while stating the continuing need for operational control communications between 584 and 614 MHz. A flexible allocation is desirable for aviation services. Communications in the Aeronautical Service occur between aircraft of all nations and U.S. land stations as aircraft arrive and depart U.S. airports; aircraft are subject (functionally and technically) to compulsory equipment outfitting for safety resulting from international treaties, and international frequency planning is accepted practice. Moreover, the lead time required to plan an aeronautical conference, which is convened to consider planning for aviation only and does not consider any other service, necessitates that band limits for aeronautical operations be specified in advance. The aeronautical community believes that these factors warrant specific allocation proposals.

65. Comments were solicited in the Third Notice as to satisfying additional aeronautical requirements of 8 MHz for operational control. In the Third Notice, no proposal was made to satisfy this requirement between 136 and 150 MHz. In this Fifth Notice we are again unable to advance a proposed solution. While attempting to address the requirement, we have looked at the idea of satisfying a portion of the requirement in the mid-range future by adding a footnote to the band 136–138 MHz which would provide for gradual reduction of presently allocated services. This footnote could read along the following lines:

ADD 273C In the band 136–138 MHz no new transmitters are authorized the Space Research, Space Operation or Meterlogical-Satellite services after 1–1–82. Operation by these services are on a primary basis until 1–1–87 and on a permitted Secondary non-interference basis to the primary service until 1–1–90. Operation by the above services is not permitted after 1–1–90. In this band the Aeronautical Mobile (R) Service is not authorized operation in this band until 1–1–82. During the period 1–1–82 until 1–1–87, operation by the Aeronautical Mobile (R) service will be on a secondary non-interference basis. After 1–1–87 the Aero Mob (R) Service is the primary service.

66. In looking at the present space users between 136–138 MHz, we find that there is a major capital investment of perhaps over 5 Billion dollars in the U.S., and a further substantial investment on a worldwide basis. In addition to present satellite systems in this band, *i.e.*, GOES, ITOS, Timation Navigation, SOLRAD, and others, planned future activities indicate a continuing need for U.S. and foreign satellite operations. It thus becomes apparent that the satisfaction of aeronautical requirements in this band is not possible. Comments on other solutions to this problem are requested.

67. Notwithstanding the above, we note that our rules provide for 25 kHz channel spacing the band between 128.-825 MHz and 132 MHz effectively doubling available frequencies to 128 for enroute (operational control) functions. While we recognize the limitations on the use of these frequencies due to international coordination, information is requested on an implementation schedule for their use and the effect which use of these 25 kHz channels will have upon (1) satisfying current and future needs of aviation for operational control, (2) the need for additional VHF spectrum, e.g., 136 MHz–138 MHz and (3) the need for UHF spectrum, *e.g.*, 584 MHz–614 MHz. Comments are solicited on this approach and these questions, and further, how this requirement can be satisfied.

67A. In support of the effort discussed in paragraph 60, information is requested in the following areas of present spectrum usage for both network and off-network stations in busy locations in congested areas:

1. Peak-hour occupancy
2. Average-hour occupancy
3. Waiting time
4. Number of messages per day
5. Length and type of messages transmitted.

Amateur/Amateur-Satellite

68. The Amateur community generally supported proposals in our Notice with the exception of the introduction of the Mobile service in the band 220–225 MHz. Amateurs also request provision for Amateur-Satellite service in Region 2 for the band 902–928 MHz which in accordance with existing national policy is used on a primary basis for Radiolocation systems. We have made proposals for a secondary allocation for Amateur in this band. Due to national requirements, we have been unable to accommodate a proposal for Amateur-Satellite at 220–225 MHz. We have addressed the 220–225 MHz Mobile allocation elsewhere.

69. In addition, the National Astronomy and Ionosphere Center (NAIC) recommended that we propose a shift in the Amateur-Satellite allocation at 435–438 MHz to the top of the band (447–450 MHz). We believe that experience at 435–438 MHz has demonstrated that amateur satellites have little or no potential for interfering with other radio services which share the same allocation and that

reliable control of the emissions of an amateur satellite can be accomplished, further providing necessary protection to other services. Moreover, present sharing arrangements with Radiolocation has proved to be satisfactory. To shift Amateur-Satellite allocations to 447–450 MHz is likely to cause interference between Amateur stations since the band 442–450 MHz is available for amateur repeater stations. Thus, we propose to maintain the Amateur-Satellite allocation.

Broadcasting

70. The television industry stated that there has been no showing that it is necessary to revise the international table of allocations to accommodate either land mobile demand for UHF channels or any other nonbroadcast demand. Moreover, Broadcasters stated that the full complement of frequencies allocated to Broadcasting will be needed for local service, and that no feasible alternatives exist. Further, Broadcasters project that public television stations will grow from 160 presently to more than 420 by the year 2000 and expect similar growth and saturation for commercial UHF stations.

71. Thus, the television broadcasters recommended maintaining the exclusive international allocation to Broadcasting between 470 and 890 MHz. Our Third Notice in this proceeding proposed reallocation of the band 806 to 890 MHz to the Mobile service in Region 2 to be consistent with Commission decisions taken in Docket No. 18262. However, broadcasters proposed that access to that band for UHF television translator stations be retained, which is presently provided for in our rules.

72. FM Broadcasters requested that a new FM service be proposed as originally suggested between 782 and 806 MHz. Such a service, as with other such proposals, is properly addressed in domestic rule making, provided, however, that the allocation for Broadcasting in Region 2 remains in the international table of allocations.

Land Mobile (Common Carrier)

73. The common carrier land mobile community supported our Third Notice with respect to existing allocations but noted that no provision was made for decisions taken in Docket No. 18261. In addition, our proposal for a Mobile allocation between 896–902 MHz and 941–947 MHz, which may be used for a worldwide air-ground public correspondence service, was supported by the common carier land mobile community and AT&T because it has the necessary flexibility for possible future domestic inquiry and allocation. While the Aviation Service Working Group also supported the Mobile allocation, the Private Land Mobile Service Working Group opposed consideration of an air-ground service since reserve frequencies potentially available to private land mobile might be used. The Auxiliary Broadcast Service Working Group also objects to inclusion of an air-ground service since Broadcasters seek to restore use of the band 942–947 MHz for Aural STL and Inter-City Relay services. We also note that sharing problems may exist with the Radiolocation service.

74. In this Fifth Notice we are proposing a secondary allocation for Radiolocation in the 896–902 and 941–942 MHz bands. Radars, mostly mobile, now operating in these bands and others, and projected during the future will have the following general parameters:

Power Peaks—1–3 Megawatts.
Pulse Repetition Rate—250–300 pps.
Duty Cycle—about 1%.
Beam Width (Horizontal)—1–3 degrees.

The distribution of platforms carrying these radars is relatively sparse on a worldwide basis.

75. We are continuing our proposal for a Mobile allocation at this time to be consistent with our goal of flexibility and to provide for future planning in accordance with long term needs and priorities. However, comments are invited from interested parties, particularly the general aviation community, with respect to the need for and scope of the worldwide public air-ground service, which might operate in the 896–902 and 941–947 MHz bands.

76. The Common Carrier Land Mobile and Aviation Service Working Groups have submitted substantial justification for this public air/ground service. This service is primarily intended to provide a radiotelephone link between the airplane and the ground telephone system to give passengers and crew a means of communicating for purposes *in addition* to those associated with the safety, control or origin of flight of the aircraft. This type of service is presently not permitted on frequencies allocated to the Aeronautical Mobile (R) Service. An existing system which operates in 450–460 MHz is inadequate for anticipated future expansion and is primarily limited by agreement with the scheduled airlines to General and Business Aviation uses. Any air-ground public telephone system which would cater to airlines as well as general and business aviation should have adequate frequencies to support world-wide needs. An ultimate public correspondence system should be able to communicate with an aircraft in flight anywhere and be able to connect it directly with the worldwide telephone network at or near its geographic position.

In summary such a system may consist of the following:

1. Provide public radiotelephone service to commercial aircraft and general aviation.
2. Provide a 0.98 probability of obtaining a channel.
3. Have geographic distribution of ground stations of between 77 and 154 miles.
4. Accommodate aircraft flying between 2,000 and 60,000 feet.
5. Provide up to 300 radio channels spaced between 25 and 40 kHz.

77. Further, we note that if an air-ground system is implemented at 896–902 and 941–947 MHz, it may in fact be too close to the Aeronautical Radionavigation band at 960–1215 MHz, causing unacceptable interference aboard the airframe. Comments on this issue are requested.

78. Finally, to what extent may the band 584–614 requested by the Aviation SWG for operational control communications satisfy the needs for a public air-ground system? As to the international nature of the proposed air-ground service, how could it be operated in conjunction with, while being distinguished from, the Aeronautical Mobile (R) service which provides for operational control and safety communications? Comments on these issues are requested.

Land Mobile (Private)

79. The private land mobile community indicated that dramatic recent growth has been experienced in stations authorized, particularly in major urbanized areas, projected similar growth into the future, and identified new uses for communications beyond existing applications. It contends that growth would have to be met by recently made 900 MHz allocations, the 902–928 MHz band, the 952–960 MHz band, and some amount of spectrum (between 102 and 174 MHz) out of the remaining UHF-TV bands between 512 and 806 MHz. Therefore, the private land mobile community recommended a co-equal Mobile and Broadcasting allocation between 470 and 806 MHz to provide flexibility in the international table of allocations and to permit flexibility to leave domestic UHF-TV allocations intact to the degree that is necessary. Thus, domestic decisions would be made in accordance with our own needs and priorities.

80. With respect to the band 902–928 MHz, Hazletine Corporation opposed introduction of Amateur and Mobile services on the basis that such action could discourage development of the band for the primary Radiolocation service.[3] A proposal of flexibility in the international table is the more important goal and future domestic rule making will address the specific services in accordance with long-term needs and priorities, if the proposal is adopted at the 1979 WARC. We further note that there are also national Radiolocation requirements, on a continuing basis, in this band on a primary basis.

81. The Private Land Mobile SWG supported our proposal to identify spectrum below 1 GHz to accommodate mobile satellite uses but opposed such use in the band 806–890 MHz which is the home for future terrestrial land mobile systems. AT&T opposed the proposal on the basis that no new unique service is proposed which could not be performed by Land, Aeronautical, or Maritime Mobile-Satellite services, for which there are already frequency allocations, and that fundamental sharing problems when one or both sharing services are mobile have not been addressed. General Electric and the Domestic Public Land Mobile SWG opposed the proposed footnote 329B and

[3] In this connection, national rules provide for Automatic Vehicle Monitoring (AVM) operations subject to not causing harmful interference to government stations and accepting interference from ISM devices and government stations authorized in the band.

stated that space radiocommunications in this band would limit spectrum use efficiency by the inability to re-use channels on a geographic basis to the same extent as terrestrial systems; thus, the objectives of Docket No. 18262 would not be realized. COMSAT General supported the footnote or specific allocations. We are proposing to keep the footnote at this time, to be consistent with our goal of flexibility and to provide for future planning. However, comments are invited from interested parties as to the nature of services which could be provided (*e.g.*, is it confined to land mobile users or are small fixed stations or other mobile users to be served); why such services could not be accommodated in specific service allocations elsewhere, and if the footnote should be proposed in another frequency band, what band? Further, what practical coordination problems may exist with terrestrial users and how may these be minimized? Comments on these issues are requested.

Maritime Mobile

82. In the Third Notice we indicated that little hope existed to statisfy existing requirements on Appendix 18 frequencies and that inadequate spectrum is available for growth between 150 and 174 MHz. Comments received in response to our Third Notice confirm that long-term maritime requirements are such that they could not be satisfied on VHF frequencies even if all Appendix 18 frequencies were made available. However, the maritime community still requested deletion of those portions of footnote 287 which permit administrations to make assignments to other services, in order to provide full use of Appendix 18 frequencies to meet immediate maritime needs not presently satisfied and to conform with internationally agreed use. While comments provided by the American Association of Railroads strongly opposed deletion of footnote 287 on the basis that such action would have consequences endangering the operations and safety of the entire railroad industry, the Associated Public Safety Communications Officers, Inc. stated that if the Commission determines to recommend deletion of footnote 287 and if it is accepted by the WARC, then displacement of public safety licensees should be accomplished over a period of at least seven years from the effective date of the international decision. Only 4 frequencies representing less than 5 percent of police VHF frequencies are affected, as compared to 33 frequencies representing one-third of railroad VHF frequencies, and 13 frequencies representing one-third of highway maintenance VHF frequencies. In brief, since it appears that long-term growth for maritime services, particularly public correspondence communications, cannot be met by Appendix 18 frequencies, we question how immediate needs of maritime can be met except through domestic rule making which is outside the scope of this proceeding. It appears that future growth particularly for maritime public correspondence will need to be satisfied at higher frequencies, i.e., above 400 MHz.

83. Although the maritime community agrees that the goal of flexibility in the international table is a desirable objective particularly for domestic services where control of allocations between domestic mobile services and broadcasting may be expected to be settled after WARC 79 through domestic rule making, it contends that its allocations are not necessarily controlled within the U.S. and that it is basic and essential that specific worldwide allocations be provided to permit future planning. Furthermore, specificity would preclude a situation where the U.S. is at variance with the rest of the world, a situation which presently exists on the Appendix 18 frequencies.

83A. Also in support of the effort discussed in paragraph 60 information is requested in the following areas: (1) Public coast stations operated by non-AT&T licensees are requested to furnish data concerning the following areas of their station's operation: (a) Channel occupancy during the busiest hour of an average day.

(b) Average message length (conversation time).

(c) Average set-up time (i.e., from the time the operator responds to a call, how long does it take to place the call).

(d) Number of messages handled each month for the years 1975 and 1976.

(2) In certain areas the UHF Task Force has noted that existing public correspondence channels are heavily used. In some areas it appears that assignment of additional channels could be accomplished, but have not been requested. What criteria are presently used to decide when and where to request assignment of additional channels.

(3) 1.5 MHz has been requested at UHF for on-board communications. These operations involve communications over short ranges for which higher frequencies could be substituted; however, we recognize there may be difficult technical problems associated with the development of hand-carried equipment above 1000 MHz. UHF is more useful for longer range communication with mobile units. Comments on the use of frequencies other than UHF to perform this function are needed.

(4) 3 MHz is requested for aeronautical-maritime coordinated communications. Specific data justifying this request is sought as it represents twice the VHF maritime spectrum currently allocated in the U.S.

(5) Use of maritime frequencies on board recreational craft is a national rather than an international concern. Many recreational boaters presently use Citizens Band (CB) equipment rather than VHF maritime equipment. Comments are requested recommending alternatives looking towards solution of the recreational boaters communication requirement with an allocation similar to CB but with consideration given to the distress function.

(6) Specific data should also be furnished to justify the spectrum requests for vessel traffic services (0.2 MHz), ship-to-shore radiotelephony (0.75 Mhz) and radiotelegraphy (0.6 MHz).

Mobile (Personal Radio)

84. In the Third Notice a Mobile allocation was proposed in the bands 220–225 MHz and 890–947 MHz, to provide future flexibility for the introduction of mobile operations.

85. Comments by Amateurs and the television industry opposed the Mobile allocation at 220–225 MHz, anticipating personal radio use in the band, and thus, intolerable interference to existing operations. Amateurs and the TV industry suggested that 900 MHz should be the future home for personal radio users.

86. We believe that it is premature at this point to discuss spectrum to be allocated to domestic mobile services since such discussions prejudge the outcome of the WARC–79 Conference and domestic allocation proceedings likely to occur after WARC–79. Flexibility to plan for future needs is the more important goal; thus, we are proposing to maintain the mobile allocations in Region 2.

Radioastronomy, ISM, Fixed

87. We are unable to propose an allocation for Radioastronomy use at 150–153 MHz, or to propose a shift in the Amateur Satellite allocation at 435–438 MHz to the 447–450 MHz band. Heavy land mobile use of the 150–153 MHz will continue to prevent any protection to radioastronomy at 150–153 MHz. The Amateur Satellite allocation is discussed elsewhere.

88. With respect to the ISM allocation at 915 MHz, the ISM Community supports the proposal to expand existing ISM bands worldwide by introducing footnote 340 into Regions 1 and 3.

89. The Private microwave community opposed our proposal to introduce the Mobile service into the band 952–960 MHz on the basis that microwave stations are expected to grow from 2600 at present to 6700 by the year 2000. We are proposing to maintain the co-equal Fixed and Mobile allocation to be consistent with our flexibility approach. If such a proposal is accepted by the 1979 WARC, domestic rulemaking would be required to determine which frequencies would be available and for what service or services.

SPECTRUM BETWEEN 1215 MHz AND 10.7 GHz

THE USE OF ISM FREQUENCIES AND WIRELESS TRANSMISSION OF POWER

90. Considerable information has been received concerning the expansion of industrial electronics. Several comments have suggested that the ISM bands be harmonically related and that the existing 5800 MHz allocation be changed. Study of this matter, however, suggests that this could be unreasonably disruptive of existing arrangements and our present thinking is, therefore, to retain existing bands.

91. With regard to the wireless transmission of power, this is seen as an entirely different problem, not in any way related to ISM matters. One form of the wireless transmission of power is the concept of a Satellite Solar Power System (SSPS), and a footnote has been proposed looking toward the accommodation of such a system. Several parties have adversely commented on the proposed footnoted frequency allocation to the Solar Satellite Power System (SSPS) use. In view of its technical complexity, possible impact on other services, and significance of technological concepts, the following information is provided.

92. The operational SSPS has been proposed to contain a space station in the geostationary orbit where the solar energy will be converted to dc using either the photovoltaic effect of the silicon solar cell or a heat engine generating electricity. For an SSPS delivering about 5000 MW of dc power, two solar panels, each one having a dimention of 5.2 km by 4.33 km [4] would be required. The maximum theoretical efficiency of silicon solar cells is about 20 percent while the efficiency practically obtained is about 11 percent. The currently expected lifetime, which is influenced by the environment, is about 10 years. Solar radiation damage causes a logarithmic decay of solar cell effectiveness. Research on radiation-resistant solar cells is in progress which is predicted [4] to result in a life-expectancy of 30 years.

93. The dc generated at the space station is fed to a microwave generator whose design is based on the principle of either a cross-field amplifier (CFA) device or a klystron. The output of each individual tube could range from 2 to 5 kW. It has been projected that about 1 million or more tubes would be needed for each SSPS, and the total radiation contemplated is on the order of 5–10 gigawatts.

94. For a 1 km diameter transmitting phased array antenna having a gaussian distribution in the beam, the diameter of the receiving antenna would be about 7 km for interception of 90 percent of the transmitted energy. Depending on the design, the received microwave density levels could vary from about 100 mW/cm^2 at the center to about 0.1 mW/cm^2 at a distance of 13 km from the center of the received beam.[4] The direction of the transmitted beam is proposed to be accurately controlled by a pilot signal transmitted from the center of the receiving area. The optimum frequency of operation is stated [4] to be between 2 and 4 GHz, and fundamental frequencies of 2450 and 5800 MHz have been proposed for this service.

95. The receiving antenna would intercept, collect and rectify the microwave energy into dc which could be transmitted as dc or as ac after suitable conversion. Distributed half-wave dipole antennas and Schottky barrier diodes are proposed to respectively receive and rectify the microwave energy. The receiving antenna element spacing is proposed to be 0.6 times the operating wavelength requiring a total of 14 billion elements.

96. As ninety percent of the SSPS energy will be confined to a beam of about 0.01 degree in diameter, an antenna pointing accuracy of about a tenth of the beam width or 0.001 degree could, then, be required. We consider it premature to speculate on the feasibility of practically achieving this order of antenna pointing accuracy.

97. The peak noise power of CFA is predicted to be 85 dB/MHz below the fundamental. The noise power can be reduced by introducing a filter between each generator and the antenna with a predicated [4] 6 dB attenuation per octave (of 50 MHz) per section.

98. The U.S. International Radio Consultative Committee Study Group draft paper 2/302 states that a 5 cavity Klystron envisaged for use with the SSPS would provide 120 db attenuation at a distance of 50 MHz from the center frequency, thereby providing a 26 db margin from a single SSPS above the ITU power flux density (PFD) limit of $-154dBW/m^2/4kHz$, although this is still above the limit required for Radio Astronomy Service.

99. The energy from the different CFA tubes is additive at the operating frequency and is focused in the main beam of the phased array. However, we consider it premature to speculate on the performance of the phased array outside the operating band and at the harmonic frequencies. In addition to the modification of the footnote 357A proposed by AT&T, it could be specified that the radiation from the SSPS shall meet all the ITU PFD regulations outside the occupied bandwidth of the SSPS, and that the energy from the SSPS shall be attenuated by specified amounts outside the occupied bandwidth, and that the occupied bandwidth shall be 5 MHz.

100. The projected cost of SSPS power (5 gigawatt unit) at the bus bar, for an operational life of about 30 years, is estimated [4] to be 2.7 cents per kWh. For an operational life of 10 years, the cost of SSPS power could increase to 8.1 cents per kWh. The projected costs of power from terrestrial solar plants (100–150 MWe) i.e. non-tracking flat plate, 2–D, brayton, steam, chemical, central receiver and photovoltaic are estimated [4] to be 9.7, 8.6, 7.3, 5.5, 5.7, 4.6 and 8.6 cents per kWh respectively.

101. The optimistic launch data for an operational SSPS is 1995 although there are many technical uncertainties in the program.

102. There are several areas of concern as they relate to the possibility of interference or biological damage. For the present footnote 357A has been modified accordingly.

103. These problem areas are itemized below. (1) The possibility of interference associated with out-of-band radiation. This consists of 3 principal components: (a) Harmonics of the fundamental frequency; (b) Noise spectrum associated with each component of (a); (c) Spurious signals.

(2) Scattering and other phenomena in the ionosphere and upper atmosphere which could possibly result in crossmodulation with other carriers, or widespread interference fields.

(3) Phase fluctuations on the received signals and its harmonics due to corresponding fluctuations in the refractive index. Such fluctuations could produce an intrinsic noise spectrum due to the associated phase modulation of the received signal.

(4) Area coverage problems associated with the severe pointing accuracy and side lobe requirements of the main beam. The U.S. International Radio Consultative Committee Study Group draft paper 2/302 indicates a sidelobe level of −25 dB (referred to the peak radiation) which represents a fundamental radiation density of about 0.3 mW/cm^2 at a distance of 7km from the center of the receiving antenna. We are not certain as to the practically achievable sidelobe level from a 1 km diameter phased array.

(5) Physical effects in the upper atmosphere which may be associated with such high flux densities and are ordinarily of no consequence but which may result in hitherto unsuspected sources of interference.

(6) Biological and ecological hazards due to the radiation levels contemplated both on the earth's surface and throughout the world's atmosphere, particularly relating to aircraft in flight.

104. We are soliciting detailed and explicit comments on each of the problem areas outlined above, so that appropriate allocations and guard bands can be structured.

Radio Astronomy

105. Two bands connected with radio astronomy remain as serious problem areas. The first of these is the band 1370–1400 MHz. The RA service views this band as one of its highest priorities since observations of the hydrogen line are related to critical studies of the universe. At present, RA use of this band is covered only by footnote 349A, and its importance is felt by RA to justify exclusive use of the band. At present this band is allocated in Region 2 to the Radiolocation Service, and is utilized to satisfy national requirements. At present, the request of the RA service is being intensively studied, however, a resolution has not been forthcoming at the time of writing.

106. The second problem area is in the 2670–2690 MHz band. The proposed exclusion of the Broadcasting Satellite Service from this band as suggested in the 3rd NOI was met with very strong opposition. The Broadcasting Satellite Service has severe demands for growth and urgently needs this spectrum. The RA group on the other hand indicates that a CCIR limit for interference in this band has already been developed and should serve as a guide for sharing. However, this limit would certainly preclude

[4] Solar Satellite Power System Concepts, Hearing before the Subcommittee on Space Science and Applications and the Subcommittee on Energy Research, Development and Demonstration of the Committee on Science and Technology. U.S. House of Representatives, Ninety Fourth Congress Second Session, February 20, 1976, (No. 67).

satellite service operating in real time since the limit is established by virtue of the integration time permissible with RA observations.

107. The RA service has pointed out that a 1 percent bandwidth is required for observation in the 3 GHz region, the 2670–2690 slot being the most promising choice. We have looked at other options in this region. However, the interference level to be expected from existing services would be too great, or the restrictions on these services necessary to obtain the required protection would be too great. We are therefore unable to resolve this dilemna without further suggestions from the parties concerned. These should resolve the following: (1) Is it possible for the Broadcasting Satellite Service to meet the required RA interference criteria or relinquish spectrum in areas where astronomers are making continuum observations. Alternatively, are there any possibilities whereby effective sharing criteria (time technology area, etc.), regardless of determinants, can be developed; (2) The band 3325–3355 MHz, where discrete observations are currently being made appears to be the next most obvious choice. The allocation of this portion of the spectrum to Radioastronomy was suggested by the PSSC in lieu of the present allocation at 2690–2700 MHz.

Continuum measurements require determination of interference and sharing criteria. What measures can be proposed by the services occupying this band so that effective use by the RA service can be obtained. We seek the ideas of all parties concerned, to solve this sharing problem. (3) Are there other alternatives which might be addressed which would permit the RA service to obtain a 1 percent continuum band for its observations, and share this effectively with other services.

108. Until this problem is resolved, we are proposing to maintain both the Broadcasting Satellite and Radio Astronomy Services in the band 2670–2690 MHz.

Fixed-Satellite Service

109. Since the 3rd NOI, considerable effort has gone into attempting to provide additional spectrum space for this service. Problems still remain formidable, and efforts continue to obtain bandwidths in spectrum also required for other national needs. Whatever decisions are finally made, it is evident that highly coordinated sharing criteria will pertain. The options still remain as outlined in the 3rd NOI.

110. We recognize that highly coordinated sharing criteria will need to be developed if the Fixed-Satellite Service is to successfully share the 3400–3700 MHz, 4400–4700 MHz, and 5725–5925 MHz bands with other services which are required to satisfy other national needs. In response to the Third Notice of Inquiry, several parties requested further details with respect to the proposed addition of Aeronautical Radionavigation in the band 3500–3700 MHz. This band is intended for use, inter alia, by ground based airport surveillance radars and this addition would provide international recognition and protection of a service which has already been allocated domestically. There are probably similar questions regarding sharing in the other bands referenced above. Recognizing that any sort of meaningful evaluation of this problem would be impossible without a better understanding of the proposed uses for these bands, we have been provided with an independent analysis of the problems of sharing these bands between the Fixed-Satellite Service and the other services having requirements therein. This analysis is attached to this Notice of Inquiry as Appendix 5 and highlights the complexity and difficulties of sharing in these bands. (Appendix 5 supplied by the Executive Branch.)

111. The principal difficulty with the 6425–6925 MHz band occurs at the two ends; above 6875 MHz the band is used by the Auxiliary Broadcast (mobile) service; while from 6425–6575 MHz, it is used in a similar fashion by other mobile services. Sharing in these portions of the band, if actually possible, can only be accomplished under carefully defined conditions, and at this juncture there is not agreement on what these conditions should be. We therefore seek advice as to the definition of specific criteria for such sharing. The alternative would be, of course, to relinquish the top 50 MHz and the bottom 150 MHz of this spectrum.

112. The proposed companion band (down link) of 4400–4900 is a currently heavily used band, and again, sharing if feasible at all, would require special criteria. The more basic question then is this—if it is not possible to use the 4400–4900 band, what should be paired with the proposed 6425–6925 band? Alternatively, would it be preferable to dispense with this proposal, and aim rather toward expansion near the existing 4 and 6 GHz bands? The use of these bands has demonstrated the feasibility of sharing in already heavily congested portions of the spectrum. The fact that this has proven successful would seem to suggest that a combination of ingenuity and inventiveness might be used to develop criteria for those other portions of the spectrum under discussion here. In making such comments it is recognized that the nature of the services which have successfully shared these bands (existing at 4 and 6 GHz) lends them to such sharing. Much greater problems exist in other bands proposed due to different kinds of services already in occupancy, and in the case of mobile, there can be no doubt that sharing problems may be almost insurmountable. Nevertheless, we would urge both the present users of the various bands suggested, and also the Fixed-Satellite service, to view the total situation in terms of solutions rather than problems. The logical extensions of the 4 and 6 GHz bands would be in the 3.4–3.7 GHz, and 5.625–5.925 GHz bands as originally suggested in the Third NOI. At this juncture, the maximum bandwidths (in each of these bands) that appear feasible to share with existing services is quite limited. As yet it is not clear whether any part of the 4.4–4.9 GHz spectrum could readily be shared. The questions are two fold: (1) are such small bandwidths of value, considering that difficult sharing criteria would certainly be necessary; and (2) can special criteria be established which could, as a practical matter, permit sharing more of the spectrum? The problems therefore resolve to the following:

(1) What are the real needs of the service in terms of continuous and contiguous bands?

(2) Is it possible, given conditions of use, geographical location, power, probability of service, power modulation, and/or any other criteria, that sharing criteria can be developed where they do not presently exist? We submit this is the critical question before all users. The many comments and reports in connection with this matter reflect the desperate need of all services. It is evident that partnerships previously considered impossible are going to have to evolve in order to bring any degree of satisfaction to all those who need and demand spectrum.

(3) What are the band options, in terms of preference, that the Fixed-Satellite service should address most vigorously, so that criteria can be developed in terms of priority?

113. In view of the foregoing comments, we have tentatively suggested the following: (1) The band 6425–6925 MHz be used for the up link, (as in the 3rd NOI) recognizing the need to develop explicit sharing criteria with the mobile services.

(2) The down link be split into two bands (a) 3400–3700 MHz and (b) 5725–5925 MHz recognizing the need to develop appropriate sharing criteria with existing services in these bands.

114. We solicit comments with respect to these choices, taking into account the foregoing statements. The problems inherent in these choices are formidable and are at present unresolved and we therefore seek information which will aid us in providing the Fixed-Satellite service with needed spectrum. It should be further pointed out that the Broadcasting-Satellite service has requested use of the 3400–3700 MHz band also, and this of course further exacerbates the sharing problem. This request for access to the 3400–3700 MHz band by the Broadcasting-Satellite Service was not known to the authors of the sharing analysis performed in Appendix 5 prior to its completion, and therefore no analysis is available with respect to the Broadcasting-Satellite Service. It can be assumed, however, that due to the special characteristics of the Broadcasting-Satellite Service, the sharing problems foreseen will be even more severe than for the Fixed-Satellite Service. We solicit comments as to how the Broadcasting-Satellite Service also might be accommodated in some useful fashion.

Broadcasting-Satellite Service

115. The Broadcasting-Satellite Service Working Group has asked for the rentention of the 2500–2690 MHz band, as well as expansion into certain other bands. The 2670–2690 MHz portion of the above band was proposed, in the Third

Notice of Inquiry, for reallocation to the Radio Astronomy Service. However, in view of the strong opposition demonstrated by certain parties to this proceeding, as well as alternative proposals put forth, this question is still very much open for discussion. Until this problem is resolved, we are proposing to maintain both the Broadcasting-Satellite and Radio Astronomy Services in the band 2670–2690 MHz. Reference should be made to the section on Radio Astronomy for a more detailed discussion on this item.

116. The band 2300–2500 MHz has been suggested as an additional allocation to the Broadcasting-Satellite service. The proposed table does not reflect this service, but the problem must be addressed before the allocations can be finalized. Existing services have indicated serious opposition to this proposal. Attention should also be drawn to the fact that this band is also allocated for ISM use and we have proposed a footnote which would provide for the wireless transmission of power from space at 2450 MHz. However, the fact that the Broadcasting-Satellite Service is not shown in any part of this band in the current table is not intended to mean that consideration of its sharing in the band has been eliminated.

117. There has also been a request for Broadcasting-Satellite Service access to the 3400–3700 MHz band. Use of this band for satellite service has been discussed under the Fixed-Satellite Service, which is presently allocated internationally in this band. Conditions for the shared use by both the Broadcasting-Satellite and Fixed-Satellite Services, along wtih existing services, present serious problems and comments are solicited in this respect.

Aeronautical Mobile Satellite Service

118. In response to the Commission's request for comments on the general philosophy proposed by the Aviation SWG that space applications are merely extensions of the aeronautical terrestrial services, and thus should not be accorded separate status, COMSAT General states that the philosophy was rejected at the 1971 WARC and has not been advanced by other SWG's in preparing for the 1979 WARC. While we believe that the aviation philosophy may be useful in existing exclusive aeronautical terrestrial allocations, there are no compelling reasons to eliminate the specific allocations to Aeronautical Satellite Services in the bands 1542.5–1558.5 MHz and 1644–1660 MHz.

119. With respect to these allocations, the aviation community has requested maintaining them for aeronautical mobile-satellite (R) use. We note that no specific justification has been advanced ot maintain 30 MHz for the exclusive use of the Aeronautical Mobile Satellite Service. There is a lack of U.S. air carrier interest in the experiment, hence, comments are requested as to whether or not the aviation requirements for 15 MHz in each direction, which were presented by the U.S. at the 1971 Space WARC, are still valid.

120. On the other hand, there is allocated a total of 15 MHz for the exclusive use of the Maritime Mobile Satellite Service and we have received extensive requirements of need for approximately 25 MHz beyond existing allocations. The Maritime SWG states that the operation of MARISAT has opened up new applications stemming from marine seismic and drilling communications requirements; that the potential airplane market is considerably less than the ship market for an international satellite system; that a convention and operating agreement on the INMARSAT Organization have been opened for signature and will likely provide a single international system during the next several years to serve ships and structures operating in the marine environment; and that if additional allocations are not provided, it is likely that service to some users may not be able to be offered. All of these factors imply more vigorous interest for the maritime satellite service and the need for a reallocation of the bands between 1535 and 1660 MHz to more accurately reflect the needs of the two services. In this connection, COMSAT General states that a portion of the 1558.5–1636.5 MHz band can be allocated to the Maritime Satellite Service since requirements of the new Aeronautical Radionavigation Satellite Service between 1595 and 1636.5 MHz can be satisfied in existing Aeronautical Mobile Satellite (R) Service frequency allocations intended to encompass domestic and international air traffic control as well as operational control. The Maritime SWG suggests expanding the 1 MHz shared Aeronautical/Maritime Mobile Satellite bands at 1542.5–1543.5 MHz and 1644–1645 MHz by 6 MHz each into the Aeronautical Mobile Satellite bands, thereby providing flexibility needed for development of either service or for a cooperative venture. Comments are requested as to which portions of the bands 1535 to 1660 MHz if any, should be reallocated for Maritime Satellite Service use or shared with Aeronautical Satellite Services. We address separately the frequency bands between earth stations at fixed points and satellites.

121. In considering the shared use of these allocations between the aviation and maritime communities, merit was seen in the possible shared use of these bands for coordinated distress and safety operations. Consequently, we propose the addition of a new footnote 352L which reads, "In the frequency bands 1542.5–1543.5 MHz and 1644–1645 MHz distress and safety operations of the Maritime-Mobile Satellite and the Aeronautical-Mobile Satellite Services shall be given priority".

Maritime Services

122. While spectrum within the existing 500 MHz of allocations in the Fixed Satellite Service (e.g., at 6/4 GHz and 15/11 GHz) will continue to be needed to meet estimated requirements for maritime communications between satellite and land, it appears that projected non-Maritime growth is expected to exceed these allocations. Whether or not this occurs, existing spectrum and any additional allocations provided for the Fixed Satellite Service must include uplink and downlink provisions for maritime users (i.e., about 16 MHz uplink and 24 MHz downlink).

123. As the use of the maritime satellite service grows, it will become increasingly desirable to provide shore and satellite frequencies which do not have to be coordinated with the fixed satellite services. One way to accomplish this would be through the use of a footnote to existing allocations. One precedent for this was set by aeronautical interests with the addition of footnote 383B to the 5000 MHz to 5250 MHz band. However, it is noted that the bands 2900–3100 MHz and 5460–5600 MHz are extensively used by high power fixed and mobile radars for Radionavigation and Radiolocation functions. Furthermore, specifics concerning the use of frequencies within these bands by radar systems is not readily available due to established practice of granting band assignments. Therefore, considering the electromagnetic environment, the usefulness of the proposed footnote 367C is questionable unless the establishment of international regulatory changes concerning modification of existing radar systems and assignment processes are proposed and accepted. It may be preferable to find a more suitable band for the Fixed Satellite Service than to proceed with this approach. A footnote 367C for the required Maritime bands has been added and comments are requested. As an alternative, should the footnote be proposed for the band 5000 to 5250 MHz to provide for the maritime frequencies? Such proposal might provide flexibility needed for development of either mobile-satellite service or for a cooperative venture.

124. We have proposed use of the band 1710–1720 MHz from space stations to ship earth stations. However, comments indicate that communications needs will be greater in the ship to shore direction. Thus, we propose an additional allocation of the band 1970–1990 MHz for Maritime Mobile Satellite Service use.

125. The remainder of Maritime Mobile Satellite Service projected spectrum needs has not yet been satisfied. However, our Notice addresses this question under Aeronautical Satellite Service.

126. Provisions are proposed to be made for radar beacons and ship board transponders in the bands 2900–2920 MHz and 9300–9320 MHz and for Shipboard radars in the bands 2920–3100 MHz and 9320–9500 MHz, which were not addressed in the Commission's Third Notice. With respect to the provisions for the bands 9300–9320 MHz and 9320–9500 MHz comments are solicited concerning an appropriate mechanism to be used to accommodate maritime radar beacons and interrogator-transponders. For example, should the band be split into two portions, i.e., 9300–9320 MHz and 9320–9500 MHz? The band 9300–9320 MHz would be labelled, under Radionavigation, with "(Radar Beacons) (Shipboard

Transponders)". The band 9320–9500 MHz would be labelled, under Radionavigation, with "(Shipboard radars)". One alternative would be to accommodate the above operations through the use of footnotes. A second alternative could be to place the 20 MHz allocation referenced above for "(Radar Beacons) (Shipboard Transponders)" at the upper end of the band, i.e., at 9480–9500 MHz, with the 9300–9480 MHz portion containing the "(Shipboard radars)" designation. A third alternative would be to accommodate the requirements for shipboard transponders by footnote in the band 9480–9500 MHz which is relatively unused and to provide for fixed frequency RACONS in the 9300–9320 MHz band. This last alternative would eliminate the possibility of co-channel interference between very low powered RACONS and relatively high powered shipboard transponders. Noting that RACONS are used to mark navigational hazards and, consequently, interference to these devices could result in the loss of life and property, and significant environmental damage. Separate allocation provisions for shipboard radars in the bands 2920–3100 MHz and 9320–9500 MHz may not be required as these bands already allocated to the Radionavigation Service on a primary basis.

Additionally, it is important to note that frequency support for land/coast based radars used for maritime radionavigation purposes in these bands is a continuing requirement and would be prohibited only if the use of shipboard radars is permitted. There also appears to be an inconsistency between the proposal for shipboard transponders in the 2900–2920 MHz band and the existing footnote 367A. Comments are requested concerning resolution of this problem. One final point to be considered is the fact that within the band 9300–9480 MHz, the frequencies 9345 MHz and 9375 MHz are extensively used for airborne weather radars.

127. Comments are requested concerning how to satisfy the recognized requirement for radar beacons and shipboard transponders in this frequency range.

128. We have received a request for the establishment of a new international footnote RR404c for the band 10.55–10.68 GHz, to read as follows: "Operations of the Maritime Mobile Service using this band for safety of shipmovement by telemetry, data exchange and telecommand systems shall be protected from harmful interference in areas of inland waterways, ports, and coastal zones." The proposed footnote RR404c, will clearly establish and provide regulatory protection against harmful interference for future maritime mobile telecommunications pertaining to safety of ship movement. In addition, it provides for maritime communication systems needed to enhance the protection of life, property and the environment, e.g., future collision avoidance systems, tug-tow telemetry/telecommand systems and ship-shore interface communications for handling dangerous cargos.

Amateur Service

129. In the 1215–1240 MHz band, the needs of the Radio Navigation Satellite Service, inview of its safety of life feature has been regarded as of paramount importance; consequently, amateur usage in this band has been proposed for deletion. With respect to the 10–10.5 GHz band, comments in response to the Third Notice of Inquiry expressed a desire to include Amateur Satellite Service in this band. We have carefully examined this request and have concluded that due to the extensive use and particular types of radars in this band, sharing with the Amateur-Satellite Service is impractical.

130. In the 2300–2400 MHz band, the Third Notice of Inquiry proposed allocating 10 MHz (2310–2320 MHz) for satellite service. This conflicts with mobile service requirements. Consequently, a band for Amateur Satellite use is proposed at the top end of this portion of the spectrum, 2390–2400 MHz. This should better serve amateur needs and should also be compatible with the other services making use of this part of the band.

Additional Requirements

131. Several bands have not been addressed specifically, but do require consideration. They are:

(1) 2025–2110 MHz: This band is currently used to meet mobile requirements, and is also used under footnotes 356AB and 356ABA for space applications. The proposal here is to upgrade these footnotes to a primary status in the Table. These footnotes allow operation by the Space Research and Earth Exploration Satellite Services, in the Earth-to-Space direction, Space-to-Space links are also contemplated in the Space Research Service. Space-to-Space transmissions are required by the international Radio Regulations to adhere to a power flux density limit for any transmission reaching the Earth's surface of between –144 and –154 dBW/m² per 4 kHz of bandwidth, depending upon the angle of arrival. No significant sharing problems are anticipated.

(2) 2110–2120 MHz: This band is also currently used to meet mobile requirements, and footnote 356ABA allows operation of the Space Research Service. It is proposed to give the Space Research Service (Earth-to-Space) (Deep Space only) a primary allocation in this band. No sharing problems with the terrestrial services are anticipated.

(3) Requirement of the Aviation services at 2300 MHz: The Aerospace Radio Flight Test Radio Coordinating Council (AFTRCC) and the Aviation Services Working Group have pointed out that the frequency spectrum from 2310–2450 MHz could not be used completely inasmuch as footnote 357A designates 2450 MHz ±50 MHz for the wireless transmission of power. (This has since been changed to 2450 MHz ±10 MHz) They propose instead that the spectrum from 2300–2390 MHz be designated for aeronautical telemetry with Radiolocation, Amateur, Amateur-Satellite, Fixed, and Mobile accommodated in the band 2390–2450 MHz. We have in large part satisfied this requirement. We have proposed the upgrading of the Mobile allocation in the 2310–2390 MHz band and proposed footnote 349C to provide that the primary use of the mobile service in this band is to aeronautical mobile for telemetering purposes. It should be noted that we have retained the Radiolocation Service as a primary service. Experience has demonstrated that with the intensive scheduling which can be accomplished in the field, these two services can share the band on a co-equal, primary basis.

SPECTRUM ABOVE 10.7 GHZ

Aeronautical Mobile/Aeronautical Mobile-Satellite

132. ARING and ATA stated that "* * * the bands above 40 GHz allocated jointly to the Aeronautical and Maritime Services should be split into separate and distinct services * * *." They stated (1) that the Aeronautical Service is a safety service precluding sharing of common bands, (2) that there is a dissimilarity of disciplines between the Aeronautical and Maritime Services and (3) that the "provision of shared bands may well lead to the development of incompatible systems for aeronautical and maritime * * *." In the Frequency Allocations Table, RTCA separated the Aeronautical and the Maritime services. AOPA supported the submission of RTCA. However, RTCM supported the shared allocations.

133. There are various uncertainties in these frequency bands. The Aeronautical Mobile-Satellite (AEROSAT) experimental program is under development while the MARISAT has recently started providing operational service, both in the 1.5/1.6 GHz bands. No evidence has been submitted indicating that the development in the frequency bands above 40 GHz will take place in the foreseeable future. The requirements of the Aeronautical and the Maritime services are not known, making a logical apportionment of frequency bands between the two services difficult. It also appears that no irreparable harm will be done in retaining the shared allocations at the present time. Because of the Commission's participation in the RTCA and the RTCM it is unlikely as stated in the comments of ARINC, that "* * * the development of incompatible systems for aeronautical and maritime * * *" services would take place. The bandwidth of each of the shared allocations is more than the combined identifiable needs of the Maritime and the Aeronautical Services. We believe that the fear of any incompatibility and

[5] In the band 5000 to 5250 MHz frequencies between 5000.4 and 5020.1 MHz and between 5023.1 and 5033.1 MHz are planned to be used for Aerosat links from fixed stations to satellites; frequencies between 5232.2 and 5246.6 MHz and between 5209.3 and 5230.7 MHz are planned to be used from satellites to fixed stations.

the thesis put forth by ARINC that each service "* * * would require the full shared allocation * * *" are, at present, unfounded. Considering all the factors, we are retaining the shared allocations to the Aeronautical and the Maritime Mobile Services above 40 GHz, except for the 190–200 GHz band as mentioned in the Third Notice of Inquiry.

134. ARINC, ATA and RTCA recommended that the Aeronautical Mobile-Satellite service should be deleted and a footnote should provide for the use of space techniques in the Aeronautical Mobile service because a separate Aeronautical Mobile-Satellite service (1) "* * * is unwiedly (sic) from the frequency management and operational view points", and (2) imposes constraints regarding the need to develop separate coordination and registration procedures as distinct from the terrestrial service. AOPA supported the position of RTCA. COMSAT General opposed the proposal.

135. At present, there are many uncertainties surrounding the 1.5/1.6 GHz bands proposed for the AEROSAT experimental program. We are not aware of any terrestrial use of these frequency bands other than altimeters. Above 40 GHz, the frequencies are being allocated co-equally with the terrestrial and the satellite services providing flexibility of the use, if needed, of the same frequency for the terrestrial and space services. However, co-ordination with Maritime services would be required because the frequency bands are shared. Considering all the factors, we are proposing to retain the satellite services.

136. At the request of the proponents of the Aeronautical Mobile and the Aeronautical Mobile-Satellite services, the Route designator (R) was applied to the frequencies above 40 GHz allocated to them. In paragraph 113 of the Third Notice of Inquiry, the Commission specifically requested technical justification for the necessity of the Route or "R" designator. In the absence of any such justification, the "R" designator is being deleted.

Industrial, Scientific and Medical

137. Litton and Raytheon supported the proposals of the International Microwave Power Institute for ISM allocations which was provided through appropriate footnote; however, AT&T has opposed the proposal of footnote 410E, to permit the use of industrial, scientific and medical (ISM) radiators on 55 GHz±250 MHz because "* * * it would divide the breadth of contiguous bandwidth which makes the 54.25–58.2 GHz particularly attractive to common carriers."

This frequency band is attractive because, according to AT&T, it lies at the lower end of the 40–300 GHz range but is high enough to offer practically all the advantages of compactness of equipment, and because the technology developed now and in future for use of the band 59–64 GHz could be usable on it. AT&T suggested the use of a frequency near maximum oxygen resonance such as 60.2 GHz. The 25th harmonic of 2450 MHz, the frequency proposed to be used for Solar Satellite Power System (SSPS), is 61.25 GHz. We are proposing to reallocate the ISM emission from 55 GHz to 61.25 GHz±250 MHz.

Amateur/Amateur Satellite

138. The Amateurs generally supported the proposed allocations; however, a number of respondents urged us to make the 48–50 GHz band available to the Amateur and Amateur Satellite services. This band has been allocated to "safety of life" services, due to a re-alignment of the Table of Allocations to accommodate additional spectrum required for the Fixed-Satellite and Mobile-Satellite Services. For this reason, we are proposing to allocate the 49.8–50 GHz band to the amateur services.

Broadcasting

139. The Television Broadcasting Service Working Group reiterated its belief "* * * that the Broadcasting allocation should be retained * * *" in the 11.7–12.2 GHz band. We discussed this topic and rejected this proposal in paragraph 117 of the Third Notice of Inquiry in this docket. Since no new arguments have been put forth, our proposal remains unchanged.

Intersatellite

140. At the request of COMSAT, which was supported by AT&T, we are proposing to allocate the 21.4–21.7 GHz band in addition to the 22.7–23 GHz band to the Inter-Satellite service for providing simultaneous communications link in both directions. In paragraph 129 of the Third Notice of Inquiry, we invited information as to how these Inter-Satellite bands would be used in conjunction with foreseeable systems and discussion as to the reason for these two specific frequency bands. If no such justification is received, then we may be pressed to make these frequencies available to other services, with the subsequent deletion of the Intersatellite service from the Table.

Broadcasting-Satellite

141. The City College of the City University of New York (CUNY), JCET and CPB have requested that the 12.2–12.5 GHz band be allocated to the Broadcasting Satellite service in Region 2.

142. We have not made any assumption "* * * of equal channel distribution among all Region 2 countries * * *" as attributed to us by CUNY. If all community reception channels are assumed, as suggested by JCET and CUNY, then 3528 channels are projected from the Joint Industry Government Committee (JI/GC) Group B report for a 75% Broadcasting-Satellite case satisfying 2450 TV channels "market estimate" submitted by the Broadcasting-Satellite service working group. Even for a 50% Broadcasting-Satellite case, 2358 community reception channels are projected by the JI/GC report. The Broadcasting-Satellite working group originally postulated a 25% Broadcasting-Satellite case providing 1188 community reception channels and 131 Fixed-Satellites. We believe that this apportionment of the orbital arc between the two services is unrealistic because that number of satellites would provide an inordinately large number of channels, far in excess of foreseeable requirements in the 11.7–12.2 GHz band, for the Fixed-Satellite service. We used a cross-polarization system because that is more efficient and because its use was recommended by the JI/GC Group B.

143. No economic analysis has so far been submitted to us regarding the outlay and its sources for realizing the "market estimates" submitted. Because of the uncertainties associated with the forecasting of channels for social services, we are tentatively allocating the 12.2–12.5 GHz band to the Broadcasting-Satellite service provided the proponents of it submit reasonable criteria for sharing it with the Fixed and the Broadcasting Services.

144. Attention is also drawn to the proposal submitted for comment in the next section of this Notice (Fixed-Satellite). This allocation proposal shows the Broadcasting-Satellite Service as the only space service allocated in the 11.7–12.2 GHz band in Region 2. Several parties commented that the capacity estimates upon which additional spectrum was being requested for the Broadcasting-Satellite Service were based on a 25% use of the orbit by Broadcasting-Satellites as opposed to a 75% use by Fixed-Satellites. We do not necessarily agree with this analysis of the percentage of the orbit which would be consumed by each of these space services; however, comments are invited in two areas; 1) the feasibility and/or desirability of the allocation listed in the following section on Fixed-Satellites and 2) based on the various requirement estimates submitted, how much "exclusive" (only space service) spectrum in this range of the frequency spectrum is necessary to meet those requirements.

Fixed-Satellite

145. AT&T has objected to the proposed allocation of the 10.7–10.95 and 11.7–11.45 GHz bands to the Fixed-Satellite service. COMSAT General, COMSAT and RCA American Communications (RCA Americom) supported the proposal. COMSAT and RCA Americom stated that a contiguous frequency band entails economy. RCA Americom advocated the allocation of the 10.7–11.7 GHz band for domestic satellite system use also. (That portion of this band currently allocated to FX/SAT is limited to international systems by a domestic footnote. No such restriction exists in the international Table.)

146. Considering all the factors, we envision that the 10.7–11.7 GHz band will be confined to international use by the Fixed-Satellite Service with about half-a-dozen high density large diameter antenna earth stations located at places (such as Etam, Andover) away from the heavily populated areas of the United States. We would propose that these limitations be included in any future rulemaking proceeding. We believe that this allocation would provide flexibility to meet our future needs.

147. In the frequency bands 11.7–12.75, COMSAT, COMSAT General and Satellite Business System (SBS) raised several issues and submitted their proposals. COMSAT stated, and COMSAT General and SBS implied, that frequency division is more efficient that orbit division; this is contrary to technical recommendations[6] and the United States position represented in the just concluded 1977 World Broadcasting-Satellite Administrative Radio Conference (1977 WARC). The three parties recommended that 10.7–11.2 GHz bands should be allocated, in all Regions, to accommodate the earth-to-space requirements of the Broadcasting-Satellite service.

148. However, COMSAT and COMSAT General had already proposed the allocation of this 500 MHz band to accommodate the space-to-earth requirements of the Fixed-Satellite service. AT&T, in its reply comments has stated that "Bidirectional satellite operation is fraught with serious interference and other problems which are discussed in Report 557 of the International Radio Consultative Committee".

149. The proponents of these proposals have not submitted any analysis showing that the "bi-directional", as opposed to the "uni-directional", international Fixed-Satellite allocation provides more efficient use of orbit-spectrum. The space station of a Fixed-Satellite could use an earth coverage beam. What would the co-channel interference potential be from such a Fixed-Satellite space station to an adjacent Broadcasting-Satellite space station? Further, these proposals shift the frequency sharing of the earth-to-space transmission of the Fixed- and the Broadcasting-Satellite services in the 14.0–14.5 GHz band to the frequency sharing of the space-to-earth transmissions of the Fixed-Satellite service and the earth-to-space transmissions of the Boardcasting-Satellite service in the 10.7–11.2 GHz band. The proponents have not specifically identified, outside the presumption of the 14.0–14.5 GHz band, the frequency band of the earth-to-space transmissions of the additional 300 MHz of frequency of the Broadcasting Satellite service in Region 1.

150. SBS stated that the results of the 1977 WARC "* * * makes clear that the present allocations for use of the 12 and 14 GHz bands do not provide an adequate basis for the development of multiple fixed domestic satellite systems in these bands * * *". When such analysis is submitted it will be carefully considered.

151. We are not persuaded by the arguments in making drastic changes in this portion of the Frequency Allocation Table, particularly in Regions 1 and 3. In view of the possibility of an "a priori" orbital plan for the Fixed-Satellite service in the 11.7–12.2 GHz band and in view of the uncertainties of the forthcoming Region 2 conference, we would like to know the benefits and disadvantages of the following Region 2 allocations, along the lines suggested by JCET.

[6] RAND Report—1463, May 1974; Santa Monica, California.

11.7–12.2 GHz..	Mobile (except aeronautical mobile). Broadcasting satellite.
12.2–12.5 GHz..	Fixed. Mobile (except aeronautical mobile). Broadcasting. Fixed satellite (space to Earth).
12.5–12.75 GHz..	Fixed. Mobile (except aeronautical mobile). Fixed satellite (space to Earth).

152. In the region between 13 and 15.5 GHz, we are not able to obtain a contiguous 1 GHz uplink. The 12.75–13.25 GHz was the only available frequency band for this purpose. We are further investigating this matter. The 250 MHz imbalance can be simply eliminated by allocating only 12.75–13.00 GHz for the Fixed-Satellite service. In practical life, earth-to-space and space-to-earth links are not as closely or simply related as some proponents would like. For example, the 14 GHz band of the INTELSAT–V satellite could be connected to either the 11 GHz or 4 GHz band.

153. We deleted the direction indicators from the Fixed and the Mobile-Satellite services above 40 GHz in the 3rd Notice of Inquiry. COMSAT General commented that ". . . the bands should be paired in an explicit manner in order to avoid utilization problems." We are now placing direction indicators on these two services. There is some imbalance, particularly at the higher portion of the spectrum, between the space-to-earth and the earth-to-space links. We are further studying this matter.

Standard Frequency Satellite

154. The following information on the Standard Frequency-Satellite Service is provided for information.

155. The National Bureau of Standards of the Department of Commerce (on behalf of the national laboratories including the Naval Observatory, Goddard Space Flight Center, Naval Research Laboratory, Johns Hopkins University and many universities and industry laboratories engaged in the research of precision frequency and time standards) has a need to exchange frequency and time to nanosecond precision at the present time and will require picoseconds precision within the time frame of the 1979 WARC. In addition, there is a demonstrated need for the international exchange of precise time and time intervals between laboratories to a higher order than presently achievable by the transporting of atomic clocks. In fact, there are a number of international standards laboratories, such as Australia, who now cannot contribute to the determination of the international second as determined by the Bureau International de l'Heures (BIH) in Paris due to the fact that flying a clock to make comparisons requires so long a period of time that the uncertainties in the clock being flown is greater than the variation between the two standards; the time scales presently associated with the reference standards between many administrations depart from uniformity by as little as 1 nanosecond in one day.

156. The 13.4–14.0 and 20.2–21.2 GHz bands have been identified in order to utilize existing hardware developments and present technology. The up and down links require an emission bandwidth of approximately 250 MHz and a coherently related integer functional frequency relation—the one selected here is 20/29. The proposed type of modulation will be a PRN digital code spread over approximately 250 MHz. The standard frequency community is proposing to utilize spread spectrum techniques using wide bandwidths to reduce the power levels of the satellite signals at the earth's surface to levels well below the levels of signals in the other services which share the band.

157. The 26 and 30 GHz bands have been identified for future development with a bandwidth requirement of about 1.2 GHz, a coherently related integer functional frequency relation of 22/25, and capable of achieving timing precision in the picosecond range.

Mobile Satellite and Fixed Satellite

158. AT&T inquired about the necessity of allocating frequencies to be shared by Mobile-Satellite and the Fixed-Satellite Services when separate allocations are already available in the Aeronautical Mobile-Satellite, Maritime Mobile-Satellite and Fixed-Satellite Services. There are intentions to use earth stations on maritime mobile vessels, on airborne platforms, and on land (with manpack equipment, with transportable systems, and at fixed points all at the same frequency. This kind of service, at present, cannot be provided by the existing allocations.

159. Both AT&T and COMSAT expressed doubts about the feasibility of sharing between the Mobile-Satellite Service and the Fixed-Satellite and the Fixed Services. AT&T recommended that any allocation to the Mobile-Satellite Service of frequencies used by a non-mobile service should be on a secondary basis.

160. The national requirement is for a primary allocation; as such, no secondary allocation is possible.

Several papers on this topic have been, and are being, submitted to the U.S. International Radio Consultative Committee Study Group 8C. The weakest communications link could be between two mobile low gain antenna, earth stations connected through a satellite. Geostationary satellites are expected to provide the mobile services with highly reliable communications links which could support a large volume of traffic. Critical needs of users are to be satisfied, although the orbit-spectrum efficiency, using traditional measures, could appear to be "low".

161. Some experimental work has been conducted above 20 GHz. Currently, an experimental/developmental system is operating in the 36–40 GHz band. Testing to date and the empirical analyses have shown the feasibility and desirability of operating satellite systems in the higher portions of the spectrum.

Currently, we have under evaluation and development a satellite system which will use as a basis the experimental/developmental system in the 36–40 GHz. Implementation of this follow-on system is planned in the 1980's, with a total investment of approximately $1 billion. Accordingly, requirements include a Mobile Satellite allocation for the 20.2–21.2, 30–31, 40–41, 43–45, 76–79 and 81–84 GHz bands to accommodate the above and subsequent systems.

162. Considering all the factors, the shared allocations to the Mobile-Satellite and the Fixed-Satellite Services are proposed as indicated in the Table of Allocations. Following is a listing of current requirements for allocations to the shared Mobile-Satellite and Fixed-Satellite Services above 10.7 GHz. The requirement in the 102–105 GHz band is still under consideration.

GHz	*GHz*
20.2–21.2	50.4–51.4
30–31	76–79
40–41	81–84
43–45	102–105

Space Research/Earth Exploration Satellite

163. The following frequencies have been identified for the passive Space Research and Earth Exploration Satellite Services in order to permit remote environmental sensing operations.

GHz	*GHz*
10.6–10.7	86–92
15.2–15.4	100–102
17.7–17.9	105–126
19.7–19.9	150–151
21.2–21.44	164–168
22.21–22.5	174.5–176.5
23.6–24.0	182–185
31.3–31.8	200–201.5
36–37	225–240
50.2–50.4	250–252
51.4–59.0	275–277
64–65	

164. COMSAT and COMSAT General requested information on the characteristics, parameters and the potential impact of sharing of the Space Research and the Earth Exploration Satellite Services before they could comment on the shared allocations. The parameters of passive low-orbiting radiometers are listed in Tables 1A and 1B. In some cases geostationary satellites are envisioned, however, the radiometer bandwidth and the interference threshold would be identical with those of low orbiting satellites. The results of analyses performed by NASA to determine the feasibility of the passive services sharing with the Fixed and Fixed-Satellite Services are listed in Tables 2 and 3. The e.i.r.p.'s of the Mobile Service are the same as that of the Fixed Service, however a smaller size antenna is generally expected to be used by the Mobile Service. The frequency bands 21.2–21.4, 22.21–22.25, 36–37, 50.2–50.4, 54.25–58.2, 100–101, 116–126, 150–151, 164–168, 174.5–176.5, 200–201.5, 225–227, 250–252 and 275–277 GHz are included in the proposed Table of Frequency Allocations as we are assured that no restrictions would be placed on the active services sharing with the passive radiometer services. The allocations for passive radiometers in the bands above are predicated upon the assurance of non-restricted operation of the active services.

165. In the balance of the identified frequency bands, where sharing between passive remote sensors and active services would exist, the following sharing criteria are proposed by NASA to prevent harmful interference to passive remote sensors.

166. In the band 10.6–10.7 GHz, the maximum equivalent isotropically radiated power of a station in the Fixed or Mobile service shall not exceed 35 dBW. The power delivered by a transmitter to the antenna of a station in the Fixed or Mobile service shall not exceed −3 dBW.

TABLE 1A

PASSIVE RADIOMETER PARAMETERS

FREQUENCY GHz	10.6 - 10.7	15.2 - 15.35	17.7 - 17.9	19.7 - 19.9	21.2 - 21.4	22.21- 22.5	36- 37
MEASURED PARAMETER	WATER, ICE, SNOW	WATER, RAIN	WATER	WATER SNOW, ICE	WATER	WATER VAPOR	RAIN, SNOW ICE
RANGE, DEGREES	-	-	-	-	-	-	-
SENSITIVITY °K	1	0.2, 1	0.2	0.2, 1	0.2	0.4	1
RESOLUTION Km	1 to 20	2, 1	2	1 to 20	2	2	0.2 to 2.0
INTEGRATION TIME, SECOND	.05 to .06	0.2, 0.01	0.2	0.03 to 0.2	0.2	0.02	.02 to 0.2
BANDWIDTH, MHz	90, 120	180, 195	180	120 to 210	180	405	115 to 920
SENSOR INTERFERENCE THRESHOLD dBW	-150, -155	-160, -153	-160	-160 to -152	-160	-153	-155, -145
SPACECRAFT ALTITUDE, KM	500	500	500	500	500	500	500
SPACECRAFT INCLINATION, DEGREES	70-110	70-110	70-110	70-110	70-110	70-110	70-110
SPACECRAFT ANTENNA, m	15	5	5	5	5	5	5

TABLE 1B

PASSIVE RADIOMETER PARAMETERS

FREQUENCY GHz	50.2-50.4 54.25-58.2	100-102	116-126	150-151	164-168	174.5-176.5 200-201.5	225-227	250-252	275-277
MEASURED PARAMETER	ATMOSPHERIC TEMPERATURE	H_2O OZONE	ATMOSPHERIC TEMPERATURE	H_2O	CHLORINE	H_2O	H_2O, CO OZONE	H_2O	H_2O
RANGE DEGREES	-70 to +30	-	-	-	-	-	-	-	-
SENSITIVITY °K	0.3	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
RESOLUTION Km	8	2	2	2	8	8	1	1	1
INTEGRATION TIME, SECOND	1	1	1	1	1	1	1	1	1
BANDWIDTH, MHz	235	1850	1850	1850	1850	1850	1850	1850	1850
SENSOR INTERFERENCE THRESHOLD dBW	-157	-150	-150	-150	-150	-150	-150	-150	-150
SPACECRAFT ALTITUDE, km	500	500	500	500	500	500	500	500	500
SPACECRAFT INCLINATION, DEGREES	70-110	70-110	70-110	70-110	70-110	70-110	70-110	70-110	70-110
SPACECRAFT ANTENNA, m	2X6	1X6	0.75X3	0.5X2.5	0.5X2.5	0.5X2	0.4X1.5	0.4X1.5	0.4X1.5

TABLE 2A

SHARING ANALYSIS: FIXED SERVICE

FREQUENCY GHz	10.6 - 10.7	15.2 ANALOG	15.35 DIGITAL	17.7 - 17.9	19.7 - 19.9	21.2 21.4	22.21 - 22.5	36 - 37
TRANSMITTER POWER, dBW	0	13	-13	-13	-13	-13	-13	-8.3
FEEDER LOSS, dB	-	-	-4	-4	-4	-4	-4	-4
ANTENNA GAIN, dBi	38	45	43.5	43.5	43.5	41.5	43.5	43.5
e.i.r.p. dBW	38	58	26.5	26.5	26.5	24.5	26.5	33
TRANSMISSION BANDWIDTH, MHz			220	220	220	220	220	220
LINK LENGTH, Km		48	10	10	10	10	10	10
ATMOSPHERIC ABSORPTION, dB HORIZONTAL	--	5.6	5.6	9	17	8	•33	88
FADE MARGIN, dB	--		45	45	45	45	45	45
RADIOMETER ANTENNA SIDELOBE EFFECTIVE AREA dBm^2	-56	-59	-59	-60	-61.4	-62	-62	-67
RECEIVED INTERFERENCE, dBW	-157	-165.6	-177.1	-181.5	-191.4	-206.5	-207.5	-191
INTERFERENCE RELATIVE TO THRESHOLD, dB	+1	+14	-18.1	-21.5	-31.4	-51.5	-54.5	-45
SHARING FEASIBILITY	YES	NO	YES	YES	YES	YES	YES	YES

TABLE 2B

SHARING ANALYSIS: FIXED SERVICE

FREQUENCY GHz	50.2 - 50.4	54.25 - 58.2	116 - 126	150 - 151	164 - 168	174.5 - 176.5	200 - 201.5	225 - 227
TRANSMITTER POWER, dBW	-7.34	-6.0	3.0	-0.7	0.3	+1.67	3.8	6.13
FEEDER LOSS, dB								
ANTENNA GAIN, dBi	43.5	43.5	45	45	45	45	45.5	45
e.i.r.p. dBW	36.2	37.5	42	44.3	45.3	46.7	49.3	51.1
TRANSMISSION BANDWIDTH, MHz	220	220	220	220	220	220	220	220
LINK LENGTH, Km	1	1	1	1	1	1	1	1
ATMOSPHERIC ABSORPTION, dB HORIZONTAL	100	100	70-100	>100	>100	> 100	> 100	> 100
FADE MARGIN, dB	45	45	45	45	45	45	45	45
RADIOMETER ANTENNA SIDELOBE EFFECTIVE AREA dBm^2	-69.4	-70.8	-72.1 (main beam)	0 (main beam)	-1 (main beam)	-1.3 (main beam)	-2.5 (main beam)	-3.7 (main beam)
RECEIVED INTERFERENCE, dBW	-272.4	-270.8	-184.7	-194.7	-195	-193.6	-192.7	-191.5
INTERFERENCE RELATIVE TO THRESHOLD, dB	-116.4	-113.8	-14.7	-44.7	-45	-44	-42	-41.5
SHARING FEASIBILITY	YES	YES	YES	YES	YES	YES	YES	YES

Table 3

SHARING ANALYSIS: FIXED-SATELLITE SERVICE

FREQUENCY GHz	17.7-17.9	19.7-19.9	150-151	164-165	225-227		
e.i.r.p. dBW	73.4	73.4	88	88	105		
FLUX AT EARTH SURFACE dBW/m^2	-88.6	-88.6	-75.0	-75.0	-58		
REFLECTIVITY FACTOR, dB	-3	-3	-3	-3	-3		
REFLECTION FROM EARTH dBW/m^2	-91.6	-91.6	-78.0	-78.0	-61		
AREA WITHIN RADIOMETER MAINLOBE dBm^2	63	63	86.7	86.7	86.7		
REFLECTED e.i.r.p., dBW	-18.6	-18.6	8.7	8.7	25.7		
SPREADING LOSS dBm^{-2}	-125	-125	-139	-139	-139		
FLUX AT RADIOMETER ANTENNA dBW/m^2	-143.6	-143.6	-130.3	-130.3	-113.3		
RADIOMETER ANTENNA AREA dBm^2	+10.5	+ 9.6	-15.7	-16	-19.8		
RECEIVED INTERFERENCE dBW	-133.1	-134	-146	-146.3	-133.1		

167. In the band 15.1–15.4 GHz, the maximum equivalent isotropically radiated power of a station in the Fixed or Mobile service shall not exceed 35 dBW. The power delivered by a transmitter to the antenna of a station in the Fixed or Mobile service shall not exceed —3 dBW.

168. In the band 17.7–17.9 GHz, the maximum equivalent isotropically radiated power of a station in the fixed or mobile service shall not exceed 40 dBW. The power delivered by a transmitter to the antenna of a station in the Fixed or Mobile service shall not exceed —3 dBW. The power flux density at the Earth's surface produced by emissions from a fixed-satellite space station for all conditions shall not exceed —109 dBW/m^2 in a 200 MHz reference band for all angles of arrival.

169. In the frequency band 19.7–19.9 GHz, the power flux density at the Earth's surface produced by emissions from a fixed-satellite space station for all conditions shall not exceed —108 $dB W/m^2$ in a 200 MHz reference band for all angles of arrival.

170. ARINC has opposed the addition of Space Research Service in the 14–14.3 GHz band without stating any reason. COMSAT stated that it would not oppose the allocation of the 14.4–14.5 GHz band to the Space Research Service on a permitted or secondary basis. We are modifying the allocation proposal, for these two bands, to a secondary service, subject to further evaluation.

171. AT&T has objected to the suggestion of an unrestricted Power Flux Density (PFD) in the 17.9–17.95 GHz band. AT&T believes that this unrestricted PFD would cause an excessive and intolerable time level of interference into a fixed service system at 18 GHz, such as AT&T's DR–18 terrestrial radio-relay system. Our proposal of unrestricted PFD in the 17.90–17.95 GHz band is withdrawn.

172. COMSAT commented on the inquiry about a definition of a "Space Radiolocation Station" in place of an "Active Sensor" designation. COMSAT stated that ". . it would seem that active space-borne Radiolocation devices would require extensive coordination and/or frequency assignment control in order to operate under the same allocation with terrestrial Radiolocation device without causing such interference." At this time, we are opposed to changing the definition. The requirements of this service are satisfied by specific allocations as identified.

172A. The frequency band 17.9–18.7 GHz has been identified for read-out of telemetry from meteorological satellites.

173. The following frequencies have been identified for Earth Exploration Satellite telecommunications links. The 17.9–19.7 GHz band has been identified for the space-to-earth link from a data relay satellite to a central data acquisition earth station. A bandwidth of 1800 MHz is required to accommodate the data transmission requirements of a data relay satellite serving multiple low orbiting earth exploration satellites.

174. The 27.5–30 GHz band has been identified for the earth-to-space link from the central data acquisition earth station to a data relay satellite as well as for the forward link from a data relay satellite to the low orbitting earth exploration satellite.

175. The 25.25–27.5 GHz frequency band is proposed for data from low orbitting earth exploration satellites to a data relay satellite.

176. Signal levels at the Earth resulting from transmissions over all data links would produce power flux density levels within the present power flux density limits.

177. The requirement in the 25.25–27.5 GHz band has been included in the proposed Table of Allocations. A new footnote 411A has been proposed in the Table to satisfy the requirements for space-to-space transmission in the 27.5–30 GHz band.

178. The requirements in the 17.9–19.7 and 27.5–30 GHz bands for radiocommunications between an earth station at a fixed point and a satellite can be satisfied by the existing allocations in Fixed-Satellite Service. For clarification, the Earth Exploration Satellite Service can be added to the other services listed as examples in the Radio Regulation 84 AG.

MOD Fixed-Satellite Service

84AG Spa2.. A radiocommunication service:
Between earth stations at specified fixed points when one or more satellites are used; in some cases this service includes satellite-to-satellite links, which may also be effected in the inter-satellite service;
For connection between one or more earth stations at specified fixed points and satellites used for a service other than the fixed-satellite service (for example, the mobile-satellite service, broadcasting-satellite service, earth exploration-satellite service, etc.).

Radio Astronomy

179. The Radio Astronomy Service Working Group (RASWG) and the National Academy of Sciences commented on the Radio Astronomy service allocations. The RASWG requested sharing the band 14.5–15.35 GHz on a primary basis with Space Research. Footnote 408B provides for a secondary allocation to the Space Research service in the space-to-earth direction. Transmission is already planned by the Tracking and Data Relay Satellite in the major portion of this band ruling out any possibility of sharing it with the Radio Astronomy service. We are proposing to add the restriction "except aeronautical mobile" in the frequency bands 22.21–22.5 GHz and 217–230 GHz as requested by the RASWG. We are also proposing to add the footnote 412II in the 48–50 GHz, 95–101 GHz and 142–150 GHz bands as required by RASWG for observation of three carbon monosulfide lines. The footnote 412M is being modified, as requested by RASWG, to include the frequency 140.840 GHz for observation of the formaldehyde line, and we are deleting the footnote MOD 412J from the frequency bands 217–220 GHz and 220–221 GHz as it is inappropriate. The National Academy of Sciences considered the needs of the space research services, noted that "clear" bands allocated for use by passive sensors aid the Radio Astronomy service, and supported the proposals for such bands. Both the RASWG and the National Academy of Sciences noted the potential for problems of interference from adjacent bands and recommended that the harmful interference limits defined in CCIR report 224–3 be taken into account in planning for adjacent band usage.

Fixed/Mobile (including Auxiliary Broadcast)

180. Referring to the frequency band 11.7–12.2 GHz, the Auxiliary Broadcasting Service Working Group (SWG) stated that "There is no need to reduce the Mobile Service to secondary status." The co-equal sharing of the Mobile, and the Broadcasting- and the Fixed-Satellite services in the same service area is practically impossible and we disagree with thesis put forward by the Auxiliary Broadcasting SWG.

181. The Auxiliary Broadcasting SWG stated that "It would be expected that 12.2–12.5 MHz (sic) could be shared on a secondary basis." This is a domestic issue. As we are not proposing deletion of the international allocations, the subject will not be discussed further.

182. The Auxiliary Broadcasting SWG opposed the proposed allocation of the 12.75–13.25 GHz band to the Fixed-Satellite service and stated that "• • • no other services be permitted to share the 12.70–13.25 GHz band with the Television Auxiliary Broadcasting Services". Since this particular band was the only one that appeared to be available to satisfy the Fixed-Satellite uplink requirement, we are unable to comply with this request. However, restrictions on the Fixed-Satellite service, similar to those mentioned in the Fixed-Satellite section for the 10.7–11.7 GHz band, would be considered if so proposed. In the 12.75–13.25 GHz band, it is not certain if the electronic news gathering transmissions would interfere with the space station receiver or not. The typical ranges of parameters of the mobile electronic news gathering system are as follows:

Maximum transmitter power, dBW, −20 to 0
Antenna diameters, 3'' to 2'
Antenna gain, dBi, 20 to 35.5
Modulation, FM
BW, MHz, 25
Link, Length, miles, 0.5 to 5
Receiver Noise Figure, dB, 8
Sound Subcarrier(s), Two

183. Comments are invited on the sharing criteria between the electronic news gathering systems and the space stations, and on the level of the interference, if any, that would be introduced to the space stations by the current parameters of the electronic news gathering systems. Considering the answers to the above questions, along with any other pertinent information before us, we will carefully review the situation during domestic Rulemaking proceedings.

184. Referring to the frequency bands 17.7–19.7 GHz, 21.2–22, 22.4–23 GHz and 37–40 GHz, the Auxiliary Broadcasting SWG urged "• • • the Commission to permit no footnote to be associated with these bands which would preclude their use for Television Auxiliary Stations". If this SWG submits any analysis showing a particular footnote to be detrimental to the Television Auxiliary Stations, then we will consider those comments.

Radionavigation/Radiolocation

185. These services in the bands above 10.7 GHz were only nominally addressed in the comments and reply comments to the Third Notice of Inquiry. Specific comments included the deletion of footnote 407A from the 13.25–13.4 GHz band, deletion of footnote 408A from the 14–14.3 GHz band, and support for addition of a new footnote 409CA in the band 15.7–16.6 GHz. In addition, the RTCA and ARINC supported the retention of the Radionavigation allocations at 31.8–32.3 GHz and 33–33.4 GHz.

186. The ARINC and RTCA request for suppression of of footnote 408A in the band 14–14.3 GHz has been opposed by COMSAT in its reply comments, "unless CCIR Recommendation 496 (concerning frequency sharing criteria) is incorporated in the International Radio Regulations". This band will be used by the INTELSAT system and by the SBS system for the uplink to their satellites. Such systems require huge investments and must be protected. We, therefore, cannot accept the deletion of footnote 408A at this time. We do, however, invite comment on the sharing criteria which could be adopted in lieu of footnote 408A, if such criteria are deemed perferable to footnote 408A.

187. ARINC proposed the deletion of the footnote 407A from 13.4–14.0 GHz band without giving any reason. The footnotes 407A and 408B are proposed to be deleted and the secondary Space Research Service is proposed to be allocated in the Table to meet our national requirements. Except for the 14.4–14.5 GHz band, the direction indicators for the Space Research Service, in this region of the spectrum, are deleted. Because of the secondary status of the proposed allocations to the Space Research Service, no interference is expected to be caused by it to the other services.

Above 40 GHz

188. COMSAT commented that we may desire to leave a large portion of the frequency band above 40 GHz unallomade at this time • • •." The private cated but request a conference in the late 1980s to make specific allocations. COMSAT General had previously recommended certain frequency bands above 40 GHz for the fixed-satellite service. COMSAT General proposed that "• • • no other allocations above 40 GHz be made at this time • • •" The private microwave advisory committee stated its belief that allocations above 100 GHz should be left "open" to insure future flexibility. AT&T recommended "• • • that the Commission continue to press for international allocations of the spectrum from 40 to 300 GHz to encourage experimentation and innovative development." Several arguments, any of which is persuasive, can be made for proposing specific allocations above 40 GHz. First, a large portion of the spectrum above 40 GHz is currently allocated; other Administrations may be expected to propose allocations for the frequency bands currently unallocated, and the United States should be prepared for that eventuality. Second, many spectral lines have been identified for the Radio Astronomy and Space Research services. Third, developments are currently in progress in several frequency bands above 40 GHz. Fourth, the allocations table helps users to select the appropriate frequency for the development of a specific service, thus preventing waste of funds. Fifth, and perhaps most importantly, orderly spectrum development ensues. The last General World Administrative Radio Conference (GWARC) was held in 1959 and at that time the entire Article 5 was considered. The World Administrative Radio Conferences held between 1959 and the present were "specialized" in nature and devoted to specific services such as Space, Maritime, and Broadcasting-Satellite. We are not certain that another GWARC could be convened in the late 1980s as suggested by COMSAT. Considering all factors, we believe it prudent to prepare a specific Frequency Allocations Table extending uo to 300 GHz.

189. Various lasers systems are currently being developed for radar, and for terrestrial and satellite communications. What, if any, allocations and technical regulation should be proposed for these frequencies?

International Radio Regulations and Appendices

190. Although the published Agenda for the 1979 WARC specifies Articles of the Radio Regulations which are to be considered, we are reviewing all Articles and Appendices in order to determine the appropriate actions to take in their regard. For purposes of discussion, we have divided the Articles and Appendices into those dealing with definition matters, technical matters, and operational matters. Some proposals pertaining to these matters were presented in the previous Notice; additional proposals arising to this time are presented in Appendix 3.

Definition Matters

191. We have identified a requirement for accommodating spaceborne radars such as docking and mapping radars used in space programs. We have considered modifying the definition of the Radiolocation Service to include spaceborne operations, however, at this time we are opposed to this subject and we may propose specific allocations in future to satisfy this requirement.

Technical Matters

192. Spectrum requirements are far beyond the ability of usage concepts to provide. There is simply not enough usable spectrum for exclusivity. To determine which services should be sacrificed at the expense of another, would, in most cases, be a difficult task. Initially at least, it must be assumed that, with few exceptions, all services must be regarded as coequal.

193. We ask all users to recognize the impossibility of obtaining all the spectrum requested and the virtual impossibility of exclusivity with perhaps several exceptions. We must develop conditions for cooperative use which go far beyond the concepts of sharing that presently prevail. Given that a band must be used by more than one justifiable service, our problem is to determine

the specific conditions or criteria, which can be applied to two or more services on mutually cooperative rather than mutually exclusive bases in order to achieve more effective use of the spectrum.

194. The need for cooperative use of the spectrum (as evidenced by the projected demands for existing services and expected growth of new services) is greater than ever envisaged before by more than an order of magnitude.

195. We ask that interested parties address themselves to the conditions under which they can cooperate with other services that must make use of the same portions of the spectrum.

196. A number of problem areas concerning cooperative use have been identified as being of great importance. We solicit comments on these problems (see Problem Areas) and we suggest that the replies take cognizance of the following key issues which underlie the development of increased sharing through "Cooperative and Mutual Usage" criteria:

Key Issues

(1) Is there a case for exclusivity as far as particular bands or frequencies are concerned?

(2) Is the need for the service in a requested band such that increased sharing through cooperative and mutual usage criteria should be developed, or would the service suffer serious harm by virtue of such usage?

(a) Exactly how does the service make us of the band (for which increased sharing through cooperative and mutual usage are to be developed)? The answer should be couched in terms of radiation patterns, size of markets, use as a function of population density, geographical location, time of day, expected physical coverage by radiated signal, frequency sharing, and any other related pertinent factors. In particular, consideration should be given to the probability statistics of use, and tolerable interference, since less than 100% uninterrupted service may be a necessary factor in the increased sharing through cooperative and mutual usage criteria.

(b) Which factors, specifically relevant to the above usage, would have to be addressed in order to develop increased sharing through cooperative and mutual usage criteria?

(3) Do the existing Radio Regulations concerning interference aid or interfere with the determination of increased sharing through cooperative and mutual usage criteria? If so, in what way, and what modifications would be helpful?

(4) Are there preferred technical and operating characteristics of a service, or of services for which it is necessary to develop increased sharing through cooperative and mutual usage criteria? For instance, would specific attention to such factors as antenna characteristics, transmitted power, flux density, type of emission, receiver characteristics, TASI, etc. for a given system, or equipment, not presently specified in detail, permit greater usage of the band by the several necessary services?

(5) Would cooperative use be enhanced by specific rules and regulations which do not presently exist, and what would such rules cover?

(6) In the event that special coordination procedures would be helpful for increased sharing through cooperative and mutual usage, what form would these take? Finally, what would such procedures be able to accomplish that cannot be accomplished under the present operating structure?

(7) Can requests for various segments of the bands be coordinated in some form of priority? For instance, if a service must be expanded, is greater priority to be given to new bands, or expansion of existing bands? If increased sharing through mutual and cooperative usage criteria must be employed, what other services are the most and the least desirable for mutual usage? Is a single wide band used in cooperation with other services, preferable to a number of smaller bands with perhaps less interference potential? Where is it contemplated that such bands should lie? Are other factors pertinent?

(8) In what way do modulation techniques, e.g. digital, FM, spread spectrum, etc., affect the increased sharing through cooperative and mutual usage?

197. We wish to approach this problem with the positive outlook that at least partial solutions are available if only we search diligently enough.

198. With these thoughts in mind, particular problems of band usage are here brought to the specific attention of those users who are involved. These matters are also addressed in the text of this Notice of Inquiry either in terms of service or spectrum bands or both. However, because they pose particularly severe difficulties as far as resolution is concerned, they are presented below. We request that the various users suggest criteria/conditions for increased sharing through cooperative usage, with particular reference to the preceding statements:

Problem Areas

(1) Usage of the 3.4–6.925 GHz band by the Broadcasting-Satellite Service, Fixed Satellite Service, and mobile users. (See Appendix 5.)

(2) Mutual usage by Mobile and Radiolocation Services in the 896–902, and 941–947 MHz bands. There are also potential problems with troposcatter and broadcasting. (Technical Parameters of Radiolocation Service are listed in the common carrier Land-Mobile Section, page 20.)

(3) Broadcasting and Radiolocation services in the 1615–1800 kHz band require consideration.

(4) Usage of the 4–30 MHz band by HF Broadcasting and Fixed/Mobile services, Maritime Mobile Service sharing with secondary Fixed Service in accordance with the Note described in the HF Fixed section, page 9.

(5) Usage of the 821–825 MHz and 866–870 MHz bands for Mobile Satellites—interference with TV, land mobile and other services requires consideration. (See footnote 329B.)

(6) Usage of 2300–2500 MHz band. Required for Broadcasting-Satellite Service, along with requirements of Aviation and Marine related services.

(7) A 1% bandwidth is requested for radio astronomy research in the 3 GHz region. At present it is not clear where this may be best provided. (See footnote 369A.)

Operational Matters

199. Operational matters are those which are left after the Table of Frequency Allocations, technical matters and notification provisions are excluded. Numerous topics which would fall within the purview of the operations committee which may be established at the 1979 WARC are treated in Appendices 3 and 4 of this document. In many instances where the intent of the proposed MOD or ADD is not self-evident, a tentative reason has been shown.

200. There is not intent to expand the agenda as presently adopted by the Administrative Council. These matters go beyond the scope of the draft agenda for the 1979 WARC already adopted pursuant to the provisions of the Convention. However, that Convention does provide for the amendment of draft agendas already established. Since there will be three meetings of the ITU Administrative Council prior to the Conference, and since the Council may initiate adjustment of, or expansion of, the agenda, we are here endeavoring to prepare should matters not now slated for consideration perhaps suddenly be added to the agenda. Were an expansion effected in, say, June of 1979, the Commission would not then have time, in all probability, to issue a notice of inquiry prior to the convening of the WARC on September 24, 1979.

201. Rather, noting the provisions of the Administrative Procedure Act, we would prefer to invite attention to these matters now while there is some time to benefit from public comment thereupon. It should also be noted that portions of these appendices were produced very late in the preparation of this notice and therefore have not been reviewed in their entirety by all appropriate elements in the preparatory structure. When that total review is effected, some may be altered or removed and others may be added as is true for all matters advanced herein. With this in mind, cogent comment upon the proposals advanced is requested with the hope that commenters will bear in mind that this is not a domestic proceeding, and that the scope of the proceeding extends well beyond 1977.

Resolutions and Recommendations

202. We are reviewing all Resolutions and Recommendations in order to determine the appropriate actions to take in their regard. The proposals arising to this time are presented in Appendix 4; additional proposals will be presented in future Notices. In some cases we are proposing no action. In other cases, the proposals will depend on the outcome of events at the 1979 WARC or in the period between today and the time of

the 1979 WARC; these cases are discussed below.

203. The principles mentioned in Resolution 3 and Recommendation 37 are still valid; it may be appropriate for a new Resolution setting forth present and future techniques and calling upon administrations to utilize those techniques to reduce congestion in the band 4 MHz–27.5 MHz.

204. Resolution 10 needs to be modified if the bands 7000–7100 kHz and 7100–7300 kHz are revised; in any event, the concept of sharing HF bands by certain services, e.g., Fixed and Broadcasting, may dictate modifications if sharing is decided to be a feasible concept.

205. Resolutions Mar 5 and Mar 2–20 are related and will need to be updated by the 1979 WARC; the modifications will be further dependent upon proposals considered by the 1979 WARC.

206. Resolution Mar 2–5 can be suppressed provided that the ITU Secretary General has published in the List of Coast Stations the Distribution Plan for Group Channels—HF Al Morse.

207. Recommendation 31 relates to the protection of standard frequency guard bands for use by radio astronomy; if incorporated into a footnote in the Radio Regulation, then the Recommendation could be suppressed.

208. Recommendation Mar 2–1 can be suppressed if the WARC provides allocations for low power radiolocation.

209. The actions required on Recommendations Mar 2–8 and 2–9 depend upon the actions of the WARC with regard to allocations proposals for the Maritime Mobile service and further with regard to how that spectrum is divided among the various maritime users.

210. Recommendation Mar 2–11 can be suppressed if the WARC makes available additional UHF frequencies for onboard ship communications. There is a relevant CCIR Draft Report (No. 587, Rev 76) dealing with question 18–118.

211. Recommendation Spa 2–1 is likely to be suppressed by the 1979 WARC.

212. The actions on Recommendations Spa 2–3, Spa 2–4, Spa 2–5 are dependent upon the actions of the WARC with regard to appropriate allocations. It is likely that these Recommendations will be suppressed.

213. The action on Recommendation Spa 2–7 is dependent upon the actions of the WARC with regard to allocation proposals for the Radio Astronomy service.

Conclusion

214. As we have previously indicated in this proceeding, all participants should keep in mind the importance of the 1979 WARC results. Based upon past experience, decisions reached at this conference can be expected to provide the basis for international radio regulation policy for most of the remainder of this century. It is of the utmost importance to develop U.S. proposals which effectively promote that combination of telecommunication uses which offers the maximum social and economic contribution to the national welfare and which also contain the flexibility necessary to accommodate important new applications of this dynamic technology as well as the unique requirements of our international partners in the ITU. It must be recognized that the proposals presented herein pertain to the international Radio Regulations and that the domestic implementation of such proposals will require extensive U.S. national consideration.

215. Comments bearing on the proposed revisions to the international Radio Regulations, Appendices, Resolutions, and Recommendations, and any other matters relevant to preparation for the 1979 WARC are hereby sought from all interested United States individuals, parties, or groups of parties which may exist. In order to facilitate our analysis of the comments, we are asking that they be organized according to the topics presented in this Notice.

216. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested persons may file comments on or before August 1, 1977, and reply comments on or before August 22, 1977. All relevant and timely comments and reply comments, along with any pertinent information which we may have available, will be considered. When commenting, it should be borne in mind that this effort is directed toward international allocations and not domestic issues. The U.S. wants to achieve maximum flexibility in international allocations proposals.

217. Although § 1.419 of the Commission's rules required that an original and five copies of all statements, briefs, or comments be filed in response to a Notice, our conference preparatory organization necessitates the filing of an orignal and nineteen copies. All responses received will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

218. This Notice is issued pursuant to the authority set forth in section 4 (i) of the Communications Act of 1934, as amended 47 U.S.C. 154(i).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX 1.—RESPONDENTS TO THIRD NOTICE OF INQUIRY

COMMENTS RECEIVED IN RESPONSE TO THIRD NOTICE OF INQUIRY—DOCKET 20271

Aeronautical Radio, Inc. and the Air Transport Assoc. of America
Aerospace & Flight Test Radio Coordinating Council
Aircraft Owners & Pilots Association
AM Broadcasting Service Working Group
American Broadcasting Companies, Inc.
American Telephone & Telegraph Co.
American Waterways Operators, Inc.
Association of American Railroads
Association for Broadcast Engineering Standards
Association of Independent Television Station, Inc.
Association of Maximum Service Telecasters, Inc.
Auxiliary Broadcasting Service Working Group
Clear Channel Broadcasting Service
Communicasting Assoc. of America, Inc.
Communications Satellite Corporation
COMSAT General Corp.
Corporation for Public Broadcasting
Council for UHF Broadcasting
Decca Survey Systems, Inc.
Domestic Land Mobile Advisory Committee
E. I. Du Pont de Nemours & Co.
Electronic Industries Assn. (Consumer Electronics Group)
Family Stations, Inc.
Far East Broadcasting Company, Inc.
Farinon Electric
Fisher's Blend Station, Inc.
General Electric Company (Communications Systems Div.)
General Electric Company (Major Appliance Business Group)
Gilmore Broadcasting Company
GTE Service Corp.
Guy, Arthur W.
Haddock, Hoyt S.
Hazeltine Corporation
Health, Education & Welfare Dept.
Joint Council on Educational Telecommunications
Krebs, William N.
Land Mobile Communications Council
Litton Microwave Cooking Products, Inc.
Marsten, Richard B.
Medallion Broadcasters, Inc.
Metromedia, Inc.
Mobile Marine Radio, Inc.
Motorola, Inc.
National Academy of Sciences
National Association of Broadcasters
National Astronomy and Ionosphere Center
National Broadcasting Company, Inc.
National Radio Broadcasters Association
Odom Offshore Surveys, Inc.
Offshore Navigation, Inc.
Private Land Mobile Service Working Group
Private Microwave Advisory Committee
Public Broadcasting Service
Public Service Satellite Consortium
Radio Astronomy Service Working Group
Radio Technical Commission for Aeronautics
Radio Technical Commission for Marine Services
Raytheon
RCA American Communications, Inc.
RCA Global Communications, Inc.
Satellite Business Systems
Television Broadcasting Service Working Group
Thompson, Arthur
Trans World Radio and Trans World Radio Pacific
Utilities Telecommunications Council
WGN Continental Broadcasting Company
International CB Radio Operators Association
E. F. Johnson Company

COMMENTS TO THIRD NOTICE OF INQUIRY—DOCKET 20271 (AMATEUR)

Amateur Radio Advisory Committee
American Radio Relay League
Arbogast, Burl T.
Argonne Amateur Radio Club
Bayalis, John
Beacon Radio Amateurs
Berberich, Frank
Bidstrup, Scott C.
Big Island Amateur Radio Club
Bowen, Chuck
Bowles, William G., Jr.
Cambridge, Ohio Amateur Radio Club
Carlen, Ed
Carlson, C. R.
Cholsser, Bill and Kenney, Lawrence
Citrus Center Amateur Radio Club
Clark, Rev. Benjamin
Cooke, Willis R.
Davis, Marshall B.
Duck, Edward E.
East Bay Radio Club
Edgewood Amateur Radio Society, Inc.
Electronic Industries Association (Communications Division)
Emergency Amateur Radio Club
Enid Amateur Radio Club, Inc.
Erk, Peter
Evans, James J.
Eye, Louis D., II
Fisher, James W.
Fisher, Walter
Fountain City Amateur Radio Club
Fulton County Amateur Radio Club
Port Belvoir Amateur Radio Club
Fulcher, William, N.
Gainesville Amateur Radio Society
Great Smoky Mountain Chapter of 10–X
Greater Fairfield Amateur Radio Association
Grew, William
Guenther, John
Groenhof, Henry
Gulino, Chick
Gundry, James A.
Helmberger, Raymond E.
Henselman, Ronald
Hodges, Louis A.
Hauck, Ray N.
Houston, Al
Knirko, Lee
Larkin, Clarence J., Jr.
Leopold, Hank
Letovrneau, Wayne
Lievsay, Claude, Jr.
Long Island Mobile Radio Club
Magro, Daniel, Jr.
May, Robert M. II
Mitchell, W. M.
Moss, James
National Capitol DK Association
Pagliarini, John A., Jr.
Paruolo, Emil
Pentagon Amateur Radio Club
Praig, G. Franklin
Preston, James C.
Quarter Century Wireless Association Inc. (Long Island Chapter)
Radio Amateur Club of Knoxville
Radio Amateur Megacycle Society
Radio Amateur Satellite Corporation
Reiter, Verlin E.
Reynolds, Howard W.
Rock Creek Amateur Radio Association
Rudd, F. A.
Ruh, Henry B.
Scheurer, J. R.
Scholtz, William
Shreve, R. B.; Mclaren, Donald; Hinds, George; Carson, Willard; Hollis, Dave
Spearman, Frank
Springer, Alfred E.
Stitzer, Steven N.
Texas VHF-FM Society Inc.
Thompson, Andrew F.
Thornton, Douglas
Tiffany, W. D.
Troster, John G.
Southern California Repeater & Remote Base Association
Tucson Repeater Association
West, Bryan F.
Winona Amateur Radio Club
Wolf, John

APPENDIX 2.—PROPOSAL FOR INTERNATIONAL TABLE OF FREQUENCY ALLOCATIONS (ARTICLE 5)

METHOD OF PRESENTATION

1. Numbers shown are the international Radio Regulation numbers;
2. Underlining indicates new text.
3. If a service is in all Capitals, it is a primary service (e.g. MOBILE);
4. If a service has a Capital as the first letter, and the remainder in lower case, it is a secondary service (e.g. Mobile);
5. Slant bars before and after service indicate a permitted service (e.g. /Mobile/);
6. ADD means an addition to the current provisions;
7. Brackets through the text (e.g., [ ]) indicate existing text which is being deleted;
8. MOD means a modification of the current provisions;
9. SUP means to suppress the current provisions;
10. NOC means we are proposing that the current provisions not be changed;
11. In view of the action taken by the Final Acts of the 1971 Space Conference all frequencies should be expressed in hertz instead of cycles per second;
12. The absence of MOD, SUP OR NOC against a given Radio Regulation means that no proposal is being made in respect to that provision.

TABLE OF ALLOCATIONS

kHz			
Region 1	*	Region 2	* Region 3
Below 10		(Not allocated)	
		157	
REASON: No allocations to services proposed.			
NOC 157			
REASON: There is a continuing need for this condition in the event that frequencies below 10 kHz are used for special national purposes.			
10-14		RADIONAVIGATION ~~Radiolocation~~	
Reason: There is continuing and expanded use of this frequency band for worldwidm radio navigational systems (Omega) for maritime and aeronautical aids. Radiolocation is being deleted to protect radionavigation systems, and to preclude the entry of incompatible systems in the future.			
14-19.95		FIXED MARITIME MOBILE 158 159	
19.95-20.05		STANDARD FREQUENCY 160 159	
20.05-70		FIXED MARITIME MOBILE 158 159 161	

kHz			
Region 1	*	Region 2	* Region 3
70-72 RADIONAVIGATION 162 161		70-90 FIXED MARITIME MOBILE 158 MARITIME RADIONAVIGATION 162 Radiolocation	70-90 FIXED MARITIME MOBILE 158 RADIONAVIGATION 162
72-84 FIXED MARITIME MOBILE 158 RADIONAVIGATION 162 161 163			
84-86 RADIONAVIGATION 162 163			
86-90 FIXED RADIONAVIGATION 162 MARITIME MOBILE 158 163		164	165
Reason: Operational requirements remain constant.			

kHz			
Region 1	*	Region 2	* Region 3
90-110 ~~Fixed~~ ~~FIXED~~ ~~MARITIME MOBILE 158~~ RADIONAVIGATION ~~Maritime~~ Mobile 158 163 166 167	*	90-110 RADIONAVIGATION ~~Fixed~~ ~~Maritime Mobile 158~~ 166 167	* 90-110 ~~FIXED~~ ~~MARITIME MOBILE 158~~ RADIONAVIGATION ~~Fixed~~ ~~Maritime~~ Mobile 158 166 167
REASON: To provide primary allocation for the radionavigation service worldwide.			
NOC 166			
REASON: Applicable to the contemplated use of this band for worldwide radionavigation systems. Affords additional protection.			

kHz			
Region 1	*	Region 2	* Region 3
110-112 FIXED MARITIME MOBILE RADIONAVIGATION 162 163 167 ~~168~~	*	110-~~130~~ 115 FIXED MARITIME MOBILE MARITIME RADIONAVIGATION 162 Radiolocation 164 167 ~~168~~	* 110-130 FIXED MARITIME MOBILE RADIONAVIGATION 162
112-115 RADIONAVIGATION 162 163	*	115-130 FIXED MARITIME MOBILE MARITIME RADIONAVIGATION 162 BROADCASTING Radiolocation	*
115-126 FIXED MARITIME MOBILE RADIONAVIGATION 162 163 167 ~~168~~ 169	*		*
126-129 RADIONAVIGATION 162 163	*		*
129-130 FIXED MARITIME MOBILE RADIONAVIGATION 162 163 167 ~~168~~	*	164 167 ~~168~~	* 167 ~~168~~ 170
REASON: To provide for low frequency broadcasting.			
SUP 168			
REASON: No longer required.			

5.

kHz

Region 1	Region 2	Region 3
130-150	130-150	130-150
MARITIME MOBILE 172 Fixed	FIXED MARITIME MOBILE BROADCASTING	FIXED MARITIME MOBILE
163 167 173	167	167
150-160	150-160	150-160
MARITIME MOBILE 167 174 BROADCASTING	FIXED MARITIME MOBILE BROADCASTING	FIXED MARITIME MOBILE
175	167	167
160-255 ~~BROADCASTING~~ 176	160-200 190 FIXED 179 BROADCASTING ~~179~~ 190-200 ~~FIXED~~ AERONAUTICAL RADIONAVIGATION ~~179~~ 200-~~285~~ 275 AERONAUTICAL RADIONAVIGATION Aeronautical mobile	160-200 FIXED Aeronautical radionavigation
255-~~285~~ 275 MARITIME MOBILE 174 BROADCASTING AERONAUTICAL RADIONAVIGATION 176 177 178		

REASON: Broadcasting added 130-190 kHz to provide for low frequency broadcasting. Aeronautical radionavigation added 190-200 kHz band to accommodate the growing needs of this service.

6.

kHz

Region 1	Region 2	Region 3
275-285 MARITIME MOBILE 174 BROADCASTING AERONAUTICAL RADIONAVIGATION Maritime radionavigation (radiobeacons) 176 177 178	275-285 AERONAUTICAL RADIONAVIGATION Aeronautical mobile Maritime radionavigation (radiobeacons)	

Reason: To support requirements for maritime radiobeacons.

7.

kHz

Region 1	Region 2	Region 3
285-315	MARITIME RADIONAVIGATION (radiobeacons) Aeronautical radionavigation	

REASON: There is a continuing need to utilize this band for radionavigation (radiobeacons).

315-325 AERONAUTICAL RADIONAVIGATION 180	315-325 MARITIME RADIONAVIGATION (radiobeacons) Aeronautical radionavigation	

Reason: There is a continuing need to utilize this band for radionavigation (radiobeacons).

325-~~405~~ 331	Maritime radionavigation (radiobeacons) AERONAUTICAL RADIONAVIGATION Aeronautical mobile 181	

Reason: There is a continuing need to utilize this band for aeronautical radionavigation and aeronautical mobile, and to support requirements for maritime radionavigation beacons.

331-405	AERONAUTICAL RADIONAVIGATION Aeronautical mobile 181	

Reason: There is a continuing need to utilize this band for aeronautical radionavigation and aeronautical mobile services.

8.

kHz

Region 1	Region 2	Region 3
405-415	405-415	405-415
MOBILE except aeronautical mobile AERONAUTICAL RADIONAVIGATION MARITIME RADIONAVIGATION (radio direction-finding)	MARITIME RADIONAVIGATION (radio direction finding) /Aeronautical radionavigation/ Aeronautical mobile	RADIONAVIGATION Aeronautical mobile
182 183 184	182	182

REASON: There is a continuing need for the services specified above in this band.

NOC 182

REASON: There is a continuing need to provide the maritime radionavigation (radio direction-finding) service with protection from interference from other services utilizing this band.

9.

kHz

Region 1	Region 2	Region 3
415-490		
MARITIME MOBILE		
185 186		

REASON: There is a continuing need by the maritime mobile service to utilize this band for telegraph communications over short and medium distances.

490-510		
MOBILE (distress and calling)		
187		

REASON: There is a continuing need to maintain this band for international distress traffic and calling purposes.

NOC 187

REASON: Same as indicated above.

10.

kHz

Region 1	Region 2	Region 3
510-525	510-525	510-525
MARITIME MOBILE 186 188A Aeronautical radionavigation 188	~~MOBILE~~ /Aeronautical radionavigation/ 188 MARITIME MOBILE 186 188A	MARITIME MOBILE 188A Aeronautical mobile Land mobile
185		189

REASON: Mobile allocation deleted and maritime mobile allocation (and appropriate footnote) inserted to conform to actual usage of band.

NOC 188

REASON: To retain priority for the maritime mobile service in this band on a worldwide basis.

ADD 188A The frequency 512 kHz is used as prescribed by Nos. 1123 and 1125 through 1129.

Reason: To indicate 512 kHz is used in accordance with provisions of Article 32.

11.

kHz

Region 1	Region 2	Region 3
525-535	525-535	525-535
BROADCASTING	MOBILE ~~/Broadcasting 191/~~ ~~/Aeronautical~~ Radionavigation/188 BROADCASTING	MOBILE ~~Broadcasting~~ BROADCASTING
190		

REASON: Population growth, shifts in population, new communities and other factors are sufficient to warrant some expansion of the medium frequency broadcasting band to meet future requirements.

SUP 191

REASON: No longer required.

535-1605	
BROADCASTING	

REASON: There is a continuing need to provide existing and expanded broadcasting services to the general public.

12.

kHz

Region 1	Region 2	Region 3
1605-~~3000~~ 1800	1605-~~1800~~ 1615	1605-1800
FIXED MOBILE except aeronautical mobile	~~FIXED~~ MOBILE ~~AERONAUTICAL~~ RADIONAVIGATION ~~Radiolocation~~ BROADCASTING	FIXED MOBILE
192 193 194 ~~195~~ 195A		197
	1615-1800 FIXED MOBILE ~~AERONAUTICAL~~ RADIONAVIGATION ~~Radiolocation~~ BROADCASTING RADIOLOCATION	
195B	195C	195B

ADD 195B The bands 1615-1800 kHz and 3230-3400 kHz are also allocated to the radiolocation service.

REASON: To accommodate radiolocation services for geophysical maritime and surveying functions.

REASON: Broadcasting added to provide expansion of medium frequency band to meet future requirements. Radiolocation modified to primary co-equal shared to satisfy requirements such as geophysical, maritime, and surveying functions.

ADD 195C Special agreements between administrations concerned shall determine the conditions for implementations of broadcasting in the proximity of international boundaries to preclude harmful interference being caused to the radio location service.

REASON: To ensure some measure of protection for Radiolocation systems.

kHz

Region 1	Region 2	Region 3
1800-1900	1800-~~2000~~ 1900	
~~FIXED~~ ~~MOBILE except aeronautical mobile~~ AMATEUR	AMATEUR ~~FIXED~~ ~~MOBILE except aeronautical mobile~~ ~~RADIONAVIGATION~~	
192 193 194 ~~195~~ 195A	MOD 198	
1900-2000	1900-2000	
FIXED MOBILE except aeronautical mobile Radiolocation	AMATEUR FIXED MOBILE except aeronautical mobile RADIONAVIGATION Radiolocation	
192 193 194 195 195A	MOD 198 ADD 198A	

REASON: 1800-1900: Short to medium range communications can be accomplished by the amateur service in this band, and particularly to provide an exclusive allocation worldwide.

1900-2000: To provide for geophysical, maritime, and surveying radiolocation functions, all of which are expanding and are expected to do so.

NOC 195

REASON: Requirement remains valid.

ADD 198A In Region 2 the Loran system has priority until such time as that system is discontinued by agreement between administrations. Other services to which the band is allocated may use any frequency in this band provided that they do not cause harmful interference to the Loran system until such time as that system is discontinued.

MOD 198 ~~In Region 2 the Loran system has priority. Other services to which the band is allocated may use any frequency in this band provided that they do not cause harmful interference to the Loran system.~~

In Region 3 the Loran system in any particular area operates either on 1850 or 1950 kHz, the bands occupied being 1825-1875 kHz and 1925-1975 kHz respectively. Other services to which the band 1800-2000 kHz is allocated may use any frequency therein on condition that no harmful interference is caused to the Loran system operating on 1850 or 1950 kHz.

REASON: Long range planning indicates that Loran systems will be removed from the band 1900-2000 kHz.

kHz

2000-2045	2000-2065
FIXED MOBILE except aeronautical mobile	FIXED MOBILE
193 195A	
2045-2065	
METEOROLICAL AIDS FIXED MOBILE except aeronautical mobile	
193 195A	

REASON: Retention of this band as presently allocated is for the purpose of retaining flexibility in future sharing arrangements with fixed and mobile services.

2065-2170	2065-2107
FIXED MOBILE except aeronautical mobile (R)	MARITIME MOBILE 200
	2107-2170
	FIXED MOBILE
193 195A	

REASON: 2065-2107: Allocation retained to accommodate continuing need to provide services in this band in the maritime mobile service, and to meet future requirements.

2107-2170: This band is presently used for a variety of fixed and mobile services.

Retention of this band as presently allocated internationally is for the purpose of retaining flexibility in future sharing arrangements between fixed and mobile services.

NOC 200

REASON: There is a continuing need for this footnote.

Region 1	Region 2	Region 3
2170-2194		
	MOBILE (distress and calling) 201 201A	

REASON: There is a continuing need to maintain this band for international distress traffic and calling purposes.

NOC 201 & 201A

REASON: There is a continuing need to maintain these footnotes to provide for international distress purposes.

2194-2300	2194-2300
FIXED MOBILE except aeronautical mobile (R)	FIXED MOBILE
193 195A	

REASON: This band is presently used for a variety of fixed and mobile services. Retention of this band as presently allocated is for the purpose of retaining flexibility in future sharing arrangements between fixed and mobile services.

kHz

Region 1	Region 2	Region 3
2300-2498	2300-2495	
FIXED MOBILE except aeronautical mobile (R) BROADCASTING 202	FIXED MOBILE BROADCASTING 202	
193 195A	2495-2505	
2498-2502		
STANDARD FREQUENCY	STANDARD FREQUENCY	
203 203A		
2502-2625		
FIXED MOBILE except aeronautical mobile (R)	203 203A	
	2505-2625	
	FIXED MOBILE	
193 195A		

REASON: 2300-2495: Same as reason stated for the band 2194-2300 kHz above. The allocation for broadcasting is being retained because of its use in tropical zones in other countries within Region 2.

2505-2625: Same as reason stated for the bands 2194-2495 kHz.

17.

kHz		
Region 1	Region 2	Region 3
2625–2650	2625–2850	
MARITIME MOBILE MARITIME RADIONAVIGATION		
175 195A	FIXED MOBILE	
2650–2850		
FIXED MOBILE except aeronautical mobile (R)		
205 195A		

REASON: Same as stated for the bands 2194–2495 and 2505–2625 kHz.

2850–3025
AERONAUTICAL MOBILE (R) 201A 205A

REASON: Continued use through, and beyond, the year 2000 by the aeronautical mobile (R) service.

NOC 201A 205A

REASON: Continued need for search and rescue purposes.

18.

kHz		
Region 1	Region 2	Region 3
3025–3155		
AERONAUTICAL MOBILE (OR)		

REASON: Continued use through, and beyond, the year 2000 by the aeronautical mobile (OR) service.

3155–3200
FIXED MOBILE except aeronautical mobile (R)

REASON: This band is presently used for a variety of fixed and mobile services. Retention of this band as presently allocated is for the purpose of retaining flexibility in future sharing arrangements between fixed and mobile services.

3200–3230
FIXED MOBILE except aeronautical mobile (R) BROADCASTING 202

REASON: This band is presently used for a variety of fixed and mobile services; its retention is required. The allocation for the broadcasting service is being retained because of its use in the tropical zones in other countries within Region 2.

19.

kHz		
Region 1	Region 2	Region 3
3230–3400		
	FIXED MOBILE except aeronautical mobile BROADCASTING 202 195B	

REASON: Same as stated for the band 3200–3230 kHz above.

3400–3500
AERONAUTICAL MOBILE (R)

REASON: Continued use through, and beyond, the year 2000 by the aeronautical mobile (R) service.

3500–3800	3500–~~4000~~ 3900	3500–3900
AMATEUR ~~FIXED~~ ~~MOBILE except aeronautical mobile~~	AMATEUR ~~FIXED~~ ~~MOBILE except aeronautical mobile (R)~~	AMATEUR FIXED MOBILE
3800–3900		
FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE		206 207

20.

kHz		
Region 1	Region 2	Region 3
3900–3950	3900–4000	3900–3950
AERONAUTICAL MOBILE (OR)	AMATEUR FIXED MOBILE except aeronautical mobile (R)	AERONAUTICAL MOBILE BROADCASTING
3950–4000		3950–4000
FIXED BROADCASTING		FIXED BROADCASTING

REASON: To provide exclusive Region 2 amateur allocation in the band 3500–3900 kHz.

kHz

Region 1	Region 2	Region 3
4000–4063	FIXED Mobile except aeronautical mobile (R)	
~~4063–4438~~ 4123	~~MARITIME MOBILE 208 209 209A~~	BROADCASTING FIXED
4123–4438	MARITIME MOBILE 208 MOD 209A MOD 209	
~~4438–4650~~ 4560	~~FIXED MOBILE except aeronautical mobile (R)~~ MARITIME MOBILE	~~4438–4650~~ 4560 ~~FIXED MOBILE except aeronautical mobile~~ MARITIME MOBILE
4560–4650	FIXED MOBILE except aeronautical mobile (R)	4560–4650 FIXED MOBILE except aeronautical mobile
4650–4700	AERONAUTICAL MOBILE (R)	
4700–4750	AERONAUTICAL MOBILE (OR)	
4750–4850	4750–4850 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE BROADCASTING 202	FIXED BROADCASTING 202 MOBILE except aeronautical mobile (R)

REASON: Band reduced to expand spectrum available to the maritime mobile service in the adjacent lower band, additionally the band 4063–4123 is required by high frequency broadcasting.

MOD 209A For the use of carrier frequency ~~4126.3 kHz (as from 1 January 1978 to be replaced by carrier frequency~~ 4125 kHz) in the zone of Regions 1 and 2 south of latitude 15°N, including Mexico, and in the zone of Region 3 south of latitude 25°N, see no. 1351E.

Reason: To delete an obsolete date.

MOD 209 On condition that harmful interference is not caused to the maritime mobile service, the frequencies between ~~4063~~ 4123 and 4438 kHz may be used exceptionally by fixed stations communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 watts; however, in Regions 2 and 3, between 4238 and 4368 kHz, a mean power not exceeding 500 watts may be used by such fixed stations.

REASON: Consequential to allocation change.

kHz

Region 1	Region 2	Region 3
4850–4995	FIXED LAND MOBILE BROADCASTING 202	

Reason: Continuing need for existing allocations.

4995–5005	STANDARD FREQUENCY 203A 210	
5005–5060	FIXED BROADCASTING ~~202~~	
5060–~~5250~~ 5200	MOBILE except aeronautical mobile (R) FIXED	

Reason: Band reduced to expand spectrum available to the maritime mobile service in the adjacent upper band.

5200–5250	~~FIXED~~ MARITIME MOBILE	

Reason: To provide additional spectrum for use by the maritime mobile service.

Reason: Mobile except aeronautical mobile (R) added to specific bands to accommodate national requirements.

Reason: 202 deleted from 5005–5060 to accommodate expansion of international broadcasting.

kHz

Region 1	Region 2	Region 3
5250–~~5430~~ 5300 ~~FIXED~~ ~~LAND MOBILE~~ MARITIME MOBILE	5250–~~5450~~ 5300 ~~FIXED~~ ~~LAND MOBILE~~ MARITIME MOBILE	5250–~~5430~~ 5300 ~~FIXED~~ ~~LAND MOBILE~~ MARITIME MOBILE

REASON: To provide additional spectrum for use by the maritime mobile service.

5300–5430 FIXED LAND MOBILE	5300–5450 FIXED LAND MOBILE	5300–5430 FIXED LAND MOBILE

REASON: Band reduced to expand spectrum available to the maritime mobile service in the adjacent lower band.

5430–5480 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE	5450–5480 AERONAUTICAL MOBILE (R)	5430–5480 FIXED AERONAUTICAL MOBILE (OR) LAND MOBILE

25.

kHz		
Region 1	Region 2	Region 3
5480–5680	AERONAUTICAL MOBILE (R) 201A 205A	
5680–5730	AERONAUTICAL MOBILE (OR) 201A 205A	
5730–5950	MOBILE except aeronautical mobile (R) FIXED	
5950–6200	BROADCASTING	
6200–6525	MARITIME MOBILE 211 MOD 211A	
6525–6685	AERONAUTICAL MOBILE (R)	
6685–6765	AERONAUTICAL MOBILE (OR)	

MOC 201A MOC 205A

REASON: Requirement is still valid.

MOD 211A For the use of carrier frequency ~~6204 kHz (as from 1 January 1978 to be replaced by carrier frequency~~ 6215.5 kHz~~)~~ in the zone of Region 3 south of latitude 25°N, see no. 1351F.

REASON: To delete an obsolete date.

26.

kHz		
Region 1	Region 2	Region 3
6765–~~7000~~ 6950	FIXED MOBILE except aeronautical mobile (R)	

Reason: The service mobile except aeronautical mobile (R) is being added to provide for national requirements.

6950–7000	FIXED AMATEUR AMATEUR-SATELLITE	

Reason: To provide additional spectrum for use by the amateur and amateur-satellite services.

7000–7100	AMATEUR AMATEUR-SATELLITE	
~~7100–7300~~ 7250 ~~BROADCASTING~~ AMATEUR ~~212~~	7100–~~7300~~ 7250 AMATEUR	7100–~~7300~~ 7250 ~~BROADCASTING~~ AMATEUR
7250–7300 ~~BROADCASTING~~ ~~212~~	7250–7300 ~~AMATEUR~~ BROADCASTING	7250–7300 BROADCASTING

SUP 212

REASON: Consequential to allocation change.

27.

kHz		
Region 1	Region 2	Region 3
~~7300–8195~~ 7500	FIXED BROADCASTING	
7500–7900	FIXED	
~~7900–8000~~	FIXED MOBILE except aeronautical mobile (R)	
8000–8195	FIXED MARITIME MOBILE	
8195–8815	MARITIME MOBILE 201A 213	

REASON: To eliminate difficult sharing problem between broadcasting and amateur services foregoing exclusive bands are proposed.

8815–8965	AERONAUTICAL MOBILE (R)	
~~8965~~–9040	AERONAUTICAL MOBILE (OR)	

28.

kHz		
Region 1	Region 2	Region 3
9040–9500	MOBILE except aeronautical mobile (R) FIXED	
9500–9775	BROADCASTING	
9775–9995	FIXED	
9995–10005	STANDARD FREQUENCY 201A 203A 214	
10005–10100	AERONAUTICAL MOBILE (R) 201A	
10100–10700	FIXED	
10700–11175	FIXED MOBILE except aeronautical mobile (R)	
11175–11275	AERONAUTICAL MOBILE (OR)	
11275–11400	AERONAUTICAL MOBILE (R)	
11400–~~11700~~ 11600	FIXED 216	

Reason: Mobile except aeronautical mobile (R) added to specific bands to accommodate national requirements.

11600–11700	FIXED BROADCASTING ~~216~~	

kHz

Region 1	Region 2	Region 3
11700-11975	BROADCASTING	
11975-~~12330~~ 12130	MOBILE except aeronautical mobile (R) FIXED	
Reason: Band reduced to expand spectrum available to the maritime mobile service.		
12130-12330	~~FIXED~~ MARITIME MOBILE	
Reason: To provide additional spectrum for use by the maritime mobile service.		
12330-13200	MARITIME MOBILE 213	
13200-13260	AERONAUTICAL MOBILE (OR)	
13260-13360	AERONAUTICAL MOBILE (R)	

kHz

Region 1	Region 2	Region 3
13360-~~14000~~ 13410	~~FIXED~~ RADIO ASTRONOMY ~~217~~	
Reason: To meet the needs of Radio Astronomy by providing 50 KHz for use in the 10-13 MHz band.		
13410-13700	MOBILE except aeronautical mobile (R) FIXED 217	
Reason: Band reduced to provide spectrum for use by Radio Astronomy in the adjacent lower band.		
13700-13800	FIXED ~~BROADCASTING~~	
13800-13950	FIXED	
13950-14000	FIXED AMATEUR ~~217~~	
Reason: To provide additional spectrum for use by the amateur and broadcasting services.		
14000-14250	AMATEUR AMATEUR-SATELLITE	
14250-14350	AMATEUR 218	
14350-~~14990~~ 14400	FIXED AMATEUR	

kHz

Region 1	Region 2	Region 3
14400-~~14600~~	FIXED	
~~14600~~-14950	MOBILE except aeronautical mobile (R) FIXED	
Reason: The service MOBILE except aeronautical mobile (R) in the preceding bands is being added where indicated to provide for national requirements.		
NOC 217 Reason: Continuing need for ISM frequency.		

kHz

Region 1	Region 2	Region 3
14990-15010	STANDARD FREQUENCY 201A 203A 219	
15010-15100	AERONAUTICAL MOBILE (OR)	
15100-15450	BROADCASTING	
~~15450~~-15550	~~BROADCASTING~~ FIXED	
~~15550-16460~~ 15950	FIXED	
Reason: Band reduced to expand spectrum available to the maritime mobile service. Broadcasting added to provide expansion of service.		
15950-16310	FIXED MOBILE except aeronautical mobile (R)	
16310-16460	FIXED MARITIME MOBILE	
Reason: To provide additional spectrum for use by the maritime mobile service.		
16460-17360	MARITIME MOBILE 213	
17360-17700 17410	FIXED MARITIME MOBILE	
17410-17600	FIXED	
Reason: Band reduced to provide additional spectrum for use by the maritime mobile service in the adjacent lower band.		

33.

kHz		
Region 1	Region 2	Region 3
~~17500~~-17700	~~BROADCASTING~~ ~~FIXED~~	
17700-17900	BROADCASTING	
17900-17970	AERONAUTICAL MOBILE (R)	
17970-18030	AERONAUTICAL MOBILE (OR)	
18030-18052	FIXED	
18052-18068	FIXED Space Research	
18068-~~19990~~ 19000	FIXED	
19000-19500	FIXED MOBILE except aeronautical mobile (R)	

34.

kHz		
Region 1	Region 2	Region 3
19500-19990	FIXED	
19990-20010	STANDARD FREQUENCY 201A 203A 220	
20010-~~21000~~ 20230	~~FIXED~~ MARITIME MOBILE	
20230-20400	FIXED	
20400-20700	FIXED MOBILE except aeronautical mobile (R)	
20700-20950	FIXED	
20950-21000	~~FIXED~~ AMATEUR AMATEUR-SATELLITE	
21000-21450	AMATEUR AMATEUR-SATELLITE	

REASON: Fixed band reduced to provide additional spectrum for use by the amateur, amateur satellite, and maritime mobile services.

35.

kHz		
Region 1	Region 2	Region 3
21450-21750	BROADCASTING	
21750-21850	FIXED MOBILE except aeronautical mobile (R)	
21850-21870	~~RADIO ASTRONOMY~~ AERONAUTICAL MOBILE (R) 221 B	

Reason: Band for radio astronomy moved to higher in the spectrum. (See 25600-25760 kHz)

21870-22000	~~AERONAUTICAL FIXED~~ AERONAUTICAL MOBILE (R)	

Reason: To provide additional spectrum for the aeronautical mobile (R) service.

36.

kHz		
Region 1	Region 2	Region 3
22000-22720	MARITIME MOBILE	
22720-~~23200~~ 22855	~~FIXED~~ MARITIME MOBILE	

Reason: To provide additional spectrum for use by the maritime mobile service.

22855-~~23300~~ 23000	FIXED	

Reason: Band reduced to provide additional spectrum for the maritime mobile service in the adjacent lower band.

23000-23200	FIXED MOBILE except aeronautical mobile (R)	
23200-23350	AERONAUTICAL FIXED AERONAUTICAL MOBILE (OR)	
23350-24990	MOBILE except aeronautical mobile (R) FIXED LAND MOBILE 222 2Z2A	
24990-25010	STANDARD FREQUENCY 203A 223	
25010-25070	FIXED MOBILE except aeronautical mobile	
25070-25110	MARITIME MOBILE 224	

37.

kHz

Region 1	Region 2	Region 3
25110-25600	FIXED MOBILE except aeronautical mobile	
25600-~~26100~~ 25760	~~BROADCASTING~~ RADIO ASTRONOMY	
25760-25860	~~BROADCASTING~~ AMATEUR	

REASON: Band reduced to provide spectrum for the radio astronomy service.

38.

kHz

Region 1	Region 2	Region 3
~~25860~~-26100	BROADCASTING	
26100-27500	FIXED MOBILE except aeronautical mobile 225 MOD 226	

NOC 225 Reason: Continued need for ISM frequency.

MOD 226 In ~~Region~~ 2, Australia and New Zealand, the amateur service may operate between the frequencies 26960 and 27230 kHz.

39.

MHz

Region 1	Region 2	Region 3
27.5-28 METEOROLOGICAL AIDS MOBILE 227	27.5-28 METEOROLOGICAL AIDS FIXED MOBILE ~~-~~	
28-29.7	AMATEUR AMATEUR-SATELLITE	
29.7-30.005	FIXED 228 229 231 232 MOBILE	
30.005-30.01	SPACE OPERATION (Satellite identification) FIXED 228 229 231 MOBILE SPACE RESEARCH	

Reason: Operational requirements remain constant and the need exists to confine operations to specific services and avoid interference from non-allocated services.

30.01-37.75	FIXED 228 229 230 231 MOBILE Radio Astronomy 233A MOD 233B	

MOD 233B In making assignments to stations of other services to which the bands ~~37.75~~ 37.5 - ~~38.25~~ 38.0 MHz, 150.05 - 153 MHz, 406.1 - 410 MHz, ~~2690~~ 2670 - 2700 MHz and ~~4700~~-4950 ~~5000~~-MHz are allocated, administrations are urged to take all practicable steps to protect radio astronomy observations from harmful interference.

Reason: To make provision for radio astronomy in the band 37.5 - 37.75 MHz, and 2670-2700 MHz bands.

Reason: Mobile added 27.5-~~28~~ MHz to provide worldwide allocation for mobile services.

40.

MHz

Region 1	Region 2	Region 3
37.75-~~38.25~~ 38.00	FIXED 228 229 231 MOBILE Radio Astronomy MOD 233B	
38.00-38.25	FIXED 228 229 231 MOBILE Radio Astronomy RADIO ASTRONOMY 233B	

Reason: To provide for primary allocation to radio astronomy.

38.25-41	FIXED 228 229 230 231 MOBILE 235 236 236A	
41-47 BROADCASTING Fixed 228 237 Mobile 236A 238 239 240 241	41-50 FIXED 228 231 237 MOBILE 233A 236A	41-44 FIXED 228 237 MOBILE 236A 44-50 FIXED 228 231 237 BROADCASTING MOBILE

Reason: Delete 237 in Regions 2 and 3 since not applicable.

NOC 236 Reason: Continuing need for ISM frequency.

41.

MHz

Region 1	Region 2	Region 3
47–68		
	50–54	
		AMATEUR 244 245 246 247
BROADCASTING	54–68	54–68
	FIXED 228 237 MOBILE BROADCASTING	FIXED 228 231 237 MOBILE BROADCASTING 246
238 239 241 242 243		

Reason: Operational requirements remain constant.

42.

MHz

Region 1	Region 2	Region 3
68–~~74.8~~ 73.0	68–73	68–70
FIXED MOBILE except aeronautical mobile	FIXED MOBILE BROADCASTING	FIXED MOBILE AERONAUTICAL RADIONAVIGATION 254 255 256
		70–~~74.6~~ 73.0
		FIXED MOBILE 256 257 258
248 249 250 251 252		
73.00–74.60	73–74.6	73.0–74.6
FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY	RADIO ASTRONOMY	FIXED MOBILE RADIO ASTRONOMY
~~248~~ 249 250 251 252	MOD 253A 253B	256 257 258

MOD 253A In region 2, fixed, mobile and broadcasting service operations previously authorized in the band 73–74.6 MHz may continue to operate on a non-interference basis to the radio astronomy service until 12/31/85.

Reason: To make provisions for the use of the band 73.00–74.6 MHz by radio astronomy.

43.

MHz

Region 1	Region 2	Region 3
74.6–74.8	74.6–75.4	
~~FIXED~~ ~~MOBILE except aeronautical mobile~~ AERONAUTICAL RADIONAVIGATION		AERONAUTICAL RADIONAVIGATION
~~248 249 250~~ 251 252		
74.8–75.2		
AERONAUTICAL RADIONAVIGATION MOD 259		
75.2–~~87.5~~ 75.4		
AERONAUTICAL RADIONAVIGATION ~~FIXED~~ ~~MOBILE except aeronautical mobile~~		
~~248 250~~ 252 ~~260 261 262 263~~	MOD 259	

Reason: To align region 1 with regions 2 and 3 in providing common worldwide band for aeronautical marker beacons.

MOD 259 The frequency 75 MHz is assigned to aeronautical marker beacons. Administrations shall refrain from assigning frequencies close to the limits of the guardband to stations of other services which, because of their power or geographical position, might cause harmful interference or otherwise place a constraint on to marker beacons.

Reason: To further protect the marker beacon frequency.

44.

MHz

Region 1	Region 2	Region 3
75.4–87.5	75.4–88	75.4–78
FIXED MOBILE except aeronautical mobile	FIXED MOBILE BROADCASTING	FIXED MOBILE
		255 256 257 266
		78–80
		FIXED MOBILE AERONAUTICAL RADIONAVIGATION 255 256 257 261 266
		80–87
		FIXED MOBILE 254 255 256 257 261 266
248 250 252 260 261 262 263		
		87–100
		FIXED MOBILE BROADCASTING
87.5–100		
BROADCASTING	88–100	
	BROADCASTING	
264 265		254 267 268

Reason: Requirements remain unchanged.

45.

MHz

Region 1	*	Region 2	*	Region 3
100-108		100-108		
MOBILE except aeronautical mobile (R)				BROADCASTING
269 270 271				255 256 258 267 272

Reason: Requirement remains same.

108-117.975	AERONAUTICAL RADIONAVIGATION
117.975 - 132	AERONAUTICAL MOBILE (R) 201A 273 MOD 273A 273B
132-136	AERONAUTICAL MOBILE (R) MOD 273A 273B 274 ~~274A~~ 274B 275

MOD 273A In the band 117.975-132 MHz and in the band 132-136 MHz, ~~where the aeronautical mobile (R) service is authorized, the use and development for this service of~~ space communications techniques may be authorized for the aeronautical mobile (R) service ~~but limited initially to satellite relay stations of the aeronautical mobile (R) service~~. Such use and ~~development~~ shall be subject to coordination between administrations concerned and those having services operating in accordance with the Table, which may be affected.

Reason: To provide for full satellite application in the band 117.975-136 MHz as a logical extension of the existing terrestrial service.

ADD 273B In the band 117.975-136 MHz, the use of airborne electronic aids to air navigation and any directly associated ground based or satellite borne facilities also may be authorized. Such use shall be subject to coordination between administrations concerned and those having services operating in accordance with the Table, which may be affected.

Reason: To provide flexibility required for position determination through the use of satellites.

~~SUP 274A~~

Reason: The date of applicability has passed.

46.

MHz

Region 1	Region 2	Region 3
136-137	SPACE RESEARCH (Space-to-Earth) 281A 281AA	
137-138	SPACE OPERATION (Telemetering and tracking) METEOROLOGICAL-SATELLITE SPACE RESEARCH (Space-to-Earth) 275A 279A 281C 281E	
138-143.6	138-143.6	138-143.6
AERONAUTICAL MOBILE (OR)	FIXED MOBILE Radiolocation Space Research (Space-to-Earth)	FIXED MOBILE Space Research (Space-to-Earth)
275 281G 282A 283	283A	278 279A 284

47.

MHz

Region 1	*	Region 2	*	Region 3
143.6-143.65		143.6-143.65		143.6-143.65
AERONAUTICAL MOBILE (OR) SPACE RESEARCH (Space-to-earth)		FIXED MOBILE Radiolocation Space Research (Space-to-Earth)		FIXED Space Research (Space-to-Earth) MOBILE
275 283		283A		278 279A 284
143.65-144		143.65-144		143.65-144
AERONAUTICAL MOBILE (OR)		FIXED MOBILE Radiolocation Space Research (Space-to-Earth)		FIXED MOBILE Space Research (Space-to-Earth)
275 283 282A				278 279A 284
144-146		AMATEUR AMATEUR-SATELLITE		
146-149.9		146-148		AMATEUR
FIXED MOBILE except aeronautical mobile (R)				
285 285A				289
		148-149.9		FIXED MOBILE
				285A 290

48.

MHz

Region 1	*	Region 2	*	Region 3
149.9-150.05		RADIONAVIGATION-SATELLITE 285B 285C		
150.05-151		150.05-174		150.05-170
FIXED MOBILE except aeronautical mobile (R) RADIO ASTRONOMY		FIXED MOBILE		FIXED MOBILE
MOD 233B 285 286A				
151-153				
FIXED MOBILE except aeronautical mobile (R) RADIO ASTRONOMY Meteorological Aids				
MOD 233B 285 286A				
153-154				
FIXED MOBILE except aeronautical mobile (R) Meteorological Aids				
285				
154-156				
FIXED MOBILE except aeronautical mobile (R)				
285				

49.

MHz

Region 1	Region 2	Region 3
156–174		201A 287 290
		170–174
FIXED MOBILE except aeronautical mobile		FIXED MOBILE BROADCASTING
201A 285 287 288	201A 233A 287	

NOC 287 Reason: Existing provisions must be continued.

50.

MHz

Region 1	Region 2	Region 3
174–216	174–216	
BROADCASTING		FIXED MOBILE BROADCASTING
291 292 293 ~~294~~		~~294~~ 295 296
216–~~223~~	216–220	216–225
AERONAUTICAL RADIONAVIGATION BROADCASTING	FIXED MOBILE RADIOLOCATION	AERONAUTICAL RADIONAVIGATION Radiolocation
	220–225	
	AMATEUR	
	RADIOLOCATION MOBILE	
297 298 299 300 301		306 307 308

SUP ~~294~~ To enhance sharing.

REASON: To provide for possible mobile use of band.

51.

MHz

Region 1	Region 2	Region 3
~~223~~–235	225–235	225–235
AERONAUTICAL RADIONAVIGATION Fixed Mobile	FIXED MOBILE	FIXED MOBILE AERONAUTICAL RADIONAVIGATION
299 300 301 302 303 304 305		

Reason: Requirements remain unchanged.

235–267	FIXED MOBILE 201A 305 305A 308A 309

REASON: Requirements remain unchanged.

267–272	FIXED MOBILE Space Operations 309A 309B (telemetering) 308A

52.

MHz

Region 1	Region 2	Region 3
272–273	FIXED MOBILE SPACE OPERATIONS 309A (telemetering) 308A	
273–328.6	FIXED MOBILE 308A 310 310A	

Reason: Requirements remain unchanged.

328.6–335.4	AERONAUTICAL RADIONAVIGATION 311

REASON: Necessary for continuing and expanding needs of service.

335.4–399.9	FIXED MOBILE 308A

REASON: Requirements remain unchanged.

399.9–400.05	RADIONAVIGATION-SATELLITE ~~285~~C 311A
400.05–400.15	STANDARD FREQUENCY-SATELLITE 312B 313 314

53.

MHz		
Region 1	Region 2	Region 3
400.15–401	METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (Maintenance telemetering) SPACE RESEARCH (Telemetering and tracking) 313 314	
401–402	METEOROLOGICAL AIDS SPACE OPERATION (Telemetering) 315A Fixed Meteorological-Satellite (Earth-to-Space) Mobile except aeronautical mobile 314 315 315B 315C 316	
402–403	METEOROLOGICAL AIDS Fixed Meteorological-Satellite (Earth-to-space) Mobile except aeronautical mobile 314 315 315C 316	
403–406	METEOROLOGICAL AIDS Fixed Mobile except aeronautical mobile 314 315 316	
406–406.1	MOBILE-SATELLITE (Earth-to-space) 314 317A 317B	

Reason: Services required as existing now.

54.

MHz		
Region 1	Region 2	Region 3
406.1–410	FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY MOD 233B 314	
410–420	FIXED MOBILE except aeronautical mobile 314	

Reason: Requirements remain unchanged.

420–430	420–~~450~~ 435
FIXED MOBILE except aeronautical mobile Radiolocation 318 319	RADIOLOCATION Amateur 318 ~~319A~~ 319B ~~320A~~ 323 324
430–~~440~~ 435	
AMATEUR RADIOLOCATION 318 319 319B 320 ~~320A~~ 321 322	

55.

MHz		
Region 1	Region 2	Region 3
435–438	435–438	
AMATEUR RADIOLOCATION Amateur-Satellite 318 319 ~~319B~~ 320 ~~320A~~ ~~321~~ ~~322~~	Amateur RADIOLOCATION Amateur Satellite 318 ~~319A~~ ~~319B~~ ~~320A~~ 323 324	

NOC 318 Reason: Requirement remains unchanged.

SUP 320A Reason: Consequential to allocation proposal.

56.

MHz		
Region 1	Region 2	Region 3
438–440	438–450	
RADIOLOCATION AMATEUR 318 319 ~~319B~~ 320 ~~320A~~ ~~321~~ 322		RADIOLOCATION Amateur
440–450		
FIXED MOBILE except aeronautical mobile Radiolocation 318 319 319A		318 319A ~~319B~~ ~~320A~~ 323 324

Reason: The allocation change in the band 435 MHz–438 MHz is required to accommodate greater flexibility in amateur satellite experimentation. Footnote suppression and other reallocations are consequential to this allocation.

450–460	FIXED MOBILE 318B 318C 318 319A
460–470	FIXED MOBILE 318B 318C Meteorological-Satellite (Space-to-Earth) 318A 324B

NOC 318B, 318C
Reason: Continuing requirement

57.

MHz

Region 1	Region 2	Region 3
470-582 BROADCASTING	470-~~890~~ 512 BROADCASTING MOBILE ~~329A 332 332A~~	470-585 BROADCASTING 335
	512-608 BROADCASTING 329A ~~332~~ ~~332A~~	
582-606 BROADCASTING RADIONAVIGATION 325 327 328 329		585-610 RADIONAVIGATION 330B 336 337
606-790 BROADCASTING 329 330 330A 331 MOD 332 332A	608-614 ~~BROADCASTING~~ RADIO ASTRONOMY ~~329A 332 332A~~	610-890 FIXED MOBILE BROADCASTING
	614-806 BROADCASTING ~~329A 332 332A~~	
790-890 FIXED BROADCASTING 329 331 333 334	806-890 Broadcasting ~~BROADCASTING~~ MOBILE ~~329A 332 332A~~ 329B ~~329C~~	330B MOD 332 332A 338 339

REASON: See paragraphs 56 through 63 in the narrative portion. Footnote suppressions are consequential to allocation proposals.

58.

ADD 329B In Region 2, the band 806-890 MHz is also allocated to the mobile-satellite service for the use and development of systems using space radiocommunications techniques. Such use and development is subject to agreement and coordination between the administrations concerned and those having services, operating in accordance with the table, which may be affected.

REASON: To provide spectrum allocation for possible development and use of a mobile satellite system for public services.

ADD 329C Special agreements between administrations concerned shall determine the conditions for implementations of broadcasting in the proximity of international boundaries to preclude harmful interference being caused to the mobile service.

REASON: To provide some protection to the mobile service operating in this band.

MOD 332 In Region 1, except the African Broadcasting Area*, the band 606-614 MHz and in Region 3, the band 610-614 MHz may be used by the radio astronomy service. Administrations shall avoid using the band concerned for the broadcasting service as long as possible, and thereafter, as far as practicable, shall avoid the use of such effective radiated powers as will cause harmful interference to radio astronomy observations.

~~In Region 2, the band 608-614 MHz is reserved exclusively for the radio astronomy service until the first Administrative Radio Conference after 1 January 1974 which is competent to review this provision; however this provision does not apply to Cuba.~~

REASON: Consequential to allocation proposals.

59.

MHz

Region 1	*	Region 2	*	Region 3
890-~~940~~ 896 FIXED BROADCASTING Radiolocation 329 331 333 339A		890-942 896 FIXED RADIOLOCATION MOBILE 339A 340		890-942 896 MOBILE FIXED BROADCASTING Radiolocation 339 339A
Reason: This allocation is required to meet the expanded needs of the Land Mobile Service.				
896-902 FIXED BROADCASTING Radiolocation MOBILE 329 331 333 339A		896-902 FIXED RADIOLOCATION MOBILE Radiolocation 339A 340		896-902 FIXED MOBILE BROADCASTING Radiolocation 339 339A
902-928 FIXED Radiolocation BROADCASTING 329 331 333 339A MOD 340		902-928 FIXED RADIOLOCATION Amateur Mobile 339A MOD 340		902-928 FIXED MOBILE BROADCASTING Radiolocation 339 339A MOD 340
Reason: This allocation is required to meet the expanding needs of the Mobile Service and to provide for experimentation by the Amateur Radio Service.				
928-941 FIXED Radiolocation BROADCASTING 329 331 333 339A		928-941 FIXED RADIOLOCATION MOBILE 339A		928-941 MOBILE FIXED Radiolocation BROADCASTING 339 339A
Reason: This allocation is required to meet the expanding needs of the Land Mobile Radio Service. Footnote suppression and addition are consequential to this change.				

MOD 340 In Region 2, The frequency 915 MHZ is designated for industrial, scientific and medical purposes. Emissions must be confined within the limits of ±13 MHz of that frequency. Radiocommunication services operating within these limits must accept any harmful interference that may be experienced from the operation of industrial, scientific and medical equipment.

Reason: To provide for ISM frequency worldwide.

60.

MHz

Region 1	*	Region 2	*	Region 3
941-942 ~~FIXED~~ ~~BROADCASTING~~ ~~Radiolocation~~ MOBILE 329 331 333 339A		941-942 ~~FIXED~~ ~~RADIOLOCATION~~ MOBILE ~~Radiolocation~~ 339A 340		941-942 ~~FIXED~~ ~~BROADCASTING~~ ~~Radiolocation~~ MOBILE 339 339A
942-947 FIXED BROADCASTING MOBILE 329 331 333 339A		942-947 FIXED MOBILE 339A		942-947 MOBILE FIXED BROADCASTING 338 339 339A
Reason: This allocation is required to meet the expanding needs of the Mobile Radio Services. The bands 896-902 MHz and 941-947 MHz may be used for an air-ground Common Carrier service.				
947-952 FIXED BROADCASTING 329 331 333 339A		947-952 FIXED 339A		947-952 FIXED BROADCASTING MOBILE 338 339 339A
REASON: This allocation is required to provide exclusive allocation to the Fixed Service.				

61.

MHz

Region 1	Region 2	Region 3
952-960 FIXED ~~BROADCASTING~~ 329 331 333 339A	952-960 FIXED MOBILE 339A	952-960 FIXED MOBILE BROADCASTING 338 339 339A

Reason: This allocation is required to provide for expanding needs of the Mobile Radio Service.

960-1215	AERONAUTICAL RADIONAVIGATION 341

Reason: Continuing requirement.

62.

MHz

Region 1	Region 2	Region 3
1215-~~1300~~ 1240	RADIONAVIGATION SATELLITE (Space-to-Earth) RADIOLOCATION ~~Amateur~~ 342 343 344 345 346A	
1240-~~1300~~ 1290	RADIOLOCATION Amateur 342 343 344 345 346A	
1290-1300	RADIOLOCATION Amateur Amateur Satellite 342 343 344 345 346A	
1300-1350	AERONAUTICAL RADIONAVIGATION MOD 346 Radiolocation 347 348 MOD 349A 349B	

Reason: Spectrum in the 1290-1300 band can be shared on a secondary basis for amateur satellite research. Band 1215-1350 needed for continued and expanding use of radiolocation and aeronautical radionavigation services.

1350-~~1400~~ 1370 FIXED MOBILE RADIOLOCATION 349 MOD 349A 349B	1350-~~1400~~ 1370 RADIOLOCATION 349 MOD 349A 349B

63.

ADD 346A In the bands 1215-1300 MHz, 3100-3300 MHz, 5250-5350 MHz and 9500-9800 MHz radiolocation operations using space techniques may be conducted in support of Space Research and Earth Exploration Satellite services provided that harmful interference is not caused to terrestrial Radiolocation and Aeronautical Navigation services or the Radionavigation Satellite service in the band 1215-1240 MHz.

Reason: This is the low-band required for multifrequency radars required for the measurement of rain, drop size, rain cloud echo and melting-layer height mapping. Also required for imaging radars of a future mission. The proposal is considered compatible with existing usage.

MOD 346 The use of the bands 1300-1350 MHz, 2700-2900 MHz and 9000-9200 MHz by the aeronautical radionavigation service is restricted to ground-based radars and, in the future, to associated transponders which transmit only on frequencies in these bands and only when actuated by radars operating in the same band.

ADD 349B In the band 1300-1400 MHz, Earth Exploration Satellite (EES) passive sensors may be used. Administrations are urged to bear in mind the needs of the EES Service in this band.

Reason: Proceeding notes reflect national requirements.

64.

MHz

Region 1	Region 2	Region 3
1370-1400 FIXED MOBILE RADIOLOCATION 349 MOD 349A 349B	1370-1400 RADIOLOCATION 349 MOD 349A 349B	

MOD 349A: Radio astronomy observations on the Hydrogen line displaced towards lower frequencies are carried out in a number of countries under national arrangements. Administrations should bear in mind the needs of the radio astronomy service in their future planning of the band ~~1350~~ 1330-1400 MHz.

Reason: Use of the 1330-1400 MHz band for radio astronomy will permit observation of the hydrogen line considered to be of major astronomical significance. The bands above otherwise are needed for the continued use and expansion of fixed mobile and radiolocation services.

1400-1427	EARTH EXPLORATION SATELLITE (Passive) SPACE RESEARCH (Passive) RADIO ASTRONOMY

Reason: This is an important band for the hydrogen line and for continum observations.

1427-1429	SPACE OPERATION (Telecommand) FIXED MOBILE except aeronautical mobile

65.

MHz

Region 1	Region 2	Region 3
1429-1525 FIXED MOBILE except aeronautical mobile	1429-1435 FIXED MOBILE	1429-1525 FIXED MOBILE
	1435-1525 MOBILE 349C Fixed	

ADD 349C: In Region 2 where the mobile service is authorized in the bands 1435-1535 MHz and 1710-2290 MHz the primary use of this allocation is by the aeronautical mobile service for telemetering purposes.

Reason: The change is required to provide for aeronautical telemetering. The bands are otherwise required for continued use and expansion of the fixed and mobile services.

66.

MHz

Region 1	Region 2	Region 3
1525-1535 SPACE OPERATION (Telemetering) 350A FIXED 350B Earth Exploration-Satellite Mobile except aeronautical mobile 350C	1525-1535 SPACE OPERATION (Telemetering) 350A Earth Exploration-Satellite Mobile 350D 349C Fixed	1525-1535 SPACE OPERATION (Telemetering) 350A FIXED 350B Earth Exploration-Satellite Mobile
1535-1542.5 MARITIME MOBILE-SATELLITE 352 352D 352E		

Reason: Band is required for continuing need of maritime mobile satellite service.

67.

MHz

Region 1	Region 2	Region 3
1542.5-1543.5	AERONAUTICAL MOBILE SATELLITE (R) MARITIME MOBILE SATELLITE 352 352D 352F ADD 352L	
1543.5-1558.5	AERONAUTICAL MOBILE SATELLITE (R) 352 352D 352G	
1558.5-~~1636.5~~ 1595	RADIONAVIGATION SATELLITE AERONAUTICAL RADIONAVIGATION 352 352A 352B 352D	
1595-1636.5	AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION SATELLITE 352 352A 352B 352D MOD352K	

MOD 352K: Radio astronomy observations on important spectral lines due to the hydroxyl radicle OH at frequencies 1612.231 MHz and 1720.530 MHz are carried out in a number of countries under national arrangements; the bands observed being 1611.5-1612.5 1610.5-1614 MHz and 1720-1721 MHz respectively. Administrations should bear in mind the needs of radio astronomy service in their future planning of the bands 1558.5-1636.5 MHz and 1710-1770 MHz.

In making assignments in the band 1595 -1636.5 MHz and 1720-1721 administrations are urged to prevent harmful interference to radio astronomy observations, particularly from airborne or spaceborne transmitters.

Reason: Protection of observation of important spectral line.

ADD 352L: In the frequency bands 1542.5-1543.5 MHz and 1644-1645 MHz distress and safety operations of the Maritime Mobile Satellite and the Aeronautical Mobile Satellite Services shall be given priority.

MOD 352A: The band~~s~~ 1558.5-1636.5 MHz, ~~4200-4400 MHz~~, 5000-5250 MHz ~~and 15.4-15.7 GHz~~ are is reserved on a world-wide basis for the use and development of airborne electronic aids to air navigation and any directly associated ground-based or satellite-borne facilities.

68.

MHz

Region 1	Region 2	Region 3
1636.5-1644	MARITIME MOBILE-SATELLITE 352 352D 352H	
1644-1645	AERONAUTICAL MOBILE SATELLITE (R) MARITIME MOBILE-SATELLITE 352 352D 352I 352L	
1645-1660	AERONAUTICAL MOBILE-SATELLITE (R) 352 352D 352J	

MHz

Region 1	Region 2	Region 3
1660-1670		
RADIO ASTRONOMY METEOROLOGICAL AIDS		
~~ADD~~ 353A 354 354A 354B		

~~ADD~~ 353A In view of the successful detection by astronomers of two hydroxl spectral lines in the regions of 1665 MHz and 1667 MHz administrations are urged to give all practicable protection in the band 1660-1670 MHz for future research in radio astronomy particularly by eliminate air-to-ground transmissions in the meteorological aids service in the band 1664.4-1668.4 MHz as soon as practicable. Until such operations are phased out, radiosonde operations will, where possible, be notified to the radio astronomers.

1670-1690		
METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (Space-to-Earth) 324A MOBILE except aeronautical mobile		
354		

MHz

Region 1	Region 2	Region 3
1690 - 1700	1690 - 1700	
METEOROLOGICAL AIDS	METEOROLOGICAL AIDS	
METEOROLOGICAL-SATELLITE (Space-to-Earth)	METEOROLOGICAL-SATELLITE (Space-to-Earth)	
Fixed		
Mobile except aeronautical mobile		
324B 354A	324B 354A 354C	
1700 - 1710	1700 - 1710	
~~FIXED~~	FIXED	
~~SPACE RESEARCH (Space-to-Earth)~~	MOBILE METEOROLOGICAL SATELLITE (Space-to-Earth)	
~~Mobile~~ ~~METEOROLOGICAL SATELLITE (Space-to-Earth)~~ ~~354B~~	SPACE RESEARCH (Space-to-Earth) 354B	

REASON: Required worldwide for meteorological satellites.

1710 - ~~1770~~ 1720	1710 - ~~1770~~ 1720
FIXED Mobile MARITIME MOBILE-SATELLITE 356B (Space-to-Earth) ~~356K~~ 356	FIXED MOBILE MARITIME MOBILE-SATELLITE 356B (Space-to-Earth) ~~352K~~ ~~356A~~

REASON: To provide for anticipated heavy demand for maritime satellite services. PFD limit to be established.

MHz

Region 1	Region 2	Region 3
MOD 356A: In Region 2, in Australia and Japan the band ~~1750~~ 1770 - 1850 MHz may also be used for earth-to-space transmissions and in Regions 2 and 3, the band 2200 - 2290 MHz may also be used for space-to-earth transmissions in the space research service, subject to agreement between the administrations concerned and those having services operating in accordance with the table, which may be affected.		
REASON: Consequential to allocation change.		
ADD 356B The use of the band 1710-1720 MHz and 1970-1990 MHz in the Maritime Mobile-Satellite service is for communications and/or radio determination purposes.		
REASON: To provide for multiservice functions.		
1720 - 1721	1720 - 1721	
~~FIXED~~ Mobile	FIXED MOBILE	
~~352K~~ 356 MOD 352K	~~352K~~ ~~356A~~ MOD 352K	
1721 - 1770	1721 - 1770	
FIXED SPACE OPERATIONS (Earth-to-Space) Mobile	FIXED SPACE OPERATIONS (Earth-to-Space) MOBILE	
~~352K~~ 356	~~352K~~ ~~356A~~	

MHz

Region 1	Region 2	Region 3
1770 - 1790 FIXED SPACE OPERATIONS (Earth-to-Space) Meteorological-Satellite 356AA Mobile 356	1770 - 1790 FIXED SPACE OPERATIONS (Earth-to-Space) MOBILE Meteorological-Satellite 356AA MOD 356A	
1790 - ~~2290~~ 1850	1790 - ~~2290~~ 1850	
FIXED SPACE OPERATION (Earth-to-Space) Mobile 356 ~~356AB~~ 356ABA ~~356AC~~	FIXED SPACE OPERATION (Earth-to-Space) MOBILE MOD 356A ~~356AB~~ ~~356ABA~~	
1850-1970	1850-1970	
FIXED Mobile 356 356AB 356ABA 356AC	FIXED MOBILE 356A 356AB 356ABA	

Reason: To support U.S. requirements for telemetry, tracking and control of satellites.

73.

MHz

Region 1	Region 2	Region 3
1970-1990 FIXED Mobile MARITIME MOBILE-SATELLITE (Earth-to-Space) 356B 356 ~~356AB 356ABA~~ ~~356AC~~	1970-1990 FIXED MOBILE MARITIME MOBILE-SATELLITE (Earth-to-Space) 356B ~~356A 356AB 356ABA~~	
1990-2025 FIXED Mobile 356 ~~356AB 356ABA~~ ~~356AC~~	1990-2025 FIXED MOBILE ~~356A 356AB 356ABA~~	

REASON: To provide pairing frequencies to 1710-1720 MHz.

74.

MHz

Region 1	Region 2	Region 3
2025-2110 FIXED EARTH EXPLORATION SATELLITE (Earth-to-space) SPACE RESEARCH (Earth-to-space) Mobile 356 ~~356AB 356AC 356ABA~~	2025-2110 FIXED MOBILE EARTH EXPLORATION SATELLITE (Earth-to-space) SPACE RESEARCH (Earth-to-space) ~~356A 356AB 356ABA~~	
2110-2120 FIXED Mobile SPACE RESEARCH (Earth-to-space)(Deep space only) 356 MOD 356AB ~~356ABA 356AC~~	2110-2120 FIXED MOBILE SPACE RESEARCH (Earth-to-space) (Deep space only) ~~356A~~ MOD 356AB	

MOD 356AB In Regions 2 and 3 and in Spain, in the band ~~2025~~ 2110-2120 MHz Earth-to-space transmissions in the earth exploration-satellite service may be authorized with equality of right to operate with stations of other space radiocommunication services in this band and subject to agreement between the administrations concerned and those having services, operating in accordance with the Table, which may be affected.

2120-2200 FIXED Mobile 356 ~~356AB 356ABA~~ ~~356AC~~	2120-2200 FIXED MOBILE ~~356A 356AB 356ABA~~	
2200-2290 FIXED Mobile SPACE RESEARCH (Space-to-Earth) (Space-to-Space) SPACE OPERATIONS (Space-to-Earth) (Space-to-Space) 356 ~~356AB- 356ABA~~	2200-2290 FIXED MOBILE SPACE RESEARCH (Space-to-Earth) (Space-to-Space) SPACE OPERATIONS (Space-to-Earth) (Space-to-Space) MOD 356A ~~356AB- 356ABA~~	

Reason: Previous band changes are requirements of the U.S.

75.

MHz

Region 1	Region 2	Region 3
2290-2300 FIXED SPACE RESEARCH (Space-to-Earth) (Deep space only) Mobile except aeronautical mobile 356C	2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (Space-to-Earth) (Deep space only)	

Reason: Continued use of the band for fixed and mobile services and requirements for space research.

	2300-~~2450~~ 2310 RADIOLOCATION Amateur Fixed Mobile ~~357~~ 360	

76.

MHz

Region 1	Region 2	Region 3
2300-~~2450~~ 2390 FIXED Amateur Mobile Radiolocation ~~357~~ 358 359	2310-~~2450~~ 2390 RADIOLOCATION ~~Amateur~~ ~~Fixed~~ ~~Mobile~~ MOBILE ~~357~~ 349C 360	
2390-2400 FIXED Amateur Mobile Radiolocation Amateur-Satellite ~~357~~ 358 359	2390-2400 RADIOLOCATION Amateur Fixed Mobile Amateur-Satellite ~~357~~ 360	
2400-2450 FIXED Amateur Mobile Radiolocation 357 358 359 357A	2400-2450 RADIOLOCATION Amateur Fixed Mobile 357 360 357A	

ADD 357A The frequencies 2450 MHz and 5800 MHz are designated for the wireless transmission of power. Emissions must be confined within ±10 MHz of the frequencies designated. This electrical energy transfer may be effected from space-to-earth. Use of the frequencies for wireless transmission of power shall not cause harmful interference to stations in other bands which are operating in accordance with these regulations.

REASON: Bands are needed for continued use of fixed, mobile, amateur and radiolocation services. Amateur satellite operation on a world wide basis is feasible in the 2390-2400 MHz band on a secondary basis.

MOD 357 Continuing need for ISM frequencies.

77.

MHz

Region 1	* *	Region 2	* *	Region 3
2450-2500		2450-2500		
FIXED MOBILE Radiolocation Land Mobile-Satellite		FIXED MOBILE Land Mobile-Satellite RADIOLOCATION		
357 361 357A		357 357A		

Reason: Expanding needs for land mobile satellite service requires spectrum space. In addition there is continuing demand for fixed and mobile services and radiolocation requirements.

78.

MHz

Region 1	Region 2	Region 3
2500 - 2550 FIXED 364C MOBILE except aeronautical mobile BROADCASTING-SATELLITE 361B 361A 362 364F	2500 - 2535 FIXED 364C FIXED-SATELLITE (Space-to-Earth) MOBILE except aeronautical mobile BROADCASTING-SATELLITE 361B 361A 364E 364F	
	2535 - 2550 FIXED 364C MOBILE except aeronautical mobile BROADCASTING-SATELLITE 361B 361A 364F	
2550 - 2655 FIXED 364C MOBILE except aeronautical mobile BROADCASTING-SATELLITE 361B 362 363 364 364F		

REASON: Continued and expanding use of fixed service systems, radiolocation facilities, mobile operations and satellite systems, with heavy demands on available spectrum.

79.

MHz

Region 1	Region 2	Region 3
2655 - ~~2690~~ 2670 FIXED 364C 364D MOBILE except aeronautical mobile BROADCASTING-SATELLITE 361B 363 364 364F ~~364E~~	2655 - ~~2690~~ 2670 FIXED 364C 364D FIXED-SATELLITE (Earth-to-Space) MOBILE except aeronautical mobile BROADCASTING-SATELLITE 361B 364E 364F ~~364E~~	

MOD 364E: In the design of systems in the broadcasting satellite service, administrations are urged to take all necessary steps to protect the radio astronomy service in the band 2670 ~~2690~~ - 2700 MHz.

REASONS: To allow radio astronomy to share the 2670 - 2700 MHz band with other services without harmful interference. Bands are otherwise required for the continued use and expansion of the fixed and satellite services (Earth-to-Space).

2670 - 2690 MOBILE except aeronautical mobile FIXED 364C 364D BROADCASTING SATELLITE 361B 364E Ear. Expl. Sat.(Passive) RADIO ASTRONOMY Space Res. (Passive) 363, 364, 364F, ~~364E~~ MOD 233B	2670 - 2690 RADIO ASTRONOMY MOBILE except aeronautical mobile FIXED 364C 364D BROADCASTING SATELLITE 361B 364E FIXED SATELLITE (Earth-to-Space) Earth Exploration Satellite (Passive) Space Research (Passive) 364E 364F ~~364E~~ MOD 233B

80.

MHz

Region 1	Region 2	Region 3
2690-2700	SPACE RESEARCH (Passive) RADIO ASTRONOMY EARTH EXPLORATION SATELLITE (Passive) MOD 233B 363 364A 364B	

REASONS: Changes are necessary to permit radio astronomers the use of a wider band for continuous measurements for galactic studies of ionized hydrogen and non-thermal radio sources and afford protection from adjacent band interference. Bands are also required for the continued use and expansion of fixed and mobile services and satellite systems.

2700-2900	AERONAUTICAL RADIONAVIGATION MOD 346 Radiolocation 366
2900-~~3100~~ 2920	RADIONAVIGATION 367 367A 367B (Radar Beacons, Ship Transponders) Radiolocation 367C
2920-3100	RADIONAVIGATION 367 367A 367B (Shipboard radars) Radiolocation 367C

ADD 367C The bands 2900-3100 MHz and 5460-5600 MHz are also allocated to the Fixed-Satellite Service for connection between one or more earth stations at specified fixed points on the earth and satellites which are used in the Maritime Mobile-Satellite Service. Such use and development shall be subject to agreement and coordination between administrations.

REASON: To provide for frequencies between ship and satellite for the use of the Maritime satellite service.

81.

MHz

Region 1	Region 2	Region 3
3100-3300	RADIOLOCATION	
	346A 354 368 369 369A	

REASON: Continued and expanding use of aeronautical radionavigation and radiolocation facilities.

ADD 369A Radio astronomy observations on molecular lines of carbon hydride (CH) (rest frequencies 3263.786, 3335.475, and 3349.185 MHz) are carried out in a number of countries under national arrangements. In making assignments in the bands 3259-3269, 3331-3341, and 3344-3354 MHz, administrations are urged to take all practicable steps to prevent harmful interference, particularly from airborne and spaceborne transmitters, to radio astronomy observations.

82.

MHz

Region 1	Region 2	Region 3
3300 - 3400	3300 - 3400	3300-3400
RADIOLOCATION	RADIOLOCATION Amateur Mobile	RADIOLOCATION Amateur
370 371 369A	376 369A	376 369A

REASON: Continued use of band by amateur and radiolocation operations. Mobile service spectrum space is urgently needed for mobile TV pickup.

3400 - ~~3600~~ 3410	3400 - ~~3600~~ 3410
FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE Radiolocation Amateur-Satellite Amateur 372 373 374 375	FIXED-SATELLITE (Space-to-Earth) RADIOLOCATION Amateur Amateur-Satellite 376

REASON: The band 3400 - 3410 can be shared on a secondary basis with the amateur satellite service which needs this spectrum for continued research in this field.

3410 - 3500	3410 - 3500
FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE Radiolocation 372 373 374 375	FIXED-SATELLITE (Space-to-Earth) RADIOLOCATION Amateur 376

83.

MHz

Region 1	Region 2	Region 3
3500 - 3600	3500 - 3700	3500 - 3700
FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE Radiolocation	FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE RADIOLOCATION	FIXED-SATELLITE (Space-to-Earth) RADIOLOCATION Fixed Mobile
372 373 374 375	AERONAUTICAL RADIONAVIGATION	377 378
3600 - 4200		
FIXED FIXED-SATELLITE (Space-to-Earth) Mobile		
374		
	3700 - 4200	
	FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE	
	379	

REASON: Continued and expanding use of fixed and mobile services and satellite Space-to-Earth links. Required for planned use for low-cost short-range radionavigation terminal radars (ASR) (satellite airports).

84.

MHz

Region 1	Region 2	Region 3
4200 - 4400	AERONAUTICAL RADIONAVIGATION	
	592A 379A 379B 381 382 383	

ADD 379B The use of the band 4200-4400 MHz by the Aeronautical Radionavigation service is reserved exclusively for airborne radio altimeters. However, Earth Exploration Satellite (Passive) and Space Research (Passive) services are allocated on a permitted basis provided that no protection will be required from the radio altimeter.

REASON: To provide for the EESS and Space Research services and to restrict the Aeronautical Radionavigation Service for the exclusive use of airborne radio altimeters.

4400 - 4700	FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE
4700 - ~~4990~~ 4950	FIXED MOBILE MOD 233B 354 MOD 382A ~~382B~~

MOD 382A Radio astronomy observations on the formaldehyde line (rest frequency 4829.649 MHz) are being carried out in a number of countries under national arrangements. ~~Administrations should bear in mind the needs of the radio astronomy service in their future planning of the 4825-4835 MHz.~~ In making assignments in the band 4825-4835 MHz, administrations are urged to take all practical steps to prevent harmful interference, particularly from airborne transmitters, to radio astronomy observations.

4950 - 4990	FIXED MOBILE RADIO ASTRONOMY 233B 354 ~~382A 382B~~ 382C

ADD 382C Sharing criteria among those services operating in the band 4950-4990 MHz shall be up to the discretion of the administrations concerned.

MHz

Region 1	Region 2	Region 3
4990 - 5000	4990 - 5000	4990 - 5000
~~FIXED~~ ~~MOBILE~~ ~~RADIO ASTRONOMY~~ ~~233B~~	RADIO ASTRONOMY 383A	~~FIXED~~ ~~MOBILE~~ ~~RADIO ASTRONOMY~~ ~~233B~~

REASON: Expansion of the band 4990-5000 MHz also provides access to 4950-4990 MHz which is necessary to support Radio Astronomy continuum observations. If given status in the Table RRs 233B and 382B are no longer required.

MHz

5000 - 5250	AERONAUTICAL RADIONAVIGATION MOD 352A ~~352B~~ ~~383B~~

REASON: Continued use for microwave landing system and distance measuring equipment.

Region 1	Region 2	Region 3
5250 - 5255	RADIOLOCATION Space Research 384 346A	
5255 - 5350	RADIOLOCATION 384 ~~384A~~ 346A	
5350 - 5460	AERONAUTICAL RADIONAVIGATION 385 Radiolocation	
5460 - 5470	RADIONAVIGATION 385 Radiolocation 367C	

REASON: This part of spectrum is required for continued use of radiolocation, space research, radionavigation and aeronautical radionavigation services.

MHz

Region 1	Region 2	Region 3
5470 - 5650	MARITIME RADIONAVIGATION Radiolocation 386 387 367C	
5650 - 5670	RADIOLOCATION Amateur-Satellite Amateur 388 389	
5670 - 5725	Amateur Space Research (Deep Space) RADIOLOCATION 388 389 389A	
5725 - 5850 FIXED SATELLITE ~~(Earth-to-Space)~~ (Space-to-Earth) RADIOLOCATION Amateur 354 388 390 391 391A 357A	5725 - 5850 FIXED-SATELLITE (Space-to-Earth) Amateur RADIOLOCATION 389 391 391A 357A	

MOC 391

REASON: Continuing need for ISM.

MHz

Region 1	Region 2	Region 3
5850 - 5925 FIXED FIXED SATELLITE ~~(Earth-to-Space)~~ (Space-to-Earth) MOBILE 391	5850 - 5925 FIXED-SATELLITE (Space-to-Earth) Amateur RADIOLOCATION 391	5850 - 5925 FIXED FIXED SATELLITE ~~(Earth-to-Space)~~ (Space-to-Earth) MOBILE Radiolocation 391
5925 - 6425	FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE	

REASON: Continued use of fixed, mobile and fixed satellite services.

6425 - ~~7250~~ 6925	FIXED MOBILE FIXED SATELLITE (Earth-to-Space) 379A ~~392AA~~ ~~392B~~ 393 393A

ADD 393A In the band 6.425-7.125 GHz, passive microwave sensor measurements are carried out over the Earth's oceans. Administrations should bear in mind the needs of the earth exploration satellite (passive) and space research (passive) services in their future planning of this band.

MHz			
Region 1	*	Region 2	* Region 3
6925-7250		FIXED MOBILE	
		379A	392B 393 MOD 392AA 393A

MOD 392AA In Brazil, Canada and the United States of America, the band 6425 6925 - 7125 MHz is also allocated on a secondary basis, to the fixed-satellite service for space-to-Earth transmissions. In Region 2, the power flux density produced by space stations in this band shall be in accordance with the provisions of No. 470NN. In Regions 1 and 3, it shall be at least 6 dB lower. Receiving earth stations in this band may not impose restrictions on the locations or technical parameters of existing or future terrestrial stations of other countries.

Reason: Consequential to allocation change.

7250-7300	FIXED-SATELLITE (Space-to-Earth) 392D 392G
7300-7450	FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE 392D
7450-7550	FIXED FIXED-SATELLITE (Space-to-Earth) METEOROLOGICAL-SATELLITE (Space-to-Earth) MOBILE 392D
7550-7750	FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE 392D

MHz			
Region 1	*	Region 2	* Region 3
7750-7900		FIXED MOBILE	

MHz		
Region 1	Region 2	Region 3
7900 - 7975	FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE	
7975 - 8025	FIXED-SATELLITE (Earth-to-Space) 392H	
8025 - 8175 FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE Earth Exploration-Satellite (Space-to-Earth) 394B	8025 - 8175 EARTH EXPLORATION-SATELLITE (Space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE	8025 - 8175 FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE Earth Exploration-Satellite (Space-to-Earth)
8175 - 8215 FIXED FIXED-SATELLITE (Earth-to-Space) METEOROLOGICAL-SATELLITE (Earth-to-Space) MOBILE Earth Exploration-Satellite (Space-to-Earth) 394B	8175 - 8215 EARTH EXPLORATION-SATELLITE (Space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-Space) METEOROLOGICAL-SATELLITE (Earth-to-Space) MOBILE	8175 - 8215 FIXED FIXED-SATELLITE (Earth-to-Space) METEOROLOGICAL-SATELLITE (Earth-to-Space) MOBILE Earth Exploration-Satellite (Space-to-Earth)

MHz		
Region 1	Region 2	Region 3
8215 - 8400 FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE Earth Exploration-Satellite (Space-to-Earth) 394 394B	8215 - 8400 EARTH EXPLORATION-SATELLITE (Space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE	8215 - 8400 FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE Earth Exploration Satellite (Space-to-Earth) 394

REASON: Continued need for existing service.

8400 - 8500	FIXED MOBILE except aeronautical mobile (R) SPACE RESEARCH (Space-to-Earth) (deep space only) Land Mobile Satellite (Earth-to-Space) 394A 394D
8500 - 8750	RADIOLOCATION 354 395
8750 - 8850	RADIOLOCATION AERONAUTICAL RADIONAVIGATION 396 397

REASON: Continuing need for existing service.

8850 - 9000	RADIOLOCATION 397 398
9000 - 9200	AERONAUTICAL RADIONAVIGATION MOD 346 Radiolocation 397

MHz

Region 1	Region 2	Region 3
9200 - 9300	RADIOLOCATION 397 398	
REASON: Continuing need for existing services.		
9300 - 9500	RADIONAVIGATION 367A 367B Radiolocation 399	
9500 - 9800	RADIOLOCATION 398 346A	
9800 - 10000	RADIOLOCATION Fixed 400 401 401A	
10000 - 10500	RADIOLOCATION Amateur 401A 402 403	

GHz

Region 1	Region 2	Region 3
10.5 - 10.55 FIXED MOBILE Radiolocation	10.5 - 10.55 RADIOLOCATION 404	
REASON: Continued need for existing services.		
MOD 404		
REASON: Preserve system compatibility.		
10.55 - 10.6	FIXED MOBILE Except Aeronautical Mobile Radiolocation	
10.6 - 10.68	FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY Radiolocation 404A 404B	
10.68 - 10.7	FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY ~~405B~~ 404B	
SUP 405B Consequential to allocation change. ADD 404B All airborne emissions are excluded.		
REASON: Radio astronomy can share the 10.6 - 10.7 continuum band as long as airborne transmissions are excluded from the mobile and radiolocation services. The bands above are otherwise needed for continued and expanding use of the fixed, mobile and radiolocation services.		
10.7 - 10.95	~~MOBILE~~ FIXED FIXED SATELLITE (Space-to-Earth)	
REASON: This frequency band is currently in considerable use in the radio-relay service in the United States. The fixed-satellite allocation is needed on a world-wide basis.		

GHz

Region 1	Region 2	Region 3
10.95 - 11.2 FIXED MOBILE FIXED-SATELLITE (Space-to-Earth) ~~(Earth-to-Space)~~	10.95 - 11.2 FIXED MOBILE FIXED-SATELLITE (Space-to-Earth)	
REASON: Unidirectionality needed for compatibility.		
11.2 - 11.45	FIXED ~~MOBILE~~ FIXED-SATELLITE (Space-to-Earth)	
REASON: This frequency band is currently in considerable use in the radio-relay service in the United States. The fixed-satellite allocation is needed on a world-wide basis.		
11.45 - 11.7	FIXED ~~MOBILE~~ FIXED-SATELLITE (Space-to-Earth)	
REASON: Mobile allocation not needed.		
11.7 - 12.5 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 405BA	11.7 - 12.2 ~~FIXED~~ Mobile ~~MOBILE~~ except aeronautical mobile ~~BROADCASTING~~ BROADCASTING-SATELLITE FIXED-SATELLITE (Space-to-Earth) ~~405BB~~ 405BC	11.7 - 12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE 405BA

GHz

Region 1	Region 2	Region 3
REASON: Satellite communications are envisaged to large numbers of inexpensive earth stations widely dispersed throughout the United States. TV mobile pick-up service is currently provided in this band on a secondary basis.		
SUP 405BB		
REASON: To enhance versatility in use of this band.		
	12.2 - 12.5 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	
REASON: To meet the projected requirements of the Broadcasting-Satellite Service.		
12.5 - 12.75 FIXED-SATELLITE ~~(Space-to-Earth)~~ (Earth-to-Space) 405BD 405BE	12.5 - 12.75 FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE except aeronautical mobile	12.5 - 12.75 FIXED FIXED-SATELLITE ~~(Space-to-Earth)~~ (Earth-to-Space) MOBILE except aeronautical mobile
REASON: Unidirectionality needed for compatibility.		
12.75 - 13.25	FIXED-SATELLITE (Earth-to-Space) FIXED MOBILE SPACE RESEARCH (deep space only) (Space-to-Earth)	
REASON: Continuing need for existing services. The Fixed-Satellite Service is needed on a worldwide basis. Space research for reception at selective sites.		
13.25 - 13.4	Space Research AERONAUTICAL RADIONAVIGATION 406 407 ~~407A~~	
REASON: Required for airborne doppler radar.		
SUP 407A Reason: Consequential to allocation change		

GHz

Region 1	Region 2	Region 3
13.4 - 14	Earth Exploration Satellite (Active Sensors) Standard Frequency Satellite (Earth-to-Space) RADIOLOCATION Space Research 407 ~~407A~~ 408 409	
~~14 - 14.3~~ 14.2	Space Research FIXED SATELLITE (Earth-to-Space) RADIONAVIGATION MOD 408A 407 ~~407A~~	
14.2 - 14.3	FIXED SATELLITE (Earth-to-Space) RADIONAVIGATION MOD 408A 407 ~~407A~~	

REASON: This frequency band is currently used for marine radar. This frequency band will be used for long-haul and international voice and data channel communications. The band 13.4-14 is required for radiolocation type active sensors.

MOD 408A Spa2 The use of the bands 14-14.3 GHz and ~~14.3-14.4 GHz~~ by the radionavigation service ~~and radionavigation satellite service respectively~~, shall be such as to provide sufficient protection to space stations of the fixed-satellite service (see Reccemendation No. Spa2 - 15, paragraph 2.14).

REASON: Consequential to allocation change.

14.3 - 14.4	FIXED-SATELLITE (Earth-to-Space) ~~RADIONAVIGATION-SATELLITE~~ ~~408A~~
14.4 - 14.5	Space Research (Space to-Space) MOBILE FIXED FIXED-SATELLITE (Earth-to-Space) 408B, MOD 408C

Reason: These bands will be used for the domestic and international voice and data channel communications. The bands 13.25-14.2 and 14.4-14.5 GHz will be used for space research.

MOD 408C Radio astronomy observations on the formaldehyde line (rest frequency 14489 GHz) are being carried out in a number of countries under national arrangements. In making assignments to stations in the fixed and mobile other services, administrations are urged to take all practicable steps to protect radio astronomy observations from harmful interference, particularly from airborne or spaceborne transmitters, in the band ~~14.488 14.515~~ 14.473-14.503 GHz.

ADD 408B
REASON: Consequential to allocation change.

GHz

Region 1	Region 2	Region 3
14.5 - 15.2	FIXED MOBILE Space Research ~~408B~~ MOD 408C	
15.2 - 15.35	FIXED MOBILE Space Research Earth Exploration Satellite (Passive) ~~408B~~ 408C	
15.35 - 15.4	EARTH EXPLORATION SATELLITE (PASSIVE) SPACE RESEARCH (PASSIVE) RADIO ASTRONOMY 409C	
15.4 - 15.7	AERONAUTICAL RADIONAVIGATION SATELLITE AERONAUTICAL RADIONAVIGATION MOD 352A 352B 407	

REASON: Other passive services can share the band 15.35 - 15.40 GHz. The band 15.4 - 15.7 GHz is required for continued and expanded use for microwave landing system (MLS) and airborne weather radar.

15.7 - 16.6	RADIOLOCATION 407 408 409CA

REASON: The frequency band is required for radiolocation.

16.6 - 17.1	SPACE RESEARCH (DEEP SPACE ONLY)(EARTH-TO-SPACE) RADIOLOCATION 407 408

ADD 409CA In the U.S., the portion 15.7-16.2 GHz may be used also for Airport Surface Detection Equipment (ASDE).

GHz

Region 1	Region 2	Region 3
17.1 - 17.25	RADIOLOCATION 407 408	
17.25 - 17.7	EARTH EXPLORATION SATELLITE (ACTIVE SENSORS) SPACE RESEARCH (ACTIVE SENSORS) RADIOLOCATION 407 408	

REASON: Space services listed appear to be compatible with existing services

17.7 -17.9	FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE
17.9-18.7	METEOROLOGICAL SATELLITE (Space-to-Earth) FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE
18.7 - 19.7	FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE

Reason: Required for read out of telemetry from meteorological satellite.

GHz

Region 1	* * Region 2	* * Region 3
19.7 - 21.2 20.2	FIXED-SATELLITE (Space-to-Earth) 409E	
20.2 - 21.2	FIXED-SATELLITE (Space-to-Earth) MOBILE-SATELLITE (Space-to-Earth) Standard Frequency Satellite (Space-to-Earth) 409E	

Reason: Required for Mobile-Satellite sharing.

GHz

Region 1	Region 2	Region 3
21.2 - 21.4	SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive) ~~(Space-to-Earth)~~ FIXED MOBILE	
21.4 - 21.7	~~EARTH EXPLORATION SATELLITE (Space-to-Earth)~~ FIXED MOBILE INTER-SATELLITE	
21.7 - 22	FIXED MOBILE ~~EARTH EXPLORATION SATELLITE (Space-to-Earth)~~	

REASON: This band will be used for terrestrial radio relay and for land mobile experimental, developmental and research uses and for satellite-to-satellite communications.

22 - ~~22.5~~ 22.21	FIXED MOBILE 410A	

REASON: This frequency band will be used for terrestrial radio relay and for land mobile experimental, developmental and research uses.

22.21 - 22.5	FIXED MOBILE (except aeronautical mobile) EARTH EXPLORATION SATELLITE (Passive) SPACE RESEARCH (Passive) RADIO ASTRONOMY 410A	

REASON: This frequency band will be used for radio astronomy observations of the water vapor line (rest frequency 22.235 GHz) and for terrestrial radio relay service and for land mobile experimental, developmental and research uses.

SUP 410A

REASON: Consequential to allocation changes.

GHz

Region 1	Region 2	Region 3
22.5 ~~23.0~~ 22.7	FIXED MOBILE	22.5 - ~~23.0~~ 22.7 FIXED MOBILE BROADCASTING-SATELLITE MOD 410B

REASON: This frequency band will be used for terrestrial radio relay systems and for land mobile experimental, developmental and research uses.

MOD 410B Spa2 In Region 3, the broadcasting-satellite service is authorized in the band 22.5-~~23.0~~ 22.7 GHz, subject to power flux density limits for the protection of the terrestrial services in this band.

GHz

Region 1	Region 2	Region 3
22.7 - 23 FIXED MOBILE INTER-SATELLITE ADD 410D		22.7 - 23 FIXED MOBILE INTER-SATELLITE ~~BROADCASTING-SATELLITE~~ ~~410B~~ ADD 410D

REASON: This frequency band will be used for communications between satellites.

ADD 410D The bands 22.81-22.86 GHz, 23.07-23.12 GHz and 24.11-24.16 GHz are also allocated to the Radio Astronomy service for observations of spectral lines due to Ammonia (rest frequencies 22.834, 23.098 and 24.139 GHz).

23 - 23.6	FIXED MOBILE 410D	

REASON: This frequency band will be used for terrestrial microwave and operational fixed users.

23.6 - 24	EARTH EXPLORATION SATELLITE (PASSIVE) SPACE RESEARCH (PASSIVE) RADIO ASTRONOMY 407	

REASON: This is a very important continuum band that also covers the important ammonia (NH_3) lines. Passive space services can share.

24 - 24.05	AMATEUR AMATEUR-SATELLITE 410C	

REASON: To promote national and international exchange of thoughts and ideas.

GHz

Region 1	Region 2	Region 3
24.05 - 24.25	RADIOLOCATION Amateur 410C 407 410D	

REASON: To promote exchange of thoughts and ideas.

24.25 - 25.25	RADIONAVIGATION 411 412	

REASON: Required for existing radionavigation.

25.25 - 27.5	Standard Frequency Satellite (Earth-to-Space) FIXED MOBILE EARTH EXPLORATION SATELLITE (Space-to-Space)	
27.5 - 29.5	FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE 411A	

REASON: To provide an uplink band to pair with the band around 20 GHz. This frequency band will be used for the terrestrial radio relay system.

29.5 - 30	FIXED-SATELLITE (Earth-to-Space) 409E 411A	
30 - 31	FIXED-SATELLITE (Earth-to-Space) MOBILE-SATELLITE (Earth-to-Space) Standard Frequency Satellite (Space-to-Earth) 409E	

ADD 411A: Within the frequency band 27.5-30 GHz, a 50 MHz wide band may be used for space-to-space communications in the earth exploration satellite service for telemetry, tracking and control purposes.

GHz

Region 1	Region 2	Region 3
31 - 31.3	Standard Frequency Satellite (Space-to-Earth) FIXED MOBILE Space Research 412H 412I	
31.3 -31.5	SPACE RESEARCH (PASSIVE SENSOR) EARTH EXPLORATION SATELLITE (PASSIVE SENSOR) RADIO ASTRONOMY 412A	
31.5 - 31.8 SPACE RESEARCH (PASSIVE) Fixed Mobile except aeronautical mobile RADIO ASTRONOMY EARTH EXPLORATION SATELLITE (PASSIVE)	31.5 - 31.8 SPACE RESEARCH (PASSIVE) RADIO ASTRONOMY EARTH EXPLORATION SATELLITE (PASSIVE) 405C	31.5 - 31.8 SPACE RESEARCH (PASSIVE) Fixed Mobile except aeronautical mobile RADIO ASTRONOMY EARTH EXPLORATION SATELLITE (PASSIVE)
REASON: The frequency region 31.3-31.8 GHz is the first atmospheric window in the millimeter radio regions where observations can be made. This spectral region has been very useful in defining the high frequency continuum spectra of galactic and extragalactic objects. Passive services can share with Radio Astronomy.		
31.8 - 32.3	RADIONAVIGATION Space Research 412B	
32.3 - 33	RADIONAVIGATION	
33 - 33.4 RADIO ASTRONOMY RADIONAVIGATION	33 - 33.4 RADIONAVIGATION 412F	
REASON: Required for sweep radar for small aircraft.		
33.4 - 34.2	RADIOLOCATION 407 408 412 412G	

GHz

Region 1	Region 2	Region 3
34.2 - 35.2	RADIOLOCATION Space Research SPACE RESEARCH (ACTIVE SENSORS) METEOROLOGICAL AIDS EARTH EXPLORATION SATELLITE (ACTIVE SENSORS) 407 408 412 412C 412D	
REASON: Required for radiolocation type sensors and meteorological aids radar.		
35.2 - 36	RADIOLOCATION 407 408 412	
36 - 40 37	FIXED MOBILE SPACE RESEARCH (PASSIVE) EARTH EXPLORATION SATELLITE (PASSIVE) 391A 412E	
37 - 40	FIXED MOBILE 391A 412E	
40 - 41	FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE MOBILE-SATELLITE (Space-to-Earth)	
REASON: This band will be used for terrestrial systems and shared with the mobile- and fixed-satellite services.		
41 - 43	BROADCASTING-SATELLITE FIXED MOBILE ADD 412L	

Reason: This frequency band will be used for terrestrial system.

ADD 412L Radio astronomy observations on the silicon monoxide lines are carried on in a number of countries under national arrangements. In making assignments , administrations are urged to protect radio astronomy observations from harmful interference, particularly from airborne or spaceborne transmitters, in the 42.77 - 42.87, 43.07-43.17, and 43.37 - 43.47 GHz bands.

GHz

Region 1	* * Region 2	* * Region 3
43- 48 - 45	AERONAUTICAL-MOBILE-SATELLITE MARITIME MOBILE SATELLITE AERONAUTICAL RADIONAVIGATION SATELLITE MARITIME-RADIONAVIGATION SATELLITE FIXED-SATELLITE (Earth-to-Space) MOBILE-SATELLITE (Earth-to-Space) 412L	
Reason: To satisfy requirements.		
45-48	AERONAUTICAL MOBILE AERONAUTICAL MOBILE-SATELLITE MARITIME MOBILE MARITIME MOBILE-SATELLITE AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION-SATELLITE MARITIME RADIONAVIGATION MARITIME RADIONAVIGATION-SATELLITE	
Reasun: This frequency band will be used for communicating to ships and aircraft for position determination and surveillance.		
48-49.8	AERONAUTICAL MOBILE AERONAUTICAL MOBILE-SATELLITE MARITIME MOBILE MARITIME MOBILE-SATELLITE AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION-SATELLITE MARITIME RADIONAVIGATION MARITIME RADIONAVIGATION-SATELLITE ADD 412II	
ADD 412II Radio Astronomy observations on molecular lines of carbon sulfide (CS) (rest 48.991, 97.981 and 146.969 GHz) are being carried out in a number of countries under national arrangements. In making assignments in the bands 48.94-49.04, 97.88-98.08, and 146.82-147.12 GHz, administrations are urged to prevent harmful interference, particularly from airborne and spacaborne transmissions to radio astronomy observations.		
49.8-50	AMATEUR AMATEUR-SATELLITE	
50- 51 - 50.4	FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE	
Reason: This frequency band will be used by the terrestrial systems.		

GHz

Region 1	Region 2	Region 3
50.2 - 50.4	FIXED FIXED-SATELLITE (Earth-to-Space) MOBILE SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive)	

GHz

Region 1	* *	Region 2	* *	Region 3
50.4 - 51		FIXED-SATELLITE (Earth-to-Space) FIXED MOBILE MOBILE-SATELLITE (Earth-to-Space)		
51 - 52-51.4		EARTH-EXPLORATION-SATELLITE SPACE RESEARCH FIXED MOBILE FIXED-SATELLITE (Earth-to-Space) MOBILE-SATELLITE (Earth-to-Space)		
Reason: Required to satisfy multiple services.				
51.4-52		EARTH EXPLORATION-SATELLITE (Passive) SPACE RESEARCH (Passive) MOD 412J		
Reason: This frequency band will continue to be used to explore the resources of the Earth by satellite techniques.				
52-54.25		EARTH EXPLORATION-SATELLITE (Passive) SPACE RESEARCH (Passive) MOD 412J		
Reason: This frequency band will continue to be used in conducting research work in space.				

MOD 412J All emissions in the bands 51.4-52 GHz, 52-54.25 GHz, 58.2-59 GHz, 64-65 GHz, 86-92 GHz, 101-102 GHz, 105-116 GHz, 239-440 GHz, 182-185 GHz, and 230-240 GHz are prohibited. The use of passive sensors by other services is also authorized.

GHz

Region 1	Region 2	Region 3
54.25 - 58.2	SPACE RESEARCH (Passive) FIXED MOBILE INTER-SATELLITE EARTH EXPLORATION SATELLITE (Passive)	
REASON: This frequency band will be used for terrestrial systems and space services as shown.		
58.2 - 59	EARTH EXPLORATION SATELLITE (Passive) SPACE RESEARCH (passive) MOD 412J	
REASON: This frequency band will continue to be used for conducting research in space.		
59 - 64	FIXED MOBILE INTER-SATELLITE ADD 410E	
REASON: This frequency band will be used for terrestrial service and for satellite-to-satellite communications.		
ADD 410E The frequency 61.25 GHz is designated for industrial, scientific and medical purposes. Emissions must be confined within the limits of ± 250 MHz of that frequency. Radiocommunication services operating within these limits must accept any harmful interference that may be experienced from the operation of industrial, scientific and medical equipment.		
REASON: New applications; heating of small fibers and pellets; insect control; host of specific biological applications based on recent evidence of frequency specific effects.		
64 - 65	SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive) MOD 412J	

GHz

Region 1	Region 2	Region 3
REASON: This frequency band will be used for conducting passive research in space.		
65 - 66	EARTH EXPLORATION-SATELLITE SPACE RESEARCH	
REASON: This frequency band will be used for exploring the resources of the earth by satellite techniques.		
66 - 71	AERONAUTICAL MOBILE AERONAUTICAL MOBILE-SATELLITE MARITIME MOBILE MARITIME MOBILE-SATELLITE AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION-SATELLITE MARITIME RADIONAVIGATION MARITIME RADIONAVIGATION-SATELLITE	
REASON: This frequency band will be used for maritime and aeronautical mobile services.		
71- 84 - 72	EARTH EXPLORATION SATELLITE (Active Sensors) SPACE RESEARCH (Active Sensors) RADIOLOCATION Amateur Amateur-Satellite	
Reason: Band required for services specified.		
72-76	RADIOLOCATION Amateur Amateur-Satellite ADD 412H	
Reason: This frequency band will be used for amateur services to promote national and international exchange of thoughts and ideas.		

113.

ADD 412M Radio astronomy observations on the H_2CO formaldehyde lines are being carried out by a number of countries under national arrangements. In making assignments, administrations are urged to protect radio astronomy observations from harmful interference in the 72.35-72.45, 140.6-141, 145.45-145.75, and 150.35-150.65 GHz bands.

114.

GHz

Region 1	* *	Region 2	* *	Region 3
76- 72		MOBILE-SATELLITE (Space-to-Earth) FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE		
72- 80		FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE		
80- 81		FIXED-SATELLITE (Earth-to-Space) FIXED MOBILE		
81-84		MOBILE-SATELLITE (Earth-to-Space) FIXED-SATELLITE (Earth-to-Space) FIXED MOBILE		
Reason: These frequency bands will be used for terrestrial and space services.				
84-86		BROADCASTING-SATELLITE FIXED MOBILE		
Reason: This frequency band will be used for terrestrial services and for providing service to multi-destination low cost users.				
86-92		EARTH EXPLORATION-SATELLITE (Passive) RADIO ASTRONOMY SPACE RESEARCH (Passive) MOD 412J		
Reason: This frequency band will be used for radio astronomy observations and for conducting passive research in space.				
92-95		RADIOLOCATION FIXED-SATELLITE (Earth-to-Space) FIXED MOBILE ADD 412N		
Reason: The frequency band will be used for terrestrial services and transmission of voice, data, television signals by satellites. Also required for Radiolocation.				

115.

ADD 412M Radio astronomy observations on the Dinitrogen Hydronium line are being carried out on a number of countries under national arrangements. In making assignments administrations are urged to protect radio astronomy observations in the band 93.12 to 93.22 GHz from harmful interference.

116

GHz

Region 1	Region 2	Region 3
95 - ~~100~~ 100	Radiolocation AERONAUTICAL MOBILE AERONAUTICAL MOBILE-SATELLITE MARITIME MOBILE MARITIME MOBILE-SATELLITE AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION-SATELLITE MARITIME RADIONAVIGATION MARITIME RADIONAVIGATION-SATELLITE ADD 412II	
100 - 101	SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive) AERONAUTICAL MOBILE AERONAUTICAL RADIONAVIGATION MARITIME MOBILE MARITIME RADIONAVIGATION AERONAUTICAL MOBILE SATELLITE AERONAUTICAL RADIONAVIGATION SATELLITE MARITIME MOBILE SATELLITE MARITIME RADIONAVIGATION SATELLITE Radiolocation	
REASON: This frequency band will be used for ship and aircraft communications, position determination and air traffic control.		
101 - 102	EARTH EXPLORATION SATELLITE (Passive) SPACE RESEARCH (Passive) MOD 412J	
REASON: This frequency band will be used for conducting passive research in space.		
102 - 105	FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE	
REASON: This frequency band will be used for terrestrial services and for transmission of voice, data, television signals by satellite.		
105 - ~~130~~ 116	EARTH EXPLORATION-SATELLITE (Passive) ~~INTERSATELLITE~~ RADIO ASTRONOMY SPACE RESEARCH (Passive) MOD 412J 412K	
REASON: This frequency band will be used for radio astronomy observations of the carbon monoxide lines and for conducting passive research in space.		

117.

GHz		
Region 1	Region 2	Region 3
116 - 126	SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive) INTER-SATELLITE FIXED MOBILE ~~412K~~ 410F	
126 - 130	INTER-SATELLITE FIXED MOBILE ~~412K~~	

REASON: This frequency band will be used for communications between satellites and for terrestrial radio relay service.

SUP 412K

REASON: Consequential to reallocation.

ADD 410F The frequency 120 GHz is designated for industrial, scientific and medical purposes. Emissions must be confined within the limits of ± 500 MHz of that frequency. Radiocommunication services operating within these limits must accept any harmful interference that may be experienced from the operation of industrial, scientific and medical equipment.

REASON: New applications; heating of small fibers and pellets; insect control; host of specific biological applications based on recent evidence of frequency specific effects.

130 - 140	INTER-SATELLITE FIXED MOBILE ~~RADIO-ASTRONOMY~~ ~~SPACE RESEARCH (passive)~~ ~~412G~~

REASON: This frequency band will be used for communications between satellites and for terrestrial services.

140 - 142	FIXED-SATELLITE (~~Earth-to-Space~~) (Space-to-Earth) FIXED MOBILE ADD 412M

REASON: This frequency band will be used for terrestrial services and for transmission of voice, data and television signals by satellite.

118.

GHz		
Region 1	Region 2	Region 3
142 - 150	Radiolocation AERONAUTICAL MOBILE AERONAUTICAL MOBILE-SATELLITE MARITIME MOBILE MARITIME MOBILE-SATELLITE AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION-SATELLITE MARITIME RADIONAVIGATION MARITIME RADIONAVIGATION-SATELLITE ADD 412G ADD 412M ADD 412N	

REASON: This frequency band will be used for ship, aircraft communications, position determination and for air traffic control.

ADD 412G Radio astronomy observations on the deuterated cyanide line are being carried out in a number of countries under national arrangements. In making assignments to stations in the mobile services, administrations are urged to protect radio astronomy observations from harmful interference in the 144.68-144.98 GHz band.

150 - 151	FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive) ADD 412M

REASON: This frequency will be used for terrestrial and space services.

151 - 152	FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE ADD 412M

REASON: This frequency band will be used for terrestrial services and for communication of voice, data, television signals by satellites.

119.

GHz		
Region 1	Region 2	Region 3
152 - 164	FIXED MOBILE FIXED-SATELLITE (Space-to-Earth)	
164 - 165	FIXED MOBILE FIXED-SATELLITE (Space-to-Earth) SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive)	

REASON: These frequency bands will be used for terrestrial and space services.

165 - 168	RADIOLOCATION Amateur Amateur-Satellite SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive)

REASON: This frequency band is proposed to be used for Radiolocation, Amateur and space services.

168 - 170	RADIOLOCATION Amateur Amateur-Satellite

REASON: This frequency band will be used for determining position of objects and for amateurs to promote national and international exchange of thoughts and ideas.

120.

GHz		
Region 1	* Region 2 *	Region 3
170-182 174.5	FIXED MOBILE except aeronautical mobile INTER-SATELLITE	

Reason: This frequency band will be used for terrestrial services.

174.5 - 176.5	INTERSATELLITE EARTH EXPLORATION SATELLITE (Passive) SPACE RESEARCH (Passive) FIXED MOBILE (except Aeronautical Mobile) ADD 412P

Reason: This band required for both terrestrial and space services as shown.

ADD 412P Radio astronomy observations on the ethynyl radical line, hydrogen cyanide line, formyl ion line, hydrogen isocyanide line, and dinitrogen hydronium line are being carried out in a number of countries under national arrangements. In making assignments, administrations are urged to protect radio astronomy observations from harmful interference in the 174.42-175.02, 177-177.4, 178.2-178.6, 181-181.4, and 185.2-186.6 GHz bands.

176.5 - 182	FIXED MOBILE except aeronautical mobile INTER-SATELLITE ADD 412P

Reason: This frequency band will be used for terrestrial services and for communications between satellites.

GHz

Region 1	*	Region 2	*	Region 3
182 - 185		EARTH EXPLORATION SATELLITE (Passive) SPACE RESEARCH (Passive) RADIO ASTRONOMY MOD 412J		

Reason: This frequency band will be used for radio astronomy observations of water vapor line and for conducting passive research in space.

185- 190		FIXED INTER-SATELLITE MOBILE ADD 412P		

Reason: This frequency band will be used for terrestrial services and for communications between satellites.

GHz

Region 1	Region 2	Region 3
190 - 200 195	AERONAUTICAL MOBILE AERONAUTICAL MOBILE-SATELLITE ~~MARITIME MOBILE-SATELLITE~~ AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION-SATELLITE ~~MARITIME RADIONAVIGATION-SATELLITE~~	

REASON: This frequency band will be used for aircraft communications and position determination and for air traffic control.

195-200		~~AERONAUTICAL MOBILE-SATELLITE~~ ~~MARITIME MOBILE-SATELLITE~~ ~~AERONAUTICAL-RADIONAVIGATION-SATELLITE~~ ~~MARITIME RADIONAVIGATION-SATELLITE~~ MARITIME MOBILE MARITIME RADIONAVIGATION		

Reason: This frequency band will be used for ship communications and position determination and for air traffic control.

200- 220 201.5		FIXED MOBILE SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive)		

REASON: This frequency will be used for terrestrial and space services.

GHz

Region 1	*	Region 2	*	Region 3
201.5-217		FIXED-SATELLITE (Earth-to-Space) FIXED MOBILE		
217-220		FIXED MOBILE (except aeronautical mobile) RADIO ASTRONOMY		

Reason: This frequency band will be used for terrestrial services and for radio astronomy observations.

220-230 221		FIXED-SATELLITE FIXED MOBILE (except aeronautical mobile) RADIO ASTRONOMY		

Reason: This frequency band will be used for communications of voice, data and television signals by satellite and for terrestrial systems and for radio astronomy observations.

GHz

Region 1	Region 2	Region 3
221 - 225	FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE Radiolocation	
225 - 227	FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive) Radiolocation	
227 - 229	FIXED-SATELLITE (Space-to-Earth) FIXED MOBILE Radiolocation	

REASON: This frequency band will be used for communications of voice, data and television signals by satellite and for terrestrial systems.

229 - 230		~~FIXED-SATELLITE~~ FIXED MOBILE RADIO ASTRONOMY SPACE RESEARCH (Passive) EARTH EXPLORATION SATELLITE (Passive)		

REASON: This frequency band will be used for communications of voice, data, and television signals by satellite, for terrestrial systems and for radio astronomy observations.

GHz		
Region 1	Region 2	Region 3
230 - 240	EARTH EXPLORATION SATELLITE (Passive) RADIO ASTRONOMY SPACE RESEARCH (Passive) MOD 412J	

REASON: This frequency band will be used for radio astronomy observations and for conducting passive research in space.

240 - 250	RADIOLOCATION FIXED MOBILE Amateur Amateur-Satellite ADD 410O

GHz		
Region 1	Region 2	Region 3

REASON: This frequency will be used to determine the location of objects and for the amateur service to promote national and international exchange of thoughts and ideas.

ADD 410O The frequency 248 GHz is designated for industrial, scientific and medical purposes. Emissions must be confined within the limits of ± 500 MHz of that frequency. Radiocommunication services operating within these limits must accept any harmful interference that may be experienced from the operation of industrial, scientific and medical equipment.

REASON: New applications; heating of small fibers and pellets; insect control; host of specific biological applications based on recent evidence of frequency specific effects.

250 - 252	EARTH EXPLORATION SATELLITE (Passive) SPACE RESEARCH (Passive) AERONAUTICAL MOBILE AERONAUTICAL MOBILE - SATELLITE AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION - SATELLITE MARITIME RADIONAVIGATION MARITIME RADIONAVIGATION - SATELLITE MARITIME MOBILE MARITIME MOBILE - SATELLITE
252 - 265	AERONAUTICAL MOBILE AERONAUTICAL MOBILE - SATELLITE MARITIME MOBILE MARITIME MOBILE - SATELLITE AERONAUTICAL RADIONAVIGATION AERONAUTICAL RADIONAVIGATION - SATELLITE MARITIME RADIONAVIGATION MARITIME RADIONAVIGATION - SATELLITE ADD 412Q

REASON: This frequency band will be used by ships and aircraft for communications, and for position determination and for air traffic control.

GHz		
Region 1	Region 2	Region 3
ADD 412Q Radio astronomy observations on the C_2H, HCN, HCO^+, HNC, and H_2O lines are being carried out in a number of countries under national arrangements. In making assignments, administrations are urged to protect radio astronomy observations from harmful interference, particularly from airborne or spaceborne transmitters, in the frequencies 262.5 GHz, 265.9 GHz, 267.6 GHz, 272.0 GHz, and 279.5 GHz.		
265 - 275	FIXED-SATELLITE (Earth-to-Space) FIXED MOBILE ADD 412Q	

REASON: This frequency band will be used by the terrestrial services and for communications of voice, data and television signals by satellites.

275 - 277	FIXED MOBILE SPACE RESEARCH (Passive) EARTH EXPLORATION-SATELLITE (Passive)
277 - 300	FIXED MOBILE ADD 412Q

Above 300 GHz not allocated.

APPENDIX 3.—PROPOSAL FOR INTERNATIONAL RADIO REGULATIONS AND APPENDICES (OTHER THAN ARTICLE 5)

Article 3

GENERAL RULES FOR THE ASSIGNMENT AND USE OF FREQUENCIES

NOC
NOC 113
NOC 114
NOC 115
MOD 116

§4. The frequency assigned to a station of a given service shall be separated from the limits of the band allocated to this service in such a way that, taking account of the frequency band assigned to a station, no harmful interference is caused to services to which frequency bands immediately adjoining are allocated. *If a service allocated to an immediately adjoining frequency band is reportedly subject to harmful interference caused by a station whose occupied bandwidth is not wholly contained within the band allocated to the service rendered by that station, it shall be regarded as not complying with this provision.*

Article 6

NOC
SPECIAL RULES FOR THE ASSIGNMENT AND USE OF FREQUENCIES

(MOD) 413
Members [and Associate Members] of the Union . . .

NOC 414
NOC 415
NOC 416
NOC 417 through 421

Article 7

SPECIAL RULES RELATING TO PARTICULAR SERVICES

NOC 422
Reason: Necessary and adequate as drafted.

MOD 423
[In principle, except in the frequency band 3900–4000 kHz] Broadcasting stations using frequencies below [5060] *4063* kHz or above *26,100 kHz* [41 MHz] shall not employ power exceeding that necessary to maintain economically an effective national service of good quality within the frontiers of the country concerned.

NOC 424 through 428
NOC 428A
ADD

Section IB. Broadcast Service in Band 7

ADD *428B*
To enhance sharing possibilities and to improve receiving conditions, broadcasting stations operating in Band 7, while complying with the provisions of No. 694, shall in no event employ an effective radiated power on any azimuth in excess of +73 dBW for A3, +70 dBW for A3H, or +64 dBW for A3A or A3J emission.

ADD *428C*
Notwithstanding the provisions of ADD 428B, broadcasting stations operating in Band 7 and notified as serving a target area partially or wholly inside the country containing the station shall in no event employ an effective radiated power in excess of 47 dBW for A3 emission, +44 dBW for A3H, or +38 dBW for A3A or A3J emission.

ADD *428D*
Broadcasting stations operating in Band 7 and serving an area as defined in ADD 428C shall not operate on a frequency above 7500 kHz.

ADD *428E*
Stations broadcasting in Band 7 shall begin to take the necessary steps to complete conversion to compatible single sideband by xx. (xx date to be subsequently determined)

ADD *428F*
Noting the provisions of No. 130 of the Convention, no Administration shall employ more than one frequency per frequency band to provide the same modulated signal simultaneously to any zone or contiguous zones.

ADD *428G*
Notwithstanding the provisions of footnote 1 to Appendix 4, no transmitter operating in the broadcasting service in Band 7 shall supply to the transmission line a mean power of any spurious emission in excess of −30 dBW.

ADD *428H*
No station shall be operated so as to cause harmful interference to another station 10 kilohertz removed.

429 through 432: Under consideration in preparation for 1978 Aero WARC.

NOC 437A, 438
NOC 439, 440
MOD 443

* * * * *

−3 kHz when two adjacent frequencies are used for single sideband radiotelephony;
−4.5 kHz when one frequency is used for single sideband radiotelephony and the adjacent frequency is used for radio telegraphy.

The use of double sideband radiotelephony in all Regions is discouraged and is to be discontinued as soon as possible and, in any event, not later than the date prescribed by these Regulations.

SUP 444
Reason: Will be overtaken by single sideband implementation.

NOC 445, 445A, 456, 457, 457A
NOC 458
NOC 463, 464
MOD 465
Administrations are urged to discontinue, in the fixed service, the use of double sideband radiotelephone transmissions. [In the bands below 30 MHz, if possible as from January 1, 1970.]

NOC 466, 467
MOD 468
To obtain economy in the use of frequencies, the International Frequency Registration Board [should] *may* be consulted by the administrations concerned whenever such agreements are under discussion on a regional or world-wide basis.

NOC 469
MOD 470
To obtain economy in the use of frequencies, the International Frequency Registration Board [should] *may* be be consulted by the administrations concerned whenever such agreements are under discussion on a regional or world-wide basis.

Reason: For consistency and to aid administrations in reaching their desired goal in their own competent, multilaterally agreed manner noting No. 128 of the Convention.

NOC 470A, 470AA, 470AB
MOD 470AC
[In the frequency bands above 15 GHz there shall be no restriction as to the direction of maximum radiation for stations in the fixed or mobile service.] *As far as practicable, sites for transmitting[a] stations, in the fixed or mobile service, employing maximum values of equivalent isotropically radiated power exceeding +45 dBW in the frequency bands between 15 and 40 GHz, should be selected so that the direction of maximum radiation of any antenna will be at least* ° away from the geostationary satellite orbit, taking into account the effect of atmospheric refraction.[b]*

Reason: To provide for compatibility in the bands between 15 and 40 GHz which are now more heavily populated with that population growing.

*Note: Comments as to the value which would be inserted are requested.

NOC 470B, 470BA, 470C, 470CA
MOD 470DB, Spa 2
(5) The limits given in Nos. 470B and 470CA apply in the following frequency bands allocated to the fixed-satellite service for reception by space stations, where these bands are shared with equal rights with the fixed or mobile service:

27.5– 29.5	GHz	
29.5– 31.0	GHz	(for the country mentioned in No. 409E)
50 – 51.4	*GHz*	
76 – 84	*GHz*	
92 – 95	*GHz*	
201.5–217	*GHz*	
265 –275	*GHz*	

NOC 470E
MOD 470J
(3A) The limits given in No. 470G apply in the following frequency bands allocated to transmission by earth stations in the fixed-satellite service and earth exploration-satellite service, and in particular the meteorological-satellite service, where these bands are shared with equal rights with the fixed or mobile service:

2 655– 2 690	MHz	(Regions 2 and 3)
4 400– 4 700	MHz	
5 800– 5 850	MHz	(for the countries mentioned in No. 390)
[5 850– 5 925	MHz	(Regions 1 and 3)]
5 925– 6 425	MHz	
6 425– 6 925	*MHz*	
7 900– 7 975	MHz	
7 975– 8 025	MHz	(for the countries mentioned in No. 392H)
8 025– 8 400	MHz	
[10.95 –11.20	GHz	(Region 1)]
12.50 –12.75	GHz	(Regions 2 and 3 and for the countries mentioned in No. 405BD)
12.75 –13.25	*GHz*	
14.175–14.300	GHz	(for the countries mentioned in No. 407)
14.4 –14.5	GHz	

(3B) The limits given in No. 470GA apply in the following frequency band allocated to transmission by earth stations in the fixed-satellite service, where this is shared with equal rights with the fixed or mobile service:

27.5– 29.5	GHz
80 – 84	*GHz*
92 – 95	*GHz*
201.5–217	*GHz*
265 –275	*GHz*

NOC 470K, 470V, 470VA

Article 8

GENERAL PROVISIONS

NOC 471 through 481
MOD 482
j) the technical planning for radio conferences with a view to reducing their duration *without diminishing their effectiveness;* and

NOC 483, 484
NOC 485
Reason: Simplification, and to state explicitly the implicit intent of the present provisions.

Article 10

SECTION II. PRELIMINARY EXAMINATION AND PREPARATION OF TENTATIVE HIGH FREQUENCY BROADCASTING SCHEDULE

ADD *645A*
Before the Board shall begin the work outlined in No. 646, it shall examine each notice received with respect to its conformity with the Convention, the Table of Frequency Allocations and the other provisions of the Radio Regulations including Nos. ADD 428B through ADD 428F. Further, it shall examine the Supplementary Information portion of each notice to determine whether the notifying administration has affirmed that the subject station does, in fact, comply with the provisions of No. 428G. If the Board's finding in respect to the examination of the notice to this point is in all respects entirely satisfactory, the Board shall proceed to No. 646. Otherwise, No. 645B shall apply.

ADD *645B*
If the Board's finding is unfavorable with respect to Article 7, the notice shall be returned by airmail to the notifying administration drawing attention to the Regulation or Regulations with respect to which the finding was unfavorable. If the notice is resubmitted without being sufficiently changed to enable a favorable finding in respect to Article 7, or if the notice is resubmitted with changes sufficient to enable a favorable finding in respect to Article 7 based upon the strength of the notice alone but in formation provided to the Board by another administration gives reason to believe the resubmitted notice may be in error, the notice shall again be returned to the notifying administration together with a reference to this Radio Regulation. A suitable entry shall be made in the Tentative High Frequency Broadcasting Schedule.

ADD *645C*
If any resubmitted notice receives a satisfactory finding in respect to ADD 645A and the Board does not have in its possession such information as may in the view of the administration supplying that information give cause to believe that the resubmitted notice may be in error, the Board shall proceed to No. 646.

ADD *645D*
During the period between the coming into force of the Final Acts of this conference and November, 1989, the Board shall in every case ascertain whether only single sideband emission has been notified and, if so, shall enter a suitable remark in Column E of the Tentative High Frequency Broadcasting Schedule and in Column 13C of the Master International Frequency Register. Where apparent or actual incompatibilities arise between stations using single sideband emission and other stations broadcasting in Band 7, the former shall not be required to accommodate the latter.

NOC

Article 11

NOC
INTERNAL REGULATIONS OF THE INTERNATIONAL FREQUENCY BOARD

Article 12

TECHNICAL CHARACTERISTICS OF EQUIPMENT AND EMISSIONS

NOC 667 through 675
NOC 676
NOC 677

Article 13

INTERNATIONAL MONITORING

NOC 678 through 681
MOD 682
§ 5. Administrations agree that monitoring requests from international organizations not participating in the the international monitoring system [should] *may* be co-ordinated by the Board and, if appropriate, forwarded by it to administrations.

NOC 683
MOD 684
§ 7. The technical standards recommended by the C.C.I.R. to be observed by monitoring stations shall be recognized by the Board as the optimum practicable technical standards for monitoring stations participating in the international monitoring system. [However, to meet some needs for monitoring data, stations observing lower technical standards may participate in the international monitoring system at the discretion of their administrations.]

NOC 685
SUP 688
MOD 689
§ 11. [To ensure that published monitoring data are current and world wide in nature,] administrations [having jurisdiction over monitoring stations listed in the List of International Monitoring Stations (see Article 20)] shall make every effort [, as practicable,] to arrange for monitoring observations to be [made by such stations and] submitted to the Board as soon as possible [after the date of observation.]

SUP 691
NOC 692

Article 14

INTERFERENCE AND TESTS

NOC 694 through 703

*Article 15**

NOC
PROCEDURE IN A CASE OF HARMFUL INTERFERENCE

(MOD) 704
It is essential that Members [and Associate Members] exercise * * *

Reason: To reflect the action of the 1973 Plenipotentiary Conference.

NOC 705 through 711A
Reason: Adequate and necessary as drafted.

MOD 711B
When cases of harmful interference occur as a result of emissions from space stations, the administrations concerned shall, upon request from the administration having jurisdiction over the station experiencing the interference, furnish current ephemeral data necessary to allow [calculation] *determination* of the positions of the space station *when not otherwise known.*

Reason: To generalize to preclude the need for calculations where not needed otherwise.

ADD *711C*
Notwithstanding any other provision of the Radio Regulations, should station(s) providing a safety service experience harmful interference irrespective of the source, that source shall immediately upon notification to the controlling administration, cease operation pending resolution of the difficulty.

NOC 712 through 717
Reason: Adequate and necessary as drafted.

MOD 718
However, the Board shall not be required to deal with problems of harmful interference between stations operating in [the same band and in conformity with the Table of Frequency Allocations when at least one of these stations is in a class the frequency of which is not required to be notified according to Nos. 486 or 487 of these Regulations; or between stations in] the band [535] *525* [1605] *1800* kHz in Region 2. Such cases of interference shall be resolved by appropriate bilateral or multilateral arrangements in which administrations should particularly observe the provisions of No. 704.

Reason: To add to the Board's effectiveness in resolving cases of harmful interference.

Article 16

NOC
REPORTS OF INFRINGEMENTS

NOC 719 through 720
Reason: Adequate and necessary as drafted.

MOD 721
If an administration has information of an infringement of the Convention or Radio Regulations, committed by a station *over* which it [has authorized] *may exercise authority*, it shall ascertain * * *

Reason: To permit action against possibly unauthorized stations committing infringements.

Article 17

SECRECY

MOD 722
Noting the provisions of Article 22 of the Convention, [The] the administrations bind themselves * * *.

NOC 723, 724

Article 18

LICENCES

NOC 725 through 727

MOD 728

The holder of a licence is required to preserve the secrecy of telecommunication, as provided in Article 22 of the Convention. Moreover, the [license] *licencing authority* shall provide specifically or by reference, * * *

Reason: To provide for those administrations who may not issue written licences.

NOC 729, 730

MOD 731

(2) For land mobile stations, *including stations comprised of only a receiver or receivers*, a clause shall be * * *.

Reason: To explicitly characterize a station noting No. 21 of these Regulations.

NOC 732 through 734.

Article 19

NOC

IDENTIFICATION OF STATIONS

MOD 735

Transmissions [without identification or with false identification are prohibited.] *and transmitting stations shall be uniquely identified. Administrations shall make every effort at the earliest possible time to introduce and use automatic identification. On frequencies assigned for international use, means recommended by C.C.I.R. shall be utilized.*

NOC 735.1

SUP 736, 737A

Reason: To provide universal, unique and automated identification.

NOC 738

SUP 739 through 741

Reason: Consequential to above proposals.

SUP 742

Reason: Unnecessary to incorporate Convention provisions in the Radio Regulations.

NOC

Section II. Allocation of International Series, and Assignment of Call Signs

MOD 743

[All stations open to the international public correspondence service, all amateur stations, and other stations which are capable of causing harmful interference beyond the boundaries of the country to which they belong, shall have call signs from international series allocated to each country as given in the Table of Allocation of Call Sign Series in No. 747.] *Each station whose signal could propagate internationally shall uniquely identify itself such as by a call sign formed pursuant to No. 747. Identification shall preferably be by automated means using the applicable Recommendations of the CCIR. (See Resolution G–C.)*

Reason: Consequential to above proposals.

NOC 744 through 748

Reason: Necessary and adequate as drafted.

MOD 749

Between administrative radio conferences, the Secretary General is authorized to [deal with questions relating to changes in the allocation of] *supply previously unassigned* series of call signs, on a provisional basis, * * *

Reason: For clarification.

NOC 749A through 755, 755.1, 756 through 763

Reason: Necessary and adequate as drafted.

MOD 764

However, it is recommended that, as far as possible,

a) the call signs of coast and aeronautical stations consist of:

—three letters

or

—three letters followed by [one or two] *not more than three* digits * * *

Reason: To accord with existing practice.

NOC 765 through 770

Reason: Necessary and adequate as drafted.

MOD 771

However, land mobile stations employing radiotelephony may also use a call sign consisting of:

—two, [or] three *or four* letters followed by four digits (other than the digits 0 or 1 in cases where they immediately follow a letter).

NOC 772, 773

Reason: Necessary and adequate as drafted.

MOD 773A

* * * follow a letter). [(See also No. 737A.)]

Reason: Consequential to other proposals.

NOC 774 through 781

Reason: Necessary and adequate as drafted.

NOC 782

NOC 783, 783A

Reason: Necessary and adequate as drafted.

SUP

[Formation of ship station selective call numbers and coast station identification numbers]

Reason: Superfluous.

NOC 783B through 783G

Reason: Necessary and adequate as defined.

SUP

[Assignment of ship station selective call numbers and coast station identification numbers]

Reason: Superfluous.

MOD 783H

In cases where selective call numbers for ship stations and identification numbers for coast stations are required for use in the maritime mobile service and the selective calling system is in accordance with Appendix 20C, [as an interim procedure,] the selective call numbers and identification numbers shall be supplied by the Secretary-General on request. Upon notification by an administration of the introduction of selective calling for use in the maritime mobile service:

—selective call numbers for ships will be supplied as required in blocks of 100 (one hundred);

—coast station identification numbers will be supplied in blocks of 10 (ten) to meet actual requirements;

—selective call numbers for selective calling of predetermined groups of ship stations in accordance with No. 783G will be supplied as required as single numbers.

[The final procedure shall be determined at a future competent World Administrative Radio Conference.]

Reason: To establish a satisfactory, interim procedure in ongoing form.

NOC 783I through 788

Reason: Necessary and adequate as drafted.

Article 20

SERVICE DOCUMENTS

MOD 789

The following documents shall be published by the Secretary General *This information shall be available for computer access, and, in response to individual requests, the requested information shall be available in computer printed form.*

Reason: For increased use of the information, long-term cost reduction, and to preclude interpretation that service documents shall be produced only in hard copy form.

NOC 790 through 812

Reason: Adequate as drafted.

SUP 813

Reason: Unnecessary, expensive item of limited usefulness.

NOC 814 through 829A

Reasons Acceptable as drafted.

SUP 830

Reason: Item of limited usefulness, difficult for at least some administrations to supply the sought data, and other data, such as sales of equipment, are potentially more useful for administrations' purposes.

NOC 831 through 837

Reason: Acceptable as drafted.

APPENDIX 3A

NOTE: Many of the matters treated in the balance of this Appendix presently fall beyond the scope of the draft agenda established pursuant to the 31st Session of the Administrative Council.

Article 21

MOD

INSPECTION OF [MOBILE] STATIONS [AND MOBILE EARTH STATIONS IN THE MARITIME MOBILE SATELLITE SERVICE]

MOD 838

The governments or appropriate administrations of countries which a mobile station or a mobile earth station [in the maritime mobile satellite service] visits, may require the production of the [license] *authorization* for examination. The operator of the station, or the person responsible for the station, shall facilitate this examination. The [licence] *authorization* shall be kept in such a way that it can be produced upon request. As far as possible, the [licence] *authorization*, or a copy certified by the authority which has issued it, should be permanently exhibited in the station.

Reason: To generalize the applicability, and to accommodate such situations as where a written license may not be issued.

MOD 839

The inspectors shall [have in their possession] *possess* an identity card or badge, issued by the competent authority, which [they] shall be shown on request of the master or person responsible for the ship, aircraft or other vehicle carrying the mobile station or the mobile earth station. [in the maritime mobile satellite service.]

Reason: To generalize and simplify.

MOD 840

When the [licence] *authorization* cannot be produced or when [manifest] irregularities * * *

Reason: As above, and to prevent confusion.

NOC 841

Reason: Necessary and adequate as drafted.

MOD 842

* * * the mobile station or mobile earth station [in the maritime mobile satellite service] is subject * * *

Reason: To generalize.

* * * or other vehicle carrying the mobile station or mobile earth station [in the maritime mobile satellite service]. If any breach * * *

Reason: To generalize.

MOD 844

The Members of the Union [undertake not to] *shall not* impose upon foreign mobile stations or upon foreign mobile earth stations [in the maritime mobile satellite service] which are temporarily within their territorial waters or make a temporary stay in their territory, technical and operating conditions more severe than those contemplated in these Regulations. This [undertaking] *provision* in no way affects arrangements which are made under international agreements relating to [maritime or air navigation,] *mobile or mobile earth stations*, and which are therefore not covered by these Regulations.

Reason: To generalize and to tighten the constraint upon Members not to exceed these Regulations.

NOC

Chapter VI

MOD

Personnel of Stations [in the Mobile Service and the Maritime Mobile Satellite Service]

NOC

Article 22

MOD

Authority of the [Master] *Captain*

MOD 845

The service of a mobile station is placed under the supreme authority of the [master] *captain* or of the person responsible * * *

Reason: To generalize and to reflect the applicability of these provisions to all mobile stations.

NOC 846

MOD 847

The [master] *captain* * * *

Reason: As above.

MOD 847A

The authority and obligations imposed by Nos. 845, 846 and 847 shall also apply to personnel of mobile earth stations in the [maritime] mobile-satellite service.

Reason: To generalize.

Article 23

NOC

OPERATORS' CERTIFICATES FOR SHIP AND AIRCRAFT STATIONS AND MOBILE EARTH STATIONS IN THE MARITIME MOBILE SATELLITE SERVICE

NOC

Section I. General Provisions

NOC 848, 849, 849A, 850, 850.1, 851

Reason: Necessary and adequate as drafted.

MOD 852

The provisions of No. 851 shall not [, however,] apply to any ship or aircraft station working on frequencies assigned for international use. *and which operate on ships or aircraft engaged in international voyages or flights. Further, administrations may, by bilateral agreements, apply No. 851 to stations on ships or aircrafts engaged in voyages or flights solely between the countries involved*

Reason: To afford each administration the latitude needed.

MOD 853

In the case of complete unavailability of the operator in the course of a sea passage, a flight or a journey, and solely as a temporary measure, the [master] *captain* or the person responsible for the station may authorize an operator holding a certificate issued by the government of another Member of Union to perform the radiocommunication service.

Reason: To reflect the general applicability of this provision to all mobile stations.

NOC 854

(MOD) 855

In all cases, such temporary operators must be replaced as soon as possible by operators holding the certificate prescribed in [§ 1 of] this Article.

Reason: To afford editorial simplification.

MOD 856, 856A

Each administration shall take the necessary steps to prevent, to the maximum extent possible, the fraudulent use of certificates. For this purpose, such certificates shall bear the holder's signature and shall be authenticated by the issuing administration. [Administrations may employ, if they wish, other means of identification such as photographs, fingerprints, etc. However, in the maritime mobile service the] Certificates [issued after 1 January 1978] may bear [the] *a* photograph of the holder, *which the administration shall verify is recent*, and the holder's date of birth.

Reason: To update and simplify these provisions while reducing still further the likelihood of fraudulent usage.

NOC 857

Reason: Adequate and necessary as drafted.

MOD 857A

However, in [the maritime] mobile *and mobile-satellite* services all certificates not in one of the working languages of the Union [and issued after 1 January 1978] shall carry at least the following information in one of these working languages:

—the name and date of birth of the holder,

—the title of the certificate and its date of issue,

—if applicable, the number and period of validity of the certificate,

—the issuing administration.

Reason: To generalize applicability.

NOC 858

Reason: Adequate and necessary as drafted.

NOC

Section II. Classes and Categories of Certificates except for the Operators of Ship Stations

MOD 859

There are two classes of certificates, *a radiocommunication operator's general certificate and a radiotelegraph operator's certificate*:[1] [as well as a special certificate, for radiotelegraph operators.[2]]

Reason: For simplification.

MOD 860

There are two categories of radiotelephone operators' certificates, general and, *should an administration desire*, restricted.[1] *There is also a radiocommunication operator's general certificate for the aeronautical and maritime mobile services*

NOC 861, 862

Reason: Adequate as drafted.

MOD 863

The holder of a radiotelephone operator's restricted certificate may carry out the radiotelephone service of any aircraft station, [when working on frequencies of the maritime mobile service,] provided that:

* * * * *

Reason: To generalize.

NOC 864, 865, 866

Reason: Adequate as drafted.

MOD 866A

There are [four] 2 categories of certificates for radiotelegraph operators,[1] namely:

—the radiocommunication operator's general certificate,

[—the first class radiotelegraph operator's certificate,

—the second class radiotelegraph operator's certificate,]

—the radiotelegraph operator's special certificate.

MOD 866B

There are two categories of radiotelephone operator's[2] certificates, general and, *should an administration desire*, restricted.

Reason: Simplification.

MOD 866C

The holder of a radiocommunication operator's general certificate[, or of a first class or second class radiotelegraph operator's certificate,] may carry out the radiotelegraph or radiotelephone service of any ship station.

Reason: Consequential amendment.

NOC 866D

Reason: Adequate as drafted.

(MOD) 866E

* * * transmitter does not exceed [1,5] *1.5* kilowatt.

Reason: To accord with normal English language usage

NOC 866F through 866I

Reason: Adequate as drafted.

SUP 867

Reason: Redundant. Continuation of this provision does not serve a useful purpose.

NOC 868 through 869

Reason: Necessary and adequate as drafted.

NOC 870

Reason: Adequate as drafted.

MOD 870A

However, [with respect to the maritime mobile service,] administrations should also take whatever steps they consider necessary to ensure the continued proficiency of operators while in service.

Reason: For generality. The provision, as written, was adopted by a specialized maritime conference thus necessitating the restriction of this provision's applicability.

NOC 870B through 870K

Reason: Necessary and adequate as drafted.

SUP through 888

[B. First Class Radiotelegraph Operator's Certificate]

Reason: To reduce the number of classes to the general and special certificates to better future needs.

NOC 889 through 893

Reason: Adequate as drafted.

MOD 893A

* * * ship station operators. [after 1 January 1976.]

Reason: Overtaken by events.

NOC 894 through 898

Reason: Necessary and adequate as drafted.

MOD 899

The restricted radiotelephone operator's certificate [is] *may be* issued to candidates who have given proof of the knowledge and professional qualifications enumerated below:

Reason: To save for administrations the option of whether the restricted certificate is to be issued.

NOC 900

Reason: Necessary and adequate as drafted.

MOD 901

Ability *in at least one working language of the Union* to send correctly and to receive correctly by telephone.

Reason: To facilitate intercommunication by radiotelephony such as where the safety of life or property may be involved.

NOC 902

Reason: Necessary and adequate as drafted.

MOD 903

• • • each administration may itself fix the conditions for obtaining a restricted radiotelephone operator's certificate *if same are issued by that administration*, provided • • •

Reason: To preclude the implication that an administration must issue restricted certificates. See MOD 899.

MOD 904

Administrations [in Region 1 do] *need* not issue certificates under No. MOD 903[.] *depending on national desires.*

Reason: Consequential amendment.

NOC 905, 905A, 906

Reason: Necessary and adequate as drafted.

MOD 907, 907A and 908

• • • general certificate [or a first- or second-class radiotelegraph operator's certificate] • • •

Reason: Consequential amendment.

MOD 909

• • •general certificate [or a first-class radiotelegraph operator's certificate] • • •

Reason: Consequential amendment.

Article 24

CLASS AND MINIMUM NUMBER OF OPERATORS FOR STATIONS ON BOARD SHIPS AND AIRCRAFT

SUP 912

Reason: Superfluous. Other considerations will ensure that administrations will have sufficient personnel on hand to handle public correspondence.

Article 29

GENERAL RADIOTELEGRAPH PROCEDURE IN THE MARITIME MOBILE [AND AERONAUTICAL MOBILE] SERVICE[S]

MOD 1000

§ 1. (1) In the maritime mobile [and aeronautical mobile] service[s] the procedure detailed in this Article is obligatory, except in cases of distress, urgency or safety, to which the provisions of Article 36 are applicable.

SUP 1001

SUP 1002

MOD 1003

§ 2. The use of the Morse code signals specified in the Telegraph Regulations*) shall be obligatory in the maritime [and aeronautical] mobile service[s]. However, for radiocommunications of a special character, the use of other signals is not precluded.

SUP 1004

MOD 1005 Mar

(2) In the maritime mobile service, [only] the service abbreviations given in Appendix 13A are to be used.

NOC 1007

NOC 1008

NOC 1010

NOC 1011

MOD 1009

a) The mobile station whose emission causes interference to the correspondence of a mobile station with a coast [or aeronautical] station, shall cease sending at the first request of the coast [or aeronautical] station.

MOD 1012

§ 6. (1) The *Morse* call consists of:

—The call sign of the station called, not more than three times;

—the word DE;

—the call sign of the calling station, not more than three times.

SUP 1013

SUP 1013A

SUP 1013AA

SUP 1013AB

NOC 1013B Mar2

NOC 1013C Mar2

NOC 1014

SUP 1015

MOD 1015A Mar2

(3) [However,] when using direct-printing telegraphy or similar systems in any of the frequency bands allocated to the maritime mobile service, the call may, by prior arrangement, be made on a working frequency available for such systems.

SUP 1016 Mar2

MOD 1016A Mar2

(1A) [In the maritime mobile service,] the call, as described in No. 1013B Mar 2, shall contain the service abbreviation indicating the working frequency and, if useful, the class of emission which the calling station proposes to use for the transmission of its traffic.

SUP 1017

SUP 1018

SUP 1019

SUP 1019A

SUP 1020

MOD 1020A Mar2

(1A) [In the maritime mobile service] the calling station shall transmit the service abbreviation after the above-mentioned preparatory signals to indicate a priority message other than a distress, urgency or safety message (see No. 1496A) and to indicate the reason for the call.

NOC 1021

SUP 1022

MOD 1022A Mar2

§ 10A. [In the maritime mobile service] the reply to calls consists of:

—the call sign of the calling station, not more than twice;

—the word DE;

—the call sign of the station called, once only.

SUP 1023 through 1040

SUP 1041

SUP 1042

NOC 1043

NOC 1044

NOC 1045

NOC 1047

MOD 1048

§ 16. (1) As a general rule, radiotelegraphs of all kinds transmitted by ship stations [and radiotelegrams in the public correspondence service transmitted by aircraft stations,] shall be numbered in a daily series; number 1 shall be given to the first radiotelegram sent each day to each separate station.

MOD 1048

§ 17. (1) [In cases where both stations are able to change from sending to receiving without manual switching, the transmitting station may continue to send until completion of the message or until the receiving station breaks in on the transmission with the service abbreviation BK. Before commencing, both stations normally agree on such a method of working by means of the abbreviations QSK.] *Unless operations are agreed to by means of the abbreviations QSK and BK, long radiograms shall be transmitted in sections. Each section shall contain no more than 50 words in the case of plain language and no more than 20 words or otherwise.*

SUP 1049

NOC 1050

SUP 1051

NOC 1052

NOC 1053

NOC 1054

MOD 1055

(2) The acknowledgment of receipt shall be transmitted by the receiving station on the traffic frequency [(see Nos. 1041 and 1042)].

NOC 1056

MOD 1057

(2) The signal . . . — . — (end of work) shall also be used[:]

[X] when the transmission of radiotelegrams of general information, meteorological information and general safety notices is finished, [and]

[X] When transmission is ended in long distance radiocommunication services with deferred acknowledgment of receipt or without acknowledgment of receipt.]

SUP 1058

NOC 1059

NOC 1060

MOD 1061

§ 25. When it is necessary for a mobile station to send signals for testing or adjustment which are liable to interfere with the working of [neighbouring coast or aeronautical] *another* station[s], the consent of [these] *this* station[s] shall be obtained before such signals are sent.

NOC 1062

NOC 1062AA

NOC 1062AB

NOC 1062AC

NOC 1062AD

NOC 1062AE

NOC 1062AF

NOC 1062AG

NOC 1062AH

NOC 1062AI through 1062BH

Article 30

CALLS BY RADIOTELEGRAPHY

NOC 1063 through 1067A

MOD 1068

(2) Continuous or frequently repeated emissions of its call sign or the enquiry signal CQ by coast station [should] *shall* be avoided (see No. 693). *In particular CQ shall not be used for more than 5 consecutive minutes in any half hour.*

NOC 1068A through 1087

Article 31

RADIOTELEGRAPHIC CALL TO SEVERAL STATIONS

NOC 1087A through 1094

Article 32

USE OF FREQUENCIES FOR RADIOTELEGRAPHY IN THE MARITIME MOBILE AND AERONAUTICAL MOBILE SERVICES

NOC 1094A through 1107

MOD 1108

(2) However, ship and aircraft stations which cannot transmit on 500 kHz [should] *may* use any other available frequency on which attention might be attracted.

NOC 1109 through 1149, 1159 through 1164, 1165 through 1972, 1176A, 1176B, 1177, 1177.1, 1177A.

MOD 1177B

§ 30B. If it is not intended to maintain watch on all the receiving channels within a group, the administration concerned, in order to ensure an even distribution of calls, shall determine the channel or channels on which watch will be maintained but only after coordination [as far as possible] has been undertaken with administrations sharing the same group (see Resolution No. Mar 2–5).

NOC 1177C, 1177D

SUP 1177E

MOC 1178 through 1179, 1189 through 1191, 1191B, 1191C, 1191DA, 1200, 1200A, 1203, 1204, 1204A

SUP 1207, 1208

Article 35

USE OF FREQUENCIES FOR RADIOTELEPHONY IN THE MARITIME MOBILE SERVICE

SUP 1319

MOD 1320

(2) Aircraft stations may enter into *radio* telephone communication with stations of the maritime mobile service on frequencies allocated to that service for radiotelephony. They shall comply with the provisions of this Article and Article 27.

NOC 1321 through 1322AB

NOC 1322C

NOC 1322D

NOC 1323A

NOC 1324 through 1336

NOC 1338 through 1340

NOC 1343 through 1351

NOC 1351B

NOC 1351E

NOC 1351F

NOC 1351G

NOC 1351H

NOC 1352AA

NOC 1353B

NOC 1354

NOC 1354A

MOD 1354B

(2) These stations [should] *shall* maintain this watch by means of an operator using some aural method, such as headphones, split headphone or loudspeaker.

MOD 1355

§ 17. (1) For the conduct of duplex telephony, the transmitting frequencies of the coast stations and of the corresponding ship stations shall be associated in pairs, as indicated in Appendix 17 and Appendix 17 Rev., except temporarily *on the coast station frequency in accordance with No. 418* in cases where working conditions prohibit the use of paired frequencies in order to meet operational needs.

Reason: To improve duplex telephony's circumstances.

NOC 1356, 1357, 1359, 1359A, 1359B, 1361, 1362, 1363

MOD 1363A

(6) Before transmitting on the frequency 156.8 MHz, a station in the mobile service should listen on this frequency [for a reasonable period] to make sure that no distress traffic is being sent (see No. 1217).

NOC 1363B

NOC 1363C

MOD 1364

§ 19. (1) A coast station providing an international maritime mobile radiotelephone service in the band 156–174 MHz and which forms an essential part of the coverage of the area for distress purposes [should] *shall* during its working hours in that band, maintain an [efficient] aural watch on 156.8 MHz (see Recommendation No. Mar2–10).

NOC 1365 through 1366

MOD 1367

(4) Ship stations should, where practicable, maintain watch on 156.8 MHz when within the service area of a coast station providing international maritime mobile radiotelephone service in the band 156–174 MHz. Ship stations fitted only with VHF radiotelephone equipment operating in the authorized bands between 156 and 174 MHz, [should] *shall* maintain watch on 156.8 MHz, when at sea.

NOC 1367A, 1367B, 1368, 1368A

MOD 1369

§ 21. (1) [Where practicable], coast stations open to the international public correspondence service shall be capable of working with ship stations equipped for duplex or semi-duplex operation.

NOC 1370, 1371, 1371A, 1372

MOD 1373

(2) In the band 156 to 174 MHz administrations shall[, where practicable,] assign frequencies to coast and ship stations in accordance with the Table of Transmitting Frequencies given in Appendix 18 for such international services as administrations consider necessary (see Resolution No. Mar2–14).

NOC 1373A, 1374, 1375

SUP 1376

NOC 1377

MOD

Article 35A

CONDITIONS TO BE OBSERVED BY MOBILE EARTH STATIONS IN THE MARITIME MOBILE-SATELLITE SERVICE

NOC 1379AA

Reason: Necessary and adequate as drafted.

MOD 1379AB

The frequencies of emissions of mobile earth stations shall be checked [as often as practicable] *at least annually* by the inspection service to which these stations are subject.

Reason: To insure at least annual checks.

MOD 1379AC

The energy radiated by receiving apparatus [shall be reduced to the lowest practicable value and] shall not cause harmful interference to other stations.

Reason: The expression "lowest practicable value" is not quantified.

MOD 1379AD

Administrations shall [take all practicable steps necessary to] ensure that the operation of any electrical or electronic apparatus installed in mobile earth stations does not cause harmful interference to the [essential] radio services of stations which are operating in accordance with the provisions of these Regulations.

Reason: To preclude interpretations which might negate the effect this provision as drafted would otherwise have.

Article 36

DISTRESS SIGNAL AND TRAFFIC, ALARM, URGENCY AND SAFETY SIGNALS

NOC 1380 through 1464

MOD 1465

§ 40. (1) The radiotelephone alarm signal consists of two [substantially] sinusoidal audio frequency tones transmitted alternately. One tone shall have a frequency of 2 200 Hz and the other a frequency of 1 300 Hz, the duration of each tone being 250 milliseconds.

NOC 1466 through 1476

MOD 1476AA

§ 44AA. (1) The navigational warning signal consists of one [substantially] sinusoidal tone of the frequency 2 200 Hz, interrupted so that the durations of tone and space are 250 milliseconds each.

NOC 1476AB through 1495

SUP

Article 37

RADIOTELEGRAMS, RADIOTELEPHONE CALLS AND RADIOTELEX CALLS

MOD

Article 37A

ORDER OF PRIORITY OF COMMUNICATIONS IN THE [MARITIME] MOBILE SERVICE AND IN THE [MARITIME] MOBILE-SATELLITE SERVICE

NOC 1496A

Article 38

INDICATION OF THE STATION OF ORIGIN OF RADIOTELEGRAMS

NOC 1497 through 1499

Article 39

ROUTING OF RADIOTELEGRAMS

NOC 1500 through 1501

SUP 1502

MOD 1503

§ 3. If the sender of a radiotelegram handed in at a mobile station has indicated the coast or aeronautical station to which he desires his radiotelegram to be sent, the mobile station shall, in order to effect this transmission to the coast or aeronautical station indicated, wait, if necessary, until the conditions specified in Nos. 1500 to [1502] *1501* above are fulfilled.

NOC 1504

NOC

Article 41

AMATEUR STATIONS

Reason: Sufficient as drafted.

MOD

Article 42

EXPERIMENTAL STATIONS

NOC 1568 through 1572

Reason: Adequate as drafted.

MOD 1573

All the general rules of the Convention, and of these Regulations, shall apply to experimental stations. In particular, experimental stations shall comply with the technical conditions imposed upon transmitters operating in the same frequency bands, [except where the technical principles of the experiments prevent this.] *unless an appropriate waiver is secured from the administration concerned.*

Reason: To clarify that the decision as to when departure from otherwise applicable technical conditions rests with the administration concerned as opposed to the operator(s) of the experimental station(s).

NOC 1574, 1575

Reason: Adequate as drafted.

MOD

Article 43

NOC

RADIODETERMINATION SERVICE AND RADIODETERMINATION-SATELLITE SERVICE

MOD 1576

Administrations which have established a radiodetermination service shall take the necessary steps to ensure the effectiveness and regularity of that service [; however they accept no responsibility for the consequences that might arise from the use of inaccurate information furnished, defective working, or failure of their stations].

Reason: To preclude internal inconsistency and for clarity.

NOC 1577 through 1583

Reason: Adequate as drafted.

SUP 1584

Reason: Superfluous. Radiocommunication by radiotelephony or radiotelegraphy is presumed to be subject to the provisions of these Regulations unless a specific proviso otherwise stipulates.

(MOD) 1584A

"• • • [1584] *1583* • • •"

Reason: Consequential.

NOC 1585 through 1595

Reason: Necessary and adequate as drafted.

MOD

Article 44

NOC

SPECIAL SERVICES

NOC 1596 through 1614

Reason: Necessary and adequate as drafted.

MOD 1615

Messages originating in mobile stations and containing information concerning the presence of cyclones shall be transmitted[, with the least possible delay,] *immediately* to other mobile stations • • •

Reason: Any delay in the transmission of advice in respect to a possibly nearby cyclone may prove catastrophic.

NOC 1616 through 1622

Reason: Necessary and adequate as drafted.

MOD 1623

To facilitate more efficient use of the radio frequency spectrum and to assist other technical and scientific activities, administrations should [endeavour to] provide, on a co-ordinated world-wide basis, a service of standard frequency and time signal transmissions. Attention should be given to the extension of this service to those areas of the world not adequately served.

Reason: To strengthen this provision, noting its purpose together with the fact that it is not proposed that the word "should" be modified.

NOC 1624 through 1628

Reason: Adequate as drafted.

NOC

Appendix 6

Reports of Monitoring Data

Reason: Necessary and adequate as drafted.

NOC

Appendix 7

Report of an Irregularity or of an Infringement on the Convention or the Radio Regulations

Reason: Necessary and adequate as drafted.

NOC

Appendix 8

Report of Harmful Interference

Reason: Necessary and adequate as drafted.

MOD

Appendix 9

Service Documents (See Article 20 MOD)

NOC

List I, List II

Reason: Continued possible need for hard copy version.

SUP

List III A.

Reason: Same information is available from IFL. Electronic facilities would enable selecting IFL-entered data as desired. Finally, List III A is bulky, expensive, little-used and is not sold at a profit to administrations thus forcing other administrations to subsidize this List.

SUP

List III A.

Reason: Same information is available from IFL when updated, from current, applicable Tentative High Frequency Broadcasting Schedule, from High Frequency Broadcasting Schedule for past season in question, or from recapitulative Annual High Frequency Broadcasting Frequency List issued per Radio Regulation No. 655.

NOC

List IV, V, VI, VII.

Reason: Continued possible need for hard copy version.

MOD

List VIII A: It is proposed that this List be among those made available in micro form

Reason: To enhance utilizability.

ADD

Resolution G–C

Relating to Automatic Identification

The General World Administrative Radio Conference, Geneva, 1979, considering

a) the state of the art in respect to identification

b) the need for unique identification

c) the possibility of inadvertent operator error

d) the ever increasing number of active transmitters not only within existing administrations but also noting the ongoing assignments of new call sign and selective calling series

e) the economics of presently available equipment which is directly applicable to automatic identification

f) the possibilities for use of automatic, faster message transmission service in conjunction with automatic identification equipment

g) the increased ease of resolving cases of harmful interference and of ensuring compliance with the provisions of the Convention and the Radio Regulations

resolves

1. that administrations shall implement automatic identification as provided in Article 19 MOD at the earliest possible time, and

2. that automatic means of identification should be adopted by all administrations.

requests the CCIR

to develop and recommend the technical parameters and operational aspects needed, in sufficient time utilizing, as necessary, Interim Working Parties

instructs the Secretary General

to make a special effort to keep all administrations advised on a regular basis of any related development including those having direct application to automatic identification.

APPENDIX 4. PROPOSAL FOR RESOLUTIONS AND RECOMMENDATIONS

Resolutions

Resolution 1—SUP

Reason: This Resolution is no longer applicable

Resolution 2—SUP

Reason: This Resolution has been overtaken by events and is no longer applicable

Resolution 3—SUP

Reason: This Resolution has been overtaken by events and is no longer applicable; see narrative par. 203

Resolution 4—SUP

Reason: By 1979, this Resolution will have been overtaken by events and will no longer be applicable

Resolution 10—

Reason: Reviewed; see narrative par. 204

Resolution 11—SUP

Reason: This Resolution has been overtaken by events and is no longer applicable

Resolution 13—SUP

Reason: should be overtaken by events as result of 1978 AWARC

Resolution 14—SUP

Reason: Replace with ADD Resolution Aer 2–(C) as stated in proposals for 1978 AWARC FCC Docket No. 20290

Resolution 15—

Reason.: Reviewed; no action proposed

Resolution Aer 1—SUP

Reason: Replace with ADD Resolution Aer 2–(D) as stated in proposals for 1978 AWARC FCC Docket No. 20290

Resolution Aer 2—SUP

Reason: Replace with ADD Resolution Aer 2–(E) as stated in proposals for 1978 AWARC FCC Docket No. 20290

Resolution Aer 3—SUP

Reason: Should be overtaken by events as result of 1978 AWARC

Resolution Aer 4—SUP

Reason: Replace with ADD Resolution Aer 2–(F) as stated in proposals for 1978 AWARC FCC Docket No. 20290

Resolution Aer 5—SUP

Reason: Replace with ADD Resolution Aer 2–(G) as stated in proposals for 1978 AWARC FCC Docket No. 20290

Resolution Aer 6—SUP

Reason: Replace with ADD Resolution Aer 2–(H) as stated in proposals for 1978 AWARC FCC Docket No. 20290

Resolution Mar 3—

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 4—SUP

Reason: By 1979, this Resolution will have been overtaken by events and will no longer be applicable

Resolution Mar 5—

Reason: Reviewed; see narrative par. 205

Resolution Mar 6—

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 7—NOC

Reason: This Resolution is still applicable

Resolution Mar 8—

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 9

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 10

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 11—SUP

Reason: This Resolution has been overtaken by events and is no longer applicable

Resolution Mar 12

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 13

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 14

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 15—SUP

Reason: This Resolution has been overtaken by events and is no longer applicable

Resolution Mar 16

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 18

Reason: Abrogated by Resolution Mar 2–1

Resolution Spa 2–3—NOC

Reason: This Resolution is still applicable

Resolution Spa 2–5

Reason: Abrogated by Resolution Mar 2–1

Resolution Mar 2–2—SUP

Reason: By 1979, the necessary actions will have been completed, and this Resolution will no longer be applicable

Resolution Mar 2–3—SUP

Reason: By 1979, the necessary actions will have been completed, and this Resolution will no longer be applicable

Resolution Mar 2–4—SUP

will have been completed, and this Resolution will no longer be applicable

Resolution Mar 2–5—SUP

Reason: By 1979, the necessary actions should have been completed, and this Resolution should no longer be applicable; see narrative par. 206

Resolution Mar 2–6—SUP

Reason: By 1979, the necessary actions will have been completed, and this Resolution will no longer be applicable

Resolution Mar 2–7—NOC

Reason: Since there will not have been enough experience by 1979 with the type of operation, a future Maritime WARC should complete the actions envisioned by this Resolution

Resolution Mar 2–8—NOC

Reason: Since there will not have been enough experience by 1979 with the type of operation, a future Maritime WARC should complete the actions envisioned by this Resolution

Resolution Mar 2–9—SUP

Reason: By 1979, the necessary actions will have been completed, and this Resolution will no longer be applicable

Resolution Mar 2–10—SUP

Reason: By 1979, the necessary actions will have been completed, and this Resolution will no longer be applicable

Resolution Mar 2–11—SUP

Reason: By 1979, the necessary actions will have been completed, and this Resolution will no longer be applicable

Resolution Mar 2–12—SUP

Reason: By 1979, the necessary actions will have been completed, and this Resolution will no longer been applicable

Resolution Mar 2–13—SUP

Reason: By 1979, the necessary actions will have been completed, and this Resolution will no longer be applicable

Resolution Mar 2–14—NOC

Reason: This Resolution is still applicable. It deals with the narrowing of VHF channel spacing and the associated transition schedule; the U.S. has been generally ahead of the stated schedule.

Resolution Mar 2–15—NOC

Reason: This Resolution is still applicable

Resolution Mar 2–20—

Reason: Reviewed; see narrative par. 205

Resolution Mar 2–21—NOC

Reason: This Resolution is still applicable

Recommendations

Recommendation 10—NOC

Reason: This Recommendation is still applicable

Recommendation 11—NOC

Reason: This Recommendation is still applicable

Recommendation 14

Reason: Reviewed; no action proposed

Recommendation 15

Reason: Reviewed; no action proposed

Recommendation 20—NOC

Reason: This Recommendation is still applicable; there is still an obligation to provide for an aviation collision avoidance system

Recommendation 21

Reason: Reviewed; no action proposed

Recommendation 22

Reason: Abrogated by Resolution Mar 1

Recommendation 23

Reason: Abrogated by Resolution Mar 1

Recommendation 24

Reason: Abrogated by Resolution Mar 1

Recommendation 25

Reason: Abrogated by Resolution Mar 1

Recommendation 26

Reason: Abrogated by Resolution Mar 1

Recommendation 27

Reason: Abrogated by Resolution Mar 1

Recommendation 28

Reason: Abrogated by Resolution Mar 1

Recommendation 30

Reason: Abrogated by Resolution Mar 1

Recommendation 31—NOC

Reason: This Recommendation is still applicable; see narrative par. 207

Recommendation 32—SUP

Reason: This Recommendation has been overtake by events and is no longer applicable

Recommendation 33

Reason: Reviewed; no action proposed

Recommendation 36

Reason: Abrogated by Resolution Spa 2–8

Recommendation 37—SUP

Reason: This Recommendation has been overtaken by events and is no longer applicable; see narrative par. 203

Recommendation Spa 1

Reason: Abrogated by Resolution Spa 2–8

Recommendation Spa 2

Reason: Abrogated by Resolution Spa 2–8

Recommendation Spa 3

Reason: Abrogated by Resolution Spa 2–8

Recommendation Spa 5—MOD

RECOMMENDATION NO. SPA 5

to the C.C.I.R. Relating to the Broadcasting-Satellite Service

The Extraordinary Administrative Radio Conference, Geneva, 1963, considering

a) that the use of satellite transmissions for direct reception by the general public of sound and television broadcasts may be possible in the future;

b) that the C.C.I.R. is studying the technical feasibility of sound and television broadcasting from satellites, the technically suitable frequency bands for such a service, including the possibility of sharing with terrestrial services;

recommends

that the C.C.I.R. expedite its studies and make early recommendations on Question [241 (IV).] *5–2/11* Geneva, [1963] *1974*, in particular, regarding those parts of the question relating to the technical feasibility of broadcasting from satellites, the optimum technical characteristics of the systems to be used, what bands would be technically suitable and whether and under what conditions those bands could be shared between the broadcasting-satellite and terrestrial services.

Reason: This Recommendation is modified in order to make it current.

Recommendation Spa 6

Reason: Abrogated by Resolution Spa 2–8

Recommendation Spa 7

Reason: Reviewed; no action proposed

Recommendation Spa 8—NOC

Reason: This Recommendation is still applicable

Recommendation Spa 11—NOC

Reason: This Recommendation is still applicable

Recommendation Aer 1—SUP

Reason: Replace with ADD Recommendation Aer 2–(B) as stated in proposals for 1978 AWARC FCC Docket No. 20290

Recommendation Mar 1

Reason: Abrogated by Resolution Mar 2–1

Recommendation Mar 4

Reason: Abrogated by Resolution Mar 2–1

Recommendation Mar 5

Reason: Reviewed; no action proposed

Recommendation Mar 6—SUP

Reason: By 1979, this Recommendation will have been overtaken by events and will no longer be applicable

Recommendation Mar 7

Reason: Abrogated by Resolution Mar 2–1

Recommendation Mar 8

Reason: Abrogated by Resolution Mar 2–1

Recommendation Mar 2–1

Reason: Reviewed; see narrative par. 206

Recommendation Mar 2–2—SUP

Reason: The concept of separation of calling channels from distress channels is not appropriate (Draft CCIR SG8 report supports this reason)

Recommendation Mar 2–3—SUP

Reason: The need for common channels to avoid new crystallization of equipment for international voyages will diminish with the increased use of sythesizers

Recommendation Mar 2–7—NOC

Reason: This Recommendation is still applicable

Recommendation Mar 2–8—NOC

Reason: This Recommendation is still applicable; see narrative par. 209

Recommendation Mar 2–9

Reason: Reviewed; see narrative par. 209

Recommendation Mar 2–11

Reason: Reviewed; see narrative par. 210

Recommendation Spa 2–1

Reason: Reviewed; see narrative par. 211

Recommendation Spa 2–3

Reason: Reviewed; see narrative par. 212

Recommendation Spa 2–4

Reason: Reviewed; see narrative par. 212

Recommendation Spa 2–5

Reason: Reviewed; see narrative par. 212

Recommendation Spa 2–6

Reason: Reviewed; no action proposed

Recommendation Spa 2–7

Reason: Reviewed; see narrative par. 213

APPENDIX 5.—EVALUATION OF THE IMPACT OF PROPOSED FIXED SATELLITE ALLOCATIONS

TABLE OF CONTENTS

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SECTION 1. INTRODUCTION

1.1 *Background.* Projections in growth of civilian use of the satellite service is expected to increase by a factor of 8 within the next 25 years. Some of the expansion may be absorbed by using the 12/14 GHz and 17.7/27.5 GHz frequency bands. However, due to economic considerations associated with maximum utilization of existing hardware, use of the spectrum below 10 GHz is highly desirable. The bands presently used by INTELSAT are: uplink of 5.925–6.425 GHz and downlink of 3.7–4.2 GHz. Internationally, the following bands are also allocated worldwide for the Fixed Satellite service: 3.4–3.7 GHz (downlink) and 4.4–4.7 GHz (uplink). In Region 1, the band 5.725–5.925 GHz and in Region 3, the band 5.850–5.925 GHz are allocated to the fixed satellite service. The present fixed satellite international allocations and a system summary for all the bands between 2.5–10.0 GHz are provided in table 1.1. Nationally the 3.3–3.7 GHz, 4.4–4.9 GHz and 5.65–5.925 GHz bands are allocated to the Government on a primary basis for: radiolocation, aeronautical radionavigation and fixed and mobile. The government is projecting a steady growth in the use of all three bands over the next twenty years.

The Third Notice of Inquiry (3rd NOI) suggested the following additional bands for the non-Government fixed satellite service: 4.7–4.9 GHz, 5.625–5.925 GHz and 6.425–6.925 GHz. As mentioned above, the first two bands are allocated to the Government on a primary basis. The 4.4–4.9 GHz frequency band is allocated to the fixed and mobile services and the 5.650–5.925 GHz frequency band is allocated to the radiolocation service.

The fixed satellite service frequency pairing resulting from the allocation suggested in the 3rd NOI would be:

(a) 5.625–5.925 GHz (uplink) and 3.4–3.7 GHz (downlink). Effectively, this would allow these bands to be paired with existing fixed satellite bands so that the combined bands would be 5.625–6.425 GHz (uplink) and 3.4–4.2 GHz (downlink).

(b) 6.425–6.925 GHz (uplink) and 4.4–4.9 GHz (downlink). As shown, these proposed allocations would benefit the non-Government fixed satellite service at the expense of loss of spectrum to the Government users or at least limitations on the current access to the present spectrum space. Thus, 2.6 GHz or 26% of the spectrum below 10 GHz would be available to non-Government fixed satellite use. The Office of Telecommunications Policy (OTP) considers this problem to be one of the major issues confronting current WARC deliberations in view of the national economic and operational considerations involved.

TABLE 1.1

Present Fixed Satellite International Allocations and Usage in the Bands Between 2.5 and 10.0 GHz

PREQUENCY BAND, GHZ	REGIONS	LINK	PRESENT SYSTEMS
2.5-2.535	2,3	dwn	NONE KNOWN
2.655-2.69	2,3	up	ATS.6 (experimental TV down link)
3.4-3.5	1,2,3	dwn	MOLNIA, STATSIONAR
3.5-3.7	1,2,3	dwn	MOLNIA, STATSIONAR
3.7-4.2	1,2,3	dwn	ATS,6, ANIK, COMSTAR, INTELSAT MARISAT, MOLNIA, MOLNIYA, PALAPA, SATCOM, STATSIONAR, SYMPHONIE, WESTAR
4.4-4.7	1,2,3	up	NONE KNOWN
5.725-5.85	1	up	MOLNIA, STATSIONAR
5.85-5.925	1,3	up	MOLNIA, STATSIONAR
5.925-6.425	1,2,3	up	ATS-6, ANIK, COMSTAR, INTELSAT, MARISAT, MOLNIA, MOLNIYA, PALAPA, SATCOM, STATSIONAR, SYMPHONIE, WESTAR
7.25-7.75	1,2,3	dwn	DSCS, NATO, UK SKYNET
7.9-8.4	1,2,3	up	DSCS, NATO, UK SKYNET

In addition to the fixed satellite allocation, the 3rd NOI also suggested the addition of the non-Government fixed service in the 3.3–3.4 GHz sub-band.

1.2 *Objective.* The objective of this task is to evaluate the impact on the Federal Government operation of non-Government fixed satellite use in the bands: 3.4–3.7 GHz, 5.6–5.9 GHz and 4.4–4.9 GHz and fixed service in the band 3.3–3.4 GHz.

1.3 *Approach.* This study provides an assessment, based upon presently available information, of the Government equipment currently used or planned for near future use in the frequency bands previously discussed. Also, expansion of the ISM allocation (wireless transmission of power) has been considered. A review of the sharing studies performed by the non-Government Fixed Satellite groups and the military has been made. Also, preliminary Government resource assessments and sharing analyses were made. The assessment and sharing analyses information was used to evaluate the impact of allocating the non-Government fixed satellite and fixed services in Government bands. Various Federal Government major system files, frequency files and planning documentation were used to obtain assessment information for the above-mentioned bands.

SECTION 2.—INITIAL FINDINGS

2.1 *Introduction.* A summary of the initial findings for the 3.3–3.7 GHz, 4.4–4.9 GHz and 5.625–5.925 GHz frequency bands are provided in this section. The findings are supported by the allocation and assessment information given in Sections 3 through 5 and the compatibility analysis given in Section 6. A further review of Sections 3 through 6 is suggested in order to obtain a more comprehensive understanding of band utilization and the limitations of the electromagnetic compatibility (EMC) analysis.

2.2 *Initial Findings.* The results of the initial findings indicate that allocation of the proposed fixed satellite service in all of the three overall bands would have a dramatic national economic and performance impact upon the Government services. It appears that some spectrum could be made available with limited impact for use by the fixed satellite service. The bands and the spectrum space are:

Approximately 100 MHz of spectrum in the 3.5–3.7 GHz appears to be lightly occupied at present by land and shipboard radars. Potentially, there may be about 200 airborne radars operating in these bands; however, the equipments may operate below 3.5 GHz. The Navy operates a small quantity of safety of life services equipments in the sub-bands 3.55–3.70 GHz and the FAA is planning to use this band for ASR's. Thus, overall sharing procedures will be quite complex and must be developed before considering the fixed satellite allocation.

The 5825–5925 MHz band is heavily occupied by high powered radars which perform a variety of functions.

The band 4.4–4.9 GHz is one of the *few* bands allocated to the fixed and mobile services which are generally available to the military in all nations with which the U.S. is allied militarily. As such, this band is considered critical to inter-operability among tactical forces. Additionally, this band is used Nationally by high powered troposcatter and airborne mobile systems. Consequently, accommodation of the proposed fixed satellite allocation in the band 4.4–4.9 GHz, on a national basis, does not appear feasible.

The proposed fixed service allocations, as proposed on a secondary basis, would have a lesser impact upon operation of the radiolocation service. If the fixed service is allocated on a primary basis, it may place unacceptable operational constraints upon systems being developed for use in the 3.3–3.4 GHz sub-band.

A summary of the findings for each of the three bands follows:

3.3–3.7 GHz Bands—Utilization. There are operational military systems in these bands. New military major systems are being developed by the Air Force, Army and Navy. All of these systems are capable of operating in the bands below 3.5 GHz.

A review of the military equipment quantities shows there are several hundred Army ground-based radars, over 500 Air Force airborne radars and under 50 Navy shipboard radars capable of operating in these bands. The ground-based radars operate in the bands below 3.5 GHz. The airborne radars operate in the bands between 3.3–3.7 GHz. A portion of the shipboard radars are capable of operating above 3.6 GHz.

The assignment records[1] indicate that of the total assignments, 95% are military used principally for tactical, training and experimental purposes. A distribution of the frequency assignments shows that the 3.5–3.7 GHz band may not be heavily occupied on land within the continental U.S. The mobile radars (shipboard) operate within interference range of all coastal areas.

The FAA is the only non-military agency with significant present or planned use of the 3.3–3.7 GHz bands. Specifically, the FAA is planning to utilize the 3.5–3.7 GHz band for operation of low cost ASR's.

[1] The number of frequency assignments may not be necessarily equated to the number of equipments, since a single assignment may represent a large number of equipments.

EMC Considerations. The proposed fixed satellite service (downlink) can cause interference to ground-based and shipboard radars if the maximum power flux density (PFD) limits of −152 dBw/m²/4 kHz are assumed. Preliminary analysis indicates that a 20 dB reduction in PFD would probably be an acceptable limit to preclude interference to radars.

Representative, preliminary coordination distances required to allow sharing between the existing and proposed services are:

Approximately 300 statute miles separation between terrestrial radiolocation and radionavigation service and satellite earth stations may be required to achieve the fixed satellite service performance criteria.

Distances of 250 miles between airborne radars[2] and earth stations (earth station mainbeam coupling does not occur) will be required.

The coordination distance between airborne radars[2] and the fixed service will vary from a maximum of 250 miles (low probability mainbeam coupling case) to about 10 miles (sidelobe coupling).

Coordination distances of up to 210 miles between terrestrial radars and fixed stations are required for the extreme case of mainbeam/mainbeam coupling. The distance is reduced to less than 85 miles for mainbeam/sidelobe coupling.

It is evident from the above coordination distances that Federal Government operations in the band between 3.3–3.7 GHz would be severely restricted if a large number of earth stations or fixed stations operated within the continental U.S.

4.4–4.99 GHz Band—Utilization. Military systems in this band consist of six operational or acquisition stage systems and nine developmental systems. It is intended that most of the system equipment can operate throughout the 4.4–4.9 GHz band. Two of the developmental systems use troposcatter equipment. One of these systems will contain 400 equipments that may operate in the troposcatter mode. Six of the developmental systems will use equipment within the mobile service that are air deployed.

Preliminary military equipment quantity information shows that the Army has over 1000 equipments capable of operating in this band. The Air Force has about 50 nomenclatured equipments listed which also indicates heavy use of this band. Navy information shows there are over 100 land mobile equipments in the bands between 4.4–4.9 GHz.

The assignment records reflect approximately 1250 military assignments within the US. These assignments are generally used for tactical and training purposes, data transmission, and a variety of testing and experimental purposes. The assignments, including those with high power, are evenly distributed across the 500 MHz of spectrum.

In addition to the above usage, the radio astronomy service observes the formaldehyde line frequency in the sub-band 4.825–4.835 GHz.

EMC Considerations. Emissions by the satellite (fixed satellite downlink) can cause interference to troposcatter systems if the troposcatter antennas point toward the geostationary orbit. Three general cases of PFD limits and restrictions upon the troposcatter pointing angles are:

±4 degrees for a PFD of −152 dBw/m²/4 kHz

±2 degrees for a PFD of −160 dBw/m²/4 kHz

[2] The distances do not include consideration of newly developed radars that may operate in these bands.

A PFD of −173 dBw/m²/4 kHz would reduce the INR to −10dB and is probably an acceptable limit.

The coordination distance separation between troposcatter systems and satellite earth stations are approximately 300 miles.

The required coordination distance between aeronautical mobile stations and satellite earth stations is about 350 miles.

The fixed satellite (downlink) and radio astronomy service are incompatible. In-band emissions from the satellite would cause harmful interference to the radio astronomy service.

5.625–5.925 GHz Bands—Utilization. The military has six operational systems in these bands. Two of these systems, one Air Force and one Navy, each employs a large number of equipments. The Air Force has over 70 weather radars operating in bands 5.45 and 5.65 GHz. The Navy has about 600 shipboard equipments operating in the bands between 5.4–5.9 GHz.

A summary of the total military equipment which includes all systems shows that the Air Force has approximately 200 radars capable of operating in the bands between 5.625–5.925 GHz. The Navy has over 600 shipboard radars capable of operating in these bands. All of the radars operating above 5.8 GHz appear to be tunable. The Army is developing a large system for operation in the bands below 5.8 GHz. In addition, the Army operates on its test ranges, precision tracking radars with assignments up to 5.925 GHz.

The assignment records reflect over 600 assignments in these bands. Of this total, 529 are military and 71 are Commerce. These assignments are used for air defense, testing and training purposes and for weather radars. The 71 Commerce assignments are in support of the National Weather Service weather network. The Commerce assignments are made in the sub-band 5.6–5.65 GHz. There are about 150 assignments in the sub-band between 5.825–5.925 GHz. Only 12 of these assignments reflect fixed tuned equipments.

In addition to the above utilization, NASA has proposed Wireless Transmission of Power in the band 5800 ±50 MHz.

EMC Considerations. Weather and radiolocation radars are not compatible with the proposed fixed satellite (uplink) allocation. The INR during periods of radar mainbeam coupling would be 30 dB or greater.

The Wireless Transmission of Power system does not appear to be compatible with the proposed fixed satellite (uplink) allocation. Consideration was only given to the space-to-earth link since this is the most desirable mode of operation.

Section 3.—Allocation and Assessment of the 3.3–3.7 GHz Bands

3.1 *Present Frequency Allocation.* The existing International Frequency Allocation and National Provisions for the 3.3–3.7 GHz bands are provided in table 3.1. The National Provisions include the Governmental allocations, non-Government allocations and applicable footnotes. Under the National Provisions, the primary services and their associated bands are:

Radiolocation ---------- 3.3–3.7 GHz
Aeronautical radionavigation (ground-based) ---------- 3.5–3.7 GHz

In the 3.3–3.5 GHz band, Government radiolocation is primary and limited to the military agencies (G31). Survey operations are authorized for Government and non-Government use on a secondary basis (US 108). Non-Government radiolocation and amateur services are secondary services.

In the 3.5–3.7 GHz band, Government radiolocation and ground-based aeronautical radionavigation are primary services. Non-military radiolocation is secondary to the military service (G59). Non-Government radiolocation is a secondary service (US 110).

The International Provisions differ from the U.S. in that these provisions allow the fixed, fixed satellite, and mobile services to operate in the 3.3–3.7 GHz bands. The services and International Regions associated with each of the frequency bands are:

a. 3.3–3.4 GHz:

1. The radiolocation service is allocated on a primary basis worldwide.

2. In Region 1, the radionavigation service is also allocated (370).

3. The fixed and mobile services are also allocated in some countries (371).

4. The amateur service is allocated on a secondary basis in Regions 2 and 3.

Table 3.1 Frequency Allocation for the 3.3–3.7 GHz Bands

INTERNATIONAL			UNITED STATES				
Region 1 MHz	Region 2 MHz	Region 3 MHz	Band MHz 1	National Provisions 2	Government Allocation 3	Non-Government Allocation 4	Remarks 5
3300–3400 RADIOLOCATION 370 371	3300–3400 RADIOLOCATION Amateur 376		3300–3500	G, NG US108	RADIOLOCATION	Amateur Radiolocation	Although the band 10000–10500 MHz presently seems most suitable as a common frequency band for such survey operations in different countries, future development, if required, should be directed to the band 34.0–35.6 GHz, within the overall band 33.4–36.0 GHz, with no new development below 10000 MHz.
3400–3600 FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE Radiolocation 372 373 374 375	3400–3500 FIXED-SATELLITE (Space-to-Earth) RADIOLOCATION Amateur 376				G31		
	3500–3700 FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE RADIOLOCATION	3500–3700 FIXED-SATELLITE (Space-to-Earth) RADIOLOCATION Fixed Mobile 377 378	3500–3700	G, NG US110	AERONAUTICAL RADIONAVIGATION (Ground-based) RADIOLOCATION G59 G110	Radiolocation	
3600–4200 FIXED FIXED-SATELLITE (Space-to-Earth) Mobile 374	3700–4200 FIXED FIXED-SATELLITE (Space-to-Earth) MOBILE 379		3700–4200	NG		FIXED FIXED-SATELLITE (Space-to-Earth) NG41	

Government (G) Footnotes

(These footnotes, each consisting of the letter "G" followed by one or more digits, denote stipulations applicable only to the Government.)

G31 In the band 3300–3500 MHz, the Government radiolocation is limited to the military services, except as provided by footnote US108.

G59 In the bands 902–928 MHz, 3100–3300 MHz, 3500–3700 MHz, 5250–5350 MHz, 8500–9000 MHz, 9200–9300 MHz, 13.4–14.0 GHz, 15.7–17.7 GHz and 24.05–24.25 GHz, all Government non-military radiolocation shall be secondary to military radiolocation, except in the sub-band 15.7–16.2 GHz airport surface detection equipment (ASDE) is permitted on a coequal basis subject to coordination with the military departments.

G110 Government ground-based stations in the aeronautical radionavigation service may be authorized between 3500 and 3700 MHz where accommodation in the 2700–2900 MHz band is not technically and/or economically feasible.

US Footnotes

(These footnotes, each consisting of the letters US followed by one or more digits, denote stipulations applicable to both Government and non-Government stations.)

US108 Within the bands 3300–3500 MHz and 10000–10500 MHz, survey operations, using transmitters with a peak power not to exceed five watts into the antenna, may be authorized for Government and non-Government use on a secondary basis to other Government radiolocation operations.

US110 In the frequency bands 3100–3300 MHz, 3500–3700 MHz, 5250–5350 MHz, 8500–9000 MHz, 9200–9300 MHz, 9500–10000 MHz, 13.4–14.0 GHz, 15.7–17.7 GHz, 24.05–24.25 GHz and 33.4–36 GHz, the non-Government radiolocation service shall be secondary to the Government radiolocation service and to airborne doppler radars at 8800 MHz, and shall provide protection to airborne surface detection equipment (ASDE) operating between 15.7–16.2 GHz.

International Footnotes

(These footnotes come from the Radio Regulations, Geneva, 1959, the Final Acts of the Space EARC, Geneva, 1963, the Final Acts of the Maritime Mobile WARC, Geneva, 1967, or the Final Acts of the Space WARC, Geneva, 1971.)

370 In Albania, Austria, Bulgaria, Hungary, Poland, Portugal, Roumania, Switzerland, Czechoslovakia and the U.S.S.R., the band 3 300–3 400 MHz is also allocated to the radionavigation service.

371 In Austria, Greece, Norway, the Netherlands, Portugal and Sweden, the band 3 300–3 400 MHz is also allocated to the fixed and mobile services.

372 In Austria, the band 3 400–3 600 MHz is also allocated to the radionavigation service.

373 In Denmark, Norway, Sweden and Switzerland, the fixed, mobile, radiolocation and fixed-satellite services operate on a basis of equality of rights in the band 3 400–3 600 MHz.

374 In the United Kingdom, the band 3 400–3 770 MHz is allocated to the radiolocation service.

375 In Austria, Israel, Netherlands, F. R. of Germany and the United Kingdom, the band 3 400–3 475 MHz is also allocated, on a secondary basis, to the amateur service.

376 In China, India, Indonesia, Japan and Pakistan the band 3 300–3 500 MHz is also allocated to the fixed and mobile services.

377 In China and Japan the band 3 500–3 700 MHz is also allocated to the fixed and mobile services.

378 In Japan, in the band 3 620–3 700 MHz, the radiolocation service is excluded.

b. 3.4–3.5 GHz:

1. The radiolocation service is allocated on a primary basis in Regions 2 and 3 and on a secondary basis in Region 1.

2. The fixed-satellite service is allocated on a primary basis worldwide.

3. In Austria, the radionavigation service is also allocated in the band 3.4–3.6 GHz (372).

4. The fixed and mobile services are also allocated in Region 1 (373) and Regions 2 and 3 (376).

5. The amateur service is allocated on a secondary basis in Regions 2 and 3.

c. 3.5–3.7 GHz:

1. The radiolocation service is allocated on a primary basis in Regions 2 and 3 (except Japan (378)).

2. The fixed-satellite service is allocated on a primary basis worldwide.

3. The fixed service is allocated on a primary basis in Regions 1 and 2 and on a secondary basis in Region 3.

4. The mobile service is allocated on a primary basis in Region 2 and on a secondary basis in Regions 1 and 3.

5. In Austria, the radionavigation service is also allocated in the band 3.4–3.6 GHz.

3.2 *Proposed Changes to the Present Allocations.* The 3rd NOI contained proposals for the addition of several services in portions of the spectrum between 3.3–3.7 GHz. The proposed additions, as provided by the Table of Allocations, are:

1. In Region 2, the addition of the fixed service on a secondary basis in the band 3.3–3.4 GHz.

2. In Region 1, the addition of the amateur service on a secondary basis in the band 3.4–3.41 GHz.

3. Worldwide addition of the amateur-satellite service on a secondary basis in the band 3.4–3.41 GHz.

4. In Region 2, the addition of the aeronautical radionavigation service on a primary basis in the band 3.5–3.7 GHz.

In addition to the proposals set forth above, the 3rd NOI also contained discussions on spectrum expansion requirements of the commercial fixed-satellite service. The attempt to obtain a fixed satellite downlink allocation in the band 3.4–3.7 GHz was briefly discussed. This proposed downlink would be paired with a proposed uplink in the band 5.625–5.925 GHz.

3.3 *Military Systems Operating in the Band.* The military (Air Force, Army and Navy) have several radar systems that currently operate or are being developed to operate in the bands 3.3–3.7 GHz. Classified information concerning these systems has been made available to the FCC staff. A brief functional description and operational status of some Air Force and Army systems follows:

Air Force. The equipments functioning as part of the Air Force systems do not operate above 3.5 GHz. One of these systems uses electronic warfare simulators in all types of aircraft. Bomb directed controls are also employed. This system is presently operational.

The SAC Automated Command Control System (SACCS) transmits, collects, processes and displays data to assist CINCSAC in command and control of armed forces. The system is presently operational.

Army. The Army system with equipment capable of operating in this band is used to provide defense against aircraft and missiles. Training sites exist in Florida and Texas. The system equipment does not tune above 3.5 GHz.

Navy. Navy systems provide search, tracking, and navigation functions. Due to the various functions performed, capability and flexibility to operate throughout the band is critical to successful shipboard electromagnetic compatibility.

3.4 *Military Equipment Summary.* Information on Air Force, Army and Navy present and planned worldwide utilization of the 3.3–3.7 GHz band is provided in this section.

Air Force. A list of the Communication-Electronic (C–E) equipment indicates that the Air Force has 9 types of nomenclatured equipments capable of operating in bands 3.3–3.7 GHz. A few of these equipments are ground-based radars; however, over 500 are airborne radionavigation radars. Approximately 50% of these airborne radars tune across the band 3.4–3.7 GHz. The ermaining 50% of the airborne radars tune in band 3.3–3.6 GHz.

Army. An Army C–E equipment list contains three types of nomenclatured equipments capable ofo perating in 3.1–3.5 GHz bands. These represent a radar with planned operational availability beginning in 1980, and a total of approximately 300 operational radars. Theo perational availability of the present operational radars extend to 1985.

Navy. A Navy equipment inventory list indicates that th e are five types of shipboard radars capable of operating in the 3.3–3.7 GHz bands. These five nomenclatures represent equipments that are shipboard search, tracking or navigation radars. The search/tracking radars are tunable with a maximum operational frequency of 3.6 GHz. The navigation radars operate within the sub-band 3.55–3.7 GHz.

3.5 *Government usage of bands within the U.S.* The frequency records contain over 60 frequency assignments in the 3.3–3.7 GHz bands. Of this total, one is a National Aeronautics and Space Administration (NASA) assignment and the remainder are military. The station class associated with these assignments are radiolocation land and mobile stations and experimental stations. The four Government agencies currently using the bands 3.3–3.7 GHz and their approximate percentage of frequency assignments are:

Agencies:	*Percent of total*
Air Force	39
Army	20
Navy	39
NASA	<2

A distribution of frequency assignments for each 100 MHz of spectrum in the bands between 3.3 to 3.7 GHz is provided in table 3.2. The number of assignments associated with each agency are also given. Many of the equipments tune across several bands, thus, table 3.2 does not provide the exact number of records.

Table 3.2 Frequency Assignment*/ Distribution for the 3.3–3.7 GHz Bands

AGENCY	FREQUENCY SUB-BAND, GHz			
	3.3–3.4	3.4–3.5	3.5–3.6[1]	3.6–3.7[1]
AF	21	19	8	11
AR	11	11	1	1
N	13	17	7	2
NASA	1	1		
Total	46	48	17	14

NOTE:

1. The FAA is planning to use the band 3.5–3.7 GHz for low cost ASR's in the future.

*/ Does not necessarily indicate the number of equipments or systems operating in a frequency subband.

The assignments were used to obtain data on band usage for each of the Government agencies within the US. A summary of the usage for each of the four agencies, as well as FAA planned usage of the 3.5–3.7 GHz band, is provided in this sub-section.

Air Force. The Air Force uses this band for tactical, testing, evaluation and experimental purposes. The Air Force currently has assignments in the 3.3–3.7 GHz bands that are distributed in 11 states. Of these assignments, the majority have experimental station classes. The remaining assignments are radio-location, land and mobile stations. Most of these assignments are land-based stations used for testing. The remainder concern an airborne tactical radar that may be deployed anywhere within the US.

Army. The Army uses this band for operation of air defense radars and for experimental testing. The transmitter locations associated with these assignments are Alaska, Alabama, California, Florida, New Mexico and Utah. Of the assignments, the majority are radiolocation land stations and the remainder are experimental stations.

Federal Aviation Administration (FAA). The FAA plans to develop low cost Airport Surveillance Radars (ASR) in the 3.5–3.7 GHz band. Projected plans indicated that there will be at least 40 ASR's in operation within the next ten years. These radars would employ coaxial magnetrons or klystron power amplifiers with a peak power of 50 kW to 100 kW and would operate in conjunction with a frequency scanning antenna.

Navy. The Navy uses the 3.3–3.7 GHz bands for operation of shipboard radars, training and testing of developmental radar systems. The station classes associated with these assignments are radiolocation land station, radiolocation mobile station and experimental stations.

The radiolocation land stations and experimental stations are located in California, Florida, Maryland, New Mexico, Puerto Rico, Tennessee, Virginia, Virgin Islands, and Washington. These stations are used for training and testing purposes.

The remaining assignments are radiolocation mobile stations that are shipboard radars representing several equipments. The shipboard radars may operate within the coastal areas of the U.S.

National Aeronautics and Space Administration (NASA). NASA has one experimental radar capable of operating in the 3.1–3.5 GHz bands. The radar is used for tracking V/STOL vehicles in California.

SECTION 4. ALLOCATION AND ASSESSMENT OF THE 4.4–4.99 GHz BAND

4.1 *Present Frequency Allocation.* The existing International Frequency Allocation and National Provisions for the 4.4–4.99 GHz band are given in table 4.1.

The National Provisions allocate the fixed and mobile services, on a primary basis. In the band 4.825–4.835 GHz, every practical effort will be made to avoid assignment of frequencies in the fixed and mobile service (US203) due to radio astronomy observation.

The International Provisions allocate the fixed and mobile services on a primary basis in the 4.4–4.99 GHz band. The International Provisions also allocate the fixed-satellite service (earth-to-space), on a primary basis, in the band 4.4–4.7 GHz. All of the international footnotes (233B, 354, 382A and 382B) pertain to consideration of radio astronomy operations in the band 4.7–5.0 GHz.

4.2 *Proposed Changes to the Present Allocations.* The 3rd NOI contained discussions pertaining to the accommodation of the fixed satellite and radio astronomy proposed allocation within the band 4.4–4.9 GHz. Neither of these proposed allocations was provided in the Table of Allocations. However, a proposal was included to allocate Radio Astronomy as a primary service in the 4.95–4.99 GHz portion of the band.

The radio astronomers have expressed a desire to upgrade the band 4825–4835 MHz to table status. The radio astronomy service uses this band for observation of the formaldehyde line.

A proposal that would provide additional spectrum for the non-Government fixed satellite service in the band 4.4–4.9 GHz was briefly discussed in the 3rd NOI. This proposed fixed satellite allocation would be used for fixed satellite downlink purposes. A companion uplink would be provided by the bands 6.425–6.925 GHz which are presently allocated for non-Government purposes by the National Provisions.

TABLE 4.1

Frequency Allocation for the 4.4–4.9 GHz Band

INTERNATIONAL			UNITED STATES				
Region 1 MHz	Region 2 MHz	Region 3 MHz	Band MHz 1	National Provisions 2	Government Allocation 3	Non-Government Allocation 4	Remarks 5
4400–4700	FIXED FIXED-SATELLITE (Earth-to-space) MOBILE		4400–4990	G US203	FIXED MOBILE		Unprotected radio astronomy observations are being carried out in the band 4950–4990 MHz. Users should, where possible, bear in mind the needs of the radio astronomy service in their future planning for the use of this part of the band.
4700–4990	FIXED MOBILE 233B 354 382A 382B						

US Footnotes

(These footnotes, each consisting of the letters US followed by one or more digits, denote stipulations applicable to both Government and non-Government stations.)

US203 Government and non-Government radio astronomy observations of the formaldehyde line frequencies 4825-4835 MHz and 14.485-14.515 GHz may be made at certain Radio Astronomy Observatories as indicated below:

Bands to be Observed		Observatory
4 GHz	14 GHz	
X	X	National Radio Astronomy Observatory Green Bank, W. Va.
X	X	Tucson (Kitt Peak), Ariz.
X	X	Naval Research Laboratory Maryland Point, Md.
X	X	Hat Creek Observatory (U of Calif.) Hat Creek, California
X	X	Haystack Facility (MIT-Lincoln Lab) Tyngsboro, Mass.
X		Agassiz Station (Harvard College) Harvard, Mass.
X	X	Owens Valley Radio Observatory (Cal. Tech.) Owens Valley, California
X		University of Michigan Dexter, Michigan
X		Harvard Observatory Ft. Davis, Texas
	X	University of Texas Ft. Davis, Texas
	X	Aerospace Corp. El Segundo, California (to be moved to Owens Valley)

Every practicable effort will be made to avoid the assignment of frequencies to stations in the fixed or mobile services in these bands. Should such assignments result in harmful interference to these observations, the situation will be remedied to the extent practicable.

International Footnotes

(These footnotes come from the Radio Regulations, Geneva, 1959, the Final Acts of the Space EARC, Geneva, 1963, the Final Acts of the Maritime Mobile WARC, Geneva, 1967, or the Final Acts of the Space WARC, Geneva, 1971.)

233A In Argentina and Uruguay, the bands 36.65-36.85 MHz, 41.15-41.35 MHz and 45.65-45.85 MHz, and in Argentina, Brazil and Uruguay the band 170.55-170.95 MHz, are allocated to the radio astronomy service and no assignments shall be made to the fixed and mobile services in these bands.

354 In Albania, Bulgaria, Hungary, Poland, Roumania, Czechoslovakia and the U.S.S.R., the bands 1 660-1 690 MHz, 3 165-3 195 MHz, 4 800-4 810 MHz, 5 800-5 815 MHz and 8 680-8 700 MHz are also used for radio astronomy observations.

382A Radio astronomy observations on the formaldehyde line (rest frequency 4 829.649 MHz) are being carried out in a number of countries under national arrangements. Administrations should bear in mind the needs of the radio astronomy service in their future planning of the band 4 825-4 835 MHz.

382B Radio astronomy observations in the band 4 950-4 990 MHz are being carried out in a number of countries under national arrangements. Administrations should bear in mind the needs of the radio astronomy service in their future planning of this band.

4.3 *Military Systems Operating in the Band.* The military (Air Force, Army and Navy) have a large number of operational and developmental communication systems with equipment capable of operation in the band 4.4-4.9 GHz. Classified information concerning these systems has been made available to the FCC staff. Most of the nomenclatured equipments functioning as part of these systems have the capability of turning from 4.4 to 4.99 GHz. A brief functional description of most of these systems is discussed herein.

Air Force. The Air Force systems are summarized below:

A system designed to provide, via relay pods carrier aboard an aircraft, command to a Remotely Piloted Vehicle (RPV) plus telemetry and video information from the RPV, is in the developmental stage.

The BAREBASE system is a concept designed to rapidly deploy a tactical operation to an airstrip. The equipment that is used will depend on where BAREBASE is deployed and which Air Force units will provide the support. This system is presently operational.

A system that will enable reconnaissance aircraft to relay infrared sensor data to remote ground terminals is in the research/development stage.

The Tactical Air Control System (TACS) provides a transportable tactical air control system capable of directing and controlling all tactical air operations. The TACS consists of 6 super systems. Two of these systems, the Air Force Component Command Post (AFCCP) and Forward Air Control Post, have equipment that operates in this band. This system is presently in the operational and acquisition phase.

The Television Ordnance Scoring System (TOSS) is an ordnance scoring system that locates the impact point of ordnance dropped from aircraft in a training or operational test environment. This system is in the procurement stage.

The WHITE ALICE is a troposcatter and microwave system that provides communications throughout Alaska. This system has been an operational system for several years and may be phased out in the near future.

A family of high speed digital troposcatter radios are being developed to help satisfy the communications requirements of tactical forces in 1980-1990. These sets will be capable of providing reliable communications over ranges up to 200 miles in the troposcatter mode and shall also be capable of operating as line of sight equipment. Approximately 400 units of these predevelopmental systems are planned for worldwide tactical deployment.

Army. The Army sytsems that have the capability of operating in this band are the Army Area Communications (AACOM) system, the AQUILA RPV system and an Area Wideband System.

The AACOM is an integrated communications system used to provide secure multichannel communications for Tactical Field Army Units. This system is in the acquisition stage.

The AQUILA RPV system is used to develop and test technology, perform real time surveillance, artillery adjustments, target location, acquisition and designation. The system is in the developmental stage.

An Area Wideband System will serve communications information transfer needs in an interconnected network. This system will provide digital high rate information transfer systems among multiple users. Planned initial operation of this system is 1978.

Marine Corps. The Marine Corps system is the Marine Air Command and Control System (MACCS). The MACCS permits centralized coordination and supervision of air operations by the Marine Air Ground Task Force (MAGTF) aviation combat element commander. The major support element of MACCS are: Tactical Air Command Center (TACC), Tactical Air Operations Center (TAOC), Direct Air Support Center (DASC), Air Support Radar Team (ASRT), Tactical Air Control Parties (TACP) and the Marine Air Traffic Control Unit (MATCU). The system is operational with additional research, development, test and evaluation being undertaken. Certain links of this system are also capable of operating in the troposcatter mode.

Navy. The Navy systems are the Light Airborne Multipurpose System (LAMPS) and the Integrated Target Control System (ITCS).

The LAMPS provides various missions, such as anti-submarine warfare, artillery spotting, air to sea rescue. This system is in the developmental stage.

The ITCS is a drone control system used for control of various stages of drones. This system is in the developmental stage.

Air Force, Army, Navy. The TRI TAC systems will provide a compatible Tri service (Air Force, Army and Navy) communications system. The system is in the research/developmental stage.

4.4 *Military Equipment Summary.* Preliminary information on Air Force, Army and Navy present and planned worldwide spectrum usage of the 4.4-4.9 GHz band is summarized in this section.

Air Force. The list of C-E equipment indicates that the Air Force has about 50 types of nomenclatured equipments capable of operating in this band. These equipments are used for microwave relay, troposcatter communications, drone control, data relay, and telemetry. Approximately 20% of the nomenclatured equipments may be used for troposcatter. Of the total nomenclatured equipments, the majority are capable of operating throughout the band 4.4-4.9 GHz.

Army. The list of C-E equipment contains about 10 types of Army nomenclatured equipments that are capable of operating in the band 4.4-4.9 GHz. The Army uses these equipments for telemetry, data links, multichannel radar relay and nontactical command air-to-ground video purposes. Of this total, the majority of the nomenclatured equipments may be used as troposcatter systems. The nomenclatured equipments represent a quantity in excess of 1000. The planned equipment operational availability extends into the 1990 timeframe.

Navy. Navy information indicates there are 112 land mobile (including airborne) equipments operating in this band.

4.5 *Government Usage of Bands Within the U.S.* There are 1305 frequency assignments in the 4.4-4.9 GHz band. Of the total assignments, approximately 96% are military and of these, approximately 70% are used for some form of tactical or tarining operation.

The 1306 frequency assignments are used by six Government agencies. The six agencies and the approximate percentage of frequency assignments for each agency is tabulated as follows:

Agency:	*Percent of total*
Air Force (AF)	36
Army (AR)	18
Commerce (C)	<1
Energy Research and Development Administration (ERDA)	3
Navy (N)	42
National Aeronautics and Space Administration (NASA)	<1

A distribution of frequency assignments for each 100 MHz of the spectrum between 4.4-4.9 GHz and each agency is given in table 4.2. The assignment total for the 5 sub-bands does not equal 1305 since some of the assignments tune across several of these sub-bands. For example, the Army has 59 assignments that tune between 4.4 and 4.9 GHz and the Air Force has one assignment that tunes between 4.4 and 4.8 GHz.

The distribution of assignments having high transmit power (≥1 kW) is provided in table 4.3. As shown, the assignments with high transmit power characteristics are fairly evenly distributed in the five subbands. The station class associated with these high power stations are: fixed stations (FX), land stations of the mobile service (FL), telecommand mobile stations (MOD) and experimental stations (X[ ]).

The frequency records were used as the primary source to obtain data upon Government usage of the 4.4-4.9 GHz band within the US. A summary of the usage for each of the six Government agencies follows:

Air Force. A large percentage (about 50%) of the Air Force assignments in the 4.4-4.9 GHz band are for tactical and training use. Training activities include both Air National Guard and active duty units and are primarily associated with mobile troposcatter equipment. The balance of the AF assignments are used in a variety of test and developmental activities. These activities appear to be mainly associated with the transmission of wideband video and data links. The data link assignments are air-to-ground.

TABLE 4.3
Frequency Assignment Distribution for the 4.4-4.9 GHz Band

	FREQUENCY SUB-BAND GHz				
AGENCY	4.4-4.5	4.5-4.6	4.6-4.7	4.7-4.8	4.8-4.9
AF	91	120	80	96	90
AR	97	98	83	94	99
C	0	0	0	1	0
ERDA	7	7	10	9	8
N	113	106	127	102	99
NASA	2	1	2	0	2
TOTAL	310	332	302	302	298

TABLE 4.4
Distribution of Frequency Assignments Having High Transmit Power (≥ [illegible])

FREQUENCY SUB-BAND, GHz	NUMBER OF ASSIGNMENTS
4.4 - 4.5 GHz	149
4.5 - 4.6 GHz	150
4.6 - 4.7 GHz	144
4.7 - 4.8 GHz	148
4.8 - 4.9 GHz	149

Army. Army usage of the 4.4-4.9 GHz band divides into two categories: (1) tactical and training involving troposcatter equipment operating 1 to 10 kW power levels located in 28 States, and (2) operational point-to-point microwave communications equipment operating at low power (approximately 1 watt) levels. The first category represents about 65% of the Army assignments in the band and the second category, about 25%. The remaining 10 percent are data links or experimental RPV uplink assignments.

Commerce. The Commerce assignment is a low powered fixed station located in Boulder, Colorado. The fixed station is used for transmission of video information.

ERDA. The ERDA's forty-one assignments in the 4.4-4.9 GHz band are primarily used for telemetry and data relay stations in Nevada but there is a small network in Col-

orado and a point-to-point video link in California. The ERDA is also developing a new emergency system for use in the 4.4–4.9 GHz band. The system is a microwave link used to provide for the remote identification and analysis of nuclear devices. Two systems are being procured, requiring a total of 12 transmitters and 12 receivers. The system will be capable of being transported to any location within the US.

Navy. The majority of the Navy assignments (approximately 85%) are designated for use as tactical and training in accordance with note S189. Most of these assignments also carry the note S017 indicating that the frequencies are being used to train operators in the use of the equipment, such training probably taking place at Marine Corps facilities, and include the troposcatter mode of operation. The balance of the Navy assignments (about 15%) are designated for a variety of uses including communications with drones and aircraft from land-based and ship-based stations, experimental development and testing of systems, and mobile telecommand for drone control. An extremely large number of the Navy assignment contains NRM (number) fields in the remarks column. This indicates that the equipment quantity represented by these assignments are quite large.

NASA. Most NASA assignments in the 4.4–4.9 GHz band (of which there are less than ten) are associated with a point-to-point relay network centered in California. NASA also has one assignment for experimental research and one area wide assignment for a flight telemetering station.

SECTION 5.—ALLOCATION AND ASSESSMENT OF THE 5.6–5.925 GHz BAND

5.1 *Present Frequency Allocation.* The existing International Frequency Allocations and the National Provisions for the 5.6–5.925 GHz frequency bands are provided in table 5.1. The National Provisions include the Government allocations, non-Government allocations and applicable footnotes. The primary services and their associated bands for the National Provisions are:

	Gigahertz
Maritime radionavigation	5.60–5.65
Meteorological aids	5.60–5.65
Radiolocation	5.65–5.925

In the 5.6 to 5.65 GHz band, maritime radionavigation and meteorological aids are primary, on an equal basis (387), for both Government and non-Government agencies. The maritime radionavigation service is limited to shipboard radars (US65). Government radiolocation is primarily for the military services; however, limited secondary use is permitted by other Governmental agencies in support of experimentation and research programs (G56). Non-Government radiolocation is secondary to Government radiolocation (US51).

In the 5.65 to 5.925 GHz band, Government radiolocation is the primary service; however, this service is limited to the military agencies (G2). Industrial, Scientific and Medical (ISM) equipment operates within 5800±75 MHz band segment and the radiocommunication services must accept any harmful interference that may be received from ISM (391). The amateur secondary service is the only non-Government service permitted in this band and it is on a secondary basis (US34).

The International Frequency Allocations differ from the U.S., in that these allocations allow fixed, fixed-satellite, mobile and space research to operate in the portions of these bands. A summary of the International Provisions is tabulated for each frequency band below:

a. 5.47–5.65 GHz:

1. Maritime radionavigation is allocated on a primary basis worldwide.

2. Radiolocation is allocated as a secondary service worldwide.

Table 5.1 Frequency Allocation for the 5.6-5.925 GHz Band

INTERNATIONAL			UNITED STATES				
Region 1 MHz	Region 2 MHz	Region 3 MHz	Band MHz 1	National Provisions 2	Government Allocation 3	Non-Government Allocation 4	Remarks 5
5470–5650			5470–5600	G, NG US50 US65	MARITIME RADIONAVIGATION Radiolocation G56	MARITIME RADIONAVIGATION Radiolocation	
MARITIME RADIONAVIGATION Radiolocation 386 387			5600–5650	G, NG 387 US51 US65	MARITIME RADIONAVIGATION METEOROLOGICAL AIDS Radiolocation G56	MARITIME RADIONAVIGATION METEOROLOGICAL AIDS Radiolocation	
5650–5670			5650–5925 (ISM 5800 ± 75 MHz)	G, NG 391 US34 US100	RADIOLOCATION G2	Amateur	
RADIOLOCATION Amateur 383 389							
5670–5725							
RADIOLOCATION Amateur Space Research (Deep Space) 388 389 389A							
5725–5850	5725–5850						
FIXED-SATELLITE (Earth-to-Space) RADIOLOCATION Amateur 354 388 390 391 391A	RADIOLOCATION Amateur 389 391 391A						
5850–5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 391	5850–5925 RADIOLOCATION Amateur 391	5850–5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Radiolocation 391					

FOOTNOTES

Government (G) Footnotes

(These footnotes, each consisting of the letter "G" followed by one or more digits, denote stipulations applicable only to the Government.)

G2 In the bands 216–225, 420–450, 1300–1600, 2300–2450, 2700–2900, 5650–5925 and 9000–9200 MHz, the Government radiolocation is limited to the military services.

G56 Government radiolocation in the bands 1215–1300, 2900–3100, 5350–5650 and 9300–9500 MHz is primarily for the military services; however, limited secondary use is permitted by other Government agencies in support of experimentation and research programs. In addition, limited secondary use is permitted for survey operations in the band 2900–3100 MHz.

US Footnotes

(These footnotes, each consisting of the letters US followed by one or more digits, denote stipulations applicable to both Government and non-Government stations.)

US34 The only non-Government service permitted in the bands 220–225 MHz, 1215–1300 MHz, 2300–2450 MHz and 5650–5925 MHz is the amateur service. The amateur service shall not cause harmful interference to the radiolocation service.

US50 The non-Government radiolocation service may be authorized in the band 5470–5600 MHz on the condition that it does not cause harmful interference to the maritime radionavigation service or to the Government radiolocation service.

US51 In the bands 5600–5650 MHz and 9300–9500 MHz, the non-Government radiolocation service shall not cause harmful interference to the Government radiolocation service.

US65 The use of the band 5460–5650 MHz by the maritime radionavigation service is limited to shipborne radars.

US100 In the Additional Protocol to the Final Acts of the Space EARC, Geneva, 1963, a declaration on behalf of the USA states that the USA cannot accept any obligation to observe the exception claimed by Cuba in those footnotes to the Table of Frequency Allocations which were adopted by the EARC and which specifically named Cuba.

International Footnotes

(These footnotes come from the Radio Regulations, Geneva, 1959, the Final Acts of the Space EARC, Geneva, 1963, the Final Acts of the Maritime Mobile WARC, Geneva, 1967, or the Final Acts of the Space WARC, Geneva, 1971.)

354 In Albania, Bulgaria, Hungary, Poland, Roumania, Czechoslovakia and the U.S.S.R., the bands 1 660-1 690 MHz, 3 165-3 195 MHz, 4 800-4 810 MHz, 5 800-5 815 MHz and 8 680-8 700 MHz are also used for radio astronomy observations.

386 In Albania, Bulgaria, Hungary, Poland, Roumania, Czechoslovakia and the U.S.S.R., the band 5 470-5 650 MHz is also allocated to the aeronautical radionavigation service.

387 Between 5 600-5 650 MHz, ground-based radars used for meteorological purposes are authorized to operate on the basis of equality with stations of the maritime radionavigation service.

388 In the F. R. of Germany, the band 5 650-5 775 MHz is allocated to the amateur service and the band 5 775-5 850 MHz is allocated to the fixed service.

389 In China, India, Indonesia, Japan and Pakistan the band 5 650-5 850 MHz is also allocated to the fixed and mobile services.

389A In Bulgaria, Cuba, Hungary, Poland, Roumania, Czechoslovakia and the U.S.S.R., the space research service is a primary service in the band 5 670-5 725 MHz.

390 In Albania, Bulgaria, Hungary, Poland, Roumania, Czechoslovakia and the U.S.S.R., the band 5 800-5 850 MHz is allocated to the fixed, mobile and fixed-satellite services.

391 The frequency 5 800 MHz is designated for industrial, scientific and medical purposes. Emissions must be confined within the limits of ± 75 MHz of that frequency. Radiocommunication services operating within those limits must accept any harmful interference that may be experienced from the operation of industrial, scientific and medical equipment.

391A Radio astronomy observations are being carried out in the band 5 750-5 770 MHz and 36.458-36.488 GHz in a number of countries under national arrangements. Administrations are urged to take all practicable steps to protect radio astronomy observations in these bands from harmful interference.

3. The aeronautical radionavigation service is also allocated in Soviet Bloc countries (386).

4. In the band 5.6–5.65 GHz, the meteorological aids service is allocated on a co-equal basis with maritime radionavigation (387).

b. 5.65–5.725 GHz:

1. The radiolocation service is allocated on a primary basis worldwide.

2. The amateur service is allocated on a secondary basis worldwide.

3. The fixed and mobile services are also allocated in this band (389).

4. The space research service is allocated in the band 5.67–5.725 GHz, on a primary basis, in some Soviet Bloc countries (389A).

c. 5.725–5.85 GHz:

1. The radiolocation service is allocated on a primary basis worldwide.

2. The fixed-satellite service is allocated on a primary basis in Region 1.

3. The amateur service is allocated on a secondary basis worldwide.

4. The fixed and mobile services are also allocated in this band (388, 389, 390).

5. The frequency 5.8 GHz is designated for ISM purposes worldwide (391).

6. Radio astronomy observations are being carried out in a number of countries (354, 391A) in the bands 5.75–5.77 GHz and 5.8–5.815 GHz.

d. 5.85–5.925 GHz:

1. The radiolocation service is allocated on a primary basis in Region 2 and on a secondary basis in Region 3.

2. The fixed, mobile and fixed-satellite services are allocated on a primary basis in Regions 1 and 3.

3. The amateur service is allocated on a secondary basis in Region 2.

5.2 *Proposed Changes to the Present Allocation.* The 3rd NOI contained discussions proposing the addition of three services and an expansion of ISM equipment within the bands 5.625–5.925 GHz. A summary of these proposed allocations follows:

1. Addition of the Amateur Satellite service on a secondary basis. The frequency limits of allocation would be 5.65–5.67 GHz. This allocation was also proposed in the Table of Allocations.

2. Spectrum for use by the common carrier fixed service in the bands of 5.650–5.925 GHz was requested.

3. The request to obtain spectrum in the 5.625–5.925 GHz bands for use by the commercial fixed satellite service was discussed.

4. Footnote 357A has been proposed in the Table of Allocations to provide for wireless transmission of power. This footnote states:

"The frequencies 2450 MHz and 5800 MHz are designated for the wireless transmission of power. Emissions must be confined within ±50 MHz of the frequencies designated. This electrical energy transfer may be effected from space-to-earth, space-to-space, or point-to-point on the earth."

5.3 *Military Systems Operating in the Band.* The military has several developmental and operational radar systems with equipment capable of operating in the bands 5.6–5.925 GHz. Classified information concerning these systems has been made available to the FCC staff. A brief description of some of the military systems follows:

Air Force. The Air Force systems include the following systems.

The All Weather System (AWS) is an atmospheric environmental program that is a continuing acquisition and procurement program to improve and modernize the air weather service in support of military operations and command and control systems. The system is presently operational in the US.

Electronic warfare simulators are used in all types of aircraft. Bomb directed controls are also employed. This system is presently operational.

A part of the Air Defense Command and Control Network is a system which provides for surveillance, identification, command and control and interception of hostile airborne targets. With the phase-out of this system, a Joint Surveillance System (JSS) between the FAA, air Defense Command and Canada will be implemented to perform the U.S. surveillance and peacetime control missions of detection, identification and interception. The JSS will provide the means for rapid transition of the command, control and surveillance functions.

Navy. Navy systems include the Tarter/Terrier/Talos system. This system is a surface-to-air and surface-to-surface missile system. The primary role of this system is fleet air defense with a secondary role of anti-missile and anti-ship defense. These systems include search, acquisition, tracking, and navigation functions and are currently operational systems.

5.4 *Military Equipment Summary.* Information on military present and planned worldwide spectrum utilization of the 5.625–5.925 GHz bands is summarized in this section.

Air Force. A list of the Communictions-Electronic (C–E) equipment indicates that the Air Force has about 25 types of nomenclatured equipments capable of operating in this band. Approximately 75% of these nomenclatured equipments tune over the entire frequency band (5.60–5.925 GHz). These equipments are principally used as fixed and mobile ground radars and as pilotless carrier transponders or radars. Information currently available indicates that the nomenclatured equipment represent total equipment quantities in excess of 200 units.

Army. Information of Army C–E equipments indicates about 10 types of nomenclatured equipments are either operating or planned for operation in this band. Some of these nomenclatured equipments will operate in the band below 5.75 GHz. The remainder may operate within the entire band (5.625–5.925 GHz). The operational availability extends to 1990 for a majority of the nomenclatured equipments.

The Army has indicated that the loss of the 5825–5925 MHz band for use by radars at military test ranges would severely reduce the capability of those ranges to support the weapons development programs. Such delays of the weapons development programs across the U.S. will have a serious effect upon the Defense Readiness posture.

Navy. The Navy has about 10 types of nomenclatured equipments, representing an equipment quantity of about 600, operating in the 5.625–5.925 GHz band. All of these equipments are shipboard radars and are capable of operating in the 5.625–5.700 GHz frequency range. Some of the radars use frequency agility techniques. Approximately 100 radars are capable of operating above 5.85 GHz. It is projected that equipment quantities will increase by approximately 26% by 1990.

5.5 *Government Usage of Bands Within the U.S.* There are over 600 frequency assignments in the 5.6–5.925 GHz band. Approximately 83% of the total assignments are military (DOD) and of these, about 75% are used as land and mobile radiolocation radars and weather radars. The remaining 25% of the assignments are used as radionavigation, mobile and experimental stations.

The eight Government agencies with frequency assignments in this band and the approximate percentage for each of these agencies are:

Agency:	Percent of total
Air Force	55
Army	15
Commerce	11
ERDA	2
Interior	1
Navy	13
NASA	2
NS	>1

A frequency assignment distribution for four sub-bands of the overall band (5.6–5.925) is given in table 5.2. The total for the 4 sub-bands cannot be equated to the total, since approximately 70% of these assignments tune across multiple sub-bands, i.e., in the 5.825–5.925, only 12 assignments are fixed tuned.

Table 5.3 Frequency Assignment Distribution for the 5.6–5.925 GHz Bands

AGENCY	FREQUENCY SUB-BAND, GHz			
	5.6–5.65	5.65–5.725	5.725–5.825	5.825–5.925
AF	104	139	141	83
AR	35	47	56	24
C	74	0	0	0
ERDA	1	10	7	1
I	3	0	0	0
N	42	40	54	32
NS	0	0	0	1
NASA	4	6	5	4
Total	343	242	263	145

A summary of the usage within the U.S. for each Governmental agency follows:

Air Force. The Air Force uses this band principally for radiolocation and meteorological radar functions. The remaining assignments are used for radionavigation, telecommand land and experimental stations.

The radiolocation land stations are located throughout the U.S. and its possessions. Most of these stations are used for various air defense operations and missile testing.

The radiolocation mobile stations are deployed throughout the 50 states and in the Pacific. Primarily, the equipment is used as: aircraft radar transponders, for operational and pre-flight testing missiles, for tracking or reentry vehicles or as command/telemetry transceivers.

Many of the radiolocation stations are capable of operating in all of the sub-bands (5.6–5.925 GHz).

The weather radars are located in the continental U.S. and are used in the Weather Forecasting and Observing System. The weather radars have the capability of tuning from 5.45 to 5.65 GHz.

Army. The Army's principal use of this band is for radiolocation and radionavigation. The remaining assignments are used for experimental purposes. Some of these experimental assignments are used for missile system tests.

Most of the radiolocation land stations are located in Alabama, Arizona, California, New Mexico and Utah. The equipment is used for range safety and precision tracking in support of airborne testing, missile testing and tactical and/or training operations. It should be noted that as a result of operational constraints, the precision tracking radars and associated transponders must operate in the upper portions of the overall band.

The radiolocation mobile equipment is deployed in about six states. The equipments are transponders used during missile and airborne tests.

The radionavigation, surveillance and mobile stations employ airborne transponders for operation of a test range radionavigation system.

Commerce. Commerce uses the 5.6–5.65 GHz frequency sub-band for operation of weather radars (meteorological aids service) and for radiolocation purposes.

The weather radars are located throughout the U.S. and are capable of operating in the sub-band 5.6–5.65 GHz. Currently, there are 71 assignments for Commerce weather radars. These assignments include the future equipments as well as the present. The equipment growth can be approximated by assuming a linear growth of 20% per year between 1975 through 1980. Therefore, the estimate of the number of radars operating by the beginning of 1977 is 28 stations. The radars, the WSR–74C, are used by the National Weather Service as part of the Weather Station Radar network. The overall investment cost by Commerce for this Network is in excess of 24 million dollars.

The three radiolocation stations are located in Colorado and Florida and are used to track weather balloons and obtain convection current information.

Energy Research and Development Administration (ERDA). ERDA uses this band for the radiolocation service. There is one radiolocation land station located in Nevada. This station is a portable tracking radar that is capable of operating between 5.4 to 5.9 GHz. ERDA also uses radiolocation mobile stations which are deployed in California, Hawaii, Johnston Islands, Nevada, New Mexico and Virginia. These stations are air-deployed transceivers that operate in the two sub-bands between 5.625–5.825 GHz.

Interior. Interior has three assignments in the sub-band 5.6–5.65 GHz. Two of the assignments are radiolocation land stations used to gather weather information. One of these stations is portable that may be used anywhere in the U.S., and the second is located in California. The third assignment is a weather radar used for storm detection in Alaska.

Navy. The Navy's principal use of this band is for radiolocation purposes with approximately 30% of the assignments used as weather radars or as experimental stations.

The majority of the radiolocation assignments are radiolocation land stations. These stations are located in California, Florida, Hawaii, Louisiana, Marviand, New Jersey, North Carolina, Pennsylvania, South Carolina, Texas, Virginia, Washington, Puerto Rico and Johnston Islands. Certain radiolocation assignments are used as radiolocation mobile stations. A limited number of assignments are "U.S. and Possessions" assignments with large numbers fields. These assignments represent the shipboard tunable radars operating in this band.

NASA. NASA uses this band for radiolocation land stations, radiolocation mobile stations, and experimental stations.

The radiolocation land stations are located in California, Nevada, and Virginia and are probably used for instrumentation and test purposes.

The radiolocation mobile stations are airborne transponders located in Virginia.

Presently, NASA is studying the feasibility of using the 2.45 and 5.8 GHz band (see proposed international footnote 357A) for wireless transmission of power (WTP). The WTP system is in the conceptual stage. Presently, the 2.45 GHz ISM allocation is receiving the most consideration; however, footnote 357A would also provide for operation at 5.8 GHz.

SECTION 6.—EMC CONSIDERATIONS

6.1 *Introduction.* This section considers the EMC of non-Government proposed fixed and fixed satellite services and Government existing and proposed services operating in the bands 3.3–3.7 GHz, 4.4–4.9 GHz and 5.625–5.925 GHz. The non-Government and military have performed previous work in this area; however, there are many potential interactions not addressed in these analyses.

The non-Government Fixed Satellite Advisory Committee has investigated the following interactions.

(a) Shipboard radars and fixed satellite in the bands 3.4–3.7 GHz.

(b) Troposcatter system and fixed satellite in the band 4.4–4.9 GHz.

(c) Radiolocation and fixed satellite.

Additional non-Government analysis of radiolocation was sharing with the fixed satellite service in the 3.4–3.7 GHz bands was submitted to a GWARC Ad Hoc committee in January 1977 (GRC 798–III). It is assumed that GRC–798–III supersedes all applicable analysis previously made by the Fixed Satellite Advisory Committee.

The Navy is also investigating the compatability between the proposed fixed satellite and fixed services and Navy radars operating in the bands 3.3–3.7 GHz and 5.625–5.925 GHz. The Navy study is a Phase I (preliminary) study currently in the review stage. Based upon the initial results of the Phase I report, sharing between the fixed satellite and fixed services and the radiolocation service may not be possible without restrictions. Phase II (more detailed) sharing analyses efforts have been initiated by the Navy.

Previous studies by the non-Government and the Navy have been used wherever possible. In the cases where previous analysis information was not available, preliminary additional Federal Government sharing analyses were made. These cases and the associated frequency bands are:

(a) 3.3–3.7 GHz:

1. Aeronautical radionavigation (ASR's) and fixed satellite.
2. Airborne radars and fixed satellite.
3. Airborne radars and fixed.

(b) 4.4–4.9 GHz.

1. Mobile stations that are air deployed, and fixed satellite.
2. Radio astronomy and fixed satellite.

(c) 5.625–5.925 GHz:

1. Weather radars and fixed satellite.
2. Wireless transmission of power and fixed satellite.

Although the additional Government analyses are preliminary and are not all inclusive, these analyses provide insight that can be used for preliminary evaluation of the compatibility of various services. Due to the development activity in the frequency bands being considered, further analysis; particularly of military equipments may be appropriate.

6.2 *Analysis Parameters.* All of the analysis discussed within this report are based upon achievement of a specific interference to noise power ratio criteria.

Generally, the non-Government analyses relied upon existing CCIR reports to evaluate the compatibility between services. Normally, an overall interference probability criteria of 0.01 percent was used. Coordination distances between ground based systems were based upon C.C.I.R. report 382.2. This report has previously been used to establish coordination area requirements between earth stations and terrestrial radiocommunications services. In addition to determination of coordination distance by use of great circle propagation mechanisms, a rain scatter propagation model is also used. Based upon report 382–2, the propagation model requiring the greatest coordination distance is the mode to be taken into account.

The Phase I Navy and additional Government analyses are based upon a median (50%) probability criteria. The Federal Government analyses may be divided into two categories:

(a) Determination of a coordination distance between ground and/or air deployed systems.

(b) Whether or not a given INR criteria is exceeded for cases involving satellite interactions.

The coordination distance developed by the Federal Government analyses where based upon an automated smooth earth propagation model. This model provides the long-term median value of propagation loss and includes the combined effects of diffraction and troposcatter. This model does not determine the coordination distance associated with rain scatter or other low probability phenomenon, which may exceed the distanuce calculated by the smooth earth model.

Development of Coordination Distances. The median value of propagation loss was calculated in accordance with the following equation:

$$L=P_T+G_T+G_R-KTB-INR+DC-BW \quad (6.1)$$

where

P_T=peak output power in dBw.

G_T=Transmitter antenna gain in the direction of the receiver in dBi.

G_R=receiver antenna gain in the direction of the transmitter in dBi.

KTB=receiver noise level, Boltzmann's constant (K) times effective system noise temperature (T) times receiver bandwidth, BW_R in dBw.

INR=interference to noise power ratio, dB.

DC=duty cycle of interference emission in dB.

BW=ratio of the receiver 3-dB filter bandwidth BW_R and the 3-dB emission bandwidth BW_T of the interferer in dB.

$$BW=10 \log \frac{BW_T}{BW_R},\ BW_T>BW_R$$

$$BW=0,\ BW_T \leq BW_R$$

The coordination distance was then established by use of the smooth earth propagation model.

Satellite Interactions. The satellite is stationary, thus interactions between the satellite and other services are evaluated by:

$$KNR=I-KTB \quad (6.6)$$

Where

INR and KTB are as previously defined. I is the interference receive power in a reference bandwidth, dBw

A test of equality can then be made to determine if the INR ratio exceeds the criteria.

Equipment Characteristics. The equipment characteristics used for the additional Federal Government analyses are given in table 6.1. The characteristics of the Government equipments (item No. 1 through 4) were obtained from C–E or assignment record information. The characteristics of the wireless transmisisons of power (WTP) system (item No. 5) was provided via telecom. with NASA representatives. The fixed microwave equipment (Farinon SS4000W) characteristics were provided by a brochure. The earth station characteristics were obtained by using measured characteristics of an INTELSAT ground station. The satellite receive characteristics were extracted from the HS333 Canadian domestic satellite characteristics.

The INR criteria used in this report were obtained by using the values assumed in the non-Government analyses, Navy analysis and other previous Government analysis. The INR values used were:

(a) 0 dB for all radars.

(b) −10 dB[3] for fixed and fixed satellite services.

(c) −5 dB for mobile (air deployed) services.

[3] For the cases where pulsed systems are the interferer, an average interference power criteria was used. The criteria will not be valid for some conditions involving high data rate digital reception.

TABLE 6.1

Equipment Characteristics

ITEM	NOMENCLATURE	TRANSMIT POWER, dBw	PRF, PPS	PULSE WIDTH, μsec	3 dB EMISSION BANDWIDTH, MHz	ANTENNA MB	GAIN SL	NOISE NOISE FIGURE, dB OR (TEMPERATURE), °K	3 dB IF BANDWIDTH, MHz	AVERAGE ANTENNA HEIGHT ASSUMED, FT
1	ASR[1]	50	1000	0.6	1.8	32	10[2]	5 dB	2.3	50
2	Airborne Rdr	33	3000	0.25	4.0	3	0	27 dB	5.0	30,000
3	Airborne System-Classified	20	NA	NA	5.0	3	0	30 dB	6.5	60,000
4	WSR-74C	54	255	3	0.5	40	NOT REQ.	NOT REQ.	NOT REQ.	50
5	WTP-NASA PROPOSED SYSTEM	100	NA	NA	UNKNOWN BASICALLY CW	87	NOTE 3	NOT REQ.	NOT REQ.	SYNCHRONOUS ORBIT
6	FARINON MICROWAVE (SS 4000)	7	NA	NA	20.0	38	-10	9 dB	20.0	250
7	SATELLITE EARTH STATION	NOT REQ.	NA	NA	NOT REQ.	59	NOTE 4	(80 °K)	1 to 36 ASSUMED	50
8	SATELLITE	NOTE 5	NA	NA	NOTE 5	15	0	5 dB	1 to 36 ASSUMED	SYNCHRONOUS ORBIT

NOTES:

1. These characteristics were extrapolated from ASR 8 and existing FAA data.
2. The ASR antenna pattern will be a modified CSC^2 pattern. Gain of 32 dBi @ 5° and 10 dB at 0° and 30° elevation was assumed.
3. An extremely large array is used in this system. Gain of 10 dBi was assumed for 10 degrees off-axis and -10 dBi for 90 degrees off-axis.
4. Off-axis gain levels were calculated by using CCIR Report 391-2.
5. Power flux density limits were used for the calculation.

Satellite Parameters. The Radio Regulations specifies the maximum allowable power flux density (PFD) at the earth's surface produced by the fixed-satellite downlink. In the bands between 3.4–7.75 GHz, RR470NM Spa 2 states: "The power flux density at the Earth's surface produced by emissions from a space station or reflected from a passive satellite for all conditions and for all methods of modulation shall not exceed the following values;"

$152+\frac{\delta-5}{2}$ dBW/m² in any 4 kHz band for angles of arrival δ (in degrees) between 5 and 25 degrees above the horizontal plane;

142 dBW/m² in any 4 kHz band for angles of arrival between 25 and 90 degrees above the horizontal plane.

These limits relate to the power flux density which would be obtained under assumed free-space propagation conditions.

Satellite system design is governed by an overall performance criteria, i.e. achievement of a particular signal-to-noise ratio for the entire link. In some cases, like FM TV video transmissions where energy dispersal waveforms are employed, the limits given in RR470NM might be experienced. It is realised that the maximum PFD limit may be reduced by more than 20 dB for some links; however, the maximum level has been used for the initial OT analysis.

The conversion from PFD to interference power in a receive bandwidth may be expressed in logmetric form as:

$$I=PFD(\delta)+G_R+10 \log \left(\frac{\lambda 2}{4\pi}\right)+10 \log \left(\frac{BW_R}{4\ kHz}\right) \quad (6.3)$$

where

I=maximum power in BW_R, dBW.

G_R=receive antenna gain, dBi.

λ=wavelength, meters.

6.3 *EMC Analysis of the 3.3–3.7 GHz Bands.* The results of previous sharing studies considering the EMC between radiolocation and the fixed satellite and fixed services are discussed in this section. These results are followed by additional Federal Government analyses of the following interactions:

(a) Aeronautical radionavigation (ASR's) and fixed satellite,

(b) Airborne Radars and fixed satellite stations,

(c) Airborne Radars and fixed stations (Farinon SS4000W).

EMC of Radiolocation and Fixed Satellite. The initial analysis made by the Fixed Satellite Advisory Committee concluded that sharing between the radiolocation and fixed satellite services is possible if the satellite PFD is limited to −122 dBw/m² in 2.5 MHz.

On January 28, 1977, a new document, GRC–798–III, addressing this subject was introduced to members of the Ad Hoc committee. The conclusions of this analysis were:

a. "The earth station coordination aspects do not appear to involve greater difficulties than that associated with the fixed service."

b. "It would appear that the present PFD limit would be tolerable in that actual interference cases would involve a maximum penalty of 1% on the radar coverage capability."

A brief discussion of these general conclusions is required in order to fully understand the impact of these statements.

The coordination distance required between radiolocation stations and satellite earth stations are approximately 100 miles for normal propagation modes. However, consideration of rain scatter coordination distance extends this required separation to about 280 miles.

Limitation of the coverage area by 1 percent would have little impact upon radars used for training. However, if radars are used for air defense purposes, the restriction of 1 percent would weaken the overall function of these systems. An alternative discussed in GRC 798–III would be to restrict the maximum PRD limit to a level of −165 to 173 dBW/m²/4KHz which would result in an overall INR of 0 dB.

EMC of Radiolocation (Shipboard Radars and Fixed). The proposed fixed stations would be used to provide line-of-sight communications for common carrier users (inferred by 3rd NOI). Currently, the fixed service is proposed on a secondary basis in the sub-band 3.3–3.4 GHz. Under a secondary allocation, the fixed service must accept interference from the radiolocation service. Normally, common carrier users desire highly reliable links. Achievement of this goal may require that the proposed fixed service be allocated on a primary basis. Consequently, sharing between radiolocation and the fixed services was addressed within this report.

The calculations provided by the Phase I

Navy study generally indicates that distance separation between the radiolocation (shipboard radars) and fixed stations of less than 210 miles will preclude interference in the 3.3–3.4 GHz sub-band. This assumes worst case mainbeam-to-mainbeam coupling. Under less extreme conditions, mainbeam-to-sidelobe, a distance separation of less than 85 miles is required.

EMC of Aeronautical Radionavigation and Fixed Satellite. The FAA ASR is planned to be used by aeronautical radionavigation service, i.e., is considered as a safety-of-life service.

Satellite Interference into ASR. The interference-to-noise power ratio may be calculated by using equation 6.2 and 6.3 in conjunction with the ASR characteristics given in table 6.2. The INR in 2.3 MHz for the mainbeam coupling case is about 12 dB. The elevation angle within CONUS for mainbeam coupling to the satellite will vary as a function of ground station locations and satellite orbital position. The minimum angle is about 5 degrees and the maximum angle is about 55 degrees. Assuming that the existing ASR–8 antenna characteristics will be similar to the proposed ASR, the approximate antenna characteristics are:

3 dB azimuth beamwidth of 1.35 degrees
one antenna rotation in 4.8 seconds.

As the ASR sweeps in azimuth, the receiver may see as many as 35 interfering stationary sources (assuming orbital spacing of 3°) with various levels of interference. Conceivably, all of the interference levels could be above the noise if maximum PFD limits are used. The 3 dB beamwidth dwell time is $\frac{(1.35)}{360}$ 4.8 seconds or about 18 milliseconds.

Thus, interference may be experienced for about 630 pulses/scan.

The only acceptable alternative to the FAA would be to lower the PFD limit for this band. Generally, a reduction of 15 dB would probably be ample. However, establishment of an INR specification level requires further analysis and coordination with the FAA.

ASR Interference into Satellite Earth Station. The loss required to preclude interference between the earth station and ASR (eq. 6.1) by using the parameters provided in table 6.1 are:

$$L=(174.7+G_R+G_T)\ dB$$

assuming an ASR tilt angle of 4° and an earth station elevation angle of 5°, the required loss is

$$L_{\simeq}(174.7+10+14.5)\ dB=199.2\ dB$$

Based upon a smooth earth propagation prediction model, the required distance separation is 60 miles.

EMC of Airborne Radar and Fixed Satellite. The airborne radars are used for navigation station keeping on cargo-type aircraft. Due to the large number of these equipments, it is assumed that the airborne radars may be used in the U.S. during flight between bases. Also, there are new airborne radars being developed for use in portions of the band.

Satellite Interference into the Airborne Radar. The airborne radars have a very high noise figure (over 20 dB above the ASR) and a low antenna gain; therefore, it is evident that the satellite will not interfere with this system.

The Airborne Radar Interference into Satellite Earth Stations. The loss required to preclude interference, as calculated by equation 6.1, and using the equipment parameters defined in table 6–1 is:

$$L=155.4+G_R+G_T$$

Assuming 5 degrees off axis for the earth station and mainbeam coupling from the airborne radar (3 dBi gain)

$$L_{\simeq}173\ dbB$$

The aircraft may fly at an altitude of 30,000 feet. Consequently, the required slant range is 250 miles. This distance is in the diffraction region; thus, small increases in loss will have negligible effects upon the distance.

EMC of Airborne Radars and Fixed. Airborne radars may fly at an altitude of 30,000 feet or greater. Effectively, this will increase the line-of-sight distance to about 250 miles. Consequently, the additional loss advantage of diffraction, as experienced by ground based equipments, is not realized.

Airborne Radar Interference into Fixed Stations. The Farinon SS4000W microwave equipment is a 600 channel system and has been assumed to be typical of fixed service equipment proposed for operation in the 3.3–3.4 GHz sub-band. The medium propagation loss as calculated by parameters given in table 6.1 and equation 6.1 is:

$$L=134.4+G_R+G_T\ in\ dB$$

The loss is 175.4 dB for mainbeam to mainbeam couping (low probability of occurrence), and the corresponding slant range is about 250 miles.

The loss is 127 dB for airborne mainbeam and fixed station sidelobe antenna coupling. The corresponding slant range is 10 miles.

Fixed Service (SS400W) Interference into the Airborne Radar. This calculation is not required since the constraining system is the fixed station. This is evident by the high noise figure given in table 6.1.

6.4 *EMC Analysis of the 4.4–4.9 GHz Band.* The results of the Fixed Satellite Advisory Committee have been summarized to portray the EMC between high powered fixed stations (troposcatter) and the proposed fixed satellite service. This summary is followed by a preliminary Federal Government analysis of airborne mobile stations, and the fixed satellite service. Also, the impact of satellite emission upon the radio astronomy is discussed.

EMC of Troposcatter Systems and Fixed Satellite. The Fixed Satellite Advisory Committee sharing analysis concluded that sharing between troposcatter systems and earth stations require large coordination distances (308 miles). This analysis concludes that sharing of fixed satellite and troposcatter systems should be able to be accommodated.

Troposcatter Interference into Earth Stations. The coordination distances developed by the advisory committee, assuming 10° horizontal angle, are:

(a) About 154 miles (250 Km) separation between the troposcatter system and earth station is required, based upon great circle propagation mechanisms for 0.01% of the time.

(b) About 308 miles, worst case, based upon rain scatter.

Satellite Interference into Troposcatter. The Fixed Satellite Committee calculations showed that the troposcatter antenna could not point closer than ±4 degrees of the satellite geostationary orbit without exceeding an INR criteria of −10 dB. This calculation assumes maximum PFD of −152 $dBw/m^2/4$ Kz. If the PFD was reduced to −160 dBw/m^2, the troposcatter antenna may look up to ±2 degrees of the geostationary orbit and receive adequate protection. A PFD of −173 $dBw/m^2/4$ KHz is required to achieve an INR of −10 dB.

EMC of Mobile (Airborne) System and Fixed Satellite. As of this date, interactions between airborne mobile systems and the proposed fixed satellite service in the 4.4–4.9 GHz band have not been investigated. As indicated in Section 4, there are several airborne systems capable of operating in the 4.4–4.9 GHz band.

Satellite Interference into Mobile Stations. The calculated value of the interference-to-noise ratio (eq. 6.2 and 6.3) shows the interference is 39 dB below the noise in a 6.5 MHz bandwidth. Therefore, it appears that this link is compatible.

Mobile Station Interference into Earth Stations. Some of the airborne systems are designed to fly at low altitudes: others at high altitudes. One of the high altitude systems was chosen for this analysis, thus, an altitude of 60,000 feet was used.

The loss, L, is:

$$L=172.6+G_R+G_T$$

if $G_R=3$ dB
$G_T=17$ dB (4 degrees off-axis)
$L=192.6$ dB

Based upon smooth earth prediction models, the slant range is 360 miles.

The required loss is about 163 dB for $G_T=0$ and $G_R=-10$. The corresponding distance for this condition is about 340 miles.

EMC of Radio Astronomy and Fixed Satellite. CCIR report 224.3 contains the power flux density for typical line measurements. The level of signal causing harmful interference is a PFD of −196 $dBw/m^2/4$ KHz (isotropic antenna). Due to the sensitivity of these systems, it is apparent that the two services are not compatible. A portion of the satellite downlink spectrum could be "notched out" by employing multi-section filters. This approach would decrease the performance and increase the cost of satellite systems.

6.5 *EMC Analysis of the 5.625–5.925 GHz bands.* Previous EMC analyses between the radiolocation and proposed fixed satellite service have been made by the Fixed Satellite Advisory Committee and by the Navy. Summaries of these analyses are provided in this section. Also, sharing between the following services have also considered:

a. Weather radars and fixed satellite.
b. WTP and fixed satellite.

EMC of Radiolocation and Fixed Satellite. The Fixed Satellite Advisory Committee concluded that sharing between the radiolocation and fixed satellite (uplink) services is not feasible. This analysis found that the interference from a radiolocation device into the satellite is over 30 dB greater than the maximum permissible interference into the satellite.

The Phase I Navy study has also concluded that Navy radiolocation and the proposed fixed satellite service may be incompatible for operation in this band.

EMC of Weather Radars and Fixed Satellite. U.S. Department of Commerce/National Weather Service uses the 5.6–5.65 GMz band for operation of weather radars. Weather (WXD) radars are used to detect, locate, track and measure meteorological phenomena. In order to perform these functions, the coverage volume of Weather radars cannot be restricted. The INR (Eq 6.2) during periods of mainbeam coupling (assuming global coverage of satellite antenna) is about 20 dB. This exceeds the acceptable criteria of −10 dB by 30 dB; consequently, in-band sharing between these services is not feasible. The present allocation provides for 50 MHz of spectrum for operation of this service. If the WXD radar spectrum was reduced to 25 MHz (5.6–5.625 GHz) intra-system interference is anticipated.

WTP Interference to Satellite. The Proposed WTP system will require an extremely narrow beam width antenna (0.008 degrees)

in order to provide efficient transfer of energy. The conceptual system characteristics have been estimated as:

Transmit power—10 Giga Watts.
Type antenna—Phase Array.
Antenna Gain—87 dBI (approximate).
Modulation—non essentially CW.

The proposed system will be located on a geostationary satellite platform. Assuming a maximum transmit and receive total gain coupling (G_T+G_R) of −10 dBi, the amount of CW power at a satellite receiver spaced 10 degrees away is approximately −94 dBw.

The other extreme is a satellite spaced approximately 160 degrees away in synchronous orbit. Under these conditions, the total coupling gain will be higher or approximately 20 dBi (10 dBi+10 dBi) and the amount of CE power at the satellite is approximately −84 dBw.

For a 36 MHz channel, the satellite noise power is −121 dBw. Clearly, the WTP CW signal will cause interference to the fixed satellite.

JOINT STATEMENT OF CHAIRMAN RICHARD E. WILEY AND COMMISSIONER MARGITA E. WHITE

In Re: Fifth Notice of Inquiry in Docket 20271, Preparation for the 1979 World Administrative Radio Conference (WARC).

Dissenting only with respect to the majority's decision to limit future flexibility in the international arena in the 512–608 MHz and the 614–806 MHz portion of the spectrum.

We wholeheartedly agree with a great portion of the Commission's decision that provides for a flexible approach in establishing our recommendations for the 1979 WARC. However, the majority has not seen fit to extend flexibility to the 512–608 MHz and 614–806 MHz portions of the spectrum.

It must be empahsized that this proceeding is another step in the development of the U.S. position for the upcoming 1979 WARC and should reflect this country's best interests in international radio rules and regulations over the next twenty year time period. As a result of the inherent difficulties in accurately forecasting long-term future service by service spectrum demands, the theme of the preparatory effort to date in all areas, including allocation proposals, has been flexibility—flexibility to account for unpredictable changes in technology, economics, or national interest. We dissagree that the information developed in the record at this stage of the proceeding is sufficient to warrant decisive and inflexible long-term allocation proposals in these bands. If the majority's decision today becomes the final U.S. position, it may make it impossible for a later Commission—faced with concrete facts and possible new technologies—to meet its responsibility under the Communications Act to "encourage the larger and more effective use of radio in the public interest."

It would seem that the Commission is making a decision that it need not make in 1977. This is an international proceeding, not a domestic rule making. Establishing the entire band as broadcasting and mobile internationally would not dictate or even suggest a change in our domestic allocations. (Indeed, the international VHF band is allocated to fixed, mobile and broadcasting services while our national allocations permits only television broadcasting in this band.)

Our dissent on this matter should not be construed in any way as a deviation from our joint commitment to fostering the fullest practical development of UHF television. We fully understand that the future course of UHF depends very fundamentally on the continued availability of ample spectrum space. It was for this reason that we supported initiation of the UHF Task Force to carefully study the future needs of UHF broadcasting and to develop a plan to preserve the spectrum required to meet those needs. This task is a complex one, and even preliminary results cannot be expected until the advanced stages of the proceeding. Without attempting to prejudge future domestic findings, the uncertainty at this point suggests that the best direction to follow internationally should be to preserve our fullest degree of flexibility.

We are encouraged by the fact that this is not the Commission's final recommendation but rather the Fifth Notice of Inquiry. Fortunately, the Commission will have additional opportunities to reconsider this point as the formal proceeding advances. We trust that the majority will approach future decisions on flexibility with an open mind. Those who feel that the majority decision today is incorrect are invited to provide the most accurate and comprehensive information possible in response to this Inquiry. They may have lost this battle, but perhaps not the WARC.

STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY

In Re: Fifth Notice of Inquiry in Docket 20271, Preparation for the 1979 World Administrative Radio Conference (WARC).

CONCURRING IN PART; DISSENTING IN PART

While I concour in the bulk of the proposals adopted in this Fifth Notice of Inquiry, I dissent from the proposal of the Commission majority that the international allocation for the 470–890 MHz (UHF) band be made to conform with our existing domestic allocation, except for the 806–890 MHz band where Mobile Services are proposed to be primary and broadcasting services secondary. In my judgment, this proposal fails to recognize the imperative need for flexibility in meeting future domestic spectrum requirements. I think that this Notice should have set forth the following proposal for the 470–890 MHz band:

470–608 MHz Broadcasting/Mobile; 608–614 MHz Broadcasting/Mobile/Radio Astronomy; and 614–890 MHz Broadcasting/Mobile.

These are my reasons in support of both the dissent and the substitute proposal:

At the outset, it should be emphasized that the WARC meets to determine international allocation of the spectrum approximately once every 20 years. Thus, if sufficient flexibility is not incorporated into the international regulations prescribed by the 1979 WARC, U.S. telecommunications requirements may be restricted severely through the year 2000. On the other hand, adoption of principles favoring maximum flexibility at the 1979 WARC would permit and facilitate changes in the U.S. domestic allocation table which may be required to meet future spectrum needs for the expansion of existing services and the development of new communications systems.

A brief summary of the various radio service working group projections of future UHF spectrum requirements serves to illustrate the need for a U.S. position of maximum flexibility at the 1979 WARC. Broadcast interests have predicted that by the year 2000 a full complement of frequencies between 470 and 806 MHz will be required for commercial and noncommercial UHF television. The industry foresees public television station growth from the present 160 to more than 420 stations by the year 2000 and expects similar growth and spectrum saturation for commercial UHF–TV.

Beyond Commission decisions taken in Dockets 18261 and 18262, non-government non-television interests have predicted requirements, particularly for short range mobile communications, which, by the year 2000, could amount to approximately 268 MHz of the 470–806 MHz band. Based on projections from dramatic recent growth, particularly in the nation's major urbanized areas, and Commission licensing records, land mobile interests predict that by the end of this century there will be 2.1 million base station transmitters or 5.5 times the number existing in 1975. From these predictions, it is argued that in addition to the recent allocations in Dockets 18261 and 18262, between 102 and 174 MHz will be needed from the remaining UHF bands between 512 and 806 MHz.

International mobile service interests have also asserted the need for additional UHF spectrum to meet projected service requirements to the year 2000. The maritime community submits that by the end of the century an increased allocation of 15 to 18 MHz will be required if current traffic and demand trends continue. The aeronautical service has likewise advanced a projected need for 30 MHz of the UHF spectrum to allow for the development of new communications systems to keep pace with the introduction of more high capacity, high performance aircraft and related service requirements.

Government agencies, in addition, have expressed the need for access to 100 MHz in the 470–806 MHz band.

The only certain conclusion to be drawn from these industry working group projections is that there are significantly more demands for UHF spectrum than there is spectrum to allocate. Of course, each working group prediction tends to "maximize" its vision of future spectrum need to the virtual exclusion of competing service requirement projections. Due to the lack of sufficient information to confirm or modify these competing projections of spectrum need, it must be conceded that we are now in no position to formulate a rational plan for future UHF allocations which will enjoy any certainty of being in the overall national interest.

This conclusion is compelled not only by the paucity of reliable information as to future needs, but also by the rapidly changing nature of communications technologies applicable to the use of UHF frequencies. The Commission is currently engaged in an investigation of the future needs of television in the UHF band. Preliminary study suggests a great likelihood that technology improvements in TV receiver design will permit substantial reduction of the UHF–TV "taboo" thereby allowing many more TV stations to operate in the available spectrum than are currently permitted. With respect to the future needs of the land mobile community, there are complex, unresolved questions as to the actual load and usage of the spectrum currently allocated and whether advanced cellular and other technology may result in optimal utilization and conservation of spectrum. The several service working groups have not included in their reports any assessment of the impact of new technology on their projected spectrum needs. This deficiency further underscores the likelihood of miscalculation inherent in any attempt to establish future UHF spectrum requirements now for the period contemplated by the 1979 WARC regulations.

Given this certainty of future uncertainty, reason and common sense clearly dictate that a proposal of maximum flexibility in UHF allocations would best serve this nation's overall telecommunications interests at the 1979 WARC. A majority of the Commission, however, takes a contrary position that it is imperative to freeze the existing domestic allocation internationally. I am frankly at a loss to understand why.

The majority's proposal is premised ostensibly on an overwhelming solicitude for the

future welfare of television in the UHF band. Indeed, one might reasonably infer that the majority has already weighed the complex and problematical projections of competing spectrum need for the remainder of this century and found all but those of UHF television lacking in credibility and consequence. The record of UHF television development to date, however, instills little confidence in the majority's clairvoyance. At present, there are 371 comercial and noncommercial UHF–TV stations on the air, less than one-third (30 percent) of the total 1269 current allocations. Although UHF–TV growth increased 300 percent between 1960 and 1975, UHF–TV total allocation usage has remained constant for the last five years. Whether this indicates a "plateau" of UHF–TV growth or merely a temporary lag is unclear at this point. While we all have high hopes for UHF television development in both the commercial and noncommercial sectors, a more convincing demonstration of actual future need is required, I think, before we reserve the lion's share of the 470–890 MHz band exclusively for UHF broadcasting.

Even if the majority's crystal ball assessment of UHF television needs to the end of the century were supported by reasonable arguments, the wisdom of the Commission's proposed WARC position would still be less than self-evident. If the only choice were between exclusive UHF allocations for television or non-television services, I could understand a Commission decision opting for TV broadcasting. The majority's decision, however, appears to assume a need for such exclusivity which I do not believe exists. Were the United States to adopt and gain international acceptance of a position calling for shared access to the 470–890 MHz band, such action would not reallocate a single frequency currently designated by the existing domestic table. Implementation by the United States of an international reallocation of UHF spectrum would be subject to a separate rule making in which all interested parties would have the opportunity to comment and the Commission would have the opportunity, also, to weigh competing spectrum needs In advancing a WARC proposal which would freeze the current UHF domestic allocation, the Commission unnecessarily prejudges competing future needs and forecloses the opportunity to meet our mandate of promoting the larger and more effective use of radio in the public interest.

I want to answer one final argument which has been raised in support of the position of inflexibility taken by the majority. It has been argued that if a proposal calling for shared access throughout the 470–890 MHz band were adopted, it would have a "devastating psychological impact" upon the broadcast industry. This would occur, so the prophets contend, because any such allocation proposal would be seen by the industry as an "abandonment" of UHF–TV and by the other radio service industries as an "open invitation to raid" the UHF spectrum heretofore reserved exclusively for broadcasting.

As I have emphasized already, adoption of a flexibility approach and principle at the 1979 WARC would not reallocate any domestic UHF frequency away from television to non-television use. It would preordain neither an "abandonment" of UHF television nor an apocalyptic "raid" on UHF spectrum by the non-television services. Such an approach, however, would allow this Commission to ascertain and meet future spectrum needs as they become more clearly evident and put the interested industries to the proof in the implementing rulemakings for allocating a scarce spectrum resource. The paramount public interest in a rational, farsighted allocations policy demands no less, and competing industry interests are entitled to no more.

If this statement of purpose will not allay the "psychological" concerns of the broadcast industry, then I would seriously question the rationality of those concerns and not the wisdom of a policy favoring flexibility in future allocations. In this regard, while I recognize and remain committed to the Commission's policies for fostering the continued development of UHF television, I doubt that our mandate in this area includes assuming the role of psychiatrist for that industry. If, however, our mandate does require us to play that role, I think that the patient's mental health—and economic and technological well-being as well—would be better served by a confrontation with reality, rather than by reinforcing any delusions of grandeur or paranoia.

I hope that the majority's decision on this matter is not irreversible, and that a more objective analysis of the comments to be received in response to this Fifth Notice of Inquiry will lead to a modification of the Commission's proposal. To the extent that this initial proposal would limit use of the UHF band to the detriment of this Commission's ability to meet future U.S. telecommunications requirements, I dissent.

[FR Doc.77–15050 Filed 5–27–77;8:45 am]

federal register

TUESDAY, MAY 31, 1977

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF LABOR

Employment and Training Administration

■

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Grants to Eligible Applicants

DEPARTMENT OF LABOR

Employment and Training Administration

GRANTS TO ELIGIBLE APPLICANTS

List of Allocations

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists the allocations which have been made for Fiscal Year 1977 to eligible applicants under Titles II and VI of the Comprehensive Employment and Training Act. The Title II funds were allocated pursuant to 29 CFR 96.2. The Title VI funds were allocated pursuant to 29 CFR 99.2.

FOR FURTHER INFORMATION CONTACT:

Adolf Wansong, Chief, Division of Financial Management, Rm. 4010, 601 D Street NW., Washington, D.C. 20213, 202-376-6060.

SUPPLEMENTARY INFORMATION: This notice has been prepared under the direction and control of Albert J. Angebranndt, Administrator for Administration and Management, Employment and Training Administration.

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION — PAGE 1
PUBLIC SERVICE JOBS PROGRAM - FY 1977
AS OF 03/30/77

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
BRIDGEPORT CONSORTIUM	11.9	1,201,127	3,620,021
HARTFORD CONSORTIUM	9.2	1,409,045	4,431,251
NEW HAVEN CONSORTIUM	10.7	886,614	3,104,906
STAMFORD CONSORTIUM	8.3	304,701	1,085,872
WATERBURY CITY	14.4	308,077	1,180,242
BALANCE OF CONNECTICUT	10.9	2,696,048	10,209,406
CONNECTICUT		6,805,812	23,631,698
PENOBSCOT/HANCOCK CSRT	9.6	263,488	952,744
CUMBERLAND COUNTY	8.0	679,638	1,707,726
BALANCE OF MAINE	11.6	1,124,048	4,354,564
KENNEBECK CO	8.3	132,293	470,496
MAINE		2,199,467	7,485,532
BOSTON CITY	13.9	1,671,799	6,590,461
EMBRODA CONSORTIUM	12.1	730,861	2,817,829
NEW BEDFORD CONSORTIUM	14.8	466,465	1,853,919
HAMPDEN COUNTY CONSORTIUM	13.2	1,093,966	4,276,524
WORCESTER CONSORTIUM	12.0	758,023	2,775,425
LOWELL CONSORTIUM	13.3	616,420	2,209,205
BROCKTON CONSORTIUM	12.8	456,591	1,777,339
BALANCE OF MASSACHUSETTS	11.3	7,224,683	27,537,093
MASSACHUSETTS		13,018,908	49,839,795
ROCKINGHAM/STRAFFORD CSRT	6.5	128,675	835,461
HILLSBOROUGH COUNTY	7.5	413,224	1,347,477
BALANCE OF NEW HAMPSHIRE	6.0	129,545	1,076,891
NEW HAMPSHIRE		671,444	3,259,829
PROVIDENCE CITY	16.0	597,126	2,429,004
BALANCE OF RHODE ISLAND	13.9	2,544,372	8,969,515
RHODE ISLAND		3,141,498	11,398,519
VERMONT STATEWIDE CSRT	10.4	972,366	3,388,300
VERMONT		972,366	3,388,300
REGION I		26,809,495	99,003,673

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	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
ATLANTIC COUNTY	14.5	676,502	2,001,755
BERGEN COUNTY	6.8	1,447,964	5,221,209
BURLINGTON COUNTY	12.7	870,068	2,864,647
DAL OF CAMDEN COUNTY	11.1	724,482	2,753,426
CAMDEN CITY	19.1	367,101	1,503,019
CUMBERLAND COUNTY	14.3	315,229	1,247,254
ELIZABETH CITY	12.2	256,095	988,698
BAL OF ESSEX COUNTY	9.9	969,050	3,599,488
GLOUCESTER COUNTY	12.9	396,880	1,547,433
HUDSON CO CRST	13.9	2,091,083	6,511,151
BAL OF MERCER COUNTY	6.7	142,783	729,905
MIDDLESEX COUNTY	10.7	1,163,359	4,390,110
MONMOUTH COUNTY	9.2	746,690	2,730,146
MORRIS COUNTY	8.5	528,597	1,896,071
NEWARK CITY	19.0	1,482,774	5,345,470
OCEAN COUNTY	12.9	684,074	2,220,184
BAL OF PASSAIC COUNTY	11.2	702,502	2,440,304
PATERSON CITY	17.8	438,070	1,781,032
SOMERSET COUNTY	7.1	261,659	836,295
TRENTON CITY	11.9	369,266	1,097,087
BAL OF UNION COUNTY	9.1	699,077	2,517,319
BALANCE OF NEW JERSEY	12.3	779,048	2,996,743
NEW JERSEY		16,099,153	57,225,746
ALBANY CONSORTIUM	7.1	371,137	1,262,080
BROOME COUNTY	8.5	305,831	1,094,180
BUFFALO CITY	14.9	2,149,229	6,141,823
CHAUTAUQUA CONSORTIUM	10.8	485,177	1,833,204
CHEMUNG COUNTY	9.8	161,188	597,565
DUTCHESS COUNTY	7.1	258,746	878,302
ERIE CONSORTIUM	9.6	1,017,733	3,753,857
ROCHESTER CITY	10.2	565,791	2,115,221
MONROE COUNTY	5.6	277,690	1,166,439
NASSAU CONSORTIUM	7.2	1,661,290	6,358,424
NIAGARA COUNTY	13.6	528,482	2,076,313
ONEIDA COUNTY	12.2	663,339	2,105,249
BAL OF ONONDAGA COUNTY	7.9	368,523	1,296,033
ORANGE COUNTY	9.8	607,387	1,779,225
OSWEGO COUNTY	15.8	257,363	1,031,684
RENSSELAER COUNTY	8.3	217,134	773,301
ROCKLAND COUNTY	7.5	270,004	933,089
ST. LAWRENCE COUNTY	15.3	257,440	1,028,329
SARATOGA COUNTY	9.0	260,483	777,774
SCHENECTADY COUNTY	7.9	218,593	766,869
STEUBEN COUNTY	10.3	216,182	706,657

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PUBLIC SERVICE JOBS PROGRAM - FY 1977
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	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
SUFFOLK CONSORTIUM	9.0	1,618,911	5,880,780
SYRACUSE CITY	10.2	379,591	1,374,788
ULSTER COUNTY	12.5	311,272	1,207,129
WESTCHESTER CONSORTIUM	7.6	1,622,810	5,513,957
YONKERS CITY	9.0	346,084	1,256,440
BALANCE OF NEW YORK	12.2	3,021,540	13,467,072
NEW YORK CITY	11.0	15,880,434	54,418,114
NEW YORK		34,699,384	119,593,958
BAYAMON MUNICIPIO	14.3	546,748	1,567,210
CAGUAS MUNICIPIO	22.4	455,253	1,486,633
CAROLINA MUNICIPIO	10.1	169,143	590,949
MAYAGUEZ MUNICIPIO	16.1	598,702	1,436,453
PONCE MUNICIPIO	22.2	733,039	2,288,151
SAN JUAN CONSORTIUM	14.9	1,140,151	4,534,834
BALANCE OF PUERTO RICO	25.9	7,993,453	24,866,395
PUERTO RICO		11,636,489	36,774,625
VIRGIN ISLANDS		311,602	1,079,750
VIRGIN ISLANDS		311,602	1,079,750
REGION II		62,746,628	214,674,079

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION — PAGE 4
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AS OF 03/30/77

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
DELAWARE MANPOWER CSRT	8.4	970,569	3,036,086
WILMINGTON CITY	13.3	469,908	1,255,241
DELAWARE		1,440,477	4,291,327
DISTRICT OF COLUMBIA	8.1	2,296,337	5,714,235
DIST OF COLUMBIA		2,296,337	5,714,235
BALANCE OF MARYLAND	8.8	772,753	2,322,450
BALTIMORE CONSORTIUM	8.5	3,117,326	11,104,349
MONTGOMERY COUNTY	4.8	144,627	1,114,756
PRINCE GEORGES COUNTY	5.5	306,238	1,884,151
WESTERN MARYLAND CSRT	10.8	626,635	2,138,404
MARYLAND		4,967,579	18,644,110
LEHIGH VALLEY CONSORTIUM	8.8	1,029,309	3,228,752
LANCASTER CONSORTIUM	7.8	638,297	2,232,394
BUCKS COUNTY	8.3	625,579	2,231,257
CHESTER COUNTY	5.8	193,519	807,707
DELAWARE COUNTY	7.8	837,103	2,925,641
MONTGOMERY COUNTY	6.6	560,719	2,335,014
PHILADELPHIA CITY/COUNTY	10.4	5,161,318	15,300,161
BERKS COUNTY	7.5	431,921	1,559,549
BAL OF LACKAWANNA COUNTY	11.6	354,372	1,131,946
SCRANTON CITY	11.3	254,289	844,641
LUZERNE COUNTY	11.9	996,492	3,170,947
SCHUYLKILL CONSORTIUM	10.7	423,227	1,451,462
ERIE CITY	11.7	270,734	1,038,663
BAL OF ERIE COUNTY	11.7	273,539	1,046,693
BAL OF ALLEGHENY COUNTY	7.3	1,183,070	4,061,730
PITTSBURGH CITY	10.8	1,342,037	4,037,290
BEAVER COUNTY	7.0	238,151	806,316
WASHINGTON COUNTY	8.8	335,330	1,134,462
WESTMORELAND COUNTY	9.7	694,759	2,384,689
TRI-COUNTY CONSORTIUM	10.3	475,572	1,786,672
FAYETTE COUNTY	11.9	254,174	928,318
LAWRENCE COUNTY	11.5	194,540	743,453
MERCER COUNTY CONSORTIUM	10.9	846,520	2,941,845
SOUTHERN ALLEGANY CSRT	10.3	1,010,770	3,290,226
SUSQUEHANNA CONSORTIUM	6.9	436,245	1,735,252
YORK COUNTY	8.8	425,545	1,536,503
LYCOMING CONSORTIUM	13.3	336,477	1,310,249
FRANKLIN COUNTY	8.9	156,460	574,617
BALANCE OF PENNSYLVANIA	11.4	1,465,485	5,903,563

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
CENTRE COUNTY	8.1	139,327	489,155
NORTHUMBERLAND COUNTY	10.1	219,402	836,147
PENNSYLVANIA		22,300,910	72,940,515
PENINSULA CONSORTIUM	6.2	221,975	1,029,801
STAMA CONSORTIUM	6.6	614,205	2,476,779
RAPPS CONSORTIUM	5.8	196,461	927,088
HENRICO COUNTY CONSORTIUM	3.3	0	338,865
ROANOKE CONSORTIUM	6.6	274,143	1,016,517
ARLINGTON COUNTY	5.2	62,938	508,028
FAIRFAX COUNTY	5.1	189,737	1,074,179
PRINCE WILLIAM COUNTY	5.5	13,372	208,967
ALEXANDRIA CITY	4.6	0	210,087
BALANCE OF VIRGINIA	7.8	3,178,699	10,471,363
VIRGINIA		4,751,475	18,265,709
WEST VIRGINIA STATEWIDE	7.9	4,291,430	10,358,800
WEST VIRGINIA		4,291,430	10,358,800
REGION III		40,048,206	130,720,505

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
BALANCE OF ALABAMA	9.0	2,617,470	9,522,527
BIRMINGHAM CONSORTIUM	7.4	642,404	2,900,663
HUNTSVILLE CONSORTIUM	7.9	236,807	831,543
MOBILE CONSORTIUM	6.6	312,484	1,376,224
MONTGOMERY CONSORTIUM	6.0	147,046	690,354
TUSCALOOSA COUNTY	6.4	60,863	346,427
ALABAMA		4,217,074	15,667,738
BALANCE OF FLORIDA	10.7	2,446,155	8,257,479
ALACHUA COUNTY	7.2	170,256	581,177
BREVARD COUNTY	14.8	959,876	2,749,470
BROWARD CONSORTIUM	15.1	2,006,340	7,994,244
MIAMI/DADE CONSORTIUM	12.6	3,488,156	13,545,704
ESCAMBIA COUNTY	7.9	304,615	983,677
HEARTLAND MANPOWERCSRT	12.0	1,057,737	3,187,797
LEE COUNTY	14.2	327,448	1,294,992
LEON/GADSEN CONSORTIUM	7.0	217,786	741,304
NE FLORIDA MANPOWER CSRT	7.1	689,593	2,345,756
ORANGE COUNTY/ORLANDO CSR	12.2	890,473	3,439,654
MANATEE COUNTY	11.8	223,588	859,186
PALM BEACH COUNTY	13.9	1,305,067	4,326,500
PASCO COUNTY	14.1	267,853	1,058,113
SEMINOLE COUNTY	12.4	290,753	1,175,532
ST. PETERSBURG CONSORTIUM	10.1	974,813	3,636,611
SARASOTA COUNTY	14.3	321,070	1,270,493
TAMPA CONSORTIUM	13.0	1,284,263	4,724,458
VOLUSIA COUNTY	11.7	368,831	1,415,011
FLORIDA		17,595,268	63,534,158
BALANCE OF GEORGIA	8.8	3,473,822	12,560,137
CSRA CONSORTIUM	8.9	604,431	1,799,412
ATLANTA CITY	11.8	2,235,548	6,342,625
CLAYTON COUNTY	7.9	156,039	548,610
COFB COUNTY	9.4	407,722	1,444,075
COLUMBUS AREA CONSORTIUM	7.3	299,674	816,506
BAL OF DEKALB COUNTY	6.8	516,493	1,728,888
FULTON COUNTY	8.1	259,284	916,492
MID GEORGIA CONSORTIUM	7.4	449,212	1,301,338
SAVANNAH/CHATHAM CSRT	7.1	249,077	758,509
GWINNETT COUNTY	6.3	79,922	279,292
GEORGIA		8,731,224	28,495,884
BLUE GRASS MANPOWER CSRT	4.8	131,179	743,955

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
LOUISVILLE/JEFFERSON CSRT	9.2	1,096,579	4,008,014
KENTON COUNTY	8.5	185,779	666,131
BALANCE OF KENTUCKY	7.6	2,781,270	8,460,205
EASTRN KENTUCKY RURAL CEP	9.2	542,783	1,984,792
KENTUCKY		4,737,390	15,863,897
BALANCE OF MISSISSIPPI	8.5	3,523,754	11,522,881
JACKSON CONSORTIUM	9.7	244,671	942,490
MISSISSIPPI		3,768,425	12,465,371
BALANCE OF NORTH CAROLINA	8.4	4,851,244	17,325,927
ALAMANCE COUNTY	8.5	186,732	626,373
BUNCOMBE COUNTY	9.3	269,545	970,624
CUMBERLAND COUNTY	7.2	179,938	613,891
CHARLOTTE CITY	8.1	562,883	1,701,827
DURHAM CONSORTIUM	5.1	166,892	653,791
GAS ON COUNTY	10.3	328,793	1,230,662
GREENSBORO CONSORTIUM	7.2	218,455	1,230,585
ONSLOW COUNTY	6.8	61,851	215,132
RALEIGH CONSORTIUM	7.4	365,074	1,321,909
BAL OF WAKE COUNTY	5.3	0	244,871
WINSTON SALEM CONSORTIUM	7.2	734,287	1,809,545
DAVIDSON COUNTY	10.0	232,582	796,584
NORTH CAROLINA		8,158,276	28,769,721
SOUTH CAROLINA STATEWIDE	8.8	7,342,672	19,891,247
SOUTH CAROLINA		7,342,672	19,891,247
BALANCE OF TENNESSEE	9.9	3,638,276	13,516,504
CHATTANOOGA CITY	7.1	202,353	597,170
MEMPHIS CONSORTIUM	8.0	1,124,540	3,797,603
BAL OF HAMILTON COUNTY	5.3	109,607	413,854
KNOXVILLE CONSORTIUM	6.1	229,044	902,835
NASHVILLE/DAVIDSONCNTY	8.5	757,296	2,714,138
SULLIVAN COUNTY	6.5	0	413,959
TENNESSEE		6,061,116	22,356,063
REGION IV		60,611,445	207,043,279

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
CHICAGO CITY	10.8	5,365,853	20,261,432
BAL OF COOK COUNTY	6.9	2,950,740	9,927,226
DUPAGE COUNTY	5.8	297,324	1,497,453
KANE CO CSRT	7.8	585,311	2,046,777
LAKE COUNTY	8.1	554,456	1,959,407
MACON COUNTY	9.9	215,865	802,331
MCHENRY COUNTY	7.8	173,945	609,289
ROCK ISLAND COUNTY	8.0	246,489	869,086
TAZEWELL COUNTY	5.5	50,950	206,288
LA SALLE COUNTY	7.7	170,609	540,819
ROCKFORD CONSORTIUM	10.8	533,707	2,017,700
CHEMPAIGN CONSORTIUM	5.6	118,307	545,830
WILL COUNTY CONSORTIUM	8.8	445,371	1,608,861
SANGAMON COUNTY CSRT	7.2	239,419	817,647
MADISON COUNTY CONSORTIUM	9.9	792,678	2,247,520
ST. CLAIR CONSORTIUM	8.5	464,455	1,430,352
PEORIA CONSORTIUM	6.2	134,829	638,828
EAST ST. LOUIS CITY	17.5	727,416	1,579,805
SHAWNEE CONSORTIUM	12.9	533,649	1,105,536
BALANCE OF ILLINOIS	8.4	2,505,042	8,956,014
MCLEAN COUNTY	5.0	0	208,996
ILLINOIS		17,096,435	59,979,197
GARY CITY	12.0	869,758	1,405,826
HAMMOND CITY	8.6	172,177	619,713
BAL OF LAKE COUNTY	7.9	351,501	1,235,013
ELKHART COUNTY	8.6	252,391	813,206
SOUTH BEND CITY	9.8	234,923	870,533
BAL OF ST. JOSEPH COUNTY	8.9	195,616	708,255
TIPPECANOE COUNTY	6.6	70,715	350,637
MADISON COUNTY	10.5	245,490	923,461
VIGO COUNTY	8.0	24,284	289,714
INDIANAPOLIS CITY	7.1	1,664,536	5,694,797
LA PORTE COUNTY	9.3	167,989	614,851
FT. WAYNE CONSORTIUM	10.6	846,439	3,202,081
DELAWARE CONSORTIUM	11.1	268,582	1,020,710
SOUTHWESTERN CONSORTIUM	7.2	498,698	1,671,611
BALANCE OF INDIANA	9.4	3,535,957	12,976,617
INDIANA		8,310,556	30,396,828
BALANCE OF MICHIGAN	14.5	3,275,403	12,983,606
FLINT/GENESSEE CONSORTIUM	14.3	1,950,982	6,105,905
LANSING CONSORTIUM	11.0	759,670	2,880,346
JACKSON CONSORTIUM	14.5	970,491	3,179,639

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
KENT CONSORTIUM	11.7	1,937,297	5,802,038
MUSKEGON CONSORTIUM	14.7	421,471	1,674,061
DEARBORN CITY	8.8	177,019	639,257
DETROIT CITY	17.5	3,933,635	14,231,839
LIVONIA CITY	7.4	137,619	474,711
WARREN CITY	10.4	330,061	1,238,954
BAY COUNTY	12.4	305,989	1,035,795
BERRIEN COUNTY	14.3	417,745	1,650,358
CALHOUN COUNTY	11.7	414,694	1,314,160
KALAMAZOO COUNTY	9.2	340,358	1,242,162
BAL OF MACOMB COUNTY	11.8	1,123,546	3,859,805
MONROE COUNTY	11.2	214,096	814,730
OAKLAND COUNTY	12.4	2,680,645	9,302,553
OTTAWA COUNTY	9.9	336,069	1,025,749
SAGINAW COUNTY	10.2	567,249	1,767,711
ST. CLAIR COUNTY	16.7	1,385,601	3,031,304
BAL OF WAYNE COUNTY	11.1	1,861,269	7,145,962
ANN ARBOR CITY	7.6	333,556	794,069
BAL OF WASHTENAW COUNTY	13.8	355,920	1,401,722
MICHIGAN		24,008,077	83,642,461
DAKOTA COUNTY	6.3	0	716,766
BAL OF RAMSEY COUNTY	6.1	166,375	591,280
ST. PAUL CITY	7.9	1,021,678	2,536,995
QUAD COUNTIES CSRT	7.8	668,994	1,845,112
REGION III CONSORTIUM	6.3	412,393	1,194,192
DULUTH CITY	11.8	189,583	723,527
BALANCE OF MINNESOTA	6.6	1,891,604	5,622,744
MINNESOTA RURAL CEP	6.6	1,254,938	2,978,128
BAL OF HENNEPIN COUNTY	5.7	0	2,459,211
MINNEAPOLIS CITY	8.3	988,484	3,094,381
MINNESOTA		6,594,049	21,833,334
CINCINNATI CITY	11.0	880,752	3,336,347
BUTLER COUNTY	13.0	560,113	2,081,685
CLARK COUNTY	10.5	271,733	1,021,534
BAL OF HAMILTON COUNTY	6.7	210,679	1,454,896
LORAIN COUNTY	10.0	530,741	1,801,895
AKRON CONSORTIUM	9.3	901,461	3,596,348
CANTON CONSORTIUM	9.5	779,850	2,670,059
CLEVELAND CONSORTIUM	8.4	2,489,252	8,906,786
COLUMBUS CONSORTIUM	7.6	1,222,110	4,243,650
MIAMI VALLEY CONSORTIUM	9.1	962,940	3,516,771
LICKING/DEL CONSORTIUM	9.9	314,197	1,121,085

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
TOLEDO CONSORTIUM	9.3	927,167	3,394,492
NORTH EAST OHIO MANPOWER	11.9	1,339,877	5,155,050
BALANCE OF OHIO	10.4	4,163,620	15,704,927
ALLEN COUNTY	11.3	227,046	844,132
GREENE COUNTY	8.1	153,119	561,175
CLERMONT COUNTY CSRT	8.9	263,434	952,763
LAKE/ASHTABULA CSRT	8.5	787,574	2,120,449
PORTAGE COUNTY	13.7	421,610	1,352,568
RICHLAND/MORROW CSRT	11.7	547,996	1,252,155
OHIO		17,855,779	65,280,373
OUTAGAMIE COUNTY	6.2	33,544	355,951
ROCK COUNTY	8.8	336,459	967,626
MILWAUKEE COUNTY	9.1	2,328,000	7,167,615
MADISON/DANE CONSORTIUM	4.9	180,139	813,149
KOK CONSORTIUM	5.6	115,733	551,833
WIRNE/FOND CONSORTIUM	7.7	326,334	1,133,885
TRICO CETAC	8.7	498,413	2,155,838
BALANCE OF WISCONSIN	8.3	3,353,968	10,171,221
WISCONSIN NORTHWEST CEP	12.2	307,352	1,166,535
MARATHON CONSORTIUM	7.6	133,046	463,786
WISCONSIN		7,723,248	25,367,439
REGION V		81,648,844	286,499,632

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
CENTRAL ARKANSAS CSRT	6.4	519,544	1,243,867
TEXARKANA	9.5	350,069	701,096
BALANCE OF ARKANSAS	6.6	2,828,927	9,411,753
ARKANSAS		3,698,540	12,357,516
RAPIDES PARISH	9.2	232,217	705,822
BATON ROUGE CITY	6.5	367,928	1,224,103
LAFAYETTE PARISH	5.3	35,427	249,900
CALCASIEU/JEFF CONSORTIUM	8.8	353,747	1,049,909
OUACHITA PARISH	9.0	169,795	616,854
NEW ORLEANS CITY	8.9	2,532,714	5,700,203
JEFFERSON PARISH	5.8	396,602	1,217,489
SHREVEPORT CITY	8.0	260,514	918,895
BALANCE OF LOUISIANA	8.5	4,085,066	10,515,487
LOUISIANA		8,434,010	22,193,662
ALBUQUERQUE CONSORTIUM	7.4	1,216,485	2,826,995
BALANCE OF NEW MEXICO	7.5	1,770,170	4,474,418
NEW MEXICO		2,986,655	7,301,413
COMANCHE COUNTY	9.1	107,357	391,674
OKLAHOMA COUNTY	7.9	245,797	862,415
OKLAHOMA CITY CONSORTIUM	8.6	694,626	2,497,629
BAL OF CLEVELAND COUNTY	7.1	358,257	708,756
TULSA CONSORTIUM	7.3	651,169	2,237,016
BALANCE OF OKLAHOMA	8.2	1,771,993	6,315,131
OKLAHOMA		3,829,194	13,092,481
TEXARKANA CONSORTIUM	10.0	110,277	410,707
TEX. PANHANDLE MANP. CSRT	3.6	44,758	411,796
CAP. AREA MANPOWERCSRT	4.3	183,205	924,318
S.E. TEXAS COMP. CSRT	8.0	526,708	1,788,872
PASADENA CITY	5.1	0	225,766
CAMERON COUNTY	9.9	501,459	1,366,856
COASTAL BEND MANP.CSRT	6.3	359,840	1,310,228
DALLAS CITY	5.3	537,127	2,266,581
BAL OF DALLAS COUNTY	5.0	222,179	1,267,470
LUBBOCK CITY	4.4	85,130	362,373
WEST CENTRAL TEXASCSRT	3.7	169,319	597,258
EL PASO CONSORTIUM	9.3	546,733	2,000,431
FT. WORTH CONSORTIUM	7.0	794,298	2,686,272
BAL OF TARRANT COUNTY	5.7	0	366,718

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
GALVESTON COUNTY	5.6	0	510,796
HOUSTON CITY	5.8	663,734	3,910,309
BAL OF HARRIS COUNTY	5.0	0	1,053,317
CEN. TEXAS MANPOWER CSRT	5.1	106,505	425,354
HIDALGO COUNTY CONSORTIUM	9.8	612,607	1,631,851
ALAMO CONSORTIUM	7.6	1,264,171	4,385,869
REGION XI CONSORTIUM	6.6	168,822	825,405
NORTH TEXAS STATE CSRT	4.2	0	293,245
WEBB COUNTY	17.0	277,789	1,009,490
BRAZORIA CONSORTIUM	4.8	82,726	1,056,107
BALANCE OF TEXAS	5.6	1,946,958	7,611,244
TEXAS		9,304,345	38,686,633
REGION VI		28,252,744	93,631,645

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
BALANCE OF IOWA	6.6	2,649,834	7,854,962
BLACKHAWK COUNTY	8.3	199,576	720,962
CEN. IOWA REGIONAL CSRT	6.0	696,053	2,044,344
LINN COUNTY MANPOWER CSRT	6.1	139,120	863,281
SCOTT COUNTY	5.9	118,797	723,108
WOODBURY COUNTY	6.6	122,392	718,695
IOWA		3,926,172	12,925,352
BALANCE OF KANSAS	3.5	686,657	2,729,686
KANSAS CITY CONSORTIUM	8.7	488,300	1,356,890
JOHNSON/LEAVENWORTH CSRT	6.0	27,589	634,405
WICHITA CITY	6.0	101,426	907,222
TOPEKA CONSORTIUM	6.0	83,866	493,269
KANSAS		1,387,838	6,121,472
BALANCE OF MISSOURI	6.3	1,277,852	5,996,427
SPRINGFIELD CITY	6.4	71,007	436,188
BAL OF JACKSON COUNTY	7.0	153,441	864,687
KANSAS CITY CONSORTIUM	8.7	1,836,031	4,414,239
JEFFERSON/FRANKLIN CSRT	9.5	262,550	965,982
ST. LOUIS COUNTY	6.1	304,086	2,750,200
ST. LOUIS CITY	10.3	763,520	2,856,346
INDEPENDENCE CITY	6.2	148,629	488,515
ST. CHARLES COUNTY	9.1	151,428	552,149
MISSOURI		4,568,544	18,946,733
BALANCE OF NEBRASKA	5.7	714,708	2,498,825
LINCOLN CITY	5.7	56,063	482,473
OMAHA CONSORTIUM	9.1	791,349	2,926,214
NEBRASKA		1,562,200	5,907,512
REGION VII		11,444,754	43,901,069

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
ADAMS COUNTY	8.7	351,386	1,260,215
ARAPAHOE COUNTY	6.5	206,874	778,462
BOULDER COUNTY	7.7	236,307	824,617
COLORADO SPRINGS CRST	6.4	239,675	890,750
DENVER CITY/COUNTY	8.6	836,404	2,970,597
JEFFERSON COUNTY	6.7	276,959	1,138,664
LARIMER COUNTY	4.4	41,138	207,172
PUEBLO COUNTY	5.8	58,433	331,645
WELD COUNTY	3.6	30,266	186,782
BALANCE OF COLORADO	5.5	191,006	1,151,756
COLORADO		2,468,538	9,746,670
BUTTE RURAL CEP	9.2	171,970	633,241
BALANCE OF MONTANA	9.2	1,955,605	5,069,798
MONTANA		2,127,575	5,703,039
N. DAKOTA STATEWIDE CSRT	6.7	1,583,191	3,729,442
NORTH DAKOTA		1,583,191	3,729,442
S. DAKOTA STATEWIDE CSRT	5.4	40,730	1,298,553
SOUTH DAKOTA		40,730	1,298,553
UTAH STATEWIDE CONSORTIUM	7.3	1,527,366	5,359,502
UTAH		1,527,366	5,359,502
WYOMING STATEWIDE CSRT	5.0	0	1,186,179
WYOMING		0	1,186,179
REGION VIII		7,747,400	27,023,385

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
BALANCE OF ARIZONA	10.3	1,059,724	3,480,317
PHOENIX CITY	11.0	2,365,747	7,151,924
MARICOPA COUNTY	11.3	1,229,776	3,581,554
TUCSON/PIMA CONSORTIUM	7.7	540,850	1,938,025
ARIZONA		5,196,097	16,151,820
BAL OF ALAMEDA COUNTY	10.8	1,004,322	4,096,277
BERKELEY CITY	16.3	431,599	1,633,026
BAL OF CONTRA COSTA CNTY	10.6	851,011	3,205,353
MARIN COUNTY	9.5	334,595	1,231,242
OAKLAND CITY	15.5	1,572,039	4,909,218
RICHMOND CITY	14.6	200,918	797,010
SAN FRANCISCO CITY/COUNTY	12.8	3,282,670	9,437,125
SAN MATEO COUNTY	8.4	870,762	3,107,533
SONOMA COUNTY	12.9	589,718	2,046,529
SANTA BARBARA COUNTY	8.3	373,979	1,332,523
GLENDALE CITY	7.6	195,846	681,603
LONG BEACH CITY	10.5	687,250	2,833,141
BAL OF LOS ANGELES CNTY	9.6	9,765,361	26,704,302
LOS ANGELES CITY	11.7	7,506,945	25,483,578
ORANGE CNTY MANPOWER CSRT	8.2	2,493,746	6,836,588
PASADENA CITY	8.3	171,217	610,159
TORRANCE CITY	7.9	224,306	746,370
VENTURA COUNTY	10.1	659,622	2,456,366
BALANCE OF CALIFORNIA	15.7	3,405,412	10,275,042
HUMBOLDT COUNTY	17.8	440,783	1,451,026
SANTA CLARA VALLEY	9.5	1,949,597	7,145,938
SOLANO COUNTY	8.8	278,599	872,911
SUNNYVALE CITY	8.8	187,116	674,382
BUTTE COUNTY	15.3	270,581	1,080,776
SACRAMENTO/YOLO CSRT	9.9	1,531,857	5,167,936
STOCKTON/SAN JOAQUIN CSRT	13.0	768,797	2,748,702
STANISLAUS COUNTY	17.7	1,005,277	3,378,082
MONTEREY COUNTY	11.7	432,921	1,659,638
SANTA CRUZ COUNTY	14.3	359,916	1,423,811
FRESNO CITY/COUNTY	10.6	1,496,319	4,174,157
IMPERIAL COUNTY	15.9	200,449	836,520
KERN COUNTY	9.4	559,596	1,980,351
MERCED COUNTY	14.5	243,338	965,186
INLAND MANPOWER ASSN	10.7	2,024,937	7,633,222
SAN LUIS OBISPO COUNTY	7.3	131,909	452,791
TULARE/KINGS COUNTY	8.3	396,111	1,409,161
SAN DIEGO REIC	12.4	4,697,467	14,203,229
CALIFORNIA		51,215,590	167,300,210
HAWAII BAL OF STATE	10.3	639,999	1,665,602

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
HONOLULU CITY/COUNTY	8.4	1,328,200	3,986,418
HAWAII		1,968,199	5,652,020
BALANCE OF NEVADA	10.5	215,174	809,139
LAS VEGAS CONSORTIUM	10.9	955,367	2,966,754
WASHOE COUNTY	8.5	523,968	1,340,388
NEVADA		1,694,509	5,116,281
SAMOA		76,137	263,820
AMERICAN SAMOA		76,137	263,820
GUAM		232,083	804,190
GUAM		232,083	804,190
PACIFIC ISLANDS		198,317	687,193
PACIFIC ISLANDS		198,317	687,193
REGION IX		60,580,932	195,977,534

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
PUBLIC SERVICE JOBS PROGRAM - FY 1977
AS OF 03/30/77

	UNEMPLOYMENT RATE*	TITLE II TOTAL	TITLE VI TOTAL
MUNICIPALITY OF ANCHORAGE	9.5	286,296	* 1,053,618
BALANCE OF ALASKA	12.7	852,296	2,566,979
ALASKA		1,138,592	3,620,597
IDAHO STATEWIDE CSRT	8.0	1,708,884	4,847,120
IDAHO		1,708,884	4,847,120
PORTLAND CITY	11.1	854,700	3,247,326
BAL OF CLACKAMAS COUNTY	10.2	313,539	1,171,868
LANE COUNTY	13.0	544,851	2,125,256
MULTNOMAH/WASHINGTON CSRT	9.4	604,446	2,218,866
MID WILLAMETTE VALLEY CSR	11.3	488,444	1,862,200
JACKSON COUNTY CONSORTIUM	14.0	515,744	1,670,918
BALANCE OF OREGON	12.5	1,895,372	6,309,940
OREGON		5,216,596	18,606,376
SPOKANE CONSORTIUM	9.8	476,225	1,765,681
CLARK COUNTY	10.8	250,677	947,936
KING/SNOHOMISH CONSORTIUM	9.7	3,811,781	11,377,037
KITSAP COUNTY	9.6	429,347	1,001,883
TACOMA CITY	12.6	325,649	1,248,797
BAL OF PIERCE COUNTY	11.0	429,273	1,473,340
YAKIMA COUNTY	11.1	635,330	1,644,551
BALANCE OF WASHINGTON	11.3	3,686,855	9,780,861
WASHINGTON		10,045,137	29,240,086
REGION X		18,109,009	56,314,179
NATIONAL TOTAL		397,999,259	1,354,288,980

* AVERAGE UNEMPLOYMENT RATE FOR THE THREE HIGHEST CONSECUTIVE MONTHS OF UNEMPLOYMENT JUNE 1975 THROUGH MAY 1976

Signed at Washington, D.C. this 8th day of April 1977.

HENRY J. KENNEBRANNDT
Administrator, Administration and Management

[FR Doc.77-15273 Filed 5-27-77;8:45 am]

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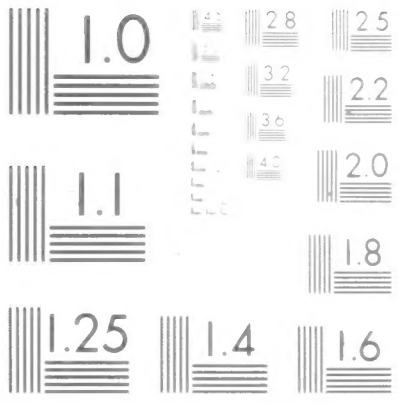
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RESOLUTION CHART



100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.